THE CONGRESSIONAL GLOBE:

CONTAINING



THE DEBATES AND PROCEEDINGS

OF

THE SECOND SESSION

OF

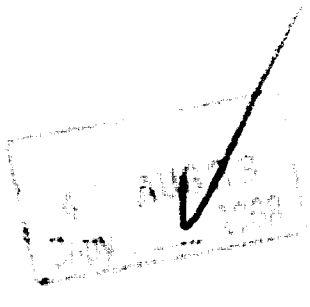
THE THIRTY-SECOND CONGRESS.

VOLUME XXVI.

BY JOHN C. RIVES.

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THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2ND SESSION. TUESDAY, DECEMBER 7, 1852. NEW SERIES....No. 1.

THIS is the first number of the *Congressional Globe* for the second session of the Thirty-Second Congress. It will contain all the Proceedings of Congress, except such as may be withheld by Members several days for revision, which will be printed in the *Appendix*, with the Message of the President of the United States and the Reports of the Executive Departments. All the Laws that may be passed during the session will be published in the same form, so that they may be bound up with the Congressional Globe and Appendix.

Subscription price of the Congressional Globe and Appendix and the Laws for this session, (payable in advance,) $3 00.

THIRTY-SECOND CONGRESS.

SECOND SESSION.

IN SENATE.

MONDAY, *December* 6, 1852.

This being the day set apart by the Constitution for the meeting of Congress, the Senators assembled in their Chamber at twelve o'clock, m., when the Hon. WILLIAM R. KING, President of the Senate, called the body to order.

The following Senators were present: From the State of

Maine—Messrs. Bradbury and Hamlin.
Vermont—Messrs. Upham and Foot.
Massachusetts—Messrs. Davis and Sumner.
Rhode Island—Messrs. Clarke and James.
Connecticut—Messrs. Smith and Toucey.
New York—Messrs. Seward and Fish.
New Jersey—Mr. Miller.
Pennsylvania—Messrs. Brodhead and Cooper.
Delaware—Messrs. Spruance and Bayard.
Maryland—Mr. Pratt.
Virginia—Mr. Mason.
North Carolina—Mr. Mangum.
Georgia—Messrs. Dawson and Charlton.
Florida—Mr. Morton.
Alabama—Messrs. King and Clemens.
Mississippi—Messrs. Brooke and Adams.
Louisiana—Mr. Downs.
Texas—Mr. Rusk.
Arkansas—Mr. Borland.
Missouri—Messrs. Atchison and Geyer.
Tennessee—Mr. Jones.
Kentucky—Mr. Dixon appeared, and his credentials were presented.
Ohio—Messrs. Chase and Wade.
Indiana—Messrs. Bright and Cathcart.
Illinois—Messrs. Douglas and Shields.
Michigan—Messrs. Cass and Felch.
Wisconsin—Mr. Dodge.
Iowa—Mr. Dodge.
California—Messrs. Gwin and Weller.

Prayer by the Rev. C. M. BUTLER, Chaplain to the Senate.

CREDENTIALS.

Mr. BRIGHT presented the credentials of the Hon. CHARLES W. CATHCART, appointed by the Governor of Indiana to fill the vacancy occasioned by the death of the Hon. JAMES WHITCOMB.

The credentials were read, and Mr. CATHCART was qualified and took his seat.

ORGANIZATION OF THE TWO HOUSES.

A message was received from the House of Representatives by Mr. FORNEY, its Clerk:

"Mr. PRESIDENT: I am directed to inform the Senate that a quorum of the House of Representatives has assembled, and the House of Representatives are ready to proceed to business.

"The House of Representatives have passed a resolution to appoint a committee, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States and inform him that a quorum of the two Houses has assembled, and that Congress is ready to receive any communication he may be pleased to make; and Mr. JONES, of Tennessee, Mr. HAVEN, and Mr. ROBBINS have been appointed the committee on the part of the House."

On motion by Mr. BRIGHT, it was

Resolved, That a committee of two be appointed by the President of the Senate, jointly with the committee appointed on the part of the House of Representatives, to wait on the President of the United States and inform him that a quorum of each House has assembled, and that Congress is ready to receive any communication he may be pleased to make.

Mr. BRIGHT and Mr. DAVIS were appointed the committee.

SUCCESSOR TO MR. CLAY.

Mr. JONES, of Tennessee. Mr. President, I beg leave to present the credentials of the Hon. Archibald Dixon, Senator elect from the State of Kentucky, and I ask that they may be read.

The credentials were accordingly read, as follows:

KENTUCKY, *sct:*

The Legislature of this Commonwealth, on the 30th of December, 1851, having chosen Archibald Dixon, Esq., a Senator in the Congress of the United States from the State of Kentucky, to serve for the unexpired term rendered vacant by the resignation of Henry Clay, which has been made and accepted to take effect from the first Monday of September, 1852, until the end of the term for which the said Henry Clay was elected—I, Lazarus W. Powell, being Governor or Chief Magistrate of the Commonwealth of Kentucky, do hereby certify the same to the Senate of the United States.

Given under my hand and the seal of this Commonwealth, this 6th day of January, 1852, and the sixtieth year of the Commonwealth.
[L. S.]
L. W. POWELL.

By the Governor:
DAVID MERIWETHER, *Secretary of State.*
A. P. METCALF, *Assistant Secretary of State.*

Mr. GWIN. Mr. President, I do not think there is a vacancy in the Senate from Kentucky, and I wish that question to be now brought up. There were two Senators at the close of the last session filling the two seats from the State of Kentucky, and I know of no law and no provision of the Constitution that has created a vacancy in the seat occupied by one of the Senators from Kentucky since the last session. I therefore raise the question whether or not there is a vacancy for the gentleman, whose credentials have been presented, to fill.

Mr. JONES, of Tennessee. Mr. President, I do not know what question the Senator from California makes. Does he propose a reference, or does he propose that the gentleman presenting his credentials shall not be sworn in?

Mr. GWIN. That is it.

Mr. JONES. I hope the honorable Senator from California will make some motion in reference to this question, and then I shall know what he proposes.

Mr. GWIN. I object to the gentleman's being sworn in. I say there is no vacancy. I say there is no seat from Kentucky vacant which the gentleman can fill, and therefore he cannot be sworn in.

Mr. JONES. Then the Senator from California objects to the gentleman named in these credentials taking his seat. I would inquire if there is any gentleman upon this floor claiming to be a Senator from Kentucky for the vacancy occasioned by the death or resignation of Mr. Clay? If there is any such contestant here, I desire to know it. If there is no contestant, then the objection made by the Senator from California, it seems to me, cannot be maintained. If there were a contestant there might be some propriety in his position; but I am not aware that there is any gentleman claiming the seat except the gentleman mentioned in the certificate of election which I have presented. I do not understand that the gentleman who was here, by an appointment from the Governor of Kentucky, at the last session of the Senate, is here now claiming this seat; but, on the contrary, I understand that he disclaims any contest for it; that he is not here asking for the seat; that he does not appear in the Senate to take the seat, and is not demanding to be heard on the subject. In the absence of any contest, it seems to me plain—according to every precedent established by the Senate, as far as I have been able to inquire, with but one solitary exception—that the gentleman presenting his credentials, is to be admitted to the seat for the time being. There has been but one solitary case where a seat has been denied under such circumstances. There have been very many cases of contest where the credentials were presented and the gentlemen holding them permitted to take seats and afterwards those credentials were referred to committees and reported upon. In some instances a gentleman has been ousted, in others, retained in his seat. There was, as I have said, a solitary exception.

Mr. MANGUM. What was that? Was it the case of Lanman?

Mr. JONES. It is not material as to the name. There was but one case, and in that the Journal does not state the ground on which he was refused to be admitted to his seat. The simple statement is, that a motion was made to refer his credentials to a committee, which reference was made before the oath of office was administered. There are many other cases which I might mention, and will mention, if the subject be pressed, showing that where there is no contestant the gentleman presenting his credentials is entitled to take his seat. The commission is *prima facie* evidence, and the Senate have acted upon that as satisfactory, and given the party holding it his seat; afterwards making inquiry if there was any question to be made. I admit, if there were a gentleman here claiming the seat which this commission gives, or purports to give to Mr. Dixon, that gentleman might come here and ask for an examination of the subject by a committee; but I repeat again, that I am authorized to say, there is no gentleman here contesting this seat. If there is any one here contesting it, why is he not present? or why does he not authorize some gentleman to say that he is contesting it? I make that question. If the matter be pressed, I will go on with the presentation of precedents as they have occurred in the history of the Senate. I put this question to the Senate: I ask them to consider whether they will refuse Mr. Dixon the oath of office when there is nobody here claiming his seat? If there is anything informal, anything illegal, anything unconstitutional in his election, how are you to get at it? You must get at it by memorial, petition, or contest. No man is here memorializing; no man is petitioning; no man is contesting the seat; and without the slightest shadow of pretext, you propose to refuse to permit Mr. Dixon to take the seat; thereby disfranchising one of the States of this Union; thereby setting aside the broad seal of one of the sovereign States, without even presenting to the Senate the ground upon which you do it;

If another man be entitled to the seat, name him. let him stand up here, and present his claim, and I will consider it impartially; and if I should find that he was entitled to the seat over Mr. Dixon, I would vote to give it to him; but if there is nobody asking for the seat, how can we refuse to give it to the party who comes with *prima facie* evidence that he is entitled to it? All men will admit that Kentucky is entitled to two Senators upon this floor, and she has but one Senator on the floor now, as far as we know; and if you reject this commission, she will have but one Senator, because no other man is here asking for the place. If the gentleman from California persists in this objection, I shall be able, I think, to present divers cases where the question has been clearly settled, that the commission is *prima facie* evidence; and that, where there is no contest, he who holds it is to be admitted to take his seat, as a matter of course. In this case, there is no contest, and therefore I cannot see why there should be any objection to allowing Mr. Dixon to be sworn.

Mr. GWIN. Mr. President, the Senator from Tennessee has certainly taken strange ground in regard to this question. He talks about a vacancy. I say there is no vacancy. I say that the vacancy in the Senate from the State of Kentucky, originating upon the death of Mr. Clay, has been filled, was filled at the time referred to in these credentials, and is now filled. I objected to the credentials given to the party who, I contend, fills the seat, at the time they were presented. I objected to them because they contained a limit which the Governor had no right to place there, and I say that Mr. Meriwether, having taken his seat to fill the vacancy until it is filled by the Legislature of Kentucky, is the Senator. This is a new question, I will acknowledge. Such a one has never before occurred in the history of the country. It is a new one in the history of the Senate.

Mr. MANGUM. In that the gentleman is mistaken.

Mr. GWIN. I insist there is no vacancy from Kentucky; and I object to this gentleman being sworn in as Senator until the Judiciary Committee act upon it. I am willing to let the question be referred to that committee for investigation.

Mr. COOPER. It seems to me that if the honorable Senator from California [Mr. GWIN] had carefully read the provision of the Constitution providing for the filling of vacancies in this body, he would not have objected to the swearing of the Senator elect from Kentucky, [Mr. Dixon.]

The language of the Constitution is, that "if 'vacancies happen, by resignation or otherwise, 'during the recess of the Legislature of any State, 'the Executive thereof may make temporary ap-'pointments until the next meeting of the Legisla-'ture of such State."

By this clause of the Constitution, it will be seen that the power of the Executive of a State to make temporary appointments to fill vacancies, is limited to cases in which the vacancy occurs during the recess of the Legislature.

The history of this case is briefly this: Mr. Clay, during the last session of the Senate, resigned his seat, to take effect at a future day, before which he died. At the time his resignation took effect, the Legislature of Kentucky was in session, and proceeded to fill the vacancy occasioned by such resignation by the election of Mr. Dixon, whose credentials have just been presented. That the Legislature of Kentucky had power to elect a Senator to fill the vacancy occasioned by the resignation of Mr. Clay, is scarcely to be doubted. It has certainly been the universal practice for the Legislatures of the several States to fill vacancies occasioned by resignations before the period at which such resignations took effect. If, then, the Legislature of Kentucky had the power to elect Mr. Dixon before the resignation of Mr. Clay took effect, no subsequent act of the Executive could impair or invalidate such election; and that the Executive thought so himself, is apparent from the terms of Mr. Meriwether's commission.

If Mr. Clay had lived to the first day of September, the period fixed for his resignation, no one would question, I presume, the right of Mr. Dixon to his seat. How, then, did his death affect the question? It could not surely invalidate it if it were originally constitutional and legal.

I have said the practice was universal for the Legislatures of the several States to fill vacancies to take effect *in futuro*. Not long since, if I remember right, there was an example of this kind in my own State. I refer to the election of General Cameron, on the resignation of Mr. Buchanan at the time he was appointed Secretary of State. He resigned to take effect, I think, on the third of March, and General Cameron was elected in the *interim*, between the period of the resignation and the time at which it was to take effect.

In this case, the term of the Senator appointed by the Governor of Kentucky to fill the vacancy existing between the period of the death of Mr. Clay and the commencement of the term of his successor, elected by the Legislature, was limited to the period fixed by Mr. Clay for his resignation to take effect. This, I admit, is of no importance, except in so far as it goes to show how this question is understood in Kentucky. If the limitation of the Executive of Kentucky is in contravention of the Constitution, such limitation is void; and void, in my judgment, without avoiding the commission. Some of my friends on this side of the Chamber think differently; but I have little or no doubt on the subject. I repeat, that I have no doubt whatever that Mr. Dixon is entitled to his seat, and entitled to it now; and he is so because if the act of the Legislature in electing him was constitutional and valid at the time of his election, no act of the Governor, or of anybody else, could invalidate it subsequently.

Mr. MANGUM. The honorable Senator from California [Mr. GWIN] is mistaken in the allegation that there is no precedent of this description in the history of this Government. So far from that assertion being correct, there is a precedent exactly in point, and, as lawyers say, in every part of it *in quatuor pedibus*. I looked at it this morning. Mr. Clay, in the month of January, 1842, or the December preceding, resigned his seat in the Senate, the resignation to take effect on the 31st of March, or the 1st of April following, I do not remember which. Mr. Crittenden was elected to fill the vacancy. No official notification of that resignation was given to this body, but a notification was given to the Executive of Kentucky. In this case, in the month of December last, Mr. Clay sent his resignation to the Governor of Kentucky, to take effect on the first Monday of last September. No official notification was furnished to this body of that resignation, in which respect both resignations were exactly alike. In the first instance, Mr. Crittenden was elected the successor of Mr. Clay. He arrived in the city of Washington on the first day of April, 1842. From his seat Mr. Clay presented his own resignation, and before he sat down presented the certificate of the election of Mr. Crittenden, who was admitted and sworn. On that occasion Mr. Clay made his farewell address to the Senate. Both those gentlemen occupied a seat in this body. In that instance there was not a whisper of objection from any quarter. It passed—and thus stands as a precedent—with perfect unanimity, not only on the part of the Government of Kentucky, but on the part of the Senate of the United States.

Sir, I had hardly expected to live to see us re-enact the scenes of the New Jersey case, which happened some years ago in the House of Representatives, which was burned with a brand that was heated to a white heat by the public reprobation of the whole United States—by men of all parties. Sir, when credentials are presented here under the proper signature, and with the proper accompaniments, they are regarded as *prima facie* evidence, as I have always understood since I have had a seat on this floor, and always accepted. That by no means forecloses investigation afterwards; but the State, in the mean time, is entitled to be represented; and by whom represented, except by him who presents the *prima facie* case? If upon examination it should turn out that it is not a good case, another will be substituted. No instance to the contrary has happened in my knowledge. I do not know what the precedent is to which the honorable Senator from Tennessee [Mr. JONES] alludes; certainly, sir, none has occurred, I imagine, in your time of service in this body, or mine—yours is longer than mine. If it is designed to make a question about the filling of this vacancy, let the Senator who makes the *prima facie* presentation be received; let the oath of office be administered to him; and then refer his credentials to a committee to be examined; and in the mean time Kentucky will have the full representation to which she is entitled.

Sir, unless you can invalidate a resignation to take effect in the future, it is almost impossible to make anything out of this case. Many, many resignations have been made in this body to take effect at a future day. The former case of Mr. Clay's resignation passed *nem. con.*, without a dissenting voice either in the State of Kentucky, or in the Senate Chamber, and you will find upon the very credentials presented by the honorable Mr. Meriwether here at the last session, that they proceed on the assumption that Mr. Clay had an undoubted right to resign, and his resignation to take effect *in futuro*. I do not know what may be made out of the idea of filling vacancies, there being no vacancy. Under certain contingencies, the Executive has a right to appoint one who is merely a *locum tenens;* and it is for the purpose of carrying out that cardinal view, that every State may be represented until the Legislature shall supply it by the regularly-organized, constitutional authority. If the proposition can be maintained that any Senator here cannot resign to take effect ten or twenty days hence, something may be made out of the objection now raised to these credentials. There is no instance, I undertake to say,—and I say it, without examining further, upon the supposition that the Senate have always acted upon sound principles of common sense,—upon the records of the Senate in which that proposition has been maintained. The regular couse, I apprehend, here would be that the gentleman presenting the *prima facie* case of election, should be admitted to take his oath of office. The State will then be fully represented. If, however, there are thought to be solid objections to his taking his seat, let the matter go to a committee, which may report upon the facts and principles connected with the case, upon which report we may decide who should occupy the seat. I consider that there is a good deal in the objection presented by the honorable Senator from Tennessee. I should like to see the honorable gentleman in whose favor this claim is made, present himself here and take the responsibility of claiming a seat against the sovereign authority of the Legislature of the Commonwealth of Kentucky.

Sir, it is certainly true that we have fallen upon strange times, political convulsions, political earthquakes, and all that. We find gentlemen collected here from all points of the compass, of every stripe of principle and hue, acting in loving and harmonious concert. That brotherhood must be gratifying to every philanthropist; and indeed I have seen nothing in the world, nothing in animated nature that seems to be assimilated in character with it, unless it be a case of which I have read from a report made by a very intelligent and scientific officer of the Government, published within the last year,—I allude to Captain Stansbury's Report. It is stated that in his travels in the Southwest with his scientific corps for the exploration of the Great Salt Lake, they fell upon a region in which prairie dogs, rattlesnakes, and even the owl, all sought shelter in the same nests, and lived harmoniously and lovingly together; the fang of the snake was never stricken upon either of his good friends. That, sir, seems to be perfectly parallel to the case which we have seen presented in the recent political canvass. As I shall not have liberty to speak in this body after the expiration of this Congress, I desire now to make a prediction; and probably I may rise to the dignity of a prophet in this respect. Though this union and harmony is very much like that in the prairie to which I have alluded, I undertake to predict, that in less than twenty months the rattlesnake of the South will strike his fangs into the prairie dog of the North, and that the blind owl of some portions of the West will also receive a stroke. That prediction will go for what it is worth. If I get from it the reputation of a prophet it may console me, somewhat undeservedly though it may be, in my retirement.

At all events, coming back to the business before us in the Senate of the United States, we never can act a second drama of that odious New Jersey case. Every State must be represented on this floor, when it presents the *prima facie* evidence of the election of any one. Examine it afterwards, and if anything can be made of it, well and good. I, sir, shall stand here, as I always have done upon questions of this sort, to give a fair and impartial decision upon the case, as far as my judgment enables me to form it, without reference either to the prairie-dog, the rattlesnake, or to the blind owl, in politics.

Mr. WELLER. I have no disposition to engage in the discussion of the question which is now presented to the Senate. It is enough for me to know that there are such doubts as require that it should be made the subject of investigation by a committee. But I rise for the purpose of making one remark in answer to what has fallen from the distinguished Senator from North Carolina, [Mr. MANGUM.] He says he is afraid that an attempt is now to be made to revive the scenes which were enacted in the House of Representatives, in regard to the New Jersey contested-election case; and that this country, without distinction of party, has passed reprobation upon the conduct of the majority in that House. It is the first time I have ever ascertained that fact. I was one of the actors in those scenes. I was one of the party who believed that those who presented the certificates of election were not entitled to their seats, until a committee had passed upon them. What were the facts there? Why, sir, there was one set of members claiming the right to their seats by virtue of a certificate under the broad seal of the Governor of the State; and there was another set of men who laid upon the table of the Clerk of the House an officially-certified copy of the poll-book, which showed that the men who presented the certificate of the Governor were not entitled to seats, not having received a majority of the legal votes. Therefore, although the certificate gave a *prima facie* right to a seat, there was evidence lying upon the table of the Clerk which rebutted that *prima facie* evidence, by showing that the certificate had not been issued in accordance with the poll-book. I say, therefore, that the honorable Senator from North Carolina is mistaken, when he assumes that the country has passed condemnation upon that act. The facts will not warrant any such declaration.

I undertake to say that no such judgment has ever been rendered by the country.

Mr. MANGUM. Will the Senator permit me to interrupt him? I was not an actor upon the public theater at that time: I spoke from general recollection only. I remember to have heard the trumpet in 1840, immediately after the event to which reference has been made, sound as loudly as the Whigs have heard it sounded during the past November, and the Administration then in power went out with a storm of public reprobation such as was received by no Administration that ever left power in this country since the year 1801. I did not mean to discuss the merits of that question; but I knew that in the canvass of 1840, amongst a mountain of charges and allegations of iniquity piled upon the Administration of Mr. Van Buren, who is now in the same nest with the rattlesnake of the South, few were more effective than the violent (as it was esteemed) course of the House of Representatives in resisting and overruling the *prima facie* evidence of the broad seal of New Jersey, with a view to political advantage.

Mr. WELLER. I am very glad to learn another fact from the Senator from North Carolina—that the great contest of 1840, which resulted in the defeat of the Democratic party, turned upon the question of who were entitled to seats in the House of Representatives from the State of New Jersey! I say, sir, I have learned that; but I am a young man, and I trust I shall continue to learn. I have no objection to learn even from the Senator from North Carolina, who says that his counsels are soon to be withdrawn from this Chamber. That, sir, is a misfortune, and will be a loss to the Senate, though I trust the country will survive it. But I desired simply, because I had been an actor in, and had made my first appearance upon, the case on which the honorable Senator says the country has passed judgment, to present it in its proper aspect. I was not aware that that was even one of the causes which contributed to the defeat of the Democratic party in the ever-memorable contest of 1840.

And now, in regard to the recent contest; I have no disposition to enter into a discussion with the Senator from North Carolina, of the questions which were involved in it. I trusted that he would have come here in a more amiable mood. It is true that his party has been defeated. It attempted by a system of humbuggery to deceive the country. It has most signally failed in that deception; and my friend from North Carolina ought to take it with a better grace than he does. [Laughter.] I trust that in the retirement of private life, he will find ample time to repent of all his political sins, numerous though they may be. There is still hope even for him; for, in the language of the psalmist,

"While the lamp holds out to burn,
The vilest sinner may return." [Laughter.]

Mr. GWIN. I offer the following resolution, which will present the question in its proper form:

Resolved, That the credentials of Archibald Dixon, Esq., be referred to a select committee of five, who shall consider and report thereon.

Mr. MANGUM. I move to amend that resolution by adding to it the following:

And that pending the action of said committee, the said Archibald Dixon be now qualified, and permitted to take his seat in the Senate.

Mr. BAYARD. Mr. President, I do not rise for the purpose of discussing the question of the legality of the appointment of the gentleman mentioned in the credentials as Senator from the State of Kentucky, though I have on that a clear and fixed opinion, formed after much reflection and consideration. I wish simply to answer the idea suggested by the honorable Senator from Tennessee, and the further argument of the honorable Senator from North Carolina, as to the propriety of the objection being made now, without any contestant being present before the Senate. It is said that there should be no objection to the gentleman's being sworn in as a Senator. It is said that ordinarily, in case of a contest, a party, when he presents his credentials here, should be sworn in, and take his seat until the question is determined. I have no doubt of that; but in this case the distinction is very apparent on the face of the credentials themselves. There the objection arises; and if the objection arises on the face of the credentials themselves, do not the Senate owe it to the country and the body, that they should determine whether the party presenting these credentials is entitled to take his seat?

The whole question in this case turns upon the point whether the Legislature of the State could appoint to a vacancy while the seat was actually filled, and whether, when that vacancy in fact took place, during the recess of the Legislature, the Constitution of the United States did or did not vest in the Governor the right to appoint; and if it did, what was the tenure of office of the person so appointed. These are grave questions, Mr. President. To my mind both clauses of the Constitution, with reference to the election of Senators, seem to be perfectly clear and free from doubt, though there may be precedents which have passed *sub silentio*, which may interfere with them; but the question here is, whether the objection should not be made now? The credentials which have been presented show that there was an election. They must be taken in connection with the facts, of which the Senate must take notice as a body, because they are matters within their own knowledge; such as the fact that a vacancy occurred in this body by the death of Mr. Clay in the month of June last, and the fact that on the face of the credentials the party was appointed in December last, long before that vacancy occurred.

Then the question necessarily arises whether, under the Constitution, the Legislature can appoint to that vacancy antecedent to its occurrence? The fact that you have on this floor a Senator representing the State of Kentucky by appointment as filling that vacancy, and the tenure of his office, are not questions depending upon the will of the individual contestant. They are questions to be determined by the Senate with a proper regard to the provisions of the Constitution of the United States. Therefore, they owe it to themselves, when so grave a question appears on the face of the credentials of the party presenting himself here to take his seat, to make a question as to the power and right of the appointing power to send him here in the mode in which he was appointed; and the proper course is to raise that question now.

If this were a light and trivial question; if it were one that did not involve a point of constitutional construction, we might pass it over as a matter of courtesy; but it is a dangerous doctrine to trifle with the Constitution of the United States on any ground of courtesy. This case is essentially distinct, in my mind, even from the case cited by the honorable Senator from North Carolina of the difficulty which occurred in the other House in reference to the representation of the State of New Jersey. There the credentials, if you so choose to consider them, under the broad seal of the State, were *prima facie* correct; here on the face of the credentials they are not *prima facie* correct, because the objection goes to the authority of the appointing power. The Legislature of Kentucky have no authority to appoint other than what they derive from the Constitution of the United States. The same Constitution which gives them a right to choose Senators for the full term, provides, in a subsequent clause, for cases of vacancy, and under that clause it makes provision that in one event the Executive may fill the vacancy, and that in another event the Legislature shall fill it. If, on the face of the appointment, it appears that a question arises as to the appointing power to fill that vacancy, the objection may not only be well taken, but it ought to be taken by any Senator upon this floor, and it ought to be determined before the party presenting himself under such credentials takes his seat.

Mr. TOUCEY. It is not my intention to be drawn into the expression of any opinion upon the various questions that are now necessarily presented to the Senate. I should regret extremely that the members of this body, without debate, without investigation, without hearing the parties interested, should express an opinion upon a grave constitutional question, affecting its organization, or the right of a member. For one, I shall not be willing to do so.

As I understand there are two persons who do or may claim the seat recently occupied by the lamented Mr. Clay. One has been admitted to it; the other claims to be admitted. There is presented, therefore, in the first place, the question alluded to by the Senator from Pennsylvania, [Mr. COOPER,] whether it is competent for the Governor of a State, when he makes an appointment, to limit the constitutional effect of that appointment? He admits, in his opinion, there is no such power. I will not express any opinion upon that point, though my impression certainly is, that whenever, under the Constitution of the United States, power is given to any public agent to do a constitutional act, and the act is accordingly done, the Constitution must necessarily prescribe the entire effect of that act. The volition of the agent imposing any restriction or limitation can have no influence upon that result.

At the last session of this body we admitted to the seat the Senator, [Mr. Meriwether,] who was appointed by the Governor of Kentucky; and he was appointed upon the death of his predecessor, Mr. Clay, to fill the vacancy which was occasioned by that event. That Senator has been sworn in and has acted with us, and according to the views of the honorable Senator from Pennsylvania, [Mr. COOPER,] he is the Senator to the full extent of the constitutional appointment then made. What is the full extent of that appointment under and by force of the Constitution, is one of the questions to be considered.

There is still another question. Can there be two vacancies in one office occupied by one incumbent who goes but once out of office? Can there be a vacancy by death, and then another vacancy created months after by resignation? If there can be but one vacancy, and that vacancy was occasioned by death, it would seem to follow that it was filled by the Governor of Kentucky. If, on the other hand, there can be two successive vacancies, one by death, and still another accruing by resignation, taking effect after death, then the latter vacancy could be filled by the Legislature. I must acknowledge that the subject presents some very grave questions to my mind, especially after the confident opinions which have been expressed by several Senators, and questions which ought to be deliberately considered by a committee of the Senate, whether by a select committee, or by the Judiciary Committee, is not very important.

I desire only that the questions may be deliberately considered by a committee, and reported upon. And in the mean time, I do not see how, without deciding the question in advance, we can admit the gentleman who presents himself here to-day, because, in one view, the member who took his seat at the last session not having resigned, there is no vacancy, and there was none when the Legislature made the appointment. In that view this gentleman cannot be admitted, or we shall have two Senators here occupying the same seat, and equally entitled to act. I therefore must say that I do not see any possible course to be pursued by which the Senate can reserve its opinion deliberately to be formed, and so as to constitute a precedent that may be followed hereafter, except by referring the whole matter to a committee. And I rejoice that the position of the question is such that no political consideration can be supposed to influence the decision, whatever it may be; as there is no necessity for changing the state of parties in the Senate, and they cannot be materially affected by the result. I have regretted that there should have been any allusion, upon a question of this kind, even incidentally in debate, to any party considerations, when the Senate is about to sit as constitutional judges upon a constitutional question. I hope, sir, that the proposition of the honorable Senator from California will prevail, and that the subject will be referred to some committee of this body.

Mr. BROOKE. Mr. President, it appears to me the only question that comes up now in this preliminary stage of the case is, as to the power of the Governor of Kentucky to limit his commission to Mr. Meriwether. The objection made by the Senator from California [Mr. GWIN] is, that there is no vacancy—that there is already upon this floor a Senator from the State of Kentucky. True, he is not bodily here present to claim a continuance of his functions, but there is his commission on file. On reference to that commission, it will be seen that its extent is limited to the first Monday of September, 1852. It is, however, maintained that the Governor had no power to limit the commission; and in this way the only question now before the Senate comes up; because, if he had such a power, Mr. Meriwether is no longer a Senator; and the gentleman who now claims the seat should be sworn in on the *prima facie* case presented by him. It is contended that

the Constitution limits or extends, as the case may be, the appointment by the Executive to the next session of the Legislature. Such, sir, is not my reading or understanding of this clause. That clause reads, as follows:

"And if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies."

Now, sir, my construction is, that the word "until," which is the limitation, is a limitation upon the power of the Governor, or rather upon the time within which he may exercise the power of appointment, and not upon the term of the appointment itself. If any other construction be given to it, we have been yearly in the habit of disregarding this constitutional provision. Last winter the honorable Mr. McRae was appointed by the Executive of the State of Mississippi, to fill the place of the honorable Jefferson Davis, who had resigned. According to this clause of the Constitution, then, and to the reading sought to be given to it, his appointment only extended to the meeting of the Legislature, which took place in January, 1852, and should have been terminated at that time; but he was admitted to his seat on this floor, and retained it until his successor, [Mr. ADAMS,] who is now before me, came on, which was about the middle of the month of March.

There is another instance which might be adduced, to show that the Constitution could not have intended that the term of Senators under Executive appointment should always extend to the next meeting of the Legislature. Suppose that I, or any other member whose term of service expires on the 4th of March next, should now resign, the Legislature not being in session, the Governor could fill the seat. Would his appointment be valid and existing until the next meeting of the Legislature in January, 1854? Certainly not! It would extend only until the 4th of March next, contrary to the meaning that is sought to be given to the clause now under consideration. By a slight transposition of words, the clause would read thus: "The Executive thereof may, until the next meeting of the Legislature, make temporary appointments." *This, I contend, is the true meaning,* and the only one that can reconcile seeming conflicts between different parts of the instrument. In this view, as before suggested, the word "until," which is a word of limitation, is a limitation upon the power of the Executive, or rather of the time within which he can exercise the power of appointment; and, therefore, his appointment does not necessarily continue until the next meeting of the Legislature, but may be legally terminated by any other means. If this be true, Governor Powell was right in limiting the commission of Mr. Meriwether to the time which elapsed between the death of Mr. Clay and the first Monday of September, 1852—the period fixed by Mr. Clay himself for the termination of his services as Senator. The power of a Senator to resign, the resignation to take effect *in futuro*, cannot be doubted. It has long been the settled practice, both in the National and State Governments. The present Governor of the State of Mississippi resigned his seat in this body some month or six weeks in advance of the time when his resignation was to take effect, and in the meanwhile he was here, and participated in its deliberations. Our present consul at Havana, the late distinguished chief justice of the State of Mississippi, resigned his office of chief justice some months in advance, and until the arrival of the period which he had fixed for the taking effect of that resignation, sat upon the bench, and administered justice without question as to his authority, and while his resignation was in the hands of the Executive. Numberless other instances might be adduced, and it is now too late to raise the question. An officer has the right to limit or shorten his own time, and the ordinary appointing power can in advance provide for filling the expected vacancy, just as it can in anticipation of the expiration of a term, as prescribed by law. All that is requisite is, that the period of termination should be ascertained and certain. In this instance, Mr. Clay had prescribed the period of his labors. His resignation was before the Legislature. The acts could not be recalled, and the Legislature rightfully and in anticipation elected his successor, just as they would have done and should have done had that period been prescribed by law, instead of by the act of the party.

Mr. CHASE. Mr. President, I agree with the Senators who favor the reference of this question to a committee; and I think we shall do well if we confine our attention to the simple question of reference. During the last session, Mr. Meriwether presented himself here as a Senator from the State of Kentucky, with the credentials of his appointment. I have those credentials before me. They limit his term, it is true, to the period fixed by the resignation of the late lamented Senator from Kentucky, [Mr. Clay]—recite a vacancy from the time of death until the first Monday in September, and appoint David Meriwether to fill that precise vacancy. It will be remembered by all the Senators who were present, that, at that time, a conversation arose upon the power of the Governor of Kentucky thus to limit the appointment. It was said that the Constitution prescribed the power of the Governor, and fixed the effect of his appointment; and that the office created by it could be limited only by the next meeting of the Legislature. The question was made then, and in that conversation, whether or not the Governor of Kentucky could limit the appointment, as in these credentials he had attempted to limit it.

It is true, Mr. President, that the Senator whose rights are fixed by this appointment, and by the Constitution, is not present; but the Senate are aware of the circumstances under which he took his seat. They recollect the conversation which took place at that time. They know very well that it was a question which was then passed over, whether or not his appointment terminated upon the first Monday of September, or extended until the next meeting of the Legislature. The Senator from Illinois [Mr. DOUGLAS] made the point; it was also made by the Senators from California [Mr. GWIN] and from Indiana, [Mr. BRIGHT,] and other Senators; and upon the suggestion of the Senator from South Carolina, [Mr. BUTLER,] not now in his place, it was passed over with the distinct understanding that when the question should be presented again, by the appearance of the gentleman claiming under the appointment of the Legislature, it would be considered and settled by the Senate.

It seems to me that it is our clear duty to refer this question, which is one of great importance, to a committee, and let that committee act upon it. We cannot disregard the fact that a Senator was here to fill this seat; that in his behalf a claim was made that his term extended until the next meeting of the Legislature; and, therefore, to adopt the amendment of the Senator from North Carolina, [Mr. MANGUM,] would be to prejudge that very question. I am not prepared so to do. I regard this question as oneof some doubt; and I am not now ready to give an intelligent and impartial vote upon it. The real question, however, as it seems to me, is this: Is there now a vacancy? Is there any seat in this Chamber unfilled? Until the Senate is satisfied that there is a vacant seat, they cannot recognize even the *prima facie* validity of a second commission. And that question of vacancy, in my humble judgment, is to be determined by the solution of another, or perhaps several others. What is the effect of the resignation of a Senator, to take effect at a future day, when accepted by the Legislature? Such resignations have been frequent. If such a resignation, accepted, makes a future vacancy certain, then the resignation of Mr. Clay created a vacancy to take effect upon the first Monday of September. The resignation was made while the Legislature was in session, and was accepted. The Legislature then in session, proceeded to provide for the future vacancy, by the election of Mr. Dixon for the unexpired term. Afterwards, the lamented event of Mr. Clay's death occurred, and presented this precise question: What was the vacancy created by the death? If it was a vacancy which extended only until the first Monday in September, the appointment of the Governor of Kentucky could fil only that intermediate term. If, on the contrary, that vacancy extended until the next meeting of the Legislature, then the act of the preceding Legislature, filling, by anticipation, the vacancy created by the resignation, was a void act, and it created no right upon which any person can claim a seat in this Chamber. This statement, in my judgment, indicates the precise question before us. If Mr. Clay's resignation, accepted, created a vacancy to take effect *in futuro*, then the Legislature, which is the constitutional depository, in the first instance, of the power of appointment, had the right to fill the vacancy; and having exercised that right, there remained only the vacancy between the death of Mr. Clay and the commencement of the fractional term filled already by the legislative appointment. It is worth observation that this construction will give the full effect intended, both to the action of the Legislature and to that of the Governor of Kentucky. My impression is that this is the true construction; but I prefer not to act upon mere impression. Let us take a little time for maturer consideration. I desire that this matter may be referred; that it may be carefully considered as its great importance merits; and that final action may take place upon the report of a committee of this body.

Mr. SEWARD. We are here to reconstitute the Senate of the United States. Every State in this Union is entitled to two Senators upon this floor, and no more and no less. By the Constitution of the United States the Legislatures of the States are the power with whom permanently rests the responsibility of appointing Senators to this body. There is only an occasional power conferred upon any other authority; that is, upon the Governor, to fill a vacancy which has not been, and from the nature of the case cannot be, conveniently filled by the Legislature, in order to prevent an interregnum of the representation of a State in the Senate. Now, coming here to reconstitute the Senate, all the States appear with a full representation, as we may assume, except the State of Kentucky. This body adjourned, practically, on the first day of September last. Kentucky was then represented here by two persons as Senators on this floor. She is here to-day with only one, and that is the honorable Mr. Underwood. Another person presents himself, and asks to be sworn in. That is the honorable Mr. Dixon, whose case is now under consideration. Why shall he not be received? He cannot be received until he has shown his title and taken the oath of office. He has presented his title. What is it? It is a title conferred by the Legislature of his State, an authority which was competent to appoint him. It is to fill a vacancy. Is there a vacancy here? Yes. The honorable Senator from Kentucky, Mr. Clay, is dead. The credentials now presented certify that Mr. Dixon comes to fill the vacancy thus created. The vacancy is apparent, the appointment is direct, and by the highest authority. Why then shall he not be received? The case is, *prima facie*, complete; and in receiving Senators, it is the custom, and has been the custom of the Senate of the United States from the foundation of the Government, to receive the Senator who comes *prima facie* entitled to fill a vacancy, known and admitted to exist, with a commission given him by the Legislature of the State in whose service the vacancy has arisen.

You will see, sir, that I am addressing myself, not to the question whether he will be entitled to retain his seat against all who may challenge it hereafter, but that I claim now only that he shall be received and take his place on this floor. Now, why shall he not be received? I hear no objection except this: that perhaps some one else may come here and claim the seat by and by. Well, sir, what is there new or strange in that? When the Senator from Georgia [Mr. DAWSON] came here to challenge his seat, he was admitted; and yet somebody else might have been behind to come with a better title. When I came here, to take my seat, who knew but that somebody might come and show that my credentials were false or forged, and that there was a better title resting in another claimant? We do not act upon any such principle. How, then, is this case to be separated or distinguished from the ordinary case of a Senator coming to challenge his seat? Why, we are told that there was a Senator here at the close of the last session, occupying the seat which this Senator now comes to claim. True, there was a Senator, on the day that we adjourned, occupying that place. But he is not here now. There is no contestant, there is no disputant of the place. But it is said that he may come and we will look at his credentials. It is going a great way out of the customary track, to look at credentials filed here at a former session, to see whether they may not contain a claim to the seat, of some person who stands unchallenged. But we will look at the credentials, and what do they say? They say that Mr. Meriwether, to whom these

credentials were given, and who occupied the seat until that day, was to hold it until the first day of *September* and *no longer*. They say that he was a Senator until that time and no longer. There is, then, the fact that he does not come to claim the seat, and the additional fact that his title does not purport to extend beyond the first day of September, and so leaves this place unchallenged. Therefore, it appears to me to be the ordinary case of a Senator coming here with the credentials of his title to a seat, to fill a vacancy which has occurred.

But the question is raised whether, inasmuch as Mr. Clay, whose seat is now vacated, died some short period before the time for his resignation, to take effect there can be two vacancies in the same term, occurring respectively upon the resignation and death of the incumbent, and whether it is not possible that when the Governor provisionally filled the vacancy occurring by the death of Mr. Clay, he did not necessarily make an appointment which must be continued until the time assigned by Mr. Clay for his resignation? I have only to say this on that subject, in anticipation of the great question involved when it shall come up hereafter, that it is unnecessary to discuss it now. But I have two or three propositions which I throw out as worthy of consideration in the mean time. And in the first place, it is too late in the day to say that the Legislature of a State cannot fill a place in the Senate of the United States when a vacancy is to occur *in futuro;* for all the States appoint Senators in advance of the occurrence of a vacancy. You and I were appointed in advance, before the places were vacated which we fill. So was every Senator appointed for a full term. That is one point. The second is, that it is too late in the day to say that a Senator of the United States cannot resign, and fix a day *in futuro* for his resignation to take effect, and keep his seat, if he can keep his life, until that day comes. This is done every day, not only in the Senate of the United States, but in every department of the Government. Well, then, if a Senator may send in his resignation, to take effect *in futuro*, and if the Legislature can fill a vacancy to occur *in futuro*, then this thing happens, that when there is a resignation to take effect *in futuro*, and the Legislature of a State fill the vacancy *in futuro*, that is a legal, constitutional, irreversible appointment, and entitles the Senator thus appointed to a place in this body. The consequence of this may be that if there be a death on the part of the resigning Senator before the day comes for the resignation to take effect, and the Legislature not being in session, the Governor makes an appointment, that appointment may be inoperative, ineffectual, void, and good for nothing, so that an *interregnum* exists in the representation, or else that the person whom the Legislature shall have appointed shall anticipate the term for which he was appointed, and so fill up the vacancy as soon as it prematurely occurs.

But, sir, these are considerations which I do not propose to dwell at large upon now. I have thrown them out because they seem necessary to justify the course which I shall take, as a member of this body, in giving my vote for the acceptance of the credentials of the Senator from Kentucky and giving him his seat now. But I am willing, and very desirous, that there should be afterwards an investigation of the whole subject by a committee.

Mr. CASS. Mr. President, I desire to make a remark or two on the present state of our proceedings—not on the main point upon which this question is to be determined, for I leave it entirely until it has been investigated and discussed, as it is to be discussed. I shall not now touch it at all. I merely wish to make a remark upon the present state of our proceedings.

The honorable Senator from New York says we are here to reconstitute the Senate. I do not understand such to be the case; in the first place, as a matter of fact, and in the next place, as a matter of principle. Were we to reconstitute it, what effect would it have on our proceedings on the question before us? We should have the same rights which we now have, and always have had, under all possible circumstances, to judge whether there is a vacancy in any seat in this body. There is no question of reconstitution before us. We are where we were in September. It is always within the power, and it is always the duty of the Senate, to know who are its members—whether there is any existing vacancy or not.

The honorable Senator also says that we may assume the representation of every State to be full, except that of the State of Kentucky. I do not understand that assumption. If by full, he means that the members from the States are all here, it is obvious that it is not so; for all the Senators are not here. If by full, he means that the seats are legally occupied, that is assuming the very fact before us; for the question now under discussion, as a preliminary part of this proceeding, is, whether there is a vacancy; and you cannot proceed a single step forward without determining whether there is or is not a vacancy. If you proceed to swear in the gentleman whose credentials have been presented, you determine *ipso facto* that there is now a vacancy. What, then, the honorable Senator means by assuming that all the seats of the Senators of the several States, except those from Kentucky, are full, I must confess I cannot understand.

A gentleman presents himself here with credentials from the State of Kentucky, demanding a seat upon this floor. There is an objection raised *in limine*. He presents the broad seal, as it is called, of Kentucky. There is not a word to be said about that. No man impugns it. This, therefore, is no such question as the New Jersey case, which has been alluded to. No one denies that the honorable gentleman holding these credentials was elected by the Legislature of the State of Kentucky. There is no question as to whether his credentials are or are not in the proper form. There is no such question before us, because no man raises such an objection. But before the honorable gentleman can take his seat, there is a preliminary question that every member of this body must solve for himself; and that is, whether there is or is not a vacancy to be filled. It is not in the power of the Legislatures of the States to determine that point conclusively against us. We hold our seats here for six years. When the appointing power is exercised it is exhausted until a legal vacancy exists. No Legislature at the end of three years can send another man to take the seat of one who has already been elected for six years. It is not the broad seal of the State that under those circumstances would carry conviction and decide the question of right. There is not a member of the Senate who would say that under those circumstances the broad seal would carry the right with it; nor would the right there depend upon the election by the Legislature. We must look to the Constitution to ascertain the tenure of office. That is the inquiry, and it is our duty to make the inquiry. Before any member of this body can take his seat it is our duty to ascertain whether there is a preëxisting vacancy, and that is precisely the question now before us. I repeat, I do not mean to touch upon that point at all. That is the point which we are to determine; therefore I say, that if we admit this gentleman to be sworn in, we predetermine the point, and say that there is a vacancy.

Why, it is said that there is no person here to contest this seat. Mr. President, this is no question of contest. Mr. Meriwether may be in China for aught I know, and for any legal effect it may have upon the decision which we are required to make. This is not a question with regard to Mr. Meriwether. It is a solemn question arising under the Constitution of the United States, and it does not matter where he is, nor what are his views. He may be absent from feelings of delicacy, and as a matter of propriety; and if so, I heartily approve his course. I have no doubt that he may have abstained from taking any part in this proceeding from a sense of propriety. But that does not touch the great question of right now pending before the American Senate. Mr. Meriwether is no party to it, strictly. It is a great question under the Constitution. I repeat, then, that in this stage of our proceedings, the very first question to determine is, whether there is a vacancy; and you cannot swear this gentleman in until you have determined whether there is a vacancy; and that very point is what I want to determine before I vote. You appoint a committee to determine whether there is a vacancy, and previously you decide that there is one by admitting the gentleman to take his seat; so that take which ever horn of the dilemma you choose, it involves you in inextricable confusion. Under ordinary circumstances when a gentleman presents himself, we knowing that a term has expired whereby a vacancy exists, he is admitted as a matter of course. But here is a very doubtful and difficult question; at least it appears so to many. For myself, I do not see so much difficulty as some gentlemen do, whatever opinion I may ultimately form. That I reserve for myself to declare whenever the proper time shall come But it is certain that if you swear this gentleman in now, under the circumstances, you predetermine the very point that is to be reported upon by the committee. That is my view of the case, as it now presents itself to my mind.

As to the reference to a committee, I am perfectly willing that it should be so referred; but I am quite as willing to take up the case and decide it without the intervention of a committee. In fact I do not see that the reference to a committee will do any good. I do not see that there are any facts to be developed, or any peculiar views to be presented. The Constitution is before us, in the hands of every one, and I, for one, am perfectly willing to go on with the discussion; but I do not want to preclude myself by determining beforehand that a vacancy actually exists at the present time. We cannot vote that this gentleman shall be sworn in, without previously determining that very point, which is the point of contest.

On the suggestion of Mr. GWIN, the subject was informally passed over, in order to allow a report to be made from the committee appointed to wait upon the President.

PRESIDENT'S MESSAGE.

Mr. BRIGHT, from the committee appointed to wait upon the President of the United States and advise him of the organization of the two Houses of Congress, reported that they had discharged their duties, and learned from the President that he would immediately communicate with the two Houses in writing.

A message was received from the President of the United States by the hands of M. P. FILLMORE, Esq., his Secretary, which was read.

[For the Message, see the proceedings of the House of Representatives.]

On motion by Mr. SEWARD, it was

Ordered, That the usual number of the message and accompanying documents be printed for the use of the Senate.

Mr. HAMLIN. I offer the following resolution:

Resolved, That ten thousand additional copies of the message and accompanying documents, in addition to the usual number, be printed for the use of the Senate.

I do not desire the action of the Senate upon this resolution at the present time, and for this reason: it will be recollected by the Senate that my colleague, at the last session, offered a joint resolution, requiring the several departments to furnish an abstract of their annual reports. I understand that these abstracts have been furnished from some of the departments—perhaps from all. Whether they are such as will meet the approbation of the Senate, and come up to what they may require, is uncertain. The number of extra copies which will be finally required, may therefore be better determined by the Printing Committee, when that committee shall have been appointed. I therefore ask that the resolution lie on the table.

The PRESIDENT. It lies over as a matter of course.

HOUR OF MEETING.

On motion by Mr. HAMLIN, it was

Ordered, That the daily hour of meeting be twelve o'clock, m., until otherwise ordered.

On motion by Mr. JONES, of Tennessee, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 6, 1852.

In conformity with the Constitution of the United States, the Second Session of the Thirty-Second Congress convened to-day.

At twelve o'clock, m., the Hon. LINN BOYD, Speaker of the House of Representatives, took the chair, and called the House to order.

The roll of the Members was called over by States, by the Clerk of the House, when the following Members answered to their names, viz:

MAINE.
Moses McDonald,
John Appleton,
Robert Goodenow,
Isaac Reed,
Ephraim K. Smart,
Israel Washburn, jr.,
Thomas J. D. Fuller.

NEW HAMPSHIRE.
Amos Tuck,
Charles H. Peaslee,
Jared Perkins.

VERMONT.
William Hebard,
James Meacham,
Thomas Bartlett, jr.

MASSACHUSETTS.
James H. Duncan,
Charles Allen,
George T. Davis,
John Z. Goodrich,
Horace Mann,
Zeno Scudder.

RHODE ISLAND.
George G. King,
BenjaminB. Thurston.

CONNECTICUT.
Charles Chapman,
Colin M. Ingersoll,
Chauncey F. Cleveland,
Origen S. Seymour.

NEW YORK.
Obadiah Bowne,
J. H. Hobart Haws,
George Briggs,
James Brooks,
Abraham P. Stephens,
Gilbert Dean,
William Murray,
Josiah Sutherland,
David L. Seymour,
John L. Schoolcraft,
John H. Boyd,
Alexander H. Buell,
Preston King,
Willard Ives,
Timothy Jenkins,
Henry Bennett,
Leander Babcock,
Daniel T. Jones,
Thomas Y. How, jr.,
Henry S. Walbridge,
William A. Sackett,
Abraham M. Schermerhorn,
Jerediah Horsford,
Reuben Robie,
Solomon G. Haven,
Augustus P. Hascall,
Lorenzo Burrows.

NEW JERSEY.
Nathan T. Stratton,
Charles Skelton,
Isaac Wildrick.

PENNSYLVANIA.
Thomas B. Florence,
Joseph R. Chandler,
Henry D. Moore,
John Robbins, Jr.,
John McNair,
Thomas Ross,
John A. Morrison,
Thaddeus Stevens,
J. Glancy Jones,
Milo M. Dimmick,
Galusha A. Grow,
James Gamble,
Thomas M. Bibighaus,
William H. Kurtz,
James X. McLanahan,
John L. Dawson,
Joseph H. Kuhns,
Thomas M. Howe,
John W. Howe,
Carlton B. Curtis,
Alfred Gilmore.

DELAWARE.
George Read Riddle.

MARYLAND.
Richard J. Bowie,
William T. Hamilton,
Edward Hammond,
Thomas Y. Walsh,
Alexander Evans,
Joseph S. Cottman.

VIRGINIA.
John S. Millson,
Richard K. Meade,
Thomas H. Averett,
Thomas S. Bocock,
Paulus Powell,
John S. Caskie,
Thomas H. Bayly,
Alexander R. Holladay,
James F. Strother,
Charles J. Faulkner,
John Letcher,
Henry A. Edmundson,
Fayette McMullin,
James M. H. Beale.

NORTH CAROLINA.
Thomas L. Clingman,
Alfred Dockery,
James T. Morehead,
Abraham W. Venable,
John R. J. Daniel,
William S. Ashe,
Edward Stanly,
David Outlaw.

SOUTH CAROLINA.
Daniel Wallace,
James L. Orr,
Joseph A. Woodward,
John McQueen,
William F. Colcock.

GEORGIA.
Joseph W. Jackson,
Charles Murphy,
Junius Hillyer,
Alexander H. Stephens.

ALABAMA.
John Bragg,
William R. Smith,
Williamson R. W. Cobb.

MISSISSIPPI.
Benjamin D. Nabers,
John A. Wilcox,
John D. Freeman,
Albert G. Brown.

LOUISIANA.
Alexander G. Penn,
John Moore.

OHIO.
David T. Disney,
Lewis D. Campbell,
Benjamin Stanton,
Frederick W. Green,
Nelson Barrere,
John L. Taylor,
Edson B. Olds,
Charles Sweetser,
George H. Busby,
John Welch.
James M. Gaylord,
Alexander Harper,
William F. Hunter,
John Johnson,
Joseph Cable,
David K. Cartter,
Eben Newton,
Joshua R. Giddings,
Norton S. Townshend.

KENTUCKY.
Linn Boyd,
Presley Ewing,
William T. Ward,
James W. Stone,
Addison White,
John C. Mason,
Richard H. Stanton.

TENNESSEE.
Andrew Johnson,
Albert G. Watkins,
John H. Savage,
George W. Jones,
Meredith P. Gentry,
William Cullom,
Isham G. Harris,
Frederick P. Stanton,
Christopher H. Williams.

INDIANA.
James Lockhart,
Cyrus L. Dunham,
John L. Robinson,
Samuel W. Parker,
Thomas A. Hendricks,
Willis A. Gorman,
John G. Davis,
Daniel Mace,
Samuel Brenton.

ILLINOIS.
William H. Bissell,
Willis Allen,
Richard S. Molony,
William A. Richardson,
Thompson Campbell,
Richard Yates.

MISSOURI.
John F. Darby,
Gilchrist Porter,
John G. Miller,
Willard P. Hall,
John S. Phelps.

MICHIGAN.
Ebenezer J. Penniman,
Charles E. Stuart.

IOWA.
Bernhart Henn.

WISCONSIN.
Ben. C. Eastman,
James Duane Doty.

CALIFORNIA.
Edward C. Marshall.

OREGON TERRITORY.
Joseph Lane.

N. MEXICO TERRITORY.
Richard H. Weightman.

UTAH TERRITORY.
John M. Bernhisel.

Mr. FAULKNER stated that Mr. SHERRARD CLEMENS, the member elect from the Fifteenth Congressional district of the State of Virginia, to fill the vacancy occasioned by the resignation of the Hon. GEORGE W. THOMPSON, was present with his credentials, and ready to qualify.

Mr. EWING also introduced Mr. WILLIAM PRESTON, member elect of the Seventh Congressional district of the State of Kentucky, to fill the vacancy occasioned by the resignation of the Hon. HUMPHREY MARSHALL, and asked that he be qualified.

These gentlemen presented themselves at the bar, and were qualified by the Speaker administering to them the usual oath to support the Constitution of the United States.

On motion by Mr. JONES, of Tennessee, it was

Ordered, That a message be sent to the Senate, informing that body that there is a quorum of the House present, and that the House is ready to proceed to business.

Mr. JONES also offered the following resolution; which was read and agreed to:

Resolved, That a committee be appointed on the part of the House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and to inform him that a quorum of the two Houses is assembled, and that Congress is now ready to receive any communication he may be pleased to make.

The following gentlemen were appointed by the Speaker to constitute the said committee on the part of the House: Messrs JONES, of Tennessee, HAVEN, and ROBBINS.

CHOOSING SEATS.

Mr. SUTHERLAND offered the following resolution, and upon it moved the previous question:

Resolved, That the Clerk of this House, immediately after the passage of this resolution, place in a box the name of each member and delegate of the House of Representatives, on a separate piece of paper; that he then proceed, in the presence of the House, to draw from said box, one at a time, the said pieces of paper; and as each is drawn he shall announce the name of the member or delegate upon it, who shall then choose his seat for the present session: *Provided*, That before said drawing shall commence, the Speaker shall cause every seat to be vacated, and shall see that every seat continues vacant until it is selected under this order.

Mr. FREEMAN moved to lay the resolution upon the table.

The House was divided upon the latter motion, and there were—ayes 47, noes not counted.

So the House refused to lay the resolution upon the table.

Mr. GORMAN. I ask the gentleman from New York [Mr. SUTHERLAND] to withdraw his call for the previous question, and to postpone action upon the resolution until Wednesday next.

[Cries of "No!" "No!" all over the House.]

The demand for the previous question was then seconded, and the main question ordered to be put.

The question was then put, and the resolution was agreed to.

Mr. BRIGGS moved to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The SPEAKER. It is made the duty of the Speaker, under the resolution just passed, to see that no gentleman takes a seat until he has regularly drawn it. It is proposed that, by unanimous consent, the members agree to pass without the bar, and return as their names shall be drawn.

[Cries of "Good!" "Good!" "Agreed!" "Agreed!"]

The SPEAKER. That will then be considered as the order of proceeding under the resolution.

On motion of Mr. PHELPS, by unanimous consent it was

Ordered, That JOHN F. DARBY be permitted to continue in his seat during the drawing under the resolution.

Mr. BRIGGS asked the unanimous consent of the House that a colleague of Mr. WM. APPLETON, of Massachusetts, who was yesterday called home on account of illness in his family, be permitted to draw a seat for him.

Objection was made, and the motion was not agreed to.

Mr. THOMAS M. HOWE asked the same favor in behalf of Mr. ALLISON, of Pennsylvania, who was confined to his bed by sickness.

Objected to.

The members then all vacated their seats, and retired without the bar of the House.

The drawing then commenced, and was proceeded in to completion, occupying about an hour and a half.

A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed a resolution to appoint a committee to meet the committee appointed on the part of the House of Representatives, to wait upon the President of the United States and inform him that a quorum of the two Houses had assembled, and that Congress was ready to receive any communication he might be pleased to make; and that the Senate had appointed Messrs. BRIGHT and DAVIS as such committee on their part.

HOUR OF MEETING.

Mr. RICHARDSON. I would inquire if the rules adopted at the last session extend to this?

The SPEAKER. They extend to the entire Congress.

Mr. RICHARDSON. Including the hour of meeting?

The SPEAKER. The hour of meeting is included.

Mr. RICHARDSON. I move, then, that, until otherwise ordered, the hour of meeting of the House be twelve o'clock, m.

Mr. SKELTON. I move to amend the motion by inserting eleven o'clock, in the place of twelve o'clock.

The question was first taken on the amendment, and it was not agreed to.

The question then recurring on the original motion, it was put and carried in the affirmative.

UNFINISHED BUSINESS.

Mr. STUART. It will be recollected, that when the last session closed almost the entire business of Congress was left upon the Speaker's table. I desire thus early to submit a proposition to the House, that after one hour being spent in the calling of committees, the House will proceed to the business upon the Speaker's table as the special order, and consider it until it is referred to the appropriate committees, or otherwise disposed of. I deem such a course highly important to the interests of the country.

The SPEAKER The gentleman will please submit his motion in writing.

Mr. CLINGMAN. I wish it understood that I shall object to the motion of the gentleman.

Mr. STUART. If it be necessary to effect the object, I ask a suspension of the rules.

The motion having been reduced to writing, was read, as follows:

Resolved, That after the expiration of the morning hour each day the House shall proceed to the consideration of the business upon the Speaker's table for one hour, until all business thereon shall be appropriately referred or otherwise disposed of.

Mr. CLINGMAN. I beg leave to inquire of the Chair whether, under the existing orders of the House, it is not competent for a majority, every day, after the expiration of the morning hour, to proceed to the business upon the Speaker's table?

The SPEAKER. By motion it is.

Mr. CLINGMAN. Then I do not think it is necessary to make this business a special order.

Mr. CARTTER. Is it in order to move to lay the resolution upon the table?

The SPEAKER. The resolution is not before the House. The pending question is upon the suspension of the rules for its introduction.

The question was then taken on the motion to suspend the rules, and it was not agreed to.

DIVISION OF OREGON TERRITORY.

Mr. LANE asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee on Territories be requested to inquire into the expediency of dividing Oregon Territory, and forming a new Territory north of the Columbia river, by the name of Columbia Territory, with leave to report by bill or otherwise.

Mr. GOODENOW. I object.

Mr. LANE. I move to suspend the rules for the purpose of introducing the resolution.

The question was taken, and the rules were suspended.

The resolution, as above inserted, was then introduced, and adopted.

PRICE OF THE PUBLIC LANDS.

Mr. COBB. I hope it will be the pleasure of the House to take up House bill No. 74, proposing to reduce the price of the public lands to actual settlers and cultivators of the soil, and make it the special order for the first Tuesday in January. I make that motion.

Mr. SEYMOUR, of New York. I object.

Mr. COBB. Then I move to suspend the rules for the purpose of introducing the proposition.

The question was then taken on the latter motion, and it was not agreed to.

So the House refused to suspend the rules.

Mr. LANE asked and obtained leave to introduce "A bill to provide for the improvement of the navigation of the Willamette river, in Oregon Territory," of which notice had been given at the last session; which was read a first and second time by its title.

Mr. LANE. I now move its reference to the Committee on Commerce.

The SPEAKER. Its reference would be irregular before the formation of the committees of the House.

Mr. KING, of New York. The gentleman can accomplish his object by moving its reference to the Committee on Commerce, when that Committee shall have been appointed.

Mr. LANE. I accept the gentleman's modification of my motion.

The SPEAKER. If there be no objection, it will be so ordered.

There was no objection, and it was so ordered.

Mr. STUART. To carry out in some manner the proposition submitted by me some time ago, I move to proceed to the business upon the Speaker's table.

The SPEAKER. Under the rules it is made the duty of the Chair to call the States for petitions.

Mr. STUART. Does that duty continue after the termination of the morning hour? The morning hour for to-day has expired.

The SPEAKER. Until one hour has been devoted to the calling for reports from Committees, it should be remembered that the motion submitted by the gentleman is not regularly in order.

Mr. STUART. My impression was, that after the expiration of the morning hour it was in order.

Mr. RICHARDSON. There is no morning hour.

Mr. STUART. There is.

The SPEAKER. The rule is as follows:

"After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table."

Mr. STUART. Resolutions were offered this morning.

The SPEAKER. But they were not offered regularly it will be remembered, the States not having been called on for petitions.

Mr. STUART. I then call for the regular order of business.

The SPEAKER. Petitions are in order from the State of Maine.

RULE ON PETITIONS.

Mr. CLINGMAN. I gave notice at the last session of a motion to strike out so much of the rule as required the calling of the States for petitions on the first thirty days; but it so happened that I never got an opportunity of submitting that motion. I hope there will be no objection to its introduction at the present time; because the proceeding of calling for petitions is wholly unnecessary, in consequence of another rule under which petitions are quietly handed in at the Clerk's desk from time to time; and because it will be a great saving of the public time. I move that so much of the rule as requires the calling of States for petitions on the first thirty days of the session be abolished.

The SPEAKER. The Chair would suggest that the gentleman modify his motion, to suspend so much of the rule as requires the calling of States for petitions on the first thirty days of the session, during the present session.

Mr. CLINGMAN. If the motion is not objected to, there will be no difficulty in abolishing that portion of the rule. My object is to strike it out, or suspend it for this session, which will amount to the same thing, as the rule will not exist after the present session.

Mr. STUART. If the gentleman makes the motion to suspend so much of the rule for the present session, I shall not interpose objection, although it seems to me that we had better not abolish it.

Mr. CLINGMAN. I have no objection to move to suspend, if it meets the view of the gentleman from Michigan. My object is to get that portion of the rule out of the printed copy of the rules, so that members of the next Congress, when they adopt the rules, shall not find it among them.

Mr. SKELTON. I object to the motion.

Mr. CLINGMAN. I move a suspension of the rules, for the purpose of submitting the motion.

The question was put on suspending the rules, and, on a division, there were—ayes 58——

Mr. MASON. I demand tellers on the motion.

Tellers were ordered; and Messrs. RICHARDSON and CHANDLER were appointed.

The question was again put, and the motion was rejected, the tellers having reported—ayes 69, noes 48; two thirds not voting in the affirmative.

The SPEAKER proceeded with the call of the States for petitions.

Mr. JONES, of Tennessee. Mr. Speaker, the joint committee appointed by the Senate and House of Representatives to wait on the President of the United States, and inform him that a quorum of both Houses had assembled and were ready to receive any communication that he might have to make, have discharged that duty, and report that the President will communicate immediately to Congress a message in writing.

TERRITORY OF PLATTE.

Mr. HALL gave notice that he would, on some future day, introduce "A bill to organize the Territory of Platte."

The SPEAKER proceeded to call for resolutions from the several States.

CHAPLAINS.

Mr. FLORENCE. I offer the following resolution:

Resolved, (the Senate concurring,) That two Chaplains be elected one by the Senate and the other by the House of Representatives, and that they officiate alternately during the present session of Congress."

Mr. DEAN. I ask whether we have not already Chaplains?

The SPEAKER. Chaplains were elected only for the last session, in the recollection of the Chair.

Mr. JENKINS. Do not the rules provide for the election of Chaplains?

The SPEAKER. There is no rule on the subject.

Mr. DEAN. Is it not usual for the House to elect its own Chaplain?

The SPEAKER. The election of Chaplains for Congress is always provided for by joint resolution; and this is a joint resolution.

Mr. STEPHENS, of Georgia. I demand the previous question on the adoption of the resolution.

The call for the previous question was seconded, and the main question ordered to be put.

The question was taken, and the resolution was adopted.

PRESIDENT'S MESSAGE.

A message in writing was here received from the President of the United States by Mr. M P. FILLMORE, his Private Secretary, which was read, as follows:

Fellow-Citizens of the Senate and of the House of Representatives:

The brief space which has elapsed since the close of your last session has been marked by no extraordinary political event. The quadrennial election of Chief Magistrate has passed off with less than the usual excitement. However individuals and parties may have been disappointed in the result, it is nevertheless a subject of national congratulation that the choice has been effected by the independent suffrages of a free people, undisturbed by those influences which in other countries have too often affected the purity of popular elections.

Our grateful thanks are due to an All-merciful Providence, not only for staying the pestilence which in different forms has desolated some of our cities, but for crowning the labors of the husbandman with an abundant harvest, and the nation generally with the blessings of peace and prosperity.

Within a few weeks the public mind has been deeply affected by the death of Daniel Webster, filling at his decease the office of Secretary of State. His associates in the Executive Government have sincerely sympathized with his family and the public generally on this mournful occasion. His commanding talents, his great political and professional eminence, his well-tried patriotism, and his long and faithful services, in the most important public trusts, have caused his death to be lamented throughout the country, and have earned for him a lasting place in our history.

In the course of the last summer considerable anxiety was caused for a short time by an official intimation from the Government of Great Britain that orders had been given for the protection of the fisheries upon the coasts of the British Provinces in North America against the alleged encroachments of the fishing vessels of the United States and France. The shortness of this notice and the season of the year seemed to make it a matter of urgent importance. It was at first apprehended that an increased naval force had been ordered to the fishing grounds to carry into effect the British interpretation of those provisions in the convention of 1818, in reference to the true intent of which the two Governments differ. It was soon discovered that such was not the design of Great Britain, and satisfactory explanations of the real objects of the measure have been given both here and in London.

The unadjusted difference, however, between the two Governments as to the interpretation of the first article of the convention of 1818 is still a matter of importance. American fishing vessels within nine or ten years have been excluded from waters to which they had free access for twenty-five years after the negotiation of the treaty. In 1845 this exclusion was relaxed so far as concerns the Bay of Fundy, but the just and liberal intention of the Home Government, in compliance with what we think the true construction of the convention, to open all the other outer bays to our fishermen, was abandoned, in consequence of the opposition of the colonies. Notwithstanding this, the United States have, since the Bay of Fundy was reopened to our fishermen, in 1845, pursued the most liberal course toward the colonial fishing interests. By the revenue law of 1846, the duties on colonial fish entering our ports were very greatly reduced, and by the warehousing act it is allowed to be entered in bond without payment of duty. In this way colonial fish has acquired the monopoly of the export trade in our market, and is entering to some extent into the home consumption. These facts were among those which increased the sensibility of our fishing interest, at the movement in question.

These circumstances, and the incidents above alluded to, have led me to think the moment favorable for a reconsideration of the entire subject of the fisheries, on the coasts of the British Provinces, with a view to place them upon a more liberal footing of reciprocal privilege. A willingness to meet us in some arrangement of this kind is understood to exist on the part of Great Britain, with a desire on her part to include in one comprehensive settlement, as well this subject as the commercial intercourse between the United States and the British Provinces. I have thought that whatever arrangements may be made on these two subjects, it is expedient that they should be embraced in separate conventions. The illness and death of the late Secretary of State prevented the commencement of the contemplated negotiation. Pains have been taken to collect the information required for the details of such an arrangement. The subject is attended with considerable difficulty. If it is found practicable to come to an agreement mutually acceptable to the two parties, conventions may be concluded in the course of the present winter. The control of Congress over all the provisions of such an arrangement, affecting the revenue, will of course be reserved.

The affairs of Cuba formed a prominent topic in my last annual message. They remain in an uneasy condition, and a feeling of alarm and irritation on the part of the Cuban authorities appears to exist. This feeling has interfered with the regular commercial intercourse between the United States and the Island, and led to some acts of which we have a right to complain. But the Captain General of Cuba is clothed with no power to treat with foreign Governments, nor is he in any degree under the control of the Spanish Minister at Washington. Any communication which he may hold with an agent of a foreign Power is informal and matter of courtesy. Anxious to put an end to the existing inconveniences, (which seemed to rest on a misconception,) I directed the newly-appointed Minister to Mexico to visit Havana, on his way to Vera Cruz. He was respectfully received by the Captain General, who conferred with him freely on the recent occurrences; but no permanent arrangement was effected.

In the mean time, the refusal of the Captain Gen-

eral to allow passengers and the mail to be landed in certain cases, for a reason which does not furnish, in the opinion of this Government even a good presumptive ground for such prohibition, has been made the subject of a serious remonstrance at Madrid; and I have no reason to doubt that due respect will be paid by the Government of her Catholic Majesty to the representations which our Minister has been instructed to make on the subject.

It is but justice to the Captain General to add, that his conduct toward the steamers employed to carry the mails of the United States to Havana has, with the exceptions above alluded to, been marked with kindness and liberality, and indicates no general purpose of interfering with the commercial correspondence and intercourse between the Island and this country.

Early in the present year official notes were received from the Ministers of France and England, inviting the Government of the United States to become a party with Great Britain and France to a tripartite convention, in virtue of which the three Powers should severally and collectively disclaim, now and for the future, all intention to obtain possession of the Island of Cuba, and should bind themselves to discountenance all attempts to that effect on the part of any Power or individual whatever. This invitation has been respectfully declined, for reasons which it would occupy too much space in this communication to state in detail, but which led me to think that the proposed measure would be of doubtful constitutionality, impolitic, and unavailing. I have, however, in common with several of my predecessors, directed the Ministers of France and England to be assured that the United States entertain no designs against Cuba; but that, on the contrary, I should regard its incorporation into the Union at the present time as fraught with serious peril.

Were this Island comparatively destitute of inhabitants, or occupied by a kindred race, I should regard it, if voluntarily ceded by Spain, as a most desirable acquisition. But, under existing circumstances, I should look upon its incorporation into our Union as a very hazardous measure. It would bring into the Confederacy a population of a different national stock, speaking a different language, and not likely to harmonize with the other members. It would probably affect, in a prejudicial manner, the industrial interests of the South; and it might revive those conflicts of opinion between the different sections of the country, which lately shook the Union to its center, and which have been so happily compromised.

The rejection by the Mexican Congress of the convention which had been concluded between that Republic and the United States, for the protection of a transit way across the Isthmus of Tehuantepec, and of the interests of those citizens of the United States who had become proprietors of the rights which Mexico had conferred on one of her own citizens in regard to that transit, has thrown a serious obstacle in the way of the attainment of a very desirable national object. I am still willing to hope that the differences on the subject which exist, or may hereafter arise, between the Governments, will be amicably adjusted. This subject, however, has already engaged the attention of the Senate of the United States, and requires no further comment in this communication.

The settlement of the question respecting the port of San Juan de Nicaragua, and of the controversy between the Republics of Costa Rica and Nicaragua, in regard to their boundaries, was considered indispensable to the commencement of the ship-canal between the two oceans, which was the subject of the convention between the United States and Great Britain of the 19th of April, 1850. Accordingly, a proposition for the same purposes, addressed to the two Governments in that quarter, and to the Mosquito Indians, was agreed to in April last by the Secretary of State and the Minister of her Britannic Majesty. Besides the wish to aid in reconciling the differences of the two Republics, I engaged in the negotiation from a desire to place the great work of a ship-canal between the two oceans under one jurisdiction, and to establish the important port of San Juan de Nicaragua under the government of a civilized Power. The proposition in question was assented to by Costa Rica and the Mosquito Indians. It has not proved equally acceptable to Nicaragua; but it is to be hoped that the further negotiations on the subject which are in train will be carried on in that spirit of conciliation and compromise which ought always to prevail on such occasions, and that they will lead to a satisfactory result.

I have the satisfaction to inform you that the Executive Government of Venezuela has acknowledged some claims of citizens of the United States, which have for many years past been urged by our Chargé d'Affaires at Caraccas. It is hoped that the same sense of justice will actuate the Congress of that Republic in providing the means for their payment.

The recent revolution in Buenos Ayres and the Confederated States having opened the prospect of an improved state of things in that quarter, the Governments of Great Britain and France determined to negotiate with the Chief of the new Confederacy for the free access of their commerce to the extensive countries watered by the tributaries of the La Plata; and they gave a friendly notice of this purpose to the United States, that we might, if we thought proper, pursue the same course. In compliance with this invitation, our Minister at Rio Janeiro and our Chargé d'Affaires at Buenos Ayres have been fully authorized to conclude treaties with the newly-organized Confederation, or the States composing it. The delays which have taken place in the formation of the new Government have as yet prevented the execution of those instructions; but there is every reason to hope that these vast countries will be eventually opened to our commerce.

A treaty of commerce has been concluded between the United States and the Oriental Republic of Uruguay, which will be laid before the Senate. Should this convention go into operation, it will open to the commercial enterprise of our citizens a country of great extent and unsurpassed in natural resources, but from which foreign nations have hitherto been almost wholly excluded.

The correspondence of the late Secretary of State with the Peruvian Chargé d'Affaires relative to the Lobos Islands was communicated to Congress toward the close of the last session. Since that time, on further investigation of the subject, the doubts which had been entertained of the title of Peru to those Islands have been removed; and I have deemed it just that the temporary wrong which had been unintentionally done her, from want of information, should be repaired by an unreserved acknowledgment of her sovereignty.

I have the satisfaction to inform you that the course pursued by Peru has been creditable to the liberality of her Government. Before it was known by her that her title would be acknowledged at Washington, her Minister of Foreign Affairs had authorized our Chargé d'Affaires at Lima to announce to the American vessels which had gone to the Lobos for guano, that the Peruvian Government was willing to freight them on its own account. This intention has been carried into effect by the Peruvian Minister here, by an arrangement which is believed to be advantageous to the parties in interest.

Our settlements on the shores of the Pacific have already given a great extension, and in some respects a new direction, to our commerce in that ocean. A direct and rapidly-increasing intercourse has sprung up with Eastern Asia. The waters of the Northern Pacific, even into the Arctic sea, have of late years been frequented by our whalemen. The application of steam to the general purposes of navigation is becoming daily more common, and makes it desirable to obtain fuel and other necessary supplies at convenient points on the route between Asia and our Pacific shores. Our unfortunate countrymen who from time to time suffer shipwreck on the coasts of the eastern seas are entitled to protection. Besides these specific objects, the general prosperity of our States on the Pacific requires that an attempt should be made to open the opposite regions of Asia to a mutually beneficial intercourse. It is obvious that this attempt could be made by no Power to so great advantage as by the United States, whose constitutional system excludes every idea of distant colonial dependencies. I have accordingly been led to order an appropriate naval force to Japan, under the command of a discreet and intelligent officer of the highest rank known to our service. He is instructed to endeavor to obtain from the Government of that country some relaxation of the inhospitable and anti-social system which it has pursued for about two centuries. He has been directed particularly to remonstrate, in the strongest language, against the cruel treatment to which our shipwrecked mariners have often been subjected, and to insist that they shall be treated with humanity. He is instructed, however, at the same time, to give that Government the amplest assurances that the objects of the United States are such, and such only, as I have indicated, and that the expedition is friendly and peaceful. Notwithstanding the jealousy with which the Governments of Eastern Asia regard all overtures from foreigners, I am not without hopes of a beneficial result of the expedition. Should it be crowned with success, the advantages will not be confined to the United States, but, as in the case of China, will be equally enjoyed by all the other maritime Powers. I have much satisfaction in stating that in all the steps preparatory to this expedition, the Government of the United States has been materially aided by the good offices of the King of the Netherlands, the only European Power having any commercial relations with Japan.

In passing from this survey of our foreign relations, I invite the attention of Congress to the condition of that department of the Government to which this branch of the public business is intrusted. Our intercourse with foreign Powers has of late years greatly increased, both in consequence of our own growth and the introduction of many new States into the family of nations. In this way the Department of State has become overburdened. It has, by the recent establishment of the Department of the Interior, been relieved of some portion of the domestic business. If the residue of the business of that kind, such as the distribution of Congressional documents, the keeping, publishing, and distribution of the laws of the United States, the execution of the copyright law, the subject of reprieves and pardons, and some other subjects relating to interior administration, should be transferred from the Department of State, it would unquestionably be for the benefit of the public service. I would also suggest that the building appropriated to the State Department is not fire-proof; that there is reason to think there are defects in its construction, and that the archives of the Government in charge of the Department, with the precious collections of the manuscript papers of Washington, Jefferson, Hamilton, Madison, and Monroe, are exposed to destruction by fire. A similar remark may be made of the buildings appropriated to the War and Navy Departments.

The condition of the Treasury is exhibited in the annual report from that Department.

The cash receipts into the Treasury for the fiscal year ending the 30th June last, exclusive of trust funds, were forty-nine millions seven hundred and twenty-eight thousand three hundred and eighty-six dollars and eighty-nine cents, ($49,728,386 89,) and the expenditures for the same period, likewise exclusive of trust funds, were forty-six millions seven thousand eight hundred and ninety-six dollars and twenty cents, ($46,007,896 20;) of which nine millions four hundred and fifty-five thousand eight hundred and fifteen dollars and eighty-three cents ($9,455,815 83) was on account of the principal and interest of the public debt, including the last installment of the indemnity to Mexico, under the treaty of Guadalupe Hidalgo, leaving a balance of $14,632,136 37 in the Treasury on the first day of July last. Since this latter period, further purchases of the principal of the public debt have been made to the extent of two millions four hundred and fifty-six thousand five hundred and forty-seven dollars and forty-nine cents, ($2,456,547 49,) and the surplus in the Treasury will continue to be applied to that object, whenever the stock can be procured within the limits, as to price, authorized by law.

The value of foreign merchandise imported during the last fiscal year was two hundred and seven millions two hundred and forty thousand one hundred and one dollars, ($207,240,101;) and the value of domestic productions exported was one hundred and forty-nine millions eight hundred and sixty-one thousand nine hundred and eleven dollars, ($149,861,911,) besides seventeen millions two hundred and four thousand and twenty-six dollars ($17,204,026) of foreign merchandise exported; making the aggregate of the entire exports one hundred and sixty-seven millions sixty-five thousand nine hundred and thirty-seven dollars, ($167,065,937;) exclusive of the above there was exported forty-two millions five hundred and sev-

en thousand two hundred and eighty-five dollars ($42,507,285) in specie; and imported from foreign ports five millions two hundred and sixty-two thousand six hundred and forty-three dollars, ($5,262,643.)

In my first annual message to Congress I called your attention to what seemed to me some defects in the present tariff, and recommended such modifications as in my judgment were best adapted to remedy its evils and promote the prosperity of the country. Nothing has since occurred to change my views on this important question.

Without repeating the arguments contained in my former message, in favor of discriminating, protective duties, I deem it my duty to call your attention to one or two other considerations affecting this subject. The first is, the effect of large importations of foreign goods upon our currency. Most of the gold of California, as fast as it is coined, finds its way directly to Europe, in payment for goods purchased. In the second place, as our manufacturing establishments are broken down by competition with foreigners, the capital invested in them is lost, thousands of honest and industrious citizens are thrown out of employment, and the farmer to that extent is deprived of a home market for the sale of his surplus produce. In the third place, the destruction of our manufactures leaves the foreigner without competition in our market, and he consequently raises the price of the article sent here for sale, as is now seen in the increased cost of iron imported from England. The prosperity and wealth of every nation must depend upon its productive industry. The farmer is stimulated to exertion by finding a ready market for his surplus products, and benefited by being able to exchange them, without loss of time or expense of transportation, for the manufactures which his comfort or convenience requires. This is always done to the best advantage where a portion of the community in which he lives is engaged in other pursuits. But most manufactures require an amount of capital, and a practical skill, which cannot be commanded, unless they be protected for a time from ruinous competition from abroad. Hence the necessity of laying those duties upon imported goods which the Constitution authorizes for revenue, in such a manner as to protect and encourage the labor of our own citizens. Duties, however, should not be fixed at a rate so high as to exclude the foreign article, but should be so graduated as to enable the domestic manufacturer fairly to compete with the foreigner in our own markets; and by this competition to reduce the price of the manufactured article to the consumer to the lowest rate at which it can be produced. This policy would place the mechanic by the side of the farmer, create a mutual interchange of their respective commodities, and thus stimulate the industry of the whole country, and render us independent of foreign nations for the supplies required by the habits or necessities of the people.

Another question, wholly independent of protection, presents itself; and that is, whether the duties levied should be upon the value of the article at the place of shipment, or, where it is practicable, a specific duty, graduated according to quantity, as ascertained by weight or measure. All our duties are at present *ad valorem*. A certain per centage is levied on the price of the goods at the port of shipment in a foreign country. Most commercial nations have found it indispensable, for the purpose of preventing fraud and perjury, to make the duties specific whenever the article is of such a uniform value in weight or measure as to justify such a duty. Legislation should never encourage dishonesty, or crime. It is impossible that the revenue officers at the port where the goods are entered and the duties paid, should know with certainty what they cost in the foreign country. Yet the law requires that they should levy the duty according to such cost. They are therefore compelled to resort to very unsatisfactory evidence to ascertain what that cost was. They take the invoice of the importer, attested by his oath, as the best evidence of which the nature of the case admits. But every one must see that the invoice may be fabricated, and the oath by which it is supported false, by reason of which the dishonest importer pays a part only of the duties which are paid by the honest one, and thus indirectly receives from the Treasury of the United States a reward for his fraud and perjury. The reports of the Secretary of the Treasury, heretofore made on this subject, show conclusively that these frauds have been practiced to a great extent. The tendency is to destroy that high moral character for which our merchants have long been distinguished; to defraud the Government of its revenue; to break down the honest importer by a dishonest competition; and, finally, to transfer the business of importation to foreign and irresponsible agents, to the great detriment of our own citizens. I therefore again most earnestly recommend the adoption of specific duties, wherever it is practicable, or a home valuation, to prevent these frauds.

I would also again call your attention to the fact that the present tariff in some cases imposes a higher duty upon the raw material imported than upon the article manufactured from it, the consequence of which is that the duty operates to the encouragement of the foreigner and the discouragement of our own citizens.

For full and detailed information in regard to the general condition of our Indian affairs, I respectfully refer you to the report of the Secretary of the Interior and the accompanying documents.

The Senate not having thought proper to ratify the treaties which had been negotiated with the tribes of Indians in California and Oregon, our relations with them have been left in a very unsatisfactory condition.

In other parts of our territory particular districts of country have been set apart for the exclusive occupation of the Indians, and their right to the lands within those limits has been acknowledged and respected. But in California and Oregon there has been no recognition by the Government of the exclusive right of the Indians to any part of the country. They are therefore mere tenants at sufferance, and liable to be driven from place to place, at the pleasure of the whites.

The treaties which have been rejected proposed to remedy this evil by allotting to the different tribes districts of country suitable to their habits of life, and sufficient for their support. This provision, more than any other, it is believed, led to their rejection; and as no substitute for it has been adopted by Congress, it has not been deemed advisable to attempt to enter into new treaties of a permanent character, although no effort has been spared by temporary arrangements to preserve friendly relations with them.

If it be the desire of Congress to remove them from the country altogether, or to assign to them particular districts more remote from the settlements of the whites, it will be proper to set apart by law the territory which they are to occupy, and to provide the means necessary for removing them to it. Justice alike to our own citizens and to the Indians requires the prompt action of Congress on this subject.

The amendments proposed by the Senate, to the treaties which were negotiated with the Sioux Indians of Minnesota, have been submitted to the tribes who were parties to them, and have received their assent. A large tract of valuable territory has thus been opened for settlement and cultivation, and all danger of collision with these powerful and warlike bands has been happily removed.

The removal of the remnant of the tribe of Seminole Indians from Florida has long been a cherished object of the Government, and it is one to which my attention has been steadily directed. Admonished by past experience of the difficulty and cost of the attempt to remove them by military force, resort has been had to conciliatory measures. By the invitation of the Commissioner of Indian Affairs several of the principal chiefs recently visited Washington, and whilst here acknowledged, in writing, the obligation of their tribe to remove with the least possible delay. Late advices from the special agent of the Government represent that they adhere to their promise, and that a council of their people has been called to make their preliminary arrangements. A general emigration may therefore be confidently expected at an early day.

The report from the General Land Office shows increased activity in its operations. The survey of the northern boundary of Iowa has been completed with unexampled dispatch. Within the last year 9,822,953 acres of public land have been surveyed, and 5,032,463 acres brought into market.

In the last fiscal year there were sold	1,553,071	acres.
Located with bounty land warrants	3,201,314	acres.
Located with other certificates	115,682	"
Making a total of	4,870,067	"
In addition, there were—		
Reported under swamp land grants	5,219,188	"
For internal improvements, railroads, &c.	3,025,920	"
Making an aggregate of	13,115,175	"

Being an increase in the amount of lands sold and located under land warrants of 569,220 acres over the previous year.

The whole amount thus sold, located under land warrants, reported under swamp land grants, and selected for internal improvements, exceeds that of the previous year by 3,342,372 acres; and the sales would, without doubt, have been much larger but for the extensive reservations for railroads in Missouri, Mississippi, and Alabama.

For the quarter ending 30th September, 1852, there were sold	243,255	acres.
Located with bounty land warrants	1,387,116	"
Located with other certificates	15,649	"
Reported under swamp land grants	2,485,233	"
Making an aggregate for the quarter of	4,131,253	"

Much the larger portion of the labor of arranging and classifying the returns of the last census has been finished, and it will now devolve upon Congress to make the necessary provision for the publication of the results in such form as shall be deemed best. The apportionment of representation, on the basis of the new census, has been made by the Secretary of the Interior, in conformity with the provisions of law relating to that subject, and the recent elections have been made in accordance with it.

I commend to your favorable regard the suggestion contained in the report of the Secretary of the Interior, that provision be made by law for the publication and distribution, periodically, of an analytical digest of all the patents which have been, or may hereafter be, granted for useful inventions and discoveries, with such descriptions and illustrations as may be necessary to present an intelligible view of their nature and operation. The cost of such publication could easily be defrayed out of the patent fund; and I am persuaded that it could be applied to no object more acceptable to inventors, and beneficial to the public at large.

An appropriation of $100,000 having been made at the last session for the purchase of a suitable site, and for the erection, furnishing, and fitting up of an Asylum for the Insane of the District of Columbia, and of the Army and Navy of the United States, the proper measures have been adopted to carry this beneficent purpose into effect.

By the latest advices from the Mexican Boundary Commission, it appears that the survey of the river Gila, from its confluence with the Colorado to its supposed intersection with the western line of New Mexico, has been completed. The survey of the Rio Grande has also been finished from the point agreed on by the Commissioners as "the point where it strikes the southern boundary of New Mexico" to a point one hundred and thirty-five miles below Eagle Pass, which is about two thirds of the distance along the course of the river to its mouth.

The appropriation which was made at the last session of Congress for the continuation of the survey is subject to the following proviso:

"*Provided*, That no part of this appropriation 'shall be used or expended until it shall be made 'satisfactorily to appear to the President of the 'United States that the southern boundary of New 'Mexico is not established by the commissioner 'and surveyor of the United States further north 'of the town called 'Paso' than the same is laid 'down in Disturnell's map, which is added to the 'treaty."

My attention was drawn to this subject by a report from the Department of the Interior, which reviewed all the facts of the case, and submitted for my decision the question whether, under existing circumstances, any part of the appropriation could be lawfully used or expended for the further prosecution of the work. After a careful consideration of the subject, I came to the conclusion that

it could not, and so informed the head of that Department. Orders were immediately issued by him to the commissioner and surveyor to make no further requisitions on the Department, as they could not be paid, and to discontinue all operations on the southern line of New Mexico. But as the Department had no exact information as to the amount of provisions and money which remained unexpended in the hands of the commissioner and surveyor, it was left discretionary with them to continue the survey down the Rio Grande as far as the means at their disposal would enable them, or at once to disband the Commission. A special messenger has since arrived from the officer in charge of the survey on the river, with information that the funds subject to his control were exhausted, and that the officers and others employed in the service were destitute alike of the means of prosecuting the work and of returning to their homes.

The object of the proviso was doubtless to arrest the survey of the southern and western lines of New Mexico, in regard to which different opinions have been expressed; for it is hardly to be supposed that there could be any objection to that part of the line which extends along the channel of the Rio Grande. But the terms of the law are so broad as to forbid the use of any part of the money for the prosecution of the work, or even for the payment, to the officers and agents, of the arrearages of pay which are justly due to them.

I earnestly invite your prompt attention to this subject, and recommend a modification of the terms of the proviso, so as to enable the Department to use as much of the appropriation as will be necessary to discharge the existing obligations of the Government, and to complete the survey of the Rio Grande to its mouth.

It will also be proper to make further provision by law for the fulfillment of our treaty with Mexico, for running and marking the residue of the boundary line between the two countries.

Permit me to invite your particular attention to the interests of the District of Columbia, which are confided by the Constitution to your peculiar care.

Among the measures which seem to me of the greatest importance to its prosperity, are the introduction of a copious supply of water into the city of Washington, and the construction of suitable bridges across the Potomac, to replace those which were destroyed by high water in the early part of the present year.

At the last session of Congress an appropriation was made to defray the cost of the surveys necessary for determining the best means of affording an unfailing supply of good and wholesome water. Some progress has been made in the survey, and as soon as it is completed the result will be laid before you.

Further appropriations will also be necessary for grading and paving the streets and avenues, and inclosing and embellishing the public grounds within the city of Washington.

I commend all these objects, together with the charitable institutions of the District, to your favorable regard.

Every effort has been made to protect our frontier, and that of the adjoining Mexican States, from the incursions of the Indian tribes. Of about eleven thousand men of which the Army is composed, nearly eight thousand are employed in the defense of the newly-acquired territory, (including Texas,) and of emigrants proceeding thereto. I am gratified to say that these efforts have been unusually successful. With the exception of some partial outbreaks in California and Oregon, and occasional depredations on a portion of the Rio Grande, owing, it is believed, to the disturbed state of that border region, the inroads of the Indians have been effectually restrained.

Experience has shown, however, that whenever the two races are brought into contact, collisions will inevitably occur. To prevent these collisions the United States have generally set apart portions of their territory for the exclusive occupation of the Indian tribes. A difficulty occurs, however, in the application of this policy to Texas. By the terms of the compact by which that State was admitted into the Union, she retained the ownership of all the vacant lands within her limits. The government of that State, it is understood, has assigned no portion of her territory to the Indians; but as fast as her settlements advance lays it off into counties, and proceeds to survey and sell it. This policy manifestly tends, not only to alarm and irritate the Indians, but to compel them to resort to plunder for subsistence. It also deprives this Government of that influence and control over them without which no durable peace can ever exist between them and the whites. I trust, therefore, that a due regard for her own interests, apart from considerations of humanity and justice, will induce that State to assign a small portion of her vast domain for the provisional occupancy of the small remnants of tribes within her borders, subject of course to her ownership and eventual jurisdiction. If she should fail to do this, the fulfillment of our treaty stipulations with Mexico, and our duty to the Indians themselves, will, it is feared, become a subject of serious embarrassment to the Government. It is hoped, however, that a timely and just provision by Texas may avert this evil.

No appropriations for fortifications were made at the last two sessions of Congress. The cause of this omission is, probably, to be found in a growing belief that the system of fortifications adopted in 1816, and heretofore acted on, requires revision.

The subject certainly deserves full and careful investigation; but it should not be delayed longer than can be avoided. In the mean time there are certain works which have been commenced—some of them nearly completed—designed to protect our principal sea-ports, from Boston to New Orleans, and a few other important points. In regard to the necessity for these works, it is believed that little difference of opinion exists among military men. I therefore recommend that the appropriations necessary to prosecute them be made.

I invite your attention to the remarks on this subject, and on others connected with his Department, contained in the accompanying report of the Secretary of War.

Measures have been taken to carry into effect the law of the last session making provision for the improvement of certain rivers and harbors, and it is believed that the arrangements made for that purpose will combine efficiency with economy. Owing chiefly to the advanced season when the act was passed, little has yet been done in regard to many of the works beyond making the necessary preparations. With respect to a few of the improvements, the sums already appropriated will suffice to complete them, but most of them will require additional appropriations. I trust that these appropriations will be made, and that this wise and beneficent policy, so auspiciously resumed, will be continued. Great care should be taken, however, to commence no work which is not of sufficient importance to the commerce of the country to be viewed as national in its character. But works which have been commenced should not be discontinued until completed, as otherwise the sums expended will, in most cases, be lost.

The report from the Navy Department will inform you of the prosperous condition of the branch of the public service committed to its charge. It presents to your consideration many topics and suggestions of which I ask your approval. It exhibits an unusual degree of activity in the operations of the Department during the past year. The preparations for the Japan expedition, to which I have already alluded; the arrangements made for the exploration and survey of the China Seas, the Northern Pacific, and Behring's Straits; the incipient measures taken towards a reconnoissance of the Continent of Africa eastward of Liberia; the preparation for an early examination of the tributaries of the river La Plata, which a recent decree of the Provisional Chief of the Argentine Confederation has opened to navigation; all these enterprises, and the means by which they are proposed to be accomplished, have commanded my full approbation, and I have no doubt will be productive of most useful results.

Two officers of the Navy were heretofore instructed to explore the whole extent of the Amazon river, from the confines of Peru to its mouth. The return of one of them has placed in the possession of the Government an interesting and valuable account of the character and resources of a country abounding in the materials of commerce, and which, if opened to the industry of the world, will prove an inexhaustible fund of wealth. The report of this exploration will be communicated to you as soon as it is completed.

Among other subjects offered to your notice by the Secretary of the Navy, I select for special commendation, in view of its connection with the interests of the Navy, the plan submitted by him for the establishment of a permanent corps of seamen, and the suggestions he has presented for the reorganization of the Naval Academy.

In reference to the first of these, I take occasion to say that I think it will greatly improve the efficiency of the service, and that I regard it as still more entitled to favor for the salutary influence it must exert upon the naval discipline, now greatly disturbed by the increasing spirit of insubordination, resulting from our present system. The plan proposed for the organization of the seamen furnishes a judicious substitute for the law of September, 1850, abolishing corporal punishment, and satisfactorily sustains the policy of that act, under conditions well adapted to maintain the authority of command and the order and security of our ships. It is believed that any change which proposes permanently to dispense with this mode of punishment, should be preceded by a system of enlistment which shall supply the Navy with seamen of the most meritorious class, whose good deportment and pride of character may preclude all occasion for a resort to penalties of a harsh or degrading nature. The safety of a ship and her crew is often dependent upon immediate obedience to a command, and the authority to enforce it must be equally ready. The arrest of a refractory seaman, in such moments, not only deprives the ship of indispensable aid, but imposes a necessity for double service on others whose fidelity to their duties may be relied upon in such an emergency. The exposure to this increased and arduous labor, since the passage of the act of 1850, has already had, to a most observable and injurious extent, the effect of preventing the enlistment of the best seamen in the Navy. The plan now suggested is designed to promote a condition of service in which this objection will no longer exist. The details of this plan may be established in great part, if not altogether, by the Executive, under the authority of existing laws; but I have thought it proper, in accordance with the suggestion of the Secretary of the Navy, to submit it to your approval.

The establishment of a corps of apprentices for the Navy, or boys to be enlisted until they become of age, and to be employed under such regulations as the Navy Department may devise, as proposed in the report, I cordially approve and commend to your consideration; and I also concur in the suggestion that this system for the early training of seamen may be most usefully ingrafted upon the service of our merchant-marine.

The other proposition of the report to which I have referred—the reorganization of the Naval Academy—I recommend to your attention as a project worthy of your encouragement and support. The valuable services already rendered by this institution entitle it to the continuance of your fostering care.

Your attention is respectfully called to the report of the Postmaster General for the detailed operation of his Department during the last fiscal year, from which it will be seen that the receipts from postages for that time were less by $1,431,696 than for the preceding fiscal year, being a decrease of about 23 per cent.

This diminution is attributable to the reduction in the rates of postage made by the act of March 3, 1851, which reduction took effect at the commencement of the last fiscal year.

Although in its operation during the last year the act referred to has not fulfilled the predictions of its friends by increasing the correspondence of the country in proportion to the reduction of postage, I should nevertheless question the policy of returning to higher rates. Experience warrants the expectation that as the community becomes accustomed to cheap postage, correspondence will increase. It is believed that from this cause, and from the rapid growth of the country in population and business, the receipts of the Department must ultimately exceed its expenses, and that the country may safely rely upon the continuance of the present cheap rate of postage.

In former messages I have, among other things, respectfully recommended to the consideration of Congress the propriety and necessity of further legislation for the protection and punishment of foreign consuls residing in the United States; to revive with certain modifications the act of 10th

March, 1838, to restrain unlawful military expeditions against the inhabitants of conterminous States or Territories; for the preservation and protection from mutilation or theft of the papers, records, and archives of the nation; for authorizing the surplus revenue to be applied to the payment of the public debt in advance of the time when it will become due; for the establishment of land offices for the sale of the public lands in California and the Territory of Oregon; for the construction of a road from the Mississippi valley to the Pacific ocean; for the establishment of a Bureau of Agriculture for the promotion of that interest, perhaps the most important in the country; for the prevention of frauds upon the Government in applications for pensions and bounty lands; for the establishment of a uniform fee bill, prescribing a specific compensation for every service required of clerks, district attorneys, and marshals; for authorizing an additional regiment of mounted men, for the defense of our frontiers against the Indians, and for fulfilling our treaty stipulations with Mexico to defend her citizens against the Indians "with equal diligence and energy as our own;" for determining the relative rank between the naval and civil officers in our public ships, and between the officers of the Army and Navy in the various grades of each; for reorganizing the naval establishment by fixing the number of officers in each grade, and providing for a retired list upon reduced pay of those unfit for active duty; for prescribing and regulating punishments in the Navy; for the appointment of a commission to revise the public statutes of the United States, by arranging them in order, supplying deficiencies, correcting incongruities, simplifying their language, and reporting them to Congress for its final action; and for the establishment of a commission to adjudicate and settle private claims against the United States. I am not aware, however, that any of these subjects have been finally acted upon by Congress. Without repeating the reasons for legislation on these subjects which have been assigned in former messages, I respectfully recommend them again to your favorable consideration.

I think it due to the several Executive Departments of this Government, to bear testimony to the efficiency and integrity with which they are conducted. With all the careful superintendence which it is possible for the heads of those Departments to exercise, still the due administration and guardianship of the public money must very much depend on the vigilance, intelligence, and fidelity of the subordinate officers and clerks, and especially on those intrusted with the settlement and adjustment of claims and accounts. I am gratified to believe that they have generally performed their duties faithfully and well. They are appointed to guard the approaches to the public Treasury, and they occupy positions that expose them to all the temptations and seductions which the cupidity of peculators and fraudulent claimants can prompt them to employ. It will be but a wise precaution to protect the Government against that source of mischief and corruption, as far as it can be done, by the enactment of all proper legal penalties. The laws, in this respect, are supposed to be defective, and I therefore deem it my duty to call your attention to the subject, and to recommend that provision be made by law for the punishment not only of those who shall accept bribes, but also of those who shall either promise, give, or offer to give to any of those officers or clerks a bribe or reward touching or relating to any matter of their official action or duty.

It has been the uniform policy of this Government, from its foundation to the present day, to abstain from all interference in the domestic affairs of other nations. The consequence has been, that while the nations of Europe have been engaged in desolating wars, our country has pursued its peaceful course to unexampled prosperity and happiness. The wars in which we have been compelled to engage, in defense of the rights and honor of the country, have been fortunately of short duration. During the terrific contest of nation against nation, which succeeded the French Revolution, we were enabled, by the wisdom and firmness of President Washington, to maintain our neutrality. While other nations were drawn into this wide sweeping whirlpool, we sat quiet and unmoved upon our own shores. While the flower of their numerous armies was wasted by disease, or perished by hundreds of thousands upon the battle-field, the youth of this favored land were permitted to enjoy the blessings of peace beneath the paternal roof. While the States of Europe incurred enormous debts, under the burden of which their subjects still groan, and which must absorb no small part of the product of the honest industry of those countries for generations to come, the United States have once been enabled to exhibit the proud spectacle of a nation free from public debt; and, if permitted to pursue our prosperous way for a few years longer in peace, we may do the same again.

But it is now said by some that this policy must be changed. Europe is no longer separated from us by a voyage of months, but steam navigation has brought her within a few days' sail of our shores. We see more of her movements, and take a deeper interest in her controversies. Although no one proposes that we should join the fraternity of potentates who have for ages lavished the blood and treasure of their subjects in maintaining "the balance of power," yet it is said that we ought to interfere between contending sovereigns and their subjects, for the purpose of overthrowing the monarchies of Europe and establishing in their place republican institutions. It is alleged that we have heretofore pursued a different course from a sense of our weakness, but that now our conscious strength dictates a change of policy, and that it is consequently our duty to mingle in these contests and aid those who are struggling for liberty.

This is a most seductive but dangerous appeal to the generous sympathies of freemen. Enjoying as we do the blessings of a free Government, there is no man who has an American heart that would not rejoice to see these blessings extended to all other nations. We cannot witness the struggle between the oppressed and his oppressor anywhere without the deepest sympathy for the former, and the most anxious desire for his triumph. Nevertheless, is it prudent or is it wise to involve ourselves in these foreign wars? Is it indeed true that we have heretofore refrained from doing so merely from the degrading motive of a conscious weakness? For the honor of the patriots who have gone before us, I cannot admit it. Men of the Revolution who drew the sword against the oppressions of the mother country, and pledged to Heaven "their lives, their fortunes, and their sacred honor" to maintain their freedom, could never have been actuated by so unworthy a motive. They knew no weakness or fear where right or duty pointed the way, and it is a libel upon their fair fame for us, while we enjoy the blessings for which they so nobly fought and bled, to insinuate it. The truth is, that the course which they pursued was dictated by a stern sense of international justice; by a statesmanlike prudence and a far-seeing wisdom, looking not merely to the present necessities, but to the permanent safety and interest of the country. They knew that the world is governed less by sympathy than by reason and force; that it was not possible for this nation to become a "propagandist" of free principles without arraying against it the combined Powers of Europe; and that the result was more likely to be the overthrow of republican liberty here than its establishment there. History has been written in vain for those who can doubt this. France had no sooner established a republican form of government than she manifested a desire to force its blessings on all the world. Her own historian informs us that, hearing of some petty acts of tyranny in a neighboring principality, "The National Convention declared that she 'would afford succor and fraternity to all nations 'who wished to recover their liberty; and she 'gave it in charge of the executive power to give 'orders to the generals of the French armies to aid 'all citizens who might have been or should be 'oppressed in the cause of liberty." Here was the false step which led to her subsequent misfortunes. She soon found herself involved in war with all the rest of Europe. In less than ten years her government was changed from a Republic to an Empire; and finally, after shedding rivers of blood, foreign Powers restored her exiled dynasty, and exhausted Europe sought peace and repose in the unquestioned ascendency of monarchial principles. Let us learn wisdom from her example. Let us remember that revolutions do not always establish freedom. Our own free institutions were not the offspring of our Revolution. They existed before. They were planted in the free charters of self-government under which the English colonies grew up, and our Revolution only freed us from the dominion of a foreign Power, whose government was at variance with those institutions. But European nations have had no such training for self-government, and every effort to establish it by bloody revolutions has been, and must, without that preparation, continue to be a failure. Liberty, unregulated by law, degenerates into anarchy, which soon becomes the most horrid of all despotisms. Our policy is wisely to govern ourselves, and thereby to set such an example of national justice, prosperity, and true glory, as shall teach to all nations the blessings of self-government, and the unparalleled enterprise and success of a free people.

We live in an age of progress, and ours is emphatically a country of progress. Within the last half century the number of States in this Union has nearly doubled, the population has almost quadrupled, and our boundaries have been extended from the Mississippi to the Pacific. Our territory is chequered over with railroads, and furrowed with canals. The inventive talent of our country is excited to the highest pitch, and the numerous applications for patents for valuable improvements distinguish this age and this people from all others. The genius of one American has enabled our commerce to move against wind and tide, and that of another has annihilated distance in the transmission of intelligence. The whole country is full of enterprise. Our common schools are diffusing intelligence among the people, and our industry is fast accumulating the comforts and luxuries of life. This is in part owing to our peculiar position, to our fertile soil, and comparatively sparse population; but much of it is also owing to the popular institutions under which we live, to the freedom which every man feels to engage in any useful pursuit, according to his taste or inclination, and to the entire confidence that his person and property will be protected by the laws. But whatever may be the cause of this unparalleled growth in population, intelligence, and wealth, one thing is clear, that the Government must keep pace with the progress of the people. It must participate in their spirit of enterprise, and while it exacts obedience to the laws, and restrains all unauthorized invasions of the rights of neighboring States, it should foster and protect home industry, and lend its powerful strength to the improvement of such means of intercommunication as are necessary to promote our internal commerce and strengthen the ties which bind us together as a people.

It is not strange, however much it may be regretted, that such an exuberance of enterprise should cause some individuals to mistake change for progress, and the invasion of the rights of others for national prowess and glory. The former are constantly agitating for some change in the organic law, or urging new and untried theories of human rights. The latter are ever ready to engage in any wild crusade against a neighboring people, regardless of the justice of the enterprise, and without looking at the fatal consequences to ourselves and to the cause of popular government. Such expeditions, however, are often stimulated by mercenary individuals, who expect to share the plunder or profit of the enterprise without exposing themselves to danger, and are led on by some irresponsible foreigner, who abuses the hospitality of our own Government by seducing the young and ignorant to join in his scheme of personal ambition or revenge, under the false and delusive pretense of extending the area of freedom. These reprehensible aggressions but retard the true progress of our nation and tarnish its fair fame. They should, therefore, receive the indignant frowns of every good citizen who sincerely loves his country and takes a pride in its prosperity and honor.

Our Constitution, though not perfect, is doubtless the best that ever was formed. Therefore, let every proposition to change it be well weighed, and if found beneficial, cautiously adopted. Every patriot will rejoice to see its authority so exerted as to advance the prosperity and honor of the nation, whilst he will watch with jealousy any attempt to mutilate this charter of our liberties, or pervert its powers to acts of aggression or injustice. Thus shall conservatism and progress blend their harmonious action in preserving the form and spirit of the Constitution, and at the same time carry forward the great improvements of the

country with a rapidity and energy which freemen only can display.

In closing this, my last annual communication, permit me, fellow-citizens, to congratulate you on the prosperous condition of our beloved country. Abroad its relations with all foreign Powers are friendly; its rights are respected, and its high place in the family of nations cheerfully recognized. At home we enjoy an amount of happiness, public and private, which has probably never fallen to the lot of any other people. Besides affording to our own citizens a degree of prosperity, of which on so large a scale I know of no other instance, our country is annually affording a refuge and a home to multitudes, altogether without example, from the Old World.

We owe these blessings, under Heaven, to the happy Constitution and Government which were bequeathed to us by our fathers, and which it is our sacred duty to transmit in all their integrity to our children. We must all consider it a great distinction and privilege to have been chosen by the people to bear a part in the administration of such a Government. Called by an unexpected dispensation to its highest trust, at a season of embarrassment and alarm, I entered upon its arduous duties with extreme diffidence. I claim only to have discharged them to the best of an humble ability, with a single eye to the public good; and it is with devout gratitude, in retiring from office, that I leave the country in a state of peace and prosperity.

MILLARD FILLMORE.

WASHINGTON, *December* 6, 1852.

Mr. JONES, of Tennessee. I move that the message be referred to the Committee of the Whole on the state of the Union, and that it be printed; and that fifteen thousand extra copies, with the accompanying documents, be printed for the use of the House. That has been the usual number of extra copies ordered for several sessions past. I hope there will be no objection to the motion.

Mr. WEIGHTMAN. I move to amend the motion of the gentleman from Tennessee. I move that five thousand copies of the President's message without the accompanying documents be printed in the Spanish language.

[Cries of "*I object!*" "*I object!*"]

Mr. WEIGHTMAN. Mr. Speaker, I am aware of the fact, that during previous sessions of Congress, resolutions to print the President's message and accompanying documents in other languages than the English have been voted down; yet, humbly conceiving that the amendment I have just offered stands on different and higher ground than any heretofore proposed of a similar character, I ask the attention of the House to the few remarks I shall submit.

Mr. McMULLIN. I desire to know whether it is competent for the gentleman to submit his amendment now?

The SPEAKER. It is; and debate is in order.

Mr. WEIGHTMAN. The object of the very proper practice of both Houses of Congress in ordering the printing of the President's message and accompanying documents at all, is to give information to the people, who created this Government, and whose servants we are, how their Government is administered. In order that this object may be effectually accomplished, it is necessary that the information should be communicated in language understood by the people. And why cannot that be done? The principal argument in favor of printing communications in no other language than the English is, that it will promote homogeneousness among our people; and here the argument stops, it being assumed that every one will readily appreciate the advantages of homogeneousness. The message we have just heard read assumes, in like manner, as an axiom, that homogeneousness is to be desired in the parts of our Government; and while admitting that Cuba, peopled by a race homogeneous in character with our own, would be a desirable addition to the Union, at the same time expresses the conviction that, peopled as it is with a diverse race, its annexation would be fraught with danger to our institutions.

This assumption of the desirableness of homogeneousness, is an axiom eliminated from the experience of European Governments, but, like other political axioms drawn from the same source, cannot, with certainty of fitness, be applied to our system. I assert, that so far from being an advantage, it is the danger against which, of all others, we should guard.

Homogeneousness is the centripetal, as diversity is the centrifugal, force in our Government. The former tends towards consolidation—the latter preserves the rights of the States. Look to the history of the settlement of our country, and what do we find? Cotemporaneously, without concert one colony with another, our Atlantic coast was settled by Roundheads and Cavaliers, Catholics and Huguenots. In the different colonies separate governments were established, under which diverse interests grew up. A common danger induced temporary combination, and independence was achieved.

Subsequently prudence and experience dictated the formation of a more perfect and perpetual Union.

When this event, big with the fate of liberty for the world, was being considered, *diverse* were the elements to be united, and watchful and wary were those elements as to the power to be granted to the General Government.

Pet interests, peculiarities, and religions were to be cared for in the different localities, and these incidents stamped upon our Government the characteristics which distinguish it from all others.

Had no diversities existed in the colonies at the time of the framing of the Constitution, the result would have been a consolidated republic like that adopted by homogeneous France; but as it was, they came together granting only so much power to the General Government as was necessary to carry out the specified objects for which it was created.

The colonial governments, under the new name of States, were kept up to care for and protect the local interests. All powers not specifically granted to the General Government, nor prohibited to the States, were reserved to the States or people. In one branch of Congress the States, as sovereigns and equals, are represented, and the representatives in the other branch chosen by electors prescribed by the State Legislatures.

The then existing diverse religions caused that feature in our Constitution which insures freedom of conscience to all, and which prohibits the General Government from making any law concerning an established religion. Had homogeneousness in this particular, then existed, an established religion would have been the result. This is no idle opinion, hastily formed. When the Catholic Marylanders attempted to settle in Virginia they were met with and required to take the oath of supremacy as the condition of their remaining.

When the Puritans obtained possession of the government in Maryland they persecuted the Catholics. These last, the Catholics, to their honor be it spoken, when Lord Baltimore reobtained possession of the Government, were the first to declare universal liberty of conscience—an act which earned for Maryland the proud title of "Land of the Sanctuary."

Not then to homogeneousness, but to diversity, do we owe it that we live under our wonder of a Government—a Government powerful enough to resist a world in arms, yet incapable of oppressing its humblest citizen.

Mr. SMART. As it is rather late in the day, with the gentleman's permission, I will move an adjournment.

Mr. WEIGHTMAN. I will yield the floor for the motion.

Mr. SMART. Then I move that the House do now adjourn.

The question was taken and agreed to, and the House adjourned till to-morrow, at twelve o'clock, m.

NOTICE OF A BILL.

Mr. CABLE, of Ohio, gave notice that he would on to-morrow, or on some subsequent day, ask leave to introduce a bill to encourage agriculture and to secure homes to the landless.

MEMORIAL AND PETITION.

By Mr. CABLE, of Ohio: The memorial of Ebenezer A. Roach.

Also, a petition of citizens of Waynesburg, Ohio.

IN SENATE.

TUESDAY, *December* 7, 1852.

Prayer by the Rev. C. M. BUTLER, Chaplain to the Senate.

The following Senators appeared this morning in their seats:

Mr. HUNTER, of Virginia; Mr. PEARCE, of Maryland; Mr. BUTLER, of South Carolina; Mr. BADGER, of North Carolina.

CHAPLAINS.

A message was received from the House of Representatives by Mr. P. B. Hayes, announcing that the House had adopted the following resolution, in which they asked the concurrence of the Senate:

"*Resolved*, (the Senate concurring,) That two Chaplains be elected, one by the Senate and the other by the House of Representatives, and that they officiate alternately during the present session of Congress."

On motion by Mr. BADGER, the resolution was concurred in, and the Senate proceeded to elect a Chaplain for the Senate. The Rev. Dr. C. M. BUTLER, of the Episcopal Church, was re-elected. The vote was as follows:

Rev. C. M. Butler received	27
Rev. T. C. Teasdale, of Illinois	5
Rev. W. M. Daley	3
Rev. H. Slicer	2
Rev. R. W. Cushman	1
Rev. H. H. Tucker, of Georgia	1
Rev. Mr. Gallagher	1
Whole number of votes	40

Necessary to a choice 21.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of the Navy, made in compliance with a resolution of the Senate, in relation to the classification of clerks in the Executive Departments; which was read, and ordered to lie on the table.

Also, a report of the Secretary of the Navy, of the result of an examination, made in compliance with a resolution of the Senate, of the property offered by R. B. Sumner and others, as a site for a navy-yard and depôt at New Orleans; which was read, and ordered to lie on the table.

Also, a copy of the laws of the Territory of New Mexico, passed by the first Legislative Assembly at a session begun and held the second day of June, 1851.

Also, a letter from the Secretary *pro tem.* of the Territory of Utah, communicating copies of the acts of the Legislative Assembly of that Territory; which was read.

PETITION.

Mr. CLEMENS presented the petition of Ann Downing, praying compensation for services in attending the sick of a company in the Army of the United States during the late war with Mexico; which was ordered to lie on the table, the committees not having been appointed.

PAPERS WITHDRAWN.

On motion by Mr. CLEMENS, it was

Ordered, That Whitemarsh B. Seabrook, Joseph Whaley, and others, have leave to withdraw their petition and papers.

BILL INTRODUCED.

Mr. ADAMS, by unanimous consent, asked and obtained leave to bring in a bill to prevent unauthorized banking in the District of Columbia; which was read and passed to a second reading.

LIEUTENANT GENERALSHIP.

Mr. CLEMENS gave notice of his intention to ask leave to introduce a joint resolution to confer the rank of Brevet Lieutenant General on General Winfield Scott.

SUCCESSOR TO MR. CLAY.

The Senate resumed the consideration of the following resolution, which was submitted by Mr. GWIN on Monday:

"*Resolved*, That the credentials of Archibald Dixon, Esq., be referred to a select committee of five, who shall consider and report thereon."

The question pending being on the amendment of Mr. MANGUM, to add to it the following:

"And that pending the action of said committee, the said Archibald Dixon be now qualified, and permitted to take his seat in the Senate."

Mr. JONES, of Tennessee. The question before the Senate, sir, is whether the Hon. Archibald Dixon, the Senator elect from the State of Kentucky, shall be admitted to take his seat. Objection is made to the acceptance of this commission, or rather to permitting Mr. Dixon to take his seat, and a resolution has been offered by the Senator from California [Mr. GWIN] to refer the question

to a committee. What good is to result from that reference, I confess I am at a loss to determine.

The question for the Senate to determine, as it seems to me, which each individual Senator must decide for himself, and upon his own responsibility, is, whether the claimant is entitled to his seat or not? I am persuaded there is not a Senator on this floor that is at all disposed to deny him the enjoyment of this right if he has a claim to it justly founded. But it is said that there are doubts; and I propose briefly to inquire into those doubts, and remove them if I can.

The question of doubt arises upon the assumption that there is no vacancy. If it shall be established as a fact that there is no vacancy, all will concur in the opinion that it is not proper to admit to a seat in the Senate the gentleman who brings these credentials. But is there not a vacancy, Mr. President? Call the roll of Senators, and who responds for Kentucky? It is self-evident, it is obvious to the mind of every Senator, that there is a vacancy, because there is but one man claiming to be a Senator from Kentucky who is entitled to a seat upon this floor. Then, so far as that evidence goes, there being no one here claiming the seat other than the gentleman bearing the credentials which have been presented to the Senate, is it not going very far to assume that there is no vacancy, and that some unknown personage, not within the walls of the Senate Chamber, is really and in fact the Senator for Kentucky? If that be true, why does not some one come here and claim to fill that seat for the State of Kentucky? No man coming here and asserting such a claim, the evidence is conclusive, as far as that fact can make it so, that there is a vacancy. But, sir, I might go on, and establish that fact by testimony which will be conclusive in the minds of some Senators at least. When, in July last, the Hon. David Meriwether came here and presented his claim to a seat in the Senate of the United States from the State of Kentucky, the question was mooted as to the validity of his claim. The question was then presented, not formally I admit; but suggestions were made by honorable Senators as to the extent of his claim. The honorable Senator from California [Mr. GWIN] asserts now that there is no vacancy. If there be no vacancy, who is filling the seat that Kentucky is entitled to occupy? I remember that when the credentials of the Hon. Mr. Meriwether were presented, my distinguished friend from California raised the question, and I think he took strong ground; and if his positions then were correct, his positions now are certainly incorrect; for according to my reading of them, they are wholly inconsistent. When the question was before the Senate in July last, the Senator [Mr. GWIN] arose and said, "I differ entirely from the Senator from In-'diana. I think this paper ought to be referred 'to the Judiciary Committee. If it is not in 'accordance with the requirements of the Consti-'tution, it ought to be so declared. It is no ap-'pointment at all, if the Governor has put an 'improper limitation upon it. Certainly the Sen-'ator who has just taken a seat in this body, can-'not hold his seat longer than the period specified 'in the commission, which is until the time when 'Mr. Dixon's commission is to take effect." That is precisely the ground which I occupy to-day; and having that distinguished Senator as authority to sustain me in that position, I shall go on and endeavor to remove some other difficulties that lie in my way.

It is not controverted by any one that each of the sovereign States of this Union—if they may be termed sovereign, and they are called sovereign, at least by acquiescence—is entitled to two Senators upon this floor. No man controverts that point; all concede it. Then, I put the question to Senators to determine by what evidence gentlemen are to be admitted to seats upon this floor. How are we to determine who are entitled to seats? The history of the Senate, from its organization down to this hour, is clear and indisputable upon that point. Does the individual presenting a claim here to a seat in the Senate, come with such evidences of title as are usual—such as are in conformity with the requirements of the Constitution, and such as have been recognized from the foundation of the Government to the present time? If the individual coming here claiming to be a Senator from any one of the States of this Union, comes with these powers, or authorities, or testimonials, asserting a claim, does it not become the duty of the Senate, according to invariable usage, to accept such testimonials, such evidences of title, and accord to the claimant all the rights, powers, and privileges that are accorded to others who come with like evidences?

That, Mr. President, brings up the question whether the applicant shall be received upon the presentation of his credentials—whether his credentials are, or are not, *prima facie* evidence? That is the point. No one upon this floor has attempted, as yet, I believe, to show that the claim of Mr. Dixon is illegal, informal, or at variance with the requirements of the Constitution. He comes here with a commission made out according to the forms and usages of the Legislature of his State. He comes here with the seal of its highest functionaries. He comes here with all the indorsements which the laws require. He comes here claiming to be a Senator, and no man controverts or questions the validity of the title which he presents. No man asserts that his commission does not bear the seal of Kentucky. No man asserts that it is not made out in due form of law. All these questions are waived. And then I come to inquire how it is that that honorable gentleman is denied the privilege of taking his seat upon this floor? Are we to go beyond those testimonials? Are we to go behind them, and imagine that some other gentleman is entitled to them? If so, how, I ask, can any Senator take his seat upon this floor? May not the same conjectures arise in the case of every individual who presents his credentials here claiming a seat in the Senate? When I had the honor to come here and present the credentials furnished me by the State of Tennessee, why did not some Senator rise in his place, and move that my credentials be referred to a committee for investigation? You had as much right to do it in my case as you have to do it in the cases now before the Senate. You had the same right to do it in the case of every Senator occupying a seat upon this floor, as you have in the case of Mr. Dixon.

Mr. Dixon comes with all the forms of law upon his side, and we are asked to refer the whole question to a committee for investigation upon some imaginary case of a claim outside the Capitol, for no man is standing here and claiming the seat. The certificate of election is the highest testimonial that can be presented. It makes out a *prima facie* case, and has been so held by the Senate from its organization to the present day with but one solitary exception that I have been enabled to find in the Journals. Then, if these testimonials are to be taken as *prima facie* evidence, why not permit Mr. Dixon to take his seat and enjoy the rights guarantied to him by the broad seal of Kentucky? Why not permit Kentucky to enjoy the rights which the Constitution confer upon her? And if gentlemen want to go out in quest of doubts, there will be time enough to do so, and to settle any question that may arise, while Kentucky shall enjoy an equal participation in all the immunities which our glorious Constitution guaranties to her in common with all the States of this Union. By a different course you disfranchise Kentucky—you deny Kentucky her proper voice in the deliberations of the Senate. You may keep this question before a committee until the close of the session; and during that whole time, one of the sovereign States of this Union will have been divested, improperly, as I believe, of the highest political boon that has ever been conferred upon it. Are Senators prepared to take that step? Are we prepared, upon imaginary cases, to set aside the seal of the State of Kentucky—to deny her an equal participation in the rights, and powers, and privileges which the Constitution secures and guaranties to her? I hope not, Mr. President; but that remains to be seen.

But, sir, while gentlemen admit that the commission is *prima facie* evidence, they say it is not conclusive. Well, it may not be conclusive in every instance that may possibly arise; but is it not somewhat remarkable that in all the cases which have arisen from the formation of the Government of the United States, it has been regarded as conclusive, except in one solitary case? I will state that case:

"STANLEY GRISWOLD, of Ohio, appointed by the Executive of the State, appeared, and on the 9th of June, 1809, it was ordered that his credentials should be referred to the Committee on Elections. On the 15th of June, the committee reported favorably thereupon, and he was admitted to his seat."

That is all that is said about this case; and it is the only one I have been able to find, where the Senator was not permitted to take his seat when he presented his credentials. What were the motives which operated upon the minds of the Senate in that case, we are not informed. On that point we are left in doubt; for what I have read is all that is said about it. But all of us can think of many cases, yea, they are innumerable, where the certificate of election is held to be not only *prima facie*, but conclusive evidence of title, so far as holding the seat is concerned. Who does not remember that the Senator from Florida [Mr. Mallory] came here and presented his credentials or certificate of election from the Legislature of Florida, and asked to be permitted to take his seat on this floor, and that that seat was contested? What was done? Does not every Senator know that the certificate of election was held to be valid? and that Mr. Mallory was permitted to occupy a seat, although that seat was contested, and contested for six months before a decision was made? I appeal to Senators to tell me how they can make a distinction between that case, and the case now before the Senate? If there be any distinction whatever, that distinction goes in favor of the claim of Mr. Dixon, because no one is contesting his claim to a seat, while in the case of Mr. Mallory there was a contestant; and yet the Senate permitted him to take his seat.

Then again, I illustrate this point by another case which occurred upon the floor of the Senate in relation to the claim of the distinguished Senator from Illinois, [Mr. SHIELDS.] Who will not remember that when he came here, bearing the broad seal of the State of Illinois, and asking a seat on this floor, a Senator rose and asked that his credentials should be referred to a committee for examination; and who will fail to remember with pleasure, as I do, that the Senate refused to refer them to a committee, and granted him a seat on this floor? Why will you make a distinction between the cases of the Senators from Florida and Illinois, and that of the Senator elect from the State of Kentucky?

But, sir, go further back. Here is the contested-election case of "Potter *vs.* Robbins." Here were two gentlemen standing before the Senate of the United States, each claiming to be a Senator from the State of Rhode Island, and each holding a commission from the Legislature of that State. That is a stronger case, if possible, than any which I have presented. Here are two gentlemen, coming before the Senate, each bearing a certificate of election from the Legislature of the State to which they belong, and each claiming to be a Senator from the State of Rhode Island. What was the decision of the Senate in that case? It seems to my mind perfectly clear, that the decision of the Senate in that case is conclusive, if any decision whatever can be conclusive, as a precedent in this body. It was decided, after debate, that Mr. Robbins was entitled to be sworn in and take his seat in the first instance, leaving his election to be determined by the investigation of a committee; and he was ultimately confirmed in his seat in the Senate. Mr. Robbins came here, and presented his credentials, and afterwards another gentleman came and presented his credentials, and the Senate, instead of referring them to a committee, asserted that Robbins's claim was good, and permitted him to take his seat, and then the contest was referred to a committee and adjudicated.

There is still another case. On the 4th of March, 1801, Uriah Tracy, of Connecticut, having presented his credentials under an appointment by the Governor and the seal of the State, an exception was taken to his credentials, and debate ensued thereon; but on the motion that he be permitted to take the oath required by the Constitution, it was decided in the affirmative. This was a question with regard to the validity of the credentials, but still the claim to a seat was allowed by the Senate, and the seat was taken in advance of the adjudication of the question. I repeat, that so far as I have been enabled to examine this question, I find but one solitary case where a member, who has come here with the regular credentials of election, has been refused permission to take his seat.

But the further objection is urged, that if he is permitted to take his seat now it will prejudge the

question. If there be anything in that argument, it applies with as much force to you, Mr. President, and to me, and to every Senator on this floor, as to the gentleman who comes from the State of Kentucky: and I cannot see for my life, why we enjoy privileges which are denied to another who comes here under the same circumstances.

Gentlemen say that to swear in the claimant to this seat, upon the faith of his credentials, is to prejudge the question. Prejudge it against whom? Against nobody; for there is no contest. Nobody claims the seat. But, if you refuse to permit the claimant to take his seat, you prejudge the case against him, and you prejudge the question against the State of Kentucky. If, then, sir, there is any thing in that argument, it is all in favor of the claimant. To permit him to be sworn in prejudges no one; but by refusing him you prejudge adversely to him and to Kentucky: you prejudge his credentials, bearing the broad seal of one of the sovereign States of this Union. Are not Senators aware that if his credentials be respected, and he admitted to the seat which he claims, the Senate is not precluded from any future action? Suppose you admit the Senator to a seat upon this floor, that the rights and honor and interest of Kentucky may be preserved, at least according to her own suggestion, and you refer the question to a committee, we hazard nothing. If the committee, upon investigation, report adversely to his claim, their report will come before the Senate, where every Senator will act and vote for himself; and the fact that the gentleman may have been permitted to occupy a seat here, will not preclude the right of the Senate to change its action, and to declare the seat to be vacant. Then we hazard nothing, for we lose nothing in this prejudging of the question.

There are said to be doubts concerning this question. There may be doubts, Mr. President, but I must confess that I have not the shadow of a doubt resting upon my mind that the claimant is entitled to a seat in this body. But if there be doubts in the minds of some,—and I presume there are,—I put the question to honorable gentlemen, to whose advantage should those doubts inure? Shall these doubts operate against the formality, the legality, and even the constitutionality of the claim which is now before us? Shall these doubts operate against the rights and the interest of one of the sovereign States of this Union? Sir, the veriest criminal who stands charged before his country with having broken its laws, is entitled to the benefit of all doubts that may arise. But here gentlemen tell us there are doubts, and yet they give not the benefit of the doubts to the State, but use them against it, and deny her the rights and privileges which are conceded to the veriest criminal that stands before the bar of justice.

But I desire to call the attention of the Senate to a report made by a most eminent and distinguished committee of the Senate upon this very question, years ago, in the same case to which I have referred, the case of "Potter *vs.* Robbins;" and I hope that my Southern State-Rights friends will hear. I do not profess, as you all know, to belong to the strictest sect of that school, but if I know myself, I think I am a State-Rights man to the extent that I ought to be. But I commend this report to the consideration of my friends who are extreme on that question, and if they will bear with me, I will read from it an extract:

"In the performance of this duty, the State acts in its highest sovereign capacity, and the causes which would render the election of a Senator void, must be such as would destroy the validity of all laws enacted by the body by which the Senator was chosen. Other causes might exist to render the election *voidable*, and these are enumerated in the Constitution, beyond which the Senate cannot interpose its authority to disturb or control the sovereign power of the States, vested in their Legislatures by the Constitution of the United States. We might inquire, was the person elected thirty years of age at the time of his election? Had he been nine years a citizen of the United States? Was he, at the time of his election, a citizen of the State from which he shall have been chosen? Was the election held at the time and place directed by the laws of the State? These are facts capable of clear demonstration by proofs; and in the absence of requisite qualifications in either of the specified cases, or if the existing laws of the State regulating the time and place for holding the election were violated, the Senate, acting under the power to judge of 'the elections, returns, and qualifications of its own members,' might adjudge the commission of the person elected void, although in all other respects it was legal and constitutional. But where the sovereign will of the State is made known through its Legislature, and consummated by its proper official functionaries in due form, it would be a dangerous exertion of power to look behind the commission for defects in the component parts of the Legislature, or into the peculiar organization of the body for reasons to justify the Senate in declaring its acts absolutely null and void. Such a power, if carried to its legitimate extent, would subject the entire scope of State legislation to be overruled by our decision, and even the right of suffrage of individual members of the Legislature whose elections were contested might be set aside. It would also lead to investigations into the motives of members in casting their votes for the purpose of establishing a charge of bribery or corruption in particular cases. These matters, your committee think properly belong to the tribunals of the State, and cannot constitute the basis on which the Senate could, without an infringement of State sovereignty, claim the right to declare the election of a Senator void who possessed the requisite qualifications, and was chosen according to the forms of law and the Constitution."

That was the report of a very able committee years ago in the case of "Potter *vs.* Robbins."

But it is urged, Mr. President, that there is no vacancy. There are but two questions which present themselves to my mind, according to my conception of this case, which we have to decide, in order to arrive at perfectly satisfactory conclusions upon the subject. What are they? First, has a Senator a right to resign *in prospectu;* has a Senator a right to resign, his resignation to take effect *in futuro?* If he has not, then the resignation of Mr. Clay is void, and all the elections which have taken place under it are void. But is there a Senator here who will stake his reputation upon the assertion that a Senator cannot resign *in futuro?* The whole history of this country is replete with instances in which resignations have been made *in futuro.* Mr. Clay resigned *in futuro;* Mr. Buchanan resigned *in futuro;* Mr. Berrien resigned *in futuro;* and all these resignations were received, acknowledged, and acquiesced in by the Senate.

But there is a stronger case than all. Years ago this question was settled by the Senate, and the decision at that time has been acquiesced in from that day to this, and stands recorded as the verdict of the Senate from that time. I will give the case. It occurred as far back as 1815; and this, therefore, is no new question. Jesse Bledsoe, of the State of Kentucky, resigned *in futuro,* to take effect on the 24th of December, holding his seat in this Capitol at the time. When the 24th of December arrived, the question arose whether Mr. Bledsoe could hold his seat beyond that period or not? Nobody appeared to claim his place; there was no new appointment, so far as the Senate were informed. But the 24th of December arrived, and as Mr. Bledsoe had sent on his letter of resignation to the Governor of the State of Kentucky, the question arose whether Mr. Bledsoe could hold his seat longer? Mr. Bledsoe called attention to the fact of his resignation in a note, stating that he had sent on his resignation, to take effect on the 24th of December. What was the result? He asked the Senate to decide whether he could hold his seat longer or not; or, in other words, whether he could revoke his resignation. If he could not revoke his resignation, it is perfectly clear that he had power to make it. What was the result?

"Mr. ROBERTS submitted the following motion:

"*Resolved,* That the facts stated in the letter of the honorable Jesse Bledsoe, addressed to the President of the Senate, do not vacate his seat in the Senate.

"A motion was made by Mr. KING to amend the resolution by striking out therefrom the word 'not.'"

The amendment was adopted, and the question on the passage of the resolution, as amended, was decided in the affirmative—yeas 27, nays 6.

Then we find that from the year 1815 to the present time, the Senate have recognized the power of a Senator to resign *in futuro.* And they decide more than that, that from the time he appended his name to his resignation and sent it forward, the act is binding to all intents and purposes, and cannot be revoked. If it could not be revoked, the resignation of Mr. Clay was valid, and the Legislature of Kentucky, being in session, had the right, and were bound under the Constitution, to fill the vacancy. Suppose Mr. Clay had lived, could he have held his seat one hour after the first Monday in September, 1852? Will any Senator here claim that he could have held his seat one hour after the term specified in his resignation had arrived? No one, certainly. And if he could not, was not his resignation established to be valid; and if valid, had not the Legislature of Kentucky the right to fill the vacancy, the Legislature being in session at the time?

I have referred to various cases, which show the same fact. But it is said there is a conflict here, and that while gentlemen will not dispute the question as to whether a Senator can resign *in futuro* or not, there is still some doubt as to whether the Governor had the power to limit the term for which his *pro tem.* appointment was made. These, Mr. President, are the only two points made in this question: first, whether a Senator has a right to resign *in futuro;* and second, whether a Governor of a State has a right to limit his appointment? The first is settled by the action of the Senate. And will any gentleman assert that the Governor had no power to limit his appointment, but that all appointments by the Governors of States extend, by the operation of the Constitution, until the next meeting of the Legislature? If gentlemen assert that, and if it be true, then we find ourselves in strange and very extraordinary circumstances. The Constitution is relied upon to sustain that position. I do not think it touches the question. The Constitution says, that "if 'vacancies happen, by resignation or otherwise, 'during the recess of the Legislature of any State, 'the Executive thereof may make temporary ap-'pointments until the next meeting of the Legis-'lature, which shall then fill such vacancies." I want to know what vacancy existed at the time of the appointment of Mr. Meriwether? The Governor had the right to fill vacancies occuring—when? The Constitution says that the Governor may fill vacancies occurring during the recess of the Legislature. Now, the only vacancy that did occur during the recess of the Legislature, was that which occurred by the death of Mr. Clay, and from the date of his death until the first Monday in September, from which time the Legislature of Kentucky had declared that Archibald Dixon was to be Senator in the place of Mr. Clay, made vacant by his resignation, which resignation Mr. Clay had a right to make, and which vacancy the Legislature had a right to fill. If Mr. Clay had a right to resign, and if the Legislature had a right to fill the vacancy which occurred by that resignation, the vacancy is filled, and the question is settled.

I can illustrate that proposition by divers instances which occurred upon this floor. I will give you one directly in point. Mr. Berrien, the late Senator from Georgia, resigned *in futuro,* to take effect upon a given day. The Governor of Georgia appointed his successor. For how long did he appoint him? Some gentlemen maintain the proposition that the Governor's appointment under the Constitution, must of necessity extend until the next meeting of the General Assembly. If that is so, see what a vast amount of confusion, and discord, and difficulty we meet with. How long does the Senator from Georgia, [Mr. Charlton,] who was appointed in Mr. Berrien's place, and who holds his seat so acceptably to all of us here, hold his seat? Does he hold it until the next meeting of the General Assembly of Georgia? No, sir: Why? Because the Legislature of Georgia, anticipating a future vacancy, elected another man to be Senator from the 4th of March next. So with divers other Senators. Suppose that the remaining Senator from Kentucky [Mr. UNDERWOOD] should die or resign between this and the 4th of next March, when his term expires under the provision of the Constitution; the Legislature of Kentucky have already elected a Senator to represent that State from the 4th of March. Now, in such a case, would the Governor of Kentucky have the power to make an appointment until the next meeting of the General Assembly? Will any man hazard his reputation by asserting that he would? If, then, a Governor cannot do it in one case, can he do it in another?

The Constitution makes no distinction between the powers of the Executive. He simply has the power, in this respect, to fill such vacancies as occur during the interregnum of the Legislature. He has no power to say that his appointment shall extend to the next meeting of the General Assembly, because the legislative action of the country has gone before; and it has ever been held that the legislative is the superior power, and is entitled to superior consideration, and has a priority of claim over the executive power. The Constitution, which is relied on in this case, and which ought to be adhered to by all, vests the power of choosing Senators—where? In the Legislatures of the respective States. The Legislature has the great primary power of electing the Senators. But the framers of our glorious Constitution, in their wisdom, anticipating the difficulties that might grow up, provided a remedy by which all vacancies

should be filled during the interregnum of the Legislature—for what purpose? Simply to secure to the States their just and equal representation in this branch of the Federal Government. It was to guaranty to each of the States of this Union, under every circumstance that could possibly arise, her just and equal participation in all the benefits flowing from the exercise of the functions of this body. The Legislatures are not in perpetual session. The framers of the Constitution knowing that, provided that when vacancies occur in the interregnum, there shall be a secondary power, recognized by the Constitution, that shall fill such vacancies. Now, if it be true that the Legislature is the chief and primary power, and there should be a contest between the legislative and executive power, how ought the question to be settled? That is as strong a point, in my humble judgment, as can be presented in this case. The only claim that can be asserted here in opposition to Mr. Dixon, is, that Mr. Meriwether has a right to hold his seat under the executive appointment of the Governor of Kentucky. I think it is very clear that the Executive exercised all the power that the Constitution ever conferred upon him in this respect, when he appointed Mr. Meriwether to fill a vacancy which had been created during the recess of the Legislature; and that vacancy was only from the death of Mr. Clay until the time for which Mr. Dixon was elected.

But if there be doubts, how shall they inure? If there be a conflict between the legislative and the executive power, the whole history of this Senate, all its precedents, from its organization down, without an exception, so far as I have been able to discover, go to prove that the preponderance is in favor of the legislative power. They all proceed upon the principle that the Legislature is the great exponent of the sovereignty of the State; and where there is a conflict the priority should be accorded to the legislative over the executive power. Is there any controversy here? Happily for us, there is not. The Legislature of Kentucky exercised its power according to the requirements of the Constitution, and in obedience to the laws of the State, which I have before me, in the election of Mr. Dixon. Under the Providence of Heaven, a vacancy occurred by the death of Mr. Clay. The Executive of Kentucky comes forward to discharge his duty. How does he do it? By appointing Mr. David Meriwether to be a Senator in the Congress of the United States—for what length of time? It is specified in the commission, from its date until the first Monday of September—why? Because the Executive of Kentucky knew that the Legislature had provided for the representation here from the first Monday in September; and be it said to his honor, to his intelligence, and disinterestedness, he confined himself strictly within the limits prescribed by law. He guarantied and gave to Mr. Meriwether the right to claim a seat here no longer than the first Monday in September. Then there is no conflict between the departments of the government of Kentucky. The Legislature and the Executive both concur in the opinion that Mr. Meriwether cannot hold his seat longer than the time I have mentioned.

And now I come to inquire—and I do it with all sincerity, and with the hope that honorable Senators will take it into consideration—whether this Senate, upon a case of supposition, or more upon a case of doubt, will interpose its power to set aside the concurrent action of all the departments of one of the sovereign States of this Union, in declaring who shall represent her interest upon this floor? I ask Senators if they are prepared to take that step? Are you prepared to say here that Kentucky shall not, with all the forms and sanctions of the Constitution, say into whose hands she will commit her representation in the Senate? Will you bring up your doubts and interpose them, and deny to one of the States of this Union the exercise of her rights? If you do, sir, how long may it be before that poisoned chalice may be tendered to your own lips? How long may it be before the Senate may interpose between the departments of your State and her Senators, and say that you shall no longer sit on this floor? Sir, I regard it as a dangerous experiment, as an innovation upon the established usage of the Senate from the beginning to the end. If the opinions and doubts of Senators here shall operate to set aside the concurrent action of a State in all its departments, I want to know what becomes of the dignity, the sovereignty, the independence of the States of this Union? They become mere instruments, mere toys, in the hands of Senators, to use according to their own caprice. I think it is a question in which all of us have a deep interest, in which the whole country is deeply interested; and I repeat again, that if there were well-grounded doubts here, they ought for the present to inure to the benefit of the State of Kentucky; and if, after investigation, it shall be found that she is not entitled to be represented by the gentleman who brings his credentials here, it will then be time enough to declare it; but till then I insist that it is the privilege of Mr. Dixon to be admitted to his seat, and that it is the duty of the Senate to grant him all the rights and privileges that are guarantied to a Senator under the Constitution.

I am authorized to say that that honorable gentleman asks nothing; he would ask nothing; he is incapable of asking anything except what the broad sanction and authority of his State requires him to ask. He comes here, sir, under the mantle of Kentucky; he comes here bearing her proudest, her highest ensign, which he can never permit to be dishonored in his hands. For him to agree to postpone her claims for a single day, for him to agree for one hour, that the voice of the State of Kentucky shall be still in this Senate Chamber, would be to dishonor the name of his State. That he cannot do; and, thank God, that he will never do. He asks nothing but what the Constitution, or the Government which he represents guaranties to him. He asks no more; he cannot, he dare not, he will not, he would not if he could, submit to less. Then it is nothing strange if I protest against this postponement of his rights. Grant him his seat upon the floor of the Senate of the United States; then, if you desire to do so, send his credentials, with all the testimonials which may be brought forward, to a committee, and if it shall be found that a wrong has been prepetrated, I know that honorable gentleman will at once vacate his seat; and I stand prepared to say, that so far as my vote can go, it shall be given in approbation of such an act. But in the mean time, we claim that Kentucky shall be represented on this floor. All the precedents, so far as I have been able to see, stand out in bold relief in favor of such a course. The only question whether Mr. Clay had power to resign in *future*, is settled We all hold our seats here on that very principle, and no one has ever complained.

If, then, Mr. Clay's resignation was valid, the Legislature—the power primarily recognized by the Constitution to fill vacancies—then being in session, had the right to supply the place made vacant by the resignation of Mr. Clay. And having that right, the individual who claims that seat is entitled to it. These are my views, which I submit with the most profound deference to the consideration of the Senate.

Mr. MASON. Mr. President, the question before us at this moment, I apprehend, is not to decide upon the right of the gentleman who has brought his credentials here. Shall we decide them for him without a reference to a committee? I apprehend no Senator proposes that. The question is upon the reference of the credentials.

The honorable Senator who has just addressed us, has attempted to prove that if that gentleman is not allowed to take his seat at once, under these testimonials, it will violate the whole usage of the Senate. Sir, that Senator is mistaken. He will find it impossible to search out a precedent where one bringing credentials from a Legislature has taken his seat under them, unless in case of an admitted vacancy; and the reason is obvious to common sense, that whether he be entitled or not, he brings *prima facie* evidence that he is entitled, and it is right and just that the representation of the States should be full until his right is inquired into if it is questioned. But that is always where there is an admitted vacancy. The honorable Senator from Tennessee assumes here that there is a vacancy; I say *non constat;* it is not admitted. Honorable Senators have argued, and argued with great force, to show at least a high degree of probability that there is no vacancy, but that the representation of Kentucky at this moment is full. Why, the honorable Senator from Tennessee exultingly says, who can doubt that there is a vacancy?—the roll has been called, the gentleman who should fill that seat does not answer to his name. He might have said, with equal force, that both the seats to which Kentucky is entitled in this body are vacant, because, to our regret, one of the Senators from that State [Mr. UNDERWOOD] has not yet appeared in his seat this session. And again, I regret to see that an honorable Senator from Florida [Mr. MALLORY] has not yet appeared; it might, therefore, be argued with equal force that his seat is vacant. So I am reminded it might be in the case of the colleague of the honorable Senator from Tennessee himself. I submit to the honorable Senator, then, that that is no proof that there is no vacancy.

Now, sir, what are the facts in this case? A vacancy certainly did occur, to all common apprehension, in the representation of Kentucky in the Senate, by the decease of the very distinguished gentleman whose death we were so recently called upon to lament. Nobody doubts that. An honorable gentleman brought here a commission from the Governor of Kentucky, by which the Senate was informed that that vacancy occurred in the recess of the Legislature, and therefore he filled it by a temporary appointment. Nobody doubts that. The honorable gentleman who bore that commission sat in his seat here until the close of the last session. That is perfectly clear. That honorable gentleman, so far as I am informed, never has resigned his seat. He is absent; but what does that prove? Nothing, except that he is absent; and if the fact be as honorable Senators have contended, that, under the Constitution, the commission from the Governor made his office to inure until the next meeting of the Legislature, he is a Senator now, although he is absent, and it is in the power of the Senate, if they think proper, to compel his attendance. It is perfectly immaterial whether he is present in this Chamber or not, so far as his right to the seat, or the question of vacancy, is concerned.

I ought to entertain no definite opinion on this subject until the question is brought before us in the usual form on the report of the committee; and I make these remarks only to show that it is not an admitted vacancy. I concede fully, with the honorable Senator from Tennessee, that where there is an admitted vacancy, and a gentleman brings here the ordinary commission of the Governor, if it is one that occurred in the recess of the Legislature of the State, or the credentials from the Legislature of the State, if the vacancy has occurred by the expiration of a term while they were in session, he brings the proper evidence to entitle him to fill that vacancy, and if there is a question of contest he will hold it until that contest is decided. But the whole question turns upon the fact of the vacancy. I mean to give no opinion on that. I mean to say only, that if the case is presented to the Senate *prima facie*, when there is no vacancy, and when the representation from Kentucky is full, the honorable gentleman who has brought the credentials now from that State, has no vacancy to fill, and he has not, therefore, brought *prima facie* evidence of being entitled to the seat, because there is no seat to take. These are questions which should be examined by the committee. I humbly submit, therefore, to the Senate, that it will not be a very desirable expenditure of our time to continue this discussion; but that we should let the matter be referred to a committee.

Mr. GWIN. Mr. President, like the honorable Senator from Virginia, I do not now intend to go into the discussion of this question at length. I did not intend to do so. If I had, I should not have moved the reference of the subject to a committee. I wish, though, to put myself right in regard to this question, as it was presented at the last session of Congress. The remarks which I made on that occasion have been quoted, in part, by the honorable Senator from Tennessee, to show that my present course is inconsistent with that which I then pursued. If that Senator had read everything I said, it would have been plain to the Senate, that my objection originated in the fact that the Governor of the State of Kentucky had not performed his whole duty—that he had no right to make an appointment, and limit that appointment—that the Constitution gave him no power to do so, and that it was an appointment filling the vacancy till the next meeting of the Legislature, or it was no appointment at all. My own private opinion was, that it should be declared to be no appointment, to show to the Ex-

ecutive of that State, and to the Executives of the other States of this Confederacy, that they can exercise the power of appointing Senators only in accordance with the Constitution of the United States. I was opposed to the admission of the gentleman who presented the paper, because it was, in my opinion, a defective, an objectionable, or at least such a commission as had never been presented before, and I wished the Governor of Kentucky to be notified of our opinion that he had no power to fill the vacancy, except in accordance with the provisions of the Constitution. The Senate overruled my objection at the time. It was stated that the proper time to bring up the question would be at this session, and I acquiesced, not wishing to continue the discussion.

The Senator from Tennessee has gone into this question at large, and I submit to the Senate whether he has touched it at all. I submit to the Senate whether or not he has presented the question that is now before us for our action. I certainly did not so understand his argument. The question is, when a resignation creates a vacancy? Why, Mr. President, it cannot be contended that the seat of Mr. Clay was vacant when Mr. Dixon was elected by the Legislature of Kentucky. It cannot be contended that there was a vacancy in the Senate from the State of Kentucky at that period; and if a resignation is not a vacancy, how had the Legislature the right to fill that vacancy? I have before me a statement from the Secretary of the Senate, showing that Mr. Clay received his per diem as a member of the Senate up to the 29th day of June, 1852, the day of his death. He was a Senator from Kentucky, and we paid him from the Treasury of the United States as a Senator up to that period. At his death, the seat which he had occupied became vacant; but was the Legislature of Kentucky then in session? Nobody pretends that it was. Therefore, that provision of the Constitution which gives to the Governors of the different States the power to fill vacancies occurring in the representation of their State, gave the Governor of Kentucky the power, and he was compelled to fill that vacancy, if he filled it at all, until the next meeting of the Legislature. Has the present applicant for the seat in the Senate from Kentucky been elected by a Legislature that convened after the vacancy by death occurred? Nobody pretends that he has. Suppose that Mr. Dixon had been elected upon the letter of Mr. Clay resigning his seat prospectively. Suppose further, that Mr. Clay, his health failing him more rapidly, had written a second letter to the Legislature resigning his seat at that moment, and another gentleman had been elected,—suppose Mr. J. J. Crittenden had been elected instead of Mr. Dixon,—I should like to know for what period the gentleman elected on the second resignation of Mr. Clay would have taken his seat—whether he would not have taken it for the entire balance of the term for which Mr. Clay was originally elected?

I will state another case. Suppose Mr. Clay had died last January, after Mr. Dixon had been elected. Suppose he had died during the session of the Legislature, and the Legislature had proceeded, in accordance with the vacancy thus created, to elect a Senator, and that the person elected had not been Mr. Dixon, who would have been the Senator in the place of Mr. Clay? No one can pretend to say, in the face of the Senate, that Mr. Dixon, if he had not been reëlected to this vacancy, ever would have taken his seat as Mr. Clay's successor until the whole term expired, when he might be elected for a new term. Suppose, again, that Mr. Clay had died in January last, and Mr. Dixon had been elected to fill the vacancy occasioned by his death, with what credentials would he have presented himself here? Should we ever have heard of the paper that was presented yesterday? Never. It would never have been seen here.

I insist upon it, that the Governor of Kentucky had no right to put any limitation in his commission to Mr. Meriwether. I insisted upon it before, and it is the ground that I now occupy. I do not wish to prejudge this question. I do not believe there is a vacancy in the Senate from the State of Kentucky, as I said before. As to Mr. Meriwether not being present here, is the Senator from Tennessee prepared to say, that if it is declared that he is the Senator from Kentucky, he has resigned his seat—that he will not come here and take his seat? Can the Senator say—is he prepared to say—that if Mr. Dixon's election is declared to be an invalid one, Mr. Meriwether will not come here and claim the seat that has been conferred upon him by the Executive appointment of the Governor of Kentucky? Certainly he has no such power. Whether Mr. Meriwether is contesting the seat or not, if he is declared to be a Senator from Kentucky, you will very soon see him in his seat. There is no mistake about that.

As the Senator from Virginia says, I do not wish to occupy the time of the Senate in discussing this question now. I want to vote. I am prepared to vote, and I hope the Senate is prepared to vote, whether or not it will let the gentleman who now applies be sworn in, or whether they will send the case to a committee for investigation.

Mr. SEWARD asked for the yeas and nays upon the pending question; and they were ordered.

Mr. SEWARD. Before the question is taken I have a word more to say upon it. The honorable Senator from Virginia [Mr. MASON] seems to me to concede the whole case in the hypothesis which he presents. He concedes to the honorable Senator from Tennessee, who has so very ably and fully argued the question this morning, that where there is an *admitted* vacancy, a person who presents credentials from the Legislature authorizing him to take the seat, thus admitted to be vacant, should be received and sworn in as a member of the Senate, subject, however, to the reservation that his right to retain it against some other claimant, shall always be open to the examination of the Senate. But he says that this principle is confined to the case where there is an *admitted* vacancy. Now, sir, I ask what constitutes an admitted vacancy? What constitutes the *admission* of a vacancy? An *admission* implies a *party* qualified to admit, with a title to admit or to deny, and an act of admission, as opposed to an act or declaration of denial. I ask for the party who *denies* in this case. Let him stand forth in the presence of the Senate of the United States, and of the American people. I ask, I challenge him to come upon the floor of the Senate of the United States, and deny that there is a vacancy. Who is he? Let him stand forth and he shall be heard. He comes not. There is no man here that is qualified to deny. Then, when no man appears who is qualified to deny, the world admits or regards the case as admitted.

But we are told that there is somebody somewhere who is qualified to deny, and that we must prove a negative, and prove that no such person does deny, or can deny. Well, sir, the honorable gentleman who presents his credentials here, takes that burden of proof voluntarily upon himself. He takes it upon himself, and does show that any person who it is alleged might make this denial, fails to come and make it, and therefore admits that the seat is vacant. Yes, sir, he shows that; and how does he show it? There, in the place in which the honorable Senator from Ohio [Mr. CHASE] is sitting temporarily, [pointing to the seat occupied by Mr. Meriwether at the close of the last session,] is the seat which was filled by the Senator who represented the State of Kentucky in this Senate on the first day of September last. That seat is vacant. There is the evidence that the place is vacant. It is *prima facie* evidence. It is sufficient, because we are upon a question of an admitted case upon *prima facie* evidence.

But there is more, sir, in this case. Not only is the seat vacant—not only is the person who it is alleged might challenge this place, called, and he comes not—but there is a still further fact, that when you refer to the records of the Senate to see whether that or any other person on earth can set up a claim to this place, or can be allowed to come here and deny that it is vacant, you find the commission which that honorable Senator, and all honorable Senators from the State of Kentucky, have had. And what are they? In the first place, there is the commission of the Hon. Henry Clay. Will he come? No; he resigned. His resignation was made to take effect on a certain day fixed. That day has elapsed, and he comes no more. What then? That honorable and distinguished Senator died before the day fixed for his resignation to take effect; and then the Hon. Mr. Meriwether appeared here, with a commission to take the place which had thus become vacant by that lamented death. There is his commission before you. It is open to the whole world; and what does it say? It is a commission which authorized and required him to take that seat, thus vacated upon the death of the Hon. Henry Clay, and hold it—until when, sir? Until the first Monday of September, 1852, and no longer—the very day fixed by the Hon. Mr. Clay, before his death, for his resignation to take effect. Now, sir, here is not only the fact that the person who it is alleged might deny that this vacancy exists, does not deny it, and that he does not appear here to deny it, but there is the other fact that he has no title to deny it; and it would be just as violent a presumption for the Senate, on the 4th day of March next, when the successor of the other honorable Senator from Kentucky, [Mr. UNDERWOOD,] whose time then expires, appears to take his place in the Senate, to refuse to admit that successor, upon the ground that the Hon. Mr. Underwood might, after all, come back and claim to fill the seat, as it is to make it in this case. It would be exactly the same kind of a case as that of supposing that the Hon. Mr. Meriwether will appear here on the 7th of December, 1852, to take a seat which he was authorized to occupy only until the first Monday of September, 1852.

I forbear, as I did yesterday, from going into the merits of the question which lies beyond; but I cannot omit to say, that it is a question which touches the right and interest, not only of the State of Kentucky, but of all the States of the Union. There is no claim on the part of Kentucky that this place shall be kept vacant. Kentucky would be qualified to deny, would have the right to deny, this vacancy; and nobody but Kentucky has a right to deny it, or the Senators disputing upon a title derived under her. Now, there is no opposing claim; and the State of Kentucky appears here in the only manner she can appear, and demands, in the person of her Senator here, that he shall be received and allowed to take his place. If you deny him upon the ground which has been urged, you may equally well in any other case, when a Senator shall come to fill a regular vacancy, of a full term, insist upon it that you will make him stand outside the bar, and his State outside the Senate Chamber, until you have canvassed his credentials and ascertained whether they are final and conclusive. And in that case, if you can keep out the State of Kentucky, you can keep out any other State you please; and a majority here may determine, for the passage of given measures, to have a Senate consisting of such Senators, representing such States, as shall favor such measures. I rejoice that there is no circumstance, nothing in the state of existing circumstances, which would give rise to the supposition that any such purpose can be entertained here now; and it is because the circumstances are propitious to having this case decided upon its merits, without a bias on the part of any Senator, or any other motive or circumstance, which could justify the indulgence of such a suspicion, that I do most sincerely hope that there may be no departure now from what has been the customary practice of the Senate; that the honorable gentleman who presents himself with his credentials may be allowed to take his seat; and that the investigation which it may be necessary to have about his title to the seat may result in a proper regard for the rights of Kentucky and all other parties interested in the question.

Mr. BRADBURY. The amendment of the Senator from North Carolina [Mr. MANGUM] proposes the admission of the claimant to a seat prior to the decision of the question of right. There seems to be, in this case, a serious objection to this course, arising from the fact, that in the event the Senate should determine that he was not entitled to the seat, there would, for the time being, be three persons who would have seats in the Senate from the State of Kentucky at the same time. This anomaly would seem to require us to determine the question of right before we admit to the seat. It is a constitutional question that arises, and will not admit of being changed by courtesy.

The honorable Senator from New York remarked that this is a question touching the rights and interests of the sovereign State of Kentucky. It appears to me that the true question is, *whether the Legislature of a State has a right to elect a Senator to fill a contemplated vacancy to happen during a recess of the Legislature, prior to the time when such vacancy shall happen.* When did the vacancy arise in this case? The resignation did not create a vacancy until it took effect. It will not be contended

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that there was any vacancy in the seat in question, until the time when Mr. Clay ceased to fill it. The resignation made in December, to take effect *in futuro*, did not leave that seat vacant until the first Monday of September. The Legislature had adjourned prior to that time. The question then arises, if indeed it arises to a question, was this not a vacancy which, in the language of the Constitution, "happened" "*during the recess* of the Legislature?" It will hardly be questioned, I think, that it was. It arose during such recess. If I am correct in this, the Constitution prescribes a mode by which such vacancies shall be filled? The language of the Constitution would seem to be too plain and explicit upon this point to admit of doubt. It declares that "if vacancies happen 'by resignation or otherwise, during the recess of 'the Legislature of any State, the Executive thereof 'may make temporary appointments until the next 'meeting of the Legislature, which shall *then* fill 'such vacancies." In the first place, the Constitution devolves upon the Executive the power to fill such vacancy. But in this case, it is said the Legislature undertook to fill it. The Legislature is authorized, in one contingency, to fill a vacancy happening during a recess; but *when?* Can the Legislature, under the Constitution, fill the vacancy *in advance* of the time when it happens? Has the power of filling it *in advance* been conferred by the Constitution? The Constitution prescribes that the Executive "may make temporary appointments until the next meeting of the Legislature, which shall *then* fill such vacancies." So that neither the Executive nor the Legislature are authorized by the Constitution, it would seem, to fill a vacancy happening during a recess of the Legislature until *after* the vacancy shall happen; and therefore, if this were a vacancy arising during the recess, and one that the Legislature might fill, it must be at a meeting subsequent to the happening of the vacancy. But on the face of these credentials, it appears that the Legislature of Kentucky undertook to fill the vacancy in advance, so that the question is presented upon the face of the credentials; and we are to inquire whether the Legislature of Kentucky has followed the authority conferred by the Constitution. I have felt called upon to say this much in reply to suggestions thrown out by the honorable Senator from Tennessee and the honorable Senator from New York, who have gone at length into the discussion of the general question, lest it should be supposed their views were assented to as correct and unanswerable.

But when did the vacancy in question first occur? Did it in fact happen on the first Monday of September? The death of Henry Clay, deplored by the whole nation, occurred on the 29th of June last, and that death created a vacancy which may be regarded as covering the whole unexpired term of Mr. Clay. Can that vacancy which first occurred, be divided and cut up into parts, except so far as the Constitution prescribes? The Executive can fill that part of it which occurs before the first meeting of the Legislature; but can he divide such portion into parts? If so, is there anything to prevent his appointing a new Senator for each day of the period he is authorized to fill? Has he any other authority than to fill the vacancy, without imposing other limitations than those prescribed by the charter under which he acts?

It would seem, then, that two difficulties are presented: first, whether this was not one of those vacancies that must be filled by the Executive; and secondly, if it was not a vacancy to be filled by the Executive—whether it was not one that must be filled by the Legislature, *subsequent* to the time when it happened. And it makes no difference in my mind whether there is or is not any one present to claim the seat. The question is whether the Legislature of Kentucky, at the time it undertook to make this election, possessed that power. It has already been decided in one case—the case of Mr. Lanman, who claimed a seat as Senator from Connecticut under Executive appointment—that the Executive has no authority to make an appointment to fill a vacancy prior to the time such vacancy has actually arisen. It remains to be determined whether the Legislature possess such power Story, in his Commentaries upon the Constitution, vol. 2, page 204, adverts to this subject, and says:

"There seem to have been three courses presented for the consideration of the Convention; either to leave the vacancies unfilled until the meeting of the State Legislature; or to allow the State Legislatures to provide at their pleasure, prospectively, for their occurrence; or to confide a temporary appointment to some select State functionary or body."

It would seem, therefore, that the great question is, whether the Constitution conferred upon the Legislature authority to fill this vacancy in advance? It is unlike the case of electing a Senator to fill a term which is to commence at a future day, for in such case the Constitution does not prescribe the time when the election shall be had, while it does so in explicit terms when a vacancy happens during a recess of the Legislature.

Mr. BUTLER. Mr. President, this subject ought to take one course or the other. We ought either to discuss it now, as in Committee of the Whole, and decide upon it as a Senate, or we ought to refer it to a committee. I confess that I have no definite opinion upon the subject. I think the question resolves itself into this: what is a vacancy within the contemplation of the Constitution? Mr. Clay agreed to hold his seat for about nine months after the date of his letter, until his resignation became perfect by the expiration of that time. There might have been a vacancy during that time, as there was one occasioned by his death; and then the question was, whether there was a vacancy after that time with regard to the residue of the six years for which Mr. Clay was originally elected. And then a question occurs upon that: whether it was competent for the Legislature, before the expiration of the time, to fill the place?

These are questions which necessarily come up for decision; and I confess that the whole subject turns upon the question of what is a vacancy. If it is to be discussed by the Senate now, I am willing to go into the discussion; if it is to be referred, I must be permitted to say that I should dislike that any gentleman should commit himself beforehand by the expression of an opinion. I will not commit myself by expressing any opinion upon the subject.

I wish, however, to say one word in reference to a remark of the honorable Senator from Tennessee. If it were not perfectly clear that this seat is contested, I should be in favor of the gentleman who brings credentials from the State of Kentucky taking his seat; but it is perfectly apparent that the seat is to be filled by one, and that the moment it is filled by one, you exclude another who claims it. The seat cannot be filled by more than one; and if we admit this claimant, we exclude another who claims under a different title. Under this state of affairs, I think it but right to both, but justice to the State of Kentucky, whose constitutional rights are to be affected, and to the people of Kentucky, that we should decide, as between these two gentlemen, which of them shall fill the seat; because, if we decide that one shall fill it, the other will have to make a contest in order to get his rights considered. If Mr. Meriwether fill the seat, Mr. Dixon must contest it. If Mr. Dixon fill the seat, you force it on Mr. Meriwether to contest. All the facts are before the Senate, and I think we ought to decide between them without either apparently contesting the seat.

This is my view of the subject; but I am free to say, that it is one of those subjects which it might be as well for the Senate to discuss and decide without a reference, as to refer it to a committee. I am perfectly willing that it should take that course; but if it does take that course, I think we ought to understand it fully. We ought to discuss it fairly, and give our opinions with all the light which may be before us. I am free to say, that I have not any very definite judgment upon the subject. It is a very nice question. I repeat again, it is a question as to whether it was competent for the Legislature, prospectively, to fill the vacancy,—for I can regard it as a vacancy,—from the time which he himself limited for his service, until the expiration of the term for which he was elected. I can regard that as a vacancy; and another vacancy occurred by his death. But the whole question turns upon that point—as to the competency of the Legislature to exercise that function; and that, sir, is a question upon which I am not prepared, from anything which has yet been said, to form a satisfactory opinion. I would prefer to hear discussion from other sources, upon that. I should like to hear the precedents cited. I am satisfied, however, of one thing: that from the precedents which have been read, Mr. Clay's resignation was an executed deed. I had rather a different opinion until I heard the precedents read. But now, I think that from the time he signed that paper, it was an executed deed, irrevocable by him. It seems to me to be so. But then the question is, whether the Legislature, in anticipation, could fill the vacancy before the time arrived at which it was to occur, and I should like to hear gentlemen argue that point before I give an opinion.

Mr. DAWSON. I would make a suggestion to my friend from South Carolina. The question is not now who is entitled to hold this seat. The question is one more of courtesy towards the State as to who shall take the seat for the present. The precedents are all before us, uniform, with a single exception, showing the propriety of this course. I do not intend to argue the question now; nor do I intend to commit myself as to the course I shall pursue in regard to the final vote. But here are credentials presented by a Senator said to be elected by the Legislature of the State of Kentucky. They have been read at your table, sir; and the question is, what force are they to have before this body? Are they not *prima facie* evidence that the applicant for the seat has been elected according to the Constitution of the Union and the laws of the State of Kentucky? Is not that true? Certainly it is. Will he not, therefore, be entitled to his seat unless there is some opposition presented from some other source? Who presents any opposition to the truth of these credentials? Let us ask ourselves the question honestly. Is there a Senator upon this floor who presents a protest or an objection, or who raises the constitutional right of this gentleman to take his seat? Not one.

But it is said that at the adjournment of the last session of Congress, there was a Senator in the seat which is sought to be filled by the gentleman whose credentials have been presented. Where is that Senator? He is absent. Why absent? Upon our record are his credentials. They were read here when he took the oath of office, and they show that he was entitled to fill the seat only until the first Monday of September last. The evidence under which he took that seat was received by you, and in conformity to it, he filled the seat, and in obedience to it he has retired. Can any man, then, honestly rise here, and say to Kentucky, that there is a contest for this seat between two gentlemen presenting themselves as the proper Senators from that State? No one can say it. How, then, do gentlemen undertake to distinguish between Mr. Dixon and my colleague, [Mr. Charlton,] who took his seat precisely under the same circumstances, and, as I am inclined to think, took his seat correctly. Now, let me present to the Senate the condition of these cases. Mr. Clay resigned in anticipation. He did not notify the Senate of the United States of his intention. He sent his resignation to the elective power—the Legislature of Kentucky. Judge Berrien, the distinguished predecessor of my present colleague, resigned in anticipation. These are two distinguished men, known to the country as great constitutional lawyers, and distinguished for the soundness and correctness of their constitutional opinions. They believed that they had the right to resign in anticipation. They both resigned. The Legislature in Kentucky filled the vacancy. No Legislature being in session in Georgia, the Governor of that State filled the vacancy. The power of the Governor of the State of Georgia, and the power of the Legislature of the State of Kentucky, depend upon the Constitution

of the United States; and the power of both is to be found in the same clause. When did my late distinguished colleague resign? He resigned in the month of April last, but his resignation was to take effect on the first of June. The Senator from Maine [Mr. BRADBURY] says a Governor cannot appoint until a vacancy has actually occurred, and he seems to draw from hence the conclusion that the Legislature, in like manner, cannot appoint until the vacancy has actually occurred. Is that true? Where is the article of the Constitution preventing it? Where is the opinion of a single distinguished jurist or a constitutional lawyer, from the foundation of the Government to the present hour, denying the power to the Governor or to the Legislature? Nowhere. My present colleague was appointed on the 17th day of May, his appointment to take effect from the first of June. Why was he appointed in that way? In order that he, as the successor of Judge Berrien, might be here on the first day of June, so soon as Judge Berrien vacated the seat, in order that the State of Georgia, under the Constitution—which contemplated that each State should uniformly and steadily have two Senators in this body—might be fully represented. That is the reason of it.

Why, let me suggest a case to the Senator from California: Suppose he desired to resign to-morrow, but did not wish to deprive his State of two Senators upon the floor; if the Governor of California could not appoint until after the day of the resignation, it would be probably two months before there would be a successor here to take the seat. Did the Constitution of the United States ever contemplate that a man must resign on a particular day, and that the very day he resigns he must leave the seat, and thereby leave a place vacant in the Senate of the United States? Under such a state of things, the more distant a State was from the seat of Government, the longer a vacancy would exist. From the foundation of the Government the practice has been different. In 1815, in the case of Bledsoe, the Senate decided, by a solemn vote of 27 to 6, that a Senator had a right to resign in anticipation. And what was the principle of that case? Look back at the debates, and you will find that the idea was this: the resignation might be made to take effect by a given day, so that in the mean time the elective, or the appointing power, should have an opportunity of appointing a successor to be in the Senate to fill the seat at the time the vacancy should actually occur.

My friend from South Carolina says that he has now no doubt that a Senator may resign, to take effect *in futuro*. If he may resign, to take effect *in futuro*, it is for the purpose of enabling the appointing power to fill the vacancy in anticipation of the day upon which the resignation is to take absolute effect; and, in his language, the resignation is a deed executed, and the person who has the right under that deed, either to fill the seat, or to designate who is to take possession of the property, can fill it in anticipation; and when he comes here with the deed made out in anticipation, and presents it on the proper day, it takes instantaneous effect, and the party holding it is entitled to be admitted to the seat. And it is right that it should be so. Now, if it be true that Mr. Clay had a right to resign in anticipation, the elective power had a right to fill the vacancy in anticipation. The Legislature of Kentucky being then in session, elected the present applicant, the Hon. Mr. Dixon, to take the seat under the precise power under which the Governor of Georgia appointed my present colleague.

I wish it to be understood that I do not say all this is right. The decision of 1815 may have been wrong, and the subsequent practice may have been wrong; all I say is, that if this course has been admitted by Congress—if it has been acquiesced in by the States, and become the practice of the Government here, and the practice of the governments of the States, when this gentleman presents himself here, it is but courteous to the State—it is but pursuing the uniform course, to permit him to take his seat upon the *prima facie* case. And why? Because the State is entitled to two Senators, and he makes out a *prima facie* case. Such has been the reason for the practice heretofore. It has always been thought desirable to keep the Senate full. Why shall we now object to the ordinary course being pursued?

I hold in my hand the credentials of my colleague. They are dated on the 17th day of May last; and they authorize him to take his seat on the first day of June in place of Judge Berrien; and if he had been here on the last day of May, sitting behind Judge Berrien, he would have had a right to step in the next morning and take a seat in his place. But, sir, what does all this prove? That the Governor of Georgia and the State of Georgia believed that Mr. Berrien had the right to resign in anticipation.

Moreover, it is said that the certificate is null and void unless it states in the words of the Constitution that the appointee is to hold "until the next meeting of the Legislature." Why, the certificate of my colleague—which is on parchment, and in a form coeval with the existence of Georgia as a State of this Union—is not that his term shall be "until the next meeting of the Legislature," but that it shall be till the 3d day of March next. Why was this? Because, before the resignation of Judge Berrien, in anticipation of the vacancy which would occur after the 3d of March, 1853, the Legislature, in the latter end of 1851, had elected Robert Toombs to fill the term commencing from and after the 3d of March next. Judge Berrien resigning in the mean time, my colleague comes in to fill the vacancy thus existing; which is a vacancy precisely similar to that created by the death of Mr. Clay. Here are two cases precisely analogous. Was there any law violated; was there any precedent violated by allowing my colleague to take and hold his seat under these circumstances? Not at all. When he came here I had the honor of presenting his credentials, and I did it with very great pleasure. They were read to the Senate. Did anybody object to their informality because they stated that he was appointed until the 3d of March next, instead of until the next meeting of the Legislature? Not at all. But he took his seat; and for what reason? Because the broad seal of Georgia was *prima facie* evidence entitling him to do so. Could not Mr. Toombs have come and contested his seat? Could not anybody else have come and contested his seat? Certainly they could if they had any ground to do so.

How does the honorable Mr. Dixon come here? With a commission stating that he has been elected a Senator in the Congress of the United States by the Legislature of the State of Kentucky, to hold from and after the first Monday in September, 1852. What is the effect of that certificate? Certainly it is the highest evidence that the Legislature of Kentucky has done the deed; and the question is, whether, under the Constituttion, they had the power to do it? There is no doubt of the power; and the presumption is, that they have exercised it correctly. If these presumptions are in his favor, he is entitled by courtesy to take the oath. But these presumptions may be all set aside by somebody coming in and contesting, and alleging that he was not constitutionally elected—that the Legislature was not the proper body—and that it had not the power to elect; but is there any suggestion of that kind? And even if there were such suggestions, what would courtesy demand of us? Should we not do precisely what was done in the case of Robbins and Potter, claiming seats as Senators from Rhode Island? That difficulty occurred in this way: There was a Whig Legislature, and they elected Mr. Robbins Senator. Before Congress met, the Legislature was called together again. There was a change in its political character, and at this session Mr. Potter was elected. Both of them came here with the broad seal of the State. Mr. Robbins was first elected, and his credentials were presented. What did the Senate do then? Mr. Robbins was the first man elected, and his credentials showed it; and out of courtesy to the State, and in obedience to what was due to its sovereign power, the Senate said the credentials of Mr. Robbins show a *prima facie* case, and we will admit him to his seat; afterwards we can refer the matter to a csmmittee to investigate whether anything was unconstitutional; and we can then, if we find it proper, deny Mr. Robbins the seat, and give it to Mr. Potter. There is no contest of that kind here; and I appeal to the dignity of the body, and to the courtesy of the body, to follow the precedent of that case, and allow Mr. Dixon to be admitted to his seat.

Why should the Senate refer the credentials of Mr. Dixon to a committee, when it has never been done in such a case? Why is it that the broad seal of Kentucky is to be thus treated when the broad seal of no other State has ever been so treated? But it is said that there is testimony in this case showing that Mr. Dixon is not entitled. I say the testimony is the very reverse. The testimony of Mr. Meriwether's credentials is on our records; and his credentials gave him power to act as Senator only until the first Monday of September last. He was Senator until that time by appointment of the Governor of Kentucky. Then here is the Governor's certificate to Mr. Dixon, informing him that he has been elected by the Legislature to be Senator from and after that day. Where is the conflict, or where is the ground which will justify us, in our own consciences, in saying that Kentucky shall not be permitted to take her proper constitutional position in the Senate? There is not a particle of difficulty; there is no conflict between the two commissions. It has not been said that Mr. Dixon's election was unfair or unconstitutional; but it is merely supposed that somebody else—for instance Mr. Meriwether—may be entitled to the seat, whereas the record shows that Mr. Meriwether is not entitled to act now as Senator.

I do not say how I shall vote on the final question as to the right to the seat, after it shall have been examined. I am, however, in favor of the amendment of my friend from North Carolina, which is, that Mr. Dixon shall be permitted to take the oath of office before any reference be made. I shall vote for that amendment; but if that does not prevail, I shall be willing to bow to the will of the majority and submit to an immediate reference.

I think, Mr. President, that during your long experience in this body, you have never known such an application as the present one to be denied. I do not think there has been any case since you have occupied that chair or have been a member on this floor, where a member presenting the broad seal of his State, was not permitted to occupy the seat; and if there was a contest, it was to be settled afterwards. It has always been customary to endeavor to keep the representation of the States full. I hope this application will be agreed to for the sake of consistency, and for the purpose of having uniformity. Our institutions depend very much upon a uniformity in the construction of the Constitution, and I at least like to see uniformity of action in the body to which I belong—the Senate of the United States. There will be no harm done to any human being by this course.

It is said that there are doubts as to whether Mr. Dixon is entitled to the seat. If there be doubts, as the Senator from Tennessee has said, to whom should you give the benefit of them? Of course to the party claiming the seat under the broad seal of one of the sovereign States of this Union, equally interested with us in preserving the Constitution. Hence it is that I say he should be permitted to take his seat, and then, when the report comes in, in the language of the Senator from South Carolina, we can consider it maturely. By the course that I have proposed, we shall stick to precedent, and cannot be charged with evasion, or with changing our course for any consideration.

Mr. BADGER. Mr. President, from what has fallen from the gentlemen who have addressed the Senate upon this subject, it appears to me undeniable that there are some difficulties connected with the inquiry suggested by the resolution of the Senator from California. I am not prepared now to express any definite opinion as to the proper course which the Senate should adopt in regard to the subject under their consideration. I have not been able, so far, to see the necessity for any reference of this question to a committee. The facts of the case are all before the Senate; no evidence is to be heard by a committee; no inquiry is to be made by which the state of the question before the Senate can be varied or affected; but still, sir, it may, for aught I am able at present to perceive, be necessary, or, if not necessary, proper that there should be a previous investigation by a committee. It is highly important, at all events, that this question should be fully considered, and be fairly and impartially decided. I am not prepared at this moment to vote upon the question under consideration before the Senate. I think ample opportunity should be afforded to every member of the body to make up a definite opinion upon it; and I

would therefore move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 7, 1852.

The House met pursuant to adjournment.

The Journal of yesterday was read and approved.

The following gentlemen, in addition to those who answered to their names yesterday, appeared in their seats to-day, viz: Messrs. POLK, JOHNSON of Arkansas, HARRIS of Alabama, EDGERTON, RUSSELL, HART, HOUSTON, CABELL of Florida, BRECKINRIDGE, WHITE of Alabama, CHURCHWELL, MCCORKLE, PRICE, SCHERMERHORN, FLOYD, and CHASTAIN.

The SPEAKER. When the House adjourned on yesterday, the proposition to refer the President's message to the Committee of the Whole on the state of the Union was under discussion.

Under the rules, the call of the States for petitions will be first in order, unless, by the unanimous consent, the House proceed to the further consideration of the proposition to refer the President's message.

Mr. STEPHENS, of Georgia. There are, according to our rules, now no standing committees. They have yet to be appointed; and if the States be called for petitions and resolutions, as a matter of course they will have to be referred to committees, when there are no such committees in existence. This subject I desire to bring to the consideration of the House. I do not think it at all important now to call the States for petitions. I move that the Speaker proceed to the appointment of the regular standing committees of this House under the 76th rule; and I trust that it will be done.

The question was then taken upon Mr. STEPHENS's motion, and it was agreed to.

The SPEAKER. If it be the pleasure of the House, the proposition to refer the President's message will be in order.

Mr. STEPHENS, of Georgia. There is no standing committee to which it can be referred.

The SPEAKER. The proposition is to refer it to the Committee of the Whole on the state of the Union. Upon that proposition the gentleman from New Mexico [Mr. WEIGHTMAN] is entitled to the floor.

Mr. WEIGHTMAN. Mr. Speaker, when I gave way on yesterday to a motion to adjourn, I was engaged in advocating the printing of 5,000 copies of the President's message—without the accompanying documents—in the Spanish language.

In the course of my remarks, I called attention to the fact that the object for which the message and documents have been printed at all, is that information concerning the state of the country, and the mode in which the Government is carried on, may be communicated to the people of the States; and that in order to do this, it is necessary to print in such languages as the people can understand.

I combated the idea which has heretofore been made to printing in other languages than the English, viz: that printing in the one language promoted homogeneousness. I showed, by reference to the history of the colonies at the time of and before the formation of the Constitution, that so far from being indebted to homogeneousness for any beneficial effect on our Constitution, all the distinguishing characteristics which make it unlike and superior to that of all other governments, grew out of the diverse interests which existed in the colonies. Diverse interests, diverse peculiarities, diverse religions stamped upon our Government its peculiar characteristics. I attempted to show that homogeneousness is the centripetal force which tends towards consolidation in our Government; diverseness, the centrifugal force which sustains the authority of the States; and that homogeneousness being baneful rather than, as it had been assumed to be, beneficial, objection based on its supposed merits, fails.

The next objection to printing in other languages than the English, which I was considering at the time I gave way, was, that the language of the United States was English, and that this fact furnished a reason why we should print the message in that language alone. True it is, English is the language of the Constitution of the United States and of the General Government. In that language all its business is transacted; but it is not true that it is the language of the people of the States or of the States themselves. The object of printing the President's message at all is to give information, not to the General Government, for the General Government is the giver, not the seeker of this kind of information; but it is intended for the people of the States as well as the States themselves. One of the States of this Union, Louisiana, has for its established language the French, and another, California, has for its established language the Spanish; and though both of these States have English also as their language, there is no constitutional objection to each of them adopting respectively the French and Spanish as their sole State languages. Each State has the right to make its own local laws, and to declare what shall be the language of those laws.

The probability that States, with languages other than English as their sole State languages, will hereafter be admitted into the Union, is, I think, extremely probable. When we look at the progress of our Government from the year 1783, the date of our treaty with England, its progress in population and in extent of territory are most remarkable; and if we judge by the past what we may expect in the future, the conclusion is inevitable that we must have States with established languages other than the English. In 1783 the territory of the United States comprised one million square miles; fifty-six years afterwards it comprised three and a half millions. Any one can make the calculation how much it will be in fifty-six years from this time. I have made a rough estimate of it, and the calculation, based upon authentic statistics, is, that in the year 1915 the population of the United States will be more than one hundred and fifty millions, and the area of our territory *greater than all North America;* and the probability is that many new States, with other languages than the English, will be members of the Union before the termination of the present century.

Our Government is capable of making happy more than one race of people.

Its capacity for extension is without limit; for as new and diverse elements are brought into the Union, its bonds are strengthened, strengthened by increasing the supporters of that great principle of harmony—non-intervention of the General Government in the local legislation of its parts; and without the maintenance of this principle, our life as a nation is short.

But without going to the future for cases in point, we have now two States and one Territory (Louisiana, California, and New Mexico) which have established languages other than English. In New Mexico, out of a population of 65,000 souls, there are not more than 500 who understand the English.

I am at a loss to discover any good reason why they, too, should not have light, and I think that sound policy and justice require the adoption of the amendment I have offered.

Mr. BROOKS. I would inquire of the Chair, whether it is in order to submit an amendment to the amendment? I believe it is an amendment we are now discussing.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] moved to refer the message to the Committee of the Whole on the state of the Union and to have it printed, and the gentleman from New Mexico [Mr. WEIGHTMAN] moved as an amendment that five thousand copies extra be printed in the Spanish language. A motion, therefore, to amend is in order.

Mr. BROOKS. I propose to amend the motion of the gentleman from Tennessee [Mr. JONES] with the following amendment:

Resolved, That so much of the message as relates to the subject of the tariff and revenue from customs be referred to a select committee, with power to examine witnesses and collect testimony here and elsewhere, with instructions to report as soon as possible the same, with a bill reducing the duty on imports to such an amount as may be required for an economical administration of the Government.

Mr. RICHARDSON. I rise to a question of order, that it is not germane to the proposition as an amendment.

The SPEAKER. It has been the custom of this body to divide the President's message, and refer its different parts to the various committees of the House. I think it has been done in the House as well as in the Committee of the Whole.

Mr. BROOKS. I understand the Chair to decide that my amendment is in order.

The SPEAKER. The Chair has not yet made his decision.

Mr. RICHARDSON. I ask the Chair whether the question before the House is not a motion to print the message? The gentleman from New Mexico, as I understand, has offered an amendment to the motion to print.

The SPEAKER. The question is to commit and print.

Mr. RICHARDSON. The amendment of the gentleman from New York [Mr. BROOKS] then comes in as a proposition to amend that part of it which is to print.

The SPEAKER. It is to amend that portion which is to commit.

Mr. RICHARDSON. If it were merely a proposition to commit, then the amendment of the gentleman from New York [Mr. BROOKS] would be in order.

Mr. BROOKS. I propose to have my amendment read in its proper order.

The SPEAKER. The Clerk will report the original proposition.

The proposition was then read, as follows:

Resolved, That the message be referred to the Committee of the Whole on the state of the Union, and that it be printed; and that fifteen thousand extra copies, with the accompanying documents, be printed for the use of the House.

Mr. RICHARDSON. I desire to make a single point. The proposition of the gentleman from New York [Mr. BROOKS] is to amend the proposition of the gentleman from New Mexico, [Mr. WEIGHTMAN]—which is not to lay the message upon the table, but to print it in the Spanish language. Now, I submit to the Chair, whether the proposition of the gentleman from New York [Mr. BROOKS] is germane?

The SPEAKER. The amendment of the gentleman from New York [Mr. BROOKS] can come in as an amendment to the amendment proposed by the gentleman from New Mexico, [Mr. WEIGHTMAN.] The only question with the Chair is this: The proposition of the gentleman from Tennessee [Mr. JONES] is twofold: One proposition is to commit. That, as a substantive proposition, is amendable; and the Chair is disposed to think that the amendment of the gentleman from New York [Mr. BROOKS] would be in order.

Mr. JONES, of Tennessee. The proposition of the gentleman from New York, [Mr. BROOKS,] I conceive, would be in order after we had disposed of the amendment of the gentleman from New Mexico, [Mr. WEIGHTMAN,]—after we had disposed of all that part of my motion which relates to the printing of the message.

The SPEAKER. Will the gentleman allow the Chair to interrupt him for a moment?

Mr. JONES. Certainly.

The SPEAKER. Is it not within the recollection of the gentleman from Tennessee that the House has usually disposed first of the motion to commit, and then of the motion to print? The decision of the Chair will be, that the motion to commit must first be disposed of.

Mr. JONES. My recollection of the practice of the House is, that an amendment to the motion to print must first be disposed of.

The SPEAKER. The Chair must decide that the motion of the gentleman from New York is not in order as an amendment to the amendment.

Mr. BROOKS. I do not propose it as an amendment to the amendment. In order to avoid all technicalities, I will propose it as a substitute for the amendment of the gentleman from New Mexico.

Mr. RICHARDSON. I object to that. The proposition of the gentleman from New Mexico must first be disposed of. No proposition is in order but a motion to amend that.

The SPEAKER. The Chair sustains the point of order raised by the gentleman from Illinois, [Mr. RICHARDSON,] and decides that the proposition of the gentleman from New York [Mr. BROOKS] is not in order in the form in which it is now offered.

Mr. BROOKS. Do I understand the Chair to decide that I have no right to amend either the original proposition or the proposition of the gentleman from New Mexico?

The SPEAKER. The Chair decides that the gentleman's proposition to amend the amendment is not in order. The Chair is of opinion—and so stated—that the proposition to commit is amendable, and that that is the first proposition to be decided, if a division is asked.

Mr. BROOKS. That is the point to which I drew the attention of the Chair. I wish to amend the motion to commit the message, by excepting that part of it which relates to the revenue from customs.

The amendment of Mr. BROOKS, as modified, was then read by the Clerk, as follows:

"Except so much of the message as relates to the tariff and revenue from customs, which shall be referred to a select committee, with power to examine witnesses and to collect testimony here and elsewhere; and with instructions to report as soon as possible upon the same, with a bill reducing the duties on imports to such an amount as may be required for an economical administration of the Government."

The SPEAKER. The Chair decides that that amendment is in order, and that it takes precedence of the amendment proposed by the gentleman from New Mexico, [Mr. WEIGHTMAN.]

Mr. RICHARDSON. I rise to a question of order. Do I understand the Chair to decide that, pending the proposition of the gentleman from New Mexico, [Mr. WEIGHTMAN,] the gentleman from New York [Mr. BROOKS] can make a proposition to amend also, and that you can have two propositions to amend pending at the same time?

The SPEAKER. The Chair begs leave to explain.

Mr. RICHARDSON. Certainly.

The SPEAKER. The proposition of the gentleman from Tennessee [Mr. JONES] is to commit and to print. The Chair decides that the question on the motion to commit must first be taken, and that the motion to commit is amendable. When that proposition is disposed of, the question of printing will arise. That will also be amendable, and the amendment of the gentleman from New Mexico will then be pending. That is the decision of the Chair.

Mr. RICHARDSON. I believe the question of order is debatable.

Mr. BROOKS. I should not occupy half the time with my remarks that the gentleman is consuming by these questions of order.

Mr. RICHARDSON. I am very glad to hear that; but I think the rules of the House ought to be adhered to, and that we had better start out understanding our position. I think that under that decision of the Chair, we shall get into interminable difficulty with this message, and from that decision I appeal.

The SPEAKER. Will the gentleman refer to the rule on which he relies?

Mr. RICHARDSON. I refer to all the rules, Mr. Speaker. [Laughter.] I think the Chair had better refer to some rule on which he relies. I just desire to say that, if the decision of the Speaker is sustained by the House, we never can get clear of this question, or arrive at a vote upon it.

The SPEAKER. The Chair is of opinion that that is the only possible mode by which we can avoid interminable difficulty. That is his opinion. The House, however, can correct the Chair, if he is in error.

Mr. STEPHENS, of Georgia. As I understand the question of order, it is this: A motion is made to commit the message and print it, and the Speaker holds that that motion is divisible, and that when divided, a proposition to amend the motion to commit takes precedence of an amendment to the motion to print.

The SPEAKER. That is the decision of the Chair.

Mr. STEPHENS. Then I move that the appeal be laid upon the table.

The SPEAKER. The Chair will state in addition to what has been said by the gentleman from Georgia, that the uniform practice of the House has been to divide propositions such as that made by the gentleman from Tennessee, [Mr. JONES,] and the vote has been uniformly taken first upon committing, and secondly upon printing. Both propositions are clearly amendable, in the opinion of the Chair.

Mr. RICHARDSON. Both are amendable, but the question is as to the order in which amendments are to be proposed. If the gentleman from New York [Mr. BROOKS] had proposed his amendment before the gentleman from New Mexico [Mr. WEIGHTMAN] offered his, it would have been first in order. The gentleman from New Mexico having made his proposition first, it must first be disposed of. That is the difference between the Chair and myself.

The SPEAKER. The motion to commit, however, uniformly takes precedence, and must be disposed of first. And if amendable at all, must be amendable at this stage.

Mr. RICHARDSON. Well, sir, I withdraw the appeal.

The appeal was accordingly withdrawn.

Mr. JONES, of Tennessee. I rise to a question of order. I submit to the Chair whether a motion to commit, referring one part to one committee, and another part to another committee, can be made at all. I submit to the Chair whether the rules do not prescribe the order in which motions to commit shall be put. If a motion is made to refer to the Committee of the Whole on the state of the Union, and then——

Mr. BROOKS, (interrupting.) I rise to a question of order.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] is upon the floor to a question of order.

Mr. BROOKS. Is the appeal debatable?

Mr. JONES. There is no appeal pending.

The SPEAKER. A new question of order is being raised by the gentleman from Tennessee.

Mr. JONES, of Tennessee, (resuming.) I cannot at this moment turn to the precise rule, but I think the rules prescribe the order in which motions to refer shall be put—first, to the Committee of the Whole on the state of the Union, then to a standing committee, and then to a select committee.

The SPEAKER. Certainly, the rules prescribe the order in which motions to refer shall be put. There is no doubt about that.

Mr. JONES. But the proposition before the House refers one part to one committee, and another part to another. Now, that is uniformly done in Committee of the Whole. When the whole message is referred to the Committee of the Whole on the state of the Union we can parcel it out, and then come into the House and adopt resolutions referring the different parts to the different standing committees.

The SPEAKER. The Chair must overrule the question of order, on the ground that it is as competent for the House to send the various parts of the message to the several committees of the body as it is for the Committee of the Whole on the state of the Union to do so.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had agreed to the joint resolution of the House in reference to the appointment of Chaplains to Congress, and had appointed, on their part, the Reverend C. M. BUTLER.]

Mr. BROOKS. Mr. Speaker, I rise to make a few remarks in connection with the proposed reference, and they will be very few. The original proposition of the gentleman from Tennessee [Mr. JONES] is to refer the whole message to the Committee of the Whole on the state of the Union. The exception which I propose to make is of that part of the message which relates to the revenue derived from customs. I have several reasons for making that exception, and I will submit a few of them for the consideration of the House. The first is, that, under the old, and I must say, bad habits of doing business in this House, it is not at all certain that if the reference of this whole message is made to the Committee of the Whole on the state of the Union, any action can be had upon an important part of it until long after the 1st of January, and that when that action is had it must be had with so much rapidity that it will be quite impossible for the members of the House to have a fair and full investigation of the subject upon which they are to give their votes. My object, therefore, is to present a proposition in the earlier days of the session, and during the holidays to have that sort of investigation which will provide the House with facts, and then immediately, upon the closing of the holidays, to have the deliberate action of the House upon those facts which shall have been brought to their attention.

I have excepted this subject of revenue because, before we begin to pass any law whatever, I want the House and the country to be mindful of the fact, that there was in July last between $14,000,000 and $15,000,000 of surplus revenue, and that there are now probably in the Treasury $20,000,000 of surplus revenue. I do not wish to begin to make appropriations at all—I do not wish to begin to take deliberate action upon any of the appropriation bills until this surplus revenue business is first disposed of, or, if not disposed of, until some means be taken to guard against its accumulation in the Treasury. For with $20,000,000 of surplus revenue at the disposal of this Congress, however well-disposed we may be, it is quite impossible for us to administer the Government with economy and wisdom in the general scramble there must be and will be for those $20,000,000 rolling up and accumulating more and more. It is on this account that I have proposed to except that particular part of the message relating to the revenue derived from customs, from the general disposition of the message, and to have it referred to a select committee who, sitting immediately, shall immediately examine and act upon so important a subject. I have separated this part of the message from its ordinary course of reference—the Committee of Ways and Means—in whose maelstrom this, as all other subjects, have hitherto been ingulfed in this House—for a variety of reasons. My first reason is, that no one committee of this House should have about the whole disposal of its legislation, as that committee is obliged to have under our present mode of doing business; and, secondly, because if the Committee of Ways and Means devote all their time, as they must, to do the work well, from now until the 1st of February, to the preparation of the appropriation bills, it will be quite impossible for them well to prepare and sufficiently to digest so important and intricate an act as a revenue bill, for the consideration of the House. I know from my experience upon that committee that, with the most assiduous and devoted work, there will not be sufficient time for the committee to prepare the appropriation bills alone. If, in addition to all that, this whole subject of revenue from customs is thrown upon the committee, either the appropriation bills or this revenue bill will not be ready to be acted on until sometime near midnight on the 3d of March, when its reading will be dispensed with, because nobody in the sleepy hours of the night, and in the noise and confusion then prevailing, can either hear, understand, or even guess, what is going on.

I have, therefore, sir, at this early period of the session, made this move, in order that, like wise men, we may prepare ourselves now, to act hereafter. I have my own views upon the subject of the best mode of correcting this accumulation of surplus revenue, and in a speech which I made at the last session of Congress, I, in some degree, expressed those views in pointing out the errors of the existing act. I do not propose to repeat those remarks at the present time, nor to enter upon any discussion of the tariff at all, further than to prepare the way for accommodating this tariff to the present imperious demands of the times.*

This surplus revenue, I must say, however, is not accruing under the tariff act of 1846, but under the tariff which we made two years ago; and the Treasury circulars on which that act was founded, passed, I think, on some night in March, amid the closing scenes of the then short session. A bill then came to us from the Senate, and we found it necessary to precipitately urge it through the House, because the Supreme Court of the United States had abrogated the Treasury circulars of Mr. Walker, and other Secretaries, and thus Congress was compelled to override by legislation these judicial decisions, which had overthrown about all of the action of the Treasury under the tariff of 1846. This act of March, 1850, legaliz-

*The substance of Mr. BROOKS's remarks last year, was, that the tariff of 1846 was not the tariff under which duties were now collected, but an act (Hunter's act) of March, 1850, was the real tariff law of the land. The Supreme Court of the United States having "nullified" the Treasury circulars of Mr. Secretary Walker, and other circulars under which the revenues had been illegally collected, and largely increased by these illegalities beyond the act of 1847, Congress, in March, 1850, made the principles of these Treasury circulars the law of the land, and caused the increase of the revenue now going on. These Treasury circulars, and the act of Congress legalizing their principles, had increased the revenue millions, and had led to this surplus revenue. The present tariff act, Mr. BROOKS then contended, was, therefore, the act of 1850, not the act of 1846.

ing the Treasury circulars, is the real revenue law under which we are living, and under which we are collecting this surplus revenue.

My own opinion is, that in order to dispose of this surplus revenue, or to avoid its accumulation, our first action should be to enlarge the list of free articles; and that, in the enlargement of that list, we should have especial reference to the raw material which enters into the composition of the manufactured article, the effect of which should be to place our manufactures upon a par in the foreign market, as well as in our own, with the manufactures of foreign countries. I have before me a long list of articles, which, I trust, will be examined; but I do not propose to trouble the House with its reading in connection with the few remarks I now propose to make. I propose to lay the list before the Reporters, where it can be examined at leisure. It does not contain all that I would propose to do in the way of reduction, nor do I undertake to say now, all I here propose should be done just as proposed; but the list, as far as it goes, embodies my views in the main.

[Mr. BROOKS sent to the Reporters the following Bill:]

A Bill to amend "An act reducing the duty on imports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of December next, the "Act reducing the duty on imports, and for other purposes," approved July 30, 1846, be, and the same is hereby, so far amended as to exempt from duty the goods, wares, and merchandise herein named.

1. The goods, wares, and merchandise, mentioned in schedule H of the said act, and now subject to a duty of *five* per centum ad valorem.

2. The following goods, wares, and merchandise, mentioned in schedule E of said act, and now subject to a duty of *ten* per centum ad valorem: Ammonia; annatto, Rancon or Orleans; barilla; bleaching powders, or chloride of lime; cochineal; cocoa; cocoa shells; cudbear; fuller's earth; gold-beater's skins; gum arabic and gum senegal; gum tragacanth; gum barbary; gum east india; gum jeddo; gum substitute, or burnt starch; hair of all kinds, uncleaned and unmanufactured; india rubber in bottles, slabs, or sheets, unmanufactured; indigo; kelp; lemon and lime juice; nutron; nux vomica; orphiment; palm leaf, unmanufactured; polishing stones; pumice and pumice-stones; ratans and reeds, unmanufactured; rotten stone; soda ash; terra japonica or catechu; woad or pastel.

3. The following goods, wares, and merchandise, mentioned in schedule F of said act, and now subject to a duty of *fifteen* per centum ad valorem: Arsenic; bark, Peruvian; bark, Quilla; Brazil paste; brimstone, crude, in bulk; codilla, or tow of hemp or flax; cork-tree bark, unmanufactured; dragon's blood; flax, unmanufactured; mineral kermes; silk, raw, not more advanced in manufacture than singles, tram and thrown or organzine.

4. The following goods, wares, and merchandise, mentioned in schedule E of said act, and now subject to a duty of *twenty* per centum ad valorem: Aloes; alum; amber; ambergris; Angora, Thibet, and other goats' hair, or mohair, unmanufactured; anniseed; antimony, crude and regulus of; assafœtida; bananas; bismuth; bitter apples; boucho leaves; breccia; cadmium; calamine; cantharides; cassia buds; cedar wood, ebony, granadilla, mahogany, rosewood, and satin-wood, unmanufactured; cocoanuts; coculus indicus; cubebs; dried pulp; emery; felspar; fig blue; gamboge; green turtle; ipecacuanha; iridium; iris or orris root; jalap; juniper berries; manna; marine coral, unmanufactured; medicinal drugs, roots, and leaves, in a crude state, not otherwise provided for; opium; lemons and limes; orange and lemon peel; osier or willow, prepared for basket-makers' use; pineapples; plantains; potassium; rhubarb; seppia; shaddocks; sponges; squills; tapioca; vanilla beans.

5. The following goods, wares, and merchandise, mentioned in schedule D of said act, and now subject to a duty of *twenty-five* per centum ad valorem: Borax or tincfat; calomel; camphor, crude.

6. The following goods, wares, and merchandise, mentioned in schedule C of said act, and now subject to a duty of *thirty* per centum ad valorem: Cinnamon; grapes; gum benzoin or benjamin; pepper; plums; wool unmanufactured, the value of which in the country of production shall not exceed ten cents per pound.

7. The following goods, wares, and merchandise, mentioned in schedule B of said act, and now subject to a duty of *forty* per centum ad valorem: Almonds; cassia; cloves; currants; dates; figs; ginger root, dried or green; mace; nutmegs; pimento; prunes; raisins.

I feel, in common with the people of the whole country, a necessity of amending the tariff of 1846, of correcting that tariff, and of reducing the revenues collected under it; or rather under the tariff of 1850. Other gentlemen have views, perhaps, agreeing with mine, and perhaps differing from mine in relation to this subject. The duty upon railroad iron, I hear, is to be repealed *in toto*. I know there is a large interest outside of this House which will bring the subject before us, and will compel us to take some vote upon it. My views upon that subject, it is not now the time nor the place to present to the consideration of the House. My only object is to show that it is necessary now—even at this early period of the session of Congress—to place this whole subject of the revenue before the House. It cannot be avoided nor evaded, much, if any longer. It must be met, however it has been dodged heretofore. No man in the minority or the majority can any longer well delay action upon it. It will not do to throw it over to another session of Congress. It will not do to let this surplus revenue roll on, accumulating, and accumulating more and more. It will not do to let these $20,000,000 lie horded up in the sub-treasuries in the various parts of the country; for such hording of gold in these sub-treasuries will work mischief to the commerce and trade of the whole country. However this House, then, may have been hitherto disposed to avoid this whole subject of the revenue, now is the time and now is the hour to attend to it. An imperative and overwhelming necessity is upon the Congress of the United States this short session, to act upon it here. The majority *must* meet it whether it will or not. The minority must and will have an opportunity to present their views upon the subject of the tariff, and upon that of protection. I repeat, that there must be legislation now forced upon the House by this accumulating and overwhelming surplus revenue—unless Representatives are willing to shirk a duty, the shirking of which will lead to the most extravagant expenditures from the Federal Treasury.

Mr. MILLSON. Will the gentleman from New York allow me to ask him a question?

Mr. BROOKS. I do not desire to go into the general discussion of this subject. I wish to avoid discussion.

Mr. MILLSON. I desire to ask one or two questions of the gentleman from New York, in perfect good faith.

Mr. BROOKS. Very well. Go on.

Mr. MILLSON. I am myself exceedingly desirous that there should be some reduction of the tariff of 1846. While I, at the time of its passage, predicted that the time would come when some of the duties under that tariff must and should be reduced; and while I desire to vote for the motion of the gentleman, yet before I can vote for it, I desire to know—as the gentleman from New York, according to parliamentary usage, would perhaps be appointed the chairman of that select committee—upon what articles he would propose to commence the reduction he wishes to make? Whether he proposes to make a reduction upon the raw material or upon the manufactured article?—I mean the article manufactured in this country.

Mr. BROOKS. It is quite impossible for me to answer the gentleman's questions in full; but before I begin to try, I will first, in some remarks, show I do not desire to be chairman of the committee.

Mr. JONES, of Tennessee. I rise to a question of order. I see this discussion will have to be arrested by the decision of the Chair, and it might as well be done now as at any other time.

According to the decision of the Chair, the motion first under consideration is not the motion to print, but the motion to commit, and as such, does not open discussion upon the merits of the question. If remarks are made, they must be confined to the question of reference.

The SPEAKER. The motion is to commit, with certain instructions, the portion of the message referring to the tariff, if the Chair did not misunderstand it.

Mr. BROOKS. That is the motion.

The SPEAKER. According to the Chair's understanding, that opens the whole subject for discussion.

Mr. BROOKS. Before I answer the questions of the gentleman from Virginia, [Mr. MILLSON,] I desire to say in the first place that I was not aware, or my attention was not till now called to the fact, that courtesy would place me at the head of that committee. But if this resolution shall pass, I wish so to amend it as to allow the committee to select its own chairman, because, being, as I am, in the minority in this House, and being desirous of the passage of some bill upon this subject, it would be improper and indelicate in me to forestall the action of the majority by a course which would place me at the head of the committee. I therefore propose so to modify the resolution as to allow the select committee, when formed, to choose its own chairman.

Mr. JONES, of Tennessee. You cannot do that.

Mr. MILLSON. I hope the gentleman from New York [Mr. BROOKS] will not understand me as objecting to his acting as the chairman of that committee.

Mr. BROOKS. Not at all.

Mr. MILLSON. If the gentleman's opinions are the same as mine, I desire his appointment.

The SPEAKER. The Chair will remark that the question of the formation of the committee will come up when the motion is carried—if it be carried—to form the committee.

Mr. BROOKS. I desire to answer the questions of the gentleman from Virginia, [Mr. MILLSON,] more fully than I can now do. The bill which I now have before me looks to the enlargement of the free list of articles imported, and to a reduction of duty upon raw materials which enter into the composition of manufactured articles. I do not, however, desire to go into the discussion of this question. I might go further in the reduction of duties upon other articles not in the bill I have before me. There are some few home-made articles, upon which the existing tariff is an utter prohibition. I do not think that the country, or any great portion of the people, desire such a prohibition of foreign articles. The wise rule is, so to collect your duties as to avoid prohibition from abroad, while keeping up, or stimulating a healthy competition at home. There are, no doubt, some articles which, under the wrongful action of the tariff of 1846, have an entire monopoly of the home market, free from all foreign competition; and all such errors I would wish to correct.

Mr. HALL. I wish to ask the gentleman from New York one question: He speaks about the feelings in the country in relation to the tariff of 1846. He assumes to speak the general sentiment of the whole country in regard to that matter. Now, I want to know upon what ground he asserts that the country generally want a change in the tariff of 1846?

Mr. BROOKS. I ask the gentleman to specify to what remark he alludes.

Mr. HALL. The gentleman says there are certain articles of manufacture which are to be admitted free of duty. Then he says that there must be such a change, in order to produce a healthy competition between the American and foreign manufacturer. I desire to know upon what ground the gentleman makes his assertions?

Mr. BROOKS. I will answer the gentleman's question by asking another. Does the gentleman propose that the $20,000,000 of surplus revenue now in the Treasury shall go on accumulating till the meeting of the next Congress, next December—a year ahead?

Mr. HALL. Certainly not.

Mr. BROOKS. I answer, then, in reply to the gentleman's interrogatories, that there must be some action upon the tariff. Now, what that action shall be, I have no power to propose, nor have I any wish to discuss the question. If discussion comes up at all, it is because it is forced upon me against my will.

Mr. HALL. I understood the gentleman to say that there was a general desire in the country to change the tariff of 1846.

Mr. BROOKS. I said I had my own views upon that subject.

Mr. HALL here made a remark which was not heard by the Reporter.

Mr. BROOKS. Oh, let us, now that we are assembled again, try to legislate for the common good of the country. Oh, let us for once pay attention to the business of the people; and, free from the excitement of the presidential election and its attendant politics, devote ourselves to the business of the country.

Mr. HALL. That is what I want to do, I assure the gentleman. But if the tariff is to be changed, I desire it to be done to meet the wants and wishes of the whole people.

Mr. BROOKS. The gentleman has a majority of sixty members in this House on his side, and when the subject comes up before the House for action, it is in the power of that sixty majority to shape a tariff in whatsoever form they may desire. I am an humble member of the minority, and having no power to dictate what that shape shall be, I have only desired, at the earliest opportunity, to bring before the House the fact, that there were nearly twenty millions surplus revenue in the Treasury, and to show that now is the day and now the hour in which the majority, as well as

the minority, will be compelled to act upon the subject of the tariff.

Mr. MILLSON. I would suggest that a small reduction would increase that surplus.

Mr. BROOKS. That depends altogether upon the mode and manner in which the reduction is made, and that mode and manner I do not now propose to discuss. I will say to the gentleman from Virginia, that I am aware that the tariff may be so altered, even by a reduction of duty, as in some cases to enlarge the revenues of the country; but, as I have already said, that subject I do not propose to enter into. I wish to avoid the details of this discussion as much as possible. I expect if this committee is appointed, that the majority will take the custody of it into their own hands. I assure the House that I will so modify this resolution as to avoid being placed at the head of that committee. I have no right to that post. The majority of the House have the right to it, and ought to have it. It is an onerous and responsible duty, which I do not wish to assume. My simple and only object in rising to make this proposition this second day of the session, and this 7th of December, when already we are one week behind the usual time for the assembling of the session, with not sixty working days in all left before us—when we have gone through the ceremonials which it will be necessary for us to go through with—is to propose the appointment of a committee at the earliest possible period in the session, by the Speaker, who represents a majority of this House, and to have a committee constituted which shall represent the views and wishes of a majority of the members of this House, and which shall at the same time compel some action upon the tariff and the revenues.

I am aware, Mr. Speaker, that it will be said in this Hall that this whole subject ought to be left to the Committee of Ways and Means. I think I have shown satisfactorily that that committee cannot take up this subject and investigate it as it should be done. I repeat, that their immediate attention must be devoted to the appropriation bills, and that the consideration of these appropriation bills will occupy their whole time for the sixty days of the session. I have therefore asked for the appointment of this select committee by the Chair, which shall have reference especially to the subject of the revenues of the country. That committee will be better able to investigate the matters connected with this subject than the Committee of Ways and Means, whose especial business it is to attend to the appropriation bills.

I indulge the hope, therefore, Mr. Speaker, that this whole message will not be as messages have hitherto been, thrown into that common maelstrom of the Committee of the Whole, or into the vortex of the Committee of Ways and Means. I indulge the hope that the whole subject will be thoroughly examined, now that the presidential election is over, and now that the House, as I trust, is disposed to give an examination to financial and commercial questions, rather than to comparatively unimportant political matters.

I repeat, then, sir, it is not possible fairly to avoid action any longer, and that any delay whatever, from this moment down, will lead to that final delay, in which there can be no intelligent or intelligible action whatever.

Mr. CLINGMAN. If I understand the motion of the gentleman from New York [Mr. BROOKS] aright, I intend to support it. I wish not to make a speech upon the subject, but merely to add one word of explanation. While I differ from the gentleman from New York in some of the remarks he has made, I like the proposition submitted by him, on the whole, and am very much gratified that he made the motion. I have some personal reason for so saying, for, Mr. Speaker, I believe I am the only person—at any rate, I have not had much assistance upon this side of the House—who has been for some time past, insisting upon a reduction or a repeal of some of the existing duties. I congratulate myself, therefore, in finding the gentleman from New York, [Mr. BROOKS,] who formerly stood upon a different platform, is now with me. I mean to vote for his motion, whether it is made in good faith or not—and I do not pretend to doubt but that it is made in good faith. With whatever motive it is made, I mean to support it; but I shall perhaps differ with the gentleman when his committee comes in with its report. If I understand the tenor of his remarks, his object is to make the present tariff more unequal than it is now. My object will be rather to equalize the burdens among the different classes. I am willing to take up the whole subject of the reduction of duties. I agree with him that these duties generally are too high. There is no reason why the Government should have fifty millions of revenue. I endeavored to press this point upon the attention of Congress at the last session, and have done so at previous sessions.

I should be perfectly satisfied to see the revenue reduced to thirty millions; and if we raised it by direct taxation we would not dare to collect more than twenty or thirty millions. I am, therefore, with the gentleman in the proposition to go forward and reduce the taxes; but when we come to specify the particular items, I fear that my friend [Mr. BROOKS] and myself will be found differing a little.

He is willing to reduce the five per cent. duties upon dye-stuffs and other chemicals for the benefit of manufacturers. Perhaps I may agree with him in that in a spirit of compromise; but I am for going one step further. When the manufacturers are relieved from five per cent. duties, I say they ought not to complain of our reducing the thirty and forty per cent. duties upon manufactured articles. If five per cent. is too much for them to bear, then I say forty per cent. is also too much for the farmers to pay. I am disposed, therefore, to go into the whole subject fairly. I believe, for example, we ought to reduce the duties upon raw wool, so as to let in the coarse kinds of South American wool for the benefit of our manufacturers of the coarser fabrics, and I am willing now to reduce it down to twenty per cent.; but I am not willing at the same time to increase the duties upon the manufactured articles.

I had, Mr. Speaker, one objection to the tariff of '46 at the time it passed. I thought it was too great and too sudden a reduction. It did fall hard upon the manufactures of that day. But six years have gone around, and we have now come to a point of time when we may make a further reduction of the taxes. Our object ought to be to make the collection of the necessary revenue with the smallest burden to the community, and as we have a large surplus on hand let us move gradually forward to lighten that burden.

My friend from New York [Mr. BROOKS] refers to the duty upon railroad iron. I hope we shall get a direct vote upon that question. I believe the whole country is calling for a repeal of that duty. But having spoken upon this subject upon former occasions, I will say nothing further now.

My sole purpose in rising was to say why I shall vote for the motion of the gentleman from New York, [Mr. BROOKS,] though I do not agree entirely with the speech he has made in its support. I am gratified that the motion comes from a gentleman who has heretofore been identified with the protectionist party, and I intend to go for it, though I do not wish it understood that I indorse all the views he has thrown out to-day.

I hope the House will take up the subject. Let us have that committee. I am not afraid of their report. If they bring in a report which we do not like, we need not adopt it. I trust gentlemen on both sides of the House will concur in supporting the motion. Let it be remembered that the proposition is one to *reduce the duties*, and thereby reduce the revenue to the lowest sum that will defray the expenses of the Government economically administered. From the gentleman's speech one might infer that his purpose was only to reduce the revenue, which could be done by increasing duties to the point of prohibition. If this be his object, his proposition does not so state. It is fair on its face, being to *reduce the duties* lower than they now are. The friends of free trade itself cannot object to that. The subject is one which requires legislation; and I am willing to get at it in this mode. When we have it in hand, it will be for the majority on this floor to decide how far we ought to go.

Mr. BROWN, of Mississippi. I listen with pleasure to the remarks of the gentleman from New York, [Mr. BROOKS.] I always listen to that gentleman with pleasure, but I listened to him to-day with some degree of surprise. I recollect very well that when the tariff of 1846 was being adjusted, that gentleman and his friends were confident in the opinion that it would so cut off our revenue as literally to starve the Government. A very distinguished gentleman from Ohio, no longer a member of this House,—I allude to Mr. Vinton,—was very confident that it would not produce exceeding $18,000,000, and his party friends were equally confident that such would be the result; and now when we have fairly tested that great measure of revenue, we have the gentleman from New York [Mr. BROOKS] coming in, I suppose by the authority of his party, and telling us that the tariff of 1846 has not only supplied the needful revenue to the Government,—may I not add a wasteful and extravagant Government?—but that we have a surplus accumulated which we do not know what to do with. We have not $20,000,000, as the gentleman says, but perhaps $14,000,000 of surplus. We are in debt—how many millions? I do not know,—some sixty or seventy millions, I believe. The message of the President of the United States does not disclose the extent of our indebtedness, and as yet we have not seen the other executive documents. The gentleman says we have a large and increasing surplus, and he is distressing himself for a place to put it. I answer, we are in debt. There is a capital place to dispose of your surplus revenue. Pay your debts with it. It is the most legitimate and proper disposition you can make of the money accumulated in the Treasury. Besides this, sir, I have yet to learn that your appropriations of the last session have been fully met, and that those necessary for the future have been provided for. If all the schemes set on foot during the last session shall be carried out, and one half of those now before you shall receive your sanction, there will be no surplus; if mail steamers are to be sent to all parts of the world; if our rivers and harbors are to be improved on the scale indicated by the recent action of Congress; if our coasts are to be protected by an efficient naval force; if our harbors are to be fortified, and our frontiers guarded against Indian depredations; if all this is to be done you will have no surplus. Some of these objects meet my sanction, and others do not. But Congress has indicated its purpose to embrace them all in its policy. Besides, there are other objects that may not be disregarded. We have very delicate relations with Mexico, which may yet involve us in the payment of a large sum of money. We agreed to protect Mexico against Indian depredations. What the depredations committed upon that friendly Power by the Indians, in violation of the treaty of Guadalupe Hidalgo, have been, remains yet to be told. Rumor informs us that the damage amounts to some fifteen or twenty millions of dollars. You will probably have a commission to adjudicate those claims, and the sums awarded will have to be paid. There is one other place to dispose of a part of your surplus.

As far as the tariff is concerned, I have no intention at this time to enter into a discussion of it. I did not suppose that at this early day of the session this question was to be sprung; but since it is before us, I know of no reason why we may not as well discuss it now, as at any other time; and I trust that gentlemen who are prepared, as doubtless many are, will submit their views to the House and to the country; that they will come forward and let us understand what are their views, and what they desire shall be the policy of the Government in this respect.

For myself, sir, I am satisfied with the tariff of '46. As to our returning to the minimums and specifics, or to protection for the sake of protection, as was more than hinted at by the gentleman from New York, [Mr. BROOKS,] for one I am utterly opposed to it; and before I vote for a reference of this resolution, with the instructions embodied in it, I must know what are the purposes of gentlemen on the other side, and what sort of modification of the tariff they desire. Is it their purpose to reduce *the revenue?* If such be the purpose, will they increase or diminish the *duties on foreign goods?* Suppose you reduce it twenty-five or even twenty per cent., what do gentlemen suppose will be the effect? Are we to get more or less revenue by such a reduction? Representing, as I do, a planting constituency, who have prospered under the operations of this tariff of 1846 as they have never prospered before, I am unwilling to see it *disturbed*, unless I understand the purposes for which it is to be disturbed. First let me know what will be the effect of your interference with it. My constituents are raising more cotton than

at any former period, and are getting better prices for it. We are satisfied with the present revenue laws. We are willing to pay, and do pay, as I think I can demonstrate, more revenue in proportion to our population than you do. We are willing to pay it if you will let us alone.

I rose, sir, merely to make a remark or two, which I trust may elicit from gentlemen on the other side of the House suggestions as to what they expect to accomplish by this movement; whether they intend to have an ascending or descending scale of duties; whether the *revenue* is to be cut off by reducing the rates of taxes, or by increasing them. If gentlemen will furnish this information, then I can make up my mind whether I can vote for the proposition of the gentleman from New York. Unless I am enlightened on this point, I shall be constrained to vote against the proposition.

Mr. DEAN. I am astonished, Mr. Speaker, that my colleague should at this time introduce a proposition to reduce the duties levied by the tariff of 1846, especially when the President of the United States, in his message read yesterday in our hearing, repeats his former recommendations in favor of "discriminating and protective duties;" nor can I understand how the gentleman can consistently make it, so soon after the political party of which he is so prominent a member, has come out of a canvass in which it made an increase of the duties levied by the tariff of 1846 one of the chief issues; for I know, from my own observation, that in all the northeastern and manufacturing States, the principal, almost the only distinctive issue that was made by that party, was opposition to what they termed the "*free-trade tariff of* 1846."

Mr. RICHARDSON. So they did at the West.

Mr. DEAN. Of the manner in which the canvass was conducted in the West, I was not advised, but spoke from my own knowledge in relation to the Northeast. And I cannot, therefore, repress this expression of surprise at hearing from my colleague, within twenty-four hours after our assembling, this proposition to "*reduce the duties*" now levied. But in what manner is this reduction to be effected? Is it by an increase of the free list—by a reduction on the raw material alone—or by a *pro rata* reduction of all duties? On this subject we are not informed, but are asked to go on blindly and raise a committee, with almost unlimited powers, but whose general object is to take testimony, and report some method of reducing the present receipts of revenue. To this proposition I am opposed, and for abundant, and, to my mind, satisfactory reasons. I, however, have no intention at this time to discuss the subject, but rise to give what I regard as a controlling objection to the appointment of this select committee. We have already, by the rules of this House, a Committee of Ways and Means; and it is made their especial duty, by the 78th standing rule of the House, "to inquire into and report on the subject of the revenue."

And I take the liberty of asking my colleague whether, during all of the last session of Congress, he was not a member of that committee; and whether, during the whole of that session, either he or any other member of that committee made any report, or introduced, or proposed any bill for the reduction, alteration, or modification of our present system of duties?

Mr. BROOKS. With the gentleman's permission, I will reply, in explanation, that at the last session the Committee of Ways and Means were not aware that on the 1st day of July, whilst Congress was in session, there were $14,000,000 of surplus revenue; nor that by the 1st of January there would in all probability be $20,000,000 of surplus revenue.

If the gentleman will allow me, I will answer another question. I would be happy to tell him what I was after, and what the committee I would have, were after, had I the appointment of that committee. What that committee shall do, will be for the majority in this House—for the Speaker, who has the appointment of the committees—to say.

Mr. DEAN. I am glad to have afforded the gentleman an opportunity to explain the apparent inconsistency of his position. But, as I before stated, I did not rise to debate the necessity or propriety of a change in any of the details of our present tariff system, but am willing, and anxious, at a proper time, to enter into a full examination and defense, if any be needed, of the principle of the tariff of 1846, and to discuss and vote upon any modifications that may be proposed, for I have no doubt it may, in some of its details, be improved; but to a change of the principles upon which it is based, I am, as I know a vast majority of the people of the nation are, opposed. And as a committee already exists, by the rules of this House, whose duty it is to inquire into the very subject for which this special committee is sought to be raised, I shall vote against the amendment of my colleague. Beside, if I am not mistaken, a committee, of which General JAMES is chairman, for a precisely similar purpose, and with equal powers, was appointed by the Senate during the last session. That committee has been in session during nearly, or quite all of the recess, taking testimony, and is soon to report. We have now less than three months before us, and have, in my judgment, enough to do without retaking testimony which has already been once taken, and for a similar purpose, and can as well be used by the standing committee of this House. I desire to rescue this question of the tariff, which affects the business relations of the whole people, from the party politics of the country, and think it should be taken up at another time.

With regard to the proper disposition of the surplus revenue now accumulated in the Treasury, no difficulty can arise. We have a public debt of more than $60,000,000, and it would be the dictate of ordinary prudence to apply the surplus revenues to the liquidation of this before we take any measures for diminishing those revenues. And after the universal cry of protection, which we have heard from the Whig party, I cannot think they are in earnest in taking the lead in reducing the tariff. I must apply the maxim "*Timeo Danaos*," and intrust this duty to the hands of the next Administration.

As the House is evidently entirely unprepared for the discussion of this question at this time, I deem it my duty to conclude by moving the previous question.

[Cries of "That's right!" "That's right!"]

The call for the previous question was seconded, and the main question ordered to be put.

Mr. ROBBINS. I demand the yeas and nays on the amendment of the gentleman from New York.

The yeas and nays were ordered.

The amendment was again read.

Mr. BROOKS. According to my promise, with the consent of the House, I will modify my amendment, that the select committee shall have power to elect its own chairman.

Mr. JONES, of Tennessee. That cannot be done, under the rule.

The SPEAKER. The gentleman cannot modify unless by the unanimous consent of the House.

Mr. JONES, of Tennessee. I would inquire of the gentleman from New York, whether it is the design to have the proposed committee go to New York, Philadelphia, Boston, and San Francisco, and every other place in the country?—it says, "here and elsewhere."

[Cries of "Order!" "Order!" and "Let us vote it down."]

A MEMBER. Would it be in order to move that the amendment be laid upon the table?

The SPEAKER. It would be in order, but the entire subject would go with it;—the message and all would go to the table.

Mr. MEADE. If this amendment be voted down, I shall submit another, contemplating alone the surplus revenue and the public debt.

The SPEAKER. Such a proposition would not be in order, pending the previous question. Debate is not in order.

Mr. HOUSTON. With the Chair's indulgence, I would suggest, should the House see fit to vote down the present proposition, and to refer the message to the Committee of the Whole on the state of the Union, whether the precise reference desired by the gentleman could not be made with such instructions as might meet with the approbation of the House?

The SPEAKER. It would be in the power of the Committee of the Whole on the state of the Union, to make such a recommendation to the House.

Mr. STEPHENS, of Georgia. Suppose the message be referred to the Committee of the Whole on the state of the Union, and that committee never acts upon it, will it, then, ever be acted upon? [Laughter.]

Mr. HOUSTON. It would not be referred to the committee, if the gentleman does as he did last session, interpose objections.

The question was then taken on the amendment submitted by Mr. BROOKS, and it was rejected—yeas 73, nays 93; as follows:

YEAS—Messrs. Abercrombie, Bennett, Bibighaus, Bowne, John H. Boyd, Brenton, Briggs, Brooks, E. C. Cabell, Chandler, Chapman, Churchwell, Clingman, Cottman, Cullom, Disney, Dockery, Doty, Eastman, Edmundson, Gaylord, Gentry, Harper, Haws, Hascall, Haven, Hebard, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, James Johnson, George G. King, Kuhns, Meacham, Miller, Millson, Miner, Molony, Henry D. Moore, John Moore, Morehead, Nabers, Orr, Outlaw, Samuel W. Parker, Penniman, Perkins, Porter, Price, Ross, Sackett, Savage, Schermerhorn, Schoolcraft, Scudder, Smith, Stanly, Benjamin Stanton, Alexander H. Stephens, Stratton, Taylor, Thurston, Walbridge, Walsh, Ward, Watkins, Welch, Alexander White, Williams, Woodward, and Yates—73.

NAYS—Messrs. Charles Allen, John Appleton, Averett, Babcock, Bocock, Bowie, Bragg, Albert G. Brown, Buell, Joseph Cable, Lewis D. Campbell, Carter, Caskie, Chastain, Clemens, Cleveland, Cobb, Colcock, Curtis, Darby, John G. Davis, Dawson, Dean, Dimmick, Edgerton, Faulkner, Florence, Floyd, Freeman, Thomas J. D. Fuller, Gamble, Gilmore, Goodenow, Goodrich, Gorman, Green, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Henn, Hillyer, Holladay, Houston, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Lockhart, Mace, McDonald, McLanahan, McMullen, McNair, McQueen, Meade, Morrison, Murray, Penn, Phelps, Polk, Powell, Richardson, Riddle, Robbins, Robie, David L. Seymour, Origen S. Seymour, Skelton, Smart, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stuart, Sutherland, Sweetser, Townshend, Venable, Wallace, Wilcox, and Wildrick—93.

So the amendment was disagreed to.

The question was then taken on the motion to refer the President's message and accompanying documents to the Committee of the Whole on the state of the Union, and agreed to.

The question was put on the amendment of Mr. WEIGHTMAN, and it was rejected.

The proposition of Mr. JONES was then agreed to.

Mr. HOUSTON moved to reconsider the vote last taken, and to lay the motion to reconsider on the table; which latter motion was agreed to.

MR. CORWIN AND THE GARDINER CLAIM.

Mr. KING, of New York. At the close of the last session of Congress, a committee was appointed to investigate the claim of G. A. Gardiner, which had been allowed by the Commissioners for the examination of Mexican claims, and the connection of the Hon. Thomas Corwin, Secretary of the Treasury, with its allowance. They were instructed to file their report, and the testimony they might take, with the Clerk of the House during the recess. At that time the committee, not being full, determined that at a subsequent period they would consider and report to the House such legislative remedy as they deemed the circumstances required to prevent frauds on the Treasury. I now send to the Speaker, "A bill to prevent frauds on the Treasury of the United States," which is from that committee. I do not expect that the House will, at this time, take any action on the matter, and will only move that the bill, and the report and testimony which were filed with the Clerk during the recess, be ordered to be printed; and for the purpose of keeping the subject before the House, that the bill and report be recommitted to the Select Committee.

The bill was read a first and second time by its title.

[It makes it a penitentiary offense for any officer of the Government—either executive or legislative—to purchase or become interested in claims against the United States, or to prosecute claims for a fee.]

Mr. KING. I ask that the question be now taken only on the motion to print.

The question was then taken on the motion to print the bill and report, and it was agreed to.

ELECTION OF CHAPLAIN.

Mr. McMULLIN. Is it not the duty of the House now to proceed to the execution of its order of yesterday, in regard to the election of a Chaplain?

Mr. FLORENCE. I move that the House do now proceed to the execution of that order.

Mr. GENTRY. Allow me to make a suggestion that will meet, I think, with the general

concurrence of the House. I expect that the Speaker will desire a day or two to rearrange the committees, and that members will want a little leisure to find lodgings for the winter, &c., and therefore move that when the House adjourns to-day, it be to meet on Thursday next.

Mr. JONES, of Tennessee. I would state to the gentleman there is some business that will have to be done, and which may be done as well to-morrow as at any other time. The deaths of several members have to be announced.

Mr. GENTRY. Well, I will not press my motion now.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

The question was put, and the House refused to adjourn, there being on a division—ayes 61, noes 72.

THE ELECTION OF CHAPLAIN.

The question then recurred on the motion of Mr. FLORENCE that the House do now proceed to the election of a Chaplain; which motion was put to the House, and carried in the affirmative.

The SPEAKER having stated that nominations were in order, the following nominations were made, viz:

By Mr. FLORENCE: Rev. L. F. MORGAN.

By Mr. INGERSOLL: Rev. T. C. TEASDALE.

By Messrs. GENTRY and HALL: Rev. JAMES GALLAHER.

By Mr. MACE: Rev. ROBERT L. DASHIELL.

By Mr. HARRIS, of Tennessee: Rev. J. H. D. CARLIN.

By Mr. McLANAHAN: Rev. JOHN GEORGE BUTLER.

By Mr. SCHERMERHORN: Rev. R. R. GURLEY.

By Mr. DUNCAN: Rev. R. W. CUSHMAN.

By Mr. COBB: Rev. JOSEPH CROSS.

By Mr. FULLER, of Maine: Rev. ORVILLE DEWEY.

The names of Rev. Messrs. CROSS and BUTLER were withdrawn pending the call of the roll.

Mr. HENN asked to be excused from voting.

The SPEAKER appointed Messrs. FLORENCE, INGERSOLL, SCHERMERHORN, and DUNCAN to act as tellers to count the vote.

The tellers having taken their seats at the Clerk's desk, the House proceeded to vote, *viva voce*, for Chaplain.

The roll having been called, the tellers reported that 170 votes had been cast; necessary to a choice 86; of which—

Rev. Mr. Gallaher received	102
Rev. Mr. Morgan	28
Rev. Mr. Gurley	13
Rev. Mr. Cushman	12
Rev. Mr. Carlin	5
Rev. Mr. Teasdale	5
Rev. Mr. Dashiell	3
Rev. Mr. Dewey	2
	170

The following is the vote in detail:

For Rev. James Gallaher—Messrs. Abercrombie, Bocock, Breckinridge, Brooks, A. G. Brown, Busby, L. D. Campbell, Cartter, Caskie, Chastain, Churchwell, Clemens, Darby, Dawson, Faulkner, Freeman, Gentry, Goodenow, Green, Hall, Harper, Haskall, Haven, Horsford, Howard, A. Johnson, James Johnson, John Johnson, R. W. Johnson, D. T. Jones, G. W. Jones, Letcher, McCorkle, McDonold, McMullin, Meade, Miller, Miner, Molony, J. Moore, Newton, L. W. Parker, Penn, Phelps, Polk, Porter, Price, Reed, Riddle, Robie, Russell, Savage, D. L. Seymour, B. Stanton, Stuart, Sweetser, Ward, Watkins, Welch, Alex. White, Wilcox, Yates, F. P. Stanton, R. H. Stanton, S. W. Harris, Venable, Hart, J. Appleton, J. G. Jones, Beale, Nabers, A. H. Stephens, Grow, Curtis, Briggs, Clingman, T. H. Bayly, Taylor, Gorman, Gaylord, Chapman, A. P. Stephens, Hunter, Richardson, Orr, Doty, Marshall, Hillyer, J. G. Davis, Wildrick, T. Campbell, Gilmore, Sackett, Cobb, Jackson, Houston, Cullom, McLanahan, McNair, H. D. Moore, and Walbridge.

For Rev. L. F. Morgan—Messrs. C. Allen, Bibighaus, Bowie, Bowne, Brenton, Buell, J. Cable, Eastman, Edgerton, Edmundson, Florence, Floyd, Hamilton, J. W. Howe, T. M. Howe, T. Y. How, Ives, Jenkins, P. King, Mason, Millson, Morehead, Penniman, Perkins, Robbins, Scudder, O. S. Seymour, and Walsh.

For Rev. R. R. Gurley—Messrs. J. H. Boyd, Burrows, Cleveland, Dean, Dimmick, Haws, Hebard, G. G. King, Martin, Schoolcraft, Sutherland, and Washburn.

For Rev. R. W. Cushman—Messrs. Averett, Chandler, Colcock, Disney, Duncan, Holladay, McQueen, Powell, Robinson, Stratton, Wallace, and Woodward.

For Rev. J. H. D. Carlin—Messrs. W. Allen, Linn Boyd, Dunham, J. G. Harris, and Williams.

For Rev. T. C. Teasdale—Messrs. Dockery, Ingersoll, Lockhart, Smart, and Thurston.

For Rev. Robert L. Dashiell—Messrs. Cottman, Hendricks, and Mace.

For Rev. Orville Dewey—Messrs. G. T. Davis and T. J. D. Fuller.

The Rev. JAMES GALLAHER having received a majority of the votes cast, was declared to be duly elected Chaplain.

Mr. STEPHENS, of Georgia, moved that the House adjourn; which motion was agreed to.

And the House thereupon adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *December* 8, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The Hon. JOHN P. HALE, of the State of New Hampshire, appeared in his seat to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tem.* laid before the Senate a report of the Commissioner of the General Land Office, communicating, in compliance with the act of March 3, 1851, for the settlement of certain classes of private land claims within the Bastrop Grant, a report of the register and receiver of the land office at Monroe, Louisiana; which was read.

Also, a report of the Secretary of the Interior, made in compliance with a resolution of the Senate, in relation to the classification and appointment of clerks in the Executive Departments; which was read and ordered to be printed.

PAPERS WITHDRAWN.

On motion by Mr. SEWARD, it was

Ordered, That F. Hüttman be permitted to withdraw his memorial and papers.

NOTICES OF BILLS.

Mr. CHASE gave notice of his intention to ask leave to introduce a bill to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State.

Mr. GWIN gave notice of his intention to ask leave to introduce a bill to set apart a portion of the public lands for the construction of certain railroads from the Mississippi river to the Pacific ocean.

LIEUTENANT GENERALSHIP.

Mr. CLEMENS, agreeable to previous notice, asked and obtained leave to bring in a joint resolution authorizing the President of the United States to confer the title of lieutenant general by brevet for eminent services; which was read and passed to the second reading.

INDIAN ENCROACHMENTS ON MEXICO.

Mr. RUSK submitted the following resolution for consideration; which was agreed to:

Resolved, That the Secretary of State be directed to communicate to the Senate, copies of the correspondence between the State Department and the Mexican Minister, in the year 1835, upon the subject of the encroachments of the Indians of the United States upon the territories of Mexico, and copies of all correspondence with the authorities of the late Republic of Texas upon the subject of said Indians.

DECEASED MEMBERS OF CONGRESS.

Mr. HALE submitted the following resolution for consideration:

Resolved, That the resolution of the Senate, passed on the 28th day of March, 1850, which is in these words: "*Resolved*, That, in future, when a member of Congress dies, 'and has been buried in the vacation, the Senate will not 'feel itself called upon to extend to the memory of the deceased the honors and the ceremonies which have been, 'of late years, usually awarded; but will restrict itself 'hereafter in the appropriation of those honors and ceremonies to cases of the death of members during the session of Congress," be rescinded.

JOINT COMMITTEES.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had appointed the following joint committees on their part:

On the Library—Joseph R. Chandler of Pennsylvania, Joseph A. Woodward of South Carolina, and Horace Mann of Massachusetts.

On Printing—Willis A. Gorman of Indiana, Solomon G. Haven of New York, and Richard H. Stanton of Kentucky.

On Enrolled Bills—Isaac Wildrick of New Jersey, and Nelson Barrere of Ohio.

CHAPLAIN TO CONGRESS.

The message also announced that the House of Representatives had elected the Rev. JAMES GALLAGHER Chaplain to Congress, on their part.

SUCCESSOR TO MR. CLAY.

The Senate resumed the consideration of the following resolution, which was submitted by Mr. GWIN on Monday:

"*Resolved*, That the credentials of Archibald Dixon, Esq., be referred to a select committee of five, who shall consider and report thereon."

The question pending being on the amendment of Mr. MANGUM, to add to it the following:

"And that pending the action of said committee, the said Archibald Dixon be now qualified, and permitted to take his seat in the Senate."

Upon that question the yeas and nays had been ordered.

The PRESIDENT. The Chair feels under the necessity of stating to the Senate, that inasmuch as the question is not decided who is entitled to this seat, and inasmuch as the list which contains the names of all the Senators of the last session shows among them that of David Meriwether, he cannot, without an order of the Senate, direct that name to be expunged. He wishes, therefore, that the Senate will take into consideration, as the yeas and nays have been ordered, whether the name of Mr. Meriwether shall temporarily be dispensed with, or whether his name shall be called. The Chair repeats again that he does not feel at liberty, until the question is decided as to who is entitled, to have the name stricken from the list.

Mr. DAWSON. I would ask that the credentials under which Mr. Meriwether took his seat be read, in order that we may see whether or not, according to the testimony on our table, his name is entitled to be upon the roll.

Mr. BRODHEAD. I do not see any good end to be answered by the reading of the credentials called for by the Senator from Georgia. It raises the very question which we had up yesterday. The credentials were before the Senate, and were then considered. If we are to go on to-day with the question which was then under consideration and proceed with the debate, let us do it in the regular way, upon the resolution of the Senator from California, [Mr. GWIN,] and the amendment which has been offered to it. It seems to me that that is the best way to get at the question.

Mr. HUNTER. Mr. President, I do not see any way to relieve ourselves of this difficulty—because it manifestly raises the whole question—unless, by general consent, we agree that Mr. Meriwether's name shall not be called until the whole matter is settled by the Senate, either by a reference to a committee, or in some other way. I propose that by general consent we agree to that course, and thus reserve the question.

Mr. CLEMENS. It seems to me that this matter determines the whole question. It is certainly the very matter which will determine my vote. If Mr. Meriwether is here claiming the seat, or if anybody is claiming it for him, he has the *prima facie* right, and Mr. Dixon cannot be sworn in until the legality of his election shall be decided. If Mr. Meriwether is not a member of the Senate, and Mr. Dixon, claiming the seat, presents the only credentials which are here, we have no right to refuse to swear him in. The decision of this point settles the whole matter one way or the other. At all events, it determines my vote, so far as the amendment now pending is concerned.

The PRESIDENT. The Senator will permit the Chair to state to him that the question is simply whether, on calling the roll, the name of Mr. Meriwether shall be omitted

Mr. CLEMENS. If he is a member of the Senate his name must be called. If he is not, it cannot be. If he is a member of the Senate, I insist that his name shall be called. If he is not a member of the Senate, no one has a right to call his name.

Mr. BRODHEAD. He is interested in the question.

Mr. CLEMENS. But still his name must be called, if he is a Senator.

Mr. DAWSON. I called for the reading of the credentials in consequence of the suggestion of the Chair. How is the roll of Senators made out? By the Secretary and the Presiding Officer, of course. How do you ascertain an individual to be a member? His credentials establish that fact. If he is a Senator for a full term, he holds his seat for six years from the 4th of March of a particular year. When that period expires, of course his name is stricken from the list. Mr. Meriwether's

credentials were until the first Monday of September last. That period has passed. What authority then has the Presiding Officer or the Secretary to keep Mr. Meriwether's name on the roll? The Senate cannot order a man's name to be placed upon the roll, except according to the credentials before them, unless there be a contested election, and then the Senate must settle the right between the parties. I did not wish to change the issue. The only object I had in view was to give the reasons why I thought Mr. Meriwether's name ought not to be called. I called for the reading of his credentials in order that every one might see that his term of service expired on the first Monday of September last, and that therefore his name is not now entitled to be upon the roll.

Mr. CASS. It appears to me that either case brings the same question before this body. If in calling the names of the members as they stood on the first of September last, the Secretary should come to the name of Mr. Meriwether, and anybody should object to his name being called, that would bring up the question. You have to determine whether Mr. Meriwether is now a member of your body. So that in either case the effect will be precisely the same. I do not see that it makes any difference which course we pursue. Nor do I see that the limitation which the Governor affixed to the tenure of the office affects the question. If the Legislature elects a Senator for six years and the Governor gives him a certificate for only three years, it would not produce the slightest effect upon the tenure of office of the person elected. When the Governor appointed Mr. Meriwether he fulfilled his constitutional duty; but the tenure of office does not depend upon the opinion of the Governor. He does not preclude that question at all. The tenure of the appointment, when it is once made, depends on the Constitution, and of that we are necessarily the judges. I therefore consider the certificate of the Governor as conclusive evidence as to the appointment of Mr. Meriwether for the time being. But how long Mr. Meriwether shall retain his seat in this body, is a question entirely beyond the jurisdiction of the Governor; so it seems to me.

The PRESIDENT. The Chair would inform honorable Senators, that he had no disposition to bring up any discussion whatever. He wished the Senate to understand the precise position in which the matter stood. Inasmuch as the question is pending, he did not feel at liberty, without the authority of the Senate, to strike Mr. Meriwether's name from the roll, because the very question pending is as to whether he is or is not entitled. And therefore, the Chair brought the point to the view of the Senate, with the hope and expectation that they would devise some mode by which to get clear of the difficulty without prejudicing the claim of the individual who presents credentials showing the action of the Legislature, or the claim of Mr. Meriwether, who before occupied the seat. The suggestion of the Senator from Virginia is that, by unanimous consent, the name of Mr. Meriwether, for the present, be omitted from the roll until there shall be a decision by the Senate of the constitutional question.

Mr. CASS. I understood that that was objected to by the Senator from Alabama.

Mr. HUNTER. I had no desire to say anything in reference to the merits of the question. The time has not come for that. I spoke only as to the proper mode of getting at it. Now, contested elections may present two classes of cases. One is as to who has the return; another as to who is elected; and precedents may be found where the body have given one man the return, thinking him *prima facie* entitled upon the question of credentials, and have afterwards, upon an examination of the question of election, ousted that man, and put in another. Therefore, sir, it is perfectly competent to the Senate, if they choose, to refer not only the question of election, but the question of credentials, to the committee which it is proposed to raise. And, sir, there is a question of credentials. The one Senator presents credentials founded upon the action of the Legislature. Another has presented a certificate, which, it is contended here, extends beyond and does constitute a credential, for the whole term, until another Legislature shall elect. So that there is a question as to credentials; and it seems to me perfectly proper and perfectly consonant with previous precedent to refer that question, as well as the other, to a select committee of the Senate, if the Senate should determine to raise one. My only object was to get along with the public business, and get rid of any embarrassment in the mode of getting at the question. It seems to me that the best mode would be, by unanimous consent, to drop Mr. Meriwether's name from the roll, and let the whole matter be referred to a committee for examination.

Mr. BRIGHT. I apprehend that if Mr. Meriwether were in his seat, he would not be entitled to vote in this case, upon general parliamentary principles. It is a matter in which he is directly interested; and every principle of parliamentary law excludes a member, situated as he is, from voting on such a question. He is absent, for two reasons: A sense of delicacy would prevent his occupying a place to which he believes he is entitled under the circumstances that surround this case; and it is due to him to say, that he is not claiming this place. He sets up no claim to it. I understand him to occupy this attitude: that if he be declared entitled to it under an order of the Senate, carrying out the Constitution according to its letter and its spirit, he is willing to take it; not otherwise. I believe that he is now the sitting member, and as such, would be entitled to vote upon ordinary subjects—upon any other business than that which directly interests him. But in this case, I apprehend he would not be entitled to vote. I will read from Jefferson's Manual on this point; for I believe the general principles laid down by parliamentary authors are in force in the Senate, and are observed here:

"Where the private interests of a member are concerned, in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary, not only to the laws of decency, but to the fundamental principle of the social compact, which denies to any man to be a judge in his own cause, it is for the honor of the House that this rule, of immemorial observance, should be strictly adhered to."

As I said before, if Mr. Meriwether were now in his seat, he would not be entitled to vote, therefore it is a waste of time to discuss that question.

The PRESIDENT. But that will not prevent his name being called unless the Senate make some order to the contrary.

Mr. BRIGHT. As a matter of course his name will be called if it be upon the roll; but he cannot vote on the question.

Mr. CLEMENS. The Senator from Virginia misunderstands me and misunderstands the question before the Senate. The question now pending is not upon the resolution to refer the credentials of Mr. Dixon to a committee, but it is upon the amendment submitted by the Senator from North Carolina, [Mr. MANGUM,] that in the mean time Mr. Dixon be sworn in as a member of this body. Therefore I say, that the decision of the question whether Mr. Meriwether's name be called or not, determines my vote. If Mr. Meriwether presents no *prima facie* case, if his name is blotted from the roll of the Senate, then the gentleman presenting credentials is entitled to be sworn in, and I shall vote to have him sworn in. But if Mr. Meriwether claims to be a member of the Senate, he has the *prima facie* case, and the other gentleman is not entitled to be sworn in. This point brings up the whole case. Its decision settles my vote at all events.

The PRESIDENT. The Chair will be governed by the disposition of the Senate in this matter.

Mr. CASS. I take it for granted that if the Clerk proceeds to call the roll, and comes to the name of Mr. Meriwether, and the calling of his name is objected to, it will bring up the whole question. The roll now stands precisely as it did on the last day of August when we adjourned. If Mr. Meriwether's term has since expired, there is an end to the question before the Senate.

The PRESIDENT. Unless it is otherwise ordered, the Chair will direct the roll to be called, with a perfect understanding on the part of Senators, that the Secretary shall call the nameof Mr. Meriwether.

Mr. CLEMENS. If so, I have no objection to the roll being called; but when his name is called, I shall object to it. I shall wish to ascertain whether he is a member of the Senate, and that will raise the whole question. I think it better to settle the matter before the roll is called.

The PRESIDENT. It will certainly be much better to decide, before the commencement of the calling of the roll, whether Mr. Meriwether's name shall be called or not. It would be very embarrassing to have the call interfered with in the way suggested.

Mr. BUTLER. If we are to have an impartial decision upon these questions on the issue made by the call of Mr. Meriwether's name, many gentlemen will be committed without a full understanding of the subject.

The PRESIDENT. The Chair was aware of that, and therefore it was that he wished the decision of the Senate as to that point.

Mr. BUTLER. I say that this is a form of a decision unfavorable to truth. The result will be that we shall have the decision first, and the discussion afterwards.

Mr. CASS. There seems to be no help for it.

Mr. BUTLER. If the honorable Senator from Alabama should object, as he intimates that he will, it will bring up the whole question. I confess that for one, I am like him. My vote will depend very much upon the question of whether Mr. Meriwether is, or is not, entitled to be called as a Senator.

Mr. MANGUM. I would inquire how the name of Mr. Meriwether comes to be upon the roll? The making out of the roll is a mere clerical duty; and if the Secretary confines himself to the mere *prima facie* case upon the certificate the name of Mr. Meriwether could not be upon the roll. I would therefore inquire by what authority that name is upon the roll?

The PRESIDENT. The authority is very apparent. Mr. Meriwether was a member of the Senate at the last session. His name appeared on the list of Senators as such, and there is no decision made that he is not entitled to his seat at this session. That is the question now pending, and until that is decided the Secretary has no alternative but to keep his name upon the list. Therefore it was that the Chair brought the matter to the attention of the Senate, with the hope that they would take immediate action without prejudicing the claim of either of the gentlemen, so as to get clear of the difficulty, and by general consent let the name be passed over for the present, which would not prejudice Mr. Meriwether or any one else; and that was the suggestion of the Senator from Virginia.

Mr. CHASE. Mr. President, I would ask whether it would be in order to move, in answer to the suggestion of the Presiding Officer, that the Secretary be directed, in calling the roll on the present occasion, to omit Mr. Meriwether's name? If that motion is in order it will meet the whole difficulty, and answer the object of the Senator from Virginia.

The PRESIDENT. That can be done by general consent.

Mr. HUNTER. If it be done by general consent, we reserve Mr. Meriwether's right; but if his name be stricken off by order of the Senate, his right would seem to be gone.

Mr. CASS. The proposition suggested by the Senator from Ohio would not remove the difficulty. It still brings up the old question before us.

Mr. HUNTER. I think I was not precisely understood in the suggestion which I made. This case, if I understand it in its present position, assimilates itself more nearly to the case of a double return than any other in relation to which we have precedents. Suppose two members present themselves, each with a return. In such a case, would we swear either of them in? No, sir; but we would refer the matter to a committee to see which of them was entitled to the return—to see which had the right return; and until then, neither of them would be sworn. It seems to me that it would be regular and legitimate to refer this whole question to a committee, because, as it now stands, it assimilates itself more nearly to a case of that sort than to any other. One party maintains that the certificate which Mr. Meriwether did present, although limited by the Governor, was yet in fact a return, or an appointment up to the time when another Legislature, or the same Legislature at a subsequent meeting, should elect. Another portion of the Senate believe that it was no return—that the only return for the present vacancy is that presented by the member who has credentials under the authority of the Legislature. It is, therefore, a dispute in relation to the very question of return—a dispute which is eminently fitted for a committee to examine and to settle; and it was

for that reason that I proposed that, by general consent, without pretending to decide the question now, the whole subject should be referred to a committee—not merely the question of election, but of return.

Mr. GWIN. Mr. President, if a resolution be offered that when the Secretary comes to the name of Mr. Meriwether, he shall call it as a member of the Senate, will it not bring up the whole question?

Mr. BUTLER. That is the question now pending.

The PRESIDENT. The suggestion of the Senator from Virginia was, that, by unanimous consent, the name of Mr. Meriwether should be passed over for the present.

Mr. GWIN. I am in favor of that, if it can be done.

The PRESIDENT. Does the Chair hear any objection to that course?

Mr. GWIN. The Senator from Alabama said he would object.

Mr. CHASE. I understood him to say that he would object to calling the name.

Mr. MILLER. What is the proposition?

The PRESIDENT. The proposition is, that in order to get clear of any difficulty, the name of Mr. Meriwether, by unanimous consent, be omitted in the present call.

Mr. CLEMENS. That is the very question which involves me in difficulty. If we consent to that, I must vote for the amendment. If Mr. Meriwether is claiming the seat, I insist that he has a *prima facie* title; because I admit, as contended by his friends, that, under ordinary circumstances, the Governor had no right to limit him; therefore, I say, he has the *prima facie* title, if he does not himself acknowledge that he is out. If he is out, then we must swear in the man presenting a *prima facie* claim. That is the very point which I wish to ascertain before I vote.

Mr. MASON. I have no disposition in the world to throw difficulties in the way of the inquiry which must be made, but I cannot agree with the suggestion of my colleague to omit the name of this gentleman from the roll. The question undoubtedly stands thus: Mr. Meriwether took his seat at the last session under a commission from the Governor of Kentucky, which was valid, and his name must remain upon the roll until it is stricken from it by competent authority. Now, the question arises—and it is a very direct one—whether Mr. Meriwether is or is not a Senator. If he be a Senator, we have no right by any consent to strike his name from the roll. But the Senate can determine, by judicial action, whether he be a Senator or not, because the duty devolves upon them under the Constitution of determining as to the election, return, and qualification of its members. All three duties are conferred upon the Senate. This is a preliminary question that must be met, I apprehend, at this stage. I submit, therefore, to Senators, that it would be better to refer the matter to a select committee to determine directly the question whether Mr. Meriwether is or is not now a Senator. That will determine whether there be or be not a vacancy in the Senate. Mr. Meriwether, of course, can vote upon no question in which he has an interest; but he is, I apprehend, entitled now *prima facie* to vote upon any question except such as any one is excluded from voting upon by the rules of the Senate. I think, therefore, we should refer to a committee the preliminary question, whether there be a vacancy. That question will be included in the inquiry whether that honorable gentleman [Mr. Meriwether] is now a Senator.

Mr. GWIN. In order to meet the question, I have a resolution which I wish to offer.

Mr. BADGER. I rise to a question of order. We must first dispose of the resolution before the Senate, before another can be offered.

The PRESIDENT. The Chair is under the impression that the resolution cannot be received, inasmuch as the question pending is on the amendment of the Senator from North Carolina [Mr. MANGUM] to the resolution of the Senator from California.

Mr. BADGER. I think there is some fallacy in the view which has been suggested by the Senator from Virginia, who has just taken his seat. He says that the name of Mr. Meriwether, who was sworn in under a commission of the Governor at the last session of the Senate, must continue on the roll until by some competent authority it shall be displaced from it. Now, sir, it will be recollected that Mr. Meriwether took his seat in the Senate under an appointment, which by the very terms of it was limited to a day which has already expired. It therefore does not follow from the state of the case, that Mr. Meriwether is still a member of this body. In order to ascertain that, we have to determine the other questions that are raised upon the credentials of the person elected by the Legislature of Kentucky; so that the whole matter must be decided by the vote which decides any part of it; for if Mr. Meriwether is now a member of this body, then the honorable gentleman who presents credentials, and asks to be sworn, is not a member, and so far as I can see, cannot become a member. That brings us back to the question as to the power of appointment of the Governor; as to the effect of the resignation of Mr. Clay to take effect at a future day; and of course involves all the questions that arise upon the decision of the case. It seems to me, then, sir, that there is no preliminary inquiry which we can decide here which will leave the main subject behind. Mr. Meriwether having taken his seat under an appointment which was to expire on the first Monday of September, unless something to the contrary is shown, he ceased to be a member on that day. Well, the contrary that is shown, is the construction put upon this clause of the Constitution, that his appointment must endure. Now, that involves several serious inquiries, and brings us back again, as I remarked, to the original investigation, as to the right of the gentleman who offers credentials from the Legislature of Kentucky, and it therefore opens up the whole discussion.

I intimated yesterday that it seemed to me that there was no necessity for a reference to a committee; that there were no facts to be ascertained making such a reference necessary. Everything is in possession of the Senate as a Senate, upon which any and all the questions involved must be decided. The credentials of both gentlemen show the fact upon their face of a resignation in December, to take effect in the September following; and therefore there is no necessity for a reference. The credentials of Mr. Dixon show every fact except the fact of the death of Mr. Clay, which fact appears upon the records of the Senate. I observed last night, and was pleased to do so, on looking over the discussion that took place in the Senate on the day before, that my friend from Michigan [Mr. CASS] had taken the same view which I did, that there was no necessity for a reference to a committee. I still retain that opinion. I think the Senate is entirely competent, without the aid of a committee, to decide this question; and so far as I can see, a committee could not afford them any aid, which individual members cannot, in discussion upon this floor. I see no reason to suppose that this is not the true state of the case. But, at the same time, this is a very important matter. It is one which should be fully investigated, and I think gentlemen should have an opportunity of looking into it and preparing for discussion, in order that their opinions may be finally made up. Therefore, if it meets the approbation of the Senate, I would suggest, and with their concurrence would move, that we postpone the further consideration of this subject until Monday next. Let us take it up then and decide and finish it. I see no necessity for the interposition of a committee, and I am very sure that we cannot decide a part of the question without deciding the whole.

Mr. TOUCEY. I hope the course which has been suggested by the honorable Senator from North Carolina will be adopted. I find myself called upon to vote on the amendment proposed by his colleague, [Mr. MANGUM;] and I cannot discuss that amendment without discussing the merits of the whole question. I had determined to intimate no opinion, and to form no definite and final opinion until the subject had been considered. I discover that there is a disposition in the Senate to go into this discussion, and it has been gone into; and we have reached the point of voting, of acting, and the very vote we are to give, in my judgment, settles the whole question. Before it is settled by a vote of the Senate, I, for one, shall be very glad of an opportunity to express my views upon it.

Now, if it is understood that the question shall remain until Monday—that it shall then be discussed in the Senate, and that the members of this body shall themselves look into it and examine the precedents instead of having a committee do it for them, I see no reason why the whole question may not as well be disposed of by the Senate on Monday as by referring it to a committee, that seeming to be the pleasure of the Senate. From the impossibility of discussing the question on one side, and not discussing it on the other, partly discussing it, and partly not discussing it, and still the debate going on, I think the only practicable mode is to open the subject and to go into it on Monday, when Senators shall be ready to vote finally upon every question that arises. I hope, therefore, that course will be taken.

The PRESIDENT. Does the Senator from North Carolina move to postpone the further consideration of the resolution until Monday next?

Mr. BADGER. Yes, sir.

Mr. BRIGHT. I shall vote for that motion; not, however, for the purpose of going into the discussion of the question on Monday next, but with the expectation that by that time, our committees will be organized, and that the subject will be referred to the Committee on the Judiciary, where I think it ought to go, so that we may have a report from it before we are called upon to vote on the main question.

The motion to postpone was agreed to.

BARQUE QUEEN OF DUNDEE.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that they had passed the bill of the Senate, authorizing the Secretary of the Treasury to issue a register to the barque "Queen of Dundee," with amendments; in which they requested the concurrence of the Senate.

On motion by Mr. HAMLIN, the Senate proceeded to consider the amendments of the House. They are to insert in the bill the words "said vessel to be called, in the register to be issued, 'Kate Wheeler;'" and also to add to the title the words "to be called 'Kate Wheeler.'"

The amendments were concurred in.

PRESIDENTIAL VOTE.

A message was received from the House of Representatives, by Mr. HAYES, Chief Clerk, announcing that they had passed an act making an appropriation for bringing to the seat of Government the votes for President and Vice President of the United States; in which they requested the concurrence of the Senate.

On motion by Mr. HUNTER, the bill was read a first and second time by unanimous consent, and considered by the Senate as in Committee of the Whole. It directs that a sum not exceeding $20,000 be appropriated, out of any money in the Treasury not otherwise appropriated, for the payment of the sums due by law to the several messengers of the respective States, as compensation for conveying to the seat of Government the votes of the electors of said States for President and Vice President of the United States.

Mr. BADGER. I desire to ask the Senator from Virginia one question. He will recollect that four years ago some provision was adopted by which the compensation was reduced.

The PRESIDENT. It has been reinstated.

Mr. BADGER. Then it is all right.

The bill was reported to the Senate without amendment, and ordered to be read a third time.

Mr. HUNTER. I hope, by unanimous consent, it will be read a third time now.

No objection was made, and the bill was read a third time and passed.

APPROPRIATION BILLS.

Mr. GWIN submitted the following resolution for consideration:

Resolved, That the Committee on Finance be directed to prepare, and report to the Senate on or before the first Monday in January next, all the general appropriation bills, except the one providing for the civil and diplomatic expenses of the Government.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 8, 1852.

The House met pursuant to adjournment.

Prayer by the Rev. Mr. BUTLER.

The Journal of yesterday was read and approved.

The following gentlemen, in addition to those heretofore announced, appeared in their seats to-

day, viz: Messrs. AIKEN, ROBIE, BABCOCK, and SNOW.

STANDING COMMITTEES.

In pursuance of the order of yesterday, the Speaker announced the following standing committees, viz:

Committee on Elections—William S. Ashe of North Carolina, Christopher H. Williams of Tennessee, William T. Hamilton of Maryland, Abraham M. Schermerhorn of New York, John S. Caskie of Virginia, Presley Ewing of Kentucky, George T. Davis of Massachusetts, James Gamble of Pennsylvania, Nathan T. Stratton of New Jersey.

On Ways and Means—George S. Houston of Alabama, George W. Jones of Tennessee, Edward Stanly of North Carolina, Harry Hibbard of New Hampshire, James Brooks of New York, J. Glancy Jones of Pennsylvania, William Appleton of Massachusetts, Cyrus L. Dunham of Indiana, John S. Phelps of Missouri.

On Claims—John R. J. Daniel of North Carolina, Alfred P. Edgerton of Ohio, Richard J. Bowie of Maryland, Origen S. Seymour of Connecticut, Chauncey F. Cleveland of Connecticut, William A. Sackett of New York, Carlton B. Curtis of Pennsylvania, Gilchrist Porter of Missouri, Daniel Mace of Indiana.

On Commerce—David L. Seymour of New York, Andrew Johnson of Tennessee, Alexander H. Stephens of Georgia, Thomas J. D. Fuller of Maine, James H. Duncan of Massachusetts, John Robbins, jr., of Pennsylvania, Louis St. Martin of Louisiana, William Aiken of South Carolina, Thomas Y. Walsh of Maryland.

On Public Lands—Willard P. Hall of Missouri, W. R. W. Cobb of Alabama, Henry Bennett of New York, James L. Orr of South Carolina, Albert G. Watkins of Tennessee, John D. Freeman of Mississippi, Henry D. Moore of Pennsylvania, Bernhart Henn of Iowa, Joseph W. McCorkle of California.

On Post Office and Post Roads—Edson B. Olds of Ohio, Alexander G. Penn of Louisiana, William Cullom of Tennessee, Paulus Powell of Virginia, John L. Schoolcraft of New York, Richardson Scurry of Texas, Ben Edwards Grey of Kentucky, Edward C. Marshall of California, Lincoln Clark of Iowa.

On the District of Columbia—Orlando B. Ficklin of Illinois, Thomas H. Averett of Virginia, William Preston of Kentucky, Edward Hammond of Maryland, Charles Allen of Massachusetts, Junius Hillyer of Georgia, Hiram Bell of Ohio, Alexander H. Buell of New York, Daniel Mace of Indiana.

On the Judiciary—J. X. McLanahan of Pennsylvania, Richard K. Meade of Virginia, David Outlaw of North Carolina, Abraham W. Venable of North Carolina, Isham G. Harris of Tennessee, James Meacham of Vermont, John Bragg of Alabama, Samuel W. Parker of Indiana, Preston King of New York.

On Revolutionary Claims—Moses McDonald of Maine, James F. Strother of Virginia, James M. Gaylord of Ohio, Henry M. Fuller of Pennsylvania, John Letcher of Virginia, Charles Murphy of Georgia, Richard Yates of Illinois, Gilbert Dean of New York, John McQueen of South Carolina.

On Public Expenditures—Charles Sweetser of Ohio, Marius Schoonmaker of New York, Nathan T. Stratton of New Jersey, John Letcher of Virginia, Thomas M. Howe of Pennsylvania, James T. Morehead of North Carolina, Leander Babcock of New York, Thomas Campbell of Illinois, John G. Davis of Indiana.

On Private Land Claims—Timothy Jenkins of New York, Sherrard Clemens of Virginia, James Abercrombie of Alabama, John L. Dawson of Pennsylvania, Lewis D. Campbell of Ohio, Benjamin D. Nabers of Mississippi, J Aristide Landry of Louisiana, William W. Snow of New York, John G. Miller of Missouri.

On Manufactures—James M. H. Beale of Virginia, Thomas B. Florence of Pennsylvania, Isaac Reed of Maine, Chauncey F. Cleveland of Connecticut, Addison White of Kentucky, William Murray of New York, Jared Perkins of New Hampshire, Frederick W. Green of Ohio, Emanuel B. Hart of New York.

On Agriculture—John G. Floyd of New York, Fayette McMullin of Virginia, Alfred Dockery of North Carolina, Joseph Cable of Ohio, Charles Skelton of New Jersey, Samuel Brenton of Indiana, Eben Newton of Ohio, James Duane Doty of Wisconsin, John McNair of Pennsylvania.

On Indian Affairs—Robert W. Johnson of Arkansas, Volney E. Howard of Texas, George Briggs of New York, Joseph W. Jackson of Georgia, James L. Conger of Michigan, Graham N. Fitch of Indiana, Joseph P. Caldwell of North Carolina, Edward C. Marshall of California, Charles Durkee of Wisconsin.

On Military Affairs—William H. Bissell of Illinois, Meredith P. Gentry of Tennessee, Willis A. Gorman of Indiana, Alexander Evans of Maryland, Ephraim K. Smart of Maine, Thaddeus Stevens of Pennsylvania, John A. Wilcox of Mississippi, Solomon G. Haven of New York, Charles J. Faulkner of Virginia.

On Militia—Charles H. Peaslee of New Hampshire, John H. Savage of Tennessee, George G. King of Rhode Island, John G. Davis of Indiana, William F. Hunter of Ohio, William Hebard of Vermont, Elijah W. Chastain of Georgia, William T. Ward of Kentucky, Alfred Gilmore of Pennsylvania.

On Naval Affairs—Frederick P. Stanton of Tennessee, Thomas S. Bocock of Virginia, Lorenzo Burrows of New York, Sampson W. Harris of Alabama, E. Carrington Cabell of Florida, Ebenezer J. Penniman of Michigan, Isaac Wildrick of New Jersey, Robert Goodenow of Maine, Thomas B. Florence of Pennsylvania.

On Foreign Affairs—Thomas H. Bayly of Virginia, Joseph A. Woodward of South Carolina, Robert Toombs of Georgia, William H. Polk of Tennessee, John L. Taylor of Ohio, John Appleton of Maine, Colin M. Ingersoll of Connecticut, Joseph R. Chandler of Pennsylvania, John C. Breckinridge of Kentucky.

On the Territories—William A. Richardson of Illinois, Alexander R. Holladay of Virginia, Thos. L. Clingman of North Carolina, James W. Stone of Kentucky, Joshua R. Giddings of Ohio, David J. Bailey of Georgia, Zeno Scudder of Massachusetts, Charles E. Stuart of Michigan, James Lockhart of Indiana.

On Revolutionary Pensions—John S. Millson of Virginia, Joseph Russell of New York, Amos Tuck of New Hampshire, Norton S. Townshend of Ohio, George H. Brown of New Jersey, William M. Churchwell of Tennessee, Joseph S. Cottman of Maryland, John Z. Goodrich of Massachusetts, Willis Allen of Illinois.

On Invalid Pensions—Isham G. Harris of Tennessee, Rodman M. Price of New Jersey, Frederick S. Martin of New York, Richard S. Molony of Illinois, Ben. C. Eastman of Wisconsin, John Moore of Louisiana, Joseph H. Kuhns of Pennsylvania, Daniel T. Jones of New York, Charles Chapman of Connecticut.

On Roads and Canals—John L. Robinson of Indiana, William F. Colcock of South Carolina, John W. Howe of Pennsylvania, John C. Mason of Kentucky, Benjamin Stanton of Ohio, Emanuel B. Hart of New York, Charles J. Faulkner of Virginia, Josiah Sutherland of New York, James Johnson of Georgia.

On Patents—David K. Cartter of Ohio, Milo M. Dimmick of Pennsylvania, William T. Ward of Kentucky, Benjamin B. Thurston of Rhode Island, Alexander White of Alabama.

On Public Buildings and Grounds—Richard H. Stanton of Kentucky, Henry A. Edmundson of Virginia, Richard I. Bowie of Maryland, James Duane Doty of Wisconsin, John H. Boyd of New York.

On Revisal and Unfinished Business—W. R. W. Cobb of Alabama, Thomas Y. How, jr., of New York, Thomas M. Bibighaus of Pennsylvania, George H. Busby of Ohio, Israel Washburn, jr., of Maine.

On Accounts—John C. Mason of Kentucky, John A. Morrison of Pennsylvania, John Welch of Ohio, Reuben Robie of New York, James H. Duncan of Massachusetts.

On Mileage—Thomas A. Hendricks of Indiana, John D. Freeman of Massachusetts, J. H. Hobart Haws of New York, A. P. Stevens of New York, John Allison of Pennsylvania.

On Engraving—George Read Riddle of Delaware, Ahiman L. Miner of Vermont, Timothy Jenkins of New York.

Joint Committee on the Library of Congress—Joseph R. Chandler of Pennsylvania, Joseph A. Woodward of South Carolina, Horace Mann of Massachusetts.

On Enrolled Bills—Isaac Wildrick of New Jersey, Nelson Barrere of Ohio.

Joint Committee on Printing—Willis A. Gorman of Indiana, Solomon G. Haven of New York, Richard H. Stanton of Kentucky.

Committee on Expenditures in the State Department—Charles E. Stuart of Michigan, William S. Ashe of North Carolina, John Wells of New York, Thompson Campbell of Illinois, Alexander Harper of Ohio.

On Expenditures in the Treasury Department—Benjamin B. Thurston of Rhode Island, Thomas A. Hendricks of Indiana, Henry S. Walbridge of New York, Galusha A. Grow of Pennsylvania, John Allison of Pennsylvania.

On Expenditures in the War Department—Milo M. Dimmick of Pennsylvania, Willard Ives of New York, Obadiah Bowne of New York, Andrew Parker of Pennsylvania, Elijah W. Chastain of Georgia.

On Expenditures in the Navy Department—Fayette McMullin of Virginia, Sampson W. Harris of Alabama, Jerediah Horsford of New York, Thomas B. Florence of Pennsylvania, E. Carrington Cabell of Florida.

On Expenditures in the Post Office Department—Alexander G. Penn of Louisiana, William H. Kurtz of Pennsylvania, George T. Davis of Massachusetts, Augustus P. Hascall of New York, John H. Savage of Tennessee.

On Expenditures on the Public Buildings—Thomas Bartlett, jr., of Vermont, J. H. Hobart Haws of New York, David Outlaw of North Carolina, William M. Churchwell of Tennessee, John L. Taylor of Ohio.

BARQUE QUEEN OF DUNDEE.

Mr. FULLER, of Maine. I ask the unanimous consent of the House to take up Senate bill No. 545, with a view of putting it upon its passage. The bill simply authorizes the Secretary of the Treasury to issue a register to the British vessel wrecked on Cape Cod, sold for the benefit of the underwriters, and repaired for more than three quarters of her value. She is now lying at the port of Bangor, and will be locked in ice in a very few days, if this bill be not passed.

The bill was then read by its title a first and second time, as follows: "An act authorizing the Secretary of the Treasury to issue a register to the barque Queen of Dundee."

Mr. FULLER. I move to amend the bill by adding, after the word "sea," in the ninth line, the words "Kate Wheeler," and by striking out the words "Queen of Dundee." The name of the vessel is to be Kate Wheeler.

The question was then taken upon the amendment, and it was agreed to.

The bill, as amended, was then read a third time, and passed.

On motion by Mr. FULLER, the title of the bill was amended so as to accord with the amendment to the body of the bill.

ELECTORAL MESSENGERS.

Mr. HOUSTON. There was an omission in the estimates of the last session of Congress for an appropriation to pay the messengers of the various States for bringing on the presidential vote, and therefore no appropriation was made. Several of the messengers are here, and it is proper that an appropriation for this purpose should be speedily made. I received, last night, an estimate from the Secretary of the Treasury, and I propose, if the House will indulge me, to introduce a bill which I have drawn up, and desire to have passed this morning, appropriating the amount necessary to pay them. I therefore ask leave of the House to introduce the bill.

There being no objection, the bill was introduced, and read a first and second time by its title, as follows: "A bill making an appropriation for bringing to the seat of Government the votes for President and Vice President of the United States."

Mr. HOUSTON. I ask the unanimous consent of the House to have the bill put upon its passage. Here are letters from the Comptroller and Secretary of the Treasury, recommending that $20,000 be appropriated for the object proposed by the bill.

The letters are as follows:

TREASURY DEPARTMENT, *7th December*, 1852.

DEAR SIR: I inclose a statement of the First Comptroller, touching the payment of persons bringing in the votes for President and Vice President.

You will see the necessity for prompt action on the subject. Yours respectfully, THO. CORWIN.
Hon. GEO. S. HOUSTON.

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *Dec. 4th*, 1852.

Hon. THOMAS CORWIN, *Secretary of the Treasury:*

SIR: Permit me to invite your attention to the necessity of an early appropriation by Congress, to pay the persons designated by the respective electoral colleges to deliver lists of the votes for President and Vice President to the President of the Senate, before the first Wednesday in January next.

By an act approved the 11th of February, 1825, the persons appointed by the electors to deliver the lists, are (each) entitled to a compensation of twenty-five cents, for every mile of the estimated distance by the most usual route from the place of meeting of the electors, to the seat of Government of the United States, going and returning.

There is no appropriation to pay these persons, and the arrival of some of them nearest to the seat of Government may be expected early in the session.

The act of August 12th, 1848, reduced the compensation to twelve cents five mills per mile, and appropriated	$9,000
The compensation of twenty five cents was restored by a joint resolution of January 6th, 1849, and on the 25th of January, 1849, an additional appropriation was made of	9,000
	18,000
Amount paid	14,804
Carried to the surplus fund, October 31, 1851	3,196

California has been admitted into the Union since the President's election of 1848.

I think twenty thousand dollars are as little as should be estimated for the expense, and it may exceed that amount.

Most respectfully yours,
ELISHA WHITTLESEY.

The SPEAKER. If there be no objection, the bill will be put upon its passage. Under the rules, it should go to the Committee of the Whole on the state of the Union, containing as it does an appropriation, unless by unanimous consent of the House it be put upon its passage.

Mr. STEPHENS, of Georgia. What is the amount allowed to the messengers by law?

Mr. HOUSTON. Twenty-five cents per mile.

Mr. STEPHENS. I would ask the gentleman when that law was passed?

Mr. HOUSTON. I think it was passed in 1849.

Mr. STEPHENS. In 1848, I know these messengers were allowed double compensation. I ask the gentleman, if the compensation fixed by this bill is the same as that allowed messengers four years ago?

Mr. HOUSTON. It is the same. In 1848, the compensation of twenty-five cents per mile allowed by law, was reduced one half, and the first appropriation of that year was twelve and a half cents per mile. When the messengers came to this city, many of them were greatly dissatisfied, and a feeling was gotten up in the House by which the law of 1825 was revived, and the compensation of twenty-five cents per mile restored. The amount appropriated in this bill is the same per mile as that allowed for the election of 1848.

Mr. STEPHENS. That is all I wish. I desire that these messengers shall receive the same compensation as they received four years ago.

LATE HON. ORIN FOWLER.

Mr. SCUDDER rose and said:

Mr. SPEAKER: I rise for the performance of one of the sad duties which have fallen to the unhappy lot of the Massachusetts delegation—to announce one of the melancholy events which have occurred since we were last assembled.

Our colleague, the honorable ORIN FOWLER, of Massachusetts, who was actively with us, and in good health, until almost the last moment of the last session, is to be here no more! He has been summoned to that eternal home which awaits all the living! He died at his temporary residence in this city, on the evening of the third of September last. The stern messenger in this case, as in that of our other colleague, which had just preceded it, was brief and decisive in the execution of his commands.

Mr. FOWLER was in attendance on every day of the last session, until the one on which it closed.

On Monday, the day previous to the last, he was in his seat, and feeling somewhat ill, he retired before the adjournment, with a full expectation of being present at the closing of the session on the next day; but the day came, and his seat, always before filled, was vacant—a vacancy never again to be supplied by him! He continued ill, with no alarming symptoms, until Thursday evening, when the physician in attendance discovered unfavorable indications; but they were not so decisive as to cause him to communicate his fears to the family. On Friday morning, his disease, which was then pronounced bilious pneumonia, had assumed an acute and mortal form. This sad intelligence was then announced to his bosom companion, whose love and affection had chained her to his bedside from the first unalarming symptoms to this unexpected and dreadful crisis. This disease, by congestion of the lungs, often produces the dullness of distress rather than the acuteness of pain, which renders its mortal strides the more delusive to the sufferer; and in the case of our lamented friend, it had stridden its way to the portals of life, unobserved by its victim, until revealed to him by his grief-stricken wife.

Whilst lingering by his couch and restraining the utterance of her hidden emotions, he was seized with a sense of suffocation, and putting his hand to his breast, he said to her, "What is this?" She replied "I fear it is death!" After a short pause, he said, "My dear, you grieve me! If I do depart, it is well, but I do not think I shall die now." About midday I was with him, and then with a labored and flickering breath, he spoke freely of his death, which was so evidently approaching. He was then in possession of a calm and unclouded intellect, and relying not upon the arm of flesh, but on the promises of Him in whose redemption he had so long and faithfully trusted. He spoke of his domestic relations, in which he had been the happiest of men, and particularly of his excellent wife, commending her to the kindness of friends, and the care of Him who is the widow's trust. His mind then reverted to his public life and duties; and especially to his course in the councils of the nation. After speaking of prominent measures in which he had taken a deep and active interest, he said, "In all these things I have endeavored to do right." He then gave directions with reference to his body, requesting that it should be laid in its narrow home, among the relics of those with whom he had labored for spiritual and civil blessings. He bid adieu to her who had been the partner of his life, and the object of his deepest love for the last thirty years; and then, in union with her, he addressed himself to the Throne of God, before which he was sensible that he was fast hastening. Soon after this, the light of reason became dimmed, and the mind, which we had so recently seen active, energetic, and prompt, began to falter and wander in the maze of unguided and indistinct thought.

In this condition his vague desire and calls for "Home!" "Home!" gave to the death-scene a vivid impression of that happy abode; the joys and pleasures of which made it the last endearing object of his thoughts on earth. Its remembrance seemed to flitter in his departing mind, bearing almost healing charms for the death pangs which were then gathering upon him. He continued in this state with lucid intervals until about eight o'clock, p. m., when he quietly breathed his last.

Mr. FOWLER was born at Lebanon, in the State of Connecticut, on the 29th of July, 1791. His father was a soldier of the Revolution, and died at the age of eighty years, highly respected for his valor and patriotism. His mother was a woman of excellent mind and many virtues. She lived in the practice of Christian piety until the year 1850, when she died at the advanced age of ninety-two years.

Mr. FOWLER was the sixth son of these worthy parents. After leaving the free schools of Connecticut, at the early age of sixteen or seventeen, he commenced the business of teaching; and notwithstanding his youth, was very successful in his calling. His success in this as in his subsequent manifold pursuits, may be attributed to his great industry, perseverance, and methodical application. In these valuable characteristics he was truly eminent. In 1811 he left teaching and entered college at Williamstown, Massachusetts. In 1812 he took a dismission from that institution and entered the sophomore class at Yale College, from which he graduated with high scholarship in 1815. Among his class-mates were the late Rev. Dr. Nevins, of Baltimore, Rev. Dr. Sprague, of Albany, Judge Jessup, of Pennsylvania, and others, who are, and have been, distinguished in the intellectual pursuits of life.

Soon after graduating, Mr. FOWLER again resumed the business of teaching, and took the preceptorship of Fairfield Academy in Connecticut. Had he continued this pursuit he would doubtless have been called to posts of high scientific and literary eminence; but his variform talent and heart-felt interest in the welfare of society led him to leave the academic walks and pursue a course more directly connected with the moral and practical issues of life. In 1816, he entered devotedly and earnestly upon the study of divinity with the Rev. Dr. Humphrey, of Fairfield, who was afterwards President of Amherst College. It was during his pupilage with Doctor Humphrey that he became deeply impressed with the importance of the temperance reform, and the temporal benefits of the Christian Sabbath, which resulted in his subsequent efforts and valuable writings upon those subjects. He entered upon his ministerial duties in 1818, and passed about a year as a missionary in Indiana, which was then considered the "Far West." Afterwards he was settled as pastor of a church in Plainfield, Connecticut, where he became the instrument of much good and won the high approbation of a numerous and intelligent people. It was then that he made the ejaculation, "Oh that I may never be left to sacrifice conscience, truth, and duty, to gain popularity among men!"

In 1831, Mr. FOWLER left his residence in Connecticut and became the pastor of a Congregational church in Fall River, Massachusetts, which relation he sustained until the year 1848, when he was first called into active political life. During this period he was eminent not only for his devotedness to the sacred cause of religion, but for his unwearied industry in the investigation and promotion of those kindred measures which elevate society and improve the physical and intellectual condition of man. He aimed not at the reputation of an author; yet by the solicitation of friends, he was induced to write and publish his views upon many subjects connected with the great objects for which he lived. In 1835, he published a series of lectures upon one of the Christian ordinances, which is of high repute for its thoroughness of research, learning, and argument. An eminent divine, in speaking of its author, says: "He who, 'by such force of argument, unimpeachable and 'unanswerable, dispels perversion and ignorance, 'deserves the thanks and approbation of every 'individual who, by spiritual relationship, is a child 'of Abrahamic promise."

In his labors for the promotion of temperance, Mr. FOWLER attacked not the alcoholic foe alone. He waged his battle against the whole kindred enemy which unnerve the body and obscure the mind—upon the use of one of which he published a valuable disquisition, demonstrating its physical, mental, and political evils, which has now reached its third edition.

The historical sketch of Fall River, written and published by Mr. FOWLER in 1841, is an intellectual tribute to his fellow-townsmen, which they will ever cherish as a memento of his assiduity and ability. Its voluminous statistics relating to the industry, education, and progress of that enterprising town, and deep research into matters connected with the early history and settlement of the Plymouth colony, render it a work of much general as well as local importance.

Mr. FOWLER's political course was short, but successful. It commenced in 1847. At that time a question of boundary betwixt Massachusetts and Rhode Island was pending before Commissioners of the two States, in which a part of the territory of his county was in dispute. The contest involved inquiries reaching back to the first settlement of the country. Their antiquity and historic character soon attracted his attention, and awakened his untiring industry in their investigation. He was appointed on a committee to appear before the Commissioners and represent the rights of the border towns of his State, which service he performed with great credit to his ability. He afterwards published a series of articles upon the subject, first in the public prints, and subsequently in pamphlet, which for depth of thought, thoroughness of research, and logical deductions, received the high commendation of many eminent statesmen and intelligent citizens of his country. They so impressed the public mind as to bring him prominently before the people; and at the succeeding election in his county, in the autumn of 1847, they elected him to the Senate of the Commonwealth.

As a Senator, Mr. FOWLER met the high ex-

pectations of his constituents. His gravity and intelligence soon gave him influence and position. His ability for legislation became known, and his promptness and industry were highly appreciated. His services as chairman of the Committee on Education, which is an important committee of the Massachusetts Legislature, were eminently useful; and in no small degree may it be attributed to his efforts that the report of the Commissioners on the boundary question, which was adverse to his views, was unanimously rejected by the Senate. During his seat at the Senate Board he was appointed by the Governor on a commission to consider the subject of establishing an additional Insane Asylum for the State. In the performance of this charitable duty, his heart, ever responsive to the claims of humanity, was moved with deep sympathy for that portion of our race who are groping through life bereft of the choicest gift from God to man; and through his efforts and others, the proposed institution is now being erected.

In the autumn of 1848, before his senatorial term had expired, the people of his district elected him to the Thirty-first Congress. His labors in that Congress are better known to many of this House than to me. I speak advisedly, however, when I say that he was diligent and honest. He could not be otherwise and act in accordance with his own heart and well-earned reputation. His speeches on the California question and the reduction of letter postage have been published to the country. They speak their author and reflect his character.

Mr. FOWLER was reëlected to the present Congress by a majority unprecedented in his district, and here we enjoyed the light of his countenance, the wisdom of his counsel, and the strength of his intellect, until death dissolved our relations. His last speech in this body, made at the recent session, is a production which will long be preserved in the memory of his friends and constituents. It contains a brief and bold statement of his views upon many of the prominent measures which at times agitate the Republic and divide her statesmen.

In the death of Mr. FOWLER, Massachusetts has lost a Representative who was faithful to his trust. No man, whatever his talents, ever brought a more devoted and sincere heart to the service of his country. His strength in the House consisted not so much in eloquence and readiness of debate, as in diligent research and knowledge of facts. Labor and not words was the source of his influence; and no one of whatever party or difference of opinion could but respect his intentions and admire his fidelity. His zeal in the performance of duty kept him steadily at his post, and no movement either of order or business escaped his attention. His punctuality in the House was not more marked than his promptness to the private calls and business of his constituents. The soldier, the widow, and the orphan, will long remember his kind offices when enjoying the pensions and bounties of their country. If there is truth in the saying that "good clergymen make bad statesmen," it is equally true that there is no rule without an exception. Mr. FOWLER had studied deeply the laws of nature as unfolded in the science of theology and the structure of the civil compact; and in nothing was he more zealous than in adopting them as the principles of human legislation.

The private virtues of our departed friend require no eulogy to their memory. He lived as he preached, enforcing his precepts by the strength of his example. He was the patron of useful knowledge in all its forms. He devoted his time and pecuniary means for its advancement. Being bereft of his only child in early life, he gratified the promptings of his heart by the adoption of others, whose primary education he personally superintended, and whom he aided in their progress to high academic degrees. The college and academy were not the only recipients of his bounties. The free schools of the country, which he considered the bulwark of our national prosperity and existence, were the more favored objects of his care and benevolence. To them he devoted many of the noble efforts of his life.

In his social relations, Mr. FOWLER was a gentleman of much excellence. Neighborly kindness, charitable forbearance, and obliging offices, were true elements of his nature. To promote the happiness of others was the chief basis of his own pleasures. His friendship and attachments were ardent, strong, and enduring. I speak from a heartfelt remembrance of my own experience. Probably no member of the House, and no one of his colleagues had participated more fully in his confidence and acquaintance. Had it been otherwise, this duty assigned me, according to the custom, might more properly have devolved upon some senior colleague. Our associations at the Senate board of the State, and at his own happy and companionable abode, had been close and intimate. The similarity of interests intrusted to our care, and the contiguity of districts which we here represented, both being parts of the Old Colony where lies the memorable rock first pressed by the footsteps of the Pilgrims, and in the vicinity of which they promulged the first written political compact of the world, had brought us in frequent contact, and produced sympathies strong, and dissoluble only by death.

In his domestic character, he was kind and happy, forming an example to be admired and imitated. He married the fourth daughter of John Howe Payson, Esq., of Pomfret, Connecticut, a lady whose qualities and intellectual attainments made her not only the affectionate wife, but the fit companion and adviser in his varied pursuits of life.

The advancement of age brought no chill to his heart; neither did it check the current of his youthful and well-placed affections. He thought it not weak, as he often said, "that the husband should remain the lover, friend, and admirer for life." His peculiar sympathies for wife and home, were the last links which chained him to life. Yes, even in his expiring hours, when the mind wandered and recognized no associations with surrounding objects, his frequent utterance of her name and that place, gave evidence, indeed, that to him they were "the last of earth."

Were we to review the traits in Mr. FOWLER's character which were the source of his success and usefulness, none would appear more prominent than his industry, firmness, teachableness, honesty, and goodness. These were the elements which made him the learned divine; the influential statesman and useful citizen.

I will now no longer recount his virtues, though the mention of each is a fresh remembrancer of others numerous and endearing. He has gone! He has joined the company of those who, in the language of the Spirit of the Revelator, "may cease from their labors, and their works do follow them."

The funeral of Mr. FOWLER was attended at his late residence, in this city, on the 5th of September last, with appropriate solemnities, under the superintendence of the officers and members of the House and Senate who were remaining at the capital; and his remains, accompanied by a committee, were then removed to Fall River, where, after appropriate services by his friends and the public, expressive of their high estimation of his character, and their deep grief at the unexpected and solemn dispensation, they were deposited among the dead, according to his last desire and request.

Mr. Speaker, I move the adoption of the following resolutions:

Resolved, That this House has received with deep sensibility the announcement of the death of the honorable ORIN FOWLER, a member of this House from the State of Massachusetts, which occurred on the 3d of September last.

Resolved, That this House tenders to the family of the deceased the expression of its sympathy on this event, and as a testimony of respect for his memory, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of this House be directed to communicate a copy of these proceedings to the family of the deceased, and also to the Senate.

Resolved, That as a further testimony of respect for the deceased, this House do now adjourn.

The resolutions were unanimously adopted; and

The House adjourned till to-morrow, at twelve o'clock, m.

NOTICE OF A BILL.

Mr. CABLE, of Ohio, gave notice that he would, on to-morrow or some subsequent day, ask leave to introduce a bill to encourage agriculture, and secure homes to the landless.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. WALLACE: The petition of Whitemarsh B. Seabrook, Joseph Whaley, and others, praying payment for military service rendered the United States in the war of 1812.

By Mr. HENDRICKS: The petition of James Robertson, a citizen of Shelby county, in the State of Indiana, and accompanying papers, showing that by assignment thereof, for valuable consideration paid by him, he became the owner of a Virginia exchange bounty land warrant, calling for six hundred and sixty-six acres, and that the same has been lost, and that there are no lands now set apart or appropriated for the satisfaction of such warrants; and praying that he be allowed to locate, and enter of the public lands subject to private entry, the number of acres specified in said land warrant.

By Mr. CHANDLER: The memorial of William Rush, of Philadelphia, administrator of the estate of John Rush, asking payment of interest on an allowed claim.

IN SENATE.

THURSDAY, *December* 9, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. WALKER, of Wisconsin, appeared and took his seat.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Treasurer of the United States, transmitting copies of his accounts for the third and fourth quarters of 1851, and the first and second quarters of 1852, as adjusted by the accounting officers of the Department; which was ordered to lie on the table.

He also laid before the Senate a report from the Secretary of the Interior, communicating, in compliance with law, a statement of such appropriations for that Department as had been appropriated for the service of the War Department, prior to the passage of the act of March 3d, 1849, creating the Department of the Interior, showing the balances of appropriations on the first of July, 1851, the appropriations for the fiscal year ending June 30th, 1852, the repayments and transfers during the same time, the amounts applicable to the service of the year 1851–52, the amounts drawn by requisition from the Treasury during the same period, the balances on the first of July, 1852, with such appropriations as were carried to the surplus fund; which was ordered to lie on the table.

PRINTING OF DOCUMENTS.

On motion by Mr. DOWNS, it was

Ordered, That the communication from the Secretary of the Interior, submitted yesterday, transmitting a report from the land officers at Monroe, Louisiana, in reference to the Bastrop Grant, be printed for the use of the Senate.

COMMITTEE ON ENROLLED BILLS.

Mr. HAMLIN. It will be recollected that two bills passed the Senate yesterday; one authorizing the Secretary of the Treasury to issue a register in a certain case, and another, to provide for the payment of the messengers of the electoral colleges. These bills cannot now be enrolled, because we have no committee to act with the committee on the part of the House to compare them. It is desirable that both bills should become laws as soon as possible, and I therefore submit a motion that the Committee on Enrolled Bills of the last session be authorized to act until a committee shall be appointed at the present session on the part of the Senate.

The motion was agreed to.

DECEASED MEMBERS OF CONGRESS.

The Senate proceeded to consider the following resolution, submitted yesterday by Mr. HALE:

"*Resolved*, That the resolution of the Senate, passed on the 28th day of March, 1850, which is in these words: 'Re-'solved, That, in future, when a member of Congress dies, 'and has been buried in the vacation, the Senate will not 'feel itself called upon to extend to the memory of the de-'ceased the honors and the ceremonies which have been, 'of late years, usually awarded; but will restrict itself 'hereafter in the appropriation of those honors and cere-'monies to cases of the death of members during the ses-'sion of Congress,' be rescinded."

Mr. HALE. I hope, Mr. President, that the resolution of 1850 will be rescinded; and I ask the attention of the Senate to the fact, that it has been for more than two years upon their orders, while a different rule has prevailed in the House; and we present ourselves in the anomalous condition of one branch of the Legislature taking the customary notice of the death of one of their members, and informing the other branch of it, and that other branch taking no notice of it. The Chair was mistaken yesterday in suggesting that the resolution, which it is now proposed to rescind, was adopted by a unanimous vote. I find, upon reference to the reports of the proceedings of the

Senate upon that occasion, that there were but three or four Senators who spoke upon that question. One of them was Mr. Clay, since deceased; the others were Mr. Dickinson, of New York, and Mr. Davis, of Mississippi, not now members of the Senate, and myself, all of whom, with the exception of Mr. Clay, were decidedly opposed to the resolution. With the indulgence of the Senate, I will read the remarks of Mr. Davis, of Mississippi, as they are very brief and exceedingly pertinent. He says:

"I am sorry, sir, that no one else has offered any objection to this resolution. I look upon these ceremonies as an outward exhibition of respect, costing us a very few days during a session, and interfering very little with the transaction of public business. I look upon the custom as a sign of that fraternity which should exist among members of Congress. When there is so much strife and schism, I like to preserve it as the last sign of that fraternity. We meet here as the representatives of States—as agents of the Federal Government. Whether a member dies a day after the adjournment of the session of Congress, or a day before its meeting—whether a member should die here in the Halls of Congress, or in his own residence—I still would make public demonstration of the regret which it would be a shame to us not to feel, and do think the injury to the public service is so small, that it is well to preserve this outward show of respect to his memory."

There can be, sir, ordinarily, but two or three of these occasions occurring during the vacation, and the announcements will usually be made during the first week of the session, when the Senate have nothing to do, and generally adjourn over from Thursday to Monday. There are but sixty-two members of the Senate in the whole Union; and it seems to me that if one or two of those who were associated with us in the discharge of those high duties which the people have devolved upon us, should fall from our midst, even though they might not be standing by our side at the time, it is due to that fraternal regard which the members of this body ought to hold and entertain for one another, that they should take some brief, some passing notice of an event so well calculated to arrest attention.

Sir, it is the great effort of the moral teachers of our religion to endeavor to impress upon the heart and mind of man the great lesson of mortality, which such an event is calculated to teach; and it seems to me that it ill becomes the American Senate, by a formal resolve placed upon their Journal, to say that the great Teacher may come and knock at our doors, and take from our midst one of our number, and that we will take no notice of it. Sir, if by passing such a resolution of stolid indifference to the admonitions of Death, we could induce the "grim messenger" to turn aside and not pay his accustomed visits here, there might be some wisdom and some propriety in such a course. For myself, without affecting any great degree of sympathy above that of those by whom I am surrounded, I confess that the fact that an individual who has been for years associated with me here in the discharge of duties, falls by death, although I might not be immediately present with him, is one that is calculated to impress most seriously and most solemnly upon my heart and upon my mind a great lesson; and I do not feel that it is appropriate for me deliberately to resolve that I will disregard a custom which has been coeval with the history of the Senate. I thought at the time that the adoption of the resolution was ill-timed and inexpedient, and I do hope that now we will return to the old and honored custom, and will tender to the surviving relatives of our deceased brethren this very slight testimony of the respect which we entertained for them while living, and of the affection with which we cherish their memories when dead.

Mr. CASS. Mr. President, I have but one word to say. I thought the resolution, which it is proposed to rescind, a very wise and proper one when it was adopted, and I have seen nothing to induce me to change my opinion. When a death occurs here in the midst of the session, and takes away one of our co-laborers in the public service, it is altogether proper that we should pause in our labors; for it is a lesson that ought not to be permitted to pass without its proper influence upon us. But when that death takes place in a vacation, which is an ordinary occurrence, it seems to me that such a formal notice of it as is usual under other circumstances, would cause the custom to degenerate into an idle and useless ceremony, rather than anything else. I approved of the resolution when it was introduced by our distinguished colleague, that most eminent Senator from Kentucky, [Mr. Clay,] and I still approve it.

The question being taken, on a division there were—ayes 16, noes 22.

So the resolution was rejected.

APPROPRIATION BILLS.

The following resolution, submitted yesterday by Mr. GWIN, was taken up for consideration:

"*Resolved*, That the Committee on Finance be directed to prepare and report to the Senate, on or before the first Monday in January next, all the general appropriation bills, except the one providing for the civil and diplomatic expenses of the Government."

Mr. HUNTER. I do not see the Senator from California, who submitted that resolution, in his place. I therefore move that its further consideration be postponed until Tuesday next.

The motion was agreed to.

PRINTING OF AN EXECUTIVE DOCUMENT.

On motion by Mr. BRIGHT, a report from the Secretary of the Navy, in relation to the classification and appointment of clerks in the executive departments, which had been laid on the table, was ordered to be printed.

RECESS.

On motion by Mr. BADGER, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business, and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 9, 1852.

The House met at twelve o'clock, m.

Prayer by the Rev. JAMES GALLAGHER, Chaplain of the House.

The Journal of yesterday was read and approved.

The following gentlemen, in addition to those heretofore announced, appeared in their seats to-day, viz: Messrs. CLARK, CALDWELL, FICKLIN, and GRAY.

A message was received from the Senate by the hands of ASBURY DICKINS, its Secretary, announcing the passage, by that body, of a bill making an appropriation for bringing to the seat of Government the votes for President and Vice President of the United States; also, that it had concurred in the amendment of the House to an act to authorize the Secretary of the Treasury to issue a register to the barque Kate Wheeler.

DEATH OF MR. THOMPSON.

Mr. DUNCAN rose and said:

Mr. SPEAKER: The members of the delegation from Massachusetts have assigned to me the sad office of announcing to the House the death of our lamented friend and colleague, the honorable BENJAMIN THOMPSON, late a Representative in this body from the Fourth Cougressional district in that State. At the close of the late protracted session, he returned, accompanied by his family, to his home in Charlestown, to enjoy for a week of apparent health, the cordial welcome of his friends, when he was attacked with severe illness, which, after two weeks, terminated his life on the 24th of September last. He was permitted to die at *home*, solaced in his parting days by the presence and devotion of an affectionate wife, an only daughter, and of sympathizing friends. His remains rest in that hallowed repository of the dead, Mount Auburn. The sincere expressions of respect, affection, and grief, paid by those who knew him best, are his best eulogy.

Massachusetts, Mr. Speaker, has been especially called to mourn the loss of her distinguished citizens. Thrice, in a few brief weeks, have the unerring shafts of Death fallen upon her delegation in this body. RANTOUL, FOWLER, THOMPSON, in the midst of usefulness and honor, with hopes of protracted life as fair as our own, have in rapid succession been made his victims; and, as if to present to a nation's gaze the most signal exhibition of his power, he has more recently struck down that distinguished statesman whom not Massachusetts only, but the nation, honors and mourns. These repeated and signal conquests of Death speak to us, in most impressive tones, of our duties and our destiny—of our mortality and our immortality. May we heed their sad and solemn lessons!

Mr. THOMPSON was born in Charlestown, August 5th, 1798, and was therefore past fifty-four years of age at his decease. He always resided in his native town, and his fellow-citizens, justly appreciating his sterling integrity, judgment, and fidelity, and his high capacity for public service, called him early in life to fill their most important public trusts. He was at different times placed at the head of each department of the municipal affairs of the town, before it was created a city. He presided over the Board of Overseers of the Poor, over the Committee of Public Schools, and over the Board of Selectmen, and in all those positions commanded the confidence of his fellow-citizens. He was frequently chosen to represent the town in the Legislature of Massachusetts, and was twice elected by the county of Middlesex a Senator in that body.

Mr. THOMPSON was bred to mercantile pursuits, and while he pursued these with industry and success, he yet found time to indulge his love of reading and to store his mind extensively with useful knowledge. And he evinced his love of literature by collecting a library of the most instructive books, to which he looked forward as a resource when he should retire, as he had determined to do, from active business. This intellectual taste and culture qualified him to preside, for many years, with eminent propriety, over the Charlestown Lyceum, and led the city government to select him to deliver an eulogy upon President Taylor. Mr. THOMPSON possessed all those virtues and practical qualifications which constitute the good citizen and useful public servant. Good sense—discrimination—the most conscientious integrity—amiability of temper united with a firm adherence to the right—the ability to perform well whatever he undertook—marked him as a man fitted for responsible trusts. And hence, while he avoided rather than sought office, his fellow-citizens selected him to represent their district, and elected him a member of the Twenty-ninth Congress. At the close of that Congress, having fulfilled his trust to the entire satisfaction of his constituents, they yielded to his strongly-expressed desire to be permitted to return to private life. He was subsequently induced, against his own wishes, by the urgent entreaties of his numerous friends, again to become a candidate, and was elected a member of the present Congress.

Of the intelligence, moderation, and fidelity to duty of Mr. THOMPSON, I will not speak to you, sir, and to these his associates who knew his worth. In him his district and the Commonwealth have lost an able and an honorable Representative. His place in this House may be filled; but his death has made a void in the hearts of that little family circle, and of those relatives "to whom he was an object of the most affectionate pride and love," which cannot be filled. He was the delight of his home, for he possessed those traits of character which render home delightful. It would naturally be expected that the foundation of a character so upright and pure should rest on Christian principle. And we are assured that he cherished a profound reverence for the Gospel and its institutions—that he was a sincere and devout worshiper at the altar of truth—in a word, that he feared and loved God.

Possessing and exemplifying such principles of action and such dispositions of heart, may we not hope that the rewards of virtue and piety are his; that death was to him an entrance into that rest revealed in the Gospel, the fruition of which should be the ultimate object of all our actions here and our daily aspirations?

I move, sir, the following resolutions:

Resolved, That this House has received with deep sensibility the announcement of the death of Hon. BENJAMIN THOMPSON, a member of this House from the State of Massachusetts.

Resolved, That this House tenders to the family of the deceased its sympathy on this afflictive event; and as a testimony of respect for his memory, the members and officers of the House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of the House be directed to communicate a copy of these proceedings to the family of the deceased, and also to the Senate.

Resolved, That as a further testimonial of respect for the deceased this House do now adjourn.

Mr. CHANDLER said: Mr. Speaker, if I believed that any word which I might offer on

this occasion would delay the public business of this House a single moment, I should hesitate to comply with the wishes of one or two friends, that I should add a few words to what would be and now has been better uttered by the colleagues and earlier friends of Mr. THOMPSON. But I know that the House will adopt the appropriate resolutions now upon the Clerk's table, and by that adoption will adjourn for the day.

It was my good fortune, as it was that of several other members of this House, to have associated in a mess with Mr. THOMPSON, and have thus possessed and improved an opportunity to judge of his character—to measure his abilities, so far as my own standard extended—and to obtain a full comprehension of his habit of thought, and his motive of action.

Who Mr. THOMPSON was, the honorable gentleman who preceded me informed the House. His character as a legislator, his associates in the last session of the present Congress, and in former Congresses of which he was a member, had means to judge so far as his advocacy of, or his votes upon a question could indicate. And justice has been done to him, as a citizen and representative of that Commonwealth that, supplying to her children the examples of virtue and the means of education, is scrupulous in her exactions of her representatives. If he came up to the standard erected there, and met the approval of his intellectual constituents, he accomplished an object which it was a virtue to undertake, a fame to achieve. That he rose to that standard his election and his reëlection to this House under the peculiar circumstances that marked the canvass amply prove. His colleague asserts it, sir, and that is ample testimony.

It is not my purpose to speak of the social relations of Mr. THOMPSON, of his course of life, or his public services. I knew him only for the nine months in which he was in the present Congress, but I was privileged to hold a close communion with his heart, and to find that the seat of all manly honors and of all gentle affections. A stern sense of duty led him to give his time and his studies to the discharge of those public trusts with which the suffrages of his neighbors and party friends had clothed him. But no hour of the day ever saw him unobservant of the closer tie and more cherished affinities of domestic association. His first earthly duty was connected with his highest earthly affection; and every commission which called him from the constant associations of home, was a sacrifice. But, Mr. Speaker, it was a sacrifice never avoided from weakness; and perhaps, sir, the experience of life will enable you and others to sustain the assertion, that love of country, and lofty patriotic duties, are most reliable when they are links in that chain of which social attachment and domestic affection form a part. The reliable patriot must be a good man; and he only is good, largely, extensively, permanently good, whose affections well forth from the domestic source to irrigate and bless public life. The general concurrence of the vote of Mr. THOMPSON with that of the gentlemen with whom he took political rank, might lead the inconsiderate to imagine that he had yielded his suffrage to party influences. Those who knew him well, can bear testimony to the fact that he gave his vote upon reasonable conclusions, and that he reached these conclusions by careful, and often painful investigations. And whatever may have been his personal predilections or party proclivity, his first inquiry on questions of private or public interest was, "Is it right?" To these sound qualities of head and heart, Mr. THOMPSON added the amenities of a gentleman, from the exercise of which no rudeness could for a moment startle him. The great beauty of his life, which though it had its best illustrations and most ample reward in the bosom of an almost idolizing family, should not be without its effect on those who labored with him in public.

I know, Mr. Speaker, that the modest, retiring man, however important the situation he may occupy, presents fewer "salient points" upon which the satirist or the eulogist can seize, and his virtues seem buried in the diffidence by which they are surrounded. But conspicuousness, striking characteristics, are not the only qualities to be approved in a public man. Those have their time, their object, and their admirers; but in the ingredients of a legislative hall, the thoughtful student, the careful investigator, the gentle spirited, and the upright, must be regarded as essential to the proper exercise of diverse talents and qualifications in others. And hence, while the domestic circle is convulsed with an irreparable bereavement and social life disturbed by the loss of so good a man, this House may well mourn its deprivation by the death of so thoughtful, so pure a man as our late fellow-member.

And, sir, since sorrow for the dead and eulogies upon their virtues avail little without some well-defined end, this House will pardon me, I hope, if I venture to offer the lesson of that good man's life as the imitable model of legislative morals.

The resolutions were then unanimously adopted; and the House adjourned till to-morrow at twelve o'clock, m.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 10, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled a bill to authorize the Secretary of the Treasury to issue a register to the barque Queen of Dundee, to be called Kate Wheeler; which thereupon received the signature of the Speaker.

PRIVATE BUSINESS.

Mr. EDGERTON. Is it in order, Mr. Speaker, to move to proceed to the consideration of the Private Calendar, and private bills upon the Speaker's table, this being Friday?

The SPEAKER. It would be in order, but there is no private business before the House, nor can there be, according to the rule, until after the first six days of the session.

PRESIDENT'S MESSAGE.

Mr. HOUSTON. Mr. Speaker, will it be in order to move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union, with a view to refer the President's message?

The SPEAKER. Such a motion would be in order.

Mr. HOUSTON. Then I make that motion,

The question was then taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

Mr. HOUSTON. I move to take up the subject of the President's message, which has been referred to this committee.

The question was taken, and the motion was agreed to.

Mr. HOUSTON. In connection with that subject, I offer the resolutions which I now send to the Clerk's table.

The resolutions were then read, as follows:

1. *Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session as relates to our foreign affairs, together with the accompanying correspondence in relation thereto; to further legislation for the protection and punishment of foreign consuls residing in the United States; to a revival, with modifications, of the act of 10th March, 1838; to restrain unlawful military expeditions against the inhabitants of conterminous States or Territories; to the fulfilling our treaty stipulations with Mexico,—be referred to the Committee on Foreign Affairs.

2. That so much of said message as relates to the existing tariff, and recommends a revision and change of its provisions; so much as relates to the general condition of the Treasury and finances of the Government; to the revenue and the prevention of frauds in its collection; the public debt and its payment; the estimated receipts and expenditures for the ensuing fiscal year,—be referred to the Committee on Ways and Means.

3. That so much of said message and accompanying documents as relates to the condition and operation of the Army of the United States, and recommends an increase of the same; as relates to a revision of the present system of fortifications; to a retired list of officers who may be unfit for duty, together with the report of the Secretary of War,—be referred to the Committee on Military Affairs.

4. That so much of said message and accompanying documents as relates to the Navy of the United States; its condition and operation; to the establishment of a permanent corps of seamen; to the reorganization of the Naval Academy; to the establishment of a corps of apprentices for the Navy; to a retired list, together with the report of the Secretary of the Navy,—be referred to the Committee on Naval Affairs.

5. That so much of said message as relates to the appointment of a commission to revise the public statutes of the United States; to the establishment of a uniform fee bill; to the appointment of a commission to settle all private claims against the United States; to the preservation and protection from mutilation or theft of the papers, records, and archives of the nation; to the prevention of frauds upon the Government in applications for pensions and bounty lands; as recommends that provision be made by law for the punishment, not only of those who shall accept bribes, but also of those who shall either promise, give, or offer to give, to any officers or clerks, a bribe or reward, relating to any matter of their official action or duty; to the publication of the results of the Seventh Census,—be referred to the Committee on the Judiciary.

6. That so much of said message and accompanying documents as relates to our intercourse with the Indian tribes, be referred to the Committee on Indian Affairs.

7. That so much of said message and accompanying documents as relates to the Post Office Department, its condition and operation, together with the report of the Postmaster General, be referred to the Committee on the Post Office and Post Roads.

8. That so much of said message as relates to commerce and the improvement of harbors, be referred to the Committee on Commerce.

9. That so much of said message and accompanying documents as relates to the public lands; their survey and sale; to the establishment of land offices for the sale of public lands in California and the Territory of Oregon, be referred to the Committee on Public Lands.

10. That so much of said message as relates to the improvement of the navigation of rivers, be referred to the Committee on Roads and Canals.

11. That so much of said message as relates to the establishment of an Agricultural Bureau, be referred to the Committee on Agriculture.

12. That so much of said message as relates to the District of Columbia, be referred to the Committee on the District of Columbia.

13. That so much of said message as relates to the public buildings, be referred to the Committee on Public Buildings and Grounds.

14. That so much of said message as relates to patents; a periodical publication and distribution of an analytical digest of all the patents which have been or may hereafter be granted for useful inventions and discoveries, be referred to the Committee on Patents.

Mr. HOUSTON. I do not propose to occupy the attention of the committee in the discussion growing out of these resolutions, and especially of their adoption. I believe that they are, with one exception, the usual resolutions, and give, in my opinion, the proper direction to the various portions of the President's message. I trust that the committee will give them its immediate action, in order that the standing committees may have full opportunity of investigation.

Mr. BROOKS. I move to amend the second resolution by substituting the following therefor, viz:

Except so much of the message as relates to the tariff and revenue from customs, which shall be referred to a select committee of seven, with power to examine witnesses, and to collect testimony here and elsewhere, and with instructions to report by bill or otherwise, on or before the 25th of January next.

Mr. BROOKS. Mr. Chairman, I propose to submit a very few remarks, in addition to those I submitted the other day. I do not desire to enter into a discussion on the tariff, or the principles upon which the revenue should be collected, for such a discussion at this time I should deem premature. Nevertheless, I do not like the chairman of the Ways and Means [Mr. HOUSTON] to deprecate debate at this early period of the session; for it is far better and wiser that the House of Representatives be employed in the discussion of grave and great subjects, in which the whole country is interested, than adjourning from day to day without the performance of any public business whatsoever. If, then, there should be a discussion, there will be no actual waste of time, but rather a preparation of the minds of members for action on a subject which cannot be well avoided, now or hereafter. I will repeat my objections to the Committee on Ways and Means having the custody of the whole subject of the revenue: First, that it is not a subject legitimately within their control; and secondly, that if it were legitimately within their control, it is not wise on the part of the House to throw into the hands of that committee more power over the legislation of the House than it has had, or must have under our present system of transacting business. And in the next place, I will repeat what I stated the other day, that it is utterly impossible for the Committee on Ways and Means, with the deficiency, the Army and Navy, the Post Office, the Indian, and civil and diplomatic appropriation bills, with all the complicated interests of this vast and growing country there involved,—it is utterly impossible, I say, for the Committee on Ways and Means, laboring assiduously, properly to prepare in the ninety days of this session, those appropriation bills, if it had nothing else to do. It is, therefore, no injustice to the Ways and Means—no distrust of their

abilities, to propose to separate this from other subjects; but it is to leave to that committee the performance of its legitimate functions, and to transfer to some other committee, which shall give it its exclusive attention, the subject of the revenue and the tariff. If the matter be delayed till the preparation of the deficiency and other necessary appropriation bills, it will then be too late for action this session at all; or if not too late, such action must be had without discussion, without investigation into the proper facts, and without a knowledge of the details on which members will be called to vote; or if that knowledge be possessed by ourselves, without information and response from our constituents; I have accordingly in my proposition instructed the select committee to collect their facts forthwith, and to report to the House on or before the 20th day of January. The proposition is a fair one at the start, and I say that there were no good reasons advanced the other day against its adoption. Why it was voted down by the other side, it passes my comprehension to understand. Undoubtedly, gentlemen suspected that, coming from me, no good would result from it. I disclosed my hand. I told them what I was seeking. I made a proposition which ought to have met with their undivided and willing support; and when the details of it came up for action, it would have been for them, as well as this side of the House, to act in the manner they deemed proper. Nevertheless, the proposition was rejected in the form in which it was then presented, and which form I have to-day somewhat varied, without entering into any details of instruction further than to order a report forthwith.

I say to gentlemen on all sides, that something must be done. As a representative of the commercial and trading interests of the country I do not feel easy, nor do my constituents feel easy, with $15,000,000 or $20,000,000 of surplus revenue accumulating in the Treasury, and that accumulation likely to go on. The sub-treasury is at best a miser, hoarding up the treasures of the Government, and can be no more trusted to hoard up and keep idle the gold and silver of the Government from trade and commerce, than a miser of a county or town can be trusted with the hoarding up of the treasures of that county or town. When there are $6,000,000 or $8,000,000 accumulating in the sub-treasury at New York, with corresponding sums in other portions of the country, and the whole currency of the Union is affected more or less, there is and must be, to some extent, panic when $6,000,000 or $8,000,000 in the great mart of commerce is withdrawn from the operations of trade and commerce, and hoarded idly in the Treasury. Therefore it is I have thrown my proposition at this early hour before the House. If Congress intends that this surplus shall go on accumulating, I shall go for every just and honorable project for the disbursement of the public money presented to us. I do not mean, so far as my votes go, to let $20,000,000 rest idly in the Treasury. I shall go for voting it out in every possible way that can be of general benefit and interest to the country. I would rather vote for the largest and wildest system of internal improvements; I would rather vote to double the Navy and Army, then allow $20,000,000 to lay idly and hoarded up, withdrawn from the trade and commerce of the country. Indeed it would be wiser for us to be extravagant, rather than be miserly. It would be wiser for us to vote the most wasteful appropriations, than to have trade and manufactures injured by the accumulation of an immense surplus revenue in the Treasury, to be rolled up into a yet larger sum in December next, when Congress meets again. If it is intended to keep the House within the usual and proper limits of expenditure, to induce it to be economical, I want to know before I vote for a single appropriation bill, how much there is, and how much there is likely to be for a year to come, in the Treasury. I shall then vote with my eyes open, and with an understanding; and I cannot thus vote till then. The gentleman from Mississippi [Mr. BROWN] said, the other day, pay the public debt with the surplus revenue. The Government has been discharging the public debt to the amount of nearly $11,000,000, inclusive of the Mexican indemnity and other debts which could be paid. And if it had been known that the Federal Government was in the market buying up the public debt, the United States stocks, which were and have been available for purchase, would have gone up from 10 to 15 per cent. more. If a law be passed by the United States Congress, compelling the purchase of the public debt, the holders of that debt will put up their stocks from 5 to 20 per cent. The United States sixes of 1848, redeemable in 1867, are now 121 and 122 in the New York market asked, [see quotations from New York Journal of Commerce, December 2,] which, so soon as it is understood the Government must purchase, will rise to 130, and over, perhaps. It is, therefore, for us to decide at the start whether we will or will not purchase these stocks; and we should know before we begin on the appropriation bills at all. If that is to be the mode of expenditure, let us know it now. It is a wild investment of capital, it seems to me, for the United States Government to enter the stock market and purchase its stocks at any price,—such an investment as no prudent man would make; but if it is to be done, let it be done at once, and let some committee investigate and give the word. The gentleman from Mississippi remarked the other day that we owed Mexico a large sum of money under the treaty of Guadalupe Hidalgo for the incursions of Indians upon Mexican territory. I am not aware of that. I am not willing to recognize any such debt. I do not, if he does, understand such to be the stipulations of that treaty respecting the aggressions of Indians from our frontier, or rather the aggressions of these Indians upon themselves, as well as upon us. I want the force of the obligation to be brought home to me by some logic not yet brought home to the people. What, then, is to be done with this surplus revenue? This is an ever-recurring question, and must be met.

Mr. MILLSON. I ask the gentleman from New York whether the resolution he submitted this morning does not differ from the one which he introduced a day or two ago, and for which I then very cheerfully voted, in omitting any instructions to the committee to reduce the taxes?

Mr. BROOKS. Certainly; I changed the phraseology of my resolution, because, voted down as I then was by nineteen majority, I did not deem it decorous or proper on my part to present them again to the same body, *totidem verbis*. I have submitted this morning a resolution which I hope and trust will meet with a majority of votes in this House—nay, which I believe and feel sure would win that majority, so just is it, if it did not come from a Whig.

Mr. MILLSON. It differs from the first resolution; that required a reduction, whilst this only directs the committee to report by bill or otherwise.

Mr. BROOKS. I was obliged to make it different. Parliamentary courtesy would forbid me offering the same proposition day after day; and I have no idea of so doing. My object in the introduction of the present resolution is the same that I had in view the other day. I want to have less revenue. I want less sums of money to go in the public Treasury. I want a change of tariff in some form or the other. I say now, what I said then, that this reduction of revenue must be made by all sides of the House—by my Whig friends as well as by my Democratic friends. It will not do for us to wait and say that now the tariff shall not be touched, whilst there are $20,000,000 of surplus revenue coming into the Treasury, and daily increasing, and which, when it reaches $40,000,000, will sweep away in the storm the whole system of discrimination or protection at once. I say to my Whig friends, then, the proposition must be met now, at an early hour; and it is wise that such a proposition should come from our side of the House—that we should tender it to the other side of the House; and if they are not disposed to take it, upon them must be the responsibility.

Mr. SWEETSER. I desire to ask my friend to point out to this House and the country what particular reduction he desires to make in the tariff; because it seems to me that the gentleman at this early hour of the session has an object in view, or undoubtedly he would not trouble the House. If he is prepared to point out either generally or specially what reduction he desires in the tariff, let him do so, and let that instruction, so far as the influence of that member is concerned, go to the committee, that the House may be prepared by a definite report to act upon it.

Mr. BROOKS. I am sorry that the gentleman did not hear, nor read the remarks I made the other day in the House, when, at some length, I unfolded what my objects were. I remarked at the time that I would submit my propositions in detail to the reporters. I did submit them, and they were laid before the House in detail in the Congressional Globe.

There is, Mr. Chairman, a variety of propositions before the country—five in all. I have noted them down here, and I think they are all the propositions which are before both sides of the House and all parts of the country. The first proposition is the reduction of duties on raw materials entering into the composition of manufactured articles. It seems to me that to this proposition there should be no objection. And I hope that there will be no objection on any side of the House to an enlargement of the list of free articles and a reduction or abolition of duty upon many of the articles which enter into the composition of manufactures; for, in the first place, my Whig friends are aware that that will be a species of incidental, legitimate protection, of which the other side of the House cannot complain; and my Democratic friends will be aware that whatever contemplates a reduction of the revenue in any form, if it be to reduce the price of the manufactured article consumed, as they contend it does, is a proposition which has already met with favor, and which in its details cannot but be admitted into favor by them again. If a yard of woolen cloth or muslin-de-laine can be made cheaper by reducing the duty on raw materials which compose those manufactured articles, and thus be made cheaper to the consumer, it is a proposition which must be as favorable to them as it is to us; and hence I see no reason why that proposition should not prevail *uno animo*. Another proposition before the country is, the repeal of the duty on railroad iron. I say, what I said the other day, I have no desire to express an opinion on this proposition now. If within the rules of order—and it will require some ingenious man to get it within these rules—there be some such proposition as this brought before the House, it will be powerfully pressed out doors and in doors;—out doors by contractors who are to deliver railroad iron at low prices, now when it bears high prices, and in doors by the Representatives of those States which have not yet begun their railroad works, and which wish to begin them at the lowest rate of duties upon railroad iron. Upon that subject, I avoided expressing any opinion, because I did not wish to enter upon this discussion, and because there is a great conflict of opinion in regard to this matter throughout the country. There are those who are unfavorable to this repeal who suppose and seem to think—and many of them are upon the other side of the House—that if they avoid this opportunity of action upon the tariff, that it cannot be reached again under our rules and orders throughout the whole session in any manner and form whatever. It will require an ingenious man, I admit, to bring it here within the rules of order under our ordinary mode of doing business; but if from the other branch of the Government there come down and is presented to us such a proposition, *eo nomine*, it must be met directly, and in front, and it cannot be avoided at all. Another proposition before the country, and which has had support especially upon this side of the House, is the better protection of certain articles of home manufacture. There is on this side of the House almost an unanimity of opinion upon that subject. There is not upon the other side of the House anything like an unanimity upon the subject, when you approach to a direct vote, because we have allies, and powerful allies, there who act with us, whenever this subject is presented in a proper form. In this House at the last session, in Committee of the Whole, I remember there was carried at one time some such proposition as this; but by drumming up forces from the lobby, the conclusion was reversed only by a very small vote, two or three, if I remember aright.

On the other side of the House there is a demand for less protection on certain manufactured articles than that which now exists. That is a proposition which has had support from the Democratic party of the country, and which is not altogether without some support on this side of the House.

There is yet another proposition,—I may state it as the fifth,—and that is, to have more specific duties than we now have, and less of the *ad valorem*. I forbear entering upon the discussion of this com-

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plicated subject of *specifics* and *ad valorem*, about which there is a great diversity of opinion. I only say, that this is the only commercial, perhaps I might say civilized, country upon earth which has one universal, horizontal, system of *ad valorems*, and which levels everything and shapes everything to such a single system. The country is as much injured by it as is the manufacturer or producer. A year ago, the iron manufacturer, under the *ad valorem* duty, was the sufferer, but now it is the country that suffers. Duties on iron which were too low at the last session of Congress, are now too high at this session of Congress, and this comes from a varying foreign *ad valorem*, which measures every duty collected at home with reference to its price in a foreign land. Foreigners thus lay upon us our taxes, because our laws look not to prices at home, but to prices in Europe or Asia, and on these prices we collect our taxes. Hence, when iron ought to be low here, aided by low duties, it is made higher than it ought to be by high duties on high foreign *ad valorems;* and hence, when the home manufacture ought to have protection by higher duties, because prices are low abroad, he is stricken down at once, without any protection whatsoever.

I am aware that there are some who say, as the present prices on iron are high, let these prices stand—let us enjoy ourselves, and make hay while the sun is shining and its rays are shed upon us. I say to those who indulge in this class of opinions, that now is the time and now is the hour for you to go before the House and the country in order to obtain something like a fixed and settled duty, which shall be enough for you, when prices are high abroad and enough for you when prices are low abroad. Though the prices of iron are high here now, the moment your manufactures are stimulated into competition in this country with the iron manufactures abroad, that moment these iron manufacturers in other countries will reduce their prices and bring their low cheap article in competition with, and into destruction of, yours. Now, then, is the time that you should make something like concession, when you are sufficiently well protected under existing prices to afford it. Now is the time to make an offer to the country which shall give you a fixed and settled policy, and upon which you can rely at all times for the development of your industry, and of the agriculture that is connected with that industry, in all the manufacturing States of the Union.

I do not state all these propositions, Mr. Chairman, as being mine, but they are the propositions which are before the country, and which challenge the action of this House Many men, I am aware, will be desirous, just now, of avoiding any action at all upon any proposition, because once beginning, we may not foresee where we may stop; but to you, my Whig friends, I say, as well as to you upon the other side of the House, that this country will not stand this accumulation of surplus revenue rolling up and increasing upon us. The revenue must be reduced now. Now is the time, and now is the hour. You cannot administer the Government economically; you cannot justify yourselves in acting upon the appropriation bills, until you first show to the people what is the proper amount of money to be raised to carry on an economical administration of the Government. The Democratic party must meet this state of things, and the incoming Administration must meet it, and act upon it. If they go on and let this surplus revenue roll up and accumulate, we shall say, and we shall have a right to say, it is because you want extravagant appropriations, extravagant expenditures, lawless acts of Congress, wasteful disbursments of the public money; and we shall hold you responsible for all those expenditures. I know you will say, you dare take the responsibility. That responsibility I know you dare take, and I wish you to take it, and comprehend the full force and magnitude of it. To my own side of the House, I say it is our duty, under this unexpected state of things, to come forward with our propositions and tender them our mode and manner of reducing this revenue, to accommodate that revenue to the wants of the Government, and if the other side will not take it, we are not at fault. Our hands are clean, and no one can blame us. It was said, however, by my colleague from New York, [Mr. DEAN,] the gentleman over the way——

Mr. MEADE, (interrupting.) If the gentleman will allow me, I wish to suggest an amendment to his resolution. If he will insert, after the words "committee of seven," the words "with a view to a general reduction of duties upon imports," I will support his proposition with pleasure.

Mr. BROOKS. That is the proposi which the gentleman voted against the other day.

Mr. MEADE. That was not the proposition.

Mr. BROOKS. If the gentleman will examine the record he will find it is. I am glad to have made a convert to the opinions I advanced the other day. I will leave the gentleman from Virginia [Mr. MEADE] now to reintroduce it himself. He can take the responsibility; and when that amendment is submitted in that form, coming from him, it will meet with a support from his side of the House, which it did not have coming from me.

Mr. MEADE. I wish to say to the gentleman from New York, [Mr. BROOKS,] that he is entirely mistaken. I understood his proposition on yesterday was to reduce the revenue by a change of tariff.

Mr. BROOKS. I will say to the gentleman from Virginia that he will have power to submit that as an amendment to my amendment. He can take the responsibility of it himself; and when that amendment is submitted by him, in that form, it will meet with a consideration, I repeat, which it did not meet with from the other side of the House when offered by me.

Mr. MEADE. I understood that the proposition of the gentleman from New York was to reduce the revenue by changing the tariff; but he did not state particularly how he meant to reduce it—whether by lessening the duties or by increasing the duties. He did not disclose to the House, the other day, in what way he wished to reduce the revenue, except by taking off some duties on particular articles that enter into home manufactures, and making them free articles. This amendment is not the proposition which was submitted to the House by the gentleman the other day. The proposition which I submit to the gentleman for his acceptance, is for a reduction of the revenue by reducing the duties on imports, and not by adding to the free list, or increasing the duties.

Mr. BROOKS. The resolution which I submitted to the House the other day speaks for itself, and is an answer to the greater part of the remarks which the gentleman from Virginia has made. I decline to adopt his amendment, for two reasons: First, because it is within his power to submit it as an amendment to the amendment; and secondly, because it would not be courteous in me again to offer to that side of the House a proposition which, in that very form, a large majority of them rejected the other day.

Sir, I had hoped in the discussion of this subject to avoid all reference to party politics. It has always been my aim in the discussion of financial questions and of all business questions in this House, if possible, to avoid any allusion whatsoever to the connection of those subjects with party politics. I do not intend upon the present occasion to depart from this, my usual course, further than to say, in reply to my colleague, [Mr. DEAN,] what I said in substance the other day. It is true that in 1846, the Whigs predicted that the tariff of '46 would not yield revenue enough to carry on the Government; and what the gentleman from Mississippi [Mr. BROWN] stated, may be correct, that the distinguished gentleman from Ohio [Mr. Vinton] predicted that it would not yield $18,000,000. The tariff of '46 passed in the month of July. Of the truth of those predictions so confident was the then Secretary of the Treasury, [Mr. Walker,] that the Committee on Ways and Means added to the civil and diplomatic bill an almost invisible, secret, but yet powerful item, which, having reference to *ad valorem* duties, changed in principle the act of July, 1846, and which, in connection with the Treasury circulars, afterwards doubled the revenue which would have been raised under the tariff of '46.

Of the effect of those Treasury circulars I entered into an elaborate demonstration in a speech which I made on the deficiency bill at the last session of Congress. I brought before the House a pile of Treasury circulars, in which Mr. Walker, month after month, invigorated and increased the foreign *advalorem*, or the mode of estimating the *ad valorem* in foreign countries, raising the appraisements generally, so that that insignificant item in the appropriation bill and those illegal Treasury circulars more than doubled the revenue which would have been derived from the July tariff of 1846. The remarks made by Mr. Vinton and others, or the prophecies, if you choose to call them so, have never had an opportunity to be tested before the country; for the tariff of 1846 never practically existed—not even one month. It did not come into operation at all; for the time fixed for its operation was the ensuing December, but before that time it was essentially altered, in August, in the civil and diplomatic bill; and in December and January, in preparation for its operations, Mr. Walker issued three or four most potent Treasury circulars, which reversed the whole system of duties intended to be collected under the tariff of 1846. These facts I laid before the House at great length in the remarks which I made on the deficiency bill last session—quoting circulars demonstrating the facts—and they need not be recapitulated here. The Supreme Court of the United States in January, 1850, abrogated, nullified, and repealed these Treasury circulars in the case of Griswold *vs.* the Collector of New York, and in the case of some iron importers *vs.* Greeley, collector of Boston. When those Treasury circulars were utterly nullified and abrogated, there came down from the Senate, after but little discussion there, a bill reëstablishing, reinvigorating, and making laws of the principles of all those abrogated Treasury circulars; and without one word of discussion whatsoever, and under the pressure of the previous question, it passed the House of Representatives. The act of 1850 is now the law of the land, and it is under that act and the Treasury circulars that this surplus revenue has accumulated.

Mr. Chairman, we Whigs do not say now that the tariff is not high enough; for on almost all articles it is high enough for protection, and on some more than high enough. That has not been our complaint since those Treasury circulars, and since the act of 1850. But our allegations have been against the whole system of universal, horizontal, *ad valorem* duties, without any reference to specific duties at all. Our outcry is against the frauds and irregularities, and incongruities, necessarily perpetrated under this *ad valorem* system. If we had specific duties, and an honest mode of collecting the revenue on the great body of articles—although there may be some exceptions—we are sufficiently protected. The manufactures which are sufficiently established in this country are now adequately protected. So with regard to railroad iron and all other iron, if we had ten years of adequate protection, we could say, as we have said of the coarser cottons, you may abrogate, nullify, and repeal the great body of duties. For when once capital is directed to, and invested in, those manufactures, we are able to compete with other parts of the world, if we have a free field and a fair chance. But we have not a fair chance of competition now; for you tax the raw materials that enter into manufactures highly, while France and England—more particularly the latter, our great commercial rival—make free most of those articles you compel our manufacturers to go into the markets of the world, paying heavy duties at home on raw materials, without receiving any reduction on those articles when exported abroad in a manufactured form.

Thus much I have to say in connection with that subject. I had no wish to enter into this discussion at all, but in justice to myself and in con-

nection with the remarks I made the other day, I have felt it necessary to say thus much. I do not deprecate a discussion of this subject if gentlemen choose to enter into it. I do not consider it a misfortune to the country that its whole system of revenue should be thoroughly canvassed here in this House. It is certainly wiser, in the month of December, for us to be discussing these subjects—elaborately discussing them—than to be doing nothing but adjourning, so that when we come to the 4th of March next we should have to pass a measure, as we passed the act of 1850, without one word of discussion and under the high pressure of the previous question.

Mr. LOCKHART. I offer the following as an amendment to the amendment:

That so much of the President's message as relates to the tariff, be referred to a select committee of seven, which committee be, and the same is hereby, instructed to report a bill on or before the fourth Monday in January next, to graduate and reduce the tariff to a revenue standard.

Mr. BAYLY, of Virginia. Mr. Chairman, I approve of the practice which the gentleman from New York [Mr. BROOKS] would seem to desire to introduce here by his amendment. It is borrowed from the British Parliament, where they never undertake to legislate upon any great subject of policy affecting individual pursuits without first instituting a commission of inquiry in respect to it. And so far as the tariff is concerned, I especially would favor that practice, because the manufacturers are comparatively few in number, and can always act in concert, and, by thus acting, can always present their views in the most plausible manner to the country; whereas the great body of the community, including the agriculturists, are left to individual industry to combat this combined action. I would go for such a resolution as the gentleman from New York has proposed with great pleasure, if it was proposed at the proper time, and when we had time; but the very reason which would prompt me to go for such a committee, when we had time, would cause me to oppose it now. The combined powers would be ready at a moment's warning; we would not. But, sir, there is another practice of the British Parliament that is equally as wise as that to which I have referred—one that is more becoming to us even than to them, because here greater deference is supposed to be paid to public sentiment—and that practice is, for an outgoing Parliament and an outgoing Administration to propose no radical reform in the policy of the country upon the eve of their going out. When a Minister has been defeated in Parliament, and an appeal to the country is determined upon, they always regard it as becoming them to propose nothing but the usual appropriation bills, and to attempt no radical change of policy.

Well now, sir, this House and this Administration stand somewhat in that attitude at this time. The Whig party has gone upon an appeal before the country, and they have been defeated. In a little more than two months we will have a new President installed. Already nearly half of this House have been passed upon by the people. Some of the members of this House who are now called upon to institute new legislation in respect to the tariff that has prevailed during the greater part of a Democratic Administration, and which has even survived a Whig Administration, have been changed. Some have gone out in consequence of the reduction of the number of members in some of the older States; others have gone out because they have been dismissed from public service by their constituents; still others have been superseded by conventions; and yet still others have voluntarily resigned. The next Congress has been and will be elected under a new census, under which there is a new distribution of political power. In this precise condition of things, it does seem to me that this House, during this very short session, can have its time sufficiently occupied with the ordinary appropriation bills and other pressing measures which will not admit of delay, without opening the interminable subject of the tariff.

But, sir, the gentleman from New York [Mr. BROOKS] seemed to see the force of these considerations, for he justifies this movement of his, to induce an outgoing Congress during an outgoing Administration to interfere with a measure of such vital importance, by referring to the large and inconvenient surplus now in the Treasury, and to the necessity of preventing its still further accumulation. Now, sir, I have not seen the estimates of the Treasury Department. I am told that they have not been sent to the printer; if so, very likely they are not printed. The report of the Secretary of the Treasury has not yet been sent in to us. Therefore, any estimate by me as to the precise condition of our finances at present, or their prospective condition, would be entirely premature. But we have enough already, however, to satisfy the House that no inconvenience will result from a delay in reducing the revenue, if an outgoing party should propose such a thing as they had not proposed before. Now, in the first place, the gentleman exaggerates the surplus on hand, if the President states it correctly. The President, in his annual message, states it at about $14,500,000.

Mr. BROOKS. That was in July last.

Mr. BAYLY. Well, sir, I did not anticipate this debate; and I am speaking without documents before me, therefore I speak in round numbers. I have not seen the returns since that time, but my impression is that the surplus has not been increased since that time; but the documents will show when we get them. But be that as it may, under the existing law the Secretary of the Treasury is authorized to purchase a portion of our stocks; and I know of no better use a debtor can make of his surplus money than to pay his debts. The gentleman says, however, the stocks are at 120 in New York, and he thinks it not a desirable arrangement to purchase our stocks at that rate. Why, sir, a 6 per cent. stock, redeemable in 1868, at 120, is only a little more than 5 per cent. stocks redeemable at the same time; and Government 5 per cents, with that time to run, would be above par. Therefore, there is no loss in buying up these 6 per cents at 120. To say nothing about our surplus of revenue, which is idle, I do not know that we would lose by negotiating fives to redeem them; and besides that, we have a loan payable in six months. I do not pretend to speak with precise accuracy, because the estimates have not been sent in, and I have not referred to those of last year since they appeared; but on the 1st of July next, upwards of six millions of our loan of March, 1843, will be due. My impression is that more than six millions and a quarter will be due at that time, but I know there will be more than six millions due by the 30th of June next.

A MEMBER. That has been anticipated.

Mr. BAYLY. We are somewhat in the dark upon this point, as we have not the report of the Secretary of the Treasury nor the official estimates; but I take it for granted that the loan I refer to has not been redeemed, because the President, in his message, states that about nine millions and a half of the public debt had been redeemed in the last fiscal year, including the Mexican indemnity and the interest upon the public debt—the two together making upwards of seven millions. I think there has been only a little more than two millions of the public debt paid within the last fiscal year, and that the loan due 1st July, 1853, of upwards of six millions, remains yet to be paid.

Mr. JONES, of Tennessee. The President's message says that some $7,000,000 of the public debt has been paid in the last year, but that about $2,000,000 had been paid since the commencement of the present fiscal year.

Mr. BAYLY. That is very true; but he states the amount redeemed at about nine and a half millions; but still to make that out he includes what has been paid of the Mexican indemnity and the interest on the public debt—the two amounting to upwards of $7,000,000. But as to the stock of 3d March, 1843, payable in July, 1853, my impression is that no great amount has been redeemed. This will remain to be seen when we get the documents, when this discussion will be better timed. The Secretary of the Treasury has authority of law, however, to redeem the stock of 1847, and I do not think it would be bad policy to purchase it up at its market value, when the Government has a large surplus in its coffers. It is worth as much to it as it is to anybody else; and it is not discreditable to the Government, in my opinion, for it, when it has a surplus on hand, to purchase its own stock at its current market rate.

But the gentleman from New York says, if the Government of the United States is known to be in the market as the purchaser of its stocks, it will run them up too high. Why, sir, does not every stock-broker in the United States know that the Government is in the market purchasing its own stocks at a premium, just as well as he or I know it?—and yet the price has gone but a little above the par value of a 5 per cent. stock! If we were compelled to purchase them, we might be unduly put up by the brokers; but we are not. Besides the loan of $6,250,000 due next July, there is a debt of near $5,000,000 due in 1856. These loans cannot be much above par, as they have so short a time to run; and if the present law does not authorize the purchase of these loans in advance, we can easily pass a law to authorize it, and thus make the best disposition of our surplus means, by paying with it our debts.

Under all these circumstances, considering that our debt is to be paid, and considering that the Government can expend this surplus revenue in the purchase of its own stock, and thus leave it free for investment in State and other stocks, I do not think this outgoing Congress and the outgoing Administration are under such an imperative duty to undertake, at the short session, the work of remodeling a tariff which, as I have already stated, not only the product of a Democratic Administration, but has also survived untouched, a Whig Administration.

But the gentleman from New York [Mr. BROOKS] says, in reference to the predictions of a deficiency of revenue, which were so confidently made by the enemies of the tariff of 1846, that that tariff was never executed in a *bona fide* manner. He says that by an amendment to an appropriation bill in 1847, and by Walker's Treasury circulars, the amount of revenue derived from that tariff was nearly doubled. The predictions, therefore, that that act would not produce a sufficient amount of revenue to carry on the expenses of the Government have never been fairly tested. Now, sir, although the Supreme Court of the United States decided that these Treasury circulars put a construction upon the tariff of 1846 which, technically, it would not bear, yet we know that Mr. Meredith, who was Mr. Walker's successor, put the same construction upon that act which Mr. Walker put upon it; and we know still further—and nobody knows it better than the gentleman from New York himself, because he coöperated with me in carrying the act of 1850 through this House—that we based our support of the act of 1850, affirming Walker's circular and virtually reversing the decision of the Supreme Court, upon the ground that Walker's circulars did give the construction which Congress intended when they passed the tariff of 1846; and the act of 1850 was urged and carried through this House by me, as it was carried through the Senate by a colleague of mine, [Mr. HUNTER,] upon the same ground. I speak with confidence with regard to this House, because I presented the bill here myself, and with the aid of the gentleman from New York, [Mr. BROOKS,] carried it through; and it was carried through the Senate upon the same ground, as I am nearly quite as confident.

But the gentleman is strangely at fault in respect to the predictions of the inadequacy of the tariff of 1846 to bring a sufficient amount of revenue into the Treasury to meet the expenditures of the Government; for he must bear in mind that those predictions were never made so confidently as by Mr. Meredith in his report of 1849, after these circulars had been put into execution, and when the tariff act was being administered under the construction put upon it by them. He predicted that at the end of the fiscal year 185] there would be a deficiency of upwards of $16,000,000 in our revenue, and called upon us to authorize a loan. That report went before the Committee on Ways and Means, of which I, at that time, was chairman; and I was listened to with incredulity by the House of Representatives when I said that the whole of this calculation would be shown by experience to be utterly fallacious, and that we would have a surplus in place of a deficiency. The error of all those calculations was founded upon an apprehension of a commercial revulsion from excessive importations, and a consequent falling off of imports and revenue. That was the fundamental error which lay at the bottom of all these calculations and estimates. Sufficient allowance was not made for the fact, that under the stimulus of comparative free trade, our exports would augment as fast as our imports. And now, sir, we have similar unfounded alarms and calculations. We are told that but for the production

of gold in California, with our present importations, we would have had a commercial crisis. If our imports had been as large, without that discovery, which, in part, afforded the means to pay for them, as they have been since, doubtless such would have been the case, unless, indeed, the domestic produce which we have sent from the Atlantic to the Pacific and exchanged for gold would have amounted, if sent abroad, to nearly an equivalent amount, as it doubtless would not. But had it not been for the settlement of California, and the product of gold there, the imports would not have been so large as they have been, for the capacity to consume and pay for them would not have been as great; and importers import no more, as a general rule, than they can sell and be paid for; still we would have had an adequate revenue. As far as the circumstance to which the gentleman from New York [Mr. BROOKS] alludes, that the Government, through its subtreasury, is becoming a hoarding miser, exciting my alarm, so far as a commercial revulsion is threatened, the reverse is the case.

If our deposits were with the banks, and they made them the basis of discount, then as our surplus revenue accumulated the bank accommodations would be extended in an increasing ratio. And they thus extended, the imports, and consequently the duties and surplus of revenue, would augment, and this augmentation would be the basis of a new beginning; and thus it would go on, in a geometrical ratio, until there was a crash. But under the sub-treasury it is quite the reverse. The very accumulation of specie in the Treasury restrains to a large extent, the causes which, produced it; and thus, as far as our duties will enforce it, it is a self-adjusting machine.

Mr. Chairman, I am not one of those who have ever maintained that the tariff of 1846 was perfect, or that it was not susceptible of amendment in some of its particulars. On the contrary, when I made the speech which I had the honor to address to the House of Representatives in 1846 in favor of the tariff of that year, I stated explicitly that there were many things in it which I could wish had been otherwise; but I took it as a whole as a very great improvement upon the act of 1842. I do not mean, therefore, in opposing the resolution of the gentleman from New York, [Mr. BROOKS,] to be understood as saying that this act of 1846 is, like the laws of the Medes and Persians, to remain forever unalterable; but I do mean emphatically and explicitly to say, that we have no time at this unusually short session of Congress to review our whole system of revenue, and that if we had the time, in my opinion it would be exceedingly undeferential—if I may be permitted the expression—to the people of the country, for this outgoing Congress, when its last hours are passing away, or for this outgoing Administration, to undertake to upset this whole system of revenue, which has been in successful operation during this entire Administration, to say nothing about the one which preceded it, and which has more than met the expectations even of its friends.

Mr. WOODWARD next obtained the floor, but yielded to

Mr. JONES, of Tennessee, who said: If the gentleman from South Carolina will permit me, I wish to offer an amendment. I have no speech to make upon it. I move to insert after the word "bill," in the amendment of the gentleman from New York, [Mr. BROOKS,] the following:

Preserving the *ad valorem* principle, and reducing the existing duties on imports, with a view to the collection of no more revenue than shall be necessary to defray the legitimate expenses of the Government economically administered.

Mr. HOUSTON. I desire to inquire of the gentleman, whether he offers his amendment as an amendment to the amendment of the gentleman from New York, [Mr. BROOKS,] or to the original resolution?

Mr. JONES. As an amendment to the amendment of the gentleman from New York.

A MEMBER. There is already an amendment to the amendment pending.

Mr. JONES. I understand the amendment offered by the gentleman from Indiana [Mr. LOCKHART] to be in the nature of a substitute.

Mr. WOODWARD. Mr. Chairman, this subject has come unexpectedly to me before the committee this morning, and I shall not detain them by entering, at any length, into a discussion of the general merits of the tariff.

I am aware that Congress need not, at this short session, attempt any general or fundamental action upon this subject; but it is because this is true, and because more than that is true; it is because your longest session is not long enough for mature action upon the subject, that I am in favor of bringing up the question now. I am in favor of instituting a discussion in this body at this session, though I know beforehand that no action will result from that discussion. I desire that this discussion shall go before the country, so that the popular mind may be brought to bear upon the next session in relation to this matter. You have time and again seen propositions of radical reform run out at the end of your longest sessions. Why, do not gentlemen remember—does not my friend from Virginia [Mr. BAYLY] remember that the tariff of 1846 was saved from running out at the end of the session, by its friends refusing to consume the time of the House in debate? I know I declined to discuss it for that reason, and that I urged it upon others to decline its discussion for the same reason. I know that discussion in the Senate was declined for that reason, and I know that ostensible friends of that bill hoped that it might be defeated by discussion, and were disappointed.

Now, I was in favor of the resolution first introduced by the gentleman from New York, [Mr. BROOKS,] the day before yesterday.

It was a proposition to reduce the duties. Are we not on this side for reduction? It was a proposition to raise a special committee for that purpose. Was not the Speaker of this House bound—I do not say as a party man—as a Democrat—but bound by parliamentary rules to constitute such committee favorable to the proposition to reduce? Though he had been a Whig, a high tariff man, he was bound to constitute that committee favorable to the proposition of reduction, for that was the only proposition.

Very true that committee was empowered to send for persons and papers; and if the gentleman from New York [Mr. BROOKS] may have intended—I do not impute such a thing to him by any means, but his intentions seemed to be regarded as having made a part of his resolution—I say though he may have intended that that committee should send for persons and papers only upon one side of the question, still his individual purpose could not control the committee. The committee would not have been bound to send for persons and papers at all, but was only empowered to do so; and if they had been bound, they would have had their own discretion as to the manner in which they would have discharged that obligation.

Now, Mr. Chairman, the gentleman from New York [Mr. BROOKS] seems to be in favor of a permanent, fixed system of duties, which should be adapted to prices abroad, which shall be high enough when prices are low abroad, and when prices are high abroad. I take the position that a permanent system is *impossible*. I take the position that a permanent system is inconsistent with the object of the system—which is the raising of revenue. We are not acting under the power to regulate commerce. We are acting under the power in the Constitution for raising and collecting duties, excises, and imposts. This is purely a money power; declared so by all your jurists—Judge Marshall among the rest.

I mean to say that a permanent tariff is impossible, consistently with the nature of the trust reposed in us. Our duty is to raise revenue by the imposition of duties and imposts. Well, sir, what constitutes the capacity, or the measure of the capacity of a country, to raise revenue by imposts? It is the absence of wealth in particular forms. It is because you can buy abroad what you do not make at home; or can buy cheaper abroad than you can at home. It is the difference between the cost of domestic and foreign production which enables you to impose a duty, and without this difference you could impose no duty at all. Why, sir, in 1816 you could have imported a hat, such as that before me, under a duty of 150, possibly 200 per cent. Now, sir, a duty of thirty or forty per cent. would be prohibitory. Why? Because the country has greatly enhanced its own manufacture of hats. It is because the growth of the wealth of the country in hats, has diminished the difference between the value of the domestic and foreign article. It is this that has disabled you to impose heavy duties. I could take a thousand other articles. I will take cotton cloths; all the manufactures of leather, as very prominent articles for illustrating this principle. In 1816, most of the suggested articles could have borne a duty of 100 per cent. Now, many of them are incapable of any duty. Cotton goods which would have borne a duty of 100 per cent. twenty years ago, are now exported. If you were to levy a duty of three per cent. upon them it would be prohibitory. The same might be predicated of thousands of articles. A very long list of merchandise has become incapable of duty, and every single article of manufacture has become capable of less and less duty, successively and continually; not a year, not a month revolves, but some article of foreign trade becomes incapable of duty.

Take the article of sugar, once a prominent article in the protective system. Twenty years ago sugar would have borne a duty of 150, and probably 200 per cent. I will stand corrected if I am in error. It did in fact bear a heavy duty. How is it now? What would be called a revenue duty in the view of a high tariff man, would now be a prohibition upon sugar, and it is not difficult to foresee that in ten years from this hour—and ten years is but an hour in the lifetime of a nation—sugar will be exported from the United States. And if the high tariff interest should make any proposition relative to it, ten years hence, it is most likely they will insist upon a repeal of all duties in order that the raw material may come in cheap to the manufacturer; for they teach us that whatever they want to buy is made cheaper by a low duty, and whatever they want to sell is made dearer by a low duty.

Now, sir, this country has to determine at once whether it is to raise its revenue by imposts or by direct taxes. There are two modes of reducing revenue—one by reducing the duties on all articles; another by reducing the amount of foreign commerce that is made liable to duty—in other words, you may reduce the revenue by prohibitory duties, as well as by repealing duties. A duty that is prohibitory makes you no more revenue than no duty at all, and that is the practical proposition now before the country. The surplus in the Treasury has forced the question upon us. The country sees that there ought to be a reduction of the tariff. There is no question how the Government can raise sufficient revenue. That was the question which the free-trade party had to meet in 1846. Many of the friends of a low tariff were driven from the support of the tariff of 1846 because they were persuaded that the Government would be bankrupted by it. It was not that they were averse to low duties—not that they were in favor of protection, but that they were afraid that they would impoverish the Government. That argument or ground of apprehension is now gone. There is a surplus in the Treasury of from seven to fourteen millions of dollars, and the question is whether you will continue that surplus, and if not, how you are to get rid of it. If it is determined that the surplus shall not be rendered permanent, then you are to decide whether you will reduce the revenue by reducing the duties, or by enacting prohibitory duties, I maintain that this question could not go before the country in a form more favorable to free trade, or at a time more propitious than the present. In 1846 there was a deficient revenue, and the friends of a moderate tariff found it difficult to persuade the community that high duties made low revenue. The proposition was a little complex. But, sir, now that there is a surplus, the gentlemen who may propose to reduce the revenue by high duties must themselves evolve and expound that complex proposition. It does not rest upon our shoulders to do it. They propose to reduce the revenue now, and they must show the country that raising duties will reduce the revenue, or else unite with us in the opposite idea—they must maintain our former proposition.

Having $14,000,000 surplus, the naked question is how to get rid of it; and my word for it, the people of the United States will demand a reduction of duties when that proposition is submitted to them.

The tariff of 1846 is rapidly becoming a prohibitory tariff. Why? Because the cost of production in the United States is continually diminishing—because the difference in the cost of manufacturing in the United States and in foreign countries is becoming less and less. American skill is ad-

vancing. American profits are lowering. American economy is improving. Machinery, which makes everything now—the hands of man do but little—is as skillful in the United States as in England. There are very few things we cannot make almost as cheap as they are made abroad. But just in proportion as our capacity to manufacture cheaply advances, so must duties fall progressively. The principle of low duties must be as progressive as American skill and American machinery, or else your tariff will become prohibitory.

Now, sir, I lay it down as an undeniable proposition—and I am willing, in the course of this discussion, which I hope will go on, to be met upon the proposition—that the tariff of 1846 is at this time more prohibitory than the tariff of 1842 was at that time; and I maintain that if the tariff of 1842 were now the tariff of the country, your revenue would be less than $35,000,000, and if the tariff of 1828 were now the tariff of the United States, your revenue would not exceed $25,000,000, because with the advancing skill of American artists, foreign competition could not pay the duties imposed at that time, and come into competition with us.

As to agricultural articles, look at the extent of this country. We are the producers of almost everything. What that is produced in any other country is not produced, or capable of being produced, in the United States? Tell me what articles of manufacture abroad, or what of the agricultural products of foreign climes, are not also produced in the United States, or likely soon to be? Coffee, tea, and some few tropical fruits, are not, I believe, found in the United States, but almost every other production is. The United States is a great Zoll-Verein, extending from the highest northern to the lowest southern latitude. Should Cuba become a portion of them, there will be almost nothing produced throughout the world that will not have its representative or analogue in the United States. I am told that in the deserts of California they actually find the gum acasia, a commodity thought indigenous only in the sand seas of Africa.

In our day, almost everything is manufactured by means of machinery. A railroad locomotive, of five-horse power, inferior in quality and uncertain in its operation, and requiring to be tinkered every trip of fifty or one hundred miles, fifteen years ago, to my knowledge, cost $10,000. You now get an engine of six times that power, three times the speed, and as reliable for its operation as the rising of the sun and moon, for $6,000 or $7,000. Who will pretend that permanent duties are appropriate for that article? If a strict estimate be made, it will be found that railroad locomotives have been cheapened ninety per cent., and that is the reason why railroad stock, which was sold a few years back for thirty per cent., is now one hundred and twenty-five and one hundred and thirty. I state this to illustrate the fact that American skill is progressing. It is hard on the heels of European skill, and so long as the difference between the two diminishes, which difference is the only thing which makes revenue by impost possible, your duties must be reduced progressively. A permanent system is an absurdity, if revenue be the object. Can any gentleman say what articles are not subject to the laws I have laid down? Take breadstuffs: What reason have we to imagine any description of breadstuffs will long remain cheaper elsewhere than in the United States? This great country has the greatest amount of waste land and the most genial climates on the face of the earth. Are we to become dependent on foreign countries for breadstuffs? Never! Are we to become dependent on them for anything having relation to live-stock, or for animal products?

It is only because the people of the United States can live on half labor, and the whole people can live by the labor of one half, and because you get your land for nothing, that we do not drive Europe out of every market. When the population of the United States becomes a little more compact we will want to sell everything; for, taking in the northern region of Maine, the northwest division of our territory this and the other side of the Rocky Mountains, and Texas, with the countries which can hardly fail to come under the operation of our institutions before many years, we will have (so to speak) an analogue to every country in the universe. A nation limited to a particular region, like that of England, capable of having only a few descriptions of minerals, and producing only a limited number of vegetable commodities and raising a limited number of cattle, may be thus dependent, because there are a great many things she needs not produced within her boundaries; but to think of this great Zoll-Verein—this great free-trade alliance of States, covering every clime of the world, resting their revenue system upon no broader a basis than their deficient capacity for home production, is absurd. Suppose the States of Europe, like the States of America, were united on the principle of a Zoll-Verein, (and to complete the comparison you should include the northern States of Africa,) with free trade among them as there is by the Constitution among these States, and without any other reliance for revenue than on trade external to the whole of them, what would be the consequence? Royalty and nobility, armies and navies, would starve on any possible revenue under the case supposed. That is not yet our condition, but we are coming to it rapidly. Wood is cheaper in the United States than in England, and why cannot we make wooden fabrics cheaper? A laborer buys his meal for fifty cents a bushel here, and there for $1 50, and why cannot the laborer here, working ten hours a day, live better than the laborer there working fourteen hours a day? The half of a dollar is four times as much to a man in Ohio, Indiana, or Illinois, as to a man in Manchester, because he can get four times as much to eat with it. If he can live so much cheaper, and if the materials for manufacture, mineral and vegetable, are also cheaper, why cannot he manufacture cheaper? He can do it. He does not do it, because he can live comfortably without hard labor; while in Europe the operative must use diligent and hard labor or perish. There is there a necessity to do it. Were our operatives to undergo the same labor, a man in Ohio would break down his competitor in England, because he obtains his raw material a vast deal cheaper, and his bread and meal at less than half price.

But this is not to continue always. The population of the United States is becoming dense. The northern and middle States will not always have the alternative of high wages at home or public land in the West. The alternative of fleeing to the West to cultivate the soil instead of working for wages below certain rates, disables manufacturing in the older States; but that disability is continually being reduced. The new country is settling up, land is increasing in value, and every day your manufacturer acquires a new facility to bring his labor to cheap wages. I do not desire cheap wages. I am not speaking according to any sentiment of mind, but according to the laws of political economy. They will rule. Wages will be regulated by supply and demand, and you may as well try to repeal the laws of chemistry as to repeal that law. They are all the laws of God. And I shall never hope by progressive political science, to substitute a better law for it. The tariff of 1846 is this moment a more protective one than when it was passed, because there are articles which the United States can now manufacture and send abroad she could not then. Why, sir, you have a card teeth-setting machine that has cut off one half of the revenue of the United States on that article. A machine can work as cheap in the United States as in England. It does not matter whether it be run among a crowded or sparse population. A pin-making machine will work as rapidly in a wilderness as in a dense population. Take your machine for making percussion caps, and your machine for moulding bullets, (and I speak of these as curiosities familiar to every one,) will they make fewer caps or fewer bullets in the United States because we have a sparse population? They are constructed mathematically, to run so fast, and in that proportion is their product.

This is an age of machines, not eating each other up like the Kilkenny cats, but making each other. Everything is made by them. There is not a solitary day that we are not astonished by some new development in the arts and sciences. Go look at the list of patents in the Patent Office, and you will find that some mechanical contrivance has every month in the year taken labor out of the hands of men. The whole cost of production, I will venture to say, has diminished 30 per cent. since the tariff of 1846. If so, and the foreign cost has diminished only 10 per cent., then your capacity for duties on foreign merchandise has diminished 20 per cent. It is the absent article you tax in an impost system, and not what is present.

When you find a domestic substitute for the foreign article equal to the consumption of the country, your capacity for duty is gone. I already foresee, looking to the lifetime of a nation, that the time is near at hand, when an impost system cannot furnish the United States with revenue. The tariff of 1846 would not have furnished you sufficient revenue but for the discovery of gold mines in California; for the discovery of these mines, throwing a vast amount of specie in circulation, or in trade, triplicating the paper currency of the country, has added to your foreign trade $50,000,000 or $60,000,000. The commercial basis upon which your duties are estimated is $50,000,000 greater than it would have been had not the mines in California been discovered. The discovery of these mines, by the by, and their yield, has saved this country from a commercial revulsion. We are now in the midst of the period when that revulsion would have occurred, but for the finding of these mines. Your commerce runs to about $200,000,000. In 1846, it was very little over $100,000,000. My opinion is, that the commercial basis was less than $100,000,000. These gold mines have added not only to the means of purchasing, but they have greatly enhanced our credit abroad. They have given us credit, and for every dollar dug up in California we can buy two dollars' worth abroad—one for cash and the other upon credit. That is the reason your revenue is so high at this time; but it cannot last. The gentleman has referred to the estimates of the tariff of 1846, showing how we were then disappointed. Now, I happened not to be disappointed. I had been for several years on the Committee on Manufactures, and I felt it my duty to look into that matter. I did not know but that the question of revenue would come before that committee. I recollect perfectly well that my estimates, at the time most carefully made, gave $28,000,000. I remember distinctly three or four friends coming to me and asking me whether we had not better put off the whole matter, saying there was danger that we would reduce the revenue so much that the whole country would become disgusted with the free-trade party. I said to these gentlemen, "If this tariff does not give us $28,000,000, take my head off at the block." I was not deceived in my estimates.

I am persuaded that the first proposition of the gentleman from New York [Mr. BROOKS] would have been voted for by every sincere free-trade man upon this side of the House, had it not been sprung upon us unawares. They were afraid of some trap set for them. They thought it extraordinary that the gentleman from New York [Mr. BROOKS] should be the author of such a proposition. It never once occurred to them that that gentleman was capable of making a mistake. I could see plainly that he had made a mistake in submitting that proposition; that the parliamentary rule would give us the committee, and that the whole thing would result in a thorough investigation of the question, and result in a discussion not upon the abstract question of philosophical political economy, but upon the existing crisis now before the country. It would have been a specific inquiry as to the present revenue, the present commerce, the present surplus, laying aside all philosophical abstractions.

Mr. BAYLY, of Virginia. If there be a commercial revulsion in prospect, would it not be better, since we have a surplus, to provide for our debt, which will not embarrass us when the revulsion comes?

Mr. WOODWARD. That was a part of the argument which I overlooked. I have shown that duties are progressively advancing towards the prohibitory point. There are articles now imported into the United States under a duty, which under that same tariff will not be capable of importation hereafter, and by reducing the duty you will greatly increase revenue.

I do not believe in a horizontal tariff in any sense, and I am not going to sustain a maxim because the Democratic party is the author of that maxim. There is a great variety of articles that will not bear more than 5 per cent. If you put 20 per cent. upon them they are prohibited. There are other commodities that will bear a duty of 20

per cent., and would raise the highest possible revenue at that duty. Would I have the same duty upon each of these articles out of respect to the horizontal principle? We ought to measure the capacity for duty of each article, and adjust the duty accordingly.

I was about to conclude by saying, that if twelve months be permitted to elapse, and this discussion is deferred to the commencement of the next Congress, we will not get a bill through even at the long session of Congress. We have failed too often, and always would have failed, but for expedients by the prominent friends of free trade in the session of 1846.

Mr. BROWN, of Mississippi. I desire to call the gentleman's attention to one point he has made. He seems to be apprehensive that, under the operation of the present tariff, we are in danger of a commercial revulsion. The present tariff has raised a larger amount of revenue than the Government consumes. One of the chief complaints is, that we have more revenue than our wants demand. The gentleman from South Carolina, [Mr. WOODWARD,] if I understand the drift of his argument, is in favor of reducing the duties. The point which I submit to him is this: If you reduce the duties, will you not necessarily increase the amount of imports; and in doing that, will you not of necessity make the danger more imminent of that very commercial revulsion of which the gentleman seems to be apprehensive?

Mr. WOODWARD. Revulsions are brought on by the private acts of individuals. The Government does not bring them on, and the Government cannot keep them off. It is the excessive issue of bank paper that brings them on; it is buying too largely on credit; and if people will do it, let them suffer for it. The Government does not bring on these revulsions, and it ought not to be looked to to relieve the country from them

Mr. CLINGMAN. I desire to ask the gentleman from South Carolina a question. I agree with him in the general doctrine that this expansion of bank currency is likely to be attended with such effects as he attributes to it. But since the last revulsion, the United States have become a great gold-producing country—producing sixty or seventy millions of gold annually, and exporting some forty or fifty millions. Now, the question I wish to put to my friend from South Carolina is this: Suppose there should be a pressure here, would not the effect of it really be to stop this export of forty or fifty millions of gold, and thus prevent the revulsion from operating as it did formerly? For instance, if things became very tight, instead of relying on bank currency alone, and sending abroad forty or fifty millions of gold, that specie might be retained in this country, and no such evils as the gentleman seems to apprehend would result. It strikes me, therefore, that as long as we continue to get gold in much larger quantities than we need it, this system will not produce the injury which the gentleman apprehends. But the moment we stop producing gold, or the moment we produce less than sufficient to supply our wants, then I think this difficulty will present itself.

Mr. WOODWARD. My friend has stated what I endeavored to state, that the increase in the production of gold has operated to postpone this crisis. But I think he falls into one error. He seems to suppose that as long as the yield of gold continues what it is, we will have a safeguard against such revulsions for all future time, or for an indefinite future. I dissent from that. It will only postpone it for a certain time, under the laws of political economy. The yield of gold must be progressive in order to put off such a crisis. If a people will have a bank currency based upon credit—three paper capitals to one specie capital, or probably no specie capital at all—they must suffer the consequence, and all the governments on God's earth cannot save them from it. Now, I think, however, that there is a probability that the yield of the gold mines of California will be for a time progressive. The earth seems to contain an indefinite quantity of gold. The yield thus far has been in proportion to the population. Just exactly as the population has increased in California, the produce of gold has increased; and we have a right to expect that if the population doubles during twenty years, the increase of gold may also double, and that may save the country from revulsions.

Mr. CLINGMAN. I do not think my friend understood me exactly. My view is this: that until the export of gold has to be stopped this danger will not occur. As long as we are a great gold-exporting country the want of money here will check that exportation and must check it, and whilst we produce a great deal more gold than we need the danger is not to be apprehended.

Mr. WOODWARD. So long as gold accumulates for exportation we will be safe. But for every dollar of gold you build up three dollars of paper, and that is the way in which the danger is to come. The exportation of gold, paying debts and getting property in exchange for it, is the way to avoid a revulsion. You either have to send abroad your gold and buy useful merchandise with it, or if you keep the gold you buy three times its quantity in worthless shinplasters, and that is all you get by it.

Mr. CLEVELAND. Mr. Chairman, all thinking men must agree that the subject of a modification of the tariff is one of no ordinary interest; and while we are debating it in this House, holders of property to the amount of many hundred millions of dollars, the moment they see what we are doing, become sensitive and are affected to a very considerable extent in anticipation of what may be the action of Congress upon it.

It is a little singular that duing a two days' debate here, no man has risen who does not feel it his duty to advocate a reduction of duties for the purpose of lessening the revenue without regard to the great interests of the country.

It may be well, perhaps, to inquire at starting what will be the effect of a policy such as advocated by the gentleman from South Carolina, [Mr. WOODWARD,] and by the gentleman from New York, [Mr. BROOKS,] (if the latter speaks as he feels on this subject,) if adopted? Suppose, for example, you reduce the duty on railroad iron, cotton, and woolen goods, one third, do you not necessarily thereby offer great inducements to the capitalists of this country—and there never has been a time when they were better able, and the means to do so more readily within their reach, or more abundant—to send abroad gold and silver for the purchase of foreign goods with which to glut our markets? Is there a gentleman here who, having reflected at all upon this subject, doubts that this will be the result of such a reduction, and that the impetus thus given to importation will double the revenue of this country? If, then, you reduce the duties on these articles one third, under the impression that you will thereby reduce the revenue, the result will inevitably prove the mistake, as every member here must see that the tremendous impetus thus given to importation instead of depleting the Treasury, as the gentleman from New York [Mr. BROOKS] is seemingly desirous of doing, will necessarily create a plethora much greater than now exists. And yet, if I correctly understand gentlemen who have preceded me, this reduction is advocated on all sides of the House—by both Whigs and Democrats. Why it is preached at this time, and never before, is a question which every gentleman must answer for himself. It is not for me to speculate upon it. The effect of this policy would be to produce an increase of the very evil which the gentleman from New York pretends to deprecate.

Suppose, sir, you succeed, by this novel mode of legislation, in preventing the importation of iron, who are to be the gainers? Certainly not the manufacturers of iron in Pennsylvania, New England, the western States, or elsewhere through our country. Not the mass of laborers now employed in the furnaces, for every one of them must suffer. Not the men who have now hundreds of millions of dollars invested in the manufacture of woolen and cotton goods, for they, and the thousands of laborers employed by them, must also suffer. Who, then, is to gain by it? The manufacturers of Europe, the men who have capital and who cannot command for it more than three per cent. at home. These capitalists will be the gainers, and the people of this entire country, your own country, will be the losers. My western friends flatter themselves that they are to gain because iron and other articles of very general necessity will be cheapened. So far from that, they will be, not in the power of men who have healthy competition to keep down prices, but in the power of the monopolists of another country, who can regulate prices to suit themselves. Thus they will bring about the very result, increased prices, which gentlemen from the West seem now desirous of avoiding.

I ask these gentlemen in all candor, before they strike a vital blow at the interests of the New England and middle States for the sake of a supposed benefit to themselves, to pause and examine this subject, and see if they will not feel the recoil of the blow, and if it will not prostrate their present prosperity.

Now, sir, I deny that any one section of this country can be benefited by an injury done to another portion, or to any one of its great interests, by legislation in Congress. Many a man comes here, I know, with the idea that his duty is confined merely to watching, and, as far as possible, advancing the interests of his particular section; and he legislates with reference to that idea, either for the purpose of making himself personally popular at home, or because he cannot comprehend the interests of the whole country. No legislation by Congress for the benefit of one section to the injury of another, ever resulted in anything but mischief to the entire country, and most generally even to the section which it was intended to benefit. All partial legislation is unfair, and ruinous in its results.

In regard to the resolution offered by the gentleman from New York, [Mr. BROOKS,] the other day, I voted against it because it carried with it instructions for a general reduction of duties. When a question of this magnitude, a question involving the interests of all sections of our Confederacy is to be investigated, I am opposed to giving instructions to the committee which may embarrass its action or the action of Congress. Why instruct the committee at all? and why not vote to appoint this committee without instructions? Will it be said by the friends of a judicious tariff that they are afraid to have this subject investigated and discussed? Are they afraid to meet the question of free trade? I for one participate in no such idle fears. I am in favor of free discussion; and if this question can be taken out of politics and decided upon its merits, the manufacturers have nothing to fear; because free trade can never exist in this country without a reduction of the price of labor to something near the standard in countries where the Government is in the hands of the few, and all legislation is for their benefit; where a laboring man is treated as a mere machine, and compelled for a mere existence to perform all the labor which his physical ability will allow; and the gentleman from South Carolina seems to understand that this is to be ultimately the condition of the laborer in this country; although he does not wish it, yet he appears to think that this is the law of God. God forbid, sir, that I should aid in any legislation which is to result in an injury to labor. Let that be degraded and we shall soon cease to be a free people.

I believe the Speaker may select seven men from this body who are competent to take up the whole matter, give it a thorough investigation, free from prejudice or party bias, and report their doings to the House as well without instructions as with, and especially without instructions to make a general reduction.

Are we afraid to trust the Speaker in the selection of such a committee? or to trust our brother members whom the Speaker shall select? Why, sir, that committee may find, and if they act discreetly, in my judgment they will, that the true policy of this Government is to remove entirely the duty upon such articles as are not the growth and product of our country. Take, for example, the article of silk. My worthy friend from South Carolina, [Mr. WOODWARD,] called upon the House to say what dutiable article, of any considerable importance, was not the product of this country, or could not be produced here. This is one, and among other articles, we import millions upon millions' worth of silks every year, by which we enrich other countries. We support the labor of others by this annual importation, and yet there are but few pounds of raw silk taken from silk-worms within the limits of the United States.

The gentleman from South Carolina talks of producing all our own raw materials. Sir, I ask him, and this intelligent House, upon what sound principle we can hold on to the duty upon raw silk? It is a species of manufacture, to be sure, now in its infancy in this country, but an exceedingly important one. Upon what ground is this duty levied? When the act of 1846 passed,

it was under a state of things which the gentleman from New York [Mr. BROOKS] correctly decribes. The men who passed that act believed very much in the predictions of gentlemen on the Whig side of the House. They believed it was necessary to lay this duty in order to create a sufficient amount of revenue, thereby enabling them to reduce the duties upon other and very important articles, to gratify the opinions of the people in some sections of the country. Now, I ask if any such necessity exists at the present moment, and why raw silk should now pay a duty? Who gains by it? Nobody; for we have already as much revenue as we want, and more. Who suffers by it? The whole country; for the duty upon this article has the effect of crippling our existing manufactures of silk, and of deterring men from investing their capital in it. Is there a man in this Hall who is not desirous of having silks manufactured in this country? Is there a man, however anxious for free trade, who woul not prefer silks manufactured in this country, provided they were as good and cheap as those produced abroad? If there be such a one, I do not believe he dares stand up and avow it. But if he does, he lacks, in my judgment, something of being an American.

Again, take the article of dye-stuffs, and all articles used for manufacturing purposes not the product of this country. Why should the manufacturer be taxed for them? Will it be said that these interests in this country are in an exceedingly prosperous condition—that the manufacturers are amassing fortunes, and therefore they ought to pay this tax to the Government? That has been the argument used in support of this and other fallacies; but if you will investigate the matter, you will find that those who have thus invested their capital in this country, taken as a whole from the beginning, have not realized two per cent. on the amount thus invested. Then why may not this alteration be made, so that while it protects the Government and the people from a large surplus revenue, it may at the same time do justice to a most meritorious class of our citizens—the manufacturers?

Sir, there has been a *feeling*,—and I may as well allude to it,—a *sectional feeling* existing, to some extent, against the tariff. Suppose this feeling should prevail, and we should have unlimited free trade, what would be its effect? The destruction of the entire manufacturing interes's in this country. I shall not stop to prove this, because there is not a man who hears me, who, in my opinion, will not admit it. As no man will claim that the laborers in this country can be made to sink to the condition of the laborers of Europe, with whom, in the event of the adoption by this Government of the doctrines of free trade, they would be compelled to compete. Suppose in that event, that by-and-by we should have a war with Europe, and my southern friends, whose property consists mostly in plantations and the means necessary to work them, should raise a fine crop of cotton, and were shut off from their market by that war, what would become of their cotton, of their negroes, and themselves? It seems to me this is a matter they ought to think of. In this event, the almost entire product of that section of the country would become utterly valueless. Let them remember that the cry raised against northern manufacturers, may possibly be carried so far as to realize the maxim that "Whom the gods would destroy, they first make mad." It is a system by which, if you correctly comprehend it, you must see you are in danger of cutting your own throats.

Sir, the tariff is a matter I desire the House to act upon without any sort of sectional feeling. We have had enough of that upon other subjects. It seems to me this is the time to take up this whole subject, and act upon it dispassionately—and why? Because there is now but one party in the country, exerting power as such. I say it with the kindest feelings towards those who constitute the minority. At the present moment there is a general acquiescence in the propriety of allowing the Democratic party to take charge of the Government and its legislation; and therefore it is a favorable time to discuss and act upon this subject. Let us appoint this committee; let them ascertain facts, and report to the House the result of their investigations; and let the House act upon that report entirely independent of, and uninfluenced by, party or sectional feelings. This is a favorable time for another reason: at present, the country is in an exceedingly prosperous condition, and therefore there is no danger that the manufacturer will obtain any undue advantage in the tariff of duties.

Sir, I ask you, this House, and the country, if there has not been enough of the notions of denying to the manufacturer a reasonable protection, and of adhering to free trade, because that is a popular doctrine, and popular probably in most instances from not being understood, and from the fact that a tariff for protection has been used by an unpopular party to advance their own interests? I ask again, if it is not time for this House, in view of what we have to encounter—for it is inevitable that there must be action upon this subject—for us to enter upon this work now? Gentlemen tell us tnat this is a short session. Every one knows that we generally perform more work in three months, (the short session,) than in nine during the long session. Past experience proves this. We have time enough. Is there, then, any interest more pressing than that presented by the resolution of the gentleman from New York, [Mr. BROOKS?] And in view of this fact, is it wise to trammel this committee with instructions? All we can do wisely is to authorize them to inquire into the whole matter, and let them report. Is there a man here who is fearful of losing his power of discrimination, or his independence of action, when that report is made? No, sir. Certainly no man will acknowledge that he feels it, and I trust no man upon this floor feels it. What we want is information, which we have not now; and the only question is, can any better mode of obtaining it be devised than by appointing this committee? It seems to me there is no danger that the Speaker will appoint a committee who will favor any particular interest. I am willing to trust him, and I believe every member of the House is so. There is, then, no apology for giving these instructions. They will, as I stated in the outset, create a feeling of insecurity among those who have an immense amount of property invested in manufactures. In the appointment of this committee, with these instructions, we hazard the interests of men who have invested their all in this particular kind of property. Justice to them, it seems to me, requires that we should appoint this committee, but that it should be appointed without instructions. The banks will not then be calling upon the manufacturers for payment in full of their notes, and thereby ruin men without the least necessity. I appeal to every member of the House in their behalf, and against hasty and detrimental action in this particular.

There is a feeling somewhat prevalent, which I have noticed for three years past, that the tariff of 1846 cannot be touched. It is certainly paying ourselves a miserable compliment, when we say that the men who made that tariff, and could not foresee all its effects, were so much better qualified to act upon this important subject than we who have noticed its operations. No, sir, when we find from the workings of that tariff that further legislation is necessary, like independent freemen, and the Representatives of such, let us take it up and look at it candidly, without sectional feeling, and without any trammels or incumbrances. Let us act upon it, every man feeling himself personally responsible, not to a particular section, or district, or party, but let him act as an American statesman, for the interest of the whole country.

Another idea. The interests involved in manufacturing are now easier than they have been, and justice requires that we should act upon this subject speedily, if at all, for men may, and doubtless will, invest largely under the idea of a "good time coming." I think we are bound to act early, and by so doing give fair warning to all of the policy of the nation and Government, on this important question. We cannot make any apology for our neglect, if we do not do it. The reason why I did not vote the other day for the proposition of the gentleman from New York, [Mr. BROOKS,] as I before stated, was because it contained instructions which were needless, and, to some extent, meaningless, and calculated to do immense mischief.

I am now in favor of voting down the amendment of the gentleman from Indiana, [Mr. LOCKHART,] giving instructions to the committee, and all amendments of that character; and I am in favor of voting for the resolution as it now stands. I suppose that every man who is desirous of having this matter treated with fairness and justice to the large interests of Pennsylvania and New England, as well as to those of the West and South—for they, too, are largely interested in this matter—will vote for the appointment of this committee. Let it be raised; let its members obtain all the information in their power, and then report to the House.

Sir, for these reasons, without going into a defense of duties of a protective, or any other character, I ask the House to appoint the committee, and to appoint it without any instruction, except that they shall so perform their duty as to report within a reasonable period. Then let this House take up the subject understandingly, and the manufacturer, cotton-grower, hemp-grower, the wheat-grower, and every other class on this continent who have any interest in our legislation, may have a fair hearing, and the law may be made so as to operate equally upon all, and there will be no such thing as party spirit interfering with legislation upon this subject, at this or any future session of Congress. Party feeling has too often ruled the legislation of this nation; and although I am a party man, and desire its success, yet I desire the prosperity of my country more.

Mr. DUNCAN. Mr. Chairman, I am induced to ask the indulgence of the House to a few remarks upon this interesting topic. I agree with the gentleman who just sat down, that this is a question which should be considered irrespective of party. It is above party, and beyond party. There should be but one party where the industrial interests of the country are concerned, and, for one, I am ready to coöperate with any man of whatever party, and to yield to any party the honor of promoting those interests; and, sir, I am indifferent whether those interests are promoted by increasing, or by reducing duties on such articles as enter into the labor of the country.

Whatever opinions a majority of this House may entertain in regard to the general principles of the tariff of '46, I presume there is no intelligent gentleman who will contend here that the tariff is perfect—that it is entirely free from faults—that there are no particulars in which it might not be amended beneficially to some interests, without being prejudicial to other interests of the country. But I rise mainly to ask the attention of the House to a few particulars, and a few evils and errors in the tariff of '46, to correct which I vainly attempted to introduce a bill at the late session. The first and most important of these is, in relation to the article of wool. Wool of every description imported into this country, pays a duty of thirty per cent., while coarse blankets and some similar articles pay a duty of only twenty per cent. Worsted yarns and other articles of that description pay a duty of only twenty-five per cent. The tariff is thus made to operate directly against the interest of those engaged in the manufacture of those articles; and to add to the unequal competition, they are obliged to wage with the cheaper capital and cheaper labor of other countries, the burden of a higher duty on the raw material they are compelled to use than is paid on the imported fabrics. For while England admits wool free of duty, the manufacturer in this country is compelled to pay thirty per cent. upon every description of wool. Now, it is essential to the manufacture of low-priced woolen blankets, and articles of that description, and to the manufacturer of worsted, that he should use a cheap imported wool. The wool which he uses is not produced in this country, and the duty upon it might be reduced without prejudice to American wool-growers. And I think gentlemen who have any knowledge of the progress of carpet manufacturing in this country, and the effect it has had in reducing the price of the article, will admit that it is a manufacture which ought to be favored.

I would desire, therefore, that the duty on foreign wool, of a low grade, and low price, should be reduced. I believe it can be done without prejudice or injustice to wool-growers in this country.

There is another article—that of flax, which is not extensively produced in this country, so far as my inquiries extend. The duty on flax, by the tariff of '46, is twice as much as it was by the tariff of '42. I am assured by manufacturers, who have had great experience in this matter, that they are compelled, in order to make thread of the best quality, to import to a large extent flax of foreign

production, and the circumstances of the high and oppressive rate of duty, has, to a great extent, discouraged the manufacture of flax in this country. If the duty be diminished it would give a stimulus to the manufacture of linen, and thus by increasing the consumption of flax would induce the flax-growers of this country to extend the cultivation and improve the quality of their flax, and make its production profitable.

The gentleman who preceded me [Mr. CLEVELAND] adverted to the article of silk. It is true, as he states, and as every gentleman in this House knows, that we pay millions every year to foreign nations for silk. It is true that the manufacture of silk has, in some instances, been successfully begun. Ribbons, handkerchiefs, vestings, and some other articles have been made with success, but the raising of silk-worms is not a favorite pursuit with the people of this country; and I am informed that those who are engaged in the manufacture of silk are compelled to import the raw material. Now, it would obviously tend to increase the manufacture of silk provided the manufacturers could obtain the raw material free of duty; at the same time it would tend, by the quantity of silk manufactured in this country, to diminish the foreign importation of the article, and therefore would reduce the surplus revenues of the country, which have become two large for the just expenses of Government.

There is still another point. While England admits the articles which enter into her manufactures free of duty, the drugs and dye-stuffs which are of necessity used in the manufacture of cloths in this country, are taxed with a duty of from 5 to 20 per cent., and the amount paid by some establishments within my knowledge is astonishingly large. The duties upon these materials, which are not the production of this country, operate to depress the successful prosecution of our manufactures. Why then should they be continued?

By admitting these articles free of duty, the amount of revenue would be decreased without prejudice to any producing interests of this country, and the manufacturers having occasion to use these raw materials, would be greatly benefited. At the same time it would operate to benefit not the manufacturer alone, but also the consumers, by reducing the price of the manufactured articles.

I shall therefore vote for the proposition of the gentleman from New York, [Mr. BROOKS,] and if it is thought that the present session does not afford sufficient time to admit of any extensive alteration of the tariff, I am content that any errors which may be found in it shall be corrected, and any partial amendments which may commend themselves to the judgment of this House, shall be adopted.

Mr. JONES, of Pennsylvania, here obtained the floor, but yielded to—

Mr. ORR, who moved that the committee rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee [Mr. STUART] reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

Mr. ORR. I move that when this House adjourns it adjourn to meet on Monday next.

The question was put, and the motion was agreed to.

LIEUTENANT GENERAL.

Mr. GORMAN. I desire to give notice that I will on to-morrow, or on some early day thereafter, ask leave to introduce a bill to authorize the President of the United States to confer the rank of lieutenant general——

[Cries of "I object!" "I object!"]

Mr. JONES, of Tennessee. The gentleman has no right to give such a notice, and I object.

The SPEAKER, (Mr. STANTON, of Tennessee, in the chair.) It is not in order to give this notice if it is objected to.

On motion, the House then adjourned.

NOTICES OF BILLS.

Mr. DARBY gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce "A bill to settle disputes and difficulties in relation to certain land titles in the State of Missouri."

Mr. HASCALL gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce "A bill granting a pension to the widow of General Phineas Stanton, deceased."

PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. AIKEN: The memorial of the Charleston, South Carolina, Chamber of Commerce, for metal buoys and a bell buoy for the harbor, in the place of those now used; also, a light-ship to be placed on the Rattlesnake Shoal, and a third-class tower to be erected in front of the light-house on Morris's Island.

Also, the petition of H. W. Kuhtmann, praying that the name of the ship "Prentice of Beverly" be changed to that of "Leonir," and for a register.

Also, the memorial of the Charleston, South Carolina, Chamber of Commerce, asking further appropriation for deepening the bar and improving the harbor of Charleston, South Carolina.

By Mr. BERNHISEL: The memorial of the Governor and Legislative Assembly of the Territory of Utah, asking Congress for an appropriation to defray the expenses of repelling incursions of Indians.

Also, the memorial of the Governor and Legislative Assembly of the Territory of Utah, asking Congress for an appropriation of sixty thousand dollars for the erection of a territorial prison.

By Mr. CHAPMAN: The memorial of Thomas Cowperthwait & Co., and others, and resolutions of the State Legislature, praying for a distribution by Congress of the Decisions of the Supreme Court of the United States.

By Mr. CLEMENS: The petition of James Bennett, with the accompanying papers, claiming pay for his services as a soldier in the war of 1812.

By Mr. ROBIE: For a mail route from Naples, Ontario county, New York, by Riker Hollow, to Prattsburg, Steuben county, New York.

By Mr. MOORE, of Louisiana: The petition of Mrs. Louise Pintard Sereure, widow of Lieutenant-Colonel Sereure, deceased, asking for a pension.

By Mr. KING, of New York: The petition of Rebecca Hyde, for a pension or other relief.

By Mr. MILLSON: The petition of B. & I. Baker, asking that American papers may be granted to brig Commerce, a British vessel purchased and repaired by them.

IN SENATE.

MONDAY, *December* 13, 1852.

Prayer by the Rev. JAMES GALLAHER.

Messrs. UNDERWOOD and SOULE appeared and took their seats.

PRESIDENT OF THE SENATE.

Mr. ATCHISON. I have received the following note from the President *pro tem.* of the Senate, which the Secretary will be pleased to read:

To the Hon. R. A. ATCHISON, *U. S. Senate:*

DEAR SIR: Will you have the goodness to preside over the Senate for me to day? Yours, respectfully,

WM. R. KING, *President pro tem.*

WASHINGTON, D. C., *December 13th*, 1852.

Mr. ATCHISON. If there be no objection, I will comply with the request of the President *pro tem.*

Unanimous consent being given, Mr. ATCHISON took the chair.

PRESIDENT'S MESSAGE.

Mr. BRIGHT. I desire to give notice that to-morrow I shall move to take up the President's message, with a view to have it referred to appropriate committees.

DEATHS OF MEMBERS OF CONGRESS.

A message was received from the House of Representatives, by Mr. P. B. HAYES, Chief Clerk, communicating to the Senate intelligence of the decease of the Hon. ORIN FOWLER and Hon. BENJAMIN THOMPSON, late members of the House from the State of Massachusetts, and the proceedings of the House thereon.

Mr. DAVIS. Mr. President, I ask for the reading of the messages from the House.

The proceedings of the House were accordingly read as follows:

IN HOUSE OF REPRESENTATIVES, *Dec. 8th*, 1852.

Resolved, That this House has received with deep sensibility the announcement of the death of the Hon. ORIN FOWLER, a member of this House from the State of Massachusetts, which occurred on the 3d of September last.

Resolved, That this House tenders to the family of the deceased the expression of its sympathy on this event, and as a testimony of respect for his memory, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of this House be directed to communicate a copy of these proceedings to the family of the deceased, and also to the Senate.

Resolved, That as a further testimony of respect for the deceased, this House do now adjourn.

IN HOUSE OF REPRESENTATIVES, *Dec. 9th*, 1852.

Resolved, That this House has received with deep sensibility the announcement of the death of Hon. BENJAMIN THOMPSON, a member of this House from the State of Massachusetts.

Resolved, That this House tenders to the family of the deceased its sympathy on this afflictive event; and as a testimony of respect for his memory, the members and officers of the House will wear the usual badge of mourning for thirty days.

Resolved, That the Clerk of the House be directed to communicate a copy of these proceedings to the family of the deceased, and also to the Senate.

Resolved, That as a further testimonial of respect for the deceased, this House do now adjourn.

Mr. DAVIS. I now ask for the reading of the resolution adopted some two years ago upon this subject by the Senate; and being desirous of learning what construction is given to it, I would inquire of the Chair whether, in its opinion, the resolution is designed to discontinue the usages which have previously existed?

The resolution of March 28th, 1850, was read as follows:

"*Resolved*, That in future when a member of Congress dies, and has been buried in the vacation, the Senate will not feel itself called upon to extend to the memory of the deceased the honors and ceremonies which have been of late years usually awarded, but will restrict itself hereafter in the appropriation of those honors and ceremonies to cases of the death of members during the session of Congress."

The PRESIDING OFFICER. As the Senator from Massachusetts has requested the opinion of the Chair in relation to the effect of that resolution, I will give it. My opinion is, that it suspends the former usages of the Senate upon such occasions.

Mr. CASS. It seems to me that we can do nothing on this subject but lay on the table the message of the House. We have refused to repeal the resolution of 1850, and therefore we can, properly, take no action on the matter.

Mr. DAVIS. Such being the tenor of the resolution, and such the opinion of the Chair, the Senators of Massachusetts will forbear to offer those testimonials of respect to the memory of their lamented associates which have been usual upon such occasions.

Mr. SUMNER. Mr. President, only a short month before the close of our last session, Massachusetts was called to mourn one of her sons in the other House, suddenly removed from sharing our duties here. This bereavement was commemorated by formal proceedings at the time, according to the usage of Congress. Since then—during our brief recess—two more of the representatives of Massachusetts have been successively singled out by Death.

Insatiate Archer! would not one suffice!
Thy shaft flew thrice, and thrice our peace was slain.

To dwell on their memory and to claim for them also the passing tribute of Congress would be a grateful task. But I submit to the rule of the Senate, which, in just regard to other concerns, has restricted such testimony to the more touching occasions, where our brethren have been snatched from our side while engaged in the very business of legislation.

The resolutions from the House of Representatives were then laid upon the table without further action.

APPOINTMENT OF COMMITTEES.

Mr. BRIGHT. I desire to move to dispense with so much of the rules of the Senate as provides that the standing committees of this body shall be chosen by ballot, so that we may agree to the committees that have been already agreed to, in part. This motion requires unanimous consent, as it is a motion to suspend a standing rule. I hope unanimous consent will be given.

Mr. HALE. Does it require the unanimous consent of the Senate in order to suspend the rule?

The PRESIDING OFFICER, (Mr. ATCHISON in the chair.) It does require unanimous consent.

Mr. BADGER. I hope there will be no objection.

Mr. HALE. I do not know that I shall interpose any objection; I do not know that I shall say anything to prevent the adoption of this motion; but I understand that the Senator from Indiana, who makes the motion, holds in his hand a list of persons which he proposes to submit to the Senate as the committees to be chosen by this unanimous consent. It would afford me some satisfaction, and possibly those whom I am bound to represent here, if the honorable Senator would state, simply for the information of the public more than for the information of the Senate, the mode and manner by which these committees have been selected, by which he intends to supersede the mode provided for by the rules. I make

the inquiry, because there is not an individual in the United States, either inside or outside of the Senate, in more utter ignorance of the mode and manner adopted to fill up committees than myself; and for the purpose of affording that information for which I have asked to myself, as well as others elsewhere who may take an interest in the subject, I hope the Senator will state to us the mode and manner in which the committees have been selected; and then I do not know that I shall be disposed to interpose any further objection.

Mr. BRIGHT. The committees which it is proposed to recommend to the Senate are substantially the same as those of the last session. There are a few vacancies—only three, I believe: one on the Committee on Revolutionary Claims, another on the Committee on Private Land Claims, and one on the Committee on Roads and Canals. These committees, it was supposed, would have their vacancies filled by the Chair. I will state, however, to the Senate, that the committees have been organized by the concurrence of the members of the political party having the majority in this body. They met and agreed upon the number of gentlemen of their party to be placed upon each committee. After they had done this, the list was handed to the Senator from Maryland, [Mr. PEARCE,] and with the concurrence of members of his party, two Senators of that party have been placed on all committees composed of five members, and one on all committees composed of three. This has been the practice for the last three or four years. I believe the gentleman from New Hampshire is not on any committee, and for the reason that we considered him outside of any healthy political organization in this country. [Laughter.]

Mr. HALE. I am exceedingly glad to hear that, for I am glad to be relieved from the labor, and proud of the reason. So that I am satisfied, and, as an honorable Senator once said, "more than that, I am gratified." It was simply to illustrate this fact that I made the inquiry. The honorable Senate, at the last session—I have no doubt with a due appreciation of my qualifications for the station—placed me on the Committee on Private Land Claims, no doubt considering that my local position and pursuits qualified me to discharge the duty that I owed to the country, in the best manner, in connection with that important committee; and I think I can call on all the members of that committee with whom I acted, to bear witness that to the best of my abilities I did discharge the duties that I owe to the country, so far as I might. Everything that I proposed by my inquiry, has been disclosed by the honorable Senator from Indiana, with his accustomed frankness, and we find that it has been the customary practice, in placing members on committees of this body, not to have any respect for, or to look at all to the qualifications which the persons might be supposed to possess, but to the fidelity with which they have walked in the traces of certain political parties.

It is true that the party with which I have walked is extremely small, but not so small as may be supposed; for we have paid back to the Democratic party—I mean the Compromise party—the whole of the capital that we took from them in 1848, and what we have left now are, I think, clean and true men. Of the health with which their pulses beat, perhaps there may be different opinions. Of the purposes which they propose, and the purity of their principles, perhaps there may be different opinions; but of this one fact, I think there can be no doubt, that so far as the things to which they look, and to which they attach any importance are concerned, it may be settled now that there are in this country but two political parties. I have long been of that opinion. One of them is very large—very large indeed—but I think the honorable Senator will find before this session is over, certainly before another is passed, that they will need a little external pressure to keep them together. Having annihilated the Whig party, so that no outward pressure comes from that quarter, if this small party to which I belong, and to which the Senator has alluded, does not retain its organization and position, they must fall to pieces of their own immense weight. Why, the organ of that party, the other day, in speaking of it, spoke of it as being already a "swollen party." Swollen! Now, sir, the Senator has spoken of health, and I understand "swollen" to indicate an unhealthy enlargement, not, sir, a healthy, rotund, vigorous growth, "*Ecce homo!*" [Laughter.] I understand that such a "swollen" condition requires depletion in some way or other, so as to reduce the system down to a healthy action. That is the way in which the Union, the organ of this great party, speaks of it,—as a "swollen" party,—and nobody is more disposed to admit it, and call it great, than I am; for I look at it from a much smaller position.

But I will not detain the Senate. The information which I desired has been laid before the Senate, and so far as I am concerned, the Senate may pursue their own way.

No objection being made, the rule was suspended.

Mr. BRIGHT. I move that the following be appointed as the standing committees of the Senate:

On Foreign Relations—Messrs. Mason, (chairman,) Norris, Douglas, Mangum, and Underwood.

On Finance—Messrs. Hunter, (chairman,) Bright, Gwin, Pearce, and Miller.

On Commerce—Messrs. Hamlin, (chairman,) Soulé, Dodge of Wisconsin, and Seward.

On Manufactures—Messrs. Sebastian, (chairman,) Bayard, James, Upham, and Fish.

On Agriculture—Messrs. Soulé, (chairman,) Walker, Atchison, Spruance, and Wade.

On Military Affairs—Messrs. Shields, (chairman,) Clemens, Borland, Dawson, and Jones of Tennessee.

On Militia—Messrs. Houston, (chairman,) Dodge of Wisconsin, Cathcart, Morton, and Spruance.

On Naval Affairs—Messrs. Gwin, (chairman,) Stockton, Mallory, Badger, and Fish.

On Public Lands—Messrs. Felch, (chairman,) Borland, Dodge of Iowa, Underwood, and Pratt.

On Private Land Claims—Messrs. Downs, (chairman,) Cathcart, Clemens, and Davis.

On Indian Affairs—Messrs. Atchison, (chairman,) Sebastian, Rusk, Bell, and Cooper.

On Claims—Messrs. Brodhead, (chairman,) Bayard, Adams, Pratt, and Wade.

On Pensions—Mr. Jones of Iowa, (chairman,) Weller, Stockton, Foot, and Geyer.

On the District of Columbia—Messrs. Shields, (chairman,) Bradbury, Norris, Clarke, and Brooke.

On Patents and the Patent Office—Messrs. James, (chairman,) De Saussure, Charlton, Dawson, and Smith.

On Revolutionary Claims—Messrs. Walker, (chairman,) Brodhead, Foot, and Brooke.

On the Judiciary—Messrs. Butler, (chairman,) Downs, Bradbury, Geyer, and Badger.

On the Post Office and Post Roads—Messrs. Rusk, (chairman,) Soulé, Hamlin, Upham, and Morton.

On Roads and Canals—Messrs. Bright, (chairman,) Douglas, Adams, and Spruance.

On Territories—Messrs. Douglas, (chairman,) Houston, Weller, Cooper, and Jones of Tennessee.

On Public Buildings—Messrs. James, (chairman,) Hunter, and Clarke.

On Printing—Messrs. Borland, (chairman,) Hamlin, and Smith.

On Retrenchment—Messrs. Bradbury, (chairman,) Bright, Felch, Mangum, and Fish.

On the Library—Messrs. Pearce, (chairman,) Clemens, and Dodge of Iowa.

To Audit and Control the Contingent Expenses of the Senate—Messrs. Dodge of Iowa, (chairman,) Walker, and Underwood.

On Engrossed Bills—Messrs. Bayard, (chairman,) and Mallory.

On Enrolled Bills—Messrs. Jones of Iowa, (chairman,) and Badger.

Mr. WALKER. Mr. President, I find my name, in that list, on several committees on which I have served as long as I care to serve—the Committee on Revolutionary Claims, the Committee on Agriculture, and the Committee to Audit and Control the Contingent Expenses of the Senate. I have bestowed upon the affairs of the first committee a good deal of attention. The subjects which came before it were of a great deal of importance. It was of more importance, however, to ascertain whether the Government really owes anything or not on the grounds of revolutionary claims, and I came to the conclusion, as chairman of the committee, that the Government had paid for revolutionary claims about all it ought to pay, or that the committee had already reported those cases on which a favorable report ought to be made. As to the Committee on Agriculture, I have never been notified to attend a meeting of it. As to the Committee to Audit and Control the Contingent Expenses of the Senate, I think our Secretary is far better qualified to take charge of the subjects committed to its care than any committee we can appoint. I would, therefore, ask to be excused from serving on either of the committees I have named, and that other names may be substituted in the place of my own.

Mr. BADGER. Let the question be taken on the general proposition first, and then the Senator can decline to serve on those committees.

Mr. WALKER. Is not the question on the election of the committees?

The PRESIDING OFFICER. It is.

Mr. WALKER. I desire, then, not to be on the committees which I have named.

Mr. BRIGHT. To obviate the difficulty, I would suggest that the Senator should let my motion be put, and then he can resign his position on these committees, and let the Chair appoint other Senators in his place. That is the mode usually followed.

The PRESIDING OFFICER. Does the Senator from Wisconsin submit any motion?

Mr. WALKER. My proposition, in whatever way you take it, is to be relieved from serving on the committees I have named. I do not wish to be elected as a member of those committees. I was not present at the caucus which drew up the list which has been submitted to us. I have heretofore been present at the several caucuses when the committees were constituted, and I said nothing. Aside from Wisconsin being "the banner State" in the Union at the late election, she has some important interests which should be attended to. She is an agricultural State—a State with a larger agricultural interest than any State of her population and age in the Union. She is a commercial State; she has important Indian relations; she has a vast amount of public lands; and yet, under the constitution of these committees, Wisconsin has but one place on an important committee, and that is on the Committee on Commerce. I do not know how this originates. It can be from no invidious design; but yet such is the fact, while Senators who are in their places here for a second session only, are put, not only on one, but on numerous leading committees in the Senate.

For one, I have sat still as long as I feel disposed to do so. Wisconsin has interests to be attended to. It may be that the Senate think we are unqualified, if we were on the committees, to attend to those interests; but perhaps if the Senators from Wisconsin are not to be studiously excluded from positions in which they can make an effort to attend to the interests of their State, they might make an exhibition of themselves quite equal to that of those who think it proper thus to class them in the Senate.

The PRESIDING OFFICER. The question is on striking the name of the Senator from Wisconsin from the committees designated by him. That motion is made by way of an amendment to the motion of the Senator from Indiana.

Mr. MANGUM. How can his name be stricken out before the committees are chosen? Let the general list be adopted first.

Mr. BRIGHT. I asked leave to suspend the operation of the rule providing that all committees should be elected by ballot. It required unanimous consent to do it. It was agreed to. I followed that with a motion, that the names which were read, constitute the committees of the Senate, and of course the first question will be on the adoption of that list.

The PRESIDING OFFICER. In the opinion of the Chair, the Senator from Wisconsin has a right to offer an amendment to the motion made by the Senator from Indiana, and the amendment which he offers is that his name be stricken from the committees designated by him.

Mr. HALE. I hope that the suggestion of the honorable Senator from Wisconsin will be listened to, for it strikes me that there is force in his suggestion, though perhaps he did not see the whole of it. There are two or three members here who belong to an unhealthy organization, and it ought to be remembered, as a general fact, that Wisconsin has been rather sickly on the question alluded to, and I think that there has been at least one

vote from Wisconsin with the most fanatical of the fanatics, more than nine tenths of the time. I think, therefore, she ought to feel the rod a little. Why, if we, for our sins, are to be excommunicated, shall not they, for their misdeeds, feel the rod a little? I think Wisconsin, instead of being in a position in which she ought to find fault, is in one where she ought to take it as an indication that she may return and imitate that old patriarch of whom it was said:

"Job feels the rod,
Yet blesses God."

It seems to me that would be the part of wisdom in a State so eligibly situated as Wisconsin. I have seen Wisconsin, sir; I have been there; and I accord to her everything which the honorable Senator says of his State. I think it is a great State, a glorious State, with fine soil, large prairies, and some excellent people; and to her credit it ought to be said, that there are some counties in which these fanatics are actually in the majority. Under these circumstances I think full justice has been done to Wisconsin.

Mr. WALKER. I put my objection to the constitution of these committees on no such ground as that stated by the honorable Senator from New Hampshire. So far as Wisconsin has been in an unhealthy condition, I am happy to say that she has nearly recovered, and has returned to a pretty sound and healthy condition of her political constitution. It is true the Senator from New Hampshire has been in Wisconsin. He had an opportunity of looking at her soil, and of viewing her topography, her fine prairies, forests, and farms. He passed along the borders of one of mine. The Senator, while there, was endeavoring to administer some medicine, which, according to his notions, ought to restore the body-politic of Wisconsin to a more healthy condition. But the dose did not operate as he intended. I will say nothing of the ability of the physician, but certainly the quality of the medicine was bad, and instead of the effect he desired, it had an opposite one

As to the counties in Wisconsin where the Senator says he has the majority, I know nothing. I believe that every county voted for Pierce and King, except one, and there I think the vote was a tie between Scott and Pierce. That is the condition of Wisconsin now, and if there is anything in that for the gentleman to congratulate himself upon, be it so. But I put my objection to the organization of the committees of the Senate, upon the ground that Wisconsin has not the position there which she ought to have—Wisconsin, not her Senators. For one, I stand here to represent in part that State; and I say that she has been neglected in the organization of these committees in view of every important interest which she has. Why, sir, we have scarcely a revolutionary soldier in Wisconsin; I doubt whether we have one. Those men were too old to emigrate there, and we certainly did not raise any. Wisconsin attends to her own agricultural concerns, and she takes very little interest in the expenditure of the contingent fund of the Senate.

We have but one important position upon the committees, and that is on the Committee on Commerce, upon which my colleague [Mr. DODGE] has been appointed. Everybody here knows that he is amply competent to discharge his duty upon that committee. I am proud to see him there, and so are the people of Wisconsin, as they are proud to see him placed in any position of honor and distinction. But in the most important interests Wisconsin has not a member to represent her on a committee. She has not a member upon the Committee on Public Lands; she has not a member upon the Committee on Indian Affairs; she has not a member upon any committee in the duties of which she really feels and takes an interest. Wisconsin has been inquiring why this is so. Since I have been here I have manifested personally an interest on the subject of the disposition of the public lands. Since I have been here I have had to bear the brunt in relation to the Indian affairs of Wisconsin, and in regard to them I have been thrown in rather an unpleasant position, as the Senate knows; I have been brought in conflict not only with persons in this body, but with persons in the other House partly representing Wisconsin. Her Indian relations have been made a subject of speculation from beginning to end.

These are subjects in which she feels an interest; but these are subjects in which she never has had a voice upon the committees of this body; and yet, sir, I have worn out one term here—a short one it is true—and pretty well gone through the second. My colleague has been here the same length of time. He is upon his second term; and yet Wisconsin has been represented upon but one solitary committee of any importance in this body, and that is the Committee on Commerce. I venture to say that my venerable colleague is as well acquainted with the interests of Wisconsin, in regard to her Indian relations, as any man who could be named, not only in the Senate but in this Union. He has been an observer of the rise and the progress of the settlement of Wisconsin. He is familiar with the history of her public lands and the relations of that State to the Government, in view of those lands. I have lived in the West a good while; I have lived in Wisconsin for some time; both myself and my colleague have represented Wisconsin on this floor for some time; and yet she has never been permitted, except through her individual Senators upon the floor, to whisper a word on the subject of the public lands. She is struggling for internal improvements; she has interests as vast as those States whose representatives, although here for only their first or second session, have got upon committees with regard to almost every subject in which the States can feel a desire that their local interests shall be promoted. I am sorry to see the committees so constituted. For one I have served on the committees named as long as I desire.

The amendment was agreed to, and the question then was on the proposition of Mr. BRIGHT, as amended.

Mr. CHASE. In the formation of these committees I have taken very little interest, except to discharge, so far as may be in my power, whatever duties may devolve upon me as a member of a committee, or as a Senator. Whether upon a committee or not, I mean to fulfill every obligation belonging to me as a Senator of the United States, representing in part the second State of the American Union, to the best of the abilities with which it has pleased God to endow me. I think, sir, however, that it is quite obvious, upon the reading of the list of names of the gentlemen who compose the different committees, and from the statement which has fallen from the Senator from Wisconsin, that there is quite a number of Senators, both upon the committees and not upon them, who have not been at all consulted as to their organization. If I understood the representation of the Senator from Indiana, [Mr. BRIGHT,] as to the organization of the committees, it is this: the party having the majority in the Senate have met in caucus, and they have selected for themselves a majority of members upon all or nearly all committees of the Senate. The list thus made up was given to a Senator associated with the political party forming a minority in the Senate, or rather one of the minorities, who, upon consultation with his political friends, has completed the committees, by selections from the Whig party. Now, the principle upon which the Senator from Indiana has said that these two have proceeded in constituting these committees, is to exclude those who, in their judgment, stand outside of the healthful political organizations of the country.

Mr. President, my position is well known, at least to the constituents whom I have the honor to represent. It is that of a Democrat, by the grace of God, free and independent—a Democrat holding in good faith, and with a fixed purpose to carry into practical application, all the principles of the Democratic faith, whether they respect the rights of persons, the rights of the States, or the rights of nations. I repeat, sir, I am ready, according to my ability, to give to those principles the fullest practical application which our Constitution and the principles of our Government will admit.

Well, sir, if there is anything in holding this faith—and I challenge anybody to point out any part of my political action which is in conflict with this declaration—to mark me as outside of the healthy political organizations in this country, I must be content to endure whatever reproach inflexible adhesion to this position may bring upon me. I wish, however, to test the sense of the Senate on this matter; and inasmuch as it is quite apparent that a number of Senators have not been consulted at all, and that there is only a partial arrangement of the committees which is unjust to some of the great States of the West, I move to postpone the further consideration of this resolution until to-morrow, that the Senate and the country may see how the committees are composed. I make that motion, and upon that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HUNTER. Before the roll is called, I would suggest that we may find ourselves involved in a practical difficulty. When we come to the State of Kentucky, who shall we call? The Senate refused to settle that question the other day, and I foresaw then that this state of things might arise. Why, if a motion to adjourn were made, and the yeas and nays were called upon it, when we came to that State, the same difficulty might occur. It seems to me, therefore, that before we go into this question, we shall have to determine who is Senator from Kentucky, or we shall have to agree, by general consent, that the Secretary omit to call the name of Mr. Meriwether, which is now upon the roll. One or the other is indispensable, or we shall be involved in inextricable confusion.

The PRESIDING OFFICER. If there be no objection, the Secretary will not call Mr. Meriwether's name.

There was no objection.

The question being taken by yeas and nays, on the motion to postpone, resulted—yeas 6, nays 38, as follows:

YEAS—Messrs. Brodhead, Chase, Clarke, Hale, Sumner, and Wade—6.

NAYS—Messrs. Adams, Atchison, Badger, Bayard, Borland, Bradbury, Bright, Brooke, Butler, Cass, Cathcart, Charlton, Clemens, Cooper, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Foot, Geyer, Gwin, Hunter, James, Jones of Tennessee, Mason, Miller, Morton, Pearce, Shields, Smith, Soulé, Spruance, Toucey, Underwood, Upham, and Weller—38.

So the motion was not agreed to.

The list of committees as amended was agreed to.

Mr. BRIGHT. There are several vacancies on the committees which it is important should be filled. I move that they be filled by the Presiding Officer.

Mr. HALE. I presume that requires unanimous consent.

The PRESIDING OFFICER. The Chair thinks not.

Mr. HALE. The rule requires that members of committees shall be chosen by ballot, and it requires unanimous consent to dispense with the rule. I object to the Senator's motion.

Mr. BRIGHT. I do not think the rule prevents my motion being made. I believe the rule provides that vacancies may be filled as the Senate shall direct. It is in the power of the Senate to direct the Chair to fill a vacancy.

Mr. HALE. I presume that it is so after the committees have been once filled. Then if a vacancy occurs the Senate may direct the Chair to fill it; but these are not strictly vacancies, because the committees are not yet full. Only a part of the members of the committees have been chosen. I object to the motion of the Senator from Indiana for this reason: I do it solely to relieve the Chair. The committees are mostly filled up. All the members of the Senate, I believe, have been provided with places on them except those who stand entirely outside of the "healthy political organizations." Those gentlemen who have taken the responsibility of filling up the committees, have used up the "healthy" material, and now they want you, sir, to use up the unhealthy stock. I do not want any such responsibility thrown upon the Chair. I want those who have undertaken this business to do it entirely.

Mr. WELLER. The Chair can do it as well as any man in the Senate.

The PRESIDING OFFICER. The Chair is of the opinion that these are not strictly vacancies, for the committees are not yet organized.

Mr. BRIGHT. I understand the Senator from New Hampshire to object to the Chair filling the places left vacant upon the paper which has been read. He does not object, I believe, to the Chair filling the vacancies created by the resignation of the Senator from Wisconsin.

Mr. BADGER. There was no resignation.

Mr. BRIGHT. There are three vacancies created by the resignation of the Senator from Wisconsin. He has been excused from serving on those committees where his name appears on the list. I have no particular choice as to whether

these vacancies be filled by ballot or by the Chair. I made the motion with the view of saving time; but if the Senator persists I suppose we shall have to ballot.

Mr. HALE. There are, strictly speaking, no vacancies to be filled. The committees are incomplete as it regards those on which the Senator from Wisconsin stood, as well as those upon which it was designed to place "unhealthy" members.

The PRESIDING OFFICER. Objection being made to the course suggested by the Senator from Indiana, the opinion of the Chair is, that the Senate will have to complete the committees by ballot.

Mr. BRIGHT. I withdraw my motion, so as to leave the committees for the present as they have been ordered.

Mr. JONES, of Tennessee. There is nothing before the Senate, I believe.

The PRESIDING OFFICER. Petitions are in order.

Mr. HALE. I rise to a question of order. The Senate have voted that they will proceed to fill the committees. Must not that order be executed before we can proceed with other business? Besides that, the rule of the Senate requires it. I wish the Chair would have the rule read with regard to the appointment of committees.

The SECRETARY accordingly read the 34th and 35th rules, as follows:

34. "The following standing committees, to consist of five members each, shall be appointed at the commencement of each session, with leave to report by bill and otherwise," &c.

35. "In the appointment of the standing committees, the Senate will proceed, by ballot, severally to appoint the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter of a similar nature may, on motion, be referred to such committee."

The PRESIDING OFFICER. The Chair is of the opinion that the committees will not have been formed until the list of names shall have been completed. The Chair understood the Senator from Indiana this morning to move to suspend the rule in order to make the motion which he submitted. That motion has been acted upon by the Senate, and nearly all the committees have been filled; but the Chair is of opinion that before the committees can be said to have been formed additional action must be had, and that by ballot. Is there a proposition to fill by ballot or otherwise? The Chair believes there is not.

Mr. UNDERWOOD. I presume that the proper organization of the body ought to command the attention of the Senate at this time. I rise for the purpose of calling up the case of my colleague, Mr. Dixon, as I think it is my right to do, in order to ask that he may be qualified, or that the resolution with regard to his credentials, which was presented the other day, may be acted upon.

Mr. CHASE. I wish to inquire whether the order to appoint committees has yet been executed? If it has not been executed—and I understand such to be the opinion of the Chair—I suppose the first duty of the Senate is to proceed to fill the committees by appointing the remaining members; and until that order is executed, I apprehend we cannot set it aside without some formal vote. I think it is yet the pending business before the Senate.

The PRESIDING OFFICER. The Chair is of the opinion that that is a matter for the Senate to decide.

Mr. BRIGHT. Never, sir, until this morning, I believe, have we had any difficulty in filling the committees. The list that I was directed by my associates to present embodied, as I understood, the sentiment of the body; and in presenting it I presented only that which I understood to be the sentiment of the body. I am no more responsible for it than is any other gentleman who met with me in the caucus which agreed upon it. I suppose that if gentlemen insist on balloting we shall have to ballot to fill the six different vacancies now existing; and therefore I move that we proceed to ballot to fill the vacancies in the order in which they occur on the list.

Mr. UNDERWOOD. Will it not be in order to make a motion to postpone until to-morrow the execution of the order for filling the Committees?

Mr. BADGER. Let us get through with it. It will not take more than twenty minutes.

Mr. UNDERWOOD. Very well; I have no objection.

The motion of Mr. BRIGHT was agreed to.

The PRESIDING OFFICER. Senators will prepare their ballots for one member of the Committee on Agriculture.

Mr. BRODHEAD. I would inquire whether it would not be competent for us to vote to fill all the vacancies at once? I think that course would facilitate the business now in hand. I ask the Secretary to read over the vacancies to be filled, so that each Senator may vote for all at once.

The PRESIDING OFFICER. If such be the sense of the Senate, that course will be pursued. Senators, therefore, will prepare their ballots for one member of the Committee on Agriculture, one member of the Committee on Private Land Claims, two members of the Committee on Revolutionary Claims, one of whom to be chairman, one member of the Committee on Roads and Canals, and one member of the Committee to Audit and Control the Contingent Expenses of the Senate.

The Senate accordingly proceeded to ballot, with the following result:

COMMITTEE ON AGRICULTURE.

Mr. Hale received	10 votes.
Mr. Chase	2 "
Mr. Bright	1 "
Mr. Geyer	1 "
Mr. Charlton	1 "
Mr. Gwin	1 "

COMMITTEE ON PRIVATE LAND CLAIMS.

Mr. Hale received	5 votes.
Mr. Walker	3 "
Mr. Chase	3 "
Mr. Toucey	1 "
Mr. Charlton	1 "
Mr. Cathcart	1 "
Mr. Douglas	1 "
Mr. Gwin	1 "

COMMITTEE ON REVOLUTIONARY CLAIMS.

Mr. Toucey received	4 votes.
Mr. Adams	4 "
Mr. Sumner	3 "
Mr. Charlton	2 "
Mr. Chase	2 "
Mr. Hale	1 "
Mr. Geyer	1 "
Mr. Houston	1 "
Mr. De Saussure	1 "
Mr. Butler	1 "

COMMITTEE ON ROADS AND CANALS.

Mr. Underwood received	2 votes.
Mr. Felch	2 "
Mr. Seward	2 "
Mr. Walker	1 "
Mr. Toucey	1 "
Mr. Chase	1 "
Mr. Sumner	1 "
Mr. Cathcart	1 "

COMMITTEE TO AUDIT AND CONTROL THE CONTINGENT EXPENSES.

Mr. Bright received	14 votes.
Mr. Cathcart	3 "
Mr. Adams	1 "
Mr. Bayard	1 "
Mr. Gwin	1 "

The PRESIDING OFFICER. There has been no quorum voting, and therefore there is no election.

Mr. MANGUM. I believe there is a quorum present, and I think a plurality elects.

The PRESIDING OFFICER. A plurality can elect, if there be a quorum voting.

Mr. MANGUM. I wish to know the total vote.

The PRESIDING OFFICER. For a member of the Committee on Agriculture, sixteen votes; Private Land Claims, sixteen; Revolutionary Claims, twenty; Roads and Canals, eleven; and Contingent Expenses, twenty.

Mr. UNDERWOOD. It is obvious that there is a quorum in the Chamber, and it is equally obvious that Senators take no interest in the filling of these vacancies. Time is precious, and I therefore move—and I hope there will be no objection to it—that the Chair be authorized to fill these vacancies.

Mr. HALE. I object.

Mr. CHASE. When the Senator from Pennsylvania proposed that we should ballot for all the vacancies together, I thought that we should fall into precisely the difficulty which has occurred. I have no doubt that a quorum has voted; or, at least, it may be quite possible that a quorum could have voted, and there yet have been precisely the result which has been exhibited. I think that if we proceed to fill the committees, one by one, we shall avoid this difficulty.

Mr. ADAMS. I move that we proceed to fill each vacancy separately.

Mr. CHASE. I wish to state, however, that under the state of things that exists here at this moment, I have felt it due to the State which I represent, and to my own self-respect, not to vote at all.

The motion of Mr. ADAMS was agreed to.

The PRESIDING OFFICER. Senators will therefore prepare their ballots for one member of the Committee on Agriculture.

Mr. BAYARD. I would suggest that, as I understand the rules of the Senate, they require that the chairman of the committees shall be first elected. The chairman of the Committee on Revolutionary Claims has not yet been elected, therefore, I presume the rule requires that we shall vote first for chairman of that committee. I move to proceed to the election of chairman of the Committee on Revolutionary Claims.

The PRESIDING OFFICER. The rule requires that the chairmen of the committees shall be first selected.

Mr. BRADBURY. I hope the motion will not be persisted in, because the ballots have been partially given in for a member of the Committee on Agriculture. I hope that by general consent we will proceed with that ballot.

The PRESIDING OFFICER. It will answer the purpose of the gentleman from Delaware, to vote for chairman of the Committee on Revolutionary Claims after the present ballot. Does he persist in his motion?

Mr. BAYARD. I certainly do persist in the motion. If the rules of the Senate are worth making, they are worth adhering to.

The PRESIDING OFFICER. Then Senators will prepare their ballots for chairman of the Committee on Revolutionary Claims.

Mr. HALE. I want to inquire for information, if it would be in order, when voting for chairman of this committee, to vote for any gentleman who has been already selected for a subordinate place on it?

The PRESIDING OFFICER. Certainly. The difficulty presented to the Senate was the irregular manner adopted on the motion of the Senator from Indiana, that the Senate should fill the committees under the resolution which he presented. Now, whether the first mentioned standing on the committee shall be chairman or not does not appear from the list which has been handed up and been adopted by the Senate. It is very certain that under the rule, strictly construed, no chairman was elected.

Mr. BRIGHT. I think the error consisted in the Chair deciding that after the rule had been suspended, a majority of the Senate might not make any order they saw proper in reference to filling the committees. My original motion was to suspend the rule. That required unanimous consent. The rule was suspended and the Senate proceeded to fill most of the committees, leaving but five or six vacancies. I think it was entirely in order, then, for the majority of the Senate to order the Chair to fill those vacancies; for the Senate had previously, by unanimous consent, suspended the rule. I do not believe that any fair interpretation of the rule requires us now to ballot to fill those vacancies. I believe a majority of the Senate have a right to order the Chair to perform that duty.

Mr. BADGER. It is too late now to raise that question. No appeal was taken from the decision of the Chair, and we are balloting.

The PRESIDING OFFICER. The gentleman from North Carolina is correct.

The Senate proceeded to ballot for chairman of the Committee on Revolutionary Claims, with the following result:

Mr. Hale	9 votes.
Mr. Sumner	6 "
Mr. Bayard	4 "
Mr. Chase	3 "
Mr. Adams	2 "

Mr. Walker..... 2 votes.
Mr. Mason..... 1 "
Mr. Toucey..... 1 "
Mr. Butler..... 1 "
Mr. Brooke..... 1 "
There were three blank votes.

The PRESIDING OFFICER. There are only thirty votes cast; there is, therefore, no quorum voting.

Mr. BRODHEAD. I hope that now, by common consent, the Chair will be authorized to fill the vacancies on these several committees.

The PRESIDING OFFICER. That can only be done by the unanimous consent of the Senate. If there be no objection, that course will be pursued.

There being no objection, that course was pursued.

PETITIONS, ETC.

Mr. DAVIS presented a petition of Physicians and Surgeons, and of the Trustees of the Massachusetts General Hospital, and a petition of the Massachusetts Charitable Eye and Ear Infirmary, and members of the Massachusetts Medical Society, praying that Dr. William F. G. Morton may be liberally rewarded for the discovery of the use of ether to produce insensibility to pain in surgical operations; which were referred to the Committee on Military Affairs.

Mr. BRODHEAD presented the memorial of Charles Ellet, jr., praying the payment of a balance due him for the survey of the delta of the Mississippi; which was referred to the Committee on Finance.

Mr. BRIGHT presented the petition of A. Hays, late a Surgeon in the Army, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. BORLAND presented a memorial of citizens of Mississippi, praying that the office of Chaplain in the public service may be abolished; which was ordered to lie on the table.

Mr. FISH presented the petition of Theodore S. Fay, praying to be allowed the difference between the salary of the Secretary of Legation and that of a Chargé d'Affaires for the time he acted in the latter capacity; which was referred to the Committee on Foreign Relations.

He also presented the petition of J. Hosford Smith, United States Consul at Beirout, Syria, praying that the salary of that office may be increased, and its rank raised to that of a Consulate General; which was referred to the Committee on Foreign Relations.

Mr. HAMLIN presented the memorial of William Alexander, praying that a register may be issued for the barque May, of Baltimore; which was referred to the Committee on Commerce.

Also, a memorial of the American Medical Association, adopted at its late meeting at Richmond, Virginia, praying that the medical statistics furnished by the census of 1850, be published in a separate form for distribution among the medical profession; which was ordered to lie on the table.

Also, the petition of John Carlton, 2d, a soldier in the last war with Great Britain, praying to be allowed a pension from the 3d of September, 1813, the day he was wounded, up to the time he first received a pension; which was referred to the Committee on Pensions.

Mr. MASON presented the petition of Ann Davis, widow of Samuel B. Davis, a revolutionary soldier, praying a pension; which was referred to the Committee on Pensions.

Also, the petition of Thomas Foster and others, praying that the pensions allowed by the act of July 7, 1838, to a certain class of widows, and subsequently continued for life, may be allowed for an interval of two years, omitted in continuing the pensions; which was referred to the Committee on Pensions.

Mr. SHIELDS presented the petition of James Corrigan, a soldier in the late war with Mexico, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. CLARKE presented the petition of John J. De Wolf, praying to be indemnified for losses sustained in consequence of having been suspended in the performance of his duties as United States Consul at Sidney, Nova Scotia; which was referred to the Committee on Foreign Relations.

Mr. HUNTER presented the memorial of Thos. Ap Catesby Jones, praying to be relieved from a judgment obtained against him as surety of W. F. Jones, deceased, late postmaster at Norfolk, Virginia; which was referred to the Committee on the Judiciary.

Mr. BUTLER presented a memorial of the Chamber of Commerce of Charleston, South Carolina, praying certain alterations in the buoys, beacons, and lights for facilitating the safe and easy ingress and egress of shipping to the harbor of Charleston; which was referred to the Committee on Commerce.

Mr. CASS presented a petition of residents of the township of Ontonagan, Michigan, praying that James K. Paul may be allowed to purchase, at the minimum price, a certain tract of land upon which he has settled and made improvements; which was referred to the Committee on Public Lands.

ANN DOWNING.

Mr. CLEMENS. I presented the other day, before the standing committees were appointed, the petition of Ann Downing. I move that it be taken from the table, and referred to the Committee on Claims.

It was so referred.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. FISH, it was

Ordered, That the petition of Meigs D. Benjamin, praying the return of duties illegally exacted, on the files of the Senate, be referred to the Committee on Finance.

On motion by Mr. FELCH, it was

Ordered, That the petition of Amos Hawe, for relief from an over-payment for a tract of land, on the files of the Senate, be referred to the Committee on Public Lands.

On motion by Mr. FELCH, it was

Ordered, That the petition of Joseph Loranger, for remuneration for property destroyed by the enemy during the late war with Great Britain, on the files of the Senate, be referred to the Committee on Claims.

NOTICE OF A BILL.

Mr. MASON gave notice of his intention to ask leave to introduce a bill to amend the act usually called "the civil and diplomatic appropriation bill," passed the 31st August, 1852, in the clause making an appropriation for continuing the survey of the Mexican boundary.

CONSUL AT ACAPULCO.

Mr. GWIN submitted the following resolution for consideration; which was agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate any documents in addition to those transmitted to the Senate at the last session, from the United States Consul at Acapulco, and from our late and present Minister to Mexico, in relation to the imprisonment of the Consul; and also any documents he may have in his possession from said Consul in regard to the seizure and confiscation of the American steamship Commodore Stockton; as also any documents in regard to the imprisonment of American citizens in the Castle of Acapulco.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. P. B. HAYES, its Chief Clerk, announcing that it had passed "An act granting to the Sackett's Harbor and Ellisburg Railroad Company the right of way through the military reservation at Sackett's Harbor, New York;" also, that it had passed a joint resolution from the Senate explanatory of an act supplementary to an act approved the 23d day of May, 1850.

UNFINISHED BUSINESS.

Mr. UNDERWOOD. There were various subjects pending before the several standing committees during the last session of the Senate, which were not then reported upon. If it meets the approbation of the Senate, I will make a general motion to refer those matters to the committees respectively which had them in charge at the last session. If a general motion is not satisfactory to the Senate, there are particular cases which I shall move to recommit.

Several SENATORS. Make a general motion.

Mr. UNDERWOOD. Then I move that all subjects which were pending before the standing committees at the last session, and which have not been reported upon, be recommitted to the committees respectively which had them in charge.

The motion was agreed to.

LAND FOR THE LANDLESS.

Mr. CHASE. I present joint resolutions of the Legislature of Ohio, in favor of the enactment of a law granting land to actual settlers, and prohibiting the sale of lands to non-residents; which I ask may be read.

The resolutions were accordingly read.

Mr. CHASE. Mr. President, the bill which has passed the House of Representatives, known as the "homestead bill," is perhaps the nearest approximation to the wish of the Legislature of Ohio, which is attainable during the present session. That bill has been reported from the Committee on Public Lands, and now lies upon the table of the Senate. I wish merely to say, upon presenting these resolutions, that I have submitted none during my service here with more unfeigned pleasure. I fully accord with their whole doctrine, although I believe it is not contained in the platform of any national political party, except that whose convention met at Pittsburg. The resolutions propose to arrest the disposition of the public lands by sale. They propose, also, what is of more importance at the present moment, the free grant of the public lands to actual settlers in the several States where the lands lie. A more beneficent, a more wise, a more just measure, in my judgment, has never been commended to the consideration of the American Congress. Upon all occasions I shall give it my hearty support; and I rejoice that the Legislature of my own great State has been the first to recommend it, by a strong vote, to the National Legislature.

Mr. WALKER. Wisconsin is ahead of you.

Mr. CHASE. My friend from Wisconsin suggests that his State is ahead of Ohio in this respect. I am not sorry to hear it. I hope that land reform is not one of those doctrines which have been modified, in that State, by lapse of time and other influences, under which, as the Senator told us awhile since, the condition of public sentiment in Wisconsin has been changed on other questions. As the subject of these resolutions is already before us, I move that they be laid upon the table, and printed for the use of the Senate.

The motion was agreed to.

REAPPOINTMENT OF SELECT COMMITTEES.

Mr. WELLER. At the last session of Congress a select committee was appointed to which were referred the charges preferred by Colonel McClellan against Mr. Bartlett, Commissioner to run and mark the boundary line between the United States and the Republic of Mexico. In consequence of the fact that the papers in regard to the subject were not transmitted to the Senate until a very late day in the session, that committee was unable then to organize or to proceed to the investigation of those charges. As there are several witnesses in the city who belong to the Army, and who are now under orders to leave the city, I hope the Senate will agree to appoint a new committee at once, or to reappoint the committee for the last session for the purpose of proceeding with the investigation of this subject, and I make that motion.

The PRESIDING OFFICER. The Senator from California moves that the select committee raised at the last session of Congress, in relation to the Mexican boundary question, consisting of Messrs. WELLER, CLARKE, RUSK, COOPER, and TOUCEY, be continued, and that the subject be again referred to them.

The motion was agreed to.

Mr. SOULE. There was another committee in the same situation—the select committee on the subject of Mexican claims. I move that that committee be continued in charge of the matters submitted to their consideration at the last session.

The motion was agreed to.

The committee consists of Messrs. SOULE, BRODHEAD, BAYARD, PRATT, and CLARKE.

SUCCESSOR TO MR. CLAY.

The Senate resumed the consideration of the following resolution, which was submitted by Mr. GWIN, on Monday, the 6th instant:

"*Resolved*, That the credentials of Archibald Dixon, Esq., be referred to a select committee of five, who shall consider and report thereon."

The pending question being on the amendment of Mr. MANGUM, to add to it the following:

"And that pending the action of said committee, the said Archibald Dixon be now qualified, and permitted to take his seat in the Senate."

Upon that question the yeas and nays had been ordered.

Mr. GWIN. I ask the consent of the Senate to amend the resolution which I offered, so as to have the credentials referred to the Committee on the Judiciary. It was my intention originally to have the subject referred to that committee, but

the standing committees had not at that time been appointed.

The PRESIDING OFFICER. If there be no objection, that alteration will be made.

Mr. MANGUM. Mr. President, it will be perceived that these very resolutions bring up the principal and the main question. We are here called upon to give a vote which determines the question, and yet a reference is to be made to a committee, and the examination is to go on in the future. If it be the sense of the body that the subject shall be referred, would it not be better to let the resolution and amendment lie on the table, and to refer the credentials merely? The whole subject would then come up on the report of the committee. Now, the preliminary vote settles the whole question.

Mr. JONES, of Tennessee. Does the modification now made by the Senator from California affect the amendment proposed by the Senator from North Carolina?

The PRESIDING OFFICER. Not at all. It is only a modification of the original resolution, referring to the Committee on the Judiciary instead of a select committee.

Mr. JONES, of Tennessee. I had hoped that the Senator from California might be permitted to withdraw his proposition entirely, and that the amendments might all go with it, and that he would offer an original and distinct proposition, to which I proposed to offer an amendment which would bring us directly to vote on the question whether Mr. Dixon is entitled to his seat or not. If the Senator would take that course, I would then offer an amendment which would bring up the question first, whether Mr. Dixon is entitled to a seat, and secondly, whether the question should be referred to a committee.

Mr. GWIN. I am perfectly willing to have the matter brought to a direct vote, but I thought this was the plan which the Senator from Tennessee preferred.

Mr. JONES, of Tennessee. The difficulty in that is, that the amendment of the Senator from North Carolina is still pending before the Senate.

Mr. MANGUM. To enable gentlemen to come directly to the question, I will withdraw the amendment which I offered.

Mr. JONES, of Tennessee. I will then beg leave to offer the following, as an amendment to the proposition of the Senator from California, to strike out all after the word "resolved," and insert:

That the Hon. Archibald Dixon was duly elected by the Legislature of the State of Kentucky, to fill the vacancy in the Senate occasioned by the resignation of the Hon. Henry Clay, and is entitled to a seat therein.

Mr. MASON. The proposition of the Senator from California, as I understand it, was only to refer to the Judiciary Committee the credentials of Mr. Dixon, the gentleman who presents himself as a Senator from Kentucky. It is proposed now by the honorable Senator from Tennessee to substitute for that a resolution declaring that, in the judgment of the Senate, Mr. Dixon is the Senator from Kentucky to fill the vacancy created by the resignation of Mr. Clay. That will dispense with a reference to any committee whatsoever, and take the judgment of the Senate directly. I had designed to offer an amendment to the proposition of the Senator from California, in order to refer to the Judiciary Committee the further inquiry, whether, under the existing commission, there is not now a Senator from Kentucky filling the only vacancy which has been made. The amendment would read thus:

And that the commission of the Hon. David Meriwether, under which he was appointed a Senator from Kentucky, be referred to the same committee, with instructions to inquire and report whether he is a Senator under that commission; and if so, when the same expires.

It seems to me, sir, that the Senate ought to decide with great deliberation upon the question now presented; that it would be immature to take the judgment of the Senate without a previous reference to a committee. It certainly would be a very unusual course, and the Senate might thus unfortunately commit themselves to a precedent which would prove injurious. The question that is pending is presented in a somewhat difficult and tangled form. The Senator from Kentucky who resigned prospectively contemplated that his resignation would create a vacancy; the Legislature that acted on that resignation contemplated that the vacancy which they were to fill was a vacancy created by that resignation; yet it is manifest that an act of Providence disappointed the expectations of both, and created the only vacancy which has been created in the representation from Kentucky. I think it would be better to have the matter referred to a committee, and if the Senate think it better not to adopt the amendment of the Senator from Tennessee, I will offer what I have read as an amendment to the proposition of the Senator from California, and then the whole matter may be brought before the Judiciary Committee.

Mr. UNDERWOOD. I regret that I was not here at the commencement of the session, so that I could have witnessed and participated in the discussion which has been had on this, to me, very interesting subject. My absence was a necessary one, and now I present myself, perhaps, in the attitude of an intruder into a matter which has been discussed until gentlemen have formed their opinions upon the subject. But, sir, I owe it to the State of which I am now the sole representative, to vindicate her proceedings, believing conscientiously as I do that they can be sustained by the Constitution of the country, by the rules of reason, and by the facts of the case. Sir, if you commit this case at all, are we to have a Mallory and Yulee case of it? Are we to wait until the end of this session before we get a report? and during the three months which are to come, are all the interests of the State that I represent to devolve upon my single shoulders, when I stand as much in need of assistance as any other member of this body? And am I to be deprived of the aid, the consolation, and the advice to be derived from a colleague, whether he be the gentleman who occupied a seat on the other side of the Chamber during the last session, [Mr. Meriwether,] or the gentleman, my friend, immediately before me, [Mr. Dixon?] That is a question of great importance to me, and to my State. Gentlemen of the Senate ought not to deprive any State of this Union of one of her representatives in this body, unless there is some imperative necessity for so doing. If this question assumes the importance which gentlemen have given to it, and it is to be referred to the Committee on the Judiciary, I ask members of the Senate, in consideration of all the other labors which that committee have to perform, when may we expect to have a report, and when will that report be finally acted upon; and what is the condition of Kentucky as regards her position in the Senate of the United States pending these delays? Sir, I humbly protest against that state of things. I think that Mr. Dixon makes out by the presentation of his credentials a *prima facie* case; that you ought to administer to him the oath of office; that you ought to allow him to take his seat, and act with me as the representative of the State of Kentucky; and if there be any objections to his holding the office lying beyond and behind his commission, you ought then to refer that question for investigation to a committee, and if the committee, upon finding the fact to be according to the allegation that he is not entitled to the seat, let them bring in a report which shall deprive him of the seat. That course was taken in the case of my friend from Illinois, [Mr. SHIELDS,] and that is the ordinary course in cases of this sort.

I shall now proceed to show that the commission of Mr. Dixon, which has been read, as I see from the report in the papers, makes a *prima facie* case, upon which you ought to administer the oath of office, and allow him to take his seat; and then if he is not entitled to the seat, remove him, by instituting those proceedings which it has been usual to institute in other cases.

Mr. GWIN. If the Senator from Tennessee [Mr. JONES] will withdraw his amendment, to enable me to do so, I will accept the amendment of the Senator from Virginia, [Mr. MASON.]

Mr. MASON. I desire that my amendment may be offered in connection with the proposition of the Senator from California, and then the Senator from Tennessee can offer his amendment as a substitute for the whole.

Mr. UNDERWOOD. It is a matter of indifference to me, as to the manner in which the subject shall be presented, whether with or without the amendment of the Senator from Virginia. I am now proceeding to show, in the first instance, that there ought to be no reference at all, until the gentleman before me, [Mr. Dixon,] is qualified. When I shall have shown, as I think I shall, in the most clear and convincing manner, that there should be no reference until the oath of office is administered, I shall undertake to show that his title is so clear and conclusive that no one need ask for any reference at all, and that upon the principles of the Constitution, the facts and papers in the case, no reference ought to take place, and thereby to burden a committee with a question which I shall undertake—I hope I may say it without egotism—to demonstrate and make as plain as any mathematical proposition can be made, if it were a question of figures. In the first place, I insist that Mr. Dixon ought to be qualified, he having made out a *prima facie* case, without any reference. This depends entirely upon the records of the Senate. You must decide this first point or question, by taking into consideration the credentials read in behalf of Mr. Meriwether at the last session of Congress, and the credentials read in behalf of Mr. Dixon at the present session. You must, by bringing these two documents in contrast, and considering the contents of both, decide whether the *prima facie* case is made out in behalf of Mr. Dixon, so that the oath of office should be administered.

Take the first document. What does that say? It says that Mr. Meriwether was appointed to hold a seat in the Senate until the first Monday of September last. If you test the question upon the face of that document, it will be seen that he has no right to hold beyond the first Monday in September. Such is the result, if we are governed by the positive terms and words of the document. But gentlemen say—for I have read the debate, although I had not the pleasure of hearing it—in order to escape the inevitable conclusion forced upon them by the contents of the paper, that there are extrinsic facts to be considered by a committee. They say, we will not try the case upon the face of the paper, because there are extrinsic facts which we want to get at, and by these extrinsic facts we can show that the action of the Governor was wrong in limiting the appointment to the first Monday in September. Was it ever heard of, sir, before this, that the Senate, previous to administering the oath of office and admitting the claimant, would depart from the paper, the commission, which constitutes in all cases the *prima facie* right and title in the case, to go behind it and bring up extrinsic facts, which might show that the individual was not entitled to the seat? Why, sir, did you do that in the case of Mr. Shields? What was the extrinsic fact which deprived him of his right to a seat? Alienage; not a constitutional residence in the country; not having a constitutional qualification to hold the seat. These were the facts extrinsic to the commission; they were facts which, when brought before the Senate and established, would and did vacate that commission. But did you wait in that case to get at the facts? No, sir, you allowed the qualification to take place under the commission; you tried the case in its *prima facie* aspect, looking at the face of the paper, and you withheld anything further, until the facts were fully reported to you. Why not do the same thing here? Why refer this to a committee to bring up the establishment of a fact extrinsic to the record, and that fact in relation to a commission which, according to its own ace, has expired, which is now a dead letter, because of the lapse of time which brought it to an end. This is new ground for the Senate to take; it is a position entirely new to me. You are not trying the case, as you always should, upon its *prima facie* aspect, tested by the language and meaning of the commissions; but you are getting at it by gentlemen rising in their places and saying, not that the paper shows that Mr. Meriwether, who was qualified at the last session, has any right, but that there are facts existing extrinsic to that paper, which can be brought to the attention of the committee, which will show that the Governor of Kentucky did wrong in limiting Mr. Meriwether's appointment. Now, I say that the Senate ought not to listen to such allegations, but on the contrary, they should take the paper as it stands; and doing so, they will see it is now inoperative; it is dead; that the time for which the gentleman was appointed has passed by and gone forever. In the next place, it will be seen that Mr. Dixon presents, under the seal of my State, under the signature of my Governor, a paper showing that the Legislature of Kentucky elected him to a station in this body as a Senator, to represent that State from the very day that the com-

mission given by the other paper, to which I have called your attention, expired, for the residue of the term for which Mr. Clay was elected. Take the two papers, and you find they harmonize. The one paper shows on its face that it is dead. The other shows that Mr. Dixon comes here with a commission to succeed Mr. Meriwether from the time that his commission expired. Here, then, upon the documents, upon the papers bearing the great seal of the State of Kentucky, we have made out a *prima facie* case; and thus tested by the papers, it is made to appear plain that you ought to admit Mr. Dixon to a seat. If afterwards it be found that there are irregularities —if the returns are wrong—if they are made upon facts which do not justify them—when those facts are made to appear upon investigation, you get clear of the *prima facie* case, and set it aside. I hold that you are sacrificing the rights of my friend, and of my State, by delaying his qualification, by refusing to him the right of participating in the debates of this body, and by refusing to give Kentucky but one vote here in all the interesting questions that may come before you from the present time until the end of the session. Nay, you may not decide the question, if it is referred to a committee, during the session, and you may make my friend come again at the next session and present his paper; and you may postpone his case from month to month, and from year to year, during all which time Kentucky will have but one representative on this floor. Will the Senate do it? I hope not. I think, then, that the proper motion, and that which I shall make after the discussion is at an end, (I want to allow full discussion as long as gentlemen wish to discuss the matter,) will be to lay this resolution upon he table, and to ask, according to the common practice in such cases, that the oath of office shall be administered to my colleague, and that he be allowed to take his seat. And then, if any one objects to his constitutional qualifications—his age, his residence, or any other personal matter, as in the case of Mr. Shields, or makes any objection to the legality of the returns, or commission, the legality of the election, or denies the existence of a vacancy, let him make his objection, and have the reference made, and then bring up the facts in the ordinary manner. That would be dealing out equal justice, as in the case of Mr. Shields and that of Mr. Mallory and others, which constitute precedents worthy to be followed by the Senate.

I hope now to be indulged in presenting something a little more serious than anything I have yet advanced. I am laboring under a hoarseness, sir, but I will perform my task as well as I can. Mr. President, I have looked into the arguments upon this case with great anxiety. I mean, sir, that I have read the debate, and I think I perceive clearly the untenable nature of the grounds assumed by those who seem to have rejected the claim of Mr. Dixon and put forward the claim of Mr. Meriwether. I think that I can present the points of difference between the two cases in such a light that "he who runs may read," and understand exactly where the difference between the two views is to be found. If I understand the argument of those who oppose the qualification of Mr. Dixon, and who wish the reference to take place, it is founded upon a view of this sort: that there was no vacancy in the office of Senator from Kentucky until Mr. Clay died; that then there became a vacancy by virtue and by reason of that death, for the whole residue of the term of Mr. Clay; that that vacancy, thus occurring during the recess of the Legislature of Kentucky, could only be filled constitutionally by the Executive appointment; that the Executive having made the appointment of Mr. Meriwether, his term of service, under the Constitution, necessarily continues during the whole residue of Mr. Clay's term, unless superseded by a legislative election to take place after the Executive appointment was made. I have read all these arguments with very great attention, and I have given to you the positions which have been taken, as I understand them, fully and fairly, without intending to evade anything which has been urged; and if I cannot now show you from the Constitution, from reason, and from precedent, that these positions are not tenable, I will give up the case. First, as to the Constitution; what does it say? It provides that Senators shall be elected for a term of six years. It provides they shall be divided into three classes, so that the term of one class shall expire in two years, that of the second in four years, and that of the third in six years; so that one third may be elected every two years. It then goes on to say, that "if vacancies happen"—how? "By resignation, or otherwise," are the words of the Constitution. "If vacancies happen, by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments." It is "appointments," in the plural, not in the singular. He may make temporary appointments to fill any vacancy that may occur during the recess of the General Assembly. If the vacancy does not occur during the recess of the General Assembly, but while the General Assembly is in session, then by a clear and direct inference from the Constitution, the Legislature, and not the Executive, is to fill that vacancy. These provisions supply the constitutional principles which are to regulate this matter; and we should look at these provisions of the Constitution, which I have recited substantially, if not literally, apply them to the facts in the case, and allow them to control, direct, and govern our judgment.

The first thing to be inquired into is, whether a vacancy has occurred, and if so, when it happened. And here we come to a difference of views, to which I wish to call the attention of Senators. All admit that a vacancy has occurred. But when did that vacancy occur? When did it "happen," in the language of the Constitution? Gentlemen who differ with me, say it happened upon the death of Mr. Clay, and not before. I say it happened upon the resignation of Mr. Clay. Which of us is right? Look at the fact. If it happened upon the resignation of Mr. Clay, the vacancy occurred in December, when the Legislature was in session. All these facts appear upon the papers, the documentary evidence upon which we are arguing, upon the commission of Mr. Dixon. If the vacancy happened in December, when the Legislature was in session, I have already shown you by the terms of the Constitution that the Governor could not fill that vacancy. That by the express language of the Constitution—for it is direct, and not inferential—it was to be filled exclusively by the Legislature. But if the vacancy occurred, and there was but one vacancy, after the Legislature had adjourned, in the month of June last, on the 29th day, when Mr. Clay died, then I acknowledge that the Constitution is equally clear and imperative that the vacancy may be filled by Executive appointment, and that Mr. Meriwether was properly appointed to fill it.

Let us take another step, and inquire what is a vacancy? That question has not been asked, nor have I seen it answered in the argument. It is a very important question to lead to a correct conclusion in this case.

What is a vacancy? Give me the essence which constitutes a vacancy; let me know—in the nature of things, without regard to terms, or words, or expressions—what it is that constitutes a vacancy. I will undertake to tell you. It is leaving a portion of the term of six years, during which portion of time there is no officer, no person elected or appointed by the constitutional authorities to fill or exercise the functions of the office; that is a vacancy. If there be no portion of time in the whole term of six years destitute of an officer or person qualified to discharge the duties of the office, there is no vacancy. If, during the whole six years, there is always an officer ready to perform the functions devolving upon him by the office, ready to step forward and exercise his duty, and that officer has been constitutionally appointed, either by the Legislature or the Executive, there is no vacancy. A vacancy is a portion of the six years' term when there is no person qualified to discharge the functions of the office. Can anybody gainsay that position? It seems to me to be impossible to get around the definition which I give. I repeat, if there be an officer qualified to discharge the duties and exercise the functions of the office, always ready, always appointed, always under commission, there is no vacancy. If there be a portion of time when there is no such person provided, either by the Executive or the Legislature, to perform the functions of the office, there is a vacancy.

Under that definition of a vacancy, let me ask you what was the condition of things when Mr. Clay, by his letter of resignation, written in December last—I do not care in what words that letter is couched—informed the Legislature that he would not discharge the functions and duties of a Senator from and after the first Monday of September? What was the condition of things in regard to the residue of the full six years for which he was elected? The very condition of my definition presents itself. Here was a portion of the six years during which there was no officer provided in any shape or way, constitutional or otherwise, who could step in and perform those functions from the first Monday of September to the end of the term. There was, then, a vacancy for that time, unless you can get clear of it in one way; and I will attempt to show you how the attempt to get clear of it is made, and will show you its fallacy. It is said that when Mr. Clay informed the Legislature of Kentucky that he would not discharge the duties of the office beyond the first Monday of September, that was a prospective declaration of his intention. They make it not an obligatory act upon him—not "an executed deed," to borrow the language of the Senator from South Carolina, [Mr. BUTLER,] whose speech I read with great pleasure, and who seems to me to have had a clear conception, while he delivered it, of the reasons, the nature of the facts, and the essence of things as I am endeavoring to present them to the consideration of the Senate. They attempt to get clear of it by saying that there was no vacancy, because this was a thing to take effect *in futuro*, and being so, it did not make a vacancy from the first of September to the end of the term, but left it to occur, provided Mr. Clay lived till the first of September.

There is the turning point upon this branch of the argument. If the gentlemen are wrong in that view, it ends the case. That they are wrong is just as plain as that two and two make four, both upon reason and upon precedent. First upon reason: Senators here sometimes like to change their position. We are shortly to have an incoming Administration. There may be Senators within the sound of my voice who would like to be Cabinet officers. In any such event it would be very convenient for such a Senator to say in advance, "On the 4th of March next, I go out of office as Senator, and I will notify the proper authorities of my State of this intention to change my position, so that they may have a man here by the 4th of March ready to go into a called Executive session to act in behalf of the State." That is one reason why this construction, for which I contend, and which I will show you is fortified by authority, is a reasonable construction of the Constitution. The whole doctrine, the whole scope, the whole intention of the Constitution shows that its framers never intended to allow a legislative interregnum; and the very fact that the Governors of the States are permitted to make "temporary appointments," in the language of the Constitution, shows that the framers of that instrument regarded it as a matter of some importance that all the States should be fully represented in this body. In order, therefore, to prevent a legislative interregnum, they gave the States facilities in every possible shape to be represented here.

Now, if any Senator desires to change his position, and become a Cabinet officer, carrying out this broad object of the Constitution, he may give notice of it in advance to the Executive or the Leislature of his State, so as to give them time to have a successor here on the 4th of March, prepared to go into an Executive session. There is reason in all that. We may want to make a Lieutenant General of a Senator—we may want to make foreign ambassadors of Senators—we may want to make judges of them—we may want to confer upon them all the offices which a citizen can hold, unless such offices as have been created or the emoluments thereof increased during their senatorial term, which they are prohibited by the Constitution from holding. In all these cases it may be wisdom to allow the selection and to let a Senator prospectively fix the day for his resignation, and notify the constituted authorities of his State, that on that day he will resign—that he will no longer hold the office of a Senator, and thus allow those constituted authorities to have his successor ready at the moment he goes out, so as to give the State a full representation. The whole system works well. It works admirably, under this view of the Constitution. It is a reasonable doctrine, and a reasonable system. The reverse

of it is unreasonable. The reverse is a fallacious doctrine. It necessarily produces an interregnum in the Senate. It necessarily leaves a portion of the term—which is against the whole scope of the Constitution—when States are not fully represented in the Senate. The doctrine upon which we have been acting from the foundation of the Government up to the present time, is that there should be no interregnum. It is the doctrine which all the precedents sustain.

I will not detain you by referring to the case which my friend [Mr. JONES, of Tennessee] referred to the other day, to show that these prospective resignations are obligatory upon the Senator who makes them, as well as upon all the functionaries of the Government. That was decided in the case of Jesse Bledsoe, from my own State. It occurred some forty years ago. He resigned prospectively. He then wanted to know of the Senate whether he could not resume the functions of the office after the resignation. The Senate determined that he could not—that, like an executed deed, his resignation estopped him from claiming the residue of the term; and that has been the law of the Senate ever since.

Suppose Mr. Clay had lived after the first Monday in September. That will test this question. Suppose that, instead of Mr. Dixon presenting himself, Mr. Clay had lived and come forward and claimed the seat after the first Monday of September. Could he have held it? No, not if the doctrine in the case of Bledsoe be the parliamentary law which you intend to enforce. You would have said to Mr. Clay, "You are estopped by your deed; you have resigned your office; and although you did it prospectively, in December last, it is obligatory on you, and you cannot resume your office" The case would be much stronger if the proper constitutional authority of his State had filled prospectively the place which he had vacated. If it could be said that it was not obligatory because it was prospective, that could not be said after the constituted authorities of the State had accepted the resignation and acted upon it.

Now, sir, Kentucky has accepted the resignation of Mr. Clay by her *properly-constituted authorities*; and after that acceptance she elected my friend, Mr. Dixon, to fill the vacancy from the first Monday of September; and when he presents himself, he is met by the argument that the prospective resignation of Mr. Clay was not effectual to create a vacancy, and that, there being no vacancy, his election was void. Mark you, if that resignation made a vacancy, the vacancy happened during the session of the Legislature, and nobody but the Legislature, as I have shown you from the Constitution, could fill it. The Legislature said there was a vacancy; the decision of the Senate in the case of Jesse Bledsoe said there was a vacancy; and the Legislature, acting upon that decision, undertook to fill that vacancy by electing prospectively my friend, Mr. Dixon. Had they the right to do that? Gentlemen say that the Legislature had no such right—that they could elect only after there was an actual termination of the incumbent's holding office by death, by resignation, or by removal.

There may be various ways of creating a vacancy. Death creates it *eo instanti;* there is a vacancy from the time of the last breath. That is one way. There may be judgment of expulsion upon impeachment and trial. As soon as the judgment is rendered, the official life of the officer terminates, and there is a vacancy from that period. There may be a vacancy by abandonment, as where a man leaves the State which he was elected to represent. The time of the abandonment may be uncertain; but still an incumbent may vacate the office by abandonment. The Constitution provides the remedy for filling the office again, without regard to the manner or mode of creating the vacancy. The only thing necessary to be ascertained is, whether a vacancy exists—it is immaterial from what cause. The Constitution, however, expressly recognizes the right of the incumbent to resign; and it does not prohibit a prospective resignation, or a resignation to take effect at a future day. The Constitution does not prohibit resigning a portion of the term and retaining a portion to a day fixed. In these respects the incumbent may fix his own time. But whatever portion of his term he does resign he has no power to recall. Mr. Clay having resigned prospectively all of his term to run after the first Monday of September, it was a valid act, there being nothing to prohibit it; and hence a vacancy was created, and happened on the day of the delivery of his letter of resignation to the Legislature. Vacancies may be created *in presenti* or *in futuro*. I may hand my resignation to you, sir, put on my hat, and walk out of the Senate. That would be a present, instant resignation. Or, according to the authorities, and according to reason, I may say, I will resign a month hence, and give notice, so that my place may be filled. That is prospective; but it is equally a vacancy, whether it is created by my instantly walking out of the Chamber, or whether I tell you that I intend to walk out a month hence, and notify the Governor or General Assembly of my State to provide for the event. The whole fallacy of the argument on the other side is, that they suppose there cannot be a vacancy created prospectively. They suppose that there cannot be a vacancy beyond a given day, which the incumbent fixes when he will retire from and surrender the functions of the office. Now it is the fact of fixing such a day, and notifying all concerned that he will surrender the office upon its arrival, that renders vacant the residue of the term; and such vacancy exists before the day arrives, precisely as a vacancy may exist, and would have existed, in the regular senatorial term commencing on the 4th of March next, when my period of service ends, had it not already been filled by the election of my successor.

Now, if a Senator can make a vacancy by putting a period to his own service, and saying, I will reserve so much time to serve, and beyond that I am out of office; it is as much a vacancy as if it was created by an instant withdrawal from the Senate. Surely, lawyers and Senators can perceive this. Sir, it is like conveying away an estate—to illustrate it—reserving a term—reserving, if you please, a year, and conveying away the residue. Suppose I held a lease of six years, the term for which a Senator is elected—I could surrender three years to the grantor, and retain three to myself. So a Senator elected for six years may surrender to the constituent and electing body, the Legislature, any portion of the six years by resignation. When such surrender is made, there is a vacancy to that extent. When Mr. Clay said, I resign from the first Monday of September—when he said, I will not serve you after the first Monday of September, it was like a conveyance of the residue of the term. He parted with it forever; but he retained to himself so much of the term as lasted up to the first Monday of September. He kept that; and he had a right to keep it; but the residue he could not keep, or reclaim, having transferred and surrendered it to the Legislature. It therefore became vacant—it was a positive vacancy thus created, which the Legislature had a right to fill.

If I am right in this, it did not, as gentlemen suppose, require the death of Mr. Clay to make a complete and full vacancy which might be filled by legislative appointment. The argument of the other side is, that there was no efficient, valid vacancy that could be filled by anybody until after his death. I say, not so. When he resigned, to take effect on the first Monday in September, and declared that he would not serve as Senator after that time, that very fact made the vacancy, and the Legislature had as much right to proceed and make an appointment for the remainder of the term, as they have to fill a new term.

But I have another and a stronger case to present. I shall serve here only to the 4th of March next. My successor has already been elected. How, under the doctrine which I am combating, did the Legislature elect another man, while I am in my place performing the duties of a Senator? How did they undertake to supersede me in that way? I am here. My period of service has not yet expired. My commission is still in full force. How, then, did the Legislature undertake to put another person in my place? Why, sir, this has been the everyday practice from the foundation of the Government. They did it upon the ground that my term only continues six years, and beyond that there is the commencement of a new term, which, for all the purposes of practical legislative life, can be regarded as a vacancy, and that term can be filled before its actual commencement takes place. The argument with which we are met is, you cannot fill this vacancy, created by resignation, as I have proved, until the incumbent, the *locum tenens*, filling the reserved portion of the term, is out of the way; and he did not get out of the way until he died. If that be so, here is a *locum tenens* in my own person, holding until the 4th of March next. I am not out of the way; how, then, could the Legislature of my State provide any one to come here—as has been done in my case, and as has been done in fifty cases since the foundation of the Government—and take my place? There are very few instances, since the foundation of the Government, where the election of Senators has not taken place exactly in this way to fill vacancies supposed to exist in senatorial terms before they commenced running.

My argument is, that when Mr. Clay said to the Legislature of the State of Kentucky, "I will serve as a Senator until the first Monday in September and no longer, I resign from that time," there was a vacancy created from that day, which Mr. Clay himself could not fill, as I have proved from the case of Bledsoe, which nobody had been prepared in any way to fill; and that that took place by virtue of the resignation sent forward in December. The Legislature undertook to fill that vacancy by the election of Mr. Dixon. Why do you not allow him to be qualified? If you do not do it, you violate all the analogies of the Constitution which I have shown you in the cases to which I have alluded.

But I will bring forward a precedent for all this. I will show you what the Senate did in the case of Mr. Sevier. Mr. Sevier was elected one of the first Senators from Arkansas, after the admission of that State into the Union. He was elected in 1836. He came here, and according to the rule of the Constitution, and according to practice, he and his colleague had to draw lots to know what class of Senators they should be assigned to. In that lottery, Mr. Sevier drew the shortest term, which expired on the 4th of March, 1837; so that having been elected in 1836, he occupied his seat but about a year. After he drew the short term, and before the period arrived at which he would have to retire, the Governor of his State, contemplating the vacancy which would happen after the 3d of March 1837, appointed Mr. Sevier to fill that vacancy—that was a regular term, not a vacancy created in a portion of a term. The Governor appointed him to fill the vacancy of a full term. Here is the commission:

EXECUTIVE OFFICE, LITTLE ROCK, ARKANSAS.

State of Arkansas, ss:

Whereas a vacancy will occur in the Senate of the United States, on the third day of March next, by the expiration of the term for which the honorable Ambrose H. Sevier was elected a Senator from the State of Arkansas; and it being understood that the Senate of the United States is to be convened on or immediately after the 4th of March, and it being desirable that the State should be fully represented: Therefore, I, James S. Conway, Governor of said State, and during the recess of the General Assembly, have thought fit to appoint Ambrose H. Sevier to fill said vacancy.

Given under my hand and the seal of said State, at Little [L. S.] Rock, this 17th day of January, A. D. 1837.

J. S. CONWAY.

By the Governor:

R. A. WATKINS, *Secretary of State.*

Now, mark you, Mr. President, the term for which he was originally appointed did not expire until March 3, 1837. The Governor undertakes, in January, to appoint him for the next term, before the expiration of his first term. It was the regular expiration of a term by its own lapse; and the Governor, under the circumstances mentioned, appointed him to fill the vacancy thereafter to occur. These facts came here and were sanctioned by the Senate, after the report of a committee, which I shall read to show what the Senate said, under these facts, was the whole case. Here is the report made by Mr. Grundy:

"At the last session of Congress, the State of Arkansas was admitted into the Union; and the Legislature of that State, in the month of October, 1836, elected Ambrose H. Sevier and William S. Fulton, Senators to represent the State in the Senate of the United States. It also appears that, upon the allotment of the said Arkansas Senators to their respective classes, as required by the third section of the first article of the Constitution, the said Ambrose H. Sevier, was placed in the class of Senators whose term of service expired on the 3d day of March, 1837, and that the Legislature of Arkansas have had no opportunity of filling the vacancy, not having been in session since the fact that the vacancy would occur could have been known in that State. The Governor of the State of Arkansas, on the 17th day of January last, commissioned the said Sevier, as Senator, to fill the vacancy which would take place on the 3d of March. Upon this state of the case, the question is presented whether the said Ambrose H. Sevier is entitled to his seat under the appointment made by the Executive of the State of Arkansas. In looking into the practice of the Senate upon the subject of Executive appointments, no

case like the present has been found. Several cases have occurred in which the Executives of different States, in anticipation of the expiration of the regular term of service, have appointed Senators, (the Legislatures not being in session,) and in all of these cases, the Senators thus appointed were admitted to their seats; until the called session of the Senate in March, 1825, when Mr. Lanman, of Connecticut, whose term of service expired on the 3d of March, 1825, produced his credentials from the Governor of Connecticut, and the Senate decided he was not entitled to his seat by a vote of 23 to 18.

"The decision seems to have been generally acquiesced in since that time; nor is it intended by the committee to call its correctness in question. The principle asserted in that case is, that the Legislature of a State, by making elections themselves, shall provide for all vacancies which must occur at stated and known periods; and that the expiration of a regular term of service is not such a contingency as is embraced in the second section of the first article of the Constitution."

The case now under consideration, it may be said, differs from that. Wherein does it differ? It was unknown to the Legislature of Arkansas what term Mr. Sevier would draw in the lottery which had to take place. When they assembled here, that fact was not known, and because it was unknown, it was not like the regular occurrence, every six years, of one of those constitutional vacancies to be filled by the Legislature. They therefore say, because that fact did not appear, and was not known, that the Executive appointment made in January, when the office did not expire until March following, was a valid Executive appointment when the Legislature was not in session; but if the Legislature had been in session, and they had elected, knowing the fact, would not that have been a valid election? I use this case to show that there is nothing in the idea presented here, that the Executive may not appoint, and make a valid appointment, prior to the expiration of the actual term of the incumbent then in office. Here, he did appoint months before Mr. Sevier's term expired, and that appointment beforehand was regarded to be a valid and good appointment. I will not detain the Senate by referring at length to other cases; but here is Anderson's case, and Williams's case, and, I believe, one or two others, to which I might refer, to show that the rule formerly was, that the Executive might appoint to fill the regular occurrence of vacancies in the regular terms of the Senate. But that rule was set aside in Lanman's case in 1825, and since that time the decision in it has been acquiesced in; but in Sevier's case they did not acquiesce in the rule, because of the fact, that the Legislature could not have known what class Mr. Sevier would draw; therefore they sanctioned the appointment from December until March, while Mr. Sevier was holding the regular commission conferred upon him by the Legislature. Now, when Mr. Clay resigned, and left a period of time, from the first Monday of September to the end of his term, which there was no one provided to fill by the Executive, or by Legislative appointment, was there not such a vacancy in that period which Mr. Clay could neither resume nor fill, and nobody else could fill, and, therefore, the Legislature, being in session, must necessarily fill it? It seems to me to be so.

What else happens in this case? Mr. Clay reserved to himself, in this term of six years, the time up to the first Monday in September. I think he had a right to reserve it. He had the right to fill the office up to that time, according to his letter; but before that time he died, and here is presented another question. It produced another vacancy; but what vacancy did it produce? It produced a vacancy in the time of the lease which he had reserved to himself up to the first Monday of September. But what is the argument of the gentlemen on the other side? Ah, they say his death, instead of producing a vacancy merely in the time reserved to himself, produced a vacancy in the whole of the remainder of his term. There is no reason in that. A vacancy had already been created by his resignation, after the first Monday of September. He had retained to himself the right to serve up to the first Monday of September. When he died before that time, a vacancy was created by his death only in the unexpired portion of the time which he had reserved.

I have admitted that when Mr. Clay died on the 29th of June, having reserved to himself the right to act as Senator up to the first Monday in September, there was a vacancy created by his death—but what vacancy was it? I say a vacancy only in the unexpired term which Mr. Clay had reserved to himself. He had by his act of resignation parted with all the time beyond the first Monday of September. He had made that a vacancy. He could not fill it. Nobody could fill it without an appointment or an election; and the Legislature did elect before his death a person to fill that vacancy. The Legislature accepted the time which Mr. Clay threw back upon them, and they proceeded, by the election of Mr. Dixon, to appoint a person to fill the vacancy. But there was a part of the term which he reserved to himself, unexpired; and he died before he had served out that reserved portion of time. He died two months before the expiration of the time which he had reserved to himself. That death only produced a vacancy in regard to those two months. There were then, in point of fact and under the Constitution, two vacancies; and the only thing which can perplex anybody is, that there is a little novelty in the occurrence of two vacancies in a term, one by the death and the other by the resignation of the same Senator, and the last happening before the death occurred; and there is nothing under heaven in the case but that, which can produce a moment's doubt or hesitation in regard to the proper course to be taken to let the Government regularly operate. Can there be any doubt about that? None at all. It is not entirely new that there should be two or three vacancies in the same senatorial term. There may be twenty. I have served here, in my short period of five years, with Mr. Crittenden, with Mr. Metcalf, with Mr. Clay, with Mr. Meriwether, and I hope to serve with Mr. Dixon. Here, then, in the short period which I shall have been in the Senate, I shall have served, if Mr. Dixon is admitted, with five distinct gentlemen as colleagues upon this floor. The incumbent dying may create a vacancy; the Legislature may fill it by an election, the man elected may die or resign, the Legislature or Governor may fill it, and that appointee may die or resign, and so on in the course of six years there may be a dozen, there may be twenty individuals instead of five filling the vacancies which may occur from time to time. If it were a regular succession of vacancies one after the other in that way, nobody would open his mouth; it would be so perfectly plain and intelligible. What then produces the difficulty here? It is produced just upon the ground that a vacancy occurs, in the first place by a resignation, which is accepted, and filled by a legislative election, and then a vacancy for the reserved portion of the time is created by death, and that in the recess of the Legislature.

Without concluding, the honorable Senator gave way; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 13, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Friday was read and approved.

The SPEAKER. Petitions are in order from the State of Maine.

TERRITORY OF PLATTE.

Mr. HALL, by unanimous consent of the House, introduced a bill, of which he had given previous notice, to organize the Territory of Platte; which was read a first and second time by its title, and referred to the Committee on the Territories.

RULES OF THE HOUSE—GENERAL COMMITTEE ON CLAIMS.

Mr. BROWN, of Mississippi, unanimous consent being accorded for the purpose, gave notice of his intention to introduce the following resolution, to change one of the rules of the House, viz:

Resolved, That the following be added to the rules of the House of Representatives:

There shall be appointed a standing committee of the House of Representatives, to consist of fifteen members, to be called *The General Committee on Claims*, whose duty it shall be to report a bill at each session of Congress making appropriations for the payment of private claimants. It shall be the duty of the other committees of this House, when they report in favor of any claim, to transmit their report, together with the evidence on which it is based, to said General Committee on Claims; and if said committee, after due examination, shall concur in said report, they shall insert an item for the payment of said claim in the bill for the payment of private claimants, and thereupon submit to the House the report and evidence aforesaid, to be printed or otherwise disposed of, as the House may direct. And upon the demand of a single member, a separate vote shall be had on any section of said bill designated by him, notwithstanding the previous question may have been moved and seconded.

PRESIDENT'S MESSAGE.

Mr. CARTTER asked the unanimous consent of the House to introduce the following resolution:

Resolved, That the Committee of the Whole on the state of the Union be discharged from the further consideration of so much of the President's message as relates to patents and the Patent Office, and that the same be referred to the Committee on Patents.

Mr. HOUSTON. I would suggest to the gentleman from Ohio, if he intends to divide the President's message at all,—and I see no great objection to it,—that he include all of the message except that part which is detained in the Committee of the Whole on the state of the Union by the present debate, which is the second branch of the series of resolutions. Let all, except the branch which relates to the tariff, be referred as indicated in those resolutions.

Mr. CARTTER. I am willing, with unanimous consent, to do it. It should be done. The object of my resolution is to furnish the committee with which I am connected, with that part of its labor which is brought to light in the message, and which is not involved in the confusion of debate. I adopt the modification suggested by the gentleman from Alabama.

The SPEAKER. Will the gentleman from Alabama reduce his proposed modification to writing?

Mr. CARTTER. By reference to the resolutions which were introduced by the chairman of the Ways and Means [Mr. HOUSTON] on Friday, the proposition may be determined.

Mr. HOUSTON. I think the proper way to accomplish the object, is to discharge the Committee of the Whole on the state of the Union from all except the second branch of those resolutions, and bring them into the House. That can be done by a simple motion; and when the resolutions get into the House, they can be disposed of.

Mr. CARTTER. I am perfectly satisfied with the course I selected for myself, and if the gentleman from Alabama [Mr. HOUSTON] finds any difficulty with the proposition, I prefer to adhere to the resolution I offered.

Mr. HOUSTON. It is a matter about which I have no particular concern; what I propose to do is for the benefit of other committees—not of the Ways and Means.

The resolution offered by Mr. CARTTER was again read, and then adopted.

NAVY AND OTHER PENSIONS.

Mr. HOUSTON reported, from the Committee on Ways and Means, "A bill making appropriations for the payment of Navy pensions for the year ending the 30th of June, 1854."

Also, "A bill making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1854;" which were severally read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

RELIGIOUS TOLERATION.

Mr. WILCOX. I ask the unanimous consent of the House for leave to introduce the following resolutions:

Whereas, it has been represented by travelers in foreign countries, and by missionaries preaching the Gospel in foreign lands under the patronage of American benevolent societies, that American citizens owing allegiance to no other Government than to our own free constitutional Government, are compelled to submit to forms of worship, while temporarily residing in or traveling through countries with which our Government has treaty stipulations, to which their reasons and consciences are solemnly opposed: Therefore, be it

Resolved, That the representatives of this Government at foreign courts be instructed to urge such amendments of all existing treaties between the United States and the other Powers of the world as will secure the same liberty of religious worship to all American citizens residing under foreign flags which is guarantied to all citizens of every nation of the whole world who reside under the flag of our Union.

Resolved, That all Commissions hereafter to be appointed to negotiate treaties shall consider themselves instructed to secure, if possible, this provision in all their treaties.

Mr. STUART. I do not wish to interpose objection to the introduction of these resolutions, but merely to suggest to the gentleman whether they do not interfere with a matter belonging to the Executive Department of the Government? It strikes me that they do.

Mr. WILCOX. I introduce those resolutions in obedience to the request of a very large and respectable religious denomination of the State which

I have the honor in part to represent. They simply ask that freedom of the worship of God for Americans abroad that is granted to the citizens of other countries in the United States. I am not sufficiently advised on the subject to answer the interrogatory propounded by my friend from Michigan, [Mr. STUART.] I ask only the reference of the resolutions to the Committee on Foreign Affairs.

Mr. CARTTER. Let them be referred.

Mr. STUART. I have no objection to their reference.

Mr. STEPHENS, of Georgia. I have no objection to the reference of these resolutions to the Committee on Foreign Affairs, if the gentleman desires it; but I cannot allow the occasion to pass, without very decidedly expressing my opinion of our powers in this regard. We have no right to instruct our ministers abroad. We have no right to speak to them. This matter can only be in the form of a suggestion to the President. So far as the precedent is concerned, I shall be opposed to any action on the resolutions. It would seem as though we did not understand the duties appropriate to our sphere. If the gentleman does not wish the resolutions to go as a precedent, but merely as a suggestion, I shall not object to the reference. I certainly would not vote for the resolution on its passage. With this protest, I shall interpose no objection to the reference indicated.

Mr. TAYLOR. These resolutions seem to be in the form of instructions by this House to our ministers abroad. It belongs alone to the Executive power of the Government to instruct our ministers, and I think that we are passing out of our proper sphere when we undertake to interfere with that power. Whilst we retain all of our legislative power, let us be cautious how we encroach on the authority of the Executive of the country. If the reference of these resolutions to the Committee on Foreign Affairs be intended only that inquiry may be instituted into the expediency of some action on this subject, I shall make no objection. I wish, however, to be considered as protesting against any encroachment by this House upon the powers of the Executive.

Mr. WILCOX. I only ask the reference of the resolutions to the Committee on Foreign Affairs that the subject may be investigated, and I hope it will not be objected to.

There was no objection, and the resolutions were referred to the Committee on Foreign Affairs.

LANDS FOR ACTUAL SETTLERS.

Mr. HUNTER obtained leave, and presented a joint resolution of the General Assembly of the State of Ohio, instructing her Senators, and requesting her Representatives to advocate the giving to each actual settler one hundred and sixty acres of public land for the cost to the Government of the survey and location thereof; which was read, referred to the Committee on Public Lands, and ordered to be printed.

RIGHT OF WAY.

Mr. IVES. I ask the unanimous consent of the House to introduce "A bill granting to the Sackett's Harbor and Ellisburg Railroad Company the right of way through the military reservation at Sackett's Harbor, New York."

There was no objection to the introduction of the bill, and it was read a first and second time by its title.

Mr. IVES. I ask that the bill be put upon its passage.

Mr. JONES. I think that it would be best to refer that bill to the Committee on Military Affairs; and I submit the motion for its reference.

Mr. COBB. I think that the bill ought to go to the Committee on the Public Lands, before which committee it was the last session. That is the legitimate committee.

Mr. HAVEN. I ask that the bill be read through; I think there is no use in referring it at all. The House has been in the habit of passing bills and joint resolutions of this character; and if it is to receive the sanction of the House as similar bills have previously, it may as well receive that sanction now. I ask that the bill be read through.

The bill was read through.

Mr. COBB. I withdraw my proposition to refer to the Committee on the Public Lands. The bill introduced at the last session, made an appropriation of lands, and this does not; and I therefore have no objection to its passage.

The question was taken on the motion to refer the bill to the Committee on Military Affairs, and it was disagreed to.

The bill was then ordered to be engrossed and read a third time; and having been engrossed was read the third time and passed.

SUPERINTENDENT OF THE CENSUS.

Mr. MEADE. In the bill which we passed at the last session, in relation to the Census, there was a casual mistake which the Senate sought to correct by "Joint Resolution [No. 54] explanatory of an act supplementary to an act 'providing for the taking of the seventh and subsequent 'censuses of the United States and to fix the number of the members of the House of Representatives, and to provide for their future apportionment among the several States,' approved 23d 'day of May, 1850." That joint resolution was sent down here too late for our action, probably, and it is now on the Speaker's table. I ask that it be taken up, and if the House will hear it read—and it is short—I am sure they will see the necessity of putting it on its passage, as it relates to the payment of public money to the officers of the Government.

The resolution was read a first and second time.

Mr. STEPHENS, of Georgia. I would inquire of the gentleman from Virginia, the object of the resolution just read? I could not gather it from its reading.

Mr. MEADE. I will explain to the gentleman. As well as I recollect, there was an error committed by which the Superintendent of the Census might, by the strict letter of that bill, draw his pay both as Clerk of the Census Board and Superintendent of the Census. When the Senate became aware of this mistake, they sent down to us this joint resolution for its correction. It gives the Superintendent the choice of being paid as Clerk of the Census Board or Superintendent of the Census.

The joint resolution was then ordered to a third reading, and, according to order, was read the third time and passed.

Mr. JONES, of Tennessee. I move to reconsider the vote just taken, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

ORANGE AND ALEXANDRIA RAILROAD.

Mr. MEADE. I again throw myself on the indulgence of the House, and ask the adoption of the resolution making the bill for the relief of the Orange and Alexandria Railroad Company, which is among the first on the calendar, the special order for the first Tuesday in January next. I will only state to the House, that the arrangements of the company would be much governed by the passage or rejection of that bill. I should be much gratified if the House would indulge me in making it a special order for the first Tuesday in January.

Mr. STANLY. What is the regular order of business?

The SPEAKER. The call of States for petitions.

Mr. STANLY. I ask for the regular order.

The SPEAKER. The proposition of the gentleman from Virginia [Mr. MEADE] is objected to substantially.

Mr. MEADE. I ask for a suspension of the rules.

Mr. STANLY. I hope that we shall have no special orders. They embarrassed us very much at the last session of Congress.

The question was then taken upon Mr. MEADE's motion, and it was decided in the negative.

So the rules of the House were not suspended.

THE PRESIDENT'S MESSAGE.

Mr. HOUSTON. If it is in order to do so, I will move a suspension of the rules for the purpose of going into Committee of the Whole on the state of the Union, and referring the President's message.

Mr. STUART. Before that is done, I wish to suggest to the House, the passage of a resolution closing debate upon the message.

[Cries of "Oh, no!" "Oh, no!"]

I am willing to consult the feelings and wishes of the House, but I think that we ought to fix a time when we should close debate. We have a mass of business piled up on the table, which will never be reached unless we can proceed according to the regular order of business each day. It is impossible to dispose of the business on the Speaker's table now. I have no disposition to consume any time on the President's message. I wish, in regard to the matter, to consult the wishes and feelings of the House, and I ask that the time for closing debate may be fixed now.

Mr. JONES, of Tennessee. I suggest Thursday next, at two o'clock.

Mr. BAYLY, of Virginia. I shall entirely defer to the gentleman from Michigan, [Mr. STUART,] in this matter, but I think we had better fix an early day for the very reasons he has assigned.

Mr. STUART. I have no objections, if the gentleman will offer a resolution, fixing an earlier day; it will suit me.

Mr. BAYLY. Then I propose Wednesday next.

Mr. STUART. I will accept the amendment; and I ask the previous question upon the adoption of the resolution.

The previous question was seconded, and the main question ordered.

The question was then taken upon the resolution as modified, and it was agreed to.

Mr. STUART moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider on the table; which latter motion was agreed to.

The question was then taken upon Mr. HOUSTON's motion, and it was agreed to.

THE PRESIDENT'S MESSAGE—THE TARIFF.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The subject before the committee is the annual message of the President of the United States, and the gentleman from Pennsylvania [Mr. JONES] is entitled to the floor.

Mr. JONES, of Pennsylvania, said he was surprised at the gentleman from New York [Mr. BROOKS] offering the amendment, because he was known as a National Whig, and as such was understood to be in favor of protection *per se*. How he could offer a resolution at this particular crisis, to open the tariff question, was to him a matter he could not comprehend. Certainly, if the gentleman is an advocate of protection, he must know, constituted as the House is at this particular time, that nothing could possibly occur that would not be injurious to that interest.

The gentleman stated, when he offered his resolution on Tuesday last, that his object was to reduce the revenue. Now, he wished to know whether the gentleman had looked abroad? The gentleman talked about the surplus revenue. Did he know that in less than one year from this day we may not only have no surplus revenue, but may find ourselves with a deficiency? He hesitated not one moment to say, as his honest conviction, that Europe has retrogaded fifty years within the last six months. Fifty years ago there was an empire in Europe. England, Russia, Austria, and Prussia were then arrayed against France. What is now the spectacle? A new empire has arisen, backed by all the powers of despotism. He believed that with these the battle of despotism against liberty is to be fought. There is now seen in Europe what was never before seen. There is a Democratic absolutism. The most despotic power has been created by the free suffrages of forty millions of people. And created for what purpose? Why, for the purpose of meeting an issue which we ourselves have made. Has not this country planted itself on the doctrine of Monroe, which is, that this country never can consent to any foreign Power acquiring a foothold on this continent? And is not this the doctrine of the Democratic party? Where is Cuba? Precisely in this position. We have declared in all our relations that Spain may hold Cuba; yet no mortal Power on earth besides shall occupy it except ourselves. This is our foreign policy. We learn by the morning papers that Sonora has been annexed to the French Empire. Richelieu said that in State affairs "there are no small steps." And he [Mr. JONES] repeated that, looking at the present state of affairs in Europe, in less than twelve months we will find the French Empire,

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backed by Russia, Austria, and Prussia, prepared to test with us the question whether foreign Governments shall gain a foothold on this continent. The issue is not whether we shall follow the doctrine of Kossuth and go abroad, but the question is presented to the American people whether we are ready and willing to maintain the Monroe doctrine. If so, we will have to fight for it.

He said he was opposed to a modification of the tariff at this time, because we have no landmarks to guide us; we have no statistics; not a single document; not even a message from the President upon the subject giving data; nothing to throw light upon this perplexed and perplexing question. Yet gentlemen propose to open the whole question of the tariff, and act with reference to a reduction to get rid of surplus revenue. He gave several reasons why the subject should not now be acted upon. We have, he said, recently elected a President who is to be spokesman for us. Shall he have a hearing? Is it for the Democratic party to say he shall not have a hearing? He did not believe it. How a Democrat could vote to open this question before the man they had elected is inaugurated, and before a Secretary of the Treasury is appointed to furnish the details, was to him extraordinary. He said, in the course of his remarks expressive of his views upon the tariff, that he should vote for the amendment in favor of continuing the *ad valorem* principle, and then vote against the whole of the pending proposition.

[Mr. JONES's speech will be found in the Appendix.]

Mr. JOHNSON, of Georgia. Mr. Chairman, in the few remarks I propose to submit, I do not intend to have reference to any party now subsisting in the country. They shall be strictly to the question immediately under consideration. And in the first place, I am in favor of the appointment of the proposed select committee, to be charged with the specific duty of inquiring into the subject of the revenue arising from customs, and to report thereon to the House and the country. I am in favor of it, because I desire to have action, and action based upon full information. If this question be referred to the Committee on Ways and Means, the ordinary and onerous duties of legislation which are now imposed upon them, will render it impossible for them to collect facts, and present them to this House, and the country, in a shape to warrant wise legislation. In the next place, I am in favor of a revision and reduction of the tariff. I was in favor of the tariff of 1846. It was suited to the condition and the interests of the country at that date; but since that time the population of the Union has increased, new sources of industry have been opened up, and our imports and exports have been very much enlarged; and it is necessary that our financial system should be changed. We have in the Treasury more than a sufficiency to meet the expenditures in an economical administration of the Government; and I understand that it is a principle of the Democratic party, to raise no more money than will carry on the Government, economically administered. If the amount of surplus revenue be too large, and the condition of the country has materially changed, there certainly must be a necessity for the revision and reduction of the tariff. This question being conceded, (and I believe that it is conceded on all hands,) the next one that presents itself to the consideration of the House is, when shall the revision and reduction be made? Gentlemen say postpone the matter—now is not the proper time—this is the short session. This is the short session. But cannot we collect facts and commence legislation? Although we may not be able at this session to perfect it, much will have been done by the appointment of a committee, and the collection of facts. We will thus induce legitimate action by our successors on the subject.

It is said that a new Administration in coming in. True, sir; but is the incoming of a new Administration to prevent me from looking at the condition of the country, and to provide by legislation for its wants? Why should we wait for the new Administration? Is it to dictate to this House and to the country—is it, or are we to pass laws under its recommendation not sanctioned by our judgment? If we have the facts laid before us, we can legislate as well without as with the direction of the Executive. It belongs to the Executive to execute the laws, and not to make them. It belongs to the Executive to carry out the tariff act, and it belongs to us to revise and modify it. It is stated by some that we cannot get the necessary facts, because an Administration is now in power with politics differing from those of a majority of this House. Suppose that to be true for the sake of argument. We will admit it to be true. What does this resolution propose? It proposes, in the absence of correct information from the heads of Bureaus and Departments, that the select committee shall have power to send for persons and papers; to compel the attendance of the heads of Bureaus and Departments, and elicit all the facts of the case from them, nothwithstanding in politics the Administration may be opposed to a majority of this House. It can be as well done now as hereafter. It is said that the financial reports made to Congress during the present Administration have been erroneous. Well, sir, when the fact of error is ascertained the point of truth is also ascertained; and we have now before us, if that assertion be correct, what is false and what is true, and now is the time to commence the designed revision and reduction. They cannot be effected, in all probability, this session; but there must be a beginning, and what more proper time than the present?

Mr. FREEMAN. The gentleman says that if we commence the work now, undoubtedly it will not be finished during this session.

Mr. JOHNSON. Probably it will not be completed, I said.

Mr. FREEMAN. Such is the remark of most of the gentlemen in favor of the proposed reference of the subject of the tariff to a select committee. Of what service will the commencement of this business be to the Congress now shortly to succeed us? Is not the public time wasted by this proceeding when other matters of more importance are pressing for our consideration, and when gentlemen acknowledge that it is not their purpose to bring the business to a conclusion at this session?

Mr. JOHNSON. The gentleman from Mississippi is mistaken in reference to one point. I say that probably the matter will not be brought to a conclusion at this session. I am, sir, ready—anxious, at this session, to bring it to a conclusion on certain principles. I would approximate the tariff as near to free trade as possible—as near as a proper tax for the economical administration of the Government would allow. I am in favor of the principle of free trade and taxation alone to sustain the Government. The principle of protection I eschew and abandon. In laying a tax upon certain articles, incidental protection results as a matter of course; but the object of taxation is not protection, and it should not be. And for the purpose of approximating to the free-trade principle, I would concur with the gentleman from New York [Mr. BROOKS] in increasing the free list as much as possible. Again, for the purpose of having it just and equal, I would, with the gentleman from South Carolina, [Mr. WOODWARD,] be opposed to a horizontal tariff, and in favor of discrimination, though not discrimination for protection. A distinction has always been made by this Government between articles, and I am in favor of distinction. The act of 1846 is a discriminating tariff act. It puts a duty of five per cent. on some, and twenty per cent. on other articles, and one hundred per cent. on some and thirty per cent. on others, discriminating according to the condition of the manufactures and productions of the country. In the language of the gentleman from South Carolina, [Mr. WOODWARD,] a horizontal tariff is an absurdity. It would be unequal and unfair, and in many instances protective and prohibitory.

The next principle I would observe in revising and reducing the tariff, would be to impose the duties on such articles as would throw the tax rather on the property than the individuals of the Union. I would tax fine silks, segars, and first brand brandies to the highest revenue point. I am, in the next place, opposed to giving encouragement by bounty protection to any branch of industry; and I am equally opposed, by operation of law, to the destruction of any, because it would be a violation of the principle of free trade. I would be glad to see manufactures flourish throughout the length and breadth of the land. I have no hostility to that branch of industry, nor to any other. I am willing, for the purpose of relieving them from the heavy burdens imposed by law, to make the raw material imported from foreign countries and entering into fabrics of this country, free of duty. I am in favor of taking the tax off certain articles made in other countries and imported into this for fabrication. Is this protection of manufactures? Not at all. Other countries, whose manufactures enter into competition with our own, relieve the raw material from tax, and by that means, labor and the cost of other materials being the same, they can manufacture cheaper than our own people. I would place our people upon a footing with the people of those countries, so that our manufactures might compete with theirs. This competition results in favor of the consumer. The consumer and manufacturer are both benefited. It is not protection, but it is the removal of protection.

I would, Mr. Chairman, remove the obstacles to the increase of internal communication. I would encourage all facilities for transportation throughout the country I could consistently with the principles of free trade. This will be for the benefit of the consumer, and the benefit of the producer. For instance: How much would it cost for the delivery of a barrel of flour prepared in the West for market, supposing all your steamboats and railroads were not in existence? As you increase railroad communication, you reduce freights, and the demand and the cost of production being the same, you also reduce the price.

The greater number of facilities and the more population you have, the less it will cost to transport to other parts a bag of cotton. Then, in return, there is the merchant to be benefited by bringing to the door of every consumer marketable articles; and by the amount you diminish the prices of freights, you benefit the consumer to that extent. Here, then, if you increase the facilities of transportation, you will benefit the consumer and producer—the merchant and the manufacturer. Well, that being the case, how shall we arrive at that object? how shall it be accomplished? Why, we can accomplish it in part by making railroad iron free of duty. That is the way in which it can be done. There are some enterprises in the country which are too large for individual efforts—too great for individual capital, and legislation ought not to intervene for the purpose of destroying the combination of capital and labor. If you will remove the burdens which you have put upon iron, and let it come in free, inducements will be held out, not by protection, but by relief for companies to associate for the purpose of building roads. That being done, all these benefits which I imperfectly described will result to the producer and consumer.

It is necessary that we should do something. We have a large surplus, and the probability is that that surplus will increase, unless the contingencies arise which have been referred to in the debate. The gentleman from Pennsylvania [Mr. JONES] asks, "Where stands Cuba?" She stands as a dependency of Spain, and I hope she wil stand as such dependency until Spain voluntarily relinquishes her right in that Island to us. I am for no crusade, to take Cuba from Spain by violence, fraud, or unjust means. I am not in favor of any illegal expeditions being fitted out in this country, contrary to our neutral obligations and the express law of our own land. If we acquire Cuba by treaty and negotiation, perhaps there may be a necessity for using this $15,000,000 of surplus; but let us not anticipate events. Here the question is upon us, What shall we do with

this surplus?—how shall we act? Because these things will loom up in the future, the argument is, that you must not touch the tariff—you must not reduce it—you must keep a surplus in the Treasury, on hand to meet exigencies. What shall be done with it? Will you distribute the public lands? That measure meets with opposition in this House. How will you diminish your revenue? The importations will increase every year, so long as our population continues to increase. We are at peace with all the countries in the world, and they are at peace with each other. Will you distribute the land? If you do not distribute the lands, and by that means reduce your income, will you distribute this surplus fund? That was done once, but it met with the opposition of the Democratic party. What will we do with it now? The question is upon us, and we must act.

It has been said, that this Administration, which is about to terminate, has been a wasteful and extravagant Administration. I have heard that time and again. Well, suppose it has been wasteful and extravagant, has a dollar of public money been appropriated by this Administration which has not been voted for by this and the other House of Congress? In other words, has one dollar been taken without the authority of law? If it has been lavish and extravagant, that extravagant and lavish expenditure has been authorized and directed by Congress. Upon this body rests the responsibility, and not upon the Administration. I am for doing justice to all men. We are responsible for this extravagance; and if we have been extravagant, it is time for us to commence curtailing our extravagance. Here is the place. It may be commenced in this body; and for the purpose of securing that object, it is necessary that a discussion should be had, and that the public mind of the country should be called to the question. If we shall take off the duty on railroad iron and make it free, then there will be no necessity, no pressing necessity, to make two or three millions of appropriations every year for the purpose of building snag-boats to remove obstructions in rivers, &c. I understand that the Democratic party have been opposed always to a general system of internal improvements. How shall you put it down? By reducing the tariff and raising no more than is necessary for an economical administration of the Government. I did not at this time expect to enter into any details in reference to the tariff. I desired merely to state my own position and a few principles which would regulate my own vote on the pending question. I have stated all I desired to say upon this subject, and I will therefore yield the floor.

Mr. MOLONY. I voted for the first resolution of the gentleman from New York, [Mr. BROOKS,] which contemplated a reference of so much of the President's message relating to revenues to a select committee, with instructions to said committee to report a bill for the reduction of revenues by a reduction of duties.

I was not a little surprised to see so many of the Free-trade Democrats of this House opposing such a resolution. I suppose the source from which it emanated made them look with suspicion upon it; and I will confess my surprise to find the Administration's organ of this House submitting a resolution close upon the reading the President's message *so directly in conflict with* the recommendations of that message touching the subject of revenue. Still I looked to the resolution, approved of it, voted for, believing *it to be right*, and I shall hope to have the aid of the gentleman from New York [Mr. BROOKS] in sustaining the amendment of the gentleman from Indiana, [Mr. LOCKHART,] which is substantially the same as his own. It is admitted by all that we have a surplus revenue beyond the wants of an economical administration of this Government of at least $14,000,000. It is equally true that there are no well-founded anticipations in regard to that revenue that will not warrant us in expecting a continuation of that surplus; yea, its very great increase under our existing revenue laws. Every Democrat upon this floor must, I think, if he is consistent with the principles of his party, recognize the necessity of action upon this subject. Among such the only question that seems to arise, or that can arise, is, when shall we act? Since a great surplus already exists, and is sure to increase at a progressive rate under existing laws, and since this vast revenue is collected by oppressive taxation upon the people, I am for action *now*, and no delay, that a future surplus may be prevented, and that it may be left in the pockets of the people, who have a much greater need of it, and who can make a much better use of it than the American Congress.

I am also for reducing this revenue, *by a reduction af taxes* or duties; and here I am in *direct* conflict with the protective policy—specific duties and minimum valuations recommended in the last annual message. I have no doubt that a reduction of revenues can be accomplished by an increase of taxes or duties as recommended by the President; but it is equally clear that the same object can be effected by a diminution of taxes upon the people; or which is the same thing, a reduction of duties, as was contemplated by the first resolution of the gentleman from New York, [Mr. BROOKS,] which was substantially the same as that of the gentleman from Indiana, [Mr. LOCKHART,] and to which I give my most cordial approbation. There are some positions taken by the gentleman from Pennsylvania [Mr. JONES] who last addressed the committee, which appear to me not orthodox among Democrats; and then there are others of which I cordially approve. If I mistook that gentleman not, he stated that, in levying duties, he would have reference to the maximum standard of revenue, that is, that the duties should be laid *ad valorem*, but in such a way as to collect the greatest amount of revenue.

Mr. JONES, of Pennsylvania, (interrupting.) The gentleman evidently misapprehends me. I stated distinctly, as my first proposition, that I was in favor of reducing the revenue of the Government to the lowest possible standard compatible with an economical administration of the Government; and that, as an evidence of that fact, I would vote now for a reduction of six millions at once. In reference to my other proposition, the gentleman is in error in this particular: I said that, in adjusting the duties, I would have the revenue standard in view, imposing burdens in such a way as to bear most equally upon the masses of the people, and that it should be distinctly in view—and in that I concur with the gentleman—of the lowest amount of revenue compatible with the administration of an economical Government.

Mr. MOLONY. If I have misunderstood the gentleman, I am pleased to be corrected; but certainly the gentleman went into a lengthy showing of reasons why the existing laws should not be altered. Although, according to his own admission, the expenses of the Government should be reduced $6,000,000, which would give us, with our present revenue, $20,000,000 surplus in our Treasury; and his method of disposing of said surplus was, to enter the markets, and purchase the bonds and securities of the Government at their present high premiums.

Mr. JONES, (interrupting.) I regret that the gentleman still misunderstands me. I was only opposed to a reduction of the tariff *now*, to dispose of the surplus revenue of this time. In one year from now, if I find a surplus in hand, and the state of the country at home and abroad is such as to admit of it, I will join the gentleman most cordially in disposing of that surplus.

Mr. MOLONY. Well, sir, I am glad to be corrected if I was wrong upon that point also; one difference, then, between the gentleman and myself is this, he will be ready one year hence to reduce the revenue down to the standard required by the administration of an economical Government, while I am ready *now*, at this moment, to commence the work.

But, sir, while I am disposed to vote the modifications *indicated* in the existing revenue laws, I am most uncompromisingly opposed to any change in the principles of that law. As before stated, I am unalterably against the protective policy, specific duties, and minimum valuations, recommended by the President in his last annual message; and for this reason, that while they would reduce the revenues and thus dispose of the surplus, they propose to increase the duties, and of course increase the burdens of the people.

The principles upon which the tariff of '46 were constructed, are sound in theory, and have proved *eminently successful* in practice; and, sir, at this time, while the attention of the House and country is directed to the necessity of a modification of this law, it will be interesting, and not unprofitable, to turn back to the period of its enactment, and pass along through to six years of its existnece, and see what may have been its effects upon the great interests of the nation. We all remember the frightful (almost) predictions of the Whigs, at the time the tariff of '46 was made to supersede their favorite protective tariff of '42. Their forebodings of evil were undoubtedly honest, for I really believe that they thought the whole country was about being ruined. I believe so, because they said so, (they are honorable men, and would not say what they did not believe;) but from their Secretary of the Treasury, and the great Cotton Lord of New England, down to the most insignificant country sheet, the predictions of commercial ruin and national bankruptcy, was sounded through the land. Your Treasury, sir, was to be empty. The country drained of its specie, to liquidate the balances of trade against you, caused by ruinous importations. The prices of wages and property were to be ruinously depressed. Manufactories were to be closed. Financial embarrassment and distress was to pervade the whole country. In a word, nothing short of wide-spread ruin was to overtake our every interest. All of these predictions were made, and that by men high in the respect and confidence, then and now, of the whole country, for their intelligence and patriotism.

But, sir, a deep and earnest conviction had taken hold of the popular mind, that the protective character of the tariff of 1842 was *unsound*, *unjust* in theory, and that in its operation was highly oppressive to the people, *discriminating* severely against them, and in *favor* of the wealth of the country. This the Democratic party believed, and believing it, they came to the rescue of the country in the campaign of 1844, by inscribing upon their banner, which waved triumphantly at the close of that contest, *Repeal of the Tariff of* 1842, and the substitution in the legislative policy of the country, of the revenue principles and *ad valorem* duties, in the place of the protective policy, and specific duties, and minimum valuations. We have had six years of experience with the workings of this revenue tariff, and what are its results? Has our Treasury been empty at any time during its existence? And is it now? On the contrary, is there not now in it a surplus of $14,000,000, after defraying all the ordinary expenses of the Government, besides defraying a great portion of the extraordinary expenses of a foreign war? Has the credit of our Government, during all the demands upon it, created by the existence of that war, suffered one moment in the markets of the world? On the contrary, is it not a proud fact, that during the whole of the war, when the demands upon our Treasury were not less than $60,000,000 a year, that the bonds of our Government *were bought at a premium?* The two last years the tariff of 1846 has yielded a revenue of about $50,000,000, while the last year of the tariff of 1842 yielded but $26,000,000, or about that. The average yield of revenue, under the Whig tariff of 1842, from 1842 to 1846, was $23,000,000, while the average of revenue for six years, from 1846 to 1852, from the revenue tariff of 1846, has been about $40,000,000, and that $40,000,000 has been raised by a rate of duty or tax upon the people, of about *half the burden* that was imposed by the Whig protective tariff of 1842, which only yielded a revenue a trifle more than half of that raised by the tariff of low duties. Has your country been drained of its specie? On the contrary, did it not flow into the country, at a most unparalleled rate of increase, in consequence of the revival of our foreign commerce immediately upon the enactment of the tariff of 1846, and continue so to do until the discovery of the California mines, since which gold has been rapidly accumulating in our banks, and in the hands of capitalists, and the channels of trade, *supplying the home demand*, and affording a large surplus for exportation? If I mistake not, the first year of the tariff of 1846, about $23,000,000 flowed into the country from abroad, an amount, if my memory serves me right, nearly double the whole amount gained during the four years of the tariff of 1842. So much for draining the country of its specie!

Look at the effect of the revenue tariff upon the foreign commerce of the country at the expiration of the tariff of 1842. Our exports and imports were about $200,000,000; now, in 1852, after the revenue tariff has been in operation only six years, that commerce has swelled to the vast amount of

$430,000,000. Our foreign tonnage which, at the commencement of the present tariff, was 2,500,000 tons, now is 4,000,000; nearly, if not quite equal to that of England, whose boast has ever been that she rode the undisputed mistress of the wave—a proud distinction which she is soon doomed to yield to a much younger, but more energetic and progressive people. One of the results of the tariff of 1846 is especially interesting to the constituency which I have the honor to represent, and that is, one item of our great exportations has been, for the last six years, about $20,000,000 annually, on the average (that of breadstuffs and provisions) over and above what was exported from the farms of the American farmer under the protective, and to a great extent prohibitory tariff of 1842; and of the results to the American farmer of this increased market abroad for the produce of his farm, one has been, and is that he has been producing more, selling more at far better prices than under the tariff of 1842; and it may, in truth, be said, what all agriculturists will assent to, that the present is to them a season of great and universal prosperity.

But some contend that while you stimulate and foster foreign commerce, create markets abroad by low duties, you *cripple internal commerce*, destroy the *home market*, by ruining the manufactures of the country. Has such been the effect of the tariff of 1846? Look at the growth of your manufacturing villages, at the prosperity of the towns and villages that have sprung up, and are now flourishing along all the channels of your internal commerce. Look at the multiplications of those channels during the last six or eight years. About the time that the tariff of 1842 was going out of operation, the Erie canal was the only channel connecting the trade of the great lakes with New York city; (I think that the Buffalo and Albany Railroad was not then complete;) but such has been the vast increase of that internal trade for the last six years between New York, Boston, and the manufacturing towns and cities of New York and New England, and the great agricultural West, that Boston has built her Ogdensburg and Boston road, the Albany and Boston, New York, the New York and Erie, and the New York and Albany roads. Nor is this all: Philadelphia, Baltimore, and Charleston, are vying with New York and Boston in the construction of railroads over the Alleghanies for the purpose of accommodating the wants of the great valley of the Mississippi, and sharing in the profits of her already vast but rapidly increasing trade. At the expiration of 1842 there were in the United States about five thousand miles of railroad; now there are not less than twelve thousand miles; and during the next four years, if no revulsion overtakes the currency and business of the country, (for which I see no well-grounded apprehension within that time,) there will be more miles of railroads made than in the previous four years; and as an evidence of the necessity of these works to meet the wants of our great and rapidly growing commerce, the dividends which they are declaring *is conclusive*. They are regarded by capitalists as among the best paying and safest investments of the day. Hence, Mr. Chairman, we see, in reviewing the operation of the tariff of 1846 upon the foreign internal commerce of the country, no antagonism between those interests; on the contrary, while one has signally prospered, the other has equally so; and from the review that has been taken of our condition and progress at home and abroad for the last six years, it is clear to every one who may review the facts, that all of the predictions of the opponents of low duties have most signally failed, and that the most flattering anticipations of their friends have been *more than realized*.

There is nothing, then, sir, in our experience to commend to the favor of the American people, and to the adoption by the American Congress, of the protective policy recommended by the President in his last annual message, with his specific duties and minimum valuations in place of the *ad valorems* in the present Democratic tariff. The views of the President, as applied to the reduction of the present surplus revenues, would result in an increase of taxes upon the people, whose burdens are already too great; for how can the increased protection that he calls for for the American manufacturer be attained, unless by an increase of duties, or an increase of taxes upon the people?

I therefore, in the name of the constituency which I immediately represent, protest now against that change in our revenue laws as now existing, which shall involve a departure from the revenue standard or principle of the tariff of '46, and a return to the protective policy of the tariff of '42, as recommended in the last annual message. The agriculturists of the West have a vast interest in the preservation of the foreign markets that they now have, and in the further extension of their markets by a liberal commercial policy on our part, until to our breadstuffs and provisions the markets of all the world shall be thrown wide open. The principle or principles upon which the tariff of '46 was formed *was right*, and should *be permanent* as long as it shall be the policy of this Government to collect its revenues by imposts. Those great principles are, no more revenue than may be required to sustain an economical Government, and those duties collected equally as can be from all, *ad valorem*. Now, that principle was right in '46, is now, and should remain the policy of the Government as long as we collect imposts; and the application of that principle, as applied and carried out in detail in the tariff of '46, was probably nearly right in view of the then condition of the country. But the exigencies of our Treasury has changed. There is now a surplus; then a deficit. Now we have an importation of $200,000,000 and over; then of $100,000,000; and if we would now modify the present tariff with the same object in view as at its formation, viz: revenue only, and the prevention of a surplus, we must reduce the rates, while you should adhere to the principle. One of two things must be done, if we would prevent the accumulation of a surplus revenue, either reduce your revenue rates, or else diminish your importations, and lose our foreign markets. To the latter alternative the Whig policy leads. The former expedient, viz: the reduction of taxes, and the fostering of our foreign commerce, commends itself to the favor of the Democracy.

Sir, while speaking of the modification of the tariff (existing) by a reduction of duties, to the extent of reducing the revenue to the wants of the Treasury, I have not, and *shall* not indicate on what articles (nor the percentage) the reduction should be made. I content myself with the declaration, that, in my opinion, it is highly expedient to *reduce* the revenue to the wants of the Treasury, and that that reduction should be effected by reducing the duties, and lessening the burdens of the people.

There is, however, one article for which there is great demand in every section of the country, and in the purchase of which, at fair and living prices, every interest in this wide-extended country has a great interest: I allude to railroad iron. In the reduction or abolition of duties on this article, the people of the West have an especial interest. Great portions of the people of Illinois, Wisconsin, Iowa, and Indiana, although placed in a country of unequaled agricultural resources, yet such is the distance of great portions of these States from market, that a living can only be obtained from that rich, virgin soil, by the severest hardships, and that unremitting too; the transportation of his products to market at a distance of seventy or to one hundred miles consumes the most of the produce of the hard pioneer's toil. Now, over these prairies there is every natural facility for the construction of railroads. Upon them such roads can be constructed at about one half the cost of any other section of the Union; which, when constructed, yield the greatest dividends of any roads in the country. The hardy, enterprising, and patriotic western pioneer has not money for the construction of these roads; but he has labor, and of that labor he will contribute *most liberally* for the construction of railroads. That will grade the road and furnish the ties; but money, an item that never abounds among the pioneer farmers of the West, must be had for the purchase of the rails. Some of the best paying roads of the West—one in particular, viz: the Chicago and Galena railroad—was delayed for years for want of money for the purchase of the rails, long after the country contained a large population, and would have paid high dividends on the money invested. The farmers along the track of that road were ready—yes, anxious—to contribute of anything that they had for the construction of the said road; but money they had not, and as long as the matter was an experiment, no eastern capitalist would invest in it. It was, however, started by the farmers themselves, *materially* and *essentially* aided by the cities of Chicago and Galena. Still the effort was at a great sacrifice of the farmer, the bonds of the road at its start (three years ago) selling for seventy-five cents, and now at one dollar and a quarter, the road having declared, for the last fifteen months, twenty-seven per cent. dividend. Such are the difficulties that a new country has to encounter in the construction of railroads. Money is the great want and desideratum with them; and hence for the construction of such roads, so important to your agriculture, commerce, and manufactures, of every section and of the whole country, the American Congress should lend every aid in its power. Give us railroad iron free of duty, and we will make, in the next four years, in Illinois alone, twelve hundred miles of the best railroad in the world. They will add immensely to our surplus products, which will effect a corresponding increase in our demand for and purchase of the fabrics of your manufactories and workshops, as well as for the wares and merchandise of our commercial emporiums, thus swelling the tide of our foreign and internal trade, and benefiting all the great interests of the Union. I hope, therefore, since this article is of such great importance to the whole country, and since it is now so high, that this Congress will make the importation of this article *free*.

Sir, the Government of the Union is now at a point upon the scale of duties *from which* all parties are agreed there should be progress. The Whigs are usually called the stand-still party, but in this matter of revenue, our President, who may be fairly regarded as the exponent of the views of the national Whig party upon this matter, and for whom and whose opinions I entertain the highest respect—the President, I say, in this matter certainly has progress, but it is *a progress backwards*, from *the revenue principle* to the protective policy of the tariff of '42. Our progress is not a departure from the revenue principle of the tariff of '46, but a progression *forward* in the application of the principle, by a reduction of duties and taxes, demanded by the accumulating surplus of revenue.

Sir, it is to the instrumentality of the Democratic policy, that the country owes its past progress, present greatness, and through it is to realize its glorious future! Of unequaled agricultural, commercial, and mineral resources, possessed of a country of vast extent, ranging almost through every clime, possessing every variety of soil, climate, and production, with a race inhabiting it whose energy and inventive genius was never surpassed, *if equaled*.

And above and beyond *all*, blessed with free *religious and civil institutions*, under which man's moral, intellectual, and physical powers *can alone* be fully developed, what may we not hope for our beloved country if the free, liberal principles of Democratic policy shall continue permanently in the ascendency in the administration of our foreign relations? From the continuation of such a policy, we may expect a position in the family of nations for wealth and power, physical and moral, and in all things that constitute true greatness and glory far in advance of any other nation of modern or ancient times.

Mr. MEADE having obtained the floor, moved that the committee rise.

Mr. SEYMOUR, of New York. I would ask the gentleman from Virginia to waive that motion for a moment, that I may present an amendment to the eighth resolution.

Mr. MEADE. I will waive it for a moment. Let the gentleman hand his resolution to the Clerk, that it may be read.

The amendment was then read, as follows:

Amend, by inserting in the eighth resolution, after the word "harbors," the words "and rivers," and strike out so much of the tenth resolution as refers the same to the Committee on Roads and Canals.

[Cries of "No!" "No!" "No!"]

Mr. MEADE. I move that the committee rise.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee [Mr. STUART] reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the annual message of the

President of the United States, and had come to no resolution thereon.

REPORTERS—CLAIM AGENTS.

Mr. STANLY. I wish to offer an amendment to one of the rules of this House. I send it to the Clerk's table that it may be read.

The resolution was read, as follows:

Resolved, That the following amendment be made to the 19th rule of the House of Representatives: "And no person shall be admitted, under the rules of this House, as a reporter or stenographer, for any paper or papers, who shall be employed as an agent to prosecute any claim pending before Congress; and the Speaker shall give his written permission with this condition."

[Cries of "Right!" "Right!" "Right!" all over the House.]

Mr. JONES, of Tennessee. I propose an amendment to that, by adding to the end of it the words, "and not more than one reporter or stenographer shall be assigned to the same seat." My object is not to exclude any person from this Hall, or from positions which will enable them the better to see what the people's representatives are doing, and to give an account of their doings to the country; but, sir, my object is like that of the gentleman from North Carolina, who offered the original resolution, to exclude from the Hall persons who come in under pretext of reporting the proceedings of the House, but, in fact, without ever reporting one word or one syllable for any paper. They merely act as claim agents and lookers-on, and frequently are very great annoyances, and obstructors of the legitimate business of the House. I think there are seats sufficient around here, assigned as reporters' desks, for all who legitimately seeks these seats for the purpose of communicating to the various papers of the country, the proceedings of the House of Representatives. I hope that the amendment which I have offered will be adopted, and then the resolution proposing an amendment of the rules will be also adopted.

Mr. FREEMAN. I would inquire of the gentleman how he proposes to ascertain the fact?

Mr. STANLY. The 19th rule, which I will read, with the permission of the House, is:

"No person shall be allowed the privilege of the Hall, under the character of stenographer, without a written permission from the Speaker, specifying the part of the Hall assigned to him; and no reporter or stenographer shall be admitted under the rules of the House, unless such reporter or stenographer shall state, in writing, for what paper or papers he is employed to report."

My object is to prevent the abuses which we suffered at the close of the last session of Congress. It is a great nuisance, and I want to stop it.

Mr. FREEMAN. The party applying for admission, then, will simply state in writing that he is not a claims agent. Will that be a sufficient guarantee?

Mr. STANLY. The Speaker will give him a desk if he is not. That rule is to be enforced as all other rules are.

Mr. POLK. Let the original resolution and amendment be read.

They were accordingly read, as above inserted.

Mr. NABERS. I do not intend to oppose this amendment—perhaps I shall vote for it. I feel it due to myself, however, to state, that so far as I am concerned, I deem an amendment that sort altogether superfluous; and the truth is, it seems to me to imply a doubt on our part of out ability to resist temptation.

Mr. STANLY. By no means.

Mr. NABERS. Flesh is weak, and we are liable to temptation; and perhaps no prayer would be more appropriate to us, than the one to "Keep us from temptation."

A MEMBER. "Lead us not into temptation," are the exact words. [Laughter.]

Mr. NABERS. Very true, but I wish to say that if this amendment is adopted, that so far as I am individually concerned, it is not at all essential to my protection.

Mr. JONES, of Tennessee. Not at all, nor is it for any of us.

Mr. NABERS. It occurs to me that it is rather small business. There are particular seats in the room already assigned to reporters, and I have full confidence in the Speaker, that he will discharge his duties in regard to assigning those seats. But, sir, I will not detain this House with any discussion of this amendment.

Mr. JOHNSON, of Tennessee. I rise for the purpose of making an inquiry, and that is, how many seats there are?

Mr. JONES, of Tennessee. I understand from the officers of the House, that there are thirty-two desks for the reporters, including those for the Union, Republic, and Intelligencer, and excluding the three in front of the Clerk's desk for the Globe.

Mr. JOHNSON. I am in favor of the object of the resolution, but am inclined to think it will be hard to carry it out. We have already a bill before us, embodying the principle sought to be adopted by this resolution.

Mr. CAMPBELL, of Illinois. If there are not enough of seats, as appears to be the opinion of some, it would be hard to exclude any particular State from a reporting position on this floor. If the resolution embraces thirty-one seats, and only thirty-one, the Speaker will be enabled to exercise the power conferred on him, with justice to all of the States.

The SPEAKER. The Chair is informed by the Clerk, [Mr. Buck,] whose duty it is, in connection with the Chair, to assign seats to the reporters, that there are twenty-two seats, exclusive of those for the city papers.

Mr. JONES. I call for the previous question.

Mr. STANLY. I hope the gentleman will withdraw the call for the previous question, that I may say a word or two. I will renew it.

Mr. JONES. I withdraw the call.

Mr. STANLY. I will only say to the gentleman from Mississippi it never entered my head that there was danger of any bribery or any improper influence being exerted on members of Congress. No such thing prompted me to offer the amendment. Certain persons come in here pretending to be reporters for papers, when they have no connection whatever with any paper, but who constantly annoy us in talking about their claims. A gentleman from my country connected with the press comes here and he cannot get a position on the floor, but a claims agent coming here to spend the winter, in the transaction of his own business, says to the Speaker, "I shall write to a certain paper in our village," and gets access to the House at all times to the annoyance of members on both sides of the House. I never dreamed that temptation would enter here. I know that my friend from Mississippi will be one of the last men to be influenced by any improper considerations. So far above temptation is he that he gives us a version of the Lord's prayer in his own way, not to be led into temptation. I renew the call for the previous question, according to my promise.

Mr. NABERS. I ask the gentleman from North Carolina to withdraw the call for the previous question.

Mr. STANLY. I will if the gentleman will renew it.

Mr. NABERS. I will. I have asked the gentleman to withdraw the call for the previous question, simply to allow me to disavow any purpose of casting the most distant insinuation on him for offering the resolution. The objection that occurred to me was, that the amendment itself implied a possibility that members of Congress might be influenced by these claims agents. I take it that such is impossible. [Laughter.] I renew the call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. JONES's amendment was adopted; and then the proposition of Mr. STANLY, as amended, was agreed to.

Mr. JOHNSON, of Tennessee. I ask the House to excuse me from serving on the Committee on Commerce, on which committee the Speaker has again put me.

The question was put, and the honorable gentleman was excused by the House.

Mr. CAMPBELL, of Illinois, moved that the House adjourn; which motion was agreed to.

And the House thereupon adjourned till to-morrow at twelve o'clock, m.

NOTICE OF A BILL.

Mr. CHANDLER gave notice that he would to-morrow, or on some future day, ask leave to present a bill entitled An act supplementary to an act entitled 'An act to amend the several acts respecting copyrights, approved February 3, 1831.'"

PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. STANTON, of Ohio: The petition of Joseph Newell, of Logan county, Ohio, praying for the passage of a law authorizing him to locate a section of land in the surveyed lands of the United States, in lieu of a section granted to him by treaty in the Indian Territory.

Also, the petition of Elliott McColloch, of Logan county, Ohio, praying the passage of a law authorizing him to locate a section of land in the surveyed lands of the United States, in lieu of a section granted to him by treaty in the Indian Territory.

By Mr. JONES, of New York: The memorial of the American Medical Association, adopted at their meeting in Richmond, Virginia, May 2, 1852, asking the publication of the vital statistics of the census of 1850, in a form convenient for distribution.

Also, a like memorial from the Medical Society of the State of New York,—and another from the Academy of Medicine of the city of New York, asking for the same thing.

By Mr. SWEETSER: A joint resolution of the General Assembly of the State of Ohio, requesting Congress to give the public lands to the actual settler upon the payment of the cost of survey.

By Mr. BISSELL: The petition of Levi Owen and others, citizens of Randolph county, Illinois, praying for the removal from the county of free negroes.

By Mr. DARBY: The petition of Solomon B. Wilson and 67 citizens of Jefferson county, Missouri, praying for the establishment of a mail route from Hillsborough to Morse's Mill and Grubville, in said county.

By Mr. MORRISON: The petition of Thomas Walsh, for increase of pensions.

Also, the petition of Walter Dewees, for unallowed revolutionary claims.

By Mr. McNAIR: The petition of Bolivar Shields, son of Captain John Shields, for seven years' half pay.

By Mr. BROWN, of Mississippi: The petition of Isaac Harris and others, praying for a post route from Union Church, in Jefferson county, to Pine Grove, in Franklin county, Mississippi.

By Mr. CHANDLER: The memorial of Henry Ellory, of Philadelphia, purser in the Navy of the United States, asking to have refunded a certain amount of money paid by him to officers of courts-martial.

Also, the memorial of John F. Dumas, of Philadelphia, asking for compensation under the treaty of Florida for losses by the Spanish Government.

IN SENATE.

TUESDAY, *December* 14, 1852.

Frayer by the Rev. JAMES GALLAHER.

Mr. NORRIS, of New Hampshire, appeared in his seat to-day, from which he has been detained since his arrival in this city by severe indisposition. Mr. STOCKTON, of New Jersey, also took his seat this morning.

Mr. ATCHISON called the Senate to order, and requested the Secretary to read a note from the President *pro tempore*, desiring him to preside over the Senate to-day.

The note was read, and there being no objection, Mr. ATCHISON took the chair.

PETITIONS, ETC.

Mr. SEWARD presented the memorial of Daniel Cain, praying indemnity for property destroyed by the enemy during the last war with Great Britain; which was referred to the Committee on Claims.

Mr. SHIELDS presented the memorial of Alexander B. Hasson, assistant surgeon in the Army, praying an increase of the medical corps of the Army; which was referred to the Committee on Military Affairs.

Also, a memorial of officers of the Army ordered to embark on board the United States storeship Fredonia, praying additional allowance of pay; which was referred to the Committee on Military Affairs.

Mr. UNDERWOOD. I hold in my hand several petitions, all of the same character and purport. They complain of the creation and appointment of chaplains to the Army and Navy, and the employment of chaplains by Congress. The first I beg leave to present, is from Warrick county, Indiana, and signed by Garret Warner and one hundred and sixty-eight others. The next, from the State of Indiana, Putnam county, signed by Andrew Gordon and ninety-five others. The next, from Indiana, Wayne county, signed by H. H. Evans and sixty-three others. The last from Indiana, without stating the county, signed by William Johnson and fifty-seven others. I suppose, as there are more chaplains in the Army than in any other branch of the service, and the petitioners propose a modification of the laws authorizing their employment, that these petitions ought properly to go to the Committee on Military Affairs; and I therefore move that they be so referred.

The motion was agreed to.

Mr. COOPER presented the memorial of Holker Hughes, legal representative of one of the heirs of Samuel Hughes, praying indemnity for property destroyed by the enemy during the last war

with Great Britain; which was referred to the Committee on Claims.

Mr. ADAMS presented a memorial of a Committee of the Mississippi Baptist State Convention, held at Clinton, praying that provision be made by treaty to secure to American citizens residing in foreign countries the same liberty in religious worship as is allowed citizens of other nations in the United States; which was read, and referred to the Committee on Foreign Relations.

Mr. HUNTER presented three memorials of citizens of Virginia, praying that the office of chaplain in the public service may be abolished; which were referred to the Committee on Military Affairs.

Mr. DAVIS. I am requested to present the petition of McAllister & Co., and many others interested in steamboats, at St. Louis. They represent that the law which was passed at the last session, for the better security of the lives of passengers on board of steamboats, ought not to go into operation so soon as is required by that law. I move that it be referred to the Committee on Commerce. It was so referred.

Mr. DAVIS. I also present the petition of Selina C. Sumner. She represents that her husband, Thomas H. Sumner, was a ship-master. While in that service, he made an important discovery, by which could be ascertained, in a new way, the position of a ship on the ocean, the details of which I need not go into: but she further represents that her husband has become insane, and she asks, for the reasons set forth at large in the petition, that Congress would adopt such measures as are suggested for the relief of this individual. I move that the petition, and testimonials which accompany it, be printed, not knowing any other way in my power to lay a subject, somewhat complicated in its character, and yet represented as quite meritorious, before the Senate and the other House. That question, I suppose, will be referred to the Committee on Printing, and I throw out these suggestions that they may take it into consideration. I move, also, that the petition and the papers be referred to the Committee on Commerce.

They were so referred, and the motion to print went to the Committee on Printing.

Mr. GWIN presented sixty-one memorials of postmasters in California, and Oregon, praying an increase of their salaries and allowances; which were referred to the Committee on the Post Office and Post Roads.

Mr. UNDERWOOD. I rise to present the petition of John C. McFarran, a lieutenant in the Army of the United States. He makes a peculiar statement, which I will very briefly present to the Senate. He says he was employed in New Mexico as an assistant commissary, and while in that employment another assistant commissary by the name of Thomas, handed over to him a large amount of money in specie; that a good deal of it was counted—some one hundred thousand dollars probably—but becoming very much fatigued with the operation, some six or eight boxes of the money were not counted. Thomas assured him that they contained so much, and that if they were deficient when counted, he would make up the money. He says that Thomas further represented to him that he was obliged to leave very soon, and under these representations, my young friend McFarran—for he was my appointee at West Point—gave him a receipt for the whole amount, which Thomas represented to be in the boxes, but which proved to be deficient $1,265 when the money was counted. In the mean time, Thomas got off. The petitioner then says, apprehending a fraud had been practiced upon him, that he filed a bill in the court of the United States, in the Territory of New Mexico, to attach some property which Thomas had there. To that there was a demurrer put in; and the judge decided in favor of Thomas, upon the ground that the money did not belong to McFarran, but was the property of the United States, and that the United States must look to Thomas to get it. But in the mean time, Thomas has his accounts settled here at the Treasury Department, and gets a credit for the $1,265, and a charge is made against McFarran as assistant commissary for that sum. Thus the court dismissed his suit to get indemnity against Thomas, who he says is insolvent, and the Government holds him responsible for the $1,265. I know that the petitioner is a poor, and worthy young man, and can ill afford to lose this money. I suppose that the memorial and accompanying papers, proving the facts, ought to go to the Committee on Military Affairs. I will therefore move that reference.

Mr. SHIELDS. I would suggest to the Senator, that they should go to the Committee on Claims. It is a claim for relief; and although the transaction occurred in the Army, it does not alter the nature or character of the claim. There is nothing in it which connects it with military affairs except that the transaction happened in the service.

Mr. UNDERWOOD. There may be some peculiarities about it which should send it to the Committee on Claims. I therefore move that it be referred to that committee.

It was so referred.

PAPERS WITHDRAWN.

On motion by Mr. SHIELDS, it was

Ordered, That the representatives of R. S. Dix have leave to withdraw their petition.

On motion by Mr. GWIN, it was

Ordered, That the Secretary transmit to the Navy Department, the original record of the proceedings of a court of inquiry, in the case of Captain William K. Latimer of the Navy, communicated to the Senate by that Department, at the last session of Congress.

NOTICE OF A BILL.

Mr. BRODHEAD gave notice of his intention to ask leave to introduce a bill amendatory of an act supplemental to "An act entitled an act granting bounty land to certain officers and soldiers who were engaged in the military service of the United States," approved September 28, 1850.

MEXICAN BOUNDARY COMMISSION.

Mr. MASON, agreeably to previous notice, asked and obtained leave to introduce a bill to amend the act usually called "The civil and diplomatic appropriation bill," approved 31st of August, 1852, in the clause making an appropriation for continuing the survey of the Mexican boundary; which was read a first and second time by its title, and referred to the Committee on Foreign Relations.

STANDING COMMITTEES.

The following appointments were made by the Presiding Officer, to fill vacancies in the Standing Committees:

Revolutionary Claims—Mr. Toucey (chairman) and Mr. Charlton.

Agriculture—Mr. Hale.

Private Land Claims—Mr. Seward.

Contingent Expenses of the Senate—Mr. Bright.

THE PRESIDENT'S MESSAGE.

On motion by Mr. HUNTER, it was

Ordered, That so much of the President's message as relates to the finances of the country, be referred to the Committee on Finance.

On motion by Mr. MASON, it was

Ordered, That so much of the President's message as relates to the foreign relations of the country, be referred to the Committee on Foreign Relations.

On motion by Mr. GWIN, it was

Ordered, That so much of the President's message as refers to naval affairs, be referred to the Committee on Naval Affairs.

On motion by Mr. SHIELDS, it was

Ordered, That so much of the President's message as refers to military affairs, be referred to the Committee on Military Affairs.

On motion by Mr. HAMLIN, it was

Ordered, That so much of the President's message as relates to commerce, and the improvement of rivers, lakes, and harbors, be referred to the Committee on Commerce.

On motion by Mr. BRIGHT, it was

Ordered, That so much of the President's message as relates to Indian affairs, be referred to the Committee on Indian Affairs.

On motion by Mr. FELCH, it was

Ordered, That so much of the President's message as relates to the public lands, be referred to the Committee on Public Lands.

PRINTING OF PRESIDENT'S MESSAGE.

Mr. HAMLIN. I submitted a resolution yesterday week, in relation to printing an extra number of the President's message and accompanying documents. The message and documents are now in press. I therefore move that that resolution be taken up, simply for the purpose of referring it to the Committee on Printing.

The motion was agreed to.

The resolution is as follows:

Resolved, That ten thousand additional copies of the message and accompanying documents, in addition to the usual number, be printed for the use of the Senate.

On motion by Mr. HAMLIN, the resolution was referred to the Committee on Printing

DEATH OF THE HON. DANIEL WEBSTER.

Mr. DAVIS. Mr. President, I rise to bring to the notice of the Senate an event which has touched the sensibilities and awakened sympathies in all parts of the country, an event which has appropriately found a place in the message of the President, and ought not to be passed in silence by the Senate. Sir, we have, within a short space, mourned the death of a succession of men illustrious by their services, their talents, and worth. Not only have seats in this Chamber, in the other House, and upon the bench of the Court been vacated, but death has entered the Executive Mansion and claimed that beloved patriot who filled the chair of State.

The portals of the tomb had scarcely closed upon the remains of a great and gifted member of this House, before they are again opened to receive another marked man of our day, one who stood out with a singular prominence before his countrymen, challenging, by his extraordinary intellectual power, the admiration of his fellow men.

Daniel Webster, (a name familiar in the remotest cabin upon the frontier,) after mixing actively with the councils of his country for forty years, and having reached the limits of life assigned to mortals, has descended to the mansions of the dead, and the damp earth now rests upon his manly form.

That magic voice which was wont to fill this place with admiring listeners, is hushed in eternal silence. The multitude will no longer bend in breathless attention from the galleries to catch his words, and to watch the speaking eloquence of his countenance, animated by the fervor of his mind; nor will the Senate again be instructed by the outpourings of his profound intellect, matured by long experience, and enriched by copious streams from the fountains of knowledge. The thread of life is cut, the immortal is separated from the mortal, and the products of a great and cultivated mind are all that remain to us of the jurist and legislator.

Few men have attracted so large a share of public attention, or maintained for so long a period an equal degree of mental distinction. In this and the other House there were rivals for fame, and he grappled in debate with the master minds of the day, and achieved in such manly conflict the imperishable renown connected with his name.

Upon most of the questions which have been agitated in Congress during his period of service, his voice was heard. Few orators have equaled him in a masterly power of condensation, or in that clear logical arrangement of proofs and arguments which secures the attention of the hearer and holds it with unabated interest.

These speeches have been preserved, and many of them will be read as forensic models, and will command admiration for the great display of intellectual power and extensive research. This is not a suitable occasion to discuss the merits of political productions, or to compare them with the effusions of great cotemporaneous minds, or to speak of the principles advocated. All this belongs to the future, and history will assign each great name the measure of its enduring fame.

Mr. Webster was conspicuous not only among the most illustrious men in the halls of legislation, but his fame shone with undiminished luster in the judicial tribunals as an advocate, where he participated in many of the most important discussions. On the bench was Marshall, Story, and their brethren, men of patient research and comprehensive scope of intellect, who have left behind them, in our judicial annals, proofs of greatness which will secure profound veneration and respect for their names. At the bar stood Pinkney, Wirt, Emmett, and many others who adorned and gave exalted character to the profession. Amid these luminaries of the bar he discussed many of the great questions raised in giving construction to organic law; and no one shone with more intense brightness, or brought into the conflict of mind more learning, higher proofs of severe mental discipline, or more copious illustration.

Among such men, and in such honorable combat, the foundations of that critical knowledge of constitutional law, which afterwards became a

prominent feature of his character, and entered largely into his opinions as a legislator, were laid.

The arguments made at this forum display a careful research into the history of the formation of the Federal Union, and an acute analysis of the fundamental provisions of the Constitution.

Probably no man has penetrated deeper into the principles, or taken a more comprehensive and complete view of the union of the States, than that great man, Chief Justice Marshall. No question was so subtle as to elude his grasp, or so complex as to defy his penetration. Even the great and the learned esteemed it no condescension to listen to the teachings of his voice, and no one profited more by his wisdom, or more venerated his character, than Mr. Webster.

To stand among such men with marked distinction, as did Mr. Webster, is an association which might satisfy any ambition, whatever might be its aspirations. But there, among those illustrious men, who have finished their labors and gone to their final homes, he made his mark strong and deep, which will be seen and traced by posterity.

But I need not dwell on that which is familiar to all readers who feel an interest in such topics; nor need I notice the details of his private life, since hundreds of pens have been employed in revealing all the facts, and in describing, in the most vivid manner, all the scenes which have been deemed attractive. Nor need I reiterate the fervent language of eulogy which has been poured out in all quarters from the press, the pulpit, the bar, legislative bodies, and public assemblies—since his own productions constitute his best eulogy.

I could not, if I were to attempt it, add anything to the strength or beauty of the manifold evidences which have been exhibited of the length, the breadth, and height of his fame; nor is there any occasion for such proofs in the Senate, the place where his face was familiar, where many of his greatest efforts were made, and where his intellectual powers were appreciated. Here he was seen and heard, and nowhere else will his claim to great distinction be more cheerfully admitted.

But the places which have known him will know him no more! His form will never rise here again; his voice will not be heard nor his expressive countenance seen. He is dead. In his last moments he was surrounded by his family and friends at his own home, and while consoled by their presence, his spirit took its flight to other regions. All that remained has been committed to its kindred earth.

Divine Providence gives us illustrious men, but they, like others, when their mission is ended, yield to the inexorable law of our being. He who gives also takes away, but never forsakes his faithful children.

The places of those possessing uncommon gifts are vacated, the sod rests upon the once manly form, now as cold and lifeless as itself, and the living are filled with gloom and desolation. But the world rolls on: nature loses none of its charms; the sun rises with undiminished splendor; the grass loses none of its freshness—nor do the flowers cease to fill the air with fragrance. Nature, untouched by human woe, proclaims the immutable law of Providence, that decay follows growth, and that He who takes away never fails to give.

Sir, I propose the following resolutions, believing that they will meet the cordial approbation of the Senate:

Resolved, That the Senate has received with profound sensibility the announciation from the President of the death of the late Secretary of State, Daniel Webster, who was long a highly distinguished member of this body.

Resolved, That the Senate will manifest its respect for the memory of the deceased, and its sympathy with his bereaved family, by wearing the usual badge of mourning for thirty days.

Resolved, That these proceedings be communicated to the House of Representatives.

Mr. BUTLER. Mr. President, this is an occasion full of interesting but melancholy associations, and one that especially appeals to my feelings and sense of justice—I might almost say, historical justice—as a representative of South Carolina. Who, that were present, can ever forget the mournful and imposing occasion, when Daniel Webster—whose eloquence and ability had given distinction to the greatest deliberative assembly and the most august tribunal of justice in this great Confederacy; and when Henry Clay—a name associated with all that is daring in action and splendid in eloquence—rose as witnesses before the tribunal of history, and gave their testimony as to the character and services of their illustrious compeer, John Caldwell Calhoun? They embalmed in historical immortality their rival, associate, and comrade.

I would that I could borrow from the spirit of my great countryman something of its justice and magnanimity, that I might make some requital for the distinguished tributes paid to his memory by his illustrious compeers. Such an occasion as the one I have referred to, is without parallel in the history of this Senate; and, sir, I fear that there is no future for such another one. Calhoun, Clay, and Webster, like Pitt, Fox, and Burke, have made a picture on our history that will be looked upon as its culminating splendor. They were luminaries that, in many points of view, essentially differed from each other, as one star differeth from another; but they were all stars of the first magnitude. Distance cannot destroy, nor can time diminish, the simple splendor of their light for the guidance and instruction of an admiring posterity.

Rivals they were on a great and eventful theater of political life; but death has given them a common fame. Their contest in life was for the awards of public opinion, the great lever in modern times by which nations are to be influenced.

"With more than mortal powers endowed,
How high they soared above the crowd!
Theirs was no common party race,
Jostling by dark intrigue for place:
Like fabled gods, their mighty war,
Shook Realms and Nations in its jar!"

Before I became a member of the Senate, of which I found Mr. Webster a distinguished ornament, I had formed a very high estimate of his abilities—and from various sources of high authority. His mind, remarkable for its large capacity, was enriched with rare endowments—with the knowledge of a statesman, the learning of a jurist, and the attainments of a scholar. In this Chamber, with unsurpassed ability, Mr. Webster has discussed the greatest subjects that have or can influence the destinies of this great Confederacy.

Well may I apply to him the striking remark which he bestowed on Mr. Calhoun—"We saw before us a Senator of Rome, when Rome survived."

I have always regarded Mr. Webster as a noble model of a parliamentary debater. His genial temper, the courtesy and dignity of his deportment, his profound knowledge of his subject, and his thorough preparation, gave him a great command, not only over his immediate audience, but gave his masterly speeches an impressive influence over public opinion.

In the Supreme Court, Mr. Webster was engaged in the greatest cases that were ever decided by that tribunal—and it is not saying too much to assert that his arguments formed the basis of some of the ablest judgments of that court. His exuberant but rectified imagination, and brilliant literary attainments, imparted to his eloquence beauty, simplicity, and majesty, and the finish of taste and elaboration. He seemed to prefer the more deliberative style of speaking, but when roused and assailed, he became a formidable adversary in the war of debate, discharging from his full quiver the arrows of sarcasm and invective with telling effect.

Mr. Webster was born in a forest, and in his childhood and youth lived amid the scenes of rural life; and it was no doubt under their inspiring influence that he imbibed that love of nature which has given such a charm and touching pathos to some of his meditated productions. It always struck me that he had something of Burns's nature, but controlled by the discipline of a higher degree of education. Lifted above the ordinary level of mankind by his genius and various intelligence, Mr. Webster looked upon a more extensive horizon than could be seen by those below him. He had too much information from his various intercourse with great men, and his acquaintance with the opinions of all ages through the medium of books, to allow the spirit of bigotry to have a place in his mind. I have many reasons to conclude that he was not only tolerant of the opinions of others, but was even generous in his judgments towards them. I will conclude by saying that New England especially, and the Confederacy at large, have cause to be proud of the fame of such a man.

Mr. CASS. Mr. President: How are the mighty fallen! was the pathetic lamentation when the leaders of Israel were struck down in the midst of their services and their renown. Well may we repeat that national wail, How are the mighty fallen, when the impressive dispensations of Providence have so recently carried mourning to the hearts of the American people by summoning from life to death three of their eminent citizens who, for almost half a century, had taken part, and prominently too, in all the great questions, as well of peace as of war, which agitated and divided their country. Full, indeed, they were of days and of honors, for

"The hand of the reaper
Took the ears that were hoary,"

but never brighter in intellect, purer in patriotism, nor more powerful in influence, than when the grave closed upon their labors, leaving their memory and their career at once an incentive and an example for their countrymen in that long course of trial, but I trust of freedom and prosperity also, which is open before us. Often divided in life, but only by honest convictions of duty, followed in a spirit of generous emulation, and not of personal opposition, they are now united in death, and we may appropriately adopt, upon this striking occasion, the beautiful language addressed to the people of England by one of her most gifted sons, when they were called to mourn, as we are called now, a bereavement, which spread sorrow, dismay almost, through the nation, and under circumstances of difficulty and of danger far greater than any we can now reasonably anticipate in the progress of our history:

"Seek not for those a separate doom,
Whom fate made brothers in the tomb;
But search the land of living men:
Where shall we find their like again?"

And to-day, in the consideration of the message of the Chief Magistrate, it becomes us to respond to his announciation, commending itself, as it does, to the universal sentiment of the country, of the death of the last of these lamented statesmen, as a national misfortune. This mark of respect and regret was due alike to the memory of the dead and to the feelings of the living. And I have listened with deep emotion to the eloquent testimonials to the mental power and worth and services of the departed patriot which to-day have been heard in this high place, and will be heard to-morrow, and commended too, by the American people. The voice of party is hushed in the presence of such a national calamity, and the grave closes upon the asperity of political contests when it closes upon those who have taken part in them. And well may we, who have so often witnessed his labors and his triumphs, well may we, here, upon this theater of his services and his renown, recalling the efforts of his mighty understanding, and the admiration which always followed its exertion—well may we come with our tribute of acknowledgment to his high and diversified powers, and to the influence he exercised upon his auditory, and in fact, upon his country. He was indeed one of those remarkable men who stand prominently forward upon the canvas of history, impressing their characteristics upon the age in which they live, and almost making it their own by the force of their genius and the splendor of their fame. The time which elapsed between the middle of the eighteenth century and our own day was prolific of great events and of distinguished men who guided or were guided by them, far beyond any other equal period in the history of human society. But, in my opinion, even this favored epoch has produced no man possessing a more massive and gigantic intellect, or who exhibited more profound powers of investigation in the great department of political science to which he devoted himself, in all its various ramifications, than Daniel Webster.

The structure of his mind seemed peculiarly adapted to the work he was called upon to do, and he did it, as no other man of his country, of his age, indeed, could have done it. And his name and his fame are indissolubly connected with some of the most difficult and important questions which our peculiar institutions have called into discussion. It was my good fortune to hear him upon one of the most memorable of these occasions, when, in this very Hall, filled to overflowing with an audience whose wrant attention indicated his power and their expectations, he entered into an analysis of the Constitution, and of

the great principles of our political organization with a vigor of argument, a force of illustration, and a felicity of diction, which have rendered this effort of his mind one of the proudest monuments of American genius, and one of the noblest expositions which the operations of our Government have called forth. I speak of its general effect, without concurring in all the views he presented, though the points of difference neither impair my estimate of the speaker, nor of the power he displayed in this elaborate debate.

The judgment of his cotemporaries upon the character of his eloquence will be confirmed by the future historian. He grasped the questions involved in the subject before him with a rare union of force and discrimination, and he presented them in an order of arrangement, marked at once with great perspicuity and with logical acuteness, so that when he arrived at his conclusion, he seemed to reach it by a process of established propositions, interwoven with the hand of a master, and topics barren of attraction from their nature, were rendered interesting by illustrations and allusions, drawn from a vast store-house of knowledge, and applied with a chastened taste, formed upon the best models of ancient and of modern learning; and to these eminent qualifications was added an uninterrupted flow of rich and often racy old-fashioned English, worthy of the earlier masters of the language, whom he studied and admired. As a statesman and politician his power was felt and acknowledged through the Republic, and all bore willing testimony to his enlarged views, and to his ardent patriotism. And he acquired a European reputation by the State papers he prepared upon various questions of our foreign policy; and one of these, his refutation and exposure of an absurd and arrogant pretension of Austria, is distinguished by lofty and generous sentiments, becoming the age in which he lived, and the great people in whose name he spoke, and is stamped with a vigor and research not less honorable in the exhibition than conclusive in the application; and it will ever take rank in the history of diplomatic intercourse among the richest contributions to the commentaries upon the public law of the world; and in internal as in external troubles he was true, and tried, and faithful, and in the latest, may it be the last, as it was the most perilous, crisis of our country, rejecting all sectional considerations, and exposing himself to sectional denunciation, he stood up boldly, proudly, indeed, and with consummate ability, for the constitutional rights of another portion of the Union, fiercely assailed by a spirit of aggression as incompatible with our mutual obligations as with the duration of the Confederation itself. In that dark and doubtful hour his voice was heard above the storm, recalling his countrymen to a sense of their dangers and their duties, and tempering the lessons of reproof with the experience of age and the dictates of patriotism.

He who heard this memorable appeal to the public reason and conscience, made in this crowded Chamber, with all eyes fixed upon the speaker, and almost all hearts swayed by his words of wisdom and power, will sedulously guard its recollection as one of those precious incidents which, while they constitute the poetry of history, exert a permanent and decided influence upon the destiny of nations.

And our deceased colleague added the kindlier affections of the heart to the lofty endowments of the mind; and I recall with almost painful sensibility the associations of our boyhood, when we were school-fellows together, with all the troubles and the pleasures which belong to that relation of life, in its narrow world of preparation. He rendered himself dear by his disposition and deportment, and exhibited some of those peculiar characteristic features which, later in life, made him the ornament of the social circle; and when study and knowledge of the world had ripened his faculties, endowed him with powers of conversation, I have not found surpassed in my intercourse with society at home or abroad. His conduct and bearing at that early period have left an enduring impression upon my memory of mental traits which his subsequent course in life developed and confirmed. And the commanding position and ascendency of the man were foreshadowed by the standing and influence of the boy among the comrades who surrounded him. Fifty-five years ago we parted, he to prepare for his splendid career in the good old land of our ancestors, and I to encounter the rough toils and trials of life in the great forest of the West. But ere long the report of his words and his deeds penetrated those recesses, where human industry was painfully, but successfully contending with the obstacles of nature, and I found that my early companion was assuming a position which confirmed my previous anticipations, and which could only be attained by the rare faculties with which he was gifted. Since then he has gone on irradiating his path with the splendor of his exertions, till the whole hemisphere was bright with his glory, and never brighter than when he went down in the West, without a cloud to obscure his luster, calm, clear, and glorious. Fortunate in life, he was not less fortunate in death, for he died with his fame undiminished, his faculties unbroken, and his usefulness unimpaired; surrounded by weeping friends, and regarded with anxious solicitude by a grateful country, to whom the messenger that mocks at time and space, told from hour to hour the progress of his disorder, and the approach of his fate. And beyond all this, and better than all this, he died in the faith of a Christian, humble, but hopeful, adding another to the roll of eminent men who have searched the Gospel of Jesus and found it the word and the will of God, given to direct us while here, and to sustain us in that hour of trial when the things of this world are passing away, and the dark valley of the shadow of death is opening before us.

How are the mighty fallen! we may yet exclaim, when reft of our greatest and wisest; but they fall to rise again from death to life, when such quickening faith in the mercy of God and in the sacrifice of the Redeemer comes to shed upon them its happy influence on this side of the grave and beyond it.

Mr. SEWARD. When, in passing through Savoy, I reached the eminence where the traveler is promised his first distinct view of Mont Blanc, I asked, "Where is the mountain?" "There," said the guide, pointing to the rainy sky which stretched out before me. It is even so, when we approach and attempt to scan accurately a great character. Clouds gather upon it, and seem to take it up out of our sight.

Daniel Webster was a man of warm and earnest affections, in all the domestic and social relations. Purely incidental and natural allusions in his conversations, letters, and speeches, have made us familiar with the very pathways about his early mountain home; with his mother, graceful, intellectual, fond, and pious; with his father, assiduous, patriotic, and religious, changing his pursuits, as duty in revolutionary times commanded, from the farm to the camp, and from the camp to the Provincial Legislature and the Constituent Assembly. It seems as if we could recognize the very form and features of the most constant and generous of brothers. Nor are we strangers at Marshfield. We are guests hospitably admitted, and then left to wander at our ease under the evergreens on the lawn, over the grassy fields, through the dark, native forest, and along the sea-shore. We know, almost as well as we know our own, the children reared there, and fondly loved, and therefore, perhaps, early lost; the servants bought from bondage, and held by the stronger chains of gratitude; the careful steward, always active, yet never hurried; the reverent neighbor, always welcome, yet never obtrusive; and the ancient fisherman, whose little fleet is ever ready for the sports of the sea; and we meet on every side the watchful and devoted friends whom no frequency of disappointment can discourage, and whom even the death of their great patron cannot all at once disengage from efforts which know no balancing of probabilities nor reckoning of cost to secure his elevation to the first honors of the Republic.

Who, that was even confessedly provincial, was ever so identified with anything local as Daniel Webster was with the spindles of Lowell, and the quarries of Quincy; with Faneuil Hall, Bunker Hill, Forefathers' Day, Plymouth Rock, and whatever else belonged to Massachusetts? And yet, who that was most truly national has ever so sublimely celebrated, or so touchingly commended to our reverent affection our broad and ever-broadening continental home; its endless rivers, majestic mountains, and capacious lakes; its inimitable and indescribable Constitution; its cherished and growing capital; its aptly-conceived and expressive flag, and its triumphs by land and sea; and its immortal founders, heroes, and martyrs! How manifest it was, too, that, unlike those who are impatient of slow but sure progress, he loved his country, not for something greater or higher that he desired or hoped she might be, but just for what she was, and as she was already, regardless of future change.

No, sir; believe me, they err widely who say that Daniel Webster was cold and passionless. It is true that he had little enthusiasm; but he was nevertheless earnest and sincere, as well as calm; and therefore he was both discriminating and comprehensive in his affections. We recognize his likeness in the portrait drawn by a Roman pencil:

> ——"Who with nice discernment knows
> What to his country and his friends he owes;
> How various Nature warms the human breast,
> To love the Parent, Brother, Friend, or Guest,
> What the great offices of Judges are,
> Of Senators, of Generals sent to war."

Daniel Webster was cheerful, and on becoming occasions joyous, and even mirthful; but he was habitually engaged in profound studies on great affairs. He was, moreover, constitutionally fearful of the dangers of popular passion and prejudice; and so, in public walk, conversation, and debate, he was grave and serious, even to solemnity; yet he never desponded in the darkest hours of personal or political trial; and melancholy never, in health nor even in sickness, spread a pall over his spirits.

It must have been very early that he acquired that just estimate of his own powers which was the basis of a self-reliance which all the world saw and approved, and which, while it betrayed no feature of vanity, none but a superficial observer could have mistaken for pride or arrogance.

Daniel Webster was no sophist. With a talent for didactic instruction which might have excused dogmatism, he never lectured on the questions of morals that are agitated in the schools. But he seemed, nevertheless, to have acquired a philosophy of his own, and to have made it the rule and guide of his life. That philosophy consisted in improving his powers and his tastes, so that he might appreciate whatever was good and beautiful in nature and art, and attain to whatever was excellent in conduct. He had accurate perceptions of the qualities and relations of things. He overvalued nothing that was common, and undervalued nothing that was useful, or even ornamental. His lands, his cattle, and equipage, his dwelling, library, and apparel, his letters, arguments, and orations—everything that he had, everything that he made, and everything that he did, was as far as possible fit, complete, perfect. He thought decorous forms necessary for preserving whatever was substantial or valuable in politics and morals, and even in religion. In his regard, order was the first law, and peace the chief blessing of earth, as they are of Heaven. Therefore, while he desired justice and loved liberty, he reverenced law as the first divinity of States and of Society.

Daniel Webster was, indeed, ambitious, but his ambition was generally subordinate to conventional forms, and always to the Constitution. He aspired to place and preferment, but not for the mere exercise of political power, and still less for pleasurable indulgences; and only for occasions to save or serve his country, and for the fame which such noble actions might bring. Who will censure such ambition? Who had greater genius subjected to severer discipline? What other motives than those of ambition could have brought that genius into activity under that discipline, and sustained that activity so equally under ever-changing circumstances so long? His ambition never fell off into presumption. He was, on the contrary, content with performing all practical duties, even in common affairs, in the best possible manner; and he never chafed under petty restraints from those above, nor malicious annoyances from those around him. If ever any man had intellectual superiority which could have excused a want of deference to human authority, or skepticism concerning that which was divine, he was such an one. Yet he was, nevertheless, unassuming and courteous, here and elsewhere, in the public councils; and there was, I think, never a time in his life when he was not an unquestioning believer in that religion which offers

to the meek the inheritance of the Heavenly Kingdom.

Daniel Webster's mind was not subtle, but it was clear. It was surpassingly logical in the exercise of induction, and equally vigorous and majestic in all its movements—and yet he possessed an imagination so strong that if it had been combined with even a moderated enthusiasm of temper, would have overturned the excellent balance of his powers.

The civilian rises in this, as in other Republics, by the practice of eloquence, and so Daniel Webster became an orator—the first of orators.

Whatever else concerning him has been controverted by anybody, the fifty thousand lawyers of the United States, interested to deny his pretensions, conceded to him an unapproachable supremacy at the bar. How did he win that high place? Where others studied laboriously, he meditated intensely. Where others appealed to the prejudices and passions of courts and juries, he addressed only their understandings. Where others lost themselves among the streams, he ascended to the fountain. While they sought the rules of law among conflicting precedents, he found them in the eternal principles of reason and justice.

But it is conceding too much to the legal profession to call Daniel Webster a lawyer. Lawyers speak for clients and their interests—he seemed always to be speaking for his country and for truth. So he rose imperceptibly above his profession; and while yet in the Forum, he stood before the world a Publicist. In this felicity, he resembled, while he surpassed, Erskine, who taught the courts at Westminster the law of moral responsibility; and he approached Hamilton, who educated the courts at Washington in the Constitution of their country and the philosophy of Government.

An undistinguishable line divides this high province of the Forum from the Senate, to which his philosophy and eloquence were perfectly adapted. Here, in times of stormy agitation and bewildering excitement, when as yet the union of these States seemed not to have been cemented and consolidated, and its dissolution seemed to hang, if not on the immediate result of the debate, at least upon the popular passion that that result must generate, Daniel Webster put forth his mightiest efforts, confessedly the greatest ever put forth here or on this continent. Those efforts produced marked effect on the Senate, they soothed the public mind, and became enduring lessons of instruction to our countrymen on the science of constitutional law, and the relative powers and responsibilities of the Government, and the rights and duties of the States and of citizens.

Tried by ancient definitions, Daniel Webster was not an orator. He studied no art, and practiced no action. Nor did he form himself by any admitted model. He had neither the directness and vehemence of Demosthenes, nor the fullness and flow of Cicero, nor the intenseness of Milton, nor the magnificence of Burke. It was happy for him that he had not. The temper and tastes of his age and country required eloquence different from all these, and they found it in the pure logic and the vigorous yet massive rhetoric which constituted the style of Daniel Webster.

Daniel Webster, although a statesman, did not aim to be either a popular or a parliamentary leader. He left common affairs and questions to others, and reserved himself for those great and infrequent occasions which seemed to involve the prosperity or the continuance of the Republic. On these occasions he rose above partisan influences and alliances, and gave his counsels earnestly and with impassioned solemnity, and always with an unaffected reliance upon the intelligence and virtue of his countrymen.

The first revolutionary assembly that convened in Boston promulgated the principles of the Revolution of 1688—"Resistance to unjust laws is obedience to God"—and it became the watchword throughout the Colonies. Under that motto the Colonies dismembered the British Empire, and erected the American Republic. At an early day, it seemed to Daniel Webster, that the habitual cherishing of that principle, after its great work had been consummated, threatened to subvert in its turn the free and beneficent Constitution, which afforded the highest attainable security against the passage of unjust laws. He addressed himself therefore assiduously and almost alone to what seemed to him the duty of calling the American people back from revolutionary theories to the formation of habits of peace, order, and submission to authority. He inculcated the duty of submission by States and citizens to all laws passed within the province of constitutional authority, and of absolute reliance on constitutional remedies for the correction of all errors and the redress of all injustice. This was the political gospel of Daniel Webster. He preached it in season and out of season, boldly, constantly, with the zeal of an apostle, and with the devotion, if there were need, of a martyr. It was full of saving influences while he lived, and those influences will last so long as the Constitution and the Union shall endure.

I do not dwell on Daniel Webster's exercise of administrative functions. It was marked by the same ability that distinguished all his achievments in other fields of duty. It was at the same time eminently conservative of peace, and of the great principles of constitutional liberty, on which the republican institutions of his country were founded. But while those administrative services benefited his country, and increased his fame, we all felt, nevertheless, that his proper and highest place was here, where there was field and scope for his philosophy and his eloquence—here, among the equal representatives of equal States, which were at once to be held together, and to be moved on in the establishment of a continental power controlling all the American States, and balancing those of the Eastern World, and we could not but exclaim, in the words of the Roman orator, when we saw him leave the Legislative Councils to enter on the office of Administration—

"*Quantis in angustiis, vestra gloria se dilatari velit.*"

Mr. STOCKTON. Mr. President, I came to this city only this morning, and to the Senate Chamber wholly unapprised in relation to the present solemn and interesting proceedings. It would therefore not become me, or the solemnity and grandeur of the occasion, to mingle, so entirely unprepared as I needs must be, my voice with the eloquent voice of lamentation which has this morning done honor to the Senate, for any other purpose than simply and briefly to express my grief, my sorrow—ay, sir, my heartfelt, pervading sorrow, when I heard that Daniel Webster was dead!

Senators, I have known and loved Daniel Webster for thirty years. What wonder, then, I should sorrow? But now that I am on my feet, and the Senate who knew and loved him too are my listeners, how am I to express that sorrow? I cannot do it; it cannot be done; our language is too poor. O, sir, all words, in moments like these, when grief or love is to be expressed, are cold and frigid. Senators, I can even now hardly realize the sad event, that Daniel Webster is really dead; that he does not "*still live.*" I did hope that God, who has watched over this Republic, who can do all things, who hung the earth upon nothing, who so endowed the mind of Daniel Webster, would have still longer upheld its frail tenement, and kept him as an example not only to our own men, but to the men of the whole world. Indeed, it is no figure of speech when we say that his fame was "world wide."

But, Senators, I rise to pronounce no eulogy on him. I am up for no such vain purpose. I come with no ceremony; but I come to the portals of his grave, stricken with sadness; and here, before the assembled Senate—ay, sir, in the presence of friends as well as Senators—because, whether they be of this side of the Chamber or the other side of the Chamber, I hope I am entitled to call every Senator my friend—to mingle my grief with the grief of those around me. I rise here with no hope of adding one gravel-stone to the colossal column he has erected for himself; but I come only to hang a garland of friendship on the bier of one of the greatest and best men I ever knew.

Senators, you have known Mr. Webster in his public character—as a statesman of almost intuitive perceptions—as a lawyer of unsurpassed learning and ability—as a ripe and general scholar. But it was my happiness to know him as a man in the seclusion of private life, and in the performance of sacred domestic duties, and of reciprocal friendship. I say here in this presence, and as far as my poor voice may reach, that he was remarkable for all those attributes that constitute a noble, a generous, hospitable, high-minded, courageous man. Sir, as far as my researches into the history of the world have gone, they have failed to furnish his superior—not even on the records of ancient Greece, or Rome, or any other nation, is to be found a man of superior endowments to our own Webster.

Mr. President, in private life he was generous to a fault. In public life, his whole mind was absorbed in his "country, his whole country, and nothing but his country." Sir, one act of his—one speech of his, made in this Chamber, has placed him before all men of antiquity. He offered himself—yes, you all remember, in that seat there, he rose and offered himself a living sacrifice for his country. And Lord Bacon said that he who offers himself as a sacrifice for his country, is a sight for the Angels to look upon.

Mr. President, my feelings upon this occasion will not surprise Senators who remember that these are no new sentiments for me; that when he was living, I had the temerity to say that Daniel Webster was the greatest amongst men and a true patriot; ay, sir, and when it was supposed that it interfered with my political aspirations. Well, sir, if an empire had been then hanging on my words, I would not have amended or altered one sentiment.

Having said thus much of the dead, allow me to express one single word of thanks to the honorable Senator from Michigan, [Mr. CASS.] Sir, I have often had occasion to feel sentiments of regard, and, if he will permit me to say it, of affectionate regard, for him, and sometimes to express them; but the emotions created in my heart by his address this morning are not easily expressed. I thank him; in the fullness of my heart I thank him; and may God spare him to our country many years. May he long remain here in our midst, as he is at this day, in all the strength of manhood, and in all the glory of matured wisdom.

The resolutions submitted by Mr. DAVIS were unanimously agreed to.

On the motion of Mr. SEWARD, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 14, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. Petitions are in order from the State of Maine.

On motion by Mr. BOWIE, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Colonel Thomas Bullitt, for the purpose of reference to one of the Executive Departments.

On motion by Mr. BRAGG, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House, of the papers in the case of W. Wormley, for the purpose of reference to one of the Executive Departments.

Mr. BOWIE. I ask the unanimous consent of the House to take from the Speaker's table, Senate bill No. 230, enttiled "An act for the relief of the heirs and representatives of the late Robert Sewell," that it may be referred to the Committee on Claims.

Mr. KING, of New York. I object.

Mr. EDGERTON. I ask the unanimous consent of the House to allow the Committee on Claims to make reports, that they may be referred to the Committee of the Whole House, and be printed. I see no other way by which justice is to be done private claimants.

Messrs. BOCOCK and LETCHER objected.

Mr. BOWIE. I move a suspension of the rules that a motion to that effect may be introduced.

The SPEAKER. It is not in order to move to suspend the rules of the House except on Monday.

Mr. CURTIS. I ask the unanimous consent of the House for leave to withdraw from its files the papers in the case of Archibald Marion.

The SPEAKER. For what purpose does the gentleman desire the withdrawal of the papers?

Mr. CURTIS. The withdrawal is requested that the proofs may be completed.

Mr. KING, of New York. For that purpose I object to the withdrawal of the papers, although

I am willing the gentleman shall have a certified copy of them.

Mr. SACKETT. Many months previous to the adjournment of the last session, the members of the Committee on Claims had in their desks many cases prepared and ready to be reported upon, but no opportunity offered to make such reports. I now move that that committee have leave to report all cases prepared before the close of the last session.

Mr. FICKLIN. In reply to the gentleman, I will only remark that most of the committees of this House are in the same predicament.

Mr. SACKETT. The Committee on Claims was called, in consequence of being near the head of the Calendar, at a very early day of the last session, and I believe was not called for the last five or six months of the session. So that no opportunity to report was afforded its members other than very soon after the commencement of the present Congress.

Mr. FICKLIN. It so happened that the Committee on the District of Columbia had not a single opportunity of making reports to the House. They had business prepared and ready to report for our action many months before the adjournment. I cannot consent to any discrimination in favor of any committee. I am willing that the rule shall be suspended, and committees generally be called on for such business as was prepared at the last session and unreported.

Mr. HOUSTON. Mr. Speaker, what is the question before the House?

The SPEAKER. The gentleman from New York submits a motion with reference to reports from the Committee on Claims.

Mr. HOUSTON. I understand that the gentleman from Illinois objects to the motion.

Mr. SACKETT. I understand that the gentleman from Illinois makes a motion to admit reports from committees generally.

[Cries of "That is not in order!"]

Mr. LETCHER. I call for the regular order of business.

The SPEAKER. Petitions are in order from the State of Maine.

Mr. HOUSTON. As the debate on the President's message closes to-morrow at an early hour, I think that we had now better go to the consideration of the order of the day before the committee, and therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

PRESIDENT'S MESSAGE—THE TARIFF.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The subject before the committee is the annual message of the President of the United States, and the resolution of the gentleman from Alabama to refer the same to the several standing committees, and the gentleman from Virginia [Mr. MEADE] is entitled to the floor.

Mr. MEADE said that his State was extensively engaged in a system of railroads, and that therefore the exemption of railroad iron from duty would benefit the State to the amount probably of two or three millions of dollars within the next ten years. And what he said of the State of Virginia, might be said of the whole South, the whole West, and the whole Northwest. He gave notice that he should vote against the proposition submitted by the gentleman from New York [Mr. BROOKS] to refer the subject of revenue from customs to a select committee, because he believed that the matter requires more consideration than can be given to it at this session, in consequence of the number of important bills now pending in which the whole country are interested; yet when an opportunity shall occur—and he should endeavor to obtain one—he intended to introduce a bill to relieve railroad iron from the present duty which oppresses it.

The gentleman from Pennsylvania, [Mr. JONES,] who addressed the House yesterday, he said, would find himself somewhat puzzled to draw a distinction between manufacturing corporations and railroad corporations, and in demonstrating how the community would be benefited by extending privileges to the former and denying them to the latter. He (Mr. M.) thought he should be able to show that while the admission into the country, free of duty, of dye-stuffs, coarse wools, &c., would enable the manufacturer to make goods at less cost, it does not follow that the community who buy would get them cheaper.

He remarked that he thought he should be able to show that the admission of railroad iron, either free of duty or with a light duty, would benefit every one. If we had as many railroads extending from the Atlantic to the Pacific as there are States along their shores, there would not be a man or woman east of the Rocky Mountains who would not be benefited. He then argued these points, and, in the course of his remarks, contended that the taking off the duty on railroad iron would eventually benefit the iron-master. In conclusion, he said he was unwilling that the surplus revenue should remain in the Treasury, believing that it would be appropriated improvidently; and rather than so much money should be locked up, he would prefer that fifteen or twenty per cent even should be given in the purchase of the United States bonds.

[Mr. MEADE's speech will be found in the Appendix.]

Mr. STANTON, of Ohio, stated his objections to the accumulation of a surplus revenue in the Treasury, which, he conceived, would lead to the most wasteful extravagance and pervert the moral sense of public functionaries and bring them into disgrace and contempt. There were two prominent points connected with the subject now before the committee. The first, making a *pro rata* reduction on all imports which now pay a duty; and the second, abolishing entirely the duty on those articles of importation which do not come into competition with the products of this country. The first is the Democratic, the second the Whig side of the question. He was willing for a modification of the tariff, provided the industry of the country shall not be thereby affected. He had always been in favor of protection for the sake of protection. In the course of his remarks he advocated a home market, and specific instead of *ad valorem* duties.

[Mr. STANTON's speech will be found in the Appendix.]

Mr. MILLSON next obtained the floor and addressed the committee an hour in an argument against the doctrine of protection to domestic manufactures, as being advantageous to labor, and in favor of such a modification of the tariff, by a reduction of duties on imposts, as would bring into the Treasury an amount only sufficient to support the Government economically administered. [His remarks will be found in the Appendix.]

Mr. GIDDINGS addressed the committee upon the slavery question as connected with the acquisition of Cuba, with the view to show that the annexation of that Island (which can never be peaceably done) would inevitably overthrow the institution of slavery in the United States. Hence he was not averse to the peaceable acquisition of Cuba as the most certain and ready means of eradicating slavery from the land. [His remarks will be found in the Appendix.]

Mr. HOUSTON here obtained the floor.

Mr. STANLY. Will the gentleman from Alabama allow me to ask him a question?

Mr. HOUSTON. I will.

Mr. STANLY. There is one matter of the President's message, of some importance, which I do not see in the resolution offered the other day by the gentleman from Alabama [Mr. HOUSTON] for refering the message. The President refers to an appropriation made at the last session of Congress, for the establishment of a lunatic asylum in this District. It is a matter of some importance, I think, to Congressmen as well as to others. I hope my friend from Alabama has referred that matter to the consideration of the House I think it should be done. [Laughter.]

Mr. HOUSTON. I made no reference to that branch of the President's message, there being now ample provision by law by which lunatics may be confined and provided for here, or transported to Baltimore and confined there. I move that the committee rise.

Mr. STANLY called for a division.

The question was put, and there were on a division—ayes 33, noes 4.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee [Mr. STUART] reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

REGISTERS FOR VESSELS.

Mr. FULLER, of Maine. I have here, Mr. Speaker, Senate bill No. 448, which I request, by the courtesy of the House, may be taken up, and with a word of explanation I think they will pass it.

Mr. STANLY. There is no quorum present; otherwise I should have no objection.

Mr. FULLER. The House will hear me for a moment. The bill proposes to authorize the Secretary of the Treasury to issue registers to vessels which have been condemned and sold, in case where the proper proof is laid before him, and thereby avoid the necessity of appealing to the House and taking up its time, and that of the Committee on Commerce, in reference to every small vessel that has been repaired, and which requires a new register.

It is a bill which the Committee on Commerce of the Senate matured, and which the Committee on Commerce of this House have given full consideration. I move, therefore, that the bill be taken up and put upon its passage, as there are a dozen applications, from a dozen different vessels, for papers.

Mr. STANLY. I have no objection to the proposition contained in the bill; but to legislate with the small number of members present, would be injustice to those who are absent. What was the number, as reported by the Speaker just now, as present?

A VOICE. Thirty-seven.

Mr. STANLY. I shall not interpose any objection to that bill at another time, but I think it is not right to press it now.

Mr. FULLER. If it was a question upon which I supposed gentlemen of this House entertained different opinions, I certainly would yield to the suggestion of my friend from North Carolina.

Mr. STANLY. I will not object, but merely throw out the objection.

Mr. FULLER. As it is rare to get the opportunity to put a bill upon its passage, I ask for this bill a consideration at this time.

Mr. ORR. There is too small a number of the members of the House present. I have no objection to the bill with a fuller House, and will vote for it at any other time.

On motion by Mr. HILLYER, the House then adjourned.

NOTICE OF A BILL.

Mr. PRICE gave notice that he would, on some future day, ask leave to present a bill for the construction of a road, or railroad, across the territory of the United States, from the west line of Missouri, Arkansas, or Texas, to the east line of California.

MEMORIALS AND PETITIONS.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. GORMAN: The memorial of Dr. Alexander B. Hasson, assistant surgeon of the United States Army, praying that the medical staff of the Army may be increased.

By Mr. CHASTAIN: The memorial of a number of Cherokee Indians, residing east, praying Congress for a distributive share, *per capita*, of the amount due the Cherokee Indians under the treaty of 1835 and '6, and also for a speedy settlement of their claims, &c.

By Mr. MOORE, of Louisiana: The petition of Andrew C. Armstrong, praying for a readjustment of his accounts as Navy agent.

Also, the petition of Messrs. Hyams, Chew, and King, relative to the Maison Rouge Grant.

By Mr. APPLETON, of Massachusetts: The petition of Selina C. Sumner, that a grant of money be made T. H. Sumner, the discoverer of a new method of finding ships' position at sea.

By Mr. WELLS: The petition of Thomas Johnson, a citizen of Fulton county, New York, for relief for services in the revolutionary war.

By Mr. J. W. HOWE: The petition of Sally Murger and Mary Ann Lovell, praying Congress to grant a pension to the said Sally Murger for and on account of the military services of Noah Wiseman, her late husband, in the war of 1812.

IN SENATE.

WEDNESDAY, *December* 15, 1852.

Prayer by the Rev. JAMES GALLAHER.

Mr. ATCHISON desired the Secretary to read a letter which he had received from the Presiden

pro tem. requesting him to preside over the Senate to-day. The letter was read, and there being no objection, Mr. ATCHISON took the chair.

EXECUTIVE COMMUNICATION.

The PRESIDING OFFICER laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate, a report of the number and classes of clerks employed in the various Bureaus of that Department; which was ordered to lie on the table and be printed.

HOUSE BILL REFERRED.

The bill from the House of Representatives, "granting to the Sackett's Harbor and Ellisburg Railroad Company the right of way through the military reservation at Sackett's Harbor, New York," was read a first and second time by its title, and referred, on motion of Mr. FELCH, to the Committee on Public Lands.

PETITIONS, ETC.

Mr. BRODHEAD presented the petition of John F. Dumas, praying indemnity for the capture and detention of the brig Molly by a Spanish privateer, in the year 1810; which was referred to the Committee on Foreign Relations.

Mr. FELCH presented the petition of the administrators of Henry Conner, alias "Wabishkin-dib," deceased, asking that they may be paid an amount of money reserved to him in a treaty made with the Saginaw band of Chippewa Indians on the 4th of January, 1837; which was referred to the Committee on Indian Affairs.

Mr. HAMLIN presented a petition of the Mayor and citizens of Portland, Maine, praying a donation of land to aid in the construction of the European and North American Railway; which was ordered to lie on the table.

Also, a petition of citizens of Portland, Maine, praying the establishment of a collection district at Island Pond Junction, in Vermont; which was referred to the Committee on Commerce.

Also, the memorial of Mary Carlton, widow of Moses Carlton, a soldier in the war of the Revolution, praying a pension; which was referred to the Committee on Pensions.

BILL INTRODUCED.

Mr. BRODHEAD, agreeably to previous notice, asked and obtained leave to introduce a bill supplementary to an act entitled "An act granting bounty lands to certain officers and soldiers who have been engaged in the military service of the United States," approved September 28, 1850; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

CLERK TO COMMITTEE.

Mr. BADGER submitted the following resolution; which lies over one day under the rule:

Resolved, That the Committee on the Judiciary be authorized to employ a clerk.

MEXICAN BOUNDARY.

Mr. MASON. The Committee on Foreign Relations, to which was referred the bill to "amend the act approved 31st August, 1852, in reference to the appropriation for continuing the survey of the Mexican boundary," have instructed me to report it to the Senate without amendment.

Mr. President, at the last session there was a proviso annexed to the appropriation for continuing the survey of the Mexican boundary, the intention of which—certainly the intention of the mover—was to arrest that survey where it then stood, the object being to protect the interests of the United States against what was believed to be a misconstruction of the treaty line by the Boundary Commissioner, Mr. Bartlett. That proviso had its effect; for we are informed, in the report of the Secretary of the Interior, made at the present session of Congress, that in consequence of it he had instructed the Commissioner to discontinue all further field operations upon the southern and western line of New Mexico. But he stated in that report, that the survey of the Gila had been completed, and the survey of the Rio Grande nearly completed, and he submitted to Congress, wisely, as I think, the propriety of allowing the survey of the Rio Grande to be finished. The object of this bill is to authorize the expenditure of so much of the appropriation as will be required to complete the survey of the Rio Grande, which is now, as I am informed, in the very competent charge of Major Emory, of the Army, and to defray any expenses which may have been incurred prior to the act of the last session. As it is my object to have the bill passed at an early day, I ask that it may be now put upon its passage, and sent to the House of Representatives.

There being no objection, the Senate proceeded to consider the bill as in Committee of the Whole. It provides that, for the purpose of continuing the survey of the Mexican boundary, it shall be lawful to use so much of the appropriation provided by the act approved August 31st, 1852, "making appropriations for the civil and diplomatic expenses of Government for the year ending 30th of June, 1853, and for other purposes," as may be required in running and marking the boundary, under the treaty of Guadalupe Hidalgo, on the Rio Grande, below the town called Paso, and in defraying any necessary expenses heretofore incurred or that may be hereafter incurred, connected with the survey.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time and passed.

REPORT ON INDIAN AFFAIRS.

Mr. RUSK. I desire to offer the following resolution:

Resolved, That one thousand copies of the last annual report of the Commissioner of Indian Affairs, with the accompanying documents, be printed in pamphlet form for the use of the Indian Department.

I hope the Senate will indulge me by considering it at this time. Heretofore, by law, the Indian Department has been authorized to print one thousand copies of the report. It is necessary for the purpose of supplying their agents and sub-agents. By a law of last Congress that provision was repealed. The report has already been printed with the other executive documents. It is necessary that there should be a thousand copies of it printed for the Department. The expense of printing that number, with the accompanying documents, will be much more than to print it separately, which will not, I understand, exceed one hundred and fifty dollars. It is now in type. I hope the resolution will be considered at this time.

No objection was made, and the resolution was adopted.

SUCCESSOR TO MR. CLAY.

The Senate resumed the consideration of the resolution which was submitted by Mr. GWIN on Monday, the 6th instant, which has been modified to read as follows:

"*Resolved*, That the credentials of Archibald Dixon, Esq., be referred to the Committee on the Judiciary, who shall consider and report thereon."

The pending question being on the amendment offered by Mr. JONES, of Tennessee, to strike out all after the word "Resolved," and insert—

"That the Hon. Archibald Dixon was duly elected by the Legislature of the State of Kentucky, to fill the vacancy in the Senate occasioned by the resignation of the Hon. Henry Clay, and is entitled to a seat therein."

Mr. UNDERWOOD. Mr. President, when I gave way on Monday for the purpose of adjourning, I had called the attention of the Senate to the different modes and frequency with which vacancies might take place in this body. I wish now to show the peculiarities of this particular case, and in a few words to show that the facts are somewhat novel, but that the principles which apply to the facts are precisely the same as those which apply to ordinary vacancies.

The novelty consists in this, that Mr. Clay by a resignation in December created a vacancy from and after the first Monday in September following, and then died before the time reserved to himself had expired. In that way he created a vacancy by his resignation to take effect at a future day; and then, by his death, before the arrival of that time, created a vacancy in the reserved time. The only novelty results from the fact that no case of that kind had previously occurred in the history of the Senate. But how does the novelty of the fact, in creating first a vacancy by resignation and then a second vacancy by death, alter the principles of the Constitution? Let gentlemen who may respond to me, turn their attention if they please to that particular point, and show if they can, how the principle applicable to the case of vacancies in general is changed—how the Constitution can be changed—by the novelty of the fact whereby a first vacancy was created by resignation, and a second by death, for the reserved portion of the time. Sir, it cannot be done.

It seems to me that those who oppose the view which I am taking of this subject, regard a seat in the Senate of the United States as an indivisible unit—a unit that cannot be cut up into parts; or to present what I apprehend to be their view, they regard it as a single tenement, which, when leased, and a tenant put in possession, cannot be broken into fractions or divisions for the time for which the lease is made; and then they say that the tenant being in possession of the house, it is altogether ridiculous to put another tenant in while he is there—there can be no vacancy in that house while there is an actual tenant possessing it. In this way, according to the arguments which I have read, Mr. Clay being in the house—to carry on the illustration—at the time the Legislature elected Mr. Dixon last December, that election was null and void, because there can be no such thing as putting two persons in the same tenement. The error of that argument—the error of such an illustration as that, consists in this: Those who rely on such a physical illustration, seem to suppose there can be no division of a senatorial term; they suppose that there is but one room in this tenement, whereas—to illustrate further by the same figure—there are six apartments in the tenement—at least there are six sessions of Congress, according to the Constitution, embraced by one senatorial term, each session commencing on the first Monday in December. In this point of view, like the six tenements in the house, it is perfectly competent for a tenant to say to the landlord, "I give up five apartments, or three, or one, and I will only occupy the residue;" and if he does that, well may the landlord fill the apartments thus surrendered and made vacant by the surrender. So it is precisely in reference to the senatorial term of six years. A Senator may say "I will resign one, two, three, four, or five sessions." When he does that, the constitutional sessions which he gives up, become vacant, and the constituted authorities may fill them. But the reason of the case, and the precedents go further than that. The precedents go so far as to say that he may surrender a part of one session. He may surrender any part of the whole term, and then there arises a vacancy which may be filled.

Sir, these illustrations, growing out of a reference to physical facts, although good, are not conclusive in an argument of this sort, because an office is not a thing which you can test by the senses. You cannot see it, or feel it, or hear it, or apply any of the senses to it. It is an abstract idea. It exists in the mind. It is a creation of law. It as clearly exists in the abstract view in which I am contemplating it, as if it were a physical existence that you could see and feel; and, viewing it abstractly, you can see as clearly that it is divisible, as you can see that a house is divisible into apartments, and that you can render a part of the time vacant, by such divisibility as that you can render a portion of the house vacant by surrendering some of the apartments, and retaining one or more.

I will now call the attention of the Senate to two more cases, which seem to me to place this matter beyond the possibility of a doubt. One of them is a Kentucky case—the case of Mr. Clay and Mr. Crittenden—and being a Kentucky case, and having been sanctioned by the Senate, well may the Legislature of Kentucky say, In the election of Mr. Dixon, we have precedent to justify our action. And, sir, if you reject Mr. Dixon, and exclude him from his seat, what will the Legislature and people of Kentucky say, when they contrast your present conduct with the past decision of the Senate, which admitted Mr. Crittenden under precisely the same circumstances as those which exist in behalf of Mr. Dixon? They will say that the Senate of the United States have tolerated things precisely analogous to those which exist in Mr. Dixon's case, and without raising one word of objection, set a precedent for his election; that when the Legislature of Kentucky acted in conformity to that precedent, and elected Mr. Dixon, on the presentation of his credentials, a question was raised in the Senate contesting his right to a seat, and he was rejected, and that such exclusion of their Senator violated the established law of this body, and deprived one of the States of the Union of half her representation in the Senate. Sir, people may begin to inquire whether laws are binding without full representation. My constituents will never submit to a deprivation of

their consti utional rights; and one of the dearest of those rights, to a free people, is to choose for themselves their own law-makers.

Here are the facts, precisely analogous in the case of Messrs. Clay and Crittenden. I have taken them from the records of the Senate. Mr. Clay's full term commenced on the 4th of March, 1837, and consequently continued until the 3d of March, 1843—six years. He resigned and retired from office, his resignation to take effect on the 1st day of April, 1842. After that resignation—to wit, on the 25th of February, 1842—more than a month preceding the time fixed by him for his resignation to take effect, the Legislature elected Mr. Crittenden to fill the vacancy. Mr. Clay, on the 31st of March, the day before the resignation was to take effect, presented the credentials of his successor to fill his own vacancy; and on the 1st of April Mr. Crittenden stepped into the seat. There are the facts. There was a prospective resignation by Mr. Clay. There was an election by the Legislature of Kentucky of Mr. Crittenden more than a month before the time arrived when Mr. Clay was to go out of office. There was the appearance of Mr. Crittenden in the Senate on the day on which the resignation was to take effect, and the presentation of his credentials; the taking of the oath of office, and his taking the seat. The case runs "all fours" precisely with the case of Mr. Dixon. Who can discriminate? I heard it said the other day, that the reason why that was law and this is not law, is, that Mr. Clay sanctioned his own resignation by presenting the credentials of Mr. Crittenden, and therefore confirmed the resignation, which otherwise would have been ineffectual. Unless it is good for some reason of that sort, and bad without it, it is a case precisely parallel in every particular with the present case. Both are precisely alike in respect to a resignation to take effect at a future day, in respect to an election by the Legislature before that day arrived, and the presentation of the person elected, with his credentials in conformity to his election, after the prospective resignation, or rather present resignation, to be complete at a future day, had fully taken effect.

The oath of office was administered to Mr. Crittenden, and he allowed to take his seat without a word of objection. In that particular I already see the analogy has failed. Objection is made. It yet remains for us to see whether the objection will prevail. Sir, what a spectacle shall we set to the State of Kentucky, if it should prevail? Ten or fifteen years ago, Mr. Clay resigned exactly in the manner he lately resigned. Mr. Crittenden was elected to fill his place. Mr. Crittenden took his seat without any objection. Mr. Dixon comes under the same circumstances, and the Senate rejects him. In the case of Mr. Crittenden, the resignation of Mr. Clay was made while the Legislature was in session, to take effect at a day more distant than the end of the session of the Legislature. The Legislature adjourned before the 1st of April arrived, just as the Legislature adjourned before the time arrived from which the late resignation of Mr. Clay was to take effect. Mr. Clay's letters of resignation were addressed to, and delivered during the sessions of the Legislature. Hence there is an utter impossibility of discriminating in principle between the two cases; and you must make new rules, new laws, to govern the Senate, or you must admit Mr. Dixon, to preserve your consistency.

An excellent suggestion has been made to me. If it be attempted to discriminate between the cases, and say Mr. Clay confirmed his resignation by presenting the credentials of Mr. Crittenden, it does not alter the case, because it still leaves the legislative election to have taken place before there was a vacancy. Mr. Clay confirming his resignation on the 31st of March, when he presented the credentials of his successor, could not retroact in such a way as to give power to the Legislature two months before that time, when they had no power, according to the argument which is made use of here, to make the election. So that you perceive there is an utter impossibility, as I have stated, of getting clear of the authority, unless you intend to make entirely new rules; and then the hardship of it is, that you are to make a new rule that is to operate on the very State in whose case you have settled the law rightly; and all we ask now is, that you shall adhere to it and enforce it. The State has acted according to the rule which you have heretofore set it in every particular; and having acted according to that rule, it has a right to say that you should abide by it—that you should administer to it the same law as heretofore, and not bring up a new law, and give it an *ex post facto* operation for the purpose of excluding one of its Senators.

Sir, I show you by numerous cases, to which I have already called your attention, that it is not a new thing for members of the Senate to send their resignation to the Legislature of their State whilst in session, and fix prospectively a day when they will retire from office, so as to enable the Legislature to elect under such a resignation, and to fill the vacancy thus made. It is nothing new.

Now, if it is well settled that this is all right, constitutional, and proper, how can Mr. Clay's subsequent death, before the time which he reserved to himself expired, alter or divest the right of the Legislature to elect a successor, which right the Legislature derived from his letter of resignation, delivered to them the December before he died? That the Legislature had the right to elect, founded on Mr. Clay's letter of resignation, is settled by precedent after precedent, sanctioned time and again by the Senate. This right of the Legislature to elect equally results from the Constitution when connected with the letter of resignation, because by the Constitution, as I showed the other day, no difference is made between a prospective resignation and an actual resignation *in presenti*. Let gentlemen if they can, if they are disposed to answer this argument, let them get up and show, if Mr Dixon's election and the proceedings of the Legislature were legal in December, how they become illegal and void because Mr. Clay died in June following? Does a constitutional principle depend upon the death or the life of a man? Who ever heard of a position of that sort, that a thing is constitutional if a man happens to live, and very unconstitutional if he happens to die? It is preposterous, and the mere statement is enough to show it.

But I desire to give another case. I refer to the case of the Senator from Georgia, [Mr. CHARLTON.] Here are the facts which I have taken from the record. Mr. Berrien's full term commenced on the 4th of March, 1847. He resigned, and retired from the Senate on the 28th of May, 1852, some two or three days before the time fixed for his resignation to take effect. After his resignation, and before he retired from the Senate, to wit: on the 18th of May, 1852—your records show that he actually remained up to the 28th—ten days before the day he retired, and some thirteen or fourteen days before his resignation took effect, the Governor of Georgia commissioned Mr. Charlton to supply the vacancy. Mr. Charlton appeared on the 11th of June, 1852, and was qualified without any sort of objection; and, what makes the case still more in point, Mr. Charlton's commission actually limits the time, as in the case of the commission of Mr. Meriwether, up to which he is to serve. So that it is a case precisely in point; and if it was altogether illegal for the Governor of Kentucky to limit the time that Mr. Meriwether was to continue in office, the Governor of Georgia was equally guilty of a blunder by inserting in Mr. Charlton's commission the time for which he was to serve.

Mr. CHARLTON. Will my friend from Kentucky yield me the floor?

Mr. UNDERWOOD. Certainly.

Mr. CHARLTON. I have sat still and listened to the various annotations which have been made upon my case without replying; but it seems to me that it is time for me to say a little on the subject myself. The various opponents in this case are so well matched, that they dislike to come very near to each other's weapons, and they are fleshing them in my body, which is interposed between them; and although that may be sport to them, it is death to me.

Now, Mr. President, I recollect reading of an instance when the celebrated Baron Cuvier went into a hall of philosophers in France. There were forty of them, and they told him that they had been passing the morning in digesting and making a perfect description of an animal which is called the crab. They told him they would like him to look at it, but they thought the analogies were all perfect, and that it could not be improved. They handed to him the description in these words: "Crab: A red fish, that walks backwards." He said: "Gentlemen, the analogies are all very fine, indeed;" (he was a very polite man;) "but I could make a few trifling suggestions to you, which probably would add a little to 'the force of this *bijou* of a description; and these 'are, first, the crab is not red; second, that the 'crab is not a fish; and third, the crab does not 'walk backwards." That is precisely the condition of the analogy between the Georgia and the Kentucky case. They do not begin the same; because, in one case, there is an alleged usurpation of the Executive prerogative, which does not exist in the other; they do not progress the same, because the Kentucky case has not been confirmed, as my appointment has been, since the vacancy; and lastly, I do not think that they will, in all probability, end the same.

Mr. President, it is not pleasant for any man, however distinguished the office may be to have a seat on this floor, to hold it by sufferance; therefore it is that I interfere in this stage of the debate. I suppose that my friend from Kentucky, and the other honorable Senators who have argued this case, on his side of the question, will readily concede that he who can make the appointment can also confirm it, and that though it may be true that though at the time of the appointment he had not the right to make it, inasmuch as the time was *in futuro*, yet, after the period has arrived when the resignation was to take full effect, he can confirm it, and his confirmation will be good from that time. Take the instance of an infant. He can make no negotiable note that will bind him; but after he comes of age, if he confirm it, it becomes his note from that time, without reference to the date of the instrument. And so it is with this confirmation.

Though it may be true that the appointment was void at the time, (upon which subject I pass no opinion, for I do not intend to vote; I will not subject myself to the imputation of either being inconsistent or indelicate,) yet after the 1st of June had arrived, there can be no doubt that the Governor of Georgia had a right to appoint to fill the vacancy. I did not present myself here, as the Senator from Kentucky has said, until the 11th of June, and during that interval, not only was the commission negatively confirmed by no subsequent one having been made, and since, by my taking my seat without the Governor interfering, but it has also, in various ways, been incidentally affirmatively confirmed; and if it be necessary for me to take that position, I can claim simply from the confirmation made to that appointment since the 1st of June. Can anybody doubt that the Governor of Georgia had the right, after the 1st of June, to confirm that appointment, though it be dated on the 17th of May? Can the date of the deed alter its tenor at all? Is it not the delivery of the instrument, and not the date of it, to which we are to look? I beg the Senator's pardon for interrupting him at this stage of the debate, but I trust that he will see that there is a manifest difference between the two cases; and I am prepared to show that, if he will have the kindness to insert a reference in that resolution, of my case, that I am *de jure et de facto* the Senator from Georgia, holding my appointment by authority, (if he will have it so,) subsequently to the first day of June.

I thank the Senator from Kentucky for having permitted me to interrupt him, which I would not have done had I not felt it to be my duty to show, that apart from any question involved in this case, my right to a seat here ought to be undoubted.

Mr. UNDERWOOD. Instead of intending to inflict any wound upon my friend from Georgia, it was my intention to sustain his right and title to his seat on every principle of constitutional law. I intended to show that the Governor of Georgia was right, as I intend also to show that the Governor of Kentucky was right. But, sir, with regard to the analogy, our faculties of comparison sometimes do not exactly agree. I think there is a perfect likeness between the cases of Mr. Meriwether and of my friend from Georgia. That I intend to show. That his case and Mr. Dixon" may terminate differently is what I fear. I hope they will not. But if they do terminate differently, the country perhaps may trace the event to causes and reasons which I shall not assign for that difference. I may not do it without transcending perhaps the proprieties of my station. I would inform my friend from Georgia that we have to

test the analogy of the cases by what appears on the files and the records of the Senate. We cannot go into anything extrinsic to ascertain whether there are differences; we must take the language just as it stands upon the record. If there has been any subsequent confirmation of his right to a seat here, it has never been presented to the Senate. I do not think any such subsequent confirmation was necessary. If it was necessary, it has never been done. I think his right is perfect from what appears upon the records of the Senate. And what appears there appears in precisely the same manner in Mr. Meriwether's case. Now, sir, take it up. Here it is. I will repeat it again very briefly, so that the members of the Senate may see the precise analogy. Mr. Berrien resigned prospectively. That created the vacancy, in the opinion of the Governor of Georgia, and upon the presentation of the resignation, he appoints and commissions Mr. Charlton before the day arrives fixed by Mr. Berrien for his retirement. That is an authority to support the right of Mr. Dixon, claiming under the prospective resignation of Mr. Clay. Mr. Meriwether, I admit, claimed his right in consequence of the actual vacancy occasioned by the death of Mr. Clay. There is that difference, and that is all. The prospective resignation, and letter of resignation in the case of Mr. Berrien, took place during the recess of the Legislature. Mr Clay's letter of resignation was written and delivered while the Legislature was in session, but the time fixed when he was to retire from this Chamber, happened in the recess of the Legislature. The cases are precisely the same in the principle for which I cite them. One is the case of an Executive appointment, based upon a prospective resignation, and made before the arrival of the day fixed in the letter of resignation, when the member would cease to act. The other is the case of a Legislative election, based upon a prospective resignation, and made before the arrival of the day for the incumbent to retire. No one questions the propriety of the Executive appointment. That is Mr. Charlton's case. Many seem to doubt the propriety of these Legislative elections. That is Mr. Dixon's case. Mr. Meriwether was appointed by the Governor to hold his seat for a limited time; Mr. Charlton was appointed by the Governor, to hold for a limited time. Mr. Meriwether presents his credentials, and is qualified without objection being made; Mr. Charlton presents his credentials, and is also qualified without objection. Both are appointed by the Governor, for limited periods; both are qualified without objection, both the commissions stating the period when the term of service is to expire. And now, after receiving one commission of that sort, and allowing a gentleman to be qualified without objection, how can you get up and say that the other commission, precisely the same in its character, and which limits the period of service in the same manner, is void? I deny it. It is in conformity to the fact. The Governor of Kentucky had, before that time, commissioned Mr. Dixon, and he could not allow his files to show the inconsistency of one commission to Mr. Dixon, from and after the first Monday in September, and then another to Mr. Meriwether, which could be construed to be in conflict with the other. The Governor was perfectly right in making out the second commission, and he put upon the face of it what his duty required him to do, in order to prevent any conflict between the two. The Governor acted wisely, by inserting in the second commission the period up to which Mr. Meriwether was to hold his office. What right have you to go behind the Governor's commission? What right have you to revise the mode and manner in which the States make out their credentials to those who are to represent them, when by the Constitution of the country, the times, mode and manner, and everything, belongs to the State Legislature and the State authorities, until you shall undertake by law, according to the Constitution, to alter the modes of proceeding by the State authorities. Is there any question of contest here between A and B? Is there any question of contest here made by any one, with regard to the legality of the commissions? None whatever. The State law and the State authority have a right to control all this, and you are to give efficiency to it, until somebody raises a question; and that question, according to the Constitution, must be with reference to age, residence, citizenship, or some other personal qualification, or else it must be with reference to the legality of the election or appointment. My State has done all this, in pursuance of her law, and in pursuance of your precedents; and I say that it is a most ungracious task on the part of the Senate of the United States, to be undertaking to revise the proceedings of my Legislature, or the acts of the Governor of the State, upon no better foundation than objections to the form or language of a commission defunct upon its face, and which no one is yet attempting to revive.

But I deny that the commission of Mr. Meriwether is void, because a limitation is inserted in it, or that the limitation is void. Sir, if that limitation be void, the whole commission is void, and that upon settled principles of law.

Lord Coke says that "if a man do less than the command or the authority committed to him, then what he does is void." Go and look at Dunlap's Paley upon Agency, page 179. According to the doctrine advanced by some gentlemen the Governor of Kentucky, in Mr. Meriwether's case, did not fulfill his duty. He did, they say, a great deal less than he was required to do, according to the Constitution. He was required, gentlemen say, to make out a commission which should have such validity and effect as to confer upon Mr. Meriwether the whole term left by Mr. Clay's death and his resignation. It is manifest that he did not do that. He only commissioned him for a few months, up to the first Monday in September. Then, exactly in the language of the authority to which I have referred, he did less than he was commanded to do; he did only part of his duty, and, having done part of his duty, the act was void. What are gentlemen doing, then? They are acknowledging by their own arguments that the paper presented shows that the Governor did a great deal less than he ought to have done. He did not meet the requirements of the Constitution, and yet they say, we will enlarge that paper, contrary to the face of it, and make it meet the requirements of the Constitution to the whole extent, although it is but the partial and limited execution of a power. Thus they mean to give validity to a defective commission, according to their own admissions, to suit their own purposes and designs, directly contravening the doctrine of Coke.

Now, as a legal proposition, can this be done? As a sensible proposition, can it be done? No, sir. The Governor of Kentucky had a right, under the state of facts appearing on the records and proceedings of the Legislature, to insert the fact that the appointment was up to the first Monday in September, when the Legislative election should take effect. That was all he had a right to do, and he did that fully, and expressed it upon the face of the paper. If you do not sanction it as it stands, you are bound to regard the whole as a nullity; for then, under the doctrines of agency, it is all a nullity; and then those who contend that the seat was filled by Mr. Meriwether, are making a claim in Mr. Meriwether's behalf upon a void paper, and not upon a Legislative election—a void act of the Governor, according to their own position. How, then, can they claim that he should hold the seat under that void act? The thing is impossible, unless you intend to make a law for the States, and have persons put in office contrary to the will of the majority of the Legislatures of these States. Is that the principle upon which an American Senate can act? Is it not at war with everything like the genius of our Government? Who can say that the Governor of Kentucky would have commissioned Mr. Meriwether at all, if he had known that the Senate would enlarge and extend the time of his appointment beyond the date limited by the Governor? Are you to stultify the Governor, and because you think he ought to have done more than he did do to meet the requirements of the Constitution, are you at liberty to enlarge his commission, and make it confer an office for years which he limits to two months' duration? No, sir; you have no right to reverse the rule, and make the *minor* include the *major*. But if you are fully convinced that the Governor erred, and did less than he should have done, after you have instructed him in his duty, you should be instructed by Coke, and declare the commission to Mr. Meriwether altogether void, and let the Governor have another chance to select a new man, as well as make a new commission. For the Senate to stretch an Executive commission is as objectionable, in my judgment, as the Procrustean process of lopping off.

Mr. President, I have now vindicated, as I conceive, the Legislature of my State for acting as they have done; I have vindicated the Governor of my State. He is not a gentleman of my political creed, but he is one for whom I have high respect and esteem, who, I believe, has acted honestly, conscientiously, and properly in making out the commission to his appointee in the manner in which he has done it, and I am sorry that his political friends in this body should be those raising the voice of censure against his conduct.

Allow me now to read the resignation of Mr. Clay, and to show that it is absolute and unqualified, reserving only a small portion of time to himself. As I shall have little to say after I have read it, and as it was his last act in communicating to the Legislature of his State, I hope the Senate will pardon me, as it is not very long, for reading the whole of it:

WASHINGTON, 17 *December*, 1851.

To the General Assembly of Kentucky:

When you did me the honor to confer on me the appointment of a Senator from Kentucky, which I now hold, in accepting it I did not intend or expect to serve the entire term of six years. I had previously retired, finally, as I supposed, from that body. But out of the territorial acquisitions, resulting from the war with Mexico, momentous questions arose, seriously menacing the harmony and peace, if not the integrity of the Union. I felt it to be my duty to return again to the Senate, and to contribute my humble aid, by an amicable settlement of those questions, to avert the calamities with which we were threatened. Such a settlement was attempted during the last Congress, is now in progress of execution, and I trust and hope will accomplish all the good that could be expected from any great measure adopted to heal national divisions and animosities which had risen to such an alarming height.

On the approach of the present Congress, it was with much hesitation, proceeding partly from my feeble state of health, that I concluded to return for the last time to the Senate. But I have no thought of ever again taking a seat in that body after the close of the present session. Having come to this determination, I consider it incumbent on me to place it in the power of the General Assembly to appoint my successor during its present session.

I do therefore hereby resign the office of a Senator of the United States from the State of Kentucky, this my resignation to take effect on the first Monday of September, 1852.

In dissolving this official relation in which I stand to the General Assembly, I cannot forbear renewing the expression of my great obligations and my profound gratitude for the many distinguished and gratifying proofs which it has given me of its confidence and attachment.

I have the honor to be, with the highest respect, your faithful and obedient servant, H. CLAY.

The Legislature was then in session. He states that his object in resigning is to allow that body to fill the vacancy for the residue of his term after the termination of that session of Congress. He says in substance: I never expect to take my seat in another Congress. I do therefore hereby resign my office in the Senate of the United States to take effect on the first Monday in September; thus reserving to himself, according to the whole tenor of the instrument, the right to fulfill the duties of Senator during the residue of that session of Congress when he was here in Washington. After that resignation has been accepted, after it has been acted upon, and after Mr. Dixon has been elected, will the Senate of the United States send him back, and say to the people of Kentucky: "All the proceedings of your Legislature were a mere farce. This resignation of Mr. Clay occurred precisely as the former one, when Mr. Crittenden was elected; but it is all good for nothing, and you cannot be represented by the person elected by your Legislature?" I hope not.

Now, a word to my friend from Georgia; I have no idea of turning him out. I do not want any confirmation of his commission; but I will say to him, if Mr. Dixon is to go by the board in consequence of the commission to Mr. Meriwether, I think he, too, ought to go. I have always acted upon the principle of equal justice to all men, and I do not like to see fish made of one, and flesh of another. Let all fare alike; and I think, therefore, that if the one commission is not to entitle Mr. Dixon to his seat, so the other should not entitle my friend from Georgia to his seat. In that case, my friend from Georgia would be, for all practical purposes here in Congress, as if we had taken up any stranger in the streets, brought him in, qualified him, and given him a seat to represent a sovereign State. That is the effect of making these commissions void. But I utterly deny that they are void. They are in conformity with the fact; they express the truth; they tell what actually exists, and they are made out in the execution of

authority which the Governor had a right to exercise in each instance. They show what the Governor intended to do. It has been done correctly, in my opinion in both instances, and my friend from Georgia is as much entitled to his seat on this floor as I am, or as any other member is; and so was Mr. Meriwether while he was here. He was as much entitled to hold under his commission until the first Monday in September as any other member on this floor.

I wish gentlemen, when they answer this argument, to show how it is that you cannot divide, prospectively, by resignation, a senatorial term. Let it be a starting point to get up and show how it is that that is a legal and constitutional impossibility. If they can show that it cannot be done, I shall be startled, and be ready to surrender, I apprehend, the argument which I have made. But as long as I believe that you can, by resignation, exercise the constitutional right of dividing the term into different parts, I insist that the resignation which I have just read did accomplish that thing, and by that, all of Mr. Clay's term beyond the first Monday in September was made vacant, and that vacancy happening during the sitting of the Legislature, could be constitutionally filled by them, as they did fill it by the election of Mr. Dixon. Unless that position can be overturned, and unless it can be shown that such a division of the six years could not be made by resignation, I think my argument is unanswerable; but I believe I shall have astuteness enough to see how that position can be overturned, should it be done; and if it can be proved that it is a constitutional impossibility to divide a senatorial term by prospective resignation, I surrender all that I have said.

Mr. TOUCEY. It was my wish that this subject should have been referred to a committee, that the precedents might be examined, the subject deliberately considered, and presented to this body in a mature form. I thought if that course was taken, the precedent which would now be set would hereafter be regarded as entitled to higher consideration. But as the subject has been gone into, as the debate has been continued from day to day, and conducted with no little ability, I have become satisfied that this whole question must be disposed of substantially here.

Mr. President, there is, in my judgment, a preliminary question affecting this whole subject, which entirely disposes of it. It is one that has not been presented to the Senate in any of the precedents which have been cited, and I have received no intimation from any quarter that that question has heretofore been brought under consideration. It is whether a Senator can resign his senatorial office after his death.

I confess, sir, that I have not been able to bring my mind to entertain any serious doubt that the resignation of Mr. Clay, transmitted to the Executive of Kentucky a year ago, with a proviso attached to it that it should take effect on the first Monday in September last, which was after his death, is necessarily inoperative and void by the occurrence of that event. It is impossible not to believe that it was made upon the inherent and indispensable condition that his life should be continued to the specified period, when the act, by the terms of it, was to be effective to vacate the office. I doubt not that the incumbent himself acted upon that idea. I doubt not that when he transmitted that resignation, before the arduous labors of that session, he presented it under the belief, if I may so say, the fundamental belief, that his life would continue to that period, requiring that act in order to vacate the office. Not only was it the presumed intention of the incumbent, but it was perfectly understood by the Executive, and by the Legislature of Kentucky, that that resignation was transmitted upon that condition. And now, as that condition has never been fulfilled, that resignation never took any effect. It would be impossible to suppose that either the incumbent, or the Legislature of Kentucky, should have imagined that it was possible for a Senator to undertake to resign the office which he held, after the period when he ceased to be here, capable of acting. I regard it, therefore, as entirely inoperative, because that implied condition, which is indispensable, did not occur. What power has an officer over the office which he holds, after his death? In fact there is an entire defect of power in any incumbent, either directly or indirectly, to resign an office, or to vacate an office, or to execute any instrument by which it shall be resigned or vacated, at a period subsequent to his death, because, in the first place, he has no power at such subsequent period. He has no power at the time when it had been vainly provided that the act of resignation should take effect, but it had passed from him, without any agency of his, in an irresistible way, for which the Constitution had made ample provision. And there is no subject for the power to operate upon. That, also, had passed out of his hands by the same event; and when the resignation was to take effect, both the power and the office had passed away from him. There was, therefore, neither power nor subject. The office had passed out of his hands, and perhaps had been filled in a constitutional manner, long previous to the time when the resignation was intended to take effect, and when, by the very terms of it, it was to take effect, if it ever should take any effect at all.

It has been said in regard to property that the owner may by an instrument act upon that property after his death; but there is no analogy between the two cases of property and an office; there is no property in an office. The power of the owner to act upon property is by the manner of disposing of it. But has an officer any power of disposing of an office after his death? Can he do an act which is to take effect after his death, that shall have any influence or any control over that office? It might be more properly compared to a life-estate, or to an estate for years determinable with life. Can the tenant in that case dispose of the term after his death and when his power over the property has gone? Can he execute any instrument whatever that shall have an influence upon it? I confess, Mr. President, that I have not been able to discover any ground upon which it can be said that a resignation, to take effect after the death of the incumbent, can have any effect upon that office whatever. The resignation is void, because the condition is not fulfilled; it is void, because there is no power over it; and it is void, because there is no office in the hands of the incumbent for that power to operate upon.

It seems to me, therefore, after the best attention that I have been able to give to this subject, that the resignation of Mr. Clay was founded in a mistake, upon the idea that he would be living on the first Monday of September, and would have an office to resign, and he therefore incorporated into his resignation that it should take effect on the first Monday of September, long after the time when he ceased to live. As it was to take effect at that time, and not before, it appears to me that it was entirely void, entirely inoperative, and presents a case that has never been before this body, and for which there is no precedent that has come to my notice, or which has been suggested by any Senator on the other side. Hence I think that there was no resignation—that his contemplated resignation never took effect—that no vacancy ever occurred by reason of that resignation.

But, sir, with reference to prospective resignations; I have no difficulty in regard to them, if they are resignations to take effect while the incumbent is still in office, and while the appointing power remains unchanged. If the Governor of a State, during the recess of the Legislature, makes an appointment before the vacancy actually occurs, and he continues to have the power to make that appointment, and does not revoke it, and the incumbent does not, there is no question, and it is the ordinary case of a person doing an act which he has the power to do; and when the power continues, and his concurrence and assent continue, it becomes an unquestioned and unquestionable act and no title in opposition to it can be brought into existence. But how is it with regard to prospective appointments? Suppose a Senator is elected for the period of six years, and after he has been elected he resigns—the resignation to take effect at the end of five years, and then the vacancy is filled by the Legislature in session. Suppose he resigns again—his resignation to take effect at the end of four years, and the Legislature fills that vacancy; and he again resigns, the resignation to take effect at the end of three years; and again for two years, and again for one year, the Legislature undertaking to fill each. If the hypothesis presented on the other side be true, there is no escape from the conclusion that there are five vacancies made by the same incumbent during the same session of the Legislature, and therefore, six Senators to fill the same term for the period of six years; and that provision of the Constitution of the United States which requires that a Senator shall be elected for six years is resolved by construction into a provision for the appointment of an indefinite number of Senators, for an annual, a semi-annual, or a briefer term.

Again, suppose that at the close of an Administration, after a civil revolution has been accomplished, the Judges of the Supreme Court should resign, their resignations to take effect at different periods—one year, three years, or any number of years—could the President who was about to go out of office, with a Senate corresponding in political views, proceed to fill those offices, and install, with a degree of permanency unknown in any other department, the principles of the Administration about to go out by the verdict of popular opinion? And yet if it be true that if an officer resigns with a reservation to take effect five years hence, as a Senator might do, it is a present vacancy to be filled, the President of the United States would have the power to do this. Thus the office would be filled, and there would be no mode in this case of correcting the evil, unless the ultimate and last remedy could be applied, which undoubtedly would not be applied. Or suppose now, that our foreign ministers should resign, their resignation to take effect on the 1st of April, or of June next, could the present Executive send into this body nominations of foreign ministers for our confirmation to fill those supposed vacancies, because the incumbents were determined to resign at that time, and declared it as a present resignation to take effect at that time? Why, it is not a present resignation—it is a contradiction in terms to speak of it as such. A present resignation, to take effect at a future day, is a future resignation.

I apprehend that there is no difficulty in the precedents which have been adverted to in regard to the subject of future resignations. The remark which I made a few moments ago as to the continuing of the incumbent in office, and the appointing power in the same hands, removes all of them from any difficulty whatever, unless it be the last one, which was referred to by the honorable Senator from Kentucky—that resignation of Mr. Clay when Mr. Crittenden was elected. If the session of the Legislature continued to the time when that vacancy actually happened, it would fall within the category which I have already stated. If not, I can only say that it was so near the adjournment of the Legislature, that the subject was not presented to the Senate. No discussion was had in regard to it. No consideration was given to any question then arising, and it passed *sub silentio*, and ought not to have the weight of a precedent, or to exercise any control over the pending question.

But how is it possible that a resignation to take effect at a future day, should have a present operation, and also a future operation? Gentlemen on the other side of the question seem to think, that a resignation to take effect at a future day, produces a present metaphysical vacancy, and that, at the future day at which it takes effect, it produces another and an actual vacancy. Now, can there be to one act a double operation of that kind? Can there be two such results from the same resignation? And when the resignation is to take effect at a future day, can it take effect before that day to any intent or purpose whatsoever? It is impossible; in the first place, because the resignation is contingent, according to the view which I have already presented, upon the continuing life of the incumbent. It is an inchoate act—a contingent act; it is a resignation which cannot operate to vacate the office, unless the incumbent lives to the day when it does operate to vacate the office. In the next place, it is impossible, provided the will of the incumbent is the rule, because it is his will that its operation shall be postponed. It is a resignation to take effect at a certain future day, and not before. How can a new and distinct operation, in fact, be given to it before the instrument is to take effect?

It seems to me that, in reason, and under the principles of constitutional law applicable to this subject, it is impossible that the one single act of resignation can have any such twofold effect. It amounts to nothing but a notice—that is, provided the incumbent cannot recall it, which is a question that has never been passed upon by the Senate

No such question has ever been presented. The case of Mr. Bledsoe, of Kentucky, has been referred to, as concluding that point; but what was that case? It was simply this: Mr. Bledsoe, prior to the 24th of December, 1814—probably a short time preceding that day—had transmitted to the proper authority a resignation, to take effect on the 24th of December. After that day had passed, and after public and private information had communicated the fact that the Legislature, which was in session, had filled the vacancy, Mr. Bledsoe, in the month of January, by a written communication, presented the subject to the Senate, to decide whether he was still in office. The Senate decided that he was not in office, and it is very difficult to see how they could have arrived at any other conclusion. The time when the resignation was to take effect had passed; the party had not attempted to recall it; the Legislature had acted by filling the vacancy; and the only question, as far as I can discover, was whether the seat was to be vacated by him before he had official notice that his resignation had been accepted, or the vacancy had been filled. On that point I am not able to see how there can be any diversity of opinion; and that case is analogous to many other cases which have been cited.

Again, sir, can an incumbent, if he does not resign and vacate his seat, change the tribunal by which the appointment is to be made? Suppose Mr. Clay had lived to the first Monday of September: if there had been no previous notice given, the Governor must have filled that vacancy. Now, can an incumbent, by electing to give notice to the Legislature at its previous session, change the appointing power, and take away from the Governor the power conferred upon him by the Constitution? The clause in the Constitution is, "If vacancies happen by resignation or otherwise, 'during the recess of the Legislature of any State, 'the Executive thereof may make temporary ap-'pointments until the next meeting of the Legisla-'ture." It is very obvious that if this resignation was to take effect on the first Monday of September, if the office was then to be vacated, it would at that time be filled by the Executive of the State, unless the incumbent by giving previous notice could change the appointing power. He was not bound to give any such notice. He could have resigned during the recess of the Legislature. He was not willing to resign the office until the first Monday in September, and at that time, upon resigning the office, the vacancy arose.

Could he change the appointing power? The Constitution says that when a vacancy happens during the recess of the Legislature, the Governor may appoint "until the next meeting of the Legislature." Can that constitutional provision be altered, changed, or modified by the incumbent, by his giving previous notice that he resigns to take effect at a particular day *in futuro*? Can the Legislature of the State, by any law, take that power from the Governor? Can Congress, by any law, modify or change that constitutional power of the Executive of the State, provided the vacancy happens during the recess of the Legislature? Sir, there is no power in this country short of an amendment of the Constitution, that can take away from the Executive that constitutional power. No notice by the incumbent—no action by the State, unless by the assembling of the Legislature—no action of this Government can take away that constitutional power from the State Executive. He "*may*" exercise the power; that is, its exercise is discretionary with him. There may be reasons of State why he should not exercise it; and if he do not exercise it, he is acting within the discretion which the Constitution has conferred upon him; but if he does exercise that power, provided the vacancy then occurs, the appointment is a constitutional appointment, and one which must be governed by the Constitution.

The honorable Senator from Kentucky asks, with an air of triumph, "What is a vacancy?" A vacancy is a cessation of incumbency. The officer is out of office when the office is vacant. He ceases to be in office when it is vacant. Can an officer be partly in office and partly out of office? Can a Senator who is in office as a Senator of the United States be in office for certain purposes and not for all? Has he not all the rights and privileges of a Senator under the Constitution, and can any one of these rights or privileges be taken away, so that they may not be exercised by him down to the moment when he resigns the station and goes out of it, and an actual vacancy takes place? I apprehend there can be no question with regard to that.

I think, then, Mr. President, that when the Legislature of Kentucky made the appointment of Mr. Dixon they had no power to make it, because there was not only no constitutional vacancy, but the contemplated vacancy never arose. On the contrary, the death of Mr. Clay before the time contemplated for the expiration of his service, vacated the office from the moment of his death to the end of his term. The language of the Constitution itself implies that. The clause which has been referred to implies it, and recognizes the vacancy produced by death as a vacancy extending through the whole term from the moment of death, because it proceeds to provide that it may be filled by the Executive of the State until the next meeting of the Legislature, and after that by the Legislature itself.

But, sir, the question in this case stands upon a somewhat different ground from that. It is admitted on all sides that there was a vacancy here occasioned by the death of Mr. Clay; that he died in office; and that he was a Senator from Kentucky up to the period of his death. When he died, a vacancy arose by his death, and Mr. Meriwether was appointed by the Governor under this clause of the Constitution. The act making the appointment was under the Constitution, in the exercise of the constitutional power conferred upon the Executive. Mr. Meriwether presented his credentials, took his seat, and filled that seat to the end of the last session of Congress. The question, then, is, whether that appointment of Mr. Meriwether continues to the next session of the Legislature, provided that session is during the term? The Constitution on that point is clear and explicit: the appointment shall be made "until the next meeting of the Legislature." Can the Governor of Kentucky, by inserting in that appointment a restriction or limitation, change the period that is prescribed by the Constitution? Can he shorten the period?

Sir, I apprehend that the credentials of Mr. Meriwether, when they were presented to this body, showed an appointment to the end of the term, unless there intervened a session of the Legislature before its expiration. The clause that is therein inserted, "until the first Monday in September," was without constitutional authority, and therefore a nullity. The act of appointment conferred an office, and it must continue for the time prescribed by the Constitution. The honorable Senator from Tennessee, [Mr. JONES,] who addressed the Senate the other day, in alluding to a Senator by Executive appointment, said that he did not hold until the next session of the Legislature, because a Senator had been elected for the term commencing on the 4th of March next. But that election could make no difference. The same result would follow if there had been no such election. The temporary appointee holds until the next session of the Legislature within the term in which existed the vacancy that he fills. It is necessarily understood that it is during the continuance of the official term.

Now, sir, it seems to me, when the credentials of Mr. Meriwether are presented to this body, that every Senator in looking at them, under the light of the Constitution, sees that they constitute an appointment until the next session of the Legislature, if there be such a session during the term, a vacancy in which he was appointed to fill. That is the language of the Constitution, and that language cannot be altered either by the Governor or by the Legislature. The act of the Governor of Kentucky was an act in the performance of his official duty, and the insertion of any restriction or modification of the official term would be as nugatory as if the President of the United States, in nominating a Judge of the Supreme Court, should introduce into it a restriction; the restriction would be void, and the appointment being confirmed by the Senate, the Judge thus appointed would hold the office according to the Constitution of the United States. So it is, in my judgment, in this case of the appointment of Mr. Meriwether, and the credentials show it. The vacancy by death having occurred during the recess of the Legislature was filled by the Governor of Kentucky, and being filled, he has no power to qualify it. He has no power except to make the appointment; and when he makes it it extends to the end of the term or to the next session of the Legislature during the term.

I apprehend, therefore, that Mr. Meriwether is entitled *prima facie* to the seat. The credentials of Mr. Dixon, which are presented, are not *prima facie* credentials entitling him to the seat, because there are prior credentials, which show, in the view I have taken, that the office is filled.

These are the views at which I have arrived, after the consideration which I have been able to give to the subject on the questions arising out of it. My opinion has been formed deliberately, and I have therefore undertaken deliberately to express it, as the subject has been gone into at some length by various Senators. Certainly there can be no disposition in the Senate to deprive either incumbent, on the one side or the other, of the seat that he is entitled to. Whatever may be the wishes of either party, or whatever may be the feelings of the Legislature or of the people of Kentucky, we, sitting here as Senators of the United States, must be guided by the Constitution; and the Constitution, according to the view I have taken of it, does not entitle Mr. Dixon to occupy a seat in this body.

Mr. HALE next obtained the floor.

Mr. HUNTER. I would ask the Senator from New Hampshire whether it would not do as well for him to go on to-morrow as to-day? I am anxious to have an Executive session; and I therefore propose to him to move to postpone the further consideration of the subject until to-morrow.

Mr. HALE. I make that motion.

The motion was agreed to.

EXECUTIVE SESSION.

On motion by Mr. HUNTER, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 15, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. STUART. It will be recollected, Mr. Speaker, that the time fixed for closing debate upon the President's message expires to-day, at two o'clock. It is understood generally, I believe, that we are to have some obituary proceedings to-day. I therefore ask the unanimous consent of the House to extend that order until to-morrow at three o'clock, for the purpose of accommodating gentlemen who already have the floor upon that question.

Mr. SKELTON. I object.

Mr. STUART. I hope the gentleman will not object.

Mr. SKELTON. I object, because the time of the session has thus far been wasted in discussion upon that subject.

Mr. STUART. The gentleman from Alabama [Mr. HOUSTON] has the floor, and he will be cut off, if the time is not extended.

Mr. HOUSTON. I should very much like to occupy some half hour upon the proposition of the gentleman from New York, [Mr. BROOKS.] If obituary proceedings are to take place to-day, it will deprive me of that opportunity, unless the time is extended.

Mr. STUART. I appeal to the gentleman from New Jersey to withdraw his objection. To extend the time, would be nothing more than granting the ordinary courtesy of the House to the gentleman from Alabama.

OBITUARY.

A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, which, upon request of Mr. DAVIS, of Massachusetts, was read, as follows:

Resolved, That the Senate has received with profound sensibility the announciation from the President of the death of the late Secretary of State, Daniel Webster, who was long a highly distinguished member of this body.

Resolved, That the Senate will manifest its respect for the memory of the deceased, and its sympathy with his bereaved family, by wearing the usual badge of mourning for thirty days.

Resolved, That these proceedings be communicated to the House of Representatives.

Mr. DAVIS. Mr. Speaker, I rise for the purpose of proposing some action of this House in response to that which, we learn, has taken place in the Senate in reference to the death of Mr. Webster; and I have little to add to the proposition itself beyond a brief expression of reverence and of affectionate recollection. At this seat of Government, where thirty years of Mr. Webster's life were spent—in this Capitol, still populous with the echoes of his voice—to this House, of which there is not an individual member but can trace something of his intellectual wealth, or political faith, to the fountain of that mighty intellect—it would be useless, and worse, to pass in review the various acts of spoken and written thought by which he impressed himself ineffaceably upon his time. Master of the great original ideas of which our social institutions are but the coarse material expression; master of a style which clothed each glorious thought in a garb of appropriate beauty; possessed of a conquering nature that "like the west wind brought the sunshine with it," and gave us, wherever he was, the sense of security and power, he has run his appointed race, and has left us to feel that our day of life will henceforth be more wintry now that that light has been withdrawn. I have no intention of undertaking here to measure his labors or interpret his ideas; but I feel tempted to say that his great field of action—the greatest which any statesman can have—was in undertaking to apply general principles to an artificial and complicated system; to reconcile liberty with law; to work out the advance of liberty and civilization through and under the rules of law and government; to solve that greatest problem of human government, how much of the ideal may safely be let into the practical.

He sought these objects, and he sought the political power which would enable him to carry out these objects, and he threw into the struggle the great passions of a great nature—the *quod vult, id valde vult* of the elder Brutus. He sought, and not unsuccessfully, to throw around the cold impersonal idea of a Constitution the halo of love and reverence which in the Old World gathers rounds the dynasties of a thousand years; for, in the attachment thus created, he thought he saw the means of safety and permanence for his country. His large experience and broad forecast gave him notice of national dangers, which all did not see, as the wires of the electric telegraph convey news of startling import, unknown to the slumbering villages through which they pass. Whether his fears were well or ill-founded, the future, the best guardian of his fame, will show; but whether well or ill-founded, matters nothing now to him. He has passed through the last and sternest trial, which he has himself in anticipation described in words never to be forgotten: "One may live (said he) as a conqueror, a hero, or a magistrate, but he must die as a man." The bed of death brings every human being to his pure individuality; to the intense contemplation of that, the deepest and most solemn of all relations, the relation between the creature and his Creator. Here it is that fame and renown cannot assist us; that all external things must fail to aid us; that friends, affection, and human love and devotedness cannot succor us. This relation, the true foundation of all duty, a relation perceived and felt by conscience and confirmed by revelation, our illustrious friend, now deceased, always acknowledged.

He "reverenced the Scriptures of truth, honored the pure morality which they teach, and clung to the hopes of future life which they impart." Mr. Webster died in accordance with the prevailing sentiment of his life, in the spirit of prayer to God, and of love to man. Well might those who watched his dying bed say, in the words which the greatest English poet applies to a legendary hero who also had been the stay of his country in peril:

> "Nothing is here for tears, nothing to wail
> Or knock the breast; no weakness, no contempt,
> Dispraise or blame: nothing but well or fair,
> And what may comfort us in a death so noble."

Mr. Speaker, I move the following resolves:

Resolved, That this House concurs with the Senate in its expression of grief for the death of Daniel Webster, of respect for his memory, and of estimation of the services which he rendered to his country.

Resolved, That the members of this House will wear crape on the left arm for the space of thirty days.

Resolved, That the Speaker be requested to make these resolves known to the surviving relatives of the deceased.

Resolved, That this House do now adjourn.

Mr. APPLETON, of Maine. Mr. Speaker, I do not know that I ought to add anything to what has already been said upon the resolutions before us; yet, since the death of Mr. Webster was a national calamity, it is fit that all classes and all parties in the community should unite to testify their full appreciation of it. The people themselves have admonished us of this, as they have gathered recently with mournful reverence around his tomb, and we should be unworthy of them, if, here in the Capitol, where he won so much of his fame, we did not add our tribute to his memory. It is a GREAT MEMORY, sir, and will go down to posterity, as one of the country's heir-looms, through I know not how many successive generations. We are not here, Mr. Speaker, to build his monument. He erected that for himself before he died; and had he failed to do so, none among us could supply the deficiency. We are here, rather, to recognize his labors, and to inscribe the marble with his name.

That we have not all sympathized with him in his political doctrines, or been ready to sanction every transaction of his public life, need not, and, I am sure, does not abate anything from our respect for his services, or our regret for his loss. His character and his works—what he was and what he did—constitute a legacy which no sound-hearted American can contemplate without emotions of gratitude and pride. There is enough of Daniel Webster, sir, to furnish a common ground upon which *all* his countrymen can mingle their hearty tributes to his memory.

He was a man to be remarked anywhere. Among a *barbarous* people he would have excited reverence by his very look and mien. No one could stand before him, without knowing that he stood in a majestic presence, and admiring those lineaments of greatness, with which his Creator had enstamped, in a manner not to be mistaken, his outward form. If there was ever such an instance on earth, his was the appearance described by the great dramatist:

> "The combination and the form indeed
> Where every god did seem to set his seal,
> To give the world assurance of a man."

No one could listen to him, in his happier moments, without feeling his spirit stirred within him by those deep, cathedral tones which were the fit vehicles of his grave and earnest thoughts. No one can read his writings without being struck by the wonderful manner in which they unite a severe simplicity of style, with great warmth of fancy, and great affluence of diction.

We, Mr. Speaker, remember his look and his spoken words; but by those who are to come after us, he will be chiefly known through that written eloquence which is gathered in our public records, and enshrined among the pages of his published works. By these, at least, he *still lives*, and by these, in my judgment, he will continue to live, after these pillars shall have fallen, and this Capitol shall have crumbled into ruin. Demosthenes has survived the Parthenon, and Tully still pleads before the world the cause of Roman culture and Roman oratory; but there is nothing, it seems to me, either in Tully, or in Demosthenes, which, for conception, or language, or elevation of sentiment, can exceed some passages in the writings which remain of Daniel Webster. His fame indeed is secure, for it is guarded by his own works; and as he himself said of Mr. Calhoun, "he has lived long enough—he has done enough, and he has done it so well, so successfully, so honorably, as to connect himself for all time with the records of his country."

In no respect, Mr. Speaker, is this an occasion of lamentation for *him*. Death was not meant to be regarded as an evil, or else it would not come alike to all; and about Mr Webster's death there were many circumstances of felicity and good fortune. He died in the maturity of his intellect; after long public service, and after having achieved a great name for himself, and a great memory for his country. He died at home; his last wants supplied by the hands of affection; his last hours cheered by the consolations of friendship; amidst those peaceful scenes which he had himself assisted to make beautiful, and within hearing of that ocean-anthem to which he always listened with emotions of gratitude and joy. He died, too, conscious of the wonderful growth and prosperity and glory of his native land. His eloquent prayer had been answered—the prayer which he breathed forth to Providence at the greatest era of his life, when he stood side by side with Andrew Jackson, and they both contended for what was, in their belief, the cause of the Constitution and the Union. I pause, Mr. Speaker, at the combination of those two names. Andrew Jackson and Daniel Webster! Daniel Webster and Andrew Jackson! With the clear intellect and glorious oratory of the one, added to the intuitive sagacity and fate-like will of the other, I will not ask what *wrong* is there which they could not successfully crush, but what *right* is there, rather, which could withstand their united power. "When my eyes," he said on that great occasion, "are turned to behold 'for the last time the sun in heaven, may I not see 'him shining on the broken and dishonored frag-'ments of a once glorious Union; on States dis-'severed, discordant, belligerent; on a land rent 'with civil feuds or drenched, it may be, with fra-'ternal blood. Let their last feeble and lingering 'glance rather behold the gorgeous ensign of the 'Republic, now known and honored throughout 'the earth, still full high advanced, its arms and 'trophies streaming in their original luster, not a 'stripe erased or polluted, nor a single star ob-'scured, bearing for its motto no such miserable 'interrogatory as 'What is all this worth?'—nor 'those other words of delusion and folly, 'Liberty 'first and Union afterwards'—but everywhere, 'spread all over in characters of living light, blaz-'ing on all its ample folds, as they float over the 'sea and over the land, and in every wind under 'the whole heavens, that other sentiment, dear to 'every American heart, 'Liberty *and* Union, now 'and forever, one and inseparable." Sir, Mr. Webster outlived the crisis of 1830, and saw his country emerge in safety, also, from that later tempest of sectional disturbance, whose waters are even yet heaving with the swell of subdued, but not exhausted passion. He left this nation great, prosperous, and happy; and more than that, he left the Constitution and the Union in vigorous existence, under whose genial influences all that glory, and prosperity, and happiness, he knew, had been achieved. To preserve *them*, he had risked what few men *have* to risk—his reputation, his good name, his cherished friendships; and if there be any who doubt the wisdom of his 7th of March speech, let them consider the value of these treasures, and they will at least give him credit for patriotism and sincerity. But I am unwilling, Mr. Speaker, to dwell upon this portion of his career. The fires of that crisis have subsided; but their ashes are yet warm with recent strife. What Mr. Webster did, and the other great men with whom he labored, to extinguish those fires, has gone into the keeping of history, and *they* have found their best reward in the continued safety of the Republic.

Our anxiety need not be for *them*. When the mariner is out upon the ocean, and sees, one by one, the lights of heaven go out before the rising storm, he does not ask what has become of those lights, or whether they shall renew their luster, but his inquiry is, what is to become of *me*, and how am I to guide my bark in safety, after these natural pilots of the sky have disappeared. Yet, even then, by consulting those calculations and directions, which wise and skillful men had prepared, when the light did shine, and there was no tempest raging upon the sea, he is enabled, it may be, to grope his way in safety to his desired port. And this, sir, is our consolation, upon occasions like the present one. Jackson, and Calhoun, and Clay, and Wright, and Polk, and Woodbury, and Webster, are indeed no more; and if all that they thought, and said, and did—their wise conceptions, and their heroic deeds, and their bright examples, were buried *with* them, how terribly deepened would now be our sense of the nation's loss, and how much less hopeful the prospects of republican liberty. But it is not so. "A superior and commanding human intellect," (Mr. Webster has himself told us,) "a truly great 'man, when Heaven vouchsafes so rare a gift, is 'not a temporary flame, burning brightly for a 'while, and then giving place to returning dark-'ness. It is rather a spark of fervent heat, as well 'as radiant light, with power to enkindle the com-'mon mass of human mind; so that when it glim-'mers in its own decay, and finally goes out in 'death, no night follows, but it leaves the world 'all light, all on fire, from the potent contact of 'its own spirit." Our great men do *not* wholly

die. All that they achieved worthy of remembrance survives them. They live in their recorded actions; they live in their bright examples; they live in the respect and gratitude of mankind; and they live in that peculiar influence, by which one single commanding thought, as it runs along the electric chain of human affairs, sets in motion still other thoughts and influences, in endless progression; and thus makes its author an active and powerful agent in the events of life, long after his mortal portion shall have crumbled in the tomb.

Let us thank God for this immortality of worth, and rejoice in every example which is given to us of what our nature is capable of accomplishing. Let it teach us not despair but courage, and lead us to follow in its light, at however great a distance and with however unequal steps. This is the lesson of wisdom, as well as of poetry.

> Lives of great men all remind us,
> We can make our lives sublime;
> And departing, leave behind us
> Footprints on the sands of Time.
>
> Footprints, that perhaps another
> Sailing o'er life's solemn main,
> A forlorn and shipwrecked brother,
> Seeing, may take heart again.

When God shall send his Angel to *us*, Mr. Speaker, bearing the scroll of death, may we be able to bow our heads to his mission, with as much of gentleness and resignation as marked the last hours of Daniel Webster!

Mr. PRESTON. Mr. Speaker, I have been requested, by some of the gentlemen who compose the delegation from my State, to make some remarks upon the subject of the message and resolutions received from the Senate, which have been laid upon your table this morning, in relation to the death of Mr. Webster. It was, in their opinion, peculiarly appropriate that Kentucky—a State so long associated with Massachusetts in political sympathy, as well in reciprocal admiration entertained for two of the most eminent men of their day—should come forward and add her testimonial to the esteem in which she held his life and great public services, and the regret she experienced at the calamity which has befallen the country. The mind naturally goes back, in looking over the great career of Daniel Webster, to the period of his birth, seventy years ago. In the northern part of the State of New Hampshire, amid its mountain scenery, and beneath the roof of his pioneer father, the future statesman first drew the breath of life, and imbibed, amid that wild scenery and those mountains, that freedom of thought, that dignity, and that intellectual health which left so indelible a mark upon his oratory and public career in after life. No man has earned a greater reputation, in the present time, in forensic endeavor than Mr. Webster, nor any whose reputation could challenge comparison, unless it be one who was also born in a similar obscure station of life, amid the marshes of Hanover, and whose future led him to cross the summit of the Appalachian range with the great tide of population which poured from Virginia upon the fertile plains of Kentucky. Their destiny has been useful, great, and brilliant. From that period to this, these celebrated contemporaries have been conspicuous in the career of public utility to which they devoted their lives, and by their dignified statesmanship have commanded not only the respect of their several States, but of the nation and of mankind. For forty years they swayed the councils of their country, and the same year sees them consigned to the grave. The statesman of Ashland died in this city, before the foliage of summer was sere, and was sent, with the honors of his country, back to the resting-place which he now occupies in the home of his early adoption. The winds of autumn beat upon the stern New England shores—the shores of Plymouth, where the Pilgrim Fathers landed—and caught up the expiring breath of Daniel Webster as he terminated his life of honorable service. The dirge that the night winds now utter through the primeval forests of Ashland lament for one; the surges of the wintry ocean, as they beat upon the shores of Marshfield, are a fitting requiem to the other.

There are two points of particular prominence in the life of Webster to which I will allude. All remember the celebrated struggle of 1830. The greatest minds of the country, seeing the constitutional questions involved from different points of view, were embroiled in controversy. The darkest apprehensions were entertained. A gallant and gifted Senator from South Carolina, with a genius and fire characteristic of the land of his birth, had expressed the views of his party with great ability, and, as it was thought, with irresistible eloquence. The eyes of the country were directed to Webster as the champion of the Constitution and the Union. Crowds of beautiful women and anxious men on that day thronged the other wing of this Capitol. What patriotic heart in the nation has yet forgotten that noble and memorable reply? A deep and enthusiastic sentiment of admiration and respect thrilled through the heart of the people, and even yet the triumph of that son of New England is consecrated in the memory of his countrymen. Subsequently the Chief Magistrate of the Union, President Jackson, announced opinions of a similar character in his celebrated Proclamation, and men of all parties felt that a new rampart had been erected for the defense of the Constitution.

At a period more recent, within the remembrance of all, Daniel Webster again appeared in another critical emergency that imperiled the safety of the Republic. It was the 7th of March, 1850. Excited by the territorial question, the spirit of fanaticism broke forth with fearful violence from the North. But it did not shake his undaunted soul. He gazed with majestic serenity at the storm, and sublime in his self-reliance, as Virgil describes Mezentius, surrounded by his enemies,

> "He, like a solid rock by seas inclosed,
> To raging winds and roaring waves exposed,
> From his proud summit looking down, disdains
> Their empty clamor, and unmoved remains."

A great portion of the fame of Daniel Webster rests upon the events of that day, and his patriotism having endured the tempest, his reputation shone with fresh luster after it had passed. Clay and Webster on that day stood linked hand-in-hand, and averted the perils that menaced their common country. In the last great act of their lives in the Senate, they drew closer the bonds of Union between the North and South, like those lofty Cordilleras that, stretching along the Isthmus of Panama, bind in indissoluble bonds Northern and Southern America, and alike beat back from their rocky sides the fury of either ocean. These, Mr. Speaker and gentlemen of the House, are the memories that make us in our western homes reverence the names of Clay and Webster.

The gentleman from Massachusetts, [Mr. DAVIS,] in his eloquent tribute to the genius and fame of Daniel Webster, has chosen to apply to him the remark by which Cicero characterizes Brutus—"*Quid quid vult, valde vult.*" If he will pardon me, I think the description applied by the great orator whom he has quoted to Gracchus, is more striking: "*Eloquentia quidem nescio an habuisset parem: grandis est verbis, sapiens sententiis, genere toto gravis.*" If, however, a resemblance prevailed in this respect between Caius Gracchus and Webster, it did not in others. Gracchus, as we are told, was the first Roman orator who turned his back to the Capitol and his face to the people, the popular orators of Rome, anterior to that time, having always turned their faces to the Senate and their backs to the Forum. Webster never sought to subvert the judgment of the people by inflaming their passions. His sphere was among men of intellect. His power was in convincing the minds of the cultivated and intellectual, rather than by fervid harangues to sway the ignorant or excite the multitude. Clay—bold, brilliant, and splendid, rushing at results with that intuition of common sense that outstrips all the processes of logic—always commanded the heart and directed the action of his party. Webster seemed deficient in some of these great qualities, as he surpassed him in others. He appeared his natural auxiliary. Clay, the most brilliant parliamentary leader, and probably unequaled, save by the Earl of Chatham, whom he resembled, swept with the velocity of a charge of cavalry on the ranks of his opponents, and often won the victory before others were prepared for the encounter. Webster, with his array of facts, his power of statement, and logical deductions, moved forward like the disciplined and serried infantry, with the measured tread of deliberate resolution and irresistible power.

Daniel Webster is dead. He died without ever having been elevated to the Presidency of the nation. Camillus, the second founder of Rome, never enjoyed the Consulate, but he was not less illustrious because he was not rewarded by the fasces and the consular purple. Before the luster of Webster's renown a merely presidential reputation must grow pale. He has not only left a reputation of unsurpassed splendor in the Senate, but he will also pass down to posterity as the ablest and most profound jurist of his day. As an orator, he had not, as has been correctly observed by a Senator from New York, the vehemence of Demosthenes, nor the splendor of Cicero, but still Daniel Webster was an orator—an orator marked by the characteristics of the Teutonic race—bold, massive, and replete with manly force and vigor. His writings are marked by a deep philosophy which will cause them to be read when the issues that evoked them have passed away, and the splendor of an imagination almost as rich as that of Burke, will invest them with attractions alike for the student and the man of letters.

We should not deplore the death of Webster. It is true the star has shot from the sphere it illuminated, and is lost in the gloom of death, but he sank full of years and honors, after he had reached the verge of human life, and before his majestic intellect was dimmed or his body bowed down by old age. He did not sink into his grave, like Marlborough, amid the mists of dotage, but he went while his intellect was unclouded, and the literary remembrances of his youth came thronging to the dying bed of their votary. Napoleon, when he was expiring at St. Helena, muttered disconnected words of command and battle, that showed his turbulent character still struggled in imaginary conflicts; but gentler spirits brought to the death-bed of the statesman of Marshfield more consoling memories as he murmured,

> "The curfew tolls the knell of parting day;"

and all the tender and mournful beauties of that inimitable elegy clustered around his soul.

But, sir, I will not venture to say more on this theme. I have said thus much in the name of my native State, to testify her veneration for worth, patriotism, and departed greatness, and to add with proper reverence a handful of earth to the mound a nation raises to the memory of the *great Secretary*, and to say, Peace be to the manes of Daniel Webster.

Mr. SEYMOUR, of New York. Mr. Speaker, I rise in support of the resolutions offered by the gentleman from Massachusetts, and in that connection propose to submit a few remarks.

Sir, our great men are the common property of the country. In the days of our prosperity we boast of their genius and enterprise as they advance the general weal. In the hour of a nation's peril, the shadow of their great name is the gathering point whither we all turn for guidance and defense; and whether their laurels have been gathered on the battle-field, in sustaining our rights against hostile nations; in the halls of legislation, devising and enacting those wise and beneficent laws which, by developing the resources, instructing the mind, and directing the energies of the nation, may be traced on the frame-work of society long after their authors have ceased to exist; or in the temple of justice, or the sacred desk, regulating the jarring elements of civil life, and making men happier and better, they are all parts of one grand exhibition, showing through all coming time what the men of the present age and of our nation have done for the elevation and advancement of our race. To chronicle these results of human effort, and to transmit them to future ages, is the province of History. In her temple the great and the good are embalmed. There they may be seen and read by all those who in future generations shall emulate their great deeds. Time, whose constant flow is continually obliterating and changing the physical and social relations of all things, cannot efface the landmarks which they have raised along the pathway of life. The processes by which they attained the grand result, and the associations by which they at the time were surrounded, are unknown or forgotten, while we contemplate the monuments which their genius and heroism have raised.

Who that reads the story of the battle of Marathon, by which the liberties of Athens were rescued from Persian despotism, stops to inquire to what party in that Republic Miltiades belonged? Who that listens to the thunders of Demosthenes,

THE CONGRESSIONAL GLOBE.

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as he moves all Greece to resist the common enemy, attempts to trace his political associations? So it will be in the future of this Republic. The battle of New Orleans will disclose Jackson, the hero and the patriot, saving his country from her enemies. The debates of the Senate Chamber will exhibit Clay, Calhoun, and Webster, illustrating and defending the great principles of our Government by their lofty patriotism and eloquence. On neither picture will be observed whatever we of the present time may judge to have savored of the mere politician and the partisan. We, from our near proximity, may see, or think we see, the ill-shapen rocks, and the unseemly caverns, which disfigure the sides of these mighty Alpine peaks. Future ages will only descry their ever-gilded summits.

"Who, then, shall say that Fame
Is but an empty name?
When but for these, the mighty dead,
All ages past, a blank had been—
Sunk in Oblivion's murky bed—
A desert waste—a trackless sea!
These are the summits seen from far;
The lofty marks of what hath been;
The guides that point to Immortality."

Sir, I shall not attempt here to even briefly review the public life or delineate the true character of Daniel Webster. That public life, extending through more than forty years of the growth and progress of our country, will doubtless be sketched by those of his compeers who have shared with him in his public service. That character, too, will best be drawn by those intimate friends who knew him best, and who enjoyed the most favorable opportunities for observing the operations of his giant mind.

In looking at what he has achieved, not only in the fields of legislation, but in those of literature and jurisprudence, I may say he has left a monument of his industry and genius of which his countrymen may well be proud. His speeches in the Senate and before the assemblies of the people, and his arguments before our highest courts, taken together, form the most valuable contribution to American literature, language, and oratory, which it has been the good fortune of any individual to have yet made. Were I to attempt it, I should be unable to determine on which of the varied scenes of his labors his genius and talents stood preëminent; I can here only speak of his labors as a whole—they were the result of great effort—grand in their conception, effective in their execution, and permanent in their influences.

As a son of his native New England, I am proud to refer back to the plain and unostentatious manners, the rigid discipline, and the early and thorough mental training, to be found among the yeomanry of that part of our country as contributing primarily to the eminent success of Mr. Webster, in the business of his life. Born, reared, and educated among the granite hills of New Hampshire, although his attachments to the place of his birth were strong to the last, yet, upon the broad theater upon which he was called to act his part as a public man, his sympathies and his patriotism were bounded only by the confines of the whole Republic.

Although, in common with many of us, I differed in opinion from the late Secretary of State upon grave political questions, yet, with the great mass of our fellow-citizens, I acknowledge his patriotism, and the force and ability with which he sustained his own opinions. However we may view those opinions, one thing will be conceded by all: his feelings were thoroughly American, and his aim the good of his country. In his whole public life, and by his greatest efforts as an orator, he has left deeply impressed on the American mind one great truth never to be forgotten: *the preservation of American liberty depends upon the support of the Constitution and the Union of the States.* To have thus linked his name indissolubly with the perpetuity of our institutions is enough of glory for any citizen of the Republic.

Mr. CHANDLER. Mr. Speaker, the selection of the present time to make special and official reference to the death of Mr. Webster, may be regarded as fortunate and judicious. An earlier moment would have exposed our eulogies to those exaggerations which, while they do justice in some measure to the feelings whence they spring, are no proofs of sound judgment in the utterer, nor sources of honor to their lamented object. The great departed owe little to the record of their worth, which is made in the midst of sudden emotions when the freshness of personal intercourse mingles with recollections of public virtues, and the object, observed through the tears of recent sorrow, bears with it the prismatic hues which distort its fair proportions, and hide that simplicity which is the characteristic of true greatness. And equally just is it to the dead whom we would honor, and to our feelings which would promote that honor, that we have not postponed the season to a period when time would so have mitigated our just regret as to direct our eulogies only to those lofty points of Mr. Webster's character which strike but from afar; which owe their distinction less to their affinities with public sympathy, than to their elevation above ordinary ascent, and ordinary computation.

That distance, too, in a Government like ours, is dangerous to a just homage to the distinguished dead, however willing may be the survivor, for smaller objects intervene, and by proximity hide the proportions which we survey from afar, and diminish that just appreciation which is necessary to the honorable praise that is to perpetuate public fame.

Mr. Webster was a distinguished statesman, tried, sir, in nearly all the various positions which in our Government the civilian is called on to fill, and in all these places, the powers of a gifted mind, strengthened and improved by a practical education, were the great means by which he achieved success, and patriotism the motive of their devotion. With all Mr. Webster's professional greatness, with all his unrivaled powers in the Senate, with his great distinction as a diplomatist, he was fond of credit as a scholar; and his attainments, if not of the kind which gives eminence to merely literary men, were such as gave richness and terseness to his own composition, and vigor and attraction to his conversation. His mind was moulded to the strong conception of the Epic poet, rather than the gentle phrase of the didactic, and his preference for natural scenery seemed to partake of his literary taste—it was for the strong, the elevated, the grand. His childhood and youth joyed in the rough sides of the mountains of New Hampshire, and his age found a delightful repose on the wild shores of Massachusetts bay. He was a lover of nature, not in her holiday suit of field and flower, but in those wild exhibitions of broken coast, and isolated hills, that seem to stir the mind into activity, and provoke it into emulation of the grandeur with which it is surrounded. Yet, sir, Mr. Webster had with him much of the gentleness which gives beauty to social life, and dignity and attraction to the domestic scene, just as the rugged coast is often as placid as the gentlest lake, and the summit of the roughest hill is frequently bathed in the softest sunlight, and clad in flowers of the most delicate hues. Mr. Webster's person was strongly indicative of the character of his mind; not formed for the lighter graces, but graceful in the noblest uses of manhood; remarkable in the stateliness of its movements, and dignified in the magnificence of its repose. Mr. Webster could scarcely pass unnoticed, even where unknown. There was that in his mien which attracted attention, and awakened interest; and his head (whether his countenance was lighted by a smile, such as only he could give, or fixed by contemplation, such as only he could indulge) seemed an

"Arched and ponderous roof,
By its own weight made steadfast and immovable,
Looking tranquillity!"

With all Mr. Webster's lofty gifts and attainments, he was *ambitious*. Toiling upwards from the base of the political ladder, it is not to be denied that he desired to set his foot upon the upmost round. This could not have been a thirst for power; nothing of a desire for the exercise of absolute authority could have been in that aspiration; for the only absolute power left (if any be left) by the Constitution in the Executive of this nation is "MERCY." In Mr. Webster it was the distinction which the place conferred, and the sphere of usefulness it presented. He regarded it as the crowning glory of his public life—a glory earned by his devotion of unparalleled talents and unsurpassed statesmanship. This ambition in Mr. Webster was modesty. He could not see, as others saw and felt, that no political elevation was necessary to the completion of his fame or the distinction of his statesmanship. It was not for him to understand that the last round of political preferment, honorable as it is, and made more honorable by the luster which purity of motive, great talents, and devoted patriotism, are now shedding down upon it—he could not understand that preferment, honorable as it is, was unnecessary to him; that it could add nothing to his political stature, nor enlarge the horizon of his comprehensive views. It is the characteristic of men of true greatness, of exalted talents, to comprehend the nature and power of the gifts they possess. That, sir, is an homage to God, who bestows them. But it is also their misfortune to be dissatisfied with the means and opportunities they have possessed to exercise those gifts to great national purposes. This is merely distrust of themselves. The world, sir, comprehends the uses of the talents of great statesmen, and gives them credit for their masterly powers, without asking that those powers should be tried in every position in which public men may be placed.

I see not in all the character, gifts, and attainments of Mr. Webster, any illustration of the British orator's exclamation, relative to "the shadows which we are;" nor do I discover in the splendid career and the aims of his lofty ambition anything to prove "what shadows we pursue."

The life of such a man as Daniel Webster is one of solid greatness; and the objects he pursued are worthy a being made in the image of God. A life of honorable distinction, is a substantive and permanent object. The good of man, and the true glory and happiness of his country, are the substantial things, the record of which, generation hands down to generation, inscribed with the name of him that pursued them. I will not, sir, trespass on this House by any attempt to sketch the character, or narrate the services of Mr. Webster; too many will have a share in this day's exercises to allow one speaker so extensive a range. It is enough for me, if in obeying the indications of others, I give to my effort the tone of respect with which the statesman and the patriot, Webster, was regarded, as well by the nation at large as by those whom I have the honor to represent on this floor. And in the remarks of those whose means of judging have been better than mine, will be found his characteristics of social and domestic life.

How keenly Mr. Webster relished the relaxations which public duties sometimes allowed, I had an opportunty of judging; for he loved to call to my recollections, scenery which had been familiar to me in childhood, as it was lovely to him in age. Though dying in office, Mr. Webster was permitted to breathe his last in scenes made classical to others by his uses, and dear to him by their ministrations to, and correspondence with his taste.

The good of his country undoubtedly occupied the last moments of his ebbing life; but those moments were not disturbed by the immediate pressure of official duties; and in the dignity of domestic quiet, he passed onward; and while at a distance communities awaited in grief and awe the signal of his departure, the deep diapason of the Atlantic wave as it broke upon his own shore, was a fitting requiem for such a parting spirit.

Mr. BAYLY, of Virginia, remarked: I had been sir, nearly two years a member of Congress before I made Mr. Webster's acquaintance. About that time, a proceeding was instituted here, of a delicate character so far as he was concerned, and incidentally concerning an eminent constituent and

friend of mine. This circumstance first brought me into intercourse with Mr. Webster. Subsequently I transacted a good deal of official business with him, some of it also of a delicate character. I thus had unusual opportunities of forming an opinion of the man. The acquaintance I made with him, under the circumstances to which I have referred, ripened into friendship. It is to these circumstances that I, a political opponent, am indebted for the honor, as I esteem it, of having been requested to say something on this occasion.

From my early manhood, of course, sir, I have been well acquainted with Mr. Webster's public character, and I had formed my ideal of him as a man—and what a misconception of it, was that ideal! Rarely seeing him in public places, in familiar intercourse with his friends, contemplating his grave statue-like appearance in the Senate and the Forum, I had formed the conception that he was a frigid iron-bound man, whom few could approach without constraint; and I undertake to say, that until of late years, in which through personal sketches of him by his friends, the public has become acquainted with his private character, that such was the idea most persons, who knew him only as I did, formed of him. Yet, sir, what a misconception! No man could appreciate Mr. Webster who did not know him privately. No man could appreciate him who did not see him in familiar intercourse with his friends, and especially around his own fireside and table. There, sir, he was confiding, gay, and sometimes downright boyish. Full of racy anecdote, he told them in the most captivating manner.

Who that ever heard Mr. Webster's description of men and things, can ever forget them? He, sir, attached a peculiar meaning to the word *talk*, and in his sense of the term, he liked to talk; and who that ever heard him talk, can ever forget that talk? Sometimes it was the most playful wit, then the most pleasing philosophy.

Mr. Webster, sir, owed his greatness to a large extent to his native gifts. Among his contemporaries there were lawyers more learned, yet he was, by common consent, assigned the first place at the American bar. As a statesman there were those more thoroughly informed than he, yet what statesman ranked him? Among orators there were those more graceful and impressive, yet what orator was greater than he? There were scholars more ripe, yet who wrote better English? The characteristics of his mind were massive strength and classic beauty combined, with a rare felicity. His favorite studies, if I may judge from his conversations, were the history and the constitution of his own country and the history and constitution of England; and I undertake to say that there is not now a man living who was more perfectly familiar with both. His favorite amusements too, if I may judge in the same way, were field-sports and out-door exercise. I have frequently heard Mr. Webster say if he had been a merchant he would have been an out-door partner. Mr. Webster was, as all great men are, eminently magnanimous. As proof of this, see his whole life, and especially that crowning act of magnanimity, his letter to Mr. Dickinson. Mr. Webster had no envy or jealousy about him—as no great man ever had. Conscious of his own powers, he envied those of no one, and thus Mr. Calhoun and himself entered public life about the same time. Each of them strove for the first honors of the Republic. They were statesmen of rival schools. They frequently met in the stern encounter of debate, and when they met the conflict was a conflict of giants. Yet how delightful it was to hear Mr. Webster speak, as I have heard him speak, in the most exalted terms of Calhoun; and how equally delightful it was to hear Mr. Calhoun, as I have heard him, speak in like terms of Webster. On one occasion Mr. Calhoun, speaking to me of the characteristics of Webster as a debater, said that he was remarkable in this, that he always stated the argument of his antagonist fairly, and boldly met it. He said he had even seen him state the argument of his opponent more forcibly than his opponent had stated it himself, and if he could not answer it he would never undertake to weaken it by misrepresenting it. What a compliment was this, coming, as it did, from his great rival in constitutional law! I have also heard Mr. Calhoun say that Mr. Webster tried to aim at truth, more than any statesman of his day.

A short time since, Mr. Speaker, when addressing the House at the invitation of the delegation from Kentucky, I used this language:

"Sir, it is but a short time since the American Congress buried the first one that went to the grave of that great triumvirate, [Calhoun.] We are now called upon to bury another, [Clay.] The third, thank God! still lives, and long may he live to enlighten his countrymen by his wisdom, and set them the example of exalted patriotism. [Alas! how little did I think when I uttered these words, that my wish was so soon to be disappointed.] Sir, in the lives and characters of these great men, there is much resembling those of the great triumvirate of the British Parliament. It differs principally in this: Burke preceded Fox and Pitt to the tomb. Webster survives Clay and Calhoun. When Fox and Pitt died, they left no peer behind them. Webster still lives, now that Calhoun and Clay are dead, the unrivaled statesman of his country. Like Fox and Pitt, Clay and Calhoun lived in troubled times. Like Fox and Pitt they were each of them the leader of rival parties. Like Fox and Pitt, they were idolized by their respective friends. Like Fox and Pitt, they died about the same time, and in the public service; and as has been said of Fox and Pitt, Clay and Calhoun died with 'their harness upon them.' Like Fox and Pitt—

"'With more than mortal powers endow'd
How high they soar'd above the crowd;
Theirs was no common party race,
Jostling by dark intrigue for place—
Like fabled gods their mighty war
Shook realms and nations in its jar.
Beneath each banner proud to stand,
Look'd up the noblest of the land.
* * * * *
Here let their discord with them die.
Speak not for those a separate doom;
Whom fate made brothers in the tomb;
But search the land of living men,
Where wilt thou find their like again?'"

I may reproduce on this occasion, with propriety, what I then said, with the addition of the names of Burke and Webster. The parallel that I undertook to run on that occasion, by the aid of a poet, was not designed to be perfect, yet it might be strengthened by lines from another poet. For though Webster's enemies must admit, as Burke's satirist did, that, too fond of the right to pursue the expedient, yet what satirist, with the last years of Webster's life before him, will undertake to shock the public sentiment of America, by saying, as was unjustly said of Burke by his satirist—

"Born for the universe, he narrowed his mind,
And to party gave up what was meant for mankind."

Mr. Speaker, during the brief period I have served with you in this House, what sad havoc has death made among the statesmen of our Republic! Jackson, Wright, Polk, McDuffie, and Sergeant, in private life, and Woodbury from the Bench, have gone to the tomb! We have buried in that short time, Adams, Calhoun, Taylor, and Clay, and we are now called on to pay the last tribute of our respect to the memory of Daniel Webster. Well may I ask, in the language of the poem already quoted,

"Where wilt thou find their like again?"

There was little I fear in the history of the latter days of some of those great men to whom I have alluded, to inspire the young men of our country to emulate them in the labors and sacrifices of public life. Yet there never was a time when there was a stronger obligation of patriotic duty on us to emulate them in that respect than now.

They followed one race of revolutionary statesmen—they were the second generation of statesmen of our country. With one or two brilliant exceptions, that second generation has passed away, and those that now have charge of public affairs, with the exceptions referred to, are emphatically new men. God grant we have the patriotism to follow faithfully in the footsteps of those who preceded us.

Mr. STANLY said: Mr. Speaker, I feel that it is proper and becoming in me, as the Representative of a people who claim the reputation of Daniel Webster as part of their most valuable property, to add a few words to what has been already said. I do not think that it is necessary to his fame to do so. I have no idea of attempting an eulogy on Daniel Webster. It would be presumptuous to attempt it. Long before my entrance into public life I heard from an illustrious citizen of my native State, the late Judge Gaston, that Mr. Webster, who was his contemporary in Congress, gave early indication of the wonderful abilities which he afterwards displayed. There were giants in the land in those days, and by them Webster was regarded as one who would earn great distinction. Before he reached the height of his fame the young men in our land had been taught to respect him. This was the feeling of those who came forward on the stage of life with me. In what language, then, can I express my admiration of those splendid abilities which have delighted and instructed his countrymen, and charmed the lovers of Republican government throughout the earth? How shall I find fitting terms to speak of his powers in conversation, his many good qualities in social life, his extraordinary attainments, his exalted patriotism? Sir, I shrink from the task. Gifted men from the pulpit, eloquent Senators at home and in the Senate, orators in northern and southern and western States have gratified the public mind by doing honor to his memory. To follow in a path trodden by so many superior men requires more boldness than I possess. But I cannot forbear to say that we North Carolinians sympathize with Massachusetts in her loss. We claim him as our Webster, as we do the memories of her great men of the Revolution. Though he has added glory to the bright name of Massachusetts, he has been the defender of that Constitution, which has surrounded with impregnable bulwarks the invaluable blessings of civil liberty. When he made Massachusetts hearts throb with pride, that she had such a man to represent her in the councils of the nation, we too felt proud at her joy, for her glory is our glory.

Faneuil Hall is in Boston, and Boston in Massachusetts; but the fame of those whose eloquence from those walls fanned the fire of liberty in the hearts of American patriots, and made tyrants tremble on their thrones, is the fame of the American people.

Faneuil Hall! Daniel Webster!

The American patriot who hereafter performs his pilgrimage to that time-honored Hall, and looks at his portrait, appropriately placed there, will involuntarily repeat, what the poet said of the Webster of poets:

Here Nature listening stood, while Shakspeare played,
And wondered at the work herself had made.

Daniel Webster was to the revolutionary patriots of Massachusetts, to the founders of our Constitution in the Old Thirteen States, what Homer was to the ancient heroes. Their deeds would have lived without him. Their memories would have been cherished by their countrymen had Webster never spoken. But who can say that his mighty ability, his power of language, unequaled throughout the world—who can say he has not embalmed their memories, painted their deeds in beautiful drapery, and by the might of his genius held them up in captivating form to his countrymen? Who is there on the habitable globe, wherever man is struggling for freedom, wherever Washington's name is heard and reverenced—who is there who will ever read the history of those immortal men who achieved our liberties, and founded with almost supernatural wisdom our Constitution and republican form of Government, who can ever read the history of these great men without saying, they achieved much, they performed great and noble deeds, but Webster's oratory has emblazoned them to the world, and erected monuments to their memories more enduring than marble? Can man aspire to higher honor than to have his name associated with such men? This honor, by universal consent, Daniel Webster, the son of a New Hampshire farmer, has secured. Wherever liberty is prized on earth, in whatever quarter of the globe the light of our "great Republic" is seen, sending its cheering beams to the heart of the lonely exile of oppression, in that land and to that heart will the name of Webster be held in grateful remembrance. As we cannot think of the founders of our Republic without thinking of Webster, we cannot speak on his services properly except in his own words. How many of us, in and out of Congress, since his death, have recalled his memorable words, in his eulogium on Adams and Jefferson. Hear him in that discourse:

"Adams and Jefferson, I have said, are no more. As human beings, indeed, they are no more. They are no more as in 1776, bold and fearless advocates of independ-

ence; no more, as on subsequent periods, the head of the Government; no more, as we have recently seen them, aged and venerable objects of admiration and regard. They are no more. They are dead. But how little is there of the great and good which can die! To their country they yet live, and live forever. They live in all that perpetuates the remembrance of men on earth; in the recorded proofs of their great actions; in the offspring of their intellect; in the deep engraved lines of public gratitude, and in the respect and homage of mankind. They live in their example; and they live, emphatically, and will live, in the influence which their lives and efforts, their principles and opinions, now exercise, and will continue to exercise, on the affairs of men, not only in their country, but throughout the civilized world. A superior and commanding human intellect, a truly great man, when Heaven vouchsafes so rare a gift, is not a temporary flame, burning bright for a while, and then expiring, giving place to returning darkness. It is rather a spark of fervent heat as well as radiant light, with power to enkindle the common mass of human mind; so that when it glimmers, in its own decay, and finally goes out in death, no night follows, but it leaves the world all light, all on fire, from the potent contact of its own spirit. Bacon died, but the human understanding, roused by the touch of his miraculous wand, to a perception of the true philosophy, and the just mode of inquiring after truth, has kept on its course, successfully and gloriously. Newton died, yet the courses of the spheres are still known, and they yet move on in the orbits which he saw, and described for them in the infinity of space."

Who can hear these words without feeling how appropriate and applicable to the great American statesman? To his country he "still lives," and will live forever.

Mr. Speaker, I fear to go on. The thoughts which are in my mind are not worthy of the great subject. I have read and heard so much from the able, learned, and eloquent of our land in his praise, I shrink from attempting to add anything more.

In justice to the feelings of those I represent, I felt solicitous to cast my pebble on the pile which was erecting to his memory. They venerate his memory not only for those services to which I have referred, but also for his later exhibitions of patriotism, in stemming the torrent of temporary excitement at home. The year 1852, Mr. Speaker, will long be memorable in the annals of our country. In this year, three great lights of our age and our country have gone out. But a few months since the voice of lamentation was heard from the Atlantic to the Pacific shore, that Henry Clay was no more. The sounds of sorrow had scarcely died in our ears, when inexorable Death, striking with remorseless hand at the cottage of the peasant, and the palace of the great—Death, as if to send terror to our souls, by showing us that the greatest in place and in genius are but men, has destroyed all that was mortal of Daniel Webster.

And even while we were celebrating his obsequies, the sagacious statesman, the wise counsellor, the pure and upright man, John Sergeant, of Pennsylvania, the man who more happily combined the *suaviter in modo* with the *fortiter in re*, than any public man I have ever met with—the model of that best of all characters, a Christian gentleman, always loving "whatsoever things are true, honest, just, lovely, and of good report," John Sergeant is called to that beatific vision, reserved for "the pure in heart."

Let it be our pleasure, as it will be our duty, to teach those who come after us, to imitate the private virtues, remember the public services, and cherish the reputation of these illustrious men. And while we do this, let us cherish, with grateful remembrance and honest pride, the thought that these great men were not only lovers of liberty, friends of republican institutions, and patriots devoted to the service of their country, but that they were, with sincere conviction, believers in the Christian religion.

Without this praise, the Corinthian column of their characters would be deprived at once of the chief ornaments of its capital, and the solidity of its base.

I fervently hope the lessons we have had of the certainty of death will not be lost upon us. May they make us less fond of the pleasures of this world, so rapidly passing away. May they cause those who are in high places of trust and honor, to remember now in the days of health, manhood, and prosperity, that—

"The boast of heraldry, the pomp of power,
And all that beauty, all that wealth e'er gave,
Await alike the inevitable hour.
The paths of glory lead but to the grave."

Mr. TAYLOR said: In the Congress of 1799, Mr. Speaker, when the announcement of the death of General Washington was made in this body, appropriate resolutions were passed to express the high appreciation of the Representatives of the people, of the preëminent public services of the Father of his Country, and their profound grief for their loss. His death was considered a great national calamity, and, in the beautiful and appropriate language of General Henry Lee, who prepared the resolutions introduced by John Marshall, he was proclaimed as having been "First in war, first in peace, and first in the hearts of his fellow-citizens." The whole nation cordially responded to that sentiment, and from that day to this, the high eulogium has been adopted by the people of the United States of America, as the just and expressive tribute to the greatest man, take him all in all, that our country had then, or has since produced. Time rolled on; and the sentiment of his own country has, of late years, become the intelligent opinion of the whole world. And in proof of this, I might cite, among others, the deliberately-recorded opinions of the late Premier Guizot, of France, and the great though eccentric writer and statesman, Brougham, of England, men of vast celebrity.

Our country, then in its infancy, has grown up, in a little more than half a century, to be the first Republic in the world, having increased from three or four millions to nearly twenty-five millions of inhabitants, and extending from the Atlantic to the Pacific ocean. During the present year the nation has been called upon to mourn the death of two of her most distinguished citizens—two men, born since the establishment of our independence, cradled in the Revolution, and brought up, as it were, at the feet of the fathers of the Republic, whose long public career has attracted to them, and all that concerned them, more than to any others, the admiration, the gratitude, and the hope, of the whole people. These men—Henry Clay and Daniel Webster—have both been gathered to their fathers during the present year. When, during our last session, the official announcement was made in this House of the death of Henry Clay, I listened, with heart-felt sympathy, to the eloquent and beautiful eulogies then pronounced upon his character, and felt in the fullness of my heart the truest grief. As one of the representatives of the great and prosperous State of Ohio on this floor, I desired then to mingle my humble voice with those who eagerly sought to honor his memory. But no opportunity was afforded me, and I could only join with meekness of spirit and a bowed mind in the appropriate funeral honors which were rendered to the illustrious dead by Congress. And I only now desire to say that no State in this Union—not even his own beloved Kentucky—more deeply felt the great loss which, in the death of Mr. Clay, the nation had sustained, than the State of Ohio; and the public meetings of her citizens, without distinction of party, in the city in which I reside, and many other parts of the State, expressed, in appropriate and feeling terms, their high estimate of his great public services, and their profound grief for his death.

And now, sir, since the adjournment of Congress, at its last session, he who coöperated with Mr. Clay in the Legislative and Executive Departments, at various times, for nearly forty years, and to whom, with his great compatriot, more than to any others, the people looked for counsel, and for security and peace—he too has paid the debt of nature, and will never more be seen amongst men. The formal announcement in this body of the death of Daniel Webster, has elicited just and eloquent tributes to his memory, and brings freshly to our view the beautiful traits of his private character, and his great and long-continued public services in the Senate and in the Executive Departments of the Government. In all that is said in commendation of the private virtues and preëminent public services of Daniel Webster, I heartily concur; and I wish, sir, that I could find words sufficiently strong and appropriate to express what, in my judgment, were the great claims of these two eminent men upon the admiration and upon the gratitude of their countrymen. They were in many respects exemplars for the young men of our country. Born, without any of the advantages conferred sometimes by wealth and position; in humble life struggling with adversities in their earlier years; triumphing over all obstacles by their native strength of intellect, by their genius, and by their persevering industry and great energy, they placed themselves in the very first rank of American statesmen, and for more than forty years were the great leaders of the American mind, and amongst the brightest guardians of their common country.

Sir, it was my good fortune to have known, for many years, both these great patriots, and to have enjoyed their friendship; and I think I but express the general sentiment of the intelligent people of this great country when I say, that our country is, in a very large degree, indebted to them for its present unexampled prosperity; for its peace and domestic happiness; and for its acknowledged power and high renown all over the world. In my judgment, the words of the National Legislature, so beautifully and aptly embodying the true character of the Father of his Country, were not more appropriately uttered then in reference to him than they might be applied now, so far as relates to the *civil* affairs and action of our Government within the last forty years, to Henry Clay and Daniel Webster; and it may be properly said of them, that within that time they have been, emphatically, "First in war, first in peace, and first in the hearts of their fellow-citizens." But, sir, the great men of a country must die; and if the great men of a country are preëminently good men, their loss is the more severely felt. Nothing human is perfect; and I am far from believing, much less from asserting, that the eminent men of whom I have spoken were without defects of character. But I believe their virtues so far outweighed the imperfections of their nature, that to dwell upon such defects, on this occasion, would be as unprofitable and futile, as to object to the light, and heat, and blessings of the glorious sun, guided by the Omnipotent hand, because an occasional shadow or spot may be seen on his disk. These guardians of our country have passed away, but their works and good examples are left for our guidance, and are part of the lasting and valued possessions of this nation. And, Mr. Speaker—

"When the bright guardians of a country die,
The grateful tear in tenderness will start;
And the keen anguish of a red'ning eye,
Disclose the deep afflictions of the heart."

The question was put, and the resolutions were unanimously adopted; and

The House adjourned till to-morrow, at twelve o'clock, m.

NOTICE OF A BILL.

Mr. DAVIS, of Indiana, gave notice that he would on to-morrow, or some subsequent day, ask leave to introduce "A bill refunding or paying to the State of Indiana the amount of money expended and paid out by said State in selecting and locating the swamp lands granted to her by the provisions of the act entitled 'An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits,' approved September 28, 1850.'"

PETITIONS, &c.

The following memorials and petitions were presented under the rule, and referred to the appropriate committees:

By Mr. HAMILTON: The memorial of G. B. Post, Edward Conner, and a large number of other residents of the State of California, for the distribution of copies of the memoir, maps, and charts prepared from the surveys of Captain Ringgold, of the Navy, among their sea-faring and other fellow citizens.

By Mr. FLORENCE: The memorial of R. W. Cushman, praying compensation for performing the duties of acting purser of the United States ship Germantown.

Also, the petition of William Emmons, jr., asking for the extension of his patent for a cylindrical planing machine.

By Mr. PORTER: The petition of 126 citizens of Missouri, for a post road from Spanish Prairie, in Crawford county, to Iberia, in Miller county, Missouri.

IN SENATE.

THURSDAY, *December* 16, 1852.

Prayer by the Rev. JAMES GALLAHER.

Mr. ATCHISON again took the chair at the request of the President *pro tem.*, whose letter was read, and with the concurrence of the Senate.

PETITIONS, ETC.

Mr. SEWARD presented a petition of citizens of Rochester, New York, praying that the bill giving further remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Mr. ADAMS presented the petition of James Robertson, praying indemnity for his arrest and false imprisonment by order of the Vice President of the United States, on the 6th of December, 1849; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. MASON presented the memorial of R. W. Meade, administrator of Richard W. Meade, praying the payment of a debt against Spain for which the United States became responsible under the treaty with that Government of February 22, 1818; which was referred to the Committee on Foreign Relations.

Mr. BUTLER presented the memorial of Mary Perry, praying to be allowed seven years' half pay, in consideration of the services of her father, Michael Watson, in the revolutionary war; which was referred to the Committee on Revolutionary Claims.

Also, a memorial of the Charleston Chamber of Commerce, praying a further appropriation for deepening the bar at the mouth of Charleston harbor; which was referred to the Committee on Commerce.

Mr. GWIN presented the memorial of F. W. Moores and others, masters in the Navy not in the line of promotion, asking an increase of compensation; which was referred to the Committee on Naval Affairs.

Mr. MANGUM presented the petition of the son and heir of Edward Rudd, praying compensation for slaves carried off by the enemy during the last war with Great Britain; which was referred to the Committee on Foreign Relations.

Mr. BRIGHT presented a petition of R. S. Patterson and others, praying a charter for a railroad in the District of Columbia; which was referred to the Committee on the District of Columbia.

PAPER WITHDRAWN AND REFERRED.

On motion by Mr. RUSK, it was

Ordered, That the petition of Thomas S. F. Johnson, on the files of the Senate, be referred to the Committee on Military Affairs.

REPORT FROM A STANDING COMMITTEE.

Mr. BORLAND, from the Committee on Printing, to which was referred the motion to print the petition of Selina C. Sumner, reported in favor of printing the petition; which was agreed to.

BANKING IN THE DISTRICT OF COLUMBIA.

The bill to prevent unauthorized banking in the District of Columbia was read a second time, and, on motion by Mr. ADAMS, referred to the Committee on the District of Columbia.

LAND OFFICE REPORT.

Mr. FELCH. I desire to offer a resolution, which I ask may be considered at this time. It is the usual resolution providing for the printing a number of copies of the Land Office report for the use of that office. It is as follows:

Resolved, That 1,000 extra copies of the report of the Commissioner of the General Land Office, transmitted to the Senate with the annual message of the President, together with the reports of the Surveyors General accompanying the same, be printed for the use of the General Land Office.

There being no objection, the Senate proceeded to consider the resolution.

Mr. HAMLIN. Before the question is put, I desire to call the attention of the Senate to this resolution. A resolution of a somewhat similar character was submitted yesterday by the Senator from Texas, and adopted by the Senate. I offered no objection to that, and I do not know that I shall finally offer any objection to this; but the tendency of it is to put the printing of all the Departments upon the contingent fund of the Senate. I think our contingent fund has printing enough to bear now. Yesterday a resolution was adopted authorizing the printing of one thousand copies of the annual document for the Indian Department. Now comes the Land Office; and my colleague tells me that it has been suggested to him by those interested, that there should be an appropriation made for printing something from the Navy Department; and so comes in the printing of all the Departments and Bureaus. I think it is a matter which the Senate should well consider, whether they will tax the contingent fund for the printing for all the Departments.

Mr. BORLAND. I would agree with the Senator from Maine, if the money to pay for this printing came out of the contingent fund of the Senate, but I am under the impression that he is totally mistaken in regard to this matter. I do not think that the money will have to be paid out of the contingent fund. I understand that there is an appropriation already made for the payment of printing to be done for the Departments and either House of Congress; and hence, my impression is, that the money does not now come out of the contingent fund.

Mr. HUNTER. The objection raised by the Senator from Maine did not strike me until he suggested it; but it seems to me that he is right, and that it would be better to make this a joint resolution. It is true that there is an appropriation for printing which is done by law; but this printing is proposed to be done simply by order of the Senate alone; and therefore it would have to be paid for out of our contingent fund. We cannot appropriate, generally, without the consent of the House, and also the Executive. I believe, therefore, that this printing will have to be paid for out of the contingent fund of the Senate, which, as the Senator from Maine says, is already sufficiently saddled. I believe the course I have suggested would lead to no practical difficulty; for I imagine we could pass a joint resolution, and if we sent it to the House, they could act upon it immediately.

Mr. FELCH. According to the ordinary course of things, this resolution should go to the Committee on Printing; but as it was the usual resolution which has been introduced every year, for the purpose of getting the printing of this document by itself, I supposed that it would not be necessary to refer it to that committee at the present time. I do not understand that the amount does come out of the contingent fund of the Senate, but I may be mistaken. I wish, however, to say merely that the expense of printing the document will be perhaps $150, or something like that.

I make the motion now for this reason: If we wait until we can pass a joint resolution through the Senate and the House, to obtain the printing of this document, it will be impossible for us to get it without a resetting of the types. It is part of the President's message and accompanying documents; and instead of sending the entire set to that Department to distribute to the various land offices through the country, and to the Surveyors General, we propose to take a single part of the message and documents which are now in type, embracing only the document pertaining to the Land Office, to be printed by itself, and stitched by itself, thus diminishing the expense. If we take the course suggested by the Senator from Virginia, I fear we shall have to pay for the resetting of the types. It will be much cheaper to have the document printed by itself.

Mr. HAMLIN. I will concur most cheerfully with the Senator from Michigan in saving any expense in printing this or any other document that may be printed; but the argument he makes applies to every other part and parcel of the message and accompanying documents. The Navy Department, the Treasury Department, the State Department, and every other Department, which may desire certain portions of the documents emanating from their department or bureaus, will come in with precisely the same argument which is now used. I would suggest to the Senator from Michigan the propriety of either referring this resolution to the Committee on Printing, or allowing it to lie over until to-morrow morning, so that we can look into it. I only desire to obviate the objection raised, so that it shall not be made a charge on the contingent fund of the Senate. If that can be obviated, I shall make no objection; but if the money is to come out of the contingent fund, I think the resolution ought to be objected to by the Senate. I hope, therefore, the Senator will take one course or the other.

Mr. FELCH. I prefer that the resolution should be referred to the Committee on Printing, and I make that motion.

The motion was agreed to.

HUNTER'S DIRECTORY.

Mr. SHIELDS. I wish to offer the following resolution, and I ask that it may be considered at this time:

Resolved, That the Secretary of the Senate be instructed to procure, for the use of the Senate, two hundred copies of the Washington City and Georgetown Directory, prepared by Alfred Hunter, and now in process of completion; provided the price shall not exceed $1 50 per copy.

I understand that this gentleman is preparing a very excellent Directory of Washington and Georgetown, a thing which has never before been prepared, and that he can only accomplish it by subscription. The object of this resolution is to obtain some assistance in furtherance of his object. I have mentioned in the resolution, two hundred copies. Perhaps that will be more than sufficient. There ought to be one for each Senator, and some of the officers of the Senate should be furnished with them. I cannot say exactly what number ought to be subscribed for—perhaps one hundred and fifty would be sufficient, but I have inserted in the resolution "two hundred." I am, however, willing to receive suggestions from any quarter, as to the proper number. If there is no objection, I would like to have the resolution passed this morning.

The PRESIDING OFFICER. It requires unanimous consent to consider the resolution at this time.

Mr. RUSK. I am rather apprehensive that it will lead to debate, and I would suggest to the honorable Senator the propriety of allowing it to lie over till to-morrow. From an observation which I have heard, I think it probable that this resolution will lead to debate. There is a resolution lying on the table which I would like to have acted upon this morning, and hence, I hope the honorable Senator will give way.

Mr. SHIELDS. If it gives rise to debate, I shall consent to its postponement.

Mr. RUSK. Well, I make no objection.

The PRESIDING OFFICER. Then the question will be on the adoption of the resolution.

Mr. DODGE, of Iowa. I move to amend it by striking out "two hundred," and inserting "one hundred." I will state that the subject was brought before the Committee to Audit and Control the Contingent Expenses of the Senate by the Secretary of the body, and that committee decided that we would take one hundred copies. We supposed that that number would be amply sufficient for the use of the Senate. I hope my friend from Illinois will accept the modification.

Mr. SHIELDS. The designation of the number in the resolution was rather at random. I stated before that I did not know the exact number that would be necessary. As the Committee on Contingent Expenses have examined the question, they are better qualified to judge than I am; and therefore I accept the amendment.

The resolution as modified was adopted.

MAJOR SAMUEL RINGGOLD.

Mr. SHIELDS, by unanimous consent, previous notice not having been given, obtained leave to introduce a joint resolution, directing a sword to be presented to the nearest male relative of Major Samuel Ringgold, late of the United States Army; which was read a first time and ordered to the second reading.

It proposes to request the President of the United States to present a sword to the nearest male relative of Major Samuel Ringgold, who was slain in the command of the light artillery in the glorious battle of Palo Alto, the first in the war with Mexico, and to communicate to him and the family of the deceased the deep regret felt by Congress for the loss of that gallant and accomplished officer.

Mr. SHIELDS. Mr. President, my predecessor in the chairmanship of the Committee on Military Affairs brought in that resolution a few years ago, and it then passed the Senate unanimously, but was lost for want of time in the House. I understand that Major Ringgold's brother, to whom it is designed that this sword shall be given, is about to leave the United States on a voyage to some distant country, and his friends are very anxious that if it be given at all, he should receive it before he leaves. The measure originated not with me, but with the late Senator from Mississippi, [Colonel Davis,] while he was at the head of the committee; and therefore I thought it my duty to bring it forward again. I ask the unanimous consent of the Senate that it may now be read a second time.

Mr. CASS. I do not intend to object to the second reading of the resolution, for I know nothing about it; but I think it will be better to let it lie over for a day or two until we can inquire into the subject. I know nothing of the facts. It is five years since the event took place; and this idea of expressing national grief five years after the death of the person, it seems to me, would require something particular to justify it; still, I have not the slightest objection if it can be justified.

Mr. JAMES. I hope my honorable friend will give way and allow the resolution to pass. I have examined into the facts, and I think there is not a

Senator upon this floor who would not willingly accord this tribute at once.

The PRESIDING OFFICER. The resolution being objected to, it cannot now be read a second time.

SWAMP LANDS.

Mr. BROOKE, by unanimous consent, notice not having been given, obtained leave to bring in a bill to amend the act granting to the States of Mississippi, Arkansas, and Louisiana, the swamp and overflowed lands situated therein, approved September 25, 1850; which was read a first and second time by its title, and referred to the Committee on Public Lands.

REMISSION OF DUTIES.

Mr. GWIN gave notice that on Monday next he should ask the Senate to take up and consider the Senate bill No. 101, entitled "A bill to remit and refund duties upon goods, wares, and merchandise destroyed by fire." He said it was a bill of great importance, and it should be disposed of at an early day.

PUBLIC LANDS IN OHIO.

Mr. CHASE, in pursuance of previous notice, asked and obtained leave to introduce a bill to grant to the State of Ohio the unsold and unappropriated public lands remaining in that State; which was read a first and second time by its title.

Mr. CHASE. The bill which I have introduced is the same which has already passed the Senate, with the single exception that this now includes within its operation the lands within the military district in the State of Ohio, to which the State of Virginia has relinquished its right by an act of cession passed a few days since. I make these observations in the hope that the Senate will indulge me, at an early day, in the consideration of the bill; and I now move that it be referred to the Committee on Public Lands.

The motion was agreed to.

CLERKS TO COMMITTEES.

The Senate proceeded to the consideration of the following resolution, submitted yesterday by Mr. BADGER:

"*Resolved*, That the Committee on the Judiciary be authorized to employ a clerk."

On motion by Mr. RUSK, it was amended so as to read:

"*Resolved*, That the committees which were authorized at the last session to employ clerks, be authorized to employ those clerks during the present session."

Mr. BADGER. I accept the amendment.

The resolution as modified was agreed to.

APPROPRIATION BILLS.

The following resolution, submitted December 8th by Mr. GWIN, was taken up for consideration:

"*Resolved*, That the Committee on Finance be directed to prepare and report to the Senate, on or before the first Monday in January next, all the general appropriation bills, except the one providing for the civil and diplomatic expenses of the Government."

Mr. GWIN. I think I shall be able to accomplish the object I had in view by that resolution without its adoption by the Senate, and I therefore move that its further consideration be postponed until to-morrow.

The motion was agreed to.

LIEUTENANT GENERAL.

On motion by Mr. CLEMENS, the Senate proceeded to consider, as in Committee of the Whole, the joint resolution reported by the Committee on Military Affairs at the last session, "authorizing 'the President of the United States to confer the 'title of lieutenant general by brevet for eminent 'services."

Mr. CLEMENS. I move, as an amendment to that resolution, the substitute which I hold in my hand, and which is the same as the resolution which I have introduced at this session:

"*Resolved, &c.*, That the grade of lieutenant general be, and the same is hereby, revived in the Army of the United States, in order that when, in the opinion of the President and Senate, it shall be deemed proper to acknowledge eminent services of a major general of the Army, in the late war with Mexico, in the mode already provided for in the subordinate grades, the grade of lieutenant general may be specially conferred by brevet, and by brevet only: *Provided, however*, That when said grade of lieutenant general shall have once been filled, and have become vacant, this act shall thereafter expire and be of no effect."

The amendment was agreed to.

Mr. CLEMENS. If my own wishes were consulted, I should prefer that the vote should be taken upon the resolution at once. There are, however, some of my friends who desire that it may be postponed until Monday. This is desired by some of the friends of the resolution itself, and I therefore move that its further consideration be postponed until that day, and that it be made the special order for one o'clock.

Mr. GWIN. I hope the Senator will say Tuesday. I have given notice that I shall call up a very important bill on Monday next.

Mr. CLEMENS. This will not, I think, take more than five minutes at that time. If it does, I will give the Senator's bill the preference.

The motion was agreed to.

RECESS.

Mr. HALE. I move that when the Senate adjourns to-day, it will be to meet on Monday next.

Mr. ADAMS. Upon that motion I call for the yeas and nays. If we are to fool away the balance of this short session in that way, I want to see who is in favor of it.

The yeas and nays were ordered, and being taken, resulted:

YEAS—Messrs. Atchison, Badger, Bayard, Borland, Bright, Butler, Cass, Chase, Clarke, Cooper, Davis, Dawson, Felch, Fish, Geyer, Hale, Jones of Tennessee, Mangum, Mason, Miller, Norris, Pearce, Pratt, Seward, Soulé, Toucey, Upham, and Weller—28.

NAYS—Messrs. Adams, Bradbury, Charlton, Dodge of Wisconsin, Dodge of Iowa, Douglas, James, Morton, Rusk, Smith, Spruance, Sumner, Underwood, and Wade—14.

So the motion was agreed to.

SIGNING OF ENROLLED BILLS.

Mr. HUNTER. I desire to move that the Committee on Enrolled Bills be instructed to carry two bills, which have been signed by the Speaker of the House of Representatives and the President of the Senate, to the President of the United States for his signature.

Mr. BADGER. I presume that if Senators understand the case, there will be no objection. The only necessity for the vote is in consequence of the fact, that the bills have not been signed by the Presiding Officer of this body in this Chamber. As a member of the Committee on Enrolled Bills, I did not feel at liberty to take them to the President, they not having been signed in this room.

The motion was agreed to.

It was therefore

Ordered, That the Committee on Enrolled Bills present to the President of the United States, the two enrolled bills brought from the House of Representatives for the signature of the President of the Senate *pro tempore*, and by him signed.

The following were the bills referred to:

An act making an appropriation for bringing to the seat of Government, the votes for President and Vice President of the United States.

An act authorizing the Secretary of the Treasury to issue a register to the barque Queen of Dundee, to be called Kate Wheeler.

SUCCESSOR TO MR. CLAY.

The Senate resumed the consideration of the resolution submitted by Mr. GWIN on Monday, the 6th instant, which had been modified so as to read:

"*Resolved*, That the credentials of Archibald Dixon, Esq., be referred to the Committee on the Judiciary, who shall consider and report thereon."

The pending question being on the amendment of Mr. JONES, of Tennessee, to strike out all after the word "Resolved," and insert:

"That the Hon. Archibald Dixon was duly elected by the Legislature of the State of Kentucky, to fill the vacancy in the Senate occasioned by the resignation of the Hon. Henry Clay, and is entitled to a seat therein."

Mr. HALE. Mr. President, when the facts in this case first fell under my own observation, I did not suppose that it was possible there could be two opinions upon the subject, when in connection with the facts the history of the Senate in prior cases was known. I do not rise to-day, expecting, hoping, or desiring, that anything that I can say upon this occasion will enlighten one solitary member of the Senate. If there is doubt in anybody's mind upon the annunciation of this proposition, I do not expect to remove that doubt; but I expect that it will be consummated by a vote against the individual who presents the credentials of the Legislature of Kentucky. Sir, did I not see gentlemen upon this floor whose reputation for intelligence and integrity forbids the supposition that anything but the highest motives could operate upon their minds, I should not now believe that there was room for doubt in an intelligent and honest mind; but seeing it, I must believe it.

I speak of the past; but something occurred in the debates of the Senate yesterday which I confess had induced a different opinion in my mind; and that was in listening to the remarks submitted by the honorable Senator from Connecticut, [Mr. TOUCEY.] I confess that the remarks with which he favored the Senate invested the subject with a new interest and presented it in new aspects, because he suggested, and I think with great truth and propriety, that there was a question back of the whole of this which had never yet been presented to the consideration of the Senate, and so far as he knew had never been considered at all. Well, sir, I listened with a good deal of interest and a good deal of expectation, with an earnest desire for light, to know what this great question was that lay back of everything that had heretofore engaged the attention and become a part of the history of the Senate in all past time; and when he announced that the question which lay back of everything that had been mentioned, I acceded at once to everything which he said of it. He announced that question to be, whether a man could resign his senatorial office after his death. I believe that in all the histories of debate; in all forensic clubs; in all academical associations; in all moot-courts; in all lyceums for the exercise of the ingenuity of youth who are training and disciplining themselves for forensic disputations, this question had never been started before. I believe that we are indebted entirely to the sagacity and fertility of imagination of the honorable Senator from Connecticut for the flashing upon us of this great question, which is to decide this whole matter.

Sir, I confess that when I first heard the question, it struck me as entitled to everything that the Senator said about it. I had been contented heretofore, in the unsophisticated ignorance of my reflections, to rest with unshaken confidence upon the announcement of Revelation, that there is "no work, nor device, nor knowledge, nor wisdom in the grave, whither thou goest;" and I had supposed that it was settled, not only by the experience of the living, but by the teachings of Revelation, that a dead man could not resign—that the most that he could do was to be resigned. [Laughter.] And if I had seen stalking into the Senate Chamber from the charnel-house the ghost of a departed Senator, coming here to tender his resignation, I should have said there was a question back even of the one that the honorable Senator from Connecticut has raised, and I should have exclaimed, in the language of the poet:

"O answer me!
Let me not burst in ignorance! but tell
Why thy canoniz'd bones, hearsed in death,
Have burst their cerements? Why the sepulcher,
Wherein we saw thee quietly inurned,
Hath op'd his pond'rous and marble jaws
To cast thee up again?"

I should have called upon the ghost to answer that question before going into the consideration of the question whether or not he had a right to resign. [Laughter.] I think that the Senate owe a debt of gratitude to the honorable Senator from Connecticut for stating this question so fully, and frankly, and freely as he has done, and discussing it with the sagacity which he has brought to the consideration of so *grave* a question. [Laughter.]

Can a dead man resign? I do not believe he can. The honorable Senator puts it in this way: "Whether a Senator can resign his senatorial office after death;" not whether a living man can make a resignation to take effect after his death, but whether he can resign after he is dead? Sir, I think this ought to go to a committee, [laughter;] that is to say, if there is any real doubt about it. But I am at a loss to know to what committee it ought to be referred. I do not see any appropriate committee on the list. I am not certain that this question would not be most appropriately considered by those members who stand outside of "healthy organizations." It being a question of death, those members who stand in the nearest relation to death,—and they are those who are outside of healthy organizations,—it seems to me, would be the most appropriate tribunal to consider it.

I accede all the importance which is claimed to the question, and I suppose, coming from the

source from which it does, considering the distinguished position which the honorable Senator from Connecticut has heretofore held as the law-officer of the Government, it must be regarded as the judicial view taken by the healthy organization which he represents, and as such I shall consider it.

I am sorry that we are so destitute of precedents on such a question. Since it was started I have looked through such authors as I could command that would be calculated to throw light upon the questions, and I cannot find that even in the vagaries of poetry the thing has ever been started or discussed. I have endeavored to go back in my own recollection, and leaving the living world to go to the realms of sleep; but I confess, sir, that when reason lets go the rein, and the wildest vagaries of an unbridled imagination have run through my thoughts, the idea never presented itself, whether a dead man could resign. But I do not believe that, practically, the question requires decision at this time. I do not believe there are any dead men who will hereafter undertake to resign; and I think that until the case is presented, it is not worth while to waste our ingenuity in speculating upon such, to say the least, an improbable occurrence. But let that go. Content for one to rest upon the assurance of Revelation that there is no "device" in the grave—and this must be a device if it is anything—I let that question go. Now I leave the land of the dead and come to the land of the living, and I shall endeavor to discuss this question as it presents itself in my mind.

Mr. Clay, on the 17th of December last, did something, or thought he did something. What did he do? That is what I propose to ask. What did Mr. Clay do? He was living on the 17th of December, 1851, and then he undertook to do something, and he thought that he did something. What did he do? Did he notify the government of Kentucky that he meant at a future day to resign? No, sir. If that was the effect of what he did, it was not what he supposed he was doing. Mr. Clay says: "I do therefore hereby resign." He said in substance, By the affixing of my hand to this paper, I do resign the office of a Senator of the United States from the State of Kentucky. He signed the paper and sent it to the power to which it appropriately belonged to accept a resignation—to the General Assembly of the Commonwealth of Kentucky. They took it—they received it as a resignation; because I find on the same page of the Journal on which is recorded the letter of Mr. Clay, a resolution that "on Monday, the 29th instant, the two Houses will, by joint ballot, proceed to elect a Senator in Congress to fill the vacancy occasioned by the resignation of the Hon. Henry Clay." Mr. Clay thought he had resigned, the General Assembly of Kentucky thought he had resigned, and the Governor thought he had resigned; but the Senator from Connecticut says he did no such thing. He says he did not resign.

It is an easy way of disposing of such a solemn instrument as this, to say that it is utterly void. That is the conclusion to which the honorable Senator from Connecticut comes. He says that, "as it was to take effect at that time, and not before, it appears to me that it was entirely void, entirely inoperative." And further he says: "I think, therefore, that there was no resignation; that his contemplated resignation never took effect; that the vacancy never occurred by reason of that resignation." And then the Senator says: "I do not doubt that when he transmitted that resignation, before the arduous duties of that session, he presented it under the belief, if I may so say, the fundamental belief, that his life would continue to that period—requiring that act in order to vacate the office." That goes to the expectation of Mr. Clay. I read the matter differently. It is worth while, if the intention of parties are worth anything, to look at the condition of things at that time for a moment. What was it? Mr. Clay was already an old man, a very old man. The three score years and ten, marking the ordinary period of human life, had already elapsed; and a quarter of a score was even added to that. He was seventy-five years old. The feebleness of old age and the infirmities of disease were already upon him, and he felt, as he well might feel, that the sands of his life had well-nigh run out. What were the reflections that came thronging upon him at that momentous hour of his existence? What did he desire to do? It seems to me the most natural thing on earth was that which he did do. Mr. Clay had been long, and favorably, and honorably known as a member of the Senate of the United States. It was the theater of his fame, the scene of his renown, and the place of his affections. Here were friends, sir, with whom he had, through a long life, weathered the storms of political contests in years and scenes which had long before transpired, and which existed only in memory and in history. Mr. Clay felt that for him the active duties of his senatorial career were over, and that the period of his existence was well-nigh at an end; and it was the most natural thought of his heart that the two should expire together. He felt that he was here to die, away from his home; away from the wife of his bosom and the children of his love; away from the neighbors with whom, in the ordinary transactions of daily life, he had exchanged the courtesies and the offices of friendship. He felt that he was about to go down to the dark valley of the shadow of death alone, without the hand or the eye of affection about him; and he turns to whom? He turns to his fellow-Senators, to his comrades, to his companions here. He holds out his right hand, and says, by this solemn act of his, "I am about to go down to the valley of the shadow of death; but, fellow-Senators, I want to hold on to my connection with the Senate until that day arrives; I want to go into that valley fresh from the recollections and associations of my senatorial life; and I want, even in the hour of dissolution, to feel that, if my family are not about me, my brethren are. My desire is that I may die an American Senator, the very character in which I have achieved my fame, and done my duty to my country."

It was therefore that Mr. Clay, acting upon this idea, and having this desire, fixed the period when his resignation was to take effect so far in the future, that so far as human sagacity could foresee, he would be no longer in the land of the living. Sir, it was a most beautiful and most touching trait in the character of Mr. Clay that he desired thus to hold on to his connection with the Senate to the very moment when he died; and it seems to me that if the Senate reject the proffered token of his affection and his esteem, which he thus tendered to them, by saying that the act was null and void, it would be a poor and cold return for the affection which he tendered to them as he stepped away from this theater of his labors.

Now, that was the intention of Mr. Clay. The honorable Senator from Connecticut says, "I doubt not that the incumbent himself acted upon that idea. I doubt not that when he transmitted that resignation, before the arduous labors of that session, he presented it under the belief, if I may so say, the fundamental belief, that his life would continue to that period, requiring that act in order to vacate the office."

I read it just exactly the other way. I take it to be settled, as far as any proposition can be settled, upon reasonable probabilities that Mr. Clay thought that when the first Monday in September should arrive, he would not be in the land of the living. I saw Mr. Clay a few times during his last sickness, and I happened to be in his room in the month of December. He was speaking of his health, and he remarked that some physician had endeavored to flatter him that his complaint was not a pulmonary one, that his lungs were not permanently affected, and that in the warm weather of spring he would recruit. But, said he, with a good deal of feeling, "what right have I to expect to live? I am an old man. I have already lived longer than the ordinary period of human life. Providence has been remarkably kind to me in prolonging my life thus far, and what right have I to expect to be exempt from the lot which all old men must suffer."

No, sir, I believe Mr. Clay expected, beyond the possibility of mistake, that when the first Monday in September should arrive, he would be no longer in the land of the living. Well, what did he do? He says that he resigns. But the Senator from Connecticut says that he resigned with a condition, and that the condition was one which he had no right to fix; and that it being fixed upon the idea of his living to that time, and he not living to that time, the condition was inoperative, for he had no right to fix it. Suppose, for the sake of the argument, he had no right to fix it, or to make any limitation at all, what then? You have an unqualified resignation. The Senator from Connecticut sees the force of that; because he says, when speaking of the commission of Mr. Meriwether, that the clause which limits the term of Mr. Meriwether to the first Monday of September, was inserted by the Governor without constitutional authority, and therefore it is a nullity. Well, then, if the condition of the commission is a nullity, and the commission good, why is not the condition in Mr. Clay's resignation a nullity, and the resignation good immediately? Unquestionably it is good, if the Senator is correct in the construction which he puts upon Mr. Meriwether's commission, that the Governor's fixing a condition which he had no right to fix, made the condition a nullity, while the commission remained good, then the condition which Mr Clay undertook to fix, is a nullity, and the resignation is a resignation in *presenti*, and not in *futuro*. This I understand to be the principle of common law: that if a man makes a deed which he has an undoubted right to make, and does it in clear and explicit terms, so that there can be no mistake about it, and then undertakes to fix a condition inconsistent with the grant, that condition does not nullify the deed or grant, but the condition is null while the deed or grant is good; and so is the reservation. That is an established principle of law. Suppose Mr. Clay had made a resignation to this effect; suppose he had said to the Legislature of Kentucky—"I hereby resign the office of Senator, reserving to myself, of all the privileges and immunities of a Senator, the franking privilege." Would the reservation nullify the resignation, or would the reservation be a nullity, and the resignation good? If there is anything like an analogy in cases of this sort, it seems to me that if you construe the one so that Mr. Clay had no right to fix a condition, then it was a resignation in *presenti*, occurring while the Legislature was in session; and they having seen fit to elect Mr. Dixon, he is beyond controversy entitled to a seat in the Senate.

But it may be said, that the Legislature did not elect Mr. Dixon with a view to have his term commence in *presenti*, but in *futuro*. Had they not a perfect right to do that? Suppose Mr. Clay had fixed no condition, but had resigned from that moment, and the Legislature of Kentucky had said, "Mr. Clay is about to close his long and honorable career; he has resigned his office as Senator of the United States; but he is at Washington, he is sick, he will not live long, at all events the first Monday of September will find him in his grave;" and consequently, the Legislature refrain from filling up the vacancy until such time that they have reason in all probability to suppose he will be no longer in the land of the living. Could they not do that? Could they not elect Mr. Dixon, whose term should commence on the first Monday of September, notwithstanding it was a resignation in *presenti*? There is nothing in the Constitution to limit them in that respect, nor anything in the Constitution to qualify their power. The Legislature were not bound to elect at all, and being not bound to elect unless they chose, they might elect to have the service of the person elected commence on the first Monday in September, or at any other time.

Now, with all my respect for the honorable Senator from Connecticut, for his great learning and legal acumen, I beg leave to suggest—and I think I shall have the assent of the honorable member from Wisconsin, [Mr. WALKER]—that he is mistaken in his reading of the Constitution, where it speaks of the power of the Governor to appoint when there is a vacancy. He construes the Constitution to mean that the Governor shall appoint, and the appointment shall run, if the term runs so long, until the next meeting of the Legislature.

I beg leave to say that is not the reading of the Constitution. That has never been the practical construction put upon the Constitution by this body, in any solitary instance. The word "until," does not qualify the appointment, but the power of the Governor to make the appointment. The Governor may make appointments until the next meeting of the Legislature, to fill any vacancy. That is, the power of the Governor to make appointments to fill vacancies occurring during the recess of the Legislature is full and complete. I will read it, sir:

"And if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State, the Ex-

ecutive thereof may make temporary appointments until the next meeting of the Legislature."

That is, the power to make appointments continues until the Legislature meets, and then terminates. It does not qualify the appointments, but the power to appoint; and it has been the uniform practice of the Senate to give the word that construction. Was there ever a case where a Senator, holding a seat here under the appointment of the Governor of his State, vacated his seat just as soon as the Legislature thereof assembled? No, sir. I remember a case in the last Congress—that of the Hon. Mr. Winthrop, of Massachusetts, holding a place by the appointment of the Governor. That case was brought to the consideration of the Senate by Mr. Winthrop, and I remember that I suggested this same view at that time, and the honorable Senator from Wisconsin [Mr. WALKER] did me the honor to pronounce the same opinion, not knowing that it had fallen from so humble an individual as myself on the preceding day; and I think the honorable Senator from South Carolina [Mr. BUTLER] concurred in the opinion, which was reported in the Globe at that time. I am informed by the Senator from Mississippi [Mr. BROOKE] that the same was true in the case of Mr. McRae. The word "until" was then construed to qualify the time during which the Governor might appoint, and not the time during which the person appointed was to continue in office. He was to hold the office until the Legislature had chosen to exercise their power.

There is another clause of the Constitution which throws light upon this subject. It is that clause which relates to the appointing power of the President. It says:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

The limitation there is upon the commission, showing that the framers of the Constitution understood the difference between the power to make appointments and the tenure of the commission; and that when it is necessary, they thus discriminate. In this case, where they say the Governor may make appointments until the next meeting of the Legislature, they fail to limit; but in the other case of appointments by the President, they not only limit the power, but the time for which the commission shall run. It seems to me, then, upon this subject, the practice of the Senate and the language of the Constitution are clear and imperative; and that the word "until" does not qualify the time the appointment is to run, but simply the power of the Governor to make appointments. What then? If that be the fact, a vacancy occurred on the 29th of June, the day on which Mr. Clay expired.

What does the Governor do? Does he undertake to assume that the power to make the appointment runs beyond the time that has already been fixed by the Legislature? No, sir; but in the commission which he gives to Mr. Meriwether, he limits the time to that portion of the term which would exist, provided Mr. Clay had power to resign the way he did. If ever these questions were to have been presented to us, they should have been raised when Mr. Meriwether came here with that commission. If the Governor of Kentucky had simply said, "I hereby authorize you to fill the vacancy occasioned by the death of Mr. Clay," and stopped there, it would have been for the Senate to decide it. But he did not stop there; he qualified his own power. He did not undertake to appoint, if he had the power, beyond the first Monday of September. Up to that period there was a clear and undisputed vacancy. The honorable Senator suggests a number of cases which can only exist in imagination. He supposes the case of a man being elected for six years who resigns the last year, when the Legislature appoints; then the appointee resigns the fifth year, and another appointment is made, and he resigns the fourth year, and so on. But it so happens in the actual condition of things by which we are surrounded, that there is no Legislature in the United States that continues more than two years, and I have never heard of a Legislature of any State undertaking to make an election to an office which was to commence in a period when their own political existence would have terminated.

I think the subject entirely destitute of any questions of that sort, as of the one whether a dead man can resign. No Legislature ever made such an attempt as has been imagined, and I trust never will. Therefore, the case exists only in imagination, and can by no possibility exist in reality. It is well suggested by the Senator from Kentucky, [Mr. UNDERWOOD,] that the thing is too absurd ever to be thought of; and if the idea were tolerated that the Legislature might elect a Senator whose term was to commence after the termination of their own political existence, they might elect for one hundred years in perpetuity. It has never been done. Such an attempt has never been made, and never will be made; and therefore, it is an evil which exists only in fancy, and need not disturb the deliberations of the Senate on this question.

It seems to me that this is the whole case. I do not say that I can, by any argument, elucidate it so as to convince the minds of Senators. I have given up all idea of undertaking to convince any body, or of shedding light, though I confess I had light shed on my mind yesterday by the remarks of the honorable Senator from Connecticut. But I do not aspire to anything of that sort; I simply wish to state, here in my place, the reasons which influence me. I want to express with all the decision I can feel—with all the deference I entertain to other gentlemen—my conviction, that by no possibility, by none of the insinuations of sophistry even, can a doubt in my mind be thrown over the right of Mr. Dixon to a seat in the Senate. But, sir, having said that, I do not undertake to say that others will not doubt, because I know it is so. I see men, better informed than I am, and perhaps better able to form an opinion, entertaining a different opinion. I only speak for myself. I do not entertain a doubt; I cannot work myself up to it. I believe Mr. Dixon's title is as good as mine is, and as good as any Senator's is. So far as any other considerations may be supposed to weigh upon me in this matter, except a simple desire to do justice to the honorable gentleman——

Mr. UNDERWOOD. "Honorable Senator."

Mr. HALE. Well, honorable Senator—for I think he is Senator—the honorable Senator [Mr. Dixon] will pardon me for saying as between him and his predecessor, Mr. Meriwether, I am as indifferent as a man can well be. I do not know that as to their relations, personal or political, I would turn my hand one way or the other. They both belong to "healthy political organizations." Mr. Meriwether belongs to one which is rather "swollen." That, to be sure, does not indicate entire health. [Laughter.] Mr. Dixon belongs to one that is rather lank. Neither does that indicate entire health. [Laughter.] So that one is as far from a healthy political organization as the other. But as to the slight intercourse which I have had with either of them, it has been that which one gentleman has a right to expect from another. I do not know that I have ever in my life been placed in a situation, in which I have felt such entire indifference, as I do in this matter; but I am desirous that the Senate should decide the question rightly. I was exceedingly gratified with the result to which the Senate came in the Florida contested-election case. The conclusion to which they came was unanimous. There was no dissenting voice, because, in the judgment of the Senate, that case was perfectly clear. It struck the whole Senate as perfectly clear.

But, sir, while I state the clearness of my own convictions, I beg that I may not be considered as speaking arrogantly, or questioning the integrity or intelligence of those who differ from me. I have lived long enough in the world—I have seen too many ingenious questions started, and too many plain ones disputed—to be astonished at anything. And my experience in the Senate has taught me something of that. It reminds me of an anecdote told of a young practitioner of law. When the judge pronounced his opinion contrary to what he expected, he declared himself to be astonished at the decision. The judge thought it was a contempt of court, and an impeachment of its integrity, and was about to deal with him accordingly; but an older member of the bar got up to apologize for the young man, and said: "Your honor, I think my young friend meant no contempt; and I think when he has practiced as long in your honor's court as I have, he will not be astonished at anything." [Laughter.] That, sir, has been the effect upon my mind. I have practiced too long in your honor's court to be astonished at anything.

Ingenious as is the question which the honorable Senator from Connecticut has sprung upon us, I remember once to have met one equally ingenious, and one that was not so easily settled. I remember when Captain Symmes, of Ohio, was lecturing upon his theory of hollow spheres, he chanced to come to where I was at college, and gave notice that he was going to lecture. He gave a very ingenious lecture; but after it was over, an ingenious young Irishman told him that he did not see through it entirely, and wanted to propose one question. The Captain seemed to listen with great deference to the question. It was this: He said that when we should come to the opening of the earth to enter the hollow sphere, the atmosphere of the earth would come in contact with the hemisphere and produce a concussion, and he did not know how animal heat was to be generated there. [Laughter.] I believe it is a question which Captain Symmes never solved. It was an ingenious one.

Having seen so many ingenious questions started, so difficult of solution, and so many which appeared plain to my mind disputed, I bow with deference to the wisdom and intelligence and candor of the gentlemen who differ so widely with me. But, sir, this is a new age and a new era, and one of new revelations; and if there be anything in this modern—I do not know whether to call it science or humbug, for I tread cautiously—but if there be anything in this modern theory of spiritual communication—"spiritual rappings" vulgarly called—this question, whether dead men can resign, may assume a practical importance of which we have not as yet conceived. [Laughter.] I am sorry to see gentlemen laugh. I am sorry that while we are dealing with such *grave* subjects as these, honorable Senators cannot bring to their consideration that gravity to which they are so eminently entitled. [Laughter.] Can dead men resign? I ask, in the wildest vagaries of thought, if ever imagination grasped such a question as that? I think, sir, it is well that this question comes at this time. The great excitements of a political contest are over, the passions are lulled, the surges of an overwhelming political majority have silenced the voice of faction and fanaticism, and the public mind is, in my view, eminently favorably situated to come to the consideration of the important question, whether dead men can resign their offices or not?

The Senator from Connecticut said that this question had never been presented to the Senate in any of the precedents which had been cited, and that he had no knowledge or intimation from any quarter, that it had ever been brought into consideration—that is, the question "whether a Senator can resign his senatorial office after his death?"

Why, sir, the realities of life, and the solemnities of death, all center in this great question. It deals not only with things that now are; it concerns not only temporal and palpable things with which we are surrounded, and which appeal to the senses, but it goes beyond even this. It goes beyond the pageantry of the funeral, and the solemnity of the tomb, and looks away into the vista of that futurity, the veil that hides which has never been withdrawn, and asks the solemn question, whether those who live in that land can resign office? I know poets have asked—I wish I could quote poetry—

"Do they love there still?"

That, sir, has been asked in song, and the hope has been expressed that some bird from the shadowy land might come to revisit this, and we would ask,

"Do they love there still?"

But now poetry must stand in the back-ground, and if ever from the land of shades a winged messenger comes to whisper to the upper world something of that land, the question will be, Do they resign office there or not? [Laughter.] I find that it is in vain for me to invest this matter with the seriousness to which it is entitled. [Renewed laughter.]

But leaving this question, which I do not believe can be satisfactorily settled by any committee at the present session, I ask the Senate to take a common-sense view of this thing—a common-sense, practical view—an upper region view—a view which presents itself to those that are invested with flesh and blood. Read the plain language of

Mr. Clay. See what his deliberate intentions were—how he understood himself—how we understood him—how the Commonwealth of Kentucky understood him—how the Legislature of that Commonwealth understood him—how the Governor of the State understood him—how Mr. Meriwether understood him—how every member of the Senate understood him, when Mr Meriwether came here to take his seat, and then say if there is a doubt in this case. Is there the least doubt on earth? Yes, there is, because gentlemen say they doubt. That is evidence. But let it be remembered in all coming time, for the honor of the Senate let it be remembered, that when the history which tells that there was a doubt whether the honorable Mr. Dixon was entitled to a seat on he floor of this Senate, there was coupled also with it that other doubt, whether dead men could resign their offices or not? [Laughter.]

Mr. TOUCEY. I agree, sir, most fully with the Senator from New Hampshire, that a resignation after death, is as ridiculous an idea as can enter into the head of any man; and yet, that is the resignation which is insisted upon as a valid resignation by the honorable Senator himself. It is a resignation which, by the terms of it, was to take effect, as a resignation, only on the first Monday in September, 1852—more than two months after the death of Mr. Clay, which it is now insisted has made the vacancy; to fill which, the honorable Mr. Dixon is presented by the Legislature of Kentucky. It is claimed that that resignation was made by an act in the lifetime of Mr. Clay. Now, I say, and I maintained yesterday, that it is impossible there should be a resignation to take effect after death. A man, by will, may dispose of property after death; but a man, by will, cannot dispose of an office after death. A Senator cannot, by an act fixing a day posterior to his death, resign an office which is no longer his. That was the manner in which I presented the subject to the Senate; and I agree that that idea is as absurd and ridiculous as can well be conceived. And yet it is precisely the resignation that is insisted upon by the honorable Senator, as making the vacancy at that time. I shall not reply to the honorable Senator beyond the remark I have now made.

Mr. BROOKE. I shall offer no apology to the Senate for again trespassing upon its time, because this is a case which I regard as a very important one—important, as settling a principle which will apply to a vast number of cases that may in all probability occur hereafter; and therefore I consider that it not only admits, but justifies the fullest discussion. I regret that I have not heard more argument from the opposite side, upon this question. Until yesterday, we were favored with nothing but bare suggestions—suggestions, I believe in every instance, accompanied by protests of non-committalism. In other words, no member seemed willing to take a position, but simply to throw out doubts and suggestions, reserving the privilege of forming an opinion hereafter. But yesterday, the Senator from Connecticut [Mr. TOUCEY] gave what I supposed to be the authorized exposition of the views of those who are disposed to deny to Mr. Dixon the right to a seat in this body. I listened with a great deal of attention, and some curiosity, to the remarks of that Senator. I was anxious to learn by what process of reasoning any ground could be taken upon which the opponents of Mr. Dixon's claim could take their stand. I was not gratified; and I must say, with all due deference to the honorable Senator from Connecticut, I think he utterly failed to bring forward even the semblance of an argument. I shall say nothing in reference to the important question which he put in the opening of his remarks, and which has been so satisfactorily answered by the honorable Senator from New Hampshire. I will simply state, however, that the gentleman fell into an error in the beginning of his argument; and that error was in confounding two distinct ideas. He construed, or reasoned as if he construed, a resignation to mean the same thing as a vacancy. They are, however, separate and distinct ideas; for one is but the effect of the other. A resignation may be made during the lifetime of an individual, although the effect which is to follow—the vacancy—may take place afterwards. Such is the case now. The resignation was made during the lifetime of Mr. Clay; the effect of that resignation did not take place until after his death. There is no incompatibility between the two ideas, none whatever.

But the Senator made a very fatal admission to his case, when he admitted, as I distinctly understood him to do, that if Mr. Clay had lived until the first Monday in September, he could not have taken his seat in this body after that time. Now, Mr. Meriwether was appointed to succeed Mr. Clay. To whose rights, to whose powers and privileges did he succeed? He succeeded to the rights, the powers, and privileges of Mr. Clay—no more, and no less. But, according to the argument of the honorable Senator from Connecticut, Mr. Meriwether was invested with more power than Mr. Clay himself; and he was invested with greater privileges, because he could, according to the argument of the gentleman, hold his seat not only until the first Monday in September, but longer, even until the next session of the Legislature of Kentucky. That, sir, is not consistent. But the Senator seemed to think that the continuance of the life of Mr. Clay was a contingency upon which this vacancy was to be determined. I do not regard the matter in that light at all. The only contingency upon which the vacancy depended, was the arrival of the first Monday in September; and not either the life or death of Mr. Clay. His resignation was to take effect upon the occurrence of a particular event; and what was that event? The occurrence of the first Monday in September, 1852—an occurrence wholly independent of the contingency whether Mr. Clay lived until that time or not. The Senator also made a other admission, or rather suggested an analogy, which is equally fatal to the cause which he espouses; and I thank him for it, and will endeavor to run it out. He compares an office to an estate for years, determinable upon the death of the party. Let us run it out and see how it terminates. A, on the first of December last, leased to B a plantation for six years. A few weeks afterwards, on the 17th of December, B comes to A, and says, I do not wish to occupy this plantation longer than until the first Monday of September next; my design is then to remove to a different part of the country, and I hereby surrender to you all the residue of the term after the first Monday of September; and accordingly executes his indenture to that effect. That is a binding and valid act. Nobody will doubt that. A then, in the exercise of his discretion and his power, leases to C the balance of the term, commencing on the first Monday of September. C acquires a vested right in that, does he not? Nobody will dispute that. Suppose, however, that on the 29th of June, before the arrival of the first Monday of September, B, the tenant, dies. His estate, whatever it may be, is then determined by his death. What, then, is thrown back upon A? The whole term? Could he divest C, to whom he has made a deed for the remainder of the term after the first Monday of September? Surely not. C has acquired a vested right after the first Monday of September. All the term that is thrown back upon A, is that small remainder existing from the 29th of June, when B dies, to the first Monday of September, when C's right comes into operation. The analogy is perfect. So much for the argument of the Senator from Connecticut. I will now, with the permission of the Senate, go into a general view of the subject, promising, however, to be very brief.

In the remarks submitted on Monday week last, I assumed the position that an Executive appointment did not necessarily extend to, and was not necessarily limited by, an ensuing session of the State Legislature; that such appointment might be terminated by other means. And to support this position, I referred to the numerous cases where Executive appointees had held their seats after and during a session of their Legislatures, and until their successors were qualified; and also to cases of appointment to fill short unexpired terms—terms which expired by limitation of law during a recess of the Legislature, and when it is admitted on all hands that the appointee cannot hold over. In short, the whole drift of the Constitution is simply this: That the State Legislatures being the main and primary appointing power, they shall in all cases elect both for full terms and vacancies when in session; but to provide for unexpected emergencies—for vacancies happening by death, resignation, or otherwise, which the Legislature, not being in session, could not fill, a temporary power, lasting only during such recess, was given to the State Executives to make temporary appointments to fill such vacancies. How long such appointments are to exist depends upon circumstances; certainly no longer than the Legislature chooses to put an end to them by its own action.

Some confusion and misconception has arisen from the use of terms or words that are not to be found in the Constitution. Senators are accustomed to speak of vacancies *occurring* during the recess of the Legislature. The Constitution uses the word "happen," and not "occur," and the words are by no means synonymous. To happen, means to take place unexpectedly; the happening of an event is one that is not anticipated; such is the definition of lexicographers, and doubtless the word was used by the framers of the Constitution with direct reference to this meaning; for the State Legislatures, as before remarked, being the primary and main appointing powers, it was intended to make an exception only in cases which they could not anticipate, and, therefore, could not provide for. In all other cases the power inured to them by virtue of the general grant. In truth, there is no limitation upon, or exception to, their power, while they are in a condition to exercise it, by being in session; it is only when their functions are suspended for the time being, that a temporary power of appointment is given to another branch of the Government, and this power is not, therefore, to be considered as so much taken from them, or as an exception from their grant, but as an auxiliary power, to be used in subordination to theirs, when they cannot act. The grant of power to the Legislatures of electing Senators, being general, full, and comprehensive, it may be assumed as a postulate, that as a consequence, they have the power to fill all vacancies, whether existing or in *prospective;* provided, in reference to the latter, that their occurrence is legally certain, fixed, and determinate—I say legally certain, because I do not wish to be understood as asserting that a Legislature can provide in advance for the probable occurring of a vacancy—one that may or may not happen by death or resignation. There must be a legal certainty—a termination of the period of service either by operation of law, or by the executed and irrevocable act of the incumbent himself. When this legal certainty exists, whether in *presenti* or in *futuro*, the Legislature can act, whether the vacancy occurs during the session or in the recess—and for this very obvious reason, that the emergency has not arisen in which the extraordinary power of appointment is thrown upon the Governor. An unanticipated vacancy has not occurred, or rather "happened," in the language of the Constitution, and as before seen, it is only on such happening that he is authorized to act. To borrow a legal phrase, the jurisdiction of State Legislatures over the appointment of Senators in Congress is general, and they may do everything within the limits of the Constitution that is necessary to effectuate the intentions of that instrument that is not specially prohibited to them; whereas the jurisdiction of the State Executives over this subject-matter is special and limited, and they can do nothing they are not specifically empowered to do. The want of power in the Legislature to act in the case of vacancy specified in the Constitution, is not the want of a power not granted, but simply an inability to act, arising from the fact of its not being in session. When in session its power is resumed, and is general, comprehensive, and complete.

It is not necessary, then, to examine and see whether, in this case, the Legislature of Kentucky was specifically authorized by the Constitution to do as it has done; but having seen that its jurisdiction over the subject is general, the burden is on the shoulders of others to prove that its action in the premises is expressly forbidden or prohibited by the Constitution.

Applying these general principles to the question at issue, it appears to me to be easy of solution. Mr. Clay resigned his seat in this body in December, 1851, while the Legislature of Kentucky was in session—his resignation to take effect in September following. Could he do this? Had he the power thus to fix in *futuro* the period of his services? As I have had occasion before to remark, this point is too well settled, both by precedent and practice, to admit of further controversy. It was

settled by this body, in the case of Jesse Bledsoe, cited the other day by the Senator from Tennessee, [Mr. JONES.] This body then determined that a resignation to take effect in *futuro* was an act executed and irrevocable, and that when the period arrived the resigning member was no longer entitled to his seat. The honorable Senator from Georgia [Mr. CHARLTON] holds his seat as the incumbent of a vacancy occasioned in the same way, his appointment having been made in advance, and while Judge Berrien was discharging his functions of Senator upon this floor. Mr. Clay's action, then, being legal, and the vacancy to be occasioned by that action being fixed, certain, and irrevocable, the Legislature, by virtue of its general jurisdiction, had a right to provide for it. The reason of the Constitution in conferring the power of appointment on the Governor to provide for unexpected emergencies not existing, the power of the Legislature was in full force, and was very properly exercised.

If I am not mistaken, in the case of Lanman, the decision of the Senate, refusing him his seat, was based in part, if not in whole, upon this very ground—that a vacancy occasioned by the legal expiration of a time, though it occurs in a recess of the Legislature, is not such a vacancy as the Executive can fill—and why? Because it does not, in the language of the Constitution, *happen*—the event is fixed and determined by law, and can never come unexpectedly, or at a time that cannot be anticipated by a preceding Legislature. Such, also, was the effect of the decision of the Senate in the case of Mr. Sevier, of Arkansas, cited the other day by the Senator from Kentucky. Although the expiration of his term was fixed by law, as in that of Lanman, yet from the peculiar circumstances of the case, the Legislature could not have provided for the vacancy, and therefore the appointment of the Executive was sustained. Such was the case with the vacancy occasioned by Mr. Clay's resignation—although the act was his own, the termination put to his services and office of Senator, was just as fixed, certain, and determined as the period prescribed by law. It was anticipated by the Legislature, because they had been officially notified of the fact. It was not a case, therefore, of unforeseen emergency, as contemplated by the Constitution, for Executive action. The necessary and inevitable consequence is, then, that the election of Mr. Dixon to fill the vacancy so created was a legitimate exercise of power, and should now be sustained.

But it is objected that Mr. Clay's death in June prevented the vacancy in September from occurring, and that therefore the contingency never happened on which Mr. Dixon's election depended. To this it may be replied, that if the election of Mr. Dixon was valid and legal at the time it was had, nothing that could take place afterwards—nothing *ex post facto*—could render it null and void. An election, as soon as made, confers a vested right upon the officer elected to the honors and emoluments of the office—a right which cannot be divested unless by his own act or the abolition or cessation of the office. But it is not necessary to inquire whether the vacancy occasioned by the resignation of Mr. Clay occurred or not. That resignation fixed a period or term to the office of Senator as pertaining to him—a period as fixed and determined as if it had been prescribed by law—and this period certainly did arrive, whether Mr. Clay lived to see it or not.

The senatorial office is continuous, and intended to be perpetual. It is, however, divided into periods or terms, beyond which an incumbent cannot hold. These periods or terms are again, by legal permission, frequently subdivided by resignations; and an election in advance of, and to provide for one of these subdivisions is the exercise of the same power, and is subjected to the same legal incidents, as is an election for the constitutional term. When Mr. Clay died, therefore, there was no vacancy in his term occasioned, or to be occasioned, by his resignation, because it had been provided for by the election of Mr. Dixon. His death, however, did create a vacancy, but only for the time intervening between his death and the commencement of Mr. Dixon's term, or, in other words, for the balance of his (Mr. Clay's) term, that term, by Mr. Clay's own act, extending only to the first Monday of September. The case, in principle, is precisely the same as if the other Senator from Kentucky, [Mr. UNDERWOOD,] whose term of service expires the 4th of March next, and whose successor has been elected, were now to resign. The Executive of Kentucky could fill the vacancy until the arrival of the time when that successor is entitled to take his seat, and no longer. In this view of the case, I think the Governor of Kentucky was perfectly right in limiting the commission of Mr. Meriwether as he has done. Now, the remainder of a term may be of two sorts—one being until the expiration of the term as fixed by the Constitution, the other to the expiration of the term as fixed by the party's own act of resignation. Then what was the remainder of Mr. Clay's term at the time of his death? Until the first Monday of September, unquestionably. After that time it was no longer *his* term, because he had resigned it—yielded it up into the hands of those who had conferred it upon him. From that time until it expired by legal limitation it was Mr. Dixon's, having been conferred upon him by the primary appointing power. Mr. Meriwether, then, has served out—has exhausted—the remainder of Mr. Clay's term, exactly what he was commissioned to do by the Executive, and is no longer entitled to be here as a member.

It never could have been expected, Mr. President, that the framers of the Constitution could in terms provide for every possible state of circumstances that human frailty or human ingenuity might give rise to. Hence the frequent necessity of a resort to construction as in case of other laws. And I apprehend that the same rules of construction will prevail in reference to the Constitution as with statutes passed by the ordinary law-making power. "The fairest and most rational method to interpret the will of the legislator," says Mr. Justice Blackstone, "is by exploring his intentions at the time when the law was made by *signs* the most natural and probable. And these signs are either the words, the context, the subject-matter, the effects and consequence, or the spirit and reason of the law." There is no part of the Constitution more obvious in its intention, or more felicitous in its conception, than the organization of the Senate. The Government not being a consolidated one, and its constituent parts, the States, intending to preserve their sovereign equality, it was obvious that this equality must be recognized and represented in some one or other of the departments. This was done by composing the Senate of members to be chosen by the Legislatures of the several States, the Legislatures themselves representing, in a combined form, State sovereignty, and thus forming the constituency of which this body was to be the representative. The whole intention, then, was to vest in the Legislatures the entire elective power, to give them general and, as far as practicable, exclusive jurisdiction over the subject-matter, with all the effects and consequences warranted by the "spirit and reason of the law." The only exception from this broad and general grant is, as has been before shown, the limited and temporary power confided to the Governor, and that only in cases where, from physical inability, the Legislatures cannot act—an exception which, in a most emphatic manner, proves the truth of the general rule. This body, then, being the judge of the tenure by which its members hold their seats, in exercising its judicial functions, should endeavor to carry out the intention of the great organic law, and recognize, to its fullest extent, the power and will of those great constituencies which it is its peculiar province here to represent. And I may be permitted to add further, that if there are any doubts attendant upon this case, the people, whose wishes are expressed through their ordinary means of communication—the Legislature—should have the benefit of them, and those wishes should be allowed to incline the balance. It is ever a safe rule, when the law is doubtful, and argument nicely balanced, to get as near to the primary source of power as possible; to consult its will, and obey its behests. This being done, no great evil can ever result, although, in strictness, the judgment itself should prove to be erroneous; but, for myself, I can feel no doubts. Looking to the clear and manifest intention of the framers of the Constitution, the path of duty appears to be open and unobstructed, and to be followed without the least hesitation whatever.

Mr. MILLER. Mr. President, I desire to say a few words upon this case, and I may as well take this opportunity to say them. I was of the opinion, when the Senator elected from Kentucky presented his credentials, that by the old, well-established, and well-considered law of this body, he was entitled to be admitted at once and sworn in, reserving the various questions which have been since raised, for the future deliberation of the Senate, if it thought proper to go into them; and I am satisfied, from what has taken place, that the Senate has made a great mistake, if not committed a great wrong to one of the sovereign States of this Union, by not taking that course.

I am opposed to this reference upon precedent and upon principle. There is not to be found upon the records of the history of the Senate, as far as I have been able to ascertain, a case where a person coming here with formal, legal credentials from one of the States of this Union, appointing him to a seat in the Senate, has not at once been received, reserving the consideration of objections that might be raised afterwards to his claim; and I believe there is but one case to be found on the records of the other branch of the National Legislature, in which the persons having the legal, formal return, were excluded from their seats, and shut out of the House upon the ground that their certificate was illegal or fraudulent; and that was the celebrated case of the contested election from the State of New Jersey, a case of warning, and not, I trust, a case to be followed.

How, then, does this case present itself? Mr. Dixon, on the first day of this session, presented to the Senate his credentials. Those credentials contained three important facts. First, that Mr. Clay had resigned his term of office from the first Monday in September until the expiration of his term; secondly, that the Legislature of the State of Kentucky had accepted that resignation; and thirdly, that they had filled it by the appointment of Mr. Dixon. Upon the reading of those credentials, the Senator from California [Mr. GWIN] objected to his being sworn in, on the ground that there was no vacancy. If the Senator meant that there is no vacancy now, we all admit it, because the vacancy has been filled—some gentlemen say, filled twice—but in fact it has been filled by the Legislature of Kentucky. I presume, therefore, the Senator meant that at the time the Legislature of Kentucky made the appointment, there was no vacancy. He must have meant that, if he meant anything. Now, the very first question which must strike every member of the Senate is, what power is to judge, in the first instance, of a vacancy in the Senate? The Senate? No, sir. We know nothing about a vacancy to happen. We are not informed of it. We never know officially that a vacancy takes place until a gentleman comes and informs the Senate, from his Legislature or Governor, that there is a vacancy, and presents his credentials authorizing him to fill it.

Here appears to be the mistake which Senators have committed: They take it for granted that we, in the first instance, are to judge whether there is a vacancy in the Senate from the State of Kentucky. Sir, is it not a fundamental and acknowledged principle, that the appointing power must judge, in the first instance, whether there is an office to fill? It cannot proceed to appoint a man to fill an office until it determines, in the first instance, that there is a vacancy. We cannot determine that fact in the first instance; the Legislature must determine it. And when they do determine it, is not their judgment entitled to full faith and credit, until some one comes here to show that they have acted illegally and unconstitutionally, and that, therefore, their action is void?

How does this case differ from the case of the Senator from Illinois, [Mr. SHIELDS]? He presented his credentials, which upon their face were all right. A Senator arose and suggested that he was not legally a Senator, because there was a constitutional inability—that he was not a citizen at the time, according to the provision of the Constitution—that he had not been here long enough. The other Senator from Illinois, [Mr. DOUGLAS,] then took the point that the Legislature of Illinois had the right to judge of that in the first instance, and having judged upon it and elected Mr. Shields, and sent him here with his credentials, he insisted upon his being sworn in; and so cautious was he to preserve the rights of his State, that he would not permit us to stir one step in the organization of the Senate, to form the committees, or elect the Chaplain, until his colleague was admitted to

his seat. He was admitted, and then the question was referred to a committee, and upon the ascertained fact that he was not constitutionally elected, his seat was vacated.

Now, if it be true that the appointing power has the right, in the first instance, to determine whether there is a vacancy—which they must have—the State of Kentucky having determined that matter, Mr. Dixon is entitled to his seat at once. The *prima facie* evidence is his. He has presented it here, and if gentlemen think proper to go into an argument about the construction of the Constitution, about the constructive rights of another claimant here, which may take the whole session, they can do so; but at the same time the rights of the States should be protected, and Kentucky should have her two members here, for the purpose of joining in the proceedings of the Senate. But pursuing the course we are now taking, this case is likely to consume the whole session. If it be referred, it may remain with the committee half a session, and thus, while Kentucky has performed her duty as she understands the Constitution—the Legislature, having the appointing power, having acted in good faith and determined that question, we, the Senate, say, "Stand back, we have the reserved right to judge of the qualifications of our members, and we, upon the suggestion that you have acted illegally and unconstitutionally, keep your Senator out for three months." Apply this principle to any other body less permanent in its organization, and with fewer members, what might be the result? If a mere suggestion of this kind is to prevent one man from being sworn in, each may suggest it against his neighbor, and prevent the organization of the body altogether. Therefore, I say that the great question to be determined, is the question which we have already given the go-by—the admission of Mr. Dixon immediately to his seat, the Legislature of Kentucky having determined that there was a vacancy, having filled that vacancy, and, as I shall show, no other man coming here to contest it.

But, sir, it is said that there is another appointee who contests the seat. A claim has been put in here, not by the gentleman himself, but by other members of the Senate, that Mr. Meriwether has been appointed to fill this vacancy, and that there are two persons contending for the same seat. Now, before we go into the question of the law—the question of construction—we must have the facts of the case clearly before us. Some gentlemen contend that under the construction of the Constitution Mr. Meriwether is entitled to the seat—how? Produce his credentials. When you come to look at them, they do not touch this vacancy. He never was appointed, either by the Governor or the Legislature of Kentucky, in fact, to fill this vacancy. The fact is, that he was appointed to fill another vacancy, which has already transpired, and he has retired from his seat. If Mr. Meriwether can be brought in here to contest this claim successfully, you will have the strange case before the country of a man filling an office to which he was never appointed, in fact, by the appointing power, which he himself never accepted intending to fill, and to which he has no claim. In other words, it will be putting a man into this Senate by construction, and not by fact. Now, I put it to Senators, if in the whole history of parliamentary law there can be found the case of an appointment to office by construction—a construction against fact, when there is no evidence that the appointing power appointed the claimant, but when in fact it appears that the appointing power did not intend to appoint him, and when the man himself did not intend to accept an appointment to the place? Is there any such case as that? There have been cases where a constituency have attempted to make an election—where two men have been voted for as candidates for the office—a part of the constituency voting for each, and where both have come, perhaps, with different returns, with evidence of election, claiming the office. But in all those cases it was the intention of the appointing power to elect to the place; but here, the Governor, whatever may be the effect of his appointment upon the appointee, in fact never appointed him to fill this vacancy, but, on the contrary, appointed him to fill another vacancy.

Mr. President, I have heard of Senators being "instructed" out of office, but I never before heard of a gentleman being instructed by the Senate to take a seat in this body; and if Mr. Meriwether can, by a construction of the Constitution, be made a Senator here, it will be in opposition to the facts of the case, for he was not appointed to this vacancy by any power in Kentucky—either by the Governor or the Legislature. If you make him a Senator by construction, you do it against the fact of appointment, and against his own declaration. I say such a case cannot be found. Whatever may be the legal effect of Mr. Clay's resignation, whether the Legislature acted legally or illegally, whether Mr. Dixon's election be void or not, Mr. Meriwether can never be a Senator to fill the vacancy for which the Legislature elected Mr. Dixon. And why? Because the fact is against him, for he was never appointed to it either by the Governor or the Legislature.

But it is said that the Governor has a right, during the recess of the Legislature, to make temporary appointments, and that the meaning of the Constitution is, that the temporary appointee is to hold over until the next meeting of the Legislature; and that the Governor having appointed Mr. Meriwether during the recess of the Legislature, his appointment is to continue until the next meeting of the Legislature. That is the position which some gentlemen take in construing the Constitution. The Senate will perceive that the appointment of the Governor was made to fill what he understood to be a limited vacancy until the first Monday of September. That was the appointment; that is the credential; that is the commission. But, say gentlemen, he had no right to fix such a limitation, and it is void, and therefore Mr. Meriwether holds over until the next meeting of the Legislature, although the Governor, who had a right to appoint, did not intend to make any such appointment. With all due deference, I must say that such a construction would operate like a fraud, and would, by a court of equity, be declared a legal fraud. And why? Because the party gets, contrary to his own deed, and by surprise, more than the appointing power intended to give him, and more than he intended originally to accept. Let me put an analogous case: Suppose that there is vested in an executor the naked power to convey an estate in fee-simple, and he sits down and makes a conveyance to a person for life; the person pays the consideration, and accepts that conveyance, can the grantee turn round and say to the executor, "You had no authority to make a conveyance for life; you were only empowered to convey in fee; and therefore I take the whole estate?" Certainly not. Either the conveyance is void, and the grantee obtains no title, or he is bound by it; he cannot take advantage of the limitation. His acceptance estops him, and he is bound by it. So it is with regard to this case. The Governor having appointed to fill a limited vacancy, to extend it through the term would be a fraud upon the people affected by the choice of the representative. If there is anything void about it, that must fall upon the person who accepted the limited appointment.

It is not, however, necessary to go to that. There was a vacancy from the death of Mr. Clay to the first Monday of September—a vacancy in fact, which was known and acknowledged. Now, under the Constitution, the Governor has a right to fill any vacancy happening during the recess of the Legislature. It is not necessary that that vacancy should exist until the next meeting of the Legislature. Whatever may be the vacancy that exists during the recess of the Legislature, be it short or long, the Governor has the right to fill; and there are abundant cases happening where the vacancy filled by the Governor does not extend until the next meeting of the Legislature, but terminates on the ensuing 4th of March. There are now gentlemen holding seats on this floor who have been appointed in that way. Therefore, when a Governor fills a vacancy, he must fill it merely for the time of its existence, and no longer, except that his appointment cannot extend beyond the next meeting of the Legislature. The Constitution uses broad terms: "If vacancies happen by resignation, or otherwise"—any vacancy, no matter how it may happen, whether it be short or long, the Governor may fill; and it is not necessary that it should be a vacancy extending till the next meeting of the Legislature in order to authorize him to fill it.

Then the whole question comes back to this—gentlemen have to meet that in the end—whether, at the time the Legislature of Kentucky elected Mr. Dixon, there was a known and declared vacancy existing which they had a right to fill? At the time the Legislature elected, was there a known and declared vacancy? If there was, and they filled it, no subsequent event could take away the power of the Legislature to fill it, and deprive the man who was appointed to the office. The death of Mr. Clay afterwards could not alter it. That brings up this question: Whether the appointing power may make an appointment to an office which is to be enjoyed in the future. Well, sir, is not that an every-day transaction? A man can be appointed to an office to-day which he is not to enjoy, or come in possession of, until next year. Is there anything in the Constitution to prevent that? Why, it is done every day; and what more did the Legislature of Kentucky do? They appointed Mr. Dixon last year to take possession of and enjoy an office, to commence on the first Monday of September. This being the first meeting of Congress since the first Monday of September, he comes here within the time after the term thus commences and presents his credentials; and gentlemen say, because the appointment was made before the first Monday in September—for if it had been made afterwards, they could not object to it—he shall not enjoy the office. I say it brings up the simple question, whether a man can be appointed to an office which he is to enjoy at a future day? All our appointments are made in that way; and it is one of the great fundamental principles which form the proceedings and practice of the Government that a man should be appointed before the vacancy happens. But gentlemen say death may happen, and so it does. And death happens sometimes at a period not contemplated by the framers of the Constitution, and occasionally throws Congress and all the Departments of the Government into confusion; but that the appointing power has a right to anticipate a vacancy there is no doubt. Then it is said that Mr. Clay could not resign in advance, to take effect at a future day. That brings up the simple question, whether, if I to-day make up my mind to resign, I must walk out of the Senate and make a vacancy before the Legislature can act, or whether I cannot say to my Legislature in advance that I intend to go out at three months or six months hence, and actually resign my office to terminate at that time? Can I do this, or must I wait until the time arrives, and then walk out of the Senate and leave a vacancy here which no one can fill for several days?

The Constitution and laws of our country are much like nature. They abhor a vacuum in representation. The grand idea running throughout the Constitution, and the practice of the Government under it, is to keep up a full representation of the States. And, sir, it is the great privilege of the States, and the people, to be represented here at all times—at the commencement of your Congress, at the very first motion that is made, at the very first law that is passed—it is their right to be represented here. That was the great contest in the New Jersey case. We insisted that New Jersey had the right, at the opening of that Congress, and at the election of the Speaker of the House, to be represented, and not to be kept in the lobby waiting until the Speaker and committees should be arranged to fit the case. That is the great principle which has established that fundamental rule regulating parliaments, that when a man presents himself, with the legal certificate right upon its face, he is entitled to his seat; and it is the right of the power that sent him as its representative. I therefore say, as I said in the commencement, that the great error which we have committed here, was in not admitting Mr. Dixon at once to his seat. But, as the question is now upon the other matters which are before us for consideration, I have no doubt at all that a resignation of office, upon general principles—unless there is something in the Constitution forbidding it—may be made to-day to give up a portion of a man's term, that portion to commence at a future day. There is nothing in the Constitution to prevent it; there is nothing in the Constitution saying that a man may resign, or that he may not resign, to take effect at a future day; and I see nothing in the principles or the practice of the Government to prevent such a resignation. I see no evil to result from it. It has been long the established practice

of the country and of Congress to permit such resignations.

The Senator from Connecticut has raised a point which he calls a new one. I do not so consider it. He takes the ground that the death of Mr. Clay made his resignation void. The death of Mr. Clay could have no effect upon that resignation, if it was good at the time when he made it. If he had a right to resign his office in advance, to take effect at a future day, no act of his, no other act could take back that resignation. When he sent in his resignation to the Legislature of Kentucky, and they accepted it, the act was complete. The resignation was thus made and accepted; and in order to make it void, Senators must take the broad ground that no man can resign an office until the very day when he walks out of it. Now, in my own State—and I have heard of several other cases—judges may send in their resignations to take effect at a future day, fixing that day, it may be, perhaps, after the next term of court, in three months, or in six months; and they in the mean time go on and perform the judicial functions; and no one has ever denied the correctness or propriety of such a course. If you deny this power, when a judge makes up his mind to resign, he must at once leave the bench, thereby throwing into confusion the administration of justice, and delaying causes. This can be and ought to be prevented; and therefore it has been the long-established rule in cases of this kind to permit a man to say in advance that he will vacate his office at a certain day, sending in his resignation as of the day it bears date, declaring that he does resign to take effect in *futuro*. All the precedents show that such a resignation once made and accepted, is conclusive upon the party, and cannot be taken back. We must, therefore, it appears to me, in every view of this case, admit Mr. Dixon to his seat. He has in fact been elected by the Legislature of Kentucky; no man doubts that. He can be got rid of only by a construction of law under the Constitution.

As for Mr. Meriwether's claim, it seems to me that it is impossible for the Senate to make him a Senator for Kentucky; because Kentucky has not, either through its Legislature or Governor, appointed him to this vacancy. Whether they committed an error in not appointing him—whether the Governor committed an error in not extending the commission further—is not the question for us to consider and determine. The fact is, that the Governor did not appoint him for this vacancy; and, as I said before, if he be admitted to a seat, it will be by the act of the Senate, and not by the act of the Governor or Legislature of Kentucky.

Mr. DAVIS. Mr. President, I rise to express the hope that this question will be early disposed of, inasmuch as I think that is due to the gentleman who claims the seat. And I wish to express the further hope that it will not be committed, but will be decided by the Senate, inasmuch as the members of the Senate have argued the merits of the case; and also because there is no complicity in the matter which requires particular investigation. I hope, without commitment, the Senate will decide the question at once and finally.

This case presents nothing new; it demands no new construction of the Constitution; it will, when settled, make no new precedent. For myself, I am pretty much in the same condition as the Senator from New Hampshire, [Mr. HALE.] I have examined the matter somewhat—perhaps not so much as he has—and confess myself unable to feel any doubt about the result that I ought to come to. It is, after all, purely a question of constitutional construction, and we must look into the provisions of the Constitution to ascertain the powers granted to the States, and thence deduce our duties in regard to this case.

I shall not occupy the attention of the Senate more than a few moments, for I shall be able to state all I wish to say with great brevity. Each State, by the Constitution, is entitled to two Senators, and they are to be elected by the Legislatures thereof. The Constitution further provides that the times, places, and manner of electing shall be prescribed by the Legislature of the State; thus clothing the Legislature with not only ample but unqualified powers. They have the right to fix the time, the place, and the manner, which embraces everything in relation to the election of a Senator. Sir, there are two modes of electing Senators—the one by the Legislature of a State; the other by Executive appointment. And how comes it, Mr. President, that there are two modes? It is well to understand the reason. It was foreseen by the framers of the Constitution that vacancies would occur—would "happen," as the Constitution expresses it, during the recess of the Legislature of a State, and consequently that a State would be deprived of its representation, for a time at least, unless that vacancy could be supplied. Hence it gives to the Executive of a State the power of a temporary appointment, as the Constitution expresses it—a temporary appointment to hold until the Legislature, as I shall show you, has had an opportunity to appoint; and when the Legislature has once had that opportunity, and declined or omitted to exercise its power, the Executive no longer has any power over the subject. It has been justly enough observed here that the word "until," in the clause of the Constitution, qualifies the word power; that is, he shall appoint to hold until the Legislature discharges that duty, or has an opportunity to discharge it.

On this point, it has been decided by the Senate that when the Legislature has had the opportunity to appoint, and omits to exercise that power, then the seat is vacant, and must remain so, because the Executive of the State has no power to fill it.

These, then, are the two modes by which Senators are appointed; and now a question is raised here, first, whether the Legislature of a State can, by anticipation, appoint a Senator to fill a vacancy which it is known will occur. Can it, while a Senator is sitting here, and no vacancy exists, make a valid election? Sir, all the State Legislatures have exercised this power from the year 1789 to this time; and I doubt if there are five members of this body who do not hold their seats exactly by that same tenure, being elected before a vacancy existed. It has not only been the uniform practice of the States, from the commencement of the Government to this day, but it is the duty of the State Legislatures to do this. I say it is their duty, because the Senate has said so. In the case of Mr. Lanman, the Legislature which last met in Connecticut, before a constitutional vacancy was to happen, omitted to appoint a Senator. The Governor, supposing he had power to do it, made an appointment. The credentials of his appointee were presented here, and the Senate took the subject into their deliberation, and decided that the Executive had no authority to appoint in such a case; and why? Because the Legislature had had an opportunity to exercise the power with which they were clothed, and they had omitted to do it; and the contingency which vested the Executive with power to supply a vacancy had not occurred. This vacancy was not a contingency which the Legislature could not foresee and provide for; while such, and such only, came within the scope of Executive power.

It was intended by the framers of the Constitution to place the whole power in the hands of the Legislature whenever they could exercise it, and that it should be exercised by the Executive at no time, and under no circumstances where the Legislature had had an opportunity to do it. I think, then, it is very clear that a Senator may be appointed in anticipation of a vacancy. It is a well-established usage, which has been exercised throughout the history of the Government; and I think it is equally clear that it is the duty of the Legislature, in any case where they know a vacancy is to exist, to make the appointment seasonably; and it results from the decision in the case of Lanman, that if they fail to exercise that power when they have had an opportunity to do it, the seat then becomes vacant, and the Executive has no right to fill it.

The case of Lanman establishing this construction, has since been reaffirmed by the case of Sevier. Mr. Sevier came here from Arkansas, and when his constitutional term expired he produced an Executive appointment, which was objected to on the authority of the case of Lanman; but it further appeared that Sevier came as the Senator of a State represented for the first time; and as the Legislature, when last together, could not know to what class he would be assigned, they had no means of determining whether a vacancy would happen before another session, and therefore could not elect. On this ground he was allowed to take his seat; but the committee declare that this case does not question the principle laid down in Lanman's case.

Now, I say there is no conflict between the claim of Mr. Dixon and Mr. Meriwether; none whatever. Let us see how the view which I have taken of constitutional power and construction applies to the facts in the case under consideration. Mr. Clay, the sitting member, in December wrote a letter to the Legislature of Kentucky resigning his seat, to take effect at a subsequent day, the first Monday of September then next. The Legislature accepted that resignation and proceeded to an election, and elected the present claimant. They proceeded on the ground, that on the first Monday of September then next ensuing a vacancy would occur. Mr. Clay so declared, and his purpose no doubt was to give the Legislature an opportunity to fill it, inasmuch as it would not meet again before that day. Now, had Mr. Clay a right to resign? No one doubts the right of a Senator to resign his seat. That cannot be questioned by anybody; nor can any gentleman question the fact that the resignation is to depend upon the volition of the member alone, and that there is no power which can control or direct him in the matter. It depends on his own volition, whether he will resign within his term, and at what period he will resign. All these matters are in his own breast. Mr. Clay resigned, to take effect upon a future day. Is that binding on him? Is it obligatory on him? The case of Bledsoe settles that point beyond all question.

Mr. Bledsoe resigned, to take effect at a future day, and the Legislature of Kentucky, from which State he came, proceeded, just as in this case, to elect a successor to fill the vacancy which would happen when his resignation took effect. Mr. Bledsoe having altered his mind—was desirous to continue in his seat after he had made his resignation to take effect upon a future day—presented to the Senate the question whether he could remain in his seat beyond that day. What was the answer? The answer made by a vote of the Senate was, that the resignation was binding and obligatory upon him, and that as a successor had been appointed, that successor had a right to the seat. That decision settled three things: First, that a Senator may resign, making his resignation take effect at a future day; second, that such a resignation cannot be revoked; and third, that the Legislature has a right at once to fill the vacancy. This decision covers the whole of this case.

The point which seemed to determine the case of Lanman, is this: The Legislature had had the opportunity to fill the vacancy; they knew of the existence of a constitutional expiration of a term, and consequently a vacancy, and having had that opportunity, it was their duty to fill it, and therefore the Executive could not afterwards fill the place. Now, what is the difference between the case under consideration and any such case as that? I can see none whatever. Mr. Clay advised the Legislature of Kentucky that he intended to resign, and to vacate his seat upon a day certain. The Legislature accepted that resignation. It was, according to the decision in Bledsoe's case, binding upon Mr. Clay; and being obligatory upon him, if he had been living, he would have been compelled to vacate his seat on that day, and yield it to his successor. It seems to me that on the principle laid down in the case of Lanman—if the Legislature, with this knowledge of a vacancy to exist at a future day, and before it or another legislative body assembled, had omitted to elect, the consequence would have been that the Governor could not appoint, and the seat would have remained vacant; and so it will be if Mr. Dixon is denied his seat.

But, sir, it is said that in this case Mr. Clay died before the day arrived; that another gentleman was thereupon appointed by the Governor to fill the vacancy which intervened between the death and the day appointed to vacate the seat. Does that present any complicated difficulty? Let me draw the attention of gentlemen to a case which I will suppose, which will happen, if it has not in the course of time, and for aught I know, it has already happened. Suppose a gentleman is elected for a new term, or, in other words, to fill a constitutional vacancy a year or more before it happens, as is frequently the case. Suppose that after such an election by the Legislature, the gentleman occupying the seat should die, or should resign, or the seat should be vacated from any cause, can it be imagined for a moment that it would affect the right of the gentleman elected to

take the seat at the end of the term, or that it would affect the power of the Executive to fill the vacancy thus created if the Legislature has no opportunity to fill it? I apprehend that it is clearly a vacancy which it is competent for the Legislature to fill, if it has an opportunity, or for the Executive, in case the Legislature is not assembled.

I think, therefore, without detaining the Senate, for I know they are impatient, that this case presents no new principle whatever. It lies entirely within the construction given to the Constitution in cases which have been presented here; and that Mr. Dixon has a clear and indubitable right to his seat seems to me beyond all question. In the discussion of this question gentlemen should always remember the fact that the Legislative power is to predominate, that the Executive is only to make "temporary appointments," and that when the Legislature has once exercised this power and its authority upon the subject, that is to be regarded and respected, unless there are some very substantial reasons why it should not be.

I have said the cases before us in no respect conflict with each other. The Legislature of Kentucky in electing Mr. Dixon acted upon the knowledge it possessed. It knew that a vacancy would exist on the first of September, and it was its duty to fill it, as there would be no other session before that day. It was acquainted with the general rule which has at all times prevailed, that the Legislature of a State last assembled before a vacancy occurs shall, if it be known, fill it. They did all that could be done. As they did not know that the death of Mr. Clay would happen before the day appointed to vacate his seat, they could not elect for that period. This contingency has been met by the Executive. He filled that vacancy, as he had a right to do, but attempted to carry his power no further. The periods of time for which Mr. Meriwether and Mr. Dixon were appointed were distinct and defined with entire accuracy. The Constitution provided for both. The power of the Executive is exhausted upon this subject, and Mr. Meriwether's appointment has run out. Sir, I hope the Senate will come to a speedy decision in a matter so free from embarrassment.

Several SENATORS. "Question!"

Mr. DOUGLAS. If the Senate are willing to come to a vote to-night, and it is simply to make a reference, I have not a word to say upon it; but if the vote is to be upon the merits of the case, I should like to occupy seven or eight minutes' time.

Mr. SEWARD. This vote must be upon the merits of the question. The amendment of the Senator from Tennessee, which is the pending question, brings up the whole merits of the case. I would, therefore, move that the Senate adjourn.

Several SENATORS. Oh, no!

Mr. SEWARD. I withdraw the motion.

Mr. JONES, of Tennessee. One remark to the Senator from Illinois: I apprehend that he will reach his point as readily by a vote upon my proposition, as upon one to refer. My amendment, which is the question before the Senate, is simply to admit Mr. Dixon to his seat. If that should be voted down, I presume the subject will be referred, as a matter of course, to a committee. I hope the Senate will now take a vote upon my proposition.

Mr. BRIGHT. That vote involves the whole merits of the question. This side of the Chamber is, I may say, almost vacant. I hope the question will not be pressed to a vote this evening, for many Senators on this side of the Chamber have retired, under the impression that no vote would be taken to-night.

Mr. BADGER I concur in the suggestion of the Senator from Indiana. This question ought to be decided by a full vote of the Senate. That much is due to ourselves and due to the country. If we can have a general understanding in the body now, that we will decide the case on Monday, Senators will have fair warning to be present at that time, and we can have the subject disposed of by a full Senate.

Several SENATORS. Agreed.

Mr. DOUGLAS. In accordance with what appears to be the general wish, I move that the Senate adjourn.

The motion was agreed to, and the Senate adjourned till Monday.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 16, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

THE PRESIDENT'S MESSAGE.

Mr. STUART. Mr. Speaker, I feel constrained to renew the application which I made on yesterday, for a reason which will be obvious to every gentleman. The time fixed for closing the debate on the President's message was yesterday, at two o'clock; but proceedings intervened unexpectedly to interrupt that debate. I propose, therefore, to extend the time allowed for debate until two o'clock to-day, and I ask the unanimous consent of the House for that purpose.

Mr. STEVENS, of Pennsylvania. I object.

GENERAL COMMITTEE ON CLAIMS.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to introduce the following resolution, of which I gave notice a few days ago, viz:

Resolved, That the following be added to the rules of the House of Representatives:

There shall be appointed a standing committee of the House of Representatives, to consist of fifteen members, to be called *The General Committee on Claims*, whose duty it shall be to report a bill at each session of Congress making appropriations for the payment of private claimants. It shall be the duty of the other committees of this House, when they report in favor of any claim, to transmit their report, together with the evidence on which it is based, to said General Committee on Claims; and if said committee, after due examination, shall concur in said report, they shall insert an item for the payment of said claim in the bill for the payment of private claimants, and thereupon submit to the House the report and evidence aforesaid, to be printed or otherwise disposed of, as the House may direct. And upon the demand of a single member, a separate vote shall be had on any section of said bill designated by him, notwithstanding the previous question may have been moved and seconded.

Mr. CLEVELAND. I object.

Mr. BROWN. As the proposition is objected to, I will move to suspend the rules to enable me to introduce it. I believe I have a right to do that.

The SPEAKER. A motion to suspend the rules is not in order except on Monday.

Mr. BROWN. Is it not in order to suspend the rules any time during the first thirty days of the session?

The SPEAKER. The Chair is under the impression that it is on the first six days of the session. There is no other reservation.

Mr. JONES, of Tennessee. The last ten days of the session.

The SPEAKER. Yes, except the last ten days of the session.

ENGRAVINGS FOR PRESIDENT'S MESSAGE.

Mr. RIDDLE. I am instructed by the Committee on Engraving to offer the following resolution:

Resolved, That the Committee on Engraving be, and they are hereby, authorized to contract for engraving the maps and drawings accompanying the President's message for nine hundred and thirty copies; provided that the cost shall not exceed the sum of four hundred and seventy-five dollars.

It may be necessary, perhaps, to make a brief explanation in regard to the resolution. The committee find it impossible to have the engraving executed for the whole number of copies of the President's message, on account of the advanced state of the public printing. The distribution of the message would be delayed for three months if the maps were to accompany the whole number of copies ordered. The committee therefore report in favor of engraving for enough copies to supply the departments and the libraries connected with the House.

Mr. CARTTER. I should like to know what this engraving is which the committee propose to appropriate to a part only of the edition of the President's message. If the engraving can be dispensed with in a part of the edition, why not in the whole of it?

Mr. RIDDLE. If it is the wish of the House, the whole of the engraving can be executed, as was requested by the Departments. But the distribution of the work, under such circumstances, would be delayed for two or three months.

Mr. CARTTER. Are these engravings essential to the understanding of the reports?

Mr. RIDDLE They are so considered by the Departments.

Mr. CARTTER. Then, if they are essential, they ought to be put in the whole edition.

The question was then put upon the resolution, and on a division, the Chair announced 52 in the affirmative.

Mr. RIDDLE demanded tellers; which were ordered; and Messrs. CLINGMAN, and PARKER of Pennsylvania, were appointed.

The question was then taken, and the tellers reported—ayes 74, noes 37; no quorum voting.

The SPEAKER. If there be no objection, the Chair will again divide the House, to ascertain if there is a quorum present.

There being no objection, the tellers resumed their places, and a recount having been had, the tellers reported—ayes 83, noes 40.

So the resolution was agreed to.

The SPEAKER announced that petitions were in order from the State of Maine.

NEW CUSTOM-HOUSE IN MAINE.

Mr. SMART. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Commerce be requested to inquire into the expediency of making an appropriation for a custom-house in the Belfast collection district, in the State of Maine.

I will simply say that it is merely a resolution of inquiry.

There being no objection, the resolution was received and adopted.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of resuming the consideration of the President's message.

WITHDRAWAL OF PAPERS.

Mr. MILLER. I ask the gentleman to withdraw that motion for a moment, to enable me to obtain leave to withdraw certain papers from the files of the House.

Mr. HOUSTON. As there can be no objection, I will waive my motion for a moment.

Mr. MILLER. I ask leave to withdraw the papers in the case of John Batten and others, in relation to the legalizing certain powers of attorney for the location of certain land warrants.

There being no objection, the leave was granted.

PUBLIC PRINTING—SUPPLY OF PAPER.

Mr. HAVEN. I desire to make a report from the Joint Committee on Printing. It will take but a moment. I believe I have a right to make the report, and I presume the gentleman from Alabama [Mr. HOUSTON] will not object to it.

The SPEAKER. The right of the gentleman from Alabama to make the motion he has submitted is very clear. It is equally a privileged motion, and must be first put.

Mr. HAVEN. Then I ask the gentleman from Alabama, inasmuch as it is intended to forward the business in hand, to give way long enough to enable me to offer the resolution which has been agreed upon by the Joint Committee on Printing. It will lead to no debate or discussion.

Mr. HOUSTON. I have no objection.

Mr. HAVEN. I am instructed by the Joint Committee on Public Printing to offer the following joint resolution:

A Joint Résolution authorizing the settlement of the accounts of the public printer for paper used by him since the 1st of November, 1852.

Resolved by the Senate and House of Representatives, That the accounts of the public printer for paper furnished and used by him since the expiration of the time specified in the sixth section of the act "making appropriations for the naval service, for the year ending the 30th of June, 1853," also for paper to be furnished and used by him until the Superintendent of Public Printing shall commence furnishing and delivering the paper to be used for the public printing, be settled and paid, as the accounts of the public printer have been settled and paid, under said sixth section of said act, and as is provided for in said section.

If the House will allow me to read that sixth section, I want then to put the joint resolution on its passage. The sixth section of the act referred to in the resolution is as follows:

"SEC. 6. *And be it further enacted*, That Robert Armstrong, the public printer, be, and he is hereby, directed to execute without delay, the public printing ordered by either House of Congress since his election as public printer; and that all paper used by the public printer for the space of sixty days from this date, shall be furnished by him at cost, and be of the quality and description specified in the law passed at this session of Congress."

The sixty days expired about the 1st of Novem-

ber, and as a large amount of printing had accumulated at the close of the last session of Congress, the public printer furnished additional paper, and has been furnishing it, and will furnish it until about the last of this week. This resolution is intended to provide for the paper thus furnished. I ask that it may be put upon its passage.

The joint resolution was then read a first and second time by its title, ordered to be engrossed and read a third time; and being engrossed, was subsequently read the third time and passed.

Mr. HAVEN. I move that the vote just taken, by which the resolution was adopted, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

Mr. HAVEN. I have another resolution from the Committee on Printing, which I desire to offer, but I will not press it at this time without the consent of the gentleman from Alabama, [Mr. Houston,] by whose courtesy I now have the floor.

Mr. HOUSTON. I will give way for the gentleman to offer his resolution, if he desires it.

SUPERINTENDENT OF PUBLIC PRINTING.

Mr. HAVEN then, from the Committee on Printing, reported the following joint resolution, viz:

Joint Resolution authorizing the employment of two clerks and one messenger in the office of the Superintendent of the Public Printing:

***Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Superintendent of the Public Printing be, and he is hereby, authorized and empowered to employ in his office two clerks, at the annual compensation of $1,500 each, and one messenger at three dollars per day, being the same annual compensation and per diem allowance of the clerks and messengers in the office of the Secretary of the Senate, and in the office of the Clerk of the House of Representatives; and that the pay of the clerks so employed commence on the first day of December, 1852.**

Mr. CARTTER. I object.

Mr. HAVEN. Perhaps I should say a very few words in reference to this resolution.

Mr. CARTTER. I objected to the reception of the resolution. I desire to know whether the resolution is entertained as a matter of course; or whether it requires a suspension of the rules for its introduction?

The SPEAKER. The Committee on Printing is empowered to report at any time when any of its members can get the floor.

Mr. CARTTER. Must it not lie over for discussion?

The SPEAKER. Not under the rules.

Mr. HAVEN. I desire to inform the House, what most of the members are undoubtedly already aware of, that the bill which passed Congress during the last session, providing for the public printing, charged upon the Superintendent of the Public Printing the duty, not only of attending to the printing for the House, but also with that of attending to the printing of the Senate and of the several Departments of the Government. Now, I understand that in each of the Departments there is a force nearly or quite equal to one clerk mostly employed to attend to the business of printing for that Department. That business is now transferred to the office of the Superintendent of the Public Printing; and it is quite impossible for him, although he gives his whole time to it, to discharge the entire duties devolved upon him by that act.

But, Mr. Speaker, not only this, but we have heretofore had one or two clerks in each House of Congress to attend to this business, and the Joint Committee on Printing have always had one to attend to the business for them. This labor, too, is now devolved upon the Superintendent.

Seeing, then, the complicated duties which the act of the last session casts upon the Superintendent, the Committee on Printing were unanimous in recommending that these two clerks be allowed him. I do not, however, desire to take up the time of the House with discussion or explanation, and I ask that the resolution be put upon its passage.

The resolution was then read a second time by its title.

Mr. RICHARDSON. The gentleman from New York [Mr. Haven] has assured us that this resolution comes unanimously recommended by the Committee on Printing of the two Houses.

Now, Mr. Chairman, I am opposed to this sort of legislation. It seems to me that it has been our object during the last few years to employ public officers to superintend, and not transact the public business. If we go on in this way and give two clerks and one messenger to the Superintendent this year, three or four next year, and five or six the year after will be asked for. If we give these two clerks and one messenger now, the result will be that we shall go on increasing the number till we shall have a little department built up to attend to the purposes of printing.

I think it is high time to begin to curtail the expenses of the Government, and not to enlarge them. I do not know why it is that we have not needed these clerks and messengers before to transact this business; and if we have not needed them before, I do not know why we should now make this addition to the expenses of the Government.

Mr. HAVEN. Let me say to the gentleman from Illinois, [Mr. Richardson,] for the sake of information, that I understand there have heretofore been one clerk employed by the House and another by the Senate to attend to this business.

Mr. RICHARDSON. What do they do now?

Mr. GORMAN. I ask the gentleman from Illinois to allow me to say a word for the purpose of explanation. It will be remembered by the House that the law of the last session puts all the printing for both houses of Congress, and for all the departments of the Government, into the hands of the Superintendent of the Public Printing. Now there is in each one of the bureaus, or each one of the departments—I am not sure which—a clerk detailed specially to take charge of the business of printing. There are at least seven clerks employed in the various departments of the Government to do business, all of which is now performed by this Superintendent. These two clerks, however, will only be substituted for the one now employed by the Senate, and the one employed by the House of Representatives. There is also one messenger now employed for the same purpose, but there is no law authorizing these clerks and messenger to be employed by the Superintendent of the Public Printing.

Mr. RICHARDSON. What I want to know of my friend from Indiana is, whether these clerks in the Departments, and in the House and Senate, will still be continued in office after their duties shall have been transferred to those provided for by this resolution? That is the point I desire to understand. Can the gentleman from New York [Mr. Haven] give me any information upon that subject?

Mr. HAVEN. That is a point upon which the Committee on Printing have no information. We only know that the act of the last session took from these Departments the necessity of employing these clerks, and devolved it upon the Superintendent of Public Printing.

With reference to the clerks heretofore employed by the Senate and House of Representatives for this purpose, as well as those employed by the Departments, the Committee on Printing have not felt it their duty to legislate upon the subject.

Mr. RICHARDSON. I am opposed to this resolution as it is, unless it also disposes of those clerks in the Departments, and in the Senate and House of Representatives, who have superintended this matter previously.

If this resolution provides, as I suppose it does, for employing these clerks, in addition to those already employed—if those heretofore employed to superintend this matter in the several Departments are still to be continued, it will be but building up a new Department in the Government, for the purpose of superintending its printing. Now, I think we have already Departments enough in the Government. We have public officers enough to transact all our public business, and I am opposed to increasing them, as is proposed in this resolution.

Mr. STANTON, of Kentucky. The House will recollect, that the bill passed at the last session, revolutionized the whole system of printing, and I think it will be admitted by all, that the change effected has been wise and salutary. By that measure much of the duty which belonged to the Committee on Printing of the two Houses, has been transferred to the Superintendent. In addition to this, the purchase of paper, and many other services, necessarily performed by the contractor under the old system, are devolved by the new law upon the officer appointed to superintend the public printing. The honorable gentleman from Illinois, [Mr. Richardson,] does not seem to be aware of the onerous character of the duties imposed upon the Superintendent, nor of the extent of them.

In the first place, it is made the duty of that officer to contract for all the paper used in the public printing ordered by Congress, and also for that used in the execution of the printing done for the several Departments of Government. He has not only to make these contracts, but he is required to inspect personally, all the material thus contracted for when it is delivered, so as to see that it conforms to the stipulations of the several contracts. This paper has to be taken care of, delivered to the printer as he needs it, and properly accounted for to Congress. He is not only by law required to do this, but he must personally superintend the printing as it progresses, and see that the work turned out by the public printer is executed in conformity to law, and in accordance with the terms of his contract. Then, sir, there is the binding of the public documents, which also requires his personal attention, and necessarily consumes much of his time. All these duties—and these are enormous when the extent of the public printing is considered—are imposed upon that officer.

Mr. RICHARDSON. Will the gentleman allow me to ask him a single question?

Mr. STANTON. Certainly.

Mr. RICHARDSON. If the Superintendent must do all this personally, what is the object in appointing clerks?

Mr. STANTON. I had not finished the enumeration of the many duties which, by law, are enjoined upon the Superintendent; if my honorable friend had desisted for a moment he would have seen very clearly, I think, the necessity for having clerks. In addition to those duties, the Superintendent is required to keep and audit the accounts of the public printer. This duty was heretofore performed by the Joint Committee on Printing, and they were compelled to keep a clerk for that purpose. The committee knows, from experience, that this is a laborious and troublesome duty, and enough of itself to engage the exclusive attention of a single person. Besides this, there are the accounts for paper furnished, binding done, and printing delivered. If the gentlemen who oppose the measure provided for by the joint resolution now under consideration, were aware of the immense labor which is embraced in all these duties, I am sure they could not hesitate for a moment to allow the clerks. They certainly have no desire to embarrass the execution of the public printing by denying to the Superintendent the aid which his duties imperiously demand.

The calculations necessary to determine the amount of work for which the printer is to be paid, are of themselves very great labor. The Committee on Printing, for want of time to make them, has been compelled to impose that duty upon a clerk. The work to be done by the printer for the departments, increases materially that labor. But two clerks are asked for. I think there ought not to be any hesitation in granting them. It was the unanimous opinion of the committee that not less than two were required. As regards the clerks in the Departments heretofore charged with many of the duties now imposed upon the Superintendent, I have no doubt they can be employed profitably in other services, as the force is said not even now to be adequate to the labor to be performed.

Mr. CARTTER. It is assumed by the mover of this resolution, and those who advocate it, that it is made necessary by the duties devolved upon the Superintendent of the Public Printing by the transfer to him of the duties of six or seven of the clerks in the Departments, and one or two from the Committees on Printing in the Senate and House of Representatives. If this be true, the resolution ought to provide for vacating the offices of those clerks, so that the Government may receive some equivalent in the shape of a release from pay when it creates new obligations to pay new clerks and to employ them. But we hear nothing of this in the resolution.

Now, it appears to me that we ought to hear something from the Superintendent himself upon this subject. We are not in the possession of that accurate information we should have before voting to increase this clerical force.

Mr. STANTON. If the gentleman will allow

me, I will say that the Superintendent of the Public Printing was before the Committee on Printing this morning when we deliberated upon the subject, and gave us the information which we have communicated to the House.

Mr. CARTTER. Well, sir, we have no report setting forth the necessity of this increase. We have not the details here. Now, it will be found in practical experience, that the Committee on Printing will have to discharge its customary functions in reference to the printing of the two Houses of Congress; and it will be found by experience that even in orders from the Departments of the Government that they will have to provide proof-readers, in order that the heads of the Departments may know from competent authority—from authority under their own supervision—that the documents are correctly printed.

Now, for the purpose of putting the House in the possession of facts, I move the postponement of the consideration of this resolution for a week.

Mr. RICHARDSON. Postpone it indefinitely.

Mr. CARTTER. One week is enough.

The question was then taken, and the motion was agreed to.

PRESIDENT'S MESSAGE—THE TARIFF.

Mr. HOUSTON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STEVENS, of Pennsylvania. Will the gentleman from Alabama give way for one moment?

Mr. HOUSTON. I have already given way three times, and do not feel inclined to do so any more.

Mr. STEVENS. I desire to withdraw the objection I made to the proposition made by the gentleman from Michigan, [Mr. STUART,] in reference to the extension of the time for closing debate.

Mr. HOUSTON. Then I yield.

Mr. STEVENS. At the time I made the objection I was not aware that the chairman of the Committee on Ways and Means [Mr. HOUSTON] had the floor, and proposed to make some remarks upon the subject. I am very desirous to hear his views upon the subject, and I withdraw the objection.

Mr. STUART. I then renew the motion.

The SPEAKER. At what time does the gentleman propose to close debate?

Mr. STUART. I move that the debate be terminated at three o'clock.

Mr. JONES, of Tennessee. I object to three o'clock.

Mr. STUART. Then I adhere to two o'clock, in order to get over the objection.

Mr. JOHNSON, of Tennessee. I object to that hour.

Mr. STUART. No gentleman in this House was ever cut off from the floor which he had by right; and I really shall be sorry, for one, to see this House now refuse to the gentleman from Alabama [Mr. HOUSTON] its ordinary courtesy.

Mr. JOHNSON, of Tennessee. I object.

Mr. HOUSTON. I renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The business before the committee is the consideration of the annual message of the President of the United States. The time limited for closing debate upon that subject, was yesterday at two o'clock. That time having passed, it is the duty of the Chair to execute the order of the House, and the Clerk will therefore proceed to read the resolutions in order; when, under another rule, they will be open to amendment as they are read.

Mr. HOUSTON. What would be the decision of the Chair if I should make the point, that under a rule of the House, the mover of a proposition, or one who reports from a committee, has the right to address the House after debate has closed? Would the Chair decide that I have, or have not, the right to make a speech?

The CHAIRMAN. The rule to which the gentleman from Alabama alludes, as the Chair recollects it, has reference to propositions reported from committees; and if the gentleman says he made this report as chairman of the Committee on Ways and Means, the Chair will decide that he is entitled to the floor.

Mr. HOUSTON. I did not have the subject before the Committee on Ways and Means at all, and cannot avail myself of the benefit of the Chairman's decision.

The CHAIRMAN. The Chair then decides that the resolutions having been introduced upon individual motion, the gentleman has no right to the floor.

Mr. HOUSTON. I might have had the floor on yesterday, if I had objected to the obituary proceedings at that time. I do not regret now, under the circumstances, that I have lost my right to speak, although then entitled to it.

The CHAIRMAN. If the gentleman will suspend a moment, the Chair will consult the rules upon the question.

Mr. CLINGMAN. I hope that by general consent the gentleman from Alabama will be allowed to proceed. I think no one will object under the circumstances.

Mr. FICKLIN. It cannot be done.

Mr. HOUSTON. I withdraw the point I made, and ask for the reading of the resolutions.

The first resolution, which was then read, was adopted, as follows:

"1. *Resolved*, That so much of the annual message of the President of the United States to the two Houses of Congress at the present session as relates to our foreign affairs, together with the accompanying correspondence in relation thereto; to further legislation for the protection and punishment of foreign consuls residing in the United States; to a revival, with modifications, of the act of the 10th of March, 1838; to restrain unlawful military expeditions against the inhabitants of conterminous States or Territories; to the fulfilling our treaty stipulations with Mexico,—be referred to the Committee on Foreign Affairs."

The second resolution was then read, as follows:

"2. That so much of said message as relates to the existing tariff, and recommends a revision and change of its provisions; so much as relates to the general condition of the Treasury and finances of the Government; to the revenue and the prevention of frauds in its collection; the public debt and its payment; the estimated receipts and expenditures for the ensuing fiscal year,—be referred to the Committee on Ways and Means."

The CHAIRMAN. To the second resolution of the series, the gentleman from New York [Mr. BROOKS] proposes an amendment, which will be read by the Clerk.

The amendment of Mr. BROOKS was read, as follows:

"Except so much of the message as relates to the tariff and revenue from customs, which shall be referred to a select committee of seven, with power to examine witnesses, and to collect testimony, here and elsewhere, and with instructions to report by bill or otherwise, on or before the 25th of January next."

And to this amendment the gentleman from Tennessee, [Mr. JONES,] proposes to insert, after the word "otherwise," the following, viz:

"And if by bill, preserving the *ad valorem* principle, and reducing the existing duties on imports, with a view to the collection of no more revenue than shall be necessary to defray the legitimate expenses of the Government economically administered."

And the gentleman from Indiana, [Mr. LOCKHART,] proposes the following substitute for the resolution and amendment:

"That so much of the President's message as relates to the tariff, be referred to a select committee of seven, which committee be, and the same is hereby, instructed to report a bill on or before the fourth Monday in January next, to graduate and reduce the tariff to a revenue standard."

The question is first upon the adoption of the amendment proposed by the gentleman from Tennessee [Mr. JONES] to that presented by the gentleman from New York, [Mr. BROOKS.]

Mr. LOCKHART. I wish to withdraw the substitute which I offered the other day, and to offer in its place the one I send to the Clerk's table.

The CHAIRMAN. The gentleman can have it read at this time, for the information of the committee, but it is not in order to offer it now.

The proposed substitute was then read, as follows:

Except so much of the message as relates to the tariff and revenue from customs, which shall be referred to a select committee of seven, with power to examine witnesses and to collect testimony, here and elsewhere; which committee is hereby instructed to report a bill on or before the first Monday in February next, to graduate and reduce the tariff to a revenue standard; and in framing such bill said committee shall, as far as practicable, conform to the principles of the tariff of 1846.

The CHAIRMAN. The question is upon the adoption of the amendment offered by the gentleman from Tennessee, to that offered by the gentleman from New York.

Mr. FICKLIN. I ask for tellers upon it.

Mr. BROOKS. I ask a division of that amendment, if it be in order. I desire to have it divided into two parts, making the words "preserving the *ad valorem* principle" as one part, and the words "reducing the existing duties on imports, with a view to the collection of no more revenue than shall be necessary to defray the legitimate expenses of the Government economically administered," the second part.

Mr. RICHARDSON. It is not divisible; it is a single proposition.

Mr. JENKINS. Is it in order to move to strike out a portion of the amendment to the amendment?

The CHAIRMAN. Not at this time. That would be in the nature of an amendment, which would not be admissible. The Chair thinks the amendment offered by the gentleman from Tennessee [Mr. JONES] is not divisible. The question is upon its adoption, and upon that tellers are demanded.

Mr. BROOKS. Do I understand the Chair to decide that this amendment, embodying two principles—first, the *ad valorem* principle, to which the House may be opposed; and second, the economical administration of the Government, of which the House is in favor—is not divisible?

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Tennessee, is not divisible.

Mr. BROOKS. Not wishing to take an appeal from the decision of the Chair, I am desirous of availing myself of the privilege to say, that while I oppose the first branch——

Mr. RICHARDSON. I call the gentleman to order.

Mr. HOUSTON. The gentleman has made two or three speeches.

Mr. BROOKS. I have a right to make a speech in opposition to the amendment, under the rule.

Mr. HOUSTON. The amendment was offered some three days ago, and it cannot be discussed now; but amendments which may be offered hereafter, can be discussed.

The CHAIRMAN. The Chair will state to the gentleman from New York, that in his opinion, the rule to which he refers applies to amendments which are offered after the time for closing debate has arrived, and not to an amendment which is offered in the Committee of the Whole, before that time.

Mr. BROOKS. I suggest to the Chair, that there has been no opposition to this amendment at all.

Mr. HOUSTON. The amendment has been discussed.

The CHAIRMAN. Debate on this amendment is not in order. The gentleman from New York will see by reference to the rule, that it applies to amendments offered after the time fixed by the House for closing debate, and not to an amendment offered before that time.

Mr. BROOKS. Let the rule to which the Chair refers be read.

The 34th rule was then read, as follows:

"No member shall occupy more than one hour in debate on any question in the House, or in Committee; but a member reporting the measure under consideration from a committee may open and close the debate: provided, that where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer, after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it, and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment, nor an amendment to the amendment, shall be withdrawn by the mover thereof, unless by the unanimous consent of the committee."

Mr. BROOKS. I wish to call the attention of the Chair to that part of the rule which says: "Any member shall be allowed, in committee, five 'minutes to explain any amendment he may offer; 'after which any member who shall first obtain 'the floor, shall be allowed to speak five minutes 'in opposition to it."

The CHAIRMAN. If the gentleman will go back to the sentence immediately preceding that, he will see that the words "provided, that where debate is closed by order of the House," qualify the subsequent part of the rule.

Mr. JONES, of Tennessee. I think it will satisfy the gentleman from New York that I would have no right to make a five minutes speech in opposition to his amendment.

Tellers were then ordered, and Messrs. BROOKS, and JONES of Tennessee, were appointed.

The question was put on the amendment of Mr. JONES, of Tennessee, and the tellers reported—ayes 70, noes 70.

The CHAIRMAN. The tellers report—ayes 70, noes 70.

Mr. CHANDLER. The gentleman from Missouri [Mr. DARBY] is unable to leave his seat, and requests that I ask the committee to excuse him from passing between the tellers, and that his vote be recorded in the negative.

[Cries of "Count him!" "He is excused!"]

Mr. JONES, of Tennessee. Unless the vote is reopened to all, I shall object. There are a great many members now present who did not vote, and who desire to vote in the affirmative.

Mr. CLINGMAN. It is the right of every member on this floor to vote. The gentleman from Missouri is unable to walk, and therefore unable to pass between the tellers. I move, to obviate all objection, that by common consent, there be a recount.

[Cries of "Recount!" "Recount!"]

Mr. BROOKS. I object to a recount. There was no disagreement between the tellers. Whether the gentleman is included or excluded will not change the result.

The CHAIRMAN. As the vote now stands, it is a tie—70 in the affirmative and 70 in the negative.

A MEMBER. How does the Chair vote?

The CHAIRMAN. The Chair would be glad that the gentleman would withdraw his objection, so that a recount might be ordered.

[Cries of "Let the Chairman vote!" "Let the Chairman vote!"]

Mr. AVERETT. I was in the Hall when the committee divided, but not being aware of the precise state of the question did not cast my vote. I also ask to be allowed to vote.

The CHAIRMAN. If there be no objection the Chair will order a recount.

[Cries of "Recount!" "Recount!"]

At the request of Mr. CLINGMAN the amendments of Messrs. BROOKS, and JONES of Tennessee, were again read.

The CHAIRMAN. The tellers will resume their places.

Mr. BROOKS. I do not withdraw my objection to a recount. There was no disagreement between the tellers as to the count already taken.

The CHAIRMAN. The Chair understood that the gentleman had withdrawn his objection, and directed the tellers to resume their places.

Mr. BROOKS. I never withdrew my objection.

The CHAIRMAN. If the recount be objected to, the Chair, as he understands the rule, has the right on a tie to give the casting vote, and he therefore votes in favor of the adoption of the amendment. The amendment is therefore adopted, and the question recurs on the amendment as amended.

Mr. STANLY. What became of the question of the right of the gentleman from Missouri to vote?

The CHAIRMAN. His voting was objected to.

Mr. STANLY. I raise the question of order that no gentleman has a right to object to his vote.

The CHAIRMAN. The Chair is of the opinion objection can be made after the result of the vote has been announced.

Mr. CHANDLER. I had risen and endeavored to catch your eye before the announcement of the result.

The CHAIRMAN. The Chair would be glad to allow a recount if it could be done without objection, but he cannot control the matter.

Mr. CLINGMAN. I make the point, that whenever a mistake has occurred in voting, or whenever tellers have left their places before all members desiring to vote shall have voted, it is competent for the committee, without reference to the objection of any member, to order a recount. In this instance, it appears the gentleman from Missouri had not voted. He had a right to vote, and was endeavoring to vote when the tellers left their places. I hold, therefore, that there has been no count; and the objection of the gentleman from New York, or the objection of any other gentleman, is not to prevent a fair vote—a vote in the usual mode to ascertain the sense of the committee.

[Cries of "That is right!" "That is right!"]

The CHAIRMAN. If the committee will indulge the Chair, he deems it an unusual condition of things, at least, when a member who has not the power to walk—being in the committee, and expressing a desire to vote—is not allowed that privilege; and the Chair, under these circumstances, will sustain the point made by the gentleman from North Carolina, and will now decide that a recount is in order.

Mr. HALL. I demand tellers.

The CHAIRMAN. The Chair will consider this a new count altogether.

Tellers were ordered, and Messrs. HALL, and BROWN of Mississippi, were appointed.

Mr. HAVEN. What is the question upon which the committee is to vote?

The CHAIRMAN. The question now is on the adoption of the amendment offered by the gentleman from Tennessee [Mr. JONES] to that offered by the gentleman from New York, [Mr. BROOKS.]

The question was taken, and the amendment was agreed to, the tellers having reported—ayes 84, noes 80.

Mr. HILLYER. I propose to add the following amendment:

Resolved, That in the adjustment of the tariff by the American Congress, the principle of protection ought to be abandoned, and duties on imports ought to be laid for the purpose of raising revenue; and that the said committee be instructed to consider so much of the President's message as is referred to them with a view to the modification of the existing tariff upon the principle herein expressed.

Mr. HILLYER. I have not proposed this amendment that I may have an opportunity of submitting a five minutes speech, but my purpose is to elicit the vote of this committee, and the House, on a great political question. We have already determined that the tariff shall be adjusted on the *ad valorem* basis. This is not sufficient—an *ad valorem* tariff may be eminently protective. My amendment proposes something further; that the tariff shall be adjusted on the principle of free trade so far as may be compatible with the collection of a sufficient revenue. And by its adoption we will publish and make known to all classes of our people that our legislation on the subject of the tariff will be for the sole purpose of raising revenue, and not to foster one class at the expense of the rest. This, in my judgment, is just. If such is the determination of the House, the people, and particularly the capitalists of our country, ought to know it. It is due to the country, and, in the present age of cordial intercourse among all nations, it is due to the civilized world we should announce that the policy of protection is abandoned by the American Congress.

I propose by this amendment to lay down the line straight and clearly marked between the advocates of a tariff for protection and the advocates of a tariff for revenue only. It admits of no evasion, no dodging. Those who favor a tariff for protection must vote one way, and those who favor a tariff for revenue must vote another. It is fair, and honest dealing. It announces frankly and fairly our purpose, so that none need be deceived. I trust that the proposition will be adopted.

Mr. HOUSTON. I am opposed to the whole proceeding, but have not now the time to state the reasons why I am so. I think this not the proper time to revise our revenue system; we should wait for the next Congress to perform that important work; and saying thus much I will take my seat.

Mr. JENKINS. I demand tellers on the amendment.

Tellers were ordered; and Messrs. HARRIS, of Tennessee, and GREY were appointed.

The question was then taken, and the amendment was agreed to; the tellers having reported—ayes 85, noes 41.

Mr. THOMAS M. HOWE. I submit the following amendment to the amendment:

Resolved, That said committee be instructed to report a bill imposing specific duties wherever practicable, with a view to the prevention of frauds upon the revenue by undervaluations; and at the same time to protect (so far as specific, in place of *ad valorem*, duties will do so) the industrial interests of our own country against the competition of foreign cheap labor and the fluctuating prices of foreign markets.

Mr. Chairman, I have offered this amendment for the purpose, if possible, of eliciting a vote which shall show to this House and to the country the position of the American Congress on the question of protection. I have submitted it in good faith.

I belong to that school of politicians, although comparatively a young man, denominated by the honorable gentleman from Illinois [Mr. MOLONY] antiquarians, and I think I represent the sentiment of a large majority of one hundred and forty thousand people, whose representative I am on this floor. The larger portion of my constituents think that the whole duty of this Government is not discharged when it has provided merely revenue for keeping its wheels in motion—merely money for the salaries of a few public functionaries. They think that one of the highest duties of Government is to protect the industrial interests against foreign competition of cheap labor.

As I have already said, I am anxious to elicit a vote on this amendment, but not such a one as we recently had; for I think I saw some protectionists vote the free-trade principle, for the sake of bringing the question made by the gentleman from Georgia [Mr. HILLYER] into the House, that the yeas and nays might be had on it. I am desirous of having a vote, so that we may see where parties stand. My constituents regard it as a duty of Government to take care of the industrial interests of the country, and I do not hesitate at all to take my stand among the antiquarians, and to say that my sentiments are the antiquated sentiments which were entertained by the fathers of the Constitution. Although not educated a professional man, although not called by my profession or pursuits to consult largely either your statutes or the history of your legislation, yet I find that the second law on your statute-books is a revenue law, which sets forth, among other objects, in its preamble, that "in order to encourage and protect American labor, be it enacted," &c.

[Here the hammer fell.]

Mr. BROWN, of Mississippi. I object to the amendment of the gentleman from Pennsylvania, [Mr. HOWE.] I will not detain the House by expressing my views——

Mr. STEPHENS, of Georgia. I rise to a question of order. Is this amendment in order? Does it not conflict with the proposition just adopted by the committee?

The CHAIRMAN. The Chair thinks that this is not a question of order to be decided by the Chair.

Mr. STANLY. If my friend from Mississippi [Mr. BROWN] does not desire to discuss the amendment, I will consume his five minutes' time, if he will allow me.

Mr. BROWN. My object was to save time. I will oblige the gentleman by giving way to him.

Mr. STANLY. I oppose the amendment of the gentleman from Pennsylvania, [Mr. HOWE,] not because I object to any of the principles he advanced. I heartily concurred in all of them, for I am a thorough-going protective-tariff man, giving protection for the sake of protection, without any humbugging "incidental" matters of revenue. I oppose the amendment of my friend from Pennsylvania because he wants an impossibility. He wants to "fix the position" of this House upon the tariff. Why, who on earth can do it? What is the position of our friends of the Democratic party upon the tariff? You go to some of the iron men in Pennsylvania, and hear what they say about it. Why, they out-Herod Herod, and beat me all hollow. Ask a southern Democrat about the tariff, and it is the most formidable thing in existence. Why, in some parts of the southern country they sent down the militia and stationed them at bridges to keep off the tariff of 1842 from overruning the country. [Laughter.] How are you going to fix the Whig party upon that subject? They are "fixed already." They are in a "bad fix." If there is any life in the party, I think my friend from New York will have to blow pretty hard to make it show itself. [Laughter.] How is my friend from Pennsylvania [Mr. HOWE] going to "fix our position" upon it? What good is he going to do by it? As a general rule, we Whigs are in favor of protection. That is one of the things fixed upon us by the Constitution of the country. We could not get

rid of it if we would. I oppose his effort to fix it upon us, therefore. When the Kane letter went to Pennsylvania, which showed that James K. Polk was a better tariff man than Henry Clay, the Democratic party in Pennsylvania fixed protection on themselves; but now they are rather inclined to be free-traders; and to fix parties now upon the tariff is, of all things in the world—with all respect to my friend from Pennsylvania—the most impossible thing that could be attempted. In that State, in the election of 1844, banners were carried about the streets inscribed with "Polk, Dallas, and the Democratic protective tariff of 1842." In my country, it was "Stanly's abominable tariff," because I voted for it. It was "the odious Whig tariff of 1842." Our Democratic friends in Georgia would not call it the "Democratic tariff of 1842." I ask how you are going to fix their positions? As well attempt to "fix" the track of a snake in the sand as fix the Democratic party on the tariff.

"They wire in and wire out,
And leave the matter still in doubt,
Whether the snake that made the track
Was going south, or coming back."

How can you fix such a thing. I hope that we will not attempt any improbability. I disapprove of the whole move of the gentleman from New York, [Mr. BROOKS.] If he makes any Buncombe home by it, it is no measure for the Whig party. It is no measure of the Administration, as was insinuated a day or two ago. I repeat, it is no measure of the Whig party—it is the Buncombizing of the gentleman from New York. I might ask, Where is the Whig party?—to save the necessity of the question being asked on the other side of the House. It looks, just now, as if it was nowhere. Let us, instead of making issues now, fall with grace. I cry mercy, of my friends. Let us leave our friends on the other side, in the full enjoyment of their power, rather than "fix" anything on the Democratic party. We may not rise again soon—we may, as we have before, after those coming into power shall have practiced the enormities we expect of them. I trust the Whigs will engage in no contest to fix the position of parties now.

The question was then taken upon Mr. HOWE's amendment, and it was not agreed to.

Mr. CLINGMAN. If an amendment be now in order, I will send one to the Chair, which I desire as an addition to the resolutions already adopted, in the form of a bill. I desire that the Committee of the Whole, in reporting to the House, may not only report resolutions, but something practical.

The CHAIRMAN. Such an amendment would not be in order now. The question is on the amendment offered to the second resolution.

Mr. CARTTER. I offer the following amendment, if it is in order, to come in the fourth line of the amendment of the gentleman from New York, [Mr. BROOKS:] "with a view to ultimate free trade and direct taxation."

I think that we might as well begin to look this subject square in the face. The history of tariffs show that they are not reliable for any given amount of revenue; that they are defective in not being commensurate with the demands of the Government, or that they are superabundant in the production of resources for the Treasury. I conceive it impossible in the nature of a tariff, that it can be relied upon as a permanent source of revenue. I am opposed to the idea that a tariff should be levied for revenue purposes alone. In that view it is a cheat; but I have not time to elaborate upon this point. I will merely declare what my view of the subject is, without the argument. I am in favor of that resolution without the amendment, because it abolishes your custom-houses; because I believe it is a mere political sanitary measure to purify the corruption of your cities, that are becoming cancers upon the political being of this Republic. I am for saying the three millions of money which is annually squandered upon worthless persons, and constitutes to them a fund to corrupt and eat out the purity of the franchise. I am in favor of it, because it declares the only sentiment that can be recognized under the Constitution of the United States—that of dealing out to the tax-payer the measure of equal justice—because it imposes the public burdens upon the property of the country. I am in favor of it, because it not only deals out personal equality and justice in the burden-bearing of this Government, but it deals out sectional justice to the different portions of the Union. We hear the complaint coming up from this region of the Confederacy, and then from that, that we and they are paying the taxes of this Government, and all for the purpose of fostering an interest that might lie in a third section of the Union. Under this resolution, there can be no complaint of that kind. It brings up the North, the South, the East, and the West, in the harness, to bear equally the burdens imposed by this Government in sustaining it. I am in favor of it for another reason. I am in favor of it, because it is the only measure that will ever reduce the expenses of this Government to that standard necessary to the purity of the Government and an economical administration of its functions. You may talk about an economical administration of the Government with a revenue tariff, and talk until doomsday, but it will never arrive.

[Here the hammer fell.]

Mr. BROOKS. I wish to offer a few remarks in opposition to the amendment of the gentleman from Ohio [Mr. CARTTER] who proposes to amend my original proposition. In the course of these remarks, it will be necessary for me to state why I introduced it. I have been suspected, here and elsewhere, of sinister objects in introducing a resolution for the reduction of the revenue. On the other side of the House, I have been accused of throwing a torpedo there for explosion, in order to be amused with its effects. In reply to all this, it is enough for me to say that my previous course here shows that I am not in the habit of indulging in any such amusements or experiments in this legislative hall. I do not give my votes or base my acts upon any such principles whatsoever. I found before I came here, that in the sub-treasury in the city of New York, in the month of September last, there were nearly seven millions of dollars. I found under that accumulated amount of money in the treasury, that rates of interest were rising, and that the prices of produce were falling. I found that capitalists were loath to embark their capital, and the reason of that was, that with nearly seven millions in the sub-treasury, and but a little more than nine millions in the banks of the great commercial emporium, there was fear of a coming panic. To say the least, there was uneasiness and general distrust in that commercial metropolis; and in order to be relieved from it, a great effort was made with the Secretary of the Treasury in Washington to procure a depletion of the sub-treasury. Democrats as well as Whigs united in soliciting him to deplete the Treasury; and their common efforts were successful. In what manner this depletion was effected, I cannot say, because I have no means of ascertaining the movements of that Department, but I have no reason to doubt that it was rightfully done—that it was done according to law, and with reference to the best interests of the country. In a very short time the sub-treasury was depleted two or three millions, I cannot say how; but I venture to say that if we had the power of examination, it would be found that it was depleted by depositing large amounts of money in the hands of disbursing officers of the Government. If you had the means of ascertaining the amount of money in the hands of these disbursing officers of the Government, I think you would find between six and seven millions of dollars.

Whenever these accumulations become large in the great commercial emporium of the country, there must be an instant depletion, in order to save commerce and the trade from its effects, or the panics attendant upon them. Seeing this state of things, knowing, too, that the Secretary of the Treasury, the Government, the merchants, the manufacturers, and the capitalists deplored it, I was anxious for the instant reduction of the revenue, and hence my proposition was introduced to enlarge the free list, and to reduce the duty upon articles coming into competition with our manufacturers. Was there any sinister object in that? As a representative of the commercial emporium, could I do otherwise than lay my views before the House and before the country, and ask for legitimate Congressional relief? If this surplus is to continue, as there seems to be a disposition on the part of the House to continue it, the amount of money must be increased in the hands of the disbursing officers, or you must vote away most lavish expenditures in this House. I venture to say, if this state of things continues even after the Secretary of the Treasury shall disburse what amount of money may be proper to the purchase of the public debt, (of which over eleven millions were paid last year, and about sixteen millions, in principal and interest, the year before,) after making all the useful appropriations for carrying on the Government, there will then be, the revenue all the while increasing, a general scramble and grab throughout the country for the surplus of the Treasury.

I have the highest respect for Congress, but I know that Congressmen can no more resist the temptation of fifteen or twenty millions thrown before them, than any other individuals, if a like amount were thrown before them, on Pennsylvania avenue, Broadway, or Wall street, could resist a like temptation. Congressmen will appropriate golden eagles just as others would—for the temptation is too great to be resisted by mortal man. To rescue ourselves from that temptation, to make Congress economical, to hold us faithful to our trusts, and in order to keep down the amount the sub-treasuries, to save us from panics, incommerce and trade, I offered my proposition in good faith——

[Here the hammer fell.]

Mr. CLINGMAN. I will now offer the amendment to the resolution, which I sent to the Clerk's desk just now, and I ask that it may be read.

The Clerk read the amendment, viz:

Add the following:

And that all railroad iron now imported by any railroad company, for railroad purposes, upon which the duties have not been paid in cash, shall be free from duty; and all railroad iron hereafter imported by any railroad company, for railroad purposes, shall be admitted free of duty, under such regulations as the Secretary of the Treasury may prescribe, to guard against fraudulent evasions of the existing revenue laws—he being authorized to require bonds of all importers of said railroad iron, on condition to show that the iron so imported has been used in the construction of some railroad, within the term of three years from the date of that importation, or in lieu thereof they pay double the amount of the existing duty on bar-iron.

I have but a single word to say with reference to that amendment——

Mr. JONES, of Tennessee. I wish to inquire if this is offered as an amendment to the instructions or not?

Mr. CLINGMAN. No, sir, it is offered as a bill.

Mr. JONES. Then it cannot be entertained here.

Mr. CLINGMAN. I desire that when the chairman of this committee reports the resolutions to the House, they shall be accompanied by this bill. There is an enacting clause to it, but the Clerk did not read it.

Mr. HOUSTON. Is that bill in order in connection with the resolutions now pending? It seems to me that it is clearly out of order.

Mr. CLINGMAN. Of course the committee can report the resolutions to the House, and a bill also, like any other committee. They frequently report bills to the House.

The CHAIRMAN. The Chair is of opinion that if this amendment of the gentleman from North Carolina was offered as a part of the instructions to the special committee proposed to be raised, it would be in order, but that if not so offered, it would not be in order.

Mr. CLINGMAN. I do not offer it in any such form. I shall therefore appeal from the decision of the Chair. If there is any one principle——

Mr. HOUSTON. I call the gentleman to order.

Mr. CLINGMAN. I have a right to state the point upon which I base my appeal.

Mr. HOUSTON. No, sir, the gentleman has no right to state his reasons for taking the appeal. He has a right to appeal, but the point of order is stated by the Chair.

The CHAIRMAN. The Chair will state the question as he understands it.

Mr. CLINGMAN. I wish to state what motion I make. The Chair does not seem to have understood my motion. I do not offer this as an addition to the instructions. I offer it as a bill which I desire the committee to report to the House. I have no objection to their reporting resolutions; but the subject of the tariff being referred to us in the annual message of the President, we have a right to report any bill, as well as any resolutions.

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Mr. HOUSTON. I call the gentleman to order.

The CHAIRMAN. The gentleman from North Carolina [Mr. CLINGMAN] offers an amendment to the amendment of the gentleman from New York, [Mr. BROOKS,] as now amended. That amendment is a bill, and the Chair decides that the amendment, offered in that shape at this time, is not in order. From this decision the gentleman from North Carolina appeals.

Mr. CLINGMAN. If I am to understand the Chair as holding that I may offer the bill at another time, I will not detain the committee now.

The CHAIRMAN. The Chair has no doubt that it may be offered.

Mr. CLINGMAN. Then I withdraw the appeal and my amendment.

Mr. JONES, of Tennessee. I wish to inquire of the Chair if the rules of the House do not prescribe how bills shall be introduced? If so, sir, when in the House, neither the gentleman from North Carolina, nor any other member, could introduce a bill without the unanimous consent of the House. Another portion of the rules prescribes that the rules of the House shall apply to the Committee of the Whole.

Mr. CLINGMAN, (interrupting.) What is the question before the committee?

Mr. HOUSTON. The gentleman from North Carolina has withdrawn his amendment, and that question is not, therefore, before the committee.

The CHAIRMAN. The gentleman from North Carolina has withdrawn his proposition.

Mr. JONES. He could not introduce a bill here without unanimous consent.

Mr. CLINGMAN. Certainly I could. It has been done repeatedly in the Committee of the Whole on the state of the Union.

The CHAIRMAN then put the question on Mr. BROOKS's amendment as amended, and declared that it was rejected.

Mr. MEADE. I wish to offer an amendment to the resolution now before the House.

Mr. HOUSTON. The question, as I understand it, now comes up upon the adoption of the amendment to the original resolution as amended; the committee have never adopted it.

Mr. HALL. They have rejected it.

The CHAIRMAN. The committee have just rejected the amendment offered by the gentleman from New York, and the question now is upon the adoption of the second resolution.

Mr. STEPHENS, of Georgia. Do I understand the Chair to state that a vote has been taken upon the amendment of the gentleman from New York as amended?

The CHAIRMAN. The question has just been taken upon that amendment, and it has been rejected.

Mr. STEPHENS. No person in this part of the House understood it. I therefore ask that the vote may be retaken, and I call for tellers upon it.

Mr. JONES, of Tennessee. I understood it perfectly well.

Mr. STEPHENS. No gentleman here did.

The CHAIRMAN. The gentleman from Georgia desires that the vote may be again taken upon the amendment of the gentleman from New York as amended. Is there any objection?

Mr. SKELTON. I object.

Mr. BROOKS. What became of the substitute for my amendment submitted by the gentleman from Indiana, [Mr. LOCKHART]?

The CHAIRMAN. The Chair begs pardon. The gentleman from New York is correct. The question now is on the substitute proposed by the gentleman from Indiana for the amendment of the gentleman from New York.

Mr. STEPHENS. How could the question ever have been taken on the amendment offered by the gentleman from New York until the substitute for it was disposed of?

The CHAIRMAN. It ought not to have been taken.

Mr. STEPHENS. Very well; then I insist upon a new vote.

The CHAIRMAN. The Chair had for a moment forgotten the pendency of the substitute, which of course must have been voted upon prior to the question being taken upon the amendment of the gentleman from New York. The question now is upon the substitute of the gentleman from Indiana.

Mr. JOHNSON, of Georgia. I ask for tellers.

Mr. HILLYER. When the substitute offered by the gentleman from Indiana is disposed of, upon what will the question then recur?

The CHAIRMAN. The vote will then be taken on the amendment of the gentleman from New York as amended, unless the substitute should be adopted. If it is adopted, of course there is an end of the amendment.

Mr. BROOKS. As I understand the substitute of the gentleman from Indiana, I can vote for it. I believe the object of it is——

Mr. HOUSTON. The gentleman has not a right to the floor to discuss the substitute.

Mr. BROOKS. Then I offer the following as an amendment to the substitute:

> And that said committee be instructed to bring in a bill enlarging the free list and reducing the duties upon such articles of foreign growth or production as do not come into competition with the agriculture or manufactures of the United States.

Mr. Chairman, I indulge in some hope, from the vote of 84 to 80, taken awhile ago, that the substitute with this amendment will be carried. It is hardly necessary for me to repeat, even to my friends upon this side of the House, that it is necessary to meet this question of a reduction of the revenue, or else it is necessary to transfer to our opponents a large surplus revenue for the purpose of the most extravagant expenditure of the public money. On the one side we have to meet the crisis of a ruinously large surplus revenue; and on the other side we have to deprive our opponents, if we can, of the disbursement of a large amount of public revenue, largely beyond the necessary wants of this Government.

From the votes which I have seen upon the other side of the House, it is clear to me now that there is a strong disposition there not to reduce the tariff, not to reduce the taxes to the wants of the Government, but to keep hold of this surplus, and to expend it in some manner or other beyond what reason, prudence, or justice requires. Their leading principle once was, or seemed to be, the collection of only a sufficient revenue for the economical wants of the Government; but now they resist every movement for the reduction of taxes, and every suggestion that would curtail the temptation for wasteful expenditures. Now, in July last there were, as the President's message states, between $14,000,000 and $15,000,000 surplus revenue in the Treasury, which surplus has been going on accumulating ever since. And yet, sir, from the other side of the House, with this great fact before us, I cannot obtain a vote, a practical vote, which goes for a reduction of the revenue at all! They talk against protection and against high taxes, but it is all talk; for they refuse to act. What am I to understand from this? What are the people to understand? That the $15,000,000 surplus in July is to go on accumulating? Oh, no; I, even, with these votes before me now, do not indulge in any such delusive belief. When I see such voting as I have been seeing to-day, I have no idea, with the incoming Administration ahead, that it is intended to save anything, but the policy is to be "spend all." Sir, never will there be any surplus in the Treasury with the present signs before us. Some excuse or other will be devised for getting rid of it all.

The gentleman from Pennsylvania [Mr. JONES] said the other day, that we might perhaps get into a war. Well, if war be necessary to disperse this surplus, and the money is wanted by speculating politicians, war will come—war about Cuba, war about Mexico, war about anything or everything cupidity can invent. There will be no surplus, because the expenditures of this Government will be purposely increased to be rid of it all. The appropriation bills will be so shaped, and there will be such an increase of the expenditure as to absorb a surplus if it were five times as large as it now is. I say, then, to my Whig friends, that it is necessary for us to prepare for that state of things, and to show the other side that we are willing to reduce the revenue to an economical administration of the Government. And if they will not accept such a proposition, the inference is fair, that they do not mean to administer the Government economically, but to raise taxes from the people in order to squander the proceeds away.

I say to you on the other side, you have a majority in this House, and can appoint a committee to suit yourselves. The Speaker is one of your own party—will make a committee to suit you, and you can do whatever you desire to do in your own way. And when you have got that committee, and they have brought the subject-matter before the House, it is your duty to do something, unless you choose to expend and waste, the surplus now on hand, or to allow that surplus to go on accumulating.

I indulge the hope, therefore, vain as may be all hope here, that my amendment to the substitute of the gentleman from Indiana [Mr. LOCKHART] will be adopted by all sides of the House, and that then the amended substitute will prevail. Let us meet this subject now. It is said, put it off—a new Administration is coming in,—put it off. Mr. Chairman, if you put it off now, you put it off for two years to come. The next Congress meets in December next, a year from now, but you cannot get any practical action upon a tariff bill like this, before July or August, and it will not go into operation before the December following, for you must give the public notice and time; and thus it will be two years before you can have any practical action upon the reduction of the revenue, if you do not act now.

But, nevertheless, gentlemen continue to delude us with the idea, that the incoming Administration will do all this. The outgoing Administration, they say, have no right to interfere with their affairs, or even to change the revenue laws at all. Why, sir, if there were anything in all this talk, is that any reason why this Congress should refuse to do what the advancers of such a reason admit to be a public good? How do you expect to change the tariff, but by the Senate and House of Representatives? The Executive does not create laws. Will you have a better majority in the next Congress than you have in this? You have sixty majority in this House and ten or fifteen in the other House, and what advantage do you expect from the incoming Congress or the incoming Administration, more than from this? There is no reason, then, in any such talk as this, but it is a mockery of reason, the whole of it, from beginning to end. You know as well as I do, that unless you act the present session, it will be two years before you can have a bill in operation to reduce the revenue; and you know, too, full well, that you are laying more taxes than the incoming Administration needs.

[Here the hammer fell.]

Mr. SWEETSER. Mr. Chairman, I did not intend to have participated in this discussion. But there seems to be an anxiety upon the part of some gentlemen here to arraign the incoming Administration and the Democratic party in advance of their taking the reins of Government. Sir, I do not know by what authority the gentleman from New York [Mr. BROOKS] undertakes to do this. He seems to be alarmed at the surplus now in the Treasury of the United States. I have served with that gentleman in this House for the last three or four years, and this is the first evidence we have had that the Whig party in the country was desirous of cutting down the expenses of the Government. But it seems that for once, they have not been able with their extravagant expenditures, to exhaust the amount of revenue collected. This is the first time since the adoption of the tariff of 1846 that we have had this surplus, and I am not alarmed about it.

I do not stand here to-day, as a member of the Democratic party of the country, to be arraigned in advance for squandering the public money in the Treasury without authority of law, or to per-

mit gentlemen to anticipate what will, or will not be sanctioned by a Democratic Administration and a new Congress. It does seem to me that it comes with exceeding bad grace from that side of the House at this time, to undertake to arraign and charge extravagance in advance to the Democratic party and the incoming Administration with squandering the money in the public Treasury of the country. I say it comes with bad grace from any quarter, and particularly from that party who have uniformly, in this House, advocated every measure of extravagant appropriation that has been proposed.

Sir, I am here to-day to denounce the Administration now going out of power, for extravagance; and I ask the gentleman from New York to watch—if he shall be in a position to do it—honestly and faithfully the public Treasury, and whenever he sees the incoming Administration guilty of extravagance in the expenditure of the public money, to come forward before the country with his charges in due form, and hold that Administration responsible. I can tell that gentleman the Democratic party will shrink from no responsibility. They will be guilty of no Galphinism or Gardinerism. They will not squander the public money, or permit it to be done by OUTSIDERS or INSIDERS. It is the duty of the Whig party to stand as sentinels; and whenever they can rightfully charge a Democratic Administration, it will be their duty to *cry aloud*, and spare not; but it is quite too soon to frighten themselves about what Democrats will do in advance. The Whig party have been weighed in a balance, and found wanting. Their condemnation has been *signal, terrible*. It will be for them to wait, and have a little confidence in their opponents, and not be alarmed. If public confidence is not safe in the hands of the Democratic party, it is quite too soon for the condemned to expect to change places. The honorable gentleman assumes to know what will be the policy of the incoming Administration. He assumes to know the ways and means by which the Treasury of the country will be controlled. I assume that he is entirely ignorant of either the policy of the Democratic party, or their views in relation to the disbursement of the surplus now in the Treasury. I assure him and the House, that the finances of the Government, and the Government itself, will be administered in conformity with the will and wishes of a large majority of the American people. It does not, therefore, become gentlemen belonging to a party condemned by the people like the one shortly doomed to vacate their places, to arraign the Administration coming into power on the 4th of March next. "Sufficient unto the day is the evil thereof."

But in reference to the surplus now in the Treasury, if it had been in the power of the Whigs to have taken it out, there would not have been a dollar there, and probably the public service of the country would now be embarrassed for want of funds.

I hope the Democratic party will stand firm, and let the incoming Administration and a new Congress determine what shall be done with the surplus. Let them determine what shall be the policy of the Government in relation to the tariff. Let those in whose favor the people have decided determine, and not those who have been stricken down in the late contest, and who have squandered the public money.

The question was then taken upon Mr. BROOKS's amendment, and it was not agreed to.

Mr. LOCKHART. With the consent of the committee I will withdraw the amendment which I offered as a substitute.

The CHAIRMAN. It can only be done by general consent.

Mr. BROOKS. I object.

Several MEMBERS. Vote it down.

Mr. BROOKS. I propose to offer an amendment to the substitute of the gentleman from Indiana. I move the following to come in at the end:

And that the said committee be instructed to report on or before the 30th of January, and have leave to examine witnesses, and to collect testimony here and elsewhere.

Mr. Chairman, I do not intend to press a vote upon that amendment. My principal object in offering it was to respond to some remarks made by the gentleman from Ohio, [Mr. SWEETSER,] who has just taken his seat.

Mr. JONES, of Tennessee. That is not in order. That is not in explanation of the gentleman's amendment.

The CHAIRMAN. The Chair will be constrained to confine the gentleman to an explanation of his amendment.

Mr. BROOKS. I have nothing to say, if I am not permitted to reply to the remarks just made by the gentleman from Ohio, [Mr. SWEETSER.]

[Cries of "Go on!" "Go on!"]

Mr. BROOKS proceeded. I did not intend, nor have I intended to introduce into this subject, party debate. I have stated over and over again that the only object I had in view in the introduction of this proposition was, as a matter of necessity and of public duty, the reasons for which I have given. I did not involve myself in any party allusions until they were forced upon me by other gentlemen, who chose to arraign the Whigs and their opposition to the tariff of 1846, as it is called.

It was said the other day by the gentleman from Virginia, [Mr. BAYLY,] that the incoming Administration would take care of the revenue, and of all surpluses, and that it was improper for the outgoing one to undertake to attempt to act upon this subject at all. In reply to all that I very carefully showed that if we meant to do anything at all, now was the time, because two years must elapse, unless there was something done now. We could not afford to wait two years, I showed, with a surplus of $15,000,000 upon us, and more coming in every day. I did not, therefore, introduce the relationship Administrations might have to the tariff; the allusions first came from others. I see, however, all efforts of mine for a reduction of the revenue are in vain. Even the gentleman from Indiana, [Mr. LOCKHART,] who very generously came forward with a substitute some of us could vote for, now indicates his intention to retreat. Retreat is the order of the day. Men will not stand up to their own professions of principle when an opportunity is presented for carrying them out. I take it for granted, then, that it is the intention of the majority of the two Houses of Congress to let this surplus go on accumulating for the next two years, without any alteration in, or reduction of, the revenue whatsoever. And that during this time this surplus is either to lie in the sub-treasury, to the great damage of the commerce of the country, or it is to be voted out by the action of the two Houses of Congress in the form of public expenditures. That I understand to be the existing state of facts before the House, and that the state of the argument. There is a knowledge of the surplus now in the Treasury, and of its continued accumulation, and there is a refusal to provide for that surplus otherwise than by the expenditures of Congress. Mr. Chairman, I need not repeat, for the fact is obvious, that under this state of things—with fifteen or twenty millions in the Treasury—now known to the House, unless we forbid its accumulation now, it is certain that it will be voted out of the Treasury by the most lavish and wasteful expenditures.

The gentleman from Ohio, in order to evade or avoid these unanswerable facts and conclusions, attempted to abuse the present Administration for its extravagant expenditures, as if their doing wrong would justify him for refusing to do right. Now, if that gentleman will look back and observe the history of this Administration, he will see that in no one single instance, though a large majority in both Houses of Congress are nominally opposed to it, yet has there been no one instance in which they have reversed or condemned its action. The gentleman himself, or rather a colleague of his, did, indeed, in connection with the Gardiner claim, attempt to throw odium upon this Administration; but it was turned back upon him by his own party—by a committee raised and organized by that party. If the present Administration has been lavish and wasteful in its expenditures, the appropriations have all been made by the two Houses of Congress; they have been brought in by the committees appointed by the Speaker of this House, and they are responsible, as they have been added on by Democratic majorities in one or the other Houses of Congress. It is very easy to make an outcry against any Administration upon general and wild declamation; but when you descend to particulars—when you come to specifications, you will find that you are unable to muster them, or to arraign the Administration at all. All the expenditures that have been made by this Administration have been sanctioned by the two Houses of Congress in voting for the appropriations; and millions, I may add, have been added by Congress beyond the estimates of the Administration. How a minority in Congress can outvote a majority, I cannot say;—can the gentleman? I abandon the floor for him to explain.

Mr. SWEETSER. Yes, sir. I am not surprised that the gentleman should have made the declarations he has just made, in reference to the expenditures of the present Administration. I take issue with the gentleman in point of fact, and I tell this House and the country, that whenever Congress has attempted, within the last four years, to cut down the extravagant expenditures of the Administration, as they did in the last session of the Thirty-first Congress, touching appropriations for the Army, particularly the Quartermaster's Bureau, the administration under the direction of Mr. Fillmore has gone on and expended the money that Congress refused to appropriate, and has come in the next session and asked, in a bill to supply deficiencies of appropriations, that the money should be appropriated, in order that the faith of the Executive branch of the Government might be sustained. A similar remark was made by the gentleman from Georgia, [Mr. JOHNSON,] to the effect that, whatever have been the expenses of the Government, this House made the appropriations, and were responsible for them. Sir, that gentleman knows perfectly well that whatever appropriations have been made by Congress, have all been estimated for by the Executive branch of the Government, and that their estimates have been repeatedly cut down, and Congress has been urged continually to augment the amount estimated for by the Executive, after the civil and diplomatic bills have been reported to the House. Sir, the country will hold the Executive branch of the Government responsible for the expenditure of the public money. It is the duty of Congress to make appropriations to carry on the Government. The President and his Cabinet make the estimates.

I assert without fear of contradiction—and those who have served with me here will bear testimony to the fact—that in no one instance has the Democratic party undertaken to restrict the expenses of the Government, in which the Administration cheerfully acquiesced. But, as in the instances stated, in relation to the Quartermaster's Department, the Executive went on, made the expenditure, and came in the next session and asked Congress to make appropriations to save the public credit in a deficiency bill.

The honorable gentleman makes allusion to the committee appointed to investigate the Gardiner fraud, and claims that the report of the committee fully exonerated all concerned. I have no disposition to figure in that matter, but I charge that the committee which was raised at the solicitation of my colleague [Mr. OLDS] did not exculpate the Administration from the charge that the Treasury had been robbed. Sir, they said simply that as to the Secretary of the Treasury, who was charged with being *particeps criminis* in the fraud, there was no evidence that he knew there was any fraud, but that report confirmed what is admitted by all who know anything about it, that the pretended claim was a fraud, and sustained by perjured witnesses, and that the money which was taken from the Treasury, through the instrumentality of the Secretary of the Treasury and others, was taken out in violaiton of law, and there is no man who will stand here, or anywhere in this country, and undertake to defend as against that fraud.

With the excuse made by the Secretary for his own act, I have no disposition to interfere here. I say that the Whig party have voted, during my experience in Congress, for every extravagant measure of expenditure. It will be recollected that when the postage bill was brought up in the first session of the Thirty-first Congress, I took occasion to oppose that bill, mainly upon the ground that the reduction of postage proposed would charge the Post Office Department upon the Treasury; that the country desired postage reduced to a point where the Department could sustain itself. What has been the consequence of the change of the law? That Department is now a charge upon the Treasury to the tune of one and a half million of dollars per annum. That measure was a favorite of the Whig party, and of the

honorable gentleman from New York. I assert, without fear of contradiction, that every bill of extravagance in the Government has been advocated and sustained by the Whig party; and I repeat that, in no one instance, where the Democratic party have undertaken to prune the estimates for the Executive Departments of the Government, has this Administration acquiesced. In every instance have they gone on, without authority of law, and made expenditures in accordance with their wishes, in derogation of the expressed will of Congress. Why, sir, deficiency bills are of modern origin. I may be mistaken; but, with few instances in the history of the Government, has the Executive estimated for a deficiency bill, and then under extraordinary circumstances. It was left for this Whig Administration to make deficiency bills a part of the settled policy of the Government; and the abuses are enormous. If the Executive will not confine himself, under ordinary circumstances, to the estimates made for the current year, Congress might as well surrender its guardianship over the Treasury. Over and over again have those expenditures been incurred, and we have been called upon to vote for deficiency bills, including expenditures which have been stricken out by a prior Congress, in order to save the public credit; and I am surprised that any gentleman, as conversant with the doings of this House as the gentleman from New York, should make this broad assertion. I speak what the experience of the House will sanction. Sir, it may be the party on the other side of the House ought not to be responsible for what seems to me to be indiscretion on the part of the honorable gentleman from New York. I am not prepared to remain silent in my seat without placing matters in relation to a Whig Administration on the true ground. Having done so, I am content to await the judgment of the country.

The question was then taken upon the adoption of the amendment of Mr. BROOKS, and it was not agreed to.

The question then recurred upon the adoption of the substitute offered by Mr. LOCKHART.

Mr. BROOKS. I understood that amendment was withdrawn. Is it not?

The CHAIRMAN. The gentleman from Indiana proposed to withdraw the substitute, but it was objected to.

The question was then taken, and the substitute was not agreed to.

Mr. CLINGMAN. Is it in order to offer another substitute, this one having been rejected?

The CHAIRMAN. The Chair thinks it is.

Mr. CLINGMAN. Then I offer as a substitute for this resolution, the bill which I send to the Chair.

Mr. JONES, of Tennessee. I rise to a question of order. A bill cannot be substituted for a resolution.

The CHAIRMAN. The Chair thinks that is the rule, and if the gentleman from North Carolina, and the committee, will indulge the Chair, he will state that he thinks that this bill, if offered in this committee to be reported to the House, should be offered as a distinct subject. It will be recollected that no amendments will be reported to the House. They are resolutions offered in the committee, and they will go up as a whole without any amendments to the House.

Mr. CLINGMAN. I am perfectly willing to make the motion in the manner suggested by the Chair. I know it is competent for the Committee of the Whole to report a bill. If I understand the Chairman aright, then, after the committee determine upon the resolution, it will be in order for me to offer this as a distinct proposition.

Mr. JONES. I submit to the Chair, if he has not already decided the question, that when we adopt the resolution referring the subject, what will we have before the committee upon which the gentleman can offer his bill?

[Cries of "Order!" "Order!"]

Mr. STEPHENS, of Georgia. I suggest to the gentleman from North Carolina, [Mr. CLINGMAN,] as it may be a matter of importance to him hereafter—and the remarks of the gentleman from Tennessee tend to the same point—if we go through this resolution it would dispose of the President's message, and there will be no way in which he can, in order, move this matter by way of a bill, and he will be cut off from moving it.

Mr. CLINGMAN. That was my first impression, but I yielded to the suggestion of the Chair. It is very clear that the committee can report a bill in response to that part of the President's message which relates to the tariff. I am willing to do it in whatever shape it can be done.

Mr. STEPHENS. The gentleman perceives that all that part of the President's message will have been disposed of.

Mr. CLINGMAN. It so strikes me, and therefore I think I have a right to move it in lieu of the resolution relating to the tariff. The committee may report resolutions relating to the other portions of the President's message, and a bill in relation to that branch of the subject embracing the tariff.

The CHAIRMAN. The Chair will state what his own impressions are, and when the proper point arises, they may be adopted or rejected by the committee. His own impressions are, that when this amendment, now pending, shall be acted upon—I allude to the amendment offered by the gentleman from New York—this bill may be offered as an amendment in the shape of instructions to the committee, to which the resolution refers the subject-matter.

Mr. CLINGMAN. That is not what I desire. I want the committee to report a bill which the House can act upon. I do not desire to give instructions to a committee which is to act hereafter. It seems to me that the committee may properly report a bill, instead of resolutions; and because some gentleman gets the floor and moves a resolution, it does not follow that another person may not offer a bill. I think it is proper at the present time to present this as a substitute for that resolution; and if the majority prefer the bill to the resolution, why then they will report it to the House, together with resolutions upon the other subjects.

I ask, therefore, as the point of order is raised, that the Chair will so decide, that we may get at the question in that way.

Mr. JONES, of Tennessee. I would suggest to the Chair that the object of the gentleman from North Carolina, as it seems to me, is to do a thing which the rules do not authorize,—it is to supersede the resolutions which are now before this committee, by a bill. The rules of this House prescribe how a bill shall be introduced,—either by reports from committees, or upon leave, notice of one day having been given in the House or committee. Now, suppose you go into the Committee of the Whole on the state of the Union, by a majority, and some member rises and offers the very bill which he could not get into the House, then the whole rules of the House are defeated, and are got over in that way.

Mr. STANTON, of Ohio. I desire to have a vote upon the proposition now pending, and also upon the bill of the gentleman from North Carolina. Now, if it is in order for me to offer a bill as a substitute——

The CHAIRMAN. The question, the gentleman will recollect, is not debatable.

Mr. JONES, of Tennessee. I suggest that it would be in order for the gentleman from North Carolina to move to amend the pending proposition so that said select committee be instructed to report the bill.

Mr. CLINGMAN. I have no doubt about that, but I desire that this committee may report for immediate action.

The CHAIRMAN. In the form in which the amendment is now offered as a substitute for the resolution and amendment, the gentleman will see, I think, that this bill proposes to act upon a single subject only, and that is, duties upon railroad iron; whereas the resolution refers to the whole subject of revenue. It is not, therefore, properly a substitute for it, and in that form it is not admissible.

Mr. STEPHENS, of Georgia. There is another reason, also. The pending proposition before the committee is a bill, and requires a joint action. It is not pertinent to the pending proposition.

Mr. JONES. We could not change the resolution before us to a joint one.

Mr. CLINGMAN. I appeal from the decision of the Chair, with a view of settling the question whether we can report a bill.

The CHAIRMAN. The Chair will say that he has not decided that the Committee of the Whole on the state of the Union cannot report a bill. He has simply decided that this bill, offered as a substitute for the amendment and original resolution of the gentleman from Alabama, [Mr. HOUSTON,] is not in order, because the original resolution refers to the whole subject of the revenue, and this simply refers to the duty on railroad iron.

Mr. HILLYER. I desire to submit a motion which I have been advised and believe will be in order. If it should be decided by the Chair to be not in order, I will cheerfully acquiesce in the decision.

I move, sir, that the original amendment proposed by the gentleman from New York, [Mr. BROOKS,] and the amendment proposed by the gentleman from Tennessee, [Mr. JONES,] and the amendment proposed by myself, and acted upon by this House, be substituted for the substitute offered by the gentleman from Indiana, [Mr. LOCKHART.]

Mr. CARTTER. What do you do with my amendment?

Mr. HILLYER. This motion omits the resolution offered by the gentleman from Ohio, [Mr. CARTTER.] So I am not proposing to substitute for the substitute offered by the gentleman from Indiana, the previous action of this House, as it stands upon the record. The Chair will remark that the resolution offered by the gentleman from Ohio being excluded from the motion I now submit, I do not offer as a substitute what has been previously acted upon and determined by the House.

Mr. JONES. The gentleman could attain his object by moving to strike out all of the resolution of the gentleman from New York [Mr. BROOKS] as amended, except that portion offered by the gentleman from Ohio, [Mr. CARTTER.]

The CHAIRMAN. The question now pending, is upon the adoption of the amendment as amended.

Mr. STEPHENS. I ask for tellers.

The CHAIRMAN. The Chair further states, that it is not in order to take a part of that amendment, and offer it as a substitute. That is the proposition of the gentleman from Georgia, [Mr. HILLYER.]

Mr. JONES. If I understand the proposition of the gentleman from Georgia, it is merely to get clear of that portion of the amendment offered by the gentleman from Ohio, [Mr. CARTTER,] which is to strike out, and it is another motion to strike out what has already been incorporated by a vote of the committee. That is not in order.

The CHAIRMAN. That is the opinion of the Chair, and he has so decided.

Tellers were then ordered, and Messrs. STEPHENS of Georgia, and HARRIS of Alabama, were appointed.

The CHAIRMAN. The question is upon the adoption of the amendment of the gentleman from New York [Mr. BROOKS] as amended.

The question was then taken, and the tellers reported—ayes 15, noes 64; no quorum voting.

The CHAIRMAN. The Clerk will call the roll.

Mr. HEBARD. Is it in order to move that the committee do now rise?

The CHAIRMAN. The Chair thinks that the rule is imperative that the roll must be called when the committee finds itself without a quorum.

Mr. HILLYER. There is a misapprehension on this side of the committee as to the question to be voted on.

The CHAIRMAN. The question is on the amendment offered by the gentlemen from New York as amended.

The amendment as amended was read by the Clerk, at the suggestion of Mr. HARRIS, of Tennessee; it was unanimously agreed to have a recount.

The question was again put, and the amendment was rejected; the tellers having reported—ayes 24, noes not counted.

Mr. CLINGMAN. I will move, Mr. Chairman, if it be in order, the following as an amendment to the second resolution:

And that said committee be instructed to report on or before the first day of January next, a bill in the following words:

A Bill to admit Railroad Iron free of duty.

Be it enacted by the Senate and House of Representatives in Congress assembled, That all railroad iron now imported by any railroad company, for railroad purposes, upon which the duties have not been paid in cash, shall be free from

duty; and all railroad iron hereafter imported by any railroad company, for railroad purposes, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe, to guard against fraudulent evasions of the existing revenue laws, he being authorized to require bonds of all importers of said railroad iron, on condition to show that the iron so imported has been used in the construction of some railroad within the term of three years from the date of that importation, or in lieu thereof, they pay double the amount of the existing duties on bar-iron.

Mr. C. said: I have offered this proposition that the sense of the committee may be tested on its subject-matter. I am of the opinion, from what has occurred at this and the last session, that a majority of the members of the House are in favor of the repeal of the duty on railroad iron imported into this country. There are three or four objects which gentlemen seem to have in view. The principal one appears to be a reduction of duties. Now, if such a law as I propose had been in operation last year, the revenue, according to the statement furnished by the Secretary of the Treasury at the close of the last session, would have been reduced about one and a half million of dollars. I have no doubt that for the time since the reduction would have been greater—perhaps not less than two millions of dollars. We shall, therefore, by the adoption of my proposition, get rid of a portion of the accruing surplus in the Treasury.

I stated last session on the floor of this House that there were only three establishments in Pennsylvania making railroad iron. That statement was founded on information furnished me by a committee of iron manufacturers from that State who came to this city. So that the passage of this proposition will only at the outside stop three or four establishments. It will, on the other hand, enable every State in this Union—because I believe every State is engaged in the construction of railroads—to get their railroad iron cheaper. I hope, therefore, Mr. Chairman, that gentlemen on all sides who are willing to relieve the community from this duty, will come up to the support of my proposition.

Mr. MEADE. I will ask the gentleman from North Carolina whether the provisions of this bill are not the same as those which existed previous to the law of 1842?

Mr. CLINGMAN. I was about to speak to that point. I am obliged to my from Virginia for propounding the inquiry. It is true, that prior to the year 1842 there never was any duty on railroad iron, and then it was that the northeastern and most of the Atlantic cities began their railway systems, and constructed most of their roads. This has been urged again and again as a reason why the new States should now be placed on the same footing.

Mr. CHANDLER. Does the gentleman state that the provisions of his proposition are precisely the same as those of the law existing previous to 1842?

Mr. CLINGMAN. Under that law railroad iron might be introduced free of duty, under certain restrictions. I have not copied its precise language, but the substance is the same. The last provision was thought necessary that persons might not, under pretense of importing railroad iron, bring in other iron. The Secretary of the Treasury is authorized to require bonds of all importers of railroad iron, on condition to show that the iron imported has been used in the construction of some railroad within the period of three years from the date of importation, or to forfeit double the amount of the existing duty on bar-iron. The former law was not in the same words, but it was identical in substance with the present proposition.

I will now say a word in reply to my friend from Tennessee. There are certain gentlemen who object to increasing the free list, or to make railroad iron free of duty, unless the duties on other kinds of iron be repealed. I will remind the gentleman that nine times as much railroad iron is imported into this country as all the other kinds of bar-iron; so that by the passage of my proposition into law you would relieve the community of nine tenths of the duty on all the bar-iron imported. In answer to gentlemen who urge that it is inconsistent with the principles of the tariff of 1846, I will say that they have not read the law if they do not find a large free list there; and I only propose to transfer railroad iron from the thirty per cent. schedule to the free list. It does not infringe, in any manner, on the principles of the tariff of 1846.

[Here the hammer fell.]

Mr. JONES, of Tennessee, obtained the floor, but yielded to

Mr. CHANDLER. I am opposed to the proposition of the gentleman from North Carolina, [Mr. CLINGMAN.] It strikes at the very heart of the manufacture of iron in this country. It proposes to take from the manufacturers of iron the only means left to them to make profit. I am opposed to it, because there is foisted on it an attempt, as I understand, to free certain railroads of the South from the payment of duties on railroad iron due for several years. I will resist any attempt of the kind to entrap us into it, however, I might vote on a direct motion. I am generally opposed to it, because I do not think that iron is a proper article to be inserted into the free list. Besides, I do not share in the apprehensions of my esteemed friend from New York, [Mr. BROOKS,] of danger from the surplus revenue in the Treasury. I have no idea that the Democratic party that is coming into power are going to ruin the country with it. They may more likely ruin themselves with it; and God knows that I wish them God speed in doing so. [Laughter.] I would be glad to know at any time they had rope enough to hang themselves politically with. [Renewed laughter.] There is no danger. If I understood the proposition from its reading, it is an attempt of its author to do what the House has refused to do—to forgive railroad companies of the South duty due by them for iron imported into the country.

Mr. CLINGMAN. I ask the gentleman the companies he refers to. I know of none such.

Mr. CHANDLER. The gentleman ought not to be so ignorant of the wants of his State. He advocated them very cleverly at the last session.

Mr. CLINGMAN. Those companies have paid the duties due by them to the Government.

Mr. CHANDLER. They will want them refunded. There will be a general application to this House to refund all money paid on railroad iron by way of duty. It is unjust to the manufacturers of iron of the country—it is unjust to those who develop the resources of our Union to place so important an article on the free list. Let nothing go on the free list except that which will not come into competition with the industry and capital of the country. I will consume the time of the committee no further.

Mr. THOMAS M. HOWE obtained the floor, but yielded to

Mr. STEPHENS, of Georgia, who moved that the committee rise; which motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee [Mr. STUART] reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no resolution thereon.

WIDOW OF MAJOR GENERAL WORTH.

Mr. POLK. I move, with the indulgence of the House, the reappointment of the Committee on Conference on the bill for the relief of the widow of Major General Worth, which fell between the two Houses on account of the expiration of the session.

[Cries of "Agreed!" "Agreed."]

Mr. SKELTON. I object.

The SPEAKER, (Mr. JONES in the chair.) The Chair is of the opinion, that the Committee on Conference expired with the adjournment of the session.

Mr. POLK. I have consulted with the chairman of the committee on the part of the Senate, and he stated that he would move the reappointment of that committee, and that it would be necessary to have the committee on the part of the House reappointed. If the gentleman from New Jersey persists in his objection, I will move a suspension of the rules.

The SPEAKER. It is not in order to move to suspend the rules, except on Monday.

Mr. POLK. I will, then, appeal to the gentleman to withdraw his objection.

Mr. SKELTON. I cannot withdraw my objection. I am unwilling to give pensions to the widows of officers of the army, and deny them to the widows of soldiers.

Mr. DAVIS, of Massachusetts. I offer the following resolution:

Resolved, That there be published for the use of the House of Representatives ten thousand copies, in pamphlet form, neatly bound, of the obituary notices of the death of Daniel Webster.

Mr. CAMPBELL, of Ohio. I object.

Mr. HARRIS, of Tennessee, moved that the House adjourn; which motion was agreed to.

And the House thereupon adjourned till to-morrow at twelve o'clock, m

PETITIONS, &c.,

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. SMART: The petition of the heirs of Lieutenant Benjamin Show, Massachusetts continental line, for commutation pay.

By Mr. WASHBURN: The petition of Berlin Bean and others, for a post route from Dexter, Maine, via West Dover, Dover South Mills, and Dover, to Foxcroft, Maine.

By Mr. PORTER: The petition of Michael R. Bower, administrator of Major Edward Waller, late of Virginia, for the payment of a pension due for the revolutionary services of said Waller.

By Mr. MILLSON: The memorial of Mrs. Virginia Rutter, widow of Dr. Edward J. Rutter, late a surgeon of the United States Navy, asking to be included in the benefits of the act of 1850, granting extra pay to those who served in California.

By Mr. JOHNSON, of Tennessee: The memorial of John Singletary, James Hally, A. Jolle, and 150 others, citizens of Conterance, Johnson county, Tennessee, praying the establishment of a mail route from Elizabethton, in Carter county, to Shady, in Johnson county.

HOUSE OF REPRESENTATIVES.

FRIDAY, *December* 17, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. FULLER, of Maine. I ask the indulgence of the House to take up Senate bill No. 448, and to accompany that motion with a short explanation. The bill simply provides for authorizing the Secretary of the Treasury to issue a register to vessels of foreign build when purchased and repaired, and when such repairs shall exceed or be equal to three fourths of the original cost; and is intended to embrace the class of cases which occur from time to time, and which require the special act of Congress authorizing the Secretary of the Treasury to issue registers to such vessels. It is apparent to every one, that a general law giving the Secretary of the Treasury that power would prevent the annoyance of Congress with these individual cases. I therefore ask that the bill be taken up and put upon its passage.

Mr. BROOKS. I wish to ask the gentleman from Maine [Mr. FULLER] if this bill meets with the general support of the shipping interests?

Mr. FULLER. It does not change the present rule at all. It is the every-day practice, as I understand it, to authorize, by special act, the Secretary of the Treasury to issue registers to the class of cases provided for in this bill.

Mr. BROOKS. Has this matter been examined by any committee?

Mr. FULLER. The bill was considered in the Senate, and passed through that body. The subject has been referred to the Committee on Commerce in this House, and I am authorized to report the bill from said committee with certain verbal amendments.

Mr. BROOKS. I have no doubt the purpose is good.

Mr. STUART. I understood the gentleman from Maine [Mr. FULLER] to ask the unanimous consent of the House to take this bill from the Speaker's table. I now understand him to ask the consent of the House to make a report from the Committee on Commerce. I should like to understand how it is.

Mr. FULLER. The bill has been upon the Speaker's table. A similar bill has been before the Committee on Commerce of this House, and the subject there has been fully considered. Inasmuch as legislation has commenced in the other end of the Capitol upon the subject, it was thought preferable to take this course with this bill, with the addition of mere verbal amendments which have been suggested, and which will make the bill retrospective as well as prospective, and save legislation on each particular case.

Mr. STEPHENS, of Georgia. I will state to the gentleman from Michigan, that the authority to report this bill from the Committee on Commerce was by an informal understanding with each member of the committee, who understood the nature

of the bill. I know that it was an informal understanding of the members of the committee that the gentleman from Maine should have it taken up, and request the House to pass it immediately.

Mr. STUART. I only wish to say this: I made an ineffectual effort on the first day of the session to get a rule adopted by which we could go to the business on the Speaker's table; and while I am prepared to say, that I will not object to this proposition, believing it to be of general utility, yet I feel obliged to say, that I shall vote against, or object to any similar proposition hereafter, for the purpose of compelling the House, if there is no other way, by the united interest of every one who has bills here, to go to business upon the Speaker's table.

The bill was then read the second time.

Mr. FULLER. I propose the following verbal amendment: Insert after the word "been," in line fifth, the words "or shall hereafter be."

Mr. HAVEN. I know nothing of this bill, except from hearing it read this moment. I think, however, it is a bill which the commercial interests of the country require should be passed. If the gentleman from Maine [Mr. FULLER] will allow me to suggest an amendment, I think that there are two words which should be inserted. The words "or enrolled" should be added after the word "register." It may be of no consequence upon the sea-coast, but it is of consequence upon the interior lakes, for vessels which trade to foreign countries go under enrollment as well as registry.

Mr. FULLER. I will accept the amendment of the gentleman.

The question was then taken on Mr. HAVEN's amendment, and it was agreed to.

The question was then taken upon Mr. FULLER's amendment, and it was agreed to.

The bill was then further amended on motion of Mr. FULLER, by striking out the word "value," in line twelfth, and inserting the word "cost."

Mr. STANLY. I approve the purposes of the bill and am in favor of its passage; and I suggest to the gentleman from Maine, if he could amend the bill by an additional section, it would effect the same purpose if he and the Committee on Commerce have in view the saving of a great deal of special legislation. It is a matter of frequent occurrence in our history, that owners of vessels desire to change the names of their vessels under certain conditions, and Congress generally authorizes it, whenever the Speaker's table can be reached to get at the bills; and when there are certain facts to show that the vessels have been rebuilt under circumstances which would justify a change of name. It will save a great deal of legislation, and I would be glad if the gentleman from Maine, being the representative of commercial interests, would accept such an amendment.

Mr. FULLER. In reply to the gentleman from North Carolina, [Mr. STANLY,] I apprehend he will find, in most of these cases, that when there is an application for a change of name, it is accompanied with the fact of wreck and repairs, like the cases contemplated by this bill. However, the suggestion of the gentleman is worthy of consideration; but he will find that insurance offices and commercial interests generally are very much averse to a change of the name of vessels, because it is like an individual changing his name.

Mr. STANLY. I shall not interpose any objection.

The bill as amended was then read the third time and passed.

APPROPRIATION BILLS.

Mr. HOUSTON, from the Committee on Ways and Means, reported the following appropriation bills, viz:

A bill making appropriations for the support of the Military Academy for the year ending the 30th June, 1854; and

A bill making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with the various Indian tribes, for the year ending the 30th of June, 1854; which were severally read a first and second time by their title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

DELEGATE FROM NEBRASKA.

Mr. PHELPS. I ask leave to present the memorial of Abelard Guthrie, praying to be admitted to a seat upon this floor as a Delegate from the Territory of Nebraska.

Mr. JONES, of Tennessee. I object. There is no such Territory in the country.

Mr. PHELPS. I ask that the memorial may be referred to the Committee on Elections. I desire no discussion. It is a matter which may be referred.

Mr. JONES. I object. There is no such Territory organized.

Mr. PHELPS. Perhaps it may be even a question of privilege, if the gentleman is here claiming a seat upon this floor as a Delegate from a Territory. I submit to the Speaker that it is a question of privilege, and no action on my part is proposed, except that this memorial may be referred under the order of the House to the Committee on Elections.

The SPEAKER. Does the gentleman from Missouri [Mr. PHELPS] insist upon it as a question of privilege?

Mr. PHELPS. I do not desire to do so. I hope that the gentleman from Tennessee will withdraw his objection.

Mr. JONES. I cannot.

Mr. PHELPS. I then insist upon the question of privilege.

Mr. HOUSTON. I supposed that the gentleman would not raise the question of privilege, when I yielded him the floor.

Mr. PHELPS. I will, under the circumstances, withdraw the question of privilege.

Mr. HOUSTON. I then move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. I hope that we will be able to-day to dispose of the question of referring the President's message.

FOURTH INSTALLMENT OF THE PUBLIC DEPOSITS.

Mr. STANLY. Will the gentleman give way for a moment, and I will promise to renew his motion. If there be no objection, I ask leave to introduce a bill, of which notice has been given, for the sake of reference to the Committee on Ways and Means, viz: "A bill to pay the fourth installment of 'the deposits of the public money, directed to be 'made under the provision of the act of the 23d of 'June, 1836, to the several States entitled to the 'same," &c.

Mr. JONES, of Tennessee. I object.

Mr. STANLY. I now renew the motion, that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. EDGERTON. Would not a motion to go into a Committee of the Whole House on the Private Calendar, take precedence of the motion of the gentleman from Alabama?

The SPEAKER. It being Friday, the Chair thinks it would.

Mr. HOUSTON. Let us dispose of the resolution to refer the President's message.

The question was then put on Mr. EDGERTON's motion, and there were—ayes 63, noes 42; no quorum voting.

Mr. CHANDLER demanded tellers; which were ordered; and Messrs. GAYLORD, and STEVENS of Pennsylvania, were appointed.

The question was then taken, and the tellers reported—ayes 72, noes 65.

So the House resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. RICHARDSON in the chair.)

DAVID MYERLE.

The CHAIRMAN stated that when the committee was last in session, it had under consideration a bill "for the relief of David Myerle," and that the following amendment, offered by the gentleman from Kentucky, [Mr. BRECKINRIDGE,] was pending, viz:

"*Provided*, That the funds hereby appropriated shall not be paid over until John Cornewall and F. Montmullen, of Kentucky, have an opportunity to contest their right to reimbursement of funds advanced by them to said Myerle: *Provided, further*, That they shall institute suit for that purpose within ninety days from the passage of this act."

Mr. BRECKINRIDGE obtained the floor.

The CHAIRMAN. The Chair will remark to the gentleman from Kentucky that when the bill was last under consideration, debate upon it was closed by order of the House.

Mr. BRECKINRIDGE. I have certainly no disposition to debate the bill. The temper of the House was to pass this bill at the close of the last session. It was postponed until this session under a pledge which I gave at that time to obtain certain papers and proofs which would show the untruth of material statements made by Myerle, the claimant, and by which he imposed upon the Committee on Naval Affairs. I have those papers and proofs, but, together with the report of the Committee on Naval Affairs, and some other papers which were before the House at the last session, they are locked up in the desk of the seat I then occupied, and the gentleman who now occupies it, and who has the key, is absent. I cannot, therefore, get at them; and I would be glad that the case should be passed over until next week. The claim involves twenty thousand dollars. The bill ought not to pass. The pretenses set up are untrue. The Naval Committee reported, and one of the members of that committee sustained the claim with great ability, upon a misconception springing out of the false statements of the claimant to that committee, as I shall be able to show, if an opportunity be afforded me.

Mr. FLORENCE. The gentleman from Kentucky is traveling very far from the record, in my humble opinion. The claim of Mr. Myerle is principally based upon a declaration made by the then Secretary of the Navy, Mr. Spaulding, who entered into a contract with Mr. Myerle to furnish the United States Government with five hundred tons of water-rotted hemp. I am in the same situation as the gentleman from Kentucky. The papers——

Mr. HUNTER, (interrupting.) I wish to inquire of the Chair if debate was not closed upon this bill?

Mr. HARRIS, of Tennessee. It was. I recollect offering the resolution myself.

The CHAIRMAN. All debate was closed at the last session.

Mr. FLORENCE. I rise to make an explanation, and I suppose I shall be indulged in doing that. So far as the impression on the mind of the gentleman from Kentucky is concerned, in relation to the judgment of the Committee on Naval Affairs——

Mr. HUNTER. I insist on the enforcement of the order of the House closing the debate.

Mr. GOODENOW. I would inquire of the Chair if it is not in order to move a recommitment of the bill and report?

The CHAIRMAN. The bill is already in committee. We are considering it in committee.

Mr. GOODENOW. Then I move that it be passed over.

Mr. FLORENCE. I believe I have the unanimous consent of the House to make an explanation.

[Cries of "No!" "No!"]

The CHAIRMAN. There is not unanimous consent.

Mr. FLORENCE. I was in hopes the committee would vote on the bill to day. The whole subject was clearly, fully, and I suppose fairly investigated last session, and I hope the committee will vote upon the bill. I ask for the reading of the report made by the Committee on Naval Affairs.

The CHAIRMAN. The gentleman from Maine [Mr. GOODENOW] proposes that the consideration of the bill be passed over. That can only be done by unanimous consent.

Mr. FLORENCE. I do not desire its postponement, and therefore object.

Mr. BRECKINRIDGE. Is it out of order to move a postponement of the bill?

The CHAIRMAN. The Chair thinks so.

Mr. JENKINS. Is it not in order to move to lay aside the bill to be reported to the House with a recommendation that it be recommitted?

The CHAIRMAN. It is in order.

Mr. JENKINS. Then I make that motion.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Kentucky, that if that motion prevails, and the bill comes into the House, all its friends will have to do will be to move the previous question, cut off his amendment, vote down the recommittal to the Naval Committee, and pass the bill.

Mr. HALL. Is it in order to move to lay aside the bill, to be reported to the House with a recommendation that it do not pass?

The CHAIRMAN. It is not in order pending the proposition of the gentleman from New York.

The question was then taken upon Mr. JENKINS's motion, and it was not agreed to.

Mr. HALL. I now move that the bill be laid aside to be reported to the House, with a recommendation that it do not pass.

Mr. JONES. I submit to the Chair, whether such a motion is in order while an amendment is pending? Our rules say that when debate is closed, the committee shall vote on the amendments pending, or that may be offered.

The CHAIRMAN. The Chair will state to the gentleman from Tennessee, that the decisions upon that point have been both ways. The Chair is of opinion, that the committee will be brought to vote first on the pending amendment. When that is disposed of, the motion of the gentleman from Missouri will be in order.

Mr. FLORENCE. I ask for the reading of the report of the Committee on Naval Affairs.

Mr. GOODENOW. I object.

Mr. JONES. I think it would be better, under the circumstances, to pass this bill over until next private bill day. The gentleman from Kentucky tells the committee that he has facts and statements with regard to this claim, which are important to its correct understanding.

The CHAIRMAN. The gentleman is aware that that can only be done by the unanimous consent of the committee.

Mr. JONES. I suppose a motion to pass it over would be in order; would it not?

The CHAIRMAN. The Chair thinks not.

Mr. STUART. It must be obvious, that while the order of the House closing debate is in force, this question cannot be considered. I move that the committee rise, that we may get relieved from the pending order of the House and be able to discuss it.

The question was put upon Mr. STUART's motion, and it was not agreed to.

The question was then taken on Mr. BRECKINRIDGE's amendment, and it was rejected.

Mr. JONES, of Tennessee. I now move that the bill be laid aside, to be reported to the House with a recommendation that it do not pass.

The motion was agreed to.

LIEUTENANT BARTLETT HINDS.

The committee then proceeded to the consideration of House bill No. 149, for the relief of the heirs of Lieutenant Bartlett Hinds.

The bill and report were read through by the Clerk.

The bill provides for payment to the heirs of Lieutenant Bartlett Hinds of five years' full pay of lieutenant, being the commutation of half-pay for life, promised by the resolves of Congress, with interest from the time it became due.

[A message was here received from the Senate by the hands of ASBURY DICKINS, its Secretary, informing the House of the passage by that body of an act to amend an act approved the 31st of August, 1852, in reference to continuing the survey of the Mexican boundary.]

Mr. GROW. This claim is founded upon services rendered by Lieutenant Bartlett Hinds during the Revolution. It was before this committee during the last session of Congress, and was discussed at that time, but objections were then made to its passage. On this account, I will briefly state the facts of the case, and the services for which these claimants ask compensation.

Lieutenant Bartlett Hinds resided at Middlebury, Massachusetts, and in 1774, entered a company of minute-men raised in and about Boston, before the breaking out of hostilities. In 1775, he joined Captain Wood's company, in Colonel Cotton's regiment, at Roxbury, and served in that company eight months. He next, in 1776, joined Major Elliott's company of artillery, then stationed at Newport, and continued in service in that company until he received his commission as lieutenant on the 11th of February, 1777, and then, with other companies, was ordered to Ticonderoga. He marched for that place, where he arrived on the 6th of March, 1777. He was there at the retreat of the American forces, and commanded the rear guard to Otter creek. At the battle of Stillwater, he received a shot in his right breast, passing through one lung, which disabled him for life, and for which he received an invalid pension under circumstances which I will hereafter relate. It is that invalid pension which has raised an objection on the part of some against granting this claim. After his recovery, however, he joined the American army at Valley Forge, and was present with General Wayne at the storming of Stony Point. In that engagement he led the "forlorn hope," and was in the service of his country till the close of the war.

On the 15th of May, 1784, we find, by a certificate of George Washington, that Lieutenant Hinds became a member of the Cincinnati Society—a society which embraced the officers who served in the Army of the Revolution. That diploma, I believe, has been taken as evidence in this House, that a man was in the service of his country till the close of the war. We find him, after the termination of the war, on Castle Island, Massachusetts, under these circumstances. Under an act of Congress, recommending the States to make provision for disabled soldiers, John Lucas was appointed a Commissary of Pensions to examine and determine what pay invalids should receive. He examined Lieutenant Bartlett Hinds, and here is his certificate, which sets forth that Hinds was wounded in the service of the country, that his wound had disabled him from military duty; but that he was still able to do garrison or guard duty, and that, on account of his disability, he should receive a pension of five dollars per month. With this certificate, he goes to Castle Island and serves his country under this invalid pension of five dollars per month. And that is the record, I take it, brought into this House by the gentleman from Tennessee, [Mr. JONES,] for the purpose of showing that this commutation should not be granted. This is the only compensation Lieutenant Bartlett Hinds ever received from his country, and this under the certificate of a commissioner appointed by the Government to examine invalids and determine what pay they should receive. Lucas did examine this man, and this is his report.

Mr. SACKETT. If I understand the matter, this is a claim set up by the heirs of Bartlett Hinds.

Mr. GROW. It is the claim of two children, only surviving heirs.

Mr. SACKETT. And that the original claimant at an early period, under the pension laws then existing, received such a pension as he applied for.

Mr. GROW. This was in 1786. He did not make application for the pension, as I understand it, but received it under the certificate of Lucas, the Commissioner of Pensions, appointed under the resolve of Congress.

Mr. SACKETT. Well, at a certain time, as I understand it, he received a pension—which must have been on his own application in some form or other—of five dollars per month. Now, I ask, if he was entitled to commutation pay under the law, as an officer who served till the end of the war of the Revolution, what impediment is there in the way of his heirs applying at the proper Department and obtaining it? If he was entitled to it according to law, what reason is there for coming to the House with the application?

Mr. FULLER, of Pennsylvania. In reply to the interrogatory of the gentleman from New York, [Mr. SACKETT,] I would say that Mr. Hinds did make application as far back as 1810. I have now a copy of a letter addressed to Mr. Eustis, who was at that time Secretary of War.

Mr. SACKETT. Well, why did he not get it?

Mr. FULLER. Why not give it to him now?

Mr. GROW, (resuming.) I would say to the gentleman from New York, in answer to his inquiry, that no application, I think, has been made. Under the resolution of Congress of the 7th of June, 1785, commissioners were appointed to examine the invalids, and determine what compensation they should receive for their disability. This man was then on garrison duty, at Castle Island, in Massachusetts, and was examined by the commissioner appointed by the Government for that purpose under this resolution. The commissioner decided that he should receive five dollars per month, in addition to his regular wages. He received that amount as regular compensation. It was no pension. He made no application to the Government for a pension at that time. This was under the resolution of Congress to provide compensation to wounded and disabled men, and he received this in addition to his regular wages, two pounds per month, I think; but this was given him as an addition to his regular pay. This pay continued till he left the service on Castle Island. And this compensation is brought up here as an objection to his receiving commutation under the resolution of 1783. He failed to obtain it during his lifetime, and his heirs now come forward and ask that Congress shall pay them what was justly due to their father.

In 1780, Congress passed an act granting half pay for life, to officers who served during the war of the Revolution. But in 1783, another resolution was passed, giving them five years full pay in lieu of their half pay for life.

In this brief summary, then, we have the evidence that Lieutenant Bartlett Hinds was in the war of the Revolution, from its commencement to its close, and that he was then entitled to commutation pay under these two acts of Congress, which he never received. His children now ask that justice which was promised, but not rendered, to their father.

After passing twelve years of his life in the service of his country, he went down to his grave in penury and want. Disabled for manual labor by his wounds, his family were deprived of the comforts and means of support which his exertions otherwise might have furnished. His only surviving children now ask that justice at the hands of the Government which should have been long since rendered their father.

Mr. SACKETT. This case was before this committee during the last session, and I see no reason why the claim should be granted. If I understand the case—and I ask those gentlemen who are more familiar with the case than I am, to correct me if I am in error—Lieutenant Hinds, during his life, under the act of 1818, made application for a pension. Am I correct there?

Mr. FULLER, of Pennsylvania. So I understand it.

Mr. SACKETT. Under the act of 1818 he made application as a soldier and an officer of the Revolution, and described himself and his service correctly, as he thought. He made application to the proper authorities for such a compensation as he considered himself entitled to. He obtained it, and was in the enjoyment of that pension up to the time of his death. Am I correct in this?

Mr. FULLER. It is true, as the gentleman states, that application was made, under the act of 1818, for a pension, but it was made after Congress had hesitated for years to bestow that bounty for which it had pledged the faith of the Government to give. And now for the last nine years the attempt has been renewed by the heirs of Lieutenant Bartlett Hinds, but with the same success that attended their father some thirty or forty years ago.

It is no argument against the justice of the claim that Bartlett Hinds did not receive the commutation pay he was entitled to under the acts of 1780 and 1783. His poverty in 1818 compelled him to accept from the Government the bounty which was granted under the act of that year. This certainly will not be conclusive evidence against the rights of his heirs to ask and obtain that bounty to which under the resolutions of 1780 and 1783 he was entitled.

Mr. SACKETT. Did I understand the gentleman to say that Bartlett Hinds, in his lifetime, besieged Congress? Are there any such papers on the files of Congress, showing that he made application to Congress for his commutation?

Mr. FULLER, of Pennsylvania. In 1809, I think Mr. Hinds was here in person—at least I am so informed.

Mr. SACKETT. I want to know what there is of record—whether there are any records showing that Mr. Hinds applied for commutation?

Mr. FULLER. I cannot say. I have never examined the files of Congress, with reference to that matter; but I am informed that Bartlett Hinds was here in person, in 1809, and that his application was renewed at several subsequent sessions of Congress.

Mr. SACKETT. I suppose the true history of the case to be this: that Bartlett Hinds was in the service of the country in the Revolution; but not in such a capacity as would entitle him, under the general laws of the country, to commutation. I suppose he so considered it himself, for he made an application to the Department, in the form of an inquiry, whether he was entitled to commutation. He was answered that he was not. Under the act of 1818, he applied for such a pension as he was entitled to for his services—describing him-

self as an officer for a portion of the time, and as a private another portion of the time—and obtained such a pension as the general laws of the country authorized the Department to grant him; and he died in the enjoyment of it.

The question now is, whether, after he has gone through life, under this description of himself, in the enjoyment of the pension he himself obtained under that description, it is wise in Congress to pass a special act to place a man upon the commutation list, on grounds special to himself, when he does not come up to the standard of the general law which authorizes commutation—and especially in the case of a man who had enjoyed a pension up to the time of his death? I think it would be setting a precedent exceedingly dangerous. I doubt not there are but few officers who served in the war of the Revolution, in one way or another, but might assign special reasons for like special grants.

Mr. FULLER, of Pennsylvania. I would simply say, in addition to what has already been said by my colleague, that the evidence before the committee satisfied them that Lieutenant Hinds—or Captain Hinds, as he claimed to be—enlisted in 1776, and was either in actual service, or subject to duty, from the period of his enlistment until the close of the war. If such be the fact, then, under the resolution of 1783, he would be clearly entitled to five years' commutation pay.

Now, sir, as it is objected on the part of the gentleman from New York, [Mr. SACKETT,] and was objected by the gentleman from Tennessee, [Mr. JONES,] that he applied for a pension under the act of 1818, the fact that he so applied is not conclusive upon his right to commutation pay. The fact that his name did not appear upon the list in the War Department, as one of the officers of the revolutionary war, who were entitled to this commutation pay, would not be conclusive either. It would throw upon him the burden of proof, in his application to this House for relief, to establish the fact of his service; and if the facts of his service, and that he served until the close of the war, are established, then he is entitled to the commutation pay. It is a fact, I am assured by the representative of Mr. Hinds,—and there are papers in his possession, or in the possession of his heirs, to that effect,—that he was here besieging Congress for this very commutation pay. That he did not receive it is not conclusive upon him. It only shows that Congress were as tardy then in doing justice as they are now. No doubt there were then, as there are now, gentlemen, guardians of the Treasury, properly jealous lest some hand should seize upon moneys which did not properly belong to them, and who objected, as they object to day, to an honest and upright claim. I hope gentlemen will satisfy themselves that this claim is honest and just, and this bill ought to pass.

Mr. JONES, of Tennessee. That Bartlett Hinds did serve during some portion of the Revolution, I suppose there is no doubt; but that he served in such a manner during the Revolution as to entitle him to commutation, under the resolves and laws of Congress, I think is not by any means established in the evidence presented to this committee. Now, sir, we are told that he was pensioned under the act of 1818. Have gentlemen looked at that application of his to see what service he himself alleges to have rendered? And he certainly knew himself, at that time, what length of time he had been in service, and it is fair to presume that he did, in making his application, and in giving a history of his services, in order to establish the facts which would entitle him to the pension authorized by the laws of the country, give a full history of his services. I have not, sir, myself, examined those papers, but I did call upon the Third Auditor to know if there was any record, or any evidence in his office, showing that Hinds had served in such a manner as to entitle him to commutation—and I believe it is understood at the Third Auditor's office that they have full and complete rolls of the Massachusetts troops in service and entitled to commutation. He informed me that there was no evidence that he had served in such a manner; and not one iota of evidence is to be found that Hinds was entitled to commutation. His letter I had when this case was up at the last session; and my recollection is, that I filed that letter with the papers in the case. The papers, I understand, have been mislaid in some way. That letter was read during the last session. The case might be somewhat different if Hinds were still living to make application himself; we might not scrutinize it with that strictness that we now do; but now that he is dead, and it is impossible for him to receive the benefit of it, those who come to claim it should make out a case clear and beyond doubt. I do not think it is such a case as this House or this committee should pass.

Mr. STEVENS, of Pennsylvania. If I understand the objections made to this bill by the gentlemen from New York and Tennessee, [Messrs. SACKETT and JONES,] they are not such as to deter me from voting for it. The committee which examined this whole case, have reported to the House that Mr. Hinds was a lieutenant; and they have referred to evidence which, it seems to me, could not exist unless the fact were so. The diploma of the Society of Cincinnati alone could never exist unless Lieutenant Hinds were an officer of the Revolution; for no man was admitted into that society without producing clear and conclusive evidence of his title to it, either as an officer or as the descendant of an officer of the Revolution. Now, sir, that diploma itself is here. Besides other proof, that, to my mind, would be clear and conclusive.

But, sir, when we allow a committee of this House to examine testimony as to facts, I feel disposed to consider their testimony as entitled to prevail, unless clear evidence appears to the contrary. This body itself cannot examine the facts; and they cannot themselves decide upon the facts half as well as the committee can.

But I understand the gentleman from New York to say that Lieutenant Hinds received a small pension, not corresponding with the rank of lieutenant.

Mr. SACKETT. I did not say that. He received such a pension, under the act of 1818, as he applied for. What that was I do not know.

Mr. GROW. If my colleague [Mr. STEVENS] will permit me, I can explain that, as there seems to be some little confusion about it. June 7th, 1785, Congress passed a resolution containing, among other provisions, the following:

"*Resolved*, That it be, and it is hereby, recommended to the several States to make provision for officers, soldiers, or seamen, who have been disabled in the service of the United States, in the following manner: 1st. A complete list shall be made out by such person or persons, as each State shall direct, of all the officers, soldiers, or seamen, resident in their respective States, who have served in the Army or Navy of the United States, or in the militia, in the service of the United States, and have been disabled in such service so as to be incapable of military duty, or of obtaining a livelihood by labor. In this list shall be expressed the pay, age, and disability of each invalid, also the regiment, corps, or ship, to which he belonged."

"That each State appoint one or more persons, of suitable abilities, to examine all claimants, and to report whether the person producing a certificate, setting forth that he is an invalid, be such in fact, and if such, to what pay he is entitled; and thereupon, the persons appointed to make such inquiry, shall give to the invalid a certificate specifying to what pay he is entitled, and transmit a copy to the person who may be appointed by the State to receive and record the same."

In pursuance of that recommendation of Congress, the State of Massachusetts appointed John Lucas examiner for that State, and here is his certificate:

"This certifies that Lieutenant Bartlett Hind, an inhabitant of the Commonwealth of Massachusetts, who belonged to the 10th regiment, commanded by Colonel Thomas Marshall, and in Amasa Soper's company, in the service of the United States of America, aged thirty one, as appears by certificate lodged in the Pension Office, having been examined by me, is found to be disabled in said service by a musket ball through his lungs. And I do hereby certify that he is entitled to receive forty shillings per month, commencing 7th March, 1786, agreeably to the resolution of Congress of the 7th of June, 1785, and to an act of the Legislature of the Commonwealth of Massachusetts of the 17th March, 1786, and that said Hinds is now fit for guard or garrison duty.

"Given under my hand at Boston, this tenth day of July, in the year of our Lord 1786, and in the eleventh year of the Independence of the United States of America.

"JOHN LUCAS, *Commissary of Pensions.*"

This is the appointment by the State of Massachusetts of an examiner. And the report of that examiner gives Bartlett Hinds, not as a revolutionary pensioner, but for the disability he had received in the service of his country, five dollars a month in addition to his ordinary pay. This additional five dollars per month he received at the time he was serving the Government on guard and garrison duty on Castle Island.

Mr. SACKETT. I would inquire of the gentleman whether Hinds received that five dollars a month additional from 1785?

Mr. GROW. I suppose that he did.

Mr. SACKETT. Did he not receive in addition to that, under the act of 1818, such a pension as he applied for?

Mr. GROW. So far as my knowledge extends he never received a dollar besides the five dollars alluded to.

Mr. SACKETT. The gentleman's colleague [Mr. FULLER] informed me that he did receive a pension under the act of 1818.

Mr. GROW. He did not. He applied to Congress for a pension, but always failed in his application, as I understand from very credible authority.

Mr. SACKETT. He made application for commutation pay but for his services, and the gentleman from Pennsylvania, [Mr. FULLER,] has given us the whole of the detail of the case; he received a pension under the act of 1818.

Mr. FULLER. I think he did receive a pension under that act.

Mr. SACKETT. So it now turns out that he received two pensions.

Mr. FULLER. I have the certificate of Mr. Calhoun, the Secretary of War, that Bartlett Hinds, late captain in the Army of the Revolution, was inscribed on the 3d of April, 1818, on the roll of the Pennsylvania agency, at the rate of twenty dollars per month.

Mr. SACKETT. He received five dollars per month additional to his ordinary pay, and twenty dollars per month under the act of 1818.

Mr. GROW. I never understood till now that he received twenty dollars per month under that act.

With the permission of my colleague, I will read the close of the section to which I have made reference:

"*Provided*, That no officer who has accepted his commutation for half pay, shall be entered on the list of invalids, unless he shall have first returned his commutation."

This act, therefore, does not prevent Bartlett Hinds from receiving his commutation. He would only have been compelled to give up his commutation pay, if he had received it, before he could receive the pension. But he never received commutation, and is not precluded by this act.

Mr. FULLER. The fact that Mr. Hinds received a pension under the act of 1818, would not be conclusive to prevent his receiving commutation pay; but the reception of commutation pay by him would be conclusive against his receiving any other pension.

Mr. STEVENS, of Pennsylvania. I will detain the committee but a few moments. I understand the facts of the case to be these: Lieutenant Hinds was a disabled officer, and received a pension for the wounds that he had incurred in the service. Now, sir, that does not at all preclude him from receiving commutation. Under the act of 1818, his pension commenced, and ended in 1822 with his death—four years. And why did he receive that from the Government at that time? He had applied to the Secretary of War, as the letter which I hold in my hand shows, and was told that he was not entitled to receive commutation. He then accepted of this pension for four years as an invalid soldier, and nothing more. It now appears by evidence which is produced before this body, that he was an officer in the revolutionary army; that he served to the end of the Revolution; and that his commission was never surrendered before that time. He came, then, clearly and distinctly within the resolution of 1783, which granted commutation pay. He was entitled to it. He ought to have had it; and the amount that he did receive, was scarcely a drop in the bucket to that which he ought to have received.

If Hinds had received his certificate at the time the law required, it would have been drawing interest until this time. I am told, however, that his death puts this on a different footing. The gentleman from Tennessee [Mr. JONES] says that if he were here he would be entitled to it, but his heirs are not.

Mr. JONES. If he were alive and here, I would not be disposed to scrutinize so closely as I otherwise would.

Mr. STEVENS. If he had vested rights in 1783, those vested rights have never been divested, and time has not barred them; and if they were vested then, they descend to his representatives. If he had no vested rights, I would give none to him nor his heirs. Believing he had those rights,

and that the testimony in the case is fully made out, I shall vote in favor of the bill.

Mr. STANTON, of Ohio. The bill, as I understand, Mr. Chairman, provides for the payment of some sixty years' interest.

The CHAIRMAN. The provision for payment of interest was stricken out by the committee.

Mr. FULLER. I move to amend the bill by inserting that interest shall be paid from the 22d of December, 1846, the date of the application.

Now, sir, I have no doubt that the heirs of Bartlett Hinds are entitled to interest from the time he should have drawn his commutation pay. I have offered this amendment under the instructions of the representatives of Mr. Hinds, who are interested in this claim. That they are entitled to it from that time there can be no doubt. There is as much obligation on the part of the Government to pay the interest as there is to pay the principal. And the heirs have desired me to state that, unless they can draw interest from the date of the application, they do not desire to draw anything at all.

Mr. SACKETT. I am opposed to the amendment, and also to the bill, and the remarks I shall submit will apply to both. The gentleman from Pennsylvania, [Mr. STEVENS,] who addressed the committee a moment ago, tells us that he would not scrutinize this case any more on account of its being an application on the behalf of heirs than he would if it were an original application of the soldier, and takes the gentleman from Tennessee [Mr. JONES] to task for expressing views of that kind. I think that there is a little something due to time and circumstances. There is a feature in this case which stands boldly out, and demands scrutiny. This is an application of heirs twenty-four years after the death of the ancestor; for the gentleman from Pennsylvania [Mr. FULLER] has stated to the committee that the application was made in 1846, and that Mr. Hinds died in 1822—a claim twenty-four years after the death of the ancestor, who died in the possession of precisely the pension he applied for.

Mr. STEVENS. With the gentleman's permission I will ask him a question. Do I understand him to say in reply to my suggestion, that if the proof be made out, time has anything to do with it; or does he mean to introduce lapse of time merely as an item of evidence?

Mr. SACKETT. I mean to say that I would require more certain and positive proof in a case coming up under such extraordinary circumstances as this, than I would a fresh application made by a soldier. If time has nothing to do with it—if the fact of the ancestor being in possession of a pension at his death, is to be lost sight of, we are to close our eyes to the ordinary circumstances that govern us in transactions of this kind. Contradictory evidence may be lost; it may be spirited away. Evidence that existed at the time, and which might have reasonably and properly defeated the claim, may not now be here. This case is distinguished from any other from the circumstances that apply to it.

Now, sir, one word to the general features of the case, and I am done. This is a claim for commutation under the law of 1783. If the heirs of Lieutenant Hinds are entitled to it under the general law, they can apply to the Department of your Government, and secure it to-day as well as Lieutenant Hinds could have secured it in 1783. They have every vested right that he had. If this be not a special and extraordinary claim for commutation pay, wherefore this application? Why not go to the Department and get it? It is because, according to the general law of the country, they are not entitled to it, that application is made here. This is a special case of commutation, and a case, in my belief, different from any other that has been presented from the foundation of the Government till the present time. He received a pension for his wounds of five dollars per month, and for his services, a pension from the time of his application to the time of his death, of twenty dollars per month.

Mr. JONES, of Tennessee. One word, Mr. Chairman. I am willing to enter into a compromise with the advocates of this case. If, on reference to the declaration in which he specifies his services, now on file in the Pension Office, it be found that he alleges to have served in such a manner, and for such a length of time as would have brought him within the law authorizing commutation, I will withdraw my objection.

Mr. DUNHAM. If I understand correctly the statements made by the advocates of this claim of the service rendered by Mr. Hinds, there is no necessity for its reference to the Pension Department; for it would be impossible to bring him under the operation of the general law. I had occasion, some year or two ago, to examine this subject most thoroughly, and the original resolution on which this half-pay claim is preferred, required certain things which, I think, the advocates of this case cannot show were complied with. If they were complied with, he must of necessity have received commutation pay. The original resolution only gave the half pay for life to certain officers—officers who were in service in 1780, and who continued in service till the close of the war.

In 1783 the law was changed, to allow them to come in, and instead of taking half pay for life, to take commutation pay for five years, and the individual officer had not the right of selection. The officers selected by regiments or lines of the States, and therefore, if the officers of the line of Massachusetts came in and took such steps as entitled them to commutation pay, this man must, of necessity, have come in with them. The majority decided it. In order to show that he is entitled to this commutation pay, they must show, under the resolution of 1780, that he was in the service at that time, and served from that time to the end of the war. There must be no cessation. If he went out of the service for a day, it would not do. Not only that, they must show that the Massachusetts line, or some detached corps to which he belonged, by a majority of the officers, determined to take commutation pay, instead of half pay for life; and if they did that, his name must have gone in with the others. In no state of the case can the advocates of this claim make out a case.

The question was then taken on Mr. FULLER's amendment and it was rejected.

Mr. GROW. I move that the bill be reported to the House, with a recommendation that it do pass.

The question was then taken, and there were—ayes 46, noes 26; no quorum voting.

Mr. STEVENS, of Pennsylvania, demanded tellers; which were ordered; and Messrs. GAYLORD and WATKINS were appointed.

The question was then again put, and the tellers reported—ayes 64, noes 39; no quorum voting.

[Cries of "Call the roll!" "Call the roll!"]

The roll was then called, and the absentees noted.

The committee then rose, and the Speaker having resumed the chair, the Chairman reported that a Committee of the Whole House on the Private Calendar had had under consideration House bill No. 149, for the relief of the heirs of Lieutenant Bartlett Hinds, and having found itself without a quorum had caused the roll to be called, and the absentees noted, and instructed him to report the fact to the House, with the names of the absentees.

The SPEAKER. There being a quorum present, the committee will again resume its session.

The Chairman of the committee [Mr. RICHARDSON] resumed the chair.

Mr. POLK. I move that the committee rise.

The CHAIRMAN. That motion is not now in order, while the committee are in the act of dividing.

The question was then taken, (Messrs. CHASTAIN and GAYLORD acting as tellers,) and there were—ayes 87, noes 40.

So the bill was laid aside to be reported to the House, with a recommendation that it pass.

Mr. POLK. I move that the committee rise.

The question was put, and decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that a Committee of the Whole House on the Private Calendar had directed him to report House bill for the relief of David Myerle, with a recommendation that it do not pass; and also House bill No. 149, for the relief of the heirs of Lieutenant Bartlett Hinds, with amendments, with a recommendation that it do pass.

Mr. BRECKINRIDGE. I have the floor, I believe, on this case of David Myerle.

Mr. JONES, of Tennessee. If the gentleman from Kentucky will give way, I move that the House adjourn.

Mr. BRECKINRIDGE. I will give way.

Mr. POLK. I move that when this House adjourns, it adjourn to meet on Monday next at the usual hour.

The question was then taken, and the motion was agreed to.

Mr. JONES. I move that the House adjourn.

THE MEXICAN BOUNDARY COMMISSION.

Mr. HOUSTON. I appeal to the gentleman from Tennessee to withdraw that motion for a moment. A bill has just come into the House from the Senate, for the purpose of relieving one of the appropriation bills of the last session from the restrictions which rendered the whole appropriation, as at present construed by the Departments, inoperative and useless.

The SPEAKER. Is the motion to adjourn withdrawn?

Mr. JONES. It is.

Mr. HOUSTON. I ask permission of the House to hear the bill read, and to pass it.

Senate bill, No. 553, was then read, as follows:

"An act to amend an act approved the 23d of August, 1852, in reference to the appropriation for continuing the survey of the Mexican boundary."

The SPEAKER. If not objected to, the bill will be read the second time.

Mr. SWEETSER. I object.

Mr. HOUSTON. The appropriation of the last session is wholly inoperative, and this bill is intended to remove the restriction from a part of it, but leaves the question of true boundary entirely where it was before. Can I not move to suspend the rules?

Mr. SWEETSER. If the gentleman refers the matter to a committee, I will not object.

Mr. HOUSTON. I would rather do that than to let it lie upon the table. I am in hopes that the gentleman from Ohio will permit the bill to be read.

[Cries of "Read it!" "Read it!"]

Mr. DAVIS, of Indiana. I object to the reading. I wish to give notice that I will on to-morrow, or some subsequent day of the session, offer the following bill:

A bill for the adjustment of sales and locations conflicting with swamp land locations.

Mr. MEADE. I object.

The SPEAKER. Objection being made, the gentleman may give his notice under the rules.

Mr. DAVIS. I will make my application under the rules, then.

Mr. McMULLIN. I move that the House adjourn.

Mr. HOUSTON. Was the objection to refer the bill to the committee?

The SPEAKER. The gentleman from Indiana objected to the second reading of the bill.

Mr. DAVIS. I withdraw my objection.

Mr. HOUSTON. I ask that the bill be read a second time and referred to the Committee of the Whole on the state of the Union.

Mr. McMULLIN. I withdraw the motion for adjournment.

The bill was then read the second time.

Mr. JONES, of Tennessee. I hope that the House will vote down the motion to refer the bill, and pass it.

Mr. HOWARD. I hope that the bill will be put upon its passage.

Mr. HOUSTON. I propose to refer it to the Committee on Ways and Means.

Mr. HOWARD. There is no necessity for reference. The members of that committee agree as to the propriety of the passage of this bill. Every thing has been secured which we desired by the act of Congress at the last session; but now the survey of the Rio Grande is arrested because they are unable to survey any portion of the boundary which is under the restriction imposed at the last session. It is proposed to relieve that restriction by this bill, and it ought to be passed.

The question was then taken on Mr. HOUSTON's motion, and it was not agreed to.

So the House refused to refer the bill.

Mr. SWEETSER. I move to refer it to the Committee of the Whole on the state of the Union.

Mr. JONES demanded the previous question; which was seconded, and the main question ordered.

The question was then taken on Mr. SWEETSER's motion, and it was not agreed to.

The bill was then ordered to a third reading, and, according to order, received its third reading.

Mr. HOUSTON demanded the previous question on the passage of the bill; which was seconded, and the main question ordered to be put.

The bill was then read the third time and passed.

On motion of Mr. HART, the House then adjourned till Monday next, at twelve o'clock, m.

PETITIONS, &c.

The following memorials and petitions were presented under the rule and referred to the appropriate committees:

By Mr. MURRAY: The memorial of 433 citizens of the State of New York, and 123 citizens of the State of Michigan, asking for the abolition of the office of national chaplain in Congress, in the Army and Navy, and elsewhere.

By Mr. MOORE, of Louisiana: The petition of Thomas Carr and 29 other settlers upon the public land known as the Grand Chenière, praying for preëmption right.

By Mr. JONES, of Tennessee: The following petitions against the employment of chaplains by the United States:

Of Elder Pleasant, A. Wilt, and 254 others, citizens of Jefferson and adjoining counties in East Tennessee;

Of Thomas J. Kelley and 307 others, citizens of Tennessee;

Of Daniel Wilt and 62 others, citizens of Jefferson county, Tennessee;

Of Wesley Mauldin and 72 others, citizens of Tennessee;

Of Thomas Pratt and 43 others, citizens of Harris county, Georgia;

Of C. H. P. Bailey and 47 others, citizens of Georgia;

Of Levi J. Knight and 92 others, citizens of Georgia;

Of Thomas F. Henderson and 68 others, citizens of Georgia;

Of John W. Christian and 90 others, citizens of Harris county, Georgia;

Of Charles Pellam and 85 others, citizens of Alabama;

Of Joshua Dodson, Spencer Leatherwood, S. P. Walker, and 72 others, citizens of Tennessee and Alabama;

Of Craft Clark and 150 others, citizens of Randolph county, Alabama;

Of Dozier T. White and 64 others, citizens of Coosa and Tallapoosa counties, Alabama;

Of William B. Daniel and 169 others, citizens of Alabama;

Of R. Philips and 36 others, citizens of Coosa county, Alabama;

Of Medey L. White and 72 others, citizens of Coosa county, Alabama.

IN SENATE.

MONDAY, *December* 20, 1852.

Prayer by the Rev. C. M. BUTLER.

Mr. BELL, of Tennessee, appeared in his seat this morning.

PRESIDENT OF THE SENATE.

The SECRETARY. The Senate will please to come to order. With the permission of the Senate, I will read a letter addressed to me by the honorable Mr. KING, President of the Senate:

WASHINGTON CITY, *December* 20, 1852.

You will oblige me by laying before the Senate my letter of resignation as Presiding Officer of that body.

WM. R. KING.

ASBURY DICKINS, *Secretary of the Senate.*

The letter of resignation is as follows:

WASHINGTON CITY, *December* 20, 1852.

SENATORS: The feeble state of my health renders me unable to discharge the duties of President *pro tem.* Accept, I beg you, my resignation of the honorable position in which you have with so much unanimity placed me.

In taking leave of you, Senators, permit me to express my grateful acknowledgments for your uniform personal kindness, and the generous support you have never failed to give me in my efforts to preserve order, and enforce the parliamentary law. May a merciful Providence preserve to each of you the greatest of all earthly blessings—health.

With the highest respect and esteem, I am your obedient servant, WILLIAM R. KING.

CREDENTIALS OF MR. DE SAUSSURE.

Mr. BUTLER. Mr. Secretary, I hope that by unanimous consent, I may be allowed to offer the following resolution:

Resolved, That the oath prescribed by law, be administered to the honorable WILLIAM F. DE SAUSSURE, as Senator from the State of South Carolina, by the honorable JOHN DAVIS.

I hold my colleague's credentials in my hand, and I hope the Senate will allow him to be sworn in. I should not offer the resolution, but that I have a precedent for it; and that precedent is the case of Mr. KING, when he made his first appearance here, and there was no Vice President. I find it upon the Journal in this way:

"Mr. BAYARD submitted the following motion, which was considered by unanimous consent and agreed to:

"*Resolved*, That the oath of office be administered to the Hon. WILLIAM R. KING, a Senator elect from the State of Alabama, by the Hon. HENRY CLAY."

The SECRETARY. With the consent of the Senate, I will read the credentials which have been presented by the Senator from South Carolina.

The credentials were read. They set forth that the Hon. WILLIAM F. DE SAUSSURE was, on the 29th of November, 1852, elected by the Legislature of South Carolina a Senator in the Congress of the United States, to fill the unexpired term of the Hon. R. B. Rhett, resigned, viz: until the 4th of March, 1853.

The resolution offered by Mr. BUTLER was agreed to; and the oath prescribed by law having been administered by the Hon. JOHN DAVIS, Mr. DE SAUSSURE took his seat in the Senate.

PRESIDENCY OF THE SENATE.

On motion of Mr. BRIGHT, by unanimous consent, it was

Resolved, That the Hon. DAVID R. ATCHISON be appointed President of the Senate *pro tempore*.

Mr. ATCHISON, on assuming the chair, addressed the Senate as follows:

SENATORS: Permit me to return my thanks for the honor again conferred upon me, and at the same time to express my regret, in common with every member of the Senate, at the cause which has produced the necessity for the election of a Presiding Officer at this time. I cannot expect—it would be a vain expectation indeed—that I can render to the Senate the same degree of satisfaction as its Presiding Officer that my predecessor has done; but it may not be in bad taste for me to say, that I pledge myself at least, as your Presiding Officer, to be impartial in discharging the duties of the Chair.

On motion by Mr. BRIGHT, it was

Ordered, That the Secretary wait on the President of the United States, and notify him of the election of the Hon. DAVID R. ATCHISON as President of the Senate *pro tempore*.

Ordered, That the Secretary notify the House of Representatives of this election.

VOTE OF THANKS TO MR. KING.

Mr. DAVIS submitted the following resolutions; which were unanimously agreed to:

Resolved, That the thanks of the Senate be presented to the Hon. WILLIAM R. KING for the ability and courtesy with which he has discharged the duties of President of the Senate *pro tempore*.

Resolved, That the Senate regret the indisposition of the Hon. WILLIAM R. KING, which has occasioned his resignation.

PETITIONS, ETC.

Mr. SHIELDS presented a petition of sundry citizens of Philadelphia county, Pennsylvania, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. WELLER presented the petition of John O'Donoghue, praying extra compensation for services rendered upon the Mexican boundary; which was referred to the Committee on Claims.

Mr. BADGER presented additional documents in relation to the claim of Samuel Mickum; which were referred to the Committee on Naval Affairs.

Mr. PEARCE presented the memorial of Catharine M. Weaver, praying a pension in consideration of the loss of two sons in the Navy; which was referred to the Committee on Pensions.

Mr. MORTON presented a memorial of citizens of Jackson county, Florida, praying that the office of chaplain in the Army and Navy, and in Congress, may be abolished; which was referred to the Committee on Military Affairs.

Mr. DAWSON presented a memorial of the State of Georgia, in behalf of herself and the State of Alabama, praying indemnity for depredations committed upon the citizens of those States by the Creek Indians in 1836 and 1837; which was ordered to be printed.

Mr. BRODHEAD presented the proceedings of a meeting of soldiers of the last war with Great Britain, held in Philadelphia, in favor of a modification of the bounty land law, so as to grant to the survivors of the said war one hundred and sixty acres of land; which were referred to the Committee on Public Lands.

Mr. TOUCEY presented the petition of Philena Tracy and others, praying that pensions for life be granted to the surviving widows or heirs of those who served in the last war with Great Britain; which was referred to the Committee on Pensions.

Mr. FELCH presented the petition of Mary W. Perrine, widow of William E. Perrine, for herself and children, praying the payment of whatever amount shall appear, upon investigation, to be due said Perrine as one of the contractors on the Louisville and Portland canal; which was referred to the Committee on Claims.

Mr. DAVIS. I am requested to present the memorial of a committee of the Boston Marine Society. They ask that the law requiring American seamen to be furnished with "protections" be repealed, and that registered vessels of the United States engaged in foreign trade should be required to take a certain number of boys or apprentices, in proportion to the tonnage of the vessel, in order that the number of American seamen may be increased. They further ask the Government to consider the expediency of establishing schools for marine purposes, and they set forth the reasons for the various matters for which they pray. I move that the memorial be referred to the Committee on Commerce.

The motion was agreed to.

PRINTING THE PRESIDENT'S MESSAGE.

Mr. HAMLIN. The Committee on Printing, to which was referred a resolution providing for printing ten thousand copies of the President's message and accompanying documents, have directed me to report in favor of striking out "ten thousand," and inserting "eight thousand," and adding the following additional resolution as an amendment:

Resolved, That two thousand copies of a compendium, in one volume, be printed, to consist of the President's message and the accompanying reports of the Secretaries and Postmaster General, with the reports of the Secretary of the Treasury on the Finances, and on Commerce and Navigation, with an abstract of the reports from the heads of the several Bureaus.

The Senate proceeded to consider the report of the committee.

Mr. HAMLIN. Ten thousand copies have been the usual number of the President's message and documents printed by order of the Senate for the last few years; but it will be recollected, that at the last session my colleague called the attention of the Senate to the propriety of printing a compendium of these documents in one volume. The committee have thought it expedient to adopt the suggestion, so as to reduce the number of full documents printed to eight thousand, and also to print, for the inspection of the Senate, two thousand volumes of the compendium of the message and documents. If the compendium should be thought desirable, we can hereafter reduce very much the number of full documents required.

Mr. BRADBURY. I should have preferred that, instead of printing an extra number of ten thousand of the documents in full, a larger number than ten thousand copies of the compendium should have been printed; but I perceive, on examination, that the abstract which was required to be made by the Senate's resolution of the last session, has not been prepared in the manner in which it was desired to have it done. It is obvious that the President, in carrying out the resolution of the Senate, must rely upon the heads of the Bureaus, of whose reports an abstract was to be made, to be printed with the message and full reports of the Departments. Some of these Bureaus, instead of preparing an *abstract* have sent us merely an *index* to their reports. At the last session, the documents accompanying the President's message made three volumes of some one thousand seven hundred pages, and with the commercial and financial reports, comprised five volumes of over two thousand pages. One volume of four hundred pages would contain everything material and important in them, and would be a most valuable document. Some of the heads of Bureaus have not made such abstracts as is desirable. They seem to have misunderstood the meaning of the word "*abstract*," and to have confounded it with that of "*index*." I hope, however, that the publication of the compendium thus prepared, though imperfect, may lead to the valuable improvement of having a compendium hereafter. It will show how far the heads of the several Bureaus possessed the ability to understand, or the capacity or disposition to execute the resolution of the Senate. This being ascertained, another year may remedy the deficiencies that may now be found.

I hope the report will be adopted.

The amendments of the committee were agreed to, and the resolution as amended was adopted.

LAND OFFICE REPORT.

Mr. BORLAND. The Committee on Printing, to which was referred the resolution offered by the Senator from Michigan, [Mr. FELCH,] for the printing of one thousand extra copies of the report

of the Commissioner of the General Land Office, and the reports of the Surveyors General, for the use of the General Land Office, have directed me to report back the resolution, and recommend its adoption. It is proper for me to say, in reference to the view with which the resolution was referred to the Committee on Printing, that on an examination of the subject, they found that there was no appropriation to pay for the printing contemplated by the resolution, nor is there any appropriation for paying for any printing whatever which the Senate or the House of Representatives may order. An objection was suggested by some Senators when the resolution was originally offered, that the amount would have to be paid out of the contingent fund of the Senate. Upon an examination of the subject, it has been found that there is no appropriation at all out of which it can be paid for, and an appropriation will have to be made hereafter to pay for the public printing ordered by the two Houses. By reference to the printing bill of the last session, by which our system was changed, it will be found, that although payment for all the printing which might be ordered by the two Houses and the respective Departments, was required to be made at the Treasury, upon the certificate of the Superintendent of Public Printing, yet that bill omits to provide an appropriation to make those payments; so that we shall have to make a special appropriation, at an early day, if our printing of any kind is to be paid for at all. I ask for the adoption of the resolution at this time.

The resolution was agreed to.

NOTICES OF BILLS.

Mr. BORLAND gave notice of his intention to ask leave to introduce a joint resolution to amend or explain so much of the act of the last session making appropriations for the improvement of certain rivers and harbors, as relates to Red river.

Also, a bill to grant portions of public land to aid in the construction of railroads from Little Rock, Arkansas, to St. Louis, Missouri, and from Van Buren, via Fayetteville, Arkansas, to Springfield, Missouri.

Mr. WALKER gave notice of his intention to ask leave to introduce a bill for the construction of a harbor at Ozankee, on Lake Michigan, in the State of Wisconsin.

BASTROP GRANT.

On motion by Mr. DOWNS, it was

Ordered, That the report of the Secretary of the Interior, in reference to private land claims within the Bastrop grant, be referred to the Committee on Private Land Claims.

A motion made by him to print one thousand extra copies of the report, was referred to the Committee on Printing.

BILL INTRODUCED.

Mr. BRODHEAD, by unanimous consent, asked and obtained leave to introduce a bill, extending the provisions of the several laws granting bounty lands to the officers and soldiers who have been engaged in the military service of the United States; which was read a first and second time by its title, and referred to the Committee on Public Lands, and ordered to be printed.

THE MEXICAN BOUNDARY.

Mr. CLARKE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to report to the Senate the amount of the several appropriations made by Congress for prosecuting the survey of the boundary between Mexico and the United States, since the organization of the Boundary Commission; and also, to report how much of said appropriations were expended by Mr. Commissioner Weller, and previous to the appointment of Mr. Commissioner Bartlett; how much was drawn for and expended by Colonel J. D. Graham, at one time Chief Astronomer of the Commission; and how much has been expended by Mr. Bartlett; also, whether any portion of said appropriation has been expended by others than by the Commissioners, and by the Astronomer hereinbefore named; and if so, how much.

PROPOSED LUNATIC ASYLUM.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be requested to inform the Senate whether any steps have been taken to establish a Lunatic Asylum in this District; if so, what has been done,—particularly, whether a site for the asylum has been purchased; and if so, where the same is to be located; the quantity of land purchased, and the price of such land, and whether the purchase is absolute or conditional, and what part of the price has been paid; also, how much of the appropriation of one hundred thousand dollars is expended, and for what purpose expended.

DANIEL WEBSTER.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Printing cause to be published and bound in pamphlet form, in such manner as may seem to them appropriate, for the use of the Senate, ten thousand copies of the addresses made by the members of the Senate and members of the House of Representatives, together with so much of the message of the President of the United States, at the commencement of the session, as relates to the death of the honorable Daniel Webster.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. P. B. HAYES, its Chief Clerk, announcing that it had passed the bill from the Senate "to amend the act approved the 31st August, 1852, in reference to the appropriation for continuing the survey of the Mexican boundary."

Also, the bill from the Senate "authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," with amendments.

Also, that it had passed a joint resolution "authorizing the settlement of the account of the public printer for paper used by him since the 1st of November, 1852."

REGISTERS OF VESSELS.

On motion by Mr. HAMLIN, the Senate proceeded to the consideration of the amendments of the House to the bill of the Senate, "authorizing the Secretary of the Treasury to issue registers to vessels in certain cases."

Mr. HAMLIN. The first amendment of the House is an unnecessary one; but in order to prevent the necessity of sending the bill back, I hope the Senate will adopt it. That amendment is to insert the words "or enrollment," after the word "register." Now, if the law provides for issuing registers, the parties, on a surrender of the registers in any home port, may obtain an enrollment as a matter of course; but there will be no harm done by the amendment; and I hope, therefore, in order to obviate the necessity of sending the bill back to the House, it will be agreed to. The other two amendments of the House are merely verbal, so as to make the bill apply to the future as well as to the past.

The amendments were concurred in.

JAMES A. FAWNS.

On motion by Mr. CHARLTON, the Senate proceeded, as in Committee of the Whole, to consider the bill from the House of Representatives for the relief of James A. Fawns. It proposes to direct the accounting officers of the Treasury to adjust and settle the account of James A. Fawns, late acting purser of the United States brig Bainbridge, allowing to his credit the pay and rations of a purser during the time he acted as such.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

SUCCESSOR TO MR. CLAY.

The Senate resumed the consideration of the resolution submitted by Mr. GWIN on Monday, the 6th instant, which had been modified so as to read:

"*Resolved*, That the credentials of Archibald Dixon, Esq., be referred to the Committee on the Judiciary, who shall consider and report thereon."

The pending question being on the amendment of Mr. JONES, of Tennessee, to strike out all after the word "Resolved," and insert:

"That the Hon. Archibald Dixon was duly elected by the Legislature of the State of Kentucky, to fill the vacancy in the Senate occasioned by the resignation of the Hon. Henry Clay, and is entitled to a seat therein"

Mr. DOUGLAS. Mr. President, it was my wish that this subject should have been referred without debate to an appropriate committee of the Senate, that we might have had a report upon it before we entered upon the argument of the question. Upon the motion to refer, it was not my purpose to say anything. But the amendment proposed by the Senator from Tennessee, brings up the merits of the question, and compels the Senate to vote upon the validity of Mr. Dixon's claim to a seat in this body. I shall not occupy much of the time of the Senate in this discussion. I simply wish to present the view which my mind has taken for the purpose of ascertaining whether or not the difficulties which I conceive to exist can be removed. In order to do that, I must call the attention of the Senate to the facts of the case.

In 1849, Mr. Clay was elected a Senator from the State of Kentucky for the full term of six years, commencing on the 4th of March of that year. On the 17th of December 1851, he resigned his seat in the Senate to take effect on the first Monday of September, 1852. The Legislature of Kentucky being then in session, elected Mr. Dixon to fill the vacancy which was to happen on the first Monday of September thereafter by the resignation of Mr. Clay. On the 29th of June, 1852, Mr. Clay died. On the 6th of July, the Governor of Kentucky appointed Mr. Meriwether to hold the place until Mr. Clay's resignation should take effect; and under that commission Mr. Meriwether took his seat in this body. At the time of the presentation of his credentials, I intimated doubts as to the regularity of the proceeding, and an opinion with respect to the validity of the election which had previously taken place.

I have listened to the arguments carefully and attentively, with the view of arriving at a correct conclusion on this question, but I am not satisfied that the precedents which have been cited, are decisive of it. I am not convinced that those precedents reach the real point presented in this case. The Senator from Massachusetts, [Mr. DAVIS,] in his argument, remarked that there were not five Senators in this body who did not hold their seats by the tenure presented in the credentials of Mr. Dixon. I presume the meaning of the Senator was, that there were not five Senators holding their seats here who were not elected in anticipation of the commencement of their term. He certainly did not mean that we were all here to fill vacancies.

Mr. President, it occurs to me that there has been a confusion of terms in the citing of cases where Senators were elected for a full term in anticipation of the expiration of the old one as precedents for vacancies. Where a senatorial term has expired by its own limitation under the Constitution, and an absence of representation results from that cause, it is not a vacancy within the meaning of the Constitution. Vacancies happening in the representation in the Senate during a recess of the Legislature may be filled by the Governor of a State; but I presume no man ever contended—certainly not since the Lanman case—that a Governor, under the power to fill vacancies, could make an appointment to an original term of office. Therefore, when we speak of vacancies happening in the constitutional sense, we must be understood as meaning cases where the term has once been filled, and subsequently become vacant by resignation or otherwise. That being so, the precedents which have been cited of the election of Senators in anticipation of the expiration of a regular constitutional term do not apply to the case of vacancies in the constitutional sense.

I have no doubt of the right and of the propriety of a State Legislature electing a Senator in advance of the expiration of the existing term, with a view that there shall be no failure in the representation in the event of a called session. In the absence of any regulation by Congress, the right of the State to do so cannot be questioned; for under the Constitution the power to prescribe the *time* and mode of electing Senators is vested in the States, subject to the authority of Congress to modify and change such regulations. Congress has never established any rule upon the subject, and in the absence of Congressional action, each State has a right to prescribe its own time in the election of Senators. But I am inclined to think there is a necessity for Congressional interposition, because a State might make an election from partisan considerations two or three years in advance of the expiration of a term. I do not think such an election would be within the spirit of the Constitution; yet I am not prepared to deny the right of a State to elect years in advance according to the letter of the Constitution, unless Congress should interpose its authority, and provide that the election should be at the last regular session of the Legislature preceding the expiration of the term. However, be that as it may, the precedents which have been cited do not reach this question in this case.

The first inquiry presented here is, Was there such a vacancy on the 30th of December, 1851, as authorized the Legislature of Kentucky to elect

Mr. Dixon? It is true the precedents support the position that a Legislature, in anticipation of a vacancy which is expected to happen by resignation, on a given day, may elect a Senator to fill such vacancy, and that the election is good if the resignation matures and becomes operative. That is as far as any one of the precedents go. They reach this point: that if the resignation of Mr. Clay, to take effect nine months from its date, did mature, and a vacancy did occur in pursuance of it on the day therein designated, the election of Mr. Dixon to fill that vacancy would be valid. That is the extent to which any precedent that I have seen does go. I am not prepared to say that if it were an original question, I should decide it in the way those precedents indicate. The inclination of my mind is, that I should have reversed the construction upon that point. But, sir, I am not disposed to argue any point in the case which does not directly bear upon it, and which is not essential in the decision of the question.

My view is this: Although Mr. Clay had resigned, to take effect on the first Monday of September, no vacancy occurred in pursuance of that resignation, no vacancy happened on that day. No vacancy occurred by virtue of the resignation of Mr. Clay; but a vacancy did occur in the mean time. When Mr. Clay resigned it was uncertain whether his resignation would produce a vacancy or not. The Legislature of Kentucky then elected Mr. Dixon in anticipation of an event which might happen, or which might never occur. If the resignation had matured, Mr. Dixon would, according to the precedents, have been entitled to the seat. If the resignation never did mature—if no vacancy ever occurred in consequence of it, can it be said that an election made in anticipation of an event which never occurred, was valid? There are many causes which might have operated to render that resignation inoperative and ineffectual to create a vacancy at the time designated in it. One is the case that did actually occur, death. If Mr. Clay had removed from the country in the mean time, and thus vacated his seat, the resignation would have been superseded and rendered inoperative by a prior vacancy resulting from another cause. If Mr. Clay had been appointed to an office incompatible with a seat in the Senate, the acceptance of that would have vacated his seat, and created a vacancy from that time. There are a great variety of cases which might have occurred, by which the resignation could have been rendered null and void. I contend that no vacancy ever occurred under Mr. Clay's resignation. The election was by the Legislature of Kentucky, in anticipation of an event which might happen, or which might never occur, and which in this case never did occur. The seat was not vacant at the time Mr. Dixon was elected. No one can pretend that it was. Mr. Clay was here as a member of this body, enjoying all the rights and emoluments of the office of Senator, and authorized to exercise all the powers and functions appertaining to the station. He received his pay and drew it in person for six months after the date of his resignation and the election of Mr. Dixon. I have here the list of dates at which Mr. Clay drew his pay as a member of the Senate. They are as follows: On the 18th of December, the day after the date of his letter of resignation; on the 21st of January; the 11th of February; the 18th of March; the 9th of April; the 27th of April; and the 11th of June, two or three weeks before his death.

These facts show that the seat was not vacant, but was occupied by Mr. Clay until the day of his death; and that no vacancy did actually occur until the death of that distinguished statesman. A vacancy occurred on the 29th of June by his death, and not by resignation; and up to that time there was no vacancy. The Legislature of Kentucky not being in session at the time of that death, it was a vacancy occurring during the recess of the Legislature, and which, according to the very language of the Constitution, it was incumbent upon the Governor to fill by a temporary appointment. The language of the Constitution upon this point is clear and explicit: "If vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." Now, I submit whether it was not the duty of the Governor of Kentucky, under the Constitution, to make a temporary appointment in the place of Mr. Clay, deceased? The Governor had not only the right to make the appointment, but it was his imperative duty under the Constitution. He did make a temporary appointment; and, as if anticipating this very difficulty, and anxious not to prejudice the question either way, and to pay due respect to the Legislature of Kentucky, he made the appointment in a peculiar form. The words of the commission which he gave to Mr. Meriwether, authorized him to hold the seat, "to be and act as Senator for the Commonwealth until the time when the resignation of the said Henry Clay takes effect." Evidently the point of time there alluded to by the Governor, was the first Monday of September; but instead of specifying that day, he chose to use such language as would leave the question open for the decision of the Senate as to the duration of the commission to Mr. Meriwether.

Mr. JONES, of Tennessee. Will the Senator from Illinois permit me to ask one question?

Mr. DOUGLAS. Certainly.

Mr. JONES. I understand the honorable Senator to say there was no vacancy created by the resignation of Mr. Clay. I would like to ask whether, in the opinion of the Senator, if Mr. Clay had lived until the first Monday in September, he could have retained his seat as a Senator? And if he could not, I would like to be informed at what time he lost the control over his seat.

Mr. DOUGLAS. I shall make only this answer to the question which the Senator propounds. I understand that this body, in the case of Mr. Bledsoe, did decide that when a Senator had resigned, the resignation to take effect at a future day, and when the Legislature had interposed and accepted the resignation, and filled the place, the resignation could not be withdrawn. Whether the Senate would have made the same decision or not in a case where there had been no election, I am not prepared to say. But as there had been an election in this instance, the case of Bledsoe will answer the question of the Senator upon that point. In the few remarks which I shall submit, I do not intend to run counter to any one of these precedents, nor do I intend to occupy the time of the Senate by attempting to rebut them, although I may doubt their validity; but I shall simply give the reasons why I do not think they reach this case; and if the Senator will follow me, he will see the reasons why I think this case does not come within the rule established by any of the precedents. This was a case, then, where the Governor was authorized to make an appointment, the vacancy having occurred during the recess of the Legislature; it is a case where the Governor was compelled to appoint, it having occurred during the recess. The Governor did appoint. The Constitution, which I have read, fixes the duration of the appointment; and what is it? Until the next meeting of the Legislature. That period of duration having been fixed by the Constitution, there is no other power than that instrument which can overrule or shorten that term. There is one exception imposed by the Constitution itself, upon that period of duration; and that exception is this: if, in the mean time, the senatorial term, out of which the vacancy arose, shall expire, then the Governor's appointment terminates with that term. If, on the contrary, the Legislature meets before the expiration of the senatorial term, then the appointment must continue until the meeting of the Legislature.

That is the construction which I give to the Constitution; that is the way in which the Constitution reads upon this point; and this brings me to another point, which is this: What is the duty of the Legislature when they meet? The Constitution says the appointment shall continue until the next meeting of the Legislature, "*which shall then fill such vacancy.*" When is the Legislature to fill the vacancy? At the first meeting of the Legislature next *after* the Governor's appointment, not before the vacancy happens. And "shall then," at the next meeting of the Legislature after the appointment, fill the vacancy. The Constitution, therefore, has said, in express terms, that in a case where the Governor has a right to appoint, and where he does appoint, the vacancy shall not be filled by the Legislature prior to the appointment of the Governor, but shall be filled subsequent to that appointment. This is the case provided for and pointed out by the Constitution. Your precedents do not apply to it; they apply to cases only where the resignation took place during the session, and where there was no vacancy intervening by death, or otherwise, during the recess. If Mr. Clay had not died in the recess—if he had lived, and retained his seat until the first Monday in September—your precedents would then have been in point; but he having died in the mean time, you have no precedents. The decision depends upon the plain reading of the clause of the Constitution to which I have invited your attention; that clause which provides that in a case where the vacancy happens during the recess of the Legislature, the Governor shall make a temporary appointment, until the meeting of the Legislature, which shall then fill such vacancy. What vacancy? Why, the vacancy which happened during the recess; the vacancy which the Governor filled by a temporary appointment, up to the time of the meeting of the Legislature; the vacancy then remaining from the time of the meeting of the Legislature until the end of the term. Then what was the extent of the vacancy in this case? It is from the period of time when the election is made by the Legislature until the expiration of the term; for so many months and so many days. It is not a vacancy occurring a year previous; it is not a vacancy that occurred on the first Monday in September, 1852, when the resignation would have matured if Mr. Clay had lived; it is not even a vacancy occurring by the death of Mr. Clay; but the vacancy produced by the death of Mr. Clay, temporarily filled until the meeting of the Legislature, and filled then by election from that day until the day on which the senatorial term expires.

I insist, therefore, in the first place, that this is a case which has never had a precedent in the history of our Government. There is no precedent in point—there is no case which can be brought to bear upon it to elucidate it. The precedents which you have cited do not reach the case, and you are bound to decide the question according to the language of the Constitution; and that language is, that the Legislature shall elect, after the appointment of the Governor was made, and not before. That is all which I have to say upon this question, unless I refer to one or two points which have been drawn into the discussion without having any appropriate relation to it.

We have been referred to the New Jersey case, and the broad seal. Sir, what has that to do with this case? I leave that whole question in the hands of the Senator from California, [Mr. WELLER,] who has already replied to the assault so triumphantly, having been a member of the House of Representatives at the time, and an actor in the scene. It certainly was not a case which can constitute a precedent to bear at all upon this question, or to elucidate it.

But the Senator from Tennessee has talked eloquently to us about State rights, interposing, as a protest, that he is not a very strong advocate of State rights, though he thinks we, on this side of the Chamber, are bound by his arguments predicated upon them. Sir, I am an advocate of State rights under the Constitution, by a strict construction of that instrument. Gentlemen refer, also, to the sovereignty of the States, and say that we are annihilating the sovereignty of the State of Kentucky if we do not admit Mr. Dixon to a seat. Sir, what has the sovereignty of the State of Kentucky to do with this question? Kentucky is entitled to two Senators on this floor; but not by virtue of her sovereignty. It is not because she is an absolute sovereignty that she is entitled to two Senators; it is because she has become a limited sovereignty under the provisions of the Constitution, that she is entitled to two representatives on this floor. Her sovereignty, if she was an absolute sovereign, would exclude her from the right of a representation here. Kentucky is, therefore, entitled to two Senators here by virtue of the Constitution of the United States, and not in consequence of any sovereignty which she may be supposed to possess. I apprehend that I should even be willing to go further than the Senator from Tennessee in maintaining the absolute sovereignty of each State in this Union within the entire sphere of the legitimate powers of the State, where they are not expressly, or by irresistible implication, withdrawn by the Constitution of the United States. I apprehend that I will go as far as he, or any other man, in advocating the true rights of the States. What is the right of a State, then, as connected with representation in this body? It is

a right derived from the Constitution of the United States to be represented in this body, in pursuance of the Constitution. It is not a right to be represented as Kentucky pleases, or as any other State pleases; but it is a right to be represented as the Constitution provides. She has no right to any other representation or mode of appointment than that authorized and prescribed by the Constitution. To allow her, or to compel her to be represented here in any other mode than that pointed out in the Constitution, is a violation of all State rights, and of State sovereignty too. The question here is, what is the mode of representation to which Kentucky is entitled in this case? Why, sir, the Constitution provides, that in the election of Senators generally, it shall be done by the Legislature of each State; it provides, by implication, that in case of vacancies which occur during the session of the Legislature, the Legislature shall elect; but it also provides that if the vacancy occurs during the recess of the Legislature, the Legislature shall not elect in the first instance, but that the Governor shall appoint, and that the appointment shall continue until the next meeting of the Legislature, and that the Legislature shall then elect.

Mr. President, I have now concluded what I have to say upon this question. I have deemed it due to the occasion to state the reasons which will control my vote, unless it can be shown that I am in error. I have spoken with some degree of confidence in the correctness of the positions I have assumed, yet with profound deference for the opinions of other Senators. I have no pride of opinion which will make me cling to an error or a fallacy after my judgment shall be convinced. My vote will be given according to my convictions when the argument shall close.

Mr. CASS. Mr. President, this discussion, like most of the discussions in which we find ourselves engaged, has taken a wide range, and has been made to embrace many topics which seem to me entirely foreign to the real question before us. That question, I think, lies within a narrow compass. I shall present my own view of it very briefly, and rather to justify the vote I intend to give, than with any expectation of influencing the judgment of others.

And, sir, preliminary to my main object, allow me to say, that for myself I disclaim the remotest intention to show disrespect to the Governor or Legislature of Kentucky by any remarks or vote of mine. I should think myself very badly employed in any such effort. I have no doubt, none whatever, but that the authorities of that State did precisely what they considered it their duty to do, nor is it my province to review their acts. I receive them as executed, and call in question none of the facts established by the documents before us. The resignation and the death of Mr. Clay, the appointment by the Governor, and the election by the Legislature, are fully conceded by all who have spoken. And therefore the attempt to compare this case with the New Jersey case, or with a contested election, in which the truth or validity of the return is arraigned, is wholly to misapprehend the true point before us. That point is not as to who was elected, but as to the existence of a vacancy, which such election was designed to fill. And this is the body which must settle that question before the person presenting himself can take his seat. It is a power we cannot transfer, as we are, by the Constitution, the final judges of who are entitled to seats in this Chamber. And in this general power is included the duty of deciding upon the tenure of office—when the term of one Senator commences and that of another terminates. Independent of the plain injunctions of the Constitution, it is evident that such a right is essential to uniformity of action, as without it we might have as many decisions as there are authorities, legislative or executive, to make them. I therefore put out of view the limitation of the senatorial term, made by the Governor of Kentucky, and all the remarks to which it has given rise. I take it for granted that the Governor made "a temporary appointment" to fill Mr. Clay's "vacancy;" but the duration of that vacancy and of that appointment is a question for us, and one from which we cannot escape.

Mr. President, I wish it were in my power to vote for the admission of Mr. Dixon. I had much rather do it than vote against him. It is with reluctance that I feel myself compelled to make a decision which will prevent a gentleman elected by the Legislature of a sovereign State from taking a seat in this body. But I may be allowed to say that Mr. Meriwether, for whom I have a warm personal and political regard, has conducted himself with great delicacy and propriety during the discussion of this case, by absenting himself from the Senate, and by preferring no claim to a seat in it. I do not call in question the validity of the legislative proceedings at the time they occurred, but I consider them rendered inoperative by the sad event which created an unexpected vacancy inconsistent with the action previously had.

How, then, stands this case, sir? The third clause of the first article of the Constitution provides for the composition of the Senate, by fixing the term of service and the mode of selecting the Senators, permanent and temporary. It declares that "if vacancies happen, by resignation or oth-'erwise, during the recess of the Legislature of 'any State, the Executive thereof may make tem-'porary appointments until the next meeting of 'the Legislature, which shall then fill such vacan-'cies." The regular terms of the Senators are for six years, and the "vacancies" herein provided for are the unexpired portion of such terms, which are to be "filled" by the Legislature when it can act, and when it cannot act, to be occupied by TEMPORARY EXECUTIVE APPOINTMENTS. If, therefore, a Senator resign, or his seat is otherwise vacated, except by the expiration of his term, the "vacancy" is for his original period of service, to be temporarily *appointed* to by the Governor, or "filled" by the Legislature.

We come now to the question, when did a vacancy occur in the senatorial term of Mr. Clay? All agree that none could be created by his resignation until the advent of the first Monday of September, and no person here denies that one "happened" the moment of his death. On the 29th day of June—the day of that national misfortune—"a vacancy happened by resignation or otherwise;" and it being during the recess of the Legislature of the State of Kentucky, the Executive thereof was called upon to make a temporary appointment. And for what time? "Till the next meeting of the Legislature," whose duty it would then have been, in the words of the Constitution, to "fill such vacancy."

Now, sir, all this is very clear, as has just been ably shown by the Senator from Illinois, [Mr. DOUGLAS;] and, as I before remarked, we give to the certificate of the Governor of Kentucky its full constitutional effect when we concede that there was a vacancy during the recess of the Legislature, and that he rightfully appointed Mr. Meriwether to fill it. But when he undertakes to fix a limit to the tenure of the appointment, and fixes one, as we think, different from the Constitution, it is our duty, while we recognize the appointment, to look to the Constitution, and not to the certificate, for the period of service. I do not see why the Governor has not the same right to determine any other of the incidents of the office—its compensation, for instance—as its duration. His connection with the subject ceases when he has made the appointment and granted the certificate.

Now, sir, in what manner is it contended that this clear constitutional provision is rendered inoperative in the case before us? Mr. Clay tendered to the Legislature of Kentucky, during its session the previous December, a letter of resignation, to become such on the first Monday of the succeeding September, and thereupon the Legislature elected a successor to "fill" the vacancy on the arrival of that day. And what was the nature and constitutional effect of these proceedings? It is not necessary, for any purpose I have in view, to call in question the right of the Legislature to make a prospective election of a Senator. Certainly, so far as regards a new term, where nothing can defeat its occurrence, the practice is too well established, too necessary indeed, to deny its validity. With respect to *accidental vacancies*, the Constitution, by a strict construction, would seem to require their occurrence before provision can be made for filling them. *Such vacancies*, (those occurring during the recess,) says the Constitution, after providing for the action of the Governor, *shall be filled by the Legislature at its next session.* This presupposes an actual, not a prospective existence of the vacancy before legislative action, which is to follow, not precede, that of the Governor. However, I understand the practice has been otherwise, and I do not feel disposed to question it, especially as a different construction might deprive a State of one of its Senators for a long time. But the provision under such circumstances must be incomplete and prospective, assuming only its legal effect when the *vacancy happens* as contemplated.

But I repeat, sir, that these questions do not affect my view of this subject; and therefore I consider the analogy which has been drawn between this case and cases where prospective appointments have been made, and which were rendered operative by the fulfillment of the condition, or, in other words, by the arrival of the day during the lifetime of the incumbent, as utterly fallacious. The true point is the effect of the death of Mr. Clay upon his own resignation, and upon the proceedings of the Governor and of the Legislature.

It seems to me that metaphysical subtleties had better be avoided in a practical discussion like this, depending upon a plain provision of the Constitution. And I think, also, that nice points of law, to be found in case books, respecting the rights of property and the extent of the power of those possessing them, in which the ingenuity of judges has often run riot, are equally out of place upon such an occasion. The principles involved in this matter are neither deep nor complicated. The act of Mr. Clay was an inchoate one, to become complete and effectual on the first Monday of September, if he was then living; I say if he was then living; for certainly no act of an incumbent can affect the tenure of an office after his death. And I distinctly understood that that was precisely the point made by the honorable Senator from Connecticut, [Mr. TOUCEY,] and which was assailed by the honorable Senator from New Hampshire, [Mr. HALE,] as I thought very unfairly. Death certainly dissolves all connection with office; but the question is not, as the Senator from New Hampshire represented, or rather misrepresented—certainly unintentionally—whether a dead man can resign, but whether the acts of a dead man made when living, can affect any of the attributes of the office he held. I agree with the Senator from Connecticut that they cannot.

I have nothing to say concerning the question which has been raised here of the power of Mr. Clay to withdraw his resignation after he offered it and before his death, because that question is not in my way. Whether revocable or irrevocable, it does not bear upon the conclusion at which I arrive.

I repeat, the act of Mr. Clay was inchoate, producing no vacancy, and the act of the Legislature was equally inchoate, filling none, unless rendered perfect by the occurrence of the fact upon which their operation depended.

Now, sir, did any "vacancy happen," take place, or occur on the first Monday of September? Certainly not; for the seat of Mr. Clay became vacant in June preceding, and no previous act of his could have any effect in terminating the vacancy or in creating another at the time indicated, for he was then dead, and all his connection with the office or control over it had ceased. As it was on the 31st day of August, so it was on the first Monday of September. There was nothing for the resignation to operate on; for the office had departed from him, or rather he from the office. He said to the Legislature of Kentucky, I hold this office till the first Monday of September; then I relinquish it. But before that time the act of God came to supersede this arrangement, and the legislative proceedings to which it led. An illustration may confirm what it appears to me nothing can render clearer.

Suppose the Legislature had been in session upon the death of Mr. Clay, can any one doubt their right to fill the office with its constitutional tenure for the residue of his term of service? If they could not, then Mr. Clay created two vacancies—one by his death, and another by his resignation—both of which required the action of the Legislature—an anomaly utterly unknown to our Constitution.

The view I have taken reconciles the proceedings of the Legislature of Kentucky with the plain provisions of the Constitution respecting the "happening of a vacancy" in its recess, by considering the proceedings inchoate and incomplete, though regular, but deprived of any validity by a subsequent occurrence which prevented the resignation from taking effect.

Mr. RUSK. Mr. President, I hope, according to the suggestion which was thrown out on Thursday last, that the Senate will come to a vote on this question to-day. It is due to Mr. Meriwether; it is due to Mr. Dixon; it is due to the State of Kentucky; and I think it is due to the business before Congress that it should be terminated as soon as possible; and I am glad that very little of the blame for its delay, so far, falls to the charge of this side of the Chamber. I regard the question before us as a very important one; and as I expect, in my vote, to differ from many distinguished gentlemen for whose opinions I entertain the highest respect, I shall claim the attention of the Senate while I very briefly give the reasons which will influence my vote, without entering, to any extent, into the arguments on either side.

The right to be represented in the Senate of the United States, is one of the most important rights of the States as such. It is an important feature in our Constitution. Here the States, as separate and distinct communities, meet on a perfect equality; and the smallest State in the Union has precisely the same voice and the same weight as the largest State; the framers of the Constitution, after much deliberation, and I think very wisely, came to the conclusion that the State Legislatures were the safest depositories of so important a right as the choice of Senators. Another thing occurred to them—that vacancies might happen when the State Legislatures were not in session; and as to be represented here at all times was a matter of importance, they provided that "if vacancies happen, by resig-'nation or otherwise, during the recess of the Le-'gislature of any State, the Executive thereof may 'make temporary appointments until the next 'meeting of the Legislature, which shall then fill 'such vacancies." This, to my mind, establishes two points: First, that a Senator here has a right to vacate his seat by a resignation; and in the second place, that the authority given to the Governor is merely temporary, and the appeal is made to the Legislature as exercising the most full and complete power over these appointments. No one, I believe, in this case, has pretended to doubt that Mr. Clay had the right to resign. At the time he sent his resignation to the Legislature of Kentucky he was a member of this body, up to March 3, 1855; he had a commission from the constitutional authority of the State of Kentucky, as a Senator in this body up to that period. No one can question that. That authority had been conferred by the Legislature, accepted by Mr. Clay, and made complete. The Constitution, then, authorizing him to resign the whole or a part of that term, early in December last he resigned his seat in the Senate of the United States, to take effect on the first Monday of September last. That was an absolute act, so far as he was concerned. To whom should he resign? Clearly, I think, to that power of his State which conferred the commission. If, then, he had the right to resign, the Legislature had the right to accept, and when they did accept, it was an act complete, creating a vacancy in the senatorial term of one of the Senators from Kentucky, from the first Monday of September, 1852, until March 3, 1855. No one has pretended to doubt that if Mr. Clay had lived up to the first Monday in September, and Mr. Dixon had then presented himself here with his credentials, Mr. Clay would not have been entitled to his seat any longer, but that Mr. Dixon would have been entitled to the seat. That admission carries with it what I think is fatal to any other construction: It is, that the act of resignation was complete and beyond the control of Mr. Clay. The precedent in the case of Mr. Bledsoe, which has been cited very frequently in this debate, fully sustains this view of the case.

If, then, the act of resignation was complete, there was a certain, fixed time at which a vacancy in the term for which Mr. Clay had been elected, did exist. With regard to its operation in *futuro*, if, when living, he could not have withdrawn it, does the circumstance of his death alter the case? It seems to me clearly not. We have Mr. Clay's opinion that he had the right to resign, for whatever it is worth, and his expressed opinion, also, that the Legislature then in session had the right to fill the balance of his term. We have, then, the deliberate expression of the opinion of the Legislature of Kentucky—the State directly interested in this matter—that they had the right to fill the vacancy, although it was set so as to happen at a future time. If Mr. Clay and the Legislature fell into an error in the matter, they fell into that error from the decisions of the Senate in cases precisely similar in principle, because the death of Mr. Clay did not make any difference. If a resignation and acceptance creates a vacancy, the act was complete. The precedents cover that ground. A man may resign and the Legislature may accept; that is the principle involved. Then, sir, I say if they fell into an error, they did so from the practice of the Senate in precisely similar cases. But I do not think that they did fall into an error. My opinion is, that they exercised a right which they were constitutionally entitled to exercise. I can see no difference in principle between electing a Senator before his time of service commences, who shall serve here for six years, and in the same manner electing one who shall serve but three years. It is, in both cases, the exercise of the power by the same authority—by the State which is represented. The Senator, in the one case, exercises all the authority and powers vested in his office as much as the other. There is no distinction in the matter. It has been the universal practice, and I think the right one, that the Senate should always be kept full by elections whenever the time at which the term of service of the Senators will expire is known to the Legislature; and to be known by the Legislature, it must be fixed and determined. In the case of Mr. Sevier, I think that principle was established. The Senate accepted his appointment by the Governor, because the time at which his term would expire, and the new term begin, could not have been known to the Legislature. I think that was the principle laid down in the report of the committee in that case.

Then, in my opinion, we gather this—and it is a conviction from which I cannot escape—that it was the intention of the framers of the Constitution to vest primarily in the Legislatures of the States the power to choose the Senators. I therefore cannot consent to give so technical a construction to the Constitution as to defeat the intention of its framers. If I ever would be disposed to give a liberal construction, and carry out fully and effectually their views when they were plain to me, it would be certainly in those cases which involve the rights of the States as separate and distinct communities. In this matter we have the views of the State of Kentucky; and, sir, it would be extremely dangerous, and might defeat the very object which the framers of the Constitution had in view, to go into a technical construction of words, so as to exclude everything which we could not make technically come within it. Take an instance: Every one will admit that the framers of that instrument have shown an anxiety to keep the Senate full—so much so that they have given the appointment of Senators, in cases of vacancies, to the Governor of the State, at the time. No one can doubt that that was their intention; yet they have used language which, if technically construed, would defeat that intention. The article which I have read from the Constitution says that "if vacancies happen during the recess of the Le-'gislature of any State, the Executive thereof may 'make temporary appointments until the next 'meeting of the Legislature, which shall then fill 'such vacancies." There is no absolute provision made for cases where vacancies happen while the Legislature is in session; and yet would anybody pretend so technically to construe the Constitution as to say that, because it was not provided in express terms that they should have a right to fill a vacancy which happened while they were in session, therefore they could not fill such a vacancy?

These are, in short, the reasons which have influenced my mind to cast the vote which I shall do. I am glad, in doing so, that I feel myself ranged upon the side of the rights of the States. Disregarding any political influences which may exist, I feel I am carrying out the views and opinions expressed by the Legislature of Kentucky, the tribunal in which the power to choose Senators is primarily vested by the Constitution, by voting that Mr. Dixon, who has their commission, has a right to take his seat as one of their Senators.

Mr. SEWARD. Mr. President, since I addressed the Senate in favor of allowing Mr. Dixon to take the seat he claims provisionally, it has been pleased to receive for consideration a proposition to admit him without reservation as a Senator from Kentucky.

The action of the Senate, at least in one event, will be canvassed throughout the country, and for many years; I shall therefore assign the reasons for my vote.

The question involves a construction of the Constitution.

The only portions of the Constitution touching the case are these:

"ART. I, SEC. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years." * * * "2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

"SEC. 4. The times, places, and manner of holding elections for *Senators* and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Kentucky has prescribed in this matter for herself, and Congress has not, at any time, by law, "made or altered any regulations" concerning it.

The following facts make up the case: On the 17th of December, 1851, Henry Clay was a Senator from Kentucky, chosen by the Legislature, for six years, which would have expired on the 3d of March, 1855. Being so a Senator, he resigned by a communication to the Legislature of of Kentucky, declaring that it was to take effect on the first Monday in September, 1852. The Legislature, then in session, received the resignation, and chose Mr. Dixon to fill the vacancy thus to occur, from the first Monday in September, 1852, to the 3d day of March, 1855. The Legislature then adjourned. On the 29th day of June, 1852, during the recess of the Legislature of Kentucky, Mr. Clay died, and the Governor of that State made a "temporary appointment" of Mr. Meriwether as a Senator from Kentucky, to hold the seat *until the first Monday of September*, 1852. Mr. Meriwether immediately took the vacant seat, and held it until Congress adjourned on the last day of August, 1852. On the 6th of December, 1852, the Senate reassembles, Mr. Meriwether does not appear, and Mr. Dixon appears and presents his credentials, and claims the vacant seat.

Manifestly, Mr. Dixon is one of *two* Senators "chosen by the Legislature" of Kentucky, "for six years," and he was chosen to fill a vacancy which has happened in the term of Mr. Clay.

The whole question turns on the point, How did this vacancy happen? Mr. Clay resigned, fixing the first Monday of September as the day when he should *vacate* his seat, and died, nevertheless, a Senator before that day arrived. Mr. Dixon was appointed by the Legislature when in session, before not only the day which Mr. Clay's resignation fixed for his retirement, but also before Mr. Clay's death.

We who maintain Mr. Dixon's title, insist that the vacancy happened by Mr. Clay's resignation. On the contrary, those who deny Mr. Dixon's title, insist that the vacancy happened by Mr. Clay's death.

Four questions arise:

First. Can a Senator resign?

Second. Can a Senator resigning, *appoint a future day for his retirement from the Senate?*

Third. Can the proper appointing power receive such a resignation, and prospectively fill the vacancy?

Fourth. If the Legislature so prospectively fill the vacancy, can the appointment be *defeated by the death* of the resigning Senator before the arrival of the day fixed for his retirement from the Senate?

If a Senator can resign, and can so resign prospectively, and if the Legislature can so fill the vacancy prospectively, and if their action cannot be defeated by the death of the resigning Senator, then Mr. Dixon's title is good, valid, and complete.

The first question is expressly decided by the Constitution, which declares that vacancies may "happen by resignation."

The second question is decided by an unbroken succession of precedents from the foundation of

the Government. Mr. Bledsoe so resigned, fixing a future day; so did Mr. Clay in 1842; so did Mr. Berrien in 1852; and so did Mr. Foote in 1852.

The third question is answered with equal distinctness by precedents. The Legislature of Kentucky prospectively filled the vacancy made by Mr. Clay's resignation in 1842; the Governor of Georgia prospectively filled the vacancy of Mr. Berrien in 1852; and the Governor or Legislature of Mississippi prospectively filled the vacancy of Mr. Foote in 1852.

The only question remaining is the fourth: Can the death of the resigning Senator after the Legislature has prospectively filled the vacancy, and before the day fixed for his retirement, defeat the appointment of his successor already made?

No such event has happened before this, and so there is no precedent. On each side we are left to reason *a priori*.

1st. Now, it is clear that the resignation and appointment are not on any *expressed condition* that the resigning Senator shall live until the day fixed for his retirement; but it is, on the contrary, on its face unconditional and absolute. There are two parties, and *only* two parties, to the act: the Senator who resigns and the State which receives the resignation and appoints the successor. Both these parties agree that the resignation shall be *unconditional* and *absolute* on the face of the transaction.

2d. Has the resigning Senator any reserved power over his resignation, arising from implication of law after delivering or publishing it, to revoke it or to defeat the prospective appointment of his successor already made? No! In Bledsoe's case, that Senator, when the day fixed for his retirement arrived, declared his purpose to revoke his resignation, and to retain the seat. The Senate decided that he could not; that his resignation was beyond his control, and was absolute.

3d. If the retiring Senator cannot revoke his resignation, and so defeat the prospective appointment of his successor already made, then it is equally clear that he cannot, by giving up his seat and retiring before the day fixed by his previous resignation, annul the effect of that act, or defeat the prospective appointment of his successor already made; for if he could, this would be to allow that he could do in one way what he could not do in another; that he could do by indirection what he could not do directly.

4th. What is the reason why the resigning Senator may not, by revocation, or by another act of resignation in the interval, defeat the prospective appointment of his successor already made? It is because the act of resignation, when delivered or published, and especially when received and made the foundation of the prospective appointment of his successor, is a *fait accompli*,—a vacancy is perfectly made and is perfectly filled. Whatever afterwards may be done or may happen, the appointed successor has a title to the place to which he is thus appointed, which is necessarily indefeasible.

5th. And now, if the retiring Senator cannot defeat the prospective appointment of his successor neither by revoking his resignation nor by a second and intermediate act of resignation, then he cannot defeat it by dying, whether his death be *voluntary* or *involuntary*. The policy of the Constitution is the same in whatever way the obstruction to the act of the State appointing the successor may offer itself. The first resignation was complete and indefeasible, and the appointment of the successor is also complete and indefeasible.

I proceed to notice the objections to this view. First, that by dying before the day fixed for retiring, the resigning Senator makes a vacancy which renders the happening of the one contemplated in and consequent upon his resignation impossible. I reply, he does *not* make it impossible. Certainly, when the day fixed arrives, the seat is vacant equally, whether the resigning Senator is dead or then retires. He does one of two things—either, first, he makes an interruption of representation which cannot be filled up until the day for his successor to enter shall arrive, or, second, he makes a "temporary vacancy" which can be filled up by the competent authority until the day when the successor can enter shall have arrived. This latter view has been adopted by the Governor of Kentucky in his temporary appointment of Mr. Meriwether, and seems unobjectionable.

Second. It is objected that the happening of a vacancy cannot be divided into two parts—*one* a resignation prospective, and the *other* an ulterior retirement from office; that the transaction is a whole, and all its parts must occur, or the resignation will be void.

But the Constitution manifestly contemplates the happening of two vacancies by such a division. All the Senators first chosen were chosen for six years. The Constitution declared that the seats of one third of them should be *vacated at the expiration of two years*. But what if one of that one third died before that day? Why, his seat nevertheless was vacated at the expiration of the *two years*, but in the mean time it was also vacated, and a temporary appointment was made to fill the temporary vacancy until the happening of the regular vacancy at the end of the two years; and so we practice on the same principle now, vacating one third of the Senate absolutely every two years.

Third. But it is said that if a Senator may resign and fix a day in future one month distant, he may fix one five years distant. And it is asked whether the Legislature, being in session when such a resignation is received, can fill the vacancy which is so postponed in effect for five years—to the prejudice of the right of the Legislatures assembling afterwards and before the day limited? I reply, that is a question which does not arise here. It is enough that the Senator has a right to say to his State, I will serve you one, or two, or three, or four years, or five years, and no longer. And the State has a right to say we will accept your services for that time, and dismiss you afterwards. If a question shall arise what Legislature meeting within the period has the right to fill the vacancy, it can then be met—it has not arisen here.

Thus the legality of Mr. Dixon's title seems to result from the Constitution and the precedents; and assuming this view, the case presents the not unfrequent one of an ascertained vacancy occurring at a future day, and anticipated and filled, and an intervening temporary vacancy also temporarily filled and expired. If this view is correct, it is unnecessary to examine the pretensions set up, not by Mr. Meriwether, but in his behalf by Senators.

Mr. President, this question has bearings upon the present and the State of Kentucky, and also upon the future and the whole Union. A rejection of Mr. Dixon, who comes with a plenary commission unanimously confirmed by the Legislature and Governor of Kentucky, and an admission, on the contrary, of Mr. Meriwether, who not only presents no such commission, but presents no claim, and does not even appear, will, I think, deeply disturb Kentucky and alarm all the other States. This alarm will be increased by the fact that the proceeding will operate to strengthen and increase the provisional prerogative of the Governors of the States at the expense of the power conferred by the Constitution on the Legislatures of the States; for nothing is clearer than that the power conferred on the Governors to fill vacancies was designed to be occasional, and exceptional, and subordinate to that devolved on the Legislatures, which was designed to be general, complete, and supreme.

You will also excite new and painful apprehensions of another and even more grave kind. The House of Representatives is a legislative assembly, drawn out by representation of the whole Union as one undivided country and people; and the constitution of that House is a great centripetal power acting towards consolidation. But the Senate is composed of an equal delegation of the several States, appointed by the States. Senators are in a manner ambassadors of the States, and the control exercised by the States in their appointment, without interference from the center, constitutes a centrifugal force important to the preservation of the States in their qualified, constitutional independence. Hitherto the Senate of the United States has received whomsoever has been sent by the States, only examining their qualifications when denied, or deciding judicially between contestants. But if now we reject one who is sent with full authority, and whose title is not denied from without this body, and call in one who is not sent with any such authority, we shall shake the confidence which has hitherto been enjoyed by the Senate, and raise alarms for the safety of the States, and thus weaken the bonds of the Union.

Mr. MASON. Mr. President, I should infinitely prefer that this question should go to a committee as proposed by the mover of the resolution. It seems to me very desirable in the decision, if this case is to pass into a precedent, that the subject should be considered with the deliberation and care that would be given to it by a committee, and more especially that it may be seen whether the action proper to be taken upon it can be conformed to the precedents which already exist. Now, I am very free to admit, so far as I have been able to consider it, that the question presented is, whether the Senate, acting judicially upon this election, as they are required to do, should follow the Constitution, or shall follow the precedents of the Senate, for they seem to me to be directly in conflict.

Sir, the Constitution has wisely reposed the election of Senators in the Legislatures of the States; but in the exigencies which it was contemplated might arise by vacancies occurring when the Legislature was not sitting, as a mere accessory of the power, the Executive was to make temporary appointments, without derogating in the slightest degree from the original high purpose of confiding this trust of election to the legislative body. The Constitution has so prescribed; and when a gentleman presents himself here, claiming to be a Senator from a State, it is our duty to ascertain whether he has been elected pursuant to the Constitution.

Senators on the other side complain that we are in some manner, or in some way infringing upon the sovereignty of the States—that we are acting injuriously to the sovereignty of the States, when we question their right to elect a Senator in the manner in which they have done it. Sir, suppose a gentleman came here claiming to be elected by the people of a State, is there any one who would say he could take his seat in this body under that election? And yet, if he were elected by the people he would more immediately represent the sovereignty of the State, than if he were elected by the Legislature. The sovereignty of the States is not in question in any point of view whatever. The power given to them to elect Senators is derivative, not inherent. The power is given to the States by the compact of the Constitution; it does not belong to them originally. When a gentleman presents himself here, claiming to be a Senator, it is our duty to see whether he has been appointed in pursuance of that compact.

Now, I am very free to confess, that, like the Senator from Illinois, whose argument I listened to with much pleasure this morning, I have very decided impressions upon the subject of this election; yet if they could be removed, I should yield them with great pleasure. I should be exceedingly reluctant to do any act, or to give any vote here which should be looked upon as injurious by the State of Kentucky, or any other State; yet the plain path of duty is before me, and I shall follow it. The Constitution has created senatorial terms, and has declared that those terms shall last for six years; they are so arranged by another provision of the Constitution, that one third of the Senate go out biennially. What is the language of the Constitution as affecting the duration of the term? The Constitution declares that the seats of Senators of the first class shall be vacated at the end of two years; of the second class, at the end of four; and of the third, at the end of six years, thus creating the terms. The language of the Constitution is, that the seat "shall be vacated" by lapse of time, and then new terms commence.

A few words now as to the precedents. Until Lanman's case, according to my recollection, it was considered by the Senate, or rather, it was decided by the Senate—manifestly without consideration—that it was competent for the State Executive when a term expired in the recess of the Legislature to treat that as a vacancy, and to fill it accordingly. Such a practice was common until the decision in Lanman's case. I confess that on looking at the Constitution my first impression was that the practice was correct; but on examining the Constitution, and weighing it carefully and deliberately, I cannot entertain a doubt that the decision of Lanman's case was correct, and that when a term expires by constitutional limitation, it is not a "vacancy" which the Executive can fill. Yet the decision in that case set aside all the former precedents, and established a new and correct rule.

What is the question here? Mr. Clay, as Sen-

ator from Kentucky, resigned his seat to take effect at a period some eight months in advance of the date of the resignation. He resigned in December, to take effect in the September following. Gentlemen on the other side say that his resignation created a vacancy. The honorable Senator from Kentucky, [Mr. UNDERWOOD,] who argued the case with so much ability on that side, put this question: Can there be a vacancy when there is an officer prepared and qualified to fill the place? I unhesitatingly answer, there may be. I might as well be asked, is that seat vacant when a gentleman is standing by prepared to sit in it? Until he occupies it, it is vacant—palpably so to the senses.

These prospective resignations may or may not have validity; I do not consider it necessary to discuss that question. But if they have validity, they are utterly invalid until the time arrives when they are to operate. Now, is it not most offensive to one's judgment, to say that the seat occupied by the late lamented Senator from Kentucky was vacant while he was here occupying it physically, or while he lay sick at his lodgings, occupying it potentially? Is it not a contradiction in terms to say that the seat was then vacant, when he was discharging all the functions of a Senator with all its privileges and immunities? Yet the honorable Senator from Kentucky says the seat was vacant from December until September. What was the language of Mr. Clay's resignation? It was that he resigned, to take effect at a given day. How can it be said that a vacancy existed until that resignation did take effect? I agree entirely with what was said by the honorable Senator from Illinois. There was no vacancy until that time arrived, and whether that resignation should ever create a vacancy or not, was an event purely contingent.

Can there be two vacancies existing at the same time? Is it not an absurdity upon its face, utterly irreconcilable with language, that there can be two vacancies existing at the same time in the same term? And yet gentlemen are driven to that in order to maintain that a vacancy occurred when Mr. Clay tendered his resignation, and that another vacancy was afterwards created by his death. How can there be two vacancies existing at the same time in the same term?

I have heard Senators say that the office of a Senator, like any other office, is in some sense the property of the holder; and they have illustrated it, as I think was done by an honorable Senator from South Carolina, by this question: Is it not competent for a Senator to surrender a portion of his term, and to reserve to himself the rest of it? I say emphatically, No.

Mr. BUTLER. My friend from Virginia will allow me to correct him. I did make a few remarks in the running debate on this subject the other day; but he has perhaps imputed language to me that he has heard me use out of the Senate, and not that which I did use in the Senate. While I am up, I beg leave to make a suggestion. As I am the chairman of the Committee on the Judiciary, I should dislike very much that this subject should be referred to that committee, after what has been said; and therefore, as it is a question of privilege, in which Mr. Dixon, Mr. Meriwether, and the State of Kentucky are all deeply interested, I would suggest that we settle it at once; and if that is the general understanding, I shall perhaps submit some remarks to the Senate, but in doing so I shall endeavor to put my propositions so clear and distinct that there may not be any misunderstanding.

Mr. MASON. I am perfectly satisfied to take the vote upon the question, and settle it at once, although I should have preferred its reference to a committee; and I shall have to vote, without such reference, on my own judgment. Perhaps I ascribed to the honorable Senator who has just taken his seat sentiments that fell from some other Senator; but I certainly did hear this question put by way of illustration: "Is it not competent for a Senator to surrender a portion of his term and reserve the rest?" And it has been said what he has reserved is so far his own, as that he may surrender it or reserve it at his pleasure.

Sir, I look upon the office of Senator in a different light; I regard it as a trust—emphatically a trust, which the officer may discharge or not at his pleasure, but he must do the one thing or the other. He must fulfill the trust and discharge the duties of the office, or he must resign it, and place it in the power of the constituent body to substitute some one who will discharge the trust. If he can surrender, as it is contended, a part and reserve the rest of the term, and treat it in the nature of property rather than a trust, honorable Senators would seem to argue that he may parcel it out at his pleasure, without regard to the pleasure of the constituent body, or to the Constitution. If it was competent for Mr. Clay or any other Senator to resign his office nine months ahead, might he not do so for seven, for six, for five, for four, for three, and for two months? and what he had reserved, according to that argument, would be entirely unimpaired by what he had parted with, so that it would be in his power to parcel out his term and let as many different Senators take the seat as the vacancies numbered. I am perfectly aware that it has been the practice of the Government, not alone in the Senate, but in other departments, to permit prospective resignations. I have always considered them as resignations *in presenti* to operate *in futuro*, and to be inchoate until they did operate; to have no effect whatever as resignations, except to bind the parties who should make them, so that they could not retract them, but to have no effect as resignations until the period arrived for their taking effect. They are inconvenient, to say the least of them. There is no propriety, I do not mean individual propriety, but there is no legal or constitutional propriety in their being made. They may now and then be made with a view to convenience in the appointing power, in order that there may not be even a momentary vacancy in the seat; but I can conjecture great practical inconveniences which might ensue from an indulgence in that practice. However, whether they are to be made or not, we are now, for the first time, clearly informed, by the accidental death of the gentleman who made the resignation, that, if they are permitted, the practical inconvenience will result, that you will have two vacancies existing in the same term at the same time.

Sir, I am constrained to look at this question judicially, and in no other light. I have no guide but the Constitution. I know that this vacancy occurred "during the recess of the Legislature" of Kentucky. I know that the Governor of that State commissioned a Senator, who occupied that seat during the last session. I know that that seat has never been resigned by him. And what further do I know? I know, by the letter and by the spirit of the Constitution, that when the Governor of Kentucky issued that commission, he discharged the whole function that was devolved on him by the Constitution. He could do no more than make the appointment, and how long that appointment was to last was a matter dependent upon the Constitution, and in no sense dependent upon him. If, then, he undertook to do more, either advisedly or unadvisedly; if when he issued the commission he attempted to withdraw the office from the operation of the Constitution as to its duration and to prescribe for it a shorter term, I submit that what he did was merely void; and so far as the duration was curtailed, it was to that extent surplusage.

It was in that light I know, that I looked upon it when the question was raised here by the Senator from Illinois, or some other Senator at the time the incumbent, as I now treat him, took his seat. It was said that the commission was of a novel character; that it prescribed the duration of the office of the appointee under it, and that the question should be raised at once whether a Senator could take his seat with his commission so worded. According to my recollection, I said nothing, but I remember distinctly, my own judgment was, that if the commission was issued in pursuance of the Constitution for the purpose of filling the vacancy, it did fill the vacancy, and that whatever else it contained, was mere surplusage, and was of no effect. I still look at it in that light. I cannot consider that there is any existing vacancy in the representation in this body from the State of Kentucky. If that be the fact, with all possible respect to the action of the Legislature of Kentucky, what it has done is also surplusage.

But what disrespect can be construed toward the Legislature or the people of Kentucky in passing this decision? Had we not an instance from the State of Illinois within the last three or four years? A Senator was sent here from that State who was declared to have been ineligible at the time he was elected by the Legislature; and when he came here we were obliged to pass upon the act of the Legislature, and declare it null. The time that elapsed, however, between the period of election and its vacation, rendered the party who had been thus sent here as Senator, eligible, and he was again returned by the Legislature. There was no disrespect to the Legislature nor to him in sending him back. There was none entertained, and none felt. So it is in this instance in reference to the Legislature of Kentucky. If the Constitution has not authorized that Legislature to do what it has done, it is our duty so to decide. I feel it to be mine, and I shall perform it.

Mr. UNDERWOOD. I rise, not for the purpose of making an argument, but to make an explanation. I did not contend, as the Senator from Virginia, who has just taken his seat, seems to have understood me, that there was a total and absolute vacancy in the whole term, from the resignation of Mr. Clay, in December last, up to the 3d of March, 1855. On the contrary, I contended that there was no such thing; but I did contend that Mr. Clay, having the right by his resignation to divide the term, and to surrender that portion of it which remained from and after the first Monday of September, the portion thus surrendered became vacant from that day, and the Legislature had a right to fill it by anticipation. The reference of the gentleman to the case of a trust, furnishes a very apt illustration of what I insisted upon. A chancellor may appoint a trustee for a portion of time, and appoint another trustee for another portion, both making up the whole period of the trust. That is not at all uncommon. He may select a trustee to discharge the duties from and after a particular day, and say that from that time the whole management of the estate of an infant, or of a person of unsound mind, shall devolve upon that appointee; and then for particular reasons he may select another trustee, to manage the estate up to that period.

I rose for the purpose of saying, that I did not contend for a total, absolute vacancy in the whole term from December, 1851, up to 1855; but that I insisted upon the right of the Legislature and Mr. Clay—both united, agreeing and assenting—to divide the term, and when it was divided the part surrendered became vacant on the day fixed, and he had a right to retain the reserved portion up to the first Monday of September. In the mean time his death occurred, which, according to my argument, created another vacancy from its occurrence till the end of the reserved time. The case of a trust, referred to by the Senator from Virginia, gives a good illustration of this; for a chancellor may appoint different trustees to fill an entire term.

Several SENATORS. "Question!" "Question!"

Mr. BAYARD. If the Senate are determined to take the question this afternoon, of course I shall not trespass upon their patience. I did desire, however, to address the Senate upon the questions involved in this case, as to the validity of the election of the honorable gentleman from Kentucky, deeming them of great moment, and not exactly agreeing in the sentiments and opinions which I have heard from any Senator on this floor, though I agree with the conclusions of some. If, however, the Senate desires to take the question now, I shall not interpose any difficulty, for I would not pretend to address the Senate at this late hour, as it was my purpose to discuss the question at length.

Mr. JONES, of Tennessee, called for the yeas and nays on his amendment; and they were ordered.

Mr. HAMLIN. I desire simply to state that in consequence of the necessary absence of the Senator from Vermont, [Mr. FOOT,] with whom I agreed to pair off on this question, I shall decline voting.

Mr. BORLAND. I move that the further consideration of the subject be postponed until to-morrow. I do so for the reason that there are Senators who wish to discuss it further. I do not allude to myself; but there are others who desire to speak; but the day is now so far advanced that they are unwilling to enter upon a discussion which may involve some time. I think it is a courtesy due them, inasmuch as the question has been discussed at length by others, that they

should also have an opportunity. I therefore move to postpone the further consideration of the subject till to-morrow.

Mr. BADGER. I move that the Senate do now adjourn.

The motion was not agreed to; and the question recurred on the motion to postpone.

Mr. HALE. I do not rise to make a speech, but to express the hope that the motion will not be persisted in. It is now only three o'clock; we do not generally dine till about half past four; and perhaps some of those gentlemen who are disposed to discuss the subject, might as well say what they have to say now.

Mr. BADGER. They will get no listeners at this time of day.

Mr. HALE. I did not understand the Senator from Arkansas to refer to listeners; but only to speakers. [Laughter.] I see that the Senator from Maine wants the floor, and so I will take my seat.

Mr. BRADBURY. I was about to take the floor, not for the purpose of discussing this question, but simply to express the hope that we may have action upon it to-day. It will be recollected that at the last session we settled a contested election on the last week of the session; and we shall be brought to the last week of the present session before we dispose of the pending question, unless we find some limit to the debate, and resolve to terminate it before we adjourn.

Mr. BADGER. I believe, sir, that I am entirely convinced, by the observations which have just fallen from the Senator from Maine, that we had better dispose of this question immediately. I myself should like to occupy ten or fifteen minutes, but which, probably, according to our general estimate, might run into three quarters of an hour if I commenced, in which time I think I could make a very good speech on this subject, and put it in a very clear light; but as there are so many of us in the same situation, and as I suppose every gentleman in the Chamber has made up his mind, it seems to me to be a great deal better to dispose of the subject at once. Our speeches here will convince nobody in the Chamber, if they convince any one outside.

Mr. BUTLER. I hope the suggestion of the gentleman will be yielded to. I did intend to submit a few remarks; and whether they would have elucidated and illustrated the subject, I do not know. Perhaps by so doing, I should have acquitted myself of a duty to the country, and to the parties concerned; but I am satisfied, as the honorable Senator from North Carolina has said, that every Senator has made up his mind, and that it is not worth while to talk any longer upon the subject.

The motion to postpone was not agreed to.

The question being taken, by yeas and nays, upon the amendment of Mr. JONES, of Tennessee, resulted—yeas 27, nays 16; as follows:

YEAS—Messrs. Adams, Atchison, Badger, Bell, Brooke, Butler, Chase, Clarke, Cooper, Davis, Dawson, Dodge of Iowa, Fish, Geyer, Hale, Jones of Tennessee, Miller, Morton, Pearce, Rusk, Seward, Smith, Spruance, Sumner, Underwood, Upham, and Wade—27.

NAYS—Messrs. Bayard, Borland, Bradbury, Bright, Cass, Cathcart, De Saussure, Dodge of Wisconsin, Douglas, Downs, Felch, Gwin, Mason, Norris, Toucey, and Weller—16.

So it was agreed to; and the resolution, as amended, was adopted.

The PRESIDENT then administered to Mr. DIXON the oath prescribed by law, and he took his seat in the Senate.

On motion by Mr. HALE, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 20, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Friday last was read and approved.

GENERAL COMMITTEE ON CLAIMS.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to introduce the resolution which I proposed on Friday last.

There being no objection, the resolution was read, as follows:

"*Resolved*, That the following be added to the rules of the House of Representatives:

"There shall be appointed a standing committee of the House of Representatives, to consist of fifteen members, to be called *The General Committee on Claims*, whose duty it shall be to report a bill at each session of Congress making appropriations for the payment of private claimants. It shall be the duty of the other committees of this House, when they have prepared a written report in favor of any claim, to transmit their report, together with the evidence on which it is based, to said General Committee on Claims; and if said committee, after due examination, shall concur in said report, they shall insert an item for the payment of said claim in the bill for the payment of private claimants, and thereupon submit to the House the report and evidence aforesaid, to be printed or otherwise disposed of, as the House may direct. And upon the demand of a single member, a separate vote shall be had on any section of said bill designated by him, notwithstanding the previous question may have been moved and seconded."

Mr. BROWN said: Mr. Speaker, it is conceded that the present mode of treating private claims amounts to a denial of justice, and ought to be changed.

For several years a proposition was urged upon Congress to establish a board of claims. For a time I was strongly inclined to sustain this proposition; but reflection satisfied me that, to make it efficient, it would be dangerous, and possibly a violation of the Constitution.

A board of claims would investigate; but it is not investigation that we want. We want action—final action. Our present committees investigate claims and report bills, but we do not pass those bills. Bills to which there is no reasonable objection remain for years upon the calendar without action. The claimant grows weary and sick with hopes deferred, but Congress will not act. The bills are not passed, and just claims are not paid. This ought not to be. The creditors of the Government have as much right to their pay as the creditors of private persons.

These tedious and sickening delays ought to be remedied. It cannot be safely done, in my judgment, by the appointment of a board of claims. It is the least objection (and yet it is an objection) to the appointment of such a board that it will increase Executive patronage, already grown quite too large.

If such a board is created, it will, as I have said, give us investigation; but what then? "No money shall be drawn from the Treasury but in consequence of appropriations made by law," says the Constitution. Will you appropriate an aggregate sum, and allow the board to check it from the Treasury as they may see fit, and apply it to the payment of claims? To do this, you must delegate to the board a power over the public funds which belongs exclusively to Congress, and which I very much question your right to transfer to another. The right to appropriate presupposes the existence of an object to which the appropriation may rightfully be made. The Constitution, in my judgment, contemplates that Congress shall decide as to the merits of the object to which the money is to be applied before making the appropriation. To make the appropriation first, and then leave others to decide as to the merits of the object to which it may be applied, is to shrink from the performance of one half, and that to the Treasury the most important half of your duty.

Could you appropriate $10,000,000 for the support of the Army and leave to the Secretary of War, or even to the President and Cabinet, the privilege of applying it as he or they should see fit? Possibly you may have the power. But its exercise would dissatisfy the country, and strain, if it did not break the Constitution. It would, to say the least, be a very loose control over the public funds. It would be a still more loose control of them to appropriate $1,000,000 or $500,000, or a greater or less sum, and leave a board of commissioners to parcel it out among private claimants as the board should adjudge right. To do such an act would be to invite constant repetitions of the disgraceful Gardiner frauds. I am very confident Congress will commit no such folly.

What then shall we do? After the board has investigated and reported favorably on claims, shall we pass bills to pay them? This brings us just to the point where we now are; for I repeat, it is action, and not investigation, that we want—action, action. The passage of bills, that is what we want. And why is it that we do not act; why is it that we do not pass bills? It is, sir, because we have not confidence, we have not full confidence in the investigations of our committees. And shall we have more confidence, I pray you, in a board of claims? Will we distrust our own committees, and rely with confidence on the board of claims? I think not. When we are called to act, when we are called to pass bills, to make appropriations, we shall have the same difficulty that we now have. Some doubting Thomas will ejaculate those cabalistic words, "I object!" and in the twinkling the bill fades from our view, and the poor claimant is turned away in sorrow.

I want something practical; something that will give the claimants justice; something that will protect the Treasury against fraud; keep the people's money under the control of the people's representatives, and at the same time relieve the Speaker's table from that accumulated and accumulating mass of private business under which it has literally groaned for five-and-twenty years.

The rule which I propose will do this. I have reflected on it maturely, and my confidence is entire that it will be efficient for all the purposes I have indicated.

What does it propose? First, a committee of fifteen, to be styled the General Committee on Claims; and why a committee of fifteen? I have, in my own judgment, fixed a large number, because the functions of the committee will be onerous, varied, and perplexing. No small committee could well discharge the duties which I propose to devolve on this general committee.

What will be the duties of this committee? To exercise a supervisory jurisdiction, in the first place, over all the reports from the other committees touching private claims. To stand as a kind of appellate court, having no original jurisdiction, but authorized and required to review the reports of other committees, and only to ask the action of Congress in case they approve such reports; and, in the second place, to report a bill for the payment of private claimants, the items of which shall in all cases be founded on the approved reports of other committees.

Allow me to illustrate, by supposed cases, the practical workings of this rule, if it shall be adopted. A claim is referred to the Committee on the Post Office and Post Roads; another to the Committee on Public Lands, and another to the Committee on Claims. Each of these committees makes a favorable report. These reports, and the evidence to sustain them, they send to the General Committee on Claims. That committee, after due investigation, approve each one of the reports, and thereupon they insert a separate item in the bill for the payment of private claimants to cover each claim, and then lay the report and evidence before the House to be printed, if the House shall so direct. And so of every other claim. It will be seen that each particular item will be sustained by a separate report, and that report will be supported by the concurrent judgment of two separate committees. The bill thus reported must of necessity go to the Committee of the Whole House, and being here considered, item by item, every member of Congress will have ample opportunity for the fullest and fairest investigation. When the bill is at last reported to the House for final action, each particular item will have passed the ordeal of the three separate committees: First, the present committee of nine; next, the proposed committee of fifteen; and lastly, the Committee of the Whole House. Having thus run the gauntlet, it seems to me no reasonable man could object to a vote by yeas and nays as to whether the bill should become a law. The advantages which I anticipate are—first, thorough investigation, and therefore entire security to the Government; and secondly, certain action, and consequently a hope of justice to claimants.

If Congress can be induced to act at all, it will generally act justly. Congress often does not act because of the anxiety of each member to get his own business forward. In the general scramble for precedence the avenues of legislation are choked up, private bills are neglected, and the rights of private parties disregarded. I desire to change this state of things; put all on the same footing, and this scramble will cease. Under the rule which I propose, we shall have but one bill instead of many hundred bills. The struggle which is constantly going on here for precedence will cease, because all these rival bills will be merged into one bill. This bill will never fail of being considered and passed. It only remains to determine whether the checks and guards which the rule imposes will be sufficient to protect the Treasury. In the first place, you have the examination of the committees as at present organized; their duties, so far as in-

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vestigation is concerned, remain unchanged. In the second place, we have the proposed committee of fifteen, with no original jurisdiction, but setting only as a revisory court; it is their duty to weigh the evidence and determine whether it sustains the report; and thirdly, we have the Committee of the Whole House. All these committees must pass affirmatively upon each section of the bill separately before it is laid before the House, and in the House the rule guaranties to every member the right to demand a separate vote upon any section of the bill to which he may object. Now, it does seem to me that if a bill has passed three committees of this House section by section, and has then run the hazard of a separate vote by sections in the House, no reasonable man ought to object to its becoming a law.

If the House does not choose to adopt this rule, I hope at least we shall do something to relieve private claimants from the crushing and overpowering influence of a single member when pronouncing those potential words, "I object!" "I object!" How often the heedless or captious use of these words has sent honest claimants in sadness and in sorrow from this Hall! Let us snatch from them this unnatural power and restore them to their original modest position in our political vocabulary, and we shall have taken one step at least towards a salutary reform.

Mr. DARBY. I ask the unanimous consent of the House to introduce a bill, the object of which is to settle difficulties in relation to certain land titles in the State of Missouri, merely for the purpose of reference.

Mr. BROWN. I will not object, unless it interferes with my resolution.

The SPEAKER. It will not interfere with the resolution before the House, if introduced by unanimous consent.

Mr. DARBY then, by unanimous consent, and in pursuance of previous notice, introduced the following bill; which was read a first and second time by its title, and referred to the Committee on Public Lands, viz:

A bill to settle disputes and difficulties in relation to certain land titles in the State of Missouri.

Mr. SWEETSER. The proposition of the gentleman from Mississippi [Mr. BROWN] is an important one; and without having had time to examine it or to reflect upon it, I speak from first impressions. I feel disposed to state to the House the objections which present themselves to my mind, before allowing such a resolution to pass.

This resolution proposes to establish an appellate jurisdiction to the present Committee on Claims appointed under the standing rules of the House, for the purpose of a preliminary investigation of claims which may be presented for the action of Congress. It seems to me that every gentleman who has had any experience in relation to claims in this House, must be satisfied that there is no necessity of throwing additional obstructions in the way of presenting them here; and I do not want to create any additional obstacles. There is now already a conflict between the jurisdiction of some of the committees of this House. I will not consume the time of the House upon that subject; but will proceed to state briefly my points of objection.

I oppose this proposition upon the ground that it will throw difficulties in the way of presenting claims before this House, and will be productive of no good; but, on the contrary, it will produce embarrassment instead of sweeping away the difficulties which the gentleman who has presented it anticipates.

But there is another objection to this proposition, and one which strikes at the very foundation of the whole plan. This resolution proposes to put into the hands of this general committee, all the claims which may have been approved by the standing Committee on Claims, and the other standing committees of the House, as well as bills that may come here from the Senate. This committee is to have the supervision and report a general bill, upon which, to a great extent, the whole mass will be carried through or defeated together, without an opportunity of testing the merits of any one proposition by itself. Such must be the practical result. Now, Mr. Speaker, the result of this policy will be, that instead of being able to investigate fully and fairly, as we now do, the claims of individuals, they will all be put upon one common platform, and disposed of by one vote. Under this state of things, like other bills in which the great western interests are involved, combinations will be formed which will carry the whole through, because they cannot be separated without sundering the combinations upon which the report was produced, when perhaps some members would desire to vote for a portion, and against the residue. The instrumentalities which produced the favorable report would be pledged to war upon any attempt to mar the beauty and symmetry of the bill, as a whole.

I am not one of those who desire any new facilities for invading the Treasury of the country. I am not in favor of affording any new facilities for the prosecution of fraudulent claims which are seeking payment from the people's representatives. This House, holding, as it does, the equitable conscience of the nation, should be careful in its action upon such matters. The general provisions of law for the liquidation of claims are exceedingly liberal, and with a liberal administration of the Government, my judgment is, an adequate remedy is generally found in the Executive branch of the Government, and that a large proportion of the claims presented to Congress ought not to meet with favor anywhere.

I have been in Washington long enough to be aware of the instrumentalities used in the advocacy of claims here, and I will never give my vote for the purposes of increasing the approaches to the Treasury through the House of Representatives.

Why, sir, I will present you with a single case in point. Take the bill which passed the House at the last session, in which most of the western members felt more or less interest—the river and harbor bill. Take all the river and harbor bills which have been passed by this House, and it is well known that if the sum total of the appropriations had been presented in separate bills, not one half of them would ever have received the votes of members that were known to be favorable to river and harbor appropriations. I voted for all these bills, yet there has not been one reported to this House which has met my approbation in detail. Western gentlemen have voted for those bills which took millions out of the Treasury in order that they might get a small portion of what they thought their particular section greatly needed, and were justly entitled to; and when we are arraigned by our constituents for giving these votes, the only reply we can make is, that we are compelled to give them in order to secure appropriations for our own sections of the country. For the purpose of building up our own interests we are compelled to surrender the Treasury of the country to those men who seek to run in their arms up to their elbows. But establish this general committee—this appellate jurisdiction from the Committee on Claims, and the other committees who may have charge of private claims, and you will have in one bill various claims, which may be disposed of by a combination of interest, adverse to the public Treasury. You will permit these men, whose tender feelings sometimes mislead their judgments, to come here and vote the money out of the Treasury, where, as representatives, they should prefer duty to sympathy—should be guardians, instead of aiding in plundering the Treasury.

There is no getting round this matter. It seems to me that there is no man, who has had any considerable experience in the House, that will not readily give his assent to the practical working of the proposed measure, to the effect as stated. It is dangerous not only to the fair investigation of an individual claim of merit, but it is dangerous to the Treasury to send these claims *en masse* to this House, for its action through a general committee. No, sir, I am opposed to the whole proposition. I voted against the proposition in the Thirty-first Congress to establish a board of claims.

I repeat, if the Executive branch of the Government pursues anything like a liberal policy in its adjudication of demands made upon the Government, the citizens have ample opportunity to have all just claims liquidated. With fraudulent claimants, I have no sympathy. If the general laws are deficient, let us apply the proper remedy. I do not hesitate to avow my favorable opinion to a change of the policy in relation to the adjudication of claims against the Government. I would strip from the Government its present transcendent shield, and permit individuals to sue the Government in the ordinary tribunals of the country, in the locality where the cause of action originated, and not compel citizens to come to Washington to seek indirectly what they have a right to demand at the hands of court and jury in their own vicinage.

Let the remedies which are common between man and man apply to the Government; when that change is made, and not till then will the evils, delays, and injustice complained of, be remedied.

I undertake to say that a law which we passed at the last session, which further shields the Government from the importunities of agents and attorneys, and renders all such fiduciary void in the dealings of the Government, was a great error, and it seems that every step taken is better calculated to augment existing evils, than to give remedies for existing evils either to the citizen or the Government. It was my opinion at the time we passed that law, that it was an outrage. I think so yet. I think we had better change our policy, and instead of increasing committees of this House, I would rather throw open the doors of the courts of justice, and let every man who has an honest claim against the Government, have redress in the courts of justice. All this idea that the Government can do no wrong, and that it always pays its creditors, when a just demand is made, in my judgment, is long since exploded. I would open the courts of justice, and let every man, who has a claim against the Government for a violation of contract, or otherwise, have it submitted and determined upon, as are claims between man and man.

[Here a message was received from the Senate by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had chosen the Hon. DAVID R. ATCHISON their President *pro tempore*.]

Mr. S., (resuming.) I hope, before the House seriously passes upon a proposition of this kind, those gentlemen who take an interest in this class of questions, will look into this matter, and if the time has come when there should be a change of policy, let us make that change which will relieve the National Legislature from this burden. If the Government stands out, through its Executive departments, and through its officers, against honest claims of individuals, let them go into the courts of justice, and there have their redress against the Government as they would against individuals, and submit their case to a jury who are better prepared to do justice both to the Government and to individuals, than any committee of this House.

This extension of power, and this attempt to create an appellate jurisdiction, in my judgment, is only increasing difficulties. I would as soon trust the present Committee on Claims, with the careful and distinguished gentleman [Mr. DANIEL] who is at the head of that committee, as I would this committee of fifteen; because, as honorable gentlemen know perfectly well, these claims will be apportioned out to the individual members of that committee, who will report their judgment to the committee, which will be adopted by them without any further investigation; provided always, that it would be possible to ever get a quorum in a committee of fifteen; and thus in fact the report of the committee is the report of a single individual. It would give no additional security either to the validity or the truthfulness of the claim; but on the contrary, it will impede legislation to some extent, and throw difficulties in the way; in other words, it will make more men to be ap-

proached in the prosecution of these claims, than there are by the present rules of this House.

I will say in conclusion, that if there is to be any change in our policy, and we are not able to mete out ample justice to the citizens of the country who have claims against the Government, let us open our courts of justice to them, where they can obtain justice. To that point we shall have to come, before the demands of our constituents and justice are satisfied. I will detain the House no longer.

Mr. STEPHENS, of Georgia. I do not see any possible difficulty which can result from the adoption of this rule. The report of the general committee on claims, according to this rule, will not by any means be conclusive upon the House. The gentleman from Ohio, [Mr. SWEETSER,] who has just addressed the House, seemed to argue as if it would. It will not, sir. Every member of the House will have the same right then to record his vote against any claim; he will be in the same position to guard the Treasury, and to keep it from being robbed; yes, sir, from being robbed, as he has got now.

I am not disposed, Mr. Speaker, to look upon claims against this Government, generally, as meditated robberies. I am inclined to think there are a great many unjust claims presented before the Government, but I think there are a great many just ones which have been sleeping here for half a century, perhaps longer. But if gentlemen were to open the courts of justice, and let the Government become a party, the Government would be compelled by the juries of the country, to pay millions which this House has not paid, and which preceding Houses have not paid. I am not prepared to say that I would send claims to courts of justice.

But, sir, our present system of investigating claims is a very bad one. All know that. By the rules of this House we spend two days of the week upon them. We waste time enough, but what progress do we make? As the gentleman from Mississippi says, one of these days is called objection day, and that is a useless day. No discussion is allowed. A claim is taken up, the Clerk reads a long report to the House until he is hoarse, to which perhaps not more than fifteen members of the House are listening. Then some one says "I object!" and thus ends the matter for that day. This we know by experience. And on discussion day, after the same length of time taken up in reading the report, a few members speak to the question, while not half a dozen are listening. When a vote is taken, the committee finds itself without a quorum. And the balance of the day is consumed in calling the roll.

Now, sir, I think if these two days were devoted to public business, and fifteen members of this House were selected by the Speaker, and put upon this general committee on claims, to which all such matters should be submitted, the interests of the Treasury and the right of claimants would both be better protected than under the present system. I see, as I said in the beginning, no possible evil, either to the Treasury, or to claimants, to arise from the establishment of this rule. Its adoption would be one step in the right way, and I am, therefore, inclined to support the resolution.

I call for the previous question.

Mr. STUART. I hope the gentleman will withdraw that call.

Mr. STEPHENS. I suppose that every gentleman's mind is made up on this question.

Mr. RICHARDSON. Will the gentleman from Georgia permit me to suggest an amendment which I wish to offer?

Mr. STEPHENS. I will hear the gentleman's suggestion, and for that purpose withdraw the call for a moment.

Mr. RICHARDSON. I propose to amend the proposition by limiting the time at which the committee shall report this general bill to the House—say forty days before the close of the session.

Mr. STEPHENS. Let them report when they are ready; I cannot withdraw the call for the purpose of introducing that amendment. The House at all times will have the control of this, as it has of every other committee under the rules of the House.

Mr. STANLY. I hope the previous question will be withdrawn. It is too important a matter to be pressed in this way.

Mr. CLEVELAND. I hope the House will vote down the previous question.

The House was then divided on the call for the previous question, and there were 62 in the affirmative, and 67 in the negative.

So the call was not sustained.

Mr. CLEVELAND. I agree, Mr. Speaker, with the gentleman from Georgia, [Mr. STEPHENS,] that this is a matter of some importance to claimants. I believe we all shall agree that some better mode than we now have should be devised for the purpose of doing justice to private claimants. We know that men who have claims against this Government, as just and as legal as one man can have against another, are denied a trial of them, year after year—some ten, twenty, and even thirty years or more. Now this certainly is not right. We have the power to deny justice, and we use that power.

The gentleman from Mississippi [Mr. BROWN] has offered a proposition to the House by which he proposes to aid the claimants, and at the same time to guard the Treasury. So far as his intention is concerned, I certainly go with him. That something should be done, we all agree; but I ask the gentleman to look at it, and see if he will thereby accomplish the object he has in view. If I understand the use of this committee, proposed by the gentleman's resolution, it is to pass upon claims which have received the favorable consideration of the now existing Committee on Claims. If I am wrong, the gentleman will correct me. Its duty is to reëxamine and report upon the claims which are favorably acted upon by the now existing committee. Now, I ask whether that is doing justice to the claimants who go before that committee, and find a majority of the committee against them? I ask whether the great body of claimants who go there to adjudicate their claims, and are rejected—and far be it from me to say that the committee is so perfect as not to reject a just claim—are not precluded from any consideration of the committee of fifteen? They are shut out entirely; and so far as I understand the object of the mover, and the effect of his resolution, it is virtually to deny to a man, who is so unfortunate as to have a majority of one on the Committee on Claims against him, the right to have a trial before the committee of this House. Is it not so? Is not that the effect of his resolution? And is that the kind of justice that we are to extend to these men, and tell them that we do it for the purpose of enabling them to have a speedy trial, and to have justice done them? Why, sir, so far from that, this House will see that the effect of the resolution will be to add insult to injury. It denies to the man who happens to have against him the report of the Committee on Claims, the right of a trial in this House.

Mr. BROWN, of Mississippi, (interrupting.) If my friend will allow me, he is altogether mistaken in that part of his argument. A claim which shall be rejected before the committee, will have precisely the same chance in the House which it now has. When the bill comes before the Committee of the Whole, a member may offer it as an amendment; and if he can get it in, it is all right enough.

Mr. CLEVELAND. I am much obliged to the gentleman for the correction. He says, but with a good deal of significance, if he can get it in, he will have a trial. Every one knows that the object of the appointment of this committee is to shut them out, and if that is not the effect of it, I beg to know, when this bill is offered to the House, if we are to have every man who differs with the majority of the ordinary committee, moving amendments to it? If so, clearly this additional machinery will require additional water and wind power, and will be productive of anything but speedy justice to claimants, which is the object the gentleman has, no doubt, in view. In the adoption of the resolution, you will add troublesome machinery, which, instead of promoting the interests of honest claimants, only throws obstacles in the way of a fair trial. How are private bills now brought before us? Every one knows that the claim when presented is referred to one of the standing committees, which committee, as the organ of the House, gives the member having the claim in charge a hearing, and reports to us on the facts submitted. The bill, if favorably reported on, is then referred to the Committee of the Whole House for its examination. After being considered there, it is reported back to the House for final action. And I do not understand the gentleman to propose to do away with the action of the committee in the House. Under his resolution, the same course is to be pursued as is pursued now.

I ask, then, whether this resolution will remedy the crying evils admitted on all hands to exist? Clearly not. All complain of the neglect of action on the part of the House, and not the neglect of action on the part of the committee. Each one of the members of the Committee on Claims has five, ten, or twenty reports to submit on claims investigated at the last session, but have not yet had the opportunity to report. During the last session they were precluded from reporting to the House in consequence of the Committee on Public Lands having exhausted day after day, till the termination of the session, the time set apart for the reception of reports from the standing committees, and private claimants were the sufferers. If the House were willing now, instead of wasting away Friday and Saturday, the days appropriated by the rules for the consideration of the business on the Private Calendar, struggling to get up other business, in the consideration of and action on private claims, I believe there would be cause for but little complaint. Business then would be dispatched with more promptness than if this additional and complicated machinery were added. And would it not be fairer to those who have their claim rejected before the Committee on Claims to have them presented and considered by the Committee of the Whole House? The great difficulty is not obviated by the gentleman's resolution at all. It is a difficulty growing out of the disposition on the part of the House, and which found a mouthpiece in the gentleman from Ohio [Mr. SWEETSER] this morning, to consider every man who comes here with a claim as a robber of the Treasury. What chance has an honest claimant before men who deem themselves specially charged to guard the coffers of the Government? I deny that any member has the right to protect the Treasury against just and righteous claims on the Government, because he has the power so to do, any more than a private individual has the right to plead the statute of limitations against a claim he knows to be just, and which he honestly owes his neighbor.

The remedy is within our reach, and that remedy should be applied. It is that members on Fridays and Saturdays should be in their places, and attend to this peculiar kind of business. The creation of a new committee would not dispose the House to devote the two days in the week more strictly to private business than it now does, and when the general bill should be reported by the proposed committee of fifteen, those whose claims happened to be rejected by the primary committee, would move their claims as amendments, deeming injustice had been done them; and that general bill would occupy more of the time of the House than the civil and diplomatic appropriation bill now does. It is not fair, and will not remedy the evil that exists. That it was intended to remedy it, I have no doubt. That the evil exists, none deny. It is a great one, and needs a remedy. That remedy is in our hands, and duty demands that we should apply it. The remedy is to attend to cases reported from the committees, and mete out justice as promptly as it can reasonably be done.

If additional legislation be the object of the gentleman from Mississippi, in my judgment it would be better that the Speaker should be authorized at each succeeding session to appoint a Claims Committee, to have power to sit during such time as they may find it necessary for the investigation of claims; and, if needs be, to hold their session during the recess of Congress, with authority to report at any time. This, it seems to me, would be a better proposition than the one for the establishment of a board of claims, or the present one for the appointment of a committee of fifteen, with powers of revision. I am as unwilling to loosen the purse-strings of the Government without reason, as any other member; but when a claimant comes here, his claim should be investigated and acted on as speedily as possible When a man says he is the creditor of the Government, the Government ought to have enough honor and sense of justice to respond, that if he satisfies the representatives of the people that the claim is a just one, it will be willing to pay it.

Mr. BROWN. I wish to correct the gentleman as he goes along, because I do not intend to occupy the floor again. The gentleman is mistaken in one of his points, and it is this: He talks about appointing a committee to sit in vacation. Such a committee is wholly unnecessary, because I repeat that investigation before committees is not what you want. You have enough of investigation and enough of reports, and more than enough. What we do want is final and definite action. This committee, sir, is intended to combine all favorable reports in one proposition, so that instead of being compelled to pass one hundred separate bills, to go one hundred times through the same legislative forms, you accomplish the whole by going through them once.

The gentleman seems to apprehend, if unfavorable reports are made by the committees, as they are now organized, that will be the end of the claim. Not so, sir; if the committees report unfavorably, they will report to the House precisely as they now do. I do not propose in this rule to interfere at all with the present mode of disposing of unfavorable reports, but I propose that favorable reports shall all pass in review before this committee of fifteen, and if approved, the bills that follow them shall be combined in one general bill. I would not send unfavorable reports to this committee, because it is, as you will perceive, to be purely a committee of revision. If errors have been committed in favor of claimants below, the Government will have the advantage of a revision of them before this committee; but if the report is unfavorable it is made to the House, and treated as such reports now are. I hope I am understood.

Mr. CLEVELAND. I am grateful for the gentleman's explanation. Suppose one hundred bills be reported favorably from the Committee on Claims, and being sent to the committee of fifteen, where claimants are subjected to a new trial and further trouble, and that committee after examination report in favor of only sixty-five, what becomes of the other thirty-five? The other committees of the House report on all subjects committed to their charge, favorably or otherwise.

Mr. BROWN. When a case should have been favorably reported upon by the present Committee on Claims, and sent up to the general committee on claims, and that general committee rejects it, it will be returned to the Committee on Claims, who can report it to the House as having received their favorable action, but the unfavorable action of the general committee. It has then a better chance for getting into the general bill by way of amendment than if it had been reported against by the Committee on Claims; so that the claimant, or his representative, need not despair.

Mr. CLEVELAND. The House, I think, by this time has seen that the committee proposed to be raised is unnecessary, and that the additional machinery will be very troublesome. It is to class the claims and class the reports. All the advantages the gentleman promises to the country on the adoption of his proposition, is simply this—and if I mistake he will correct me—that there shall be reported a general bill embracing such claims as are reported favorably upon by the Committee on Claims, and of which the general committee approve. It seems to me that it would be better and cheaper, instead of creating a new committee, to allow the existing one to report a general bill embodying all the claims they have passed favorably upon. It would be quite as well as to have the claims go through another mill.

Mr. BROWN. Allow who to combine them?

Mr. CLEVELAND. The Committee on Claims.

Mr. BROWN. Would you require the Committee on the Post Office and Post Roads, the Committee on Indian Affairs, and twenty other committees, to investigate private claims of various kinds, and to send those favorably acted upon to the Committee on Claims? Do you propose to make the Committee on Claims revise the reports of all the other committees? Is that what you mean?

Mr. CLEVELAND. The Committee on Claims are now required to report separate bills for each particular claimant; but I think the course I have proposed would be preferable to the one the gentleman advocates.

Mr. BROWN. The gentleman does not seem to apprehend my point. The Committee on Claims in this House do not report all your private bills. Many come from the Committee on the Post Office and Post Roads. Private claims are acted on and reported by other committees besides the Committee on Claims.

Mr. CLEVELAND. Does the gentleman propose that the committee of fifteen shall have the supervision of reports from all other committees on private claims?

Mr. BROWN. I propose that they shall revise reports on claims, whether they come from the Committee on Claims or any other committee.

Mr. CLEVELAND. The presumption is that all claims are sent to the Committee on Claims with rare exceptions. It seems to me that there are difficulties attending this measure greater than those intended to be remedied. As I have said already, in my judgment, the difficulty can be overcome by members attending in their places, and devoting private bill days exclusively to the consideration of private claims.

And, sir, I repeat again, that it does seem to me if I have a claim against the Government, and my neighbor has twenty others, that I ought to have the privilege of having it examined by the only tribunal to which I can appeal, independent of those twenty, and separately reported upon, whether favorably or not. If the report be for me, let it go to the Committee of the Whole and undergo investigation; and if it be against me, let me have an opportunity of advocating its justice. I do not believe in grouping claims. Without any such intention on the part of the mover of the proposition, I know it would give an admirable opportunity for log-rolling. Claims would be passed through that committee with great facility, as every one will see. I would much rather simplify than render more complicated our proceedings here. The addition of new committees would embarrass the action of the House, and lead to incorrect results. In my judgment, the proposition is fraught with great danger. I hold that every man who has a claim against the Government, has a right to have that claim heard and acted upon by the only tribunal that has the power to pay. And permit me to say, that because we cannot be sued is the very reason, if we are honorable men, why we should not delay an hour's action on any honest claim against the Government. Throwing obstacles in the way of claims because we have the power to do so, and crying out "Save the Treasury!" "Save the Treasury!" is not the honorable dealing expected of us. The American people say to claimants, that the American Congress, presumed to be composed of the most honorable and enlightened men in the country, will, if you have a just claim, consider and promptly act upon it.

But what is the fact? You have a great deal of maneuvering, not for the purpose of defeating unjust claims, because you can do that on a hearing and trial, but for the purpose of preventing any trial or consideration of claims at all. It is an evil which the whole country suffers from. It is an evil which ought to be remedied, but which cannot be remedied, in my judgment, by the creation of new committees. Let the jury be empanneled, and let them sit their regular hours, and after investigation of a case, submit a report. And if then a claim be rejected, the claimant should rest satisfied, for he has no cause of complaint. I shall vote against the gentleman's resolution.

Mr. STUART. I believe, Mr. Speaker, the question presented by the resolution of the gentleman from Mississippi, for the decision of the House, to be a very important one; and I shall state, as briefly as I can, my objections to it. To these objections I respectfully ask the attention of members. I pledge myself, in the outset, to abstain from the discussion of the propriety or impropriety of claims, and whether or not they should be paid. I only request attention for a few moments to the practical effect of the proposition; for, sir, it is not unfrequently that we are entirely misled as to the practical result of a proposition in this House. To illustrate: The first day of this session I submitted a motion making it the special order to devote one hour each day to the consideration of business on the Speaker's table. The gentleman from North Carolina [Mr. CLINGMAN] suggested, by way of question to the Speaker, whether it was not in order each day for a majority of the House to proceed to the consideration of the business on the Speaker's table. The Chair responded in the affirmative, and my proposition was voted down.

We have sat here a fortnight, and in that fortnight there has not been a moment when it was in order under our rules to move to go to the business upon the Speaker's table. What is the reason? You cannot submit that motion until the morning hour has not only expired, but has been used according to the order of business. You must employ the morning hour till its expiration before you can submit a motion to go to the business upon the Speaker's table. Now, we may sit here for three months, and it may never be in order to go to the business upon the Speaker's table. There is the practical effect of the answer and question. What is the practical effect of this proposition? The question is, whether you will give the entire business of adjudicating claims in this House to fifteen members appointed by the Chair without any appeal? I say that is the practical effect, because I am not to be misled by theory. Let us see how it will operate. Every committee in this House, no matter what its character, that has before it a private claim, after having investigated that claim, and decided favorably to it, is to send up that report, if printed, to this committee of fifteen members. If not printed, of course it is not moved at all.

Mr. BROWN. The gentleman is entirely mistaken. There is nothing in the resolution about printing the reports at all. It says that the reports shall be in writing.

Mr. STUART. I beg the gentleman's pardon. I meant to say in writing, and I am much obliged to the gentleman for the correction. I say if the report is in writing, it is to be sent to this committee. If it is not in writing, it does not find its way there at all. We will suppose that it has gone there. Then that committee rejects a portion of the claims which the first committees have allowed. Is there any remedy? None at all. This resolution does not provide any remedy at all for such claims as have been rejected, and they may not be renewed by this House.

Mr. BROWN. Why not?

Mr. STUART. I will tell the gentleman why not. If that committee allows a given portion of these claims, then they are to report a general appropriation bill to pay them. That appropriation bill is to be composed of the items of each particular case. Now we will suppose that there are fifty items. We will suppose that out of those fifty items there are forty for which I desire to vote, and ten which I desire to vote against. This amendment provides that I may move a separate vote upon each claim. Suppose that a majority of the House vote against me to retain those claims. Then I shall have to vote for the ten that I believe to be utterly wrong, in order to give my vote in favor of forty. This bill will come up, like other appropriation bills, at the heel of the session; and let me ask here, at this very point, who has got any time and opportunity to examine all the reports of these committees, and see what claim is entitled to his vote and what is not? I ask the attention of the House to the way in which we consider other general appropriation bills, and see if we are not compelled to rely upon committees. Three fifths of the House, and probably nine tenths of this House, are compelled to vote large amounts of money out of the Treasury of the United States upon the faith of the Committee on Ways and Means.

Mr. BROWN. I wish to ask the gentleman a question in reply to one of his arguments made some moments ago. I do it now because the same argument has been since made from other quarters. He says, suppose the bill comes up with fifty items in it, forty of which he would be willing to vote for, but ten of which he desires to vote against—what is he to do? I take it for granted he is to do what we all do in reference to other appropriation bills. The objection would apply with as much force to any of the appropriation bills which come before the House as to this, because they are all made up of items. If the good items greatly preponderate over the bad, we vote for the whole, and *vice versa*.

Mr. STUART. That is true, and it is a serious objection to the general appropriation bills; and if it were practicable to carry on the business of the Government, and have each appropriation in a separate bill, there is not a man of sixty days' experience in Congress that would not favor it. But the question now involved in this proposition is, whether we will increase the evil—whether I shall

be compelled, as a member of this House, to vote for claims that I believe, and perhaps know, to be wrong, in order that other claims may be passed which I deem to be right. Shall we increase an evil which now exists? I wish to call the attention of the House to this practical view of the subject, as I humbly submit. I ask what opportunity would there be to any gentleman of this House, no matter how industrious, to take up the various written reports of all the committees of this House upon private claims, examine them at length, and determine for himself whether they should be paid or not? There is not a man living who could do it. So that practically the proposition submitted to the House now, is nothing more nor less than whether you will submit the entire question of private claims to fifteen gentlemen without an appeal, for I say that is the practical effect of it. It is true, as I have just stated, it comes up to the House to be voted upon, but there is no time or opportunity for investigation. It is a general appropriation bill, and passing in the last hours of the session, may be amended by the Senate like other appropriation bills, and come back here, and what is the consequence? Why, a committee of conference are appointed to finally adjust the bill to their liking, and it has to be passed by this House relying entirely upon their judgment, and without any other knowledge. Having seen as much as I have of the practical evils growing out of this species of legislation, for one I am utterly opposed to increasing them.

An objection was raised by the gentleman from Connecticut, [Mr. CLEVELAND,] which ought not to be overlooked, and that is the benefit of an adverse report. As we act upon these claims now, the minority of the committee make a report of their own. The courtesy of legislation authorizes it to be printed, and if it is a claim which I have presented, and which I understand, and in which the interests of my constituents are largely interested, I have the remedy of calling up that adverse report when the bill comes up for consideration, and I have the privilege of presenting fully to my fellow-members of the House the facts, and I get their judgment, and it is not unfrequently the case that they overrule the majority of the committee, and pass the claim because it is right.

Mr. BROWN. Will the gentleman allow me to interrupt him at this point? I am sure the gentleman could not have heard my response to the same argument when made by the gentleman from Connecticut, [Mr. CLEVELAND,] or he would not have repeated it in almost the very language in which it was stated before. This resolution will not, let me inform the gentleman from Michigan, interfere at all with the present mode of disposing of unfavorable reports. They will be made to the House precisely as they are now made, and will be subject to the same action which the gentleman says he can now get. It does not interfere with the rule at all. It only proposes to combine those which are favorably reported upon in one bill, and leave those which are unfavorably reported upon precisely where they now are.

Mr. STUART. I am very loth to detain the House a moment longer; but the gentleman, I apprehend, will see the practical difficulty in getting along with his answer. We have now a Private Calendar upon which each of the bills favorably reported upon is placed. Adverse reports standing alone, would not go there at all. There is no right under the parliamentary law, to bring them into this House with this amendment, and the amendment proposes none.

Mr. BROWN. It does not change the rule as it now stands.

Mr. STUART. I beg the gentleman's pardon. I will show him in a moment that it does, and I ask the Chair to correct me if I am in an error. When can an adverse report be submitted to the House? Not until a favorable report has been made. After the majority of a committee have reported on a measure, then the minority get up and ask the courtesy of the House, because they have no such right, for leave to file an adverse report. If the majority report has gone to a committee of fifteen, by what parliamentary law have the minority the right to report to the House? None at all, and they cannot do it. So I repeat, the more you look into the question and its practical effects, the more you will see the difficulties. I say in conclusion, for I have great reluctance in detaining the House, what will be conceded by everybody, that the present mode of adjusting claims is not what it ought to be. I have some views of my own upon that subject which, at the proper time, I shall submit; but I will not attempt to do it now. I simply ask the House to confine their attention to the effect of this measure as a mode of transacting the private business, and if they will do that, I do think the House will come to the conclusion that we shall not only get into inextricable confusion, but shall do more injustice to private claimants, and to the Government also, than we now do.

Mr. CAMPBELL, of Illinois. I have only a word or two to say in relation to this matter. I apprehend that there is not a gentleman on this floor, who has paid any attention to the progress of private claims through this House, who is not fully impressed with a knowledge of the necessity for the adoption of some measure or some rule calculated to facilitate action upon them. It is not alone the rejection of private claims, which may be in themselves meritorious, which is vexatious to the claimants, but it is the great delay occasioned to them after they have presented their claims to this House for adjudication. They remain here one session, and perhaps two; but finally they are compelled to confide their claims to some of the numerous agents who are to be found here; and when they have been prosecuted to a successful termination; after their own expenses have been taken out, and the percentage, which is generally the largest part of their claims, has been paid to their agents, they have very little left for themselves. Now, does this proposition of the gentleman from Mississippi [Mr. BROWN] in any relieve these claimants from the difficulties which they are compelled to encounter? In my judgment it does, at least to some extent. The great objection I see to it is that it makes an omnibus bill—to which I am opposed—of all the claims which may come before Congress; and creates a mutuality of interests which would be brought to bear upon carrying all of these claims through at the same time. But there can be no plan suggested of this character, perhaps, to which there may not be serious objections urged. The question is, will this proposition relieve claimants to any extent from the difficulties under which they now labor?

Now, I apprehend there is such a thing as a meritorious claim against the Government of the United States, notwithstanding there are a great many presented here which are not meritorious; but such as these are not small claims. This resolution is intended to aid those claimants who have small claims, but not those who have large ones; for in relation to the large claims which come before the House, their very magnitude affords them facilities for pressing them before the House. Small claimants are those who need assistance, and it is of such that I now intend to speak. The difficulty in regard to such claims, under the course now pursued, seems to be that after the claim has been referred to the Committee on Claims that committee have no opportunity of reporting it. After they have heard the evidence in relation to it, and have decided upon its justice, they have no opportunity of bringing their decision before the House; and for that reason the claimant does not get a hearing before the House at all.

Now, if the proposition of the gentleman from Mississippi [Mr. BROWN] should be adopted, the decision of the Committee on Claims, or of whatever committee having charge of the claim, would be reported to this general committee, and after having undergone its supervision, would be reported in a general bill; and that general bill would, in my judgment, pass at that session of Congress.

Now, suppose the majority should decide to reject a claim which the minority thought had merit in it, would it be placed in a worse position under the action proposed by this resolution than it would be if the resolution should not be adopted? In my judgment, not. The claimant would have the same opportunity then as now to press his claim. The same rule would be in force which now authorizes him to bring his claim before the House. The same rule which now authorizes the minority report to be considered by the House, will then be in force. Let this report then be placed in the hands of this general committee, that they may examine the evidence upon which it is founded; and if they become satisfied with its correctness, they will place the claim in a general bill; and when that general bill comes up for the final action of the House, should any gentleman have objection to it, the resolution provides that he may have a separate vote upon each separate item therein.

The gentleman from Michigan [Mr. STUART] says if he were in favor of forty items in the bill, and opposed to ten, he should have to vote for all. Well, sir, that would be no very great misfortune to that gentleman. I remember at the last session, when the river and harbor bill was before the House, that there was an item in the bill to which the gentleman was opposed, and which, if there had been a President who had had any constitutional scruples in reference to appropriations of that peculiar character, would have caused him to reject the whole bill on its account; but although the gentleman admitted that it was wrong, yet, for fear he might lose the whole bill, he voted for that item. I speak of the item to improve the harbor at Dubuque, on the Mississippi river.

Mr. STUART. If the gentleman will allow me a moment—what he states of my vote upon that river and harbor bill is true. I am free to say that I did sacrifice my own opinions in regard to one item, for the purpose of saving the whole bill, which I conceived to be important to the interests of the country. But I want the gentleman to tell me now whether it is proper to involve another matter in the same difficulties, by a process of legislation which will bring it into the same category with that to which he alludes?

Mr. CAMPBELL. Acting upon the same principle upon which the gentleman did then, if by doing a little evil he could do a great deal of good—if by passing one claim which he did not conceive to be meritorious, he could secure the passage of a great number of meritorious ones—would it not be right to vote for that claim? Would it not be right and proper for him, as a conscientious legislator, rather than that these just claims should be rejected, to vote for others which, though he might perhaps conceive had some merit in them, yet were not sufficiently meritorious to induce him to vote for them if taken by themselves? But I have only brought this one case up as an illustration of the position in which the gentleman places himself, though I do not conceive the rejection of that item in the river and harbor bill would have lost the bill, because it would have gone back to the Senate, and they would have been compelled to recede from that appropriation, which was one for the improvement of a little harbor in the interior of the country, and for the benefit of a single locality.

Mr. Speaker, claims of great magnitude which are presented here, always have friends to press them upon the attention of the House, and it is right that there should be some one here to protect the Treasury against them. The gentleman from Connecticut [Mr. CLEVELAND] says the man who resists a meritorious claim here, is as guilty of a great injustice as the one who would present and press a fraudulent one. Now, it seems to me that he who resists a meritorious claim in the manner in which claims are resisted here, does not occupy the position which the gentleman from Connecticut would make him occupy. It is necessary to investigate these claims; and in order to investigate them they must be resisted or objected to; for, unless they are resisted by some one, in what will consist the investigation? When I first took my seat upon this floor, I thought my friend from Tennessee [Mr. JONES] was rather meddlesome in matters which did not exactly concern him; but when I had been here a little longer, and came to see how claims were pressed upon this House, and how money was taken out of the Treasury, and sought to be taken out of it, I soon changed my opinion in relation to the course and policy of that gentleman. It is necessary, as I before said, to have these claims investigated; and, in order to have them investigated, objection must be made to their passage. I believe that gentleman saves the country hundreds of thousands of dollars every session of Congress, which would otherwise have been paid for claims which have no foundation in justice. I repeat, sir, the only object in resisting these claims is for the purpose of investigation; and the claim that will not bear investigation before this body, does not deserve to be enacted into a law.

The resolution of the gentleman from Missis-

sippi, then, is simply calculated to aid small claimants who are not able to hire agents to worry their bills through this House; and for that reason I shall give it my support. I do not desire to reply to all the objections which the gentleman from Michigan urges against this bill. I do not see that it alters the existing rules in relation to claims, except that it allows this class of persons who have small claims to have justice done them sooner than they otherwise would. Instead of laying them over from session to session, and allowing them, perhaps, finally to fail from want of attention, this investigating committee will give them their examination, and if they decide in their favor, will report them to the House; and if the claimants are entitled to relief, they will receive it in a reasonable time. They will not be delayed session after session, until finally, if the claimants are poor, they are compelled to abandon them altogether. I shall give the resolution my support.

Mr. WASHBURN. Mr. Speaker, I agree with the gentleman from Illinois [Mr. CAMPBELL] that the great object to be accomplished by the House in the passage of this resolution is to bring the claims of individuals upon the Government before this House, and secure action of some kind upon them. We cannot expect any system under which full and complete justice shall be done; but it seems to me this is a step in the right direction. It is not what is best, but is, perhaps, the best we can get. The objections urged against this resolution by the gentleman from Michigan [Mr. STUART] are not sufficient to justify my opposition to it. His objection, that it embodies and unites many claims in one bill, is, if true, worth some consideration; but it is an objection which applies to all the appropriation bills, and if well taken in this case, we ought at once to reform the practice of the House in reference to all our appropriation bills; for it is no more important to appropriate money for the uses of the Government than it is to do justice to its citizens.

But I do not think, after all, there can be any very great practical hardship or burden to the conscience involved in the objection which the gentleman from Michigan urges with so much emphasis, that he may be compelled to vote for ten appropriations he dislikes, because there are forty in the bill which he thinks are meritorious, and ought to be passed, because he may call for a separate vote, and vote against the items that he would reject in Committee of the Whole, and then he may call for a separate vote, and call for the yeas and nays in the House, upon each item in the bill, even though the previous question has been ordered. In this way he may defeat any unjust appropriation which could be defeated in any other way, or by any other system. Therefore, he will suffer no hardship, and will occasion by his vote no injustice to the country, which would not be occasioned under the present system. There is not, then, any substantial objection to the resolution on this account. If I heard the resolution aright, it provides that any one member may demand a separate vote upon any one item, and upon that may call the yeas and nays, even though the previous question had been ordered. What will be the operation practically? All the items not objected to will be voted upon in the mass; then the clauses objected to will come up separately to be voted on. Out of fifty items, the gentleman objects to ten; they are set apart; he votes against them *seriatim;* some of them he defeats; some pass. Such pass as would have passed, if we could have got to a vote under the present system; and such fail as would have failed. Defeating one does not in any way prejudice another. They are not so dependent upon each other as to involve this result. And should a false claim pass, the gentleman voting against it would be no more responsible for it, than he would be for an amendment made by the Senate to a House bill, and subsequently adopted by the House against his vote. This would be the practical operation.

The gentleman from Connecticut [Mr. CLEVELAND] has correctly remarked, that there is unquestionably need of a remedy for small claimants. There are many of them who have come up here year after year, session after session, and are unable to obtain justice. But that remedy, he says, is not in this committee. It is in the House. But is there any remedy in the House? But the gentleman himself answers the question, for he says, almost in the same breath, that he believes a majority of the members of the House are not disposed to apply the remedy. We must then look to bringing these claims before the House for action, in some such manner as that suggested by the gentleman from Mississippi. The proposition of the gentleman from Mississippi, stripped of what does not belong to it, of the horrors and dangers with which the fears and imaginations of gentlemen have surrounded it, embraces simply a method for bringing reports of committees before the House for action—that claims may be passed upon. Under the present practice this is nearly impossible, and to reject this resolution is to deny justice to those the Government owes. This resolution, I have said, is not what is demanded. I would have a board on claims—a commission on claims. That is what justice to individuals, and a regard for the true interest of the country requires. I do not suppose there is any chance for us to obtain that now. This is better than nothing. It brings these claims which have been favorably reported upon by the several committees of the House, directly before the House. It insures action. It is a guard upon the Treasury, because those bills which are reported by the other committees must be subject to the supervision of this joint committee, and having undergone that supervision, we may have increased confidence in their justice.

For these reasons, Mr. Speaker, I hope the resolution will be adopted, though I think it requires some amendment. There should be a provision that the committee should report at the long session by a specified period, say the first of June or July, so that there should be time to examine the report, and see what has been recommended, in order that we may act understandingly. And there should be a similar provision for the short session; a report, say by the 1st of February.

I think this suggestion of the gentleman from Michigan [Mr. STUART] a good one, and I would like to have it adopted; and I am not sure but it would be well to have the resolution amended, so that this general committee should act upon the reports whether favorable or unfavorable, and in that way, bring all these claims directly before Congress.

Mr. STANLY. I commend the effort of the gentleman from Mississippi [Mr. BROWN] to bring about some reformation in reference to private claims; but of all the propositions ever presented to Congress, this strikes me as the most impracticable, if not impossible. The difficulty is in our organization. Nine members already compose the Committee on Claims, and they cannot or will not attend to their business. I do not mean the present Committee on Claims, but I refer to those committees from time immemorial. The business all devolves upon a few of them. It is difficult to get a quorum of the best committees, and when you have a bare majority, their clerk very often makes the report, submits it to the members, and they adopt it. Now, sir, large bodies move slowly. A Committee on Claims, composed of fifteen members, even fifteen of the best members of the House, would be the greatest nuisance the House ever imposed upon itself. You would never get all the fifteen together, and if you should, they would do nothing. It would be much more reasonable to have a committee of three, selected by the Speaker, who are really as fond of work as my colleague, [Mr. DANIEL,] the chairman of the Committee on Claims, who likes to delve in those hard matters, to the examination of which almost all the members of the House feel a reluctance. But the difficulty is inherent in the constitution of this body.

Nor is it any better in the Senate. Go there and see how they pass private claims. When private claims come up for consideration, look at the seats of honorable Senators—sometimes not a dozen members present. They are like ourselves, and cannot be brought to examine private claims with much attention.

Let this committee of fifteen get together, and I suppose eight will constitute a quorum; will these eight be better men than the present committee of nine on claims? Now, if you put lawyers upon that committee, generally better qualified for such labor than other men, they hate hard work without compensation, and hate to work here, when their efforts are unavailing, and when the House will neither hear arguments nor read reports. How do committees often go to work? They parcel the claims out, handing them over to some member who feels an interest in them, and who comes from the section of country where the claim originates. He gives them a favorable consideration, and his reports are accepted by the committee, and they pass into this general omnibus bill, which comes up here on Friday or Saturday, and the moment the House goes to the consideration of one of these private claims, and a gentleman gets up to make an argument, out we pour from all these doors, just as those who have not been inoculated do, from an omnibus when some one announces that the small pox is in there, and we leave the House without a quorum. The defect is in this body. We cannot attend to the examination of private claims, and give them that attention they ought to have. We cannot hear the evidence, and whether we can or not, we will not; and no House of Representatives ever did.

How did the Galphin claim get through Congress? No one knows; but it got through without any one attending to it—without anybody knowing it.

While I commend the effort of the gentleman from Mississippi, [Mr. BROWN,] to bring about some reformation in this matter, yet his proposition is practically for the benefit of the Galphinizers of the Government; it will have that effect; it will increase the swarm of those who now hover around this House; log-rolling for private claims will begin, and the Treasury will be bankrupt. The gentleman from Mississippi [Mr. BROWN] said the other day, when the gentleman from New York [Mr. BROOKS] was talking about some reformation of the tariff, that he would leave that for the incoming Administration, that he would let them adopt great measures of reform if they desired it. I think it was well said; this is a matter of as much importance to the country as any reformation of the tariff, and I say, Mr. Speaker, leave that for the incoming Administration. If Mr. Pierce's administration and his friends in Congress, will establish a board of claims or some other and better tribunal; some court inferior to the Supreme Court, which will allow the honest men of this country, which will allow the widows and orphans to bring their claims to a hearing, in one form or another, they will confer upon themselves immortal honor, and will reconcile me, especially as I cannot help myself, to four years of Democratic rule; they will thereby do an immense deal of good.

The gentleman from Illinois, [Mr. CAMPBELL,] says we want this provision for the benefit of small claims. Does it limit the amount? Will you not give a man an honest hearing because he claims $100,000 instead of $100? But there is no limit to it.

I trust, Mr. Speaker, we shall take no hasty steps in a matter of this sort; this would fix an impracticable, and I repeat, an impossible scheme upon this House. Of all things in the world to constitute another Committee on Claims, to do nothing, or to do worse than nothing, at the outgoing of an Administration, is impolitic and impracticable, and I hope my friend from Mississippi, [Mr. BROWN] will take this matter into consideration, and look at the bills hitherto reported upon the subject of establishing boards of account. Something, I think, we ought to have, and something like that we must have; it is a disgrace to us, that we virtually deny our people the right that most monarchs grant theirs, a right to be heard in their demands against Government. Anything is better than establishing a board of claims among ourselves here. It will be a bill for the benefit of claim agents and for the relief of those who have friends in Congress; not a bill for the relief of honest claimants. I hope no such thing will be done; it will ruin the Treasury, and will do incalculable mischief. I will add no more, especially after the strong arguments and sensible remarks made by the gentleman from Connecticut, [Mr. CLEVELAND,] and from Michigan, [Mr. STUART.]

Mr. SEYMOUR, of New York. I call for the previous question.

Mr. FREEMAN. Will the gentleman from New York withdraw the call for a moment? I wish to offer an amendment.

Mr. SEYMOUR. I withdraw the call.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., the Secretary, informing the House that the Senate have agreed to the amendments of the House to Senate bill No. 448, entitled "An act to authorize

the Secretary of the Treasury to issue registers to vessels in certain cases;" also that the Senate have passed a bill of the House for the relief of James A. Fawns, without amendment.]

Mr. FREEMAN offered an amendment to the resolution of Mr. BROWN; which was read, as follows:

Amend by striking out all after the word "resolved," and insert, "that the Committee on the Judiciary be instructed to inquire into the necessity and propriety of giving to the district courts of the United States full powers at law and in equity, to hear and determine all domestic claims against the Federal Government; and that said committee report by bill otherwise.

Mr. SEYMOUR, of New York. I wish to ask the gentleman from Mississippi whether the provision he proposes to ingraft upon the resolution is not in conflict with the Constitution?

Mr. FREEMAN. Not at all; and if the gentleman will allow me, I will explain the effect of it. The Constitution of the United States provides that no money shall be drawn from the Treasury without an appropriation made by law. The proposed amendment would enable any claimant throughout the United States to have a decree, either for him or against him, in the district court of the district where he resides, and he would not be compelled to travel all the way to Washington for a fifteen dollar or a thousand dollar claim. But the Committee on the Judiciary will take care they report a bill to provide that the district attorney shall appear in court, in behalf of the United States, whenever any claim is presented there; and that when any decree or judgment is granted in favor of the claimant, the same shall be certified and presented to the Congress of of the United States for an appropriation to be made according to law.

Now, then, Mr. Speaker, it seems to me, if not to every man here, that this is a right to which every citizen in this Republic is entitled. Claims against the United States are brought here thousands of miles from all the States and Territories of the Union, at great expense to claimants; and they are accumulating before committees like Pelion upon Ossa piled. There they sleep the sleep of death. The people of this country ought to have speedy justice done at their doors.

We frequently discuss a claim here of fifteen dollars or more, day after day, costing the country some twenty-five hundred dollars a day; thus spending more in adjudication than in payment; but if the district courts were permitted to examine them, all unjust claims would be rejected at the cost of the claimants, while the costs upon just claims would not be a tithe of the present tax upon the Government. The district courts and district attorneys can attend to it in connection with their ordinary duties without any inconvenience whatever, without additional pay, and at far less expense to the claimants. If the claimant goes into court with a fraudulent claim, he is sure of being defeated, and he pays his own costs. This penalty would stifle attempts at fraud. In the State of Mississippi, we have a special provision giving to our superior court of chancery power to examine claims against the State. I have some practical knowledge upon that subject, having been counsel for my State some eight years, and I know, sir, it has relieved the Legislature from a vast amount of business before its committee on claims. I believe my colleague, [Mr. BROWN,] who introduced the resolution, will testify that the experiment has been highly beneficial in our State, and I can see no reason why it should not be applied to the General Government. The vast territory over which we have jurisdiction, and the great number of claims which are incumbering the Journals of Congress from all quarters, make it evident to every man that as things are now conducted, justice cannot be done to the claimants or the Government. Sometimes we pass fraudulent claims, and oftener refuse to pass good ones; and in this way we are doing gross injustice daily. The Senate and House consist of two hundred and ninety-seven members. What a farce and a folly it is to pay this enormous jury each eight dollars per day, with attendant officers, to adjudicate a claim, when a single judge, or at most a judge and jury of twelve men would dispose of the matter without delay, and at comparatively no cost.

Mr. SACKETT. This scheme is conceived in a commendable spirit. The real object of the mover of the proposition, I suppose to be to facilitate the passage of honest and just claims through this House. I wish to know of the gentleman from Mississippi, [Mr. BROWN,] because I I do not know myself, in what manner the proposition does in fact facilitate the passage of any claim through this body? In the first place, a petition for the claim has to be presented, and then, in the next place, that petition has to be referred to one of the standing committees. Certainly thus far it has no effect whatever.

Mr. CLEVELAND. With the gentleman's permission, I will tell him what in my opinion will be the effect it will have. When a claim is referred to a standing committee of the House, that committee will be very likely to say: "We have masters over us, and there is no need to trouble ourselves about the matter. We will report, and let the General Committee pull the laboring oar." When from that committee it has been sent to the General Committee, they will say: "The committee below has reported in favor of the claim, and there is no need of our troubling ourselves about the matter. And in that way, as has been correctly remarked by my friend from North Carolina, [Mr. STANLY,] the door of the public Treasury will be opened to Galphin and similar monstrous frauds. That will be the effect of it.

Mr. BROWN. It is utterly impossible that the response of the gentleman from Connecticut to my friend from New York can be correct. He says that the committees will say "we have masters over us, and we will do nothing." I do not believe that the committees of this House would say so. It is not possible that they would thus neglect to do their duty. He says they will write briefly "we report favorably." The rule requires that they shall make their report in writing, and that report is to undergo the supervision of the other committees. How can a committee undertake to supervise a report which merely states "we report favorably?" The report must be in writing. To make a sensible written report, investigation must be had. This is your guarantee that the committees will do their duty.

Mr. SACKETT. Without undertaking to say what the practical working of this system would be, whether committees would feel the same responsibility, were there two committees upon the same subject, that they now do, I look directly at the question which lies really at the bottom of this move, and that is, whether it will facilitate the passage of just claims through the House? And I have reached the point of the primary committee reporting to the House without the slightest influence by this revising committee one way or the other. How does it facilitate the adoption of a given report on a claim that is just and ought to pass, if the present rule of having that claim come before us, as it now does, is to be changed so that the report from the primary committee shall have to be referred to another committee, to be there examined and reported on before final action can be had on it by the House? It may increase the chances in the view the gentleman from Connecticut has stated, but in that view alone. It indeed combines a class of bills together, to be logrolled through the House, but offers no other facility. In every other view it diminishes the chances for the passage of honest claims.

Mr. BROWN. The gentleman is again mistaken; for one of the great difficulties, as all of us know, is the way of getting private bills passed. I think the greatest difficulty is that you have not the means of reporting to the House at all.

Mr. SACKETT. How does this increase the facility of reporting?

Mr. BROWN. You send the report directly from the committee of nine to the committee of fifteen, and then that committee, instead of having two or three hundred bills to report, has but one.

Mr. SACKETT. The gentleman says that the primary committees do not report to the House at all. Why, sir, that is not according to the rules of the House.

Mr. BROWN. It will be if this resolution be adopted.

Mr. SACKETT. That gives the proposition a more objectionable feature still. The primary report is not to be made to the House until it comes, if at all, from the revising committee. If that committee see fit not to make that report, it never will reach the House, and that committee can never report until near the end of the session, as it can make but one report, and not even that till after all the standing committees have made their reports to the committee of fifteen; so that no report can be made on a single claim in any case till the last days of the session, and then only such as the committee of fifteen see fit to report, regardless of the action of every other committee of the House, and to be passed or defeated without debate, right or wrong. But there are other objections. I wish to inquire of the mover of the resolution for information on the subject, whether this scheme does not override the existing parliamentary law that private claims shall not be tacked to one another by amendments? Now individual bills are reported in favor of separate claims, and when a rule is adopted that claims without number may be connected in the same bill, I would ask what reason there would be that I may not get up and move an item, without an accompanying report, to be added to the bill as items are added to the appropriation bill, and in that way avoid reports altogether? If there is nothing in the resolution guarding against it, and I think there is not, that most salutary check upon fraud and combinations to accomplish fraudulent purposes will be utterly destroyed. You will have a general omnibus bill, so steeped in corruption that no power can resist it, or so offensive to the moral sense of the House that even an honest claim will not stand the slightest chance of passage. This is another very serious objection to the resolution, a reason that should forever defeat it. Experience has taught the Committee on Claims, as a guard against the reintroduction of bills in different forms for the same claims at different times, to so frame the bills reported by them that they shall be descriptive of the claims they are intended to adjust, and any subsequent committee of Congress can readily ascertain whether a bill, as passed, was intended for the payment of the entire claim and interest, or to cover only partially the rights of the claimant. As I understand the mover of the proposition, the general committee are to report a general bill, with items appropriating to A B $3,000, and to C D $10,000, and so on. The items of the bill are not intended to be descriptive of the claims, and to show whether it was designed to liquidate the whole claim or only a portion of it. That is another very serious objection to the resolution, in my judgment. Taking this view of the case, I shall vote against the proposition, and now, in compliance with my promise, I renew the call for the previous question.

Mr. JOHNSON, of Arkansas. I hope the gentleman will withdraw the call for the previous question, that I may be enabled to submit to the House a few suggestions. I shall not detain the House long.

Mr. SACKETT. With the permission of my colleague [Mr. SEYMOUR] I will withdraw the call for the previous question.

Mr. SEYMOUR assented, and the call for the previous question was then withdrawn.

Mr. JOHNSON. I propose to call attention to the injustice done individuals who have claims on this Government, by the refusal of this House to consider and act upon those claims. We cannot go outside of the bar but what we are made painfully conscious of our neglect of that kind of business. So pitifully powerless have we become in regard to our own proceedings, that although the people outside of this Hall are subjected to vexation, and see ruin staring them in the face, we can afford them no hope. What man of feeling can be else than afflicted most sensitively at such a condition of things? Gentlemen everywhere will admit that something ought to be done for private claimants now—that they have been neglected too long; and yet we have gentlemen here making the broad assertion that ninety-nine cases of a private nature out of every hundred which come before us are unjust, and ought not to be paid. It is not true; and I say so, not because I believe the gentleman who said it would state intentionally anything that was untrue, but because I believe it to be a figure of speech too exaggerated. It is not right, and we know it.

There is such a thing as a right on the part of a citizen against the Government—a right to have the wrongs inflicted on him by the Government redressed. How will he get redress? Can he get it by coming to this House? If it had been stated that ninety-nine out of every hundred just and righteous claims have to be abandoned by those who present them, in utter hopelessness of relief,

few would have doubted the truth of the statement. And from whom is this relief despaired of? From two hundred and thirty-three of the most intelligent men in the nation, who have established such rules over themselves, that like idiots, they are unable to help themselves. This is a God's truth. We all know and all feel it. The consciousness of it will seize even those who harden their hearts to know no right against the Treasury of the nation, and who say "we will pay nothing. We will fight every man who says this Government owes him a dollar." Go back, Mr. Speaker, through the few years I have been here—and it has not been long, but it has been long enough to make me acquainted with these facts—and recall the efforts that have been made to untie the fettered hands of this branch of Congress. The proposition that is submitted by my friend from Mississippi [Mr. BROWN] to-day, has never been offered and rejected before in this Hall. But the proposition in the amendment of the honorable gentleman from Mississippi [Mr. FREEMAN] to give the district courts of the United States jurisdiction, and to allow all claimants to sue the Government, and refer the subject to the Committee on the Judiciary, with instructions to bring in a bill embodying this object, advocated with as much clearness and earnestness, and with apparently as bright a prospect of success, was voted down in this House. So it is; every proposition for the promotion of speedy justice to honest claimants, is met by bitter opposition. Cries resound on all sides, that if they are passed, the doors of the Treasury will be thrown wide open by frauds of all kinds. But this is not all. A bill creating a board for the adjudication of private claims, and for the relief of claimants who are and have been unjustly and oppressively debarred from their rights, now lies helplessly on the table of the Speaker, or unnoticed on the General Calendar, that fathomless grave we have fashioned for the rights of our own people, and the labors of our own members.

But let us suppose that the Judiciary report a bill. Then the bill reported by the Judiciary cannot be got through; for the very same obstacles which exist to relief, in relation to claims, exist in regard to that bill, and will not cease to exist. Look again at the history of this matter a little further. I have been distressed—and so has every man in this House, more or less—by the feeling of perfect helplessness, when appeals have been made to us to do justice for this man, and the other, that we can do nothing at all, although we may have thoroughly examined the claims, and been satisfied that there is merit in them, and that justice ought to be done by their passage. Then do claimants go out and say, In the name of God, what sort of legislation is that, and what sort of body are you? Look at the attempt which was made to establish a board of claims. Can you get any proposition at all, with which gentlemen will be satisfied? If you propose a board to adjudicate them, it is opposed bitterly, and at once. History holds plain before you the ghost of every board that has existed for the purpose of adjudicating claims, foreign and domestic, and all their sins are paraded here. I do not believe that a majority of this House will support any such proposition, although a plan of the sort is now reported for the purpose of settling and getting clear of these difficulties. Every proposition of this nature that is introduced fails of success, and there is no hope of doing what is right and just in regard to the adjustment of private claims, if you have to secure this object by the passage of a bill; for any bill having such an object in view, will fail through the very same process by which in every instance all these things hitherto have been defeated. We all know that there ought to be action in regard to this matter. The chief objections, and the most plausible ones, which have been urged against the proposition before the House, seem to me to be really without foundation, and can be easily obviated. I do not know or say that this is the best method which can be devised for the settlement of private claims, but I do know that when you get a general appropriation bill before the House, you have a chance to consider it, and when you place such a bill as this upon the footing of general appropriation bills, it will at least be considered.

The objection which is made in regard to claims coming in together in one bill, forming a log-rolling omnibus, is an objection which can be made to every general appropriation bill. How is the fact? If you will look to the process by which these bills must be considered, you will satisfy yourselves at once that it is the only way of reaching and acting justly upon these cases. In order that you may see it more plainly, I call your attention to the fact that you cannot have a discussion of more than three or four private claims during a whole Congress. Look at the great number of cases which have for so long a time had a place upon your Calendar; and even supposing that you do pass thirty or forty claims every Congress, how is it done? You pass them without knowing anything about them under the solicitation of members for whom you may have a kind and friendly feeling, and not that they are just and meritorious claims. They get up and ask the unanimous consent of the House to make a few brief remarks in regard to their cases, and nobody objecting, their bills under the previous question are passed through this House. That is a beautiful illustration of the working of the present system, of the disregard of that just spirit with which we should always act. If you adopt a general bill, that kind of business is over, and there will be no more of this sort of legislation. A private claim must then go into a general appropriation bill; and what takes place when it goes there? Precisely the same course is takan there as with any other general appropriation bill. In the first place, there is one advantage which will accrue from this course, and that will be in the saving of the time of the House, because each Friday and Saturday, which are now devoted to private claims, must stand devoted to that particular and specific object. When Friday and Saturday come around, that bill comes up for consideration, and you debate it until the House is satisfied with the general debate upon it. The debate is then closed, but the bill cannot be taken out of the committee until, under the five minutes rule, it is read and debated section by section; and thus it is purified and revised, so as to stand the test of the majority of this House, after the five minutes debate shall have ceased.

I ask who are they who oppose all action in regard to this matter? Some advocate one proposition, and some another, but we all know that we ought to do something. I am firm in the belief that the principle of the proposition we are now discussing is the very best thing which can be adopted. It was a most happy conception of the gentleman from Mississippi, [Mr. BROWN.] I say, in justice to ourselves and the country, we ought to do something, for now our hands are completely bound, and we are completely helpless in this matter of settling and disposing of a most interesting and perplexing class of the public business. In compliance with my promise, I call the previous question.

The previous question was seconded, and the main question ordered to be put.

The question being upon Mr. FREEMAN's amendment to the resolution,

Mr. FREEMAN demanded tellers; which were ordered; and Messrs. BENNETT and SAVAGE were appointed.

The question was then taken, and there were—ayes 63, noes 73.

So the amendment was not agreed to.

The question then recurred upon the adoption of Mr. BROWN's resolution.

Mr. JONES, of Tennessee. Some days ago, when the gentleman from Pennsylvania, [Mr. CHANDLER,] as I learn, made a request to the House that when we were dividing by tellers upon a question, the gentleman from Missouri [Mr. DARBY] might be permitted to vote in his seat, I was understood to have objected to it. Nothing could have been further from my intention. I have no recollection of having heard such a request; and I now ask that the House will grant him that right for the balance of the session.

[Cries of "Agreed!" "Agreed!" "Agreed!"]

Mr. DARBY. I wish to say a word or two upon this matter. I am extremely sorry that I should be the occasion of any delay in the business of the House. The gentleman from Pennsylvania, [Mr. CHANDLER,] it is true, at the time referred to, was kind enough to ask that I should be excused from voting by passing between the tellers. As I understood at the time, and as the report shows, the gentleman from Tennessee [Mr. JONES] objected to my voting, unless there was a recount made at the time. The Chairman [Mr. STUART] decided that there could be no leave granted me to vote in that way, as the Chair had decided the vote to be 70 in the affirmative and 70 in the negative. After the gentleman from Tennessee [Mr. JONES] had made the objection, which I did not at all attribute to him as any personal objection to me, and after a new vote was ordered, I did take the arm of a gentleman near me and pass between the tellers as I have upon every other occasion when the House was divided on a vote by tellers. When the gentleman who sits near me [Mr. WILLIAMS] troubled the House by asking leave for me to be excused from passing between the tellers, I objected on this account, that I preferred what little exercise I could get for my own benefit. I am under many and great obligations to the House for its extreme courtesy and kindness ever since I have been here. With these remarks, I will say nothing further.

Mr. STANLY demanded the yeas and nays upon the adoption of the resolution.

Mr. STUART moved that it be laid upon the table.

Mr. BROWN demanded the yeas and nays; which were ordered.

The question was then taken, and the result was—yeas 77, nays 90; as follows:

YEAS—Messrs. Allison, Averett, Thos. H. Bayly, Beale, Bell, Bocock, Bowie, J. H. Boyd, Briggs, Buell, Burrows, Clark, Cleveland, Curtis, John G. Davis, Dawson, Eastman, Fitch, Floyd, Freeman, Thos. J. D. Fuller, Gamble, Gilmore, Goodenow, Goodrich, Harper, Hebard, Hendricks, Hibbard, Holladay, Horsford, Howard, John W. Howe, Ingersoll, Andrew Johnson, James Johnson, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Mace, Marshall, McDonald, McNair, Meacham, Millson, Morehead, Murphy, Murray, Newton, Outlaw, Andrew Parker, Peaslee, Penniman, Perkins, Phelps, Price, Riddle, Robie, Ross, Sackett, Savage, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Stuart, Sweetser, Townshend, Walbridge, Wallace, Welch, Wells, and Wildrick—77.

NAYS—Messrs. Abercrombie, Aiken, Willis Allen, William Appleton, Ashe, Barrere, Bennett, Bibighaus, Bragg, Brenton, Albert G. Brown, Busby, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Carter, Caskie, Chapman, Chastain, Clemens, Cobb, Conger, Cullom, Darby, George T. Davis, Dockery, Doty, Duncan, Dunham, Edmundson, Evans, Ewing, Faulkner, Ficklin, Florence, Henry M. Fuller, Gaylord, Grow, Isham G. Harris, Sampson W. Harris, Hart, Hascall, Henn, Hillyer, Houston, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, Robert W. Johnson, Daniel T. Jones, George W. Jones, Landry, McCorkle, Meade, Molony, John Moore, Morrison, Nabers, Orr, Samuel W. Parker, Polk, Porter, Preston, Reed, Robbins, Robinson, Russell, Schermerhorn, Scudder, Smart, Smith, Snow, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abr'm P. Stephens, Alexander H. Stephens, St. Martin, Taylor, Thurston, Ward, Washburn, Watkins, Addison White, Wilcox, Williams, and Woodward—90.

So the House refused to lay the resolution on the table.

Mr. FREEMAN. I now renew my amendment as an independent proposition.

Mr. BROWN. I ask if that can be done?

The SPEAKER. The previous question having been seconded, it is not competent for the gentleman to offer his proposition.

Mr. CLEVELAND. I desire to inquire of the Chair, if it would not be in order to move to refer this bill to a committee?

The SPEAKER. The Chair must inform the gentleman that no motion is in order with reference to the resolution which is now under the operation of the previous question. The question is now upon its adoption.

[Cries of "Question!" "Question!"]

Mr. SWEETSER. I call for the yeas and nays.

The yeas and nays were ordered; and the question being taken, the result was—yeas 74, nays 87; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, William Appleton, Ashe, Barrere, Bennett, Bibighaus, Bragg, Brenton, Albert G. Brown, Busby, E. Carrington Cabell, Caldwell, L. D. Campbell, Thompson Campbell, Caskie, Chapman, Chastain, Clemens, Clingman, Cobb, Conger, Cullom, Darby, George T. Davis, Dockery, Duncan, Dunham, Faulkner, Ficklin, Henry M. Fuller, Gaylord, Grey, Isham G. Harris, Sampson W. Harris, Hillyer, Hunter, Ives, Jackson, Jenkins, Robert W. Johnson, Daniel T. Jones, Geo. W. Jones, Landry, McCorkle, Meade, Molony, John Moore, Nabers, Orr, Samuel W. Parker, Penn, Polk, Porter, Preston, Reed, Robbins, Robinson, Scudder, Smart, Smith, Snow, Frederick P. Stanton, Richard H. Stanton, Alex. H. Stephens, St. Martin, Taylor, Venable, Ward, Washburn, Watkins, Wilcox, Williams, and Woodward—74.

NAYS—Messrs. Allison, Averett, Thomas H. Bayly, Beale, Bell, Bocock, Bowie, J. H. Boyd, Buell, Burrows, Carter, Chandler, Clark, Cleveland, Clingman, Curtis, J. G. Davis, Dawson, Eastman, Edmundson, Florence, Floyd, Freeman, Thomas J. D. Fuller, Gamble, Giddings, Gilmore,

Goodenow, Goodrich, Gorman, Grow, Harper, Hart, Hascall, Hebard, Henn, Hibbard, Holladay, Horsford, Houston, John W. Howe, Thomas M. Howe, Ingersoll, Andrew Johnson, James Johnson, John Johnson, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, McDonald, McMullin, Meacham, Millson, Morehead, Morrison, Murphy, Murray, Newton, Outlaw, Andrew Parker, Peaslee, Penniman, Perkins, Phelps, Price, Riddle, Robie, Ross, Sackett, Savage, Schermerhorn, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Benjamin Stanton, Abr'm P. Stephens, Stuart, Sweetser, Thurston, Townshend, Walbridge, Wallace, Welch, Wells, and Wildrick—89.

So the resolution was not adopted.

Mr. EWING here obtained the floor.

Mr. STANLY. I rise to a privileged question. I move that the vote just taken, by which the House refused to adopt the resolution, be reconsidered, and that the motion to reconsider do lie upon the table.

Mr. JOHNSON, of Arkansas. I hope gentlemen will not permit the motion to lie upon the table to be pressed until we have had an opportunity to look into the resolution.

[Cries of "Question!" "Question!"]

Mr. STANTON, of Ohio. I desire to ask the Chair a question. If the motion to lay upon the table should not prevail, and the House agree to reconsider the vote they have just taken, will the previous question have exhausted itself?

The SPEAKER. It will.

Mr. STANTON. Will it be then in order to offer an amendment to the resolution?

The SPEAKER. The resolution will then be open to amendment.

Mr. STANTON. Then I shall vote against laying the motion to reconsider on the table.

[Cries of "Question!" "Question!"]

Mr. McMULLIN. I move that the House do now adjourn.

The SPEAKER. The gentleman from Kentucky [Mr. EWING] rose as soon as the last vote was announced, and was recognized by the Chair. The gentleman from Virginia cannot take the floor to move an adjournment until the Chair has ascertained the object of the gentleman from Kentucky.

Mr. EWING. I desired the unanimous consent of the House for leave to introduce a resolution of inquiry.

Mr. STANLY. I desire to inquire of the Chair if my motion is not a privileged motion?

The SPEAKER. It is, but the gentleman from Kentucky asks the unanimous consent of the House to introduce his resolution, and the Chair must state the question.

Several MEMBERS. Read for information.

The resolution was then read for information, as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of a resolution, providing for an amendment of the Constitution in such a manner as to authorize Congress to require that the electors for the Presidency and Vice Presidency (except the two senatorial electors) shall be chosen in each State by separate districts, instead of by a vote of the whole State."

There was no objection, and the resolution was accordingly introduced and adopted.

Mr. POLK here obtained the floor.

Mr. STANLY. I rise to a question of order. I moved to lay the motion to reconsider the vote by which the House refused to pass the resolution of the gentleman from Mississippi [Mr. BROWN] on the table. I ask that that vote may now be taken.

MRS. MARGARET L. WORTH.

Mr. POLK. I desire to ask the unanimous consent of the House, that a committee of conference may be appointed, to meet a similar committee upon the part of the Senate, in relation to the pension of the widow of the late Major General Worth. The bill failed of final action last session for the want of time to dispose of the disagreeing votes of the two Houses.

Mr. STANLY. I hope the gentleman will make his motion, and have it entered. I do not wish to interfere with the gentleman's object; but I insist that the vote shall be taken upon my motion.

There was no objection, and Mr. POLK's motion was received, and agreed to; and the Speaker authorized to appoint a committee.

The question recurred upon Mr. STANLY's motion to lay upon the table.

Mr. HARRIS, of Tennessee. I ask the unanimous consent of the House to introduce a resolution.

Mr. CARTTER. I object to any resolution being introduced until the motion of the gentleman from North Carolina [Mr. STANLY] is disposed of.

[Cries of "Question!" "Question!" and confusion.]

Mr. JOHNSON, of Arkansas. I rise to a privileged question. I move that the House do now adjourn.

The question was taken, and upon a division there were—ayes 63, noes 76.

Mr. STANTON, of Ohio, demanded tellers, but they were not ordered.

So the House refused to adjourn.

The question then recurred upon the motion to lay upon the table.

The yeas and nays were demanded, but only nineteen rising in the affirmative, they were not ordered.

The question was then taken, and the motion to reconsider was ordered to lie upon the table—ayes 83, noes not counted.

Mr. HARRIS, of Tennessee. I now ask the unanimous consent of the House to offer the following resolution:

Resolved, That there be paid to Francis H. Smith, out of the contingent fund of the House, one hundred and fifty dollars, for his services in reporting the evidence taken before the Committee on the Judiciary relative to the charges against the Hon. John C. Watrous, district judge for the district of Texas.

Mr. STANLY. I object.

Mr. HARRIS. I move to suspend the rules. I offer this resolution under the instructions of the Committee on the Judiciary.

Mr. HART. I move that the House do now adjourn.

The question was put, and the motion was agreed to, and

The House adjourned till to-morrow at twelve o'clock, m.

NOTICE OF A BILL.

Mr. FREEMAN gave notice that he would on to-morrow, or some subsequent day, ask leave to introduce a bill to give to the district courts of the United States jurisdiction to try and determine all private claims against the United States.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. CLEMENS: The petition of Peter Yarnall and 99 other citizens of Wheeling, in favor of a bill to authorize the Secretary of the Treasury to deposit with the several States the fourth installment of the deposits of the public money, directed to be made with said States by the act approved June 23, 1836.

By Mr. GROW: Thirteen petitions, containing 973 names of citizens of Pennsylvania, asking for the abolition of the office of chaplain in Congress, the Army and Navy of the United States.

By Mr. ROBBINS: A petition, signed by John Sharp and 28 other citizens of the county of Philadelphia, asking Congress to modify the bounty land act of September 28, 1850, so as to give each person intended to be benefited by said act, and the seamen and marines who served in said war, one hundred and sixty acres of land.

By Mr. BOYD, of Kentucky: The petition of Patsy Flora, widow of William Flora, deceased.

By Mr. AVERETT: The petition of Nathaniel R. Cole, for half pay, as provided for by the act of July 5, 1832.

By Mr. INGERSOLL: The petition of the ship-owners and others of New Haven, and of the Chamber of Commerce, for an appropriation to erect a custom-house in the port of New Haven, Connecticut.

Also, the petition of Franklin Kelsey, of Middletown, Connecticut, for an appropriation by Congress to test an improved method of his for propelling all kinds and classes of vessels, and that the same may be tested in the Navy of the United States.

By Mr. IVES: The petition of the President and Secretary of the Watertown and Rome Railroad Company for the construction of breakwaters at Cape Vincent harbor, New York.

By Mr. BERNHISEL: The memorial of the Governor and Legislature of the Territory of Utah, asking Congress for an appropriation of $60,000 for the construction of a Territorial road, commencing at Great Salt Lake City, and extending in a southwesterly direction to the eastern boundary of the State of California.

By Mr. ROBIE: A petition for a mail route from Rough and Ready, in Steuben county, New York, by way of West Union, and by Joshua Sluyter's, in Troupsburg, to the Brookfield post office, in Tioga county, Pennsylvania, and from thence to the Westfield post office, in Tioga county, Pennsylvania.

By Mr. HIBBARD: The petition of Charles M. Howe, of Benton, New Hampshire, praying for compensation for military services, as heir of Abraham Safford.

By Mr. SCUDDER: The petition of Selina C. Sumner, wife of Captain Thomas H. Sumner, who is now insane, asking pecuniary aid for him and his family, as a reward for his scientific discovery, by which a ship's position at sea may be ascertained when no observation of the sun can be had.

Also, the petition of George Marston and 70 others, for a beacon to be erected on the "Deep Hole Rock," in the Vineyard Sound, Massachusetts.

By Mr. J. W. HOWE: Five several petitions, numerously signed by the citizens of Venango and Clarion counties, Pennsylvania, praying Congress to establish a post route from Franklin, in the former, to Tylersburg, in the latter county, on the old State road, via Clairberry and Pinegrove townships, in Venango county, and Clinton Furnace, in Clarion county, to the village of Tylersburg.

By Mr. EASTMAN: The petition of 86 citizens of Wisconsin, for the establishment of a mail route from Warsaw, the county seat of Marathon county, to Shawno, on Wolf river.

IN SENATE.

TUESDAY, *December* 21, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. WADE presented the petition of the Cleveland, Painesville, and Ashtabula Railroad Company, praying that the railroad from Cleveland to the line between Pennsylvania and Ohio, and so much of the Franklin Canal Company's railroad as extends from the State line to the city of Erie, be established as a post road; which was referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER. Mr. President, I have a memorial from the American Peace Society, signed by the Hon. William Jay, their president, and the other officers of the society, in which, after setting forth the calamities of war, they conclude by asking the Senate formally to declare its conviction that it is expedient for the Executive department of the Government to enter into communication with foreign Powers, inviting them to form treaties with the United States, binding the contracting parties, in the event of any future misunderstanding which cannot be adjusted by negotiation, to refer the subject to the decision of an umpire to be appointed for the occasion. The principle which these memorialists desire should be affirmed by this body has already been affirmed by formal resolutions reported by a late member of the Senate from the State of Mississippi, [Mr. Foote,] on behalf of the Committee on Foreign Relations, but the Senate never acted upon these resolutions. I therefore now move the reference of this memorial to the Committee on Foreign Relations; and as it is carefully and elaborately prepared, setting forth with great clearness the prayer of the memorialists, I would ask that it be printed, which motion, I believe, goes to the Committee on Printing.

The memorial was referred to the Committee on Foreign Relations, and the motion to print it was referred to the Committee on Printing.

Mr. BRIGHT presented the memorial of the president and directors of the Evansville and Illinois Railroad Company, praying a donation of land to the State of Indiana to aid in the construction of that railroad; which was referred to the Committee on Public Lands.

Mr. CLEMENS presented the memorial of Eugene Plunkett, praying Congress to purchase, for distribution among the citizens of the United States of Spanish origin, a work prepared by him containing a translation, in Spanish, of the Declaration of Independence, the Constitution of the United States, Washington's Farewell Address, and other similar documents; which was referred to the Committee on Printing.

Mr. NORRIS presented the memorial of Edward S. Meader, praying an increase of the pension he now receives; which was referred to the Committee on Pensions.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. NORRIS, it was

Ordered, That the petition of William G. Bucknor, executor of John J. Bulow, jr., on the files of the Senate, be referred to the Committee on Claims.

BILL INTRODUCED.

Mr. BROOKE, by unanimous consent, asked and obtained leave to introduce a bill to repeal all laws now in force imposing duties on railroad iron; which was read a first and second time by its title, and referred to the Committee on Finance.

MEXICAN BOUNDARY COMMISSION.

Mr. WELLER. I have a resolution to offer, which is:

Resolved, That the Secretary of the Interior be directed to inform the Senate why he has not complied with the resolution adopted on the 19th of March last, requesting him to give the names and the number of the employees engaged upon the Mexican boundary, together with a statement of the amount of money expended upon the said work.

Mr. President, if there be no objection, I ask for the consideration of the resolution now. The original resolution was passed upon the 19th of March last. The Secretary of the Interior responded to it in part, but affirmed that he was not prepared to send in all the accounts, showing the manner in which previous appropriations had been disbursed by the Commissioner; but we were then told in that report that they would very soon be sent in. They have never been sent in, and it is a matter of importance to the country to know how the money has been expended. When my accounts as Commissioner were called for, they were sent to the Senate in eight days after the resolution was passed. I have waited now for eight months for the accounts of my successor, and I think it is high time that they should be sent in.

The resolution was considered by unanimous consent, and agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had appointed Mr. POLK, Mr. ISHAM G. HARRIS, and Mr. GOODENOW, a Committee of Conference, on their part, on the disagreeing votes of the two Houses on the bill of the Senate for the relief of Margaret L. Worth.

On motion by Mr. BORLAND, it was

Ordered, That a Committee of Conference on the part of the Senate, on the disagreeing votes of the two Houses on the bill for the relief of Margaret L. Worth, be appointed by the President *pro tempore*.

And Mr. BORLAND, Mr. DAVIS, and Mr. SHIELDS, were appointed.

ACCOUNTS OF THE PUBLIC PRINTER.

The joint resolution from the House of Representatives, authorizing the settlement of the accounts of the public printer, for paper used by him since the 1st of November, 1852, was read a first time, and ordered to a second reading.

Mr. SHIELDS. I hope it will be read a second time for the purpose of reference.

Mr. BORLAND. I will suggest to the Senator that it is not worth while to refer it. It is a matter that has been considered by the Committee on Printing, and they are unanimously in favor of it. The Joint Committee on Printing unanimously authorized the introduction of the resolution into the House, and I hope therefore it will be passed now without any reference. It is absolutely necessary that it should be passed.

There being no objection, the resolution was read a second time, and the Senate proceeded to consider it as in Committee of the Whole.

It proposes that the accounts of the public printer for paper furnished and used by him since the expiration of the time specified in the sixth section of the act making appropriations for the naval service for the year ending June 30, 1853, and for other purposes, and also for paper to be furnished and used by him until the Superintendent of Public Printing shall commence furnishing and delivering to him paper, be settled and paid as the accounts of the public printer have been settled and paid under the sixth section of that act.

Mr. HAMLIN. The principle involved in the resolution is this: It will be recollected that when the system of printing was changed, no provision was made in the printing bill for furnishing paper from the time that law went into effect up to the period of time when the Superintendent was to advertise for proposals to furnish paper to the public printer. An amendment was therefore inserted in the naval appropriation bill, on my motion, authorizing the public printer to purchase for sixty days such paper as was specified in the law. At the expiration of those sixty days, the Superintendent was not able to purchase the paper according to that bill, and there was a period of time between the expiration of the sixty days and the present time when the public printer could get no paper from the Superintendent. He consequently assumed the authority to furnish the paper, which was of the quality specified in the law; and it is to pay for this paper that this joint resolution has been offered. I think we owe it in justice to the public printer and the Superintendent, who have done their duty so faithfully and so well, to act with promptness. I hope the resolution will receive the favorable action of the Senate at this time.

The resolution was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

THE HOMESTEAD BILL.

Mr. DODGE, of Iowa, gave notice of his intention, at an early day, to call up the bill commonly known as the "Homestead bill," for the consideration of the Senate.

NOTICE OF A BILL.

Mr. CLEMENS gave notice of his intention to ask leave to introduce a bill to remove the land office at Sparta, Alabama, to Elba, in said State; and to reorganize the land districts of Sparta and Cahawba.

HON. DAVID MERIWETHER.

Mr. RUSK. I ask leave to present a resolution, which I hope the Senate will unanimously agree to consider at this time:

Resolved, That the Hon. David Meriwether, late a member of the Senate from the State of Kentucky, be paid his mileage and *per diem* up to the 30th day of December, inclusive.

Sir, it will be recollected by the Senate, that at the time the Hon. David Meriwether took his seat here at the last session, the question was started as to the validity of the election of Mr. Dixon, or rather as to the effect of the limitation imposed by the Governor of the State of Kentucky, upon Mr. Meriwether's commission. Some of the ablest minds of the Senate then expressed the opinion that the Governor had no right to limit it, and that Mr. Meriwether was entitled to fill the unexpired term of Mr. Clay up to the time of the next meeting of the Legislature. Under that notification or that intimation from the Senate, at the time of the presentation of his credentials, Mr. Meriwether, as I think he ought to have done, came to this city at the present session of Congress. It will be also remembered, that at the first moment when the question was raised at this session, the Vice President elect of the United States—whose indisposition we all sincerely regret, a man distinguished for his ability and unimpeachable integrity—expressed the opinion that without an order of the Senate to the contrary, Mr. Meriwether's name would be continued on the rolls, and that he must be called when the yeas and nays were ordered. In the discussion which has terminated in excluding Mr. Meriwether from the seat, and in assigning it to Mr. Dixon, there was a division of opinion, and some of the ablest lawyers of the Senate, gave it as their conviction that Mr. Meriwether was still a Senator. This opinion was expressed by gentlemen celebrated for talents, and entirely above the suspicion of any other influence than their honest judgment in regard to the constitutional provision.

I have presented this resolution without consultation with any one. I do not know that it will be at all agreeable to Mr. Meriwether. I have neither seen nor consulted him; but I think it is due, upon principles of justice, to him, and I hope the Senate will so consider. The conduct of Mr. Meriwether in the whole matter has been highly commendable. He has not presented himself here; and so far as I have known, he has not conversed with Senators pending this question. From what I know of the man, I think that his visit to this place was dictated by a sense of duty under the opinion expressed by able men that he was still a Senator, and would be called upon to perform the duties of the office. Under such circumstances I hope there will be no objection to the immediate consideration and passage of the resolution.

Mr. CLEMENS. I hope it will lie over.

The PRESIDENT. Objection being made, the resolution must lie over for one day under the rules.

COMMITTEE ON REVOLUTIONARY CLAIMS.

On motion, Mr. TOUCEY was excused from service as chairman of the Committee on Revolutionary Claims, and Mr. DODGE, of Iowa, was appointed to fill the vacancy thereby created.

LIEUTENANT GENERAL.

The Senate resumed, as in Committee of the Whole, the consideration of the joint resolution "authorizing the President of the United States to confer the title of Lieutenant General by brevet for eminent services."

Mr. SHIELDS. I deem it my duty to state, that this is not a new proposition brought up at this time. It is rather an old one. About two years ago it was considered and acted upon by the Committee on Military Affairs, and I was instructed to make a report at that time, and I did so. The report was favorably received by the Senate, and a resolution similar to this passed this body with very little opposition, but it was lost in the House of Representatives for want of time.

At the last session the Military Committee again entered upon the consideration of the subject and instructed the Senator from Alabama [Mr. CLEMENS] to make a report, and he, in substance, reported the resolution which is now before the Senate. The Committee on Military Affairs deem this a matter of justice—military justice to General Scott. The intention is to confer a brevet upon General Scott, and this resolution proposes to give such power to the President of the United States, by whom we have no doubt it will be exercised in accordance with our expectations. It is not proposed to confer the brevet by the resolution upon General Scott. That is not in our power. But it gives the President power to confer the brevet in such a way as to embrace General Scott. The Military Committee are of opinion that it is a matter of justice to that distinguished individual. Of all the officers who served in the Mexican war, I believe General Scott is the only one in the regular army that has gained neither additional pay nor additional rank in consequence of that service. His subordinates—all who served with any distinction under him—received one, two, or three brevets; and they have the rank, and most of them the pay, to which those brevets entitle them. But he who commanded the army, who was at the head of it, and who guided it to the achievement of those glorious victories, has received nothing—neither additional pay nor additional rank. It occurs to me—and I hope it will strike every one in that light—that it is a matter of military justice, that he should derive some additional rank from his glorious and gallant services in that war; and no man in the country will deny that those services were of the most glorious character.

Besides, sir, it seems to me that this is a favorable occasion to perform this act, particularly on the part of the majority, with whom I have the honor to be associated politically. The powerful should always be generous; it is a duty for them to be so. And permit me to say, and I can say it truly and boldly, that there never was a more generous victor than General Scott himself; there never was a more humane or a more generous chieftain. But I do not place this upon the ground of generosity. We base it upon the principle of military justice to this distinguished chieftain. His position was such that he could not obtain additional rank, without legislation. His subordinates did obtain it. They received their brevets; and he, too, is entitled to one, and should receive it.

I know that it may be said that a brevet is of very little value; but it is of great value to a soldier; it is of incalculable value to him—and why? Because it is the stamp of his nation; it is a seal put upon him by his country for gallant services; he feels proud that his country recognizes these services, and a brevet is a proof of that recognition. That is the reason why the soldier values it; and in that respect it is invaluable to him. Every man who knows anything of the army knows that.

I know that the honorable Senator from Massachusetts [Mr. SUMNER] has this morning presented a memorial from the Peace Society, by which that society, I believe, proposes a plan that will prevent any future wars. I hope that may be the case; but judging of the future by the past, I doubt whether that society will produce any great influence upon the world. At all events, this country owes a great deal more to its army than to peace societies. And permit me to say, that at this moment there is not an army of the same number in the world that performs more hard, dreary, and cheerless service, than the Army of the United States. They are away beyond the bounds of civilization, scattered along your vast frontier. They endure all the hardships, all the fatigue, all the privations, and, I may say, all the dangers of war, and have none of its promises of glory. A compliment paid to the chief of the army is an honor to the whole army. Every man in the army feels it.

Besides, sir, your army deserves well of the

country. There never was a little army on earth that deserved more from a country than the Army of the United States. It brought you through three glorious wars; and from Lexington to Mexico it has always been victorious; and perhaps there is not in that whole path of glory from Lexington to the City of Mexico, one portion more brilliant than that guided by this distinguished chieftain whom we intend by this resolution to honor. Look at the campaign from Vera Cruz to the City of Mexico. Sir, there is no true history of that campaign. I have read all the histories which have been published, and none of them do justice to the campaign, or to the chieftain who guided and directed the army through it. I am not going into it now; but I would ask any man to point out to me a parallel in military history—an achievement superior to the siege and capture of Vera Cruz. One of the strongest places in the world—strongly fortified, strongly garrisoned—fell before the American army, with only the loss, in killed and wounded, of about sixty men. Was not that generalship? Where can you find a parallel for it?

Go to Cerro Gordo, a natural fortress, nothing like it perhaps on this continent; a handful of men might have defended it against an army. Then look at the plan of attack, look at the execution of that plan; look at its results; and where will you find a more glorious military achievement.

Sir, go to the City of Mexico. Look at our army before that City. There it was, comprising only about six thousand men, the mere remnant of war, of battle, of disease. Before them lay a city of two hundred thousand inhabitants, defended by an army of over twenty thousand men, as well disciplined, as well organized as they themselves were. Around that remnant of Americans were their wounded, their sick, their dying. There they were, in the midst of a nation of seven millions of enemies. There they stood, cut off, isolated from their own country, comprising only six thousand men, in the heart of a nation, before one of the most magnificent cities on this continent, with an army of twenty thousand men to defend it. Yet your army entered that city; they captured it, and forced the country to peace. And I will add, what is more glorious, both to the army and its commander, that life and property were never as secure in that City since the fall of the Montezumas, as while our army occupied it; for I will say this, and I can say it fearlessly, that a more humane and generous commander never led an army, than the man whom it is intended to honor by this resolution.

Sir, I intended, when I got up, to say but a few words. I felt it my duty from our past relations, to say this much; and having done so, I take my seat, hoping that the resolution will be adopted.

Mr. CASS. Mr. President, when this subject was before us some months since, I had insuperable objections, and so expressed myself, to the form in which it was presented. The bill, as originally introduced, created the brevet grade of lieutenant general, and rendered it a permanent part of our military establishment.

I was utterly opposed to such an arrangement, and desired the office to be a temporary one, to be limited to the occasion which seemed to render it proper. I proposed an amendment which had in view this object, and avowed the determination to support the measure if it were adopted, and to vote against it if it were rejected. The bill now before us, introduced by the honorable Senator from Alabama, [Mr. CLEMENS,] embraces the principle of my amendment, providing that the law shall terminate when the office has been once filled, and become vacant, and I shall therefore cheerfully give it my support. The object of this proposition is well understood by the Senate and by the country, and I shall confine myself rather to the explanation of my general views in relation to it than to any specific objections made here or elsewhere. That object is to provide a mode in which an appropriate mark of public approbation may be conferred upon General Scott for his eminent military services in Mexico. This purpose is not, indeed, expressed in the bill itself; because, being a legislative measure, all we can do in our legislative capacity is to create the grade, leaving to the appointing power to fill it upon its own responsibility. We may, of course, be sure that the honor will be conferred upon General Scott; and we know by the terms of the bill, as I have already said, that it cannot afterwards be conferred upon any other person, as the law *ipso facto* expires upon the happening of a vacancy.

All nations, sir, and we among them, have adopted the policy—the justice, indeed—of conferring rewards for distinguished military services. These tokens of the gratitude of a country are not only precious memorials to those receiving them, and who have gained their title to them by the toils, and trials, and exposures, and sufferings of a perilous profession, but they become an encouragement, an incentive, to others to follow in the same career, and to hope for the same distinction.

A character of high and jealous honor is essential to the efficiency of any military establishment. It is not a cold performance of duty which can raise it to a proper standard, but there must be an *esprit du corps*, a spirit of emulation, a striving with one another, generous, indeed, but active and ceaseless, wherever there are duties to be fulfilled or honor to be acquired, whether in the fortress, in the camp, or on the battle-field. And I think I understand the feelings of the American army, and I can say with a perfect conviction of the truth, that I do not believe there is another military establishment in the world which exceeds it in the great characteristics of honor, patriotism, discipline, and valor; and I have heard with great pleasure the just and eloquent remarks of the Senator from Illinois [Mr. SHIELDS] upon this branch of the subject, and, indeed, upon the whole question. The army has always done its duty to the country, and often under circumstances of the greatest difficulty and danger, and I hope the country will always be disposed to deal with it in a spirit of justice and kindness.

The granting of additional brevet rank for gallant services on the battle-field, may be considered now as part of our national policy, sanctioned by practice and by the approbation of the country. As to titles, such as are granted elsewhere, thank God we have none to bestow; and I trust I shall never live to see the day when any pecuniary rewards will be conferred upon military men, except pensions for injuries actually sustained in the line of their duty, agreeably to our present system. An additional brevet grade is the true official reward which our service offers, and it well becomes the nature of our institutions.

The campaigns in Mexico were fertile in glorious results, and all who contributed to them by distinguished personal exertions, received the acknowledgment of their good conduct by brevet promotions; and in many instances by more than one, where more than one chance of distinction offered itself, and was seized in a proper spirit. He who planned and conducted one of those perilous inroads into the heart of the enemy's country is the only living officer of the army excluded from this distribution of rewards, so gratifying to the just pride of a soldier. And why is this? Not because his eminent merits were not felt and acknowledged—for no such injustice found place in the hearts of the people—but because he won, almost forty years ago, in other fields, but with equal gallantry, the highest grade known to our system. And though he had other services to render, we had no other rewards to offer, in the line of his duty, without some new legislative provision. The gradations in our military establishment rise from second or third lieutenants, formerly ensigns, (and I do not know why the designation was changed,) to first lieutenants, captains, majors, lieutenant colonels, colonels, brigadier generals, and major generals, and there we have always stopped, with the exception of the office of commander-in-chief during the revolutionary war, and of the arrangement for the return of General Washington to the military service of the country during our difficulties with France, when the position of *commander of the army, commissioned as a lieutenant general*, was conferred upon him, but was afterwards changed to that of *general of the armies of the United States*.

I allude to this merely as an interesting incident in our military history, and not as a precedent for our action now or hereafter; for Washington stood alone in character and services, and in the hearts of his countrymen, and, in my opinion, in the annals of the world. And as his career was without example, so the personal distinctions attached to him should remain his own, furnishing no precedent for future application.

And it is in this spirit of jealous reverence for the name and the fame of Washington, that I shall ask my friend from Alabama [Mr. CLEMENS] to consent to the change of a word in his amendatory resolution, by substituting the word *created* or *established* for *revived*, so that this grade may now be introduced without reference to any previous proceedings. The mantle of Washington fell on no man, and I have an insuperable objection to connect any one with his honors by reviving them for another. And, besides, the proposition may raise a question we had better avoid, when we can avoid it so easily and so properly. The office of lieutenant general was never directly introduced into our service. The office created was that of "commander of the army," "to be commissioned as lieutenant general," and who was "authorized to command the armies of the United States." Here it will be seen that the naked grade of lieutenant general is not provided for, but that the designation is to be given to a high officer charged with the command of all our military force. A question arose respecting the constitutionality of this arrangement, because it seemed to interfere with the constitutional right of the President to "be commander-in-chief of the army and navy of the United States," &c. And therefore, at a subsequent session of Congress, this arrangement was repealed, and provision was made for the appointment of a "general of the armies of the United States." I desire to leave sacred and untouched an office created expressly for Washington, and also to avoid any constitutional question upon this subject.

To render the proposed measure obnoxious, the grade of lieutenant general has been charged with being aristocratic, and unsuited to the nature of our institutions. It is rather difficult to treat so absurd an objection seriously. What makes it aristocratic? Not the name; for we have major generals with higher sounding titles, though with less rank, and we have captain generals in the States, and I believe also lieutenant generals in some of them. Where we shall stop in military grades, is a mere question of expediency, depending on existing circumstances and on the extent of our establishment.

At one time, during the administration of Mr. Jefferson, it was proposed, I believe by General Dearborn, then Secretary of War, to have no higher officer than a colonel; and for many years—from the death of General Wayne, indeed, till the war of 1812, with the exception of the increased establishment arising out of the French difficulties, to which I have already referred—we had none higher than a brigadier general, which was the rank of General Wilkinson, who commanded the army for many years. There is nothing more aristocratic in one military grade than in another. Experience has shown that these gradations are essential to efficient service; and where they shall stop is, as I have said, a mere question of legislative discretion. We do not now need the permanent position of lieutenant general in our army, nor do I foresee when we shall. And this conviction was the cause of the objection I first took to this measure. I advert to the general considerations I have just presented, not at all as reasons for the creation of the grade, but to repel the charge of its aristocratic character, so well calculated to excite prejudices against it. My reason for its creation is, that it will enable the proper authority to render an appropriate testimonial to the services of General Scott in the same manner as it has been rendered to every officer in the army he led to battle and to victory, who was entitled to the distinction. It is not necessary to review the life of General Scott that his countrymen may be able to appreciate what he has done for their interest and their honor. Almost half a century has elapsed since his name and his deeds were household words, familiar to the American people throughout the whole extent of the Republic.

But his campaign in Mexico was the crowning act of his military life, and it will ever fill one of the brightest pages of our history. I desire, however, to do justice to General Scott, but no injustice to his co-laborers in that great work by a spirit of partisanship, to which we are ever prone, and which would leave to his countrymen but little concern in many glorious victories but to admire their splendor and his achievements. There is honor enough for all—for the living and the dead—and let us render it to all, to each, indeed, as he merits it. Nothing is gained for the cause of

patriotism or of truth by those invidious encomiums, which, while they elevate one, depress many by the contrast they exhibit. General Scott led to Mexico an American army, composed of volunteers and regular troops, equal to those to be found in any other service, be it where it may, in physical power, in honor, in valor, in patriotism, and in intelligence. The progress of that army is almost without a parallel in ancient or in modern warfare, by the disparity of force it encountered and overcame, by the celerity of its movements, and by the uniform success of its operation, under circumstances of great trial and difficulty, in the midst of a hostile people, and cut off from their own country, self-dependent and self-sustained.

Armies were dispersed or overthrown before our gallant countrymen, fortresses fell at their approach or attack, and the capture of the capital terminated the campaign, and, in fact, placed the nation at our mercy. One incident which marked these splendid efforts gives them a deep interest and a romantic character, which we may seek in vain in the records of national contests. For many days our adventurous army was lost to their countrymen and to the world. Relying upon the gallantry and superiority of his troops, the General adopted the hardy measure—wise as it proved by its success, but rash, as it would have been denounced, had it failed—of abandoning his communications with the coast, and therefore with his country, and of committing the fate of his army to a forward movement into the heart of the enemy's territory, and to a vigorous attack upon the capital. We all remember with what anxiety this decisive movement was regarded, and how we waited, with almost painful solicitude, for tidings from our brethren engaged in a perilous conflict, and shrouded from our view by the cloud that rested upon them. But ere long this obscurity gave way, like the veil that covered and then revealed the Trojan hero—

"Quum circumfasa repente,
Scindit se nubes, et in æthera purgat apertum,"

and we saw our flag upon the towers of Mexico, and the campaign brought to a glorious conclusion.

In these operations, so gratifying to our pride and so honorable to our character, General Scott was the leader, the commander, responsible to his country for their projection and their execution. And well did he fulfill the task assigned to him.

Bold and active in his movements, fertile in resource, and prompt in seizing every advantage of the errors of his enemy, he displayed traits of generalship which have commanded the respect of the world, and have placed him among the great captains of the age. And these brilliant achievements have not only conferred imperishable honor upon our name, but they have added to our moral strength and standing among the nations of the earth, by the display of noble qualities which prove that an American army is as able as it is willing to stand between their country and her foes, and to defend her rights and her interests in any extremity of difficulty and danger.

For his share in these splendid feats I am willing to make provision for conferring upon General Scott this mark of public approbation, and I think he well merits it.

Mr. BORLAND. When this subject was under consideration in the Senate on a former occasion, I offered a few remarks in opposition to the measure. It is not my purpose now to go over those remarks again, or to express all the sentiments I then expressed. Not that my opinions have been materially changed, but that I have somewhat changed my purposes. In its present form, however, even as a new proposition, I cannot vote for it. If it was a proposition, directly, plainly, and substantially to confer upon General Scott the brevet rank of lieutenant general, I would vote for it. If there be honor in this commission or distinction which it is proposed to confer on General Scott, it will be honorable only when conferred by the representatives of this nation, by the voice, and I should hope the unanimous voice, of the Congress of the United States. But in the proposition now before the Senate, it seems to me that we seek to avoid the responsibility of proclaiming to the world this high estimate, which has been expressed here by individual Senators, of the character and achievements of General Scott. Such, I am sure, is not the purpose of Senators who have brought forward the proposition in his favor. But thus it will appear upon the records of the country, in all coming time.

To show the view which I entertain, and to bring forward a proposition in a form in which I can vote for it, and which I believe will be more agreeable to the views of the American people, I desire to offer the following amendment:

Strike out all after the enacting clause, and insert:

That the President of the United States be authorized to confer upon Major General Winfield Scott, the brevet rank of lieutenant general, in acknowledgment of his gallant and meritorious services in the war with Mexico.

Mr. SHIELDS. Will the Senator permit me to ask whether that will be constitutional? We have considered that matter in the committee, and we felt that we could not designate the individual in any way, but that we might create the rank and leave the President to fill it as he should please.

Mr. BORLAND. If I could be satisfied that my proposition is unconstitutional, I would neither have offered it, nor now insist upon it; but I confess I have been unable to see wherein it is unconstitutional. If any Senator will point out to me its unconstitutionality, I will thank him for it. I shall be glad to be informed how it is that we have not the constitutional power to confer this rank directly upon an individual, and yet have the power to establish the rank and enable the President of the United States to fill it. For my life I cannot see, so far as the exercise of the power is concerned, any substantial difference between the propositions. But I do feel, as one of the American people, a deep interest in the character of our military men; and I will go as far as any one in paying the tribute of my admiration and gratitude to General Scott for his distinguished services. If, however, we are to give full force to this distinction, it must be by conferring this rank as representatives of the American people, rather than by putting it within the option of any particular individual, however high his station may be.

Mr. CHASE. When this resolution was originally before the Senate some two years since, Mr. President, I felt myself constrained to vote against it. I then gave a silent vote, but I now propose to state briefly the reasons which control me.

The object of the resolution has been distinctly avowed by the honorable Senators from Illinois and Michigan. It is to create a new rank in the Army for the purpose of distinguishing a particular individual, by conferring that rank upon him. Now, is it expedient that the American Congress should create this rank which has been, as stated by the Senator from Michigan, but once created in our history, and then for a particular purpose? Sir, the reward of duty is the consciousness of duty done. That is the highest reward, and I suppose it is that which the soldier as well as the civilian, most covets—that consciousness which will sustain him at all times and under all circumstances, amid opprobrium as well as applause—the reward which he finds in his own breast, and which it is impossible that any can take from him. Sir, no man wishes to take a leaf from any laurel which General Scott has won or worn. No man desires to deprive him, in the smallest degree, of any honors which a grateful country has bestowed upon him, or of that world-wide esteem in which he is held wherever the fame of his achievements has gone—and that fame has gone wherever civilized men exist, and, indeed, I may say, wherever any language is uttered.

Mr. President, our duty is to consider the consequences of the act which we are called upon to perform. I said a moment since, repeating what had fallen from the Senator from Michigan, that this rank has been but once created in our history; and then it was created for the purpose of conferring it upon a man who was above all his compeers. The Senator from Michigan is justly jealous of the fame of Washington, and would not have the office by which he was distinguished revived. He proposes, therefore, "that the office be now created."

But I submit that no mere change of phrase will accomplish his object. The thing remains; the fact is there; you create anew the office which was created for Washington, for the sole purpose of conferring it upon another individual. It matters little whether you style it, the "creation" or the "revival" of the office.

And let us remember, sir, that even the lead of our armies through the war of the Revolution, was not thought a sufficient reason for the creation of a new office with which to distinguish Washington. He conferred upon his country the highest of all national benefits. He assured to her, by his services in the field, freedom and independence, and, more than any other man, under the blessing of Divine Providence, secured to us the institutions which we now enjoy; and yet, who ever thought of dignifying him by a new title or a new military rank, by any of these gewgaws and distinctions which Legislatures can create and which Legislatures can take away? No, sir, his reward was of a different description. His reward was found in the consciousness of a noble heart, that he had conferred great benefits upon his country and upon the world. His reward, too, was found in that grateful acclaim of the people which surrounded him wherever he went, and distinguished him as "First in war, first in peace, and first in the hearts of his countrymen." That was his distinction. No trappings of office; no mere military title; no paltry honors which can be conferred or taken away by Legislatures, constituted any part of it. It flowed from the great fountain of his own services, and was returned to him in the gratitude of the people.

Sir, I am averse, I will say, to distinguishing any man with the title which was conferred upon Washington; and I wish here to remark—and I believe the history of the country will sustain me in stating—that the rank of lieutenant general was conferred upon Washington himself only because it was supposed that he was to be immediately called into the service of the country in a war with France. I have read the affecting and noble letter in which he signified his acceptance of the commission; but he accepted it, not as a trapping, not as a mere title, but as a commission under which to render new services to his country in a new and perilous field.

I recollect very well that when this subject was under consideration before, it was suggested on the part of the opponents of the resolution that we were originating a new policy; that we were offering titles, mere titles, as rewards for public service, and it was asked where it would end? Were we to create admirals and marshals? And I also recollect very well that a distinguished favorer of the measure then said, that if a proper case should occur, he was willing to grant the marshal's baton; he was willing to confer whatever rank distinguished soldiers or sailors in the Old World could win, for the purpose of showing the gratitude and admiration of our Republic towards her successful warriors.

My honorable friend from Michigan does not seem to think that there is any danger in mere titular distinctions. If the rank remains the same, what is the harm of a higher title? If the substantial power is the same, where is the danger of a new distinction. Let me ask, was not the substantial power of Louis Napoleon, two months ago, as great as it is now? Where, then, according to this argument, was the harm in proclaiming him Emperor? Where the harm of settling the descent in his family?

Mr. President, I am averse to this new policy. We want a simple, economical Government; and while I concur with the distinguished Senator from Illinois, that it is grateful and proper, in the majority in this Chamber, to render whatever of honor they properly may to the distinguished leader of their opponents, I must say that I think it unwise in that majority to overlook the principles upon which they have professed to stand before the American people; those principles of economy, prudence, frugality, moderation, and reform which distinguish genuine from false Democracy. The new policy and practice which this resolution introduces is unsanctioned by those principles—cannot be vindicated without disregard of them. I am against it.

Mr. President, I concur in much of what has been so well and so eloquently said by the distinguished Senator from Illinois, [Mr. SHIELDS,] in regard to the brilliancy of the achievements of our army in the Mexican campaign. It was my fortune, or misfortune, to be one of those who thought that war was unnecessarily commenced. It was my fortune, or misfortune, also, to be one of those who thought that it was inappropriately closed. In my judgment, when our army had obtained possession of the Mexican capital, and a government had been established for Mexico, better than that unfortunate country had ever known, because firm-

er, more impartial, and more equitable, it was our duty to retain the ascendency we had acquired, and introduce free and stable institutions into Mexico under American safeguards and auspices. But, sir, I dissent from that honorable Senator so far as he seems to think that the victories of war are greater than the victories of peace. Far otherwise, I think. I am willing to accord whatever meed of gratitude a grateful country may bestow upon its distinguished servants in the field; but, in my judgment, "peace hath her victories no less renowned than war;" ay, Mr. President, the victories of peace are far grander and more glorious than those of war; and, in my judgment, those conquests in the domain of nature which have been achieved by a Fulton and a Morse, are far more worthy of distinguished honors from a democratic people than the highest military achievement. He who subjugated the mighty power of steam to the purposes of man; and he who taught the lightning to perform your errands over boundless continents, is far worthier, in my humble judgment, of titles of distinction, if such titles are to be conferred at all, than the most successful soldier. Ay, Mr. President, and he who originates a great thought—he who embodies a great conception, in living language, and sends it forth to enlighten and bless the world through all ages, shining and life-giving like the sun, is a greater conqueror than the mightiest warrior, for he conquers in the highest field—the domain of mind.

Sir, when Jefferson penned the Declaration of Independence, and announced, as the foundation-principle of human government, the great truth "that all men are CREATED EQUAL," and sent that truth abroad to perform its sublime mission in overturning thrones and principalities, he achieved a greater conquest than any warrior who ever led a host to battle. Peace, then, has her great, her illustrious victories; and if the victors in her battle-fields are not distinguished by eulogies and triumphs, which legislatures award, they may be well content with the glory accorded to them by a grateful world, with the sublime consciousness that they have done their duty to their race.

Whatever view, then, I take of this proposition, I feel myself constrained—although I cherish for the distinguished individual whom it is proposed to honor by it a respect as sincere as that of any gentleman in this Senate—to record my vote against its adoption.

Mr. SHIELDS. I did not wish to interrupt the honorable Senator, but I do not wish to be misrepresented; and I know that the Senator has not done so intentionally. I did not run any parallel between the advantages of a military career and the advantages of men in peace. I stated this: that this country owes more to its army than it owes to its peace societies, having reference to the petition presented this morning by the Senator from Massachusetts, [Mr. SUMNER.] I repeat it, and I think no gentleman will deny it. I admit that the achievements of peace are greater than the achievements of war; but I have, I repeat, no respect for these transcendental peace-society men. When the nation is in a great exigency, I would not give a pinch of snuff for a thousand such men. I would rather have one company of well-disciplined men than all the peace societies in America.

Mr. ADAMS. I have been hesitating how I should vote upon the question under consideration. I recollect that I once voted, when a member of the other House, to create the office which it is now proposed to create. I did so with great hesitation then, and under the supposed necessity of doing so, growing out of what was then understood to be a conflict of opinion between the two highest officers in command in Mexico. I have never ceased to regret that vote, and I am not disposed to cast a similar vote upon this case, after reflection. I understand that Congress has already passed a vote of thanks, as the representatives of the people of the United States, for the distinguished services rendered by General Scott during the Mexican war. That vote of thanks was the expression of an opinion by the representatives of the people, and a proper appreciation of the services rendered. No brevet appointment could be conferred upon him, because he already held the highest office known to the military institutions of our country. Now, for the sake of this mere name and honor, in this democratic country of equal rights, I am unwilling to confer the title proposed. I trust that no one appreciates more highly the distinguished services of that person in the field than I do; but having once voted to create the office of lieutenant general, and having ever regretted that vote, I will not now vote to confer the title for the sake of distinction merely.

Mr. CLEMENS. I agree with the honorable Senator from Illinois, [Mr. SHIELDS,] that the amendment proposed by the Senator from Arkansas [Mr. BORLAND] is unconstitutional; and however much I might desire to have the vote of that Senator, I trust the Senate will not agree to the amendment he proposes. It is a limitation upon the power of the President to make appointments, and we have no right to make any limitation. I hope, therefore, the Senate will not adopt the amendment.

Mr. BORLAND. Mr. President, it has been said that this proposition is unconstitutional. I confess that I am unable to see that it is so. If it can be shown, however, to be so, I will not only not insist upon it, but I will vote most cheerfully for the resolution. I suppose that the suggestion that it is unconstitutional, has respect to the power and authority, conferred by the Constitution upon the President of the United States, to make appointments to office. I take it, however, that that exclusive power, vested in the President of the United States by the Constitution, relates to those offices which are established by the Constitution; but that offices which we may create by law, may also be filled by the law, if such be the terms of the act by which we establish them.

Mr. BROOKE. With reference to the constitutional point, it appears to me that the Senate has the right to advise the appointment of any officer, and that in passing this resolution, we but give that advice which, by the Constitution, we are authorized to do; and it is immaterial whether this advice is given before or after the creation of the office. By the passage of this resolution, the Senate advises the President to confer on General Scott the office or rank of Lieutenant General by brevet, and I think that in doing so, it is acting in accordance with the Constitution, and that therefore we have the right to pass the resolution.

Mr. HALE. Mr. President, I feel compelled to vote against this proposition in any shape in which it may be presented. I would have been glad to have been relieved from stating the reasons which induce me to give that vote; but as the matter is up, I must improve it. The constitutional difficulty does not trouble me at all. I am against the original proposition, and against all amendments. It will be recollected by those who take any interest in remembering what so humble an individual as myself ever did in the Senate, that when a proposition was before us to render a vote of thanks to General Taylor and General Scott for the services which they performed in the Mexican war, and to thank them for their brilliant achievements in that war, I voted against it twice The first time I voted alone, in a minority of one. When the resolution was first passed, there were some members of the Senate who thought so differently from me on that occasion, who were out when the vote was taken, that they came in the next day and requested that the matter, by general consent, might be voted upon again, so that they might have the privilege of recording their names in favor of it; which being done, I had the privilege of recording my name against it the second time. I voted against it, because I acted upon the same principle as did those men of the British House of Commons, who voted against thanking British officers for the victories they had gained over the American colonies, when they believed that the American colonies had the right, and the British administration had the wrong, in the contest in which the victories were gained. Those distinguished gentlemen said that they could not separate a vote of thanks to those officers for victories which they had achieved from an approval of the war in which the battles were fought. They had not subtlety enough to distinguish between thanking men for winning a victory, and approving the object for which the victory was won. It is said that we live in an age of progress; but I confess, for myself, that I have not progressed in the age so far that I have got to that pitch in which I can make that discrimination which the patriots who sustained the American cause in the time of the Revolution in the British Parliament could not make.

I thought—and I am glad of an opportunity to say it now; I am glad to let it be known that I have not been converted—the Mexican war unjust and atrocious. I thought it one that marked the United States as rapacious, and the age as barbarous. I think so now. It has, in my mind, lost nothing of the character which it then had, and of which I then spoke. I believed it was a war commenced in injustice, and I believe that when the impartial pen of history writes the tale of that war, the justice of the sentiment which I then pronounced, and which five years of reflection have strengthened in my mind, will be vindicated.

I believe that the real and substantial causes that we had for the war in which those brilliant victories were achieved, were threefold. The first was that Mexico was weaker than we were. The second was that she had provinces which we wanted, and she did not want to give up. And the third one was that we wanted those provinces to extend slavery over them. Those, I believe, were the sum and substance of the causes that we had for the war with Mexico. I gather the first from the state of facts which the history of this country discloses. During the Administration which waged that war in which such a harvest of glory has been reaped, we presented this singular spectacle. The Government of Great Britain, whatever else may be said of it, I believe, has not been guilty of the crime of pusillanimity and weakness. I believe that those patriots who have thundered against her, have not brought against her the unpardonable sin of not being able to defend her own rights. That Government, at that time, held open possession of territory to which the departments of this Government, which spoke upon it, said our title was clear and indisputable—yes, sir, clear and indisputable. Great Britain had her forts, and her courts, and her armies in possession of territory to which, according to the doctrine of the men who carried on the Mexican war, our title was clear and indisputable. One would have thought that it would have been one of the first impulses of patriotism to have vindicated the title of this country to its own clear and indisputable soil, before it went to attack another nation for soil to which its title, to say the least of it, was not quite so clear and indisputable. How did we dispose of that controversy with Great Britain? I will tell you. Read the dispatch which Mr. Packenham, the British Minister, wrote home to the Secretary of State for Foreign Affairs, and he will tell you. It was a letter not wider than my two fingers. He tells that Minister that the treaty which he—Her Majesty's Secretary of State for Foreign Affairs—wrote and dictated, and sent over, was ratified and confirmed, without the alteration or substitution of a single letter. That is the way that controversy was disposed of; and then the pent-up indignation of an outraged patriotism was bent upon Mexico, and we went there with our armies. So far as the conduct of our army was concerned, I have nothing to say. I believe the officers and men were brave and skillful. I believe that so far as the mere war, after it was commenced, was concerned, it was carried on as scientifically, as bravely, as honorably, and as gloriously as any war ever was. Yes, sir, it stands among glorious enterprises, as glorious as any war that was ever carried on in the world; and if it were possible—which some men seem to think it is—to separate a vote according thanks and honors to those who fought the battles, from an implied commendation of the cause of the war in which they were fought, I would cheerfully vote for it. But, sir, I cannot; the war has those features in my mind; and as long as the treble partition of Poland, by the Powers that divided it, challenges the condemnation of the world, so long, I believe, will the war which these United States made upon a sister Republic, at a time when she was rent by intestine commotions, for the purposes for which I believe that war was carried on, run parallel with it, so far as the judgment of posterity is concerned.

Now, sir, I am not certain that these fanatical sentiments will not be called treasonable, Mexican sentiments, and instead of defeating, I shall probably confirm and aid the very measure which I oppose. I am not certain that my friend from Mississippi [Mr. ADAMS] will not relent, on being found in such company, when he comes to record his vote upon this resolution. I am willing that those who are glorified and full of glory in

their own souls, should express it, and I am willing that they should give as many encomiums as they please upon those whom they think deserve them. But I would suggest to them that there was an occasion on which they might have conferred upon General Scott a title, clearly not unconstitutional, which I think would have been vastly more complimentary to his services, and satisfactory to his pride—one, sir, that might have come not from the representatives of the people, but from the people themselves; and if there had been this deep-seated desire in hearts which are breaking to do a worthy and fitting honor to this great leader for the signal services which he has achieved, let me tell the gentlemen that they are a little too late; the time has gone by; the vote, which cannot be reconsidered, was taken on the second day of November last; it is past; and it seems to me now that this looks as if there was a little relenting in some gentlemen's hearts. They think that the overthrow and defeat was a little too overwhelming, and for the purpose of breaking the fall and soothing the irritation which might otherwise be occasioned by the defeat, this little sop of the lieutenant generalship is to be thrown in. In that point of view, I do not think General Scott will value it very much. These services, let it be remembered, were rendered a good while—some five or six years—ago, and it seems to me, in that view, that this comes rather late. The judgment of the country, and the judgment of the world, have already been passed upon those achievements. The judgment of posterity will be made up, and it will not be influenced by any vote which we may pass upon the proposition which is now before the Senate.

I am exceedingly sorry that I am placed in the position which renders it necessary for me to make these statements and this explanation of my views—not, sir, that I have any hesitancy, at any and at all times, to vindicate myself, but I do not wish, unnecessarily and causelessly, and when no good can be effected, to say anything that may cause unpleasant feelings or reflections in anybody's breast.

While addressing the Senate, I desire to allude to another subject. During the discussion of the subject which was under consideration yesterday, a remark fell from the honorable Senator from Michigan, [Mr. CASS,] which I desired to answer, and would have answered, if he had not been out of his seat when I had the opportunity. He accused me of being unfair in some remarks which I had made. The charge of saying or doing anything unfair, is the last charge in the world which I should like to have laid at my door. It is a very serious charge to come from so high a source; and when the honorable Senator recollects that the charge of unfairness in the ordinary transactions of life, between man and man, comes with crushing force upon an individual, even if he be but his equal, let him recollect with what overwhelming power such a charge must come, when it falls from such a height as the Senator from Michigan, upon so humble an individual as myself. [Laughter.] Sir, I do not wish to be unfair, or unkind, or unjust to anybody; and if the sentiments which I entertain, provoke volleys and torrents of eloquence upon those whose feelings are outraged by their expression on the floor of the Senate, I can say to the gentleman, wait a little longer, my time is almost out.

Mr. WELLER. We are all rejoiced at it.

Mr. HALE. I have no doubt that the honorable Senator speaks the truth, and that when he says "we are all rejoiced," he includes those who act with him. And permit me to say, with all kindness to the honorable Senator, that I should think I had utterly failed in fulfilling my mission, and discharging my duty, if all such men did not rejoice that I am not to be here much longer. I remember that long and long ago, when a man had a divine commission to proclaim in the ears of an unwilling people and tyrannical power, the truth, the charge was brought against him, "Thou art he that troubleth Israel;" I am used to such language.

Let me entreat gentlemen to remember that by the kindness of the Senate I am excused from acting upon any standing committee, and I take it to be an invitation on the part of the Senate, as they have thus excused me from supervision over any particular subject, to have a general eye over the whole. And, sir, acceding to the force of my position, politely yielding to the invitation thus tendered to me, I warn the Senate against this measure.

Sir, to-day is the most wholesome day for instruction in the world, particularly to the majority in this body. I tell you not to be made giddy by the high places on which you stand. No, sir; one of your chosen seers has admonished you that your enlargement is not that of health; that it is "swollen." The seeds of disease and decay, fermenting together, are making an unhealthy enlargement which may explode. It may explode, and that which is an image of colossal power to-day, may, from the very inherent weakness of its consutution, find that it is but a prostrate trunk to-morrow. Sir, your President has given us a most excellent lesson. When the telegraphic wires flashed upon him the truth that he was elected by a majority altogether unprecedented, as I doubt not it was altogether unexpected; when his neighbors and friends assembled with exultation, and went to his lodgings to congratulate him on what they considered so auspicious a result, he admonished them that the hour of triumph was a time for magnanimity. I do not ask any of your magnanimity—not the least. If I have any petitions like those, I shall ask for my friends here who are around me, (Whig Senators,) and not for myself. My position is one of hostility, not a savage hostility which can be characterized as carrying "war to the knife, and the knife to the hilt." Nothing of that sort. But I think the honorable Senator from Indiana [Mr. BRIGHT] has done something to advance the civilization of the age by dropping some of his figures of speech; and in characterizing the contest, he has gone from the theater of bowie-knives and pistols to that of the physician, to the sick chamber, and has drawn his figures from such scenes, and now speaks of healthy and unhealthy organizations. Yes, sir, I think it is a token of the advancing spirit of the age, and it is a good time to exercise that spirit.

Now I am up, I will say that this is a question which covers the whole field of peace and war, because it authorizes the President to confer a certain rank or create a certain office. Let me say a word or two upon this subject. I think we have come to this pitch in our history. I think it is demonstrated, so far as the science of politics admits of demonstration, that the experiment which was commenced with General Jackson, repeated with General Harrison, and tried the third time with General Taylor, and the fourth time with General Scott, has run out. I think we have come to that period in our history when that attempt will not be repeated. The fourth time it proved a complete failure. You have now tried a second experiment—but I will not designate that, because I will leave that for the impartial judgment of posterity. But the experiment tried in the election of Mr. Polk, and repeated in the election of Mr. Pierce, has been eminently successful, and it appears to me that we have approached a time somewhat similar to that which it was predicted we were to have during Mr. Monroe's administration—an era of good feeling; because I see in the Washington Union of this morning an extract from the New Hampshire Patriot—do you know where that is printed, Mr. President? I see that extract is put in here, and that in it the views are given of what the editor supposes—he does not intimate that he has talked with General Pierce—but he gives what he supposes are to be the characteristics of the incoming Administration. And it is to be a glorious time for everybody who stands inside of any organization which has the least pretense to health. No matter how sick they have been—no matter how rancorously the Barnburners may have blown up the Democracy in 1848, if they have repented, and only say they have come on the Baltimore platform in 1852—they are to be esteemed just as good as new, and there is to be no distinction. A man's antecedents are no longer to have any force. That substantive is to be blotted out of the political dictionary now, and a man is to have no antecedents; but the man who, in 1852, stands square on the Baltimore platform, no matter how he got there, nor where he came from, is to be received into full communion. It has been pretty stoutly proclaimed that everything they organized for in 1848 has been achieved. This has been proclaimed, not by men who stand outside of a healthy organization, but by those who stand in the very heart and center of the very healthiest organization in the country. They say that everything they proposed in 1848, they achieved and accomplished, and now they are to have the satisfaction of a double victory. They beat the Democrats in 1848, and they beat the Whigs in 1852; and as becomes modest victors, they now claim, having discharged a double duty, a double reward. And the editor who lives so near General Pierce that he can almost hear him think, says it will not make any difference—that the man who went with the Barn-burners in 1848 to defeat the illustrious Senator from Michigan—I am going to speak right out——

Mr. CASS. Oh, do not.

Mr. HALE. Yes, I will; you will like me the better when I have spoken than now. I say that if in 1848, by the organization then made, they achieved all that they proposed, they had better a thousand-fold never had such an organization. And, sir, if I had supposed at that time that the object was to appeal to all the humanity and love of liberty, and the fear of God there was in the country, and thus train them all in as a drill-sergeant does his squad, for the purpose of vindicating the fancied or real wrongs of Mr. Van Buren, inflicted by the friends of General Cass—I speak of him as a historical man now—I say, if I had supposed that was the end and aim they had in view, I would sooner have had my right hand severed from my body than have gone to the ballot-box for such a purpose.

I say, then, that this article to which I have alluded, has that much pretty distinctly shadowed out; but I am sorry, for the sake of that peace and harmony which I wish to see all around me, to have to state that this editor does not "think" a little further. He is very clear in thinking in reference to these different factions that have operated in times past. He thinks that it was just as meritorious to support Mr. Van Buren in 1848, as to support General Cass; and it is no matter whether a man was in Mr. Polk's Cabinet or out of it; that will neither help nor hurt any man; any man can have a clean bill of health as far as that is concerned, let his position be what it may. But the editor is not so clear in regard to some other things; he does not go on to say what he thinks General Pierce's opinions are as to the controversy between Young America and the Old Fogies. He is unfortunately entirely silent upon that subject, so far as I read the article, unless they may be considered as embraced under the various sections into which the party has been divided; and I think that, so far as that is concerned, both the Old Fogies and the Young Americans may occupy with equal hope the anxious stool until some other and further developments shall be made.

There is another thing about which the editor is very silent. He does not favor us with what he thinks are General Pierce's opinions as to whether the Gulf of Mexico is or is not our basin of water. He is also entirely silent about Cuba, the great question—the question of questions—about which all hearts are palpitating, and everybody is so anxious. Why, sir, patriotism is impatient under check to go and plant the standard of republican liberty on the shores of Cuba, and to extend the area of freedom over that Island. There are a great many who, with a patriotic devotion and a patriotic desire to outrun the impulses of Democracy, are anxious to be beforehand on this subject. They are left in the most frightful state of uncertainty, and it is entirely problematical whether the area of freedom is to receive this enlargement, and the friends of it are to receive this encouragement from the incoming Administration. Indeed, sir, I have seen some outgivings, or misgivings—I do not know which to call them, but there were certainly "givings"—in some of the papers which represent the interest, and you know, sir, what that is, which controls this country. I have seen some misgivings or some givings-out from papers far south of here, which have represented that it is not so entirely clear that it will be for the interest of gentlemen, who have been in the habit of considering their interest as the interest of the country, to have Cuba annexed, and it is entirely problematical in their minds what the effect of that annexation would be. Sir, you know that a doubt expressed with regard to the practicability or the expediency of a measure some half a dozen degrees south of here, has more effect upon the calculations of prudent politicians, than

a dozen condemnations so many degrees north. Therefore I think it is unkind in those who undertake to luminate and lubricate upon the views which the incoming Administration are to carry out, to be silent upon this great question of the age.

But it may be said that this is none of my business. That is true, sir; but you know that when we are here we are not to speak for individuals, but we should endeavor, if we can, to work up our notions to an enlarged and national sense of things. I am trying to do that. I am trying to get an enlarged, liberal, and national view of things; and I declare that I feel the worst apprehensions and forebodings, when I see the dark cloud which the future hangs over the patriotic foresight of those who would carry the American eagle and the American standard over the continents and islands of the sea, by this silence which is maintained by the President elect and his friends. Let me tell those gentlemen, if they want my humble opinion, (and I know it is not worth much,) that upon the subject of Cuba they have spoken before their time. The idea that the agricultural interests want more sugar is a mistake; and the agricultural interests of the North, when they find what the South have said, will begin to think they have quite sweetening enough, and they will not want Cuba thrown into the dish.

Sir, I owe, perhaps, an apology to the Senate for going over these matters upon this resolution; but it seemed to me that the time and the occasion were appropriate. But I come back to the point from which I started, and I end as I began, by saying that the reasons which I stated when the subject was up before, and the reasons which I have now stated, are such as operate in my mind conclusively to forbid the propriety of conferring this rank. It should be remembered that the subject has been before Congress once before, and they neglected or refused to do it—I do not know which—and in law, if a man has an opportunity to do a thing, and neglects it, it is just the same as if he refused. The opportunity has been before the American Congress preceding this time, a proposition has been before Congress to confer it, and yet it did not pass.

Mr. SHIELDS. It passed the Senate, but failed in the House for want of time.

Mr. HALE. Congress neglected to pass it; and inasmuch as they neglected it when they had an opportunity to confer it, they refused, practically, at all events. I am not stating the philosophical and critical analysis of what the Journals show; but I am taking a national view of the thing. [Laughter.] And that view is, that the proposition was before the country and before Congress, and Congress would not agree to it. They neglected or refused to pass it; for the phrases are tantamount. The opportunity was before you previous to the last presidential election, and you declined to confer the honor. If, when General Scott's laurels were fresh upon him, and when the memory of the events was recent, and their praise was filling every tongue, you neglected or refused to confer this bauble on him, what will the country say is the reason that you take it up after he has been defeated for the Presidency?

And now I will appeal to those gentlemen who thought with me—no, sir, I will not say that; I do not know that there is anybody who thought with me, but I will say to those gentlemen who thought the Mexican war was unjust, and I believe there were some such; I believe a majority of the House of Representatives put that opinion in the shape of a resolution or amendment, that the war was unjust and unconstitutional,—I ask those gentlemen who believed so then, if they do not believe so now? I ask them if the keenness of their moral perceptions has been blunted by the halo of glory which the victories that have been achieved, have shed over this matter? If it has, they may vote for this resolution; but if they believed what they said then, that that war was an unjustifiable one, I ask them by what code of ethics, or by what process of reasoning, they come to the conclusion that it is consistent with that opinion to confer this honor upon General Scott?

A few words more and I shall take my seat. I cannot be misunderstood or misrepresented in regard to the opinions which I entertain of General Scott on this occasion. When this matter was up before, I made some poor remarks upon the subject, and I did, so far as my abilities would allow me, full justice to the character of General Scott. It happened to be my fortune to be in a private party a few days afterwards, when some one introduced me to the General, very kindly alluding to the fact that I had voted and made a speech against him. The General happened to have done me the honor of reading my poor speech; and he said that he had no fault to find; that the speech was an offset to the vote, and he had no complaint upon the subject. I will not say that I go as far as those who go the furthest, but I will say that I go as far as any sensible man can prudently go in doing full justice to the honor, the patriotism, the skill, the genius, and the bravery, and all that sort of thing, of General Scott; but inasmuch as I cannot vote for this resolution, without, in my humble judgment, implying an approbation of the war in which he achieved his victories, I must record my vote against it, and against all the amendments.

Mr. CLEMENS. Mr. President, I have no wish to protract this discussion. I rarely ever make speeches without an object in view, either when something is to be effected by argument, or it is necessary to explain my position. In this case I have no idea that a single vote in the Senate can be changed by anything which I can say, or by anything which has been said, or will be said. In relation to my position, I have no difficulties which it is necessary for me to explain.

Aside from the fact that the measure is right in itself, and eminently just and proper, there are personal relations between myself and the distinguished individual upon whom this honor is proposed to be conferred, which render it right and proper that it should have emanated from me. I am indebted to him for acts of personal kindness. I have enjoyed his hospitality at home, and followed his banner in a foreign land, and sat at his table in the capital of a conquered nation. I have seen him in almost all the relations of life, as a citizen and as a soldier; and I bear testimony not merely to his worth as a citizen, not merely to his eminence as a military leader, but to his honesty, his integrity, and his patriotism, in every relation of life. Sir, if any man ever lived, aside from him who was the Father of his Country, who deserved this honor, it is he. And not one of those who have offered opposition to this resolution, have dared to question his right to the honor, if the resolution should be passed.

I do not mean to make any argument in support of the resolution. I do not mean to reply to what has been said. I should like to know how it is possible for me to reply with becoming temper to a man who dares to get up in the face of the American Senate, and utter a libel upon his country. If that country was wrong, it becomes him to act as a child would act towards its parent—cover it with a mantle which no eye could penetrate. He who glories in getting up here in the face of the Senate and denouncing the acts of his country, is unworthy to live under the institutions which our fathers have transmitted to us. Nor, sir, could I reply to an individual who gets up here, and tells you that this war was unjust and iniquitous, and yet at the same time avows that it was his desire that we should have robbed Mexico of the whole of her possessions. It was, in his view, an unjust and an outrageous war; but yet when we commenced, he tells us his conscience could not be satisfied until we had dealt in the wholesale robbery of all the Mexican possessions.

Nor, sir, is it necessary for me to allude to that other budget which has been opened to us, in reference to the Barn-burners of 1848, General Pierce's Cabinet, Cuba, and the Gulf of Mexico. What possible connection have all these with the subject which is now under the consideration of the Senate? We are called on to vote upon a simple resolution conferring an honor, and a high one, upon a distinguished individual who, it is admitted, has merited it. Give me a reason why it should not be done. Give me a reason why the office should not be created. I trust, sir, that there is no man here—that there is no narrow-minded bigot in our midst, who would permit his party or his personal feelings to influence his conduct on such an occasion. And if there be any low demagogue who fancies he can make credit by it, he is welcome to all that he can make.

I did not propose to say one word upon this resolution. I proposed to let the vote be taken at once; but if any discussion should become necessary hereafter, I shall take part in it.

Mr. ADAMS. Mr. President, the Senator from New Hampshire suggests that, finding myself in the company I am in, I should perhaps be induced to change my position, and vote differently. I have found that all questions have advocates, both good and bad, and therefore I never form my opinions from the ability of the advocates on the one side or the other of a question; but if anything could induce me to change the position which I have assumed in reference to this question—if the case should turn upon the justice or injustice of the late war with Mexico, as assumed by the Senator from New Hampshire, then most assuredly I should change my vote. I differ with that Senator in all three of the positions which he took. I differ with him as to the three reasons which he assumed why the Mexican war, that unholy and unjust war, as the Senator calls it, was commenced by this country; and it is not improper, as I am to vote finally upon this proposition with the gentleman, for me to declare that I differ with him entirely upon every one of his propositions. Sir, I happened to have the fortune to be enabled to form a tolerably accurate opinion, I think, of the motives which controlled the late President of the United States, who had charge of the Government at that time, (Mr. Polk,) and I say to the Senator that neither a desire for the conquest of any portion of the territory of Mexico, nor a desire to extend the institution of slavery, nor a desire to extend the area of freedom, formed any portion of that distinguished man's motives. He lived, sir, in a higher atmosphere—he was too pure a patriot to allow any such unworthy motives to actuate his conduct.

I shall not consume the time of the Senate by going into the particular circumstances of that war. Sufficient be it for me briefly to allude to facts which are simple and plain, and which every impartial mind, by reference to the history of the times, must know and understand. A dispute existed in relation to the territory lying between the Nueces and the Rio Grande. It was claimed by our Government, and the President believed it to be his duty to preserve the rights of this country there. General Taylor, who had the command of our gallant little army at that time, gave it as his opinion that the army should remove from where it was to some point nearer the Rio Grande. General Taylor received express instructions from the proper Department, to proceed according to his own suggestions; and he did act with great prudence and caution. He was upon territory which was believed to belong to the United States when the war was commenced by the Mexican Government. I shall not go into the arguments produced at the time to show that the Mexican war was necessary in order to preserve the honor of the country. The Mexicans themselves deemed it proper to commence the war in order to preserve the power of the existing President of that Republic; and they themselves boasted they had commenced it. War was commenced by the act of Mexico, as was declared by a vote of the Congress of the United States, and as the history of the country shows to be true. Therefore it was not a war commenced for any of the unholy purposes imputed to the President of the United States.

But, sir, the Senator from New Hampshire has thought proper to admonish my friend from California [Mr. WELLER] and others as to what course they should pursue in future, and has given us prophecies as to what will be the result. It will be recollected by Senators that some time since, in this Hall, prior to the meeting of the National Convention of the Democratic party in June last, the same Senator warned the Democratic party in similar strains, that if they incorporated the fugitive slave law into the Baltimore platform, or placed one negro upon their pole, they would be annihilated and destroyed; and informed us that if they did so, the Buffalo Democrats could hardly stand upon the platform.

Mr. HALE. Will the Senator allow me a single word of explanation?

Mr. ADAMS. Certainly.

Mr. HALE. The Senate will recollect—if what I said was printed, and I presume it was—I told the gentleman and his friends, that if they adopted the fugitive slave law, or anything of that sort, if they put a negro upon their platform, the consequence to which I alluded would ensue, unless the Whigs should be fools enough to follow

them on the same track. That is what I said, and I believe it was so printed.

Mr. ADAMS. Well, sir, I had only a slight recollection of the remark of the gentleman, but I know that I had heard his warning voice before, and I had witnessed the result; and although I do not say that the Senator proved a false prophet, yet, having heard his voice once in warning, and as it seemed to come in the same way now, I presumed it was just about as harmless. We must recollect that the distinguished Senator was a competitor of the great general whom it is intended to honor by this resolution; and his usual modesty I should have thought would have prevented him from assailing the resolution, particularly as he has great deference for the people, and the people have decided against him. He was not altogether satisfied, he says, with the platform assumed by the Whig party. He thinks they were guilty of the same fault, to some extent; but I would ask that Senator if he did not, in his tour as a candidate, himself draw a striking distinction between the Whig and the Democratic platforms upon this subject?

Mr. HALE. Mr. President, I did, and I will state it, if the Senator wishes me to do so.

Mr. ADAMS. Certainly.

Mr. HALE. Well, I am glad to hear it, and I think it shows the gentleman's taste in wanting me to tell it. In the discussions in which I engaged I uniformly spoke this language when I referred to the platforms; I said that in a moral point of view I did not think there was the least difference between them in the world, but practically there was; I put it in this way: The Whig party resolved that they would "deprecate and discountenance agitation." Well now, said I, "to deprecate" means to pray against, and therefore the Whigs are obliged to pray against agitation; they have a right to do that. They pledge themselves, secondly, to discountenance agitation, and that they can do without going out of their track, simply by standing still and making faces; and that is all the Whigs are bound to do by their platform, "to deprecate and discountenance." But I said the Democrats were bound to go further; they were bound "to resist." If there was a place where fanatical sentiments were to be uttered, a Whig could stand still with a sober face and a serious countenance, and pray you not to go in, and he would have done all that the platform required him to do; but if you did go in and the Democrat undertook to carry out the doctrine of his platform, he must follow you, knock you down and carry you out. That was the difference, and that was all I said about the platforms.

Mr. ADAMS. It is not very material to the country, I presume, what distinction the gentleman drew between the two platforms; he had one of his own; and we all know the appreciation of the country of that platform.

I shall vote against the resolution under consideration for reasons which I suggested when I first addressed the Senate, that I believe all the honor that can be conferred upon General Scott for his services in the late war has properly been conferred by the vote of thanks of this body; and the mere creation or conferring of the title of lieutenant general upon him adds no additional honor, sets a bad precedent, and in this country of equal rights, is, in my humble judgment, improper. I shall not vote against it, however, for any of the reasons assigned by the Senator from New Hampshire. His reasons are peculiar to himself. He takes great pleasure in being singular, in thinking as no other man thinks; and as that is his glory, he is certainly entitled to its benefits.

Mr. CHARLTON. Mr. President, the Senator from New Hampshire is in the habit of indulging in prophecies here, many of which, I believe, have proved untrue. I have, however, the great pleasure to say to him, that one prophecy which he has made is certainly true, for he has convinced me that it is my duty to vote for the resolution under consideration.

Sir, the Senator tells us that we shall soon be clear of him. I, sir, am sorry to say to him that the Senate will also soon be clear of me, and which will be the greatest misfortune the country will have to judge between us. If I were to remain here, I should never expect to get clear of the honorable Senator from New Hampshire. I believe that if he were buried in slave soil he would as certainly rise from the dead and solve the problem which he announced the other day, whether a dead man could resign, as any other human being in this whole created world.

Mr. HALE. That is the best compliment I have ever had paid to me.

Mr. CHARLTON. I have another compliment for the Senator. I believe his spirit of fun is so great, that it would not be in the power of death to hold him from it, that is, provided there were not some powers that might hold him despite all he might do to get away. [Laughter.] I am too wise a man to enter into a contest with a gentleman so well skilled as the Senator from New Hampshire; and if he will excuse me, I will now let him alone, and say a few words on the subject under consideration.

Mr. President, the question before us is simply this: Shall we vote to confer an honor upon a distinguished soldier of our country? Why should we not do it? Is it because we believe that war to have been unholy and unrighteous? I believe no such thing; and if the gentleman from New Hampshire will allow me to make another remark with regard to him, I will tell him that I do not believe in all sincerity, when he looks closely into the motives and feelings of his heart, that he can suppose that the reasons which he gave for the commencement of the Mexican war, are true. Does he believe that the spirit of the Revolution has so far failed of its lesson, that this country is in the condition of the man described by Dickens, who, having been thoroughly whipped by a large man, went round the corner, and picking up a little fellow, thrashed him for the sake of retaliation! Yet that is the condition in which the honorable Senator places the United States, as between Great Britain and Mexico. Let me tell him that the time never will come when such motives will influence the United States of America—that there is too brave a heart within its bosom, to beat from any such consideration as that. For one, I think that it was clemency which ended the war, and not cowardice which began it.

In reference to the other consideration mentioned by the Senator, I will say, that if that did enter into it, I would not, for that reason, refrain from voting for this resolution. Then why should I not vote for it? I confess that before I heard the speech of the Senator from New Hampshire, I had some democratic misgivings—not in reference to the man whom it is designed to honor—not in reference to the fact that he had been a candidate for a high office, for which I never could have voted for him—but in reference to the additional power which might be conferred upon him by it. But, after all, when you look seriously at that, what is it but a name? And why should we not confer the name if it has been deserved? Can any reason be assigned? If we were to go down into the region of metaphysical subtleties, and follow out that course of reasoning, we might stop short at the major generalship, and say that it bordered upon aristocracy to confer that rank.

Sir, let us do justice at all times. There were cogent reasons to prevent me voting for General Scott for the Presidency. I would not vote for him because he was a Whig; and I did not vote for him because I did not believe that his talents ran in that order. No man is an Admirable Crichton in these days. But I will cheerfully vote, since the Senator from New Hampshire has put it on the footing which he has done, to confer this title on General Scott, for he has deserved it. Only think, sir, of the idea of our country entering into a war with Mexico through cowardice and weakness! The Senator from Illinois has truly told us that a small band of men threw themselves into the heart of the enemy's country; they were mowed down by the iron hail, and yet they fought their way, bravely and successfully, to the achievement of the highest honors. Shall we be kept from conferring this honor from any such considerations as those which have been presented? No, sir. I anxiously and earnestly desire to confer this honor on General Scott, and I would vote for the amendment of the Senator from Arkansas did I not feel, did I not believe that that would be inconsistent with the Constitution of the country. But it is for General Scott that I mean the compliment.

I think there is no danger of this being conferred by the President upon anybody else, and, therefore, I shall vote for the resolution in its present form.

Mr. BORLAND. There seems to be some objection to my amendment. I do not care particularly about it, and it is possible, as gentlemen learned in the Constitution have suggested, that it may be unconstitutional. I therefore beg leave to withdraw the amendment.

Mr. PRATT. I thought it rather unkind on the part of my honorable friend from Mississippi, [Mr. ADAMS,] that he should have called upon the Senator from New Hampshire to be the exponent of the Whig platform. A more unfit person to perform that duty does not live in the United States. As I was one of the supporters, in the late campaign, of the distinguished individual whom this resolution is intended to honor, and to whom that platform referred, I beg to make in regard to it a single observation, which I desire to go to the country.

The platform to which the Senator has referred was one differing from the Democratic platform only in this, that General Scott, in his letter of acceptance, distinctly stated that he would not appoint to office any man who entertained opinions different from those stated in the platform. There was no such doctrine announced by the opposite candidate; but, according to the honorable Senator's statement,—if he may be supposed to understand the feeling of the dominant party,—a general amnesty has been declared. The honorable Senator from Ohio, [Mr. CHASE,] who sits before me, has said here, in the presence of his Democratic brethren of the Senate, that he belongs to the majority of this body—that he belongs to the great Democratic party. According, therefore, to the paper to which the Senator from New Hampshire has referred, and which he supposes to be the exponent of the opinions of General Pierce, he is one of those who may be the recipients of the highest honors under the President elect. Sir, if General Scott had been elected, the honorable Senator from Ohio would have been entirely and absolutely excluded from the possibility of receiving any office from him, and so would the Senator from New Hampshire. It was, therefore, probable that we should see, as we have seen in the late political contest, every one connected with the political association to which those gentlemen belong, voting and doing all they could against the old hero; and it is, therefore, that we find them now united in opposing him, even in this resolution complimentary to him.

Mr. BRADBURY. The Senator will allow me to inquire if he meant to have it understood that the Senator from Ohio was one of the supporters of General Pierce?

Mr. PRATT. I do not know. He announces himself, as I understood him, to belong to the majority of the Senate.

Mr. BRADBURY. No, sir.

Mr. WELLER. No, sir; he does not belong to us.

Mr. PRATT. I do not know where or to whom he belongs, but I know he said, in the presence of the Senate this morning, (as I and those around me understood him,) that he did belong to the majority party in this body—to the great Democratic party—to that party, therefore, which, according to the paper published at Concord, and referred to by the Senator from New Hampshire, is privileged to receive any of the offices which may be conferred upon the supporters of General Pierce.

I listened to the speech of the Senator from New Hampshire with some attention. He spoke for about one hour.

Mr. HALE. I did not think I spoke so long as that.

Mr. PRATT. Yes, sir, the Senator spoke for one hour, and there was but one single observation made by him which had any reference whatever to the resolution under consideration, and that was, that although General Scott, for his military achievements, fully deserved everything which the resolution proposes to give him, yet that he could not consent to give it to him, and why? Because he cannot separate those achievements from the war which he believes to have been unjust and improper. Sir, that is a principle which it would be horrible to have go abroad, as being entertained by the members of the Senate of the United States.

What is that sentiment when you come to analyze it? Suppose a war is declared by the constitutional authorities of the country, the commander of your Army or your Navy who meets

the enemy, must be bound, according to the Senator's theory, to inquire into the justice of the war; and should he come to the conclusion that it was unjust, he could not conscientiously discharge his professional duties. If the theory of the honorable Senator is to be carried out, every officer of the Army and Navy will be bound to inquire and judge whether a war is in his opinion just, before he enters the list on the side of his country.

Sir, I cannot believe that the Senator from New Hampshire is sincere in saying that he would vote for this resolution were it not for the circumstance which he has mentioned; because I am sure he cannot think that a soldier in a war constitutionally declared, does not deserve credit for the faithful discharge of his duty, merely for the reason that in the Senator's opinion, the war was unjust. Therefore I conclude that I am right in attributing the opposition of that Senator, and the Senator from Ohio who sits before me, and of those who are connected with their political association, to the true cause, that of their opposition to General Scott upon the grounds to which I have already referred.

My only object in rising was to say a word in reference to the commentary upon the Whig platform, made by the Senator from New Hampshire, and having done that, I will not further occupy the time of the Senate.

Mr. CHASE. So far, Mr. President, as the honorable Senator from Maryland has undertaken to interpret my motives, he has failed most signally. I have been governed in what I said by a simple desire to discharge my duty as a Senator, and to state as clearly and succinctly as possible the grounds on which I should feel myself constrained to vote. I have been actuated, in no degree whatever, by any desire to impair in the least, any title of the illustrious General whose name has been so frequently introduced into this debate to the honor, respect, or gratitude of his country; I have no more to say upon that point.

In respect to my political position, I prefer always that my acts shall speak. I care very little about mere names. I call myself a Democrat, and so long as I am satisfied that the principles which I hold are sound and democratic, and the applications which I propose to make of those principles are just and proper, it matters very little to me by what name the principles or the action may be called by others. Epithets are always cheap, but not always fit.

Every Senator, I think, with whom I have served during the past three years, will do me the justice to say that I have upon all occasions steadily avoided every word and act which could in any way wound or offend any one of my fellow Senators. I have, indeed, endeavored to maintain, honestly, fearlessly, without reserve, the principles which I hold, and to vindicate their proper applications, but I have endeavored to do so with entire courtesy to all.

And now, Mr. President, with no more preface, let me say that I claim no identification with the Democratic party as organized upon the Baltimore platform. I did not vote for their candidate at the recent election. The platform constructed at Baltimore, in my judgment, deserved any name rather than that of a sound exposition of Democratic principles; and when the distinguished gentleman who was nominated by the Convention—for whom as a man, as a citizen, as a soldier and as a statesman, I cherish all possible respect—placed himself upon that platform, I felt myself constrained by fidelity to my own convictions to withhold from him my support; and under similar circumstances, I should do so again. I have never learned to ask how many stand with me, but whether I stand upon the rock of principle and of truth. I can stand there alone, if necessary. It is more agreeable, doubtless, to stand surrounded by friends and supporters, but it is not impossible, sustained by the consciousness of right purpose, to stand alone. I am quite willing, therefore, to absolve the whole body of compromise Democrats in the Chamber and out of it, from all responsibility for any sayings or actions of mine.

Mr. HALE. Mr. President, I am glad of what has happened, and I hope this debate will not be without profit. I wish, though, to pay a little attention to the honorable Senator from Maryland, [Mr. PRATT.] I appealed once, some years ago,—it is a matter of history, or I would not allude to it,—to the Senate for protection in what I conceived to be the rights of an individual in debate, and the Senate decided; upon a formal vote, that it was in order to accuse a man of acting here from other motives than those which should actuate a Senator. That, you will find amongst your recorded decisions; but the rule of parliamentary law is different, and it is this: "The consequences of a measure may be reprobated in strong terms, but to arraign the motives of those who propose to advocate it, is a personality, and against order." Therefore, sir, I contend that when the Senator from Maryland says that I am not sincere, and do not mean what I say, if he had said it of any man that was inside of a healthy organization he would have been out of order.

I am glad of a remark which fell from the honorable Senator from Georgia. It indicates to my mind progress, and progress in the right direction. He said he had some democratic prejudices, and was inclined to go against this measure, but my speech rather convinced him that he was going wrong. That is the very thing I want. I want to drive—I do not use the word opprobriously—the "old hunkers" all into one pen. That is the very end and aim we are driving at; and I am glad that I find that one, occupying so conspicuous a place as my friend from Georgia, is heeding the force of our arguments, not exactly in the way we put them; but he has listened to me very much in the way in which it was said a sailor recommended to get a pig on board a vessel, and that was to put his nose towards the vessel, and catch hold of his tail and pull him backwards. By some such process of reasoning, I have convinced the Senator from Georgia; but he has gone to the right place, and we will set up another stone there. We have made progress, and made it in the right direction.

But I want to thank the Senator from Maryland. What I have said before was not to thank him; but I desire now to thank him seriously. He says of all men in the United States, I am the last one to give an exposition of the Whig platform. Now, sir, this is the sixth year of my term in the Senate, and if I have achieved that, I have done all that I proposed; and I can, like Simeon, "depart in peace;" for it has been the great complaint brought against me at home, that while I was here, I was a Whig all the time—that is, a Whig in disguise, and not very much disguised at that. Now, I have the certificate of the honorable Senator from Maryland, that of all the men in the world, I am the very last to speak in exposition of the Whig platform. Sir, I am rejoiced at that. But let me tell the honorable Senator that I never undertook to speak for it, and the honorable Senator from Mississippi did not call upon me to speak for it, but he called upon me to give an exposition which I had given of it in a recent visit which I made to the West.

The honorable Senator from Georgia altogether over-estimates my powers, both of reasoning seriously, or of being humorous. Sir, it is no sort of merit in a man to exhibit humor if he has the subjects of it all around him. But when a man has to travel away off at a distance, and from the fields of imagination to bring up something to excite the ludicrous, there is some merit in it. But when a man has subjects all around him, and he has only just to put out his hand and touch them, there is no great merit in it. The Senator, therefore, estimates my powers altogether too highly. Upon another field, I have no doubt I should most signally fail. The compliment is to the richness of the material, and not to the skill of the operator. [Laughter.]

Having said thus much, I come back to the question. In regard to that, the honorable Senator from Maryland paid me a compliment, though he did not mean to do so. He said that I made one remark which was applicable to the subject before us. I desire to be just, and I wish I could return the compliment. [Laughter.] But, sir, I have prescribed to myself in bestowing compliments and in the uttering of witticisms that which utterly forbids it, and that is to speak nothing but the truth; and that shuts the mouth of compliment on this occasion. Although it is, as I understand it, almost always out of order for one person to impeach the motives of another, I will say this, that, so far as General Scott is concerned, what I say about him I said years ago, before he was nominated, and before I thought he would be nominated. I thought then, and I said, that so far as the mere soldier goes, he does merit as much as those who have spoken the loudest in his favor have asserted.

I wish I had the power to make what is so clear and plain to my own mind, a little plainer to some one else. I wish I had the power of making palpable the proposition that a vote of thanks to a general after a victory does include approbation of the war. The honorable Senator says that that doctrine is monstrous, or horrible—I do not know which epithet he used; but, I believe, both. Does he know the author of the sentiment? Sir, I trust he does; because I know that Maryland is prolific in scholars and in scholarship, and I take it that it is not all engrossed by one of the Senators from Maryland. Sir, the author of that "horrible" sentiment was Lord Chatham, the elder Pitt; and the occasion for expressing it was on a vote of thanks to some of the British officers for the victories they had gained over the American colonies.

And further than that, the honorable Senator wants to know what an officer is to do when he is called upon to fight in an unjust war. Sir, that same history will tell him; and it will also tell him that there were officers in the British army who, when they were ordered to draw their swords in an unconstitutional and oppressive war, tendered their commissions to His Majesty.

Mr. CASS. Who were they?

Mr. HALE. Read my former speech, and you will find it there.

Mr. CASS. I would rather refer to you now. There may have been one such instance.

Mr. HALE. There was.

Mr. CASS. I say there may have been one.

Mr. HALE. I wish there had been one in this country. I tell you, if there had been one, he would have been President. If General Scott had done it, it would have elected him. Gentlemen are altogether mistaken when they undertake to judge what the popular sentiment is by certain manifestations which are easily manufactured, but which do not come from the heart of the people. But I will leave the subject.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. SHIELDS. In accordance with the suggestion of the honorable Senator from Michigan, I move that the word "revived" be stricken out, and the word "created" inserted in its stead.

The amendment was agreed to.

Mr. HALE called for the yeas and nays on the engrossment of the resolution.

The yeas and nays were ordered; and being taken, resulted:

YEAS—Messrs. Atchison, Badger, Bell, Brooke, Butler, Cass, Charlton, Clemens, Cooper, Davis, De Saussure, Dixon, Dodge of Wisconsin, Dodge of Iowa, Fish, Geyer, Gwin, Hunter, James, Jones of Tennessee, Mason, Miller, Morton, Pearce, Pratt, Rusk, Seward, Shields, Smith, Soulé, Spruance, Underwood, Upham, and Wade—34.

NAYS—Messrs. Adams, Bradbury, Bright, Catheart, Chase, Felch, Hale, Hamlin, Norris, Sumner, Toucey, and Walker—12.

So the joint resolution was ordered to a third reading. It was subsequently read a third time and passed.

SMITHSONIAN INSTITUTION.

Mr. PEARCE. There are two vacancies in the Board of Regents of the Smithsonian Institution, which it is very desirable and necessary should soon be filled. I therefore ask leave to introduce a joint resolution "for the appointment of Regents in the Smithsonian Institution."

There being no objection, the resolution was read a first and second time, and considered by the Senate as in Committee of the Whole. It provides that the vacancies in the Board of Regents in the class "other than members of Congress," be filled by the appointment of Alexander Dallas Bache, of the city of Washington, and John McPherson Berrien, of the State of Georgia.

The resolution was reported to the Senate without amendment, ordered to a third reading, read a third time and passed.

TEXAS DEBT.

Mr. PEARCE. I rise to ask the Senate to take up the bill "to provide for the payment of such 'creditors of the late Republic of Texas as are com-'prehended in the act of Congress of September '9th, 1850," simply for the purpose of making it the special order of an early day in January.

The motion was agreed to; and, on motion of Mr. PEARCE, it was ordered that the bill be post-

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poned, and made the order of the day for the 6th of January next.

EXECUTIVE SESSION.

On motion by Mr. GWIN, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were re-opened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 21, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER stated the first business in order to be the reception of petitions from the State of Maine.

JAMES GLYNN.

Mr. GOODENOW. I ask the unanimous consent of the House to take up from the Speaker's table Senate bill No. 234, for the relief of James Glynn. If the House will indulge me for a moment, I think I can satisfy them that it is proper to pass that bill at this time.

It is a bill for the relief of James Glynn. A bill for a similar purpose was reported to the House the last session, by the Committee on Naval Affairs, and is now on the Private Calendar. This bill passed the Senate without debate; and the same principle was decided by the House during the last session in reference to the claim of Colonel Cross.

Commander Glynn, while at San Francisco, was ordered to attend a court-martial at a distance of some thirty miles from his ship. Previous to this time, in consequence of the extreme illness of the purser, he consented to receive funds belonging to the United States Government to the amount of $1,100.

Mr. HOUSTON, (interrupting.) I want to know what is the question before the House? It has been impossible for me to ascertain in consequence of the confusion in the Hall.

The SPEAKER. The gentleman from Maine [Mr. GOODENOW] asked—and it seemed to be accorded to him—the unanimous consent of the House to make a brief explanation of the bill he proposes to have taken up and passed. He was proceeding to state the character of the bill.

Mr. HUNTER. I object to any such statement.

Mr. GOODENOW. I ask if the objection does not come too late? I have been allowed to proceed with my statement without objection.

The SPEAKER. The Chair thinks the objection came quite in time.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which received the signature of the Speaker, viz:

A resolution explanatory of an act supplementary to an act approved the 23d day of May, 1850;

An act authorizing the Secretary of the Treasury to issue a register to vessels in certain cases; and

An act to amend an act approved the 31st of August, 1852, in reference to an appropriation for continuing the survey of the Mexican boundary.

On motion by Mr. FULLER, of Maine, it was

Ordered, That leave be granted to withdraw from the files of the House, the papers in the case of Mary Andrews, an applicant for a revolutionary pension, for the purpose of having them presented to the Commissioner of Pensions.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, on the President's message.

Mr. JOHNSON, of Georgia. I ask the gentleman from Alabama to give way for a moment, to allow me to present a memorial from the Legislature of the State of Georgia, for the purpose of reference.

Mr. STUART. I object.

Mr. HOUSTON. I then renew my motion to go into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to—ayes 69, noes 45.

PRESIDENT'S MESSAGE—THE TARIFF.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

The CHAIRMAN. The business before the committee is the consideration of the annual message of the President of the United States. When the committee last rose the question under consideration was the amendment, by way of instruction, proposed by the gentleman from North Carolina, [Mr. CLINGMAN,] to the second resolution of the series. The gentleman from Pennsylvania [Mr. THOMAS M. HOWE] had taken the floor and indicated a disposition to offer an amendment to those instructions, and he is now entitled to the floor.

The following is the amendment pending to the second resolution:

"And that said committee be instructed to report on or before the first day of January next, a bill in the following words:

"A Bill to admit Railroad Iron free of duty.

"*Be it enacted by the Senate and House of Representatives in Congress assembled*, That all railroad iron now imported by any railroad company, for railroad purposes, upon which the duties have not been paid in cash, shall be free from duty; and all railroad iron hereafter imported by any railroad company, for railroad purposes, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe, to guard against fraudulent evasions of the existing revenue laws, he being authorized to require bonds of all importers of said railroad iron, on condition to show that the iron so imported has been used in the construction of some railroad within the term of three years from the date of that importation, or in lieu thereof, they pay double the amount of the existing duties on bar iron."

Mr. THOMAS M. HOWE here offered an amendment to the amendment; which was read, as follows:

Provided, That this act shall not continue in force after the 30th day of June, 1854.

I am opposed, Mr. Chairman, to the proposition of the honorable gentleman from North Carolina, as one fraught with the most serious consequences to the State which I have the honor in part to represent. Pennsylvania is largely engaged in manufacturing pursuits generally; but the chief and most important of her manufacturing interests is that of iron. This interest, sir, coeval with the formation of the Government itself, has had a steady progressive increase, under the fostering legislation of the country, until in a measure arrested by the radical change of policy which characterized the legislation of 1846.

In the year 1850 there were in the State of Pennsylvania, 298 furnaces, 6 bloomeries, 121 forges, 79 rolling-mills—in all 504 establishments for the manufacture of pig and bar-iron, with a capital invested of $20,502,076. In addition to the above there were 320 establishments for the manufacture of castings, employing a capital of $3,422,924.

This great interest, so essential to the true independence of the country at all times, but especially so in times of war, had, up to 1846, been protected by specific duties. The change in that year, from specific to *ad valorem* duties, laid the foundation for serious embarrassments. Whether fortunately or otherwise, at the precise period of that change in our system of duties, the price of iron abroad was so high as to render protection unnecessary—the average price of bar-iron, for the year 1846, in Liverpool, being nine pounds sterling per ton; which reduced to our currency, at $4 84 to the pound sterling, is $42 56 per ton. With the foreign price at those figures we need no protection. Unfortunately, however, with the single exception of one year, (the year 1847,) prices in Liverpool steadily declined till near the close of the last fiscal year—falling in 1848 to $31 76, (measured by our currency;) in 1849 to $26 92; in 1850 to $24 84; in 1851, to $24 30; and in March, 1852, the low price was reached of $23 60 per ton.

Since the last period prices have again rapidly advanced, owing to the twofold causes of a largely-augmented demand, and a greatly-diminished supply—the production in this country having fallen off, it is estimated, fully one half in the last three or four years.

The extreme depression of prices in 1849, 1850, and 1851, extinguished the fires of nearly all the furnaces in Western Pennsylvania. In one county, containing twenty furnaces, not a solitary fire was burning twelve months ago; and ten of the number had been sold by the sheriff as early as 1850, and most of the residue, I am told, have since then experienced a similar fate. In another county, where there were twenty-nine furnaces, only six had been able to perpetuate a sickly existence up to July last; and fourteen of the number had been sold by the sheriff. I give these two counties as a fair illustration of the general condition of this branch of the iron interest of Western Pennsylvania up to the period of the recent advance in prices.

Of all the furnaces in Western Pennsylvania, numbering one hundred and fourteen in 1850, fifty-one had previous to that time been sold by the sheriff.

The best security which can be provided against such sudden and ruinous vicissitudes, is a stable system of legislation, so regulated as to encourage production at home, and render us independent of foreign combinations to elevate and depress prices.

The manufacture of railroad iron is yet in its infancy in this country; but there were in Pennsylvania in 1850, seven rolling-mills, adapted to the manufacture of rails, capable of producing sixty-four thousand four hundred tons; and which actually did produce, in 1847, forty thousand nine hundred and sixty-six tons. Other establishments are projected; one in my own neighborhood proposes an investment of $600,000, for the special purpose of making rails. If you adopt the proposition of the gentleman from North Carolina, [Mr. CLINGMAN,] you will not only prevent the consummation of this and similar enterprises, but put an effectual and perpetual extinguisher upon the fires of those establishments already in existence.

I know that the extreme high price at the present moment has created a most intense pressure for the abolition of duties; a pressure so strong that I much fear it will be adopted as a measure, at least, of temporary relief to such parties as are under contracts for large deliveries of rails at prices far below the present current rates. If, therefore, Mr. Chairman, the proposition of the honorable gentleman is to be adopted, as I hope it is not, then, sir, I propose that its operation shall be limited to the 30th June, 1854. To adopt it as the permanent policy of the country would, as past experience most abundantly demonstrates, benefit exclusively the foreign producer.

The idea thrown out by some one a few days ago that competition amongst foreign producers themselves would insure low prices, is, I apprehend, entirely fallacious. If I am correctly advised, there is no such competition between the iron-masters of England. On the contrary, I understand that they all belong to an association, and are in the habit of meeting quarter-yearly for the purpose mainly of fixing prices for the ensuing quarter. Abandon, then, Mr. Chairman, the restraining influence of home production, and you take the most certain method which can be devised to insure the permanent high price of rails. If, on the contrary, you encourage production at home, you will establish a salutary competition between the foreign and domestic producer, and keep down the price to a point which shall cover the cost of production, and afford a fair remuneration only to the capital and labor invested. Pennsylvania does not ask that her interests shall be protected at the sacrifice of other interests; but she does ask that your legislation shall be of such a character, that while no injustice shall be done to the other great interests of the country, as will in the best manner and in the greatest degree promote the prosperity of all. She does ask, however, and she has a right to expect, that you will not, by any partial legislation for the benefit of railroad corporations, utterly annihilate some four or five millions of the capital of her citizens invested in the manufacture of railroad iron.

Upon what principle of justice does capital invested in railroads come here, and claim exemption from its appropriate share of the public burdens? At one time you find it clamorous at your doors for contributions of the public lands, and after you have given away millions of acres, which have been rendered available in preparing roads ready for the track, you are asked to contribute in money from your Treasury thirty per cent. of its value to aid in the purchase of the iron.

If these roads, when constructed, were to inure in the proportion of the public contributions to the pecuniary advantage of the public, the demand upon you would be more reasonable. But it is not proposed to give the Government a single dollar's worth of stock, in return for the millions it *has* contributed, and the millions more it is *expected* to contribute. And yet, these roads are not to be *free* roads. Every individual who travels upon them, and every pound of freight which is transported upon them, is to be subjected to a tariff of imposts, through all time to come, that the private stockholder may reap his annual dividend; not of simple interest merely, on *his* investment, but eight, ten, and twelve per cent. What greater claim has capital so invested, to the protection or immunities of the Government, than capital invested in manufacturing pursuits? Nay, sir, what right has the one to come here and claim at your hands the sacrifice of the other? Let both prosper together.

Mr. CARTTER. It occurred to me, when my honorable friend from the Pittsburg district [Mr. HOWE] was addressing the committee upon the calamities of cheap iron, that perhaps my own district would furnish as valuable a counterpart to his argument, as would the district of any other Representative upon this floor.

The honorable gentleman has given you the graduation of the prices of iron, in a descending scale, through a series of years and under the operation of the tariff of 1846. I congratulate the country upon that result, and more especially my own constituents. The very fact that it has brought the Pittsburg iron-mongers to the test of a competition that has reduced their profits to an honorable and honest scale, is a subject of congratulation to me. Why, Mr. Chairman, my constituents buy of the constituents of the honorable gentleman from Pennsylvania nearly $150,000 worth of iron annually. Iron is the staple of wealth in the district represented by the honorable gentleman from Pittsburg. Wheat is the staple of wealth in the district which I represent. Flour is worth—or was up to the period of the construction of a railroad, which has recently been completed, and which connects that gentleman's district and my own together—from half a dollar to seventy-five cents a barrel more, in the center of my district, than it was in the city of Pittsburg. By a convention which assembled under the auspices of the gentleman who has just made his speech, we were told last year that they wanted an increase of fifteen per cent. for the purpose of enabling them to live. The result of it would be an additional tax upon my district, on iron purchased of Pittsburg alone, of between $23,000 and $24,000, totally unrequited. And, sir, I thank God that it has gone down, for there is no reciprocation. This talk about a home market that is to be furnished to the farmers, is all pure gammon.

The gentleman represents a district that will not pay within one half a dollar as much per barrel for flour as is paid in the center of my district, while they are selling to us $150,000 worth of iron annually, and with no reciprocation.

Now, sir, this is a mere epitome of the picture which this tariff presents everywhere—it is taking out of one man's pocket and putting into another. Sir, I am in favor of the proposition I advanced the other day—free trade and direct taxation. Let the muscle and genius of this nation, with the advantages of a home market, which they have, against the three or four thousand miles of transportation abroad, constitute the tariff of protection; and if there is not enough genius, energy, industry, and economy in the American character—that character being proverbial for all these virtues—to take care of themselves, then let them go.

[Here the hammer fell.]

The question then being on the amendment offered by Mr. HOWE,

Mr. CLINGMAN called for tellers; which were ordered; and Messrs. THOMAS M. HOWE and CARTTER were appointed.

The question was then taken, and the tellers reported—ayes 44, noes not counted.

So the amendment was not agreed to.

Mr. JONES, of Tennessee. I wish to amend the proposition of the gentleman from North Carolina, [Mr. CLINGMAN,] by inserting after the word "railroad," the words "and all other iron."

Mr. CLINGMAN. I will vote for it.

Mr. VENABLE. I will vote for it with pleasure.

Mr. JONES. I wish that proposition to be incorporated in the amendment of the gentleman from North Carolina, in order that when one portion of the iron imported into the country shall come in duty free, that that part which is used by the great body of the American people—by almost every man in the country, by all the agriculturists, and for all the mechanical implements of the country—may also come in free; and that we will not make special favorites of the corporations of the country, which now aim to control this Government—corporations which tell the departments of the Government, when treating with them for carrying the mails of the country, that they care nothing about it, but will run to suit themselves, and not to accommodate the Government or the people.

Sir, whenever a proposition is brought forward for the benefit of corporations, and for their exclusive benefit, it is always done with the deceptive plea that it is for the benefit of the people.

Exempt the iron of these railroad corporations, and what benefit will result to the great body of the people? Will they carry a passenger one cent cheaper? will they carry your freight one cent cheaper? will they carry your mails cheaper? No, sir; it is a benefit which is to act continuously, because these roads already constructed are continually needing iron to relay their tracks and keep them in repair.

Mr. Chairman, I am in favor of the lowest possible rate of duties; and even, sir, when the country shall be prepared for it, I shall be for the annihilation of imposts upon the commerce of the country. Let your trade be free, and the property of the country pay the taxes to support the Government. But I am opposed, at this time, to interfering with that matter. As much as I desire a reduction of the tariff, I would not reduce it in the way proposed here, in order to benefit the capitalists of the country who are engaged in manufactures.

I want the subject to come up, as it must do in the next Congress, when we shall have a President favorable to the revenue tariff system, and when we shall have heads of Departments who will coöperate with the legislative body in favor of a reduction of duties to the lowest possible point admissible as a revenue standard, and not to pretend to adjust it upon the principle of protection, to decrease the revenue by increasing the duties under the odious system of specifics and minimums. I hope that the whole subject of the reduction of the tariff will be passed over until the friends of that system, which the country has declared in favor of, shall not only be in the majority here but charged with the administration of the Executive Government.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., informing the House that that body had appointed a Committee of Conference on the disagreeing votes of the two Houses on the bill for the relief of Margaret L. Worth.]

Mr. FULLER, of Pennsylvania. I am opposed to any legislation upon this subject at the present time. The adoption of the proposition of the gentleman from North Carolina, to admit railroad iron free of duty, would not only be an act of the grossest injustice towards those of our citizens who have invested their capital in this branch of industry, but at this time would seriously affect the revenues of the Government. As has been stated by my colleague, [Mr. THOMAS M. HOWE,] under the tariff of 1842, a large amount of capital was invested in the State of Pennsylvania in the manufacture of iron; more than $6,000,000 in the manufacture of railroad iron alone. Our people, in pursuance of what they believed to be the established policy of the Government, acting as they supposed upon its faith and with its guarantee, liberally invested their money in this branch of industry. Since that period—owing in part to a change of tariff, in part to the disturbed state of continental Europe—the consequent depressed condition of the iron market, and the resulting surplus which the English manufacturers were compelled to throw upon the American market, at prices ruinously low, and against which our legislation did not sufficiently guard, this interest has become greatly embarrassed and distressed. For the last three or four years our citizens have been petitioning Congress for relief, but no legislative aid has been granted. At this particular time, owing to extraordinary causes, operating at home and abroad—to the fact that a large number of miners, puddlers, and laborers, have emigrated from the mills and mines of England to Australia; that the Emperor of Russia, in constructing his great military road from St. Petersburg to Warsaw, has contracted for one hundred and fifty thousand tons, an amount equal to one third the annual product of Great Britain; and owing to the numerous railroad enterprises which have been projected in this country, stimulated as they are by California gold and the liberal policy of the Government in the donation of public lands,—the iron interest is prosperous, and the manufacturers are in a measure retrieving the losses they have sustained during the last three or four years.

But it is alleged by the gentleman from North Carolina, that most of the railroads in the North were constructed during the period when there was no duty on railroad iron. The gentleman is mistaken. Such is not the fact. The New York and Erie, the Pennsylvania central railroad, and the greater portion of the Baltimore and Ohio road, together with their numerous branches, have been constructed since. And it is a fact that those railroads in the country which were constructed during the ten years when railroad iron was free of duty, paid a higher price for their iron than they are compelled to do now, or have been compelled to do since. Why, sir, in 1836 and 1837, when the railroad mania prevailed, iron was selling in England at $62 50 per ton, while in this country it brought $80 per ton. Now, the best railroad iron in the world can be manufactured in the State of Pennsylvania from $50 to $55 per ton. The history of prices during the ten years (from 1832 to 1842) when this description of iron was admitted *free*, discloses the further fact, that purchasers in this country derived no advantage from the remission of duty, while the Government lost over $4,000,000 of revenue. The $4,000,000 went into the pockets of British iron-masters, and was lost to the public Treasury.

Mr. FREEMAN. With the gentleman's permission I will ask him a question. How many establishments in Pennsylvania manufacture railroad iron, and how much do they manufacture annually?

Mr. FULLER. They can now manufacture in Pennsylvania about seventy thousand tons per annum.

Mr. FREEMAN. How much do they manufacture?

Mr. FULLER. They manufactured only about eighteen thousand tons in 1851, and it was a ruinous business at the then existing prices. At this time I understand they have contracts equal to their full capacity, at fair prices.

Mr. FREEMAN. What was the importation into the country last year?

Mr. FULLER. Nearly three hundred thousand tons, paying over $2,500,000 of revenue. The prospect now is that the receipts of the Treasury from this item of revenue will be greatly increased for several years to come.

In looking over the report of the census, I discover it is estimated that there are nearly eleven thousand miles of railroads in progress of construction in the country at this time. If such be the fact, estimating one hundred tons to the mile, it will require one million one hundred thousand tons for their completion. At the present rate of duty, thirty per cent. *ad valorem*, upon the average price for the last ten years, this would yield over $13,000,000 of revenue. If the duty is to be taken off from railroad iron, let it also be remitted upon every other species of iron; it would be highly unjust to *discriminate* in favor of corporations and railroad companies against the farmer and *mechanic*. If it be taken off from rails, let it also be taken off the axe, the shovel, and the hoe.

I trust, sir, we shall be content to let *well enough alone*. The country is now universally prosperous

in its industry—the people do not complain—let us not legislate to their injury.

[Here the hammer fell.]

The question was then taken on the amendment of Mr. JONES, and it was agreed to.

Mr. FREEMAN. I move to amend the proposition of the gentleman from North Carolina, so that it will provide for the reduction of the duty on iron to one per cent.

We have heard from the advocates of protection that there were some two hundred thousand tons of railroad iron imported into the country last year, and that Pennsylvania manufactures only eighteen thousand tons per annum. It is then clear, Mr. Chairman, that Pennsylvania has but a small capital invested in this particular branch of industry. It stands as eighteen thousand to two hundred thousand, according to the remarks of the gentleman from Pennsylvania, [Mr. FULLER.] My impression, however, is, that it is at a much less ratio than that. I do not recollect precisely the quantity of railroad iron imported into the country, though I think it is much greater than two hundred thousand tons per annum.

A MEMBER. It is two hundred and ninety-one thousand tons per annum.

Mr. FREEMAN. I was then correct in my impression. Two hundred and ninety-one thousand—nearly three hundred thousand tons of railroad iron was imported into this country during the last year, and only eighteen thousand tons, during the same time, were manufactured in Pennsylvania. Is it not clear, then, that the present tariff on iron is not a protection to the manufacture of that article in Pennsylvania? It is not a protective tariff, and if the duty be reduced to one per cent. on all railroad iron, instead of the present rate, what harm results to that class of manufactures? But, on the contrary, what great and important benefits do we render to the whole country? Is not the interest of the whole paramount to that of a fraction?

The gentleman from Tennessee, [Mr. JONES,] who has just addressed the committee, is very much opposed to corporations. Well, sir, I suppose, from the tenor of his remarks, that he is for opposing Republican Governments, because they are corporations. Why, he should remember that all the corporations of the world are not United States Banks—he should remember that all corporations are not rag manufactories and shin-plaster concerns. The Government under which we act, and by which we are controlled, is a corporation, and will the gentleman make war upon Republican Governments, because they are corporations? The gentleman ought not to lay so broad a foundation for so small a superstructure. Public corporations have never been condemned, and public roads are of that class. Ascertaining, as we have already done, that there are some $14,000,000 of surplus revenue in the Treasury of the Federal Corporation, and knowing, as every man in this committee knows, that the railroad interest of this country is the interest of the great democratic people of the American Union, it is the duty of every member on this floor to take the subject seriously into consideration. The Federal Corporation must be depleted. We can do Pennsylvania little or no damage, for she is doing nothing, comparatively, in the way of the manufacture of railroad iron, but we can benefit the whole Union—north and south, east and west—by making that description of iron free of duty. We will do no harm to anybody in the world, save three small manufactories in Pennsylvania, making only eighteen thousand tons per annum, which could be more profitably engaged in some other occupation, whilst we will deplete the Treasury of the surplus revenue derived from the importation of about three hundred thousand tons of railroad iron. By this reduction of the tariff, we will encourage the construction of railroads, and thereby increase the wealth and comfort of all classes of community.

Now, let us examine the question of corporations a little further. I know they are said to be soulless things; but it cannot be denied that the associated capital of railway corporations is productive of great public benefits.

[Here the hammer fell.]

Mr. GROW obtained the floor, but yielded to

Mr. FULLER. The gentleman from Mississippi [Mr. FREEMAN] has entirely mistaken my remarks with regard to the quantity of iron they manufacture in Pennsylvania. I said they manufactured in that State eighteen thousand tons of railroad iron. The entire manufacture amounts to over half a million of tons of all kinds of iron annually. There are some eight hundred thousand tons manufactured in the country. I wish to say further, that the gentleman would gain nothing by remitting the duties on railroad iron at this time, for the reason that the demand is now greater than the supply; and the thirty per cent., which this year amounts to $2,500,000, instead of going into the Treasury, would go into the pocket of the British iron-master. It is impossible at this time, owing to the increased and increasing demand for railroad iron, that the manufacture of the world can equal that demand.

Mr. FREEMAN. If that be the case, would it not be impolitic to retain the present duty on railroad iron, and thereby increase the surplus revenue in the Treasury?

Mr. GROW. I cannot yield the floor to a dialogue, when my time is limited to five minutes.

I am not opposed to the reduction of duties on railroad iron from any consideration of protection to any interest of the country. I have always understood that the object of the imposition of duties on imports was to raise revenue for the support of Government, and while the tariff is the only tax law that the General Government now has, justice to all interests require that the duties should be imposed in such a way as to raise the greatest amount of revenue. For being a tax on imported articles consumed in the country, and not upon property, the only way you can reach the wealth of the nation, and make it pay its proportion of taxation, or anything towards it, is to impose your heaviest duty on articles consumed mostly by the richer portion of your population. What justice is there then in exempting from taxation one article of your imports, when, as was well said by the gentleman from Tennessee, [Mr. JONES,] that article is used by corporations alone? What justice is there in exempting from taxation the associated capital of the country invested in railroad enterprises, while you tax the mechanic on his saw and hammer, the farmer on his chains and plow, and the day-laborer on his spade, axe, and hoe? What is it, sir, but another form of class protection? Some gentlemen who are violent opposers of protection to any interest or class, are strenuous advocates of this. Where is the difference in granting legislative favors to a class of men engaged in manufacturing, or another class engaged in railroad speculations? For in both cases men invest their money in the hopes of gain. The dividends and the percentage are the sole inducements; and let them both be treated alike by your laws—giving bounties to neither. While the revenue of the Government is collected by imposts, let every article imported pay its proper share of tax, unless it be an article of necessary and universal consumption. But railroad iron is not such an article, and justice to the tax-payer demands that it should contribute its share to the revenue. Why should the labor of the country be taxed on salt, sugar, and other indispensable necessaries of life, and at the same time exempt the men who have invested and associated their capital in railroad projects? Besides, while collecting revenue, you are bound by every consideration to do as little injury as possible to any and all interests that have grown up under the laws or on the faith of the Government. Repeal the duties on railroad iron, and you strike a deadly blow at the iron interest of the country; for the manufacture of railroad bar is one of the greatest means of consuming pig iron. And besides, the railroad bar imported, after it becomes worn, can be taken up and worked over, so as to answer many purposes for which iron is used. By a repeal of this duty, then, you strike down an interest that you called into existence solely by your legislation in 1842. Is it necessary to do it from any considerations of revenue? If so, that interest, like any other, must submit to it. For the object in imposing any duty being to raise revenue, and the manufacturer having the benefit of whatever protection arises from that amount, whenever it becomes necessary, therefore, to change the duty in order to meet the wants of the Government, whatever injury may result to him is one of the necessary consequences of this mode of collecting taxes. But in this case there is no such necessity; for by a repeal of this duty you destroy revenue.

And thus you would permit a large amount of iron to come into the country, to be used by various interests, under the disguise of benefiting corporations; and without raising an iota of revenue, you ruin one important interest of the nation. But, sir, I raise no voice here for protection; nor do I represent constituents who desire to trammel the trade of nations. They are ready to meet the gentleman from Ohio, [Mr. CARTTER,] or gentlemen from any section of the Union, to unfetter commerce and strike off forever its shackles. But they ask that it shall be done with justice and fairness to the tax-payer and to all the great interests of the country.

The question was then taken upon Mr. FREEMAN's amendment, and it was rejected.

Mr. FREEMAN. I move to reduce the tariff to two per cent. As to the argument about the farmer who uses iron,—this shovel and hoe argument,—we do not propose to increase any taxes now levied upon the farmer. We propose to run railroads through the country that will advance the value of the lands of the farmers from one dollar and a half to twelve and twenty dollars per acre.

Is that injuring the farmer? The honorable gentleman from Pennsylvania [Mr. GROW] is striking the most deadly blow against the agricultural interests of the country. Look at his own State of Pennsylvania. Go to the points where the railroads now run, and where a few years ago you would have found extensive forests—the haunts of wild animals—you now find the homes of wealth, luxury, ease, and refinement. Do we tax the farmer by building these roads? Are they not the very instruments whereby he is elevated to the highest level of society? Is not the farmer brought within a breath, as it were, of the great commercial cities of the country? Does he not now transport his produce at a price far below that which it cost him when, with his ox-team, he used to wend his tiresome way along the mountain heights, and down the valley passes, and across the streams of the country?

The gentlemen from Pennsylvania are enemies to the farmers of the country and railroad men; the men who are in favor of reducing this tax upon iron, are the men who are raising the farmer and the day-laborer to the position of intelligent, enlightened, and worthy American citizens. I wish to hear no more of this *ad captandum* talk. When these gentlemen go home to their constituents, and visit the farmers along the line of these roads, they will be called to an account for neglecting the interests of these very men whom they pretend to love and serve.

My friend from Tennessee [Mr. JONES] talks about the duty on skillets. I am glad to see him perform his duty to the skillet. When the Mississippi railroad reaches Tennessee I will send him a quantity, duty free.

Mr. HOUSTON. I did not intend to make the point of order upon my friend from Mississippi [Mr. FREEMAN] if he had replied immediately to the gentleman with whom he had been discussing this matter; but it is evident if this debate takes the range it commenced that we shall never get through, and I ask the Chair, therefore, if the gentleman's remarks are in order?

The CHAIRMAN. The Chair thinks that the gentleman's remarks are out of order, not being in support of the amendment he proposed.

Mr. FREEMAN. I moved to reduce the tariff to two per cent. I am discussing and replying to arguments which were considered perfectly in order.

The CHAIRMAN. The question of order is not debatable.

Mr. FREEMAN. I will proceed in order. What is the question before the House? The question is to reduce the tariff on railroad iron to two per cent. I am in favor of that measure, because it advances the great interests of all classes of the country. Where is the man, of any grade or occupation, who does not ride upon railroads in preference to riding in his own private carriage? Where is the farmer who does not prefer to bring to his own door his farming and household utensils upon the iron rail?

Mr. JONES, of Pennsylvania. I would like to ask the gentleman a question. Do I understand him to say that he will appropriate money out of the National Treasury in every instance where he is convinced that it is for the public good? Do I understand him to occupy that position?

Mr. FREEMAN. I said nothing of the kind, and my remarks bear no such interpretation. I am speaking of the duty upon railroad iron. [Laughter.] When other topics are presented I will discuss them.

[Here the hammer fell.]

Mr. CHANDLER. I do not rise to make a speech, but to wash my hands at once of making *ad captandum* remarks, as the gentleman upon the other side of the House has been pleased to use this language. I desire, however, to say, since that gentleman has presented this measure to the House—the reduction of duties upon railroad iron—as a Democratic measure, and has therefore appealed to the Democratic sympathies of the House, I think I may also appeal to the Democratic practice of the House. If I remember aright, the great father of free trade in this country—I mean great in his weight of character, not in his person—Mr. Walker, was himself an eloquent advocate of a duty in 1842 of $25 a ton upon railroad iron. He was himself the father of this present duty on railroad iron, and refused to accede to the wishes of certain gentlemen, who did not see through the whole system of protection, to take off the duty on iron in 1846. I therefore infer that the elder fathers—the old fogies of Democracy—were not so ultra in their views as the honorable gentleman upon my left, [Mr. FREEMAN.] I have nothing to say in reply to the remarks about the farmers of Pennsylvania. I have only to say, that *farmers* of Philadelphia are anxious that the duty should be retained upon iron. Those who have spent their money for the construction of railroads, are also, perhaps, in part the owners of the iron and coal mines, the owners of the lime places, all of which need the protection of this duty. We ask that it should be retained, not enlarged now, asking only that they also may receive their share of your protection which other portions of the community are to receive. I do not purpose, at the present time, to discuss that matter. I wish merely now to say, if I understand anything of the spirit of Democracy, that this thing opposes what has been declared to be the principle of Democracy since the 2d of November.

Mr. FREEMAN. I did not use the term of Democracy as an invidious distinction; but it is well known that the Whigs have all turned Democrats, and that the term applies to the whole country.

Mr. CHANDLER. If Ephraim is joined to his idols, I will let him alone.

Mr. FREEMAN. Let the gentleman reduce the duty upon iron.

Mr. CHANDLER. Not if my vote will prevent it. So far I have become a Democrat as to be a warm admirer and a very humble defender of the tariff of 1846, on prices existing when it was made, till we can do better. I have nothing more to say.

The question was then taken upon Mr. FREEMAN's amendment, and it was rejected.

Mr. MEACHAM. I propose the following amendment to the amendment:

And that the Secretary of the Treasury be, and he is hereby, directed to repay to parties interested the amount of duties which have been paid upon railroad iron since the first of December, 1846.

Mr. HOUSTON. Is that amendment in order?

The CHAIRMAN. The Chair thinks that this amendment, being a direction to the Secretary of the Treasury, is not in order to that proposed by the gentleman from North Carolina, [Mr. CLINGMAN,] which proposes to instruct the Committee on Ways and Means.

Mr. MEACHAM. That I may make the amendment in order, I will say that the Committee on Ways and Means be instructed to make, &c.

Mr. Chairman, this movement to make railroad iron free is proclaimed as a Democratic measure. If true, I hope Democratic justice will prove itself equal justice, and exact to all. That justice demands that if you make the present and future free, you should make the past free also. One portion of the country have built their roads and paid the duties on their iron. New England has expended more than one hundred and thirty-one millions of dollars in railroads. Most of this has been done while the duty was levied on railroad iron. More than seventeen millions of dollars have been expended in my own State, and the duty has been paid on every foot of iron laid down. They have cut their way through her everlasting hills; the valleys have been exalted, and the mountains brought low, and the rough places made plain. All this was not done by our own capital. Generous and enterprising capitalists of Boston, like her able representative here, have contributed to furnish the funds. Much of that stock is below par, which might not have been the case had you given to us what you seem determined to take for yourselves.

While all these great works are going on with so much sacrifice, Congress gives to Illinois nearly three millions of acres of public land to build a road. At the estimate of an interested member of the corporation, to whom these lands are surrendered by the State, that road can be built, and all the fixtures and furniture supplied, and leave a clear profit of millions to the company. The resolution of the gentleman from North Carolina proposes to add to their clear profit by taking off the duty on iron. You give them three millions of acres of land through the most fertile region of the whole earth; and after you have given that corporation a fund sufficient to do their whole work, and then have a fund large enough to control and corrupt a State, you increase that fund by decreasing the cost of making the road. Put these two together, and tell me where is the justice, where the Democratic equality? Vermont has built her roads, and in doing so, has helped to pay the taxes of North Carolina, Illinois, and other States. Now, they turn round, and declare they will not do as they have been done by. I ask again, where is your Democratic equality? If you have settled on the measure of making railroad iron free, adopt my amendment; pay back the duties you have received from roads already built, and you can make equality; and there is no other way of doing it. Why tax ten thousand miles of road already built, and leave the ten thousand miles in process of construction free? I ask for this only on condition that you make railroad iron free for the future. If you do that, you are bound in honor and justice to pay back what you have taken from us. It is by no means a new thing. It has been done many times in the past. I will refer to a few of the many instances on your statute-books:

1. Act making railroad iron free, or refunding when actually laid down, (May 28, 1830; sec. 9;) not reduce duty below twenty per cent. ad valorem.—*Vol.* 4, *p.* 411.

2. Refunding whole duty when rails laid down.—*July* 14, 1832; *sec.* 1, *vol.* 4, *p.* 604.

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3. Refunding duty on railroad iron to Lexington and Ohio Railroad Company, $1,984.—*App. bill, March* 3, 1837; *vol.* 5, *p.* 169.

4. Remit or refund to the Philadelphia, Wilmington, and Baltimore Railroad Company, the Wilmington and Susquehanna Railroad Company, and Port Deposit Railroad Company.—*Feb.* 6, 1839; *vol.* 6, *p.* 745.

5. Red River Railroad Company to cancel bonds and stay judgment for duties on railroad iron imported in 1837.—*Act Aug.* 11, 1848; *vol.* 9, *p.* 734.

Mr. CLINGMAN. I have but a word to say in opposition to the amendment before the committee. It is to be presumed, when this tax was laid upon railroad iron, that the Government needed it; and I am not willing to refund or pay back any tax needed for the support of the Government. But the Government does not now need that tax for its support, and therefore my proposition is to remit it. I hold it to be the duty of every Government to repeal all unnecessary taxes; and when the gentleman from Vermont [Mr. MEACHAM] can show me that taxation was unnecessary, that the Government did not spend the money for any public purpose, and that it is still in the Treasury under our control, then there may be very good reasons for refunding it; and if the gentleman will show me that such a state of facts exist, I do not know that I will object to its being refunded.

Mr. MEACHAM here made a remark which was not heard by the Reporter.

Mr. CLINGMAN. I do not know about that. If gentlemen will reduce these duties, and there is still a surplus in the Treasury, I should be perfectly willing to vote for some equitable distribution of that surplus.

I was about to say, in reply to the gentleman from Vermont, that I believe there were more railroads constructed in New England while railroad iron was admitted duty free, than in any other section of the Union.

Mr. MEACHAM. There were none constructed in Vermont.

Mr. CLINGMAN. The gentleman says they made none in Vermont. Then they are in about the same condition with us in North Carolina. We have made nearly all our roads when there has been a high rate of duty upon railroad iron; so we are alike in that respect.

But we find the Government can get on very well without this money. We have already a very large free list. It is useless for gentlemen to talk to me of a uniform system of taxation; but if gentlemen want to adopt that system, I am perfectly willing to join them. But, as I said, we have already a very large free list, and the gentleman from New York, [Mr. BROOKS,] and the gentleman from Massachusetts, [Mr. DUNCAN,] propose to make it still larger. My position, therefore, is this: If you are to make any one article free of duty, let that article be railroad iron, for that is the great instrument for stimulating American industry. Let us, therefore, repeal this tax, in the first place, because the Government does not need it; and in the next place, because we have already a very large free list; and this will do more to advance the interests of American industry than any item in that list.

The question was then taken, and the amendment to the amendment was rejected.

The question recurred on the amendment of Mr. CLINGMAN.

Mr. WASHBURN offered the following amendment to the amendment:

And that so much as refers to the tariff, the said Committee on Ways and Means be directed to report, by bill or otherwise, on or before the first Monday in February next.

Mr. Chairman, believing that our revenue laws need revision, I see no good reason for postponing initiatory measures, having that object in view, but I think I can perceive strong reasons for their adoption at the present session of Congress. If, however, the majority are indisposed to enter upon their consideration, it would be wholly unprofitable, and perhaps not altogether decorous for the minority to press them. The objection made by the gentleman from Virginia, [Mr. BAYLY,] to action at the present time, does not appear to me to have been well taken. The present Administration retires under a constitutional limitation, and not as English Ministries ordinarily do, for want of the confidence of the Legislature. The majorities under the new Administration will be the same as in the present Congress. No changes or modifications can be made now, except by the political friends of the incoming Administration. The facts are patent and undeniable—there is no information necessary for intelligent action which is not at hand. There is a large surplus in the Treasury; the necessity is urgent. And the time is auspicious, for now that the recent elections have determined, by large majorities, the political character of the next Congress and the next Executive, it would seem as if we could approach this great question under circumstances peculiarly favorable to its calm and unprejudiced consideration. Now is the time, if we desire it, to lift it from the arena of mere party politics. A question so important, so vitally affecting the interests, the comforts, and the happiness of the whole people, ought not to be made dependent upon the shifting fortunes of our political parties.

No party at the present day is, I apprehend, in favor of prohibitory or highly protective duties. The circumstances under which they were necessary or allowable, and the times when they were thought to be required, have passed away—mainly in consequence of the existence and operation of such duties in times past. But many men of all parties—and I am inclined to believe a majority of the people of the United States—are of opinion, that while the details of our revenue laws require modification, all changes ought to be in harmony with the system which has been acted upon, for the most part, for the last thirty years. That system is, unquestionably, the true one for such a country as ours, and is best in accordance with the true theory of the powers and duties of the Federal Government. That Government was not established, as some have supposed, simply to take care of itself, to collect revenues, and pay office-holders, but for higher purposes and objects, having regard to the protection and promotion of the vast and varied interests of a great people. And its legislative power clearly extends to the passage of laws affecting the trade, commerce, and labor of the country; otherwise, we present the anomaly

of a nation clothed with no power touching its highest material interests. Possessing this power, legislation under it will vary with the varying condition and wants of the country. At one time, it may be necessary in reference to the currency; at another, to arrange the imposts so as to afford protection; and then for the reduction of duties. Yet, while circumstances change, and the condition of the country, absolute and relative, changes, one and the same general system, the same principles of construction as to the authority and obligations of the legislative department, the same doctrines, will remain in perfect integrity, allowing and involving not infrequent changes in the particulars of legislation.

The gentleman from South Carolina, [Mr. WOODWARD,] says a permanent system of duties is impossible. Now, it strikes me that a permanent system is not only possible, but very necessary; not that there may not be changes in the rates on many articles; but in part because there should and must be. For all such changes should be under, and in harmony with, a great, true, and permanent system. All modifications should be made in the light of such system, and to carry out its idea. Every change of duty should not be a change of system. The system for this country, and the only one that can enjoy any degree of permanence, must be that, which, in the collecting of revenues for the uses of the Government, has regard to the industrial interests of the country, and looks further than to see how a given amount of money can be most readily obtained from duties on imported goods—which seeks to raise the necessary revenues in such way as not to prejudice those interests, but rather to protect, aid, and foster them.

There may be three systems for the levying of duties and collection of revenues:

1. That which would have the duties imposed and collected without any regard to the effect upon the business and enterprise of the country.

2. That which would impose and collect them in such way as to embarrass the business, and depress the industry of the country.

3. A system which would have distinct reference to the industry and enterprise of the nation, and seek to afford them protection and encouragement.

Which of these systems is the one contemplated by the fathers—the framers of the Constitution, and the early legislators of the country? Which is the system, that, being true and wise, ought to be permanent?

Assuming that the last-mentioned is the true system, I would inquire what changes are demanded in the tariff of 1846?

It is very true, as the gentleman from South Carolina says, that what are purely revenue duties at one time, may at another become prohibitory. Under the system which has to some extent been in operation for a quarter of a century or more, with the achievements of inventive genius, and with our great advancement in all the aids and helps to production, (for which we owe nothing to free trade,) we are now able to furnish, at home, many articles—heretofore imported under high duties—cheaper than they can be afforded in any other country. Where we can do this, duties are inoperative, whether for revenue or protection. They are at once useless and harmless. A duty on raw cotton would neither help nor harm South Carolina, or the general Treasury. But there are articles largely imported into the United States, composing to a considerable extent our enormous aggregate of $200,000,000, which come in competition with similar articles produced here, or for the production of which our soil, climate, situation, and labor are well adapted. Without discrimination, we stand in relation to them as we stood to coarse cottons forty years ago. But under the system which we have applied to cottons, we may expect a similar experience to that which has attended the cottons—ability to compete with the world. And we should have great incidental and auxiliary benefits besides—the employment of our own instead of foreign labor; sale for large quantities of products which will not bear transportation to distant markets; the circulation of our own money in our own country; a reduction of the trade balances against us, if not a balance in our favor.

This is our condition—importations exceeding $200,000,000—exportations, exclusive of specie, not varying much from $150,000,000; a surplus in the Treasury of $15,000,000. The question, what shall be done? is an important, and I think, rather an imminent one. Shall we reduce the duties on foreign articles similar to those produced in this country on which no protection is necessary? That would be idle; it would neither increase nor reduce the importations or duties. Shall we reduce the duties on articles like those produced here, which need protection? That would increase importations, swell the balances, now too large, against us, and probably not diminish the revenue.

What, in my judgment, we ought to do, is to reduce or abolish the duties on those necessaries of life for which we are wholly dependent on other countries than our own, and on such raw materials as enter into our manufactures, and are not the product or growth of this country; and to have such legislation in regard to imported articles which come in competition with articles of our own production as will restrain their importation, and thereby decrease the revenues. The revenue in this way might be brought down to the amount required by the wants of the Government—the sum of our importations greatly reduced, our indebtedness abroad at worst not enlarged, and the country placed in a condition of healthy and substantial prosperity that would render the ultimate extinction of this debt easy and certain. Now, sir, without some legislation of this kind, and that speedily, a revulsion is inevitable. It may be postponed, but cannot be prevented. The laws of trade, inexorable and irrepealable, determine this. I should be glad if I could direct the attention of the House to the clouds that are gathering in the future, and could impress upon it the necessity of taking measures at once for the safe delivery of the bolts, full of disaster and ruin, which are preparing to discharge upon the country. This future, this danger, this necessity, not only justifies the minority in calling the attention of the majority to the question of revision at this time, but, it seems to me, constrains them, as men wishing well to the country, as men above faction and above party, to say that they will go along with their Democratic brethren, as co-workers and helpers, in such measures as it must be obvious to all unwarped and fair-minded men are demanded by the condition of the Treasury and of the country.

The gentleman from South Carolina clearly sees this danger of a revulsion looming in the distance, and well says that the discovery of the California mines has operated to postpone it, and has indicated how it happened that the predictions of the Whigs, of an insufficient revenue from the tariff of 1846, have not been verified.

The California mines cannot prevent the breakdown, anticipated by prudent and thoughtful men. And it is not to be overlooked that they have had potent auxiliaries in the past which cannot be depended upon in the future. The famine in Europe which gave us an extraordinary market for provisions and breadstuffs, has ceased to exist, and with it the market which it created. In the troubled condition of European affairs, growing out of the disturbances and revolutions of 1848, foreign capitalists looked to this as the safest country for investments of their money, and they sought our securities with unusual avidity; and millions, perhaps hundreds of millions, of our stocks,—stocks of the United States, of the States, and of our railroad and other corporations,—have been purchased by them. Thus, our merchants have been able to meet the balances accruing against them abroad, without reducing our circulation at home. But will this market for stock continue indefinitely, and constantly increasing? This, as well as a constant increase in the receipts from California, must be postulated to warrant the belief that a commercial and monetary crisis can long be deferred. Sir, these stocks will cease to be in demand in foreign markets. The time must come when European capitalists will stop buying them, and when those which they now hold will be maturing. Then, with the specie current setting towards Europe to pay the bonds that will be falling due, (for all of them will not be extended or renewed,) and to pay the trade-balances against us, and with countless millions locked up in the form of fixed capital, how shall we get on? Will there be no stringency, no revulsion, no prostration?

What will prevent this catastrophe, or if it cannot be prevented, what will alleviate it? The expedients of the gentleman from South Carolina, and his free-trade friends? Is it not plain and legible that these will but hasten and aggravate, rather than prevent or relieve the crisis? There is, there can be, in my judgment, but one course for us. We must contrive to stop this enormous importation of foreign goods. Ceasing to run in debt, we must husband the resources that are our own, so as to be able to pay what we owe with as little embarrassment as possible to our commercial and industrial interests. Setting our own labor at work, making business active and profitable at home, we will give increased employment to our railroads, enabling them to pay their bonds as they shall mature, and strengthen our merchants by keeping down new balances to wipe out the old. Thus we may, if in any way it can be done, escape a revulsion such as the country has never known.

Gentlemen talk about repealing the duties on railroad iron! Did it never occur to them that a healthier and wiser encouragement, and more substantial aid could be given to railroad companies and to communities needing the accommodations which they afford, by a wise adherence to a policy which tends to increase the traffic upon railroads? And who can believe, if there had been reasonable protection for the last ten years on railroad iron, that the domestic production of this article would not have increased to the full measure of the wants of the country, and the price have become permanently fixed at rates very much lower than we are now compelled to pay?

But to return. We are told that it is paper money that has caused this danger of a revulsion. It is convenient to have some scapegoat when it is unpleasant to trace ugly results to their true causes. Is it quite just to trace the evils, admitted to exist, to paper money, when our extraordinary receipts of money from California, and from the sale of bonds abroad, within half a dozen years, have been from three to five hundred millions of dollars? Expansions in the circulating medium exist, says the gentleman from South Carolina, independent of revenue laws. This may be partially true, but they are never alarming, and can never lead to a general prostration, except when they occur contemporaneously with a large foreign debt. And seeing that expansions cannot be prevented, nor paper money abolished, would it not be wise to maintain a revenue system which will render them comparatively innoxious?

What the gentleman says in reference to these States being a great *Zoll-Verein*, capable of producing within their limits nearly everything required for the convenience and comfort of man, is just and true. But do they produce them? Look at our two hundred millions of imports, and answer. And is it policy, by crippling our productive activities, to keep this capability potential merely, rather than by encouraging them, to make it a practical realized fact? Without protection in the past, we should not have become the producers that we are; without it in the future, we shall not produce so much as we might.

Buy abroad and sell abroad, won't answer, so long as we buy of others more than they will of us. How this is now our table of imports and exports will show. Some political economists have taught that the prosperity of a nation is proved when the value of its imports exceeds that of its exports. This *may* be true when the actual cost to the foreign producer of the articles imported, exceeds the actual cost to the domestic producer of the articles exported, but never when the exchange leaves an indebtedness against the latter. So long as we are buying abroad more in value as exhibited by the amount in money which we agree to pay, than we sell according to the promises made to us, we are submitting to a course of trade which must be ruinous in the end, and against which there should be protection. This protection can be afforded only by the General Government. Is it powerless to this end?

Mr. HOWARD said he was opposed to the amendment of the gentleman from Maine, or to any other proposition which had for its object a general revision of the tariff at the present session of Congress. He would vote for a separate proposition to repeal the duty on railroad iron. He had voted for that proposition at the last session of Congress, because he did not believe the duty necessary for revenue, and thought its repeal would benefit the great interests of the country.

He was not disposed, at the present time, to sustain these propositions for a revision of the tariff coming from the other side of the House. It was obvious that, under the pretense of reducing the tariff, their real purpose was so to revise the present revenue system, as to make a tariff more protective than the present. It was a singular move on the political chess-board. The Whigs did not now come forward and frankly admit that the protective policy was a fallacy, and that all their prophecies had been falsified as to the power of the present tariff to produce revenue. They, however, admitted that there was a surplus in the Treasury, and alleging great danger to our legislation from that surplus, asked that the revenue might be reduced mainly by an enlargement of the free list. The meaning of which is, that the present duties on manufactures shall be retained or increased. The whole aim was surreptitiously to obtain a protective tariff by its revision under Whig lead.

If the subject of the tariff is referred to a special committee, in pursuance of the motion of the distinguished member from New York, [Mr. BROOKS,] under the parliamentary rule he will be placed at the head of the committee, and no doubt prepare the report. We all know that in a matter of so much detail as a tariff bill, the labors of the chairman of the committee must, to a considerable extent, give complexion to the measure.

Sir, it is necessary that the tariff should be reduced to a revenue standard; but the measure should be taken in hand by the friends of free trade and not by its enemies. The Whig statesmen and politicians were opposed to the tariff of 1846. They declared it would bankrupt the Government. Since they have been at the head of the Government, they have done all in their power, by Executive measures, to defeat its operation. But in despite of their efforts and their prophecies, the measure has been entirely successful. They are not, therefore, proper agents to trust with the great work of its revision.

There is another urgent reason why this subject should be permitted to pass over until the next Congress. General Pierce, to whose custody the people have confided, with such unanimity, the administration of the Government for the next four years, should be permitted to develop his policy in relation to the further reduction of the tariff. It is no more than courtesy to him, that an out-going Congress and Administration should not take this subject out of his hands. His Secretary of the Treasury ought to be permitted, by his report, at least, to develop the policy of the new Administration before we legislate on this, which must be one of the most vital subjects of his Administration.

Much is said about the surplus in the Treasury. For one I do not believe that we shall have any inconvenient surplus. We shall need every dollar of it for pressing national wants. And if not for pressing subjects of appropriation, then we ought to appropriate it to the extinguishment of our national debt, by purchasing it in. Let us get out of debt, when it is in our power to do so. A change may take place in the affairs and condition of this country, before the debt falls due. We need considerable appropriations for our national defenses. Many of our posts are going to decay, others ought to be finished, and some new works constructed. We require the addition of some steam vessels to our Navy.

No country is more prone than this to a policy which is liable to result in conflicts, and yet none so totally neglects all the necessary preparations for defense. Such was not formerly the policy of the Democratic party, at least. General Jackson opposed the distribution of the surplus revenue among the States, and advocated its application to the increase of the defenses of the country—to fortifications and the increase of the Navy. Had that policy been pursued, instead of distributing that rich fund where it benefited no one, the national defenses of the country, at this time, would have been in a very different condition. We ought to take this opportunity to place them in a stronger and safer condition.

[Here the hammer fell.]

Mr. TAYLOR. Is the proposition before the committee amendable?

The CHAIRMAN. The proposition before the committee is the substitute offered by the gentleman from North Carolina, [Mr. CLINGMAN.]

Mr. TAYLOR. Is it in order to move to amend it?

The CHAIRMAN. It is in order.

Mr. TAYLOR. I then offer the following:

And also, with instructions to inquire into the propriety of substituting *specific* for *ad valorem* duties, wherever it may be practicable; or a *home valuation* instead of the present mode of ascertaining the rate of duties imposed by the tariff of 1846, in accordance with the recommendation of President Fillmore in his last annual message.

I should not have troubled the committee, Mr. Chairman, with any remarks upon this subject now, but that I differ materially from some of my friends, upon both this and the other side of the House, in relation to what they deem the great danger to arise from the balance in the Treasury of the United States on the first day of July last.

I agree with some of the remarks made by the gentleman from Texas, [Mr. HOWARD.] I think, Mr. Chairman, if we pay the honest debts of this Government, and provide for honest claimants who have been knocking at the doors of the Treasury for the last fifty years, you will have no surplus.

The United States are in debt sixty or eighty millions of dollars. If a man be in debt sixty or eighty thousand dollars, and happens to have fifteen thousand in hand, has he a surplus? Certainly not. We have no surplus; none but what we may properly apply to the payment of the honest debts of this Government; and if we cannot apply the surplus from the first of July, under the laws as they exist now, we should legislate so as to apply it to pay off a portion of the public debt, and provide to pay, among other claims, the French indemnity of five millions of dollars, which is justly due, in the opinion of one branch of Congress, to claimants who have knocked at your doors for fifty years—a claim that has passed one branch of Congress repeatedly, and by both branches of Congress once—but it was vetoed by the late President Polk, upon the ground, I believe, of expediency—a ground which I never could sanction.

But my principal object in saying a word or two now, is this: The President of the United States, in his annual message, sent to us on the second day of December, last year, made, as the Constitution requires him to do, a recommendation upon the subject of the tariff—not that he expected that a Democratic House of Representatives would adopt what we call the Whig policy of discriminating and protective duties—but he called the attention of this House to the immense frauds committed upon your Treasury, and he asked you, as honest men and faithful representatives, to provide the means to detect and punish the frauds and to prevent them in future. That message laid on your table for nine months, and was not then referred, greatly to my regret. And now, sir, he repeats this recommendation. He calls to the notice of Congress the frauds upon your revenue, and reiterates his recommendation for a discriminating, protective policy—of specific instead of *ad valorem* duties; and though the House may not be ready to adopt his recommendation, it has, nevertheless, come in good faith, just as he is about to retire, respected by all honest men in the country, of all parties.

I believe it has come in good faith and requires that some committee of this House, standing or select, should take into consideration that suggestion, and endeavor, at least, to prevent the frauds upon your revenue, and provide for the protection of American industry against foreign labor, foreign capital and competition, and foreign legislation.

If I had time I could call to the notice of this committee, in the express words of the President's message, which I have before me—and which I will insert when these remarks are published, the admirable recommendation of that officer—a recommendation repeatedly given to Congress, and one which may hereafter come to you even from a Democratic President. The President thus brings this subject to our notice:

"In my first annual message to Congress I called your attention to what seemed to me some defects in the present tariff, and recommended such modifications as in my judgment were best adapted to remedy its evils and promote the prosperity of the country. Nothing has since occurred to change my views on this important question.

"Without repeating the arguments contained in my former message, in favor of discriminating, protective duties, I deem it my duty to call your attention to one or two other considerations affecting this subject. The first is, the effect of large importations of foreign goods upon our currency. Most of the gold of California, as fast as it is coined, finds its way directly to Europe in payment for goods purchased. In the second place, as our manufacturing establishments are broken down by competition with foreigners, the capital invested in them is lost; thousands of honest and industrious citizens are thrown out of employment, and the farmer to that extent is deprived of a home market for the sale of his surplus produce. In the third place, the destruction of our manufactures leaves the foreigner without competition in our market, and he consequently raises the price of the article sent here for sale, as is now seen in the increased cost of iron imported from England. The prosperity and wealth of every nation must depend upon its productive industry. The farmer is stimulated to exertion by finding a ready market for his surplus products, and benefited by being able to exchange them, without loss of time or expense of transportation, for the manufactures which his comfort or convenience requires. This is always done to the best advantage where a portion of the community in which he lives is engaged in other pursuits. But most manufactures require an amount of capital and a practical skill which cannot be commanded, unless they be protected for a time from ruinous competition from abroad. Hence the necessity of laying those duties upon imported goods which the Constitution authorizes for revenue, in such a manner as to protect and encourage the labor of our own citizens. Duties, however, should not be fixed at a rate so high as to exclude the foreign article, but should be so graduated as to enable the domestic manufacturer fairly to compete with the foreigner in our own markets, and by this competition to reduce the price of the manufactured article to the consumer to the lowest rate at which it can be produced. This policy would place the mechanic by the side of the farmer, create a mutual interchange of their respective commodities, and thus stimulate the industry of the whole country, and render us independent of foreign nations for the supplies required by the habits or necessities of the people.

"Another question, wholly independent of protection, presents itself; and that is, whether the duties levied should be upon the value of the article at the place of shipment, or, where it is practicable, a specific duty, graduated according to quantity, as ascertained by weight or measure. All our duties are at present *ad valorem*. A certain percentage is levied on the price of the goods at the port of shipment in a foreign country. Most commercial nations have found it indispensable, for the purpose of preventing fraud and perjury, to make the duties specific whenever the article is of such a uniform value in weight or measure as to justify such a duty. Legislation should never encourage dishonesty or crime. It is impossible that the revenue officers at the port where the goods are entered and the duties paid, should know with certainty what they cost in the foreign country. Yet the law requires that they should levy the duty according to such cost. They are therefore compelled to resort to very unsatisfactory evidence to ascertain what that cost was. They take the invoice of the importer, attested by his oath, as the best evidence of which the nature of the case admits. But every one must see that the invoice may be fabricated, and the oath by which it is supported false, by reason of which the dishonest importer pays a part only of the duties which are paid by the honest one, and thus indirectly receives from the Treasury of the United States a reward for his fraud and perjury. The reports of the Secretary of the Treasury, heretofore made on this subject, show conclusively that these frauds have been practiced to a great extent. The tendency is to destroy that high moral character for which our merchants have long been distinguished; to defraud the Government of its revenue; to break down the honest importer by a dishonest competition; and, finally, to transfer the business of importation to foreign and irresponsible agents, to the great detriment of our own citizens. I therefore again most earnestly recommend the adoption of specific duties, wherever it is practicable, or a home valuation, to prevent these frauds.

"I would also again call your attention to the fact that the present tariff in some cases imposes a higher duty upon the raw materials imported, than upon the article manufactured from it, the consequence of which is that the duty operates to the encouragement of the foreigner and the discouragement of our own citizens."

I will not so stultify the American Congress as to say that we are to look to the White House with implicit faith, without proper inquiry, upon this or any other subject, whether a Whig or Democratic President may fill the chair. We are to legislate for the whole Union; and this great question of the tariff addresses itself to all the members of this House, whether Democratic or Whig. I am glad it is not a Democratic or a Whig measure. Many members of the Democratic side, to their honor, as well as members upon the Whig side, sustain the principle of protecting American labor and American manufactures against the combinations of foreign labor, and foreign capitalists, and foreign legislation; and they go for specific duties where they can be had. They go for a home valuation, to prevent frauds upon your Treasury.

But, sir, I think it is due to the President of the United States that this part of his message should not only be referred to the Committee on Ways and Means, but that they should be instructed to inquire whether we can with propriety adopt a discriminating protective policy, specific duties, and a home valuation, to prevent the enormous frauds upon your Treasury, and in raising a revenue so modify the present tariff as best to protect American labor in all its departments.

[Here the hammer fell.]

Mr. VENABLE. It seems to be conceded on

all hands that the tariff of 1846 yields more revenue than the interests of the country require. Gentlemen on all sides of the House admit this. Indeed, some of those who foresaw a bankrupt Treasury under this system, now admonish us of the danger of a surplus accumulating in the public coffers. This evil is simply imaginary. The best stock which an individual can purchase is to be found in his own bonds, the evidences of his own indebtedness. This is equally true of a State. There is no difficulty in purchasing the bonds of the Government which are to fall due in a short time, and cannot possibly demand a high premium in the market.

If the tariff of 1846 yields more revenue than the country needs for the current expenses of the Government, it is our duty, as wise legislators, to put a stop to the evil. It is an absolute evil for any Government to raise more by taxation than for the supply of immediate wants. If the Treasury is becoming plethoric, we have it in our power to reduce this tendency by diminishing taxation—by cutting off some of the sources of this mischievous accumulation. But, sir, in doing so, it is wise as well as just, to select some leading article as the subject of reduction, which, whilst it remedies the evil, will be felt as benevolent legislation by all the people who dwell in our borders—which will not only benefit classes, but be felt in its salutary influence from the humble cottage of the laborer to the luxurious dwelling of the rich. Iron is such an article. I am for admitting all iron free. Not the railroad iron alone—not the iron which corporations use to the exclusion of the laborer's wedge and axe, his plough and plantation tools, the pot in which he boils his meat, and the oven in which he bakes his bread. It is true, that whilst I shall vote for any reduction upon iron, and ardently desire to see railroad iron admitted free, I greatly prefer a general relief upon the whole subject. I feel the necessity of curtailing the revenue, which is excessive. Take away the taxation which produces the surplus, and the evil ceases to exist. It is a great achievement in legislation, when the people feel it to be benevolent. Nothing so much endears them to their rulers as the conviction that their policy looks to the removal of burdens; when, like the dew of Heaven, its mild and refreshing influence is felt alike by the exalted and the humble—the poor as well as those who have accumulated wealth.

I am opposed to the amendment of the gentleman from Maine, [Mr. WASHBURN,] as well as that offered by my friend from Ohio, [Mr. TAYLOR.] If we send this subject to the Committee on Ways and Means this short session, it may come to a report, but that report will sleep the sleep of death upon your table.

The subject was introduced by a friend of a protective tariff, the gentleman from New York, [Mr. BROOKS;] he placed before us a discriminating free list, and yet when we propose to add iron to that list a clamor is raised against discrimination. In my simplicity I thought that they were the discriminators; that they taught discrimination for protection; how clearly does this disclose the shallowness of the pretext; how inconsistent the whole policy of the advocates of protection. The tariff is first denounced as utterly insufficient for the production of revenue, then complained of as producing a surplus; gentlemen then introduce an extended free list to prevent the accumulation of a surplus, discriminating for that purpose, but which in practice will be of but little avail; we propose to extend the list by adding an article which will really, and to some effect, reduce the revenue, and they cry out against discrimination. His list includes brimstone and dye-stuffs, and fruits and other inconsiderable items benefiting manfacturers chiefly; we add iron, which is the great agent of civilization, necessary to every branch of human comfort and industry, and they are filled with horror at discrimination. This is a subject, sir, which the people can easily understand; this gauze is too thin to cover it, the whole is too transparent.

Sir, the tariff of 1846 has disappointed all its adversaries, and is yielding too much revenue. They are now afraid of the accumulation in the Treasury. That is right. The proper place for the people's money is in the people's pockets, except so much as is necessary to administer the Government economically. Let us wake up to this subject.

I am in favor of free trade as our ultimate policy, but I do not believe the country is ready to abolish imposts now. Such a policy would be premature and unwise at present. In this matter the people will see their interests, and lead the politicians. Experience will disclose all that is needful, and when once they are satisfied of their interests they will command their agents, and they will obey. The necessity of arresting extravagant expenditures and rebuking waste will be more and more apparent. The evils which arise out of too much revenue have not been so sensibly felt, because the money has been collected by this sort of insensible taxation, but the whole will ere long be understood. I am for no sudden or violent change, but would treat the political evil as a wise physician would a complicated disease. I would pursue an expectant course, and so prepare the public mind for the great remedy. I know that the people are equal to the work of reform, and that if they felt that they actually paid the enormous sums which now enrich favored classes by the agency of imposts, suffering the double evil of supporting the expenses of Government, and pouring wealth into the laps of those who are enriched by the operation of discriminating duties, they are sagacious and firm enough to apply an effectual remedy.

The question being upon the adoption of the amendment to the amendment,

Mr. TAYLOR called for tellers; which were ordered.

Mr. CARTTER. Would it be in order to call for the reading of President Fillmore's last message, as it is referred to in the resolution?

The CHAIRMAN. The Chair thinks it would not be in order.

Messrs. TAYLOR, and JONES of Tennessee, were appointed tellers.

The question was then taken, and the tellers reported—ayes 46, noes 82.

So the amendment of Mr. TAYLOR was not agreed to.

Mr. DUNCAN offered an amendment to the amendment of Mr. CLINGMAN, by further instructing the said committee to report the following bill:

An Act to reduce the duties on certain articles, and to exempt certain articles from duty:

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the first day of March next, in lieu of the duties heretofore imposed by law on the articles hereafter mentioned, imported from foreign countries, there shall be levied, collected, and paid, the following duties, that is to say, on coarse wool, unmanufactured, the value whereof at the place whence exported to the United States, shall be ten cents, or less, per pound, there shall be levied a duty of ten per cent. *ad valorem*, and on unmanufactured flax, a duty of eight per cent. *ad valorem*.

SEC. 2. *And be it further enacted*, That in addition to the articles now exempted from duty, the following articles shall, from and after the first day of January next, be exempt from duty: Raw silk, not more advanced in manufacture than singles, tram, or organzine, indigo, berries, nuts, and vegetables used principally in dyeing, or composing dyes, all dyewoods in stick, Brazil wood, cochineal, gum arabic, gum tragacanth, gum senegal, kelp, kermes, lac dye, madder, madder root, garancine, shellac, sumac, weld, turmeric, gutta percha unmanufactured, cutch, terra japonica, alconorque, Peruvian bark, crude brimstone, grindstones, burr stones unwrought, clay unwrought, palm leaf unmanufactured, and emery stone.

Mr. DUNCAN. I should like the attention of the House for a moment; for if gentlemen understood the subject, and were really informed in regard to the propositions contained in my bill, I think they would meet their approbation. They certainly ought to meet the favor of the friends of free trade, and of those who think that we have a surplus revenue, and that the revenue ought to be reduced.

I trust that gentlemen in this House do not entertain a feeling of hostility to our manufacturing establishments. It will be recollected that they were called into being at the instance of those, many of whom have ceased to be their supporters and friends, and it should be remembered, at the same time, that a vast amount of capital has been embarked in these undertakings. A large portion of our population are dependent upon them for their daily support, and there is perhaps no branch of business prosecuted in the country which, as a whole, has made so poor returns as that of manufacturing.

But I do not recommend this change for the benefit alone of those interested in manufacturing establishments, but for the benefit of the whole people; for whatever tends to cheapen the price of manufactured articles, tends to the benefit of the whole people; and it is an undeniable fact, that the competition which exists between the manufacturers of this country and the manufacturers of foreign countries, tends to reduce the price of manufactured articles. Looking, therefore, to the interest of the people, it is our duty to favor their protection, and to sustain our infant establishments in such a way that they may be enabled to prosecute their labors with success, and maintain a successful competition with the productions of foreign countries, and in that way cheapen manufactures to the whole American consuming population.

I believe, sir, it is an undeniable fact, that wherever the manufacture of an article has become well established in this country, the article has been improved in quality and cheapened in price. It may be said, to be sure, that the article would have been cheapened by the advance of improvement and skill in foreign countries. But I say, without fear of contradiction, that the talent and inventive genius evoked in this country, applied to the improvement of machinery, has acted and reacted upon foreign countries, and in that way the cost of production of the various articles of manufacture has been reduced, which, without that influence, would not have been reduced.

I have no time to go into general considerations. The bill is plain in its provisions. It proposes to reduce the duties on wool of a coarse quality, and of a cheap price, from thirty per cent. to ten per cent. Now, why should this be done? And first, I take this opportunity to set myself right before the House against a misrepresentation, unintentional, no doubt, made by the gentleman from Ohio, [Mr. STANTON,] that the proposition I made the other day was to *abolish* the duties on wool and flax.

Sir, I made no such proposition. My policy is to favor every interest of this country, in the imposition of duties, and the agricultural interest above all others. But I say, with the facts before me, I believe that, by reducing duties on coarse and cheap foreign wools, the manufacturing establishments of this country—the worsted, the carpet, and other coarse woolen manufactories—would be greatly relieved, and the interests of the people at large promoted at the same time, without prejudice to the growers of wool. My proposition is to reduce the duty on coarse wool, costing ten cents or less at the place whence exported, from thirty to ten per cent. It is a description of wool which is not, and is not likely, to be produced in this country. And the whole product of wool in the United States is not sufficient to supply the demands of the manufacturer. While the wool produced in the year ending June 1, 1850, is stated to have been 52,518,143 pounds, the quantity consumed was 70,862,829 pounds. The manufacturer is compelled to import about twenty millions of pounds annually, both to supply the deficiency of the home product, and because cheap wool is essential to the manufacture of worsteds, carpets, and coarse woolens, in successful competition with the manufactures of other countries. Shall our manufacturers be compelled to pay a duty of thirty per cent. on this description of wool, not produced in the United States, when foreign worsteds pay a duty of only twenty-five per cent., and blankets a duty of only twenty per cent., and while our principal competitor, England, admits wool at a merely nominal duty? The best protection which the American wool-grower can have, is the extension and prosperity of woolen manufactures in this country.

My bill proposes to reduce the duty on flax to eight per cent., which would be as high as the rate of duty (twenty dollars per ton) imposed by the tariff of 1842. And I am not aware that any complaint was made that that rate of duty did not afford sufficient protection to the flax-grower. Certain it is, that the increased rate of duty has not produced an increased culture of flax; for that is now inconsiderable. And the quality of American flax is not good enough for the manufacture of thread and other articles to compete successfully with foreign manufactures of the same article. The manufacturer is compelled to import a portion of his flax at a price higher than that of American flax, and at a duty, under the present tariff, amounting to from thirty-five to forty-five dollars per ton. And the effect is to discourage attempts

to manufacture flax in this country. Remove this obstacle, and manufactories of linen would spring up, the demand for American flax and its production would increase and become profitable, and its quality would be improved.

My bill proposes to admit raw silk, which now pays a duty of fifteen per cent., free of duty. Our infant establishments for this manufacture are compelled to depend on foreign countries for the raw material. In the year ending 30th June, 1851, the value of raw silk imported was $448,198, and the whole quantity of silk cocoons produced in this country in the year ending June, 1850, is stated to be only 14,843 pounds. If it is desirable to promote the manufacture of silk at home, and diminish the debt which we are annually contracting to foreign countries by the importation of millions in value of silk goods, (and of this there ought to be no difference of opinion,) then it is desirable to remove this obstacle to the progress of our silk manufactures.

My bill further proposes to add to the free list a variety of articles not the growth or produce of this country, which now pay a duty of from five to twenty per cent. It includes dyes, dye-woods, and drugs which enter into the composition of dyes, and the composition of acids, and which are extensively used in the manufacturing and mechanical establishments of the country. By doing this, we should imitate the example of England, which, while burdened with debt and taxation, fosters and aids her manufactures as the chief source of her prosperity and power. Pass this bill, and while it would not reduce the revenue more than half a million of dollars, it would afford the most material aid to our depressed manufactures, and by cheapening the cost of production, would tend to cheapen the cost to every consumer.

One word, Mr. Chairman, upon the proposition before us to make railroad iron free of duty, and I have done. The effect of this measure would be to put a stop to the manufacture of railroad iron in this country, when the present contracts shall be filled, and to leave us at the mercy of the English iron-master. It would be, in effect, to transfer the amount of duty from our Treasury to his pocket. The competition between the home and the foreign manufacturer would be far more likely to keep down the price. And whoever examines the facts with a candid mind, will be brought to the conviction, that had the manufacturer of iron in this country been properly protected, it would now be produced in such quantity as, with foreign competition, to have prevented any great enhancement of the price.

Mr. EWING. I am opposed to the amendment offered by the gentleman from Massachusetts, [Mr. DUNCAN,] and to all similar amendments, or to their introduction, at all events, at the present time, believing them impracticable in themselves, and calculated to defeat a good purpose. I am, as I declared myself at the last session, in favor of abolishing the duty on railroad iron. I believe, sir, that policy can be sustained even under the principles of protection. The object of protection is to build up manufactories, that manufactured articles may be in the future made cheaper and better in this country, or that we may be in the time of war independent. We are looking to no such period in the future as that. We do not expect to see railroad iron, by protection, manufactured in the future with a nicer skill. And now is the time when we require it cheap, and when great interests are suffering because it is not cheap.

As to the skillet and hoe argument, referred to already, it only goes to show that the duty on hoes, skillets, and axes ought to be abolished ae well as the duty on railroad iron, if it shows anything. Like those arguments which are ever opposed to every reform, we are told that "nothing should be done because everything cannot be done." Besides, the difference is, that many important roads may not be built at all without some such encouragement as this proposed. The object is not to benefit monopolies. Railroads must remain monopolies confined to those sections where there is abundant capital, unless we have some such aid as this. The intention is to benefit sparsely populated portions of the country, where, on account of the scarcity of capital, and the difficulties of combination, it is impossible to construct roads without some such aid. The proposition is intended to benefit the agricultural community, not by giving them a bonus, but by simply removing a burden.

This is the object, and not to benefit monopolies. I favor it, then, as a question of reform, for the benefit of the whole country, and especially that portion of the country which ought, above all others, to occupy our consideration, and because no considerable portion of the community can probably ever, at any future period, be benefited by the imposition of this tax.

As for the argument of the gentleman from Pennsylvania, [Mr. GROW,] going to show that all articles ought to be taxed, as this is the only tax imposed by the Government, it is one against the discrimination between luxuries and necessities, or anything else. If he is right, then let us have direct taxation, in which all are taxed alike. That argument, of course, is not to be applied to this subject. We discriminate, and the reason why a tariff is acceptable at all as a mode of raising revenue, is because we can and do discriminate between luxuries and necessaries, imposing burdens upon those persons and those articles most able to bear them.

Mr. CARTTER. Mr. Chairman, is an amendment in order?

The CHAIRMAN. An amendment is not in order, as the pending proposition is an amendment to an amendment.

The question was then taken on the amendment of Mr. DUNCAN, and it was rejected.

Mr. MEADE. I offer the proposition which I send to the Chair as a substitute for the one submitted by the gentleman from North Carolina as amended.

The CHAIRMAN. There is pending a substitute offered by the gentleman from Maine, [Mr. WASHBURN.] Either of the propositions is now open to amendment.

Mr. MEADE. I then offer the following as an amendment to the substitute:

And said committee is instructed to report a bill reducing the duties on railroad iron to that point which, in their opinion, would insure as much revenue, and no more, as was received from the importation of railroad iron during the last fiscal year.

Mr. MEADE. I think from the votes which have been taken in this committee, and especially that which adopted the amendment proposed by the gentleman from Tennessee, [Mr. JONES,] that it is the purpose of this House not to reduce the tariff on iron, and therefore it is that I have offered this amendment. The increased price of railroad iron will certainly increase the revenue from that article very extensively. It is the desire of a majority here either to reduce the revenue, or at least to prevent its increase. The proposition which I make is, that the Committee on Ways and Means shall so regulate the duty on railroad iron as to limit by reduced duties the revenue from it to its present amount.

The question has been frequently asked, why not protect the manufacture of railroad iron as well as railroad companies? I answer, because the one benefits the consumer by lessening prices, while the other increases them. The one benefits the many, while the other benefits the few, and is at least an approach towards more freedom of trade. The duty on iron increases the price of the article to the consumer everywhere. The exemption of railroad iron either partially or wholly from duties may be regarded by some as an incidental protection to railroad companies; yet it inures to the benefit of the consuming classes by reducing the cost of transporting everything on the road. The present duty is highly protective with present prices, and when the question is between protecting one class with high duties, or another with low, I cannot hesitate, especially when every other class partakes of the benefit.

But, Mr. Chairman, there is no inconsistency in exempting an article from duty by which all others, entering into the general consumption of the country, are incidentally reduced in price. It is rather in pursuance of the principles of free trade. You only depart from those principles when you select an article for exemption, in which only a class of the community is interested. When you exempt railroad iron from duty, or reduce the duty on it, there is not a class in the community that is not benefited to a greater or less extent; every man either travels on railroads, or pays a tax to them for transportation. Now, the cheaper the railroad, the less will be the charges. I consider the amendment I have offered a sort of compromise between those who want to continue the present protection on railroad iron, and those who wish to exempt it altogether.

Mr. SKELTON. I am opposed to this resolution for two reasons, and for those two reasons I am opposed to the reduction of the tariff at the present time.

My first objection to the proposition is, that it embraces a principle of discrimination in favor of associated capital. I am in favor of so assessing the duties on imports, for the purpose of raising revenue, as to have the tax bear equally on all classes. Equality of laws, equality of protection, and equality of taxation, is a principle which should govern every true patriot of the land. And for that reason, I am opposed to any discrimination in favor of railroads. It is said that the proposition, by encouraging the construction of railroads, will cheapen fares, and thus benefit the great mass of the people who ride over railroads. Now, this presumption is gratuitous. The difference in the construction of railroads, in consequence of the small reduction of duty, would not promote the reduction of fare; and hence, sir, this argument is futile, and falls to the ground, whilst the main argument presented against the proposed discrimination still has all its force.

I am opposed to the reduction of the duties on foreign imports at the present time, because I believe the revenue of the country is not greater than is demanded for its wants. We have a national debt, as has already been stated, and it is our duty to discharge that debt. It will be time enough, after it has been paid off, if we find a surplus revenue still accumulating, to reduce the tariff. But I doubt whether the time will ever arrive, under the present tariff, when we shall have more revenue than will be needed for the necessities of the Government. Our commerce and revenue is fluctuating, and because we have a surplus revenue this year, it is no argument that we shall have one next year.

There is a principle of justice involved in this question. Our revenue laws should be permanent. Changes should not be made from year to year, because they operate oppressively and unjustly upon the laborer and capitalist of the country. Our tariff laws should be as permanent as the circumstances of commerce will warrant. If, after inducing a man to engage his capital in manufacture, by the assessment of a high duty on imports, you strike from him the incidental protection which the mode of raising the revenue to the country would afford it, and thus sink his capital, you perpetrate an outrage on him. You rob him of the capital he has invested.

In addition to all that, I object further, because by the tariff of 1846 you have and still continue to congregate a large number of laboring men in the manufacturing establishments. They, under the fluctuating policy of the country, are feasted to-day and to-morrow starved for want of employment. By the reduction of the tariff, you break down the manufacturers of the country, and, as a consequence, hundreds of thousands of industrious men are thrown out of the employment on which they are dependent for subsistence, and reduced to beggary and starvation. We should always be governed by principles of justice. We should guard not only the capital of the country with jealous care, but we should guard the interests of the great laboring classes of the country.

[Here the hammer fell.]

The question was then taken on Mr. MEADE's amendment to the substitute, and it was decided in the negative.

Mr. FICKLIN. I offer the following amendment:

1. That the Committee on Ways and Means be instructed to inquire into the expediency of reporting a bill as soon as compatible with their present duties, so modifying the tariff act of 1846 as to equalize the burdens of Government, by reducing the duty or tax *pro rata* upon each article now taxed, as nearly as may be, to a strictly revenue standard.

2. That the said committee shall adhere closely to the *ad valorem* principle, and that everything in the shape of *specific duties* be *specifically excluded* from said bill.

3. That an extended free list of a class of favored articles, producing a consequent increase of duty or taxation upon another class of articles less favored, is unsound in principle, as tending to distribute the burdens of Government unequally and unjustly, by imposing the heavier taxes upon those least able to bear them; and that said committee be instructed to avoid in the said bill, as far as practicable, every-thing like partial or class legislation; and that they

extend as far as possible equal rights to all sections of the country, and to all classes of community.

I offer this amendment in good faith; I desire that the tariff of 1846 should be modified by reducing the taxes which it imposes upon the imports of the country. It is admitted upon all hands that that act produces too much revenue; if that be the fact, if it does produce too much revenue, it is time that a change was made and that excessive burdens were taken off the consumers of imports into this country. I understand it to be admitted by all, that that provision in the Constitution which authorizes a collection of duties on imports is strictly a money power; if so, all tariff acts framed under the provisions of that Constitution should have an eye exclusively to the raising of revenue; that is the legitimate object of it; and whenever you attempt to favor a particular class of individuals, or foster a particular interest, you certainly depart from the spirit of that provision in the Constitution. It was given for the purpose of enabling the Government to be carried on—for the purpose of furnishing the necessary supplies to the Treasury, and not for the purpose of oppressing one particular class of individuals, while you are building up, fostering, and pampering another. I know it is said by a great many gentlemen upon this floor, that this is the wrong time to agitate this question. I differ from them; I believe that the time to agitate this question is the present moment, because it is now determined by the action of the tariff of 1846, that it does produce too much revenue; that the revenue is fast accumulating in our Treasury; that it has already reached $7,000,000, and promises in a short time to reach $20,000,000. That being the present and prospective condition of your Treasury, it is important, in my judgment, that action should be taken on the tariff, and taken now. I should greatly prefer that the Committee on Ways and Means, charged with this whole question, should report a bill; and I should prefer this plan to the proposition suggested by the honorable gentleman from New York, [Mr. BROOKS,] of raising a select committee for that purpose. I desire that the Committee on Ways and Means—that committee which is responsible for the revenues of the Government, which is responsible for the treasures of this Government—devise the plan by which this question of revenue shall be regulated and adjusted to the wants of the country. I desire that the receipts into our Treasury should be less by some ten or twenty millions per annum, than they are at this time. I desire that the expenditures of this Government should be reduced from forty-six or fifty millions, or whatever the amount may be, to a smaller amount, certainly not to exceed thirty millions. I desire that there should be no large accumulation in the Treasury for the purpose of tempting those who have the custody of the public money to act improperly with it.

[Here the hammer fell.]

Mr. HOUSTON. I did not intend to take part in the five minutes debate on the resolution which I had the honor to submit several days since. I had been in hopes, for the last two or three sittings of this committee, that we would get through with this branch of our duties, which seems to me to be rather a preliminary branch than otherwise, so that we could proceed to the regular business of the session. This is a short session, and towards the close of it the city will be full of visitors in all probability, occupying much of our time and attention, and I think we should press through the necessary business before that time.

Mr. CARTTER. I rise to a question of order. I suggest to the Chair, whether the gentleman is in order.

Mr. HOUSTON. The gentleman is too late. I am so nearly through with what I intended to say as preliminary, that I will give up the balance.

Mr. CARTTER. Then I am just in season. [Laughter.]

Mr. HOUSTON. I am opposed to any interference with the tariff at this time. I believe, with those gentlemen who have discussed this subject on my own side of the House, that at the next Congress it will not only be important, but essentially so, that a thorough and entire revision of the tariff should be made. I have not the most remote doubt upon my mind that many of the present duties are too high for revenue purposes, and should be reduced. In some cases the adjustment of duty between the raw material and the fabricated article is not fair and proper, and in the revision, I would look to and correct these defects. I would construct a tariff with a view to revenue, and upon such principles within the revenue standard as at the time I might consider proper and right under the circumstances. But I have not the fears as to a large surplus which other gentlemen seem to entertain. I have no alarm from the prospect of a large surplus remaining in the Treasury. I regard that as more of a delusion than a reality, and when you make the examination you will agree with me. When you come to count the coin, the twenty millions, of which we have heard so much, will not be there. I do not mean to say that there is no surplus. On the contrary, I believe there is a surplus, and a larger one than should be kept in the Treasury idle and unproductive; but in the regular action of this Government you are compelled to keep at the command of the Treasury some three or four millions. You cannot well get along with less, and under a law of the Thirty-first Congress, your Mints have to pay in coin, to the depositor of bullion, the value of the bullion, without requiring him to wait for its coinage; and under the operation of that law, as construed and carried out by the Treasury Department, you are required to keep at the Mints, for that purpose, from two to four millions. I may be mistaken in the amount, but such is my recollection. Then, within the next fiscal year, you have not only to pay near four millions of debt and interest, but you have a debt of about six millions and a quarter which will fall due, and must be paid. Then what becomes of your surplus? You will have no more than you need.

But suppose we had all of this amount. Suppose at the end of this fiscal year we may have twenty millions of dollars—ten of it will be reqired to pay the debt then falling due, together with other debts assumed by, and due from the Government, and the interest upon that which is not then due; then the surplus necessary to be kept on hand will not leave much to be used in purchasing any portion of our other indebtedness. We have the authority of law to purchase our debt at any time, and before I would have an unnecessary surplus on hand, I would buy it. But I regard it as improper for us at this session to make any radical change in our revenue system. It is not usual for an outgoing Administration, which owes its defeat in part, to the very questions growing out of the management of the fiscal affairs of the country, to abridge the margin which ought to be allowed to the incoming Administration. The incoming Administration should be left free to select and submit its own mode of paying the public debt—of discharging this large liability upon the country. We are indebted over sixty millions of dollars, and you propose now, that we shall reduce the revenues twenty millions of dollars, in the language of the gentleman from Illinois, [Mr. FICKLIN,] which will be in truth below the ordinary expenditures of the Government, allowing nothing beyond the ordinary expenses. If you do this, in what condition will General Pierce, when he comes into power—in the beginning of his administration—find the fiscal affairs of the Government? If your proposition shall succeed, he will find the Government largely indebted, and not only without the money to pay it, but with no revenues beyond the actual ordinary expenses of the Government. Suppose he should desire to buy our bonds.* Has he the means to do it? Suppose he shall propose to create a sinking fund, by buying sound stocks, or in any other way. Could he do so? Any of these propositions would require that he should have money or an accruing revenue beyond present wants; but instead of that, you cripple him, you take from him the means of paying the debt, and then expect him to relieve the country from the burdens growing out of that indebtedness. Gentlemen need not alarm themselves upon this subject. It is due to the incoming Administration that they should at least leave things in a condition to admit of a choice of modes—of remedies to be applied. It is due to the incoming Administration, even if you do not put it upon the ground that it is necessary and important, in the revision of an important and delicate question like this, which bears upon all the interests of the country, that there should be a sympathy between the Legislative and Executive branches of the Government, so that when committees of this House shall apply to the Departments for information, they will be met by sympathy of feeling and opinion, which will throw into their hands the entire information upon the precise points that need elucidation, and not by an Executive differing upon the essential features of a system of revenue. At the next Congress we will have not only a free-trade Congress, but a free-trade Executive; then is the time to act, and not now.

[Here the hammer fell.]

The question was then taken upon Mr. FICKLIN's amendment, and it was rejected.

The question was then taken upon the substitute offered by the gentleman from Maine, [Mr. WASHBURN,] and it was rejected.

The question was then taken on Mr. CLINGMAN's amendment, and it was rejected.

The question then recurring upon the adoption of the second resolution, it was taken, and agreed to, as follows:

"*Resolved*, That so much of said message as relates to the existing tariff, and recommends a revision and change of its provisions; so much as relates to the general condition of the Treasury and finances of the Government; to the revenue and prevention of frauds in its collection; the public debt and its payment; the estimated receipts and expenditures for the ensuing fiscal year,—be referred to the Committee on Ways and Means."

The third resolution was then read, as follows:

"That so much of said message and accompanying documents as relates to the condition and operation of the Army of the United States, and recommends an increase of the same; as relates to a revision of the present system of fortifications; to a retired list of officers who may be unfit for duty, together with the report of the Secretary of War,—be referred to the Committee on Military Affairs."

Mr. HENN moved that the committee rise.

The question was taken, and it was not agreed to.

The question was then taken, and the third resolution was agreed to.

The fourth resolution was then read, and adopted, as follows:

"That so much of said message and accompanying documents as relates to the Navy of the United States, its condition and operation; to the establishment of a permanent corps of seamen; to the reorganization of the Naval Academy; to the establishment of a corps of apprentices for the Navy; to a retired list, together with a report of the Secretary of the Navy,—be referred to the Committee on Naval Affairs."

The fifth resolution was then read by the Clerk, and adopted, as follows:

"That so much of said message as relates to the appointment of a commission to revise the public statutes of the United States; to the establishment of a uniform fee bill; to the appointment of a commission to settle all private claims against the United States; to the preservation and protection from mutilation or theft of the papers, records, and archives of the nation; to the prevention of frauds upon the Government in applications for pensions and bounty lands; as recommends that provision be made by law for the punishment, not only of those who shall accept bribes, but also of those who shall either promise, give, or offer to give, to any officers or clerks, a bribe or reward, relating to any matter of their official action or duty; to the publication of the results of the Seventh Census,—be referred to the Committee on the Judiciary."

The sixth resolution was read, as follows:

"That so much of said message and accompanying documents as relates to our intercourse with the Indian tribes, be referred to the Committee on Indian Affairs."

Mr. JOHNSON, of Georgia. I desire to offer the following amendment to that resolution:

And that said committee be instructed to bring in a bill authorizing and directing the Secretary of the Treasury to pay to certain tribes of Indians, (their consent being thereto first had,) the several amounts of money agreed, by treaty stipulations, to be invested in stocks, and which have not been paid, and also the further amount stipulated to be furnished by certain other treaties.

Mr. JOHNSON. Mr. Chairman, this Government has concluded at various periods certain treaties with different tribes of Indians, by which it has bound itself to pay, or have invested for their use, a certain amount of money. Some of the treaties were concluded fourteen years since. We have stipulated to pay for their benefit, in all, about $4,000,000, all of which is now bearing interest, and on which we have already paid interest to the amount of $2,000,000. And we have stipulated to continue to pay this interest for an indefinite number of years. Now, I propose—the consent of the Indians being obtained, and there being a large surplus in the Treasury—to discharge these debts to the Indians, by paying them some specific amount in lieu of this annual amount of interest. I am for the payment of our honest and just debts; and while the tariff laws are not modified and there continues to be a surplus in the

Treasury, I desire to see that surplus applied to the extinguishment of our national debt. Now, with the consent of these Indians, we may discharge our obligations to them, and in this way dispose of a portion of this surplus in the Treasury. For the purpose of securing this object, I have offered this amendment, which I hope will be adopted.

Mr. JOHNSON, of Arkansas. I ask that the amendment may be read.

It was again read by the Clerk.

Mr. JOHNSON. This amendment embraces a matter which I do not know has ever been under discussion before in this House; and for my own part, I am utterly unable to say whether it would be wise to adopt it or not.

Mr. JONES, of Tennessee. If the gentleman will allow me, I will suggest to the gentleman from Georgia who offered this amendment, that he so modify it as to make it inquire into the expediency of such a course.

Mr. JOHNSON, of Arkansas. That is precisely what I was going to propose.

Mr. JOHNSON, of Georgia. I am willing to accept the suggestion, and will so modify my amendment.

Mr. JOHNSON. If the gentleman will allow me, I will make a single remark in regard to the subject-matter of the original amendment. I perfectly concur in the opinion that something of the kind should be done. The system we have pursued in making our Indian treaties, is the most wretched that could possibly have been pursued, particularly in regard to these perpetual annuities which have hitherto been granted.

These tribes of Indians are rapidly going out of existence. Many of them, from thousands, have been reduced down to one hundred souls—the whole tribe not amounting to more than that—yet still these annuities must continue the same. The Government are bound to pay it to the tribe, and it will continue payable so long as there is a single individual of the tribe remaining—after the others have died off, or have gone and mixed themselves up with the other tribes. Some of the tribes have abandoned their organization as tribes, and have become citizens under our laws.

Now, if this resolution can be brought, or some enactment made in connection with it, which shall prevent hereafter the making of any treaty providing for a perpetual annuity, or which shall provide that such annuity shall cease to be paid after the tribe shall have been reduced to such a number, or which shall so arrange it that the annuity shall be paid *per capita*, I believe it would be the best policy which could be pursued. But this subject is entirely a new one here, and I am unable to say what ought to be done. I do not think this policy could be carried out without a great deal of cost to the Government.

The amendment as modified was then agreed to, and the resolution adopted.

The seventh resolution was then reported and adopted, as follows:

"7. That so much of said message and accompanying documents as relates to the Post Office Department, its condition and operation, together with the report of the Postmaster General, be referred to the Committee on the Post Office and Post Roads."

The eighth resolution was reported, as follows:

"8. That so much of said message as relates to commerce and the improvement of harbors, be referred to the Committee on Commerce."

The CHAIRMAN stated that to this resolution the following amendment was pending, offered by the gentleman from New York, [Mr. SEYMOUR.]

"Insert after the word 'harbors,' the word 'rivers,' in the eighth resolution, and strike out so much of the tenth resolution as refers the subject of rivers to the Committee on Roads and Canals, so that if the amendment were adopted, the eighth resolution would then read:

"That so much of the said message as relates to commerce and the improvement of harbors and rivers, be referred to the Committee on Commerce."

Mr. KING, of New York. My colleague, [Mr. SEYMOUR,] who offered that amendment, is not now present. I have sent for him, and I presume he will be here in a few minutes. I ask that the resolution may be passed over for the present.

The resolution was accordingly passed over.

The ninth resolution was then read, as follows:

"9. That so much of said message and accompanying documents as relates to the public lands, their survey and sale; to the establishment of land offices for the sale of public lands in California and the Territory of Oregon, be referred to the Committee on Public Lands."

Mr. JOHNSON, of Tennessee. I move the following amendment to that resolution, to come in at the end thereof:

Resolved, That so much of the President's annual message as relates to the public lands be, and the same is hereby, referred to the Committee on Agriculture, with instructions to report a bill to the House, graduating and reducing the price of the public lands, and prohibiting the further sale of the same, to all persons other than those who shall become actual settlers and cultivators of the soil, and to them only in limited quantities.

Mr. JOHNSON said: There has been much said here in relation to the surplus which seems to have accumulated in the Treasury, and some gentlemen seem to have worked themselves into an agony, as to what they will do with this surplus. Now, this seems to me to be the most propitious time which has presented itself for legislating upon this important subject; and legislating upon this subject in the manner proposed in this resolution, will have the effect to prevent this plethora of which gentlemen seem to be so much afraid.

The receipts into the Treasury from the sales of the public lands amount to about $2,000,000 per year. Now, if this policy be adopted, and the sales of the public lands limited to the cultivators of the soil, the probability is strong, that the receipts from that source will be somewhat diminished. If we adopt this policy, therefore, it will have the effect to diminish the $20,000,000 of surplus in the Treasury by about $2,000,000; and in diminishing the receipts into the Treasury by this amount, it will confer a benefit upon the country.

Now, there has been much said upon one hand in favor of excluding the duty upon railroad iron, and great sympathy is felt for those men who are engaged in constructing these roads. Great sympathy is felt for the capitalists of the country; and some sympathy should be felt for this class of persons whom I seek to benefit by this resolution. Now this is peculiarly a favorable time to graduate and reduce the price of the public lands, and confine their sale to actual settlers, thereby setting apart this vast public domain of ours for an abiding place for the American people. This is the true policy for the Government. Now, while we have this surplus in the Treasury—now while the time is auspicious, in connection with the project which has gone before us, extending a homestead to those who will go there and occupy the lands—now is the time to secure the lands to those who will become the cultivators of the soil, and to keep them out of the hands of monopolists and speculators.

It seems to me this would be the best means by which you would get clear of a portion of the surplus that has accumulated in the Treasury. By adopting this policy you build up and strengthen a certain portion of society; and by building them up you not only elevate their position in society, but you strengthen their confidence in, and increase their affection for, their Government, which is a very important matter. I think by the adoption of this resolution, and by an amendment which I intend to offer before these resolutions shall be reported to the House, we shall still further reduce the revenue of the country. I propose to reduce the duty upon salt, which is consumed by the poorest man in the country, and upon sugar, which is also consumed by the poorest man in the country. Now, if you take these two articles and put them upon the free list, and confine the sales of your public lands to the actual cultivators of the soil, you will greatly decrease the receipts into the Treasury, and at the same time furnish the best mode which could possibly be devised for disposing of the surplus now in the Treasury.

Mr. HALL here obtained the floor.

The CHAIRMAN. The House passed over the consideration of the eighth resolution, until the gentleman from New York [Mr. SEYMOUR] should come in. That gentleman is now in his seat.

Mr. JONES, of Tennessee. Let us dispose of this one, and then take up that.

Mr. HALL. I wish to notice the resolution introduced by the gentleman from Tennessee, [Mr. JOHNSON.]

The CHAIRMAN. The gentleman from Missouri will not lose his right to the floor by taking up the eighth resolution.

The eighth resolution, with the pending amendment, as above inserted, was then taken up and considered.

Mr. SEYMOUR, of New York. I have little to say in reference to this subject, but to state in general terms the object which induced me to offer this amendment.

The amendment proposed to the resolution, as the committee will see, provides that the subject of such improvements as may be necessary, if any are, for the rivers of the country, shall be referred to the consideration of the Committee on Commerce, as well as those matters which pertain to harbor improvements. The resolution as it stands originally, would refer to them only the consideration of harbor improvements. The resolution as proposed to be amended, would refer to them the subject of the improvement of both rivers and harbors. I would state to the committee that this amendment is in accordance with what has been the uniform practice of this House for upwards of twenty years—that both of these subjects, relating as they do to the commerce of the country, both internal and foreign, should be referred to one and the same committee. To be sure there stands upon our rules, a a rule adopted in the year 1831, providing, among other things, for the reference of matters relating to the improvement of rivers, to the consideration of the Committee on Roads and Canals, but at no period since that, has the House adhered to that rule, by referring that subject to the Committee on Roads and Canals. That committee was then, for the first time, introduced among the committees of this House, as a substitute for a committee which had existed for several years previous, known as the Committee on Internal Improvements. The party then in the ascendency in this country, adopted the policy of discontinuing the system of internal improvements, and have confined themselves to subjects strictly national, and they have ever since, without any exception, as far as I can learn, referred this subject to the consideration of the Committee on Commerce, where I think it should now be referred. I say this without any intent of casting the least reflection upon the Committee on Roads and Canals, for I know that that committee is constituted with great ability, and if it should be the pleasure of this committee to refer this subject to that committee, I doubt not it would receive from them a proper consideration. But the Committee on Commerce is charged with the general consideration of subjects of this character, and from what transpired in this House, at the last session of this Congress, I think it must be manifest to every gentleman that this subject should receive the consideration of only one committee.

The subjects of harbor improvement and river improvement, are intimately blended. Improvements pertaining to harbors, are very often, in their consideration and in their effects, intimately connected with the improvement of rivers. We all know that of all the various interests which are represented upon this floor, those which feel deeply the importance of the proper prosecution of these improvements, to protect and facilitate the commerce of the country, prefer that this whole matter should be considered by one and the same committee, rather than to have it divided up among various committees; and I confidently believe that the reference of this whole subject to the committee charged with the consideration of those matters which pertain to the general commerce of the country, will best subserve the interests of that commerce, and insure a just and fair consideration to the interests of every section of our extended country.

[Here the hammer fell.]

Mr. CARTTER. I am opposed to the amendment. If I understand this amendment, it is a repetition of what occurred during the last session. It is the foundation measure for linking together the improvement of the harbors of the lakes and the ocean, with the improvement of the overslaugh at Albany, or some other measure of like character. It is a foundation measure to compel those who appreciate the necessity of making national appropriations to protect national harbors, also vote for river improvements. It lies at the foundation of that vicious system of legislation so much complained of, which compels a man to indorse an unworthy measure, for the purpose of supporting a worthy one.

The principal business of this Committee on Commerce, as one would naturally suppose, would naturally be to manage the affairs of commerce, and the ports of external commerce, and not the digging of canals and rivers. We have a committee, a

standing committee of this House, which properly comprehends this matter of rivers, and why should that committee be exonerated from the discharge of its appropriate duties, and another committee assume them? What relation is there between the improvement of your harbors, and the improvement of your rivers, except the relation of "you tickle me and I'll tickle you?" I suppose the design is to conglomerate the whole subject, for the purpose of presenting a system of measures such as we have repeatedly seen in this House, some of them worthy of support, and some not.

I am in favor of the resolution as proposed by the chairman of the Committee on Ways and Means, which sends each of these subjects to its appropriate committee.

Mr. HENDRICKS. I believe the chairman of the Committee on Roads and Canals [Mr. ROBINSON] is not in the House. I know he would like to be heard on this question. The Chair, with the consent of the committee, passed over the consideration of the eighth resolution until the chairman of the Committee on Commerce should come into the Hall. I think that the same courtesy ought to be extended to the chairman of the Committee on Roads and Canals.

Mr. JONES. Here he comes, behind you.

The CHAIRMAN. The question before the committee is the adoption of the amendment proposed by the gentleman from New York, [Mr. SEYMOUR,] which is to confer the jurisdiction over the improvement of rivers, to the Committee on Commerce.

Mr. ROBINSON. I do not intend to make any considerable fight on this subject. The House, notwithstanding they did not overrule me at the last session, yet never took a final vote as to where they would refer the matter in the President's message, then alluded to. Every proposition which then came up concerning rivers—with one exception—was referred, so far as I recollect, to the Committee on Roads and Canals, which I thought the proper committee under the rules. But at this short session, of course it makes but little difference where it goes.

So far as I am concerned, I shall vote in favor of the resolutions reported by the Committee on Ways and Means, because I think they are right. I am opposed to these log-rolling bills.

The question being upon the adoption of the amendment of Mr. SEYMOUR,

Mr. SEYMOUR asked for tellers; which were ordered; and Messrs. SEYMOUR, of New York, and ROBINSON were appointed.

The question was then taken, and the tellers reported—ayes 59, noes 59.

The Chairman voted in the affirmative, and the amendment was adopted.

The question was then taken on the adoption of the eighth resolution as amended, and it was agreed to.

Mr. HALL. When I arose before, I intended to make some remarks upon the resolution offered by the gentleman from Tennessee, [Mr. JOHNSON.] On looking at it, I find it to be different from what I supposed. I thought it intended to take away from the Committee on Public Lands the subjects embraced in the President's message, but I see that the resolution merely refers that subject to the Committee on Agriculture, and leaves the subject also before the Committee on Public Lands. I have therefore no objection to the resolution. I wish, however, to suggest an amendment, which I hope the gentleman will adopt, that is, to insert before the word "sale," in his resolution, the words, "graduate and reduce."

Mr. JOHNSON. I accept the amendment.

The question was then taken upon the amendment of Mr. JOHNSON as modified, and it was agreed to.

The ninth resolution, as amended, was then adopted.

The eleventh, twelfth, thirteenth, and fourteenth resolutions were then severally read, and adopted, as follows:

"That so much of said message as relates to the establishment of an Agricultural Bureau, be referred to the Committee on Agriculture.

"That so much of said message as relates to the District of Columbia, be referred to the Committee on the District of Columbia.

"That so much of said message as relates to the public buildings, be referred to the Committee on Public Buildings and Grounds.

"That so much of said message as relates to patents; a periodical publication and distribution of an analytical digest of all the patents which have been or may hereafter be granted for useful inventions and discoveries,—be referred to the Committee on Patents."

Mr. CABELL, of Florida. I offer the following amendment, by way of addition to the resolutions:

That the Committee on Military Affairs, to whom has been referred so much of the President's message as relates to fortifications, be instructed to inquire into the expediency of appropriating the amount necessary to complete the fortifications at Key West and Tortugas, known as Fort Jefferson and Fort Taylor.

Mr. JONES, of Tennessee. I rise to a question of order.

Mr. CABELL. When the resolution referring that portion of the President's message in relation to military affairs to the Committee on Military Affairs was under consideration, I called at the top of my voice to get the attention of the Chairman, that I might offer this amendment by way of instructions to that committee, but failed, and the resolution has passed by.

Mr. JONES. The committee having passed upon the subject, and debate having been closed by order of the House, there is nothing to which the gentleman can attach his proposition.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from Tennessee, and holds that it is now competent for gentlemen to offer amendments, and to have a vote upon them.

Mr. JONES. What is the proposition an amendment to?

The CHAIRMAN. It is an amendment to the whole series of resolutions.

Mr. JONES. We have adopted them; and if amendments are allowed now to be offered *ad infinitum*, we never will get the resolutions out of committee.

Mr. CABELL. Whatever objection may be made to the subject of fortifications generally, I think that the public mind is satisfied that there is great propriety in fortifying the points to which I have, through the amendment I have presented, called the attention of the committee—Key West and Tortugas. This is a matter in which my own State is comparatively but little interested. It is a question affecting the commerce and navigation of the United States and of the world. These points are the keys to the Gulf of Mexico, to the West Indies, and the Caribbean sea; for near to them passes the commerce of the western country and the trade of the eastern coast of South America down to La Plata. The interests involved in the proposed measure cannot be too highly estimated. I stated in a publication recently made, that the commerce and navigation annually passing almost in sight of Tortugas and Key West amounted to about $200,000,000 annually. Upon further information, I am satisfied that the true value is more than $400,000,000 per annum. Sixty millions of dollars of gold comes annually from California. I have not time to go into statistics, but I shall print them for the use of the committee by whom this subject is to be considered, and for the House. The completion of a communication between the Gulf of Mexico and the Pacific ocean will more than double the value of commerce and navigation passing in sight of these forts. The attention of Congress has been repeatedly called to the importance of fortifying the places to which I have made reference: first by President Monroe, and since his time by most of the Presidents, Secretaries of War, and engineers that have examined into the matter, in official reports.

In my investigations I have been greatly aided by reference to a highly-valuable document, communicated by the Treasury Department to Congress at the last session, respecting the trade, commerce, and navigation of the United States, which paper was prepared by J. D. Andrews, Esq., the intelligent and able United States Consul for St. John's, New Brunswick. It is now being printed by order of both Houses, and is, in my judgment, one of the most important reports ever laid before Congress. I have been allowed to make reference to, and extracts from some of the proof sheets which, at my request, were politely furnished to me. An appendix to that report contains an important paper, prepared, as I learn, principally from data and notes furnished by one of the most intelligent engineer officers in the service, relating to the Gulf of Mexico and Straits of Florida. This document, first session, Thirty-second Congress, made August, 1852, will soon be laid on our tables, and I solicit members to read the paper I refer to attentively. The message of President Monroe, in 1823, and the report of Secretary Thompson, and of Commodore Rogers, and Commodore M. C. Perry, are referred to in American State Papers, tit. Naval Affairs, p. 871. I will publish them hereafter.

The late Commodore David Porter, it is well known, repeatedly, expressed his opinion that Key West and Tortugas were the most important points in the Gulf, and he unhesitatingly avowed, on all occasions, his decided preference for Key West as a naval station. Before he left our service, and while in command of "the Mosquito fleet" against the Cuban pirates, he rendezvoused at Key West; and after he became commander-in-chief of the Mexican navy, he adopted the same course. In the appendix referred to, it is stated that he effectually blockaded Havana and Matanzas, though protected by the Spanish Admiral Laborde with a superior force.

In a report to Congress, December, 1851, (No. 5, 1st session 32d Congress, page 9,) Secretary Conrad strongly recommends the completion of these two works.

General Totten, in his report, same document, pages 52 and 53, and 110, concurs with him. He gives a statement of the amount expended and of the amounts necessary to finish the works, at page 25. Lieutenant Maury, of the Navy, at pages 166 and 179 to 184, proves, in a masterly manner, that the measure now proposed is one that concerns the whole country. So valuable do I regard his suggestions that I shall append them in the publication of these remarks in *extenso*, with other opinions cited. The same intelligent officer, as early as May, 1840, made known similar views through the columns of the Southern Literary Messenger, volume 4, page 310, in a manner that deserves the attention of every prudent statesman. And I here take occasion to repeat an anecdote of the illustrious Jackson, heretofore given to the public upon the same unquestionable authority. Soon after "the Old Hero" was elected President, and before he was sworn in, in conversing with a friend as to what he wished to do, he, in his decided way, said: "There are three things which, with the blessing of God, I will cause to be done. 1. Pay off the national debt. 2. Kill the monster bank at Philadelphia. 3. Fortify the Tortugas." He succeeded in the first. The second he accomplished most effectually. I hope his old friends will fulfill his patriotic wishes, and heed his counsels as to the last.

At the present session of Congress the official reports allude to Key West and Tortugas, in the same way as at last session. This subject has attracted notice in the British Parliament. Before the cession of the Floridas, the Marquis of Lansdowne, in May, 1819, made a speech, of which I will hereafter publish a part. He was then in the opposition, and took Earl Bathurst and Earl Liverpool to task for having allowed the cession, and gave cogent reasons for his censure; and amongst them was the importance of those military and naval positions. (See Hans. Parl. Deb., 1st series, vol. 40, p. 289.) Mr. Huskisson, an English Minister, it is said once proposed the seizure and fortification of the Tortugas by the British Government, because it was the key to the Gulf and West India trade. Lord George Bentinck's speeches, since made, show that both Ministerial and Opposition statesmen in England have their vigilant attention directed to that region, and to these points as controlling them. They appreciate their importance, if some American statesmen do not. The newspapers tell as that Great Britain is augmenting her naval force at Jamaica. France, with whom there is more reason for us to anticipate trouble than with any other European Power, is doing the same thing, and has seized a part of Hayti. These facts show the necessity of the measure now suggested, and the political considerations involved demand serious attention. In this connection, I refer to General CASS's celebrated report of April 8, 1836, (Ex. Doc., vol. 6, No. 243, p. 22,) to show the importance of *completing* works that have been commenced as soon as possible by adequate appropriations. No time can be more propitious than now, when the Treasury is overflowing. I will hereafter publish some extracts from it.

The completion of these works are also import-

ant, because they will destroy one argument always urged in favor of the immediate acquisition of Cuba—that the *Moro Castle* commands the Gulf commerce. Complete Forts Jefferson and Taylor, and that commerce is, in time of war, under our control, and with it the Havana and Matanzas, as completely as Gibraltar commands the trade from the Atlantic to the Mediterranean sea.

The question was then taken on the amendment, and it was disagreed to; there being, on a division, ayes 32, noes not counted.

Mr. JOHNSON, of Tennessee. I wish to offer an amendment to the resolutions.

Mr. JONES, of Tennessee. I must again make the point of order that there is nothing before the committee which can be amended. We have adopted the whole of the series of resolutions, and the order of the House, terminating debate, requires that this committee shall now rise and report them to the House.

The CHAIRMAN. The Chair will see what the gentleman offers.

The amendment of Mr. JOHNSON, was read, as follows:

That the Committee on Ways and Means be, and they are hereby, instructed to inquire into the expediency of abolishing all duty on salt and sugar.

Mr. JOHNSON. I suppose others than members of the Committee on Ways and Means have a right to present resolutions.

The CHAIRMAN. The Chair thinks, on reflection, that the point made by the gentleman from Tennessee is sound. The committee have considered all the resolutions of the series.

Mr. JOHNSON. Just in reply to the Chair's decision, I will say that propositions to relieve the people from taxation never are in order.

The CHAIRMAN. That may be so in the opinion of the gentleman, but it is not so in the opinion of the Chair.

Mr. STANLY. Does the Chair say that further amendment is out of order?

The CHAIRMAN. The Chair states his opinion to be this: That the House having by a special order closed the debate on these resolutions, and directed the committee to proceed to consider any amendments which might be offered to them, and then to report them to the House, and the committee having considered and passed on the whole series of resolutions, we are bound by the order of the House to report them without considering anything else.

Mr. STANLY. I move that the committee do now rise, and report the resolutions to the House.

The question was taken on the motion, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman of the committee (Mr. STUART) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the annual message of the President of the United States, and had directed him to report to the House certain resolutions connected therewith.

Mr. HOUSTON. I call for the previous question on the adoption of those resolutions.

Mr. ROBINSON. If the call for the previous question be sustained, can the resolutions be divided so that a separate vote may be had on any particular one?

The SPEAKER. The Chair is of the opinion that they can be divided.

The call for the previous question was seconded, and the main question was then ordered to be put.

The SPEAKER. The main question is upon concurring with the report of the Committee of the Whole on the state of the Union. The Clerk will report the resolutions, and if desired by any member, a separate vote may be had on any one of them.

Mr. HOUSTON. We have heard these resolutions read very recently, and, by the unanimous consent of the House, I suggest that their reading be dispensed with, and they be voted upon in mass, excepting the one alluded to by the gentleman from Indiana, [Mr. ROBINSON.]

There was no objection.

The SPEAKER. There being no objection, that course will be pursued.

Mr. STANLY. I want to know, before I agree to that understanding, what has been done in regard to the tariff?

The SPEAKER. Nothing has been done. The resolution stands as it was originally presented in committee.

Mr. STANLY. I have then no objection to the course of proceeding proposed by the gentleman from Alabama.

The question was then taken on all the resolutions excepting the eighth, and they were adopted.

The eighth resolution was read by the Clerk, as follows:

"That so much of said message as relates to commerce and the improvement of harbors, be referred to the Committee on Commerce."

The SPEAKER. The amendment reported from the committee is to add after the word "harbors," in the eighth resolution, the words "and rivers," and to strike out so much of the tenth resolution as refers the same to the Committee on Roads and Canals.

Mr. STUART. I submit, as a question of order, that there is no amendment to be acted upon. These resolutions were not offered in the House; they were offered by the gentleman from Alabama in the Committee of the Whole on the state of the Union, and as they came from that committee they stand in the House. There is no amendment to be acted upon. Had they been offered in the House, and the Committee of the Whole on the state of the Union had amended them, the question would be on the amendment.

The SPEAKER. The gentleman from Michigan is correct, and the resolutions stand as they were reported from the Committee of the Whole on the state of the Union. The Clerk will report the resolution as it comes from the committee.

The resolution was reported, as follows:

"That so much of said message as relates to commerce and the improvement of harbors and rivers, be referred to the Committee on Commerce."

Mr. ROBINSON. I call for the yeas and nays on the adoption of the resolution.

Mr. ORR. If the House should negative the resolution, and a motion was then made to reconsider, the previous question would not operate, and I suppose, at that stage, an amendment could be offered to the resolution?

The SPEAKER. That has been the practice of the House.

Mr. HOUSTON. I move that the vote by which the remainder of the resolutions were adopted be reconsidered, and that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STANTON, of Ohio. I call for the reading of the 98th rule of the House.

It was read, as follows:

"98. It shall be the duty of the Committee on Roads and Canals to take into consideration all such petitions and matters or things relating to roads and canals and the improvement of the navigation of the rivers, as shall be presented, or may come in question, and be referred to them by the House; and to report thereupon, together with such propositions relative thereto, as to them shall seem expedient."

Mr. SEYMOUR, of New York. I call for the reading of the 83d rule.

It was read, as follows:

"83. It shall be the duty of the Committee on Commerce to take into consideration all such petitions and matters or things touching the commerce of the United States as shall be presented, or shall or may come into question, and be referred to them by the House; and to report, from time to time, their opinion thereon."

Mr. CARTTER. I would inquire of the Chair whether this would be the first business in order to-morrow on the reassembling of the House, if we should now adjourn?

The SPEAKER. The Chair is of opinion that under the operation of the previous question, the main question having been ordered to be put, it would come up as the first business in order to-morrow morning.

Mr. CARTTER. I move, then, that the House do now adjourn.

The question was taken, and upon a division there were—ayes 62, noes 62.

The SPEAKER voted in the negative, and the motion was disagreed to.

Tellers were demanded on the adoption of the resolution, and they were ordered.

Mr. ORR renewed the motion to adjourn, and it was agreed to.

And the House thereupon adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. McDONALD: The petition of John E. Laury, of Kittery, Maine, for bounty on the schooner Wellington, lost on her return voyage, loaded with fish.

By Mr. CURTIS: The petition of Sarah Barber, for a pension.

By Mr. SCUDDER: The petition of Joseph L. McDonald and others, for the improvement of Pamet harbor, in Truro, Massachusetts.

By Mr. CHANDLER: The memorial of Henry Seidle and other citizens of Philadelphia county, asking Congress to modify the bounty land act passed September, 1850, so as to give each person to be benefited by said act, and the seamen and marines who served in the late wars, one hundred and fifty acres of land.

By Mr. BERNHISEL: The memorial of the Legislative Assembly of the Territory of Utah, asking Congress for an appropriation of $5,000, to compensate the code commissioners.

By Mr. ORR: The memorial of John Belton O'Neall, President of the Greenville and Columbia Railroad Company, praying that a credit be extended on the duties for railroad iron for said road, and that the same be paid in mail service.

IN SENATE.

WEDNESDAY, *December* 22, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, made in compliance with a resolution of the Senate, in relation to the classification and appointment of clerks in the Executive Departments; which was ordered to lie on the table and be printed.

COMMITTEE ON INDIAN AFFAIRS.

Mr. RUSK. The election of a Presiding Officer of this body has rendered the chairmanship of the Committee on Indian Affairs vacant. I believe, according to the rules of the Senate, the next on the list is regarded as chairman. Mr. SEBASTIAN being the next on the list, will therefore be the chairman; but a vacancy will be left on the committee, which I move that the Chair be authorized to fill.

The motion was agreed to; and the President appointed Mr. WALKER.

PETITIONS, ETC.

Mr. HALE presented a petition of citizens of Dover, New Hampshire, praying Congress that they would take such action as they deem best to secure in the treaties of the United States with other nations a provision for referring to the decision of umpires all misunderstandings that cannot be satisfactorily adjusted by amicable negotiation; which was referred to the Committee on Foreign Relations.

Also, a petition of citizens of Concord, New Hampshire, praying that the bill giving further remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Mr. SUMNER presented a petition of citizens of Boston, Massachusetts, praying that the bill giving further remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of Elisha Putnam, praying for arrears of pension; which was referred to the Committee on Pensions.

Mr. SMITH presented the petition of Lucretia W. Hubbard, for herself and other children of Elijah Ransom, deceased, praying to be allowed the pension to which he would have been entitled under the act of May 15, 1828, had he lived till that time; which was referred to the Committee on Revolutionary Claims.

Mr. DE SAUSSURE presented the petition of the Greenville and Columbia Railroad Company of South Carolina, praying leave to give their bond for duties on railroad iron, payable in ten annual installments; which was referred to the Committee on Finance.

Also, the petition of Henry W. Kuthman, owner of the ship Prentice, praying to be allowed to change her name to that of Leonie; which was referred to the Committee on Commerce.

Mr. DOWNS presented the memorial of C. W. Eason and Joseph J. Eason, praying the right of preëmption to certain lands settled and improved by them; which was referred to the Committee on Private Land Claims.

Also, the memorial of James Stephens and Elisha C. Stephens, praying the right of preëmption to certain land; which was referred to the Committee on Private Land Claims.

Mr. BAYARD. I present the memorial of

James Booth and forty others, citizens of the town of New Castle, Delaware, praying Congress to grant to that town the arsenal located there. The memorial states that this arsenal was erected on a part of a public square called the Market Square, which was voluntarily conveyed, without consideration, by the inhabitants of the town, to the United States in 1810. The arsenal was erected and occupied by the United States down to 1835; but since then it has been useless to the United States. The people are desirous of using it as a school-house, and therefore pray that the United States will grant them the title to the property. I move that it be referred to the Committee on Military Affairs.

The memorial was so referred.

NOTICE OF A BILL.

Mr. BAYARD gave notice of his intention to ask leave to introduce a bill granting and conveying the arsenal in the town of New Castle, in the State of Delaware, to the trustees of said town and their successors.

BILLS INTRODUCED.

Mr. WADE, by unanimous consent, asked and obtained leave to introduce a bill to surrender to the State of Ohio the unfinished portion of the Cumberland road in said State; which was read a first and second time by its title, and referred to the Committee on Roads and Canals.

Mr. CLEMENS, agreeably to previous notice, asked and obtained leave to introduce a bill to remove the land office at Sparta, Alabama, to Elba, in said State; which was read a first and second time by its title, and referred to the Committee on Public Lands.

IMPROVEMENT OF RED RIVER.

Mr. BORLAND, agreeably to previous notice, asked and obtained leave to introduce a joint resolution explanatory of an act appropriating money for the removal of the raft in Red river; which was read a first and second time.

Mr. BORLAND. I move that it be referred to the Committee on Commerce.

Mr. RUSK. I do not think there is any necessity for that reference. The appropriation of the money was made at the last session, and the object of the resolution is simply to get clear of a difficulty which has arisen in the way of spending that money to accomplish the object in the best manner.

Mr. BORLAND. Then I withdraw my motion to refer the resolution, and ask for its consideration at this time.

No objection was made, and the joint resolution was considered by the Senate as in Committee of the Whole. It proposes to direct that so much of the act entitled "An act making appropriations for the improvement of certain rivers and harbors," approved August 30th, 1852, as relates to Red river, be so construed as to authorize the Secretary of War to award the contract for the removal of the obstruction of the navigation of said river, occasioned by the raft, to the person or persons who, for the amount of the appropriation, will agree to remove said obstruction, and keep said navigation free from the same for the longest period of time; said contract to be awarded after reasonable public notice.

Mr. BORLAND. It will be perceived from the reading of the resolution, that it is explanatory of a part of the act passed at the last session making appropriation for the improvement of certain rivers and harbors. In the appropriation for the removal of the raft in Red river, the term used for the disposal of the appropriation was simply "For removal of the raft of Red river." It has been ascertained that for the amount appropriated, the raft can be removed and kept removed, or the navigation of the river, which is now obstructed by it, can be kept open for a period ranging from three to five years. The Secretary of War, however, is of opinion that he has no authority, under the simple power conferred, to remove the raft, and to get the greater benefit which could be derived from the same amount of money, by giving the contract to some one who will agree not only to remove the raft, but keep it removed. The object of the resolution is to remove his difficulty on that score, and enable him to get a greater benefit, instead of a lesser. I hope, therefore, there will be no objection to its passage.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

MARGARET L. WORTH.

Mr. BORLAND, from the Conferees on the part of the Senate, on the disagreeing votes of the two Houses on the bill for the relief of Margaret L. Worth, reported that they had met the Conferees on the part of the House of Representatives, and that they had agreed to recommend, that the House of Representatives recede from its amendment to the Senate bill, and that said bill be passed in the form in which it came from the Senate.

The Senate proceeded to consider the report, and concurred therein.

REPORTS FROM STANDING COMMITTEES.

Mr. BRADBURY, from the Committee on the Judiciary, to which was referred the petition of Lewis C. Grover, and other citizens of Newark, New Jersey, praying an amendment to the patent law, asked to be discharged from the further consideration thereof, a bill having been reported on the subject; which was agreed to.

Mr. GEYER, from the Committee on the Judiciary, to which was referred the petition of Leslie Combs, praying that provision be made for the payment of certain Texas bonds held by him, asked to be discharged from the further consideration thereof, a bill having been reported on the subject from the Committee on Finance; which was agreed to.

He also, from the same committee, to which was referred a bill to amend the act entitled "An act to provide for extending the laws and the judicial system of the United States to the State of California," passed the 28th day of September, 1850, asked to be discharged from the further consideration thereof, as the object had been provided for in a general appropriation bill at the last session; which was agreed to.

He also, from the same committee, to which were referred the petition of Sarah L. Russell, and the memorial of H. G. Helfenstein and others, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred a memorial of members of the bar and citizens of California, in favor of granting increased compensation to the district judge of the northern district of California, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. DOWNS, from the Committee on the Judiciary, to which was referred the petition of Cornelius P. Van Ness, asked to be discharged from the further consideration thereof, the petitioner having died since the last session of Congress; which was agreed to.

RIGHT OF WAY.

Mr. FELCH. The Committee on Public Lands, to which was referred the bill from the House of Representatives, granting to the Sackett's Harbor and Ellisburg Railroad Company the right of way through the military reservation at Sackett's Harbor, New York, have directed me to report it back without amendment. This is a bill in the ordinary form; and as the work of the company is progressing on that part of the road, I ask that the bill may be considered now. It is a matter in which the Senators from that State take an interest.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill. It proposes to grant to the Sackett's Harbor and Ellisburg Railroad Company the right of way through the lands of the United States in the village of Sackett's Harbor, Jefferson county, New York, provided, that in the opinion of the President of the United States, the grant be not injurious to the public interests.

Mr. SHIELDS. I would ask the honorable chairman of the Committee on Public Lands, whether he has made any inquiries in relation to this military reservation from the proper Department?

Mr. FELCH. In answer to the inquiry of the honorable Senator, I would state that the bill originally introduced into the Senate for this purpose, proposed to give the land itself to the company. To that bill the Committee on Public Lands were opposed. They made inquiries of the Department having charge of this land, and were satisfied that the land ought not to be granted; but they were satisfied, at the same time, that the company should have the right of way over it, and were willing to allow that, leaving the whole subject under the direction of the President. This grant of the right of way is necessary, in order to allow the company to bring their road to the water. The Government has several acres of land there, I am not able to say precisely how much; but no injury can accrue by leaving the matter under the direction of the President. I believe no one makes objection; certainly not the Department.

Mr. SHIELDS. My only reason for making the inquiry was this: If this land has been reserved for military purposes, there was probably some military object to be accomplished by the reservation, and I do not know what effect the running of this road through it would have upon it as a military position. I think it would be well to make inquiries at the proper Department. Has the gentleman inquired of the War Department, or of the Topographical Engineers, to ascertain the original object of the reservation, and whether it would be injured or damaged by this grant? My impression is that the reservation, for military purposes, must be abandoned if this road passes through it; I cannot tell how that is. I would like to inquire into the matter, and if there be no particular object in pressing the bill this morning, I should like to have it laid over.

Mr. FELCH. The Senator is entirely mistaken in supposing that any rights of the United States can be injured by this grant. This tract of land is not the only one occupied for a military post there, which I understand is near the water; but the reservation extends further back into the town or adjoining the town. The Senator from New York is probably more familiar with the location than I am; but it will be perceived at once, that if any difficulty should be likely to occur, the President need not make the grant, for it is submitted entirely to his discretion.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

Mr. FELCH. I am instructed by the Committee on Public Lands to report back Senate bill, "to extend the provisions of the fourth section of 'an act to grant the right of way to all rail and 'plank road companies, and macadamized turn-'pikes passing through public land belonging to 'the United States, approved August 14th, 1852," and to move that it be postponed indefinitely. It covers the same object as the bill which has just been passed.

The motion was agreed to.

RAILROAD TO THE PACIFIC.

Mr. GWIN. In accordance with previous notice, I ask leave to introduce a bill authorizing the construction of a railroad and branches; for establishing a certain postal communication between the shores of the Pacific and Atlantic, within the United States; for the protection and facilities of travel and commerce, and for the necessary defenses of the country.

Leave to introduce the bill was granted, and it was read a first time, and ordered to a second reading.

Mr. GWIN. I hope that bill may be read a second time now, and be made the special order of the day for the 10th of January. It is the same bill, substantially, as that which was reported from the Committee on Territories during the last session.

Mr. HUNTER. I have no objection to the reading of the bill a second time now, but I hope the Senator will not insist on making it the special order of the day for so early a day as he has named, for there are other measures of great importance which ought to be considered before that.

Mr. GWIN. I am confident there will be no measure before Congress at this session so important to the country as this; and I hope it may be read a second time now, and made the order of the day as I have suggested.

The bill was then read a second time.

Mr. GWIN. I now move that it be made the special order of the day for the 10th of January.

Mr. CHASE. This bill contemplates a very important object; and if I understand the Senator from California, in its present shape it has never been acted upon by any committee. I hope it will take the ordinary course, and be referred. I introduced a bill the other day which had had the

sanction of a committee at the last session, and I desired action upon it, inasmuch as it was one of great importance to my State; but it was suggested that it ought to be referred, and I acquiesced in the suggestion at once. I believe that has been the usual practice; and unless there is some strong reason for taking this out of the ordinary rule, I think it would be safer to refer it than to have it pass without the examination of a committee.

Mr. GWIN. This bill is the same as that which was reported at the last session, with but few alterations.

Mr. CHASE. I understand that, and it is because the bill has these few alterations in it, that I think it should be referred to the Committee on Roads and Canals.

Mr. RUSK. I hope the motion to refer will not prevail, and that the motion of the Senator from California will be agreed to. Ordinarily, I would vote for the reference of any bill to a committee, and I would vote, as I have heretofore done, against making special orders; but this bill brings up a subject which I regard as one of the most important measures to come before the present Congress—the construction of a railroad to the Pacific.

It has been discussed in Congress, and has received more attention throughout the community, perhaps, than any subject, for many years past. It is more vital than any subject which will come before Congress at this session. If we are to extend the benefits of protection to our vast possessions on the Pacific, the construction of an overland communication through our own territory is necessary; if we wish to protect the travel across our territory against the Indians, it is absolutely necessary; or if we wish to protect our citizens on the Pacific against foreign Powers, it is absolutely necessary. If we mean to make those possessions really part and parcel of ourselves, the means of a speedy communication are of the highest importance. There are various schemes for communication between this part of the country and California, by railroads through our territory, and in consequence of the neglect of our own Government, there are already large amounts of capital invested in schemes for reaching the Pacific coast through a foreign country. I think some scheme is practicable. I do not know the details of this bill. There has been a bill before the Committee on the Post Office and Post Roads, which has been long since reported, and is now on your calendar. There will be various other schemes; and it makes no difference which bill comes up for consideration, the whole subject of a railroad from the Atlantic to the Pacific States of the Union will come before the Senate. This is the short session; and by making this particular bill the special order of the day, attention will be drawn to it, and the whole subject will come up when it is considered. If, during the discussion, it should be thought best to refer the bill to a standing committee, or if a special committee should be raised to consider it, all the bills could be referred together. I think it should be made the order of the day at an early period. The truth is, the earliest possible time at which we can get at the discussion of this subject, the better.

Mr. MANGUM. I concur very generally with all the points laid down by the honorable Senator from Texas. A reference of a bill is most necessary when details have to be looked into and reported upon by a committee; but upon a great project like this, eminently national, attracting the attention of every portion of the United States, these little details are matters of no great importance. In the first place, the Senate is the only body that can determine the details of this great project. The committee, in the absence of knowledge of the disposition of this body, might report many things in reference to subordinate details, but all those things, upon a discussion of the question, will come up from every quarter, and every interest. A full Senate will have the whole subject before them; and a full Senate is most competent to determine this great question. I regard it as one of the most eminently national questions which can be discussed, and I suppose every portion of the Confederacy will come to the discussion with an anxious desire of agreeing in that which is best calculated to promote the object. I therefore concur in the opinion expressed by both the Senators, that there is no necessity for reference to a committee. Let us make it a special order for a particular day, and it will attract public attention from every quarter, and will draw before this body all competing interests, and the body will have the ability to act with a full development of all the views of the different sections of this country on this great question.

Mr. BRIGHT. I agree with the honorable Senator from Texas, that this is a very important measure; but I would inquire for what purpose the Committee on Roads and Canals is organized, if not to take cognizance of just such questions as this? We have already had referred to that committee various propositions. There are various opinions as to the point from which this great work shall start, and various opinions as to the point at which it should terminate. These questions the committee have had before them, and ought to have them again before them, that their action may not come in conflict with that of the Senate, when they are called upon to act. I am friendly to the object of the honorable Senator from California. I desire to favor some great work of this kind, and I think that if his object is to have early action upon the subject, the better plan will be to have the bill referred to the Committee on Roads and Canals, and reported upon, for the purpose of giving us an opportunity to compare it with other measures of a similar character which we have before us.

Mr. GWIN. The Committee on Roads and Canals have had this subject before them, and have reported upon it. The Senator from Indiana himself has made an elaborate report upon this very subject. The Committee on the Post Office and Post Roads have had the same subject before them, and reported upon it; and the Committee on Territories have also had it under consideration, and reported. What is the necessity of sending it to a committee again? Three important committees in this body have already, during the last few years, had the subject before them, and in one instance made an elaborate report. There never was any subject more thoroughly examined before committees than this subject, a great national road, connecting the waters of the Atlantic with those of the Pacific. Sir, I want the subject acted upon now. The time has come for action, and I ask that this bill may be made the special order, for the reason that by making it the special order, it will come up and be acted upon. If it be sent to a committee, and be reported upon, it will go upon the calendar and there will be six hundred bills ahead of it. I should look upon the Senate deciding to send it to a committee, as equivalent to putting it off, so that it shall not be acted upon during this session. There is no hope for its consideration unless we make it the special order. I am opposed, except in cases of emergency,—and I consider this to be one,—to making special orders; but I am confident that if this bill be not made a special order, it will not be acted upon during the session. I repeat, there is no question that may be brought before this Congress which is so important, and especially to my constituents; and I should be looked upon, and I should look upon myself as recreant in my duty to my constituents, if I did not urge this question before the Senate for action at the earliest practicable period. I mention the 10th of January, because the space in the mean time will enable Senators to inform themselves upon the subject.

As to reports of committees, we have had enough of them. Three different committees have examined the question. I have prepared with great care the bill which I have presented, having before me all the other plans. I do not care if it all be stricken out after the enacting clause. I want it as the basis of action, and I bring it up for that express reason. The subject was examined with great attention by the chairman of the Committee on the Territories, at the last session, and the bill which I have presented to-day is his bill with a few alterations. I brought it up in order to make it the special order, that we might have action upon it.

Mr. HAMLIN. The importance of a railroad to the Pacific we all admit. I do not propose to discuss that, but it is the manner in which it is proposed to take up this bill to which I object. Various committees have examined the subject, and there are bills which have been reported from them now on the calendar of the Senate, so important is the subject considered. If the proposition should be made to take up any one of those bills and make it a special order, it shall have my approbation and vote; but for a Senator to introduce a bill here upon his own responsibility, and thus to sweep out of existence the action of all the committees, and make his bill the basis of the action of the Senate, is discourteous to the committees, and is a course which I will not justify by my vote. I concur with the object of the bill, but it is to the manner in which it is proposed to approach it, that I object, and it is one which I think should not meet the approbation of the Senate.

Mr. RUSK. I would suggest, and I am sure the Senator from California will agree to it, that all the bills on the subject be made the special order for the day mentioned by him.

Mr. GWIN. I will agree to that.

Mr. STOCKTON. It gives me no pleasure to differ from my friend from California on any subject, especially when he speaks in regard to the interest of his constituents—no, sir, I will not yield even to him, in my desire to serve the people of California. But I am opposed to this whole scheme of a great national road. I go against it from the beginning to the end, from first to last; therefore it cannot be expected that I will yield any of the common and usual forms of legislation to facilitate its progress. I have no idea that such a bill as the one contemplated can pass the Congress of the United States at the present day. Sir, those who are endeavoring to extend the powers of this Government with the expectation and hope of making a splendid and magnificent empire of ours, may well approve of this scheme; but I think the day has not yet arrived, when the Congress of the United States will lend itself to such a project, or proceed to make a railroad from the Atlantic to the Pacific. I rise, not for discussion, but for the purpose of saying that I am for a simple and frugal Government, and against the proposed bill, and intend from the very start to oppose it. I hope it will go to a committee instead of being made the special order for the 10th of January.

Mr. CHASE. I made the motion to refer this bill to a committee for no other reason than a simple desire that the legislation in this case should take its ordinary course. I did not wish to indicate any opinion which I have or may form upon the general subject of the bill. The honorable Senator from California stated to the Senate that it was a bill which had been reported, with alterations introduced, I understand, by himself. It is, therefore, a new bill, and it seems to me eminently proper that it should take the ordinary course, and be referred to the committee which has charge of that general subject. If the motion to make that bill a special order be not pressed, I do not know that there would be any objection to taking up one upon the subject already upon the calendar, and making it the special order for a future day, provided the Senate thinks proper to give to this subject precedence over the other subjects on the calendar. But, sir, I must say, for one, that I should not be willing to concur in giving it that precedence. There is a large number of bills upon the calendar relating to the disposition of the public lands. There is the bill known as the homestead bill. There is the bill known as Bennett's bill, proposing, substantially, a distribution of the proceeds of the public lands among the States. Both are of great importance, and, it seems to me, of greater importance, and more pressing urgency, than this particular measure. I should prefer to take up one of those. The Senator from Iowa [Mr. DODGE] gave notice yesterday that he should move at an early day to take up the homestead bill. But suppose this railroad bill should now be made a special order, what would be the result? Do we not remember what took place last session on the Iowa land bill—week after week of discussion upon the special order, and no action upon it until quite a late day in the session? And so I think it will be now, if we take up this bill and give it precedence over these other great public measures in which all the States, and, indeed, all the inhabitants of all the States, are interested. I fear the practical result will be the indefinite postponement of all these bills.

Mr. UPHAM. I understand that this is a new bill, introduced by the Senator from California for the purpose of constructing a railroad from the Atlantic to the Pacific ocean. It has not been referred to any committee. There are now before the Senate, upon the calendar, two or three bills, which have been duly considered by the committees, prepared with great care and attention, and

reported at the last session of Congress, which have not yet been taken up. Now, sir, is it just and fair to persons interested in those bills—is it just and fair, or courteous, to the committees who have had the subject under consideration at the last session, and made reports favorable to particular projects, to take a new bill, introduced by an individual Senator, and make that the order of the day, without referring it for investigation to a committee? In my humble apprehension, it is neither just nor proper.

I am decidedly in favor of a railroad from the Atlantic to the Pacific; but I am not absolutely certain as to what is the best policy in order to accomplish that object. I do not know as yet where will be the proper point to commence; but I wish to commence at the best place. I am perfectly satisfied that unless we speedily open some cheap, easy, and quick communication between the Atlantic side of this country and our possessions on the other side of the Rocky Mountains, we shall not hold them long. If we desire to hold on to them, let us examine the subject; let a committee investigate it; let them examine all the plans, and present them to the Senate, and let the Senate select the best bill. I cannot, for one, consent that this bill shall be made the order of the day, before it has been sent to a committee, examined by that committee, and reported upon.

Mr. WELLER. The only effect of the motion made by my colleague is simply to assign a particular day for the disposition of this important question; and therefore it occurs to me that the only question presented to the Senate is, whether the construction of a great national road, connecting the waters of the Atlantic with the Pacific, is of sufficient importance to justify the Senate in assigning it a particular day for its consideration. This subject, as has been said, has been already examined by various committees, and is now presented to the consideration of the Senate, upon the reports of those committees, by my colleague, who has taken one of the bills reported by a standing committee, made some alterations in it, and now proposes to make it the basis of our action on the 10th of January. If it would obviate the difficulties suggested on the other side, I have no doubt my colleague would yield to the motion to make some one of these bills the special order for the 10th of January, and he will be able to accomplish his object by moving his bill as a substitute when the bill made the special order shall come up for consideration. In the mean time the bills may be printed to enable every Senator to examine them for himself. But this is not such a question as is necessarily referred to a committee. It is of such national importance that each Senator will desire to examine critically the several bills that relate to it for himself. We know there are many plans for the construction of this railroad. We know that many intelligent minds, in various sections of the Union, have taken different views as to the most practicable mode of constructing this railroad. It is, therefore, a question which every Senator here will have to examine in detail for himself. I care but little—and I mean no disrespect to any one—as to what the opinion of the Committee on Territories, or Roads and Canals, or the Post Office and Post Roads, may be of the practicability of this road. It is a question which I, as a Senator, must determine for myself, and that can only be done by a critical examination of the bills themselves. Why, then, I ask, refer this bill to a committee? Does any Senator believe that the reference will facilitate the construction of this road? If gentlemen are anxious, as they say they are, for the construction of this great national road, I present this question, then, to their minds, whether they are to facilitate their object by referring again the whole subject to a committee to undergo a tedious examination there?

There is not a Senator here who will vote for any bill involving such a vast amount of treasure as this necessarily must, without examining for himself its details; therefore let each Senator who is called upon to decide this question examine it for himself. The only object of my colleague is to secure early action upon this subject, and in order to effect that he proposes to assign a particular day, when each Senator here from the different sections of the Union may sit down and examine it with a view to determine whether it be a practicable one to carry out the object. Wherefore, then, I ask Senators who have made the motion to refer, should it be done? What good can result from that course? I care not what plan may be taken up. I am wedded to none of these schemes. I will go for any bill which is a feasible one, and which will accomplish the object in the shortest possible time. It is an important one in every view of the case. It is important not only to that section of the country from which I come, but it is also important to every section of the Confederacy. It is important in a political, as well as in a commercial and military point of view. It will strengthen the Union by uniting more closely the various parts together. It will therefore address itself to the judgment of every Senator. It is one which each of us will desire to examine in detail before we record our votes upon it. We ask for calm reflection and prompt action. I therefore ask that the Senate will simply agree that upon the 10th of January this whole subject, not merely this particular bill, for I care nothing about that, but the whole subject of the construction of a great national railroad, shall occupy the attention of the American Senate; and in the mean time, all of those various plans which have been submitted, here and elsewhere, can be freely examined by members and each one will be enabled to vote understandingly.

Mr. BUTLER. I regard the rules of the Senate as instituted for the purpose of guarding ourselves against arbitrary decisions of the Senate, and I agree with the Senator from New Jersey, [Mr. STOCKTON,] that I shall oppose any proceeding which disregards the security of those forms. I have suffered under such a practice. I have seen measures taken up here because they were strong—because they addressed themselves to the popular feelings of the country; and I have seen such measures supersede all others. What may be my opinion upon the merits of this bill I know not, for I have had no opportunity to examine it; but for the very reason that it is an important measure, involving, as I understand, very great interests, I wish to make the subject one of deliberation, and not to approach it with precipitancy, and in violation of the rules of the Senate. I shall go for the reference.

Mr. GWIN. I want to get clear of the technical objections which have been brought forward. My colleague has stated the question precisely as I wish to present it: that is, I want the subject brought up, and in order to get clear of the difficulty, in the minds of some Senators, I move to take up Senate bill No. 396, "for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon," so as to make it a special order.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) This bill must first be disposed of.

Mr. GWIN. Then I move that this bill be laid upon the table and printed.

The motion was agreed to.

Mr. GWIN. I now move to take up Senate bill No. 396, as it was reported from the Committee on Territories.

The motion was agreed to, and the Senate resumed, as in Committee of the Whole, the consideration of the bill.

Mr. GWIN. I move to postpone its further consideration, and make it the special order for Monday, the 10th of January.

Mr. RUSK. There is another bill upon the same subject which I would like also to have taken up.

Mr. GWIN. I should be willing to do so, but we cannot take up two bills at once.

Mr. RUSK. The bill referred to by the Senator from California is a bill to establish a line of telegraph and a line of military posts across the country to the Pacific. Various amendments were offered to it. I offered one myself. There are complicated questions connected with that bill. Then another bill was reported by the Committee on Territories as a substitute for the original bill and the amendment. So I think that we are complicating the subject by this mode of getting at it.

Mr. GWIN. The Senator is correct. All the questions were recommitted to the Committee on Territories, and they reported another bill, which is the one that has just been taken up on my motion. It is the same bill, with some alterations, which I introduced this morning. It is not of the least importance which bill shall be made the special order. The great object is to get some bill made the special order, so that upon that the whole subject will come up for consideration.

Mr. RUSK. Then I hope the Senate will agree to the motion, and that the bill for the construction of a railroad, reported from the Committee on the Post Office and Post Roads, will also be taken up.

Mr. HUNTER. I would suggest that a practical difficulty may arise by making two bills special orders for the same time. We shall not know upon which to put the question.

Mr. BORLAND. I agree with the Senator from Virginia, that a practical difficulty might take place in making several bills special orders for a particular day, but I think that I can make a suggestion that will, perhaps, obviate the difficulty. The object seems to be to bring all these matters before the Senate, in order that Senators may examine the whole subject for themselves, and be able to pass upon any one project that may be presented for their consideration on the 10th of January. I think the proper way to accomplish that will be to order the printing of the various bills which have been reported by the committees, so that Senators can take them all and examine them separately and connectedly.

Mr. GWIN. They have already been printed.

Mr. BORLAND. Then, when one bill shall be taken up, the others may be offered as substitutes or amendments.

Mr. MANGUM. It seems to me perfectly clear that the object will be attained most effectually by making one of these bills the special order for a particular day. All of them have been printed, and gentlemen can bring them up in the form of amendments. I hope the Senator from California will adhere to his motion without accepting any amendment, for when one bill comes up, the whole subject can be considered.

Mr. GWIN. That is my idea.

The motion to make Senate bill No. 396 the special order for the 10th of January, was agreed to.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, stating, in answer to a resolution of the Senate, the reasons for not complying with the resolution of the 19th of March, 1852, requiring certain information in relation to the Commission appointed to run and mark the boundary line between the United States and Mexico; which was ordered to lie on the table and be printed.

Also, a report of the Solicitor of the Treasury of an examination, made in compliance with a resolution of the Senate, of the claim of Joseph Nock, for damages on account of an alleged violation of a contract with the Post Office Department for supplying mail locks; which was ordered to be printed.

REMEDIES TO PATENTEES.

Mr. MILLER. I beg leave to ask the indulgence of the Senate to take up Senate bill "giving further remedies to patentees," which was under consideration at the last session. It stands almost at the head of the calendar.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) The pending amendment, when the bill was last under consideration, was to strike out the word "use," in the first section, and the same word in the second section.

Mr. HALE. I hope the bill will not be pushed to its passage at this moment. I am in favor of a great many of its objects, but the Senate will recollect very well that it was the occasion of a great deal of discussion at the last session, and that there was a great diversity of opinion expressed in regard to its various provisions; and that distinctions were made between having articles for use and for sale, which some gentlemen insisted upon with a great deal of force, and which really are not familiar to my mind at this moment. I wish the Senate would consent to let the bill lie over until to-morrow.

Mr. MILLER. When the Senate had the bill under consideration at the last session, the question pending was upon the motion made by the Senator from Delaware, [Mr. BAYARD,] to strike out the word "use," which had been previously inserted by an amendment; I consented that it

might be stricken out, and let the bill be amended according to the gentleman's ideas.

Mr. HALE. I know very well, and the Senate will recollect, that this bill was the subject of discussion at the last session. I think the chairman of the Committee on the Judiciary spoke upon it. I think the Senator from Delaware had something to say about it. There was a great deal of discussion, and a good deal of apprehension expressed about various provisions of it. So far as the main object, which I understand the bill has in view, is concerned, I am decidedly in favor of it, and that is, to protect American inventors against infringements upon their rights by persons carrying over a patented machine on the other side of the British line, manufacturing their articles from it, and then bringing them back into this country for sale. That, I understand to be the general object of the bill, and I am decidedly in favor of it. But my impression is very strong that when the bill was reported it went a great deal further than that. It was an objection to it that an honest but an ignorant purchaser of one of these articles, which had been thus manufactured and brought into the country, would be subjected to the penalties of the bill if it was found in his hands. For instance, sir, if a piece of cloth, made in a machine that was carried into one of the adjoining provinces, were brought over here and found upon the back of any one of our citizens, he might, as the bill was reported, be subjected to its penalties. Now, whether the bill has been amended so as to obviate all these objections or not, I do not know. If it has been so amended I am in favor of it.

Mr. MILLER. It has been.

Mr. HALE. That is the very thing which I want to ascertain.

Mr. MILLER. Let the bill be read, and that will be shown.

Mr. HALE. I do not want to take any one's word for it, though I have as much confidence in the Senator from New Jersey as in any man living; but I wish to examine it myself, and therefore I hope that he will consent to let it lie over.

Mr. MILLER. I would be glad to indulge the Senator, but this bill stood second on the list during most of the last session of Congress. It was taken up, I think three times, and amended to meet every objection that was started; and when we last had it before the Senate, the question was upon the amendment of the Senator from Delaware, to strike out the word "use," which had previously been inserted. I am willing that that word shall be stricken out; it was put in by way of amendment after the bill had been reported. I believe the suggestion was first made by the Senator from New Hampshire himself, that it should be stricken out, and if he would allow the bill to be read, he would find out that, as it now stands, it obviates the objections at first urged to it. The difficulty of postponement is that injuries are continually resulting to the legal rights of patentees who have obtained patents under the laws of this country by importations of goods from Canada, which have been manufactured from their machines. If anything is to be done in regard to the matter, it ought to be done at once. There is another reason why I cannot consent to postpone the bill until to-morrow, because to-morrow I intend to leave the city, and shall not return until after the holidays.

Mr. BRADBURY. I remember that the objection urged against this bill at the last session was, that in the attempt to protect patentees, the penalties of the bill were visited upon those who should "knowingly use" articles that had been imported thus manufactured out of the country by these patented machines. The objection then was mainly confined to that clause which prohibited the use of manufactured articles. I myself supposed that the bill would not give adequate protection without retaining that portion of it. It is believed, however, that it will amount to something; that it will give some protection; that it will afford a partial relief if passed with the omission of that portion; and I understand that rather than be left without any relief, those interested in the measure will consent that that portion of the bill shall be stricken out, and that being done, I apprehend no objection will be urged.

Mr. BAYARD. When this bill was before the Senate at the last session, I did move to strike out the word "use," in the first and second sections of it. The language is, "if any person or corporation shall import hereafter, or have in possession for purposes of traffic, use, or sale, any articles," &c., they are to be liable in the same manner as the manufacturer of the articles. Though I was perfectly willing to afford proper remedies to a patentee for the protection of the rights to which he was entitled under his patent, I considered that the principle was an unsound one which entitled the patentee, as against the community at large, to hold liable every person who might be in the possession or the use of an article, even with the qualification of "knowing it to have been so imported." I thought it was an objectionable principle, because it made each individual consumer liable to contest, at the volition of the patentee or his assignee, the question of the validity of that patent. In other words, I thought it was carrying the principle of protection, at the expense of the community at large, to too great an extent; and even if the party could not be protected without it, I was unwilling to vote for such a principle. I endeavored to illustrate it then by putting the case of a book for which you grant a copyright. This bill provides that the party may file a bill in chancery, as well as bring a suit at law, to hold the party who has possession responsible. Why, the idea that a man who had in his possession a copyrighted book should be liable either for damages, or be responsible in a court of chancery for the use of such a book, would be a monstrous proposition; and I cannot distinguish between the application of the principle to the case of a copyright and the case of a patent.

I do not know that I shall object to this bill, if the words which I have moved to strike out shall be stricken out; otherwise I think it will be an entire alteration of the principle upon which the rights of patentees have been heretofore protected, either in the country from which our laws have been mainly derived, or in this country. It is a new principle to make the mere consumer liable to be brought into litigation with the patentee, as regards his rights. Though it may be said that this power would not be abused, that does not follow; and I put this case: The bill provides that a party shall be subjected to its penalties if he uses articles "knowing them to have been so imported;" and the difficulty that occurred to my mind at once was this: Courts of justice might hold that if a party published an advertisement in the newspapers, stating that certain articles had been imported, and it could be traced to an individual that he was in the habit of receiving that newspaper, that was sufficient notice—that it was constructive notice, and was *prima facie* proof of knowledge if those articles were in his possession. Further, it might have this effect, as between patentees themselves: An individual who wished to destroy the sale of an article held under a valid patent, by publishing such a notice to the community, could prevent the sale, and force the real patentee to compromise with him, in order to avoid the effect of the notice. I could state, if I had time to do so, a great many objections to the introduction of the principle of holding the consumer, under any circumstances, liable in reference to an article, no matter where made or when imported. I still adhere to my motion to amend the bill, by striking out the word "use," in the two sections of the bill.

Mr. MILLER. We will agree to that.

The amendment was agreed to.

Mr. FELCH. Mr. President, I hope the Senator from New Jersey will consent to act upon the suggestion of the Senator from New Hampshire, and postpone the further consideration of this matter for the present. It involves, as every one who remembers the discussion at the last session will recollect, matters of great difficulty as well as of great importance. I know very well that after the discussion I received, and I presume other Senators received, several documents upon the subject, showing the operation of this kind of legislation upon the rights of parties, and of course, upon the rights of the public; also showing that it was very extensive in its operation, and that it must be very injurious to individuals, and, in some instances, to the public at large. I am not now familiar with—I do not now recollect—the particular points which were suggested, or the facts which were stated in those communications, but I recollect enough of them to be unwilling to cast a vote on this subject till I shall have refreshed my memory by referring to those communications, and also to the points which were presented here at the last session of Congress. I hope the Senator from New Jersey will yield to that suggestion, and allow the subject to lie over until we have examined it. If it meets the view of the Senator, I will, therefore, move to postpone the further consideration of the bill until to-morrow.

Mr. MILLER. It seems that I have been very unfortunate about this bill. This is the third session at which it has been before Congress, and all the subjects involved in it have been talked about and debated until we were just arriving at the point of coming to a vote, when some gentleman would rise and ask time for a further consideration of the subject. In the mean while, the evil which it is intended to remedy is going on daily with the most disastrous effect upon the rights of patentees. If we are to do anything in the matter, let it be done at once, especially after the delay which has taken place. But if the Senate think proper to postpone the subject, I have nothing to say.

Mr. HALE. Now that the bill has been brought up, I remember that in the discussions which took place at the last session, this objection was made to it, and I want to know whether it has been obviated, or whether it is thought that there was nothing in it. The objection was this: that if there was a machine patented in the United States which was legally in operation in Canada, New Brunswick, or Nova Scotia—for there might be one—the bill would subject articles manufactured upon that machine to the same penalties as if they had been illegally manufactured there. I remember that that was a suggestion which was not started by myself, but by some one of the gentlemen who spoke upon the subject; I do not remember who it was. The matter has somewhat escaped my mind, and I shall not insist upon any motion to postpone; but as the honorable Senator from Michigan has made such a motion, I think it a wise disposition to make of the subject.

Mr. BRADBURY. I recollect very well that the objection alluded to by the Senator from New Hampshire was brought forward at the last session, but I believe that a further examination satisfied the Senator who urged it; at any rate, I for one became satisfied that there was no instance of the kind. An amendment might easily obviate any such objection, though I think it unnecessary, for I believe there is no case of any articles being brought in from Canada legally manufactured there in the way named; so that I think there can be no objection on that account. I hope, however, that the bill will be postponed, with the understanding that it is to be taken up for consideration to-morrow; because it is a very serious matter that we should have our manufactories transferred from within our own borders to a foreign territory—that when the inventive genius of our own citizens shall have produced machines by which manufactures can be easily carried on, our legislation should be left such upon the statute-book that the whole manufacture of these articles should be transferred out of our own country.

Mr. BAYARD. I move the bill be postponed until Tuesday next, and I have no objection to its being made the special order for that day. I think there ought to be some little time allowed us to consider its provisions. It has passed from the memory of many Senators. In the mean time they can examine the subject, and there may then be no objection to it. I think it wiser to postpone it until that day, and I make that motion.

Mr. BORLAND. I am willing to vote for the postponement of this question, but I am unwilling to vote for making any more special orders.

Mr. BAYARD. My motion is simply to postpone it until Tuesday next.

Mr. BORLAND. Then I have no objection.

The motion was agreed to.

COMPENSATION OF MEMBERS OF CONGRESS.

Mr. UNDERWOOD. I introduced at the last session, a bill proposing to change the mode of compensating members of this body and of the other House. If we do not act upon it early in the session, it will not be acted on at all. It is a matter which will not affect me in the least. I have acted in regard to it from a sense of public duty. It will concern those who are to remain here after I shall have gone. I rise to call the attention of the Senate to it now, for the purpose of consulting Senators, to ascertain whether they are disposed to act upon it, and if they are, then to fix upon some day for its consideration. My position is such

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in reference to it, that I do not think it my duty to trouble the Senate upon the subject. If, therefore, Senators do not feel disposed to act upon it during the present session, I wish them to signify it now, because I do not intend to trouble them hereafter in relation to it. If it be their pleasure to act upon it during the session, I hope that it will be taken up and acted upon now, or some day fixed for its consideration. I am indifferent as to the day. My object is to get clear of the subject one way or the other. It is a matter, I think, of some importance, in reference to the feelings of the country, and I have acted in pursuance of what I conceive to be the public sentiment. If the Senate, however, is determined to pass the subject by during this session, I would be glad, upon a test vote, that Senators would refuse to take up the bill. I shall then have done with it. If they are disposed to act upon it, I hope they will take it up now.

The bill has not been referred to any committee. I laid it upon the table because there was no committee to which the subject of it properly belonged. It was a subject that needed no reference. I laid the bill upon the table with the expectation of asking members to take it up and consider it, and I now move to take it up. I hope the vote will be regarded as a test vote, so that, if gentlemen are not disposed to consider it, they will vote against taking it up. They would relieve me by taking that course. I move, therefore, to take up for consideration the bill "to change the mode of compensating members of Congress."

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to enact that after March 3d, 1853, there shall be paid to each Senator, Representative, and Delegate, a salary of $2,000 per annum, one half to be paid upon his attendance at the beginning of a session, and the other half at the end of the session; also twenty cents for each mile of distance from his residence to the capital on a straight line; and that the Secretary of the Treasury shall deduct at the end of a session ten dollars for each day the Senator, Representative, or Delegate may have been absent, unless such absence were occasioned by his sickness, or the sickness of his wife or child. It also provides that each member shall, at the end of the session, make and verify under oath, a statement of how many days he absented himself.

Mr. UNDERWOOD. Mr. President, as the bill is up for consideration, I will make a brief statement to the Senate with reference to it. My own opinion is, that owing to the change of the currency of the country—owing to the change of times since 1818, when the compensation of members of Congress was fixed by law, the compensation now allowed is inadequate, compared with the salaries allowed the other officers of the Government. I think there ought to be some increase to place the members of Congress upon a footing with others. I have, therefore, proposed to raise the compensation to $2,000 per annum. At present, the *per diem* allowance for the short session, about ninety days, is only $720. The *per diem* allowance of a member for a long session depends, as every gentleman knows, upon the duration of the session, and it fluctuates very much. Sometimes it may amount to, or exceed $2,000. At other times it will not come up to it. We all know perfectly well that although there are about nine months after the adjournment of Congress at the termination of the short session, before we meet again in the December following, it cannot be very profitably employed in professional pursuits. If a member is elected for the ensuing Congress, he wishes to devote his time to investigating the business, and studying the subjects likely to come up in the course of his term. And we know, also, that a service here interrupts most materially all the business in which we are in the habit of engaging at home. The utility of a member—his weight and influence here greatly depend upon the manner in which he spends the recess. He should devote his time to public affairs, and if he does that, he can pay but little attention to his own.

For these considerations I am disposed to make some increase of compensation to members of Congress. I have therefore proposed $2,000 as an annual salary; and I have in the bill allowed the same mileage, I believe, as is now allowed by law, with this difference—my bill proposes that the mileage allowed shall be estimated upon a straight line; whereas the mileage now allowed is variously estimated—sometimes giving us India rubber lines, as I have seen it stated in a recent publication, for political purposes. Thus the distance traveled by members from the same district is elongated or shortened, according to the claim made by the member representing the district at this or that time. Sometimes we charge by the winding of rivers, and sometimes by the usual road traveled. There is no fixed or certain rule, and the compensation paid is as various as the consciences of members, those traveling shorter distances often receiving more than those who travel much further.

There is no uniformity in the present mode of charging mileage. My bill proposes to place all upon a uniform footing, and then to produce one other effect: Instead of allowing us to judge for ourselves, in violation of that good old common law maxim that no one ought to be a judge in his own case, I have proposed that the mileage to be paid shall be ascertained, according to the rule prescribed, by a disinterested person, viz: the Secretary of the Treasury. I give the rule, and then select a disinterested person to carry it out and decide upon it. Hence it must necessarily result that those objections which have been taken in the newspapers and through the country to the present mode of compensation will be obviated. The mileage allowed will more than compensate any individual for coming to and returning home from the capital. It will a good deal more than do it; and I had another object in view. I wished to allow a mileage which would more than compensate the actual travel and the time spent in coming and returning, in order to give some advantage to the members who live more remote from the capital. I thought that those who lived within striking distance of their homes, considering the railroad facilities now furnished, and who could, perhaps, two or three times during a session, visit their families, ought to consent that those of us who lived at a greater distance, particularly those living upon the Pacific coast, should have some little advantage in consequence of their position. I was therefore disposed to retain the mileage as it stood at present, only making the reform which I have indicated.

Mr. BAYARD. The Senator from Kentucky will allow me to suggest to him that I think he has reduced the mileage one half. He has put it at twenty cents per mile. I think the present mileage is forty cents.

Mr. UNDERWOOD. I believe it is twenty cents for going, and twenty cents for returning.

Mr. HALE. I believe it is forty cents each way.

Mr. UNDERWOOD. Then I have unintentionally made a mistake in the bill. I did not intend to make such a reduction; and I think if the bill is examined, it will be found to be precisely in conformity to the law as it now stands; for that was the great object I had in view.

Mr. BUTLER. The mileage now is eight dollars for every twenty miles, and that is forty cents a mile.

Mr. UNDERWOOD. I state that my object was to make it precisely what it now is; and if the bill is not so drawn, and my friend will prepare an amendment, I will accept it with a great deal of pleasure.

Mr. BAYARD. If that was the intention of the honorable Senator, I move to strike out twenty and insert forty.

Mr. UNDERWOOD. I hope that will be done. I believe, by unanimous consent, I can accept the amendment.

The PRESIDING OFFICER. If there be no objection, the amendment will be made.

There was no objection.

Mr. UNDERWOOD. The only objection which I can see that can now be rationally taken to the bill is, that it may operate apparently with some little severity upon members who live at a great distance, and who, heretofore, in consequence of the mode of charging mileage, may have received more than they will receive under the operation of this bill. But I hope members who are so situated, will consent to yield a little of what the country has perhaps considered extravagant, for the purpose of bringing up others who, I conceive, have been underpaid. It will be meeting somewhat upon half-way ground. It will operate as an increase to a large majority, while it will diminish to some extent, I admit, the compensation of those who have received very large sums as mileage, in consequence of the actual distance they live from the capital; and the error, as I believe, of charging for very circuitous routes traveled. I think it will be just, and will be satisfactory to the country.

The bill provides that there shall be no compensation allowed to Senators for meeting in extra sessions while the House of Representatives are not in session. The allowance of constructive mileage is a subject, I think, which has met the condemnation of the country. The bill cuts that up by the roots, and proposes not to allow it hereafter. We undertook to get clear of the allowance of constructive mileage by a bill which was introduced by the Senator from Maryland, [Mr. PEARCE,] and passed two sessions ago. His bill prohibited the allowance of constructive mileage at an Executive session called upon the coming in of a new Administration. By such a prohibition the implication was left that if there was an Executive session at any other time, constructive mileage was to be allowed, and I believe the practice of the Senate has been, notwithstanding the passage of that bill, to take constructive mileage at a called Executive session happening at a time other than the coming in of a new Administration. Sir, if it was proper to pass a law prohibiting the allowance at an Executive session called upon the coming in of a new Administration, it is equally proper to get clear of it at an Executive session called at any other time. This bill makes no discrimination in that way. It refuses to allow constructive mileage under any and all circumstances.

I have provided that half of the compensation shall be paid to the member when he comes to the seat of Government, and the other half upon the adjournment of Congress, when he is going home. I hardly know whether I ought to make a remark which I shall submit. I intend to make it, without designing to wound the feelings of any individual upon the face of the earth. I hope it will not have that effect. But, allow me to say, that it is a principle of human nature to feel somewhat tempted to continue in a condition during which our regular pay is meted out, and it is possible that members of Congress may, in some small degree, be tempted to prolong the sessions of Congress for the per diem which is allowed. Sir, our State Legislatures have admitted the existence of temptations of that sort, and our State Legislatures and our State constitutions too, in some instances, have provided against the consequences likely to result from such temptations. They have found it necessary to put some limitations upon the practice of prolonging sessions to obtain the per diem compensation. I do not know that, in the more exalted stations we occupy, we are more exempt from the common principles of our nature than members of State Legislatures. I apprehend that what has been found necessary and proper in reference to them, may also be found necessary and proper in reference to us. I have, therefore, selected an annual salary, and propose to give one half to the members at the meeting of Congress, and the other half at the adjournment, so that there shall be no temptation whatever to prolong the sessions; but if there be any temptation resulting from the mode of compensation, it will be to discharge the duties promptly, do the business of the people, and go home.

Now, sir, you have the whole object which I had in view in introducing the bill. I have postponed its operation to a time when I shall have

left the Senate. I have made it prospective, because it will give the people an opportunity, through their representatives, to act upon it in a new Congress. If the people should be dissatisfied with its provisions, they will, it being prospective, instruct their representatives to repeal it; and I have no doubt, in such a case, that the Senate would concur with the other branch of the National Legislature in repealing it. I remember perfectly well—for I was old enough then to pay attention to political affairs—when the compensation bill passed in 1816, giving an annual salary, as I propose now to do, that the effect of its passage was to turn out of office almost every man that voted for it. Mr. Clay, I think, was the only survivor of the storm in the State of Kentucky—perhaps Colonel Johnson was another; but with those exceptions, all from Kentucky who voted for it went by the board. Now, it may be said that this bill will have the same effect. Not so. So far as I have noticed the manifestation of public sentiment, through the press, in regard to the proposition which I have made, it has been uniformly favorable all over the country. What is the ground of difference? It is this: The members of Congress who passed the bill of 1816, pocketed the money which they allowed themselves; they made it retrospective, or it went into effect immediately; so that they were benefited by it; and hence the people received it with indignation. They condemned members of Congress for running their hands into the public Treasury, and putting money in their pockets without giving them an opportunity of speaking on the matter before it was done. With a perfect recollection of the effect of the measure of 1816, of the manner in which it operated upon the representatives from Kentucky who voted for it, I have framed this bill. I have made it prospective—not to take effect during this Congress—in order to submit it to the consideration of the people. If they approve it, it will remain a law. If they are dissatisfied, they will, as I have already said, instruct their representatives to repeal it, and the Senate will no doubt conform to the popular wishes. Having thus explained the measure which I have thought proper to introduce, I shall have nothing more to say upon it, unless it be attacked in a manner in which I think it should not be.

Mr. BADGER. I desire to say a few words upon this bill, but before doing so, I ask that the third section may be read.

Mr. BAYARD. I wish to move to amend the bill by striking out that section, and, with the permission of the Senator, I will do so now. I certainly could not vote for the bill with it in. I therefore move to strike the following from the bill:

"SEC. 3. *And be it further enacted*, That the Secretary of the Treasury shall deduct from the compensation to be paid as aforesaid, at the end of the session, ten dollars for each day the member or delegate may have been absent from his seat during the sitting of the House of which he is a member, unless such absence was occasioned by his sickness or the sickness of his wife or child; and each Senator, Representative, or Delegate, shall state at the end of each session how many days he hath so absented himself, and verify his statement on oath; and if any Senator, Representative, or Delegate, shall refuse to furnish such statement, no payment shall then be made to him."

Mr. BADGER. There is no member of this or the other House of Congress, more fully sensible than I am that the compensation paid to the members of both Houses is grossly inadequate, and there is no member of either House more ready to take the responsibility, if it be one, of passing a proper law to make a just and adequate remuneration to us, not upon the principle of an imperfect payment of our expenses, but upon the principle expressly directed by the Constitution as a "compensation for" our "services." In every other department of the Government, the compensation is graduated with some view to the services to be rendered, and the expenses to be incurred. But the services were entirely left out of view, so far as I have been able to see, by those who were engaged in constructing the act which regulates the compensation of members of the two Houses. In fact, Congress seemed to have become so alarmed at the astounding outbursts of public indignation, when they ventured some thirty-six years ago to award to themselves the enormous compensation of $1,500 a year for their services, thereby putting themselves upon a footing with the second-rate clerks in the different Executive Departments, that they were afraid, when they undertook, in obedience to the popular will, to repeal the bill giving a salary, and reconstruct the system of *per diem* allowance, to do anything which could have the appearance even of awarding to themselves a respectable compensation; and whatever was done in that direction, was done by an arrangement respecting mileage which should have the effect, though not so expressed or declared, of eking out the deficiency of the *per diem* compensation. This is evident, because, under the provisions of the law, the allowance for travel was six dollars, and under the then newly-passed law, which now regulates us, it became eight dollars for every twenty miles of travel. While all the facilities of traveling had increased in the interval which elapsed between the passage of the original law, and the passage of the one consequent upon the public outburst of which I have spoken—while all the means of transport to the seat of Government had become more quick in time, and less expensive in proportion to the distance, Congress added two dollars for every twenty miles to the compensation formerly allowed. It was, therefore, obviously intended as a species of compromise with the existing public opinion of the day, whereby they might add somewhat to what everybody knew to be a mean and insignificant compensation, and show at the same time a ready acquiescence in the popular will which had declared that $1,500 a year was extravagant pay for any services they could render.

But although I entertain this opinion clearly; although I am willing to take any just responsibility in proposing or voting for a measure which should be reasonable and fair, just and liberal at once to the member and the public, I am opposed to touching this subject by any bill. Sir, we cannot pass a bill on the subject which will not be complicated with provisions injurious to us; or if passed without such provisions, leave us liable to another exhibition of that public indignation and reprobation which was hurled upon our predecessors after the passage of the law of 1816. I want to see neither of them. I do not want to see a bill passed here which shall become acceptable to the public, because it contains an—undesigned, I know, on the part of my friend from Kentucky, but not the less real—indorsement of slanders which, through the public press and elsewhere, are constantly poured out on the members of the two Houses of Congress.

Now, what is the provision contained in the third section of this bill? In the first place, that the amounts to be paid to the members of the two Houses are to be passed under the examination of an Executive officer, of a person holding his position by the appointment of the President, and responsible to no authority in the country but the President. The principle is destructive of everything like security to the legislative department of the Government. The members of the two Houses are the only officers known to the Constitution of the United States, the appointment of whom the people of the United States have reserved to themselves—directly in the case of the members of the House of Representatives, and through their State Legislatures in the case of the members of this body. To us they refer the protection of their interests. To us they look up, not merely to pass general laws for their welfare, but to guard their rights against Executive encroachments; and what do we say by a provision of that kind? That these very persons, chosen to represent the people and States of the Union, are to have their compensation brought under the consideration of an Executive officer of the Government.

A state of things somewhat similar to that occurred here not long ago, and I ask you what were the feelings of this body when an Executive officer, when a Comptroller in the Treasury Department of this Government, dared to say that he would not pass the accounts of our disbursing officer for the payment of the compensation due to members of this body, because he had undertaken to revise the adjudication of the Presiding Officer of this body as to what the amount of compensation ought to be? How did we meet that movemen on his part? Did we not meet it at the very next session upon the first appropriation bill by putting a clause in it, not making the law to be so, but declaring that, according to the true interpretation of the law upon the subject, the certificates of the Presiding Officers of the two Houses were conclusive upon all the Executive officers of the Government? And yet that very objectionable proceeding—objectionable in that case because without warrant of law, objectionable in all cases because inconsistent with the dignity and independence of the members of the two Houses—is proposed by this bill to be now, with our sanction, incorporated into a law regulating our compensation.

Then, again, we are to be marked down as present or absent in the discharge of our duty. We are no longer to exercise any discretion in determining for ourselves when the public interest requires that we should be here, and, as we absent ourselves, of standing responsible only to our own consciences, and our own constituents. No, sir, we are to be marked absent without leave; and how are we to overcome the penal consequences? How, sir? We are not to approach this body. No, but at the end of the session we are to go humbly to the Executive officer of the Treasury Department, and say to him, "Sir, I have been absent twenty days from the service of the Senate during this last session. The penalty of the law is, that my whole pay and compensation shall be forfeited, but I humbly apply to you, and beg that, in tender consideration of the matter and the excuse which I here present, you will be good enough to allow me to receive my compensation; and, sir, as I know that the word of a member of Congress cannot be justly considered as entitled to any sort of credit, as my certificate as a gentleman and a man of honor cannot be weighed against the supposed irresistible disposition of members of Congress to seize money to which they are not entitled, I hereby tender you my oath upon the Holy Evangelists that in truth and sincerity I have set forth the true cause of my absence." And now, what are the consequences? Why, if this Executive satrap had full discretion upon the subject, a man might expect to move his bowels of compassion with some reasonable appeal. But we are allowed none. I would ask the Secretary to do me the favor to read what the act says as to the excuses, and the only excuses.

The Secretary read it, as follows:

"Unless such absence was occasioned by his sickness, or the sickness of his wife or child."

Mr. BADGER. There it is. "The sickness of his wife or child." In the first place, I resent the injury which is sought to be done by this provision, to certain very worthy and excellent gentlemen in this body, who have neither wife nor child. [Laughter.] Sir, it is unequal. I have a large family of children, and I might stand a pretty good chance to get excused for frequent absences on account of the sckness of some one or other of them; but what is to become of our friend from Illinois, [Mr. SHIELDS?] He has always been a self-relying man, I know, but, though a self-relying man in all the emergencies of life, why should we throw him back upon such an unfortunate position as that in which he would be placed by the adoption of this provision? I know he deserves it for being a single man and not having a single being in the world by whose indisposition he can profit, except his own. [Laughter.] Mr. President, my colleague has thrown out the suggestion that my remark, though expressly alluding to my friend from Illinois, was meant partly to have some reference to yourself. I beg to have it understood that I know too well what is required from a member of the Senate of the United States, toward the Presiding Officer of this body, to express or even to insinuate any such reference. No, sir, my colleague is mistaken. [Laughter.]

There are two or three other causes which I think might furnish a reasonable ground of excuse for absence from this body. Some gentlemen here are not so old but they may have a father or a mother living. Would not their sickness furnish a sufficient reason for absence, especially upon private bill day, when they should leave enough behind to pass the requisite bills for preventing a *plethora* in the Treasury?

Mr. President, I look upon this whole provision, springing, as I know it does, from the best motives on the part of my friend from Kentucky, as calculated to lend an unjust sanction to the imputations daily cast upon the members of this body. Sir, hard things are said of the American Congress; hard things are said of members of this body. We are daily reproached, we are daily insulted by imputations, to which, in my judgment, nothing is better

calculated to give public authority and sanction, than the introduction of such a bill as this. I should be extremely sorry to be obliged to think myself associated with any member of this body, so utterly lost to what is required to maintain an ordinary standing in society, and to what is due in the ordinary transactions of business, as to suppose it necessary to interpose a provision that he should make an affidavit before the Secretary of the Treasury that he had not willfully absented himself from the public service, and was not endeavoring to filch from the Treasury. I, for one, say, though not unduly sensitive on the subject, that if such were the law, I would pass the rest of my senatorial term without receiving one cent from the public Treasury. I would not degrade myself by making such an affidavit, for the pay and emoluments of any session of Congress; but I would live upon my own means or starve, as the case might be, before I would receive pay coupled with any such conditions.

Mr. President, do not let us, in our anxiety upon this subject, do anything which will put our sanction on imputations which have been so often cast upon us; imputations which every member of this body knows to be either wholly false or unreasonably exaggerated; imputations, the supposed truth of which is better calculated, in my judgment, to strike down the reasonable hopes of the patriot for the continuance of our admirable frame of Government than all the agitations which have ever disturbed us; for if the people of the United States cannot rely upon the ordinary integrity of the bodies that they choose to represent them, if they are not proof against the smallest temptations that can appeal to the lowest, meanest propensities of mankind, how can the people be willing ever to repose the protection of their great interests in such men? Mr. President, I have no idea that anything can be done on this subject satisfactorily; that is, which will make a liberal and honorable provision for members of the two Houses, and at the same time guard us against the consequences to which I have adverted, in the public estimation. We must struggle on, in my opinion, as we best may; we must consent to give our services and to trust to another and a better reward than is to be found in our pecuniary compensation. Believing this, believing that it is unwise to touch the subject; believing that, however imperfect the present arrangements may be, we had better adhere to them as they are, in order to test the sense of the Senate, and see whether they are disposed to enter into any rearrangement of the subject at the present session, I submit the motion that the further consideration of the bill be postponed indefinitely.

Mr. UNDERWOOD. Mr. President, I rise to make a few remarks in reply. My friend from North Carolina intimates in his argument that if this third section of the bill, which it is now proposed to strike out, should be retained, it will be degrading to members of Congress to comply with it. I have endeavored, during the past period of my term, to treat my brother members with great respect; and now when I am about to part with them, as I believe forever, it would be very far from me to intend, by any bill which I could introduce, to show any disrespect to those with whom I have been personally associated in this Chamber, or to those who may hereafter be selected to represent the States in this august body; and if I could believe that there was anything in that third section which could receive such an interpretation, or such a construction, justly and properly, my own heart would prompt me to be among the first to move for its erasure. But I apprehend that the remarks which have fallen from my friend from North Carolina are based upon an improper foundation. Sir, sometimes, when we become exalted by public favor, and have been advanced to high, dignified, and important offices, we begin to feel as if we were elevated above the common impulses of humanity, and that it would be degrading to us to be treated as we treat the common level of mankind. I repudiate everything like that distinction between an official corps and the rank and file of society. I have no idea, because we are clothed with a little "brief authority," that our *honor* shall suffice when oaths might be, and probably would be required from the mass of our fellow-citizens in similar circumstances. I may take my impressions from the practice in my own State, where we require every one to swear that his account or claim is just. I may have had the practice of Kentucky too much in my mind, and have been guided by that practice too much when I was penning this bill. It is no new thing there to require a man to verify by affidavit any act in which he is personally interested, and especially a matter falling almost exclusively within his own knowledge and about which others may be unable to make a statement on oath without committing falsehood or perjury. It is an everyday practice, and because it is an everyday practice, I thought it was not degrading to require members of Congress to do the same thing to which I had been accustomed. I had no idea that the gentleman would consider himself degraded by submitting to the common practice of a State where, I think, justice is pretty well administered, and where we put the official corps precisely on the same footing as the unofficial masses. There is nothing in human nature, or the genius of our Government, which can allow a distinction in favor of members of Congress, or which should exempt them from the customary appeal to God by solemn oath. The gentleman's objections have no solid foundation to rest upon; and for myself I much prefer the old-fashioned way, so long used in courts of justice, of endeavoring to reach the truth, and the *whole truth*, through the solemnity of an oath, than to rely on an appeal to official dignity and worldly honor. No, sir, if members make excuses for absenting themselves, if they neglect their duties, they have no right to complain that an oath is required to verify the excuse, or to fix the number of days during which they were absent without a good cause, and which in most instances would only be known to themselves.

The gentleman represents a member of Congress in the degrading aspect of visiting an Executive officer and praying him to dole out his compensation, as if the Executive officer had any control over the compensation. No, sir, that is not the meaning of the bill, nor will it have that effect. The Executive officer has no discretion at all in the case. On the contrary, by the section proposed to be stricken out, the member makes his own statement, verified by his oath, and without any revision, without any correction, without any revising judgment or discretion, the Executive officer has to pay the money according to the account. The member of Congress makes his own deduction for absent days, and the Executive officer has nothing to do with it; he has no right to question the member about anything. His account, made out by himself, verified as the law requires, is the complete voucher upon which the money is to be paid. How can a member of Congress be degraded by simply presenting to an Executive officer an account made out by himself and verified according to law—an account which the Executive officer is bound to regard as possessing absolute verity? I have said that I have followed the institutions of my own State. They work well among us. It is no uncommon thing there that the compensation of the judges is docked, that a certain amount is deducted from their compensation for *absenteeism*. I think a Kentucky judge possesses as much dignity, and is influenced by an internal sense of right and wrong, just as high and just as powerful and operative upon him in the discharge of his duties, as any member of this body, or the other branch of Congress. We do not degrade a Kentucky judge by docking his compensation for failing to attend his courts; it is not so considered there, nor should it be so considered here. Sir, if it has that effect, the gentleman [Mr. BADGER] has only done me justice by saying that he knows I did not intend it. I did not so intend, nor do I believe it can have that effect. Sir, the degradation, if there be any, results from the member's negligence, without excuse; and for that his constituents should degrade him. It is not the oath, nor the deduction from his pay, which constitutes the degradation. These may be evidences of admitted default, I admit; but the offense which alone degrades has preceded them. Sir, if the Senate will retain the section, it will influence members to avoid the degradation by attending to their business. I hope the Senator from North Carolina does not think it perfectly legitimate and delightful for a member of Congress to play the truant, if he can do so without being found out.

I have nothing to do with the past. I do not propose to go into the consideration of that. I have endeavored, in framing this bill, to occupy ground which would enable us to avoid the difficulties which have occurred in the past. I have nothing to do with the controversy which occurred between Mr. Whitlesey and the Senate. That is a past transaction; and I do not want to see anything of the kind in the future; and one object I had in view in framing this bill, has been to avoid everything of that kind, and to leave no ground or foundation upon which any difficulty can arise between the Legislative and Executive Departments of the Government, upon the subject of our compensation. Under this bill none can arise. Under this bill, the Senator has nothing to ask but the simple administration of the law by the Executive officer, and that is done upon the Senator making out his own account of absent days, and which cannot be disputed when verified by his oath.

But, Mr. President, in preparing this bill, I wanted to reach, if I could, exact justice, consulting at the same time the interests of the country. In framing this bill, I could not overlook the consideration, that we sometimes adjourn for the want of a quorum. We often call the yeas and nays with but few more than a bare quorum present—thirty-two or thirty-three only being present for the transaction of public business, out of a body now composed of sixty-two members.

I have heard these things greatly complained of. I said to myself, in making this radical change in the compensation of members, shall there be no provision which shall have some influence, or at least a tendency to an influence, to induce members of Congress to devote their time more completely to the public business? The fact that we often adjourn because we have no quorum, and the fact that upon taking the yeas and nays, which are published to the country, very few more than half the members respond to the cali, are notorious. I asked myself if it was not possible to put some influences at work which would correct what I conceive to be an evil. I did not see but one way to put these influences to work. I could not see but one way of preventing the evil. If the high and important trust confided to us, and the honor and satisfaction to be acquired by a faithful discharge of our duties, by being always at our post, have not been sufficient to secure quorums and a punctual attendance, I did not know how I could present any motive growing out of the great duties which devolve upon us, stronger than have been presented from the very foundation. I then said that if no stronger motive could be presented, and brought to bear upon the evil than those which had previously operated, then the evil must remain without a remedy. In my simplicity, I thought if the honor of constituents and self-approbation had failed to secure diligence and attention, there was no chance but to try what virtue there might be in money. I thought the last remedy for the evil consisted in docking or cutting off ten dollars for each day the member was absent without a good excuse. And as he must know the causes of his absence better than any one else, I drew the section under consideration requiring him to make out the account of his own default, by which he was to have his compensation docked. I thought in all probability, rather than make out an account admitting his absence without good cause, he would be attentive to the duties of his station, and we should have a general attendance to do the public business. You see the evil I wished to remedy, and you have my remedy in the third section of the bill. Let us try it. The other motives have failed, and having failed, I knew no other plan likely to succeed, but that which I have devised.

I know that men here, as in every other position in life, might have excuses for absence from business. I know that there might be legitimate excuses; but I could allow none except sickness. I have provided for that. My friend from North Carolina says I did not go far enough; that we are not too old to have fathers and mothers still living, and who might require our attendance in cases of sickness. Well, that gentleman is such a youth that his father may be living; but mine paid the debt of nature many years ago. Perhaps if I had a father or mother living, I might have thought of the necessity for a provision respecting their sickness also. If my *young* friends, who owe filial obligations to living parents, think that the principle is right, but that the provision does not

go far enough, I am willing to modify the bill to suit them in that respect. But I apprehend that the remark of my friend was made rather to *degrade* my bill than to present a serious objection. I was serious in providing for an excuse on account of sickness; and if the provision is not ample enough to embrace all reasonable cases, I am willing that it should be changed. The case of sickness of a father or mother did not occur to me; and if my bill is not broad enough, I am willing to make it more ample. But the proposition now is to get clear of the section altogether, to have no check, no restraint, and then you present the case to the consideration of the people in this aspect. You make for yourselves a salary of $2,000, besides the same mileage to which you were entitled before, although you now have the facilities of travel by railroads and steamboats, none of which existed in 1818. You make this salary, and retain the mileage with all these facilities for comfortable and speedy travel; and then you strike out the provision intended to prevent members running all over the country from city to city, wherever you please, pursuing your own business or pleasure, to the neglect of official duties. You affect to consider such a provision degrading to your dignity, and assume to be too conscientious and too elevated to need such a restriction. In reply, I inquire why do not the yeas and nays show your attendance? and why do they show that you are so often without a quorum? If you were as conscientious as the argument assumes you are, how happens it that we are so often compelled to adjourn in consequence of absence without excuse or justification?

Mr. President, in framing this whole bill, I have been guided by the laws of my own State, and the principles of human nature. I have regarded these laws of my own State as applicable to those principles of our nature which we should now operate upon, and which are to be found in this Chamber, among Senators, as well as among the rank and file of the Republic. I think we are not degraded in being required to take the oath which the third section of the bill requires us to take, nor by stating how often we have absented ourselves from duty. Sir, the reference which my friend has thought proper to make to single men, is mere play, and I would merely remark upon that subject, if gentlemen come here who have no families, no wife nor child requiring their attention, then they have not those incumbrances which may sometimes prevent others of us from devoting ourselves to the public service; and being in that attitude, without incumbrances, they have no excuse for their absence. If, therefore, they can be kept at home—and this I call their home—attending to the public business by such a provision as I have made, then these young gentlemen will be kept out of mischief abroad.

The PRESIDENT. I would suggest that the Senator from Kentucky is not exactly in order.

Mr. UNDERWOOD. I beg the Chair not to understand that I meant to make any personal allusion to him. [Laughter.] That is all play, as well as the remarks of my friend from North Carolina. The question is, whether you shall make the salary of a member $2,000, and have no check whatever in case of absence and neglect of duty. What is the law now? The law now is, that you are to have only your per diem for attendance here. How do you make out your account now? You make it out upon honor. You do not swear to it. The law does not allow you any compensation now, unless you have attended to your duty here. When I first came to Congress, the practice was, whenever a member wished to absent himself, for him to make a motion asking leave. And your rules now show that to be required. But we have abandoned the rule and the law, and go away when and where we please, and come when we please, and yet our compensation runs on. If the law were administered as it exists now, we should find the very same thing which is required by my bill, except that now no oath is required. If members are not degraded by the present law, they cannot be by the provisions of the third section of this bill. I think the sensitiveness of members about taking an oath in verifying their account, results from pride of station, which I for one desire to see a little humbled. I therefore prefer to see the section remain in the bill.

Mr. BAYARD. The question now before the Senate, as I understand, is on the motion of the Senator from North Carolina, to postpone indefinitely this subject. I do not mean now to indulge in any remarks upon the merits of the bill; I do not mean to give my opinion as to whether such a bill ought to pass; my motion was to amend the bill by striking out the third section; and as my reasons for that motion can be stated very briefly, and as they differ somewhat from those of the honorable Senator from North Carolina, and have not been adverted to by the honorable Senator from Kentucky, I will state them.

I had supposed that in this country, or in any republican country, the relation between representative and constituent was one of confidence and good faith. I suppose that the constituents will know whether a representative performs his duty or not, and I think the attempt to measure the services of a man in this body by the fact that he is, or is not sitting in his seat every day, when, in point of fact he may take no part in business, is a false measure of the value of those services. My objection, therefore, is to the attempt to measure the service by the mere attendance, when the services of one man who may be absent, who may be absent perhaps on private business, will, in the eyes of his constituents, be far greater than that of another who may be a regular attendant, and yet take no part in the business of the body. I believe the measure of value to be wrong, and therefore I think that the section ought to be stricken out.

I believe that the supervision of a man's constituents is the best supervision he can have as to his course in this body. They will judge whether he attends to his duty or not—whether he rightly represents them or not. It is for them to determine as to the performance of those services, and not for us to resort to this school-boy system of fines, if a man is not in his seat every day during the session. It is on that account that I am opposed to the third section of the bill. I might give other reasons, but, in my judgment, this is sufficient. If it be retained, I shall vote against the bill. If it be stricken out, and if some other amendments, which I think the bill requires, be made, I may probably vote for it; for I do think that the present compensation allowed to members of either House of Congress is entirely inadequate to the services performed. Indeed, it is not the commencement of compensation for those services. It does not even cover their expenditures.

That the bill requires amendment in other respects, I am satisfied. My present motion, however, is to strike out the third section. Whether or not the motion of the honorable Senator from North Carolina, to postpone the bill indefinitely, is in order while my amendment is pending, it is for the Chair to decide. If it should be in order, the question will come up on the indefinite postponement; but if the amendment ought first to be disposed of, I hope it will be adopted.

Mr. ADAMS. Mr. President, it is always with reluctance that I differ with my friend from North Carolina, who addressed the Chair upon this subject. In some points in which he viewed this question, I, however, do differ with him. My opinion is, that this bill has merit in it, though I differ with my honorable friend from Kentucky, who offered it, in regard to some of its provisions. My friend from North Carolina seems to be sensitive in regard to slanders which have been circulated in reference to the conduct of this body. I would beg leave to remind him that penal statutes are not intended for the virtuous and the good, but only for the vicious; and I do not believe that this body would be degrading itself, by saying to the country that it is not afraid to stand up to the highest standard that any gentleman may think proper to present as its rule of conduct.

The Senator from North Carolina, however, objects seriously to Senators going before an Executive officer, for the purpose of making excuses on account of absence, and particularly to the oath which is prescribed in this bill. I object to that provision, and if we continue the consideration of the bill, I shall, if no one else does, move to strike out the clause which requires the certificate to be verified by the oath of the party. I approve of the certificate, and of the penalty to the fullest extent; but I would not require a Senator or a Representative to make an oath. I think some of the objections of my friend from North Carolina properly apply to that requisition. The certificate or statement of a member of either House, I take it for granted, would be true. If it were not so, my observation has convinced me that he who would deliberately certify to that which was untrue, would verify it by his oath. That provision, it seems to me, therefore, would do no good, and it would be, perhaps—although I know such was not the intention of the honorable mover—a reflection upon the integrity of the members of this body.

But, sir, there is one provision of this bill which I desire particularly should be passed; for nothing perhaps has created more dissatisfaction in the country than the question of mileage. This bill proposes to pay mileage according to the nearest route from the residence of a member to the capital, or on a stright line. I prefer that it should be the nearest mail route; but I would vote for anything that is reasonable, in order to avoid the objections to the present system. I have no objection to the distance being ascertained by an air line. I am willing to do almost anything to avoid the present mode of ascertaining mileage. If all the other features of the bill shall be stricken out, I hope that will be retained and become a law.

Objection is made to that provision of the bill making the representative office a salaried one. I shall propose, at the proper time, to strike out that provision, and to insert in lieu of it:

> There shall be paid to each Senator, Representative, and Delegate in Congress, the sum of ten dollars per day for the first three months of each session; eight dollars a day for the fourth month; six dollars a day for the fifth month; four dollars a day for the sixth month; two dollars a day for the seventh month; and no compensation shall be allowed for a longer service than seven months.

I shall, at the proper time, make that proposition, with a view of ascertaining the sense of the body. I take it for granted that members always do their duty, and that they labor as hard and as much as the circumstances will justify. But my humble judgment is, that by a proper application to business, and by Congress confining itself to subjects which are intended for legislative action, and not concerning itself with abstractions, in which much of the time has been consumed heretofore, the time contemplated by this provision will be amply sufficient for the transaction of public business; and I do not conceive that by such a provision, we would be degrading the body of which we have the honor to be members, but we would be making reasonable compensation, and obviating the public clamor of which my friend from North Carolina has complained.

I differ from my friend from Delaware, who moves to strike out the third section of this bill. He says that the supervision of the constituency is the best regulator of the conduct of members. Perhaps that is true as a general proposition; but the plan of my friend from Kentucky is, that members shall be paid a certain sum for their services, and that if they have other business more important to them than their attendance here, their per diem shall not be paid. Is there anything unreasonable in that? Is there anything degrading in it? Is it not right and honest before the country that it should be so? If a gentleman has private business of any character which is more important to him than his attendance upon this body, let him deduct his per diem for that time from his compensation. What can there be degrading or improper in that? I acknowledge I am totally unable to see either impropriety or degradation in not allowing to yourself compensation for services that you have never rendered. Is there anything degrading in being honest, and doing what is right? If there is, it is a rule of degradation which I have never studied. If the services for which the per diem compensation is given by law have never been rendered, what is wrong in not paying for them? I acknowledge that I am unable to see it. It strikes me as being right and proper that such a provision should be made; and therefore I shall feel constrained to vote against the proposition of the Senator from Delaware, to strike out the third section of the bill.

Mr. BAYARD. Is the question upon the indefinite postponement of the bill?

The PRESIDENT. It is.

Mr. HALE. I hope that motion will not prevail. It seems to me that, according to the spirit of the rule, the question ought first to be taken upon the amendment. The parliamentary law and rule of the Senate is, that the friends of a measure have a right to amend a section before the question is taken upon a motion to strike it out. The

spirit of that rule, if not its words, would seem to require us to take the vote first upon the amendment. I hope the Senate will vote down the motion to postpone indefinitely, so as to give the friends of the bill an opportunity to amend it.

Mr. BORLAND. Is the question upon the indefinite postponement of the bill?

The PRESIDENT. It is.

Mr. HALE. It is suggested to me, that on a motion to postpone indefinitely, a bill is open to amendment.

The PRESIDENT. The 11th rule will be read.

The SECRETARY accordingly read it, as follows:

"When a question is under debate, no motion shall be received but to adjourn, to lie on the table, to postpone indefinitely, to postpone to a day certain, to commit, or to amend; which several motions shall have precedence in the order they stand arranged, and the motion for adjournment shall always be in order, and be decided without debate."

The question being taken, by yeas and nays, on the motion to postpone indefinitely the further consideration of the bill, resulted—yeas 21, nays 19; as follows:

YEAS—Messrs. Atchison, Badger, Borland, Charlton, Clarke, Clemens, Dodge of Wisconsin, Dodge of Iowa, Geyer, Gwin, Hunter, Jones of Tennessee, Mangum, Miller, Rusk, Shields, Soulé, Spruance, Stockton, Upham, and Weller—21.

NAYS—Messrs. Adams, Bayard, Brooke, Butler, Chase, De Saussure, Dixon, Fish, Hale, Hamlin, Mason, Norris, Pratt, Seward, Sumner, Toucey, Underwood, Wade, and Walker—19.

So the motion was agreed to.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 22, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

THE PRESIDENT'S MESSAGE—THE TARIFF.

The SPEAKER. The question before the House is upon the adoption of the eighth resolution, reported from the Committee of the Whole on the state of the Union, upon which the yeas and nays have been ordered. The resolution will be read.

The resolution was then read, as follows:

"That so much of said message as relates to commerce and the improvement of harbors and rivers, be referred to the Committee on Commerce."

Mr. ROBINSON. Would it be in order to call for the reading of the original resolution, in order to a proper explanation of the question before the House? The resolution of the chairman of the committee proposed to divide these subjects by referring the subject of rivers to the Committee on Roads and Canals, and the subject of harbors to the Committee on Commerce. The committee amended the resolution by referring the whole to the Committee on Commerce; so the question before the House is tantamount to instructions to the Committee on Commerce to bring in a river and harbor bill, and thus to overslaugh the Committee on Roads and Canals, to which the subject of river improvements should go. I ask for the reading of the 98th rule.

Mr. FULLER, of Maine. I object. The rules bearing upon the question were read yesterday evening.

Mr. ROBINSON. I merely desired to bring the matter to the attention of the House. I suppose, however, the House understands it. I ask for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

Mr. CLEVELAND. I rise for the purpose of obtaining information. If I understand the resolution, as reported from the Committee of the Whole on the state of the Union, it takes the business which properly belongs to one committee and transfers it to another, thereby enabling that other committee to blend the interests of all the rivers and harbors in one bill. I am opposed to it.

[Cries of "Order!" "Order!"]

The question was then taken, and there were—yeas 85, nays 68; as follows:

YEAS—Messrs. Charles Allen, Allison, John Appleton, William Appleton, Ashe, Babcock, Bowne, John H. Boyd, Briggs, Buell, Burrows, E. Carrington Cabell, Caldwell, Chandler, Churchwell, Curtis, Darby, George T. Davis, Doty, Duncan, Florence, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Giddings, Goodenow, Grey, Grow, Haws, Hascall, Haven, Hebard, Henn, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, Robert W. Johnson, Daniel T. Jones, George G. King, Preston King, Landry, Martin, McDonald, McNair, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murray, Newton, Outlaw, Andrew Parker, Penn, Penniman, Porter, Read, Riddle, Robbins, Robie, Schermerhorn, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smart, Snow, Stanly, Abraham P. Stephens, St. Martin, Taylor, Thurston, Walsh, Ward, Washburn, Watkins, Welch, Wells, Addison White, and Williams—85.

NAYS—Messrs. Abercrombie, Willis Allen, Averett, Beale, Bell, Breckinridge, Brenton, Albert G. Brown, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Chastain, Clark, Clemens, Cleveland, Cobb, Cullom, John G. Davis, Dawson, Disney, Edmundson, Floyd, Freeman, Gaylord, Gilmore, Gorman, Green, Hall, Harper, Isham G. Harris, Sampson W. Harris, Hendricks, Hibbard, Hillyer, Houston, Ingersoll, Andrew Johnson, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, Mace, Mason, Meade, Millson, Molony, Murphy, Nabers, Olds, Peaslee, Phelps, Polk, Richardson, Robinson, Smith, Benjamin Stanton, Richard H. Stanton, Stone, Townshend, Venable, Wilcox, Wildrick, and Woodward—68.

So the resolution was agreed to.

Mr. GORMAN. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That two hundred extra copies of the President's message and accompanying documents be printed for the use of the head of each Executive Department of the Government.

Mr. HOUSTON. I will ask the gentleman from Indiana if that is the number which he has learned is necessary for the various bureaus where this document may be profitably circulated?

Mr. GORMAN. The number is less than was desired, but the committee have agreed upon that quantity. There are seven heads of Departments who will need them, and there are some eight or ten bureaus to be supplied. They are now only supplied with from three to five copies, two of which are bound up and placed in the Library, and there are none for the heads of their respective bureaus. Under a late law upon that subject, it becomes necessary to pass this resolution, and supply them.

Mr. HALL. I offer the following amendment to the resolution:

And that one thousand copies of the report of the Commissioner of the General Land Office be printed for the use of that officer.

I only wish to say, that the Commissioner of the General Land Office informs me that that is the usual number printed for the use of his office. It is important to the office that that number should be printed, and therefore I hope that the amendment will be adopted.

Mr. JONES, of Tennessee. There is no necessity for this number.

Mr. HALL demanded tellers upon his amendment; which were ordered; and Messrs. HALL and MCNAIR were appointed.

The question was then taken, and the tellers reported—ayes 77, noes 66.

Mr. LETCHER demanded the yeas and nays.

Mr. JONES. This House have ordered fifteen thousand copies of the President's message and the accompanying documents. That message contains this report; and a thousand copies of it are now proposed to be printed for the use of the Commissioner. The Senate have ordered, if I mistake not, the printing of some ten thousand copies of the same document. Here are twenty-five thousand copies already ordered to be printed. It is usually the case that a great many copies of this document are scattered throughout this city and sold for wrapping paper to the grocers. There are more copies of this document printed annually, and now ordered at this session, than will be sufficient to supply the demands of the country. Why it is necessary to print two hundred extra copies for the use of each of the heads of Departments, I cannot conceive, having heretofore been supplied, and will be supplied at this session, as heretofore. I have never heard any complaints of the want of this document in the Departments, and I presume that gentlemen here representing districts of country in which land offices are located, will send to each one of these officers—to the register and receiver, one or other of these officers—a copy of the message and accompanying documents. I presume Senators from States in which these land offices are located, will also send, in almost every instance, a copy of this document to each one of the land offices within their State. Then they not only have the report of the Commissioner of the General Land Office, but they have all the documents accompanying the President's message.

Mr. SACKETT. I ask the gentleman whether the House or the Senate have ordered the printing of any extra number of this document to be issued separately?

Mr. JONES. I do not know; but twenty-five thousand extra copies of the President's message and accompanying documents have been ordered. I cannot see why it is necessary, at this time, that we should commence a new item of expenditure in the way of printing this document.

Mr. HOUSTON. If I understood the reading of the amendment, it proposes the printing of extra copies of the Commissioner's report.

Mr. HALL. It proposes to furnish the usual number of copies to the Commissioner of the Land Office.

Mr. HOUSTON. I ask the Chair whether, under the law, a proposition to print that extra number is not required to go to the Committee on Printing? I understand that a law exists requiring any such proposition to go, without a motion even, to that committee.

Mr. JONES, of Tennessee. I am just informed by one of the officers of the Senate, that that body has adopted a resolution authorizing the Commissioner to have a thousand copies printed.

Mr. HALL. If that be correct, I do not wish to have the extra number. I was spoken to by the Commissioner, who informed me that no such order was made. If the gentleman's information is correct, I will not press my amendment, but withdraw it.

Mr. JONES. I would ask the chairman of the Committee on Printing, if this resolution is now adopted, ordering two hundred extra copies in addition to the present number of the President's message and accompanying documents, if there will be a separate and another charge for the composition of this document?

Mr. GORMAN. There will not. This is simply a document which is already set up, and which they are running off daily. The cost will only be that of the paper and press-work, for that additional number. These copies are really necessary, as the Departments have informed me. I received a letter from the Secretary of the Interior, requesting that some copies—he did not designate how many or how few—should be printed for the use of that Department. The committee thought that the amount named in the resolution was a reasonable one. Some of the heads of Departments desired more copies. It is really necessary that they should have some of these copies to distribute to the various land offices—to those who are connected with the Census Bureau, and to those who are connected with the surbordinate Bureaus n that Department—in the State Department and the various other bureaus of the Government. They now get none at all; and in some instances, some bureaus have come and begged for them before they could get them. It is really necessary that this resolution should be passed.

Mr. STANLY demanded tellers; which were ordered; and Messrs. FULLER, of Pennsylvania, and GAYLORD were appointed.

The question was then taken, and there were—ayes 66, noes 53.

Mr. HIBBARD demanded the yeas and nays; and they were ordered.

Mr. EVANS. I am informed by one of the Secretaries, that the Departments are now unsupplied with these documents; that they have great necessity for them. Our ministers abroad cannot properly understand the duties of their office, unless they are supplied by the home Government with these documents. In my judgment, the heads of these Departments will make a much better distribution of them, than is likely to be done by members of Congress who receive sixty copies or more. I would rather take off some from my own number and give them to the heads of Departments, than that they should not be supplied. I have every confidence that those who are at the head of the Government, and those who will be in the incoming Administration, will make good use of them. I think that there can be no extravagance in this thing; and there is no improper use which these officers can make of them. The printing will come to but a small sum, as the type is all set up. There are a great many officers of the Government, and there are other persons to whom the Secretaries can properly furnish copies of these documents, and who will make an excellent use of them. I think it cannot be doubted

that the Executive Departments need copies of them for their use. Now, very often they have to beg copies of members of Congress, or lobby about the Capitol for them. I hope, if we will not furnish the number asked for in the resolution, that we will supply a smaller number. It should be a continuing and permanent resolution.

Mr. STANLY. If it is necessary to send a copy of these documents to each receiver and land officer in the West, I submit to the gentleman who offered the resolution to so amend it as to direct the Secretaries to send to each one of these officers a copy. If they be allowed, each of them, two hundred copies, I think the number too large; because they may send them to their friends and not to the public officers. Therefore, I do not think it answers the purpose for which the resolution was intended. I hope the gentleman will so amend it as to give to each of the heads of the Departments the same number which is furnished to each member of Congress. If that amendment is made, I will vote for the resolution.

Mr. EVANS. The resolution, I think, gives to each of the heads of the Departments two hundred copies. I will make the motion to reduce the number to one hundred each. The gentleman from North Carolina [Mr. STANLY] says the heads of the Departments will send them to their constituents. I do not believe the heads of the Departments now in office, or those who will be in power during the next Administration, intend them for any such purpose. I believe they will use them for public purposes. I do not think the number (two hundred) is too large; but in order to obviate objection, I will move to reduce it to one hundred.

Mr. POLK. I desire to inquire of the chairman of the Committee on Printing if it is usual to publish these documents for the use of the heads of the Departments?

Mr. GORMAN. It has been usual, but by a law passed the last session of Congress, they are deprived of them.

Mr. POLK. I hope the gentleman from Maryland, [Mr. EVANS,] then, will withdraw his amendment. The House have ordered fifteen thousand copies of the President's message and accompanying documents for their own use—and it is a valuable document for circulation—and should not refuse a few to the heads of Departments. The cost of printing will be but a trifle, say some $200 or $300. That will be the entire cost to the Government for circulating a document of this valuable character. The House will consume more time in discussing this matter than the whole cost of printing it will amount to. I hope the gentleman from Maryland will withdraw his amendment and let the vote be taken on the original resolution.

Mr. EVANS. I will withdraw the amendment.

Mr. RICHARDSON. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. PHELPS. Is it in order to have the section of the law to which the gentleman from Indiana [Mr. GORMAN] has referred, read?

The SPEAKER. It is by unanimous consent.

Mr. SACKETT. I object.

Several MEMBERS. Read it yourself.

Mr. PHELPS. I hope the House will indulge me in having that law read. It says:

"*And be it further enacted*, That it shall not be lawful for the officer or person in charge of any bureau or office in any of the Departments of the Government, to print, or cause to be printed, at the public expense, any report he may make to the President of the United States, or the head of any of the Departments."

That is the law to which the gentleman from Indiana [Mr. GORMAN] has referred, which he says prohibits the Department from having these documents printed.

The question was then taken; and the result was—yeas 96, nays 72; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, John Appleton, Babcock, Bell, Bowie, Bowne, John H. Boyd, Brickinridge, Brenton, Briggs, Burrows, Busby, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Chastain, Churchwell, Clark, Clingman, Conger, Cullom, Darby, Dimmick, Disney, Dockery, Doty, Eastman, Evans, Florence, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gaylord, Goodenow, Gorman, Green, Grey, Grow, Hall, Harper, Sampson W. Harris, Haws, Hascall, Haven, Hendricks, Henn, Hillyer, Horsford, Thomas M. Howe, Jackson, John Johnson, George G. King, Landry, Mason, McDonald, McNair, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morehead, Morrison, Newton, Andrew Parker, Samuel W. Parker, Penn, Perkins, Polk, Porter, Preston, Robinson, Sackett, Schermerhorn, Schoolcraft, Scudder, Origen S. Seymour, Smart, Frederick P. Stanton, Richard H. Stanton, Strother, Taylor, Thurston, Walbridge, Walsh, Ward, Washburn, Watkins, Alexander White, Wilcox, and Williams—96.

NAYS—Messrs. Charles Allen, Averett, Beale, Bennett, Bocock, Bragg, Buell, Joseph Cable, Cartter, Clemens, Cleveland, Cobb, John G. Davis, Dawson, Duncan, Edmundson, Faulkner, Ficklin, Floyd, Freeman, Giddings, Gilmore, Isham G. Harris, Hart, Hebard, Hibbard, Holladay, Houston, Howard, John W. Howe, Ingersoll, Ives, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Lockhart, Mace, McMullin, Millson, Murphy, Murray, Nabers, Olds, Orr, Penniman, Phelps, Reed, Richardson, Robbins, Robie, Ross, Russell, Savage, Skelton, Smith, Stanly, Benjamin Stanton, Abraham P. Stephens, Stone, St. Martin, Townshend, Venable, Welch, Addison White, Wildrick, and Woodward—72.

So the resolution was adopted.

MARGARET L. WORTH.

Mr. POLK. I now desire to make a report from the Committee of Conference appointed to consider the case of Mrs. Margaret L. Worth.

The report of the Committee of Conference was then read, as follows:

The Committee of Conference upon the disagreeing votes of the two Houses, upon the bill for the relief of Mrs. Margaret L. Worth, met, and after full and free consultation, agree, and recommend that the House of Representatives recede from its amendment to the Senate bill, and that said bill be passed in the form in which it came from the Senate.

SOLON BORLAND,
JAMES SHIELDS,
JOHN DAVIS,
On the part of the Senate.
WILLIAM H. POLK,
ROBERT GOODENOW,
On the part of the House.

I dissent from the above report.

I. G. HARRIS.

December 21, 1852.

Mr. POLK. I move the adoption of the report, and upon that I call the previous question.

Mr. ORR. I desire to say a word upon the subject of this report.

Mr. POLK. I called the previous question upon the adoption of the report. I will state to the gentleman from South Carolina, however, that my only object in making that motion was to prevent a consumption of the time of the House. There is no need for the House, at this time, to go into an investigation of the case. The Committee of Conference have properly considered it, and it is useless to consume the time of the House with it.

Mr. ORR. It may be setting a very important precedent. I ask to have the original bill read.

Mr. POLK. It is setting no precedent. The same has been done in Congress in many similar instances.

The SPEAKER. The previous question having been demanded, the Chair must remind the gentleman from Tennessee that discussion is not in order.

Mr. HUNTER. I ask that the amendment may be read.

Mr. ORR. I ask that both the original bill and amendment may be reported.

The SPEAKER. The Chair is informed that the bill is not in the House.

Mr. HUNTER. I should like to know how we are going to vote on the bill if it is not in the House?

The SPEAKER. The gentleman is correct. It will be impossible to pass the bill when it is not in the possession of the House.

Mr. BRIGGS. I am well acquainted with all the circumstances connected with this case; and if the House will allow me, I will make a brief statement of the facts.

Mr. POLK. I think the bill must be in the House. According to my recollection, it was sent down here from the Senate for the action of the House.

Mr. STEPHENS, of Georgia. I desire to inquire of the gentleman from Tennessee if this bill originated in the House or in the Senate?

Mr. POLK. In the Senate.

Mr. STEPHENS. Then I will suggest that the proper course for us to pursue will be to wait till the Senate has considered the report of the conferees and sent the bill down to the House.

Mr. POLK. I will, then, with the consent of the House, withdraw the report and wait the action of the Senate.

Mr. HENN. I ask the unanimous consent of the House to take up from the Speaker's table Senate bill No. 429, for the relief of Benjamin S. Roberts, for the purpose of having it referred.

Mr. STANLY. I object, and call for the regular order of business.

The SPEAKER. Petitions are in order from the State of Maine.

Mr. STROTHER. Is it in order to move that the rules of the House be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. That motion is in order.

Mr. STROTHER. Then I submit the motion.

The question was put, and the motion was disagreed to—ayes 31, noes not counted.

Mr. HENN. Is it in order to move to go to the consideration of the business on the Speaker's table?

The SPEAKER. Not until the morning hour has expired.

RECEPTION OF PETITIONS.

Mr. STANLY. I now insist upon the regular order of business.

The SPEAKER. The regular order of business is the call of the States for petitions.

Mr. JONES, of Tennessee. When this is disposed of, is not the next order of business the call of committees for reports?

The SPEAKER. The impression of the Chair is, without referring to the rules, that the next business is to call the States for resolutions.

Mr. JONES. My impression is, that after the first ten days of the session, it is only in order to call the States for resolutions on Monday.

The SPEAKER. The gentleman is correct. The next business in order, when the States shall have been called for petitions, will be the call of committees for reports.

Mr. JONES. Then I move to dispense with the call for petitions, and proceed to call the committees for reports.

The SPEAKER. That motion can only be made by unanimous consent.

Mr. FLORENCE. I object.

[Cries of "Oh, no!"]

Mr. FLORENCE. I will state that I object for the simple reason that I have some petitions which I desire to present.

Mr. JONES. I move, then, that if any gentlemen have petitions to present, they rise and present them, without going through the regular call.

The SPEAKER. That course will be pursued, unless objected to.

Mr. CLINGMAN. I object. If gentlemen insist upon keeping up this rule, I want them to have the full benefit of it.

The SPEAKER then proceeded to call the States for petitions.

Mr. CLEVELAND. I have here two petitions, one of them asking for action with regard to signals upon the coast of Florida. It is very short, and I ask to have it read.

Mr. CLINGMAN. I ask if it is in order to have that petition read?

The SPEAKER. Not unless by unanimous consent. It is the duty of a member, under the rule, on presenting a petition, to make a brief verbal statement of its contents.

Mr. CLEVELAND. It is not in my power to state the substance of the petition in fewer words than by reading the paper itself. It refers to a matter in which another section of the country is concerned more than that from which I come.

Mr. CLINGMAN. Do I understand the Chair to decide that the gentleman has the right to discuss the petition?

The SPEAKER. The Chair stated that the gentleman has the right to state briefly its contents.

Mr. CLEVELAND. I am aware of the rule, and I will adhere to it literally. The petitioners say:

To the Honorable the Senate and House of Representatives of the Congress of the United States, to convene on the first Monday of December, 1852:

The petition of the undersigned underwriters, merchants, and others, of the city of New London, interested in shipping and navigation, respectfully showeth, that within the last twelve months a series of signals (fifteen in number) have been erected by one of the triangulation parties of the United States Coast Survey, along the line of the Florida reefs, indicating dangerous points, at distances varying from five to seven miles from the shore, being the same designated in a communication to the Treasury Department, from A. D. Bache, Superintendent of the Coast Survey, dated March 11th, 1852; that these signals have already proved of essential service to navigation in the adjacent waters, but that the means at the disposal of those charged with the Coast Survey, were sufficient only for the erection of signals of a temporary character, and that the security of life

and property largely engaged in the navigation of those waters, in the opinion of your petitioners, requires that the signals referred to be made permanent.

Mr. CLINGMAN. The gentleman from Connecticut is reading the petition itself. I object.

The SPEAKER. The gentleman from Connecticut must be aware that he cannot read the petition.

Mr. CLEVELAND. I am aware of the rule, and am complying with it literally. I cannot state the contents of the petition in fewer words than to read it.

The SPEAKER. The Chair does not think the gentleman is complying with the rule in reading the petition.

Mr. CLEVELAND. Well, at the request of my friends around me, I will yield my right, though I would not do so merely for the gratification of certain gentlemen who could not carry their own motions through the other day. I will, therefore, state verbally the substance of the petition.

Certain signals have been established on the coast of Florida, and these petitioners ask to have them continued, by the action of Congress, at the expense of the Government. These signals are deemed important, especially in that region. I now move that the petition be referred to the Committee on Commerce, without reading, to gratify my friend from North Carolina, [Mr. CLINGMAN,] who did not get through his motion the other day.

The petition was accordingly referred.

Mr. CLEVELAND then presented the petition of sundry widows of officers who lost their lives in the war of 1812, asking that they may receive a pension for life; which was referred to the Committee on Invalid Pensions.

Mr. INGERSOLL. If it is in order, I ask the unanimous consent of the House to withdraw from the House the petition of Elisha Whitney, and ask that it be referred to a select committee.

Mr. STANLY. I object to anything that is not in the regular order of business.

Mr. HEBARD presented the petition of Zachariah Bassett, asking for bounty land; which he asked to have referred to the Committee on Revolutionary Pensions.

Mr. MILLSON. I would suggest to the gentleman from Vermont, that his petition would properly be referred to the Committee on Revolutionary Claims.

Mr. HEBARD. I have no objection to that destination.

The petition was accordingly referred to the Committee on Revolutionary Claims.

Mr. FLORENCE presented the proceedings of a meeting in the city of Philadelphia, of the surviving soldiers of the war of 1812, asking that they may have one hundred and sixty acres of land granted to them,—together with sundry resolutions attached to said proceedings, asking Congress to pass a law to that effect.

Also, the proceedings of a meeting at Wilksbarre, Luzerne county, Pennsylvania, of the soldiers of the war of 1812, their widows and children, asking that one hundred and sixty acres of land may be granted to them. Also, a memorial, signed by citizens of the city and county of Philadelphia, soldiers of the war of 1812, asking the same relief; which were severally referred to the Committee on Public Lands.

Mr. MOORE, of Pennsylvania, presented a memorial from citizens of the county of Philadelphia, soldiers of the war of 1812, their widows and children, asking Congress to modify the bounty land act of September 28th, 1850, so as to give to each of the persons intended to be benefited by said act, and to seamen and marines who served in said war, one hundred and sixty acres of land; which was referred to the Committee on Public Lands.

Mr. FAULKNER presented a petition, purport of which not heard; which was referred to the Committee on Military Affairs.

Mr. VENABLE presented the petition of sundry persons, citizens of the State of North Carolina, against the appointment of chaplains to the two Houses of Congress, and in the Navy and Army of the United States; which was referred to the Committee on the Judiciary.

Mr. ORR presented the petition of Lucy Secrest, setting forth that her husband, Leroy Secrest entered into the service of the United States, first as a private in Captain McMahon's company of Tennessee volunteers in the Creek war of 1812, under General Jackson, and remained in service six months; that he served the United States as first lieutenant in Colonel Goodyer's regiment of South Carolina volunteers, in the Florida war, in which he served three months; that he again entered the service of the United States as captain of company I, Palmetto regiment, in the war of Mexico, and was in actual service three months, during which time he contracted a disease which terminated in his death a few days after his arrival home; that the petitioner has a family of five children, among whom are two daughters, for whom she has no means of support; that she has been placed on the pension roll at the rate of $120 per annum, which will expire on the 14th day of January, 1853. The petitioner asks that she may be placed upon the pension roll for life.

The petition was referred to the Committee on Invalid Pensions.

Mr. JOHNSON, of Georgia, presented the memorial of the Legislature of Georgia, asking indemnity for losses sustained by certain citizens of the State of Georgia and Alabama from the hostilities of the Creek Indians in the year 1836. The memorial refers to the previous action of the Government on the claims, and sets out the grounds and principles upon which they are founded. Referred to the Committee on Indian Affairs.

Mr. WATKINS presented the memorial of John F. Robertson, praying for a pension on account of wounds received in the service of the United States; which was referred to the Committee on Invalid Pensions.

Mr. CABLE, of Ohio, presented a memorial of citizens of Scroggsfield, Ohio, praying for the removal of the seat of Government, and asked that it be referred to a select committee.

Mr. JONES, of Tennessee. I object to that.

Mr. CLINGMAN. I propose to debate that petition, and of course, under the rules, it will go over.

The SPEAKER. The petition will go over under the rule.

Mr. BELL presented a petition of citizens of Winchester, Preble county, Ohio, for a pension to William Morris, a soldier in the Mexican war, as an invalid; which was referred to the Committee on Invalid Pensions.

Mr. DAVIS, of Indiana. Will it be in order to introduce a bill of which previous notice has been given?

The SPEAKER. Only by unanimous consent.

Mr. GOODENOW. I object.

Mr. DAVIS. I hope the gentleman will withdraw his objection, as I have a very important bill, and I am anxious to have it referred to a committee.

The objection was not withdrawn, and the bill was not introduced.

Mr. PARKER presented the petition of Stephen Austin, of Cass county, Indiana, of the United States corps of marines, during the last war with Great Britain, asking that the provisions of the bounty land act of September 28, 1850, be extended to himself and others rendering similar services; which was referred to the Committee on Public Lands.

Mr. LOCKHART presented the petition of Samuel Hall, President of the Evansville and Illinois Railroad Company, asking for a grant of land to aid in the construction of said road; which was referred to the Committee on Public Lands.

Mr. PHELPS presented the petition of the county court of McDonald county, Missouri, praying to be permitted to relinquish certain school lands, and to select other lands in lieu thereof; which was referred to the Committee on Public Lands.

Mr. DOTY presented the petition of William A. Prentiss and four hundred and forty-eight other citizens of Milwaukie, for a grant of land in aid of the construction of a railroad from Chicago, by Milwaukie, to Lake Superior; which was referred to the Committee on Public Lands.

Mr. HENN presented the following memorials:

The memorial of Isham D. Higdon and one hundred and twenty-four others, citizens of Iowa, asking that the office of Chaplain may be abolished;

Also, the memorial of Allen Lippincott and sixty-five others, citizens of Iowa, upon the same subject;

Also, the memorial of Alfred Forbes and eighty-two others, citizens of Iowa, upon the same subject;

Also, the memorial of Edmund Morris and one hundred and eight others, citizens of Iowa, upon the same subject;

Also, the memorial of J. W. McDonegal and one hundred and seventy-seven others, citizens of Illinois, upon the same subject.

Also, the memorial of Elias M. Willitts and sixty-two others, citizens of Illinois, upon the same subject;

Which were severally referred to the Committee on the Judiciary.

Mr. LANE. I have no petitions to present, but I ask leave to introduce two bills, of which notice was given at the last session.

Mr. STANLY. I object.

Mr. LANE. I should be much obliged to the gentleman from North Carolina if he will allow these bills to be introduced and referred to the Committee on Public Lands.

The SPEAKER. The objection is persisted in.

Mr. LANE. I am inclined to think, if the gentleman will recollect that Oregon is outside, and, this being the short session, unless these bills can go to a committee at an early day, we can expect nothing this session, he will withdraw his objection.

Mr. STANLY. We shall reach the gentleman's matter before we get to North Carolina. I object.

ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled, "An act for the relief of James N. Fawns;" and, also, a joint resolution authorizing the settlement of the accounts of the public printer for paper used by him since the first of November, 1852; which, thereupon, severally received the signature of the Speaker.

The SPEAKER. Reports are in order from the Committee on Elections.

JOHN S. LITTELL.

Mr. WILLIAMS. I was instructed by the Committee on Elections, at the last session, to submit a report on the case of John S. Littell, who contested the seat of John Robbins at the last Congress, but did not get an opportunity to do so. I submit it now, and ask that the accompanying resolution be adopted.

The resolution was read, as follows:

Resolved, That the Clerk be directed to pay to John S. Littell his per diem and mileage, as are usually allowed to members of Congress, from the commencement of the Thirty-first Congress to the 11th day of September, 1850, inclusive, the contest for a seat between him and the Hon. John Robbins, jr., having been decided on that day.

A MEMBER. Let us have an explanation of the resolution.

Mr. WILLIAMS. If the resolution which has been read by the Clerk is not passed now, in all human probability it will not be reached during the remainder of the session.

The facts of the case are briefly these: John S. Littell came to Washington at the commencement of the Thirty-first Congress, and claimed the seat held by John Robbins, jr. His memorial was referred to the Committee on Elections, which committee, after some examination of the case, reported a resolution to the House, which was adopted, authorizing the parties to the contest to take testimony of witnesses in the case before any alderman or justice of the peace in Philadelphia. Accordingly, testimony was taken, and being transmitted to the House, it was referred to the Committee on Elections, which committee subsequently submitted to the House majority and minority reports. On the 11th of September, 1850, the House decided in favor of Mr. Robbins, the sitting member. The Committee on Elections, who had thoroughly examined the merits of the case, were convinced that the contestant should be paid his per diem and mileage in accordance with the policy of Congress theretofore pursued and reported a resolution to that effect. The Committee on Claims of this Congress are satisfied he ought to receive the compensation heretofore allowed in all similar cases, and, by their direction, I have presented the resolution now under consideration. I hope that it will be adopted.

Mr. JONES, of Tennessee. I move that the resolution be laid on the table.

Mr. MOORE, of Pennsylvania. If it is in order, I propose to say a word or two on this resolution.

The SPEAKER. The resolution is not de-

batable, a motion having been submitted to lay it upon the table.

The question was taken, and the House refused to lay the resolution upon the table.

Mr. JONES. I demand the yeas and nays on the adoption of the resolution.

Mr. CARTTER. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HARRIS, of Tennessee, and JONES were appointed.

The House was divided, and the tellers reported —ayes 34; a sufficient number.

So the yeas and nays were ordered.

The question was then taken on the resolution, and it was adopted—yeas 83, nays 74; as follows:

YEAS—Messrs. Abercrombie, Allison, Ashe, Thomas H. Bayly, Bennett, Bowie, Bowne, John H. Boyd, Breckinridge, Burrows, E. Carrington Cabell, Lewis D. Campbell, Caskie, Chandler, Chapman, Chastain, Clemens, Cleveland, Curtis, Darby, George T. Davis, Dawson, Disney, Dockery, Doty, Duncan, Evans, Florence, Gamble, Gaylord, Gilmore, Goodenow, Grey, Hall, Harper, Sampson W. Harris, Hascall, Henn, Hillyer, Horsford, Howard, Thomas M. Howe, Ingersoll, Jackson, J. Glancy Jones, George G. King, Kurtz, Mason, McLanahan, McMullin, McNair, Meacham, Miller, Henry D. Moore, Morrison, Newton, Outlaw, Andrew Parker, Polk, Porter, Powell, Preston, Price, Reed, Riddle, Robbins, Robie, Sackett, Schermerhorn, Schoolcraft, Origen S. Seymour, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Taylor, Thurston, Walsh, Ward, Washburn, Watkins, and Williams—83.

NAYS—Messrs. Willis Allen, Averett, Babcock, Bocock, Bragg, Brenton, Briggs, Buell, Busby, Joseph Cable, Caldwell, Thompson Campbell, Cartter, Churchwell, Clingman, Cobb, Cullom, John G. Davis, Eastman, Edmundson, Faulkner, Fitch, Floyd, Freeman, Thomas J. D. Fuller, Gorman, Green, Grow, Isham G. Harris, Hibbard, Holladay, Houston, John W. Howe, Hunter, Ives, Jenkins, Andrew Johnson, James Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, Preston King, Letcher, Lockhart, Mace, McDonald, Millson, Molony, Morehead, Murphy, Murray, Nabers, Olds, Orr, Samuel W. Parker, Penn, Penniman, Perkins, Phelps, Ross, Savage, Skelton, Smart, Smith, Snow, St. Martin, Stuart, Townshend, Walbridge, Welch, Wells, Wilcox, Wildrick, and Woodward —74.

So the resolution was adopted.

Mr. MOORE, of Pennsylvania. I move that the vote just taken be reconsidered, and that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER. Reports are still in order from the Committee on Elections.

THE ORDER OF BUSINESS.

Mr. HARRIS, of Tennessee. I rise to a question of order. I understand that at the second session of a Congress, the business of the House is to be taken up in the condition in which it was left at the previous session.

The SPEAKER. The practice has been at the last session of a Congress to begin *de novo*.

Mr. HARRIS. The Committee on the District of Columbia was the last committee reached at the adjournment of the last session. The committees below that had not been called during that session for more than six months.

The SPEAKER. The following is the rule that controls the Chair in this case:

"22. After six days from the commencement of a second or subsequent session of any Congress, all bills, resolutions, and reports, which originated in the House, and at the close of the next preceding session remained undetermined, shall be resumed and acted on in the same manner as if an adjournment had not taken place."

It has reference to the matter reported, and not to the calling of committees for reports.

The Chair will state further, that it has been the uniform practice of the House, and he had had occasion to look into that practice, to commence the call of committees with the Committee on Elections.

HENDRICK B. WRIGHT.

Mr. GAMBLE. The Committee on Elections unanimously instruct me to report the following resolution:

Resolved, That the Clerk of this House be directed to pay Hendrick B. Wright, contestant in the contested-election case from the Eleventh Congressional district of Pennsylvania, in the first session of the Thirty-second Congress, the same daily pay and mileage paid to members of this House, from the first day of said session until the second day of July following, inclusive, being the day on which said contest was decided.

Mr. LETCHER. I call for the yeas and nays on the adoption of that resolution.

The yeas and nays were ordered.

Mr. SACKETT. I would inquire of the gentleman from Pennsylvania, whether this resolution is not in substance precisely similar to the one voted down by this House at the last session? My impression is that it is.

Mr. GAMBLE. In reply I will state to the gentleman from New York, that it is not the same resolution that was voted down at the close of the last session. That resolution proposed to pay the contestant, Mr. Wright, in addition to his per diem and mileage, the expenses of the contest, whilst this one is exclusively confined to the payment of his per diem and mileage. The committee carefully investigated the case, and unanimously instructed me to report the resolution to the House. I trust it may be adopted.

The question was taken, and the resolution was adopted—yeas 100, nays 50; as follows:

YEAS—Messrs. Abercrombie, Aiken, Allison, William Appleton, Ashe, Thomas H. Bayly, Bowie, Bragg, Busby, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Caskie, Chandler, Chapman, Chastain, Clark, Clemens, Cleveland, Curtis, Darby, George T. Davis, Dawson, Disney, Doty, Duncan, Evans, Ewing, Ficklin, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Goodenow, Green, Grow, Hall, Sampson W. Harris, Hart, Haven, Hendricks, Henn, Hibbard, Hillyer, Howard, Thos. M. Howe, Ingersoll, Jackson, Robert W. Johnson, J. Glancy Jones, George G. King, Kurtz, Lockhart, Mace, McDonald, McLanahan, McMullin, McNair, Meade, Miller, Molony, Henry D. Moore, Morrison, Murphy, Murray, Nabers, Newton, Olds, Outlaw, Andrew Parker, Polk, Porter, Preston, Price, Reed, Riddle, Robbins, Robie, Ross, Origen S. Seymour, Skelton, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stuart, Taylor, Thurston, Townshend, Venable, Walsh, Ward, Washburn, Watkins, Addison White, and Williams—100.

NAYS—Messrs. Averett, Babcock, Bell, Bennett, Bocock, Brenton, Briggs, Buell, Caldwell, Cartter, Churchwell, Clingman, Cobb, Cullom, John G. Davis, Dockery, Eastman, Edmundson, Faulkner, Fitch, Gorman, Grey, Isham G. Harris, Hebard, Horsford, Houston, John W. Howe, Hunter, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, Letcher, Martin, Millson, Morehead, Orr, Samuel W. Parker, Penniman, Perkins, Phelps, Savage, Smart, Snow, Walbridge, Welch, Wells, Wilcox, and Woodward—50.

So the resolution was adopted.

Mr. GAMBLE. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

JOHN TALIAFERRO.

Mr. DAVIS, of Massachusetts. I am instructed by the Committee on Elections to report the following resolution to the House, and to ask its adoption:

Resolved, That the Clerk of this House pay to John Taliaferro, of Virginia, the same compensation per diem and mileage that was allowed to members of Congress under the then existing law, computing the per diem from the commencement of the first session of the Twelfth Congress, till the second of December, 1811; also, that he pay the said Taliaferro a like compensation per diem and mileage from the commencement of the first session of the Thirteenth Congress to and including the second of August, 1813; and the like compensation per diem and mileage, computing the per diem from the commencement of the second session of the Thirteenth Congress to and including February 17th, 1814.

Mr. DAVIS. I ask the attention of the House for a few moments whilst I briefly state the merits of this case as embodied in the report accompanying the resolution. Mr. Taliaferro occupied a seat in this body some thirty years ago. He was a member of the House for twenty or twenty-five years. In the year 1811 there was a contested election for Congress in his district. His opponent got the return, but he appeared and contested the election, and was declared by a vote of the House to be entitled to his seat. The contest continued for some time, and as is evidenced by the records, he did not take his seat nor receive his mileage and per diem for the first session of that Congress, being occupied during that time in asserting the claim which he finally successfully established. At the next Congress the seat of his opponent, who had received the return, was again contested by him.

Mr. Taliaferro obtained three successive reports of a committee of this House in his favor, but he was finally, by a strict party vote, declared to be not entitled to the seat which he contested. Now, in either, and both of these cases, he is entitled to what he claims by the rules and practice of the House. He was declared entitled to the seat in the first instance, but did not take it, nor receive his mileage and per diem till the second session of that Congress, and for the payment of that mileage and per diem he ought to have the unanimous vote of the House.

On the rules and usage of this House, he is equally entitled to receive compensation for the period during which he, a second time, contested the seat. He did not press the claim at that time, being a member of Congress, from motives of delicacy. Within the last few years he has urged his claim, and has received the unanimous report of a former Committee on Elections in favor of it. He is now living at the age of eighty years, in very reduced circumstances, and needing this money. He is honestly entitled to it.

Mr. HALL. I understand the resolution to provide for the payment of his mileage during the first session of the Congress in which he was declared, by a vote of this House, entitled to a seat. I would inquire of the gentleman whether, being admitted to his seat, he did not receive his mileage?

Mr. DAVIS. During the whole of the first session, he did not take his seat at all. The records show it.

Mr. LETCHER. I should like to know how far back our antiquarian friends of the Committee on Elections have extended their researches? I should like to know whether there are any more cases behind this yet to be reported?

Mr. DAVIS. I will answer the gentleman. Whether there are one hundred, or one hundred thousand cases, ought not to enter into the consideration of this House, if they are fair and honest.

Mr. LETCHER. Then I would like to know if this was a fair case, why it was not paid at the time, and by those who knew the facts?

Mr. DAVIS. I will say in reply, that I believe, if the claim had been presented, that it would have been promptly paid at the time. Mr. Taliaferro, at that time, was a gentleman of fortune, and for nearly twenty years afterwards, was a member of Congress. He did not press the claim from motives of delicacy. Because from those motives the claim has been deferred, he should not suffer.

Mr. WILLIAMS. I will, by the permission of my friend, say a word or two. It is evident by this time, from the questions propounded, that the House do not understand the case. The fact that it goes back some thirty years, instead of being an objection, makes the case more meritorious. Mr. Taliaferro contested the seat of Mr. Hungerford, and obtained it. He contested it again the following Congress, and lost it, as the facts of the report show. He continued almost uninterruptedly a member of this House for twenty or thirty years, and felt a delicacy during that time to the presentation of his claim. He was a man of fortune; and, perhaps, had it not been that misfortune has overtaken him in his old age, he would not have asked for this mileage and per diem. He gained, as I have already stated, one of the contested seats, and lost the other; and he comes completely within the rule of the House which has been acted upon during more than fifty years of the Government. That members look scornfully on this claim only shows that they have not investigated the facts of the case, and are unwilling to do justice. The second time he contested the seat he had three reports in his favor from a committee of this House on three different occasions, but lost by a strict party vote. When in his old age he comes forward, will this Government plead the statute of limitation against a highly honorable man, because he chose to put off his claim till now? When he is poor, and upon the bed of sickness, maybe death, I would scorn to withhold justice from such a claimant.

Mr. BOCOCK. I desire to propound an inquiry to the Chair. There seem to be embraced in this resolution two distinct claims: one for per diem and mileage during the first Congress he contested the seat of Mr. Hungerford, about which, Mr. Speaker, it seems to me there can be not the shadow of a doubt on the mind of any man, and a claim for per diem and mileage for another Congress. Now, however the gentleman from Massachusetts [Mr. DAVIS] may think about the latter claim, or however I may think about it, there may be those here who would willingly vote for the first claim who would have some difficulty in voting for the last one. I inquire of the Chair whether we can have a separate vote on the two branches of the resolution?

The SPEAKER. The Chair thinks the resolution divisible.

Mr. BOCOCK. I then call for a division.

Mr. DAVIS, (resuming.) I will now reply to a suggestion of the gentleman from Virginia, [Mr. LETCHER.] There are very good reasons why,

when a claim is brought up after a very great lapse of time, it should be closely scrutinized. The facts in relation to the case may have become obscured, but the facts in relation to the present claim are of record. There is no mistake about a single one of them. We know perfectly well that there was a contest, and that he got the seat. We know that he did not take his seat till the second session; and that the second time he contested he got repeated reports of committees in his favor, but was defeated in the House by a close vote. I am confident that if the gentleman had examined the papers of the case, he would have reached precisely the conclusion the committee have.

Mr. LETCHER. I want a chance to examine and satisfy myself. I do not want to vote blindfold on a case which comes up after the lapse of forty years, and appeals to the House for its vote.

Mr. DAVIS. The Committee on Elections have carefully investigated all the facts in this case, and the gentleman has as much evidence on this subject as he has on most of the cases passed upon by this House. The committee have examined the records, and there is no means for deception.

The resolution under consideration, I was unanimously instructed to report to the House, and I hope it will pass.

The report of the committee was then read, as follows:

The Committee on Elections of the House of Representatives, to whom the memorial of John Taliaferro, of Virginia, was referred, have carefully examined and considered the same, and report—

It appears by the Journals of the House, that on the 17th of June, 1846, the Committee on Elections reported and recommended to the House for adoption the following resolution:

"*Resolved*, That the Clerk of this House pay to John Taliaferro, of Virginia, the same compensation per diem and mileage as is allowed members of Congress; computing the per diem and mileage from the commencement of the first session of the Twelfth Congress until the 30th day of November, 1811. Also, that he pay the said Taliaferro like compensation per diem and mileage, computing the per diem from the commencement of the first session of the Thirteenth Congress, to and including the 2d of August, 1813; and like compensation per diem and mileage, computing the per diem from the commencement of the second session of the Thirteenth Congress until the 17th day of February, 1814."

The design of that resolution appears to have been to allow to Mr. Taliaferro the usual compensation of a member during the time he was engaged in contests for a seat in this House. It does not appear, however, by the Journal, nor in the committee reports, that the resolution was accompanied by a statement of the facts which led to its being reported by the committee. It was, on motion, which precluded verbal explanation of its merits, laid on the table, and not again acted on by the House.

The committee find on the Journals, and in the files of the House, the following facts, which they deem it proper to present for the consideration of the House:

At the commencement of the first session of the Twelfth Congress, on the 4th of November, 1811, John Taliaferro, of Virginia, appeared to contest the right of J. P. Hungerford to a seat in the House; and on the 7th of that month his protest against the right of said Hungerford was presented to the House, and referred to the Committee on Elections. That protest stated, that by the law of Virginia, those only were entitled to vote for a representative in Congress who were possessed of a freehold estate, at least in a specified quantity of land, and who had been so possessed six months prior to their giving a vote, whereas nearly one hundred of the voters constituting Hungerford's majority of four had been allowed to vote on leases executed to them within ten days prior to the said election, and many of them on the day of election, in violation of the law of Virginia; and the deduction of those votes from the poll of said Hungerford would result in the declaration of the election of said Taliaferro. Upon these facts, so alleged by said Taliaferro, the then Committee on Elections, on the 21st of the same month, reported in his favor; and on the 29th of the same month the conclusions of the report were adopted by the House, and the said Taliaferro was admitted to his seat, only nineteen members voting in the negative. He took his seat on the 2d of December, to which day the House had adjourned from November 29th.

The Journals of the House further show, that at the commencement of the first session of the Thirteenth Congress, May 20th, 1813, John Taliaferro again appeared to contest the right of J. P. Hungerford to a seat in this House, and on the 27th of that month his protest to that effect was presented to the House. The said protest alleged in substance two grounds of objection to the right of said Hungerford; first, that the statute of Virginia, prescribing the mode in which the poll lists should be kept, had not been complied with, and that the election of said Hungerford had been thus secured; second, that about one hundred of those who voted for said Hungerford, his declared majority being about twenty, had not been possessed of a freehold interest in land for six months prior to the election, according to the requirements of the laws of Virginia. On the first of these points the committee—June 10th—reported in favor of said Taliaferro, and on the 15th of June that report was non-concurred in by the House by a majority of four. On the 28th of June the committee again reported in substance, that if in the judgment of the House it was necessary, according to the law of Virginia, that a voter should have been possessed of a freehold estate in land, on which he was allowed to vote, six months prior to the said election, J. P. Hungerford was not elected, and John Taliaferro was elected, thus presenting to the House the identical issue which had been decided by the Twelfth Congress in favor of the said Taliaferro. The consideration of this report was, on the 31st day of July, 1813, postponed to the first day of the next session. At the commencement of the said second session, the report then to be acted on was recommitted to the Committee on Elections, and on the 10th January, 1814, that committee reported the following resolutions to the House:

"*Resolved*, That the said election was illegal, and ought to be set aside.

"*Resolved*, That J. P. Hungerford is not entitled to a seat in this House."

On the 17th of February, 1814, the House rejected the aforesaid resolution of the committee, and no further action was taken in the case.

It appears from the foregoing facts that Mr. Taliaferro was, in the first instance, successful in establishing his claim to a seat, and that in the second instance his claim had so much of merit as repeatedly to be reported upon favorably by a committee of the House, and to come very near receiving the assent of a majority of the House.

The committee consider that, in pursuing these contests, Mr. Taliaferro was, with much trouble, expense, and privation, discharging a public duty, and vindicating the purity of elections; and they feel justified, by the invariable usage in such cases, to submit to the House the accompanying resolution for its adoption.

Mr. ASHE. I move to amend the resolution so as to give him the per diem and mileage that was allowed to members of Congness under the then existing law.

Mr. DAVIS. I have no objection to the amendment. The same per diem and mileage as would be allowed by the law then in force.

Mr. FICKLIN. I desire to ask the honorable chairman of the Committee on Elections, as Mr. Taliaferro had his seat in the first Congress, if he did not then receive his mileage the same as any other member; and if this proposition does not pay him double mileage?

Mr. ASHE. As the facts in the report show, the seat which was contested the first session was not determined until the second session of the same Congress. Mr. Taliaferro did not demand and never received his mileage and per diem for the first session.

Mr. FICKLIN. As I understood from the reading of the report, he succeeded at the first session, and took his seat in December, there being an adjournment to December.

Mr. ASHE. The Journals of this House do not state it to be so. I do not know where the gentleman derives his information. The Journals of the House show most conclusively that he contested his seat in the first session of that Congress. It was not until the second session of the same Congress that he took his seat, and then being a man of great opulence and high position in society, he felt that it was not becoming in him to take the per diem and mileage, and he would not do it. I move to amend the resolution as I have suggested, and pay him according to the law then in force. I move the previous question.

The previous question was seconded, and the main question ordered.

Mr. BOCOCK. I ask that the resolution be divided.

Mr. JONES demanded the yeas and nays upon the resolution, and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CLINGMAN and FAULKNER were appointed.

The House was divided, and the tellers reported—ayes 28, decided to be a sufficient number.

So the yeas and nays were ordered.

Mr. JOHNSON, of Georgia. I move that the House adjourn.

Mr. POLK. Upon that motion, I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken upon Mr. JOHNSON's motion, and it was decided in the negative.

The SPEAKER. The first question now, is upon the amendment offered by the gentleman from North Carolina, [Mr. ASHE,] to insert the words "under the then existing law."

Mr. ASHE. That amendment was accepted.

Mr. RICHARDSON. It is a report from the committee, and the amendment cannot be accepted.

The question was then taken on the amendment, and it was agreed to.

The question then recurred upon the first branch of the resolution, which was then read, as follows:

"*Resolved*, That the Clerk of the House pay to John Taliaferro, of Virginia, the same compensation per diem and mileage that is allowed to members of Congress, computing the per diem from the commencement of the first session of the Twelfth Congress, till the 2d of December, 1811."

Mr. WILLIAMS. I will appeal to my friend from Virginia, [Mr. BOCOCK,] who called for a division, and to those gentlemen who called for the yeas and nays, not to take the yeas and nays upon the first branch of the resolution. There is no question that he obtained his seat, and we should not detain the House unnecessarily.

Mr. JONES, of Tennessee. There is no appropriation by which this can be paid, or it would be paid by law.

The question was then taken upon the first branch of the resolution, and there were—yeas 97, nays 52; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, John Appleton, Ashe, Bell, Bennett, Bocock, Bowie, Bowne, Brenton, Briggs, Albert G. Brown, Burrows, Busby, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Cartter, Caskie, Chandler, Chapman, Clemens, Cleveland, Curtis, Darby, George T. Davis, Dockery, Doty, Duncan, Edmundson, Faulkner, Florence, Floyd, Freeman, Henry M. Fuller, Thos J. D. Fuller, Gamble, Gaylord, Gilmore, Grey, Grow, Hall, Harper, Isham G. Harris, Sampson W. Harris, Haws, Holladay, Howard, John W. Howe, Thomas M. Howe, Ingersoll, Robert W. Johnson, George G. King, Kurtz, Landry, Lockhart, Martin, McLanahan, McNair, Meacham, Meade, Miller, Molony, Henry D. Moore, John Moore, Morrison, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Porter, Price, Reed, Robbins, Sackett, Schermerhorn, Origen S. Seymour, Skelton, Smart, Stanly, Benj. Stanton, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Strother, Taylor, Thurston, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, White, and Williams—97.

NAYS—Messrs. Charles Allen, Averett, Babcock, Buell, Caldwell, Chastain, Churchwell, Cobb, Conger, Cullom, John G. Davis, Eastman, Ficklin, Fitch, Giddings, Gorman, Hart, Haven, Hebard, Hendricks, Henn, Hillyer, Houston, Hunter, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, Preston King, Letcher, Mace, McMullin, Millson, Morehead, Nabers, Orr, Peaslee, Penn, Phelps, Richardson, Robinson, Ross, Savage, Stuart, Townshend, Wilcox, Wildrick, and Woodward—52.

So the first branch of the resolution was agreed to.

Mr. ASHE moved to reconsider the vote by which the first branch of the resolution was adopted and to lay the motion to reconsider upon the table; which latter motion was agreed to.

The second branch of the resolution was then read, as follows:

"Also, that he pay the said Taliaferro a like compensation per diem and mileage, from the commencement of the first session of the Thirteenth Congress to and including the 2d of August, 1813; and the like compensation per diem and mileage, computing the per diem from the commencement of the second session of the Thirteenth Congress to and including February 17th, 1814."

The question was then taken upon its adoption, and there were—yeas 57, nays 74; as follows:

YEAS—Messrs. Abercrombie, Ashe, Bowie, Bowne, J. H. Boyd, E. Carrington Cabell, Lewis D. Campbell, Caskie, Chandler, Chapman, Cleveland, Darby, Dockery, Duncan, Florenee, Freeman, Henry M. Fuller, Gamble, Gilmore, Grow, Harper, Haws, Hebard, Holladay, John W. Howe, Thomas M. Howe, George G. King, Kurtz, Landry, McNair, Meacham, Miller, Henry D. Moore, John Moore, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Porter, Price, Reed, Riddle, Sackett, Schermerhorn, Origen S. Seymour, Stanly, Benjamin Stanton, Abraham P. Stephens, Strother, Taylor, Walsh, Ward, Washburn, Watkins, Welch, Addison White, and Williams—57.

NAYS—Messrs. Willis Allen, Babcock, Bell, Bocock, Briggs, Buell, Busby, Caldwell, Cartter, Chastain, Churchwell, Clemens, Conger, Cullom, George T. Davis, John G. Davis, Eastman, Edmundson, Ficklin, Fitch, Gaylord, Giddings, Gorman, Hall, Isham G. Harris, Sampson W. Harris, Hart, Haven, Hendricks, Henn, Hillyer, Horsford, Houston, Howard, Hunter, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, Preston King, Letcher, Lockhart, Mace, McMullin, Meade, Millson, Molony, Morehead, Morrison, Murphy, Nabers, Orr, Peaslee, Penn, Penniman, Phelps, Polk, Powell, Richardson, Robbins, Robinson, Ross, Savage, Skelton, Smart, Snow, Stuart, Thurston, Townshend, Venable, Wilcox, and Wildrick—74.

So the second branch of the resolution was not agreed to.

Mr. DAVIS. I move to reconsider the vote just taken.

Mr. McMULLIN. I move to lay that motion upon the table.

Mr. DAVIS. Mr. Speaker, I moved——

Mr. JONES, of Tennessee I submit the question whether the gentleman from Massachusetts [Mr. DAVIS] can retain the floor—the motion not being debatable.

The SPEAKER. The motion to reconsider is debatable.

Mr. JONES. Not, I apprehend, until the previous question is exhausted.

The SPEAKER. It is the universal practice of the House. The previous question is exhausted upon the adoption or rejection of the measure.

Mr. SACKETT. If the gentleman from Massachusetts [Mr. DAVIS] will allow me, I move that the House adjourn.

Mr. ASHE demanded tellers; which were not ordered.

The question was then taken upon Mr. SACKETT's motion, and there were—ayes 52, noes 33.

So the House adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions, memorial, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HAWS: The petition of C. Hanson, who proposes to establish a line of steamers between Brooklyn, New York, and Gluckstadt, on the Elbe, and near to Hamburg, so as to make semi-monthly passages between Brooklyn and the city of Hamburg, asking aid to enable him to establish said line.

By Mr. ALLEN, of Massachusetts: The petition of Elias Capester, for a pension.

By Mr. LANDRY: The memorial of the church wardens of the "Congregation of the Roman Catholic Church of Ascension," praying Congress for the confirmation of the church land of the parish of Ascension to all the white Roman Catholics of said parish.

By Mr. CABELL, of Florida: Preamble and resolutions of the Legislature of the State of Florida for a mail route from Madison Court-House to Clay Landing, in Levy county.

Also, a resolution of said Legislature, asking a grant of one quarter section of land to the county of Levy, for a county site.

By Mr. HORSFORD: The petition of Zachariah Long, an invalid pensioner, for back pay.

IN SENATE.

THURSDAY, *December* 23, 1852.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The Hon. W. K. SEBASTIAN appeared in his seat to-day.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of the Navy, communicating a letter from the Chief of the Bureau of Yards and Docks, asking an appropriation for the purchase of land adjoining the naval hospital at Norfolk; which was referred to the Committee on Naval Affairs.

PETITIONS, ETC.

Mr. MASON presented the petition of Caty White, widow of William White, a lieutenant colonel in the revolutionary army, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. SUMNER presented the memorial of Robert Roberts, praying indemnity for the ship Experiment, captured by a privateer under Spanish colors in 1805, recaptured by a British cruiser, carried into Jamaica and condemned; which was referred to the Committee on Commerce.

Mr. CASS presented the petition of Nancy Ingersoll, widow of Justice Ingersoll, an officer of the Army, praying a pension; which was referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of Henry Etting, a purser in the Navy, praying that he may be credited with the amount paid by him to Lieutenant Rich, for services as judge advocate, and disallowed on the settlement of his accounts; which was referred to the Committee on Naval Affairs.

Mr. FISH presented the petition of Thaddeus Scott, one of the children of William Scott, and administrator of Susannah Scott, his widow, praying to be allowed the pension to which he alleges she was entitled under the act of July 7, 1838; which was referred to the Committee on Pensions.

Mr. GWIN presented the petition of Nicholas M. Iardella, praying compensation for services performed in the Treasury Department; which was referred to the Committee on Claims.

REPORTS FROM A STANDING COMMITTEE.

Mr. BORLAND, from the Committee on Printing, to which was referred the motion to print the memorial of Eugene Plunkett, praying Congress to purchase, for distribution among the citizens of the United States of Spanish origin, a work prepared by him, containing a translation, in Spanish, of the Declaration of Independence, the Constitution of the United States, and other similar documents, reported against printing the petition; which was agreed to.

He also, from the same committee, to which was referred the motion to print the petition of the Peace Society, praying the adoption of measures for the amicable settlement of international difficulties, reported against printing the same; which was agreed to.

SAMUEL F. BUTTERWORTH.

Mr. ADAMS. I desire to ask leave to withdraw the petition and papers in the case of the application of Samuel F. Butterworth. A bill has been reported favorable to this claim, and it ought to have come up for action at the last session. I stated at the time that I had assurances from General Stark, that he would settle the claim of Mr. Butterworth, and adjust the matter between them amicably, so as to save the United States from all liability. I have the pleasure now to state, that I have received a letter from Mr. Butterworth, the claimant, stating that General Stark has settled with him fairly, and has entirely arranged the whole matter. I therefore ask leave to withdraw the petition and papers in the case, and ask also that the bill be taken up, in order that it may be postponed indefinitely.

Leave was granted, and the Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Samuel F. Butterworth, when, on motion of Mr. ADAMS, its further consideration was indefinitely postponed.

PAYMENT OF TEXAS DEBT.

Mr. MASON. Mr. President, I ask permission to lay before the Senate an amendment that I intend to offer to the bill reported by the Committee on Finance for the payment of the Texas debt. That bill has been made the order of the day for the 6th of January next. I intend to offer this as a substitute for that. I ask the unanimous consent of the Senate to allow me to lay this amendment on the table informally, in order that it may be printed.

The proposed amendment was received informally, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the resolution from the Senate explanatory of an act appropriating money for the removal of the raft of Red river.

RAILROADS IN ARKANSAS.

Mr. BORLAND, agreeably to previous notice, asked and obtained leave to introduce a bill granting to the States of Arkansas and Missouri the right of way and a portion of the public land to aid in the construction of two railroads in said States; which was read a first and second time by its title, and referred to the Committee on Public Lands.

RECESS FOR THE HOLIDAYS.

Mr. BADGER. Mr. President, I desire now to submit a motion that when the Senate adjourns to-day, it be to meet on Monday next.

Mr. CASS. Before the question is taken on that motion, I wish to say a word. When the same question was before us a week ago, the honorable Senator from Mississippi [Mr. ADAMS] spoke about fooling away time here. Now, for one, I have never been in the habit of fooling away time here, nor do I think that any other member of this body has been. The difficulty in my mind is, that an intimation like that makes a very false impression throughout the country. It leaves our constituents to suppose that we come here daily, and spend four or five hours in discussing and voting, and then go home, having nothing more to do. There is not a member of this body who does not know that the least part of our duty is performed here. For myself, I work all the time; and I do not know that I do more than any other member of the Senate; and in one respect I am more favored, because the Senate have been kind enough to excuse me from serving on any committee. We all know that business has to be matured; that a large portion of our business is done in the committee rooms. We all have an immense correspondence to answer. We have to go to the different Departments perhaps a dozen times in the course of a week. We go to fulfill various personal and representative duties which our proceedings require. These duties are far greater than those which we perform here in the Chamber; and therefore I take it for granted that when we adjourn over for two days at the commencement of the session, while business is being matured, we do not lose time at all.

I have made these remarks to correct a false impression that might prevail throughout the country from the remark of the honorable Senator. But there is another matter connected with this subject, to which I wish to allude, and it is simply this. The honorable Senator yesterday, in the course of the debate, alluded to the immense discussion here, and the slowness of our proceedings. Sir, it is true that there is a great deal of discussion, and that our proceedings are slow; but it is an old maxim, and a very wise one, "*Festina lente*"—make haste slowly. It is not he who makes the most speed that makes the best speed. Despotic Governments are far ahead of us in prompt action; but this thing of deliberation, and discussion, and awakening the attention of the public to their interests, is among the highest elements of the duration of republican Governments. It is said that it is a tax. If it is, it is one which is well paid. We talk a great deal more than we should talk, but if it does not enlighten the public, it has the effect of directing public attention to the subjects upon which we talk. I do not know that we sit too long. I do not think we always sit long enough. I think we do business very slowly; but I do not think there is any foundation for the imputations which might be drawn from the remark of the honorable Senator; and fearful least it might lead to a false impression throughout the country, I was determined, whenever an appropriate occasion offered, to explain my views as I have now done.

Mr. ADAMS. Mr. President, it is due to myself, as well as to the Senate, to say a word by way of explanation of the remark which has been referred to by the Senator from Michigan. I am reported in the papers as having used the language which has been adverted to, and I do not pretend to say that the report is not correct; though I do wish to say that I did not intend to use language which could be considered discourteous to the Senate. I would be the last man present to do such a thing. The motion to adjourn over was made in a hurry, at a moment when I was not looking for it, and I immediately arose, and used a common term to express the idea of idling away time unnecessarily. I had no intention of using language which could be considered disrespectful to those who voted differently from me; for it will be recollected that no one had then voted, and therefore my remark could not be considered as personal. My reason for desiring the yeas and nays on that occasion was, that I knew that a great amount of business remained upon the calendar in a state of readiness for action, and I knew that it would be perfectly impossible for the body to act advisedly on all the bills which had not been reported, and there was no necessity for waiting for the action of the committees. I will, perhaps, vote against as many of the private claims upon the calendar as any other member of the body; and yet I know there are some just claims on that calendar. I know that there are individuals suffering for the want of action on the part of the Congress of the United States, who have just claims against the Government. I am unwilling that any man, woman, or child, should go to bed hungry where a just claim exists against this Government, which would relieve their wants, by any omission of labor on my part, and I thought that we might have sat upon Friday and Saturday last week, without any injury, and upon every other Friday and Saturday, until we should have disposed of the private calendar, and have rejected such bills as, in the opinion of the majority, were unjust, and allowed such as we thought ought to be passed. These were my motives, and I only wished to explain them. I desired the yeas and nays at the time, that those who might feel an interest in my own vote, could see the course I pursued, not expecting that it would affect others injuriously.

Mr. BORLAND. The Senator from Michigan has so well and so fully expressed what I consider the proper views upon this subject, that I shall not undertake to go over the same ground. I simply rise to express my gratification that one occupying so distinguished a position, should present the matter in the light in which he has. I apprehend that all Senators feel that the least onerous part of their duties is performed in this Chamber, in the sessions of the Senate. Why, sir, according to my apprehension, and according to my experience as a member of this body,—and I aspire to no higher position than that of an humble working member,—we only give to the public here, the evidences that we have been at work elsewhere. Those of us who are on committees—and I am on three working committees of this body—know very well that we occupy a much longer time in the twenty-four

hours in our duties upon those committees, in examining the subjects referred to us, and maturing the bills which we are to report, than we do in the consideration that we are to give them on this floor. I apprehend there are few members who do not occupy more hours after dark, during the night, in the consideration of these subjects, and in the preparation of themselves to give intelligent votes upon them on this floor, than they do in the attention that they give to them here. For myself, I can say, and from my observation in my intercourse with other Senators, I am of opinion, that few are able to retire to their beds before two o'clock at night. I never do, for if I did, I should be unable to keep up even tolerably with the business which my public duties require of me here, and my constituents, through their correspondence, and owing to their wants from the Departments, require of me in other duties.

Mr. BAYARD. Mr. President, I would suggest to the honorable Senator from Mississippi, that those laws which affect the interests of the community at large must necessarily take precedence of private claims, and I would suggest a remedy for the evil of which he complains—and undoubtedly it is an evil. There are a vast mass of claims which ought not to be laid before Congress, which, indeed, prevent justice being done to many claimants who are entitled to have their claims allowed by Government. My remedy is, that a tribunal different from that which now passes upon those claims, be constituted by the Legislature, so that justice against the United States may be done as against an individual upon a proper examination of facts, and with no more delay than occurs in individual cases of a difference of opinion. For my own part, it was my intention to have introduced at this session a bill with that view. Whether, if introduced, it would have passed, it is not for me to answer; but certainly, though at this session there are many topics of general interest to consider which will probably prevent its passage through both Houses, I shall feel it to be my duty to submit such a bill at the ensuing Congress, if I should live to be here as a member of this body.

Mr. BADGER. Mr. President, I am not a remarkably industrious man myself, and I will not therefore make any allusion to any particular employment of my own in or out of this Chamber, but will content myself with taking the benefit, with the rest of the Senate, of the general statements which have been made. I wish only now to say to my friend from Mississippi, in whose generous anxiety for the hungry and starving claimants on this Government I fully and entirely concur, that if, when private bill day comes, no man will talk more upon private bills which have been prepared by the committee, and if every man will vote as regularly for them as I do, a vast deal more will be accomplished in the course of one hour to prevent starving and hungry claimants from future suffering, than by meeting on every Friday between now and the twentieth century. That is my plan of showing the solicitude which I have of providing proper means to stay the hunger of these persons who are pressing their claims upon us. My motive for making the motion to adjourn over is a reverential respect for the established usages of the body to which I belong. Before the Christmas holidays the Senate has never met on Fridays, and I hope never will.

The motion was agreed to.

TRIPARTITE CUBAN CONVENTION.

Mr. MASON offered the following resolution; which was read:

Resolved, That the President of the United States communicate to the Senate, if in his opinion not incompatible with the public interest, copies of the "official notes received from the Ministers of France and England, inviting the Government of the United States to become a party with Great Britain and France to a tripartite convention, in virtue of which the three Powers should severally and collectively disclaim now and for the future, all intention to obtain possession of the Island of Cuba, and should bind themselves to discountenance all attempts to that effect on the part of every power or individual whatever;" and of the reply thereto on the part of this Government, referred to in his annual message to the two Houses of Congress, on the 6th instant.

Mr. MASON. Mr. President, the subject in regard to which this resolution calls for information is brought to our notice in the annual message of the President to both Houses of Congress at the commencement of this session. The President brings to our notice the invitation which was received from the Ministers of England and France in reference to the Island of Cuba. The language of the message in regard to that is quoted in the resolution just read; but I will read the sentence which follows:

"This invitation has been respectfully declined, for reasons which it would occupy too much space in this communication to state in detail, but which led me to think that the proposed measure would be of doubtful constitutionality, impolitic, and unavailing."

So much of the message is purely narrative—giving to Congress information as to the fact. The residue of the paragraph, however, expresses the judgment of the President upon the subject-matter, and I will read it:

"I have, however, in common with several of my predecessors, directed the Ministers of France and England to be assured that the United States entertain no designs against Cuba, but that, on the contrary, I should regard its incorporation into the Union at the present time as fraught with serious peril."

Mr. President, if any further evidence were necessary to satisfy this country that the eyes of the two great maritime and commercial Powers of Europe have been directed, with increasing interest, to the relations borne by the continent of North America to the Island of Cuba, it would be furnished by the fact disclosed in the message, to which this resolution refers. The position which the Island of Cuba geographically holds to this continent is such, that almost ever since we became a nation, it has been looked upon with the deepest interest by all our statesmen. The Island of Cuba lies in the gateway of the Gulf of Mexico; and all our statesmen, of every political complexion, from the foundation of the Government to this day, were admonished thereby that the vigilance of this country must never be relaxed in regard to the political relations of that Island.

But there is something more, I apprehend, which has led these two great European Powers to make to this country a proposition, which they should have known when they made it, would be declined. They should have known that, sir; because the whole history of the political action of this country would forbid the acceptance of such an invitation; but they have made it, and we are informed by the President that it has been declined.

Sir, the reasons for making it under the circumstances suggested, require no seer's gift to comprehend. It has been the established policy of this country, made known in the most open, frank, and undisguised manner, to all the Powers of Europe, that while the Island of Cuba remained a province, a dependency of Spain, we should never interfere with it; but that if ever any ambitious or grasping potentate should attempt, either by rapine or by treaty, to take the Island of Cuba from the possession of Spain, it would become this country, cost what it might, to interpose and to prevent it. Every country in Europe knows that. What, then, has led to this invitation, jointly extended by the two great, powerful, maritime nations of Europe at this time? Mr. President, I can trace it to but one cause—a belief on the part of those Governments that there is a tendency in the popular mind in this country to take Cuba, and the invitation was intended as an intimation that France and England were in alliance to prevent it.

Now, sir, I am here free to declare, representing as I do a section of the country as deeply interested in the future relations of Cuba to this continent as any other; in my place as a Senator from the South, and upon my responsibility as a statesman of America, that I am content Cuba shall remain in the possession of Spain, unless it can be acquired from her by voluntary cession on her part, or unless the people of Cuba, by their own act, shall sever all political connection with their European mother, and voluntarily propose annexation.

Sir, the honor, the dignity, the good name of America, for all time to come, demands at the hands of the American people, not only that they should not sympathize with or encourage, but that they should indignantly frown upon and suppress any attempts, by violence in any form, to wrest from Spain any part of her possessions—whether they be stimulated by political ambition or by a spirit of speculative marauding on the part of those who engage in it.

The policy of this country, as I have said, has been announced to all Europe. Spain is a weak Power, and it is fortunate for us and for our peaceful relations with the continent of Europe she is so. Cuba is her property, as fully, exclusively, and entirely her property as Oregon or New Mexico is ours, and any attempt, whether made by individuals in violation of the laws of their country, or made by the Government in its politic capacity, to dismember Cuba from Spain, would tarnish, forever tarnish our national fame.

Sir, I know of no safer guarantee for our own rights, our national rights, and the rights of the States in their sovereign capacity, than a uniform and scrupulous regard to the rights of others. But, Mr. President, the invitation thus given by those two Powers, acting jointly, proposing on their part a tripartite convention of the three Governments to disclaim now and forever hereafter any purpose of acquiring Cuba by any means, imports a more enlarged meaning than its language would convey.

I should read its meaning thus: France and England believe that the possession of Cuba by the United States would be fraught with consequences injurious to them, and therefore they give us to understand, by this form of communication, that they are in league to prevent it. Now, sir, treating it thus, I have this to say—we have already indicated our policy to let Cuba alone, and sacredly to regard the rights of Spain. We know that in the fullness of time the fruit will ripen, and fall from the parent stem. When that time shall come, its political coalition with this continent is inevitable. Interference by other nations may hasten this event, but the combined power of Europe cannot prevent it.

This, sir, is a full, and I think, an intelligible reply to any question of European interference with the political condition of Cuba.

Sir, who can doubt but that the acquisition of Cuba by the United States is a question of time only, purely a question of time? In the progress of empires, in the formation of nations, they grow from infancy to youth, and so to manhood. Great and powerful as our country is, it is yet in its youth; and it is of little moment to us whether we acquire Cuba in this generation or in the next; but come it will, just as certainly as that the world revolves upon its axis.

Mr. President, I regretted, deeply regretted, to see, just before we were assembled here at the present session, that the President of the United States had thought it proper, upon a general call for the correspondence by the other House, to divulge all communication which had passed between this Government and Spain, on the subject of Cuba, from its first commencement. I do not mean to question the motives of the President in so doing, but I do question his judgment. Whatever it was intended to effect, one consequence must be the result—the postponement of the acquisition of that Island to a more distant period than if the correspondence had not been divulged; and I apprehend that it is not very usual in the diplomatic intercourse of nations to bring from the secret archives, where they properly belong, matters that have confidentially passed between two Governments, on any question in which others hold themselves to be interested. The Administration which has published the correspondence is about to go out of office. I shall make no war upon it for what it has done; but I will say that as far as the acquisition of Cuba is involved, it has done little to expedite it by divulging that correspondence. Yet the publication may have the less injurious effect for the reason that our Government deals but little in secret diplomacy. The ends and objects we desire to attain, should not be idly or uselessly promulged; but if they become so, I apprehend the world will find nothing in them at which we have cause to blush. Let them have the information for what it is worth. They all know—I mean the European Powers all know—not only the deep interest our whole country feels in the acquisition of that Island, but they know, also, that it will inevitably become ours at some day. Let them have the information for what it is worth. It may postpone the acquisition; it cannot prevent it.

I tell you, sir, what will expedite the annexation more than anything else: preserving towards the Government of Spain perfect good faith, requiring of our citizens an obedience to the laws in refraining from rapine towards foreigners, as they are required to do towards each other. Let Spain repose in the consciousness that, however desirable to us Cuba may be, all that we demand of her is that she shall keep it, and not part with

it; and rely upon it, in the fullness of time, and before very long, even Spain will yield to the inevitable necessity which governs the events of the world. The geographical position of Cuba, with the increasing growth of this country, will determine all the rest.

I have said that in so much of the President's message as I have read was contained a narrative only of the fact that he announced. In the concluding sentence of that paragraph, the President expresses an opinion. He says:

"I have, however, in common with several of my predecessors, directed the Ministers of France and England to be assured that the United States entertain no designs against Cuba."

In the expression of that opinion I fully agree with the President; we entertain no designs against Cuba. But he continues:

"But that, on the contrary, I should regard its incorporation into the Union at the present time as fraught with serious peril."

I regret, sir, that the President deemed it necessary to express that as the opinion of the Executive; nor need I suggest to the Senate upon what that opinion is founded; it speaks for itself. But I am free to declare, as one of the representatives of the States, that I know of no peril which should ensue, or which should cause us to hesitate, if Cuba were ready for annexation to-morrow. But let this opinion of the President pass for what it is worth.

In the present attitude of the affair in hand, to discuss it could lead to no practical result, but I could not dismiss it except under protest.

Mr. President, in making these remarks to the Senate upon offering this resolution, I intended to do no more than express my opinion as an American Senator upon the relations that exist between this country and Spain in reference to Cuba, and to express further what I hold to be the duty of every department of this Government, and of every American citizen, to recognize Cuba as the property of Spain, and as such, to recognize, also, the muniments with which civilization protects all property. Cuba belongs to Spain; it does not belong to us, and none but profane hands can be laid upon it, unless, through some act of Spain herself, forbearance on our part would involve the safety of our own people. And I wish further to declare, in reference to the proposition made by those two Powers of Europe—let it have what meaning it may—that whenever the hour comes, when in good faith, and with due regard to national honor, we can incorporate Cuba as one of these United States, it will be done, and Europe may find it best then to hold her peace.

Mr. CASS. Mr. President, I have listened with great interest and satisfaction to the remarks which the Senate has just heard from the honorable chairman of the Committee on Foreign Relations, and we may well congratulate ourselves and the country that at this time, when so many difficult and delicate questions of foreign intercourse are upon us, or threatening us, we have at the head of that important committee, a gentleman so well calculated to discharge its duties satisfactorily to the Senate, and honorably to the country, and disposed equally to avoid rashness and pusillanimity.

We cannot disguise from ourselves that there never was a period in our history fraught with more momentous subjects connected with our relations with the Powers of the earth, and liable to present themselves from hour to hour, for practical consideration. We have heard a great deal about our manifest destiny, and the term has been equally assailed by reproach and by ridicule. Now, sir, if by that phrase it is meant, as I suppose it is, that the great characteristic features of the age are to produce an influence, a decisive one, upon our course and policy, then I believe we have a manifest destiny from which we cannot escape, and it is a destiny by which we shall advance in all the elements of knowledge and prosperity, intellectually and materially. As to fixed immobility, we may talk about it as we would about an antediluvian speculation, but while we stop to talk the world of progress is moving on, and we must redouble our pace to overtake it. We cannot isolate ourselves from the other nations of the earth, and we have rights and interests connected with them which demand our constant, and often our jealous, attention. Mr. Canning said truly and emphatically, *We must keep on the line of political knowledge*. When one cheek is struck, in national affairs, if we turn the other we shall soon have neither cheek, nor head, nor body, to enable us to repeat the movement. And it was in this spirit I desired last year, when the occasion called for it, to repudiate by a solemn public act, an interpolation made in the law of nations by the Emperor of Russia, striking at the very root of national freedom and independence.

But it was opposed and defeated, and I see that the President in his recent annual message recalls some of the adverse views then presented, and expresses his approbation of them. Sir, I regret this course, because I have a high personal regard for the President, and approve much he has done; but I must be permitted to say that the action proposed by myself and others upon this matter was no more calculated to produce war than the exercise of any other unquestionable national right. I think the charge does injustice to those with whom I acted. We all disclaimed the remotest intention of provoking war, and maintained, both by reason and authority, that the expression of a national opinion upon a great question of public right, was as much the prerogative of a republic as of a monarchy, and that such a proceeding gave no cause of offense, no more than the enunciation of great principles in our Declaration of Independence, but that it put the dissent on record, leaving the Government proclaiming it uncommitted by the declaration, and free to adopt its own course at any time thereafter. I know of no public man—no private one, indeed—who dreamed of accompanying or following the declaration with actual hostilities. But we were frightened, if not out of our propriety, at least out of our true duty and dignity. The wonderful discovery was made that Washington and Jefferson had warned us of the danger of "entangling alliances," and that this proceeding would be an "entangling alliance," and was therefore to be avoided with patriotic horror. With whom we were to form an alliance, by declaring a principle of public law, no one has told us, and it is yet a discovery which is to reward some future historian. However, the object was gained. We were *humbugged*, or we *humbugged* ourselves. But we shall come to it yet, for this is an *age of progress*, as the President says, and I already see that it has told upon this question: for that very respectable body, the Whig convention of New York, has pronounced its adhesion to the doctrine in the following resolution, every word of which I heartily approve:

"3d. As to *foreign policy*. Peace evermore, so far as is consistent with the due assertion of our rights, a careful avoidance of all entangling alliances with foreign Powers, but a solemn protest against any deliberate defiance of the laws of nations for the furtherance of the interests of despotism, and a generous and active sympathy with, and moral support to, all oppressed nations and races, struggling to assert or retain their liberties."

And we shall not only come up to this good work of participation in the public law of the world, but we shall also adopt the policy advocated by Mr. Monroe and Mr. Polk, that no European nation shall be permitted to colonize hereafter any part of this continent.

Not to maintain existing colonies, as the English papers impudently and falsely asserted, and as many timid persons in this country made themselves believe; for both of those statesmen expressly excluded such a pretension, leaving untouched existing rights, but they sought to prevent the subjugation to a colonial state of any of the new governments which had assumed and established their independence. But we were also twice frightened out of this measure. "*We could not get on the line* of political knowledge." But "*raw-head and bloody bones*" will not be scare-crows for us. *Manifest destiny* is doing its part; and we shall, ere long, be found warm and efficient supporters of those two great articles of political faith, peculiarly ours by position and institutions.

The foundation of this claim of exemption rests upon peculiar considerations, which are not less just than they are forcible. The law of nations is not a rigid, inflexible code, but it accommodates itself to the varying condition of the world, and history is filled with proofs of this power of adaptation to existing circumstances. This hemisphere, besides its general relation to the older continent, has peculiar interests of its own, which demand its vigilant protection. Settled first with a view to commerce, and then held as the means of power and wealth, the various portions of it were colonized by European Powers, and were involved in the wars of Europe without the slightest interest in their origin or objects. However frivolous the cause of war, whether social, or political, or dynastic, or personal, it immediately crossed the Atlantic, and extended its ravages to countries which ought to have been beyond the sphere of its operations. When we had had time to recover from the exhaustion of our revolutionary efforts, and from the weakness of a new political organization, this subject came up for consideration; and it was obvious that the crisis demanded some powerful action, or that we might always be placed in the midst of belligerent operations whenever hostilities broke out in Europe. This was a state of things not to be suffered; and as soon, therefore, as the Spanish colonies threw off the yoke of the mother country, and assumed independent positions, it was equally our right and our interest to preserve them from resubjugation and recolonization. Such is the condition of this question; and appearances indicate that we may be called upon ere long to interpose, efficaciously, in support of this great principle of American exemption. I cannot believe that the French Government is endeavoring to obtain possession of any portion of the Mexican territories; but if such be the object, I trust the effort will be met and resisted by the whole power of our country; and I think the sooner our Government openly avows this determination, in this and all similar cases, the better will it be for our permanent interest and honor.

In this connection, sir, I desire to submit a few brief remarks concerning Cuba, as that Island presents one of the most difficult questions, perhaps the most difficult in our foreign policy. Five years ago, in some observations I submitted to the Senate, on the subject of the application of the Yucatese people for the aid of this Government against the overwhelming force of the Indians, I had occasion to explain my views in relation to Cuba, and I have since seen no cause to change them. I then said:

"Self-defense is as incident to communities as to individuals, and a provident forecast requires us to watch any dangerous projects of domination, and to provide for them as we can. I repeat that a nation, under these circumstances, must judge for itself. Proximity of situation, the nature of the intercourse resulting from its commanding position to do injury, and other considerations, are all elements to be taken into view. In my opinion, we owe it to ourselves to avow distinctly to the world that the attempt to procure the transfer of Cuba from Spain to any other nation, whether peaceably or forcibly, would be resisted by the whole power of this country. To others it may be a question of territorial aggrandizement, or of mercantile cupidity; but to us it is a question of necessity—I had almost said of political life or death. It would become the gate to close the great river of our country. The waters of that country, thereafter as heretofore, would reach the gulf, but its commerce would never reach the ocean.

"So long as Cuba and Yucatan are held by their present possessors, neither we, nor the commercial world have anything to fear from English projects, whatever these may be.

"I trust that the intrigues of no nation will ever compel us to take forcible possession of Cuba."

Such were my sentiments then, and such are they now. So long as Spain retains Cuba, or should the Island become independent, truly and honestly, we have no right to interfere with it. And, for myself, I should be willing—desirous indeed—at any time to purchase it of Spain, and at a liberal, even at an extravagant price; but no transfer to another Power, either by peace or war, and the resistance of such an attempt by all the means which God has given us. And I have never uttered a sentiment here or elsewhere, inconsistent with these views, though I have often been charged with what are called *fillibustering projects;* and that too by respectable journals, during the presidential contest—by the Republic, of this city, amongst others; and quite recently by the Journal of Commerce, of New York. No man, editor, or reader, has the right to prefer such a charge against me. I believe in public, as well as in personal morality, and I value the honor of my country at too high a price to barter it for any scheme of aggrandizement. And I embrace this opportunity to bear my testimony of approbation to the recent conduct of the Administration in relation to Cuba. I reprobate these repeated efforts of interference in the concerns of another nation, and I have no charity for the motives of the leaders engaged in them. If the people of Cuba desire to free themselves from the Government of Spain—and a worse one is hardly to be found on the face of the earth—their effort will have all my sympathies and all my good wishes, as I am sure it will have those of the

American people. And I cannot doubt but that their independence would be cheerfully recognized by this Government the moment it could be properly done. But this work is their own, and not ours, and so long as they acknowledge allegiance to Spain it is our duty to respect that relation. And, sir, there are circumstances in the condition both of that country and of ours, which may well demand some forbearance on our part. Spain is weak and remote from this, almost the last of her immense American possessions. We are near and powerful, and besides, the condition of the Island has been critical and uncertain. There are questions of internal police there which possess paramount importance, and they are precisely questions which would awaken the vigilance of any people on earth. And Cuba has been in a state of *quasi* revolution, the Government fearing external collision as well as internal explosions. And there is not a nation which would not adopt very strong measures for its security under such circumstances. We should, and persist in them too, at all hazards. This is precisely a state of things when extreme points of rights should not be unnecessarily pushed by a foreign Power; and I saw with regret that an effort was making to bring matters to a crisis, by insisting upon the introduction of a person supposed by the Government of the Island—wrongly, indeed, as it subsequently appeared—to be dangerous. And I commend the course of our Administration in this affair. One of our citizens, however, seemed to think it is his duty to interfere, whether voluntarily or involuntarily, almost to provoke a collision. I consider his conduct equally presumptuous and unpatriotic. It could have been to him a comparatively unimportant point whether A or B was the purser of his ship, certainly not a point worth the consequences possible and even probable. And as to the principle of exclusion, that was a question for the Government, and I think the Government was right in the view it took of it. The honor of the country, thank God, was not in the keeping of Mr. Law. It was in better hands.

Now, sir, I desire the possession of Cuba principally as a military position, with a view to its vast importance as the true key to the Mississippi. But as a mere question of acquisition, the subject presents no terrors to me. I observe the President views it differently, and urges strong objections to the measure, to the general principle, indeed, of the extension of our territory. And there is a striking coincidence between some of his suggestions and some of the reasons presented against the purchase of Louisiana, when that question was before Congress. Time and experience have come to put the seal of approbation upon that great measure, and to refute the anticipations of evil so confidently indulged and expressed. The inhabitants of French birth or descent are as truly attached to this Union as any other citizens of our country, and they have given proofs of true patriotism under circumstances of trial to which few sections of the Republic have been exposed. And such, in my opinion, would be the result in Cuba, as well as in any other region which it is at all probable will ever make part of our Confederation. At first, indeed, there might be doubts and difficulties, but time and information would soon remove them. And the sense of freedom and of a condition beyond the reach of change, together with a rise in the value of property, which is sure to attend an incorporation with us, and the increased activity of business, would ere long do their work, and convert the population into zealous and patriotic Americans.

As to the general subject of annexation, I have no new views to disclose. It is pretty well known that I have a *capacious swallow* for territory, though I am free to confess that I can wait awhile patiently, if necessary, and spend the time in digesting our last acquisitions. They sit lightly upon the stomach, and promise to promote the health of the body-politic to a degree surpassing the most sanguine expectations of those who expected most from the measure. And we cannot employ this interval of waiting better than by the adoption of wise and efficient means to bind our recent acquisitions to the rest of the Confederacy by the ties of interest as well as of affection. And it is my decided conviction that one of the most important measures—the most important, indeed, for this Government—is the construction, so far as our constitutional authority permits, of a railroad from some point upon the Mississippi to the Pacific ocean. I say some point upon the Mississippi, for it is perfectly indifferent to me where it is, and I trust the friends of this great object will not fritter away their strength by mere local questions of direction and determination. Let those matters be settled by commissioners, or in some other practical manner, but let us lend our undivided force to the great work itself. When completed, as it is sure to be, it will bind this great Republic together literally by bonds of iron, and by the still stronger bonds of confidence and interest, and San Francisco will be practically nearer the seat of the Government than Savannah was at the adoption of the Constitution.

We are often asked by the timid and the cautious, Where is annexation to stop? That question will not be answered in my day, and I leave its solution to those upon whom may devolve the duty and the responsibility of deciding it. A General Government to conduct the external relations with foreign Powers, and to regulate the interior relations of the members of the Union: and State governments to provide for the great objects of freedom and security, and for the various political wants of the community, this American scheme of political organization opens a wide field for its operations; indeed, an almost boundless one. It is certainly far easier to preserve amicable relations between neighboring States acknowledging a federal head, with the necessary provision for the peaceable adjustment of difficulties, than it would be to preserve peace amongst them if independent, when force and not reason must be the arbiter of their disputes.

But I repeat, sir, that I denounce any acquisition but an honest one. And we can look back with gratifying pride to the course we have pursued upon this subject, and safely challenge comparison with that of any other nation, and especially of that nation which, in the spirit of the Pharisee, arrogates to itself the crown of self-righteousness above all the other people of the earth. We have made four acquisitions, two by peaceable purchase, one by voluntary annexation, and the fourth by conquest, in a just war, and by the payment of a vast sum of money, after giving up a large portion of the enemy's country which was in our possession. And when did England, who boasts that the sun never sits upon her dominions, when did she acquire one foot of territory but by the sword? And yet such is the inconsistency of human nature, that she is ever vaunting her own moderation, and arraigning our rapacity. John Bull belongs to a curious species of the *genus homo*. He cannot discover the beam in his own eye, but can look across the ocean, three thousand miles off, and discover the mote in Jonathan's eye, and then announce it with self-gratulation to the world. Our wicked propensity for acquisitions has been with England a favorite theme of reproof and reproach, and very lately we have had some beautiful specimens of this spirit in the London papers. The Britannia says that "American diplomacy requires only to be known to be thoroughly despised." "American diplomacy and American duplicity are first cousins." "There is but one principle in American diplomacy—gain." The London Sun, speaking of our course, remarks that "Whenever the wolf wants a colorable pretext for injustice, he can readily find —or make it." The London Chronicle is not a whit behind its co-laborers in this agreeable work of national abuse. It says: "Such is the state of the case which illustrates the grasping character of the universal Yankee nation."

The very last advices from Eastern Asia have brought us a striking commentary upon these aspersions, and upon English moderation and disinterestedness. Another of the native powers of Hindostan has fallen before the march of a great commercial corporation, and its eight or ten millions of people have gone to swell the immense congregation of British subjects in India. And what do you think was the cause of the war which has just ended in the *swallowing up* of the kingdom of Burmah? The whole history of human contests, since the dispersion of the family of man upon the plains of Shinar, exhibits no such national provocation followed by such a national punishment. Political arithmetic contains no such sum as that which *drove* England to this *unwelcome measure*. Had we not the most irrefragable evidence, we might well refuse credence to this story of real rapacity. But the fact is indisputable that England went to war with Burmah, and annihilated its political existence for the non-payment of a disputed demand of £990. So says the London Times, the authoritative expositor of the opinions and policy of England. "To appreciate correctly," says that impersonation of British feeling, "the 'character of this compulsory bargain, the reader 'must recollect that the sum originally demanded 'of the Burmese for the indemnification of our in-'jured merchants was £990. And Lord Dalhou-'sie's terms, even when the guns of our steamers 'were pointed against Rangoon, comprehended, 'in consideration of the expenses of the expedi-'tion and of compensation for property, a claim 'of only £100,000." Well does it become such a people to preach homilies to other nations upon disinterestedness and moderation.

And, in a similar spirit of *exclusive virtue*, we have had another specimen of British meddling interference with the concerns of this country, in the form of an address from the female aristocracy of England to the women of the United States upon the subject of slavery, marked with that modesty and practical charity which ought to characterize such an interposition in the concerns of a distant country, which the actors do not understand, and cannot benefit. One would suppose there were objects enough of distress in England to engage all their sympathy, and to command all the assistance which the women—and the men, too—titled or untitled, can furnish. The London Times told us, not long since, that there were one hundred thousand persons in the city of London, "the center and core of British civilization," who rise every morning without knowing where to get a meal during the day, except from a "*passing job or a crime.*" And this frightful picture is not overcharged, as all know who have been there. Can any man truly say this, or anything like it, of our country, north or south? And I have seen more wretchedness in one of the proud capitals of Europe, than I ever saw in our favored land, among bond or free. As to starvation, nobody can starve here, white or black, unless he willfully keeps his mouth shut. And I think that publications originating in an excited imagination, or in some worse motive, giving the most exaggerated descriptions of the sufferings of slavery, and thus exciting false impressions both at home and abroad, should be discountenanced by every true-hearted American.

These English ladies of high caste cannot go into their own streets to relieve the misery that surrounds them. Out upon these pharisaical pretensions! "A slovenly, unhandsome corse cannot come" "betwixt the wind and their nobility." I have no respect for that self-boasting charity which neglects all objects of commiseration near and around it, but goes to the end of the earth in search of misery, for the purpose of talking about it.

Mr. President, since my earliest years, and where I could, I have rebuked the unworthy course of the British press and people towards this country. And for the expression of this natural feeling of indignation I have been often denounced for belligerent propensities, and for a wish to involve us in a war with England. Nothing could be more untrue or unjust than this charge.

I never wanted a war with England, but felt as an American ought to feel, though for many years there was a kind of infatuation upon this subject, a shrinking from English boasts and English taunts, which marked a portion of our people, as though it were our duty to submit to them in silent acquiescence. For myself, the opinion of England is no more than the opinion of any other nation, and I deprecate that sensitiveness which would lead us to watch with jealous earnestness the indications elsewhere of the views entertained of this country, of its conduct, policy, and institutions. Let us go on, enjoying in a spirit of thankfulness, the blessings we have received from Providence, doing our duty openly, honestly, and with a generous confidence in human nature, and also with a belief in its progress, and with a heartfelt sympathy for the struggles of the oppressed bowed down by centuries of tyranny. And let us fulfill our *manifest destiny* in no spirit of aggrandizement or of propagandism, but fearlessly and rightfully. And I have been much pleased to see that recently the assaults of the British press have been met in a proper spirit by our own, and especially by some

of the great journals in New York. May they go on in the good work.

Mr. UNDERWOOD. Mr. President, this morning, before the resolution under consideration was offered, the learned Senator who has just taken his seat, told us that one of the blessings resulting from our latitudinous debates, was to be found in the instruction which might be communicated to the people, the excitement of thought among them, and the aid we might thus give in the formation of a correct public opinion. For such reasons he thought it was no waste of time, as it had been suggested by the honorable Senator from Mississippi, [Mr. ADAMS,] to consume hours in discussing matters and things in general, and of which an example has just been furnished. My learned friend, in the course of his remarks, did me the honor of calling my particular attention to that part of the message of the President, in which he says, "this is an age of progress;" as much as to intimate that I have been one of those stand-still politicians who have not marched forward "upon the line of political knowledge," to use the language of the British statesman, Mr. Canning, and that it would be well enough for me to understand that the head of my political sect had stated a fact which heretofore I had not known, and which, if properly considered, might have a salutary influence on my future conduct. This gives me an occasion to do what I intimated to my friend from Michigan at the last session, I would like to have an opportunity of doing—to speak upon the subject of human progress, and to undeceive the Senator by avowing myself totally opposed to what he has so often on this floor denominated the stand-still policy.

Mr. BUTLER. Will the Senator allow me to interrupt him to inquire what is the question before the Senate?

Mr. UNDERWOOD. There is none, except the resolution offered by the Senator from Virginia.

Mr. BUTLER. I wish that the resolution may be read.

It was accordingly read.

Mr. UNDERWOOD. The question involved in that resolution has been made the occasion, by the two gentlemen who have preceded me, for looking at the whole subject of the foreign policy of this country. They have found in the resolution, a basis upon which to build speeches, not only covering the broad field of our foreign policy, but embracing a variety of subjects, even including English abuse of us on account of the institution of slavery. The wide scope taken by those gentlemen, justifies me in taking an illimitable range in following the lead of such examples; and I hope the Chair will not exclude any topic which may be introduced in the debate. Sir, I am a friend to progress, whatever may be said to the contrary. It is impossible to stand still. We must go forward in some direction. But there are two lines of progress. Neither is horizontal; both are inclined planes: one goes upward, while the other descends. It is easy to roll down the one into the depths of human degradation and misery; it is toilsome and difficult to ascend to the climax of the other. My views of human progress favor the more difficult, but ascending grade. Government, and particularly this National Government of ours, can exercise great and beneficial influences upon the progress of the American people, and also upon the progress of all the nations of the earth. And how can our Government exercise that legitimate and salutary influence? It is by promoting all the interests which enter into human happiness. These interests are threefold: First, the interest which relates to the body; next, that which relates to the intellect; and lastly, the interest which relates to the soul; thus embracing all the interests of man's triple nature. How, then, can Government promote the first of these interests, that which relates to the body? What do you want for the body? You want food, you want raiment and shelter, and you want all the furniture, implements, and equipage which render human life comfortable. How are these things to be obtained? They are to be obtained by facilitating, as much as possible, all the operations of agriculture, of the mechanic arts, and of commerce. Spread knowledge by an Agricultural Bureau or Department; protect our own labor and manufactures against a ruinous foreign competition, and unfurl your commercial flag on every sea and every shore. Establish liberal exchanges with all the nations of the earth, and thereby give the commodities which we produce, for those which are peculiar to the climates, soils, and manufacturing establishments of other nations. In this way you multiply facilities for obtaining food, clothing, and every human convenience, comfort, and luxury. In this way, by such an exchange of commodities, you avail yourself of all that God has done to benefit the whole human race in the creation of a variety of climates and soils, and endowing each with its peculiar mineral, vegetable, and animal productions.

By the operations of commerce you give to men in every region the productions of every other region, and you employ the labor of every people in those pursuits and occupations best suited to their peculiar climates, soils, and circumstances, and thus you accomplish more for the whole race than would be possible under the system of Japanese seclusion and non-intercourse. These blessings are attainable by and through the treaty-making power of the Federal Constitution. I am for freely using that power to enlarge our intercourse with the nations of the earth. It is the way to give cheap and abundant food and clothing, comforts and luxuries, to all mankind. No intellectual and moral progress can be made among a starving people. The first necessity is to provide well for our physical wants, so as to save some time which we can devote to intellectual and moral improvement. The man or the nation whose whole time is consumed in a hard struggle for daily bread, can make but little progress in moral and intellectual elevation. It is, therefore, in my opinion, a first duty with Governments, so far as they have the power, to secure comfortable subsistence for the people and allow them time for moral and intellectual improvement. The duty of our Government, in this respect, consists in protecting the labor of its own citizens and opening the markets of all the world by commercial treaties. That, in my judgment, is the first step in our onward and upward progress as a nation. The commercial intercourse of nations directly leads to the social intercourse of their respective citizens, and thus is generated that cordiality and fraternity of which we hear so much said, and of which I sometimes think we feel but little.

Commerce is the handmaid, the instrument of intellectual improvement; for, in the exchange of commodities of different countries, you necessarily implant new ideas, opinions, and sentiments. In reference to the first step of human progress—the supply of physical wants—I defy my friend from Michigan to go beyond me; and I will now proceed to show how the second step is to be taken—in relation to the intellectual improvement of our race so far as it depends upon the legitimate operations of this Government. I am for taking the second step in human progress by throwing wide open every channel to the acquisition of new ideas and new facts. If we are to do anything for mankind politically; if we are to elevate through our instrumentality the oppressed people of the earth above the condition of mere serfs, governed by arbitrary power; if we are to make them republicans, capable of maintaining free institutions like ours, by which each citizen is secured in the enjoyment of those natural rights which the God of Nature has given him, we must begin by instructing and enlightening the mind in the knowledge of those great, yet simple principles, by the observance of which liberty, equality, and republican government are secured and maintained. The American people have been instructed as no other nation on this earth has been, in reference to those principles. They have been instructed as if by the very finger of God. They received lesson after lesson in their colonial condition. They were taught by the ablest and most skillful masters during the seven years' war of independence. Our fathers left Europe for the sake of freedom, and they and their children have had more than two hundred years' experience of its blessings, and that experience, through every vicissitude, has taught them not only the value of republican liberty, but the best methods of securing and maintaining it.

I was happy to hear the honorable gentleman from Michigan say that this American invention, by which a Federal Government has been devised, exercising power for general and for national objects, and allowing the States to exercise all the powers necessary for local and municipal purposes, is the greatest political invention which was ever discovered. Written constitutions, which define the rights of men, divide and limit the objects and powers of Government, are the most efficient instruments to promote the political progress of mankind; and I will show you directly, how the Federal system can be properly extended to embrace other objects than those which have heretofore been embraced by its operation, limited as it has been to the States composing our Union. The whole of it is nothing but a division of labor and power. It is a division of labor and power, inasmuch as we assign one class of subjects to be administered by one set of men, excluding others from participating with them. By such division, you check despotic power; for the very definition of despotism is the union of all power, executive, judicial, and legislative, in the hands of the same individual, or individuals, as an aggregate body. Our Federal scheme existed in essence long before it was fully completed by the formation of a general government. Its essence may be found in the different departments of the State governments, by which you assign the legislative functions to one department, and exclude the officers of every other department from participating in them; and so of the judicial and executive departments. It was a great improvement when we separated the class of general powers from those which were local, and established a National Government to administer the one, leaving the other to the exclusive jurisdiction of the States.

This Federal Government was the natural result of the condition of things at the termination of the American Revolution. The Almighty had prepared the American people for the division of political powers between two Governments, State and Federal, by the necessity of a confederation during the war, and the debts, want of credit, and commercial difficulties which afflicted them at its close. Happy for us that our wise fathers saw the true condition of things, and gave us the Federal Constitution and Government, under which we have so prosperously lived. I rejoice that they found a remedy against despotism, and a bulwark to protect the rights of man in written constitutions, separating, dividing, and limiting the powers of Government, and distributing them into separate departments. I rejoice that two Governments, State and National, have been instituted, making a further division of political power, and thereby rendering it less dangerous to human rights.

I thank my friend from Michigan for having adverted to the idea. But, sir, the problem is not yet solved, how the down-trodden, tax-paying, priest-ridden, and king-crushed nations of the earth are to be instructed, and brought into the light of our glorious systems. We cannot, without a violation of their laws, send missionaries to explain and publish our system of government, prove the inestimable value of freedom of speech, freedom of the press, and freedom of conscience, and then invite the subject who suffers to redress his grievances by rebellion and blood. Were we to send political teachers to instruct, they would be arrested and imprisoned for sedition, if not hung for treason. What, then, can we do, and what ought we to do, in aid of the political progress and elevation of mankind? Shall we commence by violence and force, under the impulses of a wild enthusiasm, a crusading propagandism over the world? What shall we do, as being best calculated to "enlarge the area of freedom?" Are we to *annex* all the kingdoms of the earth, that we may overturn monarchy and "*absolutism?*" Are we to *intervene* to arrest the triumphs and encroachments of despotism?

Mr. President, in answer to these questions, I do not hesitate to say that I am totally and positively against all efforts to instruct mankind by whipping them with the implements of war into a knowledge of the truth. Force and violence constitute no part of my plan to elevate either individuals or nations. War is the curse of nations. It creates a horde of drones to eat up and consume the products of labor, and to make famines in the land. It brings in its train devastation and death, and has no solitary influence to enlighten the mind, except in the science of destruction, or to impress the soul with benignity and love. I therefore discard violence and war as means by which we may legitimately teach mankind the principles of natural right and popular government.

In the road of progress which lies before me, I see that the treaty-making power of this country,

and the treaty making power of other countries in the world, may organize an international tribunal for the purpose of settling disputes, and pledge the parties to execute the decrees of that tribunal. By such treaties war among the nations which thus stipulate and agree, may be prevented. I heard peace societies, sir, ridiculed upon this floor the other day. It may be that the implements of war will never be entirely converted into plowshares and pruning-hooks. I am no prophet. I cannot roll up the curtain which conceals the things of futurity; but if there is truth in those predictions which are recorded in the sacred book, the day is to come when nation shall make war against nation no more, and forever. The man who closes his eyes to the progress of peace in the world, who declares that the waste and carnage of war will never cease to pollute the earth, whatever may be his professions of faith in the divinity of the Bible, is practically an infidel. Sir, if the Bible be a revelation of the Almighty through inspired men, the day must come when the clangor of war shall be heard no more, and peace, universal and perpetual, shall prevail. When that day arrives, nation can teach nation, and man teach his fellow man, all science, all art, all truth, whether in politics or morals, and there shall be none to molest or make him afraid. The first thing to do for the intellectual and political progress of men, and the surest way to reach that end, is to secure permanent peace among nations. Save the people from the burdens and taxes of war, save them from the exciting and maddening thoughts of sacked cities, and fatherless families, of maimed and mutilated friends and brothers, and give them time to think of the arts, and pursuits, and avocations of peace.

Carrying out those blessed ideas, I doubt not the day is coming when the nations of the world will have intelligence and virtue enough to enter into stipulations with each other to abide by the decisions of eminent and just men who may be selected to settle international disputes. Such a plan is nothing more than an enlarged Federal system for nations, separated by oceans and by difference of language, and there is no reason why it should not work as well for nations as our Federal system has worked for the States which compose it.

Should two or more leading and influential Governments adopt the plan, it will be followed and sanctioned by nation after nation, until the evils resulting from war are extirpated from the face of the earth. In the mean time, I am opposed to all *fillibustering* to take Cuba. I am against all *fillibustering* in the way of annexation either in regard to Cuba or Canada, or any other part of the world. I have no faith, no, not a particle, in the idea of making men republicans, and qualifying them for liberty by the mere application of brute force, uprooting institutions to which they have been long accustomed, and establishing other institutions before they are prepared for them. Behold, and ask yourselves, what has been accomplished in the world by revolutions, started by ambitious men and achieved by violence before the nation has been prepared for it. What is the condition of South America at this day? Revolution after revolution; one military man after another military man—no, sir, robber; they do not deserve to be called military men—one after another fleecing the people, robbing the people, who seem to be incapable of resistance and utterly destitute of capacity for self-government.

Mr. CASS. I would ask the Senator whether, if they had belonged to this country twenty years ago, they would not have been changed.

Mr. UNDERWOOD. I hope they would have been. I am speaking, though, for the purpose of illustrating my principles. I will attend in a moment to the idea which the Senator has thrown out. I give the example of the Spanish republics of our continent to show that, until the masses of the people, by the improvement of the intellect, understand their rights; until they see how the governmental machinery can be made to work to protect those rights; and until they are able by moral and intellectual power, instead of fraud and violence, to put and keep that machinery in continual and successful operation, their revolutions and wars only precipitate them down the descending slope of progress from one state of degradation to another, so that from the lowest depth to which they hasten, there is no hope of resurrection. The history of the revolutions of Spanish colonies proves the truth of my position. Look also at France. Sir, some of the constitutions of that country, which I have read, are upon paper as beautiful compositions, abounding in as glorious truths in reference to human rights as ever were penned; but what is a French constitution upon paper? It is nothing, because there is not intellectual and moral power in the masses of the people, and stability of purpose to have a written constitution observed and executed. Sir, the nations of Europe, before they can be free, must learn how to divide power as we have done, and then they must understand the value and importance of abiding by the laws until constitutionally changed—a thing in which I have often thought my Democratic friends were very deficient.

In the first revolution of France which succeeded our own, there was a party in that country, headed by the exalted, the patriotic, the noble, the generous Lafayette, denominated the Girondists. I have read with intense anxiety the struggle of that Girondist party, for the purpose of establishing a Government in France to secure rational liberty, such as it was believed the French people were capable of maintaining and enjoying, under a written constitution, dividing, distributing, and limiting its powers in a manner somewhat analogous to our system; and I have lamented the prevalence and success of that Jacobinical spirit, that fiendish, infernal spirit, of such demagogues as Robespierre and Danton, which, administering to the vile passions of infuriated mobs, overwhelmed the Girondists, and sent their leading members, with the accomplished Madam Roland, to the guillotine. Often have I pondered on the scene and the speeches made at the last supper of the Girondists, on the night preceding their execution. Often have I thought of the memorable and thrilling reason assigned by M. Roland for committing suicide: "Stranger, who shall discover these remains, treat them with respect. They are those of a man who, after the murder of his wife, refused to remain longer in a world so polluted by crime."

The horrible events of the "Reign of Terror," as it has been aptly called, in revolutionary France, are pregnant with instruction. They demonstrate that an ignorant and oppressed multitude, however potent to pull down a throne, are totally incompetent to build up a republic. Life, liberty, and property, the primary objects of all government, can find no protection where ignorance, envy, poverty, and hatred, have the ascendency, and make war upon intelligence and patriotism. All popular efforts, unless guided by wisdom and virtue, exhaust themselves by folly and crime, and terminate, as in France, by the reëstablishment of monarchy.

Sir, the history of the world shows that no people can be free, and sustain a representative popular Government, until their minds and hearts are imbued with wisdom, virtue, moderation, and justice. This *fillibustering* spirit, which too much prevails amongst the American people, favoring the annexation of everybody, whether they are prepared for liberty or not, will, I fear, prove fatal to the Union, and subvert, as our Government breaks to pieces, the last hope of mankind in favor of freedom. This foreign leaven, which we are continually introducing and annexing, instead of producing a wholesome fermentation, may produce the taint of death. I am afraid, by annexing Spaniards, Mexicans, Creoles, people who, from their past history, are not prepared for the government and liberty which we enjoy, that, instead of elevating them and our institutions, we shall but inoculate ourselves with the virus of political pestilence and certain death. Now, it may be that if we had annexed the islands of the Gulf and the whole continent as far south as the Straits of Magellan, twenty years ago, according to the suggestion of my friend from Michigan, we might possibly, by educating the inhabitants and training them for their new position, have induced them to change their habits of thought and their principles, and thus we may have fitted them to become good citizens and republicans. I admit such a change to be possible; but it is a mere speculation whether it would or would not occur; and I, for one, am unwilling to risk, upon mere speculation, the doing of a thing which must endanger, if not destroy, the institutions of my own country.

Sir, there is a safer plan, in my opinion, by which we may benefit others and risk no injury to ourselves, and that is, to go on and consolidate our Union; build up new States out of our vast Territories as the population expands; respect the division of power between the State and Federal Governments; be cautious never to transcend the powers we have; never interfere with the powers belonging to the States; improve the physical condition of the people, and thereby give them means and leisure to cultivate the intellects and morals of their children; and thus set an example before the world, which shall induce all men to inquire why it is that the American people are so happy?—why it is that they are not oppressed by taxation?—why it is that justice is so well administered among them, and every citizen so fully protected in his rights?—why it is that fraternity, equality, harmony and peace so generally prevail?—and how it is that there are no export or import duties levied upon articles of trade and commerce, among the citizens of the States, by State authority? Let us so exhibit ourselves and our Governments that these questions shall be asked by every people with whom we have intercourse. We can then furnish instructive answers by stating facts, and facts alone. We shall not advise sedition by stating facts in regard to our country, our people, and our Government. These facts when detailed will illuminate and instruct the mind of the inquirer. They will become the elements of thought; and as they are known and spread through the world, nations, seeing our progress, as soon as they understand it, will follow in our tracks. Until they are instructed, and fully comprehend, there is no more reason to believe that they can build up, and successfully maintain, institutions like ours, than there is for believing that a lad of ten years can navigate a ship, or a school girl command an army with success. Let us extend our commercial intercourse, and embrace all nations. The intercourse between man and man in the transaction of their business will naturally and necessarily lead to an interchange of ideas and opinions; and thus when nations import our productions, they will receive them stamped with our thoughts and principles of Government. No vigilance can suppress or detect the exchange of sentiments and opinions which is continually going on among men, who are brought in contact by purchasing and selling, or exchanging commodities. We should, therefore, look to our commercial intercourse as the best means of informing other nations, and preparing them to enlarge the area of freedom, by imitating our example. Physical power the world over resides with the masses, and when they thoroughly understand their rights, they will know how to assert them successfully. But without understanding, without knowledge, and without virtue, men are biped brutes, incapable of self-government; and if that be the condition of the masses, the discerning few, who have lives and property to lose, and who dread guillotines and confiscations, will take refuge and seek protection under the strong arm of a military dictator, or absolute sovereign, rather than submit to popular pillage. Their instincts tell them, that they are safer in the hands of one generous robber, than in the hands of forty thieves. Those who have something to lose, and nothing to gain by violence and perpetual changes, are not willing to trust themselves in the hands of those who have everything to gain and nothing to lose. That is the reason why you see Louis Napolean dignified with an Empire, and the title of Napoleon III.

I concur most heartily with the Senator from Michigan, that one of the great elements of progress is the internal improvement of the country. I took occasion, during the last session, to indorse him as a good Whig upon that subject, and it gives me pleasure to extend to him the right hand of fellowship whenever he talks about internal improvements. But there is in this country a large party, a formidable party, that can find no constitutional power in the General Government to build a bridge, open a road, or dig a canal. I wish, with all my heart, that that party may see new lights under the teachings of the Senator from Michigan, and that they may find the power, under the Constitution of the country, to build a great railroad to the Pacific from the mouth of the Ohio—that is the proper point, sir—from the mouth of the Ohio; and why is it? I see you smile, sir. It is not the proper point because it suits Kentucky. No, sir. It is not the proper point because the territory of Kentucky touches it. No, sir. But it is the proper point because the Almighty has

concentrated more great rivers at and near that point than anywhere else on the earth. You may have ocean steamboat navigation from the Gulf of Mexico up to the mouth of the Ohio nearly all, if not the whole year; and you cannot have it higher than that. Now, sir, start your railroad there, and take it to the West, to California, to the Pacific, and look in the progress of events to the mighty results. The whole platform has been laid down by that learned and scientific man at the head of the Observatory—Lieutenant Maury. You will have your ocean steamboats running from the mouth of the Ohio, if you will make a port of entry and delivery there, throughout the whole of the West India Islands, and passing beyond them to the Orinoco, to the Amazon, and the La Plata, and entering them all; and you can discharge your cargoes of imports at the mouth of the Ohio, thence to be distributed by smaller boats over the whole of the great valley which furnishes twenty thousand miles of internal navigation. That distribution, in regard to heavy articles, can be accomplished cheaper by water than by railroad transportation; but when water communications will not accomplish every purpose, what remains can be done by the railroads converging there. Thus we shall build up a great commercial emporium in the heart of our country. But that is not half the value which the Pacific railroad may accomplish. It will be the strongest cement to bind the States on the Pacific to those on the Atlantic, and both sea-boards with the central States of the Mississippi valley. It will facilitate the transportation of the mails, troops, and munitions of war, and in these respects be of incalculable national importance, to say nothing of the accommodations it will afford to travelers and emigrants.

It may be thought somewhat inconsistent, after what I have already said in favor of the total extirpation of war as one of the best, if not the most efficient step of human elevation and progress, that I should now commend the construction of a railroad because of its advantages in aiding military operations. Sir, I desire to be clearly understood. I wish to suppress wars by enlightening mankind, and inducing them to settle differences by peaceable means. But if I cannot convince men and nations that such is their true interest; that disputes when settled through violence and blood are as likely to be settled wrong as right, and therefore, that those who seek justice should resort to some other arbiter; if I cannot establish my principles as a rule for international conduct, and other nations, regardless of our rights, attack us, or seriously insult and trespass upon us, I am for repelling force by force, and administering a wholesome chastisement. If appeals to reason are not sufficient to protect us, then I will seek protection at the cannon's mouth. I am no advocate for passive submission to insult and injury. On the contrary, I hold that punishment for serious aggressions and injuries should be inflicted upon offenders, both for their reformation and an example to evil-doers. Consequently, when one nation cannot be restrained in its outrage upon the rights of another by peaceful means, war becomes the rightful remedy. We ought not, therefore, in the present state of the principles which influence the conduct of nations, to overlook or neglect the military and naval defenses of the country.

Mr. President, I shall be happy to coöperate with the Senator from Michigan, and his political friends, in constructing the Pacific railroad, whether the starting point be the mouth of the Ohio, or any other place. Sir, the party to which he belongs can do it. I can do nothing. I am in the minority. I have but one vote, and no influence. All I can do is to say to those who can accomplish the magnificent work, "I am sure you are right, now go ahead."

Mr. President, if we could only be convinced that the improvement of our own country, by canals, by slack-water, by railroads, was the most efficient way to promote the upward progress of our people, and then go to work, we should have no time for *fillibustering* and engaging in wars, and seeking to annex other countries. I tell gentlemen, the people of this country, unless my judgment errs very much, will deprecate as much as I do, the commencement of any war with a view to acquire more territory. I speak of the substantial men of the country with whom I sympathize, and of whom I hope I am one. I am not willing to pay taxes, or borrow money, and create a larger national debt to support wars for conquest and annexation, or even to purchase new territories at extravagant prices; and such will be my doctrine when I retire from this Chamber and go home. I shall say to my neighbors, let us not willingly contribute to support drones and idlers who, under the most *patriotic* and *philanthropic* professions of enlarging the "area of freedom," and conferring upon others the blessings we enjoy, are secretly devoted to the enlargement of Executive patronage, and their own individual aggrandizement. Sir, the substantial yeomanry of the country, men who are willing to labor for a living, and who expect no prizes in *fillibustering* lotteries; that portion of the population of this country who are now doing well, and have no expectation of suddenly jumping into a large fortune by any revolution whatever, unless I misjudge them very much, are not willing to be taxed to increase our armies and navies, or to speculate in new acquisitions.

I have thus given you my ideas in reference to that policy which will best promote the upward physical and intellectual progress of our own and other nations which we may desire to mould into our likeness. I have a few remarks now to make in relation to moral and religious progress.

The Christian religion has been some eighteen hundred and fifty-two years in the world. Its progress has not been what its friends desired it to be. It has not accomplished in that time the regeneration of one half, perhaps not one twentieth of the human race; but its progress of late years, is forward and onward with accelerating velocity. In the commercial connections which are formed and forming all over the world, the doors are opened for a wider and more rapid advancement of the Christian religion, than has existed at any former period. The churches have availed themselves of those facilities, and through their missionaries are in every direction invading the pagan world.

The churches send no armed crusades, such as those which originated with that zealot, Peter the Hermit, and which the providence of God suffered to perish in disaster—a salutary warning to all *progressives* of the Kinkel and Kossuth schools, gentlemen who believe in the efficacy of gunpowder and intervention! The churches quietly and calmly raise their hundreds of thousands of dollars annually for missions. Kinkel, after numerous appeals to *indignant* and *excited* progressives, got about $8,000, ten or twenty dollars of it in London, and the residue from humbugged Americans. How much Kossuth got for the *liberation* of Hungary, has not been reported. Kinkel has offered to return to his deluded contributors, the excess, after deducting expenses, provided they will apply for it. Kossuth is as silent as the grave in respect to contributions in his pockets: and I suppose they will go pretty much as the sums went that were raised at the instance of Daniel O'Connell and other agitators some years before, for the liberation of Ireland—they will go where they will no more be heard of.

The difference in the amounts contributed to spread the Gospel and Christian principles over the earth, and those contributed to liberate oppressed people is strikingly enormous, and it proves how great the faith in those who work for the Gospel, and how insignificant the faith is of those who work for intervention, notwithstanding their noisy vociferations. I rejoice at the difference. Religion triumphs in the competition.

I entertain the opinion, Mr. President, that our Government may aid, properly and constitutionally, the progress of Christianity. How can it be done?

The Government can help it through the treaty-making power. Let us, if possible, stipulate in our treaties that our citizens when residing abroad, shall be allowed the liberty of assembling and worshipping God according to the dictates of their consciences. Such a privilege would be esteemed one of great value to our people. Its exercise would attract the attention of the neighborhoods and cities in which their public worship might take place. The consequence would be inquiry, the diffusion of knowledge, and ultimately, the adoption of Christianity in its purity. The missionary would feel safer when his right to worship publicly was guarantied by treaty.

I am glad that petitions have already been presented asking Congress to adopt measures by which free religious worship may be secured to our people wherever they may be located on the face of the globe.

Freedom of conscience is as essential as the freedom of the mind; and the great progress which has been made since the American Revolution has been the result of the combined freedom of the mind and soul. The untrammeled operations of the mind and the undisguised publication of the sentiments of the soul are the great levers of human progress everywhere. We must give free and full scope to the intellect and the affections, in order to develop and improve our nature. Such freedom is the creative laboratory of new ideas, the fire to kindle new thoughts, and the power to spread abroad new principles for general examination and adoption if true, or rejection if false. No danger can finally result from attempts to propagate false theories and doctrines so long as the admirable, and, I hope, the eternal maxim of Jefferson prevails, that "error may be tolerated when reason is left free to combat it." Sir, it is the slavery of reason and conscience, the compulsion which drives them along the beaten track, which prevents and hinders mankind in building up the temples of liberty and peace throughout the world. Demetrius, who makes shrines for Diana, stands in the way of reform. But emancipated reason and conscience will push him aside and triumph in the end. Such, at least, is my faith. All that this Government can do for the present, in regard to Christian progress, is to look to the condition of our people scattered over the world, and endeavor, if possible, to secure to them the right of open public worship, and thereby gradually emancipate the intellect and soul of the heathen from the slavery of superstition and Pagan idolatry. I also wish to see in all countries professing Christianity, each sect have equal right with every other, to address the reason of the people in respect to their respective creeds. Our best beginning to accomplish this is by treaty stipulations, to secure the freedom of public worship to our citizens abroad.

I have presented my ideas of progress, of that ascending progress which will conduct us to the summit of human perfectibility. With these opinions, in regard to the elements of true progress, I assent to the declaration in the message, that this is "an age of progress." We are indebted for this ascending progress to the giant intellects of the past and the present. We owe them all a grateful remembrance. The heroes and sages of our Revolution stand at the head of the list, as having established the absolute freedom of the mind and conscience, and invented a system of Government by the division of political power, which enables our people with safety and justice and peace to govern themselves. Bacon, Locke, and Newton, were preëminent in the intellectual and philosophical departments of science. Rumsey, an unknown name, of brilliant genius without fortune, who died of an apoplectic fit in Europe, and who, at Shepherdstown, Virginia, first propelled a boat by the application of steam, and who predicted in the last century that steamships would cross the Alantic in twelve days; and Fitch, who took up the idea of steam navigation a little subsequent to Rumsey; and Fulton, who, after having had all the instruction which Rumsey imparted to him in London, ultimately succeeded in New York—these are three American pioneers in steam navigation, who deserve to live in our memories forever. Their inventive talents were of incalculable value in aid of the ascending progress of the world. And to come down to living men, there is Mr. Morse, who taught us to control and use the electricity of heaven in carrying messages for man. There are hundreds of inventors, memorials of whose useful labors, in every department of life, may be found in our Patent Office. These are the living men, who with Arkwright, Whitney, and Faust, and others, who, by their inventions, when living, gave being and impulse to the useful mechanic arts—these are the men who should be remembered and honored through all ages. The divinity of true progress inspired them, and the world will never cease to rejoice in their revelations. They have done more for the elevation and happiness of mankind, than all the warriors that have exulted in the "rapture of the strife," and the conquest of nations, from the defeat of the kings of Sodom and

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Gomorrah to the overthrow of Napoleon at Waterloo.

There is, Mr. President, a spirit abroad in the world, denominated by some the spirit of genuine progress. It foments revolutions, it hunts up pretexts for aggression, it is the busy-body in the neighborhood and State, neglecting his own business and going about from place to place, advising and *interrering* and intermeddling in everybody's affairs: telling the farmer how to annex to and enlarge his uncultivated plantation; telling the merchant how he would be benefited by opening new channels of trade, and proving in all things that the end justifies the means. This spirit rejects precedents settled by the sober experience of mankind whenever they oppose themselves to the new project in contemplation, and it quotes precedents to justify aggression, drawn from the history of nations, whenever it can thereby suit its purposes. It finds in the aggressive and selfish policy of nations authority for perpetual aggressions. It justifies the seizure of what does not belong to us upon the ground, that if we do not, somebody else will. English annexation in India, and French conquests in Algeria, are precedents worthy of imitation, according to the teachings of the spirit I am now considering, and would justify the United States in annexing Canada and Mexico, and seizing Cuba. Sir, this spirit is restless and militant, it is rapacious and unjust; and I admit it to be a spirit of progress; but it is that progress down the abyss of political error and pollution, from which there is no return. Sir, I desire to see a different progress from that; and if young men who are willing to work and rise by industry from poverty to riches, if young and old men who have property to lose, and if Christians of every sect, who believe that the doctrines of the Bible are to spread over and regenerate all nations, will unite in the promotion of that progress, founded on intelligence, justice, and peace, which I advocate, I believe that their efforts will be blessed, and that they will be able in the end to reform the world.

Mr. President, perhaps I owe an apology for having been drawn into these remarks without preparation, and upon the spur of the occasion. I ask pardon of the Senate for my desultory suggestions. I desire now, in conclusion, to say a few words in regard to the pending proposition. I heartily concur in the object of the mover of the resolution. I am anxious to hear from the President in regard to the proposition made by the Ministers of France and England, and I am anxious to have all the information published. But when the Senator [Mr. Mason] is asking for all this, does he not perceive that he may subject the President to the very censure, which I think the gentleman has traveled a little out of the way to bestow upon him, for laying before the public the communications which have heretofore taken place between our State Department and Ministers in Spain in reference to the purchase of Cuba?

Now, when the gentleman himself is asking for information in reference to the Island of Cuba—when he wants to know what the Secretary of State has been and is doing in regard to it, and to publish that information, while at the same time he says that what has been done heretofore by the President upon the same subject is extremely wrong, is he not amenable to the same censure for blundering which he bestows on others? How is it that we may now call for all the correspondence between the Secretary of State and foreign ministers in reference to Cuba? How can its publication be right, if the other one, of which the gentleman complained, was wrong? There is an inconsistency in this. The things do not stand well together. I approve of the Senator's present call for the correspondence, and shall vote for his resolution; but to be consistent with myself, I shall be bound to vindicate the propriety of the publication of the correspondence when it is furnished by the President at my instance. I think the President was right in laying the former correspondence before Congress and the nation. If he was wrong in that, as is now charged, it is wrong in us to call again for the publication of the later correspondence.

Sir, in the progress and growth of this country, I hope that the day will soon come, if it is not already at hand, when we can speak to the nations in open and undisguised language, and yet in the plain and simple language of truth and sincerity, upon all subjects, and have nothing to conceal from them or ourselves. If we want to purchase a territory, our power and strength are now such that we have nothing to fear from an open avowal of our purposes; and our justice and magnanimity should induce us to offer a full and fair price. Having done so, there is no more reason for the Government concealing its offer and object, than there is for an honest man to conceal the price offered for a horse or a mule, when he cares not whether it is taken or rejected by the owner. Indeed, sir, I cannot imagine a reason for any concealment in regard to our wishes to acquire Cuba or the price we are willing to pay, if, as gentlemen intimate, the fruit, when it ripens, must fall into our basket, and we are resolved that it shall not fall elsewhere. By the publication of our determination that no other nation shall come in competition with us for the prize, we render the concealment of the price offered, or the advantages we expect from the acquisition, altogether unnecessary.

I am happy to hear gentlemen declare that they are opposed to annexing Cuba by any *fillibustering* operation. Whether its annexation will do us more good than harm, is a question which I shall not now discuss. Nor will I go into the examination of the subject of slavery, and show its bearings upon the ascending or descending progress of mankind. I pass these things by for the present, and make no promises ever to take them up.

Mr. President, whatever may be the changes of administration, whatever may be the changes of parties in this country, the upward and onward progress of the people, so far as it depends upon our advantages of soil and climate, and our commercial position on the earth, must continue to make rapid strides. And if we have wisdom to hang together, to consolidate our Union, and to bring into full operation all the intellectual and moral causes of national prosperity, we shall become the admiration of all nations, and a Power such as never before existed on earth. When we shall be at the head of all earthly Powers, then, I think, we may exercise a wholesome influence upon the destinies of our race. We shall never reach that point of elevation without observing the counsels of moderation, justice, and wisdom. I sometimes fear that the intemperance of party, the rivalry of ambitious leaders, the combined covetousness and extravagance of politicians, the jealousy of sections, the grasping selfishness of our nature, and the wealth which is pouring in upon us, will change our habits of living and thinking, introduce every species of corruption, and finally break us up in fragments, governed by petty tyrants. Such, I believe, would be the result if there were no higher motives of human conduct than such as are to be found among those whose morals and reasoning, whose faith and practices, have no connection with eternity. Such atheistical *Republicans* as those who sacrificed Louis the Sixteenth cannot maintain a representative, constitutional, Republican Government; because they have no ingredient of character that can resist the temptations which selfish indulgence and aggrandizement are constantly presenting to induce them to break down constitutional principles. The pride, the luxury, and prodigality of monarchy fills the heart of the atheist, who lives alone for the things of the world, and satisfies his heart much more than the less ostentatious, plain, and frugal Republic. He is dazzled by the brilliancy of a crown. To him the throne seems a more certain source of honor and emolument than the suffrages of the people, and therefore the Republic is demolished. But with those whose motives are connected with eternity, who regard the trappings of office as things of little consequence, and the pageantry and honors of this life as trash compared with the glories of immortality, such men, influenced by such motives, like that Government best which best secures the rights and best promotes the happiness of the masses. Such a Government they find in a Republic. I therefore place my hope for the perpetuity of our free institutions not in the men who live for this world, but in those who live for that which is to come. The sensual atheist takes that political creed which satiates his appetites. The believing Christian, considering all men equal before God, the only Sovereign, embraces that Government which makes all men equal in the eye of the law, and allows no distinction except that freely awarded to merit. True Christian principles thus harmonize with Republican ideas, and the Christian is for a Republic. In Christianity I find not only the greatest element of human progress, but the conservative bulwark which is to prevent atheists and demagogues, corrupt sensuality and heartless ambition, from demolishing the Republic.

And now, sir, having shown what kind of progress I am for, I have nothing more to say.

Mr. MANGUM. I desire to know when this resolution was introduced?

The PRESIDENT. This morning.

Mr. MANGUM. It has involved a great deal of discussion, and I would suggest the propriety of postponing the discussion until we shall have before us the information called for by the resolution.

Mr. WELLER. There is no probability that the Senate will act upon this resolution to-day, and I therefore move that its further consideration be postponed until Monday next.

The PRESIDENT. The Chair would inform the Senator that the resolution is only under consideration by sufferance, and not by any rule of order. The Senator from Virginia presented the resolution, and made his remarks upon it before it was properly under consideration.

Mr. WELLER. There being no objection interposed to the reception of the resolution, it was of course before the Senate, and is now under consideration.

The PRESIDENT. By general consent only.

Mr. WELLER. I move now to postpone its further consideration until Monday next.

Mr. MASON. It was by no means my intention to provoke a discussion of the elaborate character which has ensued, but to ask for the consideration of the resolution at once. If, however, the Senator from California, or any other gentleman, desires it, I will cheerfully acquiesce in a postponement; but as we shall have a very thin Senate next week, I should prefer its postponement to a day beyond next Monday.

Mr. CHASE. Say Monday week.

Mr. WELLER. I have no objection to postponing it till Monday or Tuesday week. Ordinarily this discussion ought to have taken place when the message of the President was submitted to the Senate; but as several Senators have engaged in the debate, and have discussed a variety of questions in which that section of the Union from which I come is directly interested, I may desire to submit some remarks upon those questions. I therefore move to postpone the further consideration of the resolution until Tuesday week.

Mr. MANGUM. I have no objection to the vote being taken on the resolution to-day. I hope it will be taken to-day. We are calling for certain correspondence which I understand is written out and ready to be sent in. The only difficulty, in my mind, which I wished to suggest when I rose before, was whether we had better debate the subject in the absence of the knowledge of the facts than after we should obtain them. I thought we might have read some interesting chapters from some modern publication quite as interesting, and perhaps as pertinent to the subject-matter, as some of the remarks which we have heard to-day. I do not know what this resolution will bring out, but really it seems to me that none of us know much about the subject-matter that we are discussing. When the information shall be received, then would seem to me to be the appropriate time

for entering into the discussion. I have no doubt that the honorable chairman of the Committee on Foreign Relations, who has of course a proper degree of the confidence of the Administration, did not speak in the dark; but the rest of us must necessarily do so. I suppose this call may as well be made to-day as at any other time; but let us know what we are calling for, and let us know what has been done before we undertake to discuss it. As to this matter of progress up and down, on an inclined plain or otherwise, it may all be very relevant to the matters which will be brought to our consideration by the answer to this resolution, but really I cannot see what pertinency it has to the question. I hope that if the resolution be not adopted to-day, the discussion will be continued. It will entertain and detain gentlemen. The whole subject can be fully discussed after we get this information. I hope, therefore, my honorable friend from California will withdraw any objection to the vote being taken to-day.

Mr. MASON. I cannot and will not object to any gentleman who desires it continuing this discussion; but inasmuch as the Senate will be very thin during the next week, I would submit to the consideration of Senators, that if they allow the vote to be taken upon the resolution now, the information asked for will be received from the President within a very few days, and discussion can then arise upon a proposition to refer. I think it better to let the vote now be taken, and the information will be given to us by the President during the next week.

Mr. WELLER. I have no objection to pursue the course indicated by the Senator from Virginia. I therefore withdraw my motion to postpone, in order that the Senate may, if they are so disposed, act upon the resolution now. Then, when the answer of the President shall be received, discussion can continue upon a motion to refer it to the Committee on Foreign Relations.

Mr. SOULE. Mr. President, it is too late now to talk of stopping this debate, until the papers sought to be obtained from the State Department shall have been sent to us in compliance with the resolution upon your table. Had that resolution been introduced without the prefatory remarks through which it was announced, and had it been suffered to wait, in due course of business, and in accordance with the rules of this House, until it were called up for discussion, I should certainly be for delaying the consideration of the matters which it involves until we were put in full possession of such facts as might enlighten us on their merits. But, sir, it is no longer in our power to determine what course it had been better for us to pursue. A peculiar character has been imparted to the debate by the unusual manner in which it was initiated, and still more by the flight which it took; and from that character it is not in our power to divest it. And as it might seem strange, if not ominous, that I, in common with many of my friends who sit on this side of the Chamber, and who may be presumed to feel as immediate and sensitive an interest in the subject which brought it forth, should abstain from all participation in it, it has been deemed advisable that I should say a few words in explanation of our course.

The subject, and the debate which it has given rise to, sprang upon us this morning most unexpectedly. Neither I, nor, as far as I could ascertain, any of the friends who surround me, had the least knowledge that they would be brought forth; and it will have struck you, Mr. President, as it struck every other member of the Senate, that the interets involved in both were of the most serious magnitude and import, and such as we could hardly be presumed to be willing to speak of but in the most temperate and measured terms, considering that the position which we at present occupy as a party, before the country and before the world, would hardly admit of a single word being uttered by us in that connection, which would not be deemed pregnant with meaning and significancy.

Well, sir, we would deprecate, at this juncture particularly, that we had to encounter such exigencies of debate as might hurry us into an unguarded expression of sentiment with reference to so grave a subject. We will like to meet it, sir, with becoming prudence, though not without some considerable degree of freedom; but we will also wish to meet it with a well-matured, and, if possible, with a well-concerted judgment. It may be all well for the two Senators who addressed themselves to the question, from this side of the Chamber, to have indulged us thus early, and, through us, the country, with a disclosure of their sentiments and views. The honorable Senator from Virginia had full leisure, while preparing his resolution, to give the subject it embraced that well-balanced consideration which his ponderous mind has bestowed upon it; and the Senator from Michigan who followed him, had, it would seem, the privilege of being apprised in time of the movement which was to be made here this morning, and thus of being furnished with ample opportunities for preparing himself, if we may form any judgment from the strikingly elaborate character of his remarks, and from the memorandum out of which he helped himself, that he might present them in that peculiar and taking way of his which so eminently characterizes his productions. But we, who enjoyed none of those advantages, will naturally wish for time to mature our thoughts, and discipline them for debate. At the same time we will desire to meet the question as it now stands, without awaiting what communications it may please the Executive to send us. It will not require a very deep seer to guess what the character of those communications will be. And may we not, as fairly as the Senators who have preceded us, approach the obvious question which they involve without them? I ask leave to renew the motion just withdrawn by my friend from California, to postpone the consideration of the resolution to Tuesday of the week after next.

Mr. BUTLER. I suppose that the State of South Carolina, not being more than three or four days run from Cuba, cannot be indifferent to this question. The topics involved in the discussion are very important. They deal with one of the most important and delicate questions that can ever affect the destinies of this country; and my constituents would not perhaps be satisfied if I were not, at least, to take some part in such a discussion as this. I am not now prepared to enter into the debate. The Senator from Virginia, being chairman of the Committee on Foreign Relations, has perhaps very properly made his remarks; but since the debate has assumed altogether a character so unexpected, it would not be right that other Senators, equally interested in the question, should not have an opportunity of mingling a tributary, at least, to the great current of public opinion which is to be made by the debate. If this country is to be influenced by public opinion, let us all, who have opinions, have an opportunity of pouring our tributaries into the stream. When a debate of this kind comes up, I think it ought to arise upon some question upon which we can all deliver our sentiments. I am deeply interested in this matter. I represent a State nearer to Cuba than any other, unless it be the State of Florida. This does not, however, seem to be a fit occasion to go into that subject; but I must take the liberty of saying that if this debate continues, it cannot be expected that we shall be entirely silent.

Mr. MASON. I have no desire in the world to curtail this debate, or to discourage it. If the honorable Senator from South Carolina supposes there is any desire on my part, or on the part of any other Senator, to prevent the fullest and most elaborate debate gentlemen may think proper, I am not informed of any such purpose. Sir, I would have given notice of my intention to introduce this resolution, had I supposed that it would involve a debate, before the information was received. The matter arose simply thus: Two days ago, I think, it occurred to me that it would be proper to call for the correspondence mentioned in the President's message, and I conferred, as I frequently do, with the honorable Senator from Michigan, who is now the Nestor of the Senate, especially in matters of foreign relations, and informed him of my purpose. I asked him at the same time whether he thought it would be proper for me to preface the resolution, before the vote was taken, by a very few remarks, which I have made, confined to that subject, and that alone. He told me he thought it would be proper, and that he would avail himself of the occasion to make some remarks. I beg Senators to believe that I had no desire to bring a debate unexpectedly upon them. I did not suppose the resolution would lead to any extended debate.

Mr. UNDERWOOD. When I came into the Senate Chamber this morning, I did not dream of making any remarks on this or any other subject, and the remarks which I have inflicted on the Senate were purely the result of an allusion of the gentleman from Michigan to me on the subject of progress, which had been bandied between us during the last session; and I thought it was a fit occasion to give him my ideas of human progress, and I did so.

I have not said a word about the question of annexing Cuba. I have said nothing about its importance or its disadvantages to the country; but my people have as deep an interest perhaps as Louisiana and South Carolina in it. And allow me to say that my people are very intimately connected now, and will be more so very shortly, both with South Carolina and the States east of Louisiana, as they have long been with Louisiana herself. If this debate is to go on, I should like very much to hear the gentlemen representing South Carolina and Louisiana, and the other southern States upon it. I would like to call their attention to the influence which this annexation may have on the trade between Kentucky and their States, and to the trade between those States and Cuba.

Heretofore, we of Kentucky have been in the habit of supplying ourselves with rice, sugar, and other southern productions from the lower Mississippi. If you annex Cuba she will want a great many of our horses, mules, hogs, and other productions; and if you will give us the cheap communication of which I have spoken, from the mouth of the Ohio down to Cuba, free of duty, everybody will see what immense changes and what deep effects will grow out of that state of things, both in reference to the trade of Kentucky with Louisiana for her productions, and with South Carolina for her productions.

Now, without committing myself—for I have not discussed this view of the subject—in regard to these important matters, for they are of great importance, I have merely thrown out these suggestions in the hope that the representatives of South Carolina and Louisiana who wish to make speeches, and I shall give them an opportunity to do so by my vote, will take into consideration these vital questions of internal trade. I wish them to consider what will be the effect of opening new avenues of trade by the annexation of foreign territory. That such annexation would be very efficient for good or for evil I see plainly; but whether the good or the evil will predominate, I am not yet permitted to see.

Mr. GWIN. Whether the question has been sprung upon the Senate, I neither know nor care; but this is certainly an unexpected debate. I have no doubt the chairman of the Committee on Foreign Affairs, did not intend to preclude us from an opportunity of delivering our views. When Senators talk of individual States of the Confederacy most interested in this question, I feel bound to say that I represent one more interested than any other, for we send right in sight of the Island of Cuba, from two and a half to three millions of dollars in gold every two weeks; and I should like to know what State of the Confederacy is so much interested in the matter of our friendly relations with Spain?

Again, we have questions of our own likely very soon to attract public attention. We may have a troublesome neighbor south of us, for it is said that the French have taken possession of Sonora, and intend to hold it as a province of the French Empire. My friend from Texas, [Mr. RUSK,] will no doubt be called out on a "buffalo hunt" very soon, if that should turn out to be true. Texas and California will be very apt to look into that question, and think of the propriety of Sonora being annexed to the French Empire. Therefore this resolution opens a great question—the question of what is to be the future foreign policy of this Government. There are other islands beside Cuba in which the United States are interested. There are a set of islands called the Sandwich Islands, which we in California look upon as our summer residence. And when the Senator from Virginia talks about ripe fruit, it ought to be known that that fruit is ripe also, and ready to fall. This resolution, therefore, is very important; and I think, inasmuch as some gentlemen have commenced forming public sentiment, we ought to give others a chance, and let it go over till next week. We can make public sentiment now just as well as when the documents shall come in.

Mr. BADGER. I hope the motion to postpone will not prevail. The honorable Senator from California [Mr. GWIN] says that "we"—meaning himself and others—understand pretty well what this document is. Now, I am not in the same happy state and condition with him; I do not know what it is; and if I am to be instrumental, directly or indirectly, in forming public sentiment on this subject, I would rather do it after I shall have had an opportunity of knowing the contents of the document. The Senator from California seems to know it already; I do not. Let the resolution be adopted, and let the document be communicated to us, and then we shall all stand upon an equal footing; and equal justice, I know, is what my friend from California will go for under any circumstances. I hope, therefore, that the matter will not be postponed, but that the resolution will be adopted now.

The motion to postpone was agreed to.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 23, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order, if it be the pleasure of the House to consider it, will be the report from the Committee on Printing.

RED RIVER RAFT.

Mr. JOHNSON, of Arkansas. I ask leave to introduce "A resolution explanatory of the act appropriating money for the removal of the Red river raft." At the last session of Congress, an appropriation of $100,000 was made for the removal of the Red river raft. That money may be wastefully expended, unless something be done immediately, before the lettings of the contracts now about to take place, and before the bids are opened, which must take place at no distant day. If the matter is now settled according to the terms of the Senate resolution on your table, the defect being remedied in that appropriation, under the construction now given by the War Department, the sum appropriated is large enough to remove the raft, and Congress will never hear of this matter again. I hope that the Senate resolution will be taken up and passed, if possible, so that the money already appropriated may not be thrown away. The Secretary of War—and there seems to be strong ground for his construction—determines that under the act he can compel contractors to open the raft, but can make no provision to compel them to keep it open through a few seasons of high water, until the channel of the river shall be washed out. There seems to be some grounds for the correctness of his judgment; so he asks for legislative action, that the appropriation may be effective. If it is done, and the work is let out in the manner proposed by that resolution, the people who live upon the banks, the sufferers by the obstructions, will be greatly benefited, and Government relieved from further expenditure. It is the first time that I ever knew us to reach a point like this, and I hope the resolution will be adopted.

Mr. STANLY. In what condition does this resolution stand on the calendar?

Mr. JOHNSON. It first came in from the Senate yesterday.

Mr. STANLY. It stands upon the Speaker's table like all the resolutions.

Mr. MOORE, of Louisiana. I hope that the gentleman from North Carolina will not make any objection. I am certain that there is not a member of this House, if he knew the situation of that raft and the situation of the appropriation, who would not at once concur in taking up this resolution.

Mr. STANLY. If the gentleman from Louisiana [Mr. MOORE] knew the situation of fifty bills upon the Speaker's table, his kindly heart would say take them all up. How long is discussion on the Red river raft to last?

Mr. JOHNSON. I will call the previous question. I have united with the gentleman from North Carolina [Mr. STANLY] in every effort to get up the bills on the Speaker's table.

Mr. STANLY. I will not interpose any objection to it; but I do not think that we should discriminate.

The resolution was then taken from the Speaker's table, and read a first and second time.

Mr. JOHNSON. I will state in regard to this resolution, that the raft has been opened several times, but for the want of the measure contemplated in the resolution, it is closed up each successive high water; and so soon as this takes place, great loss results to the people living upon the banks of the river. We have convincing testimony that if you will adopt the course proposed by the resolution, you will never again be compelled to make an appropriation for this purpose. I now ask the previous question upon the resolution.

Mr. SEYMOUR, of New York. I wish to make an inquiry of the gentleman.

The SPEAKER. Does the Chair understand that the previous question is withdrawn?

Mr. JOHNSON. I will withdraw it for that purpose.

Mr. SEYMOUR. The provision was originally inserted in the bill and voted upon by this House, undoubtedly with the understanding—the phraseology of the bill as it stands, though I have not the bill before me, being for the removal of the Red river raft—that the removal should be a permanent thing and that it should be a removal of obstructions which would leave the river permanently free for navigation. Let me ask the gentleman who moves this resolution, whether its language is not weaker than the language of the bill?

Mr. JOHNSON. If the gentleman will pardon me, I will answer his question at this point. I do not desire to detain the House, and so I promised. He does not desire to defeat his own good work. It is his anxiety that his operations should be effective, that leads him to make his inquiries. The War Department desires to conform itself to what the law declares. The construction given to this appropriation is for the removal of the obstruction; but when it is removed, there is nothing said in the original bill about the permanency of the removal. The only construction which could be put upon it was, that when a party undertook to remove the obstruction, he would be bound to remove it; and when he had done so, the whole of his undertaking would have been discharged. This is according to the terms of the original appropriation. Let those who take the contract, remove it, and hold it open for the longest period of time, say from three to five successive years. That will give ample time for the annual floods to wash out the banks, so that a single mammoth cottonwood tree cannot lie across the channel and form a raft of miles to obstruct our navigation. The Secretary of War requires this before he acts, as he conceives his hands are bound. I call the previous question.

The previous question was seconded, and the main question ordered to be put.

The resolution was then ordered to a third reading, and was accordingly read the third time and passed.

Mr. JOHNSON, of Arkansas, moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

Mr. STANTON, of Kentucky. I move to take up the report from the Committee on Printing.

CORRECTION OF THE JOURNAL.

Mr. HEBARD. I rise to what I suppose to be a privileged motion. I notice in recording the vote upon the first branch of the resolution from the Committee on Elections, giving compensation to Mr. Taliaferro, that my name is recorded in the negative, whereas I voted in the affirmative. I ask that the proper correction be made, and my name recorded in the affirmative.

There being no objection, it was so ordered.

Mr. HOUSTON. The gentleman from Kentucky [Mr. STANTON] proposes to call up the resolution upon the subject of printing. The presumption is, that a motion to reconsider will consume the balance of time before the adjournment; I would ask permission of the gentleman to report several bills from the Committee on Ways and Means, that they may be printed.

Objection was made.

REMISSION OF DUTIES.

Mr. SEYMOUR, of New York. I ask the unanimous consent of the House to introduce a resolution for the purpose of taking bill No. 138, "to remit the duties upon certain goods destroyed by fire in the city of New York," from under the consideration of the Committee of the Whole on the state of the Union, and referring it back to the Committee on Commerce.

Mr. CAMPBELL, of Ohio. I object.

Mr. LANE. As there is nothing now before the House, I ask leave to introduce a few bills, for the purpose of having them referred.

Mr. CARTTER. I object, and call for the regular order of business.

OFFICE OF SUPERINTENDENT OF PUBLIC PRINTING—CLERKS AND MESSENGER.

The SPEAKER stated that the regular business before the House was the consideration of the following joint resolution, reported from the Committee on Printing, viz:

"A joint resolution authorizing the employment of two clerks and one messenger in the office of Superintendent of the Public Printing."

The joint resolution provides for the appointment of two clerks, at a salary of $1,500 each, and one messenger, at a salary of $3 per diem.

Mr. STANTON, of Kentucky. I am satisfied, that when this matter was first presented to the House by the chairman of the committee of which I am a member, a great misapprehension existed in the House as to the extent of the duties imposed upon the Superintendent by the law passed at the last session. I have taken pains since that day to examine the law, and I am now prepared to give the House such information as will enable them to act with proper intelligence upon this subject.

By section third of the printing act, it is made the duty of the Superintendent "to receive from the Secretary of the Senate and Clerk of the House of Representatives, all matter ordered by Congress to be printed, and from the chiefs of Departments and heads of Bureaus, all matter ordered by them respectively, to be printed at the public expense, and keep a faithful account of the same in a book or books to be by him kept for that purpose," &c. By a subsequent section of the same act, prices as various as are the kinds of printing were fixed, as well as the prices for folding and stitching, and all the details necessary to complete each job; and then deductions are to be made in certain cases, for the purpose of arriving at the net cost to the Government. In order to accomplish this object as the law requires, three separate books must be opened for each House of Congress, in which all these details are to be entered, involving many distinct and exact calculations, each consuming much time, and requiring the services of persons fitted by practical experience for this kind of business. So of the printing to be executed for the several Departments and their various Bureaus: a separate and distinct account with each must be kept, in books similar to those for the Senate and the House, so as to exhibit the kinds and quantities ordered for each, the cost, &c. Moreover, accounts are to be opened with the Treasury of the United States, the contractors for furnishing paper, the public printer, and others, involving the disbursement, in the aggregate, of several hundred thousand dollars per annum. This will afford some idea of the clerical duty devolved upon this office by law, and it is scarcely necessary to say that it will require much time and labor to execute it in a proper manner.

It is further made the duty of the Superintendent to "supervise the execution of the public printing, to inspect the work when executed, and to see that the same is done with neatness and dispatch." This can only be done by frequent visits to the office of the public printer by the Superintendent, in order that he may satisfy himself, by personal observation, that the work is progressing with reasonable dispatch; and that it is executed in a neat and workmanlike manner, and on the paper furnished by the Government for that purpose.

It is also made his duty to procure, by contract, the necessary paper for the Government printing; to cause a sufficient quantity to be always on hand to meet the public requirements; to receive, inspect, and furnish the paper to the public printer as he may require it; to see that it is of the proper weight and quality; and to keep all the accounts for the same, in such manner that they will accurately show what paper has been received, its cost, and what use has been made of it, and for what purpose.

There are many minor duties required of the Superintendent, necessarily involved in carrying into practical operation the various provisions of the law, which will readily suggest themselves to you.

In creating this new system for executing the public printing, the Government has, for the first time, assumed its management and control, for the purpose of protecting itself from the evils and annoyances of the past, and for facilitating the public business for the future; and, in so doing, has necessarily created new duties, which have not heretofore been performed by any one. With the assistance asked for by the Superintendent, I feel satisfied that the public interests *will be* promoted, and that the law can be made to produce not only an excellent quality of printing, with all reasonable facility, but will combine a strict accountability and economy with it at the same time.

Now, sir, I suppose this information which has undergone the supervision of the Superintendent, who concurs in all that I have said upon this subject, is sufficient for the House, and I therefore move the previous question.

Mr. CARTTER. Will the gentleman withdraw the demand for the previous question for a moment?

Mr. STANTON. I will, if my friend will renew it.

Mr. CARTTER. I will do it. I merely want to state to the House that the consideration of that resolution was postponed upon my motion. I made that motion with a view of satisfying myself of the necessity of this additional force, and having investigated the subject, I am satisfied that the force is required, and that without it, the Superintendent would be unable to discharge the amount of labor which has been assigned to him. I now renew the demand for the previous question.

Mr. McMULLIN. I hope the gentleman will withdraw the previous question, to enable me to offer an amendment with regard to the salaries of the clerks.

Mr. CARTTER. I cannot do it without the consent of the gentleman from Kentucky. I was under obligations to him to renew the call for the previous question, and I must decline to withdraw it.

The question now being upon seconding the demand for the previous question,

Mr. CARTTER called for tellers; which were ordered; and Messrs. BOCOCK and GAYLORD were appointed.

The question was then put, and the tellers reported—ayes 73, noes 37; no quorum voting.

Mr. RICHARDSON asked for a recount, as there was evidently a quorum in the House.

There being no objection, the tellers resumed their places, and a recount having been had, the tellers reported—ayes 89, noes 31.

So the previous question received a second.

The question recurred upon ordering the main question to be now put.

Mr. CABLE, of Ohio, moved that the joint resolution be laid upon the table, and upon that motion asked for the yeas and nays.

The yeas and nays were not ordered.

Mr. HENDRICKS demanded tellers; which were ordered; and Messrs. HARRIS, of Tennessee, and McNAIR were appointed.

The question was then put, and the tellers reported—ayes 46, noes 68; no quorum voting.

Mr. JOHNSON, of Georgia, moved that the House do now adjourn.

Mr. STUART demanded tellers.

ADJOURNMENT UNTIL MONDAY.

Mr. RICHARDSON moved that when the House adjourns, it adjourn to meet on Monday next.

Mr. HOUSTON. There was no quorum on the last vote, and of course we cannot adjourn over without a quorum.

The SPEAKER. There may be a quorum on this vote.

Mr. LETCHER demanded the yeas and nays on Mr. RICHARDSON's motion; but they were not ordered.

Mr. STUART called for tellers; which were ordered; and Messrs. ROBBINS, and CAMPBELL of Illinois, were appointed.

The question was then put upon Mr. RICHARDSON's motion, and the tellers reported—ayes 88, noes 47.

So the motion was agreed to.

The question recurred upon the motion that the House do now adjourn.

Mr. MILLSON. I rise to a privileged question.

The SPEAKER. There is a privileged motion already pending. A motion to adjourn is the highest privileged motion.

Mr. JOHNSON, of Georgia. A quorum being present, I withdraw the motion to adjourn.

The question recurred upon ordering the main question to be now put.

Mr. MILLSON. I rise to a privileged motion. I move to reconsider the vote by which the House determined that when they adjourn, they would adjourn to meet on Monday next. I voted in the affirmative for the purpose of moving a reconsideration.

Mr. JONES, of Tennessee. I submit to the Chair whether such a motion is in order.

The SPEAKER. It is certainly not debatable.

Mr. MILLSON. I do not desire to debate it. I wish to remind the House of a single fact, that to-morrow is objection day, and that we might dispose of a large amount of private business.

[Loud cries of "Order!" from all parts of the House.]

The SPEAKER. The Chair does not recollect that such a motion as that submitted by the gentleman from Virginia has ever been entertained in this body, and much doubts the propriety of entertaining it. If, however, the gentleman insists upon his motion, it will be put to the House.

Mr. MILLSON. My motion was submitted in good faith, and I should like to have a vote of the House upon it.

Mr. MOLONY called for the yeas and nays upon the motion to reconsider.

Mr. CLINGMAN moved to lay the motion to reconsider upon the table.

Mr. BROWN, of Mississippi, demanded the yeas and nays upon that motion.

Mr. ROBBINS called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. RICHARDSON and McNAIR were appointed.

The House was then divided, and the tellers reported—21 in the affirmative; not one fifth of a quorum.

So the yeas and nays were not ordered.

The question was then put on Mr. CLINGMAN's motion, and it was agreed to.

So the motion to reconsider was laid upon the table.

Mr. CAMPBELL, of Illinois, moved that the House do now adjourn.

The question was put, and on a division, there were—ayes 60, noes 91.

So the House refused to adjourn.

The SPEAKER stated that the question recurred upon the motion to lay on the table the joint resolution reported from the Committee on Printing, on which motion tellers had been ordered.

Mr. HARRIS, of Tennessee. That question was taken and decided in the negative. I was one of the tellers.

The SPEAKER. The gentleman is mistaken. The question was put, but no quorum voted; if there be no objection, there will now be a recount.

There being no objection, the tellers (Messrs. McNAIR, and HARRIS of Tennessee) resumed their places, and the question having been again put, the tellers reported—ayes 52, noes 72.

So the House refused to lay the joint resolution upon the table.

The main question was then ordered to be put; the joint resolution was ordered to be engrossed and read a third time; and being engrossed, was read the third time.

The question now being, "Shall the joint resolution pass?"

Mr. JONES, of Tennessee, demanded the yeas and nays; and they were ordered.

The question was then put, and decided in the negative—yeas 74, nays 77; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, William Appleton, Thomas H. Bayly, Bowie, Bowne, John H. Boyd, Briggs, Burrows, Busby, Caldwell, Lewis D. Campbell, Cartter, Chandler, Chapman, Chastain, Cleveland, Clingman, Conger, Darby, George T. Davis, Dockery, Doty, Eastman, Florence, Thomas J. D. Fuller, Goodenow, Gorman, Grow, Harper, Haven, Hebard, Henn, Horsford, Thomas M. Howe, Hunter, Jackson, James Johnson, John Johnson, Landry, Mace, McDonald, McNair, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morehead, Newton, Orr, Andrew Parker, Samuel W. Parker, Preston, Price, Sackett, Schermerhorn, Schoolcraft, Scudder, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abr'm P. Stephens, St. Martin, Strother, Taylor, Thurston, Venable, Walsh, Washburn, Welsh, Addison White, and Williams—74.

NAYS—Messrs. Aiken, Allison, John Appleton, Ashe, Averett, Babcock, Beale, Bell, Bocock, Brenton, Albert G. Brown, Buell, Joseph Cable, Caskie, Clemens, Cobb, Curtis, John G. Davis, Dunham, Edmund-on, Ficklin, Fitch, Floyd, Gaylord, Green, Grey, Isham G. Harris, Sampson W. Harris, Hendricks, Hibbard, Holladay, Houston, Howard, John W. Howe, Ingersoll, Ives, Jenkins, Andrew Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Lockhart, Mason, McLanahan, McMullin, Meade, Millson, Murphy, Murray, Nabers, Olds, Peaslee, Penn, Penniman, Perkins, Powell, Reed, Riddle, Robbins, Robie, Robinson, Savage, Origen S. Seymour, Skelton, Smith, Stuart, Townshend, Walbridge, Wallace, Watkins, Wells, Wilcox, Wildrick, and Woodward—77.

So the resolution was rejected.

Mr. JONES, of Tennessee. I move to reconsider the vote just taken, by which the resolution was rejected, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and upon a division, 46 rose in the affirmative.

Mr. JONES. I will withdraw the motion.

Mr. CARTTER. I renew the motion to reconsider.

Mr. JONES. I ask if the gentleman from Ohio did not vote in the affirmative?

Mr. CARTTER. I did.

Mr. JONES. Then he cannot move to reconsider.

APPROPRIATION BILLS.

Mr. HOUSTON. I ask the consent of the House to allow me to report from the Committee on Ways and Means some of the regular appropriation bills, in order that they may be referred and printed during the holidays.

Mr. STANLY. I object, and call for the regular order of business. We shall have finished the call of the States for petitions in fifteen minutes, and the committees will be called for reports, so that the gentleman from Alabama can present his bills in the regular order.

Mr. HOUSTON. The House will be very likely to adjourn before the Committee on Ways and Means will be reached. I hope the gentleman will withdraw his objection.

Mr. STANLY. I will not object.

Mr. HOUSTON, from the Committee on Ways and Means, then presented the following bills; which were severally read a first and second time by their titles, referred to the Committee of the Whole on the state of the Union, and, with the communications accompanying them, ordered to be printed.

A bill to supply the deficiency in the appropriations for the service of the fiscal year ending the 30th of June, 1853;

A bill making appropriations for the support of the Army for the year ending June 30th, 1854; and

A bill making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854.

Mr. FULLER, of Maine. I now call for the regular order of business.

The SPEAKER. Petitions are in order from the Territory of Utah.

Mr. STUART. I desire—and if it be necessary, I will ask the unanimous consent of the House for that purpose—to have certain communications, now lying upon the Speaker's table, taken up and disposed of.

The SPEAKER. The Chair was about to ask the indulgence of the House for that purpose.

There was no objection, and the Speaker accordingly laid before the House the following Executive communications; which were severally read and disposed of as indicated below:

A communication from the State Department, transmitting, agreeably to an act approved the 2d of March, 1779, an abstract of the returns made to that Department by the collectors of customs, pursuant to an act of the 28th May, 1796, for the relief and protection of American seamen, and the number of seamen registered in the various ports of entry in the United States during the year ending the 30th September, 1852; which was laid on the table and ordered to be printed.

A communication from the Treasury Department, transmitting estimates from the Interior Department for the Indian service during the current fiscal year.

Mr. BRIGGS moved to refer the communication to the Committee on Indian Affairs.

Mr. STUART moved to refer it to the Committee on Ways and Means, and to have it printed.

The question was first put upon referring to the Committee on Indian Affairs, and it was not agreed to.

The question was then taken on the motion to refer to the Committee on Ways and Means, and to print, and it was agreed to.

A communication from the Treasury Department, transmitting estimates from the War Department for continuing the works provided for by the act of the last session, entitled "An act making appropriations for the improvement of certain rivers and harbors," approved the 30th August, 1852; which was referred to the Committee on Commerce, and ordered to be printed.

A communication from the Secretary of the Treasury, transmitting, in pursuance of law, his accounts with the United States, for the third and fourth quarters of 1851, and the first and second quarters of 1852, as adjusted by the accounting officers of the Government; which was laid upon the table, and ordered to be printed.

A communication from the Department of the Interior, transmitting, in compliance with the act of May, 1820, a statement of such appropriations for that Department as have been made for the service of the War Department, prior to the act of the 3d March, 1849, creating the Department of the Interior, showing the balances of the appropriation of the 1st July, 1851, and of the fiscal year ending June 30th, 1852; the repayment and transfers in the same time, the amount drawn by requisition from the Treasury in the same period, and the balance on hand the 1st of July, 1852; with such appropriations as have been carried to the surplus fund; which was laid upon the table, and ordered to be printed.

A communication from the War Department, transmitting, in pursuance of the act of Congress approved 1st of May, 1820, a statement of the appropriations applicable to the service of the War Department, for the years 1851 and 1852; the amount drawn by requisition from the Treasury in the same period, and the balance on hand the 1st July, 1852, with such appropriations as have been carried to the surplus fund; which was laid upon the table, and ordered to be printed.

The SPEAKER. The Chair is requested to present to the House a communication from the Academy of Natural Sciences in Philadelphia, containing a preamble and resolutions, adopted December 14, 1814, relating to certain matters connected with the Navy of the United States.

The communication, on motion of Mr. CLINGMAN, was referred to the Committee on Naval Affairs.

Mr. ABERCROMBIE moved that the House adjourn.

The question was put, and on a division, there were—ayes 62, noes 59.

Mr. FULLER, of Maine, demanded the yeas and nays; which were ordered.

Mr. ABERCROMBIE. With the consent of the House, I will withdraw the motion to adjourn.

There was no objection, and the motion was withdrawn.

RECEPTION OF PETITIONS.

The SPEAKER then proceeded to call the States for petitions.

Mr. LANE. I ask leave to introduce a bill, of which previous notice has been given.

Mr. FICKLIN. I object, and call for the regular order of business.

Mr. FAULKNER presented the petition of Anne E. Bronaugh, praying that a certain judgment in favor of the United States, against her husband's estate, may be released to her; which was referred to the Committee on Claims.

Mr. JOHNSON, of Arkansas. I desire to ask the Speaker if the States have not been called twice now for petitions?

The SPEAKER. They have been called twice.

Mr. JOHNSON. Is it not in order now to call the States for resolutions?

The SPEAKER. It is not.

Mr. JOHNSON. When will it be in order?

The SPEAKER. The next Monday. Reports are now in order from the Committee on Elections.

Mr. HARRIS, of Alabama. I move that the House do now adjourn.

[Cries of "No!" "No!"]

The question was then taken, and the House refused to adjourn.

Mr. JONES, of Tennessee. Do I understand the Chair to say that reports are in order from the Committee on Elections?

The SPEAKER. The Chair so announced.

Mr. JONES. Then will it not be proper to call up the unfinished business of yesterday?

The SPEAKER. There is a motion pending to reconsider the motion by which the second branch of the resolution reported by the Committee on Elections, in relation to per diem and mileage to Mr. Taliaferro, was rejected. It is in order to call that motion up at any time.

Mr. JONES. I call it up, and move to lay the motion to reconsider on the table.

Mr. STANLY. I would inquire of the Chair, if the gentleman from Massachusetts [Mr. DAVIS] is not entitled to the floor upon the motion to reconsider?

The SPEAKER. He is.

Mr. STANLY. I hope the gentleman will allow the motion to go over.

Mr. JONES. I prefer to dispose of it now.

Mr. STANLY. Some of the committees have not been called for reports for six or seven months, and I am very anxious that they should be called. But aside from that, I hope the gentleman from Tennessee will not call up the motion at this time, because I am desirous that the House should have an opportunity to hear the gentleman from Massachusetts, [Mr. DAVIS,] in relation to the merits of the case of Mr. Taliaferro, for I am sure the House does not understand the question, after the vote of yesterday.

Mr. POLK. I hope my colleague will allow the motion to go over.

Mr. JONES. Well, I will not insist upon calling it up now.

CHARLES J. INGERSOLL.

Mr. ASHE, from the Committee on Elections, then reported the following resolution:

Resolved, That the Clerk of the House pay to Charles J. Ingersoll, of Pennsylvania, out of the contingent fund, the same per diem and mileage allowed to members of Congress, computing the same from the commencement of the Twenty-sixth Congress to the first of July, 1840, inclusive, for contesting the seat between him and Charles Naylor, that being the day on which the case was decided.

[Here the report of the committee was read by the Clerk.]

Mr. JENKINS. Is it in order to move to refer this subject to the Committee of the Whole?

The SPEAKER. Such a motion would be in order.

Mr. JENKINS. Then I make that motion.

Mr. ASHE. I believe, Mr. Speaker, I have the floor.

The SPEAKER. The Chair would state to the gentleman from New York, that as the gentleman from North Carolina has not yielded the floor, his motion would not be in order, as he has not the floor to make it.

Mr. ASHE. I do not intend to occupy much time in my remarks upon this report. This case was reported by the Committee on Elections, at the first session of the last Congress, and during that long session it was impossible, for some time, to get the report before the House. It finally came before the House, and was referred to the Committee of the Whole on the state of the Union, where it slept, and was not again brought before the House during that session.

Again, at the first session of the present Congress, it was referred to the Committee on Elections, and they authorized the same report to be made to the House, but it was impossible to bring it before the House for consideration at all.

This case stands upon the same ground, as is shown by the report, as the other cases of this character, which were before the House yesterday. I am not disposed to go into an argument on the subject, and thereby detain the House. If there ever was a case where a man was justified in contesting a seat, this is that case. The very fact that one half of the inspectors gave him a certificate; the very fact that he came here with the appointment of the Governor of the State, was authority to him to contest the election, and the reason why the seat was not awarded to him, was in consequence of the New Jersey case, which was contested at that time, having created so much excitement, that the House was not disposed to take it up.

I call the previous question.

Mr. JENKINS. Is not my motion now in order?

The SPEAKER. It is not until the call for the previous question is disposed of.

Mr. LETCHER. Will the gentleman withdraw his call for a moment? I wish to ask him a question.

Mr. ASHE. I will.

Mr. LETCHER. I could not hear the remarks of my friend over the way, [Mr. ASHE,] which seemed to be addressed to the Democratic side of the House. I desire to inquire whether this report now presented to the House, was not considered during the last Congress, and if it was, what disposition was made of it at that time?

Mr. ASHE. It was referred to the Committee of the Whole on the state of the Union.

Mr. LETCHER. Has it never been acted upon before?

Mr. ASHE. Not that I know of.

Mr. JONES, of Tennessee. I wish to ask the gentleman a question in relation to this case. I understood the gentleman to say that Mr. Ingersoll's claim was rejected by the same House which ousted the New Jersey men, and brought in their contestants. Was not that done by the political friends of Mr. Ingersoll, and is not that presumptive evidence that he had no right to the seat?

[Mr. ASHE here made a reply not heard by the Reporter.]

Mr. JONES. The Democrats were in the majority in that Congress, and as I know, Mr. Speaker, and as you know, this case has been here repeatedly for the last ten years, and we have always refused to pay it.

Mr. STANLY. My colleague will allow me also to say a word. I think my friend from Tennessee [Mr. JONES] is right, for I had the honor, or misfortune, to be a member of Congress at that time. Now, if this claim was not rejected by that Congress, I am inclined to vote for it. I think when a man comes here and contests a seat upon fair grounds, it is due to him as a public servant that he should be paid his expenses. But I have some indistinct recollection of some opposition to this claim upon its merits. I suggest that it should lie over for a little examination. If I am satisfied that it has not been rejected, I shall vote for it.

Mr. ASHE. In answer to my colleague, I will say that all I know of this case is, that it was referred to the Committee on Elections at the time I stated, and that the committee unanimously authorized the report to be made. It was made. That report came up for consideration, and it was referred to the Committee of the Whole on the state of the Union, where it slept.

Now, I assure the House that personally I do not care whether they pass this resolution or not, but it is a just claim, and therefore I reported it to get it off my hands, and relieve my mind of it.

I renew my call for the previous question.

Mr. LETCHER. I call for the yeas and nays upon the passage of the resolution.

Mr. STUART. I rise to a question of order. I understood the chairman of the committee to state that there is now pending a resolution like this, reported to this House at the last session, which was referred to the Committee of the Whole on the state of the Union, and which is there at this time. Now, I submit the question of order, that while that resolution is pending, the committee cannot report another.

The SPEAKER. If there be such a proposition as that reported by the committee now in possession of the House, the Chair is inclined to think the gentleman from Michigan [Mr. STUART] is right.

Mr. STUART. The gentleman from North Carolina now says that was during the last Congress. If that be so, it is a different question. I thought that he first said that it was at the last session.

The SPEAKER. The previous question has been demanded.

Mr. BAYLY. Will the gentleman from North Carolina allow me to say a single word?

Mr. ASHE. I will withdraw the call for the previous question for a moment.

Mr. BAYLY. My own opinion in respect to these contested elections, always has been, that where the contest was a *bona fide* one, the contest-

ant ought to be paid his expenses. If he were coming here to assert an individual claim, then he ought, as far as expenses are concerned, to abide by the decision of the House, and if it were against him, pay his own expenses. But he does not come here to assert an individual claim, but the right of his constituents, and under those circumstances, where the contest is a *bona fide* one, it seems to me that it is due to our very system of government, so far as representation is concerned, to adopt such a course, in this respect, that would not put it out of the power of a poor man to contest his seat. But, sir, I desire to say further, that I know of no case of a contestant which has been brought before this House, where he has not been paid. The very strongest case which ever occurred, was the case of a personal friend and former colleague—I mean the case of the Hon. John M. Botts—whose claim was paid at the last Congress. In that case, the Committee on Elections was unanimously against the contestant, and upon solemn debate in this House, and upon the yeas and nays, there was not a solitary member to sustain his case, and yet, upon a contest so emphatically repudiated as that, the American Congress paid him his per diem and mileage.

Mr. JONES, of Tennessee. Will the gentleman from Virginia permit me to ask him if the House, which decided so unanimously against Mr. Botts, did not refuse to pay him the per diem and mileage?

Mr. BAYLY. My recollection is not certain upon that point.

Mr. JONES. Mine is.

Mr. BAYLY. I know that his case was subsequently rejected two or three times, yet it was finally passed. I voted against Mr. Botts's case.

Mr. JENKINS. I hold in my hand the Journal of the first session of the Twenty-ninth Congress; and it appears that resolutions were offered for the payment of the claims of Messrs. Ingersoll and Taliaferro. Mr. Ingersoll being then a member of this House, a motion was made by Mr. Hodge, of Illinois, to lay these resolutions upon the table, and they were laid upon the table by a vote of 114 to 39, there then being a Democratic majority of about fifty in the House.

Mr. BAYLY. I am perfectly aware that this case has been heretofore laid on the table; but why make Mr. Ingersoll a scape-goat from the universal practice of this House? You voted yesterday a part of the claim of Mr. Taliaferro, of forty years standing. Mr. Ingersoll came here and contested his seat, because he had a commission of the Governor. And why make him an exception? Equality is equity.

Mr. AVERETT, (by leave interrupting.) I know that my colleague is well informed in regard to Congressional action in cases of contested elections. I will interrupt him but for a moment to inquire, when and in what case Congress first agreed to pay mileage and per diem to claimants to seats on this floor, decided not to be duly elected; and why Congress at the time, in full possession of all the facts, failed to make the allowances now asked in those antiquated cases?

Mr. BAYLY. I do not recollect. I renew the call for the previous question, made by the gentleman from North Carolina, [Mr. ASHE.]

Mr. LETCHER. Is it in order to move to lay this resolution upon the table?

The SPEAKER. It is in order.

Mr. LETCHER. Then I make that motion.

Mr. McMULLIN. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. MACE. I move that the House adjourn.

Mr. LETCHER. I ask for the yeas and nays upon that.

Mr. ASHE. I ask for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. McNAIR, and CAMPBELL of Illinois, appointed.

The House was then divided, and the tellers reported—ayes 15, noes not counted.

So the yeas and nays were not ordered.

The question was then taken on the motion to adjourn, and it was agreed to.

So the House adjourned until Monday next at twelve o'clock, m.

NOTICE OF BILLS.

Mr. FREEMAN gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce a joint resolution requiring the President of the United States to cause an immediate survey of the most feasible passes in the Rocky and Sierra Nevada Mountains for the construction of a railway from the Mississippi valley to the Pacific ocean.

He also gave notice that on to-morrow, or some subsequent day, he would ask leave to introduce a bill to grant alternate sections of public land to aid in the construction of certain railways in the State of Mississippi.

PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HIBBARD: The petition of Bela Young, of Lisbon, New Hampshire, a soldier of the war of 1812, praying for an increase of pension.

By Mr. PHELPS: The petition of Moses D. Hogan, praying for compensation for property belonging to him destroyed by the Sioux Indians.

By Mr. ALLISON: The remonstrance of A. W. Townsend and 78 others, citizens of Beaver county, Pennsylvania, against an appropriation of certain moneys in aid of the Colonization Society.

By Mr. FULLER, of Maine: The memorial of John Young and 60 others, praying Congress to make an appropriation for a breakwater on the Island of Martinicus.

By Mr. BERNHISEL: The memorial of the Governor and Legislative Assembly of the Territory of Utah, praying Congress to detach one or more of the Corps of Topographical Engineers to make a triangulation or geodetic survey of the southern portion of that Territory.

By Mr. DOTY: The petition of John P. Arnot, W. H. Blodgett, B. S. Doty, and 108 other citizens of Green Bay, asking an amendment to the act granting the "swamp lands" in the State of Wisconsin to that State, and also making a grant of land to aid in the construction of a railroad from Green Bay to Prairie du Chien, along the valleys of the Neenah and Wisconsin rivers.

By Mr. STANTON, of Tennessee: The petition of Zebulon Alphin, asking for a pension for revolutionary services.

IN SENATE.

MONDAY, *December* 27, 1852.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating a statement of the appropriations for the War Department for the fiscal year 1851 and 1852; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of the Interior, communicating a statement of the receipts and expenditures on account of the Navy pension fund for the year ending September 30, 1852; which was ordered to lie on the table and be printed.

PETITIONS, ETC.

Mr. SEWARD submitted additional documents in relation to the claim of Hugh W. Dobbin; which, with the papers on the files of the Senate respecting the said claim, were referred to the Committee on Pensions.

Mr. HAMLIN submitted additional documents in relation to the claim of Joseph Mitchell; which, with the papers on the files of the Senate respecting the said claim, were referred to the Committee on Public Lands.

Mr. HAMLIN. I desire also to present the memorial of Elijah L. Hamlin, mayor of the city of Bangor, Maine, and some 300 or 400 other persons asking for the passage of the bill from the House of Representatives, now before the Senate, entitled "An act making grants of land to aid in the construction of railroads, and for other purposes," by which a portion of the public lands may be granted to each of the States. I believe that the subject has been reported on, and therefore I ask that the memorial lie on the table.

It was so ordered.

Mr. SUMNER presented a petition of citizens of West Bloomfield, New York, praying the adoption of measures for the amicable settlement of international difficulties; which was referred to the Committee on Foreign Relations.

Mr. BORLAND. I desire to present a memorial on the necessity, the importance, and the practicability of constructing a railroad from the Mississippi river to the Pacific ocean. This is a memorial, Mr. President, which has been prepared by a committee appointed at a railroad convention, held at Little Rock, Arkansas, on the 4th of July last, consisting of delegates from the several States of Tennessee, Louisiana, Texas, and Arkansas. The committee has prepared this memorial under instruction from the convention, and I have received a copy of it, with a request to present it to the Senate. As the subject is now before the Senate, and as they declined, the other day, to refer it to a committee, I move that the memorial be laid on the table and printed.

The motion was agreed to.

Mr. BUTLER submitted an additional document in relation to the claim of the heirs of John De Treville; which, with their petition on the files of the Senate, was referred to the Committee on Revolutionary Claims.

Mr. CASS submitted documents in favor of a grant of land for the construction of a railroad from Pontiac, by the way of Flint to Marquette bay, and from Manitowoc to Kewana Point, with branches to Iron bay and Ontonagon; which was referred to the Committee on Public Lands.

REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN. The Committee on Commerce, to which was referred the memorial of William Alexander, praying for a register for the barque May, of Baltimore, ask to be discharged from the further consideration thereof. I desire to say that the general law passed by Congress meets precisely this case.

It was so ordered.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of Edwin James, senior, and Edwin James, junior, praying indemnity for losses sustained in consequence of the illegal suspension, and subsequent abrogation, by the Surveyor General, of their contracts for surveying certain public lands in Illinois and Missouri, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which was referred the bill from the House of Representatives, "authorizing certain soldiers of the late war with Great Britain to surrender the bounty lands drawn by them, and to locate others in lieu thereof," reported it without amendment.

RAILROADS IN MICHIGAN AND WISCONSIN.

Mr. CASS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Public Lands be instructed to inquire into the expediency of making a grant of alternate sections of public land, towards the construction of a railroad from Pontiac, by the way of Flint, to Marquette bay, in the county of Mason, State of Michigan, and from Manitowoc, in the State of Wisconsin, to Kewana Point, upon Lake Superior, with branches to Iron bay and to Ontonagon.

CLERK TO COMMITTEE.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Select Committee appointed to investigate the charges against J. R. Bartlett, Commissioner to run and mark the boundary line between the United States and Mexico, be authorized to employ a clerk.

BROWN, RUSSELL AND CO.

On motion by Mr. ADAMS, the Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Brown, Russell & Co. It proposes to direct the Secretary of the Treasury to ascertain, from such competent evidence as may be submitted to him, the amount of actual loss or damage sustained by the late firm of Brown, Russell & Co., who were engaged in transporting supplies for the army in New Mexico under a contract made in September, 1850, in their efforts to comply with the orders or requirements of the military officers of the United States, and to pay the amount thus ascertained, to William H. Russell and John S. Jones, surviving partners of that firm, provided the sum shall not exceed $20,000.

Mr. WELLER. I suppose that the bill has been reported by one of the standing committees of the Senate, but I desire to inquire why that restriction is imposed upon it. If this be an honest claim, I think it should be paid to the uttermost farthing, and I do not, therefore, perceive why the committee, in reporting the bill, should fix the limitation which it contains, on the auditing officers, because, as I affirmed before, if it be a just claim, every cent of it should be paid. Whatever damages the parties did sustain in consequence of their contract with the Government officers, the Government should pay, if the claim be just; and, unless there be some good reason assigned to the contrary, I shall move to strike out the limitation on the amount.

Mr. ADAMS. I do not recollect any good reason for the proviso which is inserted, unless that, in the opinion of the committee, upon the evidence before them, the just claim could not exceed that amount. They were, therefore, disposed

to limit the officers to a sum which, in their opinion, from the testimony in the case, would cover the amount of loss for which the Government was liable. I am satisfied that this claim is a most meritorious one. The facts are briefly these: These men were old contractors. They took this contract at a late period of the season, in consequence of the confidence of the Government in their ability to execute it, when no other men would undertake it. They succeeded in transporting provisions necessary for the supply of the Government troops, until they reached a point not far distant from Santa Fé, when a snow-storm came on, and they were compelled to stop. The officers of the Government gave express orders that they should move forward, notwithstanding the difficulties interposed by the snow-storm; and in obeying the orders of the Government, and supplying its troops, they sustained a very heavy loss, which, it is most clear from the evidence, they would not have sustained but for this order. They had in their contract secured the right of delay, if they should think proper to exercise it; but the order was an imperious one, from the officer in command, and they believed it incumbent on them to execute it. In fulfilling that order, and in relieving the actual wants of the troops, they sustained this heavy, and to them ruinous, loss. The committee were of opinion that the losses sustained in consequence of obeying the order under such circumstances, should be made up to them by the Government. Still the committee were of opinion that the loss should not be estimated to exceed $20,000. I have no great choice as to whether the limitation be stricken out or not, but the opinion of the committee, from the testimony before them, was that the limitation was a proper one.

Mr. WELLER. I shall not persist in my motion under the statement which has just been made by my friend from Mississippi, because if the committee who were charged with the investigation of the subject, were satisfied that the damages ought not to exceed $20,000, I concede that it is proper to impose that limitation. I do not, therefore, make any motion to strike out the amount.

Mr. BRODHEAD called for the reading of the report of the Committee on Claims, and it was accordingly read. From that report it appears that Joseph Clymer was the regular contractor for transporting public stores between Fort Leavenworth and Santa Fé, for the year 1850, and by the terms of his contract, he could not be required to start trains later than the 1st of September. The failure of an attempt to send stores to Santa Fé, by way of Texas, and an increase in the forces of New Mexico, rendered it necessary to send a large amount of stores over the Fort Leavenworth route after the 1st of September. There was no time at that season to issue proposals; but the assistant quartermaster made direct application to the most energetic and experienced contractors, to undertake the transportation. He found it impossible to obtain contracts at any price for the entire route; but Brown, Russell & Co., undertook to transport six hundred and eighty-four thousand eight hundred and thirty-four pounds. They entered upon the service with energy, and put their trains in motion with the utmost practicable dispatch. About the 25th of November, they reached San José, which is forty-five miles from Santa Fé, where they were arrested by a snow-storm of unusual severity. Mr. Brown, the senior partner, proceeded to Santa Fé, to consult the military officers. He reached that city in a state of great debility, and in a few days died. As he did not return, Mr. Jones, an agent of the company, proceeded to Santa Fé, and, on his arrival there, was told by the officer in command, that the stores must be brought in immediately, and that if they could not do it, he would send for the stores, and have them brought in at the expense of the contractors. In this emergency, Mr. Jones felt himself bound, at all hazards, to comply with the requirements of the military officers of the United States, and accordingly ordered the trains to be put in motion, and, after great fatigue and suffering, and the loss, by cold and want of forage, of a large portion of the animals, the contractors succeeded in delivering the whole of the public property at Santa Fé, early in December. The Committee think the case is one of unusual hardship, and therefore recommend the passage of a bill, to pay the actual amount of loss sustained.

The bill was then reported to the Senate without amendment.

Mr. HALE. I do not want to interpose any objection to this bill, but it really seems to me that it is introducing a new principle, and a very dangerous one. If the principle which seems to be established in the bill is to be followed up, I venture to say that millions of dollars will not pay the claims that will be brought against the Treasury. If you sanction the principle that when contractors, influenced by an honest desire to fulfill their contracts, sustain losses, they are to be reimbursed, we shall be overflowed with applications. The country is full of such cases; and I understand that to be the principle of this bill.

Mr. RUSK. The Senator from New Hampshire misapprehends, I think, the circumstances of the case. If he had listened to the reading of the report, he would have ascertained that this bill does not rest upon the principle which he imagines. These men, according to the statement of the report, and according to the testimony, made a contract to deliver a certain amount of provisions in New Mexico. They had the means necessary to do that. The enterprise required a large amount of capital. They proceeded to fulfill their contract, and in going towards Santa Fé, they were overtaken by a snow-storm, which is of frequent occurrence in that section of country, and, as a matter of course, they stopped to take care of their animals. It would, perhaps, be well to explain, that in the prairie country, sudden snow-storms are apt to blow up, and the consequence is, that if the cattle remain upon the prairie exposed to the storm, they die. A great many trains have lost all their cattle by their exposure to such storms. When a storm approaches—and travelers generally understand it, and these men did perfectly—persons endeavor to reach some place where there is timber, or some cove in the mountains, and they remain there until the storm is over, and thus save their teams. These men could have done that; they could have taken the usual course to preserve their teams, and still have complied with their contract, because that did not require them to deliver the stores at Santa Fé at any particular time. But imagining that the troops might need supplies, they sent on one of their company to Santa Fé. As soon as he arrived there, the officers of the Government issued orders for them to come on, and bring the supplies at all hazards. As I understand the reading of the report, the person who first went on, took sick and died at Santa Fé. These men, in attempting to comply, not with the contract, but with the orders of the officers of the Government, lost the principal portion of their teams, and the damage, for which they ask payment, was a consequence, not of a failure, or of an inability on their part to comply with the contract, but of their going beyond the contract, and complying with the orders of the officers of the United States at Santa Fé. That, as I understand it, is the principle involved in this case.

Mr. ADAMS. I will only add a single word of explanation. The parties, by their contract, had a right to stop at the time they did, and save their property. But the troops in Santa Fé were suffering for want of provisions, and the officers in command issued an imperious order, requiring these parties to come on at all hazards through the snow; and in attempting to execute that order they did go on, and lost all their cattle; but still they supplied the wants of the army according to the contract. It is for complying with the order of the Government officers that this bill provides payment. It involves no new principle at all.

Mr. CHARLTON. The question seems to me to turn on the point just stated by the Senators from Texas and from Mississippi, whether these parties contracted to deliver within a certain time; because the whole of the merits of their case would depend upon the answer to that question. If they merely contracted to carry these articles to Santa Fé, and had their own time within which to do it, unquestionably they had a right to stop; and if they were ordered on, it would be establishing no new principle, but it would be a clear duty of the Government to pay them. But if they contracted to deliver the articles within a certain time, it was their duty to press on. Now, I do not recollect that, in anything which I have seen in the papers, it is stated whether they were compelled to deliver the articles within a certain time or not.

Mr. WELLER. There was no specific time.

Mr. BRODHEAD. There was no limitation as to time at all.

Mr. CHARLTON. If there was no specification as to the time within which the articles should be delivered, the case seems to me to be perfectly clear.

The bill was ordered to be engrossed for a third reading, read a third time, and passed.

CENSUS OF CALIFORNIA.

Mr. BRODHEAD. I desire to suggest to the Chair and the Senate the propriety of taking up the Private Calendar, if we intend to consider private bills to-day. If there is no great public question to be considered, and we are to take up private bills, I think we should pursue that course.

Mr. GWIN. I hope the Senator will withdraw that motion for a moment, to enable me to offer a resolution.

Mr. BRODHEAD. Certainly.

Mr. GWIN. I desire to submit the following resolution:

Resolved, That the Secretary of the Interior be required to append the census returns of the State of California, made by that State, to the report thereof now in course of preparation at the Census Office.

It is well known that the census of California taken by the United States officers was very defective. The State, subsequently to the time when it was taken, ordered the taking of another. All that I want is to have the returns taken by the State appended to those taken by the United States officers, so as to give an idea of the population of the State. I hope the resolution will be considered now.

Mr. CASS. It is two and a half years since the census was taken, and I desire to inquire whether it is ever to be printed; for if it is not, it is not worth while to pass this resolution.

Mr. GWIN. That is a question which I can not answer. But if that census is to be printed, I should like to have the returns obtained by the State of California appended to those obtained by the officers of the United States in that State, which were inaccurate.

Mr. CASS. I am afraid the next decade will be upon us before this census is printed.

Mr. BORLAND. I cannot very definitely answer the question of the Senator from Michigan. I wish the Senator from Delaware [Mr. BAYARD] were in his seat. He is chairman of the special committee appointed by the Senate to consider the subject of printing the census, and could perhaps answer the question better than I can. I will, however, say to the Senator from Michigan, and to the Senate, that before either House of Congress can determine upon printing the census returns, they will have to determine—the law makes it necessary—what they will print. That question was referred to a committee at the last session, and was reported back, and is now before the Senate for its action. Whether the census returns are in a state of preparation for printing, I do not know. We are told by the report from the Department that they are, in great part, I think, prepared; but whether the Senate and the other House will agree to print precisely what is sent in as the census returns, and in the form in which it is sent, is another question. That remains to be determined, and the question can be called up at any time, when the Senate think proper to consider it, and acted upon.

Mr. DAVIS. I do not see very well how the Senator from California will be likely to accomplish his object. It seems to me that it is rather out of the province of the Senate to give an order to append to the census, when it is printed, a particular paper, or any particular statement. It rather belongs to Congress. If such a direction is given, it is to be given to those who have the subject in charge, and it must be done by a joint resolution. I do not see how the Senate can very well, in consistency with its own dignity and power, pass such a resolution as is now before us.

Mr. GWIN. I am willing to put it in the form of a joint resolution. We have already legislated upon this subject. The census returns of California, taken by the United States officers, only show a population of ninety-one thousand or ninety-two thousand. That census was so notoriously incorrect that Congress passed a law allowing two Representatives to the State on the ground that it was not correctly taken. So incorrectly was it taken that it was not regarded by the State

at all. It was required, by the Constitution, to obtain a census for the purpose of apportioning its representatives, and the State, to obtain accurate returns, took a new census. My object is to have it appended to that taken by the United States officers, in order to show something like the population, not only of that State, but of the United States. I will alter it to a joint resolution.

Mr. DAVIS. I am not opposed to the object of the resolution, but to the mode of obtaining it; though I can hardly think that figures so inaccurate, statements so incorrect, as the returns were represented to be at the time we acted upon the subject, can be worth preserving in any form.

Mr. GWIN. They are there, however, and I want something approaching nearer to accuracy appended to them.

Mr. BORLAND. I would suggest to the Senator from California, that I think he can accomplish his object better by making his resolution a joint resolution, so as to give it the effect of a law, and making its terms somewhat of this character: To authorize the Secretary of the Interior to receive and consider the returns to which the Senator alludes, as the census returns of California—believing them to be more correct than those originally made from that State—and let them be incorporated into the general plan of the census report, as the reports from the other States have been.

Mr. GWIN. The objection to that is, that this census has been taken since the census of the United States was taken, and covers a larger population than could have been legally returned in 1850. I merely want it as a memorandum to be attached to the census returns to give an approximation to the real population, not only of that State, but of the United States. If the State census had been taken in 1850, my object could be accomplished in the way the Senator proposes; but it was taken subsequently. I wish merely to have appended to the census returns, which were notoriously defective, the census taken by the State authorities.

The PRESIDENT. By unanimous consent, the joint resolution will now have its first reading.

No objection was made, and it was read a first time by its title, "A joint resolution in relation to the census returns from the State of California," and ordered to a second reading.

Mr. PRATT. I am very loth to oppose anything coming from my friend from California; but I do not think the principle right, that the returns to which he refers should be incorporated as a part of the census. The census of the United States is an enumeration of the inhabitants at the end of every period of ten years. The enumeration to which the Senator refers was made perhaps two years after the enumeration in the other States. Therefore, if it is appended by the authority of Congress, as a part of the census, the result will be, that instead of showing the population of California in 1850, it will show it at the period when this latter census was taken—in 1852. That, I think, would be wrong. The Constitution requires that at the end of every ten years an enumeration of the inhabitants shall be made, and it is published to the country as the census. The publication of the last census will give to every other State an approximating estimate, at any rate, of their population in 1850; while the proposition of the Senator will cause to be published the population, or supposed population, of California in 1852. I do not see that any good purpose can be answered by it. I think the honorable Senator has stated a fact, which of itself is sufficient to show that Congress had recognized the inaccuracy of the enumeration made by the United States authorities in 1850, viz: that we had given to California two Representatives, although the returns in that enumeration entitled her to but one. We have, therefore, by legal enactment recognized the insufficiency of the returns made by the United States officers. I think that is all which the State should require. I do not think that any good purpose would be answered by appending the estimate of the population in 1852 to the census, which, in reference to every other portion of the country, purports to be the population in 1850.

Mr. HAMLIN. I recollect very well, when the subject was before us at the last session, that it was not only stated, but, I think, satisfactorily proved to the whole Senate, that the enumeration of California, under the law, was incorrect. That was not only the fact, but, if I am not wrong in my recollection, there were some counties from which no returns had ever been made. In that state of things, Congress saw fit, in apportioning the number of Representatives, to give two to that State. Under the law providing for the taking of the census, all the returns which have been made, and all the evidence that has been furnished, will be incorporated in the compilation which will be made at the Census Bureau. The Senator from California now, for the gratification of the citizens of his State, asks not that anything shall be stricken from that compilation, as I understand it, not that anything shall be changed, but that the enumeration, and the enumeration only, taken by the State the year subsequent, which shows accurately and truly the population of the whole State, shall be added as an appendix or addenda to that compilation. I can see no objection on earth to it; and it would be gratifying not only to the people of the State, but to all who desire to know what is its real population. I cannot see that it is material whether it were at the precise time when the enumeration was taken by the United States authorities, or at a period subsequent.

There is another way, however, in which this could be reached. When the Senate shall see proper to order the printing of extra copies of the census returns for its own use we could order to be printed whatever we please. We can take the compendium as it is prepared at the Census Department, and add to it what the Senator from California desires, if we think proper to do so. Still, I think a joint resolution of this character, which would secure the same thing in copies printed by both Houses, is the proper mode of reaching it. I really can see no objection to it.

The joint resolution was then ordered to a second reading; and by unanimous consent read a second time and considered as in Committee of the Whole. No amendment being proposed, it was reported to the Senate, and ordered to be engrossed for a third reading.

It was subsequently read a third time and passed.

THOMAS B. PARSONS.

Mr. BRADBURY. I ask the indulgence of the Senate to postpone all prior orders for the purpose of taking up a bill for the relief of Thomas B. Parsons. It is a bill which allows a small arrear of a pension to a poor sailor, who performed one of the most meritorious acts recorded in history.

Mr. CASS. What has become of the motion of the honorable Senator from Pennsylvania?

Mr. BRADBURY. It is suspended by his consent, in behalf of this case.

Mr. BRODHEAD. Appeals were made to me in behalf of old soldiers, and I could not resist them.

Mr. CASS. Very well. I will not oppose them.

The motion to postpone the prior orders was agreed to, and the Senate proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of Thomas B. Parsons.

The bill provides that the proper accounting officer of the Treasury shall pay to Thomas B. Parsons, who was disabled while in the naval service of the United States, in a successful effort to save the lives of seven persons, the sum of three dollars per month from the third day of September, 1808, till the first day of June, 1835, the same being the difference between the rate of pension for a seaman and that of a cockswain, which grade he occupied at the time of his injury.

Mr. BRADBURY. Mr. President, this bill is for the relief of a poor sailor, who received an injury in performing one of the most noble and gallant acts on the records of history. It was one, that if he had been a Roman citizen, would have entitled him to a *civic crown*, nay, to seven, for he saved the lives of seven American seamen, at the eminent hazard of his own—and Rome conferred the civic crown on him who saved the life of a Roman citizen.

I will detain the Senate but a few moments in stating the facts of this case.

In 1808, Parsons, the sailor in question, was a petty officer in the United States Navy, attached to one of the gun-boats that were employed off the coast of Louisiana to enforce the embargo, and suppress piracy. While engaged in this service, they had occasion to send out a small cutter, with a sailing master, Browne, Midshipman (now Commodore) Jones, six seamen, and Parsons as cockswain on board, on an expedition. In crossing the bar to get out to sea, the cutter was suddenly struck by the breakers, and filled and sunk, in ten or twelve feet water, a mile from the shore. Parsons and Browne were the only persons who could swim. Another roller capsized the boat, and emptied out its contents, and it rose to the surface. Parsons and Browne assisted their drowning companions to regain and cling to the boat, and then, each taking an oar, started to swim for the shore. The tide was strong against them, and before reaching the shore Browne gave out, and Parsons, at the hazard of his own life, gave up his oar to him, and struck for the land without assistance. Having reached it, he divested himself of his clothing, and swam back and brought Browne to the shore just in time to save him from sinking, and so much exhausted that he could not stand for several hours. The tide carried the capsized boat, with the other men clinging to it, out to sea, for several hours exposed to what seemed to be inevitable destruction. But upon the return of flood tide, the boat was drifted toward the land at a point several miles distant, and Parsons again renewed his efforts to save his companions. He swam to the wreck and brought off Jones. He then returned, and brought off another; and again set off, and brought to the shore the boat, with the remaining sailors clinging to it.

In this last effort he produced a rupture which disabled him for life, and he was soon after "discharged," turned adrift "incurable," without pension, vote of thanks, or other mark of distinction, such as is sure to follow such noble acts when performed by the great. Nothing further was heard of Parsons until 1835, when he could no longer depend on the assistance of his friends, and he applied to Congress for a pension. This statement was so extraordinary that Mr. Reed, of Massachusetts, chairman of the House Committee on Naval Affairs, supposed it must be the story of an insane person; and as Commodore Jones was referred to, he applied to him, and found the statement confirmed in every particular. An act for his relief was passed by Congress; but the evidence of the capacity in which he served when he received the injury (that of a petty officer) was either overlooked or there was no evidence upon that point before the committee, and the pension allowed was at the rate of six dollars per month, while the rank he held entitled him to nine dollars per month.

The bill under consideration will give him three dollars per month from 1808 to 1835, being the difference between the pension of a *common sailor* and that of a *cockswain*, the post which, as I have already stated, he occupied when he suffered the injury which now deprives him of the ability to do anything for his support. The few hundred dollars which this bill will give, will carry comfort to a poor sailor, who, upon every principle of justice, deserves it. I hope it will receive the unanimous sanction of the Senate, and that it will find some friend in the House who will interest himself to call it up for action at this session, as another session may be too late.

The facts are all detailed at length in the very interesting statement of Commodore Jones, which is inserted in the report of the Committee on Naval Affairs, made to the Senate at the last session, accompanying this bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read a third time and passed.

JONATHAN LEWIS.

Mr. BORLAND. I have a case which I think will not occupy the attention of the Senate but a very few minutes. It is one which has once passed the Senate, but failed to pass in the House for want of time. It is a joint resolution for the relief of an object of pity and charity in the State of Arkansas, of the name of Jonathan Lewis, who has been for many years a cripple, and has a large family to support. The bill is to make compensation for losses of property which he sustained in the Indian country, and which, under the general law, although his case is an equitable one, is not provided for in the terms of that law; and owing to peculiar circumstances, cannot be paid without a special act. I hope the Senate will agree to take it up and pass it. It is only proposed that testimony shall be taken in the case,

and that the payment shall not be made until the claim is clearly proved to the satisfaction of the War Department.

The motion was agreed to, and the Senate proceeded, as in Committee of the Whole, to consider the joint resolution for the relief of Jonathan Lewis. It proposes to direct that the United States agent for the Cherokee Indians be authorized to take and receive evidence of the property forcibly taken, stolen, or destroyed, from Jonathan Lewis by Cherokee Indians, half-breeds, or white men belonging to said tribe or other tribes of Indians while the said Lewis was a resident among said Indians, between the years 1839 and 1843, and that said agent forward to the Secretary of War such evidence. It is proposed to make it the duty of the Secretary of War, after such evidence shall be received, to examine the same and to ascertain the value of the property lost by Lewis, and to pay over to him its value. The sum of $1,500 is appropriated by this bill for that purpose.

Mr. BORLAND. If any explanation is needed, my colleague, who reported the bill from the Committee on Indian Affairs, will be prepared to give it; but I apprehend that the terms of the resolution are sufficiently explicit. It commends itself to our prompt and favorable consideration, from the fact, that the individual asks payment only for the actual losses which he sustained, although from the day when he lost his property he has been a miserable cripple and unable to walk in consequence of injuries received at that time. He has been going upon crutches for a long period of years, and has a family of seven or eight children to support, who are actually in a destitute condition.

Mr. HALE. I hate to oppose private bills, and certainly private claims coming from cripples who go upon crutches and have large families, and I do not know that I shall oppose this. But I have heard no reason why this man should be paid, except that he lives in Arkansas, goes on crutches, and has seven or eight children to support, and has lost his property. The reason why we are to pay for this lost property is not stated. If there be any facts, I suppose the report will state them.

Mr. BORLAND. I will say to the Senator that the resolution does not provide for the payment of the claim, but for taking testimony by the Cherokee agent as to the amount of property destroyed, which is to be forwarded to the Secretary of War, who, upon being satisfied of the justness of the claim, is to pay the money, and not before.

Mr. HALE. That is the difficulty. The resolution directs certain inquiries to be made, and then if the Secretary of War is satisfied with regard to the claim, the fifteen hundred dollars is to be paid. The difficulty in my mind is, that I can see no reason why this man should be paid. Is there not a general law on this subject? On what principle is it that a man residing among the Indians, and having his property destroyed, shall receive compensation from the Treasury of the United States? If that principle were sanctioned, the United States Treasury would be called upon to pay every dollar that has ever been destroyed by Indians, no matter under what circumstances. Now, if there be no circumstances which would make the United States equitably bound to pay, I cannot support this resolution.

Mr. SEBASTIAN. The Senator from New Hampshire seems at a loss for some principle upon which to support this resolution. I beg leave to say to that Senator, that so far as the principle of the bill is concerned, it is intended to be based upon the same principle as that of the intercourse law of 1834, by which all such cases are made the subjects of indemnity from the Treasury of the United States in the last resort. The injuries for which the claimant asks redress in this case were depredations upon his property and injuries to his person committed by the Cherokee Indians, among whom he resided under the laws of the United States, and having a license. His trade was that of a blacksmith. The conduct of the wild and lawless Cherokees towards him was of the most outrageous character, consisting of injuries committed upon his person and depredations upon his property, burning his house, and finally, when driven out of the country, pillaging upon his estate. The reason, I believe, why he never could collect testimony to show the state of the case with regard to his losses, satisfactorily, was, that he feared personal violence if he should return to the country to make out his testimony. He had, as I recollect, the certificate of the Superintendent of Indian Affairs, and also of the local agent, showing his title to redress. The Committee on Indian Affairs were unable, however, from the data in their possession, to fix upon the amount to which he was clearly entitled to redress. They therefore reported back the joint resolution to enable the Indian agent to take such evidence as Lewis offered, and report the facts to the Department.

If the testimony could have been clearly obtained by the agent before, it would have been a case coming precisely within the law of 1834, and would, without question or hesitation, have been paid out of the Indian annuities; but as such testimony could not be obtained, it is necessary to pass a special act authorizing the Indian office there to take the testimony. I further understand that upon that report being made by the local Indian agent there, the money will in the first place be paid out of the Cherokee annuities, and not out of the Treasury of the United States. These claims are only ultimately paid out of the Treasury of the United States, when they cannot be paid out of the annuities of the Indians.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RECESS FOR THE HOLIDAYS.

Mr. HALE. I understand there are a great many Senators absent, in obedience to a well-known custom of the Senate, and it would be unfair to them and to their constituents, to take advantage of their absence; therefore, not because I have any peculiar desire myself for such relaxation, but in consideration of those who are not here, I move that when the Senate adjourns to-day, it be to meet on Thursday next.

Mr. BRODHEAD. I would suggest to the honorable Senator, that he should withdraw that motion, for the purpose of meeting here during the week to consider cases upon the Private Calendar. I think we had better meet here to-morrow and Wednesday, and proceed to the consideration of those cases. If we do not take up the Private Calendar this week and next week, the bills upon it will not be considered at all this session. There are bills upon the calendar which have come from the House, which we should consider and act upon. I hope, therefore, the motion will not be agreed to.

Mr. HAMLIN. I concur in every word which the Senator from Pennsylvania has said. We have upon our calendar a large number of bills which have received the action of the other House, and been sent to us. If we dispose of them finally, we will be rid of them; if not, they will come to trouble us at another session. I hope, therefore, that the Senate will take up the Private Calendar and act upon private bills; particularly those which have been sent from the House. There has been a great deal said about some of them, and we should act upon them either affirmatively or negatively.

Mr. BORLAND. I agree with the remarks of the Senator from Pennsylvania and the Senator from Maine. Not only will it be a matter of policy to take the course suggested by them, but we should do it from a sense of justice. These long-delayed claims—which have been reported on by committees, and many of which have passed in one House and failed in the other for the want of time—should be acted upon and disposed of. I think it would be the most agreeable and acceptable duty to themselves, that the Senate could perform, to devote a few days of the Christmas holidays to the performance of this just, and, if the expression may be allowed, generous duty.

Mr. ADAMS asked the yeas and nays upon the motion, and they were ordered; and being taken, resulted—yeas 10, nays 31; as follows:

YEAS—Messrs. Clemens, Fish, Hale, Jones of Tennessee, Mangum, Morton, Rusk, Seward, Shields, and Soulé—10.

NAYS—Messrs. Adams, Atchison, Bell, Borland, Bradbury, Bright, Brodhead, Brooke, Cass, Cathcart, Charlton, Clarke, Davis, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Felch, Gwin, Hamlin, James, Norris, Pratt, Sebastian, Smith, Sumner, Toucey, Underwood, Upham, Wade, Walker, and Weller—31.

So the motion was not agreed to.

PRIVATE CALENDAR.

Mr. BRODHEAD. If it is not the pleasure of the Senate to take up the Private Calendar and consider the bills in their order, I have the case of an old soldier which I shall ask them to consider.

Several SENATORS. Take up the calendar.

Mr. BRODHEAD. As it seems to be the desire of Senators to take up the calendar, I shall forbear to make the motion I was about to make, and now move that the Senate proceed to the consideration of the Private Calendar.

The motion was agreed to.

THOMAS H. LEGGETT.

The Senate resumed, as in Committee of the Whole, the consideration of the bill for the relief of Thomas H. Leggett, that being the first private bill on the calendar. It proposes to direct the Secretary of the Treasury to refund to Thomas H. Leggett a sum equal to the increase of duty imposed by the tariff act of 19th May, 1828, on two invoices of blankets, flannels, and bocking-baize, imported from Liverpool, invoiced at £1,526 17s. 9d. sterling, equal to $6,786 15, and entered at the New York custom-house on the 8th of July, 1828, on satisfactory proof that the contracts for the goods were entered into in the winter of 1827 and 1828, and could not be canceled soon enough to prevent their importation under the increased tariff of 1828, and that the firm of Leggett & Co. did not realize the ordinary profit on those importations.

Mr. BRODHEAD. I entertain the opinion that this case ought to be postponed on account of the absence of the Senator from Virginia, [Mr. HUNTER,] who is at the head of the Finance Committee. When this case was under consideration at the last session, the Senator from Virginia offered some opposition to it, and was proceeding to state his objections, but he was not fully heard. It is therefore proper that this bill should be passed by until that Senator returns to his seat.

Mr. SEWARD. I hope this bill will not be postponed. I voted against proceeding with business in the absence of nearly one half of the members of the Senate, because I thought the tendency of such a course was to produce partial and unequal legislation. I was overruled in that; and now it appears to me that when a bill comes before the Senate, after they have determined to proceed with the Private Calendar, it should not be postponed because of the absence of a Senator supposed to be opposed to it. I was willing to pass by the whole calendar for the purpose of having the aid and assistance of the Senators who are absent; but if that is not a sufficient reason for postponing all, the absence of a single Senator is no reason for passing by one bill.

The PRESIDENT. To what length of time does the Senator from Pennsylvania move to postpone the bill?

Mr. BRODHEAD. Till to-morrow, I presume. I do not wish the bill to lose its place in the calendar. I simply made the motion becaure I presumed the Senator from Virginia was desirous to discuss it.

Mr. BORLAND. I know that he desires to discuss it.

Mr. BRODHEAD. It is a question relative to the refunding of duties upon which he, as chairman of the Finance Committee, is well informed.

Mr. HALE. When I made the motion which I did make, at the instance of an older Senator than myself, who backed out and voted "no," when he found it was unpopular, I stated that I made it not for my own sake, but for the sake of those gentlemen who were absent. I thought it was unjust to them to take up the Private Calendar in the absence of so many members of the Senate; but as the Senate, in their wisdom, determined that they would take it up, notwithstanding the absence of those gentlemen, I think that the argument which is good for the whole is good for all the parts. If we are not to postpone the whole calendar, because some twenty or thirty Senators are absent, I think we ought not to postpone any one bill because one Senator happens to be absent. Now, I do not know anything at all about this bill, and, what is more, I do not care anything about it; but still I think we should be consistent. I am in favor of consistency to a reasonable extent; and I hope we shall proceed, or else postpone the whole calendar.

Mr. BORLAND. I hope this case will be postponed. It has been before us for a good while.

It was before us at the last session; and it was then postponed time and again, because the Senate were unwilling to consider it. It was one of those bills which came up once or twice on those Fridays when private bills could not be discussed, and it was laid over because there were Senators who intended to discuss it at length. It comes up in the absence of those Senators who are best informed upon it. It comes up in the absence of a Senator who stated to the Senate formally that he intended to discuss it at length.

If this were an ordinary case, involving only the amount of money to be paid, it would not be of so much importance to lay it over, because the mere payment of the money would not be a matter of very great consideration; but this bill involves a very important principle. It involves this question: Whether we shall, for the benefit of a single individual, or a single company, repeal our whole tariff system, and make it operate in favor of one firm, or of one individual, and enforce its provisions, onerous as they may be, on others standing on precisely the same footing, as commercial men. In this case, goods were ordered under one rate of duties, and they were introduced under another, and a higher rate. Now, the persons who ordered them come forward and ask us, to do what? To refund to them the higher rate of duty which they had to pay, or, in other words, to pay them the difference between what they actually made on the goods, and what they might have made if they had introduced them a year or two sooner. As I suggested on a former occasion when this subject was up, if it be right to pay to merchants the profits which they might have made upon an importation, if it had been brought in under a low rate of duties, it would be also proper to reverse the thing, and to say, that when we reduce the duties, we should make merchants, who had ordered goods under a previous higher tariff, and introduced them under the lower tariff, refund to the Government the difference between what they did make, and what they might have lost under the higher rate. As I said before, this is partial legislation. It is repealing the whole tariff system for the benefit of a single firm.

Mr. PRATT. If my friend from Arkansas is correct in stating that the principle which he has announced is that involved in this bill, I apprehend that the Senators present are fully as competent as the universal attendance of the Senate would be to decide upon it. There is no doubt that if the Senator is right as to what is the principle involved in the bill, it would be rejected by an almost unanimous vote of the Senate. There is, therefore, I apprehend, no reason to postpone its consideration. I do not see any use in taking up the Private Calendar, if every bill which is reached is to be postponed because some Senator is absent who may desire to speak upon it. It is a very plain proposition, that if the Senator be right in regard to the principle really involved in the bill, it is one about which we who are here will not differ; for certainly we will reject the bill, for nearly every one will vote against it. There can be no reason, therefore, for its postponement. A postponement is equivalent to a rejection of a bill, and I think we are as competent to decide upon the principle which the Senator says is really involved in it, as if every member of the Senate were here. I do not see any use in postponing it. Let us go on regularly with the calendar. By so doing we can accomplish a great deal of good, and will evince to the country at any rate, a desire to do justice to claimants against the Government, who have been for years pressing upon us to have their cases decided. I do hope that the Senate will occupy their time in considering the bills as they are on the calendar.

Mr. HAMLIN. I believe this bill was reported from the Committee on Commerce by the Senator from New York. If I am right in my recollection, I was opposed to that report being made. I would ask the Senator from New York, if I did not vote against the bill in the committee?

Mr. SEWARD. The honorable chairman is not exactly accurate in his recollection. He assented to the report being made, but reserved the right to examine the case, and vote against the bill if he should think proper.

Mr. HAMLIN. My impression is that I withheld my approval. At any rate, I intend now to vote against the bill. That was the opinion which I held in the committee, and that is my opinion now; but I think it is the duty of the Senate to act upon the bill, and to act upon it at this time. If the course suggested by my friend from Pennsylvania is to be taken in relation to this case, upon the suggestion that an honorable Senator who desires to oppose it is absent, then when the next bill is reached, some other Senator may rise and suggest to the Senate, that another Senator opposed to that bill is absent, and so you may go through your calendar, and not get a single case considered except those to which there is no objection. Now let us act upon this bill, and let us take up our calendar, and go through it, as the Senator from Maryland suggests.

Let me make one other suggestion. There can be no possible harm growing out of an affirmative vote of the Senate on this bill, because no bill of this character that passes the Senate, which has not already received the sanction of the House, will be reached by the House during this session. It is really, therefore, a matter of no importance. If I could have my way, I would confine the action of the Senate to House bills alone, because, by doing that, you would act definitively on as many matters as you could settle; and, in my judgment, if you were to pass every private bill on your calendar which has originated with the committees of this body, and were to send them to the House this day, there would not be a single one of them reached there during this session. Why, look at their calendar; it is now so large that it is a moral impossibility for them to dispose of probably one half of the bills that will come before them, during this session.

Mr. SEWARD. I shall not certainly, on the motion to postpone, enter upon the discussion of the merits of the bill; though I shall, if I think it necessary, do so, if the Senate determine to proceed with this order of business, and keep their attention confined to this bill until it shall be disposed of. I content myself on the present occasion, with asking a division of the Senate on this motion.

Mr. BORLAND. Before a vote is taken, I desire to say this: I have no doubt in my own mind that the principle which I suggested is involved in this bill; but I do not feel prepared, particularly at this time, to undertake to show that to the Senate, as clearly as I think it might be shown, and as I think it would be shown, if other Senators, who take the same view of it as myself, were present. For that reason, I am desirous that it should be discussed by those more familiar with it, and better prepared to present its real character. There is a peculiar propriety in postponing this bill, on account of the absence of the Senator from Virginia, who has announced to the Senate his intention to discuss it, and who certainly could not have expected it to have come up to-day. He is the chairman of our Committee on Finance, and it has been made his special duty, as such, to consider such questions as this. He has given special attention to the matter, and he is prepared to go into it at length, and I believe he can show conclusively to the satisfaction of the Senate, that the bill ought not to pass. And for that reason, I hope it will be postponed until he shall come back. Perhaps the absence of any other Senator might not require such a proceeding; but the position of the Senator from Virginia, as chairman of the Committee on Finance, would seem to require it.

Mr. BRODHEAD. If we are to have a division of the Senate at this time, I think it will lead to an adjournment, because there is no quorum present. My object in proposing to the Senate to consider private bills, was to dispose of those to which there was no serious objection. In view of the fact that there were so many Senators absent, I supposed that we might proceed to consider small pension bills, and cases involving no important principle and very little money. I hope, therefore, that this bill will be postponed, and that we will proceed and consider those bills to which there is no serious objection.

The Senate having divided on the motion to postpone, there were—ayes 11, noes 18; no quorum voting.

Mr. HAMLIN. I desire to submit a motion that the Senate proceed to the consideration of Executive business. If we find ourselves without a quorum in Executive session, we can then adjourn.

Mr. HALE. I move the Senate do now adjourn.

The question being taken, there were, on a division—ayes 5, noes 17; no quorum voting.

Mr. HAMLIN. I would inquire of the Chair, if it is necessary that a quorum should vote on a question of adjournment?

The PRESIDENT. No, sir; it is not.

Mr. HAMLIN. Then I would inquire if my motion to proceed to the consideration of Executive business is not in order?

The PRESIDENT. It is not, because a bill is under consideration, and also because there is not a quorum present to entertain such a motion.

Mr. HALE. I would inquire if anything is in order, except silent contemplation on this state of affairs? [Laughter.]

The PRESIDENT. Business cannot be proceeded with in the absence of a quorum.

Mr. ADAMS. I would suggest the propriety of a call of the House.

[Cries of "No!" "No!"]

Mr. BRODHEAD. I wish to ask unanimous consent, a quorum being presumed to be present, to consider a small pension bill.

Mr. SEWARD. I am obliged to withhold my consent; and I move that the Senate adjourn.

The motion was agreed to, there being, on a division—ayes 12, noes 11; and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *December* 27, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Friday was read and approved.

The SPEAKER. The business first in order, is the consideration of a motion made by the gentleman from Tennessee, [Mr. HARRIS,] to suspend the rules, that the following resolution may be introduced:

Resolved, That there be paid to Francis H. Smith, out of the contingent fund of the House, one hundred and fifty dollars, for his services in reporting the evidence taken before the Committee on the Judiciary, relative to the charges against the Hon. John C. Watrous, district judge for the district of Texas.

Mr. MACE. I expect to be absent from the city for about eight or ten days, and would ask the indulgence of the House, for leave to present a few reports from the Committee on Claims, that they may be referred and ordered to be printed.

Mr. HARRIS, of Tennessee. All the members of every committee have reports to make, but are not afforded the opportunity; and I shall object to any report from any committee out of its order.

[Cries of "That is right!" "That is right!"]

Mr. MACE. I move a suspension of the rules, that I may be enabled to submit the reports to which I have alluded.

The SPEAKER. The pending motion to suspend the rules must be first disposed of.

THE GEORGIANA AND THE SUSAN LOUD.

Mr. SMART. I ask the unanimous consent of the House, for leave to introduce the following resolution:

Resolved, That the President be requested to communicate to this body, if not incompatible with the public interest, what measures (if any) have been taken, since the 27th day of January, 1852, for the indemnification, by the Spanish Government, of the captains, owners, and crews of the barque Georgiana and brig Susan Loud, in consequence of the capture and confiscation of said barque and brig by the Spanish authorities.

Mr. HARRIS. I object to the introduction of the resolution, and call for the consideration of the motion to suspend the rules, submitted by me on last Monday.

Mr. SMART. I would appeal to the gentleman to withdraw his objection, as this is a resolution merely asking for information on a subject of importance to my constituents.

Mr. HARRIS. I withdraw my objection.

The question was taken and the resolution was adopted.

Mr. SMART. I thank the gentleman for his kindness. [Mr. S. handed his remarks upon the above resolution to the Reporter, which are published in the Appendix.]

Mr. MEACHAM. I ask the unanimous consent of the House for leave to introduce the resolution which I send to the Clerk's desk.

Mr. HARRIS, of Tennessee. I call for the regular order of business.

The SPEAKER. The regular order is the consideration of the motion of the gentleman from Tennessee [Mr. HARRIS] to suspend the rules for the purpose of introducing the resolution which has already been read by the Clerk.

Mr. STANLY. I objected to the introduction of that resolution last Monday; but if I am now permitted to make a short statement, I will withdraw that objection.

Mr. HARRIS. Let the gentleman make his statement.

Mr. STANLY. I withdraw my objection to the introduction of the resolution. I cannot vote for it, but wish to interpose no delay. I objected when the resolution was submitted because the committee employed this clerk without permission of the House, and because I thought its passage would therefore set a very bad precedent. The case which came before the Judiciary Committee, I am aware, was a very important one, involving, as it did, the character of a man who held a highly responsible office under the Government. Had authority been conferred upon that committee to employ this clerk, I should not have interposed objection.

Mr. HARRIS. The gentleman has withdrawn his objection, and I therefore withdraw my motion for a suspension of the rules, and ask that the question be put on the adoption of the resolution.

Mr. STUART. I demand tellers.

Tellers were ordered; and Messrs. VENABLE and BEALE were appointed.

The question was put on the adoption of the resolution; and the tellers reported—ayes 89, noes 18; no quorum voting.

Mr. STANLY. I demand the yeas and nays.

The SPEAKER. The Chair is of the opinion that the demand for the yeas and nays is a business transaction, and requires a quorum as well as the passage of a bill, or any similar act. If it be the pleasure of the House, the Chair will proceed again to divide the body.

Mr. STANLY. I suppose that is a business transaction also, and, therefore, object.

Mr. CAMPBELL, of Ohio. I move that there be a call of the House.

Mr. FICKLIN. That is also a business transaction.

Mr. STUART. I demand tellers upon the motion that there be a call of the House.

Tellers were ordered; and Messrs. STANTON, of Kentucky, and FICKLIN were appointed.

The question was taken, and the motion was decided in the negative, the tellers having reported —ayes 31, noes 90.

So the House refused to order a call.

The yeas and nays were ordered on the adoption of the resolution.

The question was then taken, and the resolution was adopted—yeas 107, nays 34; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, John Appleton, William Appleton, Ashe, Babcock, Thomas H. Bayly, Beale, Bowne, Bragg, Breckinridge, Briggs, Albert G. Brown, Buell, Burrows, Burt, Busby, Caldwell, Lewis D. Campbell, Chandler, Chapman, Chastain, Churchwell, Clark, Clemens, Cleveland, Clingman, Cobb, Conger, Curtis, Darby, John G. Davis, Duncan, Edmundson, Ewing, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gaylord, Gorman, Green, Gray, Grow, Harper, Isham G. Harris, Sampson W. Harris, Hart, Haven, Hendricks, Hibbard, Hillyer, Horsford, Houston, Howard, Thomas M. Howe, Ingersoll, Ives, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Kurtz, Landry, Mace, Martin, Meacham, Millson, John Moore, Morrison, Murray, Olds, Orr, Samuel W. Parker, Peaslee, Penn, Porter, Powell, Preston, Riddle, Robinson, Scudder, David L. Seymour, Origen S. Seymour, Smart, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stone, St. Martin, Taylor, Thurston, Venable, Watkins, Welch, Addison White, Wilcox, Wildrick, Williams, and Woodward—107.

NAYS—Messrs. Averett, Barrere, Bocock, John H. Boyd, Brenton, Joseph Cable, Dean, Dockery, Doty, Dunham, Ficklin, Floyd, Giddings, Hascall, Hebard, John W. Howe, Hunter, John Johnson, Letcher, Lockhart, Molony, Morehead, Murphy, Nabers, Newton, Penniman, Perkins, Robie, Smith, Stanly, Stuart, Sweetser, Walbridge, and Washburn —34.

A message was here received from the President of the United States by MILLARD P. FILLMORE, his Private Secretary, notifying the House that he did, on the 23d instant, approve and sign a bill and joint resolution of the following titles, viz:

H. R. No. 164. "An act for the relief of James A. Fawns."

H. R. No. 29. "A joint resolution authorizing the settlement of the accounts of the public printer for paper used by him since the 1st day of November, 1852."

CLAIMS OF CUSTOM-HOUSE OFFICERS.

Mr. STANTON, of Ohio. I ask the unanimous consent of the House for leave to introduce a resolution.

Mr. HILLYER. I understood from the Chair that the motion of the gentleman from Indiana [Mr. MACE] was to be taken up for consideration when the resolution of the gentleman from Tennessee [Mr. HARRIS] was disposed of.

The SPEAKER. The Chair could not assign the floor in advance, and he did not intend to state that the motion of the gentleman from Indiana would follow. The Chair replied to the gentleman, that a motion to suspend was not in order until the pending one was disposed of.

The resolution of Mr. STANTON, of Ohio, was then read by the Clerk, as follows:

Resolved, That the President of the United States be requested to inform the House of Representatives whether claims are pending before the Treasury Department, in favor of sundry persons who now are, or heretofore have been, custom-house officers, whose accounts have been settled and paid in pursuance of the laws supposed by the Department to be in force at the time of such settlement, for additional pay under some construction of the laws regulating their compensation not heretofore recognized by the Department; and if any such claim is pending, that the President inform this House—

1. What grade or character of officers is claiming such additional compensation.

2. Under what law or laws their accounts were settled and paid.

3. Under what law or laws additional compensation is now claimed.

4. What number of persons would be entitled to increased compensation on the construction of the laws urged by the claimants, and for what time, and what would be the aggregate amount of all the claims for increased compensation under their construction of the laws.

5. When, and by whom, were these claims first presented to the Treasury Department, and what action has been had upon the subject by the Secretary or any of the accounting officers of the Treasury.

6. What opinions have been given by the President, or the heads of any of the Executive Departments, in relation to the validity of said claims.

7. Whether, in the opinion of the President, any action of Congress is necessary or advisable, either to protect the Treasury from unjust claims, or to secure to the claimants their just rights.

Mr. STANLY. I dislike to object, but I am afraid I must. One half of the resolution was not read at all, and the other half was read so that neither myself nor anybody else could hear it. If any gentleman will give the House some information on the subject, I shall not object, if no one else does; but I will not be responsible for the passage of the resolution.

[Cries of "Read the resolution again!" "Read it again!"]

The resolution was again read.

Several MEMBERS objected.

Mr. STANTON. I move a suspension of the rules, to enable me to introduce the resolution.

The question was put, and the rules were suspended.

The question recurring upon the adoption of the resolution, it was put, and carried in the affirmative.

So the resolution was adopted.

Mr. MACE. I move a suspension of the rules, that I may be permitted, inasmuch as I am of necessity compelled to leave the city, to make a few reports from the Committee on Claims, that they may be referred and ordered to be printed.

Mr. STEPHENS, of Georgia. I do not suppose, if the House will reflect a moment, there can be any objection to allowing any member of any committee, authorized by the committee of which he is a member to report to the House, and whose object is merely the reference and printing of the report, to do so through the Clerk. If there be any who desire action on the reports they are instructed to make, they will have to wait their opportunity, and report in the usual mode. I suggest only that members may be permitted to submit to the Clerk, and have printed, any reports they may be instructed to make by the committees of the House.

The SPEAKER. In what form does the gentleman propose to have the first and second reading of bills?

Mr. JOHNSON, of Arkansas. I will state, Mr. Speaker, that the proposition suggested by the gentleman from Georgia [Mr. STEPHENS] has been entertained in this House before. I was an advocate of it myself, but from events which transpired during the Thirty-first Congress, and which are familiar to all, I am fully convinced that it will not do. Permission was given to make reports from committees as now proposed; and that the House may know the result of that permission, I will give the following illustration: A gentleman stated to me that a member from another State had introduced a report which egregiously misrepresented and maligned his State, and that if his constituents had known, or even knew now, that such a report came from a committee of which he was a member, and had been put upon the public records and printed, he would not, perhaps, be forgiven by them. Yet he further stated that he had attended the sessions of that committee from their beginning till their close, and had never read or heard of such a report having been adopted by them. Now, if gentlemen in the minority are allowed to make reports, the subject-matter of which has never been submitted to or considered by the whole of the committee, they have it in their power to bring forward matters for which they could not get the concurrence of either the committee or the House, and to perpetrate a wrong on a whole community, or an entire class, and to place that wrong on the public records, beyond the reach of any man ever afterwards to set himself right. I suggest to the gentleman from Georgia whether it would not be well to force each gentleman to come forward with his reports in the regular way; and whether it would not be best for us to bring about such a condition of things, under our rules, as will enable members to make their reports to the House when prepared to do so.

Mr. STEPHENS. I will not press my suggestion at this time. I did not presume any gentleman could make a report which had not regularly passed his committee. From a consideration of the suggestion of the Chair, touching reports accompanied by bills, I withdraw the proposition I made.

Mr. BOCOCK. I wish to know of the Chair, for the information of the House, if we now permit the gentleman from Indiana to make reports from the committee of which he is a member, whether the bills accompanying these reports will not have precedence over bills which might be reported from committees before the one to which he belongs?

The SPEAKER. Bills take their place on the calendar as reported, and the bills thus reported would take precedence.

Mr. HOWARD. I move to amend the motion so that it will provide, that the Committee on Indian Affairs shall also be permitted to report. There have been in my hands reports agreed to by that committee since eight months before the adjournment of the last session, and if this thing is to go on, we never will get a regular call of committees. The only way in which we can arrive at it is to adhere strictly to the regular order of business.

Mr. JOHNSON, of Arkansas. I rise to a privileged question. I wish to bring up a matter of some public interest, and that is a motion to reconsider the joint resolution which was voted down at our last day's session, granting two clerks and a messenger to the Superintendent of the Public Printing.

The SPEAKER. The motion may be entered, but it cannot take precedence of the motion made by the gentleman from Indiana.

Mr. JOHNSON. I will have it entered, then, with the Speaker's permission, and call it up hereafter.

The SPEAKER. Unless objection is made, it will be so entered.

The question recurring on the motion made by Mr. MACE, to suspend the rules, it was put, and decided in the negative.

REPORT OF THE SUPERINTENDENT OF THE CENSUS.

Mr. MEACHAM. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That 100,000 copies of the Report of the Superintendent of the Census, which accompanied the last message of the President, be printed separately for the use of members of this House.

Several MEMBERS objected.

Mr. MEACHAM. I then move to suspend the rules, and ask for tellers upon the motion.

Tellers were ordered; and Messrs. VENABLE and RICHARDSON were appointed.

The question was taken, and the tellers reported that there were—ayes 97, noes 26.

So the rules were suspended.

[A message was here received from the Senate, by Mr. DICKINS, its Secretary, informing the House that the Senate had passed resolutions and a bill with the following titles, viz: Senate No. 36, a resolution for the relief of Jonathan Lewis; Senate No. 66, a resolution in relation to the Census re-

turns from the State of California; Senate No. 535, an act for the relief of Thomas B. Parsons; and desiring concurrence therein.]

Mr. JONES, of Tennessee. I wish to inquire if the resolution under consideration does not go to the Committee on Printing? It is not a rule which requires it, but it is the law of Congress, passed by both Houses, and approved by the President.

The SPEAKER. Under the rules of this body, it must go to the Committee on Printing.

Mr. MEACHAM. I will modify it if it is necessary. I suppose the resolution merely asks, or orders the printing of one hundred thousand copies, and of course it will take the direction which the law already demands of it.

The SPEAKER. It is the decision of the Chair that it should go to the Committee on Printing.

Mr. MEACHAM. I wish to say that this work is now in type, and all the extra cost there will be in order that we may be furnished with this document to distribute among the people, will be the paper and press-work.

Mr. HOUSTON. The law in regard to this question is to be found on page 35 of the Statutes at Large for the last session. It reads as follows:

"All motions to print extra copies of any bill, report, or other public document, shall be referred to the Committee on Printing in the House in which the same may be made."

The SPEAKER. The Chair asks to refer the gentleman from Vermont, [Mr. MEACHAM,] and the House, to the following provision of the law upon this subject:

"Nothing in this act shall be construed to authorize the printing of the census, but the same shall be done as may be provided by law hereafter."

Mr. MEACHAM. It is not the census now proposed to be printed, but simply the report from the Superintendent of the Census, which accompanied the President's annual message. But in order to avoid all difficulty—as I do not wish to consume the time—I propose to move a resolution that the Committee on Printing be instructed to procure for the use of the House one hundred thousand copies, &c.

Mr. JONES, of Tennessee. That will be a violation of the law, because it leaves the committee no discretion at all.

The SPEAKER. If the gentleman refers the resolution to a committee, the law will be complied with.

Mr. HOUSTON. The law itself refers the resolution so soon as it comes before us, and no motion is necessary. So soon as a resolution for printing an extra number of any document comes before us, the law itself takes it to the Committee on Printing without any motion.

The SPEAKER. The resolution goes, in the opinion of the Chair, under the law, to the Committee on Printing, and is disposed of.

Mr. STEPHENS, of Georgia. I move that it be referred as it now stands.

Mr. MEACHAM. I move the previous question on the passage of the resolution.

The SPEAKER. The Chair decides that the resolution goes to the Committee on Printing without a motion.

LIEUTENANT GENERAL.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to enable me to make a motion to take up Senate resolution No. 5, authorizing the President of the United States to confer the title of Lieutenant General by brevet for eminent services.

Mr. HART. I object.

Mr. STEPHENS. I move a suspension of the rules for the purpose, and upon that motion demand the yeas and nays.

The yeas and nays were ordered.

Mr. LETCHER. I move a call of the House, as there is a very thin House here now.

The question was then taken upon Mr. LETCHER's motion, and there were—ayes 77, noes not counted.

So a call of the House was ordered.

The CLERK then proceeded to call the roll, and 147 members answered to their names. There being a quorum present,

On motion by Mr. STUART, all further proceedings under the call were dispensed with.

Mr. STANLY. I hope that in this thin House the vote will not be taken now, and that the gentleman from Georgia [Mr. STEPHENS] will give notice that he will call it up on Monday next.

Mr. STEPHENS. I have as much confidence in a small House as in a large one, and I cannot indulge the apprehension that this House will not pass the resolution. I am willing, however, to let it pass over, if gentlemen think proper.

Several MEMBERS. Now is the time. Let us have a vote.

Mr. STEPHENS. If the House will indulge me in making the proposition, I move that the consideration of this resolution be postponed until next Thursday.

The SPEAKER. This can be done only by unanimous consent.

Mr. CLEVELAND. I object.

Mr. STEPHENS. If it is voted down, I shall submit the proposition next Monday and the Monday after that.

The question was then taken upon Mr. STEPHENS's motion, and there were—yeas 74, nays 70; as follows:

YEAS—Messrs. Abercrombie, Aiken, Allison, William Appleton, Bell, Bowie, Bowne, John H. Boyd, Breckinridge, Brenton, Briggs, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clingman, Conger, Darby, Dockery, Duncan, Edmundson, Ewing, Gamble, Gorman, Grey, Harper, Hascall, Haven, Hebard, Henn, Hibbard, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Jackson, James Johnson, George G. King, Landry, Marshall, Martin, McMullin, Meacham, John Moore, Morehead, Newton, Samuel W. Parker, Peaslee, Penniman, Porter, Preston, Sackett, Scudder, David L. Seymour, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stone, St. Martin, Taylor, Thurston, Venable, Waldbridge, Washburn, Watkins, Welch, Addison White, Wilcox, and Williams—74.

NAYS—Messrs. Willis Allen, John Appleton, Averett, Babcock, Beale, Bocock, Bragg, Buell, Burt, Busby, Joseph Cable, Chastain, Churchwell, Clark, Clemens, Cleveland, Cobb, Curtis, John G. Davis, Dean, Doty, Eastman, Ficklin, Florence, Floyd, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Green, Grow, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Hillyer, Houston, Howard, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Millson, Molony, Morrison, Murphy, Murray, Nabers, Olds, Orr, Penn, Perkins, Powell, Richardson, Riddle, Robie, Robinson, Savage, Origin S. Seymour, Smart, Abraham P. Stephens, Stuart, Sweetser, Townshend, Wallace, and Wildrick—70.

There not being two thirds voting, the rules were not suspended.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled, an act explanatory of an act appropriating money for the removal of the raft in Red river.

[The following message was here received from the Senate by Mr. DICKINS, its Secretary:

Mr. SPEAKER: The Senate have passed bills with the following titles, viz: S. No. 493, an act for the relief of Brown, Russell & Co., which I am directed to ask the concurrence of the House therein. The President of the United States has notified the Senate that he did, on the 16th inst., approve and sign a bill with the following title, viz: S. No. 545, an act authorizing the Secretary of the Treasury to issue a register to the barque Queen of Dundee, to be called Kate Wheeler; and that he did on the 23d inst., approve and sign bills and a resolution with the following titles, viz: S. No. 54, an act explanatory of an act supplementary to an act approved the 23d day of May, 1850; and S. No. 448, an act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases; and also S. No. 553, an act to amend the act approved the 31st of August, 1852, in reference to the appropriation for continuing the survey of the Mexican boundary.]

CLERKS AND MESSENGER FOR THE SUPERINTENDENT OF PRINTING.

Mr. JOHNSON, of Arkansas. I call up the resolution now in regard to clerks and messenger for the Superintendent of Public Printing. There was a majority who voted against the resolution. I was of that number. I ask that it may be read for information, and then I wish to make a short explanation in regard to it.

The resolution was then read, as follows:

"A joint resolution authorizing the employment of two clerks and one messenger in the office of Superintendent of Public Printing."

Mr. J. said: The House have heard the resolution, and they will see that it is one giving two clerks and a messenger to the Superintendent of Public Printing. It is notorious to us all that our public printing has never been in so prosperous a condition as it now is. It is so promptly and so well executed that it saves us a vast deal of trouble and annoyance. It gives to us the information that we ought to have at the commencement of a session—a thing which has never been heard of before; at least, during my term of service here. This resolution is recommended by a Joint Committee of the House and Senate, and was voted upon here the other day and defeated by a majority of some three or four votes. I move now a reconsideration of this matter, believing it is right. I think that the resolution should be passed, upon the ground that it is absolutely essential to the success of the system, which, having already proved its beneficial character, should not be destroyed, and ourselves thrown back, as we were before, for the want of a pitiful and insignificant appropriation in aid of the system itself. If it be true, that so slight an appropriation as is here involved—a little over $3,000 per annum—can preserve to us this system, and enable us to do what we never did before—keep our own accounts, and carry on the printing in a manner more prompt and effective than has ever been done heretofore—it seems to me folly in the extreme to reject and disregard it. I will present some facts in relation to this matter, and the House will at once see the utter impossibility of one man's keeping the accounts of the public printing; and if he cannot do it, the express language of the law cannot be complied with, and he must be compelled to resign, if he has any respect for himself, rather than that the position which he holds shall fall into disrepute because of a physical impossibility to attend to the duties which the law attaches to it.

This brings to my mind a matter which I will state to the House, and it is this: that hitherto the accounts against the Government for public printing have been made out altogether by those parties who did the printing. The Government never had any one employed for the purpose of investigating and making them out, but only to make a general investigation of the accounts as they were presented for payment by those who performed the printing. Now, under the express terms of this law, the Superintendent is compelled to keep those accounts, and keep them in accordance with the terms of the law itself. I have before me the books prepared by him, which will show at once the necessity for so slight an addition as that now asked, giving him two clerks and a messenger. By looking at these volumes, members will see at once how these accounts are to be kept, and will be enabled to form some idea of the character of the work. For instance, for this House alone, under the heads of documents, reports, bills, &c., there are to be entries of every article of printing ordered, whether it be the printing of one copy, or one hundred, or fifty thousand copies. By the terms of the law establishing this printing bureau, each one of these headings will have to be kept, and under each will have to be entered, in detail, every item of printing ordered.

In the first place, as to these entries of printing ordered. The Superintendent has to make entries respectively of the time when received; time when delivered; the number of the document; the number of the report; the title or the subject; the whole number of pages in small pica, plain or rule; in brevier, plain or rule; in nonpareil rule; the cost of composition of each article, or item of printing ordered; the number of extra copies; the number of maps or plates inserted; the cost of inserting those maps or plates; the deduction of extra copies; the cost of the press-work and binding; the deduction on reserved copies; the total cost; time when returned by the printer; and then general remarks appertaining to the entries made. Through the process of these many entries every article of printing we order for this House is compelled necessarily to be exhibited. There is one volume allotted to the entry of documents. The next volume comprises bills of the House of Representatives, and kindred items, which are compelled to be so entered as to exhibit the orders for each piece of printing; the time when received by the printer; the number of pages which shall be printed; the title or subject; then the whole amount, the time when returned, &c.

If gentlemen will look at this matter for a moment, they will see at once what a great number of entries must be made in the course of one session of Congress, in these books; and all of it, according to the law, is to be done by one single individual—the Superintendent of the Public Printing. This is not all. There is a third volume, for miscellaneous printing. If the House of Representatives desire their own accounts to be so kept as to exhibit all these things fully, and thus place it within the power of their own committees to investigate them at any time, and to judge of their correctness, and the correctness of the proceedings of the party superintending the printing,

the same course must be taken with regard to miscellaneous printing as the other printing. There must be entries of the time when received, and when delivered, the kind of printing ordered, the number of copies, plain or ruled, the cost of composition, and a number of other items, which it is unnecessary for me to read. It will be remembered, in connection with all this, that three more books of the same character are to be kept for the Senate printing, and three for each one of the seven Departments of the Government—twenty-seven volumes to be kept in all, according to the terms of the law which we have passed. In addition to all this labor, the duties of the Superintendent compel him to go to the printing office and examine and overlook them; and thus a great deal of his time is taken up.

Under these circumstances, it seems to me that there can be no question upon our part, whether we should or should not allow this increased force of clerks and messenger that is called for, for the purpose of carrying out that law. In addition to that, the Superintendent is compelled to purchase all the paper required, and to superintend the binding, and to disburse all the money that goes out in this respect. I suppose upwards of half a million has to be disbursed annually, by this officer, in connection with other Departments, and it must take time. With these facts before us, it seems to me that there can be no doubt that we ought to grant this increased force. I therefore move a reconsideration of the vote by which the joint resolution was rejected.

Mr. STUART. I believe this question is understood by the House, and I therefore call for the previous question.

The previous question received a second, and the main question was ordered to be now put.

Mr. JONES, of Tennessee, demanded the yeas and nays; but they were not ordered.

The question was then taken upon the motion to reconsider, and it was agreed to.

The question recurred upon the passage of the joint resolution.

Mr. JOHNSON, of Arkansas. Is the previous question exhausted?

The SPEAKER. It is.

Mr. JOHNSON. Then I call for the previous question on the passage of the resolution.

Mr. HOUSTON. Will the gentleman allow me to offer an amendment before he does that?

Mr. JOHNSON. I will. I have no disposition at all to prevent the House from acting exactly as they wish.

Mr. HOUSTON. Then I offer the following amendment:

And be it further resolved, That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, required to dismiss from their employment each, one clerk receiving the compensation of those hereby authorized to be appointed, and also each one messenger.

Mr. STANLY. Is that amendment in order?

The SPEAKER. The Chair is inclined to the opinion that it is in order, as it relates to the same general subject as the joint resolution itself.

Mr. JOHNSON, of Arkansas. I will not object to the amendment, but I shall not vote for it. I move the previous question.

The previous question received a second, and the main question was ordered to be now put.

Mr. LETCHER. Is it in order to move to postpone this resolution until another day? The House is much too thin to act upon it now.

The SPEAKER. It is not in order, the main question having been ordered to be now put.

The question was then taken upon Mr. HOUSTON's amendment and it was rejected.

The question now being, "Shall the joint resolution pass?"

Mr. JONES, of Tennessee, demanded the yeas and nays.

Mr. AVERETT called for tellers on the yeas and nays.

Tellers were ordered, and Messrs GAYLORD and BOCOCK were appointed.

The House was then divided upon ordering the yeas and nays, and the tellers reported 30 in the affirmative.

So the yeas and nays were ordered.

The question was then taken, and there were—yeas 95, nays 42; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bowie, Bowne, John H. Boyd, Bragg, Breckinridge, Briggs, Burrows, Burt, Busby, Caldwell, Lewis D. Campbell, Chandler, Chapman, Chastain, Cleveland, Clingman, Darby, John G. Davis, Dockery, Doty, Duncan, Eastman, Edmundson, Florence, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Gorman, Green, Grow, Harper, Sampson W. Harris, Hart, Hascall, Haven, Hebard, Henn, Horsford, Thomas M. Howe, Hunter, Ives, Jackson, James Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George G. King, Landry, Marshall, Martin, McMullin, Meacham, John Moore, Morrison, Murray, Orr, Samuel W. Parker, Peaslee, Penn, Perkins, Porter, Riddle, Robie, Sackett, Savage, Scudder, David L. Seymour, Origen S. Seymour, Smart, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abra'm P. Stephens, Alexander H. Stephens, Stone, St. Martin, Stuart, Taylor, Thurston, Venable, Washburn, Welch, Addison White, Wilcox, and Wildrick—95.

NAYS—Messrs. Allison, Averett, Babcock, Beale, Bocock, Brenton, Albert G. Brown, Joseph Cable, Clark, Clemens, Cobb, Dean, Dunham, Ficklin, Floyd, Grey, Isham G. Harris, Hendricks, Hibbard, Houston, Howard, John W. Howe, Ingersoll, Andrew Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Millson, Morehead, Murphy, Nabers, Penniman, Powell, Robinson, Smith, Sweetser, Townshend, Walbridge, Wallace, Watkins, and Williams—42.

So the joint resolution passed.

Mr. JOHNSON, of Arkansas, moved to reconsider the vote last taken, and also moved to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

So the motion to reconsider was laid upon the table.

CENSUS RETURNS FROM CALIFORNIA.

Mr. MARSHALL, of California. I ask the unanimous consent of the House to take up and put upon its passage, a joint resolution that has been passed by the Senate and sent down to the House, with reference to the printing of some additional statistics with regard to the census of California.

There being no objection, the following joint resolution was taken up for consideration, and was read a first and second time by its title, viz: Joint Resolution of the Senate No. 66, "in relation to the census returns from the State of California."

The resolution directs the Superintendent of the Census to append the returns from the State of California to the report thereof now in course of preparation at the Census Office.

The joint resolution was then ordered to a third reading, and was subsequently read the third time and passed.

BOUNTY LANDS IN OREGON.

Mr. LANE, by unanimous consent and pursuant to previous notice, introduced the following bills; which were severally read a first and second time by their titles, and referred to the Committee on Public Lands, viz:

A bill granting bounty lands to the officers and soldiers who served in the Cayuse war; and a bill to provide for the location of military bounty land warrants by actual residents of Oregon Territory.

REPORTS FROM COMMITTEES.

Mr. HARRIS, of Tennessee. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That it shall be the standing and special order of this House, after to-day, to call the committees for such reports as shall not give rise to debate, until all the committees shall be called; and if any report shall be made to which objection is offered, such report shall not be received, but shall remain until the committees are regularly called under the rule of this House.

Mr. HART. I object.

Mr. HARRIS. Then I move to suspend the rules.

Mr. STEPHENS, of Georgia. If we adopt this resolution, in my opinion we shall be able to get through the presentation of reports to-morrow—in one day. I hope it will be adopted.

Mr. CLEVELAND called for tellers; which were ordered; and Messrs. CLINGMAN and SMART were appointed.

The question was then put, and the tellers reported—ayes 88, noes 29.

So (two thirds voting in the affirmative) the rules were suspended.

The question recurred upon the adoption of the resolution.

Mr. JONES, of Tennessee. I would suggest to my colleague an amendment, which I think would reconcile the House generally to that resolution. It is that no bill reported under the call provided for in this resolution, shall be put upon its passage, unless by the unanimous consent of the House.

Mr. HARRIS, of Tennessee. My colleague will perceive that no bill can be put upon its passage under that resolution.

Mr. JONES. I suggest to my colleague that some gentleman may report a bill, move to refer it to some committee, and call the previous question, and then the reference may be voted down, and the bill passed by a bare majority of the House.

Mr. HARRIS. My colleague could prevent the passage of a bill under such circumstances, by simply saying that he proposed to debate it.

Mr. CLINGMAN. No, the previous question could cut off debate.

Mr. HARRIS. Well, I will accept the amendment.

Mr. STEPHENS, of Georgia. The gentleman can obviate the difficulty by inserting after the word "reports," the words "for reference."

Mr. HARRIS. I move the previous question on the passage of the resolution.

The SPEAKER. If objected to, the proposed amendment must be voted upon by the House.

Mr. JONES, of Tennessee. Well, I propose the amendment which I suggested to my colleague.

A VOICE. You cannot do it; the previous question has been moved.

Mr. STUART. I want to see that resolution further amended. I want to strike out that part which speaks of the power to object to a report. The effect of that would be, that every important report would be cut off by the objection of a single member, and precedence given to all the business that is of no consequence whatever.

The SPEAKER. The Chair must interrupt the gentleman. The question now pending is on seconding the demand for the previous question.

Mr. HARRIS. I propose to accept the amendment of my colleague, [Mr. JONES,] if I have the power to do so.

The SPEAKER. The gentleman cannot accept it.

Mr. HARRIS. Then if I have not the power to accept the amendment, I withdraw the demand for the previous question, whilst my colleague offers it.

Mr. STUART. The gentleman cannot hold the floor to allow another gentleman to offer an amendment.

Mr. HARRIS. Well, sir, is it in order for me to offer an amendment to the resolution?

The SPEAKER. It is in order if the demand for the previous question is withdrawn.

Mr. HARRIS. I withdraw the previous question. Now, is it in order for me to offer an amendment to the resolution?

The SPEAKER. Certainly it is.

Mr. HARRIS. Then I offer the amendment suggested by my colleague, and move the previous question.

Mr. WILLIAMS. I move that the House do now adjourn.

The question was put, and decided in the negative.

So the House refused to adjourn.

The previous question received a second, and the main question was ordered to be now put.

Mr. STUART. I ask for the reading of the amendment.

The CLERK read the amendment, as follows:

Provided, That no bill reported under this resolution shall be put upon its passage, unless by unanimous consent of the House.

The question was then taken upon the amendment, and it was agreed to.

The question recurred upon the adoption of the resolution as amended.

Mr. FLOYD demanded tellers; which were ordered; and Messrs. SMITH and VENABLE were appointed.

The question was put, and the tellers reported—ayes 68, noes 35; no quorum voting.

Mr. HARRIS, of Tennessee, demanded the yeas and nays.

Mr. STUART moved that the House do now adjourn.

The motion was agreed to.

And the House adjourned until to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following memorials and petitions were presented under the rule, and referred to the appropriate committees:

By Mr. SEYMOUR, of New York: The petition of the pastors and others of churches in the diocese of Albany,

New York, praying the remission of certain duties charged upon certain articles of church service, imported and used in the churches of St. Bernard and St. Morez, in said diocese.

By Mr. ABERCROMBIE: The petition of Susannah T. Thornton, praying for relief on account of the revolutionary services of her father, William McMasters.

By Mr. DOTY: The petition of E. Button and 58 other citizens of Milwaukee, for a grant of alternate sections of land in aid of the construction of the Lake Shore railroad, from Chicago by Waukegan, Kenosha, Racine, Milwaukee, Ozankee, Sheboygan, Manitowoc, and Green Bay, to Lake Superior.

Also, the petition of Peter Martin and other citizens of Kenosha, in favor of said grant.

Also, of Phineas M. Johnson and 166 other citizens of Grafton, in favor of said road.

IN SENATE.

TUESDAY, *December* 28, 1852.

Prayer by the Rev. JAMES GALLAHER.

Mr. MORTON presented a resolution of the Legislature of Florida in favor of the establishment of a mail route from Madison Court-House to Clay Landing, in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, a resolution of the Legislature of Florida in favor of a grant of land for the purpose of establishing a county site in Levy county; which was referred to the Committee on Public Lands.

Also, the memorial of William B. Scott, late Navy agent of the Washington City station, praying the settlement of his accounts upon principles of equity and justice; which was referred to the Committee on Naval Affairs.

Mr. SEWARD submitted additional documents in relation to the extension of Uri Emmons's patent for a cylindrical planing machine; which were referred to the Committee on Patents and the Patent Office.

Mr. FISH presented the petition of Catharine Clark, praying to be allowed the amount of pension due her husband at the time of his death; which was referred to the Committee on Pensions.

Mr. DODGE, of Iowa, presented the petition of John F. Webb, praying that the children of John Webb, deceased, may be paid the amount of pension their father would have received under the act of 15th May, 1828, had he lived until that time; which was referred to the Committee on Pensions.

Mr. DOWNS presented the memorial of William H. Henderson, for himself and the heirs of Robert Henderson, praying the relinqdishment to them of the title of the United States to a tract of land within the Bastrop grant; which was referred to the Committee on Private Land Claims.

Mr. CASS submitted a document in favor of the removal of the land office from Flint to Saganaw City, in the State of Michigan; which was referred to the Committee on Public Lands.

STANLEY'S INDIAN PORTRAITS.

Mr. WELLER. I desire to present the petition of John F. Stanley, of the State of New York. I do not know that I can state the object of the petition in a better manner than by reading the memorial itself. He states that he is the owner of a gallery of Indian pictures now in the Smithsonian Institution, which have been exhibited there for the year past; and that he desires to dispose of the same to the Government of the United States, in order that they may be kept together, and preserved as mementoes of the race which inhabited this country before the arrival of our ancestors. The collection consists of one hundred and fifty-four paintings, of which one hundred and forty are portraits of chiefs and persons of distinction, among forty-two different tribes living in the Indian territory west of the Mississippi, Texas, the great Western plains, New Mexico, Utah, and Oregon. The remainder represent scenes and incidents in Indian life, landscapes in their country, councils, and other prominent events in our relations with them. The memorialist has devoted ten years of his life to the formation of this gallery, nearly the whole of which period has been passed by him in those remote regions where the nature and habits of the Indians are found in their greatest purity and originality, because least modified by intercourse with the conquerors of their land. He has beheld them silently retreating or melting away from before the face of civilization, like exhalations from the sunlight, and he conceived the ambition of illustrating their fading history by the pencil and the canvas. He resolved to employ his opportunities, and the humble talent which he possessed, in rescuing at least the lineaments of this people from oblivion. These ancient possessors of the land are fast disappearing, and a few generations hence our descendants will have nothing, except such memorials, to remind them of the former existence of a race, which has made perhaps a more gallant and prolonged defense of their independence, than any recorded in the wide-spread annals of warfare between savage and civilized men. Destiny and our immeasurable superiority have made us lords of the magnificent country which was once their own—does not justice to their memory demand of us that we assign to them a niche in its history? In addition to the time and labor bestowed upon the work, the memorialist has expended $12,000 in money, and has made sacrifices, and encountered hardships and privations, for which money can make no compensation. One hundred and thirty-nine of the pictures are in substantial gilded frames, and the others will be placed in a suitable condition for preservation. That the great object of his labors may be fully accomplished, he desires to place his works in the custody of the nation, that thereby the types of different Indian families may be preserved together for comparison and study by the ethnologist and historian, and that the chiefs of the tribes who, from time to time, may visit the national capital, may see in the preservation of the forms of their departed great men, a proof of the paternal attachment of the Government for their race.

The memorialist presents certificates from numerous gentlemen in whose presence most of the pictures were painted, officers high in the civil service of the Government, in the Army and Navy, and in the employment of the Hudson's Bay Company, all of whom attest their fidelity to life and nature. Appended is a selection from these testimonials, which, by permission of the writers, the memorialist is authorized to embody in this representation. The Smithsonian Institution has evinced its appreciation of these paintings by preparing and printing, at its own expense, a descriptive catalogue of them, which will be ready for distribution in the course of the present month. Copies of this catalogue will be placed in the hands of members of Congress.

I move that this memorial be referred to the Committee on Indian Affairs. I was somewhat at a loss to know which was the proper committee to whom to refer the petition; I have, however, concluded to give it the reference which I have named, and I trust it will meet with their favorable consideration and action. This Government has expended large sums of money in procuring statues of our great men, and obtaining paintings of some of the most important events of our history; and I know no better object, in that respect, for which the public money can be expended, than for the purpose of preserving portraits of those people. There are certificates of several distinguished gentlemen who were familiar with the Indian chiefs whose portraits have been painted by Mr. Stanley, appended to this memorial; and they all attest the faithfulness of the paintings. I hope the memorial will meet with the favorable consideration of the committee.

The memorial was referred to the Committee on Indian Affairs.

REPORTS FROM STANDING COMMITTEES.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Theophilus Hardenbrook, praying a pension for sufferings undergone during the war of 1812, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to which was referred the memorial of John W. Phillips, praying indemnity for a vessel destroyed by the United States troops during the late war with Mexico, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which was referred the petition of John P. McElderry, praying compensation for two months' services as a clerk in the Bureau of Yards and Docks, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. WADE, from the Committee on Claims, to which was referred the petition of Joseph Clements, Charles L. Mass, and William K. Caton, praying remuneration for being deprived, under an Indian treaty, of certain land upon which they were digging gold, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the petition of John Bronson, praying payment for goods lost and destroyed by the enemy on the Niagara frontier, during the last war, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

NOTICE OF A BILL.

Mr. BRODHEAD gave notice of his intention to ask leave to introduce a bill, making further provisions against counterfeiting the current coin of the United States, or passing the same.

BILL INTRODUCED.

Mr. DODGE, of Iowa, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of the workingmen on the addition to the Capitol; which was read and passed to the second reading.

BRITISH COLONY IN CENTRAL AMERICA.

Mr. CASS submitted the following resolution for consideration:

Resolved, That the President be requested to communicate to the Senate, as far as may be compatible with the public interest, any information in the Department of State respecting the establishment of a new British colony in Central America, together with the copy of a proclamation, if received at the said Department, issued by the British authorities at the Balize, July 17, 1852, announcing that "her 'most gracious Majesty, our Queen, has been pleased to 'constitute, and make the Islands of Roatan, Bonacca, 'Utilla, Barbarat, Helena, and Morat, to be a colony, to be 'known and designated as the colony of the Bay of Isl-'ands," and signed—

"By command of Her Majesty's Superintendent,
"AUGUSTUS FRED. GORE,
"*Colonial Secretary.*"

And also, what measures, if any, have been taken by the Executive to prevent the violation of that article of the treaty of Washington of July 4, 1850, between the United States and Great Britain, which provides that neither party shall "occupy, or fortify, or colonize, or assume dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America."

AVERY DOWNER.

Mr. TOUCEY. Mr. President, I have never asked the indulgence of the Senate to take up any business whatever out of its order, but I desire to ask it this morning, to take up and consider a bill granting a pension to Dr. Avery Downer. He was a surgeon's mate for the period of seven months in the war of the Revolution; and he would fall within the law authorizing pensions to be granted, but for the fact that a portion of his service was not under any military order, as held at the Pension Office. At the massacre of Groton Heights, he was left in the charge of forty wounded soldiers, and he continued to take charge of them during the period I have mentioned. He would have been entitled to a pension had it not been for the circumstance that there was no military order. He is now ninety years old. The bill grants him a pension for life at the rate of $140 per annum, commencing on the 4th of March, 1852. I am apprehensive that he will not live until this bill can be passed. It passed through the House of Representatives, and was defeated in the Senate a few years ago. It has now received the sanction of the committee of the Senate, and, as far as I know, there is no opposition to it in any quarter. I ask therefore, in behalf of this old gentleman, that the bill may be taken up and passed at this time.

The motion was agreed to, and the bill "granting a pension to Avery Downer," was read a second time and considered by the Senate as in Committee of the Whole. It proposes to direct that Avery Downer, a surgeon's mate in the revolutionary service, be placed on the roll of revolutionary pensioners, at the rate of $140 per annum, commencing March 4, 1852, and to continue during his natural life.

On the request of Mr. HALE, the report of the Committee on Pensions was read, from which it appears that they adopt the report made by the Committee on Revolutionary Claims of the House of Representatives, on the 7th of February, 1850. It states that the petitioner was born in the town of Preston, Connecticut, November 17th, 1762; that he was enrolled in the 8th regiment of the

militia of Connecticut, at the age of sixteen years, and did duty therein as a private, until July 15th, 1781, when he was appointed surgeon's mate in the staff of the regiment, and continued in that office to the close of the war of the Revolution. That regiment was formed from the towns of Preston, Groton, and Stonington, and was, from and after the spring of 1779, under orders to assemble at Fort Griswold, in the town of Groton, whenever the alarm was given for that purpose; on the 5th of September, 1781, the alarm was given, and the regiment assembled on the evening of that day, memorable for the cruel and bloody massacre of Groton Heights, just as a part of the army left the place.

The petitioner was with the regiment acting in the capacity of surgeon's mate. The surgeons of the regiment, with the petitioner as surgeon's mate, were directed to, and did, take charge of the wounded that were left by the enemy after the massacre The regiment continued in the service but a short time, but the surgeon, and the petitioner, as surgeon's mate, continued to take care of the wounded for the period of seven months from and after the 6th of September, 1781. There were forty persons who were ministered to by the petitioner and the surgeon, and the petitioner devoted his whole time, during those seven months, to the care of those wounded persons, and to no other business.

The committee further found that Avery Downer made application to the proper Department in 1832, to be placed on the pension list for the service, under the act of June 7th, 1832; that he prosecuted his application until 1842; and that it was refused by the Commissioner of Pensions on the ground that the service was not performed under any military order, but that the 8th regiment was dismissed, and the service was probably paid for like other professional services. But they found that the service was acknowledged as public service, and paid for by the State of Connecticut. The committee being satisfied that the petitioner was surgeon's mate, as stated, and was employed in the duties incident to his office, at Fort Griswold and its vicinity, for the period of seven months from and after September 6th, 1781, which service was regarded by the State of Connecticut as public service, were of the opinion that the petitioner comes within the true intent and meaning of the act of June 7th, 1832, and is entitled to receive the same bounty as other persons who performed similar services in the Army of the Revolution; and therefore reported a bill granting a pension to the petitioner.

Mr. HALE. I would not say a word about this case, if it were not an old acquaintance. I recollect it very well; while I was on the Committee on Pensions, it was referred to me, and I examined it with a great deal of care. I examined it repeatedly, at the solicitation of gentlemen from Connecticut; and, further than that, I handed the papers to some Senators or Representatives from Connecticut, and pointed out to them where I thought the claim was fatally deficient, and asked them to furnish the evidence which was wanting, if it could be found. I believe it never was found—at least it never was furnished to me; and therefore the Committee on Pensions reported against the claim. But if the Senate feel inclined, upon the statement of the facts mentioned in the report, to give the pension, I shall make no objection; but this claim being an old acquaintance of mine, I beg leave to state the facts as I understand them.

The report represents that Mr. Downer was born in 1762, and that the service was performed in 1781, when he was nineteen years of age. I think the surgeon of the regiment was his father, and he was a student of medicine with his father, if I am not mistaken; at any rate, he was a student of medicine. There was no evidence before the committee, and I apprehend there is none now, except parol evidence, of the existence of this commission. No commission was produced; nothing could be found upon the records of the militia of Connecticut, that there ever was any commission; but he was simply a surgeon's mate, in the capacity of a student of medicine of his father, who I believe was surgeon of the regiment. He never was in any service, and does not pretend that he was, except upon one occasion, when there was a battle of some sort, and several were wounded, and then he was called upon once, and only once. This is the only time that he pretends that he was ever called upon, though he contends that he held himself in readiness to be called on, and did the service which the committee mention. The report says that the State of Connecticut paid for this service. That is the whole case, so far as I recollect it. This young man, nineteen years of age, a student of medicine with a surgeon, was once called upon by the State of Connecticut to render service to some soldiers, which was rendered and paid for; and now it is proposed to pension him, at the rate of $140 per annum, for this one single call which the State of Connecticut paid for. We are to pay this amount of money to a person who was then a boy of nineteen years of age, studying medicine, and who furnishes no evidence, except parol evidence, that he was ever appointed surgeon's mate.

If, with this understanding of the facts, the Senate are willing to grant the pension, let it be so. I had the care of the case for two years, and was really exceedingly anxious to report a bill in his favor, because it was said he was an old, worthy, and highly meritorious citizen; and I called upon the representatives of Connecticut, both in the House and in the Senate, to furnish any evidence of the commission, if it was to be found, and it was not furnished. Under these circumstances, I think the Senate ought not to pass the bill, unless some new evidence has come to light since I examined it before.

Mr. TOUCEY. The Senator from New Hampshire was not in his seat, when I made a statement in regard to this case. This application for a pension received a favorable report in the House of Representatives, and a bill was passed there. It came here, and was referred to the Committee on Pensions, of which, it seems, the Senator from New Hampshire was then a member, and it failed. The petition has since been presented in this body, as I understand, with additional proof, and the facts are established beyond controversy. Doctor Downer is a respectable physician. He is now ninety years of age. He is a man who would not make a claim that was not entitled to consideration; and, as I understand, the committee of the Senate have unanimously reported in favor of granting this pension to him. That he was in the service; that he held a commission as surgeon's mate; that he acted as such for the period of seven months, are facts about which there cannot, I apprehend, be any question. Doctor Downer was left, after the disbanding of the regiment, in charge, with the surgeon, of forty men who were wounded at the massacre of Groton Heights. The records of Connecticut, if I rightly understand, show that he was paid in that capacity for a period of seven months. The objection is that it was not done under a military order.

It is obvious that the objection which precludes him from obtaining a pension at the Pension Office is entirely a technical one. If the facts stated in the report of the committee of the Senate be true, the objection taken by the Senator from New Hampshire is overcome; and it was on that ground that I asked that it might be taken up; and I was apprehensive that he might not live long enough to receive the benefit of the pension. I believe the claim to be an entirely meritorious one. The deficiency of proof suggested by the Senator from New Hampshire has since been removed.

Mr. HALE. It is certainly not an agreeable duty for me to interpose an objection to the claim of a man who is ninety years old, and who has probably but a little while to live; but here is the difficulty: There was no evidence before the committee, and I do not understand the Senator from Connecticut to say, nor does any one say, that there is any evidence now, except parol evidence, that Mr. Downer ever performed the duties of assistant surgeon; that he was ever appointed by the State of Connecticut or by the General Government. He was there holding himself in readiness for seven months; he was once called upon; he, a student of medicine, nineteen years of age, was once called upon, and but once; he was paid by the State of Connecticut for seven months' service; and now it is proposed that this Government shall pension him. These are the facts. If the Senate want to pay the pension, I have no objection.

Mr. TOUCEY. I would call the attention of the Senate to the report of the committee on this point:

"Inasmuch as the committee are satisfied that the petitioner was a surgeon's mate, as above stated, and was employed in duties incident to said office at Fort Griswold and in its vicinity, for a period of seven months from and after the 6th day of September, 1781, which service was regarded by the State of Connecticut as public service, they are of opinion that the petitioner comes within the true intent and meaning of the act of June 7th, 1832."

These are the facts reported by the committee.

The bill was reported to the Senate without amendment, and on the question, "Shall it be engrossed for a third reading?"—

Mr. BORLAND called for the yeas and nays; which were ordered.

Mr. SHIELDS. If the facts stated in the report be true, the case comes within the spirit of the pension laws; and upon that view I will vote. I cannot tell, however, whether the facts are true or not; but we are to take the statement of the committee for them.

Mr. BORLAND. I will say, that so far as the facts set forth in the report are concerned, the Senate are bound to take them as true, because a committee of this body have investigated the subject, and upon their responsibility as Senators, and as honorable men, have reported these facts, after investigation, as true. I must therefore take them to be true, and the House has done so.

Mr. HALE. I think it is not in order to refer to the House as authority for the Senate. I should like to ask the honorable Senator from Arkansas, who, I think, was a member of the Committee on Pensions which reported this bill, whether there was any evidence before that committee as to the fact of service; whether any commission was produced from the State of Connecticut or the General Government; or whether there was any evidence, except mere verbal declarations, that Mr. Downer was a surgeon's mate?

Mr. BORLAND. I cannot at this time answer as to the particular character of the evidence. I am not now a member of the Committee on Pensions; but I was a member of it at the time this bill was reported. Unless I were to examine the papers, I could not now tell all the particulars; but this I know, that the committee, after an investigation by the Senator from Vermont, [Mr. FOOT,] who made the report, were perfectly satisfied as to all the facts, and authorized the making of the report. I cannot, of course, undertake now to state all the facts. I know that the committee were satisfied with them at the time, and I, as a member of the committee, was fully satisfied.

Mr. HALE. I think this is a very dangerous precedent. The fact is, this man never had a commission either from Connecticut or the General Government. There was no evidence of it; but the committee seem to be satisfied from certain verbal declarations, by this man and that, about what took place seventy years ago. If he had ever been commissioned by Connecticut or by the General Government, there would have been evidence of it, and the commission could be produced; but he was not. He was surgeon's mate, just exactly in the same way as any doctor in the country makes a mate of his student; and that is the whole of it. He once went with his father, who was a surgeon, to a place where there were several wounded men, and he attended on them. That is the only service that the report presents, or that he pretends that he ever performed. But it is contended that he held himself in readiness to do service, and here you are going to give a pension of $140 a year for one call, one visit, and that without any evidence, except of a very loose and indefinite sort, that he ever was commissioned or held the office.

Mr. WELLER. I have known that much paid for a single visit in California.

Mr. HALE. It might be in California, but not in Connecticut. But I will not say anything more in opposition to the bill. The Senate have all the facts before them, and are competent to decide.

Mr. BORLAND. The Senator from New Hampshire stated to the Senate that this individual rendered certain service, and no more. He says the committee are mistaken, and have made a report of facts which do not exist.

Mr. HALE. No, sir.

Mr. BORLAND. We have the statement of the Senator from New Hampshire against the report of the committee. It is for the Senate to say which shall be taken.

Mr. TOUCEY. As some Senators have come in who were not present when I explained the case

before, I wish to say a word or two more. The committee of the Senate have found the fact of the service; they have found it expressly; they have adopted the report of the House of Representatives ascertaining that fact; and they have found further, that Dr. Downer was paid for seven months' service as surgeon's mate. Now, the records in the Comptroller's office of the State of Connecticut show the fact of service. Whether these records show it in this case I know not; but I have no doubt in my own mind that they do. Now, after the committee have reported the facts, are they to be controverted without any proof to the contrary, or will the Senate adopt the statement of facts as furnished by the committee? If they do, it is a case within the spirit of the pension laws; and this old gentleman of ninety is entitled to this little pension for the residue of his days.

The question being taken by yeas and nays on the engrossment of the bill, resulted—yeas 32, nays 3; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Brodhead, Brooke, Butler, Cass, Cathcart, Charlton, Clarke, Davis, De Saussure, Dixon, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fish, Hamlin, James, Morton, Pratt, Rusk, Sebastian, Seward, Shields, Smith, Toucey, Upham, Wade, Walker, and Weller—32.

NAYS—Messrs. Hale, Sumner, and Underwood—3.

So the bill was ordered to be engrossed for a third reading; and it was read a third time and passed.

PUBLIC LAND SURVEYS.

Mr. BROOKE. I move to postpone the prior orders, for the purpose of taking up the bill from the House of Representatives, "to amend an act entitled 'An act for the discontinuance of the office of surreyor general in the several districts so soon as the surveys therein can be completed, for abolishing land offices under certain circumstances, and for other purposes,' approved June 12th, 1840." The object of the bill is to allow resurveys, when necessary, to be made in districts where the office of surveyor general has been abolished. There is no provision of law now existing whereby erroneous surveys in Mississippi, and several other districts, can be corrected by resurveys. This bill is for the purpose of enabling the Commissioner of the General Land Office to act as surveyor general in such cases.

Mr. BRODHEAD. I would inquire of the Senator from Mississippi whether this bill has received the sanction of the Committee on Public Lands?

Mr. BROOKE. It has been reported by that committee with a few amendments.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to enact that in all cases where, as provided in the first section of the act of June 12th, 1840, the field-notes, maps, records, and other papers appertaining to the land office in any State, shall have been, or shall be, turned over to the State authorities, they shall be held subject to the examination of any duly-authorized agent of the Government without charge; and that the same authority, powers, and duties, in relation to the survey, resurvey, or subdivision of the lands therein, and all matters connected therewith, previously exercised by the surveyors general, shall be vested in the Commissioner of the General Land Office.

It further provides that, under the authority of the Commissioner of the General Land Office, any deputy surveyor, or other agent of the United States, shall have free access to such field-notes, maps, records, and papers, for the purpose of making copies, and taking extracts, without any charge, as above provided.

The Committee on Public Lands reported the bill with three amendments:

1. Strike out, in the first section, the words "they shall 'be held subject to the examination of any duly-authorized 'agent of the Government without charge; nor shall any 'compensation be required from any such agent for any ex-'tracts or copies he may take thereof."

2. In the second section, strike out the words "as above provided."

3. Add the following as an additional section: "*And be 'it further enacted*, That the field-notes, maps, records, 'and other papers mentioned in the first section of the act 'to which this is an amendment, shall in no case hereafter 'be turned over to the authorities of any State until such 'State shall have provided by law for the reception and 'safe keeping of the same as public records, and for the 'allowance of free access to the same by the authorities of 'the United States, as herein provided."

The amendments were agreed to.

The bill was then reported to the Senate, as amended.

The PRESIDENT. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. HALE. I am rather fearful that we have not a quorum present; and therefore, in order to ascertain that fact, I call for a division.

The question being taken, there were, on a division—ayes 25, noes 2; no quorum voting.

Mr. BRODHEAD. I think there is a quorum present, and therefore I ask a recount.

The question being again taken, there were—ayes 27, no 1; no quorum voting.

Mr. SHIELDS. There is a great deal of business on the calendar that will lead to no discussion, and I think we might as well clear it off the table. I wish to call up a few bills myself. Let us get such bills out of the way. I think we may do a little business in that way before we enter upon contested questions.

Mr. MANGUM. I deem it proper to make a remark in the way of apology. I have not voted upon any of these questions, upon the ground that I think, with as thin a Senate as we have, it is utterly improper to proceed to the consideration of contested matters.

Mr. SHIELDS. I agree with you as to that.

Mr. MANGUM. I am perfectly willing to accede to the proposition of the honorable Senator from Illinois, and consider matters that are not contested. Those who have bills which they wish attended to, and others who attend to see that the business of the country is not improperly done, are, most of them, here; but still we have barely a quorum, and we ought not to attend to contested matters.

Mr. SHIELDS. That is precisely the suggestion which I took the liberty of making. There are some complaints made occasionally, that we are a little negligent about matters which ought to pass without any contest. My suggestion is, that we go on with the calendar, and when we reach a case which is contested, that we pass it by, so that we may dispose of the cases I have mentioned, if we can.

The PRESIDENT. The Chair would suggest that some disposition must be made of the bill pending before the Senate. The question pending is upon the concurrence in the amendments made as in Committee of the Whole.

Mr. WALKER and Mr. BROOKE called for the yeas and nays on the question; and they were ordered.

Mr. BORLAND. I think there are several Senators present who are not aware of the character of the proposition before the Senate, or I feel sure that no opposition would have been made, from any quarter, to the amendments, but they would have received a unanimous vote, because they commend themselves to the judgment of every one. There is no possible ground, it seems to me, for raising an objection to them. I therefore ask that the amendments may be read, in order that Senators who did not know before, may now know what they are.

They were accordingly read; and the question being taken by yeas and nays, resulted—yeas 36, nays none; as follows:

YEAS—Messrs. Adams, Atchison, Borland, Bradbury, Brodhead, Brooke, Cass, Cathcart, Charlton, Davis, De Saussure, Dixon, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fish, Hale, Hamlin, Mangum, Morton, Norris, Pratt, Rusk, Sebastian, Seward, Shields, Smith, Soulé, Sumner, Toucey, Underwood, Upham, Wade, Walker, and Weller—36.

So the amendments were concurred in.

The amendments were then ordered to be engrossed and the bill to be read a third time; and the bill was read a third time and passed.

LANGDON C. EASTON.

On motion by Mr. SHIELDS, the Senate, as in Committee of the Whole, proceeded to consider the bill, reported from the Committee on Military Affairs, "for the relief of Captain Langdon C. Easton, Assistant Quartermaster in the United States Army." It proposes to direct the proper officers to credit Captain Langdon C. Easton, in the settlement of his accounts, the sum of $17,651, the amount of which he was defrauded by his late clerk, Gustavus McHarcourt, while stationed at Santa Fé, New Mexico.

Mr. SHIELDS. I ask that the report may be read. It explains the case better than any statement can do.

The report of the Committee on Military Affairs was read, from which it appeared that in April, 1850, Captain Easton was assigned to duty as Assistant Quartermaster at Santa Fé, having under his direction eleven posts to be supplied with funds and stores, in addition to which he had charge of the clothing depôt of the 9th military department. The duties of Assistant Quartermaster were such as to require the services of a clerk, and Captain Easton employed in that capacity Gustavus McHarcourt, who had been for several years engaged as confidential clerk in the Pay Department, and was recommended by that Department as able, competent, and trustworthy. For twelve months before the commencement of his peculations, he discharged his duties with honesty and ability. The history of McHarcourt's frauds is this: On the 27th of February, 1851, Captain Easton received from Captain Bowman $175,220, and made an entry of its receipt in the books for that date. McHarcourt abstracted $5,000, and concealed the fraud by erasing the "5," and substituting an "0," so that the books and the cash in hand were made to agree. On the 17th of April, 1851, Captain Easton again received $3,000 from Captain Bowman, and on the 14th of the same month received $5,000 from Lieutenant Schroeder. The whole $8,000 were abstracted by McHarcourt, and these two entries were entirely erased, whereby the books and cash on hand again agreed. In April, 1851, he again abstracted $2,350. He concealed this fraud by passing on Captain Easton an order from Captain Buford for the full amount, and his receipt for it, so that from this receipt and order the books again appeared correct. They were afterwards discovered to be forgeries. Finally, McHarcourt abstracted $2,301, and concealed this fraud by filing among the accounts for the third quarter of 1851, a draft for that amount from Lieutenant Schroeder in favor of George Hayward, which had been before presented and paid during the first quarter of 1851.

In September, 1851, Captain Easton, while at Saint Louis, was notified by the Quartermaster General of the deficiency in his accounts, and it was then, for the first time, that he discovered, or even suspected the dishonesty of McHarcourt. He returned as soon as practicable to Santa Fé, in pursuit of him, and found that he had absconded three months before, and taken ship at Mazatlan, in Mexico. The committee state that they have examined the books, and have seen the alterations and erasures. They regard the case as one of great hardship, and as possessing peculiar claims to favorable consideration.

Mr. CASS. I do not like to oppose this bill, but I cannot say that I understand it sufficiently. It seems to me that this case presents a very singular ground for an application here. The officer had the appointing of his own clerk, I presume, and can it be contended that he should not be responsible for his acts? I do not know that that has ever been settled. I am not aware that we have ever had such a case before us. An officer of the Pay Department, appointing his own confidential man, and then coming upon the Government for losses occasioned by his acts, it seems to me it would open a very dangerous precedent; but still I do not understand the case sufficiently to speak with any precision upon it.

Mr. UNDERWOOD. I rise for the purpose of saying that I would prefer that this bill should lie over for a little while. I can readily perceive that it will be a very great hardship upon the officer to make him responsible for the frauds which may be perpetrated by those that are necessarily employed in aiding in the discharge of the duties of his office. The Assistant Commissaries cannot possibly attend to all the duties of their stations without help. They must have clerks. It would be physically impossible for them to attend to the business without such aid; and when they are constrained, from the nature of their employment, to have assistance, it would be a very hard case indeed to make them responsible for the frauds perpetrated by those assistants. That is taking the view favorable to the Commissaries, or Quartermasters, or Paymasters, or any other officers of the Government, who must necessarily employ clerks.

But there may be a difficulty resulting from it on the other side. It may with reason be contended that when an officer has the selection of his own men, he ought to be constrained to guaranty

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their fidelity and honesty, so as to avoid the possibility of fraudulent participation with them in their fraudulent practices. The toleration of the principle, therefore, opens the door to some extent to the practice of frauds. I want a little time to think upon these conflicting propositions, and to see what principle we ought to set. I have had a good deal to do with the investigation of these claims for the last fifteen or twenty years, and I do not recollect any case which exactly comes up to this. I therefore think it better to have a little time to consider it, and I prefer that my friend from Illinois should let it lie over until some other day.

Mr. SHIELDS. I will do so, if the Senator wishes it, because I promised that, if any contest arose, I would not urge the bill. I might as well state now, however, that this is a peculiar case, as has been justly said by honorable Senators who have preceded me. It is one that occupied the attention of the Committee on Military Affairs more than any case of the kind which ever came before them. I think there is a necessity for general legislation upon the subject, and we intend to propose something of that kind, in order to secure, if possible, officers against frauds of their clerks, and we propose to do it by requiring security on the part of the clerks. Some legislation of that sort is necessary; but this is one of the most extraordinary cases which has ever occurred, and the committee were unanimous in reporting the bill.

This gentleman was sent to New Mexico immediately after we took possession of that country, and there were not only double duties, but innumerable duties imposed upon him as Commissary, as Quartermaster, and as Paymaster. He had to perform the duties of all these stations, and he sent home for assistance, and the Department sent to him Mr. McHarcourt as the most able and most competent person, declaring to him that this man would aid him in carrying out these numerous and weighty duties. After receiving this man from Washington, on the recommendation of the Department, to aid him to expend the money of the Department, in a duty which he was not bound to perform, for he was not Paymaster, and need not have performed the duties of that station, these losses occurred. They are stated in the report. I cannot state them more clearly. It seemed to us to be one of the hardest cases that could possibly occur.

I know the officer well, and there is no officer in the American Army who stands higher than he does for honesty, integrity, and industry, and no man has ever served in that country with more zeal and fidelity than he has. It occurred to us that this was an extraordinary case, and that, if some such provision as this was not made, the officer would be ruined for life, and his family with him. His prospects would be ruined forever. Under these circumstances, we felt bound to bring in a bill for his relief. However, I will not urge the case now, if the Senate are not disposed to consider it.

Mr. SEWARD. I move that this bill be informally passed over.

Mr. SHIELDS. I do not believe there is any objection to the passage of the bill now. If there is any objection made, and it is persisted in, I will agree to pass it over.

Mr. UNDERWOOD. I am inclined to vote for it.

Mr. CASS. So far as I am concerned, I am in the position of the Senator from Kentucky; I am inclined to vote for the bill, particularly after the suggestion made by the chairman of the Committee on Military Affairs. I think some general provision like that which he has suggested, is needed, in regard to security. There is no security for funds in the hands of any custom-house officer, or any disbursing officer, if he has a right to turn the money over to a clerk, and thus be exonerated from the very responsibility intended to be met by him. It is necessary, therefore, that when the public money goes into the hands of a third person, he should be required to give the same security as the principal himself.

Mr. SEWARD. I shall be prepared to vote for this bill whenever it comes up again.

Mr. SHIELDS. I called up this bill at a former session, and it was passed over on account of some objection; but I do not see that any additional light can be thrown upon the subject. I hope it may be disposed of now, unless some Senator wishes to discuss its merits.

Mr. HALE. Let it pass.

Mr. WALKER. Let us have the vote.

Mr. CLARKE. I hope it will pass now.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading, and was read the third time and passed.

SARAH CRANDALL.

Mr. SEWARD. It is customary for Senators, when they ask for the consideration of bills, to state how many favors they have asked, and how much they are indebted to the Senate for favors. I have never had and never asked a favor of the Senate of the United States. I beg leave to ask one now, and that is, that the Senate will take up the bill for the relief of Sarah Crandall, widow of James Coon, a revolutionary soldier. It has passed the House, and been reported upon favorably by the committee of the Senate. I move that that bill be taken up for consideration.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Interior to place the name of Sarah Crandall, widow of James Coon, deceased, on the list of revolutionary pensioners, at the rate of eight dollars per month, to commence February 20, 1849.

At the request of Mr. WELLER, the report of the Committee on Pensions was read; from which it appears that the case has been favorably reported upon twice heretofore, viz: on January 9, 1851, and February, 1849. The latter report states these facts:

The petitioner was married to James Coon as early as the year 1790; Coon died in 1799; and his widow afterwards married Jasper Crandall, who died a few years since, leaving the petitioner again a widow. It is claimed by the petitioner that James Coon, her first husband, was a soldier in the revolutionary war, and served in Colonel Warner's regiment, which was raised principally in Connecticut, and that he enlisted for three years, and continued on duty during that time. The certificate of the Comptroller of the State of Connecticut shows that, according to the records in that office, James Coon served in the revolutionary war and in Warner's regiment twenty-three months and ten days. The Commissioner of Pensions rejected the petitioner's application for a pension under the general laws, on the ground that the proof was insufficient to identify her husband with the James Coon who was shown by the record to have served nearly two years. It appears from the records in the Comptroller's office that there were two individuals bearing the name of James Coon on the roll of Warner's regiment—one was a lieutenant, and the other was denominated "fifer." The first application of the petitioner to the Pension Office stated that her husband enlisted as a private soldier at Hopkinton, Rhode Island. Her papers were found defective, and it became necessary for her to seek record evidence of the services of her husband. She applied at the office of the Comptroller of Connecticut, and received a certificate of the services of James Coon, the lieutenant, which she presented to the Pension Office as proof of the services of her husband. It was subsequently ascertained that the lieutenant was a resident of Salisbury, Connecticut, and not of Hopkinton, Rhode Island, where the petitioner's husband resided at the time of his enlistment. She was then notified that there was another James Coon attached to Warner's regiment, who appeared by the rolls to have been a musician. The Commissioner of Pensions required her, in order to prove the identity of her husband with the James Coon last mentioned, to produce the testimony of "two or more witnesses who were themselves in service with him, and whose names were found on the same rolls." This testimony could not be procured. The petitioner was not married to Coon until after the close of his services in the army; she resided both before and after the marriage in the State of New York, at a distance from the place of his enlistment and services; and he died nearly fifty years ago; it is not surprising, therefore, that she should have supposed that the first certificate of the Comptroller related to the services of her husband.

The committee having examined a large mass of testimony filed in the case, are satisfied of the services of the petitioner's husband in the revolutionary war, and of his identity with the James Coon last above-mentioned. William Barrett testifies that he was present at Hopkinton, Rhode Island, when they were enlisting soldiers for three years or during the war; that petitioner's husband enlisted and went into the army, where he remained during the term of his enlistment. Isaac Whittlesey testifies that he was present at the same time and place, and that James Coon enlisted, as above stated, for three years; that the person who had the enlisting orders was from Connecticut; and that Coon joined Warner's regiment, was gone more than three years, and after his return married the petitioner. Many witnesses also testify to their knowledge that the petitioner's husband was absent and in the army for three years or thereabout; they recollect his departure to and his return from the service, and his removal, soon after his return, to the State of New York, where he was married to the petitioner.

The committee being satisfied by the testimony filed in the case, in connection with the record evidence mentioned, that the facts set forth in the petition are substantiated, and are such as to entitle her to a pension, reported a bill for that purpose.

The bill was reported to the Senate without amendment, and ordered to be read a third time, and was read a third time and passed.

Mr. MANGUM. I think it is perfectly apparent that we are to make no progress with the public business to-day. It is evident that we shall shortly be without a quorum, and under the circumstances, I think the public interest requires the motion which I make, that the Senate do now adjourn.

EXECUTIVE SESSION.

Mr. HAMLIN. I desire to submit a motion to proceed to the consideration of Executive business, and I do it at the request of a particular friend of the Senator from North Carolina.

Mr. MANGUM. I withdraw my motion.

Mr. HAMLIN. I move that the Senate go into Executive session.

The motion was agreed to, and the Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *December* 28, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. APPLETON, of Massachusetts, presented the credentials of the Hon. LORENZO SABINE, elected a Representative from the Fourth Congressional district of the State of Massachusetts, to supply the vacancy occasioned by the decease of the Hon. BENJAMIN THOMPSON. Mr. SABINE thereupon appeared at the bar of the House, and was duly qualified by the Speaker.

REPORTS FROM COMMITTEES.

The SPEAKER stated that the first business before the House was the consideration of the following resolution, submitted on yesterday by Mr. HARRIS, of Tennessee:

"*Resolved*, That it shall be the standing and special order of this House, after to-day, to call the committees for such reports as shall not give rise to debate, until all the committees shall be called; and if any report shall be made to which objection is offered, such report shall not be re-

ceived, but shall remain until the committees are regularly called under the rule of this House: *Provided*, That no bill reported under this resolution shall be put upon its passage, unless by unanimous consent of the House."

LOSSES BY FIRE.

Mr. HART. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill of the House, No. 138, upon the calendar, being a bill "to remit the duties upon certain goods destroyed by fire in the city of New York," and that the same be referred to the Committee on Commerce.

Mr. HENN. I move that there be a call of the House.

The SPEAKER. A motion for a call of the House is not in order, the previous question having been ordered upon the adoption of the resolution offered on yesterday by the gentleman from Tennessee, [Mr. HARRIS.] If there be no objection, the question is upon the adoption of the resolution.

Mr. JONES, of Tennessee. We must have a quorum before we can do business. There evidently no quorum now.

Mr. GAYLORD. The vote on this resolution will show whether there is a quorum present.

Mr. DEAN. With that view I ask for tellers.

Tellers were ordered; and Messrs. ALLEN, of Illinois, and GAYLORD were appointed.

Mr. JONES, of Tennessee. I wish to inquire whether it would not be in order, pending the consideration of this resolution, to move a call of the House? The resolution of my colleague, [Mr. HARRIS,] upon which the main question has been ordered, is not now before the House, and it is the opinion of the Speaker, which is no doubt correct, that when that resolution comes up we cannot have a call of the House.

The SPEAKER. The Chair thinks that under the peculiar circumstances of the case it would be competent to move a call of the House.

Mr. JONES. Then, in order to know whether there is a quorum present, and to relieve ourselves from that difficulty—as we cannot have a call when the other resolution comes up—I move that there be a call of the House.

The motion was agreed to.

The roll was then called, and 124 gentlemen answered to their names.

Mr. HART. A quorum being present, I move that all further proceedings in the call be dispensed with.

The motion was agreed to.

The question recurred upon the resolution submitted by Mr. HART.

Mr. ORR. I wish to inquire of the gentleman from New York [Mr. HART] if this bill has not already been referred to the Committee on Commerce, and reported upon by that committee, and their report referred to the Committee of the Whole on the state of the Union? If so, why is it proposed now to take the bill from the Committee of the Whole and refer it back to the Committee on Commerce?

Mr. HART. I will state, for the information of the gentleman from South Carolina, that since this bill was reported, other claims of the same character have been presented to the House and referred to the Committee on Commerce. The object is to refer the report back to the Committee on Commerce, in order that that committee may report upon the whole of these cases.

Mr. ORR. Is it proposed by the gentleman from New York, that the Committee on Commerce shall report this bill back again, and put it upon its passage, and thus give it advantage over other bills? Is that the object?

Mr. SEYMOUR, of New York. I will state, for the information of the gentleman from South Carolina, with the permission of the Chair and of the House, that this bill was reported at an early period during the last session. It is precisely the same bill that was passed by this House for the relief of the sufferers by the great fire in the city of New York, in 1835, and which passed without any opposition. The bill went upon the calendar at our last session, and has never been reached. It makes an appropriation, and therefore had to go to the Committee of the Whole on the state of the Union, and take its place upon the calendar. Since that time, petitions have come before the committee, in reference to the sufferers by large fires in California, in the city of San Francisco, and it is the opinion of the committee that they should be put upon the same footing as the sufferers by the large fire in New York, in 1835. For the purpose of putting them upon the same footing and in the same bill, the committee desire that the bill may be referred back to them; and when they shall have an opportunity to report upon all the claims, it is their intention to ask the immediate action of the House upon the subject. The California claims have not yet been reported upon.

Mr. ORR. I do not see any necessary connection between the losses sustained by fire by the merchants in New York and those sustained by persons in San Francisco.

Mr. HART. I rise to a question of order. The House was dividing when the gentleman from South Carolina rose. I submit that it is not in order for him to discuss the resolution now.

The SPEAKER. The Chair will remark to the gentleman from New York that the House has indulged discussion upon the resolution, and the objection comes too late.

Mr. ORR. I am a little surprised that an objection to discussion should come from the gentleman from New York, [Mr. HART,] for that gentleman will remember that it is by the courtesy of the House that his resolution is before us at all.

Now, sir, the bill which the gentleman proposes to withdraw from the Committee of the Whole on the state of the Union, has been acted upon by the Committee on Commerce. The chairman of that committee does not propose to give us any additional information upon the subject, which has not already been embodied in the report of the committee.

It is proposed to take this bill from the Committee of the Whole and refer it back to the Committee on Commerce, not for the purpose of passing a general law—not for the purpose of placing every sufferer by fire, who has lost goods upon which duties have been paid, upon the same footing; but it is for the purpose of uniting the claims of New York and California; and when the Committee on Commerce shall be called on for reports, they will report this bill, which has now happened to get behind on he calendar, and the House will be called upon to act upon it. This is the device, the plan resorted to, to give this bill priority over the other claims before the House. Now, if there be merit in the application of the California merchants, let the Committee on Commerce frame a separate bill predicated upon the petitions which have already been referred to them, and put it upon the calendar, and thus let both bills take their chances in the general scramble for consideration. If they can succeed in reaching them in this way, very well; if not, I do not think this sort of parliamentary policy should be resorted to for the purpose of giving one bill priority over another. I hope, therefore, the resolution will not be adopted.

Mr. STUART. I am very glad, in one respect, that the gentleman from South Carolina [Mr. ORR] has started this discussion, for it gives us an opportunity to inquire of ourselves whether we propose to do anything at this session of Congress; and if so, *how* we propose to do it.

I have not heard, since the commencement of the session, any gentleman propose any feasible plan to do business; but, like the gentleman from South Carolina, some member has insisted that a certain proposition should not be acted upon *because* it will end in doing business. That is the question, and with all respect to my fellow-members, I consider it a pretty important one. It is well known to the gentleman from South Carolina—because he is perfectly conversant with the rules for doing business in this House—as it is to you, Mr. Speaker, and others upon this floor, that if we continue to refer bills to the Committee of the Whole House or the Committee of the Whole on the state of the Union, none other than the general appropriation bills, which have precedence under our rules, will ever be reached; we bury them beyond the reach of any one in this body.

But, sir, if it is objected, that the sufferers by fire in New York and those in California ought not to obtain relief by way of remitting the duties paid upon the goods thus consumed, then there is a solid objection to the proposition of the gentleman from New York; but if that objection be not made, and, on the contrary, it be believed that the sufferers ought to be relieved, then I do protest, and upon every convenient opportunity I will continue to protest, against burying their rights simply because we have buried the rights of everybody else. I know of no rule in logic or morality that will permit individuals or communities to insist upon doing injustice day after day and month after month simply because they have been engaged in doing injustice for the last year.

Mr. Speaker, it may be said that I have made these remarks with some feeling; I have, sir; not because of any anxiety as to the result of the effort now made by the gentleman from New York, [Mr. HART,] but I beg again to call the attention of the gentleman from South Carolina, for I know he feels upon the subject as I do, and of the House, with all due respect, to the fact, that thus far we have staid here and literally done nothing. I thank the gentleman for giving me this opportunity of calling attention to this matter for the purpose of seeing if any gentleman can devise any better plan of facilitating the business of the House; I know of none better than by attending to the business in its regular order. If any gentleman can tell me a better plan I should be glad to know it. But I do believe, and believe firmly, that if we will stop all new inventions for facilitating the business of the House, and by common consent go on and take up every day the business in its regular order, according to the rules of the House, we can do all the essential business of the country, and pass this bill among the rest; and I repeat, that I know of no other way by which this object can be accomplished.

Great complaint is made that committees cannot get an opportunity to report, and gentlemen are taxing their imaginations to devise some scheme which shall give them that opportunity. Why, sir, if you will call the States for petitions every morning, the very next thing in order is the call of committees for reports. If there is an effort to interfere with the regular order by some proposition requiring unanimous consent, object to it, or if a motion is made to go into Committee of the Whole, vote it down. Let us have an hour every day devoted to the call of committees for reports until they have all been called. Is there any other way under our rules to facilitate this object? In my judgment there is not.

Mr. ORR. Is not this very proposition now before the House outside the rules?

Mr. STUART. Certainly; and the gentleman will not forget that I thanked him for bringing up his suggestion that we might call the attention of the House to the condition of things here, and see if, by individual and united action, we could not get ourselves out of this difficulty.

Mr. Speaker, I will not detain the House but an instant longer, for I will endeavor to practice what I preach. I only desire to say to my friend from Tennessee, [Mr. HARRIS,] whose resolution is here under the previous question, that his resolution will not do justice to those interested in the business of the House, because, retaining, as it does, the power of an individual member to object, it will refer all the important business back to the committees, and will place all the unimportant business on the calendar, and thus give such bills precedence over the most important business of the country.

Now, sir, all I have to say, in conclusion, is this—and I am very happy to have the opportunity, because I do not wish to acquire a character for pertinacity or interference in other men's business—I say to my fellow-members here, with the best of feeling, that so far as I am concerned, I do mean hereafter to object to everything not in order, and to call for the regular order of business, at least for three or four days in the week, until all the committees shall have had an opportunity to report.

Mr. STANLY. I thank the gentleman from Michigan very much for what he has just said. I have been endeavoring, for a week or so past, to follow the rules laid down by the gentleman by a rigid adherence to the rules, and by demanding the regular order of business. But it seems to me that my friend, in his argument just now, has gone against himself, and argued both sides of the question. He has found fault with the gentleman from South Carolina [Mr. ORR] for doing the very thing which he says is indispensable to the business of the House.

Mr. STUART. The gentleman from North Carolina did not understand me. I did precisely the reverse. I thanked the gentleman from South Carolina for making a suggestion which brought

to the attention of the House the existing state of things.

Mr. STANLY. I understood the gentleman from Michigan to find fault with the gentleman from South Carolina, because he objected to doing this act of good, by passing this present bill, because he could not do good to anybody else, and to deny the logic, or morality of that sort of logic, while at the same time he went on to make a strong common-sense speech—which that gentleman indulges in most frequently—and a most excellent argument upon the importance of adhering to the regular order of business, in which I most fully concur.

Mr. STUART. If the gentleman will allow me, if I have done it on this occasion, I am not in the habit of arguing both sides of the question. I objected to the mode of reasoning of the gentleman from South Carolina, that we should not do this thing, because we could not do everything else.

Mr. ORR. The gentleman misunderstood me. That was not my mode of reasoning.

Mr. STUART. Well, that was the ground upon which I understood the gentleman to object to this bill, and it was to that ground I took exceptions.

Mr. STANLY. I have no desire to criticise the gentleman's argument, or to detect him in any inconsistency. I thank him for again calling the attention of the House to the great importance of adhering strictly to the rules of the House in the transaction of our business. Now, sir, I have within the last week objected a dozen times to the introduction of propositions out of order, and then have frequently withdrawn the objection from the personal appeals of members. It is my opinion that if half a dozen members will agree to object to everything out of order, we will do more business in three months than we did in the whole of the last session. But if we yield to this friend or that, and allow this matter or that to pass, we shall never get along with the public business. Why, here it is, now, ten minutes to one o'clock, and we are still arguing the question of referring the bill of the gentleman from New York to the Committee on Commerce. I do not wish to object to that bill. I believe it ought to pass; but if we go on in this manner, taking bills up out of their order, we shall get nothing done by the end of the session. Now, I say in advance—and I beg pardon of the House for doing it—that hereafter I will object to anything being taken up out of its order. I do this, not from any desire to thwart gentlemen in getting through any of their bills, but from a sense of duty and a desire to advance the public business. There are bills upon your table, Mr. Speaker, of much importance—some of them extending relief to widows and orphans—and unless we adhere rigidly to the rules, we shall never reach them. I am very glad to see my friend from Michigan taking the lead in this matter. If he will continue on in the same path, I will be his lieutenant in trying to push forward the transaction of the public business.

Mr. COBB. With a view of carrying out the wishes of both the gentlemen from Michigan and North Carolina, and my own also, in facilitating the public business, I move the previous question.

Mr. SEYMOUR, of New York. I ask the gentleman from Alabama [Mr. COBB] to withdraw his call for the previous question for a moment, that I may state briefly to the House the facts of the case.

[Several VOICES. "No!" "No!" "No!"]

Mr. COBB. I should like to oblige the gentleman very much, as it is always my pleasure to do, but I hear *no, no*, all around me.

Mr. SEYMOUR. I will detain the House but a moment.

Mr. COBB. I withdraw the call, then, for a moment.

Mr. SEYMOUR. I wish to state, in just one moment, the reasons why I seconded the move of my colleague in this matter. The bill referred to, is one of a general character. There are no names of individuals, who have lost goods by the fire of 1835, known to the committee. So it is in relation to California. They are scattered all over the country. All individual cases which come to us, are reported upon as individual claims, and go upon the calendar; but these bills, when reported, propose to constitute two commissioners, for the purpose of ascertaining who these persons, scattered all over the country, are, that they may get back the money which they have paid into the Treasury, for goods which have been destroyed by fire, while in original packages. That is the whole of it. I have no solicitude about it, other than what arises from the general weal.

I wish to say further, that there is a bill now pending in the Senate, introduced by the honorable Senator from California, [Mr. GWIN,] providing, by a general law, for all these cases. If that bill shall pass the Senate, and come in here, it is the intention of the Committee on Commerce to adopt that as a general bill, instead of the particular bills. But, as there is a doubt whether that will be done, we desire that this bill may be referred back to us, so that New York claimants and California claimants may be put upon the same footing. I say New York and California claimants, but they are unknown to the committee, and are scattered all over this country. They are claims for goods destroyed in the original packages in which they were imported, and where the Government has retained the duties which were paid upon them.

I renew the call for the previous question.

Mr. McMULLIN. I desire to know what the question is before the House, upon which the previous question is called?

The SPEAKER. The question is upon the adoption of the resolution offered by the gentleman from New York, to take a certain bill from the Committee of the Whole on the state of the Union, and refer it to the Committee on Commerce.

Mr. McMULLIN. Will it be in order to move to refer it to a Committee of the Whole House?

The SPEAKER. If the demand for the previous question were not pending, it would be.

Mr. HUNTER. I wish to ask the Chair if it would not be in order to move to lay the resolution upon the table, in order to get back to the right point, and start upon business which gentlemen want to get at, on all sides?

The SPEAKER. The Chair thinks it would.

Mr. HUNTER. Then I move to lay it upon the table.

The question was then taken, and the motion was agreed to.

So the resolution was laid upon the table.

REPORTS OF COMMITTEES.

The SPEAKER. The next question before the House is upon the adoption of the resolution offered on yesterday by the gentleman from Tennessee, [Mr. HARRIS.]

Mr. HARRIS. I do not hope to accomplish anything by the unanimous consent of this House; however, to meet the objections of some of my friends, I have drawn up a resolution, which may be read; and if the House will give its unanimous consent to it, I am willing that it should be voted upon in lieu of the resolution which I offered yesterday. It effects the same object, and meets the objections.

The SPEAKER. The Clerk will read the original resolution, and the proposed substitute.

The original resolution was then read, as follows:

"*Resolved*, That it shall be the standing and special order of this House, after to-day, to call the committees for such reports as shall not give rise to debate, until all the committees shall be called; and if any report shall be made to which objection is offered, such report shall not be received, but shall remain until the committees are regularly called under the rule of this House."

The proposed substitute was then read, as follows:

Resolved, That it shall be the standing and special order of this House, after to-day, to call the committees for reports until all the committees have been once called: *Provided*, That no bill or resolution reported under this order shall be put upon its passage, unless by the unanimous consent of the House: *Provided further*, That any bill reported and proposed to be put upon its passage, if objected to, may be withdrawn by the gentleman offering it.

The SPEAKER. Is it the unanimous pleasure of the House to vote upon the second proposition instead of the first?

Mr. STANLY. I could not hear the proposition read here, and therefore I object.

Mr. JONES. It is what you desire.

Mr. STANLY. I do not know whether it is or not.

Mr. JONES, of Tennessee. Will it be in order to move to reconsider the vote by which the main question was ordered, that we may refuse to second the call for the previous question, to enable the substitute to be introduced? I think that substitute would meet the objections made by gentlemen yesterday, and will relieve all the members of this House of their reports, and not place it in the power of any one individual, by objecting, to prevent a report from being made.

The SPEAKER. The previous question has been executed in part, and the Chair has doubts whether it can be reconsidered.

Mr. McMULLIN. Is it in order to move to lay the whole subject upon the table?

The SPEAKER. It is.

Mr. McMULLIN. I submit that motion.

Mr. ORR. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. BEALE and CLINGMAN appointed.

The question was then taken; and the tellers reported—ayes 67, noes 48; no quorum voting.

Mr. DOTY. I ask for the yeas and nays upon the motion.

The SPEAKER. The calling of yeas and nays being a part of the business of the House, cannot be done without a quorum of the House.

Mr. INGERSOLL. If it be in order, I move that the House adjourn.

Mr. DEAN. I ask for the yeas and nays upon the adjournment.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 19, nays 110.

So the House refused to adjourn.

The SPEAKER. The question recurs upon the motion to lay the whole subject upon the table, upon which tellers were ordered.

Messrs. INGERSOLL and GAYLORD were appointed tellers; and the question being taken, the tellers reported—ayes 45, noes 58; no quorum voting again.

Mr. STUART. I ask for the yeas and nays.

The SPEAKER. There is no quorum voting, and the yeas and nays cannot be ordered, in the opinion of the Chair, when there is less than a quorum present.

Mr. RICHARDSON. I rise to a privileged question. I move that the House adjourn.

Mr. STUART. I rise to a question of order. It is this: whether I was not in order in calling for the yeas and nays before the Chair announced the result upon the division, it not being then ascertained that there was no quorum?

The SPEAKER. The Chair did not hear the call for the yeas and nays, until after he had announced the result.

Mr. STUART. I did it before the Chair announced the result, and my object was to avoid the difficulty. Before the Chair has announced the result, it is not ascertained that there is no quorum, and it is in order to demand the yeas and nays.

Mr. RICHARDSON. I rise to a question of order. I desire to know if my motion is to be delayed by any question of order? I moved that the House adjourn.

Mr. HARRIS. I demand tellers upon the motion to adjourn.

Mr. TAYLOR. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. RICHARDSON. As this is not the kind of entertainment I wish—the taking of yeas and nays—I withdraw the motion to adjourn.

The SPEAKER. If it be not objected to, the Chair will again divide the House upon the motion to lay the whole subject upon the table.

Mr. RICHARDSON. I object.

Mr. STEPHENS, of Georgia. I ask for the yeas and nays upon that motion.

The SPEAKER. The yeas and nays cannot be demanded, as there is no quorum present.

Mr. STEPHENS. I would call the Speaker's attention to that clause of the Constitution, which provides, that "the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the Journal."

The SPEAKER. If the Chair has committed an error in the decision which he gave last session upon this point, and which was sustained by this body by a very large majority, it will certainly be proper for the House to correct him. The Chair begs leave to say that the Constitution requires a majority of the whole number of this body to do business. One fifth of that number is competent to order the yeas and nays upon a matter of business to be done. Less than a quorum may

adjourn, or compel the attendance of members, and less than one fifth of a quorum may, in such cases, order the yeas and nays. The decision of the Chair is, that the calling of the yeas and nays is a part of the business of this House, for the transaction of which, the Constitution requires a majority of this body shall be present.

Mr. STEPHENS. As I called for the yeas and nays, I appeal from the decision of the Chair, and ask for the yeas and nays on the appeal.

Mr. STUART. Can the gentleman do that, when my question of order is pending?

The SPEAKER. The Chair understood the gentleman to waive his question of order.

Mr. STUART. I stated that I called for the yeas and nays before the Speaker announced the result, and my point was that such a call was in order.

The SPEAKER. The Chair understood the gentleman to acquiesce in his decision.

Mr. STUART. I only yielded to the motion to adjourn.

Mr. BURT. I will, if the Speaker will allow me, make a suggestion which perhaps may enable the Chair to see how the difficulty which is supposed to exist may be avoided. I think the Chair, upon reflection, will find that the House has just the same authority to order the yeas and nays upon any other question as upon the question of adjournment, and the gentleman from Georgia [Mr. STEPHENS] is unquestionably right when he cites the Chair the constitutional provisions upon that point.

The SPEAKER. Will the gentleman read that part of the Constitution again?

Mr. BURT. I have not it at hand.

Mr. STEPHENS. I have it, and will read it. It is in these words:

"Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one fifth of those present, be entered on the Journal."

The SPEAKER. The decision of the Chair is, that there is no House to do business when there is less than a quorum present.

Mr. BURT. The point I was endeavoring to make for the consideration of the Speaker is this: Can the House order the yeas and nays upon the question of adjournment when it cannot upon any other question; and if so, by what authority?

The SPEAKER. By the authority of the Constitution, which declares that less than a quorum may adjourn from day to day, and compel the attendance of members. Upon a motion for a call of the House, less than a quorum may order the yeas and nays upon that proposition. Upon a motion to adjourn, less than a quorum being present, the yeas and nays may be ordered, to ascertain whether there is a quorum present. There is no House for the performance of business, such as the passage of bills, and therefore no vote can be had upon it.

Mr. CLEMENS. I move that the appeal be laid upon the table.

Mr. STEPHENS. Upon that motion I call for the yeas and nays.

Mr. BROWN, of Mississippi. How can the yeas and nays be ordered when there is no quorum?

The SPEAKER. The Chair has no doubt of the correctness of his decision. He will decide that question; for the Chair holds that he has the right, in any mode, to determine whether there is or is not a quorum present. There may be one now.

The SPEAKER proceeded to ascertain whether a quorum was present.

Mr. STEPHENS. I demand tellers on ordering the yeas and nays.

Mr. FLORENCE. I move that the House do now adjourn.

Mr. GAYLORD. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

The question was then taken, and it was decided in the affirmative—yeas 67, nays 66; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Averett, Beale, John H. Boyd, Breckinridge, Briggs, Busby, Joseph Cable, Caldwell, Chandler, Chastain, Conger, Disney, Dockery, Eastman, Edmundson, Florence, Floyd, Thomas J. D. Fuller, Gilmore, Green, Grey, Sampson W. Harris, Haseall, Hillyer, Ingersoll, Jenkins, James Johnson, John Johnson, Robert W. Johnson, George W. Jones, Preston King, Kurtz, Landry, Letcher, Lockhart, Martin, McMullin, John Moore, Morehead, Morrison, Murphy, Olds, Orr, Samuel W. Parker, Preston, Richardson, Riddle, Robinson, Ross, Savage, Origen S. Seymour, Smart, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, St. Martin, Sutherland, Sweetser, Townshend, Venable, Wallace, Wilcox, and Williams—67.

NAYS—Messrs. Allison, John Appleton, William Appleton, Bocock, Bowie, Bragg, Brenton, Albert G. Brown, Buell, Burrows, Burt, Lewis D. Campbell, Chapman, Clark, Clemens, Clingman, Cobb, Curtis, Darby, John G. Davis, Dean, Doty, Duncan, Gaylord, Giddings, Gorman, Grow, Hall, Harper, Isham G. Harris, Haven, Hebard, Hendricks, Henn, Hibbard, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Ives, Jackson, Andrew Johnson, Daniel T. Jones, Meacham, Miller, Millson, Molony, Murray, Nabers, Penniman, Perkins, Porter, Powell, Robie, Sabine, David L. Seymour, Smith, Stanly, Benjamin Stanton, Stuart, Taylor, Thurston, Watkins, Welch, and Wildrick—66.

And thereupon the House adjourned till to-morrow at twelve, m.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. CABLE, of Ohio: The petition from citizens of Portage county, in favor of the freedom of the public lands to actual settlers.

Also, the resolution of the Legislature of Ohio on the same subject.

By Mr. BROWN, of Mississippi: The petition of Thomas W. Grayson and 232 other citizens of Mississippi, praying the removal of the land office from Augusta to Paulding, in that State.

Also, the petition of W. W. Drinkwater and 60 others, citizens of Mississippi, praying for the same.

By Mr. BERNHISEL: The memorial of the Governor and Legislative Assembly of the Territory of Utah, praying Congress for the appointment of a commission to survey and mark the southern boundary of that Territory, and to make an appropriation to defray the expense of the same.

IN SENATE.

WEDNESDAY, *December* 29, 1852.

MEXICAN BOUNDARY.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in further compliance with the resolution of the 19th of March last, a letter from the Fifth Auditor of the Treasury, inclosing a statement of the disbursements made by John R. Bartlett, Commissioner to run and mark the boundary line between the United States and Mexico.

Mr. WELLER. I am very glad that that report has been made at last. I have waited very impatiently, I must confess, for the last nine months for it, for the purpose of being enabled to see how the public moneys had been expended. I do not know that it will be necessary to print the whole of these accounts; but, with a view to ascertain whether it be necessary or not, I move the reference of this communication and the accompanying papers to the Select Committee who have been charged with the investigation of the affairs of the Mexican Boundary Commission.

The motion was agreed to.

PETITIONS, ETC.

Mr. RUSK presented a petition of citizens of Navarro county, Texas, praying the establishment of a mail route from Marshall to Waco Village, in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, the petition of Betsey Norton, widow of Freeman Norton, a mariner in the naval service of the United States during the war of the Revolution, praying a pension; which was referred to the Committee on Pensions.

Mr. GWIN presented the memorial of Eliza Rives, widow of Samuel S. Rives, praying compensation for extra services of her husband while acting as master's mate in the Navy; which was referred to the Committee on Naval Affairs.

Mr. DAVIS presented the petition of Edmund Bartlett, a citizen of Massachusetts, praying indemnity for French spoliations prior to 1800; which was ordered to lie on the table.

Mr. SEBASTIAN presented the petition of William P. Buckner, for himself and Pierce Crosby, passed midshipmen in the Navy, praying payment of the amount of prize money due them in the case of the schooner Oregon; which was referred to the Committee on Finance.

Mr. SUMNER presented a petition of citizens of Oberlin, Ohio, and a petition of John P. Andrews, praying the adoption of measures for the amicable settlement of international difficulties; which were referred to the Committee on Foreign Relations.

Mr. SHIELDS presented a memorial of a committee appointed by the corporation of Georgetown, praying the construction of a suspension bridge across the Potomac at a point known as the "Three Sisters," above that town; which was referred to the Committee on the District of Columbia.

GOLD COIN IN CALIFORNIA.

Mr. WELLER. I ask permission of the Senate to introduce some memorials, signed by a large number of merchants in the city of San Francisco, in California, and by other persons, together with a number of memorials from various towns in California, complaining of an act of Congress passed on the 20th of August, 1852, being an amendment to a general appropriation bill, which they affirm operates injuriously upon their interests. They pray that that act may be speedily repealed, and that a law may be passed by Congress legalizing the act of the Collector of that port in continuing to receive the issues of the assay office, notwithstanding the law, and the Treasury order which it invoked, and to make all those issues receivable for customs and other public dues by special enactment. In 1850 an act was passed establishing an assay office in San Francisco. That office was authorized to convert the lumps and grains of gold obtained in California, into ingots and bars, and the Secretary of the Treasury assumed the power to receive these bars in payment of the public dues. By virtue of an order issued by the Secretary of the Treasury, they were thus received by the Collector of the port at San Francisco. The effect was, that the coin in the country was driven from circulation. At the last session of Congress an amendment was made to the general appropriation bill, which simply authorized the Secretary of the Treasury to make a contract with one or more assaying offices, at a rate not exceeding one per cent., and then reaffirming the law of 1846, declaring that nothing but gold and silver coin should be received in payment of the public dues. The consequence is, that they now complain of being destitute of the coin necessary to pay the duties upon their goods. These ingots and bars have entered into the circulation of the country, and expelled the coin therefrom.

I am willing to go as far as a proper regard to the other interests of California will allow me to go, in remedying the evils of which they complain. I am satisfied that there is not now coin enough to enable the importing merchants to discharge those duties, or to meet the ordinary wants of the State. I would be willing that these ingots of the assay office should be received in payment of the public dues at their *actual* value; but the difficulty is in ascertaining what is their actual value, unless you have them refined, and unless you can by some mode ascertain the precise amount of alloy contained in them. It is a subject which I hope will receive the careful consideration of the committee to which I wish to have the memorials referred. I am sure there is every disposition on the part of the Representatives from the State of California to do everything in their power to mitigate the evil of which they complain, and furnish them an adequate currency; but while I affirm that, we are bound to look also to the other interests of the people of California. They do not desire to do anything which shall build up a power there which shall prevent a complete and full execution of the law providing for the establishment of a branch Mint in California. We did think, and still think, that on the part of the Executive branch of this Government there has been unreasonable delay, and that under the existing law there might have been much more done to prevent the evils which now exist there; much could have been done by the Treasury Department.

But I will not trespass on the time of the Senate. It is a subject to which I have not turned my attention until very recently, knowing that it had engaged the close attention and the untiring industry of my colleague. His connection with this subject from the beginning, enabled him to understand it much better than I could.

I move that the memorials be referred to the Committee on Finance.

Mr. GWIN spoke at some length upon the subject which his colleague had brought to the notice

of the Senate. His speech will be found in the Appendix.

The memorials were then referred to the Committee on Finance.

REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the petition of Henry W. Kuhtmann, reported a bill authorizing the Secretary of the Treasury to issue a new register to the ship Prentice, and change her name to that of Leonie; which was read a first and second time by its title, and considered as in Committee of the Whole. No amendment being made, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the petition of Ann Dudley, submitted an adverse report thereon; which was ordered to be printed.

Mr. BRADBURY, from the Committee on the Judiciary, to which were referred documents relating to the claims of the States of Maine and Massachusetts, submitted a report, accompanied by a bill to remunerate the States of Maine and Massachusetts for lands conveyed to enable the United States to fulfill stipulations in the treaty of Washington; which was read and passed to a second reading. The report was ordered to be printed.

SAFETY OF STEAMBOAT PASSENGERS.

Mr. DAVIS. The Committee on Commerce, to which the subject was referred, have instructed me to report "A joint resolution allowing, in certain cases, to the owners of steamers further time to make the necessary preparations to bring their vessels within the provisions of an act entitled 'An act to amend an act entitled An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or part by steam, and for other purposes,' approved August 30th, 1852;" which I ask may be considered at this time.

The resolution was read a first and second time, and considered by the Senate as in Committee of the Whole. It proposes to resolve, that if any inspector of steamers, appointed under the act of August 30th, 1852, be not furnished seasonably with the necessary means of discharging his duty, or if he shall be satisfied, when an enrolled, licensed, or registered steamer is inspected by him, and found deficient in the requirements made by that act, that those omissions are not occasioned by any fault or neglect of the owner or master, he may grant such further reasonable time, after that act goes into effect, as he may deem sufficient, with due diligence, to make all the necessary preparations: provided the time allowed shall in no case exceed ninety days; and that no vessel allowed further time for preparation shall be liable to seizure or to any penalty, during the time specified, for any deficiency intended to be covered by the extension of time granted by the inspectors.

Mr. DAVIS. Mr. President, I beg leave to state to the Senate, that it has been represented by petition, and also by communications received from the inspectors, that they are not themselves quite prepared, the necessary instruments not having been, in some instances, placed in their hands, to make the tests required by the law as early as the first of January; and that there are many steamers which, from good reasons, are not prepared to come under the law, not having yet complied with the provisions which are necessary. This resolution makes provision that in all such cases the inspectors may extend the time, not exceeding ninety days. It is necessary that the resolution should be passed immediately, and I hope the Senate will pass it and send it to the House to-day

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives by Mr. P. B. HAYES, its Chief Clerk, announcing that it had passed a joint resolution from the Senate in relation to the census returns from the State of California, without amendment.

BILL INTRODUCED.

Mr. BRODHEAD, agreeably to previous notice, asked and obtained leave to introduce a bill making further provision against counterfeiting the current coin of the United States, and passing the same; which was read and passed to the second reading, and ordered to be printed.

SUPERINTENDENT OF PUBLIC PRINTING.

A message was received from the House of Representatives by Mr. HAYS, its Chief Clerk, announcing that it had passed a joint resolution authorizing the employment of two clerks and one messenger in the office of the Superintendent of Public Printing, in which it requested the concurrence of the Senate.

Mr. BORLAND. Mr. President, it is important that that resolution should be acted upon now, in order to enable the Superintendent to perform his duties. I therefore move that it be taken up for consideration.

The motion was agreed to, and the resolution was read a first and second time, and considered as in Committee of the Whole. It is to authorize the Superintendent of Public Printing to employ two clerks, at an annual compensation of $1,500 each, and one messenger at three dollars per day, being the annual compensation and per diem allowed to clerks and messengers in the office of the Secretary of the Senate and of the Clerk of the House of Representatives.

Mr. BORLAND. Mr. President, I have but a few words to say in explanation of the character and necessity of this resolution. Under the act passed at the last session regulating the mode of executing our public printing, provision was made for the appointment of a Superintendent of the Public Printing; but there was an omission in that bill. I called the attention of the Senate to it at the time. I stated that it was impossible for any single individual to perform the duties required of the Superintendent by that bill. I was then of the opinion that it would take at least six persons to perform those duties; but the Superintendent, after having systemized his business very well, thinks that he can perform his duties with two clerks and one messenger. The Committee on Printing had the subject before them, and authorized the introduction of this joint resolution into the other House. It has passed there, and has now come to the Senate. It is indispensable that something of this sort should be done to enable the Superintendent to perform his duties. We all must perceive that under our new system the public printing is done remarkably well, and with great promptitude—much better and much quicker than we have ever had it done before; and this resolution is indispensable to enable the Superintendent and Public Printer to go on and present the work to us as they have done.

Mr. BRODHEAD. I did not hear very distinctly the reading of the resolution. Does it provide for two clerks?

Mr. BORLAND. It provides for two clerks and one messenger. I would say to my friend from Pennsylvania, that I was astonished that the Superintendent of Printing could perform his duties with that assistance.

Mr. BRODHEAD. I have nothing more to say. I yield to the honorable Senator from Arkansas, who understands this subject so well.

Mr. CASS. I presume these officers are very necessary, and I merely rose to ask the chairman, or some member of the Committee on Printing, in consequence of what I saw had been stated in the other House, whether the appointment of these two clerks will not render unnecessary the continuance of the clerk to the Committee on Printing. If the committee say that this assistance is necessary to enable the Superintendent of Public Printing to discharge his duties, I have no objection; but it was stated in the House that they would do precisely the duties now done by the clerk of the Committee on Printing.

Mr. BORLAND. I cannot answer very confidently, at this time, the question of the Senator; but it is very probable, that after this session, the committee will be enabled to dispense with the services of their clerk. The committee, however, cannot dispense with his services during this session, because there is a great deal of business under the old system which has yet to be closed up and finished. Until we have had an opportunity to see fully the workings of the new system developed, we cannot tell whether or not we shall be enabled to dispense with our clerk. Under a resolution passed at the last session, he is to be continued through this Congress; but if after this session, the committee find that they can dispense with his services, they will not ask for his further continuance.

The resolution was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

ROADS IN OREGON TERRITORY.

Mr. SHIELDS. I wish to call up a bill in relation to Oregon Territory, which passed the House at the last session. When it came into this body at that time, it was very much urged, but it was said that there was not time to consider it. As Oregon has no representative here, I hope it will be treated with some degree of liberality. I therefore move that the Senate take up the bill from the House, "for the construction of military roads in Oregon Territory."

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. It proposes to appropriate $20,000 for the construction of a road from Stilacoomb, on Puget's Sound, to Fort Wallawalla; and $20,000 for the construction of a road from the mouth of Myrtle Creek, on the Umpqua river, to Camp Stuart, in Rogue River Valley.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

OSBORN CROSS.

Mr. SHIELDS. I wish to call up another House bill, which I think will give rise to no contest. If it does, I will consent to its being postponed. My purpose is to get clear of the docket as fast as possible. I move to take up the bill "for the relief of Osborn Cross, of the United States Army."

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Treasury, in adjusting the accounts of Osborn Cross, a Quartermaster in the United States Army, to give him credit for a sum equal to the amount of the Treasury notes of which he was robbed in New Orleans, on the 8th of October, 1842, to wit: About $6,603 92; after deducting the amount recovered from the robbers, about $3,338 45.

At the request of several Senators the report of the Committee on Claims of the House of Representatives was read, from which it appeared that Osborn Cross, as Quartermaster, received October 7, 1842, three drafts from the Government, amounting in the aggregate to $34,000, one of them for $10,000 being on account of the Commissary department to pay to Peters & Miller, of New Orleans, a debt which was due to them, and he received the change in Treasury notes to the amount of over $6,000. He endeavored to place those Treasury notes in the Union Bank of New Orleans, which was the usual depository of Government funds on general deposit, so that they, being needed for immediate and constant use, might be drawn on. But the bank refused to receive them on deposit. On the 8th of October, 1842, before leaving his office, he locked up those funds, together with some $300 of private funds, in an iron safe, the best that could be procured. It appears that four negro men had entered into a conspiracy to rob the office. One of them, named Tom, had been employed about the office for some weeks previously. He had made arrangements to conceal another negro, George, in the storeroom on the lower floor, which communicated with the office. He was so concealed, and after the office was locked up, went out through the back door and shortly afterwards returned, and succeeded in opening the safe containing the funds, and rifled it of its contents. Quartermaster Cross, as soon as he ascertained the robbery, exerted and continued to exert every effort to recover the money and detect the robbers, and notified the Treasury of the United States of the robbery and the exact Treasury notes lost. He succeeded in a few days in recovering a portion of the notes, to the amount of over $3,000. The balance he could not recover. A court of inquiry was called, and held a short time afterwards, at his own instance, to investigate his conduct in the premises. The court was held at New Orleans, November 29, 1842, and after taking a good deal of testimony and examining the case, they found that Captain Osborn Cross took all the usual and necessary precaution for the safe-keeping of the public funds in his possession, and that

no blame or neglect could be attributed to him. The committee being of this opinion, and considering the efforts which he had made to recover the amount, thought it right that the Government should indemnify him.

The bill was reported to the Senate without amendment, and the question was, "Shall it be ordered to a third reading?"

Mr. HALE. It seems to me that this bill is going a step further than we went yesterday.

Mr. SHIELDS. Oh, no. There is not an instance of this kind which has ever occurred, and which has been well made out, where the officer has not obtained relief on the same principle as in the case of an agent or a bailee. This was an act of public robbery committed upon this officer, by which he lost not only public, but his own private funds. No restitution is asked, and none is proposed to be made for the private funds. All that he asks is, that he be relieved from the responsibility of that portion of the public funds which could not be recovered.

I know Colonel Cross well. He was Quartermaster under General Wool, and was one of the most efficient Quartermasters in the service of the United States, and brother of a gallant officer who was murdered. There is no possible doubt about this case. I have not prepared it myself, for the bill has come from the House. Colonel Cross, as the report shows, made an effort to place these funds in the Government depository—in the bank in which the Government had instructed him to place them. That bank refused to receive them; and on the night afterwards four negroes entered the office, broke open the safe, and took the money.

Mr. HALE. One of the negroes, I believe, was employed about the office.

Mr. SHIELDS. Yes, sir.

Mr. HALE. I do not know that I have any particular objection to the bill, for I like to see evidences of progress; and it is said that we are living in an age of progress. The honorable Senator from Michigan [Mr. CASS] yesterday thought that we were going pretty far in passing a bill to relieve an officer who lost Government funds by intrusting them to his confidential clerk.

Mr. SHIELDS. This is not such a case.

Mr. HALE. I know that. This is a progressive case. Yesterday we guarantied an officer against a loss occurring through the want of fidelity on the part of his confidential clerk; and to-day it is proposed that we shall relieve an officer from responsibility for a loss incurred through want of fidelity in his negro man. That is the whole of it. This robbery was committed, I suppose, by a slave who was employed about the premises to take care of the funds.

Mr. BADGER. Not to take care of the funds.

Mr. HALE. At any rate to take care of the office.

Mr. BADGER. To sweep the office, and such things.

Mr. HALE. He did not prove faithful, and we are called upon to insure his faithfulness. That is the amount of it. Perhaps it may be all right.

Mr. UNDERWOOD. There is a difference between the color of the skin of the people in those two cases.

Mr. HALE. That is all the difference I see. If the Senator thinks that the color of the skin should make no difference, I would like him to carry his doctrine a little further than these relief bills. It strikes me that this will be a very dangerous precedent, but I do not know that I shall interpose any particular objection to it. The case I understand to be this: A Government officer had funds kept in an apartment. He employed a negro about the premises, the Senator from North Carolina suggests to sweep the office and do the ordinary duties of such a man, who took advantage of the confidence reposed in him, as a confidential servant, to rob his master; and now we are called upon to indemnify the master, so far as the funds of the United States are concerned. That I understand to be the character of the bill. If the Senate choose to pass it, I have no fault to find.

The bill was ordered to a third reading, there being, on a division—ayes 24, noes 10. It was then read a third time, and passed.

HODGES AND LANSDALE.

Mr. PRATT. I ask the Senate to take up the bill "for the relief of Hodges & Lansdale, and the legal representatives of Rinaldo Johnson, deceased." It is a bill which was reported from the Committee on Claims, and will not, I apprehend, meet with opposition on the part of any Senator.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to direct the proper accounting officers to audit the claims of Hodges & Lansdale, and the legal representatives of Rinaldo Johnson, for tobacco destroyed by the British in 1814, at the warehouses at Nottingham & Magruder's ferry, in Prince George's county, Maryland; and, from such proof as may be exhibited to them, within six months after the passage of the act, ascertain the quantity and value of the tobacco so destroyed, and pay the amount so ascertained to be due.

Mr. FELCH. Mr. President, I believe the Senator from Delaware, [Mr. BAYARD,] who is now absent, has paid some attention to this class of cases, and I would suggest the propriety of allowing the bill to be passed over until his return. This is not, as I apprehend, an isolated case, but there are several cases depending on the same principle, growing out of the same transaction, known as the "tobacco cases." I have not examined them myself, but I know that the Senator from Delaware has examined them, and was preparing himself to make some remarks upon the subject, and submit some documents which, for one, I should be glad to see and hear. I hope, therefore, that the bill will be passed over.

Mr. PRATT. I am not aware that the Senator from Delaware is opposed to the present case. There were several other bills of a somewhat similar character reported by me, to which he mentioned that he was opposed. But the Senate determined the other day that the absence of a Senator who might be opposed to a bill was no reason for its postponement. All I ask now is, that my honorable friend will permit the report to be read. It states the facts clearly and simply as they are sustained by the testimony in the case. If, after the reading of the report, there should be any doubt on the part of any Senator, the case can be postponed for further examination. But I apprehend no Senator, after hearing the report read, will entertain a doubt in regard to it.

Mr. CASS. State the facts yourself, without calling for the reading of the report.

Mr. PRATT. The facts of the case are these: During the war of 1812, the British held possession of Patuxent river. The State of Maryland had established warehouses upon the margin of that river for the inspection of the tobacco of the planters of the surrounding country. All the tobacco was inspected there by the public inspectors; and the habit was, for them to issue what were called "tobacco notes," showing the quantity of tobacco received and in store, which notes passed from hand to hand. These notes, therefore, were conclusive evidence of the quantity of tobacco inspected. These warehouses were occupied as a depository for munitions of war by our army sent down there for the purpose of preventing the landing of the British; and the tobacco was rolled out of the warehouses, and made a breastwork, from which the enemy was fought and repulsed on more than one occasion. The tobacco was found to be an entire barrier to the cannon of the enemy. The militia fought from behind it with great bravery; and, indeed, they ran no risk whatever; but they repulsed the enemy by reason of the tobacco hogsheads which were rolled up before them. When, however, the British determined to come here for the purpose of taking possession of the seat of Government, they came in very large force, and drove away the militia. They then took and destroyed the tobacco warehouses, and the tobacco.

This claim is made by the owners of the tobacco thus destroyed, upon such evidence as they will offer to the Department, showing conclusively the quantity destroyed, and asking remuneration for that destruction.

The PRESIDING OFFICER, (Mr. NORRIS.) Does the Senator call for the reading of the report?

Mr. PRATT. The report states these facts, and I suppose it is not necessary to read it.

Mr. CASS. I think that, according to the statement just made by the Senator from Maryland, there can be no doubt about the case; but upon principles of law, perfectly well recognized, we are bound to pay.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EBENEZER DUMONT.

Mr. BRIGHT. I ask the indulgence of the Senate to take up the bill for the relief of Lieutenant Colonel Ebenezer Dumont. It has passed the Senate four times, I believe, and been left in the House among the unfinished business.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of War to cause to be paid to Ebenezer Dumont $125, the value of a horse belonging to him which was lost in the battle of the 9th October, 1847, at Huamantla, Mexico.

Mr. WELLER. It strikes me that it would be better to have some explanation of this bill. I am as anxious as any one that honest claims should pass Congress; but I am afraid that some loose ones are going through for want of attention on the part of Senators.

Mr. BRIGHT. This bill was reported from the Committee on Claims by the honorable Senator from Mississippi, [Mr. ADAMS.]

Mr. WELLER. If my friend from Mississippi reported it, I am satisfied that it is an honest claim, and do not call for the reading of the report.

Mr. HALE. I would like to hear the report read, although it does come from the Senator from Mississippi.

The report was accordingly read; from which it appeared that, according to the affidavit of Colonel Gorman, a member of the House of Representatives, and colonel of the 4th regiment of Indiana volunteers, Lieutenant Colonel Dumont was in the battle of Huamantla in the discharge of his duty, and lost in that battle a horse, saddle, and bridle, which fell into the hands of the enemy, without any fault or neglect on his part. The committee think the Government responsible in equity and justice.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

ISAAC L. BATTLE.

On motion by Mr. RUSK, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution "for the relief of the estate of Isaac L. Battle." It proposes to release the estate of Isaac L. Battle, deceased, late of Jackson county, Florida, from any liability under a judgment heretofore obtained by the Post Office Department against him as guarantor on behalf of Charles Matthews and William King, late of that county and State, as bidders for a contract to carry the United States mail three times a week each way between Bainbridge, Georgia, and Pensacola, Florida.

The resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

PIONEER MANUFACTURING COMPANY.

Mr. WALKER. I wish the Senate to take up a bill of no private character, but which is local to the District of Columbia; and I hope the Senate will indulge me in that desire. I move to take up the bill "To incorporate the Pioneer Manufacturing Company of Georgetown, in the District of Columbia."

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole. It proposes to make Thomas Wilson, Evans Lyon, Esau Pickerell, and Thomas Brown, their associates, successors, and assigns, a body-corporate and politic, by the name of "The Pioneer Manufacturing Company of Georgetown," to have all the rights and privileges, and be subject to all the duties and liabilities, of a corporation, and to exercise all rights and privileges incident to a corporation for manufacturing cotton, woolen, or silk goods or fabrics, and vending the same, and for constructing all machinery for that purpose. The bill also allows them to hold, use, and enjoy such quantity of land as may be sufficient for prosecuting their business, and erecting thereon such buildings as may be necessary; and that the capital stock shall not exceed $200,000, to be divided into shares of $100 each, which shares shall be deemed to be personal estate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RELEASE OF POST OFFICE FINES.

Mr. UNDERWOOD. I ask the Senate to take up the bill "for the relief of James Jeffreys and Jeremiah M. Smith," which has been reported from the Committee on the Post Office and Post Roads. The Postmaster General has felt it to be his duty to fine two Kentuckians very heavily, and this bill is to relieve them from this fine. I hope the Senate will have no objection to extend a little mercy.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole.

It proposes to direct the Postmaster General to release James Jeffreys and Jeremiah M. Smith and their guarantors, from the penalty incurred by the failure, on their part, to carry the United States mail upon routes numbered 6268, 6269, and 6277, according to the bid offered by them, and accepted by the Post Office Department; and also to cause to be refunded to Jeffreys and Smith, any fines paid by them in consequence of such failure on their part.

Mr. WALKER. If there be any report accompanying that bill, I should like to hear it read.

The PRESIDENT. The Chair understands that there is no report.

Mr. UNDERWOOD. I can state the facts. These individuals made bids to carry the mail on some routes in Texas. The advertisement of the Department stated the distances on those routes; but it turned out that the distances were much greater than were advertised; and that, for the amount for which these men agreed to carry the mails, they could not possibly accomplish the work. They therefore failed to put the contracts in execution. But they were bidders upon various other routes which they did put in execution, and the Postmaster General fined them heavily for not carrying the mails upon the long routes, in regard to the distance of which there was a mistake in the advertisements. The bill merely relieves them from the fines imposed, for failing to put those contracts into execution, and provides for the refunding of the money which the Postmaster General has actually detained from the amounts due them on their other routes, and for which they have performed the service required. That is the whole of it.

Mr. WELLER. I should like to have the Senator from Kentucky inform me what was the difference between the route advertised and the route over which the mail was to be carried. What was the difference in the distance? In the next place, I should like to know the amount of fines which have been assessed by the Postmaster General. I believe that under the general law, that officer is authorized to adjust such questions as this, and I should like to have the reason assigned why he has not acted in this case?

Mr. UNDERWOOD. These individuals live at no great distance from my residence, in an adjoining county. I have had conversations with them on the subject, and I have also had conversation with the Postmaster General with regard to it, and I will briefly state the facts. The Postmaster General says, that under the existing law—for I asked him upon that subject, and I thought, like the Senator from California, that he could remedy the evil—his opinion is, he cannot release the fines. These gentlemen, after bidding upon the Texas routes, actually went to Texas, and they did every thing in the world which they could do to put in operation those lines in Texas for which they bid. But they found they could not do it. The difference in distance was in some cases, I think, fifty, and in some a hundred miles, or more. I do not remember exactly, but the difference was so great in comparison with the length of the routes advertised, that it was manifest they could not accomplish the work for the amount which they had bid for it. They had therefore to fail in that part of the contract. They then put into operation all the other routes for which they had bid and obtained contracts; and the Postmaster General retained from the money which should have been paid to them for those contracts, the fines for not putting into operation the contracts in Texas.

The committee, as will be perceived from the bill, upon seeing the difference in the distances, thought proper to release these men from their fines; and the money which will be paid to them, if the bill shall pass, will be exactly the amount which they have earned by the execution of work on other routes, actually performed, and which has been retained by the Postmaster General. I cannot be more specific, not having looked at the distances since the last session of Congress. But if it be necessary that I shall state precisely the differences in distance, the matter will have to lie over until I can obtain the information, because at present I cannot state it. I can only state to the Senate that the fines have been imposed because these individuals did not put into operation the lines for which they had bid in Texas; and the Department has retained the money which it is absolutely necessary that these men should have for the purpose of enabling them to go on and fulfill their contracts on other lines. The simple question is, whether, when a mistake of that sort has been made, and individuals have bid, under the expectation of being able to execute the contract, Congress will enforce it upon them, although they were deceived by the advertisement of the Department, and found, when they came to examine the route, that they could not execute the work for the price stipulated?

I wish to be perfectly candid, and to state all that I know upon the subject. The advertisement of the Postmaster General did, upon the face of it, state that bidders must take care in reference to the bids which they put in. And these individuals told me, in the conversations which I had with them, that, although from this they might have had notice which would have strictly required them to ascertain whether there was any excess over the length of the road advertised, yet they found that the distances upon the routes in Kentucky for which they bid, were generally so correct that they supposed the distances of routes with which they were not acquainted were equally correct. But they ascertained, upon visiting Texas for the purpose of putting their contracts into operation, that the differences of distance were so great that it was impossible for them to execute the contracts for the amounts contained in the bids.

The amount which has been detained from them is some four or five hundred dollars annually. The routes upon which they are fulfilling contracts, are principally horse routes. They are poor men, and the amount detained from them has, by this time, probably reached fourteen or fifteen hundred dollars. The question is whether the Senate will relieve them, under these circumstances.

Mr. ADAMS. The Congress of the United States has established a precedent in a case of this kind, but I do not understand that the bill of my friend from Kentucky comes up exactly to that precedent. It will be recollected that the Collins line obtained increased compensation, not because the parties were unable to comply with their contract, but because they could not make money enough upon it. The Senate and House of Representatives increased their compensation simply on the ground that they could not make money enough under their contract as it stood, and it was said that they were really losing money.

Now, if my friend from Kentucky will show us that these men could not have carried the mail according to the contract, without losing money, it would come up to the precedent set in that case; and I think the fact that they are poor men ought not to operate against them. If my friend will show that they would have lost money by complying with their contract, I shall vote for his proposition; not that I voted for that, but as it has become a precedent, I am unwilling that it should operate in favor of the rich and against the poor.

I would suggest, however, to my friend from Kentucky, a slight alteration in his bill. It states, I believe, that the routes, as advertised, were not equal to the actual distance, and although the parties were put upon their guard, yet they did rely upon the advertisement, and were deceived. If the bill should be so changed as to provide that this relief should be extended to them, provided it should be ascertained that the distance was really greater than that which was advertised, I would vote for it with great cheerfulness, for I think it has merits.

Mr. RUSK. I hope this bill will pass, and that the honorable Senator from Mississippi will withdraw his opposition to it.

Mr. ADAMS. I thought I was in favor of it.

Mr. RUSK. I had occasion to investigate this matter, and the facts are as stated by the Senator from Kentucky. These parties made a number of bids for different mail routes. They bid for some in Texas; and they found, when they came to examine the routes, that they had been so much deceived by the statement of the distances contained in the advertisement of the Department, that it was utterly impossible for them to fulfill their contract. The Department have said that, under the law, as it exists up to this time, they cannot enforce claims against parties totally failing to comply with their contract. It seems to me that if our laws are so defective that those who do not comply at all with their contracts—and I know one instance of that kind, for I have attempted to have the law enforced against an individual who made a bid upon a very important line, and failed altogether—they should not be enforced upon these men because they entered into other contracts in the State of Kentucky, and have been faithfully performing their duties under those contracts. There are hundreds of cases which have occurred where the parties have failed altogether to comply with their contracts, and the Department, under the rules and regulations in force, could not force them to comply; and here, because these parties did comply with some of their contracts, they are to have no remuneration for it. These fines were withheld from the amount which would be due to them from their Kentucky contracts. They were given no opportunity of defending themselves at law. No suit was brought against them by the Department, but by an order of the Department, the fines were retained from the moneys due them for carrying the mails on their other routes. Under such circumstances, it seems to me too small a matter to pick out one man from hundreds, and perhaps thousands, in exactly the same situation, and punish him for the sins of the whole. I think the better plan would be to treat them all alike, and change the law so that when bids are made, and guarantees of this description are entered into, we can have some uniform rule of enforcing proper and rightful damages against those who bid.

Mr. WALKER. I hope to see this bill pass, but I wish also to have a little amendment put upon it. There is a case in the State which I partly represent very similar to this; and when I mention it, the speech of the Senator from Kentucky, and that of the Senator from Texas, need only to be recollected and applied to the case, and it will render it unnecessary for me, or any one else, to say anything. There is this difference, however: the individual to whom I refer had no other contracts. And there is a further difference, that the law was executed in his case, and consequently he did not escape in the manner suggested by the Senator from Texas. I speak of a person of the name of John S. Pardee. He made a bid under a misrepresentation contained in the advertisement, as in this case. The route was struck off to him, and the contract was given to him; but when he came to examine the matter, and look into the nature of the route, he found that it would be ruinous for him to execute the contract. He consulted with me about it, and I was so perfectly verdant as to tell him that I did not believe he could escape. The matter, it is true, was represented to the Department, but suit was brought against him for the difference between his bid and the bid of the man who took the route, and judgment was recovered against him for that amount, and he has had to pay it; and I know it has very nearly ruined and stripped him of all he possessed. All I ask for him now is, that this little amendment be put upon this bill:

SEC. 2. *And be it further enacted*, That all the provisions of this act shall be equally applicable to the case of John S. Pardee, of Wisconsin.

Mr. UNDERWOOD. I have not a particle of objection to giving relief to the constituent of my friend from Wisconsin; but I am afraid that by incorporating it upon this bill, and multiplying cases of the kind, we shall only produce embarrassment in the way of the passage of the bill; and then, if any one shall have objection to one part of it in the other House, he may make that a pretext for opposing the whole. I would not, therefore, like to have my bill incumbered with this claim; and I would be very thankful if my friend would give way and let this pass on its own merits, particularly as the claim of his constituent may not, perhaps, have been sufficiently investigated by a committee. I hope he will not insist upon its being attached to my bill.

I would say to my friend from Mississippi, that

the very facts about which he asked for information, have occurred. The routes were put out and let subsequent to this bidding, after these individuals did not execute the contract, and at a price much higher than that for which they contracted: so that it has been shown by the subsequent conduct of the Department that these men could not reasonably have executed their contracts for the amount for which they bid. The information, therefore, exists on the record just exactly as he wants it.

Mr. ADAMS. That is perfectly satisfactory.

Mr. UNDERWOOD. The whole matter, according to the unanswerable statement of the gentleman from Texas, chairman of the Committee on the Post Office and Post Roads, is just this: The Government got hold of the money of these men, because they were executing a part of the contracts; and having got their money, it will not let them have it. The Government would not fulfill its contract, and pay these individuals, because it said they were violating another contract, without giving them a chance to defend themselves. I hope my friend from Wisconsin will refer his case to the Committee on the Post Office and Post Roads, and let it take the regular course, and not embarrass my bill with it.

Mr. WALKER. I will withdraw the amendment, for I do not wish to embarrass the bill. I am in favor of it. I have believed that there was great injustice in imposing these penalties upon bidders for mail routes. I think so yet. As has been remarked by the chairman of the Committee on the Post Office and Post Roads, it does seem that there are occasionally individuals seized upon and made to pay these penalties, while in a great majority of cases they are allowed to escape. The case of Mr. Pardee, to which I have referred, was a hard one; but as it is deemed an embarrassment by the Senator from Kentucky to add it to this bill, I withdraw the amendment. I shall take occasion, however, to present it as an independent matter to the Committee on the Post Office and Post Roads.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EDWIN LORD AND FRANCIS BACON.

Mr. FISH. I ask the Senate to take up for consideration the bill "for the relief of Edwin Lord and Francis Bacon," reported from the Committee on Finance, which I presume will give rise to no debate.

The motion was agreed to. The bill was read a second time, and considered as in Committee of the Whole. It proposes to discharge Edwin Lord and Francis Bacon from all liability and indebtedness growing out of certain judgments recovered against them by the United States, in the circuit court of the United States, for the southern district of New York, at the April term of that court, in the year 1840, if they shall make it appear to the satisfaction of the Secretary of the Treasury that they have done no act fraudulently to deprive the United States of their legal priority, and that they have not been guilty of any fraud, or made any conveyance of their estates, real or personal, in trust for themselves, or with intent to defraud the United States, or to gain any benefit or advantage to themselves or their families. It is provided that the release shall be rendered null and void, if it shall be at any time ascertained that they have obtained it upon false suggestions.

Mr. ADAMS called for the reading of the report, and it was accordingly read.

From the report it appears that the firm of Edwin Lord and Company, composed of Edwin Lord and Francis Bacon, were engaged, from 1828 to 1838, in the business of importing foreign dry goods, and the sale on commission of goods and merchandise. In 1834 they had a capital of more than $30,000; but during the great fire in New York, in 1835, there was consumed in their store, merchandise upon which they had advanced $90,000, and upon the most of which there was an insurance, upon which they realized only about seventy per cent., by reason of the insolvency of the insurance companies. They were enabled to continue business, until the pressure produced by the commercial crisis of 1837 and 1838, when they were deprived, by reason of losses, amounting to upwards of $151,000, of the ability to meet their engagements. During the time they were engaged in importing, they paid into the Treasury of the United States, as duties on importations, the sum of $965,487, but left unpaid duty bonds upon the 12th July, 1839, amounting to $45,169. The United States sued out the bonds, and recovered that amount, which, with interest and costs, amounted altogether to $50,542 72. The committee think that the case comes within the spirit of the act of March 2, 1831, for the relief of insolvent debtors against the United States, and think it equally entitled to favorable consideration with the numerous claims which were relieved under that act. They therefore recommend the passage of the bill granting relief, in order that the claimants may have an opportunity of engaging in business, in order to support themselves and families.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

SOLICITOR OF THE TREASURY.

Mr. TOUCEY. Mr. President, if there be no objection, I would ask the Senate to take up at this time, a joint resolution reported by the Committee on the Judiciary, at the last session, "to confer additional duties and powers on the Solicitor of the Treasury." The object of that resolution is to transfer from the office of the Attorney General, to that of the Solicitor of the Treasury, the duty of examining titles where lands are to be purchased for custom-houses, armories, and for public objects generally. I believe there is no objection to it in any quarter.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the resolution. It proposes to transfer to the Solicitor of the Treasury all the duties imposed upon the Attorney General of the United States by the joint resolution approved September 11th, 1841, entitled "A joint resolution making it the duty of the Attorney General to examine into the titles of the lands or sites proposed to be purchased for the purpose of erecting thereon armories and other public works and buildings, and for other purposes;" and also, that after the passage of the resolution no public money shall be expended upon any land or site thereafter to be purchased by the United States for the purposes specified in the resolution of 1841, until the opinion of the Solicitor of the Treasury shall be had in favor of the validity of the title, and until the consent of the Legislature of the State in which the land or site may be, shall be obtained for the purpose of having the land or site free from taxation.

Mr. TOUCEY. It is now by law made the duty of the Attorney General to examine into the validity of titles of sites for armories and custom-houses, and lands proposed to be taken for public objects generally. The object of this joint resolution is to transfer that duty to the Solicitor of the Treasury. The arrangements of that office are such that the examination can be conveniently made, altogether more conveniently and to a better effect than in the office of the Attorney General. The duties incumbent upon the latter office, with the restricted number of clerks assigned to it, are so great as to render it almost impossible that the Attorney General can attend to this branch of the duties now imposed upon him. It necessarily occasions great delay; and there is no provision made by which the duty can be easily and effectually performed. On the other hand, this duty is one of detail; and the office of the Solicitor of the Treasury is so arranged that it can be there performed with ease and facility, and should any question arise calling for the opinion of the law officer of the Government, it can be taken; but ordinarily there will be no occasion for it. I believe this is in accordance with the views that have long been entertained in that office; and I understand that there is no objection to the resolution from any quarter. I hope, therefore, that it will be passed.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

ALABAMA SCHOOL LANDS.

On motion by Mr. FELCH, the Senate proceeded to consider, as in Committee of the Whole, a bill from the House of Representatives, "to extend the provisions of an act approved the 3d of March, 1847, and the act approved the 26th of February, 1849, 'for carrying into effect the existing compacts with the States of Alabama and Mississippi, in relation to the five per cent. fund and school reservations.'" It proposes to enact that the provisions of those acts be extended so as to allow the State of Alabama three years from and after the passage of this act, to complete the selection of the lands authorized by those acts to be made.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 29, 1852.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

Mr. RICHARDSON. I move that there be a call of the House.

Mr. HOUSTON. The Journal of yesterday has not been read yet.

Mr. RICHARDSON. For that very reason it is I make the point of order, that before the reading of the Journal there must be a quorum present. We can avail ourselves of a call of the House before the Journal is read, but cannot afterwards.

Mr. JONES, of Tennessee. That is the first rule.

Mr. RICHARDSON. I ask that the first rule of the House may be read.

The SPEAKER. It is as follows:

1. He (the Speaker) shall take the chair every day precisely at the hour to which the House shall have adjourned on the preceding day; shall immediately call the members to order; and, on the appearance of a quorum, shall cause the Journal of the preceding day to be read.

The rules, so far as the Chair recollects, do not point out the mode by which the Speaker shall determine whether a quorum be present or not. I suppose, however, he is to ascertain the fact of a quorum or no quorum by counting the members present.

Mr. CLARK. It appears to me, from the reading of the rule, that the Speaker himself is to decide whether or not a quorum be present.

The SPEAKER. That is so. The Chair has counted the members present, and finds that there are 92.

Mr. RICHARDSON. I move that there be a call of the House.

The SPEAKER. A call of the House is in order under one of its express rules.

Mr. RICHARDSON. Fifteen members may compel the attendance of the remainder. The question is now upon ordering the reading of the Journal, and not upon the proposition pending at the adjournment of yesterday.

The SPEAKER. The pending proposition being that of ordering the reading of the Journal, the Chair entertains the motion of the gentleman from Illinois.

Mr. STEPHENS, of Georgia. It occurs to me that the motion that there be a call of the House is the only proper one, and I rise to ask whether it has been made?

The SPEAKER. It has.

The question was taken on the motion that there be a call of the House, and it was decided in the affirmative.

The roll was then called and 129 members answered to their names.

Pending the call, Mr. GROW stated that Mr. CLEVELAND was detained at his boarding-house on account of sickness.

CORRECTION OF THE JOURNAL.

Mr. MOLONY. I ask the unanimous consent of the House to permit the Journal to be corrected.

The SPEAKER. The motion to amend the Journal cannot be entertained at present.

Mr. MOLONY. I presume no gentleman will object to its correction.

Mr. JONES, of Tennessee. The Journal has not been read yet.

Mr. MOLONY. I desire to correct the Journal of the proceedings of Monday upon the proposition authorizing the President to confer the title of Lieutenant General by brevet. I voted yea. The Journal records me as having voted nay. Upon the resolution of the gentleman from Tennessee, [Mr. HARRIS,] making reports from committees a special order, the Journal puts me in

the negative: I voted in the affirmative. And on the resolution for the appointment of two clerks and a messenger for the office of the Superintendent of the Public Printing, my name does not appear on the Journal as having voted at all; I voted in the affirmative.

Mr. RICHARDSON. It may be that the errors to which the gentleman refers are in the "Globe," and not the Journal.

Mr. MOLONY. They are in the Journal.

The SPEAKER. If there be no objection, the corrections in the Journal of the proceedings of Monday, indicated by the gentleman from Illinois, will be made.

There was no objection, and the corrections were ordered to be made.

THE PROPOSED CALL OF THE HOUSE.

Mr. STEPHENS, of Georgia. A good many members who were absent at the opening of to-day's session, are now present, and I move that all further proceedings in the call be dispensed with.

Mr. GOODENOW demanded the yeas and nays on the motion, but subsequently withdrew the call.

The question was then taken on the motion to dispense with all further proceedings in the call, and it was decided in the affirmative, there being, on a division—ayes 107, noes not counted.

The Journal of yesterday's proceedings was then read and approved.

NEW MEMBER.

Mr. DUNCAN presented the credentials of the Hon. FRANCIS B. FAY, elected a Representative from the Second Congressional district of the State of Massachusetts, to supply the vacancy occasioned by the decease of the Hon. ROBERT RANTOUL.

Mr. FAY thereupon appeared at the bar of the House, and was duly qualified by the Speaker.

RECESS.

Mr. WHITE, of Kentucky. I ask the unanimous consent of the House for leave to introduce the following resolution:

Be it resolved by the Senate and House of Representatives, That upon the adjournment to-day, they stand adjourned till the first Monday of February next.

Mr. STANLY objected.

REPORTS AND PUBLICATION OF SPEECHES.

Mr. STANLY. I ask the unanimous consent of the House for leave to introduce the following resolution:

Resolved, That the reporters of the House of Representatives be directed hereafter not to report in the Daily Globe, as part of the proceedings of the House, speeches not made in the House.

That resolution affects the conduct of the officers of the House, and concerns ourselves.

Mr. HARRIS, of Tennessee. I am not opposed to the resolution of the gentleman from North Carolina, but I believe that it is not in accordance with the rules of the House, and therefore object.

Mr. STANLY. I make the point, that it is a question of privilege, or a privileged question—one or the other; and before the Chair makes his decision, I desire to be heard upon it.

The SPEAKER. The Chair would be glad to hear the gentleman.

Mr. STANLY. In the Daily Globe of yesterday, which has been laid upon our tables, it appears that the gentleman from Maine [Mr. SMART] offered a resolution relative to the capture of the "Georgiana and the Susan Loud." After that resolution was submitted, the report goes on that the gentleman from Maine proceeded by saying "Mr. Speaker," &c., &c., to make a speech of nearly four columns. Then the report adds, after the speech, "The question was *then* taken, and the resolution was adopted." Not one word of that speech was uttered upon this floor. And I will say here that it is out of no personal unkindness to the gentleman that I have presented this resolution, but in defense of those of us who had no chance to hear this speech, and therefore no chance of making a reply in vindication of the Administration about going out of power, of whose good conduct generally, but especially in managing foreign affairs, we are exceedingly proud, bad as was our fortune in the election held this year. This is a question of privilege, about which we should have some regulation in this Hall. If a gentleman report in the Appendix to the Congressional Globe what he did not say, he acts in accordance with what has been the custom; but to print in the proceedings of the House as something said or spoken whatever a member may choose to hand in writing to the reporters, either assailing an individual or assailing a party, when nobody has a chance to hear it, is something we ought not to submit to.

The SPEAKER. Whether this is a question of privilege depends upon the relation subsisting between the Globe and the House.

Mr. STANLY. It is the official paper of this House. It is so called, and contains reports of the proceedings of the House by recognized officers of the House.

The SPEAKER. What has made it the official report?

Mr. STANLY. The reporters, whom we recognize as officers of the House, and to whom we gave last year extra compensation as officers of the House. The Globe is paid for by the column by this House, is franked and distributed as a public document. I trust the gentleman from Tennessee will withdraw his objection.

The SPEAKER. Objection being made, the resolution can only be introduced by unanimous consent.

Mr. HARRIS. I withdraw my objection. It was only that I desired a rigid adherence to the rules that I objected.

Mr. SMART. As the gentleman has made allusion to me, I trust the House will indulge me in a remark or two. I ask it of the generosity of the House.

[Cries of "Go on!" "Go on!"]

The SPEAKER. The resolution is before the body for consideration.

Mr. SMART. In reply to the gentleman from North Carolina, I will state, that on the day he has specified, I did submit a resolution relative to the seizure of the Georgiana and the Susan Loud, two vessels owned by persons residing in my section of country. One of them was the property of persons living in the town where I have the happiness of residing. I had great difficulty in getting that resolution in, and after it was introduced, I attempted to make a statement of the subject to which it had reference, but was immediately interrupted, I think by the gentleman from North Carolina [Mr. STANLY] himself, by objections to my proceeding. I then did what has been the custom of members during the whole of this Congress. I stated that I would send to the reporters the remarks I had prepared on the subject, for publication. I did so; and I have to say, in vindication of myself, that the same thing has been done, according to my recollection, more than fifty times during the present Congress. The gentleman from Pennsylvania, [Mr. CHANDLER,] who belongs to the gentleman's own party, submitted and had published a tariff speech under the same circumstances.

I wish to say to the gentleman, however, and to those with whom he acts in this House, that I am ready and willing, here and everywhere, to defend what I say, whether it be verbally or in writing. I stand here abundantly able to take care of myself with regard to any assertions I may make, let them be where they will. I will abide by every word of that speech. I avow it as mine, and I am ready here, when opportunity is afforded me, to defend it. I can only say now, that, in my opinion, this Administration has been grossly remiss in not performing duties incumbent upon it, in not taking care of the interests of my constituents.

The Spanish Government seized two vessels belonging to my section of country—one belonging to the district I have the honor to represent upon this floor, without any shadow of authority. It confiscated those vessels to its own use two years ago, and up to this time not one cent of indemnification has been obtained. I ask what is the object of Government, if it be not to protect each individual member of it? I say, sir, that if you neglect individual cases of outrage on your citizens and on your flag, the time will come when you will be insulted by every petty power existing on the face of the globe. I regret extremely, that anything I have published should cause uneasiness to my political opponents; but I have only published what I believed to be the truth, and what, so believing, I am willing to stand by.

I repeat, that I have only done what other members did. I sent that speech to the reporters to be published, because I had not the opportunity of delivering it. I had no other earthly opportunity to get the facts of the case before this body than the one I availed myself of. The resolution related to an important matter. You may say what you will about difficulties and collisions with the Spanish Government, but there is not a solitary case on record equaling the one now in question in hardship and outrage. Few cases can be presented where a more highhanded outrage has been committed by one nation on the citizens of another.

What were the facts? Two vessels cleared at New Orleans for Chagres——

Mr. HUNTER. I call the gentleman to order.

Mr. SMART. The gentleman from North Carolina has complained that I have printed certain facts, and I now appeal to the gentleman to allow me to proceed in the statement of them to the House.

Mr. HUNTER. I do not want the gentleman to travel out of his explanation to another subject.

Mr. SMART. I think I can give an explanation that will be highly interesting to the gentleman and this whole House.

[Cries all over the Hall of "Go on!" "Go on!"]

Mr. S., (resuming.) What were the facts of the case? These two vessels cleared at New Orleans on the 25th of April and 1st of May, 1850, with passengers and provisions for Chagres. Whilst proceeding on their voyage, they were met by head winds and adverse currents, and obliged to stop at the Island of Contoy, in the Mexican dominions. They lay at anchor there on the 18th of May, 1850, when the war steamer Pizarro, and brig-of-war Habanero, came up under the command of the Spanish General of Marine, and seized them, their officers, crews, and passengers. I have not the time now to narrate the outrages inflicted upon the men thus captured. I can only say at present that they put them in irons, and took them, with the vessels, to Havana, in Cuba, and that after reaching Havana, they were confined, as I have understood, in loathsome prisons; that they had a secret trial; and that such as the Spanish Government desired were convicted. The captain of the Georgiana, and other officers of the vessels, were convicted and taken to Spain, and our Government pusillanimously, in my judgment, waited for them to be pardoned. The Government had previously taken patriotic ground; it had declared, under General Taylor, that those men had committed no act of hostility against Spain, and had sent word by Commodore Morris to the Spanish authorities in Cuba to deliver them up—that they were under the protection of the American eagle. The Government had said they should not be tried by Spanish laws; that they were not amenable to the Spanish authorities, because they had committed no offense against Spanish laws.

That was the ground the Government took. Yet after taking that ground, I repeat, they waited for these men to be tried, convicted, taken to Spain, and afterwards pardoned. They received, as I have said in the remarks of which the gentleman complains, as a pardon what they should have demanded as a right. In my judgment, our vessels of war should have recaptured the Georgiana and Susan Loud, and I think that would be the sentiment of the American people. The Spanish authorities proceeded against the captured vessels, and finally confiscated them to their own use. They were worth upwards of $30,000, and up to this time no remuneration has been made for them. What was the justification? These vessels, up to the period of their seizure, had not been in Spanish waters, or under Spanish jurisdiction. I ask you, Mr. Speaker, and members of the House, particularly the gentleman from North Carolina, [Mr. STANLY,] who called the attention of the House to this subject, whether the Spanish Government can try, convict, and punish citizens of another nation for acts committed without their territory and jurisdiction? I say they cannot, and so says every man who knows anything about international law. These men committed no offense against Spanish laws—none within Spanish jurisdiction. Then, how were they to be convicted there? Why, the Spanish Government said they were pirates, and that therefore they would convict them.

But what are the facts in relation to this matter? I understand that piracy consists in depredating upon the high seas. That is piracy, and that is the definition given by writers on international law. It consists in plundering, destroying, and murdering on the high seas by persons who have no regular commission from any Government. Were these men guilty of piracy? What did they do to make them pirates? They simply took on board their vessels at New Orleans, they having regularly cleared for Chagres, certain men and provisions, and went as far as Contoy, where they were taken. They committed no act of piracy; they plundered no one upon the high seas; they had no armament on board their vessels to attack anybody. I do not say here, because I do not know, what the intention of the men on board these vessels might have been. I do not even know what was the intention of their captains or crews; but I do know this fact, that whatever their intention may have been, they should not be punished by Spain for an intention alone. I know that "the intention to commit crime does not constitute crime." Even had they intended to invade Cuba, and gone as far as the Island of Contoy, and there anchored, they had not as yet committed any offense against Spain, and she had no earthly right to seize and confiscate those vessels, and punish their officers, passengers, and crews. I am very glad that the gentleman from North Carolina [Mr. STANLY] has called attention to this subject, because it has enabled me to do what I should not have had an opportunity to do this session. You know, Mr. Speaker, how difficult it is when a member has a subject of real importance, and a matter of real interest, to get a hearing upon it. Everything else can be heard; everything else can be talked about; everything else can be done in this House but the proper business of the House. If there is an actual grievance; if there are men in my district who have really suffered by the remissness of the Government, and have had an outrage committed upon them, why, I cannot be heard here!—there is no time; and but for the gentleman's movement, I should not have been heard now. I am glad that he has given me this opportunity, for I wish the country to understand this question. I know not the views of any person in authority in this Government; nor do I know the views of any person who is to have authority in the Government upon this question; but I wish to say one thing upon my own responsibility here, and it is, that if I had anything to do with this matter, I would for one vote to authorize this Government to make reprisals of Spanish property at once, unless they would make satisfaction to those citizens who have suffered. I think it the duty of this Government to take up this subject, and act upon it in earnest. It matters not where these men are—whether they be in a remote State of the Union or not; whether they be one or many; whether they be high or low, rich or poor, they are American citizens, and American citizens have a right to claim the protection of this Government. When you cease to protect the rights of even one individual, you may soon find the rights of all your citizens infringed upon. Protect your rights in the person of the humblest, if you wish your people generally to be safe from foreign aggression. That is the true principle. I again thank the gentleman from North Carolina [Mr. STANLY] for calling my attention to this subject. He has given me an opportunity which I should not have had otherwise during this session.

Mr. STANLY. I am sorry the gentleman from Maine [Mr. SMART] has suffered himself to be so much excited about a matter of this kind. I do not see that the issue before the House is changed at all. I am not discussing the propriety of the conduct of the American Government or this Administration, in their management of the affairs relating to those two vessels, Georgiana and Susan Loud, about which my friend from Maine makes a good deal of *loud* noise. That is not the issue before the House now, nor can the gentleman from Maine drive me from the issue which I wish to present to this House, by attempting to arouse party feeling.

Mr. SMART. Will the gentleman allow me one moment? I do not wish to do that, and I do not know but what I will be willing to go with the gentleman in adopting his rule, so that it will apply to others as well as myself. I have only done what has been done by other members in presenting my views upon this subject in writing to the reporters for publication. I do not wish to make a false issue.

Mr. STANLY. The gentleman will not go the way I go, if he talks about "fillibustering," as he has this morning. I do not intend to allow the excitement into which the gentleman has lashed himself so unnecessarily this morning to take me away from the real issue before the House. I want the gentleman's views corrected. I do not intend to allow his remarks of a party kind to throw me off the balance, nor do I intend to indulge in remarks against fillibustering in general, or allow him to excite party spirit here. Now, the gentleman is altogether mistaken in some remarks he has made. I stated in the outset—and if I did not, I state it now—that I notified the gentleman from Maine of my intention to call the attention of the House to it this morning. I disclaimed any personal unkindness to him, as I now do. He is mistaken when he says this practice has been indulged in before. To my knowledge there is but one instance of it before.

Mr. SMART. I recollect one or two. The gentlemen from Mississippi [Messrs. BROWN and FREEMAN] submitted speeches in the same manner. The gentleman from Pennsylvania, [Mr. CHANDLER,] and the gentleman from Maryland, [Mr. WALSH,] upon the same side of politics with the gentleman from North Carolina, also submitted speeches in the same manner.

Mr. STANLY. The gentleman is mistaken. It has been a habit indulged in by the House for some years past, when a gentleman has not time to finish a speech under the one hour rule, for him to say that he gives notice that he will file one and publish it in the Appendix to the Congressional Globe. He asks leave to do so, and that is generally granted, as a matter of course, and it cannot well be refused.

Mr. SMART. I dislike to interrupt the gentleman, but I do so now to say, that these speeches went into the regular edition of the Daily Globe.

Mr. STANLY. The gentleman says that these speeches went into the regular proceedings of the Daily Globe. I think the gentleman is mistaken. What sort of speeches were they? Did they bear hard upon any party? Did they refer to any individual unkindly? Did they say hard and unkind things against the Administration, without having their friends heard? No, sir; the gentlemen merely expressed their views upon some abstract question, reflecting on no individual and on no party.

Mr. SMART. I say that such speeches have been submitted. The speeches of my friend from Pennsylvania [Mr. CHANDLER] and the gentleman from Maryland [Mr. WALSH] were decidedly of a party character.

Mr. STANLY. I think that the gentleman is mistaken so far as my friend from Pennsylvania [Mr. CHANDLER] is concerned, as he is generally right. If he did that, he has done wrong *once* since he has been a member of Congress.

Mr. CHANDLER. Since I am so near right, I beg leave to say that the speech which I published under the rule was no more a party speech than that it took one side of a question upon political economy, and I hope that will remain a party measure for a great while. [Laughter.]

Mr. STANLY. I hope not. The tariff ought not to be a party measure, but a national measure. I desire to correct an abuse, which gentlemen upon both sides of the House admit as one. If gentlemen will hear the resolution, they will see that it forbids the reporters putting into the Daily Globe speeches which were not made in the House. If a gentleman chooses to make speeches for his constituents, write out his essays and read them—and a very bad habit it is—and puts them into the "Appendix," he is understood to be accountable to his constituents for what he says; but I object to this practice which the gentleman from Maine says erronously—with all respect to him—has always been indulged in here. Now, let us hear what the gentleman from Maine says in this speech of his of which I complain, and which I read over hastily. In the first place, the gentleman is mistaken when he says I interrupted him after he started to make his speech to the House.

Mr. SMART. I was not certain. I thought it was the gentleman's voice.

Mr. STANLY. So far as I recollect the gentleman made no effort to make a speech. He only asked permission to introduce that resolution, and asked the gentleman from Tennessee to withdraw his objection.

Mr. SMART. I know that the gentleman would not wish to put me in the wrong. I will say that I did attempt to make a statement, but the confusion was very great in the Hall. Objection being made, I stated that I would hand my remarks to the reporters.

Mr. STANLY. He asked no leave to file his speech, that I heard. The gentleman says that he did not make the speech. That is the thing of which I complain, for if he had, he would have given notice to us all, and from the position which the gentleman occupied in this House, we should have looked to what he said about us, and read his speech. He made in part the speech this morning which he made out and published yesterday, and he has traveled this morning over the whole ground of yesterday's speech pretty well, and made a strong party argument. What he said this morning is a mere diluted statement of what he said yesterday.

But hear some portions of the speech of yesterday—not that of to-day, for I will not reply to that now. The gentleman says that these ships—the Georgiana and the Susan Loud—after they went to Contoy, took in cases "which were *said* to contain machinery, but turned out to contain arms." The gentleman is no *fillibuster*, or flibustier, but he thinks that these poor people—these captains, his constituents, entirely innocent in the matter. No matter how wrong the men were who were on board the vessels, these captains were quite right to take on board cases which were *said* to contain machinery, but which *did* contain arms. But to go on: what else did the gentleman say? He says:

"I do not wish to complain, but I think our Government has been tardy, if not negligent in this matter. The Georgiana and Susan Loud were confiscated by the Spanish authorities in July, 1850, and up to this time no indemnification has been obtained by our Government. The American Government, strange as it may seem, has been more prompt to indemnify Spanish subjects for the destruction of Spanish property."

Now, Mr. Speaker, that is a reflection upon this House, and upon Congress. If I mistake not, Congress passed that law to indemnify Spanish subjects, under the able lead of the gentleman who is at the head of the Committee on Foreign Affairs of this House. The Administration has not been to blame about it. It is Congress that has been to blame, and the gentleman from Maine ought to direct his shafts at the proper quarter, and not assail the present Administration for that which Congress itself did. Now, if all that had been said upon the floor of this House, some one of us would have had a chance to reply to the gentleman. He goes on further in the same strain. I do not wish to consume the time of the House by commenting on the speech further than to show its character. It contains long quotations from documents, and has evidently been very elaborately prepared. I suppose the Maine Legislature is in session; and that an election for Senator, or some other important election is coming on, and he wants to show the people there that he stands up for their rights—and may be for his own, too. Perhaps the gentleman wishes to be sent to the Senate upon this question of the "Georgiana and Susan Loud." Well, I hope he may succeed. I know of no better man of his party in his State, who could be sent here. Still, I do not think it was fair to represent us upon this side of the House as having sat still and heard the Administration assailed without attempting to defend it, when the gentleman did not really say one word against the Administration.

Again, the gentleman says:

"It will thus be seen how *emphatic* our Government has been (*in language*) upon the subject of the seizure and confiscation of these vessels; and yet I regret to say their owners have received not one cent in the way of indemnification."

Then he goes on to express the same opinion which he expressed this morning, that the Government ought to make war upon Spain, as he thinks General Jackson would have done. He says:

"But Mr. Fillmore shrunk from a maintenance of the unquestionable convictions of the Government, with such demonstration as those convictions would fully justify. He waited, without any forcible interposition, for the Spanish authorities to convict and *pardon* several of our citizens, who were on board these vessels. He received as a par-

don, what should have been demanded as a right, and insisted on, if need be, at the cannon's mouth. The property of our citizens, amounting to more than thirty thousand dollars, he has suffered the Spanish Government to retain, and no satisfaction has been made to those who were captured, for their unjust detention. We are all interested in this extraordinary proceeding. Should our Government continue such a foreign policy as it has lately pursued in its intercourse with Spain, we shall soon be liable to insult from every considerable power of the earth. It is refreshing to know that the time is at hand when it will not pursue such a policy."

Now, Mr. Speaker, Mr. Fillmore's Administration is going out of power. It has no longer the rewards and emoluments of office to give. The man who praises that Administration now, cannot be suspected of

"Crooking the pregnant hinges of the knee,
Where thrift may follow fawning."

And, sir, I say, that although the Whig party has been as badly beaten as ever party was on earth, we can have most glorious recollections of the conduct of this Administration in the management of the foreign affairs of the country. Further than that, I tell the gentleman from Maine, that if his friends come into power and follow the fillibustering doctrines which he has given expression to this morning—although I do not believe they will—four years hence, there will not be an honest man among them who will not say that he would rather belong to that party of whose administration Fillmore was the head, than that successful Democratic party which came into power on a whirlwind of public opinion in 1852. The foreign policy of this Administration has been honored by the country, and honored by able and leading Democrats in this House, and in the Senate. The gentleman from Maine cannot hurt the Administration. All I ask is, that when he attacks it, he will let us know it, that he will do it openly and above board, as he has declared with all proper and becoming modesty, he is "ready, able, and willing" to do, and I have no doubt of it. After such a flourish of trumpets, I shall not enter into competition with the gentleman. After so much boasting, I shall not rashly appear with my sling. I shall leave it to some other person to meet this Goliah, who comes forward to annihilate the Administration, and assails them as no generous man would have done, after the reverses of 1852. I shall not attempt to do it.

Sir, I do not approve of this new fashion introduced into the House by the gentleman from Maine. There was once, elsewhere, a fillibustering judge—I will not call him a Democrat—whose habit was to punish those who appeared before him, and then to try them. The gentleman from Maine is following his example. He introduces a resolution asking information, sends out a speech to his constituents condemning the Administration before hearing, and then is willing to try them after their answer comes in! Wait till you hear that answer and see what they have to say for themselves.

Now, Mr. Speaker, I hope that resolution will be adopted for the purpose of correcting what may become a very great abuse. Let the reporters of this House report what gentlemen say as it takes place here. If a gentleman goes to the reporters and modifies expressions he has used, it may be an indication of good feeling, of that gentlemanly instinct which prompts a man to assuage or soften hard words uttered in the heat of debate. But when a member writes out a party speech of a harsh and vindictive character, let the reporters say, "the following paper was handed to us by Mr. A, B, or C." I do not think it fair, or kind, or generous to publish such a speech as having been delivered here, and thus to represent all those of us who are friendly to the Administration, and proud of its good conduct, as sitting here in silence and never saying a word in its defense. I think it altogether too *smart* for the House of Representatives. [Laughter.]

Mr. RICHARDSON. I believe that this practice of members giving notice of speeches, and then having them published, has been indulged in for several years. This is the first time it has been brought to the attention of the House It has been done upon both sides of the House, and I think it a pretty fair practice, too. I think if gentlemen would file a good many more of their speeches, and have them printed, it would be quite as well as to make them here. We should save some money by it, and do more business. I move to lay the resolution upon the table.

Mr. BROWN, of Mississippi. I appeal to the gentleman from Illinois to withdraw that motion, to enable me to say a few words of explanation.

Mr. RICHARDSON. Certainly, I withdraw it.

Mr. BROWN. I simply wish to say a word in reply to the suggestion of the gentleman from Maine, [Mr. SMART,] with reference to the speeches filed by my colleague [Mr. FREEMAN] and myself during the last session. My colleague deemed a discussion with reference to our State politics somewhat uninteresting to the House, and filed his speech. I replied in the same way. I asked the privilege of doing it, and my speech shows on its face that it was so filed, and was never delivered to the House.

Mr. FICKLIN. Well, it is not so with all the speeches filed.

Mr. STEPHENS, of Georgia. I do not think it would be proper for the House to adopt the resolution of the gentleman from North Carolina.

Mr. STANLY. Then amend it so as to secure the object I have in view.

Mr. STEPHENS. I do not see how it can be amended. I concur generally with the remarks made by the gentleman from North Carolina, [Mr. STANLY,] on the impropriety of gentlemen handing in written speeches, and having them put in the Daily Globe in the full report of the proceedings of the House, as having been made upon the floor. But if gentlemen think of it, they will see the great embarrassment attending the passage of that resolution. If you pass that resolution, what latitude do you leave to the reporters? They would be restricted and restrained from reporting anything except what was said. Well, sir, who is to determine what was said? If you allow a member to go to the reporter to correct his speech, the reporter may say he will be governed by his notes; and he may say that that word, or that sentence, or that speech—what amounts to the speech at least—was not spoken on the floor by the member. If you allow the latitude of correcting one word, it may extend to a sentence, and to the insertion of a number of sentences. The gentleman from North Carolina must himself perceive the difficulty and embarrassment that would ensue from the passage of the resolution as it stands.

Mr. STANLY. If the gentleman from Georgia reflects upon the subject, he will see that there would be no difficulty. The resolution relates to speeches, and not to incidental remarks.

Mr. STEPHENS. The resolution says speeches made on the floor. It is, of all things, perhaps the most difficult for a deliberative body, in which parties exist as here, to have a correct and impartial report of its proceedings taken. I believe the only instance where reporters were officially recognized as such, except in this House and as we recognize them here, that I have ever read of, was in the French Assembly, in 1793, or '94. They set about having an exact report of what was said by each member in debate, without the right to correct at all. Well, I believe their plan was to have ten reporters. One reporter was to take down the first sentence, another the second sentence, another the third, and so on, so that there could be no connection at all between the reporters to do injustice to members of the opposite side in politics, because the majority will always have control of the reporters. Well, sir, even that failed. There were complaints of partiality, and no doubt just complaints.

I do not, therefore, see any better way for us to do—and we all want to have reports—than to continue to allow members the privilege of correcting their remarks which is now extended to them.

Mr. STANLY. I have no objection to that.

Mr. STEPHENS. I think it would be well for the reporters to adopt the suggestion of the gentleman from North Carolina, and that when a member hands in a written speech, it should be so noted.

Mr. STANLY. That is all I want. That is all I ask for.

Mr. STEPHENS. I think, then, it would be better for the gentleman to withdraw his resolution, and let the reporters follow the suggestion. I have no doubt they will do it. The resolution might be modified.

Mr. STANLY. If the House rejects my resolution, how can you expect the reporters to follow the suggestion?

Mr. STEPHENS. As the resolution now stands, it goes a great deal further. It says that the reporters of the House shall not report speeches which have not been made in the House. Now, that would confine the reporters to their own notes exclusively, and manifest injustice might arise from it. The gentleman from North Carolina will readily see this, and so must every gentleman. As the resolution now stands, I shall certainly vote against it.

Mr. TAYLOR. I suggest to the gentleman from North Carolina to add to his resolution the words "unless by the leave of the House."

Mr. STANLY. I have no objection to that. I only desire that some intimation shall be given to the reporters that what is not said here is not to go into the Daily Globe.

Mr. FREEMAN. I move to amend the resolution by adding the following:

And that hereafter the rules of this House shall not be so construed as to admit of the discussion of political or other questions that are not the legitimate subjects of legislation before this body.

Mr. JONES, of Tennessee. I submit that the rules of the House cannot be amended in that way.

The SPEAKER. The Chair thinks the resolution is, in substance, what the rules now are; but if they are not the same, it is not competent for the House to amend them in this manner—previous notice of the proposed amendment not having been given. The Chair is of the opinion that the amendment is not in order.

Mr. FREEMAN. If the Chair will look properly at the amendment, he will see that it is not a proposition to amend the rules of the House; it is simply an amendment of the resolution of the gentleman from North Carolina, [Mr. STANLY,] and provides that hereafter the rules of the House shall not be so construed as to admit of the latitudinous debate which has been allowed heretofore in the discussion of subjects entirely foreign to any subject of legislation.

When this subject was before the House the last session, the Chair expressly stated, that if it had not been for the fact that it had been heretofore decided by the House that such latitudinous debate should be allowed, he would have decided otherwise; thereby declaring the sense of the House and of the Chair that it was the practice, and not the rules of the House, which governed their conduct in allowing this kind of debate.

The SPEAKER. Does the gentleman appeal from the decision of the Chair?

Mr. FREEMAN. I was simply explaining my amendment.

The SPEAKER. The Chair decides the amendment to be out of order; and the gentleman cannot discuss it, unless he appeals from that decision.

Mr. FREEMAN. If I appeal from that decision, am I entitled to discuss it?

The SPEAKER. The gentleman may discuss the appeal.

Mr. FREEMAN. Then I appeal from the decision of the Chair.

Mr. WILCOX. I move to lay the whole subject on the table.

Mr. FREEMAN. Did not the Chair decide that I might discuss the appeal?

The SPEAKER. The Chair so decided.

Mr. FREEMAN. Then I do not yield the floor to my colleague to make that motion.

Mr. JOHNSON, of Georgia. I move to lay the appeal upon the table.

The SPEAKER. The gentleman from Mississippi [Mr. FREEMAN] appeals from the decision of the Chair, and proposes to discuss that appeal. That gentleman is therefore entitled to the floor, and the gentleman from Georgia [Mr. JOHNSON] cannot make his motion.

Mr. FREEMAN. I will confine my remarks strictly to the appeal. Inasmuch as the gentleman from North Carolina [Mr. STANLY] now proposes to remedy this abuse, I will say that I do not think his resolution should be taken in an offensive sense by any one. I have availed myself of the kindness of the House, to publish remarks I did not deliver, simply because it was the custom of the House; but I think it a bad rule. I do not object to members correcting their speeches; but I think it wrong to change the character of the subject of their remarks in any degree whatever. I think it wrong to prepare a new speech in that manner which was not delivered in the House, and to which no member of the House could have an

opportunity of making a reply. I think the resolution should not be considered as applying to the gentleman from Maine [Mr. SMART] especially, because he has simply followed the course pursued by other members of the House.

Mr. LETCHER. I rise to a question of order. The gentleman is discussing the resolution, and not his appeal from the decision of the Chair. I ask that he may be confined to the question before the House.

Mr. FREEMAN. The gentleman from Virginia undertakes to decide a question which it is proper for the Chair to decide. If he were in the Chair and made that decision, I should take an issue upon it before the House.

Mr. LETCHER. I ask that the Chair will decide between the gentleman and myself.

The SPEAKER. The Chair understood the gentleman from Mississippi to be describing the nature of the resolution, to show that his amendment was in order, and that it was not changing the rules of the House. The Chair thinks that the gentleman has the right to make that course of remark.

Mr. FREEMAN. I have but a remark more to make. The Chair must see that this amendment is simply a declaration upon the part of the House, that the rules of the House shall not be construed as they heretofore have been. The language of the rule, as everybody admits, is, in substance, that subjects foreign to that of legislation shall not be discussed here; but the custom of the House has been to allow such topics to be discussed. The amendment, upon its face, does not purport to be a change of the rule, and it is not. It is simply a construction of the rule to provide against the custom of the House having an effect above the rule, as it has heretofore done. I think, then, the amendment is not only in order upon this ground, but it is germane to the original proposition. What was the object of the gentleman from North Carolina, in offering his resolution, but to correct what he thought was wrong in the practice of the House, with regard to the publication of speeches. If, then, it be wrong to publish a speech never made in the House, how much more offensive to our sense of justice is it to allow speeches to be made in this House, which have no connection with the questions before the House.

Every member in this House knows that there is a certain gentleman upon this floor who never fails, when an opportunity presents itself, to rise in his place and make speeches which are coarsely insulting to every member from the slaveholding States. Yet, by courtesy, we sit still and make no reply to speeches of this character. Topics of legislation entirely foreign to the Federal Government, and pertaining only to the States, are discussed in a manner offensive to the sensibilities of every honorable gentleman. Language is used which must be disgusting to every one; and yet, under the construction given to this rule, a member is permitted to talk upon what subject he pleases. They are permitted to talk upon the subject of presidential elections; and during the last session of Congress a large portion of the time of this House was spent, day after day, in listening to speeches upon that subject, which could not possibly have any connection with the legislation of the country. Sir, the country is crying out everywhere against this squandering of the people's money and the people's time. This very Hall is becoming a by-word and a reproach throughout the land. And we are doing the very same thing the present session. We have spent already nearly a month, and yet not the first item of practical business has been done. The eye of the nation is upon us, and shall we refuse to alter this construction of the rules?

Mr. STANLY. If the gentleman will allow me, I will modify my resolution, at the suggestion of the gentleman from Ohio, [Mr. TAYLOR.]

I propose to add the following proviso:

Provided, That nothing in this resolution shall prevent any member from correcting or revising the reporter's notes.

The SPEAKER. The modification will be made, unless there be objection.

There was no objection, and the resolution was accordingly modified.

Mr. JONES, of Tennessee. I think the resolution offered by the gentleman from North Carolina should be adopted. The practice of which the gentleman from Mississippi [Mr. FREEMAN] complains, of discussing everything not before the House, is not applicable to the resolution of the gentleman from North Carolina. The speeches to which the gentleman alludes, are made in Committee of the Whole on the state of the Union; and whether right or wrong, they are made under the construction given to the rule, that when the Committee of the Whole on the state of the Union have the Union generally under consideration, and particularly a certain measure, a member may speak about anything which pertains to the Union. The rule requires in the House, and in Committee of the Whole House, that the member shall confine himself to the question under consideration.

But the resolution of the gentleman from North Carolina does not prohibit members from printing what they please, under the permission of the House; it only prohibits the reporters of this House—the official reporters, made so, by the different resolutions of the House, employing them and paying them by the column for reporting, and by taking a certain number of copies of their report for the use of the members of the House—or rather directs that these official reporters shall not hereafter report in the Daily Globe, as a part of the proceedings of the House, speeches or remarks which were not delivered in the House, unless by its permission.

Mr. RICHARDSON. Suppose you adopt this resolution, and a gentleman gets up and proposes to have a speech printed; you will have to read it here to see whether any member will object. They might as well deliver them all here.

Mr. SWEETSER. I understand the question before the House is on the appeal of the gentleman from Mississippi [Mr. FREEMAN] from the decision of the Chair.

The SPEAKER. That is the question.

Mr. SWEETSER. Then I object to this discussion.

Mr. FREEMAN. I withdraw the appeal.

Mr. JONES. I thought the appeal had been withdrawn before, and I was speaking to the resolution. This resolution applies to the reporting and publishing in the Daily Globe. The Daily Globe is a mere session paper, the great object of which is, that the proceedings of the House may be laid on the table of each member the morning after, that he may have an opportunity of correcting what he is there reported to have said, and to place himself right in the Congressional Globe; and his remarks as corrected go into the Congressional Globe and Appendix, which are the permanent reports of this and the other branch of Congress.

There is nothing, however, in the resolution of the gentleman from North Carolina which will prevent any gentleman, or prohibit him in the least, from correcting his remarks as furnished by the reporter, before they are inserted in the Daily Globe.

This proviso which the gentleman has attached to his resolution as a modification would obviate any difficulty at all; and even should there be a question between the reporter and the member reported, whether the reporter was right or not, of course the reporter would yield to a member if he stated that he was not reported correctly. It will not prevent any gentleman from publishing a speech. The gentleman from Illinois [Mr. RICHARDSON] inquired if we would not be compelled to have the speech read? No, sir. If this resolution be adopted and a gentleman rises to ask permission to have such remarks as he has written out, or shall write out, published, it will appear in the report that he asked for that permission, that it was granted, and that the speech was not delivered in the House. All that this resolution does is to provide that such speeches as are covered by it shall not be reported as a part of the proceedings which actually did occur in the House; and I think that the resolution in itself is right and should be adopted.

Mr. EWING here obtained the floor.

Mr. SMART. I ask the gentleman from Kentucky to allow me to make one remark personal to myself, and then I will have done.

Mr. EWING. I yield to the gentleman for a moment.

Mr. SMART. I wish simply to say that several gentlemen here informed me that they heard me give notice that I would hand my remarks to the reporter;* among others Mr. BRECKINRIDGE, Mr. CHANDLER, and Mr. FICKLIN.

Mr. APPLETON, of Maine. In justice to my colleague, I wish to say, that although I sit at a considerable distance from him, I distinctly heard him make the announcement in question, and heard no objection. I know my colleague is incapable of publishing any remarks which he would not be willing to avow on the floor of the House.

Mr. STANLY. That shows the necessity for the passage of the resolution, that justice may be done to the members when they state to the House their intention to publish a speech.

Mr. EWING. I did not design to add any thing to this debate, as I see that it has already progressed further than is agreeable to the House, but that the general tendency of the remarks made has been, as I humbly conceive, in the wrong direction. I think it is the conviction of most of the members of this House, that this is an abuse, and a growing abuse. Some perhaps think that it is impossible to correct it. I think, for my own part, that the resolution of the gentleman from North Carolina [Mr. STANLY] will have that effect. At first, sir, the difficulty which seems to have occurred to the gentleman from Georgia, [Mr. STEPHENS,] presented itself to my mind, but I can perceive a broad and easy distinction between a member's being allowed to correct the notes of the reporter—which is necessary in justice to himself, in order that he may not be misrepresented, because those notes do not always present an accurate report of what is said upon this floor, and unless members were allowed a revision of those notes, no correct report would be made—and his being permitted to publish, as a speech made upon this floor, remarks which were never uttered here.

I would remark, by the way, that perhaps it would be the very best method of correcting this and other abuses growing out of a morbid desire to make speeches upon this floor, to abolish every thing like an official report. There is an abundance of newspapers in the land, and a great abundance of reporters. If anything is said here, of sufficient interest to the people at large, to attract attention, it will be published in the papers. If not, and a gentleman wishes to put himself correctly upon record, let him publish his own speech at fifty cents per hundred, or a dollar a hundred, if he wishes to make a long one. [Laughter.] I believe, sir, that would be the surest, and perhaps the only effectual mode of correcting these abuses. The idea of a man's publishing a speech as having been made upon this floor, and having it so stated in the report, when it never was made upon this floor, is certainly an abuse, because it is a fraud, and is false.

I mean no disrespect to the gentleman from Maine [Mr. SMART] in these remarks, for he has only conformed, in the publication of his speech, as he has already remarked, to a custom already introduced. But it is an abuse, nevertheless, and an untruth, one of those conventional untruths, in the perpetration of which no man violates the ordinary sense of justice, but still it is not true to say that this speech was made upon the floor of the House, when no such speech ever was made, and when the gentleman did not even get so far as to say "*Mr. Speaker.*"

Now, sir, I think it unfortunate, and simply unfortunate, to the gentleman from Maine, [Mr. SMART,] that this discussion should have arisen upon his own call, as it is not the first occurrence, by any means, of that kind. But considering the importance of the speech, its subject and doubtless its able character, he must permit me to say, that I think this the most silent speech, I will not say I have ever *heard*, but *seen*, upon so "*loud*" a question.

The abuse should be corrected. As to the idea of a gentleman being allowed to print a speech by general consent, I do not think it ought ever to be permitted, whether read here or not. I think, if it is permitted, it should be stated in that report exactly to what extent the permission has been granted, and that the report, being made officially and at the public expense, as nearly as possible

*The Reporter feels it to be his duty to say that Mr. Smart did distinctly state to the House his intention to publish the remarks which he was prevented from delivering; but the Reporter took the liberty, as he had done on several previous occasions, to omit them, in order to preserve regularity in the proceedings.

present the true state of things as they occur upon this floor.

Speeches are made here, as all know, to take a common-sense view of the matter, not to enlighten the public. We are too modest servants of the public, to pretend that we undertake to enlighten the public upon any subject. [Laughter.] They are not made to enlighten this House. That is not the purpose. The object is simply——

Mr. GAYLORD. Buncombe.

Mr. EWING. Yes, Buncombe; that is the idea, a whole volume in a word. Then it is unjust, it is unfair that our laborious friends from the North, to whom it is no trouble to write, who are in the habit of writing all their lives long, who love to write, who keep their rooms steadily, who do not go to the Departments to attend to pension papers, and to look after the little post offices which covers the whole range of business outside of this House, nominally:—[laughter;]—I say it is unequal and unfair that those northern friends of ours should have this advantage, and write long speeches. There is no one-hour rule upon written speeches, and I have seen seven-hour speeches in the Congressional Globe, professing to have been made upon this floor under the one-hour rule. I think one hour is long enough for any man to speak, and too long for any man to write; and it is unfair that those who love to write as they do, should have this advantage of sending Buncombe speeches home, and making the impression upon the minds of their people at home and ours that they can speak, when they do not speak, [laughter,] and that they can speak better than the rest of us; which they might, perhaps, if they tried—but when they do not speak at all. [Laughter.] It is unfair and unjust in every sense of the word—in a party sense, in a social, private, and individual sense. It is an imposition upon their constituents at home, who, if they only knew it, would complain; but, poor fellows, they do not know it yet. [Laughter.] I hope after this discussion that they will be aware of it.

Mr. DEAN. I move the previous question.

Mr. CHANDLER. I hope the gentleman will withdraw that motion a moment. I want to make an explanation. If the gentleman will not allow me to make the explanation, I hope he will let me write it out. [Laughter.]

Mr. DEAN. I cannot withdraw it.

The question being upon seconding the demand for the previous question,

Mr. ORR demanded tellers; which were not ordered.

Mr. SWEETSER. I move to lay the whole subject upon the table.

Mr. STANLY. I call for the yeas and nays upon that question.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 44, nays 92; as follows:

YEAS—Messrs. Allison, John Appleton, Thomas H. Bayly, Bragg, Breckinridge, Albert G. Brown, Buell, Busby, Joseph Cable, Chastain, Disney, Dunham, Ficklin, Floyd, Gaylord, Giddings, Gilmore, Grow, Hibbard, Howard, Ives, John Johnson, Robert W. Johnson, Preston King, Letcher, McMullin, Molony, Morrison, Murray, Newton, Peaslee, Penn, Penniman, Powell, Richardson, Smart, Abraham P. Stephens, Alexander H. Stephens, Sweetser, Thurston, Townshend, Venable, Addison White, and Wildrick—44.

NAYS—Messrs. Abercrombie, Aiken, William Appleton, Averett, Barrere, Beale, Bell, Bocock, Bowie, Brenton, Briggs, Burrows, Caldwell, Lewis D. Campbell, Joseph R. Chandler, Chapman, Churchwell, Clark, Clemens, Clingman, Cobb, Curtis, Darby, George T. Davis, John G. Davis, Dean, Dockery, Doty, Duncan, Eastman, Edmundson, Ewing, Faulkner, Freeman, Thomas J. D. Fuller, Goodenow, Grey, Hall, Harper, Isham G. Harris, Sampson W. Harris, Hascall, Haven, Hebard, Hendricks, Hillyer, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Jackson, Andrew Johnson, James Johnson, George W. Jones, Kurtz, Lockhart, Martin, Meacham, Miller, Millson, John Moore, Morehead, Murphy, Nabers, Orr, Samuel W. Parker, Perkins, Porter, Preston, Riddle, Robie, Ross, Sabine, Savage, Scudder, David L. Seymour, Origen S. Seymour, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stuart, Taylor, Walbridge, Wallace, Walsh, Ward, Watkins, Welch, Wilcox, Williams, and Woodward—92.

So the House refused to lay upon the table.

Mr. STEPHENS, of Georgia. Has the amendment offered by the gentleman from North Carolina [Mr. STANLY] been acted upon?

The SPEAKER. The gentleman from North Carolina proposes to modify his resolution by a proviso. The resolution and proviso will be read.

They were then read, as follows:

"*Resolved*, That the reporters of the House of Representatives be directed hereafter not to report, in the Daily Globe, as part of the proceedings of the House, speeches not made in the House, unless by leave of the House: *Provided*, That nothing in this resolution shall prevent any member from correcting or revising the reporter's notes."

Mr. STEPHENS. Will the gentleman further amend it by inserting, "and Congressional Globe," after the words "Daily Globe?"

Mr. STANLY. I have no objection to accepting that amendment.

The previous question was then seconded, and the main question ordered to be put.

The question was then taken upon the adoption of the resolution as modified, and it was decided in the affirmative.

So the resolution was adopted.

Mr. STANLY moved to reconsider the vote just taken, and also to lay the motion to reconsider upon the table; which latter motion was agreed to.

REPORTS OF COMMITTEES.

The SPEAKER. The pending question, when the House adjourned yesterday, was a motion to lay upon the table the resolution offered by the gentleman from Tennessee, [Mr. HARRIS.] Upon the vote to lay the resolution upon the table there appeared to be no quorum. The gentleman from Georgia [Mr. STEPHENS] demanded the yeas and nays. The Chair decided that as there was no quorum present, it was not competent for the House to take a vote upon the motion to lay upon the table, and that therefore it was not in order to order the yeas and nays upon it. From that decision the gentleman from Georgia took an appeal, and that is the question pending. The gentleman from Virginia [Mr. CLEMENS] moved to lay the appeal upon the table.

The question might arise, and does arise here, whether or not, as there is a quorum now present, the question does not fall.

Mr. STEPHENS. As the question involved is an important constitutional one, and the House is thin, I will withdraw the appeal and take it up some other day.

[Mr. CLARK here asked leave to introduce a resolution, with the request that it might be read for information. Objection being made, leave was not granted.]

The SPEAKER. The question is upon laying the resolution upon the table.

The resolution was then read, as follows:

"*Resolved*, That it shall be the standing and special order of this House, after to-day, to call the committees for such reports as shall not give rise to debate, until all the committees shall be called; and if any report shall be made to which objection is offered, such report shall not be received, but shall remain until the committees are regularly called under the rule of this House."

Mr. HARRIS. The gentleman from North Carolina [Mr. STANLY] objected yesterday to my offering a substitute, which was read at the Clerk's table, upon the ground that he could not hear it. As he has had an opportunity of seeing it since, I hope he will not now object. I ask again unanimous consent to offer it as a substitute for the original resolution.

The proposed substitute was then read, as follows:

"*Resolved*, That it shall be the standing and special order of this House, after to-day, to call the committees for reports until all the committees have been once called: *Provided*, That no bill or resolution reported under this order shall be put upon its passage, unless by the unanimous consent of the House: *Provided further*, That any bill reported and proposed to be put upon its passage, if objected to, may be withdrawn by the gentleman offering it."

Mr. STUART. I wish to inquire of the Chair, if, after this week, the first business in order will not be the call of committees for reports?

The SPEAKER. It will after the 5th of January, except on Mondays.

Mr. STUART. I therefore object to any modification of it.

The SPEAKER. The question is upon laying the resolution upon the table, and upon that the yeas and nays are demanded.

Mr. STEPHENS. I will not insist upon the yeas and nays, and withdraw the call.

The House was then divided upon the motion, and there were—ayes 71, when

Mr. HARRIS, of Tennessee, demanded tellers; which were ordered; and Messrs. BEALE and GAYLORD were appointed.

The question was then taken, and the tellers reported—ayes 67, noes 39; no quorum voting.

Mr. ORR. I call for the yeas and nays.

Mr. McMULLIN. I move that the House do now adjourn.

Mr. STUART. I demand the yeas and nays on the motion to adjourn.

Mr. ORR. I called for the yeas and nays on the motion to lay on the table, before the vote was announced.

The SPEAKER. The Chair was bound to report the result.

The yeas and nays on the motion to adjourn were not ordered, only 17 having seconded the demand.

Mr. APPLETON. I demand tellers.

Tellers were not ordered.

The question was then taken, and the motion to adjourn was decided in the affirmative.

And thereupon the House adjourned till to-morrow at twelve, m.

PETITIONS, &c.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MILLSON: The petition of W. Wallace Davis, as agent and attorney of F. G. Rosario, a Portuguese subject, praying indemnity for illegal imprisonment, under authority of the United States.

By Mr. EASTMAN: The petition of James B. Estes, for compensation for property taken for the use of troops in Wisconsin, in Black Hawk's war in 1832.

On motion by Mr. SEYMOUR, of New York, under the rule, ordered, that the papers of General John E. Wool be withdrawn from the files of the House, and referred to the Committee on Military Affairs.

IN SENATE.

THURSDAY, *December* 30, 1852.

Prayer by the Rev. JAMES GALLAHER.

THE JACKSON STATUE.

The PRESIDENT *pro tem.* laid before the Senate a letter from the Committee of Arrangements of the Jackson Monument Association, inviting the Senate and its officers to attend the ceremonies of the inauguration of the Equestrian Statue of General Andrew Jackson, on the eighth day of January next.

PROPOSED LUNATIC ASYLUM.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, information as to the steps taken to establish a Lunatic Asylum in the District of Columbia; which was ordered to lie on the table, and be printed.

VOLUNTEER CLAIMS.

The PRESIDENT *pro tem.* laid before the Senate a report of the board appointed for the examination of claims against the United States for funds advanced, and subsistence and supplies furnished or taken for the use of, the volunteers under the command of Captain John C. Frémont, in California, during the year 1846; which was referred to the Committee on Military Affairs.

PETITIONS, ETC.

Mr. CASS presented the petition of David P. Weeks, praying to be allowed a pension for the time he was employed in the Ordnance Department, the law not allowing pay and pension both; which was referred to the Committee on Pensions.

Mr. GWIN presented a petition of citizens of California, praying the erection of a light-house in San Pedro Bay, California; which was referred to the Committee on Commerce.

Mr. MORTON submitted an additional document in the case of Isaac Varnes, senior; which was referred to the Committee on Claims.

MARINE HOSPITAL MONEY.

Mr. DAVIS. I ask the permission of the Senate to present the petition of R. B. Forbes, and of merchants, underwriters, and others, of Boston, interested in the welfare of our mercantile marine. They pray that the tax now exacted from seamen, under the name of "hospital money," be abolished; that a statement be made to Congress of the amount received as "hospital money" since the establishment of the Government, and of the amount thus collected which has been expended for the support of marine hospitals; that a committee be appointed by Congress to take into consideration, and to report to the next Congress, a plan for the establishment of naval schools in our principal Atlantic ports, for the education of youth for the mercantile marine; and that the law requiring that two thirds of the men composing the

crews of American ships shall consist of American citizens, be repealed.

I have also a similar petition from the presidents of various insurance companies; and an additional petition of the same tenor, largely signed, and on the same subject, which I ask may be referred to the Committee on Commerce.

They were so referred.

Mr. DAVIS subsequently submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to lay before the Senate, the amount of marine hospital money connected annually from seamen, since a law authorizing the same has been in force; also all sums of money appropriated by Congress for such hospitals, whether for the purchase of sites or for any other purpose, designating the places where, and the purposes for which, the funds from all sources have been expended; also, that said Secretary further state, whether any money, and if any, how much, remains in the Treasury belonging to said fund.

REPORT FROM A STANDING COMMITTEE.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the petition of George Morris, representing that he enlisted as a private soldier in the army, in February, 1812; was taken prisoner during the war, carried into Canada, and delivered up to the Indians, who detained him until September, 1816; and prays such relief as may be thought just and equitable, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

BRITISH COLONY IN CENTRAL AMERICA.

The Senate proceeded to consider the following resolution, submitted by Mr. CASS, December 28th:

"*Resolved*, That the President be requested to communicate to the Senate, as far as may be compatible with the public interest, any information in the Department of State respecting the establishment of a new British colony in Central America, together with a copy of a proclamation, if received at the said Department, issued by the British authorities, at the Balize, July 17th, 1852, announcing that 'her most gracious Majesty, our Queen, has been pleased to constitute, and make the Islands of Roatan, Bonacca, Utilla, Barbarat, Helena, and Morat, to be a colony, to be known and designated as the colony of the Bay of Islands,' and signed—

"'*By command of Her Majesty's Superintendent*,

"'AUGUSTUS FRED. GORE,

"'*Colonial Secretary*.'

"And also, what measures, if any, have been taken by the Executive to prevent the violation of that article of the treaty of Washington, of July 4th, 1850, between the United States and Great Britain, which provides that neither party shall 'occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America.'"

The resolution was adopted.

NEW YORK CUSTOM-HOUSE CONTRACTORS.

On motion by Mr. WADE, the Senate, as in Committee of the Whole, proceeded to consider House bill "for the relief of Charles S. Matthews, Charles Woods, and James Hall. It proposes to direct the Secretary of the Treasury to pay to Charles S. Matthews, Charles Wood, and James Hall, or any other person or persons by them duly authorized to receive the same, the sum of $12,119 47, which payment shall be in full satisfaction and discharge of all claims which they or either of them have upon the United States for or on account of all damages sustained by, or growing out of, their contract to furnish marble for the basement of the custom-house lately built in the city of New York.

The bill had been reported from the Committee on Claims, with an amendment to strike out the words, "or to any other person or persons by them duly authorized to receive the same."

Mr. BRODHEAD. Mr. President, I did not concur in the favorable action of the Committee on Claims, in reporting this bill to the Senate. It was reported with a recommendation that it should pass with the amendment which has just been read. It has already passed the House, and therefore, if it pass the Senate upon this occasion, it will become a law. It involves a considerable amount of money, and I wish to state the claim, as I understand it, to the Senate.

These gentlemen claim to be reimbursed for certain losses, which they say they incurred in furnishing marble for the custom-house in New York. There are some circumstances connected with this claim which induce me not to look at it with a very favorable eye. When it was first presented to the consideration of Congress, these men asserted that they had taken the contract and lost money by it. They did not then allege that there was any improper conduct on the part of the officer of the Government which caused a loss upon their part, and therefore the claim was rejected. When it was afterwards presented, they claimed damages because they said the Government officer had been guilty of impropriety. I think the first thought on the part of the petitioners was correct. They claimed damages on the ground that they had taken the contract and lost money by it. I am not prepared to say that they ever did lose money by it; and if they did, it was their own fault. We cannot undertake to indemnify every person who enters into a contract with the Government of the United States, and happens to lose money by it. I hope the Senate will not sanction such a principle as that.

There is another suspicious circumstance connected with this claim. In making up their accounts, these men charge for Sundays. I did not like that. It did not look well. But it has been some time since we considered this bill in committee, and the particular facts and circumstances of the case have, in a great measure, passed from my mind; and hence I am not prepared now to discuss it at length, until I hear the report read. The Senate is very thin, with barely a quorum present, and I hope the bill will not be pressed at this time upon the attention of the Senate. I move that its further consideration be postponed until to-morrow.

Mr. WADE. As this bill was placed peculiarly under my supervision, I ought perhaps to say something in support of it. The claim for damages arises out of a contract made by the parties with the Government of the United States, to furnish marble for the basement story of the custom-house in New York. As a part and parcel of that contract, the Government were to furnish them with patterns to work from. It was impossible for them to proceed with the building, unless the Government should furnish them with draughts and patterns by which they could cut out the stone. That provision was incorporated into the contract, and the Government was to furnish them free of expense. The evidence shows that the contractors proceeded to the performance of the work in good faith, and with vigilance, for some three or four months, and then the superintendent of the work, who had the draught and all the patterns from which they were to work, got into some difficulty with the Government, which finally resulted in his leaving the work. The Government, I believe, offered him $3,000 or $4,000, if he would go on with his contract; but he refused, and refused to give up the patterns or anything else, consequently, these men complain that, with a great number of hands, teams, and everything ready to perform the work, they were delayed and thrown out of employment, with all the expenses upon their hands.

In the first place, the case was referred to the Solicitor of the Treasury. He proceeded to investigate it, and took a good deal of testimony, and made a report in favor of the claimants, giving them much more than this bill proposes to give them. That was not satisfactory, and it was rereferred. Further testimony was taken, and another report was made favorable to them by the Treasurer. That not being satisfactory, Congress referred it back again to the Treasurer, with directions for him to take testimony on the part of the Government in the city of New York, and make another report. The Government employed solicitors there, and depositions were taken. The evidence is very voluminous. They reported to the Government. It is true the Government did not take any testimony, but the claimants went on under that order, giving notice the same as they would in a suit pending between private individuals; and they examined, through their solicitor, all the witnesses which the Government itself proposed to examine. The claimants took this testimony in the presence of the attorneys of the Government, who cross-examined the witnesses, and the solicitors of the Government gave it up, saying to the Department that they could find no testimony adverse to the claim, and that, indeed, the further they examined it, the worse it was for the Government. The testimony is all one way. It all shows that the work was delayed to the extent that these individuals claim. It shows that their damages were as great as, and even much greater than we have proposed to give them. I do not recollect any witness who did not conform to that statement. In making up the report founded upon the testimony, I know of only one conclusion to which we can come. The Government has had a fair opportunity to investigate the whole matter, and has undertaken to do it in the same way that a person interested in a private suit would do it, by examining all the witnesses that they saw fit to bring on both sides; and all we can say is, that the Government was found in default, so far as the testimony is concerned.

How we can resist the force of this testimony, without any countervailing testimony, is more than I know. We must either proceed upon the testimony, or there is no use in taking it. The report is long; it is voluminous. I believe it is a written report made by the Solicitor of the Treasury, giving all the depositions, to which report I refer principally. I have read them all, and I think I can say that there is no testimony going to overthrow the state of the case which the claimants make out. It is true that the first petition presented by the claimants seemed to be rather loosely drawn. Perhaps they drew it up without a real knowledge of their rights. It is very inartificially drawn at all events. In it they stated the ground of their damages to be that they undertook to furnish stones at too low a price. In that aspect of the case, a report was made adverse to to it, upon the principle that the Government would not relieve men from a hard bargain which they made with their eyes open, when there was no fraud in it. It was properly reported against on that ground. The petitioners then amended their petition, and upon it all the testimony to which I have referred was taken; and most assuredly, if we proceed upon that testimony, we shall find that we can come to but one conclusion, and that is, that they are entitled to damages. If we go outside of the testimony, and go upon suspicions that may exist, I do not know where we may be led. When a case is presented to me, I can go upon nothing else than the testimony. That testimony, in the present case, goes against the Government and proves that the claimants are entitled to much greater damages than we propose to give. I believe the bill has been reported upon favorably three or four times, and has passed the House. That is all I have to say about it.

Mr. UNDERWOOD. I hope the further consideration of this bill will be postponed, to allow the chairman of the Committee on Claims, [Mr. BRODHEAD,] an opportunity to examine all the facts in the case, so that he may give us his views at length concerning it. I examined the claim when I was a member of the Committee on Claims, and I have a very distinct recollection of coming to the conclusion, that it was about as baseless as the fabric of a dream. I wish to call the attention of the chairman of the committee to some of my recollections, in the hope, that if the consideration of the bill is postponed, he will examine and see whether they are right or not. It has been a year or more since I looked into the case. These persons claimed, in the first place, that they lost money upon their contract, and were therefore entitled to relief. But that claim being abandoned, they afterward came forward and asked relief on the ground that the Government was in default, and the default which they attempted to throw upon the Government, was the failure of its officer to furnish patterns by which they were to work their rock so as to suit the building; by which failure they were delayed in the delivery of the rock, and had to keep a great many teams of oxen and horses, and a great many men upon their hands unemployed, and consequently had to purchase a large quantity of forage for their teams, and board a great many men. They say, too, that this took place during the winter season, when the oxen and men were consuming daily, and were perfectly idle, so that they do not allow the Government one solitary cent of credit for some months, during which time they say they were upon expense and made nothing. But there is no proof upon that subject at all, I believe, showing the most palpable neglect on the part of the officers of the Government, who were charged with taking the testimony. I do not recollect that they proved anything with regard to what these men and oxen would have earned, if they had been kept at work, or if they had had employment. Then the damage consists in this, that these men were kept upon wages for months

when there was no necessity for it, and when there is nothing to show that these persons were bound to keep them in this way, according to my recollection on the subject.

But that is not the great point in the case which, according to my recollection, led me to distrust the propriety of granting the relief asked for; and I wish, if the subject be postponed, that the chairman of the committee will look particularly into this matter, which I will state.

My recollection is, that the time for the delivery of this rock was fixed, and the officer of the Government who, it is said, failed to furnish the patterns by which they were to work, did not have any difficulty with the Department, and did not refuse to furnish the patterns until a few days before the time when the rock was to have been furnished, so that it was utterly impossible that from the time the alleged default of the officer took place, up to the time they were to have delivered the rock, they could suffer any material injury. It was their business, according to the contract, to have had all the rock prepared and ready for delivery before, as you will see if you will examine the dates, long before the default of the officer took place. It is, therefore, a mere pretext that the failure to furnish the patterns obstructed them in getting out the rock at the quarry. That is one thing upon which they base their claim, that they could not work at the quarries in consequence of the failure to deliver the patterns. If you will examine the dates, you will find the statement is utterly unfounded. If they had complied with the contract, they must have had the rock quarried, chiseled, and prepared at the quarry, long before they could have suffered any injury by the failure to obtain the patterns.

The next ground of complaint, according to my recollection, is, that the officers told them not to bring in the rock as fast as they were willing to bring it. And here is presented an inconsistency. One aspect of the case is, that for the want of the patterns they could not get the rock ready for delivery; and the other is, that they had it ready for delivery, but were told not to bring it in. It is very much like the plea of the man who broke a borrowed kettle and said he never borrowed it, and if he ever did borrow it, it was broken all to pieces when he took it, and good for nothing. They say they could not get the rock ready because they had not the patterns, and then, the rock being ready, the officers would not let them deliver it as fast as they would have done, because there was not ground prepared, where the custom-house was erected, on which to stow it away. I wish this matter to be examined, to see whether my recollections with regard to it are correct. I made no report upon it. I had not time, but I recollect the case, and recollect to have examined it, and it occurs to me that these are the points which exist in regard to it. I hope it may be postponed, to allow gentlemen on both sides to see how it stands, because I cannot give the exact dates.

Mr. HALE. I think this will be going one step further than we have gone on private claims heretofore. We have taken two steps this session. First, we passed an act for the relief of a gentleman who was obliged to have a confidential clerk, and intrusted to him Government money; and inasmuch as his clerk displayed a want of integrity, we agreed to remunerate him. Then there was the case of a man who had charge of Government money which he left in a safe in the care of some negro men or slaves, who robbed it, and we paid him. But this is going further, and it is proposing to pay—not gentlemen that have confidential clerks, but hard-working stone-cutters, and it is carrying this equitable relief down from that class of society for which it was evidently intended to the laboring classes, and relieving hard-working laborers in stone altogether beyond the precedents which have been established heretofore; and it seems to me it will be a dangerous one to relieve that class. Besides that, there is another thing which I want to know about these contractors before I am prepared to vote. It was manifestly proper, the Senate thought, before they should apportion the duties of the offices of the Senate out to its own members, to criticise what political organization they belonged to. I should like to know what political organization the petitioners belong to before acting upon the high precedents set to vote upon the bill. For these reasons, which have not been alluded to by the honorable Senator from Kentucky, I hope the bill will be postponed, and that we will pause some time before we take such an alarming step as this would be, to extend the relief of the Government to men that work by their own hands, and employ their own teams in working stone quarries.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The question is on postponing the further consideration of the bill until to-morrow.

Mr. BRODHEAD. I desire to say a very few words before the question is put. If the petitioners told the truth when they first came to Congress, they are not entitled to relief. That, my honorable friend from Ohio [Mr. WADE] admits. I take it for granted that they did tell the truth then. They claimed that Congress should afford them relief because they had made an improvident contract—a contract by which they lost money. Afterwards they found out—some agent perhaps about Washington informed them—that they must place the blame at the door of the Government officer, or show that the Government was in default some way or other. Now, my friend from Ohio says the evidence leads directly to the conclusion to which he arrives. But, sir, it must be remembered, in considering all these cases, that the evidence is *ex parte*, and an *ex parte* proceeding is easily made out. All these cases are *ex parte*, and therefore must be taken with some grains of allowance.

The Senator from Kentucky is right in his recollection, when he says that these persons claim damages because their horses and oxen were without employment about the city of New York. That could not be. You can, in my opinion, always find employment for horses and oxen about New York; therefore, that complaint is not well founded. Besides that, I agree entirely with the Senator in my recollection that the assertion that they could not proceed with their contract because they were not furnished with patterns is rather unfounded. They could have proceeded; and if they had bid correctly, and entered into the contract with a proper regard to their own rights as well as the rights of the Government, they would not have lost money. I hope, therefore, the bill will be postponed. It is more than a year since I examined into the matter.

Mr. WADE. I would be quite willing that the bill should be postponed, if I believed any further light would be elicited by it. The case has been pending before Congress several years—I do not know exactly how many; but it has been under the supervision of some Department several years, and been investigated and reinvestigated not less, I think, than six times before some tribunal; and they have all come to the result to which the majority of the committee have come, that the contractors were entitled to damages. It is said that this would be introducing a very dangerous principle into the administration of affairs. I do not know that it is dangerous to admit that the Government may be guilty of a violation of a contract to the injury of the contractors, and that it should pay the damages. Between private individuals it is not thought to be a dangerous principle. I cannot believe that it is any more dangerous, or any less just, when it is applied to the Government, than when applied to private individuals.

The Senator from Pennsylvania is mistaken when he says this is altogether an *ex parte* affair. I put stress upon the fact that it is not *ex parte;* but after one or two investigations that were *ex parte* before the Departments, it was referred back again, with directions that notice should be given, and lawyers employed on behalf of the Government as well as by the individuals; and it was sent out under the same scrutiny that a proceeding pending before a court would receive. It was investigated, not *ex parte*, but before the agents and attorneys of the Government and those of the claimants. The testimony satisfied the Government attorneys who attended to it that they could get no testimony to sustain the rights of the Government under the contract. They gave it up, and reported to the Solicitor of the Treasury that to go further in taking the testimony would only put the Government still further in default.

That, sir, is the testimony. Whether there is anything outside of it throwing suspicion around it, I know not. I do not even know the claimants. I never saw them. I know none of their agents. I know nothing but the testimony on file; and I do know, if that testimony was submitted to any jury, under the instruction of any court in this country, they could only return a verdict against the Government for damages; for all the testimony goes to show that the Government did violate its contract, and injure the claimants; and it is obvious how it happened. The contract was a large one. It was necessary that the contractors should prepare themselves with a great number of hands—over one hundred, I believe—and I cannot now recollect the number of horses and oxen they had in order to draw the stones from the quarry to the building, perhaps one hundred in all. The testimony shows it was impossible to work at that business, except in a particular season of the year. For instance, in winter they could not do it; the roads were not in a condition to permit them to draw the stones in winter; they had to avail themselves of the favorable season of the year. I speak of what the testimony says—nothing outside of it.

The testimony shows that these men did go on and prosecute the work with great vigor. The Government agents—not men in the employ of these claimants, but men in the employ of the Government—say that the officers of the Government all testify to the same facts. There is no discrepancy between the testimony furnished by the claimants and that furnished by the officers of the Government. The defaulter in this case was an agent of the Government. I think the Government was in some fault, that this officer was not put under some bonds requiring him to perform his duty. But there was some misunderstanding—I hardly know what it was—sprung up between the Superintendent and the Department, which resulted in the refusal of the Superintendent to go on, and they could not hire him, not even by the promise of $4,000, to go on, or to give up the draughts which he had made. But he went off, and doggedly took the draughts all away; and the consequence was that the Government had to hire another superintendent, who had to go in there, and according to the evidence, it took him three months to redraught the building, and did well in completing it in that time. I am not acquainted with that kind of business sufficiently to enable me to decide whether so much time was necessary; but the artisans all testified that it was necessary to furnish a new draught of the building before the work could go on. According to the testimony, these men had to wait until the Government should set them to work, and in the mean time there was no profitable work for them to do. That the testimony shows. I do not know whether it is true or not; but I know it is so stated in the depositions, and there is no counter testimony. I am therefore bound to rely upon that, in the absence of all evidence to the contrary, as being true; for I cannot go upon bare suspicions where the testimony is fairly taken, and there is a fair opportunity given for cross-examination. I know no reason why I should reject the evidence presented, unless there is some inconsistency upon its face which goes to destroy it. I do not know how it is that so many men could come to the same conclusion that the majority of the committee arrived at, unless there is some truth in it. There have been two reports from the Solicitor of the Treasury in their favor, and divers reports in the House of Representatives upon the same evidence, and all of the same purport. I do not think there is any good reason why we should postpone the consideration of the bill; for I think that, after all, Government will have to pay the claim.

Mr. UNDERWOOD. I have very hastily collected some of the information of which I thought I had a recollection, and I will now give the facts in the case. The contract was made in 1834; the delivery of the stone was to commence on the 15th of September, 1834. One half of the stone was to be delivered by the 10th of December following, and the entire quantity was to be delivered and the contract completed on or before the 15th of June, 1835. These are the dates. The contract amounted to some $67,000. In 1835, Mr. Whittlesey made a report against this claim. Then the claim was based upon the insufficiency of the compensation for the work done. In 1842, Mr. Cowell made another report against it. After that, the claimants came forward with another petition, changing their ground; and in that petition they say:

"Your memorialists are prepared to show that the delay

referred to, was not wholly attributable to default on their part, but is chiefly chargeable to the former superintendent."

They are now answering these reports, made against them from time to time, and they say it was "attributable chiefly to the default of the superintendent, Mr. Thompson, in his neglect to furnish them with working plans, and with the draughts necessary to enable them to proceed with the work, and especially by the resignation of the said superintendent, in May, 1835."

They do not state at what time in May, 1835, Mr. Thompson resigned. If it was at the last of May, as I stated before, it was only two weeks before the time when the whole of the stone was to be delivered. To talk about preparing and delivering some $30,000 or $40,000 worth of stone in two weeks, is most conclusive evidence to show that this was an afterthought. It could not be possible that they should suffer any essential injury by wanting the patterns two weeks or even a month; and there is no pretense by the claimants, that there was any failure to furnish the facilities for going on with the work according to the contract, until the superintendent did resign. If, therefore, any injury came upon them, it was in consequence of their own laches and neglect.

As the chairman asks the liberty of examining all these papers, and as I have not had time to look into a tenth part of them, I hope the subject may be postponed. And allow me to tell you, Mr. President, that claimants sometimes appear to try to smother up the truth, by bringing before the committee very voluminous documents, which have nothing at all to do with the case. I have labored whole days, when on the Committee on Claims, without making one particle of progress towards reaching the truth of the case in hand, because the truth is thrown aside by one sort of irrelevant matter and another which is presented. Here is a month's investigation required almost, in order to get at the merits of this case. I have just shown you that this man, Thompson, upon whose default they now base their large claim, only resigned in May, when, according to the contract, the whole of the stone was to have been furnished by the 15th of June following. It cannot be. As the chairman of the committee says, the idea of keeping hordes of men and cattle in New York, doing nothing for months, is one that I cannot credit.

The question was then taken on the postponement of the further consideration of the bill, and it was agreed to.

WASHINGTON CITY CHARTER.

On motion by Mr. SHIELDS, the Senate proceeded, as in Committee of the Whole, to the consideration of the bill to amend the charter of the city of Washington.

Mr. SHIELDS submitted an amendment, which was ordered to be printed, and then the further consideration of the bill was postponed until to-morrow.

ROADS IN MINNESOTA TERRITORY.

On motion by Mr. DODGE, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider House bill "making further appropriations for the construction of roads in the Territory of Minnesota."

It proposes to appropriate for the construction of a road from Point Douglass, on the Mississippi river, to the falls or rapids of the Saint Louis river of Lake Superior, $20,000; for the construction of a road from Point Douglass to Fort Gaines, now Fort Ripley, $10,000; for the construction of a road from the mouth of Swan river, or the most expedient point near it, north or south of said river, to the Winnebago agency at Long Prairie, $5,000; for the construction of a road from Wabashaw to Mendota, $5,000; and for the survey and laying out of a military road from Mendota to the mouth of Big Sioux river, on the Mississippi, $5,000. The said roads to be constructed under the direction of the Governor and Legislative Assembly of said Territory.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

SCHOOL LANDS IN OREGON.

On motion by Mr. DODGE, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, "to amend an act entitled 'An act to establish the Territorial Government of Oregon,' approved August 14th, 1848."

It proposes to authorize the Legislative Assembly of the Territory of Oregon, in all cases where the sixteenth or thirty-sixth sections shall be taken and occupied under the law making donations of land to actual settlers in that Territory, or otherwise, to cause the county commissioners of the counties of that Territory, or any other officers, to select in lieu thereof an equal quantity of any unoccupied land; and that the selections so made, and their proceeds, shall be forever set apart for the benefit of common schools.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

RECESS FOR THE HOLIDAYS.

Mr. BADGER. I desire now, Mr. President, to submit the usual motion at this period of the session, which is, that when the Senate adjourns to-day, it be till Monday next.

Mr. HALE. On Monday last, I made a motion for an adjournment from that day till Thursday; but the Senate thought the condition of the suffering claimants upon the Government was such that we could not consistently adjourn over; and I suppose that as we have not relieved any great proportion of those sufferers since that time, we cannot now consistently agree to this motion.

Mr. BADGER. We have been providing for them handsomely, since that time.

The question being taken, there were, on a division—ayes 22, noes 5, and the Presiding Officer announced that the motion was agreed to.

Mr. HALE. Is there a quorum voting?

The PRESIDING OFFICER, (Mr. MANGUM.) The Chair did not count the noes very particularly, but there were 22 ayes, which is more than a majority of any number that has voted this week.

Mr. HALE. I insist upon it that the motion cannot be carried unless a quorum shall vote.

Mr. BADGER. I thought the Senator gave it up.

Mr. HALE. I did not, but I called for a count on the other side. I now call for the yeas and nays.

The yeas and nays were not ordered.

The question being again taken, there were, on a division—32 in the affirmative and 6 in the negative; so the motion was agreed to.

WILLIAM SOMERVILLE.

The bill for the relief of the legal representatives of Dr. William Somerville was read a second time, and on motion by Mr. BRIGHT the Senate proceeded to consider it as in Committee of the Whole. It proposes to direct the proper accounting officers to ascertain the value of the property of the late Dr. William Somerville, of Calvert county, Maryland, which was destroyed by the British troops during the invasion of that State in 1814, in consequence of its occupancy by the troops of the United States, and to pay the amount so found to be due.

Mr. WALKER called for the reading of the report of the Committee on Claims; and it was accordingly read. From that report it appeared that the house of Doctor Somerville was occupied by the American troops, by order of the officer in command, for the purpose of reconnoitering the enemy. On the day it was destroyed by the enemy, it was so occupied, and the American troops were driven from it prior to its destruction. The destruction of the property was caused by its occupancy by the American soldiers, and therefore the case, in the opinion of the committee, presents a claim for relief.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

WESTERN MILITARY ASYLUM.

Mr. JONES, of Tennessee. The Committee on Military Affairs have instructed me to offer the following resolution, which I ask may be considered at this time:

Resolved, That the Secretary of War be directed to call on the commissioners that examined the Blue Lick Springs, with a view to the location of a western military asylum, for a report of their examination; and that he communicate the same to the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BRIGHT. I move to amend the resolution by inserting after the word "springs," the words, "and other places."

Mr. JONES, of Tennessee. I have no objection to that; but I would suggest to the Senator from Indiana, that my object was to get the report of the commissioners, who were directed, by an act passed at the last session, to examine this particular site, for they have reported upon the other points examined.

Mr. WELLER. There were a great many things connected with the expedition to the Blue Lick Springs which I think will not be reported upon. [Laughter.]

Mr. BRIGHT. My object in moving the amendment was to get the facts in relation to the examination of other points—one in particular, which I consider of more importance than that designated in the resolution.

Mr. JONES, of Tennessee. I will accept the amendment, if the Senator will designate the places.

Mr. SHIELDS. I think it would be better if the Senator from Indiana would designate the places about which he wishes a report. A great many places have been examined. The sites for other military asylums have been selected. Surely there is no necessity for getting those reports again.

Mr. BRIGHT. I have no objection to inserting the points to which I allude. The one in which I feel most interest is Madison, Indiana; and I believe there were two other points in Kentucky examined.

Mr. WELLER. Let us have all.

Mr. BRIGHT. Some one site may possess advantages over all the rest, and therefore I think we had better call for information in regard to all.

Mr. SHIELDS. There is an asylum in this District, and others throughout the country, the sites for which have been long since selected. There is no use in having reports about them. I would therefore suggest to my friend from Indiana the propriety of confining the resolution to sites in Kentucky and Indiana.

Mr. WELLER. I see no good reason why the resolution should not embrace all the points examined by the commissioners. They did not confine themselves to Kentucky or Indiana, for one of them stopped to examine Columbus, Cincinnati, Cleveland, and other places in Ohio, either for political or military purposes—I cannot say authoritatively for which.

Mr. JONES, of Tennessee. I would remark to my friend from Indiana, that all the other points examined have been reported upon. This examination was made by special direction of the Senate and House of Representatives, and as I understand no report of the examination has yet been made. I wish to get this report; and I should like, also, to get reports in regard to the points suggested by the Senator from Indiana.

Mr. BRIGHT. I am aware that the act of the last session directed an examination of Blue Lick Springs; but the board saw fit to extend their examinations—and very properly, I think—to other points. When they are reporting the result of their examinations, in reference to the point named in the resolution, there can be no impropriety in their reporting as to other points to which their attention has been directed.

Mr. JONES, of Tennessee. If the amendment be confined to the last examination, I have no objection.

The amendment was agreed to; and the resolution, as amended, was adopted, as follows:

Resolved, That the Secretary of War be directed to call on the commissioners that examined the Blue Lick Springs and other places, with a view to the location of a Western Military Asylum, for a report of their examination, and that he communicate the same to the Senate.

JOSEPH MOREHEAD.

The bill for the relief of Joseph Morehead was read a second time, and on motion by Mr. CHASE, the Senate proceeded, as in Committee of the Whole, to its consideration. It proposes to direct the proper accounting officers to pay to the legal guardian or guardians of Joseph Morehead, late a passed midshipman in the Navy, now a confined lunatic, the furlough pay of passed midshipmen, from February 15, 1840, when he was dismissed, as if he had not been dismissed, and were on furlough for life.

The bill was reported to the Senate without

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amendment, ordered to be engrossed for a third reading, read a third time, and passed.

DE NEUFVILLE AND SON'S HEIR.

On motion by Mr. BRIGHT, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution for the relief of the heir of John De Neufville and Son.

It proposes to direct the Secretary of the Treasury to allow and pay to Mrs. Anna C. De Neufville Evans, the heir of John De Neufville & Son, (in addition to the $8,767 60, or twenty-one thousand nine hundred and nineteen florins, allowed by joint resolution of the 3d March, 1851, upon the report of the Comptroller to the Senate,) the following sums: The share awarded to De Neufville & Son in the damages as part owners of the ships Aurora and Liberty, the charges for lighter-hire, stay-days, traveling to the Texel, &c.; the charges for delivering of the goods, storage, &c.; the charges for journey to Paris of Major Jackson and Leonard De Neufville, to obtain Doctor Franklin's acceptance of bills. The amount of these four charges is $3,358 60, or seven thousand two hundred and sixty-one florins, as appears on the books of the Treasury; the florin to be calculated at forty-six and one quarter cents, and interest at the rate of six per centum per annum from the time the debt was contracted to the day of payment; the gratuity of $3,000 made the family of De Neufville in 1797, not to be taken from this claim.

Mr. BRIGHT. I move to amend the resolution by adding after the word "florins," where it last occurs, the words:

And also the balance due by the accounts and papers in the State Department on the notarial agreement, dated December 28th, 1781;

And also to add:

And that the former partial settlement of the Comptroller be corrected upon the above basis as to the value of the florin and interest.

Mr. BRODHEAD. I would inquire from which committee this joint resolution was reported?

Mr. BRIGHT. The Committee on Revolutionary Claims.

Mr. BRODHEAD. Let me make a suggestion upon the subject of passing these Senate bills. Suppose this bill should now be passed; it will be sent, with the memorial and papers in the case, to the House of Representatives. The probability is that it will not be touched there at this session. Then the papers will not be sent back here, as a matter of course, and thus its final passage will be delayed.

Mr. BRIGHT. I cannot look to those contingencies. I feel that I have a duty to perform; and if the House fail to perform their duty, I cannot help it. It is proper that I should state, that when the original resolution was on its passage three years ago, I opposed it for the reason that I did not believe the claim to be just. Since that time, I have taken occasion to examine it thoroughly, and I am satisfied that I did injustice to the claimant. I have, therefore, felt it to be my duty, at the earliest moment, to call up the joint resolution for the purpose of giving the Senate an opportunity to act upon it. I believe that the claimant is entitled to every dollar she claims, and if the Senate feel disposed to hear the case from beginning to end, I am prepared to go forward with it. I think the claim a just one, and that the joint resolution ought to be passed at once.

Mr. WALKER. I reported this joint resolution from the Committee on Revolutionary Claims, and I believe that if there is a case before the Senate of the United States, or one embraced in the class of revolutionary claims, which demands imperatively the action of this Government, it is this one. The firm of De Neufville & Son, aided this country in the most critical period of the revolutionary struggle. They furnished their own means; they even went beyond their own ability to furnish to this Government means to carry on that struggle. The Government, for the time being, was unable to pay them. Their fortunes were lost by reason of their advances to the Government. The De Neufvilles, father and son, came to this country to pursue their rights. The father soon died, and the son became a lunatic, and subsequently died. This female, an aged relative, still survives, and this tardy justice is now proposed to be done to her. I have examined this case with a solicitude with which I have rarely examined any one in the course of my life. It is a difficult one at first view, but a plain one when you come to understand it. If this Government owe a debt to any human being, it is to this woman. I hope the Senate will pass the resolution.

Mr. CHASE. I made, I think, very nearly the speech which has just been delivered by my friend from Wisconsin, some two or three years ago, in support of the original joint resolution for the payment of this claim. That joint resolution passed both Houses, and under it a very considerable sum has been paid. I should like to inquire of my friend, the late chairman of the Committee on Revolutionary Claims, how much was paid under it?

Mr. WALKER. It will be perceived that this resolution provides, that what was paid shall not be paid again. The difficulty is this: In auditing the account, the First Comptroller adopted a certain rule which the committee believed to be wrong. During the time of the greatest distress of this family, while in the United States, and when all the male members of the family were either dead or insane, a knowledge of the distress of the wife or child of one of them coming to the ears of Congress, a gratuity of $3,000 was bestowed upon her. The Comptroller deducted that. Besides, he adopted an undervalue for the florin, and he adopted an improper criterion for the calculation of interest. This is not a case of a claim for damages, but for money actually advanced.

The Comptroller made an error in three respects: He adopted an improper criterion for the calculation of interest; an improper valuation for the florin; and he deducted the gratuity allowed to her, and, after making these deductions, awarded the balance. This resolution is to pay nothing more than a sum which amounts to a correction of the criterion of interest, and the correction of the criterion of value of the florin, and some further items of the account which the Comptroller rejected. For instance, bills were drawn upon Dr. Franklin, who was in Paris. They were protested. The son, one of the firm of De Neufville & Son, together with an agent of the Government, had to make a visit to Paris to see why it was that those bills were protested. They went and saw Dr. Franklin, and explained the matter to him, and then the bills were accepted. These were expenses incurred at a time when those persons, being known to be friends of the United States, were under the espionage of the enemies of this country, and were followed by the cruisers of Great Britian. The Comptroller refused to allow this item, when it was proved as clearly as anything can be proved, that it was cash actually paid out of their pockets for the benefit of the United States, and in consequence of the default of the agents of the colonies.

These were items just as much involving a debt against the United States as any other portion of the accounts of De Neufville & Son, and yet they were disallowed. The committee felt that these amounts were due and should be allowed; and I believe every one who has inspected the accounts, believes with equal confidence that they are as meritorious a portion as any other. The principal portion of the sum now proposed to be allowed and paid, is that which constitutes the additional amount of interest over and above that paid on the improper criterion adopted by the Comptroller, and the additional value of the florin from thirty-seven to forty-six and and a quarter cents, which is shown clearly to have been its value at that time. So that it is a plain matter of calculation; and the principle really involved is, whether the United States will or will not pay their just debts.

Mr. CHASE. My friend from Wisconsin has not yet answered the question which I asked in regard to the amount paid under the former resolution. I do not know that it is material that the question should be answered. According to my recollection, it was between some $20,000 and $30,000, but I may not be strictly accurate in that recollection. That joint resolution was to refer the matter to the proper Department, and to require that the claim should be adjusted "upon the principles of equity and justice," giving a pretty broad latitude to the Comptroller,—requiring him to investigate the claim, and make only such allowances as in his judgment ought properly to be made. We are now called upon to revise the decision of the Comptroller that has been made under the joint resolution of Congress clothing him with complete power, as a disinterested judge and arbitrator between the Government and the parties.

Mr. ADAMS. If the Senator will allow me, I will furnish him with the information for which he asks. It is contained in the bill itself. It provides that the amount shall be paid "in addition to $8,767 60," formerly paid.

Mr. WALKER. There is no disguise about the matter. The bill mentions the amount formerly paid.

Mr. CHASE. I did not profess to state with accuracy the sum. I stated it according to my recollection. That may have been the sum claimed, instead of the sum allowed. However, it is certain that this matter was referred to the Comptroller, to be determined by him on principles of equity and justice, as an arbitrator, fair and honorable, between this Government and the claimant. He had to determine the claim, and we are now called upon to revise his decision. Before we proceed to revise it, it seems to me that we ought to have a little time to look into the matter. If, upon examination, it should be found that his decision was incorrect, I would be one of the last persons in the world to object to its correction; for I regarded the claim originally as one of very great merit, advocated it as such, and contributed to its passage through both Houses under that impression. But now, called upon as we are to go further, to revise the decision of the arbitrator whom we ourselves have constituted, upon the suggestion of the claimants, it seems to me that we ought to look into the matter, and see to what extent we are really asked to go.

The items of the claim, as stated in the bill, are numerous, and may involve a very considerable amount of allowance which ought not to be properly charged upon the Treasury; and while we owe a duty to the claimant, and ought to satisfy every legal and just demand to the fullest extent, we also owe a duty to the country, and ought not to permit a bill to pass occasioning a large draft upon the Treasury without a pretty thorough investigation. I therefore move, in accordance with the precedent which has once been set to-day, that the further consideration of this joint resolution be postponed until to-morrow.

Mr. WALKER. Mr. President, I think I have some right to complain of the Senator from Ohio. I do not complain of his vigilance or of his desire to protect the Treasury; but, sir, at the last session of Congress, that gentleman was a colleague of mine on the Committee on Revolutionary Claims. I reported the bill from that committee. If any committee had a careful and sensible clerk, it was the Committee on Revolutionary Claims at the last session. The Senator concurred in my report, at least he made no adverse report, and I am very confident that he was consulted about the matter—that he was told a report was ready, and would be made, and that he assented. However, confident as I am about that, I may be mistaken; but yet I am none the less confident, and shall so remain until it be shown to me that I am mistaken. This matter was examined by the committee. It was examined by their clerk, and he made a report to the committee of the result of his examinations. The committee reviewed his action, and I myself did in particular; and I never heard one lisp of objection from a member of the committee at that time, nor from that to this, until

now. Sir, I look upon the report in that case as constituting the pride of the reports from that committee. I am satisfied that if Congress knew this case fully they would feel it to be imperatively their duty to respond to the claim. I must say that I am a little surprised to find that the Senator from Ohio—who was once an advocate of this claim, and who, it seems to me, must have been satisfied that injustice was done in not allowing what is really due,—should rise at this time, after having been a member of the committee which reported it, and make this serious objection, and desire, at this period of the session, to postpone it. I am surprised at it. I cannot feel otherwise. I do hope and trust it will not be postponed. This is not the first time it has been under consideration. Since this payment was made under the former action of Congress, this claim has been reported upon favorably two or three times; and it would seem strange, indeed, if a case of this character should be longer postponed, or favorable action be refused, when claims of the character which we have been passing almost *sub silentio* have been allowed.

Mr. CHASE. Mr. President, I am sorry that my friend from Wisconsin feels any surprise in regard to the course which I have felt it my duty to pursue on this occasion. It is very true that at the last session I was a member of the Committee on Revolutionary Claims. It is very true that the examination of this claim was assigned to the chairman, and I presume he prepared the report. I never heard the report read. Perhaps I did not quite discharge my duty in that respect. I never had the particulars of this joint resolution brought under my consideration at all. When it was called up to-day, my friend from Indiana proposed to amend it, to enlarge it, to go beyond the report of the committee. When I find myself unacquainted with the merits of the claim itself in the shape in which it is now proposed, and when the gentleman proposes still further to enlarge it, it seems to me that I am only discharging my duty, and that it ought not to excite any surprise, if I ask a little time for the purpose of looking into it, and examining and ascertaining for myself whether what is now proposed to be paid is actually due.

I have thought, and I still think, that when the joint resolution which was prepared by the Committee on Revolutionary Claims at a former session, and which then met the approbation of the agents of this claim, was passed, we discharged our duty in the premises. We did what they asked. We referred the claim to an officer of the Government impartial in the premises, and disposed to do full justice, as we all know that officer is disposed to do; and no man knows it better than my friend from Wisconsin. No man in this body has passed higher eulogies on that officer for his integrity and uprightness than has the Senator from Wisconsin. Under that resolution, satisfactory to the committee, and satisfactory to the parties, this claim has been investigated, and an allowance has been made, and that allowance has been paid. And when it is now proposed still further to enlarge the claim, I say—what? That I am indisposed to go to the full length of every principle of justice in paying every dollar and every cent to which this claimant is justly entitled? No, sir; I am not indisposed to do that; but I say, that having acted as we have done in the premises, when a Senator desires a little time to look into a claim, we should allow that time. That is all I ask; and if I find upon looking into the matter that there is good reason for going beyond the former allowance, I shall certainly make no objection. I feel very much indisposed to object now, but I do think it my duty to look into it a little before I give an affirmative vote.

Mr. BRIGHT. I would have no particular objection to postpone the joint resolution for the purpose of giving the honorable Senator from Ohio an opportunity of examining it, if I believed that it could be improved, or that there was anything to be corrected; but I feel quite sure that if he were to examine it to the extent that I have, he would reason as I have done in reference to it. It is true that the effect of this resolution is to revise, to a certain extent, the action of the Comptroller. The amendment which I have offered points out where the Comptroller erred in the discharge of what he no doubt regarded as his duty—and I know he is a very honest and correct officer. He saw fit to place the value of the florin in this case at the lowest rate at which it sold during our revolutionary struggle. That officer, however, I am authorized to say, would have been very glad if we had, in our original resolution, fixed it at the highest rate. He fixed it at about thirty-six cents, the lowest rate at which it sold during the revolutionary war. My amendment fixes it at the highest rate, forty-six and a quarter cents; and I think it is nothing more than right and proper that the representatives of individuals who, at a period like that, periled every advancement they made, (for it was at the time a great risk whether they would ever receive back a dollar,) should receive, at this late day, all that they advanced, with interest upon it. The amendment I have offered is nothing more than to fix the value of the florin at the highest rate, and give interest upon it.

Mr. ADAMS. Mr. President, I hope that this resolution will not be postponed. This resolution is for the benefit of a lady who is now sick in this city. I hope the gentleman from Ohio will withdraw all opposition to it, and let us take a vote upon it now.

The motion to postpone was not agreed to. The amendments were adopted; the resolution was reported to the Senate as amended, and the amendments were concurred in. The joint resolution was then ordered to be engrossed for a third reading, read a third time, and passed.

CHARLES COOPER AND COMPANY.

The bill for the relief of Charles Cooper & Co., was read a second time; and on the motion of Mr. HAMLIN, the Senate proceeded to consider it as in Committee of the Whole. It proposes to direct the proper accounting officers to pay to Charles Cooper & Co., of Bangor, Maine, $300, in full for interest due to them from the United States on a liquidated amount of $30,989, payable by contract August 13, 1850, and then duly required, but withheld until the 12th of October following, for want of an appropriation.

Mr. HAMLIN. I will state in a few words the circumstances which the report in this case discloses. The Government chartered a vessel of these persons to transport troops or merchandise from Mexico to some point in the United States. On the arrival of that vessel here, the proper officers of the Department certified that she had performed her duty, and done all that she agreed to do; but there was no money in the Treasury to pay the owners of the vessel, and they were kept out of their money for nearly two months. By this bill it is proposed to pay interest for the time during which the Government refused to pay for the services that had been performed.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EXECUTIVE SESSION.

The Senate proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *December* 30, 1852.

The House met at twelve o'clock, m. Prayer by Rev. JAMES GALLAHER.

The SPEAKER. There are only ninety-three members present, which number does not constitute a quorum of the House.

Mr. DEAN. I move that there be a call of the House.

Mr. RICHARDSON. I suggest to the Speaker whether it is not his duty under the rules, after ascertaining that no quorum is present, to order a call of the House?

The SPEAKER. The Chair thinks not. It is competent for the House to take such steps as will secure the attendance of a quorum, or to adjourn. The Chair has not the power to dictate what course the House shall take.

Mr. DEAN. Without a quorum we cannot adjourn over till Monday.

A MEMBER. That is the fact.

Mr. DEAN. I demand the yeas and nays upon the question whether there shall be a call of the House.

The yeas and nays were ordered.

Mr. CAMPBELL, of Ohio. I move that the House do now adjourn.

[Cries of "No!" "No!" "No!"]

The SPEAKER. The Chair understands that there is a new member present, who desires to be qualified.

Mr. CAMPBELL. I will in that case withdraw my motion to adjourn, with the intention to renew it after the gentleman has been sworn in.

A NEW MEMBER.

Mr. DUNCAN presented the credentials of the Hon. EDWARD P. LITTLE, elected a Representative from the Ninth Congressional district of the State of Massachusetts, to supply the vacancy occasioned by the decease of the Hon. ORIN FOWLER.

Mr. LITTLE thereupon appeared at the bar of the House, and was duly qualified, by the Speaker administering to him the oath to support the Constitution.

Mr. CAMPBELL. I now renew the motion to adjourn.

Mr. JONES, of Tennessee. I move that when the House adjourns to-day, that it be to meet on Monday next.

The SPEAKER. Will the gentleman from Tennessee and the House indulge the Chair in presenting a communication?

Mr. JONES. The Journal has not been read yet.

The SPEAKER. The Chair asks the unanimous consent of the House for leave to present it. The communication is very brief, and is upon a matter requiring no legislative action.

The communication was read, as follows:

WASHINGTON, *December* 29, 1852.

SIR: We have the honor to invite you, and through you the House of Representatives and the officers, to attend the ceremonies of the inauguration of the equestrian statue of General Andrew Jackson on the 8th day of January. With great respect,

B. B. FRENCH,
JOHN C. RIVES,
JOHN W. MAURY,
Committee of Arrangements.

Hon. LINN BOYD,
Speaker of the Ho. of Reps. of the U. S.

Mr. JONES. The question now recurs on the motion I have made, that when the House adjourns to-day, it be to meet on Monday next.

The SPEAKER. The Chair decides that it is incompetent for the House, without a quorum, to make any such order. There is no quorum present.

Mr. JONES. Would it not be competent for the Chair to ascertain whether or not a quorum be present?

The SPEAKER. The Chair has ascertained by actual counting that there is no quorum present.

Mr. STANTON, of Tennessee. I rise to a question of order.

Mr. JONES. I am up on one myself. [Laughter.]

Mr. STANTON. I think that questions of order are of my colleague's peculiar province. [Renewed laughter.]

Mr. JONES. I think, on reflection, that both the motion to adjourn, and the motion to adjourn till Monday, are out of order until the Journal has been read. I think we are bound to remain here until we have a quorum.

The SPEAKER. The Chair is of opinion that the House may adjourn whether the Journal has or has not been read.

The question was then taken on the motion that there be a call of the House, and it was decided in the affirmative—yeas 79, nays 65; as follows:

YEAS—Messrs. Aiken, Willis Allen, Allison, William Appleton, Averett, Brenton, Briggs, Buell, Bushy, Joseph Cable, Caldwell, Chandler, Chapman, Clark, Darby, George T. Davis, John G. Davis, Dean, Doty, Eastman, Ficklin, Freeman, Gaylord, Giddings, Gilmore, Gorman, Green, Grey, Grow, Harper, Haven, Hendricks, Henn, Hibbard, Hillyer, Horsford, Houston, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Jackson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, Kurtz, Letcher, Martin, Meacham, Miller, Millson, Molony, Morrison, Murphy, Murray, Newton, Orr, Samuel W. Parker, Penn, Perkins, Porter, Robie, Scudder, Smart, Stanly, Benjamin Stanton, Stratton, Sweetser, Thurston, Townshend, Venable, Walbridge, Wallace, Walsh, Watkins, Welch, Wilcox, and Williams—79.

NAYS—Messrs. John Appleton, Babcock, Barrere, Bell, Bocock, Bowie, Bragg, Burrows, Lewis D. Campbell, Churchwell, Cleveland, Clingman, Cobb, Conger, Curtis, Dockery, Duncan, Fay, Floyd, Thomas J. D. Fuller, Goodenow, Hall, Isham G. Harris, Sampson W. Harris, Hascall, Howard, Ives, Jenkins, George G. King, Little, Lock-

hart, McMullin, John Moore, Nabers, Penniman, Powell, Richardson, Riddle, Robinson, Ross, Sabine, Sackett, David L. Seymour, Origen S. Seymour, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, Stuart, Sutherland, Taylor, Ward, Addison White, Wildrick, and Woodward—55.

So it was ordered that there be a call of the House.

Mr. ORR. There is a quorum present. Would it be in order to move that all further proceedings in the call be dispensed with?

The SPEAKER. The call of the House has not yet been commenced.

Mr. HARRIS, of Tennessee. Would it not be in order to move that the vote by which the call was ordered, be reconsidered?

The SPEAKER. It would.

Mr. ORR. Then I submit that motion.

Mr. DEAN. My only object in moving that there be a call of the House, was to get a quorum, and, with the permission of the House, as my object has been attained, I will withdraw that motion.

The SPEAKER. It is not within the power of the gentleman now to withdraw the call, because it has been ordered by the House. It would be in order, after one name has been called by the Clerk, to move to dispense with further proceedings in the call.

Mr. HARRIS. I move to reconsider the vote by which the call was ordered.

The question was taken, and the motion to reconsider was passed in the affirmative.

The SPEAKER. The question now recurs upon the ordering of a call of the House.

Mr. DEAN. I believe that I have now the power to withdraw the motion I submitted, that there be a call of the House, and I do so.

The Journal was then read and approved.

A message was here received from the Senate, through ASBURY DICKINS, Esq, its Secretary, notifying the House that that body had passed bills and resolutions of the following titles, viz:

S. R. No. 67. A resolution allowing in certain cases, to the owners of steamers, further time to make the necessary preparations to bring their vessels within the provisions of an act entitled "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam,' and for other purposes," approved August 30th, 1852.

S. R. No. 52. A resolution for the relief of the estate of Isaac L. Battle.

S. R. No. 53. A resolution to confer additional duties and powers on the Solicitor of the Treasury.

S. No. 479. An act for the relief of Edwin Lord and Francis Bacon.

S. No. 469. An act for the relief of Captain Langdon C. Easton, Assistant Quartermaster United States Army.

S. No. 453. An act granting a pension to Avery Downer.

S. No. 544. An act for the relief of James Jeffreys and Jeremiah M. Smith.

S. No. 498. An act granting a pension to Sarah Crandal.

S. No. 366. An act for the relief of Hodges Lansdale, and the legal representatives of Rinaldo Johnson, deceased.

S. No. 120. An act to incorporate the Pioneer Manufacturing Company of Georgetown, in the District of Columbia.

S. No. 566. An act authorizing the Secretary of the Treasury to issue a new register to the ship Prentice, and change her name to that of Leonie.

S. No. 430. An act for the relief of Lieutenant Colonel Ebenezer Dumont.

And bills of the House of the following titles, with amendments:

H. R. No. 291. An act to amend an act entitled "An act for the discontinuance of the office of surveyor general in the several districts, so soon as the surveys therein can be completed; for abolishing land offices under certain circumstances, and for other purposes."

H. R. No. 283. An act to extend the provisions of an act approved the 3d of March, 1847, and the act approved the 26th of February, 1849, for carrying into effect the existing compacts with the States of Alabama and Mississippi, in relation to the five per cent. fund and school reservations.

And the following bills of the House, without amendment:

H. R. No. 187. An act for the construction of military roads in Oregon Territory.

H. R. No. 137. An act for the relief of Osborn Cross, of the United States Army.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. The Chair begs leave of the House to present three or four Executive communications, some of which he is informed ought to be immediately referred to the committees having charge of the matters to which they relate.

There was no objection, and the Speaker then laid before the House the following Executive communications:

I. A letter from the Secretary of the Interior, transmitting a statement of the receipts and expenditures on account of the Navy pension fund, for the year ending 30th September, 1852.

On motion by Mr. JONES, of Tennessee, it was

Ordered, That the said letter and accompanying statement be laid upon the table, and printed.

II. A letter from the Secretary of the Navy, submitting an additional estimate for the purchase of land adjoining the Navy Hospital at Norfolk, Virginia.

On motion by Mr. HOUSTON, it was

Ordered, That the said letter and accompanying papers be referred to the Committee on Ways and Means, and printed.

The SPEAKER also laid before the House copies of the Journals of the Legislative Assemblies of the Territories of Utah and Oregon, of the sessions of 1851–'52.

Also, copies of the laws of Minnesota Territory, passed at the last session of its Legislative Assembly, and the laws of Utah Territory, passed at the first session of its Legislative Assembly; which were referred, on motion by Mr. RICHARDSON, to the Committee on Territories.

Also, a communication from Peter Parker, transmitting statements of judicial fees received at the United States Consular Court, at Shanghai; which was referred to the Committee on Foreign Affairs.

RINALDO JOHNSON.

Mr. BOWIE. I move that the act for the relief of Rinaldo Johnson be referred to the Committee on Claims.

Mr. JONES, of Tennessee. That is a private bill, which has just been received from the Senate. It is not now before the House, but lies on the Speaker's table.

Mr. BOWIE. I then move, with the unanimous consent of the House, that it be taken up, that it may be referred to the Committee on Claims.

Mr. SWEETSER. I object.

On motion by Mr. HILLYER, it was

Ordered, That the petition and papers in the case of Lewis Rawlston be withdrawn from the files of the House, and referred to the Committee on Indian Affairs.

Mr. MOORE, of Louisiana. I ask the unanimous consent of the House for leave to withdraw from the files, the petition and papers in the case of Thomas Hicks, that they may be submitted to the Land Office. Mr. Hicks filed, at the last session, his petition, praying for the confirmation of a claim to land in Louisiana. Since that time, it has been ascertained that the land was confirmed to him twenty-four years ago, but that, through the negligence of the Surveying Department, it had not been laid off to him.

It was then

Ordered, That leave be granted for the withdrawal of the petition and papers in the case of Thomas Hicks, that they may be submitted to the Land Office.

Mr. MILLSON. At the beginning of the session, I filed a petition of the Messrs. Bakers, asking a registry. Since that time, an act has been passed authorizing the Treasury Department to act upon these cases. I ask the consent of the House to withdraw that petition, that it may be presented to the Treasury Department.

The SPEAKER. Unless objected to, it will be so ordered.

Mr. HUNTER. I move that when this House adjourns, it adjourn to meet on Monday next.

Mr. STANTON, of Ohio. If we should have a session of one hour to-morrow—it being objection day—we might pass private bills.

Mr. JONES, of Tennessee. It is not objection day.

The question was then taken upon Mr. HUNTER's motion, and it was agreed to.

CENSUS RETURNS FROM CALIFORNIA.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled a resolution in relation to the census returns from the State of California; which received the signature of the Speaker.

THE STEAMBOAT LAW.

Mr. SEYMOUR, of New York. I ask the consent of the House to take up a resolution for immediate action, which has been just reported to the House from the Senate, providing for an alteration of a single proposition contained in the steamboat law, which was passed at the last session. The necessity for it arises from the fact, that the law is to go into effect on the 1st of January in certain parts of the United States, and the 1st of March in other parts. The difficulty lies here: It has been found impossible to provide in all cases steamers with the requisite machinery that is provided by law; and in some instances inspectors have not been able to provide themselves with the necessary tests and machinery which are required. This resolution provides that they may have that power.

Mr. BROWN, of Mississippi. Following the example of the gentleman from North Carolina, [Mr. STANLY,] and the gentleman from Michigan, [Mr. STUART,] who are going to object to everything, I object.

REPORTS FROM COMMITTEES.

The SPEAKER. The question pending is to lay the resolution, offered a day or two since by the gentleman from Tennessee, [Mr. HARRIS,] upon the table.

The resolution was then read, as follows:

"*Resolved*, That it shall be the standing and special order of this House, after to-day, to call the committees for reports until all the committees have been once called: *Provided*, That no bill or resolution reported under this order shall be put upon its passage, unless by the unanimous consent of the House: *Provided further*, That any bill reported and proposed to be put upon its passage, if objected to, may be withdrawn by the gentleman offering it."

Mr. STUART. Upon the motion to lie on the table, I demand the yeas and nays.

Mr. ORR. I hope that the yeas and nays will be taken. We have been acting upon this proposition for three or four days, and I hope we will dispose of this matter.

The yeas and nays were ordered.

The question was then taken on laying the resolution on the table, and there were—yeas 67, nays 72; as follows:

YEAS—Messrs. Willis Allen, John Appleton, Thomas H. Bayly, Barrere, Bell, Bocock, Bowie, Breckinridge, Briggs, Buell, Burrows, Burt, Joseph Cable, Caldwell, Lewis D. Campbell, Chapman, Clark, Cleveland, Curtis, Doty, Fay, Floyd, Freeman, Gilmore, Gorman, Green, Grey, Grow, Harper, Haven, Hebard, John W. Howe, Ives, James Johnson, John Johnson, Letcher, Little, McMullin, Meacham, John Moore, Morrison, Nabers, Newton, Orr, Porter, Riddle, Robie, Ross, Sackett, Scudder, Origen S. Seymour, Stanly, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Stuart, Sweetser, Thurston, Townshend, Venable, Walbridge, Ward, Welch, Addison White, Wildrick, Williams, and Woodward—67.

NAYS—Messrs. Aiken, Allison, William Appleton, Averett, Bartlett, Beale, Bragg, Brenton, A. G. Brown, Busby, Chandler, Chastain, Churchwell, Clingman, Cobb, Darby, George T. Davis, John G. Davis, Dean, Dockery, Duncan, Ficklin, Thomas J. D. Fuller, Gaylord, Giddings, Goodenow, Hall, Isham G. Harris, Sampson W. Harris, Hascall, Hendricks, Henn, Hillyer, Houston, Howard, Thomas M. Howe, Hunter, Ingersoll, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, George G. King, Kurtz, Lockhart, Marshall, Martin, Mason, Miller, Millson, Molony, Murphy, Murray, Olds, Samuel W. Parker, Penn, Penniman, Perkins, Powell, Sabine, David L. Seymour, Smart, Smith, Frederick P. Stanton, Thaddeus Stevens, Stone, Sutherland, Walsh, Watkins, Wilcox, and Yates—72.

So the House refused to lay the resolution upon the table.

Pending the call of the roll,

Mr. INGERSOLL asked permission to record his vote, not being within the bar at the time his name was called.

Mr. CABLE, of Ohio, objected.

Mr. STUART demanded the yeas and nays upon the adoption of the resolution; which were ordered.

Mr. STANTON, of Ohio. Is it in order to move to postpone this resolution for one week?

The SPEAKER. It is not in order, the previous question having been ordered. It can be done only by unanimous consent.

Mr. STUART. I object.

The question was then taken upon the adoption of Mr. HARRIS's resolution, and there were—yeas 67, nays 73; as follows:

YEAS—Messrs. Aiken, Allison, Averett, Bartlett, Bragg,

Brenton, Albert G. Brown, Busby, Lewis D. Campbell, Chandler, Chastain, Churchwell, Clingman, Cobb, Darby, George T. Davis, John G. Davis, Dean, Disney, Dockery, Duncan, Ficklin, Freeman, Thomas J. D. Fuller, Gaylord, Goodenow, Hall, Isham G. Harris, Sampson W. Harris, Hascall, Hendricks, Henn, Hibbard, Hillyer, Houston, Howard, Thomas M. Howe, Hunter, Jackson, Andrew Johnson, Daniel T. Jones, George W. Jones, George G. King, Kurtz, Lockhart, Mason, Miller, Millson, Molony, Murphy, Murray, Penniman, Perkins, Porter, Powell, Robinson, David L. Seymour, Smith, Frederick P. Stanton, Thaddeus Stevens, Sutherland, Venable, Walsh, Watkins, Addison White, Wilcox, and Yates—67.

NAYS—Messrs. Abercrombie, Willis Allen, John Appleton, Thomas H. Bayly, Barrere, Bell, Bocock, Breckinridge, Briggs, Buell, Burrows, Burt, Joseph Cable, Caldwell, Chapman, Clark, Cleveland, Conger, Curtis, Doty, Eastman, Ewing, Floyd, Giddings, Gilmore, Green, Grey, Grow, Harper, Haven, Hebard, Horsford, John W. Howe, Ives, Jenkins, James Johnson, John Johnson, Robert W. Johnson, Preston King, Letcher, Little, Martin, McMullin, Meacham, John Moore, Morrison, Nabers, Olds, Orr, Samuel W. Parker, Penn, Robie, Ross, Sabine, Sackett, Scudder, Origen S. Seymour, Smart, Stanly, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Stuart, Sweetser, Thurston, Townshend, Walbridge, Wallace, Ward, Welch, Wildrick, Williams, and Woodward—73.

So the resolution was not agreed to.

Mr. HOUSTON. A communication from the Navy Department, in relation to the purchase of some real estate at the navy-yard at Norfolk, was upon my motion referred to the Committee on Ways and Means. In conversation with some members of the Committee on Naval Affairs, I understand that they have that subject before them, and desire this communication to go to that committee. I move a reconsideration of the vote, in order to send it to that committee.

Mr. BOCOCK. I believe it is from some conversation with me that the gentleman from Alabama [Mr. HOUSTON] has made this motion; but he misunderstood the remarks I made to him. I did not tell him that we had the particular subject to which this communication refers under consideration. I told him that the Committee on Naval Affairs had all similar subjects under consideration—everything relating to naval contracts; and that this related to that subject, and properly belonged to that committee.

Mr. JONES, of Tennessee. Let it go there. You ought to have it.

The SPEAKER. Unless objection be made, the change will be ordered.

Mr. STANLY moved to reconsider the vote just taken, by which the House refused to agree to the resolution offered by Mr. HARRIS, and to lay that motion upon the table; which latter motion was agreed to.

BANKING IN THE DISTRICT.

Mr. DOTY. I ask leave to introduce the following resolution. It is with reference to banking practiced in this city. The resolution reads as follows:

Resolved, That a select committee of three members be appointed by the Speaker, to inquire whether the 5th section of the act to revive and extend the charters of certain Banks in the District of Columbia, which prohibited the issuing of bills of a less denomination than one dollar, and which expired on the 4th day of July, 1844, ought to be revived: And also, whether any, and if so, what legislation is required to prevent unauthorized or private banking, the issuing or circulating bank notes by unchartered banks, or the buying and selling of bank notes, within the District of Columbia; or to prevent the issuing of notes or certificates of the similitude of bank notes for circulation by unauthorized companies, banks or individuals, whether they are payable in specie or the notes of banks; and also, whether said notes or certificates are issued in the said District, or first put in circulation elsewhere in the United States; and report the names of the persons who are engaged in issuing or circulating notes of either of the descriptions aforesaid; and that said committee be authorized to report by bill or otherwise.

Mr. JONES, of Tennessee. I object, and call for the regular order of business.

Mr. FICKLIN. I will say to my friend from Wisconsin [Mr. DOTY] that this matter has been inquired into by the Committee on the District of Columbia, and I have had a bill in my desk for six months, but have not had an opportunity to report it. It will take no longer to report a bill than it will a resolution.

Mr. McMULLIN. I call for the regular order of business.

The SPEAKER. The business first in order is the call upon States for petitions, commencing with Maine.

Mr. STANTON, of Tennessee. I move that the House adjourn.

The question was then taken on Mr. STANTON's motion, and it was agreed to.

So the House adjourned until Monday next, at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. IVES: The petition of Horace Dunbar and 90 others, citizens of Camden, New York, and vicinity, for breakwaters at Cape Vincent harbor, New York.

By Mr. HEBARD: The petition of S. M. Walton and 158 others, legal voters of Montpelier, Vermont, asking for the appointment of a Congress of Nations to settle national disputes, and for the prevention of war.

By Mr. BUELL: The petition of Daniel D. Ellis and others, asking indemnity for losses sustained in loaning the United States money, &c., in 1778.

By Mr. WALLACE: The petition of the heirs-at-law of Dr. Jesse Beaty.

By Mr. FREEMAN: A petition, with an accompanying bill, for the grant of lands to aid in the construction of certain railways within the States of Mississippi, Louisiana, and Alabama.

Also, a memorial of the Legislature of Mississippi, relative to the swamp lands heretofore granted by Congress to that State.

Also, a memorial of the Legislature of Mississippi, praying the establishment of a post route from Aberdeen to Yazoo City, in said State.

By Mr. FULLER, of Maine: The memorial of the citizens of Georgetown, D. C., very numerously signed, praying Congress to make an appropriation for the erection of a custom-house in that city.

By Mr. MILLSON: The memorial of General James Bankhead, Major George D. Ramsay, Major L. G. Arnold, and other officers of the United States Army, praying the repeal or modification of the eleventh section of the act of 3d March, 1847, relating to sutlers.

IN SENATE.

MONDAY, *January* 3, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The Hon. SAM HOUSTON, from the State of Texas, and the Hon. GEORGE W. JONES, from the State of Iowa, appeared in their seats to-day.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of the Senate, showing the payments made from the contingent fund of the Senate for the year ending December 4, 1852; which was ordered to lie upon the table and be printed.

Also, a report of the Secretary of the Interior, accompanied by a communication from the Commissioner of the General Land Office, with the annual reports of the Surveyors General of California and Oregon; which was read.

PETITIONS, ETC.

Mr. WADE presented a document in support of the claim of Doty Richards to prize money for assisting in the capture of the British sloop Venture, during the last war with Great Britain; which was referred to the Committee on Claims.

Mr. SEWARD presented a petition of inhabitants of Livingston county, New York, praying that pensions and bounty land may be allowed to soldiers of the revolutionary war, or their widows, upon proof of sixty days' service; which was referred to the Committee on Pensions.

Mr. SMITH presented a petition of members of the bar of Windham, Connecticut, praying for a distribution of the reports of the decisions of the Supreme Court of the United States; which was referred to the Committee on the Judiciary.

Also, a petition of citizens of New Haven, Connecticut, praying that the bill giving further remedies to patentees may become a law; which was ordered to lie on the table.

Also, a memorial of B. F. Gold, of New Haven, Connecticut, alleging that he has discovered the means of manufacturing American fine sheet-iron fully equal to the best Russia sheet-iron, and praying for the patronage and protection of the Government; which was referred to the Committee on Finance.

Mr. HAMLIN presented two petitions of citizens of Maine, praying the establishment of a custom-house at Island Pond, Vermont; which were referred to the Committee on Commerce.

Mr. WELLER presented five memorials of citizens of California, praying the repeal of the law which prohibits the receipt of the issues of the United States assay office in payment of dues to the United States; which were referred to the Committee on Finance.

Mr. FISH presented a memorial of the proprietors of the New York and Havre mail steamers, praying the Government to grant them such further aid as will enable them to pursue the service without ruin to themselves, or to purchase their ships at equitable rates; which was referred to the Committee on the Post Office and Post Roads.

Mr. MORTON presented a resolution of the Legislature of Florida, in favor of the removal of the bar of Volusia, on Lake George, Florida; which was referred to the Committee on Commerce, and ordered to be printed.

Also, a resolution of the Legislature of Florida, in regard to the establishment of a land office at Tampa, Florida; which was referred to the Committee on Public Lands, and ordered to be printed.

Also, a resolution of the Legislature of Florida, in favor of the establishment of a port of delivery at Bayport, in that State; which was referred to the Committee on Commerce, and ordered to be printed.

Also, a resolution of the Legislature of Florida, in favor of a mail route from Tampa to Fort Mellon, and the establishment of a mail route, by water, from Tampa to Old Tampa bay; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. BRODHEAD. I present a petition of seamen of the Navy, who served both at sea and on land during the late war with Mexico, representing that they shared the dangers and deprivations of the army without receiving like benefits, and praying some additional compensation. As I submitted a bill on this subject the other day, Mr. President, which went through the second reading, granting the relief prayed for, and which was referred to the Committee on Public Lands, I move a reference of this petition to that committee, as the subject is now pending before them.

It was so referred.

Mr. FELCH presented the petition of J. Logan Chipman, in behalf of his wife and other children of Kenainsie Shawanah, a Chippewa chief, praying the payment of an amount due them under the Ottawa and Chippewa treaty of 1836; which was referred to the Committee on Indian Affairs.

ANÆSTHETIC PROPERTIES OF ETHER.

Mr. SMITH. I present the memorial of Charles T. Wells, by his next friends, Thomas S. Williams and Thomas C. Brownell, stating that Dr. Horace Wells, deceased, was the discoverer of the availability of anæsthetic agents in surgical operations, and praying for some acknowledgment from the Government. I move that it be referred to the Committee on Patents and the Patent Office.

The PRESIDENT. It will be so referred, unless objected to.

Mr. BORLAND. Did I understand the Senator correctly, that that is a memorial in reference to the anæsthetic properties of ether?

Mr. SMITH. It is in relation to the discovery of an anæsthetic agent. I believe it does not say anything about ether.

Mr. BORLAND. That subject is already before the Committee on Military Affairs, upon a memorial from another quarter. I think, therefore, as the subject is in part before that committee, and especially as they reported upon it at the last session, and as there was a discussion here growing out of that report, the whole subject should be referred to it.

Mr. SMITH. I am not aware that any memorial has been presented to the Senate on this subject.

Mr. BORLAND. There has been a memorial from the surgeons and physicians of Boston presented, and referred to the Committee on Military Affairs, who now have the subject under consideration.

Mr. SMITH. At what time was it presented?

Mr. BORLAND. Early in the session.

Mr. SMITH. Early in the present session?

Mr. BORLAND. Yes, sir.

Mr. SMITH. I was not aware of that fact, Mr. President. The memorial which I present is from the only son and heir of Dr. Horace Wells, of Hartford, by his next friends, Bishop Brownell and Judge Williams, late chief justice of our supreme court, presenting the subject to the consideration of the Senate. I should prefer to have it referred to some committee of the body, either a standing committee or a select committee, that has not formed an opinion on the subject. I have a proper respect, I believe, for the Committee on Military Affairs, and as much confidence in that committee as in any other committee of this honorable body; but it will be recollected that towards the close of the last session of Congress, that committee proposed to amend the military appropria-

tion bill, so as to grant to Dr. William T. G. Morton a reward of not less than one hundred thousand dollars for having made this discovery; and that amendment was most strenuously urged by the committee on the consideration of the Senate. It turned out that no memorial had been presented to the committee. They had not been charged with the consideration of the subject in any shape or form by the Senate, to my knowledge. But, nevertheless, properly perhaps, in view of what they considered to be the interest of the Army and Navy of the United States, they did report an amendment to that bill, proposing to grant the very large sum which I have mentioned, to Dr. Morton; from which we must infer that that committee has already prejudged the subject; that they have already formed an opinion upon the merits of the question, I have no doubt with the most perfect good faith, with the most entire integrity. But I humbly conceive that this application ought to go to some committee that has not prejudged the case, and let them take it up *de novo*. It struck me that the Committee on Patents and the Patent Office was the proper committee to refer it to. It is the committee charged with the subject of discoveries and inventions. Now, I desire the Senate to consider—but first, I would inquire of the Chair whether this is now an open question?

The PRESIDENT. It is. The Chair announced that the memorial would be referred to the Committee on Patents and the Patent Office, as moved by the Senator, unless objected to; but objection was made by the Senator from Arkansas, who suggested that it should go to the Committee on Military Affairs.

Mr. SMITH. I supposed it was an open question. The Committee on Military Affairs, for aught I know, unanimously—I think that was the statement made towards the close of the last session—did on an *ex parte* hearing, without any notice to the family of Dr. Wells, and without the knowledge of either my colleague [Mr. TOUCEY] or myself, who are charged more particularly with the vindication of what we conceive to be the rights of Dr. Wells's family, prejudge this question, and did come to the conclusion that Dr. Morton was the original discoverer of this most important agent.

Mr. SHIELDS. Mr. President, I know that my honorable friend does not want to cast any reflection upon the Committee on Military Affairs, but I regret to say that he is sometimes very unfortunate in his manner of expressing himself in relation to it. I am aware that so far as the committee is concerned, he does not mean to cast any reflection upon it; still his speech to-day may have that appearance.

Mr. President, the case to which he alludes was examined by that committee precisely as every case is examined. How do committees examine cases? I did not know that there was such a man on earth as Dr. Wells? How could I tell? The case was before the committee, and we disposed of it as we dispose of every case. The committee never send for persons and papers to examine a case *pro* and *con*. They take it as it comes before them. We may have been mistaken in this case. Perhaps we were, but we acted on what was before us. We acted as we believed honestly and conscientiously; and as for these other parties, we did not know that they were on the earth. How could we dispose of the case in the way the gentleman mentions? I therefore beg the Senator once again to cease these reflections upon that committee. We had enough of them at the last session when he made similar reflections. I dislike to hear a gentleman whom I esteem and respect, so unfortunate in his observations as he has been this morning. I know nothing about the case. It is a case which I cannot comprehend; but it is in the hands of a member of the Committee on Military Affairs who seems to understand it. I do not care whether this memorial goes to the committee or not. I hope it will not. I wish it would go to another committee. But, at the same time, I beg my honorable friend from Connecticut to abstain from the reflections which he is casting upon the committee, that the case was not fairly before them, that it was examined in an *ex parte* way, that we had prejudged it, and so on. Such is not the case. There was no unfairness of that kind on the part of the committee.

Mr. SMITH. I am certainly very much surprised that the honorable Senator from Illinois should have deemed it necessary to interpose with the train of remarks which he has just submitted to the Senate; as I commenced my remarks with disclaiming utterly the idea of calling in question, in the slightest degree, the motives, the purposes, or the impartiality and rectitude of the Committee on Military Affairs. I made that disclaimer at the last session of Congress, in language just as emphatic as I could use, or as I could command. I never had any idea of questioning the propriety of the course of that honorable committee, and, least of all, that of the honorable chairman himself, for whom I cherish, and ever have cherished sentiments of the very highest respect. But I did complain at the last session of Congress, and I do complain now most bitterly of the course pursued by this William T. G. Morton; for, although the honorable chairman and the other honorable members of the Committee on Military Affairs did not know that there was another party—two other parties in point of fact—contesting his claim as discoverer, there were such claimants, but he did not make that fact known to the committee. I do complain of his going before that committee without my knowledge, or that of my honorable colleague, and procuring an *ex parte* hearing before them, and their decision in his favor, when he knew that the family of Dr. Horace Wells, of Hartford, would have appeared there in opposition to his pretensions, and would have endeavored to show that those pretensions were utterly unfounded, if they had known of his application. I do say, and I have a right to say here, after what transpired at the last session of Congress, that the Committee on Military Affairs had, on an *ex parte* hearing, formed an opinion with regard to the merits of this entire subject—I will not use the word "prejudged," for that seems to give some offense to my honorable friend.

All that I desire is an impartial hearing by some committee—and I do not care what committee, whether a standing or select committee—that has not formed an opinion with regard to the merits of the entire case. I have moved a reference of the petition to the Committee on Patents, because it seemed to me to be the appropriate committee; and I would remind my honorable friend, the chairman of the Committee on Military Affairs, that I happen to be a member of the Committee on Patents, and am therefore in very much the same conditon that he is. I have formed an opinion with regard to the merits of this question; but I do not know that any other member of that committee has done so. I presume no one has. I am willing to retire from that committee; and I say here, that if the Senate refer this memorial to the Committee on Patents, I will ask to be excused from serving on that committee, and let the case be fully examined by honorable members who have not formed any previous opinion upon it. It is entirely immaterial to me what reference the Senate may make; all I desire is, that the matter should have a full and fair investigation, and a candid consideration; and I will do my friend, the chairman of the Committee on Military Affairs, the justice to say, that if it should be the pleasure of the Senate to put it into his hands, I believe he would endeavor to give it a fair and candid consideration, and make an honest disposition of the case.

Mr. BORLAND. This subject has brought out a discussion which I did not expect when I made the suggestion which I submitted with regard to the reference of the memorial to the Committee on Military Affairs. My object in suggesting that reference, instead of a reference to the Committee on Patents, was simply in order that the whole question might be before the Committee on Military Affairs. The Senator from Connecticut seems to have misconceived the action of the committee, and the whole position of the subject as they brought it before the Senate. There was no *ex parte* proceeding, sir. This subject was not, at the last session of Congress, referred to the Committee on Military Affairs; but action having been taken upon it in the House of Representatives, and there having been a very full report upon it, after an examination of the parties on all sides, by a committee of that House, at the head of which was a gentleman not only highly competent and accomplished as a member of Congress, but also as a member of the medical profession, and he having made an elaborate report after a full examination, the subject came before the Committee on Military Affairs in the Senate, and also before the Committee on Naval Affairs, and both committees directed members from their number to move and sustain an amendment to the appropriation bill, making proper compensation to the patentee of this important discovery. The knowledge of the subject obtained by the Committee on Military Affairs and the Committee on Naval Affairs of the Senate was from the report of the House committee to which I allude. Though the subject was not referred to us, we deemed it proper, not only from a sense of justice to the patentee, but on account of the great benefit to the public service, that some acknowledgment and compensation should be made for the use of this important medical agent.

When the subject was brought in here at the last session, as an amendment to the Army appropriation bill, the two Senators from Connecticut rose and opposed it. The main ground of objection on their part, to the action of the Senate at that time, was, that the subject had not been fully laid before the Senate, or the committee, and that the committee had considered only one side of the question, and that it was improper for the Senate to act upon the subject upon views formed upon so narrow a basis. The proposition was rejected by the Senate. Early at this session of Congress, a memorial from medical men in Boston was presented and referred to the Committee on Military Affairs. Thus, by no solicitation or seeking on their part, but as a regular proceeding on the part of the Senate, it was made the duty of that committee to consider the subject and report upon it. The committee now have the matter under consideration, having committed to me as a sub-committee, the preparation of a report. When, therefore, I heard the presentation of another memorial representing the interests of other parties, it was perfectly natural that I should ask to have it referred to the same committee, especially in view of the objection which the Senator from Connecticut made at the last session and repeats now, in order that the Committee on Military Affairs might have the whole subject before them. I was desirous, and it seems to me it will strike the mind of every one as perfectly natural, in order to avoid such an objection, to have all the facts and suggestions on both sides of the question before the committee. Let us see what both parties have to say; let both have an opportunity to be heard by the same committee.

I have no particular desire to attend to this business; it has really come into my hands against my will, having already more business to attend to, in which I feel a deeper interest, than I can well find time to dispose of. But the committee having made it my duty to attend to the matter, which was sent to us by an order of the Senate, I have simply asked that all the facts may be laid before us, that the views of the contending parties may be presented to us, so that we may make a report which shall not be objected to on account of its *ex parte* character.

Mr. SHIELDS. So far as I am concerned, and I think I can speak for the whole of the Committee on Military Affairs, there is no member of that committee who takes the slightest interest in this question, except to do justice to all parties. I now make this proposition, in view of the trouble and difficulty we had on this subject at the last session, that a select committee of five be appointed by the Senate, to take charge of this whole subject.

Mr. CASS. The subject is not worth it.

Mr. SHIELDS. The honorable Senator from Michigan thinks the subject is not worthy of the consideration of a select committee; but it will consume the time of the Senate, especially as one of your standing committees is not considered competent to act upon it. I am not particular about the committee being raised by the Senate; let it be appointed by the Chair.

Mr. SMITH. That will be perfectly satisfactory to me.

Mr. HALE. I am sorry to hear the remark of the Senator from Michigan, that this subject is not worthy the consideration of a select committee.

Mr. CASS. I wish to say that I know no more of the merits of this case than "the man in the moon;" I merely meant this by my remark: If when one of this kind of claims comes up, the circumstances are such as require a special committee, why may not the same be said of other cases? I do not think we should refer subjects

to a special committee when we have three or four standing committees to whom the reference would be equally appropriate. The remark I made was a general one.

Mr. HALE. I was about to make the same suggestion which has been made by the Senator from Illinois, but I am glad he made it instead of leaving it to be made by me; because if I had made it, this being a subject which relates entirely to the sick and wounded, it might have been supposed that I made it with reference to those gentlemen who belong to that category outside of "healthy organizations." But the suggestion having come from a gentleman who does not stand in such a suspicious position, it will certainly be received with more favor by the Senate; but let that go. I think if there ever was a subject presented to the Senate which demanded, as a matter of right, a full and fair investigation, it is this. I think I am not extravagant when I say, it is one of the discoveries of the age which has done more to alleviate human suffering than any other ever made in the healing art since it was first practiced. And it is one, too, of which the Government is availing itself every day, in the Army and Navy; it is one for which the Government of the United States has already issued a patent. But I have nothing to say about that. It is one which the Government is using constantly, and with the greatest success—with infinite benefit. And whilst the Government is thus using it with such success, and so great benefit for the cause of humanity, both in the Army and Navy, I think it is incumbent upon the Government to do something in the way of compensation for this great benefit. I do not think it is right to enjoy this benefit without conferring some compensation upon the discoverer. If Dr. Morton be entitled, let him have it; if it belong to the heirs of Dr. Wells, let them have it. I think the Senate should investigate this matter, so as to know to whom this great merit rightly belongs, and render the compensation to the proper person. I think we should either pay for it, or give up its use. Entertaining these views, and wishing that all parties may feel that they have been fairly treated, though I have full confidence in either of the committees, I think the suggestion of the Senator from Illinois should be acceded to, and that a select committee of three or five should be appointed to investigate this matter; and if they do investigate it, they will submit a report which may be relied upon, and do justice to the parties.

Mr. WALKER. I cannot agree in the suggestion made by the Senator from Illinois for the appointment of a special committee to consider this subject. I rather concur in the sentiments expressed by the Senator from Michigan, that this is a case like almost every other case that can be imagined, which will fall properly within the jurisdiction of some of the standing committees. It has been too much the fashion, when particular individuals, or particular classes of individuals, either in or out of the Senate, manifest a deep personal or collective interest in a particular matter, to put the Senate to the trouble of raising a special committee for their especial benefit. This subject, it seems to me, more properly belongs to the Military or the Naval Committee, than any other. The Army and the Navy, and the public hospitals of the country, are those which avail themselves of the great benefits resulting from this discovery. The question to be determined by the committee is, who made the discovery? and then to measure somewhat its importance, and to award, either in honor, or by a pecuniary compensation, what is due to the discoverer. It is said by one of the members of the Committee on Military Affairs, that the subject is already under investigation by that committee, that they are now proceeding with its investigation. It is now proposed to bring before them the memorial under consideration; and I think it is proper and right, as a part of the case has gone to that committee, that the whole should go there. Is there any reason why it should be taken out of the general rule of propriety? I think not. Here is another branch of the case now brought up, and it is not claimed that any question of a patent is involved in it. No patent is claimed to have been issued to the individual. He does not seek the establishment of a patent right, or anything of the kind. No question of a patent being involved, it should not be referred to the Committee on Patents; but it is now proposed to compromise between these two committees, by raising a special committee. Who of us will pay the Military Committee the poor compliment to say that they are not as well qualified to investigate this matter as any special committee which may be raised? Will you look over the Senate and make a selection of physicians to be placed upon the select committee? How many will you find? and after you have found them, how many of them will know anything as to the use of this remedial agent in the Army or the Navy? If you do not pick out physicians, where will you find members more competent to investigate this case than the Committee on Military Affairs? I think it will be a difficult matter to find a more competent committee. There are but few physicians in the Senate, and one of them is upon the Military Committee. I think the reference to that committee is a proper one; and as a part of the case is before them, I hope the residue of it may go there; and I move that this memorial be referred to the same committee to which the other branch of the case has been referred.

Mr. SMITH. In conformity with the suggestion made by the chairman of the Committee on Military Affairs, [Mr. SHIELDS,] I will substitute for the motion which I originally made to refer the memorial to the Committee on Patents and the Patent Office, the motion to refer it to a select committee of five. I presume the Senate will be willing to have that committee appointed by the Chair. I know that will require unanimous consent, and if objection should be made the Senate will, of course, have to make the appointment.

While I am up, Mr. President, I wish to correct a mistake which was made by the honorable Senator from Arkansas. He stated that this subject had been investigated by a committee of the House of Representatives. I would remind the honorable Senator that it was a select committee. But he further stated that that select committee made a report on the subject. That I deny, with great respect to my honorable friend. They have never made any report to this day.

A SENATOR. Are you not mistaken?

Mr. SMITH. No, sir, I am not mistaken.

Mr. BORLAND. I do not know what the Senator from Connecticut means by a report, but this I do know, and this I do aver here upon this floor: that I was informed by the chairman of that committee of the House of Representatives, Colonel Bissell, of Illinois, that he, as chairman, representing a majority of the committee, did make a report to the House, a printed copy of which I had in my hand, and together with him I examined it; and that it was not made to the House at the time we were considering it here, because reports from that committee had not been called for, and they had been unable to get it in. Not only was that report prepared on behalf of the majority of the committee, but a minority report was also prepared, a copy of which I have received from the gentleman making it—Mr. Stanly, of North Carolina—since I reached the city and since this session of Congress commenced. Both these gentlemen have informed me that both these reports had been made, one by the majority, the other by the minority of the committee. Now, the statement of the honorable Senator, together with the facts, which he cannot controvert, may go for what they are worth.

Mr. SMITH. If my honorable friend had permitted me to pursue the remarks which I was submitting, he would have seen at once that there was no occasion whatever for his interposition. What I stated is true. No report was made by that select committee on this subject at the last session of Congress, and none has been made to this day. A very extraordinary step, however, was taken by somebody, I will not say by the committee. They drew up a report; a majority of the committee signed it; and then it seems to have been put into the hands of Dr. Morton, the claimant, and he went and had it printed at his own expense. But, I repeat, no report has been made to this day, and whether any ever will be made is more than I know. One of the gentlemen who signed the majority report has since died—a fact which I very sincerely deplore—and a substitute has been appointed in his place, and that substitute, in looking over the case, has come to a conclusion in direct opposition to this Dr. Morton, so that, as the select committee now stands, there are three on it for Dr. Morton and two opposed to him; and if another should resign or be removed by death, for aught I know, before a report is made, the conclusion will be in direct opposition to what was once that of a majority of the committee.

I cannot but regard it as a very extraordinary fact, that a paper drawn up, and not presented to either of the two Houses of Congress, should be put into the hands of a party interested in the results of the committee, and that he should be permitted to print it in advance of the communication of the report to the body by which the committee was raised. I deny that that document has any authority. The committee are at liberty to alter it at any time, if the opinion of a majority of the committee should be changed. What it will be next month is more than I or anybody else can say.

Now, when this unauthenticated, novel, and most extraordinary document was taken, without the knowledge of my colleague, or myself, and without the knowledge of the family of Dr. Wells, and carried before the Committee on Military Affairs, which took it up—intending to do right, I will admit; I do not call in question their motives—without knowing that the family of Dr. Wells was resisting the application of Dr. Morton, without having one particle of the testimony which we put into the hands of the select committee of the House, without even the report of the minority of that committee, and came to the conclusion—I have no doubt with the intention to do every thing right and fair—that the claim of Dr. Morton ought to be recognized and that a very large sum of money should be granted him from the Treasury—under such circumstances, I am unwilling that this memorial should go into the hands of the Committee on Military Affairs. What has that committee to do with it? This is a claim for money out of the Treasury. If it is to go to any standing committee, perhaps it should more properly be referred to the Committee on Claims; but I am willing to have it referred to a select committee. I had some difficulty, some doubt, some hesitation, in moving the reference to the Committee on Patents and the Patent Office, because I am a member of it; and I am in the same situation on the subject as my honorable friend from Arkansas, [Mr. BORLAND.] That Senator—it will be recollected by himself and other members of the Senate—insisted at the last session of Congress that the proposed amendment which emanated from the Committee on Military Affairs should be adopted by the Senate. He not only voted for it, but argued the question. He addressed the Senate, if I mistake not, more than twice upon the subject. It seems now that a petition has been presented at the present session of Congress on this matter. I knew nothing of the presentation of any such petition. I did not know that the question was before the Committee on Military Affairs. But it seems that it is, and that the petition has been put into the hands of the honorable Senator from Arkansas. He was here voting for a final disposition of the question at the last session of Congress. He has obviously formed an opinion upon the subject; yet now, at this late day, after that opinion has been formed and announced here—I have no doubt at all with all fairness, and with every disposition to do what is honorable and right—and that honorable Senator has made every effort he could in his power, to give effect to the opinion which he expressed at the last session of Congress, we are to be required to go before him—for it seems he has jurisdiction over it; the whole thing has been put into his hands—and he is to decide and report to the Senate whether the family of Dr. Wells have any claim in relation to the matter.

I must confess that it would seem to me to be altogether better to put the subject either into the hands of some standing committee, like the Committee on Claims—for I waive most cheerfully my original proposition to refer it to the Committee on Patents and the Patent Office, in consideration of the fact that I am a member of that committee—or to a select committee. I agree with what the honorable Senator from New Hampshire [Mr. HALE] has stated, that it is a subject of high importance; a subject of deep interest, and one that may be well worthy the consideration and attention of the Senate. Let there, therefore, be appointed a select committee, composed, if possible—and if they be appointed by the Chair, I know they will be such—of gentlemen who have formed no distinct opinion on the subject; and let them take it up and examine it, and make such a report as they may deem proper.

Mr. CASS. I move to lay this subject on the table. It has now consumed an hour, and we are apparently no nearer the end than we were when the discussion commenced. This petition has given rise to a vast deal of discussion that does not bear at all on the merits of the case. I move, therefore, to lay the whole subject upon the table.

The motion was agreed to; there being, on a division—ayes 20, noes 13.

LIBERTY OF CONSCIENCE ABROAD.

Mr. CASS. Mr. President, I have been requested to present the petition which I now send to the Clerk's table, from the Maryland Baptist Union Association, and to move its reference to the appropriate committee. I do this with pleasure, not only out of regard to the motives and position of those who make this application, but also because I entirely concur with them in the importance of the object they seek to obtain, and in the propriety of calling the attention of the Government to it—an object dear to us, and in its consequences to the world now and hereafter. This body of pious and intelligent Christians anxiously desire the freedom of religious worship for their countrymen wherever the accidents of life may carry them. And it is not strange that this sentiment should be strongly felt and strongly expressed in this land of Gospel liberty. But it is strange that in this age of the world, and in this day of intellectual advancement, any obstacle should be interposed by any Government in Christendom to prevent the believers in the faith of Jesus from following the dictates of their own consciences and while rendering unto Cæsar the things that are Cæsar's, prohibit them from rendering unto God the things that are God's, agreeably to their own convictions of the injunctions of His Divine Word. I coincide fully with the signers of this petition, that the base of all freedom is the freedom of conscience, and that there is no tyranny so revolting as that which tyrannizes over the mind.

[Here Mr. SMITH objected to the remarks of Mr. CASS as not being in order upon the presentation of a petition; but the Senate permitted Mr. CASS to go on.]

We have a right to be heard in such an appeal as this, for we have tried the great experiment—an experiment no longer, for it has become experience—of the entire separation of Church and State, and have shown that unrestricted freedom of worship is not only best for the political interests of a country, but best for the true interests of religion itself. Unfortunately, the errors of dark ages have not yet wholly yielded to the progress of truth, and in many countries the civil authority undertakes impiously to exclude any form of religion but its own, and non-conformity is not the want of conformity with the will of God, but the offense of preferring the Divine will to that of the ruler. Human presumption has never gone further than in the creation of a standard of faith with which all must agree, or be subject to the penalties of the Government here, and to the denunciations of the church hereafter. So far as regards the profession of particular doctrines as a necessary qualification for office, however we may lament its presumption and injustice, we have no rational cause of complaint, as that is a question of internal policy; and nothing better illustrates the slow progress of truth in those old countries, where it has many interests and prejudices to encounter, than the fact that even in England, with all its real claims to freedom and intelligence, a Jew to this day cannot occupy a seat in Parliament without taking an oath by which he abjures his own faith and the religion of his forefathers.

But we have a right to expect from the comity of all friendly nations that American citizens be permitted to enjoy liberty of worship wherever they may go. There is not the slightest reasonable objection to such a demand. It ought not, indeed, to be necessary; for this unworthy system of intolerance has not the least foundation in reason or religion. It is a mere relic of barbarism, incapable of defense, converting the religion of the Gospel into an engine of State, and substituting human fallibility, or rather human presumption, for those personal convictions of religious belief and duty which every one should exercise for himself, and for the exercise of which every one is responsible.

In what manner it may be proper for our Government to present this grave question to other Governments I do not undertake at present to say. I shall move the reference of the petition to the Committee on Foreign Relations, feeling satisfied that they will give it their earnest attention, and in the hope that they will make a report which will be authoritative as the expression of our views, and, still more, those of our constituents, in any communications the Executive may open with foreign Powers. Certainly there can be no objection to firm and friendly representations; and I cannot doubt that these declarations of the wishes of the American people will have weight everywhere, and I am satisfied they will ere long produce a salutary effect on some countries, and eventually on all. This is a piece of interposition which well befits this Republic; and as day by day we find ourselves engaged in far different questions, we have cause to feel gratified that the opportunity is offered us of aiding in a work which commends itself to our consideration by the highest motives that can influence human action.

And I am free, sir, to confess, that for myself I rejoice at the occasion thus given to us, while pleading for the free toleration of religion, to bear our testimony to its priceless value. Independent of its connection with human destiny hereafter, I believe the fate of republican governments is indissolubly bound up with the fate of the Christian religion, and that a people who reject its holy facts will soon find themselves the slaves of evil passions and of arbitrary power. And I am free also to acknowledge that I do not see altogether without anxiety some of the signs which are shadowed forth around us. A sublimated imagination with some, and unregulated passions with others, are producing founders and followers of strange doctrines, whose tendencies it is easier to foresee than it is to account for their origin and progress. But they will find their barrier and their remedy, not in legislation, but in sound religious opinion, whether they inculcate an appeal to God through stocks and stones, and rappings, the latest and the most ridiculous effort upon human credulity, or whether they seek to pervert the Scriptures to the purposes of their own libidinous passions, by destroying that safeguard of religion and social order, the institution of marriage, and by leading lives of unrestricted intercourse, thus making proselytes to a miserable imposture, unworthy of our nature, by the temptations of unbridled lust. The experiment was tried in Germany some three centuries ago, in a period of strange abominations, and failed, and it will fail here. Where the word of God is free to all, no such vile doctrine can permanently establish itself.

I now move the reference of this petition to the Committee on Foreign Relations.

Mr. UNDERWOOD. I rise to tender my thanks to my friend from Michigan, and to say that I hail him now as a follower, if not a leader, in the right road of progress. He has at last joined with me in that kind of progress of which I have always been in favor. [Laughter.]

Mr. HALE. This is evidently an important subject, from the manner in which the honorable Senator from Michigan has treated it; but it strikes me that the character of it is objectionable. It seems to me that it is an attempt on the part of the United States to introduce into foreign countries a "higher law" than that which is tolerated by the civil governments of those countries. The toleration of other religions than their own is not allowed there by law; and their law is the highest law known to them. This is a petition or an appeal on our part to induce them to tolerate a higher law than the law of the land. The Senator from Michigan says that we are the most appropriate people in the world to make it. It strikes me directly the other way. We have denied that to our own people. We have branded that as one of the foulest heresies that can be broached. The idea that there can be a higher law than the Baltimore platforms, or the fugitive slave law, has been hooted and scouted from one end of the land to the other; and it seems to me that, if there are to be apostles of the higher law, they ought to come from some other country than this. I agree with the object of the petition. I think it is a highly meritorious one, and I think that there ought to be an appeal made to those countries, and to those Governments, to recognize the fact that there is a God in heaven and a conscience in man. But, sir, I do not think we are the high priest to minister at that altar. I think that, of all the nations of the earth who should go out on this mission preaching to the despotisms of the Old World the doctrines of a higher law, we should be the ones to stay at home; and they had better send missionaries to us, and we had better have the doctrine preached and practiced here, before we go abroad to preach it to other folks. These are my notions.

Mr. CASS. I merely want to observe, that if I had the least idea of what the honorable Senator meant, I would endeavor to answer him. My respect for him would induce me to do so.

Mr. HALE. The honorable Senator does not understand me, because I mean exactly what I say. That is so uncommon here, that he does not understand me. [Laughter.]

Mr. CASS. I confess I do not understand you.

The petition was referred to the Committee on Foreign Relations.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SHIELDS, it was

Ordered, That the memorial of a Committee of the Corporation of the city of Washington, on the files of the Senate, praying an appropriation to repair the present bridge across the Potomac, be referred to the Committee on the District of Columbia.

On motion by Mr. WALKER, it was

Ordered, That the petition of citizens of Washington and Georgetown, on the files of the Senate, relative to the incorporation of a manufacturing company in the District of Columbia, be referred to the Committee on the District of Columbia.

On motion by Mr. HAMLIN, it was

Ordered, That the petition of the heirs of Samuel Remick, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

On motion by Mr. GWIN, it was

Ordered, That Charles B. Polhemus and Charles Griswold, of the firm of Alsop and Company, have leave to withdraw their petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Commerce, to which was referred a petition of citizens of Portland, Maine, reported a bill to create a collection district in the State of Vermont; which was read and passed to the second reading.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the memorial of John S. Davis, a citizen of California, praying remuneration for losses occasioned by the Indians, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the memorial of delegates from the Shawnee tribe of Indians, praying that the appropriation made by the House of Representatives for the payment of moneys due them under and by virtue of the treaties of 7th November, 1825, and 18th August, 1831, may not be stricken from the bill, asked to be discharged from the further consideration thereof; which was agreed to.

BILLS INTRODUCED.

Mr. BAYARD, agreeably to previous notice, asked and obtained leave to introduce a bill granting and reconveying the arsenal in the town of New Castle, in the State of Delaware, to the trustees of said town, and their successors; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

Mr. BRODHEAD, by unanimous consent, asked and obtained leave to introduce a bill for the relief of Chambers C. Mullen; which was read a first and second time by its title, and referred to the Committee on Pensions.

CONDUCT OF COMMODORE MORGAN.

Mr. HALE submitted the following resolution for consideration:

Resolved, That the Secretary of the Navy be directed to inform the Senate the number of days the United States razee Independence, the flag-ship of the Mediterranean squadron, commanded by Charles W. Morgan, was at sea after her arrival at Naples, on the 14th of September, 1849, until she sailed thence for the United States, on the 29th March, 1852; how many days said ship was at anchor in the bay or harbor of Naples, and how long at Spezzia, or other ports during that period; what portion of the aforesaid two and a half years was passed on shore, and how much of it on board ship by said Morgan; what is the estimated expense of a ship of the class of the Independence, properly officered and manned, per day or per year; whether said Morgan, without authority from the Department, while his ship was lying at anchor in the bay of Naples, chartered or employed a merchant vessel to transport supplies for his squadron from Spezzia to Naples, and whether the cost of such transportation has been charged to

the Government by the order or approval of said Morgan; whether instructions were given to said Morgan by the Department, or by any bureau thereof, to practice his squadron in naval evolutions or fleet sailing, and if so, whether said instructions were obeyed; whether he was directed to exercise his men in target firing, and if so, whether he complied with such directions, and to what extent; whether there is any rule or regulation of the Department against naval officers transporting females, members of their families, or others, on board ships of war of the United States, and if so, whether Commodore Morgan, or any officer under his command, was guilty of a violation of such regulation; whether the broad pennant of Commodore Morgan was kept flying during the period of his command in the Mediterranean, or was at any time taken down, and if so, for what length of time; whether Commodore Morgan has been held to answer for disobedience of orders, or violations of regulations, or neglect of duty while in command of the naval forces of the United States in the Mediterranean during the past three years.

ASSAY OF GOLD IN CALIFORNIA.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be required to furnish the Senate copies of the letters which have been sent from, or received by, and of all regulations made, instructions issued, and reports received, and of all contracts made, proposals offered, and bonds taken by the Treasury Department in relation to the assaying of gold in California and the reception of gold so assayed by any public officer as, or in lieu of, gold or silver coin.

HICKEY'S EDITION OF THE CONSTITUTION.

Mr. BADGER submitted the following resolution for consideration:

Resolved, That the Secretary be directed to procure from the proprietor, for the use of the Senate, ten thousand copies of Hickey's edition of the Constitution, with an Alphabetical Analysis, Washington's Inaugural and Farewell Addresses, and other important statistical matter, illustrative of the genius of the American Government, and the development of its principles: *Provided*, That they be furnished at the same price as those last procured for the use of the Senate.

CUBAN TRIPARTITE TREATY.

Mr. MASON. I ask the Senate to allow me to call up at this time a resolution which I submitted on a former day, calling upon the President of the United States for certain correspondence in reference to the Island of Cuba. It will be recollected that when I offered that resolution, a debate ensued, in the course of which, a number of Senators expressed a desire to be heard, and at their instance, the resolution was not then acted upon, but was postponed and made the order of the day for to-morrow. At the request of some of those gentlemen—the Senator from Louisiana [Mr. SOULE] and others—I now ask the Senate to take up that resolution and pass it, they being satisfied to adjourn the debate until the information called for by the resolution shall come in, when, I am informed, they will address the Senate upon that subject.

The motion was agreed to, and the resolution was adopted, as follows:

"*Resolved*, That the President of the United States communicate to the Senate, if in his opinion not incompatible with the public interest, copies of the 'official notes received from the Ministers of France and England, inviting the Government of the United States to become a party with Great Britain and France to a tripartite convention, in virtue of which the three Powers should severally and collectively disclaim now and for the future, all intention to obtain possession of the Island of Cuba, and should bind themselves to discountenance all attempts to that effect on the part of every power or individual whatever;' and of the reply thereto on the part of this Government, referred to in his annual message to the two Houses of Congress, on the 6th of December."

ADVANCES OF MAINE AND MASSACHUSETTS.

On motion by Mr. BRADBURY, the Senate proceeded to consider the bill "to remunerate the States of Maine and Massachusetts for lands conveyed to enable the United States to fulfill stipulations in the treaty of Washington."

Mr. BRADBURY. There was a mistake in the original draft of the bill, which it is the design of the Committee on the Judiciary to correct. They have therefore instructed me to offer an amendment, to strike out all after the enacting clause, and insert the following:

That there shall be paid out of any money in the Treasury not otherwise appropriated, to the State of Maine, the sum of $40,951 50, and to the State of Massachusetts the sum of $39,225, in full of all demands for fifty-three thousand four hundred and fifty-one acres of land belonging to said States, and conveyed by them, without consideration, to the settlers who held under grants from the British Government, to enable the Government of the United States to fulfill the stipulations of the fourth article of the treaty of Washington.

The amendment was agreed to; the bill was reported to the Senate as amended, ordered to be engrossed for a third reading, read a third time, and passed.

Mr. BUTLER subsequently rose and said: Do I understand that the bill to remunerate Maine and Massachusetts for lands conveyed to settlers under the British Government has been passed?

The PRESIDENT. It has been passed.

Mr. BUTLER. It involves some matters of grave consideration, which may deserve the serious attention of the Senate. I was in the minority in the Committee on the Judiciary upon that bill. I do not know that I should desire to be heard upon it; but if the Senate are willing to swallow the bill, I am sure I have no objection.

Mr. BADGER moved to reconsider the vote by which the bill was passed; which motion was agreed to.

He also moved to reconsider the vote ordering it to a third reading; which motion was agreed to.

Mr. BADGER. I now move that the bill lie on the table, and be printed as amended.

The motion was agreed to.

RICHARD B. LEE.

Mr. MASON. Mr. President, there is a bill upon the calendar which was reported at the last session from the Committee on Claims, and although it is a private claim in its character, it is one in which the public have a deep interest, because it is to reimburse an officer of the Army for money that was lost in transporting it, without his possession, and which he has since refunded to the Government in order to prevent the stoppage of his accounts. It has put him to a great deal of inconvenience, and I ask, therefore, that the bill for the relief of Richard B. Lee be taken up and considered at this time. If the Senate will take up the bill, and listen to the reading of the report of the Committee on Claims, (which is a very short one,) I have no doubt they will pass the bill without debate.

The motion was agreed to, and the bill was accordingly read a second time and considered as in Committee of the Whole. It proposes to direct the Secretary of War to cause to be paid to Richard B. Lee, late Commissary of the Pacific division of the Army, $1,175, being for money lost in being transported from Honolulu to San Francisco, under his charge, for which he accounted to the Department.

The report was read, from which it appears that in February, 1850, Major Lee, in his capacity of Commissary of Subsistence for the Pacific division of the Army, was ordered to proceed to the Sandwich Islands to purchase supplies, and took for that purpose $1,100 in specie of public funds. Not being able to carry the money about his person, and not deeming it safe in his trunk, he shipped it as freight, taking for it a bill of lading. The master of the vessel absconded, taking the money, and on being pursued and arrested, it was not found in his possession, and could not be recovered. An attempt was made to libel the vessel, but it was found there was no judicial tribunal then existing in California having the necessary jurisdiction to detain her, and consequently all efforts to recover the money failed. The committee think that, as Major Lee used proper diligence and energy to recover the amount lost, that sum, together with $75, paid by him for aid and assistance in endeavoring to recover it, should be reimbursed.

Mr. MASON. I observed in the reading of the bill that it directs "the Secretary of War" to cause this amount to be paid. I presume it should be the Secretary of the Treasury, and therefore I move to amend the bill by striking out the word "War," and inserting the words "the Treasury."

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

It was subsequently read a third time, and passed.

JAMES WORMSLEY.

The bill for the relief of James Wormsley was read a second time, and on motion of Mr. SEWARD the Senate proceeded to consider it as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of James Wormsley on the pension roll at the rate of four dollars per month, to commence on December 14, 1847.

The report of the Committee on Pensions was read; from which it appeared that Mr. Wormsley enlisted as a private soldier in the State of Rhode Island, in June, 1780, for six months. If he had served six months he would have been entitled, under the act of June 7th, 1832, to a pension; but it appears from the records on the files of the Pension Office, that although he was paid for six months' service, he was discharged before the expiration of that time. He served only about five months, and was not therefore legally and strictly entitled to a pension; but having been willing to serve out the term for which he enlisted, and being eighty-three years of age and totally destitute of the means of support, the committee think his case entitled to favorable consideration.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

LOCATION OF BOUNTY LANDS.

On motion by Mr. FELCH, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, "authorizing certain soldiers of the late war with Great Britain to surrender the bounty lands drawn by them, and to locate others in lieu thereof." It proposes to make it lawful for any soldier in the late war with Great Britain, to whom bounty land has been allotted and patented in any State, by virtue of the laws of the United States, passed prior to 1850, which was, and is unfit for cultivation, to surrender his patent and receive therefor the same quantity in any public lands subject to private entry, at the minimum price where he may select.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

HEIRS OF HENRY MILLER.

On motion by Mr. BRODHEAD, the Senate, as in Committee of the Whole, proceeded to consider the bill "for the relief of the heirs of Lieutenant Colonel Miller, late of Pennsylvania, for services in the revolutionary war."

It proposes to direct the payment to Julianna Watts and Julianna W. Campbell, the only surviving heirs-at-law of Henry Miller, late lieutenant colonel in the second Pennsylvania regiment, in the Continental service in the war of the Revolution, such a sum of money as he would have been entitled to receive if his name had not been stricken from the roll of revolutionary pensioners, after it had been placed thereon by the act of March 18, 1818.

Mr. UNDERWOOD. I would suggest to the gentleman from Pennsylvania, the propriety of striking out the names of the individuals, and leave it to make provision for the "heirs" generally. If this suggestion be adopted, so that the bill will provide for the payment of the money to the heirs, it will devolve upon the Department to find out the heirs, and it will avoid a difficulty which arose here some time since, which I will state. We passed a bill at a preceding session, giving some relief to Miss Lynch; but before that matter was disposed of by the Department, we had a petition presented here setting forth that there were other heirs, and that a payment to Miss Lynch would be no discharge of them. If the Senator will adopt my suggestion in this case, it will throw upon the Department the duty of ascertaining who the heirs are, and it will obviate a difficulty of the kind I have mentioned. However, if the Senator prefers it as it stands, or if he knows that there are no other heirs, let it go as it is presented.

Mr. BRODHEAD. I know but little about this case; but I know that those who desire its passage are respectable persons. It was reported by the Senator from Vermont, [Mr. FOOT,] and if the Senate had time to listen to the reading of the report, they would be satisfied that this is one of the most meritorious cases that ever passed this body. I can also state, in addition, that the two persons who are mentioned in the bill are the only two surviving heirs, and that the relatives of those persons would not state it as a fact to me if it were not so. I refer to Mr. Wallace, of South Carolina.

Mr. UNDERWOOD. It was the peculiar manner in which the term "heirs" struck my ear that induced me to make the remark which fell from me. Sometimes the term "heirs" is, in common parlance, confounded with "children;" whereas there may be surviving grandchildren, as much entitled to claim as "heirs" as surviving children.

Mr. BRODHEAD. I presume there will be

no difficulty about this case. There will certainly be no conflict between the surviving "heirs." I did not draw the bill, and I prefer that it shall pass in its present form. I sent it to those who are interested, and they admitted that it was right, except that it did not grant enough. They wished me to offer an amendment increasing the number of grantees. As to go further would be to violate the rule heretofore pursued in cases of this kind, and as I know such an amendment would not be adopted, I have not complied with the request. I make this statement for the purpose of satisfying those interested in the matter at home. I hope the bill will pass in its present shape.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

FORT JESUP MILITARY RESERVE.

On motion by Mr. DOWNS, the Senate proceeded to consider, as in Committee of the Whole, the bill "granting to the State of Louisiana the military reserve at Fort Jesup, for a seminary of education." It proposes to grant to the State of Louisiana so much of the military reserve at Fort Jesup as remains unsold.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EXTENSION OF PENSION LAWS.

Mr. BORLAND. I ask the Senate now to take up for consideration the bill "to revive a portion of the act for the relief of widows of deceased soldiers." It has been a good while before the Senate. It was reported early last session, and is now the second bill on the calendar.

Mr. UNDERWOOD. I am afraid that that bill will give rise to debate, and as it is now two o'clock, I would appeal to my friend from Arkansas to let us call up House bills that have passed that body, and been favorably reported upon in this, and which will pass here without objection. I have been making various efforts to obtain the floor in order to get up little bills of that kind, but I have not succeeded. I am afraid this bill will give rise to debate, for it involves an important principle.

Mr. BORLAND. This important principle is to take care of a few old widows—the remnant of the widows of deceased officers and soldiers who served in the last war with Great Britain. I consider it an important one. I consider that there is imposed upon the Senate a very important duty in reference to those persons. The Committee on Pensions reported this bill long ago—early in the last session. I have sat here quietly to-day. I have seen the prior orders postponed, and private bills taken up for the benefit of individuals who have had no special claim on Government beyond any others, and I have at last sought to take up this bill, which is now second on the calendar. It is for the relief of a very few individuals, and they must now of necessity be very old. They are the few surviving widows of officers and soldiers of the last war with Great Britain, and this bill proposes to extend to them some of that bounty which we are dealing out to individuals, certainly not more meritorious. Unless, therefore, the Senator from Kentucky himself intends to occupy a large portion of the time of the Senate in the discussion of this bill, I think it will not give rise to any debate. I cannot anticipate opposition to such a bill.

Mr. UNDERWOOD. This is a public measure. It is proposed to make it a general law. It is proposed to take it up at this late period of to-day's sitting. I really do not know its provisions. I have in general been opposed to any great extension of the pension system. I have been opposed to extending that system to any new classes of cases, and I have taken occasion to express upon this floor my sentiments upon that subject. I did not know the provisions of this bill, but as it was a general bill, and as it was getting late in the day, I thought, and I made that suggestion, that it would be better to devote the rest of to-day to House bills, to which nobody will object. I would be glad to take that course now, but I do not know that I have any objection to this bill, for I do not as yet understand its provisions.

Mr. BORLAND. Then let it be taken up and read.

The motion was agreed to, and the Senate accordingly resumed, as in Committee of the Whole, the consideration of the bill. It proposes to revive that portion of the act of April 16th, 1816, "making further provision for military services during the late war, and for other purposes," which applied to the widows of deceased soldiers, and which expired by limitation at the end of five years from its passage. It is proposed that this act shall continue during the natural life of any widow therein described.

Mr. HAMLIN. I have an amendment which I wish to offer to this bill, which I trust will give it strength. It is to add the following additional section:

SEC. —. *And be it further enacted*, That the widows of all officers, [subsequently modified by inserting "non-commissioned officers,"] musicians, and privates, who were married subsequent to January 1st, A. D. 1800, shall be entitled to pensions in the same manner as those who were married prior to that day.

The case which I design to meet is apparent from the reading of the amendment. The period of time when the widows of deceased officers and soldiers of the revolutionary war were entitled to a pension in case of marriage was, according to the first act, when the marriage took place before 1780. It was afterwards extended to 1791, then to 1794, and subsequently to 1800. By the law, as it now stands, if the widow of a deceased revolutionary officer, non-commissioned officer, musician, or private, were married on the second day of January, 1800, she would not be entitled to a pension; but if married on the last day of December, 1799, she would be entitled. I think there is no good reason for drawing a rigid rule on a particular day, but I think that if you give pensions to widows, you should extend them to all. I presented sundry memorials at the last session of Congress to cover this case, and I think the committee were favorably impressed with what the petitioners asked. I hope the amendment will be adopted, so as to place all these parties on the same footing.

Mr. UNDERWOOD. If the first provisions of this bill pass as they are printed, without the amendment offered by the gentleman from Maine, I should like to know from the Senator who drafted it, whether these pensions are to be paid for the intermediate time, after the lapse of the first five years, up to the time of the passage of this act.

Mr. BORLAND. I can answer the Senator. I drew the bill, and reported it, and certainly did not intend to authorize, nor do I believe that the wording of the act will authorize the payment of pensions for the intermediate time.

Mr. UNDERWOOD. I think there ought to be some provision expressly excluding that idea. From the general terms in which the bill is couched, it struck me that it was susceptible of that construction.

Mr. BORLAND. If it were susceptible of that construction, I should not object to it.

Mr. UNDERWOOD. Upon this subject, sir, I wish to make a few remarks. When these five years' pension acts were first passed, it was the design of Congress to make a temporary provision for the wife or children left in a helpless and destitute condition by the death of the officer or soldier. That was the early practice in reference to the war of 1812, and the prior wars of the country. These pension laws have been renewed time and again. I called the attention of the Senate to the subject in some rather elaborate remarks a year or two ago, in which I referred to all the different acts on this subject. They have been renewed from time to time. The effect of their renewal has been just this: Where a widow has happened to live twenty, thirty, or forty years, and is now living, her family, and that of her dead husband, is provided for by these annual allowances of pensions, under this system of bounty on the part of the Government. But if she happened to die, then by her death her family, and the dead soldier's family, is deprived of all aid and assistance, when the children stand more in need of it, (when they have neither father nor mother,) than if the mother were alive. The consequence of such legislation is, that you have provided for families that are less needy than those who have lost both parents, and for whom you make no provision.

Mr. BORLAND. The Senator will permit me to say to him that I think he misapprehends the effect of the bill in one particular. If I understand his remarks, he objects to the bill because it provides only for widows and not for children. The act of 1816, which this bill proposes to revive, gave pensions to widows and minor children of officers and soldiers who had been killed in that war, or who had died in consequence of disease or wounds incurred in it. Those pensions expired in five years after the act went into operation, that is, in 1821. I think that between 1821 and this time, all the minor children have grown up. This bill therefore does not propose to provide for them, because there are none to be provided for; nor does it provide for adult children, because, generally, we do not provide for the adult children of soldiers. But there are a few old widows remaining, who received pensions under that act of 1816, which expired in 1821. Now it is proposed to provide for the last years of their lives, and to give those who are destitute, something to live upon for the remainder of their days.

Mr. UNDERWOOD. I think I understand it. I recollect that I once made a pretty thorough examination of the subject. I cannot remember precisely everything in regard to these pension laws, but I think I remember the leading features of them. Whether there are or are not minor children, depends upon the time when the soldier died, how long he may have died after the war, and whether the various acts which were revived from time to time were in force when he did die. But the argument which I make is not touched by the statement made by the gentleman from Arkansas. It is, that under the operation of these bills, reviving pensions in favor of widows alone, you act partially, and favor one class of soldiers' families by providing for them; when, if a widow of the soldier dies, and leaves her family in a destitute and dependent condition, no provision is made for her minor or other children after the five years for which the pension was granted; thus you make a difference between the families of soldiers whose services to the country are the meritorious cause of your bounty, and constitute the sole and only merit of such legislation.

A few words now in relation to the amendment under consideration. My friend from Maine says, that if the widow of a revolutionary officer or soldier married on the 31st of December, 1799, she would be entitled to a pension, but if her marriage took place on the second of January, 1800, she would not be. That is true. That is the result of fixing upon a day subsequent to which, should the marriage occur, no pension shall be allowed, and granting a pension in case the marriage happens before. If you were to fix upon any other day in the calendar, or upon any other year, the same result would be presented, provided there were revolutionary officers and soldiers living to be married, or who had widows who were married after the passage of your bill. My friend from Maine, seeing very clearly that state of things, proposes that there shall be no limitation at all; that the young wives of old officers and soldiers shall come in and share just like those who bore the heat and burden of the day in the revolutionary struggle. When the original pension bills were first passed, the object was, in consideration of the poverty of the Government during the Revolution—in consideration of the hardships of both man and wife through that war, and which continued for some time afterwards, to give them some remuneration. That has been done. That time, I believe, has been extended. It embraced all those who were man and wife during the war. It embraces all those who were man and wife before the formation of this Government. It has been extended to embrace all who were man and wife for eleven years after the formation of the Government; and now it is proposed to bring in all the young widows who married the old men after 1800.

Mr. President, I have opposed these extensions of the pension system so often, and I have been defeated so frequently, that I think it is useless to make an elaborate speech against it. I am opposed to this bill because it has a tendency to make people mercenary, to make them look to the Treasury of the country for support, and thus the patriotic emotions which influenced the men and women of the Revolution, after all those who participated in the struggle have been provided for, and after ninety-nine hundredths of them are dead and gone to their eternal reward, seem in these days to have been converted into merchan-

dise by their connections, to be legitimately sold to the Government by widows and heirs for money. There seems to be a rapidly-increasing desire to live at the expense of the Treasury. I am opposed to taxing one portion of the people to support another, and that, too, without the rendition of a particle of meritorious service. Your bill proposes to place upon the Treasury persons who, no doubt, are very meritorious in the private relations of life; I mean by that, honest mothers, industriously providing for the welfare of their children, if they have any, but who never rendered to the Government one particle of service. And yet it is proposed to allow them to come in and have a support out of the public Treasury. The principle ought to be enforced, that there should be no grants of any sort, unless based upon actual public service rendered, benefits conferred upon the people or their Government, by the person making application for the grant or donation. Here it is proposed to grant money, not because the individuals to whom it is proposed to be granted ever rendered a particle of service, for you admit they never did, but it is proposed to grant it upon the principle of imputed merit, because they happened to be allied by the marriage relation to the persons who did render service, and in virtue of that imputed merit you are to make provision for them. I admit there may have been some reason for this in behalf of the widow who struggled and toiled with her husband through the war; but to extend it to those who consulted their own happiness by marrying a soldier twenty years after the war was over, in a time of profound peace, seems to me to have no reason in it. But if there be reason in it, and such imputed righteousness ought to save the widow, I think it ought to have virtue enough to save the children likewise, and to secure them a pension when there is no widow to take it. The policy, however, of this bill seems to be to allow the family of a dead officer or soldier to draw money out of the Treasury if a widow can be found to get it; but not a cent for the children or grandchildren, no matter how necessitous their situation may be. Thus two officers or soldiers may have entered the army at the same time, fought the same battles, and been discharged together, and yet the family of one, through a surviving widow, may get hundreds and even thousands of dollars, while the helpless children of the other are tenants of the alms-house without a particle of aid from the Government; and this is called just and righteous legislation!

If you make promises beforehand for the purpose of inducing persons to enter into your military or naval service, whatever contract you make, you are bound to fulfill to the letter. You may make contracts by offering bounties; you may make contracts by offering pensions. The history of all Governments in the world, and the history of our own Government, proves that this is good policy. But, sir, I deny that it is good policy on the part of any Government, by retrospective legislation, to bring in a new class of cases never before thought of, and never contemplated at the time of the original contract of enlistment; and in that way foist one portion of the community upon the shoulders of another for support. To do it is to travel out of the way and to encourage a mercenary spirit, however averse gentlemen may be to foster anything of the kind.

Sir, your President elect gave a vote upon this subject, for which he was assailed in many portions of the country, and which gave him, I believe, many good Whig votes. I wish I could uphold all the policy of the Democratic party as I can uphold the votes of the President elect upon subjects of this kind. But you are departing from his principles, and you are establishing principles which cannot stand the test of reason; and you are doing it upon the ground that your feelings in behalf of the old soldier are transferred to his wife, not to his children, and that, too, after he has received the pension promised him at the time of his enlistment. Thus the widow, to the exclusion of the children, by renewing these bills time and again, becomes a life charge on the Treasury, irrespective of the time of her marriage. But, as I said before, why need I consume the time of the Senate in talking about matters of this sort. I know my voice will have no effect here, and therefore I desist.

Mr. HAMLIN. I have modified my amendment by adding after "officers" the words "non-commissioned officers," so that it shall conform to the original law. And now I wish to say a word in reply to the Senator from Kentucky. If the limitation which required the marriage to have taken place during the revolutionary war had been adhered to, I would be the last Senator to disturb it; but when you have removed the period of time beyond that, and carried it to 1794, 1796, and 1800, you have established a rule of inequality which can be removed only by making the one of equality which I have presented here.

Mr. DAVIS. I remember some years ago a very venerable old man called on me, and requested the drawing up of some papers for the purpose of obtaining a pension. He stated that he had been a captain in the war of the Revolution. He produced testimonials under the hands of General Washington and General Lafayette, of his valor and of the distinction which he had obtained in the army. Among other testimonials he produced an epaulet and a sword which were presented to him by General Lafayette for an act of distinguished gallantry. The story which he told was this: That he was a native inhabitant of one of the towns on Cape Cod; that he entered the Army of the Revolution at the commencement of the war; that he had served in that army with fidelity until what is called the derangement of it took place, when he resigned his commission; that he had a family at the time he entered the army, and an estate, as he said, worth £400, and the day he resigned his commission he was a bankrupt—not only all the resources which he had received from the Government, but all his private property, having disappeared in that service, in the maintenance of himself and his family.

Now, sir, there is no principle of the human mind so amiable, so lovely, as that of gratitude. Here was a country without resources, either military or pecuniary, entering into rebellion against the Government over it, for the purpose of obtaining its liberty, and men went into the army for the mere love of the object which they were pursuing, without hope of pay or reward. They served through the struggle, and shed their blood and their money in it, and left families as destitute as that of the soldier to whom I have referred. And will my honorable friend from Kentucky tell me that none suffer except those who bleed and fall in the field? A greater misapprehension could not well be entertained by any gentleman. The history of this man is the history of hundreds and of thousands. When your country came out of the revolutionary war, it was unable, as everybody admits, to do justice to its soldiers. Such little accounts and claims as they had, were presented for liquidation, and they were liquidated according to the means and ability of the country. Everybody who has read the history of the country, knows what the soldier's security was. He knows that it was hawked about the market and sold for a few shillings in the pound,—and this was the result of circumstances; or, what was worse, he was paid in continental money—rags, and nothing better than rags.

Then, sir, when we came to the adoption of the pension system, we came to it under the sense of a deep obligation of gratitude for the services of those individuals. The laws were adopted and laid upon that foundation, and upon no other. It was to make some proper remuneration to the men who had thus entered the service of the country, and achieved the great boon of independence and laid the foundation of that prosperity which has attended us. I know the pension laws from time to time have been extended, but never extended to any but proper objects of the bounty of the Government. I know it was after a very strong and animated debate that the militia were brought in to participate in this bounty, and never in my judgment did a more righteous act pass this Government than that which embraced the militia. They were a class of men that were pressed into the service, or voluntarily went into it, and the compensation which they received for their services was greatly inferior to that of the regular army; in fact, there were thousands upon thousands of instances where there was no reward but the miserable continental money. And why should not the widow be considered? The Senator says you do not make a law which attains to perfect equality, and I suppose that the very laws to which he adverted have the principle of inequality in them necessarily, because a woman married to-day is entitled, and one that is married to-morrow is not, under the law, entitled, although the circumstances of the parties may present a case equally meritorious. But, sir, I hold that the country can scarcely ever go too far in the expression of its gratitude for the services of those individuals. They entered the army without hope of reward, and they received such a reward as the country was able to give them, and now, when a great, a rich, a prosperous country has grown up in the enjoyment of the liberties which they achieved, it seems to me it would be base and ungrateful to deny them this boon. I do not rise to debate this question, but I go cheerfully for the proposition which is presented by the Senator from Maine.

Mr. UNDERWOOD. I am not willing to be put in a wrong position, and to have opinions attributed to me which I do not entertain.

Mr. DAVIS. I know there is not a man in the world of a more generous heart than my friend—not a man. I know that his motives are as pure as those of any gentleman can be, in protecting the Treasury; but I think he has let his severe judgment upon these matters get the better of his feelings.

Mr. UNDERWOOD. I have not one particle of feeling about it. If I had any, it would be to open the Treasury to all widows and children in the country, and let them help themselves, as we do; but I must still put myself right, and I will endeavor to do it as briefly as I can.

In reference to the soldiers and officers of the Revolution, I concede everything which the Senator from Massachusetts has said. They had trials, they had sufferings, they had duties such as scarcely ever fell upon the shoulders of any other set of men. But now, when you come to dispense rewards for those sufferings, those trials, and those duties, what I have always insisted upon, and what I shall ever insist upon while I have a vote here, is that you shall not be partial—that you shall mete out "even-handed justice"—that you shall embrace all alike, or embrace none. These are my principles. If you intend to compensate the officers and soldiers of the Revolution for their sufferings, their trials, their expenditures of blood and money in establishing the liberty of the country, you should embrace the whole. You should make no distinction. You should not select one, and leave out another, or select the family of one and leave out the families of others. My objection is, that you leave out some that are equally meritorious with others; that you provide partially for those who happen to live long, and by that life, if they will devote it to industry, can aid themselves and their families; and cut off those who lost a father and a mother, both by an early death, and do not give them that to which they are entitled, for the same suffering and expenditure of blood and treasure. Who answers that? No one. Who can answer it? No one. What, then, is your system? It is a system of partial legislation, not imposed upon you by any promise; for I have told you already in regard to every promise, every resolution of the Continental Congress. I am for carrying it out; but you will not do it. You take up such a case as Miss Lynch's, and pass it; but when the case, exactly like it, of Merideth, from Kentucky, is presented, it lingers and drags, and may never come up. Sir, there ought to be no partial distinctions in cases of this sort; and if the expenditure of blood and treasure by a revolutionary officer or soldier is the meritorious cause of passing bills like this, you ought to make them embrace all the members of a soldier's family, children as well as wife. There is no reason for continuing the bounty of the Government, and rewarding the services of a soldier after he is dead, unless it can be found in the contract, or be a matter of public policy. Here there is no contract to operate. There is no policy, I think, to justify such retroactive legislation; but if there is, it favors the children as much as it does the wife.

My friend says the Government was poor when the war ended; I admit it. But it is now rich. If, then, the object now be to do full justice, because it has not been heretofore done, let us not stop short. Sir, you passed a law shortly after the General Government went into operation, which deprived the officers of the Revolution of the very half pay for life that you promised them during the Continental Congress; and in 1832, you passed a law giving them their half pay, according to the resolution of the Continental Congress, the residue

of their life. You left a period of some forty years: for which you have never done them justice to this very day. I am for doing justice to them through their heirs, late as it is, upon the maxim, "better late than never." I will go as far as any man living can go, to do justice to the officers and soldiers of the revolutionary war, according to every promise ever made to them, and to the whole of their families, including their wives, where any are left; but I repudiate, I eschew everything like this partial system of legislation by which you open the Treasury to a particular class and their families; while others equally meritorious are excluded. I have somtimes thought that we could not remember the obligations of justice we owed the dead, because there was no influence in the grave, while the living speak and act, and are heard, and carry an influence at elections; and, therefore, are remembered and provided for upon colorable pretext, by imposing burdens on the public.

Mr. President, I say again, that I have made so many speeches upon this subject, and have found it so utterly useless, and so utterly unavailing, that I hope I shall never be called to speak upon it again. I think I never will.

The PRESIDENT. The question is on the amendment offered by the Senator from Maine.

Mr. HAMLIN. I desire to say that I have added a few words to my amendment to make it more distinct, and I ask that it may be read.

The section was read, as follows:

SEC. 4. *And be it further enacted*, That the widows of all officers, non commissioned officers, musicians, and privates of the revolutionary Army who were married subsequently to January, Anno Domini 1800, shall be entitled to a pension in the same manner as those who were married prior to that date.

Mr. DIXON. As I have a vote to give upon the proposition now pending before the Senate, I desire to say a few words explanatory of that vote. I esteem the proposition extremely important, and I regret that I am compelled to differ from my colleague in his conclusion on a question of the character of that which is now presented to the consideration of the Senate. I understand that the proposition is to give to those widows of officers and soldiers of the Revolution who were married after the war the same compensation which was granted by the Congress of the United States to widows of officers and soldiers of the Revolution who were the wives of those soldiers during the pendency of the war. I understand that my colleague objects to this proposition, and insists that although it was right to pay the widows who were married during the Revolution, it is wrong to pay those who married after the war had terminated. I do not agree with him at all in the proposition which he urges upon the Senate and the country. Why, sir, do we pay at all? What claim has a widow who was living during the Revolution to anything at all for the services that were rendered by her husband? What claim has she to be paid superior to that which the widow has who may have married an officer or soldier subsequent to the time when the Revolution terminated? I put the question to my honorable colleague. What is the principle upon which we pay at all? It is, sir, the principle of gratitude for services rendered by him who fought the battles of his country, and aided in achieving the independence we now enjoy as a nation. That is the principle upon which we act. It is because the services were rendered, and it is for those services that we pay the widow; not because she rendered services, but because her husband rendered them; and why should we pay one and not the other? Is there reason for paying her who was married at the time of the Revolution, and no reason at all for paying her who was not the wife of the soldier at the time when the services were rendered? I can see none myself. I do not see the force of the reason which my colleague urges on the Senate against the payment of such claims as these. For my own part, I must confess I am in favor of paying all those who rendered any service to the country in that desperate struggle which was made by our ancestors to achieve the independence of our common country. I am in favor of paying all who can come here and satisfy the Senate that the services were rendered upon which the claim is founded.

These are the views which I entertain in regard to the proposition before the Senate. My colleague, however, insists that he will not pay these claims, and why? Because he says they are partially distributed. Is it a reason why we shall not do a just act, because we cannot do everything that we desire to do? Is it a reason why the Senate shall not do justice to one case, because it cannot do justice to all? Will my colleague stop in the bestowal of his charity when he meets the wretched beggar in his path, merely because he cannot extend his bounty to every object of charity that exists throughout the world?

It is enough for me to know, when the case is presented, that it is one which has a claim upon the gratitude of the country. Whenever I am satisfied of that fact, I am ready at once to vote the full amount that may be required to satisfy the debt. This, Mr. President, is just such a claim. The old soldier of the Revolution! How did he come out from the terrible strifes, the conflicts, and the sacrifices of that glorious war? How did he come out from the battles he had fought for his country? He came covered with wounds and scars, stripped of his fortune. I do not mean of honor, for glory settled upon his brow, and honor everywhere met him in his pathway. But he was left without anything but reputation; without anything but patriotism and the consciousness that he had served his country faithfully. Your Government was poor, and unable to pay him at that time. It did not pay him. It left him to struggle with misfortune, and to sink beneath the overwhelming wave of adversity. Many of those poor men, in circumstances like these, acting upon the great principle that influences all men of seeking for somebody to care for them in their old age, took to their bosoms wives to solace them when the world might cease to be kind, and to sympathize with them when forgotten by all others besides; and are we to be told that the companion of the old soldier's life, and the partner of his misfortunes, is not to be paid for the services rendered by him in the defense of his country? Why, sir, if it is right to pay for the service to the widow of the deceased, it is just as much right to pay to one widow as to another—and why is it not? It is because the claim is a meritorious one that we pay it; because the gratitude of the country is poured out to those who have defended it. All nations, acting upon principles of gratitude, have erected monuments to those who fought their battles and sustained the liberties of the country against its enemies. They have erected monuments to the great men who have performed great actions for them in the field, or whose wisdom has guided them in their counsels. You cannot erect monuments to all the poor soldiers of the Revolution; but you can at least save their widows from starvation. You can do that, whenever such cases present themselves to the Senate; and as long as I may be a member of this body I shall endeavor to do something, however little, towards sustaining those who are the representatives of the noble men who struggled for my country's freedom. If it is right to pay at all in one case, it is right to pay in another case. If a widow is entitled at all, in consequence of services rendered by her husband, one widow is as much entitled as another. It would be difficult for my colleague to show that there is any difference in principle. According to his view of the case, if an officer or soldier married one day before the termination of the war, his widow would be entitled to a pension; but if the marriage took place one day after the war was concluded, she would be cut off from all participation in the bounties, or the gratitude of the country.

For my part, I have no scruples about this matter. I find, as a general rule, that when I consult my heart before I act, my judgment generally approves my action. I have consulted it in this case, and it tells me that I owe a debt of gratitude to the soldier of the Revolution, and if he died before it was paid, I will pay it to her who shared his poverty when living, and whose only legacy now that he is dead, is the recollection of his noble sacrifices to achieve the independence of my country, and secure to me and to my children, the liberty we now enjoy.

Sir, we are now rich. We have an overflowing treasury. I understand that about $20,000,000 will be left in the Treasury next year, over and above what will be necessary for the expenditures of the Government, and yet we talk about the extravagance of paying the widows of the soldiers and officers of the Revolution.

Mr. President, I make these remarks merely from the fact that I feel responsible for the vote I am about to give, and because I am compelled to differ from my honorable colleague, in whose judgment I have the greatest confidence. I agree with the Senator from Massachusetts, [Mr. DAVIS,] that there is no man here or elsewhere, who is more conscientious, and who feels more deeply the interest of the country, than my colleague; still, when a question like this appeals to my judgment, and still more strongly to my feelings, I have not the heart to say that the wretched widow of the old soldier of the Revolution shall not be sustained by the bounty of the Government.

Mr. UNDERWOOD. When I had acknowledged the unpopularity of my course on this subject in this body; when I had said that I supposed the remarks which I made would have but little weight upon the action of the Senate; when I had deprecated having opened my mouth again upon the subject, I really hoped that I should not have been questioned by my colleague, or any other individual, so as to make it necessary for me to say another word.

I rise now to answer the question put by my honorable colleague. He wishes to know how I can make a distinction between the widow of a soldier who lived with her husband during the revolutionary war, and one who is the widow of a revolutionary soldier, who married subsequent to 1800. I make the distinction on this ground: The widow who passed through the sufferings consequent upon the war with her husband, who, while he was in the battle-field fighting for his country, staid at home attending to the care of the children, if they had any, and if not, attending to appropriate domestic duties, in preparing clothing and other necessaries for her husband, who received at home, or flew to the camp, or hospital, to nurse her sick or wounded husband, and restore him to the duties of the field, accomplished much more to render the services of her husband efficient in promoting the objects and success of the Revolution, than the widow who married subsequent to 1800. Indeed, it was impossible for this last to give any assistance as a wife prior to the marriage, and as that did not occur until near twenty years after the close of the war, there cannot be attributed to her any aid or assistance in helping the country in war. She may not have been born until the war was over, or if born, too young to afford the least assistance. To state the case is enough to show that there is no comparison between the situation of the wife of the soldier who was married throughout the war, from beginning to end, and that of the woman who was not his wife until after 1800. It was impossible for the woman first married in 1800, to experience the anxiety and distress of those revolutionary matrons, who from every passenger feared tidings of a husband's death and country's overthrow. There is, therefore, as great a difference in the two cases, as there is between fighting and want in the midst of war, and repose, affluence, and plenty in the midst of peace.

But some gentlemen who have argued as my colleague has on this occasion, and have always so argued, for I have felt their lances heretofore, always go upon the ground that the soldier, whenever an extension of a pension to the widow becomes necessary, is poor, is abject, with nothing to live upon, and that he died, leaving the widow in that condition. I have said time and again, if that be his condition, do him justice; pay him all you promised; pay the debt of gratitude to his whole family, and not to the widow exclusively. I have said it time and again, and I say it again to-day. But you take for granted what is not true. They are not all poor and abject. They are not all incapable of obtaining a living. Many of them are independent, I know; for I have had the honor of associating with them. But if they are independent, does that make a difference in your obligation and your duty to mete out justice to them? Gentlemen, by their arguments, would make a distinction between the rich and the poor. The poor soldier and the poor widow are to be remembered, pitied, and provided for. The fewer number may be found on the side of the wealthy, but I discard all distinctions entirely when I express my gratitude for services which have been rendered. I have no such distinction in my creed. I have nothing to do in my legislation here upon any distinction between rich and poor. If you have obligations, pay them to the rich as well as

to the poor. Just as soon as you make that distinction and legislate upon it—and I am sometimes afraid it is beginning—there is an end to just legislation, and to your institutions. I view old soldiers, rich and poor, as standing precisely upon the same platform, and I view the widows as standing on the same platform. But my colleague asks, if you pay one claim, why not pay the whole? Sir, it is no claim at all.

Mr. DIXON. I hope the Senator will understand me.

Mr. UNDERWOOD. I understood my colleague to speak of a claim throughout.

Mr. DIXON. My proposition was, that there was no propriety in refusing to pay a claim which was founded upon justice merely because we could not pay every claim. I understood my colleague to say, that because we could not pay all, therefore we should pay none. I think every claim which comes before this body, founded upon the principles of justice, should be paid, and when another comes of a like character, it is right we should pay that. If we can make a general law to embrace all such claims, it is proper that we should do so. I have no idea of refusing to pay a just claim because we cannot pay every claim.

Mr. UNDERWOOD. It is altogether a mistake to consider these pensions as claims. The doctrine of claims does not apply to them. The doctrine of claims is founded in a legal or equitable right, a demand which can be legally or equitably sustained as a right growing out of a *quid pro quo*. That is the doctrine of claims. A gratuity, a mere donation, can never be considered in the light of a claim. Here we are dealing with gratuities, not claims; we are dealing with the principles which ought to influence the Government in making donations. That is the subject under consideration, and not claims. And when I get up and show that these principles, if we are to make donations, are based solely upon the merit of the officer or soldier, and therefore embrace the soldier's whole family, and oppose grant after grant to the widow, excluding all the rest, how am I answered? The answer of my colleague is, if you cannot pay the whole, pay what you can. It is acknowledged, he says, that we have money enough, that we are rich, and why discriminate? Sir, you cannot get around it in that way. It never was intended to pay the children anything under the idea of doing full justice to their father; you intended to discriminate and legislate partially for the wife, and give her the whole you ever designed giving. In the renewal of these five-year pensions every renewal is that much more than you were bound to give by contract or any sound policy, and is therefore, in my judgment, a prodigal and partial distribution of the public funds.

I apprehend that the principles which I have contended for in this body, and which I shall carry out with me, will never become popular, unless a contingency shall arise, which I hope may never happen. If the day shall ever come in our progress, and in the operation of this Federal Government when we shall have a pension list that is oppressive to the people; if we ever have a civil pension list, together with the military and naval list, like that which exists in some foreign countries, so that the people shall feel it through their purses, then the principle for which I have always contended will be brought home to the public reason, and then we may find many individuals who will think that I am not wrong, as I admit the majority of this body have frequently declared me to be by their votes, on this and kindred subjects. If that day should ever come when the people feel the burden, they will inquire how it was imposed, and how it happened that a portion of the community live out of the public Treasury, who have never rendered any public service, and who are no more objects of charity than thousands of others equally meritorious in all the relations of life. If your bounty is to be doled out to objects of charity, you can find thousands much more in need than those for whom this bill provides; and if the mere love of humanity—if the mere operation of your soul embracing all the kindred of the human race is to influence you to acts of charity, you can find plenty of objects just as meritorious as these. Your charities are influenced by connecting with the beneficiaries some popular name. You connect them with some hero of the Revolution, or of the war of 1812, or the war with Mexico; and because that spirit is popular, and rides down everything before it, you give money in pursuance of its blind suggestions. Helpless infancy may go weeping and starving to bed, decrepid old age may be in the utmost necessity from want, and however moral and deserving they may be, you cannot find in your heart one grain of potential sympathy to open the Treasury and give them one dollar; because they have no connection with the officer or soldier of some military expedition, or some war, to justify it. You cannot give an acre of land to build an asylum for the insane, nor do anything to promote the physical interest and welfare of ourselves, and the "rest of mankind," on account of some constitutional objection; but we have ample power to give money to a favored member of a soldier's family, to whom no promise was ever made, and who never rendered any service, but who exclusively demands our sympathies on account of her alliance with the man who once served as a soldier, and whom she happens to survive.

I beg pardon for having trespassed again on the Senate; and I hope I am now out of this scrape. I see a gentleman at my left, [Mr. BADGER,] who seems impatient to rise, and I fear, like all the rest, he will soon be down upon me so that I shall be compelled, in vindication, to speak again.

Mr. BADGER. Not a word. I am afraid the Senator will break his word twice.

Mr. UNDERWOOD. I do not think I have broken it once. I said I hoped I would not have to speak again on the subject, but my colleague expressly called upon me to say wherein the difference between the two cases which he mentioned consisted. But, Mr. President, I again beg pardon of the Senate for having detained them. I have shown where I stand, and I know how the vote will stand, because we have had so many evidences of it heretofore; and I hope never to trouble the Senate, or be troubled again in speaking upon the subject.

Mr. BADGER. If I understand my friend from Kentucky aright, he is in favor of having a provision in this bill for these widows, and for a great many other classes of persons, if they were all put together; but he objects to anything like partial legislation, and will not vote for the bill unless it provides for all. Now I am ready to go with him, for any and all that have any fair and reasonable claim upon this Government, according to its previous usages—not to provide for all people that need provision, but for all those who stand connected with such classes of the public servants as we have been in the habit of regarding as falling within the category of those whose services we should reward. But I cannot go with my friend so far as to say, that because I cannot find out, and put in one bill, all and every class of persons who have any demand upon the Government, therefore I will vote against a particular class who are undoubtedly meritorious. Sir, that position reminds me of a set of philosophers who figured in France, and who, I believe, called themselves *Theophilanthropists*. They were greatly busied upon general speculations for the improvement of the condition of the whole human race, and were so much occupied with that grand idea, that they turned a deaf ear to the particular applications of individuals in distress. I go for passing this bill. I deem no claimants more meritorious than the widows of revolutionary officers or soldiers. They are meritorious. I will vote for them, and when you bring forward the other classes, I will vote for them also. But I think it would be a poor way of doing either justice or mercy, to say that we will not vote for these because there is somebody else entitled as well as they.

I really have cause to complain of my friend from Kentucky, who has compelled me to make this speech. [Laughter.] His remarks suggested these ideas; and I have such an impulsive spirit of provocative talking that I could not resist the opportunity to make these remarks. Having said this much, I assure the Senate that I will not be tempted again to address them, however briefly, upon this question. [Laughter.]

Mr. BUTLER. I think this bill involves a consideration of more importance than seems to be attached to it. I am perfectly willing to confine the operation of the bill to the widows of revolutionary officers and soldiers; but when you extend it to the widows of the soldiers and the officers of the war of 1812, you are but preparing a precedent to extend it to the widows of the officers and soldiers of the Mexican war, and of the different wars with the Indians, and all other wars. As I understand the principle involved in the pension law, it was to bestow upon the widows of those who performed revolutionary services something like a mark of distinction, both as a means of support, and also a tribute to the memory of their husbands. I have heard gentlemen here speak of those who were married during the war. If they will consult history, they will find that there were very few marriages that took place during that war. It amounted almost to a suspension of matrimonial alliances; but between 1784 and 1794 we all know that a great many marriages took place, and the first act applied to those widows, and those who were married previous to the act of 1794. It was passed upon the ground that the widows were the companions of their husbands and contemporaneous with them in some measure; and afterwards it was extended to those who were married previously to January, 1800. It is an arbitrary distinction, and I am perfectly willing to extend it to the widows of soldiers and officers of the revolutionary war, no matter at what period they were married; but when you carry it beyond that, you establish a precedent; and you know, Mr. President, that the precedent of to-day is the prescription of to-morrow. There is no guarding the bill if we extend it to the widows of the officers and soldiers of the war of 1812.

Mr. DAVIS. I would suggest to the Senator, that the amendment limits the provision to cases of the revolutionary war.

Mr. BUTLER. The amendment does that; but I understand that the original bill embraces the widows of the officers and soldiers of the war of 1812. Am I right in that? So far as the revolutionary officers and soldiers are concerned, I am perfectly willing that pensions should be granted to their widows; and, sir, I am disposed to do it for the very reason that it does amount to something like an historical tribute to the dead. We erect monuments in different forms in memory of the dead; but, sir, I prefer living monuments of my gratitude and magnanimity; therefore it is, I would give to those who live, sooner than raise tombs and monuments to them after they are dead.

The amendment was agreed to, and the bill was reported to the Senate as amended.

At the request of Mr. BRADBURY, the bill as amended was again read.

Mr. RUSK. It seems to me, from the reading of the bill—after having heard the question of the Senator from Kentucky—that it revives the pension from the time of the expiration of the act of 1816. The question will inevitably arise whether the pension is to be given from the time that law expired up to this time.

Mr. BORLAND. It commences from this time.

Mr. RUSK. I think that ought to be made plain. I have great objection to voting against a pension bill, especially for widows; but there is, and always has been, great mischief in the system. It brings around the Capitol a number of agents who get the larger portion of the pension, and keep up a continual annoyance to Congress. This bill, it seems to me, is not as clear on the subject as it ought to be. I think I see in it room for the operation of agents.

Mr. BORLAND. I would be very willing to see the bill amended so as to secure the object which the Senator suggests, but I cannot understand that, as it now stands, it will mean what he supposes.

Mr. BADGER. I think we had better adjourn, so as to allow an opportunity to have an amendment prepared. I therefore move that the Senate adjourn.

Mr. BORLAND. Let the bill be read once more, and we can see how it stands.

Mr. BADGER. I withdraw my motion.

Mr. BUTLER. I insist upon the motion to adjourn, for I am entirely confident that the last section inserted as an amendment, on motion of the honorable Senator from Maine, will have the effect to give the widows of the revolutionary officers and soldiers a pension from 1834, when the law was passed. It must necessarily be so. I say that with confidence, for I have noticed particularly the language of the bill. I renew the motion to adjourn.

The motion was agreed to, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 3, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Thursday was read and approved.

Two other members appeared, and took their seats, viz:

From the State of Georgia, ROBERT TOOMBS.

From the State of TEXAS, RICHARDSON SCURRY.

H. H. SIBLEY, the Delegate from the Territory of Minnesota, also appeared and took his seat.

On motion of Mr. CABELL, of Florida, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Isaac Garrison, to be referred to the Third Auditor's Office.

[The following message was here received from the Senate by Mr. DICKINS, its Secretary.

Mr. SPEAKER: The Senate have passed bills of this House of the following titles, viz: H. R. No. 255, An act making further appropriations for the construction of roads in the Territory of Minnesota; H. R. No. 260, An act to amend an act entitled "An act to establish the Territorial Government of Oregon, approved August, 1848," severally without amendment.

The Senate have also passed bills of the following titles, viz: S. No. 476, An act for the relief of the legal representatives of Dr. William Somerville deceased; S. No. 513, An act for the relief of Joseph Morehead; in which I am directed to ask the concurrence of this House.]

SWAMP LANDS.

Mr. DAVIS, of Indiana, by unanimous consent of the House, introduced a bill, of which previous notice had been given, for the adjustment of sales and locations conflicting with swamp land selections; which was read a first and second time by its title and referred, together with a letter from the Commissioner of the General Land Office, to the Committee on Public Lands.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of taking up some of the appropriation bills.

Mr. McLANAHAN. I ask the gentleman to withdraw that motion for a moment, to enable me to ask permission for the reference of a bill for the relief of Colonel Benjamin S. Roberts, now on the Speaker's table, to the Judiciary Committee.

Mr. HOUSTON. I do not like to object myself, but I have no doubt that there will be objection. If no other person objects, I will not.

Mr. JONES. I insist upon the regular order of business.

Mr. HOUSTON. Then I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. What is the regular order of business?

The SPEAKER. Petitions, commencing with the State of Maine.

Mr. STANLY. When we get through with them, do not resolutions come up?

The SPEAKER. Resolutions would follow the call of the States for petitions.

Mr. JONES, of Tennessee. Is this not resolution day?

The SPEAKER. The thirty days, to be devoted by the rules to the reception of petitions, have not expired, and therefore this is not resolution day.

The question was then put on Mr. HOUSTON's motion, and on a division, it was not agreed to.

Mr. HOUSTON demanded the yeas and nays upon his motion; which were ordered.

The question was then taken, and there were—yeas 85, nays 62; as follows:

YEAS—Messrs. Aiken, Willis Allen, Allison, John Appleton, Ashe, Averett, Thomas H. Bayly, Bartlett, Bocock, Briggs, Brooks, Buel, Busby, E. Carrington Cabell, Joseph Cable, Thompson Campbell, Chandler, Chapman, Chastain Cobb, Curtis, Dawson, Dean, Eastman, Faulkner, Florence, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Goodenow, Green, Hall, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Hillyer, Holladay, Houston, John W. Howe, Hunter, Jenkins, John Johnson, George W. Jones, Preston King, Kurtz, Letcher, Marshall, McLanahan, Meacham, Meade, Millson, Henry D. Moore, Morrison, Murphy, Murray, Nabers, Newton, Olds, Orr, Peaslee, Penniman, Phelps, Polk, Powell, Robbins, Robie, Robinson, Savage, Scurry, David L. Seymour, Skelton, Smith, Richard H. Stanton, Abraham P. Stephens, Thaddeus Stevens, Stratton, Stuart, Thurston, Townshend, Welch, Addison White, and Wilcox—85.

NAYS—Messrs. Barrere, Bell, Bowne, Breckinridge, Brenton, Burrows, Caldwell, Lewis D. Campbell, Cartter, Clark, Clingman, Cottman, Cullom, Darby, Disney, Dockery, Duncan, Ewing, Fay, Ficklin, Floyd, Gorman, Grey, Harper, Henn, Horsford, Thomas M. Howe, Ingersoll, Ives, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, Daniel T. Jones, Landry, Little, Martin, McNair, Miller, Molony, John Moore, Samuel W. Parker, Perkins, Porter, Preston, Richardson, Ross, Sabine, Sackett, Schermerhorn, Stanly, Benjamin Stanton, Frederick P. Stanton, Alexander H. Stephens, Stone, Taylor, Toombs, Venable, Ward, Washburn, Watkins, and Williams—62.

PENSION APPROPRIATION BILLS.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair.)

Mr. HOUSTON. I move to take up House bill No. 329—the Navy Pension bill.

The question was then taken, and it was agreed to.

The bill was then read by the Clerk.

Mr. HOUSTON. The Committee will find full explanations upon the subject of this bill upon page 140 of the estimates submitted this session of Congress. There is no necessity for any additional explanation, and I move, therefore, that this bill be laid aside to be reported to the House.

The motion was agreed to.

Mr. HOUSTON. I move to take up House bill No. 330, making appropriations for the payment of invalid and other pensions, for the year ending the 30th June, 1854.

The motion was agreed to.

The bill was then read through by the Clerk.

Mr. HOUSTON. This bill is also very fully explained upon pages 136-'7-'8 of the estimates. I presume that members have examined them. It is a bill which rests entirely upon calculations. I move that it be laid aside to be reported to the House.

The question was taken, and the motion was agreed to.

MILITARY ACADEMY BILL.

Mr. HOUSTON. I move to take up House bill No. 332, making appropriations for the support of the Military Academy for the year ending the 30th June, 1854.

The motion was agreed to.

The bill was then read through by the Clerk.

Mr. VENABLE. Mr. Chairman, I had intended to have addressed the Committee of the Whole on the President's message, during the first days of the session, on the foreign policy to which it refers, but the introduction of the tariff, and the discussion which sprung up thereon, as well as a serious indisposition which prevented my attendance in the House, rendered it impossible. I do not regret the event, because I am gratified that the House manifests a disposition to consider and refer the message, and avert the discursive and interminable debate which was likely to arise. It is to me a source of great regret, in thinking of the past, that the House were chargeable, during the last session, with at least an apparent want of courtesy to the Executive, in that during a term of ten months, his message was never referred to the appropriate committees; I say apparent, because I am very far from supposing that anything of the kind was intended. It is worthy of remark, however, that such an occurrence is not to be found in any previous portion of our legislative history. It is to be hoped that it may not occur again. I trust that I shall be pardoned for availing myself of the first opportunity of expressing my views upon a subject second to none in importance, which we may be called upon to consider—matters involving momentous consequences to ourselves and our posterity—interests which affect our relations with the whole civilized world—and consequences which must give character to the future progress of the principles of free government—deciding whether our example and our institutions are really to be such an exposition of our purposes, as shall authorize our claim to speak as the practical benefactors of mankind. None can be insensible to the responsibilities which rest upon this Government in the judgment of the world.

It is our high duty, Mr. Chairman, to demonstrate, by a constitutional and wise administration of our domestic affairs, and a just and honorable policy towards other nations, that free government—the government of the people—is not a failure, but a successful experiment of all that is desirable in social organization; an undeniable proof that it is the best and the safest mode of administering political power, looking alike to external peace and internal prosperity, originating in a just conception of the dignity of man, and continually illustrating in practice the highest excellence attainable by human wisdom. That this is practicable I cannot doubt. But I am equally sure that it can be secured only by prudent policy, and a stern adherence to the precepts of justice and inflexible determination to regard the rights of other nations, and the restraint of all desires of undue advancement of our own interests at their expense. Our original organization as a Government, and our unparalleled progress to wealth, greatness, and power, would, in any other age of the world, have been considered a romance. The historian who should have recorded such annals, would have been esteemed as one who was not careful of the truthfulness of his statements, and men would have regarded his narrative as evidence of a powerful imagination, rather than a medium for the ascertainment of facts. In three quarters of a century, a people weak in numbers, and of small resources, have advanced to the position of one of the first Powers of the earth. To us this grest trust has descended; and I surely do not claim too much when I say that it becomes us to be watchful that progress be for the future in the right direction, and that nothing should be lost by a policy which shall cast suspicion upon our national integrity, or introduce false principles into the administration of our Government.

I have been induced to make these remarks, because the message has presented for our consideration the subject of the acquisition and annexation of Cuba, as well as by the demonstrations which both the press and many of those who form public opinion have for some time since made before the country. We have heard of the capacity of some to swallow a whole country, and others who desire the American continent and the adjacent islands. These are sometimes the uttered sentiments of those in high places. Canada, Cuba, Mexico, and the islands of the seas, are all looked to as the subjects of acquisition in the great history of progress and the propagation of free principles. From all of this, Mr. Chairman, I enter my dissent. The almost unlimited territory now in our possession is surely enough for us to pause upon in order to complete the great work which we have to do within our own borders. The harvest of prosperity in which we are called to labor and reap is ample, rich, abundant, which, as a wise people, we ought to be content at least for a season to enjoy. To hazard such brilliant prospects would be both unwise and wicked.

We have been but inattentive observers of passing events not to know that there is, and has been, a purpose formed by those who have manifested the courage to effect it, to acquire the possession of Cuba by creating and fostering a spirit of revolution there, and a separation of that Island from the dominion of the Spanish Crown. Of such a system of intervention I cannot approve. I think it peculiarly our duty to discountenance any such enterprises; to enforce the laws which grow out of our treaty stipulations; to maintain peace with our neighbors, and to regard the eternal principles of justice in all of our transactions.

In the message of the President our relations with the Spanish Government in reference to Cuba are before us for consideration; and I take this occasion to remark, that it is due to him to acknowledge that he has endeavored to execute the laws in relation to the forcible invasion of Cuba by American citizens. I cannot censure him because he did not countenance the invasion of the territory of a people with whom we were and are at peace. Our Government cannot and ought not to be complicated with such transactions. It is due to the Executive to declare that he did in his policy discourage and refuse to protect those who, in full view of the consequences, embarked in that disastrous enterprise. I weep over the fate of those who were victims. They fell martyrs in a cause in which they risked their lives, their all. They have the honors of martyrdom, the only alternative to success. I cannot condemn the Executive because he refused to implicate our Government with this matter—because he refused to recognize those who, by a violation of the laws, had placed themselves beyond their protection as American citizens recognized by treaty stipulations. Should the citizens or subjects of any foreign Power invade the State of North Carolina, and attempt to effect a revolution there, there would be accorded to them summary justice. The most expeditious mode of execution, even with a

grape-vine, should a rope be inconvenient, would close the transaction. I cannot condemn in the government of Cuba that which my own State would and ought to do. I admit no party ties or allegiance which would cause me to acknowledge that to be politically right which is morally wrong. I expect to keep company with my conscience long after political relations shall cease.

In this matter, Mr. Chairman, as in all others, I mean to recognize the obligations which rest upon a Christian statesman. I am always pleased to derive light from a source where error has never thrown its cloud—where truth shines upon the page and gives out a light which cannot mislead. We are taught by all history, human and divine, that the punishment of nations as such is in this world, because they exist only here. Populous countries, great empires, once the wonder of the world, have filled the measure of their iniquities, of rapine and oppression, and live only in tradition, or as beacons on the shores of the tide of time. They have perished for the violation of the great principles of justice, the victims of their own accumulated crimes. The disregard of physical laws brings immediate punishment to the offender; the violation of moral laws, although long delayed, is not the less certain. Nations as well as individuals are subjected to the same results, and with equal certainty. The desire for the acquisition of territory in general, and of Cuba in particular, under the name of progress, threatens to involve our country in difficulties of a most complicated character. And there is something curious in the fact, that many who made much capital, in a recent election, of the known desire of one of the candidates to annex Canada, have lost sight of that enormity in the great desirableness of this tropical Island lying on our coasts; that evils, manifest in the incorporation of English territory with institutions greatly resembling our own, should be so overwhelming, and the absorption of a population wanting sympathy with ours, should present no such difficulties—awaken no such apprehensions.

Sir, I have no hesitation in declaring, that should Cuba be alienated by Spain, the United States must be a party to such alienation. We cannot consent to the transfer of that Island to any other Power. But the transfer, if made, will be on terms consistent with the honor of both and all parties concerned. But Spain, the owner of the Island, is the proper holder, and whilst Spain holds it we have our best interests subserved. That Spain means to hold it we have the best evidence, because the publication of the late negotiations discloses that Spain refuses to sell—rejects the proposition to disintegrate her empire by selling her domains. No Power of Europe is disposed to seize upon Cuba, at least so far as indicated by current events. France and England have proposed to unite with us to guaranty the possession of that Island to Spain. Whilst I approve of the rejection of that alliance by the Government of the United States, I mention it as an evidence that there is no purpose to divest Spain of her possessions by the Powers of Europe. The policy which our interest indicates is to leave Cuba in the possion of Spain, her rightful owner, and to the rest of the world a disinterested stakeholder, and leave to the future the development of the proper course to be pursued. Annexation of territory may become indispensable; and when it is so, I approve the act. I advocated the annexation of Texas—I approve of the purchase of Louisiana. The mouth of the Mississippi, and the military importance of Texas, rendered both indispensable to our interests, and were of paramount importance. And whilst an advocate and defender of the Mexican war, believing it to be just, and one in which the country was properly engaged, I was inclined to take just as small a portion of territory in closing the war, unless entirely divested of population, as was consistent with our honor. Our country, prosperous as it is, needs nothing so much as repose—nothing so important as a deliverance from vexatious disputes, and the disturbance and misdirection of those energies now so successfully employed for our prosperity.

It was with great satisfaction that I read the remarks of the distinguished Senator from Virginia, [Mr. MASON,] the chairman of the Committee on Foreign Relations. With his views, as there expressed, I entirely concur. The honor and the interests of the country will always be safe when guided by such policy. But I am far from supposing, with some others, that our *manifest destiny*—our power of expansion, and our duty to propagate free principles—demands so extended a theater as this whole continent, and the islands adjacent thereto. I dissent from the opinion that we are to be propagandists of the principles of free government in any other mode than by the bright example of their success at home. Of all people, those of our own country should be most averse to intervention in the affairs of others—most jealous of intervention by others in our own. The good sense of the people rebuked the designs of a distinguished, or rather notorious and splendid wanderer, who, a short time since, sought to involve us in the troubles of Europe. He succeeded at least in finding friends enough to give him that *material aid* which replenished his exhausted exchequer, which he now may quietly enjoy free from the demands for coupons by the holders of Hungarian bonds. Conservative myself, I represent a people who are strictly conservative—conservative in the highest sense in requiring a strict adherence to the Constitution and laws, and an unwavering regard for the rights of all nations. Conservative in the protection of property, and the preservation of individual rights. Denying the right of all to intervene in their social and domestic institutions, ready to resist all interference with their rights. It is for this reason that I hold that those who intervene must take the consequences of their own conduct. It becomes a personal concern of their own, and the result must be felt by themselves alone.

We cannot be insensible to the spirit of propagandism which deeply affects a portion of the people. If it be either encouraged or fostered by the Government, if it pass without rebuke, if it be not repressed, our people must come to be considered the brigands of the world, going forth to seize upon the possessions of adjoining nations, and as a natural consequence, concentrate upon us the focus of indignation and ill-will of all the world. This ought to be so. The individual whose grasping disposition, whose insatiable rapacity, leading him to oppress the poor and overreach the feeble, may acquire property, but the end will be disastrous. There is but one code of morals for all; the principles of justice are eternal. Observation as well as experience, passing events as well as the records of the past, have been but little heeded, if this lesson has not been learned.

I have already said that our Maker punishes nations in this world, because they exist only here. Man's individuality exists forever. Nations are of this world alone. Their rise and their decay are not accidental. Virtue produces the one, and crime and vice the other. Ages intervene, until the cup of iniquity is full. The kindled wrath of Heaven sends forth the fire of desolation, to sweep them away. Countries which thousands of years ago were filled with a dense population, rich in teeming abundance, whose merchants were princes, and whose citizens lords of the earth, are now barren wastes; their ruined capitals the theater for antiquarian research; their inhabitants wandering tribes, with whom the knowledge of former grandeur is so diluted with fable, as only to mislead the inquirer. I commend those who are so full of our destiny, and see its fulfillment in the absorption of Canada and Cuba, the continent and the adjacent islands, to an instructive lesson found in the history of a certain king of Israel. Surrounded by wealth, and all that heart could desire, he saw the vineyard of a poor and humble neighbor living near him, in which he cultivated his vines. He looked upon, and coveted it. Rapacity controlled his heart, and he determined to possess it. All his wealth was valueless, unless he could obtain Naboth's vineyard. He offered to purchase it, it was convenient to his palace; he offered to give him a better and more valuable one; he desired it for a garden of herbs. The offers were declined by the eloquent reply: "How shall I sell the inheritance of my fathers?" But a counsellor appeared, who, unlike those who usually sustain the relation of wife, advised that false witnesses should be raised up to prove that Naboth had blasphemed God and the king. This was done; Naboth was stoned to death; his vineyard was seized; but the end was not yet. The prophet announced the judgment of Heaven; the dogs licked the blood of the king at the place where Naboth was stoned; and dogs devoured the body of Jezebel, whose counsels had controlled him. Many acts of wickedness had preceded, but this was the crowning one. The punishment was not the result of the prophet's warning, but the consequence of crime.

Cuba is convenient to our coast, the key of the Gulf. It is a tropical garden of the richest herbs, clothed in perpetual verdure and inexhaustible in the spontaneous productions of nature. Cuba is the inheritance of the Spanish Crown, and Spain declines to sell that inheritance. Foreigners—our own citizens amongst others—disturb the peace, inflame discontent, and excite rebellion amongst the people. Exasperation, producing vigilance and prompt execution of police regulations, give rise to difficulties and misunderstandings. Can it be wise or just for the Government of the United States to seek this occasion for war and conquest? For the conduct of our own citizens has indefinitely postponed the probability of purchase. Should the sensitiveness produced by aggression be entirely overlooked, and all of our resentments and sympathies directed against the injured party? Suppose the scene of operations transferred to any of the southern States—continual apprehensions of the landing of adventurers known to be from a neighboring State, to overturn all the institutions recognized by law: would any one expect the measures either of prevention or redress to be weighed in golden scales? In this view it is, that whilst in some of the reasonings of the Executive, and some portions of his policy, I do not concur, I cannot withhold the declaration that he has manifested a laudable purpose to maintain treaty relations, to execute the laws: and I cannot censure a forbearance to resent strongly, what in other circumstances would call for a far different course. He fully understood the cause of provocation. He knew the extent of the injury; and the failure of the expedition last directed to Cuba demonstrated, that even the excuse of aiding the people in a revolution, was a fallacy, because the people did not rise, unite with, and lead the invaders to victory. There was not such discontent with the existing state of things, as justified even the propagandists of the principles of freedom to embark in the adventure, unless they took their lives in their hands. To none but those who coveted the crown of martyrdom did this enterprise offer any inducements.

Sir, fillibustering has become a regularly-installed word in our language. We have taken the liberty of altering it, and clothing it in American dress, as is our wont in such cases. Originally freebooter in old English, flibustier in French, flibustero in Spanish, is now in our tongue fillibuster, but still a freebooter; and it will not be surprising if it should become one day the watch-word of a party. If the principles of any party should correspond to the term, I utterly eschew any connection therewith. I desire to be explicit upon this subject. If the policy of any Administration is to make the United States the brigands of the world; if we are to become a race, a nation of buckaniers; if we are to adopt the policy of falling upon our weaker neighbors and appropriating their possessions, and thus fill the measure of national iniquity, I utterly denounce the policy, and in the face of the country and the world, and of high Heaven, I declare my hands to be clear—I wash them of any such guilt. It is guilt of the deepest die.

I adhere to the Monroe doctrine: Europe cannot and must not interfere with the nations of this continent who are struggling for their liberty and have asserted their independence. Neither can this Government regard without offense the attempt to colonize monarchical institutions upon the continent of America. By this I stand in the fullest meaning of the terms. I also adopt the rest of the Monroe doctrine in the same message: That during the struggle between the Spanish colonies and Spain the United States maintained a strict neutrality—a neutrality as proper at this time as then. And whilst I do not hesitate to say that I could not consent that Cuba should pass into the possession of any other Power than the United States, I am equally confident that, unless circumstances greatly change, it is best for all concerned that it remain in the possession of Spain. There are strong reasons for believing that, under all aspects of the question, the present interest of the United States will be most effectually secured by the continued ownership of Spain. Purchase is for the present out of the question. Spain has

refused to sell. The course of our own people was mainly instrumental in that determination. The only mode of acquisition besides is by conquest in a war with Spain, or annexation after a revolution has been successfully prosecuted to independence. The first can only be justified by wrongs inflicted and unredressed by Spain upon the United States; for no just man can for a moment tolerate the monstrous wickedness of a war of conquest. War—the greatest temporal evil, except national dishonor, and never justifiable except as the ultimate resort,—war, if unjust, is the greatest crime which stains the world. For this there exists no pretext, and it is presumed none will arise. The second involves consequences of the gravest character. None can be ignorant that the true cause which makes Cuba desirable is in the fact that it is cultivated by slave labor, which alone gives value to agricultural pursuits in tropical countries. Would not the instincts of self-preservation, as well as a determination to render valueless possessions forcibly wrested from the dominion of Spain, cause them to liberate the slaves of Cuba, in order to arrest the spirit of aggression by foreign adventurers? Should this be done, of what value would the possession be to the South? What a nuisance would be established upon our coast! If liberated by the Queen and Cortes, there is not, neither ought there to be, any legislative power to make them slaves again. I could never vote to enslave any man who had ever possessed a right to liberty according to the laws of the Government in which he lived. Sir, if you were in command of an army in the presence of an enemy—if you had a large magazine of the munitions of war, which would most probably fall into that enemy's hands, would you not destroy them to prevent that result? The Russian Autocrat covered himself with glory by burning his capital to destroy an invader. Spain, exasperated with the power to inflict the injury upon those with whom she was at war, would do the same. Such an annexation would indeed be the opening of Pandora's box—a legacy of evil never to be exhausted. The greatest and most far-seeing friends of the South and southern institutions, looked upon this question of the acquisition of Cuba with the deepest concern. And here, sir, I would, with pious and reverential care, perform a duty which I owe to the memory of a distinguished statesman, whose unclouded and unequaled mind constantly reflected upon and studied the interests of his country generally, and his section in particular—whose pure heart to its latest throb was filled with love to his country, and whose matured judgment made him the safest guide. I refer to the great South Carolinian, who but two days before his death, charged me, that should he be misrepresented upon this subject, to give to the world his true opinion. It has been said that Mr. Calhoun was in favor of the annexation of Cuba; that he was for annexation at all events. This is not true. I feel bound by a promise made to him to correct the statement. He said if Cuba ever comes to us, it must be by treaty, honorable and satisfactory to both countries, otherwise it is forbidden fruit to the United States. This was said in reference to the indirect mode of acquiring it by annexation after a revolution, rendered successful chiefly by adventurers from this country. The conversation related to an interview with certain persons, inhabitants of Cuba, who called upon him a few days before. A gentleman now present in this House was with me when they called on Mr. Calhoun; we rose to leave the room, he requested us to remain and witness the conversation. They spoke to him of the expected revolution and the operations of General Lopez; he said, what we now all know to be true, "Gentlemen, you are mistaken; Cuba is not ripe for revolution; her people are not ready for such a state of things; and if Lopez invades Cuba, the enterprise will be a failure, and I tell you, that under no circumstances can this Government be complicated with this revolution." He often said to me, Cuba, from her situation, can never be alienated to any other Power than the United States, and Spain, the owner, is the best stakeholder; best for us and best for the world. Nothing but unavoidable necessity could justify force in taking it. The purchase is improbable, and we now have most of the commercial advantages without the expense of administering the government. These were the words and opinions of one whose bright name will ever irradiate the pages of our annals—pure, wise, patriotic and just; one who cherished no narrow views, and whose opinions and conclusions were the result of profound thought and impartial investigation; a statesman, as contradistinguished from a mere politician; a man who had the firmness to be just amidst the outbreakings of senseless clamor, and whose expectations of the future, amounted almost to prescience.

Reflection, Mr. Chairman, has confirmed me in the propriety of his conclusions. Independently of the difficulty just referred to, the emancipation of the slaves in Cuba in case of a revolution, (which act would meet the approbation both of France and England, whose emancipated colonies surround the Island,) there are other objections to the acquisition, not only of Cuba, but of Canada, or any other territory, which deeply impress my mind. Some two years since we witnessed the deep agitation in this Hall, and throughout the country, upon the territorial question. I have drank the cup which was then presented to my lips in the shape of the compromise. I did it at the command of the State to whom I owe my allegiance, and to whom and my Creator alone I owe allegiance. At the command of my State I acquiesced in measures of which I did not and do not approve. But I will not commit treason against the State whose constitution and laws protect me. I acquiesced because those who had a right to control me required it. I acquiesced honestly. I sacrificed feeling and judgment in doing so, but I was bound to do both at the command of my sovereign State. I am not now willing to disturb that which I am solemnly bound to obey. The country demands repose; and I trust it may have repose. I will look for peace, and will not prophesy evil. I cannot if I would, be ignorant of the fact, that the acquisition of territory must again awaken sectional hostility between the North and South. Contention will again break forth with renewed vigor with the acquisition of new territory, fanning into life a flame which will sweep over the whole land. I cannot be ignorant that such an acquisition would bring back a renewed agitation of that subject, which the experience of the past few years has rendered so painful to every member of the House.

But, sir, carry out the doctrine which has been often asserted with reference to the acquisition of Cuba; get it fairly if you can, but get it anyhow, and the same view will annex Canada. This is not desirable. We have already a vast fertile unoccupied territory. The millions of Europe are emptying upon our shores, and, like the drops which fall into the ocean and then disappear and go to swell the mighty mass of waters, they flow along to the great West, and cover our territories. We feel their landing for a moment, and they disappear and go where bread can be obtained. Millions and millions of acres in the great West are yet lying uncultivated. Yet we hear desires expressed for more territory, and Cuba must be acquired to furnish an outlet for our slaves! Sir, there is a great mistake upon this subject—a grievous miscalculation of the effect of such an outlet. If Cuba was a new and unsettled country, and with capabilities for production such as it now possesses, then it would afford the outlet for the extension of the area of slave territory. But Cuba has a great population—a vast multitude of slaves and free blacks, as well as of Spanish population, already there; and such is the unproductiveness of the negro race that the slave trade is the means of supply. This, upon the transfer of the Island, must cease, and would cease. The drain for labor would be from the Atlantic slave States, already deficient in operatives. Railroads and other developing improvements are incalculably increasing production, and land is abundant and labor scarce. The drain of labor would operate most deleteriously upon the State of North Carolina, as upon all the sea-board States.

But, sir, this is a branch of the subject which I may more suitably discuss before my constituents, than on the present occasion.

I believe in the adaptation of our institutions to the government of all who will ever grow up within our limits. Among those indoctrinated from childhood with the principles of the common law, there is no difficulty in administering the Government; but there can be no more hazardous experiment than the absorption of a whole people with different views of government, and with different views of the relations of men with each other, into another political organization. They will constitute a disturbing element in the legislation, and will destroy the peace, the harmony, and prosperity of the country.

We have heard a great deal of sympathy for human liberty—sympathy for the human race. When I was a younger man, I had not the same view of this subject which I have now; but I have seen this sort of sympathy clustering around every kind of fanaticism. We have seen it producing evil, falsely named good, and destroying, instead of promoting the peace of the country. It may do for Fourth of July orations, to hear sophomores talk about human rights, and trumpets calling to victory, and all that sort of thing; but when you come down to the solemn reality of life, we find that every nation in the world that can take care of its liberty has obtained it; and if there are nations who have it not, the reason is, because they cannot take care of it. Suppose a portion of the people of any country have rebelled, and you send troops thither for the purpose of sustaining the weaker party against the stronger, do you not see that as soon as those troops are withdrawn, the stronger party will recover their ascendency? Do you not see that by your own principles, the majority have the right to govern, and that when you send an army to force liberty upon a people who do not understand it, when you have withdrawn that force, the stronger party will overpower and put down the weaker? If we set ourselves at work as crusaders to establish human liberty, you destroy everything at home. We desert all of our best interests. We lose everything like State sovereignty, and we concentrate around our Government principles and influences which, while they strike to enlarge our limits, strike at the root of our liberties also.

I am conservative, thoroughly and utterly so; I am in favor of protecting my rights in my own property, the rights of my constituents, and the rights of my neighbors. We cannot live in peace with other nations, if we disregard the rights of property in those nations. Sir, human liberty exists only in and with the principles of the common law. The reason why the South American republics have never been able to establish their liberty has been that they have not the substratum of that embodied perfection of human reason, the common law.

We sometimes speak of the two-pence tax upon tea as the cause of our revolutionary war. That led to the disruption, but was only an item in the account. It was the principle sought to be imposed upon us, of taxation without representation. We were the descendants of the Cavaliers and Puritans. The Cavaliers drove the Puritans from England to Plymouth, and Puritans in England, in turn, drove the Cavaliers to the mouth of the James river. Yet, with these hostile parties in England, what do we find at the commencement of the Revolution? Patrick Henry, the Cavalier, and Randolph, the Cavalier, with Adams, the Puritan, join in the summons to arms. Their ancestors found a temple in the wilderness, a Church without a Bishop and a State without a King, and Puritan and Cavalier united to perpetuate both. It was rational liberty which they possessed, and for it they cheerfully endured their trials.

I look back with pleasure to the fact, that I was one of the few who refused to vote congratulations upon that resolution, which threw out the king, and threw up the Provisional Government of France. I never believed there was anything there worthy of admiration; and we have seen it advancing from one step to another, until we have seen a mushroom Emperor clad in the paraphernalia of a great kinsmen, at one time the conqueror of Europe, and the wonder of his age at another, and at last a captive on a lonely isle of the sea. He has passed over vows, constitutions, engagements; and the voices so lately raised in a shout for liberty, equality, fraternity, now shout long live the Emperor.

He has taken one more step towards ruin; one more act in the drama so frequently performed of late years is reënacted before the world. The end is by-and-by—just another step.

Those who are worthy of freedom, and will take care of it, have it. Look over the whole broad earth, and show me men capable of self-government, men worthy of liberty and her institutions, and I will show you men who are free.

There never was a more mischievous error than that which assumes that the people and the politicians of this country, are propagandists of free principles and free government. With such people and such politicians, I have no affiliation.

I will do justice to the President, though he and I differ about many things, and though I have never been a supporter of the present Administration, nor has its policy met with my approbation. Justice requires me to say that in regard to this fillibustering spirit, he has maintained a position which ought to secure to him the respect of this people. Some of the processes of his reasoning I do not concur in, and some of his deductions I repudiate. There are things in his message with which I do not agree; but for his general policy in discountenancing the invasion of a country with which we are at peace, I take this occasion to say, he deserves the respect of the country. I have yet to learn that anything is to be gained by denying justice to any man, whether of your own or any other party.

But, sir, I do not speak by the book; I am not in communication with those coming into power, further than as an humble member of the party, and as one of those who supported the election of the President elect. But I firmly believe, and I cherish the belief, that the incoming Administration will maintain a policy upon this subject which will be elevated and blameless. I have determined thus early in the session to make known my opinions to those interested in them, and to those whom I have the honor to represent; and to enter my solemn protest against a policy which looks to the absorption of adjoining countries—which disregards treaty stipulations, and must tend to the acquisition of still further territory, undesirable at the present time, and which must renew all the agitation from which we have just escaped.

There is another view, Mr. Chairman, of this matter, to which I will refer, and to which I especially desire to call the attention of my friends from the South. It would certainly be bad policy for us to acquire Cuba—slaveholding Cuba as it is—if we could get it, so long as it can be peaceably held by Spain, as a disinterested stakeholder. Can any one from the slaveholding country fail to see that the slave interest in the United States is the focus against which the sympathies, the meddlesome sympathies, of the whole world is directed? Can any one fail to see the importance of having as many interested in that institution as possible? Suppose we could absorb Cuba to-day, we should have the united opposition of all the governments of the earth against us, and against our institution. Spain is now interested, and Brazil is interested in preserving that institution. Suppose we should acquire Cuba to-day, we should have all the machinery of all the fanaticism of all the world leagued against us.

I am one of those who feel no sort of hesitation in saying that the institution of slavery is a wholesome, a good, and a valuable one, socially, morally, and politically; that it is the only condition in which the African in contact with the white race, can be happy and useful. Look over the broad face of the earth, and there are not three millions of Africans that are as Christianized, as civilized, and as happy as those who are depending upon their masters, connected with the social institutions of the South. These opinions are known to you, and I do not now throw them out as new. I am unwilling that our slaves should be drained off to supply a vacancy which the cutting off of the slave trade will create in Cuba. If we acquire Cuba, we get what is of but little value to us. If we take it by force, we get a Pandora's box with it.

I, sir, adhere to the Monroe doctrine. I am opposed to European interference with any people struggling for liberty upon our continent. I will go the full extent of that doctrine, and I will never agree to force my notions of liberty upon any people at the point of the bayonet. I will never agree to a policy which holds out a pretext of loving justice, of loving liberty and human rights, when underneath the whole lies a purpose of plunder and robbery—a war of the strong against the weak—and thus bring down upon us the judgments of Heaven, which it is impossible for us to escape. The principles of justice are as eternal as the heavens, and their disregard has never failed under any circumstances to bring a bitter scourge upon any nation that has violated them. I, for one, desire no such mischief for my country; and I trust no policy will be adopted by us which will tend to such a result. I appeal strongly to my southern friends to war against this propagandism.

There is a progress downward as well as upward. There is a progress backward as well as forward. There is nothing just, and holy, and true in this world that has not been sought to be crushed down by the chariot-wheels of progress. Mahomet preached progress. The earth has been drenched with blood and whitened with the bones of the slain, under the war-cry of progress. Napoleon slew his millions under the plea of progress. And this is progress! Not the progress which I approve. I am for that benevolent, that wholesome progress which grows out of wise and sound policy; that great benevolence for which kind feelings and impulses were ordained, which makes every man look to his Government as his protector and friend.

Sir, I believe the party with which I am associated, adopt these views, and I feel a pride in believing that the incoming Administration will sustain that policy. I trust that throughout the length and breadth of the land there will go forth such a manifestation of indignation at any attempt to intermeddle with or overturn the institutions of neighboring nations, as shall make it utterly odious for any man to seek popular favor, by raising this war-cry of progress.

I am willing to be called behind the age; I am willing that it should be said that I have learned nothing from progress. One thing I have learned, and that is, that the eternal principles of justice can never change, and that crime, whether national or individual, must meet its reward. No man can sin against a physical or a moral law without feeling and suffering the punishment thereof. The same is not less true of nations; and whatever party may rise into power, upon the principles of our own aggrandizement, or increasing our strength upon the acquisition of the territory of others, will bring with them a curse and a calamity, let it come when it may, or under what auspices. The common sense of mankind rises in rebellion against it.

I cannot conclude my remarks, without expressing my gratification at the opinion delivered by the Supreme Court within a few days past. I conceive the eminent and distinguished Chief Justice, (God grant him many years to live!) who presides over that tribunal, has spoken authoritatively as to one law upon the subject of our interference with the concerns of adjoining nations. It was decided there by that court, that a contract to supply American citizens with provisions and munitions of war, to aid a people not yet independent, in a revolutionary movement, was null and void, contrary to the laws of the United States, and could not be enforced. I shall take occasion to have that opinion printed and circulated among my people. It is one of the best documents that I could send to them. It was a high conservative doctrine, and just such as I expected of a man who had the nerve under all circumstances to do his duty, who owes his present position to having always done his duty, and who has maintained, and is always ready to maintain, his position as a strict constructionist of the Constitution.

I say to my friends of the plantation States, that conquests and territory are no compensation for war. None are more interested in peace, and the policy which would secure it, than we are. And whilst war must be met when just and right, it should never be provoked. We are producers, and war destroys the sale of our productions by destroying our commercial relations. None would suffer its calamities more than the Plantation States, and we, of all men, should adopt a policy which secures peace by doing justice which does right at the same time that right is demanded. No nation and no individual ever profited by an unjust and needless controversy. No nation and no man but loses advantageous position by menace or aggression. Nations, like men, to prosper, must be just and conciliatory—must obey laws whilst they inculcate obedience on others. I trust that there may be no occasion to say of us—

"Impiger, iracundus, inexorabilis, acer,
Jura neget sibi nata, nihil non arroget armis."

That in our foreign relations justice and firmness in demanding nothing but what is right, and submitting to nothing that is wrong, we may receive and retain the prosperity which such a policy uniformly produces. I have made these remarks, Mr. Chairman, because this deeply-interesting subject is brought to our notice by the message, and because I think it highly important that public opinion should be properly formed of a line of policy upon which so much depends.

Mr. STEPHENS, of Georgia. Mr. Chairman, I propose to detain the committee only for a few moments, and had it not been for some remarks which have fallen from the gentleman from North Carolina, [Mr. VENABLE,] I should not trouble it at all. I shall reply to them briefly. I think the gentleman is kicking a dead lion. Filibustering, sir, is dead. It was a promising business some time ago. It was above par. But it is down now far below par. It is literally dead, or seems to be dead.

Mr. VENABLE. I am glad to hear it.

Mr. STEPHENS. About Cuba, sir, I want to say a word. I am no filibuster, and have never been. I do not at this time have any desire to acquire Cuba; particularly as Spain is unwilling to part with it. Thus far I agree with the gentleman. But I am not going to declare upon this floor and to the country, that I would not desire Cuba and would not concur in its acquisition under any circumstances. Nor do I deem it proper to say that it would be best for Spain to retain possession of Cuba for all time to come. I do not now know what would be best for her to do, or for us to do hereafter. Let the future take care of itself. It is for us to attend to events transpiring at the present time. I am, however, willing to declare now, as I did two years ago, that I see no desirable objects to be gained or public interests to be promoted by the acquisition of that Island—I mean, of course, an honorable acquisition. As for lawless aggression, I have nothing to say at this time. That scheme seems to have no advocates now. I did not see then that it would benefit us, nor do I now.

But, sir, I do not know what it may be right for us to do two years hence, or one year, or six months. I know not what events are to happen, nor what are to be the future destinies of the great nations of the earth. Our policy with regard to Cuba must depend upon future contingencies. What is to be the ultimate rightful destiny of Cuba, I am not prepared to say. Events may happen that may impose its acquisition upon us, as a great national duty. The gentleman himself says that he might, under certain circumstances, be in favor of even violence to get it. I trust that such a time never will come. I am for peace, and for all the arts of peace. I am against all unnecessary wars. I consider war a great evil. But if, in the maintenance of the right, war comes, we must meet it. We are told, by high authority, that in this world "offenses must needs come; but wo unto those from whom they do come." And so let it be with other nations and war, so far as we are concerned. War should never be provoked by us. It should even be avoided as long as it can be consistently with honor and right; but if it be forced upon us by any nation, we must be prepared to meet it. I am not going unnecessarily to deprecate, in advance, the evils of it. If it come, we being in the right, it must be met. That is all I have to say. I do not exactly see the object of discussing this question of lawlessly seizing Cuba at present. When the Lopez expedition was fitting out, and many of our citizens embarking in that ill-fated enterprise, it might have been proper then to discuss such a question. That would have been a fitting occasion to speak against the impropriety and impolicy of such conduct; then filibustering was in the ascendant; now it is down, and there is "none so low as to do it reverence."

But there was a remark of the gentleman expressing an idea to which I wish particularly to allude, and it is, that the acquisition of Cuba would be dangerous to this Union. If those were not the words, they at least convey his idea. The gentleman spoke of the fearful agitation through which we lately passed. I concur with him as to the nature and extent of that sectional controversy. He spoke, though, of the great reluctance with which he swallowed a cup which he was compelled to swallow by the State of North Carolina. That cup was the compromise. And yet he speaks of the danger of the acquisition of Cuba! Let me ask him what danger can arise from this acquisition on that score, if the principles of that compromise are adhered to? The principles es-

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tablished by that compromise, to which he yielded so reluctant an acquiescence, will be an ample protection, I think, against any such dangers as he now apprehends, if the acquisition of Cuba should ever become an object of practical importance to the United States.

What is the great principle of that compromise, so far as the acquisition of foreign territory is concerned? It is that this Government—I mean the Federal Government—will not interfere with the Territorial Governments so far as their domestic institutions are concerned, but will leave the people there to govern themselves in such matters as they please.

Mr. VENABLE. With the gentleman's permission, I will tell him that my remark was, that if our citizens, by the invasion of Cuba, rendered it proper for the Spanish Government to free the slaves there, it would be done.

Mr. STEPHENS. The gentleman says that our forcibly taking possession of Cuba, might induce Spain to emancipate the slaves there. I understood the gentleman to be arguing against the acquisition of Cuba at all; that its acquisition, whether agreeable and consented to by Spain or not, would endanger the peace and harmony of this country.

Mr. VENABLE. The gentleman must recollect that I commenced by saying that whenever Cuba changed hands, the United States must be a party to the change; and that if we desired, no other Power than the United States could have it. We must have it if Spain is to part with it; but I prefer that it should remain in the possession of a slaveholding nation; for we have thereby the benefit of the commerce without the expenses of the Government.

Mr. STEPHENS. I understood the gentleman in that portion of his argument to which I am alluding, to say that the acquisition of that Island, in any event, would have the tendency to renew the feeling of sectionalism which prevailed throughout the country immediately preceding the adoption of the compromise. That is the point to which I was referring. I have already stated that I have no desire at this time for the acquisition of Cuba, because I see no object to be attained by it; but I conceive, if it should become a great national object to this Union to acquire Cuba, that no danger, sectionally, growing out of the questions to which he has alluded, ought to be apprehended from its acquisition. That is the point I am upon, and I was replying particularly to the gentleman, because he spoke of the reluctance with which he gave his consent to abide by that series of acts which restored harmony to the country in its late agitated condition. I was, when interrupted, calling his attention to one of the principles laid down in the compromise. It was to show him that North Carolina was right and that he was wrong, and that if he would review that adjustment, he might perhaps be better pleased with it than he was when it was agreed to. One of the leading features of that settlement, one without which it never could have passed, was, and is, that all the territory then lately acquired, and all that then belonged to the United States, might, when they apply for admission as States, come into this Union with or without the institution of slavery as the people in each territory respectively may determine for themselves.

This principle and this guarantee, sir, is set forth in plain words in that compromise. The compromise, it is true, covers the territory only to which it applies; but the principle is much more comprehensive and of much greater value. It is, that the General Government will abstain from intermeddling with the local institutions of its Territories; but will leave the people there to mould and fashion their constitutions as they please. This point had been controverted between the North and the South since 1820; it never was settled before. The controversy was settled by the adoption of what I conceive to be the great Republican principle upon which the whole frame-work of our Government and institutions rests, that every community or State has a right to govern itself as it pleases. I considered the attempt by Congress to restrict the legislative authority of a Territory, or the right of her people to form their constitutions as they please, as more odious than the attempt of the British Parliament was to tax the colonies which led to the American Revolution. And I, as a southern man, and as a national man, hailed the establishment of that principle as one of the greatest triumphs of real republicanism since the foundation of the Government. Let this principle be but maintained in good faith, and you will hear no more of sectional controversies growing out of acquisitions. If Cuba be acquired; if Canada, or any part of Mexico, in the course of human events, be acquired; let but this principle be adhered to—in other words, let this Government attend to its own business and not attempt to force any peculiar views or sectional notions upon an unwilling people, but let every State and Territory in this particular govern itself as it pleases, and you will hear of no more sectional dangers and sectional strife. And with this principle, extending its limits only so fast as neighboring people may find it to their interest voluntary to seek the protection of your Union, you may indeed go on until you become an ocean-bound Republic.

But, sir, I did not rise to discuss this Cuba question. I have already said more than I intended. My main object was to enter my protest, in few words, against the idea that sectional dangers would again beset us in the acquisition of Cuba, even if great national interests required it, and if Spain and the people there were all concurring. Against this, I say, I enter my protest. I have said I am no advocate for the acquisition at this time. I do not know that events will so turn up in my day that I ever shall be; still they may, and if they do, I cannot see how or why any dangers from internal strife can legitimately or rightfully arise. I shall detain the committee no longer.

Mr. BAYLY. This is a question in which I feel a great deal of interest; and I have just been to the Senate to ascertain what was the probability of the call being answered in any reasonable time, which was lately moved in that body to procure further information in respect to this subject. That resolution has passed this morning, and I prefer to reserve what I have to say until that correspondence comes in. I beg leave to suggest, it would be quite as well that we should postpone all this discussion until we know precisely everything which has been done by the Administration, and until we ascertain officially, from the reply to that call, the precise position in which our relations to Spain and Cuba stand. I shall seek an early opportunity to be heard, after that reply comes in.

Mr. BROWN, of Mississippi. I do not intend to make an argument in reference to the question introduced by my friend from North Carolina, [Mr. VENABLE,] but in the course of his speech he has taken positions so contrary to those which I believe to be right, that I feel it incumbent upon me, having been for a long time associated with that gentleman upon other questions, to say at the first possible moment, that I totally dissent from many of the views which he has expressed. If I understood the gentleman, one of his positions was this—and I wish to call his attention to it—that the acquisition of the Island of Cuba, by this country, would result in the instant abolition of the foreign slave trade. I so understood the gentleman. Did I understand him correctly?

Mr. VENABLE assented.

Mr. BROWN. Did the gentleman mean to employ that as an argument against the acquisition of the Island of Cuba? I agree with him perfectly that its acquisition would result in the instantaneous abolition of the foreign slave trade. That is one of the strong reasons why I desire to see it conquered, and why I think the people of the whole country ought to desire it.

Mr. VENABLE. Will the gentleman indulge me for a moment? Does the gentleman suppose that I advocate the foreign slave trade? I am willing that it should be put down, and put down by the treaty power—by the powers which are now employed to put it down. I used the argument in this way—that according to the institutions and circumstances of Cuba, and the want of increase of the African population there, the African slave trade was indispensable to keep up the supply of slave labor, and that being cut off, Cuba would be valueless, unless a supply of slave labor could come from somewhere, and the southern States could spare anything better in the world than their slave labor.

Mr. BROWN. That does not at all change my view of the gentleman's argument. But the gentleman went on to say further, that the acquisition of the Island of Cuba by the United States would be attended with imminent danger, and would be the signal for the Queen of Spain and the Cortes to issue a decree for emancipating the negroes of the Island, and that he for one would never vote to reduce any man to the state of slavery who had enjoyed one moment of legal freedom. I am not disposed, at this time, to combat the idea that the Queen and Cortes might take the course indicated; but I wish to make a pause here, and ask my honorable friend to take this into consideration, how far a decree issued in the midst of a revolution, and intended to circumvent the revolutionists, may be regarded as legal and binding. This decree will not be issued, according to the argument of the gentleman, because it is right in itself; it is not to be based upon any great principle of humanity, nor upon any principle of international law, but as a means of punishing the liberators of Cuba. If so done, will it not be a fraud upon the rights of the revolutionary party?

Mr. VENABLE. Will the gentleman allow me again to put myself right? The gentleman must recollect this was my statement, that the instincts of self-preservation would make it right and proper for the Spanish Government, if they were satisfied that the invasion of Cuba was simply on account of its adaptation to slave labor, and to get possession of the slaves, the Government of Spain would set them free, just precisely as I would blow up a fortification and destroy a magazine to keep an opposing general from getting possession of them. This having been done by the constituted authorities, the Queen and the Cortes, they would enjoy regular freedom; and the gentleman knows as well as I do that you never can get a Congress of the United States which will subjugate any man who has enjoyed legal freedom.

Mr. BROWN. The gentleman says now, as I understood him before, that the instinct of self-preservation would prompt the Spanish authorities to this course. What self-preservation? Would the Island be any more preserved to Spain by such an act? Would her possessions at the close of the revolution be larger because of such a decree? Would the gems in her diadem be more valuable after such a decree than before? Would it not be a naked fraud upon the rights of those who are conducting the revolution? Mark you, I am not declaring that I would vote to reduce any man to slavery who had once enjoyed a moment of freedom. But can freedom be given by such means? That is the question; and I call the gentleman's attention back to that point. It is one worthy of consideration. I hope the gentleman will consider it before he throws before the country the unqualified remark that the Queen and Cortes could thus at a single stroke set free all the negroes on the Island. Like the gentleman, I never will vote to reduce a free man to bondage.

Mr. VENABLE. The gentleman seems to have misapprehended me again. If the United States become a party to the revolution, then they are buccaneers; they are wrong, and no one sustains them. If individuals of the United States go and produce revolution, they are buccaneers, and it would be a struggle in Cuba to which the United States would be no party; and Spain, being satisfied that the revolution was produced for the purpose of annexing to the United States territory wrongfully wrested from her, might make that territory valueless to the United States, and she would do it.

Mr. BROWN. I am not going to discuss with

the honorable gentleman how far those who engage in such an enterprise as the liberation of Cuba would become buccaneers. The gentleman and myself would differ very widely upon that point. I have already differed from one high in authority on the same point. I maintain that the Creoles in the Island of Cuba, if they are oppressed, have the same right to take up arms in defense of that liberty which they inherited from the Almighty that the people of the colonies had. I maintain, further, that the people of the United States have the same right to go in aid of the Creole struggling for liberty that the French had to come here and aid us when we took up arms against the British Crown. Our forefathers were not buccaneers, nor were the French who came to aid us in our glorious struggle for freedom buccaneers. If our people choose to go to Cuba, they would not thereby become pirates or buccaneers any more, I repeat, than the French were when they came in aid of our cause, or than we were when our people aided Greece, Poland, the South American States, and Texas.

Mr. VENABLE. The term buccaneers I did not use in any offensive manner. I expressly guarded my remark in this way: that those individuals who chose to go there and seek martyrdom ought to get it, and their quantum of honor; but this Government ought not to come in conflict with the rights of any other country.

Mr. BROWN. My friend does not draw a proper distinction between an act of the Government and the acts of individuals. I do not say that the United States should wage war upon Spain, or join the liberators of Cuba. I am advocating no such policy. I will probably go as far as my distinguished friend from North Carolina, in resisting any such policy. I am speaking of individual assistance—that which France gave us in aid of our cause; that which we gave Greece, the South American Republics, and Texas; and I maintain that such individual aid does not make those who give it, buccaneers, outlaws, or pirates. Nor does such individual acts attaint the Government from which the individuals come. If it were otherwise, we might even now be seized and executed for pirating against Spain in South America, and against Mexico in Texas.

But my friend from North Carolina has advanced another argument which is yet more extraordinary, extraordinary I mean as coming from him. When I saw my friend standing on the other side of the House filibustering, as I thought, against the United States, surrounded, as he was, by admiring Whigs, I did not know what to think. It seemed to me he had taken formal leave of his old State-Rights friends, and gone over to the Whigs. He has got into strange company, certainly, and advances very strange sentiments. Why, says the gentleman, these blacks upon the Island of Cuba will be emancipated by the authority of the Spanish Government, and how are you to make it slave territory again? I am opposed, says he, to carrying slaves from the slaveholding States of the Union to this Island, or anywhere else, and I am opposed to the extension of the area of slavery. When the gentleman and myself stood hand to hand, and shoulder to shoulder battling for what we conceived to be our rights upon the shores of the Pacific, what were we battling for, but for a country to which southern slavery could be carried? When we resisted the surrounding of the southern States by a cordon of free States, it was, sir, that slavery might not be circumscribed, that it should have room to expand. We desired California kept in a condition that the slaves of southern States could be carried there. I confess it here, as I confessed it when the matter was under discussion, and if I go for the acquisition of Cuba, or for any other territory in the South, let it be distinctly understood now, and through all time, that I go for it because I want an outlet for slavery. I am for extending the area of slavery. In such extension, I see safety to the South, and no harm to the rest of the Union. There was a day when slavery existed in Rhode Island. It left there to go South. I know she boasts that she emancipated her slaves, but Rhode Island and Massachusetts emancipated the remnant when the great body of them had gone South. New York and Pennsylvania were slaveholding States, but they sent their slaves South and sold them, and then boasted of making their State free. Virginia, Maryland, and the border States are now undergoing the same process. Slavery is leaving these States, and going further South. The slave population is multiplying with wonderful rapidity. We have now three and a half millions of slaves, and in thirty years we shall have seven or eight millions. When they have become profitless or troublesome, we, too, want a South to which we can send them. We want it, we cannot do without it, and we mean to have it.

When you have forced into the cotton-growing States of this Union, eight millions of slaves, and have left them no outlet, you will have that sort of disaster which you would have if you dammed up the mouth of the Mississippi river. There must be an outlet for them.

Mr. ALLISON, (interrupting.) For the honor of the State which I in part represent, I would have it go upon the record, that Pennsylvania abolished slavery before she had acquired her independence—at the earliest moment that she could do so, indeed before she had the power fairly.

Mr. BROWN. I know very well that they had a prospective emancipation law in Pennsylvania; but I also know that within the last generation, slavery existed in that State. I happen to be the owner of persons now, whose immediate ancestors were once slaves in Pennsylvania.

Mr. VENABLE. Will my friend from Mississippi permit me to make a single remark?

Mr. BROWN. Oh, certainly.

Mr. VENABLE. I do not wish to speak further upon this subject, but I cannot sit by and hear the positions I have taken misstated, as my friend has misstated them, unintentionally no doubt. He says that I am opposed to extending the area of slavery. Why, sir, I must have expressed myself very obscurely. I am against *limiting* the area of slavery, and the consequence, as I apprehend, of the annexation of Cuba will be the emancipation of the slaves in that Island—making it free territory.

My object is to prevent the contraction and not to prevent the expansion of the area of slavery. I must indeed have expressed myself very obscurely, or my friend could not have so misunderstood me. My proposition was this: that in case of a revolution in Cuba, if the Spanish Government were satisfied that individuals from the United States, whether called buccaneers or invaders—I will call them by any name suitable and respectful—were producing that revolution, the ultimate end of which was the annexation of Cuba to the United States, and if the Spanish Government were also satisfied that that end was to be effected because of the profit of slave labor in Cuba, they would be driven to that experiment which would be almost fatal to us, viz: the contraction of the area of slave territory, by making Cuba free territory, and thereby reducing the amount of sympathy in the world towards us and our institutions, making us almost the only slaveholding Power in the world. That was the proposition which I made. I am in favor of extending the area of slavery by any just means in our power; but I take occasion to say, that no party ties, no party affiliations, no "young America" or old America, no persons in power or out of power can induce me to aid in extending it if it is to be done by oppression or wrong, or by the violation of treaty stipulations.

Mr. POLK, (interrupting.) I desire to suggest to the gentleman from Mississippi [Mr. BROWN] that, as it seems the gentleman from North Carolina [Mr. VENABLE] has got into a state of circumstances he had no idea of upon this subject, he should allow that gentleman the balance of his hour to explain out. [Laughter.]

The CHAIRMAN. The gentleman from Mississippi has yielded the floor to the gentleman from North Carolina. The gentleman from Tennessee is not in order.

Mr. VENABLE. I suppose so, and it would therefore be out of order for me to make any reply to the gentleman's suggestion. [Laughter.] I say again, that neither party ties, nor party affiliations, nor the opinions of friends from whom I should part with reluctance, could induce me to support a policy marked by the violation of treaty stipulations, or marked with injustice and wrong towards any of the nations of the earth.

Mr. BROWN. Why, Mr. Chairman, my friend from North Carolina was never more mistaken in his life, than when he supposed it possible for his old State-Rights friends to counsel or advocate any violation of treaty stipulations or of good faith with Spain or with any other country. I hold that to be quite out of the question.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to ask him one question?

Mr. BROWN. Make it very brief then.

Mr. STEVENS. I will. I understood the gentleman to say that slavery existed in Pennsylvania, and that he owned slaves that came from that State. Did I understand him rightly?

Mr. BROWN. You did.

Mr. STEVENS. I should like to know at what period those slaves were brought from Pennsylvania?

Mr. BROWN. That is a question which I am not able to answer.

Mr. STEVENS. By the law of 1780, slavery was abolished in Pennsylvania, allowing those then in bondage to remain so during their lives. Some of those even yet survive. That is all the slavery that has existed in Pennsylvania since 1780, and even that was abolished in 1847. But if the gentleman holds any slaves who are the descendants of those that were brought from Pennsylvania since 1780, I beg leave to inform him that they were carried away contrary to law, and are free; and to suggest to him whether it would not be well to inquire whether he is not ignorantly holding freemen in bondage. [Laughter.]

Mr. BROWN. I usually examine into the question of title before I acquire property. Let me get back to the point where I left my friend from North Carolina. He now says, and I am glad to hear it, that he is in favor of extending the area of slavery. How is this to be done if we acquire no more territory? If slavery is to be extended at all, Cuba promises a fairer field than any other country. This the gentleman will not take. By a very summary process, he has disposed of Spanish slavery there, and he tells us he will not consent to see its place supplied by American slavery. It seems to me, therefore, that my friend's declaration just now made is in conflict with the positions taken in his speech.

But, Mr. Chairman, I pass from the details to the general character of my friend's speech. He seemed to me to be making an argument, the whole drift of which was, as the gentleman from Georgia [Mr. STEPHENS] has well characterized it, in opposition to the acquisition of Cuba under any circumstances. Now, lest I may be misunderstood, I am perfectly free to say that I am not going to second any filibustering expedition against Cuba or any other part of the world. But, sir, I am free to say that I want Cuba, and I am willing and anxious that all the world should know that I want it. This ought in my judgment to become our national position. Not that we will take it, but that we want it, and that we mean to have it if Spain parts with it. We ought to hold out this idea to all the nations of the earth, and if needs be, enforce it against all the nations of the earth. We should make no arguments against its acquisition.

I am for no filibustering in the ordinary acceptation of that term. But I will tell you what I am for. I am for this: I am for demanding and exacting, at all times, and under all circumstances, a proper respect for the flag of this country, and if in doing that, we should become involved in a war with Spain, or with any other country; I am for fighting it out; and if in the general settlement, we can get nothing but land, I am willing to take land. [Laughter.]

Mr. VENABLE. So am I.

Mr. BROWN. That far, then, my old friend and myself agree.

This, sir, suggests a point to which I wish to call the gentleman's attention. I want to know whether we agree about that also. I think the President of the United States, in the late transactions at Havana, in which the steamer Crescent City was involved, was entirely wrong. I am free to admit to the House, and before the world, that Spain, or the Spanish authorities upon the Island of Cuba, have the same right to exclude an obnoxious individual from the port of Havana that the authorities of Charleston have to exclude obnoxious individuals from that port. But I wish my friend, and those who agree with him, to mark this distinction: South Carolina, nor Charleston, by the authority of South Carolina, has ever said to a British ship, "You shall not enter this port because you bear a black man upon your

deck;" her laws are not directed against the flag of Great Britain, but against the obnoxious individuals who chance to be on board her ships. I defend that policy in South Carolina, and to that extent I will defend it in the authorities of Spain.

But, sir, Spanish authority went beyond this. If the Captain General had simply taken the ground that the obnoxious Mr. Smith should not leave the ship's deck, or that he should even be taken from the ship's deck and confined during the time the vessel remained in Spanish waters before the city of Havana, I do not know, unless there had been something offensive in the manner of the transaction, that I should have objected to it upon broad national grounds; as at present advised, I should have sustained it. But when the authorities went beyond that, and said that an American ship, bearing the American flag, having on board an American crew and American citizens as passengers, and carrying the American mails, should not enter the waters of Cuba because the obnoxious Mr. Smith chanced to be on board of her, I think they violated good faith, violated the treaty which exists between the two countries—a treaty of amity; a treaty that authorized the ships of the one to enter the ports of the other on terms of equality with the ships of the most favored nations. That is my judgment; and Spain, by her constituted authorities, offered an insult to our flag by excluding from her port a ship that bore it, and for this offense, I trust the incoming President will even yet demand satisfaction;—that he will not permit it to be blurred over as it has been by the retiring President.

I feel that there is something due to the dignity of this Government in a case like this, beyond what we have got. When her flag is excluded, her citizens driven out of a friendly port, her mail is denied admission, and all simply because the Captain General—a mere tool of her Catholic Majesty—chanced to think that Mr. Smith has done something or thought something derogatory to Spain, we ought to have something more than we have yet had. It was a good time to speak boldly and act firmly. Instead of pocketing the insult, as I think we have done, we ought to have resented it, and resented it properly. If war had come, why let it come; if Cuba was acquired, why let it be acquired; and if the people of North Carolina wanted to carry their slaves there, let them carry them there. If the Spanish authorities thought proper to issue a decree emancipating the negroes on the Island, and it was deemed to have been done in derogation of our rights as a party to the conflict, it would be a matter for our determination whether we would respect such a decree. All this, however, is very far from the main point.

Mr. WILLIAMS, (interrupting.) I should like to ask the gentleman a single question. The gentleman speaks of the insult offered to our flag. What kind of satisfaction does he propose that the incoming Administration shall demand? Would anything short of taking the Island of Cuba satisfy him?

Mr. BROWN. I should prefer that sort of satisfaction to any other. [Laughter.] But, sir, if that sort of satisfaction was given which is ordinarily demanded and given on similar occasions, Government ought to accept it; and if it did not, I would repudiate the action of the Government. The Captain General who denied admission to the Crescent City into the port of Havana ought to have been recalled by Spain on the demand of this Government, or some other atonement for the offense ought to have been demanded. The President ought not to have rested satisfied until he got it. That is my judgment. If Spain was obstinate, and offered us nothing but war, let the consequences be upon her own head. Let me not be misunderstood. I say emphatically and distinctly that I do not desire to see our Government seeking for war, or, as the common expression is, "picking a quarrel" with Spain, or any other Government. I prefer peace with that Government and with all Governments.

One sentiment which the gentleman from North Carolina [Mr. VENABLE] advanced, I indorse most fully. So long as Spain holds the Island of Cuba, and holds it securely, I am content that she shall keep it. But I will make no speech against its acquisition. I will make no argument against its acquisition. I would have Spain and all the world to understand distinctly that we always desire the Island; and that if Spain ever parts with it, we mean to have it, peaceably if we can, forcibly if we must. I would not encourage her to look to other quarters for a purchaser or an owner, in case she were disposed to part with the Island. I would not encourage others to hope that they might acquire it on any terms short of absolute force. Hence I say, I would make no arguments against its acquisition. Arguments should be to prepare the people of this country, and of all countries, for its acquisition by the United States. I would prepare the minds of our people to make sacrifices for its acquisition—sacrifices in money, and, if necessary, sacrifices of another character.

The gentleman from North Carolina has made one of the strongest arguments I ever heard against the acquisition of this Island, under any circumstances. This was indeed too bad. Sir, what must be the effect of such a speech upon the public mind? If it has any effect at all—and that it must have an effect, his high position before the House and the country assures us—it must be to cause the public mind to pause, to hesitate, to doubt the propriety of the acquisition. He says it would throw the country into a commotion; that it would disturb the public mind; that conflicts between the North and South would be revived. What must be the effect of such declarations? Why, it must be to induce every man—at heart a patriot, every conservative man—in the country, who trusts to these declarations, to resist the acquisition of the Island at all hazards, and against all persuasion. No man trusting the soundness of the gentleman's logic, and filled with his evil forebodings, but would resist the acquisition as he would resist a pestilence. The gentleman says it will prove a very Pandora's box.

Mr. VENABLE. Would my friend be willing to acquire Canada?

Mr. BROWN. I certainly would not be willing to make as great sacrifices to acquire Canada, as I would to acquire Cuba; but if there were a prospect of getting Canada, I am not prepared to say that I would resist the acquisition, and especially if our northern brethren showed themselves liberal in allowing us to get a little more land for the South. But as my friend from North Carolina is of a kindly disposition, I will ask him the same question; would he go for acquiring Canada?

Mr. VENABLE. I would not.

Mr. BROWN. I said when I rose, that I did not design to make a speech upon this subject. The gentleman from North Carolina had expressed opinions so foreign to my own, and so contrary to what I deem to be the interest of the South, and of the whole country, I felt it due to myself, considering my party relations with that gentleman, to say at once, that I do not concur in the views he expressed.

Mr. VENABLE. Will my friend permit me to ask one additional question?

Mr. BROWN. Certainly.

Mr. VENABLE. I desire to know whether, under any circumstances, the gentleman would be willing to annex Cuba as a free State, if slavery did not exist there?

Mr. BROWN. I do not think that I would readily consent to it, and the gentleman might have gathered as much from my remarks before. I said I wanted to acquire this territory as an outlet for slavery, as a means of extending the area of slavery. I will do nothing under a disguise. I will practice no fraud or deception upon anybody, personally or politically. I do not say that I would not be in favor of the annexation of Cuba under any circumstances; but I confess that a vast amount of my zeal and enthusiasm would ooze out very suddenly, if I knew it was coming to us as a free State. I want it; and I want it as a slave State, and as an outlet for slavery. In a military, and in a commercial point of view, its acquisition would be vastly desirable, even as a free State. But I will not longer detain the committee.

LIEUTENANT GENERAL.

Mr. WILCOX. Mr. Chairman, I approbate in part, the remarks of the gentlemen from North Carolina and Mississippi, and indorse *in toto* those of the gentleman from Georgia. I trust that a spirit of conservatism will characterize the incoming Administration; and that economy, retrenchment and reform, will be its watch-word, and that peace will be its ensign. I cannot indorse the doctrine, however, of opposition to the acquisition of Cuba at all hazard and in any event. No, sir, the time may come, when a portion of this Confederacy may be forgetful of the ties that bind it to the other, and compel a dissolution of the Government. In that event, I might be in favor of it. Its acquisition might become a public necessity in a national point of view. In such an emergency, I should be for it without a why or wherefore. At present, no such necessity exists. "Sufficient unto the day is the evil thereof." I may, at some future period of the session, submit my views upon that subject. I have availed myself, Mr. Chairman, of the warlike spirit introduced into the House this morning, to speak upon a different subject. A few days ago an effort was made to take from the Speaker's table, the resolution of the Senate, which proposed to confer the title of lieutenant general upon General Scott. It is to that resolution I desire to speak, and it affords me pleasure, on the present occasion, to rise and testify to the eminent military services of General Scott, and to vote for the passage of the resolution, as a simple act of justice to him.

I trust, Mr. Chairman, that this resolution will be adopted unanimously, and that the Democracy of the House will, for the time being, suspend their partisan predilections, and express to the world their high appreciation of General Scott's military worth and genius, though they could not yield him their support for the Presidency. I am, however, sir, fully persuaded that the new honor we are striving to obtain for him, will not add one jot or tittle to his fame, for that has been sung by admiring tongues on every shore, and beneath every sky where civilization has shed her blessings, and valor unsheathed her sword. But, sir, it will do this: it will present to posterity this nation's gratitude, and will serve as an incentive to coming generations to emulate the virtues and prowess of this distinguished patriot and warrior. Yet, sir, strange to say, there are those in our midst who regard this as a dangerous precedent, and who charge the friends of the resolution with aping the nobility of England in their fondness for titles, and who have a tremulous concern about everything that has for its object the conferring of honor upon those who have fought and bled in their country's cause. They seem to apprehend that some modern Nero, or Cromwell, in an unguarded hour, may seize the reins of Government, and usurp the liberties of the people, subsidize the press, and build upon individual ambition the fabric of political despotism. Thank Heaven! sir, I have no such gloomy forebodings. I have more confidence in the firmness, virtue, and patriotism of the American people.

Why, sir, if this spirit of trepidation had been of extensive prevalence in our country in relation to military men and honors, the career of the great Father of his Country would have closed with the battles of the Revolution; the Hero of the Hermitage would have been shorn of half the glory awarded him; Old Tippecanoe would have been permitted to repose in calm and quiet beneath the shades of North Bend; General Taylor would have been left in the enjoyment of camp life; and General Pierce spared the care, trouble, and anxiety that await him.

No, sir, the people are not afraid of trusting and honoring and promoting their heroes. But, sir, we have a precedent for conferring the title of lieutenant general. By consulting the records of the past it will be discovered that Congress resolved that a general be appointed to command all the Continental forces raised, or to be raised, for the defense of American liberty. (Journals of Congress, vol. 1st, page 83.) Mr. Hancock, on the 19th of the same month, signed the commission of Washington, in which he was styled general and commander-in-chief, &c.

A war being apprehended with the French Directory, Congress enacted, May 28th, 1798:

"SEC. 5. *And be it, &c.*, That whenever the President shall deem it expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who, being commissioned as lieutenant general, may be authorized to command the armies of the United States, and shall be entitled," &c.—(*Hetzel's Mil. Laws, p.* 73.)

Again, sir, there is in the militia of Connecticut and Illinois, the grade of lieutenant general. In the annual return of the Connecticut militia, for 1850, there are, under the head of general staff, his Excellency T. H. Seymour, Captain General,

and his Honor C. H. Pond, Lieutenant General.

So it will be perceived that we have had in our army and militia every grade, except field marshal, known to European armies; and in those armies captain general is the highest. In the same act, March 3d, 1799, it is declared:

"SEC. 8. *And be it further*, &c., That in the ordinary arrangement of the army, two regiments of infantry or cavalry shall constitute a brigade, and shall be commanded by a brigadier general; two brigades a division, and shall be commanded by a major general."—(*Ibid.*, p. 92.)

There is no other enactment of Congress upon the subject, and the general regulations for the army, approved by Mr. Calhoun, in the name of President Monroe, and the infantry tactics by Mr. Secretary Cass, in the name of President Jackson, following out this scale, make two divisions constitute an army corps, or corps d'armée, a command for lieutenant general. The army of the United States now consists of fifteen regiments, two corps of engineers, and the ordnance department, more than equal to four divisions, or two army corps, that is, equal to commands for two lieutenant generals. Having found that the title of lieutenant general has been sanctioned and hallowed by precedents, is General Scott worthy of it? Does he merit it?

In looking over the lists of those who periled their lives and fortunes in the war with Mexico, we see that almost all who fought gallantly there have been rewarded, not with empty, but with substantial honors. The intrepid Taylor made President; the gallant Pierce, who fought so heroically side by side with him, made, too, President; the brave and fearless Quitman and Trousdale made Governors of their respective States. The American Senate has been made to ring with the eloquence of a Shields and Davis, who scattered dread and destruction whithersoever the tide of battle bore them.

And here, sir, before your eyes, do you see living evidences of the fruits of the Mexican war, and of the gratitude of the American people in the persons of your Bissell, Breckinridge, Savage, Gorman, Polk, Preston, and the old Aristides of the Army, General Lane.

This is not all, sir: all the officers of the regular Army were breveted or promoted for distinguished services, thereby being benefited by the war with Mexico, with the exception of General Scott, the prime mover and leader of it, and this solely upon the ground that he held the highest military office known to the laws of our country.

Then, sir, if you make General Scott lieutenant general, you will do no more than you have already done in making lieutenants captains, captains majors, majors colonels, and colonels generals.

Will you do it, sir, and does he deserve it? Let us for a moment transplant ourselves three miles below Vera Cruz, on the evening of the 5th March, 1847. Behold, sir, the masts and yard-arms of the French, English, and Spanish fleets, hung with living masses to witness the landing of the conquering hero. See his fleet and transports wheeling into line, freighted with his little army of twelve thousand. In six hours, sir, his army is landed, and his batteries established without the loss or injury of a single man. In the twinkling of an eye the heavens are in flames, and the walls of St. Juan are a sheet of fire, the arched skies are made to echo and reëcho with the shrieks and yells of the enemy, and ere long the impregnable castle and city are reduced, and all this with the incredible loss of three officers, (two captains of the army and one midshipman,) and about twenty-five privates, killed and wounded.

But, sir, let us pursue him into the interior, until his advancing corps is stopped by the strongly fortified pass of Cerro Gordo. This pass is in Terra Calienti. A march of two hours more would have taken the army to the temperate zone. Santa Anna had a double object in opposing General Scott at this point; his first, doubtless, was that he thought his superior strength would enable him to conquer; and the second was, that he might at all events detain the American army until some of the terrible diseases incident to the hot low lands of that country could make their appearance among them. Will you have a description of this pass, sir? If so, imagine yourself in a narrow road, walled in by high and precipitous mountains, a heavy battery enfilading it, and the heights on either side bristling with cannon.

Our hero was not to be confined here. Methinks I see that manly bosom heaving with its mighty purposes, as his eagle eye glances at the ponderous missiles of death as they frown upon him from their fastnesses. A council of war is called; his orders are issued, and, on the 18th of April, this stronghold is assaulted and carried, and his advance corps sleep in the city of Jalapa that night, having pursued the enemy even beyond that city, which is about twenty-two miles distant from Cerro Gordo. But, sir, if you would properly appreciate General Scott's genius, conceptions, resources, execution, soundness of principle, rapidity of coup d'œil, brilliancy and promptness of action, together with his selection of times and places, and his calculation of results; and further, sir, if you would fully comprehend the beauty of this fight, you should read the order of battle published the day before, and the reports subsequently; and the conclusion to which you will be forced, sir, is, that prophecy was never more literally verified. Cerro Gordo not only gave him the city of Jalapa, but an open road to Perote and the castle of the same name; and, in fact, he encountered no serious obstacles even to the city of Puebla.

On the 16th of May he entered this city of ninety thousand inhabitants without opposition.

We might here, sir, drop our pencil and exclaim, "If all is as has been represented, he has acquired fame enough;" but, sir, our task is incomplete—our character unfinished.

The crowning feature of this campaign is the march from Puebla into the valley, and through it to the City of Mexico. It was necessary, before marching to Mexico, for General Scott to abandon his communications with the sea, for the reason that he had not sufficient troops to keep the road open to Vera Cruz. This, sir, was a bold step, and one, the responsibility of which would have overwhelmed a common man; but no general ever wore a more confident and cheerful face, nor did one ever succeed in inspiring his entire army with more confidence and ambition.

Behold them, then, sir, "with hands prepared and hearts resolved," wending their way over the Rio Frio mountains, and descending into the valley of Mexico, teeming with its enraged and blood-thirsty hordes, making their reconnoissances and marching around Lake Chaleo to the southern and western side of the city. Behold their encounter with the enemy, and his defeat at Contreras and Churubusco on the 20th August, the same at Molino del Rey on the 8th of September, and finally, the assault at Chapultepec on the morning of the 13th of September, the storming of the Santes on the same day, (the San Cosme and Santa de Bilone,) and, on the morning of the 14th of September, the entry of the army into the city of the Aztecs, even to the Grand Plaza, taking possession of the National Palace, and hoisting the stars and stripes above the Halls of the Montezumas.

There were about six thousand men and officers for duty the day General Scott took the City. He entered the Grand Plaza on the side fronting the National Palace, escorted by a squadron of cavalry in full uniform. Is it not, sir, almost incredible to think that six thousand men should enter and keep in subjugation a city of two hundred thousand inhabitants? The magnitude of this campaign has never been fully realized. Let a sensible man ponder over it, and he will see that there is nothing comparable to it on record. If the retreat of the ten thousand Greeks, under Xenophon, from the heart of Persia has been held up for ages as a wonderful military feat, what would have been said if, instead of retreating, they had been an advancing army, far from their own homes, and with an intervening sea to daunt them, and yet had dared, undismayed, to advance, continually meeting and overcoming countless hordes of well-armed and well-posted Persians, and finally reaching the very capital of Persia, and taking it and holding it against the entire aroused nation? And yet, sir, this is only what General Scott did. Yes, sir, this gallant army, under the lead of General Scott, from the 19th of August to the 14th of September, fought its way through the fields and forts of Contreras, San Antonio, Churubusco, Molino del Rey, Chapultepec, and the gates of San Cosme and Tacubaya, into the City of Mexico. For brilliancy and boldness I challenge the nations of the earth to show a parallel to this campaign. Miltiades, by his prowess at Marathon, enshrined himself in the hearts of his countrymen, and won for himself unfading laurels. The fight of Themistocles off Salamis has been the favored theme of ancient and modern poets and historians. Pausanias, the Spartan, in his famous action at Platæa, where he maneuvered his infantry so successfully in the teeth of the first cavalry of the day, without losing a man or having a rank broken, secured to himself a stand among the first captains of his century. And, Mr. Chairman, I dare to place General Scott above these mighty spirits of ancient chivalry, and claim for him a stand by the side of Hannibal, the illustrious Carthagenian, and Napoleon, the undying leveler of Corsica.

Immortal trio! At the age of twenty-six Hannibal was elected to the supreme command of his army, and from that moment became a terror and scourge to Rome as well as the controlling spirit of Carthage. At twenty-six Napoleon assumed the command of Italy and went from conquering to conquer until the day of his exile. About the age of twenty-six General Scott begins his military career, and from that day till the present moment, he has been, and is, the embodied type of American valor. All three had the faculty of taking in at a glance, the aims and designs of the enemy. They knew when and where to strike, and were the authors of their system of tactics. All three have been charged by their enemies with crime and malversation, and all three, in public estimation, unjustly. The lightning speed by which they followed up conception by execution, the power of concentration by which, constantly inferior on the whole in force, they were ever superior at the point of action; the marvelous foresight by which they showed seeming rashness to be real prudence, the thunderous crash with which they annihilated, not conquered, their antagonists, nay, the unerring certainty with which they threw themselves on the communications of the enemy, and defeated at a blow the most skillful combinations, were identical in these three mighty captains. None others, in my opinion, ever have possessed the same qualities, or used them with the same effect. All three commanded invading armies. Here the parallel ceases. Hannibal and Napoleon were conquered—Scott never.

But let us return to him at the City of Mexico. Having planted the standard of his country there, with meekness and humility in the sight of Heaven, he calls his brave official comrades around him and ascribes all the glory and honor to them. Having appointed the gallant Quitman civil and military Governor of the capital, he repairs to his own quarters, not for the purpose of mirth and revelry, but, like the Father of his Country, to offer up the sacrifices of a grateful heart for this manifestation of divine favor. Hear him, ye representatives of American freemen, in general orders, No. 286, dated National Palace, 16th September, 1847:

"The General-in-Chief calls upon his brethren in arms to return, both in public and private worship, thanks and gratitude to God for the signal triumphs which they have recently achieved for their country.

"Beginning with the 19th of August and ending the 14th instant, this army has gallantly fought its way through the fields and forts of Contreras, San Antonio, Churubusco, Molino del Rey, Chapultepec, and the gates of San Cosme and Tacubaya, into the capital of Mexico.

"When the very limited numbers who have performed those brilliant deeds shall have become known, the world will be astonished and our own countrymen filled with joy and admiration.

"But all is not yet done. The enemy, though scattered and dismayed, has still many fragments of his late army hovering about us, and, aided by an exasperated population, he may again reunite in treble our numbers, and fall upon us to advantage if we rest inactive on the security of past victories.

"Compactness, vigilance, and discipline are, therefore, our only securities. Let every good officer and man look to those cautions and enjoin them upon all others."

And again, in order No. 284:

"2. But the war is not ended. The Mexican army and Government have fled only to watch an opportunity to return upon us in vengeance. We must then be upon our guard.

"3. Companies and regiments will be kept together, and all stand on the alert. Our safety is in military discipline.

"4. Let there be no drunkenness, no disorders, and no straggling. Stragglers will be in great danger of assassination, and marauders shall be punished by courts-martial.

"5. All the rules so honorably observed by this glorious army in Puebla, must be observed here. The honor of the army and the honor of our country call for the best behavior on the part of all. The valiant must, to win the approbation of God and country, be sober, orderly, and merciful. His noble brethren in arms will not be deaf to this hasty appeal from their commander and friend."

Mr. Chairman, I have not arisen to-day to in-

dulge in any fulsome eulogy of General Scott; but, sir, I defy the armies of the world to present a character more perfect in all the details which constitute a commander-in-chief. In the language of Phillips, sir, he exhibits in the above orders in one glow of associated beauty the pride of every model and the perfection of every master. Yes, sir, we behold in these orders a recognition of the supreme Commander-in-Chief and Ruler of the armies of the universe, a scrupulous regard for the honor of his country, the habits and character of the army, together with a vigilant watchfulness in every particular of the movements of the enemy.

How unlike the conduct and career of Miltiades after the battle of Marathon! Flushed with success and the clustering honors that enwreathed his brow, he availed himself of his unbounded popularity to ask his Government for seventy galleys, together with a corresponding land force. Such was their confidence in him, that his request was forthwith granted, supposing that his object was only to foray upon the maritime cities of the king. But, sir, he sailed to Paros under the pretext of punishing them because they had served the Persians against Greece. And, sir, it was for a far different purpose—it was to revenge a private injury done to him by Tisagoras, and to force from their coffers, money. He demanded of them a hundred talents, which they refused to pay, whereupon an action ensued, in which Miltiades was severely wounded and compelled to retreat to Athens, disgraced and defeated. He was immediately arraigned before the forum, impeached, and tried for his life. How different, too, from Themistocles, who sent such lamentation, havoc, and despair to the barbaric hosts of Persia at Salamis. Why, sir, the highest honors were assigned him; he was hailed as the citizen and savior of Athens; an olive wreath was presented to him, on visiting Sparta, and on his departure, he was presented with the finest chariot in Lacedæmon, and was escorted to the frontier by a guard of honor of three hundred Spartan nobles, mounted in rich costumes, an honor, says the historian, never paid before or since, by that stern and inflexible people. Could his career have closed here, he would have stood without a rival. Unfortunately, however, for him and for his country, under the pretext of raising money to defray the expenses of future wars against the Persians, and of punishing that portion of his countrymen who had been charged with aiding and abetting the enemy, he endeavored to enrich himself by pillage and extortion of the most atrocious character. He arrogated to himself all the glory and merit of the overthrow and defeat of Xerxes, and finally proved a traitor to his country, and was exiled; and, as Herodotus informs us, died of poison self-administered.

Such, too, sir, was the end of Pausanias. But, sir, how did General Scott demean himself at the capital? Did he become corrupted by the wealth and luxury of the city—by the spoils of war? Did he rob, or permit those rich churches to be robbed of their golden gods? Did he seek to avail himself of any opportunity to advance his own interests? No, sir. The interests and honor of his country were uppermost in his heart, and duty alone governed his thoughts and actions.

Hear him, sir, in general orders, No. 287, dated September 17th, 1847:

"15. This splendid capital—its churches and religious worship; its convents and monasteries; its inhabitants and property, are, moreover, placed under the special safeguard of the faith and honor of the American army.

"16. In consideration of the foregoing protection, a contribution of $150,000 is imposed on this capital, to be paid in four weekly installments of thirty seven thousand five hundred dollars ($37,500) each, beginning on Monday next, the 20th instant, and terminating on Monday the 11th of October.

"17. The Ayuntamiento, or corporate authority of the city, is specially charged with the collection and payment of the several installments.

"18. Of the whole contribution to be paid over to this army, twenty thousand dollars shall be appropriated to the purchase of *extra* comforts for the wounded and sick in hospital; ninety thousand dollars (90,000) to the purchase of blankets and shoes for gratuitous distribution among the rank and file of the army, and forty thousand dollars ($40,000) reserved for other necessary military purposes.

"19. This order will be read at the head of every company of the United States forces, serving in Mexico, and translated into Spanish for the information of Mexicans."

These orders, Mr. Chairman, speak for themselves, reflecting, as they do, honor upon their author, and showing so conscientious a regard for the churches and property of a fallen enemy, and for the wants and necessities of the sick and wounded under his command. But, sir, his genius and excellence are not confined to this exhibition.

He finds himself at the capital of a great nation with his army, together with countless merchants and camp followers, in a country, too, speaking a different language, and whose manners and customs are totally different from his own. Something is requisite beyond the rules and articles of war, for the government of this army and this city of two hundred thousand inhabitants. It was impossible for such a vast concourse of people to exist without a code of laws for their government. Commerce and traffic would of necessity be engendered, crimes and misdemeanors perpetrated. What is to be done in this emergency? He is without any digest or body of laws, without any tribunal of resort. Why, sir, with a simple flourish of the quill, he supplies, in a masterly manner, every deficiency not provided for in the act of Congress establishing rules and articles for the government of the armies of the United States. Yes, sir, every class of society and every grade of offense is embraced and provided for, in a measure so ample and complete that the Solons of our land would lose nothing in claiming their authorship. That the people of the United States may see and appreciate them, and through them the wisdom and perception of their author, I will present them as follows:

"1. It is still to be apprehended that many grave offenses not provided for in the act of Congress 'establishing rules and articles for the government of the armies of the United States,' approved April 10, 1806, may be again committed, by or upon individuals of those armies in Mexico, pending the existing war between the two Republics. Allusion is here made to offenses, any of which, if committed within the United States, or their organized Territories, would, of course, be tried and severely punished by the ordinary or civil courts of the land.

"2. Assassination, murder, poisoning, rape, or the attempt to commit either; malicious stabbing or maiming; malicious assault and battery; robbery; theft; the wanton desecration of churches, cemeteries or other religious edifices and fixtures; the interruption of religious ceremonies, and the destruction, except by order of a superior officer, of public or private property, are such offenses.

"3. The good of the service, the honor of the United States, and the interests of humanity, imperiously demand that every crime, enumerated above, should be severely punished.

"4. But the written code, as above, commonly called the *rules and articles of war*, does not provide for the punishment of *one* of those crimes, even when committed by individuals of the army upon the persons or property of other individuals of the same, except in the very restricted case in the 9th of those articles; nor for like outrages, committed by the same class of individuals, upon the persons or property of a hostile country, except very partially, in the 51st, 52d, and 55th articles; and the same code is absolutely silent as to all injuries which may be inflicted upon individuals of the army, or their property, against the laws of war, by individuals of a hostile country.

"5. It is evident that the 99th article, independent of any restriction in the 87th, is wholly nugatory in reaching any one of those high crimes.

"6. For all the offenses, therefore, enumerated in the second paragraph above, which may be committed abroad, in, by, or upon the army, a supplemental code is absolutely needed.

"7. That unwritten code is *martial law*, as an addition to the *written* military code, prescribed by Congress in the rules and articles of war, and which unwritten code, all armies, in hostile countries, are forced to adopt, not only for their own safety, but for the protection of the unoffending inhabitants and their property, about the theaters of military operations, against injuries on the part of the army, contrary to the laws of war.

"8. From the same supreme necessity, martial law is hereby declared as a supplemental code in and about all cities, towns, camps, posts, hospitals, and other places which may be occupied by any part of the forces of the United States in Mexico, and in and about all columns, escorts, convoys, guards and detachments, of the said forces, while engaged in prosecuting the existing war in, and against the said Republic, and while remaining within the same.

"9. Accordingly, every crime, enumerated in paragraph No. 2, above, whether committed—1. By any inhabitant of Mexico, sojourner or traveler therein, upon the person or property of any individual of the United States forces, retainer or follower of the same; 2. By any individual of the said forces, retainer or follower of the same, upon the person or property of any inhabitant of Mexico, sojourner or traveler therein; or, 3. By any individual of the said forces, retainer or follower of the same, upon the person or property of any other individual of the said forces, retainer or follower of the same—shall be duly tried and punished under the said supplemental code.

"10. For this purpose it is ordered, that all offenders, in the matters aforesaid, shall be promptly seized, confined, and reported, for trial, before *Military Commissions*, to be duly appointed as follows:

"11. Every military commission, under this order, will be appointed, governed, and limited, as nearly as practicable, as prescribed by the 65th, 66th, 67th, and 97th, of the said rules and articles of war, and the proceedings of such commissions will be duly recorded, in writing, reviewed, revised, disapproved or approved, and the sentences executed—all, as near as may be, as in the cases of the proceedings and sentences of courts-martial: *Provided*, That no military commission shall try any case clearly cognizable by any courts-martial: *And provided, also*, That no sentence of a military commission shall be put in execution against any individual belonging to this army, which may not be, according to the nature and degree of the offense, as established by evidence, in conformity with known punishments, in like cases, in some one of the States of the United States of America.

"12. The sale, waste, or loss of ammunition, horses, arms, clothing, or accouterments, by soldiers, is punishable under the 37th and 38th articles of war. Any Mexican, or resident, or traveler in Mexico, who shall purchase of any American soldier, either horse, horse equipments, arms, ammunition, accouterments, or clothing, shall be tried and severely punished, by a military commission, as above.

"13. The administration of justice, both in civil and criminal matters, through the ordinary courts of the country, shall nowhere, and in no degree, be interrupted by any officer or soldier of the American forces, except, 1. In cases to which an officer, soldier, agent, servant, or follower of the American army may be a party; and 2. In *political* cases—that is, prosecutions against other individuals on the allegations that they have given friendly information, aid or assistance to the American forces.

"14. For the ease and safety of both parties, in all cities and towns occupied by the American army, a Mexican police shall be established and duly harmonized with the military police of the said forces."

Sir, your humble speaker witnessed the salutary effects of these laws in the civil and criminal administration of affairs in Mexico. He sat as president of a court-martial for three months, and as a member of a criminal commission, when these laws were brought to bear. He has seen their wisdom and necessity vindicated times past numbering. Again, sir, not only has General Scott exhibited great practical, executive, and legislative talent, but, sir, he has also given evidence of financial tact and skill. In order to conquer more speedily a peace, and to bring the enemy to specific terms, our Government determined to make them support the war. In pursuance thereof, General Scott issued the following orders:

HEADQUARTERS OF THE ARMY, MEXICO,
December 31, 1847.

GENERAL ORDERS—No. 395.

Supplemental to General Orders No. 376.

1. To support, in part, the military occupation of the Republic of Mexico by the Army of the United States, the several States of this Republic, already occupied, and others as they shall become occupied, are, or will be assessed, by the year, in dollars, as follows:

Chihuahua	$49,188
Coahuila	5,657
Chiapas	21,692
Durango	85,556
Guanajuato	255,576
Jalisco	236,338
Mexico, State and Federal district	668,332
Michoacan	287,712
Nuevo Leon	50,437
Oaxaca	84,160
Puebla	424,276
Querétaro	85,944
San Luis	111,260
Sinaloa	33,524
Sonora	5,000
Tabasco	59,060
Tamaulipas	71,332
Vera Cruz	271,548
Zacatecas and Aguascalientes, reunited	249,076

2. This assessment is the quadruple of the direct taxes, paid by the several States to their Federal Government in the year 1843 or 1844. But, on the other hand, all transit duties, (*alcabalas y derechos de internacion*,) heretofore payable at the gates of cities, and on passing the lines between States, have been abolished, together with national lotteries. The tobacco monopoly will also be abolished from and after the present year. The cultivation and the sale of that plant shall, thereafter, be free—save any duty that the United States may have imposed, or shall hereafter impose, on the importation of tobacco through custom-houses at Mexican ports occupied by this army. And the receipts of the post offices, together with the playing card and stamped-paper monopolies, are relinquished to the State governments respectively.

3. The Governors and the members of Legislatures in the different States, and all collecting officers, now in commission, and heretofore charged with the collection of the federal dues of any kind, will be individually held responsible in their persons and property for the collection and full payment of this assessment—one twelfth monthly, at the usual State capitals respectively, or other place or places, within the same, as may be appointed by the United States commander within each State.

4. The assessment on each State that may hereafter be occupied as above, shall be considered as due from the first day of the month within which the occupation may take place, in order to avoid all calculations founded on days less than a month. Hence no credit will be allowed a State for any payment previously made to the Federal Government, or its officers, for any part of a month within which the State shall have been occupied by the American forces. In the States already so occupied, the assessments will be considered as having commenced with the present month, and be demanded accordingly.

5. In payment of the money assessment, any State may substitute, in whole or in part, at a fair valuation, with the consent of the United States commanding officer therein, such articles of subsistence and forage as may be found convenient to the two parties.

6. On the failure of any State to pay its assessments, its functionaries, as above, will be seized and imprisoned, and

their property seized, registered, reported, and converted to the use of the occupation, in strict accordance to the general regulations of this army. No resignation or abdication of office, by any of the said Mexican functionaries, shall excuse one of them from any of the above obligations or penalties.

7. If the foregoing measures should fail to enforce the regular payment, as above, from any State, the commanding officer of the United States forces, within the same, will immediately proceed to collect, in money or in kind, from the wealthier inhabitants, other than neutral friends, within his reach, the amount of the assessment due from the State—taking care, always, to make the collection as equitably and savingly as practicable, and to report the amount forcibly levied to the next superior officer of this army. Any waste, or wanton injury committed in these operations, as well as all fraud and corruption, shall be rigorously prosecuted before a tribunal of the army.

8. With a view to a rigorous accountability, receipts in payment of assessments, whether in money or in kind, (the latter expressed in money, according to valuation,) will be signed by some quartermaster, commissary, or paymaster of this army, named by the commanding officer within a State, and be duly attested by the latter, who will also keep a register of all such payments. The amount of those payments and of forced levies, will be reported monthly, to general headquarters, as well as to Washington. (see General Orders, No. 366, of the 6th instant,) both by the receivers and the attesting or commanding officers within the several States.

9. The usual dues, heretofore levied on the precious metals, in the interior, by the Federal Government of Mexico, will be continued and collected for the military chest of this army. Commanding officers near the mines, assay offices, and mints, respectively, will inquire and report to general headquarters on the subject; but, until further orders, the following rates will be exacted:

10. On *production* of both gold and silver, three *per centum;* on *melting*, two dollars and fifty cents for every one hundred and thirty five marks—the mark of eight ounces; on *assaying*, one dollar the bar, for bars of silver, or one dollar and fifty cents each for bars of gold, or of gold and silver mixed, and on *coinage* the *percentage* on both metals heretofore paid by the Mints, respectively, according to contract with the Mexican Government. Those contracts in every case will be particularly examined. The one *real* per mark, on both gold and silver, heretofore paid to the College of Mines, in this city, is relinquished to that scientific institution, and may be collected as usual.

11. It is understood that the collection of the dues on production, melting, and assaying, may be made at the assay offices, and they will be demanded and received accordingly. The *percentage*, on coinage, will be collected for this army at the Mints. At both places officers of intelligence and accurate habits of inspection, will be appointed, from time to time, to give the necessary attendance.

12. The like penalties, receipts, attestations, registries and reports are prescribed, in respect to dues on the precious metals, as are prescribed above, for other contributions, in money or in kind; and the former will commence also at the same periods and under like circumstances; that is, in the Mexican States already occupied by the American forces from the first instant, and in the other States from the beginning of the months within which the States shall, respectively, be entered and occupied.

13. The American troops, in spreading themselves over this Republic, will take care to observe the strictest discipline and morals in respect to the persons and property of the country—purchasing and paying for all necessaries and comforts they may require, and treating the unoffending inhabitants with forbearance and kindness. The higher honor of our country, as well as the particular honor of this army, must and shall be maintained against the few miscreants in our ranks. The few cannot be permitted to dishonor the whole mass of our citizens and soldiers at home and abroad. The miscreants must therefore be watched, and for every offense, denounced and sent before the proper tribunals for exemplary punishment. This is required of every good officer and soldier. Men, free at home, must maintain the honor of freemen when abroad. If they forget *that*, they will degrade themselves to the level of felons and slaves, and may be rightfully condemned and treated as such; for felons, according to the laws of God and man, are *slaves*.

14. The laws of war will also be strictly observed towards all Mexicans in arms, who respect those laws. For the treatment of those atrocious bands of *guerrilleros* and armed *rancheros*, see General orders No. 372, dated the 12th inst.

By command of Major General SCOTT:
H. L. SCOTT, A. A. A. G.

In these orders we discover not only administrative talent, legal acumen, a thorough geographical acquaintance with the country, its commerce and its revenues, but a system adopted for the levying, collection, safe-keeping, and disbursement of revenue, that any committee of ways and means might be proud to indorse.

I have thus, Mr. Chairman, passed hurriedly over the last chapter of the military career of this distinguished statesman soldier. It is full of interest, and when the passions and prejudices of the political factions of the present generation shall have died away, and the unbiassed historian shall come to garner the virtues of the illustrious dead, he will regard the life and services of this eminent man as among the choicest legacies left the country. Yes, sir, millions of freemen yet unborn, will lisp forth his praise and emulate his deeds. The battle of Niagara will be remembered as long as the great lakes of the North continue to pour their waters over the mighty cataract. From Vera Cruz and Cerro Gordo may be seen the snow mountains of Orizaba and Popocatapelt, which overlook the valley of Mexico. When the winds and rains shall have destroyed these, then will the fame of the great warrior, whose victorious battle-fields lie at their base, be forgotten.

Now, Mr. Chairman, permit me to say, in conclusion, that I am a Democrat of the straitest sect; that I am so from principle, and have been so long that my memory fails me in the time I first espoused the faith of Democracy; that in the recent canvass I traveled, wrote, and spoke against the election of General Scott to the Presidency; and further, that I will yield the palm to no one that lives, in zeal and love for the principles of the great Democratic party. Yet, sir, I shall vote for this resolution; and in doing so, I violate, as I conceive, no principle of Democracy. Moreover, sir, I shall regard it as one of the most meritorious acts of my life; one, the magnanimity of which my constituents will applaud, as well as every genuine son of the camp and country. One word more. The adoption of this resolution may afford some capital for the demagogue and political bigot. Of them I ask no favor nor meed.

Mr. POLK. I had intended, if the opportunity was afforded me, to discuss the Cuban question, introduced by the gentleman from North Carolina; but as a new element has been brought into the debate by the gentleman from Mississippi, [Mr. WILCOX,] I ask the indulgence of the committee for time to arrange what I may have to say in reply, and therefore move that the committee do now rise.

Mr. HOUSTON. If the gentleman will permit me I will move that the bill under consideration be laid aside to be reported to the House, and that the bill to supply deficiencies in the appropriations be taken up.

The CHAIRMAN. If this bill be laid aside and another taken up, and the point of order were raised, the Chair would be compelled to decide that the gentleman from Tennessee, by yielding for that purpose, lost his right to the floor.

Mr. POLK. In that case I beg to decline yielding.

The motion that the committee rise was then agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had, according to order, the state of the Union generally under consideration, and particularly House bill No. 329, making appropriation for the payment of naval pensions for the year ending the 30th of June, 1854; and House bill No. 330, making appropriations for invalid and other pensions of the United States for the year ending the 30th of June, 1854, and that he was directed to report the same back to the House, with a recommendation that they do pass; and that the committee had had under consideration House bill No. 332, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854, and had come to no resolution thereon.

Bills Nos. 329 and 330 were then severally ordered to be engrossed for a third reading; and having been engrossed, were read the third time, and passed.

CIRCULATION OF SMALL NOTES.

Mr. FICKLIN. I ask the unanimous consent of the House for leave to report from the Committee on the District of Columbia a bill to suppress the circulation of small notes in the District of Columbia.

[Cries of "Agreed!" "Agreed!"]

Mr. JONES, of Tennessee. I move that the bill be referred to the Committee of the Whole on the state of the Union, and printed; and that it be made the order of the day for Tuesday week, and that it so continue from day to day until disposed of.

Mr. HOUSTON. I object to making it the special order.

Mr. JONES. I move, then, to suspend the rules, that the motion may be submitted. I wish to see who are for having these shinplasters in existence in this District.

The question was then taken, and the rules were suspended.

Mr. JONES. I now submit my motion that this bill be printed, and made the special order for Tuesday of next week, and that it be so continued from day to day until disposed of. I call the previous question.

Mr. JOHNSON, of Georgia. I desire the gentleman from Tennessee to withdraw the motion for the previous question. I am not in favor of shinplasters, but I am opposed to making this a special order.

Mr. JONES. We can never get it up unless we do.

Mr. HOUSTON. I would like the gentleman from Tennessee to modify his motion in this respect, that it remain the special order for two days, so as to force the House to take some action upon it; the House can then in that time get through with it.

The previous question was seconded, and the main question ordered.

The question was then taken upon Mr. JONES's motion, and it was decided in the affirmative.

So the bill was ordered to be printed, and made the special order for Tuesday week.

Mr. JONES moved to reconsider the vote just taken, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

AMERICAN COLONIZATION SOCIETY.

Mr. CHANDLER. I ask the unanimous consent of the House to offer the following resolution

Resolved, That the use of this Hall be granted for the anniversary of the American Colonization Society, the 18th instant, at seven o'clock, p. m.

Mr. JONES, of Tennessee. I object.

Mr. CHANDLER. I move to suspend the rules for the introduction of the resolution.

On motion by Mr. McMULLIN, the House then adjourned till to-morrow at twelve o'clock, m.

NOTICE OF BILLS.

Mr. SIBLEY gave notice of his intention to ask leave to introduce a bill, granting to the States of Louisiana, Arkansas, Missouri and Iowa, and to the Territory of Minnesota, the right of way and a portion of the public lands to aid in the construction of a railroad from New Orleans to the northern boundary of said Territory, with a branch to the Falls of St. Anthony.

Also, of a bill making an appropriation for the removal of obstructions in the Mississippi river above and immediately below the Falls of St. Anthony, and in the Minnesota river.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. MOORE, of Louisiana: The petition of Daniel Newton and 141 other settlers on the public lands known as the "Bastrop Grant" in Louisiana, praying for relief.

Also, the petition of Isaac Huddleston and 57 other citizens along the route, for a post road from the mouth of Red river to Huntsville, Texas.

By Mr. STEVENS, of Pennsylvania: The petition of Mr. Peter Keifer, for an increase of pension on account of wounds.

By Mr. IVES: The petition of Smith Bartlett and 224 others, citizens of Cape Vincent and vicinity, for breakwaters in the harbor of Cape Vincent, New York.

By Mr. GAYLORD: The petition of Arthur H. Chevalier and 55 others, citizens of Washington county, Ohio, asking for a post route from Barlow Cross Roads through Belpreville to Belpre post office, on the Ohio river, Washington county, Ohio.

By Mr. HENN: The petition of Jesse Rickman, asking for the establishment of a mail route from Newton, in Jasper county, Iowa, via Timber Creek to Mariette, in Marshall county, in said State.

By Mr. DISNEY: The memorial of Ralph Reeder, in relation to the use of his instrument to obviate the defects of the magnetic needle.

IN SENATE.

TUESDAY, *January* 4, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The Hon. S. R. MALLORY, from the State of Florida, appeared in his seat to-day.

CLERK TO THE PRESIDENT OF THE SENATE.

Mr. BADGER. I hope, Mr. President, that there will be no objection in any quarter of the Senate to permitting me now to offer a little resolution. And I am sure, when I say it concerns the convenience, and will gratify the feelings of the very estimable and excellent gentleman who is now the Vice President elect of the United States, and whose ill-health is carrying him from our shores for a season, we trust to return with renovated strength to take his place permanently, as the Presiding Officer of this body;—when I say the prompt consideration, and immediate adoption of this resolution, will gratify this most excellent gentleman, I trust there will not be the slightest objection in permitting it to pass immediately.

There being no objection, the resolution was considered, and agreed to, as follows:

Resolved, That the Clerk of the President of the Senate be continued, at the usual rate of compensation, until the further order of the Senate.

PETITIONS, ETC.

Mr. JONES, of Iowa, presented the petition of the children and heirs of William Van Wart, praying to be allowed land and arrears of pension to which they allege their father was entitled for services in the revolutionary war; which was referred to the Committee on Pensions.

Mr. SEWARD presented a petition of citizens of Buffalo, New York, praying that the bill giving further remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Mr. STOCKTON presented a petition of citizens of Newark, New Jersey, praying that the bill giving further remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Also, a memorial of citizens of Philadelphia county, Pennsylvania, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. HAMLIN presented a petition of merchants, shipmasters, and others, re iding in the Belfast collection district, praying the erection of a custom-house building at Belfast, Maine; which was referred to the Committee on Commerce.

Mr. WELLER presented a petition of citizens of Humboldt Bay, and its vicinity, California, praying that Humboldt Bay may be made a port of entry; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. RUSK, it was

Ordered, That the report of the Solicitor of the Treasury, in relation to the claim of Joseph Nock, communicated to the Senate the 22d December, be referred to the Committee on the Post Office and Post Roads.

On motion by Mr. RUSK, it was

Ordered, That the petition of Anna Norton and Louis Foskit, heirs of Zephaniah Ross, on the files of the Senate, be referred to the Committee on Pensions.

REPORT FROM A STANDING COMMITTEE.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Thomas Allen, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Printing; which was agreed to.

FALLS OF THE OHIO.

Mr. UNDERWOOD. It will be recollected by the Senate that my late colleague, [Mr. Meriwether,] during the last session of Congress, offered some resolutions, and I believe at his instance an appropriation was made for the survey of the Falls of the Ohio, by a board of officers appointed for that purpose. That work has been nearly completed. I have in my hands a resolution, which I wish to offer, calling for a copy of their report, and I hope the Senate will adopt it. I am rejoiced that the service has been rendered by my then associate and colleague, and I think the information obtained will entitle him to the thanks of the country, for being the instrument by which it has been procured. I offer the following resolution:

Resolved, That the Secretary of War be, and he is hereby, directed to communicate to the Senate a copy of the report of the board of officers recently appointed to make a survey and examination of the various plans for canals around the falls of the Ohio river, and the enlargement and extension of the present canal, as provided for by the act of Congress "making appropriations for the improvement of certain harbors and rivers," approved August 30th, 1852.

The resolution was considered by unanimous consent, and agreed to.

IMPROVEMENT OF PROVIDENCE HARBOR.

Mr. CLARKE, by unanimous consent, asked and obtained leave to introduce a joint resolution, explanatory of an appropriation for the improvement of the mouth of the Sekonk river, in the harbor of Providence, Rhode Island; which was read a first time, and passed to the second reading.

Mr. CLARKE. I would now ask as a favor from the Senate, that they would immediately consider that resolution; and if there is no objection to its consideration, I will state very briefly the circumstances rendering it necessary. In the river and harbor bill of last session there was an appropriation made in these words: "For removing a rock from the mouth of the Sekonk river, in the harbor of Providence, Rhode Island, $5,000." Upon examination no such rock has been found there; but there is, at the mouth of that river, where it joins the harbor of Providence, and connects with two rivers that come into that harbor, a place that is known by the name of "the Crook." That is formed by the joining of the two rivers in the stream, and at that place is the mouth of the Sekonk river, where, by the terms of the appropriation, a rock was to be removed. Upon examination no such rock has yet been found; but this space is very much obstructed by the deposits which have been made from the two rivers centering there. The object of this resolution is to allow the appropriation of $5,000 to be used for the clearing out of that "crook," which was the intention, and not to have it appropriated exclusively to the removal of a rock. There may be a rock, but none has yet been found.

I will observe in this connection, that in the river and harbor bill that was passed by the House of Representatives, and came to the Senate in March, 1851, there was an appropriation of $5,000 for the improvement of the harbor of Providence, and removing a rock. In the last bill, by some influence or instrumentality with which I am not acquainted, that appropriation was differently worded, I presume by mistake, and was made to apply to the removal of a rock, instead of the removal of obstructions in "the crook" in the harbor of Providence. It was designed for the same purpose. This joint resolution is merely explanatory, and allows the sum appropriated to be expended in the clearing out of "the crook," instead of removing the rock in the harbor of Providence. I presume there will be no objection to it, and I therefore ask for its consideration now.

There being no objection, the resolution was read a second time, and considered as in Committee of the Whole. No amendment being proposed, it was reported without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

NAVY AND INVALID PENSIONS.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the following bills:

"An act making appropriations for the payment of Navy pensions for the year ending the 30th of June, 1854."

"An act making appropriations for the payment of invalid and other pensions of the United States for the year ending the 30th of June, 1854."

The two bills were severally read a first and second time by their titles, and referred to the Committee on Finance.

COLONIZATION IN NORTH AMERICA.

Mr. CASS. Agreeably to the notice I gave yesterday, I desire to submit the following joint resolutions:

Be it resolved, &c., That the United States do hereby declare that "the American continents, by the free and independent condition which they have assumed and maintain, are henceforth not to be considered as subjects for future colonization by any European Power." And while "existing rights should be respected," and will be by the United States, they owe it to their own "safety and interests" "to announce, as they now do, that no future European colony or dominion shall, with their consent, be planted or established on any part of the North American continent." And should the attempt be made, they thus deliberately declare that it will be viewed as an act, originating in motives regardless of their "interests and their safety," and which will leave them free to adopt such measures as an independent nation may justly adopt in defense of its rights and its honor.

And be it further resolved, That while the United States disclaim any designs upon the Island of Cuba, inconsistent with the laws of nations and with their duties to Spain, they consider it due to the vast importance of the subject, to make known in this solemn manner, that they should view all efforts on the part of any other Power to procure possession, whether peaceably or forcibly, of that Island, which as a naval or military position must, under circumstances easy to be foreseen, become dangerous to their southern coast, to the Gulf of Mexico, and to the mouth of the Mississippi, as unfriendly acts, directed against them, to be resisted by all the means in their power.

Mr. President, I have no design at all to call the subject up at present. I wish to let the resolutions lie, and take their regular course, and I merely wish to say, for the information of the Senate, that the quotations marked as such in these resolutions, are taken from the messages, respectively, of Mr. Monroe and Mr. Polk.

The resolutions were read a first time, passed to a second reading, and ordered to be printed.

ANÆSTHETIC PROPERTIES OF ETHER.

On the motion of Mr. SMITH, the Senate took up for consideration the memorial of the representatives of Charles T. Wells, which was yesterday laid upon the table.

Mr. SMITH. I made a motion yesterday to refer the memorial to a select committee, but on consultation with my friend and colleague, I have concluded to withdraw that motion, as I suppose I am at liberty to do. The question will then recur upon the motion to refer it to the Committee on Military Affairs, to which I am willing that it shall be sent.

Mr. TOUCEY. I have no objection whatever to refer this memorial to the Committee on Military Affairs. I have great confidence in the members of that committee. The question which is now presented, however, is a different one from that which was presented at the last session of Congress. Then it was rather a question of appropriation; now it is a question of priority of discovery; and that should appropriately go, if it be referred to a standing committee, either to the Committee on Patents or to the Committee on Claims. I should have no objection to this memorial going to either of those committees; but at the same time, as the subject is now before the Committee on Military Affairs, I shall acquiesce fully in its reference to that committee.

Mr. ADAMS. It occurs to me, that as a portion of the question is already before the Military Committee, all the matters arising upon the question should go to that committee. I think, however, that there is a slight misapprehension in regard to this subject. The only question, as I humbly conceive, which should be considered by the Congress of the United States, is in regard to the use of rights secured by a patent. As to the power and the right of this body to make appropriations for a discovery, I have never voted, and never shall vote, one dollar for such appropriations. Whoever may have made this discovery, is a matter wholly immaterial to us. Congress has established the proper officers to determine that question as to the priority of discovery, and as to the rights secured by that discovery under the Constitution and laws of the United States. The proper question, as I conceive, before the committee, and which will arise before Congress, is as to the use by the Government of rights secured under a patent. If there has been fraud in obtaining a patent, on the part of Dr. Morton, or any one else, of course any person injured has a right to go before the courts and have the matter investigated in a manner in which Congress never can investigate it. We are to presume, until the contrary appears, that our officers do their duty. If any one has obtained a patent fraudulently, let those interested in the question file their bills in the proper tribunals, and have the patent set aside. The only question which can properly arise before this body is, whether the Government is using rights secured under a patent legally and properly granted by its officers? We cannot, according to my conception, go beyond that question. When we come to look upon it as it really exists, and as we ought to act upon it, it must be narrowed down to that simple point, whether or not we, in violation of the rights of an individual who has obtained a patent, are using it. If parties have been injured, let them go to the proper tribunals. This body never can investigate their rights as it ought to be done. I think, however, that as some memorials on the subject have been referred to the Committee on Military Affairs, the whole question should go before that committee.

Mr. SHIELDS. Mr. President, there is a great deal of force in what my honorable friend from Mississippi has said. I believe that the motion now pending is to refer this memorial to the Committee on Military Affairs. As chairman of that committee, and having consulted with most of its members, I shall ask that that reference be not made. While this was a mere question of whether the Government should remunerate the discoverer for the use of his discovery in the Army and Navy, it was appropriate for the Military Committee; but now the question to be determined is a scientific one—who was the discoverer? We cannot investigate that. It is not within our province. It ought to be investigated in some other way. We had no hesitation in the world, believing that Dr. Morton was the discoverer—and

it is my opinion still, after the investigation I have bestowed upon the subject, that he is the discoverer—in proposing that the Government should make some allowance for the use which it had made of the discovery in the Army and Navy; for it is one of the most beneficent discoveries ever made. But now the question is, Who was the discoverer? We have no desire to investigate that question; nor is it any portion of the duties of our committee to investigate it. I hope the memorial will be referred to a select committee; and I make that motion. I made the same motion yesterday, and I then proposed, in order to relieve the Chair, that the committee should be chosen by the Senate. To-day, after consulting with some of my friends, I renew the motion that a select committee of five be appointed, to which the whole subject shall be referred, and that the committee be appointed by the President of the Senate.

The PRESIDENT. The question must first be taken on the motion to refer the memorial to a standing committee.

Mr. SHIELDS. I hope the Senator will withdraw that motion.

Mr. SMITH. I did not make the motion. It was made yesterday by the honorable Senator from Arkansas.

Mr. BORLAND. In accordance with the decision of the Committee on Military Affairs this morning, in which I concur, I withdraw the motion to refer the memorial to that committee. I agree with the chairman, that, under the circumstances, it would be better to have this matter referred to a select committee, and I think that committee had better be appointed by the Chair. I would have perfect confidence in his judgment.

Mr. WALKER. I would inquire of the chairman of the Committee on Military Affairs whether his motion embraces all that he desires? The petitions of physicians of Boston, and evidence taken in support of them, are now before the Committee on Military Affairs. Would it not be necessary to report back those petitions, and to have the committee discharged from their further consideration, and then to have the whole subject referred to a special committee?

Mr. SHIELDS. I shall make no motion to refer the memorial to a select committee, for I understand that it is usual to place the mover of such a proposition upon the committee, and I have no desire to be placed in such a position. I will not therefore make any such motion, but I will request that some Senator make the motion, and that the President appoint the select committee, and then we can refer the whole subject to that committee.

Mr. WALKER. I cannot see that the explanation of the Senator from Illinois obviates the difficulty. If the motion for a select committee should now prevail, all that can be referred to that committee is what is now before the Senate. In order that the committee may have its own views of proceeding in this matter carried out, I will move, as suggested by the Senator from Illinois, that a select committee of five be appointed by the Chair, to whom the petition now under consideration may be referred, and then it will be for the Committee on Military Affairs to take its own course in regard to the other portion of the subject-matter which has already been referred to them.

Mr. DAVIS. Mr. President, I presented the memorials which have been so much commented upon, and I had them referred to the committee on Military Affairs, because that committee had had charge of the subject at the last session, and not because I supposed they had any particularly favorable ear to them; but my belief was that they would deal with the subject impartially. I desire nothing else. I am satisfied with any disposition which shall secure for the subject an impartial hearing. I have no distrust of any of the committees of this body. They have my confidence; and I shall very cheerfully acquiesce in submitting the subject to the consideration of any one of them which may be designated. I make these remarks simply to say that, for the petitioners whose petitions I presented, all I desire is a fair and impartial hearing. I have no doubt we shall get that from the Military Committee. I thought that was the appropriate committee, and therefore I sent those memorials to them; but, if the judgment of the Senate be otherwise, I shall acquiesce in that judgment with great cheerfulness.

The PRESIDENT. The question is on referring the petition of Charles T. Wells to a select committee of five, to be appointed by the Chair.

Mr. CHASE. I suppose the proper course of proceeding under the rules is, that the proposition to raise a select committee should be first passed. The appointment of the committee, I suppose, devolves on the Senate under the rules, unless by unanimous consent that duty be awarded to the Chair.

The PRESIDENT. The proposition is a compound one, and a division can be asked.

Mr. CHASE. Yes, sir; but I wish the case decided under the rule. I have no objection to the appointment of the committee by the Chair. I merely rose for the purpose of having the order of business preserved.

The PRESIDENT. The question will then be on the motion to refer the memorial of Charles T. Wells to a select committee of five.

Mr. HALE. Does not the rule require that the question shall be first taken on a motion to refer to a standing committee?

The PRESIDENT. It does; but that motion has been withdrawn.

Mr. HALE. I renew it, and for this reason: I am apprehensive that if a select committee be appointed, we shall not get a report during this session. These claimants have been here some five or six years—from the beginning of the Twenty-ninth or Thirtieth Congress. This session is now more than one third through. I was in favor of a special committee yesterday, but I am now satisfied, after consulting some gentlemen, that if a select committee be raised, we shall not get a report this session. I therefore move to refer the memorial to the Committee on Military Affairs.

Mr. BADGER. We shall be more likely to get a report during the session from a select than from a standing committee.

Mr. SHIELDS. I hope my friend will withdraw his motion. Every member of the Committee on Military Affairs is indisposed to act upon this question. I hope, therefore, he will not force us to act upon it.

Mr. JONES, of Tennessee. I concur in the wish expressed by the Senator from Illinois. I am a member of the Committee on Military Affairs, and I should regret exceedingly, under the circumstances that surround us, to be required to take charge of the question again. No matter what report we might make, it could not, and would not be satisfactory to all the claimants; and it seems to me that, under the circumstances, we would expose ourselves to imputations which no honorable gentleman ought to be willing to bear. It is upon that ground that I am opposed to the reference of the memorial to the Committee on Military Affairs. I hope it will be sent to a special committee, and that we may be relieved from the further investigation of it.

Mr. BADGER. I concur entirely in the suggestion made by the two Senators who have just spoken. I see no propriety in forcing this subject upon the Committee on Military Affairs, when every member of that committee is opposed to having it under their consideration. They have acted upon it once, and I see no particular connection which that committee have with this subject to make it imperative on the Senate to send it to them. It seems to me that the Senator from New Hampshire is mistaken in supposing that by referring the matter to the Committee on Military Affairs, we shall facilitate the getting of a report. I think that if a select committee be appointed, we shall probably get a report sooner, and a more satisfactory one, than by referring it to the Committee on Military Affairs, for it is well known that that committee has a great deal of business to attend to.

Mr. HALE. I want to inquire of the Senator from Arkansas whether he, as a member of the Committee on Military Affairs, has not already made some progress, and taken some steps in the investigation of the memorials presented by the Senator from Massachusetts?

Mr. BORLAND. I will answer the Senator, by saying that the Committee on Military Affairs have had but two meetings since the subject was referred to them, and at the meeting of last week, it was referred to me as a sub-committee. It was brought before the committee this morning, in consequence of yesterday's debate, and the unanimous decision of the committee was, that we should object to a further reference of the subject to us, and should ask its reference to a select committee.

Mr. HALE. Then I withdraw my motion.

The proposition to refer the memorial to a select committee was agreed to.

The PRESIDENT. The question now is on the motion that the Chair appoint the committee.

Mr. HALE. Does not that require unanimous consent?

The PRESIDENT. The Chair thinks not.

Mr. HALE. If it does, you cannot have it. If it does not, you can have it.

The PRESIDENT then put the question, and no one voting in the negative but Mr. HALE, the motion was declared to be carried.

Mr. HALE. I would refer the Chair to the 35th rule.

The PRESIDENT. That rule will be read.

The Secretary accordingly read the rule, as follows:

"35. In the appointment of the standing committees, the Senate will proceed, by ballot, severally to appoint the chairman of each committee, and then, by one ballot, the other members necessary to complete the same; and a majority of the whole number of votes given shall be necessary to the choice of a chairman of a standing committee. All other committees shall be appointed by ballot, and a plurality of votes shall make a choice. When any subject or matter shall have been referred to a committee, any other subject or matter of a similar nature may, on motion, be referred to such committee."

The PRESIDENT. The Chair is of the opinion that under this rule the committee must be appointed by ballot, if there be objection.

Mr. MANGUM. I hope the objection will be withdrawn.

Several SENATORS. Withdraw it.

Mr. HALE. As the Chair has ruled that I was right, and as that is all I wanted, I withdraw the objection.

Mr. BORLAND. I am directed by the Committee on Military Affairs, to which were referred two memorials from physicians and surgeons of Massachusetts, in reference to this subject, to report them back, and ask to be discharged from their further consideration. In doing so, I deem it but just to the subject and the committee to read the memorials, which consist of about half a dozen lines each. The first is in these words:

"*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

"The undersigned hereby testify to your honorable body, that in their opinion, Dr. William T. G. Morton first proved to the world, that ether would produce insensibility to the pain of surgical operations, and that it could be used with safety. In their opinion, his fellow men owe a debt to him for this knowledge. Wherefore, they respectfully ask a recognition, by Congress, of his services to his country and mankind."

Then follow the names of surgeons and physicians of the Massachusetts General Hospital, in which I find the names of John C. Warren, George Hayward, S. D. Townsend, Jacob Bigelow, Oliver Wendell Holmes, and other surgeons and physicians of like character, the respectability of whom will be vouched, no doubt, by the Senators from Massachusetts, and who are known, not only to the United States, but to the whole medical world. Then come the names of the Consulting Board of the Massachusetts General Hospital, four in number; then the officers and surgeons of the Massachusetts Charitable Eye and Ear Infirmary, and after them a surgeon of the Navy; then we have the names of over one hundred members of the Massachusetts Medical Society; and at the head of whom we find Dr. Walter Channing and John Homans.

The other memorial is in these words:

"The subscribers respectfully represent that they are members of the Board of Trustees of the Massachusetts General Hospital; that the power of the inhalation of sulphuric ether to produce insensibility to pain, in surgical operations, was discovered by experiments instituted at this hospital, by Dr. William T. G. Morton; and that in their opinion, he is entitled to a liberal national reward for the service thus rendered to the country and to mankind."

This is signed by Dr. Bigelow, Dr. Ballard, and other physicians and surgeons of a similar character.

The motion to discharge the Committee on Military Affairs was agreed to, and the memorials were referred to the select committee raised on the subject.

COLONEL JOHN C. FREMONT.

Mr. SHIELDS, from the Committee on Military Affairs, reported a bill for the relief of Colonel John Charles Frémont, late lieutenant colonel

in the Army of the United States; which was read a first time, and ordered to a second reading.

Mr. SHIELDS. If there be no objection, I would ask for the second reading of the bill now. I will state that at the last session of Congress, a law was passed providing for the establishment of a board to adjudicate claims arising in relation to California. A board was established in pursuance of that law, consisting of Colonel Smith, Colonel Lee, and Major Thomas. They have reported in favor of the claims which are enumerated in this bill—four bills of exchange, which were drawn by Colonel Frémont upon the Secretary of State, and for which he is now sued in a court in London: and judgment, perhaps, has been rendered by this time. The object of the bill reported from the committee is to direct the Secretary of the Treasury to discharge the judgment that has accrued upon those bills. I hope I am understood by the Senate. The board has reported favorably in relation to these claims. Colonel Frémont has been sued in London for them, and judgment has been rendered against him by this time. I have here the affidavit of counsel which appeared in the court in London, properly authenticated, showing that the suit was instituted upon these four claims. The board has approved of those claims, and now, in pursuance of that report, the committee have directed me to report this bill, so as to give Colonel Frémont indemnity for this injury.

No objection was made, and the bill was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to liquidate and satisfy the judgment, damages, costs, and expenses of the defense, which have been recovered or may be recovered against Lieutenant Colonel Frémont by Anthony Gibbs & Sons, assignees of J. Hütman, in her Majesty's Court of the Exchequer at Westminster, on four several bills of exchange, drawn by Colonel Frémont, in Upper California, March 18, 1847, amounting in all to $19,500, in favor of one J. Hütman, for moneys advanced for the public service, said bills having been drawn on James Buchanan, Secretary of State, and payment refused for want of an appropriation out of which to make it—Colonel Frémont being sued in London for the same.

Mr. BRODHEAD. I would inquire of the chairman of the Committee on Military Affairs who reported this bill, whether the sum of $19,500 is intended to cover the costs and expenses of the defense? I did not understand the bill very distinctly, and I wish to know, therefore, whether the appropriation made by the bill provides for all the costs and expenses of the defense?

Mr. SHIELDS. I cannot tell what the expenses and costs may be. The $19,500 constituted a claim upon which the suit was brought and judgment rendered. What the amount of the judgment may be, I cannot tell; I have no evidence upon that point before me. The object of this bill is to pay the amount of the judgment, whatever it is, which has been brought upon this claim, estimating from the commencement of the case.

Mr. BRODHEAD. I have no objection to the payment of these bills of exchange. I think the Government should pay them; but I think we should make some limitation, and should make some provision with regard to the outstanding expenses, which, in many cases, are very great.

Mr. SHIELDS. This bill accomplishes that object. It provides for the payment by the Secretary of the Treasury of the United States of the amount of the judgment obtained upon this claim in London. At this time it is impossible for us to tell what the whole amount of the judgment and costs may be, from the foundation of the claim.

Mr. BRODHEAD. The bill contains the words "expenses of the defense," without saying what those expenses are. I think we ought to know something about that before we agree to pay them. This is a very indefinite mode of expressing the amount, and we know that the employment of such indefinite language in bills often leads to difficulty. I think the bills of exchange and the judgment ought to be paid; the bill should contain some limitation of the amount to be paid.

Mr. GWIN. This bill, as reported by the chairman of the Committee on Military Affairs, has the same words in reference to the appropriation which were employed in a bill in a similar case, that of Colonel Mitchell, who was sued by Mr. Harmony, and judgment obtained against him. In that case, Congress made it the duty of the Secretary of the Treasury to pay the judgment, with the expenses of the defense. This is a precisely similar case. Colonel Frémont raised the money while acting as Governor of California, for the purpose of procuring supplies for carrying on the war. The drafts were drawn on the Secretary of State, and were not paid, because no funds had been appropriated for the purpose. Colonel Frémont has been arrested in England, and cannot leave Great Britain until the sum is paid. We have the affidavits of his attorney that unless the sum is paid within the month of December, now past, he is liable to be put in prison. Of course this case requires immediate action. The Board of Commissioners, appointed at the last session, report that Government is bound to pay this claim. All that the bill is to accomplish, is to pay the expenses incurred, so that Colonel Frémont may be relieved from his present situation. The case is one which will not admit of exorbitant charges being made, as the expense was originally incurred when he had no idea that the Government would relieve him.

Mr. CASS. I would rather the word "Britannic" should be put in the bill before "Majesty" than to have it simply "Her Majesty," as this is an American document.

Mr. SHIELDS. I assent to that.

Mr. CASS. I will ask the Senator from Illinois if this claim is one which was among certain claims before the Military Committee some years ago?

Mr. GWIN. I will answer the Senator. It is the same claim; and has been investigated fully. Colonel Frémont is entitled to be relieved, and should have been relieved long ago.

Mr. BUTLER. I think Colonel Frémont ought to be relieved. I have great confidence in his discretion, and that is the only reason why I shall vote for a bill of this kind—a general bill to relieve Colonel Frémont, or any person who has been sued on account of liabilities growing out of his official duties. A bill so general in its character allows too wide a scope as a precedent. I protest against this as a precedent, so far as my vote is concerned. The case of Harmony has been referred to. I know something of that case. Harmony came before Congress, and was willing to accept $20,000 or $30,000 for his losses. Instead, however, of taking it out of the Treasury of the United States directly by an appropriation by Congress, he sued Colonel Mitchell, and recovered, I believe, $90,000. Colonel Mitchell applied to Congress for indemnity. The expenses incurred by him in defending himself, I have no doubt, were properly incurred; but to say that we will pay the expenses of every one who employs counsel upon the presumption that the Federal Government will be an insurance office, is against all my notions of the security of the Treasury. I have, however, long since given up the idea that any objection I can make will have any effect to guard the Treasury. I shall vote for this bill, exclusively upon the ground that I have confidence in the integrity and discretion of Colonel Frémont.

Mr. SHIELDS. I will state to my friend from South Carolina that this bill does not contemplate general cases of that kind. This case is a very simple one. Colonel Frémont, while in command of the army in California, for subsistence and supplies, drew drafts on the United States Treasury to the amount of $19,500, which were refused to be paid by the Secretary of State for want of an appropriation, and they passed into the hands of these men in London, who have sued Colonel Frémont. Judgment has been rendered against him—for what? Because the Government did not discharge drafts that were drawn upon them in pursuance of his position at that time. The object of the bill is to discharge the judgment, the costs of the suit, and the reasonable and necessary expenses. It is suggested to me to amend the bill by making it read "reasonable expenses, to be determined at the discretion of the Secretary of the Treasury;" and perhaps that had better be done.

Mr. BADGER. I think my friend from Illinois will accomplish his object by striking out the words, "and expenses," where they first occur in the bill. The judgment, damages, and costs, which have been recovered must be paid of course. I propose to insert, then, the words, "and such further expenses as the Secretary of the Treasury may deem reasonable." I think that will remove all objection.

Mr. SHIELDS. I propose to modify the bill so as to read, "to liquidate and satisfy the judgment, damages, and costs recovered, and such expenses as the Secretary of the Treasury shall deem reasonable."

The amendment was agreed to.

Mr. FELCH. I have no objection to the bill as I understand it; but I wish to make a single inquiry, to see how far the principle is to be carried. I wish to inquire of the Senator who introduced the bill, whether by passing it, we in any respect sanction those claims which came before us the other day, and are now before the Committee on Military Affairs? I understand that those claims will require much investigation, and will involve a large amount of money. I am not willing to give any sanction to those claims until they have been examined. My inquiry is whether we recognize or preclude them from an examination hereafter by the passage of this bill?

Mr. SHIELDS. By no means. The commissioners appointed to investigate the claims of Colonel Frémont have reported favorably upon these now before us; but upon others before the committee, adverse reports have been made. These claims should have been paid long ago. Colonel Frémont has been sued, and has suffered much in consequence of their not having been paid before.

The bill was reported to the Senate as amended; the amendment was concurred in, and the bill was ordered to be engrossed for a third reading, and was read a third time, and passed.

HIRAM MOORE AND JOHN HASCALL.

On motion by Mr. CASS, the Senate, as in Committee of the Whole, proceeded to consider House bill "for the relief of Hiram Moore and John Hascall." It proposes that there shall be granted to Hiram Moore and John Hascall, citizens of the United States, and to their heirs, assigns, and legal representatives, for the term of fourteen years, from the twenty-seventh day of June, anno Domini eighteen hundred and fifty, the full and exclusive right and liberty of making, constructing, using, and vending to others to be made or used, the improvements for cutting, thrashing, or cleaning grain, which were invented by Moore & Hascall, or either of them, and embraced in the model, drawings, or specifications connected with letters patent granted to them on the twenty-eighth day of June, eighteen hundred and thirty-six, for a machine commonly known as "Moore & Hascall's Harvesting Machine," together with the improvements invented by them, or either of them, in perfecting said machine, or any part thereof, from the date of their original patent, to the day from which the same is hereby renewed and extended. And it proposes to direct the Commissioner of Patents to make a certificate of such renewal and extension, and append an authenticated copy thereof to the original patent, with the proper specifications and claims: Provided, that the patentees shall first pay into the Treasury, to the credit of the patent fund, the fees required by law for the renewal or extension of patents: And provided further, that all rights and interests in the patent heretofore granted or assigned by the patentees, or by their duly-authorized agents, in their name, shall inure to and be enjoyed by such assignees and purchasers thereof, respectively, during the renewed term of said patent, upon the same conditions and to the same extent as for the term that did exist when such sale or assignment was made.

Mr. JAMES had submitted an amendment, to add to the bill the following:

"*Provided*, That any additional claim in said letters patent of 1836, so made and presented to the Patent Office for letters patent, under the provisions of this act, shall be for a patentable improvement or addition, and shall, by this act, in the same manner be open to be contested on the ground of priority of invention or other legal ground."

Mr. BADGER. I should be very sorry to see this amendment attached to the bill, unless there is some important object to be accomplished by it; and I should be very reluctant to see it, for the very obvious reason that, in all probability, whatever may be the merits of the bill, it will cause the bill to be lost in the House of Representatives. There are now two hundred and seventy-three bills in the House which have been passed by the Senate and sent to the House, which are now lying upon the Speaker's table, having never been

touched by that body. I can see nothing which will be accomplished by the amendment, except to express what is the clear and undoubted law of the case, without this being inserted. The proviso is this: "That any additional claim in said 'letters patent of 1836, so made and presented at 'the Patent Office for letters patent under the pro-'visions of this act, shall be for a patentable im-'provement." Under ordinary circumstances, this would be a matter of no great importance; but, for another purpose, the other day, I caused a list to be made out to show the state of the bills which have been sent to the House of Representatives, and I found there were two hundred and seventy-three bills which have been sent from the Senate to the House during the present Congress, which are resting on the table there untouched. Now, here is a proviso that, when the Commissioner of Patents issues the patent for further additional improvements, the additional improvements shall be patentable matters. I look upon it as just as perfectly unnecessary and useless as an express proviso that the patent shall be in the form prescribed by law, and shall have the seal of the United States attached to it. It is to authorize the issuing of a patent for additional improvements. What improvements? Patentable improvements, of course. And why adopt a proviso which says that the improvements shall be patentable?

But, independently of the fact that the proviso is useless, I object to it because it may be mischievous—because it tolerates this proposition, that if Congress direct the extension of a patent including improvements, and stop there, that provision of a private law overturns the whole of our patent system, and authorizes a patent to issue for anything, whether it is patentable or not.

Then look at the rest of the proviso. It goes on: "And shall by this act in the same manner be open to be contested on the ground of priority of invention, or other legal ground." That is evidently and plainly a proviso which accomplishes nothing. Of course the patents issued by this Government, under our general law, convey nothing but *prima facie* rights. The general law provides that they are subject to be contested on the ground of priority of invention, or priority of use. Why put that proviso there? What does it accomplish? Does it do anything except to put the bill in a condition in which it may probably be lost? If the bill be passed with this proviso, it is just what the bill would be passed without the proviso; and why, therefore, should it be incumbered with a proviso which, in any event, does nothing but jeopard its passage through the other House, and is absolutely unnecessary? I presume that, to a legal mind, no proposition can be more perfectly clear, than that without this proviso the bill will speak precisely what it will with it. I hope that as it is considered a meritorious case for the extension of a patent, the Senate will not put a proviso in the bill which will jeopard its passage, when, without the proviso, the bill is just what it is with it.

Mr. SEWARD. I regret that this bill has come up this morning, under the circumstances, in which the question of its passage is raised. As I understand, the amendment was submitted by the chairman of the Committee on Patents, [Mr. JAMES,] and I presume, therefore, it was submitted upon consultation, and by authority of the Committee on Patents. At all events, it was submitted by him, whether by authority of the committee or not I do not know.

Mr. CASS. It was submitted by the Senator from Rhode Island before he was a member of the Committee on Patents, I believe; certainly before he was chairman of the committee.

Mr. SEWARD. The honorable Senator from Michigan is perhaps better informed on that point than I am. I will say, however, that I was requested by the honorable Senator from Georgia, [Mr. DAWSON,] who is a member of the Committee on Patents, to ask, if this bill should come up in his absence, that it might be delayed. And looking around the Senate Chamber for the Committee on Patents, I find that, when this bill, which has excited a good deal of interest, and which is undoubtedly of a good deal of importance to the parties soliciting its passage, and which we must all see has considerable bearing upon the interest of citizens of the United States, is brought before the Senate, the chairman of the Committee on Patents is absent; I find that the honorable Senator from Georgia, [Mr. DAWSON,] who is a member of the committee, is absent also; and every Senator on that committee is absent, except the Senator from Connecticut, [Mr. SMITH.] I have therefore to state, at the instance of the Senator from Georgia, that he desires, for some reason of his own which he thought sufficient, to ask that this bill might lie over until his return. He went away to spend the holidays, and has not yet returned.

With regard to the amendment, it is true, as the Senator from North Carolina has said, that the bill contains exactly all that the bill with the amendment would contain on that subject. I presume that, according to the decisions of the courts, anything which would be patented under the directions of this law would be open to investigation without the amendment as much as it is with it. But this bill has a feature to which I will call the attention of the Senate. On looking for the cause of solicitude on the part of the Senator from Rhode Island for the passage of this amendment, I discovered what seems to me to have been the ground he had for offering it. It is this: that this is not the simple case of the renewal of a patent. The bills which we have been accustomed to pass, have been extensions rather than renewals; but the patent in this case was granted to Hiram Moore and John Hascall sixteen years ago, for a threshing machine. This bill proposes to extend that patent, and so far, it is in conformity with our past legislation. But as I understand the bill, it goes further, and proposes, while extending a patent which has been already granted by legislation, to direct a new patent to be issued or an extension to be granted for alleged improvements which were never patented. If I am wrong I shall be glad to be corrected.

Mr. BADGER. That is so.

Mr. SEWARD. Here, then, is a patent "for a machine, commonly known as 'Moore and Hascall's Harvesting Machine,' together with the improvements invented by them, or either of them, in perfecting said machine, or any part thereof." These improvements have never been patented. Now, from what time are they to be patented? According to this bill, from the time of the date of the original patent, which may have been two, four, ten, or fourteen years before the new inventions were made. I presume that no such legislation has ever occurred in the Congress of the United States. I do not know that any such legislation has ever occurred in the British Parliament from which we have derived our system of legislation for the protection of inventions. I start at the idea of directing a patent not only to be issued for improvements which were patented, but for others, supposing them to be patentable, and which could have been patented at the time of the invention, and then antedate the patent for the improvements to a period before the invention was made. I have never seen any reason for this. But where there has been a neglect or omission to obtain a patent for improvements, within the time prescribed by law, that is a circumstance which addresses itself to the sense of equity of the Senate. But I am not sufficiently informed with regard to the circumstances, nor with regard to the bearing of this amendment upon other parties who may claim patents for improvements, to be able to give my vote for it. I suppose that the Senator from Rhode Island who proposed the amendment, thought that it was necessary to guard against the dangers which might result from the passage of the bill in its present form. I do not know whether the Committee on Patents will recommend to the Senate to pass this bill with the amendment, nor whether they will recommend to the Senate to pass it without the amendment. It seems to me, therefore, that we are in danger of going on with a matter of very considerable interest to individuals and considerable interest to the public, without sufficient information. I bring these facts before the Senate for the purpose of basing upon them a motion which I shall make to have this matter laid over until the return of the Senator from Georgia.

Mr. BADGER. I will say a word or two with reference to what has been suggested by the honorable Senator from New York. In the first place, as I understand this matter, we are to observe, that by the very nature of the discovery in this case, it is taken out of the ordinary class of patentable inventions. It is a harvesting machine; and experiments for perfecting it can only be made when there is grain to be harvested; and it necessarily requires that years shall pass away, the party availing himself of the recurring seasons which each year affords, to test his new discoveries, or supposed new discoveries, and reduce them into a practicable form. What, therefore, would be an unreasonable delay in the case of an invention which could be tried from day to day, and depended not upon any particular season, nor the presence of a particular crop, is a very reasonable one in this case.

So much as to the bill independently of the suggestion made by the Senator from New York with regard to the fact that there might be some oversight in taking out the patent. But it has been suggested, that as this patent is to issue for improvements which have been made, and which will be dated back to the time when the original patent was granted, it might be an injury to some persons who may have made, in the intermediate time, some improvement or discovery which is included in the improvements for which we are to authorize a patent to be issued by this bill.

Mr. SEWARD. Or may have used them.

Mr. BADGER. Yes, or may have used them. I do not understand the patent law thus. It is not to throw the improvements together with the original invention, so as not to be able to tell one from the other. The question will at last be opened whether there was any improvement made, just as the question will be opened whether there was any original invention made. The question will be opened whether the party has allowed or permitted his improvement to be devoted to the service of the public; whether he has given the use of it beyond what was necessary to perfect the improvement; whether, by these or any other means, he has devoted it to the service of the public, or any individual with whom he has a contest as to the prior or equal right to it. Therefore, it strikes me that what is unusual in the legislation in this case, is sufficiently accounted for by the unusual character of the improvement, and that there is no reason to apprehend that any improper advantage will be taken in a contest with this party, or in a contest with other individuals. It is a right in him, if improvements were made by him. For although an improvement be made, it confers no right upon an individual except by authority of Government; and every patent is conditional and can extend no further than the things for which he has taken out a patent were patentable and were discovered, improved, or invented, as the case might be, by him. I therefore do not see any necessity for this amendment, or any other amendment.

Mr. SEWARD. I would like to ask the Senator this question. Suppose these improvements were really the invention of the patentee, and suppose they were abandoned to the public use: That gave to all persons the right to use them. Will not the effect of this bill, in its present form, —I say nothing of the amendment,—deprive all parties of the benefit of the plea of abandonment, and compel the Commissioner of Patents to grant a patent, giving the use of these inventions to the patentee, notwithstanding his abandonment, and entitle him to recover for such use of his patent, back for a period of fourteen years, from all parties who may have used his inventions when actually abandoned?

Mr. BADGER. I suppose not.

Mr. SEWARD. I asked the Senator that question, because I thought it one worthy of consideration.

Mr. BADGER. As I said before, I suppose not; but I would say to the Senator from New York, that whatever effect this bill might have upon the patent, it would have no effect in the courts of law between the patentee and the persons using the patent in the case supposed by the Senator from New York.

Mr. CASS. I desire to say something with respect to the reasons assigned in this case. This applicant, Mr. Moore, whom I well know, and who is a very ingenious man as well as a most respectable citizen, came here some three years ago, at a time when our respected and deceased colleague from Indiana [Mr. Whitcomb] was chairman of the Committee on Patents. The subject was before the committee at that time, and Mr. Whitcomb agreed to make a report. The time within which Mr. Moore could get a renewal

for seven years was about expiring, and he came here soon enough to secure that, but his object was to have, instead of a renewal for seven years, a legislative provision giving him a renewal for fourteen years. And for a very manifest reason: This is a large machine—a very expensive machine. Mr. Moore had been at great expense in making it. He had been at work for sixteen or seventeen years upon it; and under these circumstances, he wanted a patent for a longer time than he would want one for an ordinary machine, which could be put in operation all the time; for, as has been very correctly stated by the honorable Senator from North Carolina, it is only six or seven weeks in the year that this machine can be used at all.

Mr. BADGER. Either for experiment or any other purpose.

Mr. CASS. The Senator is correct. It cannot be used for longer than six or seven weeks in the year, either for experiment or any other purpose whatever; and, with respect to experiment, allow me to say that there is a very obvious consideration which appears in such a case as this, and distinguishes it from any other. Ordinarily, inventors of any machine whatever can walk into a private room, keep their machine to themselves, operate there, and shut out the world from them. But you cannot operate any such machine as this except in the fields. There you must go from day to day, and every improvement you make must be tried there, with the whole world around you, and you can keep nothing secret.

The great, perhaps the greatest invention for which Mr. Moore deserves credit, is the sickle; and I think I am authorized to say that never, until he had invented the sickle, was a practical harvesting machine, one that would do the business, devised. It was the sickle which Mr. Moore invented, and which practically works, and which he has used in every machine that does work. I repeat, that a machine like this can only be tested and improved in the field by an examination of it; and therefore, it is different from ordinary cases, where a man can experiment in secret, and keep what he learns to himself.

But, sir, I was going on to state why the delay took place. It may be considered in some part, as my fault, and not the fault of the applicant. He did not make application to the Patent Office within the time required by law under which to secure a renewal for seven years. It was neglected by him under the supposition that the Committee on Patents would report a bill, as he had every reason to suppose they would do. From that day to this the applicant has been before the Senate and the House with his application for the renewal of the patent. He got this bill through the House of Representatives last winter, and we have attempted to get it before the Senate repeatedly, but could not do it. It has been laid over, and this is the first time it has come up for consideration. Now what good object can be accomplished by delay? What is the reason given for delay? The Senate understand the subject just as well as they would if every member of the Committee on Patents were present; and if the honorable Senator from Georgia, [Mr. DAWSON,] who is a member of that committee, and the honorable Senator from Rhode Island, [Mr. JAMES,] chairman of it—and who, I feel authorized to say, is perfectly willing that this discussion should go on in his absence—were here, they could not tell the Senate any more than is contained in the bill itself. Then why delay it? I trust the Senate will come to a decision one way or the other, and not procrastinate the matter any longer unjustly to the applicant, and very uselessly, in my opinion, to the Senate.

Mr. HAMLIN. This bill was reported to the House and passed that body at its last session, and I think it should now be acted on by the Senate. I know the petitioner intimately and well; I became acquainted with him at the house where I boarded in this city. He has been here for two or three years pressing the matter. This bill has been passed by the House; it has been referred to the Committee on Patents of the Senate; they have acted on it and reported it back, and the proposition now is to postpone it. One third of our session has passed by, and we shall soon have the appropriation bills upon us. This is one of the cases where we can act definitively, for if we concur with the House there is an end of the matter.

There are different modes of defeating bills here, as every Senator well knows. The first effort to defeat this bill is by an amendment, and the answer to that has been well made by the Senator from North Carolina. The next method of defeating this bill, although I know such was not the intention of the Senator who made the motion, is by postponing it from time to time, and from day to day; it will thus be defeated as effectually as if we were to send it back to the House. When some question was up the other day, and a motion was made to postpone it, I took precisely the same view of it that I now take of this. This is one of those cases where if we act, we can act finally, and, in my judgment, we are bound in justice to the party to act, whatever may be our action. Let us settle this question. While I would go as far as any Senator here to accommodate the individual Senators who may feel an interest in this question, I do think we owe it to the party, to the Senate, and to other persons, in a greater degree, to act rather than to postpone. I hope the bill will not be postponed.

Mr. BAYARD. Mr. President, the objection which I have to this bill in its present form, has not, I think, been exactly presented. I cannot vote for it as it stands, and I will state my reasons as briefly as possible. The difficulty I have is in reference to the structure of the bill; and the question of the merits of the patent does not enter into that at all. The invention may be perfectly meritorious, the party may be entitled to an extension; but the difficulty arises with me out of the vicious system of special legislation in reference to patents, instead of having a general law, providing for all classes of cases, and leaving it, as an administrative duty, to the proper officers to determine the particular cases under that law.

My objection to this bill, in its present form, is this: It has a retrospective action. It provides that from the year 1850, the exclusive right of making and vending a certain machine, which had been previously patented, with its improvements, shall be extended for fourteen years. If a patent be issued under this bill, beyond all question those persons who have made machines of the same character since 1850, and previous to its passage, will be liable to an action at the suit of the patentee, to recover damages for an act which, at the time of doing it, was perfectly legal in itself. The right of the patentee expired in 1850. After that time the right to make these machines was common to every citizen of the United States, until you should have passed a law extending the patent. If you make your law retrospective, the effect of it is, that you enable the patentee—you have no provision guarding against that, and there is none in this bill—when he obtains his patent, to bring an action to recover damages against those who have made such machines as this, between 1850 and 1853, when it was perfectly legal for them so to do. I cannot sanction such a principle of legislation, and must therefore vote against the bill, unless it be amended in that respect.

Mr. WALKER. Mr. President, I had my attention directed to the subject of the renewal of this patent a year or two ago; and shortly afterwards, I looked into the matter with some degree of care. When this bill was reported, I also examined it, and entered upon the investigation of the subject with a feeling in favor of the renewal of the patent. My feelings have undergone no change since; but when I come to look at what it is now proposed to do by this legislation, I must say that I am irreconcilably opposed to it. Why, sir, I believe it may be safely said, that there never has been such a proposition before the American Congress, if there ever was such a proposition before any other legislative body in the world. Is this a bill simply extending benefits to Moore & Hascall? Not at all; but the effect of it, in my opinion, will be—and I have come to the conclusion, after an examination of it in connection with the patent laws—to give Moore & Hascall a monopoly of everything that has been discovered, invented, or constructed in the way of improvement since the date of their original patent. What is the language of the bill? After providing for the renewal of their patent, it goes on to say that they are given "the full and exclusive right and liberty 'of making, constructing, using, and vending to 'others to be made or used, the improvements for 'cutting, threshing, or cleaning grain which were 'invented by said Moore & Hascall, or either of 'them, and embraced in the model, drawings, or 'specifications." I wish this phraseology to be borne in mind—"connected with letters patent 'granted to them on the 28th day of June, 1836, 'for a machine commonly known as 'Moore & 'Hascall's Harvesting Machine.'" Now, let us see what follows this language—what else is granted to them? "Together with the improve-'ments invented by them, or either of them, in 'perfecting said machine, or any part thereof, from 'the date of their original patent, to the day from 'which the same is hereby renewed and extended." There are, in this phraseology, several things that will strike one with astonishment in looking at this matter. There have been at least fourteen years within which these gentlemen could experiment upon their machine, at such times as the harvesting season gave them an opportunity to experiment. Before their fourteen years expired, the patent laws gave them all the right that they ought to be permitted to exercise, and in what way? It gave them the right to surrender their patent, file new specifications, embracing claims to their improvements up to the time of the surrender, and take out a patent for the improved machine. We all know that that is the practice under the patent laws; but do we see anything in this case indicating that these parties ever proposed to the Patent Office to get a renewal or extension of their patent? Do we find that they ever proposed to surrender their old patent, and take out a new patent for their improvements? Not at all. They did nothing of the kind; nor did they apply for an extension of the patent originally granted to them. As I understand, they never applied to the Patent Office at all.

Mr. CASS. The honorable Senator will allow me to explain the matter. Mr. Moore came on here, as I stated, previous to the time of the expiration of the patent; and had he not been under the decided impression that, beyond all doubt, the bill about to be reported would pass, he would have brought the subject before the Patent Office. He came here in ample time to get his patent renewed at the Patent Office; but acting under the impression that the bill which Mr. Whitcomb was about to report would be passed immediately, he did not make the application.

Mr. WALKER. The fact is, then, that he did not make an application for an extension of his patent; but the observations which I am making apply more to improvements upon the machine, than to the mere extension. Why did not these parties avail themselves of the law of surrender in patent cases, and obtain a new patent for the improved machine, as they could have done under the law?

Mr. CASS. Shall I answer the gentleman?

Mr. WALKER. Certainly.

Mr. CASS. As I before stated, they considered seven years entirely too short a time for a patent for such an invention, and therefore they came to Congress to ask an extension for fourteen years.

Mr. WALKER. That may be a reason why they wanted fourteen years, but it does not answer the objection which I have made, that they did not avail themselves of the law of surrender; for if they had surrendered their patent, and taken out a new patent for the improved machine, when that expired they could have got a renewal under the law; and if they could not have got it at the Patent Office, they could have come here, and, as numerous others have done, asked Congress to extend the patent. But they did not propose to the Patent Office that they should look into these improvements. They did not propose to submit them to the ordeal of an investigation by the examiners of the Patent Office. They never attempted to submit these alleged improvements there, that they might be investigated.

I am a little surprised to hear the Senator from Michigan making the broad statement that he has made, that the great merit of this machine is the "sickle," and that that was clearly invented by Moore & Hascall. Is not that Senator aware that there has been a legal investigation upon that very point in the State of New York, and that, too, when Moore & Hascall were witnesses, and the decision was against them? If he is not aware of it, it certainly is so. But I repeat that these alleged improvements have never been submitted to the ordeal of examination of the Patent Office, but they are brought here now for the first time,

and in general terms it is proposed not only to renew the patent of Moore & Hascall, but to give them the exclusive privilege of using, making, and vending for others to use, not only the machine originally patented, but all the improvements which they, or either of them, may have made upon it, from the date of the original patent to the time from which the extension takes place. It seems to me that this is a most extraordinary course. Let Moore & Hascall come forward as others who claim that they have invented harvesting machines, and ask for an extension of the patent, and for one I am for granting it.

Let us look further at the phraseology to which I called the attention of the Senate a while ago. It is that they shall have this extension for everything "invented by the said Moore & Hascall, or either of them, or embraced in the models, drawings, or specifications." Is there any reason why this little word "or" is used there? Why does it not say "in the model, drawings, and specifications?" I must let it out to the Senate why it is so. The reason is this: in the drawings and specifications there is nothing contained which now amounts to the merit of a real harvesting machine. The model has been burnt. The legal investigations that have heretofore taken place, have developed this strange state of things, that there was a great amount of proof brought forward to show that in the burnt model, certain things were contained which were not in the drawings and specifications, and it is now proposed to go into the wide field of oral testimony—to go out against other parties contending for the merit of the discovery of the machine, and by oral testimony in relation to a model which has long since been burnt, endeavor to prove that in it were contained what would make this harvesting machine worth something, and without which, it is worth nothing, as is alleged.

Is this fair? In everything that is patented at the Patent Office, they require that which they deem to be patentable matter to be not only in the model, but in the drawings and specifications. But we find in this case, that neither in the drawings nor specifications, are certain important items contained; but in the dead model, in the burnt model, it is claimed that there was something, and hence the necessity of the phraseology, "in the model, drawings, or specifications." If that word "or" were changed to "and," the bill would be consistent; it would make the case as presented, consistent with itself, for it would be inferred from the drawings and specifications containing certain things, the model also contained them; but as they do not contain what really constitutes the merit of the machine, resort must now be had to the burnt model, and therefore, if it cannot be found in either, they are to have the exclusive right and benefit of it, as being supposed to be found in the model.

Sir, I do not charge upon the Committee on Patents any design in this matter. I have no idea that they had any wrong design. They wanted to extend to Moore & Hascall all the possible benefit which could be extended; but did they reflect for a moment on what injustice they were doing to others? It seems to me that they could never have reflected upon it. I think this is one of the most dangerous bills in reference to this subject which could well have been framed, and that we should be very careful before undertaking to pass it. We should be careful lest we do injustice to others; lest we do injustice to the community at large; and lest we do injustice to ourselves, as we should do by sending, by means of our legislation, such a bone of contention through the land. It is my sincere belief that the bill ought either to be defeated or amended, so as to make it a simple extension of the patent, and I would not care then anything about it. I would not care if the extension were for fourteen years instead of seven, the usual time, because I know the difficulties under which inventors of harvesting machines labor. I know that the whole course of fourteen years originally granted hardly amounts to one year of actual time of experiment. I know there are great difficulties to be encountered by those inventing and using these machines; but that is no excuse why we should extend, in this case, rights, and give guarantees by legislation, which we have never given in any other case. I propose, then, Mr. President, after the amendment which is pending shall have been disposed of, to move to strike out so much of the phraseology of this bill as gives the benefit of the extension to those improvements which they may have made.

Mr. CASS. Mr. President, I do not at all see the force of the difficulty stated by the honorable member from Wisconsin. I understand the matter precisely as has been stated by the Senator from North Carolina, that the fact of the granting of a patent amounts to nothing, unless the person proves that he is the inventor. The patent gives him nothing except his actual invention, which he must show. What is the provision of this bill upon which the honorable Senator has commented with so much earnestness? It is that there is granted to Moore & Hascall "the full and exclusive right and liberty of making, constructing, using, and vending to others to be made or used, the improvements for cutting, threshing, or cleaning grain, which were invented by the said Moore & Hascall." The fact of a particular thing being found in specifications amounts to nothing at all, it concludes nothing; but if the patent be contested, the parties must show that it is their invention. I take it that is the whole foundation of the patent system; the patent itself concludes nothing, but leaves the parties to prove the invention, as in any other case.

Mr. WALKER. It is clear to my mind that the Senator's attention was drawn away while I was remarking upon what I regarded as the most important feature of the bill. If the Senator had turned to the second page of the bill he would have found that it renewed the patent, "together with 'the improvements invented by them, or either of 'them, in perfecting said machine, or any part 'thereof, from the date of their original patent to 'the day from which the same is hereby renewed 'and extended." Why do the laws require that there shall be something enduring placed in the Patent Office as evidence of what men have invented? Why is it required that there shall not only be a model, but a correct drawing, and that also an inventor shall specify in writing under oath what he claims? It is for this simple reason, that we may not be thrown loose upon the world in our litigation in regard to them, to prove orally anything that may be trumped up or suggested by those who may come forward as witnesses. There is never a patent case contested in which all the rest of the infringers are not interested. Whenever a patent is infringed, and a man has to bring a suit to protect his patent rights, every one else infringing those rights is interested in coming forward and swearing against the originality of the invention. In point of fact they come forward and throw the weight of their influence and testimony, as far as they can, against his suit, and very frequently the inventor goes down under this testimony. To guard against the laxity of such testimony as might be called from the community generally, by word of mouth, the patent laws have always required something specific, something enduring, something that can be referred to, which can be placed on record, and deposited in the Patent Office.

Here it is proposed to dispense with everything of the kind—to throw loose the whole matter, and to declare that Moore & Hascall shall have not only an exclusive right to what they invented in that time, but shall have it "together with the im-'provements invented by them, or either of them, 'in perfecting said machine, or any part thereof, 'from the date of their original patent, to the day 'from which the same is hereby renewed and ex-'tended." Pray let me ask, where is the guide in this bill to a court, or jury, or to the Senate, that they have invented anything? You do not propose to specify what you renew, but to legislate generally on the subject, and say, Now, whatever you can prove on the broad face of God Almighty's earth that you have invented from that time to the present, you shall have an exclusive right to use. Sir, it is asking too much. Everybody must see that it is. There is no testimony—nothing reliable, to which we can resort, to know what they do claim; and there is not a man in the country who claims to have invented such a machine as this, who will not be thrown completely in the shade by this provision; for when he comes forward for his patent, he is asked where are his specifications? "Here." Where is his model? Here. Where are his drawings? Here. There they are; and he is tied down to them. Now, Moore & Hascall come forward. We ask them what is their case; and, according to this bill, it is just what they can prove by any vast multitude they may bring. They bring up a person, who says that on a particular occasion, in a certain field, he saw them cut one particular notch. Another knows that a certain piece was put in—that this cork, or that pin—this or that grip to the teeth in the sickle, was put in by Moore & Hascall; and thus a vast number in this way can prove anything, and whatever they prove, Moore & Hascall will, by this bill, have an exclusive right to make, use, and vend. Every one else would be tied down to the model, specifications, and drawings; but they are not to be restricted in any such way. This is what is asked. I hope and trust the Senate will not grant it.

Mr. HALE. The subject seems to be an agitating one; and as a motion has been made to postpone it, on account of the absence of several gentlemen who want to take part in it; and as it is evidently producing an unhealthy state of feeling, I move that it be laid on the table for the present, and then it can be taken up again at any time.

The motion was agreed to, there being, on a division—ayes 18, noes 17.

BRITISH COLONY IN CENTRAL AMERICA.

A message was received from the President of the United States, by Mr. M. P. FILLMORE, his Secretary, transmitting, in answer to the resolution of the Senate of the 30th ultimo, a report from the Secretary of State in reference to the establishment of a new British Colony in Central America; which, on motion by Mr. CASS, was referred to the Committee on Foreign Relations, and ordered to be printed.

MEXICAN BOUNDARY COMMISSION.

Mr. WELLER. I desire to offer the following resolution for consideration:

Resolved, That the President of the United States be requested to inform the Senate whether the boundary line between the United States and Mexico has been fully run out and established, and if not, why he has suffered the Commission to disband for the want of a Commissioner and Surveyor on the part of this Government.

I ask for the consideration of that resolution now, as I deem it a matter of very great importance. The law of 1850 expressly limited the term of service of the Commissioner and Surveyor to three years from the 1st of January, 1850. That time has expired, and the President of the United States has taken no steps either to reappoint the Commissioner and Surveyor then in the field, or to appoint any other persons. As a necessary consequence, the Commission has been disbanded, and whether it is now in the field or not, I do not know. It is certain that if it be now in the field, it is there without authority of law. My object, therefore, in presenting this resolution, is to call the attention of the President to the necessity of preventing that Commission from being broken up, and thus lead to complaint on the part of the Mexican Government against good faith on our part.

Mr. CLARKE. I would suggest to my friend that it would be better to let the resolution lie over till to-morrow. I should like to look into it.

Mr. WELLER. If the Senator from Rhode Island objects to the consideration of the resolution at this time, of course it must go over till to-morrow. But I shall certainly call it up to-morrow, for I think it a matter of great importance to this Government that that Commission should not be disbanded because of the neglect of the President of the United States to discharge his duty.

Mr. CLARKE. Let the resolution lie over.

The PRESIDENT. Objection being made, the resolution must go over until to-morrow.

EXTENSION OF PENSION LAWS.

The Senate resumed the consideration of the bill "to revive a portion of the act for the relief of widows of deceased soldiers," the pending question being on concurring in the following amendment made as in Committee of the Whole:

"SEC. 4. *And be it further enacted*, That the widows of all officers, non-commissioned officers, musicians, and privates of the revolutionary Army who were married subsequently to January, Anno Domini 1800, shall be entitled to a pension in the same manner as those who were married prior to that date."

The amendment was concurred in.

Mr. BORLAND. During the discussion yesterday, some objection was made to this bill upon the ground that its phraseology was not sufficiently precise to define at what time the pensions pro-

vided by it should commence. I propose, therefore, to amend the bill in the first section by adding after the word "extended," the words "from and after the passage of this act," so that it shall provide that the act of 1816 "be and the same is hereby revived and extended, from and after the passage of this act, during the natural life of any such widow as therein described."

The amendment was agreed to.

Mr. BORLAND. I propose further to amend the bill by striking out the concluding words of the third section, "or during widowhood," so as to put the widows provided for in that section upon the same footing as those provided for in the first section. The first section provides for giving a certain class of widows a pension during their natural lives. The third section, which was not penned by myself, provides for another class of widows who must of necessity be older than those provided for in the first section, and limits their pensions during their natural life, or during widowhood, and simply proposes to strike out the words "or during widowhood," so as to make the third section conform in that respect to the first section.

Mr. CHARLTON. I move to amend the amendment by adding the words, "or during widowhood," in the first section, so that, instead of striking out those words in the third section, they shall be inserted in the first. If my friend from Arkansas will permit me, I will explain my motive, which will show, at all events, that I am not in opposition to the principle of this bill. A great deal was said yesterday, in reference to the different classes of widows who are to be benefited by it. I understand that most of us are willing to concede that the widows of the soldiers of the war of the Revolution are clearly entitled to be protected and pensioned by this Government. There is no doubt of that fact, Mr. President, and I should be very sorry to gainsay it. As has been often and correctly stated by Senators on both sides of the Chamber, there is no class of people in this world to whom a debt of gratitude is more due than to the soldiers of the Revolution. It is upon the *substratum* of their lives and of their blood that the independence of this great country has been erected.

Mr. BORLAND. If my honorable friend from Georgia will permit me, I will suggest to him that the portion of the bill which I now propose to amend does not refer to the widows of revolutionary soldiers. The section adopted on the motion of the Senator from Maine, is the only one that relates to them. The first section which the Senator from Georgia proposes to amend, affects the widows of the soldiers of 1812.

Mr. CHARLTON. The first section provides—

"That so much of the act of the 16th of April, 1816, entitled 'An act making further provision for military services during the late war, and for other purposes,' as applies to widows of deceased soldiers, and which expired at the end of five years after its passage, be, and the same is hereby, revived and extended from and after the passage of this act, during the life of any such widow therein described."

The Senator from Arkansas will perceive the bearing of my remarks directly, and that he gives to the very class of widows, where there is danger of marrying again, the pension during their natural lives, whereas he only gives it during widowhood to those where there is no danger of marrying again.

Mr. BORLAND. I propose to strike out the restriction of "during widowhood."

Mr. CHARLTON. As I understand, the Senator proposes to strike it out in reference to the widows of revolutionary soldiers, and to leave it with regard to others. He proposes to apply the restrictions to those old widows, and to leave it inoperative with regard to the young widows. It is exactly that to which I object.

I was going on to say that I acknowledge a debt of gratitude which we owe to the revolutionary soldiers. There is no question of that. It is a debt that we can never repay. Nor will I stop to make a distinction between those who were the wives of soldiers during the Revolution, and those with whom those soldiers subsequently intermarried. I think the first class would be entitled, of their own account, to a pension for the services that they rendered to the country; for I can tell you, Mr. President, and the country knows it, that to the women of the Revolution, perhaps as much as to the men, was owing our success; and to them, for their own services, I would be cheerfully willing to accord a pension; but I would not be unwilling to accord it to the widows of those revolutionary soldiers who married afterwards. "This ought ye to have done, and not leave the other undone." I do not see why we owe a less debt of gratitude to the soldiers of the Revolution, because they happened to marry after the Revolution, or after a certain time. Why not provide for their widows as well as for the widows of those men to whom we are giving this? I say again, I give it cheerfully. Now in reference to the widows of the war of 1812, it is a very difficult thing to draw a line in the degrees of gratitude. If you ask a man whom he loves best, his father or his mother, the father that begot him or the mother that bore him, it is an exceedingly difficult question for him to answer, because he cannot draw such a division between the lines of love. And it ought to be so in reference to the classes of widows of the war of 1812, to which objection seems to exist. We owe a debt of gratitude to them that we cannot repay. Though it may be perfectly true that to the first class we owe more, yet the degrees of difference are so nice and so subtle that I cannot draw them. We owe to both a debt of gratitude that we can never repay; and therefore it is that I am perfectly willing to accord the same measure of justice to both.

Nor will I be frightened from this position by my friend from South Carolina, [Mr. BUTLER,] who says that the next step will be to extend the same bounty to the widows of the soldiers of the Mexican war. Now, sir, I say I am willing to extend the benefits of a pension to those widows, and I ask him, why not? Is it because their husbands have last died? Is it because the memory of their gallant achievements is now bright before us, that we should leave their families to suffer and pass them by, when we extend this old debt of gratitude back to a period of years? Sir, I once heard my friend from South Carolina say—and there is no man on the floor for whose judgment and thoughts I have higher respect—that when he trusted the impulses of his heart he was always right, but when he trusted to the suggestions of his mind he was very often wrong. That illustrates this case; for he will remember that Lord Mansfield, when he was asked by a young judge how to act in giving his decision, said: "You are very 'correct, you have got a sound mind, give your 'judgments and they will be right, give your rea-'sons and they will be wrong." I think that my friend from South Carolina, if he will stick to the impulses of his heart will go right; but when he couples that with the suggestions of his mind, he is apt, like the rest of us, very often to go wrong. Therefore I will not be startled by the idea that by establishing this precedent, it will ripen into prescription. If a precedent is right, the sooner it becomes prescription, the better.

A word now in reference to my friend from Kentucky, [Mr. UNDERWOOD,] who has told us at various times that he is on the right road to progress, and that our friend from Michigan, [Mr. CASS,] is on the wrong road. He says progress is of two kinds—upwards by an inclined plane, and downwards by a rapid descent. He will pardon me for saying that is not a good illustration.

——Facilis descensus Averni.
Sed revocare gradum, superasque ad auras,
Hic labor, hoc opus est.

The up is the toilsome ascent, (witness our efforts to get this act passed,) the downward is the inclined plane. It is very easy to come down, but very hard to go up, and the least slip after you commence ascending, brings you down to the spot from whence you started. I think my friend from Kentucky is wrong, in supposing that progress would lead us to reject this bill. True progress would, on the contrary, induce us to pass it. Perhaps I may go with him in reference to progress, but probably we might take different roads to accomplish the object.

Mr. President, when a Roman matron was asked where her jewels were, she pointed to her children, and said: "These are my jewels." If this country should be asked to say who are its wards, it should point to these helpless widows, and say, "These are our wards." Instead of giving away your public lands, instead of wasting your public money upon the brawny-armed men of this Republic, if you would only pay out from the resources of your boundless treasury, a sum of money to relieve this class of widows, you would be doing what your country and your duty requires of you.

Mr. President, there is no class of beings in this world who suffer more than the helpless women, even in this happy land. No mortal eye can ever tell the amount of anguish, that even in the large cities of our favored Republic, they have to endure. No mortal ear has ever heard the wails of anguish which have been wrung from them; and if it has, no mortal tongue could ever adequately describe it. It is true that we cannot provide for them all. We cannot pension all of them who suffer in this way, but still we can pension those who are entitled to receive a reward from us.

I come now to the amendment, and I beg the Senator's pardon for diverging so much. I hope I may not be like the man in the boat, looking one way and rowing the other. I want to come to the amendment. I want to show my friend from Arkansas that there is no reason why, when a widow ceases to be a widow, and marries a second husband, we should extend these pensions to her. The object is to afford protection—the motive is gratitude to the men who have rendered those services, and it is for protection to their widows in their lonely state; but when they marry again, they should trust to the energies of their husbands. It is unwise to let them trust to anything else, and therefore I see no reason why these pensions should be continued to widows after they have married again. I do not mean to say that I would stop their pensions after they again become widows, for I am perfectly willing to continue the pension as long as they are widows—as long as they have this claim upon us to extend these pecuniary benefits; but I think it impolitic and unwise to give to the wife of a married man a pension apart from him; and I therefore move to amend the bill, by adding to the first section the words "or during widowhood," after the words "during the natural life."

The PRESIDING OFFICER, (Mr. NORRIS, in the chair.) That amendment will not be in order until after the question shall have been taken on the pending amendment of the Senator from Arkansas.

Mr. BUTLER. A word in reply to my friend from Georgia. I assure him that if I were to trust to my heart, I should be very much more in danger from the widows of the soldiers of the Mexican war than of any other class, for they are young and beautiful. [Laughter.] But I am not so sure that the gentleman himself has been perfectly free from such impressions, notwithstanding he is a married man. He is gallant, generous, and chivalrous. I am not surprised, therefore, that he has taken the side of the younger widows.

Mr. CHARLTON. The Senator will permit me to say that I was, on the contrary, going against them, and taking the side of the old revolutionary widows.

Mr. BUTLER. My opinion is, that we can define by law the classes of persons to whom we propose to give pensions—that is, widows of revolutionary officers and soldiers. Sir, I will say to my friend from Georgia that that class of illustrious women might very well be personified by Cornelia. She was both the daughter of Scipio and the mother of the Gracchi. In every point of view she is illustrated, if I may be permitted to use her as a personification, by those illustrious women who, during the Revolution, were connected in any way, by marriage or otherwise, with revolutionary officers and soldiers. A woman who has married a revolutionary soldier derives from him historical interest which cannot be resisted. I am willing, on every account, both as a tribute to their historic character and to the great merit of the officers and soldiers who achieved our independence, to make that distinction; but I am willing to extend it no further.

Sir, I hope that I am not indifferent to any widow who may come here and claim our bounty and our justice; I do not care whether she be the widow of a soldier or not. I think that many old widows might come here and claim our bounty with as much propriety as some young ones whose husbands drew pensions in their lifetime. It is difficult, as my friend says, to draw a distinction.

Perhaps I did upon some occasion here use the expression that it was safer, in my opinion, or that there was more wisdom in following the impulses of a warm heart, than the dictates of a cold or crafty head. I believe I did use some expression of that kind; but when I draw distinctions

here, I am afraid to trust my heart. I am willing to trust the suggestions of history, and my judgment, so far as I can make this bill safe, and I am not willing to go further. I shall, however, make no strenuous opposition to it, because my friend very nearly convinced me. His remarks were appropriate, and well addressed, and I have no doubt will have an influence upon the public mind, as well as upon this body.

Mr. BORLAND. I do not intend, Mr. President, to engage in the gallantry or poetry of this discussion. I leave that to the young gentlemen on my right and left, who have so well treated those branches of the subject. I shall confine myself to the bill itself, as I reported it from the committee, and as it is now proposed to amend it.

I desire to repeat to my honorable friend from Georgia, that he misunderstands the character of the portion of the bill that I now propose to amend. He seems to suppose, and he insists upon the idea, that it refers to the widows of revolutionary soldiers. In that he is altogether mistaken. If he will look at the third section, which I now propose to amend, he will see that it refers to the fifteenth section of an act passed on the 16th of March, 1802, which was not to provide for the widows of revolutionary soldiers. That act was in reference to the peace establishment of the Army, and it was prospective in its operation. It provided that the widows of those then enlisted in the service who should die, or become disabled by wounds, or disease, which should occasion their death, should receive pensions for five years. It did not relate to revolutionary officers and soldiers; and the only thing in the bill relating to revolutionary cases, is that embraced in the amendment of the Senator from Maine, which was adopted yesterday.

Mr. CHARLTON. How long is it proposed that the pensions to the widows of soldiers of the war of 1812 shall last?

Mr. BORLAND. From and after the passage of this act, during their natural life.

Mr. CHARLTON. There is where I differ with the gentleman. The amendment I propose is to continue the pensions during natural life or during widowhood.

Mr. BORLAND. That was not the point to which I was speaking. The Senator from Georgia bases his remarks on the ground that this amendment relates to revolutionary cases. My object in referring to the act of 1802, was to show him that it did not relate to those cases. There is only one section of the bill which refers to them. The third section refers to the widows of officers and soldiers in the army under the act of 1802, in reference to the peace establishment, and the first section provides for the widows of the officers and soldiers of the war of 1812, each class of widows having received, under former laws, pensions for five years, and no longer. The object of the bill is to revive those laws, so far as they apply to widows, and to give them the pensions provided for in the laws of 1802 and 1816, for the remainder of their lives, from and after the passage of this act. The first section gives the pensions for their natural lives to the widows of the war of 1812. I propose to amend the third section, in reference to pensions under the act of 1802, so as to strike out the words "during widowhood," and thus to put both upon the same footing.

Now, as to the objection which the Senator raises as to these widows. What must be their ages? Those provided for under the act of 1802, I presume must be somewhere in the neighborhood of seventy years old, if any of them be living at all; and those provided for under the act of 1816 must be from fifty to sixty years of age. It may be possible—for such things do sometimes happen—that widows between the ages of sixty and seventy years marry. I have known such cases, but they are very rare; and if a case of that sort should occur, I am perfectly willing that the widow should have a pension, notwithstanding her marriage; for certainly she must be a woman of extraordinary merit to get a chance to marry between the ages of sixty and seventy. and she is a soldier in her very nature if she undertakes it.

I think, then, that upon the two points of objection raised by the Senator from Georgia, the explanation I have given ought to be satisfactory to him; and instead of attempting to incumber the first section of the bill by restricting the pensions to the widowhood of the widows of the war of 1812, he should join with me in striking out the restriction of the third section, and place the poor old widows of 1802 upon the same footing as those of 1812.

Mr. SEWARD. Mr. President, I am satisfied that the honorable Senator from Georgia will have to withdraw one of two things—either his speech or his amendment, because they are mutual *felones de sese*. The speech will carry through the Senate the proposition for the relief of the widows, whether they marry or not; and if the speech is left to stand, I am sure the amendment cannot prevail. The honorable Senator, if I recollect aright, has been a judge, and a good one. He must, therefore, have been acquainted with the decision which has been made in a highly respectable court, which was, that in the case of limitations of devises to widows for the terms of their widowhood, the devises were valid, independent of the condition, and that the condition of revocation upon subsequent marriage was void. I will not say that that decision was good law, but I will say that it was sound sense and good morality. Either the widow of a soldier in the army of the United States has no claim at all for a pension, or she has a claim which is in no way defeated by the circumstance that she judges it best, according to her condition in life, that she should marry again, to improve that condition. I would reject altogether the amendment of the honorable Senator from Georgia, and let his speech stand on our records. I hope he will consent to adopt that course.

Mr. CHARLTON. Mr. President, the Senators from Arkansas and New York have both so much more learning upon the subject of widows than I can pretend to have, that I yield to their suggestions, and withdraw my amendment, for it is a subject upon which I am not profoundly learned.

The PRESIDENT. The question pending is on the amendment of the Senator from Arkansas, to strike out the words "or during widowhood," in the third section.

The amendment was agreed to. The bill was ordered to be engrossed for a third reading, read a third time, and passed.

SALARY OF JUDGE.

Mr. BUTLER. I hope the Senate will allow me to call up for consideration the bill "to make 'the salary of the judge of the criminal court of 'the District of Columbia equal to that of the as-'sistant judge of the circuit court of said Dis-'trict." Judge Crawford has no representative upon this floor, and I am informed that the $2,000 per annum which he now receives, is nothing like a sufficient sum to pay his expenses. He is nearly two thirds of the time in court, engaged in trying a class of cases which, of all others, impose the most painful duties. This bill only increases his salary $500.

The motion was agreed to, and the bill was accordingly read a second time, and considered as in Committee of the Whole. It proposes to make the salary of the judge of the criminal court of the District of Columbia equal to that of the assistant judge of the circuit court of that District, as now or hereafter to be established by law.

Mr. BADGER. I am very desirous, indeed, that the bill should pass, so as to make the salary the same as that of the assistant judge of the circuit court, as now established, but I would move an amendment—to strike out after the word "now," the words "or hereafter to be."

Mr. BUTLER. I think that is very proper. I did not draw the bill myself, or I would not have inserted those words.

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading, read a third time, and passed.

CONDUCT OF COMMODORE MORGAN.

Mr. HALE. I introduced a resolution of inquiry yesterday, which I ask may now be taken up and considered. I think there will be no objection to it.

Mr. RUSK. I hope that resolution will not be taken up, for it will evidently draw after it debate. It is a long resolution, inquiring into the whole history of a ship, and into the conduct of every officer and man on board. I said yesterday, that some members of the Naval Committee, whom I do not now see in their seats, would oppose its adoption. I hope, therefore, that it will not be taken up.

Mr. HALE. The Senator from Texas is mistaken about the resolution, and I think he is also mistaken in supposing that any member of the Naval Committee desires to oppose it. The chairman of that committee had another measure which he wished to have taken up yesterday, and therefore he objected to the consideration of the resolution at that time. The resolution inquires into the conduct of but a single officer. The charges upon which it is based, were made upon the floor of the House of Representatives; and my object is to know whether they are true or not. I have nothing to say upon them now; but at some time or other, I shall wish to be heard upon the subject. I hope the Senate will let us have the facts.

Mr. RUSK. I remember that calls of this description have been made two or three times, on *ex parte* statements; and we have got ourselves into difficulty by them. Information was called for, in relation to one of the officers of the Navy some time ago, and we received a whole parcel of correspondence which involved a considerable quarrel. Soon after, another call was made, and another batch of correspondence was brought in, and ordered to be printed. Unless there is something to be accomplished by these calls, I think they are entirely useless. They impose trouble upon the Departments. If the honorable Senator has some further proceeding in view, which he intends to base upon this information, I have no sort of objection. But unless he has some object to accomplish, I think we had better not pass the resolution.

Mr. HALE. I would inform the honorable Senator that he is mistaken in another fact, and that is, that nothing further will be moved in relation to the information called for in the case of Latimer, to which I suppose he referred.

Mr. RUSK. I referred to the case of Commodore Jones.

Mr. HALE. I had nothing to do with that. I did not call for that information, but I did call for information in the case of Latimer, and if the Senator supposes that no action is to be moved in regard to that, he is very much mistaken.

I think, and I must say it, that the Navy Department of the United States, is the worst administered department of any Government on the face of the earth, and I think the facts in Latimer's case and this case show it. All the charges alluded to in this resolution, have been made by a member of the House of Representatives in his place, and upon his responsibility as true; and, if they be true, they show a total disregard to the law, and of the requirements of the Department. They show that the commander of a ship may take his vessel and go out and make of it a mere pleasure tour on the Mediterranean, and while in service charter a merchant ship to bring his provisions up to him, and a great many things of that sort. That has been charged by a member of the House of Representatives as having been done. I do not want to take these rumors and charges thus made, when authentic information can be so easily had from the Secretary of the Navy, and that is the object of these inquiries.

While I am up I will say that I am exceedingly glad to see the Senator from Florida [Mr. MALLORY] in his place. I wish to say to him—and I say it publicly, because he gave an assurance to the Senate, at the last session, that he was preparing and would submit at this session, a bill for the reorganization and better government of the American Navy—that if he perseveres in that intention, as I hope he does, this information will be of vast use to him and to the Senate. I can assure the Senate, that in no wanton spirit do I make these inquiries. It would be the last thing on earth that I would think of doing, to find fault with anybody. I would twenty times rather be pleased than be angry. I would rather, at any time, laugh than cry; but I call for this information from a sense of duty as a Senator. I think the laws have been trampled upon, and I think the dignity of the country has not been sustained by the officers who ought to have done it; and that the dignity of the laws has not been sustained. I want the facts.

Mr. SHIELDS. I believe the resolution which it is proposed to take up, is the one which was offered yesterday by the Senator from New Hampshire. When I heard it read then, I was of opin-

ion that it was constituting the Senate a kind of court-martial. I thought it was going too far. My impression is that it would be unworthy the Senate to enter into anything of this kind. I would like to hear it read again, in order that I may say whether my impression is correct or not.

The resolution was read, as follows:

"*Resolved*, That the Secretary of the Navy be directed to inform the Senate the number of days the United States razee Independence, the flag ship of the Mediterranean squadron, commanded by Charles W. Morgan, was at sea after her arrival at Naples, on the 14th of September, 1849, until she sailed thence for the United States, on the 29th March, 1852; how many days said ship was at anchor in the bay or harbor of Naples, and how long at Spezzia, or other ports during that period; what portion of the aforesaid two and a half years was passed on shore, and how much of it on board ship by said Morgan; what is the estimated expense of a ship of the class of the Independence, properly officered and manned, per day or per year; whether said Morgan, without authority from the Department, while his ship was lying at anchor in the bay of Naples, chartered or employed a merchant vessel to transport supplies for his squadron from Spezzia to Naples, and whether the cost of such transportation has been charged to the Government by the order or approval of said Morgan; whether instructions were given to said Morgan by the Department, or by any bureau thereof, to practice his squadron in naval evolutions or fleet-sailing, and if so, whether said instructions were obeyed; whether he was directed to exercise his men in target-firing, and if so, whether he complied with such directions, and to what extent; whether there is any rule or regulation of the Department against naval officers transporting females, members of their families, or others, on board ships-of-war of the United States, and if so, whether Commodore Morgan, or any officer under his command, was guilty of a violation of such regulation; whether the broad pennant of Commodore Morgan was kept flying during the period of his command in the Mediterranean, or was at any time taken down, and if so, for what length of time; whether Commodore Morgan has been held to answer for disobedience of orders, or violations of regulations, or neglect of duty while in command of the naval forces of the United States in the Mediterranean during the past three years."

Mr. SHIELDS. That resolution ought to go further. It ought to ask what kind of powder they fired; what kind of guns they used; what kind of cigars they smoked; what quality of wine they drank, &c. I look upon this, sir, as a disgraceful resolution; and it will be disgraceful to the Senate to adopt it.

Mr. HALE. I want to inquire of the Senator from Illinois what he means by saying the resolution is disgraceful? I do not understand such language. I do not understand it as being within the courtesy of the Senate.

The PRESIDENT. The Chair is of the opinion that such language is out of order.

Mr. CASS. I merely want to say a word, and it is this. It is certainly right for this body, and for the other House of Congress, to exercise a general supervision over the Executive Departments of the Government, and over the Army and the Navy. I agree that there are matters of inquiry suggested in this resolution which might be properly subjects of investigation. For instance; whether the flag ship, or any other ship of the Mediterranean squadron, was kept in port longer than it should be, might be a very proper subject of inquiry. And if we find that vessels are in the habit of remaining too long a time in port, measures ought to be taken, either legislative or otherwise, to prevent it. I know nothing about it, but I think the resolution goes further into detail than comports with the dignity of this body, and I would, therefore, suggest to the Senator from New Hampshire to let it lie over till to-morrow, to give us an opportunity to see if there are not portions of it with which we can agree, and portions of it which ought to be stricken out.

Mr. SHIELDS. If we had the information before us now, I wish to know what use we could make of it; what action could the Senate take in reference to it? Is it not disreputable to go into these little, petty, pitiful details in a resolution of this kind? Upon what authority is it assumed by the gentleman who offered this resolution, that everything which is couched in it has occurred? I have said that it is a disgraceful resolution. I did not mean to say that the gentleman had acted disgracefully, but I do say that the resolution itself, in the language in which it is couched, presuming and implying that this officer has been guilty of the most outrageous and disgraceful conduct, without any information, without any proof, so far as the Senate are concerned, is one which every man ought at once, for the honor of the officer, for the honor of the flag, to arrest. If the officer has done wrong, let him be tried. There is a mode provided for trying an officer. We are not the tribunal to try him, and if he were before a court-martial to-morrow, they would never present charges in the language in which these charges are couched, in the resolution under consideration. No honorable officer would ever do such a thing.

Mr. MASON. Mr. President, the very gallant and distinguished officer to whom that resolution refers, I have known for more than thirty years. Although I heard the resolution read yesterday, I would not descend to notice it by appearing even to vindicate him. Sir, I can tell the Senator who introduced it that Commodore Morgan will not shrink from any investigation; he will court it. But I tell the Senator at the same time that that officer is a gentleman and a man of honor, and he has a right to demand of the Senate, although I apprehend he would not demand it of him, that he should be treated as a gentleman and a man of honor. Let the Senator put his resolution in the proper form of a resolution of inquiry, and I will vote for it cheerfully, for I should be doing very great injustice to Commodore Morgan not to do so. But as the honorable Senator from Illinois has said, it is intended for some ulterior purpose. It is intended to do its work incidentally and collaterally. It is not intended, I apprehend, to subject him to the proper inquiry of his peers in the Navy of the United States. Let the Senator put the resolution in the ordinary form, take nothing for granted, and I will assure the country, though I would not undertake to assure that Senator, that Charles W. Morgan, whenever an inquiry is made into his character, will prove that he is worthy of the commission that he bears. I do not mean to object to the inquiry in a proper form. The resolution is of so multifarious and detailed a character that it is impossible to comprehend anything more than its complexion, and in its complexion it is one of censure—censure in advance. Let the Senator put the resolution in the proper form of inquiry, and I will promote it and vote for it cheerfully.

Mr. HALE. Mr. President, there is something conveyed by words and something endeavored to be conveyed by manner; but I want to tell the Senator from Virginia, that he is not old enough, and he cannot put on dignity enough either in his tone, or his voice, or his manner to make me stir a thousandth part of a hair out of my track. Sir, I have heard enough of this talk about a Senator's descending to meet a resolution that I offer. I am willing to have our places compared before the country, before any tribunal where an honest and a fearless and an honorable discharge of the duties which have been devolved upon me shall be weighed and considered. I tell the Senator, sir, that it does not become a man, though he may come from Virginia, "the Old Dominion," to undertake to talk about "descending" to consider a resolution that I have introduced. I stand here a Senator, with the obligations of the oath of God binding upon my conscience; and I have, I think, full as keen a perception of what belongs to the deportment of a gentleman or the dignity of debate, as that honorable Senator.

It is not the first time, sir, that the mode and manner of that gentleman has been to let me know that he was a Senator from Virginia, and I was but a poor proscribed fanatic from New Hampshire. He may take all he can make by any such taunts. He may place himself on as high a position as he thinks he stands before the country, and see how far his missiles will have to descend before they reach me. It may not be quite so far as he thinks; and it may be possible that he would not be quite so assuming when he should undertake to talk to me,

"If that some power the gift would give him,
To see himself as others see him."

I have but a little while to stay here; but while I am here I shall be a man; I shall act to the last minute in which responsibility is imposed upon me, under a sense of my duty as I understand it; and I shall not go to Virginia to learn either patriotism or manners.

As it regards the resolution, I stated at the outset that every part and particle, every word of it, was based upon charges made on his responsibility by an honorable member of the House of Representatives, in his place on the floor of that House. It was none of mine, and I so stated it. I had no ulterior motives. Why, what does the Senator mean? What! does he suppose that I have any ulterior motives in attacking Commodore Morgan? Sir, it must have been the reflections of his own heart that taught him to look for ulterior motives influencing a member in the discharge of his duties upon this floor. It must have been something that came from the inside, and not from the outside. That is all I have to say about that part of the matter. I am willing that he or anybody else shall take all they can make by charging ulterior motives upon me; but the idea that I have any ulterior motives to gratify by this inquiry is too ridiculous to merit a moment's consideration; and if it were not that I might be thought to be following a bad example in bad taste, I would say that I would not descend to answer it; but I will not say such a thing, because I think it is in bad taste and bad manners.

Having said thus much, I do not care one cent about the resolution, whether it passes or not, whether the inquiry is instituted or not. But, sir, the thing will go to the country, and that is all I want; and if they find out that we are employing a navy at an immense expense, if we are sending out our ships of war to lie idle in port, year after year, and when there is anything to be done by way of transporting supplies, merchantmen are to be hired at the public expense, and the Senate is satisfied, I am; I have nothing to say.

I have simply submitted the resolution. I have informed the Senate of the sources from which I got the information, and upon which I based the inquiry; and having said that, I care as little about it as any member of the Senate. If the Senate and the country are satisfied I am. I have no personal objects to attain, no resentments to gratify. I scarcely know Commodore Morgan. I believe I met him several years since, and I think that however elevated the gentleman may be, and I do not choose to detract a word from that, Commodore Morgan will tell him if he sees fit to inquire, that in the very little intercourse he had with me, he had no occasion to find fault either on the score of gentlemanly deportment or liberality. Having said thus much I leave the subject.

Mr. MASON. If the Senator from New Hampshire entertains the opinion that I meant to have a personal allusion to him in my remarks, he did me injustice. If he entertains the opinion that I have ever heretofore courted any discussion of a personal character with him, he does me injustice again. Sir, I spoke of his resolution, of the paper he presented here in the form of a resolution of inquiry. I said that it was of a character that I would not descend to notice in any other terms than it deserved, because the Senator avails himself of his position to offer a resolution, the effect of which, whatever may be his intention—and I will not inquire into his motives—I have no doubt is to take for granted the very charges which are alluded to in the inquiry. Sir, if there was anything in tone or manner which he deems worthy of his rebuke, I regret it. I could never learn from him, and I should despair that he would ever learn anything from me. I mean to have none other, on this floor, than official intercourse with that Senator, and I shall always treat him with the respect which is due from one Senator to another here. Personally we are as far severed as the poles, and must so remain.

Sir, I said before that this gallant and distinguished officer, Commodore Morgan, never will shun an investigation in anything. Let the Senator put his resolution in the ordinary form. As for the ship lying in port, let him put in that inquiry in the ordinary form. Let him make the resolution one merely of inquiry, and I will sustain and vote for it.

Mr. RUSK. The very result which I expected when I heard the resolution read, and which I was anxious to avoid, has fallen upon us. An hour or two has been consumed here in speeches which amount to nothing, and the ordinary business of the Senate has been delayed. I was very desirous, and I was watching for an opportunity to get up a very just bill, the parties interested in which, are actually suffering for want of the relief which this Government ought to extend to them. In my conception, we are passing resolutions of this description with altogether too much facility. We are accumulating upon our desks matters for which there is no use, and going to the expense of printing and swelling up our documents to an enormous and unmanageable size, for no purpose upon the face of the earth. I shall vote against the whole of this resolution, and all resolutions of like char-

acter. I know nothing of Commodore Morgan; and I know and care nothing as to the motives which prompted the honorable Senator to introduce this resolution; but the resolution itself is a sort of a bill of indictment by insinuation against an officer of the Navy, for matters and things which I think the Senate ought not to investigate at all.

There are a great many things asked for in the resolution. It is as long as the moral law, and I cannot remember the whole of it; but it is a sort of a bill of indictment against the Secretary of the Navy. Making the inquiry in the form in which it does, it presupposes that these men would use the public property of the country. It refers to national vessels lying in port, and hiring ships to transport stores. It also contains a sort of insinuation about carrying women on board, and various things of that sort. There is nothing at all definite about it. If anything has been done improperly by this officer, and the Secretary of the Navy has been guilty of any *laches*, and it is so stated in a responsible manner, and the information is asked for, I will vote for it; but I will not vote for a long bill of indictment of this description. The mischief that I sought to avoid, by not taking up the resolution, has been accomplished, and I have been tempted to consume a little of the time myself. But that I may not be charged with inconsistency, I will say nothing more.

Mr. MALLORY. Mr. President, I have taken the opportunity during the debate, of looking at the resolution which has been presented to the Senate. As a member of the Committee on Naval Affairs, and as, I am happy to say, a friend of the Navy, it will afford me a great deal of pleasure at all times to facilitate any inquiry into the conduct of the Navy, for I am satisfied that if there be any error or fault in that condition, it is not the fault or error of the Navy proper, but it is the neglect of the proper authorities of the country to guard and take care of it. At all events, we should never shun inquiry when properly put forth. I, for one, seek it; and I predict here that when inquiry does come to be made, when members of Congress understand the true condition of the Navy, its regeneration will commence, and not before.

I do not attack the motives of the Senator from New Hampshire in presenting this resolution; but I have not been blind, nor has the Senate been blind, to the fact that throughout the previous session, since I have had the pleasure of being upon this floor at all events, the most bitter opponent of the Navy, and everything concerning the Navy, has been that honorable Senator. And from time to time, whether it be the introduction of a resolution to restrict commissions in the Navy to ten years, or whether it be any other plan which would break down the Navy and annihilate it, the severest blow against the service has come from that Senator. I attack no man's motives; but I tell the honorable Senator if his efforts had prevailed, our Navy would not have been fit for any honorable man's ambition.

The design of this resolution, I presume, is a proper design of inquiry. I have no doubt—considering the views of the Navy which that honorable Senator entertains—that he seeks what appears to him, at least, very proper information upon the subject, to guide his future action. I have no doubt of it; but I tell him that if he will look at the resolution again, he will find it to be simply an arraignment of one of the most distinguished officers of our country—a man whose reputation is dearer to him than anything else—a man who has outlived everything else that is valuable in life, but that reputation which is dear to him. Without any previous charge before that tribunal which the country justifies and gives him, he is arraigned here before the Senate of the United States in the attitude of a criminal. The resolution is not simply an appeal for information. It presents the officer here as violating almost every order that has ever been issued to commanders in the Navy. The inquiries are, how long his ship remained in port after her arrival at Naples before she sailed for the United States; what portion of this time was passed by Commodore Morgan on shore, and what time on board of his ship; what is the expense of sailing and managing a ship of the character of the Independence, per day and per year; whether Commodore Morgan without authority chartered a vessel to carry his stores from Spezzia to Naples, and whether the amount was paid by Commodore Morgan or by the Government; whether he had any instructions for target-firing, and for exercising his fleet in fleet-sailing; whether he took women on board of his vessel, without describing the character of the women: whether there are any instructions on that subject: and winding up with the inquiry, whether Commodore Morgan has been arraigned for disobedience of the orders, laws, or instructions which govern the Navy? Certainly, it must be presupposed by the honorable Senator that Commodore Morgan has done one or the other, or the resolution would not have been proposed. The honorable Senator knows as well as any of us, that a charge of this kind laid by him before the Secretary of the Navy, would have called forth immediately a communication from him to Commodore Morgan, by whom a full and satisfactory explanation of all these matters would have been given.

In times gone by, it has been considered by the country, that this was the last appeal for injured innocence; whenever a man's reputation was at stake, and he could get no justice from the departments, it was considered that here in this august tribunal, he might come as a last resort of appeal. But now it has become the everyday practice, on the complaints of nameless persons, upon reports and idle rumors, to arraign the reputation of a man who has passed his life in the service, and who has nothing but his reputation. I do not propose to stifle inquiry, because I have not the slightest question that the honorable Senator seeks a proper inquiry; but in view of the fact that he has distinguished himself upon this floor as the peculiar enemy of the Navy, I will move that the resolution be laid over until to-morrow morning.

The PRESIDENT. The resolution is not before the Senate, and therefore, that motion cannot be made. The question now, is on taking it up for consideration.

Mr. CASS. I want to repeat what I said before, that there are suggestions in the resolution which are proper subjects of inquiry for the American Senate; but the difficulty is, it is too detailed; and I think the honorable Senator will see that the phraseology in some portions of it, convey imputations that would not be proper without the knowledge of facts justifying them. But it does not do to say as to resolutions of inquiry, with respect to any circumstance, before either House of Congress, that they contain such imputations upon officers that they ought not to be made. The inquiry should be made in proper language, and then let the facts come before us.

My honorable friend from Illinois asked what we could do if we had this information? Why, we are not obliged to resort to a court-martial. Why, we can ascertain what the facts are; we can ascertain whether the laws have been executed; we can ascertain whether there has been abuse of the public money. What can we do then? We can pass a law to remedy it. If necessary, we can stop the appropriations. Suppose all the ships in the Navy were to be ordered to New York, or any other great abuse which you might assume should be committed, should we have no remedy? The remedy is clear. We, conjointly with the House, hold the purse-strings; and we ought to hold them tight under those circumstances.

I have no imputations to make against Commodore Morgan. I believe him to be an honorable man; and as to the Navy, my feelings are and always have been favorable towards it. No man esteems it higher than I do; but that is no reason why we should not make proper inquiries. These inquiries are among the elements of the character and good conduct of the Navy. Place it beyond the supervision of either House of Congress, and what security would you have for it, or for the army, or for any other public institution—no matter who the Executive is? I do not refer to Mr. Fillmore, or General Jackson, or Mr. Monroe, or anybody else. The very theory of our Government is, that Congress should supervise the acts of all. They should be held to responsibility by Congress.

I repeat to the honorable Senator from New Hampshire, that the resolution, in its present shape, is such as I cannot support; but I will go for any proper inquiry, couched in proper language. I make no intimation against the Senator, but I think the resolution imputes or intimates more than he intends. If the inquiry be in proper language, I will go for it, or any other investigation which may be asked.

The question was taken, and the Senate refused to take up the resolution.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 4, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. Petitions are in order from the State of Maine.

ALEXANDER RAMSAY.

Mr. SIBLEY. I ask the unanimous consent of the House to offer the following resolution of inquiry, to which I hope there will be no objection:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the falsity or correctness of allegations contained in certain of the public prints, with regard to the disbursement by Alexander Ramsay, Superintendent of Indian Affairs, of the money appropriated to carry out the stipulations of the treaties concluded with the Sioux or Dacotah Indians in the year 1851, and that said committee be authorized to send for persons and papers.

Mr. STANLY. What will be the order of business after the States shall have been called for petitions?

The SPEAKER. The call of committees for reports.

Mr. STANLY. When will resolutions be in order according to the rules of the House?

The SPEAKER. Resolutions will not be regularly in order until after the thirty days of the session shall have expired, and then on alternate Mondays.

Mr. STANLY. If we adhere to the rules it will give every class of business a chance, and I therefore object to the resolution.

Mr. SIBLEY. I beg that the gentleman will listen to me. There have been allegations made against a high public functionary and certain prominent citizens in Minnesota. I wish merely, in justice to the Governor of Minnesota Territory and other prominent individuals, to introduce this resolution.

Mr. STANLY. We have justice to do to all the citizens of the country. I object to the introduction of the resolution.

Mr. FLORENCE. I ask the unanimous consent of the House to introduce a resolution.

Mr. LETCHER. I object.

Mr. FLORENCE. I desire that it may be read for information.

Several MEMBERS objected.

Mr. RICHARDSON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. I had intended, before going into the Committee of the Whole on the state of the Union, to introduce a resolution to close debate on the pending question.

Mr. RICHARDSON. I will withdraw my motion.

CLOSE OF DEBATE.

Mr. HOUSTON. I propose the following resolution:

Resolved, That all debate in the Committee of the Whole on the state of the Union on the bill of the House No. 332, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854, shall cease in one hour after its consideration is resumed, (if the committee shall not come sooner to a conclusion upon the same,) and the committee shall then proceed to vote on such amendments as may be pending or offered to the same, and shall then lay it aside to be reported to the House with such amendments as may have been agreed to by the committee.

Mr. STUART. Is that resolution in order now?

The SPEAKER. It is in order.

Mr. STUART. Is not the order of business the call upon States for petitions?

The SPEAKER. This is a privileged motion, the gentleman having obtained the floor to move the resolution.

Mr. RICHARDSON. I move to amend the resolution by striking out the words "in one hour," and inserting "to-morrow," so as to give gentlemen an opportunity to be heard.

Mr. HOUSTON. If gentlemen will pass this resolution, and lay aside this bill, I will ask to take up another bill. Let the debate be continued upon the other bills when we take them up.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. WEDNESDAY, JANUARY 5, 1853. NEW SERIES....No. 14.

The question was then taken on Mr. RICHARDSON's amendment, and there were—ayes 43, noes 70; no quorum voting.

Mr. RICHARDSON demanded tellers; which were ordered; and Messrs. LOCKHART and MCNAIR were appointed.

The question was then taken, and the tellers reported that there were—ayes 54, noes 64.

So the amendment was not agreed to.

[A message was here received from the Senate, by Mr. DICKINS, its Secretary, as follows:

MR. SPEAKER: The Senate have passed a bill of this House of the following title, viz: H. R. No. 120, An act authorizing certain soldiers of the late war with Great Britain to surrender the bounty lands drawn by them, and to locate others in lieu thereof, without amendment. The Senate have also passed bills of the following titles, viz: S. No. 300, An act for the relief of the heirs of Lieutenant Colonel Henry Miller, late of Pennsylvania, for services in the revolutionary war. S. No. 434, An act for the relief of Richard B. Lee. S. No. 533, An act for the relief of James Wormsley; in which I am directed to ask the concurrence of this House.]

Mr. HOUSTON. I demand the previous question upon my motion.

Mr. FICKLIN. I ask the gentleman from Alabama to amend his resolution by making the hour for closing the debate, three o'clock.

Only 38 gentlemen voting, the previous question was not seconded.

Mr. HOUSTON. I will modify my resolution so as to make the time for closing debate two hours after the House shall have resolved itself into the Committee of the Whole on the state of the Union.

The resolution, as modified, was then adopted.

Mr. HOUSTON. I now propose that the House shall resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. I hope that the gentleman from Alabama will allow committees to be called for reports for an hour. I demand tellers upon the gentleman's motion.

Tellers were ordered; and Messrs. GAYLORD and LOCKHART were appointed.

The question was then taken, and the tellers reported—ayes 75, noes not counted.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair,) and resumed the consideration of House bill No. 332, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854.

The CHAIRMAN. When the committee rose on yesterday, the gentleman from Tennessee [Mr. POLK] was entitled to the floor.

ACQUISITION OF CUBA—LIEUT. GENERAL.

Mr. POLK. As I entered this Hall yesterday morning, on returning from the enjoyment of the Christmas holidays, I found my friend from North Carolina [Mr. VENABLE] discussing the Cuban question. I listened to him with a great deal of pleasure, and admired the adroitness with which he plied his arguments; but, at the same time, it struck me that he occupied *a strange position*, being so closely affiliated with the recently-published opinions of General Cass in the Senate. It has employed my attention ever since, to ascertain whether my friend from North Carolina has turned *old fogy*, or whether *General Cass has turned fire-eater*. They occupy the same position. It may be *possible* that General Cass, aware of the great care which the executor *of the character of Calhoun* has taken of him, may consider himself under some sort of obligation, as the last of the noble spirits in the Senate, to let his mantle fall also upon the shoulders of *so worthy an executor*. He says that he is opposed to the acquisition of any territory at all. I can only conceive, then, that he has adopted the principles contained in the report of the Secretary of War. If he is going to make it an ultra doctrine, he will go in for that report, which proposes to sell New Mexico to the Indians, *Delegate and all.* [Laughter.] Probably we are growing too large.

The gentleman, in another of his positions, says that at this time everything entitled to freedom enjoys it. Would not the declaration of such a sentiment have suited better the English Parliament in 1776 than the American Congress of 1853? I will not stop to enter upon an examination of the mischief which will result from the promulgation of such a doctrine. I will not stop to examine the effect which it must have upon our own institutions. Are you for shutting down the gates, and becoming as oppressive as England was to us, and show to the world that you are unworthy of freedom? How do you know that all who are entitled to freedom enjoy it? Have those who are the subjects of kingly Powers tried it? Have they had as fair an opportunity as we have had to test the experiment? No, sir. And here I dismiss my old friend from North Carolina, [Mr. VENABLE,] who, in the few days intervening between the last session and this, has thrown off all of youth, and gone soul and body to "*fogyism.*"

Sir, I notice that the course of Mr. Fillmore upon the Cuban question, has been entirely approved by some men belonging to our own party, and by Democratic newspapers scattered here and there throughout the country, and I believe the gentleman from North Carolina did the same thing yesterday. I do not approve of it. Why? I object to the slaughter of the fifty men at Havana. Why do I object to it? The treaty of commerce, peace, and navigation, between the United States and Spain, required the President to issue his proclamation. I cannot say that I admire the phraseology, the form, or the extent of that proclamation, but when it was issued we had performed our part of the treaty. Did Spain or the Cuban authorities, when those men were taken in arms, observe the treaty and give a fair and open trial, with all the privileges of counsel to the prisoners before execution? A treaty between two Governments must be mutually observed or it is nothing. I say that the Government of the United States observed their feature of the treaty and that the Government of *Spain violated theirs.* Although those fifty men were taken in arms, yet by the treaty between the two Governments, they had a right to a fair, *impartial, public trial.* That is a distinct stipulation in the treaty, but the Spanish authorities mocked it, and those men were tried, *if tried at all*, in secret, and were carried out and shot down in violation of the treaty, which Mr. Fillmore was trying to carry out. If he was so anxious to carry out the provisions of the treaty against the "filibusters," why did he not show *equal industry* and equal good-will in carrying out that feature of it which guarantied to those men a *fair trial*, a fair hearing, which every American can demand of any Power with which we have the USUAL treaty stipulations?

Mr. BROOKS. If the gentleman will allow me, I wish to correct him with regard to a matter of fact. Those persons all had trials before the courts of Havana. They were openly examined, and each and every one of them had a fair trial.

Mr. POLK. Justice in this country is an altar at which we worship. But I am astonished to find that the gentleman from New York approves of Spanish justice. Will you subject the American citizen to it who is not protected by this, I had almost said *pusillanimous* Administration; but I will not say it. Does the gentleman from New York approve of that, and say that our Government was correct in submitting to a mock trial of these men before a military commission, without any counsel upon the behalf of the prisoners, without an opportunity of communicating with their friends, and without even the poor privilege of bringing the facts to light connected with their guilt, if indeed they were guilty at all?

Mr. BROOKS. The gentleman is in error.

Mr. POLK. I cannot yield to the gentleman. He will have an opportunity of replying to me.

Mr. BROOKS. I fear I shall not have the opportunity, unless I interrupt the gentleman.

Mr. POLK. Well, sir, I say that this Government stands in this light before Europe and the world; you have had fifty men slaughtered in Cuba in violation of a treaty obligation, and you submit to it.

Is that all the submission? Is that the only ignominy that brands itself upon the American character in this connection? No, sir. We not only submit to that, but we break down the American honor by agreeing to salute a returning consul in honor of the slaughter—I mean the return of the Spanish Consul to New Orleans.

Sir, what sort of respect can we look for from any foreign country? What indignity will not be shown to our flag? What wrong, nations will ask, can we perpetrate to drive you into a defense of your honor? If the policy of this Administration is carried out, the only question with foreign nations will be, not "will this offend?" but "to what extent can we offend?" I will not stop to number the ignominies, one, two, three, and four. I will not stop to discuss the Thrasher case. I will not stop to discuss the Crescent City case, because I do not feel that I could throw any light on the question, unless I had time for proper preparation. I intended on yesterday merely to enter into the discussion while the blood was up, and while the debate was progressing. If, however, the course of this Administration was examined upon the slaughter of those fifty men in Havana, upon the Crescent City case, and upon the Thrasher case, it would be found that it had disgraced the Government in *each* instance.

Mr. Chairman, is that all with regard to Cuba? The best way to present this question is: How stands our diplomatic corps in Europe? Are our diplomatic agents respected there? Is our Minister to France respected? Are his declarations upon the part of his Government respected? Is the American Minister to Spain respected? Are his declarations respected? Are any of our Ministers respected upon the Continent? I do not pretend to say that our respectability has been compromised by either one of the distinguished gentlemen who represent us abroad in a diplomatic capacity, by any act of theirs. Sir, I say that this Administration has *broken down the respectability and the honor of the nation abroad.* How so? By the publication of a correspondence which bears the mark of *privacy upon its face*, and which *was declared to be private and confidential.* Mr. Saunders applied to the Spanish Minister of Foreign Affairs for an interview, stating that it was *to be private and confidential.* Of course, the results of the interview were communicated to the respective Governments—that is, this Government and Spain—but Mr. Saunders states, in all his letters to Mr. Buchanan, that the interviews were private, and that his Government would so consider them. Are they private now?

Suppose, Mr. Chairman, that you were Minister to a foreign Power at this hour, and that it was necessary for your Government that you should have an interview with the Minister of Foreign Affairs, for the purpose of shaping and forming its action on any great question, and you went to the Minister of Foreign Relations and said: "Sir, my Government has something to communicate, and I desire a private interview with you." "Well," he would reply, "I will give you an interview, but what *guarantee* shall I have that what I say *is private?* Your Government *betrays confidence.* Your Government has compromised all your ability for diplomacy in *ascertaining facts* and carrying out the *purposes of your international policy.*" What sort of a position is that for so great a Government as this to be in? At home we can maintain our honor, but abroad, an Executive upon a simple application for information under the usual provision *may compromise it.*

Sir, there were two purposes in the publication of that correspondence, and they are clear and distinct. One purpose was—and it shows how party tactics can be brought to bear—to make an issue in the late presidential election upon the Cuba question. That was the first object in view. The next object in view was to prevent the acquisition of Cuba at any time, and to let the abolitionists of the North know the position of a Democratic Administration upon the question, and that coming from the South. Is Mr. Fillmore censurable for this? I dislike to assail a dying Administration. I dis-

like to place my foot upon its neck, and in the hour of Democratic triumph sing hosannas of victory. It is not my purpose to do so. But I think the world should know in some distinct form that the American people, in their power and sovereignty, condemn and censure the action of the President who compromises their character as Mr. Fillmore has done. Personally, I have no objection to Mr. Fillmore. Up to that hour, I had no objection to his Administration. It is as good as a Whig Administration can be. But I charge him with having broken down the dignity of our Government abroad for the sake of accomplishing party purposes, and preventing the annexation of an island which is the key to the Gulf of Mexico, and is essential to the South.

I turn now to a question introduced on yesterday by my friend from Mississippi, [Mr. WILCOX]—the resolution which came from the Senate conferring the lieutenant generalship upon General Scott. I do trust that I shall be properly understood upon this question. I do not oppose the resolution from any personal considerations. I oppose it upon principle. I oppose it because the records do not show that General Scott is entirely worthy of the honor. I know that the gentleman from Indiana, [Mr. GORMAN,] who introduced the resolution into this House, is prompted by the most patriotic and magnanimous motives. I know that the Senator from Alabama, [Mr. CLEMENS,] who introduced it into the other wing of the Capitol, was prompted by motives of magnanimity, such as belong to his soldier heart and his innate Democratic generosity. I oppose it upon that point of magnanimity, and I assume that General Scott has never been magnanimous to friend or foe; and it is a draft upon the Democracy that I am not willing, at this hour or *any other*, to accept. His whole life is conclusive upon the point that he never was magnanimous to *friend or to foe*. I will take his controversy with Trist, if it is necessary to fish up such a question; but he is dead, and charity suggests to say amen! I will go to others. I will take his controversy with Wilkinson; I will take his controversy with Jackson; I will take his controversy with De Witt Clinton; I will take his controversy with Worth; I will take his controversy with Pillow; I will take his controversy with Duncan; and if I chose to go on, I might enumerate nearly every officer that ever was under his command.

And more than these, I have read, with high regard for the chivalry of the young officers of our Navy, their sullen service on the coast of Mexico before the capture of Vera Cruz. Hungered for bread, famished for water, burning for battle—no foe to fight but a deadly climate—these gallant sailors stood amid storm and disease, awaiting an opportunity to signalize themselves in a battle that might not be bloodless. At the siege of Vera Cruz the young officers of the Navy landed an army, upon an open sea-coast, in a manner such as never an army was landed before. Hundreds were drowned at Algiers by the navy of France, when that country was invaded by their army, but not a man was hurt in that most masterly movement of the American Navy. When this gallant army was landed on the shore of Mexico, the young officers of the Navy asked to participate in the fight on shore—did General Scott evince magnanimity in giving those who had so successfully landed his army an opportunity to participate in the glory of the battle? No, no! But they performed what he had assumed to be an utter impracticability. They established their celebrated naval battery, and the breach in the walls of Vera Cruz, by which the capitulation was more easily consummated, was the result of the gallantry of our naval officers. What mention, I pray, did General Scott ever make of these gallant sailors?

Sir, in granting this honor to General Scott, does this House understand that the historian will regard it as an indorsement of his conduct in all these controversies? By passing this resolution, you would place him upon the page of the history of his country, indorsed by conferring upon him an honor which the Father of his Country only possesses in memory. Are you willing to place him upon an equality with Washington? Are you willing that fifty or a hundred years hence, when the American people come to read the events which mark the progress of the Republic, that the glory which adorns the page that contains the history of Washington, shall be dimmed by a fly-leaf containing *an equal reputation* for Winfield Scott?

This resolution, it seems to me, has been suggested rather as an apology for the Democrats—as saying, "We Democrats have given you Whigs such a whipping that we are sorry for it." Sir, I am not sorry for it. I am not penitent. I glory in it, and I have no apology to make, sir, upon this matter of generosity. History furnishes proof of how much generosity General Scott deserves. I do not present them as an argument on my part; but allow me to present three witnesses. I will not seek them from any obscure position, but I will take witnesses who have filled the highest stations in office in the State, nation, and Army, and ask if you *will believe them*.

Wilkinson, in his history, charges General Scott with *duplicity*—with having presented *one sentiment to his face* and adoptiug a different tone of sentiment *behind his back*. But there is a coincidence marking itself, viz: that Wilkinson, Jackson, and De Witt Clinton, all at *different times* and under different circumstances, without the possibility of any concert of action, charge him with duplicity, false acknowledgments of friendship, and absence of corresponding responsibility. But, sir, I will read the testimony itself, with some comments, made by a gentleman who has carefully collated the facts here set forth, and is well qualified to speak concerning them:

"WILKINSON AND SCOTT.—General Wilkinson was the first to suffer from Scott's unhappy propensity to decry superiors. In 1814, a memoir of General Scott, (gotten up by himself, as Gen. Wilkinson alleges,) abuses the latter as the author of the charges on which he, Scott, was convicted and suspended in 1809. Wilkinson shows that this was false by record evidence;—gives an account of his relations with Scott from the day when, as a young captain, the latter joined his army on the Mississippi. Scott had written an abusive letter against him on the way to New Orleans, in consequence of Captain Bankhead being placed over him in command, on the transports which conveyed their companies. On his arrival at New Orleans, Scott thus introduced himself, says Wilkinson: '*It is probable, Gen-*
'*eral, you may have heard of my having written a free letter*
'*to you, in which, under a false impression, I took liberty*
'*with you, which I now regret.*' 'I had received,' continues Wilkinson, 'no such letter, and interrupted him by 'observing that my ears were not open to informers, and 'that the acknowledgment of an error was all that a liberal 'mind could desire.' Scott had suppressed the abusive letter, and after having read it to others, took this mode of preventing its injurious effects to himself through rumors reaching the general. He took the occasion which the kind feeling produced by his frank apology, to solicit a furlough from the general to return to Virginia, telling him, says Wilkinson, that there was an '*obligation which imperiously required his presence in Virginia, and that I might readily conceive what delicacy forbid his mentioning.*' Wilkinson indulged him. After Scott had left the army, stating that he would resign and not return, Lieut. J. H. T. Estes, of Virginia, addressed the following note to General Wilkinson, to be forwarded to the War Department:

"CAMP TERRE BŒUF, *July* 9, 1810.

"'SIR: Captain Winfield Scott having left the service 'of the United States, and I being the oldest officer in his 'absence, have had frequent applications from the greater 'part of the men now under my command for two months' 'pay due them, to wit: September and October, 1808, 'which money I know that Captain Scott received at 'Richmond, and has not accounted to the men for, and 'herein inclose a pay roll, made out by Captain W. Scott, 'for September and October, with the affidavit of the men 'present, that they have not received their money from 'him for the above-mentioned time; and I do certify that 'the remarks made by me on the pay-roll opposite their 'names are accurate and just to the best of my knowledge.

"'I am respectfully, your obedient servant,

"'JOHN H. T. ESTES.

"'General WILKINSON.'

"Dr. Upshaw, of Virginia, had been involved in a quarrel by Scott before he left New Orleans. A challenge passed, but the illness of Upshaw up to the time when Scott left, prevented a meeting. When Upshaw heard of Estes's statement, he pronounced Scott's retaining of the men's pay a robbery. He presented charges against Scott before a court-martial, after Wilkinson was superseded in the command of the army by Hampton. The charges were:

"1. 'For drawing two months of his company's pay, and 'withholding it from his men.'

"2. 'For seditious and insubordinate language respecting 'the Commanding General, declaring that if he should go 'into the field with him, he would carry one pistol for the 'enemy and one for the General.'

"Upshaw prosecuted the charges against the earnest solicitations of Wilkinson to desist, the latter desiring to suppress a feud which at last ended in a duel in which Upshaw wounded Scott. The judgment of the court was as follows:

"'After due deliberation, &c., the court find the prisoner 'guilty of the first charge, but acquit him of fraudulent intentions; and of the second charge of speaking disrespectfully of the Commanding General, but not of the words 'charged; and sentence him to one year's suspension from 'rank, pay, and emoluments.'

"Wilkinson, in his further detail of his relations with Scott, shows that Scott never forgave him, although the injured party, and one who still strove to save him from the difficulties in which he involved himself. When Wilkinson was put in command over him in 1813, in the north, Scott (then Colonel) again approached the General in the same way as at New Orleans, and the latter again waived all explanations; told him he '*was ready to consign all to oblivion;*' and afterwards gave him opportunities which he says '*excited the jealousy and discontent of senior colonels in the camp,*' and was finally repaid for all his forbearance and kindness, when he was broken down by ill health and misfortune, by ingratitude and treachery. After Wilkinson's unlucky campaign, Scott came to his sick room, and there, says Wilkinson, '*He pressed my feeble, helpless*
'*hand, and when I complained of my hard fortune, he*
'*affected to pour balm into my afflicted bosom by assuring*
'*me that, although his relations with General Hampton*
'*would prevent his saying anything against that officer, my*
'*conduct should be placed on its proper ground, and that he*
'*would vindicate it against censure.*'

"'With these professions on his lips, which the Father 'of mercies can witness, were made to me by Colonel 'Scott, he arrives at Albany, and there discovering that the 'Secretary of War had determined to make me the scape-'goat for the failure of the campaign, he yields to his secret 'hatred of a man whom he had too deeply injured to forgive, 'and forgetting my treatment of him, and his own voluntary 'promises, he outstrips the perfidy on the Mississippi, and 'as I have been informed, and do verily believe, attempted 'in whispers to blast my character by imputing to me the 'beastly crime of drunkenness at a time I labored under a 'disease that menaced my life.' This charge was brought against Wilkinson, on which (as well as all the other charges for which he was tried) he was acquitted; and he dismisses his account of Scott's various attacks on him by summing up his character in these words: '*A noisy Democrat—a silent Federalist—a subtle tyrant, who would sooner reign in hell than serve in heaven.*' This was in 1817. Whether there is any truth in this severe opinion, pronounced by an exasperated man, the public will decide, from the history of Scott's conduct towards all others associated with him in public life, a history gleaned from public documents."

That is the testimony of Wilkinson as to the purity of the motives of General Scott; but Wilkinson may be assailed; his character may be lost sight of. Let us see if we have another witness. Clear the track for Old Hickory. Let the Sage of the Hermitage speak: Who, during his life, or at any other subsequent period, dare impeach his veracity? He was a man of sterling honesty. His bitterest enemy acknowledged that. Let Old Hickory speak as to the worthiness of General Scott for the position in which it is sought to place him.

General Jackson, in 1817, was in the western country. General Scott was in New York, as a military man, in military circles and in fashionable society, denouncing General Jackson for some commands he had given in Florida. An anonymous letter was addressed to General Jackson upon the subject. He immediately, as a generous heart prompted, inclosed it to General Scott, to know whether the statement was true. Scott then comes out in a long pamphlet, in which he admits that it was true.

What does General Jackson say in answer? Time will not permit detail. I will read the testimony, accompanied by the comments of the same gentleman to whom I have before referred:

"GENERAL JACKSON AND GENERAL SCOTT.—General Jackson, another superior officer, became obnoxious to General Scott's envy and hostility. His exploits in the war of 1812, and his chastisement of the Spanish Florida authority, and the British brigands operating through the Seminoles, who spread havoc along our helpless southern frontier in 1817, had excited against General Jackson the jealousy of all the aspirants for the Presidency, civil and military. The civilians assailed Jackson in Congress. General Scott charged him in his conversations in city circles and military coteries with *mutiny*, for issuing a general order declaring that commands to his inferior officers must be made through him. General Jackson was informed, by an anonymous letter from New York, of these attacks. He did not credit the letter, but wrote Scott a frank note, inclosing a copy of it to him, and concluded by saying:

"'*I have not permitted myself for a moment to believe*
'*that the conduct ascribed to you is correct. Candor, how-*
'*ever, induces me to lay them before you, that you may*
'*have it in your power to say how far they be correctly*
'*stated.*'

"General Scott replied in an elaborate argument to support his charge before the public, (for his letter was afterwards circulated in pamphlet.) He could not deny but that if a commanding General had his officers, and portions of his army on special service under him, ordered elsewhere without his knowledge, that it might be alike fatal to him and to the public interest committed to his charge. Nevertheless, by way of bearding General Jackson, and impressing the charge against him of being a MUTINEER, Scott adds (while admitting the sound reason of Jackson's orders) that '*a private and respectful remonstrance, therefore, ap-*
'*pears to have been the only mode of redress which circum-*
'*stances admitted of. An appeal to the army or the pub-*
'*lic, before or after such remonstrance, seems to have been a*
'*greater irregularity than the measure complained of—to*
'*reprobate that measure publicly as the division order does,*
'*was to mount still higher in the scale of indecorum; but when*
'*the order goes as far as to prohibit to all officers in the di-*
'*vision, an obedience to the commands of the President of*
'*the United States, unless received through division head-*
'*quarters, it appears to me that* NOTHING BUT MUTINY AND
'DEFIANCE CAN BE UNDERSTOOD OR INTENDED.'

"In thus throwing down the gauntlet to General Jackson, the champion forgot that he was not dealing with General Wilkinson. Jackson took it up, resolved to bring it to a decisive arbitrament, or, at least, to give a new schooling to Scott in his military department and moral principles.

"He asks Scott, in reply—

"'Pray, sir, does your recollection serve? In what school 'of philosophy were you taught that to a letter inquiring 'into the nature of a supposed injury, clothed in language 'decorous and unexceptionable, an answer should be given, 'couched in pompous insolence and bullying expression? 'I had hoped that what was charged upon you by an anony- 'mous correspondent was unfounded: I hoped so, from the 'belief that General Scott was a soldier and a gentleman; 'but when I see these statements directly confirmed by his 'own words, it becomes a matter of inquiry how far a man 'of honorable feelings can reconcile them to himself longer 'to set up a claim to that character. Are you ignorant, sir, 'that had my order, at which your refined judgment is so 'extremely touched, been made the subject of inquiry, you 'might, from your standing, not your character, have been 'constituted one of my judges? How very proper then 'was it, thus situated, and without any knowledge of any 'of the attendant circumstances, for you to have prejudged 'the whole matter? This at different times, and in the cir- 'cle of your friends, you could do; and yet, had I been ar- 'raigned, and you detailed as one of my judges, with the 'designs of an assassin lurking under a fair exterior, you 'would have approached the holy sanctuary of justice. Is 'conduct like this congenial with that high sense of dig- 'nity that should be seated in a soldier's bosom? Is it due 'from a brother officer, to assail in the dark, the reputation 'of another, and stab him at a moment when he cannot ex- 'pect it? I might insult an honorable man by questions 'such as these, but shall not expect that they will harrow 'up one, who must be dead to all those feelings that are the 'characteristics of a gentleman.'

"And after presenting in still stronger lights '*the abomi- 'nable crime of detraction—of slandering behind his back a 'brother officer*'—the letter concludes thus:

"'My notions, sir, are not those now taught in modern 'schools and in fashionable high life; they were imbibed 'in ancient days, and hitherto have, and yet bear me to the 'conclusion, that he that can wantonly outrage the feelings 'of another—can intend injury where none is due—is ca- 'pable of any crime however detestable in its nature, and 'will not fail to commit it, whenever it may be imposed by 'necessity.

"'I shall not stoop, sir, to a justification of my order be- 'fore you, or to notice the weakness and absurdity of your 'tinsel rhetoric; it may be quite conclusive with yourself, 'and I have no disposition to attempt convincing you that 'your ingenuity is not as profound as you have imagined it 'to be. To my Government, whenever it may please, I 'hold myself liable to answer, and to prove the reasons 'which prompted me to the course I took; and to the in- 'termeddling pimps and spies of the War Department, who 'are in the garb of gentlemen, I hold myself responsible for 'any grievance they may labor under on my account, with 'whom you have my permission to number yourself. For 'what I have said I offer no apology; you have deserved it 'all and more, were it necessary to say more. I will barely 'remark, in conclusion, that if you feel yourself aggrieved 'at what is here said, any communication from you will 'reach me safely at this place.

"'I have the honor to be, very respectfully, your obedient 'servant, ANDREW JACKSON.'"

Sir, as an American, jealous of the fame and standing of Washington, I oppose this resolution. As a Tennessean, living on the soil that contains the remains of Jackson, I will not, by my vote, declare that that man was guilty of falsehood, and that General Scott is a purer patriot, and a gentleman and soldier worthy of this distinction. But is that all? Why did General Jackson complain of General Scott? It was for the same cause which made Wilkinson complain of him—for talking of him behind his back, and making assertions that, if true, would destroy his character, and then when called up for them, refusing to acknowledge his responsibility—a man who would smile in your presence, and then stab you in the dark.

If the testimony of Wilkinson and Jackson is not enough to establish the baseness of General Scott's character, what is sufficient? Is there no other distinguished witness who can be brought up to bear testimony in this case? General Scott attributed, in a letter which he wrote to General Jackson, the authorship of the anonymous letter to De Witt Clinton, or his clerk.

I ask the attention of the committee to the remarks upon this transaction, by the gentleman to whom I have before referred:

"DE WITT CLINTON.—The attack on General Jackson having rather an unpromising look, Scott in his last letter, evinced a desire to turn his battery on one who, he felt, was not so difficult to deal with as Jackson. He says to General Jackson:

"'Permit me to request—I think I have a right to de- 'mand—a sight of the *original* anonymous letter, which 'has given rise to this discussion. If I mistake not, your 'correspondent is perhaps a greater personage than you ima- 'gine—nay, so high that he has once essayed to set himself 'above the highest in our political sphere. The letter shall 'be returned as soon as the hand is compared with that of a 'certain agent of the personage alluded to.'

"General Jackson did not lend himself to this scheme of hunting up a new quarrel. It did not accord with his old-school notions, to betray a correspondent who had written him the truth. Scott in his pamphlet (republished in Niles's Register) says: 'No reply was ever made to the foregoing, 'and of course General Scott has never seen the original 'anonymous letter. His suspicions and the whole corre- 'spondence were fully communicated in January, 1818, to a 'particular friend of Governor Clinton, who was perfectly at 'liberty to give notice thereof to that personage.' The pamphlet containing this passage, as soon as it reached Governor Clinton, called forth this notice:

"TO THE PUBLIC.—General Scott, of the Army of the United States, having in a letter to General Jackson, of the 2d January, insinuated that I had written, dictated or instigated, an anonymous letter to the latter gentleman for unworthy motives, or for improper purposes; and having also concealed this imputation from me until the publication of a pamphlet, which reached me on the 4th instant, I have considered it proper to declare that I had no agency in writing, dictating, or instigating any anonymous letter whatsoever to General Jackson; that I am entirely ignorant of the author, and that the intimation of General Scott is entirely and unqualifiedly false, to the intents and in all respects. This declaration is made from motives of respect to public opinion and not from any regard to General Scott, whose conduct on this occasion is such a total departure from honor and propriety as to render him unworthy of the esteem of a man who has any respect for himself.

"It is not probable that I can at this time have any recollection of having had the honor of seeing General Scott on the 9th June, 1817, at a dinner in New York, or of the topics of conversation, as he suggests; circumstances so unimportant are not apt to be impressed on the memory. But I feel a confident persuasion that I did not make use of any expressions incompatible with the high respect which I entertain for General Jackson.

"DE WITT CLINTON.

"ALBANY, *6th April*, 1819."

Mr. Chairman, the charge made by Mr. Wilkinson may be attributed to jealousy or envy, but Jackson was a man who never indulged in anything but honor and honesty in his intercourse with his fellow-men; De Witt Clinton was unimpeached and unimpeachable; yet these men say, and it is upon the records of the country, that General Scott was guilty of all these offenses against honor, against his Government, and against private character. Will an American Congress then confer upon him an honor as high as was conferred upon the Father of his Country? I will not.

Sir, his Whig friends ask us for magnanimity. Gentlemen Democrats, will you not be magnanimous? Gentlemen Whigs, who now ask the House to be magnanimous, when did you practice magnanimity? When did this new light break in upon *you*? When the Hero of the Hermitage, standing with one foot in the grave, and the other upon its crumbling brink, asked you to remove the only constructive stain upon his character, the Whig party, presented a united front in opposition to granting his request, and he would have gone down to the grave with the stain still upon his character, if they could have kept it there. They not only opposed this application, but they have preferred to one of the highest places in the Government, the man who took the initiative in endeavoring to retain that stain upon his character—Secretary Conrad, of the War Department.

Mr. Chairman, General Scott has been the usual rounds. You say he should be rewarded. Has he not taken the usual chances? Has not he taken the chances for preferment which Washington took, and which Jackson took? The result was different, I admit. I will admit that the people rewarded Washington for his services in the field. I admit that the people rewarded General Jackson for his services in the field. But because they did not reward General Scott, he comes here in the purlieus of the Capitol to ask that a sword of unusual brightness—that an honor which has never been done to any but Washington—should be his. No, sir; this is asking too much. If you make him equal to Washington, how do you but belie history? I, sir, so long as twenty-seven men will stand with me upon this floor, and give us the yeas and nays, will battle it. I do not intend to connect myself with such a fraud upon the patriotism of the country.

There is another consideration which I have passed over; and that is General Scott's controversy with Generals Worth and Pillow. But upon that subject I will not now dwell.

The grave of Washington is the *Mecca* of the American patriot. Let not this Congress, I pray you, do anything to check the patriotic ardor of the pilgrims to that hallowed tomb. Let it not be said a century hence, that Congress made another as great—constituted by resolution an equal to the Father of his Country. God forbid the perpetration of such *patriotic sacrilege!* God forbid that the fame of Washington should be clouded, even in the most remote manner, by suggesting an equal. Scott's life has been one of turmoil, quarrel, wrangling, and enmity, with officers and soldiers and country. Washington was first in the hearts of his officers, his soldiers, and his country. How striking the contrast. Will the country ratify the act? I will not.

Mr. LANE. Mr. Chairman, on yesterday I had the pleasure of hearing my friend from North Carolina [Mr. VENABLE] upon the Cuba question, as also my friend from Mississippi, [Mr. BROWN,] to whom I listened with much interest, upon the same question; and my friend, Mr. WILCOX, from Mississippi, upon the subject of lieutenant generalship.

I intend to say but a very few words about Cuba, for I think that is a foregone question, that the fate of Cuba is sealed; that no power under heaven can change it; and that it is not necessary for this House, at this time, to say anything about that question. Cuba is destined to be ours, and no power on earth can prevent it. Let her alone, and she will come in of herself. Towards her, I am sure, this Government will never do wrong; will never violate any of her treaty stipulations, or trespass upon the right of other nations. She will maintain and uphold an honorable and upright course towards all the nations of the earth.

But, sir, while we do that, we should require the rights of our citizens to be respected abroad, and the very name of an American citizen should ever insure protection and respect. I know the incoming Administration, true to the patriotic feeling which brings it into power, in our relations with all foreign Powers will demand what is right, and submit to nothing wrong. Will it be averred here or elsewhere, that the massacre of American citizens upon the Island of Cuba, was right and proper; that it was just and in accordance with treaty stipulations; that it was humane and Christian-like? I hold that the authorities of Cuba have a heavy sin to answer for, and which will never be wiped out until Cuba is made free, and relieved from the tyrannous Government which now oppresses her thousands of hearts beating with a love of liberty. They deserve to be free, and I have no doubt they will be, and become a portion of this country. I have no fears, Mr. Chairman, that sectional questions will ever interfere with the peace and harmony of this country. I hold that there is no danger in adding more territory to this Union. We have not enough, and the area of freedom has not spread wide enough. Cuba will come in; and she will come in legally, lawfully, and properly, and enjoy the blessings we enjoy. But we shall not stop there. The day is not far distant when all the Mexican States will come in, and the sooner the better for them, and for the rest of mankind.

I know that there is patriotism enough among the northern and among the southern people of this country to allow the people of the Territories, who ask to come into the Union, to form just such State governments, not conflicting with our Constitution, as may suit them, and admit them without reference to their domestic institutions. If I believed that the acquisition of territory would deprive the people of that Territory, so acquired, from forming such a government as they choose, with just such institutions as they choose, provided it does not conflict with the Constitution of the United States, I would reprobate its acquisition; I would be opposed to the acquisition of territory if I believed any such thing.

Now, Mr. Chairman, I have said enough about Cuba; I hold that it will be ours in due time. No mistake about it; and that it will be done honorably, correctly, justly, and properly, I am sure, for this Government will not do otherwise. Nor will our Government submit to wrongs perpetrated upon her people.

I wish now to say a word or two upon the lieutenant generalship. I am, Mr. Chairman, a personal admirer of General Scott; I respect the man, I served under him, and know him well. I know him to be a soldier and a great general. But, sir, I am opposed to the creation of this office with the title, rank, or grade of lieutenant general; a rank which will not, I am sure, be conferred by this House upon anybody. What do gentlemen propose to do? What does the joint resolution propose to do? It proposes to confer the title and rank of lieutenant general, an office, Mr. Chairman, not known to the organization of our Army. Is it a mere empty title; does it confer only an empty name upon General Scott? If it is nothing more than that, I am

opposed to it, for it is anti-democratic to do any such thing. It belongs not, in my judgment, to the institutions and spirit of our country, and ought not to be conferred. It has never been conferred upon any other officer of the Army. It was conferred upon Washington—but why? It was for the purpose of creating an office to be filled by that distinguished man, the father of his country, and the greatest general that ever commanded an Army. He was not in the Army, but it was desired to place him at the head of the Army, and therefore it was necessary to create the office, and to fill it by giving to General Washington the commission of lieutenant general. Afterwards, it is true, they changed that, and abolished the office, and since that time it has not been known to the organization of our Army.

If you create the office and rank of lieutenant general in our Army, a grade and rank not known to it now, and if it is anything more than an empty title, it will require a reorganization of the whole Army. You must then, in addition, make another major general, and to make his command complete, and give him the staff he is entitled to, you must give him two major generals and four brigadier generals. But suppose you give him but one—and that will be absolutely necessary to his position—one major general and two brigadier generals in addition to the present number. Now, do gentlemen of this House, for the purpose of conferring upon General Scott that which has never been conferred upon any other officer of the American Army, desire to reorganize the Army of the country?

General Scott, Mr. Chairman, occupies the highest position that a man can occupy in the Army. He occupies a high place in the hearts of his countrymen. He is known to be a distinguished general and a good soldier. He is at the head of the American Army. He is major general commanding, and is not that enough? Who would ask more?

If General Scott desires this thing, or if his friends desire it, for the purpose of conferring upon him a title, then I will say that General Scott would elevate himself more in my estimation, by saying to Congress that he would accept no such empty title, than he has done by all his achievements.

If it is more than an empty title, then, as I said before, it reorganizes and changes the whole system of our Army, and no gentleman knows it better than yourself, Mr. Chairman. Everybody knows it, who has given any attention to the organization of the Army.

Let the present organization of the Army remain undisturbed; for it is perfect and will answer all the purposes of the nation. I think I have not been mistaken with regard to the reorganization of the Army and the staff of the Army that will be consequent upon the establishment of the proposed rank of lieutenant general; and if I have not, I would ask gentlemen whether they are willing to vote this new rank to General Scott with such consequences before their eyes? There is no more admiring personal friend of General Scott than your humble servant, and I say in all sincerity that he is entitled to the great reputation that he enjoys. Congress has not been forgetful of his services. They have passed him a vote of thanks and ordered that he should be presented with a sword as evidences of their appreciation of them. Let this Congress pass him another vote of thanks and order that another sword shall be presented to him, but let it not reorganize the Army.

Allow me to say that, in my judgment, Congress has not done justice to all those who have distinguished themselves in the service of the country. You recollect, Mr. Chairman, [Mr. RICHARDSON,] the perils and trials passed through by the American Army on the 21st, 22d, and 23d of February, 1847. You know that then none distinguished themselves more in everything that goes to make a consummate general than General Wool, and you felt then, as did every one in our Army, that the responsibility of the battle of Buena Vista devolved upon him. He planned the battle. He posted the command of your humble servant, gave him his orders, and directed him when to bring on the battle. He was active throughout the day, and he was exposed to every danger that the soldier was. By his gallant bearing and example, he encouraged the troops wherever he went. The services he rendered the country have never been surpassed by any officer of the American Army. The Commander-in-Chief of that Army, at that battle, was as gallant a spirit as ever lived, and because he was not on the field of battle at its commencement, the command devolved on General Wool. Has Congress ever given General Wool a vote of thanks, or have they ever ordered a sword to be presented to him? I am under the impression that they have not. If they have not, they ought to hasten to do it, for he fully deserves it at their hands—none have deserved it more.

I venture to say further, that Congress has delayed justice to another gallant man, who is now not in the Army. I allude to Captain Ben McCullough. I recollect that on the 21st of February, whilst I was sitting on my horse in front of the Commander's marquee, Captain Ben McCullough returned from his reconnoissance at Encarnacion, and communicated to General Taylor that the enemy in vast numbers were approaching, and would be upon him in a few hours. "Captain McCullough," said the Commander-in-Chief, "how strong an army has Santa Anna with him?" Captain McCullough replied, that "he had eighteen or twenty pieces of artillery, and more than twenty thousand men with him." He had, as you know, Mr. Chairman, passed on the night of the 20th, the line of sentries of the Mexican Army, and made a complete reconnoissance of their encampment, and their strength. He reported to the Commander at precisely twelve o'clock on Sunday, the 21st. The line of march was then taken up for Buena Vista; and before our rear had left the encampment—before our depôts had been removed—the enemy were upon our forces. We had been encamped upon a great plain, affording us no earthly advantage. Our position would not have enabled us to defend ourselves twenty minutes, and what would have been our fate had it not been for the gallant and faithful conduct of Captain Ben McCullough? If we had lain there in security six hours longer, with no defense more than four or five thousand troops could afford us against twenty thousand, we would have been crushed. Congress has never given him a vote of thanks, nor ordered that a sword should be presented to him. Nothing has been said of him who saved the little army which two days afterwards were victorious, after one of the most glorious battles ever fought. Great credit is due him, and very great credit is due General Wool, for it was he who selected the field of battle. Commence doing justice to these gentlemen, and leave General Scott where he is, and where he deserves to be, and where he ought to be satisfied with being, at the head of the American Army, with a reputation unsurpassed by any military man since the days of Washington.

I have already shown the committee that the lieutenant generalship was first created to procure the service of General Washington, who did not belong to the Army. Had he been at that time at the head of the Army, the office would not have been created.

I have also demonstrated, I think, that if there is anything more than empty title intended, the reorganization of the Army will be the consequence of the passage of the proposition from the Senate. The present organization of the Army is as democratic as the organization of an army can be.

Others besides those to whom I have alluded distinguished themselves in the battle of Buena Vista. The colonel of your regiment fell there, Mr. Chairman, as brave as the bravest. The gallant Davis, with his Mississippi rifles, was there; the volunteers from Illinois, led, after the fall of your colonel, by yourself and the gallant Bissell, were there; and the brave Kentucky volunteers. Yet their claims to their country's gratitude are passed by in silence. Nor have the troops of Indiana, who so gallantly served in that battle, been permitted to receive that justice to which truth entitled them. And yet the result of this great battle, this victory, was the opening of the gates to the halls of the Montezumas.

You propose, now, to forget and neglect everybody else, and bestow laurels on General Scott, for the reason ascribed by the gentleman from Tennessee, [Mr. POLK], that he was badly beaten in the late presidential contest. Now, with all my respect for General Scott, I rejoice that he was not elected to the Presidency. I think that the whole country has occasion to rejoice he was not elected. Though I believe he is qualified for the high position he now occupies, I do not now, nor ever have believed that he was qualified for that high office. Thank God! the majority of the people were opposed to his advancement to it!

Mr. Chairman, this is the first time during my term in this House that I have said a word on any other subject than that relating to the interests of Oregon. To the advancement of its interest I have exclusively confined myself. I do most earnestly hope that this House will consider well before they pass the joint resolution conferring the title of the lieutenant generalship on General Scott. If General Scott is allowed time to reflect upon this matter, I think that he will appreciate the anti-democratic bearing of this title, and give notice that he will not accept it if proffered to him, but content himself with the high position he now enjoys, and that immortal fame as a brave and gallant general, to which the title sought can add nothing, and from which its refusal by this House can nothing detract.

Mr. BROOKS. Nothing, Mr. Chairman, was further from my intention on entering the House this morning than to detain it with any remarks; but a portion of the speech of the gentleman from Tennessee seems to me to require some reply. I do not design to enter into a discussion of the propriety of conferring the lieutenant generalship upon General Scott further than to say, that nothing, in my opinion, is more unkind, more unjust and unpatriotic, when a proposition for that purpose has been introduced by a member from the other side of the House, than to assail us on this (the Whig side) for such an introduction. The proposition has not emanated from us, but it has proceeded from the friends of the gentleman from Tennessee, [Mr. POLK;] and though we have no doubt that the honor is deserved, and shall, in all probability, all vote for conferring it, yet we think the responsibility of its introduction is upon them, and not in the least degree upon us.

The main purpose, however, of my rising, was to correct some remarks which fell from the gentleman from Tennessee, with regard to Cuba and the Cuban prisoners, and to answer the indictment he has framed against the existing Administration, which consists, as I understand him, of three or four counts or charges, urged as facts by him, to be such as have disgraced that Administration and dishonored the country. The charges are as follows: First, as to the fifty Lopez prisoners put to death by the Spanish authorities in Cuba. Second, as to the arrest of Mr. Thrasher. Third, as to the affair of the Crescent City; and fourth, as to the publication of the correspondence respecting the purchase of Cuba. Am I right in the recital of the counts? The gentleman nods his head, and I take it for granted, then, that I correctly understand him.

I shall now, Mr. Chairman, although I have had no time to prepare myself, or to collect documents for reference or authority, reply as briefly as I can to this indictment, and show the House that the charges are both unjust and groundless.

First, as to the Lopez prisoners, who sailed from New Orleans. They started with a bold violation of the laws of the land, of a most solemn treaty, and of the law of nations—as armed men invading a friendly territory. They began with violating the custom-house laws of their own country, in sailing from the port of New Orleans without the requisite clearance demanded of all vessels, on leaving for a foreign port. In the second place, they violated the neutrality laws of 1818, which have all along been the laws of this country, approved of by all Administrations preceding, and reinforced by all parties during the administration of Mr. Van Buren. And in the third place, they violated the *most* holy and respected of the laws of nations, in setting out from these United States in defiance of treaties, under the protection of no flag, and without a country, for they abandoned their country and their home, to invade a people with whom we were in profound peace, and with whom we had sacred pledges of amity and concord.

Mr. POLK. I acknowledge they violated a portion of the laws alluded to by the gentleman; but I stated that the magnitude of the guilt could not justify the Government in its refusal to extend towards them the protection stipulated by treaty obligations. If we observe the treaty, I require that Spain also shall observe it. That is my position.

Mr. BROOKS. I understand the gentleman. The ground I will take is, that the prisoners, though they had expatriated themselves, nevertheless were tried according to the treaty. I have before me the words of the treaty, which I have just had time to find since I came here into the House. The treaty was made the 27th day of October, 1795. The seventh article, to which the gentleman refers, runs thus:

"And in all cases of detention and arrest for debts contracted or offenses committed by any citizen, of one of the contracting parties within the jurisdiction of the other, the same shall be prosecuted by order and authority of law only, and *according to the regular course of proceedings usual in such cases.*"

The only question is whether these fifty prisoners were tried, in the language of that treaty, "according to the regular course of proceedings usual in such cases." Now, for all cases of conspiracy or treason, under the laws of Spain, there exists throughout all the Indies, I believe, especially there exists in Cuba, what is called "a military commission," a common and ordinary tribunal, instituted since the year 1825, for the trial of such crimes as may be committed against the State. Any one, be he Spaniard, Englishman, or American, who is accused of conspiracy against the Government, or who is guilty of treason, is tried before that military commission. These were taken with arms in their hands, *flagrante bello*, and never disguised, but, on examination, all confessed the fact, and they suffered with firmness the consequences of their crime.

Mr. POLK. Will the gentleman allow me to interrupt him? Will the gentleman from New York state that the fifty prisoners taken under the operation of that provision of the treaty never had an opportunity to communicate with counsel, never had an opportunity to see a friend, never had an opportunity of defense, and then answer me if they were not *tried* upon *ex parte* testimony?

Mr. BROOKS. I will answer him. One of the first rules or ordinances in this military tribunal is, that the party alleged to be guilty of treason or conspiracy shall be allowed to have the privilege of selecting an orator or defender, which privilege these prisoners had and exercised. They were regularly tried before this tribunal, enjoying all the rights and privileges of a Spanish subject in like condition. Their orator or defender was selected. A minute and careful investigation took place in the case of each and every one of the whole fifty—their answers, as well as other facts, were all carefully taken down in public open court—and that examination is a matter of public record, which anybody who has the curiosity can see either in the State Department, or in the judicial report of Cuba.

Mr. POLK. Will the gentleman from New York tell me whether the person appointed to defend them was an American or Spaniard?

Mr. BROOKS. I am not able to answer.

Mr. POLK. He was a Spaniard. Can an American hope for justice, battling against a Spanish court with a Spanish advocate? It is mockery.

Mr. BROOKS. Of course he must have been a Spaniard. To address a Spanish tribunal, a Spanish defender was indispensably necessary. But be this as it may, they were all tried "according to the regular course of proceedings usual in such cases," and had just such a trial, just such a defense, and just such protection as the highest Spanish subject in the kingdom would have had. The point, then, I make is this: that these persons had exactly the same privileges of trial that a Spanish subject would have had under the Spanish Government, and thus had all the benefits of the seventh article of the treaty of 1795. And does the gentleman, under the law of nations, independent of treaty, expect anything more for an American citizen, in a Spanish country, than the laws of Spain give to a native-born subject of those laws?

Mr. POLK. It seems difficult for the gentleman to comprehend me.

Mr. BROOKS. If I had time to submit to these interruptions, I would show less impatience in submitting to them. I certainly have no objection to any correction of a misstatement of facts, if any such I have made, and as I go along, will cheerfully submit to corrections of them. The point which the gentleman made was, that these prisoners, though guilty of gross violations of law, as he admits, were not tried according to treaty. The reply which I make is, that under the treaty, these persons had exactly the same trial in Cuba which a Spanish subject had, and I may add, that exactly those proceedings which we ourselves submit to in the United States, a Spanish subject would have to submit to if tried in the United States under our laws. These Americans, who had abandoned their country, broken its laws, and the laws of God and man, I may add also, nevertheless were examined, tried, and convicted, just exactly as Spanish subjects would have been, and just exactly as they would have been tried under the treaty of 1795, as if in other things than treason to Spain they had been good, obedient American citizens. What more could be asked for them? Nay, could we justly have complained, taken in arms as they were, if they had been summarily executed on the spot of their capture? This military commission, before which they were tried, consists of some of the highest officers of the Spanish army, at whose head is a brigadier general of the regular army. It is not a mere military court-martial, but it is a regularly instituted tribunal, not *improvised* for this immediate occasion, but a court recognized by the laws of Spain—as old, I stated before, as the year 1825—and it is subject, I am informed, to a reversal of its proceedings by the *Real Audiencia Pretorial*, the royal court of judicature, and the highest judicial court in Cuba. It was the only authority in Cuba competent, under the civil law, to pass judgment upon these prisoners who stood accused of treason, and they could not have been tried by any other tribunal without manifest violation of the laws of Spain.*

But it ill becomes the United States, Mr. Chairman, which in parallel cases have executed like summary laws upon the subjects of other Governments, to complain of a parallel execution of laws in this Cuba case. What was the conduct of General Jackson in Florida, with regard to Arbuthnot and Ambrister? When he found those British subjects in Florida violating the laws of nations, in there stirring up sedition, or rebellion, did he subject them to any other trial except that of a drum-head court-martial? Did he subject them to any long-established military tribunal, recognized by the civil law?—to any *Audiencia Pretorial*? Did he give them any examination whatsoever? Did he not, under this drum-head court-martial, try and execute them in a most summary manner, maintaining, as he said, the laws of nations, and in defiance of the power and authority of Great Britain? When we have thus exercised the power of life and death over British subjects, and by a mere drum-head court-martial, shall we complain when like jurisdiction is exercised over our citizens more fearfully violating the law of nations—with arms in their hands, slaying, murdering a people, with whom we are at peace, and a treaty covenant for peace besides?

Mr. POLK. They were executed for the same reason that General Washington executed Andrē, and every *Whig of revolutionary standing approved the execution.*

Mr. BROOKS. Where was the sensibility of gentlemen during the Administration of General Jackson, when those summary and bloody proceedings took place in Texas,—at Goliad, if I recollect aright,—at the Alamo, and elsewhere, when the blood of American citizens was shed profusely, coolly, cruelly,—in a mode and manner that made men start and shiver as they read. If General Jackson and those at the head of his administration did not think that those people were legally executed under the laws of nations, when they were violating the rights, privileges, and laws of a people with whom we were at peace, by invading a then foreign country, why did they not then declare war? If such sensibility then existed as now exists, why was not summary vengeance instituted for the murder of American citizens in cold blood, without the benefit of trial at all? Where was the like sensibility in the case of the steamer Caroline, during Mr. Van Buren's administration—taken by a British force in American waters, conducted over to British territory, and burnt, as is alleged, with human beings, American citizens, on board? What was done to those American citizens who went across Lake Ontario and were captured with arms in their hands, or with those who were taken in flight upon the ice on Lake Erie,—it may have been on American territory? They were sent to the eastern criminal depôts of Great Britain, with thieves, robbers, murderers, convicts of all classes, to associate with,—without any remonstrances upon our part, and we not only submitted to that, but we submitted to all the proceedings arising in the case of the capture of the Caroline upon our own soil, without any violent remonstrances upon our part, or certainly not any remonstrances amounting to anything like a proposed declaration of war.

And yet these gentlemen who were thus submissive against the high and powerful authority of Great Britain, because she had power and authority to maintain her dignity and positions, now tell us we are a dishonored and disgraced nation, because we have permitted Spain, in her weakness, to do far less than Great Britain has done in her might. What am I to conclude? That they are consistent? That they are more patriotic now than they were then? Am I not rather to conclude that these outcries are made against the second rate power of Spain, in order to create some pretense to seize upon the Island of Cuba, notwithstanding gentlemen tell us in one breath that they would never take it, but according to the laws of nations; in peace, and by the consent of the Spanish Government, while in another, they start up these false pretenses for war? Cases passed over in silence with Great Britain are to be seized upon merely as a pretense for the purpose of invading Cuba, though we have submitted under preceding Democratic Administrations, to like cases of injury over and over again, where Great Britain was our assailant, because she was too strong to be plundered.*

*The proceedings of the Tribunal which examined these prisoners are long and minute. Don Pedro Pablo Cruces, Colonel of Cavalry, was the Fiscal of the Tribunal. (August 16, 1851.) Francisco Gregorio de Valdermana was Interpreter. Witnesses were examined, stating at length the capture of these invaders, and all the other well known facts. Then ensued a general examination of the whole party (50) in detail. Some specimens are translated.

Wm. L. Crittenden, born in Kentucky, an officer in the United States Army, in the line of the Infantry, having resigned two years since, sworn, and upon being interrogated, said: (Mr. Crittenden here went on, and at considerable length, gave all the circumstances of his sailing from New Orleans in the Pampero, his landing at Bahia Honda, his age, 20 years, &c.; and then signed his name to what he said, in presence of Pedro P. Cruces and Francisco Gregorio de Valdermano.)

J. B. Veazy told the same story, made the same confessions, signed his name, in presence of the officials.

Napoleon Collins, Protestant, told about the same story, had no profession, born in Philadelphia, signed his name.

James Brandt, of New Orleans, Protestant, of no profession, aged 28 years, told about the same story—signed.

Alfred Roper, New York, &c., do. do.

William B. Little, born in Ireland, Roman Catholic, engaged in commerce, same story.

Ditto, ditto, the whole fifty. The condensed report of the trial occupies thirty four pages in closely-written (Spanish) folios. No one denied the facts, and all admitted their complicity in the guilt. The only extenuation attempted was the belief that the island was in insurrection, as Lopez told them it was. They were executed, it will be remembered, when the rest of the Pampero party was on the island in arms. Certified copies of the trial were shown by the Spanish authorities to Mr. Webster, Secretary of State. The forms are very minute. The *officials* sign every individual case, and make each a matter of especial record.

These prisoners left nothing to contest by a trial. Taken *flagrante delicto*, they all confessed their crime. They all signed their names to their confessions. All their forms the military tribunal has made matter of minute record, and with great care.

* In September, 1848, James Bergen, a native of Connecticut, and Richard Ryan, an Irish born, but naturalized American citizen, were incarcerated in the Newgate prison, Dublin, under an arrest for treason. (They were there during the last attempted Irish rebellion.) Mr. Bancroft warmly remonstrated. Mr. Buchanan, (then Secretary of State,) first instructed Mr. Bancroft, (October 23, 1848,) that "treason cannot be committed by a citizen of the United States against a foreign Government;" but (October 28) after reading Blackstone's Commentaries, East's Crown Law, &c., he writes: "I was too hasty in (so) stating," and recalls this part of his instruction. Bergen and Ryan were kept in Newgate prison, in spite of remonstrances, till Lord Palmerston was ready to let them go. Lord Palmerston writes, (September 30:)

"Her Majesty's Government see no reason for releasing Mr. Bergen and Mr. Ryan from imprisonment."

Lord Palmerston refused copies of Police instructions under which these men were arrested, and coolly said: "Her Majesty's Government is responsible for all acts, (under such instructions,) *and have no wish or intention to shrink, &c.*"

Mr. Ryan (September 1) writes from Newgate prison to James K. Polk, President, &c.:

"Many Americans have been arrested on mere suspicion, and are tenants of different prisons in the country. *I am now a resident of a cell in Newgate.*" * * * "I had the pleasure of calling on you at Washington in June last, and Hon. J. J. Faran, of Ohio. Senator Hannegan, of Indiana, and other members of your legislative hall will let you know who I am. I am allowed to see no person in this place, except such as the Lord Lieutenant permits."

No war followed!

Now, Mr. Chairman, let me pass to another count in the indictment, and that is the case of Thrasher. He had been in the Island of Cuba some seventeen years, I believe—a long time, it is certain, *animo manendi*, as the lawyers say—and *sine animo revertendi*, and to all intents and purposes he had become subject to the domiciliary, and other laws of Spain. Spain, in Cuba, recognizes three classes of foreigners—transient, domiciled, and naturalized. Thrasher's case was not that of a transient foreigner. He was a domiciled foreigner, declaring his intention of establishing himself on the Island, and apparently intending hereafter to become naturalized. What did he do in order to become a domiciled foreigner? He took two oaths which put it without the power of our Government to protect him; and if I had the *royal cedulas* of the Indies before me, which are accessible in a Department Library at the other end of the Capitol, I should in Spanish quote exactly what those oaths were, so as to have no mistake in my statement of them.* The first was in substance an abjuration of the Protestant religion, and the adoption of the Roman Catholic religion—the abjuration of the religion in which he was born—the religion of his fathers. The next was an abjuration of allegiance to his own country, and submission to the allegiance of Spain. I must do him the justice to say he was, under the laws of Spain, compelled to take these oaths, in order to be enabled to acquire property with an exemption from taxes and excise duties, and to be enabled to exercise certain callings. But these were the two oaths which Thrasher took, and in them he renounced his country, the religion of his childhood and his home. And yet the honorable gentleman from Tennessee [Mr. POLK] rises upon this floor and claims for this self-expatriated person all the privileges, all the rights of American citizens, and almost insists upon a declaration of war in his behalf.

Mr. POLK. Certainly I do.

Mr. BROOKS. Well, then, let us see—self-expatriated as he was—if he has not had all the rights and privileges of our citizenship. I have no time to expand an argument upon this point in the brief period allotted me, but nevertheless let us see. Thrasher was tried before the military tribunal I have spoken of before. He selected of his own free will, an officer of the Army to conduct his defense, who conferred with his client at the trial of the case, and read on the occasion a large manuscript in defense. The Consul of the United States was present, and an immense concourse of people. The Consul of the United States having remonstrated in his behalf, that in time of peace he ought not to be tried before a military tribunal, the Governor General (Concha) re-submitted the whole case, and the law of the case, with the treaty of 1795, to the highest court of judicature in Cuba, (*Real Audiencia Pretorial*,) and that tribunal, (October 20, 1851,) upon careful and solemn examination, sustained all the proceeding against him as according to the laws of Spain, and as according to the treaty of 1795, supposing him to be an American citizen. (Signed by the President, Carbanell, Senores Biretta, Escohara, Ochor, Oses, Antonio Maria del Rio.) These are facts in our own public documents. No man in a foreign country ever had his case more elaborately examined; and liberated, as Mr. Thrasher has been by the generosity of Spain, he has but very little reason to complain. Every right that under the treaty could be given to a real *bona fide* American citizen, he had; notwithstanding his oath of abjuration of his religion, and his own native land, and his solemn pledge of fealty and submission to the Spanish crown.

I now approach, Mr. Chairman, the third count of this indictment, and that is, the case of Mr. Purser Smith and the steamer Crescent City. Time and preparation are needed properly to discuss the latter branch of this count—time to read the Publicists who have written on such subjects, and preparation to digest their learning; but debate in this House must be had when opportunity offers, or the time for reply is lost forever. It is very important to us at home, in our own inter-State intercourse as well as in our foreign intercourse, to have a proper understanding of the laws that govern such cases; and, therefore, I the more regret all want of preparation. I take it for granted, however, on the confessions of the gentleman from Mississippi, [Mr. BROWN,] who spoke yesterday, that it is now admitted on all sides of the House that Purser Smith, against the laws, orders, and injunctions of Spain, had no right to land on the Island of Cuba—the principle being granted, independent of treaty, that an independent nation can exclude from her territory whom she will. That I understand to be admitted, and therefore I pass over that point. There is no question in the law of nations, perhaps, more difficult, or perhaps more discussed among learned publicists, than the question, where ends the jurisdiction of a country from whence a vessel sails, and where begins the jurisdiction of that country whence that vessel has gone? Within the marine league of its coast, undoubtedly, the sovereignty of a nation is complete; but the flag floating over a foreign vessel there has not altogether lost the authority of the nation whence it came. The sovereignty of Spain was undoubtedly extended over the Crescent City when within a marine league of Cuba, and all on board were subject to her laws. But something is due to the comity of nations. A warning was given, repeated warnings, it is true; but it is a serious thing to violate the comity of nations in excluding a ship because of an obnoxious person on board. What that comity of nations demanded of Spain is in far better hands than mine to discuss—in the hands of the Secretary of State and of our Minister in Spain.

I shall not here undertake an *impromptu* argument upon so complicated a subject. I abandon it to such writers as Huberus and Hertius, and to the Administration which has it in charge. All I have to say now is, that when the correspondence between our Government and that of Spain on this subject comes to be published, I have no doubt that this Government will have been found maintaining to the fullest extent, all the laws, privileges, and rights, which we can claim as a nation against the authorities of Spain.

One point, however, I wish to be instructed upon particularly, by the gentleman from Mississippi, [Mr. BROWN,] the gentleman from Tennessee, [Mr. POLK,] and other honorable gentlemen from that quarter of the country, and that is this: If Arthur Tappan and his people, whites, not blacks, from New York, go off the port of Charleston, or into the Gulf of Mexico, or off the city of Memphis, with printing presses to spread abroad incendiary, violent, and insurrectionary publications among the people there, are they, or are they not within the jurisdiction of the States off which they moor? Are they or are they not at Memphis, within the jurisdiction of Tennessee? Are they or are they not within the jurisdiction of South Carolina? If they have the right, in point of fact, to go there with all the freedom clinging to them of the soil whence they came, the right of free discussion, the right of printing and publishing, speak out, and let us know.

The gentleman from Ohio, before me, [Mr. GIDDINGS,] will be right glad to know it if he has the right to go down the Ohio, or to sail from the port of New York under our free laws there, and under the protection of our custom-house clearance, to take with him incendiary publications, inciting the people to what he calls freedom, but what you call murder, arson, insurrection, treason, and to spread them before the negroes of the South, upon the Atlantic harbors of the South, or from the ports of the Ohio and Mississippi rivers. Pause, then, it is well to pause, and let us be instructed before we take that leap upon a principle, into the dark.

Mr. POLK. I will say to the gentleman that they would undoubtedly be under the jurisdiction of the States which he has named. But is it not an established fact, as Purser Smith has himself shown, that the Cuban authorities were acting upon mere suspicion, without any *reasonable ground for the suspicion, more for bravado* than the realization of any established or national right? And the Government submitted to the indignity, *and left the honor of the nation* in the hands of individual patriotism and individual energy and enterprise.

Mr. BROOKS. Ah! you will never convict any of our New Yorkers, who may go into the port of Charleston, upon anything but suspicion. They will spread their incendiary publications at night, and not in the broad glare of day. You will never find anything against them but suspicion. The *honor* of a nation, its true glory, is in doing just as it would be done by, and in applying to the Purser Smith case and to the port of Havana, the same test of principle it would apply to Charleston or Savannah, no less, no more.

I turn now, Mr. Chairman, to the other count of the indictment against the Administration, the last of the formidable counts—and that is the publication of the correspondence in reference to Cuba. Now, if there be any one principle of the American system of government which is the basis and root of all our institutions, it is the right of the American people to know everything that has been done by their servants, and if there be any one thing more amazing or astounding than another in the whole history of this country, it is that any Administration should have dared, without the authority of Congress—the disbursing power of the Government—to promise to give to a foreign nation $100,000,000 for the purchase of an island on our coast, and then the long concealment of that fact from the American people. When first the fact that such an offer had been made, came before the public, it burst upon me inspiring something like indignation in my bosom. I felt for one, as a citizen of the United States, that I had been deprived of highly important information which I had a right to possess long ago, and as a member of the American Congress, I felt that a previous Executive had been committing us all, to a proposition for the disbursement of $100,000,000 out of the Treasury, without any authority, whatsoever, from the body to which I belong. I saw ahead a treaty to be made, which the whole power of the party making it would be rallied to ratify,

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**Real cédula de colonizacion en la isla Cuba*, October 21, 1817, (under which Thrasher was domiciled.)

ART. 1. Todos los estrangeros de potencias y naciones amigas mias, y que pretendan establecerse, ó que lo están ya en la isla de Cuba, deberán hacer constar por los medios correspondientes al gobierno de ella, *que profesan la religion Católica Romana*, Y SIN ESTA INDISPENSABLE CIRCUMSTANCIA no se les permitirá domiciliarse allí; pero á mis vasallos de estos dominios y los de Indias no se les ha de obligar a esta justificacion, respecto de que en ellos no puede recaer duda sobre este punto.

ART. 2. A los estrangeros que fueren admitidos conforme al articulo anterior, les recibirá el gobernador ☞JURAMENTO DE FIDELIDAD Y VASALLAJE☜ en que ofrezcan cumplir las leyes y órdenes generales de las Indias, a que están sujetos los Españoles.

[TRANSLATION.]

Royal ordinance of colonization in Cuba, October 21, 1817, under which Thrasher was domiciled:

ART. 1. All strangers of friendly nations and powers, who wish to establish themselves, or who are established in the Island, must make it appear that they profess the Roman Catholic religion. WITHOUT THIS INDISPENSABLE REQUISITE they will not be permitted to domicil themselves, (except Spaniards, from this proof of their religious profession.)

ART. 2. To those strangers who may be admitted in accordance with the preceding article, the Governor will administer ☞"THE OATH OF FIDELITY AND VASSALAGE,"☜ (literal translation,) in which they will offer to comply with the laws and general orders for the Indies to which Spaniards are subject.

This oath Thrasher took; and he excuses himself for it at length in a letter to Don José de la Concha, (Governor, &c.,) dated Madrid, March 22, 1852. I quote a part of that letter:

"In 1817 the law of domiciliation was promulgated in Cuba, by which strangers wishing to reside there were obliged to profess the Roman Catholic faith, and, by a solemn act, submit to the authorities, tribunals, and laws of the country, to the utter exclusion of all *other allegiance and rights.*"

Carta de Domicilio—Letter of Domicil.

Inasmuch as (Mr. Thrasher) has made it appear that he professes the Roman Catholic religion, and observing in him the other qualities and circumstances provided for in the royal cedula of October 25, 1817, * * * * * * * I grant this letter of domicil, with which he may establish himself in such place in this island as may suit the practice of his trade or profession, and enjoy all the grants and immunities conceded by her Majesty in her said royal cedula: having to present himself with this letter to the Commissioner of the Government, charged with the matter for that which is ordered, and to be valid for the term of five years, which being passed, he must solicit naturalization, or make use of his liberty and leave the island, as may best suit him.

Given in Havana, &c., &c.

[Signed by the Captain General's Secretary.]

Certificate of the Government notary appended to every application for letter of domicil.

After certifying to name, age, nativity, condition in life, profession, &c., it reads thus:

The above named (J. S. Thrasher) made oath under which he *promised fidelity to the Catholic religion*, to her Majesty, and to her laws, *renouncing all privilege, right, and protection of strangership, offering to maintain no dependence, relation, or civil subjection to the country of his nativity*, it being explained to him that this does not comprise the domestic relations of family or kindred, nor the economy of goods and interests which he may preserve, and he signed, "I give faith." [Signature of notary.]

[Signature of applicant.]

and before we know of it, make it a matter of party-fealty to indorse, to approve. I felt that a serious injury had been perpetrated upon American citizens and American Congresses, in concealing from them all, in information of such transcendent importance, wherever the public servants of the country had tried to involve them in gigantic expenditures, and more gigantic consequences, without their knowledge or consent.

But, sir, if it was wrong to publish the correspondence, why not lay the charge in the indictment against the House of Representatives? Why not impeach the body of which the gentleman from Tennessee himself is an honorable member? Sir, for thirty or sixty days—I cannot say precisely how long, for I have not the means of reference—that very correspondence lay upon the Speaker's table, of this House, ready for the House of Representatives to have it read, or not read, published, or not published, as it willed. The whole correspondence, upon the call of the House, was subject to our disposal, and we are responsible for the consequences—not the Executive who obeyed our call. I have no doubt that the President of the United States, when he submitted that correspondence at our call—for this House made the demand for it—thought it would be paid the respect, at least, of being opened, and if not read, referred to the Committee on Foreign Affairs for their examination. But for the want of that proper respect which is due to the Executive, whosoever he may be, it was taken from the table of the House only in the closing scenes of the session, and hurried, without examination, into the official printing house of Congress. Sir, I do not regret its publication. It was wholly compatible with the public interests, and its publication will do great public good. It opens to the world a page of secret history, that will make it pause and think.

Now, Mr. Chairman, I think I have thus briefly and summarily, though too hastily, responded to the indictment which the honorable gentleman from Tennessee has prepared and laid before the country, against this retiring Administration. But I must say it was not generous, it was not right, I would almost say it was not manly, if that would be proper language upon the floor of the House to use towards an associate member, thus to triumph over us who have been defeated, and are now going out of power. Sir, we challenge the coming generation, we challenge posterity, we challenge all future time—not the party fanaticism of the hour—for an examination and a trial of the foreign policy of this Administration. It speaks now for itself, in letters of gold, in the universal peace and prosperity all about us, and it will speak more and more, and louder and louder, in painful contrasts, I fear, hereafter. You who are coming into power, if you reverse the policy of this Administration, if you turn the wheels of the Government backwards, if you overthrow what has been done, and institute any new schemes of propagandism and plunder, will be only preparing the way for our rapid return to power, by inspiring the people with the confidence of our conservative spirit, the better to administer the foreign affairs of the country.

I will not believe, however, that the gentleman from Tennessee, [Mr. POLK,] or the gentleman from Mississippi, [Mr. BROWN,] speak the policy of the great party to which they belong. I will cling to the better belief, that there is a large and controlling section of that party who, like the gentleman from North Carolina, [Mr. VENABLE,] think that the policy of this country is peace, order, conservatism, and the extension of our principles of government by our example, and not by the terror of our arms. There are those among us who have ever maintained that if we are to be a great and good people, and to stand high on the records of the world, it must be by the magnificence of our growth in the arts of peace—in agriculture and manufactures—and not by our achievements upon the bloody fields of war. Why, sir, we may be missionaries, we may be propagandists, but we must not be missionaries or propagandists of war. The sword, the bayonet, and the cannon ball are not the missionaries that are exalting our people among the nations of the earth. Every ragged dirty letter from an Irishman, or German, sent to the banks of the Shannon, the Liffey, the Rhine, the Danube, the Elbe, or the Weser, setting forth the rates of wages, the demand for employment, the abundance of bread, the happiness of himself, his wife, his children, or the general glory, peace, and prosperity of this our great country, is more of a propagandist, more of a missionary for converting the other nations of the world than an army of five hundred thousand men, with great parks of artillery.

If we are to convert other nations and lead them to the adoption of our institutions, it will not be by war, by the clangor of arms—*bella horrida bella*—but it will be by the arts of peace, by the force of our example, by demonstrating to all mankind the power of self-government and of self-restraint, within the laws of nations and in obedience to the laws of our own creation. We are solving the problem whether men can self-govern, self-restrain themselves; and if we continue for a century to be as successful as we have been, the world will follow our precedent, and acknowledge the civic supremacy of our Republic.

Mr. GORMAN. I desire to occupy the floor for a short time, but I understand that it is the wish of the gentleman from Alabama [Mr. HOUSTON] to lay this bill aside and take up the deficiency bill, and to that course I have no objection.

Mr. HOUSTON. According to the terms of the resolution closing debate, the committee were instructed to lay this bill aside, to be reported to the House when the hour arrived fixed upon for terminating the debate. If, however, there be no objection, I will move to lay it aside now.

Mr. HALL. I object. I want to see what is in the bill. There may be fifty amendments to be offered.

Mr. HOUSTON. It is the Academy bill.

Mr. HALL. Well, how do you know that it will not be amended?

Mr. HOUSTON. Then you can propose your amendments now. I am only anxious to accommodate the gentleman from Indiana, [Mr. GORMAN.]

Mr. GORMAN. How many minutes have I to speak in?

The CHAIRMAN. The debate must close in fifteen minutes, by order of the House.

Mr. GORMAN. I want to occupy more time than that, so I will yield the floor.

Mr. CHANDLER. I am not prepared to make a speech upon this occasion. I do not wish to do it, but there seems to be a fag-end of an hour which I will occupy with a very few remarks in reply to something that has fallen from the gentleman from Tennessee, [Mr. POLK.]

I begin, sir, by saying that I have no sympathy for military titles, no sympathy with military fame, except so far as it reflects credit upon our country. I know nothing of these things, and care nothing about them. There is before this House—brought hither, at least, by speeches if not by the ordinary disposition of business—a bill to confer power upon the President of the United States to promote some officer of our Army to the rank of lieutenant general. In the course of discussion arising out of that bill, the life, character, and services of Major General Scott have been brought under censure here, and he has been made to undergo a second canvass here, when he has but just escaped from one in which the people, and not the representatives of the people, had the question directly before them. I was struck, sir, with the kind of testimony brought against the character of Major General Scott, with whom I have but the ordinary acquaintance of one gentleman with another, and for whom I pretend to no particular sympathy, although I was somewhat of a noisy advocate of his election, because I went *for* my party and *with* my party.

But, sir, I was particularly struck with the warmth of feeling, the glow of animation, and the burst of eloquence with which the honorable gentleman from Tennessee presented the life and character and services of the Father of our Country, and immediately after that he produced from his desk a pamphlet—a kind of "coffin handbill, of this age"—from which he proceeded to read gross libelous attacks upon the character of General Scott from the pen of General Wilkinson. Well now, sir, General Wilkinson is dead, and I do not propose to assail him, because I will say nothing of the dead but what is good, and I am unable to recall any good that could be said of that dead man. But, sir, it is a remarkable circumstance that the honorable gentleman from Tennessee should have concluded his eulogy upon the life and character of Washington by reading from a pamphlet produced by an author who seemed to have taken General Armstrong's Newburg letters for his model, and to have shown a disposition to leave on record some virulence that should exceed that of his predecessor.

The quarrels of men are no proofs of their want of patriotism or military qualifications. Washington had several enemies whose open hostility was well known; but

> Whose children blush,
> Their fathers were his foes.

Then, sir, the gentleman gives us an extract from the ashes of General Jackson's urn. Yes, sir, we are gagged here by a feeling of sympathy for those who loved and respected that man, and by an unwillingness on our parts to say anything against him, although the gentleman on the other side brings up that great man as a witness against General Scott, and declares that he, General Jackson, never did anything from *impulse*—never spoke impulsively of any man. Well, sir, I have been taught to respect the impulses of General Jackson, and if ever there lived a man of impulses, he was one. It is a matter betwixt his friends and his enemies as it regards the character of those impulses.

Well, the next charge against General Scott is derived from the writings of De Witt Clinton, after General Scott had imputed to Clinton the authorship by either dictation or direct writing of a certain letter. De Witt Clinton was a great man, a man distinguished in his times, a man of high character and lofty bearing, a man who was not afraid or ashamed to set himself up as a candidate in opposition to James Madison. Such a man as that is brought hither to make charges against General Scott, because General Scott truly or erroneously imputed to him the authorship of a letter. And, sir, what has been read shows two things, that General Scott might have been wrong, but that De Witt Clinton was certainly very angry.

I repeat it, sir, are such collections of hostile writings, as have been read here, sufficient to bring a shadow upon any living man with the smallest claim to public consideration? Who, with such an active life, yielding to or enforcing military discipline, has escaped antagonisms? How could it be expected of General Scott to avoid the common lot of public men? The wonder is that any one should descend to scrape up from their resting-places such records of personal ill-feeling, and present them to the public without supplying the means of judging of the causes and progress of the quarrels.

Let those who contrast these misunderstandings between General Scott and other military or civil citizens with the life of General Washington, recollect that General Scott rose from the grade of second lieutenant to that of major general in the Army of the United States, and had to contend with the emulation of equals, and the envy of those whom he surpassed; while General Washington was from the first Commander-in-Chief of the Armies of the United States, and had neither superior to irritate, nor equal to rival him; and he commanded, too, at a time when few subordinates would have dared to make free with his name. A few did, however, and they paid for it.

The honorable gentleman seems to start at the idea of creating an office equal to that which General Washington held. It seems to be a sin, in that gentleman's mind, that any one should think of equaling Washington. In virtue, patriotism, and public service, none can; but in office others may, as others have. We have elected many men to the office of President, which General Washington filled; yet no one thought it wrong. Every successor of Washington equaled him in civil position, and I see no reason why, with the same command, others may not equal him in military rank.

Now, sir, I do not wish to pursue this subject further, because I have but a few minutes left. I will, however, add one remark. We are told that the office of lieutenant general is something anti-republican—something contrary to the simple institutions of our country—that it was only given to General Washington because there were other major generals then, and he must be higher than they. Do not gentlemen know that General Washington would not have taken an office below that which he before occupied? The gentleman from Ten-

nessee [Mr. POLK] says that such an office is anti-republican—that is the course of his argument—that it ought not to exist. Why should it not exist? We have no Apsley Houses to bestow upon our successful generals; we have no collars to hang upon their necks; we have no jewels to lay upon their breasts. The elevation of his office is the distinction for which the soldier fights, after the love of his country. It is all that we can bestow, and certainly General Scott has earned it. But is it anti-republican? Is it contrary to the spirit of our institutions? Was it so under a former Administration? I put the question directly to the gentleman from Tennessee, [Mr. POLK.] Was there not once a proposition introduced, in the other end of the Capitol, to make a lieutenant general out of a civilian—

"That never set a squadron in the field,
Nor the division of a battle knew
More than a spinster?"

Was it not proposed to make him a lieutenant general, and place him over a major general, who was the commander-in-chief of the American army? No one, I hope, will impute to me any disrespect for the distinguished civilian for whom that honor was intended.

Sir, the whole course of the argument has been of the *ad captandum* style, founded upon premises entirely begged and conducted in a manner unbecoming a school-boy. If gentlemen have a hereditary dislike for General Scott—or rather, let me say, if they have a collateral inheritance of such dislike—let them seek elsewhere, by fair means, to show it; or let them at least meet him here in a soldier-like manner. Do not let them bring up things of this kind—samples of the bad temper of the dead, for whom charity and not hostile arguments should be reserved. Do not let them fortify themselves with the dirt on the wrong side of the ditch in this manner. Do not let them present things of this kind, so unbecoming to legislators, and in a way, as I think, unbecoming a soldier.

For my own part, as to whether General Scott is made a lieutenant general, I am as indifferent as whether I am made a corporal. I care very little about it. He will never cease to be less than a great man. He will never fail to be at the head of the military men of this age, though we may not confer upon him the title of lieutenant general which we owe him, not because he needs it, but because we owe to him, to tell him that we appreciate the services or talents of the man, who could bring the eyes of all the world in admiration upon our country. It is due from us and to ourselves, whether it is desired by him or not. But I do not desire to pursue this subject further.

The gentleman upon the other side of the House [Mr. POLK] presented some points in his speech which would be very easy to meet, by any one at all conversant with our foreign affairs. The gentleman inquires, whether our diplomatic agents abroad occupy a respectable position, or whether they have not been placed in a bad light by the publication of certain correspondence? Why, Mr. Chairman, nothing can be more evident than that any man abroad, who represents the United States, who bears upon him the broad seal of our national authority, and is free from imputations upon his character, will find himself respected by the position which he holds. To him the publication of a correspondence can produce nothing evil. Let him sustain with dignity the position he should occupy, and the nation that *accredits* will learn to *respect* him.

Mr. CARTTER obtained the floor.

The CHAIRMAN. The gentleman will permit the Chair to say, that he was mistaken when he stated to the gentleman from Indiana, [Mr. GORMAN,] that only fifteen minutes remained before the debate would close. There are still seventeen minutes left.

Mr. CARTTER. That is more time than I want.

Mr. GORMAN. I must be permitted to say that that kind of mistake does me great injustice. I obtained the floor, and the Chair announced that there were only fifteen minutes left, and that not being as long a time as I desired to occupy, I yielded the floor.

The CHAIRMAN. The fault belongs to the Chair. He did so state, and was under that impression at the time.

Mr. CARTTER. I do not understand precisely the proposition before the committee, but I understand the course of debate. It resolves itself into two issues. One relates to our foreign affairs, and the other to the matter, as I understand it, of bestowing compliments upon General Scott. I propose to address myself to the latter branch of the debate, for a very few minutes.

The proposition is brought forward, and originates, in a manner, upon our side of the House, to add a new title to General Scott; and that under peculiar circumstances. There is now no war pending, no battles to be fought, and no command to be offered. The battles have been fought which originate this title, if it be originated at all. The army is disbanded, and the country is in a state of profound peace. But in this condition of things, a proposition is advocated in this House to load down one of our generals with another title. Now, I do not like it, and my constituents would not like it. It is not consistent with their character, congenial to their feelings, nor promotive of the interests of the country, as I humbly conceive. But the worst feature of the whole case is that it will not do anybody good. Yet it is proposed to lavish it upon a general who, by common consent, is held to be the greatest captain of the age. It is proposed to load down a general who is already complimented throughout the earth, as the first military captain.

The gentleman from Pennsylvania [Mr. CHANDLER] speaks of this title as a jewel—a title a jewel! Why, I always supposed that the jewels of a general were to be found in the virtues of his conduct. There is where you seek them. The jewels of a general may be found in the record of his victories, and not in an empty letter of credit or recommendation. These letters of recommendation can answer no valuable purpose. But in what difficulties do we involve ourselves when we adopt this proposition? When this Republic was started, the founders of it made a Constitution; and our ancestors had seen so much of the nobility, so much of titled greatness, and of the impositions imposed through them upon the people, that they determined to stop it. They, therefore, provided in the Constitution that no orders of nobility should be granted. That is the way they settled the matter at that time. Now, if this is not an order of nobility, if it is not an insignia of greatness, I do not know what it is, for they do not propose to give any money with it, as I understand. They propose to violate the spirit of the Constitution. That is the view I take of the measure, and if I were going to vote for the resolution at all, I would move to amend it by placing the word "lord" before that of "lieutenant," so as to make it read "lord lieutenant general." [Laughter.] Let us have harmony in it. Let us give the poetry that belongs to the old heraldry of the nobility which our fathers threw off, at the time they framed this plain drab-colored constitution of ours. [Renewed laughter.] No, sir, it is wrong. I believe in giving to the soldiers of the country the gratitude of the country. Why they have it already, in an eminent degree.

This business of fighting is a poor business at best. It belongs really to a semi-savage age. [Laughter.] Originating in a totally barbarous age, its highest perfection is classified by the estimation of all civilized classes, as semi-savage. It is nothing but developing the animal part of man at best. [Great laughter.] The biggest brute is the best fighter, as a general proposition, throughout the animal kingdom. But the idea of going back from the nineteenth century, and leaving all the great and glorious theories of peace, and the conquests of peace, so elegantly expressed by the gentleman from New York, [Mr. BROOKS,] a few minutes ago, and who involved himself in the *non sequiter* of voting for a resolution to make General Scott a lieutenant general,—I say to leave this period of profound peace, when its arts are triumphing everywhere, and undertake to multiply the feathers in General Scott's cap, appears to me to be totally void of good taste. I hope, therefore, that it will not be done. I hope for the sake of the precedent that it will not be done; for I will agree that if the precedent is justifiable, there is no man now living in the United States who would be so worthy of the title as General Scott. I say that in the sincerity of my heart.

But, sir, the great mistake about this fighting business is, that you are all the time bedaubing your officers. You are here now, centering in this title, in a single man, all the honors won by the blood of the boys that bore the bayonets. That is unjust. You obliterate the rank and file. You obliterate those who make the charge. You bring their blood and pour it out upon the altar of a single man, because he happened to be the commander-in-chief, and could dictate the general movements of the army. Now is that right?

Another amendment ought to be introduced, and that amendment should be, that all the boys who fought the battle should be lieutenant generals. I take up the fancy view of the question—the jewel view, as poetically expressed by the gentleman from Philadelphia, [Mr. CHANDLER.]

No, sir; this adoration for military titles or glory ought to be reversed; and the first man who should receive the vote of thanks, ought to be the man who first carried destruction to the adversary upon the field. It is the fighting that constitutes the bone of the business. [Laughter.] It is the fighting; and in the name of the soldiers who did it, and whose glory is proposed to be rendered up upon the altar of a single man, I protest against it. Seven dollars a month to do the fighting, where the battle is thickest, and $6,000 a year to tell them how to do it, [laughter,] with all the glory after they have done it. [Laughter.] It is not Democratic. There is no Democracy in it. [Laughter.]

I shall propose, at the proper time, to perfect that resolution, under the *jewel* exposition of it, [laughter,] by adding *lord* before *lieutenant*, so that it will read *lord lieutenant general*, that we may thereby go the whole picture.

But, sir, with this view of this purely burlesque attempt at legislation about titles, I have said all that I desire to say.

The CHAIRMAN. The time fixed for the close of debate upon the bill has arrived, and no further discussion is in order.

Mr. PRESTON. I desire, before this matter is acted upon, to make some remarks in reply to what I consider——

The CHAIRMAN. Remarks are not in order.

Mr. PRESTON. I will occupy but a few minutes.

The CHAIRMAN. The gentleman can propose an amendment, upon which he will be entitled to five minutes' discussion.

Mr. PRESTON. I was not aware of the condition of business when I arose, and I desire now simply to make a statement. I will defer the remarks I intended to make, until some subsequent bill affords me the opportunity of replying to the remarks made by the gentleman from Tennessee, [Mr. POLK,] and by the gentleman from Ohio, [Mr. CARTTER,] who has taken the burlesque view of Democracy upon this subject.

The bill having been read by sections, and there being no proposition to amend, Mr. HOUSTON moved that it be laid aside to be reported to the House, with a recommendation that it do pass.

The question was put, and the motion was agreed to.

DEFICIENCY BILL.

Mr. HOUSTON. I move that the committee now take up House bill No. 335, to supply deficiencies in the appropriation for the services of the fiscal year ending the 30th June, 1853.

The question was taken, and the motion was agreed to.

Mr. GORMAN. The subject of conferring upon some one the brevet rank of lieutenant general has been taken up in the Senate, and has passed that body by a vote of thirty-four to twelve. The simple fact that seventeen States of this Union, through their Senators, have passed this bill, gives it character, and entitles it to much consideration in this body. It comes to this House of Representatives indorsed by a larger vote than any one bill, receiving any serious opposition at all, which has passed that body this session. In terms, it does not confer this rank on any one by name. The President will confer it on whom he thinks fit and meritorious. Heretofore this proposition has been under consideration. First in 1849. It was introduced by Senator Fitzgerald, and it passed to a second reading, and was lost for the want of time, two weeks only remaining of the session. There was no presidential election then. There were no heart-burnings then. There were no bitter combinations against men who served their country, among the politicians of the country. He came

from the fields of Mexico fresh with his honors and laurels. Whether he has received the meed of *praise* of which he is deserving as a military man, I do not intend to argue before this House. Whether he is qualified for the Presidency I will not discuss. I shall not pronounce any eulogy upon his remarkably distinguished qualities as a general. I shall confine myself to the simple question of justice, according to the precedents and practice of the Government for many years. Has Gen. Scott fought the battles of your country and received your commendations? You have passed resolution after resolution conferring compliments upon him. Did you send that recommendation, that distinguished laurel thus entwined around his brow, did you send it to the history of the country as a libel, or did you send it as a truth? Did you mean what you said when you told your country, and your country's after history, that he was entitled to that chaplet, and entwined it around his brow, or did you falsify the truth of history?

Sir, I am perhaps speaking these words with more feeling than I should. I am not an admirer of General Scott's civil qualification for the Presidency. I am not one who can sing pæans of praise to his military renown above all others of that glorious army, for I believe that there lives to-day, two or three men in the American Army that are his equals in intellect, by nature and education, and if they had his long experience, most probably, his equals as military generals. I do believe that old Aristides of this House—of the Army I should say—in military qualities, by nature, is not only his equal but his superior in some respects. I mean the man who earned the title of the Marion of the Mexican war, Major General Joseph Lane! I can name other men, and plenty of them, who in my humble judgment are his equals in intellect, and in natural abilities as military men, but General Scott's experience is far in advance of all of them.

After having said thus much, it will not be said of me that I am for this merely because he is the superior military man of this age. I believe there are a plenty of young men in this country, of vigorous intellects, men of this age, men of these times, that are his equals, and probably his superiors, with his large experience.

What have you done in the way of conferring the brevet rank on officers of the Army? You have conferred the rank of major general upon my distinguished friend from Oregon for services in that memorable war. None on God's green earth wear their honors and their laurels with more becoming modesty, and none deserved them more. Who else have you conferred these honors upon? You have conferred the rank of major general by brevet upon that eagle-eyed and lion-hearted warrior General Wool, and upon all generals who were not major generals before. Your captains you have breveted majors; your majors, lieutenant colonels, and your colonels you have breveted brigadier generals. To some of the lieutenants, captains, and majors of the Army, you have given one, two, and three brevets. Now, what is this thing brevet? It is an acknowledgment of meritorious services to the country—and authorized by law to be conferred by the President and Senate of the United States upon officers of the Army. According to the military laws now in force in this country, an officer having a brevet merely, without the command, has no right to any additional pay. The man who denies this, does not know the regulations or the law. The officer who has received the pay whilst having only the brevet and not the corresponding command, has taken it out of the Treasury contrary to law. I do not believe it ever has been done.

Mr. BOCOCK. With the permission of my friend from Indiana, I will propound to him a single question. I ask him to state to this committee, when Congress has authorized the rank by brevet to be conferred, and the President of the United States has conferred it, whether it is not within the power of the President of the United States, without any further action by Congress, to assign the duties of the brevet rank to the officer, and whether, having assigned the duties of the rank by brevet to the officer, it does not also carry the pay?

Mr. GORMAN. That is precisely what I was coming to. I say, and I am borne out by every military man in this House, that if the captain were made major by brevet, the colonel brigadier general by brevet, or the brigadier general major general by brevet, neither can draw the pay of their rank by brevet until the duties of it shall have been devolved upon them. If General Scott receives the rank of lieutenant general by brevet, he will draw the pay whenever the President of the United States assigns him the duty corresponding to that rank. It is left to the discretion of the President of the United States to decide whether or not the necessities of the times or the condition of the Army require that anybody should be assigned to command as lieutenant general. It is also within the power of the President, at any time, to withdraw that command.

Mr. LANE. If the gentleman will allow me, I will read to the committee what General Wool states with regard to the creation of this rank. He is, as my friend from Indiana and you, Mr. Chairman, know, one of the best military men in the country.

Mr. GORMAN. I have also received a letter from General Wool, which I designed reading in part to the House.

Mr. LANE. I will only read two or three words. He says:

"I would observe that if General Scott should become a lieutenant general, and discharge its duties, to perfect the organization of the general staff we should require one additional major general and two brigadier generals."

Mr. GORMAN. I, as well as the gentleman from Illinois, [Mr. RICHARDSON,] have received similar letters from General Wool; but I will come to that point directly. If the President assigns to General Scott the rank of lieutenant general by brevet, and does nothing more, who will pretend that he will receive the corresponding pay? But if the President, in addition to assigning him the rank by brevet, gives him command accordingly, he will then, and not till then, draw the pay.

Mr. LETCHER. Is it not intended that he shall draw pay?

Mr. GORMAN. If this resolution ever passes, it will pass at a very late day of this Congress; and it is doubtful whether the present President will exercise the power thereby given him at the last hour of his Administration. If, however, Mr. Fillmore should confer the rank of lieutenant general by brevet, together with the command corresponding, General Scott would receive pay accordingly; but when General Pierce comes into power, should he deem it necessary to dispense with (or decline to confer more than the brevet) the command of lieutenant general, he can do so, and leave General Scott with only the rank of lieutenant general by brevet without the pay.

Mr. HALL. Why not keep him so that he cannot have the pay at all? That is what we want.

Mr. GORMAN. I am vain enough to believe, Mr. Chairman, that I understand this question of rank by brevet as well as most men. I have been in personal correspondence intimately with him more or less for the last three or four years, upon this and other matters connected with the Army. It was referred to me by the Committee on Military Affairs, and I have examined every article and pamphlet with relation to it that has been put forth since this difficult and perplexing question of rank by brevet, has been started. And I repeat, that until General Scott is assigned duty corresponding with the *brevet* rank of lieutenant general, he cannot draw pay. My companions in arms know that is the law. I could read it from authorities before me, but I will not, as it would take up too much of my limited time.

Mr. LETCHER. How much pay will he get?

Mr. GORMAN. If he be assigned duty according to his brevet rank, he will get just such additional pay as Congress shall choose to give him, and not one cent more. I would ask you, Mr. Chairman, and my Democratic friends, whether there now exists a law providing for the pay of a lieutenant general? I want my Democratic friends, who have said so many unkind things of those of us who intend voting for the Senate resolution, to hunt up the law which provides for the pay of the brevet lieutenant general; where is it? Provision for the pay of that office was passed only once, and that provision will be found in the military laws, and in the 5th section of an act approved the 28th of May, 1798:

"SEC. 5. *And be it further, &c.*, That whenever the President shall deem it to be expedient, he is hereby empowered to appoint, by and with the advice and consent of the Senate, a commander of the army which may be raised by virtue of this act, and who, being commissioned as a lieutenant general, may be authorized to command the armies of the United States, and shall be entitled to the following pay and emoluments, viz: $250 monthly pay; $50 monthly allowance for forage, when the same shall not be provided by the United States, and forty rations per day, or money in lieu thereof, at the current price."

This act, which created the rank of lieutenant general for General Washington, was repealed on the third day of March, 1799, (see Laws of the United States, chap. 43, sec. 9.) Now, where is your law creating the pay of the office of lieutenant general? Is there an officer of your Departments—chief or subordinate—who will construe the law to give one of your officers pay when the law fails to stipulate what the pay shall be? I suppose not. When, then, is the officer holding rank of lieutenant general by brevet to draw pay corresponding to that rank, even if assigned to corresponding duty, until you, the law-making power, shall give the authority? When does General Wool draw his pay as major general, which rank he now holds? I answer, by express authority of law. Suppose my distinguished friend from Oregon Territory was still in the Army, when would he draw pay for the major generalship by brevet, which he fought and bled for, with three or four major generals ranking him? His modesty forbade his telling when he was up, that he obtained that brevet for a wound he received through the big muscle of his right arm whilst gallantly contending in the service of his country against her foes; and especially for his bold attack and defeat of General Santa Anna at Huamantla. When I met him on the bloody field of Buena Vista the blood was streaming down his arm and upon the point of his sword. When I know how gallantly he won his honors, and how modestly he wears them, I should blush for my country's shame were I to refuse even the full pay to that brevet.

Mr. LANE. I beg pardon of my friend from Indiana for interrupting him, but I wish to say that if the gentleman he alludes to were in the Army, and should be assigned duty in Oregon or any other portion of the Union on that brevet rank, he would be entitled to pay accordingly.

Mr. GORMAN. But suppose there were four major generals having precedence?

Mr. LANE. No matter; if he were in a remote portion of our territory, and were necessarily assigned the duty corresponding to that rank, he would draw his pay.

Mr. GORMAN. Exactly—if he were assigned the duty. I have stated that already, several times.

Mr. STANTON, of Tennessee. With the gentleman's permission, I wish to make an inquiry. I desire to know, in order to regulate my own vote, whether this is a proposition to confer a barren title of lieutenant general upon General Scott, without the accompaniment of pay? The question as it appears to be argued by the gentleman from Indiana, whether this title shall carry with it pay or not, seems to me to be a very important one. I should rather vote for the resolution with the pay, than without it.

Mr. GORMAN. If the present or incoming President should assign to General Scott, besides conferring the rank of lieutenant general by brevet on him, the duty corresponding, he would draw whatever pay you might fix; for my friend from Tennessee must remember that we have no existing law that provides for the pay of a lieutenant general.

Mr. STANTON. We ought to fix it, and give him both the title and the pay.

Mr. GORMAN. I am not going further than the resolution proposes to go. I would appeal to the gentleman from Oregon to know, had he been President of the United States, after the glorious victories gained by the American army in Mexico, and had had the power under the Constitution and laws, whether he would not have conferred this rank on General Scott?

Mr. LANE. If General Scott had been my father, under the supposition of the gentleman, I would not have conferred an empty title upon him which was anti-democratic and smacked of aristocracy. In conferring this title, we are following in the footsteps of monarchical governments, and not those of our wise and patriotic forefathers. It will break up the democratic organization of our Army.

Mr. GORMAN. Then, Mr. Chairman, the action of Congress, the action of the different Presidents, Democratic and Whig, have been exercising monarchical and aristocratic power under the fixed laws of the country for twenty-five or thirty years. If to confer a brevet rank, smacks of aristocracy, then the real rank must be much more so. If conferring brevet rank, as an evidence of merit, be anti-democratic, then my friend from Oregon holds with complacent satisfaction a badge of aristocracy, which he received from as purely a Democratic President and Senate, as ever honored the White House or dignified the American Congress. Sir, the rank of captain, major, colonel, and general, are all titles of rank in the Army, not in the civil affairs of the Government.

The Constitution says "no titles of nobility" shall be *granted*. What is meant by titles of nobility? Webster defines nobility to mean "the qualities which constitute distinction of rank in CIVIL society according to the laws or customs of the country." Then, if this definition be correct, as it surely is, the framers of the Constitution simply intended to establish a democratic equality in rights and privileges under the laws and Constitution. If it smacks of aristocracy to call a commander of a regiment a colonel, it is equally so to say colonel by *brevet*, and *vice versa*. All officers of the Army know that the brevet rank is a mere *grade*, entitling him to command under certain rules and regulations prescribed by law.

But the grade of lieutenant general is no new thing. It is recognized in Illinois and Connecticut, in the organization of their State troops:

"In the annual return of the Connecticut militia for 1850, there are, under the head *general* staff—

"His Excellency T. H. Seymour, *Captain General.*

"His Honor C. H. Pond, *Lieutenant General.*"

"Illinois has a volunteer organization, called a *legion*, headed by a *lieutenant* general, with two major generals, &c.

"Thus it is seen that the grade or title of *lieutenant* general (next above major general and below General Washington's rank) is old among us, and not a *new fangle*; for we have had, in our army and in our militia, every grade of rank, except *field marshal*, known to European armies, and in those armies *captain general* is the highest.

"In the same act, March 3, 1799, (quoted above,) it is declared—

"'Sec. 8. *And be it, &c.*, That, in the ordinary arrangement of the army, two regiments of infantry or cavalry shall constitute a brigade, and shall be commanded by a brigadier general; two brigades a division, and shall be commanded by a major general.'—*Hetzel's Mil. Laws*, p, 92.

"Following out this scale, and there is no other enactment of Congress on the subject, the general regulations for the army, approved by Mr. Secretary Calhoun, in the name of President Monroe, March 1, 1825, and the infantry tactics, approved by Mr. Secretary Cass, in the name of President Jackson, April 10, 1835, make *two* divisions constitute an army corps, or *corps d'armée*, a command for a *lieutenant* general.

"The Army of the United States now (1851) consists of fifteen regiments, two corps of engineers, and the ordnance department—more than equal to four divisions or two army corps; that is, equal to commands for *two* lieutenant generals."

Mr. LANE. My friend will allow me to state, that all the brevets which have been conferred by the President and Senate of the United States, are known to the Army regulations as they exist; known to the laws of the country as they are; and that far, in my opinion, they even smack a little of aristocracy. I thank God, I never wanted a brevet myself. I do my duty, and let it pass for what it is worth. Let the country brevet officers of the army as it has.

Mr. GORMAN. Then the gentleman complains of the laws of the country for the last thirty-five or forty years, as they have conferred this right upon the President and the Senate. A Democratic President, Andrew Jackson, exercised it often—a man who knew well the distinguished laurel which he was entwining around the blood-stained brow of one of his generals. My honorable friend from Oregon, before he gets through many more political campaigns, will find that there is wrapped up in the summer soldier and sunshine patriot's heart a determined opposition to all men who have a little humble military reputation. He will find when he comes in conflict with party rancor and excitement, many *politicians* jealous of those laurels so justly won by him. He will find upon every stump, and at every court-house, cliques whose envy and jealousies are inflicting deathly stabs upon his reputation. There are some ten men upon this floor with whom it has been my pride to serve in the armies of the country——

Mr. LANE. I must say to my friend from Indiana that the gentleman from Oregon is a citizen in peace and a soldier in war.

Mr. GORMAN. The gentleman is a good citizen in peace and a most glorious soldier in war. I admit all that. It is the same old speech which I have made for him three or four times. [Laughter.] If it were necessary for me to give him any more devotion than I have manifested towards him, I could remind him when I was willing to place my life, with its chances, at his command. He needs nor asks nothing more than that.

I say again, that the jealousies of army officers are this day, in my judgment, at work to keep from General Scott the brevet which it is proposed to confer upon him. What for? Because this country has assigned to him a niche in the temple of military fame second only to that of Napoleon himself. Carry out the idea of my friend and that of other friends upon this floor. Wait until you go home to your constituents, and there you will find every politician who lives by politics and party intrigue jealous of your distinctions. They would blot out the laurels upon your brow, if they could. I regret to see my friend from Tennessee [Col. POLK] occupying the position he does. I know something of his gallant and chivalric bearing, and I regret to find him occupying his present position. Why do I regret to find him there? Because, as he says, General Scott has been defeated, and we must, therefore, necessarily ease his fall. Let me tell the politicians of the country that Winfield Scott, the *general* of the armies of this country, *was not* defeated. I repeat to both Whigs and Democrats, that Winfield Scott, the *general* of your armies, was *not* defeated in the late contest. It was Winfield Scott, weighed down by political weights that would have borne down the stoutest man of that political organization. Winfield Scott was borne down to a political grave by dissensions among his own party friends—by union, harmony, and concert of action among ourselves. We have not defeated the laureled hero. We have not defeated Winfield Scott, the major general of the army; we have defeated Winfield Scott, the nominee of the Whig National Convention. I must be permitted to say that he takes his defeat like a philosopher, and just like a good *general* should. I must tell an anecdote of the general right here, to show you with what philosophic composure he looks upon the result. I am not a great admirer of his political sagacity or tact as a politician, for, of all the ill-managed campaigns, both in the convention, in the resolutions, in everything that make the elements of popularity, the last Whig campaign could certainly bear away the palm.

But I must tell you how the gentleman takes his defeat. I asked him a few days ago why he did not come down and let us see him; and in reply, said he, "I have been engaged upon official business. I should be pleased to see all my friends here or elsewhere. I was invited not long since, to visit New York to attend the funeral of the Duke of Wellington; but I declined, and gave as a reason that I had been buried myself about two or three weeks since, and it would not look well to see a dead man walking in funeral procession." [Laughter.] In that reply he shows the *general*. Is it possible that, forgetting the high position which we owe to society in a social point of view, that we are not able totally to disconnect ourselves as politicians from the social friendships and domestic ties which bind us to earth?

What did my Democratic friends say of General Scott in the late campaign? Did they denounce the military character of the soldier? Certainly not; they told the people that they were willing to confer any military honor or distinction on him; but that he was not asking that. But he was asking to be the head of the *civil* affairs of the nation. He was a Whig. He was not suited by temper, education, or association, to manage the intricate machinery of this Government. He was identified, as the country believed, with sectionalism; they thought that influences were brought to bear in nominating him, that would place "a power behind the throne stronger than the throne itself." For this and many more political reasons, he was defeated, and rightfully defeated, and no man in or out of Congress rejoiced more at such a triumph than I did: nor do I think any man put more heart into the contest to bring about his defeat than myself. But the most powerful element of our success, and General Scott's defeat, was that we had a popular candidate—a man for the occasion—with a pure, consistent political record; with a clear head, sound judgment, and sagacious mind; an accomplished scholar, a good citizen in peace and a gallant soldier in war, and possessing in a most eminent degree the confidence of the people. But enough of this. My colleagues remember that was the great rock upon which he split. In the northern portions of our State, where a slight tincture of sectionalism had obtained a foothold, there the Democratic majority was comparatively small; but in the southern portions of the State, in my friend LOCKHART's district and my own, and in all the other districts down upon the border of Kentucky, where there is not so much sectionalism with either Whigs or Democrats, we find majorities of about twenty-three hundred in each of our districts for Pierce and King, where, under ordinary circumstances, we do not find majorities anything like this. That is the secret of General Scott's defeat. I repeat to my companions in arms, that the soldier was not defeated.

One other remark here. I am aware that there are a good many men who might feel chagrined at my remarks about summer soldiers and sunshine patriots. But there are various ways by which men attack the reputation of military men. One is by assailing them downright. That, when a man has ordinary character and courage, is not often resorted to. Another mode of attack is by intrigue. That may be met in the same way, or repelled boldly. Another mode of attack is by ridicule, together with a thousand and one stories invented for the purpose of taking a laurel from the brow of one of your own neighbors and friends. This game has been played off here to-day. General Scott will of course feel himself wounded when he comes to know that the gentleman from Ohio [Mr. CARTTER] has seen proper to ridicule all the war-worn marks upon his brow. That gentleman's country's history will carry down his remarks and place them alongside of Scott on some of the hardest-fought battle-fields on this continent. The skill of General Scott, as a military man, at Cerro Gordo and Vera Cruz will ever be regarded as forming one of the brightest pages in the history of our country's glory and renown. What is said on this floor becomes a part of our country's history. Therefore I allow the gentleman from Ohio all the honor he can gather by ridiculing on the floor of Congress the war-worn soldier of forty years.

Now, Mr. Chairman, I do not call upon this House to confer this rank because General Scott was defeated. I have no sickly sympathy for that defeat. But I know that if the people could speak they would say give the General all the marks of military merit, but defeat the Whig party, and put down their principles and measures—defeat the nominee of the Whig National Convention, rebuke sectionalism, and restore the Government to Democratic hands. But none will be found to refuse him *mere military* reward. Sir, the people of my section of Indiana, will with one voice, in my judgment, pronounce the same judgment I have in the premises. *Politicians* may intrigue against military men, but, thank fortune, the *people* do the *voting*. If President Pierce when he comes into power, does not deem it necessary to have a lieutenant general in command, he will surely decline making the assignment to General Scott or anybody else. But I know General Pierce well; and I say that he will be found fully competent to the discharge of any duty that may be imposed upon him by the Constitution and laws of the country; and he will discharge that duty with as sound a judgment and clear a head as any man in the Union.

Then the question is, will you do by Congress what the President and Senate could not do? There being no higher rank than General Scott now holds known to the present laws, the President and Senate could not do unto General Scott what they did for almost every other officer of the Army, from a lieutenant of company up to brigadier general. If they had possessed the power at the close of the Mexican war, I ask, would they not have given him, like nearly all others, a brevet for meritorious services? It seems to me that none would answer *no*. Then, as Congress alone possesses the power to give him this grade for his services, will they refuse what otherwise would have been conferred upon him freely and without hesitation? It certainly does not work to

his prejudice that he happened to be the highest in rank.

The letter of General Wool has been referred to. The General says that if General Scott is made lieutenant general, there should be another major general and two brigadier generals to complete the organization. This is true, if you find any necessity for the completion of this organization, but which cannot be so, unless in time of war. But by creating the BREVET rank *only*, I apprehend no vacancy can possibly be created thereby.

Now, Mr. Chairman, as to the *expediency* of conferring by law the brevet rank of lieutenant general, I bring before the country the following facts, in which General Wool participated:

"THE LIEUTENANT GENERALCY.

"IN THE SENATE, *February* 24, 1849.—Hon. Mr. Fitzgerald asked and obtained leave to bring in a joint resolution to confer upon Major General Winfield Scott the brevet rank of lieutenant general; which was read, and passed to a second reading.

"A motion to read the resolution a third time the same day being objected to by a single Senator, the subject went over for the want of time—Congress being within a week of dissolution."

"July 29, 1850.—Hon. Mr. Clemens submitted the following:

"'*Resolved*, That the Committee on Military Affairs be 'instructed to inquire into the expediency of conferring, by 'law, the brevet rank of lieutenant general on Major General Winfield Scott, with such additional pay and allowances as may be deemed proper, in consideration of the 'distinguished services rendered to the Republic by that 'officer during the late war with Mexico.'

"Eight days later, that resolution was referred to the Senate's Military Committee.

"On the last day of the session, (September 30, 1850,) Hon. Jefferson Davis, chairman, reported the following resolution on the same subject:

"'*Resolved*, That the President of the United States be, 'and he is hereby, requested to refer to an army board of 'officers, to be designated by him, the following questions, 'viz: Is it expedient or necessary to provide for additional 'grades of commissioned officers in the Army of the United 'States? and if so, what grades, in addition to the present 'organization, should be created?'

"In pursuance of this request, the President of the United States, by order, December 2, 1850, appointed a board of officers—Generals Jesup, (President,) Wool, Gibson, Totten, Talcott, Hitchcock, and Colonel Crane, who reported, unanimously, as follows:

"'Under the first inquiry referred to it, the board is of 'opinion that it is expedient to create, by law, for the 'Army, the additional grade of lieutenant general, and that 'when, in the opinion of the President and Senate, it shall 'be deemed proper to acknowledge eminent services of 'officers of the Army, and in the mode already provided for 'in subordinate grades, it is expedient and proper that the 'grade of lieutenant general may be conferred by brevet.'"

"December 17, 1850.—That report was laid before the Senate, and 'referred to the Committee on Military Affairs.'" &c.

"January 25, 1851.—Hon. Mr. Shields, chairman, &c., reported a joint resolution, in conformity with the recommendation of the military board."

"February 13, 1851.—The joint resolution passed the Senate by 31 votes to 16—several of its friends (among them the Hon. Mr. Clemens) being absent."

Now, sir, I desire to know what higher military authority do you want than the above report of this military board; what higher authority than the Senate Military Committee, and what higher authority than the American Senate, by an overwhelming vote, do you want to justify your action now? The Senate and President have heretofore had the exclusive right to confer these army grades, but in this case, it requires our concurrence. Will we give it, or will we not? This mark of military merit, thus tendered, only refers to the line of his profession; it commits us in no way to his politics or that of his party; it commits us in no way to his civil qualifications for high political position. It commits us to no act without the line of his profession which we might condemn. It commits us to no approval or disapproval of his personal misunderstandings with citizens or soldiers in times past, present, or to come. It only commits us to his mere military merit. It only commits us to the *soldier*, and it will commit us to the noble, generous-hearted sentiment of Franklin Pierce, that "the hour of triumph is the hour of magnanimity."

Mr. FLORENCE. I have no desire to consume the time of the committee, but I desire to ask a single question. My friend from Indiana [Mr. GORMAN] exhorted this side of the House to vote the brevet rank of lieutenant general to General Scott, and, in the course of his remarks, in answer to a question asked him by a gentleman now sitting near me in relation to the pay that would go with it, he stated that unless the duties of lieutenant general were assigned to General Scott, he would not receive the pay and emoluments of that distinguished position. When I rose to ask the gentleman a question, I designed to inquire of him what the duties of lieutenant general were; because, if I judge rightly, the purpose of the gentleman was to persuade members upon this side of the House, myself among the number, I naturally enough suppose, to confer this rank upon General Scott. I wanted him to give me a reason for it—and perhaps it might have been a satisfactory one, which would have induced me to vote for the proposition. I now beg permission to ask the gentleman from Indiana, if he pleases to answer me, what, in case we confer this brevet rank, and the President assigns the duties of lieutenant general to General Scott, will be the duties of the lieutenant general? Occupying a seat upon this floor, and the convictions of my judgment being against the argument of the gentleman from Indiana, I desire to be enlightened, and therefore I ask him this question.

Mr. GORMAN. I will answer the gentleman's question; but if he is any wiser after I do answer it than he was before, I shall be very much disappointed. [Laughter.] The command of a lieutenant general is two divisions, or what the French call corps d'armee. One division is the command of a major general, and should any necessity arise for an increase of the army, or the army should come together upon any occasion, then of course, he might be assigned duties according to his brevet rank.

Mr. FLORENCE. I acknowledge that I am not any more enlightened than I was before the gentleman answered my question. [Much laughter.]

Mr. SMITH then obtained the floor, but yielded to

Mr. HARRIS, of Tennessee, who moved that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman (Mr. RICHARDSON) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 332, making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854, and had directed him to report back the same to the House with a recommendation that it do pass; also House bill No. 335, "making appropriations to supply the deficiencies in the appropriations for the fiscal year ending June 30th, 1853," and had come to no resolution thereon.

The question now being upon ordering House bill No. 332 to be engrossed and read a third time,

Mr. HOUSTON moved the previous question.

The previous question received a second, and the main question was ordered to be now put.

The bill was then ordered to be engrossed and read a third time, and being engrossed, was subsequently read the third time, and passed.

SURVEYS OF THE COAST OF CALIFORNIA.

Mr. MARSHALL, of California. With the permission of the House, I move that the memorial of certain citizens of the State of California, asking an appropriation for the purchase and distribution of the memoirs, maps, and charts of the cost of California, prepared from the surveys of Commander Ringgold of the United States Navy, be referred to the Committee on Commerce.

No objection being made, the motion was entertained and agreed to.

Mr. HENDRICKS moved that the House do now adjourn.

The motion was agreed to,

And the House adjourned until to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions, memorial, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. IVES: The petition of 84 citizens of Jefferson county for breakwaters in the harbor of Cape Vincent, New York.

Also, the petition of 46 citizens of the county of Oswego for breakwaters in the harbor of Cape Vincent, New York.

By Mr. EASTMAN: The petition of N. P. Tallmadge for a grant of land and the right of way for the location and construction of certain railroads in the State of Wisconsin.

By Mr. COTTMAN: Resolutions of the General Assembly of Maryland, praying Congress to provide for such a commercial arrangement with the countries furnishing guano as will open the trade in that article to the free competition of all American citizens and destroy the monopoly now engrossed by a few.

IN SENATE.

WEDNESDAY, *January* 5, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* appointed, as the Select Committee ordered yesterday to consider the subject of the discovery of anæsthetic agents, Messrs. WALKER, SMITH, DAVIS, BUTLER, and MALLORY.

PETITIONS, ETC.

Mr. SEWARD. Mr. President, at the last session of Congress I submitted the petition of Christian Hanson, of Brooklyn, in the State of New York, praying that the Postmaster General might be instructed to make a contract with him for carrying the mails between the city of Brooklyn or New York, and Gluckstadt in Germany.

I now perform the agreeable duty of submitting to the Senate a further petition of the same enterprising citizen, in which he proposes to add to the line before mentioned a continuation, viz: a line of mail steamships, capable of being converted into ships of war, to ply between the city of Kiel, in the Duchy of Holstein, or the city of Lubeck, one of the Hanse-Towns on the Baltic, and St. Petersburg, in Russia, touching at Ystadt, in Sweden, which line would be connected also with the New York and Bremen line.

Mr. Hanson is willing to engage to make weekly passages each way between the ports mentioned, with two steamships of six hundred tons burden each, for a period of ten years, provided the Government will pay him $25,000 quarterly for the first four years; $20,000 quarterly the next four years, and $16,000 quarterly the remaining two years, the Government paying the expense of carrying the mail to and fro between Gluckstadt and Kiel.

At the last session I had the honor of submitting to the Senate the petition of Christian Hanson, Esq., of Brooklyn, in the State of New York, in which he proposed to establish a line of mail steamers between that city and Gluckstadt on the Elbe, to be employed in carrying the mails of the United States and incidental freights and passengers between Germany and this country.

In that petition it was shown that the line thus proposed would secure to the United States the advantages of the postal communications between the continent of Europe and the United States, a large portion of which are now carried on through the port of London; and it was also shown that the measure proposed would tend to increase and enlarge the commerce between this country and Continental Europe. This line, with the other from Brooklyn to Gluckstadt and the Bremen line, would secure to the United States a direct and independent steam mail and commercial communication with Denmark, Sweden, Norway, Russia, and all the northern parts of Germany, and the voyage would be reduced to a period of fifteen days from New York to Copenhagen, sixteen days to Gothenburg, seventeen to Christiana, sixteen to Stockholm, and eighteen to St. Petersburg.

The vessels of the new line would afford protection and dignity to our commerce on the Baltic, where the national flag is now too seldom seen. The trade on that sea employs twenty-two thousand ships, and of them probably less than two hundred and fifty are American. Although we supply northern Continental Europe with all its cotton, and a large portion of its rice, and sugar, and fish-oil, yet it is conveyed thither chiefly in foreign bottoms.

The number of emigrants from Continental Europe to the United States during the last year was one hundred and thirty thousand, and that number annually increases. It is this extraordinary and peculiar branch of commerce, the importation of immigrants with their property, which, more than even the new accessions of gold from California, has sustained the balance in our favor, notwithstanding such vast augmentation of imported fabrics into the United States for four or five years past. But we enjoy much less profit resulting from it than we ought, by reason of its being largely carried in foreign ships.

The petition which I submit, is accompanied by tables of exceeding interest, which I hope the Senate will consent to publish.

Mr. President, this petition raises the question not so much how far, as how fast we shall go in the way of making our postal arrangements subserve

the policy of augmenting our commerce, and establishing it on such foundations and on a scale commensurate with the development of our national resources. While many will object to going too extensively into such operations all at once, all will agree, I think, that what has been done, has been well done. What is now proposed to be further done, is worthy of serious consideration, and I commend it, with great respect, to the consideration of the Committee on the Post Office and Post Roads.

The motion was agreed to, and a motion to print was referred to the Committee on Printing.

Mr. SEWARD also presented the petition of James Perry, an engineer and machinist, praying an appropriation to test a discovery made by him of the means of preventing the explosion of steam-boilers; which was referred to the Committee on Naval Affairs.

Also, a petition of citizens of Albany, New York, praying that the benefits of the bounty land law may be extended to the widows and orphans of soldiers of the last war with Great Britain; which was referred to the Committee on Public Lands.

Mr. BRIGHT. During the present session, sundry citizens of the District of Columbia have petitioned for the privilege of laying a railroad along Pennsylvania avenue, and thence to a point opposite Alexandria, in the State of Virginia. That petition, I believe, was referred to the Committee on the District of Columbia. I now present the memorial of Gilbert Vanderwerken, of Georgetown, in this District, remonstrating against the establishment of that line; and I ask that it may be referred to the Committee on the District of Columbia.

It was so referred.

Mr. JONES, of Iowa, presented the memorial of James Thompson, of Louisville, Kentucky, surviving partner of Strader & Thompson, praying indemnity for losses sustained by reason of the violation of their contract for carrying the mail; which was referred to the Committee on the Post Office and Post Roads.

Mr. SHIELDS. I have been requested to present a memorial of merchants and ship-owners of the city of Boston, and I beg leave to call the attention of the members of the Committee on Commerce to some of the points presented in it. These memorialists pray for a modification of the proviso of the fifth section of the act of March, 1799, which requires that imported merchandise shall remain on board vessels for from seven to ten days after the arrival of the vessels in port. They wish to have that provision modified in such a manner as to enable the collector to take possession of the merchandise within three days after the arrival of the vessel. The request seems to be a very reasonable one, particularly as foreign steamers the moment they enter port are permitted to land their merchandise, thus doing great comparative injustice to other ship-owners and merchants by detaining the merchandise on board of sailing vessels so long that the merchants sometimes lose the benefit of an early sale. I move the reference of the memorial to the Committee on Commerce.

It was so referred.

Mr. SHIELDS. I have also been requested to present the memorial of D. B. Sears, of Rock Island, Illinois. He prays that Congress will give him a right to a tract of land in a place where he has improved the Mississippi river by dams to a considerable extent. The tract to which he refers contains but a small amount of public land, and has been improved by his labor. The Mississippi river, in that part of it, has also been very essentially improved by him. A similar grant was made sometime ago to a Mr. Davenport. I hope the Committee on Public Lands will see the propriety of placing this individual on the same footing. I move that the memorial be referred to the Committee on Public Lands.

It was so referred.

Mr. FELCH presented the petition of D. J. Campau, in behalf of his father, Joseph Campau, praying a patent for a certain tract of land; which was referred to the Committee on Public Lands.

Mr. SOULE presented the petition of Jeremiah Harpham, an invalid pensioner, praying that his pension may commence from the time of his disability; which was referred to the Committee on Pensions.

REPORT FROM A STANDING COMMITTEE.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of the Sackett's Harbor and Ellisburg Railroad Company, asked to be discharged from the further consideration thereof; which was agreed to.

CUBAN TRIPARTITE TREATY.

A message from the President of the United States was received, by Mr. M. P. FILLMORE, his Secretary, transmitting, in answer to a resolution of the Senate of the 3d instant, a report from the Secretary of State in relation to the proposition for a tripartite convention in reference to the Island of Cuba.

Mr. UNDERWOOD. I do not see the chairman of the Committee on Foreign Relations in his place, and therefore I move that the report be referred to that committee, and that it be ordered to be printed.

Mr. SOULE. The understanding was that when the correspondence should be sent in, it would be, on motion by the chairman of the Committee on Foreign Relations, ordered to be printed, and that he would then give notice of the day upon which he would move its reference, in order that the general debate might take place upon the motion to refer.

Mr. UNDERWOOD. I modify the motion in conformity to the suggestion of the Senator from Louisiana, and move at present merely that the report be ordered to be printed, and that it be laid on the table.

The motion was agreed to.

MILITARY ACADEMY BILL.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had passed "An act making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854."

The bill was read a first and second time.

Mr. SHIELDS. I move its reference to the Committee on Military Affairs.

The PRESIDENT. The Chair would suggest to the Senator from Illinois, that as this is a general appropriation bill, it should, according to the usual custom, be referred to the Committee on Finance.

Mr. SHIELDS. I am aware that such bills have been usually referred to the Committee on Finance, but that committee has, by some means or other, absorbed all the business of the other committees, and it has been sometimes impossible for them to examine points that are essentially necessary to be considered in regard to these bills. This is a military bill, and I think it ought to be considered by the Committee on Military Affairs. It has been my intention, whenever the occasion should arise, to endeavor to have the labor of the Senate distributed, as far as could be, amongst the various committees. At the last session, all that was done by those committees amounted to nothing, because the Committee on Finance finally brought in a general bill covering everything. I hope there will be no objection to my motion.

Mr. BRIGHT. I think it is proper to say, in vindication of the Committee on Finance, that they attend strictly to the business referred to them, and that they are now entirely at leisure, and would be glad to take up and dispose of the measure if referred to them. This bill has heretofore been sent to that committee, and I think it properly belongs to the duties devolved upon them.

Mr. SHIELDS. I have not made the slightest imputation upon the Committee on Finance. I made the motion to refer this bill to the Committee on Military Affairs in order to relieve the Finance Committee from a portion of business that I think belongs more appropriately to other committees.

I have prepared various amendments in reference to this bill, originating from the necessities of the Military Academy at West Point. The institution has addressed me upon the subject; so have various persons in the Army; and if the bill be referred to the Committee on Finance, I shall be compelled to turn that matter over to them.

Mr. RUSK. It has been the universal rule of the Senate to refer all the appropriation bills to the Committee on Finance, and it is exceedingly proper that that should be done. If this bill, making appropriations for the support of the Military Academy, be referred to the Committee on Military Affairs, as a matter of course, the Post Office appropriation bill will be referred, when it comes here, to the Committee on the Post Office and Post Roads; the Indian appropriation bill to the Committee on Indian Affairs; the naval appropriation bill to the Committee on Naval Affairs.

A SENATOR. Why not?

Mr. RUSK. There are various reasons why all of them should go to the Committee on Finance. They have the whole subject-matter of the finances of the country before them. It has been the universal practice to refer these bills to that committee; and besides, the estimates of the various departments are sent to them, and it is very proper that the business of that committee should not be divided out. It would be a strange state of things if we were to parcel out all the appropriation bills to the various other committees. I think it exceedingly proper that they should all go to the Committee on Finance.

Mr. SHIELDS. I am aware of the difficulty which the honorable Senator from Texas has suggested, and I do not know how we are to get over it except by allowing the other committees to act in the first instance and then refer the subjects finally to the Committee on Finance. The Committee on the Post Office and Post Roads ought to consider first what relates to the post offices and post roads; the Committee on Military Affairs what relates to military affairs, and so on; and then perhaps the propositions for appropriations ought finally to pass under revision of the Committee on Finance. Take this bill for instance; there are various amendments which I wish to propose to it, affecting, some of them, the salary of the officers of the institution, which question is now before the Committee on Military Affairs. By referring the bill to the Committee on Finance you divide the matter between the two committees, rendering it inconvenient.

Mr. PEARCE. All the bills making appropriations for the support of Government have always gone, and it strikes me ought always to go, to the Committee on Finance. The custom of that committee is, when bills of such character as this are before them, to consult very frankly with the committees having charge of other subjects. We have generally consulted, as you, Mr. President, are very well aware, with the Committee on Indian Affairs in regard to the Indian appropriation bill, and it is a very common practice for the Committees on Indian Affairs, Military Affairs, and Naval Affairs, to make suggestions, by way of amendment, to the appropriation bills, for the support of those different departments, reported by the Committee on Finance. It seems to me that unless we intend to break up the whole practice of the Senate, and take away the entire jurisdiction of the Committee on Finance, this bill should be referred to that committee. However, we shall abide by the pleasure of the Senate with a good grace.

Mr. SHIELDS. Then I withdraw my motion. I had no object in the world in making it, except to accomplish what I believed to be necessary. But if the practice be as suggested by the Senator from Maryland, perhaps I shall obtain my object as effectually, if the bill be referred to the Committee on Finance, as I would if it were referred to the Military Committee.

The bill was referred to the Committee on Finance.

HON. DAVID MERIWETHER.

The Senate proceeded to consider the following resolution, submitted by Mr. RUSK on the 21st of December:

"*Resolved*, That the Hon. David Meriwether, late a member of the Senate from the State of Kentucky, be paid his mileage and *per diem* up to the 20th day of December, inclusive."

The PRESIDENT. According to the rules, the resolution requires three separate readings. It has had its first reading; it will now have its second reading, if there be no objection.

The resolution was read a second time, ordered to a third reading, and read a third time.

The PRESIDENT. The question is, "Shall the resolution pass?"

Mr. UNDERWOOD. I think I understood from the gentleman from Texas when he offered that resolution, "that he had offered it without any consultation whatever with my late colleague, Mr. Meriwether, but had done so upon his own motion.

Mr. RUSK. That is so.

Mr. UNDERWOOD. I have had no conversation with Mr. Meriwether in any way upon the subject, and I rise now for the purpose of stating, that unless I can be assured that Mr. Meriwether authorized the application, I, for one, cannot vote for the resolution. I do it upon the ground that unless there is a controversy, and one that is acknowledged, there is no precedent for payment, and I think we ought not to set a new precedent. I was a member of the House of Representatives when the first precedent upon this subject was set. I voted against it, and if it were now a new question, I would vote against it in every case. The first case of the kind that ever happened, was that of Moore and Letcher, from the State of Kentucky. I made a speech against the allowance of pay and mileage in that case to the contestant. My object was to place every contest for a seat in Congress upon the same footing as every other contest, to make the individual enter upon it at his own responsibility, and risk all the consequences. That was the practice of the House of Representatives from the foundation of the Government, so far as my investigation went, up to the case of Moore and Letcher. That was decided against my opinion, and against my vote. I have ever since acquiesced in the precedent without opening my mouth against it. It was followed afterwards in the Senate. I think there was no case before that time in the Senate which settled the precedent. I am not, however, perfectly certain upon that point, because I have not investigated the proceedings of the Senate as I did investigate the proceedings of the other branch of Congress at that time. I believe, however, that since that period, the practice has been followed up in both branches of Congress.

This resolution, it seems to me, is an enlargement upon that precedent, and one that I am not willing to make, unless it be avowed that there was a controversy between Mr. Meriwether and Mr. Dixon. If the controversy had been avowed upon the part of Mr. Meriwether, precedents would have justified the allowance; but there having been no such controversy, I cannot vote for the resolution.

Mr. SEWARD. Mr. President, I was in hopes that this resolution would have passed unanimously. No one was more clearly satisfied in his own mind that Mr. Meriwether was not entitled to the seat claimed here—not by him but for him—than I was. But, at the same time, it is due to him, it is due to truth and justice, to say that the question raised upon that subject was a new question, for which there was no precedent, and that some of the most distinguished Senators in this body were of the opinion that Mr. Meriwether was entitled to the seat for which the Legislature of Kentucky had elected Mr. Dixon. I think that we should have had greater difficulty in securing the seat to Mr. Dixon, if Mr. Meriwether had appeared here and claimed it. I am, therefore, grateful to him, and to his political friends in this body, that they relieved the question of that difficulty and embarrassment. They met it in a spirit of generosity; they met it in a spirit of magnanimity, and the majority of this House agreeing with him, yielded to the convictions of the minority, and gave the seat to Mr. Dixon. If there be nothing in the circumstances of this case which could induce any portion of the Senate to object to the resolution, except the fact of the delicacy of Mr. Meriwether in not appearing publicly to claim the seat, but in standing back while Senators maintained it in his behalf—if there be nothing but this to separate this from other cases, we should at once pass this resolution, and give the compensation which is asked.

Mr. BADGER. I concur, sir, in the view which has been taken of this subject by the honorable Senator from New York. The case is one in which, though individual Senators may have been clear in their own minds with regard to the particular questions which arose in reference to this seat, there was undoubtedly a large division among the several and respective Senators. It must therefore be considered, at all events, as a case which, before the decision of the Senate upon it, was one of doubt; and it seems to me that when that is so, the circumstance that the gentleman for whom a seat was claimed by his friends did not himself interpose any claim, but waited quietly until the question should be adjudicated by the Senate, so far from furnishing a reason why this appropriation for his benefit should not be made, strengthens every other reason why it should be made by the Senate, and made promptly.

Mr. TOUCEY. Mr. President, I would submit to the honorable Senator from Kentucky that his objection resolves itself into this: That if a gentleman conducts himself with great delicacy, he is not to be paid according to the usual rules of the body; but if, on the other hand, he comes forward here and presses his own claims with ardor and perseverance, he is entitled to the compensation usually awarded. In this controversy, Mr. Meriwether certainly conducted himself with unusual delicacy and reserve. I think I may say that, as far as I have any knowledge on the subject, he never approached an individual member of the Senate with regard to it. I have no knowledge of his intimating a wish on the subject to any one. So far, then, from this inducing us not to make the usual allowance to him, it should be, in my opinion, an additional reason why we should do so. But, sir, if I rightly understood the course of the debate upon that subject, the question turned upon precedents apparently in opposition to the language of the Constitution, upon which there was a very considerable diversity of sentiment. I concur, therefore, with the Senator from North Carolina, and the Senator from New York, in the hope that this resolution may pass without any objection from any quarter.

Mr. BRIGHT. It is due, sir, to the late Senator from Kentucky, [Mr. Meriwether,] to say that he not only did not claim the seat now held by the gentleman over the way, [Mr. Dixon,] but he did not claim to contest the seat, and he does not now claim the compensation proposed to be given to him. He leaves the question of compensation, as he left the question of the right to take the seat, with the Senate. He came here at the beginning of the session under the impression that he was constitutionally entitled to the seat. He came here under the advice and counsel of distinguished lawyers in the country, and of distinguished Senators, who honestly entertained the conviction that he was entitled to the place. The Senate have ruled otherwise. He is satisfied with the decision. He sets up no claim whatever to the compensation; and I understood the honorable Senator from Texas, when he introduced the resolution, to say that he offered it without the knowledge, and of course without the consent of Mr. Meriwether. I have said thus much merely for the purpose of letting the Senate and the country know that he sets up no claim whatever to the compensation.

Mr. RUSK. When I introduced this resolution, it was without consultation either with Mr. Meriwether or any of his friends, or with any person who had voted in favor of his right to a seat here. As I stated upon a former occasion, when his credentials were presented at the last session, an opinion was expressed that he would continue to be Senator from Kentucky, until the next meeting of the Legislature of that State. The opinion was expressed by Senators in various quarters, entitled to the highest respect for their intelligence and integrity. No decision was come to upon that question at that time, but I think everybody understood that there would be a question raised at the next session upon these convictions of Senators, upon no claim of Mr. Meriwether's. We were notified of that by the honorable Senator from California, [Mr. GWIN,] and I believe such was the general understanding. Therefore, Mr. Meriwether came here at this session, as I think he ought to have come. He knew there was going to be a controversy; every one knew it. The controversy did take place without any procurement of Mr. Meriwether. That fact being known, I think it was his duty to come here, because, if the decision of the Senate had been other than what it was, he would have been Senator; and if he had been absent, he would, to some extent, have neglected a duty imposed upon him by his commission.

So far as I have seen anything of Mr. Meriwether—and previous to that time we were on terms of personal friendship and intimacy—he has acted very delicately. I have seen him but very little during the time. He retired from the Senate Chamber, and he did not talk with members generally. I think I did not see him more than half a dozen times, and then at a distance, during the pendency of the controversy. I think his coming here was under a sense of duty; that his conduct here was commendable; and that under such circumstances, he is entitled justly and fairly to the compensation.

Previous to the introduction of this resolution, I had no consultation on the subject with him or any of his friends. I have had none since, except this morning in the Chamber. It will be remembered that when I presented the resolution, its consideration was objected to by the honorable Senator from Indiana, [Mr. BRIGHT,] and the honorable Senator from California, [Mr. GWIN.] The only consultation which I have had upon the subject has been with those Senators this morning, in order to ask them what course they intended to pursue, because I was anxious to call up the resolution, and did not want to have it lie over any longer.

Mr. MANGUM. I hope the resolution will pass. I, sir, had perhaps as clear an opinion upon this question as any gentleman in the Senate, yet I found other gentlemen, quite as intelligent, some more intelligent than myself, entertaining an opinion directly contrary to mine; and I must say that, very much to my astonishment, one of the most intelligent Whigs in the southern country, who was here during the pendency of the controversy, expressed to me privately the opinion that he thought it as clear a case as ever was presented in favor of the gentleman who lost the seat. To be sure, I was surprised at the expression of such an opinion. But I look upon it that, in all these cases, where there is any real contest, any essential difference of opinion, the Senate ought to pursue the course that has been hitherto usual; and I trust, therefore, the resolution to pay this gentleman will be passed with great unanimity. I shall vote for it.

The resolution was passed.

MEXICAN BOUNDARY COMMISSION.

Mr. WELLER. I ask the Senate to take up and consider the resolution submitted by me yesterday. I have modified it so as to remove all objection.

The motion was agreed to, and the resolution was adopted after being modified so as to read:

Resolved, That the President of the United States be requested to inform the Senate whether the boundary line between the United States and Mexico has been fully run out and established, and if not, whether the Commission has expired for the want of a Commissioner and Surveyor on the part of this Government.

EFFICIENCY OF THE ARMY AND NAVY.

On motion by Mr. SHIELDS, the Senate, as in Committee of the Whole, proceeded to consider the bill "to increase the efficiency of the Army by a retired list for disabled officers."

Mr. SHIELDS. Mr. President, it was considered by those who originated this bill—I had not that honor—that it was one of very great importance to the Army, and also to the Navy. It has passed the Senate heretofore and failed in the House for want of time. My desire now is, that it should be passed as early as possible, in the hope that it will pass the House this session. I offer the following amendment as a substitute for the whole bill:

Strike out all after the enacting clause and insert:

That if any commissioned officer of the Army, Navy, or of the Marine Corps, shall have become incapable of performing the duties of his office by reason of age, wounds, or disease incurred in the service of the United States, he shall be placed upon a retired list, and retired from the service, with the pay proper of his rank, and with the service ration to which he is entitled at the time, but without any other allowance to which he might be entitled if he continued in the service, either in the line or staff; and the officer next in the line of promotion, who is physically efficient, shall be promoted to the place of the retired officer, with the rations and emoluments appertaining thereto, but shall continue to receive the pay proper of the grade from which he was promoted, until an actual vacancy shall happen, to which he may succeed, according to the heretofore established laws of the service; and the same rule of promotion, pay, and allowances shall be applied successively to the vacancies and promotions consequent upon the retirement of an officer as herein provided.

SEC. 2. *And be it further enacted*, That to carry out the provisions of this act, any officer of the Army, Navy, or Marine Corps, who may have been incapacitated as herein recited, and who shall voluntarily apply to be retired from active service; or, on being ordered to perform the duties appropriate to his commission, shall report himself unable to comply with such order; or when any officer, in the judgment of the President, shall have become in any way incapacitated for the performance of the duties of his office, the President of the United States, at his discretion, shall direct the Secretary of War, in case of the Army, and the Secretary of the Navy, in case of the Navy or Marine Corps, to refer the case of such officer, if an officer of the Army, to an army board, and if an officer of the Navy, to a navy board, to be composed of not less than three, nor more than seven com-

missioned officers, to be detailed from those of superior rank to him whose case is under consideration, as far as his grade and the interest of the service will permit; and the said board shall determine upon the case referred to them, and their opinion thereon, with the record of the proceedings, shall be transmitted to the Secretary of War, or Secretary of the Navy, as the case may be, to be laid before the President of the United States for his approval or disapproval; and if in the judgment of the board the officer be considered incapacitated for active service, and the President approve such judgment, said officer shall thereupon be placed upon the list of retired officers according to the previous section of this act.

SEC. 3. *And be it further enacted*, That the President, in his discretion, may direct any officer, who shall have served forty years in the military or naval service of the United States, to be placed on the list of retired officers as aforesaid.

The amendment was agreed to, and the bill was reported to the Senate as amended.

Mr. HALE. I hope this bill will not be forced upon its passage to-day. My recollection does not agree with that of the honorable Senator from Illinois. I do not think we have ever passed such a bill since I have been a member of the Senate. I will not say that we have not; but my recollection is that we have not. I have watched the progress of this bill, and I will state the case which has particularly led me to direct my attention to it. There is a friend of mine in the Navy who I think will be seriously afflicted by it.

Mr. SHIELDS. In the Army?

Mr. HALE. No, sir; in the Navy. He is a young man who lost his sight entirely by gallant and meritorious conduct, I think on the Island of Cuba, in relieving some British sailors. His conduct was so meritorious that I have been informed—though I have not seen the statement of it in the report of the proceedings of the House of Commons—it was alluded to in the House of Commons of Great Britain, as a highly-meritorious act, which would entitle him to some mark of approbation from the Government of Great Britain; but it was suggested that such a mark would more properly come from his own Government, and the thing was postponed. He was a young man, I think, about twenty or twenty-five, when he performed that act; but from that day to this, he has been incurably blind, and he is now, I think, less than forty years of age. I should be unwilling, exceedingly unwilling, in furnishing a retired list—notwithstanding one of the members of the Committee on Naval Affairs thinks I am always opposed to the Navy, but I believe I am the only consistent friend it has on this floor—to see a young officer of the Navy, who incurred such a dreadful calamity as that in rendering a highly-meritorious service, packed away like a sick and lame horse that could not be used any longer. I should be sorry to see that.

There is another case, in the Army, which is familiar, I think, to every member of the Senate. I refer to the case of Major Searle, which I think has been before us. You, sir, know what his situation was. He was rendered entirely helpless by a ball received in his spine in the Florida campaign; and I think on one occasion an attempt was made by the administration of the War Department to overslaugh him on that account, which did not meet the approbation of the Senate. In making any retired list for the Army or the Navy, with which I do not want to interfere, for war is not my vocation, I do hope and pray that cases like those to which I have referred may receive the consideration of the committee, and may not be subjected to what it seems to me, upon hearing the bill read, they will be subjected if it should pass. Now, if some such cases as these could be taken care of—and I have no objection, if you pass the bill, to retire the whole of them—I would not find fault. But I do pray that cases of this sort may not be thus summarily disposed of, by hastily acting on this amendment. If the bill as amended in Committee of the Whole should now be postponed, and ordered to be printed, and taken up at some future day, and such cases as I have spoken of can be taken care of, I shall interpose no objection to it; but I do pray that those who are suffering the severest evils that can afflict humanity—evils which they have suffered in consequence of their gallantry and noble bearing—may not be subjected to the danger of being placed in a worse situation than those that have avoided like difficulties by avoiding like perils. That is all I have to say.

Mr. TOUCEY. I wish to say a single word upon the general subject. I look upon a measure of this kind, as really a measure of reform; because I think that leaving disabled men, who have become so by reason of age or infirmity in the Army or the Navy upon full pay, is an evil which in some mode should be remedied. I know of no better remedy, according to the system which now exists, and according to existing laws, than to allow that class of officers to withdraw from active service upon half pay. That, I understand to be the proposition of the Senator from Illinois. I look upon it, therefore, as substantially a measure of reform. It may be misrepresented, it may be perverted, but it is essentially in itself a system of reform, by which you will allow those who have spent their best days in the service of the country, instead of being cast off, to maintain their rank and position, and to dispense with one half their pay. It is in that view that I shall give my cordial support to this measure. The particular details of the bill have not come under my observation, but I desired to say so much upon the general subject.

Mr. UNDERWOOD. I rise to make an inquiry of the chairman of the Committee on Military Affairs with regard to the operation of this bill. There are some officers who have lost a leg or an arm; some may be laboring under one disability and some under another, and some officers thus situated are now in the Army performing active duty so far as they are able to do it. I want to ascertain from the chairman, whether this bill will have the effect to exclude officers thus situated from the service against their own will, and to put others over their heads? For instance, I will give you the case of Colonel Loring, who has lost an arm. With one arm, he can be an efficient field officer, and perhaps perform all the duties which would devolve upon him if promoted to the rank of general, although disabled in one arm. I should consider it a great misfortune to Colonel Loring, who has been thus honorably disabled in the service to be precluded from all hope of future promotion, and to be compelled to retire upon the pay of a retired officer; thus cutting off all prospect of further advancement in consequence of previous wounds. There are cases also—and I have a friend whose case induces me to make the remark—of captains and inferior commissioned officers, who are disabled in part, and who, notwithstanding their disability, might perform the duties of a major if promoted to that rank, or that of any field officer. They might be able to perform duty on horseback, which their disabilities would prevent them from performing on foot. If such men are obliged by this bill to go upon the retired list, and have all prospect of future promotion cut off, it will be a death-blow to them, and they would almost prefer to sacrifice life rather than be placed in such a situation; for all the hope of elevating themselves above the position in which they now are would be taken away. What I desire is, that my honorable friend shall explain, if he pleases, the operation of his bill in such cases as I have referred to.

Mr. SHIELDS. The honorable Senator from Connecticut has characterized this bill properly. It is essentially a measure of reform. I meant to have said, when I asked to have the bill taken up, that I did not desire to say anything upon its merits, because I did not believe the bill would provoke any discussion; but I may now be permitted to say that unless some such bill is passed, neither the Army nor the Navy can render efficient, active service. There are several other bills to follow this, of which this is the foundation, and without which we can render none of those which are to follow it, effective. It provides first, that officers who have become wholly disabled, so that they cannot perform the duties of their station on account of wounds received in service, or on account of age, or disease, shall be retired under certain circumstances, when they ask and request to be so retired. That is one case; and no injustice can be done to a man who asks and requests it. The second case is, when they are called to perform a duty appertaining to their office, and they are incompetent, and declare themselves to be so, on account of wounds, age, or disease. The third case is that which provides that the President of the United States may adjudge certain officers incompetent, when he considers them to be so on account of any of the causes which I have named; but in these cases, he is to submit the matter to a board of officers, consisting of not less than three nor more than seven members. These are the three principal points; so that the cases referred to by the honorable Senator from New Hampshire will not be affected by this bill, unless the officers themselves wish to retire, or unless they declare themselves unable to perform any duty appertaining to their office; and then it will be the duty of the President to submit that matter to the board provided. The cases referred to by the honorable Senator from Kentucky will not be touched by the bill at all. These gentlemen are in the service. I know them all, I believe. They are active and efficient officers, and although they have suffered from wounds, still they are excellent officers, and discharge their duty.

This bill passed the Senate two years ago. It was brought in here by my predecessor on the Military Committee, [Mr. Davis, of Mississippi,] and was lost in the House for want of time. I have felt it my duty to bring it in at this time, and I have added the provisions respecting the Navy, at the request of various officers of the Navy, that the Army and Navy may be put upon the same footing. I think that is a correct principle. I will add that, as the Army and Navy are now constituted, from the number of officers superannuated and totally disabled, so that they can perform no portion of duty, you can never make either of those arms of the public service very efficient. Something of the kind proposed by this bill exists in almost every other army in the world. In fact, this is a bill providing the means of subsistence for these poor disabled officers during life, instead of doing as we may otherwise be compelled to do finally—turn them out of the service. It provides a refuge, a support for those men who have been irrecoverably and irremediably injured in the service, and who are no longer able to perform any service. I think no man can object to a bill of that kind.

Mr. CASS. I believe, for my own part, that this is one of the best bills that we have had before us connected with the Army and Navy. It has been before us for three or four years, and I suppose I express the feelings of the officers themselves, when I say that they are altogether in favor of it. It may, perhaps—I do not see how—but it well may, as is always the case more or less, work some personal injustice. But I do not see how it can.

Mr. SHIELDS. It is impossible that it should, unless through the act of the President.

Mr. CASS. I have not examined the bill lately, but according to my recollection of it, there must be a board to decide with regard to the disability. You can leave the officers in no safer hands than their own. The President cannot put a man in that condition. The disability must first be inquired into by a board of officers—officers with the same interests and same feelings as those brought before them as being disabled. There is no military service in any country which has not some such law in relation to it; and the Senator from Illinois has well said that if you do not pass such a bill, you will have your Army, in the course of time, filled with superannuated men utterly incompetent to do business. In other countries, the provision is called half pay for life; disabled officers are retired on half pay for life. Here is an officer utterly incompetent to do the duties of his office; the Government is willing to give him about half of what he received for full services; but it cannot do it; he stands in the way of one man, and in the way of another; and thus it goes on, officers below him performing duties which the law does not require them to do, on account of his incapacity. It is his misfortune—a misfortune incident, perhaps, to his line of life—but the service of the country must not suffer by it; and nothing will save the Army and Navy but such a bill. The service will not tolerate such cases; and in the event of a war, it will be found, unless some such bill is passed, necessary for the President and Senate to overslaugh them. I do not see how it can be prevented. You cannot send men round the country performing the duties of others who receive full pay. It is better to let them retire, as the bill proposes. In this, I think, I speak the uniform opinion of the Army. It was drawn up by a gentleman who was one of the best officers in the Army, and one of the most able Senators; and I recollect, on reading it, I was perfectly satisfied with it. I hope it will pass without opposition.

Mr. HALE. My desire to have the consider-

ation of the bill postponed was, that it might be printed, so that we may have an opportunity to examine it. I have a satisfactory reason for this, in the fact that a new bill has been introduced this morning as a substitute for another bill. I do not intend to enter into the details of the arrangement of the Army or Navy. I know nothing about them, and I am willing to leave them to those to whom they properly belong. All that I desired was, that we should not do any injustice. It has been said that a man cannot be put in a condition where he shall be deprived of his pay and emoluments, unless he says that he is disabled. Take the case of Major Searle. I name him because the case is familiar to the Senate. He is utterly incapacitated for service, utterly incompetent, but the Senate refused to stand by and see him overslaughed. Suppose he is ordered to perform active duty, and he declares, as he must, that he is incapacitated? Then, as I understand the bill, there is to be a board of officers to decide upon the case, and see whether he is incapacitated. Of course they must decide that he is, being unable to use his limbs, and perhaps only just able to live upon his pay and hire his servant. He is to be cast aside and put upon half pay as useless lumber, although the Senate refused to see him overslaughed, and his right of promotion cut off on account of disabilities incurred in the service of the country.

Let me call the attention of the Senate to another case. When a bill works apparent injustice, it is an unjust bill. Take the case of the young man in the Navy, to whom I have referred. A young man of twenty-five has entered the service with all the spirit and ambition which belongs to young men thus entering life; and he loses his eyesight in the service of his country. His pay is about enough to support him economically. But by this bill you subject him to a situation in which that pay will be reduced one half. Thus you make bravery a crime, and foster cowardice and skulking. You virtually say to your officers when they are about entering the service of the country, "Take care that you do not get wounded, or put yourselves in a condition in which you can render no further service to the country, because the moment you lose your limbs by exposure to danger, that moment your country puts you by as useless, like a disabled animal, no further fit for use. I say, that a bill that does that is, to my humble apprehension, an unjust bill, and ought not to pass. No motives of convenience, to my mind, can justify it. I see no injustice that can be done by allowing the bill to lie over until to-morrow. Nobody knows what it is. I therefore move to postpone the further consideration of the bill until to-morrow, and that the bill be printed.

Mr. CASS. The honorable Senator speaks of the harshness of the operation of such a bill, and supposes that it only gives to the officers one half what they received before they are disabled. If a man loses both his arms in battle, and goes out of the service, he gets a pension. And what is it? He can get his half pay——

Mr. HALE. You do not turn him out.

Mr. CASS. What difference does it make whether he goes out by his own consent or by a provision of law. I speak of the operation of the system. The most that any man can get is half pay. We propose to give these officers about full pay—that is what is called pay proper. At any rate it is about double the compensation given by your pension laws for the highest rate of disability known in our service or any other. What injustice is there in that? I repeat, this subject has been before us for years, and has been fully considered, and I do not think anything new can arise out of postponing it.

Mr. SHIELDS. I do not wish to waste the time of the Senate by debating this measure. If the Senate are disposed to pass it, they will; and if not, it must fail. But I wish to say one thing, and that is, that the Senator from New Hampshire, who seems to have taken occasion heretofore to assail the Navy——

Mr. HALE. I deny it.

Mr. SHIELDS. Now seems to take a special interest in opposing this bill, which is intended to reform both the Army and Navy. I agree with him, and I agree with others, that a reformation is needed in both branches of the service. I will also state that there is a mass of incapacity and superannuated imbecility weighing down both branches of the service, the Army and Navy, and the Bureaus, and that it is for the benefit of the nation and the service to turn them out. There are drones in the Army and drones in the Navy; but it would be cruel to them to turn them out, and thus render the Army and Navy efficient, if they have become superannuated in the service, and disabled and wounded, without making some provision for them. No just and generous nation could do that. I am astonished at the suggestion that this is an unjust bill. I am the last man to bring in any bill which would be unjust to those men who are in the Army and Navy. It is my purpose to make provision for them, to give them a support, and an ample support; but, at the same time, it is impossible to proceed with any measure of reform in the Army or the Navy, or any other branch of the public service, without removing from that service men whom we all know to be incompetent to discharge the duties of their station. Sir, there are men on our frontiers, and there were men in Mexico, who, though only holding the rank of captain, commanded regiments, while the colonels of the regiments remained at home, unable to go into the field, and yet received the pay and emoluments of their office. There were men there commanding regiments because the colonel was not in the field, and he still held his place, because no President would turn him out. And no President will do it under the present state of things, though they are old and superannuated men, without giving them some compensation, and providing some mode by which they can live. Our laws never have made provision for them in case of removal, and never will, I think, if the honorable Senator from New Hampshire could have his way. However, I have done my duty.

The PRESIDENT. The question is on the motion to postpone the consideration of the bill until to-morrow.

Mr. SHIELDS. I am opposed to the postponement. I want to decide the bill one way or another.

Mr. DOWNS. I hope this bill will be passed now. It seems to me that no objection can be made to it. I have no doubt that it has been very carefully prepared by the committee, and I think we ought to trust somewhat to their discretion in preparing it. It is not probable that a measure of this kind can be perfected at once; but this is the commencement of what we all feel to be desirable. I think we cannot do better than pass the bill.

The Senator from New Hampshire seems to oppose the bill on the ground that injustice may be done to the class of officers who will go on the retired list; though he seems to forget altogether another class of officers, who are interested in the matter, and the country also—I allude to that class who perform the duties of the superannuated officers. The Senator's objection to the bill seems to be that by it we may not treat with sufficient kindness and liberality those officers who may render meritorious services hereafter. I do not think the country will fail in their duty in that respect. I do not think that, by the provisions of the bill, there is any danger of injustice being done to such officers; and if it should operate unjustly upon any of them, I have no doubt the Legislature would provide for such cases. On the other hand there is a hardship which ought to be prevented. There are officers who, in a subordinate capacity, have been compelled for years and years to perform duties appertaining to a higher grade. In the Mexican war, there was scarcely a regiment in the field ever commanded by the officer highest in rank, for they were commanded by captains, majors, and other inferior officers, who performed all the duties of their superior. I would go as far as any man to be perfectly liberal; and I am sure the nation and the Government always will be liberal to those who have performed meritorious services; but I am unwilling, at the same time, that injustice should be done to those who do actual service. I have never heard an objection seriously urged against the measure here or elsewhere. If we delay acting upon it, it may defeat it in the other House, for this is a short session. I hope we will not do so by differences on minor matters, and imperfections which may be in it. I hope, therefore, the bill will pass.

Mr. BRADBURY. Mr. President, I am disposed to favor a bill of this character, believing, when properly considered, that it may result in public good. But I would like to call the attention of the honorable chairman of the Committee on Military Affairs to the objections that have been made by the Senator from New Hampshire, and inquire whether they might not be obviated by making a distinction between the compensation that should be received in the cases of those who have incurred disability in the performance of gallant service in the line of their duty?

Mr. SHIELDS. I will make a statement which ought, I think, to satisfy the Senator from New Hampshire, and my friend from Maine. The President now can turn out any officer of the Army. He has the power to do it, but he will not do it unless there is some provision made for them. And again: this bill cannot turn one man out of the Army, unless with the approval of the President.

Mr. BRADBURY. The point to which I was about to direct attention, was this: That there ought to be a distinction between the cases where the disability arises in the discharge of gallant service in the line of the officer's duty, and those cases where the disability arises during inactivity, or without the exhibition of any superior gallantry There may be cases where an officer is totally unable to perform his duty—and this is the point—who yet may be entitled to something more than half pay. An officer receives a wound, or is deprived of his sight in the discharge of his duty. In a case of that kind I would discriminate, and authorize the President to bestow full pay on such an officer. He may lose his limbs; he may be unable to clothe or feed himself, and being unable to perform his duties—having received the wound in the performance of his duty—I think he ought to receive enough to support him. It is, therefore, with the view of examining considerations of this kind that I would express the wish that the bill should be laid over and printed. It can be taken up again to-morrow morning; and I shall be disposed to vote for a bill which, after having had an opportunity to examine it, I may think will meet the cases which this bill is designed to meet.

Mr. SUMNER. I have no desire to say anything on the general question; but I must make the request of my friend from Illinois, that he should consent to the postponement of this bill, that we may all enjoy the advantage which he himself has had. No one who knows that Senator, can suppose that he, in any way, would be a party to a bill which had in it any element of injustice. It has been said that this bill is unjust in some of its provisions. I wish that we may all have an opportunity to read it, to know what its provisions are.

Mr. SHIELDS. The only reason why I was anxious to pass this bill this morning, was in order that it might have an opportunity to be acted upon in the other House during this session. It has failed to pass through the other House before, for want of time, and I am afraid if it is not acted upon now, it will fail again.

Several SENATORS. We can take it up to-morrow.

Mr. SHIELDS. I will consent that it be postponed until to-morrow, with a view to have it printed.

Mr. BORLAND. I hope that it will not be postponed, but that it will be acted upon now. It is a subject which has been before us several times within the last three or four years. I did think that if any subject had been fully considered, both by the Senate and the country, this was the question above all others. The objection made by certain Senators, seems to be that it does not provide well enough for the officers of the Army. I have taken some pains to ascertain the opinions of many officers of the Army on this subject. I was on the committee, and am still on the committee which reported the bill. We have taken pains to ascertain the views of the officers of the Army, and if there has been any one who has expressed any objection to it, I am ignorant of the fact. Those who have given their views in favor of it, are as well qualified to give an opinion as any persons can be. As the bill has been so long before the Senate and the country, I hope we may have immediate action upon it.

Mr. CHASE. I hope the acquiescence of my friend from Illinois, in the suggestion with regard to the postponement of this question, will meet with the concurrence of the Senate. I trust that it will be postponed, simply because I desire that the business of the Senate may be conducted in-

telligently. The amendment which is now under consideration was introduced this morning as a substitute for a bill which has been long upon our tables. Comparing that substitute in manuscript, as read at the desk of the Secretary, with the printed bill, I find there are some very essential differences, and these differences ought to receive a careful consideration, at least as careful a consideration as can be procured by having the bill printed and laid on our tables, to be taken up to-morrow. My friend who reported the bill is a gentleman in whose judgment and discretion I have very great confidence, and generally I find myself concurring with him in my vote. But he should recollect that while he and the members of his committee have had an opportunity to see this before, though in writing, other gentlemen have not had the privilege of seeing it at all. I hope, therefore, it will be postponed.

Mr. BORLAND. I hope that as the chairman and other members of the Military Committee acquiesce in the postponement, there will be a general understanding that it shall be taken up and acted upon to-morrow.

Several SENATORS. Certainly.

Mr. STOCKTON. I have no objection to the postponement of this bill till to-morrow; nay, I desire that it may be postponed to a still more remote period. I do not rise, however, to discuss that question, but simply to ask the chairman of the Military Committee, if he is not willing to leave the business of the Navy in the Senate to the Naval Committee, and whether he will not be kind enough, in the generosity of his temper, to believe that the Naval Committee will use their best exertions in behalf of the Navy, and whether he will not consent to strike out of the bill the words, "the Navy, and to the Marine Corps?"

Mr. SHIELDS. I am perfectly willing to refer the whole matter to the Naval Committee, and they will do me a very great favor if they will take it upon their shoulders. The Committee on Military Affairs have included the Navy in this bill, because, on a former occasion, the Committee on Naval Affairs felt it rather hard because we introduced a bill for the Army, and did not include the Navy. And another reason for including both in one bill, was that they might be precisely upon the same footing; because, if one bill is brought in for the Army, and another for the Navy, they might differ in principle and in detail. But I will consent, if the Senator wishes it, to refer the whole subject to the Naval Committee, and let them investigate it.

Mr. STOCKTON. The honorable Senator would then commit a greater error than I think he has committed now, because he would refer to the Committee on Naval Affairs an important subject, of which they know little or nothing in comparison with the experience and knowledge which his own gallant services have afforded him. He is well, no one is better, acquainted with the wants of the Army, and no one can or will do it more justice. I have no doubt he is equally disposed to do justice to the Navy; but certainly there is a difference between the wants of the Army and the Navy of the United States in many particulars, and perhaps in none more so than in the matters of efficiency and discipline. Sir, that the Navy of the United States requires some reform in several particulars, I think there are but few who doubt; but this bill cannot secure the reforms adverted to, some of which I will mention, at the risk of being tedious. It contains but little power that is not already vested by law in the Executive Department of the Government. The President of the United States and the Secretary of the Navy can now put any officer on furlough who cannot perform his duty; and why do they not perform that duty—unpleasant duty, I grant? Why is it that Senators ask us to stand between the Executive government and the people in regard to their proper responsibilities and duties? The law, sir, has already given them power to clear away all this rubbish of which the honorable chairman of the Committee on Military Affairs speaks. Such persons as he speaks of have no business in the Navy. They ought to have been furloughed long ago. The channel should have been opened before this, and in a different way. The best officers of the Navy should have been called up to the performance of the highest duties of the profession, without regard to their rank. The reason they have not been so called is to be found in the imbecility of the Government. If they have not the power to do it now, let them take the responsibility, and ask it.

But, sir, if it is necessary for the Senate now to interfere, let us have a well-considered system. Let us begin and make a thorough reform. But is it wise to do this now; to do this on the eve of the outgoing of an Administration? The Committee on Naval Affairs, I believe, for twelve months, have thought of nothing more earnestly and anxiously than naval reform, and they design to submit, some of these days, to the Senate their views of that reform. But some of them wish to begin at the Navy Department.

Sir, all the members of that committee cherish a regard, a patriotic love, for the Navy. They cherish those feelings for it not only on account of the remembrances of the past, but the anticipations of the future. They remember that this nation is indebted to the Navy more than to the Army, or to all the other defensive institutions of the country, for its present lofty and prosperous position. That I say without fear of contradiction. Sir, when dismay pervaded this country, when the dark cloud of misfortune was hovering over you, when defeat followed defeat in your Army, whose shouts of triumph reanimated and reinvigorated the patriot's heart? It was your gallant Navy. And yet, sir, the honorable Senator from New Hampshire [Mr. HALE] only on yesterday complained of the expenses of the Navy. Sir, the expenses of our Navy are nothing in comparison with its importance, its usefulness. They never have been. One battle—the battle of the Constitution and Guerriere—was worth more to this nation than all the treasure that has ever been expended upon the Navy. Remember, that at the time of which I speak the British Navy and invincibility were, in the minds of most of our countrymen, one and the same thing; and remember, also, that your Executive quailed before the terrors of that invincibility. Your ships were ordered to be laid up, and your coast and mercantile marine abandoned to the enemy.

It was an officer of the Navy (Hull) who, against authority, without orders, in opposition to the will of the Government, went to sea, and with his noble ship and gallant crew achieved for you that victory which astonished the world and electrified our own Government and people, and from its moral effect, was worth, as I have said, all the money you have ever expended upon the Navy. The importance, the effect, the value of that fight of Hull's it is impossible to measure or to explain. In fifteen minutes the trident of Neptune was wrested from the grasp of that heretofore invincible Navy. At that time, sir, the idea of British invincibility was so common, hardly a man out of the Navy, perhaps, who did not believe that one British frigate could take two or three American frigates. Now, sir, in this state of public feeling—with such odds against them, let me call up here before the Senate, some reminiscences of the past. Let me state one fact, if no more, to show the obligation you are under, not only to the ship, but to the officer, and to illustrate the cause of this victory to have been the superiority of your men. You have as good materials now—but they must keep up with the progress, the improvement of the age in which they live.

> "See the bold Constitution the *Guerriere* o'ertaking,
> While the sea from her fury divides."

See, likewise, that haughty invincible British frigate lying to leeward under easy sail, impatiently waiting the encounter. See her crew, elated with the remembrances of a hundred battles, in the hope, the joy, the expectation of an easy conquest. Hear their shouts of anticipated triumph, only checked by the certainty of too easy a victory. Now, sir, look to your own "Constitution." See her bearing down to that frigate, that invincible frigate with St. George's imperious and arrogant ensign. All is silent; no hurrying to or fro; no confusion—all ready to fight and to die for their country. Again, sir, on board the British ship all is bustle, and hurry, and exultation of anticipated victory. All is still and silent as death on board the Constitution. They could not hope for an easy victory; but there they were. I speak not merely of their courage, but of their devotion to their country and to their flag; they resolved to do or die. They bore down on the British frigate without a whisper being heard on her peopled deck. They had heard of raking fires; they well knew their destructive effect. They had heard of the memorable tactics of the British Navy, and soon perceived that the Captain of the British frigate was not to be satisfied with simply taking them, but he would do it in the most approved manner. Steadily Hull goes down, nothing daunted. The British frigate fires a raking broadside, and then wore round and fired another. Steadily Hull keeps his course. By-and-by the First Lieutenant of the Constitution asked Captain Hull if he should return the fire. Hull inquired—"Have you lost any men?" "No, sir." "Wait awhile," said Hull. Steadily he keeps his course until he gets within pistol shot, and then rounding to as if for a salute, with one broadside gained the victory.

Now, sir, some of these, perhaps, are amongst the men that you propose by this bill, unceremoniously, if you please, by the will of the President to put upon a retired list, and with them you would, perhaps, put some of the men who run from the defense of the frigate Chesapeake. Would you, sir, put men who, when the English boarded their ship, ran below, on the same list with the gallant victors of the Constitution? Is that just? Therefore I say, that the chairman of the Military Committee has, in my judgment, not well considered this bill, so far as it regards the Navy. If we are to have a retired list, we should have two lists. We should have one which would be for such men as Hull, and such men as Morgan—the gentleman who was before the Senate yesterday on indictment by the Senator from New Hampshire. He is one of the most gallant men I ever knew, and when the Constitution got foul of the Guerriere, he went up into the mizen rigging, and having looked down, sung out to his shipmates, "They have all run away from their guns, let us board!" And this he did amidst showers of shot that fell around him. That was the officer who was arraigned here yesterday.

Sir, I ask the honorable chairman of the Committee on Military Affairs to allow the Committee on Naval Affairs, who perhaps have reflected on this subject as much as any other members of this body, to take care of the interests of the Navy for the present—let them have further trial.

But I must in candor say, that that committee, I believe, are not ready to report on so important a matter as the reorganization of the Navy. The Navy has not only been important, but with these war resolutions and these war speeches dinging in our ears day after day, I consider it more important, at this time, than it ever has been. It is now, I will undertake to say, good for nothing for the purposes of war; and I would rather make a motion now to abolish the Navy of the United States, than undertake to mend and patch it up by piecemeal. Let us go at it in good earnest and see what we can do for it. It has happened with the Navy, that since its first establishment there has never been any overhauling of its "personnel." The Army has been pruned and culled two or three times, but the Navy has never been interfered with in that way. The Government has always acted on the presumption that a boy who entered the Navy when he was twelve years of age, was capable of commanding a ship and wearing the epaulets of a captain whenever he was promoted in turn to that rank. Apply that rule to the pursuits of the world generally; take any hundred men who promised well in their youth, and how many of them will you find who have realized the fond expectations of friends when they arrived at the age of manhood.

The thing speaks for itself. The Navy needs reforming, not only because it never has been reformed, but because most of those persons who could get an appointment in the Navy when boys are there now. The consequence of this system is, all the old officers who are in the service, must continue to fill the most important places, fit or unfit. They are of high character, and have rendered the country great services, and should be honored, but not employed where younger men would do better. They do not belong to the school of progress; they may be old men who have not thought it necessary to keep up with the constant progress of naval affairs in the world. They may be men of high honor, of great courage, of exalted worth, men who maintained the honor and glory of the country in the battle and the breeze. But, sir, old age has come; they must retire, but it should be an honorable retirement. The ardor, the

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fire of youth is gone; they have not the same thing to excite them to exertion as younger men who are in the meridian of life, and who by the present system are kept entirely without employment such as their talents demand, until they, in like manner, are borne down with years.

Sir, I hold that this Government has nothing to do with commiseration or pity in this matter of reorganizing the Navy. We are bound to do justice to the country as well as to the officers. I hold that the nation is entitled to the services, and the best services, of its best men in its employ; and I say, that in the establishment of any system which precludes the employment of the best men in any branch of the service is radically wrong, and it ought to be changed; I care not by what process it comes. No appeal can be made to my sympathies or feelings. I am willing to pay money to these officers, if that is all that is required; but I am not willing that they should be in the way of others, and thus to balance the account with their country by doing as much harm as good. The Executive has, as I have before observed, the power to correct most of the evils complained of; but he will not do it if the present system is continued. I shall take some proper occasion to recommend an entirely new organization of the Navy Department. You generally have a Secretary of the Navy who knows nothing in the world about naval matters. He is brought here from his profession, and has to depend upon others for all the information he gets, and those others in nowise responsible for their advice. His word is the law. If a squadron is to be fitted out, he, under the direction of the President, orders the ships and their officers without knowing anything about them.

Sir, this one-man power will not do in such an establishment. I think that there is no living man that has the intellectual or physical power to perform the duties of the Navy Department as they ought to be performed in justice to the country. Mr. President, I look to the Navy as the bulwark of our honor if not safety; and I tell you, sir, that all your famous schemes in reference to Cuba will vanish like mist before the wind, and gentlemen will regret the warlike speeches which they have made, if you do not look to your Navy in time. Look at the threatening aspect of France and England. It has amazed me that we are so indifferent about the only means you have to defend your honor. Suppose Europe should combine against you, as they would have done long ago, if there had been a monarch there worth the gold in his crown. Every one of your ports would have been blockaded. They would have forbidden you to go on the ocean. They would have declared that, as you had assumed this continent to be your own, you should leave the ocean to them. In such a case, how would you have fared twenty-five years ago? It is very easy to bully and boast; but I know the effect of a thirty-two-pound shot at sea at any rate, and I know that a man's heart cannot save his head, in such a case. Let me assure Senators, while I am discoursing upon this subject, that I am speaking to the most important subject that can now occupy the attention of American statesmen.

Mr. President, I repeat that the Secretary of the Navy should have responsible advisers, and that in all the details he should have his vote, and that is all. He is a Cabinet Minister. The President has the power of appointing him. I would have it so—he may know all about those duties. But I would have him instructed in all those branches in which he is deficient—not by casual itinerant teachers, but by known responsible instructors. Sir, I would have a board established. I would have that board composed of the heads of all the bureaus. I would have them meet at a given hour every day. I would have the Secretary of the Navy *ex officio* President of the board; and the *modus operandi* would be this: When the President and Congress wanted a fleet to go to the West Indies, or to the East Indies, or anywhere else, the order would be presented to the board, the ships and the officers would be selected by them, and so, through the instrumentality of this board, the Government and people would have the benefit, as they ought to have, of the best experience and the best knowledge in the Navy, upon every given question. As it now stands, you have several irresponsible bureaus. The officer at the head of the Ordnance Bureau may know more about construction, yet he has nothing to say about it; he is to look to the guns and to nothing else The officer who has charge of the construction may know more about ordnance, yet he has nothing to say about the ordnance. Now, I say that the whole power of these bureaus should be brought to bear upon every question, not only in regard to the construction of ships, but the appointment of officers. In my judgment, sir, there would be less probability of injustice being done by this process, than in any other; especially, you would have some responsible men to look to. Who is responsible now in the Navy? Who is responsible for the present condition of the Navy? Who is responsible for the building or repairing of the vessels? I must say one word only about that matter. I ask who is responsible for the failure of the Princeton? They took the name of the most effective and useful ship-of-war that ever floated in our waters, the most formidable man-of-war that was ever put on commission in this country, a ship that could have defied the whole American navy, and gave it to this abortion, of which we have heard so much of late. They disregarded her model, her construction, and her engine, and from being the first ship in the country, she is now the scorn of all seamen and all engineers.

And again, I ask, who is responsible? You may go on and reform the officers. But while the Secretary of the Navy is allowed to remain with his present honors and powers, and in perpetual ignorance, the reform of the officers will not amount to much. Sir, I want to reform the Secretary. I do not allude particularly to the present Secretary. But that will be done before long. Then if he cannot, or will not, reform the Navy, I hope Congress will take it in hand in good earnest; but, sir, once more I say that it seems to me there is no responsibility anywhere in the Navy. The other day they built a dock in Philadelphia, and incurred the expense of fitting a ship in New York, or some other eastern port, to be taken to Philadelphia, and put in the dock. When she arrived there, it was found, not before, but after her arrival, that there was not water enough to permit her to be taken upon the dock. Yet, sir, as far as I have been informed, nobody is responsible; and so, after this manner, has the Navy of the country been disgraced time after time, and year after year.

Mr. President, my object, as one of the Naval Committee, has been and is to endeavor to perfect the whole naval system by beginning at the head, and making everybody responsible that can be made responsible, and to insure, as far as possible, to the people of the United States the benefit of all the experience and knowledge that may be in the Navy. And now, sir, I ask my friend, the chairman of the Committee on Military Affairs, whether he will not trust the Committee on Naval Affairs with this matter, and strike out of his bill that portion of it which relates to the Navy and Marine Corps?

Mr. SHIELDS. I wish to assure my honorable and gallant friend, the Senator from New Jersey, that we do not want to interfere in any way with the prerogatives of the Naval Committee. But on former occasions some difficulties arose in the Senate because the Military Committee brought in one bill and the Naval Committee brought in another, and hence the Military Committee thought it would be better that we should agree on one bill and apply it to both services. We drew up the bill precisely in pursuance of that understanding. We drafted it in accordance with the bills that have been heretofore reported; but if the honorable Senator wishes to have charge of the subject, and is not satisfied with this bill, I am, for one, heartily willing that he should take the whole subject into his own charge.

When the honorable Senator rose he said he did not mean to discuss this bill, and I think he has kept his word; I do not believe he has discussed the measure before the Senate, although he has discussed the merits and condition of the Navy to my delight and satisfaction. But, Mr. President, there is one thing in which I cannot follow the honorable Senator, and that is in drawing a contrast between the Navy and the Army. That honorable and distinguished Senator says that the Navy has done a great deal more than the Army. Now I believe that both have done their duty tolerably well, and I am satisfied they will do their duty again, although the honorable Senator says that the Navy is not worth anything now. I am inclined to believe that perhaps it has suffered very much since his retirement from the service. His retirement must be partly the reason for its decline.

I agree with him in reference to the necessity of a reformation of the Navy; and nothing would give me more satisfaction than to see my honorable friend in a position which would enable him to reform it, root and branch. But, so far as this bill is concerned, it does not aim at any such thing. It does not go into the radical reformation of the Navy. It does not contemplate the establishment of an Admiralty Board, and when that proposition comes up I shall have something to say about it. The boards which we have hitherto established in reference to claims, or lands, or for any other purpose, have almost all been failures, and I have my doubts whether this Board of Admiralty would not be the biggest and greatest failure of the whole. That is my opinion upon the subject; but that question is not now before the Senate; when it does come up, I, for one, shall be ready to discuss it.

Although I cannot follow the honorable Senator throughout his speech, there is one thing I can say: that, so far as this bill goes,—and I speak in relation to the Army,—I think it will be an efficient and a beneficial bill. If the honorable Senator takes upon himself the responsibility, in the name of the Navy, to move to strike out all that pertains to the Navy, he may do so; I will proceed in relation to the Army, and let him remain responsible to the Navy for striking it out. I shall not make any such motion. The provision is there, and there it will stand, unless he moves to strike it out.

I must say that the speech of the honorable Senator was not very logical in some respects. He says that the President has power to do the very thing contemplated by this bill without its passage, and yet he says it would be oppressive. That is not very logical. If the President can do what is contemplated by this bill without its passage, the worst it can do will be nothing; for it will amount to nothing according to that view of the subject. It is true the President can turn any officer out of the Army or Navy; but if he were to turn one of them out—if he were to turn out one of those gallant and distinguished officers whose names the gentleman has mentioned, in what condition would they be left? Without support—without pay. The President may turn them out in their old age when they are broken down with service and with sickness, and throw them upon the charities of the world. But this bill provides for the support of those officers who may be removed.

However, sir, I am not disposed to continue the discussion any further to-day. I have moved that the bill be postponed for the purpose of having it printed, and when it comes up again we can dispose of it more advisedly.

Mr. STOCKTON. I do not intend to assume any responsibility upon myself as speaking for the Navy, but such as belongs to my position. I am here as a Senator, and I speak on my responsibility as a Senator, and as such I shall move to strike out from this bill its provisions in relation to the Navy and the Marine Corps. I presume to speak for no body of men and for no individual but myself.

The Senator adverted to my remark that the President had this power now; yet he complains of its severity, and says that the President has

power to turn out; but if he exercised it, he would turn the officers adrift without any provision for their support. That is not the power to which I alluded; and the gentleman's remark only shows, what I apprehended was the case, that he has not looked into the matter in reference to the Navy. The President has a right to furlough officers upon half pay. That is the law to which I alluded; and therefore it seems to me that the gentleman has indulged his wit without perhaps having a very proper occasion to do so.

There is, however, one part of the gentleman's remarks that perhaps I did not exactly understand, and I should like to have him explain them. He referred to what I said as to the present condition of the Navy, and said that it had perhaps retrograded since I left the Navy, or in consequence of my leaving it. I did not exactly catch the Senator's words, and I should like to hear them again in order to understand his meaning.

Mr. SHIELDS. I meant the very highest possible compliment to my honorable and gallant friend. I indulged in no wit whatever. I made no effort to be witty. I stated that I presumed the Navy had suffered considerably since that honorable gentleman had retired from the service. Could I have paid him a higher compliment? There is no man of whom I have a higher estimate than I have of that gallant and meritorious officer; and I certainly did not mean to reflect on the honorable Senator from New Jersey by saying that the Navy had suffered since his retirement from the service.

Mr. STOCKTON. I felt under the conviction that I could not be mistaken in the sentiments and feelings of the honorable Senator from Illinois towards me, and I am glad that I have not been mistaken.

Mr. GWIN. I have been absent during this discussion, and I really do not understand the bill before the Senate; and therefore, as I learn that the question pending is on a motion to postpone, I am in favo of the motion. As the question of the reorganization of the Navy has been discussed, it is proper that I, as chairman of the Naval Committee, should say something. I think the responsibility in regard to legislation for the Navy should rest upon the right quarter. The records will show that the Committee on Naval Affairs of the Senate have discharged their duty in acting upon every question brought before them. They reported more bills at the last session of Congress than were ever reported from that committee at any previous session. They have acted upon all the bills before them. Upon the subject of a reorganization of the Navy, they have been prepared to act for many months past. But it will be recollected that early in the last session we reported a bill making, for temporary purposes, a substitute for the punishment of flogging, which had been abolished. The Senate passed it with great unanimity, and sent it to the House of Representatives at a very early period. They laid it upon their table, and there it still lies. What is the use of our originating legislation here, when everything that we send down to the House, which is in my opinion beneficial to the country, is either mangled and destroyed by the manner in which it is cut up, or is laid upon their table and not acted upon? That is the reason why the Naval Committee, or at any rate why I as a member of that committee, have not felt disposed to act at all. Judging from the past, we are certain that there will be no legislation there of a beneficial character in reference to the Navy.

I do not know the provisions of this bill, but I wish it to be distinctly understood that I am prepared to advocate a measure for the reorganization of the Navy; yet we have no hope of its being acted upon at this session. We have had a measure prepared for months, but we have not brought it before the Senate, under that impression.

Mr. BADGER. This bill does not propose a reorganization of the Navy.

Mr. GWIN. I merely wished to make that statement in order that it might be understood.

The PRESIDENT. The question is on the motion to postpone until to-morrow the further consideration of the bill, and to print the amendment.

The motion was agreed to.

SAFETY OF STEAMBOAT PASSENGERS.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed a joint resolution from the Senate, "allowing in certain cases to the owners 'of steamers further time to make the necessary 'preparation to bring their vessels within the pro-'visions of an act entitled 'An act to amend an 'act entitled An act to provide for the better security 'of the lives of passengers on board of vessels pro-'pelled in whole or in part by steam, and for other 'purposes,' approved August 30, 1852," with an amendment.

The Senate proceeded to consider the amendment of the House.

Mr. DAVIS. This joint resolution proposes to allow the inspectors in certain cases to excuse steamboat owners for non-compliance with the law, and limits the extension which may be granted to ninety days. The amendment is to insert after "ninety days," the words "from the first of January, 1853." I move that the Senate concur in the amendment.

The motion was agreed to.

COLONIZATION IN NORTH AMERICA.

Mr. CASS. I move to take up the resolutions submitted by me yesterday, in reference to the subject of colonization on this continent.

The PRESIDENT. Those resolutions have been sent to the printer, and are not in possession of the Senate at this time.

Mr. CASS. I will merely state that my object is to have the resolutions taken up for a second reading, and then to postpone them until such time as the President's message in regard to Cuba shall be discussed; which will be perhaps during the next week.

Mr. HALE. As the honorable Senator proposes to take up those resolutions, I wish to say, that I have an amendment which I shall offer when they come up. I present it now, simply that it may be read and printed together with the resolutions. It is to add the following:

And be it further resolved, That while the United States, in like manner, disclaim any designs upon Canada inconsistent with the laws of nations, and with their duties to Great Britain, they consider it due to the vast importance of the subject to make known, in this solemn manner, tha they should view all efforts on the part of any other Power to procure possession, either peaceably or forcibly, of that province, (which, as a naval or military position, must, under circumstances easy to be foresecn, become dangerous to their northern boundary, and to the lakes,) as unfriendly acts directed against them, to be resisted by all the means in their power.

Mr. CASS. The gentleman from New Hampshire is an old tactician. He has often done the same thing. When he does not want to destroy a measure directly, he has often attempted to do it indirectly.

The PRESIDENT put the question upon the motion to print the amendment, and there were, on a division—ayes 16, noes 14; no quorum voting.

Mr. HALE. I ask for the yeas and nays upon the motion.

The yeas and nays were not ordered.

Mr. HALE. I hope that I shall have, at least, the usual courtesy of the Senate extended to this proposition. I think that Canada is as important to our northern coast as Cuba is to our southern coast; and it is nothing more than usual to order the printing of a proposition offered by a Senator.

Mr. RUSK. We have consumed three or four days during this session in speaking upon matters which do not at all affect the proper legislation of Congress, and I want to put a stop to that practice. On the previous division, I voted, as a matter of courtesy, for the printing of this amendment, but now I shall vote against it.

The question being taken upon the motion to print the amendment, resulted—ayes 17, noes 15. So the motion was agreed to.

DUPLICATE LAND WARRANTS.

On motion by Mr. DAVIS, the Senate resumed, as in Committee of the Whole, the consideration of the bill "to authorize the Secretary of the Interior to issue duplicate land warrants in certain cases." It proposes to authorize the Secretary of the Interior to issue duplicate land warrants, in all cases of revolutionary land warrants where the original warrants were lost or destroyed.

Mr. DAVIS. This bill grew out of the petition of Mrs. Barton, who was one of the sisters and heirs of Jacob Town, deceased. She and her sister applied for a land warrant, furnished the proper evidence, and it was issued for their benefit, and for such other heirs as might be surviving. That land warrant, in its transmission from this city to the beneficiaries, was lost. Satisfactory evidence of that fact was produced to the committee; and it appeared by the books of the Land Office, that no entry had been made upon any tract by virtue of that warrant. The warrant having been lost, the beneficiaries were unable to avail themselves of the grant of the Government, and hence they came here and presented their petition, which, together with certain correspondence on the subject between them and the Land Office, was referred to the Committee on Private Land Claims. Upon examining the correspondence, the committee came to the conclusion that it was better to make a general law on the subject, and, contrary to my wishes, they reported a general bill. I was willing that a general bill should be passed, but I preferred, in the first place, acting upon the particular case presented. That bill was taken up with the understanding that it would be passed without difficulty, and that these individuals would get relief in that way; but when it came to be discussed the chairman of the Committee on Public Lands had objections to it; others had objections to it; but I now have the consent of the chairman of the Committee on Public Lands, and also the consent of the chairman of the Committee on Private Land Claims, to move, as a substitute for this bill, what I hold in my hand. There is some misunderstanding on the subject—some disagreement in the Department, in regard to the effect of a general law, and I therefore propose to alter the character of the bill from general to special. My amendment is to strike out all the bill after the enacting clause, and insert the following:

That the Commissioner of the General Land Office be instructed to issue a duplicate of land warrant number 2244, for two hundred acres, dated February 2d, 1839, and issued in the names of Lucretia Barton and Prudence Blandon, sisters and heirs of Jacob Town, deceased, in their own right and for the benefit of the other legal heirs, if any survived, upon satisfactory proof being made to the said Commissioner that the original warrant has been lost or destroyed without having been entered; and said duplicate shall have the same effect as the original warrant.

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading, read a third time, and passed.

On motion by Mr. DAVIS, its title was amended so as to read: A bill to authorize the issue of a duplicate land warrant in the names of Lucretia Barton and Prudence Blandon.

HICKEY'S EDITION OF THE CONSTITUTION.

On motion by Mr. BADGER, the Senate proceeded to consider the following resolution, submitted by him on the 3d instant:

"*Resolved*, That the Secretary be directed to procure from the proprietor, for the use of the Senate, ten thousand copies of Hickey's edition of the Constitution, with an Alphabetical Analysis, Washington's Inaugural and Farewell Addresses, and other important statistical matter, illustrative of the genius of the American Government, and the development of its principles: *Provided*, That they be furnished at the same price as those last procured for the use of the Senate."

Mr. ADAMS. The Senate have already distributed, I believe, ten thousand copies of this work, since I have been a member of the body. If there be any special reason for a further distribution, I should like to know it. I do not know whether or not the intention be to distribute ten thousand copies a year. If so, it would be better to have a standing order for that purpose.

The PRESIDING OFFICER, (Mr. WALKER in the chair.) The rules require that resolutions of this sort shall have three readings. This resolution has had two readings; it is, therefore, under consideration as in Committee of the Whole.

Mr. CHASE. I would suggest to my friend from North Carolina, the expediency of inserting the word "biennially," so as to make this a regular biennial purchase and distribution.

Mr. BADGER. I will consider that when I bring forward the next resolution upon the subject.

Mr. DODGE, of Iowa. Mr. President, I hope the Senate will not adopt this resolution, calling, as it does, for the expenditure of ten thousand dollars more for the purchase of books. I think we ought to stop this book-buying business. It has been carried much beyond the point to which, I think, it should have gone. It has become a heavy item of expenditure, and the distribution proposed is, and must always be, most partial and unequal. The book in question has already been furnished time and again, and in sufficient num-

bers to give Senators and the public officers the full benefit of all the information to be derived from it. The Library is filled with it, and so also are the Departments filled with it. Then as it regards its distribution among the people, reflect for a moment how far any system we may adopt will fall short of doing anything like justice. The *pro rata* share which will fall to the two Senators from the great State of New York would not supply the people of the smallest city, county, or township, in that State with a copy of the Constitution, and yet Senators talk about furnishing the people with this book.

Mr. President, I have other reasons for opposing this resolution. We have already paid $27,334 for this work. We have paid that amount to a gentleman who is an employee of the Senate, and for whom, personally and officially, I have the highest respect. But I dislike the precedent which is set, of giving heavy contracts of this sort to any officer of our own body—though personally, as before stated, there is no gentleman whom I wish individually better than I do Colonel Hickey, the author of this book.

But that is not the question. The question is, is this practice to go on; and are we, when we once commence with a book, never to get done with it? Why has not the House of Representatives, who immediately represent the people, expended a like amount, or a much greater sum than the Senate to supply the people with this book? They have not done it. That body has never taken the first copy of this book. The ordering of this small number by the Senate, from time to time, has the effect to load every Senator's desk and drawer with applications for it, and to subject him to the charge, in different neighborhoods and counties into which he may send none, and can, at best, send but a few, of dealing partially and unequally with his constituents, because he can do nothing like justice to all. This book is in the market, and if politicians or others want it they ought to buy it. I have the statements before me to show that we have appropriated more money for the purchase of books than was appropriated in the last river and harbor bill, about which so much was said in condemnation of its alleged magnitude and extravagance.

Mr. BADGER. Not this book.

Mr. DODGE, of Iowa. I refer to the book system generally, of which this is part and parcel. I will give an instance or two to illustrate how this system has gone on. In 1849, the Senator from Maryland [Mr. PEARCE] introduced a proposition, by way of amendment to one of the appropriation bills, to subscribe for the "Annals of Congress" published by Gales and Seaton. We paid some $30,000 for duplicate copies in that case. The Senator from Maryland, on that occasion, acted on behalf of the Library Committee, and proposed to fill a hiatus in the Congressional debates of the country from 1790 to 1824. That proposal passed this body without attracting notice or debate, precisely as the late Senator from Missouri [Mr. BENTON] said that the proposition to publish the Documentary History passed, eluding his vigilance and that of the Senator from North Carolina, [Mr. MANGUM.] This Documentary History is published from time to time, and is a heavy item in the six or seven hundred dollars worth of books which are given to every new member of this or the other branch of Congress. These "Annals," like the Documentary History, involving many hundred thousands of dollars, were ordered without the Senate's knowing upon what it was voting.

I hope we will vote down this resolution, and thus put an end to one branch of this book expenditure, which has increased so much of late years. Every new member that takes his seat receives as many books as any old member has received. My worthy friend, [Mr. BADGER,] in his disposition to deal generously with all, so worded the resolution which was passed at a previous session, as to provide that every new member should be furnished with the same number of books for his own use, and the same number for distribution which every old member had received. Thus all were put upon an equal footing; and if there are any new members who have not been provided for in that way, I am willing to agree to extend the same benefit to them, but I am not willing to continue this system, for I think it is radically wrong.

I will not take up time further in discussing this question. I want to oppose this proposition now, hereafter, and at all times; and I shall ask, at the proper time, the yeas and nays upon the resolution.

Mr. BADGER. Mr. President, I am very sorry that my friend from Iowa should have thought it necessary to oppose this resolution. And I think a few words will show that it ought to pass. In the first place, it differs entirely, in every respect, from each of the cases of abuse to which he has referred. He says that the proposition for the purpose of purchasing the Annals of Congress, or some other book, passed this body without Senators knowing what it was they were voting upon. The various resolutions which I have introduced on this subject, have always been public; they have been read, plainly displayed, and the Senate always understood precisely what they were. Therefore, I think it is hard to put upon a public, open, well-known, fair, reasonable, just, and proper thing. the odium of something else which was secret, unknown, and improper.

My friend also says that these books have been purchased to such an extent, that we have supplied all the officers of the Government, all our committees and all persons interested in the transaction of public business. Admit it, sir, but we do not want these books for members of Congress. We do not want them for executive officers. We want them for distribution among our constituents. We want to furnish them to the people of the country; to spread them abroad among them, and I, for one, should be very happy if I could make the supply so large that every man in America, and every boy who is able to read, should have in his possession a copy of the Constitution of his country, with the statistical information as to the origin of that Constitution, and the main and practical features connected with its workings which this book contains, and which I imagine cannot be found in any single private library in America.

Then, in the next place, allow me to ask—as was suggested to me by a friend, of whose suggestion I willingly avail myself, for I do not take the credit of it—how can we, consistently with our oaths, vote against this resolution? This resolution is for the Constitution, and we are imperatively bound by our oaths to support and sustain the Constitution. [Laughter.] I think that argument must be conclusive.

Mr. DODGE, of Iowa. I propose, then, in accordance with the suggestion of the Senator from North Carolina, to amend the resolution by inserting before the words, "Hickey's edition of the Constitution," the words, "the book called." That will get rid of the objection suggested by the Senator. The Constitution is an instrument for which I have quite as high a veneration as my worthy friend from North Carolina. But I would ask, is there a statute copy of the laws of the United States, which has not the Constitution of the United States in it? The book of statutes of every State and Territory in the Union, from Maine to California, contains in its very commencement the Constitution of the United States. I admit it is not in as readable a style of printing, and has not quite so convenient and excellent an index as this book. If the object be to diffuse the Constitution of the United States throughout the country, this book ought to be reduced in size, and the number of copies of it should be greatly increased, and there should be something like a fair distribution of it. But the number required would be so great that it makes the thing wholly impracticable.

This abuse has grown up like all other abuses in regard to expenses. Prior to 1847 not a copy of this book had ever been purchased by the Senate for distribution. In that year 2,000 copies were taken at an expense of $2,500. That was in April of that year. In December of the same year 10,000 copies were purchased at an expense of $10,000; in 1848, 2,000 copies were purchased at an expense of $2,000; in 1849, 1,163 copies at an expense of $1,163; in 1850, 5,633 copies at an expense of $5,633; in 1851, 4,099 copies at an expense of $4,099; in 1852, 1,939 copies at an expense of $1,939, making in the aggregate $27,334. We have paid in the same time about $40,000 for the Congressional Globe, which usually contains the Constitution and Laws as an Appendix to it. Besides that, at the last session we passed a joint resolution for the transmission of the Globe through the mails free of postage; and, in addition, we have put its Reporters upon the list for extra compensation. There seems to be no end to expense in regard to these matters; and I hope that in reference to this book we shall put an end to this system of expenditure by voting down this proposition. If we adopt this resolution, it will be followed up by a similar one at the next session, and so on *ad infinitum*. I hope it will be stopped now.

Mr. HALE. I rise to suggest an amendment to that of the Senator from Iowa, and which is this: When we speak of the Constitution, our expression is indefinite and includes something more. The English Constitution is made up, in a great degree, of ancient statutes which have acquired the force of a written constitution. We seem to be getting a little into that way. I do not think the old Constitution conveys the whole that we now mean when we speak of it. To render our meaning explicit, I would suggest to the honorable Senator from North Carolina, though I do not mean to insist upon it, whether it would not be well to add "and the Fugitive Slave Law," so that when these ten thousand copies go out they shall include not only the Constitution but the Fugitive Slave Law. Let both go out to the people at the same time in order to instruct them in all the duties which they owe to the Government. I think there have been less copies of that law distributed than there have been copies of the Constitution. The Constitution created the Union, and the Fugitive Slave Law was that great healing measure which saved it. Therefore I think there is great propriety in both going together. The people should be favored with both at the same time.

Mr. WELLER. I do not think there is any force in the suggestion made by the Senator from New Hampshire, but I think it would be better for the Senate to employ that Senator to write out what is commonly called the "Higher Law," and to have it inserted as an appendix to this work. The higher law would then be much better understood than it seems to be now. If the fugitive slave law were inserted, of course it would enable the people to decide for themselves whether it was in accordance with the Constitution. But there are a vast number of people who are profoundly ignorant of the exact meaning of the higher law, and in order to give the people of the country information upon that subject, I would suggest that the amendment which I have intimated is more appropriate than that suggested by the Senator from New Hampshire.

Mr. SEWARD. Mr. President, while I have very great doubt about the propriety of arresting the most beneficent operation, as I think, in which the Senate and the Congress of the United States are engaged, that is, the printing of information useful to the people, I am grieved as well as surprised to find that the opposition concentrates itself first against the publication of that which is the most important of all the information which is given to the people, and that is the Constitution of the United States.

Sir, there have been other lands than this which have been blessed with written constitutions securing civil liberty. There have been other lands than this in which the people of different States have been blessed with a confederated constitution. There is no land but this *now* in which a written constitution securing civil liberty is preserved with a constitution securing also a confederation of different States; and we are indebted for this preëminence of political felicity to the fact that we have practically, universal suffrage and universal understanding, of the Constitution itself. We have been told how many copies of the Constitution have been printed here. To what sum do they all amount? To not a hundred thousand; and yet there are born into this country every year men who are to exercise the right of suffrage more than the whole number of copies of the Constitution that we have ever printed for distribution. Nay, more than this: we receive into this country every year one hundred and fifty thousand persons who have never probably seen the Constitution of the United States, and who in five years become citizens and exercise the right of suffrage. Is it then so great a thing that the Senate of the United States should annually distribute to the electors ten thousand copies of the Constitution. There is no man who is not interested in it. There is no man who is not bound as a citizen, if he exercises his duties wisely, to revise all our acts, and to hold us to the performance of our duties

consistently, and in harmony with the Constitution.

I shall vote for as many copies of the Constitution as the Senate will ever consent to order for distribution amongst the people of the United States.

In regard to the suggestion of the honorable Senator from California, [Mr. WELLER,] I would submit to him and the Senate, that there is not such an imperious necessity for the publication of the "Higher Law," for the information of the people of the United States, as he seems to suppose. There are societies in this country, and in others, which are engaged in an enterprise which is at once benevolent, beneficent, and not less important than those duties which devolve upon the Government of the United States. Those societies are engaged in publishing and promulgating *that* law, not only among the people of the United States, but among all the tongues and kindred of men. I believe, sir, that the higher law is contained in ten edicts or rescripts, which are to be found in the Bible, and the Bible societies are engaged in furnishing to every family throughout the United States a copy of that important and invaluable book; and I believe that, under God, the prosperity and the safety of the institutions of the United States depend upon the great success which crowns the efforts of those societies in thus securing to every elector—to every citizen of this country—the possession of that law; and that as fast as they succeed in communicating it to the lands which are destitute of it, we shall see institutions of civil liberty secured by constitutions like our own rising up in them, and blessing them as we are blessed.

The amendment was agreed to.

The resolution was reported to the Senate, and the amendment was concurred in.

Mr. DE SAUSSURE called for the yeas and nays upon ordering the resolution to a third reading; and they were ordered.

Mr. DODGE, of Iowa. Before the vote is taken, allow me to express a most earnest wish that, if this resolution should pass, and the book containing the Constitution should be circulated among, and read by, those for whose benefit the Senator from New York [Mr. SEWARD] is so very anxious that it should be circulated, its reading may have a different effect on them from what it has had upon him. I trust that those who come after us, and who may be here at a time such as that at which that Senator made his debut here, and at which he gave us some manifestation of his regard for the Constitution, will show their reverence for it in a different way from that in which he has shown his. I trust that if, in the progress of this country, another addition of territory shall be made to its limits, the people living in the different States of this Union shall unfortunately have become as deeply excited and as hostile to each other as they were anterior to the passage of the compromise measures, that those to whom he distributes the Constitution in the Empire State, and elsewhere, will read and expound it differently from what he did in his famous California or higher law speech, and that its just and wise provisions may excite in their breasts very different feelings of fraternity and statesmanship from those which he exhibited upon the memorable occasion to which I allude. It was at that time, when old, wise, and patriotic men of this body were exerting themselves by day and by night, and speaking away their very lives for compromise and settlements, when the Senator from New York came forward with his higher law doctrine—his immediate and isolated admission of California, and also New Mexico, with her military and humbug constitution, and to crown all, his gigantic and *Mexican pronunciamiento* for the immediate abolition of slavery in the District of Columbia. Eulogiums upon the Constitution from that quarter, I confess, have but little interest to me. And I repeat my anxious hope that the reading of the Constitution, and the study of its history, and the objects for which it was formed, may have a different effect upon those to whom the Senator may send his copies, than it has had upon himself.

Mr. SEWARD. Mr. President, the honorable Senator from Iowa has anticipated a future period in which the effects of the distribution of the Constitution of the United States will be fully disclosed. I have only to say that to that future period, and to the general judgment of all mankind, to be then pronounced, I refer every word I have ever spoken and every vote I have ever given in the Senate of the United States, and that I repose with a confidence as serene in the expectation of a charitable judgment upon those words, and those votes, as that which the honorable Senator from Iowa vaunts for himself now. In regard to the question of slavery and the acquisition of territory at a future day which he moots, I have only to say, that through the operation of the Constitution of the United States, I expect that at that future day, there will be no occasion left for any man to propose that slavery shall disappear from the capital of the United States, and I expect that when future territories are annexed to the United States it will be necessary for no man to move that slavery shall be prohibited within them, but that they will come in free without any effort being made to make them so. Certainly I believe that no one will propose here or elsewhere to establish slavery in regions blessed with universal freedom when the knowledge of the Constitution shall have been fully disseminated, as I propose that it shall be.

The question being taken by yeas and nays on ordering the resolution to a third reading, resulted—yeas 29, nays 12; as follows:

YEAS—Messrs. Badger, Bell, Borland, Bright, Brooke, Cass, Charlton, Clarke, Davis, Dixon, Dodge of Wisconsin, Downs, Fish, Geyer, Gwin, Hale, Houston, Jones of Tennessee, Mangum, Morton, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, Wade, Walker, and Weller—29.

NAYS—Messrs. Adams, Bradbury, Brodhead, Cathcart, Chase, De Saussure, Dodge of Iowa, Hamlin, Mason, Norris, Toucey, and Underwood—12.

The resolution was then read a third time, and passed.

MARGARET L. WORTH.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill for the relief of Mrs. Margaret L. Worth.

CONTINUANCE OF HALF PAY.

On motion by Mr. GEYER, the Senate proceeded, as in Committee of the Whole, to consider the bill "to continue half pay to certain widows and orphans." It proposes to continue for five years longer the half pay granted to certain widows and orphans for five years, by the provisions of the act approved July 21st, 1848, entitled "An act amending the act granting half 'pay to widows or orphans where their husbands 'or fathers have died in consequence of wounds 'received in the military service of the United 'States, in the case of deceased officers and soldiers 'of the militia and volunteers," passed July 4th, 1836, or the act approved February 22d, 1849, entitled "An act granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regulars and volunteers."

Mr. BRIGHT. I would inquire from what committee this bill has been reported?

Mr. GEYER. It has been reported by the Committee on Pensions.

Mr. BRIGHT. I would be glad to hear the object of it explained.

Mr. GEYER. The object is to extend for five years further the half pay formerly granted to the widows of officers and soldiers who were slain, or who died of disease contracted in the Mexican war.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

WORKMEN ON THE CAPITOL EXTENSION.

Mr. DODGE, of Iowa. I introduced a small bill the other day "for the relief of the working men on the addition to the Capitol," which I ask the Senate now to take up for consideration. The object of it is to provide some compensation to those men who were thrown out of employment between the time of the expiration of the first and the passage of the second appropriation bill for that object.

The motion was agreed to, and the bill was accordingly read a second time and considered as in Committee of the Whole. It proposes to grant thirty days' wages to each of the workmen engaged on the addition to the Capitol, on the first of November, 1851, or who were afterwards employed, previously to the discontinuance of the work: provided he was unable to get employment, and was not discharged on account of incompetency or irregularity.

Mr. CLARKE. I hope that bill will be committed to some committee to examine and report upon it. I should like to hear what are the circumstances. I think it proper that the bill should be referred to the Committee on Public Buildings, in order that they may have an opportunity to examine its provisions, and see upon what it is founded.

Mr. DODGE, of Iowa. Then I move to refer the bill to the Committee on Public Buildings.

Mr. BRODHEAD. I hope the motion to refer will not prevail. If we are to grant relief to these poor men who were without employment, let us do it now. The effect of sending this bill to a committee will be to postpone action upon it indefinitely, because in a few days we shall have the appropriation bills upon us, and the Senate will not then agree to consider such a bill as this.

A similar proposition was before the Senate more than once during the last session. I brought a similar bill to the notice of the Senate. It is a subject which has been considered, and which, I presume, has been looked at by every Senator upon this floor. The bill is plain in its provisions; it can be easily understood. We do not propose to pay these men for the whole time they were out of employment, but only to give them a reasonable amount of compensation, because they came here under the representations of the officers of the Government that there would be employment for them, and they were kept out of employment for a long time. The bill is well guarded, and I hope the motion to refer will not prevail, but that we shall pass the bill, and pass it now.

Mr. RUSK. A similar bill to this, I understand, has already been passed by the Senate. I regard this proposition as eminently just, and I feel confident something like it will pass some time or other. Then the question is, shall we delay these men? The claim is so just and proper that I think when gentlemen come to examine it, they will be willing to adopt it without difficulty. Shall we delay these men, and shall we delay the business of Congress by postponing it at this time? I hope not.

Mr. DODGE, of Iowa. I withdraw the motion to commit.

Mr. UNDERWOOD. I ask for the yeas and nays upon the passage of the bill.

The PRESIDENT. The question before the Senate is on the motion to refer the bill to the Committee on Public Buildings.

Several SENATORS. That motion has been withdrawn.

Mr. CLARKE. I made the motion to refer, and I have not withdrawn it. I am, perhaps, as unwilling as any gentleman in the Chamber to interpose any obstacle to the claim of these men, if they have really been disappointed in any promises that have been held out to them that they should be employed in the spring earlier than they were enabled to be employed, in consequence of the delay which there was in passing the appropriation bill. I made the proposition to refer the bill to the Committee on Public Buildings, not with a view of defeating it, for, if I thought it just, I would not defeat it by any action of mine. But, sir, I have heard it stated that the advertisement of the Architect on the proposals by the Superintendent, was for men to come here to be employed until a certain day in November, and they were fully employed until that day. No further proposition was made to them; no further engagement was made that they should be employed during the next season. During the spring these men were here, undoubtedly ready to go to work upon the building, and there was some delay in passing the appropriation. Therefore, if we pass this bill, it will be entirely a gratuity on the part of Congress. In my humble opinion, there is nothing in the contract that obligates the Government or its agents in any way to make any extra allowance to these men who were employed on the building. They were employed here during a portion of the year, and when the winter came the work was stopped. The same thing may occur at every season, when work has to be stopped at the end of the fall, and not to be commenced again until the spring.

If this bill be referred to the Committee on Pub-

lic Buildings, of which my colleague [Mr. JAMES] is chairman, it will receive no delay, but that committee will inquire into it, and into all the circumstances relating to it, and therefore it was that I made the motion. If it be the pleasure of the Senate to refer it to that committee, I, for one, will give it as speedy a return to the Senate Chamber as possible, and with all the information I can get upon the subject. If the Senate are not better advised upon the subject of this bill than I am, they certainly do not know what are the claims of these men to any allowance, for I do not. This is a gratuity which they may either deserve or not deserve; that depends upon the circumstances, with which I am not acquainted. The bill, in my opinion, ought to be referred to a committee, in order that that committee may be enabled to ascertain the circumstances upon which the claim is founded and report the facts to the Senate, and then the Senate can act advisedly upon the subject.

Mr. BORLAND. A proposition making provision for these working men has already been twice passed by the Senate. I think the matter was very fully considered during the last session. I know that myself and several other Senators made various efforts to accomplish it, and we succeeded in getting a proposition of this sort upon two different bills, but it failed to pass the House. I suppose it has been as fully and thoroughly considered by the Senate as it is likely to be at this session. The only objection which I have to the bill is, that it does not go far enough in relieving these poor, suffering men. I think they have been badly treated. I think Congress is in duty bound to provide something for them. We seem to provide liberally for everybody else. These persons are working men. The overseers and superintendents lost nothing by the discontinuance of the work. They suffered no inconvenience, received their regular pay; but these individuals who had to depend on their daily labor to get bread and meat to feed their wives and children were suffering, while the overseers and superintendents were getting their thousands a year, living in comfort and abundance, and had their salaries regularly continued without regard to the labor they performed. These individuals who had come here under the persuasions of the agents of the Government were thrown out of employment at an inclement season of the year, and were left utterly destitute of the means of support. In some cases, even their very beds were taken from under their wives and children, and sold in order to procure something for them to eat. These are facts which came under my own knowledge.

I tired the Senate at the last session with exertions to get a larger allowance than this. It is a very small compensation to give thirty days' wages to those who were thrown out of employment, and kept in that condition for three or four months If there was ever any claim before Congress which demanded immediate action it is this.

Mr. CLARKE. I certainly do not mean to interpose any very serious objection to this bill.

Several SENATORS. Withdraw your motion.

Mr. CLARKE. At the request of various friends I withdraw the motion, but I still think it would be better to refer the bill.

Mr. BROOKE. When this question was up for consideration at the last session, the Senator from Kentucky exhibited the advertisement under which these men were brought here. It specified the day when their labors were to terminate. The Government certainly fulfilled its contract by paying them up to the day specified in the advertisement. Now, unless some satisfactory explanation be given, I cannot vote for paying them beyond that time. They were not taken by surprise. The Government has not been in default at all, as I understand, and I should like to hear some reason given why these men should be paid beyond the time specified in the advertisement, and of which they had due notice.

Mr. BRODHEAD. They were out of employment for three months.

Mr. BROOKE. I do not care if they were out of employment for six months, for that does not at all affect the question. The day specified in the advertisement, up to which they could get work, was the 30th of November. They were brought here to work until that time, and they continued to work until that time, and were paid for it. It was no fault of the Government that they were thrown out of employment. Therefore I can perceive no reason why they should receive any extra pay.

Mr. UNDERWOOD. I read all the papers furnished by the superintendent of these buildings. I read the advertisement showing that these men were invited to come here and serve till a particular day. They were employed and paid up to the day mentioned in the advertisement, which, according to my recollection, was the 30th of November, when, by the very terms of their employment and the advertisement, they were to be discharged; and I can, therefore, see no ground for any claim for extra compensation.

Mr. WALKER. Mr. President, the memory of Senators must be very short indeed if they do not remember what will entirely contradict the inferences which gentlemen are drawing from the truthful statements—for we know them to be true—made by the Senator from Kentucky. Do we not know, sir, that an appropriation of $500,000 was asked for a year ago towards the continuation of the extension of the Capitol? And when that proposition was pending, the superintendents of this work were daily and hourly about the Capitol, saying to us that these poor men were here without employment for want of an appropriation. Do we not remember that our galleries were filled with these same poor men, ranged here so as to influence our action upon the subject? Can gentlemen have forgotten it? Is not the inference irresistible that they were here, under the circumstances, controlled, and almost commanded, by the superintendents, to induce us to make an appropriation? Would they have been here if they had had employment, or if there had been any money to pay them? And shall we now be told that because the time for which they were to work, as specified in the advertisement, expired on the 30th of November, they are to have nothing for the time they were kept here destitute of anything to pay their expenses? I hope and trust such a statement will not influence the Senate.

Mr. BRIGHT. If I believed that the money proposed to be appropriated under this bill would go into the hands of the workmen themselves, I might vote for it. I do not know whether or not my information is correct, but from what I have heard I have my doubts as to whether these claims have not been purchased by persons anticipating an appropriation by Congress. I hope that such is not the fact. But it is the precedent mainly that I object to in this case. I am afraid that there are other classes of claimants who may come and lay claims to our bounty.

Gentlemen put this claim upon the ground that these individuals were invited here by our agents and that we are bound by their acts. Why, there is not a public employee in any of the public departments who may not say the same thing. They have all been invited to this city, and it is very apparent that in a short time a great many of them will be invited to leave; and we might, with the same propriety, be asked by all such, to make an appropriation for their relief. These changes in private and public affairs, are incidental to the business of life. It is impossible to provide against many of the hardships and inconveniences daily occurring, by any system of legislation the ingenuity of man can invent.

Now I do not wish to be considered as opposing these particular claims; it is against the principle contended for by the honorable Senators from Pennsylvania and Arkansas that I speak. I contend that the Government, like an individual, has a right to dismiss from her service those she employs by the day at any time the public interest will be promoted by so doing, and where she thus acts, I am unwilling by my vote, to require her to pay damages for so doing.

Mr. BORLAND. I have but a word to say in reply to my friend from Indiana. I agree with him that, according to the hard letter of the law, these men have no claim upon us; they cannot sue us in a court of justice; they cannot force us to pay this money. The claim is presented simply upon the ground that it is an equitable one—one that appeals to that sense of equity which we are all supposed to have; and I may add, to our sense of generosity; for I confess that I do sometimes in legislation take a little counsel of my heart as well as of my head.

Mr. BRADBURY. The Government advertised for workmen, and I understand that a larger number than were needed applied for work. Those who were employed continued in public employment up to the time to which the advertisement specified they were to be engaged. Those who were unable to procure employment were here without any benefit to themselves: they were brought here just as much as those who were employed. They were in some manner induced to come on the faith of the advertisement that men would be wanted; and I understand that some of them continued to seek employment when the work was resumed in the spring, but a preference was given to those who had received the first engagement. Now, sir, I think that the real sufferers, those who were the most unfortunate, were those who totally failed to get employment, for it is well known that the Government pays quite as high for the same service as private individuals do. It appears to me that if there is any class that deserve sympathy it is those who failed to get employment at all.

The bill was reported to the Senate without amendment.

Mr. UNDERWOOD called for the yeas and nays, on ordering it to be engrossed for a third reading.

The yeas and nays were ordered, and being taken, resulted:

YEAS—Messrs. Borland, Brodhead, Catheart, Chase, Dodge of Wisconsin, Dodge of Iowa, Houston, Jones of Iowa, Mangum, Rusk, Seward, Sumner, Wade, and Walker—14.

NAYS—Messrs. Adams, Atchison, Bradbury, Bright, Brooke, Charlton, Clarke, Davis, Downs, Fish, Geyer, Norris, Pearce, Sebastian, Spruance, Toucey, and Underwood—17.

The PRESIDENT. There is not a quorum voting.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 5, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

STEAMERS ON THE WESTERN WATERS.

Mr. SEYMOUR, of New York. I ask the unanimous consent of the House to take up a joint resolution from the Senate, which now lies upon the Speaker's table, the object of which is to enable the inspectors on the western waters to carry into effect the law passed during the last session of Congress, providing for the fitting up of steam and other vessels to give security to passengers. The joint resolution is simply a proposition, which the Senate have passed, for the purpose of giving the desired construction to that law. I now move to take up that resolution.

Mr. JONES, of Tennessee. I hope that the House will proceed with the regular order of business.

Mr. LETCHER. I object to taking up the resolution.

[Cries of "Oh, no!"]

Mr. SEYMOUR. I have no doubt if the gentleman from Virginia understood the nature of the resolution, he would withdraw his objection.

A law passed at the last session of Congress, and went into effect upon the western waters on the 1st of January, providing that every boat shall be fitted up with certain apparatus. The owners of these boats have done their best to obtain the necessary apparatus, but some of them have not been able to obtain it. The inspectors now simply ask the power of extending the time ninety days for carrying the provision into effect. Under the present arrangement, every boat which is not furnished with the requisite apparatus is liable to be seized. I hope the gentleman will withdraw his objection.

Mr. PRESTON. I will state, in corroboration of the request the gentleman from New York has made to the gentleman from Virginia to withdraw his objection—for I know nothing of the resolution myself—that I this morning received a telegraphic dispatch from the principal officer of the United States at Louisville asking me, as the Representative of that Congressional district, to advocate strongly, in the House, some proposition to extend the time granted to the owners of boats to fit them up, according to the act of the last session. I understand the resolution which has passed the Senate makes that provision: and I therefore hope the gentleman from Virginia will withdraw his objection, and allow the resolution to be taken up

and passed. We are doing nothing at the present time, and it will require only a few minutes to dispose of the resolution.

Mr. CLEMENS. I appeal to my colleague to withdraw his objection.

Mr. LETCHER. I will withdraw it.

Mr. JONES, of Tennessee. Is there a quorum present?

The SPEAKER. The Chair thinks there is, but is not certain. That fact, however, can be ascertained by a vote.

The resolution was then taken up and read a first and second time by its title, as follows:

"A resolution authorizing, in certain cases, the owners of steamers further time to make the necessary preparations to bring their vessels within the provisions of the act entitled An act to amend An act entitled 'An act to provide for the better security of passengers on board of vessels propelled in whole or in part by steam, and for other purposes,' approved August 30, 1852."

The resolution was then read through by the Clerk.

Mr. SEYMOUR. I desire to propose an amendment to that resolution, which was agreed to by the Committee on Commerce, in the Senate, and which they intended to have inserted in the resolution, limiting the time to ninety days from the 1st of January, 1853. I move to insert in the first section, after the words "ninety days," the words "after the first day of January, 1853."

The resolution was then ordered to be engrossed and read a third time, and having been engrossed, it was read the third time.

The question now being, "Shall the resolution pass?" it was put, and, upon a division, 89 rose in the affirmative.

Mr. SEYMOUR, of Connecticut, demanded tellers; which were ordered; and Messrs. JONES, of Tennessee, and GAYLORD were appointed.

The question was then taken, and the tellers reported—ayes 102, noes 15—the Speaker voting in the affirmative to make a quorum.

So the resolution was passed.

Mr. SEYMOUR, of New York. I move that the vote just taken, by which the resolution was passed, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was put, and the latter motion agreed to.

The SPEAKER. Reports are in order from the Committee on Elections.

Mr. LOCKHART. I hold in my hand a petition from the Territory of Utah, asking remuneration to the people of that Territory for defending themselves against Indian incursions, which was referred to the Committee on Territories. I am instructed by that committee to report it back to the House, with the recommendation that it be referred to the Committee on Military Affairs.

There was no objection, and the change of reference was made.

Mr. COBB. If there is nothing before the House, I propose to call up a privileged question.

The SPEAKER. The business before the House is the call of committees for reports.

Mr. STANLY. I desire to know if a report has not been made by the Committee on Territories without the consent of the House?

The SPEAKER. The report was received, there being no objection, and the petition referred to the Committee on Military Affairs.

DUTY ON RAILROAD IRON.

Mr. COBB. Near the close of the last session of Congress, I introduced a bill, (House bill No. 323,) which was referred to the Committee on the Post Office and Post Roads, and reported back unanimously by that committee, to the House, with a recommendation that it do pass. The bill was put upon its passage, but, like almost every bill which I brought before the House at the last session of Congress, was laid upon the table. Having distinctly understood that it would be laid upon the table by a very small vote, I voted in favor of the motion, in order to give me an opportunity to move to reconsider that vote. I made that motion in order to give the members another opportunity of investigating the subject, and for the purpose of allowing it to take another chance with the House. My honorable friend from New York [Mr. JENKINS] moved to lay the motion to reconsider upon the table, which motion is now pending. I now call up that motion to reconsider, and ask the gentleman from New York to withdraw the motion to lay upon the table, in order to give me an opportunity briefly to explain the object of the resolution. I will have the bill read, and it will explain itself. It proposes to extend the time for the payment of duties upon railroad iron four years, the railroad companies being bound to give such security as the district courts may require for its payment, with six per cent. per annum.

Mr. JENKINS. I will withdraw the motion to lay on the table, if the gentleman will promise to renew it in less than five minutes.

Mr. COBB. I will renew it in less than that time.

The SPEAKER. The Chair will remark to the gentleman from Alabama, that if the motion be withdrawn, his motion to reconsider will not be debatable. According to the recollection of the Chair, the bill was at the last session laid upon the table; a motion to reconsider is not, therefore, debatable.

Mr. COBB. Then I move that the bill be taken up and read through.

Mr. HILLYER. Is it in order to bring this bill before the House at this time?

The SPEAKER. The gentleman from Alabama has the right to call up his motion to reconsider, but that motion is not debatable.

Mr. COBB. If it is not the pleasure of the House to consider the motion at this time, I will not press it upon them.

Mr. JENKINS. If the gentleman from Alabama cannot be allowed to explain his bill, I do not withdraw the motion to lay upon the table.

The question now being upon the motion to lay upon the table the motion to reconsider the vote by which House bill No. 323, for the relief of the Memphis and Charleston, the Tennessee, Mississippi and Alabama, the Alabama and Tennessee river, the Coosa, New Orleans and Jackson, the New Orleans and Opelousas, and the Great Western Railroad Companies, was laid upon the table,

Mr. ROBBINS demanded the yeas and nays; which were ordered.

The question was then taken, and the result was—yeas 74, nays 73; as follows:

YEAS—Messrs. Allison, Babcock, Barrere, Bartlett, Buell, Burrows, Busby, Joseph Cable, Chandler, Chapman, Clemens, Cleveland, Curtis, Dawson, Disney, Duncan, Eastman, Evans, Ficklin, Florence, Floyd, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Green, Isham G. Harris, Hart, Haven, Hibbard, Hillyer, Horsford, John W. Howe, Thomas M. Howe, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kurtz, Letcher, Martin, McNair, Miner, Henry D. Moore, Morrison, Newton, Peaslee, Penniman, Perkins, Riddle, Robbins, Robie, Ross, Schermerhorn, David L. Seymour, Origen S. Seymour, Skelton, Benjamin Stanton, Richard H. Stanton, Abr'm P. Stephens, Thaddeus Stevens, Stratton, Stuart, Sweetser, Thurston, Townshend, Walbridge, Walsh, and Washburn—74.

NAYS—Messrs. Abercrombie, Averett, Bocock, Bragg, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, Caldwell, Lewis D. Campbell, Thompson Campbell, Carter, Caskie, Chastain, Clark, Clingman, Cobb, Conger, Cottman, Cullom, Darby, John G. Davis, Dockery, Edmundson, Freeman, Grey, Hall, Harper, Sampson W. Harris, Hendricks, Henn, Holladay, Hunter, Jackson, James Johnson, Robert W. Johnson, Landry, Little, Lockhart, Marshall, Meade, Miller, Millson, Molony, John Moore, Morehead, Murphy, Nabers, Olds, Orr, Samuel W. Parker, Polk, Powell, Price, Richardson, Robinson, Scurry, Smart, Smith, Frederick P. Stanton, Alexander H. Stephens, Taylor, Venable, Wallace, Watkins, Welch, Addison White, Alexander White, Wilcox, Williams, Woodward, and Yates—73.

So the motion to reconsider was laid upon the table.

Mr. DEAN, pending the call of the yeas and nays, stated that he was outside the bar when his name was called, and asked to have his vote recorded.

Mr. CLINGMAN objected.

Mr. BOCOCK. I desire to call the attention of the Speaker to the fact that under the rules of the House he could have voted in the negative, and decided the vote in the negative.

[Cries of "Too late!"]

MRS. MARGARET L. WORTH.

Mr. POLK. I rise to a privileged question. I ask for the consideration of the report of the Committee of Conference on the bill granting a pension to Mrs. Margaret L. Worth. I believe that that is usually considered a privileged question; or, in other words, reports of committees of conference have precedence over all ordinary business.

The SPEAKER. The Chair thinks that has been the practice of the House.

Mr. POLK. I call for the reading of the report.

The report was read, as follows:

The Committee of Conference upon the disagreeing votes of the two Houses, upon the bill for the relief of Mrs. Margaret L. Worth, met, and after free and full consultation, agree, and recommend that the House of Representatives recede from its amendment to the Senate bill, and that said bill be passed in the form in which it came from the Senate.

SOLON BORLAND,
JAMES SHIELDS,
JOHN DAVIS,
On the part of the Senate.
WILLIAM H. POLK,
ROBERT GOODENOW,
On the part of the House.

I dissent from the above report. I. G. HARRIS.

Mr. POLK. I move that the report be concurred in by the House.

Mr. STUART. Upon that motion I demand the previous question.

Mr. ORR. I ask the gentleman from Michigan to withdraw his call for the previous question, for five or ten minutes.

Mr. STUART. I have but one object in making the call, and that is, if possible, to get at the regular order of business of this House.

Mr. ORR. By the passage of this bill, a very important precedent would be established, and I think the House ought to understand it.

Mr. STUART. I will withdraw the call, and allow the gentleman the time he asks for.

Mr. ORR. I know, sir, that it is a very ungracious task which I enter upon, when I announce myself as opposed to concurring in the report submitted by the Committee of Conference. If the House should understand the bill which has been passed, my opinion is that a very large majority of the House will refuse to concur in the report of the Committee. What is the state of the facts? General Worth, after having rendered, as I concede, the most brilliant services to his country, died a few months after the termination of the Mexican war. The proposition now before the House is this: to allow to the widow of General Worth a pension—not for five years; not such a pension as she would have received if he had been killed in battle, a pension of thirty dollars a month, for five years, according to his rank; but this proposition, which is now proposed to be passed, allows to her a pension of fifty dollars a month, during her lifetime. It proposes to allow her $600 a year for her lifetime, when, if General Worth had been shot down in Mexico, she would have been entitled, under our present pension laws, to only thirty dollars per month for five years. Now, sir, is not the precedent a very important one?

I do not know that I have very serious objections to your providing—though I think, perhaps, it would be in the main wrong—for the support of the widows and orphans of your officers who are not only killed in battle, but who die when not actually engaged in war. But if the precedent is to be set now, I submit that it would be better that you should set it by passing a general law, and thereby apply to the widows of all your officers who have died, the same justice which you now propose to extend to the widow of General Worth; and also, as suggested to me by my friend from Tennessee, [Mr. JOHNSON,] in front of me, that you extend the same bounty to the widows of soldiers who are killed in battle, and who generally leave their families in far more destitute circumstances than the families of officers.

The precedent is wrong from another consideration. You give the very strongest incentives to individuals to enter the Army, from the highest office down to the lowest; because if a man enters the Army at the age of twenty-one or twenty-five, as a soldier or an officer, he has a guarantee, if this precedent be established, that, whether he be provident or improvident, or whatever disposition he chooses to make of the funds paid to him by the Government as an annual salary, when he comes to die, and his widow and children are left destitute, the Government becomes their supporter; giving to the military man and his family certain support through life, while every other occupation and pursuit is subjected to the hazards of failure. Does this not go far towards making this a grand *military* republic?

I do not know that it would be wrong, but is the House prepared to establish such a precedent as that at this time? Now, sir, there are widows and orphans of other gallant and distinguished officers. I had the honor the other day to present a petition from a widow residing in my State, who

would come before this House with just as strong claims as those of Mrs. Worth. Her husband, it is true, had not the same opportunity of distinguishing himself in the service of his country as General Worth had, but he served his country through three successive wars—first under General Jackson, then in the Florida war, and lastly in the war with Mexico—and died while on parol during the Mexican war. In addition to that, she had in the Army, during the Mexican war, two sons in the company commanded by her husband. Only one of the name survived, and she was left penniless, with a family of interesting daughters to maintain. Is her claim to the generosity of the Government less just than that of the widow and orphans of General Worth?

Well, sir, as I said, there are other officers who have been connected with the regular Army as long as General Worth, and whose services, I will not say, are as brilliant—for I do not know that the service of any officer in the Army has been as brilliant—but whose services have been of the most valuable nature to our country, and whose widows should equally share with Mrs. Worth in the bounties of the Government.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed bills and resolutions of the following titles:

S. No. 47. "An act to revive a portion of the act for the relief of the widows of deceased soldiers."

S. No. 97. "An act to make the salary of the judge of the criminal court of the District of Columbia equal to that of an assistant judge of the circuit court of said District."

S. No. 573. "An act for the relief of John Charles Frémont, late lieutenant colonel in the Army of the United States."

S. No. 68. "A resolution explanatory of the appropriation for the improvement of the mouth of the Sekonk river, and harbor of Providence, Rhode Island."]

Mr. ORR, (resuming.) Well, Mr. Speaker, I have no lengthy argument to make upon this subject. All I desired was, that the House should understand what they are voting upon. The proposition is to change our pension laws, so as to allow a pension of fifty dollars per month to the widow of General Worth, for life, when if he had been killed in battle she would have been entitled to no more than thirty dollars per month for five years; and dying after the war terminated, she is entitled to nothing under our existing pension system. If a soldier is killed, wounded, or disabled, his widow is entitled to only forty-five or fifty dollars a year, for five years. The effect of the passage of this bill will be to make the widows of every man who is engaged in the military service of this country, the widows of both officers and soldiers, pensioners upon the Treasury of the United States. The bill makes the Government the husband of every soldier's widow, and the father of his orphan children.

Mr. POLK. I have taken an interest in this bill for the relief of Mrs. Worth, from considerations of a personal character, and from a high appreciation of the services which her gallant husband rendered to his country. The gentleman from South Carolina [Mr. ORR] opposes the resolution because, he says, it is a bad precedent. Sir, the precedent has been adopted before. It is nothing new in the history of our country that a reward is conferred outside of the ordinary law, which provides for the widows of soldiers a pension. This Government did it in the case of the widow of Commodore Decatur. They did it in the case of a soldier—as gallant a one as ever bared a bosom to the foes of his country—Richard M. Johnson, of Kentucky. We have done it in many instances I could enumerate, outside of the law which the gentleman from South Carolina [Mr. ORR] quotes as authority. He says that General Worth did not fall in battle. No, sir, he did not. His God was kind to him. If his soldier's heart could have asked for his death place, it would have been under the boom of the cannon, the rattle of the musket, and the beat of the drum and fife. But God was good to him at last. He died in the service. He did not send him a lingering disease, like chills and fevers, to call home so gallant a spirit to Heaven. He did not send the hectic cough and hectic flush, but he sent the monarch of diseases, the cholera, to claim such a heart as Worth's. He leaves a widow and three children—one a boy now only ten years of age, who has yet to receive a proper education. An American Congress debates the question whether it will afford to the widow of General Worth the means of educating a child springing from the loins of such a man!

Sir, I do not desire to protract the debate upon this case. Republics are ungrateful, I know; but this is a peculiar case, and if the gentleman from South Carolina [Mr. ORR] will present to me a similar case in the century past—a case of equal merits, save those of Commodore Decatur and R. M. Johnson—or if he will bring me any such case in future time, I will support it.

I am constrained, Mr. Speaker, to move the previous question upon the adoption of the report.

Mr. HARRIS, of Tennessee. I ask the gentleman to withdraw the call for the previous question.

Mr. POLK. I cannot, although I would do almost anything for my friend and colleague.

Mr. HARRIS. As a member of the committee which had the bill under consideration, I desire to submit the facts of the case to the House.

Mr. POLK called for tellers on seconding the demand for the previous question; but they were not ordered.

The House was then divided, and the previous question was not seconded.

Mr. HARRIS. It is always a disagreeable task to oppose any bill that has for its object a gratuity of this character, and which appeals so strongly to the sympathies of every member of this House. As a member of the Committee on Invalid Pensions, I examined the case now under consideration. I find, sir, that under the general law, the widow of General Worth would have been entitled to no pension; her husband having died, not from wounds received, nor falling in battle, she was entitled to nothing. He died of disease, and that, too, in time of profound peace. He died of cholera, as stated by my colleague. I, as a member of the committee, was of opinion, however, that under the circumstances, we should allow her just such pension as she would have been entitled to had General Worth fallen in battle, or died of wounds received in battle.

It has been the practice of the Government to allow half-pay pensions to widows for five years only. This bill gives to Mrs. Worth a pension of fifty dollars a month during the remainder of her life. If she were entitled to a pension at all under the general law, she would receive thirty dollars per month, and that only for five years. And if she had married before the expiration of that time, she would have forfeited even that.

Mr. POLK. Why she is now sixty years of age. [Laughter.]

Mr. HARRIS. The widow of every soldier who has fallen gallantly fighting under the banners of our country—the widow of every soldier who has bled upon your battle-fields, is, by the general law, entitled to only half the monthly pay of the soldier as a pension, and that only for five years. Whilst my sympathies are aroused to as high a degree as those of my colleague, for the widow and orphan children of General Worth—whilst my admiration for that gallant officer is equal to his, I am unwilling, as a representative of the people, to violate general principles that have controlled the action of this Government heretofore, and, in my opinion, should control its action still. I am unwilling to make an invidious distinction between the widow of General Worth and the widow of the humblest soldier who yielded up his life on the altar of the country. If it be right to violate the principle, do it by a general law, so that the benefit of its provisions will extend to the widow of the humblest soldier in the ranks as well as the widow of the proudest commander who has spilled his blood upon the battle-fields of the country. I am unwilling to favor this species of class legislation.

I desire to correct my colleague [Mr. POLK] with reference to a precedent that he cited. I know that a pension was granted to the widow of Commodore Decatur, and I have recently examined the report of the committee upon the subject. It was allowed not so much as a pension as it was in payment of certain prize money supposed to be due to the heirs of Commodore Decatur. Indeed her petition was not for a pension. She never asked this Government for a pension, but she did petition Congress to allow her and the heirs of Commodore Decatur what was supposed to be due him for the recapture and destruction of the frigate Philadelphia. Instead of allowing the prize money, Congress passed a special act, placing her on the pension roll. My colleague will see that the precedent cited is not in point, and therefore no authority. This case, on the contrary, is an application for a pension disconnected from every other description of claim upon the Government, and if you allow it, you will violate every principle that has controlled the action of the Executive and Legislative Departments of the Government on the subject. If it be proper to do it in this case, it is proper to pass a general law that shall embrace within its provisions all similar cases. For these reasons I am bound to vote against the report of the Committee of Conference, and against the bill, unless the amendment of this House be attached to it. If the amendment be retained, I am willing to give it my humble support.

Mr. JONES, of New York. As I was the member of the Committee on Invalid Pensions to whom was referred this Senate bill for the relief of Mrs. Worth, I desire to submit a brief explanation, and in part correct a misrepresentation of the gentleman from Tennessee, [Mr. HARRIS.] The Committee on Invalid Pensions did not recommend that a pension of thirty dollars per month should be granted to Mrs. Worth.

Mr. HARRIS. I did not state that the committee recommended the amendment. When my friend from New York reported back the bill to the House, I moved the amendment, and it was adopted.

Mr. JONES. That is true. I suppose, Mr. Speaker, that the whole business of the Committee on Invalid Pensions is to take into consideration such cases as are precluded by the general laws of the country. I have, indeed, in my drawer a report, unanimously agreed to by the members of that committee, which violates this same principle in allowing to a seaman who lost an arm, eight dollars instead of six dollars per month, which is the full pension of a seaman. Every action of the Committee on Invalid Pensions is in direct contradiction to some positive law.

And now, with the permission of the House, I will state, as I know of no better method of giving the impression of the majority of the Committee, the principal points of the report they instructed me to submit.

The majority of the Committee on Invalid Pensions, to which was referred the Senate bill for the relief of Mrs. Margaret L. Worth, widow of the late Major General Worth, instructed me to report back the same without amendment. The bill grants her a pension of fifty dollars a month, or six hundred dollars a year. The services of General Worth, the circumstances of his death, so fresh in the minds of all, seemed to render a report from the committee entirely unnecessary. But with the indulgence of the House, I will state some of the reasons which induced the committee to recommend granting a pension to Mrs. Worth.

General Worth joined the Army of the United States in the war of 1812, and continued in active service to the day of his death. He was in many of the battles of the war with Great Britain, and in all or nearly all of the important ones in the war with Mexico. All his time and energy was devoted to the service of his country, and it is detracting from no other man's fame, living or dead, to say that the services so rendered were equal to those of any other man. Noted for the energy with which he prosecuted any purpose committed to his charge, he was often detailed to accomplish difficult and dangerous enterprises, and he never disappointed the most sanguine expectation. Success universally attended him, until the soldiers under his command, knew that to advance to an assault was marching to victory.

Soon after his return from the Mexican campaign, and before he had recovered from the arduous duties of that service, and while most of the officers of the Army were absent on sick leave or furlough to recruit their shattered constitutions, he was ordered on service the 7th of November, 1848, and continued in the active duties of the appointment until his death, May 7th, 1849.

It is known, I believe, that General Worth labored under the effects of a wound that would have entitled him to a pension, had he at any time retired from the service. It is also understood, that at the time he was sent on this service he had not recovered from a chronic diarrhœa, contracted in,

and a disease somewhat peculiar to Mexico, and which destroyed the health and lives of many of our army.

He was ordered to Texas to establish a line of military posts, away from all the comforts of civilization, into a country pervaded in all its length and breadth by that fell disease, Asiatic cholera. As might easily have been foretold, he fell a victim to the disease, for under such circumstances the commencement of an attack is but beginning to die. Mrs. Worth and family were with him at the time of his death. And here I will read the copy of a letter written by him just one week before his death, as it so well sets forth his opinion of his duty and its perils:

McClellan's, 20 miles from San Antonio, }
3 p. m., *April* 30, 1847. }

My dear Major: I am here with the head of my column. The center and rear will be up in an hour or so; rather retarded by disabled horses, having made one hundred and fifty miles in four and a half days. I have your note of this morning, and draw from it the comfortable belief that your sufferings are abating. Whether that be so or not, *I must go on, it is my duty,* and the ladies will not be left behind. So we shall be with you, I hope, by three o'clock to morrow, taking it quietly and coolly. *Under other circumstances, I would certainly halt, but cannot do it now, whatever may be the hazard to me or mine.*

W. J. WORTH.

Major L. S. Capers, *San Antonio, Texas.*

Such are some of the circumstances under which he died. If the disease could be directly traced to his service while in the line of his duty in the war with Mexico, his widow, under the general law, would be entitled to a pension. Had he died of the diarrhœa, there would have been no doubt about the matter at all; but he died of cholera, and of course the Pension Office are precluded from granting any relief. Yet who does not know, that during the prevalence of epidemic diarrhœa, persons suffering under chronic diarrhœa are peculiarly liable to an attack, which attack is, in such cases, generally fatal. I have no more doubt that his death may be traced directly back to this cause, than that he is dead.

The sum proposed is but a small one. It is not asked by the widow, but by her friends, who well know her need of it to aid her in supporting her family; and to me it does seem inconsistent, that while we are piercing the clouds with monuments to the fame of our heroes, that we should allow their widows and children to pine in misery and want, dependent upon charity for their daily bread. I hope the report of the Committee of Conference will be concurred in, and relief afforded to the family of a distinguished military officer whose entire life was devoted to his country.

Mr. STUART. When I some time since asked that the House should adopt the previous question on the motion to concur in the report of the Committee of Conference, I was in the hope that we might arrive at the regular order of business; but as the House has indicated a disposition to discuss, at some length, this question, I trust that I shall be pardoned if I say a few words in reply to those opposed to the bill. And I regret to hear from my friend from South Carolina [Mr. Orr] a process of reasoning similar to that which he adopted the other day. He does not object to the bill because of want of merit, either in it or in its object. He passes the highest encomium upon the services of General Worth, and in doing so he accords to him only what the whole civilized world accords. But, sir, it is objected that this bill is doing for his widow what the general law would not do for his widow, or the widows of others, and that hence it ought not to pass. It is a repetition of the old argument, that because you have persisted in injustice to the widows and orphans of deceased soldiers, you should continue that injustice. Is there a member of the House of Representatives who is prepared to say that this pension to the widow of General Worth is not just and right on the part of the country? I should regret to hear any such opinion expressed. If there is anything in which this country has fallen short of its duty more, perhaps, than in another, it has been a failure to do justice to the survivors of those who have fallen in battle, or who have served their country faithfully, and in its service have been cut down by the hand of disease.

I would like any honorable gentleman to answer, and I propose to ask it, and have a response from this House of Representatives to-day, whether the widow and children of such a man as General Worth is known to have been, shall be moderately and fairly provided for at the hands of their country, or whether they shall crawl to their graves in penury and want? That is the question, and it is a very important one. What stimulus is there to a man to do honor to his country upon the battle-field, if in doing so, and serving his country to the exclusion of serving himself, he but metes out to the wife of his bosom misery and want after his death? I know not what other gentlemen may think of it. I know not what rule of gratitude is to be laid down by the House of Representatives of the United States; but this I do know, that acting for myself upon this question, I will give no vote indorsing any such meed of gratitude as that. Why is the bill here? It is because in the general laws of the country there is no relief. I repeat that the very reason why we are called upon to-day to consider this bill is, because under the general laws of the country there is no relief in a most meritorious case. Is fifty dollars a month too much? Is six hundred dollars a year too much for the widow of General Worth and three children, to be sustained and educated by her? If it be too much, upon what principle is it so? Shall we measure out to the bereaved widow of a gallant soldier what she shall consume day by day, and prescribe in what apparel she shall be clad? Does anybody fear that upon six hundred dollars a year the appearance and support of that family will be too pompous and splendid to do credit to the memory of her gallant deceased husband? Is there any gentleman here who could support his wife and three children upon six hundred dollars a year, education and all expenses included? If so, he is a much more fortunate individual than I am in the way of pecuniary expenses.

I will not consume the time of the House of Representatives, but I will conclude by propounding again the question which I desire to see tested here to-day, because the opportunity is an appropriate one, and the time is fitting, whether the House of Representatives, representing more immediately the feeling of the American nation, is prepared to do something like justice to those who have defended the country in perilous times, or whether they are prepared to set the example, to be regarded in future as a precedent, determining and solemnly declaring that he who serves his country best but brings penury and want upon those nearest and dearest to his bosom?

Mr. CAMPBELL, of Illinois. I do not intend to occupy the attention of the House for more than two or three minutes. I wish to say, in the first place, that I intend to vote for this bill. I have been rather struck with the contrast between the discussion to-day and that of yesterday and the day before. To-day there is a proposition before the House to give a pension to the widow and children of a deceased and meritorious soldier and officer, in relation to whose merits there is no difference of opinion. Yesterday the discussion was on the propriety of conferring an empty title upon a living soldier, who is sufficiently independent of such a title to sustain himself and family in affluence and plenty. While our sympathies run with the vanities of this world, I hope that we will not so forget that which is due to the necessities of the widows of those who have fallen in the service of their country. My friend from Tennessee, [Mr. Harris,] who spoke in opposition to this measure, stated that the strong ground which induced him to oppose it was, that it was making a distinction—that it was legislating for classes. I am opposed to all special legislation; but there are cases which arise in this country, which have arisen, and which will rise again, that can be only met and provided for by special legislation, and I conceive this to be one of these cases. I am in favor of it for another reason, directly the opposite of that which the gentleman urges against it. I desire to establish a precedent by this special legislation. I am in favor of extending the rights and privileges which the special legislation in this particular case will confer upon the widow of General Worth to the widow of every soldier whose husband has perished in the service of his country. Why do you say to the widow of the soldier that she shall receive his half-pay for five years? Is that any remuneration to her for the loss she has sustained?

When war is declared, you call upon the freemen of this country to rally under its banner. To whom do you make the appeal? Is it to the wealthy men who, if they lose their lives, leave plenty to support and educate their families? Are they the men who go forth to fight the battles of your country? No, sir, they are not the men; but they are to be found among the sons of toil, upon whose labor, and labor alone, their wives and children are compelled to rely for support. You take that prop from them, and in what position do you leave them? You say that you will give them the pittance of what he could earn for five years, and then you throw them destitute upon the tender mercies of the world. I have letters now in my desk from the widows of soldies who perished in the recent war with Mexico. The time has not expired for which they were allowed a pension, and they appeal in the strongest terms to the representatives of the people to extend it to them during life, or during the time they may remain single, and are compelled to support their children by their own hands. When that measure is brought forward, it shall receive my support; and this I consider as an entering wedge, and I shall vote for it for that reason, because hereafter, it can be referred to as a precedent. For these reasons the measure shall receive my unqualified support.

Mr. SACKETT. I am in favor of the passage of this bill. The reasons why I am in favor of it have been properly presented to the House by gentlemen who have taken the same view of the question. Therefore I do not propose to go into detail, or present in detail the reasons why I am in favor of its passage. I propose to answer some of the objections which have been urged against its passage. First, it is said that this bill will be used as a precedent, and will be calculated to secure the passage of other bills which may not have merit in themselves. I, for one, am not afraid to do right in this case, for fear some person will do wrong in another. Next it is said that this bill is a violation of principle, a violation of the general laws of the land on the subject of pensions. I am at issue totally upon that allegation. I deny that it is a violation of any principle, a violation of any law.

Mr. STEVENS, of Pennsylvania. I desire the gentleman to explain the reasons why the widow of an officer who dies in his bed of disease, is entitled to a larger pension than if he fell upon the field of battle.

Mr. POLK. If he did not die in battle, he died with his harness upon him.

Mr. SACKETT. Now let me say a word upon the question whether this law is a violation of principle or the general laws of the land touching pensions. What are all the private acts we pass to grant special relief? Are they anything but acts made necessary, because, by the laws of the land, the parties cannot get relief? That is the very object and purpose of those bills which are reported by your Pension Committee. It is because under the general law it is impossible for a party to secure that relief which is just and equitable.

Mr. HARRIS, of Tennessee, (interrupting.) I desire to correct the gentleman from New York, with reference to the general principles controlling the action of this Government upon this subject. It is true, when a case is presented which is meritorious in its character, but which, from some technical objection, does not fall within the letter of the law, it is referred to the legislative department of the Government, and they allow the pension where the objection is strictly technical, and the claim every way meritorious. But in these allowances, in ninety-nine cases out of every hundred, from the beginning of this Government down to the present hour, the legislative department of this Government has been controlled by the principles of the general law. In amount they have almost universally conformed to the pension law, and in the duration of pensions they have almost universally done so. Congress has only relieved cases from technical objections. But you will violate the general principles that have heretofore controlled the action of not only the Executive but of the Legislative Departments of the Government by the passage of this bill, because you will allow a larger amount of pensions, and for a longer duration of time than the general law allows, or than ninety-nine out of one hundred of the special acts have allowed.

Mr. SACKETT. I will come to that view of the subject in a moment. I was about stating that all special legislation is merely equitable relief. That is the ground of all special legislation. It

is equitable relief as against the arbitrary conditions of the general law, placing the act itself upon the merits of the application, and granting relief or not according to the merits of the case.

But, sir, let us go still further. The whole pension system is but special legislation. The general law itself is but a law to grant equitable relief to those who have been in the service of the country, as the exigencies of the case seem to require. All our special laws are based upon the justice and equity of the case as between the Government and the parties seeking relief. Now, sir, with respect to the amount of the pension, that must be decided, as in every case, upon a principle of equity between the Government and the claimant. The question in this particular case is, whether the pension asked for, and reported in favor of, is such a pension as the Government ought not to grant; whether it is more than the merits of the case call for? Why, that is in exact harmony, not only with our general pension laws, but with every special act we have ever passed, and it cannot be distinguished in any respect from them. The claimant comes to the law-making power and asks for such relief as she believes herself entitled to; and the question is whether she is entitled to it. The principle is to grant such relief as she is entitled to. Now, is fifty dollars a month too much for the widow of Major General Worth, one of the most gallant officers the American Army and service has ever known? That is the question. There is no violation of principle. It is a question between the claimant and the Government on principles of equity. I do not think the amount too much, and therefore I am in favor of the bill.

Mr. SKELTON. Mr. Speaker, this question, which has been presented to the House to-day, is only one of a succession of questions that have been discussed since I have had the honor of a seat upon this floor. I have witnessed with deep interest the discussion of all those questions involving the principles which are involved in this one. Sir, when an attempt was first made to introduce this bill into the House, I objected to it without having the privilege of an explanation, and I therefore embrace this opportunity to present my views briefly with regard to this and all other similar measures. It is not simply a question whether we shall give to the widow of Major General Worth a pension for life. It does not stand isolated and alone as a question of that kind. If it did, and if this was to be the end of it, we should not waste our time in discussing the question. The amount is too small to be worth even a single speech upon this floor with regard to it. But, sir, it involves a principle—an important principle—a vital principle—a principle that strikes at the very root and foundation of our republican institutions. It is because I believe that the question presented is of this much importance, that I deem it necessary to occupy the time of the House in giving my views briefly upon the subject, and the reasons why I shall not vote for the bill. We have, as has been remarked, had within the last few days, a discussion upon the propriety of conferring an honorary title upon a distinguished soldier of the nation. I confess I have been surprised at the sentiments which have been uttered upon this floor. What is it proposed to do? Why, sir, not only to grant the honors of title and nobility, but it is proposed also, to involve the country in large and extravagant expenditures of the people's hard-earned money.

Sir, it has been asked whether justice does not demand that the widow of General Worth shall be paid this pension for life. I answer, no. Sir, you will violate the principles of justice by granting this pension, and it is for this reason that I am opposed to granting it. General Worth, when he entered the American Army, entered it with a knowledge of the risks to his life, with a knowledge of the pay he would receive, with a knowledge of the law with regard to pensions, and he knew very well that the laws were against granting a pension to his widow. On what principle, then, does the widow of General Worth come here and demand as an act of justice that we shall give her a pension for life?

But, sir, with regard to the principle involved in this matter, what are we proposing to do? We are proposing to grant honors, and distinctions, and emoluments to the Army and Navy. We are elevating the military above the civil authorities. Why, the time is rapidly approaching when honors will only be conferred upon military men, and military fame be the only passport to the distinctions and honors of our country. Where is all this going to lead us? We have already granted pensions of millions and millions to our soldiers, and their widows and children. We are building up a military republic. Let us go on and grant this pension to the widow of General Worth, and then to-morrow grant the lieutenant generalship to Scott, and what will you want next? You will want a field marshal, and after that you will want an emperor. [Laughter.] Where are we going? What, I ask the House, is to be the end of this thing?

Mr. FREEMAN, (interrupting.) I ask the gentleman if he did not, during the last session, advocate a bill granting a similar pension to a widow from New Jersey?

Mr. SKELTON. No, sir, I did not.

Mr. FREEMAN. Did not the gentleman advocate a claim of a similar character?

Mr. SKELTON. No, sir, I did not advocate any claim of the kind.

Mr. POLK. Did not the gentleman, during the last session, advocate a claim for a pension coming from the State of New Jersey? If he did, will he tell me whether that case came under the pension laws?

Mr. SKELTON. I do not consider that a question to the purpose, and, therefore, I decline to answer it.

Mr. POLK. Let me ask the gentleman one other question.

Mr. SKELTON. No, sir, I cannot yield the floor to the gentleman. Why, sir, look at the military establishment of our country, look at the military academies, and the naval academies, for the education of our officers. Look at the efforts made by parents to get their children into those institutions. Why do they desire it? They seek to get their sons into the military schools, that they may be educated at the expense of the Government. Why? Because, after they have been educated at the expense of the Government, from the hard earnings of the laborious, industrious farmers and mechanics of the land, you place them as a superior class of the community, receiving honors, and wealth, and pay, as long as they are in the service of the country. You first educate them at the public expense; then you give them better pay than they could obtain if they had not been thus educated at the public expense; and after they have been pampered, fed, and kept in idleness, and luxury, and licentiousness, when they grow old and die, why, we must grant pensions to the widows and children of those men who have been paupers from their childhood up to the day of their death. It is time we should pause and consider these things. It is time we should give a rebuke to this military spirit.

I have heard gentlemen say upon this floor, that combinations have been entered into to cheat the soldier out of his just and hard-earned laurels, for the benefit of civilians. But, sir, the reverse is the truth. Our military men have cheated the civilians out of their hard-earned laurels. Who is the greatest contributor to the prosperity and happiness of our country, the noisy, boasting, braggadocio soldier, or the hardy pioneer who goes forth into the western wilderness to fell the mighty forests, to cultivate the fields, and at last to lay himself down in that inhospitable land a martyr to the progress of the civil arts—a martyr to the cause of civil liberty? Why, sir, the true glory of the American nation is in the peaceful arts. We should awake from this vain chase after military glory. We should consider the brightest path to fame to be that which leads through the peaceful pursuits of life, and the highest honor of our country, to consist in the progress, improvement, and development of American arts, and the establishment of this mighty empire as a nation devoted to peace, to literature, to intelligence, and to the useful arts.

These, sir, are the reasons why I shall vote against this bill. These are the reasons why I shall vote against all similar bills, and these and other reasons—which I shall take another opportunity of presenting to the House—will prompt me, as long as I have the honor of a seat upon this floor, to pursue the straight-forward course which I have marked out for myself in opposition to all such measures.

Mr. DEAN obtained the floor.

Mr. POLK. I desire to ask the gentleman from New Jersey [Mr. SKELTON] a question.

The SPEAKER. The gentleman from New York is entitled to the floor.

Mr. POLK. The gentleman from New York will, I am sure, yield me the floor for the purpose of asking a single question. I ask the gentleman from New Jersey if he did not advocate and vote for a bill, the last session of Congress, similar to the one now before the House?

Mr. DEAN. I do not yield the floor for any such purpose.

Mr. POLK. I ask leave to read a bill which answers the whole argument of the gentleman from New Jersey, [Mr. SKELTON.] It is the following:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John Moore White, son and sole heir of Major John White, a major in the army of the Revolution, and slain at the battle of Germantown, or his heirs, the seven years' half pay to which Major White would have been entitled, had he not died before a resolve of Congress passed the twenty-fourth of August, one thousand seven hundred and eighty.

"Approved, August 26, 1852."

Now, I understand the gentleman from New York [Mr. DEAN] yields me the floor to make a single comment upon that bill. The gentleman from New Jersey advocates a great principle here in relation to the bill now before the House He would deny to a widow, with three children clustering around her unprotected, without the means of procuring the ordinary necessities of life, the bounty of the Government, when at the very last session of Congress, he introduced and voted for the bill I have just read. Now where is your principle?

Mr. SKELTON. I will answer the gentleman, with the permission of the gentleman from New York.

Mr. DEAN. I cannot give way for this discussion longer.

Mr. BARRERE, (interposing,) from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which were signed by the Speaker, viz:

An act making further appropriations for the construction of roads in the Territory of Minnesota;

An act to amend an act entitled "An act to establish the Territorial Government of Oregon," approved August 14, 1848;

An act granting the Sackett's Harbor and Ellisburg Railroad Company the right of way through the military reservation in the State of New York;

An act for the construction of military roads in Oregon;

An act authorizing certain soldiers in the late war with Great Britain to surrender their bounty lands, and to locate others in lieu thereof; and

An act for the relief of Osborn Cross, of the United States Army.

Mr. SKELTON. I trust the gentleman from New York will permit me to answer the gentleman from Tennessee, [Mr. POLK.] In the first place, I will state that that question has no relevancy whatever to the question under consideration. I will answer the question, however, out of courtesy to the gentleman, though I deny his right or the right of any other gentleman upon this floor to catechise me upon my past conduct. I am here as the representative of an independent district in the State of New Jersey, to execute fearlessly and honestly my convictions of duty as they present themselves to my mind. I did not advocate upon this floor the bill he has just read.

Mr. POLK. I must again ask the indulgence of the gentleman from New York for a moment's explanation. I did not deny that the gentleman is a representative upon this floor of a portion of the freemen of the State of New Jersey; and I do not claim any right, except the ordinary courtesy of the House, to catechise him; but when I hear him assert a principle so directly the reverse of a principle which he advocated in a previous session of Congress, I have the right to bring him to the mark and expose him, and I will do it.

Mr. SKELTON. I hope I shall be allowed to say that I have not spoken on this subject before since the commencement of this session of Congress.

Mr. DEAN. I will not yield for this discussion longer. I trust the gentlemen from Tennessee and New Jersey are now entirely satisfied, and I will proceed with a single remark upon the subject under consideration.

I did not rise, Mr. Speaker, to make a speech upon this question, but to state a fact which, I presume, is not generally known to this House. I understand that the widow of General Worth, with her orphan children, are left in such a destitute situation that the house which was owned by the General at the time of his death has been sold under an incumbrance, and they are now turned out of doors, and are living upon the charity of their friends.

Now, I have as much objection to any legislation which will have a tendency to elevate the military above the civil branch of the Government as any gentleman upon this floor, but while I am opposed to that, I recognize the duty of this Government to take care of the widows and orphans of those who have fallen in the service of the country, whether they perished in battle or in consequence of disease contracted while on duty prior or subsequent to an engagement. And it seems to me the sum proposed is not too great. Six hundred dollars is not too much for the support of a widow and three minor children.

As to the principle of which the gentleman from New Jersey [Mr. SKELTON] speaks as being involved, I have only to say that there are always exceptions to every rule; indeed it has come to be a maxim, "exceptions make the rule." We have a Committee on Invalid Pensions expressly appointed for the purpose of reporting exceptions to this rule. Their peculiar province is to examine and ascertain when an officer or soldier, or those connected with them, are entitled to the bounty of the Government. We have general rules; but whenever there are meritorious claims presented to this Committee on Invalid Pensions, they report them, although they are exceptions; because, if they came within the rule, they would receive a pension at the Department without applying here.

As to the merits of General Worth, I shall say nothing. He needs no eulogium from me. He stands before the country and the world as one of the first military men of the age; and the history of his country is his history. Having lost his life in our service, I regard it only as an act of simple justice for the House to concur in the report of the Committee of Conference. But as this matter has been discussed until almost every one has had something to say upon it, I will conclude by moving the previous question.

Mr. HALL. I will inquire of the Speaker if, in case this report is not adopted, it will not be competent for the House to appoint another Committee of Conference?

The SPEAKER. That will be for the House to determine.

The previous question was then seconded, and the main question ordered to be put.

The question now being upon the adoption of the report,

Mr. MILLER demanded the yeas and nays; which were ordered.

Mr. STANTON, of Ohio. Will it be in order to move to lay the report upon the table?

The SPEAKER. It is in order.

Several MEMBERS. Oh, take a direct vote.

Mr. STANTON. Very well; I will not make the motion.

The question was then taken, and the result was—yeas 98, nays 48; as follows:

YEAS—Messrs. Abercrombie, Aiken, John Appleton, William Appleton, Babcock, Bartlett, Bell, Bowne, Bragg, Breckinridge, Briggs, Brooks, Albert G. Brown, George H. Brown, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Chastain, Churchwell, Clingman, Conger, Cottman, Curtis, Darby, George T. Davis, Dawson, Dean, Disney, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Gilmore, Gorman, Green, Grey, Harper, Sampson W. Harris, Hart, Hascall, Henn, Howard, Thos. M. Howe, Jackson, Jenkins, Daniel T. Jones, Landry, Little, Marshall, Martin, McDonald, McNair, Meade, Miller, Miner, Molony, Henry D. Moore, John Moore, Morrison, Murray, Newton, Samuel W. Parker, Penn, Polk, Porter, Preston, Price, Riddle, Robbins, Robie, Sabine, Sackett, Savage, Schermerhorn, Scurry, David L. Seymour, Smart, Smith, Stanly, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stone, Strother, Stuart, Sweetser, Taylor, Thurston, Townshend, Walsh, Watkins, Addison White, Alexander White, Wilcox, Williams, and Yates—98.

NAYS—Messrs. Willis Allen, Ashe, Averett, Barrere, Beale, Brenton, Buell, Cartter, Clark, Clemens, Cobb, John G. Davis, Duncan, Giddings, Hall, Isham G. Harris, Hendricks, Hillyer, Holladay, Horsford, Houston, John W. Howe, Hunter, Ingersoll, Andrew Johnson, James Johnson, George W. Jones, Letcher, Lockhart, Mason, Meacham, Millson, Morehead, Nabers, Olds, Orr, Penniman, Perkins, Robinson, Ross, Origen S. Seymour, Skelton, Benjamin Stanton, Stratton, Venable, Walbridge, Welch, and Woodward—48.

So the report was concurred in.

Mr. POLK. I move that the vote just taken, by which the House adopted the report, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

The SPEAKER. Reports are in order from the Committee on Elections.

Mr. MARSHALL. Is it in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is in order.

Mr. MARSHALL. I submit that motion.

Mr. JONES, of Tennessee. I will say that the gentleman from Alabama [Mr. SMITH] is entitled to the floor in Committee of the Whole. I do not know whether he desires to speak to-day or not, but if there is not some special reason for going into Committee of the Whole, I hope the committees will be called for reports.

Mr. MARSHALL. I insist upon my motion.

The question was put, and the motion was agreed to—ayes 70, noes not counted.

Mr. FLORENCE. I desire to ask the Speaker one question, which can only be asked in the House.

The SPEAKER. The Chair has no power to answer any question, the House having determined to go into Committee of the Whole.

The rules being suspended, the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. RICHARDSON in the chair,) and resumed the consideration of House bill No. 335, making appropriations to supply the deficiencies in the appropriations for the fiscal year ending the 30th June, 1853, (Mr. SMITH, of Alabama, being entitled to the floor.)

Mr. FLORENCE. I owe it to you, Mr. Chairman, and to the committee who composed the House a few minutes ago, to say, that when the House was in committee yesterday, I did not resign the floor; I merely yielded for a motion that the committee rise. I supposed the House was only competent to correct what I conceived to be the journal of the committee—the report in the Daily Globe—and hence I desired to ask the Speaker in relation to it, when the House was about going into committee. I have no desire particularly to occupy the floor for any length of time. I desire to say a few words and then the gentleman from Alabama may go on. I ask the courtesy of the gentleman to allow me to occupy a few minutes.

Mr. JOHNSON, of Tennessee. By permission of the gentleman from Pennsylvania, I will merely state that I was sitting by him when he addressed the Chair, and upon my suggestion he yielded to a motion that the committee rise. He did not give up the floor at all.

The CHAIRMAN. The Chair will state to the gentlemen from Pennsylvania and Tennessee, that his recollection is very distinct that the gentleman from Pennsylvania [Mr. FLORENCE] took his seat, and the Chair recognized the gentleman from Alabama, [Mr. SMITH.]

Mr. ORR. I think the Chair is mistaken. The gentleman from Pennsylvania only yielded for explanation.

The CHAIRMAN. The Chair will state that if he is mistaken, the reporters are also mistaken, as well as the gentleman from Tennessee, [Mr. HARRIS,] and the gentleman from Alabama, [Mr. SMITH.]

Mr. ORR. Some of us who were near the gentleman from Pennsylvania know that he did not resign the floor for any other purpose than for a motion that the committee rise.

Mr. HARRIS, of Tennessee. I do not know whether the gentleman from Pennsylvania yielded the floor or not, but I know the gentleman from Alabama addressed the Chair, and was distinctly recognized by the Chair, and at my request, yielded the floor for a motion by me that the committee rise. Upon my motion, the committee did rise.

Mr. FLORENCE. Now, if the Chairman will permit me to make a single remark, I will waive my right to the floor and allow the gentleman from Alabama to proceed.

Just as I was concluding my remarks, I stated to the committee that I did not desire to occupy the floor any considerable time, but merely desired to be informed upon a point suggested by the gentleman from Indiana, [Mr. GORMAN.]

Mr. SMITH. I do not know how long a time the gentleman desires to occupy the floor.

Mr. FLORENCE. I desire only three or four minutes of time.

Mr. SMITH. If I am to speak at all, I wish to go on now.

Mr. FLORENCE. I will say that there will be less time consumed in making the remarks I desire to, than by the conversation about the right to the floor.

Mr. SMITH. I shall claim the full hour when I begin.

Mr. FLORENCE. I waive all right, if I have any.

Mr. SMITH, of Alabama, then occupied the floor for an hour, in favor of the bill to confer the title of lieutenant general by brevet. [His remarks are published in the Appendix.]

Mr. MARSHALL obtained the floor, but yielded to

Mr. McNAIR, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman (Mr. RICHARDSON) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 335, "making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30th, 1853," and had come to no resolution thereon.

Mr. McMULLIN. I move that the House do now adjourn.

Mr. BELL. I appeal to the gentleman to withdraw the motion, to allow me to introduce a bill merely for the purpose of reference.

Mr. McMULLIN. There is no quorum present, and I think the House had better adjourn.

Mr. BELL. But no one will take exception to it.

Mr. HOUSTON. There are two or three communications upon the Speaker's table, which I understand it is very necessary should be referred to the appropriate committees. I ask that the gentleman will withdraw the motion to adjourn, and allow these communications to be taken up and referred.

Mr. McMULLIN. I will withdraw the motion for that purpose.

The SPEAKER then laid before the House a communication from the Treasury Department, transmitting an explanatory communication from the Auditor of the Post Office Department, in relation to the estimates submitted by his Bureau for the year ending the 30th June, 1854; which was referred to the Committee on Ways and Means, and ordered to be printed.

TREASURY REPORT.

Mr. JONES, of Tennessee. I wish to inquire of the Speaker if he has yet received the annual communication of the Secretary of the Treasury to this House and to Congress.

The SPEAKER. There are various communications upon the Speaker's table.

Mr. JONES. Nearly half of this session is already gone, and it is time the annual report from the Treasury Department was before Congress.

The SPEAKER. There is one other communication from the Treasury Department upon the Speaker's table, which will be presented to the House, if it is their pleasure to receive it.

A communication from the Treasury Department, containing a copy of a letter from the Comptroller of the Treasury, recommending an appropriation by Congress of $1,800 for the payment of Willard Richards, while acting as Secretary of Utah, under the appointment of Governor Young, and requesting that the necessary provisions be made by law, as recommended by the Comptroller.

Mr. RICHARDSON moved that the communication be referred to the Committee on Ways and Means.

Mr. JONES, of Tennessee. I suppose the com-

munication should properly go to the Committee on the Territories, to ascertain whether Governor Young did right in appointing the Secretary. I move that it be referred to the Committee on the Territories.

Mr. RICHARDSON. I withdraw my motion.

The communication was then referred to the Committee on the Territories.

Mr. BELL. I now ask leave to introduce a bill and have it referred.

Mr. McMULLIN. I object, and move that the House do now adjourn.

The question was put and the motion agreed to.

And the House adjourned till to-morrow at twelve o'clock, m.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BROWN, of Mississippi: The petition of William B. Jay, praying, in behalf of the citizens of Township eleven, range ten east, in the county of Neshoba, Mississippi, the privilege of locating a sixteenth section of land for school purposes in place of sixteenth section given by the United States to an Indian claimant.

By Mr. IVES: The petition of 24 citizens of Jefferson county, for breakwaters in the harbor of Cape Vincent, New York.

By Mr. THOMAS M. HOWE: Memorial of the Allegany Valley Railroad Company, praying that the Secretary of War may be authorized to grant the said company the right of way through the grounds of the Allegany arsenal.

IN SENATE.

THURSDAY, *January* 6, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Senate, showing the names and compensation of the persons employed in his office during the year 1852; which was ordered to be printed.

PETITIONS, ETC.

Mr. BRODHEAD presented the petition of George Felker, praying that the children of George Felker, his father, may be paid the amount of pension due him at the time of his death; which was referred to the Committee on Pensions.

Mr. CASS presented the memorial of Anna McLean, widow of an officer of the Army, who lost his life in the last war with Great Britain, praying a pension or gratuity; which was referred to the Committee on Pensions.

Mr. HUNTER presented the petition of the heirs of Richard B. Mason, praying compensation for damages to their property by the construction of the Long Bridge at Washington City; which was referred to the Committee on Claims.

Mr. SHIELDS presented a memorial of citizens of Virginia, praying the reconstruction of the Long Bridge over the Potomac at its present site; which was referred to the Committee on the District of Columbia.

Mr. GWIN presented the memorial of James E. and Edwin Smith, citizens of the State of New York, praying that a register may be granted to the brig Michael, a foreign vessel now owned by them, and upon which they have expended in this country nearly four fifths of her appraised value for repairs; which was referred to the Committee on Commerce.

Mr. DAVIS. I present the petition of Joseph Townsend, who represents himself to be a master mariner and commander of the barque Lamartine. While that barque was at anchor at the port of Leghorn, in Italy, the Austrian army took possession of that city; and consequently those who were supposed to be implicated in the late revolution, were obliged to flee. He received a large number of these persons in quite destitute circumstances, and entertained them on board his barque at his own expense, as a place of refuge from the fury of that army. Being himself a man quite poor, he feels unable to sustain the loss, which must amount to some $700 or $800, and he asks Congress to remunerate him for the expense. I move that, without reading, the petition, with the accompanying papers, be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. DAVIS submittted additional documents in relation to the claim of William T. G. Morton to compensation, in consideration of being the discoverer of the use of ether as an anæsthetic agent in surgical operations; which were referred to the select committee appointed on the subject.

REPORT FROM A STANDING COMMITTEE.

Mr. SMITH, from the Committee on Printing, to which was referred a motion to print the report of the Secretary of the Navy and the documents accompanying it, relative to the loss of the steamer Edith, and other matters connected therewith, communicated the 14th of May last, submitted a report, which states that, according to the understanding of the committee, the publication of those documents was asked for in order to vindicate the professional character of Lieutenant Richard W. Meade, of the Navy, from imputations contained in a letter of Commodore Thomas Ap C. Jones, dated September 24th, 1850, addressed to the Secretary of the Navy. The committee are, however, of the opinion that the subsequent reappointment of Lieutenant Meade to the Navy by the President, and his confirmation by the Senate, are a sufficient exoneration, and that the publication of the papers is therefore unnecessary.

The committee were discharged from the further consideration of the subject, and the report was ordered to be printed.

COLONIZATION IN NORTH AMERICA.

Mr. CASS. I desire now to call up for a second reading the joint resolution which I submitted a few days ago, "declaratory of the views of the 'United States respecting colonization on the North 'American Continent by European Powers, and 'respecting the Island of Cuba." My object is to have it set apart for some future day.

The motion was agreed to, and the joint resolution was read a second time.

Mr. CASS. I give notice that I shall ask the Senate to take it up for consideration at the time when discussion will take place upon analogous subjects.

Mr. SHIELDS. Next Wednesday?

Mr. CASS. If the discussion upon the subject is to come up on Wednesday, I move to postpone the further consideration of this resolution until that day.

The motion was agreed to.

TRIPARTITE CUBAN TREATY.

Mr. MASON. I ask the indulgence of the Senate to give a notice at this time. I see that the message of the President, and the report of the Secretary of State, communicating the information called for by a resolution of the Senate, in reference to the correspondence between this Government and the Ministers of France and Great Britain upon the subject of a tripartite convention in relation to the Island of Cuba, have been printed and laid upon the tables of Senators. I now give notice, after consultation with gentlemen who have an interest in the subject, that I shall, on Wednesday of next week, move that the papers be referred to the Committee on Foreign Relations, when any gentleman who chooses to enter into the debate, can have an opportunity of doing so.

DEBASEMENT OF COIN.

Mr. GWIN. In some remarks which I submitted to the Senate the other day, I alluded to the debasement of the coin of the United States. As I intend to have that subject investigated before the Committee on Finance, when the appropriations for the United States Mint come before them, I have a resolution in my hand which I wish to offer, in order to get some information from the Treasury Department, for the purpose of referring it to that Committee. I offer the following resolution, and ask for its consideration at this time:

Resolved, That the Secretary of the Treasury be requested to inform the Senate what was the nominal, and what is the actual fineness of the gold coins struck at the Mint prior to the year 1834, and at which they are now received by the Mint for recoinage; also, to furnish copies of the reports, for the last ten years, of the commissioners who have met annually in conformity with law, to examine the weight and fineness of the coins of the United States, and of all communications to and from the Executive Department of the Government in relation to any debasement of the coins struck in the Mint, or either of its branches, which may have been detected by said commissioners, or otherwise.

Also, by what authority of law neither gold nor silver is separated for the benefit of the depositor in the Mint, when the net product of the operation estimated upon the charges by the Mint is less than five dollars; whether said gold and silver is separated for the benefit of the Mint, and used for its contingent expenses, to the loss of the depositor; and if so, by what authority of law, and what has been the amount, if any, both of the gold and of the silver, respectively, so taken from depositors by the Mint at Philadelphia, during each of the last four fiscal years.

Also, what is the amount of silver now left unextracted in the gold coins of the United States by the Mint at Philadelphia, and to furnish a statement of the aggregate sums both of the gold and silver deposited, and of the deductions made therefrom respectively, and for each quarter, as well as the rates charged for silver alloy, as exemplified in the abstracts of accounts of the Mint, accompanying the reports of the First Auditor numbered 105,120, 105,660, 106,256, 106,694, and 107,165; and whether the depositors of mixed gold bullion, from the 14th November, 1850, to 1st April, 1851, were charged by the Mint full price for separating their silver from their gold, to wit: five cents per ounce, and then deprived of nearly the half of said silver, to wit: five per cent. by weight left in the gold coins by the melter and refiner, and charged to said depositors as alloy, and if so, then for what reasons, and by what authority of law; also, what was the aggregate amount, if any, of said five per cent. of silver so taken from said depositors; and to furnish copies of all communications to and from the Department in any manner relating to this subject.

Also, what deductions, if any, are made by the assayer of the Mint in the reported fineness of gold bullion deposited from the actual assay results thereof, and if any, then what disposal is made of the profits thence accruing, and by what authority of law.

Also, by what act of appropriation, or authority of law, the profits of the coinage of silver three cent coins are used by the Mint of the United States to defray its contingent expenses.

Mr. GWIN. I hope the resolution will be acted upon now. I want the information as soon as possible, in order that it may go before the Committee on Finance.

Mr. PEARCE. If the Senator does not intend to discuss the resolution, I will make no opposition to it.

Mr. GWIN. I do not want to discuss it.

The resolution was agreed to.

ARKANSAS BONDS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of providing by law for the sale of certain bonds of the State of Arkansas now held in trust by the United States, and report by bill or otherwise.

REPUBLIC OF NICARAGUA.

Mr. BROOKE submitted the following resolution:

Resolved, That the President he requested, if in his opinion not inconsistent with the public interest, to communicate to the Senate the reasons which have induced the Department of State to refuse to hold further official intercourse with Señor Don José de Marcoleta, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua, near this Government.

Mr. WELLER. I prefer that that resolution shall lie over.

The PRESIDENT. It cannot be considered now, if there be any objection.

Mr. WELLER. It will probably give rise to discussion.

The PRESIDENT. The resolution must lie over.

FRAUDULENT CLAIMS.

Mr. HOUSTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Select Committee appointed on the 6th of August, 1852, to inquire into abuses, bribery, and fraud in prosecuting claims, &c., be revived; that a member be appointed by the President of the Senate to fill the vacancy on the committee; and that the committee be authorized to employ a clerk.

The PRESIDENT appointed Mr. WALKER to fill the vacancy.

FRENCH REVOLUTION.

Mr. MASON submitted the following resolution for consideration:

Resolved, That the President of the United States be requested (if, in his opinion, not incompatible with the public interest) to communicate to the Senate copies of any further correspondence that may have taken place between the Minister of the United States at Paris and the Department of State, concerning the revolution in France of December, 1851, since the correspondence of like character communicated by the President to both Houses of Congress with his message of January 20, 1852.

CONDUCT OF COMMODORE MORGAN.

The resolution some days since submitted by Mr. HALE, in relation to the conduct of Commodore Morgan, in command of the United States razee Independence, the flag-ship of the Mediterranean squadron, came up in its order for consideration.

Mr. SHIELDS. I move that that resolution be laid on the table.

Mr. MASON. The Senator who offered that resolution is not now in his seat; I desire, therefore, that it may remain on the calendar, that we may see what disposition that Senator is disposed to make of it.

The resolution was passed over informally.

WORKMEN ON THE CAPITOL EXTENSION.

The Senate resumed the consideration of the bill "for the relief of the working men on the addition to the Capitol;" the question being, "Shall it be engrossed for a third reading?"

The question being taken by yeas and nays, resulted—yeas 17, nays 21; as follows:

YEAS—Messrs. Borland, Brodhead, Cass, Cathcart, Dodge of Wisconsin, Dodge of Iowa, Gwin, Houston, Jones of Tennessee, Mangum, Rusk, Seward, Shields, Smith, Soulé, Wade, and Walker—17.

NAYS—Messrs. Adams, Atchison, Bayard, Bradbury, Bright, Brooke, Charlton, Davis, De Saussure, Downs, Fish, Geyer, Hunter, Mallory, Mason, Norris, Pearce, Sebastian, Spruance, Stockton, and Toucey—21.

So the bill was rejected.

WILLIAM AND MATTHEW MOSS.

On motion by Mr. RUSK, the Senate proceeded to consider, as in Committee of the Whole, the bill "for the relief of William Moss and Matthew Moss." It proposes to authorize the Postmaster General to cause to be paid to William and Matthew Moss, of Arkansas, late contractors for carrying the United States mail on route 5991, in that State, such sum as may be due to them at the rate of $1,500 a year, after deducting therefrom the amount paid at the rate of $700 a year.

Mr. ADAMS. I should like to know something about that case. I see that it has been reported from the Committee on the Post Office and Post Roads, and therefore I ask for the reading of their report.

The report was accordingly read; from which it appeared that William and Matthew Moss were joint contractors to carry the United States mail upon route 5991, in the State of Arkansas; that they proposed to perform the service for the compensation of $1,500 per annum, but inserted by some mistake in their proposals $700 a year instead of $1,500, as intended; and on being informed of their mistake through the letter of acceptance sent to them from the Department, immediately wrote to the Postmaster General, stating the error into which they had fallen in the hurry of business. They subsequently proceeded to perform the service, believing that the Department would correct the error; but in that they were disappointed. The committee refer to the testimony in the case, showing that the previous contractor had received a larger amount than $1,500 for the same service, when the mails were smaller in quantity; and believing that the petitioners acted in good faith, they recommend the passage of a bill for their relief.

Mr. ADAMS. I do not understand exactly the principle upon which this bill is founded. I should like to ask the chairman of the Committee on the Post Office and Post Roads what is the testimony in regard to the mistake made as to the amount?

Mr. RUSK. The testimony as to the amount is this: These men bid on several routes, but this was the only one assigned to them. The testimony, as the report states, shows that a larger amount than $1,500 had been paid for carrying the mail on the same route previously, and that a larger amount was subsequently paid. The parties have produced the affidavit of a man whom they had as an agent to make out the bids in form, and send them to the Post Office Department. He swears that they intended to bid for this route $1,500, and that the $700 bid was for another route, which was not awarded to them, because there was a lower bid for that than the $1,500 one, which was sent on by mistake. This route was awarded to them, and, as well as I remember the papers, theirs was the lowest bid for that route. Under these circumstances, I think the case is one in which the parties are clearly entitled to relief.

Mr. BAYARD. I would like to ask the chairman of the Committee on the Post Office and Post Roads, whether there were any other bids for this route lower than $1,500?

Mr. RUSK. There was no other bid lower than that amount.

Mr. BAYARD. I would like to know also what the answer of the Postmaster General was to the application to correct the mistake, because the report says they made application; and they certainly must have entered into bonds to perform the service for the amount specified.

Mr. RUSK. The answer of the Postmaster General was, that the bid having been accepted, and being on file, he had no legal authority to change it. The recommendation of the postmasters upon the route is also on file, and their statement sustains the averments of the petitioners.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EFFICIENCY OF THE ARMY AND NAVY.

The Senate resumed the consideration of the bill "to increase the efficiency of the Army by a retired list for disabled officers," the pending question being on concurring in the amendment made as in Committee of the Whole.

Mr. SHIELDS. After consultation with some of the members of the Committee on Naval Affairs, I have deemed it advisable to strike out all that portion of the bill pertaining to the Navy and Marine Corps, in order to relieve it from any embarrassment, and believing that it is, after all, the appropriate duty of that committee to arrange the matter in such a way as to conform to the regulations of the Navy. We have come to an understanding that the bill to be reported from the Navy Committee on the subject shall conform, in its general features and principles, to this, so that there will be a perfect conformity between the provision for both services. That being so, I presume there will be no further opposition to this bill. I am exceedingly anxious that it should pass now, in order to send it to the other House in time to be passed there during this session. In accordance with the understanding to which I have alluded, I move to amend the amendment by striking out all of it that relates to the Navy and Marine Corps, so as to make it read as follows:

That if any commissioned officer of the Army shall have become incapable of performing the duties of his office, by reason of age, wounds, or disease incurred in the service of the United States, he shall be placed upon a retired list, and retire from the service, with the pay proper of his rank and with the service ration to which he is entitled at the time, but without any other allowances to which he might be entitled if he continued in the service either in the line or staff; and the officer next in line of promotion, who is physically efficient, shall be promoted to the place of the retired officer, with the rations and emoluments appertaining thereto, but shall continue to receive the pay proper of the grade from which he was promoted until an actual vacancy shall happen, to which he may succeed according to the heretofore established laws of the service. And the same rule of promotion, pay, and allowances shall be applied successively to the vacancies and promotions consequent upon the retirement of an officer as herein provided.

SEC. 2. *And be it further enacted*, That, to carry out the provisions of this act, any officer of the Army, who may be incapacitated as heretofore recited, and who shall voluntarily apply to be retired from active service, or, on being ordered to perform the duties appropriate to his commission, shall report himself unable to comply with such order, or any officer who, in the judgment of the President, shall have become in any way incapacitated from performing the duties of his office, the President, at his discretion, shall direct the Secretary of War to refer the case of such officer to an Army Board, to be composed of not more than seven nor less than three commissioned officers, to be detailed from those of superior rank to him whose case is under consideration, as far as his grade and the interest of the service will permit. And the said board shall determine upon the case referred to them, and their opinion thereon, with a record of the proceedings, shall be transmitted to the Secretary of War, to be laid before the President for his approval or disapproval; and if, in the judgment of the board, the officer be considered incapacitated for active service, and the President approve such judgment, the said officer shall thereupon be placed upon the list of retired officers according to the provisions of this act.

SEC. 3. *And be it further enacted*, That the President, in his discretion, may direct any officer who shall have served forty years in the military service of the United States to be placed on the list of retired officers as aforesaid.

The amendments were agreed to, and the amendment as thus amended was concurred in.

Mr. BRADBURY. I move further to amend the bill by adding the following additional section:

SEC. 4. *And be it further enacted*, That no vacancy created by the name of any officer being placed on the retired list, shall be filled until it shall be first determined by the President that the wants of the public service require it.

Mr. SHIELDS. The bill itself provides for that. These officers are all subject to the commands of the President at any time, and therefore I do not exactly understand what the Senator means by the amendment.

Mr. BRADBURY. I will explain the amendment. I have not had an opportunity to read the bill, to see whether or not it is suitably guarded in this respect. The object of the amendment is, that when officers who have been disabled shall be withdrawn from the service, the vacancies thereby created shall not be filled more rapidly than the public service requires. It is known that a large number of officers are annually graduated at West Point. Now it may be that a larger number than the public service requires are there graduated. I do not wish to increase the number of officers any more rapidly than the public interests require. I suppose, therefore, there can be no manner of objection to the amendment.

A SENATOR. That restriction is already in the bill.

Mr. BRADBURY. If the restriction is already contained in the bill, the amendment can do no harm, but it will at least have this effect—it will relieve the matter from any misapprehension on the part of the officers.

Mr. SHIELDS. I would say to the honorable Senator that this bill does not create any vacancy, nor does it create any additional officers in the Army, or any additional expense; and that is one of the best arguments in its favor. What the honorable Senator wishes to accomplish by his amendment, can be accomplished by the President under the general law, and under this bill.

Mr. BRADBURY. Then that fact only shows the necessity of our having an opportunity to read a bill before we act upon it. This bill was actually taken up for consideration this morning, before a printed copy of it was placed upon our tables, and having had no opportunity to read it, I felt that some restriction of this kind might possibly be necessary, and I therefore proposed the amendment. If the bill effects the same object, I am surely not disposed to press the amendment, and I therefore withdraw it. I offered it as a matter almost of necessity, having had no opportunity to read the bill before its consideration.

The bill was ordered to be engrossed for a third reading, read a third time, and passed.

TEXAS DEBT.

Mr. PEARCE. This, I believe, is the day which was assigned, by special order of the Senate, for the consideration of the bill "to provide for the payment of such creditors of the late republic of Texas, as are comprehended in the act of Congress of September 9, 1850." I have had some conversation with gentlemen interested in that bill, and it is their desire, as well as my own, that the Senate should consent to postpone its further consideration, and make it the order of the day for Monday next. I am free to say, that there are some facts connected with it, in relation to which I wish to make a statement to the Senate, and I am not now prepared with all the information necessary to enable me to do so.

Mr. GWIN. I do not object to this bill being made the special order for Monday, with the understanding that the Pacific railroad bill shall be the special order for next Wednesday. I wish it to be understood that on that day that bill shall have preference over any other. I agree with the Senator from Maryland, that inasmuch as he is not prepared to go on to-day with his own bill, it may be postponed till Monday, provided the understanding be that my bill shall come up on Wednesday.

Mr. PEARCE. I am satisfied with the proposition of the Senator from California, and I therefore move to take up the bill in relation to the Texas debt, for the purpose of postponing it till Monday.

The motion was agreed to, and the Senate accordingly proceeded to consider the bill.

Mr. PEARCE. I now move that it be postponed, and be made the special order of the day for Monday next, at one o'clock.

The motion was agreed to.

RAILROAD TO THE PACIFIC.

Mr. GWIN. I now move that the bill "for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in Oregon and California, which was made the special order for next Monday, be taken up for the purpose of being postponed until Wednesday next.

Mr. RUSK. I would suggest to the honorable Senator from California that there is no use in that motion, for his bill is now the special order for Monday and will have the preference on that day; and he can then move to postpone it until Wednesday. By leaving it in its present position he may take it up on Monday if the Senator from Maryland should not then be ready to proceed.

Mr. GWIN. I withdraw the motion.

RECESS.

Mr. BADGER. I wish to submit a motion now, which I cannot say is exactly appropriate to the season, but which becomes incidentally appropriate, I think, as if this were within or before the holiday season. That motion is, that when the Senate adjourns to-day it adjourn to meet on Monday next. I make the motion with great reluctance, Mr. President, and at the suggestion of some friends who pointed out to me a special reason why this week should be considered as still within the holidays. We all know, that on the day after to-morrow, is to take place a very solemn and interesting ceremony in this city—the inauguration of the equestrian statue of Andrew Jackson. Persons connected with the Senate in various official capacities, like the rest of us, desire to attend that celebration. If we should sit to-morrow we shall give them business to occupy them during the next day, and they will not be able to avail themselves of the privilege, of which every American citizen here desires to avail himself, to witness that ceremony.

In addition to that, I would mention, in regard to the speedy passage of bills that are before us, that if any gentleman will examine the actual condition of business between the two Houses he will see that very little is to be gained by passing private bills until the other House shall agree to proceed to the consideration of the bills on the Speaker's table.

I had occasion to state here the other day as a reason why I was opposed to making any amendment to private bills sent from the House, unless it was absolutely indispensable, that, according to a statement I had prepared, there were more than two hundred and seventy bills passed by the Senate during this Congress still lying upon the Speaker's table of the House undisposed of, and, so far as I understand, untouched. I hope, therefore, that under these circumstances this Friday will be considered as an appendix to the holidays, and that we shall give it the same favorable consideration, and afford the same relief for ourselves and others as heretofore.

Mr. CASS. I shall vote for the motion of the honorable Senator from North Carolina with the hope that the invitation given to both Houses of Congress to attend the ceremonies of the 8th of January will be accepted and acted on by every member. I think that much is due to the name, and fame, and character, and services of the departed patriot, and I am sure it will meet the warm approbation of the American people.

Mr. ADAMS. Mr. President, I can see no necessity for adjourning over to-morrow in order to attend the celebration of Saturday. I presume that without an adjournment there is no Senator who will not be willing and ready early on Saturday morning to attend it.

As to the state of business referred to by the honorable Senator from North Carolina, it is well known that we have upon our calendar, bills which have passed the House, which will occupy more time than we have to spare, so that we have plenty to do. There is plenty of business in a state of readiness for our action, which requires no action on the part of the House. Under this state of things I ask for the yeas and nays upon the motion.

The yeas and nays were not ordered.

The question being taken upon the motion, it was agreed to.

BRITISH COLONY IN CENTRAL AMERICA.

Mr. CASS. Mr. President, I ask the indulgence of the Senate, at this time, to make what may be considered a personal explanation. The Senate will recollect that I some time since introduced a resolution, which was adopted, calling for some information from the proper Department respecting the establishment of a new colony in the Bay of Honduras, called "the Colony of the Bay of Islands," which was established in July last. We have received the answer of the President and Department of State; and they state, what is altogether correct, that they know nothing about it. This Administration knows nothing upon the subject. But in the correspondence which has been transmitted to us, there is a very extraordinary fact disclosed; and I, for one, as one of the Senators who voted for the ratification of the treaty of 1850, desire, at the same time that this correspondence goes out to the world, to let it be distinctly understood that I am not amongst those who at that time entertained the construction which seems to have been put upon that treaty. If I had been of opinion that any such construction would have been put upon it, I should never have voted for its ratification.

Mr. Everett transmits with his own report, letters to and from Mr. Clayton and Sir Henry Bulwer, who were the joint negotiators of the treaty; and to them is appended the *quasi*, and conditional, if you please so to call it, ratification of the treaty by the British Government. It will be recollected that the treaty provided that there should be no settlement, occupation, colonization, or dominion exercised by either party over Central America. The ratification transmitted by the British Government is in these words:

"In proceeding to the exchange of the ratifications of the convention, signed at Washington, on the 19th of April, 1850, between her Britannic Majesty and the United States of America, relative to the establishment of a communication by ship canal between the Atlantic and Pacific oceans, the undersigned, her Britannic Majesty's Plenipotentiary, has received her Majesty's instructions to declare that her Majesty does not understand the engagements of that convention to apply to her Majesty's settlement at Honduras, or to its dependencies. Her Majesty's ratification of the said convention is exchanged under the explicit declaration above-mentioned.

"Done at Washington, the 29th day of June, 1850.

"H. L. BULWER."

Now, it is obvious that the word "dependencies" gives as ample sphere of operations to any diplomatic ambidexterity as can possibly be required. In answer to that, Mr. Clayton says, that the negotiators on the part of the Governments understood the matter alike; that is, that neither of them understood Central America to be Central America at all, but that both of them understood that upon the face of the treaty, though Central America was included, yet the British claims thereon were excluded. Instead of putting that fact in the treaty itself, as should have been done, or even sending that understanding to the Senate at the time of the ratification of the treaty, nothing of the sort was done. The treaty embraced Central America; and it was voted upon by the Senate under that impression. But now it seems that both negotiators said they did not mean Central America, but only a portion of it. Mr. Clayton says—and the reason I introduce the subject now is, because I desire to disavow for myself the fact here stated:

"The chairman of the Committee on Foreign Relations of the Senate, Hon. Wm. R. King, informs me that 'the Senate perfectly understood that the treaty did not include British Honduras.' It was understood to apply to, and does include all the Central American States of Gautemala, Honduras, San Salvador, Nicaragua, and Costa Rica, with their just limits and proper dependencies."

The treaty does not make any mention of Honduras at all, either of British or American Honduras; but no man denies—the British Government concedes, indeed—that it is part of Central America. Mr. President, for myself, when I voted for the ratification of that treaty, I had not the slightest doubt that it prevented the British Government from establishing any colonial dependency in that part of the country. My friend from Indiana, [Mr. BRIGHT,] and I think my friend from Ohio, [Mr. CHASE,] and I know my colleague [Mr. FELCH] will recollect that I distinctly stated that my object in voting for that treaty was to sweep away all British claim to Central America. I must confess that my honorable friend from Indiana warned me against voting for the treaty. Whether that warning was the effect of instinct or of judgment I know not; but he certainly anticipated no good from the treaty, and voted against it.

In reference to the statement mentioned in the paragraph which I last read, I have called this morning to see our late respected Presiding Officer, whose absence we all so much lament, but who I hope will soon be restored to us, for I am happy to inform the Senate that I found him better. I conversed with Colonel King, and he authorized me to say that there is an entire mistake upon this point. He told me that after this *quasi* ratification came from England on the 29th of June, he had an interview with Mr. Clayton, who desired to know if the treaty should be sent back to the Senate for its action upon this conditional ratification. He told Mr. Clayton, that if it came there for that purpose, it would not get a vote in the Senate. And that till this day he supposed the project of accepting this declaration had been abandoned, and that the treaty stood upon its own provisions. Colonel King further said he had some general idea of a claim of England to cut log-wood in Honduras, but he never thought of its being set up as the foundation of a pretension to establish a colony there.

It will be observed that the very terms of the treaty seem framed to exclude such an effort: for not only does it provide that neither party shall fortify or colonize, but that they shall not occupy any part of the country; and now we have the authentic claim to establish colonies in Central America, but to what extent we are not yet told. Now, I am free to say, that this course on our part, furnishes a far better excuse for the conduct of England, than I had the least idea she possessed. Our negotiator and the Executive Department have committed a great error, unprecedented, I do believe, in the history of diplomacy; and regardless of the constitutional duties of the Senate, have proclaimed the ratification of the treaty, with an understanding changing its construction and vital point, without the knowledge of that body. My object, as I stated, was to sweep Central America clear of all foreign influence, which, by its terms, the treaty effected peaceably. If it did not effect that object, there could not have been the least motive on the part of the United States to enter into this joint arrangement. If we did not effect that, we effected nothing.

Mr. SEWARD. What is the date of the ratification of the treaty?

Mr. CASS. The ratifications were mutually exchanged on the 4th of July, 1850, and the note of Mr. Bulwer is dated on the 29th of June preceding. Between the 29th of June and the 4th of July, Mr. Clayton had this interview with Mr. King, in which Mr. King told him that if the treaty came back to the Senate with that *quasi* ratification, it would not get a vote here, as we all know it would not, and he supposed it had been abandoned. He had no idea whatever that there was any condition attached to it.

Mr. DOWNS, at a subsequent period of the day, rose and said: Mr. President, when the Senator from Michigan made his explanation this morning in reference to the papers which have been laid on our desks, concerning the treaty with Great Britain upon the subject of Central America, I was not in my seat. I had been called from the Chamber but a moment before, and I therefore could not then make the explanation which I intended to make on that subject. I rise now to express the very great astonishment which I felt when I saw, in the Union of this morning, the documents from the Secretary of State's Office. I was surprised to see the construction which Mr. Clayton, the late Secretary of State, placed upon that treaty. I, sir, as well as the Senator from Michigan, certainly never understood the treaty in that form; and I think I may venture to go further, and say that no member of the Senate so understood it.

It will be recollected by yourself, Mr. President, and others who were here at that time, that the treaty was entered into with great circumspection and great caution. Various conversations passed between members of the Senate and the Secretary of State in reference to it. There was a great object to be obtained, and I recollect, for myself, that one great point with me was to get the British out of Central America. I thought that was the whole object of the treaty. I should never have concurred in it if I had not supposed that it effected that object. The only doubt I had was, whether the expression, "Central America," was sufficient to embrace Honduras; but I was assured by the Secretary of State that it was well understood by both parties that that was the very object of the term "Central America;" and it was only on that assurance that I, as well as many others who were consulted, voted for the ratification of the treaty. Why, sir, if the construction of Mr. Clayton and Sir Henry Bulwer were to be allowed, it would, in my opinion, exhibit this Government in the strange spectacle of making a treaty for a particular object—to get clear of the title and claim of Great Britain in a particular section—and then, by an explanation, rendering null and void the object which was in view.

Mr. President, it seems to me that this exposition explains a mystery which has hitherto bothered me a good deal. It explains why it is that, notwithstanding this treaty was made for the ex-

press purpose of getting clear of the title of Great Britain to any part of Central America, she has been setting up that title and acting upon it ever since. That I have never heretofore been able to understand, but I understand it now; because we have the authority of a former Secretary of State, (Mr. Clayton,) which does not seem to have been controverted by subsequent Secretaries of State, justifying the construction of the British Minister, that British Honduras, with its dependencies, was not included within the operation of the treaty. By this construction the whole question is opened, and the whole of Central America is left a prey to the operations of Great Britain; for "dependencies" is so vague a term that it may be extended so as to include not only all the islands in the neighborhood of Honduras, but the whole of Central America.

I do not intend to discuss the subject now, though I may do so hereafter; but, sir, fortunately for the country, I suppose that it will be taken for granted by this body, that a treaty solemnly agreed to, solemnly ratified, and the ratifications of it exchanged, is the law of the land which binds the nation, and that the construction given to it by a Secretary of State in an unauthorized manner, when the ratifications were about to be exchanged, will not be binding law. And what a wide door shall we open for future controversies, if we admit the principle that a paper of such a character as the note of the Secretary of State is to bind the Government.

I would ask Senators to look at the date of the letter appended to this document, written by Mr. Clayton, and addressed to Sir Henry Bulwer. By examining it they will see that there is a very great probability that Mr. Clayton acted in this matter on his own authority, without consulting even the President or the Cabinet. You will recollect, Mr. President, that on the 4th of July, the day of the exchange of the ratifications of the treaty, the then President of the United States was taken sick, and died a few days afterwards. He was certainly confined to his bed on the fifth of that month, and I infer from this circumstance, that Mr. Clayton exchanged the ratifications of the treaty without the authority of the Cabinet or the President; and without consulting the Senate, although they had been consulted in every prior stage of the proceeding.

Why did he not consult with the President, or the Cabinet, or the Senate, before adopting a construction which he ought to have known would not be approved of? As a proof of this, I would ask any impartial man, on every side of the Chamber, whether he would have voted for the confirmation of the treaty if such a construction had been given to it at the time? There are many Senators here now who were then members of the body. Is there any one of them who would have voted for the treaty with that construction? I think not; I take it for granted that no one would have assented to such a construction; I certainly would not have voted for the treaty if I thought there would be any attempt so to construe it.

I did not rise to discuss the subject; I merely wished to make this explanation, and to express my utter astonishment at this portion of our diplomatic correspondence; and I think that when the country see it, it will strike them with as much astonishment as it struck me this morning, when I saw it for the first time.

Mr. DAVIS. Mr. President, I have not read the letter which has been referred to, but I have some impressions in regard to this treaty, and I am not prepared, at this time, to go into the discussion, because it is necessary to understand certain historical facts before doing so. Before the right of Great Britain, to what is called the "Balize," can be discussed understandingly, it is necessary to have a knowledge of many facts. But, sir, I wish to say in this premature stage of this business, that it is known to such Senators as have investigated the history of this subject, that Great Britain, a long period ago—I cannot speak with accuracy as to the date, but I think as far back as 1780—made a treaty with Spain by which she acquired the perpetual right to cut logwood, and other privileges connected with it, in the Territory of Honduras; and she has, for a very long time, exercised jurisdiction over certain portions of that territory, although, according to my recollection, that would not be strictly authorized by the treaty, for the right was limited to the privilege of cutting logwood and other woods of that description. This subject was under consideration, and somewhat discussed, when a question was raised upon an application made here to give aid and assistance to Yucatan, in a revolution which the people of that State were carrying on.

I throw out these suggestions to the consideration of gentlemen more for the purpose of getting them to reflect upon them than of indicating any opinion which I entertain; but I will say that the question upon my own mind was, whether the treaty with Spain, to which I referred, could be considered, in the absence of all reference to it in our treaty with Great Britain, to be abrogated. That was one of the difficulties about the treaty of 1850 which operated upon my mind, because I knew these historical facts, and I suppose many other gentlemen knew them too. I supposed, then, that the question would arise whether or not the terms of this new treaty abrogated the treaty made between Spain and England. But, sir, I will not enter upon that question. I have thought that so much as I have said ought to go out with the suggestions made by the gentlemen who have brought this topic before the Senate. I leave it for the present; but I shall be quite willing, so far as I am concerned, to have it discussed, for I freely admit that I have not been without some anxiety in regard to it.

Mr. CHASE. Mr. President, I remember very well the great embarrassment which was felt by many Senators in voting for this treaty when it was originally presented; and I recollect also, with perfect distinctness, that my honorable friend from Michigan [Mr. CASS] said at the time that he voted for its ratification upon the sole ground that it excluded all pretense for future English interference in Central America. The covenants of the treaty are indeed expressed in the broadest language possible. Neither party is to "occupy, or fortify, or colonize, or assume any dominion over Nicaragua, Costa Rica, the Mosquito coast, or *any part of Central America.*" Now, for the purpose of showing what the British authorities at that time conceived to be included within the limits of Central America, I wish to read an extract from a work which I have before me. It is Johnson's Gazetteer, published in London in 1851, a work of very high authority. Its description of Central America is in these words:

"CENTRAL AMERICA is the long and comparatively narrow region between latitude 7° and 22° north, and longitude 78° and 94° west, connecting the continents of North and South America, and comprising, besides the Central American Confederation, Yucatan, parts of Mexico and New Granada, Poyais, *the Mosquito coast*, and *British Honduras.*"

That is the description which an eminent British authority furnishes to us of Central America. That is the description which we had a right to believe was intended by this treaty when it was presented to the Senate. Now, sir, I am perfectly free to say, for one, that doubting greatly, as I did at the time, the expediency of the ratification, I should never have voted for it had I supposed that any secret construction was put upon it, irreconcilable with the obvious import of its language. It would have been impossible, in my judgment, to have secured its ratification, had its language conveyed the sense which the private interpretation of Mr. Clayton's letter puts upon it. Indeed, I doubt whether any Senator would have voted for the ratification, had it been supposed that at the very time the treaty was under consideration here, a correspondence was in progress, of which the Senate was not apprised, with the view of fixing in advance the construction of the treaty, by imposing upon its terms a sense quite different from their natural and obvious import. I am quite content, however, to acquiesce in the suggestion of the Senator from Massachusetts, [Mr. DAVIS,] and permit the subject to go over for the present.

Mr. WELLER. I suppose that this debate will be continued; I desire myself to say a few words upon this subject, and I do not propose to say them now. I have been astonished at the remarks made by my friend from Louisiana, [Mr. DOWNS,] who seems to be very much surprised at the course pursued by Mr. Clayton upon this subject. I am astonished to hear him say he was surprised at anything, however stupid, that might be done by the late Secretary of State, [Mr. Clayton,] for I never knew him to have any connection with any public affair in which he did not show himself to be excessively stupid, to say the least.

Mr. CASS. The honorable Senator will allow me to say one word with respect to myself, which is this, (and it is confirmatory of the statement made by the honorable Senator from Louisiana:) the Senate are aware, perhaps, that a great majority of both parties were consulted in the progress of the treaty. So far as my understanding goes, Mr. Clayton spoke to me on the subject. I do not know but that I saw the rough draft of it. My understanding certainly was, that the treaty put an end to all questions of jurisdiction on the part of Great Britain to Central America. I agree fully with the Senator as to that. We were consulted, and that was our view.

[Here the conversation dropped.]

HEIRS OF WILLIAM REILY.

On motion by Mr. WALKER, the bill "for the relief of the widow of William Reily, deceased, late a captain in the 4th Maryland regiment of the revolutionary Army," was read a second time, and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to the widow of William Reily, deceased, late a captain in the 4th Maryland regiment of the revolutionary Army, the sum of $2,100, together with interest at the rate of six per centum, from the 1st day of November, 1784, to the 1st day of March, 1852, the principal sum being the amount of the undervalue of the certificate in which William Reily, deceased, was paid his commutation of half pay for life.

Mr. WALKER. Since the bill was introduced, the widow of this revolutionary soldier has died; consequently it will be necessary to strike out of the bill the word "widow," and insert "heirs," and I now move to amend it in that manner.

The amendment was agreed to.

At the request of Mr. BAYARD, the report of the Committee on Revolutionary Claims was read; from which it appears that William Reily was commissioned a lieutenant January 3d, 1776, in the Maryland militia, and on the 1st of June, 1779, was commissioned a captain in the 4th Maryland regiment, by Congress, to take rank from October 15th, 1777, which rank he held until the close of the war. From the records of the Third Auditor's office he was returned entitled to commutation under the resolution of March 22d, 1783, commuting the pay for life to five years' full pay, and that he drew a certificate of commutation for the sum of $2,100 under date of November 1st, 1784. The committee find this application to be precisely similar in its nature and merits to the claim of the heirs of Benjamin Moore, presented at an early period of this Congress for their consideration. That case, involving the same principle, and having been fully and carefully investigated, was reported upon on the 5th of April last, which report the committee, for brevity, adopt as applicable to this case; and being fully satisfied that the depreciation of the commutation certificates was equal to seven eighths of their value, reported the bill.

Mr. BAYARD. I move to amend the bill, by striking out the words "together with interest from the 1st day of November, 1784, to the 1st day of March, 1852." I do not propose now to make any remarks with reference to the allowance of interest. I take it for granted that this bill cannot pass the House at the present session; therefore I will not occupy the time of the Senate now with the objections I have to the allowance of interest. I will simply ask the yeas and nays on my amendment.

Mr. WALKER. I wish I had it in my power to repeat to the Senate the speech which was so ably and impressively delivered a few days since, by the honorable Senator from Massachusetts, [Mr. DAVIS.] He had occasion in the remarks he then made, to refer to the compensation of the officers and soldiers of the Revolution; and he spoke of the debt of gratitude which the country owed to those who exposed their all in that memorable contest. If I could make that speech, with the impressiveness with which it was uttered by him, I should have some hope that the Senate would look at the question under consideration in its proper light. But I cannot do it.

The plain case now before us, is this: In order to keep up and sustain the Army of the Revolution, the Congress of the United States had to pledge the soldiers of that army, that in addition to the monthly allowance which they had, they should receive half

pay for life. This promise of half pay for life, became as much a part of the contract for compensation on the part of the Government, as any other part of the contract made by the Government of the United States with regard to the compensation for services in the war. It is, therefore, a false view of this subject to consider it as a mere gratuity. It was not so. It was one of the most solemn promises which the Government of the United States, or rather the Government of the Colonies at that time, ever made since the first formation of the Government. It was then apprehended that the revolutionary Army would be disbanded, not from any fault on the part of the soldiers, but because in reality, the pittance which was paid them would not support them. And further, the compensation being so small, and the money in which they were paid being so depreciated, from various causes, they were unable even to acquire credit upon the paper in which they were paid. They were consequently embarrassed; and hundreds and thousands of them, as has been so often remarked in Congress, were obliged to support themselves, in a great measure, from their private fortunes, over and above all that they received for their services. Well, sir, the war was closed; how gloriously, the world knows. It is useless for any man to employ language to extol the deeds performed during that period of our country's history. The world knows them, and we are enjoying the benefit secured by the heroism and sufferings of those who took part in that memorable struggle.

But while men are living, it seems that they are always selfish in their treatment of each other. There was a clamor got up among the States at that time, that this was an odious system, and that placing so many officers on the half-pay list was unjust; that it was contrary to the fundamental principles which should control the action of this Government. That clamor prevailed. Something must be done; these men were not dead; they had not passed away from the scenes of action, but were still among the living, and came in contact with their fellow-men; and by this contact, jealousies were liable to be excited. Congress then resolved, if possible, to destroy the half-pay system; and they passed a resolution by which they authorized the proposition to be made to the officers of the Army of the Revolution, that they should surrender their half pay for life, and take in lieu of it, a commutation of full pay for five years. This proposition was authorized to be made upon the solemn promise of the existing Government, that the five years' full pay should be paid to them. Now, it is a strange fact in the history of this Government, that in resorting to this mode of changing the conditions on which the officers were to be paid, the officers themselves were not consulted as to their acceptance of the commutation certificates. The Army was disbanded, and went home; and they being thus scattered over the whole country, could not act in concert, and could do nothing but accept the commutation. They received the certificates pledging so many dollars in value in cash. But when they came to ask for the money upon them—when they came to get their five years' full pay in commutation for half pay for life, they found they could not get from the Treasury one dollar. Of course the vast amount pledged by these certificates caused them to depreciate, and soon they were sold at about one eighth of their nominal value, or for twelve and a half cents on the dollar. In this way the Government redeemed its solemn promise which it had made to the revolutionary officer that he should receive half pay for life. That is, they paid him in certificates of commutation for half pay for life, purporting to be full pay for five years. Those certificates upon which they were promised dollar for dollar turned out to be worth only one eighth of their nominal value. It was thus the Government discharged its obligation. The obligation this day is no less solemn than it was at that. In point of fact, the time, and the injustice done to the soldiers do but sanctify the promise; and now we are called upon to say whether we will redeem it. I wish to throw nothing around the subject that does not properly belong to it. I believe it is due to those officers that we should now redeem that solemn pledge of the Government.

But, sir, it is contended that if we make good the depreciation upon the commutation certificates, we should do nothing more; that we should not allow interest upon the sum, which would accrue down to the present; that we are now to turn them off coldly, and say, "It is true your commutation certificates were thus valueless, but after the lapse of so many years, though you have been kept out of its enjoyment all this time, we say you can but have the principal and not the interest." I could not view that, as a business transaction between man and man, as just. Such a criterion of justice would not be observed as a rule of action between individuals; and now when we are wealthy, with an overflowing Treasury, and these old officers, or their descendants, come forward and prove their case, shall we, with plenty of means to comply with our promise, turn them away and say we will not do it? This is a plain question. I think there need be no discussion about the matter. If Senators now are willing to say that they will not redeem the promise up to its fullest letter, up to equity and justice, let them say so—let the country say so. For my part, I feel I have done my duty in regard to it. I have reviewed the history of the whole transaction in the case of Moore, to which reference is made in the report on this case. I have set forth there the history of the whole transaction. I have bestowed a great deal of labor upon it. I believe every line and word in it is true and is borne out by the documents to which Senators can refer in the Library belonging to the Senate. There can, then, be no deception; and I wish now to place the case upon a plain ground—will the Senate at this day, comply with the solemn promise made at such an early period in the history of our Government? Will they comply with a promise so long refused or not?

Mr. BADGER. I do not see the propriety of the amendment proposed by the Senator from Delaware, [Mr. BAYARD.] I do not consider the question now before the Senate as belonging to the general inquiry whether the Government ought to pay interest. I look upon this case as being one which constitutes an exception to any general rule which can be laid down upon this subject. Congress, during the progress of the revolutionary war, voted to these dischargad officers half pay for life. For reasons which have been stated by the Senator from Wisconsin, it was thought proper to commute that half pay into a sum certain, and to pay at once, instead of paying successive sums in the nature of an annuity. Certificates of commutation pay were accordingly issued, and then, what was the state of the case? The country owed the full amount which the certificate called for; the money was owed, if any nation ever owed a debt, either upon principles of justice or of gratitude. They say, "we will withdraw what we have before granted you—half pay for life—and will give you a sum of money in lieu thereof, and have issued certificates for it." These certificates turned out to be of less value than appeared upon their face. We did not therefore pay them the sum which we offered to them as the commutation for the half pay which we withdrew. This bill proposes to pay to the heirs of the officer mentioned in it, the difference between the nominal value and the actual value of the certificate issued to him; and also to pay interest upon that value.

Now, Mr. President, it appears to me that it is a plain case in which the Government ought to pay interest. I do not speak of the general question with regard to paying interest; I do not speak of the Government being called upon to pay interest upon indefinite claims, when their amount shall have been ascertained. But here is a specific case of a debt acknowledged by the Government, with a certificate of the amount, and the certificate not being of the value which it purported to be; I ask upon what principle, what possible principle reconcilable with the integrity of the Government, can we refuse to pay the difference between the sums which we originally owed, and the value of that certificate which they received? Independent of all other considerations, this is a tardy payment by a most inadequate remuneration, for services rendered to this nation, such as were never rendered nor equaled by any other body of men in the world. The men who served through that long and bloody war, who at last brought it to a successful termination, who served under all the embarrassments and privations of the war, have claims upon the Government for at least some small pittance of the amount which Congress promised should be made good to them, according to the stipulations at the time. I do hope that, waiving every other consideration, we shall treat this as a holy obligation, and as binding as our obligation to pay interest upon the national debt; and that we will not place ourselves in the attitude of refusing to pay revolutionary officers what we have contracted to pay them. We gave them certificates which professed to be for the whole, but which were worthless save for a part. How can we stand in the position of a debtor who has honestly and faithfully discharged his obligations, if we do not make good the deficiency in the principal, and the interest upon it? I hope the amendment of my friend from Delaware will not prevail.

Mr. BAYARD. I do not intend to enter into the general question of the obligation of the Government to pay interest. I shall confine myself entirely to the views presented in this case by the honorable Senator from North Carolina, as to its being peculiar in its character, and requiring the payment of interest without regard to the general principles on which the obligation of the Government with reference to interest, rests. I am perfectly aware that a claim, founded upon the obligation that is entailed upon the Government for services performed during the revolutionary war, is one which is calculated to appeal very strongly to the sensibilities, and may determine the Senate to vote in favor of the allowance of interest. No man would admit, more readily than I would, the extent and value of the services of those who engaged in that struggle. No man would go further than I would, as an exceptive case, for the purpose of relief upon sound principles. But I take this case as it is presented—for I am not familiar with it otherwise—by the Senators from Wisconsin and North Carolina. The officers of the Army of the Revolution, as a matter of contract, were entitled, under a law of Congress, to half pay for life. Subsequently, the proposition was made by the Government to convert that half pay for life into five years' full pay. Now, there certainly could be no obligation—though the honorable Senator from Wisconsin states that they were forced to accept this—on the part of the officers to relinquish the half pay for life, and take the five years' pay in lieu of it. Though the certificate was issued, the officer was not obliged to receive it. He might rest on the former law, and claim the annual pension, if he considered it preferable as regarded his interests; but the probabilities were, that five years' full pay, taking the ordinary contingencies of life, would be a greater compensation to the party than half pay for life; and, therefore, those who saw fit, accepted the substitute, and among others, as I understand, the person in behalf of whose heirs the present bill is to be passed was of that number. What, then, was the contract of the Government? It was, by the acceptance of the officer, to pay him five years' full pay; and then, not being in a condition to pay the money, it issued a certificate bearing interest. If that certificate had never been paid—I do not understand that it is denied in this case that it was paid, with interest upon it, according to the contract of the Government—there might be a great deal of force in the argument on the other side. But you are now asked, on the ground that the credit of the Government at that time was low, and its securities below par, and though, subsequently to that, it has redeemed the certificates, and complied with its contract, both as to principal and interest, to make a gratuity, and allow interest upon it, as if it was a matter of contract. It seems to me that the duty of the Government cannot come within any such obligations.

I fear the precedent which may be set in this case. You may take this step now, and we can scarcely foretell the result with the vast number of claim agents throughout the country, with the regularly organized system into which they have got now, of hunting up all the stale claims when the lapse of time has been so great that the memorial of the events, and the question even of payment or non-payment is a matter resting in doubt and uncertainty. We all recollect the case brought forward by the honorable Senator from Georgia, [Mr. DAWSON,] at a former session, where a false claim was set up by some as being heirs of the revolutionary officers, which was presented and paid at the Treasury, and subsequently, at the last session of Congress, we again allowed that claim to the rightful heirs. That shows the uncertainty of payments of this kind, founded on events, when the

means for ascertaining the true facts have passed away.

I put this on the ground that the contract of the Government has been complied with. You may say the officer parted with his certificate in consequence of the Government's want of credit at the time, and that he could not sell it at its value; but we have paid our certificates according to the contract, and with interest, and we are now asked not only to make good its diminished value, but to make it good with interest for sixty-seven years. I think it is carrying the principle of relief too far. I think the result will be, that your continental bills will be brought forward whenever they can be hunted up, and we shall be told that they were worth, not twelve cents on the dollar, but not more than one cent, and we shall be told that those who held them at the time they were issued, received them probably for provisions furnished to the troops. Their patriotism will be shown to us, and then, with no counter evidence before us, you will have those bills presented at the Treasury and interest demanded upon them. I dare say there are plenty of them remaining. Nor can I see any difference myself in the obligation of the Government to pay them, if you are to pay interest on these certificates in consequence of their reduced value for your want of credit. If you are to pay the difference of the value, with interest upon these certificates, on no principle that I can see could you refuse to pay the continental bills, with interest upon them from the time they were issued. I cannot sanction the principle of the allowance of interest. If the facts are true as regards the depreciation of the value of the certificates, I may not object to reimburse them as a gratuity. But I will not violate a great general principle, which I think necessary to preserve the Government from peculations to a great extent. I do not think the Government should pay interest, except in cases of contract. I will not vote for a bill which involves the payment of interest on a claim which may not have been presented during the period of thirty or forty years. This does not, therefore, in my opinion, rest on the ground of a contract; if it did, I should say we were bound to pay the interest, no matter what was the lapse of time; but in this case, the contract has been complied with. The commutation certificates have been constantly presented—very few are remaining—and they have always been paid. I cannot, therefore, vote for this bill, which will make the Government not only pay the commutation, according to the contract, but will compel us to give a gratuity, and not only give a gratuity, but will lead us to adopt the principle of paying interest upon a gratuity for a period of sixty-eight years.

Mr. WALKER. I think if the Senator from Delaware will give me his ear a moment, I can give him a sound distinction between the case pending before the Senate, and the case which he presumes of continental money. Before doing so, however, let me notice another point. He says he cannot consent to the payment of these commutation certificates, for the Government has already once paid them with interest.

Mr. BAYARD. No, sir, I am misapprehended there. I did not say that I would not consent to the payment of the commutation certificates; I said that the Government having paid the commutation certificates with interest, I could not agree to give a gratuity founded on the fact that their value was less than the face of the paper, and on that difference of value to allow interest, any more than if, ten years ago, when your stock was under par, you had issued stock and a party had accepted it, and he was obliged to sell it for eighty per cent., or at sixty or seventy-five per cent. of its nominal value, that subsequently we would redeem it with interest. I would not agree to give the difference of interest.

Mr. WALKER. That is the statement. The Senator would not now make up the loss to the revolutionary soldier upon his commutation certificate, when the commutation certificate has, in point of fact, been paid by the Government with interest. Now, sir, look at it a moment. These men fought through the Revolution, and as every one knows who knows their history, they were unable to live upon the compensation which was given to them, and most of them, as in the case mentioned by the Senator from Massachusetts, [Mr. DAVIS,] the other day, came out of the war ruined in fortune, though they anticipated that they would, from time to time, get this half pay for life, and upon that might struggle along.

But their hopes in this regard were soon blasted. They could not have even the half pay for life paid annually; but the first thing they knew was, that local agencies throughout the country were possessed of commutation certificates, that is, certificates pledging them at the Treasury of the United States, five years' full pay, which they felt themselves compelled to take in lieu of the half pay for life. When they saw that they were to be reduced so greatly, for it was not a gratuity but a promise, they had a right to calculate, when they presented the certificate to the Treasury, that they would be entitled to the money; but when they presented them, they found that there was no money there for them, and since that was the case with all, the certificates were almost worthless.

Now, look at the operation of the principle contended for by the Senator from Delaware. If one of the commutation certificates, which bore upon its face interest, happened to be issued to a man of wealth, all he had to do was to put it in his pocket, keep it until the present day, and then come forward, and they would have to audit and pay it at the Treasury Department. But when that same commutation certificate was issued to the scarred and war-worn, penniless soldier, who had nothing left of his wages—nothing left of his half pay, nothing but this worthless certificate—he had to sacrifice it for his subsistence for the time being, and he lost all. It is now contended that his damages, resulting from the situation in which the Government placed and left him, shall not be paid by your country. Is that just? You give all the advantage to the wealthy for the forty or fifty years during which he would have sold the certificate at a loss. But to the poor man, who was obliged to use his certificate to sustain his existence, we turn coldly and say that he can receive nothing. That, sir, does not strike the heart that is in my bosom as being either just or legal. I cannot refuse to these men a compliance with our promise in its full letter and spirit, up to the last line that can be marked out as the boundary of justice.

But now to advert to the case of the continental money. If the Senator had looked particularly into it, he would have found this vast distinction between that money and the commutation certificates. Those certificates were issued and paid to those men—in what way? If the certificate was for $1,000, he had to take it for $1,000; but let me appeal to the older members of the Senate, and those who have examined the subject, to bear testimony to what I say in regard to the continental money. From time to time orders were made at what rate the continental money should be paid out; and do not Senators remember that the order was finally made that it should be paid at the rate of one hundred for one, though a vast majority went into circulation at the rate of forty for one? What justice would there be in making up at this day the full value of that money with interest? Those who took them up, speculated upon the country, and took them up with the promise of one hundred, or forty, or fifty, or seventy, or eighty for one. They were speculators on the country; but the soldier had to receive his commutation certificate at par. He could not get one hundred in the value of the certificates for one dollar due him by the commutation. Not at all. He had to take it dollar for dollar; and when he took his certificate, and rested upon his country to pay him in cash, he found that it would not do it, and his certificates depreciated on his hand. This, then, being the discrimination between the two cases, I beg that the Senator from Delaware will not insist upon the parallel. I hope the true distinction between the case of a revolutionary soldier receiving his commutation certificates, and those receiving continental money at the rate of one hundred dollars to one, may be taken, and that the Senate will act in view of that distinction.

Mr. BAYARD. I do not see the difference between the case of the continental money and the commutation certificates, as stated by the honorable Senator from Wisconsin. It may have been that the continental notes were issued at different values at different times, but at length they became utterly worthless; and it would, therefore, be simply a question to remunerate to the extent of the difference between their value when issued, and that to which they ultimately came, which was nothing. Therefore, you ought to repay the principal with the interest in that case, if you pass this bill. I do not here object to your making a gratuity to the revolutionary soldiers, in lieu of the depreciation of the commutation certificates, but I object to your allowing interest upon that gratuity, and I shall adhere to that objection. It seems to me that it is a dangerous principle, as I stated before. There is a great deal said about the war-worn and scarred soldiers, and all that, but I rather think outside the Senate it is pretty well known that about one half of the sums which are received through private bills go into the hands of claim agents, and they are the authors of two thirds of the claims which come before us.

Mr. SEWARD. I have listened with interest to this debate, and I think it involves very important principles in regard to the conduct of the Government. I confess that the argument of the learned and honorable Senator from Delaware is very satisfactory and conclusive to my mind. A Government is, after all that may be said, a person subject to the circumstances, and bound by the same moral and social obligations which affect and bind individuals. There is a moral obligation upon every individual, to pay his debts—that is, to pay what he has contracted to pay; and there is no obligation upon any one to pay more. I do not know any distinction between Governments and individuals in this respect. They are alike subject to accidents and disasters, the result of circumstances which are providential; and when the Government pays all that it promises to pay, pays the full value of principal and interest, like an individual, it is discharged from all its obligations. Now, in this case, the Government issued to the officer, named in this bill, an obligation to pay a certain sum, bearing interest. That obligation, instead of presenting himself, he assigned to others, and the assignees have presented it at the Treasury, and it has been paid, principal and interest, in full. What more is required? The bill proceeds on the principle that the Government is not only bound to pay its debts, but that it is also bound to guaranty that its credit shall always be uniformly sound. That is what no individual can do, and what no Government ever did. It cannot guaranty that its credit shall always be so strong, so efficient, so safe, in the changes which are incident to nations, as that those who hold the securities shall never have any difficulty in realizing at any time, by assignment or transfer, the full equivalent of Government obligations.

But there is another consideration to be alluded to here; and that is, there is a reasonable limit to the period in which a prudent and wise Government can pay interest, even on acknowledged debts. It strikes me as a very frightful precedent, to bring up a case looking back sixty-one years, with a proposition to pay interest upon it. It either should be presented at an earlier period, or there should be, with Governments as well as with individuals, some period of time to guard against frauds by a statute of limitations. This may seem to be a harsh principle, but is one that is every day practiced on, and its necessity is recognized. The Senate has passed more than once, certainly twice since I have been here, a bill for the payment of sufferers by the French spoliations. It is well understood that the principal of that debt amounted to between ten and fifteen millions of dollars, and yet those of us who have believed it just and wise to pay the debt, and recognize the reasonableness and propriety of paying it, have not insisted on that amount, but have been content to appropriate five millions of dollars. So far from proposing to pay interest for forty or fifty years, with the whole principal, we propose to pay only a third or half of the principal. And this principal has been settled and acknowledged from the time when the question first rose seriously of reimbursing the sufferers by French spoliations at all.

Again, if we adopt the principle contained in this bill we ought to be equal and just, but I confess that I see no good grounds for paying interest sixty or seventy years on this individual claim, and paying neither interest nor principal on others just like it. If we agree to pay interest here, a general bill should be framed which should provide for the payment of the principal, in all such cases, and establish uniformly the time for which interest will be allowed. It is with great regret that I feel compelled to oppose this bill. I am willing to vote liberally for the payment of all claims

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against the Treasury when they are properly established, but I find myself obliged to vote against the passage of this bill in its present shape. I subscribe, however, to the views presented by the Senator from Delaware, and I am willing, in view of heroic merits and heroic sacrifices, we should indemnify the officers of the Revolution for their losses. I desire to return my thanks to the honorable Senator from Delaware for the manner in which he has presented this subject to us, so as to enable me to give my vote intelligibly and safely.

Mr. UNDERWOOD. I wish to state, that if we could have a general bill, embracing the object which I will present to the Senate in a few words, I would vote for it with great pleasure. But, for reasons already assigned by the Senators from New York and Delaware, I cannot vote for the payment of interest, or for this bill. Here is the ground upon which injustice has been done to the officers of the Revolution. They were promised half pay during life. After the termination of the war, the inability of the Government to pay was so great, that the promise could not be complied with: and the Government, being unable to comply with the promise, compelled the officers to accept of these commutation certificates of five years' full pay in lieu of half pay for life, which had been promised. Many of the officers did not wish to accept these certificates of five years' full pay in lieu of the half pay for life; but they were compelled to do it or get nothing. Some of the officers had an advantage by this method of payment, in this way. They had the five years' full pay in hand, and thus they could obtain the interest until the certificates were fully discharged. They, or their assignees, had them, and had the benefit of them. But some of these officers lived forty, fifty, and in some cases sixty years after the close of the war. Those who lived so long would have received a much greater compensation had they been allowed their half pay for that long period, than they did receive by the acceptance of the five years' full pay. Their compensation would have been three or four times as great. And the losses of different officers in this way were in proportion to the length of time they lived after the war. That loss was forced upon them by the legislation of Congress compelling them, as it were, to take the commutation certificates instead of the half pay for life. Congress was sensible afterwards of that injustice; and in 1832 they gave all the officers then living their half pay for life from that time till they died, thus acknowledging the injustice they had done them, and atoning for it by giving them half pay from that period until their deaths. But Congress left the cases of all who had died previous to 1832 unprovided for, and made no compensation for their losses. Now all we can do, and all I think we ought to do, is to provide by a general bill that those officers who drew commutation certificates for five years' full pay, shall be allowed, after deducting the amount of these certificates, their half pay for life. Then, if they lived sufficiently long to leave a balance in their favor after deducting the amount of the commutation certificates, by allowing the half pay for life, pay that balance out of the Treasury. And if they did not live sufficiently long—and I know many died shortly after the war—so that their five years' full pay amounted to more than they would have received by being allowed half pay for life, then the families of such gained something by the commutation.

I am willing to vote for any general bill which will allow half pay for life, according to the terms of the revolutionary Congress, deducting from that half pay for life, the five years' full pay which they have received. If, after making that deduction, there is a balance due to any officer, or his representatives, I think it ought to be paid, and I would vote to pay it with the utmost cheerfulness. I would do this on the ground of the poverty of the Government, and its inability to make provision for them at that early period. We have no facts before us sufficiently to enable us to legislate intelligently upon the subject. In order to do it, it is necessary to know the whole number of officers, and the amount of money pledged by the certificates which were granted, giving five years' full pay. If we had the amount of all these certificates, I presume we should find that millions of dollars have been already paid. In the absence of that knowledge, you cannot tell what effect such a principle as we should establish by the passage of this bill will have. Perhaps the chairman of the committee which reported this bill can inform us now what was the amount of all the certificates issued giving five years' full pay; I do not remember; it must have been many millions. If, then, we are legislating upon the basis that there was a depreciation in the value of these certificates, so that they would bring but twelve and a half cents upon the dollar, we set a precedent that will involve many millions to meet.

It is therefore manifest that this is a very important subject, a very large subject; and we do not know the extent to which it may go, unless we know the amount for which all these certificates were granted. Having these views, it seems to me that a general bill, granting half pay for life, after deducting the commutation, does justice to everybody, and that it can only be done by a general bill.

Mr. WALKER. I will make this proposition to the Senate, if they agree to vote down the amendment of the Senator from Delaware. There was a period in our financial history during which it is known we were unable to pay our debts. The bill as it now stands, proposes to give interest from 1784 to 1852. If the amendment of the Senator from Delaware is not agreed to, I will move to strike out "1852," and insert "1832," prior to which time we know we could not pay our debts. The Auditors and Comptrollers of the Treasury have taken the ground, upon general principles, that the Government ought not to pay interest for the period before that time. If, then, the amendment of the Senator from Delaware does not prevail, I will move to strike out "1852," and insert "1832." That would give interest up to the year 1832—a twenty years' deduction. I believe this to be a fair compromise between the differences of opinion upon this subject. For my own part, it would be gratifying to me individually, to my sense of justice, to see the interest given entirely, for in many of these cases there were no persons competent to present them to Congress, as they should have been presented at the proper period. Many of the parties interested were left in poverty. But after a while, there lived a lady of great amiability and great intelligence. She presented her case to Congress. Congress gave relief to her as the child of a revolutionary soldier. That revived the hopes of the remainder of those old patriots and of their children; and they were unable to see why, in the case of that lady, this tardy justice of the Government should have been done, and in their cases it should be refused. It was this fault, if fault it was—but I do not think it was—on the part of Congress, that revived the hope that in all probability had long expired, that they were ever to get anything as an acknowledgment of the justice due their ancestors, or the discharge of the obligations which the Government had assumed. I say that revived their hopes. They came forward consequently, with a few cases, and they have been examined and found meritorious.

There is not even the lack of record evidence in regard to their right. There has been no lack of proof of the actual loss sustained upon the certificates; and in each case a report has been made. I shall, however, as these different views are entertained, propose in this bill to limit the interest up to the year 1832, to which time we know that the Government was unable to pay its debts.

Mr. BRODHEAD. I would inquire of the Chair, whether the honorable Senator from Wisconsin could not offer his amendment now and have it first considered? Has he not the right to perfect the bill before the question is taken upon the amendment of the Senator from Delaware?

The PRESIDENT. The Chair is of the opinion that the question should be first taken upon the proposition of the Senator from Delaware.

Mr. SEWARD. I suppose it will be in order to move to amend the amendment by striking out "fifty-two," and inserting "thirty-two," as suggested by the Senator from Wisconsin.

The PRESIDENT. Certainly it would be in order to move to amend the amendment.

Mr. WALKER. Then I move to amend the amendment by striking out "fifty-two," and inserting "thirty-two."

Mr. HALE. I do not want to say one word about the amendment proposed, because I am indifferent about it. And I do not wish to oppose a claim of this sort; but I think the Senate should look at it carefully. If you pass this bill and establish the principle it contains, you virtually say to all the holders, and the heirs of all those who ever held certificates of this sort, if they come to Congress and prove the depreciation of them, you will do the same act of justice for them which you now propose with regard to the heirs in this case. We have now a pretty large sum in the Treasury, and I do not know but it will be as good a use as can be made of the money to bestow it in this manner. I should certainly rather spend it in this way than to employ it in making war upon Spain for the purpose of taking the Island of Cuba. But I think we had better deliberate a little before we take this step. It seems to me that a measure which is to pledge Congress to such a very wide field of legislation as this will open, had better not be adopted upon a private bill. But agreeably to the suggestion made by some other Senators I think we should adopt some general bill upon the subject. When you once establish the principle, I think it will go beyond the revolutionary war. I do not remember, but my impression is that the Treasury notes, in which the Government paid the soldiers in the war of 1812, were sold in the market at a depreciation of something like twenty per cent. The same principle which will compel you to allow the difference between the commutation certificates and their actual value to the officers of the Revolution would compel you to make up to the soldiers of the war of 1812 the difference between the par value of the notes and what they actually received. I think, if I am not mistaken, that in New England these notes were sold for eighty cents upon the dollar, and I do not know any difference between the two cases, which would not compel us to treat them alike. I do not know but it may be a very pleasing idea, and one that is quite consolatory to the minds and the humanity of Senators individually, to think of remunerating all the sacrifices that were made in the war of the Revolution; but you cannot do it. A great many of the most severe privations and the heaviest sacrifices were not those which can be paid with money. Houses were burnt, families were driven from the peace and quiet of home; and all the ordinary operations of civilized society were, in different sections of the country, entirely defeated and broken up; and when you undertake to go down and weigh, measure, and compensate the perils and sacrifices of that day, you will find that it cannot be done. When you have done what it is proposed by this bill, and by a general measure like it to do, you will have stopped very far short of compensating even the most meritorious sacrifices made by those who endured the privations and perils of that early contest.

But I am not going to oppose this bill. I am not going to vote against it. I simply make this suggestion that we may understand, before we do pass it, the door we are opening for applicants to come in on the National Treasury. With these views, if the Senate see fit to pass the bill, I shall be one of the last to interfere.

The PRESIDENT. The Chair is of opinion that the Senator from Wisconsin can propose his amendment to the bill now. It is a mere question of striking out. The Senator from Wisconsin proposes to amend the bill by striking out "fifty-two," and inserting "thirty-two."

Mr. ADAMS. It seems to me that, according to the usual course of proceeding, the question should be first put upon the amendment of the

Senator from Delaware; but I care nothing about that. I desire, however, to make a few remarks upon the general subject.

It is a very ungrateful task for any Senator to vote against a proposition to pay either a revolutionary soldier, or the descendant of a revolutionary soldier. We often hear suggestions made in reference to obligations resting upon the country to remunerate the services of those soldiers. Sir, it is utterly impossible that compensation can be made to the revolutionary soldiers for their services and sacrifices, for they have long since passed away; but we find their descendants coming forward and setting up claims. I think I have witnessed, upon this floor, very great injustice done by the descendants of revolutionary soldiers to the merits of their ancestors. The services of the revolutionary soldiers have become common property; they were intended to be for the benefit of their children, and of their country; they did not expect to be paid in money for those services. Yet we are asked daily by their children, and their grandchildren to pay for services, for which their fathers and grandfathers would have spurned receiving money as a compensation.

They fought for the liberties which you have heard spoken of, and they achieved them, and receive their country's gratitude. Many of them were content with their losses, and thought themselves well paid; but now it seems that every one who can claim to be a descendant of a revolutionary soldier, is going back and hunting up some claim or other to get paid for his services in money. It is utterly impossible that we can make this payment. The Government has paid this debt once. If the Government did not pay, it was the soldier's misfortune. If any of these meritorious persons lost the compensation for their services from want of ability on the part of the Government to comply with its engagements, it was their misfortune. They never complained of it in their day. I am willing—I am sure I have no great objection—to pay losses which were actually sustained; but I am not willing to pay interest for three quarters of a century, because it would be, in my conception, setting a precedent which would result in a great expenditure of money. It is admitted that those who were able to hold on to their certificates received their money with interest. Others lost—some more, some less. It was their misfortune. They sustained their losses at that time, and I do not think it is any injustice to their children to consider their losses as common property with the great benefits resulting to the country from their services. I can see no principle of justice or equity which demands the payment of interest in this case, up either to 1832 or 1852.

Mr. BRODHEAD called for the yeas and nays on the amendment of Mr. WALKER; and they were ordered.

Mr. CHARLTON. If we should adopt the amendment of the Senator from Wisconsin, I presume it would be competent afterwards to adopt that of the Senator from Delaware?

The PRESIDENT. Certainly.

Mr. WALKER. As the bill at present reads, it gives interest down to 1852. I propose to give interest only down to 1832, from which time the Government has been able to pay its debts.

Mr. CHASE. My objection to the amendment of the Senator from Wisconsin is simply this: If this be a debt due to these parties, it ought to be paid, and paid with full interest; if it be not a debt which is due, the Government is not under any obligation to pay it, and should not pay. Another reason is, that I think, when we are on this subject, we had better dispose of it altogether; and just as certainly as we divide the interest now, the parties concerned will come before us again at the next Congress, or at some future Congress, and claim the twenty years' interest upon the same ground upon which they claim the amount now proposed to be paid.

The amendment of Mr. WALKER was agreed to by the following vote:

YEAS—Messrs. Borland, Brodhead, Catheart, Charlton, Clarke, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fish, Houston, Jones of Iowa, Morton, Rusk, Seward, Smith, Wade, Walker, and Weller—20.

NAYS—Messrs. Adams, Atchison, Badger, Bayard, Bradbury, Bright, Brooke, Butler, Chase, De Saussure, Hale, Mangum, Norris, Spruance, Sumner, and Underwood—16.

The question recurred upon the motion of Mr. BAYARD to amend the bill by striking out altogether the provision for the allowance of interest.

Mr. BAYARD. Upon that amendment I ask for the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Bradbury, Bright, Charlton, De Saussure, Dodge of Iowa, Felch, Geyer, Houston, Jones of Iowa, Norris, Smith, Spruance, and Underwood—16.

NAYS—Messrs. Badger, Borland, Brodhead, Brooke, Cathcart, Chase, Clarke, Dodge of Wisconsin, Downs, Fish, Gwin, Hale, Mangum, Morton, Seward, Sumner, Wade, and Walker—18.

So the amendment was not agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. BAYARD called for the yeas and nays upon the question of ordering the bill to be engrossed for a third reading.

The yeas and nays were ordered, and being taken, resulted as follows:

YEAS—Messrs. Badger, Borland, Brooke, Catheart, Clarke, Dodge of Wisconsin, Downs, Fish, Gwin, Houston, Mangum, Morton, Seward, Wade, Walker, and Weller—16.

NAYS—Messrs. Adams, Atchison, Bayard, Bradbury, Bright, Charlton, Chase, Davis, De Saussure, Dodge of Iowa, Felch, Geyer, Hale, Hamlin, Jones of Iowa, Norris, Smith, Spruance, Sumner, and Underwood—20.

So the bill was rejected.

Mr. HALE. Having voted with the majority, I move that the vote refusing to order the bill to a third reading, be reconsidered.

The PRESIDENT. That motion will be entered upon the Journal.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 6, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the call of committees for reports, beginning with the Committee on Elections.

THE GARDINER CLAIM.

Mr. KING, of New York. As the business before the House is the call of committees for reports, I presume now may be a proper time to call up, for the consideration of the House, the bill reported by the select committee appointed to inquire into the Gardiner claim.

The SPEAKER. That is the business in order if the gentleman calls it up. A motion is pending to recommit the bill.

Mr. KING. I propose to let that motion stand, in order to keep the bill before the House. I ask now that the bill may be read, and then I propose, with the consent of the committee, to offer an amendment.

The bill, with the amendments, was then read through by the Clerk, as follows:

A Bill to prevent frauds upon the Treasury of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all transfers and assignments hereafter made of any claim upon the United States, or any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor; and all powers of attorney, orders, or other authorities, for receiving payment of any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof.

SEC. 2. *And be it further enacted,* That any officer of the United States, or person holding any place of trust or profit, or discharging any official function, under, or in connection with any Executive Department of the Government of the United States, or under the Senate or House of Representatives of the United States, who, after the passage of this act, shall receive any gratuity from any claimant against the United States, or shall act as an agent or attorney for prosecuting any claim against the United States, or shall in any manner, or by any means otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and, on conviction, shall pay a fine not exceeding twice the amount of gratuity, fee, or compensation, received by the person so convicted, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court, in its discretion, shall adjudge.

SEC. 3. *And be it further enacted,* That any Senator or Representative in Congress who, after the passage of this act, shall receive any gratuity from any claimant against the United States, or shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner or by any means, for such compensation, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and, on conviction, shall pay a fine not exceeding twice the amount of the gratuity or compensation received by the person convicted, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court, in its discretion, shall adjudge.

SEC. 4. *And be it further enacted,* That the provisions of this act, and of the act of July twenty-nine, eighteen hundred and forty-six, entitled "An act in relation to the payment of claims," shall apply and extend to all claims against the United States, whether allowed by special acts of Congress or arising under general laws or treaties, or in any other manner whatever; and every offense against the provisions of this act shall be a misdemeanor.

Mr. KING proposed to amend the bill by inserting after the word "States," in the eighth line of the second section, the following:

Or agree to receive, or receive, except by inheritance or marriage, any share or pecuniary interest in any claim against the United States.

Also, to amend the third section, by inserting in the fourth line, after the word "States," the following:

Or agree to receive, or receive, except by inheritance, bequest or marriage, any share or pecuniary interest in any claim against the United States.

Mr. KING. When the committee made their report upon this subject, it was their design simply to submit the testimony which they had taken, and to report a bill which they hoped would provide a remedy against attempts at fraud upon the Treasury, and to furnish a means to ascertain and correct imputations, which I believe, indeed I may say, from my intercourse with the members of this body, I know are groundless, but which, nevertheless, are made general against Congress. It is due to the honor, it is due to the character of the Government and of Congress, that there should be no mistake or uncertainty about the law in reference to any act of impropriety of this character, impeaching the motives of a member of Congress or officer of the Government, in reference to the support or allowance of any bill or claim. A member of Congress should be precluded from the right to vote, as he is by our rules of order in all cases where he has a personal interest in a measure.

By the bill reported, it is provided that in all cases where he has such interest procured during his membership, he shall be deemed guilty of a misdemeanor. Misdemeanors are impeachable offenses, and for this reason the committee inserted that clause in the bill. It opens to prosecution by impeachment every offending officer of the Government, where impeachment is proper. It opens also, indiscriminately, from highest to lowest, every officer of the Government who violates the provisions of this law to indictment by a grand jury, and subjects the offender, upon conviction, to imprisonment in the penitentiary, or to fine, or both, according to the discretion of the court.

The subject does not, in my judgment, or in the judgment of the committee, require any extended elaboration or explanation. The report and bill have been printed and before the House for some time, and I ask that they may now be taken up for consideration.

Mr. OLDS obtained the floor.

Mr. HAVEN. I ask the gentleman from Ohio to yield the floor for a moment, to allow me to offer an additional section to the bill, with the view that it may be printed.

The SPEAKER. The Chair will remark to the gentleman from New York, that a motion is now pending to recommit the bill. It will not be in order to offer any amendment while that motion is pending.

Mr. KING. I believe the gentleman from Ohio, [Mr. OLDS] has the floor. I have no objection to the amendment which my colleague [Mr. HAVEN] proposes to offer; and, with the understanding that he will renew the motion to recommit, when he shall have presented his amendment, I will withdraw the motion. My object is to keep the subject constantly before the House.

Mr. HAVEN. I will renew the motion.

Mr. KING. Then I withdraw the motion to recommit.

Mr. HAVEN. I now offer the following as an additional section to the bill, viz:

SEC. 5. *And be it further enacted,* That if any person or persons shall, directly or indirectly, promise, offer, or give, or cause, or procure to be promised, offered, or given, any money, goods, rights in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in

action, bribe, present, or reward, or any other valuable thing whatever, to any member of the Senate or House of Representatives of the United States, after his election as such member, and either before or after he shall have qualified and taken his seat; or to any officer of the United States, or person holding any place of trust or profit, or discharging any official functions under or in connection with any department of the Government of the United States, or under the Senate or House of Representatives of the United States after the passage of this act, with the intent to influence his vote, opinion, decision, or judgment, or with the intent to bias his mind on any question, matter, cause or proceeding which may then be pending, or may by law, or under the Constitution of the United States be brought before him in his official capacity, or in his place of trust or profit, and shall be thereof convicted, such person or persons, thus offering, promising, or giving, or causing, or procuring to be promised, offered, or given any such money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation or security for the payment or delivery of any money, goods, right in action, bribe, present or reward, or other valuable thing whatever, and the member, officer, or person, who shall, in any wise accept or receive the same or any part thereof, shall be liable to indictment as for a high crime and misdemeanor before any court of the United States having jurisdiction for the trial of crimes and misdemeanors, and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, or given, and imprisoned in a penitentiary not exceeding three years, and the member or person convicted of so accepting or receiving the same, or any part thereof, shall forfeit his office and place, and any person so convicted under this section, shall forever be disqualified to hold any office of power, trust, or profit under the United States.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House of the passage by that body of the following bills and resolution, viz: Senate bill No. 301, to authorize the issuing of duplicate land warrants in the names of Lucretia Barton and Prudence Blandon; An act to continue half pay to certain widows and orphans; and a resolution agreeing to the amendment of the House of Representatives to the joint resolution, No. 67, entitled "A resolution allowing, in certain cases, to the owners of steamers, further time to make the necessary preparation to bring their vessels within the provisions of the act entitled 'An act to amend an act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes,' approved August 30, 1852."]

[Mr. BARRERE, from the Committee on Enrolled Bills, presented as correctly enrolled the following bill and resolution; which received the signature of the Speaker, viz:

"A bill for the relief of Mrs. Margaret L. Worth;" and "A resolution authorizing, in certain cases, the owners of steamers further time to make the necessary preparations to bring their vessels within the provisions of the act entitled 'An act to amend an act entitled An act to provide for the better security of passengers on board of vessels propelled in whole or in part by steam, and for other purposes,' approved August 3', 1852."]

The SPEAKER. The Chair will remark to the gentleman from New York [Mr. HAVEN] that, strictly speaking, it is not now in order to amend any part of the bill except the first section. In other words, the bill must be considered by its sections, in regular order.

Mr. HAVEN. I supposed so. I, at the same time, wanted the House to have notice of the amendment which I propose. I wished my colleague [Mr. KING] to be placed in the position in which he desired to be placed, to renew the motion to recommit.

Mr. JONES, of Tennessee. With the permission of the gentleman from Ohio, [Mr. OLDS,] I will say that I hope the House will unanimously agree that the amendment proposed by the gentleman from New York may be considered as now pending. The reason why I suggest it is, that there is a probability this bill will be finally disposed of under the previous question, and if his amendment is not now considered as pending, it will be cut off by the previous question.

The SPEAKER. By unanimous consent, each amendment may be presented, and then in case the previous question is called and sustained, they will be taken up and disposed of in their order. If there be no objection, that course will be pursued in regard to this bill.

No objection was made, and the amendments were considered as pending.

Mr. STEPHENS, of Georgia. I hope, also, by unanimous consent, these amendments will be ordered to be printed.

Mr. STANLY. I have no objection to the printing, provided it will not delay the passage of the bill; but as they will appear in print in the Globe to-morrow morning, I think that printing will answer every purpose.

No objection was made, and the amendments were ordered, by unanimous consent, to be printed.

Mr. FREEMAN. I wish to offer another amendment. The bill now reads:

"Shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors," &c.

The terms of the bill would allow a party to be indicted in any court of the United States having jurisdiction of crimes, but a party ought not to be indicted except in a county having jurisdiction of the person also. I propose to amend by inserting after the word "jurisdiction," the words "of the party, and." It will then read, "shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction of the party, and for the trial of crimes and misdemeanors," &c.

Mr. OLDS occupied the floor an hour upon the subject of Mr. Corwin's connection with the Gardiner claim, maintaining that, according to the report of the investigating committee, it was established that that gentleman had not divested himself of all interest in the claim before accepting the office of Secretary of the Treasury. [His remarks are published in the Appendix.]

Mr. STANTON, of Ohio. I wish to ask the gentleman one question. I wish to know if he differs from the committee when they say that there is no evidence tending to prove that Mr. Corwin had any knowledge of a fraud in connection with this claim?

Mr. OLDS. The gentleman has the floor, and has the evidence before him.

Mr. STANTON. Well, sir, I move that the bill be recommitted to the select committee.

Mr. CLINGMAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. If that motion prevails, what will become of the bill now under consideration?

The SPEAKER. It will remain before the House as unfinished business.

Mr. STANLY. Then it will come up to-morrow, after the reading of the Journal.

The SPEAKER. It will come up at any time when it is the pleasure of the House to consider it. Having been entertained by unanimous consent, the Chair is inclined to think that it is not confined to the morning hour, but may be considered at any time.

Mr. STANLY. I hope the Chair will not decide that question finally, for I want a consideration of that point. But if the bill will come up to-morrow, I have no objection to the motion of my colleague.

The SPEAKER. The motion now pending to recommit will keep it before the body.

The question was then taken on Mr. CLINGMAN's motion, and it was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BAYLY, of Virginia, in the chair.)

The CHAIRMAN stated that the question before the committee was the consideration of House bill No. 335, "making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30th, 1853," and that the gentleman from California [Mr. MARSHALL] was entitled to the floor.

Mr. MARSHALL, took the floor, and addressed the committee an hour upon the subject of our foreign policy generally, and denounced the conduct of the present Administration as pusillanimous and degrading in the extreme in the management of the Cuban question. [His remarks are published in the Appendix.]

Mr. HOWARD then obtained the floor, and addressed the committee upon the Cuban question, maintaining that it was the duty of the United States to take possession of and hold that Island, if it could not be had upon other terms. [His remarks are published in the Appendix.]

Mr. BELL next obtained the floor, but yielded to

Mr. JONES, of Tennessee, who moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the Chairman (Mr. BAYLY) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 335, "making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1853," and had come to no resolution thereon.

The SPEAKER. The Chair is informed that there is necessity for the appointment of another member upon the Committee on Enrolled Bills. One gentleman, a member of that committee, is absent, and another is indisposed, so that he is unable to attend to its duties. If it is the pleasure of the House, the Chair will appoint another individual member.

There being no objection,

The SPEAKER stated that he would appoint Mr. HENN, of Iowa.

Mr. JONES, of Tennessee. There is a report upon the table, from the Clerk of this House, in relation to the disbursement of the contingent fund of the last session. It has been there for some days, and I wish merely to take it up that it may be laid upon the table and printed.

There being no objection, it was so ordered.

Mr. HOUSTON. I have a communication from the Clerk of the House of Representatives, which relates to the bill now under discussion in some sort, which I wish to present to the House, and ask that it be printed. It relates to the deficiency bill, and is explanatory of it.

There being no objection, the document was ordered to be printed.

On motion by Mr. GIDDINGS, it was

Ordered, That leave be granted to withdraw from the files of the House, the papers in the case of Mapes Olmstead, for the purpose of being referred to the proper department.

Mr. BELL. I ask the unanimous consent of the House to introduce a bill to amend the bounty land laws of Ohio, for the purpose of referring it to the Committee on Public Lands.

Mr. DAVIS, of Indiana. I object, and move that the House adjourn.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. SEYMOUR, of New York: The petition of the heirs of James W. Wood, for remuneration for losses, &c., while held in imprisonment by the British Government in the war of 1812, in retaliation for British civilians and subjects taken near Fort Niagara, and held in imprisonment in the United States.

On motion by Mr. SEYMOUR, of New York,

Ordered, That the petition and papers of Achsa Thurbur and others, be taken from the files of the House and referred to the Committee on Claims.

By Mr. DEAN: The petition of Joseph Weeks and others, citizens of Dutchess county, New York, for a new post route from Poughkeepsie to South Dover, via La Grangeville.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 7, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

STATUE OF JACKSON—ADJOURNMENT.

Mr. ORR. I rise to a privileged question. A few days ago a communication was read by the Speaker, and laid before the House, from the Committee of Arrangements, to attend the inauguration of the equestrian statue of General Jackson. No action was taken upon it at the time. I move that when this House adjourns it adjourn to meet on Monday next, with the understanding that the House can informally attend the ceremonies.

The question was then taken upon Mr. ORR's motion, and it was agreed to.

Mr. BOWIE. I move that the House resolve itself into a Committee of the Whole upon the Private Calendar.

Mr. WILCOX. I wish the gentleman would withdraw his motion for a moment, and I will be under great obligations to him.

Mr. BOWIE. I will withdraw it for a moment.

Mr. WILCOX. I now ask a favor of the House—a thing which I have not done since I have been a member of this body. I have arisen this morning to ask a favor in which I have no personal interest whatever. If the favor were for one of my constituents, I would not ask it, for, in doing so,

I might give precedence to his business over that of the constituents of other members. I ask the unanimous consent of the House to take up Senate bill No. 429, for the relief of an individual who has no immediate representative. It is for the relief of Colonel Benjamin S. Roberts. I would remark, that if permission be granted to call up that bill from the table, I will make no speech, but content myself in having a short report read; which report was made by the Hon. Mr. Berrien, of Georgia, a conscientious man. I am fully persuaded that no one will object, when that report is read, and that every member of the House will vote for the bill. I therefore ask the unanimous consent of the House to take up the bill. I will never ask any other favor if this be granted; and I am sure that every member will congratulate himself upon having an opportunity of doing justice to a most meritorious individual. I hope there will be no objection to the motion.

Several MEMBERS objected.

Mr. BOWIE. I now renew my motion that the House resolve itself into a Committee of the Whole House on the Private Calendar.

Mr. HALL. I ask the Chair if there are not several private bills from the Senate upon the Speaker's table which have not been referred to committees?

The SPEAKER. There are something like one hundred.

Mr. HALL. Would it be in order to call up those bills this morning—this being private bill day?

The SPEAKER. It cannot supersede the proposition of the gentleman from Maryland [Mr. BOWIE] to go into a Committee of the Whole House.

Mr. HALL. If that be voted down, will it not be in order to call up these bills?

The SPEAKER. It will then be in order to take up bills reported from Committees of the Whole House at the last session.

APPROPRIATION BILLS.

Mr. HOUSTON. I ask the gentleman from Maryland [Mr. BOWIE] to waive his motion, and allow me to report the last one of the appropriation bills which I am required, under the rules of the House, to report within thirty days. To-morrow the thirty days will terminate.

Mr. STANLY. I have no objection that the committees shall be called for reports, when the Committee on Ways and Means will have a chance; but I object to setting aside the rules and receiving reports out of order. If the committees generally be called, the Committee on Ways and Means will be soon reached in order.

Mr. HOUSTON. I hope, if my friend from North Carolina [Mr. STANLY] will not help me to make bills, that he will at least assist me to report them.

Mr. STANLY. All the letting is on that side of the House; and if we do not adhere to the rules, we shall get through with no public business.

Mr. HOUSTON. The rules require me to make this report, and I will ask the Chair if I cannot make it now?

Mr. HOWARD. What is the question?

The SPEAKER. A question of order, growing out of the proposition made by the gentleman from Alabama [Mr. HOUSTON] to report an appropriation bill from the Committee on Ways and Means. The gentleman from Alabama makes the point that he has the right, under the rule requiring appropriation bills to be reported within the first thirty days of the session, to report the Navy bill. The Chair must overrule the point of order. The thirty days have gone by, and the gentleman cannot bring himself within the rules.

Mr. HOUSTON. I think that the Chair is mistaken. From the day of the organization of the committee the thirty days have not expired to-day; and therefore it brings me within the rules. The rules require me to make this report to-day.

Mr. STUART. That does not give the gentleman from Alabama any right to report out of order. He has discharged his duty when he is ready to report, and if the House does not see fit to receive the report, he is not at fault.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Alabama.

Mr. HOUSTON. Then I suppose that the objection will be entered upon the Journal, and that I made a point of order.

The SPEAKER. That matter will not go upon the Journal unless an appeal is taken.

Mr. STANLY. I have no objection to having it entered upon the Journal that Mr. STANLY, a member of the Committee on Ways and Means, objected to the head of the committee reporting an appropriation bill out of order this day, and insists upon his objection, as he has a right to do.

Mr. HOUSTON. I am perfectly willing for it to go upon the record.

The question was then taken upon Mr. BOWIE's motion, and it was decided in the affirmative.

The House accordingly resolved itself into a Committee of the Whole House on the Private Calendar, (Mr. PHELPS in the chair.)

The CHAIRMAN. This being objection day, upon which the consideration of bills can be opposed by a single objection, the Clerk will proceed to read the bills upon the calendar, commencing with House bill No. 161.

BILLS PASSED IN COMMITTEE.

The following bills and resolutions, to which there was no objection, coming up in their order on the calendar, were considered, and ordered to be laid aside to be reported to the House, with a recommendation that they do pass, viz:

No. 161. A bill to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida.

No. 177. A bill for the relief of Elizabeth E. Field. [This bill provides for the payment of a pension to the widow of Captain Field, who was killed at Monterey, on the 21st of September, 1846.]

No. 202. A bill for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky. [This bill provides for the payment to Mrs. McKee of $1,200 for the use of herself and children, and for granting one quarter section of land to each of her children.]

Mr. BRECKINRIDGE moved to amend the bill by striking out the word "five," before "children," so that it would read "orphan children."

The question was then taken, and the amendment was agreed to.

No. 248. A bill for the relief of Captain Lewis E. Simonds. [The bill directs the Secretary of the Treasury to pay to Captain Simonds the sum of $800, for expenses incurred in defending himself against two suits brought against him for the arrest and detention of the brig Casket, on the coast of Africa, on a charge of being engaged in the slave trade in 1846, when he was in command of the United States ship Marion.]

No. 249. A bill for the relief of Harlow Spalding. [The bill directs the Secretary of the Treasury to pay to Spalding the usual compensation allowed to naval store-keepers, at foreign ports, for services rendered by them.]

No. 265. A bill for the relief of Joseph M. Wilcoxon.

No. 272. A bill for the relief of John Ozias.

No. 275. A bill for the relief of William J. Price. [The bill confirms Price in his title to a certain tract of land in Jackson county, Alabama.]

S. No. 50. An act for the relief of Sidney S. Alcott.

H. R. No. 278. A bill for the relief of Margaret Baury. [The bill directs the Secretary of the Interior to place upon the roll of revolutionary pensioners the name of Margaret Baury of Boston, Massachusetts, widow of Louis Baury, who served during the revolutionary war as captain of grenadiers, at the rate of $600 per annum, commencing on the 25th of June, 1850, and to continue during her natural life.]

No. 279. A bill for the relief of Mary Pearson. [The bill directs the Secretary of the Interior to place on the roll of revolutionary pensioners the name of Mary Pearson, widow of Silas Pearson, at the rate of $24 per month, to commence from 16th March, 1848.]

No. 243. A bill to surrender to the State of Ohio the unfinished portion of the Cumberland road in said State.

S. No. 130. An act for the relief of John T. Sullivan. [The bill directs the Paymaster General to pay Sullivan for services rendered by him in folding, stitching, and binding certain copies of the laws and instructions to postmasters.]

No. 296. A bill for the relief of John J. Sykes. [The bill authorizes the payment to John J. Sykes of clerk hire, rent, and salary as special agent of the Post Office Department in California.]

J. R. No. 22. A joint resolution for the relief of J. P. Converse. [The bill directs the payment to J. P. Converse of the sum of $636 98, as compensation for his per diem services and traveling and other expenses while acting as special agent for the Post Office Department.]

No. 302. An act for the relief of the Michigan Southern Railroad Company.

S. No. 217. An act for the relief of William Speiden.

No. 305. A bill for the relief of John Dearmit.

S. No. 206. A bill granting a pension to Mrs. Elizabeth V. Lomax. [The bill provides that the Secretary of the Interior be authorized and directed to place the name of Elizabeth V. Lomax on the pension roll at the rate of thirty dollars per month, commencing March 27, 1842, and to continue during her natural life.]

Mr. HARRIS, of Tennessee, moved to amend, by striking out the above provision, and substituting a provision that the Secretary of the Interior pay to Elizabeth V. Lomax, one half the monthly pay to which her husband was entitled at the time of his death, to commence with the first day of January, 1850, and to continue during the term of five years.

The amendment was agreed to.

No. 317. A bill for the relief of Nathan H. Darling. [The bill provides that the Secretary of the Interior be authorized and directed to place the name of Nathan H. Darling upon the list of invalid pensioners, at the rate of eight dollars per month, to commence with the 5th day of April, 1842, and continue during his natural life.]

No. 318. A bill for the relief of Gilman Smith, of Sycamore, in the State of Illinois. [The bill provides that the Secretary of the Interior be authorized and directed to place the name of Gilman Smith upon the list of invalid pensioners, at eight dollars per month, to commence on the first day of January, 1852, and to continue during the term of his natural life.]

J. R. No. 26. Joint resolution for the relief of Thompson Barnet. [The resolution provides that the Postmaster General be authorized and required to pay to Thompson Barnet the sum of $123 76, for carrying the mail from Logansport, in the State of Indiana, to Winnamac, in the same State, from July 1, 1842, to February 16, 1843.]

BILLS AND JOINT RESOLUTIONS PASSED OVER INFORMALLY.

Mr. JOHNSON, of Arkansas. I will state to the committee that there are several bills following, of the merits of which I know nothing, but which have been regularly reported here, with reports accompanying them, but the gentlemen who reported them have the reports in their possession, where they cannot now be obtained. It is hardly fair that the bills should come up and receive the implied censure which an objection would give them, for want of the proper information concerning them, which cannot now be furnished. I therefore ask that they may be passed over informally, and come up some other time.

There was no objection, and the following bills and joint resolutions were accordingly informally passed over:

No. 320. A bill for the relief of James H. Jenkins.

No. 321. A bill for the relief of John Frink.

J. R. No. 27. Joint resolution for the relief of the legal representatives of Wade Allen, deceased; and

J. R. No. 28. Joint resolution granting the petition of William and Matthew Moss.

BILL TO BE REJECTED.

H. R. No. 319. A bill for the relief of Samuel F. Butterworth, came up next in order.

Mr. PENN. I will state, that in this case the claim has been settled, and there is, therefore, no need of any further action upon the case. I desire to withdraw the papers in the case, and ask that the bill may receive no further action.

The CHAIRMAN. The Chair will state to the gentleman from Louisiana, that the committee has no power to grant leave to withdraw the papers, and that the bill must receive some action from the committee.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Louisiana, that he move to

lay the bill aside, to be reported to the House with the recommendation that it do not pass.

Mr. PENN. I have no objection to that course, and will make that motion.

The question was put, and the motion agreed to.

BILLS OBJECTED TO.

The following bills and resolutions coming up in their order on the calendar, and being objected to as indicated below, were ordered to be laid aside for future action, under the 30th rule, which provides that the bills to the passage of which no objection shall be made, shall be first considered and disposed of.

No. 175. A bill for the relief of Anthony Walton Bayard. [Objected to by Mr. HARRIS, of Tennessee.]

No. 199. A bill for the relief of the legal representatives of Bernard Todd. [Objected to by Mr. JONES, of Tennessee.]

No. 200. A bill for the relief of the legal representatives of John H. Platt, deceased. [Objected to by Mr. SACKETT.]

No. 247. A bill for the relief of James Glynn. [Objected to by Mr. LETCHER.]

No. 203. A bill for the relief of the trustees of the Philadelphia Gas Works. [Objected to by Mr. JONES, of Tennessee.]

No. 250. A bill for the relief of S. Morris Waln. [Objected to by Mr. SKELTON.]

No. 274. A bill for the relief of Jasper A. Maltby. [Objected to by Mr. GOODENOW.]

No. 285. A bill for the relief of Britain Franks, assignee of Joseph M. Smith. [Objected to by Mr. LETCHER.]

J. R. No. 21. A joint resolution for the relief of Mary Reeside, executrix of James Reeside, deceased. [Objected to by Mr. JONES, of Tennessee.]

S. No. 152. An act for the relief of John F. Callan, administrator of Daniel Renner, deceased. [Objected to by Mr. GOODENOW.]

S. No. 276. An act for the relief of Colonel James R. Creecy. [Objected to by Mr. HUNTER.]

No. 306. A bill for the benefit of J. C. Buckles, of Louisville, Kentucky. [Objected to by Mr. HARRIS, of Tennessee.]

No. 307. A bill for the relief of McAtee and Eastham. [Objected to by Mr. SACKETT.]

No. 308. A bill for the relief of the legal representatives of Nathaniel Patten, deceased, late postmaster in Missouri. [Objected to by Mr. JONES, of Tennessee.]

No. 324. A bill authorizing the adjustment and payment of the claims of William Hazzard Wigg, deceased, for losses sustained by him during the war of the Revolution. [Objected to by Mr. JONES, of Tennessee.]

Mr. GOODENOW. I objected to Senate Bill No. 152, for the relief of John F. Callan. It was then my recollection that the bill was brought up and considered during the last session of Congress. I find, however, that I was mistaken in this. I now desire to withdraw my objection to that bill.

The CHAIRMAN. Other gentleman objected, according to the recollection of the Chair. He will, moreover, state to the gentleman from Maine, that aside from this fact, the bills having been taken up in their regular order, and the bill to which the gentleman refers having been passed by, the withdrawal of the objection would not bring the bill again before the committee.

Mr. JONES, of Tennessee. I believe the calendar has now been read through. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman [Mr. PHELPS] reported that the Committee of the Whole House had had the Private Calendar under consideration, and had instructed him to report sundry bills, some with the recommendation that they do pass, and one with the recommendation that it do not pass.

NAVY APPROPRIATION BILL.

Mr. HOUSTON. It will take some time to dispose of all the bills reported by the Committee of the Whole, and but a moment for me to report the naval appropriation bill. I therefore ask the consent of the House to report that bill now.

The SPEAKER. Upon referring to the rules, the Chair is of the opinion that the gentleman has the right to report the bill.

Mr. HOUSTON then, from the Committee on Ways and Means, reported a bill making appropriations for the naval service for the fiscal year ending June 30, 1854; which was read a first and second time by its title, and referred to the Committee of the Whole on the state of the Union.

Mr. PHELPS. In relation to the bills which have been reported by the Committee of the Whole, I presume it will meet the approbation of the House that they be read by their titles, and then passed *en masse* with the amendments reported by the committee. If there be no objection, I will make that motion.

The SPEAKER. The motion can only be entertained by unanimous consent.

Mr. LETCHER. I object.

The SPEAKER. Then the bills must be taken up in their regular order and disposed of separately.

Mr. BOCOCK. I desire to know if the first business in order is the consideration of the bill for the relief of David Myerle?

The SPEAKER. It is not. The first business in order is the consideration of House bill No. 154, for the relief of Patrick Gas.

Mr. PHELPS. I appeal to the House to allow the regular order of business to pass over informally, and consider at this time the bills just reported from the Committee of the Whole House. I presume there will not be more than time to dispose of these bills; and as they are fresh in the minds of the members, they will proceed with more dispatch in that consideration, than with those which lie over on the Speaker's table from the last session.

Mr. ORR. I object, and insist that they be taken up in their regular order.

Mr. COBB. The gentleman from Virginia, [Mr. CLEMENS,] who is interested in the bill now under consideration for the relief of Patrick Gas, has requested that I should withdraw the motion made by me when the bill was last under consideration. Out of courtesy to that gentleman, I will withdraw the motion, if, by so doing, I can give him an opportunity of explaining briefly the bill. I might inflict great injury upon Mr. Gas by insisting upon my motion to lay upon the table. I am quite sure I cannot vote for the bill; but if the House decide that it is right, they can pass the bill. I understand the petitioner is a constituent of the gentleman from Virginia, [Mr. CLEMENS.] He is a new member and has never had an opportunity of explaining the object of the bill. I will therefore withdraw my motion, with a view of affording that opportunity.

Mr. STUART. I desire to make an inquiry of the Chair in relation to a matter which has just been suggested to me. I desire to know whether, as this is objection day, any discussion can arise upon the bills before the House?

The SPEAKER. The Chair is of the opinion that the same rule which prevents debate in Committee of the Whole House on objection day, will also apply to the consideration of the bills reported from the committees on that day in the House. He thinks if objection be made to any bill it must go over.

Mr. STUART. Is it in order to move to go to the consideration of the business on the Speaker's table, with a view of taking up the private bills there and referring them?

The SPEAKER. The first business in order is the consideration of the report of the Committee of the Whole House.

Mr. STUART. But is it not competent for the House to proceed to the business on the Speaker's table?

The SPEAKER. It is not in order to make the motion, except by unanimous consent.

Mr. COBB. If I withdraw my motion to lay on the table, will it not give the gentleman from Virginia [Mr. CLEMENS] an opportunity to explain his bill?

The SPEAKER. Not unless by unanimous consent.

Mr. COBB. Then I do not withdraw the motion.

Mr. JENKINS. I desire to discuss this bill.

The SPEAKER. Then the bill must go over.

The next bill coming up in order for consideration was House bill No. 155, for the relief of William H. Wells and others.

[The bill provides that the Secretary of War shall issue a warrant for one hundred and sixty acres of land to the heirs-at-law of Lemuel Wells, deceased, as full compensation for services rendered by said Lemuel Wells, as a soldier in the late war with Great Britain.]

Mr. COBB objected to its consideration, and it was carried over under the rule.

Mr. MILLSON. I rise to a question of order. My point is, that the reports made to-day by the Committee of the Whole House to the House, are the business in order, and must be disposed of before the House can proceed to the consideration of other business upon the Speaker's table; in analogy to the case of a report made by one of the standing committees of the House, which must be first considered and disposed of, either by reference to the Committeee of the Whole House, or by its adoption, before the House can proceed to the consideration of other bills that may have been reported previously, and gone upon the Speaker's table.

The SPEAKER. The bills are not upon the Speaker's table, but before the House for its consideration. They are reports made by the identical Committee of the Whole House, which reported the bills to-day, and they are pending before the House for consideration.

Mr. MILLSON. My point is, that the last report, if in order, brings before the House the business which is the subject of that report.

The SPEAKER. That is usually so, unless it is set aside or superseded by previous reports. Those have all been made from the same committee, and the Chair thinks that the reports first made, must be first disposed of.

Mr. JOHNSON, of Arkansas. I move that the House adjourn.

The question was taken, and the motion was not agreed to.

HOUSE BILLS AND RESOLUTIONS PASSED.

The following bills, coming up in their order, were severally considered, ordered to be engrossed, and having been engrossed, were read the third time, and passed:

H. R. No. 157. A bill for the relief of Josiah P. Pilcher, late a private in Company F, Second Kentucky regiment of volunteers, in the war with Mexico.

H. R. No. 159. A bill for the relief of the heirs-at-law of Anthony G. Willis, deceased.

H. R. No. 162. A bill for the relief of Dr. S. R. Addison, passed assistant Surgeon in the United States Navy.

H. R. No. 163. A bill for the relief of Jacob J. Storer.

H. R. No. 178. A bill for the relief of Henry Miller, a soldier of the war of 1812.

H. R. No. 179. A bill for the relief of William Lynch, a soldier of the late war with Great Britain.

H. R. No. 182. A bill for the relief of Charles Staples.

H. R. No. 183. A bill for the relief of Aaron Stafford.

H. R. No. 197. A bill for the relief John B. Rodgers, of South Carolina.

H. R. No. 201. A bill for the relief of Captain George Sympton.

H. R. No. 232. A bill for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip.

H. R. No. 161. A bill to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida.

H. R. No. 177. A bill for the relief of Elizabeth E. V. Field.

H. R. No. 199. A bill for the relief of the legal representatives of Bernard Todd.

H. R. No. 202. A bill for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky.

H. R. No. 249. A bill for the relief of Harlow Spalding.

H. R. No. 265. A bill for the relief of Joseph M. Wilcoxon.

H. R. No. 272. A bill for the relief of John Ozias.

H. R. No. 275. A bill for the relief of William J. Price.

H. R. No. 278. A bill for the relief of Margaret Baury.

H. R. No. 279. A bill for the relief of Mary Pearson.

H. R. No. 243. A bill to surrender to the State of Ohio the unfinished portion of the Cumberland road, in said State.

H. R. No. 296. A bill for the relief of John J. Sykes.

J. R. No. 22. A joint resolution for the relief of J. P. Converse.

H. R. No. 302. An act for the relief of the Michigan Southern Railroad Company.

H. R. No. 305. A bill for the relief of John Dearmit.

H. R. No. 317. A bill for the relief of Nathan H. Darling.

H. R. No. 318. A bill for the relief of Gilman Smith, of Sycamore, in the State of Illinois.

J. R. No. 26. A joint reaolution for the relief of Thompson Barnet.

H. R. No. 198. A bill for the relief of Joseph Arnow and Peter Arnow was next taken up for consideration.

Mr. JACKSON. I move to amend the title, so that it shall read "for the relief of Peter Arnow and the heirs of Joseph Arnow;" Joseph Arnow having died since the bill was reported.

The question was taken, and the motion agreed to.

The bill was then ordered to be engrossed, and having been engrossed, it was read the third time, and passed.

DAVID MYERLE.

H. R. No. 168. A bill for the relief of David Myerle next came up in order for consideration.

Mr. STANTON, of Ohio. I object to its consideration at this time.

The SPEAKER. The bill then goes over under the rule.

Mr. JONES, of Tennessee. When that bill was reported last session, the gentleman from Kentucky [Mr. BRECKINRIDGE] had the floor.

The SPEAKER. The Chair is so informed.

Mr. JONES. This bill was passed over informally, because, at the time, the papers which the gentleman wished to use were in his drawer, and the key was not here.

The SPEAKER. Objection being made, the bill goes over.

Mr. BOCOCK. I wish to know the precise situation of the bill, and who will be entitled to the floor when it comes up again. If the gentleman from Kentucky took the floor, and claimed it for the purpose of debating the bill, and it then went over by general consent, he would be entitled to the floor.

Mr. JONES. Those are the facts.

The SPEAKER. The bill goes over for debate.

Mr. ORR. If it is before the House, I move to lay it upon the table.

The SPEAKER. The bill is not now before the House.

LIEUTENANT BARTLETT HINDS.

H. R. No. 149. A bill for the relief of the heirs of Lieutenant Bartlett Hinds next came up for consideration.

Mr. JONES, of Tennessee. The advocates of that bill are not now in the House, I believe. I have a copy of a declaration made by Bartlett Hinds when he applied for a pension, in which he says that he resigned his commission in the Army in 1780.

The SPEAKER. Objection is made, and the bill will go over under the rule.

So the bill was laid aside.

CAPTAIN LEWIS E. SIMONDS.

H. R. No. 248. A bill for the relief of Captain Lewis E. Simonds came up in order, but being objected to by Mr. LETCHER, it was laid over, under the rule.

BILL REJECTED.

H. R. No. 319. A bill for the relief of Samuel F. Butterworth was, on motion of Mr. PHELPS, laid upon the table.

SENATE BILLS PASSED.

The following Senate bills, reported from the Committee of the Whole, were ordered to be read a third time; and being read a third time, were passed.

S. No. 50. An act for the relief of Sidney S. Alcott.

S. No. 130. An act for the relief of John T. Sullivan.

S. No. 132. An act for the relief of William Speiden.

ELIZABETH V. LOMAX.

S. No. 206. An act granting a pension to Mrs. Elizabeth V. Lomax, reported from the Committee of the Whole House with an amendment, was next taken up.

The amendment, which was to strike out the provision granting to Elizabeth V. Lomax a pension of thirty dollars a month during her natural life, and insert in lieu thereof "one-half the monthly pay to which her husband was entitled at the time of his death, commencing on the 1st of January, 1850, and to continue for and during the term of five years."

The amendment was adopted, and the bill as amended was passed.

On motion by Mr. WALSH, it was

Ordered, That the memorial and accompanying papers of the heirs of Peter Shackerly be withdrawn from the files of the House, that they may be referred to one of the Executive Departments.

Mr. LETCHER moved that the House adjourn.

The question was put and the motion was agreed to.

The House then adjourned till Monday next.

PETITIONS, &c.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DOTY: The petition of Benjamin Sebring and 360 other citizens of Grafton, in Wisconsin, asking for a grant of land to the Lake Shore Railroad Company, to aid in the construction of said road.

By Mr. MILLSON: The petition of John Walker, as administrator of Thomas Walker, deceased, praying for commutation for the services of said Thomas Walker as a captain in the continental line during the revolutionary war.

By Mr. CABELL, of Florida: Resolutions of the Legislature of Florida, as follows:

Relative to the establishment of a port of delivery at Bayport.

Relative to the establishment of a land office at Tampa.

Relative to a mail route between Tampa and Fort Mellon, and between Tampa and Old Tampa Bay

Asking an appropriation for the purpose of removing obstructions at the bar of Volusia, on Lake George.

IN SENATE.

MONDAY, *January* 10, 1853.

Prayer by the Rev. JAMES GALLAHER.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the following bills and joint resolutions:

A bill for the relief of Josiah P. Pilcher, late a private in company F, 2d Kentucky regiment of volunteers, in the war with Mexico.

A bill for the relief of the heirs-at-law of Anthony G. Willis, deceased.

A bill for the relief of Dr. S. R. Addison, passed assistant surgeon in the United States Navy.

A bill for the relief of Jacob J. Storer.

A bill for the relief of Henry Miller, a soldier of the war of 1812.

A bill for the relief of William Lynch, a soldier of the late war with Great Britain.

A bill for the relief of Charles Staples.

A bill for the relief of Aaron Stafford.

A bill for the relief of John B. Rodgers, of South Carolina.

A bill for the relief of Captain George Simpton.

A bill for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip.

A bill to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida.

A bill for the relief of Elizabeth E. V. Field.

A bill for the relief of the legal representatives of Bernard Todd.

A bill for the relief of the widow and orphan children of Colonel William B. McKee, late of Lexington, Kentucky.

A bill for the relief of Harlow Spaulding.

A bill for the relief of Joseph M. Wilcoxon.

A bill for the relief of John Ozias.

A bill for the relief of William J. Price.

A bill for the relief of Mary Baury.

A bill for the relief of Mary Pearson.

A bill to surrender to the State of Ohio the unfinished portion of the Cumberland road, in said State.

A bill for the relief of John J. Sykes.

A joint resolution for the relief of J. P. Converse.

An act for the relief of the Southern Michigan Railroad Company.

A bill for the relief of John Dearmit.

A bill for the relief of Nathan H. Darling.

A bill for the relief of Gilman Smith, of Sycamore, in the State of Illinois.

A joint resolution for the relief of Thompson Barnett.

A bill for the relief of Peter Arnow and the heirs of Joseph Arnow.

Also, that it had passed the following bills from the Senate:

A bill for the relief of Sidney S. Alcott.

A bill for the relief of John T. Sullivan.

A bill authorizing the Secretary of the Treasury to issue a new register to the ship Prentice, and change her name to that of Leonie.

Also, that it had passed the following bills from the Senate with amendments:

A bill granting a pension to Mrs. Elizabeth V. Lomax.

A bill for the relief of William Speiden.

REORGANIZATION OF THE NAVY.

Mr. STOCKTON. The Committee on Naval Affairs have unanimously directed me to report a bill to reorganize the Navy of the United States, which I desire to have printed, and made the special order of the day for an early period. The report is not very long, and I should be glad to have it read now.

Several SENATORS. Let it be printed.

Mr. STOCKTON. You will not read it, unless I read it to you. It is a very important report, and I want to have it read. I desire, also, to have the bill made the special order of the day for next Monday.

The bill was read and passed to the second reading.

Mr. STOCKTON. I desire the bill to be made the special order of the day for Monday next.

Mr. GWIN. I would suggest to the honorable Senator from New Jersey to give notice that he will call up the bill at an early day, rather than make it a special order. We have now several special orders on many important questions. I think, if the Senator will give notice that at an early day he will call up this bill, instead of making it a special order he will accomplish his object. I hope, also, that the Senator will move to have the report printed.

Mr. STOCKTON. I withdraw my motion to make the bill a special order, and give notice that I will call it up next Monday. I move that the report be printed, and that two thousand additional copies be printed for the use of the Senate.

The motion was agreed to.

INDIAN PAYMENTS IN MINNESOTA.

Mr. GWIN. Some strong allegations of fraud have been made against the Superintendent of Indian Affairs in Minnesota, in regard to payments under some Indian treaties. I want those charges investigated. I voted for the treaties, and I believe they passed the Senate almost unanimously. If the charges are true, I want the parties punished; if they are not true, I want an opportunity to be given to them to vindicate themselves. The Delegate from the Territory in the House has desired me to state that he wishes this investigation in justice to all concerned. I therefore submit the following resolution, and ask for its consideration now:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the allegations of fraud contained in certain of the public prints, with regard to the disbursement, by Alexander Ramsey, Superintendent of Indian Affairs, of the money appropriated to carry out the stipulations of the treaties concluded with the Sioux or Dacotah Indians, in the year 1851.

The resolution was considered and adopted.

BRANCH MINT OF CALIFORNIA.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be requested to furnish the Senate with copies of the plans and specifications, papers, and all other information relating thereto, of the proposed branch Mint for California, provided for under the act of 3d July, 1851.

BRITISH COLONY IN CENTRAL AMERICA.

Mr. PEARCE. Mr. President, on last Thursday a debate arose in the Senate, during which I was not present. I perceive by the papers, however, that an appeal was made to members of this body who were members of the Senate in 1850, to which, if I had then been present, I should have felt it my duty promptly to respond. I ask permission of the Senate to say now what, if I had been present, I should have thought it proper and necessary to say then.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The morning business being in or-

der, the Senator cannot proceed without unanimous consent. If there be no objection he can go on.

Mr. PEARCE. Mr. President, I perceive by the debate upon that occasion, that the Senator from Louisiana [Mr. Downs] stated as follows:

"I, sir, as well as the Senator from Michigan, certainly never understood the treaty in that form; and I think I may venture to go further and say, that no member of the Senate so understood it."

In another place he says:

"There is a great probability that Mr. Clayton acted in this matter on his own authority, without consulting even the President or the Cabinet."

And the Senator asks why he did not consult with the President and the Cabinet, or the Senate, "before adopting a construction which he ought 'to have known would not be approved of. As a 'proof of this, I would ask any impartial man on 'every side of the Chamber, whether he would 'have voted for the confirmation of the treaty if 'such a construction had been given to it at the 'time:"

Now, sir, it is that inquiry to which I wish to respond; and if I had been here, I should have said unhesitatingly that I would have voted for the treaty, and that I did vote for the treaty with that understanding; and the documents which have been disclosed to the Senate since the debate in question, have shown that I was not the only member of the Senate who so understood the treaty. I do not presume to speak for the Senate. I have no right to do so. Nor can I allude to what took place in Executive session on that question, because I believe the injunction of secrecy has not yet been removed. But I may say, for myself, that I was among the many members of the Senate to whom the Secretary of State exhibited the draft of the treaty before it was submitted to the Senate; that I did then understand the objects of the treaty to be what the Secretary of State understood them to be, what the then chairman of the Committee on Foreign Relations understood them to be, and what I now understand them to be.

Sir, every member of the Senate, at all familiar with the history of the British possessions in America, must know that the English had acquired a foothold on the shores of Central America more than a century ago. There is no mystery in this. Our records of foreign treaties contain the evidence of it. British histories are full of the actings and doings of the British Government in consequence of those treaties, or subsequent to them.

More than a hundred years ago the British settlements in Honduras, and along the Mosquito shore, had been the subject of contest between the Governments of Spain and England.

I believe, sir, the earliest valid treaty upon the subject was made in 1763, by which the Spanish Crown conceded to Great Britain the right of cutting dye-woods on certain Spanish coasts and territories, that is, between the rivers Rio Hondo and Balize. In 1783, by the treaty of Versailles, this privilege was further extended, and they were allowed to cut mahogany, which was not included in the permission granted by the treaty of 1763. This permission applied to the district lying between the rivers Balize and Hondo. These limits, within which they were allowed to cut, were extended by the convention of 1786; and that convention describes accurately the small islands or "dependencies" of British Honduras, to which the Senator from Michigan alluded, and which term he thought might include all Central America, thus reversing the principle by which the principal is always larger than the incident. The 17th article of the treaty of 1763 is in these words:

"His Britannic Majesty shall cause to be demolished all the fortifications which his subjects have erected in the Bay of Honduras, and other places in the territory of Spain in that part of the world, four months after the ratification of the present treaty; and his Catholic Majesty shall not permit his Britannic Majesty's subjects in their work to be disturbed or molested under any pretense whatsoever in the said places, in their occupation of cutting, loading, and carrying away logwood; and for this purpose they may build without hindrance, and occupy without interruption, the houses and magazines necessary for them and their families, and for their effects."

This treaty, however, restricted Great Britain to occupation for these purposes alone, as did the subsequent treaty of 1783, with the exception that the latter gave permission to cut mahogany. The article of the convention of 1786, which applies to the islands and dependencies, is in these words:

"The English shall be permitted to occupy the small islands known by the names of Casina, St. George's Key, or Cayo Casina, in consideration of the circumstance of that part of the coasts opposite to the said island being looked upon as subject to dangerous disorders," &c.

It is very clear, Mr. President, I admit; and it is well known to the Senate, that these treaties gave to England a special permission for certain limited purposes; that the authority which she had was purely a commercial one; but there is no manner of doubt that she did encroach on the rights reserved by Spain, and did endeavor to secure to herself a permanent settlement and jurisdiction within and beyond those limits.

At various times after the convention of 1786, hostilities took place between the British settlers in Honduras and the Spanish authorities in Central America. In 1798, a large expedition was sent from Yucatan against the British settlements in the Bay of Honduras, containing no less than three thousand men; but it was repulsed by the settlers at St. George's Key, (one of the islands mentioned in the convention which I have read,) and from that day down to a late period partial and occasional allegations have been made by the British of a right by conquest. After the defeat of this flotilla, the British settlements in the Bay of Honduras flourished, and the Spanish authorities discontinued the visits they had been in the habit of making to confine the settlers to cutting woods.

The Spaniards had maintained their jurisdiction pretty well until the close of the last century. From the beginning of the present century they seem to have lost sight entirely of all claim to these countries which the British held in their possession, as described. After the Spanish monarchy fell into disorder, on the invasion of Napoleon, they seem to have taken still less interest in the progress of British encroachment in these regions; and when her colonies had thrown off her allegiance, and set up independent governments, I presume Spain ceased to care what construction Great Britain put upon the treaties, or what encroachments she might make in extension of her possessions thus acquired. Certain it is, that from that time to the present, the British have been consolidating their dominion, and have maintained it against any supposed rights of the Central American States, and that they have claimed and exercised a complete jurisdiction over British Honduras, these islands, and some other islands not mentioned in the convention of 1786; and that, too, without remonstrance, I believe, except on a single occasion from the State of Nicaragua. That remonstrance was in 1830.

In 1836, Sir George Grey, Colonial Secretary of State, published an official declaration assuming the authority of Great Britain over all this country, which he described as extending "from the Rio Hondo, on the north, to the river Santoon, on the south," &c. Other proceedings, completely evincing their determination to maintain the British dominion in British Honduras and its dependencies, have occurred from time to time; and we ourselves have, by the act of the Chief Magistrate of this country, recognized British dominion in that neighborhood, from which some Senators seem to suppose the treaty of 1850 have expelled them. In 1847, Mr. Polk appointed a consul to reside at the Balize, and his exequatur was obtained from the British Government, and he continued to be consul at that place until he was recalled by Mr. Clayton.

Now, sir, what were the objects of the Clayton-Bulwer treaty of 1850? The treaty itself discloses them in these words:

"The United States of America and Her Britannic Majesty being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention, their views and intentions with reference to any means of communication, by ship canal, which may be constructed between the Atlantic and Pacific oceans, by the way of the river San Juan de Nicaragua, or either, or both of the lakes of Nicaragua or Managua, to any port or place on the Pacific ocean," &c.

And it states that Plenipotentiaries were appointed "for the *aforesaid purpose*."

The object of this treaty, then, was not to expel Great Britain——

Mr. DAVIS. What is the date of the ratification of the treaty?

Mr. CASS. The 4th of July, 1850.

Mr. PEARCE. The ratifications of the treaty were exchanged on the 4th of July, and the proclamation bears date on the same day. The signature of the treaty, however, was on the 19th day of April. On that day it was signed by the respective Plenipotentiaries. I do not recollect the precise day on which it was ratified by the Senate, but it was not long subsequent to that period—in May, I believe.

Mr. MASON. The treaty was ratified by the Senate on the 22d of May.

Mr. PEARCE. On the 24th day of April, five days after the Plenipotentiaries had signed this treaty, the Union newspaper of this city contained the following paragraph:

"Mr Hempstead was indeed appointed a consul," (by the administration of President Polk,) "but not at Mosquito. He was appointed Consul to Balize, some two or three hundred miles north of the Mosquito coast. It is the capital of a small Territory called British Honduras, which has been in the possession of the British for nearly two hundred years. The possession of the English, although originally an intrusion, was recognized by the Spanish monarchs in their several treaties, in all of which the British Government solemnly relinquished all claim of sovereignty over, or right of possession in, the other Spanish provinces of Central America."

So then, sir, if this matter was not understood by the members of the Senate, it was understood by the organ of the administration of Mr. Polk, who appointed that Consul to Balize—by the organ of that party, many members of which now seem to think the treaty had an entirely different signification.

I do not suppose that there could be the slightest difficulty upon the subject if it were not for the use of the phrase "Central America," to which the Senator from Michigan referred. But what is Central America? Are we to understand by that the country which, geographically considered, lies between North and South America proper? If so, Central America includes something more than British Honduras. It would, for instance, include Yucatan also. But, sir, when statesmen speak of territorial divisions, they generally speak of them, and in reference to treaties they always speak of them (unless it be expressly understood to the contrary) in a political sense. Then what is the political division called Central America, for that it is of which the treaty speaks? Everybody knows very well what that is. Five governments, Guatemala, San Salvador, Nicaragua, Honduras, and Costa Rica constitute the political division called Central America; and that is the Central America of which the treaty speaks. It was that Central America to which the then chairman of the Committee on Foreign Relations must have understood it to refer. It is that Central America to which I certainly understood the treaty to refer.

Now, sir, I admit we thought we were gaining a great point by the ratification of this treaty. Everybody knew that Great Britain had assumed a protectorate over what is called the Mosquito coast. She had been pushing the claim of the Mosquito Indians, and was disposed to carry it beyond the river San Juan. At the mouth of that river stands the town of San Juan de Nicaragua, otherwise called Greytown, which I suppose commands that river,—which commands the first link in that great chain of inter-oceanic communication which it was the design of this treaty to secure from the power of either the United States of America or any other great nation, and which it was designed to make neutral territory as far as possible. Therefore, when we succeeded in the ratification of the treaty, I think we did succeed in putting a stop to the progress of British encroachments in that quarter, and guarded Costa Rica and Nicaragua from the progress of British dominion. It was of no sort of importance, or at least of very slight importance to the security of that line of inter-oceanic communication that the British should retain their power in British Honduras, which lies on the north side of the bay, and intervening between which and the river San Juan lies not only the Mosquito shores, but also the Central American State of Honduras, north of which it immediately is. Next to the Central American State of Honduras proper come the Mosquito shores, which run down to the river San Juan. Therefore it is that I say, the wresting the possession of that from the British would not be important in view of the great object sought to be obtained by the treaty.

The Senator from Michigan [Mr. Cass] stated the other day that he was authorized by Mr. King, the then chairman of the Committee on Foreign Relations, to state his view of this matter. Sir, I have very great respect for Mr. King. I believe

him to be a man of the purest honor. I am satisfied that he would make no representation which he did not believe to be a true one. But I am equally well satisfied that at the date of the exchange of the ratification of that treaty, 4th July, 1850, he wrote to Mr. Clayton, in reply to him, the letter which is contained in the Intelligencer of Saturday last, in these words:

"The Senate perfectly understood that the treaty did not include British Honduras. Frankness becomes our Government; but you should be careful not to use any expression which would seem to recognize the right of England to any portion of Honduras."

I do not mean to impeach the veracity either of Mr. King or of the Senator from Michigan, when I point out the inconsistency between this letter and the communication made to the Senate on the part of Mr. King by the Senator from Michigan. I have no doubt whatever that it can be explained without injustice to either of them. We know the feeble condition of Mr. King's health. I understand it is so feeble that it is extremely doubtful whether he is qualified to converse upon subjects of this sort at this time, particularly upon subjects his recollection of which would have to go back a few years, and I am satisfied, either that the condition of his health was such as not to allow him to make full and precise explanations to the Senator from Michigan, or that that Senator must have misunderstood him. There is his letter, and to that I have no doubt he will now give his ratification.

The letter from Mr. Clayton, to which the letter from Mr. King, which I have read, is a reply, perfectly exonerates the late Secretary of State from the charge of duplicity and concealment. With whom could he properly communicate except the chairman of the Committee on Foreign Relations of this House? And with him he did communicate. He did disclose to him his intentions, and from him received such authority as a Senator in his position could give in regard to the opinions of the Senate. No one has been deceived by Mr. Clayton's action. He took the only course which he could properly have taken to make known to the Senate of the United States what was about to take place through their proper organ, the chairman of the Committee on Foreign Relations. And I am authorized to say further, in reply to the Senator from Louisiana, that not only was Mr. King informed of the intention of Mr. Clayton to communicate to Sir Henry Bulwer on this subject, but what he did was known also to the President and his Cabinet. He concealed from no one who had a right to require a disclosure from him.

There is, however, in the letter of Mr. Clayton, published in the Intelligencer of Saturday last, a mistake which, perhaps, it is as well that I should correct at once. In that letter as published this phrase occurs: "The British title to the Central 'American States was recognized by Mr. Polk in 'sending there Mr. Christopher Hempstead as 'consul." That, I am authorized to say, is a clerical error. It should have been, "The British title to the Balize was recognized by Mr. Polk." I was so informed in a letter from Mr. Clayton which I received this morning.

The Senator from Michigan seems to think that there was some mysterious and injurious project concealed in the word "dependencies," used in the letter of Mr. Clayton. That expression is very well explained by the language of the Convention of 1786, which I have read. It shows that Spain recognized the right of the British to occupy those islands which are properly known as the dependencies of British Honduras equally with the main land. I believe the British have extended, and have been more than one hundred years in extending, or attempting to enforce their jurisdiction over certain islands not named in that convention—the Island of Roatan, for example, which lies nearer to the other shore of the Bay of Honduras. They have had possession of and lost that island about five times. More than two centuries ago British buccaneers had a settlement upon it, which was broken up by Spain in 1650. In 1742, they took it again and fortified it. They were dislodged in 1780, and in 1796 made it a penal settlement for the Caribs, whom they transported to it from some of their West Indian Islands.

Whether British encroachments are now going on or not, is not material to this question. My object in rising was to show that the Secretary of State who negotiated this treaty could not be held liable to the charge of having imposed upon the Senate a treaty, the purposes of which were different from those disclosed. I think I have done so. A word more, and I shall have done. I regretted to hear from the Senator from California [Mr. WELLER] a remark in which, according to my recollection, he said, that he had never known anything come from the Secretary of State who had negotiated this treaty which was not marked by extreme stupidity. I doubt whether another member of the Senate would agree with him in that opinion. Whatever the relations, political or personal, of gentlemen may be with the late Secretary of State, I think it must be generally admitted that, so far from being a stupid man, he was a gentleman of exceeding acuteness and remarkable ability. It was the very last charge I should have expected to hear against that gentleman. I hope the country will yet be able to hear from himself (as they have before heard) what will amply vindicate him from the charge of stupidity, and I have no doubt they will soon have that opportunity.

Mr. SEWARD. Mr. President, on the 19th of April, 1850, what is called the Nicaragua Canal Convention was signed at Washington by John M. Clayton, then Secretary of State for the United States, and Sir Henry Lytton Bulwer, then a Minister here for Great Britain. As approved by the Senate and signed by the negotiators, and transmitted to Great Britain, it contained, among others, the following provisions, viz:

"ART. I. The Governments of the United States and Great Britain hereby declare that neither the one nor the other will ever obtain or maintain for itself any exclusive control over the said ship-canal, agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the *vicinity* thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any State or people for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or any part of Central America, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or subjects of the one any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

"ART. VI. The contracting parties, in this convention, engage to invite every State with which either or both have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance, as the canal herein contemplated. And the contracting parties likewise agree, that each shall enter into treaty stipulations with such of the *Central American States*, as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same.

"ART. VII. The Governments of the United States and Great Britain, having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general *principle*, they hereby agree to extend their protection, by treaty stipulations, to any *other practicable communications*, whether by canal or railway, across the Isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established, by the way of Tehuantepec or Panama."—9 Stat. (U. S.) at Large, 995.

On the 29th of June, 1850, Sir Henry L. Bulwer gave notice to Mr. Clayton that he was instructed to insist, in ratifying the convention, on an explanatory declaration, that the engagements as to neutral territory did not apply to Her Majesty's settlement at Honduras and its dependencies. On the 4th of July, 1850, John M. Clayton replied, that the United States also understood that those engagements did not apply to British Honduras and its dependencies, and with these mutual explanations the convention was ratified and the ratifications were exchanged.

The British settlement at Honduras and its dependencies consist of the town of Balize, on the coast of the Caribbean Sea, with a tract of almost barren and uninhabited country stretching inward, containing about fifty thousand square miles, and, as is alleged, of certain islands lying near by in that sea, named Ruatan, Bonacca, Utilla, Barbarat, Helena, and Morat, which territory and islands are marked, in all British maps, as colonies of Great Britain.

On the 17th of July, 1852, the British authorities at the Balize issued a proclamation, announcing that the Queen had constituted those islands a distinct colony by the name of the Bay of Islands.

On the 6th of January, 1853, the President of the United States sent to the Senate an answer to a previous call for information, and that answer contained the notes between the late Secretary of State and the late British Minister, declaring the construction of the convention which I have mentioned.

The honorable Senator from Michigan thereupon said that paper disclosed a very extraordinary fact, to wit, that while on its face, and as was understood by the Senate, the convention included British Honduras and its dependencies, it was without the knowledge or consent of the Senate explained by the negotiators at the ratification to exclude them; and that thus, in derogation of the rights of the Senate, the construction of the treaty was changed in a vital point; that in this transaction the Executive Department of General Taylor's administration had committed a great error, unprecedented in diplomacy. And he protested that neither the Senate nor himself in approving understood the convention as it was thus shown to have been understood by the negotiators in ratifying it, and that if it had been so understood by the Senate, it would not have received a single vote; and in this protest he included the honorable Senator from Alabama, [Mr. KING,] who at the time was chairman of the Committee on Foreign Relations; and he alleged that that gentleman had told him that he had supposed until that day that the project of accepting the Queen of England's qualification of the construction of the treaty had been abandoned, and that the convention stood without such qualification on its original provisions.

The honorable Senator from Louisiana [Mr. DOWNS] said that he thought the whole object of the convention was to get the British out of Central America, and that it was only on assurances given by Mr. Clayton himself that this was the effect of the convention, that he and others, so far as he knew, voted for it.

The honorable Senator from Ohio [Mr. CHASE] quoted from a geographical work the following description of Central America, and affirmed that he and the Senate understood that all the region thus described was included in the convention, viz:

"Central America is the long and comparatively narrow region between latitude 7° and 22° north, and longitude 78° and 94° west, connecting the continents of North and South America, and comprising, besides, the *Central American Confederation*, Yucatan, parts of Mexico and New Granada, Poyais, the Mosquito coast, and British Honduras."

The honorable Senator from California [Mr. WELLER] declared that he was astonished to hear the Senator from Louisiana say that he was surprised at anything, however stupid, that might be done by the late Secretary of State, Mr. Clayton, and that he [Mr. WELLER] had never known Mr. Clayton to have any connection with any public affair in which he did not show himself excessively stupid, to say the least.

Mr. President, I shall endeavor to show that these censures are groundless, and unintentionally unjust.

First. Granting, but only for the sake of argument, that the facts stated are true, I shall show that *the transaction is not unprecedented in diplomacy*. The 9th article of the treaty of Guadalupe Hidalgo, as signed by the negotiators, was struck out by the Senate, and another was substituted in its stead. The Congress of Mexico refused to ratify it, because it had thus been changed, as they said, in a vital part. The Secretary of State, Mr. Buchanan, by direction of the President, Mr. Polk, without the consent or knowledge of the Senate, signed and delivered a protocol, declaring that the suppression and substitution was not understood by the United States to diminish what had been stipulated before, and thereupon the treaty was ratified, and the ratifications were exchanged. I do not say here, that that transaction was wrong, or that whether wrong or right, it justified Mr. Clayton. All I do say is, that even if Mr. Clayton's misconduct has been such as is alleged, it is, nevertheless, not unprecedented in diplomacy.

Secondly. I shall attempt to show that the mem-

ories of the complaining Senators are at fault, and that neither the whole nor the chief object of the convention was, as they now suppose they then understood, *to get the British out of Central America*. The preamble declares its object to be to "set forth and fix the views and intentions 'of the two nations with reference to any means 'of communication by ship-canal which may be 'constructed between the Atlantic and Pacific 'oceans, by way of the river San Juan de Nicara-'gua, and either or both the lakes of Nicaragua or 'Managua." This preamble, together with the quotations from the convention before made, show that the United States had a very different object from that described by the Senators, unless we are to suppose that the United States had really in view a partial, narrow, and selfish object; while they held out to the other contracting party and to the world that they had in view a different, broad, comprehensive and beneficent one; which of course is not to be admitted.

Thirdly. I think the memories of the honorable Senators are at fault again, and that *they did not when approving the convention understand it to include all Central America, as they have now described Central America*. The region about the Isthmus which divides North and South America, is but thinly settled by Europeans and their descendants, and therefore, as yet, very imperfectly known in Europe and in the United States, and there is an ever-recurring confusion of names, as is apt to happen in such cases. The name Central America employed in the convention, has a double sense, a geographical sense and a political one, and these are widely different. America is divided geographically into North America, South America, and Central America. Central America, *geographically*, is that part of this great continent which lies between and connects North America and South America together. The name is applied in this sense in the description quoted by the Senator from Ohio, and so geographical Central America does include not only Honduras and the British coast, with the five central American States, but also the departments of Darien and Panama, and Paraguay, in New Granada, and the whole or parts of six of the States of the United States of Mexico.

Other geographers apply the name still more broadly, and embrace all the regions extending from latitude 7° north to latitude 26° north.

Mr. CHASE. If the Senator will allow me, I will state that I read from a work of authority. That English work describes Central America as lying between two parallels of latitude. It did not assert that all the region between those two parallels belonged to Central America, but named specifically those districts or territories which constituted the country so designated. And I said that we had a right to believe, when the treaty was before us, that the term "Central America," used as it is used, included all over which either of the contracting parties claimed, or might claim, any jurisdiction. Of course I did not assert, nor mean to assert, that Great Britain intended, simply, to exclude herself from that portion of country over which she had no jurisdiction, and I am sure the Senator from New York does not mean to represent me as making such a statement.

Mr. SEWARD. I will read from the printed speech of the honorable Senator from Ohio, to show the opinion of the authority which he quoted. The Senate will then judge whether he has corrected me or himself. That Senator said:

"Now, for the purpose of showing what the British authorities at that time conceived to be included within the limits of Central America, I wish to read an extract from a work which I have before me. It is Johnson's Gazetteer, published in London in 1851, a work of very high authority. Its description of Central America is in these words:

"'CENTRAL AMERICA is the long and comparatively 'narrow region between latitude 7° and 22° north, and longitude 78° and 94° west, connecting the continents of 'North and South America, and comprising, besides, the 'Central American Confederation, Yucatan, parts of Mexico and New Granada, Poyais, *the Mosquito coast*, and '*British Honduras*.'

"That is the description which an eminent British authority furnishes to us of Central America. That is the description which we had a right to believe was intended by this treaty when it was presented to the Senate."

This is geographical Central America. But it is laid down on other maps and described by other geographers as extending from the 7th to the 26th parallel of north latitude. That would embrace not only the Isthmus of Tehuantepec, but the capital of Mexico, the States of Coahuila and Tamaulipas, and even a part of Texas, in our own Republic.

On the other hand, the name of Central America has a *political* sense, and means five States on the Isthmus, lying between New Granada on the south and Mexico on the north, which, under the names of Costa Rica, Nicaragua, Salvador, Guatemala, and Honduras, confederated themselves when they became independent of Spain, and established a republic called the Federal Republic of Central America. In the convulsions of that region, that union has been dissolved, but the name acquired by it still hangs around those States, and they, and they alone, are the States described politically, in books, geographies, and otherwise, as the States of Central America.

Now, did the convention use the name of Central America in its geographical sense, or did they use it in its political sense? Certainly in its *political* sense.

For, 1st. If they used it in its geographical sense, then it may as well be insisted that the convention embraces all between 7° and 26° of north latitude, as that it embraces all between 7° and 22° of north latitude, and this would be to make it embrace a part of the United States, which would be absurd.

2d. The geographical Central America, whether broad or narrow, embraces the regions which contain the *three* celebrated passes from ocean to ocean, viz: Panama, Nicaragua, and Tehuantepec; and if that be the sense in which the name Central America is used in the convention, then the stipulations are already made between the two nations for the construction and maintenance of canals or railway passages across all these routes. But the convention, on the contrary, expressly confines its care to the Nicaragua route, and postpones to a future day the making of stipulations in regard to the two other routes of Panama and Tehuantepec.

3d. The use of the term "Central American States," in the sixth article, is equivalent to and illustrates the meaning of the term Central America in the first article.

4th. The convention, in describing the territory which is to be made neutral, names two of the Central American States in the vicinity of the canal, Nicaragua and Costa Rica, and then adds, or *any* part of Central America, thus clearly implying that it was political Central America that was intended.

It was, then, not geographical, but *political Central America* that was included in the convention, and so the honorable Senators must have understood it when they approved it, unless we suppose them to have been so indifferently informed that their opinions were of no value, which is not to be supposed for a moment.

5th. I shall endeavor to convince those honorable Senators that their memories are still further at fault, and that *when they approved the convention, they did not understand it to include British Honduras* or the *Balize as its dependencies, which are the same.*

Like "Central America," the name Honduras also has a geographical sense and a political sense. *Geographical* Honduras is all Honduras from the borders of Salvador to the Caribbean Sea, and includes Spanish Honduras and British Honduras—just as the name Virginia long stood for the whole Atlantic border, from Carolina to Canada; but *political* Honduras is the ancient province or intendency of Spanish Honduras, as it was when it separated from Spain, and became the State of Honduras, and entered that Federal Republic of Central America; and as it came out of that Federal Republic on its dissolution, and as it has remained hitherto, and is now the *State* of Honduras; and that State, in every book or geography, and on every map, in every atlas, is divided and separated from British Honduras just as plainly and as broadly as Kentucky is divided from Virginia, or Alabama from Georgia, while British Honduras is in every such book and atlas marked and designated with the islands before mentioned as a British colony; sometimes by the name of British Honduras, and sometimes by the name of The Balize.

I know, indeed, that Spain to the last insisted that Great Britain had only a partial and limited right of occupancy, but I know also that Spain still claims all Central America and all Mexico, and all South America, and even Texas. I know that the State of Honduras set up the pretensions of Spain, and still insists upon them. I do not say that they are not just. I shall be glad if they prove so; but I know also that Great Britain equally claims to own British Honduras by absolute right, and that although she has two or three times been occasionally dispossessed in the varying fortunes of war, she has so claimed it since 1667, and has held it undisturbed since 1783, the period of our own acknowledged national independence. The Balize is a British town of two thousand five hundred people, and with its adjacent territory has been a colony near two hundred years, governed by British authority and occupied by a British garrison. It is ecclesiastically connected with the British diocese of Jamaica, and from 1847 to 1850, the United States maintained a consul there, who, with their consent, received his *exequatur* from the Court of St. James. In short, practically, the Balize is as much a British town and British Honduras as much a British colony, to the knowledge of the whole world, as Quebec and Canada.

Now, who supposes that Great Britain intended to renounce that town, post, and colony under the vague and equivocal term of "any part of Central America?" No one! Who supposes that the United States stipulated for such a renunciation in terms so vague and uncertain? No one! It is not so that Britain resigns, or the United States take dominion. The terms "any part of Central America," then, did not include British Honduras, and so the honorable Senators must have understood if they knew the politcal condition of British Honduras as I have described it. That condition was known here, for on the 10th of May, 1849, a Senator stated in debate here, that *four companies of British troops* had marched from the Balize into Yucatan, and that this was the act of the *colonial* authorities of Great Britain at the Balize; and he who made that statement, was no other than the honorable Senator from Michigan, [Mr. CASS.]

5th. But waiving, for argument's sake, all the points thus far made, I shall next show that the Senators were not *ignorant of the construction officially given by Mr. Clayton to the convention until the 6th of January, instant, when they proclaimed it as a disclosure then obtained through the President's communication.*

The ratification was made on the 4th of July, 1850. On the 14th of that month the President transmitted to Congress a communication, which contained these words:

"A copy of the treaty concluded between Great Britain and the United States in regard to Central America is herewith submitted. Its engagements apply to all the five States which formerly composed the republic of Central America and their dependencies, of which the Island of Tigre was a part. It does not recognize, affirm, or deny the title of the British settlement at Balize, which is by the coast more than five hundred miles from the proposed canal at Nicaragua. *The question of the British title to this district of country, commonly called British Honduras, and the small islands adjacent to it, claimed as its dependencies, stands precisely as it stood before the treaty. No act of the late President's administration has in any manner committed this Government to the British title in that territory, or any part of it.*"

This paper gave to the Senators, just two years, five months, and twenty-two days ago, the same information which surprises, shocks, and alarms them now.

But, Mr. President, even this communication was only a reiteration of the same information before given; for on the 8th day of July, 1850, the following official exposition appeared in the National Intelligencer, together with the convention then just officially promulgated:

"From the official publication in the preceding columns our readers will learn that the ratifications of the treaty between Great Britain and the United States, relative to Central America, concluded between the Secretary of State and the Right Hon. Sir Henry L. Bulwer, the negotiators on each side, were exchanged between the representatives of the two Governments in this city on the fourth of this month; and that the provisions of that treaty, so far as they extend, are now the law of the land for both countries.

"The leading object of the treaty appears to be the establishment of a ship-canal across the Isthmus which connects North with South America, under the Protectorate not only of Great Britain and the United States, but of all other nations which desire the right of passage through it from ocean to ocean on the same equal terms.

"In reference to political advantages connected with that treaty, it may be remarked that all the States of Central America, comprehending the immense extent of country from the Balize, commonly called the Bay of Honduras down to the northern boundary of New Granada, is made *neutral territory*. No Government entering into this treaty can occupy, colonize, fortify, or assume or exercise any dominion over any part of the Mosquito coast, or any part of Central America, from the boundaries of the Bay of Honduras and Mexico on the north to those of New Gra

nada on the south. The British title to the Balize the treaty does not in any manner recognize; *nor does it deny it*, OR MEDDLE WITH IT. *That settlement remains, in that particular*, AS IT STOOD PREVIOUSLY TO THE TREATY."

Senators who accuse Secretaries of stupidity, or suppression and fraud, cannot be allowed to plead ignorance of official expositions in the official journals.

Sixthly, and lastly, I shall attempt to convince the Senators that they, and the Senate, *did understand that the convention did not include British Honduras when they approved it.*

Mr. King, of Alabama, was chairman of the Committee on Foreign Relations, and the proper medium of communication between the Senate and the Secretary of State. The Senator from Michigan tells us that Mr. King has stated to him that "after the *quasi* ratification came from England, on the 29th of June, he had an interview with Mr. Clayton, who desired to know whether the treaty ought to be sent back to the Senate for its action, on that conditional ratification. The only reason for sending it back to the Senate, was that the Senate might have not understood the convention as not including British Honduras, and so might object to the ratification of it, as thus explained by the negotiators. The correspondence between Mr. Clayton and Mr. King tells the result:

JULY 4, 1850.

DEAR SIR: I am this morning writing to Sir H. L. Bulwer, and while about to decline altering the treaty at the time of exchanging ratifications, I wish to leave no room for a charge of duplicity against our Government, such as that we now pretend that Central America in the treaty includes British Honduras.

I shall therefore say to him, in effect, that such construction was not in the contemplation of the negotiators or the Senate at the time of confirmation. May I have your permission to add that the true understanding was explained by you as chairman of Foreign Relations, to the Senate, before the vote was taken on the treaty? I think it due to frankness on our part.

Very truly, yours, JOHN M. CLAYTON.

To Hon. W. R. KING, *U. S. Senate.*

JULY 4, 1850.

MY DEAR SIR: *The Senate perfectly understood that the treaty did not include British Honduras.* Frankness becomes our Government; but you should be careful not to use any expression which would seem to recognize the right of England to any portion of Honduras.

Faithfully your obedient servant, W. R. KING.

To Hon. JOHN M. CLAYTON, *Secretary of State.*

So the proper organ of the Senate reported that they perfectly understood that the convention did not include British Honduras. The accusing Senators will not impeach the chairman, and if they do, I shall not go with them. I respect and honor that distinguished man—nay, sir, I love him. I have received injuries, many of them here. The memory of them died in the hour in which they were committed. But I have received kindnesses, benefits too, and many of these were received at the hands of William R. King. Not one of these shall perish in my memory until I give an account of them to his Creator and mine. And now, since those honorable Senators have so broadly assumed to speak for us all, they will not now deny that they did not know what we all "perfectly understood."

Just what Mr. King advised was done by the Secretary. He took effectual care not to use any expression which should seem to recognize the *right of* England to the portion of Honduras—that is, to British Honduras—which she possessed. That right remains just as it was before. Good or bad, it is not made worse or better by the treaty. As to the Bay of Islands, if it was in fact a dependency of British Honduras on the 4th of July, 1850, then the formation of a colony there is not a violation of the convention. If it was not then in fact a dependency, then that transaction is a violation of the treaty. But in either case it has nothing to do with the present question.

The Senator from Louisiana, [Mr. DOWNS,] in the very wantonness of censure, has supposed that not only the Senate but the late President, General Taylor, was kept in ignorance of the conditions of ratification, and this upon the ground merely that General Taylor sickened on the 4th, and died on the 9th of July. But the Committee on Foreign Relations now appear to have known those conditions on the 29th of June, and the President may be presumed to have been intrusted by the Secretary with a fact that was officially communicated to the Senate. Whatever else might have been the errors or misfortunes of that Administration, want of mutual confidence between the Secretary of State and his distinguished Chief was not one of them. They stood together firmly, undivided, and inseparable to the last.

Storms of factions from within their own party, and from without, beset them, and combinations and coalitions, in and out of Congress, assailed them with a degree of violence that no other Administration has ever encountered. But they never yielded and never faltered for an hour. They went on firmly and firmly united together in their great work of consolidating the then newly extended Republic, upon the foundations of universal liberty, and establishing its continental power on the foundations of commercial interests and republican systems. The Administration which they conducted was beaten down not by human hands, nor by human words, nor by human votes; but it went down only under a providential visitation, that if it had happened on the field of Monterey or at Buena Vista, would have either forever lost or long postponed the extension of our borders to the shores of the Pacific ocean. Those who have profited by political changes, consequent on that sad event, may listen unmoved to the censures which for two years past have howled, and still are howling equally around the Secretary of State in his retirement, and over the veteran and war-exhausted President in his grave. Let me, on the other hand, who had some humble portion of their confidence, and knew their fidelity to each other and to their country, perform, though it may be alone, the duty of vindicating them against the clamors of prejudice and error.

And let me say to the Senator from Louisiana, and to the Senator from Ohio, and even to the Senator from Michigan, that, long as their careers respectively may be protracted, even, as I hope they may, to the ends of natural lives, in ripened age, and true and devoted as I know they are, yet that it will be happy for them, and for us all, if even then they shall have established claims upon the affection of their country, and the gratitude of mankind, equal to those which were perfected in that Administration, (broken off in its seventeenth month,) but wisely conducted for that short period by John M. Clayton, the venerable statesman of Delaware, and presided over by Zachary Taylor, the hero who indicated and opened the way of the American armies to the conquest of Mexico.

Mr. MASON. This subject is one not only possessing intrinsic importance, but it is important on account of the matters incidentally connected with it. It has been sprung upon us suddenly this morning. I suppose it will not be desirable for the Senate to continue it now; I therefore move that the orders of the day be taken up, with the understanding that this subject will be taken up again in the morning hour to-morrow.

Mr. CASS. I have already spoken to the honorable Senator from Maryland, who has no wish personally that we should go on with this debate to-day, but he is willing to let it go over until to-morrow. There are some personal matters, however, about which I wish to say a few words, and I hope the honorable Senator will withdraw his motion.

Mr. MASON. I withdraw the motion.

Mr. CASS. I would ask the indulgence of the Senate to lay over other business, simply on the ground that a good deal has been said, and some misapprehension fallen into on some of these points; and I think, therefore, that the antidote should go out with the bane.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) This subject has not yet been disposed of, and the Senator can proceed.

Mr. CASS. I have no sort of idea of following the Senator from New York in this discussion. He has pronounced an elegy or eulogy upon a preceding Administration—I do not know which you may be pleased to call it—but certainly with a great deal of warmth and zeal. I have nothing to do with that, but leave it for those who supported that Administration. But what I do want to say is this: The Senator from New York modestly says he will convince me, among others, that we did remember what we said we did not remember. The Senator from New York had no right to say any such thing, because he gets himself into difficulty. He has said what is not the fact. I do distinctly remember that I did not undertand that treaty as the Senator supposes I did, and no man has any right to deny that. I not only remember that, but there are Senators around me who remember distinctly what was said at the time. The Senator has no right either directly or indirectly, by his own assertion, or by any process of argument, or by alluding to documents, which we never heard of till to-day, to say that I did know that that treaty did not include what upon the face of it, it did include. We do not read every document which comes here; no member does it. After the treaty was ratified, I dismissed it from my mind, till the strange conduct in that quarter excited some feelings in my mind, as it did in the minds of the American people; and I began then to look into it. When I did so, and the subject was more distinctly brought before us, I found that great encroachments were making by the British Government. We all know that it is a historical fact, that England is disposed to make such encroachments. Then when I came to examine the subject, I looked back to the circumstances of the treaty. I did not come here to arraign Mr. Clayton, and there is not a word in the speech which I made the other day which does it. What I said was, that it was a strange diplomatic procedure. I say so now, notwithstanding the allusion of the Senator from New York to the treaty of Guadalupe Hidalgo. Here was a treaty, the negotiatior of which, he says, did not mean what we intended it should mean. That is the point. It was a treaty in which the negotiator said we employed the term Central America, but that we did not mean Central America. We have said that if the American Senate, or the American people knew anything upon the subject, the treaty spread before the world did not convey that impression, notwithstanding the negotiator intended to convey it. Now, I say that it is not only a very strange diplomatic proceeding, but a very improper proceeding.

But, Mr. President, let me ask the Senator one question. If "Central America," as the term was used, meant only a portion of it, why did it not say so? Why did it not say "the States of Central America?" It uses the geographical term. If you were to conclude a treaty with Germany would not diplomatists subsequently construe it to include the whole of Germany, and not include some of the States and exclude others? Or if you describe Italy, would you exclude Milan, or Naples, or Rome? No; it would be a fraud upon the face of the paper, a fraud before the American people. I do not say a fraud was designed in this case, but I speak of the operation of such a construction. The term Central America is used; and I repeat the question, if it was not intended to embrace the whole, but to exclude some particular portion of it, why did it not say so? Why was not that done "neither affirming nor denying," in the terms of this *quasi* negotiation, the claims of England to any portion of it? Nothing like that was done. The treaty was perfectly general in its operation.

When I saw the letter of Mr. Clayton to Mr. Bulwer it excited my surprise. I repeat it, I was very much surprised. My object then was to ascertain what were the facts in relation to the matter, not for myself, for I understood the matter perfectly; I knew what the meaning of the treaty was, and I knew what the gentlemen around me said. I will repeat what the Senator from Wisconsin has reminded me of this morning, and which I recollect now, that he has called my attention to it, perfectly well, and others around me will recollect the same thing. I said when the treaty was before us, in honor of Mr. Clayton, the negotiator of it, that he deserved credit for the manner in which it was negotiated, for it was the first time that Great Britain had given up any territory which she had occupied, unless compelled to do it by the sword.

Mr. WALKER. If the Senator will allow me, I think I can give nearly the exact words which he then made use of. He spoke in very complimentary terms of the then Secretary of State for the position he had taken, and he remarked that it was the first time in the history of Great Britain, that she had given up territory without a struggle. I recollect that distinctly, and I presume others do.

Mr. CASS. I am much obliged to the honorable Senator. I recollected perfectly my impression. I say that upon that route—I do not say within a mile of it; the honorable Senator from New York is confining it to one particular point, and so in some measure did the honorable Senator from Maryland—I do not say within a mile, or

ten miles, but I do say this, that the islands of the Bay of Honduras are vastly important as commercial and naval stations, and in the possession of Great Britain will do us a vast deal of injury. With respect to commanding the route, your power extends so far as a gun may reach. We all know that the route is within three marine miles, over which you calculate a gun may reach. But it is the effect which the stations may have in interrupting our communication, which makes this subject important. That is what I intended to sweep off; and therefore the whole of Central America, for that purpose, was included in the treaty.

Now, what motive could I have—I speak for myself alone—in agreeing to that treaty, in allowing Great Britain to join us in a question respecting this continent, except that it would be possible to effect without difficulty, what we might not otherwise have been able to effect without war? I therefore was willing to forego an important principle with me, to have no arrangement with any foreign Power with regard to the matter, because I thought that the treaty swept off every British foot from the continent in that section of North America, and I had a right to think so. I saw the term Central America upon the face of the treaty—not "political Central America," not "Central America" excluding British possessions or claims, and confining it to one or the other; but the general term designating that district of country, which the Senator from New York says would, according to some geographers or gazetteers, extend it to Mexico; or according to others, it would extend to portions of the United States. That would not affect the treaty one way or the other; but would exclude Great Britain from whatever section was included in Central America. We all know what the intention and object of the treaty was. It was to preserve that portion of the continent untouched by either Power, so as to leave the great channel of intercourse between the Atlantic and Pacific oceans unshackled, for the benefit of the whole world. That was the object.

I say that Colonel King never used language conveying an impression with regard to that treaty different from that which was made upon me. Colonel King, we all know, is low, much lower to-day than he was when I called on him last Thursday, but I found him then capable of sitting up, with the Intelligencer upon his table, from which he was reading upon this subject. I sat down and conversed with him, and I will repeat now what he said to me then. I may not use the precise language which he did; but the particular ideas and the general impression made upon my mind are clear, that the only claim which he understood to be connected with British interests there, was precisely the same as that which the Senator from Maryland has referred to, the claim to the right to cut logwood—an undefined right, as I think the Senator from New York has said—an undefined, unknown right; and I will repeat here that Colonel King never did suppose, unless I greatly misunderstood him, that the treaty authorized the British to establish a permanent colony there.

With respect to the letter which Mr. Clayton has published, I am not disposed to deny that he did receive such a note. He is an honorable man, and would not make such an assertion unless it was true. With respect to the communication, I have no more to say, except to repeat the same idea which was, I am certain, in my own mind. Colonel King's difficulty was with respect to that right. And when this *quasi* treaty came to be ratified, he said to Mr. Clayton specifically, Send it back, it will never be confirmed, because it practically recognizes the whole claim. All we ever intended to express was the recognition of the right to cut logwood, without knowing how far that would extend.

One or two more words, and I have done with the matter, so far as regards myself. I repeat here, in my seat, that during the progress of the treaty, I gave, as a distinct reason for voting for it, that it swept away every British claim to territory on that portion of the continent. I repeat now, as I said before, that we had every reason to believe it, because the treaty on its face said so. If the treaty did not mean that, I ask, as between practical men, acting for the country, why did it not say so? Can any man give a reason why, if it did not include British Honduras, politically or geographically, it did not say so? None at all.

With respect to the word "dependencies," what I said was this, that the word "dependencies" used in the papers, allowed the utmost latitude to the arts of diplomacy. That was my expression. I thought it was too unsettled a term, because, as used in Mr. Bulwer's note, it is not "the dependencies of the Island," as it is in Mr. Clayton's answer, but it is perfectly undefined and unknown, and may, for aught we know, be extended almost indefinitely; I do not presume to say how far.

In regard to the appointment of the consul, I do not understand that the appointment of a consul, or commercial agent to a country—I have not looked into the subject lately, I am speaking, therefore, from my impression—operates as a recognition of the independence of the State to which the appointment is made. It is not like the appointment of a diplomatic agent, who carries with him the declaration, on the part of the Government, that "you are among the independent families of nations." The appointment of a consul, if I understand the true principle, is, that it does not carry with it an acknowledgment of the independence of the State.

In justice to Mr. Clayton, I repeat, that during the negotiation more than once he conversed with me upon the subject. I believe, as I before stated, he showed me the draft of the treaty. I approved it then in conversation with him. I approved it here in the discussion, and I approved it by my vote, and I approve it now just as I did then, if the treaty upon the face of it was intended to be what the American people supposed it was.

Now, before we have done with this matter, the honorable Senator from New York will find that all his suggestions and insinuations as to the belief and knowleege of Senators will be dissolved in air. He will find that the honorable Senator from Louisiana will make a statement that will enlighten the Senate and the country.

Mr. DAVIS. I desire to submit the following resolution in connection with this subject, asking for some other dispatches in regard to it:

Resolved, That the President be requested to communicate to the Senate, if not incompatible with the public interest, the correspondence between the Hon. Abbott Lawrence and Lord Palmerston, or the Government of the United States, relative to Central America; and also any other correspondence which relates to the claims of Great Britain to the Mosquito coast, or to any portion of the territory of Honduras or Yucatan.

The PRESIDING OFFICER. By unanimous consent it will be received and considered at this time.

No objection was made.

Mr. PEARCE. I would ask the Senator if he is sure that that correspondence has not already been communicated to the Senate?

Mr. DAVIS. It never has. I wish to obtain it.

The resolution was adopted.

Mr. DOWNS. Mr. President, this debate has been sprung upon us very unexpectedly this morning by the honorable Senator from Maryland. He, and the honorable Senator from New York, seem to have given the whole subject a very searching inquiry, which I have not given it. I shall not attempt to go into an elaborate argument as they have done; and there is a very good reason why I should not. I have not looked into the subject. I have not the means or facilities of arming myself with British authorities, or British rights and British claims, to which they seem to have had access. But, sir, I stand here, as I shall on all occasions, to maintain the position which I have taken on this subject, and to vindicate it. I rejoice to say, that notwithstanding the researches and the labor bestowed upon this subject, by two of the ablest champions of the Whig party, on this floor, it is perfectly easy for the most humble individual, as I am, on the other side, to refute it. The honorable Senator from New York, in the high-sounding notes of his eloquence, has pronounced the assertion that I made, that in all probability the understanding between the British Minister and Mr. Clayton, was not communicated to the President of the United States, as a wanton assault. I repel the assertion. I did not state it as a fact, but I suggested it as an inference from the circumstances of the case, and I leave it to the Senate and to the people, whether the inference was a natural one.

Mr. SEWARD. I have no desire to be misunderstood. What I said was "wantonness of censure," not assault; but I do not know that it is material.

Mr. DOWNS. I understood the honorable Senator to say that the allusion which I had made was a wanton assault on the Secretary of State. I made no assault at all. I stated no fact. I suggested what was very probable from the circumstances of the case—the sickness and death of the President. And with all the research of both the gentlemen, with all the knowledge which they seem to have on this subject, neither of them has ventured to assert that this identical fact was ever communicated to the President. The honorable Senator from Maryland did say that it was communicated to the Cabinet. But I did not state it as a fact. I gave it as a mere suggestion from the circumstances, about which everybody could judge for themselves.

But, Mr. President, while the Senator from New York is so anxious to charge another Senator with a wanton attack, he should have been very careful not to hurl back an assertion upon Senators here, which was full of wantonness. He has done that; he did it in this way: He said that the fact of this communication between the Brtitish Minister and the Secretary of State was known to the Senate. I deny it. We all deny it. Will the Senator now state in his place that the fact was communicated to him as a Senator? The Senator did not state it, and I doubt whether he can.

Mr. SEWARD. As the Senator appeals to me, I wish to say that I relied upon the letter of Colonel King, which said that the Senate knew it. I do not offer myself as a witness upon the point that the Senate was informed upon the subject. I only say for myself that I knew of the construction given to the treaty in the correspondence alluded to.

Mr. DOWNS. Whatever the Senator may have known, his recollection seems to have been very suddenly refreshed on the subject, for on the other day when I addreesed a few words to the Senate, I suggested that no Senator understood that to be the construction of the treaty.

Mr. SEWARD. The Senator will allow me to say that when he sat down I rose to obtain the floor, but was interrupted by the Senator from California, who moved that the Senate adjourn; and I have not had an opportunity since that time until this morning to say anything upon the subject.

Mr. DOWNS. I am sorry that I am so often interrupted in my remarks by the Senator. But the only thing on which the honorable Senator rests his conclusion that the Senate must have known the fact of this correspondence, was that some documents were at some time or other sent to Congress, which intimated something of the kind. Surely the Senator does not pretend to say that every document sent here is at all times in the mind of every Senator. How many of the immense volumes of documents which are sent here do we ever read at all? We are less likely to see and know them here than we are elsewhere. Senators have something else to do besides conning over the documents which Mr. Clayton or Mr. Anybody-else may send here, to inquire into every minute matter of information which they may contain. Therefore, whatever documents may have been sent in, or whatever allusion may have been made to the subject, after the Senate had no longer any power over it, when the attention of Senators was not called to it, has no effect against what I said the other day. There is as little foundation for the supposition, or for conveying the idea to the country, that because the fact was communicated to Colonel King, therefore it was communicated to the Senate. There was no occasion for Colonel King communicating it to the Senate. The treaty was not then before the Senate. It had been ratified, had been sent to Europe, and had come back for the exchange of ratification long after the treaty was before the Senate, and we had no longer anything to do with it.

This question was raised by the British Minister when the treaty was not before the Senate. Colonel King could not then bring it before the Senate. Nobody but the President could do it. It therefore was not for Colonel King to run around and tell every Senator about it, and I presume he did not. Therefore I think the whole argument of the Senator to show that it was known to the Senate, rests on no solid foundation. Of the great body of Senators, every one except the Senator

himself, I presume, was unaware that any such understanding as this did exist. There are many Senators here now who were here then, and since the gentleman seems to have such peculiar knowledge, I call upon every such Senator to state if he, at that time, knew of this correspondence. If they did, I was perhaps in error, but if there was nobody but the Senator himself who knew that fact, I may still maintain my position, and I had a right to express the astonishment which I felt at the construction given by Mr. Clayton to the treaty.

The Senator from Maryland, and the Senator from New York, have taken a very strange course to prove that the construction which we place upon the treaty is an erroneous one; and that is, that the British Government at some time or other, did have some sort of a claim to cut timber or do something else in Central America. Who ever denied that? I never did. So they claimed a right to a portion of Oregon; and they claimed certain rights on the Mosquito coast; but by the treaty of Washington they gave up the one, and by this treaty they gave up the other: and I would ask the gentlemen to say why they could not, just as well, have given up their right to British Honduras, as they did in the treaty of Washington their right to Oregon, or in this treaty, their right to the Mosquito coast? Therefore prove what you please about the British right, I care not what it was, if they gave that right up they had a right to do it, and that is the question before us. I contend that they did give it up. I contend that it was so understood by the Senate and by the country.

But, Mr. President, the honorable Senator from New York has discovered something connected with this treaty which he thinks is conclusive that it had nothing to do with Central America at all; and that is, that in the preamble which he read, it is stated that the object of the treaty was to negotiate about a passage through the isthmus. Now, Mr. President, I did not know before that in a treaty or bill, especially if there are other provisions in the bill or treaty, that the preamble is to bind us. But if the gentleman had read, not the whole of the treaty, but the very first article, he would have found that there was a great deal in the treaty besides the negotiation in regard to the passage through the Isthmus. I will read that portion which both the gentlemen, with all their research, took good care not to read. The first article of the treaty is as follows:

"The Governments of the United States and Great Britain hereby declare, that neither the one nor the other will ever obtain or maintain for itself, any exclusive control over the said ship-canal; agreeing that neither will ever erect or maintain any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise any dominion over Nicaragua, Costa Rica, the Mosquito coast, or any part of *Central America;* nor will either make use of any protection which either affords or may afford, or any alliance which either has or may have, to or with any State or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito coast, or *any part of Central America*, or of assuming or exercising dominion over the same; nor will the United States or Great Britain take advantage of any intimacy, or use any alliance, connection, or influence that either may possess, with any State or Government through whose territory the said canal may pass, for the purpose of acquiring or holding, directly or indirectly, for the citizens or the subjects of the one, any rights or advantages in regard to commerce or navigation through the said canal which shall not be offered on the same terms to the citizens or subjects of the other."

The Senator from Maryland has enumerated these different minor States, which he says are embraced in Central America, and has contended the treaty did apply to them only. But here these States are enumerated, and then the general words, "any part of Central America," are added. Is not that broad enough to cover the whole, including British Honduras, especially when it is by British authority, as quoted by the honorable Senator from Ohio the other day, included in the term Central America? I would ask the gentleman to explain what is meant by the words "any part of Central America," in enumerating several States, if it was not to apply to these several possessions? That was the natural inference from those words. We must understand language as the world generally understands it. I shall not go into a minute analysis of what is meant by political or geographical Central America, or anything of that kind. I take the plain import of the language and ask, was not the construction of the world and the Senate, and of all parties, at the time, that these words were intended to embrace the whole of Central America, including British Honduras? I always supposed that they had some meaning in them, and were intended to have some meaning; otherwise the great object of the treaty was lost.

I know that memory is fallible, and that I am as liable as any man to be mistaken in the recollection of facts. But the circumstances under which this treaty was made were brought into my mind in such a way as to impress them peculiarly upon my mind. The treaty was not communicated to me for the first time after it was formed; but when it was under negotiation, Mr. Clayton himself brought the *projet* of it, with all his maps and his explanations, and showed it to me, as he did to many other Senators, as he wished to be assured that everything was right. It was natural, perhaps. There was a Democratic majority in the Senate. He knew that we were more careful than the Whigs on any question relating to territory; and it was natural that he should consult the Democratic members of the Senate in regard to the treaty. I was consulted before the treaty was signed. Some suggestions were made; and I recollect distinctly now, as I stated the other day, that in regard to the expression "Central America," the question with me was whether it did embrace all. I do not intend to give the precise words that passed between us, but I recollect distinctly that my mind was satisfied on that subject. Let the gentlemen, then, not take the preamble, but let them take the treaty and look at it, and I think that justifies me in the expression of astonishment which I made the other day in regard to the construction of the treaty.

Mr. PEARCE. I was one of those who did not hear the remarks made by the Senator from Louisiana the other day. My only knowledge of them is derived from the newspapers. I found in them the report of his speech, and in that report, referring to the letters of Mr. Clayton and Mr. Bulwer, he said:

"By examining it they will see that there is a very great probability that Mr. Clayton acted in this matter on his own authority, without consulting even the President or the Cabinet."

And then I found that, assuming as a fact what before he had only inferred, he said, "why did he not consult with the President?" In answer to that assumption of the Senator, I stated I was authorized to say he had conferred with the President and with the Cabinet; and I might have added, as I do now, that Mr. Clayton informs me that his course had the approval of every one of them. *That* is derived from no British authority. What the Senator meant by British authorities to which I have access more than himself, I know not. I have no intercourse with British authorities; nor even the honor of an acquaintance with the British Minister. But I know what authorities I have had access to, and they are just such as that Senator might have referred to, if it had been his pleasure to consult the Congressional Library. They are documents published by the Government; volumes of the statutes; the publications of the day; official letters communicated to Congress by the President, and works of standard authority, whether printed in England or elsewhere. Sir, I do not know that I have any more affection for "British authorities," or for the British Government, than any other Senator in this body. Perhaps, indeed, I have as much reason as any one else for a bitter prejudice against Britain and the British. I need not allude further to my personal history for the purpose of enforcing this remark. But I will say that I have no other feelings than those of a loyal American, and that I yield to no Senator in the purity and fervor of my devotion to my country.

It is very true that I did not read the section of the treaty to which the Senator from Louisiana has referred, but I believe it was read by the Senator from New York. It was unnecessary for me to read it, because I alluded distinctly to that very language upon which the Senator basis his argument, and I undertook to show that its meaning is different from that which he gives to it. I suppose, in all diplomatic negotiations, in all political controversies, when we speak of the divisions of the earth we speak of political divisions, unless something appears to the contrary. I said that there was a political division called Central America which had been a united Federal Government, under that title, which included the five States which I enumerated, and I stated that it was to that Central America that the treaty referred, and only to that. I certainly never supposed at the time the treaty was ratified, that the object was to expel the British from any possessions which they had in America. I do not pretend to sit in judgment upon those who thought otherwise. Every Senator is welcome to think as he pleases. The Senator from Louisiana avows his recollection without any responsibility to me, as I avow mine without any responsibility to him. But I believe that the argument is with me—that political Central America is that which was meant; and that this view is confirmed by the enumeration of the two subdivisions of that political arrangement mentioned in the first article.

The Senator from Michigan referred, by way of illustration, to Germany and the German Empire. But I do not know that there is any difference between the boundaries of Germany and the German Empire. The political divisions of the German Empire, about forty in number, form all Germany geographically considered.

The case supposed is not at all parallel with that of Central America. And so Italy; though geographically one country, is not so politically, being divided into several States and Kingdoms in nowise connected by alliance or political association. So that we could not speak of Italy as a political organization, nor make the comparison which the Senator endeavored to force into his argument.

But, sir, the Senator spoke of the treaties by which we settled disputes in Oregon, and also on the northeastern frontier. We were contestants there. Both the United States and Great Britain were claiming the same territory; in the one case, on the northeastern, and in the other, on the northwestern frontier. We were parties in the disputes, each claiming; and we settled the contest by exact treaties defining precisely our limits, and yielding in each case a part of what we claimed. Those are very different cases from the present. We claimed no interest in Central America. We had not the shadow of a claim there. I have never undertaken to say how good the title of Great Britain is to the possessions which she holds in that region. But I did undertake to show, from historical authority, that her title was obtained by a violation of the permissive and special occupancy authorized by the Crown of Spain; and I showed how, in the course of time, it ceased to be the interest of Spain to regard the British encroachments, and how Great Britain consolidated her power in Honduras. As to the justness and right of her claim I said nothing. I repeat it, I meant to leave it as Mr. Clayton meant to leave it, neither affirming nor denying any right of Great Britain—leaving it just as it was, a matter of fact, without the sanction of his treaty, or the sanction of his acknowledgment. And I said that had not been the case with that Administration, of which the Senator had been a supporter. I referred to Mr. Polk's recognition of the authority of Great Britain over this territory called Balize, or British Honduras. But the Senator from Michigan said he was yet to learn that, by the appointment of a consul to the Balize, we gave any sort of acknowledgment to the title of Great Britain to the country.

Mr. CASS. My remark was in reply to the honorable Senator from New York.

Mr. PEARCE. But it applied equally to what I said. I stated it to show that Mr. Polk had expressly recognized the authority of Great Britain over this territory.

Mr. CASS. By the appointment of the consul?

Mr. PEARCE. Yes. But I will read to the Senate the commission of the consul, signed by President Polk; and inasmuch as the Senator from Louisiana thinks that a reference cannot fairly be made to something written without reading it in full, I will do so:

"The President of the United States, to all who shall see these presents, greeting:

"Know ye, that, reposing special trust and confidence in the abilities and integrity of Christopher Hempstead, of New York, I have nominated, and, by and with the advice and consent of the Senate, do appoint him consul of the United States of America, for the port of Balize, in Honduras, and such other ports as shall be nearer thereto than to the residence of any other consul or vice consul of the United States, *within the same allegiance;* and do authorize and empower him to have and to hold the said office, and to exercise and enjoy all the rights, preëminences, priv-

ileges and authorities to the same of right appertaining, during the pleasure of the President of the United States for the time being—he demanding and receiving no fees or perquisites of office whatever which shall not be expressly established by some law of the said United States. And I do hereby enjoin all captains, masters, and commanders of ships and other vessels, armed or unarmed, sailing under the flag of the said States, as well as all other of their citizens, to acknowledge and consider him, the said Christopher Hempstead, accordingly. And I do hereby *pray and request Her Britannic Majesty, her governors and officers*, to permit the said Christopher Hempstead, fully and peaceably to enjoy and exercise the said office without giving or suffering to be given unto him, any molestation or trouble; but, on the contrary, to afford him all proper countenance and assistance—I offering to do the same for all those who shall in like manner be recommended to me by *her said Majesty*."

Mr. CHASE. What book is that?

Mr. PEARCE. It is Executive Document, volume 10, 1849 and 1850.

Mr. CASS. That is the standing form of the commission—a *de facto* acknowledgment.

Mr. PEARCE. Precisely. It was a *de facto* acknowledgment of the authority of the British Government to grant an exequatur and therefore an acknowledgment of her jurisdiction *de facto*.

Mr. CASS. I would ask the Senator if he supposes that the same form was not used in regard to the Mexican and South American provinces before their independence was acknowledged, and also in regard to Greece? It is a *de facto* acknowledgment of the state of things, without conceding the right at all. It is not a diplomatic recognition.

Mr. PEARCE. That is all Mr. Clayton has done. He has recognizeed the *de facto* existence of the British authority within those limits. The exequatur in this case was from the British Government. Here is the letter of Mr. Hempstead, informing the Secretary of State that he had received it:

"Sir: Permit me to inform you that my commission, together with Her Britannic Majesty's 'exequatur,' has at length arrived, and I have commenced to act as United States Consul for this port."

That is what was done in that day, which it seems hardly any of us may now venture to question. I do not intend to do it, but I desire to point out the contrast between the acts of Mr. Buchanan and Mr. Clayton. Mr. Clayton recalled this consul. He did not choose to give even that sanction to the claim of the British authorities. He withdrew the sanction of this Government so far as he could do so by recalling the consul.

The form of language employed is nothing more than what is always used, I suppose. It is precisely that, I presume, which would be found in the commission of the consul to Liverpool. But forms are sometimes things, and as you would not pray an exequatur of any Government except that which exercised jurisdiction over the place to which the consul is sent, so Mr. Polk's commission to Mr. Hempstead admits the jurisdiction of her *Britannic Majesty* whom and whose "governors and officers" the commission *prays* to allow Mr. Hempstead to "exercise peaceably and fully" his office of consul.

I need not occupy more of the time of the Senate. I rest the late Secretary's defense upon his letter to Mr. King, the then chairman of the Senate's Committee on Foreign Relations—their proper organ, and his reply declaring that "the Senate perfectly understood that the treaty did not include British Honduras."

Mr. BORLAND. Mr. President, I will not go into a discussion of the merits of this question; nor will I undertake to say what was the opinion of any other Senator at the time this treaty was ratified; but as an appeal has been made to the Senate generally to say what was their understanding, I respond by stating that my understanding of the treaty was precisely that which has been expressed by the Senator from Michigan and the Senator from Louisiana. If any other understanding of it was expressed on this floor, I never heard of it until this discussion sprang up. So much for that.

I, sir, voted against the ratification of that treaty, not in reference to this particular question, as to the extent of the British possessions, or whether those possessions were rightfully held or not; but I voted against it for two reasons: The first was, that I recognized what is usually called the Monroe doctrine, and for that reason I thought that I could not, without being inconsistent, recognize even the right of Great Britain to negotiate with us as to the possession and holding of any provinces of any kind in Central America, or upon this continent in that direction. And in the next place, I voted against it because I would never by my voice bind the United States to abstain from the acquisition of territory in that direction or in any other. I deem it but just to say this much for myself, because I know that my feeling upon this subject represents the unanimous voice of my constituents.

Mr. SOULE. Mr. President, there are certain facts connected with the history of the negotiation of this treaty which seem to have been overlooked by those gentlemen who have preceded me in this debate, and which I deem it important to place before the Senate. I was amongst those who voted for the ratification of the treaty which has been the subject of this debate, and it is but natural that I should be anxious, as well as my colleagues in the Senate who have preceded me, to state under what promptings that vote was given.

It will strike the Senate, and I am sure it will strike the country, that there is something highly significant in the fact, that nearly two months after the treaty had been ratified, it was deemed necessary on the part of the British Minister to have some explanations as to the meaning to be imparted to the treaty. Whence could his suspicions arise? What could have transpired between the date of the ratification of the treaty and the date of the correspondence between the British Minister and our Secretary of State that should thus rouse the suspicions of the British Minister, is a question which naturally suggests itself to the consideration of any one who may bestow the least attention upon the subject. To my mind, it shows conclusively that something of the secret of our deliberations here had gone out, and had induced, on the part of the British representative here, that suspicion. What was it, Mr. President, which could thus have created that state of feeling in the breast of the British Minister? I shall state it in very brief words.

While the treaty was being negotiated, some ten or twelve Senators, I among them, at the request of the then chairman of the Committee on Foreign Relations, met at the room of our President *pro tempore*, there to hear the reading of this treaty, then in embryo; and on account of the desire entertained by some of the members present that I might be favored with some more particular acquaintance with the localities embraced by the treaty, I was specially desired and requested to lend all the attention I could bestow to its reading. When the obnoxious article was read, I could not but remark, that though in the ordinary transactions of life such language as it contained might seem fully satisfactory, and though it could hardly admit of a doubt as to its bearing and import, yet, inasmuch as the object was to divest England of all pretension to set up any right to any portion of the country embraced by it, I thought it would be better to have the intention couched in express words: and I then warned my associates against the dangers of leaving that article in the condition in which it stood. I do recollect, sir—and that recollection is as fresh in my memory as if its date were but yesterday—that thereupon it was remarked by the very gentleman who had called us together, that whatever obscurity there might seem to be in the article was to be attributed to an anxiety on the part of the British Minister to have his national pride protected, and to a desire on the part of Mr. Clayton to indulge him in that natural wish—that England felt she was forced into a sort of backing-out, and it was expected we would not insist upon any expression being in the treaty which might wound her sensibilities.

Mr. CASS. Will the honorable Senator allow me to ask who made that remark?

Mr. SOULE. It was made by Mr. King. It was of course understood that the right of cutting a certain denomination of timber at the Balize might still be exercised independent of the treaty, because that authority could under no circumstances imply a right of ownership. But it was expressly declared that such was the understanding of the high contracting parties, and that whatever obscurity, if any there were, might be found in the treaty, was meant to satisfy the keen sensibility exhibited on that occasion by the British negotiator.

Well, sir, the treaty afterwards came before us in this Chamber, and I feel that I labor under some difficulty as to the question whether or not I am permitted to allude to what transpired in secret session in reference to it. I would like to be enlightened on that point. I am comparatively a young Senator, and I therefore wish for light on this point before I proceed further.

The PRESIDING OFFICER, (Mr. MANGUM temporarily occupying the chair.) The injunction of secrecy not having been removed, the Senator cannot refer to the proceedings on that subject in Executive session.

Mr. DOUGLAS. Cannot the injunction of secrecy be now removed, by unanimous consent?

The PRESIDING OFFICER. We are not now in Executive session.

Mr. DOUGLAS. If the injunction can be removed now by unanimous consent, I do not suppose there will be any objection.

The PRESIDING OFFICER. It is not competent for the body to act on Executive business in open session.

Mr. CASS. I believe we are not obliged to have Executive sessions with closed doors. I would therefore suggest that we go into Executive session with open doors; it will not take us a minute to remove the injunction of secrecy. This is a very important matter to the American people, and I am for having everything in regard to it laid before them.

Mr. SOULE. I take it then as the sense of the Senate that I am to proceed.

The PRESIDING OFFICER. The Senator cannot, in the opinion of the Chair, narrate the proceedings of the Senate in Executive session, unless where the injunction of secrecy has been removed.

Mr. BUTLER. As this subject is likely to be very freely discussed, and as gentlemen cannot now do themselves justice, I move that the Senate proceed to the consideration of Executive business.

Mr. GWIN. I hope the motion will not be agreed to.

Mr. CASS. We need not close the doors.

Mr. MASON. I would submit to the honorable Senators whether we may not be establishing a precedent which we may have cause to regret.

The PRESIDING OFFICER. The present occupant of the chair is clearly of the opinion that no allusion can be made to any question purely executive, except in Executive session proper.

Mr. WALKER. Can there be anything more sacred in the secret proceedings of the Senate on the consideration of this treaty than has been already adverted to by various gentlemen?

The PRESIDING OFFICER. It has been usual to permit Senators to disclose their own action upon any question in Executive session affecting nobody else but themselves; but it is utterly against all usage, as the Chair understands, to allow any allusion at all in open session to any question of an executive character, unless where the injunction of secrecy has been removed.

Mr. CASS. I suppose it is perfectly in order for the gentleman to make any suppositious case that he pleases, provided he gives no names.

Mr. BUTLER. Oh, no. It would not be well to do that.

The PRESIDING OFFICER then put the question on the motion to proceed to the consideration of Executive business, and twenty-five Senators rose in the affirmative.

Mr. PEARCE. Before the negative is put, I desire to say that I have no objection to the motion, if the understanding be that we are to have an Executive session in the usual manner, with closed doors.

Mr. MASON. That is my understanding.

Several SENATORS. Open doors.

The PRESIDING OFFICER. The Chair cannot recognize an Executive session with open doors.

Mr. SEWARD. I vote in the negative, for the purpose of making a quorum, and not because I am opposed to the motion.

The motion was agreed to, there being on a division 25 ayes, and 12 noes.

EXECUTIVE SESSION.

The Senate accordingly proceeded to the consideration of Executive business; and after some time spent therein; the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 10, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Friday was read and approved.

The SPEAKER. The business first in order is the consideration of a motion submitted on Monday last by the gentleman from Pennsylvania, [Mr. CHANDLER,] to suspend the rules, that a resolution to permit the Colonization Society to hold a meeting in this Hall may be introduced.

If it be the pleasure of the House, the Chair will call to its attention an omission to fill a blank in Senate bill No. 217, entitled "An act for the relief of William Speiden." The words "two and a half per cent." were omitted through a clerical mistake in the Senate.

Mr. CHANDLER. With the permission of the Chair I will state that those words were printed in the bills that were laid before members, and as the omission has been accidental, I move by unanimous consent that the blank be filled.

There was no objection, and the words "two and a half per cent." were inserted in the bill.

COLONIZATION SOCIETY.

Mr. CHANDLER. I call up for consideration the motion I submitted on Monday last, to suspend the rules for the purpose of introducing the following resolution:

Resolved, That the use of this Hall be granted for the anniversary of the American Colonization Society, the 18th instant, at seven o'clock, p. m.

The question was taken on the motion to suspend the rules, and disagreed to, two thirds not voting in favor thereof.

LEGAL PROCESSES.

Mr. McLANAHAN. I am unanimously instructed by the Committee on the Judiciary to ask leave of the House to introduce "A bill in addition to the several acts for legal processes in the courts of the United States." I will merely state that it authorizes the courts in certain cases to issue attachments for contempt.

Mr. CARTTER. I object.

Mr. McLANAHAN. I then move that the rules of the House be suspended, for the purpose of allowing me to report that bill to the House, and on that motion I demand tellers.

Tellers were ordered; and Messrs. HARRIS, of Tennessee, and CLINGMAN, were appointed.

The question was taken, and the tellers reported—ayes 56; which number not being two thirds of a quorum, the motion to suspend failed.

Mr. BURT. I ask the unanimous consent of the House——

Mr. CLARK. I rise to a question of order. Is not this resolution day?

The SPEAKER. It is.

Mr. CLARK. I then call for the regular order of business.

Mr. BURT. It is regularly in order on this day to move a suspension of the rules.

Mr. MEADE. With the permission of the gentleman from South Carolina, [Mr. BURT,] as I see there is a great struggle for the floor, I will ask the unanimous consent of the House for leave to introduce a resolution addressed to the President of the United States. Its consideration will occupy but a minute if unanimous consent be accorded, and I do not think there will be objection.

Mr. BURT. That is the thing I wish to do myself, and I am amazed the gentleman would suppose that I would yield him the floor for such a purpose. There is a Senate bill on your table, Mr. Speaker, authorizing the Secretary of the Treasury to issue a new register to a ship which has been three times nearly burned to the water's edge, and is now lying in the harbor of Charleston. I simply ask that the bill may now be taken up and passed. I am informed by the owner of the vessel that she is ready to sail, and only waits the passage of this act.

Mr. McMULLIN. I object.

Mr. BURT. I move, then, to suspend the rules for the purpose I have indicated.

The rules were suspended, and the bill was taken up and read a first and second time by its title, as follows:

"An act authorizing the Secretary of the Treasury to issue a new register to the ship Prentice, and to change her name to that of Leonie."

The bill was then, according to order, read the third time, and passed.

JOHN CHARLES FREMONT.

Mr. PHELPS. I ask the unanimous consent of the House for leave to take from the Speaker's table Senate bill No. 573, entitled "An act for the relief of John Charles Frémont, late lieutenant colonel in the Army of the United States."

Mr. STANTON, of Ohio. I object to taking any bill up out of its order.

Mr. PHELPS. I then move a suspension of the rules that it may be taken up for consideration.

The question was taken, and the rules were suspended.

The bill was read a first and second time by its title.

Mr. PHELPS. As that bill contemplates an appropriation, it is necessary that a motion should be submitted to suspend the rule requiring its consideration in the Committee of the Whole, that it may be now passed. Before I submit that motion, however, I desire to say a few words on the merits of the case.

Mr. JONES, of Tennessee. The rule says that the bill shall have its first consideration in the Committee of the Whole.

The SPEAKER. That is the rule, and the gentleman from Missouri is aware that it is not in order to consider the bill in the House until that rule has been suspended.

Mr. PHELPS. Then I suppose that I cannot make an explanation of the merits of the case, unless by the general consent of the House, until after the rule requiring the bill to be first considered in Committee of the Whole has been suspended.

The SPEAKER. That would be the law of the House if strictly enforced.

Mr. PHELPS. I will make the explanation I design, by the unanimous consent of the House, at this time.

[Cries of "Go on!" "Go on!"]

The SPEAKER. Is there objection to the gentleman proceeding?

There was no objection.

Mr. JONES, of Tenneseee. With the permission of the gentleman from Missouri, I will suggest that this bill be referred to the Military or some other committee, to ascertain the probable amount to be appropriated by it. I know nothing at all about it. It proposes to appropriate money to satisfy judgments which have and *may be* rendered against Colonel Frémont for official acts, whilst he was in California, in the service of the United States. The amount may be $20,000, or it may be $1,000,000.

Mr. PHELPS. Mr. Speaker, if anything is to be done for the relief of Colonel Frémont, it must be done speedily. It will be recollected by members, that some time last spring, shortly after Colonel Frémont arrived in London, and whilst he was proceeding to attend, in company with Mrs. Frémont, a party to which they had been invited, he was arrested and immediately thrown into prison, at the suit of Antony Gibbs & Sons, indorsers of F. Huttman, commenced on four several bills of exchange drawn by him whilst Governor of California; on James Buchanan, the then Secretary of State, in favor of Huttman. Those bills of exchange were drawn for the sum of $19,500, which was expended in the military service of the country in California. There being no appropriation for the payment of those bills they were protested, and suit was brought for the recovery of the amount of those bills, damages and interest.

Mr. JOHNSON, of Georgia. I desire to be informed, Mr. Speaker, whether it is not practicable to ascertain the amount for which these bills of exchange were drawn, and if so, why that amount has not been specified in the bill under consideration? I would ask further, whether it is not practicable to ascertain the amount of judgment already obtained against Colonel Frémont? I am for providing for judgments rendered and leaving future ones to take care of themselves.

Mr. PHELPS. The gentleman from Georgia has not listened with his usual attention, I am sorry to say, to the reading of the bill for the relief of Colonel Frémont. It specifies $19,500 as the amount for which those bills of exchange were drawn. We are to provide, as a matter of course, for the appropriation, in addition to that amount, of money for the payment of damages in consequence of protest, interest, the costs of the suit, and the cost of defending the same. I cannot, nor can any other person, now tell what the costs of the suit will be. I know, however, that speedy action is necessary upon this bill; for I have before me the affidavit of Mr. Treasure, the clerk of Messrs. Lawford, the attorneys of Colonel Frémont, which states that judgment will be rendered in all probability sometime during the month of December. Unless he is surrendered for the purpose of being committed to prison, his bail will become responsible. Every one who is acquainted with the history of Colonel Frémont, knows the condition of his property and the embarrassments in which he is involved, on account of the liabilities he incurred in the conquest of California, and that it will be impossible for him to raise this amount of money in a foreign country. Will you, then, relieve that officer who has spent this money in behalf of the Government? Will you relieve him from the judgment which has been obtained against him, and prevent his imprisonment in a foreign country? So far as the justice of these claims is concerned, I have only a word to say. I was proceeding to remark that at the last session of Congress, there was inserted in the Army appropriation bill, a provision directing the President of the United States to appoint a board of officers, whose duty it should be to examine these California claims. I have now the report of that board before me. That board of officers was composed of Brevet Colonel Smith, of the 2d artillery; Major Lee, of the Commissary Department; and Lieutenant Colonel Thomas, of the Quartermaster's Department. They proceeded to act upon these California claims, and acting upon this and the great number of claims that were brought before them, they recommended to the favorable consideration of Congress the amount of $31,000 only.

Then I bring forward the testimony of the board of Army officers, whose duty it was to examine these claims, and besides to recommend such action as they might think just. They recommended that these bills of exchange be liquidated. They are specifically mentioned in their report. I will remark that these expenses were incurred subsequent to the revolution which broke out in California, in the month of May, 1846.

Mr. JONES, of Tennessee. I wish to make an inquiry of the gentleman. I wish to know if Colonel Frémont has ever settled and accounted to the proper officers of this Government for the manner in which he expended the proceeds of these drafts, and what was the amount which he has accounted for, and whether or not there has ever been any part of it paid by the United States. If he has never accounted to the Government for this money or any part of it, then he cannot come here and ask us to pay this draft.

Mr. PHELPS. I have not made any investigation or examination of the testimony which was presented to this board of officers. I could not examine it. The officers of the Army were charged to make this very investigation. The gentleman from Tennessee [Mr. JONES] inquires if I had made that investigation. This board, after making an investigation, say, that these demands are still existing against the Government of the United States and ought to be paid. Is not this sufficient?

Mr. JONES. That is not the point upon which I desire information. It is not whether he drew the drafts, for the drafts are outstanding against the Government; and if he drew those drafts and sold them as it is alleged and received the proceeds, it was not the business of this board to inquire into it, but it was his business and duty, in settling his accounts with the Treasury Department, to account for the proceeds of these drafts, and show in what manner he expended them for the benefit of Government. Until there is some evidence upon that point, I cannot vote for this proposition.

Mr. PHELPS. The gentleman has forgotten that this board of officers was to make these very inquiries. They could have access to all papers on file, in any Department, throwing light on the subject. It is to be presumed they did make this examination, and hence favorable consideration of this demand and of several others was recommended. Demands amounting to more than $300,000 were presented; only $30,000 of which were favorably recommended; the residue were rejected or suspended for the want of testimony. Colonel Frémont, at the date of these drafts, was discharging the duties of civil and military Governor of California. I do not know whether the

money he received on these drafts was placed in the hands of disbursing officers of the Army or not. The money was obtained for the use of this Government; it was expended for the use of this Government. The drafts are outstanding and unpaid. And because this Government has not provided for their payment a citizen of the country is about to be imprisoned in a foreign land because he incurred this liability to carry on the military operations of this Government.

Mr. RICHARDSON. If the money was paid by Colonel Frémont to the Quartermaster or Paymaster, he ought to have a voucher for it.

Mr. PHELPS. Colonel Frémont is not here to give any explanation. His papers are not here. And whether he himself disbursed this money, or placed it in the hands of officers to be disbursed, or not, I cannot say. All these drafts were drawn in March, 1847, several months after the conquest of California. I will read one of them as given in the report of the board of officers:

CIUDAD DE LOS ANGELES, UPPER CALIFORNIA, *March* 18, 1847.

F. Huttman, by P. K. George, assignee. | $6,000. At ten days' sight of this my second of exchange, first and third remaining unpaid, pay to F. Huhtman or order six thousand hard dollars for value received, and charge the same to the account of—

Indorsed. Pay Messrs. Antony Gibbs & Sons, or order value in accounts.

Your obedient servant,
J. C. FREMONT,
Governor of California.

To Hon. JAMES BUCHANAN,
Secretary of State, U. S.

The other drafts are similar to this, except the amounts. I now move a suspension of the rules which require this bill to be committed to the Committee of the Whole.

Mr. LETCHER. Is it in order to move to refer this bill to the Committee on Military Affairs?

The SPEAKER. It will be in order unless the motion of the gentleman from Missouri should prevail.

Mr. JONES, of Tennessee. I submit whether the motion of the gentleman from Virginia [Mr. LETCHER] would not take precedence of the motion of the gentleman from Missouri, [Mr. PHELPS.]

The SPEAKER. The motion of the gentleman from Missouri to suspend the rules overrides any other motion, except to lay upon the table.

The question was then taken upon the motion to suspend the rules, and there were, upon a division—ayes 73; noes not counted.

Mr. PHELPS demanded tellers.

Mr. JONES. I wish to make an inquiry about this case before the vote is taken. I desire to know if the date of these drafts is not after Colonel Frémont was superseded by General Kearny as Governor of California?

Mr. PHELPS. The gentleman is aware of the contest between Colonel Frémont and General Kearny, and that Colonel Frémont was appointed military governor by Commodore Stockton. I cannot tell the date at which General Kearny arrived in California. These drafts were drawn while he was exercising the duties of military governor of Upper California, and are dated in March, 1847.

Mr. FICKLIN. If the rules be suspended, would the motion of the gentleman from Virginia [Mr. LETCHER] be then in order, to refer this matter to the Committee on Military Affairs?

The SPEAKER. It will be subject to all the rules of the House in relation to bills. The motion will have the effect only of suspending the rules, which require the bill to be first considered in the Committee of the Whole on the state of the Union. It would still be competent for the House to send this bill to any committee of the House.

Messrs. HENDRICKS and GAYLORD were appointed tellers.

The question was then taken; and the tellers reported—ayes 86, noes 40.

So the rules were suspended.

Mr. PHELPS. Before the question on ordering the bill to be read a third time is put, I desire to submit an amendment. An error has been committed in the engrossment of the bill. It is to substitute the letter F for J, before the word Hutman. It is an error on the part of the engrossing clerk. I have compared it with the original bill—the bill introduced in the Senate. The drafts were drawn in favor of F. Huttman, instead of J. Huttman.

The question was then taken on the amendment, and it was agreed to.

Mr. SACKETT. Will the gentleman from Missouri allow me to ask him a question? I believe it was during the last Congress that there was a report from the Committee on Military Affairs upon this subject. I ask whether the gentleman has that report?

Mr. PHELPS. I have not the report to which the gentleman refers. That report was not made at the time he supposes. It was made during the Thirtieth Congress. It is very voluminous, and I have not had time to examine it since this bill passed the Senate.

I wish to read a short extract from the affidavit of Henry Treasure, in the office of the attorney of Colonel Frémont:

"And this deponent further saith, that the said Messrs. Anthony Gibbs & Sons will be entitled to proceed to the trial of the said action in the month of December next, and in case of their obtaining a judgment against the said John Charles Fremont, they will be at liberty shortly afterwards to issue execution against his person, and obtain and keep him in custody until he shall have paid the amount recovered by them, or in case of his absence from this country, to proceed against his sureties to recover from them the amount for which they so gave bail as aforesaid."

I ask the previous question.

Mr. JONES, of Tennessee. I ask the gentleman to withdraw it. The gentleman has had the floor all the time, held it since the rules were suspended, and made a motion to amend. The gentleman from Virginia [Mr. LETCHER] desired to make a motion, but he still held the floor.

The SPEAKER. The Chair ruled that the motion proposed by the gentleman from Virginia, [Mr. LETCHER,] could not take precedence of the motion made by the gentleman from Missouri, to suspend the rules.

Mr. JONES. Would it not be in order, after the rules were suspended, to move to refer it?

The SPEAKER. As a mere proposition of order, that would be in order, if made.

Mr. JONES. Some gentlemen, who voted to suspend the rules, wish to refer the bill, as I understand.

Mr. PHELPS. I have no disposition whatever to prevent an investigation of this matter. None whatever. On the contrary, I desire it, and if the gentleman from Tennessee [Mr. JONES] will not be as stringent as he usually is, to prevent the committee from reporting this bill, either making an adverse or a favorable report, as the case may be, and if other gentlemen will give that liberality to me, I am perfectly willing that the bill shall be referred.

Mr. JONES. Upon that subject, I will say to my friend that I have no bargains to make.

Mr. PHELPS. I have desired——

The SPEAKER. Debate is not in order during the pendency of the demand for the previous question.

Mr. BURT. I hope that the gentleman from Missouri will withdraw the demand for the previous question.

Mr. PHELPS. Does the gentleman desire me to withdraw it?

Mr. BURT. I desire to investigate this matter. It was a subject of investigation before the Committee on Military Affairs, and it is my opinion, in justice to Colonel Frémont, and in justice to the country, that this matter should be investigated.

Mr. BROWN, of Mississippi. I call the gentleman to order.

The SPEAKER. Debate is not in order pending the demand for the previous question.

Mr. BROWN. We can vote down the previous question.

Mr. JOHNSON, of Arkansas. If the gentleman from Missouri [Mr. PHELPS] will withdraw the demand for the previous question for one moment, I think I can make a suggestion which will arrange this matter at once.

Mr. PHELPS. I will withdraw the demand for the previous question to hear the suggestion of the gentleman.

Mr. JOHNSON. My idea is this: It is evidently the sense of a majority of this House that this subject should be examined into. I would suggest, therefore, that the bill be referred to the Committee on Military Affairs, with instructions to investigate the matter and report back the bill at the earliest possible moment, and that authority be given to the committee to report the bill at any time.

Mr. PHELPS. I will accede to that motion with the understanding that the committee may report any time.

Mr. JOHNSON. Then, sir, I make that motion, and now renew the call for the previous question.

Mr. JONES, of Tennessee. I ask the gentleman to modify his instructions so as to require the committee to ascertain whether Mr. Frémont has ever accounted to the Government for the proceeds of these bills.

Mr. JOHNSON. I think that is unnecessary. I take it that the instructions require an investigation into the whole matter, and the committee could not report in favor of the bill unless Colonel Frémont's claim for relief was fairly established.

Mr. STANTON, of Tennessee. I rise to a question of order. I would inquire if it is in order to authorize a committee to report at any time?

The SPEAKER. It can only be done by unanimous consent, or by a suspension of the rules.

Mr. STANTON. I do not mean to interpose any objection, but there are other committees which have important reports that ought to be brought in. I should like to have the privilege of making some reports myself.

The SPEAKER. Is there objection to the instructions proposed by the gentleman from Arkansas?

No objection was made.

Mr. STANTON, of Ohio. The bill has never been printed. I would suggest to the gentleman from Arkansas that he should add to his motion, that the bill be printed.

Mr. JOHNSON. Certainly; I will so modify it.

The SPEAKER. That can only be done by unanimous consent.

No objection was made.

Mr. EVANS. I have no objection to the reference of this bill. I think, on the contrary, it should be referred and examined into. What the gentleman from South Carolina [Mr. BURT] has said about it is correct. It ought not to be passed upon now. Doubtless it ought to be passed upon at a very early day. But I wish to know why the bill should go to the Committee on Military Affairs? I am a member of that committee.

Mr. JOHNSON, of Arkansas. I must call the gentleman to order. The previous question has been moved.

The SPEAKER. The Chair asks pardon of the gentleman from Maryland. The previous question was demanded by the gentleman from Arkansas.

Mr. EVANS. Why, sir, the gentleman from Arkansas had not the floor to move the previous question after he made the motion to refer, and if he moved the previous question before he submitted that motion, it was cut off by the previous question.

Mr. JOHNSON. I demanded it subsequently to submitting the motion.

The SPEAKER. The gentleman from Arkansas proposed that the bill should be referred to a committee, with instructions, and demanded the previous question. The Chair then inquired whether there was objection to the instructions, and by unanimous consent the instructions were admitted.

Mr. EVANS. Well, the motion to print was clearly made after the previous question was demanded.

The SPEAKER. That was done also by unanimous consent.

Mr. WILCOX. I desire to say just one word. I am satisfied in my own mind that this bill ought to pass.

Mr. JOHNSON, of Arkansas. The gentleman cannot make a speech; the previous question has been called for.

The SPEAKER. Debate is not in order.

Mr. WILCOX. I only wish to say that the gentleman had better give this bill a different direction. There is no such committee as a Committee on Military Affairs, in this House, at present. I am a member of that committee, and we have not been able to get a quorum since the commencement of this session of Congress, and I am of opinion that we never will have a quorum. The reference of this bill to the Committee on Military Affairs will, therefore, be virtually killing it.

The previous question was seconded, and the main question was ordered to be put.

The question was then taken on Mr. JOHNSON's motion, and it was agreed to.

IMPROVEMENT OF DES MOINES RAPIDS.

Mr. RICHARDSON. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency and necessity of constructing a railroad from Nauvoo, at the head of the Des Moines Rapids, to Warsaw, at the foot of said rapids, to facilitate the improvement of the channel of the Mississippi river, where the same is obstructed by the rocks in said rapids, and that the committee report by bill or otherwise.

Mr. SKELTON. I object.

Mr. RICHARDSON. I move a suspension of the rules.

Mr. STANLY. What is the regular order of business?

The SPEAKER. The call of the States for resolutions.

Mr. STANLY. Then if we go through with that, the gentleman from Illinois will have a chance to offer his resolution.

Mr. RICHARDSON called for tellers; but they were not ordered.

The question was then put, and (two thirds not voting in the affirmative) the rules were not suspended.

SMITHSONIAN INSTITUTION.

Mr. MEACHAM. I ask the unanimous consent of the House to take up joint resolution of the Senate No. 64, "for the appointment of Regents of the Smithsonian Institution." It will take but a moment, and it is very necessary that it should be passed.

There being no objection, the joint resolution was taken from the Speaker's table.

The resolution provides that the vacancies in the Board of Regents of the Smithsonian Institution of the class other than members of Congress, be filled by the appointment of Alexander Dallas Bache, member of the National Institute, and resident in the city of Washington, and John McPherson Berrien, of the State of Georgia.

The joint resolution was then read three several times and passed.

CORRESPONDENCE WITH NICARAGUA.

Mr. MEADE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States be requested to communicate to this House, if not incompatible with the public interests, all correspondence not heretofore published between this Government and that of Nicaragua or her Minister here, since the 4th of March last."

Mr. STANLY. Would not that resolution be in order when we get to the State of Virginia in the call of the States for resolutions?

The SPEAKER, It would be in order.

Mr. DUNCAN. I object.

Mr. MEADE. I move to suspend the rules so as to enable me to offer the resolution.

The question was put, and (two thirds not voting in the affirmative) the rules were not suspended.

BENJAMIN S. ROBERTS.

Mr. WILCOX. I ask the unanimous consent of the House to take up from the Speaker's table Senate bill No. 429, "for the relief of Benjamin S. Roberts."

Mr. STANTON, of Ohio. I object.

Mr. WILCOX. I move a suspension of the rules for the purpose.

The question was put, and (two thirds not voting in the affirmative) the rules were not suspended.

REPORTS FROM COMMITTEES.

Mr. HENN. In order to facilitate the business of the House, I ask unanimous consent to offer the following resolution—one which I think every one will agree to:

Resolved, That it shall be the order of the House, for this day and each succeeding day, to call committees for reports for one hour daily, to the exclusion of all other business, until the committees are called through: *Provided*, That no bill reported from a committee shall be put upon its passage when reported, except by the unanimous consent of the House.

Mr. FLORENCE. I object.

Mr. HENN. I move to suspend the rules.

Mr. STANTON, of Kentucky. Upon that motion I ask for tellers.

Tellers were ordered; and Messrs. VENABLE, and HARRIS of Tennessee, were appointed.

The question was then put, and the tellers reported 63 in the affirmative—not two thirds of a quorum.

So the rules were not suspended.

Mr. ORR. It seems as though we were likely to spend the day uselessly, and I therefore move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

CLOSE OF DEBATE ON DEFICIENCY BILL.

Mr. HOUSTON. Will the gentleman allow me first to offer a resolution closing debate upon the deficiency bill?

Mr. ORR. I withdraw my motion for that purpose.

Mr. HOUSTON. I offer the usual resolution, to close the debate on the deficiency bill, in Committee of the Whole on the state of the Union, at twelve o'clock to-morrow, and I call for the previous question.

Mr. McMULLIN. What is the regular order of business?

The SPEAKER. The call of States for resolutions.

Mr. McMULLIN. Well, I call for the regular order of business.

The SPEAKER. The motion of the gentleman from Alabama [Mr. HOUSTON] is a privileged motion, as well as the motion made by the gentleman from South Carolina, [Mr. ORR.]

Mr. SEYMOUR, of New York. I wish to appeal to the gentleman from Alabama to modify his resolution. We are now considering the deficiency bill, and there may be a great deal of discussion pertinent to that bill itself. I hope he will, therefore, prolong the time of discussion at least one day.

Mr. HOUSTON. In reply to the gentleman from New York, I will say, that one reason why I propose to close the debate is, that there has been no pertinent debate upon the bill, and there will not be if we keep it open till the 3d of March.

The previous question was seconded, and the main question was ordered to be now put.

The question was then taken on the resolution, and it was agreed to.

Mr. HOUSTON. I now renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JOHNSON, of Arkansas. I call for tellers.

Tellers were ordered; and Messrs. BOCOCK and PHELPS were appointed.

The question was then taken, and the tellers reported—ayes 67, noes 54.

So the rules were suspended, and the motion agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BAYLY, of Virginia, in the chair,) and resumed the consideration of House bill No. 335, making appropriations to supply the deficiencies in the appropriations for the fiscal year ending June 30th, 1853—Mr. BELL being entitled to the floor.

Mr. BELL, who was entitled to the floor, addressed the committee an hour, in remarks (which are published in the Appendix) against the policy of the acquisition of the Island of Cuba. He was opposed to its acquisition, peaceably or forcibly, at the present time, but admitted that the time might come, in the remote history of this Republic, when its acquisition would be to the advantage of the United States. If new acquisitions of territory were to be made, he preferred that of Canada, where there was an intelligent people capable of self-government, ready and willing to become a part and parcel of this Republic.

Mr. SKELTON, availing himself of the latitude allowed in committee for the discussion of subjects not immediately under consideration, proceeded to speak, first, in opposition to the resolution to confer the title of lieutenant general upon General Scott, (not, however, on grounds personal to that distinguished soldier;) secondly, against the bill to create a retired list for infirm and inefficient army and navy officers; and, in the last place, against the proposition to increase the compensation of our ministers abroad. [Mr. S.'s speech is published in the Appendix.]

Mr. WEIGHTMAN addressed the committee an hour (in remarks which are published in the Appendix) in regard to the censure conveyed by the report of the Secretary of War upon the people of New Mexico. He defended the character of the people of that Territory for good citizenship, and commented with some severity upon the conduct of Colonel Sumner as Military Governor of New Mexico.

Mr. MOORE, of Pennsylvania, obtained the floor, and moved that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. BAYLY, of Virginia) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 335, making appropriations for supplying the deficiencies in the appropriations for the fiscal year ending the 30th June, 1853, and had come to no resolution thereon.

Mr. OUTLAW. I ask the unanimous consent of the House to take up bill No. 509, for the relief of Elizabeth Armstrong.

Mr. SWEETSER. I regret that I shall have to oppose the wish of my friend from North Carolina by objecting, but it is evident that there is no quorum present.

Mr. OUTLAW. Then I move to suspend the rules for that purpose. I desire merely to have the motion entered.

The SPEAKER. The motion will be entered upon the Journal.

Mr. OUTLAW. The motion being entered, I move that the House adjourn.

The motion was agreed to, and the House adjourned until to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. WASHBURN: The petition of Jos. W. Cushing, for bounty money to Mary H. Cushing.

By Mr. DOTY: The petition of M. R. Keegan, J. Prentice, Henry Merrill, and 98 other citizens of Wisconsin, for a grant of certain lands to aid in the construction of a railroad from Green Bay to Fort Winnebago.

Also, the petition of Patrick Cosgrave and 71 other citizens of Kenosha, for a grant of land to aid in the construction of the Lake Shore railroad.

Also, the petition of A. Blossom and 240 other citizens of Milwaukee, in favor of said grant.

By Mr. CABLE, of Ohio: A petition from numerous citizens of New Garden, Ohio, for the freedom of the public lands to actual settlers.

By Mr. EASTMAN: A petition of John P. Sheldon for additional compensation for service as assistant book-keeper in Third Auditor's office, from May 4, 1846, to May 31, 1849.

By Mr. KUHNS: The petition of Sarah McClarrur, of Westmoreland county, Pennsylvania, praying for a continuation of her pension.

By Mr. BOYD, of Kentucky: The petition of Warena Howard and Sarah Brewster, praying that the provisions of the bounty land laws may be extended to widows and minor children.

By Mr. FAY: The petition of John T. Burnham and others, of Essex county, Massachusetts, praying that the benefit of the pension laws be extended to all persons who served for any time in the war of the Revolution, and to the widows and orphans of all such persons; and also that the widows of soldiers of the Revolution married after January 1, 1800, be entitled to the benefits of such laws.

By Mr. MOORE, of Pennsylvania: The memorial and papers of Peter H. Willets, of Philadelphia, for increase of pension.

By Mr. CHANDLER: The memorial of James B. Langdale, late a soldier in the United States Army, asking an increase of pension.

Also, the memorial of William Platt & Sons, and many Merchant Insurance companies of Philadelphia, asking for the abolition of the tax for hospital money, and for legislation in behalf of young seamen.

By Mr. RIDDLE: A memorial of the commissioners of the town of New Castle, upon the Delaware river, praying Congress to complete the Government piers at said town.

By Mr. ROSS: Memorial of J. T. Ruhe, Jacob Mohr, Joseph K. Sayer, and 168 other citizens of Lehigh county, Pennsylvania, praying for additional bounty land to the soldiers of the war of 1812.

IN SENATE.

TUESDAY, *January* 11, 1853.

Prayer by the Rev. JAMES GALLAHER.

Mr. DODGE, of Iowa, presented the credentials of the Hon. GEORGE W. JONES, elected by the Legislature of Iowa, Senator for six years from the 4th of March next.

Mr. NORRIS presented the credentials of the Hon. CHARLES GORDON ATHERTON, elected by the Legislature of New Hampshire, Senator for six years from the 4th of March next.

PETITIONS, ETC.

Mr. DAVIS. Mr. President, I have the petition of John D. and M. Williams, and a large number of others, in which they represent that

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the Secretary of the Treasury, under certain decisions of the Supreme Court of the United States, has issued a circular, in which he states that no overpayment of duties will be refunded from the Treasury, unless in cases where they have been paid under protest. These gentlemen consider themselves aggrieved by that decision, and they ask for some legislation in order that they, as well as those who have paid under protest, may come in for indemnification for duties paid beyond what the law required. I move that, without reading, the petition be referred to the Committee on Commerce.

The motion was agreed to.

Mr. MILLER presented the petition of John Thomas, representing that he has invented certain improvements in steamboats, to prevent the loss of life in case of fire or collision, and praying such action in the case as the Senate may deem proper; which was referred to the Committee on Commerce.

Mr. BUTLER presented the memorial of S. Corley and others, Chaplains in the Army, praying to be allowed compensation for servant hire; which was referred to the Committee on Military Affairs.

Mr. SUMNER. Mr. President, I beg leave to present the memorial of the Relief Steamboat Company, of Massachusetts, in which they set forth the services which they rendered in April, 1850, after the occurrence of a storm in the harbor of Boston, or in Massachusetts bay, by which the light at Minot's Ledge was overturned and carried away. These parties then came forward, and for a considerable space of time, by their boat, supplied the exigency arising from the loss of the light-house. They never received any compensation for their services, and they now ask Congress to remunerate them. I present their memorial, and move its reference to the Committee on Commerce, to whose attention I respectfully commend it.

It was so referred.

Mr. SHIELDS presented the petition of Sarah Kemble, widow of Charles Kemble, a soldier in the last war with Great Britain, who died of disease contracted in the service, praying a pension; which was referred to the Committee on Pensions.

Mr. HALE presented a petition of inhabitants of Somersworth, New Hampshire, praying that bounty land may be granted to all soldiers of the last war with Great Britain; which was referred to the Committee on Public Lands.

Mr. HALE. I have received a petition, signed by the laborers in the employ of the Secretary of the Treasury, in which they represent that by a late act of Congress the wages of the laborers in one Bureau of that Department—the Land Office—have been raised above theirs. They say that they are doing the same service as the laborers of the Land Office, and in the same building, and therefore they think it unjust that there should be a distinction between them. I ask that the memorial may be referred to the Committee on Finance.

It was so referred.

Mr. BELL presented the memorial of John Shoemaker, asking payment for a reservation, as provided in the treaty with the Cherokee Indians in 1835 and 1836; which was referred to the Committee on Indian Affairs.

Mr. JONES, of Iowa, presented a memorial of the Legislature of Iowa, praying a grant of land to aid in the construction of a railroad from Davenport to Council Bluffs; which was referred to the Committee on Public Lands.

Mr. MALLORY presented a petition of clerks in the office of the commandant at the Pensacola navy-yard, praying an increase of their compensation; which was referred to the Committee on Naval Affairs.

Also, the memorial of Ambrose W. Thompson, praying Congress to establish a line of mail steamers between San Francisco and China; which was referred to the Committee on Naval Affairs.

Mr. GEYER presented the petition of James Pool, praying indemnity for land to which he had a right of preëmption and for which he paid the usual price, but which the Government of the United States granted and patented to another person; which was referred to the Committee on Public Lands.

Mr. HAMLIN presented two memorials, signed by citizens of Maine, praying for the passage of the bill commonly known as Bennett's land bill; which were ordered to lie on the table.

Also, a petition of T. Mayo and eighty-two other citizens of Brooks, Maine, praying the establishment of a mail route from Brooks to Bangor, in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of merchants and others of Baltimore, Maryland, praying the erection of permanent signals on certain dangerous points on the Florida reef; which was referred to the Committee on Commerce.

Mr. BRODHEAD. I present sundry memorials, signed by officers and other persons, praying that a hundred and sixty acres of land be given to each person who served in the war of 1812, and I ask that these memorials may be referred to the Committee on Public Lands. Several days ago I presented a bill granting the relief asked for by these petitioners, and I sincerely hope that it will receive the favorable action of the Committee on Public Lands.

They were so referred.

Mr. BRODHEAD. I have also received, and been requested to present to the Senate, a memorial, signed by merchants, underwriters, and others interested in the welfare of our mercantile marine, in which they ask that the tax now exacted from seamen under the name of "hospital money," may be abolished; that a statement be made to Congress of the amount received for hospital money since the establishment of the Government, and of the amount thus collected which has been expended for the support of marine hospitals. They also ask that a committee be appointed by Congress to take into consideration, and report at the next session, a plan for the establishment of naval schools in our principal Atlantic ports for the education of youth for the mercantile marine. They further pray that the law requiring that two thirds of the men composing the crews of American ships shall consist of American citizens, be repealed. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

Mr. DODGE, of Iowa, presented a memorial of the Legislature of Iowa, praying a grant of land to aid in the construction of a railroad from Davenport to Council Bluffs; which was referred to the Committee on Public Lands.

Mr. TOUCEY presented a petition of William Brown and others, in behalf of the pilots, shipmasters, and ship-owners of New York, praying that a bell beacon may be placed at Race Rock, on Long Island Sound; which was referred to the Committee on Commerce.

Mr. GEYER submitted an additional document relating to the claim of John Owen, which, with his memorial on the files of the Senate, was referred to the Committee on Claims.

REPAIR OF THE LONG BRIDGE.

Mr. MASON. Mr. President, I wish to present to the Senate a communication that has been addressed to the two Senators from Virginia by a number of the members of the Legislature of that State, which is now sitting; in which they ask us to endeavor to obtain an appropriation for the repair or reconstruction of the Long Bridge over the Potomac, which was damaged by a freshet during last summer. I ask the Senate to allow me to present this paper in the form of a memorial to the Senate, in order that it may have its appropriate reference to the Committee on the District of Columbia.

This is a matter in which those citizens of Virginia who live near to the city of Washington are deeply interested, in reference to their communication with market; and we all know that the citizens of Washington particularly, who are immediately under the jurisdiction of Congress, feel also a very deep interest in obtaining a renewal of the communication with the opposite shore. My own belief is, that the Committee on the District of Columbia will find it better to ask for an appropriation of whatever sum may be necessary to repair the old bridge in such a manner as to admit of its being crossed, and at the same time to have the bridge at the Falls repaired. A controversy has unfortunately arisen between the citizens of the District of Columbia, in the cities of Washington and Georgetown, as to the proper site for some future permanent bridge. While that controversy lasts, they have no communication at all. I hope it will be found expedient by the committee to ask for such an appropriation when one of the general appropriation bills shall come up for consideration, as may renew the communication between the two sides of the river at both these points. I present at the same time a resolution from the Common Council of Alexandria, asking an appropriation for the same purpose. I ask that both this resolution and the memorial which I have heretofore referred to, be committed to the Committee on the District of Columbia.

Mr. SHIELDS. I will take the liberty of stating, in response to the Senator from Virginia, that we presented such a proposition on a former occasion for the repair of this bridge, in order that it might, in the first place, be used as a bridge of service for the District, until some other and better plan should be agreed upon; but after a very long struggle in this body, the committee were defeated in that proposition, as the honorable Senator will very well recollect, greatly to my regret. I was then aware of the inconveniences which would arise, and I am glad that the subject is now brought up, in order to enable us to bring forward the proposition again under more favorable auspices.

The memorial and resolution were referred to the Committee on the District of Columbia.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SHIELDS, it was

Ordered, That leave be granted to withdraw from the files of the Senate, two memorials of officers of the Army serving in New Mexico, presented March 8, 1852.

On motion by Mr. BELL, it was

Ordered, That the memorial of William Reed, on the files of the Senate, be referred to the Committee on Military Affairs.

REPORTS FROM STANDING COMMITTEES.

Mr. UNDERWOOD, from the Committee on Public Lands, to which were referred documents relating to the claim of Sylvanus Culver, submitted a report, accompanied by a bill for the relief of Sylvanus Culver and the heirs of John Pearson; which was read and passed to the second reading. The report was ordered to be printed.

Mr. WADE, from the Committee on Claims, to which was referred the memorial of David W. Alexander, praying remuneration for losses sustained during the war with Mexico, submitted an adverse report thereon; which was ordered to be printed.

THE BASTROP GRANT.

Mr. DOWNS, from the Committee on Private Land Claims, to which the subject was referred, reported a bill confirming certain land claims in Louisiana, in the Bastrop grant; which was read and passed to the second reading.

Mr. DOWNS. Mr. President, this bill is to confirm a certain class of claims reported on favorably by the commissioners appointed for that purpose. It has been recommended by the Commissioner of the General Land Office and the Secretary of the Interior. There is no dispute at all about it. I hope, therefore, that the Senate will agree to consider it at this time.

There being no objection, the bill was read a second time, and considered as in Committee of the Whole. It proposes to enact that such of the claims entered in the report of the 30th of July, 1852, of the register and receiver at Monroe, Louisiana, as, in their opinion, ought to be confirmed, according to the principles recognized in the act of Congress of March 3d, 1851, pursuant to which that report was made, be confirmed to

the extent and under the limitations referred to in the opinions of those officers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed; and, on motion by Mr. DOWNS, the report accompanying the bill was ordered to be printed.

COMMITTEE ON ENROLLED BILLS.

On motion by Mr. JONES, of Iowa, it was

Ordered, That an additional member be appointed on the Committee on Enrolled Bills, and that the appointment be made by the President *pro tempore*; and

Mr. CATHCART was appointed.

POSTAL CONVENTION.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President, if not incompatible with the public interest, be requested to communicate such information as he possesses, in regard to the execution of the postal convention between the United States and Great Britain; stating whether postal matter is forwarded by the English Government in conformity with the provisions of such convention.

MENOMONEE INDIANS.

Mr. WALKER. I wish to offer the following resolution at this time:

Resolved, That the Committee on Indian Affairs be instructed to inquire into and report to the Senate, what sum, if any, is equitably and justly due from the United States to the Menomonee tribe of Indians, and on what terms and conditions, and in what manner, such sum should be paid to said Indians.

If there be no objection, I ask the Senate to adopt the resolution at this time, in order that the Committee on Indian Affairs may have before them for investigation this much-mooted subject, prior to the time when the subject may again be sprung upon the Senate when the Indian appropriation bill comes up.

The resolution was considered by unanimous consent, and agreed to.

REFERENCE OF HOUSE BILLS.

The following bills from the House of Representatives were severally read the first and second time, and referred to the Committee on Pensions:

A bill for the relief of Henry Miller, a soldier of the war of 1812.

A bill for the relief of William Lynch, a soldier of the late war with Great Britain.

A bill for the relief of Charles Staples.

A bill for the relief of Aaron Stafford.

A bill for the relief of Mary Baury.

A bill for the relief of Mary Pearson.

A bill for the relief of Nathan H. Darling.

A bill for the relief of Gilman Smith, of Sycamore, in the State of Illinois.

A bill for the relief of Elizabeth E. V. Field, widow of Captain G. P. Field, of the United States Army.

The following bills were severally read the first and second time, and referred to the Committee on Public Lands:

A bill for the relief of John Ozias.

A bill for the relief of William J. Price.

A bill for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip.

The following bills and joint resolutions were read the first and second time, and referred to the Committee on the Post Office and Post Roads:

A bill for the relief of John J. Sykes.

A joint resolution for the relief of J. P. Converse.

An act for the relief of the Southern Michigan Railroad Company.

A bill for the relief of John Dearmit.

A joint resolution for the relief of Thompson Barnet.

The following bills were read the first and second time, and referred to the Committee on Military Affairs:

A bill for the relief of Josiah P. Pilcher, late a private in Company F, Second Kentucky regiment of volunteers, in the war with Mexico.

A bill for the relief of the heirs-at-law of Anthony G. Willis, deceased.

A bill for the relief of the widow and orphan children of Colonel William B. McKee, late of Lexington, Kentucky.

A bill to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida.

The following bills were read the first and second time, and referred to the Committee on Naval Affairs:

A bill for the relief of Dr. S. R. Addison, passed assistant surgeon in the United States Navy.

A bill for the relief of Jacob J. Storer.

A bill for the relief of Harlow Spaulding.

The following bills were read the first and second time, and referred to the Committee on Claims:

A bill for the relief of Captain George Simpton, of Galveston.

A bill for the relief of the legal representatives of Bernard Todd.

The bill for the relief of John B. Rodgers, of South Carolina, was read the first and second time, and referred to the Committee on Finance.

The bill for the relief of Joseph M. Wilcoxon, was read the first and second time, and referred to the Committee on Private Land Claims.

CUMBERLAND ROAD.

The bill from the House of Representatives "to surrender to the State of Ohio the unfinished portion of the Cumberland road in said State," was read a first time, and ordered to a second reading.

Mr. WADE. I ask the unanimous consent of the Senate for the second reading and consideration of the bill at this time. I believe there can be no possible objection to it. The object of it is barely to surrender to the State of Ohio the unfinished portion of the national road, the finished part having been already surrendered.

There being no objection, the bill was read a second time, and the Senate proceeded to consider it as in Committee of the Whole. It proposes to grant to the State of Ohio, so much of the Cumberland road as lies between the city of Springfield, Clark county, Ohio, and the west line of that city, and all the interest of the United States in it; together with the timber, stone, and other materials belonging to the United States, and procured for the purpose of being used in its construction.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

HEIRS OF JOSEPH ARNOW.

The bill from the House of Representatives "for the relief of the heirs or legal representatives of Joseph Arnow, deceased," was read a first time, and passed to a second reading.

Mr. CHARLTON. I ask the unanimous consent of the Senate to consider that bill at this time. Its object is to extend, for a certain time, the provisions of an act of Congress, and to enable a party who was debarred from presenting his claim, to present it.

There being no objection, the bill was read a second time and considered as in Committee of the Whole. It proposes to direct the judge of the district court of the United States for the northern district of Florida, to receive and adjudicate the claim of the heirs or legal representatives of Joseph Arnow, deceased, under the provisions of the act of Congress of June 26th, 1834, entitled "An act for the relief of certain inhabitants of East Florida," and that those claims be settled at the Treasury in the same manner as claims under that act.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

WILLIAM SPEIDEN.

The Senate proceeded to consider the amendment of the House of Representatives to the bill of the Senate "for the relief of William Speiden."

The amendment was to fill a blank in the original bill with "two and a half," so as to make the bill read "that the accounting officers of the 'Treasury be directed to allow to William Speiden two and a half per cent. on the amount of 'military contributions received by him while 'acting as purser to the United States frigate Congress, and paymaster and commissary to the land 'forces on the coast of the Pacific during the 'Mexican war," &c.

On motion by Mr. MALLORY, the amendment was concurred in.

ELIZABETH V. LOMAX.

The Senate proceeded to consider the amendments of the House of Representatives to the bill "granting a pension to Mrs. Elizabeth V. Lomax;" which was to strike out the provision granting to her a pension of thirty dollars a month during her natural life, and insert in lieu thereof "one half the monthly pay to which her husband was entitled at the time of his death, commencing on the 1st of January, 1850, and to continue for and during the term of five years."

On motion by Mr. MASON, the Senate concurred in the amendment.

ICE-BOATS ON THE POTOMAC RIVER.

On motion by Mr. RUSK, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution "to provide ice-boats for the Potomac river." It proposes to authorize the Postmaster General, in addition to the ordinary steamboat service on the Potomac, to contract with the Washington and Fredericksburg Steamboat Company for an efficient ice-boat or ice-boats for the conveyance of the mail during the winter months, provided the additional expense thereof shall not exceed $20,000 per annum.

Mr. ADAMS. I move to strike out the words "with the Washington and Fredericksburg Steamboat Company," so as simply to authorize the Postmaster General to make a contract, without prescribing that he shall make it with this particular company.

Mr. MASON. I do not like to object to the amendment, for I do not want to embarrass the resolution in any way, and I do not want to give rise to objection in the mind of any Senator. But it is perfectly understood that there is a mail line carrying the mails under contract between this city and Richmond, and the steamboat service on the Potomac is a part of that mail line. Now, if we were to interfere with that contract, and make an agreement with somebody else for an ice-boat, it might break up the whole route, and the present system. The object of this joint resolution is simply to authorize the Postmaster General, if he deem it proper, by using this appropriation, to keep an ice-boat always in order. The appropriation is contingent, depending upon his discretion. I will not object to the amendment, but I would much prefer that the Senator would withdraw it, and allow the joint resolution to pass in the shape in which it has been recommended by the responsible officers.

Mr. ADAMS. I am not tenacious about the amendment. My objection is a general one. I am opposed to requiring an officer of the Government to make a contract with a particular individual to do a particular thing, especially in reference to the transportation of the mails. I have made it a rule to vote against all propositions of that character. I take it for granted that the contract will be made with this company, if a better contract can be made with them than with any one else; but I cannot consent to vote for any bill authorizing a special contract to be made with particular individuals. Competition ought to be open for all.

Mr. RUSK. This is not at all in the nature of a new contract. It is for additional service under a contract already in existence; and hence the only reason for putting in the name of the company is, that the contract is already theirs. Now, in the first place, the amendment proposed by the honorable Senator from Mississippi, will be totally inoperative. These parties now carry the mail, and, as a matter of course, they are able and would be able to keep up this ice-boat on much better terms than any other contractors; and the truth is, no one would come and make a contract of this description for a service which would be temporary, and merely at the time the Potomac river would be closed up by ice. The object is to provide for this additional service which may be rendered necessary, as it was last winter, by the river being frozen. If the Potomac be closed up by ice, not only is the mail from the South to this city interrupted, but one great link in the chain of mail communication between the northern and southern sections of the country is stopped This, then, is simply in the nature of an additional service to be performed by a company who have already, under your laws, contracted for the performance of ordinary mail service.

Mr. ADAMS. If Senators have any objection to my present motion, I may agree to modify it so as to provide that the contract be made with the contractors for carrying the mail on that route. That contract will be out in a few years, and a

new contract must be made. Here you authorize a contract to be made with this particular company, and therefore, if they should not be the successful bidders at the next letting, you could not take the service from them, and transfer it to the new contractors.

Mr. RUSK. I have no objection to the amendment.

Mr. BRODHEAD. I cannot well understand why we should provide an ice-boat on the Potomac, and pay some $20,000 a year for it, and not do the same thing in regard to other rivers. It is true that a very important mail is transported for a short distance upon this river; but we transport important mails on other rivers which are occasionally closed by ice; and if we commence supplying ice-boats on the Potomac, we shall in a very short time be asked to supply them on many other rivers. I cannot see why we should provide an ice-boat in the manner asked for in this joint resolution, and not on other rivers. I think this question was discussed at the last session, and if my memory be correct, it was voted down. It was offered as an amendment to one of the general appropriation bills, and was then rejected. I may, however, be mistaken on that point.

The amendment was agreed to, the joint resolution was reported to the Senate as amended, and the amendment was concurred in; the resolution was ordered to a third reading, read a third time, and passed.

TONNAGE DUTIES.

Mr. SEWARD. I ask the indulgence of the Senate to take up the bill "to repeal an act entitled 'An act concerning tonnage duties on Spanish vessels.'" My purpose is to move that it be made the special order for some distant day.

Mr. GWIN. I would suggest to the Senator that there are many special orders already on the list, and if he wishes to have the bill considered, it would be better for him to give notice of his intention to call it up at a certain time.

The motion was agreed to, and the Senate accordingly proceeded to consider the bill; and on motion by Mr. SEWARD, its further consideration was postponed, and it was made the special order for this day two weeks, (25th instant.)

Mr. SEWARD. I have a paper in my hands from the British provinces, showing the interest which is taken there in reference to the commerce from Cuba and Porto Rico to this country, and from the United States there, which I submit to the Senate, and ask to have printed.

The motion to print was referred to the Committee on Printing.

BRITISH COLONY IN CENTRAL AMERICA.

Mr. CASS. Mr. President, I move, with a view to let all the facts on the subject which we were discussing yesterday come before the American people, to whom they ought to go as speedily as may be, that we now proceed to the consideration of Executive business, in order to take off the injunction of secrecy in reference to the treaty we were discussing yesterday.

The motion was agreed to.

The Senate accordingly proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 11, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The first question before the House is the motion to recommit House bill No. 326, to prevent frauds upon the Treasury of the United States.

Mr. IVES. I wish to ask the unanimous consent of the House to present a resolution.

Mr. MACE. I object.

The SPEAKER. It is objected to in advance.

Mr. IVES. I hope it will not be objected to. The object of it is simply to get from the War Department a report of surveys and estimates, which are ready to be made to the House.

Mr. VENABLE. Let the resolution be read.

The resolution was then read, as follows:

Resolved, That the Secretary of War be requested to communicate to this House what survey, plan, and estimates have been made in reference to Cape Vincent harbor, New York, under the direction of the War Department.

The objection was adhered to, and the resolution was not introduced.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed bills of the following titles:

S. No. 94. An act to increase the efficiency of the Army by a retired list for disabled officers; and

S. No. 472. An act for the relief of William Moss and Matthew Moss.]

CENSUS REPORT.

Mr. GORMAN. I wish at this time to make a report from the Committee on Printing for the House, under a resolution of the House.

Mr. KING, of New York. I do not wish the bill to prevent frauds upon the United States to receive the go-by, by this report from a committee.

Mr. GORMAN. This report will consume but a moment.

The SPEAKER. The Committee on Printing have the right to report at any time.

Mr. GORMAN. I ask that the report be read.

The report was then read, as follows:

The Committee of the House of Representatives on Printing, have had under consideration the resolution proposing to print one hundred thousand copies of the report of the Superintendent of the Census, which accompanied the last message of the President, and find that the cost will be as follows:

OFFICE SUPERINTENDENT OF PUBLIC PRINTING, *December* 27, 1852.

Sir: In reply to your inquiry as to the cost of one hundred thousand extra copies of the Census report accompanying the President's message, I have to state, that it will be $5,602 64, for the one hundred thousand copies, (or five cents and six mills per copy.)

I have the honor to be, very respectfully, your obedient servant, JNO. T. TOWERS.

Hon. Mr. MEACHAM, *House of Representatives.*

They therefore report the same back to the House for its action, without any recommendation.

Respectfully, W. A. GORMAN, *Chairman Committee on Printing.*

The resolution was as follows:

"*Resolved*, That one hundred thousand copies of the report of the Superintendent of the Census (which accompanies the last message of the President) be printed separately, for the use of the members of this House."

Mr. DEAN. I move the adoption of the resolution, and upon that I call the previous question.

The previous question was then seconded, and the main question ordered to be put.

The question was then taken on the adoption of the resolution, and it was agreed to.

FRAUDS UPON THE TREASURY.

The SPEAKER. The question is upon the motion to recommit the bill to prevent frauds on the Treasury of the United States.

Mr. STANTON, of Ohio. Mr. Speaker, as the pending motion was made by me, and has been noticed by the newspapers in such a manner as to indicate that I had obtained the floor at the close of the speech made by my colleague, [Mr. OLDS,] with a view of replying to him, a brief explanation may be necessary to set myself right.

I rose and addressed the Speaker on that occasion simply to ask my colleague a question, and not with any view of replying to his speech. I had not even read the testimony in the case, and of course was not prepared to reply. But when I inquired of my colleague whether he differed with the committee, when they said there was no evidence "tending to prove" that Mr. Corwin had any knowledge of the fraudulent character of the claim, he refused to reply, but said I had the floor, and the testimony was before me, and that I could reply to his speech, I did not feel at liberty to decline his challenge.

I understood very well why my colleague refused to answer my question. If he answered the question, an answer would go into his speech, and might have some tendency to counteract it. If he had answered my question in the affirmative, and said he did differ with the committee, I designed simply to say, that as the controversy was between him and the committee, I had no desire to interfere with it. If he answered that he did not differ with the committee, I then intended to inquire why he had singled out Mr. Corwin from the great number of members of Congress who have for many years, and still are, engaged in prosecuting claims against the Government before the Executive Departments and in the courts of the United States. But as my questions were not answered, and I was challenged to reply, I determined (though with some reluctance) to investigate the subject, and engage in the discussion when the subject should be again brought before the House, unless some one better qualified would relieve me of the task.

I was reluctant to engage in this discussion, because from its very nature it must be to some extent a personal contest, which of all others I have the greatest repugnance for.

I was also aware, sir, that the temptation to carry the war into Africa was very strong, and I apprehended that I could not discuss this subject with that christian charity and forbearance towards my colleague, [Mr. OLDS,] which he of all men of my acquaintance stands in the greatest need.

But, sir, situated as I was, and knowing that no man in the nation occupied so high a place in the confidence and admiration of the people of Ohio, and especially of the district which I represent, as Mr. Corwin, I felt that they would not hold me excused for declining a challenge to defend his reputation when so unjustly and ruthlessly assailed.

Under these circumstances I was much gratified when, upon taking my seat, I was called upon by the gentleman from Connecticut, [Mr. CHAPMAN,] who was a member of the committee who have had the matter in charge, and my colleague from the Highland district, [Mr. BARRERE,] and who expressed a desire to engage in the discussion. The gentleman from Connecticut especially, has no feeling of State pride or personal friendship to warp his judgment, and what he may say, therefore, will be entitled to more consideration than anything that I might say, which might be subject to the suspicion of being influenced by both these considerations. I therefore, with great pleasure, resign the floor to the gentleman from Connecticut. I will also withdraw the motion to reconsider, which was only made for the purpose of keeping the subject before the House.

Mr. KING, of New York. If the gentleman will give way to my colleague, [Mr. HAVEN,] he has an amendment, in the shape of an additional section, which he desires to offer under the arrangement made by the House the other day, by which they may be offered, and considered as under consideration, and acted upon in their order. If the gentleman will withdraw the motion to recommit, those amendments will be offered.

Mr. STANTON. I designed to withdraw the motion to recommit, and only made it to keep the question before the House.

Mr. HAVEN. I propose to offer a couple of additional sections, though not directly connected with the subject under consideration.

No objection being made, the following amendments were offered:

SEC. —. *And be it further enacted*, That any person who, with intent to steal, shall take and carry away any record, paper, or proceeding of a court of justice filed or deposited with any clerk or officer of such court, or any paper, or document, or record filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document, or proceeding so taken, be liable to indictment as for larceny in any court of the United States having jurisdiction for the trial of crimes and misdemeanors against the United States, and upon conviction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge.

SEC. —. *And be it further enacted*, That any officer having the custody of any record, document, paper, or proceeding specified in the last preceding section of this act, who shall fraudulently take away, or withdraw, or destroy any such record, document, paper, or proceeding filed in his office, or deposited with him or in his custody, shall be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction for the trial of crimes and misdemeanors against the United States, and on conviction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge, and shall forfeit his office, and be forever afterwards disqualified from holding any office under the Government of the United States.

Mr. KING. I now move to recommit the bill. The object of the motion is to keep the bill before the House.

Mr. CHAPMAN being entitled to the floor, addressed the House an hour upon the subject of prosecution of claims against the Government by members of Congress, and those connected with the several departments, as feed attorneys. He condemned the practice and was in favor of applying a proper remedy as a preventive. He then examined the report of the Select Committee on the Gardiner case, and maintained that so far as the

proof went it showed that Mr. Corwin had no interest in the claim when he entered the Treasury Department. [His remarks, withheld for revision, will be published in the Appendix.]

Mr. BARRERE next obtained the floor, and made some remarks in reply to the speech of his colleague [Mr. OLDS] against Mr. Corwin. He maintained that Mr. Corwin never had any connection with Mr. Gardiner; and that he was engaged as attorney in the case while Senator, by Mr. Waddy Thompson, on a fee of five per cent. on whatever amount might be awarded to Gardiner by the board. His percentage was to be paid by Thompson, being one third of the amount of the fee that that gentleman was to receive as attorney in the case. He went on to show that Mr. Corwin not only disposed of all interest which he had acquired by purchase of Robert Corwin in said claim, but all interest which he held as attorney in that and many other claims pending before the board, before he consented to accept the post of Secretary of the Treasury. [This speech, which is withheld for revision, will be published in the Appendix.]

Mr. JOHNSON, of Tennessee, then obtained the floor.

Mr. DEAN. If the gentleman will yield me the floor, I will move to go into committee. The debate has been closed upon the deficiency bill.

Mr. JOHNSON. I will give way for that purpose.

Mr. DEAN. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. Has the morning hour expired yet?

The SPEAKER. The morning hour has not yet commenced.

Mr. STANLY. Then it is in order now to call committees for reports.

The SPEAKER. It is also in order to move to go into the Committee of the Whole on the state of the Union; and that motion having been made, must be first put. The Chair supposes that in the Committee of the Whole on the state of the Union the special order will come up, instead of the deficiency bill.

Mr. DEAN. Well, sir, either of them will do.

The question was then put upon Mr. DEAN's motion, and it was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair.)

SUPPRESSION OF SMALL NOTES.

The CHAIRMAN stated that the special order of the day was House bill No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia."

Mr. HOUSTON. I suggest that the committee should dispense with the first reading of the bill. It will save time to read it by sections.

The CHAIRMAN. If there be no objection, that course will be pursued.

No objection was made.

The Clerk then read the first section of the bill:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person, or any association, partnership, or company of individuals, or any body-politic or corporate within the District of Columbia, shall, from and after the passage of this act, make, emit, issue, or utter any bill of credit, bank note, promissory note, bill of exchange, order, ticket, or any other instrument of writing, *in a less amount, or of a less denomination than five dollars*, to be used as a paper currency, or as a circulating medium, either as money or in lieu of money, or of any other currency, or shall make, sign, draw, or indorse any bank note, promissory note, bill of exchange, bill of credit, order, ticket, or any other instrument of writing, obligation, promise, contract, or agreement, for the payment or delivery of money or other valuable thing, or of anything purporting to be a valuable thing, *of a less amount than five dollars*, to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money or of any other currency, every such person, and every member, officer, or agent of such association, partnership, company of individuals, body-politic or corporate, concerned in or assenting to such making, emitting, uttering, signing, drawing, or indorsing as aforesaid, for any of the purposes aforesaid, shall be liable to indictment by the grand jury of the District of Columbia for a misdemeanor; and, on conviction thereof, shall be imprisoned for a term not less than ten days, nor more than one year, and fined in a sum not less than one hundred, nor more than five hundred dollars. And it is hereby especially declared and enacted, that in the case of an association, partnership, or company of individuals, body-politic or corporate, committing any of the offenses aforesaid, every individual thereof shall be presumed, prima facie, to be concerned in, and to have assented to, the commission of such offense, and the burden of proving his or her dissent therefrom shall rest on him or her."

Mr. CARTTER. I move to amend the section by striking out the words in *italics*.

Mr. Chairman, I offer this amendment for the purpose of bringing to the attention of the committee, and testing the proposition, whether we will authorize the issue, in this District, of bank paper of any denomination. Sir, I am opposed to it. The amendments that I have proposed will leave the bill, so far as it relates to this subject, with penalties and provisions against issuing any bank paper.

Now, sir, if there is any place on the face of this Republic that requires none of the agency of bank paper, it is the city of Washington. In the first place, it is a point at which the metallic constitutional currency of the country is always abundant with reference to the demand. The city has no commerce of any magnitude, and if it had, it could do its business upon commercial paper. The trade of the city is supplied and fed by the patronees of this Government, who are universally paid in constitutional currency. There is no extensive business here, no manufacture or trade that requires bank paper, that I am aware of. If it could be required under any circumstances, the shin-plaster authority that these banking institutions have exercised in this District ought to admonish us to put an end to it. It is but a few days since one of these institutions, following in the footsteps of all institutions of a similar character, exploded; taking the precaution before it went down to throw out over the face of the country its worthless promises to pay. It is since the close of the last session of Congress that you have had an exhibition of that kind in this city.

Mr. STANTON, of Ohio. Was it a chartered bank that broke down, or not?

Mr. CARTTER. I understand that it was chartered by the same authority that other banks in this District are chartered. They have none of them got any charters, as I am informed, but are issuing bank paper here without the authority of law, and by implication, under a law—as I am informed, for I have not examined it myself—that was intended to force them into liquidation.

Mr. JONES, of Tennessee. I think it will be found, upon examination, that there is no bank in this city which is incorporated—that their charters have all expired. I think it was at the close of the Twenty-eighth Congress that an act was passed giving them some time, and prescribing the manner in which they should close up their business and cease to exist. That was the clear and manifest intention of Congress. Under a construction given to that law by their attorneys, they go on in violation of the law, as I think, and continue to circulate this paper issue in the District.

Mr. CARTTER. That is my information also; but whether it is true or not, I would insist upon this matter. It is time, I think, that we put an end to this business of making a picture and putting a cashier's name to it, and drawing interest upon it as upon money. It is a fraud upon good sense. It ought to be ended, and particularly at a point where the necessities of credit do not require it. I hope that this Congress will not by implication authorize any such humbug upon business. This is simply my view in offering these amendments. Let us in this National Legislature set the substantial example of putting an end to a species of business unprofitable to anybody except to those who put it in motion.

Mr. AVERETT. Mr. Chairman, I hope the gentleman from Ohio will not embarrass the friends of this bill, and run the risk of defeating it, by pressing his amendment. I agree with him, that there is no need of the issue of a paper currency here, of any denomination. I would not vote for any bill legalizing any such issue. This bill is not intended to legalize it, nor does it legalize it either by express terms, or by fair implication. It is intended to add to, and make more efficient, the penalties of existing laws, prohibiting the issue or circulation within this District, of any paper currency under the denomination of five dollars. Sir, the laws of the land upon this subject are openly violated under our noses, before our eyes, and in contempt of law and the law-making power. Not only the people of this District, but the people of the adjoining States have been swindled, and are now being swindled by the issue of a prohibited paper currency, not redeemable in coin; but in some instances so issued, that their redemption cannot be enforced in anything or anywhere. For, unless I am misinformed, notes have been put afloat here of dollars with fractional parts of the dollar, redeemable in Virginia bank notes, when presented in sums of five dollars; but those fractional parts of the dollar are so arranged, that you cannot make the precise sum of five dollars out of any number of the notes. These notes have flooded Maryland and Virginia, and the people of those States have been swindled by them. We owe it to ourselves—we are bound in duty to our constituents to see that our laws, and our lawful authority shall be respected and obeyed, and to protect our people against these law-breakers. This bill has been well considered by the committee which reported it. It may not be perfect—it may not go far enough in suppressing an unsound paper currency.

But I venture to vouch that if you pass it as it is, you will effectually prevent the issue of shinplasters under the denomination of five dollars. Let us take the step now. Let us back Maryland and Pennsylvania, in following the lead of Virginia, in the effort to suppress small notes and shinplasters, and insure to the people hard money, at least for their retail transactions. Pennsylvania and Maryland have tried the experiment of allowing their banks to issue small notes for such transactions. Experience has taught them, that in so doing, they have not only been cursed with their own shinplasters, but with similar issues from other States, and especially with the lawless issues from this District. They have abandoned their experiment, and have prohibited the issue or circulation of any notes under the denomination of five dollars, thus following the lead of Virginia. Let us back and sustain those States. Let us pass this bill as it is. I appeal to its friends, not to allow it to be jeopardized by amendments. While Virginia, Maryland, Pennsylvania, and other States, are issuing five dollar notes, we cannot pass any law which would at this time be effective in suppressing their circulation here. This bill is intended to be operative, and effectually operative. Let us not sacrifice it to any theory, however sound; or to any measure which, though sound in principle, must, in the present state of things, be ineffectual in practice.

Mr. HALL. That is all right.

Mr. BOWIE. Mr. Chairman, I had the honor of submitting the resolution directing the Committee on the District of Columbia to inquire into the expediency of suppressing the issue of small notes in this District; and that committee, after very careful examination, and diligent investigation and consultation (as I am informed) with the legal authorities of the District, have prepared the bill which is now under consideration. This bill, Mr. Chairman, is in conformity with the public sentiment of this District, and that of the adjoining country, which it is designed to benefit. It is intended to obviate evils which have long oppressed and taxed our constituents, and which it is the duty of this Congress to remedy if practicable. It is entirely too late to say that a community of sixty or seventy thousand population does not need or desire the usual facilities afforded by banking institutions. The whole experience of the country is against it. The honorable gentleman from Ohio [Mr. CARTTER] is mistaken when he supposes that there is no commerce in this District. The commerce of the District amounts to some millions of dollars annually. It has a very large domestic commerce. The inspection of the single article of flour amounts to upwards of one hundred and fifty thousand barrels per annum: the greater part of which is exported to the eastward, the West Indies, and South America. Ships regularly arrive in the port of Georgetown with cargoes of sugar and coffee from the West Indies, and those cargoes are sold at public auction, attracting the attention of many of the merchants of Alexandria and Baltimore. We have ocular demonstration of the immense domestic trade which is going on around us; and unless we, as the representatives of the several States, would be willing to deprive our own constituents of these facilities of credit, we have no right to withhold them from the people of the District of Columbia. It is our bounden duty to

give them the facilities which those in other portions of the Union enjoy. We are their special, as well as their local, legislators. They have no voice here to protect their interests and urge their peculiar claims. This bill was designed to prevent the extraordinary mushroom growth of small banking institutions which have no visible capital, and which scarcely have a local habitation or a name.

I hold in my hand now a catalogue of the banking institutions which have sprung up in this District within the last few years. I am credibly informed that there are thirty-six banking institutions now in the city; all of which, except five or six, issue notes of a less denomination than five dollars. The authority to which I allude is the Bank Note List and Counterfeit Detector. It gives a large list of the banks in this District, most of which, to my personal knowledge, are of very recent origin.

I agree with the honorable gentleman from Ohio [Mr. CARTTER] that we have been admonished lately of the necessity for some legislation upon this subject. We have been admonished by the fact that one of these banks exploded as soon as the act of the Legislature of Maryland for the suppression of small notes went into operation, (as it did upon the first of October last;) one which had assumed the euphonious and striking name of the Bank of the Union. Its notes are returned to us unredeemed. Now we see upon the portals of the doors and windows, in various parts of the city, such inscriptions as these: "Bank of the Republic," "Bank of America," indicating a wonderful influx of banking capital. "The Ocean Bank," is emphatically set down in the Detector as "The Ocean Bank of Washington," *a fraud*. It is *italicized* as a *fraud* in a periodical which is the guide of a large portion of the commercial population of the United States.

This further caution is given in this Bank Note Detector:

"When compelled to take Washington money, look at the quotation; and if no rate of discount is inserted, *touch it not*."

Of the thirty-six banks enumerated, twenty-five have no rate of discount affixed.

I have no personal acquaintance with any of the gentlemen who have established these banks; and I have no design to prejudice them in the public estimation. But I rely upon information which has been given me, and which I believe to be substantially correct. My own constituents suffer largely from the system which has recently grown up; because many are small farmers, who have furnished this growing metropolis with all the supplies of the dairy, the poultry-yard, and the farm. They find this to be their most eligible market; and when they bring the fruits of their labor here, they expect to receive something of intrinsic value in return. When they reach here, they are told: "Take your produce back, or take our paper." Many of them are illiterate men, without having the means of ascertaining the commercial value of this paper; and when they have gone home and hoarded up their annual earnings, at the commencement of a new year they find they have hoarded up nothing but paper. Therefore I say it is the duty of the Government to remedy this evil.

Mr. CARTTER, (interposing.) With the consent of the gentleman, I would like to incorporate his speech as a portion of my own.

Mr. BOWIE. I have not the least objection. We know how to distinguish between those banks which have become veteran institutions here; whose long standing and the credit and the confidence they have gained in the community, by successful and judicious management, have proved them worthy of the highest trust,—we know how to distinguish between those institutions, (which are in as high credit as the banks in any part of the Union, whether in New York or in Ohio,) and these men of straw, who have no local habitation or a name. This District has been made the theater of the *experimentum crucis*, for the theories of legislation. We who live in the vicinity of this District know who to trust and who to avoid. And all we ask of Congress, as its local legislature is, that it will furnish a substantial basis of circulation by withdrawing the small note currency. Why should we shut our eyes against the experience of other States? Why should we permit that in this District which you will not permit at home? Which of you would authorize the promiscuous issue of small notes in your own State? Who among you would give credit to such paper? Yet what else do you do in this case? If you sanction such a circulation, you sanction the withdrawal of a specie currency. You afford to those who are designing enough to fabricate such paper and impose it upon unsuspecting and credulous men, the means of perpetrating the most onerous of taxes. You afford them the opportunity of inflicting upon this community an irreparable injury.

The gentleman from Virginia [Mr. AVERETT] has well said that this was a species of legislation in which the neighboring States have concurred. This bill was designed as a response to the legislation of those States.

I have no objection to the honorable gentleman from Ohio introducing here, or elsewhere, the free banking system, giving security to every one—giving official sanction to every note; but until this is done, let us not withdraw from this people the necessary facilities of commerce. I do not mean to say the honorable gentleman from Ohio is really hostile to this bill. I have not the right to suspect that it is not a fair amendment, designed to improve the system; but his amendment is hostile to the operation of the great reform which the people of this District, joining with the people of the country, are so anxious to have brought about.

Mr. Speaker, it has been intimated in the public prints, that those who have advocated this bill have some sinister purpose of their own to answer—that myself, in particular, as a Marylander, wished to subserve the interests of Maryland, by suppressing the circulation of these small notes, and thereby enabling the banks of Maryland to supply the vacuum. I have no connection with any bank, except as a depositor. I have nothing to make me identified with the prosperity of any banking institution.

My attention was called to this subject by the clamor which has been raised by my constituents, and by the instigation of many of the most prudent and influential of the citizens of my State. They know what their evils are, and they know how to redress them; and a large portion of them look to the action of Congress upon this bill, as the great means of relieving them from this intolerable abuse.

This bill has not been hastily prepared. It has been prepared, as I have been told, upon consultation with the legal adviser of the United States in this District—one whose duty it has been to attempt to enforce the laws previously enacted, but which attempt has been fruitless. The principle of this bill is no new one. A law has been in existence for years prohibiting the issue of these small notes; but the ingenuity of those whose interest prompted them to evade the law triumphed over the attempts made by the judicial and executive officers to enforce the law. They found the former laws ineffective, and therefore it is that this attempt has been renewed to accomplish that which heretofore they have failed in accomplishing. I hope the House will regard this attempt to emasculate this bill and deprive it of its vigor and force, as an assault upon the reform which the people of this District desire to have brought about. When this people shall come up here by memorial and petition, and ask you to take away all facilities for credit—when they shall ask you to abolish entirely the banking system, I shall respond as promptly as any other man. But when they do not utter any such complaint, when they ask you to remedy a partial evil, when they ask you for bread, do not give them a stone.

Mr. JONES, of Tennessee. With the permission of the gentleman, I wish to inquire of him, as I believe he has examined this subject with care, whether there is any law now in force in this District authorizing the issuing or regulating the paper currency here?

Mr. BOWIE. I do not think there is. I think that since the expiration of the charters of the banks of this District, all those banks known under former charters, have been acting as private associations, and, under legal advice, issuing notes of five dollars and over, because that was not prohibited by law. There was no restraining act, and they considered themselves as having the right, by common law, to issue notes of denominations over five dollars.

Mr. JONES. They are issuing notes of all denominations.

Mr. BOWIE. No, sir, I understand not. The old banks of incorporation, whose charters expired, and were afterwards reorganized, have not issued any paper of less denomination than five dollars.

Mr. JONES. There are other banks, so called, which issue one hundreds, fifties, and tens.

Mr. BOWIE. I believe there are.

Mr. JONES. I do not know myself, for I never take any of them.

Mr. BOWIE. I have not the pleasure of handling many of them. I dare say the gentleman from Tennessee handles as many as I do.

I hope that some gentleman upon the Committee on the District of Columbia, better prepared than myself, will expose the evil tendencies of the amendment now moved. It certainly is a most direct assault upon the principle of the bill, and I hope, if the House is friendly to a reform of this partial evil, they will vote against the amendment.

Mr. CARTTER. I have no doubt that this bill has been deliberately matured, and thoroughly considered. Nor do I doubt the purity of the motives of the honorable member from Maryland, [Mr. BOWIE,] and that he believes all that he states in reference to the ceremonies that brought this bill into existence.

There is no doubt of his purity of purpose; but he has totally failed of convincing my mind of the necessity of putting in motion thirty or forty shinplaster manufactories in this District. I understood him to say that all the bank paper issued in this District, is issued without authority of law. Such I understand to be the state of the case. If that be so, the purpose of this bill is simply, by indirection, to give them authority to do that which they have not the authority now to do—by cutting off the right of issuing less than five dollar notes, thereby giving them the authority, by implication, to issue notes of five dollars, and a higher denomination than five dollars.

Now, sir, what are the reasons offered by the honorable gentleman from Maryland for bringing this bill into existence? He says his constituents are interested in it. I deny, in the first place, the power of the constituency of Maryland to dictate to this body their line of legislation, although I avow here, that it would be with great reluctance that I would participate in legislation to their prejudice.

Maryland, up to a brief period in her constitutional history, was anything but a pattern, in my estimation. I do not know but she has corrected her habits lately; but up to a very recent period, if I understand her history, she was supporting her government by gambling. You could not go into a hamlet of five houses, that did not have a lottery office in it, and when you come to inquire into the details of the matter, you find that those lottery establishments supported the Government of Maryland.

I say, if Maryland was good authority, and we ought to accommodate ourselves to her situation, she ought to change her condition. The gentleman says my amendment, if adopted, would operate as a great embarrassment to his constituents, in their trade with this city. Now that cannot be so, for all the purchasers of potatoes and cabbages here get their money out of the Treasury, and that is gold, and the trade of the gentleman's constituents with this District is in cabbages and potatoes. [Laughter.] Do you believe that the breakfasts daily bought in this city would not command gold in payment? [Laughter.] There is nothing that will command good currency as quick as a hungry stomach. [Renewed laughter.] You can do without the gold, but you cannot do without the cabbages. As an act of friendship to the honorable member's constituency, I would compel these men to pay them in gold. I would not give them stones, but I would give them something heavier—not shinplasters. The gentleman says he suffers very much, and that his constituents have suffered exceedingly by these worthless shinplasters, and till his favorite bill proposes to create them, and my amendment proposes to supply gold in its place.

Now, it is a truth known to every member of this committee, that there is not a particle of food purchased in this District, which is not purchased directly or indirectly with gold, and it is purchased for the sustenance of those who command it; and the highest position the gentleman takes,

is to ask of this Congress the privilege to place between the consumer and the producer a shinplaster exchange. That is all there is of it. Fine cargoes of West India goods are brought here! Can you obtain foreign merchandise with these shinplasters? Are they good currency in Havana? Are they good currency in any of the Indies? The fact is, if they have any foreign commerce, they ought to have some currency with which to make their purchases. The shinplaster currency has no credit abroad. The manufactories grow up here in the night. Thirty-five have presented themselves since the last failure. Every failure makes way for a new brood. [Laughter.] They do not go out, but merely incubate [laughter] and multiply.

Now, I cannot for the life of me discover any necessity in the domestic purposes of this city—a city where the Treasury is kept—a city where every man, woman, and child feeds directly upon it, and where they are not permitted to pay out anything but gold,—for establishing a bank of issue. I can see the propriety of a commercial bank—a bank of exchange—for foreign commerce, which I suppose the city has to a limited extent. But where the business is measured out, as it is in this city; where the breakfast of to-morrow is purchased to-day, and where every man, woman, and child that eats it, has to eat it upon the responsibility of the Treasury, whence issues nothing but gold and silver, I cannot, for the life of me, see any reason for creating a banking institution.

The truth is, I do not believe in them anywhere. I want that understood. But in a place where there is no draft upon credit legitimately, there is no excuse for such an institution. This is that place.

I am not familiar with the domestic transactions of the city, [laughter,] but if there is any business carried on here in the domestic way, I do not understand it. [Laughter.] As regards the enterprise of a soulless corporation, if it were a natural corporation I could comprehend it. [Renewed laughter.]

I hope that the amendment will be adopted. I hope we shall not, when gold is redundant—when it of itself furnishes a currency for the whole country—adopt the folly of inspiring these thirty-five or forty shinplaster shops along the avenue. They do not come here for the purpose of accommodating the business of this city. They come to get the credit of this, the central city, and to send abroad the spawn of that credit upon the surrounding States, and then to close up their business, as did that concern during the recess of Congress, by refusing to redeem. That is what they do it for. It is a mere gambling center, to cheat people who reside abroad. That is all.

Mr. BOWIE. I beg the indulgence of the committee for a moment merely, to absolve my State, of which I am but an humble individual, from the imputations the honorable gentleman from Ohio [Mr. CARTTER] has thrown upon it, as being a State which, in some measure, lives upon gambling. We did, sir, some years ago, tolerate what the gentleman now pronounces a gambling lottery system.

Mr. CARTTER. Lottery offices——

Mr. BOWIE. We have done all in our power as a moral and religious people to wipe away that stain from our escutcheon, and have incorporated into the new constitution an absolute prohibition of it, after the present grants have become exhausted. If Ohio has not done the same thing, she should not cast the first stone.

I beg leave, for a moment, to institute a comparison between the credit of the banks of the District of Columbia and the credit of the banks of Ohio. I find the State of Ohio, notwithstanding the earnest protest of the gentleman——

Mr. CARTTER. I hope the gentleman will address his argument to some one else, for I have always been fighting them. [Laughter.]

Mr. BOWIE. I am surprised to find, notwithstanding the power and eloquence of the gentleman from Ohio, that his State still has the sin at her door of having banks. And what is worse, those banks do not stand in as high credit in the city of New York, the great commercial emporium, as the banks of the little District of Columbia. The notes of most of the Ohio banks are at one per cent. discount, whilst those of the banks of the District of Columbia are only at three fourths per cent. discount. This is all I have to say.

Mr. BARRERE. I think that the banks of Ohio are as good as those of this District. There is a discount upon their notes as well as upon ours.

Mr. TOOMBS. I think that this bill should not pass in its present shape. As it stands before us it is based on no principle whatever. If we intend to regulate the business of banking in this District by law, the bill does too little; if we do not, it does too much. No law now exists in this District in restraint of banking, so that individuals may bank as they please. That is one principle. Another is to regulate the business by law, which is the one adopted by all of the States of this Union. One or the other of those principles should be adopted for this District.

Mr. BOWIE. There were laws prohibiting the issuing of bank notes of a less denomination than five dollars, but none prohibiting the issuing of those of a larger denomination.

Mr. TOOMBS. Put the whole system of banking under the regulation of law, or put no restraint upon it at all. I think that the public will be more apt to suffer, and suffer to a greater extent, from bank issues above five dollars than those under that amount. Therefore, as this bill does not seek generally to control the business of banking in the District, but permits the issue of notes of a denomination greater than five dollars, it violates the principle of permitting banking to be unrestrained, but does not go to the extent of regulating it by law. For that reason I shall not vote for the bill. If you intend to use paper money, regulate its issue by law, or let it remain as it is. If you are against unregulated paper issues, put the whole system under proper restraints, or pass the amendment of the gentleman from Ohio.

Mr. MILLSON. I wish to ask the gentleman from Ohio, [Mr. CARTTER,] whether it is his object to prevent the circulation of all paper money of whatever denomination in the District of Columbia? Does he, for instance, intend to prohibit the payment of a $100 note of a Virginia bank, by one man to another in this District? If he does not intend that, and I presume he does not, I would suggest to him—for I am not at all opposed to the objects which he seems to have in view—that perhaps it would be better to withdraw his amendment, and add a proviso at the end of the section, setting forth that nothing in this bill contained shall be construed to authorize the making or issuing of notes of any denomination by any individual or corporation; simply a proviso guarding against the inference that this bill is intended to legalize the issue of paper money of any denomination. Without the proviso, the bill, if amended as proposed, while it would prevent the issuing of notes of a large denomination here, would at the same time prevent the circulation of notes of a large denomination issued by banks of other States.

Mr. CARTTER. My design was to strike at the whole thing. I do not intend that the District shall be the theater for the circulation of bank paper of any of the States any more than the theater for the circulation of paper authorized by Congress.

Mr. SACKETT. I desire to ask the gentleman who reported this bill to explain what is intended in regard to bills primarily issued without the District. Is there a clause in the bill to prevent the circulation of notes issued by banks across the bridge?

Mr. FICKLIN. There is.

Mr. SACKETT. I think there is not.

[Cries of "Yes there is!" "Yes there is!"]

Mr. FREEMAN. I move, in lieu of the amendment of the gentleman from Ohio, to strike out all after the first enacting clause, and to insert the following:

That from and after the passage of this act, it shall not be lawful to make, emit, or utter within the District of Columbia, any species of currency or money whatever, except the constitutional coins of the United States; and that for all offenses against this act, the parties committing the same, shall be liable to indictment by the grand jury of the District of Columbia for a high crime, and on conviction shall be fined in a sum not less than $500, and be imprisoned in the penitentiary for a term of not less than six months nor more than five years.

It is provided by the Constitution that Congress shall have the sole power of legislation over the District of Columbia. But there is another provision of that same instrument, which limits the power of Congress over the subject of currency, which is, that Congress shall have power "to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures."

Now it is a well-considered opinion that this body has no powers except such as are expressly granted to it. The grant, therefore, of the power to coin money may be regarded as a prohibition to this body from authorizing or permitting the issuance of any species of paper currency; and my opinion further is, that if we were to authorize the issuance of paper money, the law would be declared unconstitutional and void. What is our duty? Every person who comes here for the transaction of business finds the city infested with a miserable circulating medium which perishes in his pocket. I venture to say that there is not a member of this or the other branch of Congress who receives his money in gold and silver, who is not tormented by these trashy small notes. If you go into the shoe merchant's, and hand him five, ten, or twenty dollars in gold, he gives you in change a parcel of dirty, good-for-nothing paper.

And here another thing occurs to me. The contingent fund of this House is deposited with Selden, Withers & Co. Since the deposit has been made, that association of individuals has *graciously consented* not to issue notes of a less denomination than five dollars! They have even published that fact in the newspapers, by way of a special claim on public applause. They would not, as it had been requested, issue notes of a less denomination than five dollars. Where did they get authority to issue anything above the denomination of five dollars? From the higher law? The higher law has become a wonderful law in the United States. In the District of Columbia, over which Congress has entire legislative control, associations of men issue a paper substitute for the gold and silver currency of the United States, and then we bow obedience, and say that they may do it; but that they shall not issue anything less than the denomination of five dollars.

What is the necessity for a paper currency in this District? Millions of dollars in gold and silver are paid out year after year in this city; and with that fact before us, will it be said that there is not sufficient circulating medium in this District, unless we incorporate banks and permit individuals to issue a paper currency? Commercial men know that the moment you issue a paper currency, you drive from circulation the substantial medium of the land. Who, then, will be benefited by the issuing of a paper currency? I understood the gentleman from Maryland [Mr. BOWIE] to say, that the paper currency will be beneficial to the commercial interests of this District. That is one of the grossest mistakes. How are they to be benefited by it? Is it necessary that banks should exist here in order that resident merchants may pay their bills in New York or elsewhere? Is there not safer means of transmitting it from one point to another, than by bank bills issued from a voluntary association?

Mr. BOWIE. The principal trade of this District is in flour. The flour is shipped to New York, and the shippers from Georgetown and Washington, with whom I am acquainted, draw their bills of exchange from New York, which are cashed by the banks here.

Mr. FREEMAN. They had better cash it in silver and gold, than in the shinplasters of this or a foreign city.

Mr. BOWIE. In purchasing grain and the other products of the interior, notes are more convenient.

Mr. FREEMAN. Is there a farmer of your State who does not prefer the gold and silver coin of the United States over the shinplasters of Maryland and Virginia, or the District of Columbia?

Mr. BOWIE. There are some old-fashioned people who desire gold in preference to notes.

Mr. FREEMAN. Old-fashioned people, those who framed the Constitution of the United States, are still living in the gentleman's neighborhood. That is one of the old fashions which I trust we will insist upon, and which I hope will prevent the utterance of any kind of paper currency. It is enough that the individual shall be permitted to draw his bill of exchange upon any point where he may have money deposited, and that is a sufficient exchange. The commercial history of this

country will show that such is the fact. But what is the commerce of this District? The gentleman from Maryland says flour is the principal article. It is brought here for consumption. The District is only six miles square. I wish I could state the exact amount of money paid out here daily, quarterly, and yearly, in gold and silver, by the Treasury Department. I do not recollect it. Perhaps some gentleman on the floor can inform us. We know that the forty-five thousand inhabitants of this city are supported by the gold and silver which are paid out of the public Treasury. Most of them are dependents upon the public Treasury for their living. What advantage do they obtain in the circulation of this shinplaster currency? None in the world. There is not a trader or any other person here, who does not say, rid us of these miserable rags. Then, the persons who are benefited by it are those who issued their own notes. Take the case of Selden, Withers & Co. There is a large amount of public money put upon deposit with them. They put into circulation their own notes, retain in their vaults the gold and silver currency of the United States, and thus double and treble their capital stock for purposes of exchange, brokerage, and speculation.

No man can see any benefit beyond that point. I ask this House if they are willing to pass this bill, however well-intended it may be, when from the constitutional provisions we have seen that we have no authority to issue anything but coin?

Mr. FICKLIN. I desire to correct my friend from Mississippi, [Mr. FREEMAN,] by stating that this bill gives no authority whatever to issue any paper currency of any denomination, either by express authority, or by implication, or otherwise. The bank paper issued in this District, is issued without any express authority of law, and because there is no positive prohibition against its issue. This bill seeks to give no authority, in any way, to issue any bills.

Mr. ORR. I would like to ask the honorable chairman of the Committee on the District a question, if the gentleman from Mississippi [Mr. FREEMAN] will yield me the floor for that purpose. I understand that this bill has been introduced here for the purpose of correcting an abuse in the circulation of small notes, because the community are likely to be injured by these notes coming from establishments that are not able to redeem them. Now, if the evil exists with reference to small notes under the denomination of five dollars, is not the evil to community greater for notes above five dollars, and why should they not be provided against as well as the small notes?

Mr. FICKLIN. I take great pleasure in answering the question. The Committee on the District of Columbia were charged with this subject by various petitions, as well from citizens of the District as from citizens of Maryland, and other States of the Union. Those petitions all pointed to the small notes—all bills under five dollars. It was with that subject that the Committee on the District was charged, and not with the other branch of the subject, as embraced in the amendment of the honorable gentleman from Ohio, [Mr. CARTTER.] I will say to the honorable gentleman from South Carolina, [Mr. ORR,] that for one, with my friend from Mississippi, [Mr. FREEMAN,] I am in favor of a gold and silver currency, and opposed to shinplasters and banks of any description whatever. The committee, however, was charged with suppressing what is called an evil and nuisance in this District—the issuing of notes of a less denomination than five dollars, and by which gold and silver were excluded from circulation. There is a law in this District prohibiting the circulation, as I understand it, of small notes, but no law prohibiting the issuing of notes of five dollars and upwards. The law in existence here now makes it a criminal and penal offense to pass bills of less denomination than five dollars; and the only reason why the law is evaded is from the difficulty of convicting by indictment, under the slow process of law in this District.

Mr. FREEMAN. The chairman of the committee who reported this bill agrees with those who are in favor of a constitutional and no other currency, but offers as a reason why this bill was introduced that the petitions upon this subject which were referred to the committee only called for the suppression of bills of less denomination than five dollars, and the difficulty there was of convicting persons under the existing laws. I doubt not the petitioners, whose petitions were referred to that committee, were laboring under the impression that inasmuch as paper money was in circulation here, there was a law authorizing its issuance. When I first came to the District and saw this paper money in circulation, I supposed it was authorized by law. It did not occur to me that all these ornamented paper mills claimed their authority from the *law of nature*, as is now asserted. Really nature must have a strange incubation to bring forth such a progeny. The law of nature is the law of God. How then does it generate the children of the devil? The public have been imposed upon with regard to this matter, and in ignorance of their rights they have petitioned to redress but half the wrong inflicted.

It turns out now that the custom grew up voluntarily among individuals, and it has been countenanced heretofore by prohibiting the utterance of bills of a less denomination than five dollars. It is proposed now to continue the same wrong against the Constitution of the United States, by passing a similar bill, with more stringent powers against those who are guilty of the offense.

Mr. BOWIE. Will the gentleman allow me to ask him a single question? These private associations are like any other partnerships, the members of which are individually responsible. I suppose that in Mississippi, it would be lawful for private associations to issue notes, if there was no law against it.

Mr. FREEMAN. We have a right to issue our promissory notes. In Mississippi, we have prohibited the utterance of any circulating medium, except gold and silver. We have felt the evil of this thing in that State. We were overflooded with irresponsible bank currency and shinplasters, and they drove away the gold and silver; but now we have abandoned the whole system, and it seems to me that the shinplasters have all fled from that country to the District of Columbia. I think I recognize some of their old familiar faces here. Since that time, the cotton crop of Mississippi has sold for gold and silver, and now you see that every man has his coffers filled with coin instead of shinplaster currency. It is the duty of Congress to see that nothing but the constitutional coins of the land are legalized as a circulating medium within this District.

Mr. McMULLIN. Will the gentleman give way to a motion that the committee rise?

Mr. FREEMAN. I will yield the floor for that purpose.

The question was then taken on Mr. McMULLIN's motion, and it was agreed to.

So the committee then rose, and the Speaker having resumed the chair, the Chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia," but had come to no conclusion thereon.

On motion by Mr. CABLE, of Ohio, the House then adjourned till to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *January* 12, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate, information in relation to the construction of a building for a branch Mint in California; which was referred to the Committee on Finance.

Also, a letter from the Secretary of the Interior, communicating the report of Mr. Stansbury on the Industrial Exhibition held at London, in 1851; which was read.

Also, a report of the Secretary of State, communicating, in compliance with a resolution of the Senate, certain correspondence relative to the encroachments of Indians of the United States upon the territory of Mexico; which was ordered to lie on the table and be printed.

PETITIONS, ETC.

Mr. HOUSTON presented the memorial of E. S. Frederick, Isaiah Deane, and John Henry, workmen on the Capitol extension, in the city of Washington, under the superintendence of Mr. Samuel Strong, in which they represent that they were employed on said work, at $2 25 per day, which amount was paid them at the expiration of each month by the clerk or paymaster, for which amount they signed the pay-roll; that immediately after so receiving that amount, they were compelled to pay over to Robert Strong, their foreman, and Mr. Kensley, one dollar per day, those persons informing them, that if they refused to refund them one dollar per day, they should no longer do work on the building; that at one time during the time of their working on the building, when receiving their monthly pay, they retained the whole amount, and absented themselves, when the parties before named employed a man to look them out to return to work, which they accordingly did, refunding as aforesaid one dollar per day; that while they were retained on the work, others were discharged; that the time-keeper marked and allowed them more time than they worked, receiving as aforesaid for each and every day so allowed the sum of one dollar. The petitioners therefore charge the persons as aforesaid with defrauding the Government, by allowing them more time than they made on said work, and defrauding them out of one dollar for each day they worked on said building. The petitioners therefore pray that a committee of Congress will have witnesses summoned before them for the purpose of investigating the facts of the case. The petition was referred to the Select Committee on Frauds, &c.

Mr. DOWNS presented the memorial of Albert G. Howell, praying the confirmation of the title to a certain tract of land to the legal representatives of William Weeks; which was referred to the Committee on Private Land Claims.

Mr. BRODHEAD presented the memorial of Frances Ann McCauley, widow of Daniel McCauley, Consul General of the United States at Alexandria, in Egypt, praying an allowance for office rent in the settlement of his accounts; which was referred to the Committee on Foreign Relations.

Mr. FISH. I present a memorial, very numerously signed by ship-masters, ship-owners, and others, of New York, stating that they have been, most of their lives, engaged in the pursuit of the sea, and complaining of the operation, upon the commercial marine, of the law of 1850, abolishing corporal punishment. They do not ask for the repeal of that law; they wish to give it a fair trial; and in order that they may do so, they ask Congress to provide a substitute for that species of punishment. I move that the memorial be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. FISH also presented a petition of survivors of the war of 1812, and their relatives, residents of the city of New York and its environs, praying a modification of the bounty land law, and remonstrating against the passage of the homestead bill, and against a division of the public lands, except upon certain considerations; which was referred to the Committee on Public Lands.

Also, a memorial of the Chamber of Commerce of New York, and a memorial of Nathaniel L. Griswold, and others, praying that the Secretary of the Treasury may be directed by law to refund any excess of duty that has been, or may hereafter be exacted, whether paid under protest or otherwise; which was referred to the Committee on Finance.

Mr. SUMNER presented the petition of William C. Parke, heir and legal representative of Matthew Parke, captain of marines on board of the frigate Alliance, praying a distribution of the unclaimed balance of prize money granted by Congress for the relief of the heirs of John Paul Jones; which was referred to the Committee on Naval Affairs.

Also, a petition of citizens of Stockbridge, Massachusetts, praying the adoption of measures for the amicable settlement of international difficulties; which was referred to the Committee on Foreign Relations.

Mr. HAMLIN. I desire to present the memorial of Hiram O Alden and James Eddy, citizens of Maine, proposing to construct a telegraphic line from some point—St. Louis, I believe—to the Pacific ocean. I desire to say that these gentlemen are both men of the highest respectability, and in the possession of very considerable pecuniary ability. They set forth with great clearness the object which they have in view. They propose to

construct this line of telegraph wholly at their own expense, and make it a subterranean line, in order to prevent its destruction by the elements or by savages; and after having constructed it, and after having granted to the Government an unconditional and unlimited right to use it for its own purposes, they ask for the remuneration of a portion of the expense of the line by a grant of public lands. As I believe the Committee on Territories have had the subject before them, I ask that this memorial may be received, and referred to that committee.

I also present a memorial of citizens of Belfast and Bangor, Maine, in support of the same proposition; which I move to refer to the same committee.

The memorials were referred to the Committee on Territories.

PAPER WITHDRAWN AND REFERRED.

On motion by Mr. TOUCEY, it was

Ordered, That the petition of Eneas Munson, on the files of the Senate, be referred to the Committee on Revolutionary Claims.

REPORTS FROM STANDING COMMITTEES.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the memorial of James E. Smith and Edwin Smith, reported a bill "authorizing the Secretary of the Treasury to 'issue a register to the Hanoverian brig Michael, 'now owned by James E. Smith and Edwin 'Smith, of Sag Harbor, New York;" which was read a first and second time by its title, and considered as in Committee of the Whole. No amendment being made, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

Mr. BUTLER, from the Committee on the Judiciary, to which was referred the joint resolution appointing Stephen Colwell trustee for the heirs of Joseph Ball, deceased, asked to be discharged from the further consideration thereof; which was agreed to.

NAVAL PENSION BILL.

Mr. HUNTER. I am instructed by the Committee on Finance to report back the bill from the House entitled "An act making an appropriation for the payment of Navy pensions for the year ending 30th of June, 1854;" and I ask the Senate to take it up now, as it will give rise to no debate. The bill consists but of a single item.

The Senate proceeded to the consideration of the bill as in Committee of the Whole.

It proposes to appropriate $25,000 for the payment of Navy pensions for the next fiscal year.

Mr. HUNTER. The bill, as I said before, consists of a single item, and is in accordance with the estimates.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

INVALID PENSION BILL.

Mr. HUNTER. Mr. President, I am also instructed by the same committee to report back the bill from the House entitled "An act making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1854," with an amendment, which is to correct a date. The bill is strictly according to estimate, and I ask the Senate to consider it now.

The Senate, as in Committee of the Whole, proceeded to the consideration of the above-named bill.

It proposes to appropriate for the next fiscal year the following sums:

For invalid pensions under various acts	$180,000
For pensions to widows and orphans under the acts of July 4, 1836, and July 21, 1848	28,000
For pensions to widows under the act of 7th July, 1838	90,000
For pensions to widows under the act of March 3, 1843	30,000
For pensions to widows under the acts of June 17, 1844, February 2, 1848, and July 29, 1848	272,000
For half-pay pensions to widows and orphans under the eleventh section of the act of January 29, 1813, and the first and second sections of the act of April 7, 1816	10,000

The amendment of the Committee on Finance is to strike out "seventeenth," and insert "sixteenth," in reference to the act of June, 1844.

Mr. HUNTER. The amendment is only to make the recital of the act correct.

The amendment was agreed to.

Mr. GWIN. I am not going to oppose the passage of this bill; but inasmuch as I offered a resolution some time since, directing the Committee on Finance to report the general appropriation bills, and as I do not intend to press it, I wish to give the reasons why I introduced it.

It is well known that, since the commencement of the Government, the House of Representatives have originated the appropriation bills. But in the early periods of the Government they were reported at proper times. They were brought forward soon enough to allow the Senate to give them a proper consideration—to enable the Senate to examine them. But a practice has grown up recently, by which we are merely made the registrars of the edicts of the House of Representatives. The object which I had in view in introducing the resolution to which I refer, was, if possible, to give the Senate a fair opportunity of participating in the legislation of Congress in reference to appropriations.

Mr. President, I have gone to some pains to examine the history of the Government on this subject. I find that at the beginning of the Government the fathers of the Republic laid it down, as a steadfast rule, that there should be full and ample opportunity for the examination of these measures.

The people of the United States have established a Constitution and Government for themselves. They have vested all granted legislative powers in Congress, consisting of a Senate and House of Representatives. This grant imposes upon Congress the obligation to pass all laws necessary and proper, within their specified powers, for the support and perpetuity of the Government thus established; and the obligation thus resting upon Congress collectively is secured by the oath taken by every Senator and Representative to support the Constitution, which binds them individually. This is the active, operative, or vital power, which is confided in by the people, to provide the means for all the purposes of Government and to authorize their application to its support and maintenance in all its departments. Nor can this solemn and imperative duty be intermitted without a violation of oath, or a treasonable disregard of the vital interests and safety of the country.

It is true that the executive power is vested in the President, which involves the disbursement and expenditure, under his direction, of all the money appropriated by law; and it is also true that Congress have a necessary duty to perform in scrutinizing the expenditures of the Government.

Upon this subject the great and good President Washington, in his Farewell Address, remarked that—

"The necessity for reciprocal checks in the exercise of political power, by dividing and distributing it into different depositories, and constituting each the guardian of the public weal, against invasions by the others, has been evinced by experiments, ancient and modern; some of them in our own country, and under my own eyes."

The prescriptions and policy of those stern republican patriots, Jefferson and Madison, were the same, and the practices of their administrations corresponded strictly with that principle.

The paternal admonition thus communicated to their countrymen by these fathers of the Republic, has always been, and it is hoped will always remain, the true policy of this Government; but it will avail but little should only the appearance and shadow of this salutary principle remain, and the substantial benefits that might be derived from its steady observance be lost by the manner in which Congressional legislation in reference to the annual appropriation bills for the support of the Government are managed.

The practical fruits contemplated by the true policy upon this point have been to regulate and economize the expenditures of the Government; to preserve the accountability of public officers and agents, and restrain all tendency on the part of the Executive Departments to extravagance and disregard of the laws.

The Constitution declares, that "*No money shall be drawn from the Treasury but in consequence of appropriations made by law.*"

In the proper view of the subject, it is necessary that the general appropriation bills be reported and considered at an early day in each session, to afford time to examine and discuss them by the Representatives and Senators in Congress in due season; and on reference to the laws it will be found that the practice of Congress has been, for the most part, during the first half century of its existence, to pass those laws within the first quarter of every year; and usually the action of the House of Representatives has been had in time to enable the Senate also to examine and discuss their provisions for themselves.

So essential was it considered by the House of Representatives that these bills should be brought in for the action of the House at an early day, that they adopted the following rule:

"It shall be the duty of the Committee on Ways and Means, within thirty days after their appointment, at every session of Congress, commencing on the first Monday of December, to report the general appropriation bills, for the civil and diplomatic expenses of Government, for the Army, for the Navy, and for the Indian Department and Indian annuities; or in failure thereof, the reasons of such failure."

The House of Representatives also adopted the following rule:

"General appropriation bills shall be in order in preference to any other bills of a public nature, unless otherwise ordered by a majority of the House."

These provisions evinced the best intentions on the part of the House to facilitate the passage of those bills; but they went further, in order to exclude from them every matter that might be calculated to give rise to unnecessary debate, and delay such passage, and adopted the following rule:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law."

In a corresponding spirit the Senate adopted the following rule:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act, or resolution previously passed by the Senate, during that session, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received, whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

Yet, notwithstanding the adoption of these salutary rules by the two Houses, which they had a perfect right to adopt under that clause of the Constitution which declares that "each House may determine the rules of its proceedings," the manner in which these bills have been brought in and passed through of late years, has violated all the salutary provisions and considerations enumerated in the premises.

1st. It has violated the rules of the House of Representatives by bringing in the bills far beyond the time required by its rules.

2d. It has violated the rules of courtesy to the Senate, as well as the spirit of the Constitution, which requires the deliberation and concurrence of the Senate in all bills before they become laws, by delaying their passage in the House of Representatives until within a few days, and even sometimes within a few hours, of the expiration of a session of Congress; thus rendering it totally impracticable for the Senate to exercise that judgment, or perform that duty regarding such bills which the Constitution requires.

3d. It has not only violated the spirit of the Constitution, but has endangered the best interests of the country and the integrity of the Government, by throwing it in the power of one individual, in either House of Congress, under the rules, to defeat a bill upon which the support of the Executive branch, or the entire Government may depend for a year.

4th. It thus frequently places it in the power of one individual to control the will of all the other members of the body, presenting to honorable and conscientious men the alternative, either to consent to propositions totally at variance with their best judgment, or to stop the wheels of Government by defeating appropriation bills necessary to its existence.

5th. It thus establishes and familiarizes the legislators and the people with that specious law of necessity which is the plea of tyrants, and is alien to every principle of republican government.

6th. It obliges both branches of the National Legislature to confide their entire powers to the hands of a committee of two or three individuals to decide upon matters of great importance, imposing upon them the necessity of reversing the judgment of one or the other of those branches, and possibly both, and thus concentrates the power of Congress in the hands of a small committee.

7th. These difficulties are rendered manifest by the fact that these appropriation bills have sometimes been sent from the House of Representatives to the Senate within the three last days of

the session, rendering a unanimous vote necessary in two points in every bill, first: to suspend the joint rule, that "no bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session;" and secondly, to dispense with the rule which requires the three readings of every bill to be made on three different days.

8th. It is scarcely necessary to present any particular examples to illustrate the evils of this irregular mode of legislation; those examples are of too recent a date, and of too extravagant a character not to have been keenly felt by every member who has been in either House of Congress of late years; and has, no doubt, attracted the attention of all observers of the Congressional proceedings, and produced feelings of deep regret, if not of apprehension for the safety of our national institutions.

It was to remedy this evil that I brought forward the resolution requiring the Committee on Finance to report the general appropriation bills. At the suggestion of members of this body I have not urged its adoption this session, but its presentation, or some other cause, seems to have wonderfully stimulated the Committee on Ways and Means; for we find from the following table that it has displayed unwonted dispatch in reporting the appropriation bills, and in bringing them before the House for its action:

Of the days on which the several Appropriation Bills were reported by the Committee on Ways and Means of the House of Representatives at the last three sessions and at the present session.

MEMORANDA

		First session Thirty-first Congress, 1849-'50.	Second session Thirty-first Congress, 1850-'51.	First session Thirty-second Congress, 1851-'2.	Second session Thirty-second Congress, 1852-'3.
Bill to supply deficiencies, year to	June 30, 1850	On March 7, 1850	For 1851—Jan. 7, 1851	For 1852—Feb. 20, 1852	For 1853—December 23
Bill for fortifications	1851	On March 7, 1850	For 1852—Feb. 10, 1851	For 1853—Aug. 17, 1852	
Bill for Military Academy	1851	On March 28, 1850	For 1852—Jan. 8, 1851	For 1853—Jan. 13, 1852	For 1854—December 17
Bill for Army	1851	On April 11, 1850	For 1852—Feb. 13, 1851	For 1853—March 8, 1852	For 1854—December 23
Bill for Navy	1851	On April 11, 1850	For 1852—Feb. 22, 1851	For 1853—April 23, 1852	
Bill for Navy pensions	1851	On May 15, 1850	For 1839—Jan. 8, 1851	For 1853—Jan. 6, 1852	For 1854—December 13
Bill for revolutionary, and other pensions	1851	On May 15, 1850	For 1852—Jan. 8, 1851	For 1853—Jan. 6, 1852	For 1854—December 13
Bill for light houses, buoys, &c., in H. of R.	1851	On May 22, 1850	Considered March 3, 1851	For 1853—Aug. 7, 1852	
Bill for Post Office Department	1851	On June 14, 1850	For 1852—Jan. 8, 1851	For 1853—April 23, 1852	
Bill for Indian Department	1851	On June 14, 1850	For 1852—Jan. 8, 1851	For 1853—Jan. 6, 1852	For 1854—December 17
Bill to supply further deficiencies	1850	On June 14, 1850			
Bill for civil and diplomatic expenses, &c.	1851	On June 19, 1850	For 1852—Feb. 10, 1851	For 1853—Feb. 5, 1852	For 1854—December 23
Bill for harbors and rivers	1851	On July 23, 1850	Considered Dec. 16, 1850		
Bill for support of the Army	1851	On Sept. 16, 1850			
Bill for light houses, buoys, &c., in Senate	1851	On Sept. 25, 1850			

I hope the disreputable scenes of the last two sessions will not be enacted again. These important bills have been hurried through Congress with race-horse speed, without giving either House an opportunity to examine and understand their details. Committees of conference have mangled and cut up the appropriation bills, so that no member out of those committees understood what was contained in the laws when passed, and we are astonished at our own work when they are published. As to my own State, it has suffered so severely from this hasty action on these bills, and from the Jehu-like speed with which they have passed the two Houses after being under the scalpel of these committees of conference, taking off an arm here and a leg there, that I am determined to resist such legislation in future, so long as I have a seat on this floor. I intend to have an open field and a fair fight on the legislation for my State, if I can get it; and this resolution was introduced as one of the means I intend to use to bring back Congress to the practice of former times when we deliberated upon laws before we passed them. I do not wish to be driven to the necessity of resorting to what may be termed a revolutionary remedy, to defeat appropriation bills by talking against time, unless you can get an opportunity of scrutinizing the action of these committees of conference. We will resort to this remedy, unless we are allowed a fair opportunity of resisting the passage of laws that inflict an absolute wrong upon our constituents.

The bill was reported to the Senate as amended, the amendment was concurred in, and it was ordered to be engrossed; and the bill was ordered to a third reading, read a third time, and passed.

NOTICE OF A BILL.

Mr. DAVIS gave notice of his intention to ask leave to introduce a bill to amend the judiciary act.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the joint resolution from the Senate for the appointment of Regents in the Smithsonian Institution.

INVESTIGATION OF FRAUDS AND PERJURIES.

Mr. UNDERWOOD. I have a resolution which I wish to offer and have considered at this time, so that I may explain to the Senate in a very few words why I offer it. It is in these words:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of appropriating a sum not to exceed $100,000, to be applied under the directions of the President, in the investigation of frauds and perjuries committed against the Government, and in bringing offenders to punishment.

I have recently ascertained, Mr. President, that a great many frauds have been committed in stealing soldiers' discharges, personating soldiers, obtaining thereby land warrants, forging assignments, and then endeavoring to obtain patents in the name of the assignees. A case of that sort has lately come under my own investigation, because a soldier who had been thus wronged lived in a county adjoining my own residence. He filed his evidence, and the Department has set aside the original warrant, and determined, very properly, to grant him another. In the particular case to which I allude, the soldier was robbed of his discharge at St. Louis, the assignment upon the warrant was made a short time afterwards, and the warrant was sent to the city of New Orleans. You will thus perceive that it is utterly impossible for individual effort to travel all over the country and hunt up these frauds and perjuries, and bring the offenders to punishment. I think it is a business for the Government to attend to, and I want to provide a fund by which the President and the heads of Departments will be able to institute these investigations, and bring to punishment individuals of whom an example ought to be made.

I hope, therefore, that the Senate will now consider the resolution, and refer the subject to the Committee on Finance. Let that committee see whether some one of the appropriation bills cannot be amended, so as to provide a fund for this purpose. It was suggested to me the other day, that it would be better to refer the subject to the Committee on the Judiciary; but I think, on reflection that the Committee on Finance is the proper committee, because through its hands have to pass the appropriation bills, and I think it is absolutely necessary that some fund of this sort should be constituted. I hope, therefore, that the committee will take the subject into consideration, and see whether something cannot be done by the Government, for individual effort can do nothing.

The resolution was considered by unanimous consent and agreed to.

CLERKS OF STANDING COMMITTEES.

Mr. DOWNS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the clerks of the standing committees of the Senate, who have been on duty from the first day of the present session, be allowed compensation therefrom.

THE NICARAGUAN TREATY.

Mr. CASS submitted the following resolution for consideration:

Resolved, That the President of the United States be requested, so far as may be compatible with the public interest, to communicate to the Senate copies of any correspondence which took place with the Minister of Great Britain in the United States, in respect to the treaty negotiated by Mr. Squier with Nicaragua, which was submitted to the Senate in 1850; also a copy of said treaty and of any substitute for it, or any part of it, submitted to the American Government by the British Minister, and of the letters of the latter urging the acceptance of such substitute and the replies thereto; and also copies of any correspondence which took place between the Secretary of State and the British Minister and the Minister from Costa Rica, in respect to a *projet* which was submitted to Nicaragua, Costa Rica, and the Mosquito Indians, and a copy of such *projet*, with the instructions given to Mr. Walsh, the special agent deputed by the United States to present that *projet* to the States of Nicaragua and Costa Rica, as also of such other correspondence as may have passed between him and the Secretary of State upon the subject; as also copies of the correspondence with Mr. Kerr, Chargé d'Affaires of the United States in Nicaragua, in reference thereto, together with any correspondence with the Government of Nicaragua or its Minister, in respect to the same *projet;* and the President is further requested to communicate to the Senate copies of any letters which may have been addressed to this Government by the Minister of Nicaragua, or the Minister of Great Britain, in reference to the construction and purport of the convention between the United States and Great Britain, signed April 19, 1850, and proclaimed July 5, 1850, and of the replies made to them, if any.

COLONIZATION IN CENTRAL AMERICA.

Mr. CASS. The honorable Senator from Louisiana [Mr. SOULE] desires to go on to-day with his remarks which he was submitting on Monday last when he was interrupted by an Executive session. This day was assigned for the consideration of the joint resolutions in reference to the Monroe doctrine and the Island of Cuba, which I had the honor of submitting sometime since. At the suggestion of the honorable Senator from Louisiana, I now move that the further consideration of those resolutions be postponed to Tuesday next, so as not to interfere with him.

The motion was agreed to.

OFFICIAL CONDUCT OF COM. MORGAN.

The resolutions on the table being taken up in their order, the PRESIDENT announced the resolution of the Senator from New Hampshire, [Mr. HALE,] in relation to the official conduct of Commodore Charles W. Morgan.

Mr. HALE. If the Senate will give me leave, I will withdraw that resolution, inasmuch as the Commodore has died since it was presented.

Mr. SHIELDS. Before that is done, I wish, in justice to that deceased officer, to present a letter which I have received from an officer who accompanied him in the Mediterranean squadron, and who was with him during the whole period of that cruise. I have not the letter here just now, and therefore I would prefer that the resolution should lie over for the present. It is well known that the death of Commodore Morgan will prevent the investigation of those charges; but the officer to whom I have referred accompanied the squadron during its whole cruise, and he has felt it to be his duty to come forward and vindicate the memory of his commander. As I have said, I have not the letter now before me, but I shall take occasion to present it at a proper time. I think it will satisfy the honorable Senator from New Hampshire that injustice has been done to the character, and now to the memory, of a gallant and distinguished officer. I beg, therefore, that the Senator will permit the resolution to lie over for the present, until I can present the letter which is a response to the allegations contained in the resolution.

Mr. HALE. Mr. President, there are no allegations contained in the resolution which is on the table. It is simply one of inquiry, and the last time it was before the Senate, the body refused to consider it. It has come up now in its

regular order, and I think, with all deference to the honorable Senator from Illinois, that the course which he proposes to pursue, would be rather an extraordinary one. If officers who feel bound to sustain the course of Commodore Morgan, are to be heard by letters addressed to the Senate, I can tell the Senator there are other officers who have contradictory statements to make, who would also claim a like privilege of laying their representations before the Senate. I have no wishes in relation to this matter at all—not the least. If anybody wishes the resolution passed, I have not the slightest objection on earth; but I thought, as the Commodore was dead, and the resolution appertained to the mode in which he discharged his duty, and as he had been called before a higher tribunal than we are to answer for the manner in which he has discharged his duty on earth, it would be decorous to withdraw the resolution; but if anybody wishes a different course taken, I have no fault to find. I can, however, tell the honorable Senator that there are other officers who did accompany Commodore Morgan, upon whose statements these inquiries are based; and if one side is to be heard, it would he but an act of justice to hear the other. I think the better way would be to let the whole subject be withdrawn, and let it go, neither affirming nor denying anything.

Mr. SHIELDS. I think the better way would have been never to introduce the resolution.

Mr. HALE. I do not.

Mr. SHIELDS. That is my opinion. Well, sir, the resolution has been introduced by the honorable Senator from New Hampshire. I do not pretend to impugn his motives; on the contrary, I believe he himself was imposed upon and made in some way the instrument of doing injustice to a brave and gallant man; I thought so originally; I think so yet. I am informed that an hour or two before his death, this gallant officer read the resolution, and these implied charges, for they are such.

I hold now in my hand the paper to which I alluded, addressed to me by an officer who accompanied him. I do not wish to present it now, for some reasons which I will let the Senator know on some other occasion. I therefore prefer that the honorable Senator should let this resolution lie on the table for the present, and I will, or he may, call it up at any other time, and then I shall do justice to the memory of this officer. It shall have no reference whatsoever to him if he will take this course.

Mr. HALE. No reference to me!

Mr. SHIELDS. Yes, sir.

Mr. HALE. I do not ask any favors of any officer of the Navy. If he has got anything against me let it come out.

Mr. SHIELDS. Very well, sir; then I will present this communication.

The PRESIDENT. The Senator from New Hampshire asks leave to withdraw the resolution.

Mr. SHIELDS. Before that is done, I wish to present this communication.

Mr. HALE. I have no objection to gratifying the Senator.

The PRESIDENT. Then the resolution will he passed by informally, if such be the pleasure of the Senate.

The resolution was passed by accordingly.

REPUBLIC OF NICARAGUA.

The PRESIDENT announced that the next resolution upon the calendar, was one offered by the Senator from Mississippi, [Mr. BROOKE,] in reference to the dismissal of Mr. Marcoleta, late Minister of Nicaragua.

Mr. MASON. Mr. President, if agreeable to the Senator who offered that resolution, I propose that it should lie over for a little while. I recollect that at the time he introduced it, I intended to converse with him on the subject, but I have not yet had an opportunity of doing so. I therefore ask him to let it lie over.

Mr. BROOKE. I have no objection.

The resolution was passed over informally.

BRITISH COLONY IN CENTRAL AMERICA.

The personal explanations on this subject were resumed.

Mr. SOULE. When the other day this debate was suspended, I was about to state what occurrences had transpired in Executive session upon the ratification of the Clayton-Bulwer treaty. But I thought it due to myself, not to proceed to do so until I had ascertained the sense of the Senate as to the propriety of my alluding to anything that might pertain to our secret proceedings; and the sensibility which has been evinced since then, in reference to this subject, has but confirmed me in the idea that there was some wisdom in the course I thought proper to pursue. I did not apprehend, indeed, that any very serious consequence might result from such a disclosure; for in this, as in most other instances, it will ever be found that what is kept most secret, is, when divulged, hardly worth the honors of mystery. And still, it was due, perhaps, to those who voted, like me, in favor of the treaty, that the reasons which governed their votes should go forth to the country.

I stated on Monday last what scruples had induced me to be somewhat dissatisfied with the wording of the treaty, when it was first presented, informally, to my consideration, and how those scruples had been met, answered, and removed; yet, even the assurances given me and my associates on that occasion, could not divest me of all anxiety concerning it; and though I reposed the most unbounded confidence in the discretion and reserve of the then chairman of the Committee on Foreign Relations, [Mr. KING,] I could not resist the temptation of calling again his attention to the questionable provisions of that treaty. I met him at his quarters, but a few minutes after an interview which he had had with Mr. Clayton; and he but renewed the assurances which he had formerly given in relation to the same.

When the treaty came before the Senate for ratification, I rose and stated in debate the difficulties and doubts which had arisen in my mind on this point; and though I had determined to be guided, in the vote which I was about to give,—being myself a comparatively young Senator,—by the course which those whose wisdom and experience were far above mine, should pursue, I felt unwilling to keep back from the Senate the ominous impressions under which I labored; and I well recollect that when I had done thus, expressing my doubts and apprehensions, a distinguished Senator from the South, no longer of this body, somewhat abruptly remarked, that he had heard enough of the subject, and would vote against the treaty. But assurances were again renewed, that what of obscurity might still remain in the obnoxious article was meant merely as a protection to the keen sensibilities of the British negotiator, and that the treaty was understood as absolutely putting an end to all pretensions of jurisdiction or supremacy by England over any part of Central America. It was under the promptings of such assurances that I gave my vote in favor of the treaty; and so, I am sure, did those who voted with me. If there be a Senator on this floor who voted for the treaty under the impression that it did not relieve the whole of Central America from foreign jurisdiction and control, let him stand up, and speak forth; I am ready to yield him the floor.

I have seen in the newspapers published in this city, a correspondence between Mr. King and Secretary Clayton, which is deemed by some as implying a discrepancy between the views expressed by Mr. King in his letter, and the statements made by the Senators who have spoken on this side of the question. I do not so understand it. It was, I presume, fully understood when the treaty was under consideration, that its terms did not refer to, or interfere with, the mere *license*—for that is the proper term—held by Great Britain to cut logwood at Balize; and Mr. King, in his letter, could have meant no more than a reference to this precarious right exercised by English subjects over certain portions of the territory of Honduras. Mr. King by no means intimates that any claim to dominion which Great Britain might set up over any part of Honduras is excluded from the provisions of the treaty; on the contrary, he expressly warns Mr. Clayton against the admission of any such right in the British Crown. In a word, Mr. King's letter was nothing more than an acknowledgment that the precarious right I have alluded to was in no way affected by the provisions of the treaty.

It is worthy of remark, and I took occasion to advert to the fact the other day, that the first manifestations we can discover of any scruple entertained by the British negotiator as to the import of the treaty, should not have exhibited themselves until two months had elapsed since its ratification by the Senate. It was not until Lord Palmerston had pondered over it, and discovered, most likely, that its terms did not tally exactly with his own sentiments and wishes in reference to it, that Mr. Bulwer deemed an explanation of its meaning necessary. Why this anxiety, if the language used was expressive of the intentions of the parties? Where the necessity of any reservation for the British Honduras, if it was not comprised within the terms of exclusion? We have here the best proof that Lord Palmerston himself must have judged that the treaty affected the pretensions to dominion, on the part of England, over a part of Honduras; for there could not otherwise have been any occasion to remonstrate as to what meaning it should have in that particular connection. The fact is, that Lord Palmerston, forgetting what peculiar features characterize our Government in its connection with this body, and supposing that our Minister of State was possessed of powers unknown to our Constitution, but the exercise of which, in other countries, is not unusual, may have indulged some hope of effecting, by what, in diplomatic parlance, is called a protocol, such modifications in the treaty as might reach his views of what that treaty should have been. But who amongst us was to be told that the informal action of the two Ministers, clothed though it comes to us with the artificial importance seemingly attached to it by the Executive, has not the weight of a feather in determining the sense in which it should be taken?

But admitting for a moment, that whatever pretensions to dominion Great Britain might set up over any part of Honduras were in terms excluded from the operations of the treaty, the question still remains, what those rights be which were not thus renounced? We have heard much, of late, about flibustiering and marauding. We will find, in connection with the subject before us, a striking example of what can be made out, in time, of an expedition originating with a handful of buccaneers.

As early as 1642, we find a party of English freebooters operating a descent upon Roatan, and the other neighboring islands. They seem to have anticipated what the historian Juarros writes of the importance of their position. "They were," says he, "exceedingly advantageous to 'them, (the freebooters,) and proportionately in-'jurious to the Spaniards, because, being near the 'main land, they were enabled to make their de-'scents whenever they pleased, and with equal fa-'cility interrupt the commerce between the king-'dom of Guatemala and Spain." In 1750, the Spanish regained posession of the Islands, but found them a waste; and in that condition they remained until precisely one hundred years after the first attempt I have just alluded to. We actually find England in 1742 anxious to possess herself of Central America, seizing on the most important points of that continent—such as Truxillo on the coast, and Roatan, one of the group that stud the Bay of Honduras. This roused the ire of Spain, as proud then as she is at this day, but somewhat more able to command and impose respect. War ensues, which ends in the treaty of 1763, in which is to be found this provision:

"His Britannic Majesty shall cause to be demolished all the fortifications which his subjects have erected in the Bay of Honduras, and other places of the territory of Spain, in that part of the world, within four months," &c., &c.

But Spain soon discovered that, in violation of so explicit a clause in the treaty, Great Britain continued in the occupancy of Roatan, and of the works erected on certain points of the bay. In 1718 war is renewed, and Guatemala succeeds in resuming possession of Roatan. The treaty of peace concluded in 1783 apparently makes especial reference to these islands; for, by one of its provisions, England agrees to "abandon the continent, *and all islands whatever dependent upon it.*" Yet even this provision is evaded by England; and in 1786, Spain, insisting on more stringent terms, succeeds in forcing England into a supplementary treaty, by which the latter is bound "*to evacuate the country of the Mosquitoes, as well as the continent in general, and the islands adjacent,* WITHOUT EXCEPTION."

In 1796, the war, raging afresh, suspends the treaty, and England is again found hovering near and about the islands, and holding them under her sway; but in May, 1797, Roatan is surren-

dered to Don José Rosi y Rubia, who resumes possession of it in the name and on behalf of the government of Honduras. And this closes the attempts made by England during the last century against that part of the world.

The treaty of peace of 1814, however, revives, by incorporating them in its provisions, those quoted above from the treaty of 1786. What then?

In 1821, Central America proclaims her independence; and soon afterwards, Honduras, organized into a State, takes possession of the islands in her bay, as of so many dependencies, and passes them under the same title to the possession of the Federal Republic of Central America.

In 1830, we find again the British hand extending over these islands, and they are seized upon by the superintendent at Balize. The confederated States of Central America remonstrate, and the British Government is brought to disavow the act of its agents.

What occurred afterwards would hardly be worth relating, if it did not tend to show the unyielding pertinacity of England to hold fast to these important points of location in a military, naval, and commercial point of view. Colonel McDonald, in 1841, again shows the flag of England at Roatan and Guanaja. He is, however, recalled by his Government in 1843, when Honduras renews her remonstrances, but is soon hushed by the obstreperous interposition of Mr. Faucond, appointed in the place of McDonald, and by the subsequent blockades and threats which enabled Mr. Chatfield to keep in awe the refractory, but weak State.

Thus have I showed what, under existing treaties, would be the pretensions of England to any part of Central America, exhibiting at the same time with what greediness she has ever coveted a foothold upon it.

Can these high-handed attempts on the part of England, which I have just narrated, in any way alter or modify the tenure under which she holds the precarious rights awarded to her by the treaty of 1786? They could have imparted to her no political jurisdiction, and I have the best proof that whatever they may have been of late in her eyes, she never considered them as implying more than a mere occupancy for specific purposes—the cutting of dye-woods within a defined district. The act of George III, 57, passed June 27, 1817, defines, with an unerring precision, the nature, import, and extent of those grants. Its title reads, "*An act for the more effectual punishment of murders and manslaughters committed in places* NOT WITHIN *his Majesty's dominions*," and its provisions are headed by the following preamble:

"Whereas grievous murders and manslaughters have been committed at the settlement in the Bay of Honduras, the same being a settlement for certain purposes, in the possession and under the protection of his Majesty, *but not within the territory and dominions of his Majesty*," &c. "Therefore," &c.

I have, I think, shown conclusively that England herself never understood, prior to the late events that have occurred in Central America, that she possessed anything more than the precarious license to which I have on more than one occasion alluded.

If such be her tenure with respect to her settlements at Balize, how can she, under its cover, set up any claim to colonize the bay islands? When were these a dependency of Balize? And if not a dependency of Balize, what right has England to extend thither any settlement whatsoever, and, least of all, a system of complete colonization? Though her conduct in this instance be in strict keeping with what we know of her past history in reference to other possessions, I cannot even admit the supposition that she means seriously to set us at defiance, and to bring into ridicule that Monroe doctrine, the boast of our statesmen, and the main pivot on which has heretofore turned the foreign policy of our Government with reference to the concerns of this continent.

I wish not to light up fires that might lead to a general combustion. I am not insensible of the dangers of a contest, in the present condition of our Pacific coast especially, between these States and any of the maritime Powers of Europe. Still, I desire that the world may know that it were not safe for any of them to presume too far or too long on our wish for peace and tranquillity. In an emergency, we would soon be found prepared to compete successfully with any or all of them. I have no fear for the result of such a contest, and yet I would avoid it; for if it should ever take place, I cannot but apprehend that we would realize the stupendous hope which Canning uttered when, upon the invasion of Spain by France, he had in contemplation the impendency of a conflict between England and the continental Powers of Europe. Yes, sir, we might see "ranged beneath our banners, to take part in the struggle, all the world's malcontents, all the age's unquiet spirits, all those who, justly or unjustly, are dissatisfied with the present state of their countries." The idea of such a situation excites my dread, as it excited the dread of that great statesman; for it would show that a might exists in the spirit of freedom perhaps more terrible than has ever been seen in action throughout the history of the human race.

I have done. Before resuming my seat, however, let me express an abiding confidence that this matter will shortly come before us in some tangible shape, through which we may intimate our desire that, in case there be any discrepancy between us and England, with reference to the meaning of the treaty, the latter may be notified of our determination to suspend its action.

Mr. PEARCE. I do not propose to go at large into this debate. I entered into it originally for the purpose of defending a late Secretary of State (Mr. Clayton) from the charge which had been made against him, that by a correspondence with the British Minister, subsequent to the ratification of the treaty, he had done away with what some gentlemen in this body understood to be the true purport and intent of the treaty; and nothing which has been said to-day, has shaken my conviction that the Secretary has been successfully defended. England, by that treaty, as I understand it, renounced no right which she had in British Honduras, and neither that treaty, nor Mr. Clayton's letter, undertook to fix the character of the rights which Great Britain may have in that region of the world.

But there are other gentlemen in this body who think that the intent of that treaty was to sweep British occupation from the entire Central America, including British Honduras. So did not I think. I think the intention was to limit the encroachments of Great Britain, which we knew were going on, to check the extension of her possessions in that quarter, but to leave the possessions which she was actually then enjoying precisely as they were, without impeachment, and without sanction. That is the view which many of us here understand is to be taken of it. But how happens it, Mr. President,—if the construction of the treaty which is given by gentlemen on the other side be correct, and the intention was to sweep the British away from all their possessions in that quarter, even from British Honduras,—that from the date of the ratification of that treaty, down to the present time, which is two years and a half, the British have continued their occupancy, precisely as they had it at the date of the treaty, and from not one of those gentlemen—who now declare, most sincerely no doubt, that they understood the object and effect of the treaty to be to put an end to that British occupancy—one word of remonstance has been heard against such continued occupancy, in violation as they say of the true intent and purport of that treaty? That single fact is, in my opinion, an ample vindication of the late Secretary of State.

But, sir, I do not propose to go into this discussion. I am afraid I have talked too much about it already, and I apologize for having said these few words. The main purpose of my rising was, to make to the Senate a statement, which I have been requested to make, on behalf of Colonel King. I have received this morning, by the hand of an honorable member of the other House from the State of Alabama, [Mr. BRAGG,] the following communication:

"Colonel King desires Mr. Pearce to say in the Senate, that it has not been his desire or intention, in anything which he has been represented as saying, in reference to the Clayton and Bulwer treaty, to cast the slightest imputation on Mr. J. M. Clayton, in reference to that matter. On the contrary, he desires to do Mr. Clayton the justice to say, that he is convinced that in everything connected with that treaty, he, Mr. Clayton, was actuated by a patriotic anxiety to protect the rights and interests of his country. Colonel King feels mortified that anything said by him, under a misapprehension of the facts of the case, should have been made the basis for unjust reflections on Mr. Clayton."

I do not feel authorized to add a word of comment to this statement, except to say, that it is perfectly consistent with that character for strict integrity, and scrupulous honor, which has ever been enjoyed by Mr. King.

Mr. SOULE. I wish to ascertain whether the honorable Senator from Maryland means to apply what Mr. King says, of his conversation in reference to Mr. Clayton, merely to what transpired lately, or to those conversations of which many of us have had occasion to speak, as connected with the ratification of the treaty.

Mr. PEARCE. I have no authority to make any application of the statement at all. I present the statement at the request of Colonel King, and I cannot undertake to say to what remarks it applies.

Mr. SOULE. I meant only to ask whether the honorable Senator had any means of ascertaining.

Mr. PEARCE. I have not the means of knowing anything, except the communication which I have read to the Senate. I have had no opportunity of seeing Mr. King during his sickness. This paper was handed to me this morning by the Hon. Mr. BRAGG, of the House of Representatives, with a request by Mr. King, that I would read it in the Senate on his behalf.

Mr. SOULE. Does the honorable Senator understand it to apply to the original remarks?

Mr. PEARCE. I do not know that I understand the honorable Senator. I do not know that I can put a construction on Mr. King's statement or say to what it applies, though I think it is quite perspicuous.

Mr. SOULE. I merely want to ascertain of the Senator himself, whether he understood this explanation given by Mr. King as applying to any other conversations than those which have taken place lately?

Mr. PEARCE. I suppose it applies to what was said in the Senate some days since, but I have no authority except to make the statement as I have read it.

Mr. SOULE. Well, I shall cover the whole ground myself. It will be seen that the honorable Senator labors under a misapprehension, and I am sure that he would be the last one to be willing to do so. He will feel some gratitude if I shall be able to set him right. I have not disclaimed in any way the right of England which I have characterized as precarious, of cutting logwood in Honduras. Whatever that right may be, we have never disclaimed that it was considered by us all as being untouched by the treaty; but what we had disclaimed was, that we could not understand the treaty as leaving untouched the question of sovereignty in those islands, and I am going to show, from the very language of Mr. Clayton, that we were right.

Mr. PEARCE. If the Senator will allow me—if I understood him aright, I do not know that there is any difference between him and myself in that particular. The Senate will recollect that when I made my remarks on this subject the other day, I expressly stated that Great Britain had obtained her right of possession in those regions under the treaty of 1763; that she had claimed to have some title before, and perhaps made some irregular settlements, but the first valid treaty was that of 1763, which defined the purpose of her occupation. I stated further, that by the treaty of 1783, the boundaries within which England might proceed to exercise her privileges were defined, and a further privilege was given while the convention of 1786 extended the bounds of the British occupancy. I do not know that I mentioned the fact of the acknowledgment of those existing treaties, by that of 1814. That is undoubtedly as stated by the honorable Senator from Louisiana. In nothing that I have said at any time, have I undertaken to vindicate the rightful dominion of Great Britain to those countries. I have expressly refrained from that. I have spoken of the circumstances under which she obtained possession, and of the encroachments by which she has endeavored, in violation of the treaties which conferred on her restricted rights, to obtain an absolute dominion. I do not see, therefore, that in this respect, there is any difference between the Senator and myself, unless it be this: that I suppose the Clayton and Bulwer treaty to leave the rights of Great Britain, whatever they were, in British Honduras, without impeachment, and without sanction.

Mr. SOULE. Whence, then, I would ask, can arise the discrepancy between us and the honor-

able Senator? We, from the outset, unhesitatingly admitted that in so far as certain precarious rights might be claimed and held by Great Britain, as having been transferred to her by the treaty of 1783, and afterwards by that of 1786, they remained untouched. But other pretensions than those admissible under the mere sufferance allowed by those treaties, were understood to be entertained by England, and those were the pretensions which this treaty was meant to do away with. It left to England none of those rights through which she might assume any political jurisdiction over the country it covered, and this was all of Central America; and on this point the honorable Senator will allow me to satisfy him that our understanding of the treaty was in strict accordance with that of Mr. Clayton himself, as exhibited in the instructions which he gave to that able, efficient, and patriotic agent, Mr. Squier, when he put him in charge of our interests as connected with the republic of Nicaragua. It will be remembered that those instructions bear date the 7th of May, 1850, and were therefore anterior to the exchange of the ratifications between the two negotiators. Here is the language which Mr. Clayton uses in reference to this subject:

"We have never acknowledged, and can never acknowledge, the existence of any *claim of sovereignty* in the Mosquito king or any Indian in America. To do so, would be to deny the title of the United States to our own territory. Having always regarded an Indian title as a mere right of occupancy, we can never agree that such a title should be treated otherwise than as a thing to be extinguished at the will of the discoverer of the country. Upon the ratification of the treaty, *Great Britain will no longer have any interest to deny this principle*, which she has recognized in every other case, in common with us. *Her protectorate will be reduced to a shadow, 'stat nominis umbrâ;' for she can neither occupy, fortify, nor colonize, or exercise dominion or control in any part of the Mosquito coast or Central America. To attempt to do either of those things, after the exchange of ratifications, would inevitably produce a rupture with the United States.*"

Mr. PEARCE. I do not perceive any discrepancy between the Senator and myself; certainly not as regards the Mosquito coast, of which I have refrained from speaking, or of the rest of the States of Central America—none at all; but there is a difference between the Senator from Louisiana and the Senator from Michigan, which I will not attempt to reconcile.

Mr. DOWNS. Some documents have been published this morning, for the first time, which throw light on this subject, and corroborate very fully and very completely the positions taken by the honorable Senator from Michigan and myself, and others, in regard to the provisions of this treaty. While the matter is fresh in our minds, it will be well to refer to those documents. I will, therefore, read the message of the President of the United States, transmitting the treaty to the Senate, which clearly indicates the construction which we have placed upon the treaty, that it did embrace the whole of Central America, including Honduras. I shall not stop now to discuss the nature of the possession, or the right which Great Britain had there. But the position that I assumed, and so I understood the honorable Senator from Michigan to assume, was, that after that treaty, the British Government retained no power to occupy, fortify, or colonize any portion of Central America, including what is called British Honduras; and I think the message of the President, transmitted with the treaty, clearly shows that he and his Cabinet entertained the same opinion. In that message, dated April 22, 1850, the President uses this language:

"It will be seen that this treaty does not propose to take money from the public Treasury to effect any object contemplated by it. It yields protection to the capitalists who may undertake to construct any canal or railway across the Isthmus, commencing on the southern part of Mexico, and terminating in the territory of New Granada."

Here are words which define the limits of the treaty. It embraces the whole of Central America The object is "to construct any canal or railway across the Isthmus, commencing on the southern part of Mexico, and terminating in the territory of New Granada." I would ask whether in the territory "commencing on the southern part of Mexico and terminating in the territory of New Granada," British Honduras is not included? Here we have the language of the President of the United States, to the effect that the treaty was intended to apply to that region, and to the whole of it. But that is not all. Let us proceed. It will be found that this message completely refutes the argument of the Senator from New York, [Mr. SEWARD,] that the treaty was intended only to provide for a canal across the Isthmus, for the President expressly states that one object of the treaty was to protect Central America from foreign aggression, and to maintain the independence and sovereignty of all the Central American republics. The message further says:

"It gives no preference to any one route over another, but proposes the same measure of protection for all which ingenuity and enterprise can construct. Should this treaty be ratified, it will secure in future the liberation of all Central America from any kind of foreign aggression."

"Any kind of foreign aggression." The President first states what is Central America, and then says that the treaty applies to all. But that is not all. He continues:

"At the time negotiations were opened with Nicaragua for the construction of a canal through her territory, I found Great Britain in possession of nearly half of Central America, as the ally and protector of the Mosquito king. It has been my object" —

I call the attention of the Senate particularly to this—

"It is has been my object in negotiating this treaty, not only to secure the passage across the Isthmus to the Government and citizens of the United States, by the construction of a great highway, dedicated to the uses of all nations on equal terms, but to maintain the independence and sovereignty of all the Central American republics."

Now, if that language does not sustain the Senator from Michigan [Mr. CASS] and myself—if the treaty does not embrace the whole territory, as the President says, from the southern boundary of Mexico to New Granada, I am at a loss to find words to express that meaning. While we are on this subject—for it is an interesting one, and I think everything in regard to it ought to be understood—I would like the honorable Senators from Maryland [Mr. PEARCE] and New York, [Mr. SEWARD,] who have looked so closely into it, and talked so much about British rights, to explain what they mean by those British rights. Do they mean that England retains after this treaty, or had before, the right not merely to cut wood in Honduras, but to colonize it, as they have now, in a proclamation, declared their intention to do? That is the real question. We assume that, by the treaty, it has renounced that right. The late President of the United States seems to have entertained that view when the treaty was submitted to the Senate; and I would like to know now if the gentlemen still think that, under the stipulations of that treaty, they have that right?

There is another circumstance, Mr. President, to which I wish to call the attention of the Senate on this subject, and it is to show that this idea of the construction which is now contended for by the British Government originated in a very late period; for at the very time that the treaty was signed, on the 19th of April, Mr. Clayton's letter, published this morning in the correspondence between him and Sir Henry Bulwer, shows, that so careful were they, when the *projet* of the treaty was submitted to different Senators, it was also transmitted to England, and submitted to Lord Palmerston; and Sir Henry Bulwer says, in his letter, that he was authorized to sign the treaty precisely as it came back, and makes reference to some verbal alterations, which he says were not material. Now, it is very strange, after the treaty was drawn up, and sent to Lord Palmerston, and came back without any change of importance, and when we have the letters both of Mr. Clayton and Mr. Bulwer at the time of signing the treaty, discoursing on other matters, and making no allusion to this, that such a construction should be put upon the treaty as is sought to be put upon it by the English Government. It seems never to have been thought of at that time. It was not until after the treaty was ratified, after the power had gone from the Senate—some time in July, 1850—that the President in another message used the language referred to by the Senator the other day, from which it is implied that Honduras was not included in the treaty. Had not the Senate, then, a right to understand the treaty as the President understood it when he submitted it to them? I think this sustains to the fullest extent the position taken by us, that if the treaty had been understood in any other way than that it did embrace the whole of Central America, it would never have been ratified. When it was ratified we had the message accompanying it before us. It is material to look to that. It uses language very different from that used in July, which could have no bearing on the treaty, because it was ratified. It would seem, then, that this information had been purposely withheld from the Senate of the United States. The question had not arisen, it is true, when the treaty was ratified; it was not suggested, and therefore could not have been communicated. The message, then, clearly shows, in my opinion, that the President understood the treaty precisely as we do. I thought this document so important that I have brought it to the attention of the Senate while the subject is before us.

Mr. PEARCE. I think the Senator from Louisiana has misapprehended the meaning of the paragraph which he read from the message of President Taylor. The President, when he speaks of the treaty as giving "protection to the capitalists who may undertake to construct any canal or railway across the Isthmus, commencing in the southern part of Mexico, and terminating in the territory of New Granada," alluded to the different propositions for making an inter-oceanic communication across different parts of the Isthmus; one was by the Tehuantepec route, another by the Panama railroad, and the third was by the way of Nicaragua. And when he speaks of the territory commencing at the southern part of Mexico and running to New Granada, he speaks of it in regard to the different parts through which these three different routes were proposed to be constructed. That is all. It is true he says:

"It has been my object in negotiating this treaty, not only to secure the passage across the Isthmus to the Government and citizens of the United States, by the construction of a great highway, dedicated to the uses of all nations on equal terms, but to maintain the independence and sovereignty of all the Central American republics."

And in my judgment, that treaty—if it be not violated—does effect those objects. It maintains the sovereignty and independence of Guatemala, Salvador, Costa Rica, Nicaragua, and Honduras. It takes away from the British all shadow of a pretense for enforcing dominion over what is called the Mosquito shores. It stops the encroachments which at that time they were making by running the claim of the Musquito king below the river San Juan, and extending it from Cape Honduras to Escuda de Veragua, as Mr. Buchanan says they were doing, in his letter of June 3d, 1848, to Mr. Hise; and it prohibits all further attempts on the part of Great Britain to establish her dominions there by means of her so-called protectorate, or by colonizing on the Mosquito shores, or in any of the Central American States.

I will add—though it is not appropriate to this debate, and I have endeavored to refrain from speaking on any subject except what belongs to the occasion—that it rather seems to me to be an encroachment on the part of Great Britain to take possession of the islands on the southern shore of Honduras bay. So I hinted, I think, when I spoke on Monday; but I refrained from expressing myself directly, because it did not properly belong to the subject before the Senate, my object being to vindicate a late Secretary of State from the charge of having, by his correspondence with Sir H. Bulwer, effected a change in the treaty after its ratification. I now repeat the question which I asked when addressing the Senate before, if the construction of the Senator from Michigan is right, and the treaty was intended to exclude British occupation from the whole of Central America, including "British Honduras," why is it that that Senator, learned and astute as he is, and familiar with our foreign affairs, has never, from the date of its ratification down to the present time, a period of two years and six months, remonstrated against the continued occupation by Great Britain, which, in his view of the treaty, is a violation of it?

Mr. CASS. I will tell the honorable Senator directly.

Mr. SHIELDS. I have no wish, after what has been presented to the Senate by the honorable Senator from Louisiana, to add anything to what he has stated. I rise at this time, not to interfere in this question of veracity, or even about the construction of the treaty——

Mr. PEARCE. It is not a question of veracity.

Mr. SHIELDS. Well, not veracity; for there is no question of veracity in fact in the case; it is a mere matter of information, and perhaps misunderstanding. But, I repeat what I have said before, that whether you give to this treaty the meaning put upon it by the negotiators, their own private understanding, or whether you give it the

meaning that the language imports, the treaty has been violated by the seizure of these islands. So far as Balize, or what is termed British Honduras, is concerned, I am not disposed to enter into that question now, and for this reason: I think it might be impolitic for us at this time to construe the treaty in relation to it, as I apprehend, in doing so, it might embarrass our friends hereafter. I shall leave that question for the future; but what I mean to state is this—and I am happy to say that the honorable Senator from Louisiana [Mr. SOULE] has established it this morning—the islands that have been erected into what is called the Colony of the Bay of Islands, never belonged to British Honduras or its dependencies. The honorable Senator from Louisiana shows, that by the treaty of 1786 Great Britain had a right of occupancy on the Bay of Honduras. He goes further and states, what is, I believe, overlooked by the honorable Senators who spoke on the other side, that that right was reasserted and reëstablished by the treaty of 1814, and that it was nothing more than a mere license—the right of occupancy, the right to cut logwood, to carry off mahogany, and erect structures and buildings for that purpose, and that alone.

That treaty embraces the district. The district is there defined. It is bounded and marked in the treaty; and nowhere in the treaty of 1786 or in that of 1814, which reasserts the provisions of the treaty of 1786, are the Islands of Roatan and the surrounding islands noticed or referred to. On the contrary, the honorable Senator from Louisiana, [Mr. SOULE,] has shown that as late as 1830 the British Government renounced all title to these islands, disavowing the act of their own officer, and restoring the islands to Honduras, giving them back to their original owners.

That was as late as 1830. But now, sir, in 1852, there comes a proclamation from the British authorities, seizing these islands and erecting them into a permanent British colony. The honorable Senator from Michigan—and I sincerely thank him for the act—finding this fact published in the newspapers, introduced a resolution, calling upon the President for information as to the seizure. What information comes? They sent us a message, stating, I believe, that they had no information as to the seizure of these islands. I am happy that the honorable Senator from Maryland [Mr. PEARCE] has, so far as he is concerned, made a statement this morning, which precludes the necessity of my referring to his speech. He says that he believes the seizure of the islands to be a violation of the treaty. The Department has no information on the subject; and yet, sir, as early as 1851, the papers were filled with news that the British authorities were about to seize the islands. The initiative steps were taken in 1852, and the islands were seized and converted into a British colony.

The honorable Senator from New York [Mr. SEWARD] argued the other day as if Balize, or British Honduras and its dependencies embraced these islands. He says he found them marked blue on the map, the sign of British dominion everywhere. I suppose, upon the same principle, if he had found them marked black, they would have belonged to Hayti. It is a curious way for a gentleman to establish a title to territory, because he finds it indicated by a particular color on the map. He said they were a part of the dependencies of British Honduras. There is not a British statesman who would rise in the British Parliament and make that statement. They were never claimed by Great Britain as a part of the dependencies of Honduras. Great Britain disavowed them as a part of its dependencies. They are not only leagues, but degrees from Balize.

If the Senator from New York had been as accurate in his information as he usually is, he would have found that the dependencies or islands to which he refers, are a little group of islands running along the coast of Honduras; but not these islands, not this large group, which is the key to the bay of Honduras and the Caribbean Sea, and the strongest position in that part of this Continent. Permit me to give the opinion of some writers in relation to the value of these islands. Here is what a Spaniard (Alcedo) says: "It may 'be considered as the key to the bay of Honduras, 'and the focus of the trade of the neighboring 'countries."

And an English writer says they may be considered as "the garden of the West Indies," the "key to Spanish America," and "a new Gibraltar" on this Continent.

Therefore, what I want to assert, and I confine myself to that this morning, is, that to this country the seizure of these islands is a matter of vast importance; that it is an infraction of the treaty, put either construction upon it; an open violation of it; that these islands form great military, commercial, and naval depôts upon your southern coast; that it is a part of that girdle of fortresses with which Great Britain is now inclosing this country. Commence at Halifax, go to the Bermudas, and then go south and put her in possession of these islands, and she has a girdle of fortresses around your coast. And her military men boast of it. It is worth while to read how the military men of England regard these possessions as the strongest in the southern seas, controlling the Caribbean Sea, the bay of Honduras, and Central America, and exposing our whole southern coast, and forming a link in that chain of possessions which Great Britain is now extending round this country.

I merely rose, not to enter into this doubtful question, but to show that no matter how this point is argued, the seizure of the islands is a violation of the Clayton and Bulwer treaty, and this has nothing to do with any pretension, or any right, or any pretense, which Great Britain claims to the possession, called Balize, or British Honduras.

Mr. HALE then obtained the floor.

Mr. CASS. I hope the honorable Senator will allow me to answer a question which was put to me, and I will not detain the Senate ten minutes in doing it.

Mr. HALE. I yield to the gentleman.

Mr. CASS. Mr. President, the honorable Senator from Maryland, made a sort of appeal to me, in the shape of an *argumentum ad hominem*, with a good deal of emphasis apparently, because he had twice done the same thing. He seemed to suppose that because I did not bring this matter before the Senate and the country at an earlier day, it must be considered that it was because the alarm which he thinks has been raised, did not exist, or was a matter of very small consideration. Now, sir, I cannot put my finger into every dish of diplomacy. I suppose the Senate and the country will say that I have been pretty busy about these matters of foreign relations. I have done my share, and I am afraid the country thinks I have done more than my share. I am not bound to watch every aggression; and if I were to do so, I should have enough to do. But the truth is, the moment this usurpation assumed, as my honorable friend from Illinois says, a very flagrant character, so that there could be no doubt about the facts, or two days afterwards, I brought the subject before the Senate.

As to the state of Balize from the time of the ratifiation of the treaty up to the time of this discussion, I have only paid a general attention to it. I saw the question alluded to in the papers, but what was the nature of the jurisdiction which the British exercised there, I did not know, and I do not know to this day. I have seen that Great Britain has not gone on to establish a colony in the usual way, appointing a Governor; but she seems to have halted and to have stopped nearly half way. I do not to this day know what kind of jurisdiction she claims to exercise there, but I do know now, that, in the very face of this treaty, she, in July last, went on to establish a colony called the "Bay of Islands," and as soon as I did know that, I proposed to the Senate to call on the Executive for authentic information as to the state of facts there, and why they had occurred.

Mr. DAVIS. If the Senator from Michigan will permit me, I will read to him from the treaty of 1786, which defines the rights of Great Britain with the utmost accuracy throughout.

Mr. CASS. The Senator may read it, if he wishes, after I get through, but I am now occupying the floor through the courtesy of the honorable member from New Hampshire, and I therefore trust the Senator will allow me to go on.

Mr. HALE. I was about to ask whether it was in order for the Senator from Michigan, after receiving the floor from me, to transfer it to any one else.

Mr. CASS. The Senator is right. But I had another reason for saying a word or two more on this subject, and it is in consequence of an allusion made, rather indistinctly, by the Senator from Maryland to another consideration, and that is to the origin of this matter. As I before mentioned to the Senate, as soon as I was aware of the colonization of the Bay of Islands by the British, and of the assumption of general jurisdiction and dominion over them by the British Government, I brought the subject before the Senate. I introduced a resolution calling for information from the Executive in regard to it. What was the answer to that? Why, as my honorable friend from Illinois has said, the existing Administration very truly returned us as an answer, that they knew nothing about the subject. But they sent us a copy of an important document from the archives of the Government, bearing upon the question. They doscribe it truly, as a very important document; and what was it? Why, that document was a sort of supplementary, *quasi*-post ratification between the Department of State and the British Minister, restricting and confining the terms of this treaty within narrower limits than I know I put upon it, and I believe a large portion of the Senate put upon it. In that document was contained an extract from a note of Colonel King to Mr. Clayton, saying the Senate perfectly understood the thing so, to wit: that all knew the treaty did not include British Honduras. I, as one Senator, knew that I did not so understand it. I take it, then, that it was not only my right, but it was my duty to announce to the country that I was not one of those Senators who had put that construction upon the treaty. Before I did that, as a matter of delicacy and propriety, I called upon Colonel King, and I repeated, word for word, to the Senate, the conversation which took place between us. I stated expressly, that Colonel King did allude to an undefined right of the British to cut logwood. He did not go into a full consideration of the matter, but he stated distinctly that in his view, there was an undefined right to cut logwood.

I reported to the Senate, with my own exculpation, (if you may so please to call it,) the facts as they occurred. The main fact which I wanted to establish, in relation to myself was, that I had no participation in the ratification of such a treaty as some gentlemen, and among them Mr. Clayton, say was submitted to the Senate.

Mr. President, the treaty came before the Senate purporting to cede, or rather to abjure, all dominion or jurisdiction on the part of the British and American Governments to "Central America." Now, what is "Central America?" That is the point which we had before us the other day, and I want to say a word on that subject. Central America is a geographical portion of country. Why was the term used in the treaty? Mr. Clayton expressly tells you in his letter that the term was used on the suggestion of Lord Palmerston. Why Lord Palmerston suggested it, I am sure I do not know. The result of his usage of it is very clear, that the British are setting up a claim which they never could have had any shadow of title to set up if that term "Central America" had not been used. Unfortunately Lord Palmerston's suggestion was accepted, and the term "Central America" was used; and it is now contended that that term meant the States of Central America—that it had a political signification, and was used in that sense, and not in a geographical sense. Why, you might as well talk of the political States of the Heptarchy. The political States of Central America had been dissolved, and that had become a mere historical designation. There is no such thing as a political community known as "the States of Central America." The States composing that division have resolved themselves into their constituent elements. The governments that composed it have, after a few years union, become independent of one another. The tie that bound them together has been dissolved, and when the treaty was made there was no such thing as a particular country known by the name of "the States of Central America." What right, then, has any man to say that this was a political designation—that the term "Central America" was used to designate a political state of things when that state of things had ceased to exist for years?

I understood "Central America," in the treaty, and many other gentlemen have confirmed my understanding, as referring to geographical "Central America;" and I repeat,—what no gentleman has yet answered and what is unanswerable,—if "Central America," as used in the treaty, meant

the States of Central America, what excuse is there for not saying so? If the general geographical term embraced a larger extent of country than was intended, why was the treaty sent to us intending to embrace the minor, when, upon its face, it seemed to embrace the greater subdivision? Why was not the term "States of Central America," or equivalent term, used, showing the objects and actual interpretation of the parties to the treaty? That is what I want to know, Mr. President, and that is what no man has told me.

Now, with respect to the construction of the treaty, I believed then, as I believe now, that the treaty, according to a fair and reasonable construction of its terms, includes Honduras; that Great Britain gave up all sovereignty and jurisdiction over Honduras. That has always been my belief. As to the right to cut logwood, if she had it at all, she had it in subordination to the dominion and jurisdiction of the country, liable, as I understand, for I have not looked into it, to be terminated at any time; but at any rate liable to the dominion and jurisdiction of the country, for she herself expressly renounced all jurisdiction. Upon that I have the same view as has my honorable friend from Louisiana; and although the honorable Senator from Maryland does not see any difference in the views of the honorable Senator from Louisiana and himself, I see a very great one. The honorable Senator from Louisiana considers "Central America" to mean Central America, to include all Honduras, and not to exclude a subdivision of it, which, on some British maps, is called British Honduras. When the term "Central America" is used, it includes the whole of Honduras; and if there is any exclusion, it is, as the Senator from Louisiana says, only exclusion of a temporary right on the part of England to cut trees there, leaving the general dominion and jurisdiction in the very words of the act of the British Parliament, which has been alluded to, in "the State of Honduras." That was my view then, and it is my view now.

Mr. HALE. As I have but very little to say, and as I desire to say it in order, I would be obliged to the Chair to state to me what question is before the Senate.

The PRESIDENT. There is no question before the Senate. Senators are going on, making personal explanations, which have been allowed by the unanimous consent of the Senate.

Mr. HALE. Then I suppose anything is in order. It is rather a singular position to put a man into, to have him speak when there is no question pending. But, as from the remarks which some gentlemen have made, this matter has assumed an importance which does not suggest itself to my mind, and which is not palpable to me, and as I am obliged to form my ideas on the real and intrinsic importance of the question from the view which other gentlemen take of it, I feel that it is due to myself, in view of the contingencies which may hereafter arise, to make this a matter of some consequence, and to state what my recollections are.

I remember something about this treaty. I happened to be a member of the Senate at the time it was submitted to this body, and I voted for its ratification, and I wish to state the distinct recollections which I have upon the subject. Before I do that, however, as there is no particular question before the Senate, and as it is a time for explanations, let me explain another matter.

I regret to see the tone and temper of some of the remarks of gentlemen as having a tendency to excite a sort of national prejudice against Great Britain. Sir, in saying that I regret to see such prejudices appealed to, do not let it be supposed that I stand up here as the humble advocate of England, because I have not the least concern in the world about her. You may get your indignation up to the highest pitch you please; you may make a direct issue with her on the Monroe doctrine or anything else you please, and it needs no prophet to foretell what the end of that controversy will be. Why, sir, you will back square out, just as you did upon the Oregon question. No matter how high your indignation may go, no matter to what a fever-heat your patriotism may excite you, when the issue comes you will back out; you will come down from 54° 40′ to 49°, and if that is not low enough you can come down lower. Therefore, sir, my anxiety is not for England; but I will tell you what it is: this patriotism must have vent somewhere, this indignation must have a victim, and it will fall on Mexico, or Costa Rica, or some of those little States that are not able to bear it as well as Great Britain is. It is for that reason that I feel exceedingly pained to see so much fever-heat got up against England when I know somebody else will have to take the blows, if blows come, because of the fact staring you in the face which the Senator from Florida [Mr. MALLORY] stated the other day—I do not know whether or not that statement was made in secret session; but if it was, I believe the injunction has been removed——

Mr. CASS. The injunction has been removed; all is open now.

Mr. HALE. The honorable Senator from Florida told you that Great Britain had one ship——

Mr. BUTLER. That was in secret session.

Mr. HALE. Well, I have not let out much in telling you that Great Britain has one ship. [Laughter.] As it was in secret session I suppose I shall have to stop here. The public can take as much advantage as they please of the fact which transpired in secret session, that "Great Britain has got one ship," and I will not state what the honorable Senator said about that ship; but there is an impression on my mind from what was said, that we are in no sort of danger of going to war with Great Britain—not the least in the world.

Again, sir, if these islands are not dependencies of Honduras, they do not relate to this subject—I beg your pardon, Mr. President; we have no subject before us—but they do not relate to this treaty, and will more properly come before the Senate when we shall have some subject before us. Gentlemen are talking about the construction of the treaty, and if there have been aggressions on the part of Great Britain on any portion of the continent, or on the islands of the sea outside of that treaty, they do not pertain to the treaty; and if you make an issue with Great Britain on that subject, you must take some other form of action than that of arraigning her for an infringement of the treaty.

I have said that I was a member of the Senate at the time this treaty was before us for ratification. I was not an entirely inattentive observer, though I was not one of the distinguished gentlemen who were consulted. I do not remember, in the discussions which I heard in the Senate—and I am certain I did not hear, in any conversation which I had with any single individual, from the time the treaty was signed until its final consummation—that the British title to Honduras was brought into question at all. I did not hear it named. I did not hear it mentioned once, directly or indirectly, remotely or immediately, in all the discussion which I heard, and in the private conversations in which I took part. The suggestion that it related to British Honduras never fell upon my ear. But I did hear this: I heard there was one of the sovereigns of the earth of whom the honorable Senator from North Carolina [Mr. MANGUM] spoke the other day—but I believe that was in secret session—I heard there was a certain gentleman on the Mosquito coast who called himself King of the Mosquitos—a dark complexioned gentleman. [Laughter.] I did hear that the British Government was about establishing a protectorate over that Mosquito King. Under the pretense that this gentleman was a sovereign of that coast, Great Britain was extending her protection over him, and was in that way interfering with our rights—with the territory which lay in our way, as we were undertaking to negotiate for a right of transit across from one ocean to the other. I heard, also, that the relinquishment and renouncement which was contemplated by that treaty, so far as I had the remotest intimation from anybody at any time, in public or in private, related to that pretense of right by which Great Britain was seeking to extend her protectorate over the King of the Mosquitos. I cannot state what was said—I cannot state what entered into the cognizance or contemplation of other gentlemen. I can only say, that I no more heard in public or in private—that I no more thought that the question brought up by that treaty was an abandonment by Great Britain to what right she might have in Honduras, than I supposed the United States thought of surrendering any rights they had in Louisiana or Virginia. I do not say that it was not so; I do not say that every other member of the Senate did not construe it and read it exactly different from my reading and construction. I can only give my testimony as one of those who were here, an actor and a voter upon that treaty, and let it go just exactly for what it is worth. It is negative, I grant; but I take occasion, as an attempt is made to give some importance to this matter, to lay my humble testimony before that country and that public who are to judge upon it; and I aver and declare, upon my honor as a man, and as a Senator, that I never heard, nor thought, nor did it enter into my imagination until very lately, that the question of the British title to Honduras, be it what it may, was affected one way or the other by the treaty which we have ratified. Having said this much, I take my seat.

Mr. MALLORY. I wish to occupy the floor for a moment, as a matter of explanation, to finish a sentence which was begun by the Senator from New Hampshire. I believe it does not contravene the rule of the Senate for a member of the body to explain his own action, or what he may himself have said in secret session. I would not infringe upon the time of the Senate for a moment, to say a word upon the subject, if the honorable Senator from New Hampshire had not left unfinished a sentence from which a wrong inference might perhaps be drawn; and if it be consistent with the rule of the Senate upon the subject, I will say that when referring to ships, in the remark to which the honorable Senator from New Hampshire has alluded, I was endeavoring to present to the Senate my view of the condition in which the country would be, if the ideas in which some gentlemen seem at this moment to indulge, prevailed here. I was endeavoring to present the condition of the country to meet that contingency which seems somewhat to depend upon the course of debate now pursued. I presented this practical difficulty These islands, of which we have heard so much, are not dependencies of the British possessions in Honduras. They never have been so considered; and notwithstanding the fact that the British Government has possessed them and colonized them, and established over them a government, she never had any claim to do so. If you seek a practical issue upon this subject, you have it now fairly offered. There is no inquiry necessary. She is there. She has a right to defend them; and my word for it, she will never surrender them. But, in connection with that, speaking of the condition of our Navy, I said Great Britain had one ship, which, upon a fair field, on the Atlantic ocean, would be a match for the entire Navy of the United States.

Mr. UNDERWOOD. Mr. President, this discussion divides itself into two distinct subjects; and I intend to be very brief upon both of them. The first relates to *terra firma*—the continent; the second relates to the islands in the Bay of Honduras. Our attention was called to the first by the remarks of the honorable gentleman from Michigan; and the suggestions made by him, and others in the course of the discussion, have pretty clearly intimated that the treaty of 1850 had been ratified in consequence of something like a suppression of the truth on the part of the late Secretary of State, (Mr. Clayton,) which, had it been communicated to the Senate, would have produced the rejection of the treaty by a unanimous vote.

Now, sir, upon what does that allegation rest? It rests upon the idea that when the treaty used the term "Central America," it meant to include what is now called British Honduras, and that by using in the treaty language broad enough to embrace British Honduras, the subsequent explanations which passed between Sir Henry Bulwer and Mr. Clayton show that a fraud had been practiced upon the American Senate. This is the view taken by the Senator from Michigan, founded upon an allegation that the geography of the country—that well-established geographical facts—prove that British Honduras falls within the term "Central America," as used in the treaty; and that has been unfortunately conceded, as I believe, by the gentleman from New York, [Mr. SEWARD,] and perhaps by the gentleman from Maryland, [Mr. PEARCE.]

Sir, when I voted for the ratification of the treaty, I did it upon the ground that all Central America was embraced by it, and that Great Britain would be thereafter excluded from Central America; but like the gentleman from New Hampshire I can say, as a Senator, that I never dreamed, I never

heard it intimated in any quarter, that any right which Great Britain might have, or claim to have, outside of that territory which properly constituted Central America, came within the scope and operation of the treaty.

I have taken some little pains to ascertain the geographical fact, what territory properly constitutes Central America. I have a book before me called "McGregor's Progress of America," published a long time before any question of this sort arose. He undertakes to give the divisions of the Spanish territory in America under the Crown, and then after the revolutions which established the Spanish American republics. The Spanish territory now in question was divided, under the monarchy, into the Vice Royalty of New Spain and the Captain Generalcy of Guatemala. The Balize or British Honduras belongs to one of these geographical divisions. It was either within the Vice Royalty of New Spain, or the Captain Generalcy of Guatemala. I have looked at the subdivisions, and find that it does not fall within the Captain Generalcy of Guatemala; and if it be in any of the subdivisions within the Vice Royalty of Spain, it is that denominated Merida or Yucatan; and if you look at the map where British Honduras or the Balize is placed, you will find that it is separated by the Gulf of Honduras from Honduras proper, which constitutes a part of "Central America," a name only given, I believe, to the country after revolution had subverted the monarchy, and when the preceding political divisions and districts which constituted Spanish Guatemala formed the political confederation or State denominated "Central America." However this may be, you will find, by looking at the maps, that the Balize or British Honduras is entirely surrounded by Merida or Yucatan, and never did constitute any portion of Honduras proper, which originally belonged to the Captain Generalcy of Guatemala, and fell within Central America upon the establishment of that republic.

There is Mitchell's map, published in 1849, before this treaty was ratified. It lays down Honduras proper, it lays down Guatemala, and all the States constituting Central America, for Guatemala, in its largest sense, under the Crown of Spain and Central America as a republic, are, in geographical language, synonymous. They mean the same country. And when you look at Guatemala upon the map laid down by Mitchell, the American geographer, you find that the Balize or British Honduras, is separated from Honduras proper by the intervening Gulf of Honduras.

I have also a Spanish map before me, and upon it this country called British Honduras is marked in the Spanish language on the north side of the Gulf or Bay of Honduras—showing that it does not touch, and never did constitute, any part of Honduras proper, which fell within the political division of "Central America," or the ancient political and geographical division known as the Captain Generalcy of Guatemala. The gentleman from Michigan, therefore, if he will only take the trouble of examining the divisions of the territory under the Crown of Spain, and the subsequent divisions which took place after the revolution and establishment of the Government of Central America, will find that the country called the "Balize" on some maps, and British Honduras on other maps, never did, either politically or geographically, constitute any part of Honduras proper, or of Guatemala, or of Central America. There is, therefore, no expression in the treaty—no term, no word—which includes the Balize, and subjects it to the operation of the treaty.

Here, sir, is the Spanish map, showing the truth of what I have stated. Here is our own map, made in 1849, before the ratification of the treaty, verifying what I have stated. Here is also the history of the times, or, to use a word which is much in vogue, "the progress of America," showing that under the monarchy the Balize constituted no part of Honduras, Guatemala, or Central America; and that, under the republic, it constituted no part of either; and hence was not included in the treaty. Well might Mr. Clayton say, then, in his correspondence with Sir Henry Bulwer, that the treaty never was supposed to allude to any British interest connected with the "Balize" or "British Honduras"—both meaning the same country. The latter name was doubtless given to it because it happens to bound upon the bay called Honduras.

So much for the controversy in regard to the continent—that portion of land lying upon the continent. A few words now with regard to the islands.

Is it pretended that this treaty has any relation to any of the islands? Who dreams of it? No one. An island is not included by name, by reference, or by anything of the sort. How, then, does that question stand? If you mean to make an issue under the Monroe doctrine, in consequence of the present colonization of islands by Great Britain, it is a matter wholly disconnected with the treaty. The treaty has nothing to do with it whatever. The present Administration has had nothing to do with that matter. It is for the succeeding Administration to take it in hand. It is a subject brought in here without any bearing upon the past. It cannot be made a basis upon which to criminate the Administration of General Taylor in regard to this treaty. It is a new matter, with which that Administration had nothing in the world to do. It does not appear that these settlements were made at that time, or that the attention of that Administration was called to them. So far, then, as relates to the question growing out of the settlement of the islands referred to, it is a matter for the incoming Administration to handle. The present Administration has had nothing to do with it. It may constitute the basis of a new treaty; but until the regular diplomatic agencies of the country have taken the subject up, it seems to me that it is altogether premature and improper for the Senate to be speaking, by way of anticipation, in regard to a matter to which the attention of the Government has never been called, and which the diplomatic organ of the country has never taken into consideration.

I have deemed it to be my duty to present these evidences and geographical facts, to show that the whole of the argument, from the commencement, has been based upon an error in point of geographical knowledge. Gentlemen have proceeded upon the supposition that British Honduras constituted a part of that Honduras which is included in, and constitutes a part of the Captain Generalcy of Guatemala, or "Central America." There lies the error. British Honduras is surrounded by Yucatan, which is claimed by Mexico as part of her territory, and as one of the Mexican States. Yucatan, however, asserts her independence of Mexico. I recollect very well, that when the Merida Indians revolted against the authority of the State of Yucatan, we had a discussion on the subject some years ago, in which the fact of this *quasi* independence of Yucatan from Mexico was spoken of by Senators then upon this floor.

If Senators will look at the maps, they will see that British Honduras never was a part of Central America, but detached from it by the intervening Bay of Honduras, and surrounded, except on the sea-shore, by the Territory of Yucatan. I have an impression that Yucatan was a separate colony, not connected with Mexico or Guatemala, at a time prior to the revolution and establishment of republics. However that may be, I feel confident, after throwing off the Spanish yoke, Yucatan was in alienage with Mexico, and refused for a length of time to acknowledge her authority.

Mr. BORLAND. I wish to ask my friend from Kentucky a question. He says that what is called British Honduras and these islands do not belong to what is generally known as the political community of Honduras—the State of Honduras, or whatever its name may be; and therefore is not included within the treaty. Will he be so good as to tell me to what geographical division of the world these islands, and this country called British Honduras, belong? My reason for asking the question is this: I find in the treaty that Great Britain not only excludes herself from the right of occupying, colonizing, and settling permanently Guatemala, Nicaragua, Costa Rica, and the Mosquito country, but also "any part of Central America." Now, does what the Senator calls British Honduras, and these islands, belong to "any part of Central America?"

Mr. UNDERWOOD. In answer to the gentleman's question, I may say this: I suppose that all the islands within three leagues of the shore in front of that Honduras which constitutes a part of Central America, are a portion of Central America. I think, if it can be shown that the authorities of Great Britain have taken possession of an island thus situated, it would be a violation of the treaty. That is my opinion, because all the islands thus situated are regarded as appurtenant and belonging to the main land, according to the laws of nations, and hence fall within the usual jurisdiction which they exercise; but I am not advised, and no one has said that any one of the islands Great Britain has taken possession of and is about to colonize, is thus situated. Without a knowledge of the fact, therefore, I cannot say whether the treaty has been violated or not; but I will say, that if she has taken possession of an island within three leagues of the shore, it is a violation of the treaty.

Mr. BORLAND. The gentleman does not properly understand my question. It was, not whether these islands belonged to Honduras, but whether what he calls British Honduras and these islands constitute any part of Central America; and if not, to what geographical division of the world they do belong?

Mr. UNDERWOOD. Well, sir, I have already shown that British Honduras is no part of Central America, but was part of Yucatan, in the Vice Royalty of New Spain, or Mexico; and as regards the islands not appurtenant to the shore, I suppose they belong to that geographical division of the earth which I can turn to on the map, embracing Cuba, Antigua, and all the rest of the "West India Islands," and so classified, I believe, upon all our maps. They are laid down upon the maps as islands situated in the Gulf of Mexico, and bear the name of "West India Islands," and are owned by the different nations of Europe, except Hayti, which has, by revolt and massacre, established her independence.

Mr. BUTLER. Mr. President, as my friend from Kentucky seems to have informed himself upon this subject, I wish to propound an inquiry to him, rather by way of informing myself, if it can be answered, than otherwise. Will he be pleased to tell me to what political dominion British Honduras belongs—whether to Guatemala or Honduras? I believe it is granted that Great Britain has no sovereignty there. She has but a license right—but a temporary possession—a revocable right—if I may be allowed to use that expression. I wish to know of the gentleman to what dominion that country, to which she has this right, does belong? Does British Honduras belong politically to Guatemala, or any other State of Central America?

Mr. UNDERWOOD. I will answer the gentleman with a great deal of pleasure; because that is the thing which I have been trying to explain all the while, and I am just beginning to be attended to. British Honduras, or Balize, never constituted any part of Honduras proper, either according to the division of the territory under the Crown, or under the Republics. Honduras proper, as laid down upon the map, does constitute a part of Central America.

Mr. BUTLER. Is it a part of Guatemala?

Mr. UNDERWOOD. Honduras proper, was part of Guatemala, when that name was used by geographers, under the Captain Generalcy, to embrace the whole of Central America. Guatemala has now a more restricted signification, and means one of the States carved out of the territory of the confederation upon the breaking up of the republic of Central America; but British Honduras never was a part of Guatemala in any sense. It never was a part of the Central American State of Honduras proper; and if gentlemen will only look at the map, they will find that what is called British Honduras, is nothing but the British Balize. We confound places because of the similarity of names. British Honduras is separated by the Gulf of Honduras, from that Honduras which lies in Central America, and constitutes a part of it. British Honduras is no more a part of Central America than is Yucatan. It is a little strip of country about a hundred miles long, and about twenty or thirty miles wide. It belonged, originally, to Yucatan; and, under the monarchy of Spain, it belonged to the Vice Royalty of New Spain or Mexico. That was the political division to which it was then attached. When the revolution severed the authority of Spain, and when, by it, the power of the Spanish Crown was taken away, the republics were established, and this country, called Yucatan, became independent of Mexico; the Merida Indians, constituting a part of Yucatan, and holding a portion, perhaps, of this very territory of British Honduras or Balize, as-

serted their independence, and were very near establishing it some years ago. Gentlemen can ascertain all these facts by looking at the maps, and at the books which give the information; and if they do that, they will find that the Bulwer and Clayton treaty never had anything to do with the Balize or British Honduras—that that country never was a part of Central America, and the concession that it was, is altogether against the truth of geography. I rose to state these facts. Having done so, I shall take my seat without going at all into the inquiry whether Great Britain has any title, or right to dispose of the soil, and to settle the country called Balize, or British Honduras, as her colony. It is not only premature, but mischievous, by such a discussion as this, to undertake to settle titles, and to commit ourselves without a thorough investigation in behalf of the title either of England, Spain, Mexico or Yucatan, or of the aboriginal Indians.

Mr. GWIN. I move that we proceed to the consideration of the special order of the day.

Mr. MANGUM. Will the honorable Senator withdraw that motion for a few moments?

Mr. GWIN. I would submit to the honorable Senator from North Carolina that my object is to get up the special order, and then adjourn upon it, so as to have it come up early in the morning as the unfinished business.

Mr. MANGUM. Perhaps we do not differ as to that point.

Mr. GWIN. I withdraw my motion.

Mr. MANGUM. I rise, Mr. President, simply for the purpose of remarking that, in my humble judgment, this whole discussion is useless for any public purpose, and injurious to many interests now pending before Congress. This debate started originally with a sort of assault upon the late Secretary of State, John M. Clayton, and the late Whig administration of General Taylor. That assault has been repelled most signally at every point of the line; and with the fecundities of our Democratic friends, it has undergone a Protean change, and now it is war with Great Britain. Sir, I hope the resolutions will be introduced, and referred to the appropriate committee.

Mr. SEWARD. What resolutions?

Mr. MANGUM. Resolutions of war with Great Britain, to be sure. [Laughter.] They have given up the assault upon John M. Clayton. I predicted yesterday, in Executive session, that they were doing more for him than he would perhaps be able to do for himself, and to-day a telegraphic dispatch has been received, by which I see that he has been elected a member of this body, and will in a short time be upon this floor as one of our peers, able to speak for himself.

I think these war measures had better go over. There is nothing before the Senate, as I understand from the Chair; but if there were I should move that it lie on the table. At all events, I shall persist in resisting any further discussion upon this subject. The wounded must take care of themselves as well as they can, or be left to the tender care of their associates. There have been some curious flutterings during this discussion. Never was there an assault made upon an enemy's line in the world which has met with a more signal failure. The assailants have been utterly routed; and if they can gather up their broken elements and amputate the limbs of the wounded, perhaps I, for one, shall rejoice. I intend presently to move an adjournment, in order that we may come here fresh to-morrow morning, and be enabled to go to work upon useful business, and get rid of these mere partisan discussions. It shows great alertness and patriotic anxiety to the country on the part of those gentlemen who originated this discussion. Let these questions be tested in due form, and let them not be brought up in this irregular manner.

Sir, I am not going into this subject to-day. Yesterday, in Executive session, I expressed my views upon it. I merely wish to say, in order that it may go before the country, that, as a member of the Committee on Foreign Relations, it never entered into my head, or that of any other member of the committee, according to my recollection, that any British right, whether good or bad, to the Balize, no matter under what pretense it was held, was to be affected by the treaty called the Clayton and Bulwer treaty. The great effort was upon the Mosquito king. There we obtained everything we desired; that is incontestable. I will not go into that question at all. I will not undertake to say how it is that at this late period it could have entered into the minds of gentlemen that this whole matter was adjusted by the treaty. How they should have got such an idea, is to me inconceivable.

This matter, in the way in which it commenced, was a very beautiful political operation; and if it is to be carried out to the extent which the language of gentlemen seems to indicate, it may lead to a declaration of war against Great Britain. But I rather apprehend that what the sagacious Senator from New Hampshire has fairly and justly predicted will be the result—an ignominious backing out.

Sir, with a view that men's minds may settle down from the extreme agitation growing out of this infuriated debate, I now very humbly submit a motion which I apprehend will meet with the universal concurrence of the Senate, and that is, that we do now adjourn.

The motion was agreed to, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 12, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. HENN, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills; which thereupon severally received the signature of the Speaker, viz:

An act for the relief of William Speiden;

An act authorizing the Secretary of the Treasury to issue a new register to the ship Prentice, and change her name to that of Leonie;

An act for the relief of Sydney S. Alcott;

An act for the relief of John T. Sullivan; and

An act granting a pension to Mrs. Elizabeth V. Lomax.

Mr. DEAN. I ask the unanimous consent of the House to introduce a bill for the purpose of having it referred.

Mr. LETCHER. I object, and call for the regular order of business.

RETIRED LIST IN THE ARMY.

Mr. GORMAN. There is upon the Speaker's table a bill from the Senate to provide for a retired list in the Army of the United States. It is important that that bill should be before the Committee on Military Affairs if it is expected that it will be acted upon at the present session of Congress. The bill has passed the Senate several times before, and has failed in the House for want of time. I therefore ask that the bill may be taken up and referred to the Committee on Military Affairs.

Mr. ORR. I object to it.

BINDING THE CENSUS REPORT.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That the copies of the report of the Superintendent of the Census, of December 1st, 1852, ordered by the House to be printed, be bound by the House contractor, under the direction of the House members of the Joint Committee on Printing.

I hold in my hand, Mr. Speaker, the report of the Superintendent of the Census, rendered to the Secretary of the Treasury, on the 1st of December, 1852, and which was yesterday ordered by the House to be printed for the use of the members. It is a large book, as the House will see. It contains about one hundred and twenty-five pages, and it is too valuable to be sent to the country in its present shape without being bound. I suppose this is the only part of the result of the labors of the Superintendent of the Census, and those who took the census, that will get to the people. The large volume to be published hereafter will be placed in the public libraries, but will never reach the people. This report is perhaps all they will ever get of this census. The Committee on Printing suppose it will be more acceptable to the people, and more apt to be preserved, if it is bound. They believe that it will cost but a trifle, and have directed me to report this resolution.

Mr. STEPHENS, of Georgia. I agree with the gentleman from Kentucky, that it is advisable to have this report bound; but I would suggest to him the propriety of having the tables printed in the last report embodied in this, so that they may go together. It would make the volume of a better size for binding; and we should then be able to disseminate all those valuable tables of manufacturing, and other statistics that were spread before the country in the Congressional Globe during the last session, in the form of a manual, so that they could be preserved. It will make a compendium of the census in the shape of a small volume or manual. I would therefore suggest that the resolution be recommitted to the Committee on Printing, with instructions to inquire into the expediency of having reprinted and published in the same small volume the tables of the last report.

Mr. STANTON, of Kentucky. I have no objection at all to that.

Mr. JONES, of Tennessee. I would inquire of the gentleman from Georgia if he refers to the tables printed in the Congressional Globe last session?

Mr. STEPHENS. Yes.

Mr. JONES. Are they not all embodied in the report which was ordered to be printed yesterday?

Mr. STEPHENS. No, sir, not a single one of them; and unless we reprint them there will be no access at all to those valuable tables.

Mr. JONES. I suppose that when the report of the census is completed, there will be a large edition of it containing everything printed.

Mr. STEPHENS. Possibly, but that will be a huge volume, while the present report with those tables will make a small manual that will do for circulation throughout the country. A hundred thousand copies can be printed for a very few thousand dollars.

Mr. HUNTER. I would inquire of the gentleman from Kentucky, who reported this resolution, if the binding of this book will not cost about twice as much as the book itself?

Mr. STANTON. No, sir, I think not. The binding will cost about eight cents a copy, and the printing of the book will cost about six cents a copy.

Mr. HUNTER. The gentleman can correct me if I am wrong, but I understand that the printing will cost about $5,000, while the binding will cost between $8,000 and $9,000. Is that so?

Mr. STANTON. The binding is estimated to cost about $8,000, and the printing about $6,000.

Mr. JONES of Tennessee. I would inquire of the gentleman from Kentucky, if the contract for binding is not twelve and a half cents a volume?

Mr. STANTON. The contract for binding books containing three hundred and fifty pages or more is twelve and a half cents a volume. But before I made this report I consulted the contractor, who informed me that it could be done for eight cents a volume. If you include the tables proposed by the gentleman from Georgia, of course it will cost something more to bind the volume. The object of the committee is to have this report bound in as cheap a form as possible.

Mr. STEPHENS. I suppose that the tables I allude to will not increase the cost of binding the book; they will not swell the volume more than sixteen pages.

Mr. STANTON. If they do not increase it more than sixteen pages, I presume the cost of binding will not be increased.

Mr. JONES, of Tennessee. You have no contract for binding less than three hundred and fifty pages.

Mr. GORMAN. I desire to say a few words in regard to this question. The House of Representatives at the last session of Congress provided for the publication of a hundred thousand copies of the abstract of the census to which the gentleman from Georgia has alluded. This session they have ordered a hundred thousand copies of the report of the Superintendent of the Census, which accompanied the President's message, to be printed. You are publishing from time to time parts of the census. You have already published what may be said to be two volumes, unbound, and you have ordered one to be printed during this session which it is now proposed to bind. You will then have published in these three volumes portions of the statistical information other than that which appertains to the number of inhabitants, which such gentlemen as the gentleman from Georgia, [Mr. STEPHENS,] with his peculiar views, believe this Government has a constitutional right to gather. You will by and by have

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. THURSDAY, JANUARY 13, 1853. NEW SERIES....No. 18.

published in little pamphlets and scraps the whole census and all the statistical information which has been obtained; and then when the time shall come to publish the complete census, the House will find that they are republishing what has already been printed and circulated.

Mr. STANTON, of Kentucky. With the gentleman's permission, I desire to make a single remark here. The abstract of the census published last year was on a single sheet, and cost just one cent a copy. In that form it has been scattered all over the Union, and in all probability has been destroyed by this time. If it is embodied in this year's report, and sent to the country in a bound form, it will be more lasting, and will of course be preserved.

Mr. GORMAN. The different interests of the country desire different kinds of statistical information. The great commercial interests desire statistics in regard to commerce and navigation; the agricultural interests desire statistics with regard to agricultural products, and so on. Now, if you pursue this course of publishing the information by scraps, when the time comes to publish the whole in one general volume, you will be pointed to the fact that one part of the information has been published in this volume, and one part of it in that volume, and to the amount of expenditure that has been already incurred.

Mr. STEPHENS. The gentleman will recollect that my objection last year to publishing the abstract, was the very one which he urges now. I stated to the House then, that if the returns were published in scraps, we should have no compendium in which all the statistics could be referred to at once. That was my objection. The gentleman speaks of those valuable papers published last year. Why, the whole one hundred thousand cost only $1,000, and they are most valuable. It is in order to have those tables in a permanent form, that we wish to reprint them, and put them in this small volume, which will be a full compendium of the census.

Mr. GORMAN. It was not the Committee on Printing who proposed to publish these statistics in scraps. A gentleman from Pennsylvania, during the last session, introduced a resolution to print one hundred thousand copies of the abstract, and this session, the gentleman from Vermont [Mr. MEACHAM] introduced a resolution to print one hundred thousand copies of the report that accompanied the President's message.

The Committee on Printing had the subject under consideration, and have reported the resolution back without any recommendation. The committee did not concur in it. For one, I do not approve of it. The committee ascertained that it would cost five cents and six mills a copy, or $5,604 for one hundred thousand copies. They reported that fact to the House, and the House ordered the printing. The committee did not order it. It was not their doing.

I cannot see why the gentleman from Georgia, or some gentleman interested in the agricultural statistics, should not at once make a move for the publication of our national census. It is high time if you expect, during this year, to have the census of the United States, as it has been taken under the order of this Government, published, to have some move made in regard to it. It is time that the House of Representatives should begin to act upon that subject.

A MEMBER. Why do you not make the move yourself?

Mr. GORMAN. The gentleman asks why I do not make a move myself? That is a pertinent and proper question. The Committee on Printing cannot move in this matter, because nothing has been referred to it upon which to act. There is a resolution under consideration by that committee, introduced by myself during the Thirty-first Congress, relative to the mode and manner of printing the census. That resolution will come up in due time for consideration, and when it does come up the House will act upon it. But if we wait until we reach it upon the calendar, there will be no action upon it during the present Congress. These statistics were taken by order of Congress, and if we intend to publish them at all, it is time that the House of Representatives should make some move towards publishing the whole work.

Mr. WASHBURN. The House, as I understand the subject, authorized the printing of one hundred thousand copies of the report of the Superintendent of the Census, made recently to the Secretary of the Interior. The book, as stated by the gentleman from Kentucky, [Mr. STANTON,] will comprise about one hundred and twenty-five pages. It will make quite a book, and very much of its value for preservation will depend upon its being bound. I think, therefore, that the recommendation of the gentleman from Kentucky should be sustained by the House, and that this book should be bound. And if it is to be bound, I think the abstract which was published last year, might also very well be included with it. It will make some fifteen or twenty pages only, not more than two forms; and I presume will not increase the cost of the book to any considerable amount. That is a valuable little document. I imagine there was no single act of the last Congress which was more generally approved by the people than the ordering the one hundred thousand copies of this abstract. I had more inquiries for it than for anything else. It was in demand by the people generally. But as suggested by the gentleman from Kentucky, it has, most likely, been destroyed. There are but few copies now in existence. It is a document which is very convenient and necessary for reference. If we will therefore adopt the suggestion of the gentleman from Georgia, [Mr. STEPHENS,] and include this abstract in this book, it will be what is required. If this book, which will then comprise nearly all the most valuable information in the census statistics, be published, we shall not then need to publish a very large number of the report *in extenso*—not more than fifteen or twenty thousand, or fifty thousand at the outside. It cannot go into general circulation; and it seems to me it would be very well if we can have a book of this sort containing all the most valuable information in the report.

Mr. LETCHER. If it is in order, I move to lay the whole subject on the table.

Several MEMBERS. Oh, no.

Mr. LETCHER. Very well; then I will move the previous question upon the adoption of the resolution.

Mr. STEPHENS, of Georgia. I ask the gentleman to withdraw that motion until I can submit my amendment in a modified form.

Mr. LETCHER. I will withdraw it for that purpose.

Mr. STEPHENS. I will then modify it so as to test the sense of the House and bring them to a direct vote upon incorporating the tables published last year into this small volume. I call the previous question.

Mr. STUART. Before the gentleman calls the previous question, I desire to make a suggestion.

Mr. STEPHENS. I will hear the gentleman's suggestion.

Mr. STUART. The suggestion I make is this: It is competent now for the House so to amend the instructions to this committee as that they shall take into consideration the propriety of having the returns of the census of 1850 printed. Let that matter go to the committee along with these instructions.

Mr. STEPHENS. The gentleman will see that my amendment does not contemplate a further reference. It reads:

"And that the said committee cause to be published by the public printer, and bound with the said report, one hundred thousand copies of the abstract of the census reported to the House at the last session."

Now, to accomplish the object of the gentleman from Michigan, [Mr. STUART,] I will add—

And be it further resolved, That the Committee on the Public Printing be directed to inquire into the expediency of publishing the census, and upon what plan.

Mr. STUART. That will accomplish my object.

Mr. STEPHENS. I now call for the previous question.

The SPEAKER. Is the motion of the gentleman to recommit the bill with instructions?

Mr. STEPHENS. No, sir. My motion provides that the Committee on Printing shall cause this abstract to be printed with the report now before the House, and then to instruct them to inquire into the expediency of printing the entire census, and into the plan.

Mr. HOUSTON. Is it in order at this time to introduce these amendments, and attach them to the resolution reported by the Committee on Printing, which is for the positive action of the House?

The SPEAKER. The Chair has stated that it was competent for the House, by unanimous consent, and by unanimous consent only, to entertain these several propositions.

Mr. HOUSTON. I object.

Mr. ORR. I hope the gentleman from Georgia will adhere to his original proposition to refer the subject back to the Committee on Printing with instructions. I think, myself, that it is time a complete report of the census should be printed; and that may supersede the necessity of the printing comtemplated in this resolution.

Mr. STEPHENS. I gave the House my reason for thinking that was not the best course. That committee may report back a plan for printing the general census, which may not so readily meet the approbation of the House. I therefore prefer that this abstract should be incorporated, and let this report be printed.

Mr. STANTON, of Kentucky. Is it intended that these instructions proposed by the gentleman from Georgia, shall go to the members of the Committee on Printing belonging to this House, or to the whole committee? It seems to me it should go to the Joint Committee on Printing.

Mr. GAYLORD. The law regulates that.

Mr. STEPHENS. I think it is better that my amendment shall remain as originally offered. I now offer it in that form, and call the previous question.

Mr. STUART. I hope the gentleman will include the subject of printing the entire census. We shall never get an opportunity to get in such a resolution. We can only offer it when some report of the committee is before the House.

Mr. STEPHENS. That can be done at any time by referring a petition upon the subject to that committee under the rule. I insist upon my call for the previous question.

The previous question was then seconded, and the main question ordered to be put.

The amendment was then agreed to, and the resolution as amended adopted, as follows:

Resolved, That the copies of the report of the Superintendent of the Census, of December 1, 1852, ordered by the House to be printed, be bound by the House contractor, under the direction of the House members of the Joint Committee on Printing; and that the said committee cause to be published by the public printer, and bound with said report, one hundred thousand copies of the abstract of the census reported to the House at the last session.

FRAUDS UPON THE TREASURY.

Mr. KING, of New York. I call for the regular order of business.

The SPEAKER. The first business in order is the motion to recommit the bill to prevent frauds upon the Treasury.

Mr. JOHNSON, of Tennessee, who was entitled to the floor, addressed the House an hour upon the subject of Mr. Corwin's connection with the Gardiner claim. He maintained that, as the said claim has proved to be a fraud upon the Treasury, committed through forgery and perjury, it was the duty of Mr. Corwin and the other recipients of the proceeds of the fraud, upon the principle of sound morals, to refund the money. [This speech, withheld for revision, will be published in the Appendix.]

[A message was received from the President of the United States, by MILLARD P. FILLMORE, his Private Secretary, notifying the House that he did on the 7th instant, approve and sign bills of the following titles:

H. R. No. 255. An act making further appro-

priations for the construction of military roads in Oregon Territory.

H. R. No. 260. An act to amend an act entitled "An act to establish the territorial government of Oregon," approved August 14, 1848.

H. R. No. 137. An act for the relief of Osborn Cross, of the United States Army.

H. R. No. 331. An act granting to the Sackett's Harbor and Ellisburg Railroad Company the right of way through the military reservation at Sackett's Harbor, New York.

H. R. No. 120. An act authorizing certain soldiers of the late war with Great Britain to surrender the bounty lands drawn by them and to locate others in lieu thereof.]

Mr. STEPHENS, of Georgia, next obtained the floor.

Mr. ORR. Will the gentleman from Georgia give way for a motion to go into committee?

Mr. STEPHENS. I will do so.

Mr. KING, of New York. Oh, no. I hope the gentleman will allow this bill to be disposed of to-day.

Mr. STEPHENS. I would prefer that the debate should be postponed until to-morrow.

Mr. ORR. Then I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put upon Mr. ORR's motion, and it was agreed to.

SUPPRESSION OF SMALL NOTES.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair,) and resumed the consideration of the special order, being House bill No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia."

The CHAIRMAN stated that the pending question was on the amendment to the amendment which was offered by Mr. FREEMAN yesterday, and that the gentleman from Mississippi [Mr. FREEMAN] was entitled to the floor. The amendment to the amendment is as follows:

Strike out all after the first enacting clause and insert in lieu thereof the following:

"That from and after the passage of this act, it shall not be lawful to make, emit, or utter, within the District of Columbia, any species of currency or money whatever, except the constitutional coins of the United States; and that for all offenses against this act, the parties committing the same, shall be liable to indictment by the grand jury of the District of Columbia for a high crime, and on conviction shall be fined in a sum not less than $500, and be imprisoned in the penitentiary for a term of not less than six months nor more than five years."

Mr. FREEMAN. Mr. Chairman, it has been suggested to me that my amendment would entirely prevent the circulation of bank notes of the surrounding States within the District, and perhaps that would be the rigid interpretation of the amendment. I propose, therefore, to modify it in this way:

Provided, That this act shall not be so construed as to prohibit the ordinary circulation within this District of bank notes above the denomination of ten dollars, issued by the legally-authorized banking institutions within the several States of this Union, and brought here in the ordinary course of trade.

SEC. 2. It shall be the duty of all public officers in the District of Columbia, to give information to the justices of the peace and judges of the District of Columbia of every breach of this law that may come to their knowledge; and said judges and justices shall have power, as at common law, to arrest and bind over all such offenders, as in other cases of crime or misdemeanor. It shall also be the duty of the judges of said District to give this act in charge to the grand juries of the District.

The CHAIRMAN. The Chair desires to inquire whether the gentleman from Mississippi designs to offer his amendment as an amendment to the amendment of the gentleman from Ohio, [Mr. CARTTER?]

Mr. FREEMAN. I simply propose this as an addition to the amendment I offered yesterday, as a substitute for the whole bill.

Mr. SACKETT. I desire to offer an amendment to the original bill before the substitute is offered.

Mr. HOUSTON. You can offer your amendment before the vote is taken upon the substitute, at any time.

The CHAIRMAN. It is competent for the gentleman from Mississippi, [Mr. FREEMAN,] to offer a substitute now if he desires, but the vote cannot be taken on it until the original bill has been perfected by such amendments as may be made.

Mr. FREEMAN. The Chair and the committee will remember that on yesterday I moved to strike out all after the enacting clause, and insert in lieu thereof the following:

"That from and after the passage of this act, it shall not be lawful to make, emit, or utter, within the District of Columbia, any species of currency or money whatever, except the constitutional coins of the United States; and that for all offenses against this act, the parties committing the same, shall be liable to indictment by the grand jury of the District of Columbia for a high crime, and on conviction shall be fined in a sum not less than $500, and be imprisoned in the penitentiary for a term of not less than six months nor more than five years."

As a substitute for the whole bill, I have this morning proposed a modification, in order to meet the objections made in certain quarters of the House.

The CHAIRMAN. Then the Chair understands the gentleman to withdraw his amendment, and to propose another.

Mr. FREEMAN. No, sir. I propose to add this to my amendment of yesterday.

In my remarks on yesterday, I called the attention of the House to the fact, that we had, as I thought, no power in the Constitution to charter banks, or to authorize the issue of any paper currency whatever; and that it was our bounden duty to suppress such a currency within the limits of the District of Columbia. It is true, we have it not in our power to prevent the States of Maryland, Virginia, and the other States of the Union surrounding this District, from issuing bank notes for circulation within their respective limits, but we know very well that in the ordinary course of trade, the members of Congress, and every other person passing through this District, or coming here from the different States, will bring with them the currency of the different States through which they have passed, and will desire to dispose of it for the sake of convenience. My amendment, as modified, will not prohibit the use of paper money issued in the adjoining States, brought here in this way, but it will be observed, that it will prohibit its use in any other way. This amendment will prevent the banks in the different States adjoining the District from coming here to circulate their paper. I beg to call the attention of the committee to the verbiage of the amendment:

"*Provided*, That this act shall not be so construed as to prohibit the *ordinary* circulation, in this District, of bank notes above the denomination of ten dollars, issued by the legally-authorized banking institutions *within the several States* of this Union, and brought here in the *regular course of trade*."

It will be seen that bank notes issued in the various States of this Union may be used here in the ordinary transactions, or in the ordinary course of trade, but it would prevent those banking institutions from establishing their agencies within the District, and it would prevent the banks in the various parts of the Union from coming here to exchange that paper for the gold and silver daily issuing from the Treasury of the United States, by paying a percentage for the exchange of paper for gold and silver. This is the object of the amendment.

Then, sir, it is provided in the second paragraph of the amendment, that the justices of the peace shall have the power, as they have under the common law for any other offense, to arrest any individual who shall be charged with the violation of this law, and he shall be tried at the next term of the District court. Here, then, we have a full provision made for preventing the nuisance of a paper currency within this District, and by this means we rid the House of Representatives and the Congress of the United States from any responsibility whatever for any other circulating medium within the District than the gold and silver coin of the land.

Mr. Chairman, it has been my experience, and I doubt not it has been the experience of every lawyer who has had anything to do with the execution of the criminal law in the several States of the Union, that when the Legislature attempts to be very specific in detail, as this bill does, with regard to the great variety of matters, you incumber the ends of justice. Now, here is a long bill, the object of which is not to cure the evil entirely, but merely to suppress small evils while larger ones are untouched. I undertook yesterday to show that there was no necessity for paper money here at all, so far as the inhabitants of the District were concerned. The daily issues from the Treasury of the United States alone are sufficient to supply the ordinary trade of the community. I am told that the expenses of the officers about this Government alone amount to upwards of $2,000,000 a year; and that for a population of about forty-three thousand inhabitants. Sir, there is no population of this number upon the face of the earth which has $2,000,000 per annum of gold and silver currency devoted to their particular benefit. Yet it is gravely argued here that this amount disbursed is insufficient to afford a circulating medium in ordinary business transactions. Why, there are no immense mercantile establishments here—no houses importing largely from foreign countries; and no vast amount of gold and silver is required for the use of the domestic trade. There is no large commerce either with this or any other country requiring a larger circulating medium than is furnished by the daily issues from the Treasury. Now, I should like to have some advocate for the paper system show some good, some valid reason why Congress should travel out of the ordinary line of its duties, and stretch its constitutional power to create a paper currency for the District. Why, sir, we are within two hours' ride of the banks of Baltimore, and within three hours' ride of the banks at Richmond, and if there is a want of a larger circulating medium, the banks of these cities would furnish a much better and safer currency than any that will be produced here.

Mr. AVERETT. Will the gentleman allow me to interrupt him one moment?

Mr. FREEMAN. Certainly.

Mr. AVERETT. The gentleman seems to assume a position in regard to the friends of this bill which is not warranted by the facts of the case. We are not the defenders of any paper currency here; far from it. This bill establishes no paper circulation. Congress has refused to incorporate any banks in the District, and the existing laws of the land forbid the circulation of any notes within the District of a less denomination than five dollars. But in contempt of the law-making power, that sort of issue is going on here daily, and the penalties annexed to the present laws are found insufficient to prevent these violations and to protect the community from these swindling operations. The object of this bill is to add to those penalties and make them effective. It does not sanction a paper currency. It does not legalize it, and I hope gentlemen will not hold the committee which reported this bill responsible for any of its evils. I, as a member of that committee, concur with the gentleman from Mississippi in his views relative to a paper currency. I will not countenance any attempt to set up any paper system here or elsewhere. Mississippi has felt the evils of the system, and sees the necessity of a reform. I recollect an anecdote, which I presume every one present has heard, and which I presume may be true, of two highwaymen attacking a traveler in Mississippi, one with a dagger and the other with a pistol, and demanding his money. He surrendered, and gave up his purse. They searched and separated out the North Carolina, the Virginia, the South Carolina notes, and those of the other States neighboring, but handed him back the Mississippi bank notes, and made him a present of them, saying that they were unfit to steal. [Much laughter.] I hope my friend from Mississippi feels as I do upon this subject. I will go with him any length to bring down this swindling system. Let us take this step now, and hereafter I will go as far as he who goes furthest to break up entirely the whole paper currency system carried on in this District.

Mr. FREEMAN. Very likely the gentleman has heard that story, and has heard similar ones of all the banking institutions in the country. But I will ask him if the banks of Virginia did not at the same time suspend specie payment, and was her currency then fit to steal?

Mr. AVERETT. I will answer the gentleman. I never defended any banking system in my life. I have always maintained that the banks should all be held, as individuals are held, to all their obligations, and that alone should justify their tolerance by law. But if the banks in Virginia did at one time suspend payment, they only followed the example of Mississippi, without having gone quite so far in their excess or lawlessness.

Mr. FREEMAN. Then did the courts of law and the officers in Virginia, like those in Mississippi, turn round and place the heads of those

banking institutions upon the judicial guillotine as did the State of Mississippi? Did they do it?

Mr. AVERETT. They did not.

Mr. FREEMAN. They did not do it! Then go home and vindicate your honor, and not laugh at Mississippi until you have done so.

Mr. AVERETT. I have been doing so for nearly a quarter of a century.

Mr. FREEMAN. The gentleman had better preach morals to Virginia than to get up here and attempt to throw odium on Mississippi.

Mr. AVERETT. Such was not my purpose. I ask leave of my friend to correct him. It was not my design, by any means, to throw odium upon his State. I glory in the fact that she has crushed that system, and I would like every State in the Union to follow her example. She has done nobly. She has reformed; and I wish to God every other State would go as far as she has done. I glory in the reform she has accomplished. I glory in it, because it proves the necessity of standing up unflinchingly against a swindling paper currency, and especially one that is perpetrated notwithstanding the positive prohibitions of law.

Mr. FREEMAN. The gentleman's explanation is satisfactory; but I hope he will not repeat his stealing story again until Virginia has followed the example of Mississippi in the banishment of the banking system.

I have little more to say to my friend from Virginia. He says this bill of his does not recognize the existence of notes above ten dollars. Now, he admits that these little notes are a very great source of grievance, and will go any length to break up the system of issuing them, but as soon as they grow up to five or ten dollars, they are a very convenient thing, and are not to be interfered with. The gentleman must see that the same authority that issues the one, two, three, or four dollar notes, also issues the ten, twenty, fifty, or hundred dollar notes! The great objection to this bill is, that it allows a great nuisance to pervade this District with impunity, while for the lesser nuisance, it—

"Puts in every honest hand a whip,
To lash the rascals naked through the world."

[A message was here received from the Senate by the hands of ASBURY DICKINS, its Secretary, announcing the passage by that body of sundry bills.]

Mr. FREEMAN, (resuming.) It is not my intention—and I hope the members of the committee will not so regard my remarks—to complain of the course they have seen fit to pursue. It was explained on yesterday, that petitions, simply to get rid of the grievance of small notes, had been referred to that committee. I propose, that while we are getting rid of little grievances, we also take in hand great grievances. We can spend our time very profitably in getting rid of the whole, so far as Congress is concerned.

The objection which the gentleman makes to my amendment, if he makes any, is one which cannot bear the scrutiny of investigation at all.

Having disposed of all the points in controversy, having shown that a paper currency is not essential to the wants of the District of Columbia, having shown that a gold and silver currency is all-sufficient for the purposes of the people of the District and that petitions against small notes have already been sent to this committee, what is there left of the case? I ask every thinking man in the House, what there is left for Congress to do? Will you countenance the existence of paper currency by voluntary associations here, which may break on any day, and thereby swindle the community.

What was the excuse for insolvency in the case of Mr. Gallaher, who had a large establishment under the name of the *Bank of the Union?*—a great name that, Mr. Chairman, and it gave his notes currency and credit. When I saw in his publication the explanation that his bank had broken in consequence of "*circumstances over which he had no control*," I suppose that he meant to say that *poverty*, and a *want of specie* in his vault, were the "circumstances over which I had no control"—that he never had specie enough to meet the bills he had issued under the style of the "Bank of the Union." Such were the circumstances not under his control.

Well, sir, what else did he say in his publication? He said that when the State of Maryland passed a law prohibiting the issue of small notes, he broke. What does it prove? It shows that these petty-larceny banks have no specie basis of their own, and when the small notes of their co-laborers are withdrawn, they also "step out of the city for a few days," and finally pay a few cents on the dollar, to show their honesty. They make these shinplaster notes payable in the small notes of another bank. So it goes on upon the principle of "you tickle me and I'll tickle you."

Now, sir, a word in regard to the probable execution of this law. The bill reported by the committee is, I think, too long, and undertakes to be too specific. I have never seen a lengthy criminal statute drawn, which an ingenious lawyer would not pick to pieces. I will not undertake, here in my place, to pick this bill to pieces, but I simply call attention to the fact, that a long law, one that undertakes to specify a great many things, is almost always imperfect and ineffectual, and hard to carry into execution in a court of justice. There is no difficulty about the subject-matter. We all want to put an end to this evil, and the way to do it is to say, in the plainest words in the English language, that paper money shall not be issued within this District.

I have already said that in my amendment, it is provided, as far as it can be, that the circulation of the different States of the Union shall not be current here in less denominations than ten dollars. That is a sufficient accommodation for the commercial community.

I have not heard a single reason urged in behalf of this bill, that is not a better argument in favor of the amendment, than it is in favor of the original bill. I have no particular attachment to this amendment. My object is to cure the evil.

And now I ask the honorable chairman of the committee, if this amendment will not more certainly and effectually cure the evil and rid Congress of the responsibility of the paper circulation in this District, than the bill which he proposes?

Mr. FICKLIN. If my friend desires an answer, I will say that in regard to his amendment I have heard it read, and I am of the opinion that it will not rid the District of this evil so well as the original bill. In the greater portion of the States of the Union the circulation of small notes is tolerated; and I think it is impossible to pass a bill in this House which will exclude all paper under the denomination of ten dollars. I do not believe it can be done. I think it is impracticable. I believe we can gain more by passing the present bill excluding paper under five dollars, and then strike at other reforms hereafter if we find that we can accomplish them, than we can by attempting to prohibit the circulation of all under the denomination of ten dollars.

Mr. FREEMAN. Will the gentleman state the practical difference between excluding five dollar bills and excluding ten dollar bills under the operation of the law.

Mr. FICKLIN. I will state to the honorable member from Mississippi that a difference has been made in this District for a number of years past. As I understand it there is no law in this District prohibiting the circulation of bills of five dollars and upwards. There is a law prohibiting the circulation of bills of less denomination than five dollars, and to do so is made an indictable offense. The legislation of Congress for years past has made a distinction between bills under the denomination of five dollars and bills over that amount.

The State of Maryland, neighbor to this District, has passed a law recently, one part of which went into operation last October, and another part will go into force in March next. That branch which went into effect in October related to bills issued without the limits of the State, and excluded such small bills from circulation in Maryland. That portion which goes into operation in March next relates to the banking institutions of the State, and prohibits the issue by them, and the circulation of bills of less denomination than five dollars.

Virginia also, I understand, makes a distinction between what is called a shinplaster currency, and bills of five dollars and upwards.

I undertake to say to my friend from Mississippi, that there are not five States in this Union that exclude the circulation of paper under ten dollars, or even under five dollars. I hold it is impossible for us to pass an effective bill through Congress, which shall exclude paper of that denomination; but I believe we can pass a bill which shall exclude this shinplaster paper under five dollars, and one that will be effective, and cure the evil. If we strike for more than that now we shall do nothing.

Mr. FREEMAN. The gentleman has not answered my question. He says there is a law in the District making it a criminal offense to issue bills under the denomination of five dollars, which is disregarded. That proves that this bill cannot be enforced. Now, he proposes to renew the same law, prohibiting the issue of bills under five dollars.

Mr. FICKLIN. My friend is mistaken, if he calls this a proposition for renewing the same law.

Mr. FREEMAN. The same law, with the addition of some more specific and stringent rules for its execution, and the same rules that will prohibit less than *five*, will prohibit less than *ten*, and all above ten dollars.

Mr. FICKLIN. I propose certain provisions which, in my judgment,—and about which there can be no mistake,—will fully and abundantly exclude the circulation of every description of paper under five dollars, if this act goes into effect.

Mr. FREEMAN. The gentleman is still at fault, and fails to show how it is more difficult to suppress *tens* than *fives*. I do not question the gentleman's intention, or the intention of the committee. They admit that the small notes are an evil. I think large notes are a greater evil.

Now, I will call the attention of the gentleman to some criticisms which may be made upon this bill.

Mr. MILLSON, (interrupting.) I desire to call the attention of my friend from Mississippi, [Mr. FREEMAN,] to the phraseology employed by him in his proposed substitute. It is where he declares that "it shall not be lawful to make, emit, or utter, within the District of Columbia, any species of currency or money whatever, except the constitutional coins of the United States." Does he, in making that exception, intend to make it lawful for any person within the District of Columbia, to make the constitutional coins of the United States? Does he intend to authorize the coining of money by individuals within the District? Again; I would ask him if he considers the British guinea a constitutional coin of the United States? and if he does not, is a man to be subject to confinement in the penitentiary for circulating or passing a British guinea, or any other foreign coin within the District of Columbia?

Mr. FREEMAN. The question put by the gentleman has evidently been deliberately considered, and brought forth in all its maturity. Does the gentleman suppose that an amendment of this kind would alter the Constitution of the United States? Does not the amendment say "the *constitutional* coins of the United States?" And yet the gentleman wants to know if I propose to do that which is *unconstitutional*. The gentleman inquires if I propose to permit anybody in the United States, to make and emit the coins of the United States, or of Great Britain? Need I say to the gentleman that the Constitution of the United States does not allow any such thing, and that my amendment forbids it.

Mr. MILLSON. I apprehend that the gentleman from Mississippi does not comprehend my meaning. The language of the substitute is, that "no person, after the passage of this act, shall be at liberty to make or utter any species of currency within the District of Columbia, except the constitutional coins of the United States." That word "make" seemed to imply an authority to make the constitutional coins of the United States; and inasmuch as it is declared, that it shall not be lawful to utter within the District of Columbia any but the constitutional coins of the United States, I merely drew his attention to the fact that there are many foreign coins, not constitutional coins, which are legalized by acts of Congress, and whose specific value are given by those acts, and which certainly he did not intend to prevent the circulation of.

Mr. FREEMAN. If foreign coins are legalized by acts of Congress, they become "constitutional coins," because Congress is authorized by the Constitution to *fix the value* of foreign coins, and when thus fixed they become "constitutional coins." If the gentleman from Virginia [Mr. MILLSON] did not meditate upon his question, then it sprung from his brain like Minerva from the brain of Jupiter, full grown, and I congratulate him upon his offspring. There is no difficulty, in

that point of view, so far as foreign coins are concerned. I presume the gentleman does not mean to contend, for I might make that presumption *prima facie* from his remarks, that any person has the right to make foreign coins in the District of Columbia. But I was attempting to reply to the remarks of the chairman of the committee who reported this bill. I have no doubt the bill is well intentioned, and well drawn for specific purposes, but my objection is, that it will not cure the whole evil. Now, take this paragraph:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That if any person, or any association, partnership, or company of individuals, or any body politic or corporate within the District of Columbia, shall, from and after the passage of this act, make, emit, issue, or utter any *bill of credit*, bank note, *promissory note*, *bill of exchange*, order, ticket, or any other instrument of writing, *in a less amount, or of a less denomination than five dollars*."

Is it intended to prevent individual merchants from drawing "*bills of exchange*" upon foreign merchants in different States of this Union, or in foreign countries?

Mr. FICKLIN. If my friend from Mississippi will permit me to suggest, that if he will read a little further in that bill he will find that his criticism has no foundation. He will find that this paper, if drawn, must not be drawn to be used as a common circulating medium. Every section which touches the question strikes at paper as a circulating medium.

Mr. FREEMAN. Bills of exchange are not generally used as a circulating medium. I never heard of their being so used but in one instance, and that occurred in Mississippi, where a good many original things happen. We prohibited banks from issuing bills under the denomination of five dollars. The Commercial Bank of Natchez turned around and drew a quantity of bills of exchange upon the city of New Orleans for five dollars each, amounting in all to half a million of dollars, which they sent out as a circulating medium.

Mr. FICKLIN. Was not that bank indictable?

Mr. FREEMAN. It suspended payment, and being brought before the courts of that State, it was, for that offense, deprived of its charter.

Mr. FICKLIN. My friend will see that his remarks support the position I took. If these bills of exchange are used fraudulently as a circulating medium, they fall under the provisions of this bill, and are indictable. If, however, they are used as mere bills of exchange in the legitimate transaction of business, they are not indictable.

Mr. FREEMAN. Well, Mr. Chairman, one thing is clear, and that is, that every argument advanced in favor of the prohibition of the circulation of notes of a less denomination than five dollars, is an argument in favor of the prohibition of the circulation of all above that denomination. Let us get rid of the great as well as the small evil. No one attempts to say that it is necessary for the welfare of this District, that Congress should authorize or permit the issuance of a paper medium of exchange or currency——

[Here the hammer fell.]

Mr. VENABLE. I shall occupy the attention of the committee but for a few moments. We all feel deeply the grievance of the miserable circulation with which this District is inflicted, and agree that we should apply a remedy. While I shall vote for the bill, as introduced by the committee, with the amendment of the gentleman from Ohio, [Mr. CARTTER,] I beg to call the attention of the gentleman from Mississippi [Mr. FREEMAN] to a suggestion with regard to his amendment, the force of which I think he will at once acknowledge. His amendment, as offered on yesterday, reads as follows:

"That from and after the passage of this act, it shall not be lawful to make, emit, or utter, within the District of Columbia, any species of currency or money whatever, except the constitutional coins of the United States: and that for all offenses against this act, the parties committing the same, shall be liable to indictment by the grand jury of the District of Columbia for a high crime, and on conviction shall be fined in a sum not less than $500, and be imprisoned in the penitentiary for a term of not less than six months nor more than five years."

If that amendment be adopted, it will defeat the object we all have in view. It never will be executed, because it is in advance of public sentiment. You will be creating and giving character to an offense which public sentiment says does not belong to it. You will make the passage of small notes in this District a misdemeanor to be punished more severely than manslaughter, larceny, or even burglary—in fact more severely than any of the minor felonies of which our books treat. You may take that course, and if you do go so far beyond public sentiment, you will have a law that will be a dead letter upon your statute-book. Such is human experience everywhere, and no penal law, unsustained by public sentiment, can be executed. When this subject was up for consideration last year, I prepared a short bill of three sections, which I wish I had here now, that I might submit it as a substitute. To speculate and make money, these manufacturers of shinplasters set up their shops, and make it the interest of small traders to circulate their notes, and the only way to rid the District of the grievance, is to strike immediately at that interest. So long as it is the interest of small shop-keepers to use these small notes, they will do so. I, like the gentleman from Ohio, am against notes both large and small; but as the gentleman from Georgia [Mr. TOOMBS] remarked, we must go against them all together, or have them altogether. The bill must regulate the issue, or entirely forbid it.

I would suggest to the chairman of the Committee on the District of Columbia, who reported this bill, to so modify it that it will forbid the use of bank notes of any kind, and authorize any individual, cognizant of a violation of the law by circulating those notes, to bring an action before any justice of the peace, who shall be authorized to issue process, and make those issuing them a party defendant; and on conviction, compel both the maker and the party issuing the note, forfeit twice its amount, such forfeiture to go to the informer. Such a law would turn all the hackmen, and small dealers, against this class of bankers; and they, having once or twice paid double the value of the notes they issued, would find it a losing business, and shut up shop. It is said that one of the Governors of New York, under the Dutch dynasty, never gave a decision but once. He tried a case between two citizens, and, having weighed the books in evidence in his hand, and looked at them a long time, said that they were balanced, and that the plaintiff and the defendant should exchange receipts, and the constable should pay the costs. [Laughter.] It is gravely said that the office of constable, for more than half a century afterwards, grew into great disrepute. Provide for bringing of the issuers of small notes at a short notice before a justice of the peace, and you will have a law that will be executed; for it will be the interest of every small trader, and even the hackdrivers, to see that no such notes are put in circulation. Make these men suffer in the purse, and their notes will not be circulated.

Mr. AVERETT. My friend is speaking as though the people of this District were alone interested in the suppression of these swindling notes. I will tell him as a matter of fact, that my district, even up in the gorges of the mountains, has been flooded with the paper money issued from this District of Columbia. Would he expect a planter, a merchant, or day laborer there, with fifteen or twenty dollars of these spurious notes in his pocket, to come to this District and give information in order to get relief? Our purpose is, not only to protect the people of this District, but it is, together with the District, to protect the adjoining States from the swindling operations carried on here in violation of our laws and in contempt of our authority. I beg my friend to recollect, in making his argument, that though his constituents, and those of the gentlemen from Georgia, [Mr. TOOMBS,] and Mississippi, [Mr. FREEMAN,] being without the range of the circulation of this paper, may not be interested in this matter, the people of the States of Maryland and Virginia are deeply interested in it, and have been swindled outrageously. I have come here myself with enough of those notes to double sole the stitched-down shoes of any negro in the district of my friend from North Carolina. [Laughter.] And what have I got for them? Why, sir, for some of them I have got for my constituents only a parcel of post office stamps, at the rate of ten cents in the dollar, and they were the best I could get. The object of our legislation is, to prevent the District from being made a den of swindlers and incendiaries, to cheat our constituents.

Mr. VENABLE. My friend from Virginia is very much mistaken if he supposes that my constituents have not been swindled by these notes. They are all over the State of North Carolina, and I brought here with me a considerable number of them, some of which I got off at discount, and others nearly at par. And the money I received I have sent back to my constituents, by whom I had been charged with them. If my constituents are silly and stupid enough, after we have passed a law pronouncing the whole thing a swindle and illegal, and after that law has been published in the public newspapers, to trade in that sort of paper, I cannot be their guardian. If my friend's constituents need a protection of the sort he has adverted to, mine do not. No one can pass Washington notes in my district since the breaking up of the Union Bank, and the clearing out of its proprietor, who, I hope, will not return. Let us cure the evil that exists here, and let Virginia and Maryland take care of themselves. They are competent to do so. If they choose to take this trash as the representative of their property, we cannot be their guardians. There is but one remedy, as I have said before, for this grievance, and that is, to authorize any magistrate of the District, upon information, to issue a *sci. fa.* against the man who issues and the man who circulates one of these notes, and provide that the penalties shall be given to the informer. Do that, and the whole thing will fall into disrepute. Talk about sending a man to the penitentiary! Why, sir, you do not send them there for cutting people's throats. You do not send them there for firing our dwelling-houses. Last year the town was set on fire in various places at different times, and no one was put in the penitentiary for it. And you would now make the crime of issuing a small note higher in grade than that of the commission of felony. Pass such a law, and the good sense of the people will revolt against it, and it will not be executed. It is not the severity, but the certainty of punishment, that puts an end to evil.

Again: you cannot put a man in the penitentiary in this District for stealing a negro. Congress absolutely refused to pass a law inflicting that penalty for such an offense. And yet, if you were to fine a man five hundred dollars for issuing a small note, that would shock public opinion—every one would feel that you were trifling, and every one would know you were placing laws upon your statute-book which you did not expect would be executed, because they were wrong. No one ought to go to the penitentiary for issuing small notes, for that is too small an offense. It is a petty larceny, and ought to be punished as other small petty larcenies are. There are various ways to punish such an offense in different States. You might make him pay double the amount of the notes which he has issued. This, in the case of a man who expects to make a hundred dollars by issuing two hundred, if you make him lose four hundred dollars, he will never be guilty of such a speculation again. I implore the committee, if they are to pass a law upon this subject, not to strike so high as to defeat its execution—not to look all over the Government of the United States as their guardians, but to remember that we are legislating for the District. If we put a stop to the issue of these notes here, the evil, so far as we are concerned, will be destroyed. I will simply relate an incident which occurred here, to show you how important it is that we pass some law. I was in the house of a gentleman in this city a few days ago, who told me that on the day before a poor woman came into his house to buy a bill of exchange for the purpose of bringing two of her children from the continent of Europe over to this country. She brought in one hundred and twenty-seven dollars which she had earned by hard labor during the year; and the hundred and twenty-seven dollars were in shinplasters of this city, out of which there were only twenty-six dollars worth one cent. She had been completely swindled out of the whole, and that, too, by the shinplasters manufactured under our own observation. We ought to legislate upon this subject practically. The valueless stuff will come to such a condition as not even to be a subject of larceny, because of no worth. I once heard of a man in one of our southern States who was convicted of stealing the notes of a broken-down bank, and the jury found him guilty of excessive meanness, but, as he stole nothing of any value, they found him guilty of no crime. [Laughter.] But the bank who issued them, and swindled the receivers, had

committed a great, a grievous offense. It is so in regard to these notes. They are worth nothing. It is our duty to put a stop to this thing, and expose all men who issue these fraudulent notes here to punishment in the shape of penalties. You will thus interest every one in this city who has been swindled to be informers, and the end will be obtained. I desire practical and effectual legislative action.

Mr. CARTTER. I wish to say that this bill does provide, to some extent, for the cases contemplated by the gentleman from North Carolina, [Mr. VENABLE.]

Mr. JONES, of Tennessee. However we may disagree individually as to the provisions of this bill, I presume that there is one subject upon which there is a great unanimity of opinion in this House, and that is, that there is an existing evil in this District, with which the people living here and those who are sojourning here are cursed, an unauthorized paper circulation within the limits of this District. The object of those who have spoken upon this subject seems to be to correct this evil and to prevent this abuse within the District. I have read this bill carefully, and though I do not profess to be able legally to analyze it, take it to pieces and point out all its defects, yet I think, as I understand it, that with very few alterations it will effect the object desired in regard to the subject under consideration. What are the provisions of this bill and the pending question before us? The first section of the bill as reported by the committee prohibits, or is framed with a view to prohibit, the making or issuing within this District of paper promises to pay money or any valuable thing of less denomination than five dollars. This it seems all are anxious to effect. What is the amendment immediately pending before the House, proposed by the gentleman from Ohio, [Mr. CARTTER?] It is to strike from this section so much of this bill as confines its provisions to the denominations of notes under five dollars. If we do that—if we strike out that provision—we then make it apply to all the issues within the District of Columbia. The question for the committee to determine is whether they will do that or not. Is it desirable to prevent the issue in this District of all denominations of paper intended for circulation? I think myself that it is most desirable.

But the question now pending upon the amendment, as I understand it, is not whether we will prohibit the circulation of paper in this District, but whether we will prohibit the manufacture and issue of unauthorized paper in this District. There is no law, as I understand, which authorizes individuals or associations, whether incorporated or not, to make or emit any of this currency intended to be passed as such. The first section of the bill as it stands proposes to prohibit the further issue of unauthorized currency under five dollars. It says nothing as it stands with regard to illegal and unauthorized emissions above five dollars. What is the difference?

Mr. FICKLIN. I wish to set my friend from Tennessee [Mr. JONES] right in regard to the matter about which he seemed upon yesterday, and as he seems to-day to be mistaken, and it is this: He seems to be of the opinion that bank paper cannot be issued by individuals or associations unless by express authority of law.

Mr. JONES. The gentleman is mistaken if he so understands me. I hold this to be correct, that perhaps in the absence of any law upon the subject, each individual has a right to make his promissory notes and put them in circulation, if the community will receive and pass them. But I say that a matter in which the welfare of everybody is so deeply involved, should be the subject of the laws of the country. If you are to have a paper circulation it should be regulated by law; it should be authorized by law; and the responsibility of those issuing and putting it into circulation should be prescribed and fixed by law.

Mr. FICKLIN. I concur fully in the opinion that is expressed by my friend from Tennessee, [Mr. JONES.] It will be recollected by him that the charters of the banks of this District expired on the very year, I believe, that we both took our seats in Congress. In 1843 or '44 the bank charters expired, and there was a refusal to renew them. Then the banks took the opinion of eminent counsel in this District, and they decided that those individuals as associations had the right to issue notes, and they went on banking upon their own hook as private corporations.

Mr. JONES. They must have made that decision upon the ground that there being no law in the District prohibiting the issuing of these bank notes, it was competent for them to do it. I wish to correct that opinion, and not only prohibit by law the issue of five dollars or under without authority of law, but to prohibit the issuing and circulation of all denominations of notes passing for currency within this District. If it is desirable to have such places in this District for the manufacture of this paper to pass as currency, let this Congress or the next one, take up the subject and prescribe by law, in what manner and under what restrictions and penalties, and responsibilities the issue and circulation of paper currency shall be exercised within this District. The question immediately before the committee is, whether we will forbid the issue of the denominations of notes below five dollars, and thereby by implication permit the issue of notes above five dollars. I hope that the amendment of the gentleman from Ohio, [Mr. CARTTER,] will prevail, and that we will make this bill what it ought to be, a prohibition of banks of emission within this District, whether corporated or unincorporated.

The second section of the bill prohibits the keeping of any banking-house or office of issue of notes for circulation under five dollars within the District. This I would again follow up and make conform to the amendment of the gentleman from Ohio, [Mr. CARTTER,] in the first section, to prohibit the keeping of any house, office, stall, or booth, or any other place within the limits of this District, for the manufacture and emission of any paper currency whatever. If at any future time, it shall be thought advisable by Congress to authorize the issuance of paper, the law by which they shall authorize it, under proper restrictions, would repeal so much of this as prohibits every sort of emission, and that law would be in force so far as its positions went.

I would not vote for any issue of any bank to pass for money but gold and silver, either here or in any other part of the country. I do not believe that there is any power in this Government, Federal or State, to incorporate banks of issue. I think that of all the things I have ever heard of in my life, the most absurd is the assertion that the sovereign States of this Union surrendered the power and sovereignty under which they could coin money out of metal and retained the power of making the most miserable representative and shadow of money.

The next section of this bill, sir, prohibits the circulation within the District of notes under five dollars, whether issued within this District or without this District. That section, I believe, will do without amendment; because I do not understand it to be the intention of the committee, or of this House, to prevent the circulation within this District of the paper of banks in the States which are legally authorized, perhaps, in the estimation of those engaged in them, by those States. The object of the bill is not to prohibit or prevent the circulation of all paper of every description within this District.

Mr. AVERETT. If we tolerate an issue of any sort within this District, in the teeth of the laws as they now exist, it follows, as a matter of course, that notes may be issued in those States in which they are not prohibited, and by means of agencies here put into circulation and effectually bring our law into contempt.

Mr. JONES. The section which I have just passed prohibits all banking-offices, banking-houses or agencies here for the issuance of notes which have been filled up, signed, and made without the District, and this section prohibits the sending into the District of notes under five dollars issued without the District. It prevents notes under five dollors, no matter where they are issued, from being circulated within the District. That is the fifth section.

The sixth section declares that all contracts made within this District, the consideration of which, or any part of the consideration of which, may be notes under five dollars, or any other currency prohibited in this bill, shall be null and void to all intents and purposes. That is a sufficient prohibition against the loaning of this currency by those who may bring it into the District, or those who might wish to make it within the District.

The seventh section prohibits certain persons in this District—enumerating all those who are doing business under the authority of licenses from the corporate cities of Georgetown and Washington—from taking, passing, or receiving any note of any description, no matter where issued, under five dollars; also, that they shall not receive or pass any note within this District, which is payable in anything else except the legal coin of the United States, the gold and silver of the country. Any violation of this provision is punishable by forfeiture of the license for twelve months, and it is made the duty of the proper legal officers here, upon application, or notice, to sue out a *scire facias*, or to institute other suitable legal proceedings against such persons as violate this law.

By the eighth section, it is made the duty of certain officers of this District to inform the grand jury of all violations of this act, that may come to their knowledge; and it is also made the duty of the Secretary of State to furnish to the officers of the District copies of this law, to be delivered to the various officers, and to the grand jury, at each term of the criminal court, that they may have the law before them, and may bring those who violate its provisions to account.

Sir, if the gentleman from North Carolina [Mr. VENABLE] had examined the bill, he would have found in the ninth section the very thing which he desires.

Mr. VENABLE. So I knew, but my remarks were addressed to the amendment of the gentleman from Mississippi, [Mr. FREEMAN.]

Mr. JONES. The ninth section provides that there shall be a *qui tam* action—that is, half the penalty shall go to the informer, and the other half to the city of Washington.

Mr. MEADE. That only applies to five dollar notes.

Mr. JONES. Well, if we strike out the provision about five dollar notes or about notes under five dollars, it will apply to all violations of this law. The bill provides in other places, that the offenses against which it is directed, shall be punishable by indictment, and upon conviction, by fine and imprisonment. But it also provides that a person having been convicted upon an indictment, shall not afterwards be subject to a *qui tam* action, or if he has had judgment rendered against him in a *qui tam* prosecution, that he shall not thereafter be indicted for the same offense.

Now, Mr. Chairman, if the committee will adopt the amendment of the gentleman from Ohio, [Mr. CARTTER,] and carry it out through the bill, they will make, in my opinion, a good law—one which will meet the emergency of the case—one which will prevent the further issuance of these notes within the District—one which will prevent the issuance of notes of any denomination, until they shall be authorized by law of Congress.

If the amendment of the gentleman from Ohio prevails, the question is not—as some gentlemen seem to suppose—whether Congress will prohibit entirely the circulation of all notes within the District. But the question is whether we will prohibit the circulation of all notes under the denomination of five dollars, and of all notes issued in this District not authorized by law; and further, whether we will prohibit within this District, the circulation as money, of all notes of every denomination, without regard to the place of their issue, which shall be made payable in other bank notes, or in anything else, except gold and silver—the legal current coin of the United States.

Is there any gentleman upon this floor who is opposed to the accomplishment of any one of these objects? I appeal to every gentleman upon this floor. I ask whether any gentleman here has any information from this community—whether any individual living in this District and not interested in the issue of this character of circulation, has come to him and told him that Congress ought to authorize banks of issue within this District? Sir, I have not heard of the first solitary instance of a business man in the District, who desires that there shall be any banks incorporated, or that there shall be any law passed authorizing the issue of any sort of paper intended for circulation within the District, unless indeed it is those who are engaged in this swindling operation, many of whom, I am told, are men unknown to this community; they are agents, perhaps, of establishments located in other parts of the country, and they come here to put the paper in circulation in order

that they may succeed better in passing it off upon the community. Sir, I have no sympathy or feeling in common with any man, or set of men, who are engaged in, or concerned in the issuance of bank paper, to circulate in this or in any other part of the country. But we do not propose at this time, and in this bill, to prohibit the circulation within this District of any bank paper—five dollars and upwards, which may have been issued in pursuance of law, either in this District or in any other part of the country. I am not prepared to do that, not because it is not in accordance with my judgment and my feelings, but because we could not succeed in carrying it through, if we were to make the attempt.

Mr. MEADE next obtained the floor.

Mr. POLK. If the gentleman will allow me, I will move that the committee rise.

[Cries of "No!" "No!"]

Mr. MEADE. I will yield to the gentleman in order to test the sense of the committee, but I am quite prepared to go on now.

Many MEMBERS. "Go on!" "Go on!"

Mr. POLK. Well, as it seems to be the sense of the committee not to rise yet, I will not submit the motion.

Mr. MEADE addressed the committee an hour in an examination of the provisions of the bill, and in favor of a modification of the penalties proposed, so as to make them less stringent and more effective to carry out the designs of the bill. [His remarks will be published in the Appendix.]

Mr. HOUSTON. I move that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. BROWN, of Mississippi) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia," but had come to no conclusion thereon.

INVALID PENSIONS.

Mr. HOUSTON. The Senate have returned the bill of the House making appropriations for invalid and other pensions, with a single amendment, which is merely the correction of a date. In the original bill reference was made to the pension law of the 17th April, 1816, when it should have been the 16th of April, 1816, and the Senate have amended it in that way. I move that the House do concur in the amendment of the Senate.

The amendment of the Senate was concurred in.

Mr. HOUSTON. I send to the Clerk's desk some estimates with regard to items of appropriations in the deficiency bill, which I ask may be printed, so that they will be before us when we next have the subject under consideration.

The estimates were ordered to be printed.

Mr. ASHE. I ask the unanimous consent of the House for leave to submit certain joint resolutions from the State of North Carolina.

Mr. DUNCAN. I object.

Mr. HUNTER. I move the usual resolution, that debate in the Committee of the Whole on the state of the Union, on the bill to suppress the circulation of small notes as a currency in the District of Columbia, be terminated in five minutes after its consideration shall again be resumed.

Mr. SACKETT. I trust that resolution may not be adopted, as several gentlemen on this side of the House desire to be heard upon the subject.

Mr. HUNTER. I call for the previous question.

Mr. AVERETT. I would ask the gentleman to withdraw his call for a moment.

Mr. HUNTER. I cannot.

Mr. McMULLIN. There is no quorum present, and I therefore move that the House do now adjourn.

The question was taken, and the motion was agreed to.

The House therefore adjourned till to-morrow at twelve o'clock, m.

NOTICE OF A BILL.

Mr. CLARK gave notice, that on to-morrow, or some subsequent day, he would ask leave to bring in a joint memorial of the Legislature of Iowa, and accompanying bill, asking a grant of lands to aid in the construction of a railroad from Davenport, via Muscatine, to the Missouri river, in said State.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. DURKEE: The petition of J. H. Lapham, of Milwaukee, Wisconsin, asking for remuneration for services rendered the Government.

By Mr. WILLIAMS: The petition of James C. Holland and others, asking a mail route from Lexington to Trenton.

By Mr. ABERCROMBIE: The petition of citizens of the Sparta land district, in Alabama, in favor of a removal of the land office from Sparta to Elba, &c.

By Mr. BURROWS: The memorial of Luther Wilson and 170 others, citizens of the State of New York, asking an appropriation for the improvement of the harbor at the mouth of Twelve Mile Creek, in Niagara county, New York.

Also, the memorial of S. E. Piper and 40 others, citizens of Youngstown and Lewiston, Niagara county, New York, on the same subject.

Also, the memorial of H. C. Wright and others, citizens of Oswego, New York, on the same subject.

IN SENATE.

THURSDAY, *January* 13, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with law, a statement of the contingent expenses of the military establishment during the year 1852; which was ordered to lie on the table and be printed.

Also, a message from the President of the United States, transmitting, in compliance with a resolution of the Senate of the 5th instant, a report of the Secretary of the Interior, on the subject of the boundary line between the United States and Mexico; which was referred to the Select Committee on the subject of the Mexican Boundary Commission, and ordered to be printed.

PETITIONS, ETC.

Mr. SEWARD presented a petition of citizens of New York and Brooklyn, New York, praying that a contract may be entered into with Christian Hansen, for the transportation of the United States mails between Brooklyn and Gluckstadt; which was referred to the Committee on the Post Office and Post Roads.

Mr. MANGUM presented the memorial of Davis Taylor, praying an amendment of the act of Congress abolishing imprisonment for debt in the District of Columbia; which was referred to the Committee on the Judiciary.

Mr. SHIELDS presented a petition of citizens of Washington, praying the removal of the county jail to a more suitable situation; which was referred to the Committee on the District of Columbia.

Also, a petition of Daniel Nickel, a volunteer in the late war with Mexico, praying a pension; which was referred to the Committee on Pensions.

Mr. HAMLIN presented the petition of William Wright, praying that a register may be issued to a vessel called the Fanny, and that her name may be changed to the Golden Mirror; which was referred to the Committee on Commerce.

Mr. BRODHEAD presented a memorial of E. H. Walton and others, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. MALLORY presented the memorial of Richard Evans and others, officers of the United States revenue cutter service, praying an increase of pay; which was referred to the Committee on Commerce.

Mr. CASS presented the memorial of Edmund M. Evans, a clerk in the custom-house at New York, praying compensation for extra services; which was referred to the Committee on Claims.

Mr. UNDERWOOD. I hold in my hand a memorial of James M. Carlisle and Walter S. Cox, administrators of Cornelius P. Van Ness, formerly of New York. They represent that Mr. Van Ness was collector of customs for the State of Vermont, and when collector seized a number of goods brought into the country in violation of the revenue laws. As collector, he was, perhaps, entitled to one half of the goods in case they had been forfeited under the existing law. The Secretary of the Treasury released the forfeiture, upon condition that the merchants claiming the goods would pay into the Treasury what was regarded as legal duties. The Supreme Court has decided that that payment was in the nature of a forfeiture, and that the collector seizing the goods was entitled to the half of them under the revenue laws. The money was paid into the Treasury in pursuance of that decision of the Secretary of the Treasury, and the administrators now ask that the half of that sum thus paid into the Treasury may be refunded. I move the reference of the memorial to the Committee on the Judiciary. As it is a legal question, I presume it ought to go there.

It was so referred.

Mr. SMITH. I desire to present the memorial of Bishop Brownell, of the city of Hartford, Connecticut, and a large number of other citizens of that vicinity—I believe a thousand and fourteen in all—on the subject of anæsthetic agents, stating that the memorialists understand that an application has been made by Dr. Morton, of Boston, claiming to have been the author of this discovery, and inviting the attention of the Senate and the House of Representatives to the testimony introduced by the family of the late Dr. Horace Wells, to show that he is the author of this discovery. This memorial is signed by a large number of the most respectable citizens of our State. I move that it be referred to the Select Committee on the subject of anæsthetic agents, of which the honorable Senator from Wisconsin [Mr. WALKER] is chairman.

It was so referred.

PAPER WITHDRAWN AND REFERRED.

On motion by Mr. SHIELDS, it was

Ordered, That the petition of Jane Kearney, praying a pension or bounty land, on the files of the Senate, be referred to the Committee on Pensions.

REPORTS FROM STANDING COMMITTEES.

Mr. BRIGHT, from the Committee on Roads and Canals, to which was referred the bill to surrender to the State of Ohio the unfinished portion of the Cumberland road in that State, reported it without amendment, and moved that it lie on the table, a bill from the House to the same effect having passed the Senate; which motion was agreed to.

Mr. HUNTER, from the Committee on Finance, to which was referred the bill for the relief of John B. Rodgers, of South Carolina, reported it without amendment.

BILLS INTRODUCED.

Mr. MANGUM, by unanimous consent, asked and obtained leave to introduce a bill to amend the act entitled "An act to regulate arrests on mesne process in the District of Columbia;" which was read a first and second time by its title, and referred to the Committee on the Judiciary.

Mr. DAVIS, agreeably to previous notice, asked and obtained leave to introduce a bill to authorize the heirs of a deceased party to a suit to prosecute the suit; which was read a first and second time by its title, and, together with a paper explanatory of the bill, referred to the Committee on the Judiciary.

COUNTERFEITING CURRENT COIN.

On motion by Mr. BRODHEAD, the bill making further provision against counterfeiting the current coin of the United States, or passing the same, was read a second time, and, together with an amendment which he proposes to it, referred to the Committee on the Judiciary.

INVALID PENSION BILL.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had agreed to the amendment of the Senate to the bill making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th of June, 1854.

RESOLUTIONS.

Mr. SEWARD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to consider and report whether any action of Congress is necessary for the protection of the Territory of New Mexico against the incursions of hostile Indians.

Mr. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary pay out of the contingent fund to Daniel Whitcomb, executor of the late James Whitcomb, a Senator from Indiana, the expenses incurred for his funeral, and for carrying his remains to Indianapolis, his late residence in Indiana, amounting to $175.

Mr. DAVIS submitted the following resolution;

which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of authorizing Tito Angelina, an Italian artist, to execute in marble a group of statues agreeable to his model now in the possession of the Librarian of Congress.

Mr. DAVIS. I beg leave to present a paper explanatory of that resolution, being the observation of men of taste, officers of the Navy and others, upon that subject, and ask that it may be referred to the Committee on the Library also.

It was so referred.

BINDING OF COAST SURVEY MAPS.

Mr. BORLAND. I am instructed by the Committee on Printing to submit the following resolution:

Resolved, That the Superintendent of the Public Printing be, and he is hereby, directed to have bound in quarto form the maps and plates accompanying the report of the Superintendent of the Coast Survey, made to the Senate at the last session of Congress: *Provided*, That the cost of the same shall not exceed eighteen cents per copy.

I ask that the resolution may be considered now; and I will simply state what is the object of it. The joint resolution which directs that all additional public documents shall be bound, limits the cost of the binding to the sum of twelve and a half cents per volume. That refers to the binding of an octavo volume. It is found, upon examining the maps and plates which come from the Superintendent of the Coast Survey, accompanying his report, and which are very valuable, and some of which are large, they cannot be, without great inconvenience, brought into an octavo form. It is necessary that they should be in quarto form, if bound at all. The sum of twelve and a half cents per volume will not defray the expense of binding in that form; but it is believed that some sum between twelve and a half and eighteen cents will do it. We deem it indispensable, in order that the report may be of the greatest value, that it should be bound in quarto form.

The resolution was considered by unanimous consent, and agreed to.

BASTROP GRANT CLAIMS.

Mr. DOWNS. I desire to renew a motion which I made early in the session, that one thousand extra copies of the report of the Commissioner of the General Land Office, relative to private claims under the Bastrop grant, be printed for the use of the Senate. That motion I suppose will go to the Committee on Printing.

Mr. BORLAND. I ask the unanimous consent of the Senate to consider that motion without referring it to the committee. The document in question is now in the hands of the printer, and is partially printed, and it is necessary, if this order be made, that it should be made at once. The Committee on Printing would concur in it, I know, and I ask the unanimous consent of the Senate to make the order without referring the motion to that committee.

No objection was made, and the motion was agreed to.

THE NICARAGUAN TREATY.

The following resolution, submitted yesterday by Mr. Cass, was taken up for consideration:

Resolved, That the President of the United States be requested, so far as may be compatible with the public interest, to communicate to the Senate copies of any correspondence which took place with the Minister of Great Britain in the United States, in respect to the treaty negotiated by Mr. Squier with Nicaragua, which was submitted to the Senate in 1850; also, a copy of said treaty, and of any substitute for it, or any part of it, submitted to the American Government by the British Minister, and of the letters of the latter urging the acceptance of such substitute and the replies thereto; and also copies of any correspondence which took place between the Secretary of State and the British Minister and the Minister from Costa Rica, in respect to a *projet* which was submitted to Nicaragua, Costa Rica, and the Mosquito Indians, and a copy of such *projet*, with the instructions given by Mr. Welsh, the special agent deputed by the United States to present that *projet* to the States of Nicaragua and Costa Rica; as also of such other correspondence as may have passed between him and the Secretary of State upon the subject; as also copies of the correspondence with Mr. Kerr, Chargé d'Affaires of the United States in Nicaragua, in reference thereto, together with any correspondence with the Government of Nicaragua or its Minister, in respect to the same *projet*; and the President is further requested to communicate to the Senate copies of any letters which may have been addressed to this Government by the Minister of Nicaragua, or the Minister of Great Britain, in reference to the construction and purport of the convention between the United States and Great Britain, signed April 19, 1850, and proclaimed July 5, 1850, and of the replies made to them, if any.

Mr. CASS. The Senator from New Hampshire [Mr. Hale] has suggested to me that the qualification, or limitation, perhaps, contained in the beginning of the resolution, "so far as may be compatible with the public interest," does not extend to the whole. I intended to extend it to the whole. I do not want to make a call for a paper imperative. But I think the qualification does extend to the whole. If it does not, I am willing to have it amended. The honorable Senator can look at it and satisfy himself.

Mr. HALE. It occurred to me, in the reading of the resolution, that the qualification extends through the most of it as suggested by the Senator from Michigan; but towards the close of it, "the President is further requested to communicate to the Senate," &c., without any qualification.

Mr. CASS. Change it as you please to meet the object.

Mr. HALE. Then I suggest to insert after the words I read, the words, "if in his view not incompatible with the public interest."

The PRESIDENT. The resolution will be so amended, if not objected to.

No objection was made, and the resolution was then adopted.

CHARTER OF THE CITY OF WASHINGTON.

Mr. SHIELDS. There is an important bill upon the calendar, "to amend the charter of the city of Washington," which I desire to take up.

Mr. GWIN. Does the Senator propose to take up that bill for the purpose of acting upon it? We have a special order for to-day.

Mr. SHIELDS. I am aware of that; but there is ample time to pass this bill before the hour for the consideration of the special order arrives.

Mr. GWIN. I do not object to the bill, but I do not wish to be interrupted, when I come here prepared to discuss the special order which comes up at one o'clock. If, therefore, the Senator will agree to pass over his bill at that hour, I have no objection.

Mr. SHIELDS. I presume this bill will not lead to discussion, and my only object in calling it up at this time, is that it may pass at this session. It is a bill to amend the charter of the city of Washington—to give some police powers which are very much needed in this city at this time; and I must say that unless we check the growing spirit of rowdyism and dissipation, this capital will present a curious scene, at all events, on the 4th of next March. I am anxious to prevent that, and I hope that this bill may pass the Senate in order that it may have time to pass the House at this session. That is my reason for calling it up now.

Mr. RUSK. It is only a few minutes to the time at which the special order is to be taken up. This is an important bill, and I think the Senator could accomplish his object better by taking it up at an earlier period on some future morning. The bill providing for the construction of a railroad to the Pacific is set down as the special order for to-day at one o'clock, and I shall feel myself bound to move to lay this bill on the table, and pass it over until to-morrow morning, when that hour arrives.

Mr. SHIELDS. The bill would have been passed in the time which we have consumed in discussing the question of taking it up.

Mr. RUSK. That is uncertain.

Mr. SHIELDS. I have already stated to the honorable Senator from California, that when the hour of one arrives, I will give way. I thought that was sufficient.

The motion to take up the bill was agreed to, and the Senate, as in Committee of the Whole, proceeded to its consideration.

Mr. SHIELDS submitted the following amendment:

To strike out all after the enacting clause, and insert the following:

That it shall be lawful for the Mayor, Board of Aldermen, and Board of Common Council, of the city of Washington, and the said corporation is hereby authorized, in its discretion, to provide for the election by the inhabitants of said city, at stated periods, of any or all officers of said corporation not now elective under the existing charter thereof; and to prescribe the time, place, and manner of holding such elections, and the duties, terms, and tenure of office of all such officers, as well as of the register, collector, and surveyor, of said corporation: *Provided*, That at all such elections the voters shall be such persons, and no others, as may be competent to vote at elections holden under the charter of the said city for the time being; and the said corporation shall have full power and authority to provide for the proper conducting of all elections in the said city, and for the punishment of any person who may willfully disturb, molest, hinder, or interfere with the commissioners or other persons who may be appointed to superintend elections, from time to time, while in the discharge of their duty, or who may willfully disturb, molest, hinder, or interfere with any voter while at or going to the polls to vote, as well as for the punishment of any commissioner or other person appointed to superintend an election who may willfully and knowingly receive, or permit to be received, the vote of any person not legally authorized to vote; and the said corporation shall have power to provide for the appointment, from time to time, of such number of persons as commissioners to superintend the elections in each ward of said city as it may deem expedient.

Sec. 2. *And be it further enacted*, That the said corporation be, and it is hereby, authorized and empowered to cause any streets, or the carriage-ways or footways thereof, or of any portions of the same, to be paved, graded, or otherwise improved, whensoever in its discretion the same may be deemed proper and necessary, any restrictions or conditions heretofore existing in the premises to the contrary notwithstanding; and in like manner, in its discretion, to cause to be constructed any drains and sewers which it may consider necessary for the proper drainage, health, or convenience of the city, and upon such plan of surface or under-ground drainage, or by taking advantage of the natural drainage, or changing the course thereof, as may be deemed most eligible; and to cause the streets or any of them, or any portion of any of them, to be lighted by gas or otherwise; and to provide for the expense of any such works or improvements as aforesaid, either by a special tax or out of its corporate funds generally, or both, at its discretion.

Sec. 3. *And be it further enacted*, That the said corporation shall have power, in its discretion, to cause new alleys to be opened into the squares, and from time to time to open, extend, change, or close those already laid out; subject always to the proviso, concerning damages to individuals, contained in the eighth section of the act of May 15th, 1820, incorporating the inhabitants of the city of Washington; and to dispose of the ground occupied by any such alley or alleys as may have been, or hereafter may be, closed by authority of the said corporation, in such manner as in its discretion may be directed.

Sec. 4. *And be it further enacted*, That the said corporation shall have power to create and establish police and municipal courts, and to establish a house or houses of refuge or correction for juvenile or other offenders, and to provide for the support and government of the same by special tax, or out of its corporate funds, or otherwise; and to pass any and all laws, not inconsistent with the Constitution and laws of the United States, for the establishment of an efficient police, for the maintenance of order, the protection of persons and property within the said city, and for the punishment, by fine or imprisonment, or both, of offenses against the ordinances and police regulations of the said corporation; such imprisonment to be either in the county jail, or in such municipal establishments, workhouses, houses of correction or of refuge, as may be provided by the said corporation for that purpose; and the marshal of the District of Columbia shall receive and safely keep within the jail for the county of Washington, at the expense of the said corporation, all persons committed thereto under or by authority of the provisions of this act.

Sec. 5. *And be it further enacted*, That the said corporation shall have power to provide by law for the levying and collection of all taxes which it is or may be authorized to impose, or which may have been heretofore lawfully imposed but are remaining unsatisfied, in such manner as may be deemed most efficient and conducive to the interests of the said city, and to alter and amend any existing provisions in its present charter in that behalf; and all sales and conveyances of real estate charged with such taxes, which shall be made in conformity with such rules, directions, and provisions, as may be prescribed by the said corporation in that behalf, shall be valid and effectual, at law and in equity, to pass to and vest in the purchaser or purchasers, his, her, or their heirs, or assigns, a title in fee-simple, or such lesser estate as may be so sold and conveyed in the land and appurtenances so sold, and an absolute title to all chattels which may be so sold and conveyed: *Provided always*, That all taxation, except of special taxes, shall be within the limit prescribed by the charter of the said corporation.

Sec. 6. *And be it further enacted*, That the said corporation shall have power to organize a fire department, and to appoint one or more engineers, directors, or other officers, for the superintendence and direction of the firemen, fire companies, engines, hose, and fire apparatus, at all fires or alarms of fires occurring in the said city, and also to pass all laws or police regulations which may be deemed necessary or expedient for the regulation, control, and management of all fire companies now existing, or hereafter to be incorporated or otherwise established, in the said city, or the members thereof, anything in any existing law or charter to the contrary notwithstanding.

Sec. 7. *And be it further enacted*, That the said corporation be, and it is hereby, authorized and empowered to pass all laws, ordinances, and regulations, which may be necessary to carry into effect the hereinbefore granted powers and every of them.

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was concurred in; and the bill was ordered to be engrossed for a third reading; it was read a third time, and passed.

CONDUCT OF COMMODORE MORGAN.

Mr. SHIELDS. As there are a few minutes left before the hour for the consideration of the special order arrives, I ask the Senate to take up the resolution submitted by the Senator from New Hampshire, [Mr. Hale,] in relation to Commodore Morgan, which was postponed yesterday at my request. I move that it be taken up at this time.

for the purpose of presenting the letter to which I referred yesterday.

The motion was agreed to.

The resolution is as follows:

"*Resolved*, That the Secretary of the Navy be directed to inform the Senate the number of days the United States razee Independence, the flag-ship of the Mediterranean squadron, commanded by Charles W. Morgan, was at sea after her arrival at Naples, on the 14th of September, 1849, until she sailed thence for the United States, on the 29th March, 1852; how many days said ship was at anchor in the bay or harbor of Naples, and how long at Spezzia, or other ports during that period; what portion of the aforesaid two and a half years was passed on shore, and how much of it on board ship by said Morgan; what is the estimated expense of a ship of the class of the Independence, properly officered and manned, per day or per year; whether said Morgan, without authority from the Department, while his ship was lying at anchor in the bay of Naples, chartered or employed a merchant vessel to transport supplies for his squadron from Spezzia to Naples, and whether the cost of such transportation has been charged to the Government by the order or approval of said Morgan; whether instructions were given to said Morgan by the Department, or by any bureau thereof, to practice his squadron in naval evolutions or fleet-sailing, and if so, whether said instructions were obeyed; whether he was directed to exercise his men in target-firing, and if so, whether he complied with such directions, and to what extent; whether there is any rule or regulation of the Department against naval officers transporting females, members of their families, or others, on board ships of war of the United States, and if so, whether Commodore Morgan, or any officer under his command, was guilty of a violation of such regulation; whether the broad pennant of Commodore Morgan was kept flying during the period of his command in the Mediterranean, or was at any time taken down, and if so, for what length of time; whether Commodore Morgan has been held to answer for disobedience of orders, or violations of regulations, or neglect of duty while in command of the naval forces of the United States in the Mediterranean during the past three years."

Mr. SHIELDS. My only reason for asking the postponement of this resolution yesterday was this: Lieutenant Nelson, of the United States Navy, sent me a letter in reply to the resolution, and there was some language in it which I did not like very well at the time. I thought some parts of it were a little inconsistent with the character of the Senate, and I did not like to present it in that shape. I regret to say that there is a portion of the letter that is still a little severe, and which I do not like; but the writer insists upon my presenting it. It is a justification of his old commander, who is now dead. He served with him in the Mediterranean, during the whole time intended to be covered by the resolution. The death of his late commander precludes the possibility of any inquiry now into his conduct, and his family and his friends being exceedingly anxious on the subject, as this originated in the Senate, and as it has had quite a wide circulation through the country, this officer, who was second in command I believe, or, at all events, who served under him during the whole of the time, over his own signature, stating that he is responsible as a man and officer for everything he says here, has sent me this letter, and begged that I would present it, as a part of my remarks, in reply to what he deems to be the imputations contained in the resolution.

Mr. HALE. I object to the reception of the paper.

Mr. CASS. Will the Senator allow me to say a word?

Mr. HALE. Yes, sir; but I object to the reception of the letter.

Mr. CASS. The honorable Senator from Illinois presents that letter as a portion of his remarks, but certainly, if it is to go upon our records and become a portion of them, I shall be one who will most strenuously oppose it—not out of any want of regard to Commodore Morgan. A resolution has been introduced into the Senate, and are we to receive letters, with respect to every person whose conduct may be before us, intended to defend him? Every Senator will at once see the impropriety of such a course. I must repeat what I have often said before on this subject, that if we proceed in this manner we shall convert the Senate into the receptacle of every representation that is made, *pro* and *con.*, with respect to every officer, civil, military, or naval. I object to it altogether. It will lead to very dangerous consequences.

The PRESIDENT. The Chair understands the Senator from Illinois to offer the letter as a part of his remarks, and as such, it does not go upon the Journal, but among the proceedings, included in the remarks of the Senator.

Mr. HALE. I wish to say one word, if the President pleases. It seems to me it is an anomalous proceeding for a Senator to rise and send to the Chair a portion of his remarks, in order that they may go on our records. If the Senator wants to publish the letter as a portion of his remarks, the public press is open. The Secretary is not the depositary of manuscript speeches of Senators. If the Senator wishes to publish the letter, I have no objection; but what I do object to is, that Lieutenant Nelson, or anybody else, should present that paper to the Senate. I object to its being received and made a portion of our doings, to go upon the records of the Senate. I do not wish to take up the time of the Senate, but I have abundant reasons for the objections which I present.

The PRESIDENT. It is the opinion of the Chair that the paper cannot be received as a part of the records of the Senate, but only as a part of the Senator's speech, which is a thing often done. The object of sending a paper to the Secretary to be read, is by way of relieving the Senator who speaks.

Mr. HALE. Oh! well, let it be read, then, if it is for the relief of the Senator.

Mr. GWIN. It is now within a minute of one o'clock, and I hope this matter may be postponed.

Mr. SHIELDS. I hope not; the letter can be read in a short time.

Mr. GWIN. But it will lead to a discussion of an hour. I am anxious to accommodate the Senator from Illinois; but I do not want the time which is devoted to the special order taken up by this matter. I therefore move to postpone its further consideration until to-morrow.

Mr. SHIELDS. It is no accommodation to me whatever.

Mr. GWIN. I desire to accommodate myself then.

Mr. SHIELDS. Here is a resolution which has been lying on the table for some time. My friend from Michigan has raised an objection to the introduction of this letter. Now, sir, I raise an objection to the introduction of this resolution, or any similar resolution.

The fault was in the commencement. Charges have been made, or what is equivalent to charges, upon an officer who is now dead. I want to know, therefore, if this letter cannot be received, inasmuch as it is not against the Senator from New Hampshire; but simply in vindication of the old commander of Lieutenant Nelson, whom he believes to have suffered a serious injury. I do not believe there is a single Senator who will object to the sentiments contained in the letter.

Mr. GWIN. I do not object to the reading on that account, but on another account. I am willing that the letter should be read, and a full discussion had at a future time.

Mr. SHIELDS. Very well; let it be laid over, then.

The further consideration of the resolution was accordingly postponed.

RAILROAD TO THE PACIFIC.

The PRESIDENT. The first special order is a bill to establish a telegraph line and overland mail to California and Oregon, for which the Senator from California [Mr. GWIN] has proposed a substitute.

Mr. RUSK. I hope the honorable Senator will for a moment withdraw that amendment.

Mr. GWIN. I withdraw it.

Mr. RUSK. This bill has been regularly printed and read, and it is now upon the calendar. No one, I believe, desires to discuss it. There is an amendment pending to that bill which provides for the construction of a railroad. The friends of the special order do not seek to have the action of the Senate upon it. When we made it the special order, we could not reach the bill proposed by the Senator from California in consequence of it not being printed. The object at the time was to make the bill "authorizing the construction of a rail-'road and branches, for establishing a certain 'postal communication between the shores of the 'Pacific and Atlantic within the United States, for 'the protection and facilities of travel and com-'merce, and for the necessary defenses of the 'country," the special order. I therefore move, by unanimous consent, that the bill which was made the special order be laid aside, and that which I have mentioned substituted in its place.

No objection was made, and the Senate proceeded, as in Committee of the Whole, to consider the bill designated by Mr. RUSK.

It proposes, with the view of securing the speedy construction of a railroad and branches, connecting the Mississippi river with the Pacific ocean, at suitable points, that the President of the United States shall be authorized to enter into contracts for the construction of a railroad from a point on Red river, at or near the southwest corner of the State of Arkansas, on the most direct and feasible route, and, if practicable, with a branch to the gulf coast, and through the State of Texas, to a point on the eastern boundary of the State of California; and from points on the western boundary of Missouri and Iowa, (not within the limits of any existing State,) on the most direct and feasible route to intersect that road; and with a track departing from that line at some point west of the Sierra Nevada, or Rocky Mountains, to some safe and commodious harbor in the Territory of Oregon. For this purpose the bill proposes to set apart for ever a right of way two hundred feet wide; and a quantity of land equal to the alternate sections for the space of forty miles on each side of the road and its branches, is appropriated to aid in their construction. And for the purpose of facilitating the extension of that road eastward from its terminus on Red river, on two lines, one through the State of Arkansas, and the other through the State of Louisiana, so as to connect at the Mississippi river with the several lines of railroads now in process of construction between the Mississippi and the Atlantic sea-board, a like quantity of land is to be granted to the States of Arkansas and Louisiana. And a like grant of land is to be made to the States of Iowa and Mississippi for the purpose of facilitating the extension of the road and its branches eastward from the terminus on the Missouri river, on two lines, the one through the State of Iowa, and the other through the State of Missouri, so as to connect with the principal lines now in process of construction between the Atlantic sea-board, the lakes, and the Mississippi river.

A like grant of land is to be given to the State of California, to facilitate the extension of each of the roads and branches westward from the eastern boundary of California to safe and commodious harbors, which shall be at all times accessible to the largest class of sea-going vessels navigating the Pacific ocean. These grants of land are to be made to the States of Louisiana, Arkansas, Texas, Missouri, and Iowa, on condition that they will commence the roads within their respective States within one year succeeding the first session of the Legislature after the passage of this act, and complete them within five years. California is allowed ten years for the accomplishment of her portion of the work. Another condition is, that the United States mail is to be carried over these roads forever free of charge to the Government; and also all troops, seamen, arms, munitions of war, military and naval stores, and all funds and property belonging to the United States, and all persons on official business in their employment.

Mr. GWIN. Mr. President, at the beginning of the present session I gave notice that I would introduce the bill now under consideration for the construction of a railroad to unite the Atlantic and Pacific frontiers of the Republic, and which, with its branches, shall reach from the great inland seas of the north and the forty-ninth parallel to the Gulf of Mexico, and the twenty-fourth degree of north latitude.

For advances in civilization, the age in which we live is without a parallel in the history of the world, and yet it continues to be eminently progressive. The human mind, not content with its astonishing triumphs in every department of natural science, and in the utilitarian arts, is still exerting its ceaseless and wonder-working energies further to unfold the secrets of nature, to seize and apply every newly-discovered principle in her kingdom that may aid in asserting the triumph of mind over matter. Public opinion, enlightened by the extraordinary discoveries of the last quarter of a century, is abandoning enterprises which a previous age had regarded as works of advanced civilization.

The old post-horse and post-chaise system of travel and mail communication is abandoned. The country track has yielded to the turnpike and *tram* road, whilst these in turn are everywhere giving way to the railroad, which, notwithstanding the progress it has already made, is yet destined to produce results to the well-being of

society, moral, mental, and political—to effect a revolution in our great agricultural and manufacturing interests, in our trade, domestic and foreign, that it is impossible for imagination to estimate or predict.

The enlightened nations of Europe, as well as America, are pressing forward in this march of improvement. The spirit of the age demands the utmost of human energies in this great work. Before this iron revolution of science, natural obstacles are vanishing; rocks are excavated, mountains cut in two, or pierced at their bases, valleys are leveled up, rivers spanned, and mind acting upon mind is now striving to effect new discoveries to hasten the speed of the steam-engine, and obtain still greater triumphs in the rapidity of transit and facilities of intercommunication.

The United Kingdom of Great Britain and Ireland is pierced and intersected in numerous directions by the most improved railways, and the iron horse, glowing under his fiery impulse, is there speeding his way by day and by night at the rate of twelve hundred miles in twenty-four hours. The Governments of Belgium, France, Prussia, Austria, Russia, and Italy, are alive to the importance of securing to their people the benefits of rapid transit and intercommunication, and are steadily pushing forward the great work of road reformation, whilst Spain, and even the Sublime Porte, have become aroused to the importance of the subject.

And what have our own citizens done in this respect by means of individual enterprise and State assistance? We have in the north the Albany, Buffalo, and Boston routes, the New York and Erie, the Michigan Central and Southern; then in the middle States we have the Pennsylvania Central, the Baltimore and Ohio, the Cincinnati and St. Louis. In the southern States the Virginia and Tennessee, the Cincinnati and Tennessee, the Alabama and Tennessee, the Gulf and Western Atlantic, the Central Georgia and Macon, with various branches direct and lateral, running to and from the Atlantic, the great Lakes, and towards the Gulf coast and the Mississippi river, besides the great Mobile and Ohio, and the Illinois Central railroad, the last two forming one chain running from the Gulf of Mexico on the south, to Lake Michigan on the north, and the others taking the direction generally from east to west.

These routes, actual and in progress, will form a magnificent net work of railways, stretching from Augusta, the capital of Maine, the extreme northeastern State of this Union, through New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North and South Carolina, Georgia, into Florida, through Alabama, into Mississippi to Louisiana, through Ohio, Michigan, Wisconsin, Indiana, Illinois, Kentucky, and Tennessee, and generally having their *termini* on or near the Mississippi river.

The extent of railroads now actually made may be set down at upwards of twelve thousand miles, almost equal to the extent of those in the whole European world, whilst the routes now in progress are about twelve thousand nine hundred miles, making a length already finished equal to about half the circumference of the globe, and with those under way equal to its whole circumference.

The surface of the American Union, thus improved by railways, is situated between the Atlantic ocean and the Mississippi river, or the meridians of nine degrees east and nineteen degrees west longitude from Washington, extending from the twenty-fifth to the forty-ninth degree of north latitude, embracing twenty-eight degrees of longitude and twenty-five degrees of latitude.

These giant enterprises, the most astonishing on record, have been undertaken and are carried on upon an invested capital, according to the census returns, of $672,770,000, and without a dollar from the National Treasury, yet with some liberality on the part of Congress in donations of land. The sphere of these operations embraces an area of 915,052 square miles, or 585,633,280 acres, with an Atlantic coast of 1,900 miles, and a Gulf coast of some 600 miles, from the southern cape of Florida to the mouths of the Mississippi.

This is what the energy of the American people has done, developing the remarkable fact, that in this great interwoven chain of iron railways they have, as it were, been moved by one mind and one purpose of stretching these routes over mountains, valleys, and rivers, from the Atlantic on the east, the Lakes on the north, to the Great West; and this they have accomplished with a perseverance against apparently the most insurmountable obstacles, and with an outlay of capital without a parallel.

Now, let us turn to another side of the picture, and see what remains to be done to carry out the great design of the American people in this system of improvement. We find that the surface yet to be improved by railroads is situated between the Mississippi river and the Pacific ocean, or the meridian of nineteen degrees and forty-seven degrees of west longitude from Washington, extending from the twenty-sixth degree to the forty-ninth degree of north latitude, embracing the States of Missouri, Arkansas, Louisiana, Iowa, Texas, California, and the Territories of Minnesota, Utah, New Mexico, Oregon, Nebraska, the old Northwestern and Indian Territories, covering a surface of 2,343,502 square miles, or 1,499,841,280 acres, with a sea-board on the Pacific of 1,620 miles, and a gulf coast on the south of about 600 miles from the mouths of the Mississippi westward, including the southern coast of Louisiana and Texas. Over this portion of our ocean-bound empire, having a coast, ocean, and gulf of 2,220 miles, and being two thirds of the whole territorial extent of the American Union, and within which are eleven twelfths of the public domain, the Government of the United States has done comparatively nothing, whilst our citizens, out of their own resources, have accomplished so much in that region of our country east of the Mississippi, and, as I have already shown, at a cost approaching $700,000,000.

I now bring before the Senate a project by which it is proposed that the Government shall do its part in the great work of establishing a permanent and enduring route of land communication between our ocean frontiers. The plan proposed requires that the main trunk of a great Pacific railway system shall commence at San Francisco, in California, and passing around the southern arm of the bay of San Francisco, through Santa Clara, San José, and in a northeast direction across the coast range of mountains, through Stockton, to a point nearly south of the source of the Stanislaus river, thence along the "foot hills" of the Sierra Nevada range and east of the San Joaquin river and Lake Tulares, to a point designated on the map as "Walker's Pass," thence eastwardly on, and near the parallel of 35° of north latitude to Zune, in longitude 32° west, across the Sierra Madre mountains by well known passes through which there are wagon roads now in use, to Albuquerque, a town on the east fork of the Rio Grande, and continuing east on said parallel to a point about thirty-five miles south of Santa Fé, in the meridian of 27° of west longitude from Washington; thence southeasterly to the source of Red river, and along the left or north bank of said river to FULTON, near the southwest corner of the State of Arkansas. From this great trunk railway a St. Louis branch will begin at a point nearly due south of Santa Fé, and taking a northeasterly direction will fall in with the road from Santa Fé to Independence, Missouri, at or near San Miguel, (a town on the Rio Pecos,) and keeping with said road as near as practicable to the town of Independence, Missouri, thence by the located roads in that State, to St. Louis, thus connecting at that point with the great eastern thoroughfares of the northern and middle States already made or in process of construction.

From this main or St. Louis branch at or near the point where it intersects the Arkansas river, a DUBUQUE branch is proposed to Council Bluffs or Kanesville on the Missouri river in Iowa, and thence across the middle of that State, in a northeasterly direction to Dubuque on the Mississippi river, connecting there with the great lake system of railroads already in operation, or in the process of construction.

From FULTON a branch will run northeastwardly through LITTLE ROCK and FRANCISVILLE, situated near the foot of the New Madrid swamp, to MEMPHIS, Tennessee, another important point of connection of what may be denominated the middle system of railroads, already completed, or in progress, from the Atlantic coast westward, and at the same time connecting with the southern system of routes. From the same point (Fulton) a NEW ORLEANS branch will run southeastwardly by the way of Alexandria and Opelousas, through the middle of the State of Louisiana, to New Orleans, so as to connect with the southern coast railways. This branch will intersect the Shreveport and Vicksburg (Mississippi) railroad, thus connecting with the middle system of southern routes, by way of Jackson, Mississippi, Selma and Montgomery, Alabama, to Savannah, Charleston, and Pensacola.

The TEXAS branch begins at or near the source of Red river; thence in a southeast direction to the source of the Colorado, and along the east bank of that river through Austin to Matagorda, on the Gulf of Mexico.

The OREGON branch will begin south of the source of Stanislaus river, in the State of California, and proceed thence northwardly near the "foot hills" east of the Sacramento river to its source; thence along the "foot hills" on the west side of the Cascade Range of mountains, crossing the Columbia river near Oregon City to Fort Nisqually, being a safe and commodious harbor at the head of Puget's Sound.

	Miles.
The whole length of this great route from San Francisco to Memphis is	2,000
From San Francisco to St. Louis	1,900
From San Francisco to Dubuque	2,015
From San Francisco to New Orleans	2,150
From San Francisco to Matagorda	1,800
And from San Francisco to Fort Nisqually, in Oregon	770
Making a total length in miles of	10,695

This aggregate length of routes will be formed by constructing the following main trunk and branches:

	Miles.
From San Francisco, via Fulton, in Arkansas, to Memphis	2,000
The St. Louis branch from a point on the main trunk, thirty-five miles south of Santa Fé, to St. Louis	915
The Dubuque branch from a point on the St. Louis branch, where it intersects the Arkansas river, to Dubuque	610
The Texas branch from the source of Red river, on the southern bend of the main trunk, to the source of the Colorado river, and thence to Matagorda bay, on the Gulf	535
The New Orleans route from Fulton to New Orleans	405
And the Oregon branch from San Francisco, in California, to Fort Nisqually, in Oregon	650
Total length of railroad to be constructed	5,115

The means proposed to construct this railway and branches, are a grant from Congress of public land to the States of Louisiana, Missouri, Arkansas, Iowa, California, and an appropriation for the construction of the road through the Territories, of an aggregate quantity of 152,400 square miles, or 97,536,000 acres; and this appropriation is to meet the expenses of a Pacific railway and branches of 4,400 miles, because from the aggregate length of 5,115 miles is to be deducted the TEXAS branch, inasmuch as the Government of the United States has no public lands to grant within the limits of that State.

Upon this point, I avail myself of the occasion at this stage of the proceedings to say, that although Texas will find a rich reward by her unaided construction of the road through her territory in the enhanced value of her public domain, and the development of her immense agricultural resources, and by eventually securing her a full share of our domestic and foreign trade, yet, as this railway is, to all intents and purposes, a POST ROAD, within the spirit and letter of the 8th section of the 1st article of the Constitution, delegating express power in Congress "to establish post offices and post roads," I think it but just and fair that she should be placed upon an equal footing with the public land States through which the Pacific railway will pass; and as we cannot give her Government lands within her limits, we should aid her in the construction of the road by the payment of money out of the National Treasury. I have no doubt of the constitutional power of Congress to

do so, and shall feel bound at the proper time to advocate and press upon the attention of the Senate the propriety and justice of such a measure.

Recurring, then, to the means provided by this bill for the construction of this Pacific railway, we find that the quantity of land proposed to be granted equals, as stated, 97,536,000 acres, which, at $1 25 per acre, the minimum price of the public lands, would amount to the sum of $121,900,000, for the construction of 4,400 miles of road, leaving out of the calculation, for the reason indicated, the Texas branch, which makes up the whole length of 5,115 miles for the main trunk and branches.

This sum will allow an average for constructing the road, of $27,700 per mile. We find that the actual average cost of railways through the United States, east of the Mississippi, according to the census report, was only $27,300 per mile. And it must be noted that this sum included the cost of the lands purchased for the track from private individuals, a material item of expense not incident to this railway.

It may be added further, that in the census report alluded to, $20,000 is set down as a reliable estimate for the expense per mile in the new States; and I have no doubt the improved facilities of construction will reduce the cost below this estimate; yet, even at that assumption, the provision now made would be something like $7,000 greater per mile than the cost reported.

Now, the great point is for the Government of the United States to take the initiative in this measure, and to enter upon it in earnest. At once the popular mind will be inspired with confidence of success—the public will and energy will be immediately concentrated upon it, and these yielding to no check, not dismayed by any obstacle, will surprise the world by the speed with which the work will be accomplished.

The bill now presented fixes the shortest and most feasible route, every mile of it having been explored, and over a considerable surface of which even now convenient wagon routes exist.

The reports of our Army officers and others, of explorations north and south and in the vicinity of its line, represent the country as remarkably level, with a fertile soil, well watered, a salubrious climate, with prairies and woodland, having an exhaustless supply of good timber and building stone, and every facility for this splendid enterprise, which, when carried out, will draw along it a living stream of emigration, developing the boundless agricultural and mineral resources of that distant Territory, dotting it with farms, villages, towns, and cities, and establishing in the heart of the great distant West, political strength to uphold and cement the principles of our popular institutions.

Having shown the general object in view, the means suggested for its accomplishment, and its entire feasibility, I will now explain the *instrumentality* proposed for its execution.

The nature of our confederated Union is such, that it becomes necessary, in this enterprise, for us to consider and respect the relative powers of the States and General Government, and to deal with each in proper regard to the constitutional scruples of many of our distinguished statesmen.

Having been educated in the State-Rights school of politics, I have ever felt, in the exercise of the powers of the General Government, the importance of avoiding the semblance of encroachment upon the reserved rights of State sovereignty, for in these is to be found the real strength of our institutions. It might be within the range of possibility, but far from probability, that the strength of the National Government might be tried by internal defection; the convulsions of faction are strained by the shock of external attack and violence from some mighty coalition of hostile powers; but should this ever occur, there is a recuperative power, thank God! in our State governments, and in the great body of our enlightened citizens, who uphold them both alike, which will ever infuse new vitality, strength, and energy into the General Government.

Recurring to the instrumentality proposed, it will be found that this bill authorizes the President of the United States to contract for the road and branches so far as they fall within the limits of the *Territories*, namely, the main trunk, (excluding the part in Texas,) to the southwest corner of the State of Arkansas, and the branches to the west boundaries of Missouri and Iowa, and from the north boundary of California to Puget's Sound.

It grants the right of way for the road and branches, and appropriates the alternate odd-numbered sections, or half the land within *forty* miles on *each* side of the same.

It grants to each of the States of Arkansas and Louisiana, for branches to connect at the Mississippi river with the railroads from the Atlantic sea-board, the alternate odd-numbered sections, or half the land, within twenty miles on each side of the route within their limits respectively.

To each of the States of Missouri and Iowa a like quantity is given for branch roads from the *termini* on the Missouri river to points on the Mississippi, to connect with the railways now in progress from the Atlantic sea-board, deducting the lands granted to Missouri for roads at the last session of Congress.

To California is conceded, on the same terms and conditions, alternate sections for *forty* miles on each side of this great Pacific thoroughfare, within her limits, authorizing also the selection of other lands to make good any deficiencies where the sections intended to be granted may have been heretofore sold, or otherwise appropriated by the Government.

It prescribes the conditions of grant, that the States shall, within *one* year after the first session of their respective Legislatures, *commence* the roads and complete them in *five* years from the passage of this act, allowing California *ten* years, or as much sooner as the connecting road and branches through the territory shall be completed. It stipulates that the United States mail, and all the United States troops, seamen, arms, and munitions of war, military and naval stores, and all funds and property of the Government, and all officials, shall be conveyed over the roads free of expense to the United States, which shall have the preference over all persons or bodies-politic, when in the opinion of the President the public interest requires promptness and dispatch. It stipulates that each State shall assent and comply with all of its terms and conditions, and Congress shall have the right, under specified and *protective* limitations, to regulate the charge for freight and passengers. It makes it the duty of the Secretary of War, under the direction of the President, to have the road located, and requires him to advertise six months for proposals for its construction within the *Territories*, and to contract for the same, to be completed in not exceeding ten years from the date of contract—to be delivered up to the United States with all the appurtenances in not exceeding *thirty* years from the date of completion, and incorporates the contractors for the period of the contract, and for five years thereafter. It requires the President to issue patents to the contractors for four fifths of the land they are entitled to, on the completion of a section of one hundred miles, the remaining one fifth to be retained as additional security for the completion of the road, and so on for each additional section of one hundred miles. It orders that the contracts shall stipulate for a certain number of miles to be finished each year, so as to complete the whole road in ten years, and as much earlier as practicable, the road and branches to be put in good repair by the contractors; and in case of a failure, to be judged of by Congress, the contracts to be annulled, and the road and lands to revert to the United States.

The bill further makes the road and branches the property of the contractors for the term of their contracts, reserving, as before stated, the right of Congress to regulate the tolls.

It declares, in case any State shall fail to accept the grants, that the Secretary of War, *with the consent of said State*, shall award contracts for the construction of the branches within its limits, on similar terms to those authorized by its previous provisions.

It provides further, that when under the contracts the road is surrendered to the United States, so much of it as may be within the limits of any State formed out of the present Territories, shall be granted to such State on the same terms and conditions as prescribed to other States receiving grants under the provisions already adverted to.

Finally, the bill orders that the road shall be constructed in the most substantial manner, of the best materials, with all the modern improvements, and provides for the appointment of commissioners, who, under the direction of the Secretary of War, shall take all necessary measures to protect the public interest, and to see that the terms of the contracts are fully and strictly complied with.

By this bill interference with State sovereignty is avoided. To the States is awarded the right to coöperate (and it is made their interest to do so) in this great public measure, whilst the General Government deals through its Executive with the subject in its own Territories, under the express authority of the third section of the fourth article of the Constitution, which confers the power on Congress "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." The facts already presented will show this to be the most profitable undertaking that was ever projected. That the lands proposed to be donated at the minimum price of $1 25 per acre, will give a round average of $27,700 per mile for the work, which is an excess per mile for its construction of $7,700 clear profit, over and above the average estimated cost of $20,000, as stated in the census report; this, indeed, being the actual cost per mile, including equipments of the Cleveland and Erie railroad, the stock for which is now commanding twenty-two per cent. premium; and it will be remembered that the latter work was constructed in a far more rigorous climate, and with greater obstacles than will be found over the greater portion of the Pacific route.

Looking further to the fact of the constant improvement in railway works, and the new and increased facilities of the operatives, growing out of their experience, and the inventive talent of our citizens, the estimate, with good reason, might be assumed at $17,700 per mile; and, in that case, there would be a clear profit, on the construction of every mile, of some $10,000. Add to this the increase in the value of the *land*-fund capital, which cannot fail to be greatly augmented by the additional value to the property which this great project itself will impart; for here we have fresh unculled lands, immensely rich in minerals and agricultural resources, while our experience has shown, even where this was not the case, as in the Illinois donation, by the act of 20th September, 1850, lands along the route which had been in market for thirty years and more, at $1 25, rapidly rose in value to more than $2 50 per acre, thus commanding a price equal to double the ordinary public land minimum.

In addition to all these considerations, let us examine the probable profits of the Pacific route, supposing that the parties constructing it had to pay up the full cash capital of $100,000,000, out of their own pockets. We set it down as a low estimate that 75,000 persons will go to and from California over this thoroughfare the first year, and that every year thereafter, for the whole period of the contracts, will add a large percentage to this number. But assuming this estimate, for the first and future years, and at $200 for each passenger, we will have the sum, per annum, of $15,000,000, giving an interest of ten per cent. on the capital invested, with five per cent. for repairs, from passengers alone, estimating nothing for freights. It is not to be doubted for a moment, that the largest part of the lands now proposed to be granted, will be disposed of in exchange for labor; and such lands becoming settled *pari passu* with the construction of the road, will yield a large additional amount of freight and tolls on the intermediate points, whilst in this way, the great object of settling the country will be advanced, and the value of the property donated immensely increased.

The importance, indeed the imperious necessity, of immediately commencing this line of railroad is every day pressing with greater force upon the attention of the country, and of the Congress of the United States. Every civilized nation has shown it, in practice, to be a governmental duty to open up and construct thoroughfares and highways, as indispensable to the public weal. The history of the world, past and present, is full of memorable illustrations. That mighty nation which once ruled the earth under its forms of royalty, republicanism, and of empire, has left enduring memorials of its wisdom and of its power, in nothing greater, in a material point of view, than its public roads. Augustus erected the *Milliarium Aureum*, a gilt marble pillar in the Forum, to mark the central point from which the great roads diverged from the seat of empire. Public works of this class, in charge of the censors and consuls in the days of the Republic, and of an

inspector-in-chief under the Empire, were constructed by the Roman engineers, at an enormous expense, and with such solidity that some of them are yet undestroyed, having stood the travel of twenty centuries. These great improvements connected the cities of ancient Italy, nearly twelve hundred in number, crossed the Alps, and penetrated the forests of the distant provinces, connected also the hundreds of cities in Gaul, Spain, and the African and Asiatic cities of the Empire, binding them all together from the center to the distant frontiers, as far up as the wall of Antoninus, in Scotland, in the fifty-sixth degree of north latitude. From that point a great national road, taking a southeasterly direction to the Imperial capital and to Jerusalem, formed a grand public highway, equal in its whole length to four thousand and eighty Roman, or three thousand seven hundred and forty statute miles.

These were not merely military roads for the transit of the Roman legions to points distant from the capital, but were used as affording facilities of intercourse for the transmission of governmental orders, and were in fact erected into regular postal routes, with stations and all the requisites to insure speed and regularity of transit. Such as I have described it was the great Roman thoroughfare which pierced mountains, passed over rivers, doubled nearly in length the main stem of the Pacific railway, although including the contemplated branches, it did not equal by more than one fourth the proposed great American highway.

Turning our eye from the distant past to the opening of the present century, we are struck with astonishment at the extraordinary genius and energy of the great Imperial Chief of France, who, after having dissolved the German Empire, defeated the combined Prussian and Russian armies, having fought the terrible battles of Eylau and Friedland, concluded peace at Tilsit, rushed, as the storm of war lulled for a season, to the French capital, and there, in the midst of the tumultuous agitation of the times, projected great works of internal improvement. He gave orders to Cretet, his Minister of the Interior, for the construction of canals from Dijon to Paris, from the Rhine to the Saone, and from the Rhine to the Scheldt; directed the sale of others, and the proceeds to be applied to new works; admonished his minister of the evils of delay—that wars and inefficient men will come, and the work will remain incomplete; that he had made the glory of his reign to consist in changing the face of the territory in the whole Empire; that these works were necessary to the interest and prosperity of the people; that we must not pass through this world without leaving traces which may commend our memory to posterity; requiring his minister in a single month to prepare all the details, forbidding him to ask for further time, and commanding him to summon to his aid the most skillful engineers and talent of France, so that at the commencement of the fine season, France might "present the spectacle of a country without a single beggar, and where all the population may be in action to cultivate and render productive" that "immense territory."

What might not have been expected from such an intellect, had he lived in the age of the application of steam as a locomotive power on land; and what would have been his triumphs in this nobler sphere of adding to the source of human happiness, had he, quenching the flames of war, vindicated and established popular sovereignty, and devoted his mighty energies to quickening all the elements of trade and commerce, diffusing the light of learning, and the blessings of civilization everywhere throughout the land! Then, indeed, he would have realized as to France, the boast of Augustus in regard to his capital, that he had found it of brick, and left it of marble, and at his name posterity would have risen up and called him blessed! What a lesson to legislators and to nations!

But we witness in the present day in European Governments, the progress of gigantic undertakings in internal improvements, which are destined to throw the history of the past into the shade. In Russia, an iron railway chain of communication, sixteen hundred miles long, is proposed, from Saint Petersburg, the capital of the empire, situated near the Gulf of Finland, to Odessa, on a gulf of the Black Sea, connecting the Baltic and Black Seas, and uniting, by way of Moscow, all the intervening cities, whilst England, alive to her commercial interests, is projecting new schemes for shortening connection with her great Anglo-Indian Empire.

For more than two centuries, all commercial and other intercourse between Europe and the distant ports of Indian and Southern Asia, had been carried on by fifteen thousand mile voyages around the Cape of Good Hope; but the advance of a British army from India by way of the Red Sea to the plains of Cairo in Egypt, there effecting a junction with troops from England against the French Egyptian expedition, established the practicability of a connected route in that direction of less than seven thousand miles. And now we find England with no less than three great routes communicating with India and China: one from Southampton through the English Channel, crossing the Bay of Biscay, through the Mediterranean to Alexandria in Egypt, thence by overland to Suez, down the Red Sea, through the Straits of Babelmandel, with a branch to Bombay and a direct route by Ceylon to Calcutta, and from Ceylon through the Straits of Malacca to Singapore, and thence up the China Sea to Hong Kong. There is also a regular monthly mail from London to Falkstone, Paris, and Marseilles on the Mediterranean, thence to Malta and Alexandria, taking the direction already indicated as to the residue of the distance; and then by the *German overland route* from London to Ostend, through Belgium and Austria to Trieste, on the Adriatic, and passing one of the Greek Islands near Athens, by the Ionian Islands to Corfu and Alexandria.

Instead of one hundred and fifty days, India by these routes is brought within about a month's postal distance of London. But not content with all these triumphs over space and time, a project is now engaging public attention, by which a new and more direct overland route by railroad is projected, which shall proceed from Calais by Ostend, to Cologne, through the plains of Augsburg, Lombardy, to Trieste on the Adriatic, thence in the valleys of Turkey in Europe, along the Euphrates to Bassorah on the Persian Gulf, through Persia, along the shores of the Gulf to Belloochistan, crossing the Indus, and thence to Calcutta; thus bringing the remote parts of the Empire within from a week to ten days of each other, and opening up to British trade new markets in Persia and Central Asia.

Such are the mighty projects of our great maritime rival for supremacy in the markets of the world. And shall this Government at this day pause and hesitate in prosecuting a work now so necessary to the interests of the American people? Look back upon our own history and what does it tell us? The first act of the Continental Congress, in 1775, was an ordinance "for establishing a post," requiring that "a line of post be appointed under the direction of the Postmaster General from Falmouth, in New England, to Savannah, in Georgia, with as many posts as he shall think fit." That system continued until 1782 under the Confederation, when a reorganization took place, and it was declared that "a continued communication of posts throughout the United States shall be established and maintained." Then the Constitution of the United States succeeded, speaking in a language too explicit to be misunderstood, devolving the duty upon Congress of taking charge of such great works of intercommunication as that now under consideration.

That distinguished statesman, Mr. Jefferson, from the infancy of the Republic, saw the necessity of exploring an overland route to the Pacific, and in his message of the 15th January, 1803, brought the subject to the attention of Congress, with a view to set on foot an exploration for a line of communication to the Pacific or Western ocean, and the result was the celebrated expedition of Lewis and Clarke. The project of eventually establishing this route, then seen in the shadowy distance in the dawning of our national existence, is now before us as a reality. Public meetings in different portions of the country, and some of the most distinguished statesmen of this age, have proposed and advocated the great measure of connecting the two oceans, whilst the press has raised its potent voice in its support.

The establishment of a great *postal* route for disseminating information over all of that vast surface in our territorial bosom, now shut out from the noblest privileges of our institutions, is a high constitutional obligation, the discharge of which we have no right any longer to defer.

But it is not only as a mere postal route, a great artery of internal communication for the dissemination of intelligence, the vital principle of our institutions, that we are called upon to adopt this measure; but it is as a means of *military defense* and security, and one, in that respect, of great public economy. Over the expansive surface of country through which this road will pass are numerous tribes and bands of savages, whom, in its present condition, the whole army of the United States could not keep in check, from the utter impossibility of a rapid transportation of troops from point to point, and the consequent inability to dislodge them from their mountain defiles and fastnesses. Look at the condition in which the peninsula of Florida was for years, and is at the present time. During the campaign of the British army in the Punjaub country, the expense of locomotion was so great that it was estimated that every soldier cost £150 sterling, or about $750, and of course a like sum to replace losses sustained by disease and in battle.

When we consider the cost of military transportation over such a surface in our interior, it will at once appear a measure of economy to establish this route, along which, and branching off at suitable points, will be located the necessary military posts and Indian agencies. As a means of *promoting the settlement* of the great interior, developing agricultural and mineral wealth, and of imparting activity to the *internal trade* of the country, it is a project of the highest consequence to the East as well as to the West. By this grand thoroughfare, when completed as contemplated according to the most improved system, both in the railway and the locomotives, the distance from the seat of Government, and from the great cities of the eastern States, to San Francisco, will be accomplished in from three to four days. Through this channel of communication will flow a continued stream of emigration peopling these great valleys. The cereal product of the country, as reported for the year 1850, in the two great staples of wheat and corn, is immense—the former at upwards of one hundred million five hundred thousand bushels, and the latter at near six hundred millions, and other grains in proportion. Who can estimate what the aggregate grain products of the country will be when the next period arrives for taking the census!

Our exhaustless soil, under the toiling hand of industry, will pour forth its cereal treasures, sufficient not only to support in abundance our own people, but to feed the famished millions of Europe and Asia.

With overflowing granaries, shall our farmers be left with their immense surplus to perish on their hands, when by this project the producer and consumer will be brought in proximity to each other? When completed, the valuable manufactures of the East, the importations of our rich foreign traffic will pour into the interior the luxuries of life, and all the elegancies and refinements of civilization, in exchange for the treasures of the earth—enriching every class of our citizens, and quickening all the elements of human industry.

As affecting our *foreign* commerce and trade, confided to the special care of Congress by the Constitution, this is a measure of the highest concern and in this respect deeply affecting the States fronting the Gulf of Mexico, and is of transcendent importance to the people of California. Look at the commercial position she occupies in respect to the other members of the Union and to Asia, the Japanese Islands, soon to be unsealed and open to our trade, to Central and South America, and to the Sandwich Islands, (which six hundred whaling ships visited in a single year,) besides other islands of Oceanica. With auriferous regions that defy exhaustion, with agricultural wealth, (the foundation of manufactures,) more valuable even than her mountain ridges of glittering gold, with harbors unsurpassed in the world, with a population full of enterprise, energy, skill, and activity in every department of the business of life, California, by the laws of her geographical and commercial position, is destined to draw within her golden gates the trade of Central and South America, with the rich traffic of the East; to hold the supremacy there, and be the great seat of commercial wealth and power on the Pacific ocean.

Is she to be left disconnected from the Atlantic slope and Mississippi valley, and isolated from the eastern and western States by an immense un-

peopled territory—a territory capable of supporting two hundred millions of people, but left as it were in a state of nature because the Government of the United States pauses, hesitates, or neglects an obvious remedy? Is she to be forced to keep up her connection with the elder sisterhood by a double sea voyage, and land passage through a *foreign country*, either by the Isthmus of Panama, or Nicaragua, or Tehuantepec, and that, too, by a violent deflection from a natural route, and at the hazard of interruption and separation in case of war, which at any moment may blaze out in Europe, and threaten and disturb our existing peaceful relations with that continent? Will the Government of the United States, forgetful of the admonition of Washington, take no precautions against the evils of war, which may come upon us when least expected, and by which California and Oregon may be blockaded and devastated by hostile fleets, and our trade cut off and destroyed? Shall our Pacific coast be left unaided and alone to battle single-handed with a common enemy, with the apprehension of being severed and permanently separated from the Union, were not the valor and patriotism of our people an eternal guarantee to the world that they would rally to a man, isolated though they may be on the Pacific shores, to uphold and defend our national integrity, supremacy, and indivisibility?

Does not the troubled aspect of European affairs admonish us of the necessity of instantly providing against these apprehended evils? And does not our great commercial interests demand that every facility should be extended to enable us to avail ourselves of the advantage of position, to seek first to enter and preoccupy the markets of Asia, and establish our claims to a full share, at least, of the trade of the eastern hemisphere?

Contemplating, too, our position politically, does it not behoove every one, of whatever party, to lay his sectarian principles aside and come up to this great work as an American, with singleness of purpose, scorning all sectionality, and looking at the common good of our common country, with a fixed determination that it shall be completed, and that, too, as rapidly as unrestricted means and human energies can accomplish it? Then add its great adjunct, the ELECTRIC telegraph, by which our people, with the rapidity of thought, will hold converse by the lightning from ocean to ocean, and there will be established a chain, binding together each member of this confederated Union, every link of which, whether in the social, business, or political concerns of life, will be united and welded together by a common interest, a unity of purpose, and a deep-seated attachment to our institutions, which will defy the convulsions of war either to weaken or impair. Then this mighty political fabric, resting upon the basis of human rights and the solid affections of our people, in all its noble and majestic proportions, commanding the admiration of the world, will stand through distant ages as an enduring monument of the wisdom of our form of government and of the triumph of popular sovereignty.

I have before me a map from the General Land Office, which has been prepared with great care and attention, showing the connection of this road with all the railroads in the United States, and I hope I shall be indulged in having it printed. There is no other map like it in existence, and I move that two thousand copies of the bill and map be printed for the use of the Senate.

Mr. BELL. I would inquire whether it is the intention of the honorable Senator from California to press this subject now, and continuously until it is brought to a decision?

Mr. GWIN. Yes, sir. I do not intend to give it up.

Mr. BELL. I thought from the honorable Senator's having made a motion to print the map to which he has referred, that he proposed to postpone the subject.

Mr. GWIN. No, sir. I do not want it postponed.

Mr. BELL. Gentlemen around me have asked whether it is proposed to take a vote to-day? I presume not.

Mr. GWIN. I should be very willing to take the vote now.

Mr. BELL. I presume that has not been thought of by many gentlemen, though I should be very glad myself if the Senate were in a condition to take the vote immediately on a question so important. Not that I suppose the provisions of this bill, as they now stand, can receive the concurrence of a majority of the Senate; but what I do mean to say is, that I regard the subject of very great interest. That is not only my view now; but it has been, in my judgment, a subject of the greatest moment from the time the treaty of Guadalupe Hidalgo was ratified by the Senate of the United States, to have some such communication between the Atlantic ocean and the Pacific ocean, if we intend to hold those possessions. But, sir, the provisions of this bill are so various, they are so important and require so much consideration, that while I think it is not possible to press them to an immediate issue, I rise for the purpose of inquiring whether it was not the intention of the honorable Senator, and of the friends of this measure, to press it earnestly upon every occasion, and continuously, until the Senate should be brought to a vote upon it in some shape or other?

Mr. GWIN. That is my determination. It is now the first special order, and has been taken up, and I hope we shall continue to act upon it. I would suggest that the bill be now taken up and considered by sections. I am prepared to accommodate the Senator in that way, but I am determined to press the question to a final vote.

Mr. BELL. I do not rise to enter into any argument in regard to the details of the bill, nor for the purpose of urging any general considerations upon the subject. I presume there is scarcely a member of this body who has not turned his attention to the importance and necessity of some such communication as the one proposed by this bill, the importance of the construction of a railroad connecting the States on the Atlantic with the Pacific coast, at the earliest practicable period. The mode in which it shall be done; the route that shall be adopted; whether it should have one or more branches; what should be its terminus on this side of the Rocky Mountains, and what on the other side, are questions rather of detail. The main object and features of the proposition, however, are such that every gentleman of the Senate must have settled upon, in his own mind; and that is, that the road must—I say must, and not ought to—be built at almost any cost that the resources of this country can bear; that the route ought to be ascertained and fixed upon and the work executed at the earliest date; and that the expenditure shall be considered at once as being likely to be very large, and yet necessary to be incurred. Although the expense may seem excessive even for the resources of this country, yet whatever it may be, if in addition to the land proposed to be set apart for the road, there shall be fifty millions of money, or one hundred millions of money required from the Treasury, such is my estimate of the necessity of this work, in order to hold the two extremes of the country together, that I think even that amount would be economical in view of many of the contingencies that may arise.

Contemplate the contingency of this country being precipitated into a war by the passions of the people being, either rightfully or wrongfully, roused on account of injuries or aggressions, actual or supposed, on the part of any strong maritime foreign Power. I believe every member I have heard speak on these questions has said that the honor of the country was always to be maintained at every hazard. Suppose that in order to preserve the honor of the country we should be precipitated into a war with either France or England, to say nothing of both combined, in the present condition of this country. Why a hundred millions expended now, before such a contingency may chance to arise, may save us two, three, four, or perhaps five hundred millions of expenditure which would be necessary to regain our foothold on the Pacific.

Has any gentleman ever reflected for a moment on what would be the cost to this country of maintaining a conflict with any of the powerful maritime States of Europe for the purpose of defending our territorial rights as they exist on the Pacific—with a coast of six hundred miles in extent—with not a fort, not a gun for its defense, with no lines or channels of communication except by way of the isthmus and around the cape, and that in the face of a vastly superior maritime Power?

Sir, I have thought a great deal upon the subject, and in my opinion it would require an expenditure probably of from three to five hundred millions of dollars to preserve our honor in those territories, and maintain our rights of sovereignty and jurisdiction, if we should be precipitated into a war, without some overland communication by railroad with California, either within our own territory or through the northern States of Mexico with her consent. I do not, however, mean to enlarge upon this; but I will repeat that in addition to giving all of the public lands adjacent to the route which may be selected for this road—for there is but one in which the country at large is deeply interested, and to them it is not of much consequence where the terminus east or west shall be—I say it would be economy, in addition to giving all the public domain which lies within the limits prescribed in the bill, to vote an additional sum of money, $10,000,000, $50,000,000, or if need be even $100,000,000, from time to time as the work may progress.

I did not rise for the purpose of saying even as much as I have said. My object was simply to express my view of the importance of the subject. In my opinion there is no question which can come before this Senate or before Congress at the present session, and there was none at the last session, or at any session since the acquisition of these territories so important—considering the position in which this country had placed itself—considering its rapid growth and extension of dominion, thus exciting the jealousy of foreign Powers—and considering the change in the passions of the people of this country, liable at any moment to be precipitated into a war with the most powerful nation in Europe, with a maritime Power ten times as great as our own. Such a state of things has arisen out of these circumstances that I consider there is no subject of more importance which can engross our attention than the present. I go further, and say, that if we do no other business during the present session of Congress except pass the appropriation bills, the whole time would be well spent in maturing this measure. I repeat, I rose for the purpose of expressing my earnest desire that the particular friends of this proposition—the gentlemen from the more western States, who have a local interest in it, and without whose coöperation I perceive that nothing is likely to be done—will follow it up until the Senate shall come to a vote upon it; and if they had been agreed before, we could have had something decided upon three years ago, but they were not agreed as to the termini of the road. I hope they will lose no occasion of pressing the bill to the full consideration and decision of the Senate, so that, if possible, it may reach the House, and receive the approbation of that body during the present Congress.

Mr. HAMLIN. Mr. President, I concur in all that the Senator from Tennessee has said in relation to the importance of this measure. In my judgment, it is equaled by no question which has been or will be presented to us for our consideration at this session of Congress; and I shall coöperate, with great cheerfulness, in urging this measure forward in connection with the Senator who has brought it before the Senate. Still I do not believe it is expedient or proper that we should now proceed to vote upon a measure which embraces in its details so many questions as are connected with the bill now before us. It will not be forgotten that there was a bill reported at the last session of Congress from the Committee on the Post Office and Post Roads. It will be remembered that the Committee on Territories reported another proposition, and it is also, I apprehend, within the knowledge of Senators, from the information which has been obtained from the public press, and from individuals who feel an interest in this matter, that there are still other plans to be proposed by which this work shall be consummated. It is a great work. What is the best mode of proceeding? Which of the various schemes is that which commends itself to the consideration of the Government in the greatest degree? These are questions which are practical, and must, before we vote intelligently, be settled in our own minds.

Now, I suppose that before we vote upon this bill, it would be proper that all these various projects should be fairly considered by the Senate, for the purpose of ascertaining, first, which offers the greatest security for rapid construction;—which offers the greatest security for a construction within any given period of time; and which offers the greatest amount of economy to the Government. These are questions which the Senator

from California has not discussed; nor was it proper that he should have discussed them. He has looked at this as a national question—one connected with our social relations, and with our commerce. But, before we vote upon the bill, I concur most fully with the Senator from Tennessee, that we should examine all its details. And while I am the last Senator who would interpose any objection to it, and while I am amongst those who will be foremost in urging this matter to a consummation, I trust that no vote will be pressed upon the Senate to-day. I hope there are gentlemen who will examine these details, and who will be prepared to present to the Senate their views at length; and if not, reluctant as I always am to address the Senate, I may be compelled to perform that task myself.

Mr. MILLER. Mr. President, I am in favor of the great object of this bill, and I think it should be made the leading measure of this session. I desire, as far as I have anything to do, during this session, with the proceedings of the Senate, that we should recall, if possible, the public mind from certain outside questions which have agitated us during the last few sessions—I mean foreign relations—and direct the attention of Congress to our internal affairs—to the great improvements, and to the great progress of the age at home. I shall, therefore, on all occasions, aid the Senator from California in pressing this measure on the consideration of the Senate; but I think if he were to urge it at this time, we should be proceeding without that information which is necessary even to vote upon the details of the bill, with anything like an intelligent view of the subject.

The Senator himself has made a speech to-day containing a great many interesting facts; and I have no doubt it will be the desire of the Senate to look into, and inform themselves in regard to them. He has also presented a map, showing the location and situation of the great leading railroad thoroughfares of the country, in connection, I suppose, with this great route to the Pacific. As one great question, and perhaps the most difficult question to settle in connection with this subject, will be in regard to the location of the route, we want information upon that subject; and before we can take one step with regard to the details of the bill, we ought to be informed in reference to the proposed points. I hope, therefore, that the Senator will consent to postpone the bill to some future day, and if he will name any day that will be agreeable to him, I shall move that it be postponed until that time.

Mr. GWIN. Mr. President, I will move that the further consideration of the subject be postponed until to-morrow. I wish to keep this measure before the Senate. It is now the first in order, and I am determined to press it to a vote. I have no very determined opinion in regard to the measure I have presented. I am in favor of any practicable plan of building a railroad to the Pacific. I have brought this bill forward, because I have examined the subject with a great deal of attention and care, and I thought this was a practical and practicable measure. I believe the road can be built on the route which I have indicated in the bill; I have no doubt of it. I have in my port-folio evidence which cannot be controverted, showing the practicability of the route: evidence from those who have traveled over it, from officers of the Army, from trappers, men who have been for twenty or thirty years examining that section of country. We have got on this route those passes through the mountains which we want. We have all the advantages for the main trunk of the road, which is the great object at least. I have evidence which I shall at a proper time submit to the Senate, which proves unquestionably that the road can be made on that route. All I want is to have action on the bill, and early action, by the Senate. I am not for pressing it to a vote to-day; but if gentlemen are prepared for the vote, I am, and I always have been prepared. I hope the Senate will act speedily. I am willing, however, to let the subject go over till to-morrow.

Mr. DAVIS. I suppose no member of the Senate will view this in any other light than as a measure of very great importance. I rise to say, for one, that I am gratified that it has been brought to the attention of the Senate. It seems to me that the time has come when our experience teaches us a lesson which we should not soon forget. We have been here for days discussing the terms and conditions of a treaty, and the manner in which it has been executed. Our attention has been hitherto directed to inter-oceanic communication through a foreign territory, which at all times, and under all circumstances, will be hampered with conditions and difficulties that tend to the obstruction of the enterprise. I have been, in my own mind, for a long time prepared to secure, by some means or other, intercommunication between the Atlantic and the Pacific coast upon our own territory; to have a highway of our own, which will be subject to no interference from any quarter whatever; and I am free to say, that I believe that to be one of the most effectual means which human ingenuity can devise of binding and uniting this Union together. Create a unity of interest, and you have a unity of feeling.

But, sir, this is a great measure—it is very grave in its character; and what I should desire, if I am called upon to vote, is to vote for the best means of intercommunication between the Atlantic and the Pacific. If a route is to be selected, I wish it to be the best route for commercial purposes, for trade and intercourse; and I regret that the Senator from California should have thought it expedient in his bill to indicate any route whatever. I wish to see this whole question entirely open for further investigation, exploration, and examination.

Why, sir, the honorable gentleman proposes to make some ten thousand miles of railroad, and so far as I understand, not one foot of it has been explored by engineers for that purpose. This does not detract from its merits, or its importance. It only shows the propriety of leaving this question to future investigation. Let us leave the question in some form, so that that location of a highway may be taken which shall best subserve the great interests of the country. For myself, I can have no feeling on this subject influenced by any local considerations. I have no motive but to go for the very best route which can be obtained.

While up, I will make another suggestion to the honorable member from California. I do not know that I heard the bill read correctly, and I watched his remarks to see if there was any notice of one point there; but the bill only provides, as I understood it, for the construction of a road, and nothing else. Let me tell my honorable friend that this does not begin to get a communication through the country. You want the equipments of a road; you want stations; you want watering-places; you want locomotives; you want all the means of intercommunication; and they will cost you one third of the whole expense. If they are not provided for in the bill, you will simply have a track; and when you get it, you will have nothing to put upon it in order to move. If that be so, it is a great defect in the bill, and one that must be remedied, for there should be some provision to secure the means of moving on the road when you obtain it.

I do not throw out these suggestions by way of objection. I merely wish to bring the attention of gentlemen to the subject, to show them that it is one of great magnitude; one of many details, and requiring very great and very careful consideration to secure it properly. I am ready to coöperate with the honorable Senator from California in doing that; but it is not to be done in a day. It requires care, and attention, and examination, to mature a subject of this kind.

Mr. SEWARD. Mr. President, although I have not been anxious to be heard early on this question, I am quite unwilling that the State from which I come, and the commercial emporium which is located within it, shall suffer a day's debate to pass, without giving utterance of a hearty concurrence in the solicitude which has been manifested from all parts of the House for the construction and the speediest possible construction of the Pacific railroad. I rise with that view, as well as for the purpose of expressing the thanks which are eminently due to the honorable Senator from California, who has brought the subject before us in a bill which, whatever may be its defects, is, considering the magnitude and the novelty of the case, so admirably digested; and for having presented the merits and importance of this great work of internal improvement in a manner so just, and I might say, corresponding to the magnificence of the work itself.

Sir, I have observed, in the prosecution of works of internal improvement, that there is much less difficulty in bringing the public mind and the minds of legislative bodies to the adoption of a favorable view of an enterprise, than there is in fixing the plan and the route for the prosecution of the improvement; and I see at once that these are to be the great difficulties which the present enterprise is to encounter in this body, and in the other branch of Congress. Those difficulties will probably disclose themselves in a more formidable shape than I have supposed, or than any of us have supposed. With reference to that point, I wish to be distinctly understood now.

I think that the estimate of the honorable Senator from California, of the cost of the construction of the road, is perhaps too light. He tells us it may be built for $17,000 possibly, and certainly for $27,000 per mile. I hope so; but when I consider that it is to be made, throughout its entire length, through a region at present uninhabited, it strikes me the requisite amount will be much greater.

Mr. GWIN. I did not state that as the positive expense. I said that this bill appropriated $27,700 for each mile, provided the land donated would bring $1 25 an acre; that is the provision of the bill.

Mr. SEWARD. I believe the iron for such a railroad would cost, at present prices, $9,000 a mile. I mention this for the purpose of saying that whether the road costs $27,000 or $47,000 a mile, or whether it is to be paid for in *land* or in *money*, I am in favor of it out and out, through and through, right out and straightforward, from beginning to end. And I know no other way in which we can properly approach it except by coming to its consideration with the fixed purpose of going through with it successfully to the end.

I hope I may be allowed to say that I believe the great difficulty consists in beginning. If nobody else shall offer a better plan than this, or another plan for our consideration, I am prepared to vote for this now. I am prepared to hear others propose their plans. I have no prepossessions in favor of this; but it strikes me to be a very good one to begin upon, and when we once begin with a determination to go through, we shall go through.

I hope, therefore, that the honorable Senator from California will insist upon calling up the bill to-morrow, that other plans, if there be any, will be offered, and that he will not suffer *foreign* relations, or *political* relations, or *party* relations, or anything else, to interfere with this project until it shall have gone through the Senate of the United States.

I confess, sir, that this is the proudest day except one, that I have ever seen in the Senate of the United States. The proudest day that I ever saw in the Senate was the day when that honorable Senator and another came into this body, representatives of an American State, on the shores of the Pacific ocean. It was the proudest day that I have ever seen in political life.

Next after it, I think, is this day, on which a Senator from the Pacific ocean does, what we all then foresaw would be done by Senators from those regions, call us up to the work of extending our communications to them, and our defense and protection around them and over them.

Mr. CASS. Mr. President, I think the expression of these general views will be useful, at any rate, whatever course the measure may take. I have already taken occasion to say that no man estimates the value of this road higher than I do; and, within the constitutional powers of this Government, all our efforts should be directed to its construction. But I foresaw then, and so stated,—and it is still more apparent now, and will be yet more apparent from day to day,—that there is danger of frittering away our strength on mere local questions as to the termination of the road.

With respect to the general idea of a railroad to the Pacific, I am in favor of it, and I shall vote for it most cheerfully; but I think I cannot vote for this bill as it is. It is entirely too magnificent for me. I want a road, and for the present I want one road, and only one road, for one is all we can get now The great object is to get a direct steam communication between the Mississippi and the Pacific. I do not care where you touch the Mississippi, because, when you get there, wherever you are, you will be in the center of the country, and you can go in a day, or two days, or three days, to almost any part of it. My object, there-

fore, is to get a direct road from the Pacific to some practicable point on the Mississippi, wherever it may be best. I do not know where the route should be. I have not the slightest idea in the world upon that point; at least I have not such an idea of the topography of the country as would justify me in voting in favor of a particular route. My own impression is this: that general provision should be made in the bill, in general terms, for the means by which the road is to be constructed, and then the details should be put upon the Executive, and the Executive, by a proper commission, to be appointed by the authority of law, should ascertain where the route ought to be, and the whole circumstances connected with it.

That is my view. I am totally unprepared to vote upon any particular route; and most assuredly it requires no spirit of prophecy to foretell that if you undertake to make now, what the honorable Senator from Massachusetts says are ten thousand miles of railroad, instead of making a direct route from the Mississippi to the Pacific, you will have an utter failure. It cannot be done. It is a great mistake to suppose that any such project can be accomplished now.

Mr. GWIN. The Senator will permit me to say that I only propose five thousand miles of railroad. There will, however, be ten thousand miles of travel.

Mr. CASS. If we can get a direct line from St. Louis or Memphis, to the Pacific, at a distance of two thousand miles, let us select that. Do not let us send off branches, then, in other directions, with no other apparent object than to gain strength. The bill has strength enough now in the hearts of the people; and such a course will, in my opinion, weaken the project: for many men would like to vote for the principle of the measure, who would not desire to see the public means diverted to favor a particular place. What the honorable gentleman from California wants, and what we all want, is to unite the Pacific with this part of the country. We do not want to diverge from one point to another, simply with a view of gaining favor for the route, or answering any local or temporary purpose. All we want is a great road to bind us together; and no gentleman can express himself more strongly upon that subject than I feel.

There are some constitutional questions connected with the construction of this road which will come up in the course of discussion, and they will require consideration; but the main object upon which we are nearly all agreed is the establishment of a road by means within the constitutional powers of this Government. And we should do it practically; that is, in such a manner that we can ascertain the proper direction, and the proper termini, and the proper mode. These are points, some of them, which must be regulated by statutory provision, and some, in my opinion, by Executive administration.

Mr. BUTLER. Mr. President, the great danger of this project, it seems to me, is its magnificence and grandeur. The idea of having a communication from the Atlantic to the Pacific ocean has its fascinations, no doubt; but I must be permitted to say that it also has its delusions. I have no idea that one generation should anticipate posterity. The project of the honorable Senator from California is a project which, perhaps, posterity, ten or twenty years from this time, may accomplish; but I must say that I cannot vote blindfolded upon such a proposition without some knowledge of my own. I have every confidence that he has given us in the bill the best route, because it has the sanction of his judgment and investigation. The admirable speech which he has delivered has convinced me that he has bestowed more attention upon this subject than any of us; certainly far more than I have been able to bestow upon it. But suppose, as has been intimated by the Senator from Massachusetts, it should turn out, when you build the road, that you have nothing but the iron and rails laid down; you would be like the man who built a mill, and when he went to turn it, had no water. I want something like a reconnoissance or survey; I want the opinion of responsible agents or commissioners, who may go out from this Government; and I want such information before me as will enable me to see how far we can embark in an enterprise of this kind. My motto, as I have often repeated it in this body, so far as regards this progressive age, is, *sat cito si tuto*. I should like to know, in the first place, whether we can embark in this enterprise with the certainty of accomplishing it.

But I do not mean to intimate that I shall vote for the bill, even if its practicability be established, because I have constitutional objections upon this point, which are well known to the Senate. I have, however, been in this body long enough to know that we have survived the Constitution, and that all projects of this kind are to be effected independent of the Constitution. If it is to be effected independent of the obligations of the Constitution, it resolves itself into a question of legislative discretion. Then let us have all the wisdom upon the subject—I mean the wisdom which the light of experience can shed upon it, and the light which intelligent men who may be employed to survey this route can give us.

It is possible that I may exert some influence over this subject by my vote, because if there be a difference between routes, or a difference as to one project over another, I may cast my influence one way or another. I may do so, and many of those who are situated in the same predicament with me may be compelled to do so. I have not the least idea of embarking in this discussion, but I think this is a measure which requires attentive consideration.

If projects are to commend themselves to us by their magnificence, this is a very great and grand one, and will immortalize the gentleman. I do not know, as I said before on several occasions, whether, after a while, we shall not have a bill introduced here to hasten the millennium, because that might be rather a grander project. I cannot undertake to commit myself to one or the other, but I have no idea of taking a vote upon the bill at this time.

Mr. RUSK. I hope the honorable Senator from South Carolina will reconsider his notion that this railroad will not hasten the millennium.

Mr. BUTLER. I do not think it will.

Mr. RUSK. I think it is perfectly practicable to be accomplished, and I think also that it is a duty which we owe to the citizens of California, to construct such a road, and I think it is proper as a precautionary measure in case we should have trouble with foreign Powers. It is eminently practicable. I have no idea but that upon the abstract question of the construction of a railroad from the Atlantic to the Pacific, there is a majority of both Houses of Congress in favor of it. I believe that there has been for the last four or five years a majority, whenever a practicable project should come before us, who would be in favor of it. But we split upon the route. Here is the difficulty which we must surmount. As a matter of course, the representatives of each State will look to the locality which will most benefit their particular section of country; and hence, divisions of counsels arise upon that point. I do not see that that difficulty will be obviated by the suggestion of the Senator from Michigan, [Mr. CASS,] that the selection of the route be left to the Executive. The very same influences which are brought to bear upon Congress, will be brought to bear upon him, and will embarrass him in the selection of a route, so that it will be a very difficult matter for him to decide upon the proper route for the construction of the road.

In reflecting upon this subject, one thing has suggested itself to my mind as most important. The Government cannot build this road, because it would require an immense expenditure, and perhaps no practical result would come from it. It must be left, then, to private enterprise. It will require a vast amount of capital. I think the Senator from California [Mr. GWIN] has put his estimates entirely too low. I shall be satisfied to see such a road built at a cost of $35,000 per mile from the Mississippi to the Pacific ocean. It will take an immense amount of capital, and if you will throw open as far as possible the choice of the route to those who will construct the road and invest their money in the work, requiring suitable guarantees that it shall not operate as a monopoly injuriously, that will be the best place which they will select; because they, as a matter of course, will select the point where they can make their investment most profitable by the transportation of passengers and freight. That will be the point where injustice will not be done, and if particular local interests are not to be regarded, that will be the most suitable location for the route.

Another difficulty which presents itself, is the want of means to construct the road. There are vast differences of opinion among honorable Senators upon this subject. The honorable Senator from California and myself believe that the land upon the route will pay for it. I am not sure that our anxiety to have the road constructed does not furnish us with some facts upon the subject. I feel very anxious to have a road constructed, and the Senator from California is, perhaps, still more anxious, because he is more directly interested in it. These are things that ought to be considered. It is before the Senate, and it is a very important measure, and we cannot move until we agree on some means by which we can get over the difficulties connected with the location of the road. There must be something done upon that subject so as to avoid the difficulty which will arise on account of the differences of opinion as to the particular locality of the road.

Then, in the next place, we must look to the means necessary for the purpose of constructing the road; and then it is important that we should look to guarding the road against becoming a great monopoly which may be injurious in its effects. These things require mature reflection. Some persons believe we had better have the road constructed by a company. The proposition of the honorable Senator from California is, that the different States shall construct it. I can see difficulties in that. They will have particular locations or points to which they will wish to have the road tend, and many difficulties will grow out of that. I hope, therefore, that the Senate—and that was my principal object in rising—will take up all these different projects and examine them, with a view to practical action, and that we will keep this matter before us from day to day, together with the suggestions as to amendments to, or substitutes for, the bill, until we shall agree upon something which promises to accomplish the great object.

Mr. DAVIS. I would ask the Senator from Texas if he did not intimate his intention, a few days ago, to propose an amendment?

Mr. RUSK. Yes, sir.

Mr. DAVIS. I would be glad to have that brought forward, so that we may see it.

Mr. GWIN. If the bill is postponed until to-morrow, to-morrow being private bill day, it will come up on Monday as the regular order, and in the mean time the various propositions can be looked into. I am not tenacious about my particular bill. I want to have the object accomplished. I stated that the value of the land, at $1 25 an acre, would be $27,700 a mile; but I think that it will be worth more than that. The road will make the land more valuable. That was my statement.

I hope that the proposition which I made to print two thousand extra copies of my bill will be agreed to, so that we can have it as the basis of our action on the subject. That is what I wish; and I hope the Senator from Texas, and other Senators, will bring forward propositions to amend it. I do not pretend that mine is the best one. It is the best in my judgment, but I may be mistaken. I know the route is practicable, and I have given my views on the subject, with no wish to deceive the Senate. My object is to keep the measure before the Senate until it is acted upon—until we mature a plan, and adopt some one of the propositions which may be submitted, as I believe the majority of the body are for establishing a road between the Atlantic and Pacific. I now move that the further consideration of the subject be postponed until to-morrow, and that two thousand extra copies of the bill be printed for the use of the Senate.

Mr. RUSK. I desire, with the permission of the Senate, to lay on the table an amendment which I propose to offer, and ask that it may be printed.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) If there be no objection, the proposed amendment will be ordered to be printed.

There was no objection.

Mr. MANGUM. I desire to inquire of the honorable Senator from California if there have been any copies of this bill printed and laid upon the tables of Senators?

Mr. GWIN. Yes, sir.

Mr. MANGUM. I have not one.

Mr. BELL. I would suggest that there are other projects before the Senate which should also be printed. There is the project of Mr. Whitney,

which has been presented to the consideration of the Senate for three years past. It will be but fair to have all these measures before us; and if they are not printed, I move that they be printed.

Mr. RUSK. Mr. Whitney's bill was reported from the Committee on the Post Office and Post Roads at the last session, and the usual number of copies was printed, though I believe they are quite scarce, and it might be well to print it again.

Mr. BELL. It is suggested that they are not to be had. I move, therefore, that the usual number of that bill, and also of the bill reported from the Committee on Territories at the last session, be reprinted for the use of the Senate. I will not move the printing of an extra number.

The PRESIDING OFFICER. If there be no objection, it will be so ordered.

There was no objection.

Mr. BORLAND. I have but a word or two to say. No one can approve more highly than I do this object. No one can rejoice more than I do that it is before the Senate with a prospect of doing something for the accomplishment of the great work of connecting the Mississippi and the Pacific ocean. There is a better prospect now than ever before that something will be done. The subject has been before us for several years, and several projects have been presented to us; and I think it is but just to the Committee on Public Lands of this body to make a statement with regard to them in connection with it.

Nearly five years ago this subject was referred to them. Various propositions were before the Senate for the construction of a road, and that committee, on three different occasions, reported bills for the accomplishment of the very object which seems now so desired by Senators, and so necessary to enable them to form a correct judgment upon the question. They reported three several times, that instead of adopting any particular route as proposed, our topographical engineers should be employed to explore and survey the country between the Mississippi river and the Pacific ocean, with a view to ascertain the shortest and best route for the construction of a railroad. That matter was urged upon the Senate over and over again. Now we see the difficulties that surround us for the want of that very work which might have procured for us the knowledge without which we are unable to act understandingly.

We all desire the road, and no one more than I do. The constituents of no Senator are more directly and deeply interested in this work than mine, and no one will go further than I will for the accomplishment of it. But we shall have to consider the subject very carefully before we adopt any one route, in order that we may have more accurate information than we now have, since we certainly have not enough information now to enable us to select any one to the exclusion of all others, and we have many routes pressing upon our attention.

Mr. HAMLIN. I have been requested to present another bill in relation to this matter, in which some of our citizens are interested; and I ask that it may be printed, that we may consider it in connection with the other bill. It is prepared by some citizens of New York, and is in the form of an act. I hope it may be printed with the other bill.

The PRESIDING OFFICER. If there is no objection, the bill will be received and printed.

No objection was made, and the bill was ordered to be printed.

Mr. GWIN. I renew my motion to postpone the further consideration of the bill until to-morrow, and that two thousand extra copies of it be printed for the use of the Senate.

Mr. BADGER. How can you have two thousand copies of it printed by to-morrow?

Mr. GWIN. It will not come up to-morrow.

Mr. BADGER. Why then do you say "to-morrow," which is private bill day?

Mr. BORLAND. It will make it come up on the first public bill day.

Mr. BADGER. Move, then, to postpone it until the first public business day. I move to postpone it until Monday.

The PRESIDING OFFICER. Does the Senator from California modify his motion?

Mr. GWIN. I wish to postpone the bill until to-morrow, with the understanding that it will not come up until Monday.

Mr. BADGER. I withdraw my motion.

Mr. BRADBURY. I desire to inquire whether, if we postpone the bill until the map is printed, it will not be so late a period that we will not be able to act upon it at this session?

Mr. GWIN. No, sir.

Mr. BRADBURY. I desire to know how soon the map can be printed. I would like to have the opinion of the chairman of the Committee on Printing on the subject.

Mr. BORLAND. I cannot say, for myself; but I learn from the Senator from California that arrangements can be made, and perhaps have been partially made, by which the map can be furnished early next week.

Mr. GWIN's motion was agreed to.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 13, 1853.

The House met at twelve o'clock, m.

The journal of yesterday was read and approved.

The SPEAKER. The first business in order is the consideration of the motion to recommit the bill to prevent frauds upon the Treasury.

Mr. LANE. I ask the unanimous consent of the House for leave to introduce, and have referred to the Committee on Ways and Means, the following resolution:

Resolved, That the Committee on Ways and Means be requested to examine into the reports, accounts, and vouchers relating to the expenses incurred by Simpson P. Moses, Esq., collector of customs at Puget's Sound, in the Territory of Oregon, in rescuing from captivity the passengers and crew (American citizens) wrecked in the vicinity of Queen Charlotte's Island, by which accident said crew and passengers fell into the hands of the savages inhabiting said island, with leave to report by bill for the relief of said Simpson P. Moses, or otherwise.

Mr. LETCHER. I object.

Mr. LANE. I desire only the reference of the resolution, and would appeal to the gentleman from Virginia to withdraw his objection.

Mr. LETCHER. I would withdraw the objection cheerfully, were I not satisfied that if I did there would be a number of similar requests that other resolutions might be introduced, and I had as well make objection to the gentleman as to some one else.

Mr. STANLY. Does the consideration of the bill for the prevention of frauds upon the Treasury take precedence of the call upon committees for reports?

The SPEAKER. It is the first business in order during the morning hour, because it is an unfinished report.

Mr. DARBY. I ask the unanimous consent of the House for leave to submit a memorial of a convention of citizens held in the city of St. Louis, Missouri, praying for a grant of land to aid in the construction of a railroad west of the Mississippi river, from New Orleans to the central region of Minnesota Territory.

Mr. LETCHER. I am compelled to make the same objection to this memorial as I did to the resolution of the Delegate from Oregon.

Mr. DARBY. I would ask as a favor that the gentleman withdraw his objection. I have not troubled the House much, and do not intend to; and I now only ask the reception of the memorial, and its reference to the Committee on Public Lands.

Mr. LETCHER. The gentleman can as well present it under the rules.

Mr. DARBY. It is a memorial to which I particularly desire to call attention, and to give a particular reference; and if objection had not been made, my object would have been accomplished before this time. I trust the gentleman will withdraw his objection and show me this courtesy which other members of the House have so kindly extended towards me.

[Cries of "Withdraw the objection!"]

Mr. LETCHER. I will withdraw my objection to the introduction of the gentleman's memorial as well as to the introduction of the resolution of the Delegate from Oregon, [Mr. LANE,] because I cannot make a discrimination between the two.

Mr. LANE. I then ask that the resolution I have presented, and which has been read at the Clerk's desk, may be adopted.

Mr. STANLY. I object. The Committee on Ways and Means have already too much to do.

Mr. LANE. Then I will move that it be referred to the Committee on Commerce.

Mr. STANLY. I object to that also.

Mr. DARBY. I now move, as objection has been withdrawn, that the memorial, the purport of which I have stated, be referred to the Committee on Public Lands.

The question was taken, and the motion was agreed to.

CLOSE OF DEBATE.

The SPEAKER. The Chair understands that a resolution was submitted, previous to the adjournment last evening, for the termination of debate in the Committee of the Whole on the state of the Union, on the bill to suppress the circulation of small notes as a currency in the District of Columbia, in five minutes after the consideration shall again be resumed, and that the previous question has been demanded. The question now is, Shall the demand for the previous question be seconded?

The call for the previous question was seconded, and the main question was then ordered to be put.

The question was taken, and the resolution was adopted.

RETIRED LIST.

Mr. GORMAN. I now renew the request I made yesterday morning, that the bill of the Senate, now upon the Speaker's table, providing for a retired list in the Army, be taken up and referred to the Committee on Military Affairs. It is usual to refer all important cases to committees so soon as they come from the Senate, and I trust no objection will be interposed to my motion. Unless the bill is now referred, it will have but little chance of being acted upon at this session.

Mr. LETCHER. I object.

Mr. HENN, from the Committee on Enrolled Bills, reported back as correctly enrolled the following joint resolution; which thereupon received the signature of the Speaker:

A joint resolution for the appointment of Regents in the Smithsonian Institution.

COMMITTEE ON MILITARY AFFAIRS.

Mr. WILCOX. I have risen to what I deem a question of privilege. I ask to be discharged from the Committee on Military Affairs, and I will occupy a few moments in giving the reasons why I make the request.

The SPEAKER. The gentleman can indulge in discussion only by unanimous consent.

Mr. WILCOX. I hope the House will indulge me. I was summoned by the chairman of the Committee on Military Affairs to attend the sittings of that committee on Tuesday and Friday of each week. In pursuance of that summons, I have presented myself regularly at the appointed time. Up to the present time a quorum of that committee has not met for the transaction of business. I feel unwilling that the public shall hold me responsible for the proper discharge of business, which it is impossible for me to discharge without the co-operation of the members of that committee. Important matters have been referred to that committee by the message of the President of the United States, by the report of the Secretary of War, concerning the Territories of Utah, New Mexico, and Oregon. Many important matters have also been referred to that committee from the Senate; and in fact, the table of the Committee on Military Affairs is groaning beneath the weight of business referred to them, and which, up to the present time, has not been taken into consideration by it. What will be the result, sir, if the committee fail to examine and report on the matters referred to them? It will amount to this, a virtual repudiation of every matter referred to them. At the next meeting of Congress a new committee will meet there, and looking over the journals and proceedings of this committee, they will see matters referred to it, which had not been examined and reported upon, and they will take it for granted that the business referred had been repudiated by that committee. Hence, I am unwilling that any opprobrium shall attach to me by the failure of members of the committee to meet. I therefore most respectfully ask the Speaker of the House, that he will excuse me from serving upon that committee.

Besides the reasons I have already stated, it takes two hours of my time to attend the meetings of that committee, which I could devote to the transaction of business before the Departments of the Government for my constituents.

The SPEAKER. Shall the gentleman be discharged from further service?

[Cries of "No!" "No!" "No!"]

Mr. STANLY. I object to it for the reason, that the gentleman has proved himself a diligent member, and I do not know who we can put there that will do better.

Mr. HAVEN. I hope that the request of my colleague upon the committee will not be granted by the House, for without his aid and that of two or three others of the committee, we will never be able to get even a minority of the committee together. [Laughter.]

Mr. GORMAN. It is due to the House and the gentleman from Mississippi that I make a statement. It is known that the honorable Mr. BISSELL, of Illinois, who is chairman of the committee, by a very agonizing affliction, is confined to his bed, and he could not be present at the meetings of the committee. He has not been able to be there any time during this session. However, a majority could be there without him. I have been there myself every day, with perhaps one or two exceptions, since this Congress commenced. There are some gentlemen upon that committee who never go there. I would move, if I had a chance, to turn them off and keep my friend still there. [Laughter.]

Mr. FREEMAN. I would suggest to my colleague that it would be very wrong to drive off the active members of that committee from the public service. It strikes me it would be proper to exclude those who show an unwillingness to do any work. Excuse them, as it appears they have more important business to attend to.

Mr. MEADE. Serve an attachment upon them.

Mr. FREEMAN. With the aid of Colonel GORMAN, the gentleman from New York, [Mr. HAVEN,] and a few other active industrious men, the business before that committee can be disposed of. I hope that my colleague will reconsider his motion, and that some action may be taken to organize the committee, so that all the work will be done.

Mr. STEVENS, of Pennsylvania. I hope the gentleman from Mississippi [Mr. WILCOX] will withdraw his application. I have the honor, as the Speaker well knows, on account of my great military services, of being placed upon that committee. [Laughter.] I have for the last four weeks been there for some three quarters of an hour each morning, and I must confess have always met the gentleman from Mississippi [Mr. WILCOX] there alone. The other gentlemen staid away, perhaps, because from their want of experience they would be of little service, except in making a quorum. I also felt it my duty to go on account of the opposite reason. [Laughter.] I hope that the gentleman will withdraw his request, and that we will try once more to get them together.

Mr. WILCOX. I insist upon my request to be discharged.

Mr. FLORENCE. I desire to ask my colleague, and no doubt he will answer me, in what war he served, because I suppose the Speaker desired to vindicate the truth of history, by appointing him a member of the Military Committee?

Mr. STEVENS. My colleague knows that I was placed on that committee on account of my examination of the fortifications, counter-vallations, and circum-vallations—the gentleman knows the terms—at Christiana. [Laughter.]

Mr. FLORENCE. I am entirely satisfied. [Laughter.]

The question was then taken upon Mr. WILCOX's motion, and it was decided in the negative.

So Mr. WILCOX was not excused.

FRAUDS UPON THE TREASURY.

Mr. KING, of New York. I call for the regular order of business.

The SPEAKER. The first business in order is the motion to recommit the bill to prevent frauds upon the Treasury.

Mr. STEPHENS, of Georgia. The bill under consideration, Mr. Speaker, is reported by the Select Committee of this House appointed to investigate the Gardiner claim. I do not see any connection which it has with the business submitted to that committee. It seems to be before the House anomalously. I suppose it must have got here by unanimous consent. The committee certainly had no authority from this House to report it. So far as the bill, therefore, is concerned, I shall treat it as an independent measure before this House, as if reported by any individual, and I shall not connect its merits with the investigation of the Gardiner claim, for I see no legitimate connection between it and the subject referred to that committee for investigation. The bill, I believe, is in substance the same as one introduced into the Senate by a Senator from North Carolina, [Mr. BADGER.] In the remarks which I shall make upon its merits, I shall necessarily, in noticing the topics of discussion which it has given rise to, introduce some of the subjects which the gentlemen have alluded to in the progress of the debate. The gentleman from Ohio, [Mr. OLDS,] for instance, who, I believe, addressed the committee first upon this subject, and whose speech is reported for the first time in the Globe of this morning, seems to consider the report of this bill by that committee as confirming his original remarks in relation to the Secretary of the Treasury, Mr. Corwin. I do not so consider it. I do not consider that there is anything in the report of the committee which can justify such an inference. I take this occasion to state to this House that I think the investigation and report of that committee fully and completely exonerates the Secretary of the Treasury from that improper connection with the Gardiner claim which the gentleman from Ohio [Mr. OLDS] seemed to entertain the opinion or suspicion that he held. I notice the following in the report of the gentleman's remarks, and I shall be brief upon this point:

"Mr. Speaker, I will not say that at the time I offered the resolution calling for this committee of investigation, that I had not a settled conviction upon my mind, that Corwin must have known, or at least have strongly suspected, the fraudulent character of this claim. That conviction has not been changed, but greatly confirmed, by the evidence reported by the committee. But, sir, notwithstanding these convictions, I had no purpose of making any such charge in the resolution, knowing the utter impossibility of proving a man's thoughts or impressions. Nothing in the language of the resolution, or in *the remarks with which I accompanied the resolution*, can be construed into such a charge."

Now, sir, I have the remarks of the gentleman as made before this House, in which he says:

"Through the investigation of Congress, their Galphinism has been exposed; and Crawford, loaded with the execrations of the American people, has received his passport to perpetual infamy. But Corwin still remains unwhipped of justice. True, sir, his catspaw and accomplice in the fraud, is loaded with irons, and is branded by public sentiment as a perjurer and forger; but the master-moving spirit, the head and brains in the fraud, through the negligence of this House, is still permitted to control the Treasury of the United States."

Mr. OLDS. That is a quotation from a speech made in July upon entirely another question, in which I referred incidentally to the Galphinism of the country. It had no connection with this resolution whatever.

Mr. STEPHENS. These were remarks made by the gentleman in connection with this subject. Is he prepared now before the House to say that he takes this expression back?

Mr. OLDS. No, sir. I say that the remarks I made at the time I offered this resolution, show that I intended to make no such call upon the House for investigation.

Mr. STEPHENS. Then, if the gentleman does not take them back, or modify them, he should make them good. They were remarks made by him in this House and to the country before this committee was raised, as one of the reasons for raising the committee, though they may not have been made at the time the committee was ordered. Now, then, the gentleman ought either to sustain this charge before the House, or modify it. I must consider it as a part of the remarks made by him, which induced the House to raise the committee. This was the gist of the accusation. It is not my purpose at all to discuss the merits of the Gardiner claim; that is, whether it was founded in justice, or whether it was a fabricated fraud from beginning to end. That was not even before the investigating committee. I am free to state, however, from reading the report of this investigation carefully, I concur with the other gentlemen, that my impression is that it is fraudulent. But the subject referred to that committee to investigate, and which, so far as their report is concerned, is now before the House, is his (Mr. Corwin's) "*improper*" connection with the claim; because the very resolution offered by the gentleman, and passed by this House, stated that—

"Whereas a strong suspicion rests upon the public mind that fraudulent claims have been allowed by the late Mexican Claim Commission, with one of which it is suspecte that Thomas Corwin, Secretary of the Treasury, has been *improperly* connected: Therefore,

"*Resolved*, That a committee, consisting of five members of this House, be appointed by the Speaker, to investigate all the facts touching the connection of the said Thomas Corwin, the present Secretary of the Treasury, with the said Gardiner claim; what fee, if any, he was to receive for his services as agent or counsel for said Gardiner; what interest, if any, other than his fee interest, he purchased and held, either directly or indirectly, in said claim, and the amount paid, or stipulated to be paid therefor, and condition of such purchase; at what time he ceased to act as the counsel or agent of said Gardiner; to whom and for what consideration he disposed of his fee interest; to whom and for what consideration he disposed of his one fourth interest in said claim."

The only question, therefore, so far as the report of that committee is concerned, is, whether the Secretary of the Treasury was improperly connected with the claim of which there was a suspicion of fraud attached to it. That is the only question. Well, sir, does not this report of the committee, raised at the instance of the gentleman from Ohio, sufficiently show to us and to the country that there was no *improper* connection at all on the part of the Secretary of the Treasury with the claim? The gentleman from Ohio attempts to argue not; and the whole of his speech seems to be a sort of censure upon the committee that was raised at his own instance; at least it so struck me. He seemed to be grumbling at their conclusion. What is that conclusion of the committee on the real point in issue? Here is their language:

"No testimony has been adduced before the committee proving, or tending to prove, that the Hon. Thomas Corwin had any knowledge that the claim of the said Gardiner was fraudulent, or that false testimony or forged papers had been or were to be procured to sustain the same."

The testimony before the committee shows conclusively that Mr. Corwin had no interest whatever in this claim after he became Secretary of the Treasury; and the committee say that there is no evidence showing, "*or tending to show*," that even as a private citizen, in his vocation as an attorney, he knew anything at all of the fraud. There is nothing then connecting Mr. Corwin *improperly* with the claim. But, says the gentleman, the committee have reported this bill. Now it is to that point that I wish to speak briefly, because this bill was not reported by any authority conferred on the committee, nor does it touch the case before them. I do not intend to let the gentleman escape in this way. I call the attention of the House to this fact, that if Mr. Corwin, as Secretary of the Treasury, had been improperly connected with this claim—as was intimated in the original charge—there would have been no necessity at all for any special bill to reach his delinquency.

Sir, the founders of our Government, in one of the first acts passed by Congress after the organization of the Government, sufficiently protected the Treasury of the United States in this particular. If Mr. Corwin acted improperly, you need pass no new law for others; you can now prosecute him, and visit upon him the punishment he deserves; you need not let him pass from defect of the law. I call the attention of the House to the act creating the Treasury Department in 1789 to show that there is no necessity for this bill to meet any future case similar to that then before the committee. I read the eighth section of that act:

"SEC. 8. *And be it further enacted*, That no person appointed to any office instituted by this act shall, directly or indirectly, be concerned or interested in carrying on the business of trade or commerce, or be owner, in whole or in part, of any sea-vessel, or purchase by himself or another in trust for him any public lands or other public property, or be concerned in the purchase or disposal of any *public securities* of any State or of *the United States*, or take or apply to his own use or emolument or gain, for negotiating or transacting any business in the said Department other than what shall be allowed by law; and if any person shall offend against any of the prohibitions of this act, he shall be deemed guilty of a high misdemeanor, and forfeit to the United States the penalty of $3,000, and shall, upon conviction, be removed from office, and forever thereafter incapable of holding any office under the United States,". &c.

Sir, if Mr. Corwin, as Secretary of the Treasury, was "improperly connected" with this claim against the Treasury, as charged, here is a law of the country that has been in existence since 1789, under which you can proceed against him, and by which you can not only displace him, but disgrace him forever. If, therefore, the committee undertook to recommend this bill to meet Mr. Corwin's case, I beg to inform them, and the gentleman from Ohio, that their work is but an act of super-

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erogation. Here is a law quite sufficient for them or him to act upon. My object, sir, is to disconnect this bill, upon which I intend to speak hereafter, entirely from the matter and case referred to that committee. But I wish to premise a few remarks upon the facts reported by that committee, and which have been commented on in the debate.

Now, Mr. Speaker, these facts are, that Mr. Corwin, while he was a *Senator of the United States*, was employed as an attorney before the Board of Commissioners to adjudicate claims against Mexico in behalf of Gardiner, a claimant, and that he also took an interest by assignment in his claim. These facts are admitted. The gentleman from Tennessee, [Mr. JOHNSON,] argued yesterday that it was *malum in se;* that it was *wrong in itself* for a member of Congress to appear as an attorney for fee or reward before any such tribunal. Is that gentleman right in that position? If he is, Mr. Corwin did something wrong in itself, and deserves censure. If not, he is certainly above the reproach of even the most fastidious in what he did. Let us refer to our history on this subject. Every gentleman who hears me knows that it is usual, and has been from the beginning of this Government, for Senators and members of this House to appear as counsel for fee and reward or compensation before the Supreme Court of the United States, to appear before any of the courts of the Union, and before commissioners appointed to adjudicate claims similar to these—before just such tribunals as this was. Nay, more; I believe that even anterior to our Revolution, Dr. Franklin did not consider it *malum in se* to receive fees and act as agent for several of the colonies before the proper departments of the Government of the mother country—Great Britain. He was the regular agent, first of Pennsylvania, then of Massachusetts, and of Georgia, perhaps others of the colonies. I maintain, therefore, that there is nothing in the thing itself which, by the general consent of our countrymen, even the wisest and the best, is, or has been considered, wrong in acting as counsel or attorney, or agent for proper compensation in such a capacity. I believe it is a historical fact, that after the Jay treaty, there was a commission instituted for the adjudication and settlement of claims provided for in that treaty, and that the ablest attorneys in the country at that time, appeared before the board thus constituted—amongst them members of Congress.

Again, at the close of the last war with England, under a convention, a similar board was constituted. The celebrated Mr. Pinkney, of the State of Maryland, a distinguished member of this body—an honor to his State, an honor to his country—a man whose eloquence was perhaps never surpassed—a man whose integrity never was questioned, so far as I know,—he, sir, appeared, as I am informed, before that commission and argued important cases as attorney for parties in interest. Who ever heard his conduct questioned? Who ever heard an imputation cast upon his character, for thus advocating the rights of those who sought the aid of his legal counsel? I give him as one instance amongst others. But further still. I have a paper before me from which it appears that the Hon. George M. Dallas, while he was Vice President of the United States, received fees for prosecuting, with others, a claim before one of the Departments,—others were engaged with him in the same case, members of Congress of the highest character and the strictest purity. How can men thus employed be said to be employed against the Treasury of the United States? In most instances the only question is, who among several claimants shall receive a particular fund?

But, sir, I come down even to this very tribunal before which Senator Corwin agreed to appear as counsel. He was not the only member of Congress who appeared or agreed to appear there as counsel. And if there was anything *improper* in his connection with it, was it not so with other members of Congress? Mark you, I do not allude to these facts by way of casting imputations upon any of the gentlemen whom I shall name, but I do not intend, sitting here in this Hall, to permit a false impression to go before this country, or that Mr. Corwin, who is a distinguished lawyer, shall be made a scape-goat of by any gentleman upon this floor. Mark you, that the whole charge *sustained* is, that Mr. Corwin, *while a Senator*, was employed by Dr. Gardiner to represent his claim as one amongst other *lawyers* before the Board of Commissioners. For the testimony is conclusive that, perhaps, knowing the statute of 1789, which I have read, if from no other consideration, he disconnected himself from that relation before he assumed the position of Secretary of the Treasury.

But the gentleman from Ohio [Mr. OLDS] says that the transfer of his interest was all a farce. Well, if so, the issue is between him and his committee. They do not report that it was a farce. The witnesses are unimpeached, and they swear that it was *an unconditional transfer* of all his interest in the claim. I am bound, therefore, so to consider it. Well, then, sir, was Mr. Corwin the only distinguished Senator who appeared as counsel before that Commission? I have not seen the docket, but I speak from information which has been communicated to me, and which I have no doubt is correct. I am informed that the honorable Senator from Missouri [Colonel BENTON] appeared in a case there. I am informed that the honorable Senator from Louisiana [Mr. SOULE] appeared in a case there. I believe that the honorable Daniel Webster appeared as counsel there in two cases. The honorable Mr. BRIGHT, a Senator from Indiana, appeared there also in four cases, as I am informed. Whether those gentlemen appeared for fee or reward, I do not know. I come now to this House; and mark me again, that I do not intend to cast any imputation upon any gentleman, because I do not consider myself that there was any wrong in it. There was no law against it, and it had been the custom of the country from the beginning for men holding such positions to act in such capacity. But I am informed that the honorable Mr. HOWARD, of Texas, appeared before that Commission in behalf of some claimants. The honorable Mr. EWING, of Tennessee, who was then, but not now, a member of this House, appeared there as counsel, or represented some party, as I am told. The honorable Mr. PHELPS, of this House, did the same thing.

Mr. PHELPS. The gentleman from Georgia is mistaken in relation to that matter.

Mr. STEPHENS. Well, sir, I shall be glad to be corrected. I only speak from information received from others, as I have stated.

Mr. PHELPS. Permit me, then, to make a brief statement. When the Mexican Commission assembled, one of my constituents handed me his memorial, with the request that I would send it to the Commission with the proofs accompanying it. I did so send it. My constituent then desired me to appear before the Commission, if necessary, and attend to the case. Action was had upon the case, but I never appeared before the Commission. I only inquired of one of the Commissioners what action had been had upon it. I received no compensation for it whatever. I attended to the business as I would attend to any other business of my constituents. But I did not appear as counsel in the case.

Mr. JOHNSON, of Tennessee. I wish to ask the gentleman from Missouri this question: Did you ever receive any compensation for your action before this Commission?

Mr. PHELPS. I did not appear before that Board at all, nor did I receive any compensation for filing the memorial.

Mr. HOWARD. As the gentleman from Georgia has mentioned my name in this connection, I desire to state that two constituents of mine sent cases to me which I filed before the Board. I presented them, however, without having exacted or received any compensation.

Mr. STEPHENS. Then I understand the gentleman from Texas did appear before the Board, but received no compensation for it.

Mr. HOWARD. I will state that I received petitions and papers made out, some of which I corrected, and one petition I redrafted, signed them as counsel, and presented them before the Board, but I never received any compensation nor charged any. I have never charged or received any pay for business to which I here attend to before the Departments.

While I am up, however, I will state that I do not myself consider an appearance before such a board as anything improper in itself. I agreed to this report, however, because I think it is better for the representatives and the country that members of Congress should not appear before such commissions, and not because I considered such an appearance as anything improper in itself. I shall take occasion to state my reasons for this opinion before the debate closes.

Mr. STEPHENS. What I was informed, then, is true, that these gentlemen did act as counsel before this Board. Mr. PHELPS did not appear before the Board in person, because it was not necessary; but as the papers presented by them were for constituents, they did not charge or receive any compensation for their services. On that point, as I stated, I was not informed as to either or any of the gentlemen named by me.

Mr. PHELPS. I did not appear before the Board at all. I merely handed in the papers.

Mr. STEPHENS. The gentleman did not appear, because it was not necessary. I presume there is no question that neither of these gentlemen received any compensation for their services. But the gentleman from Texas very correctly states, in my opinion, that it was nothing unusual or improper in members of Congress in appearing before such a board as counsel for compensation.

Mr. STANTON, of Tennessee. Will the gentleman allow me to make a statement?

Mr. STEPHENS. Be brief.

Mr. STANTON. I do not know whether the gentleman from Georgia has my name as appearing before this Commission or not, but I did appear there, in one case for a constituent of mine, who employed me as his counsel, and paid me for it. I drew his memorial and presented it before the Board. I did not think the Commission allowed him half as much as he was entitled to, but he paid me in accordance with his own proposition.

Mr. STEPHENS. I did not have the gentleman's name; and it is very possible other members of Congress appeared about whom I have no information.

Mr. STANTON. I will state further, Mr. Speaker, that I have attended to business for my constituents and others, a thousand times, and never received a cent for my services, and never would receive a cent, although money has been repeatedly offered me.

Mr. STEPHENS. It seems, then, that the two gentlemen, Mr. HOWARD and Mr. PHELPS, happened to have the papers of constituents, in consideration of which, they did not charge them for their services; but if the papers had been presented by others, according to the statement of the gentleman from Tennessee, [Mr. STANTON,] and of the gentleman from Texas, [Mr. HOWARD,] they would have considered it nothing improper to have appeared before that Commission any more than to have appeared before the Supreme Court as counsel.

Now, my point was, to show from the whole legislative history of the country, that such a connection has never been deemed improper, that there is no legislation against it. This I think I have established. The only Department of the Government in relation to which such a connection is prohibited by law, is that of the Treasury. That is the only Department in which public officers are prohibited from holding such a relationship. In the War Department there is no law against either the head of it or any subordinate being interested in a claim, or prosecuting a claim pending before the Treasury. In the State Department there is no such prohibition, or in any other Department. Here, and in this connection, I beg to call the attention of the House to the in-

vestigation which was had in 1837, before the memorable committee of Mr. Wise. You recollect, perhaps, that amongst other charges of impropriety preferred by Mr. Wise, was, that the heads of some of the Departments were speculating in the public lands, and with having interest in, and with prosecuting claims against the Government. The position of General Jackson, and of the party then in power, of which he was emphatically the head, was, that *there was no law against it*, and that if the head of any of the Departments, except the Treasury, or any of the officers of the Government, had a claim against the Government, or was disposed to invest his money in speculating in the public lands, that it was no well-grounded charge against the integrity of such officer. I have the report of that committee before me, with the remarks of Mr. Wise upon it. These papers, I think, fully sustain this position.

The Secretary of State was charged at that time with being largely interested in a land company in the State of Alabama. Witnesses were put upon the stand and questioned as to that fact. The question was so modified and restricted as to make the witness answer whether the Secretary of State had been interested in any land speculations "contrary to law." There was no law against it, and the question was not permitted to be propounded touching the matter without this modification. The inference was clear that he was, or if he was, that it was his legal right to be so interested.

Well, sir, with this distinct allegation as to the Secretary of State, what said General Jackson to this committee? "If you are able to *point to any 'case* where there is the slightest reason to suspect 'corruption or abuse of trust, no obstacle which I 'can remove shall be interposed to prevent the full-'est scrutiny by all legal means." This he said to Mr. Wise. He had specified the speculations of the Secretary of State in public lands. But that was no case of "corruption and abuse" in the opinion of General Jackson, because it was not against any law.

General Jackson held that there was no corruption in the charge, if true, because there was no law against it; and his friends in this House on the committee would not allow the question to be put.

And I say, sir, you must first define crime before you go hunting criminals. You must first proclaim by law what is wrong, and what you intend to hold up to public odium, before you can hold Mr. Corwin, or Mr. Anybody else, up as a public malefactor for breaking your law. Your law must first be made and published. Where there is no law, there is no transgression. Therefore you cannot rightfully charge the Secretary of the Treasury, as a Senator of the United States, with being "improperly" employed as counsel before the Board of Mexican Commissioners, which is the issue in this matter, until you declare by law that a Senator shall not be so employed, and until he then shall have rendered himself obnoxious to the provisions of your law. When all this takes place, his conduct will fall within the range of those acts which are called "*mala prohibita*," and not even then within that class denominated "*mala in se*," unless there be positive corruption.

But, sir, there is another matter brought into this discussion, to which I beg the indulgence of the House for a short reference to.

The investigations of Mr. Wise's committee were connected with other matters besides speculations in land, and one of which has been alluded to in this debate. It was freely admitted by the then Secretary of State—Mr. Forsyth—that he had been employed as attorney, and was so employed while Secretary of State, to prosecute against the Government what is well known as the Galphin claim. General Jackson knew, and the country knew, that Mr. Forsyth admitted this. It was not denied. He was Secretary of State, and admitted the fact before the committee. Here is his evidence. Yet no one censured Mr. Forsyth; and no one then dared to impugn his honor for it. That then and now stands above reproach—because it was his legal right to do so. The Secretary of the Treasury was by the law of 1789 prohibited from prosecuting or becoming interested in claims against the Government. But, as I have said, there is no law prohibiting this in the heads of the other Departments. Now, I beg the indulgence of the House, by way of digression, to allude somewhat to this claim, which others have associated with "Gardinerism," as they call it. I addressed a former House upon the same subject. But there are many here who I doubt not know but little of its merits. The gentleman from Ohio, [Mr. OLDS,] in his speech, alludes to "Galphinism," or "the Galphins." He says, that after the decease of the lamented Taylor, when Mr. Fillmore entered this Hall to take the oath of office, followed by the Cabinet of General Taylor, Corwin heard the murmur from the galleries, "there come the Galphins," which reached every part of the Hall.

Well, sir, the gentleman may have heard such a murmur, but I did not, and never heard of it until I saw it in his speech.

Now, sir, I intend to say something on this Galphin claim. Gentlemen may, if they choose, continue to cry out Galphin fraud; but they shall not do it without the exposure which is due to truth, as well as right and justice.

Mr. Speaker, I am here to-day to defend that claim against any one who may be bold enough to assail it. I hold myself ready to say and maintain that there was no fraud in the Galphin claim. I saw this claim alluded to in a paper the other day as "the Galphin swindle." Now, Mr. Speaker, I ask this House to hear, not as partisans, what I have to assert in vindication of the truth in this matter. I feel it my duty to do it, in vindication of people whom I know, descendants of Galphin, and men who under him have received their just rights—rights which were long delayed at at the door of public justice. Some of these gentlemen reside in the State of Georgia and some reside in the State of South Carolina—as high-minded, honorable, and chivalrous men as ever trod the face of the earth; men who would scorn to take a dollar from the Government that was not justly their due. Some of these parties I know—and I will vindicate them, and I will vindicate the truth of history, whenever they or their conduct in this matter are assailed or maligned. There was, sir, no fraud in the Galphin claim. In the maintenance of what I say, I shall assert facts and nothing but facts, which are uncontroverted in the past and incontrovertable for all time to come. And when I am done, I want to see the man rise up here in the face of these facts and say that there was fraud in the payment of that just debt.

These are the facts: In 1773, the Cherokee Indians and the Creek Indians in the State of Georgia, were indebted to certain traders to a considerable amount of money. They had nothing to pay it with. This was while Georgia was a British colony. These Indians agreed to cede to the Crown of Great Britain a certain amount of land—two millions and a half of acres, or thereabouts—in consideration of which Great Britain was to take the lands and discharge their debts to these traders. The treaty was made in 1773. On the 2d May, 1775, a certificate was made out by commissioners appointed according to the treaty, to George Galphin for £9,791 15*s.* 5*d.* The war of the Revolution broke out in 1776. The land was not sold by Great Britain, nor the debt or any part of it paid; and in 1777, Georgia took possession of the lands. She gave them as bounty to the soldiers who would go and occupy them. She used them in our national defense in the war of the Revolution; and George Galphin, in that day, did your country and the infant colony of Georgia most essential service in preventing the Indians from making inroads upon the defenseless inhabitants of that unprotected frontier.

I speak from history and the records of the country—Galphin was true to the cause of his country and her struggle for independence. And I state here, that the only section of our State which was not at some period of the war taken by the British, was where settlements were made on those lands, in the county of Wilkes. There the British flag has never waved since the declaration of independence. Nay, more: a fort erected by these settlers, bearing the name of Washington, on the site of the present town of Washington—the name continued from that day to this—was the first place, as I believe, on this whole continent, named in honor of the Father of his country. This, I say, I believe. I do not state this as a historic fact; for there may have been some place so called at an earlier date; I think not, however; and until the contrary be shown, I shall claim this honor for my State, and the people of the county of my birth.

But to proceed with my narrative. The State of Georgia, in 1780, passed an act binding and obligating herself to pay to any of those Indian claimants who were true to the country, the whole amount awarded to them by the commissioners under the treaty, and for which the lands were bound in equity and good faith, with interest at six per cent. George Galphin was one of them. By her act she assumed this debt of Galphin for £9,791 15*s.* 5*d.*, with interest at six per cent. per annum. Did not this solemn act create a just debt? But Galphin died in 1780, very soon after the act passed.

Sir, George Walton, a signer of the Declaration of Independence, from the State of Georgia, testified himself, in 1800, that he knew George Galphin, that "he enjoyed his friendship in his lifetime," that he was a patriot, and had rendered essential services to the country. Mr. Walton further stated that he was on the committee in the Georgia Legislature that framed the law of 1780, providing for the payment of these claims; that he was chairman of that committee, that he drew the act, and well recollected "*its motives, its sincerity, and its intention of justice*," and that it was an honest debt, due to that "venerable man." Did George Walton want to "*swindle*" anybody? Did George Walton *plot fraud against your Treasury?*—George Walton the man who risked his life for the liberties you enjoy? Was he sneaking about to get his arm into the Treasury? Sir, he was made of sterner stuff, and you may howl against the Galphins as long as you please, but while I stand upon the testimony of the man who stood by this country in its darkest hour, I shall feel no dishonor in defending the rights of that man whose friendship he enjoyed while living.

I say there never was a juster claim against the State of Georgia than this. She pledged to him the amount of his debt, which was £9,791 15*s.* 5*d.* in sterling money, and six per cent. interest. Well, the old man died a month or two after—the venerable old man, as the patriot Walton called him. I saw some time ago, a toast given at a dinner, with this idea—that the history of this Administration would be written in the blood of the Galphins. And who, sir, was Galphin? He was one of the most distinguished men living on the frontiers of your country, a man who stood by the patriots who won your liberties and achieved the independence of your country. I state further that his daughter was married to John Milledge, of Georgia, a man whose name the capital of our State still bears in the city of Milledgeville, and we do not feel dishonored by this perpetuation of the name of a man who was thus connected and allied with George Galphin! And whoever wants the history of this Administration written in the blood of the Galphins, wants it written in the blood of some of the purest and noblest men who periled their all for the rights and liberties of their country.

Now, sir, this claim was presented to the Legislature of the State of Georgia in 1793 by his son. The committee to whom it was referred, reported in favor of it. And it was presented to several Legislatures after that up to 1826; but it was not paid, though almost every committee to whom it was referred reported in favor of it, as a just debt against Georgia. Do you ask why it was not paid? I will tell you, in my opinion, simply because they did not have the money. For the same reason, I fear that most of our States will fail to pay their debts when the question shall be between refusal and very high taxation.

Well, why was it presented here? I will tell you. In 1790, the General Government passed what is known as the assumption act. That is, the General Government brought into a general account the contributions of each State, either to the general defense, or the particular defense of the common country, during the common struggle of the war for our national independence. At this time Galphin was dead, and Georgia had not paid this £9,791 15*s.* 5*d.* She had pledged herself to pay for the lands she had taken possession of and disposed of, but she had not paid the debt, and did not bring it into the account on the settlement under the assumption act of 1790. The settlement under the assumption act was thought for a long time in Georgia to be a final settlement, and that she could not go behind it. Well, in 1832, the State of Virginia came before Congress, and presented claims to a large amount under these circumstances: She stated that just before

the war closed, she had by law promised to all officers of a certain grade and class certain annuities for life, if they would enlist in the service of the United States during the war. These men had never been called into service before the termination of the revolutionary war. But they had enlisted, and claimed their pay according to contract. Virginia resisted, and finally the courts compelled her to pay those claims, and the State then came and asked Congress to reopen the assumption act of 1790, or at least to pay these claims upon the principles of that act; because she said that her liability to officers was of the same nature as the advances for the particular defense that she had made, and which had been brought into the assumption act of 1790. Congress, in 1832, assumed the liability and paid it; and in doing that, Congress did right; because Virginia, in 1790, did not know that she was liable, or would be liable for those claims. You paid under that act nearly a million of dollars, perhaps more.

Now, then, the representatives of Galphin came and asked the General Government to pay them £9,791 15s. 5d., with interest at six per cent.; which was the liability or debt of Georgia, incurred for the particular defense of that part of the common country not included in the act of 1790, just as they did the Virginia claims, and identically upon the same principles of equity and justice and right. In 1836, the Senate passed a resolution requesting the President of the United States (General Jackson) to write to the Governor of Georgia, to get all the information in his possession upon the subject. In January, 1837, General Jackson so wrote; and Governor Schley, of Georgia—a political friend of General Jackson—answered the inquiries soon after, and amongst other things said, "*that there is justly due to the 'heirs of George Galphin the sum of nine thousand 'seven hundred and ninety-one pounds fifteen shillings 'and five pence sterling money of Great Britain,*" &c., &c.; "*and the only question now is, whether Georgia or the United States ought to pay the money.*" The claim, like many others, remained for several years; but in August, 1848, Congress passed a law requiring the Secretary of the Treasury "to examine and adjust" it, and "to pay the amount 'which may be found due to Milledge Galphin, 'executor of George Galphin, out of any money 'in the Treasury not otherwise appropriated;" and in pursuance of that law the principal and interest of that debt was paid. That, sir, is Galphinism!—its height, its length, its breadth and depth. There it stands in all its naked deformity. Look upon it, examine it, scrutinize it, and tell me where is the "*swindle*," and who have been the "*swindlers*." When the case was last presented to Congress, whose hands was it put into? Into the hands of George McDuffie, of South Carolina. Who presented it? George McDuffie! Did he want to commit a fraud against your Treasury? Was he a swindler? It went before a committee, and who constituted that committee? Messrs. Ashley, Breese, Berrien, Westcott, and Webster. They made a report to the Senate, and spread it before the country in 1847. The bill passed the Senate. There was no formidable opposition, because the grounds upon which it was presented and sustained were too clear, as I believe, to be avoided. Here was the act of Georgia obliging her to pay that debt—as solemn a debt as ever was contracted. It was for particular defenses, and was put upon precisely the same grounds of assumption as the Virginia claims, and no one could escape the force of the reasons.

In 1848 it was before the same committee in the Senate. That committee was composed of the same gentlemen who constituted the former committee, with one or two exceptions—a committee of able and practical men. They reported again in favor of it. Were they the "Galphins" who perpetrated this monstrous fraud? The distinguished Senator from Michigan, [General CASS,] when Secretary of War, said that there was no doubt but that the claim was just, and the only question was, which should pay it, Georgia or the United States. Was he one of the swindlers?

Early in 1848, the bill came into this House, and was laid upon your table. The report was printed, and the case referred to a committee of this House. I have before me the names of that committee, and they are all honorable men, and unimpeachable. One of the gentlemen upon that committee (Mr. Pettit) is nominated by his party, I see, to be a Senator from the State of Indiana. Was he a swindler? Did he think it was a great fraud? Was he trying to cheat the public? Is he one of those with whose blood it is the desire of some to write the history of this Administration? Do you want to write the history of the Administration in the blood of General Cass, of Mr. Forsyth, of Governor Schley, the blood of the Judiciary Committee in the Senate, and in the blood of the distinguished individual to whom I have just alluded? Are all these men Galphins? I believe the gentleman from Ohio said that they, the "Galphins," were buried so deep that the hand of resurrection would never raise them up. But the Democracy in Indiana, it seems, has imparted new life to one of them—has "*galvanized*" him, at least, by sending him to the Senate.

I heard a gentleman inquire how this Galphin claim passed through this House. I say it passed this House by the unanimous vote of every man in it, when any one man's voice could have prevented it. It stood upon its own merits. No speech was made in its behalf. It had no advocate but the plain, short, strong argument of the committee. Their printed report lay upon your desk for six months. It was taken up and acted upon at a time when no bill could pass, that did not receive the unanimous support of every man in the House. Your Journal shows this fact. It passed in August, 1848. Were all in this House then Galphins? It was passed, and carried to Mr. Polk for his signature. Did not he understand all about Galphin? Was not Mr. Forsyth a feed attorney, and did he not prosecute it while Secretary of State under Jackson? Did not Mr. Wise report then, that this Galphin claim was about $150,000? Was not Mr. Polk, as Speaker of this House at that time, conversant with all these facts? It is to be presumed that he was. At any event, he signed the bill two days after it passed. Is he, too, one of this famous family of the Galphins? Mr. Walker, his Secretary of the Treasury, paid the principal, but did not pay the interest, because, as he stated in his testimony, he did not have time to investigate that point. But he said—and mark it—that whatever Galphin's *debt* was, this Government, by the act of 1848, had assumed it fully. The act of Georgia of 1780, pledging to Galphin £9,791 15s. 5d., with interest at six per cent. per annum, was not before him. But who can say, with that act before him, he would not have paid the interest according to his testimony? For he said, whatever the *debt* was which was due to Galphin, the act of 1848 had assumed. And who can say that £9,791 15s. 5d., with six per cent. interest, was not due to Galphin by the act of Georgia of 1780? If any man is bold enough to do so, let him do it. My time will not permit me to discuss this subject at any greater length, and I trust the House will pardon this digression.

What I have said, I have stated for the House and the country. The facts, as I have stated, are uncontroverted in the past, and will remain incontrovertible for all time to come, and I defy their controversion here or anywhere.

I am here to resist all party clamor that may be brought against this claim. I suppose that many of these expressions, such as "Galphins," by party heat, emanate from partisan feelings, and without any distinct, or definite idea of what are meant by them. But I say that the character of every man should be defended by those who love truth and justice. The character of the humblest, alike with the character of the highest, shall, at all times, receive defense from me, when I can defend it. I care not if the name of wrongful accusers is legion, I will face them all, if necessary.

I do not care to join with the shouting multitude barely because they are strong in numbers. I do not fancy the taste of those who play upon expressions, because they catch the popular cant or whim of the day. It is an easy matter to pander to the passions or prejudices of the uninformed.

Sir, this is the "*facilis descensus Averni*," the downward road of the demagogue. It is easy to travel it, and, to some, it seems to be a pleasant jaunt; but to vindicate the truth, to stand up for the right against the majority, "*Hic labor, hoc opus est.*" I shall do it, or attempt to do it, sir, though I be a minority of one.

I have nothing to say, at this time, about the connection of the then Secretary of War with it. Mr. Crawford was interested in the claim, and was Secretary of War when the interest was paid—that is all. I will, however, ask, when the offer was made to have the justice and legality of the allowance referred to the Supreme Court of the United States, who prevented it? The Senate Journal will show.

Did they want to commit a fraud upon the Treasury? Was Mr. BUTLER, of South Carolina, Mr. ATCHISON, of Missouri, Mr. TURNEY, of Tennessee, and a number more whom I need not name, were they all Galphins? But I am done with this; and I am also done with the matters alluded to in the report of the committee on the Gardiner case.

I have shown that that committee fully acquitted Mr. Corwin of the charge of being improperly connected with the claim, and that this bill has really no connection with the duty assigned to them.

This bill, with amendments, I intend to vote for; but I shall not vote for it as it is, because, under its provisions, any member might be put in the penitentiary for going down to the Pension Office and filing the memorial of any of his constituents for a bounty land warrant. With amendments which shall prevent members of Congress from attending to such business "for fee or reward," I shall vote for it. I am in favor of such a prohibition in future, not because there has been anything dishonorable, disreputable, or currupt, or "*malum in se*" in such acts, and not because I think that Messrs. Dallas, Webster, Benton, and Stanton, or Corwin, did anything wrong in what I have stated, for I do not, but because I think that we should establish a rule for the future by which honorable men can act so as not to subject themselves to unjust imputations. The bill thus amended would, if even made retrospective, never touch any act of mine. But I make, however, no boast of that. I have never looked upon such acts in others as at all disreputable, much less as grounds of charging corruption. I think it wise and proper that such a regulation should be made. And why? Because honest, unimpeachable men, such, in my opinion, as Webster, and Corwin, and others acting in that capacity, may be a sort of cloak for those who may be unscrupulous and corrupt.

Mr. STEVENS, of Pennsylvania. As the gentleman intends to vote for the bill, which it is almost treason to say is an impeachment upon the whole House, I would inquire whether he intends to extend its provisions to prevent members from advocating cases before the Supreme Court of the United States; and if he does not, why does he make the distinction?

Mr. STEPHENS. I shall vote for that, but I do not know whether it will be incorporated with the bill or not. I will state candidly to the gentleman, as I did in a conversation on this matter with a distinguished gentleman yesterday, who said that he thought it proper not to extend the prohibition to the Supreme Court, that I think the prohibition should extend to members of Congress practicing in that court, as well as before boards of commissioners—and why? The impeaching power is with the House of Representatives, and the trying power with the Senate; and I ask what kind of influence would be more powerful than Congressional influence upon a judge who felt guilty, and knew that an impeachment was to be made? Would he not favor a distinguished member of Congress who was counsel in a case before him for trial, quite as much as a member of a board of commissioners? I will, if possible, vote for the extension of the provisions of this bill to the Supreme Court. If I cannot get that, I shall vote for the bill in the best shape I can get it. I am for establishing a rule by which every one can regulate his conduct, and then right and wrong will not be left to the capricious judgment of friend or foe. Let it be written in the law, and then all can equally stand or fall by the law, and not the uncertain standard of men's opinions.

Mr. STANTON, of Tennessee. I gave but little attention to the debate which has taken place upon the bill now before the House, or to what has been said in reference to the report of the committee upon Mr. Corwin's case; but the whole matter, it seems to me, lies in a very small compass. It appears that Mr. Corwin was employed as counsel to appear before this Mexican Commission while he was a Senator from the State of Ohio. Now, if he knew that the papers upon which this claim was supported were forgeries—if he knew them to be only sustained by perjury, then he is

guilty of that perjury and forgery, or of subornation of perjury and forgery, and upon that supposition would be responsible to the extent stated. I said to the House this morning, that one of my constituents, having a comparatively small claim, which proved in the end to be less than $3,000, came and employed me to draw his argument and memorial in the case and offered to pay me for it as a lawyer. I did it.

It happened that his case was supported by documentary evidence. He had been unjustly imprisoned by the Mexican Government some years ago, and a correspondence between the American Consul and the State Department, exhibited all the facts upon which his claim was founded. These papers were presented to me. I presumed they were correct, as they came from the State Department. They might have been supported by forgery, and then it would be just as competent and proper for any gentleman to charge me with the results of that forgery and perjury, as to charge Mr. Corwin, provided it is not certain that he knew this claim was supported by perjury and fraud. This, sir, is the whole case. I do not know what the circumstances are, for I have not considered them very attentively. I presume, however, from a knowledge of Mr. Corwin's character, that he was not cognizant of these facts. So far as this bill is concerned, I think I shall vote as the gentleman from Georgia [Mr. STEPHENS] says that he will vote. I do not see any impropriety, however, in a member of Congress appearing before tribunals established by Congress for the adjudication of any character of claim whatever. If Congress choose to provide that members shall not appear before those tribunals, I am perfectly content to stand by that rule. But such has not been the rule heretofore, nor have I supposed, and I presume it will not be contended, that there has been anything irregular in appearing for the purpose of arguing cases before these tribunals, any more than in appearing before the Supreme Court of the United States. For, sir, I have appeared in several cases before the Supreme Court of the United States, and I should not hesitate to do so in any case which should be brought to me, provided I had leisure to attend to it.

Mr. JOHNSON, of Tennessee. By permission of my colleague, I will propound to him a question. I do not understand the case in which my colleague was employed as being precisely analogous to the one in which Mr. Corwin was engaged. Mr. Corwin, in the Gardiner claim, acted in a double capacity. In the first place, he became an attorney; and in the next place, a purchaser of a part of the interest in the claim—in fact, the claimant himself. The question I desire to ask my colleague is this: Would he justify Mr. Corwin, admitting he was not cognizant, whilst prosecuting this claim, that it was a fraud, in retaining money which was ascertained beyond all controversy to have been obtained through perjury and forgery?

Mr. STANTON. I will answer, without hesitation, that I would not justify him. I think the money ought to be refunded, if such be the case; but I have been told, without knowing the source from which it comes, that Mr. Corwin has pledged himself to refund the money, if such a fact be proven. I do not know whether that is true or not; but I think that would be the honorable course on his part.

Mr. JOHNSON. I knew that would be my colleague's answer, as it will be of every honest man.

Mr. WILLIAMS. I have not desired to say one word in relation to this matter; but my colleague seems very desirous of giving this case a particular point and bearing upon Mr. Corwin. I do not stand here as his defender, but rise only to ask my colleague [Mr. STANTON] whether, as a lawyer, he ever appeared in defense of a man charged with stealing?

Mr. STANTON. Often, sir.

Mr. WILLIAMS. Did you know whether he paid you out of the money he had stolen or not, and if convicted, did you return it? How did my colleague manage? [Laughter.]

Mr. STANTON. I remember having appeared for a gentleman of suspicious character, who paid me a fee in counterfeit money, and of being sorry that it was counterfeit. [Laughter.]

Mr. WILLIAMS. By permission of my friend and colleague, I will say a word or two on the bill. I have looked at it, but do not intend to make a speech upon the subject. I remember when a boy of having heard a remark of John Randolph, of Roanoke, that it was *prima facie* evidence a man was a gentleman who was elected a member of Congress. [Laughter.] It strikes me that that honorable rule is now about to be changed, and that a man is to be considered dishonest *prima facie* because he is elected a member of Congress. I know very well that if I acted dishonorably, and virtually committed theft, and that fact were published to my constituents, I would be disgraced and could not be elected to Congress. I do not think that because I am elected and sent here, I will not be disgraced if I do commit a dishonorable act.

Now, I know of no rule by which you, Mr. Speaker, I, or any other member of Congress should be debarred from prosecuting claims against the Government before the Departments or Boards of Commissioners. I do not see that any claim can be benefited by this bill; and if it be adopted, it will leave the impression on the public mind that members of this House believe that there has been corruption and dishonesty practiced by members of Congress and other officers of this Government. When this session closes I shall have served in Congress twelve years, and during that whole time I have not received one dollar for prosecuting claims.

Mr. JOHNSON, of Tennessee. By the permission of my colleague on my right, [Mr. WILLIAMS,] I wish to ask a question. He says I am a farmer. I am slightly so; but if he had said that I was a mechanic, he would have hit it more precisely. My colleague seems, upon this occasion, to develop the fact that there is a very different system of ethics practiced among lawyers than that among farmers; and he seems to justify the idea, that if a lawyer were to receive stolen goods, not knowing it at the time, but afterwards should be made aware of the fact, he would be justifiable in keeping them; but the farmer would not be. That is the inference. Here is the question which I wish to ask my colleague: Suppose an individual had stolen a horse in his neighborhood; that he was arrested and brought to justice; that the stolen horse was received by my colleague as a fee to defend the individual; that he did not know the horse was stolen, but after the trial was over the fact was developed and made known that he had received a horse which was stolen—I would ask whether, as an honorable man, he would not return the horse to his rightful owner?

Mr. WILLIAMS. The question requires no answer at all. I was only speaking of practice known to the bar, to some extent, and not for the purpose of showing that Mr. Corwin would do right to withhold this money. I think he would not. But I made the remarks I did, merely for the purpose of showing that my colleague is evincing an interest in this matter unworthy of the occasion, in his censure of Mr. Corwin, if he has not yet decided the question. Do you know whether he has or not?

Mr. JOHNSON. I do not know.

Mr. WILLIAMS. Then wait until he says something about it.

Mr. STEPHENS, of Georgia. Will the gentleman from Tennessee [Mr. STANTON] yield me the floor for a few minutes.

Mr. STANTON. I will surrender it for a few minutes.

Mr. STEPHENS. I wish to make reply to the gentleman from Tennessee, [Mr. JOHNSON,] who raised this question. It will be time enough to express or entertain the opinion as to Mr. Corwin's integrity on the point which he raised, when that question shall be decided. I intended, if my time had permitted, to go into the present state of the Gardiner claim. I stated to the House, my opinion was that it was a fraud. The gentleman must know that Mr. Gardiner still exists, and he is now, I understand, in Mexico, for the purpose of getting testimony upon the validity of his claim, which is yet before your courts to be adjudicated. The gentleman must know this, as he was a member of the committee. He says that there were frauds and perjuries. This whole report shows that there was forgery only, so far as the authentication of the title papers to the land where the silver mine was alleged to be; that was but a small item in the claim. Not one of the witnesses have impeached the proper authentication of the papers upon which near $300,000 of the claim for property destroyed, &c., was allowed. The Prefect's certificate, which we have in this case, is a genuine one, certified to by the official officer of the court according to the rules of this board under the treaty. It is certified by your Consul at Matamoros, the Alcalde, the Prefect, who were the proper officers to give these certificates. There is no proof of forgery, saving the authentication of the title papers to the land. I then state that it is quite sufficient after this case has been adjudicated, to censure Mr. Corwin for anything he may do then, or fail then to do.

Mr. JOHNSON. I wish to ask the gentleman from Georgia [Mr. STEPHENS] if this much is not ascertained—that is, that the proof of this whole claim, being a fabrication, and being sustained by perjury and forgery, has not been conclusive and satisfactory to the President of the United States, so far at least as to cause the Executive, through the Attorney General, to institute suits against this individual for fraud and forgery, and if they have not gone so far as to enjoin all the money wherever they could find it in this city, and hold it to await the termination of this suit? The question I wish to ask, in connection with this, is, will the gentleman from Georgia and the friends of Mr. Corwin in this House, generally or individually, come forward and say in the face of the American people, upon a final hearing of this case, if Mr. Gardiner should be convicted of perjury and forgery, and his claim proved a fabrication from beginning to end, that Mr. Corwin and the other recipients of these stolen goods will repay the money which they have received from the Treasury of the United States?

Mr. STEPHENS. I will answer the gentleman. I admit that the President has done what he said, and it is a fact that he did it long before this clamor in the House was raised. The President had this man arrested under a suspicion that reached him, I think, long before the gentleman from Ohio [Mr. OLDS] moved in the matter. The President upon suspicion did it, and he did right, and this committee of which the gentleman from Tennessee [Mr. JOHNSON] is a member, knows and reports that the President has been vigilant—and the papers in the report show that Mr. Corwin too has been active and vigilant in getting at the truth of the matter. I grant these facts, and I state them because the case is now pending and is yet to be tried. The President has been vigilant, Mr. Corwin has been vigilant, and am I to be asked what he will do in anticipation of that judgment?

Mr. Gardiner, it is true, was put in prison. He has given bail; he has found sureties; he says that he will vindicate his character. Is Mr. Corwin, or any one else, to prejudge him? I never believed much in those Mexican claims when we went to war to get them; when we were told that there were six or seven millions of them that we ought to go to war to make Mexico pay them. I thought then that they were most of them nothing but batches of fraud. But I will do justice even to a Mexican claimant. I will not prejudge his case. Let him come into court. I, as a grand juror, say that I believe the suspicion is a strong one that his claim is a fraud. But he shall or should have his day in court before he is condemned. He claims the opportunity of vindicating himself, according to the laws of the country, and according to the treaty, and he should have it. My opinion is, that he will not do it. Mr. Corwin's opinion is, doubtless, that he will not do it. The President is of the opinion, I imagine, that he will not do it; and hence they institute these proceedings against him. But I will not crush even a worm; bad even as I believe Gardiner to be, I will not prejudge him, nor denounce Mr. Corwin in anticipation of his act, depending upon a future judgment in court. Now the gentleman says, suppose Gardiner shall be found guilty by this court, would I defend Mr. Corwin for holding this money? I do not consider that the evidence discloses that Corwin has received one dollar of this money from the Treasury of the United States. The testimony is, that he did buy what he thought was a good title, and sold it without warranty, with a quit-claim. That is a matter between him and his assignee. Mr. Law, or some one under him, it seems, got Mr. Corwin's interest in it.

But my opinion is, that when the case in court is proven to be fraudulent, if it shall be so proven

that the same vigilance which arrested Gardiner ought to pursue every man who holds a portion of it—the one fourth stands on the same footing as the other three fourths. I have no reason to doubt that Mr. Corwin would be just as vigilant, and the President would be just as vigilant in ferreting out the one as the other. I do not care in whose pocket it is to be found. How Mr. Corwin will act towards his assignee I do not know. Whether he will feel under obligation to make good what he sold without warranty or condition, I do not know. And it will be time enough to moot the propriety of his conduct in this matter after the case shall be found by the court to be fraudulent, if that shall ever be, and after George Law, or his assignees who got the money, shall fail to respond.

Mr. STANTON, of Tennessee. I stated that I did not rise for the purpose of making a speech, and I should have ended long since, if I had not been under the necessity of yielding to gentlemen. I do not rise for the purpose of defending Mr. Corwin by any means. I have but little personal acquaintance with him, and no affinities with him either personal or political. At the same time, I am not aware, so far as the case now stands, that Mr. Corwin has been guilty of anything wrong. If this claim has been supported by perjury and forgery, a suspicion might possibly arise that Mr. Corwin knew something of it; but from what I know of his character, I should think that he knew nothing of it. I do not think that any member of the House or the Senate is to be blamed for appearing as counsel before any of the established tribunals of the country in the absence of any law prohibiting it. I do not think that there is anything wrong in it. This is what I desire to state.

Now, I am of opinion that it is decidedly wrong and unpardonable for members of Congress to be interested in matters which have to come before Congress for their action. I do not know that it is wrong for them to appear as counsel before the Departments; but so far as I am concerned, I have always refused to appear as counsel in such cases, because the connection between the Executive and Legislative Departments is so great, that perhaps it might give rise to impropriety of conduct. I have nothing to say against this gentleman.

Mr. KING, of New York. I think the debate has been extended sufficiently, and as the views of gentlemen upon both sides of this question have been heard at great length, I therefore move the previous question.

Mr. ORR. Will the gentleman withdraw it for a few minutes? I desire to make a few remarks, not exceeding in length ten minutes. I will renew the demand for the previous question.

Mr. KING. I will give the gentleman ten minutes of my time.

Mr. BROWN, of Mississippi. If the previous question is seconded, will it cut off amendments?

The SPEAKER. Amendments have been proposed by unanimous consent, and are upon the table to be taken up in their order.

Mr. BROWN. Suppose we should desire other amendments?

The SPEAKER. Other amendments cannot be offered.

Mr. BROWN. That is what I supposed.

Mr. HOWARD. I wish to make a few observations in the nature of a personal explanation, and some also upon the subject, and I hope that the gentleman from New York will withdraw the demand for the previous question.

Mr. KING. I will give the gentleman twenty or thirty minutes of my time.

The previous question was seconded, and the main question ordered.

Mr. ORR. I desire not to enter into the general merits of the debate which has engaged the attention of the House for the last day or two. But I rise for the purpose of making an explanation, and reading from the report of the testimony taken by the committee, in reply to some of the inferences that may be deduced from the speech yesterday of the gentleman from Tennessee, [Mr. JOHNSON,] as to a friend and constituent of mine. I allude to General Waddy Thompson. He is my constituent, but he is not now in the city; and if he was, he could not have the privilege of rising in this Hall to vindicate himself, by repelling any assault made upon him openly or covertly; and, although we differ in our political opinions, he being a member of the Whig party and I a member of the Democratic party, yet I believe it is due to him—it is due to truth and justice—that his explanation of this matter should go before the country, in connection with the deductions which may be made from the speech of the gentleman from Tennesseee, [Mr. JOHNSON.] General Thompson, I presume, is not a stranger to this House or the country. Some years ago he occupied a seat on this floor, and was a distinguished member of Congress. Subsequently he was appointed by Mr. Tyler Minister to Mexico. Previous to his entering Congress, he enjoyed a high professional reputation in South Carolina. These, sir, are his antecedents; and his statement is entitled to the full credence of the country, unless something more than vague undefined suspicion is adduced to controvert it. The statement which General Thompson makes, with reference to his connection with this case, is briefly this: When he went to Mexico in 1842, as our Minister, he met Gardiner there, and made his acquaintance. In 1844, Gardiner came to him and requested him to give him a letter to some United States naval officer at Acapulco, on the Pacific coast. He complied with Gardiner's request, and Gardiner then left the city of Mexico, stating to General Thompson that he was going to San Luis Potosi, or some other of the Mexican States, to embark in the business of mining—silver mining being profitable in that part of Mexico.

Mr. OLDS. I rise to a question of order. The gentleman from South Carolina will not take it hard, as he has raised a similar point himself. My point of order is, that the gentleman from New York cannot give a portion of his time to any other member to make a speech in his place.

Mr. ORR. It is very generous in the gentleman to raise the question of order *after* the previous question has been sustained!

The SPEAKER. If the gentleman from Ohio insists upon his point of order, the Chair will be bound to rule——

Mr. JOHNSON, of Tennessee. I hope that by general consent the gentleman from South Carolina will be permitted to proceed.

Mr. KING, of New York. It was the understanding when the previous question was sustained that these gentlemen should have a portion of my time.

The SPEAKER. If the point of order is insisted upon, the Chair must decide that the gentleman from New York, who is entitled to the floor, can yield it to other gentlemen only for explanation.

Mr. STEPHENS, of Georgia. Well, sir, I understand that the gentleman from South Carolina rises merely to make an explanation in regard to a point introduced into the debate by the gentleman from Tennessee, [Mr. JOHNSON.]

Mr. HOUSTON. I understand that it must be in explanation of debate.

Mr. STEPHENS. Certainly. I understand the rule to be, that any gentleman may yield the floor to any other gentleman to explain any matter appertaining to the debate.

Mr. HOUSTON. Appertaining to himself.

Mr. STEPHENS. Oh, no.

Mr. BURT. I beg to present the fact to the gentleman from Ohio, that it seemed to be assented to by this House, when the previous question was demanded by the gentleman from New York, that he might be permitted to give a few moments of his time to my colleague to make an explanation affecting a gentleman in South Carolina, and I trust my colleague will not be deprived of what seemed to be the implied understanding of the House.

Mr. OLDS. I will relieve the gentleman from all difficulty. But I wish to say in explanation of my course, that on a former occasion, my colleague, [Mr. DISNEY,] under a similar understanding, would have been entitled to the floor, and yet the House ruled him down. However, I will not press my point against the gentleman from South Carolina.

Mr. ORR. I do not want to be under any obligation to the generosity of the gentleman from Ohio.

The SPEAKER. The gentleman from South Carolina can proceed.

Mr. ORR. I was proceeding to state, when I was interrupted, that General Thompson, in his last interview with Gardiner in Mexico, in 1844, gave him letters of introduction. He did not see Gardiner again, until he met him in this city, late in 1848. When Dr. Gardiner left the city of Mexico, he told Thompson—and I beg the House will remember this fact, as it goes very far to show a good foundation for the confidence of Thompson in Gardiner's statement that he sustained large losses in Mexico, from being expelled from his mines, after the Mexican war commenced—that he was leaving a profitable business in the city of Mexico, to embark in silver mining. Well, when Thompson met Gardiner here, for the first time, nearly five years after they parted in Mexico, he inquired of him what was the result of that speculation, and Gardiner told him that he had been broken up in his business, and that he wanted to employ him for the purpose of prosecuting his claim before the Mexican Board, under the treaty of Guadalupe Hidalgo. *It was at that time that Dr. Gardiner unfolded to* General Thompson *the proofs and affidavits* which he had procured in Mexico. Some of those affidavits were not conformable with the regulations prescribed by the Commission, and General Thompson gave him instructions as to the *manner* in which that testimony should be taken, and also suggested points—as was his duty to do, he being his counsel—upon which new testimony, bearing upon the case, was desirable, in addition to the testimony he had already obtained.

Those instructions are very brief, and I will read them, because I desire that they should go out to the country, as they will show whether there is *anything* in the instructions of General Thompson which looks like a connivance or participation, on his part, in a fraud which was to be consummated upon the Treasury:

Copy of instructions by Waddy Thompson to Dr. Gardiner.

Dr. Gardiner will obtain, if practicable, the original books of account of his mining operations. This is important, and I suppose can be done by leaving an authenticated copy in the public office in Mexico. If not, the copy must be certified on oath to be an exact copy of the original.

2. The deposition of the clerk who kept the books, that the entries were made by him, and that they are true.

3. Other depositions which, although they may not be specific as to sums, may state generally the large outlay on the mines, and the large profits which they were yielding at the time of your expulsion, and the probable increase of those profits.

4. Depositions that you had not done anything to excite the suspicion of the Government, or its officers, of you individually, and there was no personal reason for your expulsion, nor any other than the fact of your being an American. If the statement of the officer issuing the order to this effect can be had, it will be the best.

In addition to the general facts sworn to, each deponent will add:

The deponent, A B, further swears that he is —— years old; that he was born in ——, and now resides at ——; that at the time the transactions took place stated in this deposition, he resided at ——, and that his occupation was that of ——; and that he now resides at ——, and his occupation now is that of——. He further swears that he is not the agent or attorney of the claimant, nor of any person having any interest in said claim, and that he himself has no interest, either direct or contingent.

The magistrate, or officer, before whom the depositions are taken, must be proven, by certificate, under official seal of the country, to be a person authorized to administer oaths and take depositions. The most secure certificate of this will be that of some American consul in Mexico, or the Mexican Secretary of State. The magistrate, in addition to the probate to the deposition, will certify as follows:

I do hereby certify that I am not the agent or attorney of the claimant, or of any one having any interest in the claim to which this deposition relates, and that I have no such interest myself, direct or contingent. I further certify that the deponent to said deposition is known to me, and that he is entitled to credit upon his oath. (If not known to the magistrate, he will certify as follows: C D swears before me that he is acquainted with A B, who has sworn to the annexed affidavit, and that he is worthy of credit on his oath;) C D is known to me, and I certify that he is worthy of credit on his oath. I further certify that the above deposition was reduced to writing by me, or (as the case may be) by A B, in my presence, and that said A B has no interest in the claim to which it relates, as agent, attorney, or in any other way. Signed by magistrate, with seal of office, if there be one.

The depositions and all the papers will be in Spanish, where the deponent does not speak English; and then they had better be in Spanish, unless taken before an American consul. W. THOMPSON.

APRIL 30, 1849.

These, sir, are the instructions. And if the blanks have been filled by perjured witnesses, you can in justice no more hold General Thompson responsible, than you can your Commissioner of Pensions, who furnished the blank declaration, which is filled by false statements.

E. W. Johnston, one of the witnesses who testified before the committee, says, with reference to Gardiner's apparent frankness, candor, and intelligence, that—

"A great mass of proofs, apparently very complete and

very authentic, was introduced with the case. These papers were very carefully sifted, and the Board repeatedly imagined that it found circumstances in the details of the case, which betrayed the latent fraud or exaggeration which they had been led to expect. I think, in as many as five or six instances of this sort, they called the claimant or his counsel before them to explain these points and clear them up. After the first instances, the Board became satisfied that Doctor Gardiner himself understood his own case better than anybody else, and that the best means of arriving at the truth, would be to receive his own statements, and cross-examine him on all these points. They did so, therefore, and I am clear that there was no instance in which he did not satisfy them, by his apparent truthfulness, clearness, consistency, and readiness to reveal all facts in a remarkably manly and frank way, that the particular objection in each case was unfounded."

During the progress of the investigation before the Mexican Board, it appears that there was some doubt on the minds of the Commissioners as to how he procured the resources to make such heavy investments, and he was required to explain. Johnston says:

"Upon this subject, he (Gardiner) went into the history of his own earlier connection with mining speculations and operations, stating that he was skilled in chemistry and mineralogy, as a part of his own pursuit; and the opportunity of seeing in Mexico the fortunes which a skill, inferior to his own, often enabled men to make, led him to addict himself, first of all, to the direct study of metallurgy, and, by-and-by, to speculations in mines themselves. Gardiner stated that this is a great matter of gambling in Mexico; and nothing but talent and skill could make it anything else. The great king of Mexican mines, Perez Galvez, at last remarked his (Gardiner's) uniform success, and, taking him into favor, offered him his credit to carry forward any of his undertakings. Of these statements I think he produced proofs, in the shape of a correspondence between himself and Perez Galvez. Its extent I cannot speak of. I am not sure that it established anything beyond an intimacy between Perez Galvez and Gardiner. Among the general proofs, there were some which made a particular impression upon the Board, as of a character fixing the unavoidable authenticity of Gardiner's mining operations, and chief of these the register, or book of accounts of the mine itself, kept by the Government commissary.

"Upon the register or book of accounts referred to being shown to the witness, he says that, upon inspection, he still continues of the opinion that it was kept by the Government commissary."

This is the statement made by the Secretary of the Board, Edward W. Johnston, and I read it for the purpose of showing that the counsel of Gardiner—and that is the relation which General Thompson bore to the claim—was imposed upon as well as the Commissioners, if there has been any imposition; and I am inclined to the opinion myself, that there has been a fraud perpetrated. I think that when the case is fully investigated and sifted, it will be found that Gardiner had some pretense of a claim, but that it has been exaggerated. That is a mere speculation of mine. It may be that there was no such claim. But these extracts show that the fraud was so cunningly devised—that Gardiner had concocted it with such consummate judgment, that the most wary and suspicious mind would not have detected it; and that his counsel were as effectually deceived as the Commissioners themselves. With reference to the connection of Corwin and Thompson with this claim as lawyers, I beg leave to read from the report of the committee, a passage which was read by the gentleman from Georgia, [Mr. STEPHENS:]

"No testimony has been adduced before the committee proving, or tending to prove, that the Hon. Thomas Corwin had any knowledge that the claim of the said Gardiner was fraudulent, or that false testimony or forged papers had been or were to be procured to sustain the same."

Now, sir, that is the opinion of the committee with reference to any fraudulent connection of Mr. Corwin, and of course of the other counsel, with this claim. That is the only point which I desire to put right upon the records of the House. General Thompson is incapable of originating a fraud upon the Government of this stupendous character; and if there has been imposition, he has been imposed upon in the same manner as the Commissioners were imposed upon, having believed that the statements which Dr. Gardiner made with reference to the claim were true and correct. Now, sir, whatever you may say as to the propriety of Mr. Corwin's engaging in the prosecution of claims before the Commission, or practicing in the Supreme Court whilst he was a Senator—and let it be borne in mind that General Thompson stood in no such relation to the Government, holding no office whatever—I suppose that ninety-nine out of every hundred will exonerate him from any fraudulent connection with this claim. I feel that it is due to the circumstances of the case, due to truth and character, that I should say thus much.

Mr. JOHNSON, of Tennessee. I wish to ask the gentleman from South Carolina a single question. I wish to ask him, whether, when the investigations shall have resulted, it turns out that the claim has been a fabrication, General Thompson, whose reputation he has just placed on such a high pinnacle of honor, will return the $42,000 of stolen money that he has in his pocket?

Mr. ORR. I will say in reply to the interrogatory propounded to me by the gentleman from Tennessee, that I am not prepared to say what course General Thompson will pursue, if the claim turns out to be fraudulent. I am not informed by him, having had no conference with him with regard to this matter. My own opinion is, that they ought to return the money, if the claim turns out to be a fraud; but I am not prepared to say whether he will do so or not.

Mr. HOWARD. Mr. Speaker, it was certainly not my purpose to have taken a part in this discussion, but the allusion which has been made to me by the gentleman from Georgia [Mr. STEPHENS] renders some observations on my part altogether proper.

In the first place, I have to say in regard to this whole matter, that the committee in this case resisted all efforts unjustly to cry down the character of a gentleman, because he happened to be assailed in high party times; and, sir, we should be unworthy of seats here, if we had pursued any other course. We all know that charges of this sort are easy to be believed by a community, and especially when that community is embarked in a political contest of no ordinary interest. But it is precisely for the reason of the tendency of the public ear to unjust reports, that it is the duty of a committee of this House, when it passes upon the character of one of the public men of the country, to pass upon it as men of honor doing justice to the facts. For, sir, there is this much, at least, to be said in relation to inquiries of this nature, that, when the character of one of our public men is not safe in a committee of Congress, and in the hands of his political opponents, when he cannot have a fair hearing and a fair trial, the public places of this country will cease to be sought for by gentlemen who are entitled to the confidence of the country. No man of character and intelligence will subject himself to such an ordeal.

Having said thus much, I will proceed to make a few observations upon the subject itself as connected with Mr. Corwin. In the first place, I wish to say something in relation to the practice of members of Congress being employed before boards of this character. As has been said by the gentleman from Georgia, it has been usual ever since the organization of this Government. In relation to the two cases presented by myself, I have this to say, that, although I made no charge and have received nothing for those cases, I should have looked upon it as quite proper for me to do so, had not those claimants been my constituents, and one of them a gentleman in narrow circumstances with small claims. In one instance, all the papers came into my hands prepared, and I filed them. In the other case the evidence came to my hands prepared, and I drew or re-wrote the memorial and filed it. That is all the action I took in the matter. Both claims were rejected. If they had been allowed, I should have thought myself fairly entitled to payment for my services. I apprehend there is a distinction to be drawn between the prosecution of a claim by a member of Congress before a temporary board, organized under an act of Congress, and the prosecution or defense of suits before the Supreme Court. It is this: The tenure of the judges of the Supreme Court is for life. They are above the influence which appertains to distinguished members of Congress. But with regard to temporary boards of commissioners appointed for a short term, and with a special and limited jurisdiction, and filled in most instances by political appointments, I think the case is an entirely different one. In this case, the influence of leading members of Congress might in some instances have a prejudicial effect, unfriendly to justice and the public interests.

Now, in relation to prosecuting claims before the Departments of the Government, I presume it has happened to two thirds the members of this House as it has happened to me. I have repeatedly been offered fees to prosecute claims before the different Departments. I have always refused them, upon the ground that it was inconsistent with the office of a Representative, whose services are due to the Government, to be prosecuting claims against it for pay and as counsel; and for a further reason: it would consume time which ought to be employed in other and more appropriate legislative duties. Why, sir, I have at this session refused a fee for prosecuting a claim against the Government amounting to a sum larger than my per diem during the whole session. I refused it because I did not think it consistent with my duty as a Representative, though I believed the claim to be entirely just, and though I went with the claimant, who is a constituent, to the Department, and stated that as my opinion. But I refused a fee, and have in all such cases uniformly refused to receive any compensation for such service, because I believed it to be improper; and it is for that reason that I have proposed to support some bill which forbids members of Congress from appearing for a fee to prosecute claims against the Government, and also for the reason that it consumes the time and attention of the member of Congress, which ought to be devoted to his regular legislative duties.

I can say, for one, that this gratuitous service, which I am compelled to render for my constituents, consumes more than one fourth of my time, apart from that spent here in this House; and if it were for nothing else, I would have a law to protect members of Congress from solicitations of this sort, which compel him to attend to claims for which he cannot with propriety charge a fee, and which he ought not to attend to, because it consumes the time which legitimately belongs to the public in another capacity.

But there is another reason which should be a sufficient one for supporting such a bill. A great English writer, in a work of fiction now being published, has said, that the highest interest of a country is the character of its public men. Sir, the remark is both wise and true, and it is for that reason that public men ought to be protected from solicitations of this sort, and which give rise to injurious imputations where they are often unjust. Such a law should be placed upon the statute-book, as a protection both against wrong practice and unjust and injurious insinuations.

Now, as to the connection of Mr. Corwin with the Gardiner claim, which was before the Select Committee,—and I find I have no time to spare,—the committee find in their report that there was no testimony proving or tending to prove that he knew the claim was supported by fraud, by perjury, or by false documents; and I am free to say that the whole amount of the testimony shows conclusively that he did not know or believe that the claim was fraudulent. It is due to him to say that, in my opinion, he did not know that it was a fraud.

A MEMBER. He is very smart.

Mr. HOWARD. He may be smart, and there are some smarter men in a certain way, than even Mr. Corwin. Now, sir, what are the facts? How was this Commission organized, which was to inquire into a multitude of transactions growing out of the laws of Mexico and out of the proceedings of the Mexican tribunals? The administration of General Taylor, pursuing the course which has been pursued by the other Administrations, or most of them at least, made political appointments, instead of seeking men who were competent or fit for the particular business they were called upon to discharge. Now, sir, there was not a man upon that Board who knew anything of the Mexican law, or who could even read the language of the country in which these claims arose; and what was the consequence? They were entirely at the mercy of the claimants, where the claims had arisen out of proceedings which had their origin under the local law of Mexico. Why, sir, I had no sooner read the papers in the Gardiner claim, than I perceived that the whole matter was a gross fraud, and that the Board had been imposed upon in relation to it, as well as the counsel. The title pretended to have been granted by a prefect of police, who has no more right to grant a mine, or rather the right to work one, within the limits of Mexico, than the mayor of the city of Washington has to grant a patent for land belonging to the United States in the State of Illinois. It was a nullity upon its face. I do not suppose the Board knew this, nor do I suppose the counsel knew it, because the case showed that there was no thorough investigation into the Mexican laws in relation to the subject of mining.

The prefect of police had no jurisdiction over the subject. The title papers should have proceeded from the mining tribunal in Mexico—certainly not from a prefect!

The committee in this respect censured the Board, because the proof is, that the claim was suspected at first. The proof was, that the Board adopted the very unique mode of calling in Gardiner himself to explain his own case, because they found he understood it better than his counsel. It was our opinion that they had not taken the necessary means for investigating the claim. When they suspected a claim for half a million of dollars, they ought to have taken testimony in Mexico, or have written to our diplomatic agents there, to investigate as to the existence and extent of the mine. But they permitted this case and all others to be established by *ex parte* affidavits furnished by the claimant.

We censured the Board because they did not understand the law. It was their duty to have studied the laws of Mexico in relation to mining, and informed themselves of the principles which should govern the case, and which should control their decision in regard to the claim. But there is no evidence in the case to show that General Thompson or Mr. Corwin knew, or had reason to suppose, that the claim was a fraud, to be proved or made out by perjury, forgery, or any other improper or unprofessional course of conduct. I do not think that either of them did know it. I do not think that either of them believed it, or even suspected it. It does not appear that Mr. Corwin shared the suspicions of the Board in relation to the character of the claim. It is possible that the counsel of Gardiner may have supposed the case was an exaggeration, but there was no proof even of that. It is possible that they may have entertained the suspicions once entertained by the Board, although there is no proof of the fact. But I wish to draw the attention of every professional man to this view of the case. An advocate is not at liberty to denounce his client upon suspicion. He must have a strong case. It must be a clear case. It must be a case that leaves no doubt upon his mind—not a shadow of doubt, when he undertakes to rise in court and say his client has fraud, forgery, perjury, and is a knave. He is not at liberty to act upon suspicions, even if he entertains them. But there is no proof that either Thompson or Corwin entertained any suspicion upon this subject. It is true that both gave written instructions as to the manner of taking testimony, and the nature of it; but every lawyer who looks at the papers will see that these instructions were no more than the ordinary professional instructions which every counsel finds it necessary to give when the testimony is to be taken by deposition. There is nothing in them from which it can be inferred that these gentlemen contemplated the production of any untruthful or improper evidence.

As to the inconsistency of Mr. Corwin's relations to this claim, as a Senator, this should be borne in mind: He was employed after the treaty with Mexico, which provided for these claims, and the Board of Commissioners was ratified. He was employed after these gentlemen who composed the Commission had been appointed, and their appointment confirmed by the Senate; therefore there is no room to impute dishonesty to him, or an improper interest or influence as to the treaty, or the appointment of the Commissioners. It is fully proved that he sold out, by an absolute transfer, before he went into the Treasury, and without any recourse of guaranty of the claim. But, in relation to the other point, I have this to say: Mr. Corwin, and all those who have received any portion of this claim, should return the money when it is legally or judicially established that the claim is a fraud, as I have no doubt it will be adjudged by the court before which it is now pending.

Upon that branch of the subject, however, the committee have expressed no opinion, for the reason that it was not a case calling upon them for an opinion in this respect, while it was still undergoing a judicial investigation. If the counsel of Gardiner knew it was a fraud, they were liable to be prosecuted by an action at law, and compelled to restore the money to the Treasury, if they received it, knowing it to be a fraud. They should also be severely punished; but this knowledge on their part is negatived by the report. But, if they believed the claim was honest and fair, and acted in good faith, and the money has been allowed to them by the Commission, or paid to them out of the allowance by Gardiner, they are not legally bound to return it; and whether they return it or not, is a mere question of ethics and propriety addressed to them. In my opinion, they ought to bring it back and lay it down at the door of the Treasury, if the claim turns out to be a fraud. I do not agree that counsel can rightfully receive a portion of stolen goods, or stolen or fraudulently-obtained money, in payment of his fee for defending the delinquent or prosecuting his case. But the committee were not called upon to express an opinion on this branch of the subject until the judicial investigation is closed, and therefore they have expressed none in their report.

As to the bill before the House, it was reported the morning on which I came to the city, at the present session, and I have not scrutinized it very closely since; but it is my purpose to vote for some bill which prohibits members of Congress from appearing before such boards, or before the Departments, to prosecute any claims for fees; and, indeed, from appearing as counsel in any capacity before the Departments. I desire this provision, for the simple reason that it subjects members of Congress to injurious suspicions, and may lead to improper practices, and it draws their time and attention from the regular business of legislation, to which they are due. In most cases, it is an improper consumption of our time, if it led to no other injurious consequences.

Mr. STEVENS, of Pennsylvania. I wish to ask one question. In looking at this bill, I wish to know if I understand it rightly. Was it the intention of the committee—and do they so understand the bill—to prohibit members of Congress, in any way, with or without fees, from appearing before any of the Departments, in behalf of their constituents, to prosecute, urge, or recommend claims of any kind—for pensions, for instance? I so understand the bill, and I desire to know, before I give my vote upon it, whether that is the understanding of the committee?

Mr. HOWARD. As I said before, I was not present when the bill was reported from the committee, and I have not since scrutinized it to ascertain its legal effect. But my opinion is, that a bill should be passed which should prohibit members of Congress from appearing before the Departments for pay.

Mr. STEVENS, of Pennsylvania. The word pay is not in it. I understand it as being general.

Mr. KING, of New York. I will state to the gentleman from Pennsylvania, that if he will look at the fourth line of the third section, he will find the words "for compensation paid or to be paid."

Mr. STEVENS. That is another section; but I spoke of the second section.

Mr. KING. The second section does not relate to members of Congress at all, but to officers in the Departments. That distinction is taken with a view to allow members of Congress the right to transact the business of their constituents without compensation.

Mr. STEVENS. I ask then simply of the committee if they understand that if a member of Congress appears before that Board, and it is known that it is without pay, he has less influence than members would have if it were known that they had pay? If that is the understanding of the committee, I do not so understand it. The whole bill is wrong.

Mr. KING. If the gentleman asks me the question, I reply that the bill is clear upon that subject, and it is for him to determine whether he is in favor of it or not.

Mr. HOWARD. I would be willing for one to go still further, for a bill which would prohibit members of Congress from prosecuting claims as counsel even without pay; because it is a burden upon them, a duty which ought not to be imposed upon them, and so long as it is done generally by members of Congress, so long our constituents will urge it upon us. It is no part of our legislative duty, and ought not to be so considered. It ought not to be required of members of Congress except under very special circumstances.

Mr. KING, of New York. The report of the committee appointed under the resolution offered by the gentleman from Ohio [Mr. OLDS] has been discussed in different quarters in connection with the bill now before the House, with different opinions expressed as to the power and authority of the committee. I concurred with the majority of the committee in the opinion, that it was an appropriate part of their duty to investigate the character of the Gardiner claim. This was done, and from the testimony which appeared before the committee, they came to the conclusion that the claim was fraudulent; that it was sustained before the Commissioners, by whom it was allowed, upon fabricated testimony, and upon forged papers. These offenses are provided for by law, and Gardiner was in the hands of the judicial tribunals, indicted for false swearing and forgery. These indictments have not yet been tried; they are now pending in the district court of the District of Columbia.

The committee were directly charged by the resolution, to investigate the relation and connection of the Hon. Thomas Corwin, then Secretary of the Treasury, with the claim of Gardiner. This the committee also did, and it appeared from the evidence that Mr. Corwin, while a Senator of the United States, was one of the counsel for Gardiner; that in connection with one of the associate counsel, Mr. Robert G. Corwin, he purchased of Gardiner one fourth part of the claim; that prior to his going into the Cabinet as Secretary of the Treasury, he ceased to act as counsel and negotiated a sale of his entire interest in the Gardiner claim, and in thirty-six other claims, in which he was interested as counsel, and that he subsequently received $80,000 upon that sale.

It did not appear in evidence that Mr. Corwin had any knowledge that false testimony or forged papers had been or were to be used in the prosecution of that claim. The facts and the testimony were reported by the committee.

No law was found which prohibited public officers or members of Congress acting as agents or counsel for claimants against the Treasury.

A bill had been introduced into the Senate of the United States, at the last session of Congress, by a Senator from North Carolina, [Mr. BADGER,] which was referred to the Committee on Claims in that body, and underwent a careful scrutiny by them. That committee reported back the bill to the Senate with amendments, and I believe it passed the Senate. The Select Committee adopted the provisions of that bill, with some additional clauses, and the amendments of the Senate Committee on Claims extending the provisions of the bill to members of Congress, Senators, and Representatives, and to the officers of the two Houses of Congress.

The committee, in fixing the penalty for a violation of this law, make it a penitentiary offense.

The bill introduced into the Senate prohibited the transfer of claims prior to the final adjustment and settlement of the claim, and prior to the issue of the warrant for the payment of the claim.

That bill also prohibited the officers connected with the Executive Departments, from acting as agents or counsel for claimants.

It has been said in the course of the debate here, that it has been the general practice for members of Congress to be employed for contingent fees and compensation as counsel in the prosecution of claims against the Treasury. In my opinion, the practice here has not prevailed to the extent that such a remark would imply. I have known many members of Congress—members of the legal profession—who have not been thus employed, and, I think, would never consent to be. I have no doubt, however, there being no law to the contrary, that honorable gentlemen, both Senators and Representatives, have been employed in the prosecution of claims, and that they have been free from all imputation.

Some cases which have attracted the public attention by the large amount of fee paid by the claimant have excited—perhaps I should say justly excited—suspicion, that the official and personal influence of the officer, as well as the legal skill of counsel, was sought by the claimant. This certainly no person would justify. The integrity of our public men should be free from the suspicion and imputations that cannot fail to grow out of such a practice. Of the bill reported by the committee, it is proper to say that the subject which it embraces has attracted the attention of the Executive so far as it relates to officers of that Department who are intrusted with the settlement and adjustment of accounts.

The President, in his last annual message, states that the law is defective, and recommends that

such enactments shall be adopted as shall best remedy this evil.

My colleague over the way [Mr. HAVEN] (and I speak of this matter to show in what manner this bill has been prepared) has prepared and offered as amendments three sections in addition to the provisions of the bill reported by the committee. One of these defines the crime of bribery and fixes the penalty for that crime.

The other two sections relate to and fix the penalty for the abstraction of papers or records in the courts, or on file in the public offices.

These amendments were submitted to members of the committee for examination and were approved by them. The bill as a whole is simple and direct in its provisions, and, I think, fully understood by the House. The previous question has been ordered. I now call for the question on adopting the amendments and ordering the bill to be engrossed for a third reading.

The first section of the bill was then read by the Clerk.

Mr. TAYLOR. I wish to ask the gentleman from New York [Mr. KING] a question in regard to this section, and I do not do it because I am opposed to the bill, for I have not made up my mind whether I shall vote for it or not. But it has been thrown out in this debate, that this bill is intended to reach the officers of Government, from the President down to members of Congress, in every court of the United States. This section applies to private individuals, and not to public men in the Legislative and Executive Departments; and if so, I wish to inquire if we have the power to prevent a private citizen from assigning claims, either before or after their allowance?

Mr. KING. The first section of the bill declares a transfer void, and therefore of no effect in obtaining money out of the Treasury. It is void, no matter by whom made, anterior to the final settlement of the claim, and the issue of the warrant for the payment thereof. The object is to prevent claimants from putting the claim into the hands of some one who will increase the amount of it. There are other reasons why it is made void by the first section of the bill.

The other sections apply to public officers alone.

Mr. TAYLOR. I would inquire of the Chair if any amendment is in order to this first section?

The SPEAKER. No amendment is in order, unless by the unanimous consent of the House, except such as were, by unanimous consent, presented the other day, before the previous question was ordered.

Mr. MEADE. Is this the proper time to take the vote upon the first section?

The SPEAKER. The sections may be voted upon separately, if they are not so connected as to destroy each other if separated.

Mr. MEADE. I desire to call for a vote upon the first section, if it is such that it can be stricken out, and yet the bill be a perfect one.

The SPEAKER. That proposition would operate as an amendment to the bill, and cannot be made under the operation of the previous question.

Mr. KING. I trust the bill will take the usual course.

Mr. MEADE. I am disposed to vote for all the bill except the first section.

Mr. HOUSTON. That is the point to which I desired to call the attention of the Chair before he made his decision. I think, upon reflection, that he will find bills other than internal improvement bills, without an exception in legislative history, have not been divided on their passage.

The Clerk then read the second section of the bill, as follows:

"SEC. 2. *And be it further enacted*, That any officer of the United States, or person holding any place of trust or profit, or discharging any official function, under, or in connection with, any Executive Department of the Government of the United States, or under the Senate or House of Representatives of the United States, who, after the passage of this act, shall receive any gratuity from any claimant against the United States, or shall act as an agent or attorney for prosecuting any claim against the United States, or shall in any manner, or by any means otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and, on conviction, shall pay a fine not exceeding twice the amount of gratuity, fee, or compensation received by the person so convicted, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court, in its discretion, shall adjudge."

The question was then taken upon the following amendment to the above section, and it was agreed to, viz:

Insert in the above section after the words: "who, after the passage of this act, shall receive any gratuity from any claimant against the United States," the following:—"or agree to receive, or receive, except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the United States.'"

The question was then taken on the following amendment, and it was disagreed to:

Insert in the same section after the words, "in any court of the United States having jurisdiction," the words "of the party and," so that it would read, "in any court of the United States having jurisdiction of the party, and for trial of crimes and misdemeanors."

The Clerk next read the third section of the bill, as follows:

"SEC. 3. *And be it further enacted*, That any Senator or Representative in Congress who, after the passage of this act, shall receive any gratuity from any claimant against the United States, or shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner or by any means for such compensation, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and, on conviction, shall pay a fine not exceeding twice the amount of the gratuity or compensation received by the person convicted, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court, in its discretion, shall adjudge."

The question was taken upon the following amendment, and it was agreed to:

Insert in the third section, after the words "that any Senator or Representative in Congress who, after the passage of this act, shall receive any gratuity from any claimant against the United States," the following: "or agree to receive, or receive except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the United States."

The question was next taken on the following amendments offered by Mr. HAVEN, to come in as additional sections after the third; and they were severally agreed to, viz:

"SEC. 4. *And be it further enacted*, That if any person or persons shall, directly or indirectly, promise, offer, or give, or cause or procure to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security, for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any member of the Senate or House of Representatives of the United States, after his election as such member, and either before or after he shall have qualified and taken his seat, or to any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any Department of the Government of the United States, or under the Senate or House of Representatives of the United States, after the passage of this act, with intent to influence his vote, opinion, decision, or judgment, or with intent to bias his mind on any question, matter, cause, or proceeding, which may then be pending, or may by law, or under the Constitution of the United States, be brought before him in his official capacity, or in his place of trust or profit, and shall be thereof convicted, such person or persons so offering, promising, or giving, or causing or procuring to be promised, offered, or given, any such money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or other valuable thing whatever, and the member, officer, or person, who shall in anywise accept or receive the same, or any part thereof, shall be liable to indictment, as for a high crime and misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, or given, and imprisoned in a penitentiary not exceeding three years; and the member, officer, or person, convicted of so accepting or receiving the same, or any part thereof, shall forfeit his office and place; and any person so convicted under this section shall forever be disqualified to hold any office of honor, trust, or profit, under the United States.

"SEC. 5. *And be it further enacted*, That any person who, with intent to steal, shall take and carry away any record, paper, or proceeding of a court of justice filed or deposited with any clerk or officer of such court, or any paper, or document, or record filed or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the record, paper, document, or proceeding so taken, be liable to indictment as for larceny in any court in the United States having jurisdiction for the trial of crimes and misdemeanors against the United States, and upon conviction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge.

"SEC. 6. *And be it further enacted*, That any officer having the custody of any record, document, paper, or proceeding specified in the last preceding section of this act, who shall fraudulently take away, or withdraw, or destroy any such record, document, paper, or proceeding filed in his office, or deposited with him or in his custody, shall be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction for the trial of crimes and misdemeanors against the United States, and on conviction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court in its discretion shall adjudge, and shall forfeit his office, and be forever afterwards disqualified from holding any office under the Government of the United States."

Mr. STEVENS, of Pennsylvania. Will it be in order to modify the seventh section before it is voted on?

The SPEAKER. It will not be in order, unless by the unanimous consent of the House.

Mr. STEVENS. I desire to suggest a modification to this bill, to which I hope there will be no objection. I see that this, as well as the second section, allows a person who commits this crime in Maine to be indicted in California. I can hardly think that was the intention of the committee. If there be no objection, I hope the gentleman from New York [Mr. KING] will modify it so as to confine it to the court having jurisdiction of the person and the offense.

Mr. KING. I doubt whether the construction which the gentleman gives to this law is correct. It was considered by the committee, and it was not deemed necessary to provide against the difficulty he suggests.

The SPEAKER. If objected to, the modification cannot be made.

Mr. HAVEN. You can indict a man out of the jurisdiction of a court, and send and bring him in.

Mr. STEVENS. Under this bill a man can be indicted and tried in California for a crime committed here.

Mr. HOWARD. The indictment must be in the district where the offense is committed——

Mr. KING. According to the general law of the land.

The seventh section was next read by the Clerk, as follows:

"*And be it further enacted*, That the provisions of this act, and of the act of July 29th, 1846, entitled 'An act in relation to the payment of claims,' shall apply and extend to all claims against the United States, whether allowed by special acts of Congress or arising under general laws or treaties, or in any other manner whatever; and every offense against the provisions of this act shall be a misdemeanor."

The SPEAKER. The question now is upon ordering the bill to be engrossed, and read a third time.

Mr. STEVENS. Is it not in order to ask for a separate vote upon the first section? It seems to me that section ought to be voted upon separately.

The SPEAKER. It is not in order. The only question, under the operation of the previous question, now in order, is the ordering of the bill to be engrossed and read a third time.

Mr. MEADE. Cannot we separate distinct questions?

The SPEAKER. Not under the operation of the previous question. There is but a single question before the House, and that is the engrossment of this bill.

Mr. SWEETSER. Is it not in order to move to lay this bill upon the table?

The SPEAKER. It is in order.

Mr. SWEETSER. Then I make that motion, and upon it I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 11, nays 148; as follows:

YEAS—Messrs. Holladay, Robert W. Johnson, Meade, Millson, Polk, Richard H. Stanton, Sweetser, Toombs, Welch, and Addison White—11.

NAYS—Messrs. Abercrombie, Aiken, Charles Allen, Willis Allen, William Appleton, Averett, Thomas H. Bayly, Barrere, Beale, Bell, Bennett, Bowie, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Burt, Busby, Joseph Cable, Caldwell, Lewis D. Campbell, Thompson Campbell, Cartter, Chandler, Chapman, Chastain, Clark, Clingman, Cobb, Cottman, Cullom, Curtis, Darby, George T. Davis, John G. Davis, Dawson, Dimmick, Disney, Dockery, Duncan, Durkee, Eastman, Edmundson, Evans, Fay, Ficklin, Florence, Freeman, Gaylord, Giddings, Gilmore, Goodenow, Gorman, Grey, Hall, Harper, Isham G. Harris, Sampson W. Harris, Haws, Hascall, Haven, Hendricks, Hillyer, Horsford, Houston, Howard, John W. Howe, Hunter, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Landry, Letcher, Little, Lockhart, Mace, Martin, McLanahan, McMullin, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Murray, Nabers, Newton, Olds, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Penniman, Perkins, Phelps, Powell, Preston, Price, Richardson, Riddle, Robbins, Robie, Robinson, Ross, Sabine, Sackett, Savage, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Benjamin Stanton, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stratton, Stuart,

Sutherland, Taylor, Thurston, Townshend, Tuck, Venable, Walbridge, Wallace, Ward, Washburn, Watkins, Wells, Alexander White, Wilcox, and Woodward—148.

So the House refused to lay the bill upon the table.

Pending the call of the roll,

Mr. POLK said: I vote aye for the reason that I do not indorse any implied censure upon the profession to which I belong.

Mr. MEADE. Will it be in order to commit the bill to the Committee of the Whole on the state of the Union?

The SPEAKER. Nothing is in order but the proposition to engross the bill. The question now pending is upon ordering the bill to be engrossed and read the third time.

The question was then taken, and it was decided in the affirmative.

So the bill was ordered to be engrossed and read the third time.

The bill having been engrossed, was read the third time.

The question now being, "Shall the bill pass?"

Mr. KING, of New York, demanded the previous question.

Mr. TAYLOR. I ask, if we vote down the previous question, will it not be competent to refer the bill to the Committee of the Whole on the state of the Union in order to perfect it? It has not yet been perfected.

Mr. POLK. I ask the Chair, if the previous question is voted down is it then in order to recommit it or refer it to the Committee of the Whole on the state of the Union to perfect it?

The SPEAKER. To recommit only.

Mr. JONES, of Tennessee. I rise to a privileged question. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and to lay that motion upon the table.

Mr. MEADE. I move that the House adjourn.

[Cries of "No!" "No!" "No!"]

Mr. DEAN. I demand the yeas and nays upon the motion to adjourn.

Mr. HARRIS, of Tennessee. If the House adjourns now, will not the bill go upon the Speaker's table? Will it come up as unfinished business?

The SPEAKER. It will go to the Speaker's table, until the motion to reconsider calls it up.

The yeas and nays were not ordered.

Mr. POLK demanded tellers; which were ordered; and Messrs. HENDRICKS and BEALE were appointed.

The question was then taken, and there were—ayes 69, noes 77.

So the House refused to adjourn.

Mr. KING, of New York. With a view to make this entirely certain, I withdraw the demand for the previous question, move to recommit the bill, and now renew the demand for the previous question. I desire the question to be taken to-day on the whole measure.

Mr. STEPHENS, of Georgia. I wish to make an inquiry of the Chair.

Mr. GORMAN. I move that the House adjourn.

Mr. STEPHENS. I wish the gentleman to withdraw his motion for a moment, to allow me to make an inquiry of the Chair.

Mr. GORMAN. I will withdraw it.

Mr. STEPHENS. I would inquire of the Chair, if this business, as it now stands, will not be the first business in order to-morrow?

Mr. JONES, of Tennessee. To-morrow is private bill day, and will not that take precedence?

The SPEAKER. A motion to reconsider has precedence of private bills.

The question was then taken on Mr. GORMAN's motion; and it was decided in the affirmative.

So the House adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. DOTY: The petition of John P. Arnot and 70 other citizens of Green Bay, for a grant to the county of Brown, of a part of the military reservation at that place, for a poor-house.

Also, the petition of B. O'Conner and 230 other citizens of Ozaukee, for a grant of land to aid in the construction of the Lake Shore railroad.

Also, the petition of Fisher M. Rice and 209 other citizens of Port Washington, for the same purpose.

By Mr. MURRAY: The petition of Roswell Minard, praying that a law be passed directing the Commissioner of Pensions to issue a warrant for one hundred and sixty acres of land to him, as the heir of Theodore Minard, deceased, who was a soldier in the Mexican war.

By Mr. ASHE: The memorial of John Dawson and 200 other citizens of Wilmington, North Carolina, praying for an appropriation to remove the obstructions of Cape Fear bar.

By Mr. MILLER: A memorial from the President and Directors of the Canton and Bloomfield Railroad Company, praying Congress for a grant of land to aid in the construction of a railroad from Canton, Missouri, to Bloomfield, Iowa.

By Mr. HENN: A memorial of L. M. Kennett, A. B. Chambers, Lyman D. Norris, Thos. C. Johnson, and Wm. J. McIlhenny, a committee appointed by a convention held at St. Louis, on the 15th day of November, 1852, asking for a grant of land to aid in the construction of a railroad from the city of New Orleans, via the capital of the State of Arkansas; the Iron Mountain, in the State of Missouri; the city of St. Louis; the valley of the Des Moines river, in the State of Iowa, to a central point in the Territory of Minnesota, in the direction of the Red river of the North, with a branch to the Falls of St. Anthony.

IN SENATE.

FRIDAY, *January* 14, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tem.* laid before the Senate the credentials of the Hon. JOHN M. CLAYTON, elected a Senator by the General Assembly of the State of Delaware for the term of six years, commencing on the 4th of March next.

PRIVATE BILLS.

Mr. WADE. I move to take up for consideration Senate bill No. 503, "for the relief of the legal representatives of Daniel Loomis, deceased." I believe there will be no objection to it. It received the unanimous sanction of the Committee on Claims.

The PRESIDENT. It requires the unanimous consent of the Senate to take up the bill at this time, the morning business being first in order.

Mr. HOUSTON. I call for the morning business.

The PRESIDENT. As the Senator from Texas objects, petitions are in order.

Mr. WADE. Is not this private bill day?

The PRESIDENT. That was the impression of the Chair at first; but he has been informed by the Secretary that the resolution of the last session in reference to private bills does not extend to this session. Petitions are therefore in order.

PETITIONS, ETC.

Mr. JONES, of Iowa, presented a petition of citizens of Allamakee and Clayton counties, Iowa, praying the establishment of a mail route from Monona to Columbus, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. RUSK presented the petition of Betsy W. Eve, widow of Joseph Eve, praying to be allowed certain expenses incurred by her husband while Chargé d'Affaires to the republic of Texas; which was referred to the Committee on Foreign Relations.

Mr. PEARCE presented the petition of Robert Steele, praying that the children of John Steele, a revolutionary officer, may be allowed the pension their father would have received under the act of May 15, 1828, if he had survived the date of its approval; which was referred to the Committee on Pensions.

COMPENSATION OF CLERKS.

Mr. WALKER. I wish to present the petition of a large number of clerks in the Treasury Department, in which they set out with respectfully calling the attention of the Senate to the percentage generously granted them at the last session of Congress on their respective salaries; and they remind Congress that its terms were temporary, and that consequently, unless further legislation be had in relation thereto, great inconvenience will be felt by them. They say that the reasons which compelled them to petition last year for relief have gathered strength, from a further increase of rents, and the prices of all the necessaries of life in this city, and they flatter themselves that the percentage will again at this session, if not indefinitely, be extended to them.

In presenting this petition, I must say that it has come to my hands very recently. I know nothing about the facts alluded to. It was not part of my duty to investigate the matter specially at the last session; but this much I must say, from a general knowledge of the cost of living in Washington, that with the pay these persons receive they must certainly have a pretty hard time of it. That seemed to be conceded at the last session, and a temporary relief was granted to them. They ask that it may be now again granted to them, if not indefinitely. I feel disposed for one to recommend the petition to the consideration of the Committee on Finance, to which I move that it be referred.

The motion was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. JONES, of Iowa, from the Committee on Pensions, to which were referred the following petitions, asked to be discharged from the further consideration thereof; which was agreed to:

Petition of Isaac Bigelow.

Petition of Ann Van Wart and Samuel B. Van Wart, children and heirs-at-law of William Van Wart.

On motion by Mr. JONES, of Iowa, the petition of Isaac Bigelow was referred to the Committee on Claims.

Mr. FOOT, from the Committee on Revolutionary Claims, to which was referred the petition of the administrator of William Thompson, submitted an adverse report thereon.

He also, from the same committee, to which was referred the petition of Margaret Barnitz, heir of David Grier, asked to be discharged from the further consideration thereof, and that she have leave to withdraw her petition and papers; which was agreed to.

JOHN J. SYKES.

Mr. RUSK. The Committee on the Post Office and Post Roads, to which was referred the bill from the House of Representatives entitled "An act for the relief of John J. Sykes," has instructed me to report it back and recommend its passage. I ask the unanimous consent of the Senate to consider this bill at this time. A similar bill passed the Senate at the last session, and this will take but a moment.

There being no objection, the Senate proceeded, as in Committee of the Whole, to consider the bill. It proposes to direct the Postmaster General to pay to John J. Sykes $1,298 33, in full for clerk hire, office rent, and salary as special agent for the Post Office Department in California: provided that $446 63, a part of the first-mentioned sum, being for the service of Sykes as special agent, shall not be paid to him until he shall have filed in the Post Office Department such vouchers in proof of his services as the Postmaster General shall certify to be satisfactory.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

INSTRUCTOR OF SWORD EXERCISE.

Mr. HOUSTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of an increase in the compensation of the "Instructor of Sword Exercise," at the United States Military Academy at West Point.

BRIG GENERAL ARMSTRONG.

Mr. JONES, of Iowa. Mr. President, I beg leave to offer a resolution, which I ask may be considered at this time. I have consulted with the chairman of the Committee on Foreign Relations in regard to it, and he concurs in the propriety of its passage. It is as follows:

Resolved, That the President be requested to communicate to the Senate, the award of the Emperor Louis Napoleon, of France, upon the claim of the owners of the brig General Armstrong, against the Government of Portugal, together with any correspondence upon that subject not heretofore communicated to Congress.

The resolution was considered by unanimous consent.

Mr. HALE. I am not the special guardian of the Executive, but I would suggest whether it would not be courteous to put in the usual qualification.

Mr. JONES, of Iowa. I have no objection to insert the words, "if not incompatible with the public interest."

The resolution as modified was agreed to.

HEIRS OF WILLIAM McFARLAND.

On motion by Mr. DOWNS, the Senate proceeded, as in Committee of the Whole, to consider the bill from the House of Representatives, "for

the relief of the heirs of William McFarland, deceased." It proposes to surrender and release to his heirs any interest which the United States may have to a certain tract of land in the Greensburg land district, Louisiana, provided that nothing contained in the act shall take away or affect in any way any right, title, or interest of any person or persons claiming that land.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

DANIEL LOOMIS.

On motion by Mr. WADE, the bill "for the relief of the legal representatives of Daniel Loomis, deceased," was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury Department to settle, upon principles of equity, the accounts of Daniel Loomis, so far as he was an original contractor for making the Cumberland road, and as far as he contracted to make said road, or any part thereof, different from the original contract, and for keeping the same in repair, and to pay any balance that may be found due, to his legal representatives.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

WILLIAM SENNA FACTOR.

On motion by Mr. BORLAND, the bill for the relief of William Senna Factor was read a second time, and considered by the Senate as in Committee of the Whole. It proposes that the sum of $3,707 shall be paid to William Senna Factor, as indemnity in full for property of Rose Factor, destroyed by order of the American officers of the United States Army, in the Seminole war of 1836, and for property taken by those officers for public use in that war: provided that the Secretary of the Interior shall first be satisfied that Billy Senna Factor is the legal representative of Rose Factor, deceased.

Mr. BORLAND. This bill occupies a very peculiar position here. My colleague and myself are perfectly satisfied that it passed at the last session, but by some mistake it seems not to have been so entered. That is the reason why I ask that it may be taken up and acted upon now. It was reported from the Committee on Indian Affairs by my colleague [Mr. SEBASTIAN] after a very careful examination. I am very confident that it passed the Senate at the last session, but by some mistake it was overlooked.

Mr. HALE. Let the report of the committee be read.

Mr. BORLAND. I will state, for the satisfaction of the Senator from New Hampshire, a fact which I think he will like to hear. Billy Senna Factor is a free man of color, residing in my State, who has been a long time kept out of property to which he was clearly entitled, and which was taken by the Government of the United States for the use of the United States during the Seminole war in Florida. He is a very worthy colored gentleman, and I have no doubt the Senator will be glad to give him this relief.

Mr. HALE. I am glad to hear it. I have no doubt there are a great many other colored people who are kept out of property to which they are clearly entitled. I am glad that justice is about to be done at least to one of them. [Laughter.]

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

MAJOR CALEB SWAN.

On motion by Mr. ADAMS, the "bill for the relief of the heirs of Major Caleb Swan" was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to the legal representatives of Major Caleb Swan, the amount of his compensation as Paymaster of the Army, from the 1st day of July to the 31st of December, inclusive, 1808, and a commission of one half of one per centum on the amount of bills of exchange negotiated by him under direction of the War Department for the purpose of raising money for the use of the Army.

Mr. ADAMS. I am directed by the Committee on Claims to move to amend the bill by striking out "one half," so as to make it read "one per centum on the amount of the bills of exchange," as a compensation for the services performed. The committee first proposed to allow the one half of one per cent., with a view of covering the actual expenses incurred by Major Swan in the collection and disbursement of the funds belonging to the United States while he was paymaster. On a subsequent examination, however, we found that in all such cases, not less than one per cent. has been allowed, where the allowance has been made. This is a meritorious claim, and the allowing of one per cent. will not more than cover the expenses, even if it does that.

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was agreed to; the bill was ordered to be engrossed for a third reading, and was read a third time, and passed.

TEXAS NAVY OFFICERS.

Mr. MALLORY. I move to postpone all prior orders, for the purpose of taking up the "joint resolution relative to the officers of the late Texan Navy."

The PRESIDENT. The Chair is informed that there is no resolution in force at this session requiring the consideration of private bills. The resolution which was adopted at the last session expired with the session. The motion is, therefore, in order.

The motion was agreed to; and the bill was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to direct that the existing laws limiting the number of officers in the Navy of the United States be so far modified, as to authorize the President to incorporate into the naval service of the United States the surviving officers of the late Texas Navy, who were duly commissioned and in the service of that republic at the time of its annexation to the United States: provided that the number of officers to be incorporated shall not exceed eight: and provided further, that those officers who were formerly in the United States Navy, shall take no higher grade, number, or position, than that which they would now occupy by due course of promotion if they had not left it, and that those who were not in the United States Navy, shall take such position as the President may assign them.

Mr. RUSK. I move to strike out of the bill the last proviso, which is:

"*And provided further*, That those of said officers who were formerly in the United States Navy, shall take no higher grade, number, or position than that which they would now occupy by due course of promotion if they had not left it, and that those who were not in the United States Navy, shall take such position as the President may assign them."

The amendment was agreed to.

The PRESIDENT. If there be no further amendment proposed, the bill will be reported to the Senate.

Mr. DAVIS. Is that a private bill?

The PRESIDENT. The Chair announced to the Senate, that he is informed that the resolution setting apart Friday for the consideration of private bills, which was passed at the last session, only extended through that session. It has not been renewed this session.

Mr. BORLAND. I would inquire with regard to that, if, under our rules, the business of the first session comes up at the second session of the same Congress in the same order in which it stood at the close of the first session, without any further order?

The PRESIDENT. The Chair is of the opinion that that would not affect this at all. The resolution must be renewed, unless there is something in its terms extending it.

Mr. MILLER. I presume no one expected that bill would come up to-day. The Senators from North Carolina and Maryland both take an interest in that question.

Mr. BAYARD. What is it?

Mr. MILLER. The joint resolution relative to the officers of the late Texan Navy. I hope the Senator from Texas will not press it to a vote now. It is a matter which has been discussed here frequently, and has met with considerable opposition on this floor. I hope it may be passed over.

Mr. RUSK. The session is drawing to a close. The subject has been before the Senate for the last six years—ever since the annexation of Texas. These officers are suspended and not permitted to come into the Navy of the United States. They believe, and the State of Texas believes, they have a right to come into the Navy of the United States, under a fair construction of the articles of annexation. As the session is drawing to a close, as a matter of course, if the subject is now postponed, we may not expect to have any action at this session. I would be glad to do anything that I could, conveniently, to accommodate the Senator from New Jersey, but I hope the Senate will act upon it. I believe the minds of Senators are made up upon the question, as they have investigated it several times.

Mr. MILLER. I do not wish to delay this matter; but it was not expected to come up to-day, and as this is private bill day, it seems to me to be out of order. I consider the questions embraced in the bill of great importance, and with a view of giving those who take an interest in it an opportunity to be here and discuss it, I move that the further consideration of the joint resolution be postponed till Monday.

Mr. RUSK. I wish to say simply that if this bill is postponed to Monday next, I hope the Senate will indulge me in taking it up and acting upon it at that time.

The motion to postpone the further consideration of the bill was agreed to.

THOMAS P. DUDLEY.

Mr. UNDERWOOD. I move to take up House bill for the relief of Thomas P. Dudley. The bill is for the relief of an old soldier in Kentucky, who has written to me that he wants to be put upon the pension list. I know nothing about his claim; but I suppose it is all right as it has passed the House, and the Committee on Pensions of this body.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Treasury to place the name of Thomas P. Dudley, of Kentucky, on the roll of invalid pensioners at the rate of $11 25 per month, to commence January 8, 1849, and continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

INTERNATIONAL RIGHTS OF HOSTAGES.

Mr. MASON. I move to postpone the prior orders, for the purpose of taking up the bill "authorizing the adjustment and payment of the claim of William Hazzard Wigg, deceased, for losses sustained by him during the war of the Revolution." It was reported from the Committee on Revolutionary Claims, and the report which accompanies the bill, shows a case of such exceeding interest that I think the Senate will pass it.

The motion was agreed to, and the bill was read a second time and considered by the Senate as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury, under the direction of the Secretary of the Treasury, to adjust and settle the claims of Major William Hazzard Wigg, deceased, late of the State of South Carolina, for losses sustained by him as a hostage by the British officers during the war of the Revolution, and to allow the sum of $30,117, with legal interest from November 14th, 1782, until the day of stating the account of said losses. It further proposes to direct the Secretary of the Treasury to pay William Hazzard Wigg, the grandson of William Hazzard Wigg, deceased, the amount that shall be ascertained to be due on account of the losses, including the interest.

At the request of Mr. BAYARD, the report of the Committee on Revolutionary Claims was read.

The question presented in this case, as set forth in the report, is marked with very peculiar and interesting features. It involves the important doctrine of the international rights of hostages in war, which is now, for the first time, brought before Congress.

Major Wigg was an officer of the militia of the State of South Carolina, and as such rendered valuable and distinguished services to the cause of independence during the war of the Revolution. He was a gentleman of fortune, influential connections, a bold, resolute spirit, and enthusiastically attached to the cause of his country. He had served with fidelity and distinction from the earliest stages of the war up to the month of March, 1780, when, in obedience to the proclamation of Governor Rutledge upon the invasion of the British army under Sir Henry Clinton, he hastened to Charleston, and

as a volunteer, assisted in the defense of the city, and it capitulated to the enemy in the month of May following. By the act of capitulation, Major Wigg, in the following terms, became a prisoner of war, upon parol in the city, "which parol, as long as they observe, shall secure them from being molested in their property by the British troops."

By the surrender of Charleston, and the success of the enemy in other parts of the State, it seemed for a time that the whole State was subjected to the authority of the British. The State government appeared to be annihilated, and the struggle for American liberty, in South Carolina, was virtually confined to the almost hopeless efforts of a few gallant partisans, here and there fighting without concert, in small detached bands. It is a fact of history, that at this stage of affairs, a new feature was given to the revolutionary contest, by the execution of Major André. That act greatly increased the asperity of personal feelings, and was denounced by the British as illegal and unnecessary, and it became their settled policy to revenge it. The fall of Charleston presented a favorable opportunity of carrying out that policy. It had placed in their possession a large body of officers and influential citizens, who could be made to serve as a check upon their friends, so as to prevent retaliation by the Americans, in the event of any execution in revenge for the death of Major André being determined upon by the British authorities. The general feeling of asperity at this time, perhaps raged higher in South Carolina than in any other State of the Confederacy. During the time, the State seemed to be subdued; the Tories, availing themselves of their temporary ascendency, perpetrated the most signal barbarities. Excited by these barbarities to more strenuous exertions, and encouraged by the advance of assistance from Congress, the patriots of South Carolina renewed the struggle, and regained the greater part of the State which had been lost. When their power was restored, they inflicted the severest penalties upon the Tories in return for the injuries they had sustained at their hands.

In this state of things the British commander at Charleston selected from among the prisoners of war at large upon parol, one hundred and thirty of the most important and influential, whom he sent on board of the Toobay and Pack Horse, vessels of war, and consigned them to close imprisonment, in the most reckless violation of the sacred guarantees of the articles of capitulation. On the day of their arrest, May 17, 1781, he addressed a letter to them, in which he informed them that the outrages of the American troops, and the rigorous treatment of the Loyalists, had compelled him to make many regulations which had been disregarded, and it became his duty to try whether a more decided line of conduct would prevail, and whether a regard to the safety of their friends would induce the American troops to extend clemency to the loyal militia. "Induced," said he, "by these 'motives, I have conceived it an act of expediency 'to seize upon your persons and retain them as hos-'tages for the good usage of all the loyal militia 'who are or may be made prisoners of war, resolv-'ing to regulate in the full extent your treatment 'by the measure of theirs." He informed them then that he had no objections to their making any proper use of that letter they might judge to their advantage, and tendered any flag of truce which might be necessary to carry copies of it to any officer commanding American troops. On the next day the prisoners forwarded a copy of the letter to General Greene, then in command of the southern army, accompanied by the memorable document which follows:

"We have the honor of inclosing a copy of a letter from Colonel Balfour, commandant at Charleston, which was handed us immediately on our being put on board of this ship; the letter, speaking for itself, needs no comment; your wisdom will best dictate the notice it merits. We would just beg leave to observe, that should it fall to the lot of all or any of us to be made victims agreeably to the menaces therein contained, we have only to regret that our blood cannot be disposed of more to the advancement of the glorious cause to which we have adhered."

By the sacred terms of the treaty of capitulation these gentlemen were prisoners of war, on parol, and their estates guarantied from molestation. The enemy basely violated the obligations of that treaty, seized upon their persons, cast them in prison on shipboard, and threatened to subject them to the same usage to which traitors fighting against their country, and taken with arms in their hands, would be subjected by the exasperated patriots.

This act of perfidy and cruelty, which has no parallel in the history of the American Revolution, was met by the calm, dignified, and modest, but brave and unfaltering letter above quoted. This letter was communicated immediately to General Greene. The letter of Colonel Balfour was published in the journals, and the condition of these persons as hostages was made known to the public authorities and to the whole community. History is silent as to the length of time these prisoners were detained in confinement as hostages, but the forty prisoners confined on board the schooner Pack Horse, of which Major Wigg was one, are known to have remained in that condition in Charleston harbor for a period of about fourteen months, dating from May, 1781, until released, as will be presently related.

Having it in his power now to carry out the long-cherished scheme of revenge for the death of Major André, by the security from retaliation which the possession of these hostages afforded, the British commander hesitated no longer, but on the 1st of August, 1781, the well-known tragedy of the execution of Colonel Hayne was consummated. It filled the minds of all men with horror, and steeled the bosom of every patriot in South Carolina, who resolved from that day to die or to conquer in the struggle of liberty.

To these feelings Major Wigg was peculiarly obnoxious. He was the brother-in-law, intimate personal friend and companion-in-arms of Colonel Hayne, and had been permitted to attend him to the gallows, and render the last sad duties of friendship and affection. Feeling the deepest indignation at the barbarity and injustice of the execution, he could not restrain the expression of his feelings, regardless alike of the surveillance of an insolent soldiery and the isolation of a floating prison. Aroused by the justice and severity of his reproaches, the British immediately determined to visit him in turn with their vengeance. His life they dared not touch, for their consciences were surcharged with the blood of the martyr Hayne; therefore they resolved to destroy his property. To this end an expedition by water was forthwith dispatched to his two plantations on the Oketee river, distant one hundred and twenty miles from Charleston, and quite out of the line of military operations. This expedition reached its destination within three or four weeks after the execution of Colonel Hayne, and neither going nor returning molested the property of any other man; particularly it passed and repassed the Island of Callawassie, lying between the two plantations of Major Wigg, on which was a large body of negroes, none of which were seized. Hence it is evident that the plunder of Major Wigg's property was an act of individual vengeance, and carried into effect while the wrath he had excited was still at its hottest.

This claim for compensation or indemnity then rests entirely upon the relation which Major Wigg bore to his country at the time the loss occurred. He was then a hostage, and as such, in close confinement on board a prison-ship, and totally deprived of the means of doing anything for the protection of his property. The committee also reported that Major Wigg was entitled to interest on his claim. They regarded his claim as a demand for the payment of a just contract debt; for "satisfaction" for the loss of property, under the law of nations, is the contract entered into between the sovereign power and the hostage.

Mr. BAYARD. Mr. President, I do not mean to object to this provision or gratuity, as I think it is. I will not enter into the question of the propriety of allowing it to this distinguished officer, who, according to the report, certainly sustained losses during the revolutionary war; but I do object to the allowance of interest in this case from the year 1782, down to the present time; and I move to amend the bill by striking out that portion of it which provides for the allowance of interest during that period. The services of this officer may have been very gallant, and no doubt they were. I am willing to go as far as any one in the way of gratuity connected with revolutionary services, but this claim, as far as I can see, is now presented for the first time to the Senate. Here is a lapse of more than seventy years, on which interest is asked. I can conceive no principle on which we can give interest under these circumstances, for the Government was amply able to pay the claim, if it had been presented fifty years ago.

Mr. BUTLER. Mr. President, I am glad that my friend from Delaware, whose name is associated with the Revolution itself, has conceded the principal, and it will save me from some remarks which I might otherwise have made to the Senate; but it is perhaps necessary that I should present this case in a very few words, so that it may be laid intelligently before the whole Senate, and go to the heart of the country.

If this case could not be exempted by itself, on account of its own peculiar circumstances, from the general class of claims for damages done to property during the war of the Revolution, I presume I could not ask for the indemnity claimed in this report and bill. But, sir, after the execution of André, it is very well known that the British were looking out for a victim of retaliation. The condition of Major Wigg, and other persons, men of property and position, men who had been educated in England, was known to the British Ministry. They were men who occupied a highly responsible position in society, and they were surrendered after the capitulation of Charleston, as prisoners of war. Recollect, Mr. President, that they were prisoners of war, to be either upon their plantations or in the city.

After the execution of Hayne, however, General Greene yielded to the dictates of an honorable indignation in his whole army—(and allow me, sir, to thank the honorable Senator from Rhode Island [Mr. JAMES] for bringing forward this bill as the representative of the birth-place of Greene)—and determined to retaliate. When Colonel Hayne was executed, this gentleman, Major Wigg, was at the gallows bidding his comrade and brother-in-law farewell; but, sir, they dared not take his life; but what did they do? They sent emissaries immediately to his plantation, despoiled his house, took off his property, and left the man who wrote that noble sentiment which has been read from the report, without the ordinary means of subsistence. Let me explain the sentiment to which I allude. When Balfour, the commandant of Charleston at that time, and who claimed to be civil governor of South Carolina, under the authority of the British Government, reduced them from the condition of prisoners of war, and placed them on board prison-ships, and said their lives would answer for any retaliation which Greene might inflict, what did they write? They wrote in answer to him, not to forbear, but that they could not perform a more acceptable duty to their country than to offer their blood as a sacrifice for such a foul wrong done to the honor of her arms. Here is the sentiment of the report, and in order to make it more conspicuous, and to bring it more fully before the Senate, I ask the Secretary to read the letter of Major Wigg to General Greene.

The Secretary accordingly read as follows:

"We have the honor of inclosing a copy of a letter from Colonel Balfour, commandant at Charleston, which was handed us immediately on our being put on board of this ship; the letter, speaking for itself, needs no comment; your wisdom will best dictate the notice it merits. We would just beg leave to observe that, should it fall to the lot of all or any of us to be made victims, agreeably to the menaces therein contained, we have only to regret that our blood cannot be disposed of more to the advancement of the glorious cause to which we have adhered."

Mr. BUTLER. Sir, this is a noble letter. They were hostages, not prisoners of war. Their condition was changed, and changed by a tyrant—for he was a bloody tyrant—under the form of civil authority. They were willing that their blood should answer at the call of General Greene, whenever the appeal should be made. As I have said, they were hostages; and the law laid down by Grotius is, that when hostages suffer an injury, they are to be indemnified. I do not say that in a technical sense they became hostages by the declaration of Balfour, but I do say they became hostages by that and by the acquiescence of Greene. General Greene was obliged to consent that they should be hostages, and they did remain as such. This gentleman, with his Roman firmness, his unshrinking courage,—a courage that would have disdained to become a hostage,—if he had known, and if his companions had known, that their condition was to be changed from that of prisoners of war, and that they were to be made miserable hostages on board of a prison-ship, they would have perished amidst the ruins of the city which

they had given up, sooner than have done so. Their condition was changed, and in consequence of that change these injuries were inflicted upon this gentleman, as well as upon others, but more particularly upon him.

Sir, I have not time to go through with this subject. I have a good deal of feeling upon it, from more reasons than one. I hope my friend from Delaware will yield, at least, some portion of the interest in this case.

Major Wigg and his companions were released from the prison-ship, by overpowering the British crew and taking the vessel into a port of North Carolina, from which he returned home and immediately filed among his papers this claim, intending to make it either against South Carolina or the United States, but he died almost immediately. So did his brother-in-law, Mr. Hutson, and the paper has been found only very recently. If there is any claim founded in justice, this is one. Whether the whole interest can be recovered or not, I think, in any point of view, the Senate should be disposed to give interest from the time of the demand; and I ask the Senator from Delaware to yield at least that much.

This is a bill which has emanated from the Committee on Revolutionary Claims. That committee has given it due consideration, and allow me to say that the members of it have done their hearts and their judgments credit upon this subject. It comes from a committee which, although composed wholly of northern men, knows no northern feeling in regard to it—a committee that has yielded to the honorable impulses of the heart, and they generally dictate what the law of nature should be. Sir, I shall never forget, and South Carolina in its gratitude will never forget, the services of General Greene, whose birth-place the honorable Senator who reported this bill so worthily represents. When we were scarcely able to pay our own ragged soldiers, we granted General Greene at the end of the war $50,000.

Mr. BAYARD. Mr. President, as to the remarks of the honorable Senator from South Carolina in reference to the gallantry of Major Wigg, there can be no dispute; but it does not seem to me that they touch the position which I assumed. I stand here as one of the representatives of my State; not to disburse the public moneys of the nation as if they were my own private funds; but I am here as a trustee to vote on all matters coming before the Senate according to the best judgment I can form of the propriety of the allowance.

I do not dispute for a moment the gallant conduct or the elevated sentiments of the officer whose representatives now seek this remuneration from the Government. I do not object to the claim. I do not even go into the consideration of the question whether this is a gratuity or whether it is a good demand, which, according to the laws of nations, is entitled to payment as a mere claim. But the objection which I make is to the allowance of interest for such a period of time; an allowance which, it seems to me, would form a precedent. All this looseness of allowance against the Government arises from one case after another creeping in, and then one being cited as a precedent for another, until eventually you come to allow interest in all cases whatever. I hold to the doctrine that against the Government, interest is not allowable except in cases of agreement. I cannot, therefore, vote for that portion of this bill, nor can I vote for the bill if it be retained.

The gallantry of the services or the meritorious character of the individual does not touch the question at all. The point which comes before you is, whether a claim made upon the Government after a lapse of seventy years, with no other reason given for the delay than a statement that a paper which contained an estimate of the losses, and not the fact of loss, was not discovered until recently. The question is, whether the Government should pay interest on such a claim, when in the *interim* it would have been perfectly competent to have paid the claim, if it had been presented. I am now considering the claim to be of the best and most meritorious character, and I can see no principle on which we can make the allowance in this case which would not necessarily involve us in the payment of interest in every case which may come before us, without regard to the lapse of time.

This is no question connected with an act of limitations; and the great principle of viewing State claims with disfavor is not a mere legal or technical objection. It is one that the wisest and best men, it is one that the greatest judges, have always recognized as a leading, essential, necessary principle, in courts of equity as well as courts of law, that stale claims are not to be countenanced. The reason for it is a very apparent one. You may make any statement you please in reference to a claim sixty or seventy years after its date, and there are no means of controverting it; and its character may be enhanced by the statements made when it is presented, and who make their representations when, in consequence of the lapse of time, no one can deny them. Let me not be understood, however, as applying the remark to this particular case; but I refer to the danger of the general principle.

Besides that, as to the magnitude of the claim, the means of evidence are lost, and you are perfectly in the dark. If you adopt a principle counter to that which is adopted in all courts of equity and affirm that after such a lapse of time you will recognize claims, where the party has slept over his rights and not chosen to demand them, the result will be that however overflowing your Treasury may now be, you will not long have to complain of an evil of that kind.

I trust that my remarks will not be taken as denying the merits of this particular claim. I object, not to it, but to the principle of allowing interest upon claims which are so distant in character, and where there has been no intermediate demand. I cannot see the principle on which it is to be allowed. The meritorious nature of the claim does not alter it one iota, in my judgment. No matter how gallant the services, no matter how clear the claim, the party has slept over his rights; and if you now allow him, or those who represent him, to come in and give any answer they please for its non-presentation at a previous time, and allow interest, you abandon all the principles which have heretofore guided us and which have guided courts of justice—and the principles of courts of justice in reference to this subject are founded on very sound reasons. They will not suffer a party to get rid of a presumptive objection arising from lapse of time, unless the excuse is founded on certain general principles; that is, either the minority or the coverture of the party when he or she was not able to act for him or herself. In such cases, or where there is no person against whom the claim can be made, distance of time will not operate against the demand; but these are exceptions to the general rule which prevail not only in courts of law, but also in courts of equity.

But if in one case you depart from the general principle and allow interest against the Government for a period of seventy years, during which time the claim could have been paid if it had been presented, where are you to stop? In this case the excuse for not sooner bringing forward the claim is, that a paper was lost. What kind of a paper? Not one showing the existence of a claim, but one simply in reference to its amount. If, on such a ground, you now allow seventy years' interest, you will be abandoning the principles which have heretofore guided us. The Government has had millions of dollars lying idle in the Treasury at various times since 1782, and could have paid the claim with a fuller knowledge of the facts than we possess, if it had been presented at an anterior day. If you do this, you will be making the Government pay, I will not say for the negligence of the party in this particular case in not presenting the claim, but certainly for what it was in no degree accessory to. Therefore, to pay interest in a case where there has been no neglect on its part, and where there is no principle of law or of equity which I can see which justifies the payment of interest, is against all precedent. I am willing to vote for the claim itself, but I am unwilling, for the reasons which I have stated, to vote for the allowance of interest.

Mr. HALE. Mr. President, a claim of this sort always commends itself very powerfully to the sympathies of every patriotic heart, and we are disposed at once to take counsel of those sympathies rather than of the cooler dictates of judgment. That is ordinarily the case; but when it is backed up, as on this occasion, by the patriotic and eloquent fervor of the honorable Senator from South Carolina, the appeal becomes overwhelming.

Now, with every disposition to do full justice to the heirs of Major Wigg, it strikes me that there is a novel principle involved here. This, if I understand the report, from the brief attention which I have been able to give it, is not literally the case of a hostage, but of one who was a prisoner of war, but seized and made so; and besides, the compensation is not for injuries received by the individual while he was sustaining that *quasi* relation to the enemy and to the country of a hostage, but it was for an act of hostility committed on his property that the compensation is asked. In other words, the private property of the individual was taken by the enemy, and compensation is now asked for it. I think it would be a new principle of law by which Government should pay such a claim; but I would be willing to go a great way, even beyond all former precedents, in a case of this meritorious character.

It will be recollected that acts of this sort are not without a parallel. When Great Britain declared war against France, after the peace of Amiens, Bonaparte seized all Englishmen within the French dominions and made them hostages or prisoners of war, and kept them until peace was restored—for some ten or twelve years, I think. I believe the idea never was suggested that the Government of Great Britain was bound to make compensation for all the injuries received by those Englishmen who were thus seized in the French dominions and kept there by Bonaparte for ten or twelve years.

I have the fullest disposition to vote for this bill, and I hope upon examination that I shall be able to do so. But the bill is a new one. It comes up to-day for the first time. The report has been but once read and hastily; and if the friends of the bill will consent that it be postponed until to-morrow, I pledge myself that I will read the report, and satisfy myself of the facts; and if I can vote for it I shall do so. I think this is not an unreasonable request. I have no doubt that there are very many gentlemen in the same situation as myself. We should not be carried away by our sympathies to establish a principle that would lead further than we might be willing to go. Now, I am willing to go a great way; but I hope it will be agreeable to the friends of the bill to have it postponed until to-morrow, and then those gentlemen who feel an interest in the matter can look at it, and see whether they can give it their votes. I assure the friends of the bill that it will give me great pleasure to vote for it; but as at present advised, I can vote neither for the allowance of interest, nor for the principal. I move, therefore, to postpone the further consideration of the bill until to-morrow.

Mr. BUTLER. To-morrow is Saturday.

Mr. HALE. To-morrow means the next day we sit.

The motion to postpone was agreed to, there being on a division—ayes 17, noes 16.

Mr. BUTLER. Allow me to make one remark. I suppose now that the bill will not come up till Friday next; but I will say to gentlemen that I shall not claim anything in this bill but what my judgment approves. I am pleased with the tone of the remarks in which gentlemen have indulged, and I hope they will read the report. I am willing that the case shall stand the severest test of scrutiny.

RECESS.

On motion by Mr. MANGUM, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

ASENATH M. ELLIOTT.

The bill for the relief of Asenath M. Elliott was read a second time, and on motion by Mr. ADAMS, the Senate proceeded to consider it as in Committee of the Whole.

It proposes to direct the Secretary of the Interior to place the name of Asenath M. Elliott, widow of the late Captain Edward G. Elliott, of the United States Army, upon the pension roll, and to pay her one half of the pay to which her husband would have been entitled at the time of his death, the payment to commence on the 5th of January, 1849, and to continue during her natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EXECUTIVE SESSION.

On motion by Mr. CLARKE, the Senate pro-

ceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened.

RECESS.

Mr. BRIGHT moved to reconsider the vote by which the motion that when the Senate adjourns, it be to Monday, was agreed to, in consequence of a rumor having reached the Senate of the death of Mr. UPHAM, of Vermont.

The motion to reconsider was agreed to, and then the original motion was rejected.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 14, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

Mr. DEAN. I rise to a privileged question. I find by examining the Journal of this morning, that I do not appear as voting upon the motion to lay the bill of my colleague [Mr. KING] upon the table. I voted upon that bill in the negative. I desire to have my name recorded.

There being no objection, it was so ordered.

The Journal of yesterday was then approved.

FRAUDS ON THE TREASURY.

Mr. KING, of New York. I desire to call up a privileged motion—the motion to reconsider the vote by which the bill to prevent frauds on the Treasury was ordered to be engrossed and read the third time.

Mr. HOUSTON. I demand the regular order of business.

Mr. BOWIE. Will the motion of the gentleman from New York [Mr. KING] take precedence of a motion to go into a Committee of the Whole on the Private Calendar?

Mr. KING. I apprehend the final passage of this bill will occupy but a few moments. It is for that reason I call it up. If it were to take much time, I would waive it.

The SPEAKER. The question is upon reconsidering the vote by which the bill was ordered to be engrossed and read a third time, and to lay that motion upon the table.

Mr. KING. I propose, as the subject is before the House, to pass by that question, and take up the motion to put the bill upon its passage. It is not necessary to act upon that motion.

The SPEAKER. The House must act upon the motion if the question is resumed.

Mr. KING. May not the House dispose of the question of order?

The SPEAKER. The first question is the motion made by the gentleman from Tennessee, [Mr. JONES,] to lay upon the table the motion made by him to reconsider.

Mr. STEPHENS, of Georgia. I move that there be a call of the House.

The question was then taken, and it was decided in the affirmative.

So a call of the House was ordered.

Mr. NABERS. Has not the previous question been ordered?

The SPEAKER. The previous question has not been ordered. It has been only demanded.

The Clerk then proceeded to call the roll, and 150 gentlemen answered to their names.

Mr. GORMAN. I renew the request I made yesterday morning, to take up the bill of the Senate, now upon the Speaker's table, providing for a retired list in the Army, in order that it may be referred to the Committee on Military Affairs. The bill is of great importance to the Army, and I hope that the gentleman from New York will allow it to be sent to a committee.

Mr. KING, of New York. I object.

Mr. GORMAN. Will not the gentleman allow me to send it to the committee I have named?

Mr. KING. I have no disposition to delay it, but there is another matter to be disposed of now.

Mr. CLINGMAN. I insist upon the regular order of business.

The SPEAKER. On yesterday the gentleman from Tennessee [Mr. JONES] moved to reconsider the vote by which the bill to protect the Treasury against frauds was ordered to be engrossed and read a third time, and he moved to lay the motion to reconsider upon the table, which is now the question before the House.

The question was then taken, and it was decided in the affirmative.

So the motion to reconsider was laid upon the table.

The previous question was then seconded, and the main question ordered; which was upon recommitting the bill.

The question was then taken, and it was decided in the negative.

The question recurring upon the passage of the bill,

Mr. SWEETSER demanded the yeas and nays; which were ordered.

The question was then taken, and there were—yeas 134, nays 23; as follows:

YEAS—Messrs. Aiken, Charles Allen, Willis Allen, Allison, William Appleton, Averett, Babcock, Bennett, Bocock, Bowie, Bragg, Breckinridge, Brenton, Briggs, Brooks, Burrows, Burt, Jos. Cable, Caldwell, L. D. Campbell, Thompson Campbell, Carter, Caskie, Chandler, Chapman, Clark, Clemens, Clingman, Cobb, Cullom, Curtis, Darby, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Disney, Duncan, Eastman, Fay, Ficklin, Florence, Gaylord, Giddings, Gilmore, Goodenow, Gorman, Grey, Hall, Isham G. Harris, Sampson W. Harris, Hascall, Haven, Henn, Hillyer, Horsford, Houston, Howard, J. W. Howe, T. Y. How, Ingersoll, Jackson, Jenkins, A. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Letcher, Little, Mace, Marshall, Martin, McMullin, Molony, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Murray, Nabers, Olds, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Penniman, Perkins, Phelps, Polk, Porter, Preston, Richardson, Riddle, Robbins, Robie, Robinson, Ross, Russell, Sabine, Sackett, Savage, David L. Seymour, Origen S. Seymour, Skelton, Smith, Snow, Stanly, Benjamin Stanton, Abr'm P. Stephens, Alexander H. Stephens, Stone, St. Martin, Stratton, Stuart, Sutherland, Thurston, Townshend, Tuck, Venable, Walbridge, Washburn, Watkins, Wells, Alexander White, Wilcox, Woodward, and Yates—134.

NAYS—Messrs. Thomas H. Bayly, Busby, Chastain, Harper, Holladay, Robert W. Johnson, Landry, Meacham, Meade, Millson, Miner, Newton, Price, Frederick P. Stanton, Richard H. Stanton, Thaddeus Stevens, Sweetser, Taylor, Toombs, Ward, Welch, Addison White, and Williams—23.

So the bill was passed.

Pending the call of the roll,

Mr. FREEMAN desired to make an explanation of his vote.

Mr. GOODENOW objected.

Mr. KING, of New York, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

THE PUBLIC DEFENSES.

Mr. MARSHALL. I ask the unanimous consent of the House to introduce the following resolution, for the purpose of referring it, when introduced, to the Committee on Foreign Relations, with the understanding that that committee shall have power to report upon it at any time they see proper.

Resolved, That a sum of $10,000,000 be set apart, out of any funds in the Treasury not otherwise appropriated, and be placed at the disposal of the President for the purpose of enabling him, during the recess of Congress, to meet such exigencies as may arise out of those momentous subjects connected with the present state of the foreign relations of this country with the other Powers of the earth, so liable, on account of their character and complexity, to present themselves from hour to hour for practical and immediate consideration.

Mr. KING, of New York. I object.

Mr. BOWIE. I now renew my motion to go into a Committee of the Whole House on the Private Calendar.

Mr. STANTON, of Ohio. I appeal to the gentleman to withdraw the motion and allow me to present certain papers.

Mr. BOWIE. I will yield to the gentleman for that purpose.

Mr. STANTON. They consist of certain papers and records called for by the House at its last session, in relation to the claim of the heirs of John H. Piatt, and I move that they be referred to the Committee of the Whole House having charge of the subject.

The question was then taken, and it was agreed to.

Mr. FICKLIN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

Mr. SACKETT. If the House resolve itself into a Committee of the Whole House on the Private Calendar, will not the special order remain on the calendar for the next day?

The SPEAKER. That will be practically the effect.

The question was then taken on Mr. FICKLIN's motion, and there were—ayes 68, noes not counted.

Mr. FICKLIN demanded tellers; which were ordered; and Messrs. GREY and GAYLORD were appointed.

The question was then taken, and the tellers reported that there were—ayes 69, noes 58.

SUPPRESSION OF SMALL NOTES.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair,) and resumed the consideration of the special order, being House bill No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia."

The CHAIRMAN stated that the pending question was on the amendment to the amendment offered by the gentleman from Mississippi, [Mr. FREEMAN,] which reads as follows:

"That from and after the passage of this act, it shall not be lawful to make, emit, or utter, within the District of Columbia, any species of currency or money whatever, except the constitutional coins of the United States; and that for all offenses against this act the parties committing the same shall be liable to indictment by the grand jury of the District of Columbia for a high crime, and on conviction shall be fined in a sum not less than five hundred dollars, and be imprisoned in the penitentiary for a term of not less than six months nor more than five years."

Mr. DEAN. The question, as I now understand, is upon the amendment offered by the gentleman from Mississippi, [Mr. FREEMAN,] which proposes to do away entirely with the power of individuals or corporations to issue bank notes in the District of Columbia.

Now, sir, it seems to me that that proposition is one that ought to be adopted rather than the proposition of the committee. No community can get on without small notes, if they have large ones; and no reason exists against issuing small notes that does not apply with equal force to the issue of those of a larger denomination. But, sir, for the purpose of bringing an amendment before the committee, I would inquire of the Chair whether it is in order now to move to recommit the bill to the Committee on the District of Columbia, with instructions?

The CHAIRMAN. That motion would not be in order, and the Chair will inform the gentleman and the committee that debate has been closed upon this bill by order of the House.

Mr. DEAN. I did not rise for the purpose of debate. I rose for the purpose of submitting to the committee—supposing it to be in order—a proposition which has been introduced into the Senate, which is substantially to allow free banking in this District under the system now in operation in the State of New York, and which, if properly carried out, secures the bill-holder from any possibility of loss. Were it not so long, I would like to offer it as an amendment. But I hope the House will not pass this bill as reported from the Committee on the District of Columbia, but that the matter will be referred back to that committee, and that they may report such a measure as will supply this community with what every other community enjoys—a proper circulation in bills. It is too late in the day to talk about having an exclusive metallic currency and no bank notes in a commercial community.

Mr. CAMPBELL, of Illinois. I rise to a question of order. I understand that debate has been closed upon this bill, and the gentleman is not speaking to any amendment.

The CHAIRMAN. Five minutes were allowed for general debate on the merits of the bill, by the resolution of the House.

Mr. FICKLIN. And then I shall have an opportunity of replying to the arguments that have been urged against the bill.

The CHAIRMAN. As chairman of the committee which reported the bill, the gentleman will have that privilege.

Mr. DEAN. When I first arose, I supposed that it was in order to move to recommit the bill with instructions, but as that is not in order here, I will do it in the House, if I have an opportunity.

Mr. FICKLIN. Mr. Chairman, I am satisfied, from the various amendments that have been proposed to the bill now under consideration, that there is a misapprehension on the part, at least, of some of the members of this committee, in regard to the objects of the bill. As I have stated heretofore, in reply to interrogatories that have been propounded to me, this bill has been reported in

response to petitions which were referred to the Committee on the District of Columbia against the circulation within this District of small notes, under the denomination of five dollars. I may be permitted, I hope, to state more fully than I then had an opportunity of doing, what are the laws regulating the issue of small notes in this District, as well as to speak of the absence of laws regulating the circulation of bills of five dollars and upwards. It is known, I presume, to most of the members of this House, that a number of years ago there were certain incorporated banks in the cities of Washington, Georgetown, and Alexandria. The charters of those banks were renewed from time to time from 1836 to 1841.

At the special session of 1841, the charters of those banks were again renewed, and they were to expire on the 4th day of July, 1844, as I now recollect, but dates are not material. In 1844 there was another application for a renewal of the charters of these banks, but it was refused by Congress. After that time, those institutions which had formerly been incorporated, by and with the advice of eminent counsel in this District, formed private associations or partnerships, and under those articles of association as partners, they continued to do banking business. My friend from Virginia, [Mr. MEADE,] who has examined the acts of Congress on this subject, supposed the other day that these banks continued to do business under color of a former act of incorporation. In that, however, he is mistaken. They are doing business under articles of association or partnership, like merchants and other traders and dealers, and they retain the *names* of those banks merely. The notes given to the banks, as I understand, are not taken in the old corporate names, but in the names of their cashiers or of one or more of the partners. This shows that they are not only in point of fact, doing business as partners, but also that they take the precaution of having their notes and bills made payable to individuals, and not to the defunct corporations whose existence ceased on the 4th of July, 1844.

It is suggested to me by the gentleman from Missouri, [Mr. HALL,] that the members of these firms are individually liable for any debts that they contract; that is doubtless the fact; but what that liability amounts to, it is for the House and the law-making power to judge. Eminent counsel—Mr. Coxe, Mr. Jones, and others—have given their opinion that there was no law in this District prohibiting the issue of notes by bankers or associations. These banks continue to do so, and other persons, copying after them, issued bank notes as a currency—upon their own hook—upon their own individual responsibility, or irresponsibility, as the case may be. It is from that state of things that this practice has grown up of issuing bills of small denominations in this District, which small bills are not only unauthorized by law, but are expressly prohibited.

Now, the distinction which I take between this paper is this: that the bills of five dollars and upwards are not prohibited by law, nor are they authorized by an express act of Congress. The members of the bar in this District—and I believe that the opinion has been sustained by a decision of the highest court in the State of Maryland—decided that any association of individuals in this District had a right to issue bills above the denomination of five dollars, there being no provision of law expressly prohibiting it. The five dollar bills, then, stand upon one footing, and the bills under the denomination of five dollars stand upon a different footing. The bills of five dollars and upwards are not prohibited by law; the bills of a less denomination are prohibited by the act of 1838.

Then, sir, all the paper that has been issued since 1838 in this District of a less denomination than five dollars is in direct violation of law, and it is to remedy this evil and to enable the authorities to prevent persons from proceeding in these violations of law, that the Committee on the District of Columbia has been called upon to act in this matter. We have not been called upon by the citizens of this District or by other persons to regulate the paper or metallic currency or any other currency of this District outside of the small note circulation. Our attention has been called to that single point. We have been told by the petitions of citizens residing here that there is a law upon the statute-book which is violated openly and daily—a law prohibiting the issue of bills or bank notes of a less denomination than five dollars, and they desire us to furnish them with additional remedies to prevent the continuance of the evil. Sir, this nuisance of a shinplaster currency has become so aggravated as to be annoying and alarming to every man who has occasion to use a dollar within the District. The gentleman from Maryland [Mr. BOWIE] read the other day from an approved Detector a list of thirty-seven of these paper machines in this District; and, sir, the community has become alarmed lest in an evil hour—in a time of pressure, when these notes are presented for payment, it will be found that there is no cash with which to pay them. My remarks are designed, Mr. Chairman, for the benefit of those who are the friends of reform; for those who are the opponents of an irresponsible paper currency, but who, by the amendments they propose to offer to this bill, in my judgment, are more likely to defeat its whole object than are the efforts of the worst enemies of a gold and silver currency.

The honorable member from Ohio [Mr. CARTTER] proposes an amendment which is, in effect, to exclude entirely all paper currency from circulation in this District. Well, sir, that is all very fine in theory, and I wish myself that it could be carried into practice. I, for one, am opposed to all bank paper circulation, whether it be issued by a company legally incorporated, or by irresponsible persons, or associations, or companies without authority of law. But allow me to ask my friend from Ohio, if he is present, and if he is not present, to ask the members of this committee who agree with me that it is better to have no paper currency at all, if it is not better to strike down the issue of the paper currency of a denomination less than five dollars, than to do nothing by way of reform? Is it not better to do this much, than to attempt a thing which, from all past experience, it is evident we cannot accomplish?

I see that my friend from Ohio is present, and I will address a few remarks to him. I understand him to be an out-and-out hard money, gold and silver currency man; opposed to all paper currency of every kind and description whatever. I understand that his voice has been raised from year to year, and from time to time, in Ohio, for the accomplishment of that object—to bring about the total expulsion of all bank paper of every kind and description, within the limits of the State of Ohio. But I ask my friend from Ohio, how far he has succeeded in accomplishing that object? I ask him if it is not a well-established, and well-known fact, that the whole attempt has resulted in a total and splendid failure, greatly to the mortification of the sound Democrats of his State? And I would further ask, if the disastrous failure to carry out that object in the State of Ohio, should not admonish us that when we undertake to do the same thing in this District, we should profit by the past, and enact a practical rather than a fanciful law? Let us now take the first step, and do it effectually; then take the second, and not undertake to accomplish the whole object at once, and thereby fail in the undertaking.

Mr CARTTER. I will answer the gentleman as to the effect of the struggle in the State of Ohio, to which he has alluded, against shinplasters generally. It is true that the issue in Ohio has not resulted in establishing effectively the Democratic currency; but it should be remembered that when that issue was made by the Democracy of Ohio, the State was incumbered by the same description of shinplaster machinery that overspreads this District at the present time. But I will remark that, although that struggle did not result in the establishment of a purely constitutional currency, yet it did result in bringing those institutions down to a responsible test. I hold the doctrine that there can be no law passed which shall make a responsible paper currency. There is no such thing as a responsible paper currency; and I go for a war against its existence; and I go now for a bill which shall work out that result in this District.

But while I confess that the constitutional currency has not been restored to the citizens of Ohio, or of any other State in the Union, yet the honorable chairman of this committee will pardon me for making a distinction between the States of the interior and the border States of the Union—between the States remote from the Atlantic and those forming the heads of the money market and the centers of trade. The difference is this: The circumference of trade, or the remote dependencies upon trade, are under a commercial necessity to make the heads or interior of trade their safes or the keepers of their treasury, and that is a reason why they should not establish a purely metallic currency. It is true that, in the city of New York, the banks which have an existence are unable to keep their capital in circulation. The same may be true in Philadelphia, and the same is especially true of the city of Washington. This city has no foreign trade which ought to influence this question at all. It is immediately dependent upon a gold and silver Treasury for all its capital, and the entire paper currency of the city can and ought to be dispensed with.

Mr. BOWIE. I wish to submit a single remark upon the foreign trade of the District.

Mr. FICKLIN. I will do justice to that, if my friend will allow me to proceed.

Mr. BOWIE. One word. I was about to remark that I had done injustice in the remarks the other day, as to the trade of this District, and I now wish to repair that injustice. I stated then, that the importation of flour into the port of Georgetown was one hundred and fifty thousand barrels. It is three hundred and fifty thousand. I am authorized further to say that a single bank in this city—one of the old incorporations—makes a collection from the northern States, of more than five millions of dollars annually, and there are four such banks in the District; so that the trade of this District, in exchanges, must be upwards of two millions of dollars annually. The gentleman from Ohio [Mr. CARTTER] is mistaken when he says this District is dependent upon the issues of the Treasury for its capital. There is much wealth in this city which has no connection with the Government.

Mr. FICKLIN. I will say in confirmation of the remarks of the honorable member from Maryland, [Mr. BOWIE,] that if my honorable friend from Ohio, [Mr. CARTTER,] or any other member of the House, will go to Georgetown and look at the fine manufactories and flouring mills in that city, and at the vessels in her harbor taking in cargoes of flour for the West India Islands, he will find that a great mistake has been made in the statements in the House with regard to the trade of this District. The wealth and commerce of Georgetown greatly exceed the estimate usually placed upon them. But I do not consider that small bills are necessary to the success of that commerce. I believe that Congress should exclude at the earliest practicable moment, the entire circulation of bank paper within the limits of the District. But I think it is entirely impracticable to attempt such a thing now; and as this bill does not profess to embrace the entire currency question, I desire not to have it incumbered with either the amendment of my friend from Ohio, or that of my friend from Mississippi.

But a word with regard to my friend from Ohio, [Mr. CARTTER.] He acknowledges that in the fight in his own State against the banks, he and our other anti-bank Democratic friends came out second best. I think that is clearly and manifestly so. In the midst of the denunciations hurled against the banks by the distinguished ex-Senator from Ohio, [Mr. ALLEN,] than whom a more eloquent debater is not known to me, and in the midst of the denunciations of the scarcely less eloquent gentleman now before me [Mr. CARTTER]—in defiance of all this, we find that the State Legislature comes up and charters the State bank of Ohio and branches, than which scarcely any bank in this country is more powerful in its influence, or more dangerous in the circulation of its bills. It extends its paper over the whole valley of the Mississippi, and sends it out by the million.

My friend talks about the reforms they have accomplished in the currency of the State of Ohio. Why, sir, if he will go to the great commercial mart of his own State—if he will go to Cincinnati, he will find there these one dollar shinplasters against which he complains so much, and even the very paper of this city circulated freely in the streets. That is the result of the war which the gentleman has waged against the banks. He will find the miserable currency of this District there in one dollar notes and two dollar notes—dirty, greasy and black, tattered and torn, circulating in the streets of Cincinnati. Therefore I say to him, strike at something practical; strike at something

you can accomplish; strive to do something that is within the limits of reason; strike at these miserable shinplaster one and two dollar notes, against which the prejudices of the people are excited, and you will have the people to support you in it. But if you go to preaching good sound Bentonian doctrines, against all manner of bank paper, they will vote you down. I am for any feasible bill. I am for a practical measure. I am for giving efficiency to the laws of the District, which prohibit the circulation of bank notes under the denomination of five dollars.

Now, sir, a word to my friend from Mississippi, [Mr. FREEMAN,] who offers an amendment to this bill to provide for a constitutional currency in this District. Why, sir, in doing that he would raise one of the most mooted and perplexing questions known to politicians or lawyers—they would differ as to what was a constitutional currency.

Again, his amendment proposes to exclude from circulation all paper currency under ten dollars, and recognizes paper above that denomination if it is issued out of the District.

Mr. FREEMAN. I would ask the gentleman if it is a mooted question, whether gold and silver are a constitutional currency, and if the Constitution recognizes any other currency?

Mr. FICKLIN. It is not doubted that gold and silver do constitute a constitutional currency. But I will tell the gentleman, that if there is no other constitutional currency, that there is a great deal of unconstitutional currency circulating in the country.

Mr. FREEMAN. In reply to that, I will say that it is done not by authority of Congress, but by the authority of the Legislatures of the several States, and, in my opinion, in direct violation of that clause of the Federal Constitution, which prohibits States from issuing bills of credit.

Mr. FICKLIN. My friend from Mississippi will see that he is upon one side of that question, and a great majority of the people of this country are upon the other side. A very great majority of the people of the country believe that the States have the right to charter banks with authority to issue paper currency. That is one of the most mooted questions that could be presented. Those who deny that right, will, if they insist upon it strenuously, find that throughout the length and breadth of this land there is a large and overwhelming majority differing with them in opinion.

It was, I think, some eight or ten years ago, during a debate in the Congress of the United States upon the gold bill, or some other bill in regard to currency, that Mr. Webster said, that if he had been asked twenty-five years ago whether a State may charter a bank, and authorize it to issue and circulate a paper currency, he would have answered in the negative, but that it had been settled otherwise, and he acquiesced in it.

It is not wonderful, Mr. Chairman, that my friend from Mississippi should be sensitive in regard to this question of a paper currency. The State of Mississippi, probably, has suffered more than any other State in this Union from a paper currency. They issued all manner of bank notes, from one hundred dollars down to twelve and even six and a quarter cents.

Mr. FREEMAN. No bank of that State ever issued any notes of less denomination than five dollars. Individuals did so, but without authority of law.

Mr. FICKLIN. True, it was not done by banks, but by individuals and associations without authority from the Legislature. I stated what was done in point of fact, and did not intend to be understood as saying that such issues were made by banks by the authority of the Legislature. I say, in point of fact, the State of Mississippi and its people were cursed by a circulation issued by banks and individuals, in various ways, some authorized, and some unauthorized by law, running down as low as twelve and a half, and perhaps six and a quarter cents, and when any person obtained one of these shinplasters, he hurried to the nearest grocery, or the nearest store, or wherever his inclination carried him, to get rid of it, for fear that it would break upon his hands. The most miserable and worthless currency in the world was issued and circulated in the State of Mississippi, and hence my friend [Mr. FREEMAN] from that State becomes nervous when you speak of bank paper; and I trust, that instead of throwing any obstacle in the way of this bill, he will unite with us in doing something that is practical; something that will result in excluding all notes under the denomination of five dollars.

Mr. FREEMAN. I will say that I shall vote for the amendment of the gentleman from Ohio, [Mr. CARTTER,] and I shall vote for the bill, provided my amendment cannot be adopted.

Mr. FICKLIN. I say to my friend, I will vote for the bill, if their amendments are adopted, and I will vote for an exclusive metallic currency in this District, when that question is presented to me; but I ask gentlemen, when we have something that is practical, that they will not incumber it with something that is impracticable—not to break it down by attempting to do more than we can accomplish.

Where, sir, in this wide-spread Confederacy, is there a State in which bank paper does not circulate? Not even in Mississippi. As I understand t, bank bills of the Louisiana banks circulate in the State of Mississippi, and are regarded as being as good, if not better, than specie, owing to the fact that New Orleans is the commercial center of that section of country.

Mr. FREEMAN. In regard to that, I will say that we deal in that description of paper as an *article* of *merchandise*, and not as *money*.

Mr. FICKLIN. They deal in it as an article of merchandise. That is the way the whole United States is dealing in it, and it is the way the venders of shinplasters are dealing in it here, purely as an article of merchandise, and a very worthless kind at that, as I contend. Their profits will be large, for a great many of them, unless they are checked or put down, will fail entirely to redeem their bills.

I wish now to reply to a question of my friend from Virginia, [Mr. MEADE,] who made a speech upon this bill, day before yesterday. It is not so much to the remarks he then made, as to the question he now asks me, that I desire to reply. He asks if the law which is now in force, the act of 1838, would not suppress the circulation of small notes in this District, how is it possible for us to do it?

Well, sir, I propose now to show him the defects of that law, and the cumulative remedies that this bill affords.

The old law provides a penalty of fifty dollars, which strikes at all classes of persons—the poor laborer who receives the bill, the shopman who is paid with it, as well as the manufacturer who makes and vends it for profit. That penalty can be enforced in no other way than by indictment by the grand jury of the District, and a conviction by a petty jury. The fact that the penalty strikes at all classes alike, and that the remedy is so dilatory, are reasons sufficient why the law has not been effective. The vender, who vends millions of dollars, can afford to pay his fifty dollars fine, as often as he can be convicted under the tardy process of the courts in this District. The poor daily laborer who takes it, cannot be convicted, because public sentiment revolts at the imposition of a fine of fifty dollars upon one who is not *particeps criminis* to the issuing, dealing in, and vending this paper. Hence it is that this law has been inefficient.

What additional remedy do we offer? We propose by the new bill to indict the maker and dealers in this paper. We propose, in addition, to indict the man or company who shall keep a banking-house, or other house for the purpose of dealing in this paper. We propose then to give to every individual a *qui tam* action, by which he can recover ten dollars for any bill passed by one of these dealers.

We propose further, that all persons who deal under a license from the corporation of the city of Washington or of Georgetown, in the District of Columbia, such as merchants, hotel-keepers, grocers, hackmen, butchers, &c., who shall receive or pay out any paper under the denomination of five dollars, shall, on conviction thereof, forfeit their license, and no other license shall be granted to such offender for the space of one year thereafter.

By this bill, then, we strike not at the poor man, not at the laborer, not at the innocent man who shall take it, without knowing that it is wrong to take it, but we strike at the man who makes the money, who owns the paper mill that grinds it out. We strike at the man who owns the banking-house where the paper is issued, at the licensed merchant and other dealers in the District who deal in this paper, because it is illegitimate paper, rendered so by the act of 1838, because it is a nuisance, because it tends to drive out gold and silver as a circulating medium.

It is desired by my friend from Tennessee, [Mr. JONES,] who made a speech day before yesterday, and in the sentiments of which I fully concur, to exclude the circulation of all paper which is not expressly authorized and regulated by law, in this District—that is, paper over the denomination of five dollars, as well as paper under that denomination. What I have said in answer to my friend from Ohio, [Mr. CARTTER,] as to the impracticability of this measure at the present time, applies with all its force to the position taken by my friend from Tennessee.

For one, I desire that this bill—having but a single object, which is to give force and efficiency to a law already in existence, to exclude from circulation all paper under the denomination of five dollars—shall not be incumbered by amendments regulating other paper currency, or regulating the gold and silver currency of the District. If it is the pleasure of this House that a bill shall be reported which shall prohibit the circulation of all paper, the committee would be very willing to act upon the subject.

But, sir, that is a different question. The one is to make illegal that which is not now legal; the other is to give efficiency to an act which makes it illegal to circulate paper under the denomination of five dollars. The one is a practical question, and a law in reference thereto we can enforce; but a law in regard to the other matter, we cannot enforce at the present time.

Mr. FREEMAN. The gentleman has already stated, and very clearly, that there is no law authorizing the issuing of bank paper in this District, and he is willing to have its circulation prohibited, if it could be done.

Now, I would ask the gentleman what influence we are to encounter, either in this House or out of it, to prevent us from simply saying, that in the District of Columbia it shall not be lawful to issue paper currency? The people of the District are not our immediate constituents; they do not vote to put us in or out of office. Although we legislate for them, they have no voice in our election, and therefore they exercise no influence upon this House in that way. Then, what influence is there within this House to prevent our saying that hereafter paper money shall not be used in this District by authority of Congress, or by any other authority? I wish the gentleman to state distinctly why it is impossible for us to prohibit the issue and circulation of paper currency, either above or below five dollars.

Mr. FICKLIN. I will state, in reply to my friend from Mississippi, that in no State of this Union has public opinion sustained the entire exclusion of paper currency, and I fear it never will. If we find, notwithstanding the efforts of the eloquent gentlemen from Mississippi [Mr. FREEMAN] and Ohio, [Mr. CARTTER,] that bank paper "lives, and moves, and has its being" in their own States, how can we expect to exclude it here? Even the ex-Senator from Missouri [Mr. BENTON]—known more generally as "Old Bullion," the father of the gold and silver reform—has not been able to drive paper currency from his own State. It has not been done anywhere, and yet my friends from Mississippi, [Mr. FREEMAN,] and from Ohio, [Mr. CARTTER,] and Tennessee, [Mr. JONES,] who are good hard-money men, and desire reforms in the existing vitiated and mischievous currency in the District, refuse to go with us; no, not refuse, but will risk the defeat of this bill, which, if passed, will drive out of circulation all notes of a denomination less than five dollars, in order that they may make another fruitless attempt to exclude all paper currency—a thing shown to be impracticable at all times heretofore, and in all States of the Union.

The gentleman asks what influence can be brought to bear against a bill to exclude all kinds of paper, that will not be exerted against this bill? Why, sir, the whole moneyed influence of this District will be systemized and united in skillfully-directed efforts to defeat its passage. Under the operations of this bill, a war will spring up between the paper-mongers, the large bill-dealers will be arrayed against the small bill-dealers, and they will aid in enforcing the law against dealers in

shinplasters, because their interest will so prompt them.

It is contended by some, that the moneyed influence of the District will be as nothing, because the people here are not properly our constituents; but let me ask what has that influence effected in times past? Has it not procured the recharter, year after year, in Democratic Congresses, of these banks? Certainly it has, and none know that better than the gentleman from Mississippi. Four or five banks have been chartered and rechartered year after year, by reason of that influence, and they could not be defeated.

Mr. FREEMAN. I understand that these banks have been given a certain length of time in which to settle their affairs, and to sue and be sued for that purpose; and that under the power to sue and be sued, they have continued to exercise the full franchise of banking corporations, thereby fraudulently taking advantage of the very slight power granted only to enable them to collect outstanding liabilities and enforce their unexecuted contracts.

Mr. FICKLIN. I think that the gentleman is mistaken. They are now doing business in their individual character, under articles of partnership to which they have agreed.

Mr. JOHNSON, of Arkansas. Notes are issued, and the whole business of the banks conducted in the name of trustees.

Mr. FREEMAN. It was my impression that these banks were given a limited time to wind up their concerns, and to sue and to be sued for that purpose, and that they had taken advantage of our legislation to rise, like the Phœnix from the ashes of its ancestor, into full-grown banks.

Mr. CARTTER. They always defraud the people.

Mr. FICKLIN. They are fraudulent concerns, and I want to get rid of them at the earliest possible moment.

Mr. FREEMAN. I wish to direct the gentleman's attention to one point before he sits down. It is not my object to defeat the bill. If I cannot get the amendment providing for the circulation of metallic currency alone, I shall vote for the bill as it is. We know these banks have no power to issue bank paper. Now, what is to prevent any voluntary association, if we allow the issuance of notes of a greater denomination than five dollars, from establishing a bank of the United States here, by implication under the authority of this bill? Go home to your Democratic constituents, those of you who voted against the United States Bank time and again, from General Jackson's first warfare against it, and show them the authority of Congress to continue the issuance of bank paper in this District. This bill prohibits a trifling portion of the circulation of unauthorized banks, and knowingly and avowedly suffers a vast amount of illegal paper to circulate. This negative permission will be treated as positive authority to do so.

Mr. FICKLIN. My Democratic constituents have fought the bank question as zealouly as those of either my friend from Mississippi or my friend from Ohio. Resolutions were passed in every Democratic convention, denouncing all banks, great andsmall, from the gallinipper up or down, whichever you please. [Laughter.]

But a provision was inserted into the amended constitution of Illinois, that it should be left to the decision of the people of the State whether or not we should have banks; and to my mortification, and the mortification of all hard money men, a majority of the people decided in favor of banks. And now banks are established in different sections of my State, in pursuance of a general banking law passed by the Legislature. We have there now the beginning of a shinplaster currency, which I fear is but little better than that of the District of Columbia. My friend from Mississippi is therefore mistaken in regard to these matters. Public opinion will not sustain him. The Whig party, together with the bank portion of the Democratic party, constitute a majority, and always vote down the hard money men. We excluded banks from the State of Illinois for a long while, but the argument used everywhere by the bankites, and which proved irresistible, was this: that the good Democratic States of Indiana and Missouri had banks, and sent their bank paper there, and that the good Democratic State of South Carolina tolerated State banks, and why should they oppose them? And, sir, the majority of the people voted in opposition to the Democratic organs and the Democratic politicians, and gave life and validity to a general banking law.

Let me say to the gentleman from Mississippi, that if the Democrats are not wide awake in his State, not many years will pass by ere he will find the Legislature rechartering the Brandon Bank, and other kindred institutions, which exploded and swindled the people of the State in every direction. The cashier of that memorable concern, (located, I believe, in the gentleman's district,) ran away with its bills and effects; and I am not certain that the Democratic party of the Legislature of Mississippi gave him a vote of thanks for doing so—[laughter]—for ridding them of the worthless trash issued in the shape of bills by that bank—a commodity so valueless that those who engaged in stealing it broke at the business. The cashier certainly conferred a great benefit upon the people of that State by running away with the paper of the far-famed Bank of Brandon.

Mr. FREEMAN. The gentleman draws on his fancy for his facts. I hope he will not palm off his Illinois tricks upon my hard money State. The shinplaster States are all jealous of Mississippi bullion. [Laughter.]

Mr. BROWN, of Mississippi. Had you not a bank at Shawneetown?

Mr. FICKLIN. We had a bank at Shawneetown, a bank at Cairo, and a State bank, with branches all over the State, and they all exploded, as might reasonably have been expected.

Mr. CARTTER. And they always will.

Mr. FICKLIN. The history of banks of circulation in all ages and in all countries, proves them to be unsafe and unreliable. They fleece the people by usurious interest while times are good, and suspend or break in times of monetary pressure, leaving their bill-holders to whistle for their pay.

Mr. DEAN. Have you faro-banks in your State? [Laughter.]

Mr. FICKLIN. I suppose we have, and I think them the least dishonest of all banks. [Renewed laughter.]

A MEMBER. They are deposit banks altogether, are they not?

Mr. FICKLIN. The gentleman speaks feelingly, perhaps, on that subject. [Laughter.]

Maryland has taken the initiative in reforming the currency. She passed an act, one section of which went into operation in October last, and the other goes into effect the first of next March, by which notes of a less denomination than five dollars are excluded from circulation. The committee desire to act in harmony with the States of Virginia and Maryland upon the subject, and therefore propose, that all bank notes of a less denomination than five dollars, shall be excluded from circulation in this District. I notice by the morning papers, that the Governor of New Jersey, in his last annual message, calls the attention of the Legislature of that State to this subject, and recommends the exclusion from circulation in the State, of notes of a less denomination than five dollars. Five dollars seems to be the amount agreed upon by the authorities of all the States who have acted upon the subject. It is a conventional amount. I hope that the movement which has been made in the right direction, will be seconded by this Congress. I desire that the power of this Government shall be used to make the act of 1838 effective in the exclusion of small notes.

I will now state, briefly, in regard to the corporation of Georgetown, that it is, at this time, banking upon its own indebtedness. It has in circulation some $75,000 worth of paper, which, I understand, is regarded in this community as safe and as good as any circulating medium in the country, owing to the fact that in any event the funds would ultimately be raised by taxation to pay the notes; and there is great individual wealth within the limits of that corporation. They propose to give United States stocks or any other possible security that may be desired, in order that a short time may be granted them to wind up their affairs. The committee did not feel at liberty, however, to discriminate in favor of any banking concern, however solvent, but impose the same penalties on all who stood in the same category, by violating the small bill law of 1838.

Mr. VENABLE. Do I understand my friend from Illinois to say that the corporation of Georgetown issued stock to the amount of $75,000, and are banking on that debt?

Mr. FICKLIN. They owe a debt of from $75,000 to $125,000, and they have in circulation $75,000. The stock is considered to be good, and the profits of the banking is a sinking fund for the extinguishment of the debt.

Mr. VENABLE. Then the philosopher's stone is discovered. It is ascertained at last that the more a man owes the less he is in debt, provided he can divide his liabilities.

Mr. FREEMAN. Do I understand the gentleman to say that they owe $75,000, and in order to pay that debt they issue $75,000 more of paper, and become indebted to the community for it?

Mr. FICKLIN. They have issued, as I understand, and put in circulation, $75,000 of small notes, the interest and profits of which are used as a sinking fund to pay the debts of the corporation.

Mr. BOWIE. I beg leave to make this statement. I have been informed, in regard to the Georgetown corporation, that they have stocks amounting to $190,000.

Mr. VENABLE. They are in promises to pay.

Mr. FICKLIN. My friend from Maryland [Mr. BOWIE] is correct in the statement, that they have stocks to the amount of their issue. They propose to pledge for their circulation stock of the United States, or any other sort of stock, if they are permitted to continue their circulation.

Mr. BOWIE. I undertake to say that the credit of the corporation of Georgetown is very high, and that they have abundant resources. Their stock is above par considerably in the market.

Mr. FICKLIN. They propose to give any amount of United States stocks for security. I understand that their bills are regarded as being as safe as any currency in this region of the country. The effort which they are now making, is to use the proceeds of the paper which they have in circulation, as a sinking fund to discharge the debt which there is against them.

[Here the hammer fell.]

The first section of the bill was then read, as follows:

"*Be it enacted, &c.*, That if any person, or any association, partnership, or company of individuals, or any body-politic or corporate within the District of Columbia, shall, from and after the passage of this act, make, emit, issue, or utter any bill of credit, bank note, promissory note, bill of exchange, order, ticket, or any other instrument of writing, *in a less amount, or of a less denomination than five dollars*, to be used as a paper currency, or as a circulating medium, either as money or in lieu of money, or of any other currency, or shall make, sign, draw, or indorse any bank note, promissory note, bill of exchange, bill of credit, order, ticket, or any other instrument of writing, obligation, promise, contract, or agreement, for the payment or delivery of money or other valuable thing, or of anything purporting to be a valuable thing *of a less amount than five dollars* to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money or of any other currency, every such person, and every member, officer, or agent of such association, partnership, company of individuals, body-politic or corporate, concerned in or assenting to such making, emitting, uttering, signing, drawing, or indorsing as aforesaid, for any of the purposes aforesaid, shall be liable to indictment by the grand jury of the District of Columbia for a misdemeanor; and, on conviction thereof, shall be imprisoned for a term not less than ten days, nor more than one year, and fined in a sum not less than one hundred, nor more than five hundred dollars. And it is hereby especially declared and enacted that, in the case of an association, partnership, or company of individuals, body-politic or corporate, committing any of the offenses aforesaid, every individual thereof shall be presumed, *prima facie*, to be concerned in, and to have assented to, the commission of such offense, and the burden of providing his or her dissent therefrom shall rest on him or her."

The CHAIRMAN. The question pending is the motion of the gentleman from Ohio, [Mr. CARTTER,] to strike from the above section the words, "in a less amount, or of a less denomination than five dollars," wherever it occurs.

Mr. JOHNSON, of Arkansas. I move to amend the amendment of the gentleman from Ohio, [Mr. CARTTER,] by inserting the word "ten" instead of the word "five." I will ask first if I have not the privilege of five minutes to oppose the amendment offered by the gentleman from Ohio?

The CHAIRMAN. That has not been the practice. The gentleman has five minutes upon his proposed amendment.

Mr. JOHNSON. Then I move the amendment which I have indicated. It comes in conflict with the amendment offered by the gentleman from Ohio, whose object is to exclude the power of any company, association, or corporation within this District for issuing a note for any sum for circulation

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of five dollars and upwards. I do not regard that in making the advance which we have here towards the creation, or rather the preservation of a good circulating medium, that we shall act wisely at all if we go so far as that gentleman, and take the step which he proposes, to exclude the power of issuing any circulating medium in this District of five dollars and upwards. What is to be the consequence? If the gentleman shall succeed in carrying this amendment, then the circulation of Virginia, Maryland, and every other neighboring State, will flood this District, and the only object which he can have in view, which must be to keep down the circulation of notes within this District, will be entirely defeated.

That will be the only effect of it, and the gentleman will not have achieved the real object he must have in view, and that is, to establish a pure gold and silver currency. Then if he fails to establish such a currency, what will he have achieved? But another market, as it were, for bank paper of all those institutions which are located in adjoining States. What, in addition to that, is to be the result? Shall we go on and carry out what he may term Democratic principles in exhibiting to the country what we know cannot be done here in the shape of a purely gold and silver currency? No, sir, the first thing that will result from this course, will be to drive the commercial classes of the District, as a matter of relief, into the arms of banking itself. I may be regarded as in earnest in saying this, and that I will not be a party legislating for the District, as we do, towards oppressing their citizens, and I will pledge myself, that should the amendment of the member from Ohio be adopted, I will move to reëstablish the four old banks which have conducted themselves honorably hitherto, who were the last to suspend during the bank panic, and were the first to resume specie payments. I shall pledge myself to make a movement to renew their charters in such event, perpetual charters if you choose, in other words, a charter of the same description which they had before, with the solitary exception, that those charters be held at the will of Congress, who may at all times modify and repeal. I would also incorporate the principle in their charters that the stockholders shall be individually liable for every single dollar. If the amendment carries, that no money shall be issued above as well as below the sum of five dollars, I will not only vote against this whole bill; but if it carries, I will think it due to the commercial community here, at least, to reëstablish those banks with those kinds of conditions annexed to them.

I do not believe that the gentleman from Ohio [Mr. CARTTER] is acting wisely. I am satisfied that there is nothing better that can be done by us, than the passage of this bill as it is reported. We not only relieve this community from shinplasters, but set an example to the country of that kind of legislation which shall crush them. I do not believe that anything better can be done than that. I think that the movement of the gentleman from Ohio is a mistake, and must fail. If it succeeds, it will, in all probability, bring about the reëstablishment of the whole shinplaster system. If this thing is done, I shall feel bound, as I said before, to offer an amendment of the character I have already indicated. For the purpose of giving this notice I have risen, and to say distinctly that I shall vote against the whole bill, unless the amendment of the gentleman is defeated, or some such amendment is adopted.

[Here the hammer fell.]

Mr. CARTTER. The honorable gentleman from Arkansas [Mr. JOHNSON] suggests two evils, as the consequence of the adoption of my amendment. One is, the concentrating upon this District the paper issues of the surrounding States. Another is, the possibility that we will have the old banks reincorporated with an eternity of charters, for the purpose of furnishing the currency in this District. If we were to exchange the ephemeral trash now circulating in this District, for the currency of surrounding States, in my judgment it would be undoubtedly better than the present state of things. Those banks have some responsibility to their local creators, and the business community in which they are created have a guardianship that furnishes some guarantee of their solvency. That guardianship is totally wanting in these banks in this District, which base their operations upon a "higher law."

Mr. JOHNSON, of Arkansas, here interposed a remark, which was wholly inaudible to the reporters.

Mr. CARTTER. No doubt there are honorable men among them, and no doubt there are trustworthy banks among them, but it is equally true that a vast majority of them are bankrupt and fraudulent, and the misfortune of the case is, that under this licentious mode of treating them, you give character and credit to the rogues among them.

But I turn to the gentleman's second proposition—for I have but five minutes—the threat that we shall be doomed to a resurrection of the old banks, under perpetual charters. Why, Mr. Chairman, that would be as much preferable to the present mode of banking here, as are the restrictions of law preferable to open licentiousness. When you incorporate a bank, you hold some kind of restraint upon it. You undertake to be the guardians, by law, of the security of the public. You hold the bankers responsible, and cover the holders of their notes with the shield that an incorporated bank gives them. Either of the alternatives suggested by the gentleman from Arkansas, would be preferable to letting loose this unbridled legion of speculators upon credit without capital unrestrained upon the business of this community.

Mr. JOHNSON, of Arkansas. I will withdraw my amendment.

The CHAIRMAN. The amendment can only be withdrawn by unanimous consent.

No objection was made, and the amendment was accordingly withdrawn.

The question recurred upon Mr. CARTTER'S amendment.

Mr. TAYLOR. I wish to say a few words upon this bill, and for that purpose I propose to amend the amendment of my colleague, by inserting the word "three" in lieu of the word "five," in the passage which he has moved to strike out.

Mr. Chairman, I have listened attentively to the discussion upon this bill, and my attention has been attracted to the subject by frequent conversations with very intelligent gentlemen of this District, and I entertain opinions concerning it, differing somewhat from those which have been expressed by some of the gentlemen who have participated in this discussion. I wish here to say that while my friend and colleague from Ohio [Mr. CARTTER] thinks that the circulating medium in the adjoining States has a more responsible source, and therefore would be a better circulating medium for this District than the issues of any local banks, I think it is imperative upon us, as the only legislators for this District, to look to every interest of the citizens here, and, as far as we can, to provide a remedy for every existing evil.

Sir, I have no objection to the suppression of these "shinplasters," as they are called, and I am not prepared to say at this moment, that I may not vote for the bill of the gentleman from Illinois, [Mr. FICKLIN.] But if the amendment of my colleague shall be adopted, you will strike a blow at the circulating medium at present existing here, and which Congress has tolerated for eight years, and that, it seems to me, is calculated to do very great injury to the community. It will inflict a deep injury upon the community, unless you substitute—as in my opinion you ought to do—a proper system of banking in this District. Why should not it be substituted? Sir, there is not a State in the Union that has not a system of banking, or that does not tolerate the issues of bank paper properly regulated in adjoining States.

You have a population in this District of sixty or seventy thousand people, who are under the exclusive guardianship of Congress. The question of banking in the District has been agitated in Congress for many years. In 1844 you refused to recharter the banks whose charters then expired. Instead of granting them a renewal of their charters properly guarded, so as to place the citizens of this District on an equal footing with the citizens of every other part of the country, Congress passed an act on the 17th of June, 1844, entitled "An act to extend the charters of banks in the District of Columbia," the intention of which was merely to give them the privilege of winding up their concerns. But from the force of circumstances, from necessity, the banks then existing and in good credit have, under legal advice, as they were authorized to sue and to be sued, continued to issue bank notes of the denomination of five dollars and upwards, which have been received here in preference to the notes of adjoining States, and which have been redeemed, as I understand, whenever presented.

Now, sir, that act of Congress either renews the charters of those banks, or it does not; and if it does not, I say that Congress is imperatively called upon now to give the people of this District a proper system of banking, that will insure a proper circulation, not only of five and ten dollar notes and upwards, but of smaller notes, to be redeemed in specie. The Legislature of Ohio, where the great banking institution of the State has branches, I believe, to the number of thirty or forty, and a capital of $6,000,000, has secured to the note-holders for the last six or eight years every dollar. By proper regulations by the Legislature of that State, the holders have been secured against all loss.

Sir, I can see do difference between authorizing the banks to issue one, two, and three dollar notes and authorizing them to issue ten, twenty, and one hundred dollar notes. But you must guard the people who hold the notes by legislation. You must guard them by giving the banks proper charters.

Sir, when the proper time comes for me to offer a substitute for this bill, I shall propose the bill which has been pending for some time in the Senate; which has been matured after great deliberation, and presented by the Senator from New York, [Mr. FISH,] and which, I understand, in the opinion of many intelligent gentlemen in this city, will secure to the people of the District, what they desire, a proper, legal, authorized system of banking, and relieve the community from this spurious currency. If we fail to authorize the business of banking in the District of Columbia, and to regulate the issue and circulation of notes as money, we shall fail to do our duty to the people of the District for whom we are bound by the Constitution to legislate.

[Here the hammer fell.]

Mr. MEADE. Mr. Chairman, the effect of this bill will be to recognize the legality of the issues of the banks in this District. All these banks once had charters. Their discounts were limited. Their capital was prescribed. The specie upon which their issues were based was also prescribed, and, I presume, their notes had to bear a certain proportion to that specie. Those charters also required certain publications of their condition from time to time. Yet, notwithstanding all these limitations for the protection of the community, Congress, in 1844, thought proper to refuse to renew the charters of those institutions. By the act of the 17th of June, 1844, to which the gentleman from Ohio has just alluded, they were allowed certain privileges in the courts for the purpose of facilitating the collection of their debts. One or two of the banks in the District had their charters extended until 1847; but it was then the policy of Congress to refuse to permit banks of issue in this District. The banks have, I am told, under legal advice, continued their operations in consequence of the absence of any law prohibiting banking within the District. So that while Congress, in 1844, determined against the policy of banking here, the law which was passed at that time repealing the institutions, or refusing to extend their charters, has been so construed as to allow every man or association of men in the Dis-

trict to carry on the business of banking without any of those wholesome restrictions which the surrounding States have imposed upon like corporations. Sir, if the effect of the passage of this bill, and the adoption of the amendment of the gentleman from Ohio, [Mr. CARTTER,] should be to bring into the District, in place of the present notes, those that are issued from Maryland and from the State of Virginia, there will at least be some guarantee in those States that the notes are good.

In the State of Virginia, and I presume in the State of Maryland, accounts are required to be rendered by the banks to the Legislature. The amount of issues, as compared with their capital, is limited. The amount of loans and discounts, as compared with their issues, is limited, and their issues are made to bear a certain proportion to the specie in hand. Here we have no such guarantees. There is not a bank in this city which is required to render any account of its transactions; and while I do not mean to say—because I do not know it—that they have done anything improper, yet why should we, by the passage of this bill without the amendment of the gentleman from Ohio, thus indirectly admit the authority of every man in the District of Columbia to do that which is not permitted by any State in this Union. There are now laws in the State of New York, which laws have been in part adopted by other States in the Union, allowing any man to bank upon certain conditions. Those conditions are such as will secure the community against frauds and improper issues. But here there is no security. Sir, if it be the wish of Congress to allow banking corporations to exist here at all, let a bill be reported imposing certain restrictions and limitations, and prescribing the amount of capital, so as to protect the community from what may hereafter be done, if it has not been done already.

Mr. JOHNSON, of Arkansas, (interrupting.) The ingenuity of the gentleman's remarks demands a word at this point. I call the attention of the committee to his position. He does not say that any wrong has been perpetrated by these bankers, but in order to prevent the possibility of any wrong being committed by them hereafter, he would force the people of this District to take nothing else but the paper of adjoining States, which is now at a discount, drive out the paper of this District, which is at par, and break down the banking institutions of the District.

Mr. MEADE. I say, sir, that these banks are without any restriction, and without any control; and however properly they may have acted heretofore, we have no security whatever for the future. Why, did not an individual——

[Here the hammer fell.]

Mr. TAYLOR. I will withdraw my amendment.

The CHAIRMAN. It can only be withdrawn by unanimous consent.

Mr. STUART. I object to its withdrawal.

Mr. McMULLIN. Is it in order to offer an amendment to the amendment?

The CHAIRMAN. The Chair thinks it is. The gentleman from Ohio [Mr. CARTTER] moved to strike out the clause, "in a less amount, or of a less denomination than five dollars." The gentleman from Ohio [Mr. TAYLOR] moves to strike out the word "five" in that clause, and to insert "three." The Chair thinks, in the ordinary course of amendment, it is in order to perfect the clause before it is stricken out, and that the amendment of the gentleman from Ohio [Mr. TAYLOR] is therefore an amendment in the first degree.

Mr. McMULLIN. I move to amend the amendment, then, by striking out "three" and inserting "six."

Mr. Chairman, the first question which should demand the attention of the committee is, whether the complaints which have been made here are well founded or not. Have you had here a spurious circulation of small notes or not? There can be no difference of opinion upon that question. We have not only suffered in the District of Columbia from them, but they have suffered in all the States of the Union. And I am very desirous, for one, that we should correct this abuse perpetrated by the banking institutions of this city.

But I beg this committee, in correcting these evils which have been so much complained of, not to go too far. And let me here tell my friend from Ohio, [Mr. CARTTER,] as well as my friend from Mississippi, [Mr. FREEMAN,] in whose democracy I have the greatest confidence, that the time has gone by, if it ever existed, when we can bring this Government or country to a purely metallic currency. Now, sir, I am desirous to see the small note currency in the District of Columbia suppressed. But we are here to legislate for the people of this District as the State Legislatures legislate for the people of the respective States. And upon this subject we ought to deal out the same even-handed justice to the people of this District that is dealt out to the people of the several States. The State of Virginia, which I have the honor, in part, to represent upon the floor of this House, has a set of banks that will compare favorably with the banks of any State in the Union. The gentleman [Mr. FREEMAN] was mistaken the other day when he supposed the banks of Virginia all suspended payment in 1837. They did not all suspend payment. And unlike the banks in Mississippi, those in Virginia which did suspend payment, without exception, shortly thereafter resumed specie payment. And I tell this committee that the banks of Virginia are now ready to redeem every dollar they have issued.

But we have a law upon our statute-books which precludes the issue, by the Virginia banks, of any notes under the denomination of five dollars; and the consequence is, that the State is inundated with small notes from all the States of the Union. We have them from Kentucky, Tennessee, North Carolina, and Maryland, in thousands. Now, if you wish to correct this evil, you must prohibit the circulation of small notes within the limits of the District.

And, sir, I would recommend another thing. Let Congress raise the value of specie so as to prevent its exportation from the country, and that will do much towards remedying the evil. It will not answer for gentlemen to tell me at this day, and in this age of progress, that this Government is to go back to a purely metallic currency. And here I take occasion, once for all, to say to those gentlemen with whom I am proud to associate as Democrats, that this idea of a purely metallic currency is an exploded idea. It is an abandoned humbug. You cannot get along without banks, and I hold that the people of the District of Columbia need their banks just as much as the people of any State in the Union. I would deal out the same justice to the people of Washington that I would to the people of Virginia. Let the committee remember the fact, that when you came forward to put down the great monster bank of the United States, you were compelled to resort to the use of local banks, and it was by the use of local banks that the Government was sustained against that unconstitutional great British monster. And are gentlemen now prepared to abandon these local institutions which saved the country from the use of that great national institution? I trust not. But, Mr. Chairman, I will vote with great pleasure with my friend from Illinois for such a bill as shall suppress the small note circution in this District.

[Here the hammer fell.]

Mr. STUART. I am opposed to the amendment of the gentleman from Virginia; but I beg leave to say to the members of this committee, by way of suggestion, that we are as well prepared to vote upon these amendments, and upon the bill itself, now, as we shall be after any amount of discussion. The question of the worth or worthlessness of bank bills in Virginia or Maryland, is not of much importance in the consideration of this bill; and if it is, we understand it as well now as we shall after an hour's discussion. With great deference, therefore, I suggest that we had better stop offering these amendments, and come directly to a definitive vote upon the bill itself.

Mr. HALL. I rise to a question of order. I submit that the gentleman is not speaking in opposition to the amendment of the gentleman from Virginia, [Mr. McMULLIN.] The rule requires the gentleman to speak in opposition to that amendment.

Mr. STUART. I think it is in opposition to the argument of the gentleman from Virginia, if not in opposition to his amendment. I think I am speaking in order, but I will await the decision of the Chair.

The CHAIRMAN. The Chair thinks the gentleman is hardly in order.

Mr. STUART. I will only say further, that in half an hour a motion will be made for the committee to rise, which will be instantly followed by a motion to adjourn, and this bill will last another week, as a special order, to the exclusion of all the business of the country. I hope the vote will be taken upon the bill without further debate.

Mr. McMULLIN. If there is no objection, I will withdraw my amendment.

Mr. LETCHER. I object.

The question was then taken, and the amendment to the amendment was not agreed to.

Mr. SACKETT. I move to amend the amendment by striking out the word "three," and inserting the word "four."

Mr. MEADE. I rise to a question of order. The gentleman from Ohio [Mr. CARTTER] has an amendment pending to strike out the words "in a less amount or of a less denomination than five dollars." The gentleman from Ohio over the way, [Mr. TAYLOR,] moved to amend the amendment by inserting "three" instead of "five;" so that his amendment is an amendment to the amendment of his colleague, [Mr. CARTTER.] The amendment proposed by the gentleman from New York, [Mr. SACKETT,] is therefore an amendment to an amendment to an amendment.

The CHAIRMAN. The Chair apprehends the gentleman from Virginia does not state the case precisely as it is. The Chair will state it as he understands it, and then decide the point of order. The motion of the gentleman from Ohio [Mr. CARTTER] was to erase the entire clause "in a less amount or of a less denomination than five dollars." The amendment of the gentleman from Ohio, on the left of the Chair, [Mr. TAYLOR,] was to perfect the clause before the motion was taken to strike out the whole clause. He moved to strike from the clause the word "five" and insert "three," which is an amendment in the first degree. The Chair, therefore, thinks the amendment of the gentleman from New York is in order.

Mr. SACKETT. I have proposed this amendment for the purpose of making a suggestion or two with regard to this bill. I have prepared a substitute for this bill which is in conformity with the views of many gentlemen who have addressed this committee. I believe that, if there is to be any banking system in this District at all, we should have some substantial banking interest based upon some sort of security to the bill-holders, depositors, and creditors of the institution. It is with that view that I have prepared the proposition which I hold in my hand, which I send to the Clerk's desk and ask to have read by way of argument, as a portion of my argument.

The Clerk then proceeded to read a portion of the proposition, when

Mr. HENDRICKS (interrupting) said: I rise to a point of order. I did not hear the amendment of the gentleman from New York, but it strikes me, that if it is in reference to the bill before the House, it is not in order to read this paper as a portion of the gentleman's speech. The argument must be confined to the amendment, as I understand it.

The CHAIRMAN. The Clerk has not read far enough for the Chair to determine whether it is in order or not. The Chair, however, is of opinion that it is not strictly in order.

Mr. SACKETT. I will not insist upon the reading of it.

The proposition is as follows:

And no individual, association, company, body-corporate or politic, shall hereafter emit, issue, or utter any bill of credit, bank note, promissory note, bill of exchange, order, certificate, or other instrument in writing of the value, or of the denomination of five dollars, or of any higher denomination or value, to be used as a paper currency or as a circulating medium, either as money, or in lieu of money or of any other curreney, until such individual, association, company, body-corporate or politic, shall have deposited with the Secretary of the Treasury stocks of the United States to the amount of one hundred thousand dollars at their par value, to be held by him; first, as a security to the bill holders; second, as security to the depositors; third, as security to the other creditors; and lastly, for the benefit of the stockholders of such individual, association, company, body corporate or politic.

SEC. 2. The business, books, papers, accounts, debts, credits, affairs, property and effects of every kind and nature, of every such individual, association, company, body-corporate or politic, shall be at all times subject to the inspection, examination, and investigation of the Secretary of the Treasury, or of such person or persons as he may appoint for that purpose. And the Secretary of the Treasury shall cause quarterly examinations to be made of the books, accounts, debts, credits and affairs of every individual, association, company, body-corporate or politic

organized, acting or doing business under this act. And he shall have the power for the cause of insolvency, or inability to redeem its circulating notes, or to pay its debts and liabilities, to restrain such individual, association, company, body-corporate or politic, from uttering, emitting, issuing or paying out any bill of credit, bank note, promissory note, bill of exchange, order, certificate, or other instrument in writing, and from receiving any deposits, and from transacting any business authorized or by virtue of this act, or that may in any way affect its debts or credits.

SEC. 3. When the Secretary of the Treasury shall have restrained any individual, association, company, body-corporate or politic, as contemplated by this act, he shall immediately appoint a receiver of the goods, chattels, property, credits, and effects of the company, individual, or corporation so restrained, who shall take immediate possession of all their goods, chattels, property, credits, and effects, to be sold and disposed of, under the direction of the Secretary, for the benefit, first, of the bill-holders; second, of the depositors; third, of the other creditors; and lastly, of the stockholders of such company, individual, association, body-corporate or politic. And in case of such insolvency, or inability to pay debts and liability, the Secretary shall immediately sell and dispose of the stocks deposited by such individual, asssociation, company, body-corporate or politic, at public sale, for the highest price he can obtain therefor, and pay over the proceeds thereof, in the order of security specified therein. Any receiver appointed under this act, may be required to account by any court having competent jurisdiction.

SEC. 4. No individual, association, company, body-corporate or politic, shall emit, issue, or utter bills of credit, bank notes, promissory notes, bills of exchange, orders, certificates, or other instruments in writing, to be used as a paper currency, circulating medium, either as money, or in lieu of money, or in lieu of any other currency, to a greater amount than the amount of stocks filed by such individual, association, company, corporation, body-corporate or politic, at its par value.

Mr. AVERETT. I am opposed to this amendment, and shall oppose any amendment which goes into any matter extraneous to the subject-matter upon which the Committee on the District of Columbia have been called upon to report. It is the object of that committee to maintain the sanctity of the existing laws, and provide additional and more effective penalties for the punishment of those who violate them in the face of the law-making authority, and to protect the community against losses which they are sustaining by such infraction.

In the attempt to accomplish this object, the Committee on the District of Columbia may not have been as happy as they might have been in the verbiage of their bill. I would be willing to receive any proposition offered in good faith which would so improve that verbiage as to make more certain the object the committee have in view—to carry out more effectually the object of the law, which is to put a stop to the swindling operations of the shinplaster gentry of this District. But, sir, I feel so indignant at the recklessness with which the law is violated that I would give them no impunity by any fastidious stickling about verbiage. I would act as a friend of mine did in regard to the bill to prevent disasters upon steamboats. I asked him if it was possible that he voted for a bill containing such assumptions and grants of power as were to be found in that bill. "Yes," he answered, "I voted for it the more cheerfully because of its glaring defects; for it has become necessary to bring the terrors of law to bear upon the managers of these steamboats to save the lives of passengers; and I voted for the bill with more cheerfulness, because of its defects, knowing the necessity of legislative action upon the subject, and that those defects would insure the more deliberate action of Congress upon the subject hereafter." I feel so in regard to this bill. It may be defective in its verbiage; but do you mean, on that account, to defeat the bill?

It has been said here again and again, that by refusing to prohibit the issuing and circulating of notes of and above five dollars, we by implication tolerate and legalize their issue. This I deny, because notes under five dollars are by law prohibited, while those above five dollars are neither legalized nor prohibited by existing laws. But, sir, if you refuse to pass this law, you will in effect give countenance and impunity to law-breakers, who treat you and your laws with contempt. Do you mean thus to humble the law-making power? Do you mean to adjourn without doing anything to punish these law-breakers? without doing anything to protect the community against their nefarious transactions? I hope not. Rather than that I would swallow the bill whole "blood raw," bones and all, even if its defects were as bad as its worst enemies could represent them to be.

The question was then taken upon the amendment offered by Mr. SACKETT, and it was not agreed to.

Mr. JOHN W. HOWE. I move to amend the amendment by striking out "three," and inserting "one hundred." The only objection urged by gentlemen against the evil which this bill is intended to remedy, seems to be, that it is a fraud upon the public to issue or pass one dollar bills, by which many persons (the public generally) are defrauded. Now, if that is the great objection to the bill, the same objection holds good if the bill is a larger one than five dollars. For my part, I would rather lose a one dollar bill than a ten dollar bill, and so would any man; and it is because the penalty is enormous and disproportionate to the offense, that I move to insert "one hundred." I am not opposed to banking, nor to small bills myself. I am opposed to the commission of *any frauds* upon the public, and as the banks in this District are not authorized to issue any bills at all, I am entirely opposed to recognizing their authority to issue five dollar bills, or larger ones, by enacting that they shall not issue any paper under the denomination of five dollars. That is one of my objections to this bill, and because its penalties are so enormous, so disproportioned to the offense, that I shall vote against it. Another reason why I oppose this bill is, because it is so outrageous in all its terms, its pains and penalties, that the public would disregard it. It would be violated in this or in any other community, constantly.

In the State which I have the honor, in part, to represent, we have a law similar to this, and it has more than a dozen times been presented by the grand juries of different counties, as a nuisance *per se*, and it has been disregarded by the courts, jurors, and citizens generally, and ought to be despised, and it would be so treated in this District, or in any other State, Territory, or district of country, where the penalty for its violation was imprisonment in the penitentiary for not less than ten days, nor more than one year, and a fine of not less than *one hundred*, nor more than *five hundred dollars*. The *minimum* is too large, and there is no fitness in the different provisions of the bill.

It is perhaps right to prevent the issue of small bills, and large ones too, by unincorporated and irresponsible banks. But, if it be wrong to issue one dollar bills, then certainly it is wrong to issue bills larger than one dollar. It seems so to me. If you would make a penalty of five dollars for issuing bills under the denomination of five dollars, to be collected in a summary manner before a justice of the peace, I would have no objection to it, if the people desire it. But if every man in this District were to come here and ask for the passage of this bill, I should feel bound to oppose it upon principles of humanity—upon common justice.

There is no gentleman but would revolt at the idea of seeing a man, ignorant of the law, perhaps, mulcted in a fine of $500, and imprisoned not less than ten days for the offense of passing, in the market here, a one dollar bill, for the purpose of buying bread for his family.

Sir, this bill ought not to pass in this shape and form, and I know that the *Democratic* portion of this House will not sustain such a cruel and unjust law as this; and I appeal to the Democracy, of which I am a component part, and in fact a considerable part, [laughter]——

[Here the hammer fell.]

Mr. WASHBURN. I think this bill ought not to pass in its present shape. It seems to me that it is extremely crude in its provisions, and that, practically, it will be almost impossible to enforce it. And I am opposed to the amendment of the gentleman from Pennsylvania, [Mr. HOWE,] for I think it would be easier to prepare a substitute for the whole bill, than to attempt by amendments to make it what it should be.

It will be impossible, Mr. Chairman, to make any bill for the suppression of small notes in the District, effectual. Small bills will be circulated here. The necessity for them will be so great, so urgent, that it will be impossible, practically, by any law that we can pass, to prevent their circulation. Every one will went to use them, and every one will use them, and consequently, any attempt we shall make to prohibit their use, by the passage of a law of this kind, will be ineffectual.

Mr. FREEMAN, (interrupting.) The gentleman says that there is a great necessity for small bills. I ask the gentleman if the necessity for small bills is not created by the absence of specie?

Mr. WASHBURN. No matter from what it arises; there will be convenience in their use, specie or no specie.

Mr. FREEMAN. One more question. Do not small bills drive specie out of circulation, and would not that defeat your own object?

Mr. WASHBURN. They would to some extent, no doubt; but I cannot yield the five minutes allowed me, to the interruptions of the gentleman from Mississippi.

I believe the best thing we can do, would be to adopt, in lieu of this bill, something like the substitute proposed by the gentleman from New York, [Mr. SACKETT,] something similar to the free banking law of his State. If a company of individuals, or any corporation, in this city, or in Georgetown, should desire to engage in banking, they might be authorized to do so, by filing with the Secretary of the Treasury, or with the Treasurer of the corporation of Washington or Georgetown, or such other officer as might be designated, $50,000, or $100,000, or such other sum within the limits fixed by law, as they should elect, of the stocks of the United States—for I would have no other stocks as a basis for their issues—and receive from the Treasurer, or the officer appointed for the purpose, bills of the denomination of one, two, three, five, fifty, or one hundred dollars, countersigned by the officer with whom they are deposited, and duly registered in amount equal to the stock deposited.

I believe that, in the way indicated by the gentleman from New York, those bills might be put into circulation with safety to the community. There should be, of course, a provision that those bills should be redeemed in specie, and if not redeemed within a certain number of days, (not exceeding ten or fifteen days, perhaps,) that the stock should be sold at auction, and the bills redeemed with the proceeds. In that way, Mr. Chairman, there would be a circulation within the District which would be redeemable in specie upon demand. And as to its soundness, and the safety of the public, there could be no doubt whatever.

It seems to me that the way in which we can have a currency which will be sound and reliable, will not be by attempting to abolish small bills and leaving untouched the issues of larger bills by these irresponsible shinplaster concerns. You may legislate from this time henceforward, and pile up statute upon statute, and penalties upon penalties, and they will not be regarded. Such enactments have not been regarded in any of the States where the experiment has been tried, and they will not be regarded here.

[Here the hammer fell.]

The question was then taken upon the amendment offered by Mr. HOWE, and it was not agreed to.

Mr. NABERS here obtained the floor.

Mr. POLK. With the permission of the gentleman from Mississippi, I wish to ask the gentleman from Maine a question. I chanced to be passing through Illinois some time ago, and I received in change some small bills—signed, I believe, by the gentleman himself, [Mr. WASHBURN]—coming from the Hallowell Bank, if I remember aright. Some people said that they were good, and others, that they did not know where the place was, where they were issued.

Mr. WASHBURN. By whom were the bills signed?

Mr. POLK. By you.

Mr. WASHBURN. Certainly not by me.

Mr. POLK. By what Washburn, then?

Mr. WASHBURN. I never signed bank bills in my life.

Mr. POLK. Then I ask the gentleman from Illinois [Mr. CAMPBELL] whom they were signed by, for it was in his district that I saw the bills?

Mr. CAMPBELL, of Illinois. The gentleman appeals to me in relation to those bills. I will say that I was very familiar with the bills of the Hallowell Bank.

Mr. TAYLOR, (interrupting.) I would ask the Chair to state the question pending.

The CHAIRMAN. The question before the committee is upon the amendment offered by the gentleman from Mississippi, [Mr. NABERS,] to erase the word "three" and insert "twenty."

Mr. POLK. Will the gentleman let the facts come out.

The CHAIRMAN. The gentleman from Illinois has the floor by the permission of the gentleman from Mississippi, [Mr. NABERS.]

Mr. CAMPBELL. Well, sir, I was going on to corroborate the statement of my friend from Tennessee, that in my district these Hallowell bills, coming from the State of Maine, were signed by one of the name of Washburn. I do not know whether it was by the gentleman before me or not.

Mr. WASHBURN. Certainly it was not.

Mr. CAMPBELL. It was either he or his brother. [Laughter.] They were exceedingly plenty in my district, *especially* about election time. [Laughter.]

Mr. WASHBURN here made a remark inaudible at the reporter's desk.

Mr. CAMPBELL. I did not say anything about redemption. I say that they came from a place in Maine called Hallowell.

Mr. WASHBURN. That is not in my district, and I never had any interest in the Hallowell Bank. The bills of the bank referred to are good, and I suppose circulate in the West like other sound New England money.

Mr. CAMPBELL. I did not say anything as to whether the bills were good or bad.

The CHAIRMAN. The gentlemen are not in order. They will please address the Chair.

The question was taken upon the amendment of Mr. NABERS, to insert instead of "three" the word "twenty," and it was disagreed to.

Mr. NABERS. I move to insert "thirty" instead of three.

Mr. TAYLOR. I rise to a question of order. My colleague proposed to strike out of the eighth line the words "of a less denomination than five dollars." I then proposed to amend by inserting the word "three" instead of "five." Now, I think, until the question is taken upon the amendment I have submitted, no other amendment is in order, it being an amendment to an amendment.

The CHAIRMAN. The Chair has already decided that question, upon the ground that this is a mere amendment to perfect the words proposed to be stricken out.

Mr. NABERS. I desire to say a single word upon the subject now under consideration. I have listened with a good deal of attention to the discussion that has taken place, and I think we will be benefited by it. The conclusion to which I have arrived from what has been stated by gentlemen upon the floor, is, that if we can do anything at all in regard to banking privileges in the District of Columbia, we should pass a bill similar to those which have been passed in Maryland, Delaware, New York, and Virginia, giving to the people here precisely such privileges as are enjoyed by the people of those States. The question with me is this: Can we properly deprive the people of the District of privileges enjoyed by the people of the States? If we cannot, let the Committee on the District of Columbia frame a banking bill well guarded, well restricted, in every sense of the word. But, on the other hand, if we are permitted to discriminate and to exclude the citizens of this District from the enjoyment of the same privileges with the citizens of the States, let us stop this discussion and all the banks. And now I will do a thing which has rarely been done this session—close my remarks before the expiration of my time. [Laughter.]

Mr. DEAN. I am opposed to this amendment. I move that the committee do now rise.

The question was taken, and the committee refused to rise.

The question was taken on the amendment of Mr. NABERS, and it was disagreed to.

The question was then taken on the amendment of Mr. TAYLOR, and it was disagreed to.

The CHAIRMAN. The question now recurs upon the amendment of the gentleman from Ohio, [Mr. CARTTER,] to strike out from the eighth line of the first section the words, "in a less amount, or of a less denomination than five dollars."

Mr. CARTTER. I call for tellers.

Tellers were ordered; and Messrs. FICKLIN and CARTTER were appointed.

The question was taken, and the amendment was rejected; the tellers having reported—ayes 44, noes not counted.

Mr. MILLSON. I propose the following substitute for the first section:

That if any person or persons, body-politic or corporate, within the District of Columbia, shall, from and after the passage of this act, make, sign, draw, indorse, emit, or issue any note, bill of exchange, bill of credit, order, ticket, promise, agreement, or any other instrument of writing, in a less amount or of a less denomination than five dollars, or for the payment or delivery of money, notes, or other valuable thing, or of anything purporting to be a valuable thing, of a less amount or denomination than five dollars, or purporting or evidencing, or intended to purport or evidence, that any sum less than five dollars will be paid in money, notes, or other thing, to any person receiving, or holding such note, bill of exchange, or other instrument of writing above mentioned, or that it will be received in payment of any debt or dues, with the intention to create or put into circulation a paper currency, either as money or in lieu of money, every such person, and every member, officer, or agent of any such body-politic or corporate, directly or indirectly engaged and concerned in or assenting to such making, signing, drawing, indorsing, emitting, or issuing as aforesaid, for any of the purposes aforesaid, shall be liable to indictment by the grand jury of the District of Columbia for a misdemeanor; and on conviction, they shall be imprisoned for a term not less than ten days nor more than one year, and fined in a sum not less than fifty nor more than five hundred dollars; and on the trial of any such indictment, if the note, bill, order, ticket, or other instrument in question be, in part or in the whole, printed or engraven, it shall be deemed sufficient evidence of an intention to put the same into circulation in violation of this act, unless the contrary be plainly shown.

Mr. Chairman, I am exceedingly desirous to coöperate with the committee who reported this bill in the passage of some suitable law for the suppression of what we all regard as a serious evil. I have, however, objections to some of the provisions of the bill. Its phraseology applies to subjects which, I am sure, the committee did not intend to embrace. For that reason, and with a view that I may be enabled, on the final passage of the bill, to vote with those gentlemen who have at heart the object which I myself desire to accomplish, I have suggested, after some little trouble in the preparation of it, a different phraseology. In the first place, I do not believe it was the object of the committee to punish the mere uttering of a note under the denomination of five dollars by confinement in the penitentiary. I can hardly suppose that gentlemen designed to inflict this disgraceful and infamous punishment upon some poor man, or respectable lady, who may, in ignorance of the law, receive a note under the denomination of five dollars from a shopkeeper, and immediately afterwards utter and pay it to another. Such a punishment would be revolting to the feelings of all. In the amendment which I have presented, I have endeavored to keep in view the object which I am sure the committee themselves desired to accomplish. I have, I think, in some degree condensed their phraseology; but I have confined the operation of this amendment to the manufacturers of these notes, so that only those persons will be affected by it who are guilty of making, signing, and originally issuing this paper. Those persons I propose to punish by confinement of not less than ten days nor more than one year, and by fine of not less than fifty nor more than one hundred dollars. I have added one or two other clauses designed merely to make more evident the intention of the committee. One clause I have added is, that if, on the trial, the note or bill in question should be wholly or in part printed or engraved it shall be deemed sufficient evidence of the intention to circulate, unless the contrary be plainly shown.

Now, sir, in regard to the issue of notes of a larger denomination than five dollars by unauthorized banking associations in this District, I am in favor of the introduction of another bill which will correct this evil also.

I do not think the object can be accomplished in the mode proposed by gentlemen who have submitted amendments for that purpose. It is proper that some law should be passed, prohibiting unchartered banks; but when the committee come to reflect upon the provisions necessary in such a bill, they will find a degree of minuteness and complexity of detail will be required, which cannot be arrived at now. The friends of this bill may be assured that the object of my amendment is the one which they themselves have in view. I desired to rid the bill of some objections which have been heretofore stated, and I have presented the substitute for that object, and that object alone.

Mr. HOUSTON. I am opposed to the amendment of the gentleman from Virginia; and I shall vote against all other amendments to this bill, not that I believe the bill is perfect; but, on the contrary, if I had the power, I would make changes in it; but I find it is impossible for us to arrive at any satisfactory result from the various proposed amendments here, and hence I intend, as far as my course is concerned, and my vote will go, to accomplish all the good I can, by passing something. I have objections to the bill, but I shall rely upon it for want of a better, as it came from the committee.

Mr. MILLSON. Would the gentleman from Alabama consent that the wife or daughter of any one of the members of Congress should be sent to the penitentiary, because, in ignorance of your law, she, after having received a note of a less denomination from some shopkeeper, innocently passed it over to another?

Mr. HOUSTON. I understand from the chairman of the committee that there are no provisions in this bill that will accomplish the object of which the gentleman speaks.

Mr. FICKLIN. Will the gentleman allow me——

Mr. HOUSTON. I do not wish to be interrupted in my remarks, but I have said substantially what I intended to say, and I do not wish to consume improperly the time of the House. If this bill is not gotten through to-day the presumption is, from information just received, that this House will not remain in session for the transaction of business to-morrow, and it will lead to the delay of all other business as a special order, occupying probably the whole of next week. I hope, therefore, that those gentlemen who agree with me in thinking that notwithstanding this bill may be made more perfect, yet accomplishes something in the direction we wish to go, will arrest the amendments and pass the bill as it is before we adjourn.

Mr. LETCHER. I move that the committee rise.

The question was put, and the motion was not agreed to.

The question was then taken on Mr. MILLSON's substitute for the first section, and it was agreed to.

Section second was then read, as follows:

"SEC. 2. *And be it further enacted*, That if any person, or any association, partnership, or company of individuals, or any body-politic or corporate, within the District of Columbia, shall, from and after the passage of this act, have, maintain, or keep, within the limits of said District, any banking-house, broker's office or other office, room, or place of business, in or from which shall or may be made, emitted, issued, uttered, signed, drawn, or indorsed, bills of credit, bonds, promissory notes, bills of exchange, orders, tickets, or any other instruments of writing, obligations, promises, contracts, or agreements, for the payment or delivery of money or other valable thing, or of anything purporting to be a valuable thing, of a less amount than five dollars, to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money or of any other currency, every such person, and every member, officer, or agent of such association, partnership, company of individuals, body-politic or corporate, concerned in or assenting to such having, maintaining, or keeping, as aforesaid, such banking-house, broker's office, or other office, room, or place of business as aforesaid, shall be liable to indictment by the grand jury of the District of Columbia for a misdemeanor, and on conviction thereof shall be imprisoned and fined for the time and in the amount declared in the first section of this act: *Provided*, That for each and every day, or part of a day, during which said banking-house, broker's office, or other office, room, or place of business, shall be had, maintained, or kept, every person and every member, officer, or agent, as aforesaid, so offending as aforesaid, shall be deemed guilty of a distinct and separate offense, and subject to the penalties aforesaid."

Mr. McMULLIN. I move that the committee rise.

The question was put, and the motion was not agreed to.

Mr. MILLSON. I suggest a mere verbal amendment to this section. I have some doubt as to the propriety of it altogether. I move to insert in the proviso, after the word "be," where it first occurs, the word "so," otherwise it might involve us in the absurdity of declaring if any individual maintained or kept a room in which he had once committed an offense, he should be deemed as repeating the offense every time he maintained and occupied it. I suggest the phraseology shall be "so had, maintained," &c.

Mr. HALL. I do not understand the position of the gentleman from Virginia. I understand his objection to the second section is, that if you pass it as it now stands, it will make a distinct offense every day of keeping the establishment.

Mr. MILLSON. I desire to make it so.

The question was then taken upon Mr. MILLSON's amendment, and it was agreed to.

The third section was then read, as follows:

"SEC. 3. *And be it further enacted*, That if any person, or any association, partnership, or company of individuals,

or any body-politic or corporate, whether within or without the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bill of credit, bank note, promissory note, bill of exchange, order, ticket, or any other instrument of writing, obligation, promise, contract, or agreement, for the payment or delivery of anything other than money, to be used as a circulating medium in this District, every such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, promise, contract, or agreement, shall be deemed and taken to be made payable in money at the banking-house, broker's office, or other office room, or place of business, at or from which the same shall be made, emitted, issued, uttered, signed, drawn, or indorsed as aforesaid; and whether such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, obligation, promise, contract, or agreement, purport to be made payable in money or in the obligations of any bank or of any association, partnership, or company of individuals, or of any body-politic or corporate, or of any individual, it shall be deemed and taken to be made payable in money by the person, association, partnership, or company of individuals, body-politic or corporate, making, emitting, issuing, uttering, signing, drawing, or indorsing the same; and in default of payment of any such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, obligation, promise, contract, or agreement as aforesaid, at the banking-house, broker's office, or other office, room, or place of business, at or from which the same shall be made, emitted, issued, uttered, signed, drawn, or indorsed as aforesaid, or in default of payment by the person, association, partnership, or company of individuals, body-politic or corporate, making, emitting, issuing, uttering, signing, drawing, or indorsing the same, whenever and wherever demanded, then the amount thereof shall be recoverable by action of debt before any justice of the peace in the District of Columbia; and in any case in which the holder of such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, promise, contract, or agreement, shall make affidavit before any justice of the peace as aforesaid that the same has been presented for payment as aforesaid, and that payment thereof has been refused, and that the same is still due and unpaid, and shall file the same in the office of the said justice, it shall be the duty of the said justice to issue his warrant for the arrest of the person or persons, or any of them, concerned in or assenting to the making, emitting, issuing, uttering, signing, drawing, or indorsing of the same; and such person or persons shall not be discharged from such arrest until the debt and costs are paid or secured to be paid."

Mr. FICKLIN. There is a misprint in the eighth line after the word "money." It should be in less amount or for a less denomination, so as to make it correspond with the other section.

The CHAIRMAN. It will be so corrected.

Mr. WASHBURN. I would move to strike out all after the word "Columbia," where it occurs the second time in the above section.

It appears from this latter clause of the section, that, upon the affidavit of the party interested, any individual connected with the issuing of these notes may be arrested upon a warrant issued for that purpose, and without any proof whatever, except that coming from the individual making his affidavit *ex parte*, he is to be in effect convicted and punished; for he is to remain perpetually under arrest until he shall redeem this money, though, in point of fact, it may have never been presented for redemption, and there is no legal competent evidence that it was so presented, nothing but the preliminary affidavit of the party interested. I move, therefore, to strike out all after the word "Columbia." The bill as it now stands provides that upon affidavit, where any holder of a bill has presented it for payment, and the payment has been refused, that the party who issued it shall be liable to arrest, and that arrest shall continue without any provision for trial, until he shall pay the debt and costs, although there may be no proof that he ever issued the money, and none except the affidavit of the party interested that it was ever presented.

Mr. MEADE. Before that clause in the bill is considered, I wish to offer an amendment.

Mr. STUART. Will the gentleman from Virginia allow me to call the attention of the chairman of the Committee on the District of Columbia [Mr. FICKLIN] to the amendment he offered here informally? I think it defeats his object. He has had inserted in the third section the words "five dollars or under." The object of that is to prevent the issuing of any bill payable in anything but money; and now put it in five dollars or upwards, it would allow the issue of those bills larger than five dollars payable in anything but specie. I think if he will withdraw his amendment, that his idea will be carried out.

Mr. FICKLIN. The view the committee has is this: To make provision for five dollar circulation, and none other, and that the bill neither allows nor prohibits, or fixes anything by implication, or otherwise, in their circulation. Bills under five dollars are made illegal by an act of Congress. That act has not been executed. We wish to pass this act for the purpose of giving effect to that law.

Mr. STUART. It should not be for the issue of bills payable in anything but money, no matter what their denomination is.

Mr. FICKLIN. It is not intended to give that alone.

Mr. JONES, of Tennessee. I understand this third section was framed for the purpose of preventing the circulation of notes, of any denomination, payable in notes of other banks; and if the amendment which the gentleman has moved prevails, it will not prevent the circulation of five dollar notes, payable in other notes, circulating here, and by implication will authorize the circulation of all notes above five dollars, though they may be made payable in Virginia paper.

Mr. McMULLIN. Will my colleague give way for a motion for the committee to rise?

Mr. MEADE. Certainly, I will yield the floor to my colleague for that purpose.

Mr. McMULLIN. Then, sir, I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. SEYMOUR, of Connecticut) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the bill of the House No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia," and had come to no resolution thereon.

ENROLLED BILLS.

Mr. HENN, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills; which thereupon severally received the signature of the Speaker, viz:

An act making an appropriation for the payment of Navy pensions for the year ending 30th June, 1854;

An act to surrender to the State of Ohio the unfinished portion of the Cumberland road, in said State;

An act making appropriations for the payment of invalid and other pensions of the United States, for the year ending 30th June, 1854; and

An act for the relief of the heirs or legal representatives of Joseph Arnold, deceased.

EXECUTIVE COMMUNICATIONS.

The SPEAKER. If it is the pleasure of the House, the Chair will present a few communications which have been received from the Executive Departments.

[Cries of "Agreed!"]

REPORT OF SECRETARY OF THE TREASURY.

Mr. JONES, of Tennessee. I wish to inquire of the Speaker if he has yet received the annual report of the Secretary of the Treasury?

The SPEAKER. The Chair is unable to say, not having examined the documents on the table.

Mr. JONES. Well, the session is half gone, and it has not yet come in.

The SPEAKER then laid before the House the following communications from the Executive Departments; which were severally disposed of as indicated below:

A communication from the Secretary of the Treasury, transmitting a statement of the accounts which have been due more than three years prior to the 1st of July, 1852, on the books of the Second and Third Auditors of the Treasury; also, a statement of the names of the officers whose accounts for advances made or balances unaccounted for one year prior to July 1st, 1852, have not been settled within the year; which was referred to the Committee on Military Affairs.

A communication from the Secretary of the Interior, submitting the annual reports of the surveyors general of California and Oregon; which was laid upon the table and ordered to be printed.

A communication from the War Department, transmitting a statement of the expenditures during the year 1852, from the appropriation for the contingent expenses of the military establishment; which was laid upon the table, and ordered to be printed.

A communication from the Navy Department, transmitting a statement showing the number of clerks and other persons employed in that Department during the year 1852, or any part thereof; the time during which each was actually employed, the sum paid to each, and the residence of each at the time of his appointment; which was laid upon the table and ordered to be printed.

A communication from the Treasury Department, inclosing a letter from the Secretary of the Interior, accompanied by an estimate for a deficiency in the appropriation for the repairs of the Congressional Library; which was referred to the Committee on Ways and Means and ordered to be printed.

And a communication from the Navy Department, transmitting a list of the midshipmen in the Navy of the United States, with the State and Congressional district whence each comes; which was referred to the Committee on Naval Affairs, and ordered to be printed.

The SPEAKER also laid before the House a letter from the Secretary of the Territory of Minnesota, accompanied by copies of the revised statutes and special laws of that Territory; which were referred to the Committee on Territories.

CLERKS OF THE HOUSE.

The SPEAKER further laid before the House a communication from the Clerk of the House of Representatives, transmitting a list of the clerks and other persons employed in his office.

Mr. CHANDLER moved that the communication be laid upon the table and printed.

Mr. STANLY. Does that communication contain the names of the persons employed in making an index of private claims?

The SPEAKER. The Chair was not very attentive to the reading of the communication, and cannot say.

Mr. HOUSTON. It does not specify them.

Mr. STANLY. Well, I want to call the attention of the House to that subject.

Mr. JONES, of Tennessee. Then let it go upon the table and be printed.

The question was then taken on Mr. CHANDLER's motion; and it was agreed to.

Mr. DEAN. I move that the House do now adjourn.

Mr. CAMPBELL, of Illinois. I move that when the House adjourns, it adjourn to meet on Monday next.

[Cries of "No!" "no!"]

Mr. CABLE, of Ohio. There is evidently not a quorum present.

Mr. DEAN. I ask if the motion of the gentleman from Illinois was in order after I had moved an adjournment?

The SPEAKER. The motion of the gentleman from Illinois being to fix the time to which the House shall adjourn, takes precedence of the motion to adjourn.

The question was then taken on Mr. CAMPBELL's motion, and it was not agreed to.

The question recurred upon Mr. DEAN's motion, and being put, the motion was agreed to, and

The House adjourned until to-morrow, at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees.

By Mr. DARBY: The petition of Augustus H. Evans, Robert Wash, and Matthew Kerr, asking for an act of Congress to authorize them to locate certain certificates issued by the recorder of land titles for the State of Missouri, under an act of Congress passed 17th February, 1815, for the relief of sufferers by earthquakes in the county of New Madrid.

IN SENATE.

SATURDAY, *January* 15, 1853.

Prayer by the Rev. JAMES GALLAHER.

On motion by Mr. BORLAND, the reading of the Journal was dispensed with.

DEATH OF HON. WILLIAM UPHAM.

Mr. FOOT. Mr. President, I rise to perform a melancholy duty this morning in formally announcing to the Senate the sad intelligence of the decease of one of the elder members of this body. My colleague, the Hon. WILLIAM UPHAM, expired at his lodgings in this city at about the hour of two o'clock yesterday evening, after a distressing illness of some ten days, at the age of sixty years.

This is the first instance that a Senator from Vermont has deceased during his official term. Mr. UPHAM was a native of the town of Leicester, in

the Commonwealth of Massachusetts, whence he removed at an early age to the State of Vermont. He settled and commenced the practice of the profession of the law at Montpelier, the capital of the State, which has been the place of his residence and the home of his family to the present time. An extensive and successful business at the bar of his own and the adjoining counties soon rewarded his professional labors. By his ability, his energy, and his persevering devotion to the profession of his choice and his pride, he attained an enviable distinction upon a forum which counted upon the list of its champions the names of a Prentiss, a Chase, a Mattocks, and others of high eminence as advocates and jurists.

In addition to careful and laborious research, he was accustomed in a remarkable degree to bring the utmost energies of his mind and the enthusiasm of his spirit to the cause of his client. His legal counsels and aid were especially sought by those upon whom the hand of adversity and want had fallen, and with equal readiness and zeal he espoused the cause of the friendless and penniless suitor as of him who could count him down a rich reward. No man who sought his advice and assistance in a just cause was ever turned aside from considerations of his pecuniary indigence. He adopted his cause and made it his own; his reward was in the consciousness of duty done, of rights vindicated, of wrongs redressed.

Mr. UPHAM repeatedly represented the town of Montpelier in the popular branch of the State Legislature. There he always took a prominent and leading part in the discussions upon the various questions of public or private interest which were brought to the consideration of that body.

In 1842, Mr. UPHAM was elected by the Legislature of his adopted State, to a seat in the Senate of the United States. In 1848 he received the indorsement of the approval of his constituency as a faithful public servant by a reëlection for an additional term of six years, scarcely half of which is passed away when he is summoned to another, a higher, and more awful tribunal. His impaired state of health for some years past has restrained him from participating so generally and so actively in the discussions of this body as his inclination might otherwise have induced him to do, or his ability as a public debater might perhaps have demanded of him. Nevertheless his speeches upon several important and exciting public questions bear the peculiar impress of his earnestness, his research, his ability, and his patriotic devotion to the best interests of his country. A striking illustration is furnished of his fidelity to the trust committed to him and of his constant and patient attention to his public duties here, in the fact which I had from his own mouth, that during the ten years of his service in this body he never absented himself from the city of Washington for a single day while Congress was in session, and never failed, when the condition of his health would permit, of daily occupying his seat in this Chamber during the sittings of the Senate; and I may add that he has often come here when a prudent regard to his physical condition would have detained him at his private lodgings.

Mr. UPHAM was emphatically the artificer of his own fortunes. He owed nothing to the factitious circumstances of wealth or patronage. He rose to his high position by his own energies, his own unaided efforts, thus furnishing another and beautiful illustration of the operation of the genius of our institutions, in that they open the pathway to station and honor alike to all, and no favorites are recognized other than the votaries at the shrine of justice, of honor, and patriotism.

During the illness of my late colleague, the estimable companion of his youth was summoned from her distant home to attend at his sick bedside. His last and dying hours were solaced by the presence, and by the watchful and affectionate care of her who had been the solace of his life, and which none but such an one knows how to bestow. But not care, nor tears, nor affection; not skill, nor place, nor power could stay the impending blow. It has fallen suddenly; it has fallen in an unexpected hour; it has fallen heavily upon all of us, but most of all upon an interesting, and till now cheerful and hopeful and happy domestic circle. What hearts it has crushed, what ties of fond affection it has severed, what hopes it has blighted, I cannot, I may not attempt to depict. I may not draw aside the veil which conceals in sacred seclusion the outpourings of private grief. May He who has declared that he would be the "widow's God and a father to the fatherless" show mercy, and forget not kindness in this time of His severe chastisement.

And, Mr. President, while one and another and yet another of our associates in this Council Chamber of the nation is stricken from our midst by the hand of death, we are all impressively admonished of the frailty of human life, the emptiness of human honors, and the vanity of human hopes. We are solemnly admonished to be also ready when the Master calls; and happy will it be for us if our hopes of acceptance in His mercy shall prove as a sure and steadfast anchor to our souls in that dread hour which must come upon us all, when the world and its worthlessness shall recede from our sinking vision.

Mr. President, I offer the following resolutions:

Resolved, That the members of the Senate, from a sincere desire to show every mark of respect to the memory of the Hon. WILLIAM UPHAM, late Senator from Vermont, will go into mourning for one month, by the usual mode of wearing crape on the left arm.

Resolved, That when the relations of the deceased may desire to remove his remains to the State of Vermont, they be attended by the Sergeant-at-Arms and a committee of Senators to be appointed by the President of the Senate.

Mr. SEWARD. Mr. President, how true it is that every day we spend here brings some fresh event to impress upon our minds, the fraternity of the States and comprehensiveness of the Republic! We began the week with surveying our interests in the Caribbean Sea; we went from thence to examine the defenses of the youngest member of the Union on the Pacific coast, and now, at the end, we are called to make a visit of condolence with the eldest of the adopted States in her eastern mountain home.

Last summer I stood beside the grave of Ethan Allen, on the shore of Lake Champlain. The lightning had descended and had riven the native marble slab which covered it, as if nature herself had been willing to mark her appreciation of the free, yet turbulent character of the founder of Vermont, and captor of Ticonderoga. But the rudeness and turbulence of the earlier age of Vermont, have passed away, while her intelligence and love of freedom remain increased and refined by art and learning.

WILLIAM UPHAM was of Vermont, a consistent exponent of her institutions—the most equal institutions enjoyed by man in this country and in the world. He was a man of strong and vigorous judgment, which acted always by a process of sound inductive reasoning, and his compeers here will bear witness that he was equal to the varied and vast responsibilities of the senatorial trust. He was a plain, unassuming, unostentatious man. He never spake for display, but always for conviction. He was an honest and just man. He had gotten nothing by fraud or guile, and so he lived without any fear of losing whatever of fortune or position he had attained. No gate was so strong, no lock so fast and firm, as the watch he kept against the approach of corruption, or even undue influence or persuasion. He exacted little for his own State, but, like her, was liberal to all others. His national policy was the increase of industry, the cultivation of peace, and the patronage of improvement. He adopted his opinions without regard to their popularity, and he never stifled his convictions of truth, nor suppressed their utterance through any fear of power or of faction; but he was, on the contrary, consistant and constant,

"As pilot well expert in perilous wave,
That to a steadfast starre his course hath bent."

I was honored with a place in his friendship, and Vermont was intimately related to the State from which I came, and therefore, I thought it my right and duty to speak a just panegyric over his remains. I wish that the wreath I have contributed were more fit to adorn the bier and grace the tomb of so true a representative, and so upright a statesman.

The resolutions were unanimously agreed to.

On motion by Mr. FOOT, it was

Ordered, That the Secretary communicate these proceedings to the House of Representatives, and to the family of the deceased.

On his motion, it was

Resolved, As a further mark of respect, that the Senate do now adjourn.

And the Senate accordingly adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 15, 1853.

The House met at twelve o'clock. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. SIBLEY. A short time since, I gave notice to the House of my intention to introduce a bill to grant to the States of Louisiana, Arkansas, Missouri, and Iowa, and to the Territory of Minnesota, a portion of the public lands to aid in the construction of a railroad from New Orleans to the northern boundary of Minnesota. I hope that as I have not trespassed upon the time of the House at all during the present session, there will be no objection to receiving the bill for the purpose of referring it to the Committee on Public Lands.

Mr. LETCHER. I object.

JAMES M'CORMICK.

Mr. STANTON, of Tennessee. At the last session, a bill upon the Private Calendar "for the relief of James McCormick," reported from the Committee on Naval Affairs, was about being passed upon, when one of the gentlemen from California, where the transactions upon which the claim is founded occurred, suggested to me that there was some fraud connected with the papers. I accordingly, without knowing anything of the facts, moved to have the bill recommitted to the Committee on Naval Affairs. I regret now that I took that course, as the bill was about to pass; and, as I have since been informed by the gentleman who made the suggestion, that he is satisfied he was mistaken. I have been instructed by the Committee on Naval Affairs to report the bill back, and I now ask the unanimous consent of the House to do it, and to have the bill referred to a Committee of the Whole House.

Mr. LETCHER. I object, and call for the regular order of business.

PATRICK GAS.

The SPEAKER. The first business in order is the consideration of House bill No. 152, "for the relief of Patrick Gas," which was reported from the Committee of the Whole House, during the last session, without amendment, and without any recommendation in regard to it. The pending question is on a motion to lay the bill upon the table.

Mr. STANLY. I suppose the Journal shows who made that motion.

The SPEAKER. It was submitted by the gentleman from Alabama, [Mr. COBB.]

Mr. STANLY. Well, sir, Mr. COBB is not now in his seat, and I would therefore suggest that the bill be passed over informally, until he is present.

The SPEAKER. That course will be pursued if there be no objection.

No objection was made.

Mr. STANLY. There is evidently no quorum present, and we ought not, therefore, to do any business.

HEIRS OF LEMUEL WELLS, DECEASED.

The SPEAKER. The following bill was reported from a Committee of the Whole House, with an amendment: House bill No. 155, "for the relief of William H. Wells and others."

The bill directs the Secretary of the Interior to issue a land warrant for one hundred and sixty acres of land to William H. Wells, Edmund Wells, and Sally Wells, heirs-at-law of Lemuel Wells, deceased, to be located on any of the unappropriated lands of the United States, which have been offered for sale and are subject to entry, in full compensation for all services rendered by Lemuel Wells, deceased, as a soldier in the late war with Great Britain.

The amendment proposes to insert before the word "entry" the word "private," and after it, the words "at one dollar and twenty-five cents per acre."

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time, and being engrossed, was subsequently read the third time and passed.

DAVID MYERLE.

The SPEAKER. The next bill in order, is the consideration of House bill No. 168, "for

the relief of David Myerle," reported from a Committee of the Whole House, with a recommendation that it do not pass, and upon which the gentleman from Kentucky [Mr. BRECKINRIDGE] is entitled to the floor.

Mr. BRECKINRIDGE took the floor and was addressing the House upon the merits of the bill, when—

OBITUARY.

A message was here received from the Senate, by ASBURY DICKINS, its Secretary, announcing the death of WILLIAM UPHAM, late a member of that body, with resolutions thereon.

The SPEAKER. Is it the pleasure of the House that the message be now read?

There being no objection, the message from the Senate was read.

Mr. MINER rose and said: Mr. Speaker, it becomes my painful duty to announce to this House the death of a representative from my State, in the other Hall of this Capitol.

The honorable WILLIAM UPHAM, a Senator from Vermont, died at his lodgings in this city yesterday, the 14th instant, at a quarter before two o'clock in the afternoon, in the sixty-first year of his age.

Within a few brief months, this is the third member of that honorable body who has been called to take his final exit from the stage of life. A Clay, a Whitcomb, and now the lamented subject of my remarks. Truly, *position, honor, greatness*, are no shield against death. The learned and the wise—he of place and power must also *die*.

This is the first time, I believe, that Vermont, the eldest daughter of the Republic, has lost a Senator in Congress. She has in former years been called upon to mourn the loss of a Mallory, a Hunt, and a Deming—all of whom died in quick succession while occupying seats in *this* House. But the "grim messenger" has never entered the other Chamber to strike one of her honored members; Senator UPHAM was his first victim there.

Seven members of this Congress—three Senators and four Representatives, and also one head of a Department, have died since the commencement of the first session; six of whom were from the Eastern States. New England has indeed drank deep from the cup of mortality within the past year. Some of the purest and most massive pillars which supported the temple of her greatness have given way and fallen, but still the structure stands unmoved, towering aloft in all its brightness and wonted splendor! One generation passes, and another takes its place. The world moves on, our Government and institutions remain! Other Websters, and Uphams, and Rantouls, and Thompsons, and Fowlers, and Andrewses, will take the places of those departed, and all will be well!

Mr. UPHAM was born at Leicester, Massachusetts, in August, 1792. He removed with his father to Montpelier, Vermont, when only ten years of age, where he has ever since resided. He entered the University of Vermont, at Burlington, while very young. After he left that institution, he studied the profession of law, and commenced practice before he had arrived at full age.

He soon became eminent in his profession; being located at the capital, his professional services were much sought for in all the courts, and many of the counties in the State. He made the practice of his profession his only business, until he took his place in the United States Senate, in December, 1843. During all that period, I am not aware that he was ever accused of a dishonorable act in his profession. I believe his universal reputation to have been that of strict integrity, not only in his professional practice, but in all his dealings with the world.

He was several times a member of the State Legislature, but had little to do with political life, till he was elected to the place he has now left vacant.

This was his tenth session, as a member of the United States Senate. During the whole of that time, he has never been out of this District while Congress was in session, and never absent from the Senate a single day, unless prevented from attending by actual sickness. Probably as much can be said of but few members of that body, or this. His strict attention, and familiar knowledge with all the business of legislation, had become proverbial. His name will be found recorded in nearly every vote for the ten years, and rarely, if ever, has he given a vote which did not meet the approbation of a majority of the people of his adopted State.

He was entirely above intrigue in politics, as well as the ordinary business of life. He would have looked upon the highest place in the gift of the Government, or people, obtained by such means, as a mere post of degradation.

I have enjoyed the pleasure of his acquaintance, and I think friendship, for many years. During both sessions of this Congress, I have sat with him at the same table. But his last meal is taken, and the worm is ready to sup upon all that remains of the noble-minded Senator.

But, Mr. Speaker, how little is there of the great and good man that is consigned to the tomb? The shroud and the vault conceal the body from our vision, but the memory of good deeds and great actions live on, and will remain fresh and green forever!

Mr. UPHAM was taken sick on Wednesday, the 5th instant; he had the best of medical advice and attendance from the beginning. His accomplished and devoted wife was with him the last three days of his life. All was done that could be done to make smooth his dying pillow.

Let us commend the *heart-stricken* widow, and the bereaved family, to the teachings of *Him* who doeth all things well, and who alone can heal the bruised heart, and calm the whirlwind of grief in the afflicted soul.

Let these frequent admonitions, so solemn and awful, find a deep place in our hearts, who yet remain behind.

Mr. Speaker, I offer the following resolutions:

Resolved, That this House has heard, with deep sensibility, the announcement of the death of the Hon. WILLIAM UPHAM, a Senator in Congress from the State of Vermont.

Resolved, That as a testimony of respect for the memory of the deceased, the members and officers of this House will wear the usual badge of mourning for thirty days.

Resolved, That the proceedings of this House, in relation to the death of the Hon. WILLIAM UPHAM, be communicated to his family by the Clerk.

Resolved, That, as a further mark of respect for the memory of the deceased, this House do now adjourn.

Mr. MEACHAM. I have just received a note from my colleague, (Mr. BARTLETT,*) the immediate representative of our deceased Senator, stating that on account of sickness, he will not be able to be present and take a part in these exercises.

I therefore rise to second the motion which has been made, but not to add anything in regard to the character or history of the deceased. My colleague, (Mr. MINER,) from his personal and his professional intercourse at home, and from his social intimacy with the deceased Senator and his family while here, has been peculiarly qualified to discharge this duty, which he has done faithfully and fully.

The remark, in regard to the number of persons who have died during the present Congress, has brought to my mind a comparison which I have been accustomed to make, without any detailed examination of facts, as to the mortality of eminent men in the first two or three years of the decade commencing in 1840, and the one commencing in 1850; and especially of the eminent men who have been connected with the Government of the United States.

In the first of these there was the loss of an unusual number of members of this House; in the latter one, an unusual number of the members of the Senate, and of the most eminent men ever connected with that body, following the general rule, which I believe is an universal rule in the history of the world, that great men come and go in schools.

In both of these cases we have lost, I believe, two Judges of the Supreme Court. In each of them we have lost two eminent Secretaries of State. In both of them we have lost a President of the United States. In the former period we lost an acting Vice President, and I trust in God the parallel will not be completed.

During both of these periods there has scarce been a department of the Government that has not sent on its representative to the congregation of the dead; and now in this latter period, while the death-knell is pealing all over the land, it has reached and startled the people of my own State, in announcing the death, sudden and unexpected, of one of her Senators in Congress.

I do not propose, as I before stated, to speak of the merits, the character, or the history of the dead; but I would, if it were possible, convey to a family, an esteemed and worthy family—a worthy wife and worthy children—some consolation in this peculiar and trying affliction.

I believe it is common for every one, when they are tried by affliction, to say, "There are no sorrows like unto my sorrows." But there are peculiar circumstances connected with this case which all will deem afflictive.

There have been very different sentiments among different nations in regard to the treatment they should give to the remains of the dead. At one time an effort was made to embalm the dead, in order to preserve every feature, every lingering lineament of the countenance, as it was when living. At another, the exact reverse of this was pursued, and instead of attempting to preserve the feature or form, even, they have burned the body, and urned only the ashes for preservation.

The sentiment of our Saxon race is entirely different from either. Their sentiment and their wish is, that when the family die, they may be gathered together in one group, in the same graveyard; and whether it may be in a marble tomb above, or in the peaceful and powerful grave beneath the ground, that they may lie, side by side, where only "a few feet of sullen earth divides each winding sheet."

It is in accordance with sentiments known to be universal, that Congress has so often, and I believe so justly, sent an escort of its own members to the home of affectionate relatives with the remains of the departed associate. It is for this cause that you see so many of those mute and graveless monuments in your Congressional burying-ground.

This, I deem it, is the educated craving of our nature. We need it, and we must have it; and notwithstanding the disposition of the American branch of this race to roam over the world, they never lose, in any part of that world, this strong feeling, as if it were the instinct of nature. I believe at this hour that there is many an American, smitten with disease on a foreign soil, who is lifting up his only prayer to the Eternal that he may return to his home, not simply to die in the bosom of his family, but that, with that family, he may be buried in the bosom of his own church-yard. This is the wish not only of the dying, but those who survive them wish the remains of their friends near them, that they may drop a tear, that they may plant a flower, and that they may rear a monument over the grave of the dead.

I have no doubt that many a mother, whose sailor boy, wrapped in the flag of his country, had a burial at sea, would be willing to spend the remainder of her days raking the bed of that ocean, if she might only bring up the remains of her boy, and bury them with hers in a common churchyard.

Now, it is the lack of this peculiar consolation, craved by all of our natures, of which this family is at present deprived. They must return to their home—to their home that is desolate, and must return alone. That father and that husband cannot accompany them, either dead or living.

And ere they depart from this place to their distant home, I wish to convey to them my own, and may not I add, I may convey to the bosom of that afflicted family, the sympathy of every member of this body?

I have nothing further to add, but that it seems to me that the mere mention of the past, and the rapidity with which the harvest has been garnered into the grave, should remind us that our end is hastening, and may soon be here, and call upon every one to inquire, who of us "shall pay Death's tribute the coming year?"

* The following is the note alluded to in the above remarks:

January 15, 1853.

DEAR SIR: I did intend to address the House upon the death of my late distinguished colleague in the Senate, but indisposition will prevent my being in my seat to-day. The announcement of the decease of the Hon. WILLIAM UPHAM comes to us as another admonition, warning us that in the midst of life we are in death.

Our late colleague, whose death we now deplore, did not have the benefit of an early education, but by his energy, force of character, and talents of a high order, he attained the highest distinction at the bar, and the elevated position he held at his decease. In his death I have lost a friend. Vermont has lost a son, who held a strong position in the affections of her people.

I have the honor to be, most respectfully, yours,

THOMAS BARTLETT, Jr.

Hon. JAMES MEACHAM, *House of Representatives*.

I second the adoption of the resolutions.

The question was then taken, and the resolutions were unanimously adopted.

The House thereupon adjourned until Monday next.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BRIGGS: The petition of Silas Hawes, praying Congress for relief, growing out of his inability to realize much income from his invention of the steel carpenters' square, an article now in general use, and greatly approved by the mechanics of our country.

By Mr. AVERETT: The petition of the Richmond and Danville Railroad Company, asking permission of Congress to be allowed to import railroad iron free of duty, or upon as favorable terms as any other companies.

By Mr. IVES: The petition of 300 citizens of Oneida, Jefferson, and Oswego counties, New York, for the construction of breakwaters in Cape Vincent harbor, in the State of New York.

IN SENATE.

MONDAY, *January* 17, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. WADE presented documents in support of the claim of Moses Olmstead to a pension for injuries received in the last war with Great Britain; which were referred to the Committee on Pensions.

Mr. COOPER presented three memorials of citizens of Pennsylvania, praying a modification of the bounty land law; which were referred to the Committee on Public Lands.

Also, the petition of J. Howard & Co., praying that the bill giving further remedies to patentees may become a law; which was referred to the Committee on Patents and the Patent Office.

Also, the memorial of P. A. Browne, of Philadelphia, praying that measures be taken for improving the breed of sheep and raising wool in the United States; which was referred to the Committee on Agriculture.

Mr. SMITH submitted documents in support of Dr. Horace Wells to be the first discoverer of the use of anæsthetic agents in surgical operations; which were referred to the Select Committee appointed on the subject.

Mr. SHIELDS presented a petition of citizens of Washington, District of Columbia, praying that the county jail may be removed to a more suitable location; which was referred to the Committee on the District of Columbia.

Mr. FISH presented a petition of the Ocean Steam Navigation Company, praying an increase of compensation for mail service between New York and Bremen; which was referred to the Committee on the Post Office and Post Roads.

Mr. BROOKE presented additional documents in relation to the claim of the heirs of William Scott; which were referred to the Committee on Private Land Claims.

Mr. HAMLIN presented a petition of soldiers of the last war with Great Britain, residing in the State of Maine, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. SEBASTIAN presented the petitions of the registers and receivers of the land offices at Washington and Little Rock, Arkansas, praying compensation for locating Choctaw land scrip; which were referred to the Committee on Public Lands.

Mr. BRODHEAD presented a petition of the survivors and heirs of those engaged in the military service during the last war with Great Britain, residents of the city of New York, and its vicinity, praying a modification of the bounty land law, and protesting against the disposition of the public domain except for certain purposes; which was referred to the Committee on Public Lands.

Mr. GWIN presented the memorial of E. W. Haskell, postmaster at Downerville, California, praying that the compensation of the postmasters in California and Oregon may be increased; which was referred to the Committee on the Post Office and Post Roads.

Mr. DODGE, of Iowa, presented a petition of citizens of Allemakee county, Iowa, praying the establishment of a mail route from Monona to Lansing, in that State; which was referred to the Committee on the Post Office and Post Roads.

Mr. HUNTER presented the petition of R. M. Heath, praying that he may be allowed the additional compensation provided by the second section of the civil and diplomatic appropriation bill, of August 31, 1852, of which he has been deprived by a decision of the Comptroller; which was referred to the Committee on Claims.

IMPROVED PADDLE WHEELS OF STEAMERS.

Mr. SEWARD. Mr. President, I present the petition of Thomas Ewbank, of the city of New York, in which he shows, that while modern steamers are improved and decorated in their hulls and engines, there is a neglect of improvement of their organs of speed—that is, in their wheels. The same rude slabs are now used that were in use centuries ago; and the principle employed is the same, viz: that of undershot water-wheels. The petitioner supposes that a decided improvement is attainable by simply modifying the outlines of propelling blades—their form, thickness, number, and dip. The experiments which he has tried, satisfy him that a vast improvement can be made, that will be beneficial to commerce and to the naval power of the country. According to foreign and domestic journals of science, these experiments have brought to light principles in propelling which were not previously dreamt of by engineers. The improvement adds nothing to the cost and materials of propelling wheels, but greatly diminishes both, and, moreover, removes the cause of those sudden and unequal strains that frequently disable a steamer by the breaking of her shaft, to which all our ocean steamers are every day liable. The engineer-in-chief says it is of the first consequence for the interests of the Navy, that the best form of propelling blades should be determined, and he recommends that experiments be tried in a public vessel. The petitioner says, that further practical and efficient experiments will be so costly as to transcend individual enterprise; he, however, encouraged by the manner in which his undertaking has been received by scientific men, both in Europe and in this country, presents his petition for a small appropriation to enable him to complete his experiments, under the direction of the Secretary of the Navy. A few years hence, and our present mode of propelling by suspending over a vessel's sides a pair of old undershot water-wheels will be a subject of surprise. The world will wonder at their gross unmechanical action, and that they had been endured so long. I move that the petition be referred to the Committee on Naval Affairs.

The motion was agreed to.

POTOMAC BRIDGES.

Mr. SHIELDS. I have been requested to present the memorial of a large number of citizens of Washington and Georgetown, in relation to the Little Falls Bridge on the Potomac. As this is a matter of very deep importance to this District, I wish to accompany the presentation of the memorial with a brief statement. Appended to this memorial are the proceedings of a meeting of the citizens of two counties of Virginia, (Fairfax and Alexandria,) in which it is stated that $150,000 were given, in 1833, to the city of Georgetown to build this bridge, and make a turnpike road to the Virginia side, and they were to make both free and keep them in repair forever. Georgetown agreed not only to build the bridge, but to keep it always in repair. This bridge was washed away last April, and the memorialists complain that Georgetown has taken no steps to rebuild it; but, on the contrary, after receiving the money of the Government, after having pledged itself to the Government not only to build, but to keep the bridge in perpetual repair, has wholly abandoned it, and proposed never to rebuild it, but now asks the Government to grant a new appropriation to build a bridge at a different place, namely, at the "Three Sisters."

They state that this course has not only injured that portion of Virginia, but that over this bridge is the only route by which mules, sheep, cattle, and horses, can enter the District of Columbia, and proceed from here to Philadelphia, New York, and other places. They complain that while the city of Georgetown has received the money of the Government, and bound itself to keep this bridge in constant repair, it has abandoned it, and now asks for additional sums of money to pursue the same process over again at other points. They state that the condition of the District, the condition of that portion of Virginia, and the condition of the communication between the District and the southern part of the country, render it necessary that this bridge should be rebuilt; but that, as Georgetown has neglected to perform this duty, the Government should rebuild it, and make it free. They protest against the movement of the authorities of Georgetown, to abandon it and build another bridge at a different place.

I have deemed it my duty to make this statement, because, as there is so much conflict here, unless something be agreed and determined upon, we shall have no bridge at all. I move that the memorial be referred to the Committee on the District of Columbia.

The motion was agreed to.

Mr. BRIGHT subsequently rose and said: Mr. President, I was not in my place when the Senator from Illinois presented, and commented upon, a memorial in relation to the Potomac Bridge. I regret that I did not hear his remarks, but I believe the object of the memorial is to improve what is known as the Long Bridge.

Mr. SHIELDS. No, sir. I stated the contents of the petition, and I will repeat them, because the honorable Senator from Virginia, and the honorable Senator from Indiana, are now in their places. It is in relation to what is called the Little Falls Bridge—the chain bridge above Georgetown. The memorial states, that Georgetown received $150,000, not only to make that bridge, but to make a turnpike from Georgetown to it, and to keep both perpetually in repair; that the bridge has been washed away, and has now been abandoned by Georgetown, as has the turnpike, and the pledge has been forfeited. Georgetown has come in for a new project, wishing a new bridge, abandoning the old turnpike, and the old bridge, and the old site; which action, the memorialists say, is not only injurious to that portion of Virginia, but to the whole West; for all the roads from the West center at that point, and mules, and cattle, and horses, and sheep, are brought in that direction, and in no other. They protest against the new enterprise of Georgetown, to build a new bridge at the Three Sisters, abandoning the old one which she pledged herself to keep in repair, and for building which, she received the money of the Government.

Mr. BRIGHT. It is as I expected. The object of the petition is to improve what is known as the Long Bridge, and to defeat the proposition to build a bridge at the point known as the "Three Sisters."

Mr. SHIELDS. I repeat that the honorable Senator is mistaken. The memorial is in reference to the bridge above Georgetown, the Little Falls Bridge, and not the Long Bridge. It refers to the chain bridge, two miles above Georgetown, which was washed away by the late freshet.

The PRESIDENT. The Chair would state that this discussion is out of order.

Mr. BRIGHT. I am aware of that; but I would ask the Chair to what committee the memorial has been referred?

The PRESIDENT. To the Committee on the District of Columbia.

Mr. BRIGHT. Then I will reserve any remarks which I might wish to make until I present a counter petition.

CONDUCT OF COMMODORE MORGAN.

Mr. HALE. I wish, Mr. President, to call up now for consideration a resolution which has been before the Senate several times, and to make a statement in regard to it. I refer to the resolution relating to the official conduct of Commodore Morgan, while in command of the Mediterranean squadron. It was under consideration the other day, and I asked leave to withdraw it, but the Senator from Illinois objected, because he wished to accompany it by a statement. I have since seen the Senator from Illinois, and we concur in the opinion that propriety demands that the resolution shall be withdrawn, if the Senate will give leave. I hope the Senate will take it up, simply for the purpose of allowing me to withdraw it, and to make a statement when I do so.

The motion was agreed to, and the Senate proceeded to consider the resolution.

Mr. HALE. I now ask leave of the Senate to withdraw the resolution; and in making that request, I wish to say this, in justice to Commodore Morgan and everybody concerned. I have no knowledge of any of the charges that may be supposed to be indicated by the resolution of inquiry, nor any information one way or the other, except

what came to me second-hand from sources on which I relied. If there has been any injustice done to Commodore Morgan, nobody can regret it more than I do, because if there has been a single aim in my whole life, it has been to steer clear of doing injustice to anybody. I introduced the resolution because the information came to me from sources which I thought entitled to credence. Since it has been offered, Commodore Morgan has died, and there can be no investigation here of any charges against him. If injustice has been done to his memory, he has not a friend on earth who regrets it more than I do; and, under these circumstances, I hope the Senate will, by unanimous consent, grant me leave to withdraw the resolution.

Mr. SHIELDS. I am very glad to hear the honorable Senator express those sentiments this morning. I always believed that they were his real sentiments; and I have been satisfied from the first that injustice might, at all events, be done, and perhaps has been done in this case, on the information which the honorable Senator received; and, under the circumstances, I shall not insist upon presenting the paper which was sent to me. I hope there will be no objection to withdrawing the resolution.

The PRESIDENT. It requires, according to the rules of the Senate, unanimous consent to grant leave to withdraw the resolution.

There being no objection, leave was granted, and the resolution was withdrawn.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. PEARCE, it was

Ordered, That Chester Griswold have leave to withdraw his petition and papers.

On motion by Mr. DODGE, of Iowa, it was

Ordered, That Orson Young have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. BADGER, from the Committee on the Judiciary, to which were referred the petitions of William Cranch, chief justice of the district court of the United States for the District of Columbia, praying for the repeal of so much of the act of 3d March, 1839, as requires said judge to hear and determine appeals from the Commissioner of Patents, and the petition of John Rourke and others, praying the appointment of a tribunal to decide cases of appeal from the decision of the Commissioner of Patents, asked to be discharged from the further consideration thereof; which was agreed to, Congress having, in the latter part of last session, passed an act accomplishing that object.

Mr. ADAMS, from the Committee on Claims, to which was referred the petition of John Gray, praying compensation for a pair of horses taken from him by United States troops during the invasion of Canada in 1813, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which was referred sundry memorials in behalf of Nathaniel McMenafee, praying that he may be refunded expenses incurred in relieving emigrants on the route between Missouri and California, submitted an adverse report; which was ordered to be printed.

THE LATE SENATOR UPHAM.

Mr. FOOT offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the Senate be requested to communicate to the Executive of the State of Vermont information of the death of the Hon. William Upham, late a Senator from that State.

Mr. FOOT also submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Senate be directed to pay to the widow of the Hon. William Upham, late a Senator from the State of Vermont, whatever sum may be due to his estate for *per diem* and mileage.

CENSUS REPORT.

Mr. SEWARD offered the following resolution; which was referred to the Committee on Printing:

Resolved, That of the two abstracts of the Seventh Census, or report of the Superintendent, communicated to Congress with the President's message, there be printed and bound for the use of the Senate one hundred thousand copies; four thousand of which shall be for the use of the Census Office.

RAILROADS IN WISCONSIN.

Mr. WALKER, by unanimous consent, asked and obtained leave to introduce a bill granting to the State of Wisconsin a donation of public lands to aid in the construction of a railroad from the north side of Fox river, at Geeen Bay, to the St. Croix river; which was read a first and second time by its title, and referred to the Committee on Public Lands.

He also, by unanimous consent, asked and obtained leave to introduce a bill granting the right of way to the State of Wisconsin, and a portion of the public lands to aid in the construction of a railroad from the village of Sheboygan, via Fond du Lac, to the Mississippi river, in said State; which was read a first and second time by its title, and referred to the Committee on Public Lands.

CONSUL AT ACAPULCO.

A message from the President of the United States was received, by Mr. FILLMORE, his Secretary, communicating, in compliance with a resolution of the 13th ultimo calling for information in regard to the imprisonment of the United States Consul at Acapulco, a report of the Secretary of State, with sundry documents; which were referred to the Committee on Foreign Relations, and ordered to be printed.

EXECUTIVE COMMUNICATION.

The President *pro tem.* laid before the Senate a communication from the Secretary of War, showing the contracts made by that Department during the year 1852; which was laid on the table and ordered to be printed.

PREVENTION OF FRAUDS BILL.

The bill from the House of Representatives "to prevent frauds upon the Treasury of the United States," was read a first and second time by its title, and referred to the Committee on the Judiciary.

INDIAN ENCROACHMENTS.

A motion by Mr. RUSK, to print two thousand additional copies of the report of the Secretary of State in relation to the encroachments of the Indians of the United States on the territories of the Republic of Mexico, communicated January 12, for the use of the Senate, was referred to the Committee on Printing.

FISHERIES.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested, if it be not incompatible with the public interest, to communicate to the Senate such remaining correspondence between this Government and that of Great Britain respecting the fisheries as has not been made public.

MENOMONEE INDIANS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs be authorized to send for papers, and call persons before them to be examined, under oath, touching the matter contained in the resolution of the Senate of the 11th of January, referred to said committee.

The resolution referred to was submitted by Mr. WALKER. Its object is to ascertain what sum, if any, is equitably due from the United States to the Menomonee tribe of Indians, and on what terms and conditions, and in what manner the amount shall be paid.

ARKANSAS BONDS.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior and the Secretary of the Treasury be requested to communicate to the Senate all the information on file in their respective Departments, respecting any bonds of the State of Arkansas now held in trust by the United States upon any account, and particularly showing the amount of principal and interest and the payments thereon from any source.

ASSOCIATE JUSTICE FOR CALIFORNIA AND OREGON.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law for the appointment of an associate justice of the Supreme Court of the United States for a circuit to be composed of the State of California and the Territory of Oregon.

NEBRASKA TERRITORY.

Mr. DODGE, of Iowa, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Territories be instructed to inquire into the expediency of establishing a territorial government for the country west of Iowa and Missouri and east of Utah, commonly called Nebraska.

FORTS JEFFERSON AND TAYLOR.

Mr. MALLORY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to report to the Senate the condition and progress of the work on the Tortugas, called Fort Jefferson, and the work on Key West, called Fort Taylor; the amounts heretofore appropriated and expended thereon; the time it would take to complete said works with similar appropriations, and an estimate of the amount necessary to complete the same; and also as to the best mode, with regard to the public interest, of making such appropriations and expenditures.

REPUBLIC OF LIBERIA.

Mr. MILLER submitted the following resolution for consideration:

Resolved, That the Committee on Foreign Relations be instructed to inquire into the expediency of acknowledging, on the part of this Government, the national independence of the Republic of Liberia.

M'KEAN BUCHANAN.

The bill for the relief of McKean Buchanan was read a second time, and on motion by Mr. GWIN, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to direct the proper accounting officers of the Treasury to pay to McKean Buchanan, a purser in the Navy, the sum of $5,277 66, in full remuneration for the losses sustained by him as purser of the United States ship Constitution, during the years 1839, '40, and '41, in consequence of an illegal order of Commodore Claxton, reducing the emoluments accruing to him during the cruise of the ship below the amount to which he was entitled by usage and regulations.

At the request of several Senators, the report of the Committee on Naval Affairs was read; from which it appears that while Mr. Buchanan was purser of the Constitution in 1839, '40, and '41, then the flag-ship of the Pacific squadron, pursers received from the Government the salary of forty dollars per month, and in addition certain perquisites and allowances regulated by the laws and usages of the service, which consisted chiefly of commissions at the rate of ten per cent. on the distribution to sailors of the public stores of the Government, and on the sales to officers and men of private stores laid in by the purser under certain regulations and restrictions. Custom, sanctioned by the Navy Department, had fixed the latter commissions at twenty five per cent. on articles of secondary necessity, and fifty per cent. on luxuries. Purser Buchanan laid in stores for the cruise, and during a portion of the voyage sold them at the customary rates of advance; but subsequently the Commodore prohibited sales at that rate. This order was enforced upon Purser Buchanan alone, and he was in duty bound to obey it. Deeming it illegal, he appealed to the Navy Department, which, however, confirmed the order. He then brought suit in the United States district court for the eastern district of Pennsylvania, where a judgment was rendered in his favor for $5,277 66. That was confirmed by the circuit court, but was set aside by the Supreme Court, on the ground that the Government was not responsible for the official acts of its agents, unless there was some previous recognition by Congress of the right to indemnity. The Supreme Court, in giving the opinion, suggested an application to Congress for relief, expressing the belief that it would be successful should he be able to satisfy Congress that he was wronged by Commodore Claxton, and that it is just and proper for Congress to atone for such injury. The claim set up is for the difference between the ten and twenty-five per cent. on what might have been sold, and lost by the depreciation on the articles not sold, amounting, according to this account, to $9,360 31. The Fourth Auditor of the Treasury recommends the allowance of a specific sum as indemnity to the claimant, in consequence of the difficulty which exists of ascertaining the actual losses incurred. The committee therefore reported the bill.

Mr. HALE. I wish we could know something about the amount which the purser made on the reduced compensation. I do not know myself, but I understand that under the old law, the com-

pensation of pursers was so extravagant, that Congress saw fit to interpose and give a salary by law. It seems to me this is a rather novel proceeding. The commander of the squadron would probably be very likely to know, in the exercise of his discretion, what would be a fair percentage. It seems to me that the percentage to which the purser says he was entitled, and used to receive, twenty-five per cent. on some articles and fifty per cent. on others, was enormous. It seems that the commander, in the exercise of what he considered his legal discretion, struck down these enormous rates, out of which the purser was growing rich from the earnings of the sailors. The instances are so rare in which the commanding officers interfere to protect the sailors from the rapacity of those who grow rich upon their earnings, that we should be slow to reverse their acts in such a case. This claim, it seems, according to the report, was referred to the Secretary of the Navy, and he refused to interfere. He then applied to the judiciary, and they refused to interfere——

Mr. GWIN. The district and circuit courts did not.

Mr. HALE. The ultimate tribunal at least did—though some of the subordinate tribunals may have decided in his favor.

Here, then, is an interference on the part of the commander of a squadron, approved by the Secretary of the Navy, cutting down these profits of from twenty-five or fifty per cent. to a lower sum; and now Congress is asked to do what? To make up to the purser what the Commodore kept him from making out of the sailors. That is all. I understand that some pursers have formerly made enormous sums, sometimes as much as $30,000 during a single cruise, or from $5,000 to $10,000 a year. The Commodore, in this instance, thought it was so enormous that he saw fit to cut it down; the Secretary approves of it, and Congress it seems is to make up to him what he could not make out of the sailors. That is the bill.

Mr. GWIN. I do not wish to detain the Senate on this subject. The nature and circumstances of this claim are set forth in the report of the Committee which has been read to the Senate. The percentage which the purser should have received was according to the regulations of the Department. It was not for what was sold to the sailors. It was for articles of secondary necessity, articles of luxury sold to the officers, and the Commodore cut it down, because he thought to put money in his own pocket. It was not protecting the sailors at all. The purser should have received the percentage under the customs and regulations of the Department. Pursers at the time had very small salaries, but the law has been altered since. It was a reasonable expectation that this purser had that he should receive that percentage. Every court that acted upon his case decided in his favor. The customs and regulations of the Department authorizing him to calculate upon this sum, he laid in the articles accordingly. The Supreme Court dismissed the case on account of a want of jurisdiction over it, and in its opinion it said that Congress ought to grant the relief. The petitioner came to Congress, and the case was examined by the Auditor of the Treasury Department, who sent an estimate which he regarded as the equitable and proper sum to be allowed, to the committee, and the bill has been reported accordingly. I hope the bill will pass.

Mr. CASS. I shall vote against the bill, on the ground that I recognize no right or obligation on the part of Congress to pay for the illegal act of any officer whatever, unless under very extraordinary circumstances, as during war, when the safety of the country requires it. Under ordinary circumstances, I am utterly opposed to it. If this claimant suffered injury, he had a right of suit against the one who injured him.

The bill was reported to the Senate without amendment, and the question was, "Shall it be engrossed and read a third time?" upon which question Mr. BORLAND asked for the yeas and nays, and they were ordered.

Mr. BORLAND. Before the vote is taken, I desire to say a few words on account of the vote which I shall give. I think the Senator from New Hampshire very fairly stated the proposition which is before the Senate. Here was a purser in the Navy who was prevented by the commanding officer from making an exorbitant profit upon the goods which he had carried out for the purpose of supplying to the sailors. This action of the commanding officer of the squadron was submitted to the Secretary of the Navy, and he approved of it. He believed that the action of the officer was right. Not satisfied with that, the petitioner went to the courts, and we find that the final tribunal to which he appealed did not sustain any legal right which he might have set up; and now, at the end of some ten or twelve years—thirteen perhaps—he comes before Congress—and we hear only one side of the question—and asks to be paid the amount of money which he might have made, if the commanding officer of the squadron had permitted him to make exorbitant charges on the sailors. We do not hear anything about the reason which the commodore or commander of the squadron had for prohibiting those charges. If we did, I apprehend we would have a different state of the case presented to us. But here, at the end of twelve or thirteen years, without being able to know anything of the particular circumstances of the case, we have one side of it presented to us, and are asked to make a payment on that statement, when all the tribunals to which the case has heretofore been carried, have decided against it. Under these circumstances I cannot vote for the claim.

Mr. BRIGHT. The grade of purser is one of the best offices, in a pecuniary point of view, in the gift of the President. A pursership upon a first-class vessel is a very desirable office. The profits arising in it formerly were such that Congress had to limit the amount of fees. This case, I presume, occurred after the passage of the law to that effect. The purser undertaking to violate what the commanding officer regarded as the law, the commanding officer gave an order and required the purser to obey it. In obeying that order, which was the law, the purser alleges that he lost money. Now, sir, it occurs to me that the decision of the Secretary of the Navy should be final in a case of this kind. If the officer at the head of the Navy Department decides against a claim of this kind, it ought to be conclusive. But it appears that this purser, not content with the decision of the Secretary, goes further; and the courts decide against him. This claim is in its teens. It has stood for thirteen years, and is presented now to the consideration of Congress, and I venture to say that there is not a Senator who understands it, unless it be the gentlemen on the Committee on Naval Affairs. As the Secretary of the Navy has decided against it, as the courts have decided against it, and as it is thirteen years of age, I think the presumption is very fair that it has little merit.

Mr. GWIN. I am sorry that the Senator from Indiana has presented the case entirely different from the facts. This purser, at the time the claim originated, got little or no salary. He received forty dollars a month, and was entitled to certain commissions. That was his compensation. The Senator speaks of this being a valuable and desirable office. So it is now, because a salary is affixed to it; but at the time when this claim originated, the greater part of the salary was in the form of perquisites, and those perquisites were established by the customs and regulations of the Navy. Why should this officer—and he was the only one in the Navy who was so treated—lose these perquisites? But the honorable Senator says, the courts decided against him. In that he is mistaken. The district and circuit courts decided in his favor, and the Supreme Court only decided against him on the ground of a want of jurisdiction, and at the same time advised him to appeal to Congress. The Auditor of the Treasury Department sent an account to the Committee on Naval Affairs, and that committee, after a thorough examination, were unanimously in favor of affording the relief provided for in the bill. I do not wish to detain the Senate by discussing the matter, but I am sure the bill is right and proper, and ought to pass.

Mr. HALE. Well, let us have the yeas and nays.

The question being taken by yeas and nays on ordering the bill to be engrossed for a third reading, resulted—yeas 11, nays 29; as follows:

YEAS—Messrs. Brodhead, Clarke, Cooper, Fish, Gwin, Mallory, Mangum, Miller, Morton, Seward, and Smith—11.

NAYS—Messrs. Adams, Atchison, Bell, Borland, Bright, Brooke, Cass, Cathcart, Chase, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Foot, Geyer, Hale, Hamlin, Bunter, Jones of Iowa, Norris, Rusk, Sebastian, Soulé, Spruance, Sumner, Underwood, Wade, and Walker—29.

So the bill was rejected.

PHILO SMITH.

On motion by Mr. BRIGHT, the Senate proceeded to consider, as in Committee of the Whole, the bill from the House of Representatives for the "relief of Philo Smith." It proposes to direct the payment to Philo Smith, of Indiana, the sum of $19 96, for amount due him as an ordinary seaman on board the Macedonian, as his share of the amount awarded to the captors, under Commodore Decatur, of certain Algerine vessels.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

EXECUTIVE BUSINESS.

Mr. CLARKE. Mr. President, I move now that the Senate proceed to the consideration of Executive business.

Mr. GWIN. I hope not. I hope the Senate will take up the special order of the day.

Mr. CLARKE. I trust the Senate will agree to my motion, in consideration of circumstances which are within the knowledge of the Senate, and which it is not necessary for me to explain.

Mr. GWIN. I am perfectly willing that, after we devote a reasonable period to the discussion of the special order, we shall consume the rest of the day in Executive session.

I ask for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 21; as follows:

YEAS—Messrs. Bell, Brooke, Clarke, Cooper, Davis, Dixon, Fish, Foot, Geyer, Hale, Jones of Tennessee, Mangum, Miller, Morton, Pearce, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, Underwood, Wade, and Walker—24.

NAYS—Messrs. Adams, Borland, Bright, Butler, Cass, Cathcart, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Gwin, Hamlin, Houston, Hunter, James, Jones of Iowa, Mallory, Norris, and Soulé—21.

So the motion was agreed to.

Mr. ATCHISON, when his name was called, stated that he had paired off on all votes touching the matter which he supposed would be affected by the motion, with the Senator from New Jersey, [Mr. STOCKTON,] who was absent in consequence of sickness in his family.

The Senate accordingly proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill "authorizing 'the construction of a railroad and branches, for 'establishing a certain postal communication be-'tween the shores of the Pacific and Atlantic with-'in the United States, for the protection and facil-'ities of travel and commerce, and for the necessary 'defenses of the country."

The PRESIDENT. The question is on the amendment of the Senator from Texas, which has been printed.

Mr. RUSK. When I laid that amendment on the table, I merely wished to lay it there for the information of the body. I did not mean to offer it as an amendment; but I see that it has been printed, as if I offered it as an amendment. I merely wished that it might be before the members of the body for their information, and that I might offer it if I thought proper hereafter. I therefore ask leave to withdraw it.

There being no objection, leave was granted to withdraw the amendment.

Mr. HAMLIN. Mr. President, I desire to say only, that when I offered an amendment to this bill—an amendment which proposed to organize a certain body of men to construct this road—I stated to the Senate that I did it at the request of gentlemen interested in it. I see that that amendment has been printed, and laid upon our tables, as if it were one offered by myself, in such a manner as necessarily to carry the inference that I proposed it as an amendment to be offered by me at a proper time to the Senate. I did no such thing; I proposed to do no such thing; I did not mean to indorse that plan, or to connect myself in any way with it. I only wished to offer it to the Senate that it might be printed, so that, when the whole matter came up, we could give that the same consideration which might be given to others.

Mr. BROOKE. Mr. President, as the Senator from Maine has disclaimed the paternity of this

amendment, I propose to offer it myself by way of substitute for the bill introduced by the Senator from California. I move to amend the bill by striking out all after the enacting clause, and inserting the amendment of the Senator from Maine, as follows:

That the Secretary of the Treasury of the United States shall prepare, ready for delivery, special certificates of stock, to be denominated "The Atlantic and Pacific Post-road Stock," to the amount of thirty millions of dollars, in amounts not exceeding ten thousand dollars each, payable to the Atlantic and Pacific Railroad Company hereinafter mentioned, or its order, and bearing an interest of —— per centum per annum, and which interest shall be payable by the United States, half-yearly, on the first days of January and July in each year, at the office of the Secretary of the Treasury in the city of Washington, or at such other place as may be provided by law. Such certificates of stock shall be issued and used as hereinafter provided, to facilitate and insure the construction of a continuous railroad to be used and employed as a military and post road, as hereinafter mentioned, from the valley of the Mississippi river to San Francisco, in the State of California, or other place on the Pacific ocean, within the United States.

SEC. 2. *And be it further enacted*, That the point of departure of said road on the Mississippi river, and the general route thereof, shall be located and established by "The Atlantic and Pacific Railroad Company" hereinafter mentioned; but said road shall not be located or constructed through or within the boundaries of any State or States of the United States without the consent of such State or States; and, in case said company shall not be able to obtain the consent of any State lying west of the Mississippi river, then said road shall commence at the northerly boundary of Texas, or the western boundary of Arkansas, Missouri, or Iowa, in the discretion of said company; and, in case said company shall be unable to obtain such consent of the State of California, then such road shall terminate at the eastern or southeastern boundary of California. And no appropriation, grant, or cession of any part of the public domain or lands of the United States, shall at any time hereafter be made to, or in favor of, any State which shall refuse its assent to the location and construction of such road from its western boundary to the Mississippi river.

SEC. 3. *And be it further enacted*, That whenever ——, and their associates, shall become and be a body-politic and corporate under and by virtue of the laws of any State of the United States, by the name, style, and description of "The Atlantic and Pacific Railroad Company," and by their act of incorporation shall be authorized and empowered to build, construct, complete, use, and enjoy a continuous line of railroad from the Mississippi river, or the western boundary of any State bordering thereon, or of the Gulf of Mexico, to San Francisco, in California, or other place on the Pacific ocean, with the right to construct a branch thereof to such point in the Territory of Oregon as shall be most advantageous to the public interests; and shall have actually and in good faith subscribed to the capital stock of said company the sum of —— millions of dollars, and shall have filed with the Secretary of the Treasury of the United States a duly certified copy of their said charter, and due proof of the said subscription of stock, with the *full* names of the respective stockholders, and the number of shares and amount subscribed by each stockholder, respectively, and shall have located said road pursuant to the second section of this act, and shall have filed with the said Secretary of the Treasury, and also in the office of the Secretary of the Interior, an accurate description of six hundred miles of the western end of said road, with proper maps and plans thereof, duly certified by the chief engineer, and the president and a majority of the directors of said company, and a general description of the entire route of said road, certified in like manner; and shall have constructed and completed, in a good and substantial manner, fifty continuous miles of a single track of said road, and furnished the same with the necessary engines, cars, and apparatus for running the same, and shall produce to the Secretary of the Treasury satisfactory evidence of such completion and furnishing of said fifty miles, by the affidavits of such chief or other principal engineer, and of the president and any two of the directors of said road, the said Secretary of the Treasury shall issue and deliver to said company, either in money or in the certificates of stock in the first section of this act mentioned, the sum of seven hundred and fifty thousand dollars; and as often as said company shall in like manner construct, complete, and furnish fifty continuous miles of said road, and shall produce the like evidence thereof to said Treasurer, he shall in like manner issue and deliver to said company the sum of seven hundred and fifty thousand dollars, until said company shall have constructed, completed, and furnished five hundred continuous miles of said road. And from thence, as often as said company shall, in like manner, construct, complete, and furnish fifty continuous miles of said road, and shall produce the like evidence thereof, the said Secretary of the Treasury shall in like manner issue and deliver to said company the sum of one million of dollars, until said company shall have so constructed and furnished other five hundred miles of said road. And from thence, as often as said company shall in like manner finish and furnish fifty continuous miles of said road, and shall furnish the like evidence thereof, the said Secretary shall in like manner issue and deliver to said company the sum of one million two hundred and fifty thousand dollars, until said company shall have so finished, constructed, and furnished other five hundred miles of said road. And from thence, as often as said company shall in like manner construct, complete, and furnish fifty miles of the residue of said road, and furnish the like evidence thereof, the said Secretary shall in like manner issue and deliver to said company the sum of one million five hundred thousand dollars, and at that rate until said road is fully completed and furnished for use.

SEC. 4. *And be it further enacted*, That any money which may from time to time be in the Treasury, as the said company shall, in pursuance of the last preceding section, be entitled to receive the same, and not otherwise appropriated, is hereby appropriated to the construction of said road, in the manner hereinbefore provided; and the said Secretary of the Treasury shall in no event issue and deliver to said company any of said certificates of stock so long as there shall be money in the Treasury which may, consistently with the provisions of this act, be delivered to said company in lieu of such stock.

SEC. 5. *And be it further enacted*, That no part of said money or stock shall be delivered to said company by said Secretary until said company shall have filed in the office of said Secretary a resolution of its board of directors and the certificate of its president and secretary, duly authenticated by the corporate seal of the said company, by which said company shall consent to accept of the loan herein provided for, subject to all the terms, conditions, forfeitures, and liabilities of this act; and said resolution and certificate shall be recorded in the office of the Secretary of the Interior, and shall thereupon become and be, to all intents and purposes, a mortgage of said road, and of every part thereof, and of the appurtenances and apparatus thereunto belonging, to secure to the people of the United States the payment of the principal and interest of the sums of money which shall from time to time be issued and delivered to said company, as hereinbefore provided.

SEC. 6. *And be it further enacted*, That no interest shall be charged to or paid by said company on any money or stock which may be delivered to said company in pursuance of this act until a single track of said road shall be completed; and when said road is completed, so that a train of cars shall have passed over the entire length thereof, the chief engineer of said road, and the president and secretary of said company, shall immediately make a certificate, under their respective oaths, that said road is so completed, and shall forthwith file said certificate in the office of the said Secretary of the Treasury; and from the time of filing said certificate interest shall be paid by said company, at the rate mentioned in said certificates of stock, on all moneys or stocks issued and delivered to said company as above provided, on the first days of January and July in each year, at the office of the said Secretary of the Treasury, or at such other place as may be provided by law, until the principal moneys so loaned and advanced to said company shall be fully paid; and the said principal shall be reimbursed and paid, at the pleasure of said company, at any time within thirty years from the date of the respective issues thereof, and in sums of not less than fifty thousand dollars each

SEC. 7. *And be it further enacted*, That the said company shall at all times, from the time of the completion of said road or of any part thereof of not less than fifty miles, until the principal moneys or stocks issued to said company in pursuance of this act shall be fully paid, carry and transport the mails of the United States, together with all postmasters and mail agents who may be designated or appointed to accompany the same, over their said road, in all or so many of their regular trains as shall be required by law or by the Postmaster General of the United States, without compensation and free of charge to the Government of the United States; and shall also, during said time, convey and transport the troops, ordnance, military stores, army supplies, Indian annuities, and all articles intended to carry into effect any treaty made with any Indian tribe or nation, and all naval stores and supplies necessary to be transported for the use of the Navy of the United States stationed in the Pacific ocean, or receiving supplies in any port of the United States in said Pacific ocean, and shall receive therefor compensation at the rate charged to individuals for transporting persons, passengers, and similar commodities and articles over their said road.

SEC. 8. *And be it further enacted*, That the said company shall complete a single track of said railroad within five years from the time of filing the certificate of location mentioned in the third section of this act, and shall lay and construct a continuous line of magnetic telegraph along the entire line of said road, so that the same shall be completed and ready for operation at the time of the completion of their said road; and shall at all times, during the continuance of said loan or any part thereof, transmit and convey over said telegraph all messages and communications of the Government of the United States, and all official messages and communications of the several officers and agents thereof, without compensation and without charge to the said Government.

SEC. 9. *And be it further enacted*, That no part of the money or stock provided for in this act shall be issued or delivered to said company, until satisfactory evidence shall be produced to the Secretary of the Treasury that no prior lien or incumbrance has been created or exists on said road or its appurtenances, or any part thereof.

SEC. 10. *And be it further enacted*, That in case said company shall, for more than thirty days after the same is due and payable, make default in the payment of either principal or interest of said money or stock issued and delivered to said company, in pursuance of the provisions of this act, or shall at any time without good cause neglect or refuse to transport and convey the mails, troops, ordnance, Army or Navy supplies, Indian annuities, or telegraphic messages, as hereinbefore provided, the said railroad, with the cars, engines, and appurtenances, shall be absolutely forfeited to the people of the United States; and thereupon, after due process of law, all the right, title, and interest of the said Atlantic and Pacific Railroad Company in and to said railroad and its appurtenances shall cease and determine, and the same shall thereupon become and be the property and estate of the United States, absolutely and in fee-simple.

SEC. 11. *And be it further enacted*, That the said company shall at no time charge, exact, or receive from any person or passenger transported or conveyed over said road an amount exceeding three cents per mile; and the said Government of the United States may, at any time after the expiration of twenty years from the time of the completion of said road, take, assume, and become the absolute owner of said road, with its appurtenances, on paying to said company the actual cost thereof, after deducting therefrom the amount which shall then remain unpaid of the moneys loaned to said company, in pursuance of this act.

SEC. 12. *And be it further enacted*, That the said railroad company is hereby authorized and empowered to locate, construct, and maintain one railroad with one or more tracks, in any territory belonging or subject to the United States, lying between the Mississippi river or the Gulf of Mexico on the east, and the Pacific ocean on the west; and to secure to said company the full enjoyment and protection of the labor, enterprise, and capital invested in said road, and to facilitate the speedy construction thereof, by enabling said company conveniently to procure timber, stone, forage, and other material necessary to be used in making said road, a roadway, or track, of the equal and uniform width of one thousand feet, wherever said road shall be located through land now belonging to, or to which the said United States shall hereafter acquire a title, is hereby granted and ceded to said company in fee-simple; and it shall be lawful for said company to go upon any land in the vicinity or within a reasonable distance of said road belonging to the United States, and take therefrom any timber, earth, gravel, stone, or other material to be used in the construction of said road, and may also take possession of and use any streams or springs of water belonging to the said United States, in constructing, using, and maintaining said railroad.

Mr. BROOKE. In offering this amendment, I by no means intend to commit myself to its support exactly as it now stands. I simply offer it as being, in my opinion, the best of the three propositions that have been laid before the Senate. I have examined the bill brought forward by the Senator from California, and the amendment submitted by the Senator from Texas, and I am convinced that they are wholly impracticable. I believe it is entirely impossible to build a road of this length, and this importance, with the public lands proposed to be granted by that bill, or that amendment. If this road is to be built at all, it must be done by the Federal Government; it must be done by the money of the Government. This is not an ordinary railroad, intended to develop the resources of the country through which it passes, merely. It is intended to be a bond—a commercial and political bond—of union between the eastern, or Atlantic, and the western, or Pacific portion of this great Confederacy. It is to all intents and purposes a political road—to subserve political as well as commercial purposes; and hence, it commends itself warmly to the attention and regard of the General Government. As to the constitutional power of this Government to construct it, I have no doubt. The only question with me is, as to the most feasible means of doing so.

While I am willing to admit that the amendment has many errors which ought to be corrected, it is the best of the three propositions which have been before the Senate. I shall not attempt to discuss either of them at present. I simply offer the amendment for the consideration of the Senate.

Mr. GWIN. I am not going to enter at large into this discussion; I wish to state very briefly a few of the objections which I have to the amendment of the honorable Senator from Mississippi. The first objection which suggests itself to my mind is, that a company incorporated by a single State will be governed by local partialities and influences. This company is, I understand, chartered by the State of New York, to build a railroad from the Mississippi river to the Pacific ocean.

In the next place, many of these corporators it may be supposed own stock in eastern and western railroads, and would be strongly interested in increasing the value of these roads by making the Pacific route connect with them, although such connection would be adverse to the public interest. The parties composing this company are in part immense railroad contractors, and hence this is not an unreasonable supposition.

Thirdly: If offered to a company at all, it should be to that which bids the lowest, and should be opened to free competition. If we are to give the money or the credit of the Government to a company to build the road, let it be to that company which will do it on the best terms.

Finally: This is a project to create a gigantic monopoly, with more power than the great East India Company, and infinitely greater than the Bank of the United States ever possessed. There is no advantage in carrying the mail after the loan is repaid—there is no restriction after that period against exorbitant exactions for carrying the mails. The company have the power at will to redeem the loan, although not forced to do so until the end of thirty years. There will be no difficulty in raising a five per cent. loan for the whole amount of thirty millions, so soon as the road is completed; and the company could at once charge the United States for carrying the mails, ten per

cent. upon their whole investment. The same is true in regard to the telegraph, upon which there is no restriction of their charges, after the loan is paid. These corporators ask for the use of the money and credit of the United States, to establish a close monopoly of railroad and telegraphic communication between the Atlantic and the Pacific, more powerful in its operations than any corporation ever possessed or asked for. There is no advantage whatever in the transportation of munitions of war, naval and military stores, troops, seamen, &c. The Government has to pay the same that is paid by individuals, and like them, is entirely at the mercy of the company. But what is more important than all this, there is no limitation as to charges for freight, without which, one of the great objects of the road will be defeated—which is, to limit the freights to such rates as will put it in the power of the United States to control the carrying-trade and commerce of the world.

The proposition of the Senator from Mississippi is a very crude one. I never saw it until it was presented and laid upon our tables. It is evidently impossible for such a measure to pass through the Congress of the United States. As I stated the other day, I have no prejudice against any plan, but I want a practical working plan, and I do not think this is such a one.

Now, Mr. President, a few words in regard to what the honorable Senator from Mississippi says about building this road. I call upon the Senators from Arkansas to say if their State will not build her branch of the road with the land which I propose to grant her? I call upon the Senators from Missouri to say if their State will not build the road for the lands proposed to be granted to her? I ask the Senators from Louisiana and from Iowa, whether their States will not also build the road within their limits, for the amounts proposed to be granted to them? Why, we all know that these States will build so much of the road, or its branches, as lies within their limits; and I can speak for California too. Although labor there is three times as high as in other portions of the country, and although I only propose to give to her double the quantity of lands which I propose for other States, I will guaranty that she will build the road within five years, if you pass this bill. Therefore, we have a positive guarantee that the road will, within five years, be built everywhere but in the Territories. There is not a Senator here from those States through which the road passes, who will not be willing to get up and say, that with this donation of the public lands within their borders, their States will build the road. There is, therefore, an absolute certainty that the road will be built within those States.

Then the question comes up in regard to Texas and the Territories. As I said the other day, I am not going to offer an amendment myself in relation to Texas, but I have in my hand an additional section, which, if it be proposed by any Senator and adopted by the Senate, will insure the completion of the road. I will guaranty that the road will be built if it be adopted. It is as follows:

SEC. —. *And be it further enacted*, That for so much of said road as may run through the State of Texas, where the United States have no public land, there be paid to said State, for every mile of said road that may be constructed and put in operation within her limits, the sum of twelve thousand dollars: *Provided*, That said State shall first have agreed to all the conditions contained in the eleventh section of this act.

What are the conditions contained in that section? They are:

"SEC. 11. *And be it further enacted*, That by the contracts for the construction of each of said roads and branches, it shall be distinctly understood that the United States mails shall be carried on said roads during the full period of said contracts, free of charge or expense to the Government, under the direction of the Post Office Department; and that all troops, seamen, arms, munitions of war, military and naval stores, and all funds and property of whatever kind belonging to the United States, and all persons on official business in their employment, shall at all times be transported and conveyed on and over said roads and branches free of charge or expense to the Government; and for all the purposes of transportation in this article mentioned, the United States shall have the preference over all persons or bodies politic whatever, when, in the opinion of the President of the United States, the public interests require promptness and dispatch in such transportation."

The sum now paid for carrying the mail between this city and New York is but little less than the interest would be, at five per cent., upon the amount which I am willing to give to Texas for carrying the mail throughout the entire length of the road in that State. And it must be borne in mind that this free carriage of the mails is to be perpetual. I ask the Senators from Texas if their State will not, with this section added to the bill, make the road within its limits? There is no mistake about it at all.

Mr. BROOKE. As I before remarked, I do not suppose that the amendment which I had the honor to propose is perfect in all its details. All the objections the Senator has urged may very easily be obviated by amendments to it.

The Senator urges as an objection to my amendment that it creates a gigantic corporation. Why, sir, the bill proposed by himself creates a corporation that will be much more gigantic, and much more powerful than the one contemplated by the amendment. The corporation under his bill will hold in fee-simple a belt of land from twenty to sixty miles wide from the Mississippi river to the Pacific ocean; and that corporation, too, is to be created by an act of Congress. Where are the gentleman's scruples in reference to the power of Congress to pass an act of incorporation for a bank of the United States? The same question arises here as in that case. If Congress has power to create a railroad corporation, it has power to create a bank corporation, and so far as the corporation part of the project is concerned, the objection applies much more to the Senator's bill than to my amendment.

The chief excellence in that amendment—and I must confess that I paid but little attention to its details; I took them as I found them prepared—is the direct loan of the credit or the money of the Government for the building and completion of the railroad—for I have no idea, notwithstanding any opinion which may be expressed here to the contrary, that this railroad can be built by a grant of land simply—it must be built by money. It will require a vast amount of money to accomplish it. For myself, I am prepared to vote any amount which may be necessary to accomplish an object which I consider essential to the preservation of the integrity of this country. A great part of the country through which this road is to pass is uninhabitable, and the lands never can and never will be valuable. The lands along the most important part of the route will, in my opinion, never be sold. And even granting, for the sake of argument, that the States through which the road is to pass may construct the branches to connect with it, we shall still be left without any means to construct the main trunk road which runs over uninhabited territories of the United States.

Mr. SMITH. Mr. President, I came into the Chamber this morning with the expectation of submitting some remarks upon this subject. I had examined, somewhat carefully, the bill before the Senate, proposed by the honorable Senator from California, and also, the amendment proposed by my honorable friend from Texas, but that amendment has been withdrawn, and another has been substituted in its place. I have not had an opportunity to examine the pending amendment; and before I take the floor with a view to discuss this subject, perhaps somewhat in detail, I wish to examine it. I therefore have to say to the Senate, that, unless some other member of the body shall desire to discuss the subject at the present time, I will move to postpone the further consideration of it until to-morrow; but I do not make the motion at present.

Mr. HALE. There are a number of blanks in this amendment which ought to be filled before the question is taken on its adoption.

The PRESIDENT. Does the gentleman from New Hampshire propose to fill them?

Mr. HALE. No, sir. I merely threw out that suggestion for the consideration of the mover of the amendment.

Mr. BRADBURY. When I left my lodgings this morning, I did not suppose that this bill would be taken up for consideration to-day, and I have not now at hand some memoranda which I had prepared in relation to it.

On examining the bill proposed by the Senator from California, doubts occurred to my mind, which I hope it may be in the power of that honorable Senator to solve. But I would say, in the first place, that I think the country owes that honorable Senator its thanks and commendation for bringing forward and urging upon the attention of Congress, the great project of a railroad from the Atlantic to the Pacific. He has brought it forward, and urged it with his usual zeal and ability; and while he has kept in view the great object of the road, he has not been unmindful, as he never is, of the interests of the State which he represents with unsurpassed fidelity and success. But it appears to me that his bill will not accomplish the object intended. I think it contains a fatal objection. It separates that portion of the road *within the States* from that portion of it *within the Territories*. It appropriates too much to build that portion within the States, and thereby absorbs the fund which is necessary to carry it forward through that portion of the Territories where the land is sterile and unproductive. I think these lands constitute the only fund by which this great work is to be accomplished. As a friend of the project, I wish to see this fund carefully preserved and devoted to the object. It must be husbanded, and not an acre thrown away where it is not necessary, as it will all be needed to carry forward some portion of the work.

By reference to the bill of the honorable Senator, it will be seen that it is proposed to make a number of branches within the States on the eastern part of the route, and to reserve alternate sections of twenty miles in width on each side of the road, in the States of Arkansas, Missouri, Louisiana, and Iowa. In other words, the bill proposes to give a belt of land twenty miles in breadth to aid in the construction of the road within those States. A large portion of this land is fertile and valuable. It constitutes, in my judgment, that great fund out of which alone the road can be carried to the Pacific ocean. We should first inquire, then, whether so wide a belt, so large a quantity, is necessary. Do we not know, that by a grant made some two years ago to the State of Illinois of alternate sections six miles wide, she is able to construct the roads for which it was given, some seven hundred miles in extent, and that the land, with the road, passed at once from the hands of the State into those of a railroad corporation? That grant to Illinois was not found inadequate to accomplish the object. On the contrary, it is understood to have made the corporation that obtained it immensely wealthy. Do we not know that various States have been struggling for the last two years to obtain grants of alternate sections six miles wide, on each side of the several roads proposed to be constructed within their limits? Have they ever asked for a larger quantity? Have they ever claimed any more? Not at all; they are content with that, and depend upon it, if they can get that amount, they will be able to carry forward their roads.

In the State of California, for reasons which have been indicated by the honorable Senator, and which have very considerable force, he proposes to give to that State alternate sections forty miles wide on each side of the road and branches to the Pacific.

Mr. GWIN. I do not like to interrupt the honorable Senator, but I wish to give a word of explanation. I will state that the grants of land to which the Senator refers were proposed in my bill precisely in accordance with the principles of the bill prepared by the Senator from Illinois, [Mr. DOUGLAS,] and reported by him from the Committee on Territories at the last session. I have taken them precisely as I found them in his bill, and proposed the same grants in the States, in the Territories, and in California. And he is the gentleman who drew up the Illinois bill to which the Senator refers, for he was locally interested in that. He is interested in this only as a national man and as a Senator of the United States. The bill of the Committee on Territories, on which mine is based, was prepared by his matured judgment, after having carried through the other important measures alluded to by the Senator from Maine.

Mr. BRADBURY. I am very far from entertaining any disposition to complain of the bill of the honorable Senator. I regard it only as an earnest of the desire which the Senator has that the road shall be completed. I was gratified with the emphatic and honorable declaration which he made in the outset, that his great object was to secure the road. In this I concur with him. I, too, desire to see that accomplished, but my fears are that this bill will not accomplish it. My fears are, as I have already said, that the bill gives more than is necessary to the States, and leaves the Territories in such a condition that the road

will never be carried through them. I fear the effect of the bill will be to secure only the completion of the various roads within the States, and that it will do no more. That is not what the honorable Senator desires, nor what I desire.

Let us see, Mr. President, the quantity of land which this bill proposes to give to the States. California is to have a belt forty miles wide throughout its entire length, with branches to harbors on the Pacific. The length of the road and branches in that State cannot fall short of one thousand miles. There are six hundred and forty acres to the square mile; the belt forty miles deep and one thousand miles in length will contain twenty-five million six hundred thousand acres, almost twenty-six millions of acres! Alternate sections six miles wide on each side of the road would give three million eight hundred and forty thousand acres, or more than twenty-one millions less. But it is just to say, that I do not think the road could be built through that State for the small quantity named, and that more will have to be given; but I think it will not require a belt of forty miles in width.

Take the State of Arkansas, and estimate the length of road in that State to be four hundred miles——

Mr. GWIN. It is only three hundred.

Mr. BRADBURY. The honorable Senator from California says it is only three hundred miles. Estimating it at three hundred, the quantity of land granted by alternate sections twenty miles on each side of the road would be three million eight hundred and forty thousand acres. The honorable Senator from Arkansas, representing that State with great fidelity, [Mr. BORLAND,] at the last session of Congress was fully satisfied with obtaining a grant of alternate sections six miles wide. This would give one million one hundred and fifty-two thousand acres for three hundred miles, or two million six hundred and eighty-eight thousand acres less for the same distance than is proposed to be granted by this bill.

Mr. BORLAND. If the Senator will permit me to correct him on one point, I will say to him, that, although we asked for but alternate sections six miles wide, we asked aid for roads enough to bring up the amount to three million acres, and got that grant through the Senate.

Mr. BRADBURY. I am perfectly aware that the honorable Senator has not failed in any respect in his duty to his State, by not asking for roads enough. The difference, then, between the amounts of land granted by a strip twenty miles in width, and one six miles in width, of two million six hundred and eighty-eight thousand acres for three hundred miles, is what I wish saved, or so much of it as we can, to aid in carrying the road across the deserts and mountains that lie between us and the Pacific.

Mr. BORLAND. Will the Senator permit me to call his attention to this fact? Although the grant to Arkansas, under this bill, will reach three millions of acres, that is not more than was given by sundry bills which passed the Senate at the last session without a dissenting voice. It is true, we asked for alternate sections only six miles wide; but then we got three roads, which together make up as much land as this bill now proposes to give us, so that the increase which the Senator makes out in this case over what we asked for before is not a fair one.

Mr. BRADBURY. Is this road identical with either of the other roads?

Mr. BORLAND. It runs over a large portion of the ground covered by the grant to one of the roads for which land was proposed to be granted at the last session.

Mr. BRADBURY. The honorable Senator informs the Senate that the bills which have passed this body, give to his State a quantity of land equal to that which this bill proposes to grant. It may be that those bills will pass the House of Representatives, and then the State will have this additional quantity.

Again, if there is any truth in the theory so often advanced here, that by granting alternate sections for roads, the remaining sections are enhanced in value to double the amount of their former value, and that thus the Government, as a prudent proprietor, could afford to make these grants, we should lose the benefit of the enhanced value of the alternate sections which these other roads would give us. If a road could be made last year with a grant of alternate sections of six miles wide, I am at a loss to know why it is now necessary to enlarge the grant to twenty miles instead of six.

Mr. BORLAND. I can answer the Senator. We never expected that the grant of alternate sections six miles wide would make the road; we never expected it would pay more than one third or one fourth part of the expense. We expected that the residue would be made up by subscriptions of the State, or individuals, or from other sources than the land. We never expected that the grant of land six miles wide would more than begin to make the road.

Mr. BRADBURY. I think it probable that the States within which it is proposed to carry this road, would be able to accomplish, with a like grant, what the State of Illinois did with the donation to her; and that the enterprise will be undertaken in Iowa, Arkansas, Louisiana, and Missouri—for I find that something is to be done for each of these States—and branches are to be carried wherever a road is necessary, and votes to be had——

Mr. RUSK. Except Texas.

Mr. BRADBURY. "Except Texas." But I believe an amendment is to be proposed to give Texas $6,000,000, with which she will undoubtedly be contented. Now, it has appeared to me that the grants within the States are too large; that they take away the identical and only reliable fund which is necessary to carry the road through the poorer region of the Territories. This is my objection to the bill. I apprehend that the result would be, that if this grant should be made to the States, the States, following the example of Illinois, would confer whatever they received upon a railroad corporation, and that corporation would go on and construct and own the road within the States and the land. And as a further result, this wide belt of land through these fertile, prosperous, and growing States, would inevitably fall into the hands of mammoth railroad corporations, strong enough to construct the road, and to hold the land and keep it out of the market just as long as it was for their interest to do so, allowing it to be sold only at an enhanced price to the settler, so that the poor pioneers would not have those advantages of cheap land now enjoyed by them, which it is desirable they should have, and which have been often so ably portrayed by the honorable Senator from Iowa, [Mr. DODGE.]

Again: It is proposed to make a donation to the States adequate to build the road, and then the States, or, in other words, the corporations who will hold under them, are to own the road. We propose to make the grant, to give an adequate fund to build the road, and then the Government is not to own it, nor have the control over it further than to say that the corporation shall not make higher charges for passengers than the average of dividend-paying roads throughout the country, except that it may reduce the charges for freight, but not below the cost of transportation. The Government, by its land, furnishes the means to construct the road within the States under such circumstances that it will pass into the hands of corporations who would have little interest to press it beyond the limits of these States. Other corporations would be called upon to carry it through the barren regions which occupy a portion of the route between this part of the country and California. How is the road to be carried over these barren wastes? This bill, as it appears to me, does not provide the means. I would like to see some plan presented by which a portion of the lands within the States should be reserved to carry the road through the Territories. If we do not make that reservation at once, it will be too late to do it afterwards, because the lands will either be taken by individuals or by roads within the States.

Again: one of the great objects of a road connecting the Atlantic with the Pacific is, that it may take, to some extent, the commerce between Europe and Asia across this continent; that it may, so to speak, be a thoroughfare for the trade of the world. To do this, it must be a cheap road; it must tax transportation lightly. It must charge little more than is necessary to keep it in repair. It must be, too, a direct road, or the shortest practicable route. It is worthy of inquiry whether the route proposed is the shortest and best.

There is another consideration worthy of attention in selecting a route for a road. It should pass along a region capable, as far as practicable, of sustaining a dense population, opening regions that would not otherwise be settled, and where such dense population could be sustained and become the consumers of the products of the other portions of the Union.

Mr. SEWARD. Where is that region to be found?

Mr. BRADBURY. That is what I will not now undertake to say. I have thrown out these discursive suggestions, without system or order, in the hope that they may lead to such modification of the bill as will insure success to the great enterprise it proposes to accomplish. I hope the honorable Senator from California will understand that my great desire is—and I am willing to vote an adequate quantity of land for that purpose—to have the road constructed. This I deem a matter of the highest importance. I have called attention to what seemed to me to be objections to the bill which has been proposed by the distinguished Senator from California at this time, in hopes that they may be obviated. I know that these remarks will not be considered by him as in any degree indicating hostility to the bill. My purpose is to coöperate in some plan that will accomplish the great work.

Mr. DODGE, of Iowa. Mr. President, it was hardly necessary that my friend from Maine should have made his last remark about his fears and apprehensions regarding the incidental benefits which this bill might confer upon certain States of this Union lying in the West. He is upon the record as having made "war to the knife, and the knife to the hilt," upon every western measure which ever came before the Senate since he has been a member of this body. I speak of him with perfect respect; but my friend from California will bear me witness that I predicted to him some days ago that my friend from Maine would be one of the first and worst enemies which this bill would have to encounter.

Sir, the Senator seems very anxious for a great national thoroughfare which shall transport the commerce of Asia, and all the world, and if we could get a bill to suit him in that respect, he would undoubtedly go for it; but allow me to venture here the prediction that that bill will never be got—it will never be produced. I am sorry that my friend, who is always ready and able, whenever he undertakes anything, had not the minutes of which he speaks, with him here to-day. I am sorry that he did not come here ready to propose those amendments—those statesmanlike amendments which I suppose he will offer at a proper time, and urge with a zeal and ability which always characterize him when he undertakes any project.

The Senator was exceedingly troubled about the quantity of land the States are to receive. He was very much alarmed about the poor settlers upon the public lands. Why, sir, will that Senator touch with a forty-foot pole the "homestead bill" for the benefit of the poor settlers on the public lands? No, sir; no more than he will any railroad bill which has been brought up here. And when we come to have our little fight upon that homestead bill, as we soon shall have, you will find my friend ready, as he has been on this question, to deal a first-rate side blow at it.

I speak of these things out of no unkindness towards my friend from Maine, for I have none towards him. I only call the attention of the Senate to them, because I want to bring the Senate to a point upon this question; I want to see whether or not anything is to be accomplished. The Senator from Maine talked about the branches proposed in the bill of the Senator from California being scattered here and there through the States, and he alluded in that connection to my own State. I tell him, sir, that I will vote for this road from Matagorda, in Texas, from the mouth of the Ohio, from St. Louis, from almost any point. You may exclude my State entirely, and I will vote for the bill. I will struggle for my State, and I will seek to have justice done to her, but even if you leave her out I shall vote for the bill. I shall vote for the best line; and if I cannot get one to meet my judgment, I shall vote for the next best line, and not employ myself in attacking in a guerrilla fight those who have devoted their time and energy to the preparation of the bills; and when they bring their measures forward, imperfect though they may be, and requiring the aid and talent of the ingenious

members from a particular section of the country to assist them, I would rather aid them in perfecting their measures than kill them with side-blows and side-thrusts.

I appeal, then, to my friend to come forward with his amendments. If he thinks too large a quantity of land is given within the States, let him propose to apply some of it to a portion of the territory across the desert prairies. Let him propose to do that; and if he accomplishes it, give us his vote for the measure.

Sir, this is a great and glorious work, and it is one which the exigencies of the country now call for. The sufferings sustained by the men, women, and children, who crossed that desert prairie during the past summer, appeal loudly to the Senate and to the country for aid, so far as the Government can give it, in doling out its miserable acres for the construction of such a road as this. It is a project that has been long and earnestly pressed upon the country, and one which I think should not be much longer delayed, or allowed to be put off, and receive the go-by.

I did not expect, when I came into the Senate to-day, to utter a word on the subject, and I should not have done so, but for the unfair and insidious side-blows which have been aimed at this proposition by the honorable Senator from Maine.

Mr. BRADBURY. I am not accustomed to hear, in this body, such remarks as have fallen from the Senator from Iowa, in which he spoke of unfair and insidious measures to defeat this bill. Sir, the Senator was not authorized by anything that I said to use such language.

Mr. DODGE, of Iowa. Mr. President, I used the language in a parliamentary sense, and I tell that gentleman I am authorized to use any language I please, in a parliamentary sense.

The PRESIDING OFFICER, (Mr. CATHCART in the chair.) The Senator will preserve order.

Mr. DODGE, of Iowa. I used the language in a parliamentary sense only.

Mr. BRADBURY. I care not where a man is accountable for the language he uses. I repeat, there was nothing that I said which warranted the use of any such language; nor was the Senator authorized to use the expressions which he first uttered, when he said I need not announce my fears of any incidental benefits to certain States. He should have known that, to discuss subjects fairly, he was bound to state fairly the remarks of his antagonist—if he chose to select me as such. Did I say anything about any incidental benefits to certain States? I said no such thing. I did not allude to any benefits to any State. I spoke with a feeling of kindness, and with a view to do justice to the bill of the honorable Senator from California. I stated the objections which presented themselves to my mind, to wit: the giving land to the States which would be necessary to carry the road through the Territories, for the purpose of having them obviated, and to aid the road, and for no sinister purpose whatever; and the Senate will bear me witness that I reiterated that point. It was for this object that I wished a portion of that land reserved in the States for necessary use for the road beyond their limits. I argued the bill gave too much to the States; not that I begrudged it to them, but because I deemed that identical land necessary to the success of the great enterprise which I sustained. What authority, then, had the Senator for arraigning my motives? My motives, sir, are as pure as those of that Senator. I have found it necessary to vote against certain bills presented here which met the favor of the Senator from Iowa, and he deems it suitable to arraign me for it. Sir, I had a right to vote as I did.

Mr. DODGE, of Iowa. I rise to interrupt the Senator, because he does me very great injustice in saying that I arraigned his motives. I arraign them not. I ascribed no improper motives to him, but faithfully depicted that inveterate and deadly hostility which he has ever shown to every western measure that has presented itself in this Hall since I have been a member of the body. I do not say that he has been actuated by improper motives. I do not say that he has not represented faithfully and truly the community whom it is his duty to represent here. I have made no such declaration. But, sir, I avowed my personal respect, and even my kindness for the Senator, and I gave him and others warning that I should fight for my section of the country and for its interests as thoroughly as he will fight for his and against ours.

Mr. BRADBURY. The honorable Senator should have confined himself to what I said when he undertook to reply. If he chose to answer my positions, why did he not state them fairly? It is but the refuge of weakness to build up a man of straw, and then to brush it down; and it is but the refuge of weakness to assume for an opponent positions which he never proposed to occupy, and then undertake to demolish those assumed positions. Is there not enough in the bill, that the Senator must step out of it, and not discuss the subject before the Senate? Is not this bill capable of being sustained upon its merits? I venture to say that the honorable Senator from California will find something to say upon them. I heard not a remark in the able speech which he addressed to the Senate three days ago that departed from the legitimate course of discussion. It is only this attempt to overawe, this weak attempt to assail motives—for it comes to that——

The PRESIDENT. The Senator from Maine is out of order. Any remark of a personal character is out of order.

Mr. BRADBURY. I was no further personal than was the honorable Senator from Iowa, to whom I am replying. I am replying to personal remarks thrown out, I must say, from an unexpected quarter, and I have endeavored to confine myself to the legitimate course of reply necessary to repel the attack which the Senator from Iowa undertook to make.

He assails me for the votes which I have given on former occasions upon bills making grants of land for railroads in certain of the States. This he deems an act of hostility, deadly hostility, to the West. Now, sir, I am ready to defend my votes upon these, as I am upon all questions upon which I am called upon to act. I voted against these bills because I did not approve of them. I thought they did not come within the principle upon which they were advocated. I thought the public domain belonged to all the States, and that it was my duty to see that all had their just share of it.

I could not justify myself in aiding in a course that appeared to me was leading to a seizure of the whole by a portion of the States, to the exclusion of the rest. The principle upon which these grants were urged was, that the United States, as a prudent proprietor, could wisely make grants of alternate sections on each side of a railroad, inas much as it would receive a full equivalent in the increased price of the sections reserved. I have ever been ready to vote for any bill that came fairly, in my judgment, within this principle. But the bills alluded to violated this principle, as I felt constrained to believe.

Grants were professed to be made of alternate sections for six miles each side of a road. For such grants I could vote. But in fact, this was not the proposition contained in these bills. The land along the proposed road had frequently been sold, so that the grant went beyond the six miles to make up the deficiency, or in some cases would cover the reserved sections of former grants, so that the Government had not sufficient remaining land to receive the benefit which a prudent proprietor should secure to himself in making such donations. Nor was I alone in my convictions or my course on these questions. I could not trifle with rights of my constituents to please any one.

I will say to the Senator from Iowa, in regard to one of the proposed roads through his own State, that when the bill was under consideration, I was personally appealed to by citizens of that State to resist the grant. They represented that they had invested their property on the bank of the Mississippi—that they had made large expenditures to avail themselves of the advantages of their location, and built plank roads into the interior to secure a just share of its trade—and that now it was proposed that the Government should step in and construct a thoroughfare to some extent parallel with that river, thus cutting them off from the country, and sweeping the trade by them which would otherwise come to them. It did appear to me to be an unnecessary act of interposition of the Government, but from high personal regard to the honorable Senator from that State, who sits on the other side of the Chamber, [Mr. JONES,] I forbore to interpose in this matter.

So much in reply to the strange course of remark in which the Senator from Iowa has seen fit to indulge.

I hope we may not lose sight of the great enterprise contemplated by the bill of the Senator from California in this personal and irrelevant discussion which has been forced upon me.

Mr. HALE. I am satisfied from the debate which has already occurred in this body that there is no progress being made towards the construction of this road, but that, on the contrary, we are further from it than when we commenced. Three or four different projects are suggested, and instead of pushing uniformly for one, it seems we are to have an incidental fight as to which is the best of the three or four proposed. Now, I want to suggest to the friends of this measure whether they cannot contrive some general proposition that shall test the sense of the Senate upon one or the other of these plans, or put them in such a way that the sense of the Senate may be tested upon the merits of the main question, and not have our whole time wasted in a collateral discussion as to which is the best mode.

I avow myself friendly to the measure, and to almost any kind of a measure; that is to say, I want the best; and if I cannot get the best, I want the second best; and if I cannot get that, I am willing to take the third best; and I do not know but that I would go further than that and go lower down. I am in favor of almost anything that is practicable, to get the road. There is another measure to which the Senator from Iowa alluded in connection with this bill, and that is the homestead bill. I have despaired of that.

Mr. BORLAND. You need not.

Mr. HALE. The honorable Senator from Maine says that this bill is run out wherever there are votes. I apprehend that is entirely accidental, and that it runs over land, and that men live on the land and they vote, and the fact that it runs where there are votes is one of the merest accidents that could not, by any possibility, be prevented. It is one of those adjuncts and concomitants that happen; it is one of the contingencies of progress, that is all. But I do hope that those who have this measure most peculiarly at heart, because they reside in the section of the country in which it is to operate, will put their heads together and present some general question to us, and not have this guerrilla fight about three or four different propositions which are contending for the mastery.

This is a great scheme. It involves the expenditure of hundreds of millions of dollars, and it would be exceedingly strange if a hundred millions of dollars, in land or money, were to be disbursed in this country, and there were to be no private interests connected with it. I have no doubt that there are vast private interests connected with this measure; that immense private fortunes are to be made out of it. I do not know in what direction they will fall, and I am entirely indifferent as to that, for I do not see any immediate prospect of any of them coming as far east as New Hampshire. I do not think that the clouds betoken a shower in that direction; but that there will be immense private interests connected with it, is one of those contingencies that cannot be winked out of sight, and we cannot help it. But I would suggest to the Senator from California, who has this bill in hand, that we dispense, for the present, with this sort of guerrilla warfare, and that there be some proposition made—let it not be filled with details—upon which we may test the sense of the Senate, whether they will proceed with one project or another. I think when that is done, and the Senate shall have once indicated the general measure they will adopt, there will be no great difficulty with the details. I merely make this as a suggestion.

Mr. BELL. Mr. President, I apprehended the other day that we should find this objection thrown in the face of those who were in favor of a measure of this description, soon after we should approach a serious discussion upon its details. The honorable Senator from New Hampshire says we are going into a wide debate, a guerrilla sort of warfare, not connected with any distinct proposition that the mind of the Senate can grasp, or that we are likely to have an opportunity of making up our minds very readily in relation to. He suggests that some course be adopted by which time may be saved—I suppose that is the meaning of the Senator—and we may do something practical. I understand that to be his proposition.

Mr. HALE. Exactly.

Mr. BELL. I anticipated this, to say the least. And I will say, in addition, that I have heard around me already expressions of honorable Senators, whom I have reason to believe are honestly in favor of some measure of this kind, "Why, it is in vain to try to do anything; we have so many minds upon this subject in the Senate, and so many projects; it is so vast in itself." The honorable Senator from New Hampshire has got the amount involved from eighty millions up to hundreds of millions, and he suggests that there are vast private interests involved. He does not know where they will fall. Nevertheless, these bugbears are thrown out; and other gentlemen I apprehend are ready to rise this moment, and say, "We had better postpone this question altogether; it is too late; the session is too short; though it is important, and we concur in it, we had better not lose the time of this session in vain attempts to come to some conclusion." Now, Mr. President, it is necessary for any gentleman who is really in favor of coming to some decision upon this question, and is honestly in favor of this road—and there are but few in the body, I think, who are not so—to make up his mind to the fact that these very difficulties, these very objections, these very obstructions, have to be overcome at some time.

The question, in some shape or other, presented by this bill in detail, has been before this body for, I believe, three years. When will the Senate be better prepared to bring their minds to a focus upon the question, to bring them to a decision upon the details of the bills, and to ascertain, in fine, whether it is practicable to do anything, if they cannot do it now? We shall have other questions of great importance at every session, and no sooner is one presidential election over than intrigue for the coming one, schemes for manufacturing public sentiment, will occupy the minds of a portion of the Senate, and I do not exclude myself from these remarks. We have always something to draw us off from any one single object, however great and important to the public interest it may be. There is but one way, as I understand from my experience in this body, for us to legislate, and that is, whenever we have a question of great importance, like the present one, to meet it and master it.

The honorable Senator from New Hampshire suggested that the friends of the bill should bring forward and embody the plan in a shape and compass that we can examine, and see whether or not we cannot agree upon the general principle, and not have these random debates upon questions not connected with the main question—the building of this great trunk road. He wishes us to decide upon the building of the road upon some plan or other. I agree with him; but I must ask the Senator to consider for a moment whether there is any other way to bring this question within the compass he proposes, or whether there is any method more advantageous and more expedient to close up a subject of this description, than the one now before the Senate. What is it, sir?

The honorable Senator from California has presented a bill containing numerous sections and important details. Many of them, no doubt, will have to be incorporated into any measure that Congress may adopt on this subject, if it adopts any; but some of which I think are not fully considered, which are decidedly objectionable, and deserve to be taken up, reviewed, and critically examined by gentlemen upon both sides of the Chamber.

Let the bill be thus examined: let any Senator who is not pleased with its details, present his objections in the way objections are presented to other bills, "I move to strike out," or "to amend the section." Take this bill up section by section, and improve it in the best possible manner that a majority of the voices of the Senate shall say is the best that they find it in their power to adopt and agree to. When you have done that; when you have gone over the bill in this manner, then go to other amendments—amendments that are made to the whole bill, proposing to strike out all after the enacting clause, and insert entirely different projects. When such a different project is taken up, let the Senate consider it section by section, and see if we cannot get a better plan than the present one, entirely different and better. And when we have done that, and have taken the sense of the Senate upon the second plan, if we reject it, there is a third plan. We have a third one upon our tables, a pretty ingenious and well-considered one, and it may be the best. All the plans which I have seen are based in a great degree upon the original suggestions contained in the bill called Whitney's bill; and I believe Mr. Whitney is entitled to the credit of bringing before the country generally what may be at last considered the most feasible plan. All the others, however, as I have said, contain most of the features of his plan, except the proposition of a company proposed to be incorporated in the State of New York, and that has some of them; some of the principal ones appropriating the land, and giving it according to the progress of the road.

I repeat, the proper method of doing the very thing demanded by the Senator from New Hampshire, is to take up this bill section by section and see if there are any amendments to be proposed, any additions, any clauses to be stricken out, any alterations to be made, and consider them; and when we have got this in the best form, then take up the other projects and see if we can get anything better than the one we have before us. I do not say that I have a partiality for this bill. It is a vast plan. It embraces branch roads, one of considerable length on the Pacific coast to Oregon, and it is a very important one to have from some point or other on the main trunk. It also proposes a branch through Texas down to Matagorda bay; another to Louisiana, another to Memphis, another to St. Louis, and another to Dubuque. They are all very important, and deserve consideration. It does seem to me, however, according to the suggestion of the Senator from New Hampshire—though I do not mean to go into that now—that this bill might be framed in such a manner as to leave these subjects secondary. Let us agree upon the features of some bill which shall promise to give to the country the great trunk of a railroad between the boundaries of the western States of the valley of the Mississippi and the Pacific coast, or the eastern boundary of California, and then let us come to the settlement of the question how many branches we shall have, or upon what terms we shall authorize their construction. These are distinct questions that we may leave, if we please, out of view altogether until we get the main question settled, how we propose to construct the main road from the west of Arkansas and Missouri, to the eastern boundary of California, or to the Pacific coast. The great object is to have the leading artery constructed, as a great military as well as commercial and postal communication, and as a means of easy emigration. It must be a great military road, one essential to the preservation of our possessions on the Pacific coast, and without which, I maintain we could not hold them sixty days in case of a war with a foreign maritime Power.

Let us settle, then, where the trunk shall be, and leave the other questions as to the branches to be settled afterwards, if you please, in the same bill. The proper method, however, is to take up the first section of this bill; and I am almost ready to propose an amendment to it, which I think is in conformity with the views which I have at present suggested; and I will suggest it to the Senator from California and other Senators who have agreed to the details of the bill.

This bill seems to have been gotten up upon some evidence or testimony of engineers, or from the reports of explorations made by competent officers, that the road ought to begin at a given point near the southwestern corner of Arkansas. I have no objection to its beginning there. Perhaps, if I felt any interest about it, connected with the section in which I reside, I would say that I prefer it should be there. But why not say in the bill that it shall commence on some point on the boundary of Arkansas or Missouri, to be selected after the proper examination by the officers of the Topographical Corps of the United States to be designated by the President, and with the road leading from it over the most feasible and practicable, the cheapest and best route to the Pacific, and to leave open the route so as to have it made in such a direction as will offer the greatest facilities for a connection with the branches on this side to Lake Michigan, St. Louis, Memphis, Matagorda bay, and all other needful points. Let us leave something open for testimony and scientific examination, not only in regard to the particular route on which the road shall be run, but as to the *terminus* both on the eastern and western ends of it. I do not think that would weaken the bill; I think it would strengthen it. I do not think it would weaken the chances of having the road authorized by Congress; I think it would strengthen them.

According to the bill as it now stands, the route is specifically designated; but with such a general direction as I propose to give, it will lead to the designation of the route under the examination of competent officers. I suggest that, for the purpose of giving a greater latitude, and exhibiting greater liberality to all the sections of the Union, we ought not to confine the road to a particular point, but should give this scope, from the western boundary of Arkansas or Missouri, and then to run from there to the main trunk of the road within the Territories. I wish to run that main trunk on the most easy, most cheap, and most practicable route, affording the greatest facilities for the connection with the various points indicated in the bill. I merely suggest that as perhaps a proper subject for amendment.

A few words now in reference to another part of the bill. A question arises as to whether we ought to authorize a company to construct this main trunk outside the limits of the States. This is not a proper time to consider that question; it may be left for separate and future consideration. Many gentlemen are of opinion that such a work as this, requiring such vast means and such an immense amount to be appropriated to complete it, if carried on under the superintendence of officers of the Government, will lead to an indefinite and monstrous extravagance and profligacy; and that the only way to secure an economical, reasonable, and cheap construction of such a road is to give it to private cupidity and interest to make it on such terms as we shall previously agree to be reasonable. I do not know that that will not be found the safest plan.

I would suggest, while I am up, that I have no idea that the public lands within the limits prescribed, except perhaps in the State of California, where the gold deposits come in in aid of the ordinary lands, will construct the road. I suppose the lands will be granted without regard to their productiveness, and I have no idea that the lands which will be found on the borders of this road over that immense barren tract of country stretching from the borders of Arkansas or Missouri to New Mexico and the Rocky Mountains, thence to the cultivatable lands in the valley of the Colorado of the West, and then again across the barren mountainous tract of country in the State of California, will pay for the building of the road. My impression is, that the only points where you will find favorable land for cultivation will be in the valley of the Colorado of the West, and east of the boundary of Arkansas and Missouri, and west of the eastern boundary of California.

I have no idea that the proposed grant of public lands will be sufficient to construct the road; and while I do not agree with the Senator from New Hampshire, that hundreds of millions of dollars will be required to complete it, and put it in operation, I am of the opinion that $35,000 per mile will not do it. I think that at least $40,000, and perhaps $50,000 per mile will not more than do it. It will require that amount to put the road in operation, and equip it properly throughout its whole length. It may require $100,000,000 in land and money; but as I said the other day, while I would not withhold the lands, and while I would give them as far as they would go, I would stipulate with the contractors, or with the company, if that be the shape which the measure will finally assume, to pay them whatever additional sum might be found to be demanded by the interests of the work, from the Treasury, or advance to them the credit of the Government. I regard the work as likely to cost $100,000,000 in land and money. I doubt whether the lands will bring much.

After you pass the borders of Arkansas and Missouri until you arrive in California, there will not be much land fit for cultivation, unless you should come across some undiscovered rich valley upon the Colorado of the West, about which, as yet, we know but little. But with all these obstructions and difficulties, with all this prospect of expense, I am for incurring it; and I say, with the honorable Senator from Iowa, that I care not where the terminus is proposed to be, provided it

be a practical one—one accessible to the body of the inhabitants of the United States—accessible as a means of transporting munitions of war and emigrants, and maintaining the social and commercial intercourse between the two sections of the Union. I care not particularly where the terminus is to be. To be sure, like every other Senator, I would prefer to have it in my own immediate neighborhood, and I have a right to entertain that preference if it does not, in my judgment, come in conflict with the public interests. I am ready, as long as I shall have a voice on this floor, to give my vote for a liberal appropriation, not only of land but of money for this object. And I will conclude these remarks by saying that the only method of insuring a result within a reasonable time—within such a time that the Senate may not grow utterly impatient and throw the bill aside—is to go to work on it section by section.

Mr. BROOKE. As few Senators have had an opportunity of examining the amendment which I have offered, and as there are several blanks in it to be filled, which require some reflection, I move that the further consideration of the bill be postponed until to-morrow.

Mr. GWIN. I agree entirely with the Senator from Tennessee, [Mr. BELL,] that we can come to no conclusion on this question unless we come down to practical legislation, and that can be done just as well by taking up this bill section by section, as by referring the whole subject to a select committee, or having a general running debate. I am perfectly confident that every Senator here will agree that if we build this road, we have to build it from the public domain, or by appropriations of money from the National Treasury, either directly or indirectly, or on a mixed plan of appropriating both land and money.

We can agree on the details of the plan soon enough if we will come to the conclusion whether or not we are to appropriate the means. I concur with the Senator from Tennessee upon that point. The details of this bill I have drawn up with great care and attention. They do not originate with myself alone, but they are pretty much the same as those contained in the bill of the last session reported from the Committee on Territories. Many of these details will suit any of the plans that may be adopted by the Senate. If we refer this question, if we postpone it at all, I fear it will be lost. Let us take up the bill section by section; let us test the question whether or not we are to appropriate a portion of the public domain; let us have the sense of the Senate upon the question whether the United States, the great landed proprietor of this country, shall appropriate a portion of its property to build this road through its own territory, and through the States. If we go to work on the bill in that way, I have no doubt we shall come to a conclusion very speedily.

Mr. President, I shall not continue this discussion. I hold in my hands a communication from a gentleman of great experience, elicited from him by a letter which I addressed to him. He is one of the gentlemen who was with Colonel Frémont. I commend the letter to the attention of the Senate. It is as follows:

WASHINGTON, *January* 10, 1853.

DEAR SIR: In answer to yours of the 4th instant, asking for any information I may possess regarding the shortest and most practicable route for the main trunk of railroad from the western frontier to the Pacific ocean, I respectfully offer the following notes and accompanying map for your consideration.

The route from the frontier, say near the boundary of Missouri and Arkansas, to the valley of the Rio Grande, New Mexico, and thence to the valley of the San Joaquin, California, by what is called Walker's route, presents, in my opinion, fewer obstacles and more facilities than any other.

Its principal advantages are, its directness, following mostly the thirty-fifth parallel of latitude, near which are the prominent points, Memphis, Albuquerque, Zuñi, and Walker's pass, in the Sierra Nevada—its freedom from obstruction by snow, its easy passage through the Rocky Mountains, Zuñi mountains, and Sierra Nevada—and its location through a country already settled in a more or less degree, as far as the 110° meridian, west from Greenwich, and where the necessary material and labor can be obtained—and only needing such an outlet to develop its various resources. Its greatest obstacle is the uninhabitable deserts to be crossed between the Little Colorado river and the Sierra Nevada; but these are even less formidable than on any other route.

The first section of the route between the frontier and the Rio Grande presents no difficulty if the valley of that river be entered at the town of Albuquerque, by way of Anton Chico. At this point the main chain of the Rocky Mountains loses its continuity, being broken into small and detached masses, or clumps, between which are gaps of easy access, one of them affording an excellent passage for a wagon road between the two towns above named.

To attain this point, either the Arkansas or Canadian rivers can be followed. The former presents fewer objections as a *site*, being perhaps the best natural road in the world—but is in a great measure devoid of the necessary material for the purposes of construction, the only timber of any amount in its immediate vicinity being cotton-wood, which is utterly worthless, except for fuel.

The following extracts from the report of Lieutenant J. H. Simpson, Topographical Engineers, an officer of careful and diligent observation, of a reconnoissance in 1849, along the south side of the Canadian river, throws much and valuable light on its practicability and advantages as a route for a railroad:

"GENERAL CHARACTER OF THE ROUTE.

"The route throughout its whole extent, as we found it, 'may be characterized as follows:

"From Fort Smith to Shawneetown, opposite Edwards's 'trading house—a distance of one hundred and twenty-five 'miles—on account of difficult hills and quicksand mires, 'caused by unprecedented rains, it was very bad, but may 'be and should be made better, as before suggested, as soon 'as practicable.

"From Shawneetown to the termination of the Cross-'timbers, or Rock Mary, a distance of one hundred and 'fifty-three miles, the road was good; indeed, with some 'trifling exceptions, quite good.

"From the termination of the Cross-timbers to Santa Fé, 'a distance of five hundred and forty-one miles, bating 'some inconsiderable exceptions, the road was *very fine;* 'indeed, a better road I never saw anywhere.

"IN REGARD TO WOOD, WATER, AND GRASS.

"From Fort Smith to the Antelope hills we found these 'essential requisites generally abundant, always ample.

"From the Antelope hills to Shady creek, of grass there 'was no deficiency; of water occasionally an abundance—'always a sufficiency, except in two instances, which now, 'on account of present experience, may be obviated. (See 'suggestions on maps.)

"From Shady creek to Santa Fé the grass was rather 'scarce; it generally, however, proved sufficient, and it is 'believed that an ample supply may, in most cases, be ob-'tained by a search for it along the ravines and streams 'aside of, and at not impracticable distances from the road. 'Wood and water were generally sufficient, and where de-'ficient they can now be supplied without inconvenience 'by following the directions laid down on the maps.

"The route from Santa Fé, on the south side of the Ca-'nadian river—I speak now of the general, not the particu-'lar route traveled—is, in my opinion, practicable for the 'location of a railroad; and the line of its location should 'be, in my judgment, in order to the obtainment of the best 'grade, generally on the first riparian bend of the river—I 'mean of the Canadian river.

"The advantages to be derived from this route, as one of 'location for the great national highway, are its comparative 'freedom from obstructions caused by snow; its passage 'for two hundred and seventy-five miles through a region 'mostly of prairie and woodland character, this region thus 'furnishing the timber necessary for the work; its passage 'through the Indian country adjoining the State of Arkan-'sas, where coal abounds; its passage through a country 'capable of affording all the requisite stone material and 'the necessary supply of water; its line of location being 'entirely between and parallel to, and never crossing the 'two only great rivers of the region of country traversed. 'These are, in the main, the advantages which this great 'route possesses."

The reasons for entering the valley of the Rio Grande at Albuquerque, by way of Anton Chico, are, the easy passage of the Rocky Mountains at this point (they presenting an impassable barrier to the north except where the Santa Fé road passes,) as far as the Arkansas river, and the absence of serious difficulty in ascending the dividing ridge between the waters of the Pacific ocean and Gulf of Mexico; besides, it must necessarily develop the valley of the Rio Pecos, one of the most fertile in New Mexico.

The difference in elevation between the western boundary of Missouri and Anton Chico is about five thousand feet, and the distance to be traveled about seven hundred miles—giving an average ascending grade of seven and one-seventh feet to the mile. From Anton Chico to Albuquerque is about one hundred miles, and the difference in elevation one thousand feet. This is the only part of this section of the road where an obstacle can be apprehended, but it has long been traveled with loaded wagons, and but little labor will be required to make it perfectly practicable for a railroad.

From Albuquerque north to *Embuda*, and south to Valverde, near the *Jornada del Muerto*, extends the valley of the Rio Grande—the largest and most fertile in New Mexico—studded with towns and ranches, the greater part under cultivation, and extremities easy of access.

Santa Fé, except that it is the capital of the Territory, presents no claims worth a notice. It is extremely difficult of approach from the east, and situated as it is upon a thread of water, hardly to be designated a stream, it cannot possibly derive any value from the surrounding country.

The sixth section of the route is from Albuquerque to the Big Colorado river, part of it being known as *Walker's route;* and the first object to be attained, is overcoming the mésa or table land on the western side of the Rio Grande. Two ways present themselves. The first, is to follow the regular wagon road to the Pueblo de Zuñi, which starts from the village of Atrisco, nearly opposite Albuquerque; and the other is to ascend the valley of the Rio Grande to the mouth of the Rio Jémez, cross, and follow the course of that stream as far as the Mexican town of San Isidro. This route is preferable on account of its gradual ascent, and the narrowness of the Rio Grande at the point where the Rio Jémez enters it, affording no obstacle to its being bridged, the Spaniards having done so at the Pueblo de San Félipe, some ten miles above, when Pike was in the country in 1807.

The Jémez river should be left near San Isidro, and following the trail by the Soda Springs, an excellent pass through the mésas, and a level road is found to the dividing ridge between the waters of the Rio Grande and San Juan, an affluent of the Big Colorado of the west.

On many maps this ridge is represented as a formidable range of mountains; this is an error, the surface of the country being merely convex between the distant ranges on either side. From this divide, according to information, there is no doubt a good road can be found to the Ojo del Oso, a large spring with abundant pine timber near, situated in the depression between the Zuñi and Chuska mountains; from this point to Fort Defiance, Major Kendrick, United States Army, was ordered to make an exploration with the view of opening a wagon road.

To ascend the mésa opposite Albuquerque by the Zuñi road, (the one first alluded to,) a heavier grade and more labor is required. Once on the summit, a northerly detour is necessary to avoid the rough hills and heavy sand in the vicinity of the Rio Puerco. Beyond this river the road passes by the Pueblo de la Laguna, (and within some fifteen miles of several Mexican settlements,) following up the bed of the Rio de San José to near the foot of the Zuñi mountains, in longitude about 108° 20′ west of Greenwich.

These mountains extend from near the Rio Grande opposite the Jornada del Muerto, to about latitude 35° 30′, when they gradually give out, forming the southern boundary of a small valley in which is the Ojo del Oso. The northern side of this valley is made by the Chuska mountains, which continue in a northerly direction to the Rio San Juan, the upper part of the range being called the Tunecha.

There are four passes through these ranges; the upper is the one used by Colonel J. M. Washington, in 1849, whilst making an expedition against the Navajoes, and bears his name. This is impracticable even for wagons. The next is at the Ojo del Oso, and, from all accounts, presents but few difficulties to its being made an excellent road. The third, called the Zuñi Pass, was followed by Colonel Washington on his return route. It is steep and difficult in places, and impracticable for a railroad. The fourth and most southerly one is on the Canino del Obispo, passing by the Ojo de la Jarra. This presents few or no obstacles, the ascent on either side being very gradual. A more careful examination, I have no doubt, will demonstrate its perfect practicability. I have been through all these passes, except that by the Ojo del Oso, and can speak of course from personal observation.

From the western base of these mountains to the Pueblo de Zuñi (longitude one hundred and nine degrees west from Greenwich) there is no difficulty. From here to the Big Colorado are two routes, both practicable, and uniting at or near a point marked Cascade on the map. One is to follow the course of the Rio de Zuñi until it empties into the Little Colorado river; then follow the latter stream until about twenty-five or thirty miles below the Cascade. The other is to follow the usual wagon road to Fort Defiance, as far as *Calites;* thence striking west, through the Moqui villages, and joining the first at or near the Cascades on the Little Colorado river. This stream is narrow, with an abundance of water, and in places fringed with cotton woods. The soil in many places is susceptible of being largely cultivated.

The following extract from a letter just received from Major E. Backus, Third United States infantry, and recently in command of Fort Defiance, will, from the well-known and reliable character of the author, help to confirm you in the belief of the practicability of the route I have marked out:

"The distance from Fort Defiance, by a careful estima-'tion, is about ninety miles due west to the first village of 'Moqui, and about one hundred and twenty to the seventh 'village. No road has been opened between the two points. 'Lieutenant Schroeder, Third Infantry, made a reconnois-'sance of the route, by my order, with the view of opening 'a wagon road, and he found the route practicable, and re-'ported that a road could be readily opened with a few la-'borers—that it would require but little more work than 'was requisite at intervals, to cut away the timber. The 'Moqui Indians raise corn and wheat, and have usually a 'large surplus of corn. They brought it through to Fort 'Defiance, upon mules and burros for a market. The seven 'villages are estimated by Dr. Tenbroeck, who accompanied 'Lieutenant Schroeder, to contain about ten thousand souls. 'As they are habitually hard laborers, I am not certain they 'cannot be advantageously employed as such upon any 'road to be constructed. The Moquis are said to have pro-'duced much larger crops the last season than usual. I have 'reason to believe such is the fact, because the Zuñians 'have quadrupled their fields. Lieutenat Schroeder and 'myself estimated their fields of corn and wheat to cover 'ten thousand acres, when we passed them in August last. 'I think the Moquis cultivate more ground habitually than 'the Zuñians.

"Fort Defiance is hardly on the route for a road to the 'Pacific. My impression is, that it should follow the road 'from Zuñi to Fort Defiance as far as *Calites*, twenty-three 'miles below Fort Defiance, and thence proceed direct to 'Moqui. The Indians say this is the best and shortest 'route, and has the most water upon it. There is an abund-'ance of timber (pine) and stone between Zuñi and Mo-'qui, and a large bed of semi-bituminous coal twelve miles 'from Zuñi, on the road. There is but little snow on this 'route during the winter; in 1852 I do not think it exceed-'ed six inches, while forty miles to the north of Fort Defi-'ance it was four or five feet deep.

"There is much broken and hilly ground between Zuñi 'and Moqui, but it is not in any respect so formidable as the 'route over which the Pennsylvania road passes east of 'Pittsburg. Water is abundant in places, but at intervals 'of ten, fifteen, or twenty miles at times.

"I know nothing of the Ojo del Oso, except from the In-'dians and traders. It has a good supply of water, and is 'surrounded by timber. Major Kendrick, United States 'Army, is now about to open a wagon road from the Ojo 'del Gallo to the Ojo del Oso, and thence to Fort Defi-'ance. It will shorten the road about forty miles, by esti-'mation.

"My impression is, that no very formidable obstacles to 'a railroad will be found between the Rio Grande and Lit-'tle Colorado, west of Moqui. The route is well worth a

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'minute examination, and in my opinion presents fewer ob-'stacles than any other."

From the Little Colorado river to Walker's Pass, in the Sierra Nevada, by what is called Walker's route, no exploration has been made, except by the experienced mountaineer after whom these several places have been named. Leaving the Little Colorado some thirty miles below the Cascade, and striking out nearly due west, to the Yampais creek, following it to its mouth, which is nearly opposite that of the Rio Virgen, and just below the termination of the Big Cañore of the Colorado, crossing this river, and following up the Virgen to the Muddy, which in turn becomes the route, you enter the Spanish trail at the Vegas de Santa Clara; from this trail, a little farther south, a level plain extends to the Sierra Nevada, opposing no other obstacles to a road than the scarcity of wood and water.

From the same point on the Little Colorado, Bill Williams's Fork can be struck some distance from its head, and followed until an opportunity is offered of reaching the Big Colorado, near the mouth of the Mohave, from which point no serious obstacles are met with to Walker's Pass.

Walker has traveled the route named after him, several times, and assured me he considered it the best and most practicable, always finding plenty of wood, grass, and water. He has gone by this route from the Pueblo de los Angeles, California, to Santa Fé, New Mexico, in *twenty-five* days; and he returned to California by the same route in 1851, in *thirty-two* days. He said the most difficult part of the whole road was in the mountains (already mentioned) between Zuñi and the Rio Grande.

The scarcity of wood and water on the route I have marked out, is its greatest objection; but this applies equally to the routes by the Salt Lake, or south of the Rio Gila. On the upper route, from *Pilot Peak* to Humboldt river, the country is much broken by isolated ranges of low mountains, rising from Sandy plains, affording but little wood, grass, or water. Along Humboldt river the country is more rolling, and with better vegetation. Willows in abundance skirt this stream, but large timber is scarce, and that only cotton-wood. From the sink of Humboldt river to the head of Kern river, the country is broken by low basaltic ridges of mountains. This southern detour from Humboldt river seems unavoidable, as there are no passes practicable for a railroad north of that, which enters the head of the San Joaquin valley by Kern river. In support of this, I extract the following from a letter from Mr. E. M. Kern, who was assistant to Colonel Frémont in 1845:

"The entrance into the main mountain in 1845, was so 'gradual, that it was hardly perceptible—we had nothing 'with us to note the height. Kern river makes a cañon 'through which it enters the valley; this might be made a 'good road; if so, it would form an excellent pass into the 'San Joaquin valley. Before entering this pass, the country 'to the east opens into a large plain, broken only by an oc-'casional sandy or basaltic ridge. In our first ascent we 'could see the peaks of the mountains in the vicinity of the 'Mohave river, and *there can be no difficulty in crossing 'from the Mohave to this point, except the scarcity of wood 'and water, the country being a level plain.* Our descent 'into the valley was broken and rough, though not difficult. 'The mean temperature at the head of Kern river, from 'December 27 to January 17, was, at sunrise, 26°, noon 60°, 'sunset 52°. The snow was about two and a half feet deep 'on the *highest peaks* on the 20th of January. A better road 'might be found on further examination. *This is the only 'pass through the mountains south of the present emigrant 'road, which is certainly not made for a railroad.* This I 'know, having traveled down the eastern side of the Sierra, 'from near the above point to Kern river. There may be a 'way through by Owen's river, but not for wagons, and 'I think it very doubtful for mules. Colonel Frémont tried 'a pass from the valley up the San Joaquin, but failed.

"As regards Walker's route, which follows up Pass 'creek, I know but little; Walker informed it could be 'made a good road, as the mountains give nearly out at this 'point. It is useless to imagine that a pass can be found 'north of Kern river for a railroad, into either the San 'Joaquin or Sacramento valleys."

The principal objections to the northern route, are the obstruction caused by the heavy fall of snow on some parts of it—its passage for eighteen hundred miles through a country destitute of civilized population, except at the Pueblo de San Carlos, Hardscrabble, and the Mormon settlement near the Great Salt lake, the first two of but trifling consequence; the impossibility of its passage through the Sierra Nevada, where it is proposed to strike it, involving the necessity of a southern detour of some two or three hundred miles to reach the only practicable passes through this range, and its almost purely local character, requiring long branches to reach it from the southern portions of the States.

The route by El Paso and the Gila has the same objection as the last one named. The first part of the route, which lies in western Texas, is destitute of timber, and does not present other facilities of construction equal to that proposed by the Canadian river. From El Paso, perhaps the most practicable way is to strike out in a westerly direction to the Rio de San Pedro, follow it to the Gila, and thence to the Big Colorado. Of this part of the route I know nothing. From the Big Colorado to Carrigo creek, an inhospitable sandy desert, about one hundred miles in width, has to be crossed, affording, with the exception of the mezquite, no vegetation beside some shrubs, and bright and rare flowers, peculiar to such an arid and barren spot. Besides its inhospitable character, the heavy and ever-changing sand presents a formidable obstacle. The pass through the coast range, in practicability, bears no comparison, to those through the mountain range I have spoken of. San Diego, with its small harbor, sparse population, and rugged back country, presents but few arguments in favor of its being the western terminus. In conclusion, the following summary of the advantages of the route I have indicated is offered:

Its central position, the connections from points on either side being nearly equidistant; its directness; its practicable passage through the different mountains to be encountered; its freedom from obstruction by snow, part of its location in a region of country already settled, rich in mineral wealth and agricultural resources, and capable of supplying the necessary labor and material for the construction of this section; the knowledge of the greater part of the whole distance, requiring but a small amount of exploration to determine at once its proper locality; the shortness of the intervals between civilized population; its level character, and its entrance into and passage through one of the largest and most fertile valleys in California.

There are of course numerous and serious obstacles to be overcome—the scarcity of timber and water being the principal. Let the route pass where it will, an inhospitable and uninhabitable region of country between the Rocky Mountains and Sierra Nevada *must* be traversed, and this appears to be the most facile by the route I advance.

An exploration between the Little Colorado and Walker's Pass, returning by the Old Spanish Trail, would cover the only portion of the route not thoroughly known, and I feel positive, confirm the truth of what I have advanced.

Most of the foregoing is the result of my own personal observation, during a residence of some three years in New Mexico; the rest is from the most reliable sources.

Hoping it will meet your views, and give rise to a rigid and impartial inquiry, I am, very respectfully, your obedient servant, RICHARD H. KERN.

Hon. WILLIAM M. GWIN, *United States Senate.*

Mr. MANGUM. I have listened, sir, to the honorable Senator from Tennessee with a great deal of attention and with a great deal of pleasure. My own impression is, that the manner in which he suggests that we should take up the whole question and act upon it, is the only practicable one to bring us to any result in a reasonable time. If the members of the Senate will turn their attention to this subject—if they will look at all these plans, and mature first the bill under consideration, make it as perfect as possible, and then go on and perfect any bill which may be offered as an amendment to it, and so of a third proposition, we may come to some practical result in five or six or seven days. But if we take up the bill in this sort of helter-skelter way, and continue this guerrilla kind of warfare, we shall never come to any practical result whatever. I think, therefore, that the remarks of the honorable Senator from Tennessee are well worthy of the consideration of such gentlemen as take an interest in the subject, and I hope they will prepare their amendments to be acted upon; but as they cannot prepare them to-day, as they may not be gifted *currente calamo*, but may by to-morrow, I hope the motion to postpone will be agreed to.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the following bills and joint resolution from the Senate:

An act for the relief of Mrs. E. A. McNeil, widow of the late General John McNeil.

An act for the relief of Elizabeth Armistead.

Joint resolution for surrendering the site of the old Oglethorpe Barracks to the City Council of Savannah, Georgia.

Also, that the House of Representatives had passed a bill for the relief of William H. Wells, and others.

Also, that it had agreed to the amendments of the Senate to the bill to amend an act entitled "An act for the discontinuance of the office of surveyor general in the several districts, so soon as the surveys therein can be completed, for abolishing land offices, and for other purposes."

Also, that it had passed a bill to erect at the capital of the nation, an equestrian statue of Washington.

Also, that it had passed the bill from the Senate to continue half pay to certain widows and orphans, with an amendment.

WILLIAM H. WELLS.

The bill from the House of Representatives for the relief of William H. Wells and others, was read a first and second time by its title, and referred to the Committee on Public Lands.

STATUE OF WASHINGTON.

The bill to erect at the capital of the nation an equestrian statue of Washington, was read a first and second time by its title, and referred to the Committee on the District of Columbia.

CONTINUANCE OF HALF PAY.

On motion by Mr. GEYER, the Senate proceeded to consider the amendment of the House of Representatives to the bill "to continue half pay to certain widows and orphans," which was to add the following:

"*Provided further*, That the provisions of this act be extended to the widows and orphans of officers and soldiers of the war of 1812 and the Florida war."

Mr. BORLAND. I move that the Senate concur in the amendment of the House.

Mr. HAMLIN. Will it be in order, before the amendment is concurred in, to move to amend it?

The PRESIDENT. Certainly, sir.

Mr. HAMLIN. Then I move to amend the amendment by adding the following:

SEC. 2. *And be it further enacted*, That the widows of all officers, non-commissioned officers, soldiers, musicians, and privates of the revolutionary Army, who were married subsequently to January first, *Anno Domini* 1800, shall be entitled to a pension in the same manner as those who were married before that date.

It will be recollected by the Senate that a few days since a bill passed this body which includes precisely what the amendment of the House to this bill contains, but we also added to that bill a section in the same words as that which I have now offered; and if we adopt it, it will do precisely what the Senate did in the passage of the bill to which I refer, and I therefore hope my amendment will be adopted.

The amendment was agreed to, and the amendment of the House, as thus amended, was concurred in.

HOMESTEAD BILL.

Mr. DODGE, of Iowa. I rise to make an appeal to the Senate to take up now, with a view of fixing on a future day for its consideration, the bill from the House "to encourage agriculture, com-'merce, manufactures, and all other branches of 'industry, by granting to every man who is the 'head of a family and a citizen of the United States, 'a homestead of one hundred and sixty acres of 'land out of the public domain, upon condition of 'occupancy and cultivation of the same for the 'period herein specified;" which is commonly known as the "homestead bill." I do not propose now to go into the subject, or to have a vote upon the bill at this time; but I ask that an early day may be fixed for its consideration. It is a measure in which a very large portion of the people of this country feel a very deep interest. Those that I represent, view it as a measure of the deepest interest to them—of greater importance than any or all other measures which will come before this Congress. I gave notice at an early day of the session that I should move to take it up, and I have looked in vain for an opportunity when I thought there was a favorable time for me to make the motion. The Senator from Tennessee, [Mr. BELL,] a friend of this bill, has conferred with me several times in relation to it. He designs to address the Senate upon the subject of its passage, as do several others, when it shall come up. I will propose, if it be agreeable to the Senate, to make it the special order for this day week; or if any Senator chooses to suggest any other time more agreeable to him, I will accept it. I want to bring it to the early attention of the Senate, and to have a fair vote upon its merits, and I intend to have that.

Mr. PEARCE. I would be glad if the Senator would extend a little the period he has designated.

Mr. DODGE, of Iowa. I will adopt any suggestion which the honorable Senator from Maryland will make. He has frequently accorded me a courtesy of this sort, and I know he is the last one who would deny an opportunity to consider any bill. I will agree to any suggestion which he may make.

Mr. PEARCE. There was a special order for last Monday, which was not taken up in consequence of a debate which sprung up here on that occasion. It is very desirable that we should act

upon that at an early day. I desire to have time enough left to act upon that bill, before we take up the bill designated by the Senator from Iowa. If he will say Wednesday week, I will accede to his suggestion.

The motion to take up the homestead bill was agreed to, and on motion by Mr. DODGE, of Iowa, it was postponed to, and made the special order of the day for Wednesday, the 26th instant.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 17, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Saturday was read and approved.

The SPEAKER. The first business in order is the consideration of a motion to suspend the rules for the purpose of taking up and putting on its passage a bill for the relief of Elizabeth Armistead, which was submitted on last Monday.

Mr. HOUSTON. I rise to a question of order. At the time that motion to suspend the rules was submitted by the gentleman from North Carolina, [Mr. OUTLAW,] the special order made previously by a two-thirds vote of the House had not been carried into effect. The day subsequent to the submission of his motion, that special order was put in force, to continue from day to day until disposed of. The point I make is, that that special order now supersedes the motion of the gentleman from North Carolina, and if the Chair sustains me, I call for its consideration.

The SPEAKER. The Chair, in reply to the gentleman, remarks, that the present occupant was not in the chair at the time the motion was submitted; but if he understands the condition of the special order, that being in the Committee of the Whole on the state of the Union, the proposition to suspend the rules for the purpose of acting upon a different measure in the House will not be affected by it at all.

Mr. HOUSTON. I present the point for the decision of the Chair, because I think it will have an important bearing upon all of the business of the House, that the special order being in committee will make no difference. The House suspended the rules by a two-thirds vote, for the purpose of getting the proposition before the committee, and then by a two-thirds vote it was ordered, although it is now in the Committee of the Whole on the state of the Union, that it should be considered in precedence of all other business.

The SPEAKER. It will be competent for the House to suspend the rules, and to make two special orders. If they conflict, it will be for the Chair to determine which shall take precedence.

Mr. HOUSTON. Is it in order for me to submit a motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, or does the gentleman's motion hold over, and come up as the first business in order to-day?

The SPEAKER. The motion of the gentleman from North Carolina would take precedence, because his motion is to suspend the very rule under which the gentleman would otherwise be at liberty to submit his motion to go into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. If the gentleman's motion be adopted, a suspension previously made will be superseded.

The SPEAKER. The business first in order, as the Chair has already stated, is the consideration of a motion submitted on last Monday by the gentleman from North Carolina, [Mr. OUTLAW,] to suspend the rules for the purpose of taking up Senate bill No. 509, entitled "An act for the relief of Elizabeth Armistead."

The question was taken on the motion to suspend the rules, and it was agreed to.

The bill was read a first and second time by its title.

Mr. OUTLAW. Mr. Speaker, I shall detain the House but for a few moments. It appears, from the evidence in this case, that General Armistead, late a brigadier general in the Army of the United States, died from a disease contracted whilst he was in the service of his country during the Florida war. He died in October, 1845. At that time, by the laws of the United States, no provision was made for the widows and orphans of officers of the regular Army who died in the public service. The act making that provision was passed in the year 1848; but the Commissioner of Pensions, to whom this case has been submitted, has decided that Mrs. Armistead does not come within the operation of that law. The object of this bill is to give her a pension during her life. And I will state here, that at the time General Armistead died, he left his widow in indigent circumstances, with nine children, besides a number of grandchildren, all of whom have to be educated. Mrs. Armistead struggled against the misfortunes and poverty to which she was subjected so long as she could, and she refused, so long as she was able to support herself and her family, to appeal to the country for relief. Since that time her house has been consumed by fire, and she feels that it is a duty which she owes herself and children, to ask the justice of her country and this House to make some provision for herself and for her family. I understand, Mr. Speaker, that this case is precisely similar to that of Mrs. Worth, the widow of General Worth, which was favorably passed upon by this House, with the exception that General Armistead died from a disease contracted in the actual service of his country, whereas, as I understand, General Worth did not.

A MEMBER. He died of cholera.

Mr. OUTLAW. As I have stated, I do not purpose to detain the House by making a speech. I am too much indebted to it for its kindness in sustaining the motion to suspend the rules, in order to bring this bill up, to abuse that kindness by taking up the time of the House. I call for the previous question on the passage of the bill.

Mr. HARRIS, of Tennessee. I appeal to the gentleman to withdraw his demand for the previous question, and allow me to offer an amendment to the bill.

Mr. OUTLAW. I am perfectly willing to yield the floor for that purpose. I understand the gentleman's amendment to be to give Mrs. Armistead half pay for five years. I wish to take no advantage. I take it for granted that the House will follow the example they set in the case of Mrs. Worth, and will vote down the amendment, though I shall yield the floor for the gentleman to offer it.

[Cries all over the Hall of "Hold on to the call for the previous question!" "Do not withdraw the call!"]

Mr. OUTLAW. As it appears to be the general opinion of the House I should not withdraw my call, I refuse to yield to the gentleman.

Mr. CLARK. I would ask what amount of pension this bill proposes to give?

Mr. HARRIS, of Tennessee. It gives her about fifty dollars a month for life.

The call for the previous question was seconded, and the main question ordered to be put.

The SPEAKER. The question now recurs on ordering the bill to be read a third time.

Mr. SKELTON. I demand the yeas and nays on that question.

The yeas and nays were not ordered—6 only voting in the affirmative.

The bill was then, according to order, read a third time.

Mr. OUTLAW. I call for the previous question on the passage of the bill.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. SKELTON. I demand the yeas and nays upon the passage of the bill.

Mr. OUTLAW. I move that the vote by which the bill was ordered to be read a third time be reconsidered; and that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The yeas and nays were not ordered on the passage of the bill, there being on a division only 19 in the affirmative, which was less than one fifth of a quorum.

The question was then put, and the bill was passed.

Mr. OUTLAW. I move that the vote by which the bill was passed be reconsidered, and that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MRS. E. A. M'NEIL.

Mr. MOLONY. I move that the rules of the House be suspended, and particularly the rule requiring bills containing appropriations to be first considered in the Committee of the Whole, for the purpose of enabling me to report for its action the bill from the Senate for the relief of Mrs. E. A. McNeil, widow of General John McNeil, deceased.

Mr. HARRIS, of Tennessee, demanded the yeas and nays; but they were not ordered.

The question was taken, and the rules were suspended.

The bill was then taken up, and read a second time by its title.

A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed bills of the following titles, viz:

H. R. No. 151. An act for the relief of the heirs of William McFarland, deceased.

H. R. No. 296. An act for the relief of John J. Sykes.

S. No. 374. An act to amend the charter of the city of Washington.

S. No. 488. An act for the relief of William Senna Factor.

S. No. 503. An act for the relief of the legal representatives of Daniel Loomis, deceased.

S. No. 510. An act for the relief of Asenath M. Elliot.

S. No. 514. An act for the relief of the legal representatives of Major Caleb Swan, deceased.

And that the President did, on the 13th of January, 1853, approve and sign bills of the following titles, viz:

S. No. 566. An act authorizing the Secretary of the Treasury to issue a new register to the ship Prentice, and change her name to that of Leonie.

S. No. 50. An act for the relief of Sidney S. Alcott.

S. No. 217. An act for the relief of William Speiden.

S. No. 64. A resolution for the appointment of Regents in the Smithsonian Institution.

S. No. 206. An act granting a pension to Mrs. Elizabeth V. Lomax.

S. No. 130. An act for the relief of John T. Sullivan.

Mr. MOLONY. With the indulgence of the House, I will make a brief statement of the facts in this case, since there is no accompanying report. General McNeil, sir, entered the military service of his country in the year 1812, as captain in the 11th regiment of infantry. In 1813, he was promoted to the rank of major. On the 5th of July, 1814, for his heroism displayed at the battle of Chippewa, he was breveted a lieutenant colonel. On the 25th of the same month, memorable ever as one of the bloodiest in the annals of that war, he received *a second brevet*, and that of colonel for his gallantry and heroism shown on the occasion. At the head of the 11th regiment, while storming the enemy's battery in that fight known as the battle of Lundy's Lane, the general received a wound in his right knee, from a cannister shot of the enemy's battery, which lacerated the knee joint so seriously as to cripple him for life, and entailing upon him a neuralgic affection of the limb, which followed him to the day of his death, and which, from its repeated attacks and its great severity, I am credibly informed, finally broke down his constitution, which, when he entered the service, was Herculean. All physicians can testify that a severe form of neuralgia is one of the most excruciating and trying diseases to the constitution to which the human body is liable, and a disease most likely to arise from such a laceration of parts as took place in the case of General McNeil; and it is probable, that had his limb been torn from his body by the shot, that it would have been less an evil to him than his stiffened knee and neuralgic affection, the latter of which, in the event of a complete amputation of the limb by the ball, would not probably have occurred.

At the close of the war of 1812, such had been the brilliant career of General McNeil, and such his distinguished services, that he was retained upon the peace establishment as major, from which, step by step, he was promoted to the rank of colonel in the Army, and breveted brigadier general in 1824. In 1830, General McNeil left the Army, and was placed upon the pension rolls.

I will, in this connection, state that General McNeil, at the close of the war, applied for a pension, in 1815, and again in 1819, claiming it as his vested right, under the law of 1812, for the enlistment of troops for the service, in which law

it was *unconditionally promised* to all soldiers and officers who should enlist in the United States service under it, that a pension should be given, provided they should become disabled *while in the service and in the line of duty*. Under that law, and for the reasons set forth in my remarks, General McNeil made his application to the Department for a pension; it was denied him, and against the injustice thereby done to him, he ever afterward protested.

Mr. JONES, of Tennessee. With the permission of the gentleman, I desire to make a single inquiry of him. I doubt not the serious character of the wounds which he describes, but I wish to ask him if General McNeil did not remain in the service from the time he received those wounds up to 1830, when he resigned; and if he did not, during all that time, receive the full payment to which his commission entitled him?

Mr. MOLONY. I will answer the gentleman's question, and I wish to call the attention of the House *particularly* to my answer, for it is one that will amply sustain the claim of the widow of General McNeil to the pension which this bill proposes to give her.

General McNeil was, it is true, from the close of the war up to 1830, in the Army, and for a great part of the time was in the discharge of his duty, upon our far-western (then) frontier, submitting to all the trials, privations, and hardships of the soldier's life, under such circumstances, for all of which he was, of course paid; but I would inquire of the gentleman how the payment of a soldier of his salary as an equivalent stipulated for services rendered, can, in equity, or in honor, release this Government from its obligation to the disabled soldier—an obligation assumed in the law of 1812, and which it *can only cancel* by giving to *every man disabled* in her service the pension therein promised? General McNeil claimed, during his life, and his widow does now, that his vested right, under the law of 1812, was, and hers now is, to a pension from the date of his wound, up to 1830, the time when he was placed upon the pension rolls, and he contended that that rule of the Department by which he was denied his pension was not warranted by any fair construction of the law of 1812. It (the rule) was viewed by General Cass, when Secretary of War, as no part of the law, being an executive regulation, simply, and as such, could be dispensed with at the pleasure of the Department; and here let me call the attention of the gentleman from Tennessee, and of the House, to the fact that General Cass did dispense with said rule, when at the head of the War Department, in the case of Colonel Preston, who was an officer in the same war with General McNeil, and, for disability incurred in the war, was pensioned, and *that, too, while* he was an officer in the Army, and in *the receipt of his pay as such*, and there are many more similar cases which could be cited; and at this time every private and officer in the naval service of the United States, who has been wounded and disabled in that service, is entitled to a pension, and that, too, while in the receipt of their pay; and such has been the case since 1837. All this is right; but the thing that I complain of is, that the same even-handed justice should not be meted out to both arms of our national defense alike, and that that pension is given to one soldier which is denied to another, both placed under the same circumstances, and both alike meritorious, if you please.

Sir, there should be no such discrimination as between the different branches of the service, nor as between individuals of the same branch, *but even-handed justice to all;* and I take this occasion to say, that I am ready to vote for a bill so explanatory of the act of 1812, (if it can possibly need any such explanation,) as shall give to all soldiers and privates, disabled in service, a pension from the time that said disability was incurred in the service, and in the line of their duty, or to their widows and minor children.

Having given to the House the material facts of the service and *disability* upon which this claim rests, and, I think, having answered the gentleman from Tennessee [Mr. JONES] to the satisfaction of the House, I move the previous question upon the engrossment and third reading of the bill.

Mr. HARRIS, of Tennessee. If my friend from Illinois will withdraw the previous question, I will renew it in five minutes. I desire to make a brief statement of this case.

Mr. MOLONY. I do not wish to be guilty of any discourtesy to my friend, but if he will renew it in five minutes——

[Cries of "Question!" "Question!" "Question."]

Mr. HARRIS. I will renew it.

Mr. MOLONY. The question is called for on all sides of the House. I would be willing to withdraw it, so far as I am concerned myself, but there is great opposition to it.

Mr. HARRIS. No one else is concerned but yourself.

Mr. MOLONY. I must decline to withdraw.

The previous question was seconded, and the main question ordered.

The SPEAKER. The question now is upon ordering the bill to be read a third time.

Mr. HARRIS. Is the previous question exhausted?

The SPEAKER. It is not.

Mr. HARRIS. Then I move to lay the bill upon the table, and upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken, and it was decided in the negative.

So the House refused to lay the bill upon the table.

The bill was then read the third time.

Mr. MOLONY. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered.

Mr. JONES. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were refused.

Mr. DEAN. I move to reconsider the vote by which the bill was ordered to be engrossed and read the third time, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

Mr. JONES, of Tennessee. I move to lay the bill upon the table.

The question was taken on Mr. JONES's motion, and it was decided in the negative.

So the House refused to lay the bill upon the table.

The question now being, "Shall the bill pass?" it was put and decided in the affirmative.

So the bill passed.

Mr. MOLONY moved to reconsider the vote by which the bill was passed, and also moved to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

STATUE OF GEORGE WASHINGTON.

Mr. DEAN. I ask the unanimous consent of the House to introduce a bill for the purpose of having it referred to the Committee on Ways and Means. It is a bill "to carry into effect the resolution of Congress, passed August 7th, 1783, to erect at the capital of the nation, an equestrian statue of General Washington." If there is any objection, I shall move to suspend the rules.

No objection was made.

The bill was then read a first and second time by its title.

Many MEMBERS. "Pass the bill now."

Mr. DEAN. No, Mr. Speaker, I asked the consent of the House merely to introduce the bill for the purpose of reference. I supposed there would be no objection to that, and as it was in that way that I obtained the consent of the House, I therefore feel bound to move that the bill be referred to the Committee on Ways and Means, hoping, however, that the House may conclude to pass it without a reference.

[Cries of "Oh, no!" and "Pass the bill!"]

Mr. POLK. I hope the gentleman will withdraw his motion, and allow the bill to be put upon its passage now.

Mr. JONES, of Tennessee. I would say to the gentleman from New York that it is wholly unnecessary to refer the bill to the Committee on Ways and Means, because every member of this House understands the proposition as well now as the Committee on Ways and Means can understand it after they have examined it, and as well as the members of the House can understand it after the committee have reported. The only thing that it is necessary for him to do is to move further to suspend that rule which requires a bill making an appropriation to go to the Committee of the Whole on the state of the Union, and then the bill can be disposed of now.

Mr. STEPHENS, of Georgia. I know nothing about the details of this bill, nor do I know that it is in a form in which it ought to pass at this time. As it was introduced for the purpose of reference, and as it is a matter of considerable importance, I would suggest that it be referred to a select committee of nine, or say thirteen, as that is the number of the old States.

Mr. STUART. I ask for the reading of the bill.

The Clerk read the bill, as follows:

"*Be it enacted, &c.*, That the sum of fifty thousand dollars is hereby appropriated to enable the President of the United States to employ Clark Mills to erect at the city of Washington a colossal equestrian statue of General Washington, at such place in the public grounds in said city as shall be designated by the Committee on Public Buildings and Grounds, and substantially carry into effect the resolution passed August 7th, 1783, in the Congress of the United States of America."

Mr. HOUSTON. I desire to make a suggestion to the gentleman from New York. If he proposes to refer this resolution to a committee at all, I think it should go to the Committee on Public Buildings and Grounds.

[Cries of "No!" "No!"]

Mr. HOUSTON. I will therefore, with the permission of the gentleman, move that the resolution be referred to the Committee on Public Buildings and Grounds. I do not see any necessity for referring it at all; but if it is to be referred, it should go to that committee.

Mr. DEAN. I withdraw the motion to refer the bill to the Committee on Ways and Means, and move to refer it to a select committee of thirteen.

Mr. RICHARDSON. Oh, no; it will never be reported on.

Mr. DEAN. The gentleman did not hear me through. I also move that the committee have power to report it at any time, and on this motion I demand the previous question.

Mr. ORR, (Mr. DEAN yielding the floor.) I desire to ask whether, if the previous question should now be sustained, after a motion has been made to refer the bill to a select committee, and also to refer it to one of the standing committees of the House, and the House should refuse to refer it to either of the committees, the question would recur upon the passage of the bill?

The SPEAKER. The Chair understands that the question would arise as to whether it would be competent for the House to consider the bill without referring it to the Committee of the Whole on the state of the Union—as it contains an appropriation.

Mr. ORR. Then is it competent to move to suspend the rule requiring that reference?

The SPEAKER. That may be done.

Mr. ORR. Can that be done now?

Mr. RICHARDSON. I ask the gentleman from New York to yield me the floor, that I may move to suspend that rule?

Mr. ORR. The gentleman from New York has yielded it to me.

Mr. RICHARDSON. Then move to suspend the rule.

Mr. ORR. Will it be in order for me to make a motion to suspend the rule of the House which requires a bill making an appropriation to be referred to the Committee of the Whole on the state of the Union?

The SPEAKER. That motion would be in order if the gentleman had the floor for any such purpose, but it has been yielded to him only for explanation——

Mr. DEAN. I will yield the floor to the gentleman for that purpose, if I can resume it afterwards.

The SPEAKER. The gentleman can make no such bargain.

Mr. DEAN. Well, sir, I yield the floor, and will take my chance.

Mr. ORR. Then I move that the 131st rule be suspended, which requires a bill making an appropriation to be considered in the Committee of the Whole on the state of the Union, so that we may pass the bill now. Every member of the House understands it as well now as they would after it was reported upon.

Mr. SWEETSER. I wish to make a single suggestion. The resolutions to which this bill

refers require that the statue shall represent Washington clothed in the old Roman toga. Now, we do not want any such statue, and consequently the bill should be revised. If we are to have an equestrian statue of Washington, let us have one with the Continental uniform. I hope the House will not pass the bill in its present form.

Mr. DEAN. The bill does not provide for that. I am as much opposed to placing ancient drapery upon modern statuary as the gentleman can be. The language of this bill is purposely chosen to allow the artist to use his own judgment in everything, if he "SUBSTANTIALLY" carries into effect the object of the resolutions of the Congress of 1783, which provide for the erection of an equestrian statue of Washington.

The SPEAKER. The proposition of the gentleman from South Carolina [Mr. ORR] is not debatable.

Mr. ORR. I withdraw my motion temporarily, in order to ask the Speaker a question. If my motion prevails, and the rule is suspended, it will be competent for all these explanations to be made then, will it not?

The SPEAKER. It will.

Mr. ORR. Then I renew my motion.

The question was taken on Mr. ORR's motion, and it was agreed to.

So the 131st rule was suspended.

Mr. DEAN. I now withdraw my motion to refer the bill to a select committee, and move to put it upon its passage.

The SPEAKER. Is the motion to refer the bill to the Committee on Public Buildings and Grounds withdrawn?

Mr. HOUSTON. Yes, sir; I withdraw it.

Mr. DEAN. I did not intend saying a word on my motion to refer this bill, but as the question upon its passage is unexpectedly before us, and there seems to be some misapprehension, I desire to say to the House that this bill does not require that Washington shall be in the Roman costume, nor does it in any manner anticipate or fetter the better judgment of the artist. Its object is merely to carry out *substantially* the resolutions passed in 1783. They, it is true, recommend the Roman dress. The Continental uniform is by its associations endeared to the American people, and it is proper that Washington should be thus represented. There is another particular in which I have departed from the resolutions, and in this I know I shall be sustained by the unanimous voice of the whole nation. Those resolutions require that the statue shall be executed by one of the best European artists. I have especially provided in this bill, that the President of the United States shall employ Clark Mills, the American artist, who, self-taught, has recently accomplished what has never been achieved by man before. And I, sir, as an American, feel proud of my country, and trust that to-day the American Congress will by its action show that true genius is here appreciated and properly rewarded.

Mr. JONES, of Tennessee. I desire to make a suggestion to the gentleman from New York. I think the bill would be improved if he would strike out the words "the Committee on Public Buildings and Grounds," and direct the President of the United States to designate the position in the public grounds which the statue shall occupy. It is a committee of this House, and the Senate might not agree to it.

Mr. DEAN. I will modify the bill as the gentleman suggests. I am not tenacious of the form; I only seek to secure the object.

The modification was accordingly made.

Mr. SWEETSER. I ask that the resolutions of 1783 may be read.

The SPEAKER. That can only be done by unanimous consent.

Mr. DEAN. I will read them as a part of my remarks.

Mr. STANTON, of Kentucky. I ask the gentleman from New York to allow me to offer an amendment at this point, that it may be voted upon by the House. It is as follows:

And be it further enacted, That the President of the United States be, and he is hereby, authorized to contract with Hiram Powers for the purchase of an emblematic statue of America, after the model as designed by said Powers, the cost not to exceed the sum of twenty thousand dollars, to be placed in some suitable position in the Capitol, to be designated by said President; and that the sum of twenty thousand dollars be, and the same is hereby, appropriated from the Treasury, out of any money not otherwise appropriated.

Mr. DEAN. I cannot yield to the gentleman for that purpose, for I am opposed to all omnibus arrangements in legislation.

Mr. VENABLE, (Mr. DEAN yielding the floor.) By the courtesy of the gentleman from New York, [Mr. DEAN,] I would suggest that the amendment of the gentleman from Kentucky [Mr. STANTON] be not accepted. Clark Mills, an American who never sought a foreign shore for education, but following the light of his own genius, has at one step reached the top round of the ladder of fame. An orphan, with nothing but the trade of a millwright, he went from New York to South Carolina to seek his fortune. There he adopted the trade of a plasterer, and by the strength of that will which has secured his renown, he determined to seek fame as a sculptor. Taught by a kind and distinguished friend, that his impulses were really those of genius, and that alone, he, amidst all the discouragements which usually beset the path of adventurers, has for four years struggled against all that brings despair to others; he has achieved, in the execution of the equestrian statue of Andrew Jackson, a master-piece of art which will be the admiration of the world. I trust that no other name shall be introduced into this bill; but that Clark Mills, the self-educated American sculptor, who stands amongst the first artists of the world, shall be selected by the American Congress to execute an equestrian statue of George Washington, one of the greatest men who has ever lived.

Mr. DEAN. Mr. Speaker, however much I might desire to address the House upon this subject, in which my feelings are really very much interested, I will not abuse the courtesy extended to me on this occasion, by detaining the House longer, except to say those resolutions were passed in 1783, unanimously, on the report of a committee, consisting of Lee, Ellsworth, and Mifflin—names eminent among our early statesmen. Measures were immediately taken, through Mr. Jefferson, at that time our Minister at Versailles, to erect the statue. The work was suspended for want of funds, the debt of the Revolution then pressing heavily upon the country. But now, sir, in my judgment, the hour has arrived when action on this subject should be resumed, and I trust that this Congress will carry out the object of the resolutions by employing the same artist to perpetuate the lineaments of Washington in his uniform, who has given immortality to the form and features of the Hero of New Orleans.

Mr. STEPHENS, of Georgia. If the gentleman from New York will yield the floor for a moment, I will suggest that I think it is much better that the House should not pass this bill hastily. I think it is better that it should be referred; and if the gentleman will yield me the floor for that purpose, I will move that it be referred to a select committee for examination. There are some restrictions in the bill which may be proper and may not, I cannot judge. For instance, there is a restriction that the bill shall carry out the resolution of 1783.

Mr. DEAN. It is to carry out substantially the resolution of 1783.

Mr. STEPHENS. Well, to carry out substantially the resolution of 1783. There is another restriction which provides that the Committee on the Public Buildings or the President of the United States shall select the location for the statue. I think it would be much better that each State in the Union should have a voice in this selection. I hope, therefore, the gentleman will allow a motion to be made to refer the bill to a committee of thirty-one, to be composed of one from each State in the Union. Let that committee be appointed, and let them have the whole matter before them, and give them leave to report at any time. If they agree to leave it to the President to say where the location of the monument shall be, I will not object; but let them report it at least, so that each State shall have a voice in determining the question whether it be to leave the location to the President or to provide some other way. There is no necessity for proceeding hastily. The committee will have power to report at any time, and the bill can be passed without difficulty.

Mr. DEAN. There are but few weeks of the session left, and I think we had better pass the bill now. Every member must be prepared to vote. I must therefore move the previous question.

Mr. TAYLOR. I wish to ask the gentleman from New York [Mr. DEAN] to have the resolution of 1783, to which this bill refers, read.

Mr. DEAN. I have those proceedings before me, and I have no objection to their being read; indeed, I promised to read them as a portion of my remarks, and will send them to the Clerk for that purpose.

They were read by the Clerk, as follows:

From the Journal of Congress, August 7, 1783.

On motion by Mr. A. Lee, seconded by Mr. Bland,

Resolved, (unanimously, ten States being present,) That an equestrian statue of General Washington be erected at the place where the residence of Congress be established.

On the report of a committee, consisting of Mr. A. Lee, Mr. Ellsworth, and Mr. Mifflin, appointed to prepare a plan of an equestrian statue of the Commander-in-Chief—

Resolved, That the statue be of bronze. The General to be represented in a Roman dress, holding a truncheon in his right hand, and his head encircled with a laurel wreath. The statue to be supported by a marble pedestal on which are to be represented, in basso relievo, the following principal events of the war, in which General Washington commanded in person, viz: The evacuation of Boston, the capture of the Hessians at Trenton, the battle of Princeton, the action of Monmouth, and the surrender of York. On the upper part of the front of the pedestal to be engraved as follows: "The United States of America, in Congress assembled, ordered this statue to be erected in the year of our Lord 1783, in honor of General Washington, the illustrious Commander-in-Chief of the Armies of the United States of America during the war which vindicated and secured their liberty, sovereignty, and independence."

Resolved, That a statue conformable to the above plan be executed by the best artist in Europe, under the superintendence of the Minister of the United States at the Court of Versailles; and that money to defray the expenses of the same be furnished from the Treasury of the United States.

Resolved, That the Secretary of Congress transmit to the Minister of the United States at the Court of Versailles the best resemblance of General Washington to be procured, that a suitable statue be erected, together with the fullest description of the events which are to be the subject of the previous resolutions.

Mr. BRECKINRIDGE. At the suggestion of many members around me, I ask the gentleman from New York to withdraw his call for the previous question upon the passage of the bill. The bill contemplates the erection of an equestrian statue of General Washington according to the plan suggested by the resolution of 1783. Now, the American people never will consent to have another statue of General Washington erected in the Roman costume, or in any other than the Continental costume. I hope the gentleman will withdraw his call for the previous question, and allow it to be so amended as to obviate that objection.

Mr. DEAN. At the suggestion of several gentlemen, I have modified the bill in a manner that will, I think, obviate the gentleman's objections.

Mr. BRECKINRIDGE. I should be glad to hear the bill as modified.

Mr. DEAN. I have modified the title so as to read:

A bill to erect, at the capital of the nation, an equestrian statue of Washington.

The bill will then read:

Be it enacted, That the sum of $50,000 is hereby appropriated, to enable the President of the United States to employ Clark Mills to erect at the city of Washington a colossal equestrian statue of General Washington, at such place in said city as shall be designated by the President of the United States.

Mr. Speaker, I now call the previous question upon the passage of the bill.

Mr. STEPHENS, of Georgia. If the previous question should be sustained, would not the question upon the reference of the bill first come up?

The SPEAKER. If the previous question is sustained, it would then be in order to refer the bill at any time before it had been ordered to a third reading.

Mr. STEPHENS. But would not the question to refer be the pending question?

The SPEAKER. The motion to refer can hardly be considered as having been made, the gentleman from New York having only yielded the floor for the purpose of explanation.

Mr. STEPHENS. I understood the gentleman from New York, [Mr. DEAN,] to move himself to refer the bill; and if the previous question be sustained, I ask if that would not be the question pending?

The SPEAKER. The gentleman from New York did move to refer the bill, but afterwards withdrew the motion, and called the previous question upon the passage of the bill.

Mr. STEPHENS. Then, will not the gentleman withdraw his call, and allow me to move to refer the bill, so that there may be a vote upon its reference?

Mr. DEAN. I must insist upon my demand for the previous question.

Mr. STEPHENS. Then I trust it will be voted down.

The question now being upon seconding the demand for the previous question, upon a division, 78 rose in the affirmative.

Mr. STEPHENS demanded tellers; which were ordered; and Messrs. JONES, of Tennessee, and HENDRICKS were appointed.

The question was then taken, and the tellers reported—ayes 83, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

The bill was then ordered to be engrossed and read a third time, and, having been engrossed, it was read the third time and passed.

Mr. DEAN. I move that the vote just taken, by which the bill was passed, be reconsidered, and that the motion to reconsider do lie on the table.

The question was taken, and the latter motion was agreed to.

SURVEY OF PUBLIC LANDS.

Mr. BROWN, of Mississippi. Mr. Speaker, during the last session of Congress, a bill passed the House providing that in cases where the office of surveyor general in any State had been abolished, the business should be conducted—when anything was to be done—under the direction of the Commissioner of the General Land Office. That bill went to the Senate and has been returned the present session with two or three short amendments. Their consideration cannot possibly give rise to any debate; and as it is a matter of great importance to a great many individuals, I ask the unanimous consent of the House to take it up and agree to the Senate amendments. If it should give rise to debate, I will consent to let it pass over.

There was no objection, and House bill No. 291, to amend an act entitled "An act for the discontinuance of the office of surveyor general in the several districts, as soon as the surveys therein shall be completed, for discontinuing the land office, under certain circumstances, and for other purposes," was taken from the Speaker's table.

The amendments of the Senate were then read by the Clerk.

Mr. BROWN. I move that the House concur in the Senate amendments.

The question was taken, and the motion was agreed to.

EXPENSES OF THE STEAM NAVY.

Mr. CARTTER. I ask the unanimous consent of the House to offer the following resolution of inquiry. If it should give rise to debate, I will not press it at this time. It is a mere resolution of inquiry, and I presume there will be no objection to its introduction. I ask that the resolution may be read for information.

It was read by the Clerk, as follows:

Resolved, That the Secretary of the Navy communicate to this House the information called for by the following interrogatories:

1. The number and names of steamers built for the Navy in each year since January, 1835; their power, tonnage, proportion of guns to the ton as actually armed, and the length of time between the commencement of each vessel and her sailing on her first cruise.

2. The actual cost of each vessel from the time of commencement till first commissioned for sea service; the number of times repaired or altered in the United States, and the cost of such repairs before proceeding to sea.

3. The number of times each steamer has undergone foreign repairs on foreign stations from accident, and the nature and cause of such accidents, as well as the cost of such repairs.

4. The actual cost of each steamer in the Navy, from the time of building until the year 1852, including repairs of whatever description; the actual service at sea performed by each vessel, as well as the aggregate cost of the entire steam navy, and the various experiments connected therewith until the close of the year 1852.

5. The names of the heads of bureaus, constructors, engineers, and other persons concerned in the construction or equipment of each and every steamer in the Navy.

6. The present condition of the steam navy, including readiness for immediate service, capacity for conveying fuel, accommodating crew, and ratio of guns to tonnage.

7. The number of steamers purchased for the Navy—their first cost—the amount expended to fit them for war vessels—their power, burden, proportion of actual armament and tonnage—entire cost of repairs of all kinds to the close of the year 1852—the service performed—their present condition and fitness for service, and the names of the agents who made the purchase for the Government.

No objection being made, the resolution was thereupon introduced, considered, and adopted.

HALF PAY OF WIDOWS AND ORPHANS.

Mr. PORTER. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 477, and put it upon its passage. It provides for the extension of the five years' half pay, of the widows and orphans of soldiers who died in the war with Mexico.

No objection being made, the bill was then taken up and read a first and second time by its title, as follows: "An act to continue half pay to certain widows and orphans."

Mr. PORTER. I hope there will be no objection to the consideration and passage of that bill at the present time. The principle of the bill has been settled affirmatively by the repeated action of this House, and my object, in calling it up now, is to prevent the necessity of partial legislation, which I consider has taken place in other cases, and which will continue to take place unless this bill is passed. The bill in reference to Mrs. Worth recognizes the principle of this bill, with an extension of that principle for life, instead of for a period of five years. That bill was passed for the reason that her husband died in consequence of wounds received, or in consequence of disease contracted while in service. This bill provides only for the widows and children of those who died in consequence of wounds received in the service of the United States.

The effect of the bill will be to put the widows and minor children of those who occupy that position—the widow during her widowhood, and after her death, the minor children during their minority, upon the same equal footing, and thereby prevent the necessity of partial legislation, which is always unequal, and consequently unjust.

It is for this reason that I ask the unanimous consent of the House to take up that bill now, and act upon it. I trust there will be no objection to its consideration.

Mr. HARRIS, of Tennessee. I desire to suggest to the gentleman from Missouri an amendment, which I think should be attached to this bill. It is intended to extend the half-pay pension allowed by the several acts of Congress heretofore passed. I wish to suggest to the gentleman from Missouri, and to the House, that previous to the passage of the act of 1848, (which is a more liberal act upon that subject than any other act in force,) the widows of soldier are not entitled to pensions unless the soldier had fallen in battle, or died of wounds received while in service, and before his return home.

The act of 1848 gives the widow a pension, in cases where the husband fell in battle, died of wounds received, or of *disease contracted* while in that service; and I think that if we pass a bill to extend half-pay pensions at all, it should apply to *all* half-pay pensions, and that it should place the widow of the soldier of the previous wars upon the same footing of the widow of the soldier of the Mexican war, which may be done by providing in this bill, that where the husband died of wounds received OR DISEASE CONTRACTED while in the service, and in the line of his duty, that his widow shall have the half-pay pension.

Mr. PORTER. I am glad to hear the suggestion of the honorable gentleman from Tennessee, but I am not prepared to say whether this bill ought to be modified or not. I have not examined the different acts upon the subject sufficiently to be able to say whether its provisions ought to be extended to other cases or not; but I am confident that so far as it does go, it is only just and right, and in accordance with the sentiments and opinions expressed formally by this House, when acting upon particular and special cases. And inasmuch as it is a Senate bill, which passed that body almost unanimously—at all events without division upon it—and as I know it accords with the sentiments and wishes of a large majority of the members of this House, I insist upon its being put upon its passage, without modification or amendment. Therefore I call for the previous question.

Mr. ORR. Will the gentleman from Missouri withdraw the demand for the previous question?

Mr. PORTER. I prefer not. I have every disposition to act courteously towards my friend, but I have the floor only by the courtesy of the House, and I do not wish to consume the time of the House by unnecessary discussion of this matter.

Mr. ORR. My object is not to discuss, but to arrive at a correct understanding of the bill. I desire to know, if the widow and children of officers, who have died of disease contracted in Mexico, are provided for in the bill? If they are not I think they ought to be.

Mr. PORTER. My impression is that they are.

Mr. SACKETT. I would inquire if it is in order to have the bill again read? It is not generally understood.

The SPEAKER. By the consent of the House the bill may be again read.

Mr. WILCOX. I object.

Mr. GOODENOW. I ask for tellers on seconding the demand for the previous question.

Mr. ORR. I hope the gentleman from Missouri will allow the amendment I have indicated to be put in the bill, before the question is taken. I am in favor of the passage of the bill, as I suppose three fourths of the members of the House are.

Tellers were then ordered; and Messrs. GAYLORD and HILLYER appointed.

The House was then divided, and the tellers reported—ayes 48, noes not counted.

So the previous question was not seconded.

Mr. SACKETT. I ask for the reading of the bill again.

Mr. ORR. I will say to the gentleman from New York that the simple reading of the bill will not give the gentleman the information he desires, for the bill refers to certain acts which have been passed, and before we can understand the bill, we must know what those acts contain.

Mr. SACKETT. Can the gentleman from South Carolina explain the bill and other acts to which it refers?

Mr. ORR. The bill provides that all the widows and orphans who were granted and allowed five years' half pay by the provisions of an act approved on the 21st day of July, 1848, entitled "An act to amend an act granting half pay to widows and orphans where their husbands or fathers have died of wounds received in the military service of the United States, in case of deceased officers and soldiers of the militia and volunteers, passed July 4th, 1836," or an act approved on the 22d day of February, 1849, entitled "An act granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regular and volunteers," be and they are hereby granted a continuance of said half pay under like limitations and restrictions, for the further period of five years, to commence at the expiration of the half pay provided for by the aforesaid acts, &c.

Now, the understanding of the gentleman from Tennessee, [Mr. HARRIS,] who is the chairman of the Committee on Invalid Pensions, is, that the widows and orphans of soldiers who have died of diseases contracted in the service are not provided for in the bill, and I only desire to move an amendment, having for its object to provide for them.

Mr. HARRIS. That is precisely the object I had in view, and I can make a statement which will make my position understood. Previous to the passage of the act of 1848 there was no act allowing a widow half-pay pension where her husband died of diseases contracted while in service. If he died of wounds received, if he fell in battle, or if he died previous to reaching home, she was entitled to a pension. But where he died after reaching home of diseases contracted while in the service, his widow was not entitled to a pension.

The act of 1849 gives to the widows of soldiers of the Mexican war, who died of diseases contracted in that war, half-pay pension, and I think if you extend that provision at all, it should be extended as well to the widows of soldiers of other wars as to those of the Mexican war. They are not provided for in this bill.

Mr. ORR. There was an act passed in 1849 which is referred to and quoted in this bill.

Mr. HARRIS. That has reference to the Mexican war alone, and has no reference to the soldiers of any other war. I have examined it critically, and know that such is the case.

Mr. SACKETT. I remember, that as a member of the Committee on Pensions in 1850, we offered a joint resolution, which was passed, giving a construction to the act of 1849, which applied to the Mexican war. The object of that resolution was to overrule a construction given to that act by the Department. I see that resolution is not referred to in this act, and my impression is, that in order to carry out the provision of the act

of 1849, that resolution of construction should be referred to in this bill.

Mr. HARRIS. I do not recollect specifically the resolution referred to. I have examined all these acts and resolutions, and know the fact that widows, whose husbands have died of disease contracted while in service, were not provided for until the act of 1848–'9 and the resolution to which the gentleman refers, and they are not yet provided for, except as we allow them pensions by special acts. There is no general act allowing the widows of soldiers who die of disease in any other than the Mexican war, a half-pay pension.

Mr. ORR. The gentleman from Alabama upon my left [Mr. COBB] has prepared a proviso which, I suppose, will embrace the class of persons who we suppose are not included in the present bill, and I will yield him the floor for the purpose of introducing it.

Mr. COBB. I desire to offer an amendment to the bill, to come in at the end of it, as I am satisfied that such an amendment is necessary.

The amendment was then read, as follows:

Provided further, That the provisions of this act be extended to the widows and orphans of the officers and soldiers of the war of 1812 and of the Florida war.

Mr. COBB. Mr. Speaker, a year ago I offered a similar amendment to a bill then pending to cover the widows and orphans of all of the officers and soldiers who served in the war of 1812 and the Florida war. Twenty-five members then arose in their places and told me that there were acts already in force to accomplish the object I had in view. I assured them there were not. I had a case referred to one of the Departments for investigation. It was investigated, and the result confirmed my statement. The letter I received from the Third Auditor of the Treasury Department was referred to the Committee on Invalid Pensions, and they have now ready to report to the House a bill amply providing for the individuals I have alluded to. It is obvious to all that they have but little chance to report during the present Congress; and unless my amendment is now adopted, the meritorious class of officers and soldiers to whom we all desire to do justice would go unprovided for. A large majority of members believe that they are provided for now; but I repeat that they are not. The Department, after investigation, says that they are not. If it is desired by any member, I will send to the Clerk's desk, to be read, the letter of the Third Auditor of the Treasury.

Mr. STEPHENS, of Georgia. Who do you wish to provide for?

Mr. COBB. The widows and orphans of the officers and soldiers who served in the war of 1812 and the Florida war.

Mr. STEPHENS. Why not make the provisions of the bill general?

Mr. COBB. My amendment does make the bill general.

Mr. STANTON, of Tennessee. I desire to inquire of the Chair whether the bill I hold in my hand will be in order as an amendment to the one under consideration. I have had this bill in my possession for many months past in order to report it to the House. It is for the relief of the widows and relatives of certain officers and seamen of the United States brig Washington, lost overboard in a hurricane. I presume, according to the rules of the House, that it would not be admissible as an amendment to this bill. I hope that the House will allow me to report it some time or other. It ought to pass.

Mr. ORR. The amendment which the gentleman has offered embraces the entire class of persons which, we suppose, are omitted to be provided for by this bill. It is as perfect now as we can expect to get it, and being in favor of its passage, I now call for the previous question.

Mr. COBB. I ask that a letter from the Commissioner of Pensions, confirming the statement I have made, be read.

Mr. JOHNSON, of Arkansas. I object.

Mr. HENN. As the bill now reads, its provisions would not extend towards those who died prior to its passage. The proviso reads:

"*Provided, however*, In case of the death or marriage of said widow before the expiration of the said term of five years."

That is the five years to come. I propose to insert the words "heretofore or," so that it will read:

Provided, however, That in case of the death or marriage of the said widow, heretofore or before the expiration of said term of five years.

Mr. ORR. I suspect that will be a material change of the principle upon which the bill is framed, and I should not like to venture it.

Mr. HENN. Not at all.

Mr. ORR. I should like to accommodate the gentleman, but I cannot withdraw the call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

The question was then taken on the amendment of Mr. COBB, and it was agreed to.

The bill was then ordered to be read a third time.

Mr. JONES, of Tennessee. I move that the vote by which the bill was ordered to be read a third time be reconsidered. I desire only to say a word upon the bill. My impression is that the provisions of this bill will extend five years' half pay to the widows and orphans of the officers and soldiers who served in the late war with Great Britain, the Florida war, and the other Indian wars, as well as the late war with Mexico. The distinguishing feature between the law granting half-pay pensions to the widows and orphans of those who were engaged in the military service of the country prior to the Mexican war, and the bill under consideration is this: The widows and orphans of those who were engaged in the wars prior to the late war with Mexico were entitled to a pension if the husband fell in battle, died after their discharge of wounds received in battle, or died of disease contracted in the service before they reached home.

Now, sir, no matter what the disease was, if it were contracted in the service, and he reached home one hour before his death, his widow could not, and cannot at this time, get the half-pay pension for five years. Under the law granting half-pay pensions to the widows and orphans of those who were engaged in the war with Mexico, they are entitled to half pay for five years, if the officers or soldiers fell in battle, died in the military service while in the line of their duty, or if they died of wounds received, or disease contracted, in that war after they reached home. If they die of disease now which they contracted in Mexico, their widows will be entitled to five years' half pay; but if an officer or soldier died of disease contracted in the swamps of Florida whilst in the service of the country, his widow and children would not be entitled to it. General Armistead, for the relief of whose widow an act passed this morning, died of disease contracted while in the service during the war with the Seminoles. He did not die until some time after he reached home, and consequently his widow could not be pensioned under the general laws of the land. Now, sir, the widow and orphans of every officer and soldier who died of disease contracted in any of the wars prior to that with Mexico after reaching home, are not entitled to any pension. I think it is doubtful whether this bill will extend it towards them or not. It extends the act of 1848, which gave pensions to the widows of those who served in the Mexican war. It also extends the act of 1836, which was an extension of the act of 1818, and neither of these acts gave half-pay pension, unless they died before reaching home

Mr. PORTER. It extends the act of 1849 also.

Mr. JONES. I do not think any gave a pension, unless they died before reaching home, except the act of 1848.

Mr. COBB. They do not. The matter has been investigated by the Departments.

Mr. JONES. And that act alone embraced those who had served in the Mexican war. This bill does not enlarge the other acts. It merely puts those who were engaged in the wars prior to that with Mexico upon the same footing as those who were engaged in that war.

Mr. CABLE, of Ohio. I move that the motion to reconsider be laid upon the table.

The question was taken, and the motion to lay upon the table was agreed to.

The bill was read a third time.

Mr. ORR. I call for the previous question on the passage of the bill.

The call for the previous question was seconded, and the main question ordered to be put.

The bill was then passed.

Mr. ORR. I move that the vote by which the bill was passed be reconsidered, and that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. JOHNSON, of Arkansas. I ask the unanimous consent of the House for leave to submit a report from the Committee on Indian Affairs on the memorial of the chiefs of the Muscogee and Creek Indians.

There was no objection, and the report was made, laid upon the table, and ordered to be printed.

OGLETHORPE BARRACKS.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House for leave to the Committee on Military Affairs to report a joint resolution passed by the Senate last session in relation to the transfer of the Oglethorpe barracks.

There was no objection, and

Mr. GORMAN, from the Committee on Military Affairs, reported back Senate resolution to surrender the site of the old Oglethorpe barracks to the City Council of Savannah, Georgia.

The resolution was read a first and second time by its title.

Mr. STEPHENS. I call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

The resolution was ordered to be read a third time; and being read a third time, it was passed.

Mr. STEPHENS, of Georgia. I move to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NATIONAL DEFENSES.

Mr. MARSHALL. I desire to offer a resolution. I wish it, however, to be understood by the House, to obviate any objection which may otherwise be made to it, that I desire to offer it, have it read at the Clerk's desk, and referred to the Committee on Foreign Affairs, in order that gentlemen may have, hereafter, a chance to participate in the debate to which it will give rise:

Resolved, That a sum of $10,000,000 be set apart, out of any funds in the Treasury not otherwise appropriated, and be placed at the disposal of the President, for the purpose of enabling him, during the recess of Congress, to meet such exigencies as may arise out of those momentous subjects connected with the present state of the foreign relations of this country with the other Powers of the earth, so liable, on account of their character and complexity, to present themselves from hour to hour for practical and immediate consideration.

Mr. JOHN W. HOWE. I object.

Mr. MARSHALL. I move, then, to suspend the rules. I would like to be distinctly understood. I should be glad that another rule be suspended, which generally prevails, so that the House could act intelligently in regard to the question which I desire to bring before it. I wish it to be distinctly understood that I do not intend to put this resolution upon its passage now, but to move simply that it be referred to the Committee on Foreign Affairs, and that that committee may have the privilege to report at any time they think proper. This course is consistent, I believe, with the practice and the rules of the House.

Mr. BAYLY. I hope there will be no objection.

Mr. STEPHENS, of Georgia. I would make an inquiry of the Chair. The gentleman from New York [Mr. DEAN] asked, this morning, to introduce a bill for the purpose of reference, and it was afterwards acted upon. If this is introduced, would it not be competent for the House to pass it?

The SPEAKER. Certainly. The Chair trusts that the House will indulge the gentleman in brief explanations. Debate is not in order, as gentlemen are aware.

Mr. POLK. He merely wishes its introduction for the purpose of reference.

Mr. MARSHALL. I gave gentlemen the assurance that I intended not to say one word upon the subject now, but to move that the resolution be referred to the Committee on Foreign Affairs. My word should be sufficient.

Mr. STEPHENS. I have full reliance upon the gentleman's word. Some gentlemen might, however, place the resolution beyond the gentleman's control, and force the House to action upon it.

The SPEAKER. Debate is not in order.

Mr. STEPHENS. Every person who is op-

posed to this resolution will vote against its introduction.

Mr. BAYLY, of Virginia. I know debate is not in order, but as others have been indulged, allow me to say one word by way of explanation.

The SPEAKER. Is it the pleasure of the House that the gentleman proceed?

Several MEMBERS objected.

Mr. MASON. I wish to ask the gentleman from California if he will accept an amendment, and make the sum twenty millions instead of ten.

Mr. MARSHALL. From any other gentleman than the chairman of the Committee on Accounts, I would accept it. [Laughter.]

Mr. MASON. I will inform the gentleman that I intend to vote for his proposition, whether it be ten or twenty millions. Is the gentleman willing to accept the amendment?

Mr. MARSHALL. I object to the amendment.

Mr. STEPHENS, of Georgia, demanded the yeas and nays upon the suspension of the rules; which were ordered.

Mr. BROOKS. I rise to ask, what we are voting upon—ten or twenty millions.

The SPEAKER. Upon ten.

Mr. MARSHALL. I object to the amendment, of course.

The question was then taken, and there were—yeas 26, nays 150; as follows:

YEAS—Messrs. Ashe, Beale, Albert G. Brown, Burt, Cartter, Dean, Doty, Florence, Gaylord, Gorman, Green, Howard, Marshall, Mason, McCorkle, Orr, Polk, Riddle, Ross, Russell, Savage, Scurry, Frederick P. Stanton, Richard H. Stanton, St. Martin, and Sweetser—26.

NAYS—Messrs. Abercrombie, Aiken, Charles Allen, Willis Allen, Allison, John Appleton, William Appleton, Thomas H. Bayly, Bartlett, Bell, Bennett, Bibighaus, Bocock, Bowie, Brenton, Briggs, Brooks, George H. Brown, Burrows, Busby, Joseph Cable, Caldwell, Lewis D. Campbell, Thompson Campbell, Chandler, Chapman, Chastain, Clark, Cobb, Colcock, Conger, Cullom, Darby, John G. Davis, Dawson, Dimmick, Disney, Duncan, Dunham, Durkee, Eastman, Edmundson, Evans, Ewing, Faulkner, Fay, Ficklin, Freeman, Thomas J. D. Fuller, Gamble, Giddings, Gilmore, Goodenow, Grey, Grow, Hall, Hammond, Harper, Sampson W. Harris, Haws, Hascall, Haven, Hendricks, Hillyer, Horsford, Houston, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kuhns, Kurtz, Landry, Letcher, Little, Mace, Martin, McLanahan, McNair, Meacham, Meade, Miller, Millson, Miner, Molony, Henry D. Moore, John Moore, Morehead, Murphy, Murray, Nabers, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Penniman, Phelps, Porter, Preston, Price, Reed, Richardson, Robbins, Robie, Sabine, Sackett, Schermerhorn, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Skelton, Smith, Snow, Stanly, Benjamin Stanton, Alexander H. Stephens, Stone, Stratton, Strother, Sutherland, Taylor, Thurston, Toombs, Townshend, Tuck, Venable, Walbridge, Wallace, Walsh, Washburn, Watkins, Welch, Wells, Addison White, Wilcox, Williams, Woodward, and Yates—150.

So the rules were not suspended.

Mr. AVERETT, who was without the bar when his name was called, desired to record his vote in the negative, but it was objected to.

SEEKONK RIVER.

Mr. KING, of Rhode Island. I ask the unanimous consent of the House to take up joint resolution from the Senate to correct an error in the appropriation bill of last year which is thereby rendered inoperative. I presume there will be no objection. It is a resolution, No. 68, explanatory of the appropriation for the improvement of the mouth of the Seekonk river, and the harbor of Providence, Rhode Island. The effect of this bill is simply to authorize the removal of other obstructions at a point where a rock was supposed to be. It does not increase the appropriation at all.

The joint resolution was then taken up, read the first and second time by its title, and ordered to a third reading. It was then read a third time, according to order, and passed.

Mr. KING moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

HARBOR OF CAPE VINCENT.

Mr. IVES. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Secretary of War be requested to communicate to this House what survey, plan, estimate, if any have been made, in reference to the harbor of Cape Vincent, in New York, under the direction of the War Department.

The question was then taken, and it was decided in the affirmative.

The resolution was then agreed to.

CAPE FEAR RIVER.

Mr. ASHE. I hold in my hand resolutions passed by the Legislature of North Carolina, which I desire to have read and printed. They ask an appropriation for deepening the channel at the mouth of Cape Fear river, with the request that the same be laid before Congress.

The resolutions were then read by the Clerk.

Mr. ASHE. I move that they be laid upon the table and printed.

The motion was agreed to.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. FULLER, of Maine, asked the unanimous consent of the House to offer the following resolution:

Resolved, That after this day, as soon as the Journal shall have been read, the Speaker shall proceed to dispose of the business upon his table; and when said business shall have been disposed of, one hour of each succeeding day next succeeding the morning hour, and for so long a time as necessary, shall be devoted exclusively to the disposition of the business on the Speaker's table during the remainder of the session.

Mr. HOUSTON. I object.

Mr. FULLER. I move a suspension of the rules for the purpose.

Mr. HALL. I should like the gentleman to inform us as to the object of the resolution.

Mr. FULLER. It is to get at the business upon the Speaker's table.

Mr. HALL. I would ask if it is not to get at the French spoliation bill?

Mr. JONES, of Tennessee. If that resolution is adopted, the appropriation bills cannot be passed this session.

The question was then taken on the motion to suspend the rules, and there were—ayes 73, noes not counted.

Tellers were demanded and ordered, and Messrs. COBB and POLK were appointed.

The question was then taken, and the tellers reported—ayes 67, noes 65.

So (two thirds not voting in the affirmative) the rules were not suspended.

SUPPRESSION OF SMALL NOTES.

Mr. HOUSTON. I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 341, "to suppress the circulation of small notes as a currency in the District of Columbia," and that it be reported to the House with the amendments that have been adopted in committee.

Mr. STUART. I desire to know whether the gentleman from Alabama wishes to bring the bill into the House and act upon it now?

Mr. HOUSTON. Certainly; I propose to bring it into the House for action.

Mr. STUART. Does the gentleman propose that it shall be taken up now?

Mr. HOUSTON. I make no proposition on the subject. I am quite willing that it shall go over until to-morrow.

Mr. SACKETT. The bill has not yet been read through, and there are several amendments to be offered to it. Is it in order to take the bill out of the Committee of the Whole on the state of the Union before all the amendments have been disposed of?

The SPEAKER. The Chair supposes that the bill will come into the House with all the amendments that have been adopted by the committee.

Mr. HOUSTON. Or that may be pending.

Mr. SACKETT. The bill has not been read through in committee, and I desire to offer an amendment to it.

Mr. HOUSTON. You can do it in the House, when we get the bill here.

Mr. STEPHENS, of Georgia. If the bill comes back into the House, on the motion of the gentleman from Alabama, it will go upon the calendar, just where it was before we referred it to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Oh, no. It is the special order.

Mr. STEPHENS. The special order does not reach the action of the House.

Mr. JONES, of Tennessee. I suppose that when it is reported to the House, it will still continue to be the special order until disposed of.

The SPEAKER. Yes, from day to day until disposed of.

Mr. JONES. It is important that we should begin to economize time, and if this bill is left in the Committee of the Whole on the state of the Union, it will probably consume the whole of this week.

The SPEAKER. In order that there may be no misunderstanding as to the effect of the vote of the House, the Chair will state that he is inclined to the opinion that if the simple proposition of the gentleman from Alabama was agreed to, the bill would be reported to the House without any amendments.

Mr. HOUSTON. I moved expressly that it be reported back with the amendments.

The SPEAKER. The Chair begs pardon of the gentlemen; he did not so understand it.

Mr. TAYLOR. I ask for the yeas and nays upon the motion of the gentleman from Alabama.

The yeas and nays were not ordered.

The question was then taken upon Mr. HOUSTON's motion, and it was agreed to. The bill was accordingly reported back to the House with the amendments adopted in committee.

Mr. JONES, of Tennessee. I now move to postpone the consideration of the special order until to-morrow.

Mr. TAYLOR. I would inquire of the Speaker if it is in order for me now to move a reconsideration of the vote by which the bill was brought into the House?

The SPEAKER. It would be a singular practice, to say the least of it.

Mr. JONES, of Tennessee. Besides the gentleman did not vote in the affirmative.

The SPEAKER. It would be competent for the gentleman to move to recommit the bill to the Committee of the Whole on the state of the Union. That would be tantamount to a reconsideration of the vote on the motion of the gentleman from Alabama.

Mr. TAYLOR. I wish merely to ask the Chair, for my own information, because I think this bill is forced upon us rather abruptly, whether there will be any opportunity to offer amendments in the House?

The SPEAKER. The same rules govern in the House as in committee, and amendments will be in order, unless cut off by the previous question, or by some other motion having that effect.

The question was then taken on Mr. JONES's motion; and it was agreed to.

The consideration of the special order was accordingly postponed until to-morrow.

CLARK MILLS—STATUE OF JACKSON.

Mr. POLK. I ask the unanimous consent of the House to offer the following joint resolution:

Resolved by the Senate and House of Representatives, That the Secretary of the Treasury be directed to pay to Clark Mills, out of any money in the Treasury not otherwise appropriated, —— dollars, as a compensation for the equestrian statue of Andrew Jackson, recently erected in Lafayette Square, in the city of Washington.

Mr. JOHN W. HOWE. I object.

Mr. POLK. Then I move to suspend the rules to enable me to introduce the resolution.

Mr. JOHN W. HOWE. I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. POLK. I ask for tellers.

Tellers were ordered; and Messrs. POLK, and PARKER of Indiana, were appointed.

The question was then put, and the tellers reported 60 in the affirmative.

A further count not being insisted on, the motion to suspend the rules was disagreed to.

Mr. POLK. I modify the resolution by filling the blank with $15,000, and I now ask the unanimous consent of the House to introduce it.

Mr. GOODENOW. I object.

Mr. POLK. I only wish to have the resolution referred, that it may be in the possession of the House. I do not ask for a vote upon it at this time. But gentlemen must understand that if they insist in objecting, we must "fight the devil with fire," and object to all their bills. I move to suspend the rules, and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BELL. I wish to inquire whether the blank in the resolution has been filled?

The SPEAKER. It has been filled with "$15,000."

Mr. POLK. The resolution will be in the possession of the House, and the amount can be increased or diminished as gentlemen may desire.

The question was then taken, and there were—yeas 96, nays 65; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, John Appleton, Ashe, Babcock, Thomas H. Bayly, Bartlett, Bell, Bennett, Bibighaus, Bocock, Breckinridge, Brenton, Briggs, Busby, Lewis D. Campbell, Cartter, Chandler, Chapman, Chastain, Clark, Clingman, Conger, Cullom, Curtis, Darby, George T. Davis, Dean, Disney, Durkee, Eastman, Faulkner, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Gilmore, Gorman, Green, Grey, Grow, Hascall, Henn, Hibbard, Thomas Y. How, Ingersoll, James Johnson, John Johnson, Kurtz, Landry, Little, Lockhart, Mace, McLanahan, McNair, Millson, Molony, Henry D. Moore, John Moore, Murray, Nabers, Olds, Orr, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Polk, Price, Richardson, Riddle, Robbins, Robie, Russell, Savage, Schermerhorn, Schoolcraft, David L. Seymour, Origen S. Seymour, Skelton, Frederick P. Stanton, St. Martin, Stratton, Strother, Stuart, Sutherland, Sweetser, Thurston, Townshend, Venable, Walbridge, Walsh, Wells, Wilcox, Williams, and Yates—96.

NAYS—Messrs. Aiken, Charles Allen, Allison, William Appleton, Averett, Beale, Bowie, Bragg, Brooks, Burrows, Caldwell, Cobb, John G. Davis, Doty, Duncan, Dunham, Evans, Fay, Gamble, Giddings, Goodenow, Hall, Hammond, Isham G. Harris, Sampson W. Harris, Haws, Hendricks, Horsford, Houston, Howard, John W. Howe, Ives, Andrew Johnson, Daniel T. Jones, George W. Jones, Preston King, Kuhns, Letcher, Martin, McMullin, Meacham, Miller, Morehead, Murphy, Newton, Outlaw, Penniman, Preston, Reed, Ross, Sackett, Scudder, Scurry, Smith, Stanly, Benjamin Stanton, Alexander H. Stephens, Taylor, Toombs, Tuck, Wallace, Washburn, Watkins, Welch, and Woodward—65.

So (two thirds not voting in the affirmative) the rules were not suspended.

COLONEL JAMES R. CREECY.

Mr. SAVAGE. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Committee of the Whole House be discharged from the further consideration of Senate bill No. 276, entitled "A bill for the relief of Colonel James R. Creecy."

Mr. GOODENOW. I object.

Mr. SAVAGE. I move to suspend the rules for that purpose.

Mr. STUART. Let us understand what the bill is.

Mr. SAVAGE. It is a bill for the relief of Colonel Creecy, who was authorized by General Gaines to raise a regiment of soldiers in the late war with Mexico, and who was discharged by an order of the War Department——

Mr. GOODENOW. I rise to a question of order Is debate in order?

The SPEAKER. Debate is not in order.

Mr. SAVAGE. I ask permission of the House to make a brief statement of the facts of this case.

Several MEMBERS. "Object."

Mr. STUART. Read the bill.

The Clerk read the bill. It provides that the sum of $552 50 be paid out of the Treasury to Colonel James R. Creecy, in consideration of money expended and services rendered by him in raising a regiment for the Mexican war.

Mr. SAVAGE. I hope gentlemen will hear a short statement, and then I think the bill will be passed without difficulty.

Mr. GOODENOW. I would not object but for the fact that there is a multitude of equally meritorious bills upon the Speaker's table, some of which I have been vainly trying to get up. I therefore feel bound to object.

The question was then taken on Mr. SAVAGE's motion to suspend the rules, and it was not agreed to.

BOUNTY LANDS.

Mr. BELL. I ask leave to introduce a bill making further provisions for granting bounty lands to those who have been engaged in wars in the service of the United States.

If it is objected to I will ask a suspension of the rules. I desire to introduce it simply for reference.

Mr. DUNCAN. I object.

Mr. BELL. Is it in order to move to have the bill read?

The SPEAKER. That can only be done by unanimous consent.

Mr. JOHN W. HOWE. I object to the reading.

Mr. JONES, of Tennessee. I move that this House do now adjourn.

Mr. HOUSTON. I appeal to the gentleman from Tennessee to withdraw that motion for a moment, in order to allow the Chair to present some estimates which I understand have come in this morning, and have them referred.

Mr. JONES. I withdraw the motion.

Mr. EWING. I rise to a question of order. I want to know how the gentleman from Tennessee came by the floor when it was occupied by another gentleman? A dozen of us here have been screaming at the top of our voices, and have not been able to obtain the ear of the Speaker to-day.

The SPEAKER. The gentleman from Kentucky has only mistaken the rules of the House upon that subject. The gentleman from Ohio [Mr. BELL] could not retain the floor.

Mr. EWING. I merely desired to know how the gentleman from Tennessee obtained the floor.

The SPEAKER. The gentleman from Ohio moved to suspend the rules for a certain purpose, but that not being a debatable question, he could not retain the floor. The gentleman from Tennessee [Mr. JONES] then moved to adjourn; which motion is in order at any time, and which motion he had a right to make. Is it the unanimous opinion of this body that the communications upon the Speaker's table be taken up and disposed of?

Several MEMBERS objected.

Mr. HARRIS, of Tennessee. I desire to know what became of the motion of my colleague to adjourn?

The SPEAKER. It was withdrawn. The question now is upon suspending the rules.

Mr. HOUSTON. Is the question upon suspending the rules for the purpose of taking up the communications upon the Speaker's table?

The SPEAKER. It is to suspend the rules for the purpose of introducing a certain bill.

Mr. FULLER, of Maine. I renew the motion to adjourn.

The question was put, and the motion was agreed to; and the House thereupon adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions, memorial, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DAVIS, of Massachusetts: The petition of Bancroft Fowler and 43 other citizens of Stockbridge, Massachusetts, for measures for the establishment of a system of umpirage in disputes between nations.

By Mr. FLORENCE: The petition of Thomas B. Tilden, of Philadelphia, submitting Mitchell's Universal Atlas, recently published (edition of 1853) by Thomas Cowperthwaite & Co., and soliciting Congress to order such a number of copies as they may deem proper.

By Mr. BOYD, of Kentucky: The memorial of William H. Chase, major of engineers, praying that the office of lieutenant general may not be created; that no increase in any branch of the military establishment be authorized; and that a board be organized to insure greater efficiency in the Army.

By Mr. BROWN, of Mississippi: The petition of D. W. Johnson and 610 others, citizens of Mississippi, praying for the removal of the land office from Augusta to Shieldsboro', in that State.

By Mr. ABERCROMBIE: Two petitions of Moses W. Collins and others, citizens of Pike, Coffee, Barbour, Dale, and Henry counties, State of Alabama, asking Congress to remove the land office from its present site—the town of Sparta—to the town of Elba, the county seat of Coffee.

By Mr. FAULKNER: The petition of Michael E. Price and 315 others, citizens of the county of Jefferson, State of Virginia, complaining of the reduction of the appropriation for the manufacture of arms at the National Armories, and praying that the appropriation may be increased to its usual amount.

Also, the petition of John Snider and John Avis, and 104 others, citizens of the county of Jefferson, State of Virginia, for the same purpose.

Also, the petition of Charles Johnson and 13 others, citizens of Jefferson county, Virginia, for the same purpose.

Also, the petition of James W. Simpson and 12 others, citizens of Jefferson county, Virginia, for the same purpose.

Also, the petition of George B. Stephenson, John Avis, and 14 others, citizens of Jefferson county, Virginia, for the same purpose.

Also, the petition of the clerks employed in the National Armory at Harper's Ferry, praying an increase in their compensation.

By Mr. SWEETSER: The petition of Jacob Little and 52 others, citizens of Granville, Licking county, Ohio, in favor of determining national controversies without recourse to war.

By Mr. BOCOCK: The petition of John D. Hitt, asking Congress to take measures to test his invention for preventing the explosion of steam-boilers.

By Mr. WASHBURN: The petition of John Pierce and others, children of the late Luther Pierce, of Solon, Maine, for remuneration for the services and expenses of their father in the late war with Great Britain, and for a pension to Martha Pierce, widow of said Luther.

IN SENATE.

TUESDAY, *January* 18, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a memorial of the American Philosophical Society, at Philadelphia, signed by the President, Vice President, and Secretaries of the society, praying that an appropriation may be made for the support of a scientific corps in connection with an expedition which it is proposed to equip for renewing the search after Sir John Franklin, in the Arctic seas; which was referred to the Committee on Naval Affairs.

Mr. JONES, of Tennessee, presented the petition of Sarah Bruster and Wrena Howard, of Tennessee, praying that the bounty land act of March, 1852, may be extended to the widows and minor heirs of soldiers embraced in that act; which was referred to the Committee on Pensions.

Mr. COOPER presented the memorial of Nancy D. Holker, of Virginia, by her agent, Holker Hughes, praying Congress to repay a sum of money loaned by her husband, John Holker, to Congress, during the revolutionary war, in Continental money, at such rate as was then allowed for the said currency in gold or silver; which was referred to the Committee on Claims.

Mr. UNDERWOOD. I have been requested to present the petition of Robert Perry. He states in his petition, that he had a claim against the Government, and has been some twenty or thirty years trying to get it settled. He got his money recently from the Department, and he thinks the Government ought to allow him interest upon his claim, as it would not pay him sooner, and he had been trying to get it for a long time. I move that the memorial be referred to the Committee on Claims.

It was so referred.

Mr. FOOT. I hold in my hand a petition numerously signed by citizens of the town of Castleton, in Vermont, deploring the evils of war, and suggesting the propriety of settling disputes between nations by arbitration. They petition Congress to take such action as they shall deem best to secure in our treaties with other nations, a provision for referring to the decision of umpires, all misunderstandings which cannot be satisfactorily adjusted by amicable negotiation. I ask that the petition be referred to the Committee on Foreign Affairs.

It was so referred.

Mr. RUSK submitted an additional document in relation to the claim of James Myer; which was referred to the Committee on Claims.

Mr. HAMLIN presented three petitions of citizens of Maine, praying the establishment of a mail route from Brooks to Bangor, in that State; which were referred to the Committee on the Post Office and Post Roads.

Mr. DODGE, of Iowa, presented a memorial of the Legislature of Iowa, asking for a grant of land to aid in constructing a railroad from Dubuque, on the Mississippi river, to a point on the Missouri river, at or near Kanesville, in the county of Pottawatomie, by the way of Fort Des Moines. The memorialists represent that justice to the interests and enterprise of the increasing population of the State of Iowa demands a liberal and fostering policy in the exercise of the proprietary rights of the General Government, and they therefore pray that an appropriation of land, in alternate sections equal to six sections per mile, be granted for the above purpose; which was referred to the Committee on Public Lands.

Also, a joint resolution of the Legislature of Iowa, in favor of a grant of land to aid in the construction of a railroad from Burlington and Keokuck, to some convenient point of junction northeast of the Des Moines river; thence to a point on the Missouri river, at or near the mouth of the Platte river; which was referred to the Committee on Public Lands.

Also, a joint resolution of the Legislature of Iowa, in favor of a grant of land to aid in the construction of a railroad from McGregor's Landing to a point on the Missouri river, at or near the mouth of the Big Sioux river; which was referred to the Committee on Public Lands.

Also, a joint resolution of the Legislature of Iowa, in favor of a donation of Fort Atkinson, and the lands attached thereto, for a State Normal Manual Labor and Military Institute; which was referred to the Committee on Public Lands.

Also, the petition of Edward Johnstone, judge of Lee county, Iowa, praying that certain money expended by the county for the benefit of the United States may be refunded, and that the county may be allowed an equivalent for the quarter section of land to which it was entitled by law

for a seat of justice; which was referred to the Committee on the Judiciary.

Mr. BRODHEAD presented the memorial of George J. Shoemaker and others, citizens of Harrisburg, Pennsylvania, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. GEYER presented a memorial of the Legislature of Missouri, in favor of a grant of land to aid in the construction of the Canton and Bloomfield railroad; which was referred to the Committee on Public Lands.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to which were referred the following bills, reported them back without amendment:

An act for the relief of Josiah P. Pilcher, late a private in Company F, Kentucky regiment of volunteers, in the war with Mexico.

A bill granting and reconveying the arsenal, in the town of New Castle, in the State of Delaware, to the trustees of said town, and their successors.

An act for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky.

He also, from the same committee, to which was referred the bill supplementary to an act entitled "An act granting bounty lands to certain officers and soldiers engaged in the military service of the United States," approved September 28, 1850, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to which was referred the petition of armorers and artisans employed in the Armory at Harper's Ferry, reported thereon, and the petition was ordered to lie on the table.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the petition of Nicholas M. Iardella, praying compensation for services performed in the Treasury Department, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which was referred the petition of A. W. Denham, praying extra compensation as superintendent of laborers, during the erection of the General Post Office, submitted an adverse report thereon; which was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the memorial of Samuel Mickum, reported a bill for his relief; which was read, and passed to the second reading.

He also, from the same committee, to which were referred the bills from the House of Representatives for the relief of Jacob J. Storer, and for the relief of Harlow Spalding, reported back the same, without amendment.

Mr. BORLAND, from the Committee on Printing, to which was referred the motion of Mr. RUSK, to print additional copies of the report of the Secretary of State communicated to the Senate the 12th instant, reported thereon.

The Senate proceeded to consider the report, and, in concurrence therewith, it was

Ordered, That there be printed, for the use of the Senate, two thousand additional copies of the report of the Secretary of State in relation to encroachments of Indians of the United States on the territories of the Republic of Mexico, communicated 13th January.

POST OFFICE COMMITTEE.

Mr. RUSK. By the death of our lamented friend, Mr. UPHAM, late a Senator from Vermont, a vacancy has occurred in the Committee on the Post Office and Post Roads. I move that the President of the Senate be authorized to fill that vacancy.

The motion was agreed to, and Mr. FOOT was appointed.

MENOMONEE INDIANS.

Mr. SEBASTIAN, from the Committee on Indian Affairs, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior communicate to the Senate all the information on file in his Department in relation to the subject-matter contained in the Senate resolution of the 10th of January instant.

That resolution refers to the claims of the Menomonee Indians.

ESPY'S VENTILATOR.

Mr. MANGUM. I offer the following resolution, and, as it is one of inquiry, I ask that it may now be considered:

Resolved, That the Committee on Naval Affairs inquire into the expediency of directing the Secretary of the Navy to purchase from James P. Espy his patent right for the conical ventilator; and also inquire into its value, and fix the amount which they deem reasonable and proper for the purchase of the same, if, in their opinion, it is expedient to purchase it.

The PRESIDENT. It requires unanimous consent to consider the resolution at this time.

Mr. BRIGHT. Let it lie over.

EQUESTRIAN STATUE OF WASHINGTON.

Mr. SHIELDS. The Committee on the District of Columbia, to which was referred the bill from the House of Representatives, entitled "An act to erect at the capital of the nation an equestrian statue of Washington," has directed me to report it back and recommend its passage, and to ask for its consideration at this time. I trust there will be no opposition to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to appropriate $50,000, to enable the President of the United States to employ Clark Mills to erect, in the city of Washington, a colossal equestrian statue of George Washington, at such place on the public grounds as may be designated by the President.

Mr. SHIELDS. This bill has passed the House of Representatives by a unanimous vote, as I understand, and I take it for granted there will be no objection to it in this body. Seventy years ago, I understand from the honorable Senator from Michigan, [Mr. CASS,] a resolution was passed by Congress, unanimously, for the purpose of having a statue of Washington, but it has never been executed. This bill is to carry out that object. I trust there will be no opposition to it.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

CLARK MILLS.

Mr. BADGER, by unanimous consent, asked and obtained leave to introduce a joint resolution for the relief of Clark Mills; which was read twice and referred to the Committee on Public Buildings. It is as follows:

Whereas Clark Mills, the architect who executed the equestrian statue of General Andrew Jackson, has, in the prosecution of that great work, inevitably become involved in debt to a large amount; and whereas the said statue has been dedicated to the public, and permanently placed upon a public square in the city of Washington, where it will remain a perpetual honor to American genius and art:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there be paid to Clark Mills, out of any money in the Treasury not otherwise appropriated, the sum of $20,000.

BAIL ON MESNE PROCESS.

Mr. BADGER, by unanimous consent, asked and obtained leave to introduce "a bill concerning bail in civil causes in the District of Columbia;" which was read a first time, and ordered to a second reading.

By unanimous consent it was read a second time. It proposes to enact, that from and after its passage, no person shall be held to bail in the District of Columbia, in any action of debt, assumpsit, or other action founded on, or arising out of any contract or agreement, or in any suit or proceeding in equity brought for enforcing the payment of any debt, or any sums of money due, or claimed to be due, arising out of any contract or agreement; and that any person who is now imprisoned for want of such bail, shall, on application to the circuit court of the District of Columbia during term time, or to any judge thereof in its vacation, be discharged, on filing a common appearance.

Mr. BADGER. I would ask the Senate to put this bill on its passage now, but my friend from Illinois [Mr. SHIELDS] suggests that it should be referred. It is a bill simply to abolish all right to demand bail on mesne process in actions of debt. I will move its reference to the Committee on the Judiciary.

The PRESIDENT. It will be so referred, unless objected to.

Mr. UNDERWOOD. I will second that motion; but I rise for the purpose of making a suggestion. I have received a letter from a gentleman, a person with whom I am not acquainted, who is now in jail here. He represents himself to be an inhabitant of North Carolina, and he has been arrested here for contracts probably not made here. Now I want to state, that it has been the practice for a long time to sue in the District of Columbia citizens of the different States having business with the Government here, and to obtain judgment against them in this District, when there is not one particle of property here out of which one tithe of that judgment could be satisfied; and the only effect of obtaining the judgment here is to lay a foundation, upon which to take a copy of the record, under that provision of the Constitution of the United States which makes the records of any one State or Territory evidence in another, and go to the State where the party lives and has property, and where an execution could be levied upon it, and another suit instituted and judgment obtained against him. I desire to make this suggestion to the committee which will have this matter under consideration. Can they not introduce an amendment, and will it not be policy to amend this bill in such a way as to preclude the bringing of suits in this District against persons having business at the seat of Government, upon contracts which they make in the States? If you can exclude from the District this litigation, which can never be satisfied by executions here, you will prevent an immense amount of harassment to citizens who visit the District for no other purpose than to transact business with the Government. And, sir, you will do another thing; you will leave the contracts of the citizens to be tested by the system of laws in the State where they were made; and the *lex loci* enters into the consideration of the contract in nine cases out of ten. You will administer justice, according to that system, where the contract was made. I hope the committee will take these evils into consideration, and see whether they cannot tear them up by the roots, and prohibit the institution of suits here upon contracts made in other States, when contractors only visit the seat of Government to transact business with the Government.

Mr. BUTLER. Mr. President——

The PRESIDENT. The Chair would suggest, that as the bill has been referred to the Committee on the Judiciary, this discussion is out of order.

Mr. BUTLER. I thought that the question pending, was on the motion to refer.

The PRESIDENT. The bill has been referred.

Mr. BUTLER. It is not my custom to speak out of order, but I think some remarks ought to be made to mingle with those that have already been made; for I do not think the state of the law was fairly put by the Senator from Kentucky.

COLONEL WILLIAM R. M'KEE.

On motion by Mr. BRODHEAD, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, reported this morning from the Committee on Military Affairs, "for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky." It proposes to direct the Secretary of the Treasury to pay $1,200 to Mrs. J. H. McKee, widow of Colonel William R. McKee, for the use of herself and five orphan children, it being in payment for a horse killed in battle, and other property lost in Mexico, and particularly in consequence of Colonel McKee being killed in the battle of Buena Vista, on the 23d of February, 1847. It also proposes to direct that there be granted to each of Colonel McKee's five orphan children one quarter section of public land, to be located upon any vacant United States land where, and in such manner as the President may direct.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

APPROPRIATION BILLS.

The PRESIDENT proceeded to take up the resolutions on the table in their order, the first of which was one offered by the Senator from California, [Mr. GWIN,] in reference to the preparation and reporting, by the Committee on Finance, of the general appropriation bills.

On motion by Mr. GWIN, it was ordered that it lie on the table.

REPUBLIC OF NICARAGUA.

The Senate proceeded to consider the resolution offered by the Senator from Mississippi, [Mr. BROOKE,] on the 6th of January, in the following words:

"*Resolved*, That the President be requested, if in his opinion not inconsistent with the public interest, to communicate to the Senate the reasons which have induced the Department of State to refuse to hold further official intercourse with Señor Don José de Marcoleta, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua near this Government."

Mr. BROOKE. For reasons which it is not necessary to state, I move that the resolution be transferred to the Executive Journals. There are reasons which render it proper that the resolution should not be considered in open session.

Mr. HALE. As a matter of taste, it seems to me that it would be better that the Senator should ask unanimous leave to withdraw the resolution, and then, if he thinks proper, he can offer it in Executive session. I believe the motion which he has now made is an unprecedented one.

Mr. BROOKE. As my object is to have the resolution considered in Executive instead of open session, I will pursue the course indicated by the Senator from New Hampshire, and ask leave to withdraw the resolution.

There being no objection, leave was granted, and the resolution was withdrawn.

FRENCH REVOLUTION.

The Senate proceeded to consider the following resolution, presented by Mr. MASON on the 6th instant:

"*Resolved*, That the President of the United States be requested (if in his opinion not incompatible with the public interest) to communicate to the Senate copies of any further correspondence that may have taken place between the Minister of the United States at Paris and the Department of State, concerning the revolution in France of December, 1851, since the correspondence of like character communicated by the President to both Houses of Congress with his message of January 20, 1852."

Mr. MASON. The President of the United States communicated, in January, 1852, the correspondence which had been had between the Department of State and our Minister at Paris, in reference to the French revolution of 1851 up to the time when that correspondence was sent in; but I have reason to believe that there was additional correspondence after that period, which it is desirable should be published, in order to complete the history of the occasion. I hope, therefore, that the Senate will now adopt this resolution.

The resolution was agreed to.

FUNERAL EXPENSES OF MR. UPHAM.

Mr. FOOT offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be paid, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, to Mrs. Sarah Upham, for the funeral expenses of the Hon. William Upham, a sum equal to that usually expended in similar cases.

CLAIMS AGAINST HAYTI.

Mr. SOULE. I ask leave to introduce the following resolution:

Resolved, That the President be requested, if not incompatible with the public interest, to communicate to the Senate all the information on file in the State Department relative to the claims of American citizens against Hayti, not embraced in the report on that subject heretofore made by the Secretary of State, at the third session of the Twenty-seventh Congress; and also all the correspondence of the special agent who was sent out in 1849, to examine and report upon the condition of the Island of St. Domingo, in reference to the said claims upon Hayti, or the various applications made by the Dominican Republic to the Government of the United States for the pacification of said Island.

Mr. President, when the information called for by this resolution shall have been furnished, it will complete whatever may be necessary for the Senate to have, in order to investigate properly the matters connected with this Hayti business. I hope there will be no objection to its immediate consideration, in order that we may obtain the information in a short period.

The resolution was considered, by unanimous consent, and agreed to.

M'KEAN BUCHANAN.

Mr. HALE. I yesterday voted with the majority against the bill for the relief of Purser McKean Buchanan. I entertain the same opinions now as then with regard to its propriety; but I have been requested by some of its friends, who were not here when the vote was taken, to move a reconsideration. I therefore move that the vote rejecting that bill be reconsidered, and that motion can lie over until to-morrow.

The PRESIDENT. The motion will be entered on the Journal.

RAILROAD TO THE PACIFIC.

The PRESIDENT. The hour has arrived for the consideration of the special order of the day, which is the bill "authorizing the construction of 'a railroad and branches, for establishing a cer-'tain postal communication between the shores 'of the Pacific and the Atlantic within the United 'States, for the protection and facilities of travel 'and commerce, and for the necessary defenses of 'the country," upon which the pending question is on the amendment of the Senator from Mississippi, [Mr. BROOKE.]

Mr. BRODHEAD. I believe that to-day was assigned, by common consent, for the consideration of some points connected with our foreign policy, more particularly the joint resolution of the Senator from Michigan, "declaratory of the 'views of the United States respecting coloniza-'tion on the North American continent by Euro-'pean Powers, and respecting the Island of Cuba." I move, therefore, that this bill be passed by, for the purpose of proceeding to the consideration of that resolution.

Mr. GWIN. I understand that the Senator from Michigan desires to make some remarks on that subject this morning, and that he will occupy but a short time. Hence, although it is my determination to press this bill, I am willing that it shall be postponed until he makes his remarks, with the understanding that the Senator from Louisiana [Mr. SOULE] will not proceed with his remarks upon the same subject until next week. I should like to get through with this bill during the week.

Mr. HALE. Before the bill is postponed, I want the ear of its friends for a moment; and I wish to suggest a question of order to the President. It seems to me that we have been proceeding out of order in the consideration of this bill, in entertaining at this time the amendment of the Senator from Mississippi. I understand the parliamentary rule to be—and I know that it was so when I was in the House—that a motion to strike out the whole of a bill after the enacting clause and substitute another, is not in order until the original bill shall have been gone through with, section by section. Then, and not before, it would be in order to move to strike out the whole bill, and amend it by offering a substitute. I recollect perfectly well that that was the law administered in the House when I was there, and I think it is the law now; and if so, the amendment of the Senator from Mississippi is not in order at this stage of the proceedings.

The PRESIDENT. The Senator from New Hampshire is certainly right, and according to the parliamentary law, the amendment of the Senator from Mississippi cannot be entertained at this stage, unless by unanimous consent.

Mr. BRODHEAD. Before the question is taken on the motion, I beg to suggest to the Senator from California, and to the other friends of the Pacific railroad bill, whether, pending the debate upon the resolution of the honorable Senator from Michigan, it would not be well to refer the various projects for a railroad to the Committee on Roads and Canals to consider in the mean time.

Mr. GWIN. Oh, no.

Mr. BRODHEAD. I merely made the suggestion. I shall not press it.

The motion to postpone was agreed to.

SENATOR FROM INDIANA.

Mr. CATHCART presented the credentials of the Hon. JOHN PETTIT, elected by the Legislature of Indiana a Senator to serve in the Senate of the United States for the unexpired term of the Hon. JAMES WHITCOMB, deceased—until the 4th day of March, 1855; which were read, and Mr. PETTIT being duly qualified, took his seat in the Senate.

VIEWS RESPECTING COLONIZATION.

The Senate then took up the joint resolution declaratory of the views of the United States respecting colonization on the North American continent by European Powers, and respecting the Island of Cuba.

Mr. CASS addressed the Senate at great length.

Mr. BUTLER followed, taking the ground that the Monroe doctrine in relation to colonization related exclusively to preventing the Spanish provinces that had attained their independence from being again subjected to the mother country by the interference of European Powers.

Mr. HALE followed, expressing the opinion that Canada was of far more importance to the United States, morally, socially, and commercially, and its proximity to the United States more dangerous, than the Island of Cuba.

Mr. MASON rose and moved that the further consideration of the subject be postponed until to-morrow, when Mr. M. will be entitled to the floor. [For this debate see Appendix.]

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 18, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the reception of reports from the Committee on Elections.

A message was received from the Senate, by ASBURY DICKINS, Esq., its Secretary, informing the House of the passage by that body of the following bills:

An act to continue half pay to certain widows and orphans; and

An act for the relief of Philo Smith.

ENROLLED BILLS.

Mr. HENN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills and joint resolutions; which received the signature of the Speaker, viz:

A resolution to surrender the site of the Old Oglethorpe barracks to the City Council of Savannah, Georgia;

An act for the relief of Elizabeth Armistead;

An act for the relief of Mrs. E. A. McNeil, widow of General John McNeil, deceased; and

A resolution explanatory of the appropriation for the improvement of the Seekonk river and the harbor of Providence, Rhode Island.

Mr. COBB. Mr. Speaker, I desire the attention of the House for a few minutes.

Mr. FICKLIN. I rise to inquire if the special order (being the bill to prevent the circulation of small notes) does not take precedence of all other business?

Mr. COBB. If the gentleman will allow me, I desire to take up a bill which I am sure he will not object to.

The SPEAKER. In reply to the interrogatory of the gentleman from Illinois, the Chair will state that the special order will take precedence of all other business after the expiration of the morning hour.

HALF PAY TO WIDOWS AND ORPHANS.

Mr. COBB. The object I had in seeking the floor at this time, was to invite the attention of the House to a bill just returned from the Senate, which was passed by this House, and sent there on yesterday. It is a bill to provide for widows and orphans. The Senate has agreed to our amendments to the bill, but has attached another to it, providing for the widows and orphans of the soldiers of the war of the Revolution. I ask that the amendments may be read; and if it be the pleasure of the House, that they may be concurred in, and the bill be thus finally disposed of. I move to concur in the amendments of the Senate.

Mr. FULLER, of Maine. I rise to a question of order, and call for the enforcement of the 27th rule.

Mr. STANLY. I appeal to gentlemen to allow the Speaker to go on with the call of committees for reports.

The SPEAKER. Does the Chair understand the gentleman from Maine as objecting to the request of the gentleman from Alabama, [Mr. COBB?]

Mr. FULLER. I will state to the gentleman from Alabama, that under the 27th rule, as soon as the morning hour shall have expired, the second section of the business regularly in order, will be the disposition of messages from the Senate, and amendments proposed by the Senate to bills of the House. I ask, therefore, for the regular order of business, and then the gentleman's bill will come up in its regular order.

Mr. COBB. I am aware that I can only have the bill taken up by unanimous consent, but I hope no gentleman will object.

Mr. FULLER. I do object.

JOHN TALIAFERRO.

The SPEAKER. The business now in order

is the reception of reports from committees. The question pending, if it be called up, is the motion to reconsider the vote by which the resolution for the benefit of Mr. Taliaferro was laid upon the table.

Mr. JONES, of Tennessee. Will not the special order take precedence of that motion?

The SPEAKER. Not until after the expiration of the morning hour. That has been the practice of the House.

Mr. JOHNSON, of Arkansas. At what time will it be in order to move to go to the business on the Speaker's table?

The SPEAKER. After the morning hour has been consumed, unless superseded by the special order made on yesterday.

Mr. FLORENCE. If the House does not go into the Committee of the Whole on the state of the Union before the morning hour expires, will it not, at that period of time, be competent for a majority of the House to proceed to the business upon the Speaker's table?

The SPEAKER. It will be in order to make that motion, unless some special order should intervene; and if the House does not proceed to the consideration of the special order, it will then be in the power of a majority to go to the business upon the Speaker's table. The question is now upon the motion to reconsider, upon which the gentleman from Massachusetts [Mr. DAVIS] is entitled to the floor.

Mr. DAVIS. I suppose that motion can be called up at any time.

The SPEAKER. It does not come up now, unless called up.

Mr. DAVIS. I prefer to call it up at some other time.

Mr. McLANAHAN. I ask if the first business in order is not upon the application of Mr. Ingersoll for his per diem and mileage in contesting with Mr. Naylor his right to a seat in this body? I think that matter comes up first, and upon which I demand the yeas and nays.

The SPEAKER. A motion was made to lay the resolution to which the gentleman refers upon the table, upon which the yeas and nays had been demanded. There being, however, no motion entered to refer, nor any other motion by which the resolution would be kept before the House, it must necessarily go to the Speaker's table.

Mr. STUART. I rise to a privileged question. I call up the motion to reconsider the vote rejecting the resolution in the Taliaferro case, and move to lay the motion to reconsider upon the table.

Mr. STANLY. That motion came up and went over. I submit that the gentleman cannot now call it up.

The SPEAKER. It is in the power of any member to call the motion up at any time, and it is a highly-privileged question. If the gentleman from Michigan calls up the motion, however, the gentleman from Massachusetts [Mr. DAVIS] will be entitled to the floor.

Mr. STANLY. I hope the gentleman from Michigan will not take the floor in such a summary way from the gentleman from Massachusetts.

Mr. STUART. I certainly would not take the floor from the gentleman, if he desires to occupy it at this time. But, sir, I do object to these motions to reconsider lying over to suit the convenience of any one.

The SPEAKER. The Chair will state to the gentleman from Michigan, that it is not in his power to deprive the gentleman from Massachusetts of the floor. He may call up the motion to reconsider whenever he pleases; but whenever it comes up, the gentleman from Massachusetts will, according to the practice of the House, be entitled to the floor.

Mr. STUART. That is precisely what I was going to say. If it would deprive the gentleman of the floor, I would not call up the motion now. I have no such desire. I feel, however, that it is my duty to insist upon the disposition of this question now.

The SPEAKER. Then the gentleman from Massachusetts [Mr. DAVIS] is entitled to the floor.

Mr. DAVIS, of Massachusetts. I had not intended to have pursued the consideration of this question this morning, if it had not been called up by the gentleman from Michigan, [Mr. STUART.] My object in moving the reconsideration of the vote by which this bill was rejected, was, because I thought the subject had not been fully understood by the House. I was satisfied that those who voted against the allowance of the claim, did not understand that this case rested upon the same principle with others which have been allowed during the present Congress—upon a principle which has been repeatedly established by this House. The House will recollect that the report states—and it is an undisputed fact—that in the session of 1812 or '13, Mr. Taliaferro was an applicant for a seat upon this floor; that he obtained two successive reports of committees in his favor, and that the facts upon which these reports were founded were the same as those upon which, two years previously, he had been declared to be entitled to his seat.

The very fact that two years before, upon precisely the same state of facts, he was declared entitled to his seat, constituted, certainly, an excellent reason why he should again contest the seat before the House, based upon a similar state of facts. Now, sir, there is no distinction to be drawn between this case, which was rejected by the House, and other cases which the House have acted favorably upon. Take the case of Mr. Wright, for instance. The House declared Mr. Wright entitled to his per diem and mileage, yet there is nothing to distinguish this claim, in regard to fact and principle, from that of Mr. Wright, except that of lapse of time, and that is entirely unimportant. I believe it has been the unanimous practice of the House to allow per diem and mileage to contestants, under circumstances similar to the one before the House, yet here is a claim that has never been paid.

But, Mr. Speaker, I do not desire to occupy the time of the House. I hope that the further investigation which I believe has been made by some members, into this case, will be sufficient to induce the House to reconsider this vote.

Mr. STANLY. I beg pardon of the House for saying a few words in regard to this case. I am satisfied that when the House knows the facts of the case distinctly, there will be but few members to vote against it. The gentleman from Massachusetts [Mr. DAVIS] correctly states, that there is no difference between this case and others which have been passed during the present session. The House have decided in favor of the case of Mr. Littell, and in favor of that of Mr. Wright. I voted for both of these claims, upon the principle that when a man comes here honestly to contend for a seat upon this floor, he is not contending for his personal rights merely, but for the rights of the people whom he represents. Now, it appears Mr. Taliaferro did that in good faith, as did the other gentlemen to whom we have voted compensation the present session; and the House has refused to allow him his per diem and mileage for no other reason than, as the gentleman from Massachusetts says, because a long time has elapsed since the transaction occurred. Now, why was this long delay? When Mr. Taliaferro came here to claim his seat, he was a man of fortune, and felt a delicacy in bringing forward his claim. He therefore postponed it until stern necessity made it his duty to come forward and ask the House to do him justice. Now, I say that the course taken by him leaves him, if anything, higher in my estimation than if he had come forward and claimed his compensation at the time it should have been paid him. A man honored with the confidence of Madison and Monroe—now almost an octogenarian—a gentleman who felt that delicacy which Mr. Taliaferro did in bringing forward a matter in which he himself was concerned, it does away with all idea that there is anything wrong in it on account of the length of time which has transpired since the contest.

Mr. SACKETT. Will the gentleman allow me to ask him whether this is the case which was investigated by two committees, each of which reported in favor of the right of the claimant?

Mr. DAVIS. This is the case.

Mr. STANLY. I understand so from the gentleman from Massachusetts.

Mr. NEWTON. As remarked by the gentleman from North Carolina, [Mr. STANLY,] it does appear to me, if the House would bestow upon this case a few moments' consideration, there could be but one opinion upon its merits.

The case already disposed of gives him only $194, and upon the same ground of contest, as in the present case, and the additional one, that the law of Virginia prescribing the manner of conducting such elections, directs "that the clerk of the polls shall enter in distinct columns under the name of the persons voted for, the name of each elector voting for such person." The additional ground of contest was, that this requirement was not observed. The first ground was, that forty illegal votes had been given against the contestant, and in favor of the sitting member, which number was greater than the majority by which the sitting member was returned. The law of Virginia requires each voter to be possessed of a freehold interest of a certain amount at least six months before casting his vote. These forty voters were not such freeholders.

In the first contest, in 1811, the committee found the fact alleged by Mr. Taliaferro as true, and gave him his seat, and we have given him his per diem, at six dollars a day, and mileage, amounting to $194. This sum, by our own showing, was his due, and has been in the hands of the Treasury for over forty years; honestly due Mr. Taliaferro all that period. It is true he did not call for it. He was then a member, and in good circumstances; and from delicacy and absence of necessity, did not call; by which we had the use of it during that period. By the use of this sum for this long period, we, in strict legal justice and honor, owe him, instead of $194, about $700; and this strictly and justly as any debt is due from one individual to another.

Now, when he presents another contested case with the same man, and for the next Congress, (the Thirteenth,) and for the same reason, and an additional one—when poor, penniless, and uninfluential, and nearly ninety years of age—you turn him off with this pitiable sum, solely upon the ground that he was denied his seat, after two reports in his favor, upon a strict party vote of only four majority against him. This is the justice he receives; while to another, (Mr. Wright,) only a few days since, with a weaker case, and with only a majority report in his favor, and a minority against him, and his seat denied him by this House by a large majority, you give him his per diem and mileage, amounting to nearly $3,000.

The ground for paying the contesting member is not placed upon his success. The case of Wright expressly contradicts that. Then, on what ground does it turn? None at all—a mere accident—a mere whim;—in favor of him who can *beg* the best; that has the most influence, and can command the most votes.

The ground ought to be: Is the case an honest one? Is there probable cause, reasonable ground to expect success?

With this view, and with this case, with great force can it be said a man can strive to preserve the purity of the elective franchise, by vindicating his rights and the supremacy of the law. In every case of a contested election, during the whole history of our Government, whether successful or not, with the single exception of Mr. Ingersoll, of Philadelphia, has the contestant been paid his wages. We have a discretion over the subject, I know; but may I not ask—with all deference to the opinion of any member of this House—should not that discretion be a sound and discriminating one; not accidental and casual? If we are to change our policy and practice, should it be in a case so peculiarly meritorious and striking, analogous to the large class of successful applications? If Wright, who is now a member elect of Congress, with all his wealth, influence, power, and place, shall be rewarded, and Taliaferro, who has relieved as much or more individual suffering and want than any other living man in America, tantalized and rejected, well may it be said, "The race is to the swift, and the battle to the strong."

I cannot longer trespass upon the time of my friend, who has so kindly yielded the floor for a moment. I hope the case will be reconsidered.

Mr. JONES, of Tennessee. I wish to make a single inquiry. Is it or is it not the opinion of the gentleman from Ohio, [Mr. NEWTON,] that it would be right for the House which decided the contest, to determine whether the contestant should be paid or not? They had all the facts before them, and if they did not pay him, I do not think that a House, which comes here forty years afterwards, should take up the case and pay the contestant, on the ground of sympathy towards, or regard for, the man, because he has become poor.

Mr. NEWTON. I will answer the gentleman's question. The House was not called upon to pay

at all. There never has been a call for pay, and the fact of delay is no objection to the claim, and we have the right to apply to this case the principles of sound discretion.

Mr. WILLIAMS, (interrupting.) I would say that we have before this Congress all the facts which, by any possibility, could have been before the Congress in which the contest took place. It is record evidence, and does not depend upon the memory of any one. The facts are all upon the record.

Mr. McMULLIN. I feel called upon to oppose the motion now pending. I think the policy about being adopted by the House, to say the least of it, is dangerous, if not injurious, to the country. Now, let me ask my friend from Ohio, [Mr. NEWTON,] who thinks that Mr. Taliaferro is entitled to this claim upon principles of equity and justice, if he knows that Mr. Taliaferro is now holding under our Government an office which is almost a sinecure, and the duties of which I very much doubt whether he is able to discharge? Such is the fact, and I think the policy proposed by this bill is a bad policy.

Mr. NEWTON. It is true that he holds an office, but the proceeds thereof are insufficient to furnish him daily bread, and on that account he asks this additional sum, to which he is justly entitled, according to the practice and policy long since established by the House.

Mr. STANLY. The question of my friend from Tennessee [Mr. JONES] is, is it not right for the same Congress, before which the contest was had, and which decided the claim, to pass upon the question of pay? It would be better; but we know how difficult it is, under the rules of the House, to reach matters which even a majority of the members of the House are in favor of. Besides, we have this session just passed two cases, which this Congress did not decide—the cases of Littell and Wright. I commend the vigilance of my friend from Tennessee [Mr. JONES] with which he watches the Treasury; but sometimes he loves economy "not wisely but too well." I appreciate that stern integrity of his which will not yield to any solicitations, from any party, to induce him to do what he feels to be wrong. But if he will examine to see the precedents which we have to follow in this case, and ask his own heart if this is not right, I should not have occasion to say another word.

The facts are, that Mr. Taliaferro's case stands like that of the others. The facts are, that he was a man of fortune, and did not like to come forward and ask for the money; and should the lapse of thirty or forty years be a bar to an honest claim? I remember him, as I remember others, mingling amongst us, setting a good example by gentlemanly deportment, by an incorruptible life, and by attention to business, and I appreciate the delicacy which made him postpone the claim.

I hope my friend from Michigan [Mr. STUART] will not do himself the injustice of opposing it. I know he desires, as we all desire, when we shall have been separated and dispersed from this Hall, to have some little pleasant things to look back upon, wherein we have done justice to those who were entitled to it. This will be one of them. Mr. Taliaferro is an honorable man, and he is entitled to this money at our hands. Let us appreciate the delicacy which marked his course in the past, and do this act of tardy justice to him.

Mr. STUART. When I called up this question, I was desirous that the gentleman from Massachusetts [Mr. DAVIS] might say whatever he deemed proper in addition to what he stated the other day, and that the House would be brought to a vote,

I do not mean to continue the discussion now. I mean only to state two or three propositions which have actuated and will actuate me in regard to this question. Then I intend to move to lay the motion to reconsider upon the table.

While I would not plead the statute of limitation against any just claim, yet I would say, that if a member of this House had allowed the question of his right to pay to sleep for forty years, it would be *prima facie* evidence that he ought not to receive it, because he has had the power every single session since to have that right presented and acted upon.

But, sir, I think I can look back to the time when this question was considered by Congress, and see reasons which would have impelled me to vote against it. One of these reasons is this: a majority of the votes of his constituency were against him in both cases. He contested the seat of his opponent, not upon the ground that he had not received a majority of the votes—not upon the ground that there were not veritable men who had given them—but because the technical laws of Virginia, in regard to the competency of voters, made some of them illegal. Now, while I cheerfully grant the right of every State of this Union to fix the qualifications of its own voters, yet I do say, that acting upon a question where equity is concerned, I should be very slow to pay the man who comes here and claims a seat, when a majority of his people had voted against him.

Mr. DAVIS. Do I understand the gentleman to take the ground, that where the majority given is made up of illegal votes, then the candidate ought not to come to this House and contest the seat?

Mr. STUART. If the gentleman had taken pains to listen to me, I think he could not have misunderstood me.

Mr. DAVIS. Then, I suggest to the gentleman that he is mistaken as to the question of facts.

Mr. STUART. Then the committee which reported this case were mistaken themselves; for they do say, and the facts of this case are, that Mr. Taliaferro claimed his seat, and in one instance succeeded in obtaining it, upon the ground that certain votes given for his competitor were not entitled to vote according to the laws of Virginia. In the case for which they now call upon us to pay him, he did not succeed in obtaining his seat.

Mr. DAVIS. I wish to ask the gentleman, again, if he means to say, that it is wrong for a man to come to this House and claim a seat on this floor, upon the ground that the majority of votes against him was made up of votes which were illegal?

Mr. STUART. I mean to say this—and I speak but for myself—that it is legally right, but honorably wrong. I say that a man should not come to this House, where a majority of his people had actually voted against him, and where the canvassers had given a certificate against him, simply upon a technical ground as to the qualification of the voters. I adopt the maxim of Benjamin Franklin: a man to-day is not a voter, but he buys a jackass, and to-morrow he is. Who votes, the man or the jackass? That is the language of Dr. Franklin, and it is a sentiment I concur in. And while I say I would give him a seat, acting here as judge—and I would feel myself compelled to give him a seat, if he made out his case—yet if his case, urged upon that principle were rejected, I would not pay him. He came here in this instance, and showed to the House of Representative his case, and they determined that these illegal votes were not given for his competitor. We have paid him for the cases where they gave him his seat. They rejected him in this case, where he was contesting upon an ignoble ground; and I will never pay him.

Mr. DAVIS. I would ask the gentleman's permission to allow me to propound a question to him, as he intends to move that the motion to reconsider be laid upon the table.

Mr. STUART. I yield to the gentleman; but I dislike very much to consume the time of the House upon this question.

Mr. DAVIS. Suppose Mr. Taliaferro's competitor had been willing to owe his seat to illegal votes, and suppose that Mr. Taliaferro had been unwilling to enter into any such controversy, *non constat*, it is not certain, if both went into controversy, that Mr. Taliaferro might not have outran him as to illegal votes. The House can know nothing about that. I suggest to the gentleman that he is going to give a premium to the man who resorts to illegal votes.

Mr. STUART. If the gentleman from Massachusetts had investigated this case with an industry equal to the zeal with which he advocates it, he would not have asked me the question he has. I repeat again, that the facts of this case show that the House of Representatives, who considered the question of the contested seat, rejected Mr. Taliaferro. They determined that these illegal votes were not given to his competitor. The proposition now is to pay a man for contesting a seat which he failed to secure. Now, I repeat that the House paid him the other day for the case in which he succeeded. I will not, Mr. Speaker, consent to consume the time of the House any longer, and therefore move to lay the motion to reconsider upon the table.

Mr. DAVIS. I demand the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and the motion to lay the motion to reconsider upon the table, was decided in the affirmative—yeas 86, nays 71; as follows:

YEAS—Messrs. Charles Allen, Willis Allen, Averett, Bartlett, Beale, Bragg, Briggs, Burt, Busby, Joseph Cable, Caldwell, Thompson Campbell, Cartter, Chastain, Clark, Clemens, Cobb, Conger, Cullom, Curtis, Dawson, Dean, Dimmick, Dunham, Eastman, Edgerton, Edmundson, Faulkner, Ficklin, Gaylord, Gorman, Green, Hamilton, Isham G. Harris, Haven, Hendricks, Hibbard, Horsford, Houston, Howard, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, Preston King, Kurtz, Letcher, Lockhart, McLanahan, McMullin, Meade, Millson, Molony, Morehead, Murphy, Murray, Nabers, Orr, Peaslee, Penn, Penniman, Phelps, Polk, Richardson, Robbins, Roble, Robinson, Russell, Scurry, Skelton, Smith, Snow, Stratton, Stuart, Sweetser, Thurston, Townshend, Venable, Wilcox, Wildrick, and Woodward—86.

NAYS—Messrs. Abercrombie, Thomas H. Bayly, Barrere, Bennett, Bibighaus, Brenton, Albert G. Brown, George H. Brown, Burrows, Lewis D. Campbell, Caskie, Chapman, Cottman, Darby, George T. Davis, Disney, Dockery, Doty, Evans, Fay, Florence, Thomas J. D. Fuller, Giddings, Gilmore, Hammond, Harper, Sampson W. Harris, Hawe, Hascall, Henn, John W. Howe, Thomas Y. How, Ingersoll, Jackson, George G. King, Kuhns, Landry, Little, Mann, Marshall, Martin, McNair, Meacham, Miller, Miner, Henry D. Moore, John Moore, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Porter, Price, Sackett, Schoolcraft, David L. Seymour, Origen S. Seymour, Stanly, Benjamin Stanton, Alexander H. Stephens, Strother, Sutherland, Taylor, Tuck, Walbridge, Walsh, Ward, Washburn, Watkins, Welch, and Williams—71.

So the motion to reconsider was laid upon the table.

CHARLES JARED INGERSOLL.

Mr. WILLIAMS. It will be remembered by members, that some days ago, whilst the House was considering reports from the Committee on Elections, the chairman of that committee (now absent) reported the case of Charles J. Ingersoll, of Pennsylvania, and that when the House was about dividing, the yeas and nays were ordered, and that the House then adjourned. As no notice previous to the adjournment was made to recommit the bill, it has been given the go-by. Now, inasmuch as a vote will settle this question, and save much trouble, I hope that, by general consent, the House will permit it to be taken.

Mr. LETCHER. I object.

Mr. WILLIAMS. If that course be objected to, I hope that objection will not be made to the recommital of the resolution to the Committee on Elections, with instructions to modify it. It may then be again reported, and probably acted upon during this session.

Mr. JOHN W. HOWE. I object.

The SPEAKER. If there be no further reports from the Committee on Elections, reports are in order from the Committee on Ways and Means.

CLERK TO THE WAYS AND MEANS.

Mr. HOUSTON. I am instructed, Mr. Speaker, by the Committee on Ways and Means, to report to the House the following resolution:

Resolved, That the Committee on Ways and Means be authorized to employ a clerk for the present session, at the usual rate of compensation, to commence with this session.

Mr. McMULLIN. I inquire of the chairman of the Committee on Ways and Means whether they have not employed a clerk?

Mr. HOUSTON. A clerk has been in the employ of the committee; and that resolution was directed to be made many weeks since.

Mr. GOODENOW. I demand the yeas and nays on the adoption of the resolution.

The yeas and nays were not ordered.

The question was then taken, and the resolution was adopted.

BRANCH MINT OF THE UNITED STATES.

Mr. BROOKS. I hold in my hand "a bill to establish a branch Mint of the United States in the city of New York," which I am instructed by the Committee on Ways and Means to report to the House.

The bill was read by its title.

Mr. CHANDLER. Is that the first reading of the bill?

The SPEAKER. So the Chair is informed by the Clerk.

Mr. CHANDLER. I understand that the first reading of the bill is for information.

The SPEAKER. That is so.

Mr. CHANDLER. I then rise to object to the second reading of the bill, and I do that upon the ground ——

The SPEAKER. The question will be, then, Shall the bill be rejected?

Mr. CHANDLER. With the Speaker's permission, I will state the reasons why I have interposed objection to the second reading of the bill.

Mr. BROOKS. I have not yielded the floor, and I should like to know how the gentleman gets it to make the objection he has.

The SPEAKER. The gentleman from New York will remember that we have a rule which authorizes objection to the second reading of a bill.

Mr. BAYLY, of Virginia. I wish to make an inquiry.

The SPEAKER. Does the gentleman from Pennsylvania yield the floor to the gentleman from Virginia?

Mr. CHANDLER. I do, if he wishes to make an explanation.

M. BAYLY. I wish to inquire if it be in order to move to refer the bill?

The SPEAKER. It will not be in order until the bill has received its second reading. The 116th rule of the House is as follows:

"The first reading of a bill shall be for information, and, if opposition be made to it, the question shall be, "Shall this bill be rejected?" If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

The question, then, will be on the rejection of the bill.

Mr. BRIGGS. Would it be in order, in the present condition of the bill, and before the expiration of the morning hour, to move its recommittal to the Committee on Ways and Means?

The SPEAKER. It will not be in order to recommit the bill until it has received its second reading. The gentleman from Pennsylvania objects to its second reading, and the question now is, Shall the bill be rejected?

Mr. SWEETSER. I rise to a question of order. Is the question of the rejection of the bill debatable?

The SPEAKER. The Chair is inclined to the opinion that it is not.

Mr. CHANDLER. I rise, Mr. Speaker, with no view of debating the question, but to ask the gentlemen who have reported the bill, whether they mean that it shall take the course ordinarily given to bills?

Mr. BROOKS. I rise to a point of order. I have been deprived of my opportunity in reporting the bill to submit any remarks. The Chair has decided that the vote must be now taken without debate on the rejection of the bill. I call for the yeas and nays on the question, and demand that it be put.

Mr. SEYMOUR, of New York. Is it in order to have the bill read, that its character may be understood by the members of the House who are now called upon to reject it?

The SPEAKER. The Chair thinks it is in order. It is the right of any member to have the bill read.

Mr. SEYMOUR. I then call for the reading of the bill.

The Clerk proceeded to read the bill.

Mr. FULLER, of Maine. Has the morning hour expired?

The SPEAKER. It has not, by some six minutes.

The Clerk continued the reading of the bill.

Mr. BRIGGS. I move, as the morning hour has expired, that the bill be recommitted to the Committee on Ways and Means; and upon that motion I call for the previous question.

Mr. BAYLY. I move to go to the business upon the Speaker's table.

The SPEAKER. The Chair decides that the motion of the gentleman from New York [Mr. BRIGGS] cannot be submitted until the bill has received its second reading.

Mr. BRIGGS. I appeal, then, to my friend from Pennsylvania to withdraw his objection to the second reading of the bill, so that I may be enabled to submit the motion to recommit.

Mr. BROOKS. I rise to a point of order. Before, however, I state it, I would inquire of the Chair what will become of this bill if we now pass by the business of the morning hour?

The SPEAKER. The Chair is of the opinion, on a moment's reflection, that it must go to the Speaker's table.

Mr. BROOKS. Then, if I understand the Chair, this bill, introduced by the instructions of the Committee on Ways and Means, will, because of objection, be thrown out of its regular order, and the question put upon its rejection. The bill will be lost, if it be now passed by, as I understand the Chair's decision. I take an appeal from that decision, and upon the appeal demand the yeas and nays. Now, any gentleman, I suppose, may move to go into the Committee of the Whole.

The SPEAKER. The Chair decides that the bill, if the House passes from its consideration at this time, will go to the Speaker's table.

Mr. DEAN. I rise to a privileged question.

Mr. FLORENCE. I rise to a point of order. [Laughter.]

The SPEAKER. There is a question of order pending, which must be first disposed of. A report was made from the Committee on Ways and Means, of this bill. It received its first reading for information, under the rules. Then, on objection of the gentleman from Pennsylvania, [Mr. CHANDLER,] the question arose, Shall the bill be rejected? That, in accordance with the express language of the rule, is the proposition before the House. The morning hour having expired, the Chair decides that the special order, which is the consideration of the bill to suppress the circulation of small notes in the District of Columbia, is the first business in order.

Mr. DEAN. I rise to a privileged question.

Mr. CHANDLER. I believe that I am entitled to the floor.

The SPEAKER. The Chair is not aware that the gentleman from Pennsylvania is entitled to the floor. Questions of order have been raised, and those who raised them were for the time being entitled to the floor.

Mr. DEAN. I rise to a privileged question. I understand that my colleague [Mr. BROOKS] has appealed from the decision of the Chair. If that appeal be entered, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BAYLY. Was not the motion I submitted,—the morning hour having expired,—that the House proceed to the consideration of the business on the Speaker's table, in order?

The SPEAKER. The Chair decides, the morning hour having expired, that the special order takes precedence of all other business.

Mr. ORR. I call for the consideration of the regular order of business.

Mr. BROOKS. What becomes of my appeal?

The SPEAKER. Does the gentleman insist that his measure takes precedence of the special order?

Mr. BROOKS. I appealed from the decision of the Chair, made a few moments ago.

The SPEAKER. The Chair decides that we cannot continue the consideration of the subject of the branch Mint, the morning hour having expired, on account of the special order. The gentleman from New York will not be deprived of any privilege, the Chair trusts, under the rule, in reference to this bill.

Mr. BROOKS. The point I wish to understand is, what becomes of this bill?

The SPEAKER. The Chair has expressed the opinion that it goes to the Speaker's table.

Mr. BROOKS. From that decision I appeal.

The SPEAKER. The gentleman from New York [Mr. BROOKS] must be aware of the fact, if the decision of the Chair is right in any particular, that the morning hour having expired, the special order must be taken up, and the order of the House executed; and that by the force of that special order, we pass from the consideration of this subject. If the gentleman to-morrow shall insist upon his question of order, he can have it decided by the House.

Mr. BROOKS. That is what we desire.

Mr. SEYMOUR, of New York. I wish to call the attention of the Speaker to the fact, that my colleague who reported this bill, being upon the floor at the expiration of the morning hour, in the usual mode moved that this bill be recommitted to the Committee on Ways and Means.

The SPEAKER. The Chair decided that the gentleman could not submit such a motion until the bill, under the rule, shall have received its second reading. Opposition was made to the second reading, and the rules prescribe that the question, "Shall the bill be rejected?" must be put by the Chair; and that is the condition in which the bill stands a present.

SUPPRESSION OF SMALL NOTES.

The SPEAKER. The first business in order is the consideration of the special order, being bill No. 341, to suppress the circulation of small notes as a currency in the District of Columbia. Is it the pleasure of the House to have the bill read?

Mr. PHELPS. And the amendments.

The SPEAKER. The Clerk will read the bill through, if desirable, or read it by sections for amendments. The question will first recur upon the adoption of the amendments proposed by the Committee of the Whole on the state of the Union.

The first section of the bill was then read, as follows:

"*Be it enacted*, That if any person, or any association, partnership, or company of individuals, or any body politic or corporate within the District of Columbia, shall, from and after the passage of this act, make, emit, issue, or utter any bill of credit, bank note, promissory note, bill of exchange, order, ticket, or any other instrument of writing, in a less amount, or of a less denomination than five dollars, to be used as a paper currency, or as a circulating medium, either as money or in lieu of money, or of any other currency, or shall make, sign, draw, or indorse any bank note, promissory note, bill of exchange, bill of credit, order, ticket, or any other instrument of writing, obligation, promise, contract, or agreement, for the payment or delivery of money or other valuable thing, or of anything purporting to be a valuable thing of a less amount than five dollars, to be used as a paper currency, or as a circulating medium, either as money, or in lieu of money, or of any other currency, every such person, and every member, officer, or agent of such association, partnership, company of individuals, body-politic or corporate, concerned in or assenting to such making, emitting, uttering, signing, drawing, or indorsing as aforesaid for any of the purposes aforesaid, shall be liable to indictment by the grand jury of the District of Columbia for a misdemeanor; and on conviction thereof shall be imprisoned for a term not less than ten days nor more than one year, and fined in a sum not less than one hundred nor more than five hundred dollars. And it is hereby especially declared and enacted that, in the case of an association, partnership, or company of individuals, body-politic or corporate, committing any of the offenses aforesaid, every individual thereof shall be presumed, *prima facie*, to be concerned in, and to have assented to, the commission of such offense, and the burden of proving his or her dissent therefrom shall rest on him or her."

The SPEAKER. The first amendment adopted by the Committee of the Whole proposes to strike out this section, and substitute the following:

"That if any person or persons, body-politic or corporate, within the District of Columbia, shall, from and after the passage of this act, make, sign, draw, indorse, emit, or issue any note, bill of exchange, bill of credit, order, ticket, promise, agreement, or any other instrument of writing, in a less amount or of a less denomination than five dollars, or for the payment or delivery of money, notes, or other valuable thing, or of anything purporting to be a valuable thing, of a less amount or denomination than five dollars, or purporting or evidencing, or intended to purport or evidence, that any sum less than five dollars will be paid in money, notes, or other thing, to any person receiving or holding such notes, bill of exchange, or other instrument of writing above mentioned, or that it will be received in payment of any debt or dues, with the intention to create or put into circulation a paper currency, either as money or in lieu of money, every such person, and every member, officer, or agent of any such body politic or corporate, directly or indirectly engaged and concerned in or assenting to such making, signing, drawing, indorsing, emitting, or issuing as aforesaid, for any of the purposes aforesaid, shall be liable to indictment by the grand jury of the District of Columbia for a misdemeanor; and on conviction, they shall be imprisoned for a term not less than ten days nor more than one year, and fined in a sum not less than fifty nor more than five hundred dollars; and on the trial of any such indictment, if the note, bill, order, ticket, or other instrument in question be, in part or in the whole, printed or engraven, it shall be deemed sufficient evidence of an intention to put the same into circulation in violation of this act, unless the contrary be plainly shown."

Mr. FICKLIN. This amendment was fully explained before it was adopted by the Committee of the Whole; and as there is no occasion for further debate upon it, I move the previous question.

Mr. SWEETSER. Will the previous question cut off any other amendments to the bill?

The SPEAKER. It will apply to all amendments proposed by the Committee of the Whole, and exclude all propositions for further amendment.

Mr. SWEETSER. The subsequent sections of this bill need amendment. I trust that the previous question will be withdrawn.

Mr. STUART. I appeal to the gentleman from Illinois to withdraw the demand for the previous question.

Mr. FICKLIN. I desire to say that I have no choice. There are a great many who want the previous question moved, and some who do not.

I propose to let the House decide for itself, whether they will sustain the previous question or not; and if not, then to go on with the amendments.

Mr. TAYLOR. I hope the gentleman will allow me to offer the substitute which I gave notice of the other day. A few days since, I suggested that when the proper time arrived, I intended to offer, as a substitute for the whole bill, the bill which was introduced in the Senate at the last session by Senator Fish, which seemed to be very acceptable to the people of this District. I desire, at the proper time, to present this substitute, and I therefore hope that the gentleman from Illinois [Mr. FICKLIN] will not press his demand for the previous question.

Mr. FICKLIN. I will state that the question of regulating the currency of this District over five dollars is separate and distinct from the present bill. There are a great many who desire to propose amendments, and if I yield to one, I must yield to all. I should like to accommodate my friend from Ohio, but I cannot.

Mr. SWEETSER. I hope that the House will vote down the previous question.

The question was then put upon seconding the demand for the previous question, and there were —ayes 53, noes not counted.

Mr. JONES, of Tennessee, demanded tellers; which were ordered; and Messrs. DEAN, and DAVIS of Indiana, were appointed.

The question was then taken, and there were—ayes 76, noes 47.

So the previous question was seconded, and the main question ordered to be put.

The question then recurring upon the first amendment, it was put, and, on a division, there were—ayes 55, noes not counted.

Mr. STUART demanded tellers; which were ordered; and Messrs. BRIGGS and HART appointed.

The question was then taken, and the tellers reported that there were—ayes 64, noes 24; no quorum voting.

Mr. JOHNSON, of Arkansas, demanded the yeas and nays.

The SPEAKER. Is it the unanimous consent of the House that the question be taken by yeas and nays? It is not competent for less than a quorum to call the yeas and nays on the question pending.

Mr. STEPHENS, of Georgia. I now raise the point of order which I suggested the other day. The Chair says that it is not competent for less than a quorum to call the yeas and nays. I appeal from that decision.

The SPEAKER. The Chair decides that it would be competent for less than a quorum to order the yeas and nays upon a motion to adjourn, or for a call of the House to compel the attendance of a quorum to do business, but that it is not competent for less than a quorum to do business; and by a vote that is recognized as valid by our laws, there is no quorum voting, and therefore, as the ordering of the yeas and nays is part and parcel of the legitimate business in the passage of bills, the Chair decides that it is not in order to order the yeas and nays; and from that decision the gentleman from Georgia [Mr. STEPHENS] takes an appeal.

[A message from the Senate, by ASBURY DICKINS, Esq., its Secretary, was here announced.]

The SPEAKER. Gentlemen will suspend for a moment, until a message from the Senate is received.

Mr. CARTTER. Can less than a quorum receive a message?

The SPEAKER. The gentleman from Ohio raises a question of order in regard to the reception of the message, and the Secretary of the Senate will suspend. There being no quorum to do business, and the reception of the message being legitimate business of this body, it is not in order.

Mr. BURT. I raise an inquiry connected with the message sent to this House. I beg leave to ask the Chair what message the Chair will send to the Senate, as the House refuses to receive the communication?

The SPEAKER. It will be competent for the House to send a message that it had no quorum to do business; and it cannot do business under the Constitution. The Chair will, however, decide that question when it arises.

Mr. STEPHENS. I ask for the reading of the third clause, fifth section, first article.

It was then read, as follows:

"Each *House* shall keep a Journal of its proceedings, and, from time to time, publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either House, on any question, shall, at the desire of one fifth of those present, be entered on the Journal."

The SPEAKER. The Chair does not intend at all to dispute the validity of the Constitution certainly, and unquestionably it is competent for the House to have the question on this amendment taken by yeas and nays.

Mr. STEPHENS. I wish to make this statement. It is only a difference of construction of that article of the Constitution which I wish this House to determine The first clause of that article says that "each House shall keep a Journal of its proceedings," &c. That is a part of the same clause. Right below we find this: "and the yeas and nays of the members of either House, on any question, shall, at the desire of one fifth of those present, be entered on the Journal."

The SPEAKER. Can you pass this amendment with less than a quorum? That is the point.

Mr. STEPHENS. "And upon the question one fifth of *those present* have the right to order the yeas and nays."

The SPEAKER. Upon any question upon which it is lawful to take the yeas and nays. "Each House shall be the judge of the elections, returns, and qualifications of its own members, and a *majority* of each shall constitute a quorum to *do business*." The effect of the decision of the Chair is simply this: that it is not competent for this House to adopt these amendments, less than a quorum being present.

Mr. STEPHENS. My point is, that the article of the Constitution to which I have referred gives power to one fifth of *those present* to order the yeas and nays. Although less than a majority order the yeas and nays, it may be that a majority may come in and vote. One fifth of those present have a right to demand and have recorded the yeas and nays of those who are present.

The SPEAKER. The gentleman's argument would be conclusive, but for the fact that the House has in a legitimate form—one recognized by the laws of the House—declared, that when there is no quorum here, it is the duty of the Chair to announce that fact. The Chair feels it to be his duty, under the Constitution, to decide that it is not competent for the House to act upon this bill, less than a quorum being present. From that decision the gentleman from Georgia [Mr. STEPHENS] takes an appeal.

Mr. BURT. I rise to suggest to the Chair and House, whether the gentleman from Georgia [Mr. STEPHENS] can take an appeal from the decision which the Chair has made upon the question of order raised by himself, and to suggest, that if the Chair entertains the appeal made by the gentleman from Georgia, the Chair must then allow me, when the sense of the House upon the propriety of the decision has been taken, to ask for the yeas and nays.

The SPEAKER. And it is competent to order them. If there were but fifteen members present, the Chair holds that he would be subject to their decision upon questions of order.

Mr. BURT. I am inclined to think, indeed I do think, that the decision of the Chair is a correct one, and I suggest that consequence as resulting from the decision. Now, sir, when less than a quorum is found to be in this Hall, by any proper proceeding of this House, I maintain that the only questions that are in order are motions to adjourn or for a call of the House.

The SPEAKER. That is the decision of the Chair.

Mr. BURT. I rose, sir, to move that there be a call of the House.

The SPEAKER. That motion cannot be entertained during the pendency of the previous question.

Mr. GORMAN. I will make a motion which will settle this question, if members will vote upon it. I move that this House do now adjourn.

Mr. WOODWARD. That will not settle the question.

Mr. POLK. Yes it will. We can vote down the motion to adjourn, but the vote will show that there is a quorum present.

Mr. GORMAN. If the House will consent to take this vote by a standing count, we can get over this difficulty without wasting more time.

Mr. JONES, of Tennessee. The gentleman from Indiana is mistaken. We do not want to ascertain whether there is a quorum present, but we want to have the question settled by the House, whether one fifth of those present may order the yeas and nays.

The SPEAKER. The Chair will remind the gentleman from Tennessee, that that question was settled last session by a vote of the House, as well as by the decision of the Speaker.

Mr. GORMAN. I insist upon my motion to adjourn, and call for tellers.

Tellers were ordered; and Messrs. JONES, of Tennessee, and GAYLORD were appointed.

The question was then put, and the tellers reported—ayes 36, noes 85.

So the House refused to adjourn.

The SPEAKER. There is now a quorum present.

Mr. DEAN. I understand that the next question is upon the appeal of the gentleman from Georgia.

Mr. STEPHENS. Upon that question I ask for the yeas and nays.

The SPEAKER. A quorum being now present, the Chair decides that the gentleman from Georgia has a right to demand, and the House a right to order, the yeas and nays upon the amendment to the bill.

Mr. DEAN. But we want this question settled, because during the last session the Speaker decided it one way, and the gentleman from Tennessee, [Mr. JONES,] when occupying the chair, decided it the other way, and the House sustained both of those decisions. Now, we want to have it finally settled one way or the other, and I therefore ask for the reading of the latter portion of the fourth rule, to show that there is a distinction between one fifth of a quorum and one fifth of the members present.

The SPEAKER. As there seems to be a very strong disposition on the part of some members of the body to settle the principle at issue between the gentleman from Georgia and the Chair, the Chair hopes, that by unanimous consent, the House will determine the question of order raised by the gentleman from Georgia.

Mr. STANLY. Will that settle the principle?

Mr. STEPHENS. Yes, sir; the decision of the House will govern the Chair in future.

[Cries of "Object!"]

The SPEAKER. The Chair is compelled to decide that the gentleman has a right to call for the yeas and nays, there being now a quorum present.

Mr. JONES, of Tennessee. I would remind the Chair that last session, when a similar question was raised, and an appeal taken when no quorum was present, the appeal was decided after a quorum appeared.

The SPEAKER. There was a vote of the House directly on the decision of the Chair.

Mr. JONES. Less than a quorum could not have decided that appeal.

Mr. STEPHENS. The point of order is not varied at all by the presence of a quorum now. The point of order that I made was, that one fifth of less than a quorum had a right to order the yeas and nays. It is a question of parliamentary law. The presence of a majority of the House now has nothing to do with the principle. The whole House can determine this principle of order, to wit: whether one fifth of less than a quorum can order the yeas and nays.

The SPEAKER. And take a vote, which is forbidden by the Constitution, the Chair thinks the gentleman might add.

Mr. STEPHENS. What vote is that?

The SPEAKER. To pass a bill with less than a quorum present.

Mr. STEPHENS. Not at all. The only question is, whether one fifth of less than a quorum have a right to order the yeas and nays.

The SPEAKER. The Chair decides that the gentleman from Georgia has a right to demand the yeas and nays now.

Mr. STEPHENS. Does the Chair decide that I have a right now to have the question taken on the appeal?

The SPEAKER. The Chair thinks that the gentleman cannot have that question taken, except by unanimous consent of the House, because

the question of order upon which his appeal is based does not now arise, a quorum being present.

Mr. STEPHENS. I suppose if I was to appeal from *that* decision, the Chair would decide that that was not allowable either.

The SPEAKER. The gentleman certainly has a right to appeal, and the House a right to overrule the decision of the Chair.

Mr. JONES, of Tennessee. I would ask the Chair how this question ever can be settled, if not in this way? The question can only be raised and an appeal taken when there is no quorum present; and if the appeal is superseded when it is ascertained that there is a quorum present, why it never can be determined.

The SPEAKER. Is it the unanimous consent of the House that a vote be taken on the appeal of the gentleman from Georgia?

[Cries of "Object!"]

Mr. JONES. We do not want unanimous consent.

The SPEAKER. It is objected to, and therefore cannot be put.

Mr. STEPHENS. Then I appeal from the decision of the Chair that I cannot have a vote on the appeal. I make this point, that I have a right to have the question of order, raised when there was not a quorum present, decided when there is a quorum present; and if the Chair holds the contrary opinion, I shall appeal from his decision.

The SPEAKER. The Chair does hold the contrary opinion.

Mr. STEPHENS. Then I appeal.

Mr. CARTTER. I move that the appeal be laid upon the table, that we may have this matter ended.

The SPEAKER. Upon a division of the House on an amendment to a bill, it was ascertained that there was no quorum present. The Chair announced that fact; upon which, the gentleman from Georgia [Mr. STEPHENS] rose in his place, and demanded that the vote be taken by yeas and nays. The Chair decided that it was not competent for the House to pass upon the amendment or upon the bill with less than a quorum present. That was the decision of the Chair. The gentleman from Georgia insisted on his right to call for the yeas and nays, notwithstanding it was ascertained in a legitimate form—a form as legitimate as the yeas and nays themselves—and announced from the chair, that there was no quorum present. The gentleman from Georgia appealed from the decision of the Chair. A motion was made to adjourn, and on the vote upon that motion a quorum appeared. The question then recurred upon the amendment to the bill. The Chair now decides that it is competent for the gentleman to demand and for the House to order the yeas and nays, there being a quorum present to do this description of business. The gentleman from Georgia insists that he has a right to have a principle—a constitutional principle—decided, which can have no bearing upon the bill, or upon the action of the House in relation to it. The Chair decides that he has a right to demand the yeas and nays on the amendment, under the change of circumstances, and from that decision the gentleman takes an appeal.

Mr. STEPHENS. Will the Chair allow me——

The SPEAKER. The Chair hopes he has stated the case fairly.

Mr. STEPHENS. I wish to correct the Chair in one particular. My object is not to have a constitutional principle settled, but to have a point of order settled—to see whether one fifth of less than a quorum have or have not a right to order the yeas and nays on any question.

The SPEAKER. The Chair has no doubt that they have the right on any question which it is legitimate for less than a quorum to pass upon.

A MEMBER. Upon an adjournment, for instance.

The SPEAKER. Certainly; if there are but 15 members present, the yeas and nays may be ordered upon an adjournment or upon a call of the House. The gentleman from Ohio [Mr. CARTTER] moves to lay the appeal upon the table.

Mr. STEPHENS. Upon that motion I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. STEPHENS. I ask for tellers.

Tellers were not ordered.

The question was then put, and, on a division, there were—ayes 91, noes 11; no quorum voting.

Mr. HALL. I call for the yeas and nays.

The SPEAKER. They have already been refused.

Mr. DEAN. I move that there be a call of the House.

The SPEAKER. That motion is not in order, for the obvious reason that the previous question is pending.

Mr. GORMAN. I would inquire of the Chair if I have not a right to call upon the Chair to require members to vote?

The SPEAKER. It would be impossible for the Chair to do more than he has done.

Mr. GORMAN. If I have the right, I will name gentlemen who have not voted, and insist upon their voting.

The SPEAKER. It will be for the House to determine what they will do with refractory members, if there be any.

Mr. JONES, of Tennessee. I will relieve the gentleman from Indiana from the necessity of naming me. I did not vote.

Mr. BROWN, of Mississippi. Nor did I.

Mr. GORMAN. I ask if I have a right to insist that all the members in the House shall vote?

Mr. RICHARDSON. I rise to a question of order.

The SPEAKER. The gentleman from Indiana is already upon the floor to a question of order.

Mr. GORMAN. I ask the Chair if I have a right to designate the gentlemen who refuse to vote, in order that there may be no quorum?

Mr. HALL. I suppose every gentleman possesses the right, so far as he is himself concerned, and I did not vote, for one.

The SPEAKER. The rules of the House require every gentleman to vote. It is not, however, for the Chair to coerce gentlemen to vote who decline doing so. It is for the House to determine what course shall be pursued in reference to those members who refuse to vote.

Mr. MEADE. I would ask the Speaker if it is not competent for the Presiding Officer of this House to take any means that he may deem expedient to ascertain whether there is a quorum present or not? It seems, from the various votes taken in this House, that a quorum has appeared, and that immediately afterwards no quorum has voted upon a proposition. It is, however, evident to every person in the House, as well as to the Speaker, that there is a quorum present. Now, if that quorum does not manifest itself by a vote, and gentlemen obstinately refuse to vote upon propositions, has not the Speaker a right to ascertain, in a mode which does not depend upon the House, whether there be a quorum present or not, and having ascertained that fact, to announce to the House that there is a quorum present, and then take the necessary means to force members to give their votes?

Mr. STEPHENS. I wish to say one word upon that point, if the Chair will allow me. I wish to show the importance of establishing the principle which I asserted, and for which I took an appeal from the decision of the Chair The gentleman from Indiana [Mr. GORMAN] asks the Chair to *make* members vote. How can you do it? It is when they refuse to vote—when they do not rise and will not divide—that one fifth of those present have a right to make them vote. How can you do it? Why, call their names, and if they do not answer to them, subject them to the punishments of the House.

The SPEAKER. The Chair would decide that even in that case, one fifth of those present might order the yeas and nays.

Mr. STEPHENS. Might order them?

The SPEAKER. The Chair has already appealed to the House, by unanimous consent, to take a vote on the gentleman's appeal. The Chair is quite sure that he has not such a strong feeling upon this subject as other gentlemen seem to have. He has no such feeling in the world. The Chair is exceedingly anxious that the House shall again settle this question, which was settled by a vote of the House last session. The Chair is willing that it should be settled every day. He has no pride of opinion in regard to it. He appealed to the House to allow the question to be taken upon the appeal of the gentleman, but it was objected to. The Chair now earnestly hopes, for the purpose of relieving the House, if it be possible, from all difficulty upon the subject, the House will, by unanimous consent, take the question upon the original appeal of the gentleman from Georgia. If there be no objection, the Chair will put the question upon the appeal, which will settle all difference of opinion between the Chair and the gentleman.

Mr. CARTTER. I object.

Mr. BURT. I rise to a point of order.

Mr. MEADE. I have not yet yielded the floor.

Mr. BURT. My point of order is, that there is no motion before the House.

Mr. MEADE. I insist upon my right to the floor.

The SPEAKER. There is no motion before the House, and the gentleman from Virginia cannot, therefore, retain the floor.

Mr. MEADE. I submit that the question of order is the business before the House. I was entitled to the floor, and yielded it temporarily to the gentleman from Georgia.

The SPEAKER. There is no proposition which is debatable, in the opinion of the Chair, before the House.

Mr. STUART. I rise to a privileged question. I move that the House do now adjourn.

The SPEAKER. The gentleman from Virginia [Mr. MEADE] claims to be upon the floor, which question must first be settled.

Mr. MEADE. I move that the Speaker proceed to ascertain, by the assistance of the Sergeant-at-Arms, whether there be a quorum present or not.

Several MEMBERS. That is not in order.

The SPEAKER. Will the gentleman refer the Chair to any rule which authorizes, much less requires, the Speaker to pursue any such course as that intimated by him?

Mr. MEADE. Then I move there be a call of the House.

The SPEAKER. The previous question having been ordered, by an express rule of the House, it is not competent for any gentleman to make that motion.

Mr. HOUSTON. The Chair has already decided that question three or four times to-day.

The SPEAKER. The Chair will read the rule to which he refers. It says:

"On a motion for the previous question, and prior to the seconding of the same, a call of the House shall be in order; but after a majority shall have seconded such motion, no call shall be in order prior to a decision of the main question."

The Chair therefore decides that no motion is in order, except a motion to adjourn.

Mr. HART. I make that motion.

Mr. STRATTON. I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was then taken, and the result was—yeas 31, nays 122; as follows:

YEAS—Messrs. Abercrombie, Beale, Brenton, George H. Brown, Busby, Cottman, Cullom, Dockery, Eastman, Ewing, Gorman, Hart, Haven, James Johnson, Robert W. Johnson, Kurtz, Letcher, Mann, Martin, McMullin, Meacham, Morehead, Richardson, Riddle, Scurry, Richard H. Stanton, St. Martin, Toombs, Venable, Walsh, and Ward—31.

NAYS—Messrs. Aiken, Willis Allen, Allison, William Appleton, Averett, Babcock, Thomas H. Bayly, Barrere, Bartlett, Bell, Bennett, Bibighaus, Bowie, Briggs, Albert G. Brown, Burrows, Burt, Caldwell, Thompson Campbell, Caskie, Chapman, Chastain, Clark, Clemens, Clingman, Cobb, Darby, John G. Davis, Dawson, Dean, Dimmick, Doty, Dunham, Durkee, Edgerton, Evans, Fay, Ficklin, Florence, Freeman, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Green, Grey, Hall, Hammond, Harper, Isham G. Harris, Haws, Hascall, Hendricks, Henn, Hibbard, Horsford, Houston, Howard, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Andrew Johnson, George W. Jones, George G. King, Preston King, Landry, Little, Lockhart, McLanahan, McNair, Meade, Miller, Millson, Miner, Molony, Henry D. Moore, John Moore, Murphy, Murray, Nabers, Newton, Olds, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Penniman, Phelps, Polk, Porter, Reed, Robbins, Robie, Robinson, Ross, Russell, Savage, Schermerhorn, Schoolcraft, Origen S. Seymour, Skelton, Smith, Stanly, Benjamin Stanton, Stratton, Strother, Stuart, Sutherland, Sweetser, Taylor, Thurston, Townshend, Tuck, Walbridge, Watkins, Welch, Wells, and Wildrick—122.

So the House refused to adjourn.

Mr. GOODENOW, who was without the bar when his name was called, asked leave to vote, but objection was made.

The question then recurred upon the motion to lay the appeal of the gentleman from Georgia [Mr. STEPHENS] upon the table, and being taken, upon a division there were—ayes 96, noes 23.

So the appeal was laid upon the table.

The question then recurred upon the adoption of the amendment to the first section of the bill.

Mr. CARTTER. I demand the yeas and nays.

The yeas and nays were ordered, and being taken, the result was—yeas 121, nays 21; as follows:

YEAS—Messrs. Aiken, Charles Allen, Willis Allen, Allison, William Appleton, Babcock, Thomas H. Bayly, Barrere, Bartlett, Beale, Bibighaus, Bowie, Brenton, Burrows, Burt, Busby, Joseph Cable, Caldwell, Thompson Campbell, Caskie, Chandler, Chapman, Chastain, Clark, Cobb, Cottman, Curtis, Darby, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Disney, Dockery, Doty, Eastman, Edgerton, Edmundson, Evans, Faulkner, Fay, Florence, Freeman, Gamble, Giddings, Gilmore, Goodenow, Gorman, Green, Grey, Harper, Isham G. Harris, Hart, Haws, Hendricks, Horsford, Houston, Howard, John W. Howe, Thomas Y. How, Ingersoll, Jackson, James Johnson, George G. King, Little, Lockhart, Mann, Mason, McLanahan, McMullin, McNair, Meade, Miller, Millson, Henry D. Moore, John Moore, Morehead, Murphy, Murray, Nabers, Newton, Olds, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Penniman, Polk, Porter, Reed, Riddle, Robie, Ross, Russell, Sackett, Savage, Schermerhorn, Schoolcraft, David L. Seymour, Origen S. Seymour, Skelton, Smith, Snow, Stanly, Benjamin Stanton, Stratton, Stuart, Taylor, Thurston, Townshend, Tuck, Walbridge, Walsh, Washburn, Watkins, Welch, Wells, Wilcox, Wildrick, and Woodward—121.

NAYS—Messrs. Abercrombie, Averett, Briggs, Albert G. Brown, Lewis D. Campbell, Carter, Clemens, Clingman, Dunham, Durkee, Ficklin, Thomas J. D. Fuller, Hall, Hammond, Haven, Henn, Daniel T. Jones, George W. Jones, Preston King, Martin, Molony, Orr, Peaslee, Phelps, Robbins, Seurry, St. Martin, Sutherland, Sweetser, Toombs, and Ward—31.

So the amendment was agreed to.

Mr. SWEETSER. Is it in order to move to reconsider the vote by which the previous question was ordered?

The SPEAKER. It is in order; but in order to reach the vote by which the previous question was ordered, the House would first have to reconsider the vote just taken, by which the amendment to the bill was adopted.

Mr. SWEETSER. Well, sir, as the previous question has been forced upon us, without giving an opportunity to perfect the bill, I move to lay the whole subject upon the table.

Mr. MEADE. I move that the House do now adjourn.

The motion was not agreed to.

The question was then taken, and the House refused to lay the bill upon the table.

[A message in writing was here received from the President of the United States, by MILLARD P. FILLMORE, Esq., his Private Secretary.]

Mr. HALL. I rise to a privileged question. I move to reconsider the vote by which the amendment was adopted, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

Mr. MILLSON. I move that the House do now adjourn.

The question was put, and the motion was not agreed to.

The next amendment reported from the committee was to insert in the proviso to the second section the word "so," before the word "had," so that it would read as follows:

Provided, That for each and every day, or part of a day, during which said banking-house, broker's office, or other office, room, or place of business, shall be (so) had, maintained, or kept, every person and every member, officer, or agent, as aforesaid, so offending as aforesaid, shall be deemed guilty of a distinct and separate offense, and subject to the penalties aforesaid.

The question was put, and the amendment was agreed to.

The next amendment was to strike out in the third section the words in *italics*.

The section was read, as follows:

"SEC. 3. *And be it further enacted*, That if any person, or any association, partnership, or company of individuals, or any body-politic or corporate, whether within or without the District of Columbia, shall make, emit, issue, utter, sign, draw, or indorse any bill of credit, bank note, promissory note, bill of exchange, order, ticket, or any other instrument of writing, obligation, promise, contract, or agreement, for the payment or delivery of anything other than money, *not in a less amount, nor of a denomination less than five dollars*, to be used as a circulating medium in this District, every such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, promise, contract, or agreement, shall be deemed and taken to be made payable in money at the banking-house, broker's office, or other office, room, or place of business, at or from which the same shall be made, emitted, issued, uttered, signed, drawn, or indorsed as aforesaid; and whether such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, obligation, promise, contract, or agreement, purport to be made payable in money or in the obligations of any bank or of any association, partnership, or company of individuals, or of any body-politic or corporate, or of any individual, it shall be deemed and taken to be made payable in money by the person, association, partnership, or company of individuals, body-politic or corporate, making, emitting, issuing, uttering, signing, drawing, or indorsing the same; and in default of payment of any such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, obligation, promise, contract, or agreement as aforesaid, at the banking-house, broker's office, or other office, room, or place of business, at or from which the same shall be made, emitted, issued, uttered, signed, drawn, or indorsed as aforesaid, or in default of payment by the person, association, partnership, or company of individuals, body-politic or corporate, making, emitting, issuing, uttering, signing, drawing, or indorsing the same, whenever and wherever demanded, then the amount thereof shall be recoverable by action of debt before any justice of the peace in the District of Columbia; and in any case in which the holder of such bill of credit, bank note, promissory note, bill of exchange, order, ticket, other instrument of writing, promise, contract, or agreement, shall make affidavit before any justice of the peace as aforesaid that the same has been presented for payment as aforesaid, and that payment thereof has been refused, and that the same is still due and unpaid, and shall file the same in the office of the said justice, it shall be the duty of the said justice to issue his warrant for the arrest of the person or persons, or any of them, concerned in or assenting to the making, emitting, issuing, uttering, signing, drawing, or indorsing of the same; and such person or persons shall not be discharged from such arrest until the debt and costs are paid, or secured to be paid."

Mr. MILLSON. I desire to know if there was not a motion made to strike out that section?

The SPEAKER. That motion has not been made in the House at all. The gentleman will recollect that the previous question was moved as soon as the bill came into the House, cutting off all amendments.

Mr. STUART. What effect does the reading of the bill by sections have? This third section proposes to punish individuals, associations, and others who are out of the District.

The SPEAKER. The only votes to be taken are, first, upon the amendments proposed by the committee; and next, upon ordering the bill to be engrossed and read a third time.

The fourth section was then read by the Clerk.

Mr. SACKETT. Are there any other amendments proposed to the other sections of the bill?

The SPEAKER. There are none.

Mr. SACKETT. If there are none, may we not as well dispense with the reading of the remainder of the bill?

The SPEAKER. It can be done only by unanimous consent.

Mr. STUART. I object. I hope the House will listen to the bill, and if they do, they will never pass this fifth section.

Mr. FICKLIN. I call the gentleman to order.

The fifth section was then read.

Mr. TAYLOR. I ask that a separate vote be taken upon that section.

The SPEAKER. It cannot be had. The Chair repeats that the only votes which can, under the operation of the previous question, be taken, are, first, upon the amendments reported by the committee, and then upon the engrossment and passage of the bill.

Mr. JOHN W. HOWE. I desire to know if this act does not apply to omnibus tickets? [Laughter.]

The Clerk then read the sixth, seventh, eighth, ninth, and tenth sections of the bill.

Mr. JOHN W. HOWE. I now move to lay the bill upon the table.

Mr. STUART. I move that the House adjourn.

The question was taken upon the latter motion, and it was not agreed to.

So the House refused to adjourn.

The SPEAKER. The question is upon laying the bill upon the table.

Mr. SACKETT. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. FAULKNER and GAYLORD appointed.

The question was taken, and the tellers reported—ayes 27, noes not counted.

So the House refused to lay the bill upon the table.

The question then recurred upon ordering the bill to be engrossed and read a third time.

Mr. WASHBURN. I call for the yeas and nays upon that question.

Mr. CAMPBELL, of Ohio. I move that the House do now adjourn.

The question was taken upon the motion to adjourn, and it was not agreed to.

The House was then divided upon the demand for the yeas and nays, and they were not ordered—seventeen only voting in the affirmative.

Mr. ALLISON. I ask for tellers on ordering the bill to be engrossed and read a third time.

Tellers were not ordered.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, it was read a third time.

Mr. JOHN W. HOWE. I move that the House do now adjourn.

Mr. HOUSTON. I move the previous question upon the passage of the bill.

Mr. STUART. I rise to a privileged question. I move to reconsider the vote just taken, ordering the bill to be engrossed and read a third time.

The SPEAKER. The motion will be entered. The question is upon the motion to adjourn.

Mr. MILLSON. I call for tellers upon that motion.

Tellers were not ordered.

The question was then taken, and on a division, there were—ayes 38, noes 83.

So the House refused to adjourn.

Mr. STUART. The motion I just made, to reconsider the vote by which the bill was ordered to be engrossed and read a third time, is now in order.

The SPEAKER. It is in order, and it is the question to be now taken.

Mr. STUART. Is it not a debatable question?

The SPEAKER. It is. The previous question was exhausted, on ordering the bill to be engrossed and read a third time.

Mr. HOUSTON. I moved the previous question upon the passage of the bill, and that, too, previous to the discussion, as I understand it, of any motion connected with the bill. I distinctly made that motion before the gentleman from Michigan obtained the floor.

The SPEAKER. Was not the gentleman from Alabama cut off by the motion to adjourn?

Mr. HOUSTON. No, sir; not at all.

Mr. STUART. I was entitled to make that motion, and entitled to debate it, and could not be cut off, even by the gentleman's motion.

The SPEAKER. If the gentleman from Alabama was recognized by the Chair, and demanded the previous question, the gentleman from Michigan would not be entitled to the floor, until that was decided.

Mr. STUART. That is true; but the gentleman from Alabama has not been recognized by the Chair yet. That gentleman, like many of us here, gets up and submits a motion without being recognized by the Chair. I was recognized, and made my motion, while the gentleman from Alabama was not recognized at all.

The SPEAKER. The Chair is under the impression that such is the history of the case, and that the motion to adjourn cuts off the gentleman's proposition.

Mr. HOUSTON. My motion was made before the motion to adjourn, as the gentlemen around me remember, and before the motion made by the gentleman from Michigan to reconsider the vote. That is my recollection.

The SPEAKER. Was the gentleman recognized by the Chair?

Mr. HOUSTON. I so understood it, and it was so understood by gentlemen around me.

The SPEAKER. The Chair desires to get at the facts of the case, as his mind is not clear upon that point.

Mr. BROWN, of Mississippi. I can state the facts precisely as they occurred. The gentleman from Alabama rose and addressed himself to the Chair. The Speaker said, "The gentleman from Alabama." The gentleman from Alabama then made his motion. At almost the same moment, some other gentleman upon the other side of the House addressed the Chair, and the Speaker turned his eye in that direction, when the motion was then made to adjourn. Instantly the gentleman from Michigan [Mr. STUART] arose, and after the Chair had said "The gentleman from Alabama," and after that gentleman had submitted his motion.

The SPEAKER. The Chair recollects that the gentleman from Michigan submitted his motion to reconsider after the motion was made to adjourn.

Mr. STUART. I did not desire to get into any controversy with members upon facts. It is

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but a short time since the gentleman from Tennessee rose here, when there were at least twelve members upon the floor, but was not recognized by the Chair, and went on and made his proposition. That is the way in which the gentleman from Alabama did. I was the first gentleman recognized by the Chair.

Mr. HOUSTON. Gentlemen all around me remember the facts differently from the gentleman from Michigan. I have no doubt but the gentleman is sincere in his opinion, and that he states it according to his views, but then my recollection is sustained by all around me. I understood myself as being recognized by the Chair, and gentlemen around me, who were paying as much attention as myself, remember that the Speaker recognized me in so many words.

The SPEAKER. The Chair recollects very well that the gentleman from Alabama demanded the previous question, but doubts whether or not it was not pending the motion to adjourn.

Mr. JOHNSON, of Tennessee. I would ask the gentleman if he voted with the majority, and was in a condition to make the motion to reconsider?

Mr. STUART. There was no division, and any gentleman has a right to submit a motion to reconsider.

The SPEAKER. The Chair is not distinct in his recollection of the facts; and as the easiest mode of settling the question, he is disposed to put the question upon seconding the demand for the previous question.

Mr. STUART. I hope the gentleman from Connecticut [Mr. CHAPMAN] will be allowed to make a statement.

Mr. CHAPMAN. I was endeavoring to get the ear of the Chair, for the purpose of reminding him, that when the gentleman from Alabama arose, the Chair suggested that there was a motion to adjourn pending.

Mr. STANLY. The gentleman from Alabama was recognized by the Chair, and the gentleman from Michigan gets up and addresses the Chair, in the midst of the noise and confusion, and says "I rise to a privileged question," in order to cut off the motion of the gentleman from Alabama.

The House was then divided upon seconding the demand for the previous question, and there were—ayes 87, noes 37.

So the previous question was seconded.

Mr. STUART. I rise to a question of order.

Mr. HARRIS, of Tennessee. I rise to a privileged question. I believe it is a privileged question. I move the House adjourn. [Laughter.]

Mr. STUART. The gentleman cannot take the floor from me to submit that motion.

The SPEAKER. The gentleman from Michigan will state his point of order.

Mr. STUART. It is this: that allowing the decision of the Chair to be correct—and certainly I am not disposed to dispute it—I have the right to discuss this question on the motion to reconsider the vote by which the bill was ordered to be engrossed and read a third time; and that moving the previous question on the passage of the bill, does not cut me off from that privilege until the House has ordered the main question to be put.

The SPEAKER. The legitimate question is, whether the House will order the main question to be put.

Mr. STUART. It has been ordered to be put.

The SPEAKER. The call for the previous question has only been seconded.

Mr. STUART. Suppose the House had ordered the main question to be put, my right would not be cut off.

The SPEAKER. The Chair is of the opinion that the gentleman would be cut off from debating the bill, if the call for the previous question was seconded on the passage of the bill.

Mr. STUART. The motion to reconsider must then be put.

Mr. ORR. I move to lay the motion to reconsider upon the table.

Mr. HARRIS, of Tennessee. I move that the House do now adjourn.

The question was put, and the House refused to adjourn, there being on a division—ayes 50, noes 67.

Mr. McMULLIN. Is it in order to move a call of the House?

The SPEAKER. It is not, because the main question has been ordered to be put. The question now is upon the passage of the bill.

Mr. CAMPBELL, of Ohio. I move that the bill be laid upon the table.

The SPEAKER. The motion pending to lay the motion to reconsider upon the table, takes precedence of that motion.

The question was taken, and the motion to reconsider was laid upon the table.

The question was then taken on the motion to lay the bill upon the table, and it was disagreed to.

The SPEAKER. The question is now upon the passage of the bill.

Mr. WASHBURN. I demand the yeas and nays.

Mr SACKETT. I move that the House do now adjourn.

The question was put, and the House refused to adjourn.

The yeas and nays were ordered on the passage of the bill.

Mr. GOODENOW. I move that the House do now adjourn.

Mr. HART. I demand tellers on the motion to adjourn.

Tellers were ordered; and Messrs. McMULLIN and HENDRICKS were appointed.

The question was taken, and the House refused to adjourn; the tellers having reported—ayes 50, noes 75.

The question was taken on the passage of the bill, and it was passed—yeas 81, nays 38; as follows:

YEAS—Messrs. Aiken, Charles Allen, Willis Allen, Wm. Appleton, Ashe, Averett, Babcock, Barrere, Beale, Bowie, Breckinridge, Albert G. Brown, Burt, Caldwell, Thompson Campbell, Chastain, Clark, Clemens, Colcock, Cottman, Darby, John G. Davis, Dawson, Dimmick, Disney, Dockery, Doty, Eastman, Edgerton, Fay, Ficklin, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Goodenow, Gorman, Green, Hall, Harper, Isham G. Harris, Sampson W. Harris, Hart, Hascall, Hendricks, Henn, Hibbard, Horsford, Houston, Ives, Jackson, Andrew Johnson, Daniel T. Jones, Preston King, Letcher, Mason, McLanahan, McMullin, McNair, Henry D. Moore, Morehead, Murray, Orr, Outlaw, Andrew Parker, Peaslee, Penn, Phelps, Robbins, Ross, Sabine, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Benjamin Stanton, Stratton, Townshend, Wildrick, and Woodward—81.

NAYS—Messrs. Bibighaus, Bocock, Brenton, Barrows, Busby, Joseph Cable, Lewis D. Campbell, Chapman, Cobb, Dean, Dunham, Durkee, Evans, Haws, Haven, John W. Howe, Thomas Y. How, George G. King, Little, Mann, Miller, Millson, Molony, Newton, Samuel W. Parker, Penniman, Sackett, Schoolcraft, Scurry, Sutherland, Taylor, Thurston, Walbridge, Walsh, Washburn, Watkins, Welch, and Addison White—38.

So the bill was passed.

Pending the call of the roll,

Mr. STUART said: I hope that the House will allow me to say, that I am in favor of the purport of the bill, but that I deem it so defective I cannot vote for it. I therefore decline to vote.

[Cries of "Order!" "Order!"]

Mr. HALL. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

On motion by Mr. ORR, the House then adjourned till to-morrow, at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. BROWN, of Mississippi: The petition of Alexander Lea, praying compensation for losses sustained by him in the destruction of the light-house at Chandelier Island, off the coast of Mississippi.

By Mr. HARPER: The petition of Mary Young, one of the heirs of William Liggett, praying for compensation for the services of said Liggett as a soldier in the war of the Revolution.

By Mr. AVERETT: The petition of 375 citizens of the city of Washington, in favor of rebuilding the Long Bridge over the Potomac river at its present site.

By Mr. DOTY: The petition of D. Agny, Baron S. Doty, M. L. Martin, and 80 other citizens of Green Bay, for a grant of land to the company organized to construct a railroad from Green Bay to Chicago.

By Mr. BIBIGHAUS: The petition of Adam Guttinger and 163 others, citizens of Lebanon, Pennsylvania, praying that one hundred and sixty acres of land be given to each person who served in the war of 1812.

By Mr. LETCHER: The petition of Harvey Risk, postmaster at Fairfield, Rockbridge county, Virginia, praying to be released from the payment of a certain sum of money claimed as due from him to the Post Office Department.

By Mr. ABERCROMBIE: The petition of William Bryan and others, citizens of Dale county, Alabama, praying Congress to remove the land office from Sparta to Elba, in Coffee county, in said State.

By Mr. MILLER: The memorial of the General Assembly of Missouri, asking a grant of land to aid in the construction of a railroad from Canton, Missouri, to Bloomfield, Iowa.

By Mr. STANLY: The memorial of E. A. Smith and R. Quarles and others, citizens of the counties of Woodford and Fayette, Kentucky, asking Congress to pass the bill to pay the States the fourth installment under the deposit act; in aid of the Colonization Society.

By Mr. EASTMAN: The memorial of James Morrison and others, sureties of G. R. C. Floyd, late Secretary of the Territory of Wisconsin, for authority to the accounting officers to settle the account of said Floyd.

IN SENATE.

WEDNESDAY, *January* 19, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. FOOT presented the credentials of the Hon. SAMUEL S. PHELPS, appointed by the Governor of the State of Vermont a Senator from that State, to supply the vacancy occasioned by the death of the Hon. WILLIAM UPHAM until the next meeting of the Legislature, which were read; and Mr. PHELPS, having taken the oath prescribed by law, took his seat in the Senate.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, reports of an examination of the Blue Lick Springs and other sites, with a view to the establishment of a western military asylum; which was referred to the Committee on Military Affairs, and ordered to be printed.

Also, a message from the President of the United States, recommending the payment of the claim made by the Spanish Government on behalf of its subjects, in the case of the Amistad; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Also, a report of the Acting Secretary of the Treasury, communicating, in answer to a resolution of the Senate relating to the coinage of the United States Mint and its branches, a report of the Director of the Mint; which was referred to the Committee on Finance, and ordered to be printed.

PETITIONS, ETC.

Mr. DAVIS. Mr. President, I have been requested to present a petition, signed by Grinnell, Minturn, & Co., and a number of ship-owners, ship-masters, and insurance companies, praying Congress for some measure of legislation to bestow assistance on Selena C. Sumner, the wife of Captain Sumner, for the discovery he had made, by which the position of a ship can be ascertained at sea. They represent, sir, that this discovery is one of great practical importance, and has saved many lives and a large amount of property, and they request Congress to take it into their consideration. I move that, without reading, the petition be referred to the Committee on Commerce.

It was so referred.

Mr. FOOT presented a petition of citizens of Waterford and Barnet, Vermont, praying the establishment of a mail route from Barnet to Waterford Lower Village, in that State; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Lyman and Littleton, New Hampshire, praying the establishment of a mail route from Steven's Village to Lower Waterford; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of citizens of Waterford, Ver-

mont, and Littleton, New Hampshire, praying the establishment of a mail route between those towns; which was referred to the Committee on the Post Office and Post Roads.

Also, an additional document in relation to the case of Avery Downer, praying compensation for his services as assistant surgeon during the revolutionary war; which was referred to the Committee on Pensions.

Mr. BRADBURY presented the petition of Cyrus Wheelock, a soldier in the last war with Great Britain, praying a pension; which was referred to the Committee on Pensions.

Mr. HUNTER presented a petition of the Board of Directors of the Richmond and Danville Railroad Company, praying permission to import railroad iron free of duty; which was referred to the Committee on Finance.

Also, the memorial of Thomas Ritchie, praying a further allowance for the printing of the Thirty-first Congress, executed by him under contract; which was referred to the Committee on Printing.

Mr. HAMLIN presented a petition of citizens of Portland, Maine, praying the passage of the bill usually known as "Bennett's land bill," and that in it a grant of land may be made for the construction of the European and North American railway; which was ordered to lie on the table.

Mr. JONES, of Tennessee, presented a memorial of certain Cherokees, citizens of Bradley county, Tennessee, praying the settlement of their claims on the principles of equity and justice; which was referred to the Committee on Claims.

Mr. DOWNS presented the petition of William Chandler, praying the payment of certain bills or Continental money held by him; which was referred to the Committee on Finance.

PAPER WITHDRAWN AND REFERRED.

On motion by Mr. SHIELDS, it was

Ordered, That the memorial of Harriet O. Read, executrix of Lieutenant Colonel A. C. W. Fanning, on the files of the Senate, be referred to the Committee on Military Affairs.

SMALL NOTE BILL.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed a bill to suppress the circulation of small notes as a currency in the District of Columbia.

REPORTS FROM STANDING COMMITTEES.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the memorial of Sarah Bruster and Irene Howard, of Tennessee, praying that the bounty land act of March, 1852, may be extended to the widows and minor heirs of soldiers embraced in said act, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Public Lands; which was agreed to.

He also, from the same committee, to which were referred documents in relation to the claim of Aaron H. Hoyt to a pension for services in the last war with Great Britain, asked to be discharged from the further consideration thereof; which was agreed to. He also submitted a report on the subject; which was ordered to be printed.

He also, from the same committee, to which were referred documents in relation to the claim of Jacob Cole to a pension for services in the war of the Revolution, asked to be discharged from the further consideration thereof; which was agreed to. He also submitted a report on the subject; which was ordered to be printed.

He also, from the same committee, to which were referred documents in relation to the claim of John Walker to a pension and bounty land, for services during the last war with Great Britain, asked to be discharged from the further consideration thereof; which was agreed to. He also submitted a report on the subject; which was ordered to be printed.

Mr. BADGER, from the Committee on the Judiciary, to which was referred a petition of citizens of Alabama, in favor of abolishing the office of chaplain; and also petitions from citizens of Virginia, Illinois, Indiana, Pennsylvania, Delaware, New Jersey, Vermont, and Mississippi, on the same subject, asked to be discharged from the further consideration thereof; which was agreed to. He also submitted a report on the subject; which was ordered to be printed.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the petition of William Wright, reported a bill authorizing the Secretary of the Treasury to issue a register to the British bark Fanny, under the name of the Golden Mirror; which was read, and passed to the second reading.

On motion by Mr. HAMLIN, the bill was read a second time, and considered as in Committee of the Whole. No amendment being made, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

He also, from the same committee, to which was referred a memorial of merchants, &c., of Boston, praying that the Secretary of the Treasury may be directed, by law, to refund excesses of duties in certain cases, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

Mr. FOOT, from the Committee on Pensions, to which were referred the following petitions and resolutions, asked to be discharged from their further consideration; which was agreed to:

Petition of Ebenezer G. Atwater, praying to be allowed a pension for a disability incurred in firing a salute in honor of the President of the United States and some members of the Cabinet present at the opening of the New York and Erie railroad;

Petition of Samuel Church, praying remuneration for the loss of clothing and health in the military service of the United States during the last war with Great Britain;

Petition of Candace Porter, widow of a soldier in the war of the Revolution, praying a pension;

Petition of William L. Martin, praying an increase of pension;

Petition of Caroline L. Eustis, widow of William Eustis, a surgeon in the army of the Revolution, praying a pension;

Petition of Elizabeth R. Drane, widow of Anthony Drane, formerly an officer of the Army, praying a pension;

Resolution directing the Committee on Pensions to inquire into the expediency of granting arrears of pension to David Linn;

Resolution instructing the Committee on Pensions to inquire into the expediency of continuing a pension to Thankful Reynolds.

Mr. HAMLIN. The Committee on Commerce, to which was referred a memorial of ship-owners, merchants, &c., of Boston, praying that the same facilities in unloading, which are now granted to steamers, may be extended to sailing vessels, and the memorial of Richard Evans, and other officers of the United States revenue service, praying for an increase of pay, has directed me to ask to be discharged from their further consideration. I beg to say, at the same time, that I hold in my hand a resolution which I am about to report from that committee, proposing to call on the Treasury Department for a system for the entire revision of the revenue laws, and which, when presented to Congress, will include precisely the cases which are covered by these memorials. For these reasons, the committee ask to be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. HAMLIN. I am directed by the same committee to report the following resolutions:

Resolved, That the Secretary of the Treasury be required to have prepared, and submitted to the Senate at its next session, a general revenue law, with the view of superseding all existing laws on the subject, and which shall embrace all needful provisions for regulating the foreign and domestic commerce of the United States in American and foreign vessels, the assessing and collecting of the duties connected with the same, including fees of all kinds, tonnage duty, and light-money, the registering, enrolling, and licensing of vessels, the number, duties, and emoluments of custom-house officers and employees of every kind, the levying and remission of penalties, fines, and forfeitures, the service of the revenue marine in all its details, and providing generally for the due performance of all the duties of every description connected with the revenue service, in all its branches and details, including all the requisite official forms to be observed in the transaction of custom-house business.

Resolved further, That in the preparation of the said revenue code or law, it shall be distinctly shown what are the provisions of existing laws which are retained, what, if any, portion of said existing laws that are omitted, and what new provisions or additions are made.

This is a simple call upon the Secretary of the Treasury to form a plan for the collection of our revenues—a uniform plan, which shall take the place of the existing laws. I hope it will be considered and passed at this time. I apprehend there will be no objection to it; but if there should be any, I think I can make it very evident to the Senate that it should receive its favorable consideration.

The resolution was considered, by unanimous consent, and agreed to.

MILITARY ACADEMY BILL.

Mr. HUNTER. Mr. President, the Committee on Finance, to which was referred the bill from the House of Representatives, entitled "An act making appropriations for the support of the Military Academy for the year ending 30th June, 1854," have instructed me to report it back with sundry amendments, and to ask that it may now be considered.

There being no objection, the Senate proceeded to consider the bill as in Committee of the Whole. It proposes to make the following appropriations:

For pay of officers, instructors, cadets, and musicians, $88,266.
For commutation of subsistence, $2,190.
For forage for officers' horses, $960.
For repairs, fuel, and apparatus therefor, forage for public horses and oxen, postage, stationery, printing, and other incidental and contingent expenses, $29,660.
For increase and expenses of the library, $1,000.
For expenses of the Board of Visitors, $3,000.
For completion of the new mess hall, $3,500.
For stable for dragoon and artillery horses, $8,000.
For forage for dragoon and cavalry horses, 8,640.

The amendments of the Committee on Finance were to add the following:

For additional pay of $50 each to the soldiers employed in the Adjutant's office as clerks, and to the two enlisted men employed in the Philosophical and Chemical Department, $150.
Riding and exercising hall, $12,000.
For the construction of a wharf, $4,330.
SEC. 2. *And be it further enacted*, That hereafter the professors of French and drawing shall receive the pay and emoluments allowed to the other professors; and the sum of $1,000 is hereby appropriated for that purpose out of any money in the Treasury not otherwise appropriated.

The amendments were agreed to; the bill was reported to the Senate as amended, and the amendments were concurred in; the bill was ordered to a third reading, read a third time, and passed.

ESPY'S CONICAL VENTILATOR.

On motion by Mr. MANGUM, the Senate proceeded to consider the following resolution submitted yesterday by him, and it was agreed to:

"*Resolved*, That the Committee on Naval Affairs inquire into the expediency of directing the Secretary of the Navy to purchase from James P. Espy his patent right for the conical ventilator; and also inquire into its value, and fix the amount which they deem reasonable and proper for the purchase of the same, if, in their opinion, it is expedient to purchase it."

Mr. MANGUM also submitted a document in relation to the subject; which was referred to the Committee on Naval Affairs.

STANSBURY'S REPORT.

Mr. PEARCE offered the following resolution; which was referred to the Committee on Printing:

Resolved, That the report of Charles F. Stansbury on the Industrial Exhibition held at London in 1850, communicated to the Senate on the 12th instant, by the Secretary of the Interior, be printed, and that two thousand extra copies thereof be printed for the use of the Senate.

NEW POST ROUTES.

Mr. BORLAND submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the propriety of establishing the following post routes:

1st. From Fulton, in Hempstead county, to Rocky Comfort, in Sevier county, Arkansas, distance about forty-five miles.

2d. From Danville, *via* William Parkes's, in Yell county, and Milton Gilbreath's, to Felix Gaines's, in Scott county Arkansas, distance about fifty miles.

3d. From Van Buren, *via* Joseph Bryant's, in Crawford county, and Lee C. Blakemore's, to Fayetteville, in Washington county, Arkansas, distance about fifty miles.

4th. From Dover, in Pope county, *via* Borland, in Newton county, to Yellville, in Marion county, Arkansas, to intersect the route from Yellville to Springfield, Missouri.

5th. From Carrollton, in Carroll county, *via* Worth, in Newton county, Arkansas, to Rockbridge, Missouri.

6th. From Little Rock, *via* Springfield, in Conway county, to Clinton, in Van Buren county, Arkansas, distance about ninety miles.

7th. From Helena to Little Rock, Arkansas.

8th. From Ozark, in Franklin county, *via* Grand Prairie and Waldron, Arkansas, to Red river.

COLONIZATION IN NORTH AMERICA.

Mr. GWIN. I move to take up the joint resolution which was under consideration yesterday, "declaratory of the views of the United States respecting colonization on the North American continent, and respecting the Island of Cuba," in order that the Senator from Virginia [Mr. MASON]

may occupy a short time in explaining a matter which he wished to explain yesterday evening, but had not an opportunity of doing, with the understanding that then it shall be postponed till Tuesday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution.

A debate ensued, in which Messrs. MASON, CASS, SOULE, DIXON, and SHIELDS participated. The further consideration of the joint resolution was then postponed until Tuesday, the 25th inst. [For the debate see the Appendix.]

LOUISIANA OVERFLOWED LANDS.

On motion by Mr. DOWNS, the bill "to aid the State of Louisiana in reclaiming the overflowed lands therein, and for other purposes," was taken up for consideration; and on his motion it was postponed to, and made the special order for, Monday the 31st instant.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill "authorizing 'the construction of a railroad and branches, for 'establishing a certain postal communication be-'tween the shores of the Pacific and Atlantic within 'the United States, for the protection and facili-'ties of travel and commerce, and for the neces-'sary defenses of the country."

The PRESIDING OFFICER, (M. NORRIS in the chair.) The pending question is on the amendment submitted by the Senator from Mississippi, [Mr. BROOKE,] as a substitute for the whole bill.

Mr. GWIN. I believe the Senator from Mississippi is willing to withdraw that amendment until we perfect the bill section by section.

The PRESIDING OFFICER. The Chair would suggest to the Senator that the proposition of the Senator from Mississippi is, to strike out all after the enacting clause, and insert a substitute for the whole bill. That motion is in order, but motions to amend the sections of the original bill will take priority, and after they are disposed of, the question will be on that amendment.

Mr. BROOKE. Do I understand the Chair to decide my amendment to be out of order?

The PRESIDING OFFICER. It is in order, but before the question is put upon it, the original bill is open to amendment.

Mr. GWIN. I move that the bill be read section by section, so as to permit amendments to be offered.

The PRESIDING OFFICER. That course will be pursued.

The first section was then read as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That with the view of securing the speedy construction of a railroad and branches connecting the Mississippi river with the Pacific ocean, at suitable points, the President of the United States is hereby authorized to enter into contracts, in conformity with the provisions of this act, for the construction of a railroad from a point on Red river, at or near the southwest corner of the State of Arkansas, on the most direct and feasible route, and, if practicable, with a branch to the gulf coast and through the State of Texas to a point on the eastern boundary of the State of California; and from points on the western boundary of Missouri and Iowa, (not within the limits of any existing State,) on the most direct and feasible route to intersect said road, running from Red river, as aforesaid, to the eastern boundary of the State of California, with a track departing from this line at some point west of the Sierra Nevada, or Rocky Mountains, and running, on the most direct and feasible route, to some safe and commodious harbor in the Territory of Oregon, which shall be at all times accessible to the largest class of sea-going vessels navigating the Pacific ocean."

Mr. ADAMS. I move to strike out of that section the words "and branches," with the view of following it up, if it prevails, with amendments to other portions of the bill, so as to have the bill provide only for a road from the most suitable point on the Mississippi to the Pacific.

Mr. SHIELDS. Is the object of the amendment to confine the bill to the construction of but one road?

Mr. ADAMS. Yes, sir; and if this amendment prevails, I will follow it up by moving to amend the other portions of the bill having reference to the branches, so as to leave it one track from San Francisco to the most suitable point on the Mississippi river. The selection of that point I am willing to leave for future investigation. My object is to strike out of the bill all that relates to the branches.

Mr. CHASE. I would suggest to the Senator from Mississippi, whether his object could not be better obtained by moving an amendment to that portion of the section which determines the point at which the road is to commence. It might be, that it would be important to have branches from some suitable point to Oregon and California; while it might not be desirable to have branches on this side, connecting the road with the extended system of works already in progress, or consummated, in different portions of the country. I would prefer, myself, if it would suit the purpose of the Senator from Mississippi equally well, to make a question in this form: To strike out the words "on Red river, at or near the southwest corner of the State of Arkansas," which is the proposed commencement of the road, and insert "on the Missouri river, not below Independence, in Missouri, nor above Kanesville, in Iowa." I think it would be better to make a question on that, and leave the subject of the western branches open.

Mr. ADAMS. That motion does not meet my approbation, and of course I could not make it. It has reference to the commencement of the road. I do not wish by the bill to designate any point, either on the Mississippi or Missouri river. I am willing to have the terminus on this side located either on the Mississippi or Missouri, and leave it to the proper authorities to investigate and ascertain the best route. My proposition, however, has no connection with what the Senator from Ohio suggests. It has reference to the branches provided for in the subsequent portions of the bill; and unless the words which I propose to strike out of the first section are stricken out, the branches follow in the whole bill.

The amendment was rejected; there being on a division—7 ayes, noes not counted.

The second section was then read, as follows:

"SEC. 2. *And be it further enacted*, That the right of way, two hundred feet wide, throughout the entire length of said road and branches, is hereby set apart and appropriated for the use of said road and branches forever; and a quantity of land, equal to the alternate sections, for the space of forty miles on each side of said road and branches, to wit: the sections which shall be marked and designated on the public surveys of said lands by odd numbers, are hereby set apart and appropriated to aid in the construction of said road and branches in the manner, and subject to the terms, conditions, limitations, and restrictions hereinafter provided."

Mr. ADAMS. I move to strike out of that section the words, "equal to the;" that will leave the grant to be of "alternate sections." It is known that when you make a grant "equal to the alternate sections" in the States where some of the land has been sold, it is equivalent to a grant of the entire land, which I hold we have no constitutional power to do. I am not willing to do it. According to the provisions of this bill, if the lands are not sold, we give the "alternate sections;" if they are sold, we give a quantity "equal to the alternate sections."

The amendment was rejected.

Mr. ADAMS. I move to strike out "forty" and insert "twenty." The bill proposes to grant "a quantity of land equal to the alteraate sections for the space of forty miles on each side of said road and branches."

Mr. BORLAND. That is little enough.

Mr. ADAMS. But you have just refused to strike out "equal to the." The lands have been sold in your State, and it takes every foot of the forty miles. The twenty miles is as much as we ought to give. I see the bill has very great favor, and being a compromise man, I compromise my own opinion, and propose to strike out "forty" and insert "twenty." Where the land is valuable, it is enough to build the railroad. Where the country is settled, it is enough to build half a dozen.

Mr. GWIN. I desire to state that the honorable Senator is mistaken in regard to this giving forty miles on each side, because this is appropriating for Territories which have not yet been surveyed, and the lands have not been disposed of in any way by Congress.

The amendment was rejected, there being on a division—ayes 6, noes not counted.

Mr. CHASE. I do not know whether the Senate will agree with me, but I desire to offer an amendment to strike out of the first section the words "a point on Red river, at or near the southwest corner of the State of Arkansas," which fixes the commencement of the road, and insert the words "on the Missouri river, not below Independence, in Missouri, nor above Kanesville, in Iowa."

The PRESIDING OFFICER. The first section has been passed over, but if there be no objection, the amendment will be received.

There was no objection.

Mr. CHASE. I wish to state very briefly the ground upon which I offer this amendment. I agree in the general opinion, which has been expressed by Senators, that it is extremely important to connect the eastern and western sections of the Union. I have not the slightest doubt that a road should be built so as to connect the rising capital of the new State upon the Pacific with the commerce of the East, affording a pathway over which the vast emigration seeking a home upon the shores of the Pacific shall find easy access to their desired destination. I agree, then, fully in the main object sought to be accomplished by this bill; and I think the Senator from California [Mr. GWIN] is entitled to distinguished praise, for the zeal, the energy, and the ability, which he has shown in pressing this subject upon the Senate.

While, Mr. President, I take that view of the subject, however, it seems to me quite clear that no plan so complicated, and so extensive as this, can finally receive the favorable judgment of this body. What is the object which we seek to accomplish? A means of communication between the East and West. That is the object. We have no other. We seek to favor no section, no part of the country above any other part. For myself, I am perfectly well satisfied, upon an examination of the geography of this country, that the shortest and best route for a mere freight road is from San Diego, in California, to Matagorda, in Texas; and I should not be at all unwilling to give to that road, at the proper time, a hearty support. But for a road connecting the commerce of the East and the West, and especially for a road to connect the populations of these two extreme portions of our country, it is quite clear that it must traverse another route to where it will better accommodate existing wants. We have a population in Oregon. The day is not remote when we shall have a State in Oregon. We already have a great, growing, populous, and wealthy State south of Oregon. It is to connect Oregon and California with the eastern States, that we want this road. That is the connection which we desire now. Point out to me the shortest route, the cheapest route, and the route which will accommodate the greatest number of people, and that route shall have my support, my earnest and persevering support. I would make no objection upon the ground that it does not traverse precisely that portion of the country which in my judgment seems to be best. I would leave that for the discretion of the Executive; and I would be willing—although the amendment is confined to two points—to leave a larger margin than that, if the amendment would thereby be made more acceptable.

But it seems to me, that in the selection of the route, the experience of travelers should be looked to. Common-sense men travel by the most practicable route. They take the shortest and best routes. Of course the routes of greatest travel, which people going from the Atlantic to the Pacific most usually take, are likely to be the best routes.

Now, what is the path of your whole overland emigration? It leaves some point upon the Missouri river, never further south and never further north than one of the two points which I have indicated by my amendment. By what route does it proceed westward? It goes through the South Pass, and there turns southward to San Francisco. This is one great traveled route. Then, there is the road to Oregon, branching off west of the Pass. That is another great traveled route. Now, if we desire a road, and want it made over the most practicable route, experience shows us where it is. To build the road upon the route thus indicated, I am perfectly ready at any time to vote either money or land. But I am unwilling to jeopardize the very object we have in view, by connecting it with such a multitude of projects, demanding for their execution such vast resources. This course, it seems to me, would delay indefinitely the accomplishment of the main purpose. We want a road for commerce; we want a road for the emigrants; we want to connect the East and the West; and to do that let us take, without

reference to any consideration outside, the nearest, the best, and the most practicable route.

Mr. DOWNS. I am sorry that I cannot agree, but that, on the contrary, I differ entirely with the Senator who has just addressed us. I agree with him, however, in the main proposition to support the route which, under all the circumstances, is the easiest and most practicable. His principal ground of objection, as I understand, to the route proposed in the bill, is that it embraces too much. It is therefore proposed to start from another point, and in that way I suppose it is designed to get clear of the branches named in this bill. Now, Mr. President, if it is necessary, in order to the practicability of a route, that it should be the shortest one, I think no one will be found which is shorter than that proposed in the bill, after striking off the branches. The great object is a connection between the waters of the Atlantic and the Pacific oceans. If the gentleman objects to extending branches when we get within striking distance either of the Pacific and Oregon on the west, or of Missouri and Iowa on the east, strike them off; but if his plan be adopted, to start at a point above Independence, and extend it across from that point, without going into any calculation of the difficulties or any estimate of the expense, I think that so far from lessening the expense and the difficulties of constructing the road, it would very much increase them. I am not prepared with details which I should desire in order to enable me to enter into the argument in relation to that point; but there is one prominent fact which stares us in the face; which we see in advance when we look upon the map of North America, and that is, that as we go further south, the distance from ocean to ocean diminishes, and at the southern point the waters are quite near together. If you start from Independence, and run a line across, without going minutely into the calculation, I venture to assert, from a general view of the map, that you will find the distance at least double what it is by the route through New Mexico, as proposed in the bill. That is a general plain fact, which, in my view, should be sufficient to prevent the adoption of the amendment which has been proposed by the Senator from Ohio.

Mr. President, although this amendment has come up unexpectedly, and I am not prepared to present details and statistics on the subject, still it is not a new question. As I understand the matter, it is a very similar route to, if not identical with, the one which has been so long proposed by Mr. Whitney for his railroad to the Pacific ocean. I have always thought, and I believe many have agreed with me, since the time Mr. Whitney proposed it, that it was one of the most absurd and impracticable routes that ever any man conceived. My convictions are so clear on this subject, that I feel sure that never, certainly not for a hundred years, would there be a railroad extended to the Pacific ocean, if we take the extreme northern route in the latitude which he proposes. There are many reasons to prevent the completion of a road there, in addition to the increase of distance. The difficulties from the climate would be great. Why, sir, in that latitude, how great a part of the year would your railroad be capable of being used? The severity of the frosts and snows in that wintry climate would present obstructions to the use of the road a great portion of the time. I shall, perhaps, be told that frosts and snows are no obstruction to railroads. But my opinion is that they do have a very great influence in obstructing the use of railroads. We see now that such is the effect every day. We find even in latitudes much further south than that where this route may be fixed, if the amendment is adopted, even on the route between this city and New York, within the last few days, the mails have been delayed, and the roads seriously obstructed in consequence of the snow-drifts. Then, if you go into latitudes so much further north, and into the elevated and mountainous regions, so much higher, where the snows are in some localities almost perpetual, certainly for at least one half the year the railroad would be useless. I ask, what great advantage would there be in having a railroad in a route where it could be kept open only half the year, and must be closed by frosts and snows during the other half?

There are other difficulties in the way of the northern route. I take it for granted that you cannot make or keep up in good repair, a railroad for so great a distance as this would be—for eight hundred and perhaps a thousand miles—in not only an unsettled country as that where the northern route would run, but one that cannot be settled for many years. Not only is that region cold and inhospitable, but a great deal of it is barren; and there are other objections to that section of country so serious that settlements could not be extended there, even if a railroad were made. I would ask gentlemen, how can you build and maintain a railroad, for a distance of a thousand miles, through a country not settled, and which even a railroad would not settle?

With regard to the route proposed in the bill, we have much more information, and the case with regard to the difficulties attending the construction of the road would be very different. Already there are constructed, with a few short gaps only remaining to be completed, railroads both from Memphis and Vicksburg, on the Mississippi, to the Atlantic; and in a few years they will be extended from these points to all the principal southern ports,—not only to Charleston and Savannah, but to Baltimore and Washington and other places. There is already a company at work in my own State, with ample means for carrying on the construction of a railroad from New Orleans to a point on the Red river above where the road proposed by this bill will lead. There is another company already at work in Louisiana upon another railroad, from a point where this road will pass to a point on the Mississippi, opposite Vicksburg. Then, whether this bill passes or not, there will be two railroads built by the State of Louisiana, one touching the Mississippi at New Orleans, and the other at Vicksburg, from the point, or about the point, where this railroad will start. There are projects for railroads in Arkansas, with the precise state of the progress of which I am not so well acquainted as I am with that of the roads in Louisiana.

We have a right to assume as a fact, then, about which there can be no doubt, that the railroads from the Atlantic to the West will extend in the course of two or three years to this point on or near the Red river, which is some two or three hundred miles due west from the line where this road will touch the Mississippi at Memphis or Vicksburg.

Now, if you compare the distance from this point to the Pacific ocean, I venture to say you will find it less by nearly or quite one half than that proposed further north. If the gentleman wishes to afford facilities to the northwestern section of the country, nothing is easier than to do it as it is contemplated by this bill; that is, create branches wherever it is necessary to promote the object. The object of this bill is not to provide a road for every neighborhood and every section, but to provide for the great thoroughfares. We cannot do everything at once, and we must do at first what is the most necessary. We need, above all, a communication, and we must have a communication, from some point on the Mississippi river, which connects with the Atlantic and the Gulf of Mexico. The great object is to get, as soon as possible, the cheapest road from that point. I think that if we attempt to construct a road on the other route so far north, we shall jeopardize the whole bill. The advantages afforded by the face of the country, the timber, &c., upon the route proposed in the bill, are far greater than upon the other route; and then, too, the climate would be such as to allow of the use of the road constantly throughout the year. You would have a country which is already settled to some extent, or which will be settled rapidly. It is a striking fact that there is a point at what is called the bend, in Red river, at or near Fulton, in Arkansas, where the river changes its course, so that the valley of the river runs directly west for a distance of four or five hundred miles, extending through Texas and towards New Mexico; and I am told the country is admirably adapted to the construction of a road on or near the valley of that river.

We all know that the very fact of the river extending so far, and in so straight a line, and so direct a course, would afford great facilities for the construction of a railroad at a great distance, even if there was nothing in the valley of the river; and we all know, in addition, looking at the valleys of those rivers, that they would afford greater facilities for obtaining timber and water there. The great difficulty in constructing railroads from this side to the other, will be the want of timber. There are large spaces of the country without it. As a general rule, along the valleys and streams, we find more timber than elsewhere; but independent of that, we have every reason to believe, from the course in which that river runs, that the railroad could be constructed cheaper than anywhere else. Besides, I believe settlements are already extended further west at that point than at any other in the United States. I am not well informed on that subject. The Senator from Texas is better informed than I am, but I understand that settlements are extending rapidly up the valley of the Red river.

Mr. SHIELDS. I will take the liberty of asking the honorable Senator if he is acquainted with the character of the region through which the passage is contemplated?—whether he has any definite information as to the character of this pass?

Mr. DOWNS. The South Pass?

Mr. SHIELDS. Not exactly the South Pass. The pass contemplated through the Sierra Nevada.

Mr. DOWNS. As I stated at first, I am not prepared with the details on this subject, but I have no doubt I could state, from the general knowledge I have of the country, that as good, and a much better pass could be obtained in that quarter than in any other. I have not the details now, because the question comes on me suddenly. The honorable Senator from California, however, I presume, could answer the question of the Senator.

There are many other reasons which could be advanced against the proposition which is now before the Senate, which I think are conclusive against it; but these are a few striking me on the first impression. I cannot suppose that the honorable Senator from Ohio introduced this amendment to excite any sectional feeling on this subject. I certainly have no such feeling. If you show me a nearer and more practicable route, that can be traveled at all seasons of the year, as far north as you choose, in the United States, I will not object to it on that ground; but I do object to taking one which will be much longer, and more liable to interruptions. I hope, therefore, the amendment will not be adopted.

Mr. BELL. I do not want to say a word, or take up one moment's time, which does not tend, at least, to lead to some practical result. I submit to the honorable Senator from Ohio, supposing that he is right in thinking that the proposition to limit the eastern terminus on the Red river is too sectional and exclusive, whether his proposition, on the other hand, is not equally so? Both are rather extreme, if we propose to fix the termination of this road ourselves. If one looks illiberal, and not in conformity to the requirements of emigration, of commerce, of intercourse between the two great sections of the Union, so does the other seem to be illiberal, and not allowing sufficient discretion to those who may have the designation and location of the terminus of the road eastward. I put that to him. I think upon the settlement of this question before the Senate—and I hope that will be after some serious reflection—will probably depend the question whether we are to have no road at all, or else two roads, proceeding *pari passu*—one from the northwest, and one from the southwest. Probably, if the Senate adopt his proposition, it will result in the defeat of the bill.

With regard to the eastern terminus and the western terminus, and the branches, as proposed in the bill, I would prefer, as an individual, to see that road constructed, if it be practicable and can be constructed at a reasonable cost. I think it would answer all the purposes of the Government for a road, perhaps not so conveniently or so well for northern and eastern commerce and emigration, but still, upon the whole, it would answer the great requirements of a speedy and facile communication by expediting trade, commerce, and intercommunication between the western States and Territories and the eastern. But, nevertheless, I submit to those who stand in my relation to this question, whether, in the attempt to get one road—and perhaps that is as many as we shall succeed in getting at the present Congress, and for anything I know, at any future Congress—it would not be well for southern and southwestern gentlemen, who feel a deep interest in the location of the road, to give greater latitude than is presented

by the bill? I make this suggestion, upon the supposition that the Senators who have assisted in the compilation of the bill, have authentic and well-established information in regard to this point and the section of country over which the road is proposed to be run—such a knowledge of the pass of the Sierra Madre as is satisfactory to them that it is one of the best passes. I suppose, in drawing up this bill, those gentlemen had such information; but would it not be wise and judicious to allow a greater latitude than is allowed by the bill, to the officers of the Government or the company who may construct the road, finally to select it themselves at their discretion, with such limitations to the exercise of that discretion as we may propose? I think we shall have to allow this greater latitude and discretion; and if the pass pointed out by this bill in the Sierra Madre be the proper pass, and the general route designated by the bill be the most judicious; be the one most likely to be executed with economy; be the most practicable and useful in all respects, may not the friends of this particular route rely with confidence that upon that route, and at or near the neighborhood of the *termini* proposed by the bill, it will be finally located? And whether it is or not, Mr. President, I rather think we shall have to run the risk of it, or we shall not, during the present Congress, get any road at all.

Now, I propose to the honorable Senator from Ohio, instead of the proposition which he makes, to accept the one which I present to him. The first part of the section reads:

"That with the view of securing the speedy construction of a railroad and branches connecting the Mississippi river with the Pacific coast, at suitable points, the President of the United States is hereby authorized"—

I propose to strike out the succeeding part of the section, and insert the following:

—with the lights afforded by the several official explorations and reconnoissances, and others which have been heretofore made, and with the aid of any such further examinations and surveys of particular mountain passes or sections of country, supposed to present obstructions of a serious nature, as he may think proper to be made hereafter, to designate the *termini* and general direction of the route of a railroad to connect the valley of the Missouri with the State and Territory of the United States on the Pacific coast, keeping in view, in making such designation, economy in cost and distance, easy grades, and at the same time the greatest facilities for branch roads on or connections with Lake Michigan, with St. Louis, with Memphis, with New Orleans, with Matagorda, and with some safe and commodious harbor on the coast of Oregon.

What I propose is, that the President shall select the route with the lights afforded by official explorations and reconnoissances which have been made, many of them by officers of high character, Topographical Engineers, and others, and published to the world; and that, in addition to them, he shall have special examination made of any mountain passes in New Mexico—Walker's Pass, or any other pass which may be suggested as practicable and possible in the Sierra Nevada, bounding the valley the Sacramento or the San Joaquin, or any other pass which may deserve further examination, which can be done in a short time. I have also said, that if there be any particular section of the country over which it may be proposed that the route should go, that he may order a reëxamination, if it is not sufficiently well known. I apprehend there will be none such. Any further examinations which you may want will be of particular passes that may be contended for as the most seasonable, practicable, most convenient and advantageous upon the whole.

Then, after he has got these further lights, before he proceeds to the designation of the *termini*, while he has to keep in view the shortening of the distance as much as possible, and of course the cost of the road, and easy grades, which affect dispatch, speed, and economy, in running upon the line, he shall have further in view the adaptation of the road for the connection with branches to Lake Michigan, which will include the great western line of emigration and the northern line spoken of by the Senator from Ohio—that great line of commerce, and the great and favorite communication with the northeastern States. He will have in view a route which will afford a communication with Lake Michigan, and the series of railroads running parallel with the lakes through all these northern roads. He will have also in view, what I need hardly name, the Central road, with the termination at Memphis, in my own State; for if due regard is given to the designation of that route, not only to connect with the roads northeastern, but the roads southward, with Charleston, Savannah, New Orleans, and Texas—having in view the practicability of making branch roads from these various roads to the trunk—then I say it would be unnecessary to mention Memphis, because any road which had a reasonable degree of reference to the facilities of a branch connection both with the railroads going westward from the Atlantic ports, and also to the southern States on the Gulf of Mexico, and also with the lake line, cannot omit Memphis.

That is the proposition which I make—that the President, with the lights now before him, in connection with such other lights as he shall think necessary with regard to the particular passes, shall make a selection of the main trunk of the road, subject to those limitations with reference to its cost, cheapness, and dispatch—I mean speed, of course—practicability in the first place, and then a facile communication with the great northern and eastern, and with the southern and southwestern lines of railroads. I do not suppose that it would be possible for the President to make such a selection as would be perfectly impartial, and give equal justice to the northwest or to the southwest. That is not to be contemplated or expected. It would be impossible. Neither the northwest nor the southwest ought to expect exact justice, but some selection may be made, so far as the formation of the country and the position of the passes are concerned, which may be found most appropriate and judicious—which would at the same time afford sufficient facilities for communicating by a branch to Oregon on the Pacific coast. I say it is not to be supposed that in the selection of such a route we can do equal justice to the interests and wishes of those sections; but we can approximate to it. And approximation is all that we can expect, because from the formation of the country, there are barriers fixed by nature—insuperable obstacles which will cause the President more or less to throw the road north or south as he shall find the obstacles more formidable in either direction. I trust that my proposition will be received, and that upon it we shall try the question whether we are to have one road or two, because I think I foresee that, unless we do something of this kind, we shall at this Congress do nothing. By-and-by we shall be forced by dire necessity, by the condition of the country, in the midst of difficulties, to construct a road, wherever it may be, north or south. Yet even with some such compress as that put upon us, we shall not be likely to do anything unless there is some latitude of selection given to the President or to some company under certain limitations.

Mr. President, the Senate is not full—I am sorry for it. We see that this is not a subject which has much attraction for any considerable number of members of this body. Some great question about a war or difficulty with foreign Powers alone seems to have power to keep Senators in their places. I do not speak in reference to what I am saying, because I only mean it for the purpose of getting the question in a proper shape; but I wish they were present, because their votes would tell on one side or the other. If we do not pass some law in relation to this subject at this session, let every gentleman remember that the effect will be its postponement undoubtedly for two years, and you will not get anything in practical operation until the year 1855; for this is a short session. From March until December next, we shall have no Congress in session. Next session will be a long one, and you can easily foresee that it will sit till September or October in 1854. You can then readily perceive that if a measure of this importance passes at all in the next session of Congress, it will be in the very tail of the session in one or the other House. It will pass, then, in the fall of 1854, when it will be too late to make any additional explorations—too late to send out any companies, and then have contracts made to move one step in the execution of the work. Thus you will be brought into 1855 before you commence the work. I mention this for the purpose of showing how important it is that we should do something at this session. If we do not, the result will be a practical postponement of the whole subject for two years.

Mr. CHASE. My amendment was prepared with the same object which the honorable Senator from Tennessee [Mr. BELL] has in view; and in offering it, I was governed very much by the considerations suggested by that honorable Senator, when this subject was before us upon a previous occasion, and which I thought eminently worthy of our attention. I desire to present the simple question between a single route and the complex system of this bill; and for that purpose, I am quite willing to adopt, in the main, the suggestions made by the Senator from Tennessee. It perhaps presents in a better form than my original amendment, the precise question which I desire to submit. The only modification which I would make in his amendment, is to avoid specifying any particular points for the terminus of the route. I think it better if no certain starting point is to be named—to leave everything open.

I wish, however, Mr. President, before I send this amendment to the Chair, to say a word or two with reference to what fell from my friend from Louisiana, [Mr. DOWNS.] Certainly, I cannot be thought to be governed by any sectional motives in offering my amendment, since I expressly declared, but a moment since, that in my judgment, and, so far as my information goes, the best practicable route for a freight railroad, will ultimately be found to be from some point on the southern coast of California—probably San Diego—following the Gila, crossing the Rio Grande, and terminating at Matagorda, in Texas. And I have further said that I was perfectly willing, so far as the power of this Government can be legitimately exerted for that purpose, to appropriate either money or land, and that I would give it as full and as cordial support as I am capable of giving to any measure.

I wish to say one word further with respect to the practicability of the northern route, as compared with the southern route, or what is known as the Memphis route. I do not profess to be as thoroughly acquainted with this subject as I could wish, and yet I have, perhaps, given to it as much attention as most of the members of the Senate; and the result of my inquiries has fixed in my mind the conviction that the shortest and most practicable route is through the South Pass. We have already made an appropriation for a railroad across the State of Missouri, from Hannibal to St. Joseph; and availing ourselves of the terminus of that railroad, or any point in proximity to it, we can save a very considerable distance.

As to interruption by snows, it must be remembered that the highest latitude to which the California road will ascend at the South Pass is only a little more than forty-two degrees north, as is shown by the map which is lying on our tables. The road will run nearly upon the same parallel with the Michigan Central railroad, which is now doing as much business as almost any railroad in the country, and is as little liable to be interrupted by any of the causes which the Senator from Louisiana has suggested, as any road in the country. Indeed, all interruptions of this character are only temporary, and easily removed. It must be remembered, also, that the isothermal lines, as they cross the continent westward, tend continually to the north. The objection to the route, then, on the score of liability to interruption by snows, fails; nor is the consideration of distance at all against the northern route. The distance by the South Pass will be found, I apprehend, to be less than by any other route suggested to the western border of the existing States. I will consent, however, to leave the selection of the route, and the determination of the points to be connected, to the Executive, if such shall seem to be the wish of the Senate—though I think it much better, if it can be done, to settle these matters here.

I will add but a word, and I should like to hear the views of the Senator from California upon the point to which I shall refer. The most recent exploration of the route proposed by the bill before us, is that of Captain Sitgreaves. His account is the only reliable one, so far as I know. I believe it has not been printed, but if I am not very much mistaken, his report will show that that route is entirely impracticable. I do not propose, however, to go into this matter at this time. I am very willing the question should be taken upon the amendment as modified agreeably to the suggestion of the Senator from Tennessee. That will be a test question between those who are friendly to a single road and those who prefer the system provided for by the bill.

Mr. GWIN. In regard to the latter remark of the Senator from Ohio, I desire to say that I have

a letter from Mr. Kern, who accompanied Captain Sitgreaves, in which he points out the various passes on this route, and says that they are not only practicable, but that this route is the only practicable route to the Pacific ocean. I am prepared to show the fact, that this is the best route through the mountain passes of the Sierra Madre—through the Rocky Mountains. There is really no chain of mountains at the point where I propose to cross the Rio Grande. The range of the Rocky Mountains sinks there. It is mountainous, but it has no name of a mountain, and it is the best point to go across. But in regard to the isothermal lines extending northward as you go westward, I say there is no place north of that where we can make a road. There we know we can make it. We know that we can get through the Sierra Nevada at Walker's Pass, which is only at a latitude of about thirty-five degrees. We do not know any pass north of that through which we can go. The object of the bill is to get through that pass.

Mr. President, I have no local partiality at all in regard to this matter. If we could get a road to run nearer to the center of California, it would suit me, and it would suit my constituents better. I seek a practicable route. The Senator from Illinois [Mr. SHIELDS] asked the Senator from Louisiana, a short time ago, whether it was ascertained that this was a practicable route? It has been ascertained. I am prepared to show that one of the most celebrated trappers on the Pacific coast (Mr. Walker) has passed five times over this route, and he says it is the best route between the Rio Grande and the Pacific. He would never go over any but the best route. That is the best evidence that it is practicable. There is no doubt about the route being practicable. I have examined the question certainly with all the attention which I could bring to bear on any one question, and I am convinced that the plan which I have presented to the Senate is the best. I shall, however, leave it to the Senate to decide. I shall not interfere in regard to this question.

Mr. SHIELDS. I take it for granted that the main object is to get one road on the most practicable route, without reference to any sectional advantages. My impression is, from the consideration I have been able to give this subject, that if we can get one route which is practicable, anywhere, we should be very thankful. That is my opinion. The Senator from California knows as well as any other gentleman here, that the practicability of a route does not depend so much upon its latitude, as upon the character of the country, and upon the degree of elevation which it has. He is aware of that fact. We might get a good pass through the mountains in latitude 42° north, and fail to get one down even as low as Texas. The practicability of the route would depend on the character of the country generally, over which it is to pass, as well as upon the feasibility of getting through the mountains. I confess that, for my own part, I have seen no exploration, no reconnoissance, I have obtained no information, which would enable me, if I were a capitalist, to decide upon advancing capital upon any particular route. The honorable Senator from Ohio is right, so far as I have examined the subject, in relation to the pass. The information we have received, although not sufficient to enable us to fix the location of the route, is sufficient to show that we may get through the mountains. But on the western side of these mountains, as is commonly the case throughout that region of country, the formation is entirely volcanic, and the practicability of passing from the Sierra Nevada onward in the direction pointed out upon this map, I conceive would be utterly hopeless. I say, therefore, that, though we might get a pass through the mountains, we could not continue the road, on account of the impracticability of getting through that volcanic country. As to the South Pass, I am not quite clear; I do not know that a road can ever be made to pass through there. But I think it is a more practicable region than the one proposed by the Senator from California. At the same time, my impression is, from all the investigation which I have given to the subject, that we must go still further south.

But I desire that some latitude may be left to further explorations—to further reconnoissances. I concur with the honorable Senator from Tennessee, in leaving the selection open, and allowing the President—and I think we ought all to concur upon that—to select the most practicable route wherever it can be found. We should leave him the largest latitude to accomplish the object. No route can be established without further exploration and reconnoissances. No route ought to be established, or attempted to be established, until they are made. The first duty of the President should be to send able engineers and ascertain the most practicable route. I shall, therefore, vote for the proposition of the honorable Senator from Tennessee, although I think he has designated too many points, leaving it to further explorations and further reconnoissances to determine which is the most practicable route. I certainly regard the routes now laid down as compelling and forcing us to pass through this volcanic region of the country.

Mr. GWIN. It is not designated in the bill.

Mr. SHIELDS. I am aware it is not designated in the bill, but the selection of the branches would make it almost compulsory to run through that region of country. I would say that the best course to pursue, to unite the Atlantic with the Pacific, is to leave the President to select, between the two oceans, the most practicable route, and then make the road upon that route.

Mr. ADAMS. I will detain the Senate but a very few minutes. I beg leave, however, before the vote is taken upon the proposition of the Senator from Tennessee, to call his attention to Vicksburg, as a point to be named, if other points are to be mentioned. I acknowledge that I agree with the Senator from Illinois, that I greatly prefer having no point named.

Mr. BELL. I agree to name no point at all.

Mr. ADAMS. Very well; that supersedes, then, the necessity of giving expression to some of the remarks which I intended to make. I will say, however, that I do not wish to be understood as opposed to this project, though I have offered some amendments which have been rejected. At the same time, I will say that I do look upon the project, as it is now presented for our consideration, as chimerical, and as not practicable at all in the present state of the settlement of the country. I would be willing, however, and even glad, to see alternate sections of land by which you will improve the value of the lands reserved to the United States, equal to the grant given to the States of Arkansas, Missouri, Louisiana, and California, for the purpose of building railroads having reference to the ultimate connection of the Atlantic and Pacific, by railroad communication. But I do not desire to see this Government embark again in an enterprise for the construction of a great national highway. It was only the other day that we disposed of the last interest the Government had in the Cumberland road, in the State of Ohio. Yet, here we have a member of the Democratic party of the country coming forward renewing, only in a somewhat different form, the old exploded project of the Federal Government going into the building of roads, under the pretext of using them to carry the mails. Is there any man here who does not know that commerce is the great object to be aided by this bill, and that the carrying of the mails is only incidental? While we profess to have a Democratic majority here, it is proposed to go into the Territories, and appropriate the public lands, and retain to Congress, as this bill proposes, the control of the tolls and everything else connected with this road. It is proposed, and that, too, by a Democrat, that the Federal Government shall go into the most magnificent scheme of internal improvements that has ever been presented to the consideration of this, or any other people.

I believe that it is utterly impracticable to construct a railroad for thousands of miles over territory a large portion of which now is, and must be for years, wholly unsettled, passing over deserts, for hundreds of miles without timber, water, or human beings; and particularly when it is proposed that it shall be done with public lands, unsalable, unsurveyed, and to which the Indian title has not been extinguished. And this is to be done by a Democratic Senate! If the Senate are prepared for it, let it be done. I am willing to contribute, as far as I can, with my views of the powers of this Government, in conformity with the principles of the strict construction of the Constitution, towards it; but further I am not willing to go.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) Do I understand the Senator from Ohio to modify his amendment, as suggested by the Senator from Tennessee?

Mr. CHASE. I do not know, until I have an opportunity of examining the modification proposed, whether I shall agree to it or not.

Mr. BELL. This is the amendment which I wish to suggest, but it has not as yet been definitely agreed upon:

"That the President be authorized, with the lights afforded by the several official explorations and reconnoissances and others, which have been heretofore made, and with the aid of such further examination and surveys of particular mountain passes, or sections of country, supposed to present obstructions of a serious nature, as he may think proper to be made hereafter, to designate the *termini* and general direction of the route of a railroad connecting the valley of the Mississippi with the State of California; keeping in view, in making such designation, practicability, economy in cost and distance, easy grades, and at the same time the greatest facilities for connection with the Atlantic and Gulf railroads, now completed, or in progress, or projected, and with some safe and commodious harbor on the coast of Oregon."

Mr. GWIN. I do not intend, Mr. President, to go into any partisan discussion on this question; but inasmuch as the Senator from Mississippi has made an attempt to rally a Democratic phalanx on this great national question, I am not disposed to let him take that platform; more especially as he himself holds his seat on this floor by Whig votes. He is no representative here of the Democracy, so far as his election is concerned. He was elected by Whigs, and therefore he has no right to preach to the Senate of the United States with regard to Democracy. He is here on another issue entirely. I know that it is necessary for him to say a great deal about Democracy in order to get himself into a right position at home; and I am willing that he shall Buncombize as much as he pleases on that subject; but let him not rally a party here on this great national question on the ground of Democracy. I can well appreciate the necessity of that gentleman speaking very loud in favor of Democracy. I know it is important to him; but at the same time, I must enter my protest against his attempt to rally a party on the great basis of the Democratic creed, against this measure. The Senator's appeal may go for what it is worth in Mississippi, but let him not set himself up as an expounder of Democracy for the whole Union.

He talked about this measure as if it were a great consolidation measure. Why, it has had a most careful regard for State rights. It has not infringed on any of the rights of the States. It gives entire power to the States over the construction of the road within their limits.

Mr. BELL. I expect we shall find, when we come to examine it, that it goes almost too far in that direction.

Mr. GWIN. It was intended to give the States full and ample power and control over the question. As to the constitutional objections, I am prepared to meet them, if they come up; but I do not think they can come from any member of the body, except the Senator from Mississippi. I do not think it possible to bring them in a form to make them formidable.

As to the practicability of the enterprise, that is a question on which the Senator's opinion, I suppose, will have its proper weight with the body. There have been a great many men over the route indicated in my bill, who think it practicable. If the majority of the Senate agree with the Senator from Mississippi, that this is a visionary scheme, they will not vote for the bill; but I think it is not only a practicable, but a very feasible plan; and I believe that, if this bill, or some similar one, passes, we shall have a road in five years. That is my judgment, and I have thought a good deal on the subject. The Senator from Illinois spoke about the road not being practicable—about no one having passed over it. Why, in that he is entirely mistaken. I presented evidence to the Senate the other day on that subject, and I am sorry that the Senator from Illinois has not examined the letter of Mr. Kern, which I presented the other day, and which was published in the report of our proceedings, showing that a number of officers of the Army had examined this very route—that officers of the Topographical Corps had examined it, and found it to be practicable. Letters have been published from them, stating that those passes are entirely passable. As to the volcanic character of the country, the Senator has that only from rumor. There is no certainty about it. There is, how-

ever, no doubt, in my opinion, that the route which I have designated in the bill is not only practicable, but that it has been frequently traveled and explored.

Mr. ADAMS. Mr. President, the Senator from California, [Mr. GWIN,] has thought proper to bring before the Senate the manner in which I was elected to a seat in this body, and says I was elected by Whigs. Sir, it has never been my habit to bring before the country, questions personal to myself; but as that Senator has thus arraigned me, it is due to those who voted for me, as well as myself, to explain briefly the circumstances of my election. I was elected by the united vote of the Union Democrats and Whigs, except one vote—but the Whigs were not deceived in my political opinions. When the two Houses met to elect a Senator, a discussion arose in which different distinguished Whigs stated that they knew me to be a Democrat, and voted for me as such—and gave as a reason why they did so, that I had acted in the recent contest with the Union party. Sir, I did receive Whig votes, and I am proud of it; they trusted me knowing me to be a strict constructionist; but they knew where to find me and confided in me, and so long as I can do so, I will defend their rights by protecting the Constitution from infractions, let the attack come from what quarter it may.

But, sir, I do not see what my election has to do with this question, and why that Senator has arrayed it before the Senate. I am at a loss to know. I had said nothing about him personally; I never do. When a Senator is elected, it is a matter between him and the people he represents, and I should never refer to it. I will not attempt a retort. If that gentleman had been elected by a body without the United States, I should have said nothing about it, it being sufficient for my purposes that he has a certificate of election. The Senator says I have no right to lecture the Democracy. Sir, I claim no such right, nor have I impugned any Senator's motives; I trust I shall ever have too much respect for this body and its rules to do so; but, when I see measures of doubtful constitutional authority about to be passed, I will enter my protest, regardless of the advocates of the measure, whether Whig or Democratic.

As to the charge, that I am trying to make Democratic capital in Mississippi, I will neither retort nor reply. I will only say, those who know me will believe me when I assert that I have too high an opinion of the intelligence of those I represent, to suppose for a moment, that I could meet their approbation by any other than the consistency of my votes, with the principles I profess.

Mr. DAVIS. We have fallen into a perplexity which was easily to have been foreseen. The moment you come to discuss a particular route, and to fix the terminus of the road at any particular point, you will find that members of the Senate will have differences of opinion about it; and if you seek harmony of opinion, you have got to come back to the consideration of the point which I raised the other day—you must come back to the location of a single trunk of a single road; and you must not only separate yourselves from this magnificent scheme of branch roads, but you must separate yourselves, as far as you can, from the perplexity growing out of different opinions here, in regard to the rights of the States. If you can reduce it to a single proposition, whether you will or will not have a road passing through the Territories of the United States, I think you can find something like harmony of opinion here; that is, if you limit yourselves to one trunk, as a main road, from which branches are hereafter undoubtedly to diverge.

How are you to accomplish that? In the first place, what occasion is there for any limitation whatever? Why should you embarrass yourselves with naming any points whatever? Why should not that matter be left open and free for the investigation of those who locate the road, leaving them to commence on the east, at such point outside the States as they may deem best adapted to commence a great highway upon which the transit of merchandise and passengers shall be found most facile, and best adapted to the purposes of business? If you commence at a point of that description, and go westward till you come to the line of the State of California, it will be an undertaking sufficient to satisfy the ambition of the country, and of everybody in it. It is an undertaking, under any circumstances, to build something like two thousand miles of railroad—the precise distance I am not able to state.

The next proposition which presents itself is, how are you to locate this road, and how are the public to have assurance that it is to be done in the best, most convenient, and most economical spot? That is a question not quite easy of solution, but I can see some ways in which it can be accomplished. I can perceive that, if a company undertake this, they have a great interest in the question, and I can see that the United States have a great interest in it. I could point out a plan by which these two interests could be combined to locate the way, and to establish it. I think you will find yourselves obliged, before you get through with this subject, to consider both of these interests in locating the way.

If you can get over that difficulty, if you can put down a road—which is not an easy matter, for you have to settle the questions which are raised here—the practicability of it is to be determined; and I hope my friend from California will take no offense when I say to him this is not entirely an easy thing, though I doubt not a practicable way will be found; and let me say to him, if his way is the best way, as he states to the Senate, if it is the great feasible way, it will be adopted, for examination will show the propriety of taking that route. But I apprehend that these mountains may be passed at various places, and in various ways; but this cannot be determined without great examination, great consideration, and great reflection. It must be done with great care, and after a very particular and detailed examination of the geographical features of the country.

When you shall have overcome all these difficulties, what next is to come? Then will come the question of the means to be used to accomplish this great object. The money and the sum of money which is necessary to accomplish an enterprise of this sort, are neither few in numbers, nor small in magnitude. We look mainly and principally to the public lands as a fund to accomplish this object. If it can be done by any appropriate means within the reach of the Government, I, for one, am quite prepared to adopt suitable and proper measures to establish a highway between the two oceans. That is all I hope to get for the present. Time probably will lead to others. That highway, I desire should begin at the best point, pass upon the best route, and terminate at the best place; and that question, as I have already suggested, I would leave open to future inquiry; and there is no occasion for trammeling anybody in reference to it.

The road cannot be built with land; because the lands must first be converted into money; and the great inquiry here is, How are you to accomplish it? When are you to bring it about? You cannot immediately reduce these lands to cash, and go on with the operations of business. The sale of the lands will be a slow process, and will in a great measure depend for its success upon the very construction of the road itself. But how are you to bring it about? I confess—and I throw it out merely as an idea—that I do not see well how this thing is to be accomplished, except by a powerful effort of a strong joint stock company. Instead of giving the power to Mr. Asa Whitney, or A B, or C D, you will be constrained, from the position of things, to place it in the hands of a joint stock company—a company that can subscribe shares, that can raise money wherever it is to be found to carry on this enterprise, and do it also by the help of lands, and with the future hope and expectation of converting those lands into money.

I hope somebody will see a more feasible scheme than this; but I confess that, at present, I see none that strikes me as half so plausible as that a joint stock company should be authorized to raise money by subscription, to carry on this work in the usual and ordinary manner, being aided by the public lands, and to some extent under the control of the Government; for the interest which the Government will put into this road should authorize the Government to retain some control in the direction and execution of the work.

Now, when I come to vote upon the amendment proposed by my friend from Ohio, I wish, as I said the other day, to leave it entirely an open question as to where the road shall begin and where it shall end. I wish it left open, that the best place may be selected. I know that the moment we come to inquire where we shall begin, there will be a struggle in regard to different places which want advantages for themselves.

I want the place best adapted to the commerce of the country—to the great intercommunication which will be opened between the two oceans, and I confess that I have no predilection for any place whatever. I have no desire that the road should begin at one spot more than at another, so that I can attain the object which I have in view; and my mind is alike open as to the terminus at the other end, and am quite willing that the road should reach the western side of the Sierra Nevada mountains at any one point, it is immaterial to me where, so that it answers the great object in view.

I hope, then, that those gentlemen who have this matter in charge, will leave the question of location entirely open and free to those who are to do the work, to do it in the best way, and to select the best place.

Mr. CHASE. As the usual hour of adjournment has arrived, and as time is necessary in order to afford an opportunity for the preparation of an amendment to meet the views of those Senators who are in favor of a single road, I move that the Senate do now adjourn.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 19, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed bills of the following titles, viz:

H. R. No. 202. An act for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky.

H. R. No. 343. An act to erect, at the capital of the nation, an equestrian statue of Washington.

Mr. STEPHENS, of Georgia. I rise to make a correction of the Journal, and therefore to a privileged question. As the Journal stands, it would appear that I appealed from the decision of the Chair, on yesterday, on the ground that the Chair held that it was not competent for less than a quorum to proceed to business. That was not my point of order, and it was not upon that point I took an appeal. I appealed from the decision of the Chair, that less than a quorum could not order a vote to be taken by yeas and nays, and ascertain in that way, among others, whether or not a quorum was present.

The SPEAKER. The Chair certainly made the decision on the ground that it was not competent for the House to pass a bill without a quorum being present, and that, as the ordering of the yeas and nays was a part and parcel of the business to be done in the passage of a bill, that it followed the yeas and nays could not be ordered when there was less than a quorum of the House present.

Mr. STEPHENS. But that was not the point on which I appealed from the decision of the Chair. It was solely on the ground that one fifth of less than a quorum had a right to order the yeas and nays.

The SPEAKER. The Clerk will again report that portion of the Journal proposed to be amended.

Mr. STEPHENS. I barely wish this statement of the point I made to go in the proceedings of the House.

BRANCH MINT AT NEW YORK.

The SPEAKER. The Chair will, then, state the business now first in order. During the morning hour yesterday, a report was made from the Committee on Ways and Means, of a bill to establish a branch Mint of the United States in the city of New York. The bill having been read a first time for information, objection was made by the gentleman from Pennsylvania [Mr. CHANDLER] to its second reading. The House very soon thereafter, and before any action was taken on the question, "Shall the bill be rejected?" passed from the morning hour. The question then arose, the final decision of which was postponed until this

morning, whether that bill went to the table or came up this morning as the first business in order during the morning hour.

The Chair has carefully looked to the rules of this House, and the parliamentary law, but has found no rule controlling this question. It is clear, however, that if the bill goes to the table, the rules have made no provision whatever for its class and condition there. The motion to reject seems to contemplate that the bill shall receive no action on the part of the House, either in commitment, or its further consideration. The Chair is of opinion, as the rules have made no provision whatever, except that it is made the duty of the Speaker to put the question to the House, "Shall the bill be rejected?" and inasmuch as the House passed from the morning hour before that question was disposed of, it is now the first business in order, and the House may dispose of it as they deem proper. The Chair further decides that the question of rejection is debatable, and that the gentleman from Pennsylvania is entitled to the floor.

Mr. BROOKS. I rise to a point of order, and that it may be understood, I ask the reading of the 116th rule.

The Clerk read the rule, as follows:

"The first reading of a bill shall be for information; and, if opposition be made to it, the question shall be, 'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading, without a question."

Mr. JONES, of Tennessee. I should like to have the note to that rule also read.

Mr. BROOKS. The point of order I make is this: As a member of the Committee on Ways and Means, I reported on yesterday a bill to establish a branch Mint of the United States in the city of New York, by its instruction, and sent that bill to the Speaker that it might, in accordance with the rules, be read a first time for information. I only parted with the bill to have it read for information. I did not yield the floor, but claimed the right to state what the contents of the bill were, and to make any further remarks I might deem necessary for explanation. Unless that privilege be extended to members reporting bills from committees, it will be impossible for the House to know the character of bills reported, and the question will arise? "Shall the bill be rejected?" without discussion, and without comprehension of its contents by the House. I therefore make the point of order, that the gentleman from Pennsylvania [Mr. CHANDLER] could not take the floor from me to make objection and bring up the question, "Shall the bill be rejected?" before I had stated what the bill was.

The SPEAKER. The gentleman will remember that he was not occupying the floor at the moment. The gentleman from Pennsylvania could not obtain the floor, except for the purpose of making this precise motion; and if he had the right, as he certainly has, under the rules of the House, to submit the motion, the Chair thinks that he would be entitled to the floor to be heard on it. While the gentleman would be entitled to the floor on his bill, the gentleman from Pennsylvania would be entitled to be heard on his motion.

Mr. BROOKS. I shall abide by the decision of the Chair, but desire that he may correctly understand the facts; and I have only taken the appeal that I have, in the hope that the Chair would, after further consideration of the facts, change his decision. I beg leave to state, that in point of fact, I did not yield the floor, but continued on my feet during the reading of the bill. If I had chosen to make an exposition of the bill without sending it to the Clerk's desk, there is no doubt I was in possession of the floor to do so. The decision of the Chair is perfectly right upon the understanding that I had yielded the floor; but if the Chair had given me his attention, he would have observed that I remained standing in my place whilst the Clerk was reading the bill.

The SPEAKER. The gentleman from Pennsylvania, according to the construction of the gentleman, could not obtain the floor, under the rule, to submit this motion.

Mr. BROOKS. He has the right, for it is a privileged motion, but not till after I have yielded the floor.

The SPEAKER. The gentleman from Pennsylvania having made his proposition, has the right to be heard in its behalf.

Mr. BROOKS. I yield to the decision of the Chair, though I think that I have been improperly deprived of my opportunity, as the member of the committee reporting the bill, to set forth what were its contents. I desire, however, before taking my seat, to call the attention of the Chair to the danger of this precedent. If it be adopted, any individual reporting a bill from any committee of the House is liable to have the floor taken from him, and the question put, Shall the bill be rejected? without a statement of its provisions to the House.

The SPEAKER. The right of the gentleman to be heard in behalf of his bill is very clear. He did not contemplate to be heard until the bill was read a second time; and when the bill has been read a second time, he will be entitled to the floor by the courtesy of the House. But it is very clear, in the opinion of the Chair, that the gentleman from Pennsylvania, [Mr. CHANDLER,] under an express rule of the House, having a right to move the rejection of the bill, would be entitled to the floor to give his reasons for that extraordinary motion.

Mr. BROOKS. I will withdraw my appeal, remarking that the House is now called upon to vote on the rejection of a bill which has not been read, except informally.

Mr. FLORENCE. If it be in order, I will submit that that difficulty was obviated by a distribution of printed bills among members. They are now informed as fully of the contents of this bill as they could be by any remarks of the gentleman from New York, who reported it. Certainly, during the time I have been a member, I have never seen such a plentiful distribution.

Mr. HART. I call the gentleman to order.

Mr. FLORENCE. I was struck by that circumstance, and felt it my duty to make the remarks I have, so that they may go to my constituents.

[Cries of "Order!" "Order!"]

Mr. BROWN, of Mississippi. With the permission of the gentleman from Pennsylvania, I will ask the unanimous consent of the House for leave to withdraw from the Committee on Private Land Claims the petition and papers of the trustees of the Monticello Academy, in the State of Mississippi, that they may be referred to the Committee on Public Lands.

There was no objection, and it was so ordered.

On motion by Mr. KUHNS, by unanimous consent, it was

Ordered, That leave be granted for the withdrawal of the petition and papers in the case of Mrs. Elizabeth Drum, widow of Captain Drum, late a captain in the United States Army, that they may be referred to one of the Executive Departments.

Mr. ALLISON. The House were progressing with the reading of the bill yesterday when the subject was arrested. I suppose that is the order now.

The SPEAKER. That is the order now, and the bill will be read by the Clerk.

The reading of the bill was then finished.

Mr. BROOKS. When does the morning hour begin?

The SPEAKER. It commenced sixteen minutes after twelve.

Mr. CHANDLER. The decision of the Chair yesterday was, if I understood him, or the opinion of the Chair, if it was not meant as a dictum, was, that the motion that the bill be rejected, and the objection made to the second reading was not debatable. I therefore came into the House this morning with a view of meeting some objections which the gentleman from New York made.

Mr. SWEETSER. I am compelled to make the point of order I made on yesterday, that the motion to reject is not debatable.

The SPEAKER. The Chair decides that it is debatable, from the very nature of the proposition.

Mr. SWEETSER. From that decision I take an appeal.

Mr. FLORENCE. I move to lay the appeal upon the table.

Mr. JONES, of Tennessee. I wish to inquire whether there is a motion to reject the bill? The rule says, if there is opposition to the first reading, the question shall be, "Shall the bill be rejected?"

The SPEAKER. That is a question which the Chair decides is debatable, whether the bill shall be rejected or not.

Mr. STUART. I ask the gentleman from Pennsylvania [Mr. FLORENCE] to withdraw his motion to lay the appeal upon the table, for I think this may become a pretty important question.

Mr. FLORENCE. I have no objection, if it involves an important point necessary to be discussed.

Mr. STUART. There are several rules of this House which seem to me to concur in showing that this cannot be a debatable question. It is a question which arises without any motion, as the Chair will observe. A gentleman rises in his place, and objects to a second reading of the bill. The rules then say, that the question shall be put, "Shall this bill be rejected?" The member rising cannot submit a motion at all, but simply submits an objection. The Chair, under the rules, is instructed to state the question. Now, by another question and by a parliamentary rule, every gentleman has the right to have a proposition read once in full, before he is called to vote upon it, and this objection stands in the teeth of it that you shall not have that proposition read. The first reading of a bill is by its title. The objection is to the reading, and the House are called upon to vote against the bill—that is, to vote whether they will reject it or not, without having it read at all. Now, sir, where does the gentleman get the right?

The SPEAKER. The rule requires that the bill should be read for information.

Mr. STUART. It declares that it shall be read for information. So the rule does not contemplate the cutting off the reading of the bill. Is not the first reading of the bill always by its title?

The SPEAKER. It may not be by its title. This rule requires that the *bill* shall be read for information, and not the title.

Mr. STUART. I yield that point, but hold that it does not alter my proposition. The gentleman from Pennsylvania [Mr. CHANDLER] has submitted no motion, and he cannot submit any under the rules. He can only object to the second reading of the bill; and the Speaker, then, under the rules, states the question, "Shall the bill be rejected?"

Now, to make this proposition consistent with the decision of the Chair, as already made, and which undoubtedly has been made correctly, how can the gentleman from Pennsylvania [Mr. CHANDLER] deprive the gentleman from New York [Mr. BROOKS] of the floor? He, for all purposes, except the purpose of this objection, holds the floor, and has the right to report his bill, have it read, and being read, he then has the right to ask that it be referred, or read a third time and put on its passage. He holds the floor against every other member, except for the purpose of this single objection. If the gentleman could rise and make a motion that the bill be rejected—if that right were prescribed under our rules—there might be some propriety in saying that he could discuss it; but for no such purpose can he take the floor from the gentleman from New York. The Chair has decided correctly that the gentleman must have the right to the floor to make this objection, or else the right to make it never could be exercised; but when he makes that objection, he should take his seat. The question must be stated by the Chair, "Shall the bill be rejected?" and voted upon; and if not rejected, the gentleman from New York [Mr. BROOKS] is instantly entitled to the floor to have the bill read a second time, to move its reference, or to submit whatever motion he may have been instructed by the committee to submit in regard to it. I will not detain the House any further. I only desired to call the attention of the Chair to the points I have stated.

The SPEAKER. The Chair will again read the 116th rule:

"The first reading of a bill shall be *for information;* and, if opposition be made to it, the question shall be, 'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

The gentleman from Pennsylvania makes opposition, and is now in the very act of making opposition. The question involved is certainly one of as high order and dignity as could be a debate upon the final passage of the bill, for it involves the fate of the bill quite as much as if the question were upon its passage. If the gentleman will turn to the debates of this body, I think he will find that some of the longest debates we have had here upon any given proposition, have been upon propositions to reject bills upon their first reading. That is the recollection of the Chair. The practice of the House, as well as reason, are in favor of the decision. By reference to the Journals of the last Congress, I find the following:

"The bill of the Senate No. 307, entitled 'An act proposing to the State of Texas the establishment of her northern and western boundaries; the relinquishment by the said State of all territory claimed by her exterior to said boundaries, and of all her claims upon the United States,' was read a first time.

"Mr. INGE made opposition to the same.

"And the question being, 'Shall this bill be rejected?'

"After debate,

"Mr. MCCLERNAND moved the previous question; which was seconded, and the main question ordered and put, viz: 'Shall this bill be rejected?'" &c.

Mr. STUART. That was in the case of a Senate bill. I will ask the Chair if the Journal shows whether it was taken from the Speaker's table, or reported back by the committee?

The SPEAKER. It was taken from the Speaker's table, and opposition was made in that case as in this at precisely the same point of time.

Mr. STUART. Was the question raised whether it was debatable or not?

The SPEAKER. The Chair does not know. Debate has been had. I only pointed to that as one case. The Chair thinks that there are numerous cases.

Mr. STUART. My impression is this: that the parliamentary law and courtesy is that a bill shall receive two successive readings, as a matter of course, unless it be so objectionable in itself that the House chooses to dispose of it without debate and without action, and the question is then "Shall it be rejected?"

The question was then taken on the appeal, and the decision of the Chair was sustained.

Mr. CHANDLER. Relying upon the opinion of the Chair yesterday, that the question was not really debatable, I did not think it worth while to prepare for a debate to-day; and now before I enter upon the few remarks I have to make why this bill should be rejected, I take this occasion to say, that when I rose yesterday to make that objection I tried to state—and I find that some of the reporters so understood me—that I did it only because I was directly and correctly informed that it was not the intention of the friends of that bill to allow debate upon it, and that their desire was to spring it upon the House, to move immediate action, and then call the previous question, which would cut off debate and amendments. I desire, therefore, to place this bill in another situation—a bill of considerable consequence beyond the mere reaction of the House here, or the appointment of a few salaried officers by the present President, or the convenience of gentlemen opposed to the results of their industry. It involves a question of higher moment than all that. Nations do not readily part with such tokens of their sovereignty as are Mints, or scatter them about so plentifully as they seem to be trying to do in these times, overlooking the great fact that the Mint is a national matter, and not a New York matter; for we have not reached that point when the people of New York may say, as some one said in France, "Paris is France," that New York is the United States.

Sir, I repeat that I was ready to meet this bill fairly, to give it its course like any and every other bill of the House; but I desired that it should not take precedence of those bills which appeal to the justice as well as to the patriotism of this House, which call for our action in behalf of the people, or call for our deliberation with reference to the honor of the country. I confess—and I think many gentlemen who were members of the House will confess—a great astonishment at the pertinacity which has presented this bill before the House at the present time; that has called upon us in the midst of the multitude of business that is accumulating upon your table, and that occupies the attention and anxiety of the members of the House, and relates to the interests of those constituents whom we represent here—I confess my deep astonishment at the pertinacity of those gentlemen in presenting this bill to delay the action of this House on business of real national, as well as individual consequence.

Most of the gentlemen here, who were members of the last Congress, will recollect the course of argument that was pursued to sustain the measure for a branch Mint in New York. They will remember, sir, that the outcry was, that the main Mint at Philadelphia was incompetent to the coinage of the gold of this country; and that, by many millions, it was insufficient to meet the wants of those who brought their gold dust from California. I tried, in the course of an argument, to satisfy the House that the Mint at Philadelphia was in all respects able, and the Director of that Mint was willing to meet the utmost demands; that the Mint is able now—as we knew then it would be able in a very few weeks—to coin a hundred millions a year, in the various denominations of coin sanctioned by the laws of this country. Sir, all that I then promised has been amply fulfilled. All the demands upon the Mint have been met. But no man, no set of men, not even the Government itself, would be able to meet the everlasting wants of those who, with the horse-leech, cry "Give, give, give," to the great metropolis of the Union. It is vain, sir; if we were to open the Treasury of this nation—if we were to bid them go up into the pillared building at the other end of the avenue, and help themselves, the funds of the country would fail before their avarice would be satisfied.

Sir, if any gentlemen recollect my remarks during the last session, they will excuse me for an apparent repetition of them, because I now address a different House and a different set of gentlemen than I then did; and I shall take the liberty of referring, in a very desultory manner, to some of the arguments which I then met. Among other arguments then employed, was the vast inconvenience and exceeding expense of conveying the gold from New York to Philadelphia and returning. I then, sir, propounded the inquiry, how came that gold in New York?—how came New York to be the recipient of the gold dust from California?—and the answer was obvious; the liberality of other cities, the exceeding liberality of this House, that enables New York to carry out her plans—which she undertakes in the expectation that she will be helped in her enterprises—by spending its millions to carry to that city the gold dust. Sir, she makes use of the eleemosynary dollars that we pour into her coffers, as a plea why we should pour everything else there. Eternally dissatisfied with what we do, she takes it without thanks, and makes it a motive for asking for further assistance.

Mr. Speaker, the expense of conveying the gold from New York to Philadelphia and thence in return, when it is coined, is not, at the utmost, $25,000 for $100,000,000, or for $200,000,000, if you choose. The proposal is to carry all that can be collected both ways for $25,000; and those who make proposals for carrying the gold thither and back again, offer the amplest security against any accident that may befall it. The question, then, is not one of danger. Never a dollar has been lost on its way. But if a million had been lost, those who offer to convey it are amply able to pay for all they could lose. The loss of the whole amount that they convey at any one time would scarcely be felt by those who make the proposals.

Sir, I might make an argument very well upon the injury of multiplying Mints; but having voted for the California Mint, I will let that go for the present. When this question was last under discussion in this House, the argument of the friends of this measure, I repeat, was the incompetence of the Mint at Philadelphia to coin the gold. Sir, five days is the utmost delay betwixt the receipt of the gold dust at that Mint and the receipt of the coined money. I call the attention of the House to that fact. It can be done no sooner in New York than it is done there. The whole distance between New York and Philadelphia is traveled in only three hours and a half by the new line of conveyance. There is, therefore, no reason why there should be a multiplication of this machinery.

But, sir, not only is the Mint at Philadelphia fully able to coin every grain of gold dust that can be gathered in California, and all the gold that reaches us from other parts of the world—and it does not come in very rapidly, for the course of trade is the other way—but, while it is competent to do that, we have, in the mean time, authorized the erection and operation of a Mint at the very door of the gold mines. And not merely have we authorized them to coin money; not merely have we authorized them to do the work that may require time—the coining of dollars, eagles, double eagles and all other coins; but we have directed them to make ingots, by which the gold shall be melted up into form and shape (after assaying) as rapidly as so much iron. Sir, that removes every argument that could be brought forward in favor of this bill; it removes every idea that a Mint at New York is at all necessary for the progress of business. I am not speaking of the necessity that arises out of the rapacious longings of certain people, or the desire to secure rewards and considerations for certain efforts. By no means. That is another matter. But I say that all the wants of commerce—all the wants of business men—are satisfied by the Mint at Philadelphia, and if not, are more than satisfied by the addition of that in California. The object, I presume, is, however, to kill both. Let those look to that matter who are interested in it.

Establishing a Mint at California, and retaining the branch Mints where they are, will leave to Philadelphia the direction of the mintage. There will not be a great many millions to be coined there because of the vast amount of money coined in California. A considerable portion—I dare not venture to say how much—is coined for England and not for us. People complain that they cannot get gold. Now, sir, we do not want to legislate here for British bankers. We do not sit here to legislate ways and means for the purpose of aiding and assisting the bankers of London. They take their gold dust to New York and send it to Philadelphia to be coined, and then ship it to England, because it costs less to send it to Philadelphia to be coined than it does to pay for *assaying* in London. I repeat it, we are not sent here to provide ways and means to satisfy the grasping avarice of the British bankers who are settled in New York, who have their footing there, and make that great city an extension of Wapping, and nothing else. Nothing is asked for the benefit of this country, or to meet the wants of this country. It is all for British bankers; and the time of this Congress, and the patience of Congressmen are wasted in order to satisfy this feeling of subserviency, or the personal longings of those who are unsatisfied.

Sir, so far as any inquiries that I have been able to make, in the State of New York, beyond political interests and the bankers, there is no great feeling in favor of this measure. There is an excitement in the city occasionally at election times about it, and considerable noise is made; but there is no call of this kind there. Conversing a few days since with a gentleman who had been to New York, he told me that New York people had said, "We do not care a button about it in a business way, but we mean to beat Philadelphia, and if we cannot do it by voting or by argument, we will purchase—we will buy"——

Mr. DEAN, (interrupting.) I call upon the gentleman to give us the names of those men who want to corrupt this Congress.

Mr. CHANDLER. The gentleman need not be alarmed. I did not charge him with that. Nor did I hint at improper language. The accusing spirit which flew up to Heaven's chancery had really no oath to blush for. The recording spirits that sit in front of the Clerk's desk need drop no tear for any unspoken word to blot it out forever. [Much laughter.] I had finished the sentence; they only said "we will buy it."

Mr. BRIGGS. By the courtesy of the gentleman from Pennsylvania, I will make a single remark. As I have been somewhat known for the interest I have taken in this measure since I have had the honor of a seat upon the floor, the allusions of the gentleman as to the corrupting influences which might be attempted to be brought to bear upon this subject, might naturally be considered as having application to myself. I now wish to take this opportunity, by the permission of the gentleman, to say that not only does the insinuation he has made not apply to me, but I will not believe that it applies to any member upon this floor coming from within the limits of the State of New York. I know of no man who has ever approached me, or who has ever approached any man in this House, with any proposition of a corrupting kind, for the purpose of forwarding this measure. But if the gentleman will allow me a moment longer, I will state further, in reply to the remarks made by the gentleman, that the interests of the city of New York did not call for this measure, that he is mistaken. Every interest there, from highest to lowest, loudly calls for the passage of this measure; and no class of people is more deeply interested in it than the returned Californians, who are obliged to sell their gold dust, or at least, do sell it to the brokers, rather than to subject themselves to the expense and delay of transmitting it one hundred miles to Philadelphia. Why, sir, the bullion brokers of that city have become rich upon the spoils of the hard earnings

of these poor returned Californians. The necessities are great for this measure.

But I will state, further, that I do not desire to consume the time of the House with discussion upon this measure. The bills were prepared some time since, and have been printed and laid before the members, so that they have had an opportunity to examine it; and I think they may act understandingly upon it without consuming the time of the House.

Mr. CHANDLER. I am very much obliged to the gentleman for allowing me this breathing spell. Talking against time admits of help.

Mr. FLORENCE. If my colleague will allow me a word, I am satisfied that there was no desire to corrupt, upon the part of New York, in regard to this measure. It was only to promote the extraordinary enterprise of the Empire State; I hope my colleague will so consider it. I repeat that the desire of the city of New York, in wishing to establish a branch Mint in that city, was not to corrupt anybody. It was only to promote the great enterprise of that city.

Mr. BRIGGS. I will remark that no one could suppose any member of Congress could be corrupted under any circumstances; but it was a remarkable circumstance, that while the Collins measure was before the House, votes for it were obtained from Pennsylvania, in a manner which astonished some members upon this floor.

Mr. CHANDLER. As I am not in the situation of one John Gilpin, where—

"Loss of time would grieve me sore,"

I do not lament these interruptions. But my feelings of humanity—and I trust I have them as much as any man in this House—were greatly interested in what fell from the lips of the honorable gentleman from New York, [Mr. BRIGGS,] in relation to the poor laborers in California, who were compelled to pay a percentage upon their gold dust, into the pockets of the grasping, rapacious brokers of New York. Well, sir, this Congress, at its last session, voted a branch Mint to California; and now I trust my friend will go home with a smiling countenance, and rest satisfied that no more of that gold dust will ever again be extorted as tithes to those whose love of money—whose cursed thirst for gain, leads them to the rapacity of taking from the hard earnings of the returned Californian a percentage upon his gold dust. But I cannot imagine how *rich* a *poor* man must be, who, by paying one per cent. upon his gold to a broker, enriches the money dealer. [Laughter.] It must be some very peculiar New York way of doing business.

But the gentleman from New York [Mr. DEAN] has started the question of purchasing votes upon this floor, and desires to know the name. Now does he suppose I would tell it? Why, sir, those who sit in the outer circle of seats in this Hall, often have their ears disturbed by calculations and promises which we who sit further in do not hear; but my friend on my left [Mr. BRIGGS] had no occasion to rise, and in the presence of this House, talk of himself being free from any such imputation. It will be time enough for any gentleman to talk of such things when the charge comes more direct than that. He knows me and my feelings towards him too well to suppose I would apply it there.

One word did fall from the honorable gentleman, however, upon a subject to which I should not have alluded, if he had not brought it up. The gentleman spoke of the appropriation made by Congress, at its last session, to the Collins line of steamers. Now, sir, even doubting, as I now do, the propriety of this House, or this Congress, assisting in those works, when they could be carried on by private enterprise, I hesitated long, very long, before I followed the instructions of my constituents in voting for that bill. I argued with them as warmly as I could, by letter, until I became satisfied that I was assisting in a *national* work; that I was enabling the steam commerce of the country to compete, and compete successfully, with the steam commerce that was assisted by the Queen of Great Britain. I confess that I saw in this House an unwillingness, even upon the part of some gentlemen from the city of New York, to assist in it. But that did not disturb me, for I did not regard it then as a New York measure. It did not disturb me, because I found it to be consistent with my general views of protection of home industry and home capital. I know very well that there were antagonist interests in New York which induced gentlemen from that section to look coolly on that measure. I did not intend to have alluded to this subject at all, but since the gentleman has insinuated that there has been something in the way of purchasing going on outside of Congress, I have only to say, that the purse of the owners of the British steamships is likely to have been as long as that of the American ones, and it would have been something to cost an enemy.

[A message in writing was here received from the President of the United States, by MILLARD P. FILLMORE, Esq., his Private Secretary.]

Mr. CHANDLER continued: It was upon that ground I did it, and it was upon that ground that other gentlemen from Philadelphia did it. Laying aside what is imputed here as petty jealousies—laying aside what is imputed as a petty feeling between the two States, I felt, and others of my colleagues learned to feel, that we should do justice for the people and interests of the country, although we knew that the principal benefit would be conferred upon the city of New York. Now, I ask gentlemen from New York, that, at least, they will not taunt us with voting for that measure which at the same time furnished them the very means of bringing merchandise as other Government-paid steamers bring gold dust to the city of New York, to make an argument why everything else should be carried there. I will again remark that these are circumstances to which I did not intend to refer; I have simply mentioned them in connection with the remarks of the honorable gentleman from New York, [Mr. BRIGGS.] I return now to the subject before the House—that of multiplying branch Mints in the United States, and particularly of placing one in the city of New York. I say this measure is one which is not sanctioned by the wants of the country. I prove this when I show you that the Mint in the city of Philadelphia is competent, fully competent for the coinage of all the gold and silver which is required for the present, or which will be required for many years to come. But I again call the attention of the House particularly to the fact, that we have by law authorized the erection of a branch in California, which is not only to coin money, but which is also to make ingots; so that we can scarcely expect any considerable gold dust to cross the Isthmus and reach our eastern cities. But, sir, just in proportion as we diminish the necessities for a branch Mint in that city do we increase the clamors for having it there. Just in proportion as we advance arguments against the propriety of establishing a branch Mint there, do we find them presenting their bills before the House.

Mr. Speaker, I must repeat that I mean not these remarks for an argument upon this question. If we should not succeed in defeating this bill now, and an opportunity should be presented when the bill shall come up hereafter, I shall endeavor to present the subject in a form in which it ought to be presented in this House. I shall endeavor to show that we ought not to be called upon to make this special legislation to amuse or gratify certain persons, and to comply with the outcry of those who have raised it for other purposes than national ones. Sir, we are legislating for a nation and not for a city. We are legislating for national wants, and not to satisfy the cravings of a particular individual. We are legislating for the good of the whole country, and that legislation ought to be in conformity with some general rule.

I desire to say nothing about the arguments advanced on former occasions. They are not before this House. It will be enough for me if I can succeed in directing the attention of the House, not to any arguments which may have been put forth by me on some former occasion, but to the importance of the subject. The question is not whether there shall be two, three, or four Mints in the country, but it is whether these implements of sovereignty—whether these emblems of a nation's power—shall be scattered in every place where a few merchants may ask assistance. Why, sir, if it is important that every city should have a Mint, then not only must New York have one, but Baltimore must have one, Boston must have one, Charleston must have one, and, in short, Mints should be scattered all over the country, from Portland in Oregon, to Portland in Maine. Indeed, I do not know but my friend from Maine [Mr. GOODENOW] would want one as far down east as Bangor. These will be the results, if this principle is carried into effect. A branch Mint was established in Georgia, and another in North Carolina, in the vicinity of the mines, for the coinage of gold and silver mined in those districts; and that is another reason why we should not establish another one in New York.

But, Mr. Speaker, if we were to carry out this principle—if we are to multiply Mints everywhere, we should outrage all rules of propriety, we should depart from all precedents, and establish a custom that in two or three years would so debase our coin, and render it so suspicious, that the people abroad, and even the people at home, would scarcely receive it as of any standard value. Its intrinsic value would depend on and vary with the feelings of every State in which one of these establishments was located.

The question of the cost of a new Mint, of the cost of carrying it on, and the saving to the nation by allowing no more branch Mints, needs a fair examination, and I feel no hesitancy in expressing an opinion, that when this House shall have had the means of understanding these questions, it will, by almost a unanimous vote, put an end to these annual calls for a branch Mint in New York.

Mr. HOUSTON, (interrupting.) As the morning hour will expire in about a minute, if the gentleman will yield me the floor, I will move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I hope not. I hope we shall adopt a motion to go to the business upon the Speaker's table, when the morning hour is out.

Mr. HOUSTON. If the gentleman from Pennsylvania will yield the floor to me, I will move that the House go into the Committee of the Whole on the state of the Union, as I am anxious to have the deficiency bill passed. The Senate have passed all the appropriation bills that we have sent them, and I desire to send them another to act upon.

Mr. CHANDLER. If I do not lose the floor thereby, I yield it to the gentleman to make the motion.

The SPEAKER. If the gentleman from Pennsylvania will yield to the Chair, he would like, by unanimous consent, to present some communications from the Departments, which he understands are necessary to go to committees. Is it the unanimous pleasure of the House that those communications should be presented?

Many VOICES. "Yes!" "Yes!"

The following communications were then presented, and referred as indicated below:

To the Senate and
House of Representatives of the United States:

I have the honor herewith to transmit a report from the Secretary of the Interior, from which it appears that the efforts of that Department to induce the Indians remaining in Florida to migrate to the country assigned to their tribe, west of the Mississippi, have been entirely unsuccessful.

The only alternative that now remains is either to compel them, by force, to comply with the treaty made with the tribe in May, 1832, by which they agreed to migrate within three years from that date, or allow the arrangement made with them in 1842, referred to in the Secretary's report, by which they were permitted to remain in the temporary occupancy of a portion of the peninsula until the Government should see fit to remove them, to continue.

It cannot be denied that the withholding so large a portion of her territory from settlement is a source of injury to the State of Florida; and although, ever since the arrangement above referred to, the Indians have manifested a desire to remain at peace with the whites, the presence of a people who may at any time, and upon any real or fancied provocation, be driven to acts of hostility, is a source of constant anxiety and alarm to the inhabitants of that border. There can be no doubt, also, that the welfare of the Indians would be promoted by their removal from a territory where frequent collisions between them and their more powerful neighbors are daily becoming more inevitable.

On the other hand, there is every reason to believe that any manifestation of a design to remove them by force, or to take possession of the territory allotted to them, would be immediately retaliated by acts of cruelty on the defenseless inhabitants.

The number of Indians now remaining in the State is, it is true, very inconsiderable, (not exceeding, it is believed, five hundred,) but owing to the extent of the country occupied by them, and its adaptation to their peculiar mode of warfare, a force very disproportioned to their numbers would be necessary to capture them, or even to protect the white settlements from their incursions.

The military force now stationed in that State would be inadequate to these objects; and if it should be determined to enforce their removal, or to survey the territory allotted to them, some addition to it would be necessary, as the Government has but a small force available for that service. Additional appropriations for the Army would also, in that event, be necessary.

For these reasons I have deemed it proper to submit the whole matter to Congress, for such action as they may deem best. MILLARD FILLMORE.

WASHINGTON CITY, *January* 18, 1853.

On motion by Mr. JOHNSON, of Arkansas, it was ordered that it be referred to the Committee on Military Affairs, and printed.

WASHINGTON, *January* 17, 1853.

To the Senate and House of Representatives:

I transmit herewith a communication lately received at the Department of State, from the Minister of her Most Catholic Majesty, accompanied by a letter of instructions from the Spanish Government, relative to the case of the Amistad. In Mr. Calderon's communication, reference is had to former letters, addressed by him to the Department of State on the same subject, copies of which are hereby transmitted, and an earnest wish is expressed that a final settlement of this long-pending claim should be made. The tone of the letter of instructions from Mr. Manuel Bertran de Lis is somewhat more peremptory than could be wished; but this circumstance will not, probably, prevent Congress from giving his suggestions the attention to which they may be entitled.

The claim of the Spanish Government, on behalf of its subjects interested in the Amistad, was the subject of discussion, during the administration of President Tyler, between the Spanish Minister and Mr. Webster, then Secretary of State.

In an elaborate letter of the latter, addressed to the Chevalier d'Argaiz, on the 1st of September, 1841, the opinion is confidently maintained that the claim is unfounded. The administration of President Polk took a different view of the matter. The justness of the claim was recognized in a letter from the Department of State to the Spanish Minister, of the 19th of March, 1847. In his annual message of the same year, the President recommended its payment.

It is understood that reports favorable to the claim have, on more than one occasion, been made by committees of one or both Houses of Congress, accompanied by bills providing for its payment.

Under these circumstances, the attention of Congress is again invited to the subject. Respect to the Spanish Government demands that its urgent representations should be candidly and impartially weighed. If Congress should be of opinion that the claim is just, every consideration points to the propriety of its prompt recognition and payment; and if the two Houses should come to the opposite conclusion, it is equally desirable that this result should be announced without unnecessary delay.

MILLARD FILLMORE.

On motion by Mr. JONES, of Tennessee, it was ordered that it be referred to the Committee on Foreign Relations, and printed.

Also, a communication from the Treasury Department, covering a communication from the Auditor of the Post Office Department, with a view of being submitted to the consideration of the Committee on Ways and Means.

On motion by Mr. HOUSTON, it was ordered that it be referred to the Committee on Ways and Means, and printed.

A communication from the War Department, in compliance of the acts of April 21st, 1808, and March 3d, 1809, showing what contracts have been made under the authority of that Department during the year 1852.

On motion, ordered that it be laid upon the table and printed.

A communication from the Superintendent of Public Printing, inclosing estimates of the amount and kinds of paper required for the public printing of the first and second sessions of the Thirty-second Congress, together with the expenses of his office.

On motion by Mr. HAVEN, ordered that it be referred to the Committee on Ways and Means and be printed.

A communication from Professor Bache, inclosing a memorial of the American Philosophical Society to the House of Representatives in relation to another expedition in search of Sir John Franklin.

Mr. JONES, of Tennessee. I move that it be laid upon the table.

Mr. STUART. I hope the gentleman will allow a motion to refer it. Let us take the sense of the House upon it.

Mr. STEPHENS, of Georgia. I ask for tellers upon the motion to lay upon the table.

Tellers were ordered; and Messrs. CLINGMAN, and SEYMOUR of New York, were appointed.

Mr. STEPHENS. It had better go to the Commitee on Naval Affairs.

Several VOICES. "No!" "No!" "No!"

The question was then taken, and the tellers reported—ayes 69, noes 61.

So the communication was laid upon the table.

Mr. HOUSTON. I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. The gentleman from Pennsylvania [Mr. CHANDLER] has the floor by express understanding with the Chair.

Mr. HOUSTON. I understood the gentleman from Pennsylvania to yield the floor to me.

The SPEAKER. The history of that matter is, that the gentleman from Pennsylvania—the morning hour having expired within half a minute—yielded to a proposition of the Speaker, which was to present to the House communications upon the Speaker's table.

Mr. STUART. That is the state of facts.

The SPEAKER. But the gentleman from Alabama [Mr. HOUSTON] would have had the right to supersede the gentleman from Pennsylvania at the expiration of the morning hour.

Mr. CHANDLER. I had not quite exhausted my time.

The SPEAKER. That is true; but the understanding of the Chair was, that at the moment, the morning hour having nearly expired, the gentleman yielded his right to the Speaker. The House can determine what they will do, by either motion.

Mr. HOUSTON. But I understood that the gentleman from Pennsylvania yielded to me, and my motion was pending when the Chair appealed to the House to lay before them certain documents.

The SPEAKER. The Chair did not understand the gentleman from Pennsylvania as yielding to the proposition made by the gentleman from Alabama.

Mr. CHANDLER. I suggested to the gentleman from Alabama, that if it would not deprive me of my remainimg time, I had no objection to his motion.

The SPEAKER. Did the gentleman yield for the purpose of making the motion proposed by the gentleman from Alabama?

Mr. CHANDLER. But I yielded subsequently to the Speaker.

The SPEAKER. The Chair will then put the question on the motion to proceed to business upon the Speaker's table.

Mr. HART. I ask for tellers upon that motion.

Tellers were ordered; and Messrs. HART and POLK were appointed.

The question was then taken, and the tellers reported—ayes 76, noes 62.

Before the result was announced, Mr. DEAN demanded the yeas and nays upon the motion; and they were ordered.

Mr. ORR. Is it in order now to move that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. Not until the pending motion is decided.

Mr. ORR. I desire to ask the——

The SPEAKER. Will the gentleman indulge the Chair until he turns to the rules, that he may be precise?

Mr. RICHARDSON. I desire to ask the Chair if a motion to go into the Committee of the Whole does not take precedence of a motion to go to business upon the Speaker's table?

The SPEAKER. Not under the rules. The Chair will look at the rules to be precise.

Mr. RICHARDSON. The Chair's memory is sufficient, and it is not necessary to look at the rules. I waive the point.

The SPEAKER. According to the practice under the rules you could not take the floor from a gentleman occupying it, for the purpose of submitting the motion to go into the Committee of the Whole on the state of the Union; but there is a rule which authorizes you to arrest the morning hour business by a motion to go to the business upon the Speaker's table; and that being the motion pending, the Chair thinks it ought to be decided one way or the other. Then it would be in order to move to go into the Committee of the Whole on the state of the Union.

Mr. ORR. If I understand it aright, the gentleman from Pennsylvania, at about the close of the morning hour, yielded the floor for a different purpose. That purpose has now been accomplished. What will be the order of business before the House, provided the House should refuse to go to the business upon the Speaker's table?

The SPEAKER. The gentleman from Pennsylvania, [Mr. CHANDLER,] in the absence of a motion to go into the Committee of the Whole on the state of the Union, would be entitled to the floor upon the business of the morning hour, which would progress, unless arrested, throughout the day.

Mr. ORR. And it can only be arrested by a motion to proceed to business upon the Speaker's table?

The SPEAKER. According to the 27th rule, "After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business upon the Speaker's table."

Mr. JONES, of Tennessee. I move that the House resolve itself into the Committee of the Whole on the state of the Union. We have passed from the morning hour.

Mr. STUART. I call the gentleman to order.

Mr. JONES. It was the universal practice at the last session, after the expiration of the morning hour, to take the floor from the occupant of it, and submit a motion to go into the Committee of the Whole on the state of the Union, and it always takes precedence.

The SPEAKER. The Chair agrees with the gentleman from Tennessee, that such has been the practice, but he could never see the reason for it.

Mr. JONES. Under the rules the motion——

Mr. STUART. Is this question debatable?

The SPEAKER. It is not.

Mr. STUART. Then I call the gentleman from Tennessee to order.

The SPEAKER. The Chair decides that the motion of the gentleman from Tennessee, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, is in order.

Mr. JONES. Yes, sir; under the rule that provides it shall be in order at any time for the House, by a majority, to resolve itself into the Committee of the Whole on the state of the Union.

Mr. WALSH. The question was put on the motion that the House do now proceed to the consideration of the business upon the Speaker's table, and after a division the yeas and nays were called and ordered. Now, is it competent to make the motion to go into the Committee of the Whole on the state of the Union until that question has been determined?

The SPEAKER. It is true that the motion to go to the business upon the Speaker's table has not been determined; but it has been almost the universal practice, that immediately after submitting a motion to go to the business upon the Speaker's table, to follow that motion with one that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I appeal from the decision of the Chair. We have got to meet this question, and it is as well to meet it now as at any other time. I say that until the question is decided whether we will or will not proceed to the consideration of the business upon the Speaker's table, the motion to go into the Committee of the Whole is not in order.

Mr. STEPHENS, of Georgia. I think that the 136th rule of the House settles that question:

"The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union."

The SPEAKER. The Chair decided in conformity with that rule, and what he knows to have been the practice of the House formerly. The Chair knows of no deviation from that rule whatever, and therefore adheres to it.

Mr. GORMAN. I call the attention of the House to the report I shall make from the Committee on Printing. It will not create any debate. It will be recollected that the other day, when the question of the printing of the census was up for consideration, it was specially insisted on action should then be had. I desire to report a resolution for the procurement of information.

The SPEAKER. As that proposition will raise another point of order, the Chair hopes the gentleman will not now press it.

Mr. STUART. I object to the report. Now, let us see whether the rule will be consistent in its construction. This committee, according to the rules, can report at any time, and at any time you can go into the Committee of the Whole.

Mr. JONES. The motion to go into the Committee of the Whole is a privileged one.

The SPEAKER. The Chair has decided the motion of the gentleman from Tennessee to be in order. It is as much privileged in its nature as

the question of the gentleman from Indiana, and the Chair, therefore, rules that the gentleman cannot at this time make his report.

Mr. GORMAN. I am sure there is not a gentleman upon the floor who will object to the resolution. It is simply one of inquiry, that the subject of the census printing may come up, which every member desires. It will not occupy two minutes to consider it.

The SPEAKER. It can only be made by unanimous consent.

Mr. STANLY. The rules say that the Committee on Printing shall report at any time. I would therefore ask why the gentleman is not allowed to make his report?

The SPEAKER. Because the other privileged question has precedence by priority of time.

Mr. STANLY. The gentleman from Georgia [Mr. STEPHENS] said, that under the 136th rule, he had the right at any time to submit the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. Very well! Now, the 27th rule provides that—

"After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day—*January* 5, 1832; which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz."

We have decided that in the affirmative, and, strict as the gentleman from Georgia is, it is the duty of the Speaker, under the rule, to proceed to the execution of the order of the House.

The SPEAKER. Unless arrested by some one of the privileged questions which may be raised under express rule. The Chair will state the question, that gentlemen may vote understandingly on the subject. The gentleman from Michigan [Mr. STUART] moved that the House proceed to the consideration of the business upon the Speaker's table. Pending that motion, the gentleman from Tennessee [Mr. JONES] submitted a motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, which is a highly privileged motion; and, in accordance with the whole practice of this body on that subject, that motion takes precedence simply in the order of time of putting it. It will be competent for the House, by vote, to get at one business or the other.

Mr. STUART. I will suggest that the present occupant of the chair decided this question differently at the last session. I presume the Speaker will recollect it. He, on my motion, decided that, if insisted upon, the motion to go to the business upon the Speaker's table must be determined, and it was determined.

The SPEAKER. The Chair differs with the gentleman in regard to his recollection.

Mr. ORR. I expect that the gentleman refers to the decision that a member could be taken from the floor at the expiration of the morning hour by the submission of the motion that the House do proceed to the consideration of the business upon the Speaker's table; and that was the only way in which a member could be taken off the floor.

The SPEAKER. A practice has grown up informally under the rules to take the vote first upon the motion to go into the Committee of the Whole, though following the one to proceed to the consideration of the business upon the Speaker's table.

Mr. GOODENOW. I understand that the vote was taken on the proposition of the gentleman from Michigan by tellers, and that after it had been announced by the Chair, the yeas and nays were called and ordered.

The SPEAKER. That is true; and the Chair states that precisely at that point in our proceedings, the informal practice has been to submit the question whether or not the House will resolve itself into the Committee of the Whole on the state of the Union. While we have been talking about the matter, one or the other of these motions might have been disposed of, and the House would have been engaged in the consideration of the regular business, if the Chair may be allowed to say so.

Mr. STUART. I demand the yeas and nays on the motion to lay the appeal upon the table.

The yeas and nays were ordered.

Mr. FULLER, of Maine. I wish to inquire whether the floor could be taken from the gentleman from Pennsylvania [Mr. CHANDLER] to make the motion that the House resolve itself into the Committee of the Whole on the state of the Union? If it could not, and it would be in order to go to the business upon the Speaker's table, and the House having gone to the business upon the Speaker's table, would it be in order to move to go into the Committee of the Whole, and thus do indirectly what could not be done directly?

The SPEAKER. The subject is not debatable. The Chair will, by the indulgence of the House, read the rules bearing upon the subject:

"27. After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day—*January* 5, 1832; whichb eing decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz."

"136. The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union."

As an original question, the Chair would decide that a motion to go into the Committee of the Whole on the state of the Union, being a highly privileged motion, would arrest the morning hour. Under the informal practice, the Chair will state, the morning hour has been arrested by a motion to go to the business upon the Speaker's table, which motion has been itself arrested by one that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FLORENCE. Do I understand the Speaker to say that the House divided on the motion to go to the business on the Speaker's table?

The SPEAKER. The House was not divided on the proposition.

Mr. FLORENCE. The yeas and nays were ordered on it.

The SPEAKER. The House has only evidenced its intention to take the vote by yeas and nays instead of tellers, when the question again comes up.

Mr. FLORENCE. I then understand the Chair to base his decision on the rule authorizing the House to resolve itself into the Committee of the Whole on the state of the Union, at any time.

The SPEAKER. Is it not clear, that if the House had proceeded to the consideration of the business upon the Speaker's table, that business could be suspended by a motion that the House resolve itself into the Committee of the Whole?

The question was then taken on the motion to lay the appeal on the table, and it was agreed to—yeas 104, nays 60; as follows:

YEAS—Messrs. Aiken, Willis Allen, Allison, William Appleton, Ashe, Averett, Barrere, Bocock, Bowie, Bragg, Albert G. Brown, Burrows, Busby, Joseph Cable, Thompson Campbell, Gaskie, Chastain, Clemens, Clingman, Cobb, Colcock, Cullom, Curtis, Daniel, John G. Davis, Dawson, Dean, Dimmick, Dockery, Dunham, Durkee, Eastman, Evans, Ewing, Faulkner, Ficklin, Florence, Floyd, Gamble, Giddings, Gorman, Green, Grow, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Hillyer, Houston, Howard, John W. Howe, Jackson, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kuhns, Kurtz, Letcher, Masón, McNair, Meade, Millson, Molony, John Moore, Murray, Nabers, Orr, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Polk, Richardson, Robbins, Robie, Robinson, Ross, Russell, Savage, Scurry, Origen S. Seymour, Skelton, Smith, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, St. Martin, Stratton, Sutherland, Toombs, Venable, Walbridge, Wallace, Watkins, Addison White, Wilcox, Wildrick, and Williams—104.

NAYS—Messrs. Charles Allen, Bartlett, Bell, Bibighaus, Brenton, Briggs, George H. Brown, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Cottman, Darby, George T. Davis, Disney, Doty, Duncan, Fay, Thomas J. D. Fuller, Gaylord, Gilmore, Goodenow, Grey, Hammond, Harper, Haws, Hascall, Horsford, Thomas Y. How, George G. King, Landry, Little, Mann, Martin, Miller, Murphy, Newton, Penniman, Porter, Price, Reed, Riddle, Sabine, Sackett, Scudder, Snow, Stanly, Benjamin Stanton, Strother, Stuart, Taylor, Thurston, Townshend, Tuck, Walsh, Ward, Washburn, Welch, Wells, and Yates—60.

So the appeal was laid upon the table.

The SPEAKER. The question now recurs on the motion submitted by the gentleman from Tennessee, that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FULLER, of Maine. I demand the yeas and nays on the motion.

The yeas and nays were ordered.

The question was then taken, and the House refused to resolve itself into the Committee of the Whole on the state of the Union—yeas 79, nays 82; as follows:

YEAS—Messrs. Aiken, Willis Allen, Allison, Ashe, Averett, Babcock, Bennett, Bocock, Bragg, Busby, Joseph Cable, Carter, Caskie, Chastain, Clemens, Clingman, Cobb, Colcock, John G. Davis, Dawson, Dean, Dimmick, Dunham, Floyd, Gamble, Grow, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Hillyer, Houston, Howard, John W. Howe, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Lockhart, McNair, Meacham, Millson, Miner, John Moore, Morehead, Murphy, Murray, Nabers, Olds, Orr, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Polk, Robbins, Robie, Ross, Russell, Savage, Scurry, Skelton, Richard H. Stanton, Alexander H. Stephens, St. Martin, Stratton, Sweetser, Venable, Walbridge, Wallace, Watkins, Wilcox, Wildrick, and Woodward—79.

NAYS—Messrs. Abercrombie, Barrere, Bell, Bibighaus, Bowie, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Cottman, Cullom, Curtis, Darby, George T. Davis, Dockery, Doty, Duncan, Eastman, Edgerton, Evans, Ewing, Fay, Florence, Thomas J. D. Fuller, Gaylord, Gilmore, Goodenow, Green, Grey, Hammond, Harper, Hart, Haws, Hascall, Henn, Horsford, Thomas Y. How, Jackson, George G. King, Kuhns, Landry, Little, Mann, Martin, Miller, Molony, Newton, Penniman, Porter, Price, Reed, Riddle, Sabine, Sackett, Scudder, Origen S. Seymour, Snow, Stanly, Benjamin Stanton, Stuart, Sutherland, Taylor, Thurston, Toombs, Townshend, Tuck, Walsh, Ward, Washburn, Welch, Wells, Addison White, Williams, and Yates—82.

So the House refused to resolve itself into the Committee of the Whole on the state of the Union.

[A message was here received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed bills of the following titles, viz:

S. No. 584. An act authorizing the Secretary of the Treasury to issue a register to the British bark Fanny, under the name of Golden Mirror; and

H. R. No. 332. An act making appropriations for the support of the Military Academy for the year ending 30th of June, 1854.]

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; and they thereupon received the signature of the Speaker:

H. R. No. 291. An act to amend an act entitled "An act for the discontinuance of the office of 'surveyor general in the several districts, so soon 'as the surveys therein can be completed for abol-'ishing land offices under certain circumstances, 'and for other purposes;"

H. R. No. 151. An act for the relief of the heirs of William McFarland, deceased;

H. R. No. 296. An act for the relief of John J. Sykes;

H. R. No. 171. An act for the relief of Thomas P. Dudley; and

H. R. No. 301. An act for the relief of Philo Smith.

The SPEAKER. The question now recurs upon the motion that the House do now proceed to the consideration of the business upon the Speaker's table.

Mr. POLK. I move that there be a call of the House.

Mr. VENABLE. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. SWEETSER. I move that the House do now adjourn.

Mr. HENN. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was then taken on the latter motion, and the House refused to adjourn—yeas 45, nays 106; as follows:

YEAS—Messrs. Abercrombie, Allison, Averett, Brenton, Thompson Campbell, Chastain, Cottman, Cullom, Daniel, Dawson, Dimmick, Dunham, Evans, Ewing, Floyd, Sampson W. Harris, Haven, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kuhns, Landry, Mason, McLanahan, Meade, John Moore, Morehead, Murray, Olds, Samuel W. Parker, Penn, Polk, Riddle, Robie, Ross, Russell, Scurry, Skelton, Snow, Sweetser, Wallace, Addison White, Williams, and Woodward—45.

NAYS—Messrs. Aiken, Willis Allen, William Appleton, Ashe, Babcock, Thomas H. Bayly, Barrere, Bell, Bennett, Bibighaus, Bocock, Bowie, Bragg, Briggs, Brooks, Albert G. Brown, George H. Brown, Busby, Caldwell, Lewis D. Campbell, Cartter, Caskie, Chandler, Chapman, Clark, Clemens, Clingman, Cobb, Colcock, Curtis, Darby, George T. Davis, John G. Davis, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Fay, Florence, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Goodenow, Gorman, Grey, Hammond, Harper, Hart, Haws, Hascall, Hendricks, Hillyer, Horsford, Houston, Howard, John W. Howe, Thomas Y. How, Jackson, Daniel T. Jones, George G. King, Little, Lockhart, Mann, Martin, McNair, Miller, Millson, Molony, Murphy, Nabers, Newton, Orr, Andrew Parker, Peaslee, Perkins, Porter, Price, Reed, Robbins, Robinson, Sabine, Schoolcraft, David L. Seymour, Origen S. Seymour, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stratton, Strother, Stuart, Sutherland, Taylor, Thurston, Walbridge, Walsh, Washburn, Watkins, Wells, and Yates—106.

So the House refused to adjourn.

The question was next taken on the motion that there be a call of the House, and it was disagreed to—yeas 47, nays 109; as follows:

YEAS—Messrs. Abercrombie, Aiken, Willis Allen, Averett, Bocock, Bragg, Breckinridge, Brenton, Busby, Joseph Cable, Chastain, Daniel, Dawson, Dean, Dimmick, Dunham, Evans, Faulkner, Floyd, Isham G. Harris, Sampson W. Harris, Haven, John W. Howe, George W. Jones, J. Glancy Jones, McLanahan, McNair, Millson, Molony, Morehead, Murray, Nabers, Olds, Samuel W. Parker, Penn, Polk, Robie, Robinson, Scurry, Skelton, Smith, Sweetser, Venable, Wallace, Wilcox, Wildrick, and Woodward—47.

NAYS—Messrs. Charles Allen, Allison, William Appleton, Ashe, Babcock, Thomas H. Bayly, Barrere, Bartlett, Bell, Bibighaus, Bowie, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, Caldwell, Thompson Campbell, Chandler, Chapman, Clark, Clemens, Cobb, Colcock, Cottman, Curtis, Darby, John G. Davis, Dockery, Doty, Duncan, Durkee, Eastman, Ewing, Fay, Florence, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Goodenow, Goodrich, Gorman, Green, Grey, Grow, Hammond, Harper, Hart, Haws, Hascall, Hendricks, Hillyer, Horsford, Houston, Howard, Thomas Y. How, Jackson, Jenkins, Andrew Johnson, John Johnson, George G. King, Kuhns, Landry, Little, Lockhart, Mann, Martin, Mason, Meade, Henry D. Moore, Murphy, Newton, Andrew Parker, Peaslee, Penniman, Phelps, Porter, Price, Reed, Riddle, Robbins, Ross, Russell, Sabine, Sackett, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stratton, Strother, Stuart, Sutherland, Taylor, Thurston, Toombs, Walbridge, Walsh, Washburn, Watkins, Welch, Wells, Addison White, and Yates—109.

So the House refused to order a call of the House.

Pending the call,

Mr. McMULLIN asked leave to vote; which was denied.

Mr. BOCOCK. I renew the motion that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. If that motion be voted down, I suppose the motion to proceed to the business upon the Speaker's table will be in order.

The SPEAKER. It will.

Mr. SCURRY. I move that the House do now adjourn.

The motion was agreed to; and the House thereupon adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. DAVIS, of Indiana: The petition of James Christie and 140 other citizens of Indiana, for a grant of public lands to aid in constructing a railroad from Indianapolis, Indiana, to Springfield, in the State of Illinois.

Also, the petition of Joseph A. Wright and 52 other citizens, on the same subject.

Also, the petition of George Hedge and 32 others, on the same subject.

By Mr. MOORE, of Louisiana: The petition of Hannibal Faulk and others, and Mrs. Emma Peck, in relation to their claims in the Bastrop Grant, in Louisiana.

By Mr. BROWN, of Mississippi: The petition of A. E. Lewis and 51 other citizens of Mississippi, praying the removal of the land office from Augusta to Shieldsboro', Mississippi.

By Mr. RIDDLE: The petition of sundry citizens of New Castle county, State of Delaware, praying that the title of lieutenant general will not be conferred upon Winfield Scott.

By Mr. FLORENCE: The memorial of J. Howard & Co., of Philadelphia, praying for the passage of a law to enforce more strictly the rights of patentees.

Also, the petition of F. W. Moores and other masters in the Navy, not in the line of promotion, asking an increase of compensation.

IN SENATE.

THURSDAY, *January* 20, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Senate, showing the amount paid for documents, books, and maps printed or purchased for distribution, by order of the Senate, since the 1st of May, 1832; which was ordered to be printed.

Also, a report of the Secretary of the Interior, showing how the appropriations made for running and marking the boundary line between the United States and Mexico have been expended; which was referred to the Select Committee appointed on the subject, and ordered to be printed.

Also, the annual report of the Secretary of the Treasury on the state of the finances; which was referred to the Committee on Finance.

On motion by Mr. HUNTER, it was

Ordered, That the report be printed, and that ten thousand additional copies thereof be printed for the use of the Senate.

The PRESIDENT *pro tempore* also laid before the Senate a communication from the Secretary of the Treasury, communicating the annual report of the Light-House Board; which, on motion by Mr. HAMLIN, was referred to the Committee on Commerce, and ordered to be printed.

Both subjects seem to have been included in one communication; and therefore it was, on motion by Mr. HAMLIN, ordered that five hundred copies of the ten thousand ordered to be printed, be for the use of the Light-House Board.

The PRESIDENT *pro tempore* also laid before the Senate a letter of the Acting Treasurer of the United States, communicating copies of his accounts of receipts and disbursements for the service of the Post Office Department for the year ending the 30th of June, 1852; which was referred to the Committee on the Post Office and Post Roads.

Also, a communication from the Secretary of the Treasury, in compliance with a resolution of the Senate, giving certain information in reference to marine hospitals; which was, on motion by Mr. DAVIS, referred to the Committee on Commerce, and ordered to be printed.

THE SEMINOLE INDIANS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, informing Congress of the refusal of the Indians remaining in Florida to emigrate to the country assigned to their tribe west of the Mississippi.

Mr. MALLORY. This is a message embracing papers from the Secretary of the Interior of very great importance to the interests of the State of Florida. It will be remembered, that about twenty years ago, these Indians engaged to remove from Florida. That engagement has been repeatedly renewed; and, recently, in September last, by a special treaty with the chiefs and headmen of the tribe, they again engaged to remove. A special agent has been dispatched to Florida, whose report is embraced in the papers now before the Senate. Several committees might appropriately act upon the question. The message recommends the survey of the Indian country, and the employment of a military escort for the purpose. I will say, briefly, that the frontiers of the Indian country in Florida are very sparsely settled, and they may be broken up at any time, although the number of Indians in the State is comparatively small; but their character is too well known to need occasion for reference on my part. There is a belt of land around the Indian country for twenty miles, which it is now proposed to survey; but the Department has no funds at its disposal to carry on this work. It might, therefore, be appropriate to refer the report to the consideration of the Committee on Public Lands, but I will move the reference of the message and the accompanying documents to the Committee on Indian Affairs; and I take occasion to ask their earnest attention, and an early report on the subject.

The motion was agreed to.

PETITIONS, ETC.

Mr. MORTON presented a petition of citizens of Escambia county, Florida, living on the route between Pensacola, in that State, and Belleville, Alabama, praying mail facilities; which was referred to the Committee on the Post Office and Post Roads.

Mr. SEWARD presented a resolution of the Legislature of New York concerning the principle of the distribution of the public lands, in which they set forth, that in consideration of the grants made to the new States at the time of and since their admission into the Union, and of the many applications now made for further appropriations for railroads and internal improvements, they desire to urge upon Congress, if that system of distribution and appropriation is to be continued, the propriety of making grants of land, upon some equal and just principle of appropriation, to all the States for the purpose of education, and for other useful public services, having due regard to the grants already made, and the population of the respective States.

The resolution was read, and ordered to be printed.

Mr. BRODHEAD presented a petition of the clerks in the office of the Commissioner of Pensions, praying that the percentage allowed upon their salaries at the last session of Congress may be continued; which was referred to the Committee on Finance.

Mr. FELCH presented the petition of Isaac H. Kelly, in behalf of the importers of goods from the British provinces, remonstrating against the passage of the bill "giving further remedies to patentees;" which was referred to the Committee on Patents and the Patent Office.

Mr. MANGUM submitted additional documents in relation to the proposed purchase of James P. Espy's patent right for his conical ventilator; which were referred to the Committee on Naval Affairs.

Mr. PEARCE presented the petition of Charles West, a soldier during the last war with Great Britain, praying a pension; which was referred to the Committee on Pensions.

Also, a memorial of ship-owners and masters of vessels in Baltimore, representing the ruinous effects of the abolition of corporal punishment in the mercantile marine, and praying the legal enactment of some efficient substitute; which was referred to the Committee on Commerce.

Mr. NORRIS presented two petitions of five hundred and seven citizens of Washington, praying that the "Long Bridge," over the Potomac river, may be rebuilt on its present site; which were referred to the Committee on the District of Columbia.

Mr. DODGE, of Iowa, presented the memorial of a committee appointed by a convention held at St. Louis, on the 15th November, 1852, praying a grant of land to aid in the construction of a railroad on the west side of the Mississippi river, from a point opposite the city of New Orleans, to a central eligible point in the Territory of Minnesota, in the direction of the Red River of the North, and with a branch to the Falls of St. Anthony; which was referred to the Committee on Public Lands.

REPORTS FROM STANDING COMMITTEES.

Mr. WADE, from the Committee on Claims, to which was referred the petition of the administrators of Colonel John Anderson, submitted a report, accompanied by a bill for the relief of the legal representatives of the late Colonel John Anderson; which was read and passed to the second reading. The report was ordered to be printed.

Mr. BADGER, from the Committee on the Judiciary, to which was referred the memorial of L. E. L. A. Lawson, submitted a report, accompanied by a joint resolution for her relief; which was read and passed to the second reading. The report was ordered to be printed.

SMALL NOTE BILL.

The bill from the House of Representatives to suppress the circulation of small notes as a currency in the District of Columbia, was read a first and second time by its title, and referred to the Committee on the District of Columbia.

NOTICE OF A BILL.

Mr. MILLER gave notice of his intention to ask leave to introduce a bill respecting the right of dower in the District of Columbia.

PACIFIC RAILROAD.

Mr. RUSK. I hope the Senate will indulge me in taking up at this time the bill "for the protec-'tion of the emigrant route and a telegraph line, 'and for an overland mail between the Missouri 'river and the settlements in California and Ore-'gon," for the purpose of having it referred.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. RUSK. I now move that the bill be referred to a special committee of five Senators, to be appointed by the Chair. I do not want the reference, however, to interfere with the discussion which has been going on in relation to the bill of the honorable Senator from California. Pending that discussion, the committee to which I propose to refer this bill may consider it, and may benefit by the suggestions which may be made in the Senate on the subject.

The motion was agreed to, and the PRESIDENT, in conformity with it, appointed Mr. RUSK, Mr. BELL, Mr. DAVIS, Mr. GWIN, and Mr. DODGE of Iowa, the committee.

CHAPLAINS IN THE PUBLIC SERVICE,

Mr. BUTLER. Many memorials were referred to the Judiciary Committee on the subject of

abolishing the office of chaplains in the House of Representatives and in the Senate, and in the Army and Navy. One of the members of the committee has drawn up a very full, and I think satisfactory, report upon the subject, which was presented to the Senate yesterday, and ordered to be printed. I move that ten thousand additional copies of it be printed for the use of the Senate.

Mr. CASS. Does the report recommend the abolition of the office of chaplain?

Mr. BUTLER. No, sir; far from it.

Mr. CASS. Then I shall vote for printing twenty thousand, if necessary.

Mr. HALE. Does not the motion go to the Committee on Printing?

The PRESIDENT. Certainly.

Mr. BUTLER. I hope, by unanimous consent, it will be considered now.

Mr. HALE. I have no objection.

The PRESIDENT. Under the rules, the motion must go to the Committee on Printing.

CONTINUANCE OF HALF PAY.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had disagreed to the amendment of the Senate to the amendment of the House to the bill of the Senate "to continue half pay to certain widows and orphans."

On motion by Mr. HAMLIN, it was

Ordered, That the Senate insist on its amendment, and ask for a conference on the disagreeing votes of the two Houses in relation thereto.

On motion, it was ordered that the conferees on the part of the Senate be appointed by the President *pro tem.*

ORDER OF BUSINESS.

The PRESIDENT. There is a motion on the table, made by the Senator from New Hampshire, [Mr. HALE,] to reconsider the vote by which the bill "for the relief of the widow of William Reily, deceased, late a captain in the fourth Maryland regiment of the revolutionary Army," was rejected.

Mr. GWIN. I hope that motion will be laid over, and that the Senate will proceed to the consideration of the special order; and I make that motion.

Mr. HALE. I submitted the motion to reconsider at the request of some friends of the measure. I have no interest in it myself.

Mr. GWIN. The Senator from Virginia, [Mr. MASON,] who is not now in his seat, wishes, I believe, to say something upon that bill, and therefore I hope it will be passed over.

The PRESIDENT. It will be passed over.

Mr. BRIGHT. It was the intention of the Senator from Maryland [Mr. PEARCE] to call up to-day the bill providing "for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9th, 1850," which has been called up and passed over, I believe, on two or three occasions. When it was called up before, the honorable Senator from Maryland gave place to other business. I hope it may be the pleasure of the Senate to consider that bill to-day, or if not to-day, that we may agree by common consent to take it up to-morrow.

Mr. GWIN. If the honorable Senator from Maryland wishes to make a suggestion, I will withdraw my motion temporarily.

Mr. PEARCE. I did desire that the Senate should to-day take up the bill mentioned by the honorable Senator from Indiana, providing for the payment of certain creditors of Texas. I understand from the Senator from California, however, that he is very desirous to proceed to-day with the discussion of the bill which was before the Senate yesterday; and if there can be a general understanding that the Senate will take up the bill to which I have referred, to-morrow, I shall be content to forego any motion to take up the bill in reference to the debts of Texas.

Mr. BELL. I do not want to throw any impediment in the way of the wishes of any of my honorable friends, but I would suggest, that if we mean to do anything in regard to a measure of considerable importance which has been discussed for some days, a railroad to the Pacific, it is appropriate that we should proceed with it until we dispose of it. If we interpose some other question to-morrow, and if the bill is to be interrupted by a special order on Tuesday and another on Wednesday next, I do not see that we are likely to accomplish anything. Now, if honorable Senators who make these propositions, suppose that the measure which they propose to take up could be dispatched to-morrow, there would be but little objection to it; for it seems to be important to dispose of that subject. But is there any gentleman here who supposes that the bill relative to the debts of Texas can be settled in one day? I presume not. I think, really, that the better plan would be to proceed with the measure which we have had under consideration for two or three days past, at least until we shall see whether we can do anything with it, or whether we shall have to abandon it. Let us go on with it till we see whether the Senate is determined to do nothing, or whether they are determined to agree upon some measure. After we have disposed of that, let us take up the bill of the honorable Senator from Maryland, or any other measure that may suggest itself to the Senate as being worthy of consideration. I am not disposed, however, to be obstinate in relation to the manner in which business shall be taken up and acted upon. I throw out these suggestions merely for the consideration of the honorable Senator from Maryland and others.

Mr. SEWARD. I am obliged to say to my honorable friend from Maryland, that I shall to-morrow vote for proceeding with the Private Calendar. Although I am very favorably disposed towards the Texas debt bill, and the California railroad bill, I must to-morrow vote to proceed with the hearing of private claims. I think he will find there will be a general disposition to-morrow to take up the Private Calendar.

Mr. PEARCE. I should be glad to have to-morrow fixed as the day for taking up the Texas debt bill, or if the Senate prefer it, I would wish to have it taken up to-day. In response to the Senator from Tennessee, I would say that I do not know that the discussion can be concluded in one day, but I believe that all necessary discussion can be had in the course of one day. And I do not believe that any after discussion will vary the result of the Senate's vote. However, inasmuch as there does not seem to be a disposition to acquiesce in the suggestion I have made, I shall be compelled to vote against the motion of the Senator from California; and if the Senate should determine not to take up that bill, I shall ask them to take up the bill which I have indicated.

Mr. BRIGHT. I think, Mr. President, that there is something due to the standing committees of this body. The bill providing for the payment of the debt of Texas was reported by the Committee on Finance at the last session of Congress. It was then partially discussed, and left among the unfinished business. At an early day in the present session, the honorable Senator from Maryland asked that it should be made the special order for the sixth of this month, and the Senate granted the request. But, when the day arrived, he gave place, very properly, I think, to another important measure, with the understanding that his bill should be taken up at an early period. Now the honorable Senator from California interposes another very important measure, and one that I think is to consume much of the remaining time of the session.

I think that the bill providing for the payment of the debt of Texas can be disposed of to-morrow or next day. I understand that the honorable Senator from Maryland, who reported the bill, and who has charge of it, is prepared to go on whenever it comes up. The honorable Senator from Virginia expects to reply to him; and that will perhaps conclude the discussion that is to take place upon it. Though it involves a very important principle, and the payment of a great deal of money, the points embraced are within a very small compass, and I do hope that if the Senate go on to-day with the measure of the honorable Senator from California, they will signify their wish to take up the Texas debt bill to-morrow, and relieve the committee which has had charge of the subject.

I should be glad to refer the measure of the honorable Senator from California to the Select Committee raised on the motion of the Senator from Texas this morning, or to the Committee on Roads and Canals; but when he first brought it forward he objected so seriously to my proposition to refer it to the Committee on Roads and Canals that I will not make any motion for its reference. But for the purpose of bringing up the question of the Texas debt—and not intending by my motion to indicate anything like hostility to the measure of the Senator from California, for I intend to vote for his bill, provided it can be put into the right shape, for one road, and not for six—for the purpose of testing the sense of the Senate, I move that the bill providing "for the payment of such creditors of the late Republic of Texas as are comprehended by the act of Congress of September 9th, 1850," be taken up, for the purpose of being made the special order for to-morrow at one o'clock.

Mr. SHIELDS. I wish to say to my honorable friend from Indiana, that it will be proper to refer the Pacific railroad bill when two or three points in reference to it shall have been settled. One is, whether we shall have one road, or a main trunk and branches. Another is, whether we shall leave it in the bill undetermined where the road is to commence and where it is to end. I think that when those questions shall have been settled by the Senate, it would be well to put the bill into the hands of a committee for readjustment and repreparation, and that can be done perhaps during to-day and to-morrow. I would therefore suggest to him to select Saturday for the bill of the honorable Senator from Maryland, which he proposes to take up to-morrow. I think it is better to continue the same subject until we bring it to some kind of a conclusion. Saturday is a day which we can appropriate to the Texas debt question, without interfering with the Pacific railroad bill.

Mr. HUNTER. It is a matter of indifference to me personally whether the Senate take up the bill for the payment of the debt of Texas to-day or to-morrow; but I think it ought to be disposed of. I have no idea, I have no hope, that the Senate can settle upon the details of such a bill as one proposing a railroad to the Pacific. I do not believe that the Senate can act as a committee upon such a *projet* as that. It will have to be referred. As I have no expectation that the Senate will dispose of it in its details, and as I think it will have to be referred ultimately, I believe we should save time by agreeing to the motion of the Senator from Maryland, and determine to take up the Texas debt bill to-morrow. I shall therefore vote with him on that question.

Mr. RUSK. The bill introduced by the honorable Senator from California, proposing a railroad to the Pacific ocean, has undergone the investigation of a committee. All the material provisions of that bill came from the Committee on Territories, and were reported from that committee, after considerable investigation at the last session. The reference of that bill now to a committee, it seems to me, would be its death-blow. It came here matured to a great extent from the Committee on Territories, and I moved, for the purpose of availing ourselves of the indications of the majority of the Senate, in regard to any amendments to that bill, to take up another bill this morning on the same subject—for there are three or four different projects before the Senate—and I have had it referred to the consideration of a special committee. That committee can go on while the discussion is proceeding in the Senate, and it will be aided in its investigations, and in coming to a conclusion, by the suggestions and votes of the Senate. The bill proposing a railroad to California, if we mean to do anything at all upon that subject, ought to be acted upon, and acted upon promptly; and there is but one other subject which I shall vote to give a preference over it, and that is the question in relation to the debt of Texas.

More than twelve months ago the subject of the Texas debt was brought before the Senate of the United States, by various petitions presented here, which were referred to the Committee on Finance. In presenting one of them, I made some remarks upon the subject, and begged the committee to give us an early report upon the question, that it might be brought up, acted upon, and settled by the Senate during the last session of Congress. The committee made a report before the close of the session, but it was at a time when we had no opportunity to consider it. I have voted to give it a preference over all other business, and much anxiety as I feel upon the subject of the California railroad bill, I shall vote upon all occasions to give the Texas debt bill the preference.

I think, however, that there can be no difficulty about our going on with the Pacific railroad bill

to-day, and taking up the Texas debt bill to-morrow. This matter of the Pacific railroad is not one which we can run through in a day. It requires examination; it requires strict investigation, and a comparison of the provisions of the various bills which have been reported upon the subject, in order to come to a practicable conclusion; and it seems to me it would be beneficial to discuss to-day the amendments which may be offered, and then the select committee could be guided by the votes of the Senate, and take to-morrow to reflect upon it, while this bill in relation to the debt of Texas was being considered.

Mr. CASS. I hope that my honorable friend from California will accede to the proposition to allow his bill to go before the special committee which has been raised this morning on the motion of the Senator from Texas. I suggested to him some days ago, that it would be impossible for a body composed of sixty-two men, in open session, to arrange the details of such a bill. I said it would be difficult to understand the bearing of one section upon another, unless more attention was bestowed upon it than we generally give here in the Chamber. Every day shows the impracticability of our getting along with that bill in all its details. My friend from Illinois suggests that when we shall have proceeded far enough to ascertain these principal facts, to wit, the course of the road, its termination, and how it shall be done, we may then refer it.

Mr. SHIELDS. Perhaps I was not distinctly understood by the honorable Senator. I said that when the Senate shall have determined that we are to have one road, and but one road, to the Pacific; and when it shall have determined, as I think it will determine, to leave the terminus open to be hereafter designated by the President of the United States; and shall have determined another point, whether it shall be confined to the Territories, or extended to the States; when it shall have determined these three points, the bill ought to be referred to a committee, in order to prepare it to suit the wishes of the Senate thus expressed.

Mr. CASS. I will appeal to my honorable friend to say, if we have not gone already far enough to know that we are to have but one road, and that the bill we shall pass, if we pass any, will indicate no direction, and no *termini* for that road? That is as clear as any fact can be, and I think it was ably announced by the Senator from Tennessee, the other day. We can have but one road; and if you undertake to put the *termini* of the road or its direction in the bill, it will fail, and as I observed in the commencement, we shall fritter away the real strength of the friends of the measure on questions of detail. We have gone far enough to ascertain that.

Mr. SHIELDS. I think so.

Mr. CASS. That, therefore, furnishes no objection to its reference at this time. My honorable friend from Texas suggests that we can continue the discussion upon the bill of the honorable Senator from California, and let the examination of the committee go on with the other bill. Why, both relate to the same subject and the same object. Why do you want to send one bill to a committee and discuss the other here in open session at the same time? It is entirely a work of supererogation. Both bills relate to the same topic. They propose but different details of the same measure, and if one goes before a committee, that committee should have the whole subject under its consideration, and all the bills can go with it. I think it must be obvious to every gentleman that we are wasting our time in fruitless discussion; for we have gone far enough to ascertain the great outline, to wit, that we must not touch the direction of the road, and we must not have branches. That is my belief. I think, under the circumstances, that the honorable gentleman from California had better let his bill go with the other, so that the committee can have both under consideration, and report upon the whole subject.

Mr. BUTLER. To-morrow will be Friday, and by a fair understanding, as I think, with the honorable Senator from New Hampshire, [Mr. HALE,] a subject which was discussed on last Friday is to be taken up to-morrow, under the general understanding that Friday should be devoted to private bills. But I find that if these different great projects are to be taken up and discussed, they will exclude the bill to which I refer, in which I have an interest for a constituent of mine.

A particular subject was set apart for consideration some days since—the bill in reference to the Texas debt—and upon that, I presume the honorable Senator from Maryland is fully prepared; and it ought to be taken up to-day on that account. Allow me to say so on another account. It was said of the Nile that it was a god. I think that this Pacific railroad project comes nearer being the subject of deification than anything else I have ever heard of in the Senate. Every one is trying to show his zeal in worshipping this great road. Where it is to run, nobody knows. Why, if a man had a farm to-morrow, and had a road to run through it, he would have it surveyed first, before he would undertake to say where the road should be. Yet we have here so many zealous advocates of this great system of regulating commerce, that they are willing to give, absolutely, to the President the power to say where that channel shall be, and what it shall be. I am not one of those gentlemen. If we are to take up the subject of a Pacific railroad, I wish to take it up upon surveys and reconnoissances; I wish to have proper materials and *data* before me upon which to decide, on my responsibility as a Senator, and not leave it to the President to say where the *termini* of this road shall be. But I got up to ask that Mr. Wigg's case might be taken up to-morrow, and that it might not be prejudiced by setting apart that day for any other matter.

Mr. BRIGHT. Upon the question of referring the Pacific railroad bill it is proper that, as a member of the Committee on Roads and Canals, I should claim for that committee that which really belongs to it. For what purpose is there a committee raised called "the Committee on Roads and Canals?" Is it not for the purpose of considering just such questions as those involved in the bill of the honorable Senator from California? When his bill first came up I claimed for the committee that which I felt belonged to it; but when I found that the honorable Senator was opposed to having this bill go before any committee, I did not insist on a reference. I said then, what I believe the Senate will realize before the question is disposed of, and in that I concur with the honorable Senator from Michigan, that before the details of the bill could be perfected by the Senate, before the Senate could be brought to any practical question, the bill must go through the ordeal of a committee. Whenever the Senate shall come to that conclusion, I shall insist that it go to the Committee on Roads and Canals; not that I am very anxious to multiply the immense amount of business which I now have on hand, but for the reason that the question legitimately belongs there, and I feel that I should be doing my colleagues on the committee injustice if I did not claim for them the consideration of that business which I regard it as their right to consider.

I do not belong to that class of Senators referred to by the honorable gentleman from South Carolina. I have no great anxiety to worship this road either generally or in its details. I am friendly to the measure. I intend to vote for a road from some point on our western frontier to some point on the Pacific, and I am in favor of appropriating lands liberally for that object; but when the question comes up of taking money out of the national Treasury for such a work, it will be time enough for me to decide whether I favor that proposition or not.

I did not, however, rise for the purpose of discussing the question now. I do not intend to insist upon a reference of the bill at this time; I merely wish to give notice to the honorable Senator from California, that if the Senate decide to refer the measure, I shall insist, for one, upon its going to the Committee on Roads and Canals.

A word, now, in reference to the motion which I have made. I think it is due to the Committee on Finance, that the bill providing for the payment of the creditors of Texas should be disposed of, that they may see whether the Senate will defer action or act upon it. I hope the honorable Senator from California will consent that to-morrow we may take up that bill and go forward with it, feeling quite sure that by doing so, we can then dispose of it.

Mr. BADGER. I do not wish, Mr. President, to take any part in this particular discussion. I am willing that this matter shall take any course the Senate shall think advisable. With regard to the California railroad bill, there seems to be great force and strength in the observations which have been made by the honorable Senator from Indiana, that, if it is to be referred, it ought to go to the appropriate committee. For myself, I differ from that honorable Senator in one respect. I know nothing, or at least not much, about the details of the particular measure presented by the honorable Senator from California; but for the great object I am ready to go, and to go cordially, and to give it full and ample assistance; and I am willing to give that assistance not only by a grant of land, but I am willing that the money of the Government, to any reasonable extent, shall be afforded for its accomplishment, under proper regulations and safeguards. It is a great national object. It is one that ought to meet with favor and assistance. It deeply concerns the interests of the whole country, and it is incumbent on us, as we have an empire now on the Pacific, that we should see the object accomplished with all reasonable diligence.

But, sir, I am like my friend from South Carolina; I did not get up with a view of saying this, but my real object was to beg that we would not consume the whole day in debating what we would do, but would proceed to take the question upon the motion of the Senator from Indiana.

Mr. BRIGHT. As there seems to be a disposition on the part of the Senate to go on with the Texas debt bill to-day, I modify my motion so as to take it up for consideration now.

Mr. GWIN. I look upon it, that if the Texas debt bill, important as it is, can override the proposition for a railroad to the Pacific, we may consider that the latter is killed for the present session. We have got but thirty-five legislative days of the session remaining, and I think we ought to make the best use of our time.

I want the Senator from Indiana to understand that I have no objection to my bill going to the Committee on Roads and Canals, if it be referred at all. I would just as soon allow it to go to that committee as to any other; but I said in the beginning, that whenever it should be referred it would be killed for this Congress; and no gentleman who looks at the question can come to any other conclusion than that such a proposition, whether so intended or not, is a side-blow to destroy it. I can understand very well why the honorable Senator from South Carolina and the honorable Senator from Virginia wish the bill referred.

Mr. BUTLER. Why is it?

Mr. GWIN. Because I do not think you intend to vote for it; that is my view. But I know that my friend from Indiana intends to vote for some such bill, and so does the Senator from Michigan, who proposes to let it go to a committee. I would say to him that we have had committee after committee upon the subject. Various committees have reported bills which the Senate could not agree to, and I hope now that we shall go on with my bill. I do not wish to interfere with the proceedings of the Senate in other matters, but I hope the Senate will go on with and finish the Pacific railroad bill. I confess that I have a deep interest in the bill which I have brought before the Senate for the construction of a railroad to the Pacific; but I am not wedded to that particular form of accomplishing the object. You may strike out the whole of the bill after the enacting clause. I want to get the road built, and I do not care particularly about the form of accomplishing the object. It is evident to me that the only way to get the road established—to get the act on the statute-book—is to go on and consider the question, ascertain the views of the body, and come to a conclusion. I am entirely opposed to putting the measure aside for the Texas debt bill, or any other.

Mr. BUTLER. I wish to give one word of explanation. The honorable Senator from California [Mr. GWIN] seems to assume that I shall vote against the bill he has brought forward. I think it probable I shall vote against the bill as it is; but I hope I am not so devoid of judgment as not to have it in my power to give a preference to one bill over another. It may be a very important matter to decide which bill or which amendment I should vote for. I may have a choice between different bills, and I may vote for one bill and not for another; I may vote for one in preference to another. I think that is very fair. But the Senator must assume that he knows too much of my political opinions, unless he thinks that I

stick to the Constitution rather too tight. [Laughter.]

Mr. WELLER. I agree with my colleague, that if we intend to accomplish anything by acting upon this bill at the present session of Congress, it is necessary to keep it before the Senate. The fairest way, as it seems to me, is to have a full and free interchange of views here, in order to ascertain, if possible, some practicable way to construct the proposed road. I am assuming that a majority of the members of this body are in favor of the construction of a railroad to the Pacific. After there has been a free interchange of opinion here, we can readily decide what plan will be the most acceptable to a majority of the Senate, and then the proper time will have arrived to refer the whole subject to one of the regular committees of this body, with a view to the perfection of the plan in accordance with the views thus ascertained.

The Senator from South Carolina [Mr. BUTLER] is ranked among those who oppose this measure; and my friend from Virginia [Mr. HUNTER] belongs to the same class of politicians. In my judgment, if their views were carried out, it would render this Government a very impracticable one. I think it is highly important that this subject should be kept before the Senate, in order to ascertain some practicable route. As I have remarked upon a previous occasion, I am wedded to no particular scheme, and no particular plan. There are some other plans which I would prefer to the one proposed by my colleague. I desire to have a road, and I desire to have that plan adopted which, in the judgment of the Senate, will be best calculated to accomplish the object in the shortest possible time. What good can possibly result from a reference of this subject to a committee, after it has been but partially considered? We ought to continue the discussion until we ascertain the views of Senators, and then refer it to a committee, with a view to perfect it in accordance with those ascertained opinions.

With regard to the constitutional power involved in this question, I trust that we have as high a regard for the Constitution as the Senator from South Carolina. I claim to be as strict a constructionist as he is; but if I could not demonstrate the power of the General Government, under the Constitution, to construct that railroad, I should fail to demonstrate what is perfectly clear to my own mind. But this is not the proper time to discuss that question. I regard the proposition of the Senator from Virginia as calculated to defeat this bill. I do not know whether it was so intended or not, but I think that such would be the effect inevitably.

Mr. HUNTER. What proposition of mine does the Senator refer to?

Mr. SHIELDS. The proposition to take up the Texas debt bill was made by the Senator from Indiana, [Mr. BRIGHT.]

Mr. WELLER. I thought it was the Senator from Virginia. I am ready to dispose of the Texas debt question; but as the railroad bill has been taken up and partially discussed, it will be more profitable to continue the discussion until we ascertain the views of the majority of the Senate upon it.

Mr. BORLAND. I shall not enter into any discussion on the merits of the Texas debt bill; but I shall simply give the reason why I shall vote against the motion of the Senator from Indiana. Work as faithfully as we may upon the Pacific railroad bill, we have no time to spare, in my opinion, during the remainder of this session, that is, if we entertain any hope of passing the bill; and I deem it of so much more importance than any and all other measures now before the Congress of the United States, that I shall vote against any proposition to give anything else precedence over it, even for one hour.

Mr. WALKER. The Senators who have preceded me have expressed views which I entertain; but I wish to advert to an observation made by the Senator from Texas. He said that these creditors have been before Congress for twelve months, asking that we should take up and act on their petition and decide upon it. Why, sir, they are but private claimants; and I will concede that it is hard enough that they should have been here twelve months asking justice at the hands of Congress; but how many hundreds are there who have been here not only twelve months but ten, fifteen, and twenty years, asking justice? It seems to me if there was not a collection of these creditors—if they had not come, as it were, in an embodied form, the subject-matter of their petition would seem no larger in our estimation than various other claims on the Government which are now, and have been for a long time, before Congress; and yet we cannot get even one day in the week, it seems, devoted to their consideration, when it is now proposed upon the instant, at the demand of these creditors, to set aside everything else, even a matter so important as this railroad bill, and give their claim the preference and act upon it. I am averse to pursuing such a course; and I am one of those who will stand by the Pacific railroad bill, believing, as I do, that if it is sent from the Senate Chamber now, it will not get back to be acted upon during this session.

I shall vote against the reference of the railroad bill for the reason that I concur in the opinion expressed by the Senator from California, that no committee can report a proposition upon which there will not be as much discussion as upon the one now before us. It is one of those things which a committee cannot settle in the first instance. It is one of great magnitude. It affects the interests of every portion of the country, and every portion desires to have something to say in reference to it, and they will have it to say. After it has been before a committee a week, and they have matured it as well as they can mature any proposition, and it has been brought back here, it will be but a week lost, for the whole discussion will have to be gone over again. My opinion is, that if there be a majority in the Senate willing to entertain this subject, they had better keep it under discussion, to the exclusion of everything else until the Senate has matured, or found out, at least, what it will consent to. These are my views; and I do hope that the subject of the Texas creditors will not be taken up in preference to the railroad bill.

Mr. BRIGHT. The Senator seems to forget that the bill in relation to the Texas debts was the first special order made at the opening of this session. It was the first special order appointed after we met. The Senator from Maryland, [Mr. PEARCE,] who reported it, gave way for the purpose of permitting the honorable Senator from California to go forward with his measure, hoping that before this time it would be taken up.

Mr. GWIN. If the Senator will excuse me—that was not the reason why that bill was passed over. On the day for which it was made the special order, the Senator from Maryland was not prepared to go on with his remarks; and for that reason it was passed over.

Mr. BRIGHT. The Senator from Maryland was not prepared on the day appointed with some *data*, some calculations, which he desired to submit to the Senate. It was, therefore, passed over, with the understanding that it would be taken up as soon as he was ready. He has been ready from that day forward, but has been unwilling to interfere with the measure of the honorable Senator from California. Now, when it becomes so apparent that his measure is to engross the greater part of the residue of the session, if Senators insist upon keeping it before the Senate, I feel, as one of the Committee on Finance, that it is my duty to insist that the Texas debt bill be taken up and disposed of. It is due to those who are interested in this matter that it should be disposed of.

Mr. CHASE. When this bill was first brought before the Senate, I moved its reference to the Committee on Roads and Canals; and it was then objected that if the bill were referred, no satisfactory measure would be matured at this session. I did not insist upon that motion, and finally it was agreed that a bill providing for a telegraph to California should be taken up and made a special order, with the understanding that when that bill should be taken up, this bill should be moved as a substitute for it. Accordingly, when the day arrived, that bill was set aside by general consent, and this was substituted for it. We have proceeded for some days in its discussion. It is undoubtedly a question of very great importance; but I must demur to the idea which seems to be entertained by some, that because this is a complicated subject, and embraces a great variety of interests, it should, therefore, not be referred to a committee. What subjects are proper for reference? Sometimes we hear objections to reference because the matters for consideration are so extremely simple that every Senator can easily make up his mind. Now, Senators object to refer this subject, because it is so complex, and so extensive in its ramifications and connections. It seems to me this is precisely the case which should have been referred to a committee in the beginning, and which should be referred now. But I shall yield whatever opinion I may have upon that matter very cheerfully to the general wish of the Senate.

I mean now only to say, that if this subject is not to be referred, we should, in my judgment, persevere in its consideration until we finally dispose of it. Certainly the Texas debt is of no greater importance than the Pacific road. It neither concerns so many persons, nor does it call upon us so urgently for action. I shall go, therefore, if this bill is not to be referred, with the Senators from California in endeavoring to keep it before the Senate until we have made some final disposition of it. Our experience teaches us, if it teaches us anything, that if we discuss a subject one day and then postpone it for a time, for the consideration of some other matter, and then take it up again, the benefit of all the previous discussion is lost, and we have to travel over the same ground. I shall be very well contented to refer this bill. So far from delaying the great object sought to be accomplished, my judgment is, that the proper committee taking up the subject and considering it, could present a scheme which would be likely to command a majority of the votes in this Chamber. Reference would facilitate the passage of a proper measure. But I shall make no motion, and, if no other Senator moves a reference, I shall unite with the Senator from California, in voting to take up his bill.

Mr. BELL. Mr. President, if the Senate is ready to have a vote upon this question, I will not say a word; but if the discussion is to be pursued, I have something to say. I will sit down and see.

Mr. WALKER and others. "Question!"

Mr. RUSK. I desire to know of the Senator from Maryland whether he wishes to have this subject go over and be made the special order for to-morrow, or whether he desires to have it considered to-day.

Mr. PEARCE. I prefer taking it up at once; but if that is not done, I hope it will be the understanding of the Senate that it shall be taken up to-morrow.

Mr. BUTLER. I shall have to object to that. I am willing to extend any courtesy——

The PRESIDENT. The Chair will state a point of order. The bill must first be taken up before a discussion upon making it the special order for to-morrow can be indulged in.

Several SENATORS. Take it up.

Mr. BORLAND. As I understand the bill relating to the creditors of Texas, it is, in its true character, a private bill. The remarks of the Senator from Wisconsin [Mr. WALKER] struck me with a great deal of force. It stands upon the same foundation, so far as the real merits of the bill are concerned, so far as the interests of the creditors are concerned, as any other private bill, the only difference being that this bill appropriates $5,000,000, and the other private claims are for only $500, or perhaps $1,000 each. I can see no reason why we should be governed by any consideration favorable to this claim over and above the considerations which should influence us with regard to smaller claims by persons perhaps equally or even more needy. If, sir, we pass by all private claims made by those who ask only for small sums, I ask how far we may not justify the imputation which we see is cast upon this body and the other House every day by the public press, that small private claims cannot be got through Congress, while one for millions can? That imputation is cast upon us every day; and it is said that to make sure of the allowance of a claim, you must make one for millions of dollars. There was a question before us the other day upon a private claim of great merit, upon which the honorable Senator from South Carolina [Mr. BUTLER] offered his views, and proposed to offer them again and urge upon the Senate its merits. That is a claim, so far as I could understand, which appeals to every consideration which should govern the judgment and determine the action of this body. And yet it is objected to taking that up because it is for a small sum. Shall we give precedence, then, to a claim which has no other superior demand upon our attention except that it

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involves a greater sum? If we do, I submit to the Senate how far we shall justify the imputations cast upon us to which I have referred.

Mr. BRIGHT. The remarks of the honorable Senator from Arkansas demand a reply. This is no private claim. It is a public claim, and one in which the Government of the United States is deeply interested. Five millions of dollars have already been appropriated to Texas, and under a decision of the Secretary of the Treasury, Texas cannot touch one dollar of that money. It is in the Treasury of the United States, drawing five per cent. interest; and we are found in the attitude of holding $20,000,000 surplus in the Treasury, and paying interest on five millions. Now, I say this is a great public question. We have the money and are prepared to pay it; but one of our administrative officers has decided that he cannot pay it under existing laws. The object of this bill is to decide that question, and stop the interest upon this five millions of dollars. That is the important point in this case; therefore, it is no private bill. It is not urged upon those grounds.

Mr. BORLAND. This is no proposition to pay money, as I understand it, to the State of Texas. It is to pay money directly out of the Treasury to the creditors of the State of Texas. No one denies that, and I apprehend the Senator from Texas himself will not deny that the Secretary of the Treasury has given the true interpretation to the law passed upon the subject giving the five millions of dollars. That is generally acquiesced in as the true interpretation. There may be some who deny it—the creditors of Texas deny it, of course. But I learn from good authority that this bill is not simply to pay the five millions already appropriated, but to increase it by three millions more, making in all the sum of eight millions, instead of five. I ask the Senator if is is not so? The bill is not simply to interpret the law so as to pay that which is already appropriated, but it is to make a new appropriation of three millions. I may be mistaken, but I have received my information from what I consider good authority.

Mr. PEARCE. In order to answer the Senator from Arkansas properly, it would be necessary to go into the details of this bill more than would be proper upon the question now pending. I may be permitted to say, however, in reply, that although the object of this bill is to pay certain debts which the creditors of Texas claim to be binding upon the United States, it goes a great deal further than that; it involves a great public question; it involves national considerations; the question of national law, and the construction of the compact between this Government and that of Texas. It is, therefore, eminently a public bill, of the highest public importance. I do not know that there is any Senator in this body who will be influenced, in coming to a decision upon this question, by the consideration which the Senator from Arkansas seems to think must improperly actuate some of the members of this body. Sir, the magnitude of the sum involved in this bill will undoubtedly have no effect upon the vote of any honest man, and I trust we are all honest and honorable men in the Senate of the United States, and that the Senator did not mean to cast reproach upon the Senate or any member of it, though his language might seem to imply it.

Mr. BORLAND. The Senator does me no more than justice in saying that I intended to cast no imputation upon the Senate. But I alluded to the imputation which is cast, as the Senator knows, upon the Senate, and on both Houses of Congress, that these considerations do influence us—I do not speak of corrupt influences—but that the magnitude of a claim does determine our action, and give a large claim precedence over a smaller one.

Mr. PEARCE. In reply to the Senator, allow me to say, this bill, as has been stated by the Senator from Indiana, [Mr. BRIGHT,] was reported at the last session of Congress. It was made the first special order by the Senate at this session, being made the special order for the 6th day of January. On the 6th of January, it was postponed, at my request, until a subsequent day, that I might obtain some further information which I deemed necessary for the satisfaction of the Senate. When that subsequent day arrived, the Senate was plunged into the vortex of foreign politics, that great maelstrom which seems likely to swallow up the Senate, and everything that pertains to its business. This subject has given way from one day to another. The creditors have waited contentedly while one subject and another was taken up, and now, after this long delay, when it is asked that the bill may be taken up now, or made the special order for to-morrow, in order that we may proceed to its consideration, I think it should be done.

Mr. RUSK. There are two sides to this question, and the honorable Senator from Wisconsin has mistaken the side on which I am. There is a claim preferred by the creditors of Texas against the Government of the United States for the payment of the debts due them by that State. There is a large number of them. There are also serious charges against the State of Texas. The newspapers have been full of representations of various descriptions in relation to the questions involved in this bill. Books have been written, and extensively circulated, reflecting seriously upon the character of the State which I have the honor to represent here, and this bill involves that reputation too. I do not go for taking up this bill because I stand here in the attitude of an advocate of the creditors of Texas, but because certain imputations and charges have been thrown out against Texas, in regard to repudiation, and other things, which I have made a pledge to transfer from the shoulders of the Government of Texas, and attach to the Government of the United States; and unless I fail to handle the testimony properly, I shall do that. Thatis my object.

Mr. SEWARD. As I understand the question before the Senate, it is whether we shall take up the bill in relation to the debts of Texas to-day or to-morrow. I think we had better take the question now, because if we do not, we shall be anticipated by the arrival of to-morrow. I hope, therefore, we shall take the question.

On motion by Mr. WELLER, the yeas and nays were ordered; and being taken, they were—yeas 23, nays 27; as follows:

YEAS—Messrs. Adams, Badger, Bright, Brodhead, Butler, Charlton, Cooper, De Saussure, Dixon, Houston, Hunter, Jones of Tennessee, Mason, Miller, Morton, Pearce, Pettit, Rusk, Seward, Smith, Spruance, Toucey, and Underwood—23.

NAYS—Messrs. Atchison, Bell, Borland, Brooke, Cass, Chase, Clarke, Davis, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fish, Geyer, Gwin, Hamilton, Jones of Iowa, Mangum, Norris, Phelps, Sebastian, Shields, Soulé, Sumner, Wade, Walker, and Weller—27.

So the motion to take up the bill was rejected.

TEXAS CREDITORS.

Mr. BRODHEAD. I believe, by common consent, it is understood that we are to take up the Texas debt bill to-morrow. I have an amendment, in the form of a substitute for the whole bill, which I intend to offer to it when it is taken up. I desire now informally to submit it, and ask for its printing.

It was ordered to be printed.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill "authorizing 'the construction of a railroad and branches, for 'establishing a certain postal communication be-'tween the shores of the Pacific and Atlantic within 'the United States, for the protection and facilities 'of travel and commerce, and for the necessary 'defenses of the country."

The PRESIDENT. The pending question is on the amendment offered by the Senator from Ohio, [Mr. CHASE.]

Mr. ADAMS. I desire to correct a misreport of some remarks which I made yesterday. I am reported as having said:

"I would be willing, however, and even glad, to see alternate sections of land by which you will improve the value of the lands reserved to the United States, equal to the grant given to the States of Arkansas, Missouri, Louisiana, and California, for the purpose of building railroads, having reference to the ultimate connection of the Atlantic and Pacific, by railroad communication."

I stated that I was willing to grant to those States alternate sections for a reasonable distance on each side, with the view of building roads, having reference to the object contemplated by the bill. My remarks were misapprehended by the reporter.

Mr. CHASE. Upon consultation with several Senators who desire a single road, I find it impossible to agree precisely as to the terms in which the amendment shall be worded; I have, therefore, prepared an amendment which expresses my own view upon this subject. It is in some degree a modification of the one which I have already submitted. I propose to substitute for that amendment the following: to strike out all of the first section after the word "railroad," and insert in lieu thereof the words:

From San Francisco, in California, by the most direct and feasible route, to some point on the Missouri river, not below Independence, in Missouri, nor above Kanesville, in Iowa.

The PRESIDENT. If there be no objection, the Senator from Ohio will have leave to withdraw the amendment which he first offered; and this will be received.

There was no objection.

Mr. CHASE. It is apparent that there are very different opinions in this Chamber in regard to the *termini* of this road. There is probably but one point upon which a majority, at the present moment, is agreed, and that is, that there shall be a road. There is another point upon which perhaps there may be an approximation to an agreement, and that is, that the road should be constructed from the Pacific ocean to some point upon the frontier of one of our western States, upon such a route as will accommodate the largest amount of commerce and the greatest number of people. As to the precise location of the route, there are differences of opinion. My amendment is designed to ascertain the sense of the Senate as to one of the routes. There can be no doubt, from the surveys which have been made of the country—some ten or twelve different explorations by different individuals—that there are several quite practicable routes. We are not tied up, by the formation of the country, to any particular location. We may take the extreme southern or the extreme northern route, or we may take the middle route between the two, proceeding westward through what are commonly known as "The Parks," crossing the interval between the Rocky Mountains and the Sierra Nevada, and finding some suitable pass through the Sierra Nevada to San Francisco.

It has been said that there is no practicable pass through this range north of Walker's Pass. I cannot speak confidently as to that; but if I am rightly informed by gentlemen who are thoroughly conversant with that section of the country, it is by no means yet a settled question whether such a pass exists or not; and judging from the general character of the mountain's range, it seems to me quite probable that a practicable route will be found through that range. It seems quite likely that the Sierra Nevada will yet be pierced by railroads at various points, as the Alleganies already are. At all events, my amendment proposes to settle but one thing. It proposes to fix San Francisco—the great center of commerce upon the Pacific at this moment—as the terminus upon the Pacific; and it proposes to take the point at the eastern end of the road where the largest system of railroads is at present concentrating. It has the advantage to which I referred yesterday, that the State of Missouri has already provided for the construction of a railroad from St. Louis to Independence. The resources necessary to the completion of the work have been supplied, partly by the liberality of Congress, and partly by the wisdom of the State of Missouri. This amendment proposes that we shall avail ourselves of that road, and proceed west from its termination, by the most direct and feasible route, leaving all that matter to the discretion of the Executive, or, as I would very much prefer, to the discretion and prudence of

those who are willing to embark their capital in the enterprise, as an open and unsettled question.

I am anxious to avoid consumption of time. I present this proposition as one which seems to me entitled to the favorable consideration of the Senate, and as a means of ascertaining, in the speediest practicable manner, the sense of the Senate on the question of the route. I apprehend that when that is settled by a general concurrence, the remaining questions will give us comparatively little trouble. Upon the amendment I trust the Senate will indulge me with the yeas and nays.

The yeas and nays were ordered.

Mr. BELL. I attempted yesterday to get a modification of the amendment proposed by the Senator from Ohio. I supposed at one time that he had agreed to it; but afterwards it was found that he could not accord in all the particulars of my proposed modification. I proposed that we should strike out of the bill that provision which fixes the eastern terminus of the road at Fulton, or at some point in the southwest corner of Arkansas, and that the location of the terminus should be intrusted to the Executive of the United States, with such lights as he already had before him—the numerous explorations and reconnoissances which have been published—and any additional ones which he might find it necessary to order. But that is not satisfactory to the Senator from Ohio. His amendment is placed upon the ground that when the portion of the bill which he proposes to strike out is stricken out, the terminus ought to be fixed either at St. Louis or north of St. Louis. I believe I do not misapprehend the amendment of the Senator. Now, sir, with that object in view, I cannot vote to strike out that clause of the first section which proposes to fix the terminus on the Red river; for although that may seem, as I stated yesterday, to have a sectional aspect, yet the Senator's proposition is not less obnoxious to the same objection. I would not vote to strike out the one and insert the other, although I would be perfectly willing that the whole question should be left to the judgment—the largest exercise of that judgment—of the Executive of the United States, and let the section which I in part have the honor to represent here take the risk of a proper decision upon that subject.

But that is not satisfactory to all the members of this body. Some of the friends of the bill insist that this road shall have its eastern terminus northward. I will not say that I feel confident that that would not afford the best location for the terminus of the road, and that in the end the road will not have to commence either at St. Louis or some point north of it; but, on the other hand, I am not at all satisfied but that the terminus ought to be south of St. Louis, or that the terminus on the Red river, as fixed by the bill, will not be found to be the very best location from which can be made the cheapest and shortest route. We have no satisfactory information before us to determine our judgment either way upon this point. It was for that reason, and because I thought it opened to all the sections of the west—northwest, southwest, and the middle States of the west, I mean—an equal and just participation in the chances and risks of the location, that I made my proposition. The location will at last have to be determined by the nature of the formation of the country, and not by any particular sectional interest—not by any supposed great line of communication, of emigration, or commerce. The road will have, in its main feature, in regard to the location of the route, to be determined by the natural formation of the country, and by those passes in the mountains which shall be found practicable, in opposition to those which are impracticable except at an enormous and unnecessary cost. I rose merely for the purpose of saying, that with the object avowed by the honorable Senator from Ohio, I cannot vote to strike out this clause of the bill.

Mr. SMITH. I have a few words to say upon this subject. I am opposed to the proposition which has been brought before the Senate by the honorable Senator from Ohio, for the same reason that I am opposed to the original provision of the bill.

Mr. SEWARD. Will you state what the provision is?

Mr. SMITH. The original provision is, that the eastern terminus of the main stem of the road shall be on the Red river, near the southwestern corner of the State of Arkansas. The Senator from Ohio proposes that Congress shall determine that the eastern terminus shall be somewhere on the Missouri river, between the town of Independence, Missouri, and Kanesville, in Iowa. In other words, the framer of the bill calls upon the Senate and upon Congress to determine peremptorily that some point on Red river, near the southwestern corner of Arkansas, is the proper eastern terminus of the road. The honorable Senator from Ohio proposes that we shall determine peremptorily that the proper eastern terminus of the road shall be at some point on the Missouri river, between the towns of Independence and Kanesville. I must acknowledge that I have a very strong impression on my mind that the honorable Senator from Ohio is right in his assumption upon this subject; but at the same time, I do not believe that we have the information before us that would justify us in coming to any such determination. I do not believe we have any information before us to justify us in deciding peremptorily that the eastern terminus of the road shall be on Red river, at or near the southwest corner of the State of Arkansas. I cannot vote for the bill if it stands in that form, nor could I feel myself justified in voting for the bill if it shall be amended as proposed by the honorable Senator from Ohio.

I think, Mr. President, that all that Congress should decide in regard to the eastern terminus of the road—provided we are to pass the bill now—is, that it should be somewhere in the western line of the States of Iowa, Missouri, or Arkansas, and we should leave the precise point open, to be decided hereafter, either by Congress or by the Executive, as we may see fit to provide in the bill.

I desire to say here, that I have not the slightest expectation or belief that any bill can be consummated at the present session of Congress, or can be put into such a form that it will be safe and proper, or even possible to bring the two Houses of Congress to agree in the first place to its general plan, and in the next place, to all its details. I humbly conceive that the only thing we can do, and the only thing we ought to attempt to do at the present session of Congress, is to make an appropriation—an adequate appropriation, I care not what it is, I am willing to vote $100,000 or a quarter of a million of dollars—to cause the country to be thoroughly surveyed—something more than a mere reconnoissance, as is suggested by my friend from Tennessee—a thorough survey of all the various routes, so as to ascertain which is the most practicable route, or what practicable routes there are. That will enable Congress or the Executive to determine which would be the best and cheapest route. We ought to have a practicable route. We ought to have the most direct route; and then we ought to have the most economical route. I deny that we have before us the means to enable us to come to any conclusion on the subject in any shape or form whatever. I will not occupy the time of the Senate by any further remarks upon this bill.

I have many objections to the details of the bill; but I am perfectly willing that the honorable Senator from California should go forward and perfect it so as to make it what he believes it ought to be. I mean in general to vote against amendments, except such as come from that Senator, or from other gentlemen who take a particular interest in the passage of the bill. I am desirous that they should make the bill to suit themselves, and I will assist them in perfecting it according to what they think it ought to be, and then I will determine whether I will vote for it or not. I have a very strong impression that the bill cannot be put into any shape to meet the views of a majority of both Houses. I do not believe we could get it in such a shape in six months, if we had that time. It is a bill which has not emanated from any committee of the body, but has been introduced by a highly respectable member, one who is perhaps more competent than any other member of the body to act upon the subject. But it is a very complicated bill. The main stem of the road is to be two thousand miles long, and the branches no less than thirty-five hundred miles; and I do not know how many branches there are to be, involving an expenditure, if not of the public money, at any rate of the public property, to the amount of at least one hundred millions of dollars.

All this is proposed in a bill prepared by a member of this body, which has undergone the revision of no committee, and it is supposed that we, here in the Senate, can amend that bill, and put it in such a shape that it will receive the sanction of a majority of this body, and ultimately the sanction of a majority of the House of Representatives, and become the law of the land. I believe it is utterly impracticable. You may spend two thirds of the remaining thirty-five days of the session at it, and the work will then only be begun. I am in favor of an appropriation for a survey and examination of the country, and for the most ample appropriation, too; and then, at the opening of the next Congress, we shall have all the elements before us which would enable us to determine what shall be the eastern, and what shall be the western terminus of the road, and we can then legislate upon the subject intelligently.

But I have traveled somewhat out of the record. I will limit myself to the precise question before the Senate; and I say, as I have already said, that I am just as much opposed to the amendment of my friend from Ohio—although it accords with my general impression on the subject—as to the provision of the original bill. I am utterly opposed to fixing in the dark the *termini* of the road. I demand a survey and precise information on the subject, that we may know what we are doing in a matter of such infinite importance.

But I will not occupy the time of the Senate much further. I appreciate very highly the motives of the honorable Senator from California in pressing this bill. No member of the Senate will go further with him in endeavoring to obtain a road between the waters of the Mississippi, or the waters of its tributaries, and the Pacific ocean, than I will. Such a connection is demanded by considerations of policy of the very highest importance. I am willing to devote whatever of ability I may have to the consummation of this important object. But it does seem to me to be in the very highest degree chimerical, after we have permitted so much of this session to elapse, and when, as it was stated this morning, we are brought within thirty-five days of its close, to take up such a question as this and endeavor to settle all its details here, and bring the majority of the Senate to a concurrence in those details, with the expectation that it will meet the concurrence of the House also, when the appropriation bills, as well as a vast variety of other measures which are to be disposed of in some form or other, have not been acted upon. I believe it is absolutely and utterly impossible; and I care not how long we worry ourselves with the subject—we may go on and spend three fourths of what remains of the present session, and we will find ourselves where we are now. I say, therefore, that it is vain and idle to go on with it. I am willing, however, that the honorable Senator from California should persevere with the bill. I will stand by him. I hope he will get it in such a shape as that I can vote for it; but he will have to alter its most essential structure to enable me to do so. When he has proposed all his amendments, and got the bill in a condition to suit himself, then, if I can support it, I will, because I am most decidedly in favor of its object.

Mr. UNDERWOOD. As the constituents whom I represent have a deep interest in this matter I wish to make a few remarks upon it, and I may as well do it now. A road from the Mississippi Valley to the Pacific ocean is a matter which attracts great interest in my section of the country on three accounts. One is, because it will furnish a great many commercial facilities. Another is, because it will give us the means of post office communication with our friends in California and Oregon. The last is, that it will furnish the means of transportation and travel for individuals and for the Government. Now, you want that road which will accomplish all those various objects in the best and cheapest manner, and with the greatest facility. Where is that to be found? Can anybody tell? No, sir. Have you any information which would locate it? No, sir. You are then legislating perfectly in the dark, and you are legislating upon statements made by individual Senators, without any sufficient data upon which to base them. In that respect you are departing from the practice of this Government from its very foundation. When it was the practice of the Government to subscribe money, by taking stock in private corporations or enterprises, there were individual explorations and guarantied

interests of individual capital to show that the subject towards which you propose to appropriate the national funds was advantageous. Have you anything of that sort here? No, sir. When that system of appropriation for internal improvements was abandoned, (and most unfortunately for the country it has been abandoned,) you resorted to a system of internal improvements by the Government itself. What did you do then? You appropriated, in the first instance, money to make a survey. The officers charged with the performance of the work made their reports, and you acted upon the basis of official communications made by your Topographical Bureau and others. Have you anything of that sort now? No, sir. Nothing at all like it. Then, I say again, we are legislating in the dark.

Take up the map which the Senator from California has furnished us. If you lay down a road from St. Louis to San Francisco, or from Memphis to San Francisco, where does it go? It passes through the great unexplored basins surrounded by the Sierra Nevada on one side, and the Sierra Madre on the other, and nobody can tell us—except from the little information which we have derived from a traveler occasionally passing through some part of this great interior basin—the nature of the soil, the undulations of the country, or the natural water-courses. No topographical fact in reference to that unexplored valley and basin has ever been communicated; and yet from the map itself we can see there are hundreds of miles through which the road is to run of which we know nothing in the world. Now, sir, in this view of the subject, I say, with the Senator from Connecticut, that it seems to me out of the question to attempt to fix the points, and give the direction of this road, until the surveys have been made.

Sir, I am as much devoted to making this communication as any member of this body; but I have said that one object of its construction is a commercial object. We have been told that we are to receive all the riches of the East by this road. The Japan expedition, which we have put afloat, is to open new avenues of trade to us; China is to open golden harvests to our merchants, and all the trade and commerce of that region of the world is to come to the western shore of our continent, and then be transported eastward by railroad. I hope it will be so; and in that view of the great object, it becomes very important to locate the eastern terminus of the road at a point where you can distribute this immense commerce in the cheapest manner and most advantageously to the country. And where is the Senator from Ohio locating it by his amendment? He is putting it away in the north, beyond Independence; and he is contemplating going still further up, into the regions of ice and snow, where for half the year almost the river is frozen up, and we cannot reach it. Yet we are told that so far as the commercial aspect exists, we must go up to that point. You cannot get there by water, because the ice and snow prohibit it. Ah! but the gentleman says other railroad communications will run parallel to and upon the bank of the Missouri river, and you can avail yourself of them. I do not want to avail myself of any such avenue of connection, when the cost and distance are to be greatly increased by running up the river. Take into consideration the idea which I have suggested, that the river is to be blocked up a good portion of the year, and you will see at once that for the commercial purposes which we have in view in the construction of the road it will not do to carry it up there.

There is a point lower down the river where the terminus should be. Nature has made the point. I suggested it a week or two ago, but I am afraid it will not be carried, because there is no influence here in behalf of it. It is at or near the mouth of the Ohio; but there is no influence in behalf of that point here. It will sink below zero in consequence of St. Louis on the one side and Memphis, I am afraid, on the other. But why is that the point in a commercial attitude? It is because, when you bring this commerce from the Pacific, you can thence distribute it by water. You can go down the Mississippi river, or, if the Missouri be open, you can ascend it by steamboats, which is a cheaper mode of transportation than railroads. You can ascend the Ohio to Pittsburg. You can branch away and reach Paducah, and go up the Tennessee to the falls, twelve miles, and reach Florence. You can go up the Cumberland river to Cumberland, passing Nashville, and when at a little distance above, at Shawneeetown, you can turn to the left, and go to Terre Haute by ascending the Wabash. There is no such concentration of waters upon the face of the world as at that point. In the making of a railroad for commercial purposes, you ought to regard the point from which you can distribute this important trade and commerce with the greatest facility, with the greatest cheapness, over the whole valley of the Mississippi; and that point is at the head of perpetual navigation upon the Mississippi river, which is at or near the mouth of the Ohio; because from the concentration of waters there you may have the Gulf trade in Gulf steamers from that point all the year. But, as I said before, there is no interest here in behalf of that point.

It is said that you have to hunt for the town of Cairo, sometimes under water, with a twenty foot pole; and it may be said that on the Missouri river, it will be the same thing; but I believe not. I have examined the ground there. The selection of the point will redound to the advantage of Missouri, and not to Illinois, or to Kentucky. Missouri will have the city, fix it where you please, unless you go to the Arkansas. Sir, that bank upon the Missouri river, with a very little improvement by way of a levee, will be above high-water mark all the time; and according to the information which I have, there is a flat, level country for one hundred miles into the interior, passing on toward the northwest corner of Arkansas instead of the southwest corner, and thence up to the Canadian; but whether you are to take the Canadian or Arkansas proper, or go further north, and up the Kansas, or still further north up to the Platte river, and through the South Pass—all these matters are things to be investigated by an exploring party, which you ought to send out to get the necessary information.

This commerce is to be carried on through the channel of the Mississippi river and its tributaries, such as the Missouri, up to the Rocky Mountains; thence across the Rocky Mountains by railroad, if you can find a pass without tunneling or going under the mountain, to Oregon, using the Columbia river and its tributaries so far as they are navigable, and when they are not navigable, using railroads. You must have your commercial connection with San Francisco by railroad from the Mississippi river, and there is a possibility that by means of the Missouri river and the Columbia connecting with the railroads, you may have a communication for commercial purposes partly by water and partly with railroad in that channel. But whether one or the other be practicable must depend upon the researches which you must make, and the reports which we get. I therefore feel, like the Senator from Connecticut, disposed to vote any amount which the friends of this bill may suggest for the exploration of both the Missouri river and the Rocky Mountains between the Missouri river and the Columbia, and then for an exploration of the Columbia where there is any possibility of using the waters of that river for commercial and navigable purposes, in connection with a railroad across the mountains in that part of the country.

I am likewise for embracing in these explorations and surveys a direct route from the mouth of the Ohio river, or from Memphis, or St. Louis; for I do not wish the surveyors to be limited to one point. I wish them to have full range to explore from all the leading points suggested; and then when all the information comes in, we can act. We shall then be prepared to act.

We have got ourselves into this condition in reference to the changes of parties with regard to internal improvements in this country. I do not intend to excite any party animosity or feeling; but this is a fit occasion, and one just suited to state the position in which we are placed. Here is a great national object, admitted to be such by everybody—the construction of a railroad from the Mississippi to the Pacific ocean. There has been nothing like it in the shape of an internal improvement since the foundation of this Government. It is the result of the acquisition of our boundless territory on the Pacific ocean. It is, therefore, a national object of the first importance; and everybody concedes it to be so. And yet, when it is a national object for the transportation of the mail and troops, and for commercial purposes, we are told by some that there is not power enough in the Government to make it directly.

I merely wanted to call the attention of the country to the fact, that here is a great national object; one of a stupendous character; one that is to operate through all time to come in binding together the different parts of this great country, to link them together by hooks of steel and iron; and yet, according to the opinion of a great many gentlemen, the national Treasury cannot be used for the purpose of constructing this work. It is said that you have not the power to do it without consulting the States; that you must enter into arrangements with Missouri, with Arkansas, with Louisiana, with California, with Texas, and that unless you make suitable arrangements with those different States, you cannot accomplish the work at all. The great powers of this Government, for the most beneficial purposes for which they can possibly be used, are curtailed, limited, restricted, and bound down by those consultations with different States; and we are dependent on them whether we can or cannot accomplish a great object of this sort. Such are some gentlemen's views. Sir, I repudiate every doctrine of that kind. We have a right to make this road in our own way from point to point. If we have not the right to make it ourselves, we have not the right to appropriate our funds to make it through State agency, or corporation agency, or in any other way. I might illustrate this, by calling attention to the evils suffered in consequence of an imperfect communication between this city and New York, through this idea of being dependent entirely in the operations of the National Government in the powers which we possess upon State agency. If I had time, I would call attention to the effect of our appropriations to aid the States in making railroads, and not doing it ourselves. It has subjected the States not receiving those appropriations to perpetual taxation for travel and commercial purposes to the end of time, when the National Legislature and the representatives of the people thus taxed have no voice or control in the matter. These things would not be if you had your system of internal improvements where the representatives of all the people of this country would have a voice in regulating travel and taxation, and tolls upon your roads, leaving to the States the power of acting in making their roads according to their own will and pleasure.

I have only been lead into these remarks, because it was a suitable occasion to make them, not with the expectation that the political majority of this body will give them any weight, or will allow them to have any weight; but I think it well enough to keep these ideas perpetually before the people. I want them to see that, for some purposes, this Government must necessarily exercise a power which is not dangerous, but which is beneficial in all its operation, and from which no evil result can grow except the question of patronage. That question of patronage has grown up by destroying the original mode of appropriating for internal improvements through corporations. That practice has been broken down to get patronage for the Government, which it never ought to have had, because the old system ought to have been adhered to. Now, I want this great idea in reference to this great road, to be presented to the people of this country in connection with the doctrine which has gone abroad for years back, that this Government has no power to make it, but that it must consult the States, and bargain with the States, in order to get it done.

EXECUTIVE BUSINESS.

Mr. CLARKE. I move that the further consideration of this bill be postponed until to-morrow, with the view that the Senate may proceed to the consideration of Executive business.

Mr. GWIN. Permit me to ask the honorable Senator, if it is the intention to take up any business in Executive session which will lead to discussion? If so, there is not enough of the day left to consider it. But if it is not designed to take up any business which will lead to discussion in Executive session, there will be time enough to consider that in another half hour. I hope the Senator will appreciate my desire to have this bill acted on.

Mr. CLARKE. I would answer the honorable Senator, by saying merely, that when the Senate goes into Executive session, he will be one of the

Senate, and, I presume, he will be as likely as anybody to originate discussion.

Mr. GWIN. Then, if the Senator has not courtesy enough to give me that information, I will oppose his motion, and ask for the yeas and nays. I wish to know whether this bill is to be laid aside for all other business.

Mr. CLARKE. I am ready for the yeas and nays.

Mr. BELL. I hope the Senator from California will see that we cannot oppose everything.

Mr. GWIN. I see that there is a determination to force my bill off the track.

Mr. BELL. I hope we shall proceed to the consideration of Executive business this afternoon. I suppose that the purpose for which that motion is made is well known to all the Senate. I would much prefer, if that were not standing in the way, to go on with the consideration of the bill before the Senate; and I should like very much to have an opportunity of replying to the remarks which have been made by the Senators from Connecticut and Kentucky, in regard to the utter impossibility of doing anything with this bill. But allow me to remind the Senator from California that we must proceed with a little judgment, and not keep up an obstinate perseverance to retain this bill before the Senate. We cannot cross every influence, or we shall have a majority combined against us; and we must see that there is a great disposition to put aside the bill.

Mr. GWIN. I know there is, and I see it is growing.

Mr. BELL. Other measures are more popular with particular members of the body. We must yield a little, and see if we cannot perfect the measure in some shape to meet the approbation of the country.

Mr. BORLAND. I shall have to yield of course, and I shall do so most cheerfully, to the judgment of the Senate upon this question. But I occupy the same position now that I did an hour or two ago, when it was proposed to take up another measure and set aside this. I cannot, from my sense of duty, agree to postpone for one hour this bill, in order to consider any other subject, because I do not consider any other of one tithe the importance of this, certainly not to my constituents. I desired to get the floor, to reply at once to some of the remarks which have been made by the Senator from Kentucky, upon a very important point in the consideration of this question. I wanted those remarks, and the correction of what I think was the error into which he had fallen, to go out together. For that reason, if for no other, I shall vote against the proposition to postpone this bill; and I hope the motion will not be agreed to.

I presume it will be in order to state the point upon which I desire to correct the error into which the Senator from Kentucky has fallen. It is in regard to the head of perpetual navigation on the Mississippi river, which is a most important and vital point to be settled in the consideration of the question of the location of the road. I desire to say, that a residence upon the banks of the Mississippi river for a number of years, has given me positive knowledge—in which everybody residing near that river, who has a practical knowledge of it, I think, will concur—that the mouth of the Ohio does not mark the head of perpetual navigation upon the Mississippi river, but that the town of Memphis does; for very often, as the Senator must know, if he has considered the matter, the Mississippi river above Memphis, is not only obstructed by low water, but also by ice.

Mr. UNDERWOOD. Then go to Memphis.

Mr. BORLAND. The Senator will also recollect that one of the causes which have contributed to the rapid prosperity of that city, is a knowledge of that fact, and a conviction on the part of business men that that is the point which must be considered as the head of perpetual navigation, and that it is the point from which internal improvements across the land must radiate to the right and left.

Mr. UNDERWOOD. If that be true, the road ought to go to Memphis.

Mr. BORLAND. That is the point to which I wished to call the attention of the Senate, and simply to remark that the Senator—and I am satisfied he will become sensible of the fact when he looks into it—has fallen into an error which materially affects the question.

Mr. MANGUM. I am very desirous that we shall continue upon this bill until we make some disposition of it; and I voted to-day against considering another measure of urgency, which we all desired to see acted upon at a very early day, with the view that we might continue with this bill. But it is known to gentlemen—I cannot be more specific—that to-day was assigned for action in Executive session upon a particular matter. I would, therefore, recommend to my honorable friend from California, to pass by informally this bill and leave it where it stands, and let the motion for Executive session be received by unanimous consent. I move that we go into the consideration of Executive business, without postponing the bill.

The PRESIDING OFFICER, (Mr. MILLER in the chair.) It requires unanimous consent to entertain a motion to go into Executive session without disposing of the subject under consideration.

Mr. DOWNS. I do not see any reason for it, and therefore I must object. We have consumed half of the day already in discussing the order of business, and just as we have got started on one bill it is proposed that we shall go into Executive session. If it was in contemplation to proceed to the consideration of Executive business, it ought to have been thought of earlier in the day. We are now within half an hour of the usual time of adjournment. Besides, some very important arguments have just been urged upon this subject, and I think very erroneous views have been presented, which should not only be answered, but which should be answered to-day; and I hope that, as gentlemen have fired their batteries on one side in regard to the location of the road, we shall not now close the discussion before we have an opportunity of replying. Besides, it is very evident, that at this hour of the day the object for which it is proposed to go into Executive session will not be accomplished to-day; for there is likely to be a very protracted discussion on that subject. What is the use of going into Executive session at half-past two o'clock, within half an hour of the usual time of adjournment? I hope that the motion will not prevail.

Mr. CLARKE. As I do not wish to enter into any discussion, I merely say that I hope it will prevail.

Mr. CHASE. I think that, under all the circumstances, we are bound to gratify the Senator from Rhode Island in his wish to go into Executive session to-day. I need not recall to the recollection of the Senate the circumstances to which I allude; but I think he is entitled to make his motion, and I think justice to him demands that we shall accede to his wish. I shall therefore vote for his motion, although I am very anxious to proceed with the consideration of this bill. As an act of justice, I think the motion ought to be agreed to.

Mr. DOWNS. I do not know to what the honorable Senator from Ohio alludes, when he says there are certain circumstances which, as a matter of course, require that we should yield to this motion. If I am under any obligation to do so, I am unconscious of it, and I should like to know how I am under such an obligation. Why am I bound to agree to this motion to go into Executive session? If there is any bond that binds me or that binds the Senate in the premises, I should like to know where it comes from. I acknowledge none.

Mr. BRIGHT. The object of moving the Executive session is well known, I suppose, to every Senator present, and I apprehend that nothing will be gained by going into Executive session to-day. I certainly do not understand that there was any agreement whereby we should go into Executive session to-day; and I have no idea that if we do go into secret session, we shall be any nearer a conclusion of the subject proposed to be accomplished than we are now. I should prefer greatly that when we do go into Executive session, the Senate should be full. There are several Senators now absent who were under the impression that as the yeas and nays were taken this morning as to the order in which business should be considered, the consideration of this bill would occupy the whole day. Under this impression some of our colleagues have retired; among others, the honorable Senator from Connecticut [Mr. TOUCEY] has retired to his chamber, being unwell; and he desired to be sent for if anything should occur requiring it.

Mr. DAVIS, Mr. CLARKE, and other SENATORS. Send for him.

Mr. BRIGHT. I had hoped that the honorable gentleman from Rhode Island would not press this matter. I am as anxious to bring it to a close as he can be; but I would suggest to him to give notice that at some subsequent day, say Monday next—and it is understood that in the *interim* both Senators from Alabama will be present—at one o'clock, or two o'clock, we shall go into Executive session. With that understanding, we can then settle the question which will be under consideration if we should to-day go into Executive session. I make that suggestion to him, and I hope he will agree to it.

Mr. CLARKE. I can accede to no suggestion. This is talking, as sailors say, between land and water, for I can hardly say to the honorable Senator in open session, what has occurred in Executive session, which makes it necessary for me to submit this motion. He knows the circumstances to which I allude as well as I do. He knows as well as I do that the subject which he has foreshowed, has been the subject of discussion in Executive session. He knows that it has been pending for a long while before the Senate; and I certainly should judge that no gentleman in the Chamber knows better, and would appreciate more highly than the honorable Senator from Indiana, the sensibilities and anxieties which the pendency of that subject is creating.

Now I ask why, after what took place on Monday last in Executive session, should it be required of me to withdraw the motion? The Senate will agree to it if they choose to go into Executive session, and if not, of course they will reject my motion; but upon my word, sir, I do think that there have been the longest delays that were ever known thrown into the consideration of the subject which has been referred to by gentlemen. I cannot withdraw the motion; but if the yeas and nays are asked, I shall vote for ordering them. I persist in the motion.

Mr. ADAMS. I wish only to explain my own vote upon this question, and I trust the remarks which I make, will not be improper. On Monday last, I suggested the postponement of Executive business—and when I say "Executive business," Senators will understand me—until this day, and I demand it as a right.

Mr. MANGUM. Let me suggest to the honorable Senator, for his own consideration, the impropriety of referring to anything done in Executive session.

Mr. ADAMS. I am only speaking of myself in regard to Executive business. I suggested that by postponing Executive business until to-day, I would be willing to consider it; and having said so, I supposed the Senator from Rhode Island would understand, as a matter of course, that I would not to-day oppose the consideration of Executive business. On that account I consider myself pledged, from the acquiescence of the body in my suggestion to vote for the motion.

The PRESIDING OFFICER, (Mr. MILLER in the chair.) The Senator from Rhode Island proposes to postpone the further consideration of this bill until to-morrow, for the purpose of proceeding to the consideration of Executive business. Do I understand him to ask for the yeas and nays on that question?

Mr. CLARKE. No, sir.

Mr. DOWNS. I believe the Senator from California called for the yeas and nays.

The PRESIDING OFFICER. That call was withdrawn, I believe.

Mr. BRODHEAD. Then I call for the yeas and nays.

The yeas and nays were ordered, and taken with the following result:

YEAS—Messrs. Adams, Bell, Chase, Clarke, Davis, Dixon, Fish, Geyer, Hale, Jones of Tennessee, Mangum, Miller, Morton, Pearce, Phelps, Rusk, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, and Walker—24.

NAYS—Messrs. Borland, Bright, Brodhead, Charlton, De Saussure, Dodge of Iowa, Downs, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Mallory, Mason, Norris, Soulé, and Weller—17.

So the motion was agreed to.

Mr. CLARKE. I now move that the Senate proceed to the consideration of Executive business.

Mr. WELLER. If it be in order, I move for a call of the Senate.

Mr. MANGUM. I hope the honorable Senator from California will not persist in that. The same thing can be accomplished in another way. I imagine, in the whole history of the body, there has never been a call of the Senate under the parliamentary law, though it may be competent to order one.

Mr. WELLER. The vote which has just been taken shows that there are but forty-one Senators present. That is a very slim Senate to decide upon important Executive business; I am taking it for granted that in Executive session there will be important business for consideration. It is for that reason that I desire there should be as full a Senate as possible.

The PRESIDING OFFICER. The Chair would state to the honorable Senator from California, that there is no rule or order of the Senate for a call of the Senate. There is, however, power to send for absent Senators.

Mr. MANGUM. I rise to a point of order. I wish to make the inquiry whether the last vote was not directly upon going into Executive session?

The PRESIDING OFFICER. The Chair understood the motion to be to postpone the bill, for the purpose of going into Executive session.

Several SENATORS. It requires another vote before we can go into Executive session.

The PRESIDING OFFICER. The Chair considers it as one motion.

Several SENATORS. Oh, no.

The PRESIDING OFFICER. Then the question will be upon the motion of the Senator from Rhode Island, to proceed now to the consideration of Executive business.

Mr. WALKER. Then I voted upon the yeas and nays under a misapprehension. I thought I was voting directly upon the motion to proceed to the consideration of Executive business.

Mr. MANGUM. The bill of the Senator from California was passed by informally for that purpose, I think.

The PRESIDING OFFICER. The Senator from North Carolina asked unanimous consent for that purpose, but it was not given; and the question, therefore, came up on the motion made by the Senator from Rhode Island, to postpone the bill in order to go into Executive session, which has been agreed to.

Mr. SEWARD. The question refers itself to the record. What does the record say?

Mr. HAMLIN. I suppose the record is not yet made up. The question is, What is the fact? The Senator from Rhode Island rose in his place and moved, in terms, to postpone the pending question for the purpose of submitting a motion to go into Executive session.

Mr. CLARKE. As I am appealed to, I must say, that my motion was to postpone the subject then under consideration for the purpose of going into Executive session.

Several SENATORS. Another motion is necessary.

Mr. CLARKE. I have made a motion that the Senate now proceed to the consideration of Executive business.

Mr. WELLER. I am very reluctant to interpose any objection to the motion, but I am unwilling to have any important business transacted in Executive session without a full Senate. The vote which has just been taken discloses the fact that we have not such a Senate. I shall, therefore, be under the necessity of moving that the Senate now adjourn. I make that motion with the hope that whenever we do proceed to the consideration of important Executive business we may have a full Senate. I move that the Senate do now adjourn, and on that motion I ask for the yeas and nays, in order that we may ascertain how many are present.

The yeas and nays were ordered; and being taken, resulted as follows:

YEAS—Messrs. Bradbury, Bright, Charlton, De Saussure, Dodge of Iowa, Downs, Felch, Hamlin, Houston, Hunter, James, Jones of Iowa, Mallory, Mason, Soulé, and Weller—16.

NAYS—Messrs. Adams, Bell, Chase, Clarke, Davis, Dixon, Fish, Geyer, Hale, Jones of Tennessee, Mangum, Miller, Morton, Pearce, Phelps, Rusk, Sebastian, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, and Walker—25.

So the motion was not agreed to.

Mr. BORLAND, when his name was called, stated that he had paired off upon the question.

The question was then taken on the motion to proceed to the consideration of Executive business; and there were, on a division—ayes 22, noes 5; no quorum.

Mr. WALKER. Let the question be taken again; there is a quorum present.

The question being again taken, there were, on a division—ayes 24, noes 8.

So the motion was agreed to.

The Senate accordingly proceeded to the consideration of Executive business; and after some time spent therein, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 20, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the bill to establish a branch Mint of the United States in the city of New York.

Mr. HENN gave notice under the rule of his intention to move for leave to introduce a bill granting a certain quantity of public lands to the State of Iowa, in alternate sections, for the purpose of aiding said State in the construction of a railroad from the cities of Burlington and Keokuck to the Missouri river in said State.

Mr. HENN, by unanimous consent, presented a joint resolution of the Legislature of the State of Iowa, asking a grant of land to aid in the construction of a railroad from Burlington and Keokuck to the Missouri river; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. HART, by unanimous consent, presented a preamble and joint resolution of the Legislature of the State of New York, correcting an error in the engrossment of a resolution of the last session of said Legislature, on the subject of granting land to all the States for educational purposes; which were laid on the table, and ordered to be printed.

REPORT OF THE GENERAL LAND OFFICE.

Mr. LANE. I ask to present the following resolution:

Resolved, That there be printed for the use of the Commissioner of the Land Office, one thousand copies of the supplement to the annual report of said Commissioner for the years 1852-3.

Mr. JONES, of Tennessee. That will go to the Committee on Printing of this House, and I presume there will be no objection.

Mr. LANE. There are no extra copies of the supplement printed.

There being no objection it was so ordered.

Mr. CLARK. I ask the unanimous consent of the House—and I hope I will be indulged with it—to present, for the purpose of reference merely, a memorial from the Legislature of the State of Iowa, asking a grant of land to aid in the construction of a railroad from Davenport to the Missouri river in said State.

There being no objection, the memorial was received and referred to the Committee on Public Lands.

Mr. CLARK also presented a bill providing for the object of the memorial, and moved its reference to the same committee.

Mr. JONES, of Tennessee. I object to the introduction of a bill of which no notice has been given.

Mr. CLARK. It is a bill of which regular notice has been given.

Mr. LETCHER. I object to it.

BRANCH MINT IN NEW YORK.

Mr. JONES, of Tennessee. I do not desire or expect to address the House upon the bill now pending for the establishment of a Mint in New York. I desire, however, if the gentleman from Pennsylvania [Mr. CHANDLER] will yield me the floor for the purpose, to have a passage read from the report of the Secretary of the Treasury, made at the last session of Congress, and also a short paragraph from the annual report of the Secretary of the Treasury at the present session, (which I understand was laid upon our tables this morning, and a printed copy of which I have received,) upon the subject of the Mint.

Mr. CHANDLER. If it will not occupy too much time, I will yield the floor to the gentleman.

Mr. JONES. It will occupy but little time.

Mr. BROOKS. I object, unless it comes out of the time of the gentleman from Pennsylvania, [Mr. CHANDLER.]

Mr. JONES. I now ask the Clerk to read the extract to which I have referred, from the report of the Secretary of the Treasury at the last session of Congress.

The extract was read, as follows:

"The operations of the Mint during the past year have been conducted with efficiency, and with highly satisfactory results. Under the present system the depositors promptly receive the value of their bullion so soon as it is assayed; and though the deposits are made in large masses at short intervals, on the arrival of the California steamers, yet the assays are made and the payments commenced usually within forty-eight hours, and the whole generally completed within an average of five or six days after these heavy amounts of bullion—frequently by two and three hundred different depositors—are received at the Mint; and the whole duty is performed without any charge to the depositors, except a mere fractional percentage for the actual cost of separating the bullion. It is believed that equal facilities are not presented to individuals by the Mints of any other nation as are now given by the Mint of the United States.

"The realization of the value of these large quantities of bullion by the owners of it, without loss, within a few days after it arrives in the United States, is accomplished by means of the heavy bullion fund which can at present be spared without inconvenience from the excess of means in the Treasury."

Mr. JONES. I ask, now, that a paragraph be read from the report of the Secretary, made at this session.

It was read, as follows:

"The operations of the Mint, particularly at Philadelphia, at which point the greater portion of all gold dust and bullion concentrates, for assay and coinage, have been conducted with a remarkable degree of promptness and dispatch, such as to remove all cause of complaint on the part of depositors, notwithstanding the enormous amounts of gold dust which have been and still continue to be received at that institution.

"The coinage at the Mint for the year ending 31st December, 1852, was as follows:

Gold—6,094,765 pieces, of the value of	$51,505,638 50
Silver—27,549,505 pieces	847,310 00
Copper—5,162,094 pieces	51,620 94
Total	$52,404,569 44."

Mr. CHANDLER, who was entitled to the floor, yielded it to

Mr. TUCK. Mr. Speaker, this is not the first time we have had a discussion upon this subject of the Mint, between the representatives of the State of Pennsylvania and the city of Philadelphia upon the one part, and the representatives of the State and city of New York upon the other. Thus far the discussion, not only in the last Congress, but in this, seems to have progressed upon the ground that no other parts of the country are interested in this question. With all kindness towards gentlemen representing these two important cities and States, I must say, that I believe if the Congress of the United States establish a branch Mint in the city of New York, they will do it for the general convenience of the country, and not for the particular benefit of the city of New York. On the other hand, if it is determined to refuse this, and put up with the Mint we have now in the city of Philadelphia, Congress will do it, because we believe that that Mint is adequate to supply all the interests of the country. Although as I live, as do most of the Representatives from New England, nearer to the city of New York than any of the Representatives from the State of New York do, yet we have not manifested that particular and personal interest in this question which the Representatives of that State have already exhibited. Although representing a constituency that would seem to be interested in the establishment of a branch Mint at New York, if local position alone could make them so, yet I rise now, and consent at this important period of the session to take a little of the precious time we have left, in order to do a little if I can towards preventing the outlay of hundreds of thousands of dollars to establish this branch Mint. I believe that no question has come up, within the last four years, which has had such a perfect demonstration against its merits, as that to establish a branch Mint in the city of New York. If it has not been proved that the country does not need it, it is not possible to prove anything. The Mint at Philadelphia has a capacity of coining at the present time, from year to year, twice the amount that any one can consider it possible for the country to demand—having a

power also of extending its power indefinitely to meet possible exigencies.

Let us inquire what will be the cost of establishing this Mint in the city of New York. The lot and building for the Philadelphia Mint cost about $200,000; the machinery and fixtures $206,000—total, $406,000. The Mint at New Orleans cost $312,000, exclusive of the lot, which was presented by the city. The building and lot for the New York Mint would probably cost about $250,000, and perhaps a larger sum. Every one knows that there is no point in the country, and scarcely any point out of the country, where the price of land is so high as in the city of New York. Many gentlemen will recollect the statement made in a New York paper, within a few days, showing that land is worth more there than it is in the city of London. The lot and building will cost, at the least, $250,000, and the machinery and fixtures at least $200,000 more, making $450,000 in all.

Let us now inquire into the cost of maintaining a Mint at New York, which we can approximate by stating the cost of maintaining the Mint at Philadelphia. With an annual coinage at Philadelphia for the last three years, amounting to an average of $30,000,000, the cost has been $212,000. At New York it could not be less.

There is another important item we must recollect, in estimating the cost of maintaining a new branch Mint. The Government must provide a *bullion fund*, to be deposited at the new Mint. This is a very important item. The United States have at the Mint in Philadelphia over $5,000,000, deposited as a bullion fund, and they have to keep that amount there at all times, to answer the demands that are liable to be made there upon the Mint. If a branch Mint be established at New York, the Government must place on deposit at New York at least $2,000,000 as a bullion fund. I make this statement upon my own judgment, fortified by the opinion of the Director of the Mint himself. The fund at New Orleans, with a coinage of $10,000,000 only, annually, is more than $1,000,000, and twice that amount would be necessary at New York. The annual cost, then, of maintaining the proposed branch Mint is as follows:

Ordinary expenses	$200,000
Interest on the $2,000,000 bullion fund	120,000
Interest on $450,000, cost of Mint and fixtures	27,000
Total annual cost	$347,000

If I could be permitted to take longer time, I could go particularly into the ground of my estimates, and show conclusively, I think, that no friend of New York State or New York city, however ardent or however able, could gainsay one of the positions I take upon this question. I have estimates and evidence in my hand, setting forth this matter at length—the figures I give in brief—which have been well matured and considered. But I must hurry on.

At the last session of Congress we passed a bill establishing a branch Mint at San Francisco. When the discussion first came up in Congress, in regard to the establishment of a Mint at New York, I well remember it was boldly assumed that the Mint at Philadelphia was incapable of performing the duties required of it by the necessities of the country. In a few days afterwards, my friend from Philadelphia [Mr. CHANDLER] laid before the House indisputable evidence that the Philadelphia Mint was more than adequate for all the wants of the country. The next position assumed by the friends of the new Mint, I remember very well, was, that this Mint must be established in the city of New York to aid the poor miners in California. Well, what did we do? We attended to the demand in behalf of the poor miners, and we passed a bill establishing a branch Mint in San Francisco. This should have prevented further demand; but these persevering gentlemen come here at the present session, when it is so important to do many things which we have been neglecting for many years, and with as much ardor as they commenced with three years ago, now demand, upon a new state of facts and for new reasons, that a branch Mint be established in the city of New York. The Mint we established in California has not been commenced, and we cannot tell what its business will be. They have not waited one year to see whether the poor miners of California will be satisfied or not with the benefits which they there enjoy. Would it not be prudent to give the country rest for a while? Has Congress nothing to do but to vote mammoth appropriations for California and New York city? I speak of New York city, and her eager demands upon the Treasury, in a spirit of remonstrance, if not reproof, as I think I have a right to do, having in a service of six years here, never said a word or cast a vote that indicated any hostility to the unexampled prosperity of that city. I never shall do aught against her legitimate prosperity, but all I can for it. I rejoice in her growth. If gentlemen representing that wonderful city are proud of her progress, so am I. Let her go on and prosper. But I would caution the gentlemen who so well represent her interests, that they mistake in supposing that New York is interested in every possible degree of growth and concentration of interest and industry. I believe that it is not for the interest of that city to have every possible degree of concentration of business poured upon her at once. Let the inhabitants learn to manage their greatness in a proper manner, to educate their people, and with some perceptible gradation ascend the pinnacle of renown destined for them.

But I must hurry to another point. I hold in my hand a proposition from the Director of the Philadelphia Mint, in which is set forth a method by which, if, after building the California Mint, it be found that we need any additional facilities at New York, we can have them without the immense expense involved in the establishment of a branch Mint.

Before stating the proposition I have in view, let me say that a Mint embraces two distinct branches or departments—the one the receiving department, where the metal is received, and in case of pure metal, paid for in ready stamped coin, and the other the manufacturing department, where the metal is assayed and converted into coin. These two branches of business are not necessarily connected. They need not be pursued in the same building, nor even in the same city. Upon this topic there is no division of opinion, and if there were, I have the opinion of one who is better capable of judging than probably any other man in the country—the Director of the Mint at Philadelphia. In England, the receiving department and the manufacturing department of the Mint are distinct from each other. The receiving department is the Bank of England; the Mint where the bullion and gold dust are manufactured into coin is in another and a distinct building.

Now, sir, all that can be necessary, in any view of the case, is, to establish an office at New York for receiving deposits of bullion and gold dust, and paying for the same in coin. The scheme of such a department is easily practicable, as I could show by papers and estimates before me, if I had time to read them. There would be no need of an increase of the bullion fund, for the bullion fund which is now kept on deposit at Philadelphia would be fully adequate to answer all the necessities of business there, and also all the necessities at the receiving office at New York. I have an estimate of the cost of establishing a receiving office, and it only amounts to $3,000.

The most responsible duties at such an office could be performed by the assistant treasurer of New York, and everything else by two clerks and one laborer; and the whole cost of carrying it on, from year to year, would be $3,824. The cost of transportation from New York to Philadelphia and back, paying the prices now paid, would be for $30,000,000, $22,500, or for $60,000,000, $45,000. But it is probable that it could be done cheaper, and I am told that an offer has been made by the Camden and Amboy Railroad Company to transport all that the Government requires, be the same more or less, for $25,000 a year. The risk will not be greater than that of the mails, and the company will give ample security against all risk, whatever it is.

Let us compare the saving to the Government, by establishing a receiving office instead of a branch Mint at New York. The cost of maintaining a Mint at New York, as I have shown, would be $347,000 per annum. As much business would be taken from the Philadelphia Mint, I deduct $100,000 per annum for diminution in expenses there, leaving $247,000 as the annual increase of expenses to the Government by a new branch Mint.

The receiving department proposed would cost at the outset $3,000, and the interest upon it would be $180
The annual cost of maintaining it would be 3,824
Cost of transportation of metal and coin, on the offer of the Camden and Amboy Railroad, would be 25,000
$29,004
Annual cost of branch Mint $247,000

Making a saving of ..... $217,996 per annum in favor of a receiving department.

[Here the hammer fell.]

Mr. SEYMOUR, of New York, obtained the floor.

Mr. BRIGGS. Will my colleague allow a few moments of his time?

Mr. SEYMOUR. Certainly. I yield to my colleague.

Mr. BRIGGS. If the gentleman from New Hampshire had made himself familiar with the details of the bill now pending before us, he would not have attempted to alarm the House about the extravagant expense that would be incurred in carrying it into operation. If he had looked to the ninth section of the bill, he would there have found that the bill cannot go into operation until security is given, satisfactory to the Secretary of the Treasury, that the whole expense of the Mint there shall not exceed $250,000, inclusive of the ground, machinery, building, and everything connected therewith, for the coinage of all the gold dust that could be received.. I will state further, for the information of the gentleman from New Hampshire and of the House, that the corporate authorities of the city of New York did, at their last session, in a very liberal manner, tender to the Government a site for the erection of a Mint. It is true that the price of real estate in that city is at present high, but we expect that, should this bill become a law, the city of New York would expend a large sum of money to carry it into operation. We do not ask the Government to do it. All we ask is $250,000.

I call the attention of the House to the last section of the bill, which provides that one half of one per cent. shall be required of all depositors of gold dust for coinage. Now it would be no exaggeration to estimate the annual coinage at the Mint at $40,000,000, so that $200,000 would be realized from that charge of one half of one per cent. That sir, would exceed the cost of conducting the Mint at the city by $120,000, which would go into the Treasury of the United States, so that there would not only be no draft upon the Treasury for conducting the Mint there, but it would actually afford a revenue. I do not believe that the Mint established in California will diminish the receipts of gold dust in New York five per cent. I believe that the Mint there will only be required to coin for the commerce of that State. I am much obliged to my colleague for allowing me to make these few remarks.

Mr. TUCK. Will the gentleman from New York yield to me for a moment?

Mr. SEYMOUR. For a moment.

Mr. TUCK. I was attempting to show the saving which might be affected to the Government by establishing a "receiving agency," which would answer all the purposes that anybody has alleged would be answered by the establishment of a branch Mint. Well, I am informed by a document from the Mint, which I hold in my hand, that in three weeks after the passage of a law to that effect, there might be established in the city of New York a receiving office, doing the business and answering all the demands that are here set up for a branch Mint; that it could be done for $3,000, and that the office could be carried on for $3,800 a year.

How long will it take to build a branch Mint? All the other Mints were three years in building, and if we determine to build at New York, it must be three years before the facilities are enjoyed which a receiving department would realize in three weeks.

The gentleman from New York [Mr. BRIGGS] who has just addressed the House, has stated that they ask only $250,000, and that the city voted last year to give the land for a Mint. I ask if his bill, now under consideration, says anything about the city of New York presenting a site for the erection of a Mint? Not a word. They are

willing to begin upon $250,000; but all who are familiar with the history of money transactions with this Government, know that after we have paid the $250,000, everything else that may be necessary to perfect the work, will be asked for and obtained in due time. The gentleman knows this, and now only asks a beginning. Now, sir, why not rest for a few years? Why not rest until we can see the effect of coining gold in California? It was incidentally remarked by the gentleman from Philadelphia [Mr. CHANDLER] yesterday, that much of this coinage is for England. Such is certainly the case, and simply because they have to pay for purifying the metal in England, while here it is done for nothing, or next to nothing—done at the expense of the Government. I am much obliged to the gentleman from New York, (Mr. SEYMOUR,) and will not consume more of his time.

Mr. SEYMOUR, of New York. I regret that the gentleman from Pennsylvania [Mr. CHANDLER] has pressed the motion which he made for the rejection of this bill—a motion unusual in its character, and which, so far as I have been acquainted with proceedings in Congress, has very seldom been applied, except to those public measures with regard to which there could be really but one sentiment entertained, and in reference to the result of the vote upon which nobody could be mistaken, even should a discussion have preceded it for days. This, sir, is a summary way of disposing of one of the most important measures that can be brought before this Congress. I know, to be sure, that in a former Congress, when this measure was before it, it was discussed and examined at much length, and, after consideration, was rejected by a small majority of that body. We are now here, however, to consider it anew. Other minds have had their attention called to it; other interests have been awakened in the country; and the attention of the whole country, during the time which has elapsed since the former investigation and discussion, has been kept continually bearing upon this great question. Sir, this is a question which appertains not merely to the circulating medium, but affects the whole commercial interests of the country.

Sir, I shall not follow the example of the gentleman from Pennsylvania, by such allusions to the city which he represents upon this floor, as I would not like to have made to that great commercial metropolis which I, in connection with my associates here from the State of New York, represent. I shall not talk of "rapacity," nor shall I search the vocabulary of Billingsgate to find terms wherewith to express my sentiments of the comparative rapacity of the two rival cities. I will not compare the constituents of the gentleman to the daughters of the horse-leech, that are never satisfied, but are continually crying, "Give! Give!" I do not desire to descend into such an arena of controversy before the American Congress. It is foreign to my taste, and if I can judge rightly of the feelings and sentiments of a majority of the members of this House, it is equally foreign to theirs.

I shall look at this question as a national one, and not in the light of a miserable scramble between two rival cities of this country, as to which may engross the greatest portion of the Government patronage. Yet, sir, I ought not to dismiss this topic, since the gentleman from Pennsylvania [Mr. CHANDLER] has seen fit to make such an allusion to a portion of the inhabitants of that city, without asking the members of this House to look at the past history of that great commercial metropolis, and judge whether the epithets which were applied to them by the gentleman from Pennsylvania, on yesterday, could have been suggested to his mind by anything in that history, or in the history of the State from which I come, or whether it was not the promptings of his own bosom, the feelings which were wrangling there, that induced him to stigmatize the people of that city as a collection of horse-leeches, and a mere extension of Wapping. Sir, in the course of my legislative experience, brief though it has been, questions bearing strongly upon the local interests of rival localities have often presented themselves, but when they involved great national interests, I have never, to my knowledge, given my votes nor my voice with a view of enhancing the interest of any particular locality. During the last session of Congress, I voted as cheerfully as did the gentleman himself, for large appropriations which were made for the advancement of the particular interest of the city of Philadelphia, as forming one of those great commercial centers of this Union, in whose prosperity we all rejoice, and of whose success we are all proud.

Sir, the gentleman alluded to the Collins line, and referred to those appropriations made by Congress at the last session, the immediate tendency of which has been to advance the commercial interest of New York. Now, I put it to him—(for I know he is a patriotic man; with all his attachment to his own locality, he has still a patriotism which can be aroused, as I have seen it on more than one occasion; I have been proud to see him, with others, come up upon these great national questions, divest himself of all those local feelings, and give such votes as the honor and the interest of the whole country demanded)—but I put it to him whether that vote, in relation to the Collins line, of which I was proud, as I was of every other which was given in this House upon the same grounds, was not given strictly upon national principles? Was it not given for the purpose of sustaining the commerce of the United States against the rivalry of England, backed, as it was, by the whole force of the British Treasury? I know it was; and I know that, should another occasion present itself when it should be necessary to make a similar appropriation on a similar emergency, whether affecting the particular interest of New York, Philadelphia, Baltimore, or New Orleans—if the appeal should be made to the American Congress, they would not hesitate to sustain American interests against foreign interests, even though they were to be sustained by the national purse; I am confident we should have the vote of the gentleman from Pennsylvania, as well as that of many other gentlemen upon this floor, to maintain such a national position.

Mr. CHANDLER. If the gentleman has finished that sentence, I ask him to allow me to make a single remark with reference to my vote upon this Collins line. The gentleman will do me the justice to believe that I did not refer to that *national* appropriation as going for the benefit of the city of New York, until the honorable gentleman from New York upon my left [Mr. BRIGGS] put the sneer to my face that some of the members from the State of Pennsylvania astonished some gentlemen in this House by their voting for it; yet now I find my very patriotism here, upon that occasion, made an argument against me. I am utterly astonished at the course the gentleman pursues. I say to him, that whenever he will present from New York, or any other city of this Union, a plan which involves our national interest, and not a mere local attachment—not a mere personal or local interest—he will find me as ready to go for it as I was to go for the Collins line, and to do what I can by my voice and my vote in its favor.

Mr. SEYMOUR. I hope, then, my friend will be as willing to vote for this branch Mint, which will serve the great purposes of national commerce, as he was to go for a line of steamers which was to protect and defend that commerce.

Mr. BRIGGS. Mr. Speaker, I ask my colleague to yield the floor for a moment, to allow me to make an explanation. In the allusion I made yesterday to the votes which were given in favor of an increased appropriation for the Collins line of steamers, by a portion of the Pennsylvania delegation, I did not intend my remark in the light of a sneer; nothing of that sort whatever. What I meant by saying the votes of those gentlemen excited the surprise of some members in this House, was, that it was entirely unexpected to them, by reason of the prejudices heretofore existing in the State of Pennsylvania towards the interests of the city of New York, and the illiberal spirit in which they have always met these questions. I had supposed that such a spirit would induce them to oppose that appropriation. I did not mean to insinuate that there was any undue or corrupt influence used to bring about those votes. Such an idea never entered my mind.

Mr. SEYMOUR. One word further with regard to the gentleman from Pennsylvania, [Mr. CHANDLER.] He spoke yesterday of the sentiments of the people of the State of New York, which he had collected in some way, with regard to this measure. I would like to know how this sentiment had been collected by the gentleman from Pennsylvania, so that he shall know what are the feelings of the people of the State of New York, better than those who represent that State. I should be happy to be informed how he is able to declare that there is but little feeling upon this subject in the State, or even in the city of New York, except at certain times; only at periods just before an election, when it was made a topic for discussion, and that even then they cared but little about it. Sir, I profess to understand something of the sentiment of the people of my State upon this subject. I stand not here as a citizen of the great commercial emporium of that State. I have no Wall street interest, nor am I connected with Wapping. I live further from that city than the gentleman from Pennsylvania himself. But I speak what I know to be the opinion and the ardent desire of the people of the entire State. I do not believe the gentleman can find a dozen respectable merchants, or persons connected with or understanding the commercial interest of the northern portion of the country, who do not coincide with the opinions so often expressed in that quarter, of the utility, the necessity of this measure. It certainly must have reached the ears of the gentleman, that the people of that section of the country deem it most important for the commercial interests, not only of themselves, but for the nation, that a branch Mint should be located at the great center of American commerce.

Sir, how came it that the Mint was not located there at its origin? It is one of those ideas which we have borrowed from Europe—from the monarchic countries of Europe—that the Mint should only be located where the seat of Government was, under the eyes of the Government itself; with the Government to superintend its operations, and to preside over those manifestations of sovereignty and emblems of its power, as the gentleman expresses it, and which he deems so essential to retain. Sir, I know it was, and still is the sentiment prevailing in the countries of Europe, that it is a royal prerogative, and should be exercised only under the eye of royalty. Probably in consonance of this sentiment, it occurred that when the city of Philadelphia, in the year 1792, was the capital of this country, Congress located the Mint in that city. But, sir, that idea of another age, and another form of Government, has long since become obsolete here. The power of this country, the sovereignty of the country—that which controls and directs the operations of the Government, and of the people—is not concentrated within the capital of the Republic. The Government is not here. It is where the public sentiment is; it is all over the country; it is with the people; it manifests itself in a thousand various ways, in which you hear it from the local centers, all of them proclaiming to us, the representatives of the people, what the will of the Government, the opinion of the people, is.

Sir, there are laws which regulate this and other commercial questions, as there are laws regulating the population of the country, and they are laws which we cannot contravene or repeal. They are a part of the great laws of progress; the laws which are carrying onward the population and wealth of this country; the laws which are peopl ng the vast valley of the West, and carrying with them the intelligence, the capital, the industry, and the popular opinion of the country. And they will, at no very distant day, make that valley the great center of the Republic. You may attempt to retain this capital here on the banks of the Potomac, by the most lavish expenditure of money, by all the appliances of art and taste, and by all the expedients of legislation that you can devise to prevent its removal; yet whenever it shall become the manifest will of the masses, who in the future shall inhabit that great valley, the capital will, notwithstanding all previous legislation, be removed to some point nearer the center of the Republic. The laws of population, of our national progress, will remove it. So it is with the laws of trade. They change the centers of commerce; they create new necessities; they repeal the legislation of the past. Indeed, the idea of retaining a Mint at the seat of our Government has passed away. It is abandoned. It is no part of our belief that the coinage of the currency of the country—this manifestation of sovereignty—is, from necessity, to be retained at the capital, and under the eye of those who administer the Government.

The capital was removed from Philadelphia half a century since, and located here. The Mint remains at Philadelphia.

We have gone further; we have established Mints in other parts of the country. We have established one in North Carolina, one in Georgia, another in New Orleans, and recently one in California, upon the shores of the Pacific.

Why has this been done? I repeat, why has this been done? Is it because we have abandoned the old idea that the Mint should be always located at the seat of Government, and have embraced that new idea, which has been taught us by the progress of things in this country, that all these things follow the laws of population, of trade, and of commerce?

Now, sir, let me call the attention of the House for a moment to this question as it is presented upon the bill before you. We do not seek to deprive Philadelphia of the prerogative which she seeks to exercise by the Mint already established there. Let her retain it. Let the Philadelphia Mint be the chief Mint, as it is designed to be by the language of this bill. Let it be the regulator of our coin, from which shall issue all directions in regard to coinage throughout this country. There should be such a center. There should be a regulating power. It is necessary, to carry out the very idea that gentlemen urge in opposition to this bill, that we should have a sure, definite, and unmistakable currency in this country. To attain and preserve this, the coinage should be regulated by one central power, and however much that power ought to be located at the seat of commerce in the great commercial emporium of the country, yet I would not deprive Pennsylvania, I would not deprive the city of Philadelphia—dear to me and to all of us by her glorious revolutionary associations, her magnificent enterprises, and her ennobling charities—of what of advantage she enjoys in this central Mint. Let her retain the prerogative. Let her hold the scepter. Let her exercise the ruling power. All we ask is, that the wants of commerce at New York shall not be neglected, as they have not been neglected in other parts of the country. We ask you to apply the same rule of wise and beneficent legislation to that city. Although she collects three fifths of your revenue; although it is the acknowledged seat of the great commerce of the country, and from its natural position must remain so, we ask no special privileges. We ask only that you shall apply to her the same rule that you have applied to other localities, far inferior in point of commercial importance.

Why did you locate a branch Mint in Georgia? It was to accommodate the miners. It was to advance the mining and coining interest there. Why did you locate one in North Carolina? It was for the same reason. And why have you recently established one on the shores of the Pacific? It was for the double reason of advancing the mining interest and the interest of commerce upon the Pacific.

But, sir, look at the course of this commerce. See where it tends, see where it centers, and will center, in spite of any laws that you may pass. The laws of trade and commerce override all your enactments. The gold of California comes, and will continue to come, where the interests of those concerned in trade demand that it shall come, and that is to the great center of commerce upon your Atlantic shores. It is flowing there. It is pouring in floods into that emporium, and we find that during the last year between fifty and sixty millions of dollars' worth of that gold has been brought into the city of New York—for the purpose of coinage—from the shores of the Pacific.

To this is to be added a large amount from another source. A great portion of the immigration from Europe seeking our shores comes to the port of New York. The better class of immigrants bring with them a large amount of European coin. That class of immigrants, of late years, has greatly increased, and they bring millions of dollars in the gold and silver coins of Europe, which they desire to have converted into American coin. Here, then, at the port of New York, is concentrated four fifths of the money and bullion which seeks coinage in our country. The whole amount is estimated, by good judges, at not less than sixty millions a year. This vast amount centering there demands coinage as rapidly as possible, for the purposes of commerce, and the daily business of life.

Now, sir, what do you impose upon the people who bring to us their golden harvest? You subject them to the necessity of taking every dollar of this money to Philadelphia. They must go one hundred miles from the place where they have landed, for the purpose of converting their money or bullion into the shape in which they can use it. They must be subjected to this unnatural necessity, and to the incidental charges of freight and insurance which attend it—expenses which, at the lowest estimate, made by candid judges, are at least $30,000 a year.

Mr. CHANDLER. What do I understand the gentleman to say is the amount of cost?

Mr. SEYMOUR. Thirty thousand dollars annually.

Mr. CHANDLER. The offer is to carry it both ways at three eighths of one per cent., until, at that rate, their receipts amount to $25,000 per year, and after that they carry the balance for nothing, however large it may be.

Mr. SEYMOUR. I say that the amount of freight and insurance amounts to $30,000 per annum.

Mr. CHANDLER. Freight and insurance is included in the offer of three eighths of one per cent.

Mr. SEYMOUR. I know not what offers may have been made for the purpose of influencing this question, but I do know what the charge has been in the practical business operations of this matter; and I say that, from estimates made, the lowest amount of freight and insurance will not abate one dollar from $30,000 a year.

Sir, I cannot better elucidate this matter, and show the great burden which this unnatural arrangment imposes upon the producer, the miner, and upon the poor emigrant, as well as upon the general commerce of the country, than by referring to the very able exposition of this whole subject, made by the late Secretary of the Treasury, Mr. Walker, in an annual report to Congress, to which I ask the especial attention of the House. That accomplished statesman and able financier says:

"I renew the recommendations contained in all my annual reports, for the establishment of a branch of the Mint of the United States at the city of New York. That city, our great commercial metropolis, is advancing to its ultimate position so important to the whole country as the emporium of universal commerce, the center of international exchanges, and the store-house of the products of the world. To attain this result, we might secure for our great emporium (in competition with foreign cities) the command of her due proportion of coin and bullion. Now, it is clear that when bullion cannot be coined, and no recoinage can take place, this cannot be accomplished. America is the great continent of the precious metals. They are now found in extraordinary quantities in our own Union, and to a vast extent in countries adjacent. Yet, nearly all this coin and bullion are diverted to other countries, and especially to Great Britain, being one of the chief instruments in aiding that country in maintaining her command of the business of the world. By steamships and by exports of her own products and fabrics, she accumulates coin and bullion in London, and provides for their coinage and recoinage in the least time and without expense; and yet, in our own commercial emporium, we have no Mint, or even a branch Mint, for the important process of coinage or recoinage. If we would command the commerce of all nations, it must be through some one American commercial emporium, the great center of our own trade and business. The history of trade demonstrates that some such great point is indispensable to enable any nation to command universal commerce, and that such concentration at some one city, instead of injuring other cities or parts of the same country, is of immense benefit to all. There cannot be two or more financial centers of the foreign commerce of any one nation any more than there can be two or more centers of a circle. The same principle of the center of the trade of a nation applies to the trade of the world. There can be but one such center for the world, and but one for each nation, which in this country, from natural causes, must be New York, where the competition must soon commence with foreign cities for the control of international commerce. Now, as the command of the specie of the world is of immense benefit to our whole country, and can only be secured by making one of our own cities the center of universal commerce, it is indispensable to success in this great American enterprise that specie and bullion should be invited from all the world to New York—not by any unjust advantages, but by giving to it equal facilities with our other cities for coinage and recoinage.

"It is not for New York merely, or for its commerce, that this Mint is desired, but for the benefit of the whole Union. The store-house of the goods and products of the Union must become the store-house of its specie. Where the commerce and goods are, there the representatives of their value must be also, and there, also, should be every facility which a Mint would give for increasing these circulating values, and for bringing them into immediate and active use in any form which might be desired. It is in vain to say that the specie or bullion brought by our commerce to New York, can be sent to a distant point where there is a Mint, with but little delay, risk, or expense. It is clear there must be some risk, delay, and expense operating as a tax on the business of our commercial emporium, and to that extent rendering unequal her contest with European cities for universal commerce. Coinage and recoinage should be immediate, without any risk, expense, or delay; and it might be said, as regards merchandise, with nearly the same truth as is urged in relation to specie, that it would be no injury to the commerce of the Union, if light and costly articles would be sent at but trifling expense, risk, or delay, from New York to some distant city, there be stamped, marked, or labeled, and then returned to New York for sale and distribution in the general markets of our own country or of the world. It seems to be forgotten by those who present such arguments, that in a great commercial capital where business to the amount of millions of dollars is transacted from ten to three o'clock, how important time is when the delay—nay, often of an hour—may be most disastrous, and change the balance of profit to loss. Merchants and men of business should be permitted to exchange their bullion or foreign coin for American, in a few hours or moments, as could be done at a Mint, or receive at once Mint certificates of deposit, which often might be to them of the greatest importance.

"The trade in bullion and specie—in itself one great branch of commerce, indispensable in the transaction of business, and especially of international exchange—already exists to a great extent in New York; but is limited in diffusing its benefits to American commerce and exchanges by the want of a Mint. Now, it is subject to expense, risk, and delay to put it into a form for circulating values, that delay itself being a great loss of capital; whilst the foreign coin, consisting of denominations unknown to the great body of our people, is almost useless for the purpose of general circulation. It is the rapidity of the circulation of coin that gives it its chief value, and accumulates capital by the speedy realization of profits; and the American eagle, or half eagle, and other decimal coinage, might, in a few months, perform more of the functions of money, and pass more rapidly through a greater variety of hands, than if it were in some foreign and unknown coin which would not circulate among the people. Hence it is that a Mint at New York, to give activity to our specie circulating capital by converting it at once into American coin, would be of vast importance to the whole Union. Credit, when based on real capital, is highly beneficial to the commerce of the country. And specie is one of the main pillars upon which credit can repose with assured confidence, and we must have that specie as the basis of such credit at our commercial emporium, if we indeed desire to make it the center of international exchanges.

"The branch Mint would be most important as auxiliary to the operations of the constitutional Treasury; for the present Assistant Treasurer at New York would then become the Treasurer of the branch Mint, and perform both functions precisely as is now done at Philadelphia and New Orleans, saving the expense of an increase of officers, preventing double entries and payments, and simplifying the operations of the Government, and saving to the Government and merchant the risk and cost of the double custody and transfer from the Collector to the Assistant Treasurer."

Mr. HOUSTON, (interrupting.) Has the morning hour expired?

The SPEAKER. It has.

Mr. HOUSTON. I move that the House now proceed to the consideration of business upon the Speaker's table; and in connection with that, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose, if possible, of getting through some of the appropriation bills.

Mr. STUART. Does the Chair hold that the gentleman can make both motions?

The SPEAKER. The Chair so holds.

Mr. STUART. I demand the previous question.

The SPEAKER. The Chair, holding that the previous question is entirely inoperative upon the motion made by the gentleman from Alabama, declines to propound it.

Mr. STUART. If the Chair will allow me to make a suggestion, he will see that it is not inoperative.

The SPEAKER. The Chair begs leave to explain. The motion of the gentleman from Alabama is, that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, which is not debatable, and which, under the rules, the Chair must propound directly; the formality of demanding and ordering the previous question may, therefore, with perfect propriety, under the rules, be dispensed with.

Mr. JENKINS. I rise to a privileged question. The honorable gentleman from Mississippi [Mr. BROWN] on yesterday moved to take the petition of the trustees of the Monticello Academy, in the State of Mississippi, from the Committee on Private Land Claims, and refer the same to the Committee on Public Lands. I give notice of a motion to reconsider the vote upon that motion.

The SPEAKER. The motion will be entered, as it cannot be considered at this time.

Mr. HENN. Is the pending motion to go into the Committee of the Whole, or to the business upon the Speaker's table?

The SPEAKER. The pending motion is to go into the Committee of the Whole on the state of the Union.

Mr. HENN. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

The question was then taken, and it was decided in the negative—yeas 80, nays 100; as follows:

YEAS—Messrs. Willis Allen, Allison, Ashe, Averett, Bennett, Boeock, Albert G. Brown, Busby, Joseph Cable, Cartter, Chastain, Clemens, Cobb, Colcock, Cullom, Curtis, John G. Davis, Dawson, Dean, Dimmick, Dunham, Edmundson, Evans, Faulkner, Floyd, Gamble, Giddings, Gorman, Grow, Hall, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Houston, Howard, John W. Howe, Ives, Jenkins, Andrew Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, Preston King, Kurtz, Letcher, Mason, McCorkle, McLanahan, McMullin, McNair, Meade, Millson, John Moore, Morehead, Murphy, Murray, Olds, Orr, Outlaw, Peaslee, Penn, Phelps, Polk, Robie, Robinson, Ross, Savage, Scurry, Skelton, Smith, Richard H. Stanton, Alexander H. Stephens, St. Martin, Stratton, Sweetser, Venable, Watkins, and Wildrick—80.

NAYS—Messrs. Charles Allen, John Appleton, William Appleton, Babcock, Thomas H. Bayly, Barrere, Bartlett, Bell, Bibighaus, Bowie, Brenton, Briggs, Brooks, George H. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Clingman, Cottman, Darby, Disney, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Ewing, Fay, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Gilmore, Goodenow, Green, Grey, Hammond, Harper, Hart, Haws, Henn, Horsford, Thomas Y. How, Ingersoll, Jackson, James Johnson, John Johnson, George G. King, Kuhns, Landry, Little, Mann, Marshall, Martin, Meacham, Miller, Miner, Molony, Henry D. Moore, Nabers, Newton, Andrew Parker, Samuel W. Parker, Penniman, Porter, Preston, Price, Riddle, Robbins, Russell, Sabine, Sackett, Schermerhorn, Scudder, David L. Seymour, Origen S. Seymour, Stanly, Benjamin Stanton, Strother, Stuart, Sutherland, Taylor, Thurston, Toombs, Townshend, Tuck, Walbridge, Walsh, Ward, Washburn, Welch, Wells, Addison White, Alexander White, Williams, and Woodward—100.

So the House refused to resolve itself into the Committee of the Whole on the state of the Union.

The question then recurred upon the motion to proceed to the business upon the Speaker's table.

Mr. STUART. I renew the demand for the previous question.

The SPEAKER. The Chair reconsiders the hasty decision he made upon that subject a short time since, and entertains the motion, for the reason that by an express rule of the House, the previous question being seconded, cuts off a motion for a call of the House. That being the fact, the demand for the previous question upon either motion is, in the opinion of the Chair, in order.

Mr. HOUSTON. Do I understand the Speaker to decide that the previous question will hold upon a motion to suspend the rules and go into the Committee of the Whole on the state of the Union?

The SPEAKER. It does upon the pending motion that the House proceed to the business upon the Speaker's table.

Mr. HOUSTON. I do not understand the effect of the decision of the Chair.

The SPEAKER. The decision is, that the previous question is in order on the pending motion.

Mr. HOUSTON. Will the Chair allow me to ask a question in connection with this matter? Suppose I rise and move, as I did this morning, with a view to make a motion to pass into the Committee of the Whole on the state of the Union, and some gentleman calls the previous question upon the motion to go to the business upon the Speaker's table, would I be precluded from making the motion after that to go into the Committee of the Whole on the state of the Union? Would the previous question, being called upon the motion now before the House, have any effect upon a subsequent motion to suspend the rules and go into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair will decide that question when it arises.

Mr. CLINGMAN. I was about to make that point of order upon the gentleman.

Mr. HOUSTON. That would be a very strange point of order. It is no point of order.

The SPEAKER. The 50th rule is:

"The previous question shall be in this form: 'Shall the main question be now put?' It shall only be admitted when demanded by a majority of the members present, and its effects shall be to put an end to all debate, and bring the House to a direct vote upon a motion to commit, if such motion shall have been made; and if this motion does not prevail, then upon amendments reported by a committee, if any; then upon pending amendments, and then upon the main question. On a motion for the previous question, and prior to the seconding of the same, a call of the House shall be in order; but after a majority shall have seconded such motion, no call shall be in order prior to a decision of the main question."

Now, as the effect of the main question would be to cut off a motion for a call of the House, the Chair is of opinion, that the motion for the previous question is now in order.

The previous question was then seconded.

The SPEAKER. The next question is: "Shall the main question be now put?"

Mr. VENABLE. Upon that I demand the yeas and nays.

The yeas and nays were not ordered, twenty only voting in favor thereof.

The question was then taken, and the main question ordered to be put: which main question being "Shall the House proceed to the business upon the Speaker's table?" it was put, and decided in the affirmative.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting the annual report of the Secretary of the Treasury on the state of the finances.

Mr. JONES, of Tennessee. I move that that communication be referred to the Committee on Ways and Means, and ordered to be printed.

The question was taken, and the motion was agreed to.

Mr. JONES. I now move that fifteen thousand extra copies be printed for the use of the House. If there be objection, the question to print extra numbers will have to go to the Committee on Printing.

There was no objection, and the motion was agreed to.

The SPEAKER next laid before the House a communication from the Treasury Department, transmitting the accounts for receipts and disbursements for the Post Office Department for the year ending June 30th, 1852; which was, on motion, laid upon the table, and ordered to be printed.

PERCENTAGE FUNDS.

The SPEAKER. The next business in order is an amendment of the Senate to House bill No. 283, entitled "An act to extend the provisions of 'an act approved the 3d of March, 1847, and an 'act approved the 26th of February, 1849, for 'carrying into effect the existing compacts with 'the States of Alabama and Mississippi, in rela-'tion to the five per cent. fund and school reser-'vations."

Mr. HOUSTON. The amendment of the Senate is only the correction of a recital in the bill of the title of a previous act. I move that the House concur in the amendment.

The question was taken, and the amendment was concurred in.

HALF PAY TO WIDOWS AND ORPHANS.

The SPEAKER. The Senate have returned Senate bill No. 477, entitled "An act to continue half pay to certain widows and orphans," with an amendment to the amendment of the House.

Mr. COBB. That is the bill to which I called the attention of the House a few mornings since. The Senate have agreed to the amendment of the House, and have added another to it. I am perfectly willing that it shall now be concurred in if it does not conflict with the object we have in view. That we may understand the matter, I inquire of the Chair whether an amendment would now be in order to the bill?

The SPEAKER. The Senate propose an amendment to the amendment of the House. Their amendment is in the second degree.

Mr. COBB. They agreed to one amendment, and then made an additional amendment.

The SPEAKER. They propose an amendment to one amendment, and that is the last degree in which an amendment can be made; and it is therefore not in order now to amend the bill.

Mr. COBB. The amendment put upon this bill a few days since, when it was under consideration, does not carry out entirely the object intended; and that it may be perfected, I move a non-concurrence in the amendment of the Senate. It is a good amendment, and I shall ultimately vote for it; but I have moved a non-concurrence that a committee of conference may be raised to perfect the bill to the satisfaction of members.

The SPEAKER. The amendment of the House is as follows:

"Add at the end of the bill the following:

"*Provided further*, That the provisions of this act be extended to the widows and orphans of officers and soldiers of the war of 1812 and the Florida war."

The Senate propose to amend it by adding, as a new section, the following:

"*And be it further enacted*, That the widows of all officers, non-commissioned officers, soldiers, musicians, and privates of the revolutionary Army, who were married subsequent to January, 1800, shall be entitled to a pension in the same manner as those who were married before that date."

Mr. STUART. I understand the motion is to non-concur in that amendment of the Senate?

Mr. COBB. That is the motion, and it is submitted only with a view to the raising of a committee of conference, that the bill may be perfected. The amendment, in my opinion, as I have said before, is a good one.

The question was taken, and the amendment was not concurred in.

Mr. COBB. I now move that there be a committee of conference on the bill.

The SPEAKER. That motion is generally, in such a case, made on the part of the other body.

Mr. COBB. Very well, then, I withdraw the motion.

MILITARY ACADEMY BILL.

The SPEAKER. The Senate have sent back House bill No. 332, entitled "An act making appropriations for the support of the Military Academy for the year ending the 30th of June, 1834," with several amendments.

Mr. HOUSTON. I do not think that it is worth while to read the amendments. They are such as need reference, and I move that they be referred to the Committee on Ways and Means.

Mr. JONES, of Tennessee. Let them go to the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Very well, then. I move that they be referred to the Committee of the Whole on the state of the Union.

The question was taken, and they were so referred.

JOINT RULES.

The SPEAKER presented to the House the following joint resolution from the Senate; which was read a first and second time by its title:

Joint resolution providing for an amendment to the 16th joint rule:

Resolved, (the House of Representatives concurring,) That the 16th joint rule of the two Houses be amended by adding the following thereto:

And all general appropriation bills shall be sent at least ten days previous to the day fixed for the adjournment of Congress.

Mr. STEPHENS, of Georgia. I call for the reading of the 16th joint rule.

The Clerk read the rule, as follows:

"16. No bill that shall have passed one House shall be sent for concurrence to the other on either of the last three days of the session."

Mr. STEPHENS. I think, if the amendment of the Senate be adopted, that we will hardly get any of the appropriation bills through this session. It is now the 20th of January, and that all the appropriation bills may be sent to the Senate ten days before the adjournment, which will be the 21st of February, the House will have to sit here every working day in the consideration of that and no other business. I think we had better reject this proposition of the Senate, and adhere to the old rule of three days. I move that the resolution be referred to the Committee on Rules, if there be such a committee.

The SPEAKER. There is no such committee.

Mr. STEPHENS. I then move that it be laid upon the table.

The question was taken, and the motion was agreed to.

Mr. JONES, of Tennessee. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I wish to suggest to the gentleman from Tennessee, if he will let us proceed in the consideration of the business upon the Speaker's table for one hour, that so far as I am concerned, I shall interpose no objection to the House resolving itself into the Committee of the Whole on the state of the Union. My object is to save time.

The question was then taken, and the House refused to resolve itself into the Committee of the Whole on the state of the Union, there being on a division—ayes 43, noes not counted.

CENSUS PRINTING.

Mr. GORMAN. I beg leave to make the report from the Committee on Printing which I was precluded from submitting on yesterday, in consequence of the decision of the Chair on a point of order raised by the gentleman from Michigan, [Mr. STUART.] Its consideration will occupy but a few minutes. It is simply a resolution of in-

quiry for the purpose of getting the subject of the printing of the census before the Committee on Printing. Unless the resolution be adopted very soon, this matter in all probability will not be before us for action this session.

The resolution is as follows:

Resolved, That the Committee on Printing inquire into the expediency of ordering the printing and binding of the Seventh Census of the United States.

1st. Its cost per copy under the price of the public printer.

2d. The matter proper to be published.

And report at the earliest possible day to this House.

Mr. STEPHENS, of Georgia. I move to amend that resolution, by inserting after the first clause the words:

And whether the said printing can be executed at a cheaper rate elsewhere than by the public printer.

Mr. GORMAN. I have no objection to that.

Mr. STANTON, of Kentucky. Is it intended that this resolution shall be referred to the Committee on Printing of this House, or the Joint Committee on Printing of both Houses?

The resolution was again read.

The SPEAKER. The resolution not being a joint one, the Chair supposes that it would go to the Committee on Printing of the House.

Mr. JONES, of Tennessee. I think that, as this is an inquiry as to the propriety of printing the census, and what portion shall be printed, it should go to the Joint Committee on Printing. If it were a proposition to print extra, or any given number of copies for this House, it would go to the Committee on Printing of this House.

The SPEAKER. The Chair would suggest to the gentleman who has reported the resolution, the propriety of designating more clearly his intention as to its committal.

Mr. GORMAN. The Committee on Printing has nothing before it upon which it can act with regard to the printing of the Seventh Census, and unless the resolution I have just reported be adopted, no member of this Congress will get a copy of the census. Unless the House refer something in regard to that printing to us, we can take no action on the subject. The Senate have referred the matter to a select committee. We propose by this resolution, to refer it to the Committee on Printing, to inquire what the cost per copy will be, under the price of the public printer, what it will be elsewhere, and what portion is proper to be printed. As I have already said, we cannot act until the House gives us something to act upon. After the Committee on Printing have, in accordance with the instructions of the resolution, reported to the House the result of their investigation, the matter may be referred to the joint committee, who then will be able to report in five or six days.

Mr. STANTON, of Kentucky. My object is simply to prevent any misunderstanding about the matter. It is not material to me whether the resolution goes to the Committee on Printing of the House or the Joint Committee on Printing. I think it ought to go to the joint committee, and therefore move that the resolution be amended by the insertion before the word "committee," of the word "joint," so that it will read, "the Joint Committee on Printing."

Mr. STUART. I submit to the Chair and the gentleman from Kentucky, that we cannot refer matters to a committee which we cannot compel to report. If the resolution be made a joint one, every purpose will be answered. Then the Joint Committee on Printing can act upon it, but we cannot refer to any committee or any person or body of persons whose report we cannot coerce.

Mr. GORMAN. One moment will satisfy the gentleman that he is mistaken. There is no such committee on the part of the House. There is no committee known to your rules but the Joint Committee on Printing. There are somethings which can be done by the members of the House committee in regard to your own printing, but there is no committee on printing but a joint one.

Mr. STUART. We discussed this question at the last session until every one understood it, and there is no principle better established in parliamentary law than that you cannot coerce a committee over which you have no control to report.

The SPEAKER. We are acting under a law of Congress. By law we have constituted a joint committee of the two Houses. The Chair is of opinion that either House could refer to that committee under the law.

Mr. JONES, of Tennessee. How can we coerce a committee of this House to report?

Mr. STUART. I do not desire to take up time, if that is the opinion of the Speaker. I have no private opinion about it.

Mr. HAVEN. There is no occasion for discussion about this. The twelfth section of the act we passed last year provides that there shall be a joint committee.

The question was taken on the amendment, and it was agreed to.

The question was then taken on the resolution as amended, and it was agreed to.

PUBLIC EXECUTIONS IN THE DISTRICT.

Senate bill No. 369, prohibiting public executions in the District of Columbia, was then read the first and second times.

FRENCH SPOLIATION BILL.

Mr. WALSH. I submit that the bill now in order is bill No. 64, which we were last engaged upon when disposing of the business upon the Speaker's table. It was read the first and second time, and when the House adjourned there was a motion pending, made by the gentleman from Virginia, [Mr. BAYLY,] to refer it to the Committee on Foreign Relations; and there was also a motion pending, by the gentleman from New Hampshire, [Mr. HIBBARD,] to refer it to the Committee of the Whole. I make the point, that that bill is now first in order as unfinished business on the Speaker's table. The Journal will show that that was the state of the case when the bill was before the House.

The SPEAKER. The Chair overrules the point of order raised by the gentleman from Maryland, [Mr. WALSH.]

Mr. WALSH. I take an appeal from that decision.

Mr. DEAN. I move that the House resolve itself into the Committee of the Whole on the state of the Union, and upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and there were—yeas 59, nays 102, as follows:

YEAS—Messrs. Willis Allen, Allison, Ashe, Averett, Beale, Bragg, Busby, Joseph Cable, Caskie, Clemens, Cobb, Colcock, Daniel, John G. Davis, Dawson, Dean, Dimmick, Dunham, Edmundson, Evans, Faulkner, Floyd, Gorman, Grow, Haven, Hendricks, Houston, Howard, Ives, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, Preston King, Mason, McMullin, Meade, Millson, John Moore, Murphy, Murray, Olds, Outlaw, Peaslee, Penn, Robie, Robinson, Scurry, Skelton, Smith, St. Martin, Stratton, Sweetser, Venable, Watkins, Wilcox, Wildrick, Williams, and Woodward—59.

NAYS—Messrs. Charles Allen, John Appleton, William Appleton, Babcock, Thomas H. Bayly, Barrere, Bartlett, Bibighaus, Bowie, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Carter, Chandler, Chapman, Clark, Clingman, Cottman, Cullom, Curtis, Darby, George T. Davis, Disney, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Ewing, Fay, Florence, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Goodenow, Green, Grey, Hammond, Harper, Hart, Haws, Henn, Horsford, John W. Howe, Thomas Y. How, Ingersoll, Jackson, James Johnson, Robert W. Johnson, George G. King, Kuhns, Kurtz, Landry, Little, Mann, Martin, Meacham, Miller, Miner, Molony, Henry D. Moore, Nabers, Newton, Andrew Parker, Samuel W. Parker, Penniman, Porter, Preston, Price, Reed, Riddle, Robbins, Sabine, Sackett, Schermerhorn, Schoolcraft, Scudder, David L. Seymour, Origen S. Seymour, Stanly, Benjamin Stanton, Alexander H. Stephens, Strother, Sutherland, Taylor, Thurston, Townshend, Tuck, Walbridge, Walsh, Ward, Washburn, Welch, Wells, Addison White, and Yates—102.

Mr. HALL, pending the call of the yeas and nays, said: I had agreed to pair off with Mr. McDONALD, of Maine, until the 15th instant, upon the French spoliation bill. I have since been given to understand by the friends of Mr. McDONALD that such was not the understanding of that gentleman, but that he understood I was to pair off with him on all questions that could possibly have any bearing upon that bill. Although I am exceedingly anxious to vote against the French spoliation bill in every shape, yet, for these reasons, I shall decline to vote upon this question.

So the House refused to go into the Committee of the Whole on the state of the Union.

The SPEAKER. The question now pending is upon the appeal taken from the decision of the Chair by the gentleman from Maryland, [Mr. WALSH,] in regard to the proper disposition of the business upon the Speaker's table.

Mr. VENABLE. I move to lay the appeal upon the table.

Mr. SKELTON. What is the decision of the Chair?

The SPEAKER. The decision of the Chair is, that bill No. 64—the French spoliation bill—is not in order at this time.

Mr. WILLIAMS. I wish to vote understandingly. What are the reasons which the Chair gives for his decision?

The SPEAKER. It will be remembered by the House that this bill was reported from the Senate, and taken from the Speaker's table regularly as one of the bills reported from the Senate at the last session; that it had its first and second reading; that a motion was made to recommit it; and without disposing of it, the House adjourned. The question was raised upon the floor, and the Speaker was spoken to by several gentlemen in reference to the order in which that bill lay upon the table, and the decision of the Chair in regard to it—which was acquiesced in by the friends of the bill at that time—was, that it took its place upon the Speaker's table, and was the first in order in its class, as prescribed by the 27th rule, which the Chair will read:

"After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day, which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz:—

"1st. Messages and other Executive communications."

That we did to-day.

"2d. Messages from the Senate, and amendments proposed by the Senate to bills of the House."

That we have been engaged in to-day.

"3d. Bills and resolutions from the Senate on their first and second reading," &c.

That we were proceeding to do when the proceedings were interrupted by the question of order; and that is what the Chair now holds to be in order.

"4th. Engrossed bills and bills from the Senate on their third reading.

"5th. Bills of the House and from the Senate, on the Speaker's table, on their engrossment."

Which is the condition of this bill No. 64, and is first in order when we reach that class of business. The Chair will further state, that he humbly conceives there is not a case in the history of legislation where the practice has been otherwise; and if the principle or rule is set aside, the Chair does not know what will govern him in the discharge of his duty as the Presiding Officer of this body. The Chair holds that it is the first business in its class, and cannot be taken out of it until you set aside the rules, which you can only do by a vote of two thirds.

Mr. WALSH. Mr. Speaker——

Mr. JONES, of Tennessee. This appeal is not debatable.

The SPEAKER. It is not debatable, but the Chair trusts that the gentleman from Maryland [Mr. WALSH] will be indulged in stating his reasons.

Mr. WALSH. I will state my reasons with hesitancy, being a new member, but I do it because I am clear in my convictions that the House, by its action, has placed this bill in the third class.

"Bills and resolutions from the Senate on their first and second reading, that they be referred to committees and put under way; but if, on being read a second time, no motion be made to commit, they are to be ordered to their third reading unless objection be made: in which case, if not otherwise ordered by a majority of the House, they are to be laid on the table in the general file of bills on the Speaker's table, to be taken up in their turn."

So far as my observation extends, the uniform course of the House has been to require a motion to commit, in order to keep bills alive and before the House, and not mingled in a mass upon the Speaker's table. I contend that, there being a motion to commit this bill to the Committee of the Whole, and also a motion to commit it to the Committee on Foreign Affairs, it has maintained its position in that third class, and thus becomes subject to the operation of the 58th rule; which reads as follows:

"The unfinished business in which the House was engaged at the last preceding adjournment shall have the preference in the orders of the day; and no motion or any other business shall be received without special leave of the House, until the former is disposed of."

The SPEAKER. The Chair will make a single suggestion at this point. Would the gentleman assume that this bill was a part of the orders of the day as understood by our laws?

Mr. WALSH. I think so. The House were

engaged at this the last thing preceding an adjournment——

The SPEAKER. Then everything is the order of the day.

Mr. WALSH. It is to be regarded as unfinished business. The reason we did not go back to the Speaker's table afterwards was, that through the whole session motions were made constantly to go into the Committee of the Whole on the state of the Union, which the Speaker always decided to be privileged questions. When we go back to the Speaker's table, this bill comes up as unfinished business within the rule, and within its spirit. The motion was made to commit, and the understanding was, with all respect to the Chair——

The SPEAKER. Will the gentleman allow the Chair a single suggestion here. If the gentleman is right in supposing that it is in the orders of the day, then he puts it behind every particle of business upon the Speaker's table, according to an express rule.

Mr. WALSH. "The unfinished business shall have preference of orders of the day."

The SPEAKER. If the gentleman will allow him, the Chair will point him to the rule. After you have disposed of the fifth and last class, "and the messages, communications, and bills on his table having been disposed of, the Speaker shall then proceed to call the orders of the day." This is the only process, except suspending the rules, by which you can reach the orders.

Mr. WALSH. I would say, in conclusion, that the rule which I have read brings the bill before the House, because, if there be no motion to commit, it does not take its position among the general bills on the Speaker's table, but it keeps its place before the House.

Mr. HOUSTON. I object to any further debate.

The SPEAKER. The gentleman from Maryland is called to order. Debate is not in order. The question pending is the motion to lay the appeal taken by the gentleman from Maryland [Mr. WALSH] upon the table.

Mr. —— moved to lay the appeal on the table.

Mr. DUNCAN demanded the yeas and nays upon the motion to lay the appeal upon the table.

Mr. STUART. If the appeal should not be laid upon the table, it would compel us to take the other vote. If there be no objection, I think that we had better vote directly upon the appeal.

The SPEAKER. It can be done only by unanimous consent.

Mr. POLK. I object.

The question was then taken; and there were—yeas 91, nays 80; as follows:

YEAS—Messrs. Willis Allen, Allison, Averett, Beale, Bragg, Albert G. Brown, Busby, Caldwell, Cartter, Caskie, Clark, Clingman, Cobb, Colcock, Conger, Cullom, Curtis, Daniel, John G. Davis, Dawson, Dean, Dimmick, Dunham, Durkee, Eastman, Edmundson, Evans, Ewing, Faulkner, Floyd, Gamble, Gorman, Grow, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Henn, Hibbard, Houston, Howard, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, Preston King, Kurtz, Lockhart, Mason, McCorkle, McMullin, Meade, Millson, Molony, John Moore, Morehead, Murphy, Murray, Nabers, Olds, Orr, Outlaw, Andrew Parker, Peaslee, Penniman, Polk, Preston, Robbins, Robie, Robinson, Scurry, David L. Seymour, Skelton, Smith, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stone, St. Martin, Stratton, Stuart, Sweetser, Venable, Watkins, Wilcox, Wildrick, Williams, and Woodward—91.

NAYS—Messrs. Aiken, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bartlett, Bell, Bennett, Bowie, Brenton, Briggs, George H. Brown, Burrows, Lewis D. Campbell, Chandler, Chapman, Cottman, Darby, George T. Davis, Disney, Dockery, Doty, Duncan, Edgerton, Fay, Florence, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Goodenow, Green, Grey, Hammond, Harper, Hart, Haws, Horsford, John W. Howe, Thomas Y. How, Ingersoll, Robert W. Johnson, George G. King, Kuhns, Landry, Little, Mann, Martin, Meacham, Miller, Miner, Henry D. Moore, Newton, Samuel W. Parker, Price, Reed, Riddle, Sabine, Sackett, Schermerhorn, Schoolcraft, Scudder, Origen S. Seymour, Smart, Stanly, Benjamin Stanton, Sutherland, Taylor, Thurston, Toombs, Townshend, Tuck, Walbridge, Walsh, Ward, Washburn, Welch, Wells, Addison White, and Yates—80.

So the appeal was laid upon the table.

Pending the call of the roll,

Mr. CLEMENS stated that he had paired off with Mr. STROTHER.

Mr. STUART. Agreeably to what I stated to the gentleman from Tennessee, [Mr. JONES,] I move that the House resolve itself into the Committee of the Whole on the state of the Union.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, notifying the House that the Senate had insisted upon their amendment to the amendment of the House to the bill providing half-pay pensions to the widows and orphans of deceased officers and soldiers, and requesting a conference with the House upon said disagreeing votes.

On motion by Mr. COBB, it was

Ordered, That the House agree to the conference asked for by the Senate on the said bill.

[And Mr. COBB, of Alabama, Mr. ISHAM G. HARRIS, of Tennessee, and Mr. PORTER, of Missouri, were appointed the said committee on the part of the House.]

The question was then taken on the motion of Mr. STUART, and it was decided in the negative.

So the House refused to go into the Committee of the Whole on the state of the Union.

PUBLIC EXECUTIONS.

Senate bill No. 369, entitled "An act to prohibit public executions in the District of Columbia," was then read the first and second time.

Mr. STEPHENS, of Georgia. That bill was prepared for a special case, which has passed. I move that the bill be laid upon the table.

Mr. JONES, of Tennessee. I hope the gentleman will not make that motion. It provides for future executions.

Mr. STEPHENS. I am opposed to that.

Mr. JONES. If the gentleman will consent, I wish to refer it to the Committee on the Judiciary, with instructions so to amend it as to abolish capital punishment altogether within the District.

Mr. STEPHENS. I am more strongly opposed to it than ever. I move to lay it upon the table, and upon that motion I demand tellers.

Tellers were ordered; and Messrs. HENDRICKS and WILCOX appointed.

The question was then taken, and the tellers reported that there were—ayes 45, noes 89.

So the House refused to lay the bill upon the table.

[A message was here received from the President of the United States, by M. P. FILLMORE, his Private Secretary, that he had approved and signed bills of the following titles, viz:

H. R. No. 329. An act making an appropriation for the payment of Navy pensions for the year ending the 30th of June, 1854.

H. R. No. 243. An act to surrender to the State of Ohio the unfinished portion of the Cumberland road in said State.

H. R. No. 198. An act for the relief of the heirs or legal representatives of Joseph Arnow, deceased.

H. R. No. 330. An act making appropriations for the payment of invalid and other pensions of the United States, for the year ending the 30th June, 1854.]

Mr. JONES, of Tennessee. I now move to refer the bill to the Committee on the Judiciary, with instructions to so amend it as to abolish capital punishment within the District of Columbia. I have no disposition to detain the House upon this subject. I will, before I take my seat, move the previous question. The question as to the reference and instructions can be divided after the previous question may have been sustained; and if the bill be not referred, I will vote to pass it as it is. I ask the previous question.

Mr. HENDRICKS. I will ask the gentleman to withdraw the previous question until I can offer an amendment to his instructions, so as to give to the jurors discretion over the matter.

Mr. STANLY. If the previous question is sustained, and the motion of the gentleman from Tennessee is voted down, will the question then be upon the passage of the bill?

The SPEAKER. It will then be for the House to determine what disposition they will make of the bill.

Mr. STANLY. Then what will be the effect of the previous question?

The SPEAKER. It will bring the House to vote directly, first, on the reference with the instructions, and then upon ordering the bill to a third reading.

The question being upon seconding the demand for the previous question,

Mr. STUART demanded tellers; which were ordered; and Messrs. BAYLY, of Virginia, and McNAIR were appointed.

The question was then put, and the tellers reported 86 in the affirmative.

So the previous question received a second.

The main question was ordered to be now put.

The question recurred upon the motion of Mr. JONES, of Tennessee, to refer the bill to the Committee on the Judiciary, with instructions so to modify it as to abolish capital punishment in the District of Columbia.

Mr. McLANAHAN. I ask for a division of the question.

The SPEAKER. The Chair decides that the question is not divisible.

Mr. McLANAHAN. Will the Speaker inform me why the question is not divisible?

The SPEAKER. Because, if one proposition is negatived, the other has no ground to stand upon at all; and our rules prohibit such a division as that.

Mr. STEPHENS, of Georgia. The instructions might be rejected, and then the reference agreed to.

The SPEAKER. The impression of the Chair is, that the vote would have first to be taken upon committing. If the House should negative that vote, the other proposition would fall.

Mr. STEPHENS. But the vote could be taken first on the instructions, and then on the reference.

The SPEAKER. That would be reversing the order. The practice of the House has been to take such a motion as an entirety.

Mr. McLANAHAN. Is it in order to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. McLANAHAN. Then I submit that motion.

Mr. SMART. That is right.

The question was taken on Mr. McLANAHAN's motion; and on a division there were—ayes 63, noes 80.

So the House refused to lay the bill upon the table.

The question recurred upon Mr. JONES's motion.

Mr. SMART. On that motion I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then put, and it was decided in the negative.

So Mr. JONES's motion was not agreed to.

The bill was then ordered to a third reading, and was subsequently read a third time.

Mr. EVANS. I move the previous question on the passage of the bill.

Mr. KING, of New York. I ask that the bill may be read before we are called upon to vote upon its passage.

The SPEAKER. It has been read once, but unless it be objected to, it will be read again.

Mr. STEPHENS, of Georgia. I object.

Mr. JONES, of Tennessee. The gentleman has a right to have it read, whether there be objection or not. It has not been read at this stage.

The SPEAKER. The bill will be read.

The bill was then read.

The previous question received a second, and the main question was ordered to be now put.

The question then was: "Shall the bill pass?"

Mr. CABLE. I ask for the yeas and nays upon the passage of the bill.

The yeas and nays were not ordered.

Mr. STEPHENS. I ask for tellers.

Tellers were ordered; and Messrs. VENABLE and MASON were appointed.

The question was put, and the tellers reported—ayes 99, noes 31.

So the bill passed.

Mr. STANLY. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

Mr. McMULLIN. I move that the House do now adjourn.

The SPEAKER. The Chair understands that there is upon the table a single message from the President of the United States, which it is important to submit to the House.

Mr. McMULLIN. Very well, sir; I withdraw my motion for that purpose.

THE GEORGIANA AND SUSAN LOUD.

The SPEAKER then laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to the resolution of the House of Representatives of the 27th ultimo, requesting information relative to the claims on Spain, in the case of the bark Georgiana and the brig Susan Loud, I transmit a report from the Secretary of State, to whom the resolution was referred.

MILLARD FILLMORE.

Mr. HOUSTON. I move that the communication be laid upon the table and printed.

Mr. POLK. I move that it be referred to the Committee on Foreign Affairs, in order that all these communications relating to the subject of our relations with Spain may be before that committee.

Mr. HOUSTON. Very well, sir; I withdraw my motion.

The SPEAKER. Does the motion of the gentleman from Tennessee include the printing of the document?

Several MEMBERS. "Yes!" "yes!"

The question was then taken on Mr. POLK's motion, and it was agreed to.

Mr. McMULLIN. I now move that the House adjourn.

MILITARY ACADEMY BILL.

Mr. HOUSTON. I appeal to the gentleman to withdraw that motion for a moment. The Senate have made three amendments to the Military Academy bill. They are amendments which are familiar to us all—the riding hall is one. I should like the House to disagree to the amendments, and appoint a committee of conference.

Mr. McMULLIN. That will take too much time. I adhere to my motion to adjourn.

DIPLOMATIC CORRESPONDENCE.

Mr. POLK. Will the gentleman allow me one moment? My purpose is to prevent the printing of the communication from the President which has just been presented, until it has been examined by the Committee on Foreign Affairs. The relations existing between the Government of Spain and this Government are of such a character that I do not think anything should be made public until it has been fully examined. I therefore move to reconsider the vote by which the House ordered the communication to be printed.

The SPEAKER. That motion will be entered, but it cannot further interfere with the motion to adjourn.

Mr. McMULLIN. I withdraw the motion to adjourn, for the purpose of enabling the motion to reconsider to be now disposed of.

The SPEAKER. Then the motion to reconsider is before the House.

Mr. STANLY. I hope the House will not reconsider that vote. The Administration have been censured about this particular case, and I appeal to the sense of justice of the gentleman from Tennessee [Mr. POLK] to give them a fair hearing.

Mr. POLK. I will say to the gentleman from North Carolina, that it is not my purpose to do the President any injustice; but I make the motion from a sense of propriety, because all communications of this sort should be examined by a standing committee of this House before they are made public. I would be the last man to do the President of the United States any injustice, but we do not know what that communication contains.

Mr. STANLY. I know the gentleman does not design to do the Administration any injustice, but that will undoubtedly be the effect of his motion. The Administration have been sharply assailed from one quarter about this very affair. It surely can be no great matter of public concern as to the negotiations in these particular cases between the authorities of Spain and the United States. I again appeal to the gentleman and to the House, as an act of justice to the Administration, to allow the papers to be printed and go before the country. I have no objection to their reference to the Committee on Foreign Affairs, except that at this late period of the session, under the rules of the House, they never will be reached. The gentleman, therefore, will be unintentionally doing injustice to the Administration. Let the papers go before the country, and let the Administration have a fair hearing in a matter about which they have been assailed.

Mr. POLK. Does the gentleman remember the publication of the correspondence with regard to Cuba, which was made public without any examination? If the Committee on Foreign Affairs had had the examination of that matter, the correspondence would probably not have been published. I believe that it is the general custom of the House to refer such communications to a committee for examination before publication. It cannot do any injustice to the President.

Mr. STANLY. I never knew such a motion to be made here during my public service—not a very short one—and I hope the House will not agree to it. It would be doing injustice to the Administration, although the gentleman from Tennessee does not submit it with that view.

Mr. JONES, of Tennessee. I appeal to my colleague to withdraw his motion to reconsider the vote ordering the message to be printed. Whatever error there may have been in printing the communication with respect to Cuba, which was sent here last session, it was in the fact that it was sent here at all. If the papers had been referred to the Committee on Foreign Affairs, and that committee had reported them back with a recommendation that they be not printed, does anybody suppose that those communications could have been kept secret? If they had gone to that committee, or been in this House, they would have been printed somehow or other, as a matter of course. I hope my colleague will withdraw his motion to reconsider.

Mr. STANLY. The other day, a communication was sent to the Senate, and one of the papers got hold of it and published it the next morning. Any member of the House may take this communication under the seal of secrecy, and some agent will get hold of it and publish the contents. Let the Administration bear the blame, if it is published improperly. I again appeal to the magnanimity of the gentleman from Tennessee to allow the communication to be printed.

Mr. POLK. I concur in the suggestion of my colleague, that if there was any error in the publication of the communication last session, with regard to Cuba, the fault rests with the President. But what effect can that have, when a national injustice is done? What good will it do us to attribute the error to a high officer after the national character has suffered by it? All the injury that can be done will have been accomplished by the publication. It is my purpose to avoid that. But if the gentleman from North Carolina insists upon it, and my colleague desires it, I will perhaps withdraw my motion. I will first, however, yield the floor to the gentleman from Virginia, [Mr. BAYLY,] who desires to say a few words.

Mr. BAYLY. I am glad that the gentleman from Tennessee is willing to withdraw his motion to reconsider—for I understand him as expressing his willingness to do so. I agree entirely with his colleague, [Mr. JONES.] So far as the correspondence with respect to Cuba is concerned, the error committed, if error there was—and I certainly think there most palpably was—was that the President, who had discretion left to him to communicate such information, in response to the call of my colleague, [Mr. FAULKNER,] as might not be incompatible with the public interests, communicated papers which, in my humble opinion, ought never to have been made public. But after he had communicated the papers to this House, it was utterly impossible that they should not go to the public. For instance, take this very communication, if it were ever ordered to be published by this House, I am not aware of it. I think not. It came here in response to a resolution presented by one of my colleagues; and although I kept a pretty good look-out as to the business upon the Speaker's table, yet I never was aware that the call had been answered until I saw it published in some newspaper—I think the National Intelligencer. When it was sent here it was left upon the Speaker's table, and in some way became public.

Now, it occurs to me, that as a practical question, it is worse than idle to attempt to prevent these communications from going before the public. They will go; and I am not entirely satisfied that when the President sends a communication here, it ought not to go there. The Constitution of the United States has authorized him to communicate to Congress, and when Congress calls upon him to exercise his discretion in sending the information for which they ask, I do not think we have a right to withhold it from the public. The confidential part of our affairs belong to the President and the Senate; and when they, after being consulted, choose to make any matter public, I do not see that, as a question of constitutional law, and still less as a practical question, how we can prevent its publication.

Mr. POLK. Before taking any definite action upon this motion, I will suggest to the gentleman from Virginia [Mr. BAYLY] one instance in the history of our country where much difficulty resulted from the publication of a communication from the President of the United States. In the case of the French indemnity, the President was called upon for the diplomatic correspondence and other papers connected with it. He communicated them to Congress, and they were published. Objection was made to the publication of a portion of it, (Mr. Rives's correspondence,) and that gave rise to all the difficulty which occurred, during General Jackson's administration, with the French nation. That is one instance; and how do we know what the publication of this communication may lead to? Ought we not to examine it, and see whether it is proper to make it public, before we give it to other nations in an official form. It is true, that if we refuse to publish it, it may appear in the newspapers; that the letter-writers may get hold of it; but I am opposed to giving it publicity in an official form to other nations, until we know what it is.

But the gentleman says it cannot be kept private. How is that? If I understand it rightly, everything which is communicated here, and lies upon the Speaker's table, is private. If it goes to the Committee on Foreign Affairs, it is surely private there. Nothing is published except what they recommend and the House determines to publish. It is to avoid difficulties of this character that I submit the motion to reconsider, and thus to preclude the publication of the communication until it shall have been examined. If the House vote down the motion, I must submit. I have no personal feeling in the matter—no disposition to censure the President where he is not clearly censurable. My only object is to adopt a proper caution in all these matters.

The President, in the publication of the correspondence of the last Administration, relating to the purchase of Cuba, was guilty of a gross indiscretion; and I am unwilling to trust implicity in his judgment. The unsettled state of our relations with Spain require caution, watchfulness, and scrutiny; and I cannot say that the conduct of the President, heretofore, in matters connected with our diplomatic relations with Spain, meets my approbation. Indeed, I think he has impaired the dignity of our Republic in the estimation of the civilized world, by violating the pledged confidence of the Government, and by submitting to shameful indignities. But for this I would not object to the printing.

Mr. HOUSTON. I ask the previous question on the motion to reconsider.

Mr. STANLY. Has not the motion to reconsider been withdrawn?

Mr. POLK. I will not withdraw the motion. I propose to let the House act upon it.

Mr. McMULLIN. I move that the House do now adjourn.

The question was put, and the motion agreed to.

And the House adjourned till to-morrow at twelve o'clock, m.

NOTICE OF A BILL.

Mr. HENN gave notice that he would ask leave to-morrow, or at some future day, to introduce "a bill to grant a 'certain quantity of public land to the State of Iowa, in 'alternate sections, for the purpose of aiding said State in 'the construction of a railroad from the cities of Burlington 'and Keokuck to the Missouri river, in said State."

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. KUHNS: The petition of A. J. Carney, a soldier of the Mexican war, praying for relief.

Also, the petition of Margaret Aller, widow of Peter Aller, a soldier of the Revolution, praying for relief.

By Mr. PEASLEE: Memorial of John Langdon, praying for compensation for services and advances made in the late war with Great Britain.

By Mr. PHELPS: The petition of R. Phillips and 35 others, citizens of Laclede county, Missouri, residing in township No. 33, of range No. 17, stating that the sixteenth section of that township is unfit for cultivation, and praying to be permitted to select other lands in lieu thereof.

By Mr. McNAIR: The petition of David Blyler and 62 others, citizens of Montgomery county, in the State of Pennsylvania, asking for a mail route from Springhouse Tavern, to Sumneytown, in said county.

By Mr. FULLER, of Maine: The memorial of H. Alden and James Eddy, asking of Congress a grant of land

for constructing a telegraphic line between the Pacific and Atlantic States.

By Mr. MINER: The memorial of the members of the bar of the District of Columbia, praying increased compensation to the judge of the Orphans' Court for said District.

By Mr. BURROWS: A memorial of citizens of the State of New York, asking for the passage of a law making an appropriation of Government lands, for the purpose of aiding in the construction of a channel, suitable to ship navigation, between the Lakes Ontario and Erie.

By Mr. HENN: The joint resolution of the Legislative Assembly of the State of Iowa, asking a grant of land to aid in the construction of a railroad from Burlington and Keokuck, to the Missouri river.

IN SENATE.

FRIDAY, *January* 21, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The credentials of the Hon. BENJAMIN FITZPATRICK, appointed by the Governor of Alabama a Senator from that State, to fill the vacancy occasioned by the resignation of the Hon. WILLIAM R. KING, were presented yesterday in Executive session, by Mr. ADAMS, and he took his seat.

PETITIONS, ETC.

Mr. SEWARD presented the petition of William C. Simpson and others, praying that the public lands may be transferred to the States for the purpose of being granted, in limited quantities, to actual settlers not possessed of other land; which was ordered to lie on the table.

Mr. SMITH presented additional documents in support of the claim of Dr. Charles T. Jackson, of Boston, to the discovery of the use of anæsthetic agents in surgical operations; which were referred to the Select Committee appointed on the subject of anæsthetic agents.

Mr. JONES, of Iowa, presented a memorial of the Common Council of the city of Dubuque, Iowa, praying that the title of the United States in the streets, alleys, public squares, wharves and burying-grounds of Dubuque, may be surrendered to that city; which was referred to the Committee on Public Lands.

Mr. DAVIS submitted additional documents in support of the claim of Dr. Morton to be the discoverer of the use of anæsthetic agents in surgical operations; which were referred to the Select Committee on the subject of anæsthetic agents.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. SEWARD, it was

Ordered, That the petition of James D. Cobb, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. HAMLIN, it was

Ordered, That Eliot F. Penny have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. BADGER, from the Committee on the Judiciary, to which was referred the bill concerning bail in civil causes in the District of Columbia, reported it without amendment.

He also, from the same committee, to which was referred the bill from the House of Representatives, "to prevent frauds upon the Treasury of the United States," reported it with amendments.

Mr. BORLAND, from the Committee on Printing, to which was referred the motion of Mr. BUTLER, to print ten thousand additional copies of the report of the Committee on the Judiciary, in relation to the expediency of abolishing the office of chaplain in the public service, reported in favor of printing the same; and the report was concurred in.

Mr. SHIELDS, from the Committee on the District of Columbia, to which the subject was referred, reported "a joint resolution for the location 'and construction of a bridge on a new site across 'the Potomac river, in the District of Columbia, 'in accordance with the intentions of the late Pres-'ident Andrew Jackson;" which was read and passed to the second reading.

It proposes to authorize the President of the United States to employ a number of competent engineers for the purpose of selecting a site and preparing a plan for a new bridge across the Potomac, with a view of establishing an uninterrupted communication between the North and South by the most practicable, feasible, and convenient route; and that when the plan of the bridge shall have been adopted by the President, the Secretary of the Interior shall advertise for proposals, and shall contract with the lowest responsible bidder or bidders who shall give satisfactory security for the faithful performance of the work, and proposes to appropriate $200,000 for that object.

NEW MAIL ROUTES.

Mr. JONES, of Iowa, submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of providing by law for the establishment of a mail route from Sabula, by Sterling, to Maquoketa, in the State of Iowa. Also, from Dubuque, Iowa, *via* Benton and Shullsburg, to Janesville, Wisconsin.

CALIFORNIA INDIAN AGENTS.

Mr. WELLER. I ask leave to submit the following resolution:

Resolved, That the Secretary of the Interior be directed to submit to the Senate copies of all letters and correspondence between the Department and the Indian agents and commissioners in the State of California which have not already been published.

If there be no objection, I ask for the consideration of the resolution at this time. My object is to get that portion of the correspondence which has not already been published; and it is but justice to the Indian agents that it should be published.

The resolution was considered by unanimous consent, and agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the bill from the Senate "to prohibit public executions in the District of Columbia."

Also, that it had agreed to the amendment of the Senate to the bill "to extend the provisions 'of an act approved the 3d of March, 1847, and the 'act approved the 26th of February, 1849, for car-'rying into effect the existing compacts with the 'States of Alabama and Mississippi, in relation to 'the five per cent. fund and school reservations."

Also, that it had agreed to the conference asked by the Senate on the disagreeing votes of the two Houses, on the bill to continue half pay to certain widows and orphans; and have appointed Mr. COBB, of Alabama, Mr. HARRIS, of Tennessee, and Mr. PORTER, of Missouri, a committee of conference on their part.

The conferees on the part of the Senate are Mr. HAMLIN, Mr. JONES of Iowa, and Mr. BORLAND.

EXTENSION OF PRE-EMPTION RIGHTS.

Mr. DOWNS, by unanimous consent, asked and obtained leave to introduce a bill to extend preëmption rights to unsurveyed lands, and for other purposes; which was read a first and second time by its title, and referred to the Committee on Public Lands.

WILLIAM HAZZARD WIGG.

On motion by Mr. BUTLER, the Senate, as in Committee of the Whole, resumed the consideration of the bill "authorizing the adjustment and payment of the claims of William Hazzard Wigg, deceased, for losses sustained by him during the war of the Revolution."

Mr. DE SAUSSURE. I move to amend the second section of the bill by striking out the words "$30,117 with legal interest from the 14th day of November, 1782," and to insert in their place the words "$37,197, with legal interest from the 4th of March, 1851." The amendment, it will be perceived, proposes to change both the amount allowed by the bill and the interest. It proposes to raise the principal sum from $30,117 to $37,197. It also proposes to reduce the amount of interest by allowing none except since the 4th of March, 1851.

When the bill was before the Senate heretofore, it seemed to receive the approbation of the members of the body generally; but a question arose as to the interest, and it was supposed that it was inconsistent with the rules adopted by the Senate to allow interest from 1782. Upon reconsideration, it is proposed to amend the allowance upon the subject of interest so as to allow interest from the commencement of the present Congress, during which this application has been made, from March 4th, 1851, instead of November 14th, 1782, which I suppose will remove the objections which were urged against the bill last week.

The amount of $30,117, mentioned in the original draft of the bill, was the lowest possible valuation that could be put upon the property; and it will be found, by referring to the report of the committee, that they say "the value of it is assessed at the lowest rates." The committee assessed the property at the lowest rates, because they proposed to allow interest from that remote period. I propose to substitute in place of that very low allowance made by the committee of the Senate the allowance which has been proposed by the committee of the House, namely, $37,197. I believe justice will hardly be done to the party by this allowance; but nevertheless, as the Senate seemed to be startled by the amount of interest which would accumulate on this claim from 1782, the friends of the bill, rather than jeopardize its passage, agreed to adopt the proposition to allow interest only from the commencement of the present Congress.

Gentlemen may object, and they did object to the allowance of interest, because the claim was not presented earlier; but if they will look into the report, they will find that there were good reasons why it was not presented at an earlier period. For example, the death of Major Wigg immediately after the revolutionary war; the fact that his son was then in college; that the evidence which is furnished of the claim at that time was placed in the hands of Mr. Hutson; that either while the son was at college, or soon after his return home, Mr. Hutson died; and thus the evidence of the extent of the claim was out of sight until a very recent period, when it was discovered by the grandson of the party in whose hands the evidence lay. I think this will redeem the party from the charge of laying by and failing to present his claim at the proper time. But that question will not now be raised, and I hope that by the extreme moderation of the present application, all opposition to this bill will be disarmed.

Mr. HALE. I think the honorable Senator from South Carolina, in his amendment, has introduced a new principle. His proposition is to strike out the whole of the allowance of interest from 1782, and to insert a provision allowing it from the commencement of the present Congress. If we give it in this case, we must give it to every claimant who has made an application for a claim during this Congress which we think to be just. I have, however, no particular objection to the amendment; but after it is voted upon, I shall state what I have to say upon the merits of the bill, and I shall be brief. As the amendment consists of two branches, I ask for a division of it.

The PRESIDENT. Then the question will be on the first branch of the amendment, to strike out $30,117, and insert $37,197.

The amendment was agreed to.

The question was then taken on the next branch of the amendment, to strike out the words "from the 14th day of November, 1782," and insert "from the 4th day of March, 1851;" and it was agreed to.

Mr. HALE. As this bill was last Friday postponed, at my suggestion, and I promised at the time to look into it a little, and give some gentlemen the result of my investigation, I wish to say a few words. If the report in this case is to be relied upon as history, I have been unfortunate in the investigations which I have made. It is alleged in the report that the excited state of feeling from which these prisoners suffered, arose among the British on account of the execution of Major Andrē. If I am right in my dates, Major Andrē was executed on the second of October, 1780, and Charleston was surrendered on the 12th of May previous.

Mr. BUTLER. But that has nothing to do with the question.

Mr. HALE. Well, these are the facts as I find them, though I may be mistaken. Then, whatever feeling there could have been in relation to the detention of Major Wigg, if these facts are true—and I have them from the Librarian, to whom I sent for the dates some time ago—I do not very well see how the statement in the report can be true. The Librarian gave me the dates thus: Charleston was surrendered on the 12th of May, 1780, and Andrē was executed on the 2d of October following—some five months afterwards.

The report further states that the facts of the case are sustained by the history of Gordon and Ramsay. If that be so, I have been unfortunate in my researches. Both Gordon and Ramsay give the history of the siege and surrender of Charleston; but they are entirely silent, so far as I have

been able to discover—and in my researches I have been assisted by the Librarian of Congress—about this case. The Senator who makes the report can correct me if I am wrong; but I looked into both these authorities, and I did not find any statement of this case in either. The general history of the siege, defense, and surrender of Charleston is given in every history of the time, but there is no more in the history about this case than any other of the five thousand—for I think over five thousand were surrendered at Charleston. No more is said about Major Wigg than about any of the rest of them. So that I think the report is mistaken in these facts; or if it be not mistaken, I have been very unfortunate in my examinations of history.

The report, however, in one part of it, states, I think, the true ground on which Major Wigg was subjected to this severity. It is this:

"The general feeling of asperity at this time perhaps raged higher in South Carolina than in any other State of the Confederacy. During the time the State seemed to be subdued, the Tories, availing themselves of the advantages of their temporary ascendency, perpetrated most signal barbarities."

That no doubt is true.

"Excited by these barbarities to more strenuous exertions, and encouraged by the advance of assistance from Congress, the Patriots of South Carolina renewed the struggle, and regained the greater part of the State which had been lost. When their power was restored, they inflicted the severest penalties on the Tories in return for the injuries they had sustained."

It was "in this state of things," the report says, that "the British commander at Charleston selected from among the prisoners of war at large upon parole," a certain number of them, who from being prisoners on parole, he converted into close prisoners. The whole number surrendered was five thousand, and he selected a certain number of them, and made them close prisoners.

The facts, as stated in the report, show that the Tories inflicted great severities on the Americans. When the Americans regained the ascendency, they retaliated on the Tories; and under the exasperated state of feeling thus created, the British commander seized a portion of the prisoners surrendered at Charleston on parole, and made them close prisoners. Of this number, Major Wigg, it seems, was one. While they were thus prisoners, Colonel Hayne was executed, and Major Wigg, being present, expressed in terms of strong remonstrance the indignation which every American would naturally feel at such an outrage. That is what the report says. The British, to revenge themselves on him for this outburst of patriotic indignation at the barbarous murder of Colonel Hayne, sent their forces and committed this outrage on his property. I have no doubt that these are the facts; but these show that the destruction had nothing in the world to do with the execution of Major Andrē, for that did not transpire till afterwards.

These losses were not suffered in consequence of any hostageship on the part of Major Wigg. If he was a hostage in fact or by construction, it was but an act of revenge for the expression of his indignation at the barbarous outrage which had been committed on an American officer. But was he a hostage? Was he a hostage in any sense, expressed or implied? A hostage, as defined by Grotius, and as stated in the report, is one that freely gives himself, or is given up by the supreme power of the State to the enemy, to answer for the conduct of his own Government. It is not pretended that Major Wigg was either of these. He neither gave himself up, nor was he given up by the supreme power. What was the case? The British commander did on that occasion as the British did on other occasions. He said, "We will measure the treatment of our prisoners by the conduct which you exhibit to yours;" that is, we have got these prisoners; we hold them; and if you exercise any barbarities upon the British whom you have taken prisoners, we will retaliate upon these; and in that sense, perhaps, it might be said he forced them to be hostages. But things of this sort were freqently occurring during the Revolution. Every commander, to a certain extent, makes the prisoners whom he holds hostages; that is, he measures his own conduct towards his prisoners by the conduct which his prisoners receive at the enemy's hands.

I have not the least doubt in the world of all that is said in the report as to the bravery, gallantry, and courage of Major Wigg. He was evidently a highly honorable patriot. He felt the feelings of a patriot, and the indignation of a patriot, when he saw the barbarities inflicted on Colonel Hayne by the British, and he expressed them. For the expression of that natural feeling, the British very meanly and very dishonorably retaliated by this outrage upon his private property. I would be glad to pay him if it were consistent with any principles we have ever recognized; but if we pay him, may we not be called to pay the descendants of every one of the five thousand prisoners surrendered at Charleston, provided they were taken from being prisoners on parole, and ordered into close custody? If we sanction the principle of this bill, may not their descendants come forward and ask you for compensation for injuries which they suffered eighty years ago? If you pass this bill, it seems to me you must pay them. Major Wigg was but one of thousands. He suffered, perhaps, more than others. But this case does not come, as I think, within any principle which has ever been recognized by the Government; for the injury, to make the Government liable, must, according to public law, grow out of the relation of a hostage, which he sustained. This injury did not grow out of that relation, but it grew out of the resentment which the British felt at the expression of his indignation at their cruelties and barbarities.

I know it is an invidious and unpleasant task to say a word against this bill; but having pledged myself to the Senate last week, that if they would postpone it, I would bestow some attention upon it, I have done so, and I have stated the facts as I have found them. I shall, however, be contented with whatever result the Senate may come to.

Mr. BUTLER. Mr. President, I do not object to the tone or the tenor of the remarks of the Senator from New Hampshire. The gentleman who is interested in this bill, has given up a great deal that the committee of the Senate thought he was entitled to ask; but I wish to correct the Senator from New Hampshire in one or two historical particulars in relation to this case. The surrender of Charleston certainly was in May, 1780. Andrē's execution was, as he has stated, in October, 1780; but you must recollect that it was after Andrē's execution that Greene was sent to the South; and when he was sent there, he undertook to reclaim South Carolina, and when he was undertaking to do that—mark this—the British changed the condition of the prisoners entirely, and made it much more rigorous than it had been before Greene's return. It was after Greene's return, in 1781, that Hayne was executed; and it has always been believed, and I think very well confirmed by the verdict of history, that Hayne's execution was in consequence of Andrē's execution, and that the British were looking for an opportunity to make a striking retaliation. They had no such opportunity of which they could well avail themselves; but they continued to change the condition of the prisoners, until it was much worse than that of hostages. If I were to describe to the Senator from New Hampshire the condition of the prisoners who were confined in the prison-ships, his heart could not but respond to the honorable feelings which then prevailed.

Of the five thousand prisoners who surrendered at Charleston, there were but about sixty* selected to be put on board the prison-ships, to sleep, and live, sir, in the midst of loathsome filth of a foul floating prison. They were selected with the view that the Americans might do something which would give the British a pretext to retaliate for Andrē's execution; and they found it. They found it in the character of as honorable a man as ever lived. And here I will do justice to the officer who captured Hayne—Mad Campbell, I believe he was called. He was a Scotch officer, and a colonel in the British army; and when Hayne was led to execution, he said that if he had foreseen that Hayne was to be executed, the hand that touched him should have been cut off before he should have been made a prisoner. Sir, that was the man who captured Hayne, and he afterwards fell into the hands of Greene, who refrained from retaliating upon a brave and generous foe. Whether it was Campbell who fell into the hands of Greene, or some officer in whom he took a deep interest, I am unable at this moment to recall. It was owing, I believe, in a great measure, to the influence of Campbell, who had an uncommonly high reputation in the British army, that Wigg and the other men confined with him were not executed. They pledged themselves that they would give their blood for the noble cause of our country, and told Greene to go on. But his hand was restrained because the American army would not allow him to take vengeance upon such an officer as Campbell, who was taken in exchange afterwards. Sir, the condition of Major Wigg was worse than that of a hostage.

I do not wish to correct the historical recollection or researches of the Senator, because, when the report refers to Ramsay and other historians, it is not to be understood that these historians refer specifically to Major Wigg's case, though in Ramsay, the letter which has been incorporated in the report is to be found. With regard to the siege of Charleston, the time when Hayne was executed, the circumstances under which he was executed, the feelings which it kindled at the time, are all very graphically and strongly portrayed by Ramsay and other historians; and therefore, I said that the general tone and tenor of history is, that the execution of Hayne was in consequence of the execution of Andrē. That is the general impression among us, whether it be so or not. But with regard to the number of persons placed upon the prison-ship and carried to Saint Augustine, I think there were some fifty, perhaps sixty. I believe there were more placed upon the "Pack Horse;" but they were men of mark, whom it was intended to execute, if Greene carried out his purpose of retaliating for the execution of Hayne. And it was accidental that he did not.

Mr. JAMES. Mr. President, I rise to offer a few brief remarks, and not for the purpose of making a speech on the merits of the question before us; the committee having gone fully into all the facts bearing on the merits of the case, supersedes the necessity for me to go over that ground again. I will only add, in reply to the Senator from New Hampshire, [Mr. HALE,] that the facts set forth in the report were amply sustained by the evidence before the committee.

Sir, the committee to whom this subject was referred, considered it as one of a peculiar and a very interesting character. The committee had no precedent to guide them in their deliberations, and no other grounds on which to base their decision than what they considered to be the real merits of the case. After having carefully reviewed all the facts, and well considered the whole subject in all its bearings, they arrived at a conclusion which they could not forego, that a strict sense of justice, even in the absence of all precedent, demanded the payment of the compensation asked for; and they made out their report accordingly.

Sir, as no other claim like this has ever been presented to Congress, so it is likely that no other one ever will be presented; and therefore I think we have no reason to fear the effects of the payment of this, as a precedent. But, sir, even were it otherwise, I should be in favor of the payment of all claims, as fair, as just, and as honorable, as I consider this to be. It is enough for me to know, sir, that the worthy patriot in behalf of whose heirs this claim is preferred, endured great suffering, and sustained the total loss of his entire property, in consequence of his firm and heroic adherence to his country's cause in the darkest hour of her peril, and performed for her many a gallant deed. Some mention has been made here of being acted on by the power of sympathy; but, sir, however great my sympathy, I am moved to act in this case by the force of gratitude and simple justice.

Mr. President, while I am up, I would crave permission to respond to the very handsome com-

* The following are the names of the prisoners selected; a list to be preserved—viz: Christopher Gadsden, Edward Blake, John Budd, Robert Cochran, John Edwards, Thomas Ferguson, William Hasell Gibbes, William Hall, Thomas Hall, Thomas Heyward, jr., Isaac Holmes, Richard Hutson, William Johnson, Rev. John Lewis, William Livingston, John Loveday, Richard Lashington, William Massey, Edward McCready, Alexander Moultrie, John Mowatt, John Neufville, Edward North, Joseph Parker, John Ernest Poyor, David Ramsay, Jacob Read, Hugh Rutledge, Edward Rutledge, Jno. Jamison, Thomas Savage, Thomas Singleton, Josiah Smith, James Hampden Thompson, Peter Timothy, John Todd, Anthony Toomer, Joseph Bee, Richard Beresford, Daniel Bourdeaux, Benjamin Cudworth, Edward Darrell, Henry Crouch, John S. Cripp, Daniel De Saussure, George A. Hall, Thomas Grimball, Noble Wimberly Jones, William Lee, William Logan, Arthur Middleton, Christopher Peters, Benjamin Postell, Samuel Prioleau, Philip Smith, John Berwick, Benjamin Waller, James Wakefield, Edward Weyman, and Morton Wilkinson.

pliment paid the other day by the honorable Senator from South Carolina [Mr. BUTLER] to the Committee on Revolutionary Claims—to the State which I have the honor to represent in part on this floor, and to me. Sir, as regards the committee alluded to, I may be permitted to say, that whatever difference may exist in their views on some points, there is no one of its members who would willingly suffer himself to perform what he might regard as an act of injustice towards any section or interest of his country. As respects myself, sir, it gives me pleasure to meet with the approbation of such men as the honorable Senator from South Carolina; yet, sir, I can claim no great merit for what he is pleased to term the able manner in which I represent my native State. Young in the business of legislation, I can make no just pretension to profound statesmanship; and endeavor to discharge my duty by a strict regard to truth and justice, and to the honor, welfare, and prosperity of my whole country, irrespective of sectional lines or local interests. And, sir, as the high sense of honor of that gentleman will lead him to do, thus will I do—fix the seal of reprobation on every attempt, from whatever quarter it may come, to sacrifice the general interest to sectional feelings, and the strife of sectional parties.

As a native son of Rhode Island, permit me to say, Mr. President, in behalf of that State, we feel a laudable pride in having given to our country, in the great and glorious struggle for her national existence and national independence, a man, a patriot, a hero—powerful on the field of battle, and second only to the illustrious and immortal Washington. Sir, Rhode Island is grateful to the gallant States of South Carolina and Georgia for the favor which they extended to the illustrious Greene, for the bounty they showered upon him, and for the high estimate they placed on his gallantry and his worth. Sir, it gave me great pleasure, as it will give to my constituents, to hear the high tribute of respect to the memory of that departed hero, paid it by my honorable friend—a tribute not the less valuable because well deserved. Sir, a word for my State, and I have done.

Mr. President, though in our national struggle for freedom and independence, Rhode Island, even yet small, was poor and feeble—no one of the "Old Thirteen" was more patriotic, nor more true and faithful to the glorious cause. According to her means, no one did more to promote that cause, or did it more cheerfully. Sir, a regiment of Rhode Islanders followed the fortunes of Greene, and fought at his side. The ashes of numbers of that little but gallant band are scattered on the fields of the Carolinas, where they gloriously fell battling with their country's foes; and in my own native county, the birth-place of Greene, I can point to the turf that covers the mortal remains of many others of that same gallant band, who, having survived the revolutionary struggle, returned to live and to die in the home of their childhood. From that time, when our country took up arms to vindicate her rights, to the present moment, no State has been more true than mine to the national interest, nor less disturbed by sectional jealousies. At times she may have been misled by false views of national and State policy—for what people is perfect; yet I may venture to say, through all changes and under all circumstances, and however great may have been her errors of judgment, she has been true to what she considered at the time the national interest, true to the Constitution, true to the laws, true to the Union, and true and loyal to the Government. Sir, I am proud to say, if there be a State in this Union, which, more than another, identifies all the great interests of the country as an unit, all tending to one point, the national prosperity and greatness; if there be one State that knows politically, "no North, no South, no East and no West," that State is Rhode Island. Sir, she is small in territory, small in population; she is but a speck on the map of the Union, when compared with many other States, but she has a soul as expansive as that of the largest of them, and aspirations as high.

The bill was reported to the Senate as amended, and the question was stated to be on concurring in the amendments made as in Committee of the Whole.

Mr. HALE. I do not mean to oppose the bill; but I think that the principle of putting in interest from the commencement of the Congress when the claim was presented is an evil one, and if we adopt it in this case, we must adopt it in every such case. The sum here is very trifling, but it is establishing a new principle, and we shall have to apply the same principle to the very next private bill that comes up. I must object to that. I must, therefore, ask for a division of the amendment in relation to the interest, and I shall also ask for the yeas and nays on the latter part of it.

The PRESIDENT. The question now is on the first amendment made as in Committee of the Whole.

Several SENATORS. What is the amendment?

Mr. BUTLER. I will state the amendment. The Committee on Revolutionary Claims of the Senate, assuming that interest was due this gentleman, put the very lowest estimate upon the property. In looking to what was the real value of the property at the time it was lost, they took the lowest value with a view to allow interest. Now, as the friends of the bill have given up the question of interest, they have a right to resort to the true and ordinary value of the property—the value, as placed upon it by the statutes of Georgia and South Carolina. The House of Representatives has taken that estimate. We propose now to take that estimate, which makes the allowance $37,197, instead of $30,117, with the interest from the time at which the gentleman made the demand upon the Government.

I concur very much with the views of those who think interest ought not to be allowed when the Government was not aware of any obligation; but from the time it was disclosed to the Government that there was an obligation upon it to pay, it seems to me but common justice, that from that time it should be liable to pay interest. I would not have it beyond the time when the demand was made upon the Government. We have yielded all beyond that time. But from the time that the demand was made upon the Government by Major Wigg—which was in March, 1851—the Government knew it was liable for the debt—that is, if we think the Government liable at all, and therefore, from that time interest should be paid. I would not force the principle. I do not go into the Galphin claim. That is the great bug-bear. My opinion with regard to the Galphin claim—the subject of so much comment, and which is so odious in public estimation—is this: that Georgia primarily ought to have paid it; and if Georgia had paid it in this instance, I am satisfied she would not have paid interest beyond the time when the subject was brought to the knowledge of her Legislature. It was transferred. As Georgia would have had the right to make a demand upon the Federal Government for all advances by her, we would have been compelled to pay all the demand of Georgia, with interest upon it. Therefore, from the time the claim was presented to the United States, perhaps interest might have been claimed. I think it is so in this case; and beyond that, I think the Government is not liable for the interest. The report of the committee is according to my views in that respect.

The PRESIDENT. The question is on the first amendment made as in Committee of the Whole, to strike out $30,117, and insert $37,197.

The amendment was concurred in; and the question then was stated to be on the second amendment, to strike out of that portion of the bill relating to interest, the words "from the 14th of November, 1782," and insert "from the 4th day of March, 1851."

Mr. HALE. I have not a word to say in regard to that amendment, except that if we allow the interest in this case, we shall have to give it in every such case which comes before Congress.

The PRESIDENT. Does the Senator insist on the yeas and nays?

Mr. HALE. I suppose the amendment, under the rules of the Senate, is not divisible, except by unanimous consent. It is an amendment to strike out and insest. I hope, however, the Senator from South Carolina will allow it to be divided—so as to let the question be first put on striking out the allowance of interest. I am in favor of striking out the interest provided for in the bill; but I am not in favor of inserting the interest for the time which the Senator proposes to insert. If the Senator will permit the question to be taken on the motion to strike out, and then, when that is settled, renew his motion to insert, it will save time, and expedite the business of the Senate.

Mr. DE SAUSSURE. I will not object to the proposition being put in that shape.

No objection was made to pursuing the course suggested; and the motion to strike out the allowance of interest from the 14th of November, 1782, was agreed to.

Mr. DE SAUSSURE I now move to insert "with interest from the 4th day of March, 1851." The ground for that is, that that was the commencement of the present Congress, at which time the application was made.

Mr. BRADBURY. I would like to learn from the Senator the reason why that particular time is fixed upon for the payment of interest. The amount must necessarily be small, as the time is so short. I think it will not be worth while to adopt a principle which may be troublesome in other cases, for an amount so small as this.

Mr. SHIELDS. The interest is fixed from the date when the application for payment was first made.

Mr. BRADBURY. If the interest is granted in this case, it will involve necessarily this principle: that whenever a petition is presented for the payment of any claim, if the claim is subsequently allowed, interest must be paid from the time the claim was presented.

Mr. BUTLER. Not always.

Mr. BRADBURY. We have sometimes adopted the principle that the interest shall be paid, when any claim is allowed, from the time when the proof was completed, in cases of liquidated damages. In this case, although it is a very meritorious one, the damages do not appear, as I understand it, to have been liquidated; nor is the payment of interest to be made from the time the proof was made complete.

Mr. HALE. I ask for the yeas and nays on this question.

The yeas and nays were ordered.

Mr. BUTLER. As the yeas and nays have been ordered, I wish to be more definite upon this point. It does not follow, because I agree to pay interest in this case, that in every case I would give interest from the time the demand was made upon the Government. It would depend very much upon the nature of the demand. Here is a case, in my judgment, in which we should struggle to give the most ample compensation. There may be other cases of the same kind. But when it is a strict pecuniary transaction, or one depending upon discretion, I should make a very wide difference. This is one, to be sure, involving legislative discretion to some extent. I am willing to give interest in this case, but I do not pledge myself to give it in every case. Legislative discretion is a very different thing from any strict law principle. You are not bound to adopt any law principle with regard to interest. Each case should depend upon its own merits.

The question being taken by yeas and nays, resulted—yeas 27, nays 13; as follows:

YEAS—Messrs. Atchison, Borland, Brodhead, Brooke, Butler, Charlton, Clarke, De Saussure, Dodge of Wisconsin, Downs, Fish, Fitzpatrick, Geyer, James, Jones of Iowa, Mallory, Mangum, Mason, Miller, Morton, Rusk, Sebastian, Shields, Soulé, Toucey, Wade, and Weller—27.

NAYS—Messrs. Bradbury, Bright, Chase, Dawson, Dodge of Iowa, Hale, Hamlin, Norris, Phelps, Seward, Spruance, Sumner, and Underwood—13.

So the amendment was agreed to.

The bill was then ordered to be engrossed for a third reading, and was read a third time and passed.

TEHUANTEPEC GRANT.

Mr. MASON. I move that the Senate take up the report of the Committee on Foreign Relations in regard to the Tehuantepec grant, with the view of making it the special order for the first of February.

Mr. GWIN. I must oppose that motion. We have several special orders now which should be disposed of, and if we go on we shall soon have more than we can get clear of. I am willing to go with the Senator in taking up that report and to act on it without making it a special order.

Mr. MASON. The report and the resolution accompanying it, are upon a matter of great public interest. My only object in calling it up now is to ask the Senate to appoint a day for its consideration, and make it the special order of that day. I hope the Senator will reconsider his determination to resist it.

Mr. GWIN. I do not object to the motion being considered, but I do object to making this subject a special order. There are other special orders before us which I consider of equal importance, and which should have the priority.

Mr. MASON. That question will arise when the special order comes up.

Mr. GWIN. Well, I do not persist in my objection.

The motion was agreed to.

Mr. MASON. I now move that the report and the resolution accompanying it be postponed to, and made the special order of the day for Tuesday, the first of February.

The motion was agreed to.

JACOB J. STORER.

Mr. HALE. Mr. President, I have been here nearly six years, and I have never asked the Senate to take up a private bill since I have been here. There is a small bill which has passed the House which I wish the Senate would indulge me in considering now. It is a bill "for the relief of Jacob J. Storer," a young man, a native of my State. I move to take it up.

The motion was agreed to.

The bill was read a second time, and the Senate proceeded to its consideration as in Committee of the Whole.

It proposes to authorize the Secretary of the Treasury to pay to Jacob J. Storer, late acting purser of the United States brig Perry, $1,361 82, being the amount of pay and rations to which a purser of the Navy would have been entitled while performing the same duties.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

LEWIS H. BATES AND WILLIAM LACON.

Mr. SEWARD. I ask the Senate to take up the bill for the relief of Lewis H. Bates and William Lacon, which was postponed the other day. They were once merchants, great merchants, men of wealth. One of them has been reduced, by an unjust prosecution of the Government of the United States, to want, and is now, while soliciting this bill, engaged as a day laborer in the rebuilding of the Capitol. The Committee on Commerce were unanimously of the opinion that he is entitled to *some* relief. There is some difference of opinion among us about how much. That will be soon settled, and the extreme hardship of the case commends itself to the attention, and even to the humanity, of the Senate.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

It proposes to direct the proper accounting officer of the Treasury to audit and allow the claim of the persons named in the title of the bill, or either of them, for losses and damages sustained by them through the proceedings of the custom-house officers at New York in exacting from them, upon certain importations of iron into that port, made between the first of June, 1829, and the first of January, 1832, higher duties than were required by law, and in seizing and libeling some of the goods upon the refusal of the parties to enter the same as subject to such higher duty, and for certain costs of court paid by them, and not reimbursed. It provides, however, that no other or greater sum is to be allowed them than will reimburse to them certain costs and expenses actually paid by them, and not repaid to them, in various suits touching the importations, and certain sums paid by them for storing the goods while kept out of their possession, and will indemnify them for the damages sustained by the detention of the money exacted of them by the collector over and above the duties required by law, allowing for such detention interest not exceeding the rate of six per cent. per annum from the time it was paid by them to the time it was refunded.

At the request of Mr. BRIGHT, the report of the Committee on Commerce was read, from which it appears that the parties were dealers in iron in Connecticut, and about the year 1829 extended their business by establishing a branch firm in Liverpool, where they entered largely into the manufacture of wheel-tire and palisading and other manufacture of iron, for the purpose of importing into the United States. They were induced to do this in consequence of the construction universally given to the then existing laws imposing duties upon imports, and sanctioned by a construction given to those laws by the First Comptroller of the Treasury in two letters to them, to wit: that articles such as were subsequently imported by them, were subject to an *ad valorem* duty of twenty-five per cent., and not to the duty as upon bar-iron, of thirty-seven dollars per ton. Upon this construction—which has since been adopted by the courts and juries—they imported into New York several cargoes and invoices of iron, entered them as manufactures of iron, and gave bond for the duties. Afterwards, upon further importations, the custom-house officers had adopted a new construction of the law, and insisted that they should be entered as subject to the specific duty of thirty-seven dollars per ton; and moreover, that for those for which bonds had already been given, they should make up the difference of that sum. The parties resisted the demands, and in some cases they were sued upon the bonds for the additional duty, and in others they paid the additional sum, but always under protest. Other invoices, which had been previously ordered, arrived, and the petitioners offered to enter them as manufactures of iron, and refused to enter them otherwise; in consequence of which, seizures were made, and proceedings instituted for a decree of forfeiture. They brought an action of trespass against the collector, and the jury found for them, and the court confirmed the decision of the jury. The goods which remained were then delivered up to the parties, and the collector refunded to them the additional duties which he had received.

But their business had been wholly broken up. They had incurred very great expenses in counsel fees and other charges of litigation, for which they ask to be indemnified by Congress. They claim to be reimbursed, first, for law charges and expenses necessarily incurred and paid by them; second, for other expenses necessarily incurred in endeavors to procure the release of their property, and not strictly chargeable as law expenses—such as personal care, time, and attention, and traveling expenses, amounting to many thousand dollars; third, for expenses incurred for storage of their goods while detained under seizure; fourth, for losses sustained in the nature of interest from the time their money and goods were wrongfully detained until they were restored. The committee are of opinion that they are entitled to indemnity under the two last heads, and for costs paid by them and not reimbursed, and report a bill accordingly. Favorable reports have been made in 1834, 1836, 1838, 1840, and 1846, but the final action of Congress was never received.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

JOHN M. M'INTOSH.

The bill for the relief of John M. McIntosh was read a second time, and, on motion by Mr. MORTON, the Senate proceeded, as in Committee of the Whole, to its consideration. It proposes to require the Secretary of the Treasury to cause to be paid to John M. McIntosh $164, that being the joint amount of two accounts against the Government, duly certified to be correct, in favor of John Cloots and Jacob Hart, of eighty-two dollars each, said accounts being on duplicate certificates, the originals having been lost, and considered as canceled; provided that McIntosh shall file a bond, to be approved by the Secretary of the Treasury, to indemnify the United States against future liability for the payment of these accounts.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RICHARD W. MEADE.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill for the relief of Richard W. Meade. It proposes to direct the proper accounting officers of the Treasury to pay to Richard W. Meade, late lieutenant in the United States Navy, $566 20, being the amount of expenses incurred by him and his clerk for subsistence while under the orders of the Navy Department, and detained on shore at San Francisco, from the 15th of July to the 30th of September, 1849, less the amount already received by them for commutation of their rations during the same period.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RECESS.

Mr. MANGUM. I rise for the purpose of making a motion which I hope will pass *nem. con*, that when the Senate adiourns to-day, it be to meet on Monday next. There are private reasons which need not be mentioned here, but of which gentlemen are cognizant, why this motion should prevail.

The motion was agreed to.

GEORGE DENNETT.

The bill for the relief of George Dennett, of Portsmouth, New Hampshire, was read a second time; and on motion by Mr. HAMLIN, the Senate, as in Committee of the Whole, proceeded to its consideration.

It proposes to direct the Secretary of the Treasury to pay to George Dennett $75, being in full for services performed by him in bringing up arrearages of business in the navy office at Portsmouth, for a time when there was no navy officer.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

CUSTOM-HOUSE CONTRACTORS.

On motion by Mr. WADE, the Senate, as in Committee of the Whole, resumed the consideration of House bill for the relief of Charles S. Matthews, Charles Wood, and James Hall.

It proposes to direct the Secretary of the Treasury to pay to the parties named, or to any other person or persons by them duly authorized to receive the same, $12,119 47, which shall be in full satisfaction and discharge of all the claims which they, or either of them, have upon the United States for, or on account of, damages sustained by them in carrying out their contract to furnish marble for the basement of the custom-house lately built in the city of New York.

The pending question was on the amendment reported from the Committee on Claims, to strike out of the bill the words, "or to any other person or persons duly authorized by them to receive the same."

Mr. BRODHEAD. I presume there can be no objection to the amendment. It strikes out that portion of the bill which authorizes any other person, authorized by the parties, to receive the amount. If the claim is to be paid at all, the committee propose to pay it directly to the persons mentioned in the bill.

But, Mr. President, I hope that the Senate will not agree to the passage of the bill. This is the case of Matthews, Wood & Hall, which we had up the other day, and in regard to which the Senator from Kentucky [Mr. UNDERWOOD] made such seasonable, sensible, and well-founded objections. It is a claim against the Government of the United States for damages for the non-fulfillment of a contract in regard to marble alleged to have been furnished for the custom-house in New York. It rarely happens, Mr. President, that this Government ought to pay damages for the violation of a contract. Those who enter into contracts with the Government frequently violate them themselves. This Government, or its officers, very seldom violates its contract.

When the claimants first presented their application to Congress, they alleged that they had taken the contract too low, that they had lost money by it, and therefore, they said they had an equitable claim upon the Government. Now, if in that, their first memorial, they told the truth, they are not entitled to anything. But the claim, as then presented, was rejected. They then presented a second memorial, in which they alleged that the Government officers prevented their proceeding with their contract; that certain patterns were not furnished to them, and that, therefore, they could not proceed. Formerly, they alleged that they had taken the contract too low. That is the real state of the case. They had taken the contract too low, as they say, and lost money by it. That was their fault. We cannot indemnify every person who chooses to enter into a contract with the Government, and loses money by it. They bid low. That was their business. If we pass this bill, we shall encourage every mail contractor, who happens to lose money by a contract, to come here and claim compensation.

When this case was before the Committee on

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Claims, it looked to me as if it was somewhat made up, and I for one could not agree to a favorable report. For these reasons, independent of those so well stated by the honorable Senator from Kentucky [Mr. UNDERWOOD] the other day, I feel bound to oppose the bill. When he was on the Committee on Claims, this case presented itself to his mind in the same manner that it now does to mine. I hope, therefore, the bill will not pass.

Mr. WADE. I think it is due to these parties, whose claim has been pending before Congress for a long time, that we should now come to a conclusion upon it. I have no interest in the passage of the bill, but it was committed to me as a subcommittee. I endeavored to investigate all the facts of the case very carefully, and I could come to no other conclusion than that it was a claim which the Government could not and ought not to fail at this time to pay.

In the first place they presented their claim to the Treasury Department, and it was taken into consideration there. The investigation at that time was *ex parte*. Witnesses were examined; depositions were taken; and they made a very strong case against the Government, and a report was made in their favor. It is long. The evidence is somewhat prolix. The House of Representatives, not being satisfied with that report, referred it back to the Department, directing that evidence should be taken on the part of the Government, and that both parties should receive and take testimony precisely as they would before a court. They went on in that way. The Government sent two agents of their own, attorneys, to investigate the case on its part. They proceeded to New York, and there depositions were taken, cross-examinations were held, until both parties were satisfied; indeed the attorneys who were sent there reported, that all the testimony that could be found went to strengthen the case of the claimants, and finally reported that they could do no better than give it up—that the further they went the further they put the Government in. That was their report. The testimony upon its face sustains the claim of the parties, without any kind of doubt or question. I do not know that there is any counter testimony.

Now, the Government having appealed to this mode of trying that issue, and being entirely beaten and overthrown by it, I do not see how it can escape with honor from paying the claim; for I cannot believe that Congress put the parties to the expense of a new trial, with a lurking intention that if the Government was beaten, on the evidence, they would not pay the claim. The case was fairly tried. There was examination and reexamination of witnesses; and then the Department making another report in their favor, I hardly see, after putting the parties to that trouble, how we can escape paying the claim unless we can escape the testimony, and that is not pretended. The Senator from Pennsylvania, probably, does not believe the testimony. But that is all one way, and it shows this state of facts: The claimants made a contract to furnish stone for the basement story of the custom-house. It is a good while since I have looked at it, to be sure, and I cannot give the details of the contract particularly. But the main feature of it was, that they were to furnish the stone at a certain price, and within a certain time. They proceeded with a great force to perform their contract, and to do that they were obliged to submit to a very heavy outlay. The Government, however, was not ready for the stones when they were ready to deliver them, and their delivery was postponed some six or eight weeks. That is an answer to the objection of the Senator from Kentucky, that they did not perform the contract within the time specified. Their nonperformance of the contract was occasioned by the default of the Government in not permitting them to go on as soon as they should have done by the contract. The Government, then, has no reason to complain of them on that account. Then the superintendent of the building was to furnish them with draughts and patterns, and everything by which the stones were to be cut out; for it was a part and parcel of the contract, and a condition precedent in it, that the Government was to furnish them with the patterns by which to work the stone, and they could not work them until Government did furnish the patterns. The superintendent got into some difficulty, some misunderstanding with the Government, in consequence of which he left the work. The evidence shows that the result of that was the delay of the work again, necessarily, for some three months. They had to get a new superintendent to redraught the building, and the evidence shows that it was three months before they were able to proceed. In the mean time the contractors had to keep all their force on hand, and the effect was that it postponed them over another working season, as the testimony shows.

The report of the Treasury Department, as well as the testimony, shows that their damages were nearly double what we propose in the bill to pay. That is all there is about the case. I say the evidence makes out these points. It is objected, however, that they did not perform their contract within the time stipulated; but I have already stated that that was occasioned by the default of the Government in not being ready to set them to work at the time they were ready.

There was another difficulty also. This custom-house was to be erected in the city of New York, upon one of the great thoroughfares, so that it was impossible to lumber up the streets with a great quantity of stones. There was a difficulty about that. They could not haul the stones upon the ground as fast as they would have wished on that account; but they had to regulate it by the rapidity with which they could be put into the building, and they were delayed in that way during this time, otherwise it might be said that they might have gone on, and carried their stones there. There was no place to put them about the building. The streets could not be lumbered up with them; and thus, according to the testimony, they were delayed.

The bill proposes to give them some five or six thousand dollars less than was reported by the Treasury Department in their favor. I think the evidence commits the Government so that they cannot with honor, at all events, escape from paying the claim. As I said before, the Government appealed to this mode of trial, and put the parties to the expense of a reinvestigation; and having been entirely defeated upon that issue, I do not see how they can escape from it.

The amendment was agreed to, and the bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. BRODHEAD. I hope the bill will not pass. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. NORRIS. As this bill was once before the Committee on Claims, when I was a member of that committee, and as I investigated it and came to a different conclusion from that of the Senators from Pennsylvania and Kentucky, I feel that it is a duty which I owe to myself and to these applicants to state the grounds of the conclusion to which I came. In order to justify that conclusion, it is merely necessary to state the history of this transaction as it occurred.

It appears that a contract was entered into with these parties, I think in 1834, for the marble for the basement of the custom-house in the city of New York. By the contract these applicants were to furnish the stone, one half by the 10th of June, 1835, and the other half by the 10th of December, of the same year, upon the site of the custom-house. Before we go further in the history of the claim, however, it is necessary to take into consideration certain points in the case which are proved; and I will say that the proof all comes from the Government officers themselves. It nearly all comes from the superintendent and the architect. It appears that the site of the custom-house was surrounded by business streets, and there could be but a little quantity of stone hauled there until it was placed in the building. That is one thing which is proved clearly and distinctly. There is another thing proved; namely, that the Government was to furnish these contractors with the modes and forms by which they should cut and form the marble, in order to put it into the building.

Thus the matter went on between the Government and the contractors up to some time in the month of May, 1835—the 22d of the month, I think. The testimony is, that up to that time the marble was furnished by the contractors as fast as was necessary. At that time there was a misunderstanding between the superintendent, Thompson, and the Government, and he left the work, taking with him all the models and the plans of the building. On account of that, the Government had to stop operations, and the contractors were prevented from furnishing the stone. In consequence of the resignation of Thompson, who had taken away all the models and the plan for the structure of the building, the Government officers could not go on until new plans, and new models, and new forms were framed, and a new superintendent was appointed. It took nearly four months before the Government was ready to receive another stone from the contractors. They were thrown out of employment from the month of May to the month of September, with their hands and their teams standing idle, until the Government was able to start again. They had to wait until new plans, and new forms were furnished by which they were to cut the stone. These contractors did not complain of that at the time, but when the Government got ready in September, they went on; and, as the evidence of the superintendent and the architect shows, they furnished the stone at all times, whenever the Government wanted it.

The evidence further is, that if they had not been stopped in May, the contractors would have been able to furnish the whole of the stone during the summer of 1835. This is the evidence of the officers of the Government themselves. This is the evidence of the superintendent and the architect, that they would have performed the contract in full if the Government had been ready to receive the stone according to the contract. But by reason of this delay they were thrown over into the winter of 1835 and 1836, and they had to complete their work in the spring of 1836. They were compelled to lie on their oars during the whole winter, for they could not perform this work in winter time. It is in evidence from these very officers of the Government that the contractors furnished stone faster than it was used; that they blocked up the streets, and the officers had to send them word not to bring in stone so fast. These contractors accommodated the Government in the whole matter.

And now I put it to the Senate upon these facts—and I have stated nothing but what is contained in the report—if this is not a just and equitable claim? "No" says the Senator from Pennsylvania. And why? Because he says they come here and base their claim upon a different ground than they did at first. Is not that Senator a lawyer? Did he never have to amend a specification or a declaration in order to meet his case? Did his clients always have a sufficient knowledge of law to point him directly how he should frame the narrative or the declaration, that he should never even make an amendment, and ask the favor of the court to allow it? These men are plain contractors; they are workmen; they are stone-cutters; they came here at first and stated that they had taken the contract too low, and had lost money by it. It is true they did take it too low and did lose money by it; but that was in consequence of the manner in which the contract was performed on the part of the Government; and if the Government had been ready at all times to receive the stone as fast as it could be delivered, and if there had been no suspension of the work, the contractors would not have been losers. But they did lose money, and the contract was too low, in consequence of the manner in which the Government treated them. I think the objection amounts to but very little. Because a man mistakes the na-

ture of his remedy in the first instance, and afterwards comes before a tribunal where he can have an equitable decision of the case, is he to be told that because he mistook his remedy in the first instance, he is not entitled to relief? I think upon a full investigation of the case—if every Senator would investigate it, there would be scarcely a dissenting voice upon the bill. If there ever was an equitable claim here, this, in my judgment, is one, and we ought to pass the bill.

Mr. PEARCE. It is not my purpose to repeat the statements and arguments which have been so well made by the Senators from Ohio and New Hampshire, but to express the hope that the Senate will pass this bill. It is very rarely that a claim against the United States is so well and so thoroughly sustained as this is. Ordinarily, we know that the proof which is furnished in support of a claim, is given *ex parte;* but this is not the case here, as has been stated by both of the honorable Senators who have preceded me. The proof was taken under a commission authorized by a resolution originating in the House of Representatives, with all the guards which the authorities of the United States could throw around it. The testimony thus obtained is satisfactory, and not only satisfactory, but it is thorough, complete, and overwhelming. It makes out, it seems to me, as perfectly clear a case as it is possible for a claimant to make out. It is manifest that these men have lost money, not by misjudgment in the making of their contract, but by the conduct of the agents and officers of the United States, by the failure of the United States to comply with their part of the contract; by their interposing delays and difficulties to the execution of the contract by these men. All this is proven most conclusively by testimony not *ex parte*, but taken under the authority of the Government. I think that this makes out a case which we do not see once in a hundred times; and if this claim be not passed, under such circumstances, it seems to me it will be in vain for any claimant to expect justice.

Mr. BRODHEAD. This case was investigated by the Committee on Claims, during the last Congress, and also during the present Congress. In the Committee on Claims of the last Congress, the Senator from Kentucky entertained the same opinions in regard to this claim that I now do. He differed from the honorable Senator from New Hampshire then upon it. When it came before that committee at the last session of this Congress, my friend from Ohio and myself differed in regard to it.

My observation and experience, as a member of the Committee on Claims, have taught me to believe that whenever a man enters into a contract with this Government, if he does not make large sums of money, he is sure to come to Congress and claim compensation for damages on account of malversation or malfeasance on the part of the officers of the Government. The Government is always in the wrong!

Now, when these gentlemen first came to Congress, they presented their case, as I believe, truly. They were not in a technical court of law, as the honorable Senator from New Hampshire seems to intimate. They were not in a court where they might mistake their remedy, and where their declaration was required to be exactly in the shape required in a court of law. They were before Congress, and not before a court of law; and when they first came here I have no doubt they told the truth. They stated that they had taken the contract too low, and lost money by it. That was the main and leading feature of the memorial, and upon that adverse reports were made—I think in 1837 and 1838. The amendment of their memorial was an afterthought.

I think the evidence does not sustain the case, as stated by the honorable Senators from Maryland and New Hampshire. I differ from those honorable gentlemen as to the force and effect of the testimony produced, and I think in this my opinion is shared by the honorable Senator from Kentucky. I am not prepared to go into the particulars of the testimony, nor do I wish to make general statements in regard to it. All that I can say is, that it did not impress my mind as it seems to have impressed the minds of the honorable Senators from Maryland, New Hampshire, and Ohio. I take the statements made by those gentlemen—not in a court of law, where a specification or declaration might require an amendment to bring it within technical rules—but I take the statement made by them when they first came here, which I believe to be true. They said then that they had taken the contract too low, and had lost money by it. That, however, was their fault, and one for which the Government is not responsible, and they should abide by their contract. I hope the bill will not pass.

Mr. BROOKE. It appears to me, Mr. President, if human testimony and the report of a committee of this body can establish anything at all, that the report and the testimony in this case do establish the justice of this claim. There have been but two objections urged against it: one by the Senator from Pennsylvania, and the other by the Senator from Kentucky. Both are very easily disposed of. The only objection, as I understand it, urged by the Senator from Pennsylvania, is, that the original memorial of these parties did not present the same cause for relief that is now presented. That has been very well answered by the Senator from New Hampshire.

It is shown by the report that the original memorial was got up under the superintendence and direction of one of the Government officers; and it was natural that the Government officers should wish as much as possible to throw the blame from their own shoulders, or from the shoulders of the Government, upon those parties. When they saw the mistake, however, they corrected it, as they had every right to do.

The other objection, which is urged by the Senator from Kentucky, is, that by contract these men were to have delivered the stone by the 10th of June, and that as the architect or superintendent resigned about the last of May, that resignation took place so soon before the time fixed for the completion of the contract, that there was no cause why the Government should give them relief. But it is set forth in the report, and fully sustained by proof, that these men were able to have completed their contract by the 10th of June—that they had force sufficient to deliver all the stone by that time, but that they were prevented from doing so by the action of the Government officers themselves. It was alleged by those officers that there was not room enough about the custom-house for the stone to be stored away, and at their instance the delivery of the stone was discontinued. It is also stated in the report, that during the whole of the time these contractors were in default only a single day.

Now, these being the only two objections, and the proof being final and conclusive, that in consequence of the resignation of the superintendent, and the failure on the part of the Government to furnish the contractors with designs by which the stone was to be cut, they were compelled to suspend work, there most certainly arises a case for relief.

The Senator from Pennsylvania says that the cases are very rare in which the Government should be held responsible in damages. I cannot see the justness of that doctrine. I cannot see why the Government should not be as responsible in damages for a breach of contract as an individual; and I am very certain that, were this case before a court of justice, a jury would not hesitate any longer than they could make the calculation of the amount, to render a verdict for damages. This calculation has already been made by the Comptroller, or some other officer of the Treasury Department, and the case now comes before us on the report of the Comptroller, on the testimony furnished by the Government itself; because, both the report of the committee and the report of the Comptroller are based upon testimony taken at the instance of the Government. According to my recollection of the report, and I have not read it for some weeks, not a single witness was introduced by the claimants. All the testimony was brought forward at the instance of the Government; and it is upon the statements of the Government officers—upon the statements of men brought forward by the Government, that both of the reports have been made. If this case is to be rejected, I see no use in having a committee; I see no use in going to the expense and trouble of taking testimony, if the testimony and the reports are to be thus slightly discarded and thrown aside, upon suggestions made without reference to the record.

Mr. UNDERWOOD. I dislike to speak upon a subject which I have not looked into for three or four years. All that I can say is, that when I was a member of the Committee on Claims, I investigated this case, and I came to the conclusion that there was no foundation for the claim. There is one matter in connection with that which has not been noticed, I believe, by any one who has spoken, and I wish to name it to the Senate.

When the claim was first presented, as the Senator from Pennsylvania has said, there were two or three reports in succession made against it. Two I recollect distinctly. After those adverse reports, the ground of the claim was changed, and the claim for damages under this new aspect was upon this allegation: That owing to the default of the Government, these individuals had been obstructed in the execution of the contract on their part, so that they could not deliver the rock so that they could not quarry and cut the rock properly, and that in consequence of that, they were compelled to keep idle their horses and steers and carts and workmen. The claim rests entirely, according to my recollection, upon the alleged position into which these contractors were thrown in keeping their hands and carts, and oxen idle in the city of New York. The allegation is, that they could not work because the patterns were not furnished; and that in consequence of that they had to keep their forces doing nothing. Now, I want to suggest this idea: If these gentlemen could have obtained employment in the city of New York for their hands, and their oxen and carts, it was their duty not to remain idle. They state, I believe, that they were for nearly four months in that situation, doing nothing, and the damage for which they ask remuneration, is for keeping their teams and their men idle during that time.

According to my recollection, there is no testimony on that point. In my opinion, the officers of the Government were greatly at fault in not asking the question of witnesses: "Could not these men have found employment for these weeks and months? Were they bound to remain idle, doing nothing during that period?" If they could have found employment, it was their duty to get it, and then, having received wages from those who employed them, they would have had no right to charge the Government for their time. If by the action of the Government, they were thrown out of employment and then it became necessary to keep all their hands and all their oxen, and all their carts idle—and of that, according to my recollection, there is not sufficient testimony—it would be another question. I do not think the inquiry was made whether they were bound to keep all those hands, and all those oxen, doing nothing but eating and feeding at the Government expense. I think there ought to have been testimony directed to that point, but there was none.

As I said when I commenced, it is a very dangerous business to speak on a subject which one has not examined for two or three years. I hope this bill will be allowed to lie over for a little while. I have not looked into the matter lately; and if the Senate will allow it to lie over, although I have a great many things to attend to, I shall endeavor to perform my duty by looking into this bill. I move, therefore, that its further consideration be postponed until this day week. Gentlemen should remember that this is a House bill, and that we can act upon it until the last hour of the session, and our action will be final. No injury can be sustained by its postponement. If it were a Senate bill, it might be necessary to pass it directly, in order that the House might have an opportunity to act upon it; but I understand it is a House bill, and therefore there is not so much necessity for prompt action.

Mr. WADE. I hope the bill will not be postponed. I think it should be acted upon, and disposed of now. It was up some two or three weeks ago, and it was then postponed, at the request of the gentleman, as he wanted to examine it. I do not think we shall have any more light upon it a week from now than we have at this time. I wish to state, however, that my recollection of the testimony is very different from that of the Senator from Kentucky with regard to the real claim for damages, touching the point that he says was not inquired into.

I think I am not mistaken—though I have not read the report since last winter, but my recollection is very clear, for I examined it very closely—when I say that the testimony was directed to the

very points of inquiry which the gentleman has suggested; that is, whether their teams and hands could find employment in the city of New York at the time. The testimony negatived entirely that idea Then, as to the damages, there is the fact that the delay of the Government postponed these men over the winter, when, as the proof is, no business of this sort could be carried on. They were obliged to keep all these preparations on hand during the winter, during which the testimony is very clear that the work could not be performed. The evidence shows that the stone could not be hauled in winter time, nor at any time except when the roads were favorable.

If the gentleman will refer to the testimony, he will find that the question was distinctly put in the testimony, whether they could not have dismissed all the hands in their employ, and resume again in the spring; but the testimony was very clear upon the subject, that if they had done so they would not have been in a condition to have performed their contract if they had been called upon to do so. They could not have done it without making themselves liable for damages from the Government when they wanted to resume the work.

I hope the bill will be passed; at any rate, I think there is no good reason for postponing it.

Mr. NORRIS. I hope the Senate will not consent to the postponement of this bill again. If I recollect aright, the Senator from Kentucky, some two or three weeks ago, made a long speech upon this question, and then, being in the same condition in which he says he is now, he asked the Senate to postpone it, that he might have an opportunity of investigating it. The Senate did postpone it to accommodate the Senator from Kentucky. It has come up for consideration to-day; it has occupied a long while, and now he asks that it may again be postponed.

Mr. UNDERWOOD. Will the gentleman allow me to correct him? He is entirely mistaken about the matter. I did not ask the Senate, on the occasion to which he refers, to postpone the bill that I might examine it; but I stated my impressions, and suggested that it ought to be postponed to allow the chairman of the Committee on Claims [Mr. BRODHEAD] to investigate it. I made no promise to investigate the subject. I did at the time, however, look at the report, and I showed it, holding in my hand a bundle of papers accompanying it, to the Senate.

Mr. NORRIS. I knew, at all events, that the Senator from Kentucky had suggested the postponement, and my impression was that it was for his own benefit. He spoke about the employment of the teams. Let me say to him that they were employed fifteen miles from the city of New York, for the stone came from that distance. They were not kept in the city of New York.

Mr. JAMES. I have looked carefully into the report upon this case, and if the facts stated in it are true—and I have no doubt that they are—this bill ought to pass. Persons who are practically acquainted with building must know that dimensioned stone for a building like the New York custom-house must be cut with care. Every piece of stone is marked and figured, and for each stone a pattern must go. The contractors cannot cut stone any faster than they receive the patterns, or if they do, it may remain on their hands and be lost. Gentlemen acquainted with the subject must also know that the teams must be arranged and prepared on purpose to carry heavy blocks, and the carriages must be prepared for that particular purpose. Neither carriage nor teams can be used for any other purpose, except one of a similar character.

I hope that this bill will pass for another reason. The honorable Senator from Pennsylvania admits that the contract was taken too low. If it ever shall be presented to me on this floor as a fact, that the mechanic, the hard-working man, the man who has done the work with his own hands, has taken a contract to do work too low, and that he has actually lost money, and that the Government has received full consideration, I am ready to pay for it; and I hope that the bill for the relief of these men, who are workingmen and mechanics, will pass.

Mr. WADE. The gentleman from Kentucky said this was a House bill, and therefore it might be passed at any moment; but he must recollect that there has been an amendment made in it which will endanger it in the House if we shall postpone it.

The motion to postpone was not agreed to.

Mr. BRODHEAD. If this bill is to pass, I think the amount provided for the losses of these contractors for the short time for which their teams were out of employ is too large. I move, therefore, to strike out "$12,000" and insert "$6,000."

The PRESIDING OFFICER, (Mr. BRIGHT in the chair.) The bill is on its passage, and it is too late to amend it.

Mr. WALKER. Is this a House or a Senate bill?

The PRESIDING OFFICER. It is a House bill.

Mr. WALKER. When was it ordered to a third reading?

The PRESIDING OFFICER. To-day.

Mr. WALKER. It seems to me that the last question taken on it, previous to the one taken on the motion to postpone, was the vote after coming into the Senate from Committee of the Whole, upon concurring in the amendment. The amendment was concurred in, and the question then was upon engrossing the amendment and ordering the bill to a third reading, and that question has never been put.

The PRESIDING OFFICER. The amendment was concurred in, it was ordered to be engrossed, and the bill was ordered to be read a third time. It has been read a third time, and the question now is on its passage.

Mr. WALKER. I certainly never heard the question put upon the third reading of the bill.

The question being taken by yeas and nays upon the passage of the bill, resulted—yeas 35, nays 8; as follows:

YEAS—Messrs. Atchison, Bradbury, Bright, Brooke, Charlton, Chase, Clarke, Cooper, Davis, De Saussure, Dixon, Dodge of Iowa, Fish, Gwin, Hamlin, Houston, James, Jones of Iowa, Mallory, Mangum, Miller, Morton, Norris, Pearce, Pettit, Phelps, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, Toucey, Wade, and Weller—53.

NAYS—Messrs. Adams, Borland, Brodhead, Dawson, Geyer, Hunter, Jones of Tennessee, and Underwood—8.

So the bill was passed.

REBECCA J. BIRDSALL.

Mr. RUSK. I move to take up the joint resolution "for the relief of Rebecca J. Birdsall."

The motion was agreed to.

Mr. PEARCE. I move that the prior orders of the day be dispensed with, for the purpose of proceeding to the consideration of Executive business.

Mr. RUSK. I object to that motion. This joint resolution was taken up by a vote of the Senate, and I hope we shall continue on with its consideration, and pass it.

The PRESIDING OFFICER, (Mr. BRIGHT in the Chair.) The bill is before the Senate, but the Senator from Maryland has a right to make a motion to postpone it.

Mr. RUSK. But he cannot make a motion to go into Executive session while this joint resolution is pending.

Mr. PEARCE. I have not made that motion; but I have moved to postpone the joint resolution for that purpose. I will ask the Senator's consent to allow me to submit the motion.

Mr. RUSK. I hope the honorable Senator will wait until we shall have disposed of this joint resolution.

Mr. PEARCE. I will waive the motion for the present.

The joint resolution was read a second time, and considered as in Committee of the Whole. It proposes to direct the Postmaster General to cause to be paid to Rebecca J. Birdsall, widow of Ira Birdsall, deceased, late a mail agent of the United States, the balance of pay for the current year to which her husband would have been entitled if he had lived.

Mr. WELLER. If there be any report accompanying the bill, I desire to have it read, and the longer it is the better.

The PRESIDING OFFICER. There is no report.

Mr. WELLER. Then I would like to hear an explanation of the case.

Mr. RUSK. I will state the circumstances of the case briefly. Mr. Birdsall was a mail agent of the United States, and as such was deputed to perform very important mail service. He was sent down to Panama because of his great capacity, for the purpose of performing a very laborious duty. The revenues of the Department had greatly suffered from the manner in which business had been there conducted. The expenses for the transit of the mail across the Isthmus of Panama were largely increased. The mail to and from California had been delayed very frequently in its transit across that Isthmus. Mr. Birdsall was sent there as a special agent to attend to the matter. He transacted his business faithfully, and on his return he was ordered into an unfortunate vessel upon which the cholera broke out, and she went into Pensacola. He there died. He died in the service, in the performance of his duty, and this is merely to give the balance of his year's pay to his widow.

The joint resolution was reported to the Senate, without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EXECUTIVE BUSINESS.

Mr. PEARCE. I now move that the Senate proceed to the consideration of Executive business.

Mr. GWIN. I hope the Senator will withdraw the motion for a moment, to allow me to ask leave to introduce a bill.

M. PEARCE. The Senator will excuse me, but I must insist upon my motion.

Mr. FITZPATRICK. Mr. President, I cannot feel otherwise than very much indebted to the Senate for the courtesy extended to me yesterday. When I found them in Executive session, they were so courteous as to postpone the matter then under consideration until to-day. I am not now aware of the object of the gentleman from Maryland in moving an Executive session; but coming from that quarter, I take it for granted that I ought to be at no loss to divine the object of the motion. If I am not mistaken, and if the object be what I apprehend it is—perhaps it is not proper for me here to speak of it—I would say that the slight courtesy which was extended to me from yesterday till to-day is worth literally nothing. Matters may be the subject of discussion in Executive session in which I feel a deep interest; they may be matters deeply affecting the people whom I have the honor to represent. Now, I ask the Senate to consider the peculiar situation of my State.

My honorable colleague [Mr. CLEMENS] I have not had the pleasure of seeing since I reached this city. He has been detained at his lodgings, as we all know, for a length of time, by sickness. The distinguished gentleman whose place I now occupy, [Mr. King,] during the period of his service this session, has been in a condition to take no interest in the deliberations of this body; and although delay may seem apparent on the part of my State, I can assure the Senate that I have lost no time in finding my way from there to this body, for the purpose of expressing their views upon the matter which I presume is to be affected by the motion of the Senator from Maryland.

Then I appeal to the indulgence of the Senate, in a matter of such momentous importance, affecting so deeply the interests of the section of country in which I live. Are we to be driven headlong into an investigation of that subject? I ask if the representatives of that State are not to be allowed the usual time to prepare themselves to meet that question? Would from four o'clock yesterday till two o'clock to-day, be a sufficient time to enable a man to do himself justice, after he has been tossed and tumbled about in stage-coaches and upon the sea-coast, and whose health, to say the least of it, is not in a good condition? I do not see, now, upon this floor, other gentlemen whose constituents have a common interest with the people I represent upon the subject; but speaking for myself, and appealing to the acknowledged liberality of this body, I trust that they will allow a reasonable time to intervene, and not force me into a premature discussion of questions which I feel perfectly assured are to engage the deliberations of the Senate whenever they shall proceed to the consideration of Executive business. Has the State I represent so small an interest in that matter, in the estimation of this body, that but a moment is to be allowed to a Senator who has been rocked and tossed on stages, and on the coast, and whose lungs are scarcely in such a condition as to allow him to give utterance to his thoughts? Are questions of momentous importance to his constituents to be taken up, and is he to be driven

headlong without an opportunity allowed him to enter into the discussion of such questions?

I would urge no man; but I would ask what is the courtesy, what is the benefit, which has been extended to me? I reached this city at four o'clock yesterday evening, and without waiting to get my baggage from the boat, I came directly to this Capitol, because I understood matters of great importance, affecting the interests of my constituents, were then under discussion by this honorable body. Is it any indulgence to allow a person in my situation from four o'clock yesterday till two o'clock to-day, to examine an important subject, particularly when it is remembered that the honorable gentleman whose seat I have the honor to occupy has not been on this floor for weeks, and has not been able to commune with me, or with our constituents, and that my honorable colleague has not been able, through indisposition, to attend in this Chamber for three weeks? Yet, I am to be hurried unceremoniously into the discussion of questions deeply affecting the interests of my constituents, and which I feel perfectly assured will engage the deliberation of the body in Executive session.

I dislike to be charged with officiousness in matters of this kind. I am perhaps less experienced than almost any man on this floor in legislative business. But I have a knowledge of the rights of my constituents, and I ask of this body, in their name, to allow a reasonable time to the representatives of my State to be put in possession of all the facts upon the question to which I allude. Allow me to say, that I am hourly looking for documents from my State upon the subject, which I wish to lay before the Senate. It was only immediately before my departure that news reached my State by telegraph, of the important matter to which I allude. I ask for a reasonable time to wait for some evidences of the disposition of the people of the State. I shall be willing to meet the question in the early part of next week. I trust that is not unreasonable. What is to be gained by coercing parties, by driving gentlemen into a measure of this kind by the mere force of numbers? I trust the Senate will extend me some reasonable indulgence. I trust that they will not force me unceremoniously and unpreparedly into a vindication of the rights of my people.

I ask, therefore, in the first place, as a favor to myself, and in the next place, as a right to my constituents, that we postpone this question for a reasonable time. Gentlemen on this floor have told me that they have extended to me all the indulgence they could, by postponing the question from day to day until I should arrive. I feel grateful to them for it. I return my thanks to the Senate for this kindness; but everybody who hears my voice must know at once that I am in such a state of health as not to be prepared to do justice to myself, or to the subject which is to engage the deliberations of the Senate in Executive session.

Mr. HALE. You will find that that will grow better with practice.

Mr. FITZPATRICK. I trust it may. If my honorable friend was likewise affected, perhaps he would have less trouble. But to say that because a matter has been postponed until a gentleman's arrival is sufficient indulgence, and to require him in the dark to enter upon the discharge of duties in a case in which his constituents feel a deep interest, is not the courtesy which I expected at the hands of this body. I do not desire, I do not crave unnecessary delay. I am willing at the first and at the earliest moment practicable to meet the question, and meet it boldly and fearlessly.

Mr. DODGE, of Iowa, called for the yeas and nays on the motion to proceed to the consideration of Executive business; and they were ordered; and being taken, resulted as follows:

YEAS—Messrs. Bell, Clarke, Cooper, Davis, Dawson, Dixon, Fish, Geyer, Jones of Tennessee, Mangum, Miller, Morton, Pearce, Phelps, Rusk, Seward, Smith, Spruance, Underwood, Wade, and Walker—21.

NAYS—Messrs. Bright, Cass, Charlton, De Saussure, Dodge of Iowa, Downs, Felch, Fitzpatrick, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Mallory, Mason, Norris, Pettit, Sumner, Toucey, and Weller—20.

So the motion was agreed to.

Mr. BORLAND, when his name was called, stated that he had paired off with the Senator from Vermont, [Mr. FOOT.]

Mr. BRODHEAD stated that he had paired off with the Senator from Maryland, [Mr. PRATT.]

The Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 21, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the consideration of the bill for the relief of David Myerle, upon which the gentleman from Kentucky [Mr. BRECKINRIDGE] is entitled to the floor.

JAMES M'CORMICK.

Mr. STANTON, of Tennessee. This being private bill day, I now ask leave to introduce from the Committee on Naval Affairs a bill for the relief of James McCormick, which, at my suggestion, was returned to that committee during the last session. It was recommitted on account of mistaken apprehensions with regard to the character of the bill. Those apprehensions have been entirely removed, and I now ask the unanimous consent of the House to report back the bill. I hope no one will object.

Mr. STUART. I object.

Mr. SACKETT. I wish to know of the Chair whether it would be in order to distribute from the Speaker's table some of the private bills which are now there to the committees to which they properly belong before going into the Committee of the Whole House on the Private Calendar, and whether the disposition of those bills would give rise to debate?

Mr. RICHARDSON. I call for the regular order of business.

The SPEAKER. The Chair will state the order of business. The case of David Myerle, and perhaps two or three other small bills, were reported from the Committee of the Whole House on the Private Calendar, and are first in order. The bill for the relief of Patrick Gas was passed over informally, and there are one or two others which will come up as the business first in order. When these are disposed of, this being private bill day, unless the House go into Committee of the Whole, it will next be in order to dispose of the bills on the Speaker's table.

Mr. HOUSTON. Does the Chair determine that these bills upon the Speaker's table will take precedence of the regular business of the morning hour?

The SPEAKER. That has been the uniform practice of the House.

Mr. HOUSTON. I supposed the call of committees for reports was the business for the morning hour on private bill days as well as on other days.

The SPEAKER. There is no instance of that sort within the recollection of the Chair.

DAVID MYERLE.

Mr. RICHARDSON. I will suggest to the gentleman from Alabama, that if the committees were to be called during the morning hour, the case now before the House, in relation to David Myerle, could never be disposed of.

The SPEAKER. The recollection of the Chair is very clear as to the practice of the House. The business now in order is the consideration of the case of David Myerle, upon which the gentleman from Kentucky [Mr. BRECKINRIDGE] is entitled to the floor.

Mr. BRECKINRIDGE. Mr. Speaker, when I had the floor upon this case last Friday, I had more than half concluded the remarks I proposed to make, when I was interrupted by the mournful announcement from the Senate which was then made.

Without going over what I then had occasion to say, I shall briefly recapitulate the facts of the case, and present two or three papers, which appear to me to be conclusive against this claim. I am not animated by any feeling of hostility to the claimant; but I desire to save the public Treasury the sum of $30,000, which, it appears to me, ought not to be taken out for the purpose of paying this claim.

This claim has been before Congress for many years. It has been defeated in the Senate, and it has been defeated in the House of Representatives repeatedly. It passed the Senate once, and, I believe, passed this House once; but the claimants have never been able to get it through Congress. I have had occasion to examine three bills which, at different times, have been reported in favor of this claim. The first one was reported in January, 1848, for $20,000. The second one was reported in March, 1848, and was for $25,000; but neither of these bills could be got through Congress. The present bill was reported during the last session, for $30,000, and whether its chances for passage will be increased in proportion to the increase of the amount, remains to be seen.

What are the facts of this case, as presented by the memorialist himself, and how do they compare with the two or three facts which I propose to prove indisputably? Mr. Myerle, by his published representations, and by the report of the Committee on Naval Affairs, founded on the *ex parte* evidence presented to them—and I wish to cast no imputation upon that committee; they acted upon the lights before them, and if I had been a member of that committee, upon the representations made to them, I have no doubt I should have fully concurred with them—represents, and represents truly, that he entered into an arrangement with Mr. Paulding, who was then Secretary of the Navy, to furnish a certain amount of water-rotted hemp, for the use of the Navy, which, if it proved equal to the Russia hemp, was to be used in the Navy. He did furnish a certain amount, but it was rejected by the agents of the Government at Boston, or Charlestown, in Massachusetts, and was thrown back upon his hands, or upon the hands of those with whom he was connected. That is true. He adds that he was animated entirely by patriotic considerations in making this arrangement. That I do not intend to dispute. I do not question his motives. But he says further, that in consequence of the rejection of that hemp, and in consequence of his arrangements to furnish it for the American Government, he had to abandon a large private interest; that he was obliged to give up a large manufacturing interest, which was realizing a profit of $15,000 per annum; that he became ruined in his credit, and bankrupt on account of his connection with the Government. That is the basis of the bills which have been presented to Congress for his relief.

Now, sir, I refer you to a publication which was made in 1849, and which has been before Congress ever since, in which Mr. Myerle states, and undertakes to prove, that he had a factory in Louisville which cost $38,400, which he was compelled to abandon in consequence of his engagement with the Government, and that his business, being thus neglected, went to ruin. That is to be found upon page seventeen of this synopsis. Upon page nineteen are extracts from the depositions of Mr. Stuart, of Louisville, Kentucky, going to prove that the cost of that factory was $38,400, and further tending to show that Mr. Myerle was compelled to abandon it from the engagement he had entered into with the Government. Mr. Myerle also introduces a letter from a gentleman in St. Louis, to show that he was at that time connected with a factory in that city, which he was also compelled to abandon on account of this engagement with the Government. But I will not read all these statements. It is sufficient to state, in general terms, that the basis of the claim, as presented by him, is, that he ought to receive indemnity from this Government for the actual losses sustained by him in consequence of this governmental connection, by which his private affairs were ruined.

As he figured largely in my country during the time of his connection with the Government, and as by that means some public interest was created in that country—I certainly have none, personally—some gentlemen took the pains to look into the matter, and have copied and sent to me certain papers which I propose to submit for the consideration of the House. If it shall appear that the representations of Mr. Myerle were unfounded, I shall regret it; but I nevertheless feel it my duty to offer them.

I refer the House again, among other things, to a circular which Mr. Myerle caused to be laid upon the tables of the members of this House, during the last session of Congress, in which he declares that he abandoned a business yielding him $15,000 per annum when he entered into this ar-

rangement with the Government. Now, sir, I hold in my hand copies of executions, taken from the records of the courts at Louisville, Kentucky, which show that at the time Mr. Myerle entered into this arrangement with Mr. Paulding, so far from being the man of fortune which he is represented, and so far from his private affairs having been ruined in consequence of that connection, he at that time was proof against an execution. His arrangement was entered into the last of the year 1839, or the first of 1840.

Now, remembering that date, I refer the House to an execution, a copy of which I hold in my hand, issued in the month of October, 1839, and returned during the same month, for $250. It was issued from the courts in Louisville, Kentucky, and levied upon the right, title, and interest of Mr. Myerle in various articles of property, and among others this factory, which has been proved to be worth $38,400, and his interest in that factory was sold for ten dollars. Here is the return upon the execution. His interest in the other property levied upon brought an amount making the whole together, according to the returns, sixty-six dollars; and that is the return upon the execution in the month of October, 1839.

Now, sir, I submit to the House, and I am obliged to do it, that this is not an honest claim, without some other explanation of it beyond what I have seen. Was it honest for a man to come to Congress, and represent that he was a man of fortune, and that he owned a manufacturing establishment worth $38,400, which he was compelled to abandon in consequence of his connection with the Government, and that he became thereby bankrupt and ruined in his pecuniary affairs, when proofs are developed subsequently which show that at the time he declared himself so ruined executions had issued against him which were levied upon this very property, and his interest therein sold for the sum of ten dollars?

The contract was made, according to the statement of Mr. Myerle, the last of 1839, or the first of 1840. This execution was issued in October, 1839, certainly before he had time to be ruined in consequence of any connection with the Government.

Now, sir, the Committee on Naval Affairs, on the *ex parte* statement of the claimant, reported that the expense of all these experiments, which were very heavy, were borne by Mr. Myerle himself. On page four, they report that at the time this hemp was rejected, his private affairs had become very much deranged.

On page five they report:

"That the consequences of the rejection of the hemp were most disastrous to the memorialist, causing a total destruction of his credit, a depreciation of all the benefits intended by the extension of his contract, which it is believed would have been highly profitable, and the sacrifice of all his property, alleged and believed from the evidence to be from thirty to forty-odd thousand dollars, leaving him largely in debt and a bankrupt."

That report was made to the House upon the statements of Mr. Myerle, and upon loose general declarations contained in these papers. Against them I place the authenticated records of the country.

But, Mr. Speaker, as I only want to give the prominent points in this case, I hasten on to the question naturally raised, how did Mr. Myerle obtain the means to make these experiments, to purchase this hemp? Where did he get the funds? The Government did not give them to him, and he did not have them.

In response to that, sir, I state to the House that when he had thus made the arrangement with Mr. Paulding—whether by his solicitation or by that of Mr. P. is perfectly immaterial—he went out to Kentucky, and entered into a contract, as it appears, with two gentlemen in my district, by which they were to furnish the funds to purchase the hemp, to water-rot it, and prepare it for market. The hemp was to be held in their names, because he could not hold it in his own name, for his creditors would have seized it. It was to be carried to Boston, and there offered to the Government. They did, under that arrangement, furnish the funds. They did, under that arrangement, pay the expenses, both of preparing the hemp and of sending it to Boston or Charlestown. It was rejected.

I hold, sir, in my hand an account which has been sent to me. I know nothing of the account except so far as it is sustained by the vouchers. The account is between Mr. Myerle and the gentlemen to whom I have referred, running from August, 1840, the time when he came to my district and entered into the arrangement, until 1842, when the whole concern blew up. That account consists of items for the purchase of hemp, for the payment of hands for water-rotting it, for freight upon it to New England, and, I will add, for numerous personal and private expenses of Mr. Myerle himself. Bringing the account down to 1842, it amounts to about $19,000, which, with simple interest thereon, up to this period, would leave him, according to the account, in debt to these two gentlemen to the amount of $30,000.

Now, this account is sustained by the vouchers. I have them here, but they cannot be read to the House. They consist of letters from Mr. Myerle and his agents asking for funds, receipts from him covering, I believe, almost, if not every item in this account, putting it beyond the possibility of a doubt that the funds were furnished by these gentlemen.

Mr. FLORENCE, (interrupting.) The gentleman says that the vouchers prove that Mr. Myerle would be indebted to Montmullen & Cornwall $30,000. Now, the gentleman did not say how much the hemp was sold for.

Mr. BRECKINRIDGE. I will come to that point in a moment.

Mr. FLORENCE. I thought it proper to have a statement of that fact just in this connection.

Mr. BRECKINRIDGE. I would not omit so important a matter as that, and I will come to it directly.

I say that the items of this account, most of which, if not all, are sustained by vouchers here, bring Mr. Myerle in debt to those gentlemen to that extent; and I assert it not for the purpose of making any claim for them, for their claim will never come before Congress, but I do it for the purpose of showing the true nature of the business.

But it was urged by my friend from Pennsylvania, [Mr. FLORENCE,] in an elaborate speech he made at the last session upon this claim, that the hemp which was prepared and delivered at Charlestown, and rejected by the Government agents, was seized by these gentlemen in violation of the contract, and converted into bale rope, whereby Mr. Myerle sustained great losses. Now, sir, there could have been no violation of the contract, because the contract provided that the hemp should be shipped in their own names, and in addition to that Mr. Myerle could not have held the hemp in his own name, and the arrangement was a just one to him, because, otherwise it could have been seized by his creditors, as I have before stated. They held the hemp, as they were obliged to do.

Mr. Myerle represented that it would be accepted by the Government. They had incurred the expense of taking it to Charlestown, in their own names, and the hemp was rejected. What had they then to do? Mr. Myerle was a bankrupt, and the Government had refused to take the hemp. What could they do but make the best of the hemp? They converted it into bale rope; they took it to New Orleans; and we have the testimony of Mr. Myerle himself, in these papers, that it was held there several years on account of the unfounded prejudice against it, in consequence of the color, and then it was sold at a heavy loss. I may add here, if they violated the contract, and Myerle sustained damages thereby, why did he not sue them? They were, and have ever been, entirely responsible.

Mr. Myerle, in this account, is credited with the proceeds of that hemp to the amount of $8,000. Any gentleman—and my friend from Pennsylvania [Mr. FLORENCE]—is at liberty to look at the account. There still remains an indebtedness of about $30,000.

Mr. McLANAHAN. I wish to ask the gentleman from Kentucky when that account was taken?

Mr. BRECKINRIDGE. This account commences in the month of August, 1840, and it is brought down to some period in 1842.

Mr. McLANAHAN. I have in my possession two letters, stating the amount of indebtedness in 1846 was about $1,000.

Mr. BRECKINRIDGE. Will the gentleman be good enough to show me the letters?

Mr. McLANAHAN I will send both the letters to the Clerk to be read.

One of the letters from Montmullen to Myerle says, that a thousand dollars were due to him, (Montmullen,) and the other makes a proposition that they will unite their forces, for the purpose of obtaining from this Government the sum of $30,000, and divide that between them, and then subsequently make another effort to obtain money from the Government, and to divide that. I ask for the reading of the letters.

Mr. BRECKINRIDGE. I hope they will be read.

The letters were then read, as follows:

LEXINGTON, *April* 28, 1846.

DEAR SIR: A few months ago, about thirty warrants, and some half a dozen suits, were instituted against myself and J. Cornwall, in the Woodford court, by individuals, as alleged by them, for labor executed for the water-rotting of hemp. I have been informed from various sources that these accounts were gotten up by E. Terrill, for the purpose of making more money out of M. & C. I write to inquire if you ever knew of William Hart and E. Terrill having sold a part of said hemp, which I learn they did, after you left Lexington? and I also wish to inquire whether you were not in our debt for advances made, say for a thousand dollars and upwards at the time? My lawyer, Major Woolley, says it is necessary for us to take your deposition in these cases, so as to refute the testimony which Terrill and Hart wish to produce. We have been at very great expense and trouble in defending these suits; besides your character, as well as ours, has suffered not a little. Your earliest answer to my inquiries will much oblige, your obedient servant, F. MONTMULLEN.

MR. D. MYERLE.

The statute of limitation will expire in three weeks; and unless I receive your answer in time, any effort hereafter will be too late.

Mr. McLANAHAN. The date of that letter is in 1846; and I wish merely to ask the gentleman from Kentucky, who can possibly explain it, how comes it that in 1846 these parties, claiming the whole of this remuneration, should ask Mr. Myerle that he should admit that he owed them about $1,000, for the purpose of barring the statute of limitation, when they now set up a claim for the whole sum of $30,000? Let the other letter be read.

It was read as follows:

WASHINGTON CITY, *April* 27, 1848.

DEAR SIR: As the time has now come that further arrangements in our matter will be of no avail, I now make the last and final proposition, that we divide equally the appropriation, and that we will act in concert for the future, with a view of obtaining a further sum from Government, which we will again divide, should we be successful.

Yours, respectfully, F. MONTMULLEN.

MR. D. MYERLE.

Mr. BRECKINRIDGE. In regard to the proposition in one of the letters, to apply to Congress jointly for relief, I have understood that some negotiation had taken place between Mr. Myerle and those gentlemen, but that they could not agree. In regard to the letter which was first read by the Clerk, dated in 1846, in which Mr. Montmullen wrote to Mr. Myerle that they have been sued upon this contract, and desired him to admit that there was a balance of $1,000 ——

Mr. McLANAHAN, (interrupting.) A thousand dollars in 1846, and that at a period of time when the statute of limitation was about to cut off their whole claim. Subsequently, in 1848, they make a proposition to divide the spoils, whatever they may be.

Mr. BRECKINRIDGE. I will give to the remarks a perfectly candid answer. That letter I never saw. That letter I never heard of, and I am not prepared to explain it, as connected with this account, except in two ways. First, here is an account made out by these gentlemen, and sustained by vouchers—and I will only say in reference to them that they are gentlemen of great respectability and character in my region of country—and it is very astonishing that there should have been a balance of only a thousand dollars due to them in 1846, when it is admitted all around that they furnished all the funds with which these experiments were made, and that Myerle had no funds then or since. Again, the letter of Mr. Montmullen—if I understand it—refers only to the time when Myerle left Lexington, and not to the state of their accounts on final settlement.

Mr. HALL. If it be true that Montmullen & Cornwall incurred all the expense in the purchase of the hemp, and in performing the contract, and that David Myerle's indebtedness to them was only $1,000, how much ought we now to pay him?

Mr. BRECKINRIDGE. I will come to that directly. Let me call the attention of the House for one moment to a point which, if answered, will overcome a strong objection in my mind. Mr.

Myerle admits, in a publication entitled his Evidence and Explanation, that he did go to Lexington in 1840, and made an arrangement with these gentlemen to furnish the funds to get the hemp to carry on these experiments. He declares that he expended about $1,000 in cash, of his own funds, and no more. That is the declaration on the part of Mr. Myerle. Then, whatever money was expended for this hemp rejected by the Government, was undoubtedly expended by these men. When the hemp was rejected, it went into their hands, where it properly belonged. And if there was only $1,000 due in 1846, it was because they had reimbursed themselves by the proceeds of the sale of that hemp to within $1,000. The proceeds went where they ought to have gone, to reimburse those who sustained the original loss. If that be true, the bill, instead of $30,000, ought to be cut down to $1,000; because it appears from page seven of their report that Mr. Myerle waives all claim for remuneration for his services, or that "generous reward promised by the Secretary of the Navy in case of success." He will be content, as appears from his memorial, with indemnity against the actual loss he has sustained. The actual loss, according to their own showing, will be cut down from $30,000 to $1,000.

Mr. SACKETT. With the permission of the gentleman, I will say one word on the subject of that letter. It does not pretend to say that they find the account between the parties to be $1,000.

Mr. BRECKINRIDGE. I heard the letter very indistinctly.

Mr. SACKETT. It only covers a certain period. It reads as follows:

"I write to inquire if you ever knew of William Hart and E. Terrill having sold a part of said hemp, which I learn they did after you left Lexington; and I also wish to inquire whether you were not in our debt for advances made, say for $1,000 and upwards, at the time."

At the particular time he left Kentucky. It does not purport to be a letter stating the final indebtedness to either party.

Mr. FLORENCE. The gentleman from Kentucky referred to the contract made by Mr. Myerle, and urged that Montmullen & Cornwall had possession of the hemp, because Mr. Myerle could not hold it for fear of his creditors. A paragraph of the contract reads as follows:

"David Myerle agrees to pay M. & C. eight dollars per ton for bailing and shipping the hemp.

"He also agrees that the hemp shall be shipped to some responsible house in Boston, in which both parties shall agree, on whose business it shall be to take up all bills drawn on account of it, after which said firm in Boston shall deliver the hemp, or proceeds of the sale of it, to said Myerle.

"DAVID MYERLE.
"MONTMULLEN & CORNWALL.

"Attest: WM. CORNWALL."

Mr. BRECKINRIDGE. It is true that the contract says it shall be shipped there in their names. Well, it was shipped there in their names, and it was rejected by the Government. The bills drawn upon it had to be paid by these men. What remained for them, according to all reasonable proceedings in business transactions, but to make it available, as far as they could, to meet these bills?

I will sum up the case, as I understand it, in a few words. Mr. Myerle made no legal contract with the Secretary of the Navy, but an equitable arrangement to test the practicability of procuring for the use of the Navy American water-rotted hemp, being, contrary to his own declarations but as proved by the papers, a bankrupt at the time. He went to Kentucky, and obtained of gentlemen there the funds to carry on these experiments. The hemp when offered was rejected. Those gentlemen, it falling upon their hands, reimbursed themselves as well as they could, but left a large balance due from Mr. Myerle. No actual loss was sustained by him, so far as the papers or proof show.

Several years afterwards he applied to Congress for relief; but when he applied to Congress for relief, I regret to say that he undertook to maintain a state of fact in regard to his own condition, in consequence of his connection with the Government, disproved by the evidence I have produced here to-day. There can be no doubt at all, sir, but that Mr. Myerle was without funds when he went there. There can be no doubt but that the funds were furnished by the gentlemen I have before named, and that the loss fell upon them. There can be no doubt that the actual loss Mr. Myerle then sustained, for which he now asks indemnity, was nothing, or just about nothing. Now, it does seem to me, that to pass this bill under these circumstances, would be to offer a bounty to untrue representations made to Congress as the basis of a claim. And I beg any gentleman who may follow me, to explain and reconcile, if possible, the statements of that synopsis, with the proof furnished by these executions. To pass this bill, I say, under these circumstances, would be the giving of a bounty to a false aspect of questions to Congress, and the taking of $30,000 out of the Treasury to reimburse Mr. Myerle for losses sustained by other people. I disclaim again the least personal feeling in the matter. There is some feeling in my region of country, where this case, I believe, is pretty well understood. I disclaim, also, the least imputation either upon the ability or fairness of the Committee on Naval Affairs. As I have already remarked, if I had been a member of that committee, upon that paper I would, probably, have reported that bill.

One other remark personal to myself, and I will have done. Mr. Paulding has figured largely in this case since it was first presented to Congress. I have had occasion, I believe, to allude to that gentleman only once or twice, and then in very respectful terms. A letter was received in this city a few days ago from Mr. Paulding, which has been laid upon the tables of members with a view to promote this claim. But the whole of that letter is not printed. Members will perceive that a part of it has been suppressed.

A MEMBER. What is its date?

Mr. BRECKINRIDGE. January 4th, 1853. I have learned from several sources that in the latter part of that letter, Mr. Paulding has chosen to insinuate that I have been governed by selfish considerations—perhaps by pecuniary considerations—in this matter. To what extent that letter may have been shown to members of Congress, I am not prepared to say. I deem it hardly necessary to deny indignantly this atrocious imputation, and to say that I trample it beneath my feet with unspeakable contempt.

Mr. SWEETSER. I desire information upon this subject; and I would inquire of the gentleman whether the sale to which he adverted was not made subject to a mortgage put upon the property in order to raise the means to carry on the enterprise Mr. Myerle had engaged in?

Mr. BRECKINRIDGE. By the arrangement between Mr. Myerle and these gentlemen in Kentucky, they were to have a lien upon this hemp for the purpose of reimbursing themselves.

Mr. SWEETSER. That is not the question. I refer to the sale of the factory; and I ask the gentleman whether that was not incumbered by a mortgage, which had been given in order to raise money to carry on this enterprise?

Mr. BRECKINRIDGE. It does not appear that it had been incumbered by mortgage. Still less does it appear that that money was given to carry on this enterprise; for when Myerle went into the enterprise he was without funds, and, as he himself says, he got the funds from my constituents.

Mr. MACE obtained the floor.

Mr. BRECKINRIDGE. I have not called for the previous question, because I supposed that either the gentleman from Virginia [Mr. BOCOCK] or the gentleman from Pennsylvania [Mr. FLORENCE] might desire to say something.

Mr. BOCOCK. I desire to have the official announcement of the Chair whether I am not entitled, under the rule of this House, as the reporter of this bill, to one hour to close this debate?

The SPEAKER. The rule is express that the reporter of a measure has the right to open and close the debate thereon.

Mr. JONES, of Tennessee. I inquire whether the gentleman did not occupy his hour in debate on this bill in the Committee of the Whole?

Mr. BOCOCK. I did under a different rule. There are two separate rules, as my friend from Tennessee well knows, and the Speaker of this House has no opportunity to know what occurs in the committee. He acts under the rules which regulate the proceedings of the House, and he has nothing to do with what is done in the committee.

Mr. JONES. The balance of the members know what was done there. The gentleman, in my opinion, gives a new construction to the rule.

The SPEAKER. The rule is as follows:

"34. No member shall occupy more than one hour in debate on any question in the House or in committee; but a member reporting the measure under consideration from a committee may open and close the debate: *Provided*, That where debate is closed by order of the House, any member shall be allowed, in committee, five minutes to explain any amendment he may offer," &c.

Mr. JONES. I think that it was the chairman of a Committee of the Whole House who reported the bill to the House. The gentleman from Virginia [Mr. BOCOCK] in the first instance reported the bill from the Committee on Naval Affairs, and it was then referred to a Committee of the Whole House. After consideration there, it was reported back to the House by the chairman of the Committee of the Whole House.

Mr. BOCOCK. I did not quite understand the remark of my friend from Tennessee.

The SPEAKER. The gentleman from Tennessee assumes that the chairman of a Committee of the Whole House last reported the bill, and that to him would attach the right to close the debate. The Chair thinks that that has not been the practice in this body. It has uniformly been the practice to allow the member who originally reported the bill from the standing committee to open and close the debate upon it.

Mr. BOCOCK. Though my friend from Tennessee, [Mr. JONES,] in pursuance of that spirit of economy of time as well as of money which always characterizes him, rises and seems to show a desire to cut me off from the opportunity to reply to the remarks of the gentleman from Kentucky, [Mr. BRECKINRIDGE,] I beg leave to state, in vindication of his character for liberality and justice from any such suspicion as that, that I would be willing to throw myself upon his liberality this day, if that rule were not there, because I know that he would not permit any claim to be voted on that had been opposed by the gentleman from Kentucky, without some opportunity on the part of its friends for reply.

Mr. JONES. The gentleman from Virginia has had one hour on this bill under that rule, and I am constrained to object now, however pleased I should be to sit here and listen the balance of the day to a vindication of the report he submitted on this case. The objection I make is not to cut him off, but to prevent the establishing of a precedent I think wrong in itself, and which will consume much of the time of the House, contrary to the true spirit and meaning of the rule.

Mr. MACE. I move that the bill be laid upon the table; and upon that motion I call for the yeas and nays.

Mr. BOCOCK. I hope that motion will not be agreed to, inasmuch as the friends of this bill have not had an opportunity to reply to the remarks of the gentleman from Kentucky.

The yeas and nays were ordered.

Mr. MILLSON. I have heard several speeches against the bill, and I desire to hear the reply of my colleague. I ask the gentleman from Indiana [Mr. MACE] to withdraw his motion to lay the bill upon the table, and then let the demand for the previous question be withdrawn, to avoid what the gentleman from Tennessee supposes may be a bad precedent, if my colleague should be allowed to speak after it is sustained. No doubt my colleague will renew the demand for the previous question after he shall have concluded his reply.

Mr. BOCOCK. I desire further to say, in connection with the remark of my colleague, that I sat here and listened to the remarks of the gentleman from Kentucky, [Mr. BRECKINRIDGE,] made no interruption during his speech, and made no suggestions of any kind. Believing then that I had the right to conclude this debate, I did not desire to interrupt him, for I did not know that I was to be deprived of the privilege.

The SPEAKER. The Chair did not decide that the gentleman had no right to the floor. He decides otherwise.

Mr. WILCOX. I have arisen to join in the request of the gentleman from Virginia, [Mr. MILLSON,] on my left, to the gentleman from Indiana, [Mr. MACE,] to withdraw his motion to lay the bill upon the table. I find myself in the same situation with the gentleman from Virginia. I am not sufficiently advised in regard to the merits of the bill, and I find that many gentlemen here are in the same situation with myself. I desire to vote intelligently and advisedly upon this matter, and I hope, therefore, that the gentleman from Indiana will withdraw his proposition to lay the bill upon the table.

Mr. MACE. I will withdraw the motion to lay upon the table.

Mr. BOCOCK. I cannot but regret, as I do at this time, to conclude this debate. It has not been my fortune to hear the whole of the argument of my friend from Kentucky, [Mr. BRECKINRIDGE.] The remarks that he made on a former occasion were made in my absence. I looked out diligently to find a report of those remarks, but they were never reported in the Globe, perhaps upon some understanding with him that they should be withheld until the whole of his speech could be published together. I do not by any means intend to insinuate that they were withheld from any improper motive on his part; yet every member of the House who was not here should have had an opportunity to examine them. That he withheld them for the purpose of publishing his remarks altogether, and thus presenting a complete view of the subject, I have no doubt. But the impression, the bad bearing of the thing upon myself, is the same as if he had any other motive. When this bill first came into the House, and I came forward to make a few remarks upon it, I endeavored to place the claim of David Myerle upon two simple and distinct grounds. If the claim had been rested there by Myerle himself, and all his friends, I apprehend that the remarks of my friend from Kentucky would be altogether out of place. I apprehend that the remarks of my friend from Kentucky, however ingenious and however able—for he is always ingenious and able—would have had nothing whatsoever to do with this case.

What difference does it make here, I ask, Mr. Speaker, and I ask my friend from Kentucky the question as to the justice of this claim, whether David Myerle got the money with which he prosecuted this business from Montmullin & Cornwall, or from anybody else? David Myerle had a contract with the Government, and he had a claim upon the Government. He it was that contracted with the Government, and he alone can make a demand against this Government. What have we to do with Montmullin & Cornwall? What does this Government know about Montmullin & Cornwall? I shall show, in a subsequent part of these remarks, what injustice might arise, upon the plainest principles of law, to permit our consideration of this question to embrace any thing of the transactions between Myerle and Montmullin & Cornwall. The simple question is, Is David Myerle, under his contract with the Government, entitled, or is he not entitled to indemnity? If he is not, Mr. Speaker, I ask you and the members of this House, to vote down this bill. As the gentleman from Kentucky [Mr. BRECKINRIDGE] has said, I have no feeling in relation to this subject, except the simple feeling and desire that the position which I have taken in relation to it may be sustained, and that the correctness of the report which I have made here may be vindicated.

What I stated upon a former occasion was, that in the contract between David Myerle and the Government, as appears from the letters sent here by Mr. Paulding, former Secretary of the Navy, time and time again, that he agreed with Myerle, if *he entered upon this business and prosecuted it faithfully*, that he should be indemnified; and if he was *successful* he should be handsomely remunerated. Gentlemen rise here and ask what right had Mr. Paulding to make any such arrangement? I answer, Mr. Paulding was at the head of the Navy Department. It was, therefore, his appropriate duty to take means to have his Department supplied with the necessary material for the Navy on the best possible terms, and if in the prosecution of such a design as that he transcended his strictly legal powers, will this House come here and say that an humble citizen of the country, such as David Myerle was, shall suffer in consequence of the misjudgment of the Secretary? Mr. Paulding agreed that if he should enter upon the work and prosecute it faithfully, that he should be indemnified, and if he was successful, that he should be handsomely rewarded. I showed upon a former occasion that he did enter upon it—gentlemen do not deny it; that he did prosecute it faithfully; and though his experiments, pecuniarily, were unsuccessful to himself, yet he performed the mission he was sent to accomplish—a mission which redounded to the best interests of the country.

I stated on a former occasion, at the time that David Myerle entered upon this enterprise, that the process of water-rotting American hemp was condemned in the general estimation—believed to be impossible to be practically carried out to any extent. I state now, in that connection, immediately after he entered upon it, when he went into the State of Kentucky, to some gentlemen, to engage in the enterprise, so firmly fixed was the belief that the process was an impracticable one, that certain gentlemen in the neighborhood applied for and obtained an injunction to stop the operation; and there he was with his operations suspended, his hands out of employ for a great length of time, in consequence of the injunction obtained under such circumstances as these; and thus he pressed forward through numberless embarrassments until the practicability of the measure was demonstrated; and now, so far from being dependent on Russia, as we formerly were, for our hemp, we have a supply sufficient for the whole Navy, and most of the entire commercial marine of the country.

Mr. HALL. I understood the gentleman from Virginia [Mr. BOCOCK] to state, that in consequence of the experiment of Myerle, we are enabled to supply the American Navy with water-rotted hemp of as good quality as Russian hemp. I ask the gentleman to permit me to read an extract from the report of Commodore Shubrick, dated October 12th, 1852, upon this very subject:

"Since the last annual report from this Bureau, between seventy and eighty tons of American hemp have been received at the agencies, and there is no reason to expect that there will be an increased quantity from the incoming crop. The reports from the superintendents of the rope-walks, both at Memphis and at Boston, are unfavorable as to the quality of the American hemp. This is believed to be owing to a want of proper care in the culture and curing of the plant. No reason can be perceived why the American may not be made of as good quality as the best foreign article; but with the fair, and indeed high, encouragement given, this has not been effected."

Let me call the attention of the gentleman to this fact, that while we require five hundred tons of American water-rotted hemp for the use of the Navy alone, we have been able to get but seventy or eighty, and that of a most inferior quality. The agent at Memphis says this. Let me read what he says:

"I regret being obliged to call your attention again to the unsuitableness of the hemp sent here by the agents for the use of the Navy, on account of its general inferior quality. With the exception of a lot of ten tons, received from the Kentucky agency, (marked 'Weir,') none has yet been found equal to the Russian 'half clean;' while 'out shot,' the poorest quality of Russian hemp, would be preferable to the most of it."

So that, according to these reports sent to Congress, instead of its being true, as the gentleman from Virginia [Mr. BOCOCK] has been led to believe, that we now can get American water-rotted hemp, owing to the experiments of Mr. Myerle, as good as Russian hemp, it appears that at Memphis there are only ten tons, and only a little of that fit for use at all.

Mr. BOCOCK. If my friend from Missouri had enlarged his view a little, he would have been enabled at once to give an explanation of the matter he is bringing before the House. Indeed, in reading the very document, he gave an explanation, though it may not have been distinctly and fully understood by the House, of the very objection which he is now raising. If we look to the census report, the reports of the Secretary of the Navy, to all that we hear upon this floor whenever this question comes up, year after year we find that a large amount of American hemp is used, and the supply of American water-rotted hemp is fully sufficient for the Navy of the country, and almost sufficient for our commercial marine. The gentleman takes one particular year, comes forward, and says that the hemp raised that year is not as good as the Russian. Why, you find that is the case with everything else. Do we not know, who know anything about these matters—and I am somewhat of a farmer myself—that there are some years when the tobacco crop is inferior, when the wheat crop is inferior, and when every crop is of an inferior quality? and yet will gentlemen take such a year as that, and say that this country cannot raise tobacco, wheat, or such other crops as may have failed at the time? The gentleman must have read from that same statement, that it was owing to neglect and inattention to the plan, and to that cause alone, in the opinion of that officer, that the hemp was of an inferior quality.

I will show from the testimony of this case, as I have shown before, that not only is the American water-rotted hemp fully equal to the Russian, but that the very hemp of Myerle himself was equal to the Russian.* There was one other view in which I presented this case upon a former occasion. It was that Myerle delivered that hemp in pursuance of his contract to the inspector at Boston. It was rejected. There is proof that it was improperly rejected. If it was improperly rejected, had Myerle the right to claim indemnification at the hands of this Government?

Mr. STEPHENS, of Georgia. Where is the proof?

Mr. BOCOCK. We have here the statement of Mr. Paulding, which I will read at length presently, because it gives a summary view of this whole matter. He states that this hemp was as strong as the best Russia hemp, and that the sole objection to it was, that it was not as well cleaned, or of quite as good a color. But Mr. Paulding goes further than I have ever gone, and says that it was rejected from corrupt motives by those commissioners at Boston. There is also the testimony of the firm of Sewell & Co., who bought a portion of this rejected hemp when it was sold, that it was equal to any hemp they ever used in their lives. It was sold in various parts of the country; but wherever it has been traced, we have been able to bring up before this House and the country the testimony of the men who used it, that it was as good as any hemp they ever used in their lives. They all allow that there was something in the color of the hemp a little different from the Russia hemp, but they all say that it was as strong and valuable as the best Russia hemp.

Mr. STEPHENS. Was there any evidence before the committee that the report of the commissioners at Charlestown was an improper one?

Mr. BOCOCK. We had proof that the hemp was good, and yet it was rejected. We have the proof of one of the commissioners, who says himself that it ought not to have been rejected There were three commissioners to examine the hemp. Two voted to reject it, and one against rejecting it. We have the testimony of the one who voted against it, who says that, in his opinion, it was improperly rejected. Now, I submit to the gentleman from Georgia whether, if the hemp was good, it was right to reject it for a mere difference of color, which may, after all, have been but the result of the soil or climate in which it was grown?

Mr. STEPHENS. But where is the evidence that it was good?

Mr. BOCOCK. Why, we have the evidence of the men who used it after it had been rejected that it was good hemp. Is not that sufficient? The gentleman does not seem to embrace that idea. I wish I could make it as clear to his mind as it is to my own. If I could, he could not fail to be satisfied.

Mr. FLORENCE, (interrupting.) I wish merely to state, in connection with the question of the gentleman from Georgia, that the superintendent of the Government rope-walk tested the quality and strength of this hemp, and he declared it to be better than the Russia hemp.

Mr. HALL. Will the gentleman state to the House that samples were tested, and not a part of this hemp?

Mr. FLORENCE. No, sir; it was clearly that hemp.

Mr. STANTON, of Kentucky. I simply desire to say, at this point, with the permission of the honorable gentleman from Virginia, [Mr. BOCOCK,] that the great cause of the failure of the hemp-growing States to produce a sufficient quantity of water-rotted hemp for the use of the Navy, is to be found in the fact that the policy of Government has not been such as to encourage its culture. The Government has appointed two hemp agents, one located at Louisville, in Kentucky, and the other at St. Louis, Missouri. These agents, if I am rightly informed, are not author-

* An extract from the annual report of the Secretary of the Navy, Hon. John Y. Mason, dated December 4, 1848:

"The supply of hemp on hand, and deliverable under contracts already existing, rendered it unnecessary to advertise for any additional quantity for the present year. That American hemp can be prepared, in quality equal to any in the world, has been established by experiments under the most rigid test."

The Boston Courier of March 27, 1849, quotes American water-rotted hemp at $220 per ton—Russia at $240.

ized to purchase of the producers the hemp they are willing to furnish to the Government, and have no power to receive any quantity, no matter how much may be produced and offered for sale. I do not now, and never could understand the real purpose for which these agents, or inspectors, as they are called, were appointed. With the power to buy of the producers, their services might be valuable; and the Government through their instrumentality might, without difficulty, supply itself with an abundance of good water-rotted hemp for the use of the Navy, fully equal in strength and durability to any foreign article. The farmers of Kentucky, who take the trouble to water-rot their hemp, can find a market only with the Government. The Government, instead of requiring its inspectors to purchase and receive the hemp when prepared in the neighborhood of the hemp region, require the producers to send it to Boston, Memphis, or some other distant naval depôt, there to be subjected to the same risks which resulted in the rejection of the hemp of Mr. Myerle. They are unwilling to undergo the expense of shipment, and run the risk of having their hemp rejected by the officers of Government, at points where its speedy sale, in such contingency, cannot be effected.

I remember well that when Myerle's hemp was rejected at Boston, as shown by the proof in the case now before the House, great indignation prevailed against the Government in the whole range of hemp-growing counties in my region of the State. The people believed, as is now demonstrated by the letter of Mr. Paulding, that improper means were resorted to to produce that rejection. Hence it is that our people are unwilling to engage in the expensive process of water-rotting their hemp. They have no assurance after they have done so, and incurred the cost of transportation to a distant naval station, that the hemp will not be rejected. If they could sell it to an agent of Government on the spot, authorized to buy aud receive it, I have not the slightest doubt that an abundance of the article, of the very best quality, could be procured from our own farmers. They have the fate of Myerle before their eyes, and hence hesitate to run the risks to which he was unfortunately exposed.

The farmers of Kentucky have, in the commercial towns of Maysville, Louisville, and Cincinnati, a convenient market at all times for their dew-rotted hemp. It is subject to no inspection of Government officials, and has no prejudices of interested and, perhaps, corrupt agents to encounter. It is bought at a fair value from the hands of the producer. Is it wonderful, then, that they prefer to produce dew-rotted hemp in preference to that which is water-rotted?

I believe, sir, if our Government would adopt the wise policy of purchasing its supply of hemp for the Navy *in open market*, from those who can produce it, that the State of Kentucky alone would supply an abundance for all the wants of Government. Let the agents now located at Louisville and St. Louis be authorized to buy and receive the hemp from the farmers, without first transporting it to Boston, Norfolk, or Memphis, for inspection, and no doubt enough and to spare can be conveniently obtained.

Our farmers have learned, from the experiments of Myerle, the art of preparing it. Our soil is fruitful beyond comparison. We can grow the article equal to any produced in the world.

Mr. HALL. I hope the gentleman from Kentucky and the House did not understand me to say that the western people could not produce water-rotted hemp. My statement was, that the argument of the gentleman from Virginia [Mr. BOCOCK] was incorrect, when he said that we were now able, *in consequence of Myerle's experiments*, to supply the Navy with water-rotted hemp. I say that that is not the fact. I say that whenever you pay the American grower a remunerative price for water-rotted hemp he will make it, but not in consequence of Myerle's experiments. They do not make water-rotted hemp, because it is better for them to make dew-rotted hemp at the present prices.

Mr. STANTON. I would ask the gentleman whether the production of watter-rotted hemp was carried on to any extent, either in Missouri or in Kentucky, before Myerle went and demonstrated that it could be done without injury to the health of the people?

Mr. HALL. The only time within my knowledge, when water-rotted hemp was produced in Upper Missouri, was in 1842 and 1843. Our people then went into the business, because David Myerle came there and told them that if they water-rotted hemp, he would give them seven dollars a hundred for it; and as a matter of speculation, they went into the business. When they had prepared the hemp, Myerle was not there to take it off their hands, and they went out of the business. That is the whole history of water-rotted hemp in Missouri. I do not believe there is a single grower engaged in it now.

Mr. STANTON. Still Myerle demonstrated that it could be done.

Mr. BOCOCK. The gentleman has gone back to a former question which I had passed from—that is, whether David Myerle did anything to establish the practice of water-rotting hemp. I will, however, recapitulate the facts which the gentleman from Missouri does not deny, and which nobody who knows anything of the case can deny. They are these: at the time Myerle undertook the enterprise, the process of water-rotting hemp was not carried on in this country. It was believed to be unhealthy. Myerle did enter on it, and he induced other men to enter on it, and the consequence has been that the process has been increasing from that day to this, so that there is now a large amount of water-rotted hemp annually made in this country.

Mr. BRECKINRIDGE. I believe that I live in the midst of the largest hemp-growing district in the United States. It is a mistake to say that there had been no water-rotted hemp prepared previous to the appearance of Myerle. There had been some; there has undoubtedly been more since. The reason why no more hemp had been water-rotted was that our farmers could not be secure of getting a fair price for it. They objected to the contract system. But it could always be obtained from farmers, in open market, when a fair price was offered for it.

Mr. BOCOCK. Does the gentleman from Kentucky, the gentleman from Missouri, or any other gentleman, deny that there were strong prejudices against this process at the time David Myerle entered on it—that the people believed it to be unhealthy, and that Myerle's operations exploded that idea?

Mr. HALL. I will state this to the gentleman from Virginia, that so far as my information extends, precisely the same prejudice exists now, in my part of the State, against water-rotting hemp, that has always existed. The prejudice is so strong that people will not engage in the operation unless they can get exorbitant prices for their hemp.

Mr. BOCOCK. That is very singular; for the census and other reliable returns show that there is much more of it made than there formerly was.

But, sir, I turn now to another question, which I was considering when the interruption took place; and that is the question of the improper rejection of this hemp. I am happy to have the suggestions of the gentleman from Kentucky, [Mr. STANTON,] for more than one reason. I am happy to have it, not only because the suggestion itself is valuable, but because it bears forcibly upon the remarks with which the other gentleman from Kentucky [Mr. BRECKINRIDGE] concluded his speech upon this subject. Any one listening to the eloquence of that gentleman, would have thought that all Kentucky was up in arms against old David Myerle; that the whole artillery of the State was to be brought to bear to crush that feeble old man. But the next moment, another gentleman from Kentucky comes forward, and, instead of bearing testimony to that feeling against Myerle, has the temerity to bear his testimony in behalf of the value of his services and the justice of his claim.

Sir, I will now read a single paragraph from Mr. Paulding's letter. He says:

"I stated, that after surmounting great obstacles, you at length succeeded so far as to deliver a large supply of American water-rotted hemp at the Boston navy-yard, which being tested with the best Russia, proved considerably stronger, but was rejected by the inspectors on the frivolous pretext that it was not quite so clean."

That is not hearsay. Mr. Paulding does not say he *heard* that it proved stronger than the Russian hemp. He says of his own knowledge that it proved stronger. He says further:

"And I now state, that the late Commodore Nicholson, who afterwards commanded at Boston, has since assured me that corrupt means were used to induce the inspectors to come to that decision."

I commend that to the gentleman from Georgia.

Mr. STEPHENS. I had read that.

Mr. BOCOCK. Well, sir, I have also the evidence of the gentlemen who used the hemp. Now, here is the ground upon which I rested this claim: I proved that David Myerle did enter on this work and faithfully prosecuted it, and that he made the experiment successfully. I come forward now to claim the fulfillment of the pledge made to him by Mr. Paulding, that he should be indemnified against all loss. I undertake to show that the hemp was improperly rejected, and I say that in pursuance of the contract, David Myerle is entitled to the difference between what the hemp actually sold for and what he would have received for it if it had not been improperly rejected. That is all I ask. That is every cent reported here. All this talk about losses at Louisville, and St. Louis, and Wheeling, has nothing to do with the matter, as my friend from Kentucky [Mr. BRECKINRIDGE] well knows. If the case had rested just where I rested it, all this talk of my friend from Kentucky about David Myerle having deceived the Secretary of the Navy, and deceived the Committee on Naval Affairs, would have been entirely unnecessary.

Sir, I claim that David Myerle was entitled to have that hemp received; that it was improperly rejected; and that therefore David Myerle is entitled to the difference between what that hemp sold for, being rejected, and what it would have sold for if it had not been rejected. It was sold for one half its fair price. Hemp at that time was worth about $300 a ton. Being rejected; being seized upon by Montmullen & Cornwall, and hurried off without Myerle's consent, it was converted into bale rope by them in violation of the contract between them, sold to whoever would take it at any price, and it was thus sacrificed for half the price that it otherwise would have commanded. Now, sir, if any gentleman will examine my report, he will see that that is the ground upon which I base it. It is true that I adopt the report made by a former member of this House from the State of South Carolina—a gentleman in whose intelligence and integrity I have the highest confidence; but it will be seen that I do not indorse all the statements made by Mr. Holmes in that report. I give it at length, and say that in most of the arguments I concur.

Now, if this case is rested there, upon what pretext will economists—you who wish to build up a reputation here by saving every dollar and cent to the Treasury—upon what pretext, I ask, can you refuse this old man his just due? In all your laudable attempts at economy, I claim to be your full brother. I stand up with you here to resist, by my voice and by my votes, the taxes which are continually being laid upon the people. I give my consent to as few improper measures of this sort as almost any member of this House; but I hold that it is the part of an American statesman, of an American patriot, and of a man of intelligence, to discriminate between that which is wrong, and that which is right. Will you, in a wild spirit of economy, say, "We will allow nothing?" Remember that you refuse to claimants against the Government every means of redress. You do not permit them to go into the courts. You will not establish a board of claims. You require them to come to your door and knock; and when they do come, you say to them, "You want money out of the Treasury, and we are sworn not to give you any." You thereby proclaim that you have more regard for establishing a reputation at home for economy, than you have for justice, and a faithful performance of duty. You love yourselves better than you love justice and right. You wish to build up your reputations at home as vigilant guardians of the public treasure, at the expense of just claimants upon the Government.

Mr. MOORE, of Louisiana. As I intend, from conscientious motives, to vote against this claim, I do not wish to have improper motives imputed to me.

Mr. BOCOCK. I did not mean to impute any improper motives to the gentleman.

Mr. McLANAHAN. I think the gentleman from Virginia has very conclusively shown that this Government is not in debt to Montmullen and Cornwall. The question before the House now,

it seems to me, is, to ascertain, if possible, the data from which the committee deduced the conclusion that the Government owes $30,000 to David Myerle. I have paid some attention to the gentleman's speech, and I do not wish to interrupt his train of thought, but it occurs to me that if the House was informed of the data from which the gentleman deduced the conclusion that this Government is indebted in the round sum of $30,000 to Myerle, we should come nearer to the case than from anything that has transpired in this morning's debate.

Mr. BOCOCK. I take great pleasure in answering the gentleman's question, because I want to throw as much light as I can upon this subject. The gentleman will see it stated in my report that I propose no circumstantial damages, no allowance for prospective profits. I only propose that David Myerle shall be indemnified against actual losses. Well, sir, it was perfectly impossible to come at the exact amount of his losses, because we could not trace all the hemp and find where it went; nor had we the accounts to show what the manufacturing of the hemp cost. But we have allowed Myerle the difference between what the hemp ought to have sold for under the contract with the Navy Department—$300 a ton—and what it actually did sell for under the ruinous influence of its improper rejection by the Boston commissioners. That amount of loss is certain; how much more he sustained cannot be accurately known, though it is believed to have been far from inconsiderable.

Now, if my friend from Pennsylvania [Mr. McLANAHAN] will examine into this matter, if he will ascertain the number of tons of hemp actually made and delivered by Mr. Myerle, and by comparing the price which he would have received for it if it had not been rejected, with that for which it was actually sold, he will find that the loss amounted to more than $30,000.

Now, Mr. Speaker, in answer to the suggestion of the gentleman from Louisiana, I did not intend to cast any imputation upon his course in relation to this or any other bill, that he had not acted in accordance with what he considered principles of justice. I know too well what becomes a member of this House to do any such thing; I know too well how much I should dislike to have any member make such an imputation against me to do such a thing myself. I only intended to suggest to gentlemen to inquire into their motives, and see how far they were governed in the feelings which induced their action upon this floor by this disposition to establish a reputation for economy.

Mr. MOORE, of Louisiana. If the gentleman will permit me, I will only say that I would scorn to vote against a just claim upon motives of economy alone. If I thought this a just claim, I would vote for it under all circumstances, and without regard to any other considerations.

Mr. BOCOCK. I have no doubt of it. I never examined the gentleman's votes particularly. I hope, then, with this declaration from him, that we shall yet have his vote in favor of this bill.

Now, Mr. Speaker, I come to notice the position of my friend from Kentucky, [Mr. BRECKINRIDGE.]

Mr. LETCHER. If my colleague will permit me, I want to know how it was that the present Committee on Naval Affairs ascertained that the former committees which had investigated and reported upon this subject, had allowed Mr. Myerle less than he was entitled to?

Mr. BOCOCK. I will tell the gentleman. I reported upon this case twice. When I first examined it, I thought Mr. Myerle was entitled to a great deal more, for his actual loss was much greater than the former committee had allowed him. I then reported $25,000, telling my colleagues upon the committee that the amount I had allowed was less than what I thought was right, but I preferred putting it at that, fearing that the House might think the real amount to which I thought he was entitled an exorbitant one. I thought it was better that he should have that than to endanger the passage of the bill by reporting too large an amount, knowing that this House never allowed interest. When I made my last report, I took the former one, and calculated, as near as possible, what were his actual losses, and finding that $30,000 would still fall below the real amount, I allowed him that sum, and the Committee on Naval Affairs agreed to it. Again I say to my friend from Virginia, [Mr. LETCHER,] that I thought from the beginning that Mr. Myerle was entitled to a great deal more than other committees had allowed him, and that I reduced the amount in my first report below what I thought he ought to have, with a view that no man might think I had allowed too much.

Mr. LETCHER. I would like to know if the Naval Committee in the first instance increased the appropriation from $20,000 to $25,000 for that reason?

Mr. BOCOCK. Upon the mere principle of allowing interest alone, I would not have done it. What I said was, that if interest were calculated upon the amount of his actual losses, $30,000 would fall below their actual amount. But my friend from Kentucky [Mr. BRECKINRIDGE] claims that Mr. Myerle got his money of Montmullen & Cornwall, and that the Government therefore owes those gentlemen $30,000. Mr. Speaker, the condition of my voice will not permit me to argue this question at length; but I must call the attention of the House to the position which my friend from Kentucky has occupied upon this subject. When it first came up, what did the gentleman then do? Did he come up here and present himself as against the validity of this claim? Did he come here as the guardian of the public Treasury and say that no money should come out of the public Treasury for its payment? No, sir; he rather admitted that there was justice in the claim. He admitted that the Government did owe some money to somebody; but it ought, if possible, to go to certain of his constituents. That question was discussed in this House, but when action came to be had upon it, the gentleman found that this House was not going to erect itself into a court of chancery to adjust the accounts of Montmullen & Cornwall on the one hand, and of David Myerle on the other. He saw that Montmullen & Cornwall had no contract with this Government, and had no right to claim anything at our hands; and what does he do now? Why, sir, he comes forward with the cry of economy, and says that no money is due to anybody at all; that neither Mr. Myerle nor anybody else is entitled to compensation on account of this claim. Why this extraordinary change in the gentleman's views? The leading facts in the case remain precisely as they were at first. There has been no change in them. If his constituents ever had any just claim upon the Government, it rested solely upon those very services of David Myerle which have not yet been compensated.

Mr. BRECKINRIDGE. If my friend will allow me to interrupt him for a moment, the position I have taken throughout in relation to this matter has been consistent. I have not argued the question of the propriety or the impropriety of the rejection of the hemp. I remember to have stated in my remarks the other day, that it was probable the hemp should not have been rejected; that there was evidence tending to show that it should not have been rejected; that my impression was that the Government might with great propriety, pay a reasonable amount of money to those who had really incurred losses in making these experiments for the benefit of the Government. But I have throughout taken the position, that Mr. Myerle has sustained no loss whatever, and that he has presented his case in a manner that is altogether discreditable.

But as I do not intend to interrupt my friend again, I beg to call his attention for a moment to another branch of this subject. He says the portion of my speech which was in relation to the pecuniary condition of Mr. Myerle, before he entered into this arrangement with the Government, was irrelevant and out of place. Why, sir, I was following the report of the committee in my allusions to that matter. They make these propositions: first, that the hemp was improperly rejected; and second, that in consequence of that rejection, Mr. Myerle's credit was destroyed, his private business ruined, and his whole property, amounting to forty-odd thousand dollars, lost, leaving him in debt and bankrupt. That is their second proposition; and that is one of the propositions upon which they base the claim. From what appears in this report, I felt it my duty to show that it did not present a correct statement of the case.

Mr. BOCOCK. If the gentleman from Kentucky will look at the report, he will find that the committee ask for nothing but the actual loss incurred on account of these experiments. Well, sir, the gentleman from Kentucky has made his explanation; and where does he stand now? He comes up and admits that this hemp was probably improperly rejected, and he is willing that Montmullen & Cornwall should get something from the Government. He admitted in fact that the Government owed them something. But when the point is determined that Montmullen & Cornwall are to receive nothing, he comes up and says the Government shall not pay it to anybody. Why, if you do not gives this indemnity to David Myerle, who has the right to claim it at the hands of the Government? Who can ask it besides?

Mr. BRECKINRIDGE. Nobody.

Mr. BOCOCK. The House has decided that Montmullen & Cornwall shall not have it.

But I will proceed briefly to investigate the gentleman's position further. When on a former occasion he undertook to go into the accounts of Montmullen & Cornwall with David Myerle, I confess I was a little surprised. I know the shifts which members of Congress are often almost compelled to resort to, to comply with the wishes of their constituents. Many times do they bring forward measures here which their own judgments and consciences cannot approve. I know the gentleman from Kentucky is a man of ability. I know him as a lawyer of acumen, and I did not expect that while Montmullen & Cornwall had no contract with the Government, he should undertake to go into the consideration of transactions between them and David Myerle.

Mr. BRECKINRIDGE, (interrupting.) I did contend for that very thing.

Mr. BOCOCK. It was the desire of your constituents which overruled your better judgment.

Mr. BRECKINRIDGE. Not at all. Not at all.

Mr. BOCOCK. I have no proof of the transactions between Montmullen & Cornwall and David Myerle. Does not the gentleman see to what he is coming this morning, and does he not see the impropriety of any such investigation upon our part? What did the gentleman from Kentucky [Mr. BRECKINRIDGE] himself do? He came into this House, and claimed that David Myerle owed Montmullen & Cornwall $30,000, and he would have this House act upon such testimony as that, and now we show a letter from Montmullen & Cornwall, dated long after the close of their transactions with Myerle, in which they claim only $1,000, and even speak doubtingly as to that amount. Does not the gentleman see, in such a case as this, that we have not the testimony, and from the nature of the case that we cannot get the testimony, to make an impartial and thorough examination of the condition of the case as between Montmullen & Cornwall and David Myerle? Why, sir, he must see it. Who knows how much David Myerle paid these men? Who knows anything about that, whether he has not subsequently paid off the whole amount? Nay, more; upon a just settlement of their accounts before a commissioner in chancery, it may be found that they are largely in his debt—a supposition strongly supported by their refusal to render any account of their transactions to David Myerle.

But, Mr. Speaker, I have now to regret again that I did not hear some remarks, which I understand fell from the gentleman from Kentucky, in relation to David Myerle's condition previous to entering upon this work. I believe that such an argument, upon the part of the gentleman from Kentucky, is calculated to prejudice the case, by producing an injurious effect upon the mind of the House, in relation to the character of David Myerle, and in that aspect of the case alone, I shall look at it now. Now, what does the gentleman from Kentucky himself confess? He said that we had some testimony to show that the narrative contained in that report was correct. We bring the testimony of David Myerle's partners. We state in that report, that David Myerle entered upon this business of making rope at the city of Pittsburg; that he went from Pittsburg to Wheeling, from Wheeling to Louisville, and from Louisville to St. Louis; that he sold out his property at Wheeling, where, as well as at St. Louis, he owned extensive property. At St. Louis he entered upon this work of American water-rotted hemp. Such is the narrative of the report, and it is to that I shall now address myself.

I have proof here that when David Myerle sold

his rope-walk at Wheeling, he got no money for it, but that he got a bond and mortgage to secure the payment of the purchase money. In 1838, he came down to Louisville, and commenced the establishment of a rope-walk there. He went on to build it, and it cost him more than $20,000. After he had completed it, he let in two men, one Stuart and a man by the name of Bland, as partners, and they gave him $——. After having established the walk, this partnership firm bought $15,000 worth of negroes to carry on the work with. What did they then do? They executed a deed of trust upon the negroes to secure the purchase money, and also a deed of trust upon the property itself, to cover the purchase of the negroes, and other purchases made by the partnership.

Now, the gentleman from Kentucky comes forward, as I understand, for I did not hear that part of his speech, and brings forward an execution, returned "*nulla bona*," in order to prove the incorrectness of this narrative. Now, what is the easiest and most palpable explanation of that matter? Myerle lived in the State of Kentucky; he was sued in the State of Kentucky, judgment went against him in the State of Kentucky, and execution went out against him in the State of Kentucky. His property was covered by deeds of trust and mortgages, to secure the payment for those negroes and other property, which that firm had purchased. Finding the property covered with these deeds of trust and mortgages, what did the officer do? He could not do otherwise than return the execution "*nulla bona*."

That is my explanation, though I do not know the precise case which the gentleman brought forward. But, as I understand it, that is my answer, and to every lawyer it cannot fail of being perfectly satisfactory, and entirely consistent with the narrative given in the committee's report.

Mr. TAYLOR, (interrupting.) I wish to ask my friend from Virginia [Mr. Bocock] a question, because the answer to it will influence the vote I am about to give on this case. He has cited the House to a statement of ex-Secretary Paulding and Commodore Nicholson, who commanded at the navy yard at Boston, after the rejection of the hemp. I wish to know whether Mr. Nicholson assured the Secretary of the Navy, at that time, that corrupt means were used to induce the inspectors at that station to reject this water-rotted hemp? And I wish to know whether there is any proof before the Naval Committee that corrupt means were used?

Mr. BOCOCK. None, except what I have named. This was western hemp. Here was a Boston inspection; a Boston inspection that lived by the inspection of hemp brought from over the water, from Russia. The jealousy of these inspectors may have been excited by the fact that there was growing up a competing trade; a competing business, and that when this great western country entered extensively upon the production of water-rotted hemp, an inspection office would be established at the West, and then the business of these Boston inspectors would be taken away from them. "Othello's occupation would be gone."

Mr. HALL, (interrupting.) The gentleman has dwelt a great deal upon the fact that this hemp was strong, and has thence argued that the hemp was of a good quality. Now, the gentleman certainly must know that the quality of hemp depends not merely upon its strength, but also upon its length, it freeness from tow, and its color.

I ask the gentleman to explain to the House one fact. If that hemp of Myerle was worth $300 per ton, which is the price of good water-rotted Russia hemp, why was it that Montmullen & Cornwell, though they kept it on hand for three years, were compelled to sell it at ninety dollars a ton? Why did they not go into market and sell it for $300 per ton, which was the price an inferior article of hemp was bringing in market?

Mr. BOCOCK. The gentleman from Missouri must know that this hemp came under the condemnation of the inspectors, and was sold under the condemnation of inspectors; and he ought to know the prejudicial effect of such condemnation upon the minds of purchasers.

Mr. HALL. It was not sold under the condemnation of the inspectors, but was sold after they had kept it on hand two or three years.

Mr. BOCOCK. For the sale of this hemp David Myerle was not responsible, because he could not control it. Montmullen & Cornwall seized and had possession of it, and upon them is the responsibility. But will the gentleman inform the House by what process that hemp once condemned became relieved from that condemnation? Keeping it two or three years surely could not of itself have produced that effect.

Mr. HALL. If it were worth three hundred dollars a ton, and that was the only chance to get back their money, why did they sell it for ninety dollars a ton?

Mr. BOCOCK. My friend allows his feelings to run away with his discretion. If he will discard them, and listen to reason, I will make a statement which will convince even him. This hemp had gone before the Boston board of inspection, and had been condemned. Under the influence of that condemnation, and before the proof came out from the men to whom it was sold, it was sold by Montmullen & Cornwall, and at a sacrifice. Now, sir, if this hemp could have been used before—if these men had been able to ascertain before it was used, that it was as good as it was actually found to be—doubtless it might have been sold for more than it was sold for. But before it was used, before it was tried, before anything was done to get rid of this condemnation of the inspectors, it was converted into bale rope, and hurried into market by Montmullen & Cornwall.

Mr. HALL. Judges of hemp can tell the quality by looking at it. They do not have to go to inspectors to ascertain whether it is good, bad, or indifferent. They buy it upon their own judgment, and do not depend upon the inspectors of Boston.

Mr. STANTON, of Kentucky. If the gentlemen could have had before them the price-current of bale rope and bagging, at New Orleans, at the time of the condemnation of the hemp at Boston, they would have seen that bale rope was selling at the enormously high price of twenty-five cents per pound; that bagging was selling at thirty-five cents, and if this hemp had been immediately worked up into bale rope and bagging, and sent to the market at New Orleans, it would have realized them $500 per ton instead of $300; but instead of sending it there immediately, they held on to it, expecting that this enormously high price would continue or be increased. But they were defeated in their own avaricious purposes by holding on to it, and failed to realize the high price they might have done. Myerle could have no control over it after they seized it. If he could, possibly the result might have been less disastrous.

Mr. FLORENCE. I desire particularly to impress it upon the House that it was not sold as water-rotted hemp. It was converted into bale rope after the market had fallen, and hence the conviction naturally must be that it was desirable to possess themselves of that property at that time, because it was bringing a large price. I tried to convince my friend from Missouri at the last session of Congress, in a speech I made upon this floor on this subject, and I hope he will be convinced now. [Laughter.]

Mr. BOCOCK. Here was the fact that Montmullen & Cornwall seized this hemp, that they held it two years without selling it, and in the mean time the market fell.

But I wish to give to the question of my friend from Missouri another application. This hemp has been proven by those who used it, to have been good and strong in use. If, then, as my friend says, a judge of hemp can tell, by looking at it, whether it is good or not—this being good in every respect other than color—does not that establish the fact that these inspectors, when they rejected it, acted corruptly? And does not my friend from Missouri come to help my argument, to show that it was improperly rejected?

I was going on, Mr. Speaker, to give some explanation of the facts which the gentleman from Kentucky had brought forward as bearing upon the veracity of David Myerle. I have been attempting to explain to the House how it was that David Myerle had a large and valuable partnership interest in one or two rope-walks, and at the same time, executions may have been issued against him, and returned "*nulla bona*." Now, the gentleman himself says, that there was proof to show that David Myerle was worth something. Mr. Myerle stated to the committee again and again, that while he was engaged attending to the business of water-rotting hemp, his regular business suffered for want of his personal attention—his partners were unable to meet their engagements; suits were brought against him and them, causing a vast accumulation of costs, and the ultimate sacrifice of all of his property. These statements are all fully supported by the testimony of his partners themselves, and dates, which cannot lie, prove conclusively that this disastrous condition of his affairs occurred after, and not before he entered upon the duties of his engagement with the Navy Department. His ruined fortunes, therefore, resulting as they did from his efforts to promote the public interest, so far from being urged as a reason for withholding justice from him, should rather operate as an inducement to render that justice the more promptly. That he succeeded in those efforts is fully proven by Mr. Paulding's letter, dated

NAVY DEPARTMENT, *October* 24, 1839.

SIR: I have the pleasure to acknowledge the receipt of your letter of the 17th instant, upon the subject of water-rotting hemp, and to express to you the thanks of the Department for the pains you are taking to accomplish a great national object.

I am, very respectfully, your obedient servant,

J. K. PAULDING.

DAVID MYERLE, *Louisville, Ky.*

Now, if I have explained the facts which the gentleman from Kentucky has brought forward, how does Myerle stand according to his own statement? What proof have we? We have the proof of Stuart himself, one of the firm of Stuart, Myerle & Bland, stating that one year after Myerle commenced the business, the rope-walk in Louisville was sold for a large price, showing that Myerle's interest was such as is stated in this report. The statement of the partners shows that Myerle's statement was correct, and that he did have this property at the time.

Mr. JOHNSON, of Georgia. I dislike to interrupt the gentleman, and I only do so to make an inquiry, in order to vote intelligibly on this bill. I understand this to be a question of obligation, and not of bounty. If that be the case, I wish to know the quantity of hemp offered to be delivered by Mr. Myerle, and which was rejected, and its value. If then $8,000, which he received from his creditors, be deducted from its value according to the contract, I shall be willing to go for the bill.

Mr. BOCOCK. The gentleman can make the calculation as well as I or anybody else can. The report states the quantity and its value. The contract provided for the water-rotting of five hundred tons of hemp.

Mr. JOHNSON. How much did he offer?

Mr. BOCOCK. He delivered a certain quantity—I cannot tell now precisely what it was. It is proved that he had on hand what he agreed to deliver to the Government. He offered, as I have already stated, a part of it, but it was rejected. He did not offer the remainder, because it was precisely the same quality as that which had been rejected. The gentleman can take the five hundred tons of hemp, and calculate what it ought to have sold for, if it had not been improperly rejected, and strike a balance.

Mr. JOHNSON. What I desire to understand is, whether he was prepared to deliver five hundred tons of hemp?

Mr. BOCOCK. My friend from Pennsylvania [Mr. Florence] tells me that he offered to deliver two hundred and fifty tons, but that he had three hundred tons on hand. He agreed to deliver five hundred tons, but had only delivered one hundred tons. My friend from Georgia must know that Mr. Myerle had entered into contracts with men to make the hemp, and whether it was received by the Government or not, he was bound to receive it from them. If he had incurred indebtedness in relation to it—if he had got men to make it, and had entered into obligations to receive it, he is to-day just as much entitled to indemnity as if he had delivered it.

I have promised to do what I do not like to do, and that is, to call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

The SPEAKER. The question now is, Shall the bill be engrossed and read a third time?

Mr. RICHARDSON. I move that the bill be laid upon the table.

Mr. FLORENCE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. GOODENOW. I desire to inquire of the

Chair whether the motion to lay the bill upon the table was not submitted before the gentleman from Virginia commenced his remarks?

The SPEAKER. That motion was withdrawn. If it had not been, the speech of the gentleman from Virginia would not have been in order.

Mr. FLORENCE. Is it in order to move that there be a call of the House?

The SPEAKER. It is not in order, because the call for the previous question has been seconded and the main question ordered.

The question was then taken, and the House refused to lay the bill upon the table—yeas 71, nays 84; as follows:

YEAS—Messrs. Willis Allen, Allison, Babcock, Bartlett, Bibighaus, Breckinridge, Caldwell, Chandler, Chapman, Chastain, Cobb, Daniel, Darby, John G. Davis, Dawson, Dean, Eastman, Fay, Goodenow, Grey, Hall, Isham G. Harris, Hascall, Haven, Hendricks, Henn, Hibbard, Horsford, Houston, Ingersoll, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Kuhns, Letcher, Little, Mann, Martin, Mason, McCorkle, McMullin, John Moore, Morehead, Murphy, Murray, Nabers, Newton, Outlaw, Samuel W. Parker, Penniman, Richardson, Robie, Russell, Schoolcraft, Origen S. Seymour, Skelton, Alexander H. Stephens, St. Martin, Stuart, Sweetser, Thurston, Toombs, Venable, Watkins, Welch, and Woodward—71.

NAYS—Messrs. Ashe, Averett, Thomas H. Bayly, Barrere, Beale, Bocock, Bowie, Bowne, Brenton, Brooks, Albert G. Brown, George H. Brown, Burrows, Busby, Cartter, Caskie, Clark, Clemens, Colcock, Cottman, Curtis, George T. Davis, Dimmick, Disney, Doty, Duncan, Durkee, Edgerton, Edmundson, Evans, Ewing, Faulkner, Florence, Freeman, Gamble, Gaylord, Gilmore, Green, Grow, Hammond, Harper, Sampson W. Harris, Hart, Haws, Hillyer, Howard, John W. Howe, Jackson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Mace, Marshall, McLanahan, McNair, Miller, Millson, Miner, Henry D. Moore, Morrison, Andrew Parker, Peaslee, Penn, Phelps, Polk, Price, Robbins, Sabine, Schermerhorn, David L. Seymour, Snow, Stanly, Richard H. Stanton, Stone, Stratton, Strother, Sutherland Taylor, Walbridge, Wallace, Walsh, Ward, Wells, and Wilcox—84.

So the House refused to lay the bill upon the table.

The question recurred on ordering the bill to be engrossed and read a third time.

Mr. BAYLY. I rise to make a motion which I have never made before in this House, and that is, that when the House adjourns to-day it be to meet on Monday next.

The question was put, and the motion was agreed to.

The bill was then ordered to be engrossed and read a third time; and having been engrossed was read a third time.

The question recurred, Shall the bill pass?

Mr. RICHARDSON. I demand the yeas and nays on that question.

Mr. JONES, of Tennessee. Has the bill been engrossed?

The SPEAKER. The Chair understands that it has.

The yeas and nays were ordered.

The question was taken, and the bill was passed—yeas 80, nays 76; as follows:

YEAS—Messrs. Abercrombie, Ashe, Averett, Thomas H. Bayly, Barrere, Beale, Bell, Bocock, Bowie, Brenton, Briggs, Albert G. Brown, George H. Brown, Burrows, Busby, Cartter, Caskie, Clark, Clemens, Colcock, Cottman, Curtis, George T. Davis, Dimmick, Disney, Doty, Duncan, Durkee, Edgerton, Edmundson, Evans, Ewing, Faulkner, Florence, Freeman, Gamble, Gaylord, Gilmore, Gorman, Green, Grow, Hammond, Harper, Sampson W. Harris, Haws, Howard, John W. Howe, Jackson, Robert W. Johnson, J. Glancy Jones, Kurtz, Landry, Marshall, McLanahan, McNair, Miller, Millson, Miner, Molony, Henry D. Moore, Morrison, Andrew Parker, Peaslee, Polk, Porter, Robbins, Sabine, Schermerhorn, Stanly, Richard H. Stanton, Stone, Stratton, Sutherland, Taylor, Walbridge, Wallace, Walsh, Ward, Wells, and Wilcox—80.

NAYS—Messrs. Willis Allen, Allison, Bartlett, Bibighaus, Breckinridge, Caldwell, Chapman, Chastain, Clingman, Cobb, Cullom, Darby, John G. Davis, Dawson, Eastman, Fay, Goodenow, Grey, Hall, Isham G. Harris, Hascall, Haven, Hendricks, Henn, Hibbard, Hillyer, Horsford, Houston, Thomas Y. How, Ingersoll, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Kuhns, Letcher, Little, Lockhart, Mann, Martin, Mason, McCorkle, McMullin, John Moore, Morehead, Murphy, Murray, Nabers, Newton, Outlaw, Samuel W. Parker, Penniman, Richardson, Robie, Russell, Schoolcraft, David L. Seymour, Origen S. Seymour, Skelton, Benjamin Stanton, Alexander H. Stephens, St. Martin, Stuart, Sweetser, Thurston, Toombs, Tuck, Venable, Watkins, Welch, and Woodward—76.

So the bill was passed.

Mr. BOCOCK. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THE GEORGIANA AND SUSAN LOUD.

Mr. POLK. When the House adjourned yesterday, there was a motion pending to reconsider the vote by which the communication from the President, in the case of the bark Georgiana and the brig Susan Loud was ordered to be printed.

My object in rising at this time is to call it up for consideration by the House.

Mr. STANLY. I should be glad, before voting, to hear some good reason for the reconsideration.

Mr. POLK. I stated my reasons yesterday.

Mr. HOUSTON. This question was debated yesterday, and the Chair will remember that I, previous to the adjournment, called for the previous question.

The SPEAKER. It is the recollection of the Chair that the previous question was demanded.

Mr. POLK. By permission of the House, I will explain to the gentleman from North Carolina.

The SPEAKER. The previous question has been demanded, and all debate is thereby cut off.

Mr. POLK. I desire only to make a statement, to satisfy the gentleman from North Carolina.

Mr. CABLE, of Ohio. I rise to a privileged question. I ask that the message of the President and the accompanying document be read.

Mr. STANLY. I hope that it may be read. It is very short.

The SPEAKER. The Chair decides that the gentleman has a right to have the document read before the vote is taken.

Mr. POLK. Have we not a right to have a secret session and the galleries cleared? [Laughter.]

The SPEAKER. It is competent for the House to clear the galleries, and close the doors.

Mr. POLK. This may be a communication of very great importance.

Mr. STANLY. I have read it, and I do not think there is anything of very great importance in it. There is no secret in it. Other members have read it. It lays upon the Speaker's table, and any member who may desire can read it.

[Cries of "Read!" "Read!"]

Mr. POLK. I do not desire to give publicity to the communication until I know what it contains, and, if it be in order, I move that the galleries be cleared. [Laughter]

The SPEAKER. The motion of the gentleman from Tennessee is in order.

Mr. FLORENCE. I hope there will be some exceptions made. I will be responsible for several ladies in the gallery. [Laughter.]

Mr. POLK. The gentleman assumes a strange responsibility when he gives assurance of the secrecy of ladies. [Renewed laughter.]

Mr. STANLY. What is the rule about clearing the galleries on these occasions? I hope that it will be read.

The SPEAKER. The Chair decides that on the motion of the gentleman from Tennessee, the gentleman from Ohio would not have the right to have the document read. The rule is as follows:

"112. Whenever confidential communications are received from the President of the United States, the House shall be cleared of all persons, except the members, Clerks, Sergeant-at-Arms, and Doorkeeper, and so continue during the reading of such communications, and (unless otherwise directed by the House) during all debates and proceedings to be had thereon. And when the Speaker, or any other member, shall inform the House that he has communications to make, which he conceives ought to be kept secret, the House shall, in like manner, be cleared, till the communication be made; the House shall then determine whether the matter communicated requires secrecy or not, and take order accordingly.—*February* 17, 1792, *and December* 30, 1793."

Mr. STANLY. I ask whether the motion of the gentleman from Tennessee is in order, this not being a confidential communication?

Mr. POLK. I have not examined the communication. I do not know what it contains altogether, but I may know some of it. I have been informed by members what it did contain, but, at the same time, I would rather, without doing any injustice to what they have stated to me, have the galleries cleared, that the communication may be read in secret session.

Mr. STANLY. I ask the Chair to decide the point I present.

The SPEAKER. The Chair decides, that when any gentleman rises in his place and states to the House that he has a communication to make he conceives ought to be kept secret, the galleries can be cleared. The gentleman from Tennessee has not made that communication to the House; yet, if the gentleman from Tennessee states that he conceives this message ought not to be published, the Chair will decide that it is competent for the House to determine for itself whether or not it will close the doors and read the document in secret session.

Mr. STANLY. That is not the point. The language of the rule is, that when confidential communications are made, then the doors shall be closed. Another branch is, that when any member rises in his place and states that he has a communication to make he conceives ought to be kept secret, the doors shall be closed in like manner. There are two branches, neither of which now exist. No confidential communication has been made; and the gentleman does not state that he conceives the communication ought to be kept secret, for he has not read it.

Mr. POLK. I am acting upon the evidence of the past.

The SPEAKER. The gentleman from Tennessee states that the communication presented to this body is of a nature, in his opinion, requiring consideration by the House in secret session. The Chair is unwilling, by any decision of its own, to deprive the House of any right to do so, and it is his opinion, in the spirit of the rule just read, that it is competent for this House, on motion, after the statement of the gentleman from Tennessee, to close the doors.

Mr. POLK. I wish to be distinctly understood. I have not examined the communication, but I am opposed to having any document connected with the affairs of Spain, while in their present condition, published unless they are examined, for the simple reason that the past teaches us that communications have been made public which act against the dignity of the Government.

Mr. TAYLOR. Is this question debatable?

The SPEAKER. It is not, in the opinion of the Chair.

Mr. TAYLOR. Inasmuch as the President has been requested to communicate what information he has upon the questions presented by the gentleman from Maine, [Mr. SMART,] not incompatible with the public interest, we are to presume he has not communicated anything of a confidential character.

The SPEAKER. That is one of the reasons which may control members' votes.

Mr. BAYLY. If I may be allowed a single expression, that communication refers to the cases which were the subject of the remarks made by the gentleman from Maine [Mr. SMART] the other day. And if my friend from Tennessee will excuse me, I do not think there is anything in the message to which special importance can be attached.

The question was then taken on the motion to clear the galleries and close the doors, and it was disagreed to.

The SPEAKER. The gentleman from Ohio [Mr. CABLE] demands the reading of the message before voting on the motion to reconsider, which he has the right to do, and the Clerk will now proceed to read it.

The message was then read as follows:

DEPARTMENT OF STATE,
WASHINGTON, *January* 19, 1853.

To the President of the United States:

The Secretary of State, to whom has been referred the resolution of the House of Representatives of the 27th ultimo, requesting the President to communicate to that House, "if not incompatible with the public interest, what measures, 'if any, have been taken since the 27th day of January, '1852, for the indemnification by the Spanish Government 'of the captains, owners, and crews of the bark Georgiana and brig Susan Loud, in consequence of the capture and confiscation of said bark and brig by the Spanish 'authorities," has the honor to report, that measures, which it is not deemed expedient to specify at present, are in progress for the adjustment of all claims of citizens of the United States against her Catholic Majesty's Government, which may have originated since the convention between the United States and Spain of the 17th of February, 1834.

Respectfully submitted, EDWARD EVERETT.

Mr. POLK. Since I discover that the President of the United States has heeded the voice of the nation in their condemnation of the publication of the Cuban correspondence, I withdraw my motion to reconsider.

Mr. BAYLY, of Virginia. I move that the vote by which the message was committed to the Committee on Foreign Affairs be reconsidered, in order that the communication be laid on the table and printed. There is no necessity for a reference.

Mr. POLK. I withdraw the motion to refer.

The question was then taken; and it was decided in the affirmative.

So the motion was reconsidered, the communication laid on the table, and ordered to be printed.

Mr. HOUSTON. I should like if the gentleman from Georgia [Mr. STEPHENS] would withdraw his motion to adjourn, until I ask the House to discharge the Committee of the Whole on the state of the Union from the amendments of the Senate to the Military Academy bill, and ask the House to disagree to the amendments.

Mr. TOOMBS. I object.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed bills of the following titles, viz:

S. No. 468. An act for the relief of John M. McIntosh.

S. No. 292. An act for the relief of Richard W. Meade.

S. No. 226. An act for the relief of Lewis H. Bates and William Lacon.

S. No. 311. An act for the relief of George Dennet, of Portsmouth, New Hampshire.

H. R. No. 163. An act for the relief of Jacob J. Storer.]

Mr. WILCOX. I ask the unanimous consent of the House for leave to withdraw papers referred to the Committee on Public Lands from citizens of Mississippi, praying that moneys be refunded to them for certain lands purchased, and refer them to the Committee on Private Land Claims.

There being no objection, it was so ordered.

MATHEWS, WOOD AND HALL.

Mr. EDGERTON. The bill for the relief of Mathews, Wood & Hall has been returned from the Senate with an amendment. The amendment is an unimportant one in its character. I wish, as there is no opportunity to report the bill, that the House will agree to the Senate amendment.

A MEMBER. What is the amendment?

Mr. EDGERTON. It is, after the word "James Hall," to strike out the words "or to any other person or persons by them duly authorized to receive the same." It is to prevent the payment of money to anybody but the persons themselves, and not to an agent.

Mr. STEPHENS, of Georgia. I have no objection to that.

The question was then taken upon the amendment of the Senate, and it was decided in the affirmative.

Mr. SACKETT. I desire to ask the Chair whether the next business in order is the reference of private bills upon the Speaker's table?

The SPEAKER. The next business in order will be some two or three bills reported from a Committee of the Whole House.

Mr. STEPHENS, of Georgia. I renew the motion to adjourn.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till Monday next at twelve o'clock, m.

PETITIONS, &c.

The following petitions were presented under the rule and referred to the appropriate committees:

By Mr. GOODENOW: The petition of David Thurston and 56 other citizens of Vassalboro', in the State of Maine, "deploring the great and manifold evils of war," and praying "that measures may be taken for securing in our treaties with other nations a provision for referring to the decision of umpires all misunderstandings that cannot be satisfactorily adjusted by amicable negotiation."

By Mr. FAY: The petition of inhabitants of Chelsea, Massachusetts, praying for authority to open a road or street over a portion of lands connected with the Marine Hospital at Chelsea.

By Mr. MILLER: The petition of sundry citizens of Missouri, praying the establishment of a mail route from Bloomington to Edina, in Knox county, by way of Edina.

By Mr. KUHNS: The petition of citizens of Armstrong and Indiana counties, in Pennsylvania, praying Congress to adopt such measures as they may deem best to prevent the great and manifold evils of war.

By Mr. HIBBARD: The petition of W. W. Bragg and others, praying for a new mail route in the county of Coos, State of New Hampshire.

Mr. ANDREW JOHNSON presented the memorial and other papers of John Morris, a soldier of the last war with Great Britain, praying Congress to have his name placed on the roll of invalid pensioners, he being disabled in consequence of exposure and suffering in the said war with Great Britain; which was referred to the Committee on Invalid Pensions.

IN SENATE.

MONDAY, *January* 24, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Acting Secretary of the Treasury, in answer to a resolution of the Senate respecting Arkansas bonds held in trust by the United States; which was referred to the Committee on Finance, and ordered to be printed.

Also, a report of the Secretary of War, in answer to a resolution of the Senate, calling for information relating to Fort Jefferson and Fort Taylor; which was referred to the Committee on Military Affairs.

PETITIONS, ETC.

Mr. SEWARD presented the petition of John Millar, representing that he is a native of Ireland, but that he has settled in New York, and declared his intention of becoming a citizen of the United States, and praying that a register may be granted for a vessel built by him in that city, and also for any other vessels he may build; which was referred to the Committee on Commerce.

Also, a memorial of William J. Young, calling attention to the Mormon settlement in Utah, and praying that the Constitution of the United States may be so amended as to vest in Congress the power to establish a uniform system of marriage throughout the United States and its Territories; which was referred to the Committee on the Judiciary.

Mr. FISH presented the memorial of Hartwell Carver, praying a charter for himself and associates, to construct a railroad from some point on the Mississippi or Missouri river, or from Lake Michigan, to the Pacific ocean; which was referred to the Select Committee appointed on the subject.

Mr. MORTON presented the following resolutions of the Legislature of Florida, which were ordered to be printed. The first three were referred to the Committee on Public Lands; the fourth to the Committee on the Library; and the fifth to the Committee on Claims:

1. Resolution in favor of a grant of land to Wakulla county, to enable the people of that county to purchase a county site, and erect a court-house.

2. Resolution in favor of the establishment of Pulaski as a port of entry.

3. Resolution in favor of a grant of land to Sumter county, for the purpose of building a court-house.

4. Resolution in favor of the appointment of an agent to examine into the archives of Cuba, and copy all manuscripts relating to the early history of Florida, or any other State of the Union.

5. Resolution in favor of the claim of James M. Bates.

Mr. MORTON. I beg leave to present the memorial of Robert Joyner, naval storekeeper at the Pensacola navy-yard. He represents that in the spring of 1851, the naval store there was entered and robbed of clothing and small stores to the amount of some six or seven hundred dollars. The facts stated by the memorialist are sustained by the testimony of the commandant of the yard. This robbery was committed not by negligence on the part of the storekeeper, but in consequence of the naval stores and the stores of the purser being under the same lock and key; and the presumption is, from the evidence, that the robbery was committed by some of the ordinary men of the yard. I move that the memorial be referred to the Committee on Naval Affairs; and I beg to bespeak of that committee its prompt and favorable consideration.

The memorial was so referred.

Mr. SHIELDS. I have been requested to present the petition of C. Ludwig Richter, and I will state, briefly, that his object is to have a part of the money which is proposed to be appropriated to Mr. Clark Mills set apart for his use and benefit. He states that he has learned that there is a proposition before Congress to make a donation of money to Mr. Mills, for his success in the construction of the Jackson equestrian statue. He represents that he is the person who invented the moulds, formed the moulding, and made the furnaces from which the statue has been cast, and that he is entitled to an equal share, at least, of whatever money may be appropriated to Mr. Mills. I know nothing of the facts; but I deem it my duty to present the memorial, and move its reference to the Committee on Public Buildings.

It was so referred.

Mr. MALLORY presented a petition of members of the Chamber of Commerce of Appalachicola and others, praying an appropriation for the removal of the bar off that harbor; which was referred to the Committee on Commerce.

Mr. SEBASTIAN presented a petition of citizens of Arkansas, praying the establishment of a mail route from Murfreesboro' to Adams, in Ouachita county; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRODHEAD submitted additional documents in support of the claim of Hezekiah Miller to arrears of pay for services as a clerk in the War Department; which, with the papers on file, were referred to the Committee on Claims.

Mr. CASS. I present the petition of members of the general committee of the German American Democratic League, of New York. They ask the passage of the bill making a grant of lands to actual settlers. I present it with pleasure, because I have already expressed my approbation of the principle of the bill. I do not commit myself to its details; but I trust a bill like that will pass the Senate. I believe there can be no better disposition made of the public lands than to grant them to persons unable to pay for them, who will become actual settlers. I move that the petition be laid on the table.

It was so ordered.

Mr. TOUCEY presented a petition of citizens of Norwich, Connecticut, praying that the bill "giving further remedies to patentees," may become a law; which was ordered to lie on the table.

Mr. FELCH submitted additional documents relating to the claim of Joseph Campan to a patent for certain land; which were referred to the Committee on Public Lands.

Mr. WALKER. I present the petition of over six hundred citizens of Peoria county, Illinois, praying that the public lands may be ceded to the States, and set apart for actual settlement. I believe the bill which I had the honor to introduce on that subject has been reported upon adversely by the Committee on Public Lands, and I believe, also, that the homestead bill which passed the House, has been reported upon adversely by that committee; and as both bills are now pending before the Senate, I will move, contrary to the request of the petitioners, that the petition be ordered to lie on the table.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. MALLORY. I rise to appeal to the courtesy of the Senate on this occasion to enable me to take up for consideration this morning, during the morning hour, the bill reported by the honorable Senator from New York [Mr. SEWARD] at the last session, from the Committee on Commerce, "to repeal an act entitled 'An act concerning tonnage duties on Spanish vessels.'" I make this appeal because I regard this as a question perhaps as important as any that can come before this body at the present session, and because I understand that the distinguished Senator from Louisiana [Mr. SOULE] will speak on the subject of Cuba to-morrow; and I earnestly desire to present a few practical considerations to the Senate in connection with the bill which I propose to take up. No time can be so appropriate for it as this. If the Senate will indulge me, I will engage not to take up a moment of time unnecessarily.

Mr. BADGER. I desire to say to the honorable Senator from Florida that there are some of us who have reports to make from committees, which we hope to get in this morning. Besides that, there is a bill from the House of Representatives "to prevent frauds on the Treasury of the United States," which I reported from the Committee on the Judiciary last week with some amendments. I wish to ask the Senate to take it up this morning, in order that the amendments may be acted on and go to the House. I believe that bill will not take up five minutes.

Mr. HALE. I hope we shall have the morning hour for the morning business, and then I shall go with the Senator in taking up his bill. There are some reports and resolutions which I think we ought to have an opportunity of offering.

If the Senator will withdraw his motion for half an hour, I will go with him.

Mr. MALLORY. I withdraw the motion.

Mr. DAVIS. I would say to the honorable Senator from Florida, that the bill he proposes to take up cannot pass without some discussion. It involves a question of a great deal of interest, and cannot go through without discussion.

Mr. MALLORY. In answer to the honorable Senator from Massachusetts, I will say to him that it is discussion which I seek. I am satisfied the bill will pass if it be discussed. I am not disposed to let it slip from one session to another without discussion. It was reported at the last session, and I know it will pass if its merits are reached. I therefore want discussion to commence; but I withdraw the motion for the present.

Mr. STOCKTON. I now ask the consent of the Senate to postpone the prior orders, for the purpose of taking up the bill "to provide for the reorganization of the Navy of the United States." I think it is hardly necessary to say a word in regard to the importance of that bill, and I do not suppose it will take long to consider it.

Several SENATORS. Let us have the morning business.

Mr. HALE. I have a resolution of inquiry which I want to present, and I hope the morning hour will be devoted to the morning business, and then I may go with the Senator.

Mr. STOCKTON. I cannot consent to that if I have enough Senators to allow me to go on now.

The motion to take up the bill was not agreed to; there being, on a division—ayes 14, noes 23.

Mr. STOCKTON. I will make one more appeal to the Senate, and ask them to take up the bill, for the purpose of making it a special order for some future day.

The PRESIDENT. If there be no objection, the Chair will entertain the motion.

Mr. HALE. I do not object, but I want to make a statement; it will not occupy more than a few moments. I hold in my hand a resolution of inquiry in reference to some matters which I want to have investigated, and which have a very important bearing on that bill. I want to get in this resolution, and then I will consent to take up the honorable Senator's bill, and assign any day which he may wish for its consideration.

Mr. STOCKTON. Very well; I agree to that, he and withdraw the motion for the present.

WAREHOUSE SYSTEM.

Mr. HUNTER. I give notice that I shall to-morrow, during the morning hour, ask the Senate to take up the bill "to extend the warehousing, system, by establishing private bonded warehouses, and for other purposes," and I think I shall then be able to show that there is necessity for immediate action on the subject.

REPORTS FROM STANDING COMMITTEES.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which was referred the message of the President relating to the refusal of the Seminole Indians to remove west of the Mississippi, submitted a report; which was ordered to be printed.

Mr. STOCKTON, from the Committee on Pensions, to which was referred the petition of Abigail Bishop, praying a pension, submitted an adverse report thereon.

He also, from the same committee, to which was referred the petition of Mary C. Hamilton, submitted a report, accompanied by a bill for her relief; which was read, and passed to the second reading.

The report was ordered to be printed.

He also, from the same committee, to which was referred the petition of John Wickham, submitted an adverse report thereon.

Mr. BADGER, from the Committee on the Judiciary, to which was referred the memorial of Charles Stearns, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. BROOKE, from the Committee on Revolutionary Claims, to which was referred the petition of the heirs of Captain John de Treville, submitted a report, accompanied by a bill for their relief; which was read, and passed to the second reading.

Mr. GEYER, from the Committee on the Judiciary, to which were referred two memorials of citizens of Lee county, Iowa, relating to claims to lands in the Sac and Fox half-breed reservation, submitted an adverse report; which was ordered to be printed.

POWERS'S STATUE OF AMERICA.

Mr. CHASE gave notice of his intention to ask leave to introduce a joint resolution authorizing the President of the United States to purchase from Hiram Powers his statue of America.

BILLS INTRODUCED.

Mr. SEWARD asked and, by unanimous consent, obtained leave to bring in a bill to authorize the Secretary of the Treasury to issue certificates of registry or enrollment to American-built vessels in certain cases; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. MILLER, agreeably to previous notice, asked and obtained leave to introduce a bill relating to dower in the District of Columbia; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

CUMBERLAND BRIDGE AT NASHVILLE.

Mr. BELL. I am charged with the presentation of a memorial from the Broad Street Bridge Company, of Nashville, Tennessee. The memorialists set forth that that company, under a charter of the Legislature of the State of Tennessee, proceeded to construct a suspension bridge over the Cumberland river, at Nashville, at an expense of $107,000. The bridge consists of a single span of upwards of five hundred feet between the piers. It is one hundred and five feet above low-water mark, and seventy-one feet above high-water mark. The bridge, with these dimensions, has been constructed, and has been in operation for some time. There is a single steamer concerned in the trade of that river of one thousand three hundred tons burden. It has been thought proper by her owners to elevate her chimneys eighty-one feet above high-water mark; so that in the highest stages of water the bridge is an obstruction in the running of that boat. The memorialists request that, under the circumstances of the case, as there can very rarely happen a stage of water that can present any very serious obstruction to that boat, and as then it can easily be overcome by lowering her chimneys, Congress will pass a law legalizing the construction of the bridge at the site it now occupies, and make it a post road of the United States, as it is erected upon the great connecting line of communication between the East and Southwest for the mail passing from Louisville, by way of Nashville, to Memphis, and south of it. I move that the memorial be referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had concurred in the amendment of the Senate to the bill for the relief of Charles S. Matthews, Charles Wood, and James Hall. The message also announced that the House had passed a bill for the relief of David Myerle.

On motion by Mr. GWIN, the bill was read a first and second time by its title, and referred to the Committee on Naval Affairs.

ABUSES IN THE NAVY.

Mr. HALE. I offer the following resolution:

Resolved, That the Select Committee on Frauds, Abuses, &c., be instructed to inquire whether any fee, percentage, or capitation tax has been levied, charged, or collected of the seamen, petty officers, or officers of any vessel-of-war of the United States by any individual or individuals, on the pretense that any act of Congress for their benefit or relief was passed by the procurement or influence of such individual or individuals, and if so, how much was charged or collected, and was the said pretense on which said money was charged or received, true or false.

I ask the unanimous consent of the Senate to consider the resolution at this time; and I wish to state, in a few words, the facts which I can bring a number of witnesses whose names I have on a slip of paper in my hand, to substantiate before the committee. During the last year we passed an act granting extra pay to persons in the naval service on the coast of Mexico and California, and those engaged in the search for Sir John Franklin. When the Vincennes and Vandalia, two vessels the crews of which were entitled to extra pay under that law, arrived, the purser was informed that there was a single individual through whose agency and procurement the act was passed; and a capitation tax on every seamen, petty officer, and officer was levied and collected by way of black mail, to the amount of between $3,000 and $4,000. This amount was withheld from the sailors by the purser of those two vessels, and paid over to the individual who said that he, and he alone, had procured the passage of the act by Congress. These facts I can prove by witnesses in this city at twenty-four hours' notice.

Mr. GWIN. All that I have got to say in reply is, that the assertion is absolutely false, no matter where it comes from, because that amendment was moved by me as chairman of the Committee on Naval Affairs, and no person ever approached me having any interest in the question. The proposition was passed by a unanimous vote in that committee, without any human being approaching us on the subject. We thought it was but an act of justice to the sailors; and any such imputation on the committee is false. The amendment could not have been brought in but through the Committee on Naval Affairs. No influence was exercised on Congress, as far as I know, on the subject, except through that committee; and the imputation that any individual influenced the action of the committee, is absolutely and unconditionally false from beginning to end. Nobody ever came near us upon the subject, and I can appeal to my colleagues on the committee for the truth of this statement.

Mr. HALE. The very reason why I introduced the resolution, was because I supposed it was absolutely and infamously false. All I said was that I could prove that that representation had been made to the poor sailors, and that the money was withheld from them, and paid over to certain parties. There are witnesses in this city by whom these facts can be proved, if you will give us an investigation before the committee. I hope the chairman of the Committee on Naval Affairs did not understand me as believing the charge to be true; but the facts are that this representation was made.

The resolution was considered by unanimous consent, and agreed to.

REORGANIZATION OF THE NAVY.

Mr. MALLORY. The time has elapsed which the honorable gentleman from New Hampshire was kind enough to fix for the consideration of the bill to repeal an act entitled "An act concerning tonnage duty on Spanish vessels," and I therefore ask the Senate to proceed now to the consideration of that bill.

Mr. STOCKTON. With the consent of the honorable Senator from Florida, I ask the Senate now to take up the bill to reorganize the Navy of the United States, for the purpose of setting apart a particular day for its consideration.

Mr. MALLORY. I withdraw the motion for that purpose.

The motion of Mr. STOCKTON was agreed to, and the Senate proceeded to consider the bill.

Mr. STOCKTON. I move that the bill be postponed till to-morrow week.

Mr. MASON. I would state to the Senator from New Jersey that to-morrow week, the first of February, has been assigned for the consideration of the resolution reported from the Committee on Foreign Relations concerning the Tehuantepec grant, which I shall ask the Senate to consider on that day. I would therefore suggest to him to fix some other day.

Mr. STOCKTON. Then I move that we postpone the further consideration of the bill, and make it the special order for Wednesday week next.

The motion was agreed to.

TONNAGE DUTY ON SPANISH VESSELS.

Mr. MALLORY. I now ask the Senate to take up the bill to repeal an act entitled "An act concerning tonnage duty on Spanish vessels."

Mr. CLARKE. It will be recollected by the Senate that there was a distinct understanding that this day, after the morning hour, should be devoted to the consideration of Executive business. As to-morrow seems to be conceded to the honorable Senator from Louisiana to address the Senate on a question pending before it, and as Senators must be aware that it is desirable that Executive business should be attended to as early as possible, I hope nothing will be done to prevent our going into Executive session at one, or

half past one o'clock—I am not particular as to the time. I beg the honorable Senator from Florida to consider that there is no discourtesy in the suggestion that I make; but if the bill which he proposes should be taken up, it would undoubtedly consume a very considerable time; but with an understanding that it is to be postponed at half past one o'clock for an Executive session, I have no objection to his motion; but I do hope that nothing will be done so to engross the attention of the Senate as to prevent the execution of the understanding had during the last week that the Senate would at an early hour to-day proceed to the consideration of Executive business.

Mr. MALLORY. I shall throw no obstacle to going into Executive session at any moment the honorable Senator from Rhode Island may desire.

Mr. CLARKE. Then I am perfectly satisfied, and make no objection to the motion.

Mr. FITZPATRICK. Did I understand the gentleman from Rhode Island to say that there was a distinct understanding that we should go into Executive session to-day?

Mr. CLARKE. Certainly. That was my understanding.

Mr. FITZPATRICK. I know a good deal was said about it; but I do not recollect that there was any distinct understanding on the part of the Senate to pursue that course. If I am wrong, other Senators can correct me. I know that the question was discussed; but I have no recollection that the Senate informally, or otherwise, came to to any agreement to devote this day to Executive business.

Mr. CLARKE. The honorable Senator from Alabama will allow me to say, that I have withdrawn my objection to the proposition of the honorable Senator from Florida; and when I make a proposition for an Executive session, it will be sufficient time for him to make his objection.

Mr. MALLORY's motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole. It proposes to repeal the acts of Congress approved July 13th, 1832, and June 30th, 1834, each entitled "An act concerning tonnage duty on Spanish vessels."

Mr. MALLORY. Mr. President, I have felt a great deal of anxiety for the fate of this bill, which was reported at the last session of Congress by the Committee on Commerce. I have taken much interest in it, because convinced of its importance, and believing that it will lead to legislation of great practical utility in which the whole country, every section of it, has a deep interest; and I feel that the remarks which I have it in my power to make may better be made to-day, because the honorable Senator from Louisiana will have the floor to-morrow upon the subject of our relations with Cuba, a subject with which this bill is intimately connected.

The proposition before the Senate is to repeal two acts of Congress, passed in 1832 and 1834, levying duties on Spanish tonnage in the trade between the United States and the Islands of Cuba and Porto Rico. I have given much attention to this subject, having occupied a position which enabled me to observe the character of our relations with Cuba, and particularly the effect, politically and commercially, of the two acts which it is now proposed to repeal; and if I do not greatly misapprehend the facts and the arguments to which I am about to advert, the repeal of these laws is demanded by every consideration of national policy.

It may be recollected that in 1849 the Senate passed a resolution calling upon the Secretary of the Treasury (then Mr. Walker) to report upon the operation of those acts, and in reference to our Cuban trade in general. After a thorough examination of the whole subject, he made his report, advising Congress to repeal these measures. That report concluded thus:

"In view of the foregoing circumstances, and being firmly impressed with the importance to the revenue of the United States, that the trade with the islands referred to should be relieved from the existing restrictions and embarrassments imposed by the law adverted to, I would respectfully recommend the repeal of the acts concerning tonnage duty on Spanish vessels, approved 13th July, 1832, and 30th June, 1834."

It will also be recollected, sir, that, at the last session of Congress, a similar resolution passed by the Senate was again addressed to the Treasury Department, and that its present distinguished chief (Mr. Corwin) submitted a clear, comprehensive report, which is, in my judgment, conclusive of the whole matter; and if honorable Senators had examined that report, I should not have deemed myself at liberty to have said one word upon the subject, for it embraces the whole question, and leaves, in fact, nothing to say. It concludes with the recommendation to repeal these laws, based upon facts and arguments incontrovertible.

Here, then, we have, sir, the opinions of two distinguished chiefs of the Treasury Department—gentlemen occupying a high stand as statesmen, and opposite positions upon the subject of commerce—one being an advocate of free trade, and the other a protectionist, yet, both recommending the repeal of these measures. Their judgments were formed after a clear, comprehensive, and elaborate investigation of the whole subject, an examination which necessarily involved the ascertainment of nearly every ton of shipping and every commodity of commerce which has entered into our trade with Cuba for the past eighteen years.

This proposition to repeal these two acts of Congress, addresses itself to the country in two aspects; one as a simple commercial regulation, involving dollars and cents only, and the other, in its political bearing on our relations with the Island of Cuba; and I propose, first, to advert to it simply as a commercial regulation.

In examining the subject, we find that the tonnage duties of Spain upon American vessels in her home ports, prior to 1817, were five cents per ton, or thereabouts; and that during this identical period, and for many years afterwards, the United States were charging upon Spanish tonnage, in our ports, one dollar per ton, of which fifty cents were called "light money." As a matter of course these onerous restrictions upon Spanish commerce, caused countervailing exactions by Spain upon ours, which soon became so onerous as to seriously embarrass our commerce with her. Our Minister at the court of Madrid, at that time Mr. Van Ness, was instructed by the Executive to remonstrate against these duties; and the result was that he obtained the royal order of April 29th, 1832, by which the Spanish restrictions, in her home ports, were removed from our tonnage, and reduced to what they were in 1817, viz: five cents per ton. But this royal order was accompanied by a proviso that it should have no effect until the United States should reciprocate in a similar manner, and this the President was authorized to do, by an act of Congress, passed in 1832.

The royal order extended only to the home, or continental ports of Spain, and did not embrace her colonies, where a discrimination in favor of her own tonnage—not against ours particularly, but against that of all the world—had existed. Our Minister was called upon to remonstrate against this. Spain, as a matter of course, refused to change her commercial system, and to permit our vessels to engage in her colonial trade on a perfect equality with herself; and this refusal originated the laws now in question.

In applying a different rule to her colonies from that which she was willing to extend to her home ports, Spain was not originating a new, unjust, or illiberal rule. She was simply carrying out the policy of every maritime Power of Europe having colonies; simply adopting that policy which has governed us ever since we have been a Government, so far as our commercial marine is concerned. The Powers of Europe having colonies, have uniformly contended that their commercial conventions and treaties never embraced those colonies, unless they were specifically included. High national policy, without reference to commerce, dictated to the maritime nations of Europe, the expediency and propriety of holding a constraining and controlling hand over the intercourse of foreigners, and particularly by republican foreigners, with their colonies. Spain especially was governed by this policy. She had seen her vast American empire, the most magnificent that ever a country possessed, escape from her grasp chiefly through the magic influence of those new ideas which republican foreigners had introduced to them. She saw her vast American empire reduced to the Islands of Porto Rico and Cuba; and she could not but feel that her tenure of these, through the intercourse of foreigners, was reduced to a mere question of time.

But there was a special and controlling reason why Spain could not concede the demand of the United States to trade with her colonies on a perfect equality with herself. When this demand was made, Spain had commercial conventions and treaties with some of the principal maritime Powers of Europe, which stipulated that they should have the privilege of trading with these colonies upon the same terms as the most favored nation. We also enjoyed this privilege, and were upon an equal footing with all the Powers of Europe; and a concession to one would necessarily involve it to all. Spain could not concede our demands, without also granting a similar privilege to England, and to all the maritime Powers of Europe with whom she had treaties, and this, of course, she was not prepared to do.

Her struggle with her then recently-revolted colonies, had stripped her of her merchant marine; and great national policy, if not national safety itself, dictated the necessity of building up her shipping interest, and establishing a school for her seamen; and this she could only do by discriminating in favor of her tonnage. This discrimination in favor of her own tonnage, not against us, but in favor of her own vessels against all others, which amounts to about $1 63 per ton, was barely sufficient to attain the great object in view. It must be remembered that she did not make an invidious distinction against us, but placed us precisely upon the ground of the most favored nation.

I will ask the Senate now to consider with what propriety this demand was made by the United States upon Spain at that time. Recollect that we demanded that our vessels should go to her colonies on precisely the same footing with her own. Why, sir, it is a policy which we have never admitted; but we have maintained exactly the opposite policy. It is well known to us that voyages from our Atlantic to our Pacific possessions embrace three times the length and hazard of voyages between Spain and her colonies on the American coast; and yet we regard this as our coastwise trade, and do not permit foreigners, or vessels in which a foreigner owns a timber-head to engage in it. If we were to acquire Cuba to-morrow, the right of Spain to trade with that island would instantaneously cease. She would not have a right to send a single vessel there, and the idea of our permitting foreign vessels to trade on an equality with ourselves would be considered as dangerous by every discerning mind of the country.

We acquired the Floridas from Spain by treaty. Her right to trade with them at once ceased, and was permitted for a period of twelve years by an express article of the treaty. With what propriety, then, I ask, did we insist, in regard to her colonies, on a condition which she was powerless to grant without the abandonment of a policy she dearly cherished, and which we, under precisely similar conditions, were not prepared to grant to her?

As I have said, Spain was powerless to grant our demand. She could not do so without surrendering a policy which she believed to be connected with her national existence. She could not grant it without sacrificing her entire merchant marine, and conceding to every nation the same privileges which she might concede to us, and thereby, as a matter of course, not granting to us the precise advantage which we wanted, which was to have a superior advantage in the markets of Cuba above every foreign nation. Her refusal to give up her own commercial policy, and adopt an opposite one at our dictation, produced the retaliatory measures now under consideration. These laws were introduced, advocated, and passed as coercive measures; as retaliatory measures designed expressly to force Spain into the adoption of our policy. They have now been in force for some eighteen years. Every year of their operation has been marked, and the statistics of the country are all before us. We have all the legitimate elements to form a correct judgment at hand; and national policy dictates the propriety of deliberately forming it. And if we shall find that these laws have not only failed to accomplish their purpose, but that they have had directly the opposite effect—if we shall find that our worst enemies could not have devised a more ingenious system by which to legislate ourselves out of this market at our very doors—then I say it is the part of wisdom to revise and to recede from our legislation. The first of these acts was passed July 13th, 1832. It was designed to be reciprocal in its character, but it went beyond reciprocity.

This act of 1832 was in operation for two years, and in that time its operation did not move

Spain from her position; and consequently the more stringent act of 1834 was introduced, advocated, and passed as a retaliatory and coercive measure. I will say here, sir, that whatever our legislation might have been, if we had prohibited the vessels of Spain from coming within three miles of the land, if we had made it a penal offense for any American merchant to sell a single article of American produce to Cuba, it could not have attained the end we sought.

Let us examine the provisions of the act of 1834. It is one of the most remarkable that ever went upon our statute-book; and I will undertake to say here, that if the agricultural and manufacturing interests in this country had duly examined its provisions, it would scarcely have received a respectable minority in Congress. Let us look at the effect of it. A Spanish vessel, clearing from the ports of the United States with a cargo, is required to give a bond (distinguishing her from the vessels of all nations of the earth, Christian or heathen) in double the value of the vessel and cargo, that no portion of that cargo will be landed in Cuba or Porto Rico. If she refuse to give this bond, which, as a matter of course, must be the case when vessels are bound direct to either island, the collector of the customs at the port from whence she clears, is bound by this law to levy upon her a duty equal to the discrimination made between her and an American vessel of the same size and cargo in the ports of Cuba and Porto Rico. To make this more apparent, let me give you this illustration.

Let us suppose that a Spanish and American vessel, each of two hundred tons burden, and each laden with one thousand barrels of flour, clear from the port of New York to Cuba. The duties which the Spanish vessel would pay on her entrance into the port of Havana, would be, on both vessel and cargo, $8,668 75. An American vessel, entering on the same day, of the same size and cargo, would pay precisely $9,843 75; leaving a difference of $1,175 between the two amounts which the two vessels would have to pay. Therefore, when the Spanish vessel clears from the port of New York, the collector there is called upon to levy and collect from her, before she leaves, this sum of $1,175, in addition to all other legal charges; and this export duty upon the cargo, in addition to the tonnage duty, is called a "tonnage duty," and amounts precisely to $5 87½ per ton upon every Spanish vessel leaving the ports of the United States under similar circumstances. I might go further with an illustration of every article of commerce which enters into the consumption of that island; but I take the article of flour, because, in the first place, it is an article of the greatest necessity, and enters largely into the consumption of the island; and because, in the second place, the Government of Spain is powerless to remit the discriminating duty on flour. La Mancha and Castile have always been great producers of wheat, and in the days of Cervantes were called "the granaries of the world;" and a proposition, in the Spanish Cortes, to remit the discriminating duty on flour, would meet with just about as much favor as would a proposition at Lowell, or Boston, to remit the duty on all manufactures of cotton.

The act of 1834 introduced, advocated, and passed, as a retaliatory and coercive measure, the object of which was to bring Spain to terms with us, goes further than any measure of reciprocity. That act imposed far greater restrictions upon Spanish tonnage than Spain imposed upon ours; and just so far as ours exceed hers, its operation is vindictive and not reciprocal. The Spanish colonial duties are chiefly *ad valorem;* they are so with the exception of the duty upon flour, and some few other articles. The duty upon foreign merchandise, in Spanish bottoms, varies from seventeen and a quarter to twenty-one and a quarter per cent., and upon the same merchandise in foreign vessels, our own included, from twenty-four and a quarter to thirty-three and a quarter per cent. The difference is seven and nine per cent., giving a mean discrimination of eight per cent. in favor of her own productions against all the world besides. If reciprocity were the only feature sought for by the act of 1834, this discrimination of eight per cent. would be the limit of our exactions upon the trade of Cuba; but such was not the case.

Our tariff of 1842 levied a discriminating duty upon foreign merchandise in foreign vessels of ten per cent. And we collected not only this ten per cent., but the eight per cent., which was the discrimination in Cuba against us. Our discrimination, therefore, amounted to eighteen per cent., whereas that of Cuba against us was but eight per cent. Let me give another illustration. Our tariff of 1846 levies a duty of twenty per cent. upon Cuban coffee in Spanish bottoms, while in American vessels it is free. In this case our discrimination against Cuba is twenty-eight per cent., whilst hers against us is but eight per cent.

I have already noticed the fact, that Spanish vessels, clearing from the United States for Spain, give a bond in double the value of the vessel and cargo that no portion of that cargo will be landed in Cuba or Porto Rico. Spanish vessels coming into our ports take much of our raw cotton. A large quantity of cotton is consumed in Spain in manufactories there, and from thence returned to Cuba. The average value of Spanish vessels and cargoes clearing for Spain from our shores may be estimated at $50,000. Double the value of the vessel and cargo would therefore be $100,000; and thus every Spanish vessel is called upon to give a bond of about this amount before she is suffered to depart from our shores.

It is no part of the business of a factor, or a ship's consignee, to sign a bond of this character, and peril his fortune gratuitously; and a risk of this kind is not generally undertaken but for a commission of from one to two and a half per cent. Superadded, therefore, to the difficulty of a ship-master's getting persons to sign the bond for him, there is the actual loss of a commission of from one to three thousand dollars upon cargoes which go to Old Spain. The act of 1834, though vindictive in its character, was never designed to reach the trade between the United States and the mother country; but by its operation here we see how it embarrasses it. Vessels not bound to Cuba, having no connection with that island whatever, are called upon to sustain this loss.

There is still another feature of the act of 1834 much more odious in its character than any to which I have adverted, and one which strikes at Spanish pride, and creates more hostility of feeling against us in the Island of Cuba than any legislation which has ever been had by our Government. Under the act of 1834, our exactions upon Spanish tonnage are not fixed and stable. They are not made to depend upon the amount of restrictions that Spain places upon us; upon the favor which she extends to her own shipping, and our *exactions* upon Spanish tonnage increase just in proportion as Spain *relieves* it from restrictions. To illustrate this, permit me to put this illustration. Let us suppose that American, and all other foreign vessels in Cuba, pay two dollars per ton as tonnage duty, and Spanish vessels pay but one dollar. The discrimination between them is a dollar, and this dollar is collected on the Spanish tonnage before it clears from the United States. But if Spain, still more to benefit her commerce and encourage her shipping interests, shall think proper to relieve it entirely from duty, she does not increase our duty, but the discrimination now becomes two dollars instead of one. She has not put any more duty upon our tonnage, but has relieved her own.

Now, under this act of 1834, we would be called upon in such case to collect two dollars instead of one from Spanish tonnage, because she has relieved her own vessels to that extent. What is this but a manifest declaration to Spain: "You have no merchant marine; you are seeking to build it up, but every attempt you make to relieve your tonnage of a single dollar will be counteracted by our putting it on before they leave the United States." In this light has the action of the American Government been viewed by Spain. In this light has every enlightened merchant and official of the Island of Cuba regarded it. It is not regarded—and I say it confidently—as a mere commercial regulation, but as an attempt to deal a death-blow at Spain's effort to favor her merchant marine at all. I will ask the Secretary to read from an official Spanish paper, of which I have made here a liberal translation. It is an extract from the report of the "Fiscal" to the Captain General of Cuba, 1844, part second, No. 33, pages 278 to 287, and No. 34, pages 283 to 291.

The Secretary accordingly read as follows:

"To show the injustice of the measure, (alluding to the act of 1834,) let us compare the imports of the two countries, (Cuba and the United States.) Our vessels coming from the United States pay, on the value of their cargoes, from seventeen and one fourth to twenty-one and one fourth per cent., and those of the Americans, with the same cargoes, from twenty-four and one fourth to thirty and one fourth per cent.; the difference between the two is from seven to nine per cent., giving a mean difference of eight per cent."—(*p.* 283.)

"The Government of the Union has the indisputable right to exercise equal discrimination upon our vessels to protect theirs and the products of their country, as have all other nations; but has it done so by the enactment of this law? No! May it please your Excellency, the American Government has said that, in addition to the contributions common to other vessels, those of Spain engaged in the trade of Cuba and Porto Rico shall pay an additional duty equal to the *difference* imposed in these islands between national and American vessels; that is to say, if foreign vessels pay in the United States twenty per cent. more than American vessels, those of the islands must pay a differential duty of twenty-eight per cent., a duty which augments just in proportion as we decrease the burdens imposed on our vessels, though we do not increase those of the American vessels!—(*Pages* 283-'4.)

"In other words, may it please your Excellency, it is *equivalent to the declaration of* the American Government to that of his Majesty: *In vain you think* to protect your shipping, even at the cost of the public revenue; because just so much as you lighten *your* burdens upon it, just so much will we augment *ours* upon it! Such a violation of the rights of nations can hardly be conceived on the part of a great and liberal Government, and still less that it should be tolerated by Spain.—(*Ibid.*)

"This violation is more flagrant and manifest as it respects *exportations.* As to importations, it is very well to levy equal (not different) duties upon cargoes imported into both nations reciprocally, because the productions of the country thus have protection; but with respect to *exportations,* what motive can the Government of the United States have to levy this differential duty, if it be not the extinction of our shipping, even at the cost of her own productions?—(*Ibid.*)

"Thus, then, if to-morrow our Government shall deem it right to make a sacrifice of all parts of the imposts upon our marine, which it now pays, have strangers the right to receive the same in their ports? Evidently no, your Excellency! all they can rightfully do is to imitate the Government of Spain, and to protect their marine at the cost of the same sacrifice. But to augment the duties on our vessels in proportion as we decrease them, when we do not *increase* those upon American vessels, and to convert this sacrifice made by the Spanish Government into a means for its destruction, is what has never been pretended to by any other nation, and cannot be tolerated by Spain without disgrace."

Mr. MALLORY. That is an extract from a report made by the Fiscal of the Island of Cuba on its commerce and navigation. It is the universal language of the officials of the Island of Cuba, whenever they speak of the legislation of the American Government upon this subject. It is not considered simply as a commercial regulation in which dollars and cents only are concerned, but is regarded as an attempt, an unjustifiable attempt, on the part of the United States, to break down every effort on the part of Spain to encourage and build up her own shipping interest.

I have now given the origin and character of these odious enactments, conceived, advocated, and passed, as are all restrictions upon trade, in a spirit of selfishness; and whenever that spirit is suffered to influence our legislation, it results, like those of selfishness in the private affairs of life generally, in greater evils than are sought to be averted. As I have remarked, these acts have been in force for a period of eighteen years, and their results are fully known. The statistics which they furnish are here on file, after a most laborious examination by the Treasury Department. Let us examine them.

Mr. CLARKE. Will the Senator now allow me to make the motion to go into Executive session?

Mr. MALLORY. I give way, as I promised to do at any time the Senator desired.

Mr. CLARKE. If the honorable Senator desires a moment, merely to bring his remarks to a point, I yield. If not, I hope he will give way, and allow me to make the motion.

Mr. MALLORY. If the Senator will allow me fifteen minutes, I will endeavor to get through the first branch of the subject which I am discussing.

Mr. CLARKE. Very well.

Mr. MALLORY. I will, then, shorten my remarks, and will now simply consider the results of these laws. I will call the attention of the Senate to the fact, that in 1832, when these acts were passed, the population of Cuba was seven hundred and fifty thousand, as nearly as could be ascertained by the authorities of the island; and our export trade to it, amounted to $5,672,700, and it had been rapidly increasing, and we were in a fair way to engross the major part of its trade. Situated within some few hours' sail of a portion of our territory, and within a few days' sail of our

great commercial cities, we supplied her with nearly all her breadstuffs, a vast amount of flour, with all her rice, and a large portion of her lumber and salted provisions. She received her salted fish as well from the eastern States, as from Florida; the produce of the West went from New Orleans; and the manufactures of the North from the Atlantic cities. Our exports in flour were thirty-five thousand barrels a year at that time. Taking a rapid view of this subject, we find, in 1849—and this addresses itself to honorable gentlemen from the South—that twenty-one millions eight hundred and twenty thousand one hundred and sixty-seven pounds of rice, were imported into Cuba; worth there $1,092,591. But we also find, in that year, far from our engrossing the entire trade of this article, rice to the value $799,563 only went from the United States. She now gets this article, which it was formerly supposed no one could supply but ourselves, from Valencia, South America, Brazil, Holland, and even from the free port of St. Thomas, where it is carried from South Carolina and Georgia without restrictions, and thence returns to Havana without restrictions. What a commentary is this upon restrictions upon trade! I venture to predict that if this condition of things continues on a few years more, the rice planters of Georgia and Carolina will be supplanted in that market.

The returns of the Havana customs show that from 1826 to 1833, both inclusive, there were 522,136 barrels of American flour entered there; of which 318,244 were carried in Spanish bottoms; and that from 1834 to 1843, (after these acts were passed,) both inclusive, there were but 466,534 barrels of American flour entered, only 135,197 barrels of which were carried in Spanish bottoms; and that during the last year, 1843, there were but 310 barrels thus carried. During the *eight* years previous to the act of 1834, there were 55,602 more barrels than during the *ten* years subsequent to it. The annual average number of barrels carried from the United States in Spanish bottoms before the passage of the act, was 39,780, whereas but 310 were thus carried in 1843, after it had been in force nine years, and it is believed that *none*, comparatively speaking, have been so carried since that date. During the year 1849, as shown by *La Balanza General del Comercio de la Isla de Cuba*, the importation of flour into the island was 215,837¾ barrels, valued at $2,696,334 87½. Of this, there came from Spain, in Spanish vessels, 213,800 barrels, worth $2,672,500; and from the United States, in vessels other than Spanish, but 797 barrels, $9,334 87½. Not one barrel is shown to have been imported from the United States in a Spanish vessel.

The agriculturist and the manufacturer know the importance of having the consumer as a purchaser at their own doors, instead of sending the products of their labor to him abroad, to abide the perils of a sea voyage, and the loss of freight, commissions, and insurance. But our legislation is, in effect, a declaration to Spain, that though we can supply Cuba upon better terms than all the world, she shall not have our products at all unless we can be permitted to carry them upon better terms than all the world.

During the year 1849—and it may be interesting to gentlemen from manufacturing States to consider this point—there were imported into Cuba cottons to the amount of $2,487,000, while she consumed and imported from the United States cottons to the value of $72,931 only. Where does she get her cottons? She consumes our raw material, but only after British, French, and Spanish industry have been put upon it. The population of Cuba is now about twelve hundred thousand souls; but in view of its area, its climate, and soil, it may sustain a population of ten millions. But with this limited population, its imports in 1848 were $25,435,565, and its exports $26,077,067; and in 1849, its imports were $26,320,460, and its exports $22,436,556, showing the aggregate trade of 1848 to have been $51,512,632, and in 1849 to have been $48,757,016.

Now, sir, what but our own unwise legislation has deprived us of the enjoyment of the major part of this trade? Our proximity to Cuba, our admirable merchant marine, our rich and various manufactures and agricultural products, combine to make us the natural suppliers of Cuba; and yet, sir, we have sacrificed them all to a spirit of retaliation.

Had the commercial Powers of Europe pursued the same course, we might have maintained an equality of advantages; but they wisely forbore, and took advantage of our false step. An American landing in Havana from our southern cities is surprised at the remarkable transition which a few hours only have produced. He feels himself to be as much in a "*terra incognita*" as if he had been suddenly transported to Japan. Upon all sides he beholds evidences of European wealth, in the presence of its merchandise of every character; but nowhere does he see that any connection exists with the land he has just left. He is still more surprised to learn, that while English, German, and French mercantile houses are numerous, there is but one respectable American commission house claiming to be American. He finds, in fact, spread out before him, a land beautiful beyond anything of which fairy tales have told, but from which he and his country, beyond all the earth beside, are excluded.

Cuba consumes large quantities of laces, lawns, linens, and the finer fabrics of France, Germany, and England. It is notorious that some of the choicest goods of Paris go to Havana. These articles, subject to the caprices of fashion, and to deterioration by long voyages, could be supplied to the Cuban market as demanded from the bonded warehouses of our commercial cities, if the Spanish purchaser were permitted to come here and buy them. A lucrative business would be done in the articles, shipped from our ports with the benefit of drawback, leaving in the hands of the American merchant commissions, insurance, and freight. Remove your restrictions upon Spanish vessels coming to our ports, open the trade to them, and the Spanish flag will again be seen in your ports, and the traders of Cuba will throng your mercantile marts.

I perceive, Mr. President, that I am encroaching upon the time which was assigned for an Executive session, and I will therefore defer the further discussion of this subject till to-morrow.

Mr. CLARKE. I move that the further consideration of this subject be postponed until to-morrow, for the purpose of proceeding to the consideration of Executive business.

The motion was agreed to.

EXECUTIVE SESSION.

On motion by Mr. CLARKE, the Senate proceeded to the consideration of Executive business, and after some time spent therein the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 24, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Friday was read and approved.

The SPEAKER. The business first in order is the motion of the gentleman from Ohio [Mr. BELL] to suspend the rules, for the purpose of introducing a bill making further provisions for granting bounty lands to those who have been engaged in the wars and service of the United States.

Mr. HART demanded tellers on the motion to suspend the rules; which were ordered; and Messrs. BEALE and MCNAIR were appointed.

The question was then taken, and the tellers reported—ayes 65, noes not counted.

Two thirds not voting in the affirmative, the rules were not suspended.

Mr. HOUSTON. I ask the unanimous consent of the House to offer a resolution.

Mr. STANLY. What is the regular order of business?

The SPEAKER. Resolutions.

Mr. STANLY. What State is first in order.

The SPEAKER. The State of Pennsylvania. The gentleman from Alabama [Mr. HOUSTON] may or may not be entitled to the floor. It depends altogether upon the object he seeks.

Mr. HOUSTON. My proposition I will send to the Clerk.

Mr. BELL. I rise to a question of order. Was the question upon the motion to suspend the rules disposed of?

The SPEAKER. The affirmative vote was announced, and the Chair stated that there being not two thirds in the affirmative, the motion failed.

Mr. BELL. Would it not be in order to call a count on the other side?

The SPEAKER. There not being two thirds of a quorum in the affirmative, the Chair asked if any one desired a count upon the other side, but no one responded, and the motion failed.

HOUR OF MEETING—APPROPRIATION BILLS.

The resolution offered by Mr. HOUSTON was then read as follows:

Resolved, That until otherwise ordered, the hour of meeting of this House shall be eleven o'clock a. m.; and that House bill No. 335, to supply deficiencies in the appropriation for the year ending the 30th June, 1853, also the following House bills making appropriation for the fiscal year ending the 30th June, 1854—

1st. A bill for the support of the army, No. 336;
2d. The Indian appropriation bill, No. 333;
3d. A bill making appropriations for the naval service;
4th. Post Office Department bill;
5th. Mail steamer bill; and
6th. The civil and diplomatic bill—be made the special order of the day for one o'clock on each day, after Tuesday, and that they continue to be the special order for each day until finally disposed of.

Mr. SEYMOUR, of New York. I object to the introduction of the resolution.

Mr HOUSTON. I move to suspend the rules for the purpose.

Mr. STUART. I would ask the gentleman from Alabama to take the question first upon that part of his resolution fixing the hour for the daily meeting of the House. I will vote to meet at eleven o'clock.

The SPEAKER. The Chair would suggest to the gentleman, that can be done by dividing the question. It would require a vote of two thirds, at all events, to make the special order.

Mr. STUART. I am aware of that, and I ask the gentleman to modify his motion now.

Mr. HOUSTON. If there be no objection to the resolution, I will modify the first branch of it.

Mr. HALL. I object to the first branch of the resolution.

Mr. HOUSTON demanded the yeas and nays upon the motion to suspend the rules; which were ordered.

Mr. SEYMOUR, of New York. I wish to propound an inquiry to the Chair. Is the proposition which we are called to vote upon simply to change the hour of meeting from twelve o'clock to eleven?

The SPEAKER. The first branch of the resolution proposes to change the hour of meeting from twelve o'clock to eleven. The resolution also proposes to make the several appropriation bills the special order. The immediate proposition before the House is, to suspend the rules to enable the gentleman from Alabama [Mr. HOUSTON] to introduce the entire resolution. When introduced, it will be competent for the House to vote upon each proposition contained in it.

Mr. HOUSTON. I will modify the resolution so as to offer the first branch of it.

[Cries of "No!" "No!" "No!"]

Mr. HOUSTON. Then let the question be upon the whole of it.

The question was then taken upon suspending the rules, and there were—yeas 90, nays 75; as follows:

YEAS—Messrs. Allison, William Appleton, Ashe, Averett, David J. Bailey, Beale, Bibighaus, Bocock, Bowne, Bragg, Briggs, Albert G. Brown, Joseph Cable, Caldwell, Caskie, Clark, Clemens, Colcock, Cottman, Cullom, Darby, John G. Davis, Dean, Dunham, Edmundson, Ewing, Faulkner, Ficklin, Florence, Gaylord, Gentry, Gilmore, Green, Harper, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Hillyer, Houston, John W. Howe, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kuhns, Kurtz, Letcher, Little, Lockhart, Mason, McLanahan, McNair, Meade, Miller, Millson, Murphy, Murray, Nabers, Orr, Andrew Parker, Phelps, Polk, Powell, Price, Reed, Robbins, Robie, Robinson, Scurry, Skelton, Smart, Smith, Frederick P. Stanton, Abraham P. Stephens, Stone, Stratton, Watkins, Welch, Wells, Wilcox, Wildrick, Williams, and Yates—90.

NAYS—Messrs. Charles Allen, Willis Allen, John Appleton, Babcock, Barrere, Bell, Bennett, Brenton, Brooks, George H. Brown, Burrows, Burt, Busby, Lewis D. Campbell, Cartter, Chandler, Chapman, Chastain, Cobb, Dawson, Dimmick, Dockery, Doty, Duncan, Eastman, Edgerton, Fay, Floyd, Freeman, Thomas J. D. Fuller, Giddings, Goodenow, Goodrich, Gorman, Hall, Hammond, Hart, Hascall, Horsford, Thomas Y. How, James Johnson, John Johnson, George G. King, Landry, Mann, Martin, McMullin, Meacham, Henry D. Moore, John Moore, Morrison, Newton, Outlaw, Samuel W. Parker, Penn, Penniman, Porter, Preston, Ross, Sackett, Schoonmaker, Scudder, David L. Seymour, Stanly, Benjamin Stanton, Richard H. Stanton, Alexander H. Stephens, St. Martin, Stuart, Sutherland, Taylor, Thurston, Toombs, Tuck, and Walbridge—75.

THE CONGRESSIONAL GLOBE.

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There not being two thirds in the affirmative, the rules were not suspended.

MONTICELLO ACADEMY.

Mr. JENKINS. I rise to a privileged question, and I do so for the purpose of bringing before the House the reconsideration of a motion made by the honorable gentleman from Mississippi [Mr. Brown] on Thursday last for its action. The question is, whether certain papers presented in behalf of the trustees of Monticello Academy, in the State of Mississippi, should be considered by the Committee on Private Land Claims or the Committee on Public Lands? It is a question of some importance to ascertain and settle the boundary line of action between these two committees. It is appropriate that I should set forth a statement of the facts, in order that this question may be decided by the House.

On the 26th day of July last, the gentleman from Mississippi presented to the House the petition of applicants in behalf of the Monticello Academy, for the purpose of obtaining a lot of land, and for other purposes, which was referred to the Committee on Private Land Claims. That committee examined the case, and immediately application was presented to the Commissioner of the Land Office for the purpose of ascertaining the facts. That officer returned an answer to the communication, disclosing the whole state of facts. It appears from the petition presented by the trustees of that academy, that they are entitled to the land which that township would be entitled to, under the act of 1803, for the support of schools. They set forth that, prior to their obtaining the benefit of that act, by devoting to the use of schools the sixteenth section of that township, the land was sold, through mistake, to a man by the name of Whitehead, by the Commissioner of the Land Office, and hence that academy was deprived of the sixteenth section. They set forth that in 1831 an application was made to Congress for the purpose of relief, and that an act was passed authorizing that academy to receive other lands in lieu of this sixteenth section, and that the selection was given to the county of Lawrence instead of the township of Monticello, and hence they were deprived of it. They also set forth that it would be a great inconvenience to them to be obliged to go and make selections of land and sell them, and hence they desire Congress to pass a law giving to them the amount which Whitehead paid for the lot, together with interest at eight per cent., that being the amount allowable by the laws of Mississippi. It is true, in 1803, by the act providing for the sale of lands south of the State of Tennessee, the sixteenth section of each township was allotted for the support of schools. That act also provided that in case the sixteenth section was held by a claimant having a lawful right there, then the sixteenth section should not thus be applied to the support of schools.

In a letter which I have received from the Commissioner of the Land Office, he says that he cannot state fully the facts in regard to his case, for the reason that in 1814, when the British invaded this country, the papers were destroyed by fire. All the facts cannot, therefore, be stated; but there is no doubt that Mr. Whitehead was in possession of this sixteenth section, and under a right to it by preëmption, and as the law then stood, this township could not obtain its sixteenth section. But what was done afterwards? Why, in 1826 Congress passed a law fully providing for all such cases, and giving to the Secretary of the Treasury power not only to select from that township, if he chose to do so, but from any lands in the district in which the township is situated, lands in place of the sixteenth section. That law remains in force at this day. The Secretary, on being applied to, could set apart lands for the use of this academy, and he reports that the existing law is perfectly adequate to the relief which these parties desire, unless you choose to give them money instead of land. They have waited for twenty years. They have not applied for land to be set aside for the use of this academy at all. It is true that in 1831, they applied for a special act on the subject, What is that act? I will not take time to read it, though I have it before me. It provided that a person appointed by the courts should be authorized to select lands anywhere in the State for this school, in lieu of the sixteenth section. There was ample authority given by that act for the selection of the land. This is the act:

"That one section of public land subject to private entry and sale, in the State of Mississippi, be located for the use and benefit of the school in Lawrence county, in said State, in lieu of the sixteenth section sold and patented to William Whitehead."

Further than that, it authorized

"Any person appointed by order of the probate court in and for the county of Lawrence, be and he is hereby authorized to select said quantity of land for the purposes above mentioned."

That is the act of 1831. The first section of the act of 1826 makes provision for furnishing lands in all cases where the sixteenth sections have not been enjoyed. The second section provides that the aforesaid tracts of land shall be selected by the Secretary of the Treasury out of any unappropriated public lands within the township or within the land district, and when so selected shall be held on the same terms, for the support of schools in such township as section No. 16 is or may be held in the State where such township shall be situated. The letter of the Commissioner of the Land Office, on this subject, states explicitly that that act gives full and adequate remedy to these parties. They have a right to apply to him to have other land in lieu of the sixteenth section, in the township of Monticello, and that they may go anywhere in that land district for such selection; they have, therefore, a wider range for selection than they would have if they were confined to the township in which the academy is located. Why, then, when there is a full and perfect remedy for this academy, will you go forward and ask for further legislation on the subject?

But, sir, I turn now to the question for decision by the House, and that is, whether the Committee on *Public Lands* or the Committee on *Private Land Claims* ought to investigate this subject. During the last session of Congress this petition was presented by the gentleman from Mississippi [Mr. Brown] on the 26th of July, and referred to the Committee on Private Land Claims. Immediately afterwards, a letter was sent by me to the Commissioner of the Land Office for information upon the subject. That letter was answered on the 17th of August, and on the 19th of August I submitted to the committee an adverse report upon this claim, showing that there was no need of legislation upon the subject. I do not charge the gentleman from Mississippi with any knowledge of this, for I am satisfied that he would not so overstep the bounds of courtesy as to ask that the Committee on Private Land Claims should be discharged from the further consideration of this petition had he known that a report had been drawn up by that committee adverse to the claim. But, sir, as you well know, and as the House well knows, the Committee on Private Land Claims have not been called for reports since early last session, and have had no opportunity to report from that time to this. These papers have therefore remained in my drawer. I am ready to make an adverse report upon this claim whenever I am called upon to report at all.

What, I ask the House, is the duty of the Committee on Private Land Claims? Is it not to examine just such cases as this? And after they had gone forward and collected all the facts and all the intelligence upon the subject, and prepared a report upon it, is it right, is it proper, that this House should thus take a case from that committee and send it to the Committee on Public Lands, which has nothing to do with the subject? I submit that question to the House. Is it right, is it proper, is it expedient, after one committee has fully investigated a subject, to take the case from before them and refer it to another committee to investigate the matter anew? What is the Committee on Private Land Claims to do? Is it not to listen to private applications with reference to land? What is the Committee on Public Lands to do? Their duty is to take care of the public domain, to provide for its survey and sale, and adopt such other measures relating thereto as the public exigency requires.

But when a party applies for the satisfaction of a *private land claim*, why should it go to the Committee on *Public Lands*? If the Committee on Private Land Claims had been derelict of duty—if they had omitted to act upon this claim—then I should be perfectly willing that it should be taken out of their hands and passed over to another committee. But the honorable gentleman from Mississippi came forward on Thursday last—when I happened not to be in my seat—and made this motion without any application to the committee or any notice to us. I heard of it the next day, and I then submitted the motion to reconsider the vote by which the transfer was ordered to be made to the Committee on Public Lands. I charge my friend from Mississippi with nothing improper. I am satisfied that he would have given us notice beforehand that he intended to make that motion had it occurred to him that it was proper for him to do so. But it is so plain that this is a suitable and proper case for the Committee on Private Land Claims, and as they have already investigated the subject, I hope the House will agree to the motion to reconsider, and allow this case to be reported on by the Committee on Private Land Claims, whenever that committee shall be reached.

Mr. BROWN, of Mississippi. I have no intention to detain the House upon this little matter, which I think the gentleman from New York has magnified into a great deal more importance than really belongs to it. When I made the motion to withdraw these papers from the Committee on Private Land Claims and refer them to the Committee on Public Lands, I certainly did not contemplate any injustice to the honorable gentleman from New York, or to the committee of which he is the chairman. He is mistaken in supposing that I did not make inquiries as to what progress had been made in the investigation of this case before his committee. Not being able to find the gentleman himself, I asked one or two other members of the committee, but they could give me no intelligence with regard to it. I found that the Committee on Public Lands were engaged in the investigation of cases precisely like this, and thinking it would economize time to embrace all of them in one proposition, I chose to withdraw these papers from the Committee on Private Land Claims and to submit them to the Committee on Public Lands. It was for that and for no other reason.

Mr. JENKINS. Does the gentleman think that where there are some half a dozen persons having each individual and distinct private land claims, it is appropriate to send them to the Committee on Public Lands to be reported upon in a general bill, so that the Committee on Private Land Claims shall have nothing to do with the matter?

Mr. BROWN. I was simply speaking of the facts as they exist, that the Committee on Public Lands had several of these cases under investigation; and believing, as I said before, that it would economize time and labor to provide for them all in one proposition, I for that reason, and for that alone, asked to withdraw these papers from the Committee on Private Land Claims and to submit them to the Committee on Public Lands, having some reason to believe at that time, that no progress had been made in the investigation of the cause. I repeat, that though I did not see the gentleman from New York, I saw other members of the committee. My collegue from the first district [Mr. Nabers] will bear witness that I called upon him, but he could not tell me what had been done. He afterwards told me that the case had been placed in the hands of the gentleman from New York. This, however, was after I had made my motion, and after the House had sustained it. I can assure the honorable gentleman and the committee, that in making this movement, I intended to cast no reflection upon the industry, ca-

pacity, or business qualifications of the committee. Sir, I do not understand the facts of this case precisely as my friend from New York does. I know not what correspondence he may have had with the Land Office in regard to this subject.

Mr. JENKINS. Here is the letter to which I alluded. It is short. I ask the honorable gentleman to have it read.

Mr. BROWN. I know pretty well what it is; I have one myself similar to it.

This sixteenth section belonged clearly to the citizens residing in the township where it lies. It was theirs beyond all question or dispute. But what did the Government do? They sold the land to a private individual, received the money for it, and put it into the Treasury, more than forty years ago. Well, what does the Commissioner of the Land Office say? He says, that about the year 1814, the records relating to the ownership of this section were burned by the British; and he *supposes* the case to have been, that the person to whom the Government sold the lands occupied it at the time the grant was made to the citizens of the township, and that, having this priority of interest, the Government was compelled to allow him to perfect his title by purchase. He supposes this right of priority! He supposes! What right has he to suppose any such thing? He gives no reason for any such supposition. He simply supposes it is so. Why, the supposition of the Commissioner of the General Land Office does not in any way affect the legal right of the parties concerned. These parties acquired their rights under the act of 1803; yet afterwards, in the year 1812, the Government sold the lands to a private individual, and received the money for it.

Now, what do they ask Congress to do? They ask that you will either refund the money you have received for the land, or give them other lands in place of that you have sold; and are you going to refuse to do it? The gentleman from New York [Mr. JENKINS] says that by the act of 1826 these parties would have been entitled to another section of land, but they did not choose to take it in the way which Congress proposed to give it. Well, sir, what does that act provide for? It provides that the Secretary of the Treasury may locate other land, in all cases like the one under consideration. The people of this township did not choose to have land located for them in tihs way. The Secretary of the Treasury knew nothing of their interests, and cared less. If called upon, he no doubt would locate a section of land, and he would do it at random. When the people come to look after it, very likely they would find it in a swamp, or on some poor ridge, and not worth a dollar. These parties did not choose to have their rights trifled with in this way, and would not accept the offer made in the act of 1826. If you pretend to give them land in place of that which was illegally taken from them in 1812 and sold, you certainly ought to allow them to locate it themselves.

Mr. JENKINS, (interrupting.) I think the gentleman and I misunderstand each other. The statute of 1803, to which he has alluded, provided that where this sixteenth section was occupied by a person having claim upon it, this land was not set apart. And what was the result? Why, these parties were left without any selection at all by the act of 1826, which act related, not to the State of Mississippi alone, but to the whole United States. Now, down to this day, when this sixteenth section of land is claimed by some other person having a right to it, they get their land under this act of 1826. I see no reason for this special act.

Mr. BROWN. There is no misunderstanding at all. The gentleman has assumed as true that which the Commissioner of the General Land Office only *supposes*, that this section of land in 1803 was occupied by the person who subsequently bought and paid for it. I deny the fact, and call for the proof. My constituents insist that it was not occupied, but that it was sold in derogation of their rights, and that the Government received the money for it.

Mr. JENKINS. The petition does not allege that such was the fact.

Mr. BROWN. That precise point may not have been raised. But they assert their right to the land in positive terms, under the act of 1803, and their assertion is inconsistent with the idea that it was occupied—occupancy under the act of 1803 carried with it a right of preëmption. But if the gentleman will allow me to state my case, I will be obliged to him.

I was saying that the people in that vicinity—in that township, were not willing that the Secretary of the Treasury, about whom they knew nothing personally, and who could have no particular regard for their interest, should locate a section of land for them, in place of that which had been taken from them and sold. They did not think proper to take any section the Secretary might think proper to locate in their name. He might locate it in some remote corner of the country, where it would cost more to look after than it was worth. Can you blame people for not parting with valuable possessions under their eyes, and take the doubtful chances of being remunerated in the way proposed?

But, sir, you have sold the land and got the money for it, and now my people ask that you will either refund the money or authorize them to locate another section of land. Is there anything unreasonable in that? Is it not the very least they can ask? They know their legal rights. They know that they can, by bringing an act of ejectment, expel the present occupants from the land. You had no right to sell it in derogation of their rights. But they do not choose to resort to that extreme remedy. They look to Congress for justice. Shall they look in vain? That is the question.

Now for the act of 1831. It seems that six years after the passage of the act of 1826, Congress had this subject under consideration, and came to the conclusion that injustice had been done to these parties. And notwithstanding the existence of the act of 1826, they passed a special act authorizing the location of a section of land in lieu of this sixteenth; but by a singular mistake, they authorized its location for the benefit of the schools of Lawrence county. This special grant under this act of 1831, was not, as you perceive, confined to the township to which the sixteenth section properly belonged, but it was made to the whole of Lawrence county, including some forty townships or more. It would therefore have to be divided between forty or fifty townships. It was giving to fifty what only belonged to one. This was never asked. What we ask is this: that you will either refund the money you have received for this land, with the interest since it was sold, some forty years ago, or else that you will allow the parties interested to locate another section in small subdivisions of, say eighth or fourth of a section, wherever they may be found unoccupied and of suitable quantity. We make the proposition for subdivisions, because, at this late day, the public lands have been culled and picked until a solid section is not to be found worth having. We ask for small lots of, say eighths of a section, or quarter sections, so that putting them together, a section may be made out that will be worth something.

Now, to return to the complaint of the gentleman from New York, [Mr. JENKINS,] that the withdrawal of this case from his committee was discourteous or unkind, I take occasion to report again what I said before; and I hope it may be remembered, for I mean to move, before I sit down, to lay the gentleman's motion to reconsider upon the table—that I intend to do no injustice to him or to his committee. I intended no slight to and one. I simply desired that the committee, which already has a number of similar propositions under consideration, should also have this. I hoped they might report them all in one bill, or, more properly speaking, provide for them all in one bill. I wanted this done for the purpose of saving time, and economizing the labor of the House. That was my object, and it was my only object. I move to lay the motion to reconsider upon the table.

The question was taken, and the motion was not agreed to.

The question then recurred upon the motion to reconsider; and, being taken, it was agreed to.

So the vote by which the bill was taken from the Committee on Private Land Claims and referred to the Committee on Public Lands was reconsidered.

The question then recurred upon the motion to discharge the Committee on Private Land Claims from the further consideration of the bill.

Mr. JENKINS. I would remark that the petition was originally referred to the Committee on Private Land Claims.

The SPEAKER. The bill is still before that committee, the vote by which they were discharged from its further consideration having been reconsidered. The motion is now pending to withdraw the papers in the case from that committee.

Mr. JENKINS. I move to lay that motion upon the table.

The motion was agreed to.

GENERAL ROBERT ARMSTRONG.

Mr. HARRIS, of Tennessee. I am instructed by the Committee on Invalid Pensions to ask the unanimous consent of the House to take from the Speaker's table, Senate bill No. 193, for the relief of Robert Armstrong. If the House will indulge me in having a short extract from a letter of General Jackson read, I am sure there will be no objection.

Mr. ALLISON. I object.

Mr. HARRIS. I hope the House will at least allow the letter to be read.

Mr. GOODENOW. I object.

Mr. HARRIS. I move to suspend the rules for the purpose of taking up the bill. It has been before Congress for a long time.

Mr. CABLE, of Ohio. I call for the reading of the bill.

The bill was then read through by the Clerk for information.

The question now being upon the motion to suspend the rules, upon a division forty-six rose in the affirmative.

Mr. HARRIS. I demand tellers.

Tellers were ordered; and Messrs. NcNAIR and LOCKHART were appointed.

The question was then taken, and the tellers reported—ayes 49, noes not counted.

So (two thirds not voting in the affirmative) the rules were not suspended.

BROWN, RUSSELL AND CO.

Mr. MILLER. I ask the unanimous consent of the House to take from the Speaker's table, Senate bill No. 493, for the relief of Brown, Russell & Co. It is a case of very great hardship, and I should be extremely gratified if the House would take it up and act upon it. The bill is very short, and I ask that it be read for information.

The bill was read through by the Clerk.

Mr. HARRIS, of Tennessee. I object to its being taken up.

Mr. MILLER. I move to suspend the rules for the purpose.

The question was put; and, upon a division, there were 61 in the affirmative.

Mr. MILLER. I demand tellers.

Tellers were ordered; and Messrs. WILLIAMS and GAYLORD were appointed.

The question was then taken; and the tellers reported—ayes 66, noes not counted.

So (two thirds not voting in the affirmative) the rules were not suspended.

ABIGAIL STAFFORD.

Mr. STRATTON. I ask the unanimous consent of the House to take from the Speaker's table, Senate bill No. 487, for the relief of Mrs. Abigail Stafford.

Mr. GOODENOW. I object.

Mr. STRATTON. I move to suspend the rules.

Mr. ORR. I hope the bill will be taken up. That lady has been waiting here five years.

The question was taken, and the rules were suspended—ayes 95, noes not counted.

The bill was accordingly taken up and read a first and second time by its title.

It provides that the Secretary of the Treasury be directed to pay to Mrs. Abigail Stafford $2,000 for supplies furnished the army in the revolutionary war and services rendered by her father, Henry Smith, of Massachusetts, to be paid upon principles of justice and equity.

Mr. STRATTON. I move to put the bill upon its passage.

The SPEAKER. The bill makes an appropriation, and under the rules it must be considered in the Committee of the Whole House, unless the rule requiring it to go there be suspended.

Mr. STRATTON. I move to suspend the rule requiring it to be first considered in the Committee of the Whole.

The question was put, and the rule was suspended.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, was read the third time and passed.

, Mr. STRATTON. I move to reconsider the vote by which the bill passed, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

GRANT OF LANDS TO IOWA.

Mr. CLARK. I hope I may be indulged in introducing a bill, of which previous notice has been given, merely for the purpose of reference. It is a bill granting lands to the State of Iowa for railroad purposes.

There was no objection, and

Mr. CLARK introduced a bill to grant a certain quantity of land to the State of Iowa for the purpose of aiding the said State in the construction of a railroad from Davenport to Council Bluffs, on the Missouri river; which was read a first and second time by its title and referred to the Committee on Public Lands.

Mr. McLANAHAN. Mr. Speaker, I ask the unanimous consent——

Mr. McMULLIN. Mr. Speaker, what is the regular order of business.

The SPEAKER. The call of the States for resolutions.

Mr. McMULLIN. Then I call for the regular order of business.

Mr. McLANAHAN. The gentleman cannot call for the regular order of business while I am upon the floor.

The SPEAKER. The gentleman from Pennsylvania has the floor.

PROCESS IN THE UNITED STATES COURTS.

Mr. McLANAHAN. I ask the unanimous consent of the House to introduce and put upon its passage "An act in addition to the several acts to regulate the issuing of process in the courts of the United States." And I claim the indulgence of the House to make a few words of explanation——

Mr. McMULLIN. I object.

Mr. McLANAHAN. Then I move to suspend the rules for the purpose of allowing me to introduce the bill; and I claim the indulgence of this House for a very few minutes while I explain it.

Several VOICES. "Order!" "Order!"

Mr. McLANAHAN. I ask, then, that this bill may be read for the information of the House.

The Clerk then read the title of the bill as above inserted, and was proceeding to read the first section of the bill, when——

Mr. ORR inquired: Is it in order to read the bill itself before the rules are suspended, and it is introduced?

Mr. McLANAHAN. Several bills have this morning been read for the information of the House, under the same circumstances.

The SPEAKER. The title has been read in order to show the character of the bill, but the Chair does not think it follows that a gentleman has a right to have the bill itself read.

Mr. McLANAHAN. I appeal to the gentleman from South Carolina [Mr. ORR] to withdraw his objection, for I feel confident that the provisions of the bill will meet with the sanction of the House.

Mr. JONES, of Tennessee. I would ask the gentleman from Pennsylvania, if this bill authorizes a court in any one State to issue a process to arrest an individual in another State?

Mr. McLANAHAN. If it is not objected to, I will with great pleasure answer the gentleman from Tennessee.

Mr. McMULLIN. I object.

The SPEAKER. The question is upon the motion to suspend the rules.

Mr. McLANAHAN. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken on the motion to suspend the rules, and it was decided in the negative.

ANN C. BELKNAP.

Mr. HARPER. I ask the unanimous consent of the House to take up Senate bill No. 302, granting a pension to the widow of General Belknap. I desire to have the bill and report read.

The Clerk then read the title of the bill as follows:

"An act granting a pension to Mrs. Ann C. Belknap."

No objection being made, the bill was taken up and read a second time.

The bill was then ordered to a third reading; and subsequently it was read the third time and passed.

Mr. HARPER. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NATHAN WESTON, JR.

Mr. WASHBURN. I ask the unanimous consent of the House to take up Senate bill No. 341, for the relief of Nathan Weston, jr., late additional paymaster in the United States Army.

Mr. JONES, of Tennessee. I object.

Mr. WASHBURN. I move to suspend the rules, in order to enable me to make a motion to take up the bill, and I ask the consent of the House to make a very brief statement.

Mr. HARRIS. I object.

The House was then divided on the motion to suspend the rules, and there were—71 in the affirmative; when

Mr. WASHBURN called for tellers.

Tellers were ordered, and Messrs. GAYLORD and MCNAIR were appointed.

The question was then taken, and the tellers reported—ayes 95, noes 36.

So the rules were suspended; and

On motion by Mr. WASHBURN, the House took up for consideration the bill above indicated.

The SPEAKER. The bill makes an appropriation of money.

Mr. WASHBURN. I move that the rule, which requires that bills making appropriations of money shall go to the Committee of the Whole on the state of the Union, be suspended.

The question was taken, and the motion was agreed to.

The bill was then read a first and second time by its title, and ordered to a third reading, and it was subsequently read a third time and passed.

Mr. WASHBURN. I move to reconsider the vote by which the bill was passed, and also move to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FRANCES P. GARDINER.

Mr. GORMAN. I ask the unanimous consent of the House to report back, from the Committee on Military Affairs, Senate bill No. 150, entitled "An act for the relief of Frances P. Gardiner," with an amendment. It is a bill for a pension, and has been pending a long time.

No objection was made, and the bill was reported with an amendment.

The amendment to the bill was to change the time of the continuance of the pension from "five years" to the term of her "natural life;" and to strike out "fifty," and insert "forty."

The question was first taken upon the adoption of the amendment, and it was agreed to.

The question then recurring on ordering the bill to be read a third time,

Mr. JONES, of Tennessee. If there is a report in the case, I ask that it may be read.

Mr. GORMAN. The bill has passed the Senate once or twice, and has been also passed by this House two or three times. It is for the relief of the widow of the same Captain Gardiner who was killed in the Dade massacre, in Florida. He was sent there against his own will, and when almost certain death was pending. In that massacre, every human being but three were killed by the Indians. The bill proposes to put the widow upon the same footing as the widows of others who were killed in the same massacre.

I ask for the reading of the bill as amended.

The bill was accordingly read.

The question then being on ordering the bill to a third reading, it was agreed to.

The bill was subsequently read a third time and passed.

PATENT OFFICE REPORTS.

Mr. CARTTER. I ask the unanimous consent of the House to report a bill which I send to the Clerk's desk. The bill will explain itself, and I hope the House will give their attention.

The bill was then read, as follows:

An Act to regulate the report of the Patent Office, and providing for additional officers therein.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Commissioner of the Patent Office shall cause to be prepared a general analytical and descriptive index or digest of all such discoveries, patented under act or acts of Congress, as he shall deem important to be made known and published, and of all such discoveries and inventions made in this country as tend to illustrate those so patented as aforesaid; to be accompanied with such proper drawings as are requisite for understanding the same; shall from time to time publish such portions thereof as are sufficiently prepared for that purpose, and distribute and sell the same as in his judgment will be best for the public interests; and shall report the whole, when completed, to Congress. And the net proceeds of the sales hereby authorized shall be accounted for by him and credited to the patent fund.

SEC. 2. *And be it further enacted*, That in lieu of the list of inventions and claims heretofore contained in the annual report of the Commissioner of Patents, he shall cause to be prepared and embraced in his annual report, short intelligible descriptions of the several inventions and discoveries patented during the year, accompanied with such drawings as are necessary for understanding the same, and an analytical and alphabetical index of the same, according to the subjects.

SEC. 3. *And be it further enacted*, That one compiler, with the annual salary of twenty-five hundred dollars; one assistant compiler, with an annual salary of fifteen hundred dollars; and one engraver, with an annual salary of twelve hundred and fifty dollars; and one additional examiner and assistant examiner, to be paid like those now employed in the Patent Office, shall be appointed in the manner provided in the second section of the act approved July 4th, 1836, entitled "An act to promote the progress of the useful arts, and to repeal all acts and parts of acts heretofore made for that purpose."

SEC. 4. *And be it further enacted*, That the Commissioner of Patents is hereby authorized to draw upon the patent fund from time to time for such sums as shall be necessary to carry into effect the provisions of this act, and they are hereby appropriated for that purpose.

Mr. CARTTER. The explanation of that bill which I desire to give is this: The bill proposes to do what is not done at present in the Patent Office. It proposes to make an intelligible mechanical report of the transactions of that office. Every gentleman upon this floor is aware of the fact, that the contents of the mechanical report of the office are now unintelligible, for the want of any mechanical description of the patents issued in the office, which is the great design of the report itself. This bill proposes to remedy that difficulty, by furnishing an outline draft, which will occupy the labor of an engraver provided for in the bill, and who is to be paid $1,200 to make it an intelligible report. It proposes to pay the additional cost out of the patent fund, which ought to be dedicated to the purpose. It does not propose to draw anything from the general Treasury. These are the main features of the bill. It has been under consideration by the Committee on Patents for more than eight months, but we have been unable to find an opportunity to report it before. The object in putting it through this session is, that the next copy of the Patent Office Report may be made intelligible.

Mr. JONES of Tennessee. Has the bill been read a second time.

The SPEAKER. It has.

Mr. JONES. I move that it be referred to the Committee of the Whole on the state of the Union.

Mr. HALL. It makes an appropriation, and must be so referred.

Mr. CARTTER. It makes no appropriation such as contemplated by the rule. It requires that the officers be paid out of the patent fund.

Mr. HALL. I will not ask for the reading of the last section.

Section 4th was then read as follows:

"*Be it further enacted*, That the Commissioner of Patents is hereby authorized to draw upon the patent fund from time to time for such sums as shall be necessary to carry into effect the provisions of this act, and which are hereby appropriated for that purpose."

Mr. JONES, of Tennessee. That last section making an appropriation would require the bill to go to the Committee of the Whole on the state of the Union. There is rather an important principle contained in that bill, and notwithstanding it has been in the Committee on Patents under consideration eight months, this House has not had it before them until some few minutes since. At the best, it is a very dangerous mode of legislation to report bills, and to pass them as soon as reported. I move that it be referred to the Committee of the Whole on the state of the Union.

Mr. CARTTER. I hope my friend will withdraw his objection to this bill. The only dangerous feature of that bill is this: That you permit the mechanics of this nation to know what is transacting by the Department of this Government sustained by contributions from their own pockets. That is all the danger involved in the bill. There is not a single gentleman upon the committee who would hazard the success of a single project in connection with the Patent Office, by

inserting any provision in it which would draw a dollar from the general Treasury. We consider ourselves, as long as that office is defectively represented before the public, as it is in this miserable mockery of the publication of its transactions, in duty bound to dedicate its own treasury to the publication of its own transactions.

The SPEAKER. The gentleman from Tennessee [Mr. JONES] supposes that this bill contains an appropriation as understood by the rules. The Chair differs with the gentleman. It does not appropriate money out of the general Treasury, as the Chair understands it. It is not necessary, therefore, that it shall be referred.

Mr. JONES. Where does it come from?

The SPEAKER. It sets apart a portion of the Patent Office fund already provided for by law.

Mr. JONES. That fund is in the Treasury of the United States. But, waiving that question, I do not know, nor can the gentleman tell us, what will be the cost of the engraving of all these models which are brought into that office. It is a very popular doctrine, and a very common one here, that when anything desirable is to be done, it should be paid out of a particular fund. A few years ago, when all the postages were to be reduced, the Post Office was to defray the expense through the augmented correspondence of the country.

Mr. CARTTER. Did not the very bill to which you allude provide for meeting the expense out of the general Treasury?

Mr. JONES. Yes, sir, to meet a temporary deficiency, while the thing was getting under way. Notwithstanding that temporary deficiency, we are now called upon by the Department to appropriate an additional $500,000 out of the Treasury, to meet the deficiency of the current year ending the 30th of June. We are further called upon by the Post Office Department, to appropriate $1,800,000 out of the Treasury, to meet the anticipated deficiency in the revenues of the Post Office Department for the next year. Suppose there were not sufficient funds in the Patent Office to meet the expenses which are contemplated by this bill, then Congress would have to foot the bill. Would gentlemen pretend that this would not be the argument? Does not the gentleman know that it is certain, if you impose burdens upon it beyond its ability to meet them, the expense must of necessity come out of the Treasury of the United States? I do not know that I shall be opposed to the bill when I shall understand all of its provisions, and have had time to examine it; but not understanding it at present, I wish to refer it, and I hope that the House will do so.

Mr. CARTTER. The bill provides for paying an engraver a salary of $1,200 out of the Patent Office fund. I think it will be time enough, when we have overreached that fund, and run into illimitable expenses to provide against it. I am willing, however, to rest the bill with the House. Every member here can appreciate the necessity of its passage, and with a view of putting an end to the discussion, I will call for the previous question.

The previous question was seconded, and the main question ordered.

The question recurring first upon Mr. JONES's motion to refer the bill, it was taken and decided in the negative.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, it was read a third time.

The question now being, "Shall the bill pass?"

Mr. STUART demanded the previous question; which was seconded, and the main question ordered to be put.

The question was then taken, and the bill was passed.

Mr. CARTTER moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

COMPENSATION OF THE REPORTERS.

Mr. STEPHENS, of Georgia. I ask the unanimous consent of the House to submit the following resolution, regulating the Reporters of the House, which I suppose will meet the approbation of members when read.

The resolution was then read, as follows:

Resolved, That from the commencement of the present session of Congress, and hereafter, there be paid out of the contingent fund of the House, to the chief Reporter for the Congressional Globe, the sum of eighteen hundred dollars ($1,800) per annum, and to each of his associate Reporters, not to exceed six in number, the sum of sixteen hundred dollars ($1,600) per annum: *Provided*, That the sum of seven dollars and fifty cents per column, now paid to John C. Rives, for reporting and publishing the debates of this House, be, and the same hereby is reduced to four dollars per column.

Mr. JONES, of Tennessee. I object.

Mr. STEPHENS. I move that the rules be suspended for the purpose.

Mr. JONES. I demand the yeas and nays upon that motion.

The yeas and nays were not ordered.

Mr. CLARK demanded tellers upon the yeas and nays; which were ordered; and Messrs. DAVIS of Indiana, and WILCOX were appointed.

The House was divided, and the tellers reported only 21 in the affirmative. So the yeas and nays were not ordered.

The question was then taken on the motion to suspend the rules, and on a division, there were —ayes 81, noes 42.

There not being two thirds voting in the affirmative, the rules were not suspended.

TERRITORIAL BUSINESS.

Mr. STUART. I ask the unanimous consent of the House to submit a resolution, setting apart Tuesday and Wednesday, the 8th and 9th of February, for the consideration of territorial business.

Mr. EVANS. I object.

Mr. STUART. Then I move to suspend the rules, so as to enable me to introduce it.

Several MEMBERS. What is your proposition?

Mr. STUART. It is simply to appropriate Tuesday and Wednesday, the 8th and 9th of February, to the consideration of Territorial business.

Mr. JONES, of Tennessee. I would suggest to the gentleman to modify his resolution so as to say Monday and Tuesday, the 7th and 8th of February.

Many MEMBERS. That would be better.

Mr. STUART. I will accept of that modification.

The question was then put; and two thirds voting in the affirmative, the rules were suspended.

The question recurred on the adoption of the resolution.

Mr. HOUSTON. I understand that the gentleman has made it read Monday and Tuesday.

Mr. STUART. Yes, I have accepted that modification.

Mr. JOHNSON, of Arkansas. It is too late to change the resolution now, after we have suspended the rules.

The SPEAKER. The gentleman modified his resolution before the rules were suspended.

Mr. JOHNSON. Then I shall vote against it, for one. It provides us with no day on which we can suspend the rules in place of the Monday which is to be devoted to territorial business.

The SPEAKER. It is for the House to determine whether or not they will make the special order. It will require a vote of two thirds.

Mr. FICKLIN. Is it in order to move to amend the resolution so as to set apart the two following days for the business of the District of Columbia?

The SPEAKER. It can only be done by unanimous consent.

Mr. STUART. I demand the previous question on the resolution.

Mr. JOHNSON, of Arkansas. Is it in order to move to amend the resolution by substituting Wednesday, the 9th of February, for Monday, the 7th?

The SPEAKER. It is not in order, because the previous question has been demanded.

Mr. JOHNSON. Will it be in order if the previous question is not seconded?

The SPEAKER. It will.

Mr. JOHNSON. Then I hope the previous question will be voted down.

The question was then put, and the previous question was not seconded.

Mr. STUART. I have no objection that the resolution should be amended as the gentleman from Arkansas suggests. I modified it at the request of a number of gentlemen around me.

Mr. JOHNSON. Very well, sir. I move to amend the resolution by striking out Monday, the 7th, and inserting Wednesday, the 9th.

The amendment was agreed to.

The question was then put upon the resolution as amended, and (two thirds voting in the affirmative) it was agreed to.

HEIR OF JOHN DE NEUFVILLE AND SON.

Mr. DUNHAM. I ask the unanimous consent of the House to take up from the Speaker's table, joint resolution of the Senate No. 51, "for the relief of the heirs of John De Neufville & Son."

Mr. JONES, of Tennessee. I object.

Mr. DUNHAM. Then I move to suspend the rules for the purpose of taking it up; and I will say that I should be very glad to have the resolution taken up, if for no other purpose than to have it referred to a Committee of the Whole House.

Mr. JONES, of Tennessee. I would ask the gentleman from Indiana if a bill was not passed during the last Congress to pay this very claim?

[Shouts of "Order!"]

The SPEAKER. Discussion is not in order.

The question was then taken on Mr. DUNHAM's motion, and (two thirds not voting in the affirmative) it was not agreed to.

So the rules were not suspended.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put; and on a division there were—ayes 63, noes 83.

So the motion was not agreed to.

JOHN W. QUINNEY.

Mr. JOHNSON, of Arkansas. I ask the unanimous consent of the House to have taken up and put upon its passage Senate bill No. 371, "to confer on John W. Quinney, a member of the Stockbridge tribe of Indians, the rights of citizenship of the United States, and for other purposes."

There being no objection, the bill was taken from the Speaker's table and read a first and second time by its title.

Several MEMBERS. Read the bill.

The Clerk read the bill through.

Mr. JOHNSON. That is a long bill, and as the House may not have fully understood it from the reading, I will briefly state the substance of it. It gives to this old Indian the rights of citizenship amongst us, so that he may be protected by our laws and be able to resort to them. In the next place, it enables him to retain the land upon which he has lived. The United States have, for the third or fourth time, bought out his tribe to start them further west again, and he is unwilling to leave the place where he now lives. He is a good, honest, intelligent, and educated old man, and he has been one of the great means of bringing his tribe forward to a state of civilization, and they are notoriously among the best of the Indian tribes. We have seen this old man walking up and down the streets here for the last twelve or eighteen months, with too much modesty—a virtue but seldom possessed nowadays—to speak to the members of this House with regard to his case, except to one or two.

Mr. MILLSON. Will the gentleman yield me the floor for a moment?

Mr. JOHNSON. No, sir; I shall not give the gentleman a chance to make a constitutional speech if I can help it. [Laughter.] The bill also provides that the old man shall be allowed to receive so much out of the annuities due to his tribe as the headmen and chiefs of that tribe shall say he is entitled to, and no more. These are the entire provisions of the bill, and to avoid a constitutional speech about these matters, and believing that we can do what the Senate have done—and they have passed this bill—I move the previous question.

The previous question was seconded, and the main question was ordered to be now put.

The bill was then ordered to a third reading, and was subsequently read the third time.

[Here a message was received from the President of the United States, by the hands of MILLARD P. FILLMORE, Esq., his Private Secretary, announcing that he had approved and signed sundry bills: also a communication in writing.]

Mr. JOHNSON. Is the previous question exhausted?

The SPEAKER. It is.

Mr. JOHNSON. I call for the previous question on the passage of the bill.

The previous question received a second, and the main question was ordered to be put.

The question now was, "Shall the bill pass?"

Mr. MOREHEAD. I call for the yeas and nays.

Mr. ORR. The bill is unconstitutional, and ought not to be passed. I move that it be laid upon the table; and upon that motion I call for the yeas and nays.

Mr. SWEETSER. I ask for tellers on the yeas and nays.

Tellers were ordered, and Messrs. WILCOX and HENDRICKS were appointed.

The House was then divided on the demand for the yeas and nays, and the tellers reported ayes 33, noes 69; no quorum voting.

The SPEAKER. If it be the pleasure of the House, the Chair will proceed to ascertain whether there is a quorum present.

There being no objection, the Speaker proceeded to count the House, and announced that 160 members were in their places.

Mr. JOHNSON, of Arkansas. In order to obviate all difficulty in the matter, I will strike out that portion of the bill which provides for his naturalization, to which many gentlemen seem to raise objection.

Mr. ORR. With that understanding I will withdraw the motion to lay the bill upon the table.

Mr. JOHNSON. I now move to amend the bill by striking out the following clause:

"That from and after the passage of this act, John W. Quinney, a member of the Stockbridge tribe of Indians, shall be deemed, from that time and thereafter, a citizen of the United States to all intents and purposes. He shall be entitled to all the rights, privileges, and immunities of such citizens generally, in all such respects, and subject to the laws of the United States, and of the State of Wisconsin, in the same manner as other citizens of that State."

The amendment was agreed to.

Mr. JOHNSON. I wish it to go upon the record that I have stricken out this provision, not as a reflection upon this old man, but from the fact that the House entertains constitutional scruples relative to it.

The bill was then passed.

The title of the bill was then read, as follows:

"An act to confer upon John W. Quinney, a member of the Stockbridge tribe of Indians, the rights of citizenship of the United States, and for other purposes."

Mr. JOHNSON. I move to amend the title so that it will read:

"An act for the relief of John W. Quinney."

The amendment was agreed to, and the title as amended adopted.

ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills; which received the signature of the Speaker, viz:

An act to prohibit public executions in the District of Columbia;

An act for the relief of the widow and orphan children of Colonel William R. McKee, late of Lexington, Kentucky;

An act to erect at the capital of the nation an equestrian statue of Washington;

An act for the relief of Charles S. Mathews, Charles Wood, and James Hall; and

An act to extend the provisions of an act approved the 3d of March, 1847, and an act approved the 26th of February, 1849, for the carrying into effect the existing compacts with the States of Alabama and Mississippi in relation to the five per cent. fund and school reservations.

PRIVATE BILLS UPON THE TABLE.

Mr. SACKETT. I desire to inquire of the Chair whether it is in order to move to take up and refer the private bills upon the Speaker's table? I will state to the House that there is no business upon the Private Calendar upon which the House can act when it again goes into the Committee of the Whole House. There are some forty or fifty bills upon the Speaker's table to which I presume there will be no objection. If the House would spend fifteen minutes in referring those on the Speaker's table to the appropriate committees, there would then be enough to do when the House again passes to the consideration of private business in the Committee of the Whole House.

Mr. HOUSTON. Is this debate in order?

The SPEAKER. It is not in order. It will be competent for the House to suspend the rules to accomplish the object of the gentleman from New York, if he desires to submit that motion.

Mr. SACKETT. I move to suspend the rules for the purpose of going to the private business upon the Speaker's table.

The question was taken, and the rules were suspended—ayes 105, noes not counted.

Mr. SACKETT. I now move that the House proceed to dispose of such private bills upon the Speaker's table as shall give rise to no debate.

The motion was agreed to.

The following Senate bills and joint resolutions were then taken from the Speaker's table, severally read a first and second time by their titles, and disposed of as indicated below:

An act (No. 381) confirming the claim of the heirs of Joseph Thompson, senior, deceased, to a tract of land in Missouri. Referred to the Committee on Private Land Claims.

A resolution (No. 16) for the relief of Alexander Y. P. Garnett.

Mr. BOCOCK. Is it in order to move to put the resolution upon its passage? It is a simple resolution.

The SPEAKER. If there be objection, the Chair must decide that it is not in order.

Mr. BOCOCK. Then I move to refer it to a Committee of the Whole House.

The motion was agreed to, and the resolution so referred.

A resolution (No. 32) for supplying arms to the Washington Yagers and the Washington Boon Riflemen, in the District of Columbia. Referred to the Committee on Military Affairs.

A resolution (No. 19) for the relief of the heirs of David Corderey. Referred to the Committee on Indian Affairs.

An act (No. 187) for the relief of George G. Bishop and the legal representatives of John Arnold, deceased.

Mr. CARTTER. I hope the House will allow this bill to be put upon its passage.

Objection was made, and the bill was referred to a Committee of the Whole House, made the order of the day for to-morrow, and ordered to be printed.

An act (No. 194) for the relief of Jacob Young. Referred to a Committee of the Whole House.

An act (No. 195) for the relief of Margaret Farrar. Referred to a Committee of the Whole House.

An act (No. 196) authorizing the legal representatives of Antoine Vasquez, Hypolite Vasquez, Joseph Vasquez, and John Colligan, to enter certain lands in Missouri. Referred to the Committee on Private Land Claims.

An act (No. 197) for the relief of the legal representatives of Martin Fenwick. Referred to the Committee on Claims.

An act (No. 203) for the relief of David P. Weeks. Referred to the Committee on Pensions.

An act (No. 234) for the relief of James Glynn.

Mr. GOODENOW. I move to refer this bill to a Committee of the Whole House.

Mr. JONES, of Tennessee. I object to some of these bills taking precedence over others upon the Private Calendar. I move to refer it to the Committee on Naval Affairs.

Mr. GOODENOW. I will state to the gentleman, that the Committee on Naval Affairs have already had the subject under consideration, and have reported a similar bill. I hope it will go to a Committee of the Whole House.

Mr. JONES. I will not press my motion.

So the bill was referred to a Committee of the Whole House.

Mr. STANTON, of Tennessee. I rise to make an inquiry. I have been trying for a long time to get the floor for the purpose of reporting a Senate bill from the Committee on Naval Affairs, for the purpose of having it referred to a Committee of the Whole House. I ask if I may not now report it, and let it go along with the bill which has just been referred?

The SPEAKER. It can only be done by unanimous consent.

There was no objection, and

Mr. STANTON, from the Committee on Naval Affairs, reported Senate bill No. 7, for the relief of the widows and orphans of certain officers and seamen of the United States brig Washington, who were lost overboard in a hurricane; which was referred to a Committee of the Whole House.

The following Senate bills were then severally read a first and second time by their titles, and referred as indicated below, viz:

An act (No. 238) for the relief of Thompson Hutchinson. Referred to a Committee of the Whole House, and ordered to be printed.

An act (No. 239) for the relief of Elizabeth Jones and the other children (if any) of John Carr.

Mr. MILLSON. I understand this bill has once passed the House and has been reported on by the Committee on Revolutionary Pensions. I therefore move that it be referred to a Committee of the Whole House, and ordered to be printed.

The motion was agreed to.

An act (No. 244) for the relief of the heirs of the late Major Thomas Noel, United States Army.

Mr. STUART. I move to refer the bill to a Committee of the Whole House.

Mr. STANTON, of Ohio. I desire to know if these bills are to go to a Committee of the Whole House without examination?

Mr. STUART. Not at all.

Mr. STANTON. These bills are sent here from the Senate, and we are referring them to the Committee of the Whole House, where they will be placed upon the Private Calendar, and where we shall be called to act upon them without any information in regard to their merits. I move to refer this bill to the Committee on Claims.

The question was first taken upon referring to a Committee of the Whole House; and the motion was agreed to.

An act (No. 245) for the relief of Don B. Juan Domercq, a Spanish subject. Referred to the Committee on Claims.

A resolution (No. 34) for the relief of Isaac Houston. Referred to the Committee on Pensions.

An act (No. 407) for the relief of Jim Capers.

Mr. COBB. If I knew the pleasure of the House as to what motion I should make that would be satisfactory, I would make it. It is a bill for the relief of a black negro, but one who served in the war of the Revolution. The Senate have passed a bill placing him upon the pension roll, and I think it is a just one. I move to refer the bill to a Committee of the Whole House. His skin is black, but we believe he ought to have a pension nevertheless.

The motion was agreed to.

An act (No. 98) for the relief of Sarah D. Mackay. Referred to the Committee of the Whole House.

An act (No. 176) for the relief of William Bedient, late a sergeant in the fourth regiment of artillery.

Mr. SACKETT. I move to refer this bill to a Committee of the Whole House.

Mr. JONES. It strikes me, that by referring some of these bills to the standing committees of the House, and others to a Committee of the Whole House, and thus giving them preference in our action upon them, we do a great injustice. I move to refer it to the Committee on Naval Affairs.

Mr. SEYMOUR, of New York. I hope the bill will be referred to a Committee of the Whole House. Its only chance is in that disposition of it. If it be referred to the Committee on Naval Affairs, no opportunity will be afforded to report upon it.

The question was first taken upon referring to a Committee of the Whole House, and the motion was agreed to.

An act (Nor 193) for the relief of Robert Armstrong.

Mr. HARRIS, of Tennessee. That bill has been informally before the Committee on Invalid Pensions, and they have unanimously instructed me to move to put it upon its passage. If the House will indulge me in having read a short extract from a letter of General Jackson, I am confident there will not be one here to object.

Mr. SEYMOUR, of New York. I move, then, that the bill be referred to a Committee of the Whole House.

The motion was agreed to.

Mr. POLK. I move that the House do now adjourn.

[Cries of "No!" "No!" "No!"]

The question was taken, and it was not agreed to.

So the House refused to adjourn.

Mr. STANTON, of Tennessee. I will ask the consent of the House to report a bill from the Committee on Naval Affairs, for the purpose of having it referred to the Committee of the Whole House.

Mr. SMART. I object.

The SPEAKER. As there is great difficulty with the Clerk in arranging the bills which have been transposed from their proper places by gentlemen looking over them, if it is the pleasure of the House, they will be read from the Calendar of the House.

Mr. JONES, of Tennessee. Are the bills upon the Calendar Senate bills?

The SPEAKER. They are, and they are regularly arranged on the Calendar.

Mr. JONES. We should save time if we were to refer them all to the regular standing committees. By referring some of them to Committees of the Whole House, we give them precedence over all other bills which have heretofore come from the Senate, and been referred to the standing committees, where they are locked up, for the reason that the committees cannot get an opportunity to report.

The next bill on the Calendar coming up in order, was Senate bill No. 204, An act for the relief of Guion & McLaughlin. Referred to a Committee of the Whole House.

Senate bill No. 207. An act for the relief of Theodore E. Elliott.

A MEMBER. I move to refer this bill to a Committee of the Whole House.

Mr. JONES, of Tennessee. I propose to discuss that bill, and it will go over under the rule.

Mr. STUART. The gentleman's position is not taken under the resolution. The question whether a bill shall go to one committee or to another will not carry a bill over under the resolution.

The SPEAKER. The resolution in substance certainly was that the House proceed to the private business upon the Speaker's table and dispose of such as do not give rise to debate. Now, if the gentleman proposes to discuss it, how is it possible for the Chair to hold that it can be considered at all?

Mr. STUART. But it cannot be in order to rise and object to a bill going to a particular committee, and claim thereby that the bill goes over.

The SPEAKER. The gentleman proposed to discuss the bill.

Mr. STUART. The resolution under which we are acting is to go to the Speaker's table and take up private bills and refer them, and not to take up bills which admit of discussion. A bill may be referred to one or the other committee, and that question may be taken and stated to the House, but the question shall not be debated, and you cannot put the bill upon its passage.

The SPEAKER. Under the rule, the gentleman has a right to discuss the proposition to refer, as well as to pass the bill. The Chair does not see how he can do otherwise than to pass over a bill, the reference of which the gentleman proposes to discuss.

Mr. ORR. Would it not be in order, when a bill is read twice, for the friends of that bill to move to refer it to a Committee of the Whole House, and upon that demand the previous question? Then it would not be cut off by the proposition to debate.

The SPEAKER. That is a proposition which the Chair will decide when it arises.

Mr. JONES. That would be a violation of the understanding of the House, when we proceeded to the private business on the Speaker's table.

Mr. BOCOCK. I move that the House adjourn.

[Cries of "No!" "No!"]

The question was taken, and there were—ayes 52, noes 74.

So the House refused to adjourn.

The next bill that came up in order was—

Senate bill No. 208. An act for the relief of Barbara Reily.

Mr. ORR. I move to refer that bill to a Committee of the Whole House, and upon that I demand the previous question.

Tellers were demanded on seconding the demand for the previous question; and they were ordered.

Messrs. POLK and CARTTER were appointed.

The House was then divided, and the tellers reported—ayes 61, noes 24; no quorum voting.

On motion by Mr. McMULLIN, the House adjourned until to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. PENN: The petition of A. G. Penn, praying to extend preemption rights to unreserved lands, and for other purposes.

By Mr. ALLEN, of Illinois: The petition of Richard Deacon and 50 other citizens of Jackson county, Illinois, for a mail route from Murphysborough, Jackson county, Illinois, by way of Carbondale, to Marion, in Williamson county, Illinois.

By Mr. KUHNS: The petition of William Greenlee, of Westmoreland county, Pennsylvania, praying for relief.

By Mr. SCUDDER: The petition of Elias Wells and others, of Sandwich, Massachusetts, stating their views of war, and asking that the Government in future treaties may make provision for referring all national difficulties to umpires, when they cannot be settled by amicable negotiations.

Also, the petition of widow Susan Worth, stepmother of the late General Worth, and mother of the late Captain Joseph S. Worth, of the United States Army, stating her age and destitute circumstances, and asking the allowance of a pension.

By Mr. STANTON, of Ohio: The petition and accompanying papers of Robert Irons, of Logan county, Ohio, for a pension for military services from the year 1789 to 1794, in the Indian wars in Western Virginia.

By Mr. BABCOCK: The petition of the Mayor and Common Council of the city of Oswego, praying for a further appropriation to complete the pier at Oswego.

By Mr. HAWS: The memorial of Christian Hansen, of New York, proposing to enter into a contract with the Government for carrying the United States mails in steamers from the city of Kiel, or Lubeck, to St. Petersburgh, in Russia, so as to connect with the proposed line to Gluckstadt, on the Elbe, and the Bremen line.

By Mr. CHASTAIN: The memorial of John Langly and other Cherokee Indians east, praying Congress for a *pro rata* share of the money due them under the treaty of 1836, and for a speedy adjustment of the claims of the Cherokees east.

By Mr. HIBBARD: The memorial of C. Ludwig Richter, asking compensation for services rendered by him in the casting of the equestrian statue of General Jackson, and for other objects specified therein.

IN SENATE.

TUESDAY, *January* 25, 1853.

Prayer by the Rev. JAMES GALLAHER.

During Executive session yesterday, the PRESIDENT *pro tem.* laid before the Senate a message from the President of the United States, transmitting, in reply to a resolution of the Senate, certain correspondence on the subject of Central America; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Also, a message from the President, communicating, in reply to a resolution of the Senate, the award of the Prince-President of France in the matter of the claim of the United States against Portugal, for the loss of the brig General Armstrong; which was ordered to lie on the table, and be printed.

The PRESIDENT *pro tem.* laid before the Senate a report of the Secretary of War, showing the expenses of the national armories, and the number of arms and appendages made and repaired thereat during the year ending 30th June, 1852; which was referred to the Committee on Military Affairs.

PETITIONS, ETC.

Mr. SEWARD. I present the petition of residents of New York, praying that Congress may take such measures as shall be proper and effective to secure to American citizens, residing or traveling in foreign countries, the enjoyment of the right of conscience and public worship, and protection in the same, such as is granted and secured by the Constitution and laws of the United States to the foreigners within the United States; which I ask may be referred to the Committee on Foreign Relations.

It was so referred.

Mr. SEWARD also presented a petition of citizens of New York and Brooklyn, praying that a contract may be made with Christian Hansen for the transportation of the United States mails between Brooklyn and Gluckstadt, and between Kiel and St. Petersburg; which was referred to the Committeee on the Post Office and Post Roads.

Also, two petitions of citizens of West Troy, New York, praying that the bill giving further remedies to patentees may become a law; which were ordered to lie on the table.

Mr. BRADBURY presented a petition of citizens of Vassalboro', Maine, praying the adoption of measures for the amicable adjustment of international difficulties; which was referred to the Committee on Foreign Relations.

Mr. SUMNER presented a petition of citizens of Sandwich, Massachusetts, praying the adoption of measures for the amicable adjustment of international difficulties; which was referred to the Committee on Foreign Relations.

Mr. JONES, of Iowa, presented the petition of Henry M. Rice, praying remuneration for expenses incurred in subsisting certain Winnebago Indians, and in preventing them from returning to the States of Wisconsin and Iowa; which was referred to the Committee on Indian Affairs.

WAREHOUSING SYSTEM.

Mr. HUNTER. I gave notice yesterday that I would ask the unanimous consent of the Senate this morning to take up, during the morning hour, the bill "to extend the warehousing system by establishing private bonded warehouses and for other purposes." If the Senate shall indulge me in this wish, I will pledge myself that, if it give rise to any opposition, I shall willingly lay it aside for another time. I hope, however, that it will pass through without any opposition.

Mr. DAVIS. I shall not oppose taking up the bill, but I shall feel obliged if the honorable Senator would let it lie until to-morrow.

Mr. HUNTER. I cannot resist the request of the Senator from Massachusetts, and I will consent not to make the motion until to-morrow.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to which were referred the following bills from the House of Representatives, reported back the same, without amendment:

An act to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida; and

An act for the relief of the heirs-at-law of Anthony G. Willis, deceased.

He also, from the same committee, reported a bill to provide for raising an additional regiment of cavalry; which was read, and passed to the second reading.

He also, from the same committee, to which was referred the petition of James D. Cobb, praying to be restored to the Army, from which he had been dismissed by the sentence of an illegal court-martial, and to be allowed arrears of pay, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which were referred various memorials on the subject of abolishing the office of chaplain in the public service, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the petition of Silas Messenger, praying a pension, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading. The report was ordered to be printed.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of Joseph Mitchell, praying compensation for services in the war of 1812 with Great Britain, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading. The report was ordered to be printed.

LAND GRANTS IN OREGON.

Mr. FELCH. A short time ago I made a report from the Committee on Public Lands, on a bill from the House of Representatives "to amend an act entitled 'An act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands,' approved September 27, 1850." I wish to ask the Senate to take up that bill this morning, for the purpose of recommitting it to the Committee on Public Lands. That committee have a meeting to-morrow morning, and I desire to have action upon this subject at that time.

The motion was agreed to, and the Senate accordingly proceeded to consider the bill.

On motion by Mr. FELCH, it was recommitted to the Committee on Public Lands.

BOUNTY LAND WARRANTS.

Mr. BORLAND. On the 18th of this month, a memorial from Sarah Bruister and Irene Howard, with reference to bounty land warrants, was referred to the Committee on Public Lands. It was accompanied by a letter from the Pension Office, dated in October last, giving a construction to the act of March 22, 1852, making bounty land warrants assignable, and extending the bounty land system. The decision of the Pension Office

upon an application for bounty land warrants under that law was, that the widows and minor children of soldiers provided for in it were excluded. This memorial is one asking Congress to amend that law, so as to extend its benefits to the widows and minor children of deceased soldiers.

Since that time, however, the decision of the Pension Office has been reversed. I myself made application for bounty land for a widow, and the claim was rejected upon the same ground as this was, and I took an appeal from that decision to the Secretary of the Interior, and the case was again sent to the Pension Office; and the Commissioner of Pensions reversed the former decision, and now issues land warrants to widows and minor children, under the act of 22d March, 1852. Under this state of things, the Committee on Public Lands have instructed me to move that they be discharged from the further consideration of this memorial.

I have been thus particular in stating the facts in relation to the decision in this case, because many hundreds and perhaps thousands of widows and children who have been hitherto excluded by the decision of the Pension Office, will now come in, that decision having been reversed, and receive bounty land warrants. I have made these remarks, and been thus particular, in order to give general notice that they are provided for.

The motion to discharge the committee was agreed to.

CONTINUANCE OF HALF PAY.

Mr. HAMLIN, from the Committee of Conference on the disagreeing votes of the two Houses on the bill of the Senate "to continue half pay to certain widows and orphans," submitted a report, by which it appeared that the committee had agreed to strike out the proviso of the House, which was to include the widows and orphans of soldiers of the Florida war and the war of 1812, and to insert in lieu of it:

"That the act approved the 22d of February, 1849, granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regular and volunteer, be so extended and construed as to embrace the widows and minor heirs of the officers, non commissioned officers, musicians, and privates of the regulars and volunteers of the war of 1812, and all the various Indian wars since 1790."

And the committee also agreed to recommend the striking out of the word "soldiers," in the Senate amendment to the House amendment to that bill, and the adoption of that amendment as amended.

The report was agreed to, and the bill was amended accordingly.

The striking out of the word "soldiers" in the Senate's amendment was merely a verbal amendment.

PERMANENT ARSENALS, ETC.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inquire into the expediency of establishing a permanent arsenal and general depôt of arms for the Pacific coast; another for the coast of the Mexican Gulf; another for the southern Atlantic; and another for the northern Atlantic and the lakes; and if, upon inquiry, he shall find that these, or some such establishments are necessary, he shall proceed to make all the investigations necessary for the judicious selection of such sites as shall be most safe, eligible, and accessible for the purpose of the military defense of these respective portions of our coast and frontier.

THE CLAYTON-BULWER TREATY.

Mr. CASS submitted the following resolution for consideration:

Resolved, That the Committee on Foreign Relations be instructed to inquire and report whether any measures, and if any, what, should be taken by the Senate in relation to the declaration annexed to the ratification on the part of Great Britain of the treaty concluded between that country and the United States, April 19, 1850; and to the letter of the Secretary of State to the British Minister on the exchange of the ratifications.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the following bills from the Senate:

An act granting a pension to Mrs. Ann C. Belknap;

An act for the relief of Nathan Weston, jr., late additional paymaster in the United States Army;

An act for the relief of Abigail Stafford; and

Also, that it had passed the following bill from the Senate, with amendments:

An act to confer on John W. Quinney, a member of the Stockbridge tribe of Indians, the rights of citizenship of the United States, and for other purposes.

Also, that it had passed a bill with the following title:

An act regulating the reports of the Patent Office, and providing for additional officers therein.

FRAUDS ON THE TREASURY.

Mr. BADGER. I now ask the Senate to be kind enough to take up for consideration the House bill "to prevent frauds upon the Treasury of the United States," which was reported by me a few days ago from the Committee on the Judiciary, with certain amendments. It is very important that those amendments should be sent back to the House as early as possible, if the Senate agree to them, as I hope it will. It will take but a few minutes to act upon the bill. I move it be taken up.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to its consideration.

The first section, which was unchanged by the committee, provides:

"*Be it enacted, &c.*, That all transfers and assignments hereafter made of any claim upon the United States, or any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the consideration therefor; and all powers of attorney, orders, or other authorities, for receiving payment of any such claim, or any part or share thereof, shall be absolutely null and void, unless the same shall be freely made and executed in the presence of at least two attesting witnesses, after the allowance of such claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof."

The first amendment reported from the Committee on the Judiciary was, in the second section, to strike out the words, "shall receive any gratuity from any claimant against the United States, or agree to receive, or receive, except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the United States, or;" to strike out the words "for the trial of crimes and misdemeanors," and insert in their place the word "thereof;" to strike out "twice the amount of gratuity, fee, or compensation received by the person so convicted," and insert, in lieu thereof, "$5,000."

The section in its original form, and as proposed to be amended, is as follows:

SEC. 2. *And be it further enacted*, That any officer of the United States, or person holding any place of trust or profit, or discharging any official function, under, or in connection with, any Executive Department of the Government of the United States, or under the Senate or House of Representatives of the United States, who, after the passage of this act, *shall receive any gratuity from any claimant against the United States, or agree to receive, or receive, except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the United States, or* shall act as an agent or attorney for prosecuting any claim against the United States, or shall in any manner, or by any means otherwise than in the discharge of his proper official duties, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction *for the trial of crimes and misdemeanors;* [thereof;] and, on conviction, shall pay a fine not exceeding *twice the amount of gratuity, fee, or compensation received by the person so convicted*, [$5,000,] or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court, in its discretion, shall adjudge.

Mr. BADGER. If the Senate will give me its attention for one moment, I will explain what that amendment means. The second section of the bill, as it is proposed to be amended by the Committee on the Judiciary, will be a section as passed by the Senate at the last session, in a bill which I had the honor to introduce, and which was carefully examined and reported from the Committee on Claims by the Senator from Pennsylvania, [Mr. BRODHEAD.] The House has taken the section of that bill, and has passed it in a bill entitled "An act to prevent frauds upon the Treasury of the United States;" but it has introduced into it the words "shall receive any gratuity from 'any claimant against the United States, or agree 'to receive, or receive, except by inheritance, be-'quest, or marriage, any share or pecuniary inter-'est in any claim against the United States." Those, with the subsequent words, have the effect of authorizing the Executive officers to prosecute claims against the United States, unless they are paid for it; whereas the intention of the section, as it passed the Senate, was to prohibit their interference, when they held office, in prosecuting claims, whether with or without compensation. The intention of the committee is to restore the section so that it may have that effect.

The amendment was agreed to.

The committee next proposed to amend the third section in the same manner as the second.

That section as it came from the House is as follows:

"SEC. 3. *And be it further enacted*, That any Senator or Representative in Congress who, after the passage of this act, shall receive any gratuity from any claimant against the United States, or agree to receive, or receive, except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the United States, or shall, for compensation paid or to be paid, certain or contingent, act as agent or attorney for prosecuting any claim or claims against the United States, or shall in any manner or by any means, for such compensation, aid or assist in the prosecution or support of any such claim or claims, shall be liable to indictment, as for a misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors; and, on conviction, shall pay a fine not exceeding twice the amount of the gratuity or compensation received by the person convicted, or suffer imprisonment in the penitentiary not exceeding one year, or both, as the court, in its discretion, shall adjudge."

Mr. BADGER. That section applies to members of Congress. The provision is introduced in such a manner and form as would seem, to the committee, to make it odious and unjust. The only object of the bill in that provision is to prevent members of Congress prosecuting claims for their constituents or others, for compensation. That is what we desire to accomplish by the amendment.

The amendment was agreed to.

The committee next proposed to amend the fourth section, which is as follows:

"SEC. 4. *And be it further enacted*, That any person who, with intent to steal, shall take and carry away any record, paper, or proceeding of a court of justice, filed or deposited with any clerk or officer of such court, or any paper or document or record filed, or deposited in any public office, or with any judicial or public officer, shall, without reference to the value of the paper, record, document, or proceeding so taken, be liable to indictment as for larceny in any court of the United States having jurisdiction for the trial of crimes and misdemeanors against the United States; and, upon conviction thereof, shall pay a fine not exceeding $2,000, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court, in its discretion, shall adjudge."

The proposed amendment of the committee is, to insert after the words "that any person who," the words "shall willfully and knowingly destroy, or attempt to destroy, or;" to insert after the word "steal" the words "or destroy;" to strike out the words "liable to indictment as for larceny," and insert "deemed guilty of felony, and on conviction;" and to strike out the words "for the trial of crimes and misdemeanors against the United States," and insert "thereof."

Mr. BADGER. That is a section which was added in the House of Representatives—and it is a very wise and excellent one—for the purpose of punishing persons who should "steal, take, and 'carry away any record, paper, or proceeding of 'a court of justice, or any paper, or document, or 'record." The committee have directed certain amendments to be reported for the purpose of making that section more stringent, particularly to introduce the words "who shall willfully and knowingly destroy, or attempt to destroy, or," before the words "with intent to steal or destroy, 'shall take or carry away any record, paper, or 'proceeding of a court of justice," &c. That is the purpose of the section.

The amendment was agreed to.

The next amendment of the committee was, in the fifth section, to strike out the words "liable to indictment as for a misdemeanor," and insert "deemed guilty of felony, and on conviction;" and strike out the words "for the trial of crimes and misdemeanors against the United States," and insert "thereof."

The fifth section of the House bill is as follows:

"SEC. 5. *And be it further enacted*, That any officer having the custody of any record, document, paper, or proceeding specified in the last preceding section of this act, who shall fraudulently take away, or withdraw, or destroy any such record, document, paper, or proceeding filed in his office or deposited with him, or in his custody, shall be liable to indictment as for a misdemeanor in any court of the United States having jurisdiction for the trial of crimes and misdemeanors against the United States; and, on conviction thereof, shall pay a fine not exceeding two thousand dollars, or suffer imprisonment in a penitentiary not exceeding three years, or both, as the court, in its discretion, shall adjudge, and shall forfeit his office, and be forever afterwards disqualified from holding any office under the Government of the United States."

Mr. BADGER. That section relates to any officer who, having custody of any document or

paper, shall be guilty of a like offense to that specified in the preceding section. The amendment is to make the offense felony. We thought it too high an offense to stand as a mere misdemeanor.

The amendment was agreed to.

The next amendment of the committee was in the sixth section, to strike out the word "opinion" and insert the word "or;" and to strike out the words "or judgment, or with intent to bias his mind;" to strike out the words "member, officer, or," and to insert after "any part thereof," the words "if an officer or person holding any such place of trust or profit as aforesaid."

The sixth section of the House bill, which the committee propose to amend, is as follows:

"SEC. 6. *And be it further enacted*, That if any person or persons shall, directly or indirectly, promise, offer, or give, or cause, or procure to be promised, offered, or given, any money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or any other valuable thing whatever, to any member of the Senate or House of Representatives of the United States, after his election as such member, and either before or after he shall have qualified and taken his seat, or to any officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any Department of the Government of the United States, or under the Senate or House of Representatives of the United States, after the passage of this act, with intent to influence his vote, opinion, decision, or judgment, or with intent to bias his mind on any question, matter, cause, or proceeding, which may then be pending, or may by law, or under the Constitution of the United States, be brought before him in his official capacity, or in his place of trust or profit, and shall be thereof convicted, such person or persons so offering, promising, or giving, or causing, or procuring to be promised, offered, or given, any such money, goods, right in action, bribe, present, or reward, or any promise, contract, undertaking, obligation, or security for the payment or delivery of any money, goods, right in action, bribe, present, or reward, or other valuable thing whatever, and the member, officer, or person who shall in anywise accept or receive the same, or any part thereof, shall be liable to indictment, as for a high crime and misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors, and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, or given, and imprisoned in a penitentiary not exceeding three years; and the member, officer, or person convicted of so accepting or receiving the same, or any part thereof, shall forfeit his office and place; and any person so convicted under this section shall forever be disqualified to hold any office of honor, trust, or profit under the United States."

Mr. BADGER. That section is intended to punish persons who shall offer or give, and persons who shall receive, any reward or gratuity for the purpose of influencing his decision or vote in regard to matters that come under his jurisdiction, either as a member of Congress or other public officer. In the House they had used the phraseology "to influence his vote, opinion, decision, or judgment, or with intent to bias his mind;" which we thought in many respects indefinite, and in many respects absurd. To threaten a man with indictment for having offered a fee, with intent to bias another's mind, we thought would be near akin to a legal absurdity. We therefore propose to make it read "influence his vote or decision," which is the matter with which we are concerned; and then, in a subsequent part of the section, the amendment proposes to strike out the words "member, officer, or," and insert "if an officer or person holding any such place of trust or profit as aforesaid;" for this reason, as the House bill stood, it undertook to declare that if a member of this House or of the other House were guilty of this offense, in addition to the punishment as prescribed, he should forfeit his place; and we did not believe that we had any constitutional power over that subject, as a member of this House or of the other House can only be expelled or lose his place by a vote of the House to which he belongs. The object was to strike out the provision which we thought we had no right to make, and substitute one which we thought we had a right to make.

The amendment was agreed to.

The seventh section stands unaltered, as follows:

"SEC. 7. *And be it further enacted*, That the provisions of this act, and of the act of July 29th, 1846, entitled 'An act in relation to the payment of claims,' shall apply and extend to all claims against the United States, whether allowed by special acts of Congress or arising under general laws or treaties, or in any other manner whatever; and every offense against the provisions of this act shall be a misdemeanor."

The next amendment of the committee was to add the following as an additional section:

SEC. 8. *And be it further enacted*, That nothing hereinbefore contained shall be construed to apply to the prosecution or defense of any action or suit in any judicial court of the United States.

Mr. BADGER. As this bill originally passed the Senate, it was confined by the terms of it to the prosecution of claims before the two Houses of Congress, or before the Executive Departments, or before boards, without intending to apply it to the maintaining or defending of suits in the courts of the United States. These words were left out of the section by the House, and we propose, by this supplementary section, to restore them.

The amendment was agreed to.

Mr. HALE. I shall vote for the bill with a great deal of pleasure, but I crave the indulgence of the Senator who has reported it, while I make a statement, and ask if the bill is broad enough to cover the cases which I shall mention. If it is not, I shall ask that it may lie over until to-morrow, that an amendment may be prepared to meet the object. There is an improper practice, which I have the highest authority for saying, prevails here. The claim agents by whom we are surrounded, when we walk and when we sit, have a practice of representing to sailors in our ships-of-war on foreign coasts, that it is necessary to employ them to get their pay. I am informed by the Secretary of the Navy that he has had orders presented to him, and that sixty dollars has been charged and received for procuring the signature of the Secretary to a paper which it was just as much a matter of course for him to affix as for the Secretary of the Senate to read the daily Journal. When the Secretary saw the abuse and called the agent before him to know what it meant, he very coolly said, "Mr. Secretary, I do not know that this is any of your business. It is the way that we get our living." I am told that that custom prevails extensively, and that sailors are thus swindled, as well as in the way to which I called attention yesterday.

Let me mention one other fact. An officer of the Navy in this city, of a highly honorable character, remarked with reference to the extra compensation which we granted last session to those who were on duty in California, that he did not see why the bill did not cover the case of those who rendered service before 1850, as well as those who rendered service afterwards. He mentioned this in the presence of a claim agent. "Sir," said the agent, "there is nothing easier in the world than to have it done." "How?" "Why, sir, just raise a fund, and I have it in my power to get it for you." Said this officer, "I will lose the last farthing I have before I will do that." "Then," said the agent, with an oath, "you never shall get a cent if you do not raise a fund to be distributed among agents."

Now, sir, this is a bill to guard against members selling themselves; but we are sold outside, sir; we are sold by these agents; and I tell you the lice and frogs that overspread Egypt, are purity itself compared with these agents, that spread themselves around this Capitol. Our influence, our countenance, our affection, everything is bartered away and sold by these agents, who block up the Capitol, and block up the avenues to the Departments, and it has got to such a state now that a sailor cannot get his pay for his services unless he procures the service of an agent to get his claim through. These are facts which I have from the highest authority, and which can be substantiated before a committee of this body to-morrow. I have them from the testimony of the Secretary of the Navy, given under oath this very day, before a committee of the Senate. And, sir, I am told further, that the thing has been carried to such an extent that it goes down. Here is the great focus of it, the great fountain of filth which sends out its streams of corruption all over the land. I am told that an honest merchant cannot get his vessel into New York, and pay the duty, until he has an agent to steer him through, who has to be paid a certain percentage. I am in favor of this bill, so far as it goes; but if it does not go far enough to cover the cases I have mentioned, I desire that it may lie over a day or two, so that it may be amended.

Mr. BADGER. This bill, undoubtedly, does not reach the cases mentioned by the Senator from New Hampshire.

Mr. CASS. As the hour has come which was assigned for the consideration of the subject upon which the honorable Senator from Louisiana [Mr. SOULE] has the floor, I hope the Senator from North Carolina will allow the bill before the Senate to be passed over for the present.

Mr. BADGER. I am afraid I shall not get it up again if I do. It will not take five minutes to pass it. I am sure the Senator from Louisiana will be willing to give that time to get through an important bill.

Mr. CASS. It had better be postponed till to-morrow.

Mr. BADGER. I hope the Senator will allow the vote to be taken on this bill. It is a very important one, and will not interfere with the order of the day more than five minutes.

The bill was then reported to the Senate as amended.

Mr. BADGER. In order to make this bill perfect, I desire, before the question is taken on the amendments, to make a slight verbal amendment. It is to strike out of the section we added to the bill the word "hereinbefore," and insert, "in the second and third sections of this act."

The PRESIDENT. The amendment will be made, if there is no objection

There being no objection, the amendment was agreed to.

The amendments made in Committee of the Whole were then concurred in, and they were ordered to be engrossed, and the bill was ordered to be read a third time.

The bill was subsequently read a third time and passed.

ADMISSION OF LADIES.

Mr. JONES, of Tennessee. I rise, Mr. President, for the purpose of making a motion which I hope will receive the unanimous approbation of the Senate. It is, that the rules be suspended, so as to permit ladies to occupy seats upon the floor of the Senate to-day. I am aware that it requires unanimous consent, but still I flatter myself that the Senate will vindicate its claim to gallantry by agreeing to the motion.

Mr. UNDERWOOD, and several others. I object to it.

So the motion was not agreed to.

COLONIZATION IN NORTH AMERICA.

The Senate then proceeded to consider the joint resolution declaratory of the views of the United States respecting colonization upon the North American continent by European Powers and respecting the Island of Cuba; when—

Mr. SOULE rose and addressed the Senate at length, and was followed by Mr. CASS on the same side.

Mr. SEWARD had some observations to offer, and would move that the Senate adjourn.

Mr. DIXON asked him to withdraw the motion, in order that he might offer his resolutions to refer the whole subject to the Committee on Foreign Relations, with instructions to ascertain and report whether the Government of Great Britain, since the ratifications of the treaty of Nicaragua, had violated any of the provisions thereof, &c.

Mr. SEWARD withdrew his motion, and the resolutions were sent to the Chair, read, and ordered to be printed.

[This debate, &c., will be found in the Appendix.]

PATENT OFFICE.

The PRESIDENT. With the unanimous consent of the Senate, the Chair will dispose of several bills from the House.

The bill from the House "regulating the reports of the Patent Office, and providing for additional officers therein," was read a first and second time, and referred to the Committee on Patents and the Patent Office.

JOHN W. QUINNEY.

The PRESIDENT. The Senate bill "to confer on John W. Quinney, a member of the Stockbridge tribe of Indians, the rights of citizenship of the United States, and for other purposes," has been returned from the House of Representatives, with amendments. It will be referred to the Committee on Indian Affairs, unless objected to.

Mr. WALKER. I do not see any necessity for that reference. The bill was introduced into the Senate by myself. I hope the amendments of the House will be considered now.

The PRESIDENT. The amendments will be read.

The Secretary proceeded to read the amendments, when

Mr. WALKER said: As there are a number of amendments, I withdraw my request to consider them now, and move that the bill be referred to the Committee on Indian Affairs.

Mr. SHIELDS. I think that it should be referred to the Committee on the Judiciary. It involves a very grave constitutional question.

Mr. BUTLER. I wish to remark that a subject of the same kind has been before the Committee on the Judiciary. I do not know that it has been considered by any member of the Committee but myself. That is a proposition to confer, by a general law, the rights of citizenship upon certain Pueblo Indians in New Mexico. When it came to my notice, I responded at once that I did not consider it competent for us to admit citizens in this form. I regarded it as something peculiar in our Indian relations, which I did not think it competent for us to do.

Mr. SHIELDS. I will suggest to my friend whether we can have special laws of naturalization, or whether we are not bound to have a uniform system of naturalization?

Mr. BUTLER. Yes, sir.

Mr. SHIELDS. I consider that a very important question.

Mr. WALKER. I will say for myself, as a member of the Committee on Indian Affairs, that if the amendment shall involve a judicial question, I will seek to have it brought back from the Committee on Indian Affairs and referred to the Committee on the Judiciary. If it is merely a private case, the Committee on Indian Affairs is competent to decide it.

The bill was then referred to the Committee on Indian Affairs.

FRANCES P. GARDNER.

The Senate then took up for consideration, the amendment which had been made by the House of Representatives to the bill for the relief of Frances P. Gardner.

Mr. HALE. I will state that that is a bill for the relief of the widow of an officer who was slaughtered at the same time as was Major Dade, of the United States Army. The Senate at the last session passed a bill for the relief of this lady, and also one for the relief of the widow of Major Dade. Major Dade's widow, who stands exactly on the same footing as this lady, had her bill passed, renewing her pension for life, and beginning in 1840, when the other pension expired. The amendment of the House to this bill is simply to put the widow Gardner on the same footing as the widow of Major Dade. I have consulted the chairman of the Committee on Military Affairs, [Mr. SHIELDS,] and it his opinion that the Senate should concur in the amendment of the House.

Mr. SHIELDS. That is my opinion. I shall not debate the question, but I think the bill is better now than when it left the Senate.

Mr. DAWSON. I move that the bill, with the amendment, be referred to the Committee on Military Affairs, in order to place the widow of Lieutenant Colonel Craig on the same footing.

Mr. HALE. That will only embarrass the bill.

Mr. SHIELDS. I shall object to that motion, although I am in favor of extending the relief to the widow of Colonel Craig.

Mr. DAWSON. I withdraw the motion.

The amendment made by the House was then concurred in.

COLONIZATION IN NORTH AMERICA.

Mr. SEWARD. I renew the motion to adjourn.

Mr. GWIN. I hope the Senator will appoint some day next week, say Monday, to which this subject may be postponed, and not propose to take it up to-morrow.

Mr. SHIELDS. I hope the honorable Senator from New York will withdraw his motion, with a view to permit this matter to be postponed to next week. It has been discussed to-day; and I make this suggestion because I think one day in the week is about enough to occupy on it, and that the residue of the week ought to be appropriated to practical legislation. I want to speak myself on the subject, but I do not want the residue of the week to be consumed in its discussion.

The PRESIDENT. The Senator is out of order. The question is on the motion to adjourn.

The motion was agreed to; there being, on a division—ayes 23, noes 11.

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *January* 25, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

A message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed an act entitled "An act for the relief of Rebecca J. Birdsell."

The SPEAKER. The question before the House is the consideration of the bill providing for a branch Mint in New York. Upon that question the gentleman from New York [Mr. SEYMOUR] is entitled to the floor.

The Chair would state to the House that there are three or four communications from the President and from the Departments lying upon the Speaker's table, some of which, the Chair is advised, it is desirable should be referred to the appropriate committees. If it is the pleasure of the House, the Chair will have them communicated.

No objection was made, and the following communications were presented and referred, as indicated below.

A message from the President of the United State, as follows:

To the House of Representatives of the United States:

In obedience to a resolution of your honorable body, of December 27th, 1852, in reference to claims of custom-house officers for additional pay, I have the honor herewith to transmit a report from the Secretary of the Treasury giving the desired information; and, in answer to the seventh interrogatory, asking "Whether, in my opinion, further legislation is necessary or advisable, either to protect the Treasury from unjust claims, or to secure to the claimants their just rights," I would state that, in my opinion, no further legislation is necessary to effect either object. My views on this subject will be more fully seen on reference to the opinion given by me to the Secretary of the Treasury, a copy of which is annexed to his report.

MILLARD FILLMORE.

WASHINGTON, *January 24th*, 1853.

Mr. STANTON, of Ohio. Mr. Speaker, as this communication is in reply to a resolution offered by myself, I desire to submit a brief statement of the contents of the papers accompanying the message, and of the laws upon which these claims are predicated.

Various newspaper reports are in circulation as to the amount and character of these claims; and I think it desirable that an authentic but condensed statement of the matter should be published. For the opportunity of making this examination, I am indebted to the kindness of the Secretary of the Treasury.

The "Act to establish the compensation of the officers employed in the collection of the duties on imports, and for other purposes," approved March 2, 1799, fixed a schedule of fees for custom-house officers, which is the basis of all subsequent laws on that subject.

During the war of 1812, importations were almost entirely suspended, and the suspension of the banks in 1814, and consequent inflation of the currency rendered the compensation fixed by the law of 1799 entirely too low. To remedy this a law was passed, April 26, 1816, allowing them fifty per cent. in addition to the amount allowed by the law of 1799.

The third section of the civil and diplomatic appropriation bill, approved March 2, 1833, provides that custom-house officers shall have the same compensation according to the importations of that year, that they would have had if the tariff of 1832 had not gone into effect.

The second section of the civil and diplomatic appropriation bill of 1834 reënacts the third section of the act of 1833, with a proviso that no officer of the customs, except collectors, naval officers, and surveyors, shall receive a compensation by salaries, fees, or otherwise, exceeding $2,000; nor should any one person, by holding two or more of these offices, receive more than $2,500. And the further proviso, that no custom-house officer, under that act, should receive a greater salary or compensation than was paid to such annual officer in the year 1832.—*Statutes at Large*, 698-9.

The third section of the civil and diplomatic appropriation bill of 1835 repeals the second section of the act of 1834, and then provides that the collectors, naval officers, surveyors, and their respective clerks, and the weighers of the several ports, shall have the same compensation in the year 1835, according to the importations of that year, as they would have been entitled to if the tariff act of 1832 had not gone into effect; and provides again, that no officer should receive a greater annual salary or compensation than was paid to such officer in 1832, and that no officer, other than collectors, appraisers, and surveyors, should receive a greater annual compensation, by salaries, fees, or otherwise, than $1,500 each, nor should the union of two or more of those offices in one person entitle him to receive more than that sum.

The third section of an amendment to the civil and diplomatic appropriation bill of 1836 reënacts this section, with the additional proviso, that if a law should be passed during that session regulating the compensation of custom-house officers, this section should only extend to the time when such law should take effect.—*Statutes, vol.* 5, pp. 113–14.

This section was reënacted, in substantially the same terms, by the civil and diplomatic appropriation bill of 1837.—5 *Statutes*, 175.

The third section of the *Military Academy* appropriation, for the year 1838, reënacts this same provision, with the additional proviso, that no collector shall receive more than $4,000, no naval officer more than $3,000, and no surveyor more than $2,500 per annum.

By the seventh section of the "Act for the relief of Chastelain and Pannerd, and for other purposes," approved July 21, 1840, the third section of the act for the support of the Military Academy for the year 1838, is revived and continued in force for the year 1840, "*and until otherwise directed by law.*"—6 *Statutes*, 815.

The twenty-sixth section of the tariff of 1842, provides that all laws existing on the 1st of June, 1842, shall extend to, and be in force for the collection of the duties imposed by that act; and that all laws inconsistent with any provision of that law should be repealed.

The law of March 3, 1849, merely provides that the gross receipts of the revenue from customs shall be paid into the Treasury, and the compensation of custom-house officers paid out of the Treasury, but does not in any way affect the amount of compensation.

So stands the law in relation to the compensation of custom-house officers at this time.

From 1841 to 1850, I do not understand that there was any controversy about their construction, so far as weighers, gaugers, and markers were concerned. The law of 1841, reviving the law of 1838, and continuing it in force, which provided a maximum of $1,500, was to remain in force and regulate their compensation, and their accounts were settled and paid on that construction.

I understand that collectors, naval officers, and surveyors have not been paid under that law since June 30, 1848, but that they are paid under the tariff of 1846, which, by fixing a lower rate of duties, reduces the percentage they would be entitled to under the law of July 21, 1840, which bases their compensation on the tariff of 1832. In 1849, these officers urged upon the Secretary of the Treasury to allow them their compensation under the laws of 1840, 1838, and 1832.

Mr. Meredith, the then Secretary of the Treasury, submitted the question to the Attorney General. On the 18th of March, 1850, Mr. Johnson, the Attorney General, gave it as his opinion, that as the section of the act of 1838, regulating the fees of custom-house officers, which was revived and continued in force by the act of July 21, 1840, was passed in consequence of the passage of the tariff of 1832, that the repeal of the tariff of 1832 necessarily annulled that law. The claims of these officers were therefore rejected.

Thereupon, the weighers, gaugers, measurers, and markers, come and say, that if the laws of 1840 and 1838, fixing a maximum for their fees are repealed, that they have a right to have them computed under the law of 1799 and 1816; and I see no escape from it, if Mr. Johnson's opinion is correct.

These claims were presented to the present Secretary of the Treasury, and by him referred to the Attorney General. On the 15th of November, 1852, Mr. Crittenden returned his opinion to the Secretary of the Treasury, agreeing with Mr. Johnson that the laws of 1840 and 1838 were repealed by the tariff of 1842.

This opinion was submitted to Mr. Rockwell, the Commissioner of Customs, whose duty it was to examine and allow the claims. On the 20th of November, 1852, Mr. Rockwell delivered a written opinion or decision to Mr. Corwin, dissenting from Mr. Crittenden, and rejecting the claims. In the mean time, some of the claimants became impatient, and called the attention of the President to the subject, and urged him to "see that the laws were faithfully executed."

The Secretary thereupon insisted that the President should give his personal attention to the subject, and give his opinion as to the rights of the claimants. He did so, and on the 8th of December, 1852, sent a written opinion to Mr. Corwin, saying that, in his opinion, the law of July 21, 1840, was not repealed by the tariff of 1842, but was still in force; but that, in a question upon the construction of a law, the opinion of the Attorney General, according to the long-settled usage and practice of the Government, must prevail; and that, if Mr. Crittenden adhered to his opinion, the claims must be paid.

Mr. Corwin inquired, further, of the Attorney General, whether a decision of his predecessor, communicated orally to the Commissioner of Customs, and by him communicated to the claimants as his own decision, without saying that he was acting under the instructions of the Secretary, could be regarded as a decision of the case, which he was bound by? And further, whether the officers whose accounts were finally settled, and given receipts in full for their compensation, were not thereby barred from claiming to have them opened up, and additional compensation allowed?

On the 28th of December, 1852, the Attorney General answered both these questions in the affirmative, and decided that the claimants were barred, both by their settlements, and by the decision of Mr. Meredith. The communication on your table states the number of these claimants at three hundred and twenty-eight, and the aggregate amount claimed at $1,250,000.

It certainly cannot be a matter of surprise, that the most intelligent and upright men in the country should differ in their construction of such a heterogeneous mass of legislation as this subject presents.

I do not believe the statute-books of any civilized country can present such a mass of confused, crude, and ill-digested legislation as this. It will be observed that these claims are only rejected, and this million and a quarter of dollars saved, by the laches of the claimants, and the decision of a former Secretary of the Treasury against *these* claimants.

The grounds of the rejection are somewhat technical, while upon the merits they have the opinions of two successive Attorneys General in their favor.

Now, I confess I have my fears that this is too feeble a barrier to resist, for many years, the pressure of a million and a quarter of dollars. But if it is, it only applies to those who have gone out of office, had their accounts settled and paid in full, and their claims presented to the Treasury Department, and rejected. Those who are now in office, and those who may hereafter be appointed, will be entitled, under the decision of the Attorneys General, to this enormously increased compensation. Whether Congress can change the law so as to operate upon past services, may be matter of doubt.

But that we can, and should, without a moment's delay, apply a remedy to operate in the future, I apprehend there is no doubt; and I hope the Committee on the Judiciary will turn their attention to the subject at once, and speedily report a proper bill.

It would seem, from the communication on your table, that this call for information was unnecessary so far as the claims then pending were concerned; for they have been rejected without any interposition on the part of Congress.

I engaged in this matter with much hesitation and reluctance, mainly from an apprehension that it might be regarded as an evidence of unfriendly feelings towards the present head of the Executive Department of the Government. Nothing could be further from the truth; and I will avail myself of this occasion to say, that in my judgment, no purer or more upright statesman than Millard Fillmore has ever filled the presidential chair since the organization of the Government. It is true that I differed with him as to the wisdom and propriety of one of the leading measures of his Administration; but it never entered my imagination for a moment that he was governed by any other than the purest and most patriotic motives. But the facts which came to my knowledge satisfied me that there was some radical defect in the existing laws regulating the compensation of custom-house officers; and I was satisfied that nothing would be so likely to secure prompt and speedy action upon the subject as an exhibition of the consequences that were likely to result from further delay.

I am well aware that those whose interests are affected by this movement will regard it as a very great piece of impertinence on my part to interfere in the matter, and will not be slow to retaliate whenever and wherever they can make their influence felt.

I have no ambition for a contest with these "daughters of the horse-leech," who are scattered throughout the length and breadth of the land, for I should be sure to get worsted. For if there was any truth in the maxim that "Money is power," it is most emphatically true in this country, and of this mammon-worshipping generation. I have, therefore, every reason for desiring to avoid such a contest. I have done only what I believed to be my duty, and am entirely willing to let consequences take care of themselves.

I move that the message and accompanying documents be referred to the Committee on the Judiciary, and ordered to be printed.

Mr. COBB. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

A communication from the Treasury Department, transmitting a statement of the accounts which have been due more than three years prior to the 1st of July, 1852, on the books of the Register of the Treasury.

Ordered, To lie upon the table, and to be printed.

A communication from the Treasury Department, transmitting a report of the facts and the law applicable to a claim presented to the Department by the legal representatives of Lieutenant Robert Browning, late of the United States Navy, deceased.

The communication and accompanying documents having been read, were, on the motion of Mr. JOHNSON, of Arkansas, referred to the Committee of Ways and Means, and ordered to be printed.

A communication from the War Department, made in pursuance of an act approved April 2d, 1794, transmitting a statement of the expenses of the national armories, and of the arms and appendages made and repaired thereat during the year ending the 30th of June, 1852.

Ordered, To lie upon the table, and to be printed.

ST. LOUIS AND IRON MOUNTAIN RAILROAD.

Mr. DARBY. I ask the consent of the House to introduce a very short bill, which merely grants the right of way through the land of the arsenal and Jefferson barracks, in St. Louis, to a railroad company already organized. A survey of the road has been made, and the company want no money, but merely the right of way. I hope that by unanimous consent the bill may be read through, consisting as it does of not more than half a dozen lines, for information, and that it may be passed.

Mr. JOHN W. HOWE. Does it ask for a grant of land?

Mr. DARBY. It does not ask for a grant of land nor a grant of money.

The bill was then read a first and second time by its title, as follows:

"A bill granting the right of way to the St. Louis and Iron Mountain Railroad Company."

The bill was then read through for information.

Mr. STUART. Let me suggest to the gentleman from Missouri to give a little more authority to some officer of this Government to say whether that road shall be located at all or not. The language of the bill is by no means explicit. It asserts affirmatively at the beginning that the right of way is given, and the location is made, subject to the approval, &c.; that is, it must be located somewhere, but this officer shall say where. I want the language changed, so as to authorize some officer of this Government to say whether it shall be located there at all or not.

Mr. DARBY. I have no objection to adopting in this bill the precise phraseology of the bill passed at the last session for the Sackett's Harbor and Ellisburgh Railroad Company, provided unanimous consent be granted for that purpose.

Mr. STUART. My object will be accomplished by the addition of the following proviso:

Provided, That said location can be made consistently with the public interest in that quarter.

Mr. DARBY. I accept that amendment.

The bill as modified was then ordered to be engrossed and read a third time, and having been engrossed, it was read a third time and passed.

Mr. FREEMAN. I desire to submit a resolution.

The SPEAKER. The gentleman from New York [Mr. BROOKS] is entitled to the floor on the bill to establish a branch Mint of the United States in the city of New York.

CENSUS STATISTICS.

Mr. FREEMAN. I ask leave of the House to introduce the following resolution of inquiry:

Resolved, That the Secretary of the Interior be requested to furnish this House with any information, which the Superintendent may have excluded from his reports, illustrating the social condition of the countries of Europe, including any important facts respecting education, pauperism, crime, taxation, wages, and public administration and expenditure.

Mr. STUART. I desire to inquire, the Chair having announced that the gentleman from New York was entitled to the floor on the New York branch Mint bill, whether the time occupied in the consideration of this resolution will be taken out of the morning hour?

The SPEAKER. The Chair supposes that it will come out of the morning hour.

Mr. STUART. Then I have no objection to the resolution of the gentleman from Mississippi.

Mr. FREEMAN. I will simply state that I believe there is valuable information in the Census Bureau which has not been reported to the House. I desire that it may be laid before the country, as it has been procured at the public expense. I hope the resolution will be permitted to pass without opposition.

Mr. LETCHER. I should like to inquire of my friend from Mississippi, whether the object is to prepare another book for publication before the census is printed? I object to the resolution.

Mr. FREEMAN. I trust the gentleman will withdraw his objection.

Mr. LETCHER. When that information comes in, the next movement will be to print it in book form.

Mr. FREEMAN here made a remark which was totally inaudible at the reporters' desk.

Mr. SEYMOUR, of New York. Mr. Speaker, when I was interrupted in my remarks on last Monday by the expiration of the morning hour, I had stated the amount of gold coming into New York from California, and the amount received there of foreign coins in payment of Government dues, and also that which was estimated to be brought there by emigration, at $60,000,000 per annum. On reviewing statistical returns, on which we can rely with the fullest confidence, I am satisfied that I was mistaken in the amount, and have placed it much lower than I ought to have done. The amount of gold which came in there from California during the last year—and everybody acquainted with the extending resources of that port must see that this amount is destined from year to year to increase—the amount, I say, last year, was between $50,000,000 and $60,000,000. And, on recurring to the tables presented to this House by Mr. Walker, late Secretary of the Treasury, as long ago as the year 1848, it will be seen that the amount received there from foreign emigration at that time, was $8,000,000. That may now be safely estimated at least as high as $12,000,000, owing to a large increase of emigration, and especially an emigration of a more substantial character than was formerly the case. This is in addition to what is annually collected in

the shape of foreign coins. The dues to the Government there received must swell the amount, at this time, to at least $70,000,000 per annum. This large amount is at that port seeking coinage. Those who bring gold in the shape of bullion from California, desire that it may be coined to be distributed throughout the country.

It is manifestly the interest of this Government that foreign coin coming here stamped in foreign countries, not easily recognized, and not freely passing among our citizens engaged in commerce, should be recoined, and receive the stamp of the coin of our own country. All this might be accomplished to a far greater extent than is now done, if a branch Mint were located at the city of New York. That is the point towards which this great amount of specie and of bullion is being concentrated by the natural channels of commerce. I will now state, in reply to the remark made on the other side, that this could all be transferred to Philadelphia in a short time, and at a small expense, that the annual charge would be at least $30,000 for the amount received at the present time. And it is admitted by the gentleman from Pennsylvania [Mr. CHANDLER] that the lowest amount, even under the pressure which is necessary in order to avoid the result he is here combating, he supposes this could be carried for on some offer which has been made by somebody—I do not know who—is $25,000 per annum.

Mr. FLORENCE. My colleague can inform the gentleman.

Mr. SEYMOUR. If it be made by a corporation, it will make no difference with me in the point which I intend to make. Neither will it make a difference whether the amount be $25,000 or $30,000. I understand that the Camden and Amboy Railroad Company have offered to carry it for the price specified by the gentleman.

Mr. FLORENCE. I desire only to call the attention of my colleague to the suggestion of the gentleman, that he was not aware that the persons who offered to do this were responsible, because my colleague knows as well as I do that they are responsible.

Mr. SEYMOUR. I have said nothing explicitly in regard to that.

Mr. FLORENCE. I do not desire to interrupt the gentleman, but he can appreciate the interest I feel in this matter; and it is, therefore, that I desire he may be made acquainted with the facts of the case.

Mr. SEYMOUR. I was aware of the deep interest which the gentleman from Pennsylvania felt in this matter before. But, sir, this expense, whatever it be, is to be borne by somebody, and, even taking it at the amount at which the gentleman would have it now placed, without, I think, any sufficient guarantee that it can be held there for years to come, I submit to this House whether it is not a charge on the country, on the producers of gold, and on those who come to that port, where they desire to change foreign coin for American, which should not be imposed? It falls upon somebody, and, as in all of these cases, every such charge falls upon the producer, or upon the emigrant who brings in this foreign coin.

But, sir, the view of this as a tax extorting from the producers and those who bring coin of foreign countries here to an amount which should not be imposed upon them for the benefit of private speculation—for it all goes to the bankers—is not the worst view of the case. It was a favorite idea with the people of this country, particularly with that party to which you and I belong, Mr. Speaker, that, in establishing an Independent Treasury—a constitutional Treasury in this country, we should secure to the people a circulating medium in the precious metals—we should drive out spurious bank paper—we should put a check to those expansions which shipwrecked the business of the country in 1837, and we should give the people what they deserve to have, a constitutional hard money currency. This effort seems likely to fail, unless you can have planted at that point where the greatest portion of your revenue is collected, and towards which this vast influx of the precious metal tends, an institution which will convert this into a circulating medium—not into ingots, not into fifty dollar pieces, not into twenty dollar pieces, not even into eagles, but into the smaller coin, to be distributed among the people in the ordinary interchange of business.

We achieved the establishment of an Independent Treasury, after a long and violent political struggle, and we have been here waiting for years to realize the golden expectations then promised, without even seeming to advance one step towards the anticipated result. That sagacious man, who, during the administration of President Polk, stood at the head of the financial affairs of this Government, perceived this necessity, and in the very first communication that Mr. Walker made as Secretary of the Treasury to this House, in December, 1845, he urged on Congress, in connection with carrying out the measures intended by the establishment of an Independent Treasury the establishment also of a branch Mint at the city of New York.

He again repeated this recommendation in his report in 1846. He renewed it again in 1847, and in 1848 he spread out at large one of the most powerful arguments that has ever been presented yet upon this subject.

I have not time here, and it would not be, perhaps, interesting to this House to listen to the reading of that portion of the letter of Mr. Secretary Walker; but I commend it to the attention of every gentleman here as an argument that never has been answered, and never can be, fully establishing the necessity of a branch Mint at New York. What has been the fate of this measure, thus strongly recommended, and that, too, from a source which enjoyed the confidence of the dominant party of this country? Why, a bill passed this House establishing the Mint in New York. It was defeated by a small vote in the Senate. Another bill was introduced here since that, and was defeated in this House. I shall not here attempt to delineate the causes which have led to the defeat of a measure so strongly recommended and so much needed as this is confessed to be by the whole commercial community. Every gentleman present knows what those causes are, and I do not design to occupy the time of the House in recapitulating them. Let it be remembered that these powerful recommendations of Secretary Walker were made anterior to the reception of the golden harvest from California. In 1848 we had not begun to realize, in its effects upon our commerce and trade, the possession within our own borders of such a vast quantity of the precious metals. In 1848, the Secretary says that the amount of coinage from 1792 at the Mint at Philadelphia had been only the sum of $116,000,000, after a period of fifty-three years from the establishment of that Mint, and yet since 1848 down to the present time, embracing the coinage of 1852, we have exceeded the amount of all the previous coinage by $80,000,000, making the amount of coinage within the last five years $196,000,000, and upwards. This appears by the following table:

Coinage (excepting copper) at the Philadelphia Mint from 1846 to 1852, both inclusive.

1846	Gold	$4,034,177	
	Silver	2,558,580	$6,592,757
1847	Gold	$20,221,385	
	Silver	2,374,450	22,595,835
1848	Gold	$3,775,512	
	Silver	2,040,050	5,815,562
1849	Gold	$9,007,761	
	Silver	2,114,950	11,122,711
1850	Gold	$31,981,733	
	Silver	1,866,100	33,847,833
1851	Gold	$62,614,492	
	Silver	774,397	63,388,889
1852	Gold	$51,505,638	
	Silver	847,310	52,352,948
Whole coinage in seven years			$196,516,435

Why is it that the amount of the circulating medium has not been increased, and instead of having a larger volume of specie currency in this country, we are inundated to a greater extent than you were in 1837, with the issue of worthless bank paper? It is because the Mint has not given us an adequate amount of the smaller denominations of coin.

Mr. CHANDLER. Will the honorable gentleman allow me to deny that assertion?

Mr. SEYMOUR. I hope that the gentleman will not interrupt me.

Mr. CHANDLER. You assert that which is not the fact.

Mr. SEYMOUR. I declare it now.

Mr. CHANDLER. Then you assert that which is not the fact.

Mr. SEYMOUR. I lay it down as a fact established by official data, and I have before me, the proof of it. I refer to the gold coinage of the year 1851, which I gather from reliable statistics. They are as follows: Whole coinage of gold, $62,614,492. Of this there were, of double eagles, $48,043,100; eagles, $4,393,280; half eagles, $2,651,955; quarter eagles, $3,867,337; and dollars, $3,658,820. Thus it appears that the coinage of that year of gold, was $62,614,000, and of that there were coined in twenty dollar gold pieces, which scarcely ever find their way into circulation in the country, $48,000,000 and upwards, leaving only $14,500,000 devoted to that species of currency which answers the purposes of general circulation. Fourteen millions and a half less by $6,000,000 than the amount of gold coined in 1847, before we had received this vast amount from California.

But I perceive that my limited time is passing, and that I must omit to say many things I would be glad to present upon this subject, and will call the attention of the House to one or two other points in conclusion. Not only has the vast amount of precious metal increased during this time, and found its way to New York, but there has been a large increase of commerce also at that point since 1848. The amount of exports and imports at that city then was $129,000,000, while the amount now is $180,000,000, of which during the past year, $37,000,000 were in specie. The great problem laid down by Mr. Walker for us, as an American Congress, to accomplish, is yet to be worked out, and that is, to plant in this country a power that will successfully countervail that on the other side of the water, which has controlled the financial operations of the world. I move the previous question.

[Here the hammer fell.]

Mr. VENABLE. Had not the gentleman's time expired before he moved the previous question.

The SPEAKER. The motion is before the House.

Mr. VENABLE. I hope it will be voted down.

The question was then put on Mr. SEYMOUR's motion, and on a division there were—ayes 72, noes not counted.

Mr. FLORENCE demanded tellers, which were ordered; and Messrs. DAVIS, of Indiana, and WILCOX were appointed.

The question was then taken; and the tellers reported that there were—ayes 76, noes 44.

So the previous question being seconded, the main question was ordered to be put.

The question now being upon the rejection of the bill,

Mr. FLORENCE demanded the yeas and nays; which were ordered.

Mr. BROOKS. Mr. Speaker, I wish to present some views.

Mr. HOUSTON. I have no objection to the gentleman making his speech, but I present the point of order that this is not the time contemplated by the rule, for him to close the debate.

The SPEAKER. The Chair thinks it is with the gentleman to determine whether he will avail himself of the privilege now, or take the chances hereafter.

Mr. FLORENCE. Has the morning hour expired?

The SPEAKER. It has not.

Mr. BURT. I rise to suggest to the Chair that, under the rule, the gentleman from New York [Mr. BROOKS] has no right at this moment to make a speech, at the conclusion of this debate. That rule, governing this matter, as I remember, gives the right to the member who reports a bill to the House. Now, sir, this bill has not been received by the House. It has been merely presented to the House; and I submit to the Chair, that the gentleman from New York has no right, under the rule, to occupy the floor at this time to make an hour's speech.

The SPEAKER. The proposition is not, according to the decision of the Chair, upon the reception of the bill. The question of reception is not raised. The 116th rule reads thus:

"The first reading of a bill shall be for information, and if opposition be made to it, the question shall be 'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

The Chair decided at the time the question of rejection was originated, that it was debatable from the very nature of the question, involving, as it did, the fate of the bill. If debate was in order at all, under the rule just quoted, it follows, in the opinion of the Chair, from another rule of the House, that the gentleman has the right to close the debate.

Mr. BURT. Read the rule.

The 34th rule was then read as follows:

"No member shall occupy more than one hour in debate on any question in the House or in Committee; but a member reporting the measure under consideration from a committee, may open and close the debate," &c.

Mr. BURT. The point I make is, that the bill is not under consideration. It is not reported to the House. It is presented to the House, but has not been received by it; and the question which the House has been considering for the last two mornings is, whether that bill shall be received or rejected? That is the very question. The Chair draws a distinction between the question of reception as recognized by our rules, and the question as presented by the rules in this case, which is as to the rejection of the bill.

The SPEAKER. The Chair held that it was debatable, involving, as it did, the fate of the bill.

Mr. BURT. I was not aware that there had been any decision upon the point.

The SPEAKER. That was the decision, and, in conformity with that decision, the Chair thinks that the gentleman from New York, under the 34th rule, has a right to close the debate.

Mr. BROOKS then proceeded to address the House in favor of the bill.

Mr. HOUSTON. Has the morning hour expired?

The SPEAKER. It has.

Mr. BROOKS. I hope the gentleman from Alabama will allow us to dispose of this bill.

Mr. HOUSTON. No, sir, I cannot. I move that the House proceed to the business on the Speaker's table; and, in connection with that motion, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. Must not the question be first put upon the motion to proceed to the business on the Speaker's table?

The SPEAKER. The Chair decided the other day, and the House acquiesced in the decision, that the uniform practice was, when the two motions were made following one another, to put the question first upon the motion to suspend the rules. That has always been the practice here, and the decision of the Chair was sustained the other day upon an appeal, as the gentleman will recollect.

The question was then taken on Mr. HOUSTON's motion, and it was agreed to.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair.)

DEFICIENCY BILL.

The CHAIRMAN stated that the business before the committee was the consideration of House bill No. 335, "to supply deficiencies in the appropriations for the service of the fiscal year ending June 30th, 1853."

Mr. HOUSTON. When the debate was closed by resolution, upon this bill, it was my desire to have occupied at least a portion of the hour that is allowed me under the rule, for the purpose of calling the attention of the committee to some of the provisions of the bill. It did seem to me then, and it seemed to me at the time the bill was taken up, that it was very important that its provisions should be discussed. They have not, however, been even alluded to. Since the debate was closed, I have not been allowed to take up the bill, so that there is now so little time remaining for the action of the two Houses upon the various appropriation bills, as well as the other matters that necessarily come up for action, that I am disposed to abandon the intention I had of addressing the House upon the subject, and I will therefore merely propose several amendments to the bill. They are very important amendments, which have been communicated to the committee since the debate has been closed.

Mr. McMULLIN. I wish to ask the chairman of the Committee on Ways and Means a question with regard to this bill. I desire to know if the bill provides for the payment of the extra allowances to the several clerks?

Mr. HOUSTON. This bill does provide for that, although it provides for it under another name. At the last session of Congress, an appropriation was made for the contingent expenses of the House, according to the estimate of the Clerk of the House. After that appropriation had been made, the House passed various resolutions, some of them increasing salaries, and directing payment out of the contingent fund, and others giving extra compensation to the employees in this Capitol, and about the public grounds. The Clerk has considered that he was not only authorized to do so, but that it was his duty to use the money that was appropriated by the civil and diplomatic bill, for the payment of the extra compensation voted under resolutions of this House, and that has created the necessity for a large portion of the deficiency in the fund to meet the various expenditures of the House.

Mr. McMULLIN. Will the chairman of the Committee on Ways and Means state the aggregate amount, as far as he has been able to ascertain? I also desire to know whether this bill makes provision for any similar appropriation hereafter?

Mr. HOUSTON. It does not. Mr. Chairman, at the last session of Congress the Committee on Ways and Means thought it the most proper course of legislation to separate what has been used heretofore as the contingent fund of the House into its various classes, and to appropriate for each of the various classes as estimated by the Clerk. The committee adopted this course for the purpose, in part, of preventing what I am very free to say I regard as a great waste of money at the close of each session, by adopting simple resolutions by the House to pay various sums for one purpose or another out of the contingent fund. We believed that if it was not in conflict with the letter, it was in direct conflict with the spirit of the Constitution, which provides that no money shall be taken from the Treasury of the United States without being first appropriated. We believed that it was not in conformity with the spirit of that clause to appropriate some two or three or four hundred thousand dollars to cover the contingencies of the House, or to cover the contingencies of the Senate, and then, when the money was taken by that authority from the Treasury, to divert it by a simple resolution of either body to paying a bill of expenses for Kossuth, or to pay extra compensation to clerks, or to create new offices and pay the salaries out of the contingent fund, or to whatever purpose they may choose to divert it. The object of the committee was to specify each item of expenditure, as estimated by the Clerk, and let each appropriation be applied to the object for which it was appropriated, and none other.

In the civil and diplomatic bill of the last session, there was an appropriation made for the purpose of paying the salaries of the index clerks, amounting to $30,000, or a little under. That, of course, was one of the items of the contingent fund. Yet that appropriation has been used to meet the resolutions passed at the close of the last session of Congress, increasing the salaries of some of the officers, and giving extra compensation to all of them; so that there is now an item in this deficiency bill of $28,000, or thereabouts, to pay the salaries of these index clerks of the House. That illustrates the principle upon which most of the appropriations for deficiencies which have arisen in the department of the Clerk of the House of Representatives. They were brought about by our own action. We passed resolutions, without any consideration at all, directing the Clerk of the House to pay out of the contingent fund of the House, these amounts. But the Clerk felt authorized, indeed he felt it to be his duty, to apply to the payment of miscellaneous items the appropriation designed originally for the compensation of the index clerks.

Mr. JONES, of Tennessee. I desire to ask the chairman of the Committee on Ways and Means one question. Was there not an estimate from the Clerk's office to pay the index clerks, as they are called, under the head of contingencies, of about $30,000; and if there was any estimate brought before the Committee on Ways and Means or before the House for the payment of this extra compensation? And I ask if the Clerk of the House did not divert the money appropriated for the compensation of these index clerks to pay the extra compensation of officers and employees about the House provided for by these resolutions, and then come here and attempt to show that there is a deficiency in the salaries of these index clerks, when in point of fact, it should be shown that the deficiency arises under the resolutions for extra compensation? The money appropriated should have been applied to the payment of the salaries of these index clerks; but in consequence of this diversion of the appropriation by the Clerk of the House, these clerks have not received one dollar of their regular salaries since the commencement of the present fiscal year.

Mr. HOUSTON. I will answer the gentleman as far as I can. As I have before remarked, the estimates, as originally presented by the Clerk to the Committee on Ways and Means, was for an aggregate sum for the contingent fund of the House. But when we requested him to present his estimates in separate items, among the rest he presented one of $30,000 for miscellaneous purposes.

My friend from North Carolina, [Mr. VENABLE,] who had received some information that the index clerks were not provided for, in company with myself, called upon the Clerk to know if he had estimated that $30,000 to provide for these clerks. He assured us it was; but afterwards, when the House passed a resolution directing him to pay other sums for other objects out of the contingent fund, then the question presented itself to him—I presume, as a matter of discretion—whether he should pay the index clerks, or whether he should appropriate the money to pay the last orders of the House. I think the Clerk committed an error in paying the extra compensation, instead of the regular salaries of the officers of the House. But be that as it may, he had the authority of the House directing him to pay out of the contingent fund these several sums, and he did pay this extra compensation out of an appropriation which was designed for an other object, although not so specified in the bill. By this means there is left a deficiency in the salaries of these index clerks, whereas that deficiency was created by diverting the money appropriated to pay the salaries of these clerks for the purpose of paying the extra compensation subsequently ordered by the House.

Now, in justice to the Clerk, I desire to say, that there were other causes creating this deficiency, besides this resolution for extra compensation to the regular officers about the House and Capitol. I say it with all respect to my colleagues in this House; but I must say that I do not think it a wise course of legislation to create officers in the manner in which they were created at the close of the last session of Congress. A number of officers, of one grade or another, was created by a resolution after the estimates of the Clerk were sent in, and I think, even after the passage of the civil and diplomatic bill by this House. This is the cause, I have no doubt, of some of these deficiencies.

Mr. McMULLIN. I think the chairman of the Committee on Ways and Means has shown why the Clerk of the House may have appropriated this $30,000 which was intended for the index clerks, to another purpose. The fault lies with the members of the House, and not with the Clerk. I am sure the gentleman does not mean to reflect upon the Clerk. It is true that, in my opinion, he ought to have complied strictly with the intention of the House in making the appropriation; but he had the authority of the House for paying out the money in the manner in which he paid it. The fault lies with the members of the House. I trust, when the civil and diplomatic bill comes up, the chairman of the Committee on Ways and Means will be able to show the House that we ought not to make these additional appropriations to the officers of the House.

Mr. HOUSTON. In reply to the latter suggestion of my friend from Virginia, I will say that so far as I am concerned—and I am sure all the members of the committee have done the same—the Committee on Ways and Means have labored

industriously to specify each item of appropriation, that there might be no mistake, and that no abuse might creep in from any quarter. I believe it is better policy for Congress to specify these appropriations, each under its appropriate head; but it is impossible that it should be done, so far as every dollar is concerned; for there are contingencies which necessarily arise which cannot be anticipated, and therefore cannot be provided for. I will name an item or two. For instance, you want a contingent fund in the House, and also in the Senate, for the purpose of paying the funeral expenses of members who may die during the session of Congress. You want a contingent fund of the House also, for the purpose of paying the expenses of the Sergeant-at-Arms, or the Speaker, in the discharge of their duties connected with the House, and to meet various other items which cannot be anticipated with any degree of accuracy, and which must, to some extent, constitute a contingent fund.

But the practice of appropriating the entire amount of the expenditures of the two Houses in one round sum, for each House, under the head of contingencies, and then allowing that House, without any other authority than by a simple resolution, passed in the excitement of the moment, in the hurry and confusion of the close of a session of Congress, is one which every person who has paid any attention to the manner in which these things are done, must see is a very bad one. By this means money is diverted from the channel for which it was intended to another and far different one. It seems to me that Congress ought not to appropriate money in this manner. I shall, when the civil and diplomatic bill comes up—and I am glad the gentleman from Virginia [Mr. McMULLIN] has called the attention of the House to this subject—ask Congress to appropriate a specific amount for each item for the two Houses, and that no money shall be expended for any other object than that for which it was appropriated.

I now ask that the amendments I have sent to the Clerk's desk may be read.

Mr. STANTON, of Kentucky. I ask if it is not the usual mode to read the bill section by section for amendments?

The CHAIRMAN. That is the usual practice.

Mr. STANTON. Then I ask that that course may be pursued now.

The Clerk then proceeded to read the bill.

Mr. STANTON, of Kentucky. Mr. Chairman, I am instructed by the Committee on Public Buildings to offer an amendment to the clause of the bill which provides for the extension of the Capitol.

The amendment was read, as follows:

For the completion of the repairs of the Congressional Library room, authorized by an act approved March 19, 1852, $20,500.

Mr. STANTON. I simply desire to say, in reference to the amendment which I have offered, that it has been recommended by the Secretary of the Interior, upon estimates furnished to him by the architect. The original estimate furnished by the architect for the completion of the Library room was $72,000. That sum, or nearly that amount, has been expended, and it has not been sufficient to complete the whole structure. The reason why it is necessary to have an additional appropriation is, that when the first estimate was made, it was made simply to supply the iron work; which has cost, indeed, just about the sum estimated, or within a few thousand dollars, showing that as far as the estimate went, it was correct. After the architect took possession of the room, he found that much more damage had been done by the fire than was at first anticipated. He had to cut out a great deal of the stone work, and to tear up the foundation. The foundation was not found sufficiently solid. The floor, instead of being made solid from the top of the arches up to the pavement, had been filled in with sand, rubbish, loose bricks, &c., and was by no means compact. It was necessary for him to dig down and remove that rubbish, in order to secure a solid foundation for the iron work, by which means the expense has been greatly increased beyond the first estimate. I have before me a statement of the architect in reference to these expenses, which will explain the necessity for this appropriation; and if the House desire it to be read, I will send it to the Clerk.

The letter was read by the Clerk, as follows:

ARCHITECT'S OFFICE, EX. U. S. C.,
WASHINGTON, *December* 28, 1852.

SIR: I find that there will be a deficiency of appropriation for the repair of the Congressional Library of $20,500, which has occurred in consequence of the injuries from the fire being greater than were at first supposed, and from the impossibility of estimating accurately the cost of so novel and difficult a work, as well as from a more expensive finish having been decided upon than was at first contemplated.

I find my estimate of quantities in the iron work to correspond very nearly with the actual amount of material used, but it was impossible to say with certainty what the prices would be until the bidders for the work had submitted their proposals. In order to show the uncertainty of the cost of so unusal a work, I subjoin a list of the aggregate of each of the bids, founded on the quantities ascertained by my own estimate, which, as before remarked, has proved to be substantially correct:

E. Corning & Co., Albany	$87,636
Theo. J. Gillies, New York	85,869
J. T. Ames, Boston	77,492
R. P. Lathrop, Albany	72,968
Jno. B. King & Co., Albany	72,851
Carnley, King & Co., Albany	72,646
Bogardus & Hopper, New York	72,518
Janes, Beebe & Co., New York	59,872

It will be observed that all the bids except the last, exceed the whole amount of the appropriation, and the difference between the highest and the lowest is $27,764. The lowest bid was accepted, and I have the satisfaction to say, that the work has been executed as well and as faithfully as it could have been done by any one.

The style of finish I propose to give to the work is as follows:

All the plain surfaces of the ceilings, both horizontal and vertical, to be gilded in *three* shades of gold leaf, so disposed as to give depth and effect to the panels. All the ornamental mouldings, pendants, and drops of the ceiling to be finished in gold bronze, and the prominent parts to be tipped with gold, burnished so as to produce a sparkling effect against the dead gold surfaces.

The large consoles to be painted in light bronze green tipped with gold bronze and burnished gold, for the purpose of giving relief to the fruits and foliage.

All the cases, the railings and the remaining iron work to be finished with light gold bronze, tipped on all the parts which receive the strongest light, with burnished gold.

The walls to be frescoed in ornamental panels corresponding with the rest of the work.

In the finish of this room, I desire to keep up the idea of the whole being composed of metal, which could not be done if other than metallic colors were used; and I think that the effect of the finish here proposed will be perfectly harmonious, and will impart to the room a brilliancy and richness consistent with its architecture.

The estimate here given is founded on this description of finish.

I am, sir, very respectfully, your obedient servant,
THO. U. WALTER,
Architect Repairing Congressional Library.

Hon. ALEX. H. H. STUART, *Secretary of the Interior.*

Mr. McMULLIN. I take it for granted that the committee will adopt the amendment. I only desire to say that this architect has not proved, to my mind, his worthiness of the station he now occupies. He has made a very wide mistake, not only upon this, but upon former occasions. I hope the time will come when we shall have more accurate calculations submitted to us.

The question was then taken on the amendment offered by Mr. STANTON, and it was agreed to.

Mr. DEAN. I propose to amend the clause of the bill which provides for finishing and keeping in order Lafayette Square, as follows: Add thereto, "For compensation to Clark Mills for erecting the equestrian statue of General Jackson, on Lafayette Square, $20,000."

Mr. HOUSTON. I rise to a question of order. It is this: that that appropriation is not in order to this bill. There is no authority of law for it, and it is not a deficiency.

Mr. DEAN. The bill to which I offer the amendment is a deficiency bill, and this amendment proposes to provide for work already done. We have the same——

Mr. GOODENOW. I submit the point that debate is not in order.

The CHAIRMAN. The Chair recollects that there was an appropriation of $5,000 last year. That, however, was for the pedestal of the monument.

Mr. DEAN. There was a law making an appropriation last year towards completing this monument. It makes no difference whether that was for the pedestal or for the statue itself.

Mr. HOUSTON. I understand that the Government gave cannon for the material, and gave the pedestal. There is no deficiency, so far as the compensation of the artist is concerned.

Mr. POLK. If it is in order for Congress to make an appropriation attached to a bill of this character, for the purpose of forming a pedestal, surely it is in order to make an appropriation to reward the artist for his genius. I cannot see the difference. One was in order, and was so entertained last session, and surely this is in order.

Mr. DEAN. This is merely to supply a deficiency.

The CHAIRMAN. The Chair has some doubts about the question, but will sustain the amendment as being in order.

Mr. GOODENOW. From that decision I take an appeal.

The question was then put: "Shall the decision of the Chair stand as the judgment of the House?" and it was decided in the negative.

So the decision of the Chair was overruled.

The Clerk resumed and progressed in the reading of the bill.

Mr. GORMAN. I offer an amendment to the clause providing for the completion of the Census, to come in at the end thereof.

The amendment was read, as follows:

Out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceases.

Mr. GORMAN. It will be remembered by those who have taken the pains to look at the controversy which arose between the Superintendent of the Census and a Senator, in regard to his salary, that it was contended that according to the law creating this Census Board, he, as Secretary of the Board, was entitled to a salary, and that according to the law subsequently passed, creating a Superintendent of the Census, that it would allow him to draw pay in two capacities. By the construction of the Comptroller his salary was $3,000, but by a law passed by the Senate at the last session of Congress, and by the House this session, he is enabled to draw only $2,500, although the salary was really $3,000. Thus, by a law which had in view only to prevent him from drawing pay in two capacities, he has been deprived of that $500 for some time.

The object of my amendment is only to correct, and make the law conform to its original intention, and to give to the Superintendent of the Census the salary originally allowed. If it passes he will draw pay in only one capacity, and will settle the controversy which has arisen between him and the Comptroller. He only wants the fixed salary of $3,000, which it was intended by law that he should have, and which was given him under law at first.

Mr. JONES, of Tennessee. At the second session of the Thirty-first Congress, a law was passed creating a Census Board, consisting of the Postmaster General, the Secretary of State, and the Attorney General, to make preparations for the taking of the Seventh Census, in framing blanks, &c. That Board, by the same law, was authorized to appoint a secretary, at a salary of $3,000 per annum. At the first session of the Thirty-first Congress, the law providing for the taking of the Seventh Census, and the creation of a Superintendent of the Census, at a salary of $2,500, was passed. The clerk of the Census Board, under the first law, was appointed the Superintendent of the Census. I understand that Board never had authority to meet after the passage of the law of 1850, providing for the taking of the census. Then, sir, it is said by some, that he claimed the salaries of both offices.

Mr. SWEETSER. Does the gentleman mean to say that he intended to commit fraud? I am authorized to say that he never attempted to get both of the salaries.

Mr. JONES. I do not say that he did, but I say that it was contended by some he was entitled to it. If I mistake not, opinions were given by some of the high functionaries of the Government that, perhaps, he was entitled to both. A law was passed at the last session providing that he should receive only one salary. A law which passed the Senate at the last session passed the House at the present session providing that, from the time he became the Superintendent of the Census, under the law of 1850 he should receive the salary fixed by that law, which was $2,500. I think that law was fair. He discharged the duties of the Superintendent of the Census as soon as that law was passed, and he should receive the salary attached to it. I believe he has received $3,000 per annum from that time till now, and if we do not pass some law on the subject he will have to reimburse the Government to the amount of $500 per annum, which is over and above the salary of Superin-

tendent of the Census as fixed by the law of 1850.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. I move to strike out the sum of $3,000 and to insert $3,001.

I think, Mr. Chairman, that the gentleman from Tennessee is mistaken in one or two views of this case which he has presented. The Census Board was not discontinued in 1850, as he states, and for which Mr. Kennedy was clerk, at a salary of $3,000. It is true, that while he was clerk of the Census Board, and while that Board was still in existence, as it was much later, as will be seen from the report of 1851, the appointment of Superintendent of the Census was conferred upon him because he was familiar with the duties of the office. He held both offices. Now, sir, I think that the gentleman from Tennessee made a very great mistake when he said Mr. Kennedy claimed both salaries.

Mr. JONES. I did not say that Mr. Kennedy claimed both salaries, but that it was contended by some that he was entitled to both.

Mr. STEPHENS. I will not argue the question, whether he was or was not.

Mr. JONES. I ask the gentleman whether an opinion was not given that he was entitled to both?

Mr. STEPHENS. It is very possible that there was such an opinion given. He held both offices, but he never claimed the salaries of both, even if he was entitled to both. He made his election to receive the salary of $3,000, and continued the discharge of the duties of both offices. Why, so far from Mr. Kennedy asking that which was not due him from the Treasury, if he had not been appointed Superintendent of the Census, but another man, we would have had a clerk of the Census Board at a salary of $3,000 and a Superintendent of the Census at a salary of $2,500 per annum. He, as I have already stated, discharged the duties of both offices, and claimed only the salary of $3,000.

Mr. JONES. I will ask the gentleman whether that Census Board ever met after Mr. Kennedy was appointed Superintendent of the Census until this question was raised in Congress during the last session?

Mr. STEPHENS. Yes, the Board met and made a report in December, 1851, which is among the documents accompanying the President's message at the opening of Congress. I have seen it, and from which it appeared that the duties assigned it were then being performed; that it was still in existence, and that Mr. Kennedy was its clerk. Their office nor their duties were *functus officio*.

Mr. TOOMBS. Was not the law creating a superintendency of the Census, intended to do away with that Board?

Mr. STEPHENS. It was not. That Board still continued to discharge its duties. There were duties prescribed for the Board in that very law, which were to go on and make arrangements and attend to the printing necessary to take the Census, for the final consolidation and publication.

Mr. PHELPS. No, sir.

Mr. STEPHENS. The whole matter, then, resolves itself into this: Whether, when there were two offices—one with a salary of $3,000, and the other with a salary of $2,500—and one man accepted and discharged the duties of both, and thereby saved the Government $2,500, he has the right to make an election and take the higher salary. The Attorney General and the Secretary of the Interior gave it as their opinion that he had that right; and it is now for us to say whether he shall have that salary or not.

[Here the hammer fell.]

Mr. SWEETSER. It seems that allusion has been made to the act passed at the present Congress which has involved this subject in difficulty. I recollect perfectly well, when the gentleman from Virginia [Mr. MEADE] proposed to put that bill upon its passage, that I rose to my feet and made objection, but subsequently withdrew it, the statement having been made that the proposition was introduced with the consent of Mr. Kennedy. I suppose that the House desires at this time to have little to do with the subject of meandering legislation. The plain practical question has been presented, whether Mr. Kennedy, who was employed by the Government at a salary of $3,000 as clerk to the Census Board, shall receive that salary until the duties of that office are completed or not. There is no one here claiming that he was not engaged at a salary of $3,000. He has from the time of his appointment up to the present moment discharged its duties in good faith, and whatever mistakes have occurred have been in consequence of meandering legislation here.

I suppose there is not a member present who is not willing to give Mr. Kennedy, up to the time that the public shall have advantage of his services, that annual salary of $3,000—the pay of a head of a bureau. That is what was intended, and this House are now appealed to to stand up and do right to this man, because if there be fault it does not lie at his door. He has done his duty, and the proposition now is, whether the Congress of the United States will pay him the salary at which he was engaged, or whether they will suffer intervening legislation to defraud him out of it. Since the act to which I have adverted was passed, a construction has been given it to the effect that Mr. Kennedy must refund $500 out of his salary of $3,000 for each year that he has received it since the passage of the act creating a Superintendent of the Census.

The Judiciary Committee committed the error; and as a member of this House, in order to correct that error, I appeal that justice be done this man—that he be paid the salary of the head of a bureau, and that legislation occurring here by common consent, induced by statements made upon this floor, be not permitted to defraud him out of it. I was cheated out of my vote on that subject, and intended, as far as I could, to retrieve that grievous wrong. I have sought the present occasion to do so.

Mr. STEPHENS. I withdraw my amendment if there be no objection.

There was no objection, and the amendment was withdrawn.

Mr. DUNHAM. I propose to reduce the amount five dollars.

Mr. Chairman, I have taken occasion to examine the law by which the Census Board was created, and the laws in regard to the taking of the Seventh Census, passed subsequently, and have no difficulty in coming to a proper conclusion on the subject. The law organizing the Census Board provided for the discharge of a particular duty, which was the preparation of interrogatories for the purpose of taking the Seventh Census, to be submitted at the next session of Congress. That was their only duty under that law, and, as a matter of course, whenever that duty was discharged, the Board became *functus officio*. There was nothing then for it to do, and it died of its own accord. I send the law to the Clerk's desk to be read, that the House may see that the position I take is correct.

The Clerk read as follows:

"That the Secretary of State, the Attorney General, and the Postmaster General, shall constitute and be a Board, to be styled the Census Board; that it shall be the duty of the said Board to prepare and cause to be printed, such forms and schedules for collecting in statistical tables, under proper heads, such information as to mines, agriculture, commerce, manufactures, education, and other topics as will exhibit a full view of the pursuits, industry, education, and resources of the country; it being provided that the number of said inquiries, exclusive of the enumeration, shall not exceed one hundred, and that the expense incurred in preparing and printing said forms and schedules shall not exceed $10,000."

The House will see that that Board was simply constituted to report to Congress the proper interrogatories under which the census was to be taken. They performed that duty, and at the next session, Congress treated that Board as having discharged its duty, and as being officially dead; and they then provided for taking the census. I hold in my hand the law which was then passed, creating the office of the Superintendent of Census, under which this officer was appointed, and which gave him a salary of $2,500. It reads as follows:

"And to enable him the better to discharge these duties, he is hereby authorized and required to appoint a suitable and competent person as Superintending Clerk, who shall, under his direction, have the general management of matters appertaining thereto, with the privilege of franking and receiving, free of charge, all official documents and letters connected therewith. And the said Secretary shall also appoint such clerks and other officers as may be necessary, from time to time, for the efficient management of said service. And the compensation to be allowed and paid to the officers connected with the Census Office, shall be as follows: For the Superintending Clerk, $2,500 per annum in full for his services; and for the assistants and clerks, the compensation usually paid for similar services, to be fixed and allowed by the Secretary of the Interior."

Mr. Chairman, it was under that clause of this law, that this man was appointed Superintendent of the Census, under which he has acted, and under which he has been paid. After examining this matter, and going on to discharge his duty, the Superintendent of the Census, or some one else, took it into his head that he could by his legerdemain fall back upon that old and expiring Board, resuscitate it, and get a higher salary than the law provided for under which he was appointed. The only duty that Census Board has done since that time, was to meet together, and resolve that they were still in existence, in order that this man might hold the office of Secretary, and thus, in this roundabout way, get the increased salary. I undertake to say that no gentleman upon this floor can show that the Board met for any other purpose, or to discharge any other duty, after the passage of the law for taking the census, than for the appointment of this man as Superintendent.

Mr. GORMAN. The gentleman did not seem to apprehend the point, or else I am in the dark as to the law. I understand that this Census Board was created, and that Mr. Kennedy was appointed the chief clerk, at $2,500. There was a Secretary of the Board originally by the law previous to the one read by my colleague, and the salary was fixed at $3,000. He was elected in a capacity where he would be entitled to $3,000. He was elected to take the salary of $3,000. The Comptroller of the Treasury decided that he was entitled to it, and he drew that sum. The gentleman from Virginia, [Mr. MEADE,] last session of Congress, introduced a resolution more immediately——

Mr. DUNHAM. I will put the gentleman right in regard to that matter. The very difficulty by which this matter came to Congress, was, as I understand it, because the Comptroller refused to pay.

Mr. GORMAN. The Comptroller of the Treasury did pay $3,000 for two years and a half; and now the gentleman from Virginia, [Mr. MEADE,] who was at the head of the Judiciary Committee, reported back the Senate bill this session, and had it passed through this House, its details not being considered at all. By the construction given to that law, this officer was to receive only $2,500; and now the Comptroller of the Treasury calls upon Mr. Kennedy to pay back $500 for two years and a half, which he has already received under the existing laws. These are the facts, as they appear upon the records of the Government.

Mr. DUNHAM Will the gentleman allow me a single word? I hold in my hand the law by which that man's salary was first fixed at $3,000. It was a law subsequent to rendering the service, and it reads in this manner:

"*And be it further enacted*, That for the purpose of carrying into effect this act, and defraying the preliminary expenses, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $150,000; out of which the said Secretary of the Interior may allow to the person employed as Secretary of the Census Board, a compensation after the rate of $3,000 per annum, during the period he has been in their employ."

The gentleman, or any one else, cannot find a law upon the statute-book for the time he has been acting as Superintendent of the Census Board, authorizing him to receive one single dollar, except as——

Mr. GORMAN. I make the declaration, and the record shows that I am right, that he did receive $3,000 per annum. If the gentleman will look at the recommendation of the Secretary of the Interior, he will find that the Secretary recommends that this amendment be made to the same law, so that he may be allowed his $3,000. The Secretary recommends it in his official report, and calls attention specially to it; and if this amendment is not passed, Mr. Kennedy must pay back $500 a year for two and a half years, according to the decision of the Comptroller. The Attorney General has decided that he is entitled to $3,000 a year. The Secretary of the Interior decided that he is entitled to $3,000 a year, and the Comptroller contends that he has a right to decide the question for himself, and that the Attorney General's opinion is not binding upon him; and, consequently, he has demanded and withheld his salary to the amount of $500 per annum for two and a half years. The Superintendent comes here now and asks to be relieved from paying back the $500 for two and a half years, which he has already received. I have it here upon his own statement, and I will place it upon record, so that he shall be responsible for it. I have it from the official report of the Secretary of the Interior, and from the statement made officially by the Comptroller of

the Treasury, that he has drawn this money; and unless you pass this amendment now, he will be compelled to pay it back.

Mr. DUNHAM. I would ask the gentleman to refer to the law under which this man's salary is $3,000. I challenge any one, I care not whether it be the Attorney General or any other person, to show any law by which that amount of money can be claimed by the Superintendent of the Census.

[Here the hammer fell.]

Mr. DUNHAM. If there be no objection, I will withdraw my amendment.

The question was then put on Mr. GORMAN's amendment, and on a division there were—ayes 68, noes not counted.

Mr. GORMAN demanded tellers; which were ordered; and Messrs. POLK and HENDRICKS were appointed.

The question was then taken, and the tellers reported that there were—ayes 68, noes 43; no quorum voting.

Mr. STUART moved that the committee rise.

Mr. SWEETSER. Let us have a recount, if there be no objection.

The tellers having resumed their places, the question was again taken, and there were—ayes 72, noes 48.

So the amendment was agreed to.

Mr. CHANDLER. I propose to amend the clause appropriating for the completing the census by striking out $25,000 and inserting $50,000. I do that because that is the sum asked for by the Secretary, as necessary to complete the work before we can publish it.

Mr. HOUSTON. Twenty-five thousand dollars is all that is asked for in this deficiency bill. We have given every dollar which the Secretary has asked for.

Mr. CHANDLER. Fifty thousand dollars is asked for in the Secretary's report.

Mr. HOUSTON. I do not speak of the Secretary's report, but his estimates sent to us to be put in the deficiency bill. His estimate was for $25,000, and we have put that sum in the bill.

Mr. CHANDLER. Then I may be mistaken, according to the gentleman's statement, and will withdraw my amendment.

The next section was then read, as follows:

"For stationery, printing blank forms and regulations, furniture, binding books, and miscellaneous items, in the office of the Commissioner of Pensions, $10,000."

Mr. RIDDLE. I propose the following amendment, to come in at the end of the section:

For engraving for fifty-one thousand five hundred and twenty copies of the mechanical part of the Patent Office Report for 1851-'2, $585.

Mr. HOUSTON. No one objects to it.

The question was then taken upon Mr. RIDDLE's amendment, and it was agreed to.

Mr. STANTON, of Kentucky. I offer the following amendment:

To pay for the Congressional Globe and Appendix, and the Annals of Congress, ordered for the use of the Congressional Library under the resolution of the House of September 28, 1850, $4,500.

It may be necessary to say, in explanation of the amendment, that on the 28th of September, 1850, a resolution was passed by the House, directing the Clerk to purchase from the publisher of the Globe and Appendix, and also from the publisher of the Annals of Congress, one hundred copies of those two works, to be placed in the Library for the use of the members of the House. Those works are still continued, and neither one of them is complete. The object of the resolution was to procure for the use of the House two complete sets of these works, and at least one hundred copies. I understand that the Annals of Congress will be completed when they reach the Eighteenth Congress, and there are some half a dozen or more volumes yet to finish the work.

Mr. STANLY. We cannot hear a word the gentleman says in this quarter.

Mr. STANTON. It is an unfortunate place I have, and I will try and get out of it as soon as possible. Last year the publisher of these works furnished the usual number of copies, and they are now in the Library. There is no money in the hands of the Clerk to pay for them. The object of this amendment is to place in his hands the amount of money necessary for that purpose.

Mr. JONES, of Tennessee. I did not hear the remarks of the gentleman from Kentucky [Mr. STANTON] who offered this amendment; but my recollection of that resolution is, that it does not authorize the Clerk to make any contract for books beyond those that were published at the time. I think—if my memory is not at fault—that it was you, Mr. Chairman, who offered the resolution—or perhaps, it was an amendment to a resolution that was pending—that the Clerk of the House purchase one hundred copies of the Congressional Globe and Appendix, and one hundred copies of Gales & Seaton's Register of Debates, including the Annals published also by Gales & Seaton, to be placed in the House Library—not in the Congressional Library—for the use of the members of the House.

Now, sir, I have no doubt that this amendment will pass, and perhaps it is right that it should; but I do not think that it is right for the Clerk or any other officer of this House, to make contracts and to purchase books until the House has ordered it to be done.

Mr. STANTON, of Kentucky. With the permission of the gentleman from Tennessee, I will make a very brief explanation. The resolution to which the gentleman refers was offered by me and adopted by the House. The object which I had in view at the time was to secure for the Library complete sets of the works in question—not imperfect sets—to be placed in the Library in order that members of Congress might be able, if they desired it, to take to their rooms full and complete sets of all the debates, and have them there for their use during the session.

Mr. JONES. I understand that perfectly well, and I am not complaining of it at all; but I say that the gentleman's resolution—since he says he offered it—did not provide for the purchase of a hundred copies at each and every session of Congress, and that being the case, the Clerk should have waited until Congress authorized him to purchase the subsequent copies.

Mr. STANTON. A word further, in explanation. The books are not furnished under a contract made by the Clerk of the House with the publishers, but they are furnished by the publishers under the resolution to which I have referred, which provides that the Clerk of the House shall procure and pay for, out of the contingent fund, complete copies of these works, to be placed in the Library.

Mr. HOUSTON. I would ask the gentleman whether the books have or have not been furnished?

Mr. STANTON. They have been furnished, and are now in the Library, and the object of this appropriation is to pay for them. It is asked for by the Clerk to pay a debt which has already been incurred.

Mr. STANLY. Is an amendment to the amendment in order?

The CHAIRMAN. It is.

Mr. STANLY. Then I desire to amend it in such a way as to furnish some four or five members with books, who have not yet been furnished with them. There are some gentlemen here who have been elected to supply vacancies occasioned by resignations, and others who have been sent here to fill vacancies caused by the deaths which have unfortunately taken place, and it is surely right that they should be put upon the same footing as other members.

Mr. LETCHER. I have prepared such an amendment, which I send to the gentleman.

Mr. STANLY. Well, sir, I will offer it.

The amendment was read, as follows:

To enable the Clerk of this House to furnish, pay for, and deliver the same books to five new members of the present Congress, as per resolution of this House, passed 26th July, 1852, $4,500.

Mr. JONES, of Tennessee. I would inquire of the gentleman from North Carolina what a set of these books, for one member, costs?

Mr. STANLY. I do not know.

Mr. JONES. Eight hundred and seventy dollars, I think.

Mr. STANLY. This amendment ought to be adopted, in justice to the five new members. But as to this whole business of the distribution of books, I am as much opposed to it as the gentleman from Tennessee can be.

Mr. JONES. Four thousand five hundred dollars for five sets, would be just $900 a set.

The question was then taken on the amendment to the amendment, and it was agreed to.

The question recurred upon the amendment as amended, and being put, it was decided in the affirmative.

So the amendment as amended was agreed to.

Mr. STANLY. If it is in order, I wish to submit an amendment, to provide that hereafter no books shall be furnished to a member of Congress except those published by the Congress of which he is a member.

The CHAIRMAN. The Chair doubts very much whether such an amendment would be in order.

Mr. STANLY. Very well, sir; then I will offer it upon some other occasion.

The Clerk then read the following clause of the bill:

"For the payment of the amount due William Williams, under the 16th section of the Cherokee treaty of 1835 and 1836, being the balance of an award of $405 by the commissioners under said treaty, $255 of which were paid out of the appropriation 'for carrying into effect the Cherokee treaty of 1835 and 1836,' $150."

Mr. BRENTON. I rise to ask the committee to pass over that clause informally. I have an amendment which I desire to offer, but I am not prepared with the estimates. It would come in appropriately here, and I therefore ask the unanimous consent of the committee to pass over the clause informally.

Mr. HOUSTON. This bill has been up in committee for two weeks, and I very much hope that we may be able to finish it this evening. I do not want, therefore, to have to go back when we get to the end of the bill. The gentleman has spoken to me about his amendment, and it can come in just as well to another bill, which will be up in a few days, as to this.

Mr. BRENTON. If there is any chance of getting through the bill to-day, I will not ask to defer action upon this clause; but I should like it to be passed over informally for the present.

The CHAIRMAN. The Chair will suggest to the gentleman from Indiana, that he will best attain his object by asking the unanimous consent of the committee to return to this clause, when the bill has been gone through.

Mr. BRENTON. Very well, sir. I will pursue that course.

Mr. STANTON, of Kentucky. I offer the following amendment:

To pay Gregory Ennis, executor of Phillip Ennis, deceased, balance due upon a contract for filling up the low ground south of the President's House, authorized by act of March 3, 1849, the sum of $474 54.

That amendment is made necessary by a deficiency in the appropriation made in the month of March, 1849, for filling up this low ground south of the President's House. Phillip Ennis made a contract for doing that work. Before he completed his contract, he was dismissed from service by the Commissioner of Public Buildings, and another plan adopted for the completion of the work. There was found due to him four hundred and seventy-four dollars and some cents; but the appropriation of that year was not sufficient for its payment. There is no doubt about the Government being indebted to him, because it is acknowledged upon all hands. I have letters of the Commissioner of Public Buildings, of the Surveyor, and of other officers, and they all certify to the fact that this much is due. Phillip Ennis has since died, and the debt is claimed by Gregory Ennis, his executor. The Committee on Public Buildings and Grounds have examined the claim, and are convinced of its correctness. That committee, in view of all the circumstances, thought the claimant entitled to interest from the time the work was done; but I have not included the interest in the amount. The sum named in the amendment is the actual principal of the debt, and no more.

The question was then taken, and the amendment was agreed to.

The Clerk then read the following clause, viz:

"For expenses which may be incurred in acknowledging the services of the masters and crews of foreign vessels in rescuing American citizens and American vessels from shipwreck, $2,000."

Mr. HOUSTON. Upon consultation, not with the Secretary of State, for he was not in, but with the Chief Clerk of the State Department, he suggested that it would be better to put a proviso to that section that the money shall be expended under the direction of the President of the United States. I therefore move to add these words:

Provided, That the money shall be expended under the direction of the President of the United States.

The question was put, and the amendment was agreed to.

The next and last clause of the bill was then read, as follows:

"For contingent expenses of House of Representatives, viz:

"For newspapers for members, five thousand dollars;

"For horses and carriages, one thousand one hundred dollars;

"For clerks, messengers, pages, and laborers, ten thousand five hundred dollars;

"For clerks on maps for the use of the Committee on Public Lands, seven thousand five hundred dollars;

"For folding documents for members, four thousand dollars;

"For clerks on index of private claims, twenty-eight thousand nine hundred and twelve dollars and fifty cents;

"For miscellaneous items, three thousand dollars."

Mr. HOUSTON. I move to amend the last item of that clause by striking out the word "three" and inserting "six" in lieu thereof. There are some miscellanies which I have not taken into view, and I think, therefore, that the amount had better be increased to six thousand dollars.

Mr. STANLY. I oppose that amendment for the purpose of calling the attention of the House and of the honorable chairman of the Committee on Ways and Means, to that item of the clause which relates to maps for the use of the Committee on Public Lands. I hope some gentleman will be able to give us some information upon that point. I understand that a great deal of money has been wasted upon these maps, and that when they have been prepared, they have been thrown aside as entirely useless, after costing some two or three thousand dollars. Perhaps, too, the Committee on Ways and Means, or the Committee on Accounts may be able to give us some information with reference to the clerks employed on the index of private claims. Many years ago, an honorable colleague of mine, not now a member of this House, asked for these clerks for a few months, and at another session of Congress they were asked for again for a few months; and so it has been going on for years, and they have not yet finished their business. Now our friends the Democrats are coming into power, and they will have full sweep of all the offices, and they can find places for these clerks at the other end of the avenue and thus save this much to the contingent fund.

Mr. HOUSTON. No doubt the latter part of the gentleman's advice will be, to a great extent, followed. It will, therefore, be traceable to him as a very influential member of the opposite political organization of the country, that he advised those coming into power to make removals.

Mr. STANLY. Oh, no; not at all.

Mr. HOUSTON. I agree with the gentleman from North Carolina, that these index clerks are an imposition upon the country. I believe they have been there too long, and that the index has cost a great deal too much. But I understand that the work is now nearly completed, and the Clerk of the House has sent in no estimate for it for the next fiscal year. So much on that subject.

With regard to the preparation of maps for the Committee on Public Lands, I wish to say to the gentleman from North Carolina, that the labor of the clerks so employed, when it ever is completed—but very little of it, it seems to me, ever is completed—is very valuable. I have made a personal examination into this subject, within the last ten days, and have had conferences with regard to it with the Commissioner of the Land Office, and other gentlemen connected with the land Department, and I am satisfied that these maps are vastly useful to the country when they are completed. They are of great importance, and should not be dispensed with.

Mr. JOHNSON, of Tennessee. I wish to ask the chairman of the Committee on Ways and Means a question, for the sake of information, which, perhaps, I should have asked sooner. I wish to ascertain how much that index of private claims has cost, up to the present time?

Mr. HOUSTON. I do not know, and therefore cannot answer the question.

Mr. McMULLIN. It has cost between twenty and thirty thousand dollars.

Mr. HOUSTON. I believe it is about that, but I do not know the precise amount. I was going on to say, when I was interrupted, that while I think that these maps are of great utility, and that they should not be dispensed with, I believe that the force at present in the Land Office can discharge all the duties of that office without an additional force for this purpose. I am willing to vote, and shall vote, to make no additional appropriation for clerks upon this particular branch of the public service. The proposition here is to give an amount of pay for this year. There is a deficiency, and it is necessary to pass this appropriation to continue the services of these clerks, and pay them for what they have done during the present year. After this, I am willing to dispense with them, and shall so vote.

Mr. FLORENCE. I move to amend the amendment proposed by the Committee on Ways and Means, by striking out the words "six thousand," and inserting "twenty-four thousand nine hundred and fifty."

Mr. Chairman, I offer that amendment, because that is the amount asked for by a communication, if I understand it correctly, made by the Clerk of the House to the Committee on Ways and Means. I do not mean to say that it is precisely the amount necessary to be appropriated, but I do mean to say—indeed, I can prove conclusively that it is the amount asked for, as absolutely necessary, and that it is in the sense in which it is generally understood, a deficiency. It is the practice, I believe, and has been for a long time, to make appropriations with a view to the contingent expenses which may accrue on account of the sickness and necessary detention of members, for boxes for members, and for other items which I have before me, amongst which are large sums now due. I will read the items and amounts, in order that the committee may be informed of the items for which this amendment has been proposed. I will read it, that it may be opposed or combated by others who know more of these matters than I do—though I have taken some pains to be correctly and particularly informed upon the subject.

The first item is for detention of members by sickness, $3,000, a part of which is now due. It has been the practice of the House, when any of its members have been detained for two or three weeks by sickness, the Sergeant-at-Arms or the Speaker, whichever has the authority to do it, pays their per diem up to the day they leave Washington. That has been the practice. I have no time to explain how it is or why it is that it is so. I presume the fact is already known to the House; if it is not I now communicate it, and if it is wrong it should be corrected.

The following is the list communicated by the Clerk, viz:

Detension of members by sickness, (a part now due)	$3,000 00
Funeral expenses of members	2,000 00
Boxes for members, (now being made)	2,000 00
Ice for hall and offices	800 00
Expenses of witnesses before committees	1,000 00
Hauling documents to post office	500 00
Expenses of special committees	1,800 00
Advertising list of appropriations, (now due)	2,500 00
Adverting list of appropriations, (next session)	2,500 00
Advertising proposals for stationery and coal	600 00
Purchasing Directories for members, (now due)	500 00
Small items, (for mats, brooms, matting, flags, &c.)	1,000 00
Twine for folding-room, (a part now due)	1,500 00
Paste for folding-room	250 00
For miscellaneous items	5,000 00
Making in all	$24,950 00

These boxes, I understand the Committee on Accounts have decided it is within the province of Congress to furnish. They are boxes for the books of the members.

Mr. STANLY. Will the gentleman from Pennsylvania inform me where he procured that statement?

Mr. FLORENCE. I got it at the Clerk's office. Of course the Clerk asked for the appropriations, and communicated his wish to the Committee on Ways and Means; but as he could not get it before the House through the Committee on Ways and Means, he could not have taken a better medium for it than myself. [Laughter.]

Mr. STANLY. No, he could not have taken a better medium than the gentleman from Pennsylvania.

Mr. FLORENCE. I do not mean to say that I could present the case as eloquently or effectively as other gentlemen; but I can present it as plainly.

Mr. STANLY. I have said nothing about the manner in which the gentleman has presented, or of what sort of a medium he is.

Mr. FLORENCE. I will suggest that I am not a spiritual medium. I had no allusion to that sort of medium.

Mr. STANLY. Then it seems that the gentleman from Pennsylvania is the medium and confidential friend of the Clerk of the House, through whom he makes his communications to this House. Here is the Committee on Ways and Means to whom this matter has been referred, and the chairman of that committee asks for an appropriation of $6,000, or whatever the amount is. But the Clerk gets his confidential medium to come here and ask for an appropriation of more than $24,000 for items of incidental expense, among which are expenses to be incurred hereafter, unknown and indescribable.

Mr. HOUSTON. I will state that the sum of $6,000 was fixed by the Committee on Ways and Means as an amount they deemed sufficient. The Clerk did not communicate that sum to them, but they thought it a reasonable amount.

Mr. STANLY. Well, it is a strange way to do business. This matter has been referred to the Committee on Ways and Means, who have investigated it, and report that they think $6,000 is sufficient. Yet the Clerk of the House, through his medium, comes here, and in the jumble and confusion of this committee, asks for $24,000, without being able to state any information of the reason for asking this amount. That will not do, sir. I think it is time to stop these medium communications. I think it is time to stop making these appropriations without knowing what they are for.

Mr. FLORENCE. I will tell you what they are for, if you will give me an opportunity.

Mr. STANLY. I understood the gentleman to say that there were items in the list he read, that he did not know what they were for.

Mr. STANTON, of Kentucky. Will the gentleman allow me to interrupt him, to ask a single question?

Mr. STANLY. You can do that after I get through.

My friend from Alabama, [Mr. HOUSTON,] the chairman of the Committee on Ways and Means, a while ago remarked that I had intimated that I was in favor of removals from office. Now, sir, I made no such intimation.

Mr. HOUSTON. O, that was only jocularly said.

Mr. STANLY. The gentleman says it was done jocularly. Well, then, let it go. I will merely remark, that I have interfered oftener to keep Democrats in office, within the last four years, than I shall to get Whigs appointed for forty years to come.

I do not approve of any such policy. I think we had much better save the money than to apply it as proposed for indexing. The honorable chairman of the Committee on Ways and Means remarked, that these whole expenditures for this indexing, was nothing but an imposition upon the House. Now, if this is the case, I call upon the House to look into the matter and correct the abuse. There is no reason why it should not be done. There is a Democratic majority of fifty in the House. The Democrats have the control of all the committees of the House, and there is no reason why they should not act in the matter. Mr. Chairman, I call upon both the Democratic and Whig members to say that these impositions upon the House, as admitted by the honorable chairman of the Ways and Means, shall be no longer sustained.

But I hope the committee will not have any further communications from the Clerk through this medium. Before we vote him $24,000, his medium must be able to tell us where it is going to.

Mr. FLORENCE. The gentleman says this is an imposition upon the House, and that the Clerk has selected me as his medium to communicate with the House.

Mr. STANLY. I quoted the gentleman's own language. He referred to himself as a medium.

Mr. FLORENCE. Now what is the position of this body with regard to this index matter? The House provided for this index some years ago, and, if my memory serves me right, when there was a Whig majority here, and when there was a Whig Speaker of the House.

Now, I have but a word to say of the appropri-

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ation I have asked for in this amendment. The money cannot be expended unless it is needed.

Mr. STANLY. As to this matter of indexing being originated by a Whig House, I will say the Whigs then had a man there for whom the place was made—a man by the name of Young—who was, in my opinion, very improperly removed by a Democratic Clerk. If that competent man had been retained in office, the work would have been completed; but he has been removed, and his place been filled by green hands, who know nothing of the work, and it progresses slowly.

The question was then taken upon Mr. Florence's amendment to make the appropriation $24,950, and it was not agreed to.

Mr. MASON. I move to increase the appropriation contained in the amendment of the gentleman from Pennsylvania one dollar, so that the clause will read:

For miscellaneous items, $24,951.

From what has been said by the gentleman from Alabama, [Mr. Houston,] I conclude that the Committee on Ways and Means did not take into consideration these various items. That committee at first made the appropriation $3,000, and now have raised it to $6,000, instead of $24,000, that being the sum asked for by the Clerk. In looking over these estimates, it seems to me that they have been made out from amounts which have been actually paid. Here is for detention of members for sickness, $3,000. Now, it has long been the custom of the House, when members are detained upon the road by accident or sickness, they are to be paid their *per diem*. There is a standing law of Congress to that effect. I take it for granted that these estimates are for a deficiency which has already occurred. We are continually allowing claims of this kind.

I see another item of $2,000, for the funeral expenses of members.

As I understand it, these expenses have already been incurred, and the accounts allowed. Now, Congress have allowed these various items by laws and resolutions directing the Clerk to expend these amounts. How can he pay them unless you appropriate the money? If the money is not appropriated, the Clerk cannot expend it. Is it reasonable that you should authorize and direct him to incur this expense, and then refuse to furnish the money to pay them?

Mr. HOUSTON. I wish to ask the gentleman from Kentucky one question. Does the gentleman say that there have been no expenses of this kind paid during the current year?

Mr. MASON. I understand this item is to supply a deficiency which has already occurred.

Mr. HOUSTON. But does the gentleman say that none of these contingent expenses have been paid during the current year?

Mr. MASON. No, sir; I understand they have been paid to a certain extent.

Mr. DUNHAM. I should like to ask one question. Does the gentleman from Kentucky assert, as chairman of the Committee on Accounts, that the amounts specified in the estimates presented by the gentleman from Pennsylvania [Mr. Florence] are now due?—that they have actually been incurred?

Mr. MASON. They are the estimates of the Clerk, as necessary to defray the deficiencies for the current year.

Mr. DUNHAM. But are they deficiencies which have already occurred, or those which he supposes may occur?

Mr. FLORENCE. A portion of them are now due, and the rest are anticipated.

Mr. STANLY. Will the gentleman from Kentucky allow me to ask a question, for I rely very much upon what he says in relation to this matter, and shall vote in accordance with what he says? Will he tell me how much this index of private claims is likely to cost, and what it will cost to print it if it is once made out?

Mr. MASON. That is a different subject. The gentleman knows that I made an ineffectual attempt at the last session to put a stop to that source of expenditure. A gentleman rose in his seat and offered a resolution to increase these clerks, and directing the Clerk to employ more and to continue them on, and it passed through the House almost by acclamation. Now, sir, I have condemned the whole thing, and I have been charged by my Democratic friends on this side of the House with going to the other side to try to get support there to a proposition to stop it. I found, when I went to that side of the House, that, as they candidly told me, they were stuck, for they started the thing, and they are so recorded on the Journal. It was a marvelously proper thing, and they put in this Mr. Young, a single individual, to finish the job. Subsequently the Democrats got anxious to have the index finished, and they added fifteen or twenty more clerks, [laughter,] and as I told the House last session, these clerks had no desk or bureau to make out their monthly accounts at. Many of these clerks have been at work. For all these things the House is responsible. The people send members from the different districts, and if they choose to squander the public money in this way I cannot stop it.

[Here the hammer fell.]

Mr. STUART. If the gentleman from Kentucky will allow me, I want him to go on and occupy my five minutes, and explain this matter to the House. If this is a contingency we ought to pass it.

Mr. JONES, of Tennessee. With the permission of the gentleman from Michigan, I wish to ask the gentleman from Kentucky [Mr. Mason] a question.

Mr. STUART. I hope the gentleman from Kentucky will not be interrupted. I should like to hear him go on with his connected statement. We may learn some facts, and if this is a deficiency we ought to pass it.

Mr. JONES. I wish to inquire of the gentleman from Kentucky, if these extra clerks—these map men, and these index clerks—do not occupy a place fixed up down below, to which to appoint men who are turned out at the other end of the avenue; and whether, when they were turned out there, they were not provided for here.

Mr. FLORENCE. If the gentleman from Kentucky will permit me, I want to say one word. I just want to call the attention of this committee to the fact that the proposition I made has nothing at all to do with the index clerks, and I do not stand up here to defend their employment or continuance. I do not care about it at all, and I want that perfectly and plainly understood. I have offered my amendment in good faith, because I believe it to be necessary, and I desire that the discussion may be confined to the amendment, and no one better understands it than the gentleman from Kentucky.

Mr. STUART. I call the gentleman from Pennsylvania to order. I want to hear from the gentleman from Kentucky how much of this item has been passed upon by the Committee on Ways and Means, and how much the House ought to appropriate.

Mr. MASON. Well, sir, as I before remarked, a gentleman known for his economy, and noted for it everywhere, offers a resolution to increase the number of these clerks. I was myself perfectly astounded, for at the same time the [committee were engaged in turning them out.

As to the men engaged upon the land maps, after the maps were finished, they, by some authority or other, were continued, and additional duties were created for them, and I believe they are on duty yet. The Committee on Accounts were unanimously of opinion that they should be discharged. But they were besieged and pressed upon in one way or another, and finally gave way, and I was found in the minority of the committee myself.

Now, in regard to the expenses of which the gentleman from Michigan, [Mr. Stuart,] inquires, I understand that this is the estimate of the Clerk of this House, for the deficiencies for the various purposes enumerated therein—one for paying members detained by sickness on the road or at home, which they are entitled to by law; and one for the funeral expenses of members. I understand there is a deficiency of $24,000 for the various items named in that bill, which the chairman of the Committee on Ways and Means has lumped at $3,000, instead of $24,000.

Mr. HOUSTON. I intended, in connection with the amendment I proposed, to offer upon my own responsibility, and not under direction of the Committee on Ways and Means, amendments covering one or two heads of the appropriation contained in this estimate. I intended, for instance, to ask the House to insert an amendment covering the item of boxes. I have already sent up an amendment covering the expense of contesting the seats of members.

Mr. MASON. The funeral expenses of members, which vary in amount from $1,000 to $10,000, and $15,000, are paid out of the contingent fund of the House.

The various items of the amendment offered by the gentleman from Pennsylvania [Mr. Florence] are mere estimates made out by the Clerk from deficiencies now before him, and which he has not funds in his hands to meet.

The fact is, these index clerks have been selling their pay for months past, and discounting it, as I understand it, with Mr. Corcoran. They also sell them to other men at a small discount. They have been obliged to sell their accounts during the session, there being a total deficiency of funds with which to pay any part of their salaries.

The gentleman asks how there came to be any deficiency? I understand it was in this way: The Committee on Ways and Means last year contended that the extra compensation to clerks and messengers was not right, and that it was not right to expect that the House of Representatives would pay twenty or thirty thousand dollars extra to the clerks, pages, and messengers. They therefore put in the appropriation bill the miscellaneous items, which the Clerk has consumed in paying this extra compensation ordered by the House. That left the deficiency in the item for paying the index clerks. They preferred getting $250 extra compensation in a lump, and agree to wait for their regular salaries.

[Here the hammer fell.]

The question then recurring on the amendment offered by Mr. Mason to the amendment proposed by Mr. Houston, it was put, and it was agreed to.

The question then recurring upon the amendment of Mr. Houston as amended, it was put, and the amendment was agreed to.

Mr. HAVEN. I send to the Clerk's table some amendments I desire to offer to the bill.

The amendments were read, as follows:

For paper used, and to be used for printing for the Senate, for the first session of the Thirty-second Congress, $13,234 40.

For paper used, and to be used for printing for the House of Representatives, for the first session of the Thirty-second Congress, $16,411 50.

For paper for the printing for the two Houses of Congress, for the second session of the Thirty-second Congress, being for the fiscal year ending the 30th of June, 1853, $104,064.

For compensation to the Superintendent of Public Printing, and the two clerks and messenger in his office, $4,376 33.

For blank books, advertising for proposals for paper, postage, &c., $1,550.

Mr. HAVEN. This is a very considerable item, and I have no desire that the committee should pass upon it without knowing what it is. The amendment is framed upon an estimate of the Superintendent of Printing for the paper that has been used and is to be used during this session of Congress, and up to the last of June, under the act passed last year in reference to the public printing.

The committee will remember that that act took away from the public printer, under the contract system, not only the printing, but also the purchase of paper, which the public printer was compelled by law, as it then stood, to furnish.

Now, in reference to the printing itself, the second section of the act passed last year, authorized the Superintendant of Printing to issue his certifi-

cate for the amount which he finds to be due to the printer, and declares that that shall be sufficient authority for the Treasurer to pay the amount he so certifies to be due—in other words, the certificate of the Superintendent is an appropriation, in fact, by the second section of the law, for the printing itself.

As to the paper, no appropriation has been made by law, nor is there any provision in reference to the certificate of the Superintendent being a sufficient authority to the Treasurer to pay it. Now, there was the printing of the Senate, which was ordered at the last session, of various documents, books, and works, which the first clause of the amendment I offered, being $13,234 40, is intended to provide for.

The next item of $16,000 is the same in reference to the printing for the House. I will give the House an instance of the kind of printing, already ordered, which we have to furnish paper for. There was the Coast Survey; there was the printing of one hundred thousand copies of the agricultural part of the Patent Office Report, and fifty thousand copies of the mechanical part of the same. The printing of those is to be done by the present printer, and the paper is to be furnished by the Superintendent for them, and other like jobs which are being executed.

The third item of $104,000 is the estimate which the Superintendent sends in, and is for paper which is necessary for the printing for both Houses of Congress during this session.

The other item is for the compensation of the Superintendent himself, and of the clerks and messengers, whose appointment was authorized by the joint resolution passed a few days since, and for advertising as provided by law.

Altogether it is a large item—nearly $134,000. These are the reasons why the items are offered here. It will be seen that they all come within the operations of this year. The estimate was submitted to the House, and on my motion was referred to the Committee on Ways and Means. The chairman of that committee tells me that he has not drawn the provision in pursuance of the estimate, inasmuch as it legitimately belongs to the committee of which I am a member. I have drawn the amendment, and made this brief explanation, that the House may know on what it is voting.

Mr. CARTTER. The amendment which has been proposed by the honorable member from New York, is one of considerable consequence, and as an adjournment will give us all an opportunity to investigate it, I move that the committee do now rise.

Mr. HOUSTON. Let us get through with the bill.

The question was taken, and the motion was agreed to.

The SPEAKER having resumed the chair, the chairman (Mr. BROWN, of Mississippi,) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 335, "to supply deficiencies in appropriations for the fiscal year ending June 30th, 1853, and had come to no resolution thereon.

Mr. STUART. Inasmuch as the House have set apart two days, now near at hand, for the consideration of territorial business, I ask leave to report, from the Committee on Territories, "A bill to establish the territorial government of Columbia," that it may be printed, and be before members when it comes up for action.

There was no objection, and the bill was reported, read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. McMULLIN. I move that the House do now adjourn.

The question was taken, and the motion was agreed to.

The House thereupon adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. SCHOONMAKER: The petition of the heirs of John Winans, praying for the allowance of commutation pay in consideration of the services of the said Winans during the revolutionary war.

By Mr. HENN: The petition of H. Tucker and 51 others, citizens of Decatur county, Iowa, asking for a donation of certain tracts of land on which the county seat of said county is situated.

By Mr. VENABLE: The petition of the workingmen of the Washington navy yard, for increase of pay.

By Mr. HAMILTON: The petition of Martin J. Adams and others, for the establishment of a post route from Cumberland, Maryland, to Robinsonville, Pennsylvania.

By Mr. DAWSON: The petition of citizens of Allegany county, Pennsylvania, in favor of the construction of a railroad through the wilderness leading from Detroit across the peninsula of Michigan to Marquette Bay, Michigan, and from Manitoowoc to Kewana Point, upon Lake Superior, with a branch to the Ontonagon river, and also a branch to Iron Bay, and praying for a grant of land in aid of such objects.

By Mr. SCUDDER: The petition of J. C. Delano and others, of New Bedford, asking that the hospital tax upon seamen may be abolished; that measures may be taken for the establishment of naval schools for the education of young men for the mercantile marine; and that the law requiring two thirds of all crews of American ships to be United States citizens may be repealed.

By Mr. SCHERMERHORN: A memorial for a private charter, asked for by Dr. Hartwell Carver and his associates, to build a railroad from some point on the Mississippi or Missouri rivers, or from Lake Michigan to the Pacific ocean.

IN SENATE.

WEDNESDAY, *January* 26, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, transmitting a communication from the First Comptroller of the Treasury, relative to the classification of clerks; which was referred to the Committee on Finance.

PETITIONS, ETC.

Mr. DOWNS presented the petition of William H. Henderson, praying the confirmation of the title to a tract of land purchased by him and Robert Henderson, deceased, within the Bastrop grant; which was referred to the Committee on Private Land Claims.

Also, a petition of David Steuart, praying the confirmation of his title to certain land within the Bastrop grant; which was referred to the Committee on Private Land Claims.

Also, the petition of Charles H. Morrison, praying the confirmation of his title to a tract of land within the Bastrop grant; which was referred to the Committee on Private Land Claims.

Also, the remonstrance of C. G. Hale and others, against the confirmation of the Wicks claim to certain lands purchased by them in the parish of West Feliciana, Louisiana; which was referred to the Committee on Private Land Claims.

Also, a petition of citizens of the parish of Anachila, Louisiana, praying to be allowed further time to establish their rights of preëmption; which was referred to the Committee on Public Lands.

Mr. SUMNER. I present the petition of Charles Folsom, and other inhabitants of the city of Boston and county of Suffolk, in the State of Massachusetts, in favor of cheap ocean postage, in which they ask Congress to reduce the present burdensome rates of ocean postage to a uniform rate of two cents prepaid, for every half ounce, to which may be added the inland postage as now required by law. I move the reference of this petition to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. SEWARD. I present the petition of the Mayor of Brooklyn, ex-members of Congress, and other prominent citizens of that place, praying for the passage of a law authorizing a contract to be made with Christian Hansen for carrying the mails of the United States between Brooklyn and Glückstadt, and between Kiel and St. Petersburg. Also, a similar petition of German adopted citizens of the city of New York; and a similar petition of adopted citizens from Sweden, Denmark, and Norway, residing in New York and Brooklyn. I move that these petitions be referred to the Committee on the Post Office and Post Roads.

The motion was agreed to.

Mr. SEWARD also presented the petition of Simeon Draper, praying that a register may be issued for the steamship Albatross; which was referred to the Committee on Commerce.

Also, a petition of the heirs-at-law of John Morgan, director general and physician-in-chief of the American hospitals during the revolutionary war, praying to be allowed the commutation pay and bounty land to which said Morgan would have been entitled had he served to the close of the war; which was referred to the Committee on Revolutionary Claims.

Mr. COOPER presented the memorial of John W. Glover and others, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Also, a memorial of George Beatty and others, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. FELCH presented the petition of Ephraim Gilman, draughtsman in the General Land Office, praying to be allowed an amount equal to the compensation he would have received had his compensation not been reduced; which was referred to the Committee on Public Lands.

Mr. SMITH. I am desired to present a petition of Green Kendrick and sundry citizens of Waterbury, Connecticut, most of whom are now engaged in mining for copper on Kewana Point, upon Lake Superior, praying a grant of land to aid in the construction of a railroad from Detroit to Marquette Bay, and from Manitoowoc to Kewana Point, upon Lake Superior, with branches to the Ontonagon river and Iron Bay. I move its reference to the Committee on Public Lands.

The motion was agreed to.

Mr. CASS presented the memorial of Elvira F. Smith, widow of an officer who died in the late war with Mexico, praying that the pension she now receives may be continued; which was referred to the Committee on Pensions.

Mr. SHIELDS presented the petition of F. W. Brookes and others, praying the removal of the bar at the mouth of Calmut river; which was referred to the Committee on Commerce.

Also, the petition of A. Klein, who was disabled in the late war with Mexico; which was referred to the Committee on Pensions.

STEAMER EDITH.

Mr. HAMLIN. Mr. President, at the last session of Congress there was a report of the Secretary of the Navy, relating to a court of inquiry as to the loss of the United States steamer Edith. I move that those papers be taken from the files of the Senate, for the purpose of having them referred to the Naval Committee of the House, where the question is now pending, and they want the evidence.

The motion was agreed to.

WAREHOUSING SYSTEM.

Mr. HUNTER. I gave notice yesterday that I would ask the Senate this morning to take up the bill "to extend the provisions of the warehousing system by establishing private bonded warehouses, and for other purposes," but I believe the Senator from Massachusetts is not now quite ready, and I therefore ask him to indicate an early day when he will be ready to present his views upon the subject.

Mr. DAVIS. I will name Monday next.

Mr. HUNTER. Then I give notice that I shall on that day ask the Senate to take up the bill.

WITHDRAWAL OF PAPERS.

Mr. COOPER. I ask leave of the Senate to withdraw the papers in the case of Evelina Porter, widow of Commodore Porter, with a view to withdraw her claim entirely. There has been no report made, and she desires to withdraw the claim.

Mr. GWIN. Those papers are now under the consideration of the Committee on Naval Affairs, and it seems to me that it would be better to allow that committee to act upon the question.

Mr. COOPER. I understood that the subject was before the Committee on Naval Affairs, but the lady has just now called upon me, and desired me to ask for the withdrawal of the papers in the case, with a view of ultimately withdrawing her claim altogether.

Mr. GWIN. I withdraw my objection.

The motion to discharge the Committee on Naval Affairs and grant leave to withdraw the papers, was agreed to.

REPORTS FROM STANDING COMMITTEES.

Mr. WALKER, from the Committee on Indian Affairs, to which was referred the bill to confer on John W. Quinney, a member of the Stockbridge tribe of Indians, the right of citizenship of the United States, and for other purposes, with the

amendments of the House of Representatives, reported thereon.

The Senate proceeded to consider the amendments of the House of Representatives to the said bill, and concurred therein.

PROSECUTION OF SUITS BY HEIRS OF DECEASED PARTIES.

Mr. BADGER. I am directed by the Committee on the Judiciary, to which was referred the bill to "authorize the heirs of a deceased party to a suit to prosecute the suit," to report the bill back, with an amendment in the nature of a substitute. It is a matter of some importance, and one which I apprehend will lead to no division of opinion in the Senate. I should therefore be glad if the Senate would now proceed to consider it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to enact, that in all real and mixed actions which are or may be pending in any court of the United States, if the demandant shall die before final judgment, his heirs or devisees may, at the same term of the court when the death is suggested, or within such time as the court shall allow, appear to prosecute the suit in the same manner as if it had orginally been commenced by him or them.

The committee propose to strike out all of the bill after the enacting clause, and insert the following:

"That the provisions of section thirty-one of the act passed in the year 1789, entitled 'An act to establish the judicial courts of the United States,' shall hereafter extend to all real and mixed actions pending in any court of the United States, and the heir or heirs of the party thereto dying before the final judgment, shall have the same rights and be subject to the like duties as the executor or administrator in the cases therein provided for."

Mr. BADGER. I wish to say a few words, simply in explanation of the bill, and I think the Senate will then perceive that there can be no objection to it. Under the thirty-first section of the judiciary act, provision is made by law for reviving personal actions in behalf of the executor or administrator of a deceased plaintiff, and against an executor or administrator of a deceased defendant; but there is no provision made in the case of real actions to revive prosecution at the instance of the heirs of a deceased demandant, or against the heirs of a deceased defendant; and the object of this bill is to extend the provision now made by law in relation to personal actions to real and mixed actions.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, read a third time, and passed; and on motion by Mr. BADGER, its title was amended so as to read: "A bill to extend to real and mixed actions the provisions of the thirty-first section of the judiciary act."

EXTENSION OF THE JUDICIAL SYSTEM.

Mr. BUTLER. A resolution was referred to the Committee on the Judiciary, directing them to inquire into the expediency of providing by law for the appointment of an associate judge of the Supreme Court of the United States for a new circuit, to be composed of the State of California and the Territory of Oregon, and that committee have instructed me to ask to be discharged from the further consideration of the subject. We make this request, not because we do not feel inclined—for, in fact, I might be entirely willing to do so—to report such a bill; but I am instructed to say that the whole subject of the reorganization of the Federal courts is now before the committee, and not having time to mature such a system, or prepare such a bill at this session as we think ought to be framed to come up to the demands of the country, I am instructed to ask to be discharged from the further consideration of the subject until the next session.

Mr. GWIN. I am very sorry that the committee has not deemed it proper to mature that bill. It is a subject of the greatest possible importance to my constituents, because we have but one judge of the United States now in California. He is occupied constantly, and in the event of his death, justice would be entirely suspended there so far as the United States courts are concerned. I regret very much that, notwithstanding the vigilance of that committee, and its great energy in regard to the judiciary, it has not found time to act on the subject.

Mr. BUTLER. I assure the honorable Senator from California that we had every inclination, both on his account and on account of his State, to act upon the subject, and report such a bill. But there are many other States in the same condition; and when we reorganize the system—for the necessities of the country compel us to do so, otherwise it will be an impracticable one—and when we take the whole subject into consideration, I can assure the honorable Senator that, in my opinion, he will have a judge for his State.

The motion to discharge the committee was agreed to.

FEE BILL.

Mr. BRADBURY. I am instructed by the Committee on the Judiciary, to which was referred the bill from the House of Representatives "to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes," to report the same with sundry amendments. The amendments are not of such a character as materially to change the character of the bill; and I shall not, therefore, ask that they be printed, but I give notice that I shall insist on an early consideration of the bill.

Mr. GWIN. I hope the amendments will be printed, so that we can have them before us, and know what they are.

Several SENATORS. Let them be printed.

Mr. BRADBURY. Then I move that the amendments be printed.

The motion was agreed to.

CASE OF THE BRIG KATE BOYD.

Mr. DAVIS. I am instructed by the Committee on Commerce to report a joint resolution "for the relief of the owners of the brig Kate Boyd," and I ask that it may be considered at this time.

The resolution was read a first and second time, by unanimous consent, and the Senate proceeded to consider it as in Committee of the Whole. It proposes to refer to the Secretary of State and Attorney General, for adjustment, the petition and papers of the owners of the brig Kate Boyd, formerly owned chiefly by Gregorson and Sumner, of Boston, praying for indemnity for losses sustained in consequence of her seizure at New York by the district attorney, under authority from the President; and that the Secretary of the Treasury cause to be paid whatever allowance may be made by those officers.

Mr. DAVIS. If any explanation is desired, I will make it.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

BANKING IN THE DISTRICT OF COLUMBIA.

Mr. FISH. I ask the unanimous consent of the Senate to introduce at this time, previous notice not having been given, a bill "to authorize the 'business of banking in the District of Columbia, 'and to regulate the issuing and circulation of notes 'as money.'" I introduced at the last session a bill of a similar title, and for the same general purpose, but I have found it expedient to make several alterations in it, and therefore, if there be no objection, I desire now to introduce this bill.

There being no objection, the bill was read a first and second time, and referred to the Committee on the District of Columbia.

UNITED STATES MINTS.

Mr. GWIN, by unanimous consent, asked and obtained leave to bring in a bill for the better regulation of the Mints, and to secure the conformity of coins to their respective standards; which was read a first and second time by its title, and referred to the Committee on Finance.

On motion by Mr. GWIN, the bill was ordered to be printed.

LAWS OF THE UNITED STATES.

Mr. CHASE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of subscribing for one thousand copies of Eli S. Tappan's edition of the Laws of the United States now in force.

LUCIE ANN GARNER.

Mr. ADAMS. I ask the unanimous consent of the Senate to allow me to refer to the Committee on Pensions, the petition and papers in the case of the application of Lucie Ann Garner for a pension, now on the files of the Senate. An adverse report was made at the last session, in consequence of the committee deeming it impolitic to extend the pension privileges. Since that time a number of pensions have been granted upon grounds very similar, I think, to those contained in this application, and therefore as a precedent has been set. I ask the unanimous consent of the Senate to refer the papers to that committee.

There being no objection, the motion was agreed to.

ORDER OF BUSINESS.

Mr. MANGUM. I move that the Senate proceed to the consideration of the first special order, being the unfinished business of yesterday, "the 'joint resolution declaratory of the views of the 'United States respecting the colonization of the 'North American continent by European Powers, 'and respecting the Island of Cuba."

Mr. GWIN. Does that supersede the Pacific railroad bill?

The PRESIDENT. It is the unfinished business of yesterday, and therefore is the first special order.

Mr. GWIN. I cannot agree to give way day after day. I conceive it to be my duty to insist on the Pacific railroad bill being taken up. I know the anxiety which gentlemen have to discuss this other question, and I know it is important; but I should look upon myself as not fulfilling my duty, if I did not insist upon the discussion going on upon the Pacific railroad bill. It was understood, a few days ago, that it was to be kept before the Senate for discussion, while the Select Committee which was appointed upon another similar bill should be engaged in their duties, and the object was, that that committee might avail themselves of the discussions of the Senate in maturing a proper bill. If we have no discussion here, how can the committee be prepared to report a measure? I hope that the bill to which I allude will not be longer postponed.

Mr. MANGUM. I perfectly concur with the honorable Senator from California, that the bill to which he refers is a great deal more important than this joint resolution; but both sides ought to be heard before the country upon the latter, and I think that if it be taken up there will be no discussion upon it after an hour or two, certainly none during the rest of this week. Then I shall go with the Senator for taking up his bill at any and all times; but I hope the Senate will proceed to the consideration of the unfinished business, and allow both sides to be heard.

Mr. DODGE, of Iowa. Do I understand the Chair to decide that the unfinished business takes precedence over all other special orders?

The PRESIDENT. That is certainly the opinion of the Chair, and the language of the rule; but the morning hour has not yet expired, and therefore the motion is in order without raising that question.

Mr. DODGE, of Iowa. I wish to call the attention of the Senate to the fact, that this day was set apart for the consideration of the homestead bill. I do not know exactly what the unfinished business is, for I was not in the Senate yesterday at the time of adjournment; but I wish to make a proposition to my friend from North Carolina for a compromise in regard to this matter, for he and I are both good compromise men. I am one of the last who would interpose any objection to any Senator who wishes to do so, and who is prepared, addressing the Senate, and I would extend every possible courtesy to the Senator from New York, or any other gentleman; but I wish to ask it as a favor of the Senate that they will proceed to the consideration of the homestead bill. At least let us take it up, and let Senators who are to address the Senate for or against it, indicate some time at which they will be ready to do so, and allow me to lay before the Senate informally some amendments which have been suggested by the Commissioner of the General Land Office. It will take me but a few minutes to do so, and then I will agree to lay the bill over to any time which may be suggested by the honorable Senator from Kentucky, and the honorable Senator from Tennessee—the former of whom wishes to speak in opposition to it, and the latter in its favor.

Mr. MANGUM. I am willing to accede to the wish of the honorable Senator, and withdraw my motion, that he may mention his own time for the consideration of the homestead bill.

Mr. DODGE, of Iowa. I will let the honorable Senator from Kentucky indicate that, as soon the Senate takes it up.

HOMESTEAD BILL.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives "to encourage agriculture, commerce, manufactures, and all other branches of industry, by granting to every man, who is the head of a family, and a citizen of the United States, a homestead of one hundred and sixty acres of land, out of the public domain, upon condition of occupancy and cultivation of the same for the period herein specified."

Mr. DODGE, of Iowa. I hold in my hand several amendments, which have been suggested by the Commissioner of the General Land Office. I ask that they may be received informally, and ordered to be printed. I also move that the usual number of the bill, with these amendments, be printed.

The motion was agreed to.

Mr. UNDERWOOD. I wish to move now the postponement of the bill till Tuesday or Wednesday next. I will leave it to my friend from Iowa to fix the precise day.

Mr. GWIN. Suppose we say to-morrow week.

Mr. DODGE, of Iowa. As I understand my friend from California to be a friend to this bill, and as ready to struggle and do battle for it as I am, I am willing to agree to his suggestion.

Mr. GWIN. I suggested to-morrow week, because I wish by that time to have the Pacific railroad bill out of the way, and when that shall be done, I will help the Senator with all the power I can.

The motion to postpone the further consideration of the bill till Thursday week was agreed to.

COLONIZATION IN NORTH AMERICA.

On motion by Mr. MANGUM, the Senate resumed, as in Committee of the Whole, the consideration of the joint resolution declaratory of the views of the United States respecting colonization on the North American continent by European Powers, and respecting the Island of Cuba.

Mr. SEWARD rose and addressed the Senate at length, in the course of his remarks vindicating the memory of John Quincy Adams from aspersions cast upon it by the Senator from Michigan, [Mr. CASS.]

Mr. CASS replied, defending the comments made by him in 1850, on the diary of Mr. Adams.

The debate was further continued by Messrs. MALLORY, GWIN, HALE, SEWARD, MASON, UNDERWOOD, SHIELDS, BUTLER, DAVIS, DAWSON, MANGUM, and others, (for which see Appendix;) and, without any question being taken, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *January* 26, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the question of rejection of the bill to establish a branch of the Mint of the United States in the city of New York, on which the gentleman from New York [Mr. BROOKS] is entitled to the floor.

Mr. MOORE, of Louisiana. I ask the unanimous consent of the House for leave to have taken from the table and referred, two bills of very great importance to several towns in the State of Louisiana. One is, No. 575, to confirm certain land claims in the Bastrop grant; and the other is to give a preëmption right to settlers on other large grants of a like nature.

Mr. BROOKS. I have no objection if the time they occupy be not taken out of the morning hour.

Mr. STUART. I object if the time be not deducted from the morning hour.

The SPEAKER. Then the Chair understands the proposition of the gentleman is objected to.

Mr. BROOKS then concluded his speech commenced yesterday. His remarks on both occasions follow:

Mr. BROOKS. I do not know that I have ever before risen to address this House, or any public body, with a profound sense of mortification such as I feel on rising now. What is the spectacle here presented? Two great and powerful Commonwealths of this Union appear before the two Houses of Congress, struggling for what? For any great object of national renown? For anything which is calculated to add to their own fame, and to their common glory? No. I regret to say no; but for what is at the best a mere manufactory, an humble blacksmith's shop, and two Representatives from two great cities throwing away the ancient stylus in which both were trained in other schools, appear here with trenchant blades as gladiators upon the arena of this House, apparently for the public amusement of lookers-on. When I say to the honorable gentleman from Pennsylvania, [Mr. CHANDLER,] who manifests so much repugnance to this bill, that the Mint is nothing but a mere ornament to Philadelphia, nothing in comparison with the iron and coal for which Pennsylvania is so renowned—and for which we all pay so much tribute to her—when I say that it is nothing to her but a bauble, I must add that it is yet more than a bauble to us, for coinage is to the seat of commerce and exchanges the very tools of their trade, as indispensable to them as the ax to the shipwright, or the hammer to the carpenter. However this may be, the subject is not worth the excitement. It is not worth the bad feeling which it generates between the two great cities, and the two great Commonwealths in which they are.

"Non nodus dignus vindice."

Nevertheless, the honorable gentleman from Pennsylvania, without any consideration for the committee whence this bill came,—without any respect for the courtesies and customs of this House, at the earliest moment interposed himself between me and you, Mr. Speaker, and by some parliamentary legerdemain, the like of which I have never known in the Halls of Congress, or during many years' observation without, he contrived to oust me from the floor, and to stand himself on. Sir, I have heard much of spiritual rappers and spiritual rappings, of tables, too, moving under spiritual impulses—as to all of which I have been incredulous; but to this I must bear testimony now, that the honorable gentleman, by some *hocus pocus*, spirited me off the floor, and spirited himself on. I found myself of a sudden, he being the medium, lifted off from my position here, and the medium standing in my place. By this process, sir, he thoroughly succeeded, for the time, in disarming my batteries, and in opening upon my bill his own. I should be more than mortal if I did not entertain some feeling because of such an extraordinary operation upon myself.

The *animus* of the honorable gentleman from Pennsylvania in making this motion, should be fully comprehended by the House. He supposed that by taking the floor from me, within the morning hour, he would be able to throw this bill upon the Speaker's table; and when any bill is thrown upon your table, sir, we all know it is almost hopeless to attempt to rescue it from the mass of rubbish that surround you. The only wonder is, that even your comely form and well-developed proportions, enable you to rescue yourself from the bills upon your table; and if the bills continue to accumulate there much longer, even that may be impossible, and you may consider yourself as lost.

Sir, no motion is more extraordinary, upon the introduction of a bill, than this proposition to reject without a reading. It seldom or ever is made by any member—certainly not upon any bill introduced from a committee which occupies such a high position in this House as the Ways and Means Committee necessarily does, from the great interests intrusted to its care. And yet the gentleman from Pennsylvania made use of this proposition, seldom or ever used within the walls of this House, even to prevent this bill from being introduced—from being read—from being considered at all. Sir, the like of the thing, in a similar case, was never known before. He could not have offered to do more, if, instead of being an organ of a distinguished committee of this House, I myself had been some Shakspearian Sycorax, littering the House with some

"Freckled whelp, hag-born"

Caliban—

"That poisonous slave, got by the Devil himself."

The arguments of the honorable gentleman from Pennsylvania were characteristic of his *modus operandi*. It is difficult—it is impossible to *answer* that species of argument, if it may be dignified by that name, which he introduced to the notice of the House. The whole of his address, I must be pardoned for saying, was one of those pointless declamations, one of those aerial nothings, which the more you attempt to grasp, the more it becomes impossible, because you cannot wrestle with the air. The sum and substance of it, however, was a denunciation of the city which I have the honor in part to represent. The sum and substance an attempt to create prejudice in this House, and to appeal to the passions of members here, in order to excite them against the city which I in part represent, if possible, thus to save this bauble of a Mint for the city whence he comes. His address divided itself into two parts—rhetorical and logical. The rhetoric I propose first to answer, and then what is called logic, I shall proceed in order to consider. Sir, this rhetoric, it is difficult properly to describe; but what was it else than a general denunciation of the city of New York? The honorable gentleman spoke of that city as an eleemosynary, demanding eleemosynary dollars from the two Houses of Congress. He spoke of its "rapacity"—its "longing rapacity." He denounced it as a city, constantly uttering here the horse-leech cry of "Give! give! give!" He ended his paragraph with a general denunciation of the "British bankers and brokers" concentrated there; and to give effect to, and to season the whole, he made a general charge, as I understood him, of intended bribery outside of this House to influence the members within. What peculiar propensity of the nostrils of those bribing gentlemen led them to the gentleman from Pennsylvania to give him this information, I leave him to settle with them. No such gentlemen ever approached me, or gave me such information, and——

Mr. CHANDLER, (asking for the right to the floor.) One word. I did not say they approached me, but I wish to read an article from a New York paper——

Mr. BROOKS. The honorable gentleman must expect no courtesy from me, because he took the floor from me the other morning to reject my bill, without a hearing, without a reading even.

Mr. CHANDLER. I ask no courtesy. I merely want to read an article from a New York paper.

Mr. BROOKS. I decline to yield the floor. The honorable gentleman from Pennsylvania, by an extraordinary parliamentary motion, took the floor from me when I was about to address the House, and I owe him no courtesy which requires me to give him an opportunity to interpolate a speech within my own. It is a bad practice at best, and although one which I often yield to, I decline to do it upon the present occasion. Sir, this sort of rhetoric by which the honorable gentleman attempted to prejudice this House against my constituents, it is difficult to speak of within the bounds of parliamentary decorum, or to describe in language proper to be used within the walls of this House. I know not what to say of it. I know not what proper reply to make. I will, therefore, only say that it was ill-fitted for the marble pillars and Corinthian columns of this Capitol, but far better fitted for the purlieus of Newgate, Cripplegate, or Billingsgate, than here.

The logic of the gentleman was necessarily in sympathy with such rhetoric as this; and it is almost equally difficult to grasp it, and quite as difficult to answer it. The argument of most weight which he brought forward, was the alleged competency of the Philadelphia Mint to do all the work that is offered it. Now, I do not deny the competency of any Mint to do any amount of work, if you will give it money enough to expend. Let the Congress of the United States annually appropriate money enough for a Mint, though it be on the Green Mountains, or the Sierra Nevada, or Mount Washington, in New Hampshire, it will have ample competency to coin all the money which may be deposited there. Competency may be acquired despite location and convenience by a sufficient outlay of expense. But I deny that there is this competency in the Mint at Philadelphia to coin the gold that is now coming from California—to coin it fairly, without resort to tricks, or to extraordinary expenditures at depositors' expense. Under a demand for a branch Mint in New York, we have been at times able to spur the Philadelphia Mint into activity; but that activity has been obtained at such sacrifices as our depositors could ill afford to make.

About two years ago, when this demand was

the loudest for a Mint at New York, the Philadelphia Mint, in order to facilitate the coinage, and to acquire a reputation for efficiency, resorted to the extraordinary process of throwing away a large portion of the silver that is in California gold. The gold, the House is aware, contains eighty-nine per cent. of gold, and eleven per cent. of silver—that is to say, one ounce of California gold has in it eighty-nine parts of gold, and eleven of silver—worth, at $1 29 per ounce, fourteen cents. The Mint charge for parting this is five cents; but from November 14th, 1850, to April 1st, 1851, under the whip and spur for a New York Mint, five elevenths of this silver was left unextracted, (what was worth six cents,) and thus, of the fourteen cents' worth of silver deposited in an ounce of gold, the depositor received back only three cents. To acquire a reputation for quick work, the silver of the depositor was left in the gold, and yet he was charged five cents for parting it! Within the time I have named, the cost to the depositors for alloy was $42,759 84 in silver, four fifths of which—viz: $34,207 87—might and should have been saved. These facts, with accompanying tables, can be found in the letters of Professor R. S. McCulloh, of Princeton College, to the Secretary of the Treasury, which have been laid upon our tables, and confessed, too, of late by the reply of the Director of the Mint to a call made in the other branch of Congress, by a Senator from California, [Mr. GWIN]. There can be no mistake in the facts, for they are thus, not only stated by the well-qualified and distinguished Professor whom I have named, but they are not denied by the Mint itself. To enable the Mint to acquire even what reputation it has for competency, such is only one of the sacrifices depositors have been called upon to make.

[Here the morning hour expired, and debate went over till the next day.]

JANUARY 26, 1853.

Mr. BROOKS. Mr. Speaker, when the morning hour was about expiring on yesterday, I was addressing the House on the subject of the competency of the Mint at Philadelphia. I was denying the competency of that Mint for a proper discharge of the coinage duty, and alleging that, whatever competency it had, was obtained by large sacrifices on the part of public depositors, or by large investments of the bullion fund on the part of the United States. Among the sacrifices made by the depositors, I was alleging that the eleven parts of silver deposited by the Californian holder of gold in one hundred pounds or one hundred ounces, had nearly all been made use of by the Mint in Philadelphia for its own purpose, or the purpose of its contingent fund. The subject, Mr. Speaker, is so difficult to be understood by mere oral explanation here, that I forbear to enter into its discussion any further now, and on that point content myself with referring to the public documents that I yesterday named.

I come now, Mr. Speaker, to another branch of complaint, in order to show at what cost to the public the reputation of the Philadelphia Mint for efficiency is won. The Mint makes no return of these eleven parts of silver in California gold to the depositor, whatsoever. When a depositor takes to the Philadelphia Mint an ounce of gold, that is eighty-nine parts gold and eleven parts of silver, the Mint is bound to make a return of these eleven parts "in kind," but it does no such thing. In order to obtain the premium on silver, or for some other purpose, it returns this silver deposit in gold, not "in kind." Whatever may be the profit, whether four or six per cent. premium, that profit is made by the Philadelphia Mint, appropriated to itself at the depositor's cost. Now, sir, the three cent pieces, in the main, coined out of the silver thus deposited in that Mint, and appropriated by the Mint in the way I have named, are worth only two cents and a half in silver; and if they were a legal tender, and there was enough of them, the whole debt of the United States would be paid in them. The coin is a vile one in its composition, for so heavily adulterated is it with alloy, that from very little use it becomes almost as dark as its alloy.

From the profit of these three-cent pieces, obtained from the silver of depositors in California gold, the premium on which is confiscated by the Mint, that Mint has realized a fund of $93,317 the past year, for, from 1852 to 1853, it reports having coined 18,663,500 of these pieces, the profit on which is $93,317. All this profit the Mint has appropriated to itself, to its own contingent fund, without the authority of any special act of Congress certainly, and without the authority of any law that I can find. The Mint has given out (see an article in the Philadelphia Ledger) that it will coin thirty millions of these three cent pieces the present year, the profits on which will be $150,000. A Mint thus supporting itself out of its depositors easily wins a reputation for efficiency by blinding the public to its expense.

Another means of winning a character for efficiency, which the Philadelphia Mint resorts to, is the sequestration of the silver of small depositors. Unless there be silver to the amount of five dollars, the Mint makes no return whatever to the depositor. Hence, if an humble depositor takes there sixty-two ounces of gold, whatever silver there is in that deposit, being less than five dollars, it is appropriated by the Mint for its own purposes, while the silver in the large amounts of large depositors, except the cost of parting, and about one per cent. left in as alloy, is allowed.

The returned Californian, the man of the mines, is stripped of his little deposit of silver, while the big bullion broker is accounted with to the utmost extent. The sums thus sequestrated from humble depositors, though small in details, are large in aggregates, and these aggregates the Mint turns over to its contingent fund, and thus again enables its representative here to boast of its sufficiency, its competency, at the expense of the general interest of the country. The silver sequestered from March 30, 1850, to June 30, 1851, according to an account I have before me, was over sixty-six thousand ounces—in value, $76,875—all appropriated to itself by the Mint, without coming to Congress for any special act.

In addition to these profits, sir, there are the grains and sweepings of the deposit meltings, which, from February 22, 1850, to June 30, 1851, were, according to a Mint memorandum before me, $46,750; another large sum that the Philadelphia Mint also takes to its contingent fund, and thereby increases its efficiency.

Now, these are facts which ought long ago to have attracted the attention of this House, and knowing which we ought to have held the Mint to stricter accountability. Undoubtedly they would have attracted our attention, if coinage was not a species of occult science, to which but very few are willing to bend their minds. Members, amid the more tempting and exciting debates about them, are unwilling to look into complicated Mint accounts or Mint calculations; and hence the Mint has had exemption from investigation, and an impunity for all its assumptions of power, because it stands almost alone in studying the duties, the laws, the chemical and practical principles on which it acts. The art of the alchemist is almost as incomprehensible to the great body of us laymen, as that of the conjurer or the necromancer, and we are almost as much bewildered in its laboratories, as in the labyrinths they weave to confuse us.

I pass now, Mr. Speaker, to another species of charges against the mother Mint, of a more practical character, and more easily understood. They are charges, not now to be made by me for the first time, but they have been made heretofore in the other branch of this Congress, by a Senator from California, [Mr. GWIN.] I am justified in reiterating them by the whole tenor of the address of the gentleman from Philadelphia, who would represent her people as spotless, and pure, and mine as abandoned and corrupt. Sir, they are charges of such a high nature, as to demand the closest scrutiny of the public, and to inspire it with doubt and alarm, as to the very character and safety of the Mint. It was alleged by the Senator from California, the truth of which allegation has been confessed by the Mint itself, in a recent report to the Senate, that there has been a debasement in the gold coin issued from the branch Mint at New Orleans, which is under the supervision of the mother Mint at Philadelphia, and it is a debasement, as I understand, of about one fifth of one per cent. No charge can be more grave against the Mint of any country than that its coin is debased. What freedom from suspicion of want of chastity is to a woman, freedom from suspicion even from debasement should be to the coinage of the Mint.

Mr. FLORENCE. With the gentleman's permission——

Mr. BROOKS. I cannot afford to yield any of my time.

Mr. FLORENCE. I desired only that the gentleman would give the name of any high officer of the Mint who has debased its coin.

Mr. BROOKS. If the gentleman would take the trouble to peruse the public documents, he would have had that information without calling on me for it.

Mr. FLORENCE. The House may not know to whom the gentleman refers, though I should.

Mr. BROOKS. The allegation of the Senator from California was in these words:

"I know and am prepared to show, that the coin of the United States has been debased; and that the issue of gold coined during one year in one of the Mints, amounting to millions of dollars, was so much debased that it was under serious consideration whether it should not be entirely withdrawn from circulation."

The Senator has been spared the necessity of proving his allegations, for the Mint has confessed it in its recent report.

There are other allegations, sir, of a very grave character, though not so grave as this of debasement, which show that the mother Mint deserves no such reputation as is demanded for it by the honorable gentleman from Pennsylvania here.

In 1848, Randall Hutchinson, a clerk in the Mint at Philadelphia, embezzled $23,000 from it; $7,000 of which was recovered, but the remaining $16,000 was lost to the public. He was found guilty by a jury in Philadelphia, but was acquitted by Judge Grier, the United States judge there, not on the ground that he was not guilty, but on the ground that there was no law reaching his case. In 1848, the treasurer of the branch Mint at New Orleans, which Mint is under the supervision of the mother Mint at Philadelphia, loaned $100,000 to the Canal Bank of New Orleans; for which he received as a *favor* $27,000. That fact was brought to light in the report of a committee of the Legislature of Louisiana, and it was confessed and testified to by the cashier of that bank, who was a party to the transaction.

I allege these facts, to impress upon the House and country the importance of a reorganization of the Mint—the importance of an investigation into the facts connected with it, and to show the public that it has no such efficiency, no such uprightness, no such purity, as is claimed for it by the honorable member from Pennsylvania.

The examination of the annual estimates which are upon our tables, will, upon mere cursory examination, go to establish many of the positions I have taken, if members will take the trouble to look at them. The Mint at Philadelphia annually costs this country, in one form or another, three quarters of a million of dollars, as I shall proceed to show; and yet it comes before Congress asking only for an expenditure, from July 1, 1853, to July, 1854, the fiscal year, of $48,000. One hundred and ninety-nine thousand dollars it proposes to appropriate for itself, in profit on copper, profit on three-cent pieces, and what it calls "legal deductions on bullion," (see estimates;) so that, to use its words, "only $48,000" are required as "appriations," which, we are carefully told, is "very small." The additional expenses—and what they are who can tell from any documents in our possession?—are made up from the pickings, sweepings, contrivances, and sequestrations, that I have before described. None of these pickings, &c., go into the Treasury, as we require here in all other Departments of the Government; but the Mint uses them, and appropriates them to make itself efficient, as claimed.

The Mint thus expends from what it gets from depositors, and for which it accounts in the estimates at nearly $200,000, and wanting $48,000 in appropriations more, being a quarter of a million dollars *per annum;* but to make itself more efficient, it yet has to come to the Federal Treasury, and demand what is called a bullion fund of seven million of dollars. If anybody indulges in the idea that the identical gold deposited in the Mint is returned in the coin returned, he much mistakes. As soon as the Mint makes an assay of a deposit, it resorts to the Federal Treasury to pay the depositor out of that, and hence these quick returns of which the gentlemen have spoken. But what is the cost to the country of keeping the Philadelphia Mint thus efficient? Let us hear the Secretary of the Treasury. I quote from Mr. Corwin's last annual report, 1853:

"I would again call the attention of Congress to the subject of making Mint certificates receivable in all dues to the Government and dispensing with the present bullion fund, which is maintained at an annual expense of from $350,000 to $400,000, which might be saved in interest by the application of that fund to the redemption of the public debt, besides the great advantages to the business community and the general trade of the country by throwing the amount of that fund into circulation, instead of keeping it constantly as dead capital in the vaults of the Mint.

"The amount of the bullion fund during the last year has been nearly $7,000,000, and it has been applied to the immediate redemption of Mint certificates, so soon as the deposits of gold dust were assayed and their value ascertained, which has generally been in from twenty-four to forty-eight hours after such deposits were made, and the bullion fund was then made good so soon as such assayed gold could be worked into coin, to be again employed in the redemption of other certificates."

The legal rate of interest in New York is seven per cent., and seven per cent. on $7,000,000 is a cost of $490,000 per annum—the cost to the country every year, to make the Philadelphia Mint efficient. Better, sir, pay Philadelphia to yield up her bauble at a million of dollars outright, than be paying for it half a million per annum.

If the Mint was in New York, there would be no need whatsoever of any such bullion fund. The bullion fund would always be in the sub-treasury of New York, under this bill to be the treasury of the Mint, and the bullion fund there would always be large enough to redeem the certificates; or if they were not, those certificates held by men who could make use of them, would be immediately available, as money on deposit in the banks of New York, and hence there would be no need of this bullion fund at all. But it has been found impossible, notwithstanding all our large expenditures, to maintain anything like an efficient Mint in Philadelphia, and hence the Federal Treasury has kept constantly employed there from $4,000,000 to $7,000,000 of the public money; as extravagant and almost wasteful expenditure of the public money, when Congress and the country are owing over $60,000,000, as it is possible for the imagination of man to conceive.

I call the attention of the House now to another fact. The Mint last year coined $51,500,000, $41,000,000 of which were in double eagles; but of the quarter eagles, which are most desired by the country, there were only coined 1,159,381 pieces. Why are the operations of the Mint directed to double eagle pieces, made apparently for exportation? and why do they neglect the quarter eagles, which are most desired by the country for the purposes of circulation, and which are necessary in order to retain an essential specie circulation? Why is this done? Why are the whole operations of the Mint directed to coin the double eagles—the twenty dollar pieces—and the two-and-a-half pieces neglected entirely? It is done in order to impose upon the country the mockery of efficiency, and to show that it can coin what is deposited there, though it is impossible to coin its deposits in quarter eagles, such as are desired by the great body of the people for circulation. If the Mint at Philadelphia properly discharged its duty, by coining quarter eagles and dollar pieces, its whole efficiency would not be over $10,000,000 or $12,000,000 per year, instead of $51,500,000, now claimed in the annual report in January last. To make itself apparently efficient, it coins gold for exportation, almost altogether neglecting its duties to its country, to its home.

These are facts which challenge the investigation of every man; facts which cannot be got over, got under, or got around; and they demonstrate that the people are duped in believing in the efficiency or the competency of the Mint. But to maintain in Philadelphia this costly bauble of a Mint, the people are annually paying, directly or indirectly, three quarters of a million of dollars; while on the contrary if it were transferred to the point where it is necessary for the interests of commerce, half a million of dollars in a bullion fund, and the whole expense of transportation to and fro, insurance, commissions, guards, correspondence, &c., &c., would be saved.

It is said, however, by the gentleman from Pennsylvania, [Mr. CHANDLER,] that New York does not want this Mint; that she only demands it at the time of an election, or that as an election approaches her members grow warm, and make stirring appeals to Buncombe. There is some truth in a portion of the allegations of the gentleman from Pennsylvania, that there are large interests in New York who do not want a Mint there. First, there is the Camden and Amboy railroad, which enjoys the price of the transportation of $51,000,000 to and from Philadelphia, which, according to the declaration of the gentleman from Pennsylvania gives that railroad an income of $25,000 per annum. And there is, next, the large express companies, which also enjoy the transportation of the bullion and coin to and from Philadelphia, which naturally enough like to lay the depositors under as heavy a tax as possible in the transportation of these large sums of money.

In addition to this, there are large bullion brokers from all quarters of the country, and especially the large bullion brokers in the city of New York. I have been shown letters, written to members of this House, from the city of New York, declaring that no Mint whatsoever was necessary there; and when the names of the writers of these letters were shown me, I have invariably found them to be connected either with the railroad or express companies, or more generally with the large bullion brokers of the city of New York. If any gentleman, upon the arrival of a California steamer, will go into Wall street, to the offices of the bullion brokers, he will find large numbers of emigrants going there and selling smaller sums of bullion at a sacrifice of a dollar an ounce, because these bullion brokers are the only men who in a moment, as it were, can test the value of gold dust. The humble depositor, or holder of gold from California, never wishing to part with the gold he has acquired in the mines or amid the sands, but as he has coin handed him in immediate return, anxious to hurry home to his wife and children, it may be to Illinois, Ohio, Maine, or elsewhere, puts up with the sacrifice of a dollar an ounce for his gold, rather than go to and return from Philadelphia, and await there the assay of his deposit. The profit of this is the profit of the bullion broker, and hence the efficient and powerful opposition of the bullion brokers of New York to a Mint in New York, to which the gentleman undoubtedly refers.

Then it is also said by the honorable gentleman from Pennsylvania that there is no necessity for a Mint in New York. Why, two thirds of your revenue is collected there, and collected in coin, under the Sub-Treasury act; and wherever such a revenue was thus collected, the irresistible conclusion would seem to be, there should be the Mint. Again, nearly all the gold of Europe that comes to this country comes there too; and of the fifty millions and over coined in Philadelphia, all passes through New York. If, as was admitted, the cost of transportation to and fro was only $25,000 per annum, the tax of $25,000 per annum upon the country to keep a bauble in Philadelphia is an outrage at best. The real tax, however, is about one fourth of one per cent., a tax of $125,000 per annum. My authority for this is statements of the Chamber of Commerce of New York; but whatever be the tax, it is an injury and an outrage to tax its bullion product, only to enable Philadelphia to sport the bauble of a Mint.

It is said again, when the California Mint is established, it will do away all necessity for a Mint in New York. The request for a Mint in New York, sir, is no fresh request. It was made long before an ounce of gold was brought from California; and because there—and there almost alone—first come the gold and coins of Europe, and of the South American States. Mexico, Peru, Chili, and Central America, have mines as well as California. The thousands and tens of thousands of immigrants are constantly bringing to New York foreign gold. We are reduced in the United States to almost the smallest possible amount of silver coin. We have little or no import of silver bullion; and one of the reasons is, that so bulky an article will not, in the competition for it elsewhere, bear the additional expense of coinage to and from New York and the Philadelphia Mint. New York, without a Mint, cannot compete with Mints in other parts of the world. I have not time, however, to enlarge upon this subject, upon which I might address the House to any length, but I proceed to another branch of the subject; and that is, the declamations which are constantly made against the cost of the Mint in New York. It is whispered, nay, even declared, such is the rapacity of New York, that if you once begin to establish a Mint there, it will plunder millions and millions from the public Treasury.

I ask the attention of the House to the ninth section of the bill, which prescribes that no steps whatever shall be taken for the establishment of a Mint until the lot is secured, until the contract is made for the building and the machinery—the whole expenditure of which shall not cost over $250,000. I might say to the House, if you will allow the Mint to be established in New York, the pickings and sequestrations adopted in the Philadelphia Mint, and would confer on her the seigniorage proposed in Mr. Senator HUNTER's silver bill, she would not ask one single cent at all in the way of appropriations; but on the contrary, I think, would give you, as a premium, a considerable sum. This cry of extravagance is got up altogether for effect, and it is a part and parcel of that system so studiously prepared here to create prejudice against us, and to do injustice to the city of New York. The honorable gentleman from Philadelphia was pleased to insinuate that New York had been plundering the Treasury in large appropriations time and again, and that she has been constantly begging and rapping at the doors of the Treasury for further plunder, in the form of steam contracts, &c.; and he added that this California gold, and gold from other parts of the world, have all been brought to New York by the munificence of the Federal Government, and of Government contracts owned in New York.

If the gentleman from Pennsylvania [Mr. CHANDLER] had observed the course of the Representatives from New York in relation to the appropriations for the Collins line of steamers, with the usual vigilance which he gives to the business of this House, he would have seen that no member from the city of New York rose to address this House to make anything like a speech on the behalf of this line of steamers, and that the arguments and general support of that measure came from other parts of the United States. We had rival interests at home, and we respected them. We had millions of dollars invested in packet-ships, which this Collins line of steamers was calculated to injure, if not to destroy, and we were opposed to the principle of the thing. We did not believe that it was right in the Federal Treasury to build up one branch of commerce at the expense of another. But owners of these lines of packet-ships, although they were making large sacrifices out of their own pockets of $25,000 to $50,000 per annum, asked and petitioned this House to vote this appropriation. Although it was against their interest, yet they asked this because it was a contest with Old England for the mastery of the seas, and because it thus became a great national measure, in which they were called upon to make sacrifices for the common good. It was not the battle of sword and saber, gun and bayonet, with Great Britain, but a battle of the workshops and founderies, of the shipwrights and the trip-hammer, in which mechanism and mechanics were fighting peaceably for the superiority. They were on the side of their country, and were willing to make the necessary sacrifice to sustain the honor of their country. On that account I abandoned a principle which I highly cherished. I voted for that measure, as I would vote for a declaration of war against Great Britain, no matter what the sacrifice or cost might be, provided the honor or the highest interests of my country were concerned in such declaration. It was upon that principle that I voted, and that my constituents from New York, who were concerned in packet-ships, sent their petition here; and so far from its being a cause of taunt to be alleged against us, it is a matter reflecting the very highest honor upon the large and small ship-owners of the city of New York, that they were all willing to make this sacrifice, and concentrate this large amount of official patronage in the hands of one line of steamers, for the honor and glory of our common country,—but to their own personal detriment and damage, if detriment or damage there can be when one sacrifices to one's country the personal interest of the day and hour. Sir, our workshops, our foundries, have won for you, and kept for you; under that appropriation, the mastery of the seas; and the iron-fisted men of the foundries and ship-yards have done as much for you as Hull, or Decatur, or Bainbridge, if not more.

Mr. CARTTER. I wish to ask the gentleman a single question, the reply to which will govern my vote.

Mr. BROOKS. I cannot yield to the gentle-

man. I regret that I have not time. The honorable gentleman from Pennsylvania says, also, that the lines of steamers to California have been appropriated by New Yorkers. Sir, those lines of steamers were not originally given to New York. One of these contractors was A. G. Sloo, a resident of Indiana, I believe, and never a citizen of New York. The Second was Arnold B. Harris, of the State of Tennessee. Those contractors went all over the country, from New Orleans to Maine, soliciting and begging capitalists and others to take from them the contracts. Month after month did they do this. New Orleans declined, Charleton declined, Baltimore and Boston declined, Philadelphia did not accept, and at last, with great reluctance and unwillingness, these contracts were taken by New Yorkers,—Harris's by Aspinwall & Co., and Sloo's by Law, Roberts & Co.; and though taken by rich men, yet so ruinous and destructive were those contracts considered to be, that, but for the unexpected discovery of gold in California, the takers of those contracts would have been ruined men, losing both capital and credit in the country. By the fortunate discovery of gold alone have they been able to maintain their positions among merchants, or to make any money for themselves. Their credit at one time was shaken from top to bottom, and their contracts were hooted as worthless in the streets. I state these facts, sir, to show that New York is no eleemosynary beggar, no suppliant for alms at your door, but a benefactor to the country in risking at the time what other cities dare not risk.

Sir, among five hundred thousand human beings there must be many criminals, many who would be guilty of plunder or of wrong; but amid all the outcry raised against New York, nothing can be justly said against the public spirit, the love of country, the daring, and often self-sacrificing enterprise of New York. She may bear herself sometimes too high, she may be too proud, she may be reckless even in her plans and conceptions, but she is no beggar within these portals. For every dollar ever voted her here, she has returned you ten thousand fold. Sir, we came to this Congress once and asked an appropriation to build a railroad across the Isthmus of Panama—a project for which, for three hundred years, all the nations in Europe had been dreaming, but dreaming in vain; but the two Houses of Congress refused to give us any appropriation whatever. Sir, what did we do? Did we decry this House and declaim against it? Did we give up? Did we despair? No, sir! no! Our merchants and mechanics assembled in their counting-houses and workshops, and what Columbus was in pursuit of—a route to China—what Cortez had written of with enthusiasm in his admirable letters to Charles V.—what France and England and Spain had been talking of for three hundred years, some five or six men in New York resolved upon undertaking, and the work, they said, shall be done, without the aid of a single copper from the Government.

Sir, does a people like this deserve the imputations cast by the gentleman from Pennsylvania? California and Oregon were ours, but to be ours only upon condition that we reach and connect them by steam. My abused constituents undertook this great work of the age, which had filled all Europe with despair for three centuries, and are achieving it, despite your indifference and your frowns; and do such a people merit any one's abuse? We have entered Nicaragua, too; connected San Juan with New York; established steamers on the river San Juan, and on Lake Nicaragua, and thus created competing lines with California. Our private enterprise, without a cent of aid from you—nay, in despite of you, for your mail contracts cripple private enterprise to some extent—has thus linked the Atlantic to the Pacific States; and yet, because we ask for a Mint, and feel restive under a heavy tax paid by us to enable Philadelphia to keep her plaything of a Mint, the honorable member from that city has seen fit to indulge himself as he has in this debate.

Sir, the clock tells me to stop short here, just as the subject for debate is unfolding itself to my mind. No more to be the victim of a Parliamentary sleight-of-hand, I stop short here, in order to have a vote before the morning hour expires.

The question then was, "Shall the bill be rejected?" and being put, it was decided in the negative—yeas 69, nays 94; as follows:

YEAS—Messrs. Charles Allen, Allison, Bibighaus, Bragg, Busby, Joseph Cable, Chandler, Churchwell, Clingman, Cullom, Curtis, George T. Davis, John G. Davis, Dawson, Dimmick, Doty, Duncan, Dunham, Eastman, Edmundson, Evans, Fay, Ficklin, Florence, Thomas J. D. Fuller, Gamble, Giddings, Gilmore, Goodenow, Hammond, Harper, Isham G. Harris, Sampson W. Harris, Hendricks, Hillyer, Holladay, J. W. Howe, T. M. Howe, Jackson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Mann, Mason, McLanahan, McMullin, McNair, Millson, Henry D. Moore, Morrison, Orr, Andrew Parker, Powell, Robbins, Ross, Savage, Skelton, Benjamin Stanton, St. Martin, Stratton, Toombs, Tuck, Venable, Walsh, Wildrick, Williams, and Woodward—69.

NAYS—Messrs. Willis Allen, William Appleton, Ashe, Babcock, Barrere, Bartlett, Bennett, Bowie, Bowne, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, Caldwell, Lewis D. Campbell, Thompson Campbell, Chapman, Chastain, Cobb, Darby, Dean, Dockery, Durkee, Edgerton, Floyd, Freeman, Gaylord, Goodrich, Gorman, Grey, Hall, Hart, Haws, Hascall, Haven, Henn, Hibbard, Horsford, Houston, Thomas Y. How, Ingersoll, Ives, Jenkins, Robert W. Johnson, Daniel T. Jones, George G. King, Preston King, Little, Lockhart, Martin, Meacham, Miner, Molony, Morehead, Murray, Nabers, Olds, Outlaw, Penn, Penniman, Phelps, Polk, Preston, Price, Richardson, Robie, Robinson, Russell, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Smart, Smith, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stone, Sutherland, Sweetser, Taylor, Thurston, Walbridge, Ward, Watkins, Welch, Wells, and Wilcox—94.

So the House refused to reject the bill.

Pending the call of the roll on the above vote,

Mr. SCURRY stated that he had paired off with Mr. GROW, he being in favor of the bill and Mr. GROW opposed to it.

[A message was received from the Senate of the United States, by the hands of ASBURY DICKINS, Esq., its Secretary, announcing that the Senate had passed sundry bills.]

The bill was then read a second time by its title.

Mr. BROOKS. The question now is upon ordering the bill to be engrossed and read a third time, and upon that I demand the previous question.

Mr. CHANDLER. I move that the bill be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The previous question has been demanded.

Mr. CHANDLER. Well, sir, have I not a right to submit the motion to refer?

The SPEAKER. The previous question, or a demand for it, cuts off a motion to commit.

The previous question received a second, and the main question was ordered to be now put.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. CHANDLER. Has the bill been engrossed?

The SPEAKER. The bill has not yet been ordered to be engrossed, and therefore that is a question which cannot arise at this stage of the proceedings.

Mr. CHANDLER. I do not wish to have things done in a disorderly manner, that is all.

The SPEAKER. The gentleman from New York, [Mr. BROOKS,] having reported the bill, is entitled, by every rule of fairness and courtesy, to take charge of it in its progress through the House. He has moved the previous question, and it has been sustained. No motion is therefore in order but a motion to adjourn or to lay the bill upon the table.

Mr. GOODENOW. I move that the bill be laid upon the table.

Mr. FLORENCE. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BROOKS. Has the morning hour expired?

The SPEAKER. It has not.

The question was then taken on Mr. GOODENOW's motion, and it was decided in the negative—yeas 78, nays 96; as follows:

YEAS—Messrs. Charles Allen, Allison, Averett, David J. Bailey, Beale, Bibighaus, Bragg, Busby, Joseph Cable, Lewis D. Campbell, Chandler, Colcock, Curtis, George T. Davis, John G. Davis, Dawson, Dimmick, Doty, Duncan, Dunham, Eastman, Edmundson, Evans, Faulkner, Fay, Ficklin, Florence, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Giddings, Gilmore, Goodenow, Hammond, Isham G. Harris, Sampson W. Harris, Hendricks, Hillyer, Holladay, John W. Howe, Thomas M. Howe, Jackson, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Mann, Mason, McLanahan, McMullin, McNair, Millson, Henry D. Moore, John Moore, Morehead, Morrison, Orr, Andrew Parker, Powell, Robbins, Ross, Savage, Skelton, Benjamin Stanton, St. Martin, Stratton, Toombs, Tuck, Venable, Wallace, Walsh, Alex. White, Wildrick, Williams, and Woodward—78.

NAYS—Messrs. Abercrombie, Willis Allen, William Appleton, Ashe, Babcock, Barrere, Bartlett, Bennett, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Thompson Campbell, Chapman, Chastain, Churchwell, Clark, Clemens, Cobb, Conger, Darby, Dean, Edgerton, Floyd, Freeman, Gaylord, Gentry, Goodrich, Gorman, Grey, Hart, Haws, Hascall, Haven, Hibbard, Horsford, Houston, Howard, Thomas Y. How, Ingersoll, Ives, Jenkins, James Johnson, Daniel T. Jones, George G. King, Preston King, Landry, Little, Lockhart, Martin, Meacham, Miner, Molony, Murray, Nabers, Newton, Olds, Outlaw, Penn, Penniman, Phelps, Preston, Price, Richardson, Robie, Robinson, Russell, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Smart, Smith, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stuart, Sutherland, Sweetser, Taylor, Thurston, Walbridge, Ward, Watkins, Welch, Wells, and Wilcox—96.

So the House refused to lay the bill upon the table.

The question recurred upon ordering the bill to be engrossed and read a third time.

Mr. HOUSTON. Has the morning hour expired?

The SPEAKER. It has.

Mr. HOUSTON. Then I move to proceed to the business on the Speaker's table, and, in that connection, I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The House has ordered the main question to be now put on ordering the bill to be engrossed and read a third time. That is the order of the House, which, the Chair thinks, must be executed.

Mr. HOUSTON. I suppose the order of the House has reference to the class of business. If the class of business is confined to the morning hour, I suppose the order of the House has reference to that time.

The SPEAKER. The Chair decides that the main question having been ordered to be now put, it overrides all other business and motions, except a motion to lay on the table, or to adjourn. You cannot even move a call of the House during the pendency of the previous question, according to the universal practice of the House.

Mr. HOUSTON. I do not want to move a call of the House.

The SPEAKER. Neither can any other motion intervene, when the House has ordered the main question to be now put. The question is upon ordering the bill to be engrossed and read a third time.

Mr. VENABLE. Upon that I demand the yeas and nays.

The yeas and nays were ordered.

The question was then put; and it was decided in the negative—yeas 87, nays 89; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, William Appleton, Ashe, Babcock, Barrere, Bartlett, Bennett, Bowie, Bowne, Brenton, Brooks, Albert G. Brown, Burrows, Caldwell, Thompson Campbell, Chapman, Clark, Cobb, Conger, Darby, Dean, Doty, Floyd, Freeman, Gaylord, Gentry, Goodrich, Gorman, Grey, Hall, Hart, Haws, Hascall, Haven, Henn, Hibbard, Horsford, Howard, Thomas Y. How, Ingersoll, Ives, Jenkins, Robert W. Johnson, Daniel T. Jones, George G. King, Preston King, Little, Lockhart, Martin, Meacham, Miner, Molony, Murray, Nabers, Olds, Penn, Penniman, Phelps, Preston, Richardson, Riddle, Robie, Robinson, Russell, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, D. L. Seymour, O. S. Seymour, Smart, Smith, Snow, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stuart, Sutherland, Sweetser, Taylor, Thurston, Walbridge, Ward, Wells, and Wilcox—87.

NAYS—Messrs. Charles Allen, Allison, Averett, Beale, Bragg, Briggs, Busby, Joseph Cable, Lewis D. Campbell, Chandler, Chastain, Churchwell, Clemens, Clingman, Colcock, Curtis, John G. Davis, Dawson, Dimmick, Dockery, Duncan, Dunham, Eastman, Edmundson, Faulkner, Fay, Ficklin, Florence, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Giddings, Gilmore, Goodenow, Hammond, Harper, Isham G. Harris, Sampson W. Harris, Hendricks, Hillyer, Holladay, John W. Howe, Thomas M. Howe, Jackson, Andrew Johnson, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Mann, Marshall, Mason, McLanahan, McMullin, McNair, Millson, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Newton, Orr, Outlaw, Andrew Parker, Porter, Powell, Reed, Robbins, Ross, Savage, Skelton, Benjamin Stanton, St. Martin, Stratton, Toombs, Townshend, Tuck, Venable, Wallace, Walsh, Watkins, Welch, Wildrick, Williams, Woodward, and Yates—89.

Pending the call of the roll on the above vote,

Mr. EVANS stated that he had paired off with Mr. STANLY.

Mr. MARSHALL, when his name was called, said I should be glad to explain the reason why I vote against this bill.

The SPEAKER. It can only be done by the unanimous consent of the House.

Mr. HART. I object.

Mr. MARSHALL. I intend to vote against it, as did the whole of the New York delegation against a provision in the California Mint bill.

[Cries of "Order."]

So the House refused to order the bill to be engrossed and read a third time.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. BRIGGS. I rise to a privileged question. I move to reconsider the vote by which the House refused to order the bill to be engrossed and read a third time.

Mr. DAWSON. I rise to a privileged question. I move that the vote last taken be reconsidered, and that the motion to reconsider do lie upon the table.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania that the gentleman from New York [Mr. BRIGGS] was first recognized by the Chair, after the gentleman from Alabama, [Mr. HOUSTON.]

Mr. DAWSON. Then am I not entitled to the floor?

The SPEAKER. The gentleman from New York was certainly the first to rise to a privileged question after the gentleman from Alabama was recognized, and, indeed, almost simultaneously with that gentleman.

Mr. FLORENCE. Is it not in order to move to lay the motion to reconsider upon the table?

The SPEAKER. It is in order.

Mr. FLORENCE. Then I make that motion.

Mr. BRIGGS. The morning hour having expired, I call for the regular order of business.

The SPEAKER. The regular order of business is the question on laying the motion to reconsider upon the table.

Mr. STUART. How did the gentleman from Pennsylvania [Mr. FLORENCE] get the floor from the gentleman from New York, to submit that motion?

The SPEAKER. The gentleman from New York had yielded the floor, at least so the Chair understood. If the gentleman from New York says that he had not yielded the floor, he has a right to address the House.

Mr. BRIGGS. I will state to the House, that my only object was to move to reconsider the vote by which the third reading of the bill was defeated, and also to call for the regular order of business. That was my object, but I do not wish that the motion to reconsider should come up to-day.

The SPEAKER. The motion of the gentleman from Alabama [Mr. HOUSTON] is strictly in order, and that is, that the House proceed to the business on the Speaker's table.

Mr. JONES, of Tennessee. Does that motion take precedence of the privileged motion to reconsider the vote by which the bill was defeated? I think that if the motion had been made yesterday to reconsider——

The SPEAKER. The gentleman from Tennessee is right, and the motion to reconsider is a privileged motion which must be put to the House.

Mr. DAWSON. The gentleman from New York is not now upon the floor, and I move that the motion to reconsider be laid upon the table.

The SPEAKER. The gentleman will recollect that the gentleman from New York was arrested while on the floor by the decision of the Chair.

Mr. JONES, of Tennessee. If I recollect aright, the gentleman from New York stated that his only object was to make a motion to reconsider.

The SPEAKER. So he did.

Mr. JONES. And then to call for the regular order of business. The gentleman stated that he did not intend to make a speech.

The SPEAKER. That is the correct history of the case. The Chair understood the gentleman from New York [Mr. BRIGGS] as submitting the motion to reconsider that it might go over till to-morrow. The gentleman from Pennsylvania [Mr. DAWSON] rises and insists on its consideration now, which he has a right to do under the rules.

Mr. STEPHENS, of Georgia. I rise to a question of order. I understand the Chair to hold that this question of reconsideration overrides every other business. It is with that view that I rise. The question of reconsideration is a privileged question that can be made and entered, but the consideration of it does not override other business.

The SPEAKER. The language of the rule is substantially that it shall take precedence of every other business.

Mr. JONES, of Tennessee. Is not the language of the rule, that even when a motion to reconsider has been passed over for a day, any member may call it up at any time?

The SPEAKER. That is the rule.

Mr. STEPHENS. That is true; but it can override only the business of the morning hour. The question of reconsideration grows out of the business of the morning hour, and may override all the business of the morning hour.

The SPEAKER. The gentleman from Georgia is certainly in error with regard to the practice under that rule. The motion to reconsider is so highly privileged as to override all other business. The 56th rule is as follows:

"When a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for a reconsideration thereof on the same or succeeding day; and such motion shall take precedence of all other motions except a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House, and thereafter any member may call it up for consideration."

The rule is very clear, and the practice of the House has been equally clear.

Mr. HOUSTON. I want to ask one question. I understand the practice under that rule, and the rule to be, that a motion to reconsider is a privileged motion; but can its consideration be insisted on so as to take the floor from me? I had the floor before the gentleman from New York, [Mr. BRIGGS.]

The SPEAKER. The rule is very express, and the practice under it has been uniform.

Mr. HOUSTON. I understood that I was recognized by the Chair, and the gentleman from New York took the floor from me to make the motion to reconsider. Now, the point which I wish to present is, whether the motion to reconsider can take the floor from me and keep me from it?

The SPEAKER. The Chair decides that it does. The motion submitted by the gentleman from Alabama was not a debatable one, and therefore he could not retain the floor. The Chair has no doubt about the force of the rule, or the practice under it. It has been uniform.

The question now being upon Mr. DAWSON's motion to lay the motion to reconsider upon the table,

Mr. ROBBINS demanded the yeas and nays.

The yeas and nays were ordered.

The question was then put, and it was decided in the affirmative—yeas 91, nays 83; as follows:

YEAS—Messrs. Charles Allen, Allison, Averett, Beale, Bragg, George H. Brown, Busby, Joseph Cable, Caskie, Chandler, Chastain, Churchwell, Clark, Clemens, Clingman, Colcock, Curtis, Darby, George T. Davis, John G. Davis, Dawson, Dimmick, Dockery, Dunham, Eastman, Faulkner, Fay, Ficklin, Florence, Henry M. Fuller, Gamble, Giddings, Gilmore, Goodenow, Gorman, Hammond, Harper, Isham G. Harris, Sampson W. Harris, Hendricks, Hillyer, Holladay, John W. Howe, Thomas M. Howe, Jackson, Andrew Johnson, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Mann, Marshall, Mason, McLanahan, McMullin, McNair, Meade, Millson, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Orr, Outlaw, Andrew Parker, Porter, Powell, Reed, Robbins, Ross, Savage, Skelton, Benjamin Stanton, St. Martin, Stratton, Toombs, Townshend, Tuck, Venable, Wallace, Walsh, Watkins, Welch, Wildrick, Williams, Woodward, and Yates—91.

NAYS—Messrs. Abercrombie, Willis Allen, William Appleton, Ashe, Babcock, Barrere, Bartlett, Bennett, Bowie, Bowne, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Thompson Campbell, Chapman, Cobb, Conger, Dean, Doty, Duncan, Edgerton, Floyd, Freeman, Gaylord, Gentry, Grey, Hall, Hart, Haws, Hascall, Haven, Henn, Hibbard, Horsford, Houston, Thomas Y. How, Ingersoll, Ives, Jenkins, Robert W. Johnson, Daniel T. Jones, George G. King, Preston King, Little, Lockhart, Martin, Meacham, Miner, Molony, Murray, Olds, Penn, Penniman, Phelps, Polk, Price, Richardson, Robie, Russell, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Smart, Snow, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stuart, Sutherland, Sweetser, Taylor, Thurston, Walbridge, Ward, Wells, and Wilcox—83.

So the motion to reconsider was ordered to lie upon the table.

Mr. BRIGGS. Mr. Speaker, I bow with submission to the defeat of the Mint bill.

Mr. FLORENCE. There is nothing like Christian resignation and humility.

The question then recurred upon the motion to go to the consideration of the business upon the Speaker's table; and being taken, the motion was not agreed to.

The question then recurred upon the motion to suspend the rules, and go into the Committee of the Whole on the state of the Union; and being taken, it was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, here reported as correctly enrolled the following bills; which received the signature of the Speaker, viz:

An act for the relief of Nathan Weston, late additional paymaster in the United States Army;

An act for the relief of Ann C. Belknap;

An act for the relief of Mrs. Abigail Stafford; and

An act for the relief of Francis P. Gardner.

The rules accordingly were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair.)

DEFICIENCY BILL.

The CHAIRMAN stated that the business before the committee was the consideration of House bill No. 335, "to supply deficiencies in the appropriations for the service of the fiscal year ending June 30th, 1853." The pending question being upon the amendment of the gentleman from New York [Mr. HAVEN] to add, as an additional section of the bill, the following:

"For paper used, and to be used for printing for the Senate, for the first session of the Thirty-second Congress, $13,234 40.

"For paper used, and to be used for printing for the House of Representatives, for the first session of the Thirty-second Congress, $16,411 50.

"For paper for the printing of the two Houses of Congress, for the second session of the Thirty-second Congress, being for the fiscal year ending the 30th of June, 1853, $104,064.

"For compensation to the Superintendent of Public Printing, and the two clerks and messenger in his office, $4,376 33.

"For blank books, advertising for proposals for paper, postage, &c., $1,550."

Mr. HOUSTON. I understand the amendment of my friend from New York to be based upon estimates sent here by the Superintendent of the Public Printing. These estimates were not referred to the Committee on Ways and Means, and have not been before that committee. My impression, however, from conversation with the Superintendent, and from the explanation of the gentleman from New York himself, is, that the amendment ought to pass. I understand there is no paper upon which the balance of the public printing can be done for this year unless the appropriation be made.

The question was taken, and the amendment was agreed to.

Mr. VENABLE. I have an amendment which I desire to offer.

Mr. HOUSTON. I appeal to the gentleman to allow the amendments which have been reported by the Committee on Ways and Means to be first disposed of.

Mr. VENABLE. I will yield the gentleman the floor.

The following amendments, reported from the Committee on Ways and Means, were then read by the Clerk, and severally agreed to, viz:

Page 3, after line sixty-four, insert:

To enable the Clerk of the House of Representatives to comply with the resolution of the House of Representatives passed on the 22d of December, 1852, to pay John S. Littell per diem and mileage while contesting the seat of John Robbins, junior, during the Thirty-first Congress, $2,376; to pay Hendrick B. Wright per diem and mileage while contesting the seat of Henry M. Fuller during the Thirty-second Congress, $1,939 20; to pay John Taliaferro per diem and mileage while contesting the seat of John P. Hungerford during the Twelfth Congress, $222.

For salary of an assistant dragoman and secretary to the legation to Turkey, $1,500: *Provided*, That said office be discontinued on and after the 30th day of June, 1853.

For extra clerk hire and copying, in the Department of State, $2,000.

For clerk hire, office rent, fuel, lights, and stationery, for the Superintendent of Indian Affairs in Oregon, $2,400.

For traveling expenses of Superintendent of Indian Affairs in Oregon, and agents therein, $2,000.

For general incidental expenses of the Indian service in the Territory of Utah, $12,000.

For payment of the second of ten installments, in provisions, merchandise, &c., and the transportation of the same to certain tribes of Indians, per seventh article of the treaty of Fort Laramie, of 17th of September, 1851, $60,000: *Provided*, That the same shall not be paid until the said tribes of Indians shall have assented to the amendments of the Senate of the United States to the above-recited treaty.

For the service of the Post Office Department, a sum not exceeding $505,000, to supply a deficiency in the revenues of said Department, to meet the appropriations therefor, for the year 1853.

Mr. HOUSTON. I now offer the following, which is the last reported by the Committee on Ways and Means:

For the reappropriation of the following sums, carried to the surplus fund per warrant number seven, dated 20th of September, 1852, under the provisions of the tenth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1853, and for other purposes," approved 31st of August, 1852, to be applied to the payment of all expenses incurred prior to the first day of July, 1852, under the following heads, viz:

For military stations on route to Oregon, $3,203.
For secret service money in Mexico, $19,514 50.
For Mexican hostilities, $10,569 06.
For contingencies of the Army, $4,804 75.
For transportation, supplies, &c., in Quartermaster's Department, $18,952 35.
For pay of Florida militia, on account of Quartermaster's Department, $4,537 08.
For repressing Seminole hostilities, $264 43.
For arrearages prior to the year 1817, $467 17.
For arrearages of pay due Florida militia, under General Read, $7,241 93.
For traveling allowance to volunteers, $118,204 44.
For pay of Louisiana and Texas volunteers, $18,060 49.
For pay of ten regiments of regular troops, $8,547 51.
For pay of volunteers under resolution of the 8th of August, 1846, $7,153 17.
For pay of eleven regiments of volunteers, $26,998 69.
For pay of volunteers, $68,157 73.
For three months' extra pay, $200,000.
For services of private physicians, $130 27.
For pay of Florida militia on account of subsistence, $1,039 39.
For subsistence of ten regiments of regular troops, $684 86.
For subsistence of eleven regiments of volunteers, $394 80.
For improvement of the Genesee river, $176 10.
For removing obstructions at harbor of Cleveland, Ohio, $145 69.
For sea-wall at Buffalo Creek, $319 05.
For harbor at Ashtabula, Ohio, $42 64.
For harbor at Milwaukie, Wisconsin, $163 94.
For repairs of roads, &c., for armies in the field, $5,397 05.
For surveys with armies in the field, $496 40.
For survey from the Mississippi river to the Pacific ocean, $5,000.

Mr. HOUSTON. The amounts appropriated by this amendment, are all reappropriations, and are fully explained in miscellaneous document No. 8, from the Departments, of this session. The tenth section of the civil and diplomatic bill of the last session of Congress, directed that all moneys which had been standing upon appropriation two years should be carried to the surplus fund, or in other words carried back again into the Treasury. The effect of that provision was, that all the appropriations coming under this restriction, were carried to the surplus fund; and the Department now estimates for these amounts as absolutely necessary to meet the outstanding liabilities, under the various heads of appropriation. These moneys would have been used in this way, but for this tenth section of the civil and diplomatic bill, which carried them back into the Treasury. I made a very thorough examination into these items, and I think they are all necessary to be provided for.

The question was then taken upon the amendment, and it was agreed to.

Mr. CARTTER. I offer the following amendment:

For the payment of the amount due to John L. Cooper, for property destroyed by the burning of the navy-yard in the city of Washington, in the year 1814, the amount to be ascertained by the proper accounting officer of the Treasury, the sum of $750.

Mr. DUNHAM. I rise to a point of order. This is a private claim. If we undertake to put such private claims upon the deficiency bill, we shall never see the end of it.

Mr. CARTTER. This is not a private claim. It is a proper item for a deficiency bill; and if the gentleman had waited until the following communication had been read, he would have seen that it was. This claim is recognized by law, and would have been paid by the Department long ago but for the fact that there was no appropriation. I send the communication to the Clerk's desk, and ask that it be read.

It was read by the Clerk, as follows,

TREASURY DEPARTMENT,
FOURTH AUDITOR'S OFFICE, *Jan.* 29, 1852.

SIR: I have the honor to inform you, in reply to inquiries made at this office a day or two since, that the case of John L. Cooper is covered by the act of March 3d, 1815, referred to in the letter of the Secretary of the Navy to the Hon. Mr. Hay, but the other acts mentioned in the same letter are not applicable.

There is no appropriation, however, out of which the claim of Mr. Cooper can now be paid, the unexpended balance of the appropriation made in 1815 having been long since carried to the surplus fund. A reappropriation by Congress will be necessary before the claim can be admitted.

The papers you left with me are herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant, A. O. DAYTON.

To the Hon. NATHAN T. STRATTON,
House of Representatives.

Mr. CARTTER. Is my friend satisfied?

Mr. DUNHAM. No, sir; I think the point of order is still good. I think the case is in the nature of a private claim.

Mr. CARTTER. Then I will ask for the reading of a letter from the Secretary of the Navy in addition.

The letter was read, as follows:

NAVY DEPARTMENT, *September* 27, 1850.

SIR: Your letter of the 25th instant, addressed to the Secretary of War, has been referred to this Department. In reply, I have the honor to inform you, that on the 3d March, 1815, Congress passed an act "for the relief of sundry persons in the service of the United States, in consequence of the destruction of their tools by fire at the navy-yard in Washington," and on the 30th June, 1834, an act was passed "for the relief of the heirs and legal representatives of John Rose, senior, deceased," authorizing compensation for his property destroyed by fire at said navy-yard, in 1814. The law of 9th April, 1816, authorizing payment for property lost, &c., also provides for claims of the above character.

The Department is unable to inform you what payments have been made under the laws above referred to.

I am, very respectfully, &c.,
WILLIAM A. GRAHAM.

Hon. A. R. HAY, *House of Representatives.*

The CHAIRMAN. Does the gentleman still insist upon his point of order?

Mr. DUNHAM No, sir; I will withdraw it.

Mr. CARTTER. Mr. Chairman, those gentlemen of the committee who have paid attention to the reading of these communications have ascertained the fact, from competent authority, that the amendment I have proposed is covered by existing laws, and that the reason why the claim has not been liquidated long ago by the Department is, because there was no appropriation out of which it could be paid.

Mr. Chairman, I will add nothing further in reference to this matter, save that I have no interest, not even that of the relation of representative and constituent, in this claim.

Mr. STEPHENS, of Georgia. I understand the gentleman to say that this is a case which is covered by the provisions of existing law.

The Department does not state in these papers any knowledge of the correctness of this claim. Where is the evidence that this is a lawful claim? The Department says, merely, that the law of March 3d, 1815, provides for cases of this character.

Mr. CARTTER. I do not so understand it.

Mr. STEPHENS. They do not say that the loss was sustained by Mr. Cooper.

Mr. STRATTON. I have in my hands the claim, as approved by the Department. The only objection was that the appropriation made for the payment of this claim had been transferred to the surplus fund. I ask that the affidavits which I send to the Clerk's table may be read.

They were read, as follows:

State of New Jersey, Camden county, ss:

Before me, the subscriber, one of the justices of the peace in and for said county, personally appeared John L. Cooper, of said county and State, who, being conscientiously scrupulous of taking an oath, on his solemn affirmation, saith, that he resided at the city of Washington in the year A. D. 1814; that he was a mechanic, and worked in the "navy-yard at that place, in the employ and service of the United States," at the trade and business of millwrighting, and that he helped in building one "steam sawmill and one block-mill;" that he worked under John Rose, who was the boss workman in the building of said mills in the navy-yard aforesaid, and that while thus engaged in the service of the United States, at the navy-yard aforesaid, he had the misfortune of having the whole of his tools, which he used in his occupation as aforesaid, destroyed by the fire at the navy-yard, in Washington, in the year aforesaid; which said tools consisted of a complete set of millwright tools, together with one good turning-lathe and vice, all new, and in the very best condition, of the value of $225, all of which was of use, and necessary in his work and trade about said mills.

And that deponent has not at any time since received any compensation from the Government (or otherwise) for said loss, neither did deponent know, until recently, that Congress had made any provision for the sufferers in consequence of said fire.

JOHN L. COOPER.

Affirmed and subscribed before me, this 27th day of January, A. D. 1851. EDWARD TURNER,
Justice of the Peace.

—

State of Pennsylvania, Montgomery county, ss:

On the 16th day of January, A. D. 1852, before me, the subscriber, one of the justices of the peace in and for the said county, personally appeared Gainor Knight, of said county and State, who, being conscientiously scrupulous of taking an oath, on her solemn affirmation, saith, that she is cousin to John L. Cooper, named in the annexed affidavit, and that she is well acquainted with the whole of the circumstances set forth in the said affidavit, the whole of which she believes to be true, from having had a personal knowledge of the whole transaction, as set forth in the said affidavit, she being resident in the city of Washington at the time set forth in said affidavit.

her
GAINOR ✕ KNIGHT.
mark.

Affirmed and subscribed before me, this 16th day of January, A. D. 1852. ALGERNON S. JENKINS,
Justice of the Peace.

Mr. DUNHAM. That amendment clearly ought not to pass in the form in which the gentleman has presented it. It is very possible that an appropriation ought to be made, to meet this claim, but surely it ought not to pass in the form in which he has offered it; because you authorize the payment of money upon testimony which is not such as the Department ought to have.

Mr. CARTTER. It is to be paid upon the ascertainment of the Department that it is due.

Mr. DUNHAM. But if that amount of money is appropriated for that particular purpose, the Department will be bound by it.

Mr. CARTTER. I do not so understand it.

Mr. DUNHAM. The gentleman from Virginia [Mr. MEADE] is preparing an amendment, which I have no doubt will be accepted.

Mr. CARTTER. I have no desire that an amendment should pass which will at all foreclose the discretion of the Department.

Mr. DUNHAM. So I suppose.

Mr. CARTTER. But I understand the amendment will not have that effect as it is.

Mr. DUNHAM. I think it will.

Mr. MEADE. I offer as an amendment to the amendment, to strike out, commencing with the words "after payment," in the first line, to the word "for," in the second line, inclusive, and to insert the words "payment of such sums as may be due to individuals, under the act of March 3d, 1815, for property destroyed."

Mr. CARTTER. I do not know as I apprehend the amendment correctly, but if I do, I am willing to accept it. Will the Clerk read the amendment as proposed to be amended by the gentleman from Virginia?

The amendment was accordingly read, as follows:

For the payment of such sums as may be due to individuals under the act of March 3d, 1815, and 9th April, 1816, for property destroyed by burning of the navy yard in the city of Washington, in the year 1814, the amount to be ascertained by the proper accounting officers of the Treasury, the sum of $750.

Mr. CARTTER. I accept the amendment.

The question was then taken upon the adoption of the amendment as modified, and it was agreed to.

EQUESTRIAN STATUE OF JACKSON.

Mr. VENABLE. I offer an amendment, which I send to the table.

The amendment was read, as follows:

For the purpose of completing the pedestal of the equestrian statue of Andrew Jackson, in Lafayette square, and the erection of a suitable iron railing around the same, $3,000.

Mr. VENABLE said: There was an appropriation made at the last session of $5,000 for the purpose of making a pedestal to the Jackson statue. That appropriation has been expended, and it has fallen short, as the finishing of the pedestal will exceed $5,000. I have taken the pains, this morning, to have an estimate made by competent persons of the sum necessary to finish the pedestal, and put an iron railing around it. The $3,000 proposed by this amendment will accomplish it. It is a deficiency in the appropriation made last year which was not enough to finish the pedestal. The work is now in an unfinished state, and I propose this appropriation for the purpose of completing it.

Mr. STANLY. If that amendment is in order, I desire to move an amendment to it.

The CHAIRMAN. The Chair thinks that the amendment is in order.

Mr. STANLY. Then I send up an amendment to the Clerk's table.

The amendment was as follows:

To aid in the completion of the monument being erected by the Washington Monumental Society on the public grounds in Washington, $20,000.

Mr. VENABLE. I cannot vote for the amend-

ment of my colleague. I do not think his amendment germane to mine; nor do I think there is any law for erecting the Washington monument, under which he can bring in this amendment as a deficiency.

Mr. HOUSTON. Is the amendment of the gentleman from North Carolina in order?

The CHAIRMAN. If the gentleman from Alabama raises a question of order, the Chair will decide it.

Mr. HOUSTON. I raise the point that the amendment is not in order. It is not an appropriation for a work authorized by law, and it is not a deficiency.

Mr. STANLY. There is no law directing the statue of Jackson to be carried on.

The CHAIRMAN. The gentleman from North Carolina [Mr. VENABLE] states that there was an appropriation of $5,000 last year for completing the pedestal of the Jackson statue, which was insufficient for that purpose, and he asks for an additional appropriation of $3,000 for that purpose.

Mr. STANLY. If, as I understand the Chair to say, all appropriations relating to appropriations hitherto made, are deficiencies, such items will swell this bill up to a very large amount. I do not understand that to be the rule of this House, and to that point I wish to direct the attention of the Chair. This is not to supply a deficiency in any appropriation law. It is legislating upon a subject upon which legislation has already taken place, but that does not make it a deficiency. That is not enough by any means. I call the attention of the Chair to the point, in order that it may be decided. The appropriation of $5,000, at the last session, was a mere gift, and I was glad to see it; and if this amendment is in order as a deficiency, I want to go a little further, and do something for some other good object, besides the one which my colleague has at heart.

The CHAIRMAN. The distinction between the two cases, the Chair would remark, is this: the amendment of the gentleman from North Carolina [Mr. VENABLE] refers to a work for which Congress made an appropriation last year. Congress took cognizance of the subject, and made an appropriation for it. So there is existing authority of law. The gentleman now says that the appropriation was insufficient. Whether it was or was not sufficient is a question for the House to decide. The Chair simply holds that, such being the case, the amendment of the gentleman from North Carolina [Mr. VENABLE] is in order.

So far as the Washington monument is concerned, the Chair does not understand that Congress has ever taken any direction of it at all, or legislated in regard to it, or made any appropriation for it. And it is for these reasons that the Chair decides that the last amendment, or the amendment to the amendment, is not in order. An amendment is not in order at all, unless it is based upon some legislation of Congress.

Mr. STANLY. That is not the rule of the House. I wish the Chair would turn to that rule.

The CHAIRMAN. The Chair is not very familiar with the rules, he admits, and will have the 81st rule read.

The rule was read, as follows:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government."

Mr. STANLY. That does not make the amendment of my colleague in order because Congress has taken action upon it.

The CHAIRMAN. The Chair has decided that the first proposition is in order, but that the second one is not.

Mr. STANLY. I take an appeal from that decision.

Mr. STUART. I desire to hear the amendment read before the question is taken on the appeal,

The amendment offered by Mr. VENABLE, and the amendment offered thereto by Mr. STANLY, were read, as above inserted.

The CHAIRMAN. The Chair decides that the amendment to the amendment is not in order, and from that decision the gentleman from North Carolina [Mr. STANLY] takes an appeal.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put, and on a count there were—ayes 75, noes 40; no quorum voting.

Mr. STANLY. I call for tellers.

Mr. STEPHENS, of Georgia. I shall vote strictly according to my understanding of the rule in this case. The fact that there has been an appropriation for this work does not bring it within that rule. The rule provides for deficiencies in appropriations for public works in any one of the Departments of Government. This is a private, and not a public work. I would favor the proposition very willingly under other circumstances, but we must adhere to our rules.

Mr. ORR. I would suggest to the gentleman from Georgia that this is a public work. It was placed in the center of Lafayette square to ornament the public grounds.

Mr. STANTON, of Kentucky. It was authorized by a law of Congress to be placed on that spot.

The CHAIRMAN. No question of order is pending with reference to the amendment submitted by the gentleman from North Carolina, [Mr. VENABLE.]

Mr. FLORENCE. The lettering on the pedestal is a disgrace to the nation, as every one who has seen it will admit.

Mr. HOUSTON. Which of the amendments is to be disposed of under the question of order?

The CHAIRMAN. The Chair will again state the question, and hopes that gentlemen will listen. The gentleman from North Carolina [Mr. STANLY] submitted an amendment to the amendment of his colleague, [Mr. VENABLE,] for the appropriation of $20,000 to aid in the erection of the Washington monument, which the Chair has decided to be out of order. From that decision the gentleman took an appeal, and the question now is, "Shall the decision of the Chair stand as the judgment of the House?"

Mr. STEPHENS. I rise, then, to a question of order upon the first amendment. I was laboring under a mistake. I thought the point of order was made on the appropriation for the Jackson equestrian statue.

The CHAIRMAN. One point of order must be decided before another can be considered.

The question was put, and, on a division, there were 75 in favor of sustaining the decision of the Chair, and 45 opposed to it.

Mr. STANLY demanded tellers; which were ordered; and Messrs. HARRIS of Tennessee, and MCNAIR, were appointed.

The question was then put, "Shall the decision of the Chair stand as the judgment of the Committee?" and the tellers reported—ayes 82, noes not counted.

So the decision of the Chair was sustained.

Mr. STEPHENS. I rise to a question of order.

Mr. STANLY. Before the gentleman takes an appeal from the decision of the Chair that the amendment of my colleague [Mr. VENABLE] is in order, I desire to offer an amendment to that amendment. The amendment is as follows:

And this appropriation is made not only in honor of General Jackson's military services, but also because of his devotion to the Union, exhibited in his patriotic opposition to nullification and secession.

Mr. STEPHENS. I raise the point, now, that it is not in order for the gentleman from North Carolina [Mr. VENABLE] to offer an amendment appropriating money for the Jackson monument to this bill; and I make that point, not because I am opposed to the object contemplated, but that the rules of this House may be maintained. As I understood the gentleman, he stated that there was an appropriation made last year for this monument, and that, because that appropriation was deficient, he could attach this amendment, under the rules, to this bill. Our rules declare that provisions for deficiencies in appropriations for public works shall be in order to the general appropriation bills. This was not a public work.

Mr. STUART. To what rule does the gentleman refer?

Mr. STEPHENS. I believe that its number is eighty-one.

The CHAIRMAN. The gentleman is right in his statement of the rule; but the Chair holds that, inasmuch as Congress made the appropriation for erecting the pedestal, and inasmuch as it was erected at the public expense, it is a public work. The gentleman's amendment does not make an appropriation for the statue, but the pedestal which was erected by authority of Congress.

Mr. JONES, of Tennessee. I beg to call the attention of the Chair to the fact, that when the gentleman from North Carolina [Mr. VENABLE] submitted his amendment, the question of order was made upon it, that the Chair decided the amendment to be in order, that that decision was acquiesced in, and that the mover of the proposition then made his speech.

Mr. STANLY. The gentleman from Tennessee is mistaken. I stated, that if the Chair decided the amendment to be in order, I would offer the one I have as an amendment to it.

The CHAIRMAN. That is the recollection of the Chair.

Mr. STANLY. Before that question was decided this question came up.

The CHAIRMAN. The Chair holds that the amendment of the gentleman from North Carolina [Mr. VENABLE] is in order.

Mr. STEPHENS. I should like to vote for that amendment, as all my feelings accord with the object of the gentleman from North Carolina, but that the rules may be adhered to, I take an appeal from the decision of the Chair.

Mr. VENABLE. I say that this is not a private work. A resolution was passed by Congress providing that the equestrian statue of General Jackson should be placed in Lafayette square on the public ground.

Mr. STUART. The Chair has decided the question, and as no appeal has been taken from his decision, I do not see the necessity of arguing the question of order further.

Mr. STEPHENS. I have appealed.

[Cries of "State the question!" "State the question!"]

The CHAIRMAN. The gentleman from North Carolina [Mr. VENABLE] proposed an amendment making an appropriation to complete the pedestal to the statue erected in memory of Andrew Jackson. The gentleman from Georgia raises the question of order, that such an appropriation, under the rules, cannot be attached to this bill. The Chair holds that the amendment is in order, and from that decision the gentleman takes an appeal.

Mr. VENABLE. I wish to make a single remark, with the permission of the Chair.

Mr. HOUSTON. I must object.

Mr. STEPHENS. I withdraw my appeal.

Mr. GOODENOW. I renew it.

Mr. VENABLE. I wish to make a single suggestion. The following is the law on the subject:

"For the purpose of erecting a pedestal in Lafayette square for the equestrian statue of Andrew Jackson, on such plan as may be approved of by the artist for that work, $5,000."

The pedestal is a public work. It was ordered by law to be placed on the public ground, and in the appropriation made by that law, there is a deficiency which I now move to supply. That is all.

The CHAIRMAN. The Chair must remind gentlemen that debate is not in order. The question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. STANLY. I demand tellers.

Tellers were not ordered.

The question was put, and on a division there were—ayes 74, noes 40; no quorum.

By unanimous consent, on motion by Mr. VENABLE, tellers were ordered; and Messrs. JONES of Tennessee, and HART were appointed.

The question was taken, and the decision of the Chair was sustained, the tellers having reported—ayes 75, noes not counted.

Mr. STANLY. I now propose the amendment which I sent to the Clerk, and which he read a few moments ago.

Mr. DEAN. I make the point of order that the amendment is not germane.

The CHAIRMAN. The Chair holds that the amendment is in order, on the ground that it is competent for the House to explain the reasons for making the appropriation.

Mr. STANLY. I am in earnest in offering that amendment. I shall vote for it, as well as for the appropriation asked for by my colleague, [Mr. VENABLE,] not only on account of my own gratitude for the military services of General Jackson, but I desire to show my regard for his services in another position than that of commander, which

I believe to be above all of his military services. I represent my constituents when I say that, though they had the highest admiration for that great man's conduct in war, they looked on his illustrious achievements there as being thrown into the shade by his noble, patriotic, zealous, uncompromising, undying devotion to the Union of these States, when he was President of the United States, in putting down nullification and secession. And these opinions of mine have not been formed yesterday. They have been formed for years.

I was not a Jackson man in the early part of my life, though too young to enter the political arena. Had I been old enough when he was first elected, I might have voted against him. I never voted for him, or supported his civil administration. I thought that he committed many errors as the President of the United States; but, sir, he claims my gratitude, and he has it; he claims the gratitude of my constituents—Whigs and Democrats—and he has it, for his noble conduct, I repeat, as President of the United States. When this Union, as he believed, was in danger, he disregarded everything else but his sense of duty in giving that noble sentiment which commends itself to all our hearts, and which will make his name immortal, if nothing else does: "The Union—it must be preserved!" I followed with pride the procession on the 8th of January in inauguration of the statue erected to his memory. I looked with a swelling heart at the motto emblazoned on its base. Honor to General Jackson as the hero, but especial honor, if possible more than this Congress can give, for his conduct in that great hour of our trial in 1833: "The Union—it must be preserved." Let it be cherished, and let this Congress show, that in voting for this appropriation they do it not out of a wild, inconsiderate admiration for his military services, but also for his incalculable services in peace. We have had other great captains in war—some illustrious men, who have fought more battles, and fought them well; but there has been only one Jackson who, as President of the United States, saved this Union, and laid low that fell spirit of Disunion which attempted to separate these United States in 1833. I hope that the amendment will receive the unanimous sanction of the members of the House.

Mr. JONES, of Tennessee. If it be not too late, I appeal from the decision of the Chair that this amendment is in order.

The CHAIRMAN. The Chair holds that it is now too late to take an appeal.

Mr. JONES. Under that decision a member, after an amendment has been voted upon, can present and have read a speech on the subject.

Mr. STEPHENS, of Georgia. I am opposed to this amendment. I do not concur in the remarks made by the gentleman from North Carolina, [Mr. STANLY,] or in the sentiments expressed in the amendment offered by him. Not at all, sir. I do not understand that General Jackson ever put down nullification in this country. When or where? That General Jackson, as President of the United States, and as a citizen, was against the doctrine of nullification, as taught in South Carolina, I concede. But did General Jackson ever put down that doctrine? Did he ever silence it? It is true, the principles of the Proclamation were against that doctrine. I did not agree with General Jackson in the principles of that proclamation, though the gentleman from North Carolina might or may have done so. And so it may have been with a majority of the American people. But, sir, that proclamation did not put down nullification. If the gentleman from North Carolina will look to the history of this country, he will find that the spirit and principles of nullification were never abandoned or put down in South Carolina. She did not cease her preparations for resistance until this Government abandoned the principles of that policy against which she was arrayed.

Mr. STANLY. They were never abandoned, and never will be.

Mr. STEPHENS. They were certainly abandoned by the compromise tariff bill, brought forward in the Senate for conciliation, and this the gentleman himself will hardly deny.

Mr. STANLY. I deny it: it was denied at the time.

Mr. STEPHENS. I am not going into a discussion of the extent of the abandonment, at this time and upon this subject. What I say is this: The spirit of nullification, whether right or wrong, never yielded until there was a yielding on the part of this Government. It is not my object now to say whether it was right or wrong. I was, however, no nullifier. I did not believe in the doctrine of nullification, as taught in South Carolina, any more than I did in the doctrines of the proclamation; but I say that the history of the country bears me out in this, that General Jackson did not put it down. I am opposed to this amendment.

Mr. JONES, of Tennessee. I must insist upon my appeal, and submit to the Chair the fact, that after the gentleman from North Carolina [Mr. VENABLE] offered his amendment and made his speech——

[Cries of "Order!" "Order!"]

I am in order, gentlemen. The gentleman from North Carolina [Mr. STANLY] offered his amendment, and a point of order was then made. The Chair decided it to be out of order. An appeal was taken, and the Chair was sustained. After all that proceeding, an appeal was taken upon the amendment.

Mr. GOODENOW. The gentleman is not in order.

Mr. JONES. The question of order was made upon the amendment offered by the gentleman from North Carolina, [Mr. VENABLE,] it was decided by the Chair to be in order, and an appeal was taken from his decision and voted upon by the House. It is not too late at any time before a decision to make the question of order.

The CHAIRMAN. The gentleman does not recollect the facts. After the whole proceeding, of which he speaks had transpired, the amendment of the gentleman from North Carolina [Mr. STANLY] was read from the Clerk's desk, the gentleman from New York [Mr. DEAN] rose to a point of order. The Chair overruled it, and his decision was acquiesced in until after the gentleman from North Carolina had concluded his speech, when the gentleman from Tennessee [Mr. JONES] renewed the same point of order. The Chair holds, that the point of order having been overruled, and there being a general acquiescence in it until after the gentleman from North Carolina [Mr. STANLY] had concluded his speech, the same point could not be again raised.

Mr. FLORENCE. I move further to amend the——

The CHAIRMAN. Further amendments are not in order.

Mr. FLORENCE. I have no doubt that the gentleman from North Carolina [Mr. STANLY] will accept my amendment.

The CHAIRMAN. The question pending is the amendment offered by the gentleman from North Carolina, [Mr. STANLY.]

Mr. ORR. Is the amendment pending an original proposition?

The CHAIRMAN. It was offered as an amendment to the proposition of the gentleman from North Carolina, [Mr. VENABLE.]

Mr. FLORENCE. I hope that the gentleman from North Carolina [Mr. STANLY] will accept an amendment which I wish to offer.

Mr. ROBBINS. I call for the reading of the pending amendment.

The amendment was again read.

Mr. JONES, of Tennessee. I ask for tellers upon the amendment.

Tellers were ordered, and Messrs. HARRIS of Alabama, and GAYLORD were appointed.

Mr. McMULLIN. I desire to know if I have not the right to ask the gentleman to modify his amendment?

[Cries of "Order!" "Order!"]

The CHAIRMAN. The Chair holds that it would not be in order.

The question was then taken on Mr. STANLY's amendment, and the tellers reported that there were—ayes 52, noes 72.

So the amendment was not agreed to.

The CHAIRMAN. The question recurs on the amendment proposed by the gentleman from North Carolina, [Mr. VENABLE.]

Mr. STANLY. What is the sum in the amendment of my colleague?

Mr. VENABLE. Three thousand dollars.

Mr. STANLY. I move to make it $4,000. They will want a little more next year, and I hope that the amendment will be adopted. The honorable gentleman from Georgia, [Mr. STEPHENS,] a while ago, said that General Jackson did not put down nullification, and that the General Government yielded——

Mr. HOUSTON. I rise to a question of order. If we will waste our time this way, I desire the gentleman to confine his remarks to the amendment, and show why $4,000 should be appropriated instead of $3,000.

Mr. STANLY. I think that it ought to be one thousand more for General Jackson's devotion to the protective tariff so long as he lived. Put that in, Mr. Clerk. I am willing to do this, not only for his services in putting down secession and the spirit of rebellion in 1833, but also for his steady advocacy of a protective tariff. And I feel it, and last year, I may say, I was elected upon this feeling, when the spirit showed itself in the district I represent. Though I drove away a few Whig votes, I gained hundreds of honest Democrats by avowing the principles which I avow here. Now, about the tariff. Am I in order now?

Mr. HOUSTON. I ask if the gentleman is in order in discussing the tariff?

Mr. STANLY. You say that the gentleman from Georgia [Mr. STEPHENS] was in order.

Mr. HOUSTON. That was a different proposition.

Mr. STANLY. Not at all.

Mr. HOUSTON. I hold that he was not in order.

The CHAIRMAN. The Chair holds that the gentleman from North Carolina, [Mr. STANLY,] having moved to increase the appropriation, has clearly the right to state the reasons why he proposes to increase it.

Mr. HOUSTON. He has the right to say why it should be four instead of three.

The CHAIRMAN. To justify the appropriation, the Chair holds that the gentleman from North Carolina [Mr. STANLY] has a right to speak of the public services of General Jackson.

Mr. STANLY. Yes, sir; and whose public services in peace this country will remember with gratitude as long as they will remember the name of Andrew Jackson. Ever since he grew up to man's estate, he was as earnest an advocate of the protective tariff as breathed in the land. He was as earnest as Washington, as Jefferson, Madison, or any other patriot who desired us to be free from British power. In his celebrated letter to Dr. Coleman, of North Carolina, I want no better tariff doctrine, and General Jackson, in sustaining that proclamation of his against secession and nullification, determined that we should have protection. The gentleman from Georgia [Mr. STEPHENS] is mistaken. I will take issue with him. I am ready to meet him upon that question, that the compromise tariff did secure protection. The home valuation was the protective feature. The journals of that day show it. It was the protective policy that was complained of by the Nullifiers. That they never destroyed. That was never yielded; for when the Government was nearly bankrupt, in the year 1842, we created another protective tariff. We have one now. Mr. Clay and Mr. Clayton of Delaware claimed that protection was not abandoned, and it was said that they would die in their seats before that question should ever be abandoned. That question of protection never was abandoned. General Jackson himself would have died by it, and if that home valuation could have been carried out, it would have given protection to American manufactures. We had to abandon that and go back to the tariff of 1842, because we could not carry out that feature of home valuation, it being impracticable. The whole history of the country at that time shows this.

The gentleman from Georgia, with his notions against a protective tariff, may have thought so, but in taking issue upon this question, he speaks upon one side. Let him examine the debates at that time. I maintain that they carry a complete refutation of the idea that the tariff was abandoned in 1832; but they establish the fact that it was secured by the compromise, and intended to be secured by compromise by Mr. Clay, John M. Clayton, and other great men of that day. I am willing to make an issue upon that before the country. I hope the amendment will be agreed to.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. I wish to say only a few words in reply. The point at issue between the gentleman and myself was, whether General Jackson put down nullification, and not

whether he was a protective tariff man or not. He was a protective tariff man at that time and up to the day of his death, so far as I know. I grant that I did not say he was not, but I stated that General Jaekson did not put down nullification. What I stated was, whether South Carolina was right or wrong, there was no giving way on her part until conciliation was proposed. This is history. That is the point.

Mr. STANLY. The gentleman said that they gave way in yielding protection.

Mr. STEPHENS. I say that they or this Government gave way on that act against which South Carolina was contending. It was this Government that first gave way and let go. I did not say that she entirely abandoned protection. You have not done it to this day; even a revenue tariff is protective as far as it goes. We have now a protective tariff upon most articles of thirty per cent. I say the friends of that kind of protective system which was established by the acts of 1828 and 1832, protection for protection sake, not looking to revenue as the object, did let go so far as to agree that one tenth of the duty above twenty per cent. on all articles should at stated periods be taken off, and that all above twenty per cent. should be taken off at the end of ten years. Twenty per cent. was considered the standard of a revenue tariff. I say that is letting go; and I say, as I repeated before, whether General Jackson was right or wrong in being a protective tariff man, or whether South Carolina was right or wrong in her views, I am not going to discuss here. It is not the proper place; but I mean to defend history. South Carolina, whether right or wrong, did maintain her attitude of resistance, and she stood up to it until the Government here gave way, and until General Jackson's party here gave way. If there was any giving way, it was on the part of the Federal Government. South Carolina, however I may have disagreed with her in her policy, never quailed to the proclamation. She did not quail, but there was a giving way here. When conciliation was offered to her upon terms that met the approval of her judgment, she yielded, and not before. She may have yielded some to patriotism, too. This I believe she did. But the olive branch came from the Federal Government. It was not General Jackson or his proclamation, that put her down. That is the point I make.

Mr. STANLY. I did not mention South Carolina. I talked about nullification. Whether South Carolina gave way or not, General Jackson, in his proclamation, insisted upon the doctrine of protection, and said it never should be abandoned.

The question was then taken upon Mr. STANLY's amendment, and it was rejected.

Mr. FLORENCE. I move to make it $5,000, instead of $3,000. I rose a few minutes since to amend the amendment offered by the gentleman from North Carolina, [Mr. STANLY,] because it is not entirely faithful to history, and because it was not sufficiently elaborate to secure my vote. I do not mean to say that I would have voted for it with the objectionable phraseology in which it was presented. I say candidly, I would not; but I desired further to elaborate it, in order that it should be more truthful, and the more clearly refer to very prominent acts and events which occurred during the administration of the immortal Sage of the Hermitage. I lived, during the days of the Bank of the United States, in the city of Philadelphia. I was, to some extent, a victim of its persecution and proscription. I know well the tyranny of that institution, and I desire "to vindicate the truth of that history." I desired to offer an amendment to record my approbation, and, as I anticipated, of this House, of the patriotic services rendered by General Jackson in emancipating labor and relieving the working classes from the baneful influences of that institution, in vetoing the act of Congress rechartering the Bank of the United States. I desired to accord credit to him for his rare honesty and his laudable independence in removing the deposits from that bank, when even some of his warmest friends doubted its propriety. In that hour, sir, "when shrunk the timid and stood still the brave," I desired to accord the credit due him for thus leaving on the glorious and patriotic record his veto against the demoralizing and dangerous influence of that mammoth corporation.

I know something about the acts of its prominent advocates. I lived in Philadelphia, a young man just then commencing the world; and because I dared, in honesty of heart, and from the conviction of my judgment, to be a Democrat; because I chose to raise my humble voice in favor of the principles which I believed were essential to the maintenance and perpetuity of our glorious republican institutions; because I was opposed to a Bank of the United States, which I then saw, with all its "imperfections on its head," I was a marked and proscribed man. But I thank God that the day has come when I am permitted to stand upon this floor, to raise my voice in commendation of that act of the administration of Andrew Jackson—the veto of the recharter of the Bank of the United States—that act, sir, which at once struck the shackles from the "wrists of labor," and permitted man, persecuted and friendless—the poor man—to feel that his liberty, his liberty of thought, of action, and of opinion was still secured to him. [Roars of laughter and great clapping of hands.] Hence I wanted the truth of history vindicated, and the pleasing recollections of the acts of a good man revived by the adoption of my amendment. [Renewed and long-continued laughter and applause.]

Mr. HOUSTON. I am opposed to the amendment of the gentleman from Pennsylvania.

Mr. FLORENCE. Oh! I will withdraw it. [Laughter.]

Mr. STANLY. I object.

Mr. HOUSTON. I am opposed to the gentleman's amendment, for the reason that it is not necessary. If the appropriation asked for is to be granted at all, the proper amount is that contained in the amendment of the gentleman from North Carolina, [Mr. VENABLE.] I am opposed to all these amendments upon another ground. These gentlemen, some of whom have always been ranked amongst the bitterest enemies and revilers of General Jackson, are now coming forward as the particular guardians of his fame and reputation; and they are disposed to enter upon the records of the proceedings of this House that sort of testimony in his behalf for which, if he was living, he would not thank them, and for which his friends do not now thank them. His fame is beyond the reach of anything that this House or this Congress can do.

You need not in this way thank General Jackson for his destruction of the Bank of the United States. The people of the United States have done that very amply and triumphantly long since. Sir, it is but a mockery—a mockery of the worst character, for the gentleman from North Carolina [Mr. STANLY] to pretend now that he is converted, or that he has any friendship for General Jackson or his reputation; and I regret exceedingly that the gentleman from Pennsylvania [Mr. FLORENCE] has so far forgot himself as to engage in this course of improper legislation. I do hope that gentlemen will let us pass upon the amendments, and dispose of the bill.

Mr. FLORENCE. I desire to explain, if the gentleman will give me one minute.

[Much laughter, and cries of "Hear him!"]

The CHAIRMAN. No further remarks are in order.

The question was then taken on Mr. FLORENCE's amendment, and it was rejected.

Mr. ORR. I move that the committee do now rise.

The question was put, and the motion was negatived.

So the committee refused to rise.

Mr. STANLY. I move as an amendment to put in "$6,000." I rise to return my thanks to the chairman of the Committee on Ways and Means for his most furious, unjustifiable, unjust, and unprovoked onslaught upon me just now.

Mr. HOUSTON. I made no onslaught.

Mr. STANLY. Does the gentleman know what an onslaught is?

Mr. HOUSTON. I do.

Mr. STANLY. I doubt it very much. The gentleman undertook to say, as I understood him, that I was among the revilers of General Jackson.

Mr. HOUSTON. I meant the enemies of General Jackson.

Mr. STANLY. You said revilers.

Mr. HOUSTON. I am perfectly willing that the gentleman shall take it as he pleases. I meant to say that the gentleman was ranked among the bitterest opponents and enemies of General Jackson.

Mr. STANLY. An opponent is one thing; a reviler another.

Mr. HOUSTON. I make that explanation.

Mr. STANLY. Then the gentleman stands corrected. It is a mockery, is it?

Mr. HOUSTON. A perfect mockery.

Mr. STANLY. Why, then, we have mockeries here every day. We have mockeries from the Committee on Ways and Means continually. All these amendments are mockeries. We had mockeries here yesterday. By what authority does the gentleman from Alabama get up and apply a word of that sort to my proposition? I have a right to signalize my devotion to Jackson's reputation, if I choose, in my own way. I did so without intrenching on anybody's personal feelings, and I do not think that the chairman of the Committee on Ways and Means has a right to talk to me in this way. Why, I wonder if I cannot be a friend of General Jackson, though he is dead. The gentleman undertakes to say that if General Jackson were alive he would not thank me for my friendship. Sir, I learned my respect for General Jackson from those who preceded me, men as good as the gentleman from Alabama dare hope to be, and ardent, devoted, and disinterested friends of Jackson.

The gentleman from Alabama, with his peculiar notions of patriotism, thinks that no man can be a friend of Jackson because he is dead! As a young man, I opposed him when he was alive, and thought some of his political opinions wrong. But I do reverence his memory now that he is dead, because he put down nullification and secession, and because he was a devoted friend to a tariff for protection. I am not one of those who think they can only show devotion and friendship and honor for illustrious and patriotic services, when a man is the fountain of honor and power, and that they should heap no laurels on his grave after he is dead.

The gentleman from Alabama says it is pretense. By what authority does he undertake to arraign me for pretending anything? I speak the sentiments of my constituents and of my own heart, and I will thank my honorable friend—if I may be allowed to call him so—to weigh his words with a little more care when speaking of me, and to be more sparing of such charges as he has made here to-day. I am acting as much under a sense of duty as he is. Sir, I shall carry the war no further into Africa unless I am driven to it.

Mr. STUART obtained the floor.

Mr. HOUSTON. I ask the gentleman to yield to me for a few minutes.

Mr. STUART. Very well, sir; I will do so.

Mr. HOUSTON. Mr. Chairman, my remarks, as I supposed everybody understood, were not intended as personally offensive. I intended to characterize this mode of legislation—if I may call it legislation—as a mockery, and I am sure that the gentleman from North Carolina in his sober second thought, will agree with me. What is a mockery? What is intended to be accomplished by these amendments? Is there any good and legitimate purpose of legislation to be accomplished by them? If there is not, then I should like to know if I was not correct in characterizing it as a mockery?

Mr. STANLY. I understood the gentleman to say that it was a mockery because the revilers of General Jackson did it.

Mr. HOUSTON. I am not responsible for the gentleman's understanding. But the gentleman asks—and I will reply to it—may he not be a friend of General Jackson although he is dead? Certainly, but it is to be regretted that he did not show his friendship while General Jackson was alive; that he has suffered him to remain dead so long before he has evinced this patriotic emotion—this love for General Jackson which he seems to intimate that he inherited—my God! what an inheritance! Inherited, and what became of it? A lost inheritance; a lapsed legacy; gone; never called for or used until General Jackson has been dead for years, and his reputation beyond the reach of anything that Congress may do, either individually or collectively. The gentleman's words are harmless if against him, and can add nothing to him if for him. I repeat again, that I intended nothing personally offensive to the gentle-

man from North Carolina. My remarks were intended to apply to this mock legislation which we are carrying on, to the delay and obstruction of proper and useful action, and the injury of the best interests of the country. I wish to press this bill to a final vote to-day.

Mr. STANLY. As to the "lapsed legacy," the gentleman from Alabama has not lost that. The legacy of Jacksonism is all the capital some gentlemen have to go upon: take that from them, and they would break.

Mr. STUART. I ask the Chair whether my time is out?

The CHAIRMAN. It is out.

Mr. FLORENCE. I ask the committee to allow me one minute?

[Cries of "Order!" "Order!"]

The CHAIRMAN. No further debate is in order.

The question was then taken, and the amendment to the amendment was not agreed to.

Mr. POLK obtained the floor.

Mr. FLORENCE. I ask the gentleman to yield me the floor?

Mr. POLK. I yield to the gentleman from Pennsylvania.

Mr. FLORENCE. I move to increase the amount specified in the amendment five dollars.

Mr. DEAN. I rise to a point of order. I want to know whether this amendment belongs to the gentleman from Pennsylvania or the gentleman from Tennessee?

Mr. FLORENCE. I understand the gentleman from Tennessee yields me the floor entirely.

Mr. POLK. I yield the floor to the gentleman from Pennsylvania for the purpose of discussing the amendment, or for the purpose of explanation.

Mr. FLORENCE. I desire to occupy the time of the committee but for a single moment, and I desire to be serious, too, in my remarks. [Laughter.]

The gentleman from Alabama, [Mr. HOUSTON,] in his remarks, denied having any personal allusion, or at least any offensive personal allusion, to the gentleman from North Carolina, [Mr. STANLY,] and I take it for granted that he intended to make none to me.

Mr. HOUSTON. I certainly meant no personal allusion to the gentleman.

Mr. FLORENCE. But the gentleman said, if I understood him, I had forgotten myself and the duties I owed to the members of this National Legislature in introducing subjects foreign to the purposes for which we were sent here. Now, sir, I know my duties, and mean to adhere strictly to them, while I have the privileges which I now enjoy upon this floor. It is written, sir, "The deeds that men do live after them," and I think it exceedingly proper sometimes to revive recollections of the brilliant history of a great and good man. For this reason I thought what I have previously said would be very well introduced in connection with this amendment. A sense of duty alone impelled me. I learned my Democracy from the precepts and teachings of Thomas Jefferson. I feel well convinced I was maintaining the principles of this Apostle of Democracy, when I supported, with all the zeal in my power, the administration of Andrew Jackson; and I think, further, that the best among the many great measures of that great man's administration, was the veto of the recharter of the Bank of the United States, and the removal of the Government deposits from that institution.

Mr. POLK. The gentleman says he learned his Democracy from Thomas Jefferson. I desire to know if he was personally acquainted with him? [Laughter.]

Mr. FLORENCE. No, sir. I was taught from his writings by reading the books. I only desire to say this much: I repeat, I know my duty as well as any gentleman upon this floor, and I think I was religiously and in sincerity in the performance of that duty, when I referred gentlemen to the memories of the illustrious dead. It would be better for all of us, perhaps, oftener to do so.

Mr. DEAN. I am opposed to the amendment of the gentleman from Pennsylvania, as I am to all these amendments. I think it is time for us to show that this House is not a bear garden——

Mr. FLORENCE. I rise to a question of order. My point is, that it is an insult to this National Legislature to call it a bear garden. [Laughter.]

Mr. JONES, of Tennessee. I move that the committee do now rise. We are in no condition to legislate now.

Mr. POLK. As the question of order has been raised by the gentleman from Pennsylvania, I ask that it shall be decided by the Chair, whether it is in order to call this House a bear garden? I ask that the gentlemen shall argue the point, and the Chairman decide upon it. [Renewed laughter.]

Mr. STEPHENS, of Georgia. I move that the committee do now rise.

The CHAIRMAN. The gentleman from New York is upon the floor.

Mr. FLORENCE. Does the Chair decide that the gentleman from New York is in order?

The CHAIRMAN. The gentleman is in order, and may proceed with his remarks.

Mr. DEAN. As it is evident that we shall not get on with the business of the committee, I will yield for a motion to rise.

Mr. CARTTER. I make that motion.

The motion was agreed to.

The committee accordingly rose, and the Chairman (Mr. BROWN, of Mississippi) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 335, "to supply deficiencies in appropriations for the fiscal year ending June 30th, 1853," and had come to no resolution thereon.

Mr. HOUSTON. I hold in my hand some estimates from one of the Departments, which I ask the unanimous consent of the House to receive, have referred to the Committee on Military Affairs, and order to be printed.

There was no objection, and the communication was received, and accordingly referred, and ordered to be printed.

Mr. STANLY. I have some papers here which I desire to have received and referred to the Committee on Naval Affairs. They are in relation to a claim already before that committee.

Mr. KING, of New York. What are the papers?

Mr. STANLY. They are copies of correspondence between the Secretary of the Navy and the commandant of the Boston navy-yard, the commander of the sloop-of-war Plymouth, and R. W. Meade, between the first of March and the first of July, 1849, in relation to the appointment of the said R. W. Meade and other officers and engineers, and their transportation from Boston to the Pacific, for the United States propeller Edith.

Mr. STUART. That is in relation to the McCormick case. Will the gentleman allow me to ask him if the chairman of the Naval Committee has not already reported that case to the House?

Mr. STANLY. I do not think he has. At least he told me he should not report it without an examination of these papers.

Mr. STUART. When was that?

Mr. STANLY. This morning.

Mr. STUART. Some of the daily papers of the city stated that it was offered and received by the House.

Mr. JONES, of Tennessee. My recollection is, that the chairman of the Committee on Naval Affairs did offer the report, but it was objected to, and the rules were not suspended.

The papers were then, by unanimous consent, received, and referred to the Committee on Naval Affairs.

Mr. DAVIS, of Indiana. I move that the House do now adjourn.

The question was put and the motion agreed to.

And the House adjourned till to-morrow at twelve o'clock, m.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. WILLIAMS: A petition in favor of a mail route from Centerville to Butt's Landing, on the Tennessee river.

By Mr. CHURCHWELL: The petition of Thomas McConnell, praying Congress to refund money expended by him during the Mexican war.

By Mr. JONES, of New York: The petition of Margaret Dygert, for relief.

By Mr. FAY: The petition of Samuel Cleland and others, of Chelsea, Massachusetts, praying for a reduction in the rates of ocean postage.

By Mr. IVES: The petition of 72 citizens of Jefferson county, New York, for appropriations to improve the harbor of Cape Vincent and light-houses in the vicinity of the State of New York.

IN SENATE.

THURSDAY, *January* 27, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Acting Secretary of the Treasury, communicating copies of the correspondence and other documents connected with the assay office in California; which was referred to the Committee on Finance.

Also, a report of the Secretary of War, showing the expenditures from the appropriations for the contingent expenses of that Department, its offices and bureaus; which was referred to the Committee on Military Affairs.

Also, a report of the Secretary of War, showing the names and compensation of the clerks and other persons employed in that Department, other than officers of the Army, during the year 1852; which was referred to the Committee on Military Affairs.

Also, a report of the Secretary of the Interior, in answer to a resolution of the Senate, relative to the allegations of fraud by Alexander Ramsay, Superintendent of Indian Affairs, in the disbursement of money appropriated for the fulfillment of treaties with the Sioux Indians; which was referred to the Committee on Indian Affairs.

PETITIONS, ETC.

Mr. SEWARD presented a memorial of citizens of Rochester, State of New York; a memorial of inhabitants of the village of Lewiston and its vicinity, State of New York; a memorial of inhabitants of the village of Niagara Falls and its vicinity, State of New York; and a memorial of citizens of Bellevue and its vicinity, State of New York, praying a grant of land to aid in the construction of a ship canal around the Falls of Niagara; which were referred to the Committee on Public Lands.

Also, two petitions of citizens of Brooklyn and New York, praying that a contract may be entered into with Christian Hansen for the transportation of the mails between Brooklyn and Glückstadt, and Kiel and St. Petersburgh; which were referred to the Committee on the Post Office and Post Roads.

Mr. SUMNER presented a petition of citizens of Scituate, Massachusetts, praying that a pension may be granted to Josiah Mann, in consideration of his services as a seaman in the Navy during the last war with Great Britain; which was referred to the Committe on Pensions.

Mr. COOPER presented a petition of citizens of Adams county, Pennsylvania, praying the adoption of measures for the amicable adjustment of international difficulties; which was referred to the Committee on Foreign Relations.

Mr. DAVIS presented a petition of citizens of Suffolk county, Massachusetts, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Also, a memorial of Burnett W. Dole, son and heir at-law of Enoch Dole, a surgeon in the revolutionary war, praying commutation pay; which was referred to the Committee on Pensions.

Mr. CHASE presented two petitions of citizens of Ohio, praying the adoption of measures for the amicable adjustment of international difficulties; which were referred to the Committee on Foreign Relations.

Mr. BRIGHT presented a petition of the Philomatheian Society, Hartsville University, praying a complete set of the laws, State papers, and documents; which was referred to the Committee on the Library.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. ADAMS, it was

Ordered, That the memorial of Clements, Bryan & Co., on the files of the Senate, be referred to the Committee on the Judiciary.

REPORTS OF STANDING COMMITTEES.

Mr. CHARLTON, from the Committee on Revolutionary Claims, to which was referred the petition of Mrs. Mary Perry, submitted a report, accompanied by a bill for her relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. FELCH, from the Committee on Public Lands, to which was recommitted the bill to amend an act entitled "An act to create the office of surveyor general of the public lands in Oregon, and

'to provide for the survey, and to make donations 'to the settlers, of the said public lands," approved September 27, 1850, reported it, with an amendment.

THE CLAYTON-BULWER TREATY.

The Senate proceeded to consider the following resolution, which was submitted by Mr. CASS on the 25th instant:

"*Resolved*, That the Committee on Foreign Relations be instructed to inquire and report whether any measures, and if any, what, should be taken by the Senate in relation to the declaration annexed to the ratification on the part of Great Britain of the treaty concluded between that country and the United States, April 19, 1850; and to the letter of the Secretary of State to the British Minister on the exchange of the ratifications."

Mr. MANGUM. I hope the honorable Senator from Michigan will not press this resolution for consideration now. Let it be postponed until the end of the session. We shall then have an Executive session to which such matters are properly referable. Besides, at that time, upon these contested matters of fact, the gentleman who has had the principal agency in this matter, the Secretary of State of the late administration of General Taylor, will be here as a member of this body, to speak for himself; and if gentlemen suppose there is much in the matter, or that there is anything to be made out of it, they ought to be willing to wait until that gentleman assumes his seat here as one of the members of this body.

Besides, there is a document which was made out by that gentleman, a full report, making the fullest and amplest disclosures, as I understand, restricting the operation and effect of the treaty to the five Republics that formerly constituted the Confederation of Central America, which report was made to the President of the United States, and by him transmitted to the Senate, printed, and laid upon the desk of every member of this body.

Mr. BADGER. It was transmitted to the House of Representatives.

Mr. MANGUM. I am informed that that communication was presented to the House of Representatives, but as a matter of course, according to the usual courtesy between the two Houses, copies of it were printed for the use of the Senate. I very much hope that the honorable Senator from Michigan will feel the force of the suggestion that Mr. Clayton ought to be permitted to make his own explanation to this body, and will feel the propriety of the suggestion, that upon matters of this sort which squint towards war there should be consideration, and we should not act hastily.

Although this may look like war, I know that gentlemen never contemplate such a contingency. They dare not avow such a purpose. The country would not sustain them in it. Who cares particularly about the application of the Monroe doctrine to one or two little islands far away from us, which would hardly make a respectable potato patch. Who is going to war with the most powerful nation in the world on such a wild-goose chase? But suppose it should be done, and suppose you should be victorious, you would win nothing. I will not go into this matter; but I hope that discussions of this character, which have such a tendency to disturb the public mind, as gentlemen seem to think, will be postponed to the period I have named. But I think the public mind is as calm as an unruffled inland sea. I do not see that our agitations here produce any breeze beyond the purlieus of some of the great cities, the hot-beds of faction; the great mass of the landed interest of the country throughout the Union do not feel it; but if the public mind has been agitated, I think that these discussions ought to take place in Executive session. Let us not have all this talk, and talk as if we were on the eve of battle, when gentlemen have no more notion of going into extreme measures, I apprehend, than I have, and I certainly have none. I hope the honorable Senator will not press the consideration of the matter. I move that the further consideration of the resolution be postponed until the 4th of March, and then the debate can be resumed in Executive session.

Mr. CASS. Mr. President, I am not to be deterred by any charges that I do not mean war, from following any investigation into any question connected with the honor or interest of my country. I have lived too long for that. I want no war. All this talk about war I heard forty years ago, when the honorable gentleman was a young man. I trust we shall always go to war when the honor and interests of the country may require it; but I trust they will never require it. You are sure to have war if you neglect all such questions, and leave your honor and your interests at the disposition of every foreign nation. That is the way to bring on war. It is not by standing up manfully for your rights before the world, in conformity to a sentiment which belongs to the heart of every American—it is not that which makes war; it is slavish submission which brings on war.

Now, what is the object of this resolution? It is a question of inquiry for the Senate whether the treaty of 1850 has been changed in consequence of the proceedings which took place between Mr. Clayton and Mr. Bulwer. That is a question for the Senate to inquire into and consider. Mr. Clayton has no more to do with it than you or I have, sir. It is not a personal matter; and gentlemen who think it is, are making a personal question of one of vast national importance. We are not investigating the conduct of Mr. Clayton or of Mr. Bulwer in any way whatever. The object of this resolution is simply to instruct the Committee on Foreign Relations to inquire into and ascertain what are now the obligations of that treaty upon us in consequence of the mode of its ratification. That is the object of it.

I have nothing more to say about that point; but I have a few words to say upon another matter, and it is this: There is an objection to the consideration of this subject, which, I freely confess, never occurred to me until yesterday; but it is now forcibly impressed upon my mind, and I conceive it to be my duty to warn the Senate of the very delicate, and I may almost say, the awful position in which they will stand by passing this resolution. Why, sir, that objection is, that the resolution was introduced by me without consulting the President of the United States upon the subject. I avow it now, here before the Senate, and I hope and trust my frankness will atone for my presumption. Yes, sir, we heard yesterday, from the Senator from New York, [Mr. SEWARD,] here in the American Senate—in the face of the American people—an avowal of opposition and objection to a resolution, because the mover of it had not obtained the sanction—that was the word—of the President of the United States. The old Norman French, *Le Roi le veut*—"the King wills it"—is a little softened, and the new formula is, the President sanctions it; or, in plain English, the President wills it. The first inquiry, therefore, before the Senate on any such question, which may be introduced on the responsibility of a member is, "Does the King sanction it?" "Does the President will it?" I disavow any such doctrine. I have scarcely words to express my indignation at its introduction and open avowal here.

Yesterday we had a long talk about Lord George Bentinck and his genealogy, evincing on the part of the gentleman who gave us his history and genealogy, the fact that he was pretty well acquainted with lords after all; and we had a talk about Captain Pilkington, his friend and relation, which I did not much attend to. Would Lord George Bentinck get up in the House of Commons and raise an objection to such a resolution, upon such a ground? If he did so, he would be driven from the public councils, and forever forfeit the confidence of the English people; and there would not be a man, from John O'Groat's house to Land's End, who would not repudiate him and his doctrine. Yet here, in the American Senate, in the middle of the nineteenth century, we are told that we must obtain the sanction of the President of the United States before we introduce such a resolution into the Senate. I disavow any such degrading doctrine; I cannot argue upon such a point. If a clause like that had been proposed to be inserted in the Constitution, do you believe the American people would ever have sanctioned it? Or if it had been proposed in the body which framed the Constitution, would there have been a member found to advocate it? And is there more than one member now in this body—is there one in the House of Representatives—who will stand up and dare, before this country, to avow that sentiment, and to object to a resolution because the member introducing it did not obtain for it the sanction of the President of the United States? Talk about this being an age of progress! Why, if such a doctrine be admitted, it is an age of regress. "If they do these things in the green tree, what shall be done in the dry?" as was said by Mr. Adet, the French Minister. If such is the infancy of this Republic, what will be its maturity? Now, it may be proper—I merely suggest it, though I shall not move it—that a committee be appointed before we pass this resolution, to wait on the President of the United States, to know whether he sanctions it. I will agree to let it lie over for that purpose, if any member desires it.

Mr. MANGUM. Does the Senator make that motion?

Mr. CASS. I expressly said I did not; but if the honorable Senator will make it, I will agree to let the resolution lie over for that purpose.

The PRESIDENT. The question is on the motion to postpone the further consideration of the resolution until the 4th of March.

Mr. BELL. I hope this resolution will not be pressed upon the consideration of the Senate this morning. If it be of no importance, or if it be of very great importance, in either view, I do not think it is proper that we should go into it at this time. If it be of no importance, why occupy our time with it when we have such important business of a practical nature pending? If it be of great importance, as seems to be suggested by the honorable Senator from Michigan, no such resolution ought to pass without some further consideration and debate.

I have not thought proper to attempt to express any views which I entertain on the various questions connected with our foreign relations, which have been started and agitated during the present session. This is not because I do not reflect, and come to some conclusion upon them, with such lights as I have. Though I occupy no position in the Senate to give me ready access to many branches of information which may be useful upon these subjects, yet, with such information as I possess, I have reflected seriously, and been much concerned at the probable effect of those discussions. I have listened—I do not say with pleasure and approval to many sentiments advanced in this body—but I have listened, as I always do, with interest to every sentiment announced by every member of the Senate upon questions of this nature, because they all have some potency. Some of them have a very considerable influence upon the public mind, others are of less importance, but all tend to mould the public sentiment of the country, and to affect the future as well as the present policy of the United States in the conduct of their foreign relations. We have had some three or four resolutions of this nature already brought to the notice of the Senate, of all of which the honorable Senator from Michigan has chanced to be the mover, or an active participant in the debate. Although he was pretty full in the outset in his observations on each one of them, yet on every new resolution or every new proposition, he has come forward with an amended edition of his views, (Mr. CASS shakes his head,) or he has furnished us with supplementary matter, enlarging his ground, and giving more gravity and importance to the subject. I do not say that what he has said has not been quite interesting to the Senate and to the country. I do not speak of this because of any personal objection or unkind feeling which I have to the honorable Senator, but because I think that that honorable Senator, in giving expression to his views upon all these questions, and in exercising his influence upon the sentiment of the country in relation to them, has had ample scope heretofore allowed him; and now to press this resolution upon us at such a time, and after all that has been said, I think is more than we are called upon in courtesy to yield.

I thought, sir, the discussion had already been very full and ample and satisfactory in regard to the alleged interpolation upon the Clayton-Bulwer treaty. I thought that not only the Senate, but the country was pretty well satisfied that some honorable gentlemen had burnt their own fingers in touching that matter. I thought the honorable Senator from Michigan had had ample time and ample opportunity to be heard upon every branch of that subject. The Senate have been ready and willing heretofore on every occasion to yield to his wishes in season and out of season. I think the honorable Senator himself will admit that he has not only had the full measure of such indulgence as the body always gives to a member of his long experience, and for whom they entertain such a

high personal esteem as they do for him, but that he has had conceded to him all that was proper on acount of the position which he occupies before the public. He has only had to intimate that he wished to present some new matter before the Senate, and whatever it may be, personal, or of a public nature, the Senate has always yielded to his request, and listened to him with patience. I had thought, too, that the country was satisfied with regard to the point of the present resolution, and was pretty well convinced that it would have been better if honorable Senators had not interfered with it. I believe there is now no question of veracity connected with it. I believe the Senate and the country have settled down pretty generally to the conclusion that there was nothing unfair meant on either side; that the proper and full explanations were duly given, and that it was only from want of due attention on the part of honorable Senators themselves that there seemed to be any mistake or misapprehension in regard to that treaty.

I did not, however, rise to go into that subject. I rose with the view of trying to prevent the further consumption of time in relation to a new resolution touching our foreign relations, at least if we could not stop the discussion upon those which had been before the Senate for some month or two past, and upon which pretty ample debate has been had. I have said that if it be a matter of consequence to refer this subject to the Committee on Foreign Relations, to report what should be done in relation to that treaty, it deserves to be further investigated before it passes to the committee. I am sure no proposition of this nature could come from the honorable Senator from Michigan without something being meant. Is it proposed that the Committee on Foreign Relations shall consider the propriety of giving notice of a repeal of this treaty by Congress? Is there sufficient ground upon which a grave and honorable Senator can be justified in pressing before the country such a measure as that? Is there any such ground? Is there any evidence of actual imposition or fraud in regard to the article of the Clayton-Bulwer treaty, which has been excepted to? I maintain that there is not, and that we should not even give a color for such a conclusion by gravely referring a resolution of inquiry to the Committee on Foreign Relations, that they may report what steps should be taken to vindicate the honor and protect the interests of the country. I maintain that the investigation and discussions have already gone so far as to show that there is no pretense for maintaining that there is any fair grounds for such a movement as that. If such a resolution is to be pressed upon the consideration of the Senate, it ought to be met, not upon the report of the committee, for we cannot foresee what that may be; but it should be met upon the question of reference, that we may not be taken by surprise in the result.

Is not the honorable Senator content with what has already been done to rouse the feelings and passions of the country against the course and proceedings of Great Britain, connected with the colonization of the Balize and the Bay Islands?—with her obnoxious interposition in the affairs of Cuba, and her arrogant pretensions displayed in her correspondence with our Government? And I might as well say here that I concur with some of the sentiments expressed by honorable Senators in regard to the manner in which Great Britain has been in the habit of interfering in Spanish American affairs, and in regard to the tone of the correspondence of her Ministers in relation to the affairs of Cuba. And I regard especially as both singular and offensively impudent, the proposition of Great Britain to the United States, to enter into a convention with her and France conjointly, guaranteeing that neither shall ever possess the sovereignty of Cuba. I concur in all that has been said on that subject; but have we not had enough said upon the subject? Have not these discussions gone far enough in rousing the feelings of the country to a proper sense of what is due to our dignity and honor upon these points?

I understood the honorable Senator some days ago to say that one object he had in view in all that he has said and done connected with our foreign relations—and he has alluded to it this morning—was, that the country shall be kept warned from time to time of the state of intercourse and the relations existing between this country and foreign nations, so that our people should at least be prepared in feeling, and have sufficient knowledge of these subjects, to be ready to vindicate their honor whenever a contingency may arise which shall demand a prompt and energetic movement for that purpose. Does not the honorable Senator think we have proceeded far enough with such an object, when the chairman of the Committee on Foreign Relations says that he has reason to believe that the Clayton and Bulwer treaty, as it now stands, has been violated by the establishment of what is called the colony of the Bay Islands?

Mr. BADGER. Bay of Islands.

Mr. BELL. I understand they are called the Bay Islands because they are supposed to be in the Bay of Honduras. I consider that they are rather off the coast of the State of Honduras, and not off the coast of the Balize, or, as it is called, British Honduras; but that is incidental, and not connected directly with the question. Is it not enough that the honorable Senator from Virginia, the chairman of the Committee on Foreign Relations, has proclaimed that if, as he believes to be true, there has been a violation of the treaty by the establishment of a colony in those islands, that colonial government "must be discontinued?" I confess, though I had heretofore sat and listened with attention, but still with comparative indifference to the debate, I was startled yesterday when I heard this announcement of the Senator from Virginia, and more so, when I heard my grave and usually considerate friend from Massachusetts [Mr. DAVIS] rise, and with great deliberation and gravity avow his determination, if that should be the fact, to accede readily to any measure which might be necessary to vindicate the honor and dignity of the country; in other words, that he was ready for war. And the honorable Senator from Georgia, [Mr. DAWSON,] although he spoke largely, and very confidently and eloquently about the influence of the industrial and commercial interests of the world, and of common sense, and the improved intelligence of the people of the world, as quite sufficient to repress wars between this country and foreign nations, yet he, too, concluded belligerently. I understood him to intimate that he was as ready as the honorable Senator from Virginia, or the honorable Senator from Michigan, to vindicate the rights, interests, and honor of the country, in any of the contingencies to which they had alluded.

Mr. DAVIS. Will the honorable Senator allow me to explain?

Mr. BELL. I do not think I said anything in regard to the honorable Senator which requires explanation. I only meant to say that the honorable Senator from Massachusetts gave us to understand that he was prepared to vindicate the honor of his country by war, if necessary.

Mr. DAVIS. I desire the gentleman to allow me to express my own opinion in my own words.

Mr. BELL. Very well, sir; I yield the floor.

Mr. DAVIS. I expressed no such sentiment as that any cause of war had arisen. I said a case of inquiry had arisen, and that when the facts should be ascertained, it would be time enough to consider what we should do.

Mr. BELL. But I understood the honorable Senator to say, distinctly and certainly, that he was ready to give his assent to any measure that was necessary to vindicate the honor and dignity of the country; and I understood him to make that without any reserve or limitation, so that if war was necessary, he was ready to go to war. So with my honorable friend from Georgia. Now, I confess, when I heard such sentiments expressed by these gentlemen, and particularly by my honorable friend from Massachusetts, who generally considers well what he says, and upon such an occasion, I was not a little surprised, and was prompted to consider last night what might be the result of all this. But the honorable Senator from Michigan is not content with these declarations. He does not think that the country is yet sufficiently awakened. He does not think that the passions and the resentments of the country are yet sufficiently aroused against Great Britain, to answer his purpose, (Mr. CASS signifies disapproval,)—the patriotic object of keeping this country always in a condition, at any moment, to go to war when our honor and dignity may demand it of us. I agree with him in the main sentiment; but I want to know if there has not been enough, so far as the warlike declarations of honorable Senators in this body are calculated to have this effect upon the country? And do you not think, Mr. President, that Great Britain and France have been already sufficiently terrified by the declarations of honorable Senators? What is the need of this new subject—this new declaration, that we shall not only hold Great Britain responsible for her attempt to establish a government in the Bay of Islands, and for what I admit to be her arrogant interference in Cuban and other affairs, on this continent, but that we also propose to proceed to repeal the Clayton-Bulwer treaty? Is it not saying in effect, that "We are determined to have some ground of quarrel against you, and nothing but war will now satisfy us? We are satisfied of your disposition to interfere whenever you can to our prejudice, and we mean to take time by the forelock." Does not the honorable Senator from Michigan think we have had enough of this for the objects he has in view,—and I know they are patriotic and honorable,—to have our own people and foreign nations sufficiently admonished of what we propose to do in the event that our honor or dignity, or the interests of the country demand any particular proceeding at our hands?

Mr. CASS. The honorable Senator will allow me to say, that I agree fully with every word he says on the subject of discussion. I think it has gone far enough on this point, and therefore it is that I want to make a practical application of the matter, and refer the subject to a committee, and get their report.

Mr. BELL. But I do not want it referred.

Mr. CASS. So I perceive.

Mr. BELL. That is the difference between myself and the honorable Senator. I do not know what the committee may report, and I do not mean to give the sanction of my countenance to a reference of this sort, without better ground for such a course, and without knowing to what it is to lead. If the honorable Senator means anything less than a proposition to repeal the treaty, or that notice ought to be given for its repeal; if he means anything less than that, and if he means that the committee should examine the grounds of the alleged fraud or imposition on the country or the Senate in the ratification of the treaty, then I say that the honorable Senator's personal honor, it seems to me, demands of him that he should accede to the proposition of the honorable Senator from North Carolina to postpone the subject until the 4th of March, when Mr. Clayton will be here as Senator from Delaware, to vindicate his own character and honor, if it be susceptible of vindication, and I think, in this case, it will be clearly so. I repeat that I think the honorable Senator's personal honor demands of him that he should accede to the proposition, unless he thinks it important that a declaration shall immediately go out from this body to the world, that such is the state of our relations with England especially, that the people ought to be informed that we are upon the eve of a rupture with England; and unless he means to refer the subject to a committee to examine whether we ought not to repeal the treaty. But if nothing but a rupture with England will answer, and if we must have a quarrel with her, there is no necessity that this alleged alteration of the treaty should be made the pretext of it. There are various other causes of quarrel, if we want one, with Great Britain. There is her arrogant interference in the affairs of Cuba and Spain in connection with this country. There is her establishment, as is alleged, of a colonial government over the Bay Islands, and the establishment of a different form of possession and sovereignty at the Balize, from the one which she is authorized to establish there by her treaties with Spain. Why should we press any additional cause of quarrel? I repeat the hope that the honorable Senator will not press the resolution now. Let it lie over until the gentleman who negotiated this treaty can be present.

I have a word more to say in regard to the other propositions of this nature pending before the Senate. If the debate upon them goes on, I shall ask the indulgence of the Senate to allow me to express my views on the subjects involved in them at some time which may be convenient, and which may not interfere with the more practical and useful business of the Senate. I hope, however, that I shall not have that opportunity. I hope that these subjects will all be disposed of without much further debate, at all events.

But with all the objects avowed, and those the honorable Senator may not think it prudent to avow as his objects and motives in the presentation of resolution after resolution upon subjects of this nature, why these protracted discussions, day after day? Why should we consume week after week in such inflammatory discussions and appeals?—discussions not always calculated to elicit the truth, but rather to give an exaggerated impression of dangers and consequences, not only to the people of this country, but to foreign nations. But even with the patriotic motives which the gentleman may have of awakening the people of the country to a sense of their wrongs and the true condition of their foreign relations, and also, if you please, of producing a salutary influence upon the ambition of Great Britain and France, or any other foreign nation that may think to tread upon our rights, or dignity, or honor—even with that object in view, would it not be of tenfold more importance, especially in reference to any proposed effect upon foreign nations, if we were to propose something more practical instead of these continued debates and declarations—I will not call them gasconading, though I really think that, in the present condition of the country, foreign statesmen would have a right to consider them as such. If the honorable Senator means to notify Great Britain or France of the peril of interfering with our rights or our honor, or of trespassing upon our dignity, or attempting to violate any principle we have established with regard to North American colonization, will he not agree with me that the most powerful argument that could be addressed either to England or France, and to the common sense of our own continent, would be to put ourselves somewhat in a condition to maintain a conflict with them respectably and honorably at the outset, and with some economy, too; and that we should not be exposed to the catastrophe of a divided empire, the wresting from us, at least for a time, the whole of our domain on the Pacific coast, which, at the beginning, would be the practical result now, as every gentleman who understands the condition of this country must know?

Sir, I do not propose that we should put ten millions of dollars at the disposal of the Executive; but if you would authorize the building of some fifteen or twenty first-class screw steam frigates, and a proportionate number of smaller ones, and appropriate a sufficient amount of money immediately for the fortification of the Pacific coast, and such points on the Atlantic—particularly the Tortugas—as absolutely demand it, without saying what was your object, it would have more significance than all the speeches we could make from now to the 4th of March, and throughout the next spring and summer, if we should continue on. If we want to preserve peace—and the honorable Senator says he does not want war, and none of us want it—such a proceeding as that would have the most powerful and most magical effect in preserving peace. It would certainly have far more effect than resolves upon paper—making proclamations of what we will do—what the spirit of this country is ready to meet, proclaiming that we are ready to exhaust our resources, and devote our lives in the vindication of our honor. All that may do very well; but make such a movement as I have indicated;—pass the bill for the reorganization of the Navy; authorize the building of a steam navy; appropriate promptly and now as much money as can be expended for that purpose during the year; and my word for it, it will have more effect, and the laudable and patriotic purposes of the Senator from Michigan will be answered far more effectively than by continuing this debate, or pressing any new resolution of inquiry, or proposing the repeal of the treaty of 1850. Such measures, too, as I have indicated, are the proper auxiliaries of any negotiation on our part with reference to the Bay Islands, and the organization of a more efficient British government at Balize or British Honduras. Our negotiations upon all these points, I repeat, will be far more effectually aided in that way than in any other; and I take it for granted that the settlement of all these questions is to be first attempted at least by the Executive, before Congress shall proceed to take the control of them, unless, indeed, we choose to plunge headlong into a war.

Now, I submit to the honorable Senator from Michigan whether we had not better go on with those measures which are before the Senate, of a practical nature, which will speak so much louder, and be better understood, perhaps, than anything we may say here about war? And if we make such speeches as we have heard lately, and do nothing of a more substantial or practical nature, I must say that all our belligerent declarations, strong as they may be in terms, will be a course of policy which will be regarded by foreign nations, at least of so equivocal a character, as to entirely fail of any salutary influence upon their counsels. Why, if we should do nothing practical in regard to the objects of public security and defense to which I have alluded, and yet be eternally debating and declaring what we would do if foreign nations trench on our rights, our honor, our interests, or any principles we may think it proper to lay down in regard to their interference in North American colonization, or with the Central American Governments, or what not, to what other conclusion can foreign nations rationally come, except that we do not mean all that we say? I say the proper mode of effecting the objects avowed by honorable Senators, is not the way in which we are proceeding. I say this in great deference to honorable Senators who take a contrary course.

Mr. MASON. Mr. President——

Mr. BADGER. I hope the honorable Senator from Virginia will allow me to make a suggestion. I should be very glad if, by unanimous consent, just at this little interval in the debate, I could be allowed to ask the Senate to take up and pass a small practical bill which has been reported from the Committee on the Judiciary.

Mr. MASON. I suppose the debate can terminate very soon, and then the honorable Senator can make his motion. I desire, however, to say that I can see no earthly objection to passing the resolution which has been offered by the honorable Senator from Michigan, for it does seem to me that it is a proper subject of inquiry by the Senate, and by the Senate through its appropriate committee, what effect, if any, the declarations of Mr. Clayton and Sir Henry Bulwer, subsequent to the ratification of the treaty, has upon the text of it. I do not look upon it at all as calling upon the committee of the Senate to determine whether the treaty has or has not been violated; but it is to inform the Senate, as a part of the treaty-making power, whether the text of the treaty, the treaty itself, has been affected by this *addenda* of the two Ministers.

The Senate will recollect the exact posture of this question. That treaty was ratified by the Senate as it stood; it was sent to England and ratified by the Government there. The exchange of ratifications was completed at Washington, and the treaty was published as the law of the land. Now, what was the treaty? Why, it was the paper that passed the Senate. The contract and engagement between the two nations was what passed the Senate. And so far as I am informed, never, till this session, did we know of the existence of these papers, in the nature of an *addenda*, to which I have alluded. I am free to admit that they are papers of a very peculiar and remarkable character; and it becomes exceedingly interesting to the country to know what effect, if any, they have upon the treaty engagement between the two nations. That is all that I understand the honorable Senator from Michigan contemplates; yet I do not consider it a matter of any very great moment that the Senate should pass the resolution, though I shall very cheerfully vote for it, because that very subject is in fact now before the Committee on Foreign Relations. The message of the President, which communicated the first information of the existence of these papers, has been referred to that committee, and I presume it will be their appropriate duty to inquire and report to the Senate upon all matters connected with that reference, and this will be included, as a matter of course. I shall, however, very cheerfully vote for the resolution, if it is put to a vote.

I wish to say a word now in reply to what fell from the honorable Senator from Tennessee. I understood him as reporting me to have said yesterday that I entertained no doubt that the colonization of the Bay of Islands, if it has taken place, is in violation of the Clayton-Bulwer treaty.

Mr. BELL. I understood the honorable Senator to say that he had reason to believe the establishment of that colony was a fact.

Mr. MASON. I did say I had reason to believe, but from information open to the whole Senate, that it was a fact that Great Britain had ordained and established a colony at that point; but I did not say that if such were the fact, it was a violation of the treaty.

Mr. BELL. I stand corrected, then. But the honorable Senator said it must be discontinued.

Mr. MASON. That is true. I did say that; but yet I did not say that the colonization was a violation of the treaty. I am not prepared to say whether it is or is not a violation of the treaty. What I said was, that if it was true that Great Britain had instituted a colony at that point—whether it was in violation of the treaty or not—in my judgment, as an American Senator, that colony must be discontinued. I mean in that, of course, no threat to the Government of Great Britain, or to any other Power whatever. I am speaking here as a member of this body; and I am bound to speak what in my own judgment must follow any existing state of things affecting the foreign relations of this country. How it is to be discontinued is another question. I know very well that great and powerful as that nation is, she is civilized and enlightened, and that questions concerning nations are never to be settled by war but as the very last resort. I contemplate no war, and I take it for granted that if Great Britain were satisfied either that that colony was in violation of the treaty, or that it was dangerous to our peace and safety, her good sense would enable her to see the propriety of removing any such cause of difference between the two countries. That is all I meant.

Mr. BORLAND. Mr. President, I certainly did not expect or intend to say anything upon this subject when I came into the Senate this morning; but we are presented with a state of things which I think calls for a few words from this side of the Chamber. I will not say, Mr. President, that we have an exact parallel to a state of things which we find in a very celebrated correspondence, in which a certain John Tooke, or John Horne, exclaimed, "Farce, comedy, and tragedy! Wilkes, Foote, and Junius united, at the same time, against one poor parson, are fearful odds"—but what has taken place here, has called that to mind, although not in exact parallel; for the Senate has witnessed, commencing yesterday and continuing to-day, what at any rate presents in appearance, whether it be so in fact or not, a triumvirate combination against the Senator from Michigan, beginning with the Senator from New York [Mr. SEWARD] yesterday in a most ferocious attack, followed this morning by the Senator from North Carolina, [Mr. MANGUM,] and continued still further by the Senator from Tennessee, [Mr. BELL.]

The Senator from Michigan needs no defense or vindication at my hands. He gave evidence yesterday, that, though a host come against him, he is equal to them all. But if he were not, there are others who are better qualified than I am to vindicate him against any assault or any combination or conspiracy, made for the purpose of putting him in a wrong position before the public, or to defend any proposition he may present to the Senate. Without going back to what was said yesterday by the Senator from New York—for that was too well answered by the Senator from Michigan to need any notice at my hands—I hold it always to be wrong to inflict a blow upon the vanquished, or to open a grave and dig up a corpse. Nor do I deem it necessary to say anything with regard to what fell from the Senator from North Carolina, [Mr. MANGUM.] There are, however, one or two points in the remarks which fell from the Senator from Tennessee, which it seems to me require a passing notice. It appears to me that he has misconceived the whole character and purport of this resolution. He assumed, if I understood his position, that this was a proposition on the part of the Senator from Michigan to repeal the treaty. Why, sir, it says nothing about repealing the treaty. It is a proposition, on the contrary, for requiring the fulfillment of the treaty, and to ascertain how far an act done by an American Secretary of State, in conjunction with a British Minister, could go to impair the force and validity of a treaty which had been ratified by the Senate of the United States. That I understand to be the purport of the resolution. Does it propose any interference with the treaty? Does it propose, or even suggest its repeal? Does it not, upon its

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very face, in the strongest terms, set forth that its only object is to provide the means of ascertaining whether any unauthorized steps have been taken by any person to impair the force and validity of the treaty, and prevent its being carried out in good faith, as the Senate intended when they ratified it?

All three of the Senators to whom I have alluded, as assailants upon the Senator from Michigan, have proceeded upon the presumption that the American people are not to be trusted with a knowledge of their own affairs. We have found them, not only now, but formerly, opposing every proposition which looks to the full exposition of the true state of public affairs before the people of the United States; and, without intending to rouse anything like party feeling, permit me to say to the honorable Senator from Tennessee, that I think he will find in the disposition manifested by the party to which he belongs, not to trust to the virtue, the intelligence, and patriotism of the American people, by submitting everything affecting their interest to their full examination and consideration, the reason why it is so seldom that the American people have trusted the party to which he belongs, and of which he is so distinguished a leader. Facts show that the tendency of the policy of that party has been not to throw all the facts before the people which are necessary to give them a fair opportunity to form a correct judgment, proceeding upon the supposition that the American people are not sufficiently virtuous, intelligent, and patriotic to be intrusted with the information, and to reflect back such a judgment upon the two Houses of Congress, as shall properly, wisely, and successfully, control the action of both of these bodies.

Mr. BELL. I desire to call the attention of the Senator to one fact. There are gentlemen on this side of the Chamber who have introduced resolutions calling for information, and in open session, too, and voted for them, and for their publication. I put that striking fact to him; and I may add, that I think he has done injustice to honorable Senators, with whom I am more intimately connected than with others, to say that they want to conceal any facts, or any knowledge, from the people, which it is in our power to give, upon this subject. I beg to say, in regard to this resolution, that I did not object to it because I objected to any further inquiry into the facts in relation to this treaty, but because it involved the power in the Committee on Foreign Relations to go even so far as to propose to give notice of the repeal of that treaty.

Mr. BORLAND. The honorable Senator says he has made no opposition to all these inquiries. If the party to which he belongs, as represented here, has made no opposition, I would like to know where the opposition has come from? Why is not this resolution passed if there is no opposition to further investigation of the subject? What valid objection can the Senator have, except upon the ground I have assumed, that the Committee on Foreign Relations should gather up all the facts they can, and lay them before the Senate for its action, and before the country for its information? It seems to me there is no meaning in the Senator's opposition, and there is no meaning in the opposition of the Senator from North Carolina, to the action proposed by the Senator from Michigan, unless this be so, as I take it those gentlemen do not make an opposition here without some meaning, and some purpose. I might be doing them great injustice in my own estimation, if I were to assume that they got up to talk for talk's sake, and not for the purpose of subserving the public interests, by opposing a measure which, in their opinions, is fraught with evil to the country. In order to account for their opposition, I went back and looked for some general principle of action, which has always seemed to me to control those Senators, and the party to which they belong, in making objections to such measures generally. If I am not able now to specify any particular act, I appeal to the Senate, and to the American people, to say whether such has not been the tendency of the course pursued by the party to which those gentlemen belong, and whether such has not been the judgment of the American people in the sentence of condemnation they have passed over and over again, and again very recently, upon that party. I think it is because the leaders of that party have never appreciated the true character of the American mind, the capacity of the people for judging of their own affairs, and their readiness and determination always to exercise the judgment and right which belong to them in these matters. They have failed to establish themselves in the confidence of the American people, and always will fail. By chance, occasionally I know they slip into power, but only four years roll by before, by an increased majority, they are hurled from power.

Now, Mr. President, the Senator from Michigan, if not actually denounced here by the Senators who have opposed his proposition, has been held up to the American people as a man ready and desirous, without regard to consequences, to hurry this country into a war, or to exhibit himself to the Senate and the world in the attitude of bullying and blustering against the world.

Mr. MANGUM. I have never said so.

Mr. BORLAND. The Senator himself may not have said so, but I apprehend that those who heard, and those who will read his remarks, will draw no inference but that such is the position in which he has attempted to place the Senator from Michigan.

Mr. President, as I said before, it is not for me to defend the Senator from Michigan, but I will say for myself, that I do not think I can be mistaken in that sympathy which I feel in my heart that I have with an overwhelming majority of the American people for the sentiments which he has expressed in the course of this discussion. And those especially which he presented yesterday, with so much force and eloquence, will find a response in the hearts of this people which will come back to him in words of approval, which will be enough to satisfy his ambition or that of any other man, though he might aspire even to the clouds. He needs no higher eulogy than his own sentiments, expressed yesterday, will gain for him from every man, from one end of the Union to the other, who has an American heart in his bosom. I must confess, sir, that in the commencement of this discussion, I did not see so much of practical value in the resolution, and as I said to the Senator at first, I did not know, when we commenced this series of investigations, whether I was disposed or prepared to go fully along with him; but the discussion, and the manner in which he has presented the subject, and the kind of opposition which has been aroused against him, has excited in me, if not a more enlightened understanding of the subject, a more American feeling, which will prompt me to sustain every proposition he makes. I do not believe he can carry it further than I would follow, and gladly follow him. Sir, permit me to say—and I trust it will not be out of place—that though for some years past I may not have given to the course pursued by that distinguished Senator such a full and cordial approval in my judgment as my heart has prompted, yet within the last two or three days, and especially yesterday, he has said and done enough to bind me to him in all time to come, and to cause me to feel that wherein I have differed from him heretofore, I should distrust my own judgment, and be more cautious in the future when my views differ from his.

Mr. GWIN. I desire to make an inquiry. How can we get clear of this resolution, so that we may take up the Pacific railroad bill?

The PRESIDENT. By making the motion that it lie on the table.

Mr. GWIN. I make that motion.

Mr. CASS asked for the yeas and nays on the motion; and they were ordered; and being taken resulted—yeas 9, nays 37; as follows:

YEAS—Messrs. Dawson, Fish, Gwin, Houston, Mangum, Morton, Spruance, Wade, and Weller—9.

NAYS—Messrs. Atchison, Badger, Bell, Borland, Bradbury, Bright, Brodhead, Brooke, Butler, Cass, Charlton, Chase, Clarke, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fitzpatrick, Geyer, Hale, Hamlin, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Miller, Norris, Pettit, Sebastian, Seward, Soulé, Sumner, Underwood, and Walker—37.

So the motion to lay the resolution on the table was rejected.

The PRESIDENT. The question recurs on postponing the consideration of the resolution until the 4th of March.

Mr. HALE. Does that open the merits of the whole question to discussion?

The PRESIDENT. It does, in the opinion of the Chair.

Mr. HALE. I have a few words to say on this subject, but I shall endeavor to make what I have to say practical. I think Senators—and I say it with great deference and diffidence—are mistaken in their understanding of the true position which the Constitution intended they should take. It was intended that this should be a conservative, deliberative body; and therefore the Constitution prescribes that no gentleman who has not attained the venerable age of thirty years shall be a member of it. The House of Representatives was intended to be the arena in which ambitious young men should exhibit their talents, and make remarks to commend themselves to the popular favor; but this body was intended to be a practical, deliberative body. I fear we are departing a little from the spirit of the Constitution in this respect.

I want to say a word or two on this resolution; and I intend to preface it by saying that I entertain as kind feelings towards the Senator from Michigan as the Senator from Arkansas does, but I shall not express them this morning, because I think the Senator from Arkansas has given the Senator from Michigan as much as he wants to digest to-day. [Laughter.] I will therefore reserve mine for another occasion. But, sir, the honorable Senator from Arkansas began his remarks by saying that he would not strike the vanquished, neither would he dig open a grave to exhume a dead body; and as soon as he had made that preface, the rest of the speech was a pell-mell attack upon the Whig party, from which I suppose we are to understand that the Whig party is neither vanquished nor dead, because he would not attack the one nor exhume the other.

But now, as to this resolution and this debate, I am opposed to the whole of it. I am very sorry to differ from men who know so much more than I do, but I will tell you why I am opposed to it. In 1850, and about that time, there was a great alarm got up that the union of these States was in danger—in great danger. I think I have heard men with serious faces, since then, say that they were actually frightened at that time; and, sir, there has been a great meed of merit awarded to those patriotic citizens that stepped forward at that period, and, at great personal risk, saved the Union. Now I am taught by experience, and I will tell you what I see in the future. I see that by-and-by some of those patriots will come forward, and represent that this country was on the verge of a war—a tremendous war—with Great Britain, whose navy is so powerful that one of her ships is able to beat the whole of ours, and that they came forward, and, at great personal risk, threw themselves into the breach, and saved the country from that war—just exactly as the Union was saved three years ago. I think we are in as much danger of getting into war as we were of losing the Union three years ago—just exactly about as much; and it requires as much patriotic self-sacrifice to preserve peace as it did to preserve the Union. Let me express my convictions. There are some people who place confidence in what I say; it is true they are very few, but they have a right to be protected under the Constitution. I want to say to those people that there is no sort of danger in the world of a war with Great Britain. I should not have said so, if I had not read the Pickwick Papers, where there is a way suggested in which most violent, most provoking, and most offensive things may be said, and an

outsider would think that the blood was up, and the choler moved, and nothing but blood would answer; but when said in the Pickwickian sense, the thing is understood. I take it that all that has been said here was in a Pickwickian sense—every syllable of it. I do not suppose that there is any gentleman here that has the remotest idea of a collision with Great Britain. My only fear is, that there is not enough even to bring it up to the dignity of the Pickwickian standard. That is my fear. I think that they are not only belittling the subject, but they are belittling Pickwick himself, by giving out these fears and dreadful misgivings and apprehensions of a war with Great Britain. What is there—I ask Senators to look at it—what is there in the present aspect of affairs; what is there in the circumstances that belong to our intercourse with Great Britain, to give occasion for the least alarm? If there is nothing—if all the duties which belong to the relations that we sustain to one another are performed both by Great Britain and us, without the least collision, why express these apprehensions? Why, sir, what news did the last arrival from England bring us, while we are here with solemn faces standing up as American Senators, and surveying the tremendous responsibilities that rest upon us, in view of the alarming aspect of public affairs? What do we see in the last accounts from England? I said the other day, that I did not read the papers, and I do not do so often; but I did happen to take up one containing the account of that arrival. Why, sir, the great news of interest—it is so stated in one of the leading dailies of New York—is a splendid banquet given in Liverpool to the American Minister at the Court of St. James, at which the first toast drank was, "The Queen;" the next, "The President of the United States;" and they went further—they not only complimented the Queen and the present President, but, with patriotic forecast, which I think they must have gathered from some indications here, even complimented the incoming President; and then, after exhausting their eulogies upon the Queen, and the President, and the President elect, they took our representative, the Hon. Mr. Ingersoll, and put it on to him about as thick as the Senator from Arkansas put it on to the Senator from Michigan this morning. [Laughter.]

Now, sir, this is the real state of the facts, here and abroad; and when in our hearts we know—why, the honorable Senator from Michigan knows it himself—that we are in no sort of danger, what is the use of getting up this tempest; at this time, too, when the Senator from California [Mr. GWIN] is so anxious about his railroad bill? Why, sir, there is more of a tempest now in his bosom about his Pacific railroad, than there is about these difficulties with England. Why should we be talking about those difficulties when he sits so impatient under it? I venture to say that he—I do not think anybody else in the Senate does—listens even to me with impatience, because he wants to get his railroad bill up. [Laughter.] I say while this is the case, why do we distress ourselves about these resolutions, in regard to which, as the honorable Senator from Tennessee [Mr. BELL] has said, even the cool, dignified reserve of the honorable Senator from Massachusetts [Mr. DAVIS] has been so excited, I suppose by a sort of mesmeric sympathy, that he has come into the *mêlée*, and said something that sounds like war to the ears of the Senator from Tennessee; and the honorable Senator from Georgia [Mr. DAWSON] got up to counsel peace, and declared war before he sat down? [Laughter.] Sir, that is the result of the subject upon which we are talking. It impels us to it; and I am not certain that, if I should talk much longer, I might not say some imprudent thing. Therefore I will sit down, with but the expression of the hope, that we will go at something practical—that railroad bill for instance. I am for it——

Mr. GWIN. That is right.

Mr. HALE. And the homestead bill, which the honorable Senator from Iowa [Mr. DODGE] has so much at heart; and which I have as much at heart as he, though I am not so ambitious as he is, and therefore I have stood back and let him take the lead; but I say to him that I am a follower in regard to that bill, and if I do not make speeches, I will give the magic influence of a vote to sustain him.

For these reasons, I am opposed to giving much time to the discussion of subjects of this sort now. I am for something practical, and when honorable Senators—I will not name any, for that would be invidious—but if there are any, under a conscious sense of their own merits, and of their own sagacity, and of their own power to lay out those merits and that sagacity before the country, want an opportunity to do it, I think there ought to be some other occasion taken, and let those of us work who are really determined, and want to do the business of the Senate. My friend from Rhode Island [Mr. CLARKE] feels that he has but a little time to stay here, and he wants to signalize it by a devotion to the best interests of the country, and not in listening to this sort of speeches. I am in the same situation; and I crave of those ambitious men—honorably ambitious, I mean—to forbear those displays, and come to the work of the Senate. For these reasons I shall go for the postpostment of this resolution until the 4th of March.

Mr. UNDERWOOD. Mr. President, I am a "matter-of-fact man." I desire to make a few remarks in reply to what has been said by the Senator from Arkansas, who has thought proper to make an attack upon the Whig party. I wish to vindicate that party, in a very few words, from the charges which he has made against it, and to prove that it is not in that miserable minority which he has assigned to it. I shall turn the tables upon him by a few plain facts, showing that his party is exactly in that situation. Now, sir, how many votes did General Pierce receive? Look at the tables which have been published, and you will find that he received less than 1,500,000. How many voters are there in the United States? Sir, for other purposes, I applied at the Census Bureau to ascertain the number of free white males over the age of twenty-one years, and I found there were in 1850, the date of the census, upwards of 4,800,000. You have, then, less than one third of the voting population of the United States, who elected the candidate of the Democratic party. And yet we are perpetually taunted with the declaration that we, the Whigs, have been overwhelmed with defeat, and that you, the Democrats, are in a triumphant majority. Thus the Democratic party contrive to make a *triumphant majority*, by electing their candidate with the votes of less than a third of the voting population of the United States. Such is the state of facts. Sir, you might get every electoral vote, provided you could get a majority of one in the popular vote in each State of the Union—and a majority of one has sometimes elected a Governor of a State—I say you might get every electoral vote save those of one State, and yet be in a considerable minority of the people of the United States. I rose to state these facts, and to show this boasting party, which is so constantly taunting us with being in a miserable minority, that when the amount of support which it received is compared with the whole voting population of the United States, that party occupies the very position which it so constantly attempts to assign to us.

It may be said in reply, that if the whole population had voted, the relative proportion which each party would have received would have been the same; and that is the only reply which can be made to the facts I have presented. The fact that the people did not go to the polls and vote, shows a dissatisfaction, if I may be allowed the expression, with both the great parties; and if I had time, I could show the foundation of that dissatisfaction. But I will not go into it. I will, however, state the fact, that in the State of Kentucky, where the whole voting population was 163,005 in 1852, according to the official report of the State Auditor, only 111,617 went to the polls at the late presidential election, leaving 51,388, or nearly one third, who did not vote at all. I know some of the reasons which kept them at home, but I will not go into that subject now. There is no ground for contending that the proportion of votes would have been the same had all the voters gone to the polls.

Sir, General Pierce is in a minority of 47,000 in the New England States, of the actual votes given, if you will put the votes which the gentleman who occupies the seat to my left [Mr. HALE] received, with those of General Scott. And if you take New York, Pennsylvania, New Jersey, Delaware, and Maryland, with them, he will still be in a minority of more than 30,000 of the votes actually given. You may carry on these calculations throughout the whole of the Atlantic States, and it will be found that General Pierce did not obtain half the votes cast in those States. Sir, these boasts which are made here, by way of taunting us, on all occasions, have no facts upon which they can rest. Sir, I deny that the Whig party lack confidence in the virtue and intelligence of the people. I deny it, and I call for proof——

Mr. BORLAND. Will the honorable Senator permit me to say one word? I did not expect, by the remarks which I made, to call forth any statistical accounts of our late presidential election. But finding a great fact before the country—a great fact, I say—that is, that with a very few exceptions, the Whig party has always been defeated, and as I understood, most signally and disastrously defeated in the recent election, I undertook to account for it upon a principle of political philosophy, and the one which I announced was that which occurred to me as being a correct and sound one. If the Senator, however, undertakes to contest that point, and intends to bring forward an array of statistics from the various presidential elections, that will open a new field of inquiry which will require a little time to prepare a reply.

Mr. UNDERWOOD. I have given the facts in regard to the election; and I have also given the fact in regard to the number of male persons over twenty-one years of age, some of whom may not be voters, in the United States, which I obtained from the Census Bureau. Those facts speak for themselves.

I was about to conclude my remarks by stating, that so far as I am connected with the Whig party, I deny the charge that it was or is our policy to conceal anything from the virtue, and intelligence, and the knowledge of the people. So far as I have advocated Whig principles, and Whig policy, it has been always by an appeal to the virtue and intelligence and reason of the people. I have always attempted to bring the facts, and nothing but facts, before them. Sir, before a charge of that sort ought to be made, the Senator from Arkansas should have pointed out the specification, and said, "Here is the subject; this is the time and this the place, where the party that I am now assailing has been guilty of endeavoring to suppress a knowledge of facts from the people." But there is no specification given; there is no time, or place, or fact pointed to, which we can gainsay and deny; and after this general denial of the gentleman's charge, it will be time enough to make a particular response, when the fact, the time, the place, and the specifications of the indictment shall have been furnished. I will furnish the reporters a table in relation to the recent election, to be printed as part of my remarks.* [See table next page.]

The PRESIDENT. The question is on postponing the further consideration of the resolution until the 4th of March.

Mr. CASS called for the yeas and nays on the motion; and they were ordered; and being taken resulted—yeas 17, nays 29; as follows:

YEAS—Messrs. Adams, Badger, Bell, Brooke, Davis, Dawson, Fish, Geyer, Hale, Mangum, Miller, Morton, Seward, Smith, Spruance, Wade, and Weller—17.

NAYS—Messrs. Atchison, Borland, Bradbury, Bright, Brodhead, Butler, Cass, Charlton, Chase, Clarke, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fitzpatrick, Hamlin, Houston, Jones of Tennessee, Mallory, Mason, Norris, Pettit, Rusk, Sebastian, Soulé, Sumner, Underwood, and Walker—29

So the motion was rejected.

The PRESIDENT. The question now is on the adoption of the resolution.

Mr. BUTLER. If it be in order, I will move that the joint resolution submitted by the honorable Senator from Michigan [Mr. CASS] which was under discussion yesterday, "declaratory of the 'views of the United States respecting colonization on the continent of North America by European Powers, and with respect to the Island of 'Cuba," be referred to the Committee on Foreign Relations, with that resolution.

The PRESIDENT. That will not be in order, as the joint resolution is not now under consideration.

The resolution was then adopted.

BAIL ON MESNE PROCESS.

On motion by Mr. BADGER, the Senate, as in Committee of the Whole, proceeded to consider the bill "concerning bail in civil causes in the District of Columbia." It proposes to direct, that from and after its passage, no person shall be held to bail in the District of Columbia in any action

of debt, assumpsit, or other action founded on or arising out of any contract or agreement, or in any suit or proceeding in equity brought or prosecuted for enforcing the payment of any debts, or of any sum or sums of money due, or claimed to be due, by reason of any contract or agreement; and any person now held to bail, or imprisoned for want of bail, in any such action or proceeding, shall, on application to the circuit court of the District, in term time, or to any judge thereof in vacation, be discharged on filing a common appearance.

Mr. BUTLER. While I shall not make any serious opposition to this bill, it is due to myself, as chairman of the Committee on the Judiciary, to say, that I do not concur in it. The law on this subject, as it now exists in the District of Columbia—and it is an act which was passed in 1842 to relieve those arrested under mesne process, unless frauds should be charged and set out in an affidavit by the plaintiff, with the facts upon which the charge of fraud is predicated—stands thus: That when the plaintiff will swear that the defendant fraudulently has money in his hands, and is about to escape from the District; or when he will swear positively that the defendant fraudulently made a contract, and will not comply with it—or, in other words, when complying with the requisitions of the act, he sets forth that he is a fraudulent debtor, the debtor may be arrested on mesne process. The operation of this bill will be to abolish all imprisonment in the District under mesne process, and release all persons who are now under arrest under mesne process. I know it will pass, but I say, I never will give a vote in the Senate, which, by retrospective legislation, can affect private rights. I know that there is an individual now under arrest in the District under mesne process on the charge of fraud; I do not know whether the fraud is properly charged or not. I believe my friend from North Carolina will make a very fair and full exposition of the matter, and if the Senate will pass the bill, I am willing; but still I do myself the justice to say, that I was in the minority of the committee which reported it.

Mr. BADGER. The honorable chairman of the committee is perfectly correct in saying that he was not in favor of this bill in the committee. I will make a very brief statement of my understanding of the bill, and attempt to show that it ought to pass; and having made that attempt, I shall cheerfully submit the question to the decision of the Senate. As the law with regard to bail in the District of Columbia stands now, by the act of 1842, to which the honorable chairman has referred, a plaintiff in an action of debt or assumpsit, has a right to demand bail of the defendant whenever he files an affidavit, averring, in the first place, the amount of the action, and then either one of the following circumstances: First, that the debt was contracted by fraud or false pretense; or second, through a breach of trust, setting out the facts and circumstances out of which these allegations rise; or thirdly, that the defendant has concealed, or is concealing his property in the District, or elsewhere, with a view to avoid paying the debt; or fourthly, is about to remove the same from the District, or from the place of his residence with the same view; or fifthly, that being a resident in the District, he is about to abscond without paying the debt, and with a view to avoid paying the same. As the law stands, if the plaintiff will make an affidavit, in which he avers any one of these five facts to exist, he has a right to demand bail, and bail must be given, or the party must remain in prison till the determination of the suit. That is the state of the law. Now, Mr. President, the object of the bill under consideration is, that in all proceedings to recover debts purely, not interfering at all with actions for real torts, the party shall not, upon mesne process, be required to give bail.

I admit, brought up, as I have been, like the honorable chairman of the commitee, in the practice of the profession where the common law prevails, I was for a long time thoroughly wedded to the system which imprisons a man upon the assertion of the other side that he owes money, or that he is disposing of his property to avoid the payment of it, or that he is about to remove, or for any other circumstance which may be allowed by law to be sufficient to hold the party in durance until the question shall be decided between them.

But, sir, I am satisfied that the system cannot be maintained without leaving the widest range for abuses and oppression. As the system stands now, compare it with proceedings in criminal matters. A man makes his affidavit. It is conclusive, and the party arrested must give bail or go to prison. When he is in prison there is no day for his deliverance until the determination of the action, or the determination of the want of cause of action. But, on the contrary, if a man be charged with committing any crime against his country, however grave or serious it may be, immediately after his arrest, although the charge is sworn against him by an affidavit, he cannot be detained an hour longer than is necessary to bring him before an examining court to have an investigation of the case, with an opportunity to produce his own proof. And unless, after that examination, the court is of opinion that there is a probable cause for his detention, he is entitled to be discharged. I hold it to be inconsistent with the very genius and principles of American freedom that one citizen shall be taken upon the suggestion or the affidavit of another citizen, swearing in his own case, and for the purpose of recovering money to be put in his own pocket, and be put in prison hopelessly till the determination of the case or the liquidation of the debt, which may last for such a period of time as sometimes it may last as the statutes of the United States make some of the longest terms of imprisonment for a felonious act, committed by any party. If it were possible, if we could so arrange the machinery of its operation that this imprisonment should be awarded only to the dishonest, fraudulent, worthless debtor who is endeavoring, or who was endeavoring to entrap and deceive an honest man, I should have no objection. But we cannot do it. You must either abolish the right or leave it as it stands, so that the affidavit of one party shall be conclusive by which to hold the other in prison.

The case to which the honorable chairman has referred is a case which illustrates, in the highest degree, the effect of the allowing of this power. Here is a citizen who has been lying ninety days in one of the prisons of this District, upon the affidavit of an opposite party; and there he is obliged to lie, under the law as it now stands, until he can bring the action to a close, and have a verdict in his favor. Can it be right? Ought one freeman to hold his freedom at the will of another, if the party who chooses to deprive him of it will support the allegation he makes by his affidavit? What is his remedy? Mr. President, he has none—he has none; for any action according to law against the one who makes the affidavit every professional man knows is worthless. Can he prosecute him for perjury? Every professional man knows that it is worthless to bring an indictment and hope for a conviction upon such an affidavit. Therefore, I say it is wrong to leave one man to be imprisoned on the assertion of another party, supported by an affidavit, and that assertion and that affidavit made to put money into his own pocket. I believe, as we have to choose between abolishing and leaving this wide field open to abuse and oppression, the true interest of the country requires that bail should be abolished in all cases of a pure action for debt.

Mr. BUTLER. I do not intend to go into this subject, for I have acquitted myself of any duty which I owe to the country by saying what I have said. But if any one now imprisoned under mesne process should wish to avail himself of the prison-bounds acts in the District of Columbia, all he has to do is, to file a deposition, or make a suggestion and schedule of his property, and he can escape upon paying the debt to the man when he has got the money in his pocket. He can very readily be relieved by paying the debt.

Mr. BADGER. He denies that he owes it.

Mr. BUTLER. If he does deny it, let the question be tried. I do not intend to apply the remark to the case referred to by the honorable Senator from North Carolina; but there are cases in which the individual, having the money, ought to be compelled to pay it to the honest creditor. I am perfectly willing to shape the law in such a way as to meet such cases; but I am not willing to make a sweeping law to abolish imprisonment for debt in all cases under mesne process. I cannot go that far; and although the honorable Senator from North Carolina and myself have both, perhaps, inclined too much to our common-law notions, if he has given them up, I cannot.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading, read a third time, and passed.

IOWA JUDICIAL EXPENSES.

Mr. DOWNS. I have been directed by the Committee on the Judiciary, to which was referred the memorial of Lee county, in Iowa, praying a remuneration for certain fees, to report a bill "to refund to the county of Lee, Iowa, certain expenses of the district court, which were paid by that county." This is a bill like one which, last session, passed both Houses of Congress in reference to another county, and I therefore ask that it may be considered at this time.

The bill was read a first and second time by unanimous consent, and considered by the Senate as in Committee of the Whole.

*Popular Vote in the Presidential Election in 1852.

States.	Elect'l vote.	Scott.	Pierce.	Scattering.
Maine	8	32,208	41,418	8,030
New Hampshire	5	16,147	29,997	6,695
Vermont	5	22,173	13,044	8,621
Massachusetts	13	52,683	44,699	29,868
Rhode Island	4	7,626	8,735	624
Connecticut	6	30,359	33,249	3,160
		161,196	171,142	56,998
		56,998		
		218,194		
		171,142		
		47,052a		
New York	35	235,359	262,117	20,000b
New Jersey	7	38,540	42,293	259
Pennsylvania	27	189,182	198,568	8,524
Delaware	3	6,294	6,319	62
Maryland	8	35,089	40,028	54
		504,455	549,325	28,899
		28,899	533,354	
		533,354	15,971c	
*Virginia	15	57,132	72,413	-
North Carolina	10	39,058	39,744	-
†South Carolina	8	-	-	-
Georgia	10	15,798	33,888	11,213
Florida, (incomplete)	3	1,310	2,652	-
		113,298	148,697	11,213
		11,213	124,511	
		124,511	24,186d	
Ohio	23	152,406	169,160	31,782
Indiana	13	80,914	95,311	6,906
‡Michigan	6	33,879	42,142	7,248
§Illinois	11	32,505	47,782	10,000
Wisconsin	5	20,478	30,446	8,506
Iowa	4	-	-	-
		320,182	384,841	64,442
		64,442	384,624	
		384,624	217e	
Kentucky	12	57,466	54,151	220
‖Missouri	9	28,944	36,642	-
Tennessee	12	58,802	57,123	-
Arkansas	4	-	-	-
Alabama	9	15,084	26,881	2,217
Mississippi	7	17,570	27,007	-
Louisiana	6	17,255	18,617	-
Texas	4	-	-	-
California	4	-	-	-
		195,121	220,421	2,437
		2,437	197,558	
		197,558	22,863f	

Total vote for Scott, 1,294,252; total vote for Pierce, 1,474,426; total vote for Hale, Troup, and Webster tickets, 163,989.

(a) Majority against Pierce in New England.

(b) Part estimated.

(c) Majority for Pierce in these States.

(d) Majority for Pierce in these States.

(e) Majority for Pierce in these five States. I could not get the vote of Iowa, which would increase it.

(f) Majority for Pierce in these six States. I could not get the votes of Arkansas, Texas, and California.

* The majorities in three counties are given, and not the total vote.

† The Legislature of this State casts the vote in presidential elections.

‡ The new counties in the Northern Peninsula not included.

§ Four counties not heard from. Majorities only given in some counties, and Abolition vote partly estimated.

‖ This shows the vote of eighty-seven counties; fifteen to be heard from.

It proposes to direct the Secretary of the Interior to examine the claim presented by the county of Lee, State of Iowa; and if, upon such examination, he is satisfied that, prior to January 1st, 1844, that county paid the money which, in accordance with the instructions of the First Comptroller of the Treasury, dated September 19th, 1843, should have been paid by the marshal of the United States for the county, he is directed to audit and allow the same, and pay it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RIGHT OF WAY.

A bill from the House of Representatives, "granting the right of way to the St. Louis and Iron Mountain Railroad Company," was read a first and second time.

Mr. FELCH. I move that it be referred to the Committee on Public Lands.

Mr. GEYER. I presume it will be hardly necessary to refer that bill. If it is read once, it will be understood by the Senate. It submits the whole question to the Secretary of War to approve the location of the road.

Mr. FELCH. A general bill was passed at the last session, which I think will be found to embrace this.

The PRESIDENT. The bill will be read for information.

It proposes to direct that the right of way sixty feet in width through the lands in which the St. Louis Arsenal, St. Louis Marine Hospital, and Jefferson Barracks, are situated in the State of Missouri, be granted to the St. Louis and Iron Mountain Railroad Company for the construction of a railroad from St. Louis through those lands: provided that the location of the road through the lands shall be made subject to the approval of the Secretary of War: and provided further, that the location can be made without injury to the public interests in the opinion of the Secretary of War.

The PRESIDENT. Does the Senator from Michigan withdraw his motion to refer the bill?

Mr. FELCH. Yes, sir.

The Senate, as in Committee of the Whole, then proceeded to consider the bill.

Mr. WADE. I wish to make an amendment to that bill, to which I think the Senator from Missouri can have no objection. It is upon a precisely similar subject. It is a bill which passed this body at the last session, proposing to give the right of way to several railroads over the grounds where the marine hospital is located in Cleveland. It was reported from the Committee on Public Lands. I hope it may be attached as an amendment to the bill under consideration, because I fear it will not pass at this session, if it is not now considered. I think there can be no objection to it.

I move to amend the bill by adding the following to it:

That the right of way be, and the same is hereby, granted to the Cleveland and Pittsburg Railroad Company, and also the right of way to the Cleveland, Painsville, and Ashtabula Railroad Company, across the hospital ground, so called, belonging to the United States, in the city of Cleveland, in the State of Ohio; the width of each of said roads across said hospital grounds not to exceed sixty feet where said roads are now respectively located: *Provided*, That said conveyances can, in the opinion of the Secretary of the Treasury, be made without detriment to the interests of the United States: *And provided further*, That the said grant shall be, and is hereby, made subject to such conditions as the said Secretary of the Treasury shall impose on the said companies, respectively, for the protection and security of the grounds from abrasions by the waters of Lake Erie: *And provided further*, That whenever the said roads shall be discontinued or abandoned, or the conditions of this grant shall be violated, all rights under this act shall cease and determine.

Mr. GEYER. I should have no objection to that amendment as an independent proposition, but I must object to it as an amendment to this bill. A bill similar in its provisions to the amendment passed the Senate I believe some time ago. It is now in the House of Representatives. That House has not acted upon it, though possibly it will during the present session; but if this amendment be attached to this bill, it must necessarily go to the House, and there be embarrassed in its passage. For that reason, and for that alone, I oppose the amendment.

Mr. WADE. I do not intend to embarrass the bill at all. The amendment is precisely germane to it in principle. It has been reported from a committee, and is entirely unobjectionable. If one passes I do not see why the other should not. I have no idea that it will embarrass the bill by attaching the amendment. I think the House will agree to it; I am confident that it will; and I am anxious that it should.

Mr. GEYER. I withdraw my objection to the amendment.

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and was ordered to be engrossed and the bill to be read a third time; it was read a third time and passed.

The title was amended by adding "and for other purposes."

CONTINUANCE OF HALF PAY.

Mr. HAMLIN. I submitted, the day before yesterday, a report from the Committee of Conference on the disagreeing votes of the two Houses on the Senate bill "to continue half pay to certain widows and orphans." That report was accepted. The committee on the part of the House have called my attention to the fact that the word "militia" is omitted in that report. I therefore move that the vote accepting the report be reconsidered.

The motion was agreed to.

Mr. HAMLIN. I now move that a message be sent to the House of Representatives, requesting that body to return the bill to the Senate.

The motion was agreed to.

Subsequently a message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that, in compliance with the request of the Senate, it had ordered him to return the bill.

On motion by Mr. HAMLIN, the report of the Committee of Conference was amended by adding the word "militia," so as to include regulars, volunteers, and militia.

RAILROADS IN ARKANSAS AND MISSOURI.

Mr. SEBASTIAN. I rise for the purpose of giving notice, that on next Monday I shall ask the Senate to take up for consideration the bill from the House of Representatives, "granting 'the right of way, and making a grant of land to 'the States of Arkansas and Missouri, to aid in 'the construction of a railroad from a point on 'the Mississippi, opposite the mouth of the Ohio 'river, via Little Rock, to the Texas boundary, 'near Fulton, in Arkansas, with branches to Fort 'Smith and the Mississippi river."

I avail myself of this opportunity to give this notice, in order that when I move to take up that bill, there cannot be any objection made that Senators have been taken by surprise, and in order that Senators may then be ready to offer their amendments, if any are to be offered, as there may be from different sources. Having given this notice, I now call for the order of the day.

COLONIZATION IN NORTH AMERICA.

The PRESIDENT. The first special order is the unfinished business of yesterday, which is the joint resolution declaratory of the views of the United States respecting colonization on the North American continent by European Powers, and respecting the Island of Cuba.

Mr. GWIN. I hope that will be passed over, for the purpose of taking up the Pacific railroad bill.

Mr. HALE. The honorable Senator from Michigan had a resolution adopted to-day, calling upon the Committee on Foreign Relations to make certain inquiries in regard to this matter, and I presume, therefore, there can be no objection to the reference of this joint resolution.

Mr. RUSK. I prefer that this resolution should be passed over.

The PRESIDENT. If there be no objection, it will be passed over.

Mr. HALE. There is objection. I want to vote upon it.

Mr. UNDERWOOD. My colleague has moved to refer this joint resolution with certain instructions; and I presume the first question will be on that motion. I have no wish to debate that.

Mr. GWIN. I move to postpone the further consideration of this joint resolution until this day week.

Mr. UNDERWOOD. I hope that that motion will prevail, so that my colleague, who is now unwell, may be in his seat.

The motion was agreed to.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill "authorizing 'the construction of a railroad and branches, for 'establishing a certain postal communication be-'tween the shores of the Pacific and Atlantic within 'the United States, for the protection and facilities 'of travel and commerce, and for the necessary 'defenses of the country."

The pending question being on the amendment offered by Mr. CHASE, to strike out all of the first section after the word "railroad," and insert in lieu thereof the words:

"From San Francisco, in California, by the most direct and feasible route, to some point on the Missouri river, not below Independence, in Missouri, nor above Kanesville, in Iowa."

The words proposed to be stricken out are:

"From a point on Red river, at or near the southwest corner of Arkansas, on the most direct and feasible route, and if practicable, with a branch to the Gulf coast and through the State of Texas, to a point on the eastern boundary of the State of California, and from points on the western boundary of Missouri and Iowa, (not within the limits of any existing State,) on the most direct and feasible route to intersect said road, running from Red river as aforesaid to the eastern boundary of the State of California, with a track departing from this line at some point west of the Sierra Nevada, or Rocky Mountains, and running on the most direct and feasible route, to some safe and commodious harbor in the Territory of Oregon, which shall be at all times accessible to the largest class of sea-going vessels navigating the Pacific ocean."

Mr. BORLAND. I did not expect that this subject would be taken up to-day. A very important question—perhaps one of the most important connected with the subject, and one upon which there will probably be the greatest difference of opinion—is raised by the amendment of the Senator from Ohio. I do not think that the Senate was looking to the question, or expecting that the subject would come up in this form to-day; and I doubt whether the mind of the Senate is even now directed to the fact that the most important practical question involved in the bill is presented in the proposed amendment. I have, perhaps, a good deal to say upon that subject—certainly something; and I should be very sorry to be compelled to go on with my remarks now, because I am not prepared with papers, with maps, and the facts which I would draw from them, to offer opposition to this proposition. I hope, therefore, if we can do so, we shall pass to the consideration of some other point, and let this amendment be postponed for the present. I hope the Senator from Ohio will agree to that; and I hope the Senator from California will also agree with me in this.

Mr. CHASE. I concur entirely with what has been said by the Senator from Arkansas in regard to the importance of this amendment, and I should be exceedingly averse to have him forced into any discussion of this subject at a time when he was unprepared; and I am, therefore, quite willing to acquiesce in his suggestion that the amendment should be passed over informally for the present, and that the Senate should proceed to the discussion of other points connected with the bill.

Mr. HALE. It strikes me that this course is entirely wrong. We have taken up this bill, and gone on to discuss it, because we want the views of Senators upon it, and we have refused to refer it to any committee for the reason that we wanted the Select Committee which has been raised upon another similar bill to be guided in their action by the discussion in the Senate. Now the first moment a practical proposition comes up that looks to the characteristics of the road, it is proposed to pass it by. When shall we get a better time than now? If the honorable Senator from California means to have his bill considered, he will never get a better time than this moment, and if it is to be put out of the way under the supposition that he will get a better time, he will find himself mistaken.

Mr. GWIN. I am not for putting the bill off.

Mr. SEWARD. What is the question?

Mr. CHASE. The question is on the amendment which I have had the honor to offer. Upon that the Senator from Arkansas, who represents a State deeply interested in that question, desires an opportunity of presenting his views; and I conceive it to be due to him, and to be in accordance with the courtesy which has always characterized the action of this body, to acquiesce in his wish, that this amendment should be passed by informally. That will not postpone the general consid-

eration of the bill; but we can proceed to discuss any other matters which may arise upon it. I hope the consent of the Senate will be given to pursue this course.

Mr. GWIN. I do not look upon this amendment as very important, because I do not think it can prevail, and I think that the test question in regard to this bill is, whether or not there shall be any terminus named in it. I am willing for one to pass over this amendment, because we can progress with the bill in other points, and by passing this over we shall not obstruct our progress in the future. I think the test question will be on another point, and I do not believe this amendment can prevail.

Mr. BORLAND. I wish to say that I spoke of this as the most important practical question connected with the bill, because it proposes to fix a point. That is the very question, and, in my opinion, it is a vital one with regard to this bill.

Mr. RUSK. I would suggest to the honorable Senator from Ohio, that if he wishes to accommodate the honorable Senator from Arkansas, he had better withdraw the amendment. He can offer it again at another time.

Mr. CHASE. I do not think there can be any objection to passing by the amendment informally.

Mr. BADGER. I hope unanimous consent will be given to pursue that course.

Mr. HALE. If the Senator who has the bill in charge wants me to withdraw my objection, I shall do so, but it is against my judgment, and I think it is suicidal to his bill.

Mr. BROOKE. I object to passing by the amendment. I have no idea it will get half a dozen votes, and I want to settle it at once.

The PRESIDENT. Then the question will be on the amendment of the Senator from Ohio.

Mr. UNDERWOOD. Mr. President, I made some remarks the other day upon the subject of this amendment, and I think I know the object of my friend from Arkansas; and I really wish to hear him upon the subject, if there is any danger that this amendment will be adopted as proposed by the Senator from Ohio. If we can get a vote, and if it is very certain that the amendment will be defeated, I should be willing to act upon it now, without hearing the speech of my friend from Arkansas. But I apprehend that he will not only attack the amendment of the gentleman from Ohio, but that he will also, after what passed the other day, attack the argument which I made in behalf of a certain point, to wit: the mouth of the Ohio as being the proper place from which the road should go westward, or as near the same parallel of latitude as practicable, and which would take it to San Francisco, that city and the mouth of the Ohio both being near the same latitude.

Mr. BORLAND. So far from attacking the argument made by the Senator from Kentucky the other day, I shall, without attempting a new one, adopt his argument in support of my own views, but starting upon another state of facts. I shall adopt his course of argument precisely, for to my mind it was conclusive; but I shall start from different premises, and from what I think are the well-ascertained and established facts of the case.

Mr. UNDERWOOD. I thank the gentleman cordially for the compliment he has paid me, but my object in rising now, is to give facts to which I wish to call his attention, and which I have lately received. From the conference which I had with him, I believe that his object is the same as mine—to select the highest navigable point on the Mississippi which is practicable, for the eastern terminus of this road. I will read a communication which I have received from a gentleman who has been engaged twenty years in navigating that river—my late colleague upon this floor; and I wish to submit the facts contained in the paper which I hold in my hands, and which I have received from him, that they may have their due weight with the Senate. His letter is as follows:

WASHINGTON CITY, *January* 27, 1853.

DEAR SIR: I take great pleasure in complying with your request of yesterday, to be furnished with a comparative statement, showing the depth of water on some of the shoalest bars in the Mississippi river, between the mouth of the Ohio, and the city of Memphis, and below that city, as evinced by soundings made by me during a season of very low water. It may be proper for me to inform you, that these results are taken from memoranda made by me at the time of executing the work, but that the date, as well as the names of the two last points given, have become so much obliterated as to render them uncertain; but I feel confident that the soundings were executed between the years 1832 and 1840, and that these two last points are below Memphis.

At island No. 18, I found four and a half feet water; at island No. 21, I found four and one fourth; at island No. 34, I found four and three fourths, and at the head of Plum Point bend, I found five feet. All of these places are above Memphis, and are selected because affording less water than any others. At President's Island, which is immediately below Memphis, I found five feet water, and at two other places—the names of which are obliterated—I found five and a half, and five and three quarters, respectively; thus showing that, in times of low water, the shoal bars below Memphis do not afford a largely greater depth of water than is to be found between that city and the mouth of the Ohio. Indeed, from an experience of more than twenty years in the navigation of the Mississippi, I think I may safely say, that the difference in the depth of water afforded between the mouth of the Ohio and Memphis, and that afforded below that city, is not more than one foot in favor of the latter, and that it is never less than four feet, and very rarely, indeed, less than six, at any point below the mouth of the Ohio.

I have experienced but little difficulty in navigating the Mississippi below the mouth of the Ohio, arising from ice, and that difficulty is usually of but short duration, and very rarely amounts to an entire obstruction.

The only streams entering the Mississippi, between the mouth of the Ohio and Memphis, so far as I recollect, are the Big and Little Obine, the Forkadeer, the Hatchee, and Woolf rivers; the last of which enters immediately at Memphis. And I presume that all of these streams would not afford a greater amount of water than would be sufficient to supply the usual evaporation which takes place, and the absorption of the sand-bars, and hence could not give any considerable accession of water below their mouths.

Hoping that you will find in the foregoing, a full reply to your interrogatories, I subscribe myself, respectfully yours, &c.,

D. MERIWETHER.

Hon. J. R. UNDERWOOD, *Washington City.*

P. S. All the islands in the Mississippi are numbered from the mouth of the Ohio downwards, commencing at No. 1, a few miles below the mouth.

D. MERIWETHER.

Mr. DAVIS. Is he a steamboat man?

Mr. UNDERWOOD. Yes, sir. He has been twenty years upon the Mississippi river. I consider these facts as of great importance, and I thus early bring them to the attention of the Senate, so that the gentlemen who are deeply interested, as I am, in the subject, may turn their minds to them. You thus see that the difference between the Mississippi river, below and above Memphis, as far as the mouth of the Ohio, cannot exceed twelve inches in depth; and generally the difference will not be that much. It also appears that more than four feet of water may be found at all times between Memphis and the mouth of the Ohio. Four feet of water gives sufficient draught to bring boats of large size from New Orleans to the mouth of the Ohio at all seasons. Boats of less magnitude, and drawing much less than four feet water, must be used at low stages of our western rivers, to ascend the Tennessee, the Cumberland, the Wabash, the Ohio, the Illinois, the Upper Mississippi, and the Upper Missouri. Those steamers which would meet the trade of the Gulf of Mexico and Lower Mississippi, and the California railroad at the mouth of the Ohio, with a view to transport merchandise towards the sources of our rivers when the waters were low, should draw from two to three feet water only, when loaded, and hence, for all the commercial purposes which I mentioned in my argument the other day, the mouth of the Ohio is the place for the eastern terminus of the railroad. During the business part of the year, the water will generally be found sufficiently deep to enable steamers drawing ten to fifteen feet water, to ascend from the Gulf to the mouth of the Ohio. From that point, smaller steamboats should be used for ascending to the head of navigation on the various tributary streams above.

While I am up, allow me to make a correction of the report of some remarks which I made the other day. I know that it is almost impossible for the reporters, in the multitude of things which come under their attention during the progress of debates here, to put down with perfect accuracy what Senators say; and not having looked at these remarks before they were published, and the mistake being of such a character as to present me to my constituents in an attitude which I do not wish to occupy, I beg leave to correct the report. I beg to read two sentences which appear in the report:

"You can ascend the Ohio to Pittsburg; you can branch away and reach Paducah, and go up the Tennessee to the falls, twelve miles, and reach Florence. You can go up the Cumberland river to Cumberland, passing Nashville, and when at a little distance above that, at Charlottetown, you can turn to the left and go to Terre Haute, by ascending the Wabash."

My remarks as thus reported, place the falls in the Tennessee river twelve miles above its mouth. They represent the Wabash as running into the Cumberland, across the Ohio above Nashville, and they make a town above Nashville, called Charlottetown, of which I never heard. I believe I used every word contained in those two sentences, in my remarks, except the word "Charlottetown," but by the collocation and transposition of them, they are made to mean an entirely different thing from what I said, and to represent what is geographically absurd. I said that in ascending the Ohio to Pittsburg, you could pass the falls of the Ohio, and that twelve miles from the mouth of the Tennessee, you could reach the Cumberland, and turn up that river to Nashville. I did not isolate the falls twelve miles from the mouth of the Tennessee. I said, besides, that at Shawneetown, instead of Charlottetown, you could turn to the left, and ascend the Wabash to Terre Haute.

Having made this correction, and laid this information before the Senate, I beg leave to say one thing more, that in the reports of our remarks it is very desirable to have the notes furnished us, so that we may correct them before these mistakes appear; for unless that be done, it may be too late, because when they get into the Congressional Globe, they become a part of the archives of the country in one sense, and we may be placed in a false position, without having a chance, perhaps, of putting ourselves right.

Mr. GEYER. Mr. President, I regard the amendment submitted by the Senator from Ohio as very important in view of the frame of this bill. It proposes to fix the terminus of the road, and of one road only, somewhere on the Missouri river, between Independence, the westernmost town in Missouri, and Kanesville, Iowa. If that proposition prevails, it will be destructive to the bill. The bill is predicated upon the idea that the road is to be made by public lands, and that the branches are to be made in the same way. If you make a grant of land of forty miles in width, and on either side, you cut off all connection with any branches to be made in the same way.

The bill contemplates forming a connection with the system of railroads on the eastern side of the Mississippi, and to furnish to the branches *termini* in connection with that system; but if this amendment prevail, and you make a single road, appropriating the lands forty miles in width, without making any provision for the branches, every system of eastern railroads, if not in immediate connection with the main road, will be cut off. It will thus be seen at once that if provision be not made for passing through the territory of the United States beyond the boundary of the States, and you make the terminus on the Missouri river, every system of roads south of that will depend upon Missouri and Iowa for permission to form a connection with the road. Thus, if you pass a bill making but one road, to be built by public lands, and make no provision for branches, you disable the States, or the companies that may have already made roads, from forming any connection with the main trunk. It becomes important, therefore, if these roads are to be built out of the proceeds of public lands, or by a grant of lands, that provision should be made for every branch that may be necessary to connect the main trunk with the system of roads on the east side of the Mississippi. The bill is defective in some particulars; but, at all events, it will require some more legislation before we can proceed on the plan proposed. It will be remembered that it is proposed to make these roads through the Indian country—through lands belonging to some tribes of Indians who have a guarantee of perpetuity, and it becomes necessary in the first place to extinguish the Indian title, and to get some right to transfer those lands, and not burden those who may undertake to make the road with the extinguishment of the right of possession or occupancy held by these Indians.

I have now a few words to say to those gentlemen who propose to fix the terminus. The honorable Senator from Kentucky proposes to fix it at the mouth of the Ohio. If this railroad is ever built from the frontier States of the West to the Pacific, it must be put in connection with some means for the transportation of the material. Eighty tons of iron per mile at least will be required according to this bill; and to take a point opposite the mouth of the Ohio, not connected with any means of transportation to the point at which this road is to be commenced, is to charge

those who are to build it with an expense almost equal to the cost of the iron. How will you transport it? If you do not connect with some line of railroad or some water transportation, how can you carry the material to the point of beginning except by inland transportation, by natural roads over a country very unsuited, especially opposite the mouth of the Ohio, for land transportation? I have no sort of objection to fixing the terminus of the road and making a single road, provided, while we do that, if we intend to build it out of the public lands, or from the Treasury, provision is made for connecting it with the systems on the east side of the Mississippi. I cannot vote for the proposition of the honorable Senator from Ohio for that reason; and I think we cannot undertake to make the road upon the plan of this bill by establishing any one line without a provision for branches. The honorable Senator from Ohio would find that unless that terminus should be in connection with the central system running through the State of Ohio, that system would be cut off, or wherever you may attempt to make the connection within the States you will be dependent upon other States for the privilege to do it; and how, I will ask, with the spirit which has prevailed in some of the States of this Union, is that to be obtained? If you make the terminus in Iowa, how will Missouri approach it without permission from Iowa, and what is the probability that that permission will be given unless she could approach it on the west side of the Missouri river? How will Arkansas—how will any State to the south of it—connect with that terminus, dependent as she will be on the favor of the States already in connection with the road, and desirous to monopolize the transportation over it? These are suggestions which I throw out for the consideration of the Senate.

Mr. BROOKE. I believe, Mr. President, that this subject has been referred to a select committee of the Senate; I understand, at any rate, that there is a committee of the Senate which has taken cognizance of this matter. I have great confidence in the members of that committee. I believe that they will report a bill that will receive the sanction of the Senate, and I therefore see no use in wasting time in the discussion of the impracticable measure that has been introduced by the honorable Senator from California, and I therefore move that the bill, with all the proposed amendments, be referred to the Select Committee of which the Senator from Texas [Mr. RUSK] is chairman.

Mr. GWIN. I suppose the gentleman [Mr. BROOKE] thinks this is an impracticable bill, because he has not examined it, or cannot comprehend it. The Select Committee can act as well without this bill, as if it were referred. The members of that committee may, and no doubt will, be regulated in their actions by the discussions which may take place here.

In this discussion an idea seems to have prevailed, that for the want of more precise information of the country through which this road will pass, legislation should proceed no further than merely to direct a preliminary reconnoissance, so as to fix upon and determine a practicable route. This opinion, in my judgment, if sustained by the Senate, will produce the most serious injury to the public interests. What will be its effects? A loss of two years in the commencement of the work, if Congress should hereafter proceed in the consideration of the measure in the ordinary pace in which the business of legislation is disposed of here. Let the project at the present session go by default in this way, and who will shoulder the responsibility? It will be in vain to expect hereafter, under any circumstances, that the road can be commenced before the spring of 1855. The measure, we may hope, will come up for consideration at the next session of Congress. It would then lead to a general and protracted, if not a most profitless discussion; and the country will be fortunate indeed if it should become a law at the close of the first session of the next Congress—say in the fall of 1854. It will then be too late to begin operations, for the winter will be at hand, and from necessity the work must lay over until the spring of 1855, even if by that time the necessary contracts could be entered into and consummated. It has been stated time and again in this debate, that we have not the necessary information in regard to the country, to pass a railroad bill during this session. This is a great mistake, and likely to be a fatal one to this great measure, if not corrected. In the remarks which I submitted to the Senate at the commencement of this discussion, I stated that I based the route laid down in this bill upon the most reliable information.

I will now proceed to substantiate this statement. I have already brought to the notice of the Senate the carefully-prepared statement of Mr. Kern, which must commend itself to the confidence of every one who reads it. But in order to give it the highest authenticity, I procured its indorsement from Captain Sitgreaves, Major Cunningham, Lieutenant Parke, and Major Backus, of the United States Army; also, the Hon. Mr. Messervy, late a Delegate in Congress from New Mexico, and Mr. Jones, an extensive Government contractor in that Territory. I will now read these letters, and they will speak for themselves:

WASHINGTON, *January* 24, 1853.

SIR: I had the honor to receive your note, asking my opinion of the practicability of the route for a railroad to the Pacific proposed in Mr. R. H. Kern's letter to you of the 10th instant.

My personal knowledge is limited to a small part of the route in question, traversed in a late exploration having other objects, and in which I was accompanied by Mr. Kern. In that portion no formidable obstacles present themselves, except those that are common to all the routes, namely, the scarcity of timber and water; but from Mr. Kern's extensive acquaintance with the country, I regard him as more competent than any other I know to give an intelligent opinion on the subject. As far as my own knowledge enables me to judge, I entirely concur in the views expressed in his letter to you.

Very respectfuliy, your obedient servant,

L. SITGREAVES,
Brevet Captain United States Army.

Hon. W. M. GWIN, *Senator.*

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WASHINGTON, *January* 24, 1853.

SIR: I have examined with much interest the letter of Mr. R. H. Kern, addressed to you on the 10th instant, and find that it contains a fair and just view of the country between Albuquerque and Fort Defiance, in New Mexico, referred to in your note. I have good reason to believe that no very formidable obstacles to a railroad will be found between Albuquerque and the seven villages of Moqui, near the Little Colorado; and those who have traveled from Moqui to the Pacific represent that portion of the route quite equal to that section of it which lies between Moqui and the Rio Grande. The absence of deep snows in the winter, and the abundance of timber (with some coal) on this route, will give it some advantages over a more northerly route.

I consider it well worth a careful examination, which alone can determine the relative merits of the different routes in question.

I am, most respectfully, your obedient servant,

E. BACKUS.

Hon. W. M. GWIN, *United States Senate.*

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WASHINGTON, *January* 23, 1853.

SIR: I have just received your letter of the 21st instant, and in reply I have the honor to state that I have read R. H. Kern's letter, addressed to you on the 10th instant, on the comparative practicability of the several routes for a railroad to the Pacific, and do concur with him in the views therein expressed.

Mr. Kern, from a very long residence in New Mexico, and from having been employed as an assistant on several military reconnoissances both in that and in the Indian Territory, has amassed a fund of information about the general features of the country from the valley of the Mississippi river to the Pacific ocean, which is probably unequaled by that of any other individual. On the particular point, "the crossing of the Rio Grande," he is fully competent to pronounce, having passed through the valley of the river from its head waters to the town El Paso.

I have the honor to be, sir, very respectfully, your obedient servant,

JNO. G. PARKE,
Bvt. 2d Lt. Corps Top. Eng'rs.

Hon. W. M. GWIN.

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WASHINGTON, *January* 24, 1853.

SIR: Yours of the 21st instant, asking my opinion of the practicability of the route for the Pacific railroad, as indicated by Mr. R. H. Kern in his letter to you of the 10th instant, has been received, and I have the honor of replying as follows:

I have carefully read Mr. Kern's letter, and coincide fully with the views therein expressed. I am well acquainted with portions of the route, and can vouch for the correctness of his statement in regard to it; and from having traveled with him on reconnoissances in different parts of New Mexico, I cannot speak too highly of his industry in collecting, and sound judgment in arranging facts bearing on the geography of that Territory, and, therefore, can give the fullest credence to his descriptions of that part of the route I have not seen.

I feel sure there is no person having the same amount of information on this subject as Mr. Kern, and I know of none other better qualified to express a sound and intelligent opinion upon it.

I am, sir, very respectfully, your obedient servant,

F. A. CUNNINGHAM,
Paymaster, United States Army.

Hon. WM. M. GWIN.

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WASHINGTON CITY, D. C.,
NATIONAL HOTEL, *January* 22, 1853.

SIR: In reply to your note of the 21st instant, asking my opinion as to the practicability of the New Mexican route for the Pacific and Atlantic railroad as described by R. H. Kern, Esq., in his letter to you of the 10th instant, I beg leave to say, in my opinion, R. H. Kern, Esq., possesses more *accurate* knowledge of the topography of the whole of the explored portion of New Mexico than any other person. Mr. K. drew, and was one of the principal compilers of the only reliable map of that Territory ever published; and in the practice of his profession of surveyor and draughtsman, for the last three years, has had ample opportunity afforded him to speak from *personal* observation of a great portion of the country through which your proposed route runs.

During the last year, Mr. K. has been unremittingly engaged in collecting facts relating to this great work, which has enabled him to explain with the aid of the map, in a clear and simple manner, the practicability of your route; and I have no doubt it possesses superior advantages over any other with which I am acquainted, it being shorter, more easily graded, and can be traveled at all seasons of the year; and at the same time, has the great merit of reconciling and harmonizing all sectional interests, as it will afford equal facilities of communication with the Pacific, to the northern, middle, and southern States.

In Mr. Kern I recognize a gentleman of a high order of talent in his profession, and one whose integrity and intelligence recommend his opinions to be received with the fullest confidence.

I have the honor to be, most respectfully, yours,

WM. S. MESSERVY.

Hon. WM. M. GWIN, *Washington city, D. C.*

P. S. I am in receipt of letters from Santa Fé, dated December 1st, last, in which I am advised that Mr. F. X. Aubry, the "great prairie traveler," had just started for California with a train of wagons by "Walker's Pass."

Yours, &c., WM. S. M.

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WASHINGTON, *January* 23, 1853.

SIR: Having read Mr. R. H. Kern's letter, of the 10th instant, in reply to yours asking for certain information regarding the best route for a railroad to the Pacific, and noticing that he speaks of the route between Anton Chico and Albuquerque as the only place where any obstacles are to be encountered in the first section, I have the honor of presenting the following in elucidation of that point:

I have been a contractor for the transportation of Government supplies to New Mexico since 1848, and in the autumn of that year I passed over the portion alluded to above with a train of over three hundred wagons, averaging five thousand five hundred pounds to each one; and in 1851 traveled the same route with the same average load. I found the road perfectly practicable, and on this account followed it, though by so doing it made my journey to Santa Fé some seventy-five miles longer.

The above loads are heavier than can be hauled over ungraded roads of the same length in the States, with the same teams.

Hoping you will excuse the liberty I have taken, I am, very respectfully, your obedient servant,

JOHN S. JONES.

Hon. WM. M. GWIN, *United States Senate.*

But I will not stop here. I find in the Senate documents of the last Congress, an able letter written by Captain Ord, of the United States Army, who had been dispatched by General Riley to report upon the practicability of this very route for a railroad. This letter was written more than three years ago, and I will now read it, as I think it is *conclusive* on the subject.

MONTEREY, CALIFORNIA, *December* 30, 1849.

SIR: In answer to your request, that I should condense such information as I may have colleeted upon the facility of constructing a rail or other road through the country lying between the southeast corner of California and the valley of the Upper Rio Grande, allow me to state: The sad condition in which immigrants arrive by both the land routes to California, led me to inquire if a better intermediate route did not exist, over which I knew the padres, during the Spanish times, used to pass.

The Mojave valley is a sort of continuation of the Tulare, is the nearest habitable and fertile district of California to New Mexico, and is connected, by the passes of Walker, the Tejou, and "Cajou de los Mejicanos," with the most fertile of the great plains of the Pacific. Though this country is thickly populated for an Indian country, the Indians are so peaceable that parties of two, three, and four whites are in the continual habit of traveling therein; and it was from this district that (I was invariably told by the oldest and best-informed trappers) led the shortest and best road to New Mexico, entering the valley of the Rio Grande somewhere opposite the town of Albuquerque. To connect these I have resorted to all the oldest maps and mountain men within my reach; and I have learned that, leaving the upper end of the great San Joaquin or Tulare plain, via Walker's Pass, parties have gone through a well-watered, timbered, and habitable district, without crossing any mountains, to the Mojave, or Rio de los Martires, (which rivers, I think, are one, though some maps separate them,) about one hundred and forty miles. Thence following down the course of this river, (which runs through a fertile valley, with abundance of timber on its banks,) about sixty miles; thence striking across the sand hills and plains, about ninety or a hundred miles, to the "Paso de los Padres" of the Colorado, which is represented as a good pass or ford, lying at the head of "Long Cañon;" thence taking one of two valleys—one of which comes in from the northeast of the "Paso," and runs at about five leagues distance from the river, and nearly parallel thereto, and the other comes into the valley of the river about ten leagues to the east of the Paso, and runs also northeast and southwest, at about ten leagues distance from the river. By the first of these it is about forty, and by the second fifty leagues to the valley of a small tributary of the Colorado; and, following up this valley, heading the stream to the north, striking the valley of the Jaquesita at or near the head of the first-named stream—following up this valley, it is about thirty leagues (as

above) to Oraybe; thence are pueblos, at short intervals, in the Moqui country; and a road, which I find laid down in an old English map, via Osoli, Casita, to Tuñi, which is on the eastern slope of the Mimbres, and has a gentle, practicable (to R. road) descent to Acoma, in the valley of the Del Norte. The comparative freedom of this route from deserts and mountain ridges, depends upon the statements of all the best-informed and oldest trappers with whom I have conversed. The country was partly passed over by Padre Garces, in 1775, whose course, as far as Oraybe, I have described from a manuscript map obtained from the former Secretary of State in this country, and which is the original of Padre Font, dated 1777. The piece of sand-hills lying between the Mojave and El Paso de los Padres can, I am informed by an old trapper, be partly avoided by leaving the Mojave on the present well-known Mexican trail, following that for about three days, and then striking off to the east-southeast. The only difficulty to opening this road at once, results in the large and numerous tribes of hostiles between the Del Norte and the Colorado; and this, if properly viewed, is a fortunate and inevitable difficulty, to be sought and encountered as one of the greatest recommendations in favor of the country in which it exists. A population is a proof of the fertility of the district, and is found on none of the other routes to this country, for such roads were opened by solitary trappers, or small parties of Mexicans, who sought deserts rather than encounter Indians. If the people of the United States want a road from New Mexico to this country, they would not select a hot, cold, or sterile district in which to build it, or be deterred in the work by the knowledge that the best country for it is occupied by powerful or hostile Indians. Besides, the very means necessary to pacify such hostiles are the most certain to lead to the opening of a good road, the rapid rise of towns and villages, and the final completion of such means of communication through the land as the age, the wants, and abilities of the people might suggest—I mean the establishment of a line of forts through the country, as soon as an official examination thereof might authorize it.

Respectfully, your obedient servant,

E. O. C. ORD,
First Lieutenant Third Artillery.

Major E. R. S. CANBY, *Assistant Adjutant General, Tenth Military Department, Monterey, California.*

From this statement it seems that the route from the Pacific to the Rio Grande by Walker's Pass, was explored in 1775, more than seventy-five years ago, and before our Declaration of Independence, by those intrepid pioneers, the Catholic priests, who were the founders of civilization on the Pacific coast of the United States. The Puebla Indians between the Rio Grande and the Colorado on this route, are peaceable and industrious. They live in a rich country, and have had for years many thousand acres of land in cultivation. So much for the route west of the Rio Grande and on the Canadian river leading towards the Mississippi. I will now read what Captain Marcy says of his late exploration of the Red river, in a letter addressed to my honorable friend, the Senator from Arkansas, [Mr. SEBASTIAN:]

"I explored all the principal branches of Red river to their extreme sources, and made a careful examination of the country bordering upon them all. I have made extensive collections of minerals, plants, reptiles, &c., and am provided with data to make a very accurate map of the country passed over. I found a very extensive district of country reaching up Red river much further than any one has had an idea of before, which is as fine an agricultural district as I ever saw. The timber is good and abundant; the soil of the best quality, well watered, and the climate delightful. This must eventually be settled, and the natural outlet will be the Arkansas river. I also found an abundance of copper ores which have the appearance of being rich."

I hope the doubt will not again be expressed that this is not an ascertained practicable route for a railroad, and I feel assured that this proof of its practicability will satisfy the Senator from Illinois [Mr. SHIELDS] that the country is not volcanic; the Senator from Kentucky [Mr. UNDERWOOD] that it does not pass through the unexplored desert of the Great Basin; and the Senator from South Carolina [Mr. BUTLER] that it is not necessary to postpone action on this bill to make the necessary reconnoissance to locate the road.

Should the bill be passed at the present session, the road may be located and perhaps commenced before or during the next fall. This is an important consideration. It will not be necessary to determine the precise location of the *whole route* by that time, but only its general course. The road could be commenced at once at San Francisco, and a similar course might be pursued from the termini on the Mississippi and Gulf coast.

I must draw the especial attention of Senators to the fact, that it is a great error which prevails with some in regard to the restrictions of the bill. They are not as arbitrary, by any means, as has been supposed. There is but one point on the west which is absolutely indicated, to wit: San Francisco. On the east, the term "near the southwest corner of Arkansas" allows considerable latitude, for if desirable, the road might traverse the bank of Canadian river instead of Red river, or be run south of Red river through Texas. Whilst, as to the termini on the Mississippi, any points from New Orleans to the northern boundary of the State of Iowa, are open far selection. What more latitude could be asked in reason? for there is no route which is now proposed but falls between those points. The whole coast of Texas, in like manner, is open for the terminus of the proposed branch in that State.

A great diversity of opinion—the result, to some extent, of sectional, local interests—exists as to the point of termination of the main trunk; and a desire has been expressed to leave that an open question to be determined by the President. This has heretofore been the cause of deferring the measure, and unless waived, might defeat the present bill. To obviate this difficulty, and reconcile local interests, it was deemed proper to establish branches in a northerly, easterly, and southern direction. This, in my opinion, is a great merit in the bill; for who will say they are not important, nay necessary, to the great States through which it is decreed they should pass? It seems to me that it would be illiberal legislation, and inconsistent with this work of the age, to dispense with those branches, for it is impossible without them to project a location that would equalize all interests and do justice to all concerned. Whether they are to constitute a part of the original plan or not, they must be made at no distant day; for the States immediately interested, nay the public interest, will demand and insist upon them. Why, then, embarrass this measure by such objections? Is there any good reason for it? To say that the work is too stupendous is no reason at all; for will any man stand up in this body and say that the spirit and means of the nation are not equal to the undertaking? I think not. There is no reason, then, for cutting off these important features of the bill. If not wanted, if unnecessary, let it be so declared at once, and the grounds for the declaration shown, and then the responsibility of disfiguring the measure will lay in the proper quarter; but if required, then do not let it be said, in disparagement of the national energy, that the work is too great for them.

I must insist, then, upon the material provisions of this bill, and am willing to do anything in my power that will concentrate the opinions of Senators in favor of it; and to this end I shall submit the following additional section, at the proper time, if it meets with the favor of the Senate:

And be it further enacted, That when the proper reconnoissances shall have been made to determine the location of the road and its several branches, as herein contemplated, the President of the United States shall be, and he is hereby, authorized and empowered to so far modify or change the several general calls of the routes herein mentioned and their termini, as considerations of the public interest and the facts in his judgment may require, preserving, however, so far as practicable, the main features of the plan for a road and branches herein set forth.

If a better plan cannot be matured, and if it is necessary to give this enlarged power to the President to get this bill through, I am prepared and willing, at a proper time, to offer such a section. I have confidence in the President elect, and am willing to intrust him with this power, believing he will use it to promote the public interest. The people have shown by their votes that they have confidence in him, and this enlarged power could not be placed in safer hands. I invite discussion as to the merits of this bill, not wholesale condemnation without reason. If the scheme here embodied is impracticable, offer a better, free from grave objections, and if it meets with favor in this body, I will sustain it. But let us have discussion, followed by decisive action this session.

Mr. BROOKE. Mr. President, when I spoke of the impracticability of the measure of the Senator from California, I did not refer to the route. On the contrary, I concur with him that that, in all probability, is practicable. I referred to the means that he has proposed for the building of the road. But I hope that any plan which may be presented for the consideration of the Senate, will leave the termini and the route to be adopted hereafter, on surveys made with that view. The Senator, however, complains that the action contemplated by my motion will postpone this matter until 1855. I have a more serious complaint to make of his measure. I believe that if it is adopted, it will postpone the completion of this work till the year 2023. I have examined the Senator's bill with some care, and I have examined it in connection with the Whitney project, which has been so much pressed before Congress. I have before me the opinions of some gentlemen, eminent for their experience and ability in railroad matters, giving some estimate of the time that it would take to build this railroad according to that plan. The only difference I can see between the Whitney plan and the plan of the Senator from California is, that Mr. Whitney goes rather more into detail than that Senator. Let me present the paper to which I allude.

The memorial of John Plumbe to the Congress of the United States, contains the following illustration on this point:

The following brief letter, which has been repeatedly published, has never been satisfactorily answered, and it is therefore presumed that Mr. Whitney is unable to controvert the general correctness of its contents:

BOSTON, *September* 10, 1849.

To the Chamber of Commerce, New York:

GENTLEMEN: We observe that you recommend Whitney's plan for a railroad to the Pacific. We had previously understood that you were in favor of some plan that would insure the use of the road to the present generation. Will you be so kind as to explain to us how the use of the road can be obtained for the present generation by Whitney's plan?

He proposes first to build ten miles of road, and then (by the sale of lands) to create the means of building the next ten miles. May we not safely assume that it will take him at least one year to build the first ten miles, then one year more to sell the land; then three years more to get his pay? Thus, at the end of five years, he will be prepared (money in hand) to build the next ten miles.

According to this ratio of five successive years for each successive ten miles, it will take eight hundred and fifty years to make one thousand seven hundred and fifty miles of railroad! If (by a stretch of imagination) it should be said that he will, in a single year, build the first ten miles, and within the same year sell his land and get his pay, even then it will take one hundred and seventy years to build one thousand seven hundred miles of railroad.

An early reply will oblige, respectfully,

WILLIAM INGALLS,
E. H. DERBY,
J. C. DUNN,
P. P. F. DEGRAND,
O. D. ASHLEY,
Committee.

Then, as to the plan of the Senator from California, it is, in reference to the means, identically the same with that of Mr. Whitney, and that is to build the road by land alone. According to the most liberal estimate furnished by the gentleman, it would take one hundred and seventy years to complete the road on his plan, and that would bring us to the year 2023. The adoption of his plan, therefore, would be the postponement of the building of the road until that time. I am, therefore, opposed to it. I am opposed to the means, and not to the route, and for that reason I denominated the scheme impracticable; and not wishing to see the time of the Senate wasted with the discussion of this impracticable bill, I have made a motion to refer it to the Select Committee appointed by the Senate to take cognizance of the matter, hoping that they will produce something practical, something that will meet the sanction of the Senate. I do not believe that any one Senator can produce any scheme, or bring forward any proposition, that will meet the sanction of the whole Senate. But I hope, and I believe, that the Select Committee, representing the various interests involved, will bring forward some satisfactory scheme.

Mr. RUSK. I shall vote against the reference of this bill to the Special Committee on this subject, because I think that it is entirely unnecessary. They have a bill before them already, and they have worked pretty hard on that bill. That one bill brings the whole subject before them, as much as if they had all the bills referred to them. At the time I made the motion to refer the bill which is now under the consideration of the Special Committee, I stated, as one of the reasons why I did so, that they would be enabled by discussion, and by the interchange of opinions in the Senate upon this bill, to so frame one as to meet the views of the Senate. If the bill is to be passed, and become a law, it must be by the votes of the Senate, and by the votes of the House of Representatives; and I think the committee, in preparing the bill, should avail themselves of the indications of sentiment in each body. I do not know how it may be with others, but for myself I have been considerably instructed this morning by the desultory discussion which has grown up on this bill, pushed off, as it has been, until nearly three o'clock. I have learned by the discussion of this morning certain facts which are very important to be taken into consideration by the committee, as well as by the Senate. I allude to the fact men-

tioned by the honorable Senator from Missouri of the necessity of some connection with the route by which can be transported the iron necessary to be laid down on this road.

I regret to hear so much about impracticable schemes—so much about "if this road could ever be built;" and long calculations made as to the time which it will take to build it. Sir, the road can be built, and it can be built promptly.

Mr. BADGER. And it must be built.

Mr. RUSK. I hope so. I wish I had the power of using language that strong. I believe that in building this road, I should be doing the greatest possible service to the country. In the first place, the construction of this road will more than double your domestic commerce. It will bring into existence a vast deal of industry and enterprise that without it will not be developed. It will advance the intercourse between you and your important possessions on the Pacific ocean. It will make them have the same attachment for you that the people in the immediate vicinity of the capital have; and without it you cannot expect to hold their affections. It will save millions upon millions of capital now going out, and being invested in making communications with California through foreign countries and through territories that do not belong to us, diverting our people, and passing them on through unhealthy climates. The construction of this road will save hundreds and thousands of lives in that intercourse which necessarily will take place between the Atlantic States and the Pacific.

More than that, this route is perfectly practicable to be constructed, and in my opinion, if you construct it, you will do more towards putting this country in a state of defense and guaranteeing peace than you can do by all the resolutions and declarations you may make. It is a fact as well known to all foreign Governments as to ourselves, and perhaps a little better known to them than to a great many of us here, that there are men enough in this country—there is physical force enough in it to defend ourselves against any assaults that may be made—to defend us against the combined Powers of the world. All we need is to concentrate that force at any one point, or at any number of points where we may be attacked.

If we want peace, let us adopt something that will tend to preserve it. I am for peace. Peace is the mission of this country, and I would go a great ways to preserve peace. Our interests and the interests of mankind and human liberty itself, in my opinion, depend a great deal upon peace—a peace for this country to develop her immense resources; and the best plan to secure that peace, is to have no exposed possessions to tempt an enemy. At present everybody knows that we have such exposed possessions. The world knows it; and those possessions are of the most tempting kind to the cupidity of other Governments. How long could we defend California after a declaration of war on our part against a strong maritime Power, or a declaration of war on their part against us? We cannot march troops there; that is utterly out of the question. We do not defend our own frontier now. Why, at the time I am speaking, there are hundreds and thousands of our fellow-citizens exposed to the tomahawk and scalping-knife for the want of proper regard being paid to the defenses of the country. You have ample physical force, necessary means of every description, to do that, but you have not the means of communication. Those means will be furnished by the construction of this road. If it should be constructed, we could have intercourse from this side of the Union to California, our most exposed frontier, in five days; and it would then take but a very short time to ascertain here, at the seat of Government, what necessities may exist on the Pacific coast. Telegraphic wires, as a matter of course, will follow this road, and we shall be able to communicate with California and our extensive Pacific possessions in a few moments, and be able to send the hardy yeomanry of the interior to any point that may be necessary, in order to defend ourselves in case of an attack.

Under these circumstances, I hope and trust that the honorable members of the Senate will take this matter into consideration, and that they will not indulge in calculations to show that this scheme is totally impracticable. If the measure that is before us is impracticable, let them point out its impracticability, and show that a better one is practicable. I do not believe, for myself, that a grant of land is the best method of building the road. I think it is less available and perhaps much more expensive than building it by some other sort of means. But the discussion on this bill is for the purpose of eliciting gentlemen's opinions. How shall we members of the Select Committee ever come to any conclusion unless we hear an expression of the opinions of the Senate? How shall we adopt a practical plan, unless we find some general points laid down? We must discuss these matters. We cannot bring anything in here which will not be discussed. Why not, then, just as well go on with the exchange of opinion on this subject? We shall be able to report in a very short time, and we shall do so just as promptly as we can. When we do a good thing I do not want it to be forgotten, and therefore I wish to say that we have worked hard. We shall have a good deal to do, and we shall report in a few days to the Senate; but we wish, in the mean time, to have the guidance of opinions which may be expressed from all quarters.

Mr. BADGER. I agree, sir, in almost every word that has fallen from my friend from Texas. I believe that this road is of high importance to the whole country, and that some available plan ought to be, without any unnecessary delay, adopted, and provision made for its execution by the Congress of the United States. I concur with him that the prompt completion of this road will do more to place us in a position by which, in any possible adverse circumstances that may arise, we shall be able to defend at once the interest and the honor of the country, than all the filibustering speeches that have been made, or can be made, from now till the end of the century.

I believe, Mr. President, in the truth of the remark made many years ago, by one of the greatest men who has ever adorned the history of this country—I mean the late Alexander Hamilton—that real firmness is good for everything, and that bluster is good for nothing. I agree, therefore, in every word that my honorable friend from Texas has said; and if to the execution of this road were superadded adequate and liberal provision for the increase of the Navy of the United States, for which I am ready at any moment and under any Administration to vote, and for putting the Army and the other defenses of the country, in a position of adequate force and availability, we should do more, in the event of any future contingency, which might require of us to speak and to act, to give authority to what we might say and do, than by all the magnificent speeches that have been delivered here, or in the other end of the Capitol, upon the power and grandeur and strength and invincibility of this mighty American nation of ours.

Sir, if in this age of the world we ever accomplish anything, it is not to be by speeches, or proclamations, or pronunciamientos, as my friend from Georgia [Mr. DAWSON] suggests. They do very well for the region of Mexico, but they do not answer for the United States, nor do they answer to affect the great Powers of Europe. Agreeing, therefore, in the practical value of what my friend from Texas has said, being entirely in favor of the accomplishment of the great design which this bill proposes, I am yet sensible, as every other member of this body is, that but a very small portion of the members pay any attention to the discussion that is going on. There were but two persons I believe listening just now to my friend from Texas—one was the Senator from California, and the other was myself.

Several SENATORS. I was listening.

Mr. BADGER. And not more than half a dozen are listening even to me.

Mr. HAMLIN and other SENATORS. I am listening.

Mr. BADGER. Under such circumstances, with every desire to promote the success of this great work, I think it is proper that I should submit a motion that the Senate do now adjourn.

The motion was agreed to, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 27, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the reception of reports from the Committee on Ways and Means.

Mr. MOORE, of Louisiana. I ask the unanimous consent of the House to take from the Speaker's table the following Senate bill:

An act (No. 508) for the settlement of a certain class of private land claims within the limits of the D'Auterive claim, and for allowing preemption to certain purchasers and actual settlers in the event of the final adjudication of the title of said D'Auterive in favor of the United States, and for other purposes.

Mr. STANLY. I object, if it is to come out of the morning hour.

Mr. MOORE. I hope the gentleman will withdraw the objection. I only desire to take it up for the purpose of reference.

Mr. STANLY. If that is the object, I will withdraw the objection.

Mr. DAVIS, of Indiana. I renew the objection, if it is to come out of the morning hour, and I give notice, that from this time out I shall object to all business other than the regular order during the morning hour.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled the following bill; which received the signature of the Speaker:

An act for the relief of John W. Quinney, a member of the Stockbridge tribe of Indians.

CALL OF COMMITTEES FOR REPORTS.

Mr. PHELPS, under the instructions of the Committee on Ways and Means, reported a bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise, for the fiscal year ending June 30, 1854; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and, with the accompanying documents, ordered to be printed.

Mr. HOUSTON, under instructions of the same committee, reported a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1854; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

THE FOURTH INSTALLMENT.

Mr. STANLY. I have the authority of the Committee on Ways and Means to report a bill which was introduced by myself during the last session of Congress, and referred to the Committee on Ways and Means. It is a bill to authorize the Secretary of the Treasury to pay to the several States the fourth installment authorized by the act of June, 1836.

The Committee on Ways and Means, or the members of that committee, there not being a full meeting, directed me to report against the bill. I thank them for that, because it affords me the privilege of bringing the bill before the House, where I hope to have some action upon it. I desire the Chair to examine it, and see whether it must of necessity go to the Committee of the Whole on the state of the Union; and after his decision I wish to submit some remarks upon the bill.

The SPEAKER. The Chair would inquire of the gentleman, if the bill was reported with a recommendation that it do not pass?

Mr. STANLY. The bill was introduced by me, read a first and second time, and referred to the Committee on Ways and Means during the last session. That committee now authorize me to report it, with the recommendation that it do not pass.

The bill was then read through by the Clerk, as follows:

A bill to pay the fourth installment of the deposits of the public money, directed to be made under the provisions of the act of 23d June, 1836, to the several States entitled to the same, &c., &c.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to deposit, as hereinafter mentioned, with those States that received the previous installments, the fourth installment of the deposits of public money directed to be made with said States under the provisions of the thirteenth section of the act approved the twenty-third day of June, eighteen hundred and thirty-six, in sums to which each State was entitled respectively, to wit:

With the States of—

Maine	$318,612 75
New Hampshire	223,028 93
Massachusetts	446,057 86
Rhode Island	127,445 10

Connecticut	254,890 20
Vermont	223,028 93
New York	1,338,173 57
New Jersey	254,890 20
Pennsylvania	955,838 26
Delaware	95,583 83
Maryland	318,612 75
Virginia	732,809 34
North Carolina	477,919 13
South Carolina	350,474 03
Georgia	350,474 03
Alabama	223,028 93
Louisiana	159,306 38
Mississippi	127,445 10
Kentucky	477,919 13
Tennessee	477,919 13
Ohio	669,086 78
Missouri	127,445 10
Indiana	286,751 48
Illinois	159,306 38
Arkansas	95,583 83
Michigan	95,583 83
Which several sums amount to	9,367,214 98

SEC. 2. *And be it further enacted*, That to carry into effect the provisions aforesaid, for the purposes hereinafter mentioned, the Secretary of the Treasury of the United States be directed to cause to be prepared a certificate of stock for each State, containing the amounts as specified in the first section, to be deposited with it, signed by said Secretary, and countersigned by the Register of the Treasury, bearing an interest of five per centum per annum, payable half-yearly on the first day of January and the first day of July, commencing on the first day of January in the year 1853.

SEC. 3. *Be it further enacted*, That this deposit is to be made with said States, to transport to Liberia, in Africa, the free people of color within said States, respectively, and to provide for and to educate said people, as each State entitled to the stock may direct; and when any State aforesaid, by an act for that purpose, shall agree to accept the deposit and appropriate the interest accruing thereon for the purposes aforesaid, or either of them, the said Secretary of the Treasury, on being notified thereof by an authenticated copy of the act, shall deliver to the Governor of said States so accepting said deposit the certificate of stock, prepared for said State in manner aforesaid, or to such other officer as the State may designate.

SEC. 4. *Be it further enacted*, When a State that accepts the said stock shall thereafter decline or omit to appropriate and expend the interest, according to the true intent and meaning of this act, the interest on said stock so deposited with that State shall cease, so long as the State shall thus decline or omit to carry this act into effect.

SEC. 5. *Be it further enacted*, The principal of said stock is not to be paid without the express direction of Congress.

SEC. 6. *And be it further enacted*, That when said States shall have removed all such free persons of color residing in their respective borders, as hereinbefore mentioned, then the balance of the money to which they are entitled shall be appropriated by said States to the education of the poor, or to internal improvements within their respective borders, as to each State shall seem right and proper.

The following are the amendments proposed by Mr. STANLY, on the suggestion of members of the Committee of Ways and Means, to the above bill, viz:

SEC. 3. Insert after the word "Liberia," the words "or such other place as each State shall select."

In the same section, insert after the words "States, respectively," the words "with their own consent."

In the same section, insert after the word "people," the words "after their removal to Africa."

SEC. 6. After the word "mentioned," insert the words "except such as are over fifty years of age, or so infirm they cannot safely be removed."

Mr. STANLY. I desire the opinion of the Chair whether this bill must go to the Committee of the Whole on the state of the Union, or not?

The SPEAKER. The Chair will refer the gentleman to the provision of the bill, which requires the interest upon these bonds to be paid out of the Treasury. The Chair is inclined to the opinion that the bill must go to the Committee of the Whole on the state of the Union.

Mr. STANLY. If that be so, I yield, and move to refer the bill; and that the bill and amendments be printed.

Mr. SWEETSER. I move to lay the bill upon the table; and upon that I call for the yeas and nays.

Mr. STANLY. I have the floor.

The SPEAKER. The gentleman from Ohio [Mr. SWEETSER] has not the floor to make his motion, as the gentleman from North Carolina is upon the floor.

Mr. SWEETSER. He had made his motion, and yielded the floor.

Mr. STUART. I would ask the Chair, if the first question is not upon the recommendation of the committee, that the bill do not pass?

The SPEAKER. That recommendation has nothing to do with the ordinary course of proceedings upon the bill. It is a matter, though, which may have its influence with the House. The question will be upon the engrossment of the bill.

Mr. HOUSTON. The gentleman from Michigan misunderstood the report of the committee. I understand that report to be, that the bill be reported to the House, and that the motion be made to lay it upon the table.

Mr. STANLY. No, sir. No, sir.

Mr. STUART. Let the report be read.

The SPEAKER. Is there any written report?

Mr. STANLY. There is not. The recommendation of the committee was that the bill do not pass.

Mr. JONES, of Tennessee. Did I understand the Chair to decide that the bill must go to the Committee of the Whole on the state of the Union?

The SPEAKER. That is the decision of the Chair; and discussion is not in order. If, under the rule, it must go to that committee, no debate is necessary to carry it there.

Mr. SWEETSER. Then my motion is in order.

The SPEAKER. Does the gentleman from North Carolinia [Mr. STANLY] apprehend the Chair?

Mr. STANLY. I do not: so many members are talking at once. I shall not occupy fifteen minutes' time, if I can get the matter before the House.

The SPEAKER. All proceedings touching appropriations of money shall first be discussed in the Committee of the Whole on the state of the Union. The Chair's decision is, that this bill, if it contains an appropriation of money out of the Treasury, must without question go to that committee.

Mr. STANLY. If I have the floor I will make the motion to print the bill, before I make the motion to refer.

The SPEAKER. That would be in order.

Mr. STANLY. Then I submit that motion.

The SPEAKER. The gentleman from North Carolina makes a proposition that the bill, with certain amendments of his, be printed.

Mr. SWEETSER. I rise to a question of order. Does the Chair decide that this bill must go to the Committee of the Whole on the state of the Union?

The SPEAKER. That is the decision.

Mr. SWEETSER. Then the gentleman from North Carolina could not hold the floor after he made his motion to refer and print. I took the floor and made a motion to lay the bill upon the table; and now he makes a motion to print it. My point of order is, that I had the right to take the floor and move to lay the bill upon the table, and having made that motion, it must be first put before the motion of the gentleman from North Carolina is in order.

The SPEAKER. The Chair is of the opinion that the gentleman from Ohio [Mr. SWEETSER] had a right to submit a motion to lay the bill upon the table.

Mr. SWEETSER. Upon that motion I call for the yeas and nays.

Mr. STANLY. How did the gentleman from Ohio get the floor, when I had it, and made a motion to print this bill? I have never yielded the floor.

The SPEAKER. The gentleman from North Carolina made a motion to commit the bill, and the subject of committing a bill is not debatable. The gentleman could not, therefore, hold the floor after making that motion.

Mr. STANLY. I withdrew that, and made a motion to print separately, and so stated to the Chair.

Mr. JONES, of Tennessee. I submit this point to the gentleman from North Carolina, as well as to the Chair: If the rule requires that all bills making appropriations of money shall have their first reading in the Committee of the Whole House, a motion to print, though it generally opens the merits of the question, cannot supersede that rule which requires that the bill shall have its first consideration in the Committee of the Whole on the state of the Union; and, consequently, a motion to print being made, in connection with a motion to refer, cannot open the consideration of this bill, until it has had its consideration in the Committee of the Whole on the state of the Union.

Mr. STANLY. It cannot have its first and second reading in the Committee of the Whole, for it had that at the last session.

The SPEAKER. The Chair understands the question to be this: The bill had its first and second reading at the last session of Congress. It was reported from the Committee on Ways and Means, with the recommendation that it do not pass. The bill contains an appropriation. Under the rule, it must be first discussed in the Committee of the Whole House; yet the Chair holds that the privileged motion made by the gentleman from Ohio [Mr. SWEETSER] may be put, and it is competent for the House to lay the bill upon the table, without committing it at all.

Mr. STANLY. I do not dispute that at all.

The SPEAKER. The bill is not itself debatable in the House. It must be debated first in the Committee of the Whole on the state of the Union. The Chair doubts whether the motion to print, opening up as it would the merits of the bill, is debatable. At all events, the question to print cannot arise until the bill is either committed or disposed of. The question to print follows the decision of the question to commit. Such is the every-day practice. The motion, then, of the gentleman from Ohio, [Mr. SWEETSER,] in the opinion of the Chair, may intervene.

Mr. STANLY. Will the Chair allow me to say a word upon the point of order?

The SPEAKER. The Chair would be happy to hear the gentleman, although, according to the decision of the Chair, debate is not in order.

Mr. STANLY. I do not wish to debate it. The Chair, as I understand it, doubts whether the motion to print is debatable; and surely I have a right to the benefit of that doubt, to show where I stand.

The SPEAKER. The Chair would be glad to hear the gentleman.

Mr. STANLY. I have reported that bill by order of the Committee on Ways and Means; but, as I stated, not by a full committee. They authorized me to report it to the House with a recommendation that it do not pass. I made that report, and made a motion to print and refer. The Speaker decided that the bill must go to the Committee of the Whole on the state of the Union, because it contains an appropriation. I did not yield the floor, but asked that the bill may be printed, and withdrew the motion to refer. I maintain that I now have the floor—having never yielded it—on that motion to print. That is the question I wish the Speaker to decide.

The SPEAKER. If that question is not debatable, the gentleman will allow that the Chair is right in deciding that he cannot retain the floor.

Mr. STANLY. Does the Chair decide that the motion to print is not debatable?

The SPEAKER. The Chair does so decide, upon the ground that if the bill itself is not debatable, the question to print cannot be debated, in the opinion of the Chair; because the question to print involves necessarily the merits of the measure itself.

Mr. STANLY. I have no objection to have the question taken on the motion to lay the bill upon the table. I demand the yeas and nays.

The yeas and nays were then ordered.

Mr. JONES, of Tennessee. With his permission, I will ask the gentleman from North Carolina one question.

The SPEAKER. Only by the unanimous consent of the House can it be done.

Mr. JONES. I want to know——

Many VOICES. "I object!" "I object!"

The SPEAKER. Objection is made.

Mr. STANLY. As I cannot hear, of course I cannot answer.

The question was then taken, and it was decided in the affirmative—ayes 105, nays 60; as follows:

YEAS—Messrs. Charles Allen, Willis Allen, Averett, David J. Bailey, Thomas H. Bayly, Bartlett, Beale, Bocock, Bragg, Albert G. Brown, Joseph Cable, Cartter, Caskie, Chastain, Churchwell, Clark, Clemens, Clingman, Cobb, Colcock, Curtis, John G. Davis, Dawson, Dean, Dimmick, Disney, Doty, Dunham, Durkee, Eastman, Edgerton, Faulkner, Ficklin, Florence, Floyd, Freeman, Thomas J. D. Fuller, Gaylord, Giddings, Gilmore, Gorman, Green, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hart, Henn, Hillyer, Holladay, Houston, Thomas Y. How, Howard, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, R. W. Johnson, D. T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Lockhart, Mace, Mann, Mason, McLanahan, Millson, Molony, Murphy, Murray, Nabers, Orr, Andrew Parker, Phelps, Powell, Richardson, Riddle, Robbins, Robie, Ross, David L. Seymour, Origen S. Seymour, Skelton, Smart, Smith, Snow, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, St. Martin, Stratton, Stuart, Sutherland, Sweetser, Toombs, Venable, Wallace, Wilcox, Wildrick, and Woodward—105.

NAYS—Messrs. William Appleton, Barrere, Bennett, Bibighaus, Bowie, Bowne, Brenton, George H. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Cottman, Cullom, Darby, George T. Davis, Dockery, Duncan, Ewing, Fay, Henry M. Fuller, Gentry, Goodenow, Harper, Haven, Horsford, John W. Howe, Thomas M. Howe, George G. King, Kuhns, Landry, Little, Martin, Meacham, Miller, Henry D. Moore, John Moore, Morehead, Newton, Outlaw, Samuel W. Parker, Penniman, Perkins, Porter, Sackett, Schermerhorn, Schoonmaker, Stanly, Benjamin Stanton, Taylor, Thurston, Tuck, Walsh, Watkins, Welch, Wells, Addison White, and Williams—60.

So the bill was laid upon the table.

Mr. STANLY. I desire to know if the motion to print falls with the bill?

The SPEAKER. It does. The whole subject is laid on the table.

Mr. SWEETSER. I rise to a privileged question.

The SPEAKER. The gentleman from North Carolina is on the floor to a question of order.

Mr. STANLY. If the motion to print goes with the bill, according to the decision of the Chair, I ask the unanimous consent of the House to have the bill printed.

The SPEAKER. The whole subject goes to the table, by the vote of the House. Is there any objection to the request of the gentleman from North Carolina to have the bill printed?

Mr. SWEETSER. I object to it.

The SPEAKER. The gentleman from Ohio objects.

Mr. SWEETSER. I rise to a privileged motion.

Mr. STANLY. I must raise a question on the decision of the Chair.

The SPEAKER. Does the gentleman appeal from the decision?

Mr. STANLY. I do.

The SPEAKER. The Chair decides that the motion to print falls with the bill on the table, by the vote of the House. From that decision the gentleman from North Carolina appeals.

Mr. STANLY. I wish to state the grounds of my appeal.

The SPEAKER. The subject is not debatable, but the Chair would be glad to hear the gentleman.

Mr. STANLY. How can I appeal without stating the grounds of it?

The SPEAKER. The gentleman can state his grounds, if he has a rule to read.

Mr. STANLY. My ground, if I am allowed to state it, is, that according to the 46th rule,

"When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for a previous question, to postpone to a day certain, to commit or amend, to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged; and no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day, and at the same stage of the bill or proposition."

Now this bill was not under debate.

The SPEAKER. This bill was not under debate, nor could it be, for the reason that the rule requires that it shall be debated, if at all, first in the Committee of the Whole on the state of the Union.

Mr. STANLY. There is one point I should be glad to have the Chair decide for me. If the Chair states that I shall not state my point of order, I will submit to the decision; but if he says I can, I want him to hear me out.

The SPEAKER. The Chair, by an express rule of the House, has a right to discuss questions of order, in preference to any gentleman upon the floor.

Mr. STANLY. I was making a statement of my point when the Chair interrupted me.

The SPEAKER. The Chair did not suppose he was interfering with the gentleman's statement, or he would not have done so.

Mr. STANLY. My statement is this: that this bill was not, according to the 46th rule, under debate at the time the gentleman from Ohio made his motion; and I want to know if the bill is laid upon the table, on the motion of the gentleman from Ohio, under such circumstances, and I make a motion to print, that being a separate motion of mine, and having the floor, does that motion to print lie on the table also?

The SPEAKER. The Chair thinks that the motion to lay upon the table, if carried, takes with it all that is attached to the bill; and the bill and everything accompanying it, is, by a vote of the House, laid upon the table; and to reach the question of printing, or a question upon the engrossment or commitment of the bill, it must first be taken from the table by a motion to reconsider. The Chair must therefore overrule the question of order raised by the gentleman from North Carolina, [Mr. STANLY.]

Mr. STANLY. I appeal, with the view of getting this matter upon the Journal.

Mr. ORR. I move to lay the appeal upon the table.

The question was taken on the motion of Mr. ORR, and it was agreed to.

So the appeal was laid upon the table.

Mr. SWEETSER. I rise to a question of privilege. I move to reconsider the vote by which the bill was laid upon the table, and also to lay the motion to reconsider upon the table.

The question was taken on the latter motion, and it was agreed to.

The SPEAKER. Reports are still in order from the Committee on Ways and Means.

Mr. GORMAN. I submit the following report from the Committee on Printing, which will not, I think, give rise to any debate:

The Committee on Printing, to which was referred the resolution of the House for the printing of fifteen thousand extra copies of the annual report of the Secretary of the Treasury on the state of the finances, recommend that there be printed only thirteen thousand extra copies of said report, and that two thousand copies of that portion of it relating exclusively to the fisheries be printed separately.

By printing the two thousand copies relating to the fisheries separately, the cost will be reduced by the amount of press-work and paper which would be required for the remaining portion.

W. A. GORMAN,
Chairman House Committee.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman from Indiana how many pages the entire report will make?

Mr. GORMAN. It will make between three and four hundred pages. There will be a reduction in the cost of these extra numbers if, as is recommended by the committee, of the fifteen thousand extra copies proposed by the resolution of the gentleman from Tennessee to be printed, two thousand consist only of that portion of the report which relates to the fisheries. The object of ordering the printing of these two thousand copies of the portion of the report relating to the fisheries, is to enable those living in the vicinity of that particular interest to be accommodated with these copies as far as they will go. It is done at their request, and, as I have already said, it lessens the cost by a considerable amount.

Mr. JONES. What number of pages will that portion of the report relating to the fisheries probably make?

Mr. GORMAN. It will make about two hundred and eighty pages.

Mr. JONES. Then, I suppose, it will be a portion so small that it will not come within the binding privilege.

Mr. GORMAN. The provision for binding extends to books of over two hundred and fifty pages, and this, therefore, is included within that provision.

Mr. JONES. This is a very small item, and I think that we had better print fifteen thousand extra copies of the entire report.

Mr. GORMAN. The members from the north-eastern States called upon the committee, and desired the printing of this number of copies of that portion of the report I have adverted to, separately. They preferred the printing of this separate portion on the fisheries, because they were more immediately interested in it than those from a different section of the Union, and because they might be enabled to exchange with western members their share of the copies of the entire report, for copies of this separate part of it. The recommendation is made by the committee as a matter of accommodation.

Mr. STUART. I call for the previous question.

Mr. TAYLOR. I wish to inquire of the chairman of the Committee on Printing, whether there is any prospect of Congress having printed during the present session of Congress the President's annual message and accompanying documents?

Mr. GORMAN. It is coming in as fast as it possibly can be bound up.

The call for the previous question was seconded, and the main question was ordered to be put.

The question was then taken, and the report of the committee was adopted.

Mr. GORMAN. I beg to submit another report from the same committee.

The Committee on Printing on the part of the House of Representatives report back, and recommend the adoption of, the following resolution referred to it by the House:

"*Resolved*, That there be printed for the use of the Commissioner of the General Land Office, one thousand copies of the supplement to the annual report of said Commissioner for the year 1852–'53."

It will only cost thirty dollars as per calculation of the Superintendent of the Public Printing.

W. A. GORMAN,
Chairman of House Committee.

The question was taken and the report was adopted.

Mr. HOUSTON. My colleague on the Committee on Ways and Means [Mr. DUNHAM] has a report in his hands from that committee, which he proposes to submit, and as its consideration will consume some time, and there are only a few minutes left of the morning hour, I move, with his consent, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SACKETT. Is that motion in order?

The SPEAKER. The Chair decides that the gentleman having regularly obtained the floor, and not having arrested anybody in a speech or in business, it is in order.

Mr. STANLY. I demand tellers on that motion, that the House may decide whether it will proceed to the consideration of the business on the Speaker's table, or resolve itself into the Committee of the Whole on the state of the Union.

Tellers were ordered; and Messrs. POLK and MCNAIR were appointed.

The question was then taken, and the motion was agreed to, the tellers having reported—ayes 72, noes 63.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair.)

DEFICIENCY BILL.

The CHAIRMAN stated that the business before the committee was the consideration of House bill No. 335, "to supply deficiencies in the appropriations for the service of the fiscal year ending June 30th, 1853."

At the rising of the committee yesterday the amendment of the gentleman from Pennsylvania [Mr. FLORENCE] to the amendment of the gentleman from North Carolina [Mr. VENABLE] was pending. On that amendment the gentleman from New York [Mr. DEAN] is entitled to the floor.

Mr. DEAN. I obtained the floor, Mr. Chairman, only to state that I was opposed to the amendment of the gentleman from Pennsylvania, and in favor of that proposed by the gentleman from North Carolina, [Mr. VENABLE.] The Jackson equestrian statue is placed upon the public ground and dedicated to the public; and we, by the legislation of a former session, in appropriating $5,000 for the erection of a pedestal on which to place this noble monument, have made it a national work.

I do not propose to take part in the discussion in relation to General Jackson. No party can claim him. His fame is national, and belongs to the whole country; and, while I would not only vote to pay for the pedestal, but the statue itself, I would do the same if one had been erected to the memory of Henry Clay, or any other one of our great statesmen. But I hope that our time will not be consumed here in useless debates. We are all now Jackson men in some way, if not in a party sense; we all believe that he was a true patriot. Let us pass the amendment of the gentleman from North Carolina, [Mr. VENABLE,] and vote down all others.

Mr. FLORENCE. I take him as a party man, and would not be willing to give him up.

The question was taken on the amendment of Mr. FLORENCE, and it was rejected.

Mr. GIDDINGS. I move the following amendment:

For the erection of a bronze statue to Albert Gallatin, $25,000.

Mr. DUNHAM. I rise to a question of order. There is no law authorizing that, as I understand.

The CHAIRMAN. If there be no law, as I suppose there is not, the amendment is, in the opinion of the Chair, out of order.

Mr. GIDDINGS. For the purpose of attain-

ing the object I had in view in submitting the amendment, which the Chair has decided to be out of order, I move a reduction of the amount of appropriation in the amendment of the gentleman from North Carolina, [Mr VENABLE,] five dollars.

I desire to avow here, that I wash my hands of this wasteful consumption of the time of this body and the treasure of the country, in legislating for the objects contemplated by the amendments under consideration yesterday and to-day. The idea that the character of Washington or Jackson can be affected by them, I deem preposterous. The fame of these great men has been long since recorded upon the page of history. The record is made up and will go down to generations yet to come, unrefuted by anything we can do. I think, and only speak for myself, that we are *belittling* their reputations, (if we affect them in any way,) and the dignity of our own duties, when we attempt to perpetuate their deeds by the erection of monuments of wood and stone, and marble and brick and mortar. We do not add to, but trifle with their reputations in making these efforts.

But my principal objection is, that this practice is corrupting the taste and judgment of the nation. It appears to me that the founders of this Government had in view the establishment of a Republic whose fostering care should be extended towards the elevation of mankind, and the more effectually to accomplish that end—to promote, and encourage, and secure the blessings of peace and the arts and sciences—they intended this Government should promote everything that would tend to promulgate intelligence, and promote the improvement of our fellow-men. The erection of monuments to commemorate the memory of great men had its rise in an age when learning—when the sciences were but little cultivated. They are not suited to the age in which we live.

In offering the amendment which I presented, I desired to contrast the character of a civilian—an advocate of peace—with that of mere military men. I desired to call attention to their memories, and advise the youth of our country to copy their examples; to strive to attain the reputations which they possessed. To me, the man who teaches us to save the lives of our fellow-beings is far more worthy of our love and admiration than he who teaches the destruction of mankind. Such are the men whom I admire. They do more for the country a thousand times than those who go into the field of military glory; diverting the popular sentiment from the arts of peace to those of war—to the cultivation of a taste which has proven the grave of all Republics that have gone before us.

Mr. HOUSTON. I am opposed to the amendment, and I desire now, in the early part of the day, to appeal to gentlemen on all sides of the House that we may be allowed to vote on the pending amendments, and to pass the bill.

I had occasion this morning to refer to the proceedings of the Committee of the Whole during the Twenty-ninth Congress, and I find that at the short session of that Congress, the Committee of the Whole, at one sitting, passed half of the appropriation bills. During the short session of the Thirtieth Congress, the House, on various occasions, resolved itself into the Committee of the Whole on the state of the Union, and passed, with few amendments, the appropriation bills. The Indian appropriation bill, for instance, was not amended at all. It was read through, and disposed of in less than half an hour. It seems to me that we have indeed fallen upon strange times. The amendment of the gentleman from North Carolina, though a like proposition is contained in the civil and diplomatic appropriation bill, and shortly to come up, has been hanging here for one entire legislative day, to the obstruction of every other business. Why, sir, if we thus permit the time of this committee——

Mr. TOOMBS. I rise to a question of order. I think that the gentleman is bound to oppose the amendment, and not lecture the committee.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HOUSTON. I am not lecturing the committee. The Chair then sustains the point of order under a false view of the facts.

Mr. SWEETSER. I raise another point of order, that the Chair having decided the gentleman to be out of order, he must take his seat, and that he cannot proceed without the permission of the House. [Laughter.]

The CHAIRMAN. If the gentleman insists upon his point of order, the gentleman from Alabama cannot proceed except in order.

Mr. HOUSTON. I propose to direct my remarks to the amendment of the gentleman from Ohio, [Mr. GIDDINGS.]

Mr. SWEETSER. I withdraw my point of order.

Mr. HOUSTON. If we make any appropriation at all, the appropriation originally presented is the right one, and I desire to say, in conclusion, that I was not lecturing the House. The assertion that I was lecturing the House is not correct, and the decision of the Chair, consequently, was based upon a wrong reason. I was appealing to the House to aid me in getting through with the public business.

The question was then taken upon Mr. GIDDINGS's amendment, and it was rejected.

Mr. SWEETSER. I propose to amend the amendment of the gentleman from North Carolina [Mr. VENABLE] by increasing the amount five dollars, and I do it with the view of directing the attention of the committee for a few minutes to the issue which I shall make with my colleague, in reference to the propriety of expending public money in the erection of statues to the departed dead. There is no man of reflection in this House who supposes that we can add to the fame of these great men, that have served their country in times past. We owe something to our constituents, as well as to ourselves, and to the generations that will come after us. With an overflowing Treasury, in the midst of universal prosperity, I submit to this committee that we cannot expend the public money better than in raising statues which shall perpetuate not only the memory of these men, but shall point our own citizens and all strangers who visit this capital to these works of art that show that we appreciate the services of a Washington and a Jackson.

Mr. LETCHER. I rise to a point of order. I submit the question, whether the gentleman is speaking upon his amendment at all.

Mr. SWEETSER. It is to increase the appropriation.

Mr. LETCHER. The gentleman is speaking as to the propriety of erecting statues, and not upon the propriety of adding five dollars.

The CHAIRMAN. The gentleman must confine his remarks to the amendment, whether the appropriation should be increased five dollars.

Mr. SWEETSER. The amendment to increase the appropriation embraces the whole question of appropriation, and my friend from Virginia [Mr. LETCHER] will certainly excuse me from any lecturing of this House. It has not been my practice. I desire to appeal to the House in favor of the whole *project* of the erection of statues. I should like to see these appropriations increased infinitely beyond any proposition that has been submitted to the House. Erect your statues to the memory of Washington, Jackson, and the revolutionary heroes who do not stand as conspicuous as Washington and Jackson. Bring forward the proposition, and it shall have my vote. I should like to see these public squares adorned with public statues so long as we have an overflowing Treasury. I will not alarm my friends, and particularly my friend of the Committee on Ways and Means, by enlarging upon the subject. I will engage in no lectures of this House on matters of taste or judgment touching these appropriations; but when these propositions come forward fairly, let us meet them in the proper spirit of American citizens, and let us do honor, not only to ourselves, but the people whom we represent. What man is there who visits Washington, that would not be proud of seeing a pedestal in Monumental square, and a statue in honor of George Washington, that should eclipse anything erected on the face of the globe?

[Here the hammer fell.]

Mr. GIDDINGS. I am opposed to this increase of statues, and the prosecution of this grand plan of erecting statuary proposed by my colleague—the erection of a regiment of bronze statues upon the public squares of this city, at the head of which, I suppose, some future Congress will place a representation of my colleague, [laughter,] for I believe him to be a man of military fame.

Mr. SWEETSER. I hope my colleague from the Western Reserve will be first honored by a statue.

Mr. GIDDINGS. My colleague is in favor of the increase of this policy. I am opposed to it. My judgment and my conscience, as a legislator, are opposed to it. I speak not for others. I deem it unworthy of Congress to turn our attention to the erection of pictures and statues to commemorate the military achievements of those great men who have gone before us. Let our attention be directed to national economy, to saving the treasure and the blood which is wasted in war. I would avoid its horrors and its crimes. Let our money be expended in the instruction of our youth, the education of the humble, and the elevation of those who are poor.

Mr. SWEETSER. The gentleman comes from and represents in part a State that has made ample provision for all within its borders. We ask nothing from the National Treasury.

Mr. GIDDINGS. Then I shall go with my colleague to collect no more revenue than is necessary to an economical administration of the Government. I am too much of a Democrat to squander money drawn from the people in this way, [laughter;] and if my friend is to join the aristocracy of the nation, and squander the public money in this manner, let him no more call himself a *Democrat*.

A VOICE. Read him out.

Mr. GIDDINGS. He will go to the new Administration as not belonging to the Democracy. This money which my colleague proposes to lavish so extravagantly comes from the hands of the laboring men of this nation; from the laboring poor; from those who are destitute even of the necessaries of life. They toil and work in poverty, that we may erect expensive statues to the memory of the great and the rich; for we are all conscious that the whole of our revenue comes from the laboring portion of the community; from those who toil for their living. I will not wrench from the hand of poverty the smallest mite to squander in this way. No, sir. My colleague may not have the feeling for laboring men which I possess, but I have been from my youth a laboring man. I know what it is to labor, and I never will lend any instrumentality in crushing the energies of our laboring people in order to draw money from their pockets to squander in this manner.

[Here the hammer fell.]

The question was then taken on Mr. SWEETSER's amendment to the amendment, and it was rejected.

The question recurred on the amendment of Mr. VENABLE, as follows:

"For the purpose of completing the pedestal of the equestrian statue of Andrew Jackson, in Lafayette Square, and the erection of a suitable iron railing around the same, $3,000."

The question was put, and the amendment was agreed to.

Mr. DUNHAM. I ask the unanimous consent of the committee to make a correction of the following amendment, adopted last evening:

"For the payment of such sums as may be due to individuals under the act of March 3, 1815, and 9th April, 1816, for property destroyed by the burning of the navy-yard in the city of Washington, in the year 1814, the amount to be ascertained by the proper accounting officers of the Treasury, the sum of $750."

I move to amend it by striking out the words "9th of April, 1816." The committee will recollect that this question came up suddenly on yesterday, and we had no opportunity of examining the law. I find that the reference in that amendment I propose to strike out, was improperly made. I desire to correct it, and I presume there will be no objection.

There being no objection, it was ordered that the correction be made.

Mr. HOUSTON. I offer the following amendment:

For salaries of nine supervising and fifty local inspectors, appointed under an act approved August 30, 1852, for the better protection of the lives of passengers on steamboats, with traveling and other expenses incurred by them, $53,870 50.

That is an item rendered necessary by the law of the last session of Congress.

The question was taken, and the amendment was agreed to.

Mr. HOUSTON. I have another amendment which I wish to offer:

For the payment of the balance of the contract for marble work on the east wing of the Patent Office, when due, in accordance with said contract, $19,100.

I hold in my hand the estimates of the Commissioner of Public Buildings, who wants $44,000 for the completion of the east wing of the Patent Office. Upon examination with some gentlemen yesterday, we learned that $19,100 was now due under that contract; and without having had occasion to refer it to the Committee on Ways and Means, I propose this amendment myself. The reason why I did not offer an amendment covering the whole $44,000 is this: At the last session of Congress, the proper officers estimated the sum for the completion of the east wing of the Patent Office at $30,000. After the session had progressed for some time, they made an estimate for the same work, at $83,127. And before the bill could pass in which that appropriation was contained, they made a very minute and particular estimate towards the close of the session at $103,000.

So that when the proper officers who have that Patent Office in charge—a building that is four fifths completed, in the course of twelve months, estimate, first, that they want $30,000, second, $83,000 or more, third, $103,000, for the completion of that work, it seems to me that their guessing is too bad for this House to rely upon. They have made those three estimates or guesses. It now turns out, at this session of Congress, that they want $44,000 in addition to what Congress gave them. I was willing, upon my own responsibility, to offer this amendment to pay those workmen who have completed their work; but I am unwilling to give anything more, until some proper person shall make a report free from such errors of the true amount needed.

[The following message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary:

Mr. SPEAKER: The Senate have passed a bill and resolution of the following titles, viz:

S. No. 579. An act to extend to real and mixed actions the provisions of the thirty-first section of the judiciary act.

S. No. 73. A resolution for the relief of the owners of the brig Kate Boyd; in which I am directed to ask the concurrence of this House.]

Mr. STANTON, of Kentucky. I understand, from the remarks of the chairman of the Committee on Ways and Means, that the amendment he offers is intended to provide only for the amount due to the contractors for the marble work upon the east wing of the Patent Office. Now, sir, I understand that this amount does not embrace all that is due and payable for work done on that building. There are other contractors who have been employed in the construction of that edifice, who have sums due them, and to pay which there is no money in the hands of the Commissioner. I understand the aggregate of debt due for work done is $29,000, and it is wrong to select one set of contractors to be provided for, and not include all others.

Mr. HOUSTON. I desire to ask the gentleman from Kentucky one question. Does he mean to say that the Commissioner of Public Buildings has gone on, and expended $29,000 over and above the appropriation?

Mr. STANTON. I mean to say this: That the building was commenced under authority of an act of Congress; that contracts have been made for the construction of the edifice pursuant to that law; and that yearly appropriations have been made ever since to meet the obligation of the Government to the contractors. The gentlemen employed upon the work contracted for the building of the whole structure, and the appropriation for the present fiscal year has proved insufficient to pay them for the work they have done, and complete the building. The work was not stopped at the moment the funds were exhausted, and it would have been not only against the interest of the Government to do so, but disastrous to the contractors. Besides, such is not the usual policy pursued upon our public works.

The Commissioner of Public Buildings has furnished the Committee on Ways and Means with the estimate of amount needed to pay what is actually due for work done, and the sum necessary to finish and complete the building. The whole amount required is $44,000, and of this sum $29,000 is required to pay the claims now due. I have in my hand a letter from the Commissioner, in which he explains the necessity for the additional sum of $15,000. That amount, it seems, is necessary to complete the work, make the steps, iron fences, flag flooring, &c., so as to render the structure suitable for the occupancy of the public officers.

I know nothing of the various discrepant estimates submitted to the chairman of Ways and Means by the Commissioner. It may be that the honorable gentleman does not fully understand them. I presume that the Commissioner originally estimated for the cost of the main body of the structure—the mere building, without the portico, or other improvements necessary to complete it. Afterwards they were increased to provide for the portico, &c. This may be the reason of the apparent incongruity in the various estimates of that officer, and which the gentleman makes the ground of objection to the present estimate for deficiency in the appropriation for that structure. But I do not wish to be responsible for the estimates of the Commissioner of Public Buildings. His expenditures are open to inspection, and if he is unfaithful in the discharge of his trust, there are abundant means of ascertaining it. Without knowing this fact, certainly we ought not to reject appropriations which are needed, simply because they are asked for by him. One thing is certain, $29,000 are due the contractors on the Patent Office, and $15,000 more will be required to finish and complete the building. I move, therefore, to amend the amendment by striking out all after the word "to," and inserting the following:

Supply a deficiency in the appropriation for the completion of the east wing of the Patent Office Building, the sum of $44,000.

This restores the estimate of the Commissioner, sent to the House by the Secretary of the Interior, and referred to the Committee on Ways and Means.

Mr. HOUSTON. I wish to correct one statement of the gentleman. Here is the letter of the Commissioner of Public Buildings, containing the estimates sent in last session, in which he says that $103,000 is made necessary, because of the portico which the gentleman speaks of.

Mr. STANTON. It only confirms my conjecture in relation to the estimates. I supposed the original estimate was confined to the main building, and that it was subsequently increased by the Commissioner, in order to cover the portico.

Mr. HOUSTON. Last year's estimate for completing the work was $103,000, and now he wants $44,000 more.

Mr. STANTON. The portico alone, which is the most excellent specimen of work in the city, cost over $50,000.

The question was taken on Mr. STANTON's amendment to the amendment, and it was agreed to.

The question recurred on the amendment as amended, and being put, it was decided in the affirmative.

So the amendment as amended was agreed to.

Mr. HAVEN. I offer the following amendment:

For deficiency in the appropriations heretofore made to the Bureau of Topographical Engineers, $314 30, to enable said bureau to pay to Edward Averil an account due him, not exceeding that sum.

That is a very small sum, only $314 30. It is to enable the Bureau of Topographical Engineers to pay Averil an account of that amount. I have two letters from the bureau, showing the amount to be due. If any one desires it, I will send them up to the Clerk's desk to be read.

[Cries of "Oh, no!"]

The question was then taken on the amendment, and it was agreed to.

Mr. TAYLOR. I offer the following amendment:

For carrying into effect the resolution of Congress of the 8th August, A. D., 1786, which reads as follows, viz:

"*Resolved*, That a monument be erected to the memory of the Hon. Nathanael Greene, at the seat of the Federal Government, with the following inscription: 'Sacred to the memory of the Hon. Nathanael Greene, who departed this life the 19th of June, 1786; late Major General in the service of the United States, and commander of the army in the southern department. The United States, in Congress assembled, in honor of his patriotism, valor, and ability, have erected this monument' "—

Twenty-five thousand dollars, to be expended under the direction of the President of the United States.

Mr. JONES, of Tennessee. I submit whether that amendment is in order or not.

Mr. TAYLOR. It is to carry into effect a resolution of Congress passed sixty-seven years ago.

Mr. JONES. There is no law authorizing it. It is no deficiency.

Mr. HOUSTON. I would ask the gentleman from Ohio whether the $25,000 appropriated in that joint resolution have ever been drawn from the Treasury?

Mr. TAYLOR. The resolution made no appropriation of money. I propose to appropriate $25,000 to carry the resolution into effect.

Mr. HOUSTON. Well, sir, I raise this question of order, that this is no deficiency, for there has been no appropriation which has been exhausted. It is clearly no deficiency, and therefore is not in order as an amendment to this bill.

The CHAIRMAN. The Chair is of opinion that under the 81st rule, the amendment is not in order. The language of that rule is as follows:

"81. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

Now this monument has not been commenced.

Mr. TAYLOR. Nevertheless it is authorized by law, and whatever Congress has resolved to do, ought to be carried out, as in the case of the equestrian statue of Washington provided for the other day. No appropriation has yet been made under that resolution, and I think it ought to be done.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. TAYLOR. I do; and I desire to make a few remarks.

Mr. JONES, of Tennessee. The gentleman cannot do that, for the appeal is not debatable.

The CHAIRMAN. The gentleman from Ohio [Mr. TAYLOR] proposes an amendment making an appropriation of $25,000 to erect a statue to General Greene. The gentleman from Alabama [Mr. HOUSTON] raises the point of order that such an amendment is not in order to this bill. The Chair sustains the point of order, and from that decision of the Chair the gentleman from Ohio appeals. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. ORR. Upon that question I ask for tellers.

Tellers were ordered; and Messrs. SMART and ASHE were appointed.

Mr. TAYLOR. Would it be in order to have the resolution of Congress upon which this amendment is based read?

The CHAIRMAN. It can be done by unanimous consent.

Mr. JONES, of Tennessee. I object.

The CHAIRMAN. It is objected to, and therefore the resolution cannot be read at this stage of the proceedings.

The question was then taken on the appeal, and the tellers reported—ayes 105, noes 35.

So the decision of the Chair was sustained as the judgment of the committee, and the amendment ruled out of order.

Mr. JONES, of Tennessee. I am instructed by the Committee on Ways and Means to offer he following amendment:

For compensation of the Acting Secretary of the Territory of Utah, from 14th October, 1851, to 26th October, 1852, $1,859 16.

It will be recollected by the House, that preparatory to the organization of the Territory of Utah, as in the case of New Mexico, a Secretary was appointed, and sent out there. He did not enter upon the discharge of his duties, but returned here. Under these circumstances, the Governor, who had been appointed by the President and confirmed by the Senate, appointed a secretary to act in the absence of the one sent out by the Government of the United States. The Secretary of the Treasury and the First Comptroller of the Treasury report to the House that that acting secretary cannot be paid, unless an act is passed for that purpose. They recommend the passage of one, so that his accounts may be paid, and this amendment is intended for that purpose. There was a similar one passed last session, providing for the payment of the Acting Secretary of the Territory of New Mexico. If the committee desire it, I will send to the table and have read the letter of Mr. Whittlesey.

Several MEMBERS. It is not necessary.

The question was then taken on the amendment, and it was agreed to.

Mr. STANTON, of Kentucky. I submit the following amendment:

To pay James S. Buckley, for services as keeper of the Navy Yard Eastern Branch Bridge, from the 4th of December, 1848, to July 1st, 1850, at $450 per annum, $708 75.

It will be recollected that some time since the Government purchased from the corporators, the two bridges across the Eastern Branch, and took upon itself the custody and management of them. The individual for whose benefit this amendment is intended, was the keeper of the bridge at the navy-yard, and was retained in the same situation, when the bridge changed ownership, by the Commissioner of Public Buildings and Grounds. The duty of the keeper was to attend the draw, and keep charge of the property. He served in this capacity throughout the period embraced by the amendment, under the direction of the then Commissioner, Mr. Douglass, I think, and subsequently under Mr. Mudd. At the time no appropriation was made to pay him for his services, and he has, consequently, never received a cent of pay for the period named. Subsequently an appropriation was made to keep up the bridge for the fiscal year commencing July 1st, 1850, but it was not sufficient to pay the arrearages due the keeper.

The subject was at an early part of the last session referred to the Committee on Public Buildings, and by the members of that committee fully examined. Both the Commissioners testified that the service had been rendered by Mr. Buckley, but for the reason I have stated, were never paid for. There can be no doubt of the justness of the claim, and I trust the committee will not hesitate to adopt the amendment.

Mr. JONES, of Tennessee. Was not an appropriation made for those years, for the keeper of this bridge?

Mr. STANTON. No, sir. The first appropriation was not made until the expiration of the time covered by the amendment.

Mr. JONES. That is strange.

Mr. STANTON. Strange as it may seem, it is nevertheless true. Much injustice is done to individuals by Congress from the same sort of neglect almost every day, and it is always with difficulty that such evils are remedied.

The question was then taken on Mr. STANTON's amendment, and it was not agreed to.

Mr. STUART. I propose the following amendment, under instructions of the Committee on Territories, viz:

And be it further enacted, That the seventh section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th June, 1853," be, and the same is hereby, repealed.

Mr. Chairman, if the committee will give me their attention for a minute, I presume there will be no objection to this amendment. It will be recollected that an act was passed the 15th of June last, regulating the salaries of the territorial officers, after considerable discussion in this House, by which it was designed that they should not receive salaries if they left the Territories without the consent of the President of the United States, but that they should receive them if they obtained his consent. The civil and diplomatic bill was drawn up prior to the passage of that act, and contained a section which was in the former civil and diplomatic bill, in these words:

"*And be it further enacted*, That if either of the officers of any of the Territories of the United States shall absent himself from the Territory of which he is an officer for a period of time greater than sixty days, he shall not receive compensation for the time he may have been absent."

This provision was construed by the accounting officers of the Treasury—and properly so—as conflicting with the law which was previously passed by Congress. It was retained in that bill by accident. The object of this amendment, therefore, is, to repeal the seventh section in the civil and diplomatic bill, and to leave in force the act which we previously passed, allowing those officers to be absent when permitted by the President of the United States.

The question was then taken, and the amendment was agreed to.

Mr. DEAN. I offer the following amendment:

For removing the United States Mint from the city of Philadelphia to such place in the city of New York as shall be designated by the Secretary of the Treasury, $500,000.

Mr. LETCHER. I rise to a question of order. I ask if that amendment is in order?

The CHAIRMAN. The Chair holds that it is not in order.

Mr. DEAN. I appeal from the decision of the Chair, and desire to discuss the appeal.

The CHAIRMAN. The appeal is not debatable.

Mr. DEAN. Then I withdraw it.

Mr. STANTON, of Kentucky. I offer the following amendment. It is the same as that which was voted down some minutes since, with the exception that the amount is reduced seventy-five cents:

To pay James Buckley for his services as keeper of the Navy-Yard Eastern Branch Bridge from the 4th of December, 1848, to the 1st July, 1850, at the rate of $450 per annum, $768.

Mr. LETCHER. I would inquire of the Chair if that amendment was not offered a while ago and voted down?

Mr. CHAIRMAN. It is the same, with the exception that the amount is reduced, which the Chair thinks makes it in order. The committee may be willing to adopt one sum, although they might not be willing to adopt another.

Mr. ORR. I make another question of order upon that amendment. It contains a proposition to pay a private claim, and is therefore not in order as an amendment to a general appropriation bill or a deficiency bill.

The CHAIRMAN. The gentleman from South Carolina rises to a point of order, and states that this amendment is a proposition to pay a private claim, and that it is not therefore in order. The Chair understands that it is to pay a debt due an individual by the Government, but for which there is no appropriation. He thinks, therefore, that it is in order.

Mr. ORR. How has the debt been ascertained?

Mr. STANTON. If the gentleman will allow me, I will explain the matter clearly. I said in the remarks I made when I before submitted this amendment, that the Committee on Public Buildings had investigated the subject of this claim. Mr. Douglass and Mr. Mudd were the Commissioners of Public Buildings and Grounds during the period referred to, and their testimony was furnished to the committee, proving that the service was actually rendered, and explaining the reason why it was never paid for. Congress omitted to make any appropriation for keeping up the bridge during the time claimed for. The keeper continued to perform the service, relying upon this body to provide for his pay. In 1850, an appropriation was made to pay for services to be rendered in the fiscal year commencing July 1st, 1850, but not enough to pay arrearages behind that time. Since 1850, regular appropriations have been made for the repairs and management of this bridge, but none for paying the keeper for his attendance from December 4, 1848, to July 1, 1850.

But, if the proof of Buckley's service and right to remuneration, submitted to the Committee on Public Buildings, is not sufficient for this committee to allow the claim, here is the acknowledgment of the Secretary of the Interior that the money is due and ought to be paid. I have here the report of the Secretary, submitting to this House his estimates; and I find in it an estimate to pay this very claim. What better proof is needed? This report was before the Committee on Ways and Means, who were asked to embody the amount in the deficiency bill. They have thought proper, not having examined it, I presume, to reject it. I trust this committee will be more just. Mr. Buckley, I am informed, is very poor, and has sought every session to have his claim allowed. His necessities are great, and I earnestly appeal to gentlemen not to withhold from him a debt so justly due.

The question was then taken, and the amendment was adopted.

Mr. FREEMAN. I offer the following amendment:

For the completion of the marine hospital at Vicksburg, Mississippi, the sum of $50,000.

Mr. Chairman, appropriations have heretofore been made for the purchase of a site for a marine hospital at Vicksburg, but no appropriation has been made to complete the building. I therefore move this amendment to provide for its completion, and I hope the House will have no difficulty in passing it.

The question was taken, and the amendment was not agreed to.

Mr. PHELPS. I move the following amendment:

For payment of the services of the clerk in the General Land Office who has had charge of the surveys, correspondence, and other duties on the Chickasaw Indian business, from the 23d May, 1837, to 28th February, 1851, at $250 per annum, $3,437 50.

Mr. Chairman, if gentlemen will refer to Executive document No. 4, or if they have examined it, they will find that this appropriation, which is now asked for, is to compensate a clerk in the General Land Office who, since 1837, has had charge of the business connected with the Chickasaw Indians, and the disposal of the lands which were secured to them by the treaties of 1832 and 1834. An order was made by the then Secretary of War—General Cass—that the sum of $250 should be paid to this clerk of the General Land Office, for the discharge of the duties mentioned in the amendment which I have sent to the Clerk's desk. It appears from the reports of the Secretary of the Interior, and one of the heads of the Bureaus in that Department, that the amount specified is justly due, but that in consequence of the act of February 27, 1851, it could not be paid out of the Chickasaw fund, and they report that there is no appropriation out of which it can be paid. I ask, therefore, that the committee will adopt the amendment.

Mr. DUNHAM. I desire to inquire whether these duties were performed by a man specially employed for that purpose, or whether he was not at the same time a clerk, under a salary from the Government?

Mr. PHELPS. These duties have been discharged out of office hours. They were assigned to a clerk in the General Land Office—a clerk known for his ability—a clerk who has charge of the private land claims in the Department. Formerly these duties were discharged by the Commissioner of Indian Affairs. But as the business in that office was conducted with irregularity and delay, and as it more properly belonged to the office of the Commissioner of the General Land Office, by the legislation of Congress and an order of the President, (General Jackson,) the duties of surveying and selling those lands were assigned to the Commissioner of the General Land Office. At the same time an order was made that the clerk in the Land Office discharging these duties should receive $250 per annum. This salary was formerly paid out of the Chickasaw fund.

The Secretary of the Interior recommends that this amount be placed in the special estimates for the office of the Commissioner of Indian Affairs. I will read his letter:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *November* 11, 1852.

SIR: I have examined the claim of Mr. Joseph S. Wilson, for compensation for services rendered on Chickasaw business, from the 23d of May, 1837, to the 28th of February, 1851, at the rate of $250 per annum, which was the subject of your letter of the 25th of September last, and am clearly of opinion that it is a just and equitable claim; but concur with you in the opinion that, in view of the provisions of the act of the 27th of February, 1851, (Statutes at Large, vol. 9, p. 587,) it cannot be paid without an express appropriation for that purpose; and I therefore recommend that the item be embraced in the special estimates now in course of preparation to be submitted at the ensuing session of Congress.

I am, sir, very respectfully, your obedient servant,
ALEX. H. H. STUART, *Secretary*.

The COMMISSIONER OF INDIAN AFFAIRS.

The order for this salary to be paid was issued by LEWIS CASS, then Secretary of War, on the 23d of March, 1833, and approved by General Jackson, who was at that time President of the United States; and the same person has been discharging the duties from 1837 until the present time. But as we have by law provided that this salary shall not be paid out of the Chickasaw fund, there is a necessity for appropriating the amount asked for.

A MEMBER. What were the services he rendered?

Mr. PHELPS. The duties of this clerk, as specified by the order referred to, were to take charge of the surveys, township plats, and other documents, returns, and accounts of the survey of those lands. Subsequently, if I am not misinformed, he superintended the accounts of the lands sold, and the adjustment of the same, in addition to the duties before mentioned.

Mr. LETCHER. Has he never applied for the money before?

Mr. PHELPS. The accounting officer certifies that he has made application for it, and it would have been paid to him but for the fact that there was no appropriation, out of which it could be paid, for we have directed that no part of the Chickasaw fund shall be applied to the payment of any claim for services connected with these lands.

Mr. DUNHAM. I desire to ask the gentleman before he proceeds further, what is the name of this clerk?

Mr. PHELPS. Joseph S. Wilson.

Mr. DUNHAM. Well, sir, that clerk, I believe, has received about $1,800 per annum all this time, besides.

Mr. Chairman, it seems to me that from the very nature of this claim, and the manner in which it is brought in here, we ought not to allow it to pass at this time. This clerk comes here and claims pay from the 23d of March, 1837, up to the present time. Now, it appears to me that if this had been a just claim—if he were really entitled to it—it would have been allowed before this time. Why did he not come here when we were increasing the salaries of the clerks in the Departments, during the last session of Congress, and claim compensation for his services during this time? He has been in the receipt of at least $1,800 all the time from the Government, and his compensation for his services in this capacity has not, as I understand, been asked for.

Mr. PHELPS. Will the gentleman allow me to read from the report of the Commissioner of Indian Affairs in relation to this case?

Mr. LETCHER. What is the date of the report?

Mr. PHELPS. It is September 25, 1852. I will read from the report:

"In compliance with your direction for a report, I have the honor to state, that all the material facts in reference to the employment and services of Mr. Wilson, as one of the clerks charged with the duty of attending to Chickasaw business, are correctly set forth in his letter, and that I should have no hesitation in recommending the payment in the account as presented by him, provided there were funds at the disposal of the Department applicable to the purpose. By the ninth section of the Indian appropriation act, approved February 27, 1851, it is provided that further payments out of the Chickasaw fund shall not be made to any clerk or clerks in any of the executive offices. If this law shall be held to prohibit the payment of Mr. Wilson's claim out of that fund, it cannot, I apprehend, be paid without further legislation.

"The letter and accompanying papers are herewith returned."

The question was then taken on the adoption of the amendment offered by the gentleman from Missouri, [Mr. PHELPS,] and it was not agreed to.

Mr. WILCOX. I offer an amendment, which I send to the Clerk's table.

The amendment was read, as follows:

And be it further enacted, That the Secretary of War be, and he is hereby, authorized and directed to settle the claim of Richard Mott, while an extra clerk in the office of the Commissary General of Subsistence, on principles of equity and justice, and with reference to the lowest grade of salary paid during said time, by law, to any clerk in any of the Executive Departments, and the amount due to said claimant be paid out of any money in the Treasury not otherwise appropriated.

Mr. LETCHER. I rise to a question of order upon that amendment. I understand the amendment to provide for a private claim merely, and not for a balance due to that officer, which was left unprovided for in some act applicable to him. It is not a deficiency under some former act, but a mere private claim, which he is now setting up, for compensation. It is not, therefore, in order.

The CHAIRMAN. If the gentleman is right in his statement of facts, the Chair rules the amendment out of order.

Mr. STANLY. I offer the following amendment.

The amendment was read, as follows:

And be it further enacted, That the same compensation be allowed to the officers, petty officers, seamen, and marines of the United States Navy, and to the officers and men of the revenue service, who served in the Pacific ocean on the coast of California and Mexico, *before* the 28th of September, 1850, the same increase, or additional compensation as has been directed by the act of August 31, 1852, to be paid the officers, petty officers, seamen and marines who served on said coast *since* the said 28th September.

Mr. McMULLIN. I rise to a question of order upon that amendment.

Mr. STANLY. I hope my friend from Virginia will hear me, before he raises his point of order.

Mr. McMULLIN. I understand the amendment of the gentleman from North Carolina, as being a proposition to increase the salaries of certain officers, petty officers, seamen, and marines of the United States Navy, and in the revenue service, and that it does not provide for supplying any deficiency which now exists under any existing law, and it is not, therefore, in order as an amendment to the deficiency bill.

Mr. STANLY. If my friend will hear my statement, and then insist upon his point, I will yield.

Mr. BROWN. Let the gentleman make his statement.

Mr. HOUSTON. I will present a point, and the gentleman may speak to it if he desires. This amendment does not provide for a deficiency. There is no law authorizing that appropriation; and there never was an appropriation made for it as I understand; hence his amendment is not in order.

Mr. STANLY. I think it is, for this reason, if the gentleman from Alabama will allow me to explain: In the act of August 31, 1852, there was a clause giving to the officers of the Navy who served in California *since* the 30th of September, 1850, additional compensation. This amendment is to remedy the defect in that law, and to give to those officers, petty officers, seamen, and marines, who served in the Pacific ocean, on the coast of California and Mexico, *before* the 30th of September, 1850, the same additional compensation as has been paid to those who served *since* that period. And why should any distinction be made? Those who served before the 30th of September, 1850, fought as hard, and behaved as gallantly as those who served afterwards. As I am informed by a Senator, it was an oversight when the bill was passed last year, and it is one to which I wish to call the attention of the House.

Mr. HOUSTON. I insist, Mr. Chairman, upon my point of order, that there has been no appropriation for the purpose stated in the bill, for the period of time therein mentioned, and as a matter of course, it cannot be a deficiency.

Mr. STANLY. There was an appropriation.

Mr. HOUSTON. But not for the period of time specified in your amendment.

Mr. PHELPS. I would refer the gentleman to the provision in the naval appropriation bill, the object of which was to place the officers engaged in the naval and marine service upon precisely the same footing upon which the officers who served in California and Oregon had been placed.

Mr. HOUSTON, (interrupting.) I insist upon my point of order.

The CHAIRMAN. The Chair is of opinion, inasmuch as this amendment proposes to provide for the payment of a class of officers who have not been provided for by any law heretofore, the amendment is not in order.

Mr. STANLY. I submit.

Mr. HOUSTON. I now propose to lay this bill aside, and take up House bill No. 336.

BOOKS FOR MEMBERS.

Mr. STANLY. I have another amendment to offer.

It was read, as follows:

And be it further enacted, That hereafter no books shall be distributed to members of Congress, except such as are ordered to be printed as public documents by the Congress of which they are members.

Mr. STANLY said: I offered an amendment yesterday, or the day before, to furnish books to those members of this Congress who have not already been supplied, and I stated then that I wanted to offer another amendment to prevent the abuse in future. The books which each member receives amount in value to about $900.

Mr. Chairman, this is a great and a growing abuse. Now, if these books were retained by members while they are members even, they might aid us in the discharge of our duties, but there are not many, I am afraid, who trouble themselves in searching these old documents. But we know the fact, and I am sorry it is so, that books have been sold by members of Congress; these very books received by them from the House of Representatives of the United States.

Now, sir, that is a great abuse, and it is doing harm to a Republican Government. It will lessen our standing and the dignity of the House of Representatives with the people of this Union, when those facts shall be known generally, as they are now already known. It is time the abuse was corrected; and let Congress adopt a resolution to distribute, in future, these books to each Congressional district. How does the present system work? Some members from the South come here and serve a long period. I remember one case of that sort, where a member (Mr. Lewis Williams) served twenty-five years from the same district. His district, of course, in that time received only one set of these books. But how is it with our brethren from the North and West, where they change their Representatives every two years, by a sort of common law? Why, sir, they get ten or twenty libraries to our one. That is the practical operation of the system.

But another thing: A member receives his books here, carries them home, puts them into his library, and in a few years he dies. His administrator finds these books in the library of the deceased, and he is bound by law to consider them as assets, and sell them as such. He can do nothing else. But he does not sell them at home. There are few men who desire to purchase a set of political works which cost eight or nine hundred dollars. What does he do? He sells them to agents here, who agree to furnish sets for members. They do furnish them in that manner, and thereby make large profits. I say it is a crying abuse, and it ought to be stopped. If my amendment be passed, I think it will be stopped, and, at least, it will call the attention of the country to the abuse. I have done my duty in bringing the matter before the House for its consideration.

The question was then taken on the adoption of the amendment of Mr. STANLY, and it was agreed to.

Mr. HOUSTON. I now propose to lay aside this bill, and take up House bill No. 336, making appropriation for the support of the Army.

Mr. STUART. I submit that it cannot be done. The House, by an express order, has closed debate upon this bill, and directed the committee, after going through with it, to report it to the House.

Mr. HOUSTON. I hope the gentleman from Michigan will not interpose an objection, but allow us to go on.

Mr. McMULLIN. I move that the committee rise and report the bill to the House.

Mr. JONES, of Tennessee. I ask the gentleman from Michigan and the gentleman from Virginia to let this bill be laid aside by unanimous consent, and allow us to proceed to the consideration of some other bill, for the reason that if you go into the House you cannot proceed to business upon the Speaker's table.

Mr. STUART. We can pass this bill.

Mr. FAULKNER. I will remark, that so far as I am concerned, I have no objection to the course proposed by the gentleman from Alabama, if the Army appropriation bill is not the one proposed to be taken up. There will be a special meeting of the Committee on Military Affairs to-morrow, and I desire to bring before them some matters connected with that bill.

Mr. HOUSTON. Certainly the gentleman would not expect us to keep the bill waiting, when two thirds of the session has passed, for a meeting of the Committee on Military Affairs.

The CHAIRMAN. Debate is not in order.

The question was then taken on the motion of Mr. McMULLIN, and it was agreed to.

The committee accordingly rose, and the Chairman (Mr. BROWN, of Mississippi) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 335, "to supply deficiencies in appropriations for the fiscal year ending June 30th, 1853," and had instructed him to report the same to the House, with sundry amendments.

Mr. HOUSTON. I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER. If it is the pleasure of the House, the Clerk will read all the amendments, and, unless a separate vote is demanded upon some one of them, the vote will be taken upon all together.

No objection was made, and the Clerk proceeded to read the several amendments to the bill, adopted

in the Committee of the Whole on the state of the Union, as above inserted.

The question was then taken upon agreeing to the several amendments upon which a separate vote was not called for, being amendments Nos. 1, 3, 4, 5, 6, 7, 8, 11, 12, 13, 14, 16, 18, 19, and 20, and they were agreed to.

The House then proceeded to vote upon the several amendments upon which a separate vote had been called for; and they were disposed of as follows:

Mr. STANTON, of Ohio, called for a separate vote upon the following amendment, to come in after the clause of the bill providing for the completion of the census:

"Out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceases."

And upon that called for the yeas and nays.

Mr. DUNHAM. I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. RICHARDSON, and STANTON of Ohio, appointed.

The House was then divided, and the tellers reported—28 in the affirmative, noes not counted.

So the yeas and nays were ordered.

The question was then taken, and it was decided in the affirmative—yeas 92, nays 62; as follows:

YEAS—Messrs. Charles Allen, Allison, William Appleton, Ashe, Babcock, Barrere, Bibighaus, Bowie, Brenton, George H. Brown, Burrows, Joseph Cable, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Clingman, Conger, Cottman, Cullom, Darby, George T. Davis, Dawson, Dean, Dockery, Doty, Duncan, Eastman, Edgerton, Edmundson, Faulkner, Fay, Florence, Freeman, Gamble, Gaylord, Giddings, Gilmore, Goodenow, Goodrich, Green, Grey, Grow, Haws, Hascall, Haven, Horsford, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How, Ives, Jackson, Robert W. Johnson, George G King, Kuhns, Kurtz, Landry, Little, Mann, Martin, Meacham, Miller, Miner, Henry D. Moore, Morrison, Orr, Andrew Parker, Peaslee, Penniman, Perkins, Porter, Preston, Price, Reed, Ross, Schoolcraft, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Strother, Sutherland, Sweetser, Taylor, Toombs, Walbridge, Walsh, Washburn, Welch, and Yates—92.

NAYS—Messrs. Averett, David J. Bailey, Bartlett, Beale, Bragg, Breckinridge, Caskie, Clemens, Cobb, Colcock, John G. Davis, Disney, Dunham, Ficklin, Floyd, Hall, Harper, Isham G. Harris, Sampson W. Harris, Hart, Hendricks, Hibbard, Holladay, Houston, Ingersoll, Andrew Johnson, George W. Jones, J. Glancy Jones, Letcher, Lockhart, Mason, McMullin, McNair, Millson, Molony, John Moore, Morehead, Murphy, Murray, Nabers, Newton, Olds, Outlaw, Samuel W. Parker, Penn, Phelps, Powell, Richardson, Robbins, Robie, Russell, Skelton, Benjamin Stanton, St. Martin, Stratton, Stuart, Thurston, Venable, Wallace, Watkins, Wilcox, Wildrick, and Woodward—62.

So the amendment was agreed to.

Mr. LETCHER asked for a separate vote upon agreeing to the following amendment:

"To enable the Clerk of the House of Representatives to comply with the resolution of the House of Representatives passed on the 22d of December, 1852, to pay John S. Littell per diem and mileage while contesting the seat of John Robbins, junior, during the Thirty-first Congress, $2,376; to pay Hendrick B. Wright per diem and mileage while contesting the seat of Henry M. Fuller during the Thirty-second Congress, $1,939 20; to pay John Taliaferro per diem and mileage while contesting the seat of John P. Hungerford, during the Twelfth Congress, $222."

Mr. HENDRICKS. I ask for a division of that amendment, and a separate vote upon each division.

The SPEAKER. The amendment may be divided, in the opinion of the Chair.

Mr. HOUSTON. I would ask the Chair, whether, the amendment being entire, and the previous question being ordered upon it, it is now divisible? That amendment is not amendable, and if it be divided, and a vote taken upon the separate parts, that might amount to a practical amendment.

The SPEAKER. The 53d rule provides:

"Any member may call for the division of a question, which shall be divided if it comprehend propositions in substance so distinct, that one being taken away, a substantive proposition shall remain for the decision of the House."

The Chair thinks that the fact that it is reported as one amendment by the committee, and that the previous question has been ordered upon it, does not change the 53d rule.

Mr. PHELPS. This House has directed that these men should be paid out of its contingent fund.

Mr. HENDRICKS. I do not withdraw my request.

The question was then taken, and the three branches of the amendment were severally adopted.

The 10th amendment was read, as follows:

"For salary of an assistant dragoman and secretary to the legation to Turkey, $1,500: *Provided*, That said office be discontinued on and after the 30th day of June, 1853."

Mr. CHANDLER. I desire to state, that having made inquiry of the members of the committee, I am satisfied the amendment is not objectionable.

The question was taken, and the amendment was adopted.

The question was taken on the following amendments, and they were severally adopted:

"For the purpose of completing the pedestal of the equestrian statue of Andrew Jackson, in Lafayette square, and the erection of a suitable iron railing around the same, $3,000."

"To supply a deficiency in the appropriation for the completion of the east wing of the Patent Office building, the sum of $44,000."

"To pay James S. Buckley, for service as keeper of the Navy Yard Eastern Branch Bridge, from the 4th of December, 1848, to July 1st, 1850, at $450 per annum, $708."

Mr. DAVIS, of Indiana, asked for a separate vote upon the following amendment:

"*And be it further enacted*, That hereafter no books shall be distributed to members of Congress, except such as are ordered to be printed as public documents by the Congress of which they are members."

The question was taken, and the amendment was agreed to.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, requesting the return of House bill No. 477, to continue half pay to certain widows and orphans, for the correction of a clerical error.]

The deficiency bill was then ordered to be engrossed and read a third time; and having been engrossed, it was read the third time.

Mr. HOUSTON. I demand the previous question on the passage of the bill.

The call for the previous question was seconded, and the main question was ordered to be put.

The bill was then passed.

Mr. CLINGMAN. I move that the vote by which the bill was passed be reconsidered, and that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. HOUSTON. I ask the unanimous consent of the House to discharge the Committee of the Whole on the state of the Union from the consideration of the three or four amendments to the Military Academy bill, and dispose of them this evening.

Mr. STANLY. Those two or three amendments require some discussion.

Mr. HOUSTON. Not at all.

Mr. STANLY. Oh, yes! The gentleman from Alabama seems to think that these amendments will be voted down.

Mr. HOUSTON. I do not think so. I move, then, as objection has been made to the course I have indicated, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. COBB. I ask for the unanimous consent of the House to move that House bill No. 477, to continue half pay to certain widows and orphans, be returned to the Senate, in compliance with its request, for the correction of a clerical error.

There was no objection, and the motion was agreed to.

Mr. JOHNSON, of Arkansas. I move that the House do now adjourn.

The question was taken, and the motion was agreed to.

The House thereupon adjourned till to-morrow, at twelve o'clock, m.

PETITION, &c.

The following petition and resolution were presented under the rule, and referred to the appropriate committees:

By Mr. IVES: The petition of A. Cornwall and 122 others, citizens of Jefferson county, New York, for a grant of public lands in aid of the construction of a ship-canal around the Falls of Niagara, between Lakes Erie and Ontario, New York.

IN SENATE.

FRIDAY, *January* 28, 1853.

Prayer by the Rev. JAMES GALLAHER.

On the motion of Mr. MANGUM, it was

Ordered, That when the Senate adjourns to-day, it be to meet on Monday next.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tem.* laid before the Senate a message from the President of the United States, in answer to a resolution of the Senate requesting copies of correspondence and documents relative to Nicaragua, Costa Rica, and the territory claimed by the Mosquito Indians; which was referred to the Committee on Foreign Relations and ordered to be printed.

PETITIONS, ETC.

Mr. SEBASTIAN presented three petitions of registers and receivers of land offices in Arkansas, praying to be allowed compensation for locating Choctaw scrip; which were referred to the Committee on Public Lands.

Mr. CASS presented a memorial of citizens of Lenowee county, Michigan, praying a grant of land for the construction of a ship-canal around the Falls of Niagara; which was referred to the Committee on Commerce.

Mr. CHASE presented a memorial of citizens of Peru township, Ohio, praying a declaration by Congress that the forcible interference of one nation in the internal affairs of another, is a breach of the law of nations; which was referred to the Committee on Foreign Relations.

Mr. COOPER. I have been requested to present a memorial from the principal merchants and ship-owners of Philadelphia, praying for a modification of the fifty-sixth section of the act of March 2d, 1790, entitled "An act to regulate the collection of duties on imports and tonnage." This act, it is alleged, is burdensome upon the class to which I have referred; and, as far as the revenues are concerned, if the provision prayed for by the memorialists were to be made by Congress, it would not certainly depreciate or reduce their amount. I move the reference of the memorial to the Committee on Commerce.

The motion was agreed to.

REPORTS FROM A STANDING COMMITTEE.

Mr. GEYER, from the Committee on Pensions, to which was referred the bill from the House of Representatives, for the relief of Henry Miller, a soldier of the war of 1812, reported it without amendment.

He also, from the same committee, to which was referred the petition of Ann Davis, praying a pension, asked to be discharged from the further consideration thereof; which was agreed to.

USE OF COAL IN THE PUBLIC SERVICE.

Mr. COOPER offered the following resolution; which was considered, by unanimous consent, and agreed to:

Resolved, That the Secretaries of the Treasury, War, and Navy be, and they are hereby, respectively required to communicate to the Senate the quantity of coal contracted for during the last year by each of the said Departments, their officers or agents, for the use of all the various branches of the public service connected with, or under the control of the said Departments; and that care be taken in making the said communication to distinguish the several kinds of coal, as anthracite, American bituminous, English bituminous, &c., together with the purposes for which they were severally used.

ALEXANDER RAMSAY.

On motion by Mr. SEBASTIAN, it was

Ordered, That the report of the Secretary of the Interior, respecting allegations of fraud by Alexander Ramsay, Superintendent of Indian Affairs, be printed for the use of the Senate.

RAILROAD TO THE PACIFIC.

Mr. RUSK. The Select Committee, to which was referred the bill "for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon," together with various other amendments proposing to construct a railroad and telegraph line from the valley of the Mississippi to the Pacific ocean, have had the same under consideration, and after very mature deliberation, in which they have consulted, as far as they could, various members of the Senate, have instructed me to report an amendment, in the form of a substitute, for the bill and amendments. The bill, as I have stated, has received the deliberate attention of the committee, and the substitute which I have reported has been submitted to, examined, and fully approved by the chairman of the Committee on Territories, [Mr. DOUGLAS,] who reported the bill and amendments referred to the committee. I move that it be printed.

The motion was agreed to.

RULIFF VAN BRUNT.

Mr. SEWARD. I move to postpone the pre-

vious orders, for the purpose of taking up the bill for the relief of Ruliff Van Brunt. I think there will be no debate upon it, and that it will pass without opposition.

Mr. BRADBURY. I shall not object to the consideration of the bill named by the Senator from New York, but I would suggest whether it would not be desirable and expedient that we should to-day consider those bills from the House to which no objection shall be made. By pursuing that course, we shall be able to pass a large number of bills, and prevent the Senate from exhibiting the scene of members struggling for the floor to get up particular bills out of their order. I hope that course will be pursued. I shall make no objection to the motion of the Senator from New York provided the bill gives rise to no debate, but after that bill shall be disposed of, I shall submit the motion I have intimated.

The motion of Mr. SEWARD was agreed to, and the bill was read a second time, and considered as in Committee of the Whole. It proposes to direct the proper accounting officers to audit and adjust, upon the principles of equity and justice, the claim of Ruliff Van Brunt, for the occupancy of certain buildings, leased by him in Brooklyn, by a military force in the service of the United States, and for property belonging to him, taken and used or destroyed by those troops in the year 1814; and to pay an amount, not exceeding $750, so found to be due.

Mr. SEWARD. I ask for the reading of the report of the Committee on Claims. It is very short, and will explain the whole matter.

The report was accordingly read; from which it appeared that Van Brunt leased the premises alluded to from Mr. Jackson, from the 1st of April, 1814, to the 1st of April, 1815, and that he had them in a state of cultivation with valuable crops; that they were taken possession of by the twenty-second brigade of New York Infantry, then in the service of the United States, and ordered out for the defense of New York. General Johnson, then in command, certifies, that on the 2d of September, 1814, his brigade was encamped at Fort Green, King's county, New York, on the land named. Mr. Van Brunt's dwelling-house was occupied as a guard-house. In consequence of the occupation of his premises by the troops of the United States, he was compelled to abandon his farm and procure a house for his family elsewhere. Hence the committee think him entitled to relief.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed

PRIVATE BILLS.

Mr. BRADBURY. I now move that the Senate proceed to the consideration of the Private Calandar, and consider those House bills to which no objection shall be made.

Mr. DAWSON. I think we had better take the calendar regularly. There are bills which have been upon the calendar since the beginning of the last session, and it is time they should be acted upon. We can act on bills from the House in the last week of the session, and they will then be passed when we shall have acted upon them. I know it is said that the House will not pass all the private bills which we have sent there already from this body, yet it is due to all claimants that we should at least give our sanction to the bills reported in their behalf. If they are not passed at this session of Congress by the House, we, at least, shall not have to bear the blame, for we shall have discharged our duty towards the claimants.

Mr. BRADBURY. I will modify my motion, so as to take up and consider those bills on the calendar to which no objection shall be made, rather than have debate upon the question.

Mr. ADAMS. I suggest to the Senator from Georgia the propriety of going over the Private Calendar and disposing of those bills to which no objection shall be made, which will take but a short time, and then returning to take up the others in their order.

Mr. DAWSON. I cannot consent to that. Why should we, in the case of a just claim, pass it by because some Senator objects to it? I trust we shall take the bills up in their regular order, and pass or reject them as they are presented. That is the rule, and I call for its execution. It must be suspended to agree to the motion of the Senator from Maine.

Mr. BRADBURY. At the last session, we devoted three or four days to the consideration of certain bills which were debated at length because they were thought to be of doubtful character, and as they were in advance of others on the calendar, a large number of bills were not reached, and therefore not considered at all, to which, if they had been reached, there would have been no objection.

Now, I ask that we may devote one day to the bills to which no objection will be made. By this means we shall gain time to consider those bills to which the Senator from Georgia alludes. I hope the motion will prevail, and that we may devote this day in that way in the trial of the experiment.

The motion was agreed to.

THOMAS H. LEGGETT.

The first private bill on the calendar was the bill for the relief of Thomas H. Leggett.

Mr. SEBASTIAN. The Senator from Virginia [Mr. HUNTER] takes an interest in that bill. I have no objection to it myself; but I will represent that Senator so far as to ask that it may be passed over.

It was accordingly passed over.

PAYMENT TO THE STATE OF GEORGIA.

Mr. DAWSON. I desire to call the attention of the Chair to the bill immediately before the one just considered, and ask if it is not a private bill?

The PRESIDENT. The Chair is of the opinion that it is not a private bill. It savors very strongly of a public character. It is a "bill to 'provide for the payment to the State of Georgia, 'for moneys expended by that State for horses 'and equipments lost by volunteers and militia 'whilst engaged in the suppression of the hostili-'ties of the Creek, Seminole, and Cherokee Indians 'in the years 1836, 1837, and 1838."

Mr. DAWSON. I think it has been treated as a private bill.

The PRESIDENT. In the opinion of the Chair it is not a private bill.

Mr. DAWSON. It is a bill providing for the payment to the State of Georgia of certain moneys expended by that State during certain Indian hostilities, and I presume there will be no objection to it.

The PRESIDENT. Does the Senator appeal from the decision of the Chair?

Mr. DAWSON. Not at all. I never do that, even if the Chair is wrong. [Laughter.]

CARMELITE NUNNERY.

The PRESIDENT. The next bill on the calendar is that "for the benefit of the Carmelite Nunnery of Baltimore," the pending question on which is on the motion made by the Senator from Pennsylvania [Mr. COOPER] to reconsider the vote refusing to order the bill to a third reading.

Mr. ADAMS. I object to that.

The PRESIDENT. It will be passed over.

MARK BEAN AND RICHARD H. BEAN.

The PRESIDENT. The next bill is that for the relief of Mark Bean and Richard H. Bean, of Arkansas.

Mr. UNDERWOOD objected to the bill, and it was passed over.

ROBERT T. NORRIS.

The Senate proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of Robert T. Norris. It proposes to pay to Robert T. Norris, in consideration of injuries received by him while acting as pilot under the direction of the collector of customs at New York, $500.

Mr. BAYARD called for the reading of the report of the Committee on Commerce; and it was accordingly read. From that report, it appeared that Robert T. Norris was a regularly-trained and licensed pilot of New York, and in September, 1839, was directed by the collector of the customs at that port to pilot the floating-light ship belonging to the United States from the East River to Sandy Hook. Having performed that duty, and being engaged in the act of mooring the vessel, the chain cable slipped out of an open hawser hole on the port bow, in consequence of one of the stoppers giving way, and came in contact with his person, badly injuring his right leg, and so violently wounding the left, as to render amputation necessary. By this accident he was disabled from pursuing his vocation, and his means of support were rendered precarious, and he is now in needy circumstances. Considering that the accident happened from some defect or neglect about the ship for which the pilot was not responsible, and that the ship belonged to the Government, and was under its management, the case addresses itself with so much force to the magnanimity and justice of the United States, that the committee say they are not willing to advise its rejection altogether; but that at the same time they cannot advise the precedent of granting pensions for injuries received in the civil service of the United States, and they have therefore thought proper to submit a bill for the payment of a fixed sum, and refer to a report made in the House of Representatives in May, 1850, in the case of Ely Darling, as somewhat analogous, and as covering the principle.

Mr. BAYARD. I do not rise for the purpose of discussing this bill, but I would ask for the reading of the report No. 213, of the third session of the Twenty-seventh Congress, made by the then Senator from Connecticut (Mr. Huntington) on the same case, and on precisely the same state of facts. I think that when the Senate hear that report, they will have very little difficulty in rejecting this bill.

The report was read accordingly.

It sets forth that Mr. Norris was one of the licensed pilots of the port of New York, and as such, had been for a considerable period previous to the month of September, 1839, employed to pilot the ships-of-war, and other vessels of the United States, in and out of that port when the services of a pilot were required. This employment had been given to him in consequence of his high character for skill and fidelity as a pilot, and his respectable standing and exemplary conduct and course of life as a citizen.

Early in the month of September, 1839, the collector of the customs for the port of New York employed him to pilot the Government light-boat from the harbor to its station off Sandy Hook. In the course of the discharge of that duty, and on the 12th day of that month, the chain-cable of the boat slipped out of the hawse, caught Mr. Norris by the legs, so severely lacerated the left one as to require its immediate amputation above the knee, severely injured the other leg, and otherwise imminently endangered his life. Indeed, the testimony shows that he was only liberated from the confinement of the chain by himself ordering the hands to cut away the stopper, and let him go down with the cable.

The consequence of these injuries was a confinement from the time of the accident until late in the month of June after, full three quarters of a year, and an entire disability forever after of following his profession of a pilot.

The papers contain the most full and satisfactory testimonials as to the good character, unyielding faithfulness, and superior skill and qualifications of Mr. Norris as a pilot, and show that he has a numerous and dependent family relying upon the avails of his services for the necessaries and comforts of life.

All these considerations appeal in the strongest manner to the feelings and sympathies of the committee as men, but do not authorize them to put their hands into the Treasury of the nation and dispense from it the charity which the facts in this case so strongly invoke.

The committee say they have examined with earnest, yea anxious attention, the report of the committee of the House which originated the bill, in the hope that some established and approved precedent might be there presented, or that some view of the case might be there taken to change it from one of a mere appeal to the sympathies of the Legislature, addressed by a most worthy and most unfortunate fellow-citizen, and therefore rendering resistance, even of an imperious official duty, a more thankless and painful one. Still, they had sought in vain. The report of the committee of the House did not assume to bring forward a precedent for the bill, the passage of which it recommends, nor could the committee see that it placed the claim upon any other ground than that of worthy sympathy for severe and irremediable misfortune. Upon that ground Mr. Norris should make his way to the heart and the pocket of every fellow-citizen possessing the pecuniary ability to administer to the wants of himself and

THE CONGRESSIONAL GLOBE.

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his worthy family, but the committee could not find the warrant in the charter of their legislative powers for converting the public Treasury into a charitable fund, to be dispensed according to the sympathies of the members of Congress for the time being.

Mr. Norris had chosen the adventurous and perilous pursuit of a port pilot for his employment and support; his compensation was fixed; specified charges were fixed for specified services; and he sought customers, like all others who seek a livelihood from serving the public in the various trades and professions which the wants of society call into existence. The more employment he could obtain the more lucrative did his calling become, and the better were the wants of himself and his family supplied. His superior skill, uniform good conduct, and persevering faithfulness, gained for him the United States as a customer; but upon no other conditions than the payment of the same charges, for the same services, which any other customer would have been required to pay. That this was a desirable customer to Mr. Norris, the papers referred to most fully show, as it was a customer he was always most ready and cheerful to serve, and always did serve with perfect faith and fidelity. In the service of this customer he meets with this most sad and fatal misfortune: not, as is even pretended, from any fault of the United States, or any of their agents, but by the purest accident.

The committee inquires if there was anything in the relation between the parties which could authorize Congress to charge the misfortune of this worthy man upon the public Treasury? The committee could not see that there was. Deeply as they felt for the worthy sufferer, any principle which would authorize relief to him in the form proposed, would, as it seemed to them, place upon the pension list of the country, either in the form of an annuitant or as the recipient of a gross sum in advance, as was the proposition in the case, every employee of the United States, in whatever office, or under whatever form of engagement serving, in case of accident amounting to permanent physical disability.

The committee had noticed the absence of any precedent for the passage of such a bill; but a very recent precedent against it must be fresh in the recollections of all the members of the Senate. The case of the individuals wholly disabled by the accidental falling of a staging at the Treasury building, was referred to. In that case the individuals were here. Their mutilated limbs were exhibited to the members of Congress; and their characters as mechanics of skill and faithfulness, and of worth as citizens, were as strongly certified and supported, as was that of the worthy pilot in this case; and yet Congress, acting literally in view of the scene and subjects of the misfortune, denied its right to charge the consequences upon the public Treasury. In the face of this decision of the body, and entertaining, as they did, opinions in consonance with that decision, the committee found themselves constrained to recommend that this bill do not pass.

Mr. BAYARD. I assent to the entire doctrine of the report of Mr. Huntington; and though this bill proposes a fixed gross sum, instead of an annuity, that does not alter the principle. I am opposed to introducing the system of civil pensions in the United States, and I am not willing to vote for the first precedent sustaining it. I therefore ask for the yeas and nays on ordering the bill to be engrossed for a third reading.

The yeas and nays were ordered.

Mr. CHARLTON. I do not know the applicant in this case; I never heard of him before; I never heard of this bill before. I honor and admire very much the vigilance of my friend from Delaware; but it strikes me that if there ever was a case presented to Congress in which it should act for the benefit of an individual, this is that case; and I only wonder that the sagacity of my friend from Delaware has not seen that. If this case were presented to the courts of law as against an individual, that individual would be bound to respond to the claim upon fixed principles of common law. If a man in the employ of another, through the default or neglect of that other, suffers an injury, cannot he make his employer responsible in damages? Why, most certainly he can.

What is the principle upon which this bill proposes to pay a certain sum to the applicant? It is because of the defect or neglect about a Government ship, through which default or neglect he received an injury. Does it not plainly address itself, not only to our sympathy, but to our justice? The Government is responsible that its ships shall be in correct order, as much as an individual would be responsible. If an accident occur on a railroad to a conductor through the default of a company, is not that company held responsible? So that as between individuals, I think there would be very good ground for the claim.

But, Mr. President, we are not bound here by any strict rules of law in the settlement of private claims. We are not a court of law. Every individual case is an appeal to our justice, to our sympathy, and to our equity, and I cannot see for my life why this claimant should not be entitled to receive his claim, because one committee has reported against him. Is that any reason why we should be precluded from passing this bill for his relief? It strikes me that upon the plainest principles of common law, this man is entitled to relief. Everybody admits that he is a meritorious claimant, so far as his services and character are concerned. I hope the bill will pass. I can see no possible objection to it.

Mr. BAYARD. I do not intend to discuss the bill at all. I thought, however, and I still think, that the principle of it is wrong——

Mr. BORLAND. I understood, when the business of to-day commenced, that no bills were to be considered which should give rise to discussion. A very important bill for two of my constituents was laid over upon the single suggestion that it would be discussed.

The PRESIDENT. That certainly was the order of the Senate; and if the Senator from Delaware makes any objection to this bill, it must be passed over.

Mr. HALE. I feel bound to object to it, for the reason that a case just like it from Maine has been objected to.

The PRESIDENT. Then the bill goes over, as a matter of course.

Mr. SEWARD. Is it not now too late to make objection? The bill is under consideration. Objection should have been interposed to taking it up at the commencement of the debate; and, besides that, the yeas and nays have been ordered.

The PRESIDENT. Perhaps it is too late. That is a question which the Chair will consider.

Mr. HALE. Allow me to make a suggestion to the President. He cannot know whether an objection will be made until it is interposed.

The PRESIDENT. Certainly not.

Mr. HALE. The Senator from Georgia advocated the claim, and the order of the Senate does not apply to advocating, but only to objecting to claims.

The PRESIDENT. The Chair is of the opinion, that although the objection is rather late, yet, under the order made by the Senate, the very moment objection is made, a bill cannot be proceeded with without the unanimous consent of the Senate; therefore this bill must go over.

WIDOW OF WILLIAM REILLY.

Mr. HALE. I wish now to call up a privileged motion, which I made a few days since, on a private bill, for the purpose of enabling the Senator who introduced it to offer an amendment. It is a bill for the relief of the widow of William Reilly, deceased, late a captain in the Fourth Maryland Regiment of the revolutionary army. The Senate, on the yeas and nays, rejected the bill, and I then made a motion to reconsider, which was laid over. The Senator who introduced and advocated the bill desires that it may now be taken up, reconsidered, and placed upon the calendar, so as to give him an opportunity to offer an amendment which he thinks will make it palatable to the Senate. I move to postpone the prior orders for the purpose of taking up that motion to reconsider.

The PRESIDENT. If there be no objection, the motion will be entertained.

The motion to reconsider was agreed to, and the question came up, "Shall the bill be engrossed for a third reading?"

Mr. WALKER. I wish to offer an amendment to the bill. It is one which I think obviates the objection raised by the Senator from Delaware, and is so simple in its provisions that I think it may be voted upon as an amendment, and then the bill can take its place upon the calendar, and Senators can examine it. The amendment is to strike out all after the word "army," and insert "half 'pay of a captain from the 18th of October, 1783, 'when the Army of the Revolution was disbanded, 'to the 8th of July, 1824, the date of the decease 'of said William Reilly, deducting therefrom the 'full amount of commutation of $2,400 which 'was paid to said Reilly under the resolution of 'Congress of 22d March, 1782."

The amendment was agreed to.

The PRESIDENT. The bill will now be placed upon the calendar in its regular order.

RICHARD MACKALL.

The President announced that the next private bill on the calendar was one for the relief of Richard Mackall.

Mr. BAYARD. The honorable Senator from Maryland, [Mr. PRATT,] who reported that case, is absent. His opinions and mine differ very widely about the facts and the proof in this case, and the application of the principles contained in this bill to the class of cases of the same nature, generally called the "tobacco claims." I am utterly opposed to the claim as representing a class. I would not take advantage of the absence of the Senator from Maryland to speak against the claim, even if that course were permitted to-day. When the case comes properly before the Senate, I shall endeavor to give my reasons why this case, and those which connect themselves with it, should not receive the favorable sanction of the Senate.

The bill was passed over.

BANCROFT WOODCOCK.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Bancroft Woodcock. It proposes to extend for ten years the patents granted to him on the 26th of January, 1832; the 23d of November, 1836; the 14th of June, 1837; and the 31st of January, 1845, for his improvement in the self-sharpening plow; the question pending being upon the motion to amend by striking out "ten years," and inserting "seven years."

Mr. CHASE objected, and the bill was laid over.

CYRUS H. M'CORMICK.

The bill for the relief of Cyrus H. McCormick was announced as the next on the calendar, and Mr. FELCH objecting, it was laid over.

CAPTORS OF THE FRIGATE PHILADELPHIA.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of the captors of the frigate Philadelphia. It proposes, in consideration of the extraordinary meritorious services rendered by Stephen Decatur, as commander of the ketch Intrepid, in the capture and destruction of the frigate Philadelphia, in the harbor of Tripoli, on the 16th of February, 1804, to authorize to be paid, under the direction of the Secretary of the Navy, $15,000 to his widow and three nieces, namely, Priscilla D. Twiggs, Anna P. Stockton, and Mary H. McKnight; one half to be paid to the widow, and the other half to be equally divided between the three nieces. It also proposes to appropriate $90,000, to be paid to the surviving officers, except the commander, of the ketch Intrepid, or to the widows of such as are dead; and if there be no widow, then the legal representatives of those engaged in the destruction of the frigate Philadelphia.

The bill was reported to the Senate, ordered to

be engrossed for a third reading, read a third time, and passed.

FREDERICK VINCENT.

The Senate proceeded, as in Committee of the Whole, to consider the bill for the relief of Frederick Vincent, surviving partner of Le Caze & Mallet. It proposes to authorize the Secretary of the Treasury to examine the claim of Frederick Vincent, the legal representative of James Le Caze, surviving partner of the firm of Le Caze & Mallet, for a balance due them on the books of the Treasury, and if it shall appear to the satisfaction of the Secretary that the balance is yet outstanding and unpaid, the proper accounting officers are authorized to adjust and settle it upon the principles and practice which would have been adopted if the parties had subscribed that debt to the loan authorized by the act of March 3d, 1797.

Mr. BAYARD. I prefer that that bill should pass over. There are questions connected with it which make the propriety of its passage, in my mind, very doubtful.

Mr. WALKER. I wish to call the Senator's attention to one fact. My impression is that this is the same bill to which the Senator objected at the last session, and which was then passed over, but which, on subsequent examination, he found to be perfectly correct and proper.

Mr. BAYARD. My impressions are that this bill provides for the payment of interest. Though that is not authorized by the terms of the bill, yet such will be the effect of the adjustment as proposed. I think this is a clear case in which interest ought not to be paid. The demand was not made on the Government for sixty years—certainly not for fifty years, and grounds are alleged for that delay which I do not think sufficient to justify the Government in the payment of interest. I do not know that I shall object to the payment of the distinct and specific sum which is the principal of the amount claimed, but I cannot vote for this bill as it now stands, and I wish to discuss it.

The bill was accordingly passed over.

CORNELIUS M'CAULAY.

The Senate proceeded to consider, as in Committee of the Whole, the bill for the relief of Cornelius McCaulay. It proposes to direct the Secretary of the Treasury to pay to Cornelius McCaulay, of Philadelphia, $751 13, in full for morocco and other materials furnished by him in the year 1834 to the then Secretary of the Senate, for the use of the Senate Chamber.

Mr. BAYARD. I do not wish to object to the consideration of the bill now, and I am perfectly willing to make a statement in regard to it, without attempting to discuss it at length, and let the Senate decide. I do not wish to delay action.

The PRESIDENT. If objection be made, the bill goes over, as a matter of course.

Mr. BAYARD. I do not desire to discuss the case further than to state the point of my objection to it.

Mr. BRODHEAD. I hope, by general consent, the Senator will be allowed to go on. I think the claim is all right.

Mr. BAYARD. I do not wish to discuss the bill. I merely intend to state the point of my objection. My objection consists in the fact, that the Senate paid the money out of their contingent fund to the Secretary of the Senate. The Secretary of the Senate employed a man in Washington to do certain repairs to the chairs, or some part of the furniture of the Senate Chamber. That man employed a person in Philadelphia. The money was paid to the Secretary, and paid by him to the person whom he employed. The Government, therefore, have paid according to their agreement. The party, however, to whom the payment was made, defrauded the individual in Philadelphia, and the latter now comes here and asks us to pay the sum over again, grounded on certain alleged facts connected with negligence on the part of the Secretary of the Senate, as he, in point of fact, avers, in writing certain letters. I do not wish to discuss the claim, but, in my judgment, there is no ground for any demand upon the Government, though there might have been for a demand upon the Secretary of the Senate.

Mr. WADE. I do not wish to debate the bill, but I wish to state the facts as I understand them. The money was paid to the agent of the Government for the purpose of paying for the morocco on the chairs which we are now using. Mr. McCaulay was in fact the agent of the Government, and not the agent of the party employed by the Secretary of the Senate. The Government purchased the property from him, and paid another person, and that party ran away with it, and did not pay it over. It appears to me that under the circumstances, the party who did the work having been defrauded by the action of a person employed by the Government, and this man having in fact been the agent of the Government, he should be paid for his work. If he had not been the agent of the Government, of course there could be no ground for the claim; but as it is, I think the bill is perfectly right, and it ought to pass. I hope there will be no objection to it. Indeed I do not like to sit in any of these chairs and not pay for the morocco which covers them.

Mr. BAYARD. The honorable Senator from Ohio and myself differ as to the very point of this case. This party was not an agent of the Government, unless persons from whom the Government buys any articles, directly or indirectly, is its agent. The Secretary of the Senate paid the money to the party whom he employed, the party who made the contract here with him. That party it seems went to Philadelphia and made a contract there with another person; but after having received the money he did not pay the sub-contractor. I do not think, therefore, that there can be any ground for the sub-contractor calling upon the Senate to remunerate him.

Mr. DE SAUSSURE. It is clear that his claim cannot be heard properly now, but if objection be made, it must be passed over under the rule.

The PRESIDENT. Certainly.

Mr. BRODHEAD. Let us take the vote now. The claim is all right.

The PRESIDENT. If objection be made the bill must go over.

Mr. BRODHEAD. I do not understand the Senator from Delaware as objecting to taking the vote. We are all willing that the vote shall be taken.

The PRESIDENT. If there be no objection, the question will be put.

Mr. BAYARD. I shall not discuss the claim, but I ask for the yeas and nays upon the bill.

Mr. JONES, of Iowa. That shows that there is opposition.

Mr. DE SAUSSURE. There is opposition to the claim; and this being a day upon which we have resolved to take up claims to which there is no objection, the attention of the Senate is not called to these bills as they are brought up. We are now about to take the yeas and nays upon a question which has not been heard by one half of the members of the Senate. There is good reason why we should adhere to the order, and I trust we shall do so.

Mr. WADE. I do not think there is any objection to taking the vote.

The PRESIDENT. I understand both the Senator from Delaware and the Senator from South Carolina to object to the consideration of the bill.

Mr. BRODHEAD. I think not. The Senator from Delaware expressly disavowed any intention to debate the bill; but he called for the yeas and nays. Certainly it is competent for us to do that, and to vote on the bill.

Mr. BAYARD. I merely asked for the yeas and nays.

The PRESIDENT. The Senator from South Carolina insists that the Senator from Delaware does object, and he also objects.

Mr. DE SAUSSURE. Undoubtedly. I understand the Senator from Delaware to be at variance with the report upon the main question of fact involved. He has debated that matter, and called for the yeas and nays. It seems to me, then, that the order of the Senate must operate to postpone the consideration of this bill.

Mr. BRODHEAD. I did not so understand the Senator from Delaware. He expressly disavowed his intention to object under the order we have adopted. He merely asked for the yeas and nays; and we certainly have a right to order them and come to a vote.

Mr. UNDERWOOD. If I am called upon to vote on the yeas and nays, without knowing anything about the claim, I must call on the Senator from Delaware to explain to me why he asks for the yeas and nays, or I must ask for the reading of the report, in order to understand what is the principle involved. I know nothing about the facts of the case, and I do not like to give a vote without hearing some explanation of them.

Mr. BRODHEAD. The honorable Senator from Kentucky can certainly ask for the reading of the report.

Mr. UNDERWOOD. Let us hear the report read.

The PRESIDENT. The Chair is of opinion that objections were made to the consideration of the bill by the Senator from Delaware and the Senator from South Carolina. The Senator from Pennsylvania is of a different opinion. Is the Chair right as to the matter of fact?

Mr. BRODHEAD. I think neither of these gentlemen have objected, in the sense which the order of the Senate means by objection. They have asked for a vote.

Mr. BAYARD. I have stated that I did not mean to discuss this bill, but that I should object to it unless I could make a statement of what I thought to be the point of difference upon which the committee were divided. Both the honorable Senator from Maryland [Mr. PRATT] and myself disagreed in the committee as to this claim. The rest of the committee agreed to report the bill. Under these circumstances, I have made a statement of the point on which, I suppose, it turns, and on which there is difference of opinion. If the Senate are content, under these circumstances, to pass the bill, I have nothing to say. I wish to record my vote against it, but I do not wish to impede the action of the Senate; and if it be not discussed further in advocacy of it, I shall not ask to be heard in opposition. I simply asked for the yeas and nays.

Mr. SEBASTIAN. I think Senators misapprehend the order or rule under which this claim comes up. I think they proceed on the ground that the order of the last session is in force. Many Senators were not present this morning when a new order was adopted, on the motion of the Senator from Maine. The terms of the motion of that Senator were, as I understood them, that the Senate should proceed to the consideration of those bills to which no objection should be made. I think that in a case where a committee are divided in opinion, that comes within the spirit of the rule, and cannot be acted upon. In this case there is evidently opposition or objection, and that objection is not to the amount of the claim, but to the fact whether there is any claim or not.

Mr. BRODHEAD. I understood the Senator from Maine to move that we proceed to the consideration of such private bills as should not give rise to debate. The honorable Senator from Delaware says he does not wish to impede action on this bill; he merely called for the yeas and nays. I say that does not pass the bill over. There is no gentleman proposing to debate the bill; gentlemen ask for a vote. We have a right under the order to come to a vote, and I think we ought to vote.

Mr. BRADBURY. The object I had in view in pressing the order under which we are proceeding was, that we might proceed to the consideration of those bills to which no further opposition should be made than the calling for the reading of the reports in the case. The object was to prevent the occupation of a long time in the discussion of private bills, and to have all that class of bills which required an attentive examination, to lie over, in order that we might have another day to consider them. I shall hereafter feel bound to make objection to further debate on bills such as has arisen in this case. If the gentlemen in favor of and against the claim are prepared to vote, I am.

Mr. BRODHEAD. I ask the unanimous consent of the Senate to hear the report read, and then we can have the vote. The report is short, and I hope there will be no objection to its reading.

The report of the Committee on Claims was accordingly read, from which it appears that Cornelius McCaulay, being a manufacturer of fine morocco, in Philadelphia, in 1834, was called upon by Isaac Hosier, representing himself to be an agent of Walter Lowrie, then Secretary of the Senate, who requested Mr. McCaulay to furnish a certain quantity of morocco to be used in covering the chairs of the Senate Chamber. Mr. Hosier exhibited a letter from Mr. Lowrie, authorizing him to make the purchase; Mr. McCaulay

accordingly furnished the goods, and shipped them to Mr. Lowrie, and when he was about to draw for the amount, Mr. Hosier again came to Philadelphia with another letter from Mr. Lowrie, and ordered an additional quantity of skins. Before he had completed this order, he suspected fraud on the part of Hosier, and came to Washington to get his pay. He was then informed by Mr. Lowrie that the price of the goods had already been paid to Mr. Hosier, who had disappeared. Mr. Lowrie states that he engaged Hosier to furnish the morocco, and that Hosier employed McCaulay to do so, and that he actully did furnish the morocco. The facts are supported by the testimony of the salesman and book-keeper in Mr. McCaulay's establishment, and a letter of Mr. Lowrie is referred to, for the purpose of showing that Mr. Lowrie was in the habit of authorizing an upholsterer to make purchases of material as his agent. Mr. McCaulay, to prove this, produced certain original letters from Mr. Boyd, who succeeded Mr. Hosier in doing upholstery for the Senate, in which Mr. Boyd distinctly declared that he acted under instructions from Mr. Lowrie. The reason why the claim was not sooner presented was, because Mr. McCaulay was of the opinion that Mr. Lowrie was dead, having seen in the newspapers a statement that Walter Lowrie was dead, and confounding the son with the father. Having discovered the mistake, he proceeded to obtain Mr. Lowrie's statement, and submitted his claim. The original claim amounted to $751 13. McCaulay, in stating it, added interest to the amount of $720, which the committee do not allow.

Mr. UNDERWOOD. I should like to hear the letter of Mr. Lowrie, which is referred to in the report, read.

The Secretary accordingly read the letter, as follows:

NEW YORK, *January* 23, 1850.

Some time in the year 1834 or 1835, the chairs in the Senate Chamber at Washington were covered with green embossed morocco. Being at that time Secretary of the Senate, I engaged Isaac Hosier to furnish the quantity of leather required, and when the same was furnished, the amount was paid for, and afterwards settled at the Treasury, among the accounts of contingent expenses of the Senate, in the usual manner. Shortly afterwards Mr. Cornelius McCaulay, of Philadelphia, called on me, and informed me that he had manufactured and furnished this morocco; that he had never been paid for it, and further, that a second order had been sent to him by Hosier which he had nearly completed when he found that Hosier was not to be depended on. I had satisfactory evidence that McCaulay was an industrious and worthy man, and an ingenious and skillful mechanic; but the materials had been received and paid for before his agency in this matter was brought to my notice, and it was not then in my power to do anything for him. This case is a very hard one. He was perhaps the only manufacturer in the United States at that time who could make the article required, and, after much patient labor, the fruits of his skill and industry were taken from him by the fraud of another. WALTER LOWRIE.

The PRESIDENT put the question upon ordering the yeas and nays; and they were not ordered.

Mr. BAYARD. Then I propose to discuss the bill. The report is an argument in its favor, and if the yeas and nays be not ordered, I cannot allow that to go without some answer.

Mr. CASS. I listened to the reading of the report, and I must confess that I do not see how the Senate can possibly pass this bill. The principle of this case, if established, would drain the treasury of Crœsus.

Several SENATORS. The bill is not before the Senate.

Mr. CASS. I thought it was pending.

The PRESIDENT. Objection being made, it must be passed over.

COLONEL WILLIAM GRAYSON.

The bill for the relief of the heirs of Colonel William Grayson was read a second time, and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to direct the Secretary of the Treasury to pay to the legal representatives of Colonel William Grayson, an officer in the Army of the United States, in the revolutionary Army, commutation pay due to him as a deranged officer, on the first of January, 1781, the pay to be computed and paid, principal and interest, in the same manner as if a certificate for five years' full pay had been issued to Grayson at the end of the war, and funded under the act of August, 1790.

Mr. BAYARD. If the part of the bill relating to interest remains, I shall not vote for the bill. I move to strike out all after "1781," as follows:

"The said pay to be computed and paid, principal and interest, in the same manner as if a certificate for five years' full pay had been issued to said Grayson at the end of the war, and funded under the act of August, 1790."

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was concurred in; and the bill was ordered to be engrossed for a third reading. It was read a third time, and passed.

JAMES BELL.

The bill to amend an act entitled "An act for the relief of the heirs of James Bell, deceased," was read a second time, and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to repeal the proviso to the "act for the relief of the heirs of James Bell, deceased," approved June 30th, 1834, so far as the same prevents the payment to the heirs or legal representatives of the full amount found due them by the proper accounting officers, under the provisions of the act; and it proposes further that the full amount found to be due on the accounts, adjusted in the manner prescribed in the act, shall be paid to the legal representatives of James Bell.

Mr. BAYARD objected, and the bill was passed over.

SCHOONER AMISTAD.

The PRESIDENT. The next bill upon the calendar is that "to indemnify the masters and owners of the Spanish schooner Amistad and her cargo."

Mr. CHASE. Let it lie over.

It was accordingly passed over.

HIRAM PAULDING.

The bill for the relief of Hiram Paulding was read a second time, and the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to direct the proper accounting officers of the Treasury to audit the accounts of Hiram Paulding, a captain in the United States Navy, and pay his expenditures in the entertainment of the foreign officers and people who visited the frigate St. Lawrence, under his command, at Southampton, and also for entertaining the officers of the Governments of Bremerhaven and Stockholm, in the years 1848, 1849, and 1850.

Mr. WALKER asked for the reading of the report; from which it appears that Captain Paulding was assigned to the command of the new frigate St. Lawrence, by the Secretary of the Navy, in the year 1848, and ordered upon special and independent service, having reference to the then political difficulties on the continent of Europe. The difficulties in regard to Holstein and Schleswig, and a general revolutionary movement throughout Germany, and the pending struggle between Austria and Hungary, seemed to call for the presence of a naval force in the northern part of Europe, to which the cruising ground of the Mediterranean squadron could not be extended. The St. Lawrence arrived at Southampton in December, 1848, where she was received, as the representative of the United States, with distinguished honors by all classes of people. The municipal authorities visited the ship, and presented to Captain Paulding an engrossed resolution, sealed with the seal of the borough of Southampton, passed by them, unanimously inviting the officers to a banquet. Upon the landing of the first boat from the ship, the British flag from the pier-head was lowered, and that of the United States hoisted in its place; and every mark of kindness and honorable welcome in their power was exhibited while the ship lay there. It was the first opportunity our naval officers ever had of accepting similar attentions from the authorities or people of Great Britain upon their own soil. Captain Paulding regarded all these demonstrations not as mere idle or personal civilities, but as designed to express towards the Government of the United States those kindly feelings and generous sympathies of the people of England, which it is manifestly our interest to cultivate, and which he did not feel himself justified to disregard. In return for the civilities thus extended to his flag and officers, Captain Paulding received the visits of the authorities and people of the borough on board the ship, and the expense attending the courtesies thus extended was defrayed by the purser of the ship as a proper expenditure in behalf of the Government, under the orders of the memorialist, and amounted to the sum of $963 92.

The ship next proceeded through the Channel to the North Sea, to Bremerhaven, the port of Bremen. Here the Archduke of Oldenburg, with a numerous suite, in accordance with his previous notification to Captain Paulding, visited the ship, and was received in a manner and by an entertainment suitable to his rank; and, successively, the Senate of Bremen, with a numerous suite of from seventy to one hundred, and many of the most distinguished persons of Germany, the Queen of Greece, the Duke of Oldenburg, with his royal family, and Prince Stephen of Austria, the Baron Von Gagern, late President of the Imperial Parliament of Frankfort, and Duckwitz, Minister of the German Marine, were received on board, and entertained.

In the summer of 1849, deputations from the Prussian Government and from the Parliament of Frankfort, were recommended to Captain Paulding, with reference to the formation of a German navy, and visited the ship, by which expense was also incurred.

The ship thence proceeded to Stockholm. Here Count Platen, King's Chamberlain, Minister of Marine, and the representative of the sovereign authority in the absence of the King, with a numerous suite of distinguished persons, was received on board and entertained.

The aggregate of expenses thus incurred in the entertainment, on board the ship, of these and numerous other visitors, was $3,653 92, of which sum the amount of $2,690 was expended in the entertainment of the civil and military officers of the Governments of the countries visited by the ship, and who were received on board by their request. The balance was expended at Southampton, in entertaining the municipal authorities and the people of that borough.

Of the obligation of the Government to pay the amount just stated, the committee did not entertain a doubt. No commander of a public vessel abroad is at liberty, unless under peculiar circumstances, to decline such visits as were made to the St. Lawrence by the sovereign authorities of countries with which it is our interest to cultivate amicable relations. The interchange of such civilities exercises a decided and beneficial influence, while, at the same time, the naval preparation and efficiency of our country is most wisely and humanely displayed; and for the payment of this sum the committee referred to the action of Congress in similar cases.

The PRESIDENT. The Chair will suggest that there are two blanks in the bill to be filled.

Mr. HALE. I am very loath to object to the bill, but I have always objected to bills of that character, and there has never one passed the Senate since I have been here, and never shall if I can help it. I must therefore object to it.

The bill was passed over.

MAURICE K. SIMONS.

The Senate, as in Committee of the Whole, proceeded to consider House bill "for the relief of Maurice K. Simons." It proposes to direct that the name of Maurice K. Simons be placed upon the roll of invalid pensioners, at the rate of eight dollars per month, during his life, from the passage of the bill.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

SEYMOUR AND BOYNTON.

The bill "for the relief of Calvin B. Seymour and Willard Boynton, surviving partners of W. & H. Boynton," was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to take proof of the amount and kind of goods, wares, and merchandise destroyed by the Creek Indians, May 15, 1836, in the town of Roanoke, Georgia, belonging to the firm of Stewart, Seymour & Co., and W. & H. Boynton, and cause the value of the same to be paid to Calvin B. Seymour & Willard Boynton, according to their respective interests; and $9,180 23 is proposed to be appropriated for the object.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a time, and passed.

ORDER OF BUSINESS.

Mr. BADGER. It strikes me that we are accomplishing nothing by passing these Senate bills. I think that the state of the business between the

two Houses, if understood by the Senate, will show that there is not the remotest probability of passing through the other House any private bills which we may now act upon. If the Senate is resolved to take up the Senate bills, I think we may as well adjourn. For the purpose of testing what is the decision of the Senate, I move that we proceed to the consideration of House bill "for the relief of George Cassaday."

The PRESIDENT. The Chair will inform the Senator that the Chair has been ordered by the Senate to take up the bills upon the Private Calendar, in their order as they appear upon it.

BENJAMIN O. MOOERS.

The PRESIDENT. The bill "for the relief 'of Benjamin O. Mooers, deceased, late a lieu-'tenant in Colonel Hazen's regiment of the revo-'lutionary army," will have its second reading.

Mr. BAYARD. I shall have to object to that bill.

Mr. WALKER. I will state that this bill stands precisely on the same principle as the bill for the relief of the widow Reilly. If the Senator will permit it to be taken up, I propose to offer the same amendment to it that I did to the other, and after that is adopted, it can be placed upon the calendar, and postponed as the other was. That was the arrangement in the Reilly case.

Mr. BAYARD. I understand that in the Reilly case an amendment was made, and the bill then took its place upon the calendar. When it comes up for action, it must give rise to discussion, because it involves a principle. I am not opposed to the passage of a general law in reference to commutation, if I am satisfied that it does not go too far, and that such a law, leaving the parties to present their claims to the Treasury, would be proper; but I am opposed to passing individual laws.

Mr. WALKER. I only desire it to be taken up now that I may offer the amendment, and then it can go over.

Mr. BAYARD. I have no objection to that.

The PRESIDENT. The bill is before the Senate as in Committee of the Whole, and is open to amendment.

Mr. HALE. I move that the Senate adjourn.

Mr. WALKER. Let us have a vote taken upon the amendment which I propose to offer.

Mr. HALE. I withdraw the motion for that purpose.

Mr. WALKER. I move to amend the bill by inserting after the words "revolutionary army"—

"The half pay of lieutenant from the 18th of October, 1783, when the Army of the Revolution was disbanded, to the 12th of February, 1838, the date of the death of the said Benjamin O. Mooers, deducting therefrom the full amount of the commutation certificate of $1,600, which was paid the said Mooers under the resolution of Congress of the 22d of March, 1783."

The amendment was agreed to.

The PRESIDENT. The bill will now go upon the calendar.

Mr. HALE moved that the Senate adjourn; which was negatived—ayes 6, noes 20.

After a conversation respecting the presence of a quorum, the motion was renewed, and again rejected—ayes 9, noes 23.

ANTHONY W. WHITE.

The PRESIDENT. The next bill is that for the relief of the legal representatives of Anthony W. White.

Mr. BAYARD. That is a bill which involves the question of interest. I object to it.

The bill was therefore passed over.

AMOS AND JOHN E. KENDALL.

The PRESIDENT. The next bill is that for the relief of Amos and John E. Kendall.

Mr. BADGER. That bill will certainly give rise to discussion.

The PRESIDENT. It will be passed over.

JAMES HARRINGTON.

The Senate then proceeded, as in Committee of the Whole, to the consideration of the bill for the relief of James Harrington.

It proposes to direct the proper officers of the Treasury Department to pay to James Harrington the sum of five hundred dollars, as a full indemnification for loss of time and expense during sickness caused by melting lead while in the employment of the United States.

At the request of several Senators, the report of the Committee on Military Affairs was read; from which it appears that James Harrington was engaged as a laborer in the United States arsenal in Washington; and while melting lead he contracted a disease known as the painter's colic, by which he was not only incapacitated for continuing his daily labor for the support of his family, but was also confined to his bed by sickness for several weeks, in the year 1847. Two physicians certify that his health has been seriously injured by inhaling the poisonous vapor of the oxyd of lead. It is also certified by Captain Mordecai, that his health had been injured by his employment, and that by his self-sacrifice a large quantity of lead had been saved to the Government. The committee, considering that he has been rendered unfit for labor during the rest of his life, regard his case as one justly entitled to sympathy, and that the Government is in duty bound to compensate an humble servant who has suffered in its service, for the time lost, and expenses incurred for medical attendance; and therefore report the bill.

Mr. BAYARD. I shall have to discuss that bill. It seems to me that the principle contained in it is utterly untenable. There is no difference between an employee of the Government and a private individual in this respect.

The bill was accordingly passed over.

JEREMIAH WINGATE.

The Senate, as in Committee of the Whole, proceeded to consider House bill "for the relief of the heirs of Jeremiah Wingate." It proposes to direct that the representatives of Jeremiah Wingate, deceased, late of Florida, shall be confirmed in their title to a certain tract of land, containing four hundred and twenty acres, lying on the north side of Nassau river, in the State of Florida, according to the plats and certificate of survey made by George J. F. Clarke, dated the 2d and 23d of December, and the 6th of October, 1818, now on file in the public archives of East Florida, that tract being the same confirmed to Jeremiah Wingate during his lifetime, on the 15th of November, 1827, by the "Board of Commissioners" appointed to ascertain claims and titles to land in Florida, pursuant to the act entitled "An act granting donations to certain actual settlers in the Territory of Florida," approved May 26th, 1824; and that the Commissioner of the General Land Office, upon the presentation of the plats and certificate of survey of the tract, issue a patent or patents for it, which patent shall operate as a relinquishment only on the part of the United States.

At the request of Mr. FELCH, the report of the committee of the House of Representatives was read; from which it appears that the ancestor of the persons for whose relief the bill is introduced, presented his claim to a certain tract of land in Florida, to the commissioners under the act "granting donations of public land to certain actual settlers;" that the claim was examined, and four hundred and twenty acres of land on the north side of the Nassau river was confirmed to him; but that, by reason of the neglect of the commissioners to return the confirmation to the Secretary of the Treasury, they apprehend that the title may be defeated. An exemplified copy of the public archives of Florida shows the fact of the confirmation by the commissioners on the 15th of November, 1827, of four hundred and twenty acres of land. The committee entertained the opinion that it was a fair case for the interposition of Congress, and therefore reported the bill.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

Mr. BAYARD moved that the Senate adjourn; but the motion was not agreed to—yeas 8, nays 28; as follows:

YEAS—Messrs. Atchison, Bayard, Bright, Cass, Fitzpatrick, Hunter, Spruance, and Underwood—8.

NAYS—Messrs. Adams, Badger, Bradbury, Brodhead, Charlton, Chase, Dawson, De Saussure, Dodge of Iowa, Felch, Fish, Geyer, Gwin, Hamlin, Houston, James, Mallory, Miller, Norris, Rusk, Sebastian, Seward, Shields, Smith, Sumner, Wade, Walker, and Weller—28.

So the motion was rejected.

JACOB GIDEON.

The bill for the relief of Jacob Gideon was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to direct the Third Auditor of the Treasury to examine the claim of Jacob Gideon, arising under a contract with the late Board of Navy Commissioners, and dated the 15th day of July, 1842, and to allow him such actual damages, if any, as shall satisfactorily prove that he suffered in consequence of the abrogation of the contract, by the construction given by the Secretary of the Navy to the act entitled "An act to reorganize the Navy Department of the United States," approved August 31st, 1842; and that the Secretary of the Treasury pay the sum so awarded by the Third Auditor to him: provided the sum to be allowed and paid to him shall not exceed one thousand dollars.

At the request of Mr. BAYARD, the report of the Committee on Claims was read; from which it appears that on the 15th of July, 1842, Mr. Gideon entered into a contract with the Board of Navy Commissioners to supply them with the blank books, blanks, &c., for the use of that branch of the Navy Department for the ensuing year. On the 31st August following, the act abolishing the "Board of Navy Commissioners" was passed. On the 5th September, Mr. Gideon was informed by Commodore Warrington, "that the change of the Board into bureaus would make no alteration or change in his engagement for books, &c.," and on the same day an order was given for a quantity of blank books, for the Bureau of Ordnance and Hydrography. On the 10th of September, Mr. Gideon was informed that the Secretary of the Navy had decided that his contract was "abrogated by the law abolishing the Board." On the same day, he addressed a communication to the Secretary, stating that he was then engaged in the execution of sundry orders under his contract, and unless allowed to complete the work, he should be subjected to heavy losses. To this appeal (as he states) he received no answer until the 8th of November, when he received a note from the Secretary, adhering to his previous decision. Under these circumstances, the petitioner claims that, as he had made a good and valid contract with the authorized agent of the Government, and had, at considerable cost, made arrangements to fulfill the same, and was at all times prepared to do so, and while proceeding in good faith in its execution, it was abrogated by the agent of the Government, without any default on the part of the contractor, he is not only entitled to be remunerated for the damages he suffered, but to be paid the amount of profits he would have realized by the fulfillment of the contract. He lays his damages at $2,000. The committee do not recognize the right of a public contractor to prospective profits on an unexecuted contract, and therefore they are not prepared to sanction an allowance in the nature of damages, beyond the loss actually incurred by the contractor by reason of his having entered into the contract. To this extent the committee think the claimant entitled to relief, and report a bill accordingly.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

COLONEL TALCOTT.

The bill for the relief of George Talcott, brevet Brigadier General of the United States Army, and Colonel of Ordnance, was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to allow to George Talcott, Colonel of Ordnance, the pay of a colonel, being the chief of the Ordnance Department for and during the time when, holding only the commission of a Lieutenant Colonel, he performed the duties of a chief of ordnance, and superintended that bureau of the military establishment of the United States.

Mr. SHIELDS. That bill involves only a small amount, and it has been acted upon again and again. In accordance with an old custom, a duty was imposed upon Colonel Talcott, which he was compelled to perform, and for which no compensation was made him at the time. This bill simply gives the proper compensation.

Mr. DAWSON. It is all right.

Mr. RUSK. I do not think it is all right. So far as I am concerned, I am opposed to it. We have, it is true, voted in favor of such bills heretofore in some cases; but I think the compensation should be made at the time the service is performed, if ever.

Mr. SHIELDS. I do not wish to trouble the Senate with any remarks. If it were a new case I would not insist so strongly upon its being allowed; but it is in accordance with a principle which has been acted upon ever since the formation of the Government. I hope the Senator will withdraw his objection.

Mr. RUSK. I will withdraw my objection to the bill being considered.

The bill was reported to the Senate without amendment.

The question was then taken on ordering the bill to be engrossed for a third reading, and there were, on a division—ayes 14, noes 14; no quorum voting.

Mr. BADGER. I desire to make an appeal to the Senate. If there is a quorum present, gentlemen do not seem disposed to vote on the questions which come before us. We are only making an immense amount of work for our clerks. I hope there will be no objection to adjourning. It seems to me to be in vain to remain here. I therefore move that the Senate adjourn.

Mr. BRADBURY. I will ask the Senator if he will not withdraw his motion, and let us go on till three o'clock?

Mr. BADGER. We are doing nothing.

The PRESIDENT. The question is not debatable. It is on a motion to adjourn, which, under our rules, is not debatable.

Mr. BADGER. I withdraw the motion.

Mr. SHIELDS. I hope the vote may be taken again on the bill. I appeal to my friends on the other side to let it pass. Colonel Talcott has been, as it is well known, removed from the Army, under peculiar circumstances. This is a matter in which he is fairly and honestly entitled to relief. The committee were unanimous in their report. It has been given to every preceding officer who stood upon the same principle; and, in the peculiar circumstances in which he is placed, I think there should be no objection to it.

Mr. NORRIS. Mr. President, I rise to a question of order.

The PRESIDENT. The Chair has once before suggested to the Senator from Illinois that this morning an order was made by the Senate to proceed to the consideration of such bills only as would give rise to no debate, or to which there was no objection.

Mr. SHIELDS. I am sorry to be out of order. I did not happen to be here at the time the order was made, or I should not have spoken on the subject.

Mr. DAWSON. I do not intend to debate this bill at all; but the amount is only $373——

The PRESIDENT. The Senator from Georgia is out of order. The question is, "Shall the bill be engrossed for a third reading?"

Mr. NORRIS. As it is leading to debate, I object to it.

The PRESIDENT. The bill will be passed over.

Mr. BADGER. I now renew my motion that the Senate adjourn.

The question being taken, on a division, there were—ayes 16, noes 16.

The President voting in the affirmative,

The Senate accordingly adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 28, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed the following bills, and requesting its concurrence therein:

S. No. 582. An act concerning bail in civil causes in the District of Columbia;

S. No. 598. An act to refund to the county of Lee, Iowa, certain expenses of the district court, which were paid by that county;

And had agreed to the report of the Committee of Conference on House bill No. 477, to continue half pay to certain widows and orphans; and also,

H. R. No. 347. An act granting the right of way to the St. Louis and Iron Mountain Railroad Company, with an amendment.

And that the President of the United States did on the 25th of January, approve and sign Senate bill of the following title:

S. No. 369. An act to prohibit public executions in the District of Columbia.]

IMPRISONMENT FOR DEBT—BAIL.

Mr. STANLY. I intend to move a correction of the Journal, but before doing so, I would move, with the unanimous consent of the House, to take from the table of the Speaker and put on its passage a bill, just received from the Senate, for the relief of a citizen of the State of North Carolina who is imprisoned in this city for debt at the suit of a claims agent. I hope that there will be no objection to the motion.

Mr. VENABLE. I hold the bill alluded to by my colleague in my hand, and with him, I hope the poor fellow imprisoned here by a claims agent will be relieved.

Mr. DAVIS, of Indiana. Will the consideration of the bill take place in the morning hour?

The SPEAKER. This being private bill day, the morning hour will not be of importance to anybody.

Mr. STUART. I ask, before I yield my consent, that the bill be read.

The bill entitled "An act concerning bail in civil causes in the District of Columbia," was then read through.

Mr. SWEETSER. I object.

Mr. JONES, of Tennessee. I now give notice that I will, on Monday, if I succeed in getting the floor, move a suspension of the rules, in order that that bill may be taken up and passed. The man adverted to has been in jail three months. His is one of the hardest cases of oppression and tyranny that has ever been known in a civilized country.

[Cries of "Order!"]

The SPEAKER. Discussion is not in order.

CORRECTION OF THE JOURNAL.

Mr. STANLY. The Journal of yesterday does not state correctly the facts regarding the bill which I reported from the Committee on Ways and Means. I desire that they shall be accurately entered, and for that purpose, move to add to the Journal the following:

"Mr. STANLY, after moving to refer the bill and print, being still on the floor, withdrew the motion to refer, and made the motion to print.

"The SPEAKER said that would be in order.

"Mr. STANLY submitted the motion to print.

"Mr. SWEETSER claimed the floor, and moved the bill be laid on the table.

"Mr. STANLY claimed the floor.

"The SPEAKER decided Mr. SWEETSER was entitled to the floor to make the motion to lay the bill on the table, while Mr. STANLY was claiming it and had never yielded it."

The SPEAKER. The following is that portion of the Journal proposed to be corrected:

"Mr. STANLY, from the committee to which was referred the bill of the House, (No. 277,) 'to authorize the 'Secretary of the Treasury to deposit with the several 'States the fourth installment of the deposits of the public 'money directed to be made with said States by the act ap- 'proved June 23d, 1836,' reported the same, with a recommendation that it do not pass.

"Mr. STANLY moved that the said bill be committed to the Committee of the Whole House on the state of the Union, and printed.

"Pending which,

"Mr. SWEETSER moved that the bill be laid on the table.

"The yeas and nays being desired by one fifth of the members present, they were ordered.

"And the question being put, it was decided in the affirmative—yeas 105, nays 60."

[Here are the yeas and nays in detail.]

"So the bill was laid on the table.

"Mr. STANLY having called up the motion submitted by him to print the bill,

"The SPEAKER decided that the effect of the vote to lay the bill on the table had been to lay upon the table the motion to print, and all other motions connected therewith. It was too late, therefore, to call up the motion to print.

"From this decision of the Chair Mr. STANLY appealed; when,

"On motion by Mr. ORR, the said appeal was laid on the table."

Mr. STUART. As I heard that proposed amendment read, it assumes to be true the very fact which the Chair denied to be true—which could not exist under the rule.

The SPEAKER. The decision of the Chair was, that as the proposition of the gentleman from North Carolina was not debatable, he could not retain the floor, and that the gentleman from Ohio [Mr. SWEETSER] properly obtained the floor, and moved that the bill be laid on the table.

Mr. STANLY. The Chair decided, as I have stated in my amendment, that he had the right to take the floor away from me, when I held possession of it on the motion to print.

The SPEAKER. The Chair decided that the gentleman was not entitled to debate his proposition, and therefore not entitled to the floor.

Mr. STANLY. Very well. I was not entitled to the floor for any motion at all. Certainly, so the Chair decided, but I want that put on the Journal.

The SPEAKER. To make the motion at all! The Chair made no such decision.

Mr. STANLY. I hold in my hand the report in the Globe of what did take place. It is correct, but the Journal omits altogether the point which I wish to go before the country.

The SPEAKER. The Chair recognized the motion of the gentleman from North Carolina.

Mr. STANLY. Yes, sir; but yet took the floor from me after he received my motion.

The SPEAKER. The Chair decided that the gentleman could not debate his proposition.

Mr. STANLY. Certainly; and took the floor away after I had it on the question.

The SPEAKER. That is what the Chair states, and there can be no difficulty about the facts. The Chair states that his decision was, that the gentleman could not debate his proposition. The point on which the appeal was taken is this: After the submission of the motion to lay on the table, the gentleman claimed the floor, but waived his right to the floor under the decision of the Chair. The gentleman then claimed the floor to debate his proposition to print. The Chair decided that it was not debatable, inasmuch as the whole subject had gone on the table by a vote of the House.

Mr. STANLY. I want the Journal to say that I did "waive my right," and how I waived it.

The SPEAKER. It is for the House to say whether or not the Journal shall be amended.

Mr. STANLY. The Chair states correctly. I did yield only so far as the decision of the Chair was concerned, but I want that to appear on the Journal. While I had the floor it was taken from me and given to another member, who made the motion to lay that bill on the table. I was still on the floor and claiming it. These are the facts by the official reporters of the House themselves. They state:

"Mr. STANLY. If I have the floor, I will make the motion to print the bill, before I make the motion to refer.

"The SPEAKER. That would be in order.

"Mr. STANLY. Then I submit that motion.

"The SPEAKER. The gentleman from North Carolina makes a proposition that the bill, with certain amendments of his, be printed."

And yet the floor was taken from me. I want the Journal to state these facts correctly, as they took place in the House.

The SPEAKER. The motion to commit and print is entered on the Journal. That far it is right.

Mr. STANLY. I withdrew the motion to refer and said so, Mr. Speaker. I am so reported in the Globe.

The SPEAKER. The Chair will not undertake to say that the gentleman did not withdraw it, but he did not hear him withdraw it.

Mr. STANLY. That may be, but the fact is stated in the Globe that I made the motion to print instead of the other to refer, and I want that fact entered on the Journal.

The SPEAKER. Will the gentleman designate the portion of the Journal he desires to be stricken out.

Mr. STANLY. I only want what I have sent to the Chair added.

Mr. STUART. If this question is to be submitted to the House, I will state what will control me to be this: The amendment proposed by the gentleman from North Carolina assumes, that he took the floor, was recognized by the Chair, and moved that the bill be referred to the Committee of the Whole on the state of the Union, and printed; that he claimed to retain the floor; that he never yielded it; and that while so holding and insisting he should hold it, the Chair authorized the gentleman from Ohio [Mr. SWEETSER] to take the floor, and move to lay the bill on the table. Now, the point decided by the Chair was this: That, inasmuch as the first motion must be first taken, to wit: to refer the bill, before the question to print could come up, it was competent, between the two motions, for another member to rise and move to lay the bill on the table; that, if not then done, and the motion to print was submitted, that motion not being debatable, the gentleman from North Carolina could not hold the floor, and another member could rise and move to lay the whole subject on the table. The amendment proposed is, that the gentleman from North Carolina was standing inferentially with the right to the floor, and

that the Chair took it away from him. I cannot consent to such an amendment of the Journal.

Mr. SWEETSER. My recollection is distinct with relation to this matter. The gentleman from North Carolina continued on the floor after he submitted his motion that the bill be referred to the Committee of the Whole on the state of the Union, but he did not make the motion to print until after I had intervened, and made the motion to lay on the table. Then, in order, as I suppose, to affect the force of that motion, he superadded the motion to print. That is the state of fact precisely. The member from North Carolina was on the floor the whole time, but after he made his motion to commit to the Committee of the Whole on the state of the Union, he had no right to the floor, as the Chair well decided.

Mr. JONES, of Tennessee. I do not know exactly how the Journal is made up, but my recollection about this case is, that when the gentleman from North Carolina reported the bill from the Committee on Ways and Means, and stated that he was directed by the committee to recommend that it do not pass, he had the bill read and submitted to the Speaker, whether it was not such a bill, containing, as it did, an appropriation of money, as was required to be first considered in a Committee of the Whole House?

The Speaker decided that it did. That decision, I understand, was at the time, and has ever since been acquiesced in by the gentleman from North Carolina, [Mr. STANLY.] Whether the motion to print was made at that time, or after the gentleman from Ohio had made the motion to lay on the table, is immaterial as to the gentleman's right to debate the question, because the rule provides that bills making appropriations shall have their first consideration in a Committee of the Whole House. Then, if that rule be obeyed—and it is an imperative one—the gentleman from North Carolina [Mr. STANLY] could make no motion either to print, or any other motion, which would entitle him to retain the floor beyond the period when he had reported the bill, made the motion to refer it, and print; and whether he then made the motion to print or not, he had no further right to the floor, the bill not being debatable. The gentleman from Ohio [Mr. SWEETSER] moved to lay the bill upon the table, and the gentleman from North Carolina [Mr. STANLY] desired to debate the motion to print. A motion to print opens the merits of the whole question; and if the rule contended for by the gentleman should prevail here, we could discuss the merits of every solitary appropriation bill—civil and diplomatic, Army, Navy, Indian, and every other appropriation bill in the House—upon a motion to print, before the bills were ever referred to the Committee of the Whole on the state of the Union, as required by the rules, and that rule would become obsolete, and be overridden by the practice to move to refer the bill, and then to discuss the merits of the bill on the motion to print. But when the Chair has decided that the bill must go to the committee, that decision, not being appealed from, the gentleman had no right, as I conceive, to discuss the motion to print.

Mr. STANLY. The gentleman from Michigan [Mr. STUART] talks about something in that amendment rather "inferentially." I am not responsible for anything which my friend chooses to say by way of inference. I only wish to correct the facts as they occurred in the House yesterday, as shown by the official report here. The gentleman from Tennessee, [Mr. JONES,] I know, is learned in the rules of the House, and knows well how to apply them correctly, and how to construe them to obtain objects which, of course, he thinks are right, as no other member in the House can. He argues upon a state of facts, and upon the general subject of rules, into which I do not intend to be drawn. He is better acquainted with the labyrinth of the rules of the House than I am, than I would be if I could. As to other remarks, I have nothing to say. I adhere to the records as to what is said. Elsewhere I do not care to look. Here is the record of yesterday, and that is what I want to appear on the Journal. That is all. Whether I had the right to debate the motion to print or not, as my friend from Tennessee has been arguing, is not the question now. I made the motion. When I asked the question, whether the bill must go to the Committee of the Whole on the state of the Union, the Speaker said that he was inclined to the opinion that the bill must go there. Here is what the report shows:

"Mr. STANLY. If that be so, I yield, and move to refer the bill; and that the bill and amendments be printed.

"Mr. SWEETSER. I move to lay the bill upon the table; and upon that I call for the yeas and nays.

"Mr. STANLY. I have the floor.

"The SPEAKER. The gentleman from Ohio [Mr. SWEETSER] has not the floor to make his motion, as the gentleman from North Carolina is upon the floor."

Here the Speaker decided that I was entitled to the floor. If I was, can any man explain how I lost it?

The SPEAKER. Does the gentleman want that speech on the Journal?

Mr. STANLY. No, sir; but I want the Speaker's remarks on the Journal, and I am entitled to it.

The SPEAKER. The Chair thinks the gentleman is not entitled to have his own, or the speech of the Chair placed on the Journal.

Mr. STANLY. I claimed the floor on the motion to print the bill, as I stated "*before I made the motion to refer.*" I afterwards withdrew the motion to refer, and made the motion to print separately, and so stated to the Chair. I want to know, not only in vindication of myself, but for the benefit of every member of this House, whether, when a gentleman reports a bill from a committee, and respectfully asks the Chair if, under the rules, the bill must go to the Committee of the Whole on the state of the Union, the Chair decides it does, the member reporting the bill still claiming the floor, the Chair saying distinctly he is entitled to it, I wish to know whether, after this, the floor can be taken from the member reporting the bill, and the bill laid on the table? I want that matter entered upon the Journal, and let the House decide as it pleases.

The SPEAKER. The gentleman reported a bill, with a recommendation from the committee that the bill be rejected. He made that motion, and at the same time inquired, as he states, of the Chair, whether or not the bill must be committed to the committee of the Whole, and be there debated. The Chair answered in the affirmative, that it must go to the committee. The gentleman proposed to refer it, and print. The gentleman from Ohio [Mr. SWEETSER] was recognized, and moved to lay the bill on the table. The gentleman from North Carolina [Mr. STANLY] contended that the floor could not be taken from him for any purpose, as he was on the floor, and claimed the right to occupy it. The Chair decided that he had no right to debate the matter, and that, under the rules, it must be first debated in a Committee of the Whole House. In that decision the gentleman acquiesced. The vote was taken, and the bill laid upon the table.

The gentleman from North Carolina [Mr. STANLY] then insisted upon his right to debate the proposition to print. The Chair decided that his proposition to print, and the amendments which he had proposed to attach to the bill, went with it upon the table, and that therefore he could not debate the motion to print. From that decision the gentleman took an appeal, and the House sustained the decision of the Chair. That is the recollection of the Chair in regard to the history of that matter. Will the gentleman allow the Journal again to be read, that gentlemen on all sides may understand the matter?

Mr. STANLY. Will the Speaker allow me to call his attention to what I said yesterday?

The SPEAKER. Upon that point will the gentleman allow the Chair a single word? It is this: that the gentleman obtained the floor, and being recognized by the Chair, insisted upon his right to retain the floor for any purpose. The Chair decided that he had no right, and from that decision the gentleman appealed. All that matter is prohibited from being entered upon the Journal. It has no place there, in the opinion of the Chair. The reasons given, *pro* and *con*, why the gentleman was not entitled to the floor, do not go upon the Journal. The fact that he claimed the floor does not go upon the Journal, unless he appeals from the decision of the Chair, and then the fact is inserted in the Journal.

Mr. STANLY. The Chair states correctly, in the latter part of his remarks, as to the appeal. I took an appeal, and I think I remarked—I have not examined that part of the report—with the view of getting this matter upon the Journal.

The SPEAKER. It is true that the gentleman made that remark.

Mr. STANLY. Let me read the report again:

"Mr. SWEETSER. I move to lay the bill upon the table; and upon that I call for the yeas and nays.

"Mr. STANLY. I have the floor.

"The SPEAKER. The gentleman from Ohio [Mr. SWEETSER] has not the floor to make his motion, as the gentleman from North Carolina is upon the floor."

Here the Chair stated I was entitled to the floor; yet afterwards I lost it by the conduct of the Chair.

Here are the facts, as I read further from the Daily Globe, in my hands. It appears that the Speaker decided, "The gentleman from Ohio '[Mr. SWEETSER] has *not* the floor to make his 'motion, as the gentleman from North Carolina 'is upon the floor." Very well; then the Speaker said I was entitled to the floor, and the motion to lay on the table could not be made.

A little further on the report states:

"Mr. STANLY. If I have the floor, I will make the motion to print the bill *before I make the motion to refer.*

"The SPEAKER. That would be in order.

"Mr. STANLY. Then I submit that motion."

Then the Speaker said I was in order again. He had just said the motion to lay on the table was not in order. A little while after, the report further states, as I have it before me:

"The SPEAKER. The Chair is of the opinion that the gentleman from Ohio [Mr. SWEETSER] had a right to submit a motion to lay the bill upon the table.

"Mr. SWEETSER. Upon that motion I call for the yeas and nays.

"Mr. STANLY. How did the gentleman from Ohio get the floor, when I had it, and make a motion to print this bill? I have never yielded the floor.

"The SPEAKER. The gentleman from North Carolina made a motion to commit the bill, and the subject of committing a bill is not debatable. The gentleman could not, therefore, hold the floor after making that motion.

"Mr. STANLY. I withdrew that, and made a motion to print separately, and so stated to the Chair."

After all this, the bill goes on the table; after the Speaker had twice decided I was in order. That is what I claimed yesterday, and what I wish to appear upon the Journal.

The SPEAKER. The Journal, in the opinion of the Chair, is absolutely correct in stating that the Speaker decided that the gentleman from North Carolina was not entitled to the floor, and not as reported in the papers. The Chair cannot be controlled by that, but rather by the Journal and action of the House.

Mr. STANLY. But members will be controlled by what the Speaker decides on points of order and by facts, and it is necessary that we should have this matter upon the official record. I wish to say, I had no opportunity of saying a word upon a great public measure in which all the States are interested; that the floor was improperly taken from me by the extraordinary administration of the rules yesterday. But my purpose has been gained. I have done all I expected, if not all I hoped. I have called the attention of the country to this great measure, which will be revived hereafter. I wish my amendment shall be entered on the Journal.

The SPEAKER. It is for the House to determine whether or not they will adopt the amendment of the gentleman from North Carolina, [Mr. STANLY.]

The question was then put on the motion to amend the Journal, and it was disagreed to.

Mr. HOWARD. I rise to a question of privilege. I am recorded wrong on the Journal on the vote upon this very subject. I voted in the affirmative on the motion to lay the bill on the table. I find that I am recorded in the negative. I desire the proper correction to be made.

There being no objection, it was so ordered.

AMENDMENT OF THE RULES.

Mr. STANLY. Mr. Speaker, when is it in order to give notice of a motion to change the rules of the House?

The SPEAKER. When the States are called for resolutions.

Mr. STANLY. I will at the proper time give notice of the introduction of a resolution to change the 140th rule, by adding thereto the following:

No person shall be permitted to exhibit in the Chamber occupied by the House of Representatives, natural or artificial "curiosities" or "extraordinary phenomena" without the leave of the House, whether they be idiots from Nicaragua, called "Aztecs," or by any other name.

Mr. MACE. I ask the House to discharge me from further service as a member of the Commit-

tee on Claims; and before the House acts upon my request, I wish to state briefly my reasons. It was your pleasure, Mr. Speaker, to appoint me as a member of that committee to fill the vacancy which occurred by the resignation of Mr. SMITH, of Alabama. That was done early at the commencement of the last session of Congress. I entered upon the discharge of my duties as a member of that committee faithfully, from that time until now, and I will say for every member of that committee, that when in health they have been promptly and efficiently engaged in the discharge of their individual duties; that they have prepared, and have had ready for the action of this House for many months, a large number of bills in behalf of private claimants, who have honest and just claims against the Government of the United States, many of which have been pending twenty years. The action of this House has been such that the committee have been called to report but once, and that was a few weeks after the commencement of last session. Such reports as we then had were made; and although one year from that time, during which we have been in session, has elapsed, it has never once been in order for the committee to report; and although we have asked to make reports frequently and urgently, the House has at all times refused to let us. The time of the House, in the main, has been occupied in the discussion of illegitimate subjects, of no benefit to any one whatever, and quite disgraceful to the American Congress, in the just estimation of the people. I do not wish to incur the labor, and I presume no other gentleman does, of investigating cases involving constant labor, and principles of great intricacy, for the action of the House, and then be told that Congress will not act upon them. Such conduct is a mockery of justice, and if continued, I would say to honest, and, in many cases, needy claimants, cease to press your claims—abandon them. The Government, though rich in means, is unwilling to pay her honest debts. I feel constrained to say this much in vindication of myself, and in vindication of the Committee on Claims.

I would add in conclusion, if it is the intention of the House of Representatives to deny continuously at all times, these just and honest claims, the quicker it is known the better. It will at least save claimants the expense and vexation of attempting to prosecute their claims. Having said this much, and having washed my hands clean of the injustice which has been inflicted upon numerous claimants, to my certain knowledge—having placed these facts upon the record, and it not being important whether I am discharged or not during the remainder of the session, I will respectfully withdraw the motion.

Mr. EDGERTON moved that the House proceed to the consideration of the bills on the Private Calendar.

Mr. HENN. Would a motion to proceed to the consideration of the private business on the Speaker's table take precedence of that motion?

The SPEAKER. That will be the first business in order, if the House does not go into committee.

Mr. HENN. I hope, then, that the motion to go into committee will be voted down.

[Loud cries of "Order!"]

Mr. EDGERTON. I will state to the gentleman from Iowa that this is "objection day;" and if we go into committee, we can, in all probability, get through the bills on the Private Calendar.

Mr. HENN. Well, but I wish to get more bills upon the Private Calendar.

The SPEAKER. Discussion is not in order.

The question was then taken on Mr. EDGERTON's motion, and it was agreed to.

The House accordingly resolved itself into a Committee of the Whole House, (Mr. HALL, in the chair,) and proceeded to the consideration of the Private Calendar, under the restrictions contained in the following rule:

"30. On the first and fourth Friday of each month, the calendar of private bills shall be called over, (the Chairman of the Committee of the Whole House commencing the call where he left off the previous day,) and the bills to the passage of which no objection shall then be made shall be first considered and disposed of."

The following bills and joint resolutions coming up in their order, and to which there was no objection, were thereupon severally considered and laid aside, to be reported to the House with a recommendation that they do pass, viz:

House bill (No. 247) for the relief of James Glynn.

House bill (No. 250) for the relief of S. Morris Waln.

House bill (No. 274) for the relief of Jasper A. Maltby.

House bill (No. 285) for the relief of Britain Franks, assignee of Joseph M. Smith.

House bill (No. 320) for the relief of James H. Jenkins.

Joint resolution (No. 28) granting the petition of William and Matthew Moss.

Senate bill (No. 194) for the relief of Jacob Young.

Senate bill (No. 195) for the relief of Margaret Farrar.

Senate bill (No. 244) for the relief of the heirs of the late Major Thomas Noel, United States Army.

Senate bill (No. 407) for the relief of Jim Capers.

Senate bill (No. 98) for the relief of Sarah D. Mackay.

Senate bill (No. 176) for the relief of William Bedient, late a sergeant in the fourth regiment of artillery.

Senate bill (No. 204) for the relief of Guion and McLaughlin.

Senate bill (No. 208) for the relief of Barbara Reilly.

The following bills and joint resolutions being objected to, as indicated below, were laid aside in pursuance of the rule cited above, viz:

House bill (No. 175) for the relief of Anthony Walton Bayard. [Objected to by Mr. HARRIS of Tennessee.]

House bill (No. 200) for the relief of the legal representatives of John H. Piatt, deceased. [Objected to by Mr. JONES of Tennessee.]

House bill (No. 203) for the relief of the trustees of the Philadelphia Gas Works. [Objected to by Mr. LETCHER.]

Joint resolution (No. 21) for the relief of Mary Reeside, executrix of James Reeside, deceased. [Objected to by Mr. MARTIN.]

Senate bill (No. 152) for the relief of John F. Callan, administrator of Daniel Renner, deceased. [Objected to by Mr. PENNIMAN.]

Senate bill (No. 276) for the relief of Colonel James R. Creecy. [Objected to by Mr. STANTON of Ohio.]

House bill (No. 306) for the benefit of J. C. Buckles, of Louisville, Kentucky. [Objected to by Mr. LETCHER.]

House bill (No. 307) for the relief of McAtee and Eastham. [Objected to by Mr. STANTON of Ohio.]

House bill (No. 308) for the relief of the legal representatives of Nathaniel Patten, deceased, late a postmaster in Missouri. [Objected to by Mr. OLDS.]

House bill (No. 321) for the relief of John Frink. [Objected to by Mr. HENN.]

Joint resolution (No. 27) for the relief of the legal representatives of Wade Allen, deceased. [Objected to by Mr. LETCHER.]

House bill (No. 324) authorizing the adjustment and payment of the claims of William Hazzard Wigg, deceased, for losses sustained by him during the war of the Revolution. [Objected to by Mr. ALLISON.]

Senate resolution (No. 16) for the relief of Alexander Y. P. Garnett. [Objected to by Mr. JENKINS.]

Senate bill (No. 238) for the relief of Thompson Hutchinson. [Objected to by Mr. JONES of Tennessee.]

Senate bill (No. 239) for the relief of Elizabeth Jones, and the other children (if any) of John Carr. [Objected to by Mr. JONES of Tennessee.]

Senate bill (No. 193) for the relief of Robert Armstrong. [Objected to by Mr. STANLY.]

Senate bill (No. 70) for the relief of the widows and relatives of certain officers and seamen of the United States brig Washington, who were lost overboard in a hurricane. [Objected to by Mr. LETCHER.]

When the following bill was reported, viz:

Senate bill (No. 234) for the relief of James Glynn—

Mr. GOODENOW said: That is a Senate bill. We have already laid aside a House bill for the same purpose, to be reported to the House with a recommendation that it do pass. I hope this bill will be laid aside to be reported to the House, and then when we get into the House, we can pass it and lay the House bill upon the table.

The CHAIRMAN. The Chair is informed that this is a Senate bill similar in all respects to House bill No. 247, which has already been laid aside to be reported to the House with a recommendation that it do pass.

Mr. SACKETT. Well, we had better pass this bill, as it has already passed the Senate.

The CHAIRMAN. The gentleman from Maine [Mr. GOODENOW] now proposes that the order of the committee directing House bill No. 247 to be reported to the House, be reconsidered, by unanimous consent, and that this bill be reported to the House with a recommendation that it do pass.

Mr. JONES, of Tennessee. I submit to the Chair that that is unnecessary. When we get into the House we can pass this bill, and lay the other upon the table.

Mr. GOODENOW. That is what I propose.

The CHAIRMAN. The Chair had misunderstood the gentleman.

No objection being made, the bill was then laid aside, to be reported to the House with a recommendation that it do pass.

Mr. JENKINS. I objected to Senate resolution No. 17, for the relief of Alexander Y. P. Garnett. Upon looking at the case, however, I have come to the conclusion that the facts sustain the bill. I desire, therefore, to withdraw my objection and allow the bill to be laid aside.

There was no objection, and the bill was accordingly laid aside to be reported to the House.

Mr. HENN. I ask the unanimous consent of the House to withdraw my objection to House bill No. 321, for the relief of John Frink, and that it be laid aside to be reported to the House.

Mr. HARRIS, of Tennessee. I do not object to the gentleman's withdrawing his objection, but I insist that we go on and finish the calendar first.

Mr. SACKETT. I ask the unanimous consent of the House to insert an amendment in the bill we have just laid aside to be reported to the House, for the relief of Jim Capers. The bill provides that he shall receive as a pension the pay of a musician. Now, I hardly know what the pay of a musician is. It has been different at different times. I move, therefore, with the consent of the committee, to amend the bill by striking out that clause of the bill which provides that he shall receive the pay of a musician, and insert one providing that he shall receive eight dollars per month.

Mr. COBB. I had charge of that bill and have no objection to the amendment.

There was no objection, and the amendment was accordingly agreed to.

Mr. SACKETT. We have now gone through with the calendar. I move that it be again read through, for the purpose of giving an opportunity to gentlemen to withdraw objections, should they desire to do so.

Mr. ORR. Is that motion in order?

The CHAIRMAN. It is not in order, and cannot be entertained, except by unanimous consent.

Mr. ORR. Many gentlemen who, having examined those bills and objected to them, have retired from the Hall, I object.

Mr. STANTON, of Ohio. I objected to Senate bill No. 276, for the relief of Colonel James R. Creecy, because there was no report accompanying the bill, and we could, therefore, have no knowledge of the facts upon which it was founded. A report has now been found. I therefore ask leave to withdraw my objection, and that the report be read.

Mr. MURPHY. Will it be in order to object to the bill after the report is read?

The CHAIRMAN. Certainly.

Mr. JONES, of Tennessee. The calendar having been once gone through with, I desire to know if it is not in order to go over the calendar again, and let the cases which have been objected to come up for discussion?

The CHAIRMAN. The Chair thinks it would be in order. The gentleman from Ohio, [Mr. STANTON,] however, asks the consent of the committee to withdraw his objection to Senate bill No. 276, and desires that the report in the case may be read.

Mr. SWEETSER. I rise to a question of or-

der. I submit to the Chair that a case having come up in its regular order upon the calendar, being objected to by a member and passed over, it is not then competent to return to it for the purpose of giving the gentleman who made the objection an opportunity of withdrawing it.

The CHAIRMAN. As a question of order, the Chair holds that the gentleman is in the right. This case, however, was returned to by unanimous consent.

Mr. SWEETSER. If there are any particular cases to which objection has been captiously made, and the member objecting desires to withdraw his objection, I will not interpose any obstacle, but I do object to returning generally to the cases we have passed over.

Mr. STANTON. This is precisely a case of that character. I objected to it because there was no report. I now find that there is a report, and I therefore desire to withdraw my objection.

Mr. SWEETSER. I do not object to that.

The objection was then withdrawn, and the bill laid aside to be reported to the House.

Mr. PENNIMAN. I ask the unanimous consent of the committee to withdraw my objection to Senate bill No. 152, for the relief of John F. Callan, administrator of Daniel Renner, deceased.

Mr. SWEETSER. I ask that the gentleman will state the reasons for withdrawing his objection. I presume the gentleman has good reasons for withdrawing his objection; but the point I make is, that if gentlemen come here and object to bills when they are called upon the calendar, and then desire to withdraw their objections, they shall state their reason for making the objections, and the reason for withdrawing them. I desire that they shall be required to do this, in order, in future, to prevent captious objections from being made.

The CHAIRMAN. The gentleman from Michigan can only be allowed to withdraw his objection by unanimous consent.

Mr. SWEETSER. I do not object, if the gentleman be allowed to state his reasons.

Several MEMBERS. Of course he will be allowed to do that.

Mr. PENNIMAN. From representations of several gentlemen in whose judgment I have confidence, I am satisfied the case is a meritorious one; I therefore desire to withdraw my objection.

The objection was, by general consent, withdrawn, and the bill laid aside to be reported to the House.

Mr. STANTON, of Ohio. I desire to withdraw my objection to House bill No. 307, for the relief of McAtee & Eastham. I will state, that when I objected to that bill I thought it was one of the ordinary cases under the existing laws; but I am now satisfied that the laws of the Post Office Department, under which it would come, will not admit of a retrospective allowance. The committee which reported it were unanimous in its favor, and the case itself is perhaps a hard one; with this understanding, therefore, I withdraw my objection.

Mr. MURPHY. I renew the objection.

Mr. MARTIN. I move that the committee do now rise.

Mr. JONES, of Tennessee. I ask the gentleman from New York to withdraw that motion for a moment.

Mr. MARTIN. I will withdraw it.

Mr. JONES. There are two bills here to which I objected: Senate bill No. 238, for the relief of Thompson Hutchinson, and Senate bill No. 239, for the relief of Elizabeth Jones and the other children (if any) of John Carr. I understand that former reports show that these persons were revolutionary soldiers; that they were for a short time placed upon the pension roll, but were afterwards stricken from it. Subsequently, however, the proper authorities becoming satisfied that they ought, under the law, to be placed there, they were restored under the law by which they were first placed there, but they were not paid by the Department from the time they were stricken from the pension roll up to the time they were restored. These bills provide that the children and heirs of these soldiers shall receive the pay to which they were entitled from the time they were stricken from the roll till the time they were restored. The bills both involve the same principle; and understanding these to be the facts, I am satisfied that the claims ought to be paid, and will, therefore, with the consent of the committee, withdraw my objections.

The bills were then laid aside, to be reported to the House.

[A message was here received from the President of the United States, by the hands of MILLARD P. FILLMORE, Esq., his Private Secretary, informing the House that he had approved and signed sundry bills; also, a message in writing.]

GENERAL ROBERT ARMSTRONG.

Mr. STANLY. I want to state to the committee the reasons why I objected to House bill No. 193, for the relief of General Robert Armstrong. Upon examining the report in the case, I find that a physician certifies to total disability. I also find upon inquiry that this Robert Armstrong—this gallant soldier, is the respectable editor of the Union. Now, sir, this same person was Consul at Liverpool—the best office under the Government abroad—for four years. This being the fact, and his disability not being total—for we see him every day in vigorous health, as I hope he may be for many years—I think we ought not to pass this claim until we see some disability. I would vote him a little monument; I would vote him a sword, or I would do anything to testify the respect of Congress for his gallant services. Or if he were reduced to poverty, I would vote him a pension larger than that provided for in this bill; but I will not vote it for his alleged disability, when it appears that he is a vigorous man.

Mr. HARRIS, of Tennessee. I simply desire to state to the gentleman from North Carolina, that we have the testimony of a highly respectable physician that the disability of the applicant in this case is total. I will also remark, that in all these cases, the inquiry is as to the ability to make a support by manual labor. Now, as I said, the testimony of a highly respectable physician shows that he is totally disabled from making a support by manual labor.

Mr. TOOMBS made a remark totally inaudible to the Reporter.

Mr. HARRIS, of Tennessee. General Armstrong was a lieutenant, but he was acting as a captain, and commanding a company, when he received his wound. At the departments he could obtain a pension only as lieutenant, under the existing law; but he thinks, and I think, he is entitled to a pension as a captain, instead of that of a lieutenant, and for that reason his case comes before Congress.

Mr. STANLY. I place great reliance upon the knowledge of my honorable friend from Tennessee [Mr. HARRIS] about these pension laws. I admired his stern refusal when he opposed Mrs. Worth's bill, from a sense of duty, against his feelings. He will, I know, give me credit for being actuated now by a like sense of duty. But, in relation to this case of General Armstrong, I was about to remark that we all know that he has made money heretofore, when he was consul at Liverpool,—supposed to be the best office under the Government,—and that he will make a hundred thousand dollars out of the public printing, as I have heard it estimated——

Mr. GORMAN. I rise to a question of order. I make the point that it is not in order for the gentleman to discuss the merits of General Armstrong's right to a pension at this stage of the proceedings, when his remarks cannot be replied to by the other side.

Mr. STANLY. By all means, the gentleman may reply.

Mr. GORMAN. We cannot do it.

The CHAIRMAN. The gentleman from North Carolina asked the unanimous consent of the committee to state the reasons why he objected to this bill. No objection being made, the Chair considers that the gentleman has a right to make his explanation.

Mr. STANLY. If my friend from Tennessee, [Mr. JONES,] so skilled in the rules of the House, was just now in order in making a statement to the House of his reasons for withdrawing his objection to a certain bill, I have the same right to state why I cannot withdraw my objection to this bill.

I was about to say that General Armstrong will make a large amount of money out of the public printing. He is reputed to be wealthy; we see him in vigorous bodily health, and able to do hard work, to all appearance. I wish him continuance of good health, and a long and happy life. I cannot, from any certificate of two surgeons, no matter who they may be, vote against the evidence of my own senses. My friend from Tennessee [Mr. HARRIS] says the law contemplates a disability to perform manual labor. Why, Mr. Chairman, can that be so? Suppose a poor fellow, a clerk in any of the Departments, who lives by writing—is wounded after entering into the military service, and he comes back here, resumes his labor in the Department, and is able to write as well as before, with three or four bullets in him, having a place with a high salary, can you say he is "totally disabled," because he cannot cut ditches, or split rails? Then a man of my size never could get a pension. I cannot, and I never could, do such work. The Almighty never made me for such work. He made me small physically. The gentleman's rule will not work at all, as he will see.

Now, I regret to oppose this claim. I regret to oppose anything that looks like doing justice to a soldier who fights for his country as General Armstrong did. No doubt he fought gallantly. I honor him for it. I will vote him a sword; I will vote him a little monument after he is dead—not such a one, it is true, as the monument to Washington, which is to be raised several hundred feet, or the statue to General Jackson—but I will give him all the honor that the gentleman from Tennessee [Mr. HARRIS] wishes or desires. If his family should be reduced to poverty—which Heaven forbid—I will vote him more than this bill provides for. But while he is in vigorous health, wealthy, at the head of a party press, and able to work, I cannot, with a clear conscience, vote for this bill upon the ground of his "total disability." I give these reasons as grounds of my objection to it. We have voted a large amount to Mr. Ritchie; we have paid Boyd Hamilton; I think we ought to pause before voting away too much money.

Mr. LETCHER. I objected to Senate bill No. 70. Since my objection was made, I have had some conversation with gentlemen, who tell me that the provisions of the bill are in accordance with established usage, and therefore, with the consent of the House, I withdraw my objection.

No objection was made, and the bill was accordingly laid aside, to be reported to the House with a recommendation that it do pass.

Mr. HENN. I objected to House bill No. 311, entitled "A bill for the relief of John Frink." I am informed that the report explains away the objection I had to the bill, and therefore I ask leave to withdraw it.

No objection was made, and the bill was accordingly laid aside, to be reported to the House with the recommendation that it do pass.

Mr. MARTIN. I move that the committee rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the Chair, the chairman of the committee (Mr. HALL) reported that the Committee of the Whole House had had under consideration the Private Calendar, and had instructed him to report to the House House bills Nos. 247, 250, 274, 285, 320, 321; Senate bills Nos. 152, 276, 194, 195, 234, 238, 239, 244, 98, 176, 204, 70, 208; joint resolutions Nos. 21, 28, and Senate resolution No. 16, with a recommendation that they do pass; and also Senate bill No. 407, with an amendment, with a recommendation that it do pass.

Mr. SACKETT. I would suggest to the House that the Clerk read over the titles of all the bills which were reported with a recommendation that they do pass, and that we proceed to vote upon them in the aggregate, with the exception of those upon which a separate vote may be requested by some member. If it be in order, I move to proceed in that manner.

Mr. GOODENOW. House bill No. 247, for the relief of James Glynn, was laid aside and reported to the House with a recommendation that it do pass. The same is the case with Senate bill No. 234. Both bills refer to the same subject, and are substantially the same. I now ask that the first-named bill, No. 247, be laid upon the table, with the view of having the vote taken on the passage of the Senate bill.

The SPEAKER. The Clerk will report the bills which have just been reported from the Committee of the Whole by their titles, and if any

gentleman desires a separate vote upon any one bill, it will be taken out, and all to which there is no objection will be voted upon together; and House bill No. 247, to which the gentleman from Maine [Mr. GOODENOW] refers, will be left until the House disposes of all the others.

Mr. COBB. Senate bill No. 152, entitled "An act for the relief of John F. Callan, administrator of Daniel Renner, deceased," should be amended in its title. When that bill was drawn, John F. Callan was the administrator of Daniel Renner, but since that time he has resigned, and Mary B. Renner, widow of the deceased, has been appointed administratrix in his place. I ask that "John F. Callan, administrator," be stricken out, and "Mary B. Renner, administratrix," be inserted in its place. I make the motion that the bill be so amended.

The question was put, and the amendment was agreed to.

The following House bills were then taken up, ordered to be engrossed and read a third time, and having been engrossed, they were subsequently read a third time, and passed, viz:

H. R. No. 320. A bill for the relief of James H. Jenkins.

H. R. No. 321. A bill for the relief of John Frink.

J. R. No. 28. A joint resolution granting the petition of William and Matthew Moss.

H. R. No. 250. A bill for the relief of S. Morris Waln.

H. R. No. 274. A bill for the relief of Jasper A. Maltby.

H. R. No. 285. A bill for the relief of Britain Franks, assignee of Joseph M. Smith.

Mr. HALL. I move that House bill No. 247, entitled "A bill for the relief of James Glynn," be laid upon the table, it being similar to Senate bill No. 234.

The question was taken, and the motion was agreed to.

So the bill was laid upon the table.

The following Senate bills were then taken up and ordered to a third reading, and subsequently, according to order, were severally read the third time and passed, viz:

S. No. 153. An act for the relief of John F. Callan, administrator of Daniel Renner, deceased.

S. No. 194. An act for the relief of Jacob Young.

S. No. 195. An act for the relief of Margaret Farrar.

S. No. 234. An act for the relief of James Glynn.

S. No. 238. An act for the relief of Thompson Hutchinson.

S. No. 239. An act for the relief of Elizabeth Jones, and the other children (if any) of John Carr.

S. No. 244. An act for the relief of the heirs of the late Major Thomas Noel, United States Army.

S. No. 98. An act for the relief of Sarah D. Mackay.

S. No. 176. An act for the relief of William Bedient, late a sergeant in the fourth regiment of artillery.

S. No. 204. An act for the relief of Guion & McLaughlin.

S. R. No. 16. A resolution for the relief of Alexander Y. P. Garnett.

S. No. 70. An act for the relief of the widows and relatives of certain officers and seamen of the United States brig Washington, who were lost overboard in a hurricane.

S. No. 276. An act for the relief of Colonel James R. Creecy.

The SPEAKER. There is another bill reported from this committee—Senate bill No. 407, "An act for the relief of Jim Capers," with an amendment.

The amendment was as follows:

Strike out the words "amounting to the full pay of a musician," and insert in lieu thereof, "eight dollars per month."

The question was taken on agreeing to the amendment of the committee, and it was decided in the affirmative.

The bill was then ordered to a third reading, and it was subsequently read a third time and passed.

Mr. COBB. I move to reconsider the vote by which Senate bill No. 152, was passed, and also to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER. There are two or three private bills, reported from the Committee of the Whole at a former session, the consideration of which is the first business in order.

PATRICK GASS.

The following bill was then taken up for consideration, "A bill for the relief of Patrick Gass."

The SPEAKER. A motion is pending to lay that bill upon the table.

Mr. COBB. When that bill was last up, I made a motion to lay it upon the table. But at the request of the honorable gentleman from Virginia, [Mr.———,] I withdraw it.

Mr. JENKINS. I desire to set forth a few reasons why that bill should not pass.

The SPEAKER. If the gentleman objects to the bill, it must go over.

Mr. JENKINS. I object to it.

The SPEAKER. Then the bill goes over.

FRAUDS UPON THE TREASURY.

Mr. KING, of New York. I ask the unanimous consent of the House to take up the bill which passed this House a few days ago, to prevent frauds upon the Treasury, and which has come back from the Senate with amendments, in order that it may be referred to the Select Committee that they may examine and report it back again.

No objection was made, and the bill was taken up and referred as indicated above.

LIEUTENANT BARTLETT HINDS.

The next bill that came up in order for consideration was, "A bill for the relief of Lieutenant Bartlett Hinds."

Mr. SACKETT. I object to that bill.

The SPEAKER. The bill must then go over under the rule.

LEWIS E. SIMONDS.

The next bill that came up in order for consideration, was, "A bill for the relief of Lewis E. Simonds."

The bill was ordered to be engrossed and read a third time; and having been engrossed, it was subsequently read the third time, and passed.

Mr. KING, of Rhode Island. I move to reconsider the vote by which the bill was just passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

BAIL—IMPRISONMENT FOR DEBT.

Mr. CLINGMAN. As we have now disposed of these bills, I ask the general consent of the House to take up and act upon the bill from the Senate, which was read this morning, in relation to bail in civil cases in this District.

Mr. GOODENOW. I object to taking up that bill at this time, and I ask the unanimous consent of the House to take up bill——

Mr. CLINGMAN. I object to the gentleman's bill. [Laughter.]

Mr. SACKETT. I hope the gentleman from Maine [Mr. GOODENOW] will not object to taking up the bill referred to by the gentleman from North Carolina, [Mr. CLINGMAN.]

Mr. GOODENOW. I withdraw my objection.

Mr. SWEETSER. I object.

PENSION BILL.

Mr. COBB. I rise to what I deem a privileged question. Although this is private bill day, I desire action upon a public bill. However, the Chair is to decide whether the question is or is not a privileged one. I am directed by the Committee of Conference on the disagreeing votes of the two Houses on the bill of the Senate (No. 477) to continue half pay to certain widows and orphans to submit a report, in which, in order to further the best interests of widows and orphans, I move a concurrence.

The SPEAKER. The report of the Committee of Conference in that case was sent in this morning from the Senate, and the Chair would suggest that we had better take up and concur in that report.

Mr. COBB. I have no objection, and I then move to take up that report, which is a *fac simile* of the one I sent to the Clerk's desk.

Mr. DEAN. This is objection day, and being opposed to the pensioning of all widows and the rest of mankind, I object to the motion.

The SPEAKER, (Mr. JONES, of Tennessee, in the chair.) This is not one of the cases which comes under the rule and can be objected to. The calendar, and all business of a private character to which objection could be made, has been disposed of. This is a public bill, to which objection will not lie.

Mr. STANTON, of Tennessee. I rise to a privileged question. I move that the vote by which "An act for the relief of the widows and relatives 'of certain officers and seamen of the United States 'brig Washington, who were lost overboard in a 'hurricane," has passed, be reconsidered, and that the motion to reconsider be laid on the table.

Mr. STANTON, of Ohio. I do not think the motion of the gentleman is right. There is no danger of a motion to reconsider, if bills are properly passed. Gentlemen ought to rest satisfied with their passage, so that, if there should be anything discovered afterwards which would require a reconsideration, the door would be open for it. I dislike the practice, and I intend to object to it.

The SPEAKER. The objection of the gentleman will not lie to the reconsideration.

Mr. STANTON. I have no objection to the bill. I only object to the practice of, after bills are passed, moving a reconsideration of the votes by which they were passed, and then that those motions be laid on the table.

Mr. TOOMBS. I object to the bill, and I object to pensions for anybody.

The question was taken, and the motion to reconsider was laid upon the table.

PENSIONS TO WIDOWS AND ORPHANS.

The SPEAKER. The report of the Committee of Conference will be read:

The Reporter here presents, with the report of the Committee of Conference, the amendments of the two Houses to the bill, and the bill as it will read, should the report of the conferees be concurred in, viz:

The House amended the bill of the Senate by adding at the end thereof the following:

Provided further, That the provisions of this act be extended to the widows and orphans of officers and soldiers of the war of 1812 and the Florida war.

The Senate agreed to the above amendment, with the following as an addition thereto, viz:

SEC. 2. *And be it further enacted*, That the widows of all officers, non-commissioned officers, soldiers, musicians, and privates of the revolutionary army, who were married subsequent to January, A. D. 1800, shall be entitled to a pension in the same manner as those who were married before that date.

The House disagreed to this amendment of the Senate, and agreed to a Committee of Conference asked by the Senate.

The following is the report of the conferees of the two Houses, as concurred in by the Senate:

The Committee of Conference on the disagreeing votes of the two Houses on the amendments to Senate bill No. 477, have agreed to the following report:

Strike out all after the word "*that*," in the proviso of the House, and insert the following:

"That the act approved the 22d of February, 1849, granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians, and privates, both regular and volunteer," be so extended and construed, as to embrace the widows and minor heirs of the officers, non-commissioned officers, musicians, and privates of the regulars, militia, and volunteers of the war of 1812, and of the various Indian wars since 1790.

And said committee further agree to recommend to strike out the word "*soldier*," in the Senate amendment to said bill, and the adoption of said amendment as amended.

W. R. W. COBB,
G. PORTER,
I. G. HARRIS,
House committee.

H. HAMLIN,
SOLON BORLAND,
GEO. W. JONES,
Senate committee.

The following will be the provisions of the act, if the report of the Committee of Conference be concurred in by the House, viz:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all widows and orphans who were granted and allowed five years' half-pay by the provisions of the act approved the twenty-first day of July, one thousand eight hundred and forty eight, entitled "An act amending the 'act granting half pay to widows or orphans where their 'husbands or fathers have died of wounds received in the 'military service of the United States, in case of deceased 'officers and soldiers of the militia and volunteers, passed 'July fourth, one thousand eight hundred and thirty-six," or an act approved the twenty second day of February, one thousand eight hundred and forty-nine, entitled "An act

granting five years' half pay to certain widows and orphans of officers, non-commissioned officers, musicians and privates, both regulars and volunteers," be and they are hereby granted a continuance of said half pay, under like limitations and restrictions, for a further period of five years, to commence at the expiration of the half pay provided for by the aforesaid acts: *Provided*, however, That in case of the death or marriage of such widow before the expiration of said term of five years, the half pay for the remainder of the term shall go to the child or children of the deceased officer or soldier, whilst under the age of sixteen years; and in like manner the child or children of such deceased, when there is no widow, shall be paid no longer than while there is a child or children under the age aforesaid: *And provided further*, That no greater sum shall be allowed in any case to the widow or the child or children of any officer than the half pay of a lieutenant colonel: *Provided further*, That the act approved the 22d of February, 1849, "granting five years' half pay to certain widows and orphans of officers, non commissioned officers, musicians, and privates, both regular and volunteer," be so extended and construed as to embrace the widows and minor heirs of the officers, non-commissioned officers, musicians, and privates of the regulars, militia, and volunteers of the war of 1812, and of the various Indian wars since 1790.

SEC. 2. *And be it further enacted*, That the widows of all officers, non-commissioned officers, musicians, and privates of the revolutionary army, who were married subsequent to January, A. D. 1800, shall be entitled to a pension in the same manner as those who were married before that date.

Mr. COBB. I think that I have on former occasions manifested to the satisfaction of the House, at least, my zeal for the protection of the orphan and widow. It is out of that zeal that I now press this matter for action. Members having approved of the amendments attached to the bill a few days ago, I rest assured that the slight amendments made since will not meet with their opposition. Believing, then, that the matter is thoroughly understood, I call for the previous question on concurring in the report of the conference committee.

Mr. MILLSON. Will the gentleman withdraw his call, to allow me to make an inquiry?

Mr. COBB. I will withdraw it, that the gentleman may make his inquiry.

[Cries of "No!" "No!"]

Mr. COBB. Everybody seems to be calling out No! and I say No! too. [Laughter.] I do not withdraw my call. I presume there is no objection to the report—that it is all right.

Mr. TOOMBS. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

The call for the previous question was then seconded, and the main question was ordered to be put.

The SPEAKER. The question now is on concurring in the report of the committee.

Mr. TOOMBS. I demand the yeas and nays on that question, that I may record my vote against it if nobody else does.

Mr. TUCK. As I believe this to be one of the most important bills to be passed——

[Cries of "Order!" "Order!"]

The SPEAKER. The gentleman cannot now debate the question.

Mr. TUCK. I would inquire, Mr. Speaker, if it be in order to ask for the reading of the bill, so that we may know before we vote what we are voting on?

The SPEAKER. The Chair will state to the gentleman from New Hampshire that the bill is not before us. We are now acting on the report of the Committee on Conference on the disagreeing votes of the two Houses on that bill. What that committee has reported has been read to the House by the Clerk, and it is for the House to determine whether it shall be agreed or disagreed to.

Mr. TUCK. I would then inquire whether this matter may not lay over and be ordered to be printed, so that we may examine what we are called on to concur in?

The SPEAKER, (Mr. JONES in the chair.) Not now, the House having ordered the main question to be put on the question of concurrence in the report of the Committee of Conference.

Mr. TUCK. I move, then, with the unanimous consent of the House, that the bill be printed. I make no factious opposition, but let us see——

Mr. CAMPBELL, of Illinois. I object.

Mr. SACKETT. I move that the House do now adjourn.

Mr. TUCK. I am in favor of that motion; but before it is put, I would ask, by the unanimous consent of the House, that the bill be printed.

Mr. ORR. I object.

Mr. LETCHER. I demand the yeas and nays on the motion to adjourn.

Mr. DEAN. I move that when the House adjourns to-day, it be to meet on Monday next.

The question was taken, and the motion was disagreed to.

The yeas and nays were refused on the motion to adjourn.

The question was put, and there were, on a division—ayes 56.

Mr. TOOMBS. I demand tellers.

Tellers were ordered; and Messrs. DEAN and FAULKNER were appointed.

The question was taken, and the House refused to adjourn; the tellers having reported—ayes 50, noes 67.

Mr. TOOMBS. I move that the report of the Committee of Conference be laid on the table; and on that motion demand the yeas and nays.

Mr. McMULLIN. I move that the House do now adjourn, so that members may have an opportunity of investigating the subject and voting understandingly.

Mr. HART. I move that when the House adjourns to-day, it be to meet on Monday next.

Mr. McMULLIN. I withdraw my motion to adjourn.

The question was then taken on the motion of Mr. HART, and it was disagreed to.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn, and on that motion demand the yeas and nays.

The question was taken on ordering the yeas and nays, and they were not ordered, there being on a division—ayes 19, noes 104; not one fifth.

Mr. JOHNSON, of Arkansas. I submit that there will be no further trouble if the motion to lay the report on the table be put to the House.

Mr. DEAN. If this report be allowed to be ordered to be printed, there will be no objection. We want to know what it is.

The SPEAKER. There is no motion pending to print the report, and it cannot be submitted unless by unanimous consent.

The question was then taken on the motion to adjourn, and it was disagreed to.

Mr. McLANAHAN. I move, with the unanimous consent of the House, that the report be printed.

Mr. COBB. I move, also, that the bill be printed.

The SPEAKER. The question now is on the motion that the bill be laid on the table.

Mr. JOHNSON, of Arkansas. I demand the yeas and nays.

Mr. DEAN demanded tellers on the yeas and nays; which were ordered; and Messrs. HARRIS of Alabama, and SMART were appointed.

The question was then taken, and the tellers reported that there were—ayes 24, noes 64.

A VOICE. That is not one fifth of a quorum.

The SPEAKER, (Mr. JONES, of Tennessee, occupying the chair temporarily.) The present occupant of the chair believes that one fifth of those present can order the yeas and nays.

So the yeas and nays were ordered.

Mr. SWEETSER. I move that there be a call of the House.

The SPEAKER. It is too late to move a call of the House, the main question having been ordered to be put.

Mr. CLINGMAN. I will make this inquiry of the Chair. If the House now adjourn, would not this report of the Committee of Conference appear in the Globe in the morning, and enable the House to know what it is?

The SPEAKER. I suppose that it would appear in the Globe.

Mr CLINGMAN. I will move that the House adjourn.

Mr. HENN. Is it in order to take an appeal from the decision of the Chair in regard to the ordering of the yeas and nays?

Mr. KING, of New York. Can a question be taken without a quorum? On the last division there was no quorum.

The SPEAKER. The Chair will state the question before the House. Pending the consideration of the report of the Committee of Conference, a motion was made to lay that report upon the table. Pending that motion, the yeas and nays were called for. On taking the question upon the demand for the yeas and nays by tellers, they reported 24 in the affirmative and 64 in the negative. The Chair decided that that number being more than one fifth of those present, the yeas and nays were ordered. The gentleman from Iowa [Mr. HENN] appeals from that decision of the Chair. The question is, shall the decision of the Chair stand as the judgment of the House?

Mr. McMULLIN. I move that the House adjourn.

Mr. ORR. I should like the gentleman temporarily to withdraw the motion, that I might ask a question. It was suggested by the gentleman from North Carolina, [Mr. CLINGMAN,] whether this business would not come up as the first business in the morning?

The SPEAKER. The opinion of the present occupant of the chair is, that the main question having been ordered to be put, it will be the first business in order, being unfinished business.

[Cries of "Let us adjourn!" "Let us adjourn!"]

Mr. HENN. If this question lies over, I will withdraw the appeal.

Mr. McMULLIN. I now renew my motion to adjourn.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till to-morrow, at twelve o'clock, m.

PETITIONS, &c.

The following petitions were presented under the rule and referred to the appropriate committees:

By Mr. CABLE, of Ohio: The petition of citizens of Stark county, Ohio, in favor of the passage of House bill No. 7, to encourage agriculture, &c.

By Mr. HENN: Joint resolution of the Legislature of Iowa, asking the establishment of an additional land office in the northern part of said State.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 29, 1853.

The House met pursuant to adjournment.

Prayer by Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the motion made by the gentleman from Georgia [Mr. TOOMBS] to lay on the table the report of the Committee of Conference on the amendments to the bill of Senate No. 447, to continue half pay to certain widows and orphans. Upon the motion to lay the bill upon the table the yeas and nays were ordered.

Mr. GOODENOW. I ask the unanimous consent of the House to take up Senate bill No. 224, entitled "An act to amend and extend the provisions of the act entitled 'An act for the relief of the widows and orphans of seamen and marines of the United States.'" This bill is from the Senate, and is similar to the one passed on yesterday for the relief of the widows and relatives of certain officers and seamen of the United States brig Washington. I hope it will be taken up and passed.

Mr. COBB. We had better pass the other bill first in order, and then I will have no objection to action upon the bill referred to by the gentleman. It may bring up some discussion.

Mr. GOODENOW. If it brings up any discussion I will not press it.

Mr. COBB. I have no objection to the bill.

Mr. SWEETSER. I object to all bills taken out of their regular order, except the one for General Riley.

Mr. GOODENOW. I appeal to the gentleman to withdraw his objection. The bill is for widows and orphans.

GENERAL RILEY.

Mr. HAVEN. I desire to call the attention of the House one moment to a bill which I wish to introduce, but, from the temper of the House, I feel that it will not avail me. I desire to introduce, in pursuance of notice given, a bill for the relief of Brevet Brigadier General Bennet Riley, to enable him to settle his accounts.

Mr. VENABLE. It ought to be done.

Mr. JONES, of Tennessee. I will say to the gentleman and the House, that they had better dispose of the pending question, and then take up this bill.

The bill for the relief of Brevet Brigadier General Riley, and to enable him to settle his accounts with the United States, was then read a first and second time by its title.

Mr. HAVEN. My intention was to ask the

House to order this bill to be printed, and referred to a Committee of the Whole House, with a view of enabling me to get it up on Monday.

[Cries of "Pass it now!" "Pass it now!"]

I feel bound, after the courtesy of the House upon my suggestion, to say, that if any member of the House objects to the bill going upon its passage, I will not ask it to be put upon its passage. If no one objects, I should like to put it upon its passage. I move the previous question.

[Cries of "Let's pass it now!"]

The bill was then read through by the Clerk.

Mr. MILLSON. Has that bill ever been reported by any committee of the House?

Mr. HAVEN. It was not reported from the committee. The terms of the bill have been under consideration in the Committee on Military Affairs, and it embraces the substance of the bill passed by the Senate and sent here, striking out a donation of $300,000 to the State of California.

Mr. MILLSON. I understand the gentleman to say that he introduced the bill in pursuance of notice. I thought the gentleman introduced it now for the first time.

[Cries of "Pass it!" "Pass it!"]

The SPEAKER. The question is on ordering the bill to be engrossed and read a third time.

Mr. HOUSTON. I wish to ask the gentleman from New York a question connected with the third section of the bill. This section provides for a percentage upon the amount of moneys collected by General Riley in California. Will the gentleman state to the House the amount to be paid under that section?

Mr. HAVEN. I cannot state precisely the amount collected by him, but I understand it was not less than $800,000, and not going up to a million. If there be no objection, I ask to put the bill upon its passage. I move the previous question.

The previous question was seconded and the main question ordered.

The question then being on ordering the bill to be engrossed and read a third time, it was decided in the affirmative.

The bill having been engrossed, was read the third time.

Mr. MILLSON. As that bill contains some provisions I have heretofore considered illegal, I will content myself, on the present occasion, by demanding the yeas and nays, simply to show my own opposition to some of its provisions, without any expectation, however, that the yeas and nays will be ordered.

Mr. STANLY. I understand the gentleman from Virginia [Mr. MILLSON] demands the yeas and nays, and gives no reasons for it.

The SPEAKER. For the purpose of showing his opposition to some of its provisions.

Mr. STANLY. But he does not assign them. I move the previous question.

The previous question was seconded, and the main question ordered.

The yeas and nays were then refused, only eight seconding the demand.

The question then being "Shall this bill pass?" it was taken, and decided in the affirmative.

And the bill was passed.

Mr. HAVEN moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. COBB. I insist upon the consideration of the bill for the relief of widows and orphans.

On motion by Mr. WILLIAMS, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of James Hughes, for the purpose of reference to one of the Executive Departments.

The SPEAKER, by unanimous consent, asked and obtained leave for the withdrawal from the files of the House of the papers in the case of William S. Ross, for the purpose of reference to one of the Executive Departments.

On motion by Mr. NABERS, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the petition of certain citizens of Mississippi, relative to advances to the Pontotoc volunteers, for the purpose of reference to one of the Executive Departments.

[The following message from the Senate was received by the hands of Mr. MEACHAM, its Chief Clerk.

Mr. SPEAKER: The Senate have passed bills of the following titles, viz:

S. No. 296. An act for the relief of the heirs of Colonel William Grayson.

S. No. 370. An act for the relief of Calvin S. Seymour and Willard Boynton, surviving partners of the firm of W. & H. Boynton.

S. No. 394. An act for the relief of Jacob Gideon.

S. No. 449. An act for the relief of Rulif Van Brunt.

S. No. 265. An act for the relief of the captors of the frigate Philadelphia; in which I am directed to ask the concurrence of the House.

The Senate have passed bills of this House of the following titles, viz:

H. R. No. 185. An act for the relief of Maurice K. Simons.

H. R. No. 160. An act for the relief of the heirs of Jeremiah Wingate; the latter without and the former with an amendment, in which I am directed to ask the concurrence of this House.]

PENSIONS TO WIDOWS AND ORPHANS.

The SPEAKER. The business now in order is the motion of the gentleman from Georgia [Mr. TOOMBS] to lay upon the table the report of the Committee of Conference on the amendments of the Senate to the bill to continue half pay to certain widows and orphans, upon which the yeas and nays have been ordered.

Mr. DEAN. I rise to a question of order. The yeas and nays were ordered yesterday, as I understand, by only 24.

The SPEAKER. There is no number named in the Journal. The Journal states the fact that the yeas and nays were ordered.

Mr. DEAN. That is a question of fact.

The SPEAKER. It is a question of fact which does not appear on the Journal at all.

Mr. DEAN. As this is a question which the House ought to settle, I insist that the yeas and nays have not been ordered. Twenty-four gentlemen only voted in favor of the call for the yeas and nays, and 64 in the negative.

The SPEAKER. That is a matter settled by the then occupant of the Chair [Mr. JONES, of Tennessee] and the House. It is not a matter which the present occupant can revise at all.

Mr. DEAN. I presume it now comes up.

The SPEAKER. There does not appear to be any appeal from the decision of the Chair at the time.

The question was then taken on laying the report of the Committee of Conference on the table, and there were—yeas 26, nays 129; as follows:

YEAS—Messrs. Averett, Bocock, Lewis D. Campbell, Clemens, Dunham, Thomas J. D. Fuller, Hall, Sampson W. Harris, Holladay, Houston, George W. Jones, Preston King, Letcher, Martin, Meacham, Meade, Millson, Perkins, Ross, Russell, Snow, Stanly, Alexander H. Stephens, Sutherland, Toombs, Venable, Wildrick, and Woodward—29.

NAYS—Messrs. Abercrombie, Charles Allen, Willis Allen, Allison, William Appleton, Ashe, Barrere, Bartlett, Bell, Bennett, Bibighaus, Bowne, Bragg, Breckinridge, Brenton, Albert G. Brown, Burt, Busby, E. Carrington Cabell, Joseph Cable, Caldwell, Cartter, Chapman, Chastain, Clark, Clingman, Cobb, Colcock, Cottman, Cullom, Curtis, Darby, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Doty, Duncan, Edgerton, Edmundson, Faulkner, Fay, Ficklin, Florence, Floyd, Freeman, Henry M. Fuller, Gamble, Gaylord, Giddings, Gilmore, Goodenow, Goodrich, Gorman, Green, Grey, Hamilton, Harper, Haws, Hascall, Hendricks, Henn, Hillyer, Horsford, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George G. King, Kuhns, Kurtz, Landry, Little, Mace, Mason, McMullin, McNair, Miller, Miner, John Moore, Morehead, Morrison, Murphy, Murray, Nabers, Newton, Orr, Andrew Parker, Samuel W. Parker, Penn, Phelps, Porter, Price, Richardson, Robbins, Robie, Schoonmaker, David L. Seymour, Origen S. Seymour, Smart, Smith, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, Stuart, Sweetser, Taylor, Thurston, Tuck, Walbridge, Washburn, Watkins, Welch, Wells, Addison White, Wilcox, Williams, and Yates—129.

So the House refused to lay the report upon the table.

Pending the call of the roll on the above vote,

Mr. PENNIMAN, who was not within the bar when his name was called, asked unanimous consent to have his vote recorded.

Mr. HOUSTON objected.

The question recurred on agreeing to the report of the Committee of Conference, and being put, it was decided in the affirmative.

So the report was agreed to.

Mr. COBB moved to reconsider the vote by which the report was agreed to, and also moved to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

SELECT COMMITTEES.

Mr. McNAIR. I rise to make an inquiry of the Chair. It will be recollected that near the close of the last session of Congress, a resolution was passed that the unreported business of the last session before the standing committees should be recommitted to those committees at the commencement of this session. An amendment was made to that resolution to the effect that the business before the select committees should also be recommitted. Now, what I desire to know from the Speaker is, whether those select committees exist or not?

The SPEAKER. It is true, as the gentleman from Pennsylvania states, that at the last session there were several select committees raised, having matters of business in their hands. At the close of the session, it was ordered by the House that all the business belonging to each of the committees of the session should be returned, or turned over to similar committees at this session. It is true, nevertheless, that the committees of the last session did not hold over. There was no authority, in the opinion of the Chair, for him to reappoint those select committees. Yet it would seem to have been in contemplation by the House that the Speaker should do so, or that new special committees should be appointed. If it is the pleasure of the House, the Chair will appoint select committees, such as existed at the last session.

Mr. STEPHENS, of Georgia. I object. I notice in the proceedings of yesterday that a matter was referred to a select committee which is *functus officio*, so that the reference was clearly out of order, and I intend to move to reconsider the vote by which it was made.

The SPEAKER. There was a select committee appointed to hold over, by order of the House, which has made a report during the present session.

Mr. STEPHENS. That committee ceased to exist when the report was made, and therefore the matter was improperly referred to it yesterday.

The SPEAKER. In the opinion of the Chair, the select committees of last session do not exist this session.

Mr. STEPHENS. So I think.

Mr. McNAIR. Then I wish to inquire of the Chair whether the standing committees that did not report last session do not stand in the same situation as the select committees do?

The SPEAKER. The standing committees have all been appointed for this session, and might have been made up by the Speaker of very different materials from the committees of last session.

Mr. McNAIR. Then it is not necessary, I suppose, to read the resolution and amendment adopted at the close of the last session?

The SPEAKER. The Chair would be glad if the House would indulge the gentleman in having the resolution read, for it would seem to have contemplated the appointment of these select committees for this session. The Chair, however, on looking at it, did not feel authorized to appoint them without an order of the House.

Mr. McNAIR. Then I ask the Clerk to read the resolution.

The Clerk read the resolution, as follows:

"*Resolved*, That all bills, resolutions, and other matters referred to the standing and select committees of this House upon which no reports shall have been made at this session, shall be returned informally to the Clerk, and shall by virtue of this resolution stand recommitted at the commencement of the next session to said committees into whose possession the Clerk is hereby directed to restore them."

The SPEAKER. The resolution provided that the matters in the hands of the committees of the last session should be recommitted to the standing and select committees this session. But there is no authority directly given to the Chair by that resolution to reappoint them.

Mr. NcNAIR. Then I move that the Select Committee on the foundations of the extension of the Capitol be reappointed.

The SPEAKER. Shall the Chair appoint select committees similar to those of the last session?

Mr. STEPHENS. I object. I rise to a privileged question. Yesterday there was a motion made——

Mr. McNAIR. Mine is a privileged question.

The SPEAKER. The gentleman from Pennsylvania claims that his is also a privileged question.

Mr. STEPHENS. Is it a privileged question?

The SPEAKER. Yes; the Chair so understands it.

Mr. McNAIR. This is a matter in which many of the members of this House are very much interested. The Select Committee on the foundations of the new wings of the Capitol went to considerable trouble in getting evidence in that investigation. Witnesses were summoned not only from Washington city, but they were brought from Boston and New York. We labored a long time in the matter, and that investigation was a very curious one. If the report could come before the House, it would no doubt interest a great many gentlemen here.

Mr. HOUSTON. I must object to these remarks.

The SPEAKER. The course of remark in which the gentlemen from Pennsylvania is indulging is certainly not strictly in order.

Mr. McNAIR. Well, sir, I will only say that a majority of the Select Committee signed a report, but it was impossible to present it to the House last session because the standing committees were not all called, and the select committees could not report until they were through. Now, the whole inquiry is cut off by the death of that committee.

The SPEAKER. If the gentleman will allow the Chair, the Chair desires to call the attention of the House particularly to the language of the order made by the House at the last session:

"On motion by Mr. STANLY, by unanimous consent, the resolution was amended by inserting after the word 'standing,' the words 'and select,' so that the resolution reads thus:

"'*Resolved*, That all bills, resolutions, and other matters 'referred to the standing and select committees of this 'House upon which no reports shall have been made at 'this session shall be returned informally to the Clerk, and 'shall, by virtue of this resolution, stand recommitted at the 'commencement of the next session to said committees, 'into whose possession the Clerk is hereby directed to 'restore them.'"

Now, the Chair doubted whether he had authority to reappoint the select committees without the order of the House, or having the sense of the House on that subject. The Chair hopes, therefore, that the House will indicate by a vote what are its wishes in regard to the matter.

Mr. STEPHENS. I object to the introduction of this subject in this way.

The SPEAKER. The Chair doubts whether it is not strictly a privileged question.

Mr. STEPHENS. How?

The SPEAKER. It relates to the organization of this body.

Mr. STEPHENS. We have rules in relation to the organization of the body, which say that we shall have regular standing committees.

The SPEAKER. Suppose the Chair had gone on and appointed these select committees, and, in the opinion of the gentleman from Georgia, had thereby transcended his authority, would it not then have been a privileged question?

Mr. STEPHENS. Certainly; but that is not stating the question fairly.

The SPEAKER. Well, if the Chair has failed to do his duty, is it not a privileged question to inquire into it?

Mr. STEPHENS. Perhaps the Chair is right.

The SPEAKER. The Chair thinks so. The question is, "Shall the Chair reappoint the select committees of last session?"

Mr. STANLY. That is not the question.

Mr. McNAIR. I only want one committee reappointed.

Mr. STANLY. The motion of the gentleman from Pennsylvania is to reappoint the select committee of which he was chairman. That is the motion he made, and I ask that the question may be put in that way.

The SPEAKER. The gentleman from Pennsylvania moves, as the Chair understands it, that the Speaker reappoint the select committees of the last session.

Mr. STANLY. Then I raise a question of order. But I understood the gentleman from Pennsylvania only to move that the select committee with reference to the foundations of the new wings of the Capitol be reappointed.

Mr. McNAIR. That was it. That was the proposition I made.

Mr. STANLY. The gentleman says that was it. If a motion is made to reappoint all the select committees, I shall have a question of order to present.

Mr. STANTON, of Kentucky. This is claimed to be a privileged question, I suppose, because the Chair has not performed his duty. Now, it seems to me, from the reading of the resolution, that by virtue of the resolution itself, the special committees were retained for this session. That, it seems to me, is the exact language of the resolution. If so, this cannot be a privileged question.

The SPEAKER. By the same resolution, the standing committees would have stood over. Well, we all know that each committee dies with the particular session for which it was appointed.

Mr. STANTON. Well, the resolution we passed has the effect I have stated; because, on the face of it, it says that, by virtue of this resolution, the bills and other matters shall be recommitted to the several committees.

The SPEAKER. If the Chair was to act upon that resolution at all, he would appoint the select committees on the same principle that he appointed new standing committees this session. He would not necessarily be confined to the same members at all.

Mr. DUNCAN. By the leave of the Chair, I wish to make an inquiry of the gentleman from Pennsylvania, [Mr. McNAIR.]

The SPEAKER. The gentleman can proceed.

Mr. DUNCAN. I wish to inquire of him, whether his object in reviving the select committee is to enter on further investigations, or simply to be able to report?

Mr. McNAIR. I only wish to be allowed to make a report.

Mr. STUART. I rise to a question of order. I submit to the Chair whether this question, being one with regard to the organization of the House, is debatable?

The SPEAKER. The Chair doubts whether it is.

Mr. JONES, of Tennessee. I understand that the gentleman from Pennsylvania [Mr. McNAIR] has a report prepared by the select committee of last session, but which he had no opportunity to present to the House. I presume he only desires to be allowed to make that report.

Mr. STANTON, of Kentucky. The foundations have been proved to be substantial enough, and there is no necessity for a report.

Mr. JONES. I move to amend the proposition of the gentleman from Pennsylvania, so that the Speaker shall reappoint all the special committees which had not discharged their duties at the last session.

Mr. SUTHERLAND. I was about to propose the same amendment as the gentleman from Tennessee has submitted. I am a member of a select committee which is in the same condition as that to which the gentleman from Pennsylvania belongs. After a great deal of labor, we have drawn up a report of some ninety printed pages, which contains a great deal of very important matter. I think, therefore, that the motion had better be amended so as to apply to all the select committees. The committee to which I belong is the Select Committee on Ether, of which the late Mr. Rantoul was a member.

Mr. STANLY. I understand that the gentleman from Tennessee moves to revive all the select committees of last session, and I therefore raise a question of order, which I wish to have decided by the Chair, and put upon the Journal. I maintain, that by the order of the House last session, which was read a few minutes ago by the Chair, these committees are already in existence, and that the Speaker has got nothing at all to do with any appointments this session. The House ordered, last session, that these committees should continue during this Congress. The gentleman from Alabama [Mr. COBB] introduced a resolution that all the business not acted upon by the standing committees should be recommitted to them at the next session. On my motion, the words "and select" were added, so that all the matters not acted upon should be recommitted to the standing and select committees. Now, I maintain, with all deference to the Chair, that the committees are, therefore, in existence. I make that question distinctly, and I want the decision of the Chair upon it.

Mr. JONES, of Tennessee. The gentleman from North Carolina, upon a moment's reflection, I think, will see that he labors under a misapprehension. The rules provide that there shall be standing committees. The resolution, as stated by the gentleman, not only refers to the select committees, but also to the standing committees; but at the commencement of the present session, an order was given for the Speaker to appoint the standing committees. Now, suppose that upon the assembling of Congress at the commencement of the present session, all the members of the select committee of which the gentleman from North Carolina is a member, had resigned, there would have been no members of that committee here. Or suppose all the members of the select committee of which the gentleman from Pennsylvania [Mr. McNAIR] is a member, had resigned, to whom would these papers, returned informally to the Clerk, at the last session, have been referred, when there was no committee in existence?—for there would have been no committee in existence. It has been the uniform practice of the House to appoint committees at the beginning of every session, but the Speaker has never appointed them without an order of the House.

Mr. STANLY. My friend from Tennessee is not arguing the question before the House at all. He is the shrewdest man here upon these questions of order. If he gets a little cornered, he will turn the matter off upon something that is not before the House. He knows very well how to do those things; but he will not avoid me this time. He says, suppose the members of the select committees had all died. Well, sir, suppose they had died; suppose the Speaker had died, or suppose all the members of the House had died—you may answer the supposition by supposition.

Mr. JONES. If they had, would this resolution have been binding when Congress assembled the first Monday in December? To whom would the uncommitted matters have been referred?

Mr. STANLY. If they had all died, of course the matters subject to the action of the resolution would not have been referred to any committee; for there would have been no committee to refer them to. Mr. Speaker, I raise this point of order, and I want the Chair to decide it. There is no objection to the appointment of this committee, which my friend from Pennsylvania desires, if necessary. What I maintain is, that there is no need of the reappointment.

The SPEAKER. The Chair will decide that question.

Mr. HOUSTON. There is one other point which I desire to present, and I will do it in a few words. It is this: I understand the Chair to have decided, the present session, that the reports of even the standing committees appointed the last session could not be made until they had been reappointed the present session. Now, this being the case, unless there be an order of the House bringing this committee again into existence, the report of the last session cannot be made.

Mr. STANLY. That is the point. I contend that exactly the reverse is true, and I want the decision of the Chair upon the subject.

The SPEAKER. "All committees shall be appointed by the Speaker," says the rule, "unless otherwise specially directed by the House, in which case they shall be appointed by ballot," &c. But it has been the uniform practice of the Speaker to wait the indication of the House before appointing the committees.

Mr. STEPHENS, of Georgia. But there is another rule which expressly provides that the committees shall only hold for the session of Congress in which they were appointed.

Mr. STANLY. My friend from Georgia forgets the resolution of the House of the last session, continuing them on to the present session.

Mr. STEPHENS. I take it for granted that this resolution contemplated that the same state of things would continue so far as the appointment of committees was concerned, that the House at the beginning of this session of Congress would do what the rules required, and the usual committees would be appointed. The resolution, as I understand it, provided simply that the business remaining in the hands of the committees of the House, at the close of the last session, should be again committed to the appropriate committees when they should be appointed at the present session of Congress.

Mr. STANLY. That is not in accordance with the language of the resolution.

Several VOICES. It is the spirit of the resolution.

The SPEAKER. The Chair again asks the

House to hear the rule read, that they may understand the principle upon which he makes his decision.

Mr. STUART. Will the Chair first allow me to submit a motion?

The SPEAKER. The Chair assumes the right to make a speech upon this question of order, and the gentleman must not interrupt him.

Mr. STUART. I have no objection to that, but I desire to submit a motion, that it may come up when this question of order is disposed of.

[Cries of "Order!"]

Mr. STANLY. I call the gentleman to order.

The SPEAKER. The gentleman from Michigan would not treat the Chair with disrespect.

Mr. STUART. I mean no disrespect whatever to the Chair. I simply desire to ask that after the Chair has stated his decision, that he will state to the House that I demand the previous question. That is all. I say again that I mean nothing but perfect respect to the Chair.

Mr. STANLY. I raise a question of order upon the gentleman from Michigan. I ask the Speaker to inform the House what right that gentleman has to request that, after the Speaker has decided this question, he shall inform the House that the gentleman from Michigan has now demanded the previous question?

The SPEAKER. The Chair will decide that question of order when it shall arise. The rule says:

"7. All committees shall be appointed by the Speaker, unless otherwise specially directed by the House, in which case they shall be appointed by ballot."

That is one rule. The 76th standing rule of the House provides that "twenty-eight standing committees (to consist of nine members each) shall be appointed at the commencement of each session." Now, it is very clear that each of these committees dies with the session for which and at which it was appointed. The House made an order for the appointment of the standing committees at the commencement of the present session of Congress, and they were appointed by the Chair; but the House has made no order in reference to the appointment of the select committees, to which this resolution refers. The Chair begs again to read the resolution adopted at the close of the last session.

"That all resolutions and other matter referred to the standing and select committees of this House, upon which no report shall have been made at this session, shall be returned informally to the Clerk," &c.

That is the resolution. Now the question is, do these committees exist by virtue of that resolution? If not, it is in accordance with the universal practice of the House to order their appointment. The Chair would be glad if the House would understand precisely the state of things in reference to the appointment of these committees, because the question raised by the gentleman from North Carolina involves, indirectly, a censure upon the Chair for failing to perform his duty.

Mr. STANLY. If the House will allow me a minute: the Speaker states that the point of order raised by myself, indirectly implies a censure upon the Chair.

The SPEAKER. The Chair did not intimate that the gentleman from North Carolina intended any censure.

Mr. WILLIAMS. I move the previous question.

Mr. KING, of New York. I desire to know what is the question before the House?

The SPEAKER. The gentleman from North Carolina [Mr. STANLY] takes an appeal from the decision of the Chair. The Chair does not understand precisely the nature of the appeal, but he supposes it to be from his ruling that the motion made by the gentleman from Pennsylvania [Mr. McNAIR] was in order.

Mr. STANLY. No, sir; that is not my question at all.

The SPEAKER. That is the only question upon which a point of order could, in this connection, immediately arise.

Mr. STANLY. The whole matter is out of order, so far as that is concerned.

The SPEAKER. That involves the point, then, that the gentleman from Pennsylvania was out of order in submitting his motion.

Mr. STANLY. My opinion is—and upon this point I desire the decision of the Chair—that these matters are already, by virtue of the resolution of the last session, before the select committees. If the Chair decides that they are, I submit; if he decides that they are not, and that the committee does not exist, upon that point I take an appeal.

The SPEAKER. The Chair decides that these select committees are not in existence.

Mr. STANLY. From that decision I take an appeal.

Mr. STUART. I move to lay the appeal upon the table.

The question was taken and the appeal was laid upon the table.

So the decision of the Chair was sustained as the judgment of the House.

Mr. STANLY. Will this question of order go upon the Journal?

The SPEAKER. It will, and with it a brief statement of the grounds of the appeal and of the grounds upon which the decision of the Chair was made. This case differs greatly from that mentioned the other day, in relation to which the gentleman proposed to correct the Journal. In that case no appeal was taken.

FRAUDS ON THE TREASURY.

Mr. KING, of New York. I desire to move a reconsideration of the vote by which the bill from the Senate to prevent frauds upon the Treasury, was referred to the Select Committee. My object is that the bill may be brought up at any time hereafter.

The SPEAKER. The motion will be entered.

Mr. STUART. I move the previous question upon the motion of the gentleman from Pennsylvania [Mr. McNAIR] for the appointment of a select committee.

Mr. STEPHENS, of Georgia. The gentleman from New York [Mr. KING] has anticipated me in the motion I desired to make. I stated that I was going to make a motion for a reconsideration of the motion by which the bill in regard to frauds on the Treasury was recommitted. I now call up the motion, and ask its consideration.

The SPEAKER. The entry of the motion of the gentleman from New York has been made.

Mr. STEPHENS. But I want the House to act upon it now.

The SPEAKER. The motion cannot be called up pending the consideration of other business. It can only be entered upon the Journal.

Mr. STEPHENS. Did not the Chair decide that a motion to reconsider was a privileged question, which would take precedence of all other business?

The SPEAKER. Does the gentleman raise a question of order? If he does, the Chair will decide it.

Mr. STEPHENS. As the Chair stated his opinion upon that point the other day, I thought it was in order to call up the motion. Has the Chair reconsidered the opinion he then expressed? It was my opinion that the decision then made was wrong; but, as made, I supposed my motion now in order.

The SPEAKER. The point was not very clearly made the other day, and from the confusion prevailing at that particular moment, from the simultaneous rising of gentlemen to questions of privilege of one character or another, the Chair hardly recollects what his decision was. He decides now that a motion to reconsider may be made and entered at any time, but that it cannot be considered until the particular matter upon which the House is then engaged is disposed of.

Mr. STEPHENS. I think that is right.

Mr. SUTHERLAND. What is the question now before the House?

The SPEAKER. It is the motion of the gentleman from Pennsylvania that the Chair reappoint a select committee, similar to that appointed the last session, upon the foundations of the Capitol.

Mr. SUTHERLAND. What becomes of the amendment of the gentleman from Tennessee, [Mr. JONES,] which is to make the order apply to all the select committees?

The SPEAKER. If the previous question be seconded, the question will be first upon the amendment and then upon the original motion.

The previous question was then seconded and the main question ordered to be put.

Mr. GOODENOW. I move to lay the motion of the gentleman from Pennsylvania upon the table.

The question was then put, and, upon a division, 69 rose in the affirmative.

Mr. FLORENCE. I demand tellers upon the motion.

Tellers were ordered, and Messrs. McNAIR, and DAVIS of Indiana, were appointed

The question was then taken, and the tellers reported—ayes 83, noes not counted.

So the motion was laid upon the table.

Mr. STUART. I move that the House proceed to the business upon the Speaker's table.

The SPEAKER. The first business in order will be the reconsideration of the bill for the relief of Patrick Gass, and one other bill reported from the Committee of the Whole House at the last session.

Mr. STUART. Are they upon the Speaker's table?

The SPEAKER. They are.

Mr. JONES, of Tennessee. I move to take them up for consideration.

The SPEAKER. No motion is necessary to bring them up.

Mr. STUART. I moved to go to the business upon the Speaker's table generally.

Mr. JONES. The gentleman cannot make that motion. This being private bill day, it is not in order to move to go to the business upon the Speaker's table, except for the consideration of private bills.

Mr. STUART. There is no dispute about that. I think the gentleman is right.

Mr. HOUSTON. Does the Chair decide that it is not in order for me to move to suspend the rules for the purpose of going into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair made no such decision.

Mr. HOUSTON. If it be in order, I submit that motion.

Mr. STUART. If I understand the rule, it is not in order—this day being set aside exclusively for the consideration of private business—to go to the consideration of any public business without a two-thirds vote of the House.

The SPEAKER. The decision of the Chair is, that it is not in order to suspend the rules, nor to do anything which involves a suspension of the rules, either by a majority or a two-thirds vote, in relation to the business generally upon the Speaker's table. The Chair decides that it is not in order to go to the Speaker's table upon bills not of a private character.

Mr. STUART. That is not my point. I do not submit that motion.

The SPEAKER. The Chair has not yet put the question upon the motion of the gentleman from Alabama, to go into the Committee of the Whole on the state of the Union.

Mr. STUART. What I wish to state to the House is, that in order to proceed to the business indicated by the motion of the gentleman from Alabama—this being private bill day—the rule requires expressly that a two-thirds vote shall be had. I desire to turn the attention of the Chair to that rule.

The SPEAKER. The Chair recollects the rule very well, and he is not mistaken about the practice of the House. The rule expressly provides that it shall be, at all times, in order to move to suspend the rules and go into Committee of the Whole on the state of the Union; and that has been the uniform practice of the House.

Mr. STUART. I have examined the rules especially upon this point, and I desire again to direct the attention of the Chair to them. The rule provides that private business shall have preference upon Fridays and Saturdays, unless the House shall otherwise order; and then it is stated by a note to that rule, that the House cannot otherwise order, except by a two-thirds vote. It is the note to the rule that I wish to direct the attention of the Speaker to.

Mr. JONES, of Tennessee The 27th rule prescribes at what time the business upon the Speaker's table shall be disposed of, and does not the 28th rule provide that it shall not be in order to go to the business upon the Speaker's table at any other time, without the unanimous consent of the House?

Mr. STUART. The gentleman does not touch my point at all. I will read the 29th rule, and then read the note to it, to which I have referred:

"Friday and Saturday in every week shall be set apart

for the consideration of private bills and private business, in preference to any other, unless otherwise determined by a majority of the House."

That is the rule. The note is as follows:

"Under the rule of the 26th of April, 1828, relative to a postponement or change of the order of business, it has been decided that it takes *two thirds* to proceed to public business on Friday and Saturday. The reason of this decision is, that the rule of the 26th of April, 1828, made no exception in favor of the clause for a *majority* contained in this rule; and that, therefore, that provision was annulled. There have been three appeals upon this point, but the House, in all instances, affirmed the decision in favor of two thirds."

The SPEAKER. The Chair, in his judgment, has not made any decision inconsistent with this rule or note.

Mr. VENABLE. Certainly not.

The SPEAKER. The Chair decides that it would not be in order to go to the consideration of any public business upon the Speaker's table.

Mr. STUART. I am aware that is not in order.

The SPEAKER. Or if it would be in order to make the motion, it would require a two-thirds vote to adopt it. But by an express rule of the House, it is in order to go into Committee of the Whole on the state of the Union at any time, and it has been the universal practice of the House to indulge that motion.

Mr. STUART. So far as the Chair has stated he is correct; but the point I make is this: Whether it is competent to go into the Committee of the Whole on the state of the Union by a majority vote, or whether it requires two thirds?

The SPEAKER. A majority vote only is necessary to carry the House into the Committee of the Whole on the state of the Union at any time the House chooses, and when it is in order to submit the motion. The Chair holds that the motion is now in order.

Mr. STUART. I ask for tellers upon that motion.

Tellers were not ordered.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole upon the Private Calendar.

The SPEAKER. That motion will take precedence of the former one. The gentleman from Alabama [Mr. HOUSTON] moves that the House resolve itself into the Committee of the Whole on the State of the Union, and the gentleman from South Carolina [Mr. ORR] moves that the House resolve itself into a Committee of the Whole House; and the last motion, this being private bill day, must be first taken.

Mr. ORR. Will it be objection day in a Committee of the Whole House?

The SPEAKER. It will not.

Mr. BROWN, of Mississippi. Has the morning hour expired?

The SPEAKER. This being private bill day, we have practically no morning hour.

The question was then taken on the motion of Mr. ORR, and there were, on a division—ayes 92, noes not counted.

So the motion was agreed to.

ANTHONY WALTON BAYARD.

The House accordingly resolved itself into a Committee of the Whole upon the Private Calendar, (Mr. HALL in the chair,) and took up for consideration, as the first business in order, House bill No. 175, for the relief of Anthony Walton Bayard.

The bill provides that in lieu of eight dollars a month, now paid to Anthony Walton Bayard, the Secretary of the Interior shall place his name upon the pension roll at the rate of three hundred dollars a year, to commence the 1st day of January, 1850, and to continue during his natural life.

Mr. MARTIN. I ask for the reading of the report of the committee.

The report was accordingly read, from which it appears, that from the papers of the petitioner, he is entitled to a pension in consequence of several wounds received while in the service of the United States, during the last war with Great Britain, and that he was accordingly placed on the pension roll, at the rate of eight dollars per month, his pension to commence on the — day of March, 1844; that at the time of his discharge he knew that he was entitled to a pension, but, being at that time possessed of some property, he declined making an application for it, supposing that in case his circumstances should ever render it necessary, he would be entitled to receive all arrearages; that he has now become poor, helpless, and decrepit; and inasmuch as no existing law will make him any allowance for arrearages of pension, he prays for the passage of a special act authorizing him to receive such sum of money as will be equal to ninety-six dollars per year from the day of his discharge from the service up to the commencement of his present pension; that, at the time of the battle with the Indians at Fort Harrison, the enemy had succeeded in setting fire to one of the block-houses, from which the fire was communicated to the roof of the soldiers' barracks; that the commanding officer called for volunteers to mount the roof and extinguish the fire, which was within point-blank shot of the enemy's rifles; that the petitioner and another soldier volunteered and mounted the burning roof; that his companion was immediately shot down, and he severely wounded; but that he succeeded in extinguishing the fire, and thus saving a large amount of valuable property to his country, at the imminent peril of his life; that while in the line of his duty, he upon one occasion received a rifle ball through his leg, below the knee; that upon another, he had his jaw-bone and his skull fractured; and that upon a third, a splinter from a shot cut his abdomen completely open for some six inches in length; and that the combined effect of all these wounds renders him incompetent to support himself and family.

Mr. MARTIN. This claim has been reported favorably upon by the several committees of this House. One historical fact connected with this individual is, that at the time Captain Taylor commanded at Fort Harrison, Bayard was a private soldier, belonging to the old line of the United States service.

It will be recollected by most of the members of the House, that the block-house of that fort was set on fire, and that the roof of the store-house and barracks were all in a conflagration. They were surrounded by a large number of hostile Indians, within point-blank shot of that fort.

The roof being on fire, the commanding officer called for volunteers to put out the fire. This man, with another individual, ascended that roof to extinguish the fire. His companion was shot down, and lost his life upon the roof of the building. Bayard succeeded in extinguishing the fire, but came off wounded. He remained a long time in the service, and was always a faithful soldier. He reënlisted a second time, and served upon the western frontier. Among his papers is a letter from General Taylor, which speaks of him in high terms of commendation. During a portion of his time he served as a hospital steward, and while upon the Missouri river, he met with an accident on board a boat, by which he received a serious injury.

This man, in common with other men who have been in the service of the country, so long as he retained his property, and could support himself, refused to apply for a pension, knowing that he would be able to get his pension at any time when he should make application for it; and up to 1844, when the pension was granted, he did get along without it. He supposed that his pension would date back to the time when he was discharged from service, being a period of nearly thirty years.

The committees which heretofore reported upon this case—and I presume the same influence governed them which governs the present committee—believing that this man should be remunerated to some considerable extent, but not believing in the principle of going back and giving back pensions, have adopted this plan of remunerating him.

He is an old man now, a resident of Bellefonte, in Center county, Pennsylvania; a man of high standing and great moral worth, and highly respected, though poor; and if this bill is passed, I think it will be doing no more than exact justice to a private soldier who has rendered important service to the country. An officer who had performed this same service, would have been remunerated years and years ago; and I ask at the hands of this committee that the same justice be meted out to a private soldier, who distinguished himself in the field, and in this case of emergency, as would be dealt out to a man wearing a pair of epaulets.

Mr. HARRIS, of Tennessee. The applicant in this case is petitioning for arrears of pension, and not for an increase of pension. He has had, and has for years been receiving, a total-disability pension. He supposes himself, however, to be entitled to a pension from the day he received his wound up to the time he applied for and received a pension. The committee of this Congress, and I believe every other committee that has examined this case, has repudiated his claim for arrears of pension. But the committee of this House, while they repudiate that claim, have reported in favor of a pension of twenty-five dollars a month to a private soldier who is now receiving a total-disability pension. I have examined the proofs in this case carefully, as a member of the committee to which it was referred, and I find nothing in it beyond the simple fact that the petitioner was a soldier who discharged the duties of his position. He was wounded, and the testimony of physicians show that he was totally disabled, and is entitled to a total-disability pension, which pension he is to-day receiving. There is not one word of proof in the whole case showing these very extraordinary services claimed for him by my friend from New York, [Mr. MARTIN.]

The proof in the case, which is a certificate from General Taylor, shows that he was a soldier who discharged his duties faithfully, and that he was wounded; and the testimony shows that it was a total-disability wound. I cannot find one reason why you should give to this private soldier a pension of twenty-five dollars per month, when you give to all other private soldiers who have performed the same services, and have received like injuries, and who are totally disabled, only eight dollars a month. For that reason I have thought it proper to state the facts to this House, and I shall deem it my duty to oppose, by my vote, the passage of this bill.

A VOICE. Move an amendment.

Mr. HARRIS. There is no necessity for an amendment. He is receiving a total-disability pension already, and this bill proposes, instead of eight dollars, to give him twenty-five dollars a month. It presents the ordinary case which is presented every day to the Pension Office, or to this House, and I can see no reason why you should so far disregard the rules which have governed your legislation, and the action of your Executive Departments heretofore, as to give to one private soldier who has done no more than the discharge of his duty, and who is no more than totally disabled, a pension three times as great as that which you allow to all other private soldiers. I shall, sir, vote against this bill.

Mr. PARKER, of Pennsylvania. This is a special case, brought before the committee under peculiar circumstances. It is a great mistake to suppose that the petitioner claims this additional pension upon the footing of ordinary services. It is not an ordinary case.

Mr. HARRIS, (interrupting.) If the gentleman will allow me, I will say that I speak from the proofs upon record, and there is not one syllable of proof before the House or the country, of the state of facts upon which gentlemen think proper to base the claims of this party; and even if the facts claimed were in proof before the House, they would not change, in my opinion, the principles of the case in any one point of view, or entitle the applicant to any more than he is to-day receiving.

Mr. PARKER, (resuming.) Four times has this case been favorably reported upon by four several committees of the House, and I believe the honorable gentleman from Tennessee stands solitary and alone in his opposition to the bill. That is something. Those committees have reported that the services of Mr. Bayard were services of great value, peculiar and extraordinary. Let no gentleman say that the services rendered by Bayard were ordinary services. They were extraordinary services, and demand more than eight dollars per month, or ninety-six dollars per year. Eight dollars per month is the compensation paid for the ordinary risk of the field and the battle. But Mr. Bayard's risk was an extraordinary one.

Mr. HARRIS. Will the gentleman point to the proof of extraordinary services?

Mr. PARKER. It is something that the four several committee have reported it as a fact, satisfied as they were, no doubt, by competent testimony. I say that the testimony of a Bayard—where a Bayard is known—ought to be enough to satisfy an ordinary man of the truth of the statement. The acts of Bayard prove that he was a brave man, and I am very willing to take the statement of a brave man for proof. Such a man

cannot lie. I have some testimony in my possession. True, Taylor is dead, but he yet speaks. I hold in my possession a letter from a distinguished gentleman in Bellefonte, in which he States that in 1849 he had an interview with General Taylor. In that interview he stated that he recollected Bayard well; that he was in the war of 1812, and that he was one of the defenders of Fort Harrison. On that memorable occasion we know, as a general fact, that there was a garrison of only fourteen men surrounded by some seven hundred and fifty hostile Indians. They were safe against all assaults of the Indians, but not against the perils of fire. In that trying hour, when the block-house was in flames, and the small garrison beset by dangers on every side, General Taylor called for volunteers. Bayard, with a comrade, stepped forward, willing to perform the perilous duty. He, though wounded, and his comrade shot down, by an almost superhuman effort, succeeded in extinguishing the flames, and thereby, in saving the garrison and valuable property of the Government. This is the substantial statement made by General Taylor, whilst President of the United States, to Colonel Andrew G. Curtin, of Bellefonte. I have his letter before me, and, if desired, shall cause it to be read.

Now, under all these circumstances, is the American Congress going to refuse this poor old decrepit man this small pension? Mr. Chairman, if members knew Bayard as others knew him—if they had seen him as others have seen him—if they could see the gash that man bears on his body—his fractured jaw, his broken limb—all opposition to this bill would cease. See him now going along at his halting gait, unable to gain a livelihood by manual labor! That is the man for whose relief this bill is reported, and I hope that it will pass by acclamation.

Mr. BROWN, of Mississippi. So say I.

Mr. PARKER. Enough said, then. I move that the bill be laid aside, to be reported to the House, with the recommendation that it do pass.

The question was then put, and on a division there were—ayes 84.

Mr. ORR. I demand tellers on the motion. Unless all members vote, the committee will be left without a quorum.

Tellers were ordered; and Messrs. HARRIS, of Alabama, and GOODENOW were appointed.

The question was again put, and the tellers reported—ayes 90, noes 24; no quorum voting.

[Cries of "Recount!" "Recount!"]

The CHAIRMAN. If there be no objection, a recount will be made.

There was no objection, and the question was taken, and the tellers reported—ayes 91, nays 26.

So the bill was ordered to be laid aside, to be reported to the House with a recommendation that it do pass.

JOHN H. PIATT.

The next bill on the calendar which came up for consideration was the bill of the House, No. 200, entitled "A bill for the relief of the legal representatives of John H. Piatt, deceased."

Mr. EDGERTON. I move, with the unanimous consent of the committee, that that bill be passed over informally, inasmuch as a large mass of testimony with relation to it has been presented this session which I have not had an opportunity of examining.

There was no objection, and the motion was agreed to.

PHILADELPHIA GAS-WORKS.

The next bill on the calendar which came up for consideration was House bill No. 203, entitled "A bill for the relief of the trustees of the Philadelphia gas-works."

The bill was read through. It provides for the remission of duty collected on an imported telescope gas-holder.

The report of the Committee on Commerce, accompanying the bill was then read.

The report represents that the memorialists, in the year 1845, at considerable expense, sent their superintendent and engineer to Europe for the purpose of procuring models and machinery there known to be in use, by which a more economical manufacture of gas could be made than under the process and by the machinery previously employed. In pursuance of his report, they imported the gas-holder and fixtures, (called the telescope gas-holder,) a most valuable invention, and a great improvement in the arts, which were received in the years 1845 and 1846. That, although drawings for said machinery had been obtained from abroad, our mechanics declined its construction, believing that, without models before them, the work could not be profitably done. The object of importing the same was, that it might serve for models from which their own and the other gas works of the country might have similar apparatus and machinery constructed. That as soon as it arrived, it was exhibited to all who wished to see it, and written invitations sent to the principal manufacturers to call and examine it. Other cities have availed themselves of the means thus afforded, and similar machinery has been made or is now making from these models, by American mechanics, for New York, Brooklyn, Buffalo, New Orleans, Savannah, St. Louis, and for other places, and thus the benefits of this importation have been extended to all the cities in the Union. That a portion of said apparatus imported into New York was admitted duty free; but at the port of Philadelphia, a doubt being expressed by a deputy collector on the subject, Mr. Cresson paid the duties ($1,701 30) under protest, and applied to the Treasury Department for relief. The Hon. Elisha Whittlesey, First Comptroller, to whom the claim was referred, examined the same, and made the following report:

TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE, *July* 19, 1849.

The trustees of the Philadelphia city gas works hearing of a new invention in England, denominated a gas-holder, sent an agent to examine it, and if found to be a valuable improvement, to procure one for the use of the company, and to be a model after which other machines might be constructed. Parts of the machine were landed in Philadelphia in the years 1845 and 1846, on which duties were demanded and paid, under protest. Other parts were landed in New York, on which no duty was exacted. The company supply the city of Philadelphia with gas, at cost.

Machines have been made from this model for Buffalo, Southwark, Spring Garden, Philadelphia city, New York, New Orleans, and Brooklyn, without any charge, and mechanics have been publicly invited to examine the machinery, and to take any drawings of it they might desire. The price of gas has been much reduced to the citizens of Philadelphia. Gentlemen of science say it is an improvement in the arts.

It is described in the protest as being "a part of their apparatus, tools, and machinery."

I think a better description is contained in the 6th article of the 9th section of the act of August 30, 1842, Statutes at Large, page 561, in the words "*models* of *machinery*, and *improvements* in the *arts*," which were by said act admitted free of duty.

My opinion is, that the duty was illegally exacted, and that it should be refunded; and if the honorable Secretary of the Treasury concurs in this opinion, the First Auditor will be pleased to report accordingly.

ELISHA WHITTLESEY.

Mr. CHANDLER. I hardly think it necessary to multiply words after the manner in which Mr. Whittlesey has expressed himself in that letter. Everybody knows that he is a cautious and correct man. Every city of this Union has derived decided advantage in the great reduction of the price of gas, in consequence of the importation of this very economical apparatus.

Mr. STUART. I should like to make an inquiry. The gentleman from Pennsylvania does not state the action of the Secretary of the Treasury on the opinion of Mr. Whittlesey.

Mr. CHANDLER. I do not know what it was. I beg to state to the gentleman that I have not had the care of the bill, but my colleague, [Mr. ROBBINS,] who is not now in his seat. He reported it from the Committee on Commerce. It appears to me, however, that if the Secretary of the Treasury decided the collection of duty was wrong, we should have had no trouble here about the matter. Mr. Whittlesey, and those who have investigated the subject, believe that relief ought to be granted. In any other city duty would not have been charged, because the telescope gas-holder came under that clause of the act of Congress which provided that "models of machinery and improvements in the arts" should be admitted free of duty. Gas companies have sent to Philadelphia for the purpose of copying that model, and it has been productive of very much benefit to the various cities of the Union. I shall say no more, because I believe that all the facts necessary to be known have been stated by Mr. Whittlesey in the letter which has been read.

Mr. STUART. I am not disposed to enter into a discussion of this bill, nor any other private bill of an ordinary character. I paid very close attention to the reading of the report, which develops several important facts. If I can be satisfied in reference to one or two questions involved in it, I will find no difficulty in voting to refund this money. As the case is presented, it does not seem to be one in which the duty ought to be remitted. The facts stated in the report are briefly these: That one portion of this machine was directly imported to the city of Philadelphia, and that another was imported into New York; that on that portion imported into New York, no duty was demanded or paid, and that at Philadelphia, duty was demanded, and paid under protest. The case was presented by virtue of that protest subsequently to the Treasury Department. Reference has been made to Mr. Whittlesey, who has said that the importation was not properly classified under the law, and that it ought to have been classified with models, &c., that are imported free of duty, and he refers that opinion to be sanctioned or rejected by the Secretary of the Treasury. Now, I suppose, if the Secretary of the Treasury had sanctioned that opinion, he would have remitted the duty under the law. He would have decided, in other words, that the duty was improperly demanded, and would have refunded it.

The only inference to be drawn from that report is, that the duty was properly demanded and paid, and therefore that the portion imported into the city of New York ought to have paid duty under the law. So far as this report shows, it is a naked question of whether you will or will not remit the duty, which by your general law was collectable in consequence of the particular character of this machinery? Now, I think that is an important question to be decided by Congress, either on a public or a private bill. If I have understood the report correctly, these are the very facts stated, and this is the single point for us to determine. Will you remit duty fixed by general law because the machinery reported has turned out to be very useful? Now, Mr. Chairman, it is one of the best reasons in the world why duties should not be remitted. I would sooner remit the duties on an importation that had proved disastrous to the importer in the way of experiment which, if successful, would have been a great advantage to the industry, the commerce, or the mercantile pursuits of the country. Here is one, however, that has been vastly beneficial. Its importers have made money out of it. It has answered their most sanguine expectation, and they ought to have paid duties under the law on their whole machine. That part imported into New York ought to have paid duty. Now, it seems to me, as I have no desire to consume time in discussing this or any other ordinary private bill, that the case presents a state of circumstances showing most conclusively that the duties ought not to be remitted. And unless I have much misapprehended that report, it will require some strong reasons to change that opinion. I think the House and Congress should consider very carefully before they adopt the principle of remitting duties where the general law requires those duties to be paid, unless in the cases of calamities by fire where the article has been destroyed.

Mr. CHANDLER. With the permission of the committee, I will submit only a few remarks; I do not wish to occupy much of the time of the committee. I have already stated that the bill was not under my charge, but that of my colleague, [Mr. ROBBINS.] This model was purchased in England, because then there had been no such improvement made in this country. And it is of such a structure that no imitation could be made of it by a mere written or printed description. A part of the model, it would seem, was placed on board of a New York vessel, received at that port, and permitted to pass the custom-house free of duty, under a construction of the law of Congress. A part came to Philadelphia, to which port patents and such matters had not often come previously, and the custom-house officers there expressed a doubt about the subject. It was, therefore, referred here. It is known to mercantile gentlemen here that the construction of the law at the custom-house at New York, it being the principal one in the United States, has been more liberal on these matters than that of Philadelphia or any of the southern custom-houses. I have myself procured the remission of duties on several articles, the duties on which had been paid under the protest under very similar circumstances. I do not know why it should happen there was not a concurrence of the opinion of the Secre-

tary with that of Mr. Whittlesey, whose opinion exercises the greatest influence at all times. I heard yesterday, in reference to a subject under consideration in the House, the expression, "I will vote for it if Mr. Whittlesey warrants it." It was the opinion of Mr. Whittlesey that this article was, as the New York officer declared, included under that clause of the act of Congress providing for the admission of "models of machinery and improvements in the arts" free of duty.

Mr. SACKETT. With the gentleman's permission, I will ask him whether this machine or model—sometimes called the one and sometimes the other—was imported to be put into practical use by the company?—or whether it was only designed as a model, and is still retained as such?

Mr. CHANDLER. I am not able to answer the gentleman's question. This I do know, from my official relation with that part of the city, that whether retained in doors or out of doors, as a model or in practical use, the mechanics of this country, who were connected with the manufacture of gas, or the manufacture of articles of that kind, required the use of this telescope gas-holder, and they were invited to come and copy it; and they did come and make free use of it. It has been a general benefit. It has, indeed, been a model for all. Persons, at the instigation of gas companies, from almost every part of the Union, have come and copied and made use of it. The whole matter, I think, is now before the committee, as much so as I can make it, and I shall therefore consume no further time. I hope there will be no objection now to the laying of the bill aside to be reported to the House, with the recommendation that it do pass.

Mr. SACKETT. I should like, if there be any member present of the Committee on Commerce, from which this bill emanated, the question answered that I propounded to the gentleman from Pennsylvania. I think that the decision of the question whether this bill ought to pass or not is involved in the answer to that inquiry. If it really was imported as a model as the law intended that models of patents should he admitted duty free, it ought not to have paid duty. If, on the other hand, it was a new machine, merely imported to be put into use, though used by others as a model, it was clearly subject to duty. I trust some member of the committee will answer the question.

Mr. McLANAHAN. I am not a member of the Committee on Commerce, from which this bill was reported, but I paid some slight attention to the reading of this report. I will read one sentence of it, which I think will convince the gentleman from New York:

"The object of importing the same, (that is, the telescope gas-holder) was that it might serve for models from which their own and the other gas-works of the country might have similar apparatus and machinery constructed."

The report goes on:

"Other cities have availed themselves of the means thus afforded, and similar machinery has already been made, or is now making from these models, by American mechanics, for New York, Brooklyn, Buffalo, New Orleans, Savannah, St. Louis, and for other places, and thus the benefits of this importation have been extended to all of the cities of the Union."

The object of the importation was the possession of a model to be used in Philadelphia. The advantages resulting from its use have been appreciated by almost every city in the Union.

Mr. FREEMAN. Was not the machine put into actual use?

Mr. McLANAHAN. I know no more than the object of the importation was, that this machine might be used in Philadelphia and throughout the country, as a model of the improvement invented in England, and it was so used.

Mr. CHANDLER. If I may be allowed to reply, I cannot say how it was. They multiplied them. They used several of them, but I cannot tell whether that model is among those in use or not. It was used as a model from which imitations have been made in that city, and for the use of cities in other States.

Mr. FREEMAN. I understand the gentleman that it had been put in practical operation and was very useful.

Mr. CHANDLER. I meant that imitations of it had been used in various parts of the country. It is used as a model.

Mr. SACKETT. I think really the whole question resolves itself into this: Any man may import valuable machinery, which of course is used as a model. That is the natural consequence of importation; but that was not the intention of the law. The question is, whether it was a model, imported as a model, and not a machine imported for use. It may have been used as a model by which to manufacture others.

Mr. CHANDLER. I beg to reply that it was imported as a model.

Mr. DUNCAN. Having paid a close attention to this subject, when it was under discussion on a former occasion in the House, and having formed a very decided opinion that a liberal and proper action on the part of Congress would remit those duties, I am induced to offer a few remarks to the House. The facts of the case are these: The manufacture of gas was early introduced into the city of Philadelphia. Being aware that great improvements had been made in its manufacture in the city of London, and knowing that machinery could not be imported without a duty, desirous also to encourage their own mechanics, they sent an agent to England, who brought out drawings and specifications for the manufacture of this machinery. They submitted it to their mechanics in Philadelphia, but not having executed any work of that kind, they declined to undertake it. The company were then compelled to import the article itself in a finished state from Great Britain. They did so import it, and when it arrived in this country, it was exhibited, as has been stated, to those interested in the manufacture of gas in New York, and in various cities named in the report; and it was used by them as a model for constructing additional gas machinery in Philadelphia and in other places.. I learn from the report that this identical machine was put into practical operation, and I suppose it is on that account that the Secretary of the Treasury gave a construction to the law that it did not come under the class of models. I presume it is for that reason, and that reason alone, that he declined to remit the duties.

Mr. SWEETSER. I desire to ask the gentleman a question. How long is it since this machine was imported?

Mr. DUNCAN. The agent was sent out in 1845. The machine was imported in 1846.

Mr. SWEETSER. Did it not appear from the papers that the use of this machine by the company who imported it was a matter of speculation for the manufacturers to sell to surrounding cities?

Mr. DUNCAN. They have been reducing the price of gas in Philadelphia, which thereby led to a reduction of the price of gas in other cities, from time to time, ever since they introduced it. It is afforded to citizens of Philadelphia at actual cost. In point of fact, though this machinery went into practical use, it still served as a model not only for machinery to be made in Philadelphia, but for machinery to be made in other places. I hold, therefore, that it is a case where this Congress could remit the duties by exercising that due degree of liberality with which they ought to act.

Mr. STEPHENS, of Georgia. Is this the bill reported by the Committee on Commerce?

Mr. ROBBINS. Yes, sir. It is the bill reported by that committee. The duties have been remitted on a similar model at New York, but it was under a different construction of the law.

Mr. DUNCAN. This Government is not a Jew, taking the pound of flesh—taking all it can get and keeping all it can take.

Mr. FREEMAN. Was the machine a model at all? Was not the original machine itself entirely completed, and did it not go into practical service? That is what I understand the gentleman to admit.

Mr. DUNCAN. I presume that was the fact.

Mr. FREEMAN. Then it was not a model of the machine.

Mr. DUNCAN. Every machine is a model of every other machine of the same kind.

Mr. FREEMAN. A model in our Patent Office is technically named. It is not the machine prepared to go into actual operation, but a model of that machine.

Mr. DUNCAN. I said, in my remarks, that technically it did not come under the description of a model, but in fact it is a model by which all other machinery of the same kind, since its importation, have been and can be made.

Mr. FREEMAN. Is not every machine a model after which other machines may be made?

Mr. DUNCAN. Of course every new machine is a model after which other machines may be made.

Mr. FREEMAN. Is it not true, that it was not a model, according to the terms of our revenue law, and was not used?

Mr. STEPHENS, of Georgia. It was a model, and that is the reason why the company come here to apply for relief. It is a new plan for the generation of gas, and cost the people of Philadelphia a great outlay of money. By the introduction of this new machinery, gas may be produced cheaper throughout the country. It was but a simple model to introduce this new system, this new plan for the generation of gas.

Mr. FREEMAN. I suggest, then, that we will be compelled to alter the revenue law, and make this single machine an exception; but certainly the gentleman does not propose to do such a thing.

Mr. STEPHENS. We ask it to be made an exception, and that the duty be remitted.

Mr. FREEMAN. If it is not a model, then, under the existing laws, the duty ought to have been paid alike in Philadelphia and New York.

Mr. ROBBINS. Will the gentleman from Massachusetts [Mr. DUNCAN] allow me a remark?

Mr. DUNCAN. I will reply in a moment to the gentleman from Mississippi, [Mr. FREEMAN,] and then I will yield the floor. This was the first machine of the kind introduced into the country, and it served as a model for other machines, notwithstanding it was a machine of enlarged and particular dimensions, just as much as if it had been a miniature exhibition of a similar article. It was in fact, and in truth, a model for the machinery of that description, because it was the first of the kind introduced into the country.

Mr. FREEMAN. Then it is admitted that it was not a model in fact, but served as a model.

Mr. ROBBINS. I desire merely to remark that a portion of this apparatus was imported into New York, and was admitted duty free. Another portion was imported into the city of Philadelphia, but there they would not admit it free. Mr. Whittlesey, to whom this subject was referred, after examination, said, that inasmuch as it had been free in one case, it ought to be in the other; but it was necessary to come to this House to get their permission.

Mr. JONES, of Tennessee. I am not skilled in the manufacture of gas, nor do I know much about the machinery with which it is manufactured. [Laughter.] I understand the question now before the committee is, whether we will remit the duties, or, rather, refund to the gas company in Philadelphia the duties which they have legally paid upon the machinery imported into the country for the purpose of manufacturing this article. Why shall we refund to them duties legally paid, any more than we shall refund duties legally paid in all other cases under the then existing laws? This company were authorized to manufacture gas, and to sell it in the city of Philadelphia, I presume. They understood that there was improved machinery in London for the manufacture of the article, and in order to profit by it, they sent their agent there, bought the machinery, brought it here, paid the duty, and put it into operation. It succeeded, and met their expectations. Others learning that their machinery was successful, went and took patterns of it, I suppose, and made similar machinery for other portions of the country. I do not know anything at all about the improvement in this machinery. It may have been similar to certain improvements which were said to be made in gas machinery in this city. When the company first went into operation, it was said that they had machinery by which their gas-meters were made twenty-five per cent. short, and they charged, and made people pay for, one hundred feet of gas, when they had received but seventy-five feet. This may have been that sort of improvement. I can see no justice in the case. They have legally paid the duties, and we should not remit them.

Mr. SWEETSER. I propose to strip this question of the fustian that has been thrown around it, and let gentlemen vote upon the proposition as it should be understood, without any disguise. It is admitted on all hands that a part of this machinery was imported into the city of New York in 1845, and by a construction of the law then in

THE CONGRESSIONAL GLOBE.

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existence no duty was charged upon it. Subsequently, another portion was imported, and landed at Philadelphia. By a construction of the same law, a duty was imposed upon it, and the parties to whom this machinery belonged submitted to the construction thereon, and paid the duty under protest. The plain question now presented to the House is, that inasmuch as the custom-house officers in the city of Philadelphia put a different construction upon the law, and demanded duties upon a portion of the same machine which had passed the custom-house in New York free, they desire now to be relieved. The long acquiescence may be construed into an admission that no injustice has been done, and that the duties collected at Philadelphia were legally demanded. If the custom-house officers in Philadelphia have put a wrong construction upon the law, why the Secretary of the Treasury would have heard that question; and if wrong had been done, the corporation would have had their remedy and relief in due time, and from the proper tribunal; but if the custom-house officers in Philadelphia have rightly construed the law, and properly charged duties upon this machinery, the question is, Shall we make a mere GRATUITY to this company or corporation? There may be merit in the claim. They may have introduced an improvement which calls upon Congress to make a gratuity of the entire duty.

Mr. STEPHENS, of Georgia. I do not understand that this is carried on exactly by a company. These gas-works in Philadelphia are under the authority of the city councils, and all the citizens of Philadelphia are supplied with cheap gas.

Mr. SWEETSER. That is perfectly immaterial, and does not change the case at all. The question is, whether the bill now under consideration is or is not to remit the duties paid; or, in other words, make a gratuity to this company, because no duties were charged upon the first importation at New York, under the construction put upon the law there, while duties were charged on the second importation at Philadelphia, under a different construction of the law there. Because, under one construction of the law, duties were not charged upon the first importation at New York, do they ask that the duties collected at Philadelphia shall be refunded? Because they had good luck in the custom-house at New York, they now desire good luck in this House for the purpose of having the entire duties remitted. Is that the ground on which this bill is based? That is the question, and we are prepared to give it to them, if the reasons urged are good and sufficient. If Philadelphia has been foremost, and has taken the lead in the introduction of improvements in the manufacture of gas—(I do not use the word as it is often used here) I mean gas for the purpose of light, not gas for the purpose of darkness, which we all understand—if Philadelphia has taken the lead in this matter, and has made large expenditures which has resulted in a great public benefit, why, sir, so far as I am concerned, I am prepared to be liberal towards her. But I do not want this bill passed upon the ground of a mere gratuity, or by a quibble in the construction of the tariff law.

Mr. McLANAHAN, (interrupting.) I wish to ask the gentleman from Ohio—as he is addressing himself now to the naked question—whether, under the statute of 1842, which makes it the policy of this Government to admit, free of duty, all models of machinery, and improvements in the arts, and in view of the facts as they are now presented to the House in this report, this was not an improvement in the arts, and should not, under a just construction of that statute, have been admitted free of duty? I desire further to say, that the policy of the Government in this respect is correct. In France, a man who takes a model of an improvement in machinery from this country, obtains a patent for it; and I think I am justified in saying that he who carries into any of the Governments of the continent of Europe, an improvement in any art, has the advantage, under a patent, to a great extent, of an original inventor. It is surely, then, the proper policy of this Government to encourage the introduction of such improvements as the one now under consideration, by admitting them through the custom-house free of duty; and it was evidently the design of Congress to establish this policy by the passage of the act of 1842.

The corporation of the city of Philadelphia furnish their citizens with gas at cost; and they have, by the use of this improvement, brought machinery from London, which reduced the expense of manufacturing gas, not only in Philadelphia, but in every other city into which similar machinery has been introduced. I ask the gentleman, then, in giving a fair and liberal construction to this law, if this is not an improvement in the arts, and if it does not come not only within the spirit and meaning, but within the very terms of the act of 1842?

Mr. FREEMAN. With the permission of the gentleman from Ohio, I desire to ask the gentleman from Pennsylvania a naked question. Is not this machinery of iron?

Mr. McLANAHAN. I have never seen the machinery, nor do I think that an answer to the gentleman's question can be of much consequence in settling this matter.

Mr. FREEMAN. I ask again, is the machinery, or is it not, of iron?

Mr. CHANDLER. It is.

Mr. FREEMAN. Then I ask the gentleman from Pennsylvania [Mr. McLANAHAN] if he is willing to admit manufactured iron into Pennsylvania free of duty, and particularly railroad iron?

Mr. McLANAHAN. I respond to that question, that in Pennsylvania we always adhere with patriotic fidelity to the Constitution and the laws. When the law is written plainly before us, as this law of 1842 is, we adopt it as our rule of action; and if an improvement in arts or a model in machinery is attempted to be brought into the country under this law, that will be of vast importance not only to Philadelphia but to every city in the Union, we are ready to admit it free of duty, even though it come in the "questionable shape" of iron.

Mr. FREEMAN. The gentleman has not answered my question.

Mr SWEETSER. I cannot yield the floor any longer for the discussion of collateral questions. Sir, I think this House and the gentleman from Pennsylvania will be obliged to me for the manner in which I have presented this case, because it has drawn from the honorable gentleman the only good and substantial reason I have heard why this bill should pass. If it is predicated on a question of public policy—and I was about to direct my attention to that point when I was interrupted—if it is predicated upon that ground, I will go as far as the honorable gentleman from Pennsylvania or any other member of this House, not only in giving aid in the introduction of foreign machinery into the country, but in giving aid to inventors in this country. If Philadelphia predicates this claim upon the ground that she has been foremost in the introduction of machinery of this kind, which has not only lessened her own expenses, but has carried benefits to surrounding cities, it will receive my hearty support, and I will vote for the bill. But, if it is put upon the other ground, which was first stated to the committee, a quibble in relation to the construction of the law, then I am prepared to stand by the administrators of the law in this case, and not to permit Philadelphia, because there may have been a violation of the law in one instance and one locality, to seek, through the instrumentality of this House, to evade it in another. That is the question I rose to discuss. If this claim is urged on the ground taken by my friend from Pennsylvania, [Mr. McLANAHAN,] I will vote for it; if on the other ground, I will vote against it.

The question now being upon laying the bill aside to be reported to the House with a recommendation that it do pass;

Mr. DUNCAN demanded tellers; which were ordered; and Messrs. SACKETT and GAYLORD were appointed.

The question was then put, and it was decided in the negative—ayes 52, noes 65.

Mr. JONES, of Tennessee. I would inquire of the Chair what becomes of the bill?

The CHAIRMAN. The committee having negatived the motion that the bill be reported to the House with a recommendation that it do pass, the Chair understands that as equivalent to an order that it be reported to the House with a recommendation that it be laid upon the table.

Mr. ALLISON. I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. HALL) reported that the Committee of the Whole House had had under consideration the Private Calendar generally, and particularly House bill (No. 175) "for the relief of Anthony Walton Bayard," and had directed him to report the same to the House with a recommendation that it do pass; also House bill (No. 203) "for the relief of the trustees of the Philadelphia gas-works," and had directed him to report the same to the House with a recommendation that it do not pass.

Mr. CAMPBELL, of Ohio. I move that the House adjourn.

Mr. MARTIN. I hope the gentleman will allow us to pass the one bill reported from the Committee of the Whole House.

Mr. HARRIS, of Tennessee. You cannot do it. There is evidently no quorum present.

Mr. CAMPBELL. I withdraw the motion to adjourn.

The SPEAKER stated the question to be upon ordering the following bill to be engrossed and read a third time, viz:

"House bill No. 175, for the relief of Anthony Walton Bayard."

Mr. ORR. I move the previous question.

Several MEMBERS. There is no quorum here.

Mr. ORR. Well, I withdraw the demand.

Mr. FLORENCE. I move that the House do now adjourn.

The motion was agreed to,

And the House adjourned until Monday at twelve o'clock, m.

NOTICES OF BILLS.

Mr. COBB gave notice that he will on to-morrow, or some subsequent day, ask leave to introduce a bill to grant the right of way and a donation of land to the State of Alabama, for the purpose of constructing the Wills valley railroad, leading from Wills creek, at or near James Hampton's, through Wills valley to the State line between the States of Alabama and Georgia.

Mr. CLARK gave notice that he would on to-morrow, or some subsequent day, ask leave to introduce and refer to the appropriate committee a joint memorial of the Legislature of the State of Iowa, praying for a grant of lands to aid in the construction of a railroad from McGregor's Landing to a point on the Missouri river, at or near the mouth of the Big Sioux river, in said State.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. DAWSON: The petition of 57 citizens of Venice, Washington county, Pennsylvania, praying a grant of one hundred and sixty acres of land to actual settlers to be located in the Territory of Nebraska.

By Mr. WASHBURN: The petition of R. S. Prescott and others, of Bangor, Maine, for a law to remedy the evils experienced from the scarcity of small change.

Also, the petition of Joseph B. Hall and others, of Presque Isle, Maine, for a post route from Presque Isle to No. 11, fifth range, (Aroostook,) Maine.

Also, the petition of James A. Drew, for relief on account of damages sustained by reason of the alleged illegal action of a deputy marshal of the United States for the district of Wisconsin.

By Mr. SCUDDER: The petition of the owners of the schooner Uncle Amasa, for allowance of codfishery bounty.

Also, the petition of George Lovell and others, of Ostewelle, Massachusetts, for a reduction of the rates of ocean postage.

By Mr. MILLER: The petition of Edward T. Noland, of Jackson county, Missouri, asking indemnity for losses sustained at the battle of Sacramento, Mexico, in the year 1847.

By Mr. BABCOCK: The petition of Thomas C. Nye, of Madison county, New York, praying compensation for damages sustained by him under a contract for carrying the mails of the United States.

By Mr. FLORENCE: The memorial of John Allen, an old soldier in his eighty-first year, praying for relief, as he is poor and not able to support himself.

IN SENATE.

MONDAY, *January* 31, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. ADAMS. I rise to correct the Journal. I was interrupted in my attention to the reading of the Journal, but I do not think that, as I heard it read, it stated that a motion was made and carried that we adjourn over from Friday to Monday. I think that was overlooked in making up the Journal.

The PRESIDENT. That part of the Journal will be again read.

It was read as follows:

"On motion by Mr. MANGUM,

"*Ordered*, That when the Senate adjourns, it be to Monday next."

Mr. ADAMS. I asked for the yeas and nays on that motion, and they were refused. I think that fact should be entered on the Journal.

The PRESIDENT. It is not usual to enter on the Journal that the yeas and nays are asked for unless they are ordered.

PRESENTATION OF CREDENTIALS.

Mr. BORLAND presented the credentials of the Hon. WILLIAM K. SEBASTIAN, elected by the Legislature of Arkansas a Senator from that State, for the term of six years, commencing on the 4th of March next; which were read.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, accompanied by a list of contracts entered into by the Bureau of Yards and Docks, and an abstract of offers to furnish articles; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Also, a letter from the Secretary of War, accompanied by seventy-five copies of the Official Army Register for the year 1853, for the use of the members of the Senate.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received by Mr. FORNEY, its Clerk, announcing that it had passed the following bills and joint resolution:

An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1853;

An act for the relief of Captain Lewis E. Simonds;

An act for the relief of Gasper A. Maltby;

An act for the relief of Britain Franks, assignee of Joseph M. Smith;

An act for the relief of James H. Jenkins;

An act for the relief of John Frink;

An act for the relief of S. Morris Waln;

An act for the relief of Brevet Brigadier General Bennet Riley, and to enable him to settle his accounts with the United States; and

Joint resolution granting the petition of William and Matthew Moss.

Also, that it has passed the following bills from the Senate, with sundry amendments:

An act for the relief of John F. Callan, administrator of Daniel Renner, deceased.

An act for the relief of Jim Capers.

Also, that it had agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill "to continue half pay to certain widows and orphans."

On motion by Mr. HUNTER, the bill from the House of Representatives, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, was read a first and second time by its title, and referred to the Committee on Finance.

PETITIONS, ETC.

Mr. SHIELDS presented the petition of Isaac Hulse, junior, representing that he was appointed a second lieutenant in the Army in 1847, and ordered to Florida, and praying to be allowed his traveling expenses; which was referred to the Committee on Claims.

Also, a petition of citizens of Illinois, praying that the right of preëmption to settlers on the public lands may be extended to the period of five years; which was referred to the Committee on Public Lands.

Also, a petition of Lieutenant Colonel Ewing and other officers of the Army, praying that the eleventh section of the act of March 3, 1847, making provision for an additional number of general officers, and for other purposes, be so amended as to protect the rights of the suttler; which was referred to the Committee on Military Affairs.

Also, the petition of John Throne, praying a donation of eighty acres of land; which was referred to the Committee on Public Lands.

Mr. WADE presented the memorial of S. Ledyard Phelps, a passed midshipman in the Navy, praying that extra pay may be granted to him and his associates in the United States Naval Astronomical Expedition to Chili; which was referred to the Committee on Naval Affairs.

Mr. HALE presented the petition of Matilda Brown, widow of William B. Brown, late a gunner in the Navy, praying a pension; which was referred to the Committee on Pensions.

Mr. BORLAND presented the following resolutions by the Legislature of Arkansas; which were referred to the Committee on the Post Office and Post Roads:

A resolution in favor of the establishment of a mail route from Carrollton, Arkansas, to Rockbridges, Missouri;

A resolution in favor of the establishment of a mail route from Dover to Yellville, Arkansas;

A resolution in favor of the establishment of a mail route from Little Rock to Clinton, Arkansas; and

A resolution in favor of the establishment of a mail route from Danville to Felix Grundy Gaines's, Arkansas.

Also, the following resolutions, passed by the Legislature of Arkansas; which were ordered to lie on the table and be printed:

A resolution in favor of the payment of the net proceeds of the sale of lands within the State, in accordance with the compact between that State and the General Government;

A resolution in favor of an appropriation for removing the obstructions to the navigation of the St. Francis river;

A resolution in favor of a grant of land for the establishment of institutions for the education of the deaf, dumb, and blind of that State;

A resolution relative to the selection of school lands in fractional sections;

A resolution in favor of the extension of the Champagnolle land district;

A resolution in favor of an appropriation for a geological survey of the State; and

A resolution in favor of a grant of land to aid in the construction of a railroad from Van Buren, in that State, to Springfield, Missouri;

Also, a resolution of the Legislature of Arkansas, in favor of the passage of the homestead bill; which was ordered to lie on the table.

Also, a memorial of the citizens of Philadelphia, and others, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. JONES, of Iowa, presented a petition of citizens of Dubuque, Iowa, praying that Michael W. Power, late postmaster at Peru, in that State, may be released from a judgment recovered by the United States against him; which was referred to the Committee on the Post Office and Post Roads.

Mr. COOPER presented a petition of citizens of Pennsylvania, praying the establishment by Congress of a railway post route between New York and Philadelphia; which was referred to the Committee on the Post Office and Post Roads.

Mr. FELCH presented the following resolutions passed by the Legislature of Michigan; which were referred to the Committee on Public Lands, and ordered to be printed:

Resolution in favor of an additional donation of land to the University of Michigan; and a

Resolution in favor of a grant of land to aid in the construction of a railroad to the Upper Peninsula of Michigan.

Also, a resolution of the Legislature of Michigan in favor of the erection of light-houses at certain places on Lake Superior and Lake Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

Also, the petition of Samuel Spalding, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. CASS presented the petition of Barnum Whipple, praying that the tax paid by seamen for the support of marine hospitals may be reduced; which was referred to the Committee on Commerce.

Mr. CASS. I have been requested to present, and I do it with a great deal of pleasure, additional petitions asking the interposition of the Government to secure to American citizens abroad the freedom of religious worship; and I embrace this opportunity to express my hope that the importance of the subject, as well as the manifestations of public opinion, will engage the attention of the Committee on Foreign Relations, and that we shall have a favorable report from that committee as soon as its other arduous duties will permit. I move the reference of these petitions to the Committee on Foreign Relations.

The motion was agreed to.

Mr. BRIGHT. I present the memorial of Levi Johnson, of Cleveland, Ohio, who represents that by a law passed March 3d, 1837, the President of the United States was authorized to purchase several sites for marine hospitals, and that among others, one was purchased from him. He further represents, that owing to the appropriation being insufficient, $3,000 of the amount agreed to be paid him remain unpaid. I move that the memorial be referred to the Committee on Finance, believing that the rule will not exclude the right to have a proposition to pay this amount incorporated into the appropriation bill.

MODE OF COUNTING ELECTORAL VOTES.

Mr. HUNTER offered the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election.

On motion by Mr. HUNTER it was

Ordered, That the committee on the part of the Senate be appointed by the President *pro tempore*.

And Mr. HUNTER, Mr. BRIGHT, and Mr. PEARCE were appointed.

FUGITIVE SLAVE LAW.

Mr. HALE. I have received and been requested to present to the Senate the memorial of the Pennsylvania Society for Promoting the Abolition of Slavery and for the relief of free negroes unlawfully held in bondage, and for improving the condition of the African race, in which they set forth various matters in reference to the recent act of Congress commonly called the fugitive slave law, and pray that it may be repealed, or that such modifications may be made in it as may be necessary to protect the rights of freemen, by conforming its operations to the principles of the Constitution and the theory of our Government. I do not know of any appropriate committee to which the memorial should be referred, and I therefore move that it lie on the table.

Mr. BRIGHT called for the reading of the memorial, and it was accordingly read. It sets forth that the Pennsylvania Society was the first instituted in America for the advocacy of the rights of the oppressed colored inhabitants of the United States, dating its foundation as far back as the year 1775, and numbering among its founders and active supporters several of the most prominent of the fathers of the Republic. At the First Congress it appeared as the advocate of this persecuted race, and from that period it has frequently been found pleading with the representatives of the nation in behalf of those who, in the midst of the joy and prosperity of surrounding freemen, are groaning in servile subjection. In pursuance of their purpose they respectfully call the attention of the Senate and the House of Representatives to the act of Congress passed in September, 1850, known as the fugitive slave law, which, not only by its entire omission to throw any guards around the rights of the unfortunate class upon whom it is designed to operate, but also by its open violation of those fundamental principles which were deemed by all the framers of the Constitution necessary to protect the rights of the free-born citizen, is especially calculated to inflict flagrant wrong upon that oppressed and persecuted class of inhabitants. By article three, section one, of the Constitution, it is provided that "the judicial 'power of the United States shall be vested in one 'Supreme Court, and in such inferior courts as 'Congress may from time to time ordain and es-'tablish. The judges, both of the supreme and

'inferior courts, shall hold their offices during 'good behavior, and shall, at stated times, receive 'for their services a compensation which shall not 'be diminished during their continuance in office." And by article five of the amendments thereto, it is provided that no person shall be "deprived of life, liberty, or property, without due process of law." And yet by the fugitive slave law the exercise of the highest judicial authority is conferred upon an irresponsible individual unknown to the Constitution. The power of deciding upon *ex parte* testimony, and without appeal, the right of any person who may be thrown before him to that "blessing of liberty," to secure which the Constitution was ordained and established, is vested in a subordinate officer of an inferior court, with a contingent fee for his services in deciding against the inalienable right of all men. The memorialists therefore earnestly request Congress to take measures for the immediate repeal of that law, or such modification of it as may be necessary to protect the rights of freemen by conforming its operation to the principles of the common law and the theory of the Government.

The memorial was ordered to lie on the table.

Mr HALE. I have also received and been requested to present to the Senate the memorial of the Grand River Quarterly Meeting and Conference of Free Will Baptists in the State of Michigan, in which they say that the law commonly known as the fugitive slave law contravenes the law of God and violates the Constitution, in depriving alleged fugitives of the benefit of the writ of *habeas corpus*, and appoints men to act as judges who are not constitutionally appointed to perform such duties, and they therefore pray for its immediate repeal.

The memorial was ordered to lie on the table.

PAPERS WITHDRAWN.

On motion by Mr. GWIN, it was

Ordered, That Mrs. Read have leave to withdraw her petition and papers.

Mr. BUTLER. I ask leave to withdraw from the files of the Senate, the papers of the heirs and legal representatives of the late John Moore, of the State of South Carolina.

Mr. WALKER. I should like to hear some explanation of the reason for the proposed withdrawal.

Mr. BUTLER. I know of no other reason than that the object is to prepare additional testimony.

Mr. WALKER. While it is with great reluctance that I make any opposition to the withdrawal of the papers, I feel it my duty to bring the subject to the notice of the Senate, and to express the opinion that there should be great caution in permitting these papers to go out of the Senate. I examined this case very fully when I was chairman of the Committee on Revolutionary Claims, and I found that there was an entire misapprehension in reference to the matter on the part of the claimants. Certain indents were issued by the State of South Carolina to Mr. Moore; and they were lost under peculiar circumstances. An attack was made upon him by the British and the Tories, who seized a portion of his property, and among the rest, these indents. After the revolutionary war was over, Mr. Moore made application to the proper authority in the State, made proof of the loss, and had the indents substituted by other evidence which answered his purpose. That appears clearly from the papers as certified to from the proper official sources in South Carolina. But after the death of Mr. Moore, his heirs came forward, under the impression that these indents had been lost, and had never been paid under the funding system, and considered themselves entitled to be paid for them. The claimants overlooked entirely the fact that the indents had been substituted by other evidence of indebtedness on the part of South Carolina, and they were subscribed by the State to the subscription of South Carolina to the national debt; and, consequently, became funded under the funding system adopted, I believe, in 1795.

I do not say there was any wrong about this matter. I have not the least idea that the parties had any intention of doing wrong to the Government. I think they honestly believe themselves to be entitled to payment for the lost papers; but, as I before remarked, they overlooked the fact that they had been substituted by other papers on the part of South Carolina, which became a portion of the funded debt of this country.

What shape these papers may assume if they get out, I cannot tell; but I wish this information to go upon the debates, in order that, if the papers should go out, and be again presented, the Committee on Revolutionary Claims, when they come to consider the matter, may know whether the papers have been returned as they were taken out. Undoubtedly if they shall be returned in the condition in which they are taken out, they will show precisely the state of things which I have stated, and will show the claim to be based upon an entire misapprehension. The claimants never lost anything; but the country paid the amount, for it was received and paid as a subscription to a loan, or to the funding system as adopted.

Mr. BUTLER. I will say to the honorable gentleman from Wisconsin, who was chairman of the Committee on Revolutionary Claims, that I have not examined these papers; and I make this application with one guarantee—and it is guarantee enough for me; the gentleman who asks for them, Colonel Whaley, is sufficiently known to me to warrant the belief that he will make no abuse of them. I know nothing of the papers, but Colonel Whaley, who is, I suppose, attending to the claim, asks their withdrawal. His name and character are sufficient guarantees against any abuse of the privilege being made.

Mr. WALKER. I will add, in addition to what the Senator from South Carolina has said, that in my intercourse with Colonel Whaley, I have found him to be exactly what the Senator from South Carolina has said of him—a gentlemanly person, and one in whom I would place great confidence.

Mr. BAYARD. I would suggest, that under the statement of the Senator from Wisconsin, it would be well in this, perhaps, and in other cases, before giving leave to withdraw, or at the time of giving leave to withdraw the papers, that the Secretary of the Senate should be directed to have copies taken and filed. I therefore move, as an amendment to the motion, that before delivering the papers to the claimant or his agent, copies be taken, under the direction of the Secretary of the Senate, and filed among the papers of the Senate.

Mr. BUTLER. I have no objection to that being done; but I assure the gentleman it is unusual, and, therefore, I do not wish to see it enforced in this case upon Colonel Whaley. It would look something like a deviation from the common rule. If this leave shall be granted, I have no idea that any papers will come back here except those withdrawn and those that may be in addition to them. I have no idea—and gentlemen may be assured of that, that there will be any interpolation. There will be no perversion, and the papers will come back just as they are, unless there be some additional light thrown upon the subject. Therefore, I would say to my honorable friend from Delaware, that as his proposition is a deviation from the rule, I would not like to see it prevail.

Mr. BAYARD. I waive my motion. I meant no reflection on the party in this case, but I thought it would be a proper precaution in all cases to guard against the lapse of memory.

Leave was granted to withdraw the papers.

DEATH OF HON. A. H. BUELL.

A message was received from the House of Representatives, by Mr. FORNEY, its clerk, communicating to the Senate intelligence of the death of the honorable ALEXANDER H. BUELL, a member of the House from the State of New York, and a copy of its proceedings thereon. The proceedings were read.

Mr. SEWARD. Mr President: Scarcely two weeks ago we arrested the debates of the House of Representatives by a message announcing the death of a Senator from Vermont. To-day, when we have not yet reached the subject assigned for discussion, the House of Representatives appeals to us for condolence in its bereavement of a delegate from New York. So frequent are the monitions we receive, teaching us, that although we are the legislators of a great nation, we are, nevertheless, also subjects of a King who is not of this world, and of whose kingdom there shall be no end.

New York has thirty-four Congressional districts, according to the constitution of the present Congress. The seventeenth of those districts includes that part of the valley of the Mohawk river, which, in the revolutionary age, was the western border, but which is now the middle region of the State. At an early stage in the war of Independence, Herkimer, a plebeian patriot general, fell in repelling a British force from that beautiful valley; and Montgomery, one of higher connections, gave up his life in the attempt to scale the Heights of Abraham, which were the stronghold of the invaders. The Continental Congress decreed a monument to the memory of Herkimer, but the decree yet remains unexecuted. New York first erased from the valley of the Mohawk the political name of Tryon, which it bore in honor of a British governor, and, dividing the region into two counties, bestowed the name of Herkimer upon that one within whose limits he had fallen, and on the other the name of the chivalrous hero of Quebec. These counties, as they now are, after many civil changes, constitute the seventeenth district, of which the deceased, ALEXANDER HAMILTON BUELL, was the Representative. In the contest of organic principles which attended the establishment of the Federal Constitution, the people of that part of New York followed the safe lead and guidance of Schuyler, Jay, and Hamilton. But when, without a change of party organization, that contest was followed by a new one, involving the principles of political action, that people came generally to the adoption of the benignant and comprehensive philosophy of Jefferson, and they still adhere to it as it was taught by himself. Nowhere, not even in that great statesman's native Commonwealth, are his principles more highly cherished, and more firmly maintained, than in the region which I have mentioned; and not only there, but throughout the State of New York. We do, indeed, break into parties, and undergo changes of combination, as the American people do everywhere; but it is only as religious bodies divide and recombine, each sect striving to get nearer to the original and common standard of faith.

New York, so late as the beginning of the present century had very few considerable institutions of learning. But it was the good fortune of the deceased that he was born and reared in Fairfield, in Herkimer county, where some settlers from Connecticut had thus early founded an academy that has since given many eminent men to the service of the State.

Mr. BUELL's father was short-lived, and his son's patrimony was exhausted in his education. With a mother and sisters thrown upon him for support, he engaged in the mercantile profession at home. Afterwards, as capital and credit increased, he established from time to time branches in adjacent towns and counties. Ultimately, when the gold coast on the Pacific ocean was opened to American commerce, Mr. BUELL, without giving up any of his domestic footholds of trade, extended his business into California, and the unpretending merchant of Fairfield, in New York, had also his crowded warehouses in San Francisco.

It is almost needless to say that he was a man of probity, of assiduity directed by keen sagacity, and of energy regulated by exemplary moderation. Nevertheless, had these been his only marked qualities, he would never have been among us here. He cultivated all domestic and social and public virtues, and so he won early and he steadfastly retained the respect and affection of the community in which he lived. They admired his fortunes, but they admired still more the man.

> "All who deserved esteem he made his own,
> And to be lov'd himself but needed to be known."

He reached his high position, however, not in a day, but through the exercise of care, activity, and energy for many years. In 1845, he represented his fellow-citizens in the Legislature of New York, and in 1850 he was advanced to the honors of a Representative in the Congress of the United States. He brought to the discharge of that high trust the same faculties and virtues which had distinguished him in the occupations of private life. He was prompt, punctual, active, and assiduous; conscientious in the votes he gave with fidelity to the principles of his constituents, and yet tolerant of the opinions and charitable in his construction of the motives of all others. He did not, indeed, debate. Debate in these Halls either wins a great influence or utterly wastes the speaker's power. He exercised that calmer influence which is felt

by all, and the manner of which is seen by no one.

Two weeks ago he hastened back from his distant home by night, through an inclement storm, to assure his wife of the recovery of a child whom he had visited there. The disease which was to become mortal attended him to his chamber. He died yesterday morning; and although he had attained the ripe age of fifty-one years, yet he died without having encountered an ebb of fortune or of public favor. On the contrary, growing prosperity and higher honors seemed to be soliciting him to live on.

I know, Mr. President, that it is customary on occasions like this, to speak of the touching scenes of death, and to offer consolation to the bereaved survivors—and yet, sir, I cannot do it. These subjects seem to me too sacred to be approached by one who, like myself, is habitually engaged in the affairs of life, and not in the contemplation of death; in the strifes of the world, and not in the peaceful offices of religion. I will say, therefore, of the manner of the death of my late colleague, only this: That it showed that he had acquired the fortitude which enabled him to pay, as became a Christian, the debt which, in common with us all, he owed to nature.

Of condolence with that weeping wife, on whom the care of his orphaned children is now exclusively devolved, and with that mother who has leaned on his supporting arm until she had passed her eightieth year with gladness, ever increasing with its increasing strength, I could speak only such words as human reason would suggest. I know full well that the light which reason throws into the darkness of souls oppressed by such griefs as theirs, is only as the borrowed light of the moon and stars. They know better than I could tell them how to look further and higher for a purer and holier illumination.

Mr. President, what belonged to others to do; all that they could do on this sad occasion, has been done. The bereaved partner of the deceased has closed his eyes with her own gentle hands, and ministering friends, with scarcely less of tenderness, have invested his perishing form with such habiliments as befit the grave. His colleagues from New York, all of them, from Manhattan Island, with its towers and temples lost behind the masts of domestic and foreign commerce, to Niagara, screening his majesty in primeval forests, have attended that sad mourner and the precious burden she conveys to the place of departure from the capital. And this morning before the sun had risen, accompanied by as many of those colleagues as could be spared from public service here, the procession was already on its way to the desolated mansion of the deceased, where sorrowing kinsmen and life-long friends will be in waiting to receive those precious remains and consign them to their final rest.

The House of Representatives has paid an unaffected tribute of panegyric to his memory. All that remains for us to do, all that we can do here, is to respond to that tribute, as I know we shall do with the sincerity of sorrow and of sympathy, and then to show not only our respect for the deceased, but also our reverence for the great Power who hath thus suddenly called him away from among us into the Divine presence, by abstaining for a day from the cares and the thoughts of this world, and devoting that brief period to meditations befitting those who have been thus touchingly admonished that they are journeying to a world where death cannot enter, and where, to those who have qualified themselves for a gracious reception there, by faith and penitence for errors committed here, sorrow can never come.

I offer the following resolutions:

Resolved, That the Senate mourns the death of the Hon. ALEXANDER H. BUELL, late a member of the House of Representatives from the State of New York, and tenders to his relatives a sincere sympathy in this afflicting bereavement.

Resolved, As a mark of respect for the memory of the deceased, that the Senate do now adjourn.

Mr. FISH. Mr. President, I rise to second the resolutions offered by my colleague, not to add a word to the just and faithful tribute which he has paid to the memory of a true man, but to express my concurrence in what he has said of the character of our deceased associate; to join my voice with his in testimony of departed worth, and in sympathy with bereaved family friends.

My personal acquaintance with Mr. BUELL dates only from the period when we met here in the discharge of the duties of our respective positions; but his character had previously been sufficiently known to prepare me for an appreciation of the gentle amiability, united with firm purpose and unbending integrity, which marked his life.

And I shall ever look back with satisfaction to the intercourse, brief as it has been, which I have enjoyed with my deceased colleague; and I can never fail to associate the idea of integrity, of energy, of firmness, and of gentleness, with the name of ALEXANDER HAMILTON BUELL.

Mr. President, I second the resolutions which have been read.

Mr. HAMLIN. Mr. President, it is an appropriate duty for me to join in seconding the resolutions before the Senate, and to pay a merited tribute to the worth and memory of the deceased.

I became acquainted with Mr. BUELL at the commencement of his Congressional term, and during the whole time have lived with him in the same family. Our relations were of an intimate and most friendly character. The announcement of death, always startling, comes to me, almost, as invading the sacred circle of my own household, and I feel that I should perform one of the last duties the living can pay the dead.

In all the relations of life Mr. BUELL acted well his part. His constituents were fortunate in their Representative. He was a man of quick perceptions, and great promptness and energy in their execution. Whatever affected the interest or promoted the welfare of those whom he represented, was sure never to escape his care and attention. He represented truly the principles and sentiments of his people, and while always maintaining his own opinions with great firmness, he was courteous to his opponents, and conceded with frankness to all the same right of opinion which he claimed and exercised for himself. Though a partisan in Democratic principles, he was no bigot in practice. He was strongly attached to the industrial classes, and sought to elevate them without pulling others down. The maker of his own fortune, and a man of active industry, his sympathies were with those who toil. If his constituents shall find another who will be equally faithful, able, and true to their rights, then will they be fortunate indeed.

As a husband, father, and son, Mr. BUELL was a most estimable man. Always kind and affectionate, his care was to make his home pleasant, and those dependent upon him happy. He seemed to live in and for a devoted and loving wife and his little children, and all was bright and promising in the future. He had been to his home for the purpose of bringing and having with him one of his children, whose health was somewhat impaired. He returned but two weeks since, with the elements of that disease in his system which has terminated so fatally. If unceasing watching at his couch, and the deep solicitude of an anxious, devoted wife, soothing all his pains, and administering to all his wants, as none but a wife can do, and wholly regardless of self—if all this could have rescued the deceased from death, he surely would have remained for years of usefulness and honor. How impressive are the teachings of Providence, and how inscrutable are His ways! A mother mourns a dutiful son, a wife the partner of her bosom, and orphan children a doting father. Who can tell the desolation of home and the pangs of an almost broken heart? This is a circle into which the kindest friend cannot obtrude; these are griefs which human sympathy cannot reach. The heart must be left to its own communings, with a firm reliance on

"Him who tempers the wind to the shorn lamb."

His remains were taken this morning from his lodgings in this city, followed by his widowed, mourning, and stricken wife and orphan children, accompanied by the delegation of his State and other friends to the depôt. They are now on their way to New York in charge of the Sergeant-at-Arms of the House, and a committee selected for that purpose, there to be met and mourned by those who knew him best, and there to repose his ashes in the soil of his native State; a State which honored him, and to which he was an honor. He was a dutiful son, a devoted husband, an affectionate father, an honest and a good man. What more ennobling can be said of the living or the dead?

The resolutions were unanimously agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *January* 31, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of Saturday was read.

CORRECTION OF THE JOURNAL.

Mr. STANLY. I rise to a correction of the Journal. The Journal refers to a point of order made by me with reference to the existence of the select committees of last session. I ask that the resolution recommitting to the standing and select committees the matters unreported upon last session, to which the Speaker referred in his decision, may be spread upon the Journal. I suppose there will be no difficulty in doing it, and it presents the whole point.

The SPEAKER. It is competent for the House to order it to be done.

Mr. STANLY. Then I move to amend the Journal by inserting that resolution, under which I maintained the committees were still in existence. It is but four or five lines.

The SPEAKER. The Journal, the gentleman will observe, refers very specifically to that resolution.

Mr. STANLY. Well, I want the resolution itself there, so as to make it still more specific.

The question was then taken on Mr. STANLY's motion, and it was agreed to.

BAIL IN CIVIL CASES.

Mr. JONES, of Tennessee. I now ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 582, I think it is, concerning bail in civil cases in the District of Columbia, not for the purpose of putting it upon its passage, but that it may be made the special order for to-morrow at one o'clock. This is a case of peculiar hardship, and I hope there will be no objection to my motion.

Mr. SWEETSER. I object.

Mr. JONES. I move to suspend the rules, to enable me to submit the motion.

Mr. SWEETSER. I objected because I desire that the bill shall be referred to the Committee on the Judiciary.

[Cries of "Order!"]

The SPEAKER. The gentleman must remember that discussion is not in order. The bill has not yet been taken up. The motion is to suspend the rules for that purpose.

Mr. SWEETSER. On that motion I call for the yeas and nays.

The yeas and nays were not ordered.

The question was then taken on Mr. JONES's motion, and (two thirds voting in the affirmative) the motion was agreed to, and the rules were suspended.

The bill was then taken from the Speaker's table, and read a first and second time by its title:

"An act concerning bail in civil cases in the District of Columbia."

Mr. JONES, of Tennessee. I now move that the bill be made the special order of the day for to-morrow at one o'clock, and upon that motion, I demand the previous question.

Mr. SWEETSER. Is it in order to move to refer the bill?

The SPEAKER. It is not in order until the demand for the previous question has been disposed of.

Mr. HALL. Is it in order to move to put the bill upon its passage?

Mr. STANLY. I hope the gentleman from Tennessee will let it be put upon its passage.

The SPEAKER. If the motion to make the bill the special order is voted down, the question will be upon the engrossment of the bill.

Mr. CARTTER. I move that the bill be put upon its passage.

The SPEAKER. The motion of the gentleman from Tennessee is to make the bill the special order for to-morrow; and upon that he has demanded the previous question.

Mr. JONES. I will state to gentlemen the reason why I do not move to put the bill upon its passage now. There is another business to come before the House this morning, and if we should attempt to put the bill upon its passage, and serious opposition should be made to it, and the yeas and nays called, we might get into a scene here that would not be very pleasant immediately preceding the business that is to follow. I hope,

therefore, that the friends of the bill will permit it to go over, and be made the special order for to-morrow.

The question was then taken on Mr. JONES's motion, and it was agreed to, and the bill was made the special order of the day for to-morrow.

Mr. JONES. I move to reconsider the vote last taken, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

OBITUARY.

Mr. JENKINS. Mr. Speaker, no response to the name of ALEXANDER H. BUELL will again be heard from him in this Hall! If he be called he will not answer, for he has gathered his mantle around him and laid him down to rest.

Representing adjacent districts as we did, sitting at the same table as messmates here, and entertaining opinions in many respects quite similar, it was natural that feelings of attachment should grow up—friendship, which we like to lean upon, and which gradually become a part of our own existence. When these ties are sundered by death, the life and character of the departed voluntarily rise up as never-perishing memorials before us.

Mr. BUELL was born on the 15th day of July, 1801, in the town of Fairfield, county of Herkimer, and State of New York. Deprived, by death, of his father at a tender age, maternal care and affection superintended his moral and intellectual training until the age of fifteen, when he was withdrawn from the academic school, in his native village, and placed as a clerk in the store of a reputable merchant of that town. Here his extraordinary capacity for trade soon disclosed itself, and when he attained his majority his discreet employer found it for his own advantage to receive him as his partner. This was the place in which the father of Mr. BUELL, in his lifetime, had pursued the same business; and the enterprising son, with no other capital of his own to commence with than his good name, began the occupation of his choice as principal dealer, and pursued it with unsurpassed assiduity and vigor. This employment he continued to carry on at his native place, and made it the chief business of his life.

In 1845, Mr. BUELL was honored with a seat in the Legislature of his native State, and in the autumn of 1850, the electors of the Seventeenth Congressional district, composed of the counties of Herkimer and Montgomery, made choice of him as their Representative in Congress. He took his seat, conscious of the rectitude with which he should perform his legislative duties, and with a determination that no efforts on his part should be wanted to carry out his long-cherished opinions of political rights and public policy. He placed a high value upon the acquaintances which he made at the capital of the nation, and the amenity of his deportment recommended him to the favorable consideration and respectful regard of all who knew him.

About three weeks ago, Mr. BUELL was called home by the ill health of one of his children. On his return here, a fortnight since, he found himself overcome by fatigue, and somewhat afflicted by disease. At first, medical aid seemed to promise a speedy cure; but disorder succeeded disorder, holding on with such tenacity, that no skill of his physicians could arrest the malady. I will not undertake, Mr. Speaker, to describe the dreary passage which leads from the abode of health to the tomb. Eminent medical ability, the assiduous care of friends, the unremitted and most anxious attention and heroic devotion of his accomplished and affectionate wife, were unable to save life; and on Saturday night last, at twenty minutes past three o'clock, our colleague, with Christian resignation, and in the consoling hope of a higher and happier state of existence, closed his eyes upon the scenes of this world.

As a man of business, Mr. BUELL had but few equals. Possessing the rare combination of promptitude and prudence, the advantages of a profitable investment were seldom overlooked, whilst he carefully avoided the temptations of fruitless speculation. Whatever he undertook prospered under his management. From poverty he arose to wealth and affluence. The poor received his attention, science shared his bounty, relatives his affection and his aid, friends his hospitality, religion his countenance and support.

In the halls of legislation he was not ambitious to be heard, but he was ambitious to understand and perform his whole duty. The record of his votes, Mr. Speaker, in the State to which he belonged and of this House, bear witness to the fidelity and ability with which he carried out the important trusts reposed in him. He represented a liberal, a virtuous, an intelligent constituency, and the record of his whole life designates him as a fit representative of that constituency. Such men are exemplars for the rising generation, and fill up an unobtrusive but instructive page in the history of our country.

But he has gone. An aged and deeply-afflicted parent, a wife disconsolate, children not yet old enough to realize their loss—filling up a range of years from infancy to eighty—are deprived of their main staff, standing in the relationship of son, husband, and father. Tears must be shed; anguish endured; but as we look with fond delight through the intervening shower, to some distant spot, lighted by sunshine, so may the afflicted see through, and beyond this vale of tears, the fairer land, illumined and consecrated to a higher and happier state of being.

Mr. Speaker, I offer the following resolutions:

Resolved, That this House has received with deep sensibility the announcement of the death of the Hon. ALEXANDER H. BUELL, a member of this House from the State of New York.

Resolved, That this House tenders to the family of the deceased the expression of its sympathy on this afflicting event, and as a testimony of respect for his memory, will wear the usual badge of morning for thirty days.

Resolved, That the Clerk of this House be directed to communicate a copy of these proceedings to the family of the deceased, and also to the Senate.

Resolved, That as a further testimony of respect for the deceased, this House do now adjourn.

Mr. IVES. Mr. Speaker, Death has once more invaded our ranks, and taken from us one with whom we have met from day to day in this Hall—one who has faithfully and diligently attended to the discharge of the duties of the important station which he has so ably filled. By amenity of manners and kindness of disposition, Mr. BUELL was endeared to a large circle of friends, to whom he was ardently devoted. By habits of untiring industry, punctuality and promptness in business transactions, he won the confidence of all with whom he had dealings, and secured a competence for himself and family, in which relatives and friends shared liberally. The village in which he long resided bears unmistakable marks of his public spirit and benevolence.

This is a suitable occasion for calm consideration. A time when we may profitably reflect upon the sad scenes so often occurring in the Chamber, when the grim messenger, with unrelenting grasp, seizes its victims, and tears them from all their endearing associations, causing the deepest anguish to take hold of surrounding friends. Could the strong ties of friendship bear one aloof from the death struggle, then had not we at this time had these solemn rites to perform. Could affection, strong and abiding, have sustained any one, then would not the subject of these resolutions have been thus suddenly numbered with the dead. We may shed the tear of sympathy with those most sorely afflicted by this unexpected bereavement; we may and ought to condole with the family of the deceased, and manifest our anxious desire to assuage the bitterness of their grief, by suitable words and appropriate action, as individuals and as a legislative body; but at the same time feel that we come far short of touching the secret moving spring that stamps upon their minds that feeling of desolation which no language can express.

While reflecting upon the departure of one of our number, the thought is brought home to each of us, that death draws near, and in a short time will overtake us. Soon we must encounter the King of Terrors, and fall into his cold embrace. How appropriate on this occasion to consider that it is appointed to man once to die. But what is it we call death, and usually so much dread? Is it to cease to exist altogether, or merely to change the mode of being? Those favored with the precious Bible cannot consider it as the end of being, but the separation of the mental existence from the physical; the loosening the ties that bind the soul to the body; the separation of the immaterial from the material—the immortal from the mortal; the conscious existence of the living vital principle, apart from the flesh and bones that now encase it. This mysterious tie that binds together our complex nature, though little understood, is nevertheless subject to be broken. The evidences of the fact cluster thick around, and stand out prominently on either side. To these we cannot, if we would, shut our eyes. Hence arises the natural suggestion to forecast and prepare for an event so important, and at the same time so certain. To loose our hold of every earthly object, and launch into a world untried and unknown, is fraught with consequences of the highest moment that can engage the attention of the human mind. May He to whom the future, the present, and the past are alike known—who hath given and perpetuated our being—kindly aid us to walk in wisdom's paths, that we may quietly and peacefully resign our breath into His hands when the summons shall arrive.

Mr. IVES then offered the following resolution:

Whereas the family of Mr. BUELL having determined to proceed to-day to New York, with his remains for interment, and the Speaker of this House having designated a committee to accompany them:

Resolved, That the Clerk of this House be directed to pay, out of the contingent fund of this House, and place at the disposal of said committee for the funeral expenses of the Hon. ALEXANDER H. BUELL, a sum equal to that usually expended in such cases, to be ascertained and drawn for by the committee.

By general consent the question was first taken upon Mr. IVES's resolution, and it was adopted.

Mr. JENKINS's resolutions were then unanimously adopted, and

The House thereupon adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

TUESDAY, *February* 1, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tem.* laid before the Senate a communication from the Acting Secretary of the Treasury, in answer to a resolution of the Senate for information as to quantity and kind of coal contracted for by that Department or its agents; which was referred to the Committee on Naval Affairs.

PETITIONS, ETC.

Mr. SEWARD presented resolutions of the Legislature of New York in favor of intercession in behalf of Francisco and Rosa Madiai; which were referred to the Committee on Foreign Relations, and ordered to be printed.

Also, a petition of the Niagara Falls and Lake Ontaria Railroad Company, praying the right of way through the military reservation at Fort Niagara; which was referred to the Committee on Public Lands.

Also, two petitions of residents of New York, praying that measures may be taken to secure to American citizens abroad the rights of conscience and of public worship; which were referred to the Committee on Foreign Relations.

Also, two petitions of citizens of New York, praying an extension of Uri Emmons's patent for a planing machine; which were referred to the Committee on Patents and the Patent Office.

Also, a petition of citizens of Joe Daviess county, Illinois, praying that the law for the delivery of fugitives from service or labor may be speedily repealed; which was ordered to lie on the table.

Mr. SEWARD. I submit the petition of Daniel Drew, Robert W. Kelly, and Isaac Newton, of the State of New York, very extensive proprietors of steamboats, in which they urge that the law passed at the last session for the regulation of steamboats is oppressive, and an act of improper legislation, for various reasons which they assign; I shall not detain the Senate with stating them at length. Their reasons are briefly these: First, they think there was no sufficient occasion for the passage of an act on that subject; second, the details of that act are, as they think, an entire departure from the principles which have regulated Congress and State Lagislatures in acting upon such subjects heretofore; third, the law is partial and unjust; and fourth, the act will defeat itself, and will not accomplish the objects which it has in view. These petitioners do not ask for the repeal of the act, but they ask, for reasons which they assign, that it may be suspended for nine months, until the regulations which are to be adopted in pursuance of its provisions shall have been determined, and notice given so that the

parties to be affected may understand them. The subject is one of exceeding interest, and I am sure that it will give pleasure to the Committee on Commerce to consider these objections. I move that the petition be referred to that committee.

The motion was agreed to.

Mr. SEWARD. I present the petition of John Dougherty, of the State of Pennsylvania, in which he proposes the construction of a railroad from the Atlantic to the Pacific States, upon principles which have not been developed here. The main one is, that the funds for the construction of the railroad shall be provided for by certificates of deposit issued by Congress, to be made a circulating medium and a lawful tender, and to be absorbed by the profits of the road when completed. He also thinks this railroad between these two important regions should be made on a scale commensurate with its objects, and that, therefore, it should have eight rails instead of four, and that each car should have double the usual number of wheels. There is much ingenuity, and so far as I can see, some considerable invention in the suggestions which he makes. As the subject is under consideration, I ask that the petition may lie on the table.

The petition was ordered to lie on the table.

Mr. HAMLIN presented a petition of G. W. Pickering and others, presidents and cashiers of banks in Maine, praying a reduction of the standard value of silver coin as a remedy for the scarcity of silver change; which was referred to the Committee on Finance.

Also, the petition of Gustavus G. Cushman, and the petition of the heirs of Thomas Bartlett, two of the civil *posse* called out by the Government of the State of Maine, during the disturbances on the northeastern boundary in 1839, praying indemnity for sufferings in consequence of their capture and imprisonment; which were referred to the Committee on Foreign Affairs.

Mr. BRODHEAD presented the memorial of Henry Bohlen and others, importing merchants of Philadelphia, praying that the Secretary of the Treasury may be directed to refund any excess of duty that has been or may hereafter be illegally exacted; which was referred to the Committee on Finance.

Mr. DODGE, of Iowa, presented a resolution of the Legislature of Iowa, in favor of the establishment of an additional land office in the northern part of Iowa; which was referred to the Committee on Public Lands.

Mr. RUSK presented the petition of Joel Hawkins, a Cherokee Indian, praying to be allowed the benefit of the acts of the 28th September, 1850, and the 27th February, 1851; which was referred to the Committee on Indian Affairs.

Mr. CHASE presented a petition of citizens of the United States, praying that the homestead bill may become a law; which was ordered to lie on the table.

Mr. SHIELDS presented the petition of Robert Cain, praying that his pension may commence from the date of his discharge; which was referred to the Committee on Pensions.

WAREHOUSING SYSTEM.

Mr. HUNTER. I hope I am not asking too much of the Senate when I ask them to take up this morning, during the morning hour, the bill "to extend the warehousing system, by establishing private bonded warehouses, and for other purposes." I think it can be acted on and disposed of during the morning hour; but if it gives rise to discussion, I shall be willing to lay it aside when the special order comes up at one o'clock. I hope the Senate will indulge me in this request. I have put the bill off from day to day, to suit the convenience of members. I assure the Senate that it is a matter in which the commercial community take a deep interest. I am daily receiving letters in reference to it. A fire lately occurred, or was near occurring, which threatened one of the public warehouses on which there was no insurance. This produced a movement among the commercial community in regard to this matter, which makes it important that we should act on it one way or the other. I hope the Senate will take it up.

Mr. BELL. I wish to suggest to the honorable Senator from Virginia, that the Senator from Massachusetts [Mr. DAVIS] takes a considerable interest in this matter. From remarks made by him, and by the Senator from Virginia, the other day, I supposed that there was some understanding between them that this bill should be taken up at an early day; and I believe that honorable Senator has a desire to be present when the bill shall be taken up for discussion or action. I would suggest to the honorable Senator from Virginia, that in the absence of the Senator from Massachusetts, it would be better to lay the bill over until to-morrow morning. I presume the absence of the Senator from Massachusetts is entirely accidental. This bill relates to a subject with which I do not profess to be acquainted, and I do not expect to participate in the discussion of it. I shall be guided altogether in my course in relation to it by what I shall find evolved in the discussion by other gentlemen; but I think the Senator from Massachusetts having manifested this desire, the bill should be postponed, at least for one morning, so as to give him an opportunity to be present.

Mr. HUNTER. If the Senator from Massachusetts desires to be present, of course I shall not press the motion; but it has been postponed two or three times for him, and I had supposed that he did not care to be present.

Mr. MILLER. I would state to the Senator from Virginia, that I know the Senator from Massachusetts desires to be present.

Mr. HUNTER. Then I will not press my motion.

DANIEL RENNER.

The Senate proceeded to consider the bill for the 'relief of John F. Callan, administrator of Daniel Renner, deceased," which had been returned from the House of Representatives with an amendment.

Mr. ADAMS. The amendment of the House is merely a verbal one, striking out the name of the administrator and inserting the widow, and I move that the Senate concur in it.

The amendment was concurred in.

JIM CAPERS.

The Senate proceeded to consider the bill "for the relief of Jim Capers," which had been returned from the House of Representatives with an amendment.

Mr. ADAMS. The amendment is to insert a pension of eight dollars per month, in lieu of the allowance of nine dollars per month by the original bill. I move that the Senate concur in that amendment.

The amendment was concurred in.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on the District of Columbia, to which the subject was referred, reported a joint resolution in relation to bridges across the Potomac river; which was read and passed to the second reading.

Mr. GEYER, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of Mary Bawry, reported it without amendment.

He also, from the same committee, to which was referred the petition of Thomas Foster and others, submitted a report, accompanied by a bill supplementary to an act approved 7th July, 1838, entitled "An act granting half pay and pensions to certain widows;" which was read and passed to a second reading. The report was ordered to be printed.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the petition of Burnett W. Dole, son and heir-at-law of Enoch Dole, a surgeon in the revolutionary war, praying commutation pay, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

He also, from the same committee, to which was referred the petition of James Corrigan, a soldier in the late war with Mexico, praying an increase of pension, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which were referred the petition and accompanying papers of Hugh W. Dobbin, of Geneva, New York, praying a pension for military services, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which the following bills from the House of Representatives were referred, reported them back without amendment:

An act for the relief of William Lynch, a soldier in the late war with Great Britain; and

An act for the relief of Aaron Stafford.

Mr. WELLER, from the Committee on Pensions, to which were referred the following petitions, submitted adverse reports thereon; which were ordered to be printed:

Petition of Jabez Rogers, praying a pension for services in the late war with Great Britain, in 1812.

Petition of Louisa E. Merrill, widow of Captain M. E. Merrill, praying a renewal of her pension.

Petition of Abner Hancock, of Pennsylvania, praying an extension of his pension for services and a wound received in the war of 1812.

Petition of John H. Scruggs, praying a pension in consideration of his services during the Florida war in 1812.

Petition of Roger Pinckney and Susannah Hayne Pinckney, heirs-at-law of Richard Shubrick, praying compensation for the services of said Shubrick during the revolutionary war.

Petition of Henry Allen, praying to be allowed arrears of pension.

COMMITTEE ON PRIVATE LAND CLAIMS.

On motion by Mr. DOWNS, it was

Ordered, That the President *pro tem.* appoint a member to fill the vacancy in the Committee on Private Land Claims, occasioned by the expiration of the term of service of Mr. CATHCART.

Mr. PETTIT was appointed.

ZADOCK C. INGRAM.

Mr. DODGE, of Iowa, by unanimous consent, asked and obtained leave to bring in a bill for the relief of Zadock C. Ingram; which was read a first and second time by its title, and, with the accompanying papers, referred to the Committee on the Post Office and Post Roads.

GENERAL HERKIMER.

Mr. SEWARD, by unanimous consent, asked and obtained leave to bring in a joint resolution in honor of Brigadier General Nicholas Herkimer; which was read a first and second time by its title, and referred to the Committee on Military Affairs.

WILLIAM AND MATTHEW MOSS.

Mr. RUSK. The Committee on the Post Office and Post Roads, to which was referred the joint resolution from the House granting the petition of William and Matthew Moss, have had the same under consideration and have instructed me to report it back, and recommend its passage. It is precisely similar in its terms to a bill that has been passed by the Senate, and been sent to the House, where it cannot be reached. The passage of this joint resolution will supersede the necessity of the House acting upon that bill. I move that it be considered now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to direct the Postmaster General to adjust and settle the accounts of William and Matthew Moss, contractors for carrying the mail on route No. 5,991, at the rate of $1,500 per annum, from July 1, 1850, in the same manner as if that sum had been the consideration stipulated in the contract, instead of the sum of $700, for which their bid was erroneously made and the contract executed.

The joint resolution was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

MOSES OLMSTEAD.

Mr. JONES, of Iowa, from the Committee on Pensions, to which were referred the petition and documents in relation to the claim of Moses Olmstead, reported a bill for his relief; which was read a first time, and ordered to a second reading. The report was ordered to be printed.

The bill was read a second time by unanimous consent; and on motion by Mr. WADE, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to direct the Secretary of the Interior to place the name of Moses Olmstead upon the list of invalid pensioners, and to cause to be paid to him during his natural life, the sum of eight dollars per month; the pension to commence on the 20th day of January, 1853.

The bill was reported to the Senate without amendment.

Mr. DAWSON. I beg to be permitted to add a section to that bill, and I ask the attention of the Senate to it, and particularly that of the Senator from Ohio. It is:

That the Secretary of the Interior be authorized and required to place the name of Mrs. Elizabeth Craig, widow of the late Lieutenant Colonel Lewis Craig, of the United States Army, who was killed in California about the first day of June, 1852, on the pension roll, at the rate of one half the pay her husband was receiving at the time of his death; this allowance to commence from the said first day of June, 1852, and to continue during her widowhood; and should she marry again, or die while her daughter, now living, shall be a minor, the same allowance shall be made to said daughter during her minority.

The Committee on Military Affairs have considered this matter, and they think the proposition is a just and proper one. It will be recollected that Lieutenant Colonel Craig was killed in California, in June last, by some deserters in the wilderness; and he left a family who are entitled to be placed on the pension roll on the same principle as the widow of Major Dade, Captain Gardner, and others. I trust there will be no objection to the amendment, for I can assure the Senator from Ohio that it is for the relief of a most worthy person, and that if it is made to this bill it will insure its passage through the House of Representatives.

The amendment was agreed to, and the bill as amended was ordered to be engrossed for a third reading, and was read a third time and passed.

The title was then amended so as to read, "A bill for the relief of Moses Olmstead and Mrs. Elizabeth Craig."

LIMITATION OF CRIMINAL ACTIONS.

Mr. UNDERWOOD. I ask the unanimous consent of the Senate to submit a resolution and to introduce a bill, which I desire to have referred to the Committee on the Judiciary. The act of April 30, 1790, relating to the punishment of certain crimes against the United States, limits the finding of an indictment and the prosecution of offenders, in all cases of capital offenses, except murder and forgery, to three years, and then there is a limitation of two years put upon larceny and other offenses not capital. I am told by the officers of the Government, that under the provisions of that act, a large portion of the offenders escape. I wish to submit to the Judiciary Committee a bill to repeal the thirty-second section of that act, and a resolution of inquiry, which I hope it will also take into consideration; and if it rejects the bill, that it will seriously consider whether the thirty-second section of the act does not deserve some modification. I hope that the resolution, as it is one of inquiry, will be acted upon now, and that the bill may also be received and referred.

The bill was read a first and second time by its title, as follows, and referred to the Committee on the Judiciary:

"A bill to repeal the thirty-second section of the act approved the 30th of April, 1790, entitled 'An act for the punishment of certain crimes against the United States.'"

The resolution is as follows:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of repealing the thirty-second section of the "Act for the punishment of certain crimes against the United States," approved April 30, 1790, so far as the same prescribes a limitation of three years within which indictment for capital offenses other than murder and forgery, shall be found by a grand jury, and prosecuted, and a limitation of two years within which an indictment or information for offenses not capital, are to be found and prosecuted.

The resolution was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the bill from the Senate concerning bail in civil causes in the District of Columbia; and an act for the relief of Barbara Reilly.

The Clerk also announced that he was desired to request the Senate to furnish the House of Representatives with a certified copy of the bill entitled "An act directing a survey and estimate of the 'cost of constructing a canal basin at the terminus 'of the Chesapeake and Ohio canal, in George-'town,'' the said bill having been mislaid since it was received from the Senate.

LIST OF DEAF MUTES.

Mr. MILLER. I beg leave to present the following resolution:

Resolved, That the Secretary of the Interior have prepared by the Superintendent of the Census a list of the deaf mutes in the United States, and that five hundred copies thereof be printed for the use of the Senate, and five copies for each institution of the deaf and dumb in the United States.

I ask the unanimous consent of the Senate to consider the resolution at this time. I will merely state, that the institutions for the education of the deaf and dumb, in the United States, have long been desirous of obtaining a correct list of this unfortunate class throughout the country. The census contains that list, and it will be of great advantage to those institutions to have it. The object is to seek out those persons, in order to give them proper instruction.

The PRESIDENT. It requires unanimous consent to consider the resolution at this time.

Mr. BAYARD. I object.

The PRESIDENT. Then the resolution goes over until to-morrow.

HEIRS OF BERNARD TODD.

Mr. PRATT. The Committee on Claims, to which was referred the bill from the House of Representatives for the relief of the legal representatives of Bernard Todd, deceased, have instructed me to report it back, and recommend its passage. I ask as a favor of the Senate that they will take up the bill and pass it at this time. It can lead to no discussion; and for the purpose of saving the time of the Senate, I will state in a few words the facts of the case. It appears from the testimony that the ancestor of these parties was the owner of a tract of land at North Point, near the city of Baltimore, and that when the city of Baltimore was threatened by the British fleet in 1814, his property, consisting of a house and farm, was occupied by the American troops. On the 11th of September, the day before the battle, his house was occupied by the troops, and from it the enemy was fought the next day, on its approach to the city. The guard who occupied the house were driven from it by the British army, and the house was fired and destroyed by the enemy. The facts in this case bring it explicitly within the provisions of the acts of 1817, 1818, and 1825; but the petitioners show that in consequence of the death of their ancestor, and in consequence of the papers having been mislaid by the agent or attorney employed by them, they were unable to get their case before the Auditor, where it would have been paid, if it had been presented. I hope the Senate will agree to act on the bill now. Favorable reports have repeatedly been made upon it by committees of this body, and the other House; and it has now passed the House, and I hope the Senate will concur in rendering this long-delayed justice by passing the bill at this time.

The Senate proceeded to consider the bill as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to the legal representatives of Bernard Todd, late of Baltimore county, Maryland, $4,315, being the appraised value of the buildings owned by Todd, which were burnt by the British forces in September, 1814, in consequence of their being used and occupied by troops in the service of the United States for military purposes.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

GENERAL RILEY—CALIFORNIA CIVIL FUND.

The bill from the House of Representatives for the relief of Brevet Brigadier General Bennet Riley, and to enable him to settle his accounts with the United States, was read a first and second time by unanimous consent.

Mr. GWIN. I move that the bill be referred to the Committee on Finance.

Mr. SHIELDS. I hope it will now be put upon its passage.

Mr. GWIN. I am as anxious as anybody that General Riley's accounts should be settled, but I am not willing to see the rights of California overlooked, as they are entirely in this bill. If the bill comes up for consideration now, we will certainly have a discussion upon it, and one of considerable importance. The Senate passed a bill unanimously at the last session embracing the provisions of this bill, and also making an appropriation to the State of California, which has been excluded in the one passed by the House. This bill requires that the civil fund, which of right belongs to the State of California, shall be paid into the Treasury of the United States. I must be heard on that question before the bill can pass the Senate. I ask for the yeas and nays on the motion, in order that I may see who are and who are not in favor of referring the bill to the Committee on Finance.

Mr. BRODHEAD. I would like to inquire of the Senator from Illinois whether I understood him correctly as moving a reference of this bill to the Committee on Military Affairs?

Mr. SHIELDS. No, sir. I want the bill passed without any reference, and I ask for its reading, so that the Senate may have the matter before them.

Mr. GWIN. This is a long bill, and it refers to an important subject. Twelve or fifteen hundred thousand dollars were collected by Generals Mason and Riley while they were Acting Governors of California, and constitute what is called the civil fund. The question of the right direction of that fund is one of very great importance. It has been discussed for days in committee and in the Senate, and we came to deliberate action upon it two years ago, and passed a bill on the subject, and also during the last session, both reported by the Finance Committee. From that bill, those features of it in relation to the settlement of General Riley's accounts have been extracted, but the remainder of the bill, giving California $300,000 of that fund, has been left out by the lower House. My object is to move as an amendment to this bill, the one which was matured by the Committee on Finance, passed by the Senate, and sent down to the House of Representatives during the last session.

Mr. CASS. Do I understand the Senator from California to have no objection to the principle of this bill?

Mr. GWIN. None at all.

Mr. CASS. The only objection is, that a general measure is not attached to it.

Mr. GWIN. That is all.

Mr. CASS. If that is all, I do not think General Riley's bill, under the peculiar circumstances in which he has been placed, should be overlooked, because it does not go far enough. I am in favor of a general measure, but if this bill is right, why stop it for the sake of putting on something else?

Mr. GWIN. I think the other measure to which I have referred is more right, or at least as right as this. Therefore there are two rights involved, and I want one attended to as well as the other. If this bill comes up for discussion to-day, I shall move as an amendment to it a bill which has already been passed by the Senate; but I hope it will be referred to the Committee on Finance, and on that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HAMLIN. Owing to the peculiar circumstances of the case, I shall vote against referring the bill, and for the bill itself; and I shall vote against placing upon it the amendment which has been suggested by the Senator from California, without knowing whether or not that may not be quite as meritorious as this. But there are circumstances connected with this case which, in my opinion, demand that the bill should be passed without incumbering it with other subjects, as the Senator from Michigan has suggested. If there be so much merit in that other proposition as the Senator seems to suppose, I doubt not that it will pass by itself.

Mr. SEWARD. I hope the honorable Senator from California will excuse me for appealing to him to withdraw his motion. I am very certain that the Senate will not be willing to embarrass the bill for the relief of General Riley even by the adoption of that measure to which he has referred, and in which I believe all of us, or nearly all, concurred. The Senator from California, therefore, puts us in a false position by his proposition.

Mr. GWIN. The Finance Committee, after a thorough examination of this question, two years ago, reported a bill to the Senate, which passed this body, and again last winter, and is now lying on the Speaker's table in the other House, if it has not been referred to a committee. Now, I should like to know how it would embarrass this bill by substituting for it the bill to which I refer that passed this body without opposition?

Mr. HAMLIN. I will answer the question. The Senator presents the fact that that bill went to the House, and they have stricken out all of it except this portion.

Mr. GWIN. No, sir.

Mr. HAMLIN. So I understand; and as I read the reported proceedings of the House, they have stricken out that portion of the bill to which the Senator from California refers, and retained this feature of it. Now, if we again put it in, the bill

will have to go back to the House, and both questions will be embarrassed.

Mr. GWIN. If that is the case, how is this a House bill? If the House have stricken out a portion of the Senate bill, it would come back as an amended bill; but this is not in that form at all. This is a House bill which has been introduced there, and which has not been here before, and therefore the honorable Senator is mistaken.

Mr. WALKER. I know nothing about this case. There seem, however, to be a great many Senators here who do understand it; and I am not so certain that there has not been some more of this "polling" done. From my knowledge of the character of General Riley, I feel certain that he has got no proposition here that is wrong. If it be not wrong, it can the more easily stand the test of an examination by one of the standing committees of the Senate; but it does seem to me to be a most unusual course that this anxiety should be shown to keep here, without reference to a committee, a bill coming from the House of Representatives involving important considerations, as it is admitted that this bill does.

Mr. SHIELDS. The honorable Senator will permit me to state to him that I understand there is no objection to the bill, nor to the principle of it. The object of a reference is to amend it by adding other matters that are perhaps equally just; and the apprehension is that that course will embarrass the bill, and that both measures will fail. I am in favor of the bill of the honorable Senator from California. I voted for it before, and I took a great deal of interest in it; but I should be very sorry to see a bill which is acknowledged by all to be just, defeated, as I fear it would be, for want of time, by sending it back to the House with the amendment he suggests.

Mr. WALKER. The Senator says, it is conceded on all hands that this bill is right. I have said that I know nothing about it. The honorable Senator from South Carolina, [Mr. BUTLER,] who sits near me, says he knows nothing about it. Now, it is very strange that we should not have a report and recommendation from one of our own committees in reference to a bill of this kind. It seems to me, that if it is a claim generally conceded to be right, it can the sooner be reported upon by a committee, before which the Senator from California can be heard, and by which it can be determined and decided whether that or any other amendment be necessary to perfect the bill.

Mr. MASON. I submit to the Senator from California that he should allow this bill to go to the Committee on Military Affairs. I suppose that that is the appropriate committee, and if he will withdraw his motion, I will move to refer the bill to the Committee on Military Affairs.

Mr. GWIN. I would say to the Senator from Virginia, that this involves the settlement of an account to the amount of $1,200,000 or $1,500,000.

Mr. MASON. The accounts of a military officer.

Mr. GWIN. But for acting in a civil capacity, as Governor of California.

The PRESIDENT. The bill will be read for the information of the Senate.

The bill was accordingly read. It proposes to apply the provisions of the act of March 3, 1849, "to provide for the settlement of the accounts of public officers and others who may have received moneys arising from military contributions, or otherwise, in Mexico," to Brevet Brigadier General Riley, in reference to all the moneys raised and collected by him for contributions, penalties, internal assessments, duties, or other objects in California, from the commencement of the war with Mexico to the 12th of November, 1849; and he shall account for, settle, and pay into the Treasury of the United States, for general purposes, any balance of moneys shown to be in his hands upon that settlement. It further proposes that in settling the accounts of General Riley, the accounting officers shall credit him with any sums of money paid or advanced by him to defray the expenses of the convention in California called to frame the State constitution, and all sums advanced by him for the relief of destitute overland emigrants to California, and also that the sums of money actually expended for the actual government of California after the ratification of the treaty of peace with Mexico, and before the formation of the State government. It further proposes to allow to General Riley, as a compensation for collecting, safe-keeping, and disbursing the moneys, a commission of one and a half per cent. upon the moneys raised and collected by him; and it directs the Secretary of the Treasury to cause proper defense at the expense of the United States, to be made to any suit or suits now pending, or which may be hereafter instituted against General Riley for any moneys raised and collected by him in California to which the bill is applicable.

Mr. CHARLTON. I should be glad to know the practical effect of this. If I am not mistaken, it requires the unanimous consent of the Senate to take up this bill to-day. If it be so, what object is to be gained by refusing to refer it to the Committee on Finance? I am very willing and anxious that the bill should be taken up to-day, but that seems to be impracticable with the objection of the Senator from California. What is the use of the yeas and nays? I understand that according to the rules, the bill must go to some committee, if its consideration be objected to; and, therefore, while I am very anxious to take up the bill and act upon it to-day, as an act of justice to a meritorious officer, I cannot vote in the negative on the motion of the Senator from California.

The PRESIDENT. The bill has been read a first and second time by unanimous consent, and it is now before the Senate for its disposition, the question pending being on the motion to refer.

Mr. CHARLTON. Then I am mistaken.

Mr. WELLER. This is a bill of vast importance; and it has been the usual practice of the Senate, whenever a bill came from the House of Representatives, to refer it to one of the standing committees of this body. That rule, or that practice, of the Senate ought never to be departed from unless for very good reason; and I desire to know why it is that that rule, or that practice, which has been uniformly observed, should not be pursued in this case. Here is a bill from the House of Representatives which Senators have not been allowed to investigate; and an endeavor is made to pass it without the usual reference. Sir, we do not desire to embarrass the settlement of the accounts of General Riley. I am sure the California delegation have no wish of that sort; but we do not desire that the question which has been so long pending in the Senate, whether the State of California shall have the "civil fund," or whether it shall go into the Treasury of the United States, shall be embarrassed by the settlement of these accounts now. This bill undertakes to determine that question. It directs that the civil fund shall be paid over to the Treasury of the United States. We, as the representatives of California, claim that that money ought not to go there at all, but that in right and justice it belongs, and should be paid, to the people of California. The Senate, by the passage of the bill two years ago, decided that question. They have decided in effect that this fund should go to the State of California. A bill for that purpose passed the Senate without opposition, and was sent to the House of Representatives; but in lieu of that, the House of Representatives have sent to us a bill which proposes to give a different direction to that fund. Now, if that does not involve a question which ought to receive the serious consideration of a standing committee, I know of none that should. It is, therefore, from no disposition to embarrass General Riley in the adjustment of his accounts, but it is because we are unwilling that the Senate should, without investigation, predetermine this question, which has been settled by them before, that we ask for the reference.

Mr. GWIN. I will make an additional remark on this subject. It is one of very great importance to my own State. General Riley did not collect all of this civil fund; Governor Mason collected a large portion of it, and if provision is to be made for a percentage for the collection of that money, why should not all the officers who were engaged in its collection be provided for in this bill? In addition to that, we are here under instructions from our Legislature, passed by a unanimous vote, at two sessions, to contend for this fund, and to claim that it should be paid into the Treasury of the State of California. There is in this bill an express order that it shall be paid into the Treasury of the United States. For myself, I am in favor of settling General Riley's accounts. I want it done as speedily as possible, and I undertake to say, that if we amend this bill by adding to it or substituting for it the one which has been heretofore matured by the Finance Committee and passed by the Senate, there will be little or no difficulty in the House. As I understand the matter, this bill was sprung upon the House at a time when the delegation from California were not there. Certainly I did not know that there was such a bill until I read it on the President's table this morning, and I was astounded to learn that such a bill had been sent here. Under such circumstances, I shall contest it to the last. Let it go to the Finance Committee; let that committee act on it, and then I shall acquiesce in the decision of the Senate upon that action of the committee, and that, too, without consuming time in debate.

Mr. BRODHEAD. According to my recollection, we had a compromise about this civil fund during the last session of the present Congress. I believe the honorable Senator from Maryland [Mr. PEARCE] introduced a bill, which we passed, giving the State of California $300,000 of the civil fund. I supposed that was a compromise on the subject; at least something was said about a compromise at that time; and if I am right in my recollection, my honorable friend from California assented to it. He said, this morning, that a bill had passed the Senate giving the entire civil fund to the State of California. If my recollection be right, he is in error in regard to that. I admit, a bill was passed at the opening of the present Congress, granting $300,000 of the civil fund to the State of California, but I understood the chairman of the Committee on Finance to say at the time that it was a compromise.

Mr. HUNTER. My friend from Pennsylvania is right, to this extent, at least: I had opposed the giving of any portion of the civil fund to the State of California, beyond the expenses actually incurred for the military government, from the ratification of the treaty of peace to the formation of the State government; but I said at the time that I was willing, as the bill had many important features, and as California thought herself entitled to the whole fund, to vote for that as a compromise, and give her $300,000. We passed the bill giving her that amount, and sent it to the House.

Mr. GWIN. My friend from Arkansas [Mr. BORLAND] will recollect distinctly that he put the question to me, whether it was a compromise, and whether or not we gave up our claims to the balance of this fund. I answered *No*.

Mr. BRODHEAD. I recollect now that the honorable Senator from California protested against the compromise which seemed to be going on among other members of the Senate. I voted for the bill granting $300,000 of the civil fund of the State of California, under the idea that that would be an end of the matter. If I am right in my recollection, and if that is still the judgment of the Senate, we ought to add, as an additional section to this bill, the proposition which we passed at the last session, granting California $300,000.

Mr. BORLAND. As the Senator from California has referred to me as engaging in the debate on the bill to which he has referred, I can very cheerfully bear testimony to the accuracy with which he states his position. I did call the attention of the Senate to the fact that there seemed to be a compromise between the Committee on Finance and the California delegation on the subject; and although I did not think California should be allowed any portion of the civil fund, yet, as a compromise, for the purpose of getting clear of paying a great deal more that she thought ought to be paid, and which I thought ought not to be paid, I voted for that bill; and it was my impression at the time that the majority of the Senate voting in its favor did so with the same belief. The Senator from California, I know, said that he protested against any such understanding, but I think the majority of the Senate at the time regarded it as a final settlement, and the bill passed with that understanding. It was at least my understanding, and I presume it was the understanding of a majority of the Senate.

I shall vote against the reference of this bill to the Committee on Finance. I am willing to vote for the bill as it is now before the Senate; but if it should be amended, as the Senator from California proposes, I should, for reasons which I stated at the last session, be unable to vote for it; and I believe there are a great many other Senators in the same situation. Each of the Senators from California admits that the bill now before the Senate is proper and right. It is one to which there can be

no objection. Therefore its reference, if it should result in bringing back to the Senate the proposed amendment of the Senator from California, would, in my opinion, defeat, or at any rate greatly hazard the measure, which every one admits to be right—which the Senators from California themselves admit to be right, and for which they will vote. Under these circumstances, I cannot vote for the reference, but I shall vote with those who go for immediate action on the bill.

Mr. GWIN. All I ask is, that there shall be substituted for this bill the one which passed the Senate at the last session, giving California $300,000 of this fund. Whether this bill be referred or not, I shall make an issue on adding such a proviso to it. I take it for granted the Senate will not reverse their own action.

Mr. RUSK. I voted for the allowance of $300,000 to California, and I am willing to vote a much larger sum. I thought, and I still think, that she was entitled to it. The money was raised there; but it is useless to go into an investigation of that subject, because it is but incidentally before us. The object of the motion of the honorable Senator from California is to refer this bill for the purpose of attaching that measure as an amendment to it. I submit to him that that course will embarrass both questions. I shall be willing to vote for his proposition as an amendment to any of the appropriation bills, and I am ready to vote for it as a separate measure. But the object of this bill is to settle the accounts of Brigadier General Riley. He collected, under the orders of the Government, large sums of money in California, and the object is to have some provision for settling his accounts for so doing. I can see no difficulty in the suggestion made that the bill orders the money to be paid into the Treasury of the United States. It is already there.

Mr. GWIN. No, sir.

Mr. RUSK. It is not legally there, I admit, but it has been there deposited, and all that this bill seeks, is to relieve a very meritorious officer from the embarrassing circumstance of having unsettled accounts for a large amount of money. That is the whole of it. The money is already in the custody and keeping of the United States; and the keeping of General Riley's accounts unsettled, and putting him in an embarrassed condition, does not give to California any stronger claim to the money than she has now. Under such circumstances, unless there can be some reasonable objection made to this bill, I think it ought to be acted on immediately. I understood the Senator from California to say that he had no objection to it, and that his only object was to attach the other bill as an amendment, besides, I believe the subject has been investigated by the Committee on Military Affairs.

Mr. GWIN. I would appeal to the honorable Senator from Illinois whether his committee ever examined this bill?

Mr. SHIELDS. No, sir, we never did; but we examined similar cases, and we investigated the principle involved. But whether that be so or not, let the honorable Senator from California consider this single fact: those who are anxious for the passage of this bill, are also anxious to pass the measure to which he has alluded. Now, is it treating General Riley well in the Senate, at this time, when everybody admits his bill to be a correct one, to embarrass it with other matters which may not pass at this session? If there be any officer who deserves generous treatment here, it is this brave old man. If there is any objection against the bill, or against the principle of it, let it be stated, and let us examine it. If there is any objection to the amount, let that be stated and examined; but I do not think it is treating this old officer well to select this bill, and make it a car to carry others, which may, perhaps, be equally just, but the addition of which may endanger the whole.

Mr. GWIN. Nobody is more disposed to treat General Riley with the utmost liberality than I am. I do not object to the principle of paying him. That is well understood by the Senate. But there are other important principles involved by this bill. It proposes to order the payment of the whole of this civil fund into the Treasury. The Senate has heretofore, by a unanimous vote, decided that a portion of that fund should take a different direction. Besides, this bill is radically defective in another point. It proposes to appropriate money to enable the Secretary of the Treasury to defend General Riley against suits that may be brought, or have been brought against him for the moneys collected in California. He is not the party to those suits. The suits have been brought against the collector, whom he continued in office; and if you intend that the Government shall defend the suits which have been brought by the merchants, why not have the bill so drawn up as to provide for the defense of the collector, who is really the defendant to these suits? These cases are, I believe, pending before the Supreme Court of the United States, and if you are going to defend the right of the United States—and for myself I do not think the fund belongs to the United States, but that it belongs to California—why not provide for defending the party who is actually the defendant of the case?

Mr. BADGER. I think a just view of this subject will show the Senator from California that there is no real difficulty in that provision of the bill to which he objects as affecting the question of the right of California to this money. The money, as stated by the Senator from Texas, is now in fact in the custody and keeping of the officers of the Government. The only effect of the provision of the bill to which he objects is to put the money formally and legally in their keeping as officers of the Government. Now, in what possible mode does that affect the question, whether this money ought or ought not to be paid to California? In no way whatever that I can perceive. The money was collected by General Riley as an officer of the United States, under the authority of the United States; and of course the proper place to put it is, *prima facie*, into the Treasury of the United States. When it is placed there, it does not follow that we are to retain it against any rightful claims of California, but quite the contrary. It is then put formally into the Treasury, and legally and formally under the control of officers of the Treasury, so as to be strictly and formally subject to our disposition, through their agency, by a provision, whether made in an appropriation bill or by an independent act.

I shall vote against the reference; and I should vote against the amendment suggested by the Senator from California, if it were now before us, not as declaring any opinion upon the question whether the money ought or ought not to be paid to California. Upon that question I give no opinion, because I consider it utterly inappropriate to this bill, and because I should be extremely loth to do anything which would tend to defeat or even postpone this provision for the relief of the gallant old veteran in whose favor the bill proposes to make it.

Mr. BUTLER. Until this discussion took place, I should have voted for the reference of this bill to the committee, because I think there is a great security in observing the forms of the proceedings of the body as prescribed by our rules. But the discussion has disclosed a state of things which render it a matter of justice that we should vote for this bill without a reference, because, if it is referred, it will be so overloaded that it must sink, and General Riley will not have any opportunity of adjusting his accounts, and his age, his situation, and his services all require prompt action on our part for his relief. If the amendment suggested by the Senator from California comes up, it is well known that it will give rise to debate, for many of us believe the money alluded to is a fund which belongs to the United States, and not to California. Therefore, after this discussion, I shall vote against the reference and in favor of the bill with a clear conscience.

Mr. BRIGHT. I agree with the Senator from South Carolina, that as a general rule it is the safer course to have all bills pass through the ordeal of a reference to proper committees. But I think this is a peculiar case. I have a distinct recollection of what occurred before the Committee on Finance, which reported a bill which gave $300,000 to the State of California, raised in the manner mentioned by the honorable Senator; and my recollection is very much the same as that of the honorable Senator from Pennsylvania. I was one of that committee who opposed giving to California one dollar of that money, believing that she had no more claim to it than any other State of the Union. The fact that the money had been collected within the limits of California no more entitled her to it, in my judgment, than if it had been raised in any other State of the Union; nor any more than the money raised in New York belongs to the citizens of New York. It was raised from our own citizens in common with others emigrating there from this part of the country, as well as from all other parts of the world. It was, therefore, emphatically the money of the United States, and I repeat it, California had no more legal or equitable right to it than any other State in the Union. I know that the honorable Senator from California, as a member of that committee, thought differently, and urged with all the zeal and force with which he usually urges measures for his State, that California should have the entire amount. As a compromise on the part of the committee, we agreed to give $300,000. I had supposed that would be the end of the claim. I did not suppose that California would set up any claim for another dollar of the money. But whether she does or not, the claim should not be considered upon this bill, which is intended to give relief to an aged soldier, whose appearance admonishes us that if we act at all in his case to benefit him, we ought to act early. It is to give him that to which he is entitled—a mere pittance, a moiety of that which he secured for the Government by his services. In short, it is to give him $15,000 for receiving and handing over to the Government some $1,300,000, which he was faithful in collecting. He cannot have his accounts adjusted until this bill shall be passed. As I remarked before, as a general rule, I am in favor of a reference of all bills; but this is a case peculiar and outside of the general principle. I shall, therefore, vote against any proposition to alter or amend the bill, and against any reference, for I believe the bill is right as it is.

The question being taken by yeas and nays on the motion to refer the bill to the Committee on Finance, resulted—yeas 10, nays 44; as follows:

YEAS—Messrs. Adams, Bradbury, Chase, Douglas, Fitzpatrick, Gwin, Hunter, Mason, Norris, and Weller—10.

NAYS—Messrs. Atchison, Badger, Bayard, Bell, Borland, Bright, Brodhead, Broeke, Butler, Cass, Charlton, Cooper, Davis, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fish, Foot, Geyer, Hale, Hamlin, Houston, James, Jones of Iowa, Jones of Tennessee, Mallory, Miller, Morton, Pratt, Rusk, Sebastian, Seward, Shields, Smith, Soulé, Spruance, Stockton, Sumner, Toucey, Underwood, and Wade—44.

So the motion was rejected.

The PRESIDENT. The bill is now before the Senate as in Committee of the Whole.

Mr. GWIN. I desire to move to amend the bill. I have sent for the bill which was reported by the Committee on Finance at the last session, and I ask that action on the bill may be delayed until I receive it. Otherwise I shall speak to the merits of the bill until it does come.

Mr. HUNTER. I hope the bill will be permitted to go over until to-morrow, as my colleague, who has the floor on the special order, desires to address the Senate.

Mr. GWIN. I have no objection to that.

Several SENATORS. Pass it now.

Mr. HUNTER. The Senator from California says he is bound to speak upon it.

Mr. CASS. I trust that, under the circumstances, it will go over. All comity decides that the Senator from Virginia [Mr. MASON] is entitled to be heard to-day. As the honorable Senator from California announces that he means to go into a long discussion of this bill, it should be postponed.

Mr. HUNTER. I move to postpone the further consideration of the bill until to-morrow.

Mr. BADGER. I appeal to the Senator from California not to persist in offering his amendment. The vote upon the question of the reference was a test vote upon the question of putting that amendment to this bill. There is a clear and decided sense of the Senate against it, and I am sure he would not postpone this act of justice to General Riley for the purpose of discussing another question upon this bill.

Mr. GWIN. If my friend from North Carolina will only read the instructions that have been sent to my colleague and myself, by the Legislature of California, by a unanimous vote, he will see that it is my duty to contest this matter.

Mr. BADGER. I suppose the object of the Legislature of California is to get this money paid.

Mr. GWIN. And to keep it from going into the Treasury of the United States.

Mr. BADGER. And does he not see that the very course he is pursuing, so far from advancing the probability of its payment, is absolutely

putting obstacles in the way of what the Legislature have at heart?

Mr. GWIN. I think not.

The motion to postpone was not agreed to.

Mr. GWIN. I propose to amend the bill, by adding the following as an additional section:

And be it further enacted, That the funds collected from the date of the ratification of the treaty of peace with Mexico, to the 12th of November, 1849, when the collector, appointed under the act of 3d March, 1849, entered upon the duties of his office, be paid to the State of California, after the payments provided for in the second and third sections of this act are deducted from the same.

That brings up the question whether or not we will pay to California this fund or any portion of it. I desire to have justice done to my State. I am willing to have the amendment acted upon now without discussing it.

Mr. SEWARD. I feel very sure that the question on the amendment brings up the whole question, and therefore it is that I do not wish to be misunderstood in voting upon that amendment. I shall vote against it as an amendment to this bill, because I think it is out of time and out of place, and not upon the merits of the amendment. I am sure that if we are ever to have an opportunity to do an act of justice to this veteran soldier it is now to be done. If this bill goes over till another session of Congress he will be at rest, beyond the reach of any favor or any act of justice which we can render. I hope, therefore, the Senate will vote to reject this amendment, and pass the bill.

The question was taken on the amendment, and it was rejected. The bill was reported to the Senate, without amendment, and ordered to be read a third time.

The PRESIDENT. By unanimous consent, the bill will now have its third reading.

Mr. GWIN. Let it go over until to-morrow. I may have to say something on the subject.

PACIFIC RAILROAD.

Mr. MASON. I move that the Senate proceed to the consideration of the resolutions reported by the Committee on Foreign Relations on the Tehuantepec grant.

Mr. RUSK. I dislike to oppose the taking up of that subject, especially on account of the accommodation of the Senator from Virginia. But I apprehend that it will lead to a protracted debate, and supersede other business of vast importance. The special order which has preference for to-day, is the Pacific railroad bill. That is the one which first comes up. It has the preference, notwithstanding the other was made the special order of the day for this day. I doubt whether we shall come to any conclusion upon the Tehuantepec matter at this session. The Special Committee on the subject of the railroad to the Pacific have reported a bill, which I am inclined to believe, from what I have heard and seen upon the subject, will meet the approbation of a majority of the Senate. We are now upon the last month of the session, and the right of way to our Pacific possessions over our own territory is, and has been, for some years past, a necessity, and it should command our immediate attention. I have no disposition, as I said before, to incommode the honorable Senator from Virginia, or to object to his going on with the matter which he proposes. If he will agree to a proposition which I wish to make, I shall not object to taking up that subject. The Senate bill No. 560, "authorizing the construction of a railroad and branches, for establishing a certain postal communication between the shores of the Pacific and Atlantic within the United States, for the protection and facilities of travel and commerce, and for the necessary defenses of the country," is the special order for to-day. All that I desire is, to take up that bill for a moment, to substitute an amendment for it, which I desire may take the place of the bill I have named as the special order by the unanimous consent of the Senate, and then I will move to pass it over, in order to take up the Tehuantepec grant resolutions.

Mr. MASON. I have no objection to that.

Mr. RUSK. I therefore move to take up the Pacific railroad bill which I have named, for the purpose of substituting another as the special order.

The motion was agreed to.

Mr. RUSK. I now move that the "bill for the protection of the emigrant route, and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon," and the amendment to it, reported by the Special Committee, be placed upon the calendar as the special order, in place of the one which now stands as the special order.

The motion was agreed to.

Mr. RUSK. I now move to postpone its consideration until to-morrow.

Mr. HUNTER. Are we to understand that the bill submitted by the Senator from Texas is, by general consent, adopted as an amendment?

Mr. RUSK. Not at all. It is substituted on the calendar as the special order, in place of Senate bill No. 560.

Mr. HUNTER. Can that be done? How are we to dispose of the latter bill? The best way would be to reject it by unanimous consent. How are we otherwise to dispose of it by unanimous consent?

Mr. RUSK. It falls back upon the calendar, as did the other bill, which was at first the special order; and the change made is, to place the bill which I have proposed on the calendar as the special order, in place of the former bill, so that it will be the order of the day for to-morrow.

Mr. HUNTER. I understand that the Senator moves that, by general consent, we repeal the order making bill No. 560 the special order, and that we make the bill submitted by him the special order. That is the only way we can get at it.

The PRESIDENT. The Senate has disposed of that matter, by unanimous consent.

Mr. BRODHEAD. I have a substitute for all of these propositions, which I desire to submit informally and have printed. I am one of those who believe that we ought to have reconnoissances and surveys of the route from the Mississippi to the Pacific before we order the railroad to be built; and, therefore, I intend to propose a substitute appropriating $100,000 to enable the Secretary of War to have a reconnoissance and survey made.

The PRESIDENT. The Senator is out of order, and his proposition is out of order. The question is on postponing the consideration of the bill until to-morrow.

Mr. BRODHEAD. I ask unanimous consent to have my proposed amendment printed.

The PRESIDENT. If there be no objection, it will be so ordered.

The motion to postpone was then agreed to.

TEHUANTEPEC GRANT.

The Senate proceeded to consider the following resolutions, which were reported from the Committee on Foreign Relations:

Resolved, (as the judgment of the Senate,) That in the present posture of the question on the grant of a right of way through the territory of Mexico, at the Isthmus of Tehuantepec, conceded by that Republic to one of its citizens, and now the property of citizens of the United States, as the same is presented by the correspondence and documents accompanying the message of the President of the United States of the 27th July, 1852, it is not compatible with the dignity of this Government to prosecute the subject further by negotiation.

2. Should the Government of Mexico propose a renewal of such negotiation, it should be acceded to only upon distinct propositions from Mexico, not inconsistent with the demands made by this Government in reference to said grant.

3. That the Government of the United States stands committed to all its citizens to protect them in their rights, abroad as well as at home, within the sphere of its jurisdiction; and should Mexico, within a reasonable time, fail to reconsider her position concerning said grant, it will then become the duty of this Government to review all existing relations with that Republic, and to adopt such measures as will preserve the honor of the country and the rights of its citizens.

Mr. MASON addressed the Senate at length, and with much zeal, in vindication of the Garay grant and a communication, by Tehuantepec, as the most practicable route, contending that the Government should protect the grant now owned by its citizens. His speech will be published in the Appendix.

Mr. DOWNS next obtained the floor, but yielded, at the solicitation of Senators,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 1, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the reception of reports from the Committee on Ways and Means.

INCREASED COMPENSATION.

Mr. GENTRY. I ask the unanimous consent of the House to introduce a resolution, to which I presume there will not be a single dissenting voice. It will be remembered by the House, that a law was passed at the last session of Congress, giving an increased compensation to the employees about the Executive and Legislative Departments of the Government. The Comptroller of the Treasury, after examining this law, has arrived at the conclusion that none can participate in the benefits of this law, except those immediately employed in and about the Capitol and the Executive Departments. Hence, although the laborers in the Legislative branch of the Government are specified in the original act, yet the laborers about the Capitol grounds—the gate keeper at the western gate, and three or four other persons, whose duties are not immediately under the roof of the Capitol, are excluded. The watchmen about the President's House are also excluded. The Comptroller decides that the term "Executive and Legislative Departments" must be taken as applying to the Capitol Building and to the buildings of the several Executive Departments. Now, although his reasoning is very plausible, yet these persons are excluded from the benefits of this act, which was not intended. I hope there will be no objection to the introduction of the resolution, which is simply to provide that the benefits of the law may be extended to the employees who have been excluded by the construction of the Comptroller.

Mr. DAVIS, of Indiana. I am constrained to object.

ROAD TO OREGON AND CALIFORNIA.

Mr. GIDDINGS. I ask the unanimous consent of the House to introduce a bill from the Committee on Territories, for the purpose of having it printed, and ready for the action of this body on Monday next. That is the day set apart for the consideration of territorial business. I ask that the bill may be reported to the House.

There was no objection, and

Mr. GIDDINGS, from the Committee on Territories, reported a bill to provide for the survey and location of a wagon road from some point on the Missouri river to the settlements in California and Oregon, also for the extension of the settlements along the same; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. JONES, of Tennessee. I rise to a privileged question. I move to reconsider the vote by which that bill was referred to the Committee of the Whole on the state of the Union, and move to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

PENSION BILL.

Mr. HENN, from the Committee on Enrolled Bills, reported as correctly enrolled the "Act to continue half pay to certain widows and orphans;" which received the signature of the Speaker.

Mr. COBB. When I obtained the floor, I intended to ask the House, the first time during the present session, to extend to me a personal favor. But I will abandon that intention now, and state to the House that on Monday next I will ask the unanimous consent of the House to allow Senate bill No. 74, which proposes to graduate and reduce the price of public lands to actual settlers and cultivators, to be taken up and considered. I will waive that now, and content myself with asking the consent of the House to withdraw the papers of a widow, who has a claim before the Departments, from the files of the House, with a view to refer them to the Third Auditor's Office, where she can avail herself of the benefits of the bill which has just received the signature of the Speaker—the papers of Mary Parker, the widow of Colonel Parker.

No objection was made, and the order for the withdrawal of the papers was entered.

COINAGE.

Mr. DUNHAM. I am instructed by the Committee on Ways and Means to report back, with sundry amendments, Senate bill No. 271, entitled "An act amendatory of existing laws relative to the half dollar, the quarter dollar, the dime, and the half dime."

The bill was then read, as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of June, one thousand eight hundred and fifty-two, the weight of the half dollar, the

piece of fifty cents, shall be one hundred and ninety-two grains; and the quarter dollar, dime, and half dime, shall be respectively one half, one fifth, and one tenth of the weight of said half dollar.

"SEC. 2. *And be it further enacted*, That the silver coins issued in conformity to the above section shall be legal tenders in payments of debts for all sums not exceeding five dollars.

"SEC. 3. *And be it further enacted*, That in order to procure bullion for the requisite coinage of the subdivisions of the dollar authorized by this act, the Treasurer of the Mint shall, with the approval of the Director, purchase such bullion with the bullion fund of the Mint. He shall charge himself with the gain arising from the coinage of such bullion into coins of a nominal value exceeding the intrinsic value thereof, and shall be credited with the difference between such intrinsic value and the price paid for such bullion, and with the expense of distributing such coins as is hereinafter provided. The balance to his credit on the profit of said coinage shall be from time to time, on a warrant of the Director of the Mint, transferred to the account of the Treasury of the United States.

"SEC. 4. *And be it further enacted*, That such coins shall be paid out at the Mint in exchange for good coins at par, in sums not less than one hundred dollars; and it shall be lawful also to transmit parcels of the same, from time to time, to the assistant treasurers, depositors, and other officers of the United States, under general regulations, proposed by the Director of the Mint, and approved by the Secretary of the Treasury: *Provided, however*, That the amount coined into quarter dollars, dimes, and half dimes shall be regulated by the Secretary of the Treasury.

"SEC. 5. *And be it further enacted*, That no deposit for coinage into the half dollar, quarter dollar, dime, or half dime, shall hereafter be received, other than those made by the treasurer of the Mint, as herein authorized and upon account of the United States.

"SEC. 6. *And be it further enacted*, That at the option of the depositor, gold or silver may be cast into bars or ingots of either pure metal, or of standard fineness, as the owner may prefer, with the stamp upon the same, designating its weight and fineness; but no piece of either silver or gold shall be cast into bars or ingots of less weight than ten ounces, except pieces of one ounce, of two ounces, of three ounces, and of five ounces, all of which pieces of less weight than ten ounces shall be of the standard fineness, with their weight and fineness stamped upon them; but in case whether gold or silver deposits be coined or cast into bars or ingots, there shall be charged to the depositor, in addition to the charge now made for refining and parting the metals, one half of one per cent.; the money arising from this charge of one half per cent. shall be charged to the Treasurer of the Mint, and from time to time, on the warrant of the Treasurer of the Mint, shall be transferred into the Treasury of the United States: *And provided, however*, That nothing contained in this section shall be considered as applying to the half dollar, or quarter dollar, the dime, and half dime.

"SEC. 7. *And be it further enacted*, That from time to time there shall be struck and coined at the Mint of the United States, and the branches thereof, conformably in all respects to law, and conformably in all respects to the standard of gold coins now established by law, a coin of gold of the value of three dollars, or units, and all the provisions of the act entitled 'An act to authorize the coinage of gold dollars and double eagles,' approved March 3, 1849, shall be applied to the coin herein authorized, so far as the same may be applicable; but the devices and shape of the three dollar piece shall be fixed by the Secretary of the Treasury.

"SEC. 8. *And be it further enacted*, That this act shall be in force from and after the first day of June next."

Mr. DUNHAM. The Committee on Ways and Means, to whom was referred this bill, recommend several amendments, which I will ask to have read.

The amendments were read, as follows:

In section two, strike out the words "debts for all sums not exceeding five dollars," and insert in lieu thereof the words "dues of the United States."

In section three, after the words "intrinsic value thereof," insert the words "estimated in dollars of silver."

In section four, insert before the words "quarter dollars," the words "half dollars."

In section six, strike out the words "of either pure metals," and insert in lieu thereof the words "or coined into disks of metals either refined or as nearly as may be practicable, to purity."

In same section strike out the word "whether," after the words "but in case," and insert in lieu thereof the word "where." In the same section, and immediately after the last amendment, strike out the words "or cast into bars or ingots." In the same section, after the words "one half of one per cent.," insert the words "and where it is cast into bars or ingots, or formed into disks, the charge shall not exceed the expense, to be regulated from time to time by the Secretary of the Treasury."

At the end of the same section, insert the words, "and provided also, that the Secretary of the Treasury shall regulate the size and devices of the new silver coin authorized by this act."

In section eight, strike out the words "the first day of June next," and insert in lieu thereof the words "its passage."

Mr. DUNHAM. I offer, upon my own responsibility, the following amendment:

SEC. 1. *Be it further enacted, &c.*, That so much of the thirty-third and thirty fourth sections of the act supplementary to the act entitled "An act establishing a Mint and regulating the coins of the United States," passed July 18th, 1837, as requires the treasurer of the Mint to purchase copper in the form of planchets, and to deliver them in that form for coinage, is hereby amended so as to authorize such purchase either in the form of bullion or of planchets, as may be deemed expedient; and that said copper in bullion or planchets shall be delivered from time to time by said treasurer to the chief coiner of the Mint, to be coined; and all such copper shall be returned to the treasurer by the chief coiner, weight for weight, without allowance for waste, if the same be in planchets; but if the copper be in the form of bullion there shall be an allowance for actual waste, in the manufacture into coins, but not to exceed ten thousandths of the weight delivered.

Mr. DUNHAM, who was entitled to the floor, addressed the House, without concluding, in explanation of the provisions of the bill, and in favor of its immediate passage.

VOTES FOR PRESIDENT AND V. PRESIDENT.

Here a message was received from the Senate by the hands of ASBURY DICKINS, its Secretary, informing the House they had passed the following resolution:

"*Resolved*, That a committee be appointed to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice-President of the United States, and of notifying the persons elected of their election."

And that Mr. HUNTER, Mr. BRIGHT, and Mr. PEARCE were appointed the committee on the part of the Senate.

Mr. SWEETSER. I rise to make an inquiry of the Chair.

Mr. JONES, of Tennessee. I call for the consideration of the special order, the hour of one having arrived.

Mr. SWEETSER. I believe I have the floor.

Mr. DUNHAM. No, sir; I am entitled to the floor.

Mr. JONES. I call for the consideration of the special order.

Mr. SWEETSER. Upon that subject I claim the floor.

The SPEAKER. No gentleman can have obtained the floor yet upon the special order.

Mr. DUNHAM. I wish to know whether my motion to refer the bill reported by me this morning to the Committee of the Whole on the state of the Union has been entered?

The SPEAKER. It has. The gentleman from Tennessee [Mr. JONES] is entitled to the floor upon the special order.

Mr. SWEETSER. Upon what ground is he entitled to the floor?

The SPEAKER. Upon the ground that on his motion the bill was taken up and made the special order for to-day.

Mr. SWEETSER. By the courtesy of the House.

Mr. STUART. With the permission of the gentleman from Tennessee, I desire to make a motion with reference to the bill in relation to coinage, which has been under discussion here this morning. I move that the bill and amendments be printed.

The motion was agreed to.

BAIL IN CIVIL CAUSES.

The SPEAKER. The special order for to-day is the consideration of Senate bill No. 582, "concerning bail in civil causes in the District of Columbia."

Mr. JONES, of Tennessee. I ask for the reading of the bill.

The Clerk read the bill, which is as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That from and after the passage of this act, no person shall be held to bail, in the District of Columbia, in any action of debt, assumpsit, or other action founded on or arising out of any contract or agreement, or in any suit or proceeding in equity brought or prosecuted for enforcing the payment of any debt or of any sum or sums of money due or claimed to be due by reason of any contract or agreement; and any person now held to bail or imprisoned for want of bail in any such action, suit, or proceeding, shall, on application to the circuit court of said District, in term time, or to any judge thereof, in vacation, be discharged on filing a common appearance."

Mr. JONES. As I understand the laws of this District, some years ago Congress abolished all laws authorizing the arrest or imprisonment of the body of a debtor upon final process, but did not abolish the law authorizing arrest upon mesne process, and the holding of a debtor to bail, or in default of bail, his committal to prison, there to await the trial of the suit.

The first provision of this bill abolishes bail in civil suits upon mesne process. To that, I suppose, there will be no objection on the part of any member of this House.

The second provision of the bill, though in general terms—I wish the House to understand its object—is to affect a particular and individual case of peculiar hardship and oppression, as I think. It is for the purpose of discharging David Taylor, now confined in jail, in this city, in default of bail upon civil suit against him. David Taylor, though a white man, is virtually and legally a Cherokee Indian. He is recognized by their laws, and treated by that nation as one of their people. He is the head of a Cherokee family. Some twelve years ago, he came to this city to prosecute a claim against the Government for his reservation, under the treaty of 1835–'6, as head of a Cherokee family. He has been here during that time prosecuting his claim, and finally, during the last session of Congress, a provision was incorporated into the Indian appropriation bill appropriating the amount at which his reservation was valued, and giving interest upon that valuation, from the date when the money was due up to the passage of the act, amounting, in all, to something over $24,000. Immediately after the passage of that act and the adjournment of Congress, some person in this city, who claimed to be the agent or attorney of David Taylor for prosecuting this claim, enjoined the collection and payment of the money out of the Treasury, and arrested Taylor, commencing suit against him, and requiring bail of him. He, being unable to give bail, not being a citizen here, or living in the District, was incarcerated in jail, in this city, and has remained there since a very short time after the adjournment of the last session of Congress, and still remains there at the will and pleasure of this agent or attorney, who claims to be a creditor of his. It is a charge, I suppose, for lobbying the claim of Taylor through the Congress of the United States.

Mr. CLINGMAN, (interrupting.) I wish to remind the gentleman from Tennessee that Taylor has already paid nearly $3,000 in such fees. A gentleman who attended to the claim for two or three years, and the only one who really did anything, told me that Taylor paid him ten per cent. on the claim as soon as he got any of the money, being $2,400.

Mr. JONES. I intended to state that fact. When twenty per cent. of the claim was enjoined in the Treasury, Taylor was paid the balance. After he was put in jail, he sent for the attorney whom he had employed some fifteen or twenty years ago to prosecute the claim for him before the Department, and paid him ten per cent. on the whole amount of the claim.

Mr. SWEETSER. I rise to a question of order. I submit that inasmuch as this is a general bill, it is not in order to discuss the particular merits of any case that may exist, which is claimed to be a case of peculiar hardship, upon which this bill is predicated. The bill names no individual, and I beg to be excused from acting in this House upon such a suggestion.

Mr. JONES. I will not detain the gentleman or the House any longer. I believe the House understands the case, and are as well prepared to vote upon it now as they would be at the end of the week. I therefore ask the previous question.

Mr. SWEETSER. I hope the House will not sustain the demand for the previous question, upon a bill like this, involving a great question. I ask the gentleman, not as a matter of courtesy, but as a matter of right, to let the House understand upon what this bill is predicated.

Mr. JONES. The matter is under the control of the House.

Mr. SWEETSER. I ask the House to vote down the demand for the previous question.

The previous question received a second, and the main question was ordered to be now put.

The bill was then ordered to a third reading, and was subsequently read the third time.

Mr. JONES. I move the previous question on the passage of the bill.

The previous question was seconded.

Mr. SWEETSER. I rise to a privileged question. I move to reconsider the vote by which the House ordered the bill to a third reading.

The SPEAKER. The Chair believes that motion to be in order.

Mr. CLINGMAN. The previous question is pending.

Mr. SWEETSER. No, sir; the main question has not been ordered to be put.

The SPEAKER. The reconsideration may be postponed. If the question is taken now, it will have to be taken without debate.

Mr. CLINGMAN. I make this point: that

the previous question having been seconded on the passage of the bill, you cannot go back to this question.

Mr. JONES. I would inquire if the gentleman from Ohio voted with the majority?

Mr. SWEETSER. No, sir; of course I did not.

A MEMBER. There was no division.

The SPEAKER. The universal practice in such cases as this has been to allow the motion to reconsider to be taken. It must be taken, however, without debate, the previous question having been sustained.

Mr. SWEETSER. My object is to debate the bill; and since I am not entitled to do it, I withdraw the motion to reconsider.

Mr. JONES. I move to reconsider the vote by which the bill was ordered to a third reading, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

The main question was then ordered to be put.

The question now being, "Shall the bill pass?"

Mr. SWEETSER called for the yeas and nays; and they were ordered.

The question was then put, and it was decided in the affirmative—yeas 131, nays 22; as follows:

YEAS—Messrs. Abercrombie, Charles Allen, Willis Allen, Allison, William Appleton, Averett, Babcock, David J. Bailey, Beale, Bennett, Bocock, Bowie, Brenton, Albert G. Brown, E. Carrington Cabell, Joseph Cable, Caldwell, Lewis D. Campbell, Cartter, Chandler, Chastain, Clemens, Clingman, Cobb, Cottman, Cullom, Curtis, Darby, John G. Davis, Dawson, Dean, Disney, Dockery, Doty, Dunham, Durkee, Eastman, Edgerton, Ewing, Faulkner, Ficklin, Florence, Floyd, Freeman, Gaylord, Giddings, Gilmore, Goodrich, Gorman, Grey, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Haws, Hascall, Hendricks, Henn, Hibbard, Hillyer, Howard, Thomas M. Howe, Ingersoll, Ives, Jackson, Jenkins, George W. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Little, Lockhart, Mace, McDonald, McNair, Meacham, Miller, Millson, Miner, Molony, Henry D. Moore, John Moore, Murphy, Murray, Nabers, Newton, Olds, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Perkins, Phelps, Porter, Powell, Preston, Richardson, Riddle, Robbins, Robie, Ross, Russell, Sabine, Sackett, Savage, Schoolcraft, David L. Seymour, Origen S. Seymour, Skelton, Smart, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stone, Strother, Taylor, Thurston, Tuck, Venable, Ward, Washburn, Watkins, and Wilcox—131.

NAYS—Messrs. Barrere, Busby, Caskie, Colcock, Conger, Duncan, Thomas J. D. Fuller, Holladay, Houston, John W. Howe, Martin, McMullin, Meade, Morehead, Penniman, Smith, Sweetser, Toombs, Wallace, Welch, and Williams—22.

So the bill passed.

Mr. JONES. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HILLYER. I rise to what I suppose to be a question of privilege. The Senate passed a bill (No. 358) directing a survey to be made for the purpose of constructing a certain canal, which was sent here, but which has been lost. I now wish to obtain an order for the Clerk to request of the Senate a copy of the bill, in lieu of the one which has been lost.

There being no objection, the order was accordingly made.

The question was then taken upon Mr. HOUSTON's motion, and it was agreed to.

So the rules were suspended.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN of Mississippi in the chair.)

ARMY APPROPRIATION BILL.

Mr. HOUSTON. I move to take up House bill (No. 336) making appropriations for the service of the Army, for the fiscal year ending June 30th, 1853.

The motion was agreed to.

Mr. HOUSTON. I move to dispense with the first reading of the bill, and that the Clerk proceed to read it by sections for amendment.

The motion was agreed to, and the Clerk proceeded to read by sections.

Mr. GORMAN. I am instructed by the Committee on Military Affairs to move to amend, by inserting after the seventy-eighth line, the following:

For erecting barracks and quarters at the Republican Fork of the Kansas river, $65,000.

Mr. Chairman, this amendment is intended to appropriate a sum for the purpose of building barracks and officers' quarters at the Republican Fork of the Kansas river. The Secretary of War and General-in-Chief of the Army recommend that four of the military posts on the road to Santa Fé, California, and Oregon, be abandoned, and that this one be established in their stead. The point here designated is in a fertile region of country, where the troops stationed there will be enabled, to a considerable extent, to sustain themselves by their own labor. With a view, then, of abandoning Fort Snelling, Fort Laramie, Fort Leavenworth, and Fort Scott, I believe this amendment is offered. It is recommended by the Committee on Military Affairs, and I presume no other explanation will be necessary.

Mr. HALL. I ask that the amendment may again be read.

The amendment was read by the Clerk.

Mr. EVANS. Mr. Chairman, I desire to say, in addition to what has been said by the gentleman from Indiana, [Mr. GORMAN,] the chairman of the Committee on Military Affairs—and none understand this subject better than he does—that this amendment does not increase the regular appropriation at all. Last year the new posts were provided for out of the general appropriation for barracks and quarters. But this year the Secretary of War thought it best, with due deference to the House of Representatives, to ask that specific appropriations be made for these new posts, instead of providing for them in the general appropriation for barracks and quarters. As I remarked, if this amendment be adopted, it will not increase the amount of the general appropriation granted in former years for the same purpose. It appears eminently proper that the specification should be made. From the investigation I have myself given to it—and I have looked to the subject with some care—the fort at the Republican Fork of the Kansas river should have an appropriation for it. It is situated in a fertile region, where wood can easily be obtained, and its location is one from which great protection may be granted to the emigrants proceeding to the western coast, and to the settlers in New Mexico, Oregon, and California. It is proper that Fort Leavenworth, formerly a frontier fort, should be removed to this point; and as it involves no further appropriation of money, I hope the amendment will meet the sanction of the committee.

Mr. WEIGHTMAN. I desire to inquire if it is proposed to abandon Fort Atkinson for the purpose of establishing this new one?

Mr. GORMAN. It is not.

The question was then taken, and the amendment was agreed to.

Mr. GORMAN. I have another amendment, which I am also instructed by the Committee on Military Affairs to offer, to come in at the same point in the bill. I move the following:

For erecting barracks and quarters upon the Minnesota river, $40,000.

If there is no objection to the amendment, I will not occupy the time of the committee by any remarks in explanation of it.

The amendment was agreed to.

Mr. GORMAN. I am instructed by the Committee on Military Affairs to offer the following amendment, to come in after the one hundred and twenty-fourth line:

That the Secretary of War be, and he is hereby, authorized to abolish such of the arsenals of the United States as, in his judgment, may be useless or unnecessary.

A word in explanation of this amendment.

Several MEMBERS. No speech is necessary.

Mr. GORMAN. Very well; I do not know that any explanation is necessary.

The amendment was adopted.

Mr. HOUSTON. I move the following amendment, to supply an omission;

Insert in line one hundred and thirty-one, after the word "two," the words "three thousand five hundred dollars."

The section would then read as follows:

For arrearages prior to July first, eighteen hundred and fifteen, payable through the office of the Third Auditor, under an act approved May first, eighteen hundred and twenty, in addition to an unexpended balance of seven thousand four hundred and twenty-six dollars remaining in the Treasury on the thirtieth of September, one thousand eight hundred and fifty-two, three thousand five hundred dollars.

The amendment was adopted.

Mr. HOUSTON. I submit the following amendment as an additional section:

For arrearages of pay, subsistence, and clothing, due to Captain Richard W. McRae's company of Virginia volunteers, which served in the war with Great Britain, in 1812 and 1813, the sum of $10,335 31.

I will simply say, that is precisely the amount due. After a laborious examination, the precise amount due each individual of these volunteers, has been ascertained. The amount is recommended by the Secretary of War as due these soldiers, and I presume the committee will not hesitate to adopt the amendment.

The amendment was agreed to.

Mr. GORMAN. I have another amendment which I propose, to come in after the one hundred and twenty-third line. It is the following:

Provided, That from and after the first day of July next, so much of the act of Congress, approved August third, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps, be, and the same is hereby, repealed, and from that day, the said armories shall be under that system of superintendence which existed prior to the passage of the said act of Congress.

It is proper that I should say something to the committee upon the subject of that amendment.

Several VOICES. No; let it go.

Mr. GORMAN. Very well. If no objection is made, I will not say one word.

Mr. EVANS. Mr. Chairman, I differ with my colleague upon the Committee on Military Affairs [Mr. GORMAN] upon the subject of this amendment. This is a matter of great importance, for which I claim the attention of the committee. The alteration proposed by this amendment ought not to be made. There is no question about it.

General Jackson, if I mistake not, about the year 1836, found it necessary to take these armories away from the civil superintendence, and place them, with the other military branches of the Government, under military superintendence.

A MEMBER. That was not General Jackson.

Mr. EVANS. My impression was that it was General Jackson, but whether it was or not is not important to the argument. It appears—or it will so appear if we ever call for information upon the subject—that the prices of manufacture of these arms have been greatly reduced under the proper military superintendence. Well, sir, all this is denied; but upon what authority? Upon the authority of certain pamphlets which are sent here to show us that the real cost of the manufacture of arms was less during the civil superintendence than under the military. But, sir, what is the state of facts? I believe, as I said, that the cost has been less under the military than under the civil superintendence. At any rate, we have no report from the War Department upon the subject, and information is wanted from there, before we act upon the subject here. We clearly ought not to legislate upon this important branch of the public service without calling for information from the proper Department. But, sir, we have no information from that quarter. We have not called upon the War Department for it; and I know that the head of that Department is opposed to this change—that he believes it to be an injudicious change. He thinks it one which it would be improper, for the good of the public service, to carry into effect. There are two parties in the armory in Springfield, in the State of Massachusetts, mutually arrayed against each other, in relation to this matter. I do not pretend to judge between them. They are continually quarreling. It is a most bitter quarrel between them—one side contending for the military superintendence of the armories, and the other to take it away from them. They have come here with their difficulties, and there is not a member of this House who has not been harassed with their solicitations—not one. Now, without pretending to decide upon the propriety or impropriety of this change, I say we ought not to direct it without a proper report upon the subject from the War Department.

Why do you not take from the artillery branch of the service the military management, and give it to a civil officer? Why is the Ordnance Corps specially picked out? Sir, why have you an ordnance? For what purpose is the artillery of the Army placed under that special branch of the service, unless it is that their scientific education, their special ability, and their long training, has rendered them competent to conduct that service? Yet, now you are about to take it from them, with-

out any official information whatever upon the subject—without any report from the War Department, to whom the subject specially belongs. I say this change is injudicious, and calculated to embarrass the public service. But if you determine to do it—if you determine to take these armories from under military control—under whose civil superintendence do you propose to place them? For what good end do you propose to make the change? Where are the documents to show that it is necessary? I know that upon both sides there has been much feeling in regard to this matter. I know there is a deep enmity at the bottom of it, which has long existed at the Springfield armory, of which I now speak; and I know that enmity has found voice—I am sure unwittingly—through my friend from Indiana, [Mr. GORMAN;] but I tell this committee that if this change takes place, it will be a detriment to the public service. It is only to create a parcel of sinecure offices to be filled by mere politicians. Nothing else in the world.

The public documents show—and unless garbled they will conclusively show—to the mind of every gentleman in this House, that when these armories were under civil superintendence they were not only badly managed, not only in disorder and confusion, not only destitute of discipline, but the manufacture of the public arms cost twice the money they now do. Certain explanations have been given of that. The civil superintendency shows that there have been divers expenses to be taken into account—the erection of public buildings, which ought to be charged against the Government—that the facility of manufacturing has been greatly increased, and that the increased facility has cheapened the cost of manufacture. But, whatever the explanation may be, such is the fact, that the price of muskets, which was fourteen dollars in 1841, is now about $8 50.

This is an attempt on the part of these workmen to escape from discipline—an attempt to escape from rule—an attempt to escape from that authority which ought to be maintained in all of our military establishments. This is an attempt on the part of politicians to have a loose service—to have a parcel of workmen employed on the public works under no strict guardianship or authority, who may enter upon the broad arena of politics, to make places for partisans to the detriment of the public service.

But why would you displace these officers? Are they not instructed at a military academy to fit them for these special services? Why do you instruct ordnance officers? Why do you give them a special education for the manufacture of arms, if it is not that they may be better qualified for that kind of service than any other persons? I appeal to gentlemen of the dominant party, who are about to enter into power, and who, I believe, from all that I see before me, when they get it, will use it well—because I think the prospects for the prosperity of the country are fair under the incoming Administration—I appeal to them not to load themselves down with excessive patronage. They have enough to do in the disposition of the present offices, in the removal of those who now incumber the Departments, without manufacturing another patronage. We have not done it in our time, and I pray you to have the same forbearance, regarding the public service and the public good, above all the desires of any person to creep into office.

But if the House of Representatives choose to make this change, if you deem it proper to do it upon argument, call upon the Department to show you what it has cost you to manufacture these arms all along; what it did cost under the civil superintendent; what the rule of discipline and order then was; what it cost under the military superintendence, and whether there has been any reduction in the price or not. If, upon that report, and upon all the other documents brought in, it appears that it is necessary to take away this superintendency from the military officers, no one will accede to it more cheerfully than I will. If it shall be found that this is an improper system, I will abandon it at once. But I think, on the contrary, you will find, that by abandoning this system, you are running from a very cheap system into a very dear one. That will be the result, and it is my belief, from the experience I have had for six years in this House, that we ought not, in any branch of the public service, to abandon a well-settled policy without proper reports from the heads of Departments to show us how we ought to act. But those reports are not before us, and I beg and beseech this House not to act in this hasty and inconsiderate manner, without proper information.

Mr. GORMAN. This subject has been before the Committee on Military Affairs for two or three years. At the last session of the present Congress, I made a report upon the subject, accompanied with a bill. That report occupied all the ground that was thought proper and necessary to explain and illustrate the points proposed to be acted upon. That report has been published, and the gentleman could have had access to it if he had desired; and I am very much inclined to think that he has gone off this morning without that preparation which usually characterizes his remarks in this House.

A careful analysis of the cost and general expenditure, and of the amount of arms manufactured, was gone into in that report, and a comparison made between the military and the civil superintendency. I have before me an estimate made by the Committee on Military Affairs, comparing the civil with the military superintendency. If the gentleman will take the pains to look at the annual appropriations made from 1831 to 1840, during the existence of the civil superintendency, he will find that there were manufactured at the armories of the United States, 127,876 stand of arms; that the cost to the Government was $1,769,700 95. In 1841, during the existence of the administration of General Harrison, while Mr. Bell, of Tennessee, was Secretary of War, the civil superintendency of these armories was abolished, and the military substituted. From 1841 to 1851, the whole amount of arms manufactured at the armories was 126,794—more than a thousand less than under the civil superintendency. He will also find that while the civil superintendency only required $1,769,000 for the whole of the time from 1831 to 1840, the military superintendency asked and received $2,018,289 79. Under the present system, then, they have manufactured less arms, and received $300,000 more from the Government than did the civil superintendency.

We need not refer to the statistics of this country, in the operation of our Government in any branch, for the purpose of showing that a civil superintendency has always been, and always will be, less expensive than a military one.

The Army is expensive. The officers of the Army, and especially the ordnance, make large estimates. It furnishes employment for their officers; gives employment to superannuated old men, who ought not to be in the service, but on a retired list; and the service would be far better without them. It furnishes employment for a large train of dependents. It furnishes employment for the superannuated portion of the Army.

Mr. STEVENS, of Pennsylvania. My recollection differs from the gentleman's as to the cost of manufacturing arms. I understood the gentleman to read what the whole cost of supporting and carrying on the armories has been. His figures include the purchase and improvement of property, as I suppose. But do I understand the gentleman to say that it costs as much now to manufacture a stand of arms as it did under the civil superintendency? My recollection is that it costs one third less.

Mr. GORMAN. I will state, for the information of the gentleman and of the House, that I have read from an official document, showing that from 1831 to 1840, we expended for these armories $1,769,000; that for a like number of years, from 1841 to 1851, the expenditures were $2,018,289 79. During the last ten years there may have been some additional improvements. There were some in substituting the percussion for the flint lock. There were some other improvements of the national arms—the musket. Some improvement in the artillery; but the difference in expenditure is too great to be attributed to the improvements which I have designated.

But I care not upon what ground you place the difference; and if you contend that the expense of a civil superintendence would be no less, or no more than a military one, still I would insist upon having a civil superintendence, and for these reasons: Gentlemen who know anything about the ordinary business of life, are all aware that these arms are manufactured by mechanics, and that some three or four hundred of your fellow-citizens are engaged in this business. They are fellow-citizens, they are mechanics; they depend not for subsistence upon the profession of arms, but upon the practice of their art. Would it be more in harmony with the institutions of your country to have these men controlled by a civil superintendent, drawn from their own rank in society, with feelings and sympathies in common with the laborers who are found within the walls of these manufacturing establishments, or does this House believe it would be more consistent to place the citizen mechanic under the control of military rule and military despotism? Am I right in saying *military despotism*? No gentleman upon this floor, who has looked into the regulations of the Army of the United States, but what will come to the conclusion in five minutes, that those rules and regulations and articles of war, if made to apply to the mechanics in these manufacturing establishments, are rules of despotism; rules of the one-man power; rules by which trivial offenses are tried by a court-martial, called by a military man. The sentence is executed by a military man, and his will is mostly the law. He turns them off when he thinks proper. He punishes as a military man punishes; he controls as a military man controls; he orders as a military man orders; he does all things according to military law and military discipline.

I hear the remark made upon my right, Why do they go there? Because their profession and art compel them to go there, or be without employment. There are no other establishments in the United States but the armories, at which particular artisans can be employed. Men are brought up to the particular profession of manufacturing fine arms, and are acquainted with no other. They go there, and after they have gone there, their destiny is fixed for life in society. When you place over them military superintendents you subject them to the control of military law and military discipline. Now, why should manufacturers of arms be under the superintendence of the Ordnance Corps? What particular sympathy, what particular identity of interest is there between the artisan and the Ordnance Corps? You have an Engineer Corps and you have an Ordnance Corps. That Ordnance Corps prescribes the character of arms to be manufactured, and the man who manufactures them is not a soldier, but a citizen mechanic. And, in my judgment, the man who is to superintend the workmen, and decide how many hours per day they should work, and when and how they should work, ought to be a civilian. They are citizens, and ought to be under the control of citizens, as soldiers ought to be under the control of soldiers. If the superintendent rules by military law, and thereby creates a military despotism, let him rule soldiers and not citizens—mechanics of the country. There is no reason that can be urged, unless it be one of economy, and that has been urged and failed, tending to show that military men should have the superintendence of citizen mechanics, engaged in the public workshops.

The gentleman from Maryland [Mr. EVANS] stated that the Secretary of War was not in favor of the change designed by the amendment I have submitted. He is right; but if he had looked into the report of the Secretary of War, he would have found that the Secretary makes a very tame allusion to the subject. It will be found on page 10 of the report the gentleman has in his hands. He says:

"The reports of the Chief of the Ordnance Bureau and of the Quartermaster's Department, will show the operations of these important branches of the service. Several of the suggestions contained in them are deserving of attention.

"The first of these two reports exhibits a very satisfactory view of the operations of the national armories at Springfield and Harper's Ferry; and I concur in the opinion that no benefit would be likely to result from a return to the former mode of governing these establishments."

He says that "no benefit would be likely to result from a return to the former mode of governing these establishments," and no more. That remark, I apprehend, was made with regard to the bill I had the honor at the last session to report from the Committee on Military Affairs, and to call attention to his views. It is not possible to draw anything very satisfactory from that recommendation, as he gives no reason for his suggestion. I cannot, indeed, conceive of any other thing

controlling him in making it, than a desire to bring this matter to the consideration of the committee and the country.

But, Mr. Chairman, this subject has excited a great deal of interest in the vicinity of Springfield and of Harper's Ferry. The artisans in the employ of the Government in the armories at those places, have come up here with petitions and memorials, praying for a return to the civil superintendency, and the abolition of the existing military one.

Mr. CARTTER. I wish, at this point, to inquire of the gentleman from Indiana, what the particular object of complaint is on the part of these mechanics?

Mr. GORMAN. The complaints are as diversified as those who make them. Some have one and some have another complaint, but the main one is the oppression of the military despotism to which they are subjected. They say that under military control they are governed by military rule like soldiers. They say that if anything goes wrong under the military rule, without their knowledge *they are harassed* by numerous petty orders.

Mr. ALLISON. I desire to propound an inquiry to the gentleman. He appears to make a distinction between the rule that would govern the institution at Springfield under a civil superintendency and the rule that would govern under a military superintendency. Now, I should like to know, if I understand him correctly, whether a different set of rules control the armory under a military superintendent from what control it under a civil one?

Mr. GORMAN. I will explain to the gentleman. There are different rules. The rules and regulations of the armory have been reported to me, and I have had them under my consideration for some time. The gentleman from Connecticut, [Mr. INGERSOLL,] whose constituents are interested in this matter, has in his possession depositions embodying the rules of the armory at Springfield, both under a civil and a military superintendency, the number of working hours per day, the manner of dividing labor, and the manner of discharging workmen for particular causes. The rules are framed by the superintendents themselves. There is no law which specifies the particular law or rule that shall govern, excepting the general one for the establishment of armories and the manufacture of arms. Any gentleman who will take the pains to look at the statements which have appeared in the public papers, and the facts set forth in the report made by me from the Military Committee at the last session, must conclude that there has been a tyrannical oppression of these mechanics in various ways, or else a vast deal of perjury has been committed on their part.

I am inclined to think there is nothing which can be more satisfactorily shown than that these men have been oppressed under a military rule infinitely beyond anything they were required to submit to under a civil superintendence, and that more arms have been manufactured for the same time under the civil than under the military supervision, and with an outlay of less money. All these are undeniable facts. And now, Mr. Chairman, not having calculated to have occupied so much time when I rose, I leave the subject with the committee.

Mr. STEVENS, of Pennsylvania. Before the gentleman takes his seat, I desire to ask him a question. My recollection, on looking at the documents, is this: That the present cost of the manufacture of a musket is less than eight dollars, while before the military superintendency it was fourteen dollars. I desire to know if I am right? I know there has been a good deal of money expended in the improvement of machinery and the erection of buildings, but has not the operation of the present system reduced the cost of each arm manufactured about one half?

Mr. GORMAN. The gentleman is mistaken as to the extent of reduction in the cost of manufacturing arms. There has been some reduction, and that has principally been caused by improvements in machinery; for which improvements the gentleman must remember we are indebted to the shrewd, ingenious mechanics, and not the superintendent. He is entitled to no credit. The whole credit belongs to the petitioning artisans.

Mr. STEVENS. They cost money.

Mr. GORMAN. To be sure they have cost money; but that money has not been the cause of these improvements, which greatly reduce the cos of manufacture, but the ingenuity of the mechanics. Those very men who have discovered and put into execution these improvements are the very memorialists to Congress for relief from this military rule. Then the main question for our determination is, whether it is best to rule your mechanics, your working men, by military men, or citizens who have a sympathy with them? Which comports best with the institutions of our country, the civil or the military superintendency of the citizen laborer?

I apprehend gentlemen will not be long in reaching the conclusion—to have civil and not military supervision of the United States armories. The business of your Army and its officers is of a different character. The Ordnance Corps was designed to prescribe the arms best adapted for national defense. The education of its members is directed towards the investigation of what kind of arms will do the greatest execution in time of war; what artillery is best, and of what materials it should be manufactured; what caliber and capacity is best, are matters for the investigation of the Ordnance Corps. The mere fact that the education of your military men has been with a reference to these matters, does not capacitate them for the control of your mechanics in the pursuit of their profession. I apprehend that there is no gentleman in this committee in favor of the continance of the military superintendency, when your mechanics are appealing to you to relieve them from the evil.

Mr. INGERSOLL. Mr. Chairman, I did not anticipate when I came here this morning, that the question involved in the amendment offered by the honorable member from Indiana would come up for discussion at this time, and in the shape it does. I repeat it simply because I have not those facts by me at command which will enable me to do justice to the whole matter—a subject intimately connected with the interests of a respectable portion of my constituents. Notwithstanding, however, that I am somewhat unprepared, I feel that I should be doing injury to the views and wishes of a large body of the mechanics of my State, more particularly of my district, did I suffer the present occasion to pass without raising my voice in opposition to the military discipline exercised by military officers at the national armories of our country. I wish to direct my remarks more particularly to that in operation at Springfield, in the State of Massachusetts; and before I proceed I will say, that if the facts sworn to in eight affidavits before me, and sent to me that I might see the actual state of things at that armory, are true, there is a tyranny, petty and despicable, exercised over the free, virtuous, and respectable mechanics at work there, which hardly finds a parallel within the walls of the penitentiary of my own State.

Now, sir, I am opposed to the whole system of military superintendence in the Government armories, as they are called. I believe that it is more expensive than the system of civil superintendence; that it does injustice to those of our manufacturers who are engaged in contracts for the manufacture of Government arms, and who were induced to enter upon this kind of manufacture, under the idea that it was to belong to private contractors; and lastly and principally, because the system is at war with our free institutions, and degrading in its operation to the intelligent mechanics of our country.

And first, sir, under the plea of economy, I believe an extravagance has characterized the operations of these armories. I shall take the armory at Springfield.

Gentlemen will find, I think, upon examination of the figures in the proper Department, that while the number of arms manufactured at the Springfield armory during the ten years of military superintendency was *less* than the number manufactured during the previous ten years of civil superintendency, the amount of expenditures was much greater. Thus:

Amount expended from 1842 to 1851, under military superintendence.....	$2,018,289 87
Amount expended from 1831 to 1840, under civil superintendence,	1,767,700 95
Showing, if my figures are correct, a balance in favor of the civil superintendence of.....	$250,588 92

Mr. CARTTER. With the permission of my friend, I desire to inquire of him whether he has the comparative products of the two terms he gives? How much would they turn out from 1831 to 1840, and from 1841 to 1852?

Mr. INGERSOLL. I have not the figures by me, but I think they are given in the report which the gentleman from Indiana has in his hand. As I before said, the subject has been sprung upon me, and I am unable to give the facts, which time would have enabled me to give to the House.

Again: The tendency of these military government manufactories is towards military government monopolies. The result to my mind is inevitable. This is done by accepting only such contracts from private individuals as will be ruinous to them, and this will be accomplished under the pretense that the Government can manufacture arms at the low price offered. In the year 1808, Congress passed a resolution, appropriating annually a sum of money for the purchase of arms, to be made by private contract. Under the inducement thus held out, private citizens have invested large sums of money in buildings, tools, and machinery. Two of these manufactories are in my own district. Now, sir, if this military system is carried out, it will end in the withdrawal of all contracts from private individuals and manufactories. I am opposed to the change so long as private industry can furnish us with what the Government wants. A fair field and no favors is my motto in this, as in other matters of political economy.

But the great evil of this military system I have yet to touch upon. It is what the respectable mechanics whose affidavits I have here have a right to complain of. It is what I will ever hold up my voice against. The petty tyranny exercised in these military establishments. Now, sir, there is no doubt of this, if these affidavits, sworn to by men, some of whom I know personally, and sworn before a magistrate also known to me, are true. Gentlemen may examine them. I will not read the names to the House, for a request has been made to me not to do so if it could be avoided, lest these persons might fall under the proscription of the military superintendent of that armory for having dared to murmur at their lot. But I will give the House an abstract of what is sworn to in these eight affidavits.

One man, fifty years of age, was discharged because he went to the wash-room on one occasion two or three minutes before the bell was rung for the close of the work. Another man was discharged for another infringement of the rule, "that no man should leave the shop to make any purchase whatsoever," and he voluntarily left the armory in disgust. If a workman at the commencement of work in the morning is not in when the bell stops ringing, he is obliged to lose a quarter of a day, and if the offense is repeated, he is liable to be discharged. This is fortified, too, by a deposition. Another person was discharged under this ridiculous and outrageous rule: "That no man can receive or read a letter, paper, or book, under any circumstances whatever, while in the armory." A deposition is here from a man who states, that while employed in the armory by the piece, kept a Bible in his drawer for occasional reference, he was ordered by Colonel Ripley to remove it from the armory building. Social intercourse among the workmen is prohibited. No man is permitted to leave his vice or other place of work to speak to his next neighbor upon any subject not strictly connected with his work. The superintendent has virtually interdicted the use of tobacco among the workmen, by issuing an order forbidding them to spit upon the floor of the house, and forbidding them a *spittoon, even if furnished by themselves.*

The workmen are not permitted to divert themselves during their hours of labor by whistling or humming a tune in any of the shops, and the superintendent has personally forbidden the eating of an apple by the workmen in the armory building.

Mr. STEVENS, of Pennsylvania. If a tyrannical man happens to be appointed there, is it not in the power of the Government to supersede him by the appointment of another?

Mr. INGERSOLL. It is in the power of the Government, but this is one of the evils of the military system. It is of this we complain. The fact that you bring intelligent freemen, men of standing in the community, with families down to a military discipline, which places them on a foot-

ing with your soldiers who volunteer to submit, and who, by the rules of war, and the circumstances in which they are placed, in consequence of the *profession* which they have adopted, are dealt with as they are. It is the system, I repeat, that is wrong. Why is the mechanic who makes your guns to be subjected to a discipline that follows no other occupation? Why prescribe for him rules which are as rigorous upon him as those which govern the convict in your penitentiaries? But, you ask, cannot the mechanic who dislikes his situation, under the military system, leave the establishment and go elsewhere? He can leave, but with the chances of starvation staring him in the face. The trade of a gunsmith is one peculiar to itself; he cannot leave the manufacture of gun-locks, and go to work upon door-locks, with the facility of the carriage-maker, who leaves his work upon a barouche to take hold of and finish a wagon; and the gunsmith must go for employment to the few places in our country where the manufacture of guns is carried on.

I would, sir, that I was prepared to treat the subject as I wish to. But I hope that I have, in a feeble way, shown to the House that the system is one degrading to an American citizen, and which I trust this body, open as it is to American sympathy, will not tolerate any longer. I hope the amendment will prevail.

Mr. STANLY. I am opposed to the amendment of my honorable friend from Indiana, [Mr. GORMAN,] and I should be glad if I can get his attention. I should like to know if the Committee on Military Affairs recommended this amendment or not?

Mr. GORMAN. It is offered on my own responsibility. I will say that the committee reported a bill to this House at the last session of Congress embodying simply the words repealing the law, so that they acted upon the same subject.

Mr. STANLY. I will listen to any gentleman connected with military affairs, and with as much respect to my friend from Indiana [Mr. GORMAN] as any other member of the House, but the Committee on Military Affairs have not, the House will take notice, acted upon this subject at this session. They may have taken the sober second thought. This proposition, therefore, is divested of any authority derived from that committee as a committee. I had the honor of belonging to the Committee on Military Affairs some eight years ago, and this very question was examined at that time. I think it was during the Twenty-seventh Congress—I am not quite certain of the date—that this system was altered. It underwent the fullest investigation, and we had then the arguments which the gentleman from Indiana now offers upon this subject. After the fullest investigation we concluded that the administration of these armories by civilians was highly injurious to the public interest, and that it was best to change the system. What are the arguments now?

Mr. FAULKNER. When was this examination made?

Mr. STANLY. I think it was in the Twenty-seventh Congress. I speak from memory entirely.

Mr. EVANS. In the Twenty-seventh Congress.

Mr. STANLY. My friend from Maryland [Mr. EVANS] says that was the time, and he is better posted up in these things than I am. I submit to my friend from Indiana, [Mr. GORMAN,] in the first place, that he had better wait, if there be doubt about the change, until the incoming Administration shall examine the whole ground. Remember, this thing has been as it now is since the year 1842. It was so during Mr. Tyler's time, though it was convenient for him to have placed some of his Virginia friends in the Armory at Harper's Ferry.

Mr. GORMAN. Will the gentleman allow me to say, that during the administration of Mr. Tyler and Mr. Polk, there were one or two reports made, if I mistake not, against the military superintendence, and in favor of restoring the civil superintendence. One report—I do not remember precisely what date—we had before the Committee on Military Affairs. It seems it was not acted upon, or adversely acted upon, by the Senate. The subject has been before committees of the Senate and committees of this House several years. It is no new thing in the House, no new thing to the country. It has been a subject of controversy and contest ever since the military superintendency was established.

Mr. STANLY. I am obliged to the gentleman for the fact, that the committees of the Senate made these reports which were not sanctioned by that body. Then I take it for granted that there have been some well-founded objections to the change. During the whole of Mr. Tyler's time this thing was allowed to remain. His administration withstood all the political influence brought to bear, and refused to appoint any persons from his own State as civil superintendents, because it was against the public interest. During the whole of Mr. Polk's time it remained unchanged. It was approved of by him. That administration, and General Taylor's and Mr. Fillmore's administrations, have refused to put civilians in office there; and no doubt this same clamor was raised. We ought to weigh these arguments with some degree of respect, and I hope that we will not make any change until this is done.

My friend from Indiana [Mr. GORMAN] asks, Why put this superintendency under the Ordnance Corps? I will not be guilty of presumption—I will not set up my opinion in military matters against that of my honorable friend from Indiana. I certainly should not in the field, in actual practice, where he became distinguished for his gallantry; and I should hardly do it here as a carpet knight, without some apology. I should, however, be glad to know what the Ordnance Corps is established for? We have an Engineer Corps for one particular branch of service; we have a Topographical Corps for another; and we have a dragoon Corps for other particular service; we have an Ordnance Corps, but what is it for? What does ordnance mean, but the making of arms and cannon, &c.? It means this, according to my understanding of it; but I speak with all becoming modesty and humility in such presence and against such authority. According to my recollection, the gentlemen composing the Ordnance Corps must possess a knowledge of the various metals, and be men of experience in the working of iron and other metals. That has been my impression. They have been sent to iron mines in particular States to ascertain whether the quality of iron there suits better than iron from elsewhere. Does the gentleman from Indiana [Mr. GORMAN] mean to argue that a graduate at West Point—a man who has been put in the artillery on account of his knowledge of such matters, is not better qualified to judge of the making of arms, than any little home-dried, grog-shop, cross-road, politician—an ex-member of Congress, may be, or some one else who wants office under a Whig or Democratic Administration, as the case may be? Now, I do not know how many men there are in the district of the gentleman from Virginia, [Mr. FAULKNER,] who want this office. I dare say there may be a dozen. So in Springfield; I have no doubt many politicians there want this comfortable place, now that Pierce is coming into power. I know they did in Tyler's time, and in Taylor's time. It is no fault of the gentlemen. It is human nature. If one of these establishments was in my district, I dare say I should feel a great deal of fourth-of-July fury, such as the gentleman from Connecticut [Mr. INGERSOLL] has given expression to, about the oppression of the honest mechanics.

Now, sir, what are these terrible grievances that the gentleman from Connecticut brings forward in behalf of those good voters in his country, called American mechanics? Where is the oppression? I think it very probable that there may have been abuses in these armories. There are abuses in everything superintended by mortal hands. There are a great many abuses, under Whigs and Democrats, as my experience has taught me, in every department of the Government. I do not profess to say that the officers who have control of these establishments now are blameless. I do not even know who they are. I cannot keep the run of such things. They may have been guilty of abuses. They may have been tyrannical. They may have been too fond of having military tactics and strict *regime* introduced amongst the mechanics. But that is a subject for complaint at the proper Department. Go to the Department; but do not bring up here affidavits and depositions—taken when and how? had the officers any knowledge of it?—and appeal to the House to prevent the oppression of American mechanics and honest laborers.

Mr. INGERSOLL. I will inform the gentleman that these depositions were taken by a justice of the peace having full authority to do it.

Mr. STANLY. I do not doubt the authority of the justice of the peace in Connecticut to take depositions. [Laughter.] By no means. No; they are a smart people in Connecticut; smart at ciphering and figures, as well as at various mechanic arts, which it is not necessary to refer to. But that is not the point. Did the officers have notice of these charges, or was there but one side heard? That is the point. I meant no disrespect to the Connecticut justice of the peace at all. [A laugh.] Why, all this talk is for Buncombe. What does it amount to? We all talk for Buncombe sometimes. The gentleman from Connecticut has done it. Virginia will have to follow, and I think Massachusetts will have a word to say, too. But what is this gross oppression? Why, forsooth, one poor fellow could not read his Bible in the workshop. [Laughter.]

Mr. INGERSOLL. I believe there is but one Buncombe in the United States, and that is in North Carolina. [Renewed laughter.]

Mr. STANLY. It is not in my district, though the old fellow after whom that county of Buncombe was called lived in the district that I have the honor to represent. I have been under his gateway, and his descendants are gallant Whigs, as their forefathers were in the Revolution. He had spread over his gateway

"Welcome, all,
To Buncombe Hall!"

The Whigs of the Revolution received a cordial welcome there, with food and raiment and arms, and the Tories and British soldiers had lead to their satisfaction.

But the gentleman from Connecticut says that one poor fellow could not read the Bible in the workshop. The Connecticut people are religious. It is a land of liberty and religion and steady habits.

A VOICE. And wooden nutmegs.

Mr. STANLY. Yes, and they make wooden nutmegs better than anybody else, when they turn their attention that way. [Laughter.]

But does the gentleman from Connecticut pretend to say that it is a hardship and a grievance for a man not to be allowed to read his Bible during working hours, when he is at work for Uncle Sam? Would the architect of these public buildings allow a man to take his Bible with him to read while he was carrying mortar and bricks in a hod? Is there no other time for this devoted, pious, enthusiastic, good citizen and mechanic to read the Bible except during the hours appropriated to work?

Mr. INGERSOLL. With the permission of the gentleman from North Carolina, I wish to correct him as to a matter of fact. This man was keeping a Bible in a drawer for occasional reference, when he was ordered by the superintendent to remove it.

Mr. STANLY. He kept a Bible in his drawer to refer to occasionally, did he? I have no doubt the man who makes that complaint—I do not know his name, and I do not wish to know it; for his sake, the gentleman from Connecticut had better not mention it—but I have no doubt that that man kept the Bible locked up in the drawer on Sundays, when he ought to have had a chance to read it.

But what is another grievance? Why, forsooth, they cannot chew tobacco? Well now, if the superintendent has enforced *that* rule, he has done the cause of cleanliness and decency a very good service, and he deserves a vote of thanks on the part of this House. [Laughter.] If he has done anything to prohibit that vile, indecent, unchristian, abominable habit of chewing tobacco and spitting on the floors of public buildings, the man ought to have a monument erected to his memory. [Much laughter.] Sir, if that order is tyrannical, why do you not allow smoking here? That rule, too, is an infringement upon our republican rights. You have a rule that members shall not wear their hats. Why do not you abolish that; and let members take off their coats in summer time, and walk about with the largest liberty? [Laughter.] That is progress. Will the gentleman from Connecticut recommend that to members of Congress? Do not we obey the laws of decency and propriety, and abstain from smoking here? Do you not see in the other public buildings here the same prohibition of the use of tobacco? Sir, I repeat, it

is an indecent, unchristian, abominable habit. It is a barbarous Indian custom that has been introduced into civilized life to the degradation of human nature.

I understand that a bill has been introduced into the Massachusetts Legislature to prohibit tobacco everywhere. Well, that is a great deal better than all their Maine liquor laws. I am against them. [Laughter.] I think every man has a right to take a drink when he pleases. [Renewed laughter.] I think folks would show a great deal more sense if they would form themselves into anti-tobacco societies, instead of into temperance societies; for more than half the boys in the country who grow up tipplers and drunkards, commence their career by smoking and chewing tobacco.

Mr. DAVIS, of Massachusetts, (interrupting.) The gentleman from North Carolina has made a very good argument against the use of tobacco, and in relation to certain alleged rules. I am informed, however—I was not in the House at the time—that the gentleman from Connecticut [Mr. INGERSOLL] stated that one of the rules was that tobacco was not to be used by the workmen in the armory. I understand that that is a mistake in point of fact.

Mr. STANLY. Then the superintendent ought to be turned out for not having the rule made, and for allowing the armory to be kept in such a filthy condition as it must be in. [Laughter.]

Mr. INGERSOLL. If the gentleman will allow me, I will state what I believe to be the rule. It is that the men shall not be allowed, under any pretense whatever, to spit. [Renewed laughter.]

Mr. DAVIS. I believe the rule refers rather to the places where they shall spit. I do not understand that the practice of spitting itself is discountenanced. [Laughter.]

Mr. STANLY. These rules of military men are an abridgment of republican rights and privileges! It is a tyrannical custom to prevent men from smoking cigars and chewing tobacco when and where they please! According to the argument of the gentleman from Connecticut, a man has a right to smoke cigars in church, and to use his filthy tobacco in church, where ladies' dresses may be contaminated by it. The railroad cars in some parts of the country now have smoking cars, and very proper it is. Those sort of folks ought to be put by themselves. The tobacco not only makes gentlemen sick, but it is, of course, always an annoyance to ladies; and I know that is the strongest argument I can use to the gentleman from Connecticut. [Laughter.] But if the railroad cars had another little regulation, it would add vastly to the comfort of the traveling community. They should put all the tobacco fellows together into one car—not only the smokers, but also the fellows who chew tobacco, and have all the other vile habits consequent upon it, which I will not mention here. I would exclude them from any other society but that of tobacco-chewers while they are traveling. It would serve them all right. So far, then, as this order in relation to tobacco is concerned, I do not think it a sufficient reason for abolishing the military superintendence of the armories.

Sir, I hope our friends upon the other side of the House will wait until their Administration comes in before they make this change for the benefit of politicians. If the Whig party should ever come into power again—though it does not look very much like it now—or if any branch of their own party should come into power, these men whom you put in now, who are seeking these places, will be rejected, and another set of rules will be found fault with as an excuse for getting rid of them. The men put to superintend this work will be broken-down politicians, who have nothing else to do but to seek office; men who served General Taylor in his civil campaign, or who served Pierce in this last canvass. That is the sort of men who will be put into these places. Why dispense with the military superintendence? If the officers at present employed are charged with abuses, let them be inquired into; but do not deprive the Government of the services of men who have had experience and knowledge of this sort of work. I beg the House to pause before making such a change.

Mr. WILCOX. At the commencement of this debate I had no idea that I should participate in it. But really, sir, it seems to me that I am called upon, as an humble member of the Committee on Military Affairs, to say something with regard to this subject. I love the people as much as any man here. I am essentially a people's man, and I believe in progress. I believe in all progressive improvements of the country; but really it seems to me that there has been a spirit excited within the last twelve months in this country which, if not checked by the conservative people of the country, will end, God knows where.

Now, sir, it is very natural for us to entertain prejudice in relation to this matter. We are creatures of prejudice. We are biased in our opinions both by the force of precept and example.

But, sir, there is a class of persons in our own country who do entertain, and have entertained a most uncompromising hatred to the military establishment of the country. Sir, I believe there are offices connected with the military establishment of the country which may be filled by other than military officers; but I oppose the amendment of the gentleman from Indiana [Mr. GORMAN] simply from the fact that this whole attack is leveled against the Army establishment of the country, in the vilest spirit of demagogism, not applying it to my friend personally. Sir, this whole movement is the offspring of the beer-house and cross-road politician. Why, the superintendency of the armory at Springfield and at Harper's Ferry have been tested, and successfully tested and endorsed by several Administrations, under the control of military men.

But I will submit a single reflection, for I do not intend to speak long upon the present occasion. You will find that in the hour of danger, whenever the hour of peril comes, that these gentlemen are obliged to fall back upon the military for the defense of the country. They have to "acknowledge the corn;" they are obliged to admit their error, and "render unto Cæsar the things that are Cæsar's."

The thought passed through my mind while this discussion was going on, in regard to the late war with Mexico. Now let us test this thing practically. It became necessary, during the war with Mexico, for the President of the United States to commission several generals from private life. That was all right and proper. The exigencies and emergencies of the time demanded it. But they were taken from private life, and went into the field with their epaulets, nodding plumes, and sabers bright. But what did they know of field-works and fortifications; of the complex and intricate evolutions of the line; of the mode and manner of attack and defense? Comparatively nothing. Nine out of ten of them had never been drilled in the first lessons of the "school of the soldier." Yet, sir, they have all the courage and bravery of the American citizen. They had the capacity but not the qualification to marshal the embattled hosts placed under their command.

And in this emergency what do we find, sir? I shall speak of facts, and nothing else but facts. Do we behold those brave and patriotic generals calling upon the civil departments of the country to yield them support? Do we find them inviting the plain and hard-fisted farmer, the learned doctor, the shrewd lawyer, or scientific mechanic, to a place upon their staff? Did they go to the volunteer regiments? No, sir. Where did they go, then, for that talent, capacity, and qualification necessary to render the regiments, brigades, and divisions under their command, prompt, powerful, and effective? They drew upon the regular army of the United States. There was not a general in the Army but had his staff filled from the young men educated at the expense of the Government at West Point. And, sir, they owe a debt of gratitude to those young men which they can never repay. Their laurels would not have been quite so green and enduring but for them. And why was this done, sir? I appeal to the practical common sense of the House, and not in that demagogical spirit which possesses the House more or less at all times. It was because they had weighed themselves in the balances, and found themselves wanting in ability to discharge the delicate trust confided to their care. It was because they knew the requisite qualification could alone be found in the regular Army to conceive and execute the difficult movements of the Army, in and out of action. They knew that their country's, as well as their individual success, depended upon it. These men were educated at the Military Academy, and were made to pass through a severe ordeal of four years' discipline and education in all the arts as well as munitions and ordnance of war. These, sir, are the reasons of their appointment.

But, sir, a spirit of demagogism succeeded in placing at the head of the military establishments at Springfield and Harper's Ferry, civil superintendents instead of military men. Why were military men placed there in the first place? Who were they? They were men selected from the Ordnance Corps—who had been educated at West Point, and who had trimmed the midnight lamp in poring over abstruse science to enable them to comprehend and understand the profession to which their Government had assigned them. These are they who have been selected to superintend these establishments, the wisdom of which is vindicated at a glance. But, sir, who are the men selected from civil life? They are the village politician and street loafer—the little, petty ambitious politician, who expects to gain power and control in their ward or county, by declaiming against and denouncing the officers of the United States Army. Sir, is this right? Without meaning any offense to any one, I say my cheek would mantle with a blush, were I to produce here the *ex parte* evidence arrayed by the honorable gentleman from Connecticut, [Mr. INGERSOLL,] affidavits gotten up for the occasion by some expectant of the superintendency of Springfield armory, in which the affiants complain that they cannot read their Bibles under a military superintendent. Oh, what a tyranny, and what a theme for the demagogue to harangue the masses upon! Will not the church and all good people sympathize with those downtrodden people? Now, sir, I do not believe one word of it. If they had sworn that the military superintendent would not let them get drunk, and, in the language of the landlord, kick up a d——d fuss generally in working hours, I would have believed them.

I do not wish to be understood as impeaching the motives of the gentleman from Connecticut; yet I must think that the characteristic good sense of the gentleman has been imposed upon, and that his sympathies have been unjustly excited, through the imposition of the artful and designing. I cannot think, upon reflection, that he can rely upon the character of evidence submitted. It is no new thing for men to complain of the Army and officers of the United States. It is very popular in some latitudes, and with some men. I recollect well when I first entered the Army. It is due to candor to say at that time that this spirit was general in the volunteer corps. And so strong were the murmurings that I found myself imperceptibly drawn into it. In order to become popular in the volunteer corps, it was thought to be necessary to speak disparagingly of the officers of the regular Army; to speak of them as a haughty, aristocratic, tyrannical set. Upon my arrival in Mexico, my command was placed under General Wool, a man of inflexible will and purpose; a proud spirit, and the best disciplinarian in the Army. I soon found myself, like my whole command, impatient of restraint and control. We wanted to read our Bibles or not just as we pleased, and to chew our tobacco and spit when and where we pleased. [Laughter.] We did not like to be ruled by the Army regulations; and the complaints and murmurings which went up from the regiment would have hushed into everlasting silence the downtrodden and oppressed people of Harper's Ferry and Springfield. But, sir, General Wool was steadfast and immutable. After a while we saw the beauty and necessity of law, order, and subordination. It was not long until the officers were enabled to bring the regiment up to the true military standard. And what was the result? Why, all with one accord proclaimed the virtues and merit of General Wool, and were as loud in his praises as they had been in their murmurs.

Now, sir, all this complaint in relation to the superintendency of those armories arises from prejudice and a downright demagogism, which I think and hope that the good sense of the House will check, by permitting those establishments to remain under the superintendence of military men.

Mr. PHELPS, (interrupting.) These are military establishments; can the gentleman from Mississippi tell me why we should select military officers to superintend manufacturing establishments?

Mr. WILCOX. I will answer the gentleman. It is true, these are manufacturing establishments, and they are for the manufacture of arms. I am

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one of those who believe in politics as in religion, or war, that we should render to Cæsar the things that are Cæsar's. And when arms are to be manufactured, to be used in the service of the country, I think it far preferable to give the superintendency to a military man, who has been educated at the expense of the Government with a view to that service.

But, sir, I did not intend to occupy so much of the time of the House when I arose. I felt that my position, as a member of the Committee on Military Affairs, required me to say something.

Upon what does the gentleman from Indiana [Mr. GORMAN] predicate his remarks in this matter? and where does he get the marvelous statistics from which he has submitted them? It is from an interested pamphlet, gotten up for the purpose, as I suppose. It makes its appearance here without any authentication.

Mr. GORMAN. By the permission of the gentleman, I will say that what I read from that pamphlet were extracts from the estimates of the Ordnance Department of the Government, and from the appropriation bills made by law.

Mr. WILCOX. My friend read from this little pamphlet, and I find that it is not an official document; and I should be exceedingly loath to predicate my action upon a matter which was seriously to affect a certain branch of this Government upon any other than an official document. We have a Secretary of War (Mr. Conrad) with whom I differ in politics. There is no political sentiment, that I know, which I hold in common with him; yet as the Secretary of War of the United States—as a high public functionary of the Government—I am unwilling to advocate such a change until I hear a report from him to the Congress of the United States, upon the subject. I must have an official examination into this matter before I can vote to change this superintendency. As the Legislature of the country, before we act upon this matter, we should pass a resolution calling upon the Secretary of War for information concerning it, in order that we may act intelligibly.

This matter was before the Committee on Military Affairs during the last session of Congress; but I never gave my assent to the passage of such an amendment; and I never can give my consent to it, unless we have an official report upon the subject, showing that there is need of such a change, or some testimony more conclusive than any yet presented to satisfy me that such a change is necessary or desirable.

Mr. HALL. I feel it due to the relations I bear to some of the people who are connected with the armory at Harper's Ferry, to say a word or two in behalf of their petition to Congress upon this system of military superintendents. I think the gentleman from Mississippi [Mr. WILCOX] is entirely wrong in supposing that this amendment in favor of restoring the old system of civil superintendents, springs from demagogish or anti-military feeling. The men at Harper's Ferry have told me repeatedly—and I think they have as high a respect for the military as any set of men—that owing to peculiar habits which military men form in their association with the soldiers of the Army, they are oppressive, and that their ways are exceedingly disagreeable to those under their command. Now, every gentleman must know that this is the case; that a man whose business is to order and command is not the best person to have the control of men engaged in civil pursuits.

Mr. SUTHERLAND. Are these men compelled to remain there?

Mr. HALL. The gentleman inquires if the men at Harper's Ferry are compelled to remain? I say they are compelled to remain, because their peculiar habits of business unfit them for making a livelihood anywhere else, or at any other employment. The people at Harper's Ferry do not learn regular trades. They learn only a particular branch of a trade. There are men there who make certain parts, or perform certain portions of labor upon a gun-barrel, and they understand nothing else, having, from their commencement in business, been engaged in that one line of business; and so with other portions and kinds of work. Hence, to gain a livelihood elsewhere, they would have to learn an entirely new trade, because there are no individual establishments which do sufficient business of that kind to furnish men employment at their own kind of labor. So that, if they leave their present places, they could not live without learning a new trade, and that, too, when they are perhaps forty or fifty years of age. Then, I say, in answer to the inquiry of the gentleman from New York, that the men at Harper's Ferry and Springfield are compelled to remain where they are, for the simple, but conclusive reason, that they cannot make a livelihood anywhere else.

Now, sir, let me suppose that you should have a military superintendent placed over the work upon the Capitol, or over the erection of the wings of the Patent Office. Would any gentleman sanction that? Would sound judgment approve of it? Is it not a principle of this Government to have a military commander where the business is military in its character, and there only? No one would consent to place the Departments of the Government under military heads. No one would choose military men to manage every Executive Department of the Government, and to be placed at the head of every civil department and bureau. Now, I contend that these armories are, to all intents and purposes, civil establishments.

Why, sir, the gentlemen educated at West Point, however skillful in tactics and versed in the rules of war, do not know how to manufacture guns. They know how to command men who have guns in their hands, but they do not know anything about making them. They are not mechanics; and in my belief, a good mechanic is far better acquainted with what is requisite to constitute and carry on a good armory, than are officers of the Army.

But it is said by some gentlemen, that since the armories have been under the control of military men, the cost of producing arms and ordnance has diminished. Why, sir, if gentlemen will take the pains to inform themselves, they will find that the cost has been diminishing ever since you established armories at all. While the cost of other kinds of manufactures has been steadily diminishing, by the improvement of machinery, and the application of principles of science to their production, the cost of the manufacture of arms could not but diminish. But it has been diminished, not because you have had a military man at the head of the establishment, but because you have had new and improved machinery—because we have made vast improvements in the mechanic arts generally. For such reasons has the cost of arms, as well as everything else, been gradually but constantly diminishing.

Now, sir, from what I have said, I cannot concur in the doctrine that a man who has been educated at a military academy, is any better qualified to discharge the duties of a superintendent of an armory, than a citizen mechanic, nor as well qualified; because the one has had no training in that particular branch of art—for it is not taught at West Point—while the other has devoted the best years of life in that branch of business. Gentlemen educated at West Point know no more about it than you or I do.

But, says the gentleman from North Carolina, [Mr. STANLY,] if you restore the old system of civil superintendents, you will have mass meetings, stump speeches, political gatherings, and everything of that kind. I want to know upon what the gentleman bases this assertion? Did these things ever occur when you had the civil system? I tell the gentleman it is not so. I was raised at Harper's Ferry, and I know all about it.

Mr. STANLY. If my friend will allow me, my recollection is that such was the complaint prior to 1840.

Mr. HALL. The gentleman from North Carolina may be right, and the men employed in these armories, under the old *regime*, may have been too much engaged in politics; but such has not been the case of late years, because the party spirit of the country has gone down. Revive the old party spirit which prevailed during the times of General Jackson, and the men at Harper's Ferry would engage as zealously in politics as they did then.

But I come down to present times, and to things about us, and ask the gentleman if he finds the men employed upon the wings of the Capitol, or of the Patent Office, or upon public works in Washington, quitting their work and holding public meetings, and making stump speeches during working hours? Such is not the case. And why does he suppose it would be so at Springfield or Harper's Ferry?

Mr. STANLY. My friend is mistaken. During the canvass of 1844, the public officers of this city did leave their work, and went to Maryland, Virginia, and all over the whole Union, making stump speeches.

Mr. HALL. But the gentleman well knows that those who did that were those who were receiving from the Government salaries of $1,000, $1,600 per annum and upwards, and not the hard laborers for the Government at two dollars a day—not the men who labor upon the erection of the wings of our Capitol, or at Harper's Ferry, or Springfield. They have other business to attend to, and, moreover, cannot afford to lose their time in attending political meetings, and besides, their habits are not congenial to such employments.

Would the gentleman have military superintendents wherever the Government has work to perform? Would he have them at the heads of the Departments? Would he have military men control all the work done in this District and everywhere else?

Mr. STANLY. I will answer my friend. We do have military men, I suppose, to superintend the erection of fortifications. That is a branch of the engineering department; and they have civilians working under them to bring the brick and mortar. I beg the gentleman to remember that the cadets at West Point are taught chemistry and mineralogy. They are taught to know iron and its qualities, and of course they can tell when a piece of iron is fit to be made into a musket or a cannon.

Mr. HALL. I admit that it is right to have military men superintend the erection of forts, because this is a part of the education of military men, but it is no part of their education to learn the construction of arms and ordnance. That belongs to practical mechanics. They only know how to command men with arms in their hands. The gentleman seems, however, to think that the education of these men at West Point qualifies them to judge of the materials at Harper's Ferry. Now, sir, I beg to inform the gentleman, that neither under the military or civil system does the superintendent buy the material. That is done by the Ordnance Department. And if they did, the gentleman's argument would not prevail, for when iron is purchased for the armory, how do superintendents know whether the iron is good, bad, or indifferent? They have a mechanic who understands the nature of iron, and who subjects it to certain tests. If he reports it as good, it is accepted; if, on the contrary, he reports it bad, it is rejected. It is true that he does not go through any chemical analysis, but by the knowledge acquired by long practice and labor, he, a simple mechanic, earning but one or two dollars a day, understands fully the process of determining its quality.

So how does the mechanic, when he welds a gun-barrel, know whether it is good? Not by putting it to a chemical test, but by putting it into a proving house and charging it with powder and ball. Such are the ways of testing the quality of the metal, and hence I say the argument of the gentleman fails.

A great deal has been said about the relative expense of the two systems. I admit that the expense of manufacturing guns has diminished, but I repeat it is because the expense of all other sorts of manufacturing has diminished. But I wish the gentleman from North Carolina to answer whether an additional expense has not been incurred under the military system which would

have been avoided under the civil system? I ask him whether the most extravagant and expensive buildings and structures have not been erected under the military system, in order to gratify the eye and the taste of military men? At Harper's Ferry, some ten or twelve years ago, when I lived there, they turned out as many arms as they do now under this military system. But the old buildings have been torn down, and other buildings no better, but a little more tasty, put up. So it is with whole blocks which have been swept away and new ones substituted, merely because they offended the eye of those military gentlemen.

I have no hostility to military men. I have no hostility to the military men who have been in charge at Harper's Ferry. I know them personally, and I esteem them all highly, but I do think they have been extravagant, and have incurred many expenses which would have been entirely avoided under the civil system.

Mr. EWING here obtained the floor, but yielded it to

Mr. McLANAHAN, who moved that the committee rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman of the committee (Mr. BROWN, of Mississippi,) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 336, making appropriation for the support of the Army, and had come to no resolutoin thereon.

Mr. HOUSTON. I offer a resolution to close debate on the Army bill.

PRESIDENTIAL VOTE.

Mr. JONES, of Tennessee. I ask the gentleman from Alabama to allow me to ask the House to take up the Senate resolution, which was sent in here this morning, to appoint a joint committee to report the manner and mode of counting the presidential votes.

Mr. HOUSTON. I waive my motion for that purpose, if it will not consume much time.

No objection was made, and the resolution was taken up and read, as follows:

"*Resolved*, That a committee be appointed, to join such committee as may be appointed by the House of Representatives, to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election.

"And Mr. HUNTER, Mr. BRIGHT, and Mr. PEARCE were appointed a committee."

The question was taken, and the resolution was adopted.

Mr. STANTON, of Ohio. I trust I may be allowed to withdraw from the files of the House certain papers.

There was objection.

PROPOSITION TO CLOSE DEBATE.

Mr. HOUSTON. In order to accommodate the gentleman from Kentucky, [Mr. EWING,] I will modify the resolution I have submitted so that it will provide that the debate on the Army appropriation bill shall terminate in one hour after the House shall again resume its consideration in the Committee of the Whole on the state of the Union. I now call for the previous question on the adoption of the resolution.

[Cries of "Make it two hours!" "Make it two hours!"]

Mr. TAYLOR. I move to amend the resolution by substituting for "one hour" "two hours." I understand that the gentleman from Virginia [Mr. FAULKNER] desires to speak after the gentleman from Kentucky, and I think that in justice to him this amendment should be adopted.

The SPEAKER, (Mr. HALL in the chair.) Amendments are not in order, the previous question having been called for.

Mr. FAULKNER. I understand the question now is on seconding the call for the previous question by the gentleman from Alabama. I hope the House will refuse to second that call, and will make the resolution provide for the closing of debate two hours after the consideration of the bill shall be again resumed in the Committee of the Whole on the state of the Union.

Mr. STANLY. We have been discussing this bill strictly in order, and I move to lay the resolution on the table, that other gentlemen may have a chance to be heard.

Mr. HOUSTON. I demand the yeas and nays on that proposition.

Mr. FREEMAN. I desire to say one word. It is very well known that the gentleman from Virginia [Mr. FAULKNER] represents the district in which Harper's Ferry armory is situated.

[Cries of "Order!" "Order!"]

Mr. FREEMAN. He ought to be permitted to speak, order or no order!

[Renewed cries of "Order!" "Order!"]

The SPEAKER. Discussion is not in order.

Mr. SWEETSER. I move that the House do now adjourn. I believe that is in order.

The SPEAKER. The Chair hopes that the gentleman will withdraw his motion to adjourn to enable him to lay before the House several Executive communications, represented to be of some importance, that they may be referred.

Mr. SWEETSER. I withdraw the motion to adjourn, for that purpose.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

Since my last message to your honorable body, communicating a report from the Treasury Department, in answer to your resolution of the 3d instant, in reference to the compensation of weighers and gaugers, further communications on that subject have been received from New Orleans, which have just been reported to me by the Secretary of the Treasury, and which I deem it my duty to communicate to the House. MILLARD FILLMORE.

WASHINGTON, *January* 27, 1853.

On motion by Mr. STANTON, of Ohio, referred to the Committee on the Judiciary, and ordered to be printed.

Also, a communication from the War Department, transmitting two hundred and fifty copies of the official Army Register for 1853, for the use of the House of Representatives, in conformity with its resolutions of February 1st, 1830, and August 30th, 1842.

On motion by Mr. PHELPS, it was laid on the table, and ordered to be printed.

Mr. MEADE. I move to reconsider the vote by which the message from the President first laid before the House was referred to the Committee on the Judiciary. It seems to me that it ought to go to the Committee on Commerce.

Mr. STANTON, of Ohio. The gentleman, perhaps, is not aware that by a former reference, a half a dozen or dozen of communications on the same subject have gone to the Committee on the Judiciary.

Mr. JONES, of Tennessee. They have had a wrong reference, then.

Mr. STANTON. They are with regard to the construction of the laws regulating gaugers and weighers.

Mr. MEADE. I withdraw my motion.

The SPEAKER laid before the House a communication from the War Department, transmitting, in compliance with the acts approved April 20th, 1818, and August 26th, 1842, and resolution of the House of Representatives, of 13th January, 1846, lists of the clerks and other persons employed in that Department, other than officers of the Army, during the year 1852.

Also, a communication from the same Department, transmitting, in compliance with the twentieth section of the act approved 26th of August, 1842, statements of the expenditures from appropriations for contingencies of that Department and its bureaus, for the fiscal year ending June 30th, 1852.

Also, a communication from the Navy Department, transmitting, in compliance with the twentieth section of the act of Congress approved August 26th, 1842, a detailed statement of the expenditures of the contingent fund of that Department and its several bureaus, for the fiscal year ending June 30th, 1852.

Also, a communication from the same Department, transmitting, in compliance with the resolution of the House of Representatives of June 14th, 1848, a report from the Fourth Auditor of the Treasury Department, exhibiting in tabular form the allowance of the several officers of the Navy and Marine Corps of the United States, together with the lists of officers of the Navy attached to the Coast Survey during the last fiscal year, and the entire compensation paid to each out of the appropriations applicable to coast survey purposes, for the fiscal year ending June 30th, 1852.

Also, a communication from the same Department, transmitting, in compliance with the acts of Congress approved 21st of April, 1808, and the 3d of March, 1843, a list of contracts entered into by the Bureau of Navy-Yards and Docks, and an abstract of offers received for furnishing articles under the cognizance of that Bureau since the date of its last report in October, 1851.

All of which were, on motion, ordered to be laid on the table and printed.

Mr. SWEETSER. I move that the House do now adjourn.

The question was taken, and the motion was agreed to. Thereupon the House adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. ROBBINS: The petition of Joshua Bethell and 20 other citizens of Philadelphia county, asking Congress to so modify the act of September 28th, 1850, as to give to each person intended to be benefited thereby, and to seamen and marines, not less than one hundred and sixty acres of land.

By Mr. BURROWS: The petition of Henry Jenkins and others, citizens of the State of New York, praying for the extension of Uri Emmons's patent for a cylindrical planing machine.

Also, the petition of Richard Reed and others, citizens of the State of New York, on the same subject.

By Mr. THOMAS M. HOWE: The petition of John Magill, Robert Porter, Edward McCorkle, and others, praying the establishment of a post route from Pittsburg, in Allegany county, to Saxonburg, in Butler county, Pennsylvania.

By Mr. MOORE, of Louisiana: The petition of the legal representatives of Leonard Dyson, praying that the Rio Hondo claim of said Dyson, recommended for confirmation, but suspended, be now confirmed.

By Mr. WELCH: The petition of citizens of Washington and Athens counties, Ohio, for a mail route from Canaanville, in Athens county, to North Union post office, in Washington county.

By Mr. BABCOCK: The petition of citizens of Fulton, New York, praying that a grant of land be made to the State of New York to construct a ship canal around Niagara Falls.

By Mr. EASTMAN: The memorial of the Legislative Assembly of Wisconsin, approved February 26th, 1848, praying for an appropriation to complete the improvement of Grant river slough, at Potosi, Wisconsin.

Also, the petition of 115 citizens of Wisconsin, for same object.

By Mr. ST. MARTIN: The memorial of several shipowners, praying Congress to modify the act regulating the collection of duties on imports and tonnage.

By Mr. CHANDLER: The memorial of A. Hart and many other citizens of Philadelphia, asking Congress to authorize the construction of a railroad for the conveyance of the United States mail between Philadelphia and New York.

By Mr. CLARK: The joint memorial of the Legislature of the State of Iowa, asking that the Government will release to said State Fort Atkinson, together with the lands reserved for the use of said fort, for a normal manual labor and military institute, under the control and direction of the General Assembly of said State.

IN SENATE.

WEDNESDAY, *February* 2, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. ADAMS presented a petition of the trustees of Madison College, Sharon, Mississippi, praying a donation of land for the endowment of that college; which was referred to the Committee on Public Lands.

Mr. WADE presented the petition of the heirs-at-law of Alexander Harper, praying remuneration for the services of said Harper during the war of the Revolution, and indemnity for losses; which was referred to the Committee on Revolutionary Claims.

Mr. HAMLIN presented five petitions of inhabitants of Maine, praying that one hundred and sixty acres of land may be granted to every man who served in any of the wars of the United States, or to his widow or children; which were referred to the Committee on Public Lands.

Mr. MANGUM. I hold in my hand two resolutions in the nature of memorials, from the Legislature of North Carolina, one in favor of the erection of a marine hospital at or near Smithville or Wilmington, in that State, and the other in favor of the abolition of the duty on railroad iron. The first I desire to have referred to the Committee on Commerce, and the next to the Committee on Finance, and that they be printed.

They were so referred, and ordered to be printed.

Mr. WELLER presented the memorial of

James M. Crane, praying compensation for publishing orders, resolutions, laws, and treaties of the United States, in the California Courier; which, with the papers heretofore presented on the subject, were referred to the Committee on Claims.

Mr. DAVIS presented the memorial of Charles T. Jackson, praying that the question as to the origin of the discovery of the anæsthetic effects of ether may be referred to a committee of eminent scientific gentlemen; which was referred to the Select Committee appointed on the subject.

Mr. HOUSTON presented a petition of citizens of the States of Louisiana and Texas, praying the establishment of a mail route from the mouth of the Red river, in Louisiana, to Huntsville, in Texas; which was referred to the Committee on the Post Office and Post Roads.

Mr. FISH presented a memorial of the Chamber of Commerce of New York, praying an appropriation for the removal of the sand bars, and deepening the entrance of Cape Fear river, North Carolina; which was referred to the Committee on Commerce.

Also, the memorial of Pamela Brown, widow of the late Major General Jacob Brown, Commander-in-Chief of the Army, praying to be allowed a pension from the date of his death; which was referred to the Committee on Pensions.

Mr. BORLAND presented a resolution of the Legislature of Arkansas, praying that a portion of the public land upon which Fort Smith is situated, may be granted for the use of schools in township eight, north of range thirty-two west; which was referred to the Committee on Public Lands.

Also, a resolution of the Legislature of Arkansas, in favor of the removal of obstructions to the navigation of the Arkansas, White, and Ouachita rivers; which was referred to the Committee on Commerce.

Also, a resolution of the Legislature of Arkansas, in favor of the removal of the land office from Fayetteville to Huntsville, and an extension of the land district; which was referred to the Committee on Public Lands.

Mr. MALLORY presented a resolution of the Legislature of Florida, in favor of the sale of so much of the public lands contiguous to the navy-yard at Pensacola, as may not be necessary for the public use; which was referred to the Committee on Public Lands, and ordered to be printed.

Also, a resolution of the Legislature of Florida, in favor of the removal of obstructions to navigation in the Acklawaha river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. HOUSTON presented the petition of Philip Gormley, a contractor for furnishing stone for the addition to the Capitol, representing that he had been deprived of his contract. He requested that the petition might be read, and the Secretary proceeded to read it. The petition states that the petitioner, who is a resident of Georgetown, became the contractor with Dr. Piper, the original contractor for supplying the Capitol with blue stone, and hauling the stone from the landing-place to the work. Subsequently, Piper sold his contract to Bartlett Smith, of New York, who renewed the contract with the petitioner to do the hauling. A contract was drawn up and signed by a Mr. Morsell, as agent for Smith, and was witnessed by Strong; and the only copy of the instrument was placed in Strong's hands for safe-keeping. The petitioner commenced hauling in August, 1851, and continued until the 18th of May, 1852, when he was served with a notice to discontinue. The petitioner was proceeding to enter the Capitol with a load of stone, when one of the superintendents prevented him, saying Mr. Strong had given orders that he should not be permitted to do so. Upon the petitioner proceeding to enter, two officers were brought, who ordered him to desist, under the penalty of arrest. He therefore had to discontinue the hauling, and another person was engaged to do it.

On the motion of Mr. BADGER, the further reading of the petition was dispensed with, and it was referred to the Select Committee on Bribery, Frauds, and Corruption.

Mr. FITZPATRICK presented a memorial of citizens of Alabama—settlers on the lands reserved for the Mobile and Chicago railroad—praying to be allowed to prove their preëmption rights; which was ordered to lie on the table, as the Committee on Public Lands were about to report a bill for that purpose.

PAPERS WITHDRAWN AND REFERRED.

On motion by Mr. CLARKE, it was

Ordered, That the petition of Rufus L. Baker, on the files of the Senate, be referred to the Committee on Military Affairs.

On motion by Mr. FOOT, it was

Ordered, That Elizabeth Bingham have leave to withdraw her petition and papers.

On motion by Mr. BAYARD, it was

Ordered, That Alonzo B. Davis have leave to withdraw his petition and papers.

REPORTS FROM STANDING COMMITTEES.

Mr. SEWARD, from the Committee on Commerce, to which was referred the petition of Simeon Draper, reported a bill authorizing the Secretary of the Treasury to issue a register to the steamship Albatross; which was read and passed to the second reading.

He also, from the same committee, to which was referred the petition of John Miller, representing that he is a native of Ireland, but that he has settled in New York, and declared his intention of becoming a citizen of the United States, and praying that a register may be granted for a vessel built by him in that city, and also for any other vessels he may build, asked to be discharged from its further consideration on the ground that he was about to report a general bill on the subject; which was agreed to.

He also, from the same committee, to which was referred the bill to authorize the Secretary of the Treasury to issue certificates of registry or enrollment to American-built vessels in certain cases, reported it back with an amendment. On his motion, the bill was read a second time and considered as in Committee of the Whole.

It proposes to authorize the Secretary of the Treasury to issue certificates of registry or enrollment, as the case may require, to vessels built in the United States, owned in whole or in part by a person or persons not citizens of the United States, but who shall have declared according to law their intentions to become such; which certificates shall have the same force and effect for five years from their date, as if they had been issued to citizens of the United States.

The amendment reported by the committee was to add, "and if during the said five years the said 'person or persons so receiving a register shall 'have become a citizen or citizens of the United 'States, the said register shall be perpetual:"

The amendment was agreed to; the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading.

Mr. SEWARD asked unanimous consent that the bill might be read a third time.

Mr. BRADBURY objected.

Mr. WELLER, from the Committee on Pensions, to which were referred the following bills from the House of Representatives, reported them back without amendment:

An act for the relief of Nathan H. Darling; and

An act for the relief of Gilman Smith, of Sycamore, in the State of Illinois.

He also, from the same committee, to which was referred the petition of Anna Norton and Louis Foskit, submitted a report thereon; which was ordered to be printed.

Mr. DAVIS, from the Committee on Commerce, to which were referred the petition of Selina C. Sumner; a memorial of shipmasters of New Bedford; and a petition of underwriters and shipowners of New York, submitted a report, accompanied by a bill for the purchase of a copyright of a work published by Thomas H. Sumner, wherein he describes his new method of ascertaining a ship's position at sea; which was read, and passed to the second reading.

The report was ordered to be printed.

Mr. GEYER, from the Committee on Pensions, to which was referred the petition of Mary Brognard, submitted a report, accompanied by a bill for her relief; which was read, and passed to the second reading.

The report was ordered to be printed.

He also, from the same committee, to which was referred the memorial of Nancy Whiting, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to which were referred the documents relating to the claim of Rhoda Frisbee, submitted an adverse report thereon; which was ordered to be printed.

Mr. FOOT, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of Mary Pearson, reported it without amendment.

He also, from the same committee, to which were referred the following memorials, documents, and petitions, asked to be discharged from the further consideration thereof; which was agreed to:

Petition of Thaddeus Scott, one of the children of William Scott, and administrator of Susannah Scott, his widow, praying to be allowed the pension to which she was entitled under the act of July 7, 1838;

Petition of Katy White, praying arrears of pension;

Memorial of Mary Carlton, praying a pension;

Additional documents in support of the claim of Brinton Paine to a pension;

Additional documents in relation to the claim of Avery Downer to a pension;

Petition of Jane Kearney, praying a pension or bounty land;

Petition of John F. Webb, praying that the children of John Webb, deceased, may be paid the amount of pension their father would have received under the act of 15th May, 1828, had he lived until that time;

Petition of Lucretia W. Hubbard, for herself and other children of Elijah Ransom, deceased, praying to be allowed the pension to which he would have been entitled under the act of May 15, 1828, had he lived until that time; and

Petition of Robert Steele, praying that the children of John Steele, an officer in the war of the Revolution, may be allowed the pension which their father would have received under the act of May 15, 1828, had he survived the date of its approval.

Mr. SEBASTIAN, from the Committee on Indian Affairs, to which were referred the following petitions and documents, submitted adverse reports thereon:

Memorial of H. P. Dorsey, of California, praying indemnity for depredations committed by the Indians;

Memorial of M. M. Marmaduke and others, praying indemnity for depredations committed by the Indians; and

Documents in relation to the claim of Edward J. Jackson, praying indemnity for a mule stolen by the Indians in the winter of 1851.

MEXICAN BOUNDARY SURVEY.

Mr. WELLER. I am instructed by the Select Committee on the subject of the Mexican boundary, to which was referred the message of the President of the United States of the 12th of January, to submit a report, and I ask that it may be printed. It is the opinion of the committee that the offices of Commissioner and Surveyor on the part of the United States, on the Mexican Boundary Commission, terminated on the 1st day of January last, and that there are now no persons legally filling those offices.

The report was ordered to be printed.

ADDITIONAL POST ROUTES.

Mr. ADAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a tri-weekly mail route from Aberdeen, Mississippi, to Yazoo City, in said State; also a weekly mail route from Fulton, Mississippi, to Thompson's store, in Itawamba county, thence to the cross roads, thence to Maxcy's mills, and thence to Fulton.

CHESAPEAKE AND OHIO CANAL.

The Senate proceeded to consider the message from the House of Representatives, requesting an attested copy of the bill entitled "An act directing a survey and estimate of the cost of constructing a canal basin at the terminus of the Chesapeake and Ohio Canal in Georgetown;" and it was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had concurred in the resolution passed by the Senate, for the appointment of a committee to ascertain and report a mode of examining the

votes for President and Vice President of the United States, and of notifying the persons elected of their election; and that it had appointed Mr. GEORGE W. JONES, of Tennessee, Mr. CHANDLER, of Pennsylvania, Mr. JOHN G. DAVIS, of Indiana, Mr. ALEXANDER H. STEPHENS, of Georgia, and Mr. DEAN, of New York, the committee on their part.

NOTICE OF A BILL.

Mr. FOOT gave notice of his intention to ask leave to introduce a bill for the relief of Margaret Barnett, only surviving heir of Lieutenant Colonel David Greer, of the Army of the Revolution.

GENERAL RILEY.

The bill for the relief of Brevet Brigadier General Bennet Riley, and to enable him to settle his accounts with the United States, was read a third time and passed.

CENSUS RETURNS.

Mr. BORLAND. I offer the following resolution:

Resolved, That the Committee on Printing be instructed to inquire and report, by bill or otherwise, what measures shall be taken for the printing of the returns of the Seventh Census.

I ask the unanimous consent of the Senate to consider the resolution at this time, and I suppose there will be no objection to it. There is a universal demand for the publication of the returns of the late census. It is a matter that has been on hand for some time. The Committee on Printing have deemed it best to take some action on the subject, and they suppose it to be proper that there should, in the first place, be an order of the Senate for their action.

The resolution was considered, by unanimous consent, and agreed to.

WAREHOUSING SYSTEM.

Mr. HUNTER. I ask the general consent of the Senate to give me the residue of the morning hour, for the purpose of taking up the bill to "extend the warehousing system, by establishing private bonded warehouses, and for other purposes." If it gives rise to debate, I shall, at one o'clock, when the special order comes up, give way. I hope the Senate will agree to take up that bill now.

Mr. RUSK. There is a measure pending before the Senate, which I think it to be my special duty to press forward. It is a matter of general interest. I refer to the Pacific railroad bill, and I cannot allow any other matter to interfere with it.

Mr. HUNTER. I only ask for the morning hour.

Mr. RUSK. But the difficulty about that arrangement is, that this bill will be left unfinished, and the whole subject will have to be gone over again to-morrow. That course of proceeding embarrasses us very much. Yesterday we took up a particular matter, through courtesy to one of our members, and it was left as the unfinished business, and upon it another gentleman has the floor to-day, and we cannot, without discourtesy towards him, deprive him of it. I think the better policy is to keep on with the consideration of one subject until we dispose of it, and not to have three or four things pending at the same time. I think that the Pacific railroad bill will not take more than two days at the furthest to determine it one way or the other. When that is disposed of, we shall then be clear of it, and can go on with other business.

Mr. DAVIS. I desire to ask the honorable chairman of the Select Committee on the railroad question whether he proposes to call up that bill this morning?

Mr. RUSK. I desire to call it up at the earliest possible moment.

Mr. HUNTER. It is suggested to me that it requires unanimous consent to take up the bill which I have proposed to take up during the morning hour. Is that so?

The PRESIDENT. The Chair is of the opinion that it only requires a majority to pass over the previous orders and take up the bill.

Mr. BRADBURY. I shall not oppose the motion of the honorable Senator from Virginia, because he contemplates acting on a practical measure; but I wish to call the attention of the Senate to the bill from the House regulating the fees of clerks, marshals, and attorneys, which was reported by the Committee on the Judiciary, with sundry amendments, some days since. I wish to give notice that I shall to-morrow, during the morning hour, ask the Senate to take up the bill and act upon it, in order that the amendments may be sent to the House in time for their action during this session.

The motion of Mr. HUNTER was agreed to, and the bill "to extend the warehousing system by establishing private bonded warehouses, and for other purposes," was read the second time, and considered as in Committee of the Whole.

Mr. HUNTER. Mr. President, I will state very briefly the objects of this bill. It proposes to amend the existing warehouse law in two important particulars. As the law now stands, we have, in certain large ports, public warehouses, and no goods can go into private bonded warehouses until the public warehouses are full. The objection on the part of depositors and merchants, is, that the public warehouses in some places, particularly at New York, are in inconvenient positions, and that the amounts deposited are so large that it is impossible to obtain insurance upon them. There was lately danger of a fire in one of those warehouses, and none of the goods, I believe, had been insured, on that account.

Besides this, it has been found, so far as the experiment has gone, that it is cheaper and better, in every way, to store in the private bonded warehouses; or, in other words, to leave this branch of business open to individual competition. In Great Britain, where there is much larger experience on this subject than we have, it has been found to be the preferable system. But in order to test the matter fully, it is proposed in this bill that the public warehouses which we now have on lease shall be retained, but that the depositor shall have his option of depositing the goods in the private or in the public warehouses, with a further provision, which we think experience justifies—for this bill has been examined at the Treasury Department, as well as by the Committee on Finance—that when these leases expire, (and they are mostly leases for long terms,) the public warehouses shall no more be rented, except in those small ports where we cannot introduce the private bonded warehouse system, and where some public store may be necessary. That is the material amendment.

There is also another provision. We have heretofore required the owners of private bonded warehouses to pay for our inspectors; for, as a matter of course, the buildings and goods had to be placed under the charge of the Government inspectors. They have complained, and I think with reason, that this charge weighed heavily on them, for it has been a source of some revenue. We have derived from it more than our actual expenditure. Instead of that, it is proposed in this bill, that the proprietors of private bonded warehouses shall pay a certain sum for their license, which sum will be enough to cover all the charges of inspection, in lieu of the fees now charged, which have proved vexatious, and been the occasion of suits.

The only other material provision of the bill is, that it extends the period during which goods may be deposited in warehouse, so as to correspond with the old debenture system. Before the warehouse system was adopted, importers could at any time within three years, reëxport goods imported. It is proposed now to allow them to deposit in the public warehouses for three years, whether for reëxportation or withdrawal for domestic consumption. That is an alteration of the existing law, which stands thus: You may deposit for two years, if the object is to reëxport, but only for one year if the object is to withdraw the goods for domestic consumption. This difference has made a serious inconvenience, because when goods have been withdrawn for consumption, the parties have been permitted, in some instances, to return them within two years; and the old debenture system has thus been reintroduced, although it was the object of the law establishing the warehousing system to destroy it. To do away with all these difficulties and all that complicity, as well as to give our navigating trade the advantage of the storage of the goods of the world here, and to give to owners of property in our cities the advantages of the profit derived from storing goods, it is proposed to extend this time to three years. These are the material provisions of the bill.

Mr. BRODHEAD. I am not exactly satisfied with that provision of this bill which extends the time for depositing goods in warehouses to three years. That is so much credit; it is giving the importer that much time to pay the import duties. But as we cannot proceed with the discussion of this bill at this time, I shall forbear making any remarks upon the subject, for I understand the bill was to be taken up only during the morning hour. The bill may be right, but I want a little further time to look into it. I do not understand its provisions exactly. I do not know what is to be its effect upon the revenue, and upon the amount of goods imported. I hope, therefore, that it will be suffered to lie over until to-morrow.

Mr. MILLER. I hope the request of the Senator from Pennsylvania will be granted. There is one section in this bill—that which has been referred to by him—which I think requires the consideration of the Senate before it be adopted, and I may wish to be heard upon it. I hope, therefore, that the Senator from Virginia will consent to let it lie over.

Mr. HUNTER. The Senator can move to postpone it until to-morrow in the morning hour.

Mr. MILLER. I move to postpone the further consideration of this bill until to-morrow at half-past twelve o'clock.

The motion was agreed to.

REORGANIZATION OF THE NAVY.

Mr. STOCKTON. I move that the Senate proceed to the consideration of the bill to organize the Navy of the United States.

Mr. CASS. I would suggest to the honorable Senator from New Jersey, that the Senator from Louisiana, [Mr. DOWNS,] agreeably to all our custom, has the floor for the day on the subject which was discussed yesterday by the honorable Senator from Virginia, [Mr. MASON.] Having got the floor yesterday afternoon, and having come here prepared to address the Senate to-day, I think we should hear him.

Mr. STOCKTON. This bill is a very important one, and at the beginning of the last week, it was made the special order for this day. I am of the opinion that it would occupy but a very short time. I do not think it will give rise to any prolonged discussion, and I believe that within an hour we may be able to dispose of it. Perhaps that course will meet the wishes of the honorable Senator from Louisiana.

Mr. CASS. I do not think there is the least prospect of carrying such a bill through without discussion. I have great confidence in the honorable Senator from New Jersey, but his bill is one which will necessarily provoke discussion. We cannot reorganize such an arm of the national defense as the Navy without mature examination. I therefore suggest, that it would be better to allow that bill to lie over until the Senator from Louisiana shall have been heard.

Mr. HALE. I wish to make one suggestion to the Senator from New Jersey. I understand from him that he has prepared a number of amendments which he intends to offer when his bill shall be taken up. I would suggest, therefore, that the bill be taken up, and that the Senator from New Jersey submit his amendments. They can be printed, and then the bill can lie over until to-morrow.

Mr. BADGER. That is a fair compromise.

Mr. CASS. That is the first time, I think, the Senator from New Hampshire has been for a compromise. [Laughter.]

Mr. STOCKTON. I do not like compromises of that kind where the advantages seem to be all on one side. I would prefer yielding, as a matter of courtesy, to the Senator from Louisiana, rather than bargain for what I am quite disposed to give without a contract; but if it please the Senate, I will take advantage of the suggestion of the Senator from New Hampshire.

The motion to take up the bill was agreed to.

Mr. STOCKTON. It would not be fair for me now to make the speech which I intended, as I have agreed to give way to the Senator from Louisiana; but, at the suggestion of the Senator from New Hampshire, I submit the amendments which I intend to offer, and ask that they may be laid upon the table and printed for the use of the Senate.

The motion was agreed to.

Mr. STOCKTON. I now move that the further consideration of the bill be postponed until to-morrow, at one o'clock.

The motion was agreed to.

THE TEHUANTEPEC GRANT.

The PRESIDENT. The hour has arrived for the consideration of the special order of the day, which is the unfinished business of yesterday, being the resolutions reported from the Committee on Foreign Relations in reference to the Tehuantepec grant.

Mr. RUSK. I do not rise for the purpose of making any motion on that subject, but to make an appeal to the honorable Senator from Louisiana, who has the floor upon it. The Senator from Mississippi [Mr. BROOKE] desires to address the Senate upon the subject, and so does the Senator from New York, [Mr. SEWARD.] It is therefore clear that we can come to no conclusion upon it to-day. The Pacific railroad bill is a matter of importance, which, I think, will not be debated much further: and inasmuch as the Tehuantepec question cannot be brought to a conclusion to-day, I hope the honorable Senator will agree to let it go over until Monday, at which time the Senator from Mississippi desires to express his views. On that day we can hear the Senator from Louisiana on the subject, and go on regularly with the debate. It is, however, a matter dependent upon himself, and under the circumstances, I shall interpose no objection to his going on to-day, if he wishes it.

Mr. DOWNS. I would readily assent to the request of the honorable Senator from Texas, but I think the object he has in view can be accomplished in another way. I wish to speak on this subject, and I shall not speak long, probably not an hour, certainly not more, and then the honorable Senator can have his bill taken up and we can go on with it. I would prefer that that course should be pursued. The discussion on the Tehuantepec matter has reached such a stage that I would prefer going on now.

Mr. RUSK. I shall not press my suggestion.

Mr. DOWNS then addressed the Senate at great length, in favor of compelling Mexico to a rigid adherence to her plighted faith to our citizens under the Garay grant, sustaining all the views of the report of Mr. MASON on that subject. [His speech will be found in the Appendix.]

Mr. SEWARD. This is a very important question, perhaps quite as important as any which has engaged the attention of the Senate during the present session. I desire to be heard upon it.

Mr. BADGER. Move to postpone it.

Mr. SEWARD. I am under the direction of the Senate in that respect.

Mr. RUSK. I hope the Senator will move to postpone the further consideration of the subject till Tuesday next.

Mr. SEWARD. I will move to postpone the further consideration of the resolutions until Tuesday next, and that they be made the special order for that day.

The motion was agreed to.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the "bill for the protection of the emigrant route and a telegraphic line; and for an overland mail between the Missouri river and the settlements in California and Oregon."

The pending question being on the amendment reported from the Select Committee to strike out all after the enacting clause, and insert the following, and amend the title to read:

A bill to provide for the construction of a railroad and telegraphic line from the valley of the Mississippi to the Pacific ocean.

That it shall be the duty of the President of the United States to cause to be constructed, so soon as it may be practicable after the passage of this act, a railroad and telegraphic line connecting the valley of the Mississippi with the Pacific ocean, at such points as he may designate, and upon the terms and conditions hereinafter prescribed. And it shall be the duty of the said President to select the general route for the said railroad and line, designating the mountain passes between the Atlantic and Pacific oceans through which they shall be constructed, but leaving the intermediate portions to be located by the individuals or companies that shall be employed to construct the said road and line; subject, however, to his approval. The said selection shall be made at as early a day as may be practicable, consistently with the judicious choice of the site of said road, and such other preliminary arrangements as shall insure the speedy prosecution and permanent construction of the work. And that, in order to obtain the most accurate information on the subject, the President of the United States be, and he is hereby, authorized to employ such military officers and troops as he may deem necessary, and also civil engineers, not exceeding ten in number: *Provided, nevertheless*, That before the said road shall be located or constructed through any State, the consent of the Legislature thereof to the provisions contained in this act, shall be first had and obtained; and in selecting the site of the said road, the President shall have due regard to the expense and grades thereof, and the intercourse, commerce, military defense, and protection of the whole country.

SEC. 2. *And be it further enacted*, That a right of way, not exceeding three hundred feet in width, be, and the same is hereby, granted along the entire length of the proposed railroad and telegraphic line, through the public lands in the United States, to be held and set apart for the uses and purposes of the said road and telegraphic line forever; and that all stone, timber, and other materials, of whatsoever character and description, on the public lands, in the vicinity of said road and line, be, and the same are hereby, made subject to the uses and purposes of said road and line, as well in the construction thereof, as in supplying the same with necessary furniture and machinery; to be made available, as occasion may require, by those employed in the construction or the management and working of said road and line.

SEC. 3. *And be it further enacted*, That, for the purpose of aiding in the construction of the said railroad and line of telegraph, there shall be, and are hereby, appropriated and set apart alternate sections of the public lands, designated by odd numbers, for six miles on each side of the said road where the same shall be constructed through any State or States, and for twelve miles on each side of the said road where the same shall be constructed through the Territories of the United States; and in cases where the public domain adjacent to the said road may not be sufficient to enable the Government to carry into effect the above provisions, then, and in that event, any deficiency that may exist shall be supplied from the public domain nearest to the point at which such deficiency shall exist, and be selected in alternate sections, as aforesaid; and a sum not to exceed twenty millions of dollars, in bonds of the United States, bearing an interest of five per cent. per annum, and redeemable in fifty years; the said lands and bonds to be made available in the manner hereinafter provided.

SEC. 4. *And be it further enacted*, That the said road shall be constructed throughout in a thorough, substantial, workmanlike manner, with all necessary drains, culverts, bridges, viaducts, crossings, turnouts, sidings, stations, watering-places, and all other appurtenants, including the complete equipment of locomotives of sufficient speed and capacity, commodious and comfortable passenger cars and freight cars adapted to the business to be done; and said contract shall so cover, in detail, all of these provisions, as to secure the construction, maintenance, and equipment of a road at all times equal, in both respects, to a road of the first class, when thoroughly organized for business; and shall also provide, in a manner satisfactory to the President, for the constant supervision of a sufficient number of competent, skillful engineers, to be employed by said company; and also for the employment of engineers in the service of the Government, as is herein provided, if he deems such a measure expedient: the gauge of said road to be uniform throughout, and of such a width as the President approves, and the rails of the best quality, weighing not less than sixty-four pounds to the yard, and of such form as he may direct.

SEC. 5. *And be it further enacted*, That, so soon as the general route for the said road shall have been selected and determined upon, it shall be the duty of the President of the United States to cause advertisements to be published in at least two of the newspapers in each of the States, specifying the various descriptions of work to be done, and inviting sealed proposals to execute the same, which proposals shall be opened and examined at a time fixed, not exceeding six months after the date of such advertisements, in the presence of the heads of Departments and such other persons as may desire to attend; and said road shall be let to the lowest and best bidders, due regard being had to the evidences of their ability to comply with the terms of their contracts, and their trustworthiness in all respects, together with the security they may offer for the faithful performance of their engagements.

SEC. 6. *And be it further enacted*, That whenever fifty miles of said road shall have been completed, in a manner satisfactory to the President of the United States, he shall cause a *pro rata* payment to be made, according to the terms of the contract for the work so completed, in the bonds of the Government, issued under the provisions of this act, and by a grant of four fifths of the public lands to which the completion of the said fifty miles may entitle said contractors, and so on for each successive fifty miles, until the road shall have been completed and the terms of their contracts complied with, when they shall be entitled to receive the remaining fifth of said public lands; and in the event of a failure on the part of the contractors to comply with the terms of their contracts and the provisions of this act, the road, together with the appurtenances, including the running machinery and means of transportation, shall be forfeited and become the property of the United States; and, for the purpose of enabling the President of the United States, at all times, to know whether the provisions of this act, and the terms of the contracts, are being complied with, he is authorized, from time to time, to appoint a suitable number of engineers, as supervisors of the work, who shall, under his direction, make thorough and minute examinations of the work as it advances, and report to him, as often as required, upon all matters and things submitted to their charge.

SEC. 7. *And be it further enacted*, That so soon as the President shall determine who are the lowest and best bidders for the construction of the said railroad and line of telegraph, and shall award the same, the said contractors shall enter into bonds in such sums as he may designate, with such security as he may approve, for the construction of such railroad and line of telegraph, according to the terms and conditions of this act, and such further terms as the President may prescribe, designating the length of road to be finished in each year, and providing that, in addition to the recovery of any and all penalties which may be designated in the bond, the said company shall, upon failure to comply with the terms of the contract, forfeit to the United States the said railroad and line of telegraph, with all their appurtenances, including running machinery and means of transportation. And in case of any such failure, the President of the United States shall readvertise, and relet to other contractors, so much of said railroad and line of telegraph as may remain unfinished, conforming, as nearly as may be, in all respects to the provisions of this act.

SEC. 8. *And be it further enacted*, That, in consideration of the grant of the lands aforesaid, and the payment of the bonds before mentioned, the said company shall at all times, and as often as required, transport on said road, and every part of the same, as soon as any part or the whole may be finished, the mails, troops, seamen, officers of the Army and Navy, and officers or agents of the Government, and of the Post-Office Department, while on duty, arms, ammunition, munitions of war, Army and Navy stores, funds, or property belonging to the Government of the United States, free from all charges to the Government, giving the United States at all times the preference; and shall also transmit all official messages from the Government to any of its officers, or from such officers to the Government, over said telegraphic line, free of charge. But should a case of emergency arise in consequence of a war with any foreign nation, in which the Government may require an extraordinary amount of transportation, jeoparding the fair dividends and profits of the contractors, in that event the President is hereby authorized to make an equitable and just allowance for such additional service; and should the President and the company be unable to agree upon the same, then the matter shall be referred to, and be determined by Congress.

SEC. 9. *And be it further enacted*, That the said railroad and telegraph shall be completed in the shortest reasonable time, not exceeding ten years; that the bidders for the construction of the same shall specify in their proposals the time required to complete the said road and line of telegraph, and the number of miles which they propose to complete annually, which shall also be inserted in the contract; and that Congress may at any time after the expiration of thirty years from the time said road and line of telegraph may be completed, require the said company to surrender to the United States the said road and line of telegraph, with their equipments, appurtenances, and furniture, upon the payment to the said company of the cost of construction of the same, allowing ten per cent. profit upon their investments, deducting from the whole cost of said road the amount of the bonds paid to the said company and the proceeds of the lands granted to them. And Congress may at all times regulate the tolls to be charged upon passengers and freights, so as, with an economical management of said road, not to reduce the profits of said company below eight per cent. upon the investment, deducting therefrom the advances made by the Government towards the construction of the same.

SEC. 10. *And be it further enacted*, That the said company, after they shall have commenced receiving tolls, shall be bound at all times to keep the said road provided with a sufficient number of suitable engines, cars, and vehicles, for the transportation of persons and property, which, together with the road, shall be kept in good repair, and shall be obliged to receive at all proper times and places, persons and merchandise, and convey the same when the prescribed tolls therefor shall be paid or tendered; and in the event of non-payment of tolls or passage-money, after persons or merchandise shall have been transported, the said company shall have a right of lien on all baggage or other property so transported, and may retain and sell the same, if necessary; and, in case of sale, shall return the proceeds thereof to the owners of said property, after deducting the amount of tolls or passage-money due, together with the necessary expenses of the sale.

SEC. 11. *And be it further enacted*, That Congress may, at any time hereafter, authorize individuals, companies, or States, to form a connection between said railroad and any railroad or railroads under their control, respectively: *Provided*, That the locomotives, engines, cars, and other vehicles on said road or roads shall be so constructed as to conform to the gauge of the said proposed railroad: *And provided, also*, That the passengers and merchandise or commodities conveyed on such road or roads shall be subjected to the charges for transportation which shall be established on said proposed railroad, and such other regulations as may be made by Congress upon this subject.

SEC. 12. *And be it further enacted*, That the said company shall keep books in which shall be entered regular statements of all disbursements, expenditures, and receipts, setting forth specifically the causes of said expenditures and sources whence said receipts are derived, together with a particular account of all accidents that may occur affecting property or life, or causing delays upon the road; which books shall be open at all times to the inspection of the President of the United States, the Secretary of the Treasury, or members of Congress. And the said company shall make a report annually, to the Secretary of the Treasury, on the first day of October in each year, stating minutely and in detail the operations of the year preceding, accompanied by an exhibit of the fiscal concerns thereof, and a statement of the profits of the said road and telegraph, which shall be attested by the oaths of the treasurer and directors of the company, which shall be transmitted to Congress by the said Secretary at the beginning of the next session thereafter.

SEC. 13. *And be it further enacted*, That, for the purposes of this act, the contractors, their associates and successors, are hereby created and constituted a body-politic and corporate by the name of "The Pacific Railroad and Telegraph Company," by which name they may sue and be sued, plead and be impleaded, and have and enjoy all proper remedies at law and in equity, may organize and elect such officers as they may deem necessary, and have and use a common seal; they may also open books and issue certificates of stock, and perform all other acts necessary to carry into effect the provisions herein contained: *Provided, however*, That the provisions of this act shall have no force nor effect whatever within the limits of any State without the consent of the Legislature of said State previously had and obtained.

SEC. 14. *And be it further enacted*, That as the said road progresses, the President of the United States shall

cause the public lands through which it passes to be surveyed; and whenever, in his judgment, the same may be necessary, order troops and military escorts to accompany and protect the persons engaged in the construction of said road.

Mr. SMITH. I desire to move a slight amendment to the amendment, with a view to correct an incongruity which appears in the fourth section of the bill. I move to strike out the word "throughout," in the second line of that section, and to insert the words, "by contract as hereinafter provided," so that the section will read thus: "that the said road shall be constructed by contract as hereinafter provided," &c.

Mr. RUSK. That correction is necessary to make the sense of what is there perfectly plain.

Mr. NORRIS. I raise a point of order. Is there not an amendment to an amendment already pending?

The PRESIDENT. The Chair understood that yesterday this bill, by unanimous consent, was substituted as the special order, in place of the bill introduced by the Senator from California, [Mr. GWIN.] It is therefore open to amendment. It was not adopted as an amendment to the bill of the Senator from California.

Mr. NORRIS. This is reported by the committee as a substitute, striking out all after the enacting clause of the bill which was referred to them, and inserting what they report. That is the record.

Mr. RUSK. I will explain to the honorable Senator, that bill No. 396, which is now before us, was substituted as the special order in place of bill No. 560, which then took its proper place on the calendar. The report from the Special Committee is to strike out all of bill No. 396, which is now before us as an independent bill, after the enacting clause, and insert the amendment which has been read by the Clerk, as a substitute. Therefore, as a substitute, it is open to amendment before the question is taken on the striking out of the original bill and inserting.

Mr. NORRIS. Really I do not understand this. This amendment having been adopted instead of the original bill——

Mr. RUSK. The Senator is mistaken in that. This bill is not adopted. The other bill is on the calendar, and it was so stated yesterday. The bill now before us, is only substituted on the calendar as the special order in place of bill No. 560. It is not a substitute for that bill itself by any means. It is only substituted as the special order.

Mr. BORLAND. I would suggest to the honorable Senator from New Hampshire, that his difficulty is avoided by this view of the subject: The bill No. 560, which was under consideration before the bill which is now before us was made the special order, which was yesterday, is not under consideration at all to-day.

Mr. RUSK. It was laid aside by unanimous consent.

Mr. BORLAND. It was laid aside, and bill No. 396, was made the special order in its place. The latter bill we are now considering, without reference to any other bill whatever.

Mr. NORRIS. I should like to know what the Journal says. This seems to me most singular.

The PRESIDENT. The Chair will inform the Senator that no rule has been observed in this case. By unanimous consent, they were all set aside, and this bill was made the special order. By unanimous consent, the Chair considered it as taking the place of bill No. 560, as the special order.

Mr. NORRIS. I would suggest to the Chair that it is not a bill, but a mere amendment.

Mr. RUSK. The bill which was substituted as the special order is before us, and the proposition of the committee is to strike out all after the enacting clause and insert. The original bill provides "for the protection of the emigrant route 'and a telegraphic line, and for an overland mail 'between the Missouri river and the settlements 'in California and Oregon." The proposition of the committee is to strike out all of that bill after the enacting clause and insert what they report as an amendment.

Mr. NORRIS. That is my understanding exactly. The proposition is to strike out all after the enacting clause and insert.

Mr. BELL. I ask for the reading of the portion of the Journal which relates to the subject.

It was read as follows:

"The Senate resumed, as in Committee of the Whole, the consideration of the bill for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon, with the amendment reported thereto."

"On motion by Mr. RUSK,

"*Ordered*, That the further consideration thereof be postponed to, and be the order of the day for, to-morrow."

Mr. BELL. I see no irregularity in that. It was perfectly in the power of the Senate to take up that bill which was originally from the Committee on Territories, and then commit it to a select committee. Then, upon the report of the select committee—and this amendment is the result of the labor of the committee—the Senate proceeds to take up that bill and makes it the order for this day. It seems to me to be perfectly in the power of the Senate to do that without any violation of the rules. There is no irregularity in it. We have not the bill before us now which we had up the other day. It still stands upon the calendar.

Mr. NORRIS. So this is reported by the committee as an amendment to the original bill.

Mr. BELL. That is right.

Mr. DOUGLAS. I think I can state the case so that it will be understood. At the last session of Congress I reported from the Committee on Territories the bill No. 396. At this session the Senator from California [Mr. GWIN] introduced a bill (No. 560) for the construction of a railroad to the Pacific. Pending the discussion on the latter bill, the Senate referred the former one which I reported, to a special committee. The special committee reported a substitute for it, and then, as it was desired to consider the substitute reported by the special committee, the Senate, by unanimous consent, agreed to make the bill which I reported, and the substitute, the special order of the day for to-day in place of the bill introduced by the Senator from California. The bill which I reported is, therefore, the one now under consideration. It is a bill providing for some military posts between the Missouri and the Pacific, and the substitute or amendment reported by the special committee is a railroad bill. So there can be no irregularity in considering the bill as it now stands.

Mr. BRODHEAD. The first question, then, I presume, is upon the substitute offered by the Senator from Texas [Mr. RUSK] from the Special Committee.

The PRESIDENT. The question is upon the amendment offered by the Senator from Connecticut to the amendment of the committee.

Mr. BRODHEAD. I have an amendment to offer in the shape of a substitute.

The PRESIDENT. The first question is upon the amendment offered by the Senator from Connecticut to the amendment.

Mr. DAVIS. I would suggest to the Senator from Connecticut to withdraw that amendment, and submit one to add the words, "by contract as hereinafter provided," after the word "constructed" in the second line of the first section.

Mr. SMITH. That will accomplish my object as well, and have the same effect. I therefore withdraw my proposition, and make the one suggested by the Senator.

The amendment was agreed to.

Mr. BRODHEAD. Mr. President, I now move to strike out all after the enacting clause, and substitute the amendment which I send to the Chair.

Mr. DOUGLAS. I would raise the question whether or not such a proposition can be entertained now?

The PRESIDENT. The opinion of the Chair is that it cannot be entertained, because there is a proposition pending to strike out all after the enacting clause, and insert a substitute.

Mr. BRODHEAD. If it is out of order to offer my proposition as an amendment now, I ask that it may be read for the information of the Senate, and I will state that when I can do so in order, I shall offer it as amendment.

Mr. DAWSON. I would suggest to the Senator from Pennsylvania to ask a division of the motion to strike out and insert.

Several SENATORS. You cannot do that.

Mr. DAWSON. Why can you not do it? I will ask the Chair whether it will not be in order to divide the motion to strike out and insert?

The PRESIDENT. It cannot be done, in the opinion of the Chair.

Mr. HAMLIN. I desire to ask the Chair what is the original proposition before the Senate?

The PRESIDENT. It is a bill for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon.

Mr. HAMLIN. The motion pending is to strike out the whole of that bill, and insert what has been reported from the Special Committee?

The PRESIDENT. Yes, sir.

Mr. HAMLIN. This, then, is an amendment pending, and now I appeal to the Chair, and ask if it is not in order to strike out the whole of that amendment? Most assuredly it can be done; just as certainly as that two and two make four; and if I cannot demonstrate it, I will say that two and two do not make four.

A SENATOR. Read the rule.

Mr. HAMLIN. I have read the rule; I understand the rule, and there is no doubt, in my judgment—not a solitary doubt—and I think the Chair will come to the same conclusion. Here is an original proposition. We shall have to vote on the amendment. If you adopt it, by all parliamentary rules, you cannot amend it after it is adopted. When ought you to amend it? Before it is adopted. How amend it? Just as the Senate shall see fit. We will strike out one section, if we please, and adopt all the rest; or amend one section, if we please, and adopt the rest; or we may strike out the whole of it and put in one single section, just as the Senator from Pennsylvania proposes. That, as I understand it, has been the uniform practice of the Senate, and I think the Chair will come to that conclusion on examining the subject. There can be no doubt about it—none in the world. I understand the Senator from Connecticut proposed an amendment to the amendment which has been adopted. Now, what is the amendment we will make to the amendment? That is the very question before us. We will amend it entirely, if we please, by striking out the whole, or we will amend it by striking out one section, or we will add to it. But after the amendment shall have been adopted, it must stand as the judgment of the Senate. That is the parliamentary law, as I understand it, and I ask the Chair if it is not so!

Mr. RUSK. I will not be so positive about the rules as the honorable Senator from Maine is, for I do not know so much about them as he seems to know; but I understand the rule to say, you may amend an amendment. So far as that goes, then, you can amend an amendment; you may strike out all but one or two words, and add others. That is amending it. But if you strike out all, is that amending it?

Mr. BRODHEAD. I will leave the word "that."

Mr. BELL. I hope some mode will be devised by which, consistently with parliamentary proceedings, the question which the honorable Senator from Pennsylvania wishes to have tested in the Senate will be brought to a vote. I think that perhaps the honorable Senator from Maine is wrong in regard to his exposition of the rule of parliamentary proceedings, because you must leave something of the amendment standing. I understand the position of the honorable Senator from Pennsylvania is, to set aside the amendment reported from the Select Committee altogether.

The PRESIDENT. It is to strike out all after the enacting clause.

Mr. BELL. If the Senator will consider a moment, he can perhaps find some words in the amendment of the committee upon which he can hang his amendment, and then we shall have the question, whether or not it is worth while to proceed with the further consideration of a proposition to build a railroad, or to authorize a railroad to be built by law. I understand that the proposition of the Senator from Pennsylvania is, that there ought to be a preliminary question considered and settled. That is, whether we are in a condition to enact anything in relation to a road, except to make an appropriation for a reconnoissance and survey of the country over which we propose to construct it. I presume no Senator has any objection to the immediate consideration of that question, because it is preliminary in its nature. If we have not sufficient light to pass a law

authorizing the construction of the road at all, until we get some other information by explorations made by engineers of the Government, or civil engineers to be appointed by the President, it is useless to proceed any further. That is in its nature prior to any consideration of a bill to authorize the construction of the road. It ought to be so; and I hope the Senator from Pennsylvania will find some word in the amendment of the Senator from Texas, which may be left standing to hang his amendment upon, so that we may decide the question which he presents. I wish it may be so. I shall be very ready to meet that question.

Mr. BRODHEAD. I thought my proposition was well understood, not only by the Chair, but by the Senate. When we offer a proposition such as I submit, it is well understood that we leave the word "that" in the amendment.

Mr. BELL. Then it is in order.

Mr. BRODHEAD. Then it is in order; but if leaving the word "that" is not sufficient, I can amend the amendment of the committee by adopting the words "that it shall be the duty of the President of the United States," and putting my amendment to that. I propose a reconnoissance and survey as a preliminary measure, and we ought to take a vote upon that as a preliminary proposition. I ask for the reading of the amendment which I propose.

Mr. DAVIS. I understand the Senator from Pennsylvania to move to strike out all of the amendment after the enacting clause. That I think is in order; but it leaves it open to the Senate to amend the amendment itself, so as to perfect it as much as they please before any question is taken upon his proposition. When the Senate has amended the amendment, and matured it, so that they are satisfied with it, then will come up the question upon his motion, which is a question whether or not his proposition shall stand instead of the amendment of the committee, and if adopted, go into the bill as such. In other words, his proposition would take the place of the amendment of the committee, and would finally, if adopted, be a substitute for the bill in general. It seems to me that the way is all clear enough. If any Senator wishes to amend the amendment of the committee, he can do so. The Senator from Pennsylvania can let his proposition stand, and when the amendment of the committee is matured, then the question will come up upon his amendment.

Mr. BRODHEAD. That is the course which I propose. I ask for the reading of the amendment which I offer. The Senate can then proceed and perfect the amendment submitted by the honorable Senator from Texas from the Select Committee, and when it is perfected, I want a vote upon the preliminary proposition which I offer.

Mr. BRODHEAD's amendment to the amendment is as follows:

To strike out all after the word "that," and insert:

The Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make a reconnoissance and survey of the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, and that the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of such exploration and survey.

Mr. ADAMS. I concur in the suggestion made by the Senator from Massachusetts with regard to the question of order. I understand that when a motion is made to strike out all after the enacting clause of a bill, and insert a substitute, it will be in order; but before we take a vote upon the proposition, the original bill is subject to amendment, so that it may be perfected before the substitute is voted upon. When it is perfected by the reading of it through, section by section, and by votes upon amendments to it, then the proposed substitute comes up and is alike subject to amendment as the original proposition, before the final vote is taken upon it as a substitute, so as to perfect it. It is very important that we should be governed by parliamentary rules in reference to this matter. The object is obvious to every one, that before the substitute is voted upon, the original proposition shall be made as perfect as the body can make it; and that then, by a similar perfection of the substitute, there may be a fair vote and test between the substitute which is offered, and the original proposition. At the proper time the proposition of the Senator from Pennsylvania will be perfectly in order, after we shall have gone through the original proposition and perfected it. That I understand to be the rule.

Mr. DOUGLAS. I think we can get at this matter very easily if we proceed regularly. We have now a bill pending and a substitute for the bill. It is true it is in order to perfect the original bill; but the original bill is abandoned by its friends; therefore it is only necessary to perfect the substitute, and that perfected, the question will be, Shall this substitute be taken for the original bill? All against this railroad project will vote "no." If that is voted down, then the substitute of the Senator from Pennsylvania will be in order, and we get a test vote, whether this bill shall pass or not, upon the vote on the substitute of the committee for the original bill. If we determine in favor of this, that, too, decides the question, and the amendment of the Senator never will come in order; if, on the contrary, we decide against the amendment of the committee—if it be voted down, his amendment will be in order. I think, therefore, we had better proceed in regular order, according to the rules.

Mr. TOUCEY. I would suggest that, by general consent, the object of the Senator can be carried out, by prefixing an enacting clause to this amendment, and then proceeding with it as an original bill. It will then be subject to amendment, and the amendment will be subject to amendment. By general consent, I think the difficulty could be obviated in that manner.

Mr. RUSK. I object to that proposition. I am anxious to get a vote upon the proposition before the Senate. If we substitute it as an original bill, we complicate the question, and an amendment can be offered, and an amendment to an amendment. So far as I am concerned, I am willing to meet at this moment, or any time, the proposition of the Senator from Pennsylvania, which he chooses to designate as a "preliminary" measure for the construction of the road. It is offered for the defeat of the bill. It can have no other effect and force. I do not charge any motives upon the Senator, but that is precisely the effect it will have—to defeat the bill for the present session of Congress. If it is defeated, then there is a majority of the Senate who are against the construction of a railroad to the Pacific. If they do not wish to consume the time of the Senate, if there is a majority of the Senate against it, I am willing to have the question decided now. If we had time, I should like to go into an argument upon this subject, because this brings up the argument on the whole question. I would like to go into an argument upon this bill to show the commercial necessity, the political necessity, and the national necessity, which exists for the construction of this road upon the best plan which Congress can unite in adopting. I should like, also, to give some reasons upon the subject which would affect the honorable Senator from Pennsylvania and his constituents greatly; and not only affect them individually, but the country at large. If the bill for the construction of this road passes, it will require at least $10,000,000 worth of iron. That would be five per cent. on an investment of $200,000,000 of capital. Well, sir, if the Senator from Pennsylvania chooses to throw obstructions in the way of a measure which would so much benefit his own State, I object to his throwing obstructions in the way of what will benefit the United States. Iron is an important item with our people. It is important for domestic purposes in time of peace, and all-important in time of war; and we shall need it all over the country, and on the Pacific ocean. The construction of this road will invest more capital, my word for it, in the manufacture of iron, than all your tariffs can ever accomplish in that respect, because it will give the means of laying down your iron all along that road to the Pacific ocean, at a cheaper rate than it can be procured from any foreign country. Besides that, it will hold out permanent inducements for investments in iron manufactories. But I will not now consume the time of the Senate. I am anxious to get a vote, and have the question decided.

Mr. MANGUM. I regard the amendment proposed by the honorable Senator from Pennsylvania as in all respects properly characterized by the honorable senator from Texas. It is to try this question: whether, in a general bill, providing for the construction of the entire road, these preliminary questions may be settled, or whether you will isolate the preliminary arrangements from any general bill, and legislate after the explorations and surveys shall have been made. I am perfectly willing to meet that question at once. I differ in that respect from my honorable friend from Texas. If it be the sense of the body to pass any law for the purpose of constructing a road, that sense can be tested upon the proposition of the Senator from Pennsylvania.

Mr. RUSK. The Senator will allow me to explain. The first section of my bill provides that the President of the United States shall select the general route for the road. Prior to his doing that, in order to enable him to do it judiciously and properly, the whole of the Topographical Corps, and as many as ten civil engineers, are placed at his disposal, for the purpose of being used preliminarily for satisfying his judgment as to what is the proper route.

Mr. MANGUM. I understand that; and in that respect the amendment reported by the Senator from Texas embraces substantially everything proposed by the Senator from Pennsylvania, with this addition: that the Senate is now called upon to vote upon the policy of constructing a road, in the event that a practicable route shall be found.

The amendment of the Senator from Texas leaves, as I think must be left by any proposition, a large discretion to the President of the United States. That must be done; but at the same time, if we pass that proposition, we provide for going on with the work as soon as a proper and practicable route may be found. As at present advised, after listening to the discussion upon the subject, I am very much inclined to go for that proposition, and to go for arranging everything in one bill. According to the proposition of the Senator from Texas, if the route should be found practicable, further legislation will not be necessary; but according to the plan of the Senator from Pennsylvania, it will be necessary. So that, deciding at this time between the proposition offered by the Senator from Pennsylvania, and that which is reported by the Senator from Texas, decides simply this question: Are we willing to go into the matter of the railroad at once—for all these preliminary matters are provided for by the amendment of the Senator from Texas—or do we desire to postpone any definitive action upon the question of making the road, so as to have the preliminary matters first arranged? I am perfectly willing to meet the question at once, and I shall vote against the amendment of the Senator from Pennsylvania.

Mr. BRODHEAD. My honorable friend from Texas, and the honorable Senator from North Carolina, perfectly understand the purport of this amendment. It is to defeat the bill presented by the honorable Senator from Texas.

Mr. MANGUM. We understand that, and that question we are ready to meet.

Mr. BRODHEAD. I offer it for this reason: I do not believe that any wise company, or any wise Government, has ever yet commenced a work of this magnitude—a railroad of half this length, without first ascertaining its practicability. Now, I propose to have a reconnoissance and survey of this route as a preliminary measure, and then to have the future action of Congress, and not of the President, based upon that reconnoissance and survey. There is that difference between the two propositions. I believe that before Congress acts definitively on the subject, we should have a reconnoissance and survey. As the immediate representatives of the people—as those who vote the people's money—Congress ought to know upon what object, and for what purposes, that money is to be expended. The proposition which I submitted is, in my judgment, the proper mode to commence a railroad to the Pacific ocean. It is the way all our people, all our companies, and the State governments, commence the construction of railroads, and other works of internal improvement.

A word now to my honorable friend from Texas in regard to the iron for this road. We of Pennsylvania expect to furnish a considerable portion of iron for this road when it is built, but we want to commence in the right way, so that we can furnish the proper quantity. We can do so as well as any others; but I presume that if iron is desired to make this road, a very considerable quantity of it will come from Missouri. Missouri is much nearer the terminus of the road

than Pennsylvania; but notwithstanding this, we hope to furnish a considerable portion of it. If we can furnish it as cheaply as anybody else, we expect to be called upon to do so; but that has nothing to do with the question as to the proper mode of commencing this road.

Mr. BORLAND. I do not often disagree with my friend from Pennsylvania, and I am very sorry to do so on this occasion; but it seems to me that when he comes to review the position he has taken, he will be very apt to abandon it; at least, in my opinion, it will be proper for him to do so; and I think he will be compelled to do so, unless he assumes a hostile attitude towards the building of the road at all. Now, I ask him, does he desire that this road shall be built? If his proposition should be adopted as a substitute for the bill, and the surveys and explorations should be made, and they should establish the fact that there is a practicable route to the Pacific ocean, will he then go for making the railroad upon that route? That is the point. If he says, that after the explorations shall have been made, and a practicable route shall have been found, he will be opposed to the building of a road according to the plan proposed by the Senator from Texas, or any other, then, in my opinion, his course is the right one to accomplish his object, and to defeat the whole proposition. But if he holds himself ready, when a practicable route shall be established, to go for the construction of the road, it seems to me that he is bound to go for the proposition of the Senator from Texas, because that provides for precisely what his amendment provides. It makes provision for the preliminary surveys and explorations, and according to it the road cannot be located, and cannot be made until the President shall have satisfied himself by the use of the means proposed, that the route is practicable, and the best and most economical. All that the Senator from Pennsylvania proposes, is provided for in the proposition of the Senator from Texas now under consideration.

Besides, that has this advantage over his proposition: It not only provides for what his does, but it goes further. It makes provision for a preliminary exploration and survey, and then prevents the loss of time, by directing the immediate construction of the road as soon as the practicability of a route shall have been ascertained. I think we have put off this exploration too long. As I remarked the other day, as far back as 1848, by direction of the Committee on Public Lands, I reported precisely such a proposition as the Senator from Pennsylvania now brings forward. That was five years ago. Twice afterwards that committee reported the same thing; and it was urged more than once upon the attention of the Senate. That was the time when we ought to have made the preliminary surveys and explorations. I am not for losing any more time. I wish to connect the preliminary survey with provision for the construction of the road, as soon as we have the necessary information. It seems to me, therefore, that the Senator from Pennsylvania will either have to take the position that he is forever against the construction of this road, or he will have to withdraw his amendment.

Mr. BRODHEAD. I will judge of the practicability of making a railroad, after the reconnoissance and surveys shall have been made; and I will not agree to refer that power to the President of the United States. Representing the tax-paying people, I choose to judge of that question for myself. The people whom I represent being obliged to pay for the road, I choose to act upon that question, and not to refer it to the President of the United States. We have had some experience in Pennsylvania upon the subject of commencing internal improvements with little consideration. The improper and injudicious system of internal improvements adopted by many of the States has led to results which are known to the country. The people have felt these results, and they will continue to feel them in the shape of unmitigated taxation.

Mr. WELLER. There can scarcely be any doubt, after the remarks which have been made by the Senator from Pennsylvania, that he is entirely opposed to the construction of a railroad such as is now proposed by the Select Committee, of which the honorable Senator from Texas is chairman. It is true that this amendment has been offered, as has been alleged, in good faith, with a view to ascertain the practicability of that country for the construction of a railroad; but it cannot be concealed that that Senator's object is to defeat entirely the prosecution of this work.

Mr. BRODHEAD. I disavow any such purpose. I do not say that I am forever opposed to the commencement and construction of a railroad from the Mississippi to the Pacific ocean; but I object to undertaking it on the part of the General Government until the preliminary surveys shall have been made.

Mr. WELLER. The course pursued by the Senator demonstrates what I have already said, that he has but one object in view, and that is to prevent the prosecution of this work. If that Senator took the enlarged view which I trusted that he would take of all the interests of this country, he would have seen at once that that portion of the Union from which he comes, as well as the other portions of the Confederacy, are interested in the completion of this road. Why is this amendment offered now? It will take some two or three years to make this preliminary examination which the Senator from Pennsylvania desires. Why is it that he wishes to consume so large a portion of time in making this preliminary examination?

The bill reported by the Senator from Texas, from the Select Committee on the subject, requires that such an examination shall be made, and that if a route be found to be practicable, the President of the United States shall enter into contracts for the construction of the road. What is the objection to that? Does the Senator from Pennsylvania distrust the President elect? Is he unwilling to take the President of his own choice, and make him a judge of the fact whether, upon this examination, a route be practicable? Is he unwilling to take the man who has been selected as the representative of the great body of the people of America, to decide whether the public interests will be advanced by the construction of the road? Yet, sir, the Senator from Pennsylvania has chosen to occupy the position, that no other power except the legislative power of this Government shall decide upon the reconnoissances of the engineers, as to the practicability of a route. I had hoped, sir, that the Senator from Pennsylvania would have more confidence in the President who has just been selected? Does he believe that, if, upon the reconnoissance, it shall be found that a route is impracticable, the President of the United States, watching over the interests of the whole country, would persist in the construction of the road? Is that his opinion? This distrust, it seems to me, comes with a very bad grace from the Senator from Pennsylvania.

Those who are the friends of this bill, understand the object which that Senator has in view. It is to defeat all action upon the subject by Congress at this session; and if that be so, I trust no Senator will doubt as to the proper course to be pursued. Sir, I am willing to trust this whole question, after such an examination shall have been made, with the President who has just been selected by the people of the United States to watch over the public interests. I am willing to confide in him, as one who will look not particularly to the section of the Confederacy from whence I come, but to the interests of the whole country, and who, when called upon to act, will regard himself as the representative of the whole Republic.

Mr. BRODHEAD. I desire to observe to my friend from California, and to the Senate, that I have as much confidence in the President elect as he possibly can have; but I do not wish to devolve upon him a duty which properly appertains to the immediate representatives of the people, as do all questions relating to taxation.

Mr. HAMLIN. It seems to me that this question is unlike any other which has been presented to us, and that it is totally different from any which has been presented to any separate State for its action, and that there are ample and adequate reasons why we should commence a work of this character without such a survey as the proposed amendment designates, and which will control my vote upon the amendment. Let me allude very briefly to some of them.

In the first place, I have no doubt of the practicability of more than one route across this continent to the Pacific; nor do I care much where that route is. I desire to see a road constructed much more than I desire to quarrel about where it shall be located; and I think that is a consideration which should be in the mind of every Senator, and which should rise superior to, and above every locality. We are told that we shall be embarrassed if we order this road to be built without a preliminary survey. That preliminary survey, as my friend from California has just said, will take several years. However this road may be built, the individuals who may be connected with it have got to risk their own private fortunes in it; and men who go there to risk in it their fortunes, will be more certain to find a better location than all the surveys which you can order from now till a period of time shall expire when the road could be built. The interest of men who involve their own fortunes is the best guarantee that the best route will be selected.

But it is said, that in looking abroad at various States, we find that they have become embarrassed in consequence of systems of internal improvements. Does that furnish any argument against the measure of the Senator from Texas, and in favor of the preliminary survey? I trust not. Let me inquire of the Senator from Pennsylvania if any of the embarrassments under which his State may be suffering have arisen in consequence of the want of surveys, as to where a road should go? I judge not. A great road may be made where there is no commerce, and it will pay nothing. A good road may be made where there is commerce, and it may be injured by making lateral branches where there is no business, and thus the value of the road which is good will be destroyed. We know now, just as well as we shall know after a survey, what are the objects to be accomplished by a road across our continent. We should not care whether it be a paying road or not. There are considerations that rise above the payment of dividends on this road. The embarrassments of the States, I insist, have not arisen in consequence of the want of surveys, or from improper surveys; but have arisen in consequence of making roads where there was no commerce; or after having made good roads, making branches which sink the value of the original trunk.

We want to bind the western and eastern sides of this continent together by a band of iron. We want it for commercial purposes; and after the vote shall have been taken on this question, I propose to offer, not a substitute, but another amendment which, at the proper time, I shall discuss very briefly. I trust that whatever may be the final action of the Senate, the dividends which any road across this continent may pay, will be the last consideration that will enter into the judgment of the Senate. I want to see a road that will pay no dividends at all, and will be subject to no tolls at all, beyond those necessary for keeping the road in repair. Sir, we want to make the commerce of the Indies and the commerce of Europe tributary to us; and to do that, and for the purpose of perfecting the channel over which the commerce of the eastern and the western world shall pass, I am willing to make great and liberal grants. If we are to stop, and pause and consider, if we are to be deterred in our course, because we do not know precisely the *termini* of this road, or the precise direction which it should take as it may progress in its construction, we may lose this commerce. I am willing to make liberal appropriations, and I would make them from the public lands for the purpose; and after they are made, I would have this highway a great thoroughfare, and there should be no tolls either upon person or upon freight other than those which should be just adequate to keep the road in repair. That is my view, and at the proper time I mean to enforce that view upon the Senate.

The bill which the honorable Senator from Texas has reported, has many provisions which I like, but there is one provision of which I do not approve. It gives the company too much power; it grants them authority to place upon the road tolls at too high a rate. But that is a matter which I do not propose to discuss now. I have only stated these reasons as sufficient, in my judgment, to justify me in voting against the amendment of the Senator from Pennsylvania.

Mr. BAYARD. Mr. President, I do not purpose to discuss the merits of the bill of the Senator from Texas, but it seems to me that the question whether this work is practicable or not, includes the question of its probable cost. It is certainly

so in reference to all the actions of individuals in their contracts; it is so in reference to the contracts of the States; and I presume the same principle will hold in reference to the contracts of the United States. With time and money, I do not doubt that this work may be made; but here you have a bill introduced, which, in effect, creates a great corporation; and, without intrusting any discretion to the future President of these United States, he is compelled to contract for the road, if it is found to be practicable, within the sense of the capacity to have it made. He is compelled to contract without limitation of price or of time, or any limitation whatever, for the making of this road; and will you not be bound to comply with the contract, no matter to what extent it may go?

It is true, a provision has been inserted providing for the issuing of bonds to the amount of $20,000,000, and granting alternate sections of land for the purpose of aiding in the construction of the road. But there is no limitation of price as to the contract to be made. The President is bound to make a contract, if the road is found to be practicable; that is, if it can be done within any space of time, and with any amount of money. For one, I shall never agree to vote for the construction of this road, until I know whether it can be made within the means which, regarding the Treasury of the United States, and regarding the interests of our people, may be considered practicable; and I do not pledge myself to vote for it even then.

The honorable Senator from California [Mr. WELLER] has chosen in his remarks in reference to the amendment offered by the honorable Senator from Pennsylvania, to impute to him that, whether he designs it or not, his amendment shows a want of confidence on his part in the discretion of the President elect of the United States. I may be allowed to say, sir, that when I look at this bill as it stands, it is, in my opinion, a project to create a corporation with a power, which if you ever do create it, will be fourfold the power of that corporation against which the Democratic party of the United States were at war for a series of years. Are we to pass a measure of this kind for the construction of this work, without limitation as to cost, when we have no information whatever as to the extent which that cost will be? We have no survey or reconnoissance to enable us to form a judgment on that point, or to decide whether, when the road is made, it can even, by the quantity of commerce which is to pass over it, pay the expenses of its wear and tear, in order to keep it up. We have no information at all on these subjects, and the amendment of the Senator from Pennsylvania is to get at these matters, which I say constitute the practicability of the road, as well as does the mere possibility that with time and a lavish expenditure of money, it can be made. When such a proposition is offered, the Senator from California tells the Senator from Pennsylvania that it shows a want of confidence in the discretion of the next President of the United States. Allow me to say to the honorable Senator from California, that if I can judge from the antecedents of the next President of the United States, this bill—whether you have the reconnoissances or not (and I freely admit that as it now stands it can never get my vote)—never could receive the sanction of Franklin Pierce. I judge from his previous course in the Senate of the United States; I judge from the previous opinions which he has expressed; I judge from what I believe has been hitherto, up to the time when this proposition has been made, the course of the Democratic party of this Union since the time when Andrew Jackson vetoed the Maysville road bill.

I do not mean to desert those principles on any ground of expediency, or on any of the magnificent ideas entertained by the honorable Senator from Maine [Mr. HAMLIN] as to the benefits of this road to the commerce of this country. There is a question with me, independent of the benefit to be conferred: whether it is within the constitutional power of this Government to create such a corporation as this bill proposes to create. And further, beyond the question of constitutional power, there is a question whether the corruption that would result from the irresponsible power vested in such a corporation would not be greater than all the benefits to commerce which could flow from such a road.

This question is pressed at the close of the second or short session of this Congress, when the people of this country, by their late vote, have decreed a change of the political power which controls the Executive Department. Under such circumstances, it looks as if there was something like a fear on the part of the honorable Senator from California, that the incoming President of the United States, judging by his previous opinions, might never be brought to sanction a bill to make such a road as this; and that, perhaps, is the reason why it is pressed upon us at this time without any preliminary surveys at all.

I shall vote for the amendment of the honorable Senator from Pennsylvania. My convictions on this subject are very strong, and I cannot perceive any possible ground for forcing the bill through at this time, except that ground of fear as to what will be the action of the next President of the United States. Unless there be an intention to prevent his passing on a measure which involves an entire change in the policy of the Democratic party, I cannot see why this bill is to be forced through without a preliminary survey to tell you the cost of the work, as well as the mere fact that it can be made.

Mr. BRIGHT. Mr. President, I believe that time would be saved by Senators briefly indicating their opinions in reference to the important measures now before us—the bill presented by the honorable Senator from Texas, and that presented by the honorable Senator from California. I do not propose to enter, at this time, nor do I know that I shall at any subsequent time, into the general discussion of the principles involved in the bills, but I have a word to say in reference to the bill of the Senator from Texas.

I am aware that a railroad from any point on our western frontier to the Pacific would be hailed by the people of the United States generally as a favorite measure. It is a popular measure. It is one that will be approved by the great mass of the people, provided such a measure can be passed upon proper principles; and in avowing my unalterable opposition to the bill of the Senator from Texas as it now reads, I do not intend to indicate that I would not vote for such a bill as I believe comes within the legitimate bounds of the Constitution; but for the bill of the honorable Senator from Texas, I never can vote, and I never will vote. It starts out by designating the President elect of the United States as the president of this road. I have lately voted for that gentleman for President of the United States, and I think, from the indications around us, that he will have quite enough to do, if he performs the duties designated by the Constitution, without loading him down with the embarrassments which must necessarily result from making him president of a great corporation like this.

I am willing to vote land for a road from any point west of Missouri to any point on the boundaries of the State of California, and any quantity of land for the purpose of making the railroad; but I will not vote a dollar of money to locate the road anywhere within the limits of any one of the States of this Union. I do not believe that we have any constitutional power to take money out of the National Treasury for the purpose of making railroads within the limits of any one of the States of the Union, nor will I vote either land or money until we have organized a regular company for the purpose of having reconnoissances and surveys made. The honorable Senator from Maine says it will take years to do this. Let it take years. To order a road without a reconnoissance and survey would be a departure from principle—it would be violative of all those rules of economy that should, in my judgment, characterize the act of any statesman. We ought to know, in advance, what the road is to cost, and where it is to run; and by so doing, we shall obviate many of the difficulties that have surrounded many of the States of this Union. It was by adopting just such a system as is proposed by the honorable Senator from Texas, that the States of Pennsylvania, Ohio, Indiana, Illinois, and various other States, had their credit for the time broken down, and themselves bankrupted. It was by commencing works without knowing what they were to cost, and where they were to run—without taking the necessary preliminary steps.

Before I give my vote, either for the measure of the Senator from Texas, or for the measure of the Senator from California, or for any other project that may be brought forward proposing a road to any point on the Pacific, I must know where it is to run, and the probable amount that it will cost. I know in advance that it is to cost millions; yea, hundreds of millions. I think every consideration of prudence dictates that we should know in advance what we are about to do. I have as much confidence in the President elect as has any other gentleman on this floor; and I am unwilling to delegate to him any such power as is contained in this great corporation bill. I am unwilling on constitutional grounds to do so. And furthermore, I would be unwilling to embarrass him with any such duties as are imposed by this bill. But, sir, I repeat, I do not intend to indicate, by what I have said, opposition to a road starting and ending at the proper points, within the constitutional and legitimate limits of the Government; but I will not be brought to vote for it, or any other kindred measure, without knowing in advance what I am doing.

Mr. GWIN. As this question cannot be decided to-night, and as I wish to have a short Executive session, I move to postpone its further consideration till to-morrow.

Mr. CLARKE. I hope the Senator from Texas will be allowed to reply to the Senator from Indiana.

Mr. GWIN. Certainly, if he wishes it. I merely wished to give notice that I want to have an Executive session for the purpose of referring a nomination to a committee, but I withdraw the motion.

Mr. RUSK. Mr. President, it is very easy to talk of the powerful corporations. It is very easy to talk about a violation of the Constitution of the United States, and the enormous expenditure of money involved in this proposition, and the unlimited powers we are about to confer upon a corporation; but there is some difficulty in drawing that from the bill which has been reported to the Senate by the Select Committee. The honorable Senator from Delaware has chosen to characterize this bill as involving an unlimited amount of expenditure, and says we do not know the cost to which it will lead. Sir, every dollar of the cost is set down.

Mr. BAYARD. Will the Senator allow me a moment? The fifth section of this bill makes it the duty of the President of the United States to cause advertisements to be published in two newspapers in each of the States, inviting proposals for the various descriptions of the work, and directing the President to make a contract upon those proposals, with the persons who may be the lowest and best bidders, and who give security for the performance of the work. There is no limitation upon the price at which that contract is to be made; at least I can see none. If that be so, then the amount of appropriations made in another clause, with a view to aid in the work, whether they are adequate or not, do not touch the question. If you make a contract, and it is made for what the cost of the road will be, no matter to what extent, you will be obliged to comply with it.

Mr. RUSK. If the honorable Senator will read my bill, he will find that the President cannot go beyond its limits. He is expressly confined within the bounds prescribed. He is to contract "on the terms and conditions" prescribed in the bill. Who supposes that, with an appropriation of $20,000,000, the President will go beyond it? Nobody can suppose it. It is utterly out of the question. I know very well that the Senator, by picking out one line and reading it alone, may convey the idea which seems to be impressed on his mind; but everybody knows, however, Scripture may be quoted to bad purposes in that way. You must take the bill as a whole, as a connected measure, and judge of it in that way.

It proposes an appropriation of alternate sections for six miles on each side of the road through the States, alternate sections of twelve miles on each side through the Territories, and an appropriation of the fixed sum of $20,000,000 in bonds of the Government, payable in fifty years, and bearing an interest of five per cent. Beyond that the President cannot go. There is the limit. He may go just as much below that as any company will be willing to take the work for; and for that purpose he is to advertise for proposals. So much, then, for the unlimited contract that is to be made.

Then, with regard to the "tremendous corporation" spoken of by the Senators from Delaware and Indiana; they will not vote to embarrass the country with such a tremendous corporation. Why, the only question with regard to corporations raised in my bill is the power of Congress to create a corporation in the Territories; for it goes on to declare, in more places than one, that it is to have no force or effect in any of the States of the Union until it is assented to by the Legislature of such State. So much for the tremendous powers that have alarmed the two Senators!

But it is said that I propose the expenditure of money within one of the States of the Union. Sir, we are bound to defend California. The Constitution requires us to defend California. Our sacred treaty stipulations require us to defend the frontiers of Mexico; and while gentlemen here are talking of economy, scenes are taking place upon those frontiers which are disgraceful to the Government under which we live. I have just received intelligence that some emigrants, some of the hardy yeomen of our country, traveling in that very Territory which it is our duty under the Constitution to protect, and which it is our duty under solemn treaty stipulations to defend, were lately attacked by Indians, and the whole company were killed, with the exception of a very interesting lady and her two children, who are now in brutal slavery among hostile savages. Yet, sir, we stand here and talk of tremendous corporations. Let gentlemen point out any feature in the bill authorizing such a charge. We talk here of expenditure of money. Why, we are now paying to steam lines to get a monthly communication between New York and California a larger sum of money, if it be kept on for any length of time, than is proposed to be voted for this road.

If gentlemen say there is a violation of the Constitution, let them point it out. Do not let them deal in this "raw-head and bloody-bones" business of talking about tremendous corporations, floods of corruption, want of proper information, and all that sort of thing. Let them take up the bill, and point out where it conflicts with the Constitution. Let them prove that you cannot carry a mail to California. Let them prove that it is not your duty to do that, and to protect that defenseless frontier. Let them take up the Constitution and prove that you cannot adopt the means necessary to defend all your possessions; and then prove that it is not your duty to do it. Let them select from the bill, and not from the workings of imagination, its objectionable features. Let us have no more of this raw-head and bloody-bones business of allusions to the United States Bank, and talk about Democracy. Why, sir, the chief apostle of Democracy, General Jackson, said that he would vote money out of the Treasury, or that he would sanction the voting of money out of the Treasury, for internal improvements of a general and national character. Then, to keep within the pale of Democracy, let gentlemen take up and prove that the Pacific railroad, without which you cannot defend California in case an attack should be made upon her, is a matter of local, and not of general importance, then I will submit.

Mr. WELLER obtained the floor, but at the request of Mr. BAYARD gave way to that gentleman.

Mr. BAYARD. The remarks of the honorable Senator from Texas in reference to the comments in which I indulged in regard to this bill, would not be noticed by me except from the manner in which he spoke. I consider the emphasis of his manner, more than anything weighty in his argument in regard to the merits of his proposition, demands a notice from me. I will endeavor now very succinctly to point out in what mode this bill strikes me as containing the evils which I suggested as a reason why it should not pass until we knew the cost of the work.

My first proposition was, that though this bill authorizes the issuing of bonds to the amount of $20,000,000, to be paid according to its terms hereafter, and though it appropriates alternate sections of land for twelve miles in width where the road runs through the Territories and six miles where it runs through the States, with a provision that in case that land is not to be found it is to be made up by other land in the vicinity—though that is the actual appropriation for the purpose of "aiding" in the construction of this work according to the language of the third section, yet according to the first section it is made the duty of the President of the United States to cause the work to be constructed. The language of the first section is in these words:

"It shall be the duty of the President of the United States to cause to be constructed, so soon as it may be practicable after the passage of this act, a railroad and telegraphic line connecting the valley of the Mississippi with the Pacific ocean, at such points as he may designate, upon the terms and conditions hereinafter prescribed."

Thus it will be seen that the first section requires him to have this railroad constructed upon certain terms and conditions. The third section makes the appropriations to which I have alluded, for the purpose of aiding in the construction of the road. But the fifth section, which I say is the important section in regard to this question of unlimited expenditure, is—

"That so soon as the general route for the said road shall have been selected and determined upon, it shall be the duty of the President of the United States to cause advertisements to be published in at least two of the newspapers in each of the States, specifying the various descriptions of work to be done, and inviting sealed proposals to execute the same, which proposals shall be opened and examined," &c.; "and said road shall be let to the lowest and best bidders."

Thus the President is compelled to enter into contract with the lowest bidders; for what? For the construction of this road.

Let me ask, will not the President, under this section, be authorized and required to contract, no matter what may be the cost, although the provisions, by way of appropriation in the bill, may not be sufficient to reach the terms of the contract? Will not the President be bound to contract for the whole road, at whatever price may be proposed by the lowest and best bidders? There is no limitation as to the price for which a contract is to be made; and if the contractors should make a contract for a very large amount of money, they know perfectly well that they could fall back on this Government, and say, "Here is the contract—we have half made the road, and your appropriations have failed, and now you are bound by your public faith, in addition to the benefits arising to the community from the construction of the road, to comply with the contract, although it may cost $300,000,000 or $500,000,000." I said before, that I put that construction on the bill. I may be mistaken, but I still think that I am right. The honorable Senator from Texas will have to give me some better reasons than mere denunciations before he will shake me from the point which I take in regard to the construction of the bill, that it is unlimited as regards the price that the road will cost; and that the President is bound to contract with the lowest bidder, without regard to price, and that, too, without regard to the appropriations contained in the bill, for they are made, according to the third section, for the purpose of aiding in the construction of the work.

Mr. WELLER here claimed the floor, having given way merely for explanation.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 2, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The SPEAKER. The Chair has counted the members present, and finds there is not a quorum.

Mr. BROWN, of Mississippi. I move that there be a call of the House.

The question was taken, and the motion was agreed to.

The roll was then called, and 137 members answered to their names.

Mr. DEAN. I move that all further proceeding under the call be dispensed with.

The question was taken, and the motion was agreed to.

Mr. HOUSTON. I call for the consideration of the regular order of business.

The SPEAKER. The Journal will first be read.

The Journal of yesterday was then read and approved.

CLOSE OF DEBATE.

The SPEAKER. The business first in order is the consideration of the resolution submitted by the gentleman from Alabama, [Mr. HOUSTON,] on yesterday, for the termination of debate in the Committee of the Whole on the state of the Union, on the Army appropriation bill.

Mr. RICHARDSON. I ask the unanimous consent of the House for leave to introduce a bill to organize the Territory of Nebraska, with a view to its reference to the Committee of the Whole on the state of the Union, that it may come up for action on the day set apart for territorial business.

There was no objection, and the bill was introduced.

Mr. HENN. I rise to a privileged question. I desire to state to the House the fact, that since the passage of Senate bill (No. 208) the party—Mrs. Barbara Reily—for whose benefit it was passed, has died. It therefore can effect nothing, and I have felt it to be my duty to state this fact, that the House may take such action in regard to the matter as they deem best.

Mr JENKINS. Is a motion to lay the bill on the table in order?

The SPEAKER. If, by unanimons consent, the bill is received back in that form, it will be in order.

Mr. JONES, of Tennessee. The rights of the Senate may be involved in this matter. I think this is an important question. The bill has passed the Senate, and gone to the Committee on Enrolled Bills, which committee now reports that the beneficiary of the act died before its passage, and that it would be a nullity if signed by the Presiding Officers of the two Houses, and approved by the President. Whatever we do should be done with the assent of the Senate. It would be a very extraordinary proceeding for us to lay on the table an enrolled bill, at which the Senate might justly complain.

Mr. RICHARDSON. I rise to a question of order. The Committee on Enrolled Bills of the House of Representatives have no control over bills after they have attained the stage this has, except to report them as correctly enrolled.

The SPEAKER. It will be competent for the House, in the opinion of the Chair, by unanimous consent, to reconsider the vote by which the bill was passed. That would be the regular mode of reaching it; then to notify the Senate of that fact.

Mr. CLINGMAN. I object.

The SPEAKER. The bill, then, cannot be received.

Mr. STUART. Will the Chair allow me to make a single suggestion with reference to this subject? Is not this a case where the House may appoint a Committee of Conference to notify the Senate of that fact?

The SPEAKER. The bill has regularly passed, and is in the hands of the Committee on Enrolled Bills, whose business is to see that it is faithfully enrolled and reported to the House.

Mr. STUART. I am aware of that; but let the Speaker understand me. Suppose that committee report the bill as correctly enrolled?

Mr. CLINGMAN. Then it must be signed by the Speaker.

Mr. STUART. The fact that the individual for whose benefit the bill is passed is dead, appears to the House. It is necessary to have some action with the Senate, in order to determine what shall now be done with that bill. I submit, without any reference to our rules, as a matter of parliamentary law, that when such questions arise, it is perfectly competent for the House to appoint a Committee of Conference, and to ask a similar one on the part of the Senate, to determine what shall be done.

The SPEAKER. The Chair decides that it is not competent for the Committee on Enrolled Bills to report this bill back in this form, unless by the unanimous consent of the House; but that, by unanimous consent, it would be competent for the House to reconsider the vote by which the bill passed, and to regularly notify the Senate of that fact. Objection has been made, and the Chair decides that the committee cannot report the bill.

Mr. HENN. I desire to state that I did not report the bill, but merely the fact of the death of Barbara Reily, for whose relief the bill was passed, in order that the House might take action upon the subject.

The SPEAKER. The Chair so understood.

Mr. HENN, from the Committee on Enrolled Bills, reported the following bills as correctly enrolled; which thereupon received the signature of the Speaker, viz:

S. No. 238. An act for the relief of Thompson Hutchinson;

S. No. 239. An act for the relief of Elizabeth

Jones and the other children (if any) of John Carr;

S. No. 276. An act for the relief of Colonel James R. Creecy;

S. No. 194. An act for the relief of Jacob Young;

S. No. 176. An act for the relief of William Bedient, late a sergeant in the fourth artillery;

S. No. 204. An act for the relief of Guion & McLaughlin;

S. No. 234. An act for the relief of James Glynn;

S. No. 195. An act for the relief of Margaret Farrar;

S. R. No. 16. A resolution for the relief of Alexander Y. P. Garnett;

S. No. 244. An act for the relief of the heirs of the late Major Thomas Noel, United States Army;

S. No. 98. An act for the relief of Sarah D. Mackay;

S. No. 70. An act for the relief of the widows and relatives of certain officers and seamen of the United States brig Washington, who were lost overboard in a hurricane;

S. No. 582. An act concerning bail in civil causes in the District of Columbia;

S. No. 152. An act for the relief of Mary B. Renner, administratrix of Daniel Renner, deceased; and

S. No. 407. An act for the relief of Jim Capers.

NEBRASKA TERRITORY.

The bill for the organization of Nebraska Territory was received, and read a first and second time by its title.

Mr. RICHARDSON. I move that it be referred to the Committee of the Whole on the state of the Union, and that it be printed.

The question was then taken, and he motion was agreed to.

Mr. HALL. I ask the unanimous consent of the House to report a bill relating to the Territory of Oregon, so that it may be printed, and come up with the territorial business next week.

Mr. MACE. I object to everything out of order until after the committees have had a chance to report.

Mr. HARRIS, of Tennessee. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That from and after to-day, this House will hold night sessions, to be devoted to calling committees for reports, until all the committees have been once called: *Provided*, That no bill or resolution reported under this order shall be put upon its passage, unless by the unanimous consent of the House, a quorum being present: *Provided further*, That any bill or resolution reported and proposed to be put upon its passage, if objected to, may be withdrawn by the member reporting it.

Mr. CLINGMAN. I make the point of order, after the gentleman from Indiana [Mr. MACE] has demanded that the House shall proceed with the regular order of business, that it is not competent for the gentleman from Tennessee to offer his resolution. I understood the gentleman from Indiana to say that he would object to everything except the regular order of business.

The SPEAKER. The Chair sustains the point of order made by the gentleman from North Carolina, [Mr. CLINGMAN.] The question now pending is the motion made by the gentleman from North Carolina [Mr. STANLY] to lay the resolution for closing the debate on the Army bill upon the table.

Mr. HOUSTON. I demand the yeas and nays upon that motion.

The yeas and nays were not ordered.

Mr. COBB demanded tellers; which were ordered; and Messrs. HARRIS, of Tennessee, and RICHARDSON were appointed.

The question was then taken on laying the resolution upon the table, and there were—ayes 83, noes 35.

So the resolution was laid upon the table.

COINAGE.

The SPEAKER. The business now in order is Senate bill No. 271, entitled "An act amendatory of existing laws relative to the half dollar, the quarter dollar, the dime, and the half dime," upon which the gentleman from Indiana [Mr. DUNHAM] is still entitled to the floor.

Mr. DUNHAM concluded his remarks in favor of the bill. [His speech will be found in the Appendix.]

Mr. JOHNSON, of Tennessee, then obtained the floor.

Mr. DUNHAM. Before yielding the floor, I wish to inquire whether I have a right to offer the amendment which I submitted yesterday, as an additional amendment instead of as an amendment to the amendment?

The SPEAKER. It will not be in order until the original amendments are disposed of.

Mr. DUNHAM. It was offered at the same time, and my intention was to offer it as one of the amendments. I believe I had a right to do that.

The SPEAKER. That has been a practice indulged in only by unanimous consent. The amendment could not come in regularly and strictly under the rule.

Mr. DUNHAM. Well, sir, it is a very small matter. It is only to authorize the treasurer of the Mint to purchase copper in the form of bullion or planchets. I presume there will be no objection to considering the amendment.

The SPEAKER. If there be no objection, it will be considered as regularly before the body.

Messrs. FREEMAN and LETCHER objected.

Mr. FREEMAN. Is it in order to move that the bill and amendments be referred to the Committee of the Whole on the state of the Union?

The SPEAKER. That motion is already pending, and the gentleman from Tennessee [Mr. JOHNSON] is entitled to the floor.

Mr. FREEMAN. Well, then, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Tennessee has the floor, and it is not in order for the gentleman to make the motion.

Mr. FREEMAN. Will the gentleman from Tennessee give way to enable me to make that motion?

Mr. JOHNSON. If it is the desire of gentlemen to go into committee, and take up the Army appropriation bill, I will yield for that purpose.

Mr. FREEMAN. Then I move to go into the Committee of the Whole on the state of the Union.

Mr. STANLY. If that motion is voted down, what will be the business in order?

The SPEAKER. Reports from committees.

Mr. JONES, of Tennessee. Why, we shall have to go on with this bill.

The SPEAKER. Certainly. This bill will be in order as an unfinished report.

Mr. STANLY. Well, sir, I hope we shall finish it.

Mr. HENN. I call for tellers upon the motion of the gentleman from Mississippi.

Tellers were ordered; and Messrs. WATKINS and SMART were appointed.

The question was then put upon Mr. FREEMAN's motion, and it was decided in the negative; the tellers having reported—ayes 64, noes 68.

So the motion was not agreed to.

Mr. JOHNSON. The bill under consideration is one which, according to my understanding of it, I am decidedly opposed to. It is not my purpose to apply epithets to it, or to make use of language with regard to it which would not be exactly suitable to the discussion of subjects here. But I look upon it as the merest quackery—as the veriest charlatanism—so far as the currency of the country is concerned. The idea of Congress fixing the value of currency is an absurdity, notwithstanding the *language* of the Constitution—not the meaning of it. The Constitution of the United States declares that Congress shall have power "to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures."

What was the object of putting that provision in the Constitution?

Sir, when the Constitution was framed, each one of the Colonies had the power to coin its own money, and there would, consequently, have been coins of a different kind. The power was, therefore, conferred upon the General Government to coin money. And for what purpose? For the express purpose of making the coins uniform. The express purpose was to furnish coins which should be understood in all the States to contain so much metal. The great object was to have a uniform currency—a coin that was uniform in its value. Well, what is it proposed to do now? What is to be the uniform value of the coin? It is not the mere fact of Congress coining a piece of money, and stamping "five dollars" upon it, that fixes the value. But they can stamp it, and in fixing that stamp, say to the country, and to the commercial world, that it contains so much standard silver or standard gold—the standard being agreed upon and fixed before the coin is made—and that is all that it can do.

If we go back to the year 1834, we find that the standard of gold at that period was nine hundred parts pure gold, whilst the other one hundred parts were half silver and half copper. Those put together made what was called standard gold. Prior to the year 1834, our five-dollar pieces contained of this standard, gold two hundred and seventy grains. Well, what did that say to the trading community, to the commercial world? It said, "Here is a piece of metal bearing the impress of the Government upon it, purporting to be five dollars, but containing two hundred and seventy grains of standard gold." The community understood its value. Congress did not fix the value. Congress merely stamped upon it how much gold it actually contained. Its value was a conventional thing, to be agreed upon by the parties. This remained the standard of gold up to 1834; but in that year, we took it into our heads that we would legislate upon currency, and fix the value of it; and what did we do? We passed a law changing the number of grains in a five-dollar piece, from two hundred and seventy to two hundred and fifty-eight—making it twelve grains less. What was the idea advanced to the public by that? The idea was, that by reducing the number of grains in a five-dollar piece, you made it worth less than the British coins that you occasionally had in the country. What has been the effect? Why, when you go into the market with American gold pieces containing two hundred and fifty-eight grains instead of two hundred and seventy, they charge you nine per cent. premium—which is the difference between it and the British sovereign, and then it goes for just what it did before.

Notwithstanding the nominal change, the value has not been affected, for when it is brought into contact with other coins, you must give that premium before you can ship it or get bills of exchange. Well, what do you gain by that? Why, it has led one step towards violating the very object intended by the Government! The gold coined prior to 1834 is sold for a premium. Look at the exchanges and prices-current, and you will find that it is so. The object of the Constitution was to have the coins uniform—so that each piece should represent a certain amount of gold or silver, and pass throughout the country and in the commercial world for what it was intended to be. The law of 1834 defeats that object. As the law now stands, our standard silver is nine hundred parts pure silver and one hundred parts copper. The dollar piece contains four hundred and twelve grains and a half of standard silver. The community and the commercial world understand what the American dollar contains, and it passes for just what it does contain.

Now, what is the proposition brought forward in this bill? Why, it is to reduce this dollar of four hundred and twelve grains down to three hundred and eighty-six grains. You propose to make a discount of about seven per cent. and a fraction. That is what you propose to do. The result will be that you will make another kind of coin, and another kind of currency in the country. Here is one half dollar containing one hundred and ninety-two grains of standard silver, and here is another containing two hundred and six and a quarter grains. Well, what is the object?—what is to be gained by it? You propose to make a half dollar coin, containing fourteen grains less than that now in use, a tender to be receivable in payment of duties into the Treasury of the United States. Do you not see how we are depreciating the value of the currency of the country? You will then have two descriptions of gold coin, and you will have three descriptions of silver; for you propose also to change the composition of the three cent pieces. You now have a coin with a certain proportion of alloy, and you propose to change the standard, and give it another proportion. Thus there will be one description of silver coin containing one fourth copper; another containing so many grains of standard silver, and still another contain-

ing a different number of grains of standard silver. Is it not apparent that by this mode of legislation you defeat the very object contemplated by the Constitution—a uniform currency throughout the Union? Sir, I am opposed to this tinkering with the currency of the country—this charlatanism—without understanding the subject upon which we propose to legislate.

Mr. DUNHAM. If the gentleman will permit me, I propose to change the standard of the three cent pieces, for the purpose of bringing them back to the uniform standard of other silver coin. When it was originally proposed to coin these three-cent pieces for use, a bill was drawn up providing that they should be coined entirely out of the depreciated Spanish coin. This depreciated Spanish coin was only to be received at the Mint for the purpose of their manufacture. During the last session, however, when the bill changing the rates of postage came up, the Post Office Committee in the Senate, for the purpose of meeting the necessities which would arise from the passage of that bill, took out of a former bill a single section, providing for the number of grains of silver in the three-cent piece, and for the amount of alloy, without the restriction that it should be manufactured exclusively out of the Spanish coin, and put it into that Post Office bill, and it passed in that shape. This is another instance of changing the currency of the country without understanding the principle upon which the change is made. The consequence was, that the object originally intended by authorizing the coinage of these three-cent pieces was not accomplished.

Now, we propose, or at least I propose, to bring this species of coin back to the uniform standard adopted for the other silver coin.

Mr. JOHNSON. What the gentleman has said does not change the position I assume. The principle I am contending for, and with which I set out, is, that this tinkering with and changing the coin of the country by varying the size and quantity of silver in that coin, is a violation of the spirit, if not of the letter, of the Constitution. So far as Congress is concerned, it cannot affect the value of the coin in the country. Congress cannot regulate the value of the coin. It may place a stamp upon it, and that stamp may indicate that it contains a certain number of grains of gold or silver, but that is all the Government can do, and all that the Constitution designed it should do. The design of the Constitution was, that you should make a coin of uniform value; but you propose to disregard that, and make a currency of unequal values, and thus render its condition more intolerable than it was when each of the several States of the Union manufactured a currency for itself.

Mr. SKELTON. I desire to ask the gentleman from Tennessee a question. He says we are tinkering with the currency of the country. Now he will bear in mind that there is a difficulty, a practical difficulty, under which the country is now laboring. In consequence of the increased amount of gold in circulation, its value has decreased; and in consequence of the increased difference between the relative value of gold and silver, the gold has nearly driven the silver out of circulation. The question, therefore, for us to determine is, how we can be supplied with this silver currency for circulation?

Now, there are two methods by which we can accomplish this object. One is to increase the value of the silver currency, and the other is to lessen the value of the gold currency. These are the remedies, one of which, I think, must be adopted. Now, I ask the gentleman from Tennessee, what remedy he proposes for the difficulty under which the country is laboring?

Mr. JOHNSON. I will come to that, if the gentleman will allow me to go on.

Mr. SKELTON. I am not tenacious as to what remedy, so that we may have a remedy, to supply the commercial wants of the country with a currency. What means does the gentleman propose by which we may have a silver currency in the country, for the purposes of change? If the gentleman has so much abhorence to charlatanism, I hope he will propose some remedy by which these difficulties may be obviated.

Mr. JOHNSON. I have given way to the gentlemrn not only to ask a good many questions, but have given him time to answer them, which will save me the trouble of answering them myself. But if the gentleman had allowed me to go on, I should have come to the points to which he alludes, directly.

But to return to the point with which I set out. The bill before the House assumes that while your present dollar contains four hundred and twelve and a half grains of standard silver, you can, by law, make another, containing only three hundred and eighty-six grains, worth just as much as the other. Now, if you will take the pains to subtract the amount of standard silver contained in one from that contained in the other, you will find that one contains about seven cents more than the other. If we can then, by law, reduce the present standard seven per cent. and make the value of the reduced standard equal to the other, I ask the House and the country if the philosopher's stone has not been discovered? If we can, by law, make one hundred and seven dollars out of one hundred dollars, we can, by the same process, make it worth one hundred and fifty dollars. Why, sir, of all the problems that have come up for solution, from the time of the alchemists, down to the present time, none can compare with that solved by this modern American Congress. They alone have discovered that they can make money—that they can make one hundred and seven dollars out of one hundred dollars. If they can increase it to that extent, they can go on and increase it to infinity; and thus, by the operations of the Mints, can the Government supply its own revenues. The great difficulty with mankind is solved; the idea that so much money is wanted all over the world is at length at an end. The problem is at last solved. This Congress, in the plenitude of its power, in its wisdom, can, whenever it chooses, by a single stroke of legislation, change the currency of the country into any amount desirable.

Sir, I repeat again that this is all quackery. Let us see how this thing will work in practice. Here is a dollar. Do you talk about fixing the value of that? It is an absurdity. A man has a dollar to-day, containing four hundred and twelve and a half grains of silver. He goes into market and purchases a bushel of corn, containing so much nutriment, indispensable to the existence of man. To-morrow he again goes into market, but cannot get more than half a bushel for his dollar. Now where is the power to fix the value of that dollar? Do you not see that it is with the commercial world? Do you not see that the natural laws which regulate commerce, determine the value? Do you not see that it is a thing to be agreed upon between parties, and between nations dealing in the commodity we call money?

How will this plan work practically? Here is one currency, in which a dollar contains four hundred and twelve grains of standard silver, and here is another in which the dollar contains twenty-eight grains of silver less. Do you not see that a man who has one of these coins of four hundred and twelve grains in his pocket, is worth seven cents more than another man who has one of the other coins in his? It makes a decided difference. The commercial world will take these coins for what they are intrinsically worth, and not for what the legal stamp represents them to be worth. Such will be the practical bearing of the whole system of coinage proposed. But I see the bill—if it is not altered by amendment—provides that these new coins are to be received in payment of all debts below five dollars. The Secretary of the Treasury proposes ten dollars.

Mr. DUNHAM. The amendments which the Committee on Ways and Means propose, strike out that provision and insert a simple provision that these coins shall be received in payment of all dues of the United States. But the issue of this coin is left entirely under the control of the Secretary of the Treasury, so that if more should be issued than the necessities of the country require, it would come back again into the Treasury, and the further issue would be suspended.

Mr. JOHNSON. Now see the effect of the gentleman's argument. What is it? Here is one species of silver coin which is to be a tender in payment of debts, and here is another which is only receivable in payment of the public dues.

Mr. DUNHAM. I should like to ask the gentleman one question.

Mr. JOHNSON. I cannot afford to allow the gentleman to consume more of my time. This bill, if adopted at once by law, brings about two currencies, one worth more than the other. Why, the thing of which we complain more than anything else, in connection with the currency of the country, is the prevalence of a paper circulation which drives the silver out of circulation. Now suppose this bill passes, and one man owes the Government a debt and another owes an individual a debt. The man who owes the Government will be obliged to pay seven per cent. less than the one who owes the individual. This is the worst sort of shinplaster legislation.

Now let us turn to this provision of the Constitution again. It says that "Congress shall have power to coin money and regulate the value thereof." All this relates to what I have been speaking about. But what else shall Congress do? It shall fix the standard of weights and measures. I repeat, it shall regulate the value so far as the coin is concerned, and shall fix the standard of weights and measures. How fix the standard of weights and measures? Are we to infer from this, that they are to fix the precise amount the parties shall receive for the grain or commodity which is to be measured? Not at all. What is your standard bushel? We find that your standard half-bushel contains 1,752 cubic inches. Well, sir, corn becomes a little scarce, or wheat becomes a little scarce, and we, by legislation, change the standard, and say that half a bushel shall contain 750 inches less than it did before. What is the effect? Will the man who wants to buy wheat give as much for a half bushel which contains 1,000 square inches, as he would for one containing 1,750? Certainly not. Yet this is precisely the position you assume in relation to the currency of the country. You assume to fix the price while you measure the quantity of silver to be placed in a coin.

And if you go into the market with one dollar containing four hundred and twelve and a half grains, and another with only three hundred and eighty-six grains, the dollar which has the most silver in it will sell for the most, and the dollar which has the least will sell for the least.

Now, let us see how this bill will operate. Sometimes we talk about retrospective laws. I am no lawyer, and do not assume to be; but I may refer to such plain legal topics without any extraordinary assumption of legal knowledge, for these things come within the range of all our observation and comprehension. Sometimes, I say, we talk about retrospective laws, which impair the obligation of contracts. Now, let us see if this bill is liable to that objection. For instance, we make a contract now, with the standard of gold and silver fixed, involving an amount of say $500, with the understanding that the silver dollar contains four hundred twelve and a half grains of standard silver. After the contract is made, a law is passed creating a currency worth seven per cent. less than the old one, and which shall be taken in payment of Government dues. What does the debtor do? He provides himself with this currency, worth seven per cent. less than the currency in which he contracted his debt, and pays his debt with it, and in that operation pays his $500 with $465. Is not an act thus operating retrospective in its character, and does it not impair the obligation of contracts? Is not that legislation retrospective which passes a law by which a man may be compelled to receive less, intrinsically, for his debt than he contracted to receive? He contracted to receive so much standard silver, and we propose to compel him to take seven per cent. less. Such is the effect of this bill. You make the coin a tender in payment of debts. In what difficulty do you thus find yourself? You either depreciate your currency, and compel a man to take it for more than it is worth, or you leave it as it is. Take either horn of the dilemma, and there are one or two consequences which must follow. If you make this coin a tender in payment of debts, you impair the obligation of contracts; and if you do not, you have one currency of a higher and one of a lower grade.

But there is an erroneous idea pervading the community as to the relative value of gold and silver, and that in consequence of the change in that relative value, by the great influx of gold, we must make a change in our coins. The old idea was, that this relative value was about sixteen to one—it varies a fraction from that, but I speak in round numbers—that is, that there is about sixteen times as much silver in existence as there is gold, and that, therefore, a sixteenth part of a certain amount of gold will answer the same purposes in

commerce as sixteen times that amount of silver. We all understand that. Now what made that difference? Was it arbitrary law? No, but the scarcity of gold. It was the result of commercial law—a natural law, which rises above legislative enactments, and which will always control these matters in defiance of legislation.

Gentlemen tell us that while the standard of silver in England remains what it is now, we can purchase a pound sterling of gold with about thirty-six cents less with their standard than with ours. Suppose, then, you take the value of a pound of gold, in silver of the United States, and go to England and buy a pound sterling of gold there, and you have thirty-six cents left. Well, when you bring your pound of gold to the United States, will it not be measured by the standard of value here, established by the commercial community? Most unquestionably. You see the thing corrects and regulates itself. As soon as the trading community finds out that you are buying up silver, in order to purchase gold in England, where it can be had for two per cent. less than here, what do the holders of silver do? You cannot get their silver unless you pay them two per cent. premium for it. Does not this matter then correct itself? Such is the practical operation of monetary affairs every day. Will you, then, attempt to fix it by law? It is impossible to do it. Let us take a case to illustrate. Suppose some one of the Powers of Europe should pass a law excluding gold as a currency altogether, and prohibiting its circulation, and making it a contraband article, and at the same time making silver the exclusive currency. What would be the effect? It would create a great demand for silver, for it is silver they would want, and if your dollar has four hundred and twelve grains in it they want it; and if it contains three hundred and ninety-six they want it also, and will take it just as soon as the other, in all the small and ordinary transactions of life. But it will be different in more extended mercantile transactions. That may be readily shown by an illustration under this bill, as it comes from the Senate. You may go into the market in the morning and pay your butcher, for instance, a debt of five dollars in this currency; your neighbors go to market and do the same thing. The butcher receives it without objection, and gives you as many pounds of beef for it as for any other coin. The butcher accumulates a few hundred dollars in that way, but when he goes into the country to buy his cattle, and pays out this currency in sums of two or three hundred dollars, he must pay the seven per cent.

We are trying to make specie partake of the character of depreciated paper. That is the tendency of this proposed legislation.

If the commercial world agrees upon the relative value of silver and gold, and upon the number of grains each piece of coin shall contain to make it marketable, that settles the whole matter, notwithstanding your legislation, and then there is no exchange anywhere, save that which arises from the mere expense of transit.

Congress has power to fix the standard of weights and measures. And I remarked before, suppose Congress take a notion to change this relative value of silver and gold, of one to sixteen. Our gold fields this year will produce a certain amount; next year they will produce perhaps double the quantity, and you say you must pass a law to regulate its value to silver, which has not as rapidly increased. But any law you can pass will not do it. Suppose, for instance, your crop of corn is this year five millions of bushels, and your wheat two and a half millions; next year the crop of corn is seven and a half millions bushels, and the wheat crop still two and a half millions, as before. The relative quantity is changed, and to bring the standard of corn up to that of the wheat, you change the bushel measure of the one to keep the relative standard the same. Now, how would the arrangement operate? You bring both the wheat and the corn into market. The standard by which you measure the wheat is changed, and for the same money you do not get as much wheat as you did before. Is not that so, and are not the two cases precisely analogous? Money contains grains and bushels contain inches. A bushel of grain containing only one thousand square inches would not sell for as much as a bushel containing double the number of inches.

You may reason and attempt to legislate upon this subject, and still the laws of trade and commerce will control the whole matter. Instead of changing the standard of gold and silver, I think the best thing we could do would be to strike these three-cent pieces out of existence, and to substitute three-cent pieces containing exactly the proper quantity of alloy. Let your half dollar, quarter dollar, dime, and half dime bear the same proportion of alloy, and then you will have a firm and stable currency, which the people understand, and which, in the commercial world, would be of a settled and uniform standard of value. What its worth will be, and what it will pass for, is a matter to be settled by the commercial world, and no legislation in the world can alter it.

Mr. JOHNSON was interrupted by

Mr. DEAN. Has the morning hour expired?

The SPEAKER. It has not, by a minute and a half.

Mr. DEAN. I ask the gentleman from Tennessee to yield, to allow me to make a motion to go into the Committee of the Whole on the state of the Union.

Mr. STUART. I have some objection to this yielding of the floor to allow a motion to be made to go into the Committee of the Whole on the state of the Union, so as to cut off a motion to go to the business upon the Speaker's table.

Mr. JOHNSON. Did I understand the gentleman from New York to make the motion?

The SPEAKER. The morning hour is not quite out, and the gentleman can proceed, or not, as he chooses.

Mr. JOHNSON. I know there is great anxiety about getting along with the appropriation bills, and I have no disposition to delay them. As my time has nearly expired, I yield to the motion to go into the Committee of the Whole.

Mr. STUART. Is not the morning hour now out?

The SPEAKER. It is.

Mr. STUART. I move that the House proceed to the business upon the Speaker's table.

Mr. MACE. Before the motion is put, I have a privileged motion to submit. At the last session of Congress, I introduced a bill providing for the admission of iron free of duty. That bill was, by a vote of the House, laid upon the table, and a motion was made to reconsider the vote by which the bill was laid upon the table. I move to take up that motion, and dispose of it now.

The SPEAKER. The gentleman will have the right to call up the motion to reconsider, and to have it considered when there is no other legitimate business before the body. These other motions must be put before he can do it.

Mr. MACE. I should like to know, for information, when the time will arrive when there will be no legitimate business before the House?

The SPEAKER. The motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union is pending and is the legitimate business before the body.

Mr. CLINGMAN. I would inquire whether that motion was made first?

The SPEAKER. It was made before the gentleman proposed to call up his motion of reconsideration.

The question was then put on the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union; and on a division, there were—ayes 54.

Mr. CLINGMAN. I demand tellers.

Tellers were ordered; and Messrs. STEVENS of Pennsylvania, and AVERETT were appointed.

The question was then taken, and the motion was decided in the negative; the tellers having reported—ayes 46, noes 76.

The question was then put on the motion that the House proceed to the consideration of the business on the Speaker's table, and on a division there were—ayes 71.

Mr. ORR. I call for tellers.

Tellers were ordered; and Messrs. CARTTER and HENDRICKS were appointed.

The question was then taken, and the motion was decided in the affirmative, the tellers having reported—ayes 74, noes 51.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting, in conformity with the provisions of the act of Congress, approved March 3, 1809, entitled "An act further to amend the several acts for the establishment and regulation of the Treasury, War, and Navy Departments," and the act passed March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts," statements of the accounts due to the United States more than three years prior to the 1st day of July, 1852, as appears by the books of the Fourth Auditor and the books of the Register of the Treasury respectively; which was, on motion, laid on the table, and ordered to be printed.

He also laid before the House the bill of the House, No. 185, entitled "An act for the relief of Maurice K. Simons, returned from the Senate with an amendment.

Mr. SACKETT. Let the Clerk indicate from what committee of the Senate the bill came, so that we may know what reference to give it.

The SPEAKER. The amendment is only a verbal one to strike out the word "bill" and substitute the word "act."

The question was taken, and the amendment of the Senate was concurred it.

The SPEAKER also laid before the House House bill No. 347, entitled "An act granting the right of way to the St. Louis and Iron Mountain Railroad Company," returned from the Senate with the following amendments:

"Add as a second section the following:

"*And be it further enacted*, That the right of way be, and the same is hereby, granted to the Cleveland and Pittsburg Railroad Company, and also the right of way to the Cleveland, Painsville, and Ashtabula Railroad Company, across the hospital ground, so called, belonging to the United States, in the city of Cleveland, in the State of Ohio; the width of each of said roads across said hospital grounds not to exceed sixty feet where said roads are now respectively located: *Provided*, That said conveyances can, in the opinion of the Secretary of the Treasury, be made without detriment to the interests of the United States: *And provided further*, That the said grant shall be, and is hereby, made subject to such conditions as the said Secretary of the Treasury shall impose on the said companies, respectively, for the protection and security of the grounds from abrasions by the waters of Lake Erie: *And provided further*, That whenever the said roads shall be discontinued or abandoned, or the conditions of this grant shall be violated, all rights under this act shall cease and determine.

"And add to the title the words, 'and for other purposes.'"

Mr. STUART. I should like to learn of any gentleman who can explain the reasons, why, in the Senate amendment, the discretion is given to the Secretary of the Treasury?

Mr. PHELPS. Because the marine hospital is under his control. The discretion is given in the original bill to the Secretary of War, because the right of way is given through the land of a military post.

Mr. CARTTER. A few words will fully explain this grant of the right of way through the hospital grounds at Cleveland. Those who have been at Cleveland since the construction of the railroads there, are aware of the facts I shall state. The railroads, on entering that city, traverse the whole lake shore below the bank on which the hospital is located. Heretofore the wear of the winds and waters has produced a constant wasting away of that bank; so much so as to render the stability of the foundation of the hospital uncertain for the future. These railroads have been under the necessity, for the purpose of sustaining their structure, of piling the whole lake shore. The roads pass, perhaps, sixty feet below the location of the hospital, and instead of being an injury to the grounds, will really constitute a protection for it. They have expended money there for the protection of these hospital grounds, that could not be compensated for by the appropriation of $10,000, and so long as those roads are used, that protection will have to be continued. I have said thus much, that the House may know the facts with relation to the grant of the right of way for the Cleveland railroads.

Mr. STUART. The object I had in view in instituting the inquiry I did is accomplished by the answer of the gentleman from Missouri, [Mr. PHELPS.] He states that these grounds are under the supervision of the Secretary of the Treasury. If so, it is right that the discretion should be placed in his hands; and, inasmuch as I desire this question early disposed of, I call for the previous question.

Mr. DARBY. I hope the gentleman will withdraw his call, that I may say a word or two.

Mr. STUART. I withdraw the call.

Mr. DARBY. I am exceedingly obliged to the gentleman. As I understand the matter, the amend-

ment of the Senate does not in any manner conflict with the original bill. In the original bill the approbation of the Secretary of War is required for the location of the St. Louis and Iron Mountain railroad, and in the amendments of the Senate the approbation of the Secretary of the Treasury is required for the location of the Cleveland and Pittsburg, and the Cleveland, Painsville and Ashtabula railroads. The grounds through which the right of way is proposed to be granted are respectively under the superintendence of those Secretaries, and I do not see that there is the least conflict in the provisions of the bill as amended. I renew the call for the previous question, and hope that the bill will be passed.

Mr. STEVENS, of Pennsylvania. I hope the gentleman will withdraw the call for the previous question, in order that I may be enabled to offer an amendment to the bill.

Mr. DARBY. I withdraw the call for that purpose.

Mr. STEVENS. I submit the following amendment, to be added as an additional section:

And be it further enacted, That the right of way shall be and hereby is, granted to the Alleghany Valley Railroad Company, for the road of the said company, over and across the grounds of the United States at and near the Alleghany Arsenal, in the county of Alleghany and State of Pennsylvania: *Provided*, That the route of the said railroad across the said grounds shall be approved by the Secretary of War, before the same is entered upon for the purpose of constructing said railroad.

Mr. DARBY. If that amendment prevails, it will send this bill again to the Senate.

Mr. STEVENS. They will concur in this amendment in a moment.

Mr. DARBY. If it will create no embarrassment to the bill, I will interpose no objection. I wish to state, so far as the section in which I am interested is concerned, that the parties connected with the St. Louis and Iron Mountain railroad are anxious to commence their work. They cannot do so until after the passage of this bill.

Mr. STEVENS. The amendment I have proposed will delay the bill but for a few minutes. There is no kind of objection to it, and it will be concurred in by the Senate in an instant.

Mr. THOMAS M. HOWE. The Alleghany Valley railroad is waiting this moment for the grant of the right of way through the land of the Alleghany arsenal, that they may let their contracts. The position of these grounds is such, that it is indispensable the right of way should be granted, in order that the road may approach the city. There is but one street running through the grounds and it is important that the grant of the right of way should be made, if it cause no detriment to the public interests.

Mr. EVANS. I have no objection to the Alleghany Valley railroad having the right of way, but there should be a provision making the grant discretionary with the Secretary of War This privilege which we are about to give may not be compatible with the public interest.

Mr. STEVENS. It is so.

Mr. EVANS. It may not be so. How do we know it is so? If it be so, why oppose the alteration?

Mr. STEVENS. The provision the gentleman suggests is already in the bill.

Mr. EVANS. That road, by the amendment, is to have the right of way at any rate.

Mr. THOMAS M. HOWE. There is no objection to the amendment of the gentleman from Maryland.

The amendment of Mr. STEVENS was again read.

Mr. EVANS. Now, the House will notice that the Secretary of War has only the right to designate the particular location in the grounds for the road. The right of way is absolutely granted.

[Cries of "No!" "No!"]

Mr. EVANS. He has not the right to refuse the right of way, if in his judgment that is required by the interests of the Government.

Mr. STUART. I will suggest to the gentleman from Maryland, and the gentleman from Pennsylvania, the same modification I suggested to the gentleman from Missouri [Mr. DARBY] the other day. It is necessary to provide that this thing may not be done, if in the opinion of the Secretary it will be detrimental to the public interest.

Mr. EVANS. Unquestionably that ought to be there.

Mr. STEVENS. Add, then, the following:

And provided further, That this right of way can be granted without detriment to the public interest.

Mr. EVANS. That is all I ask.

Mr. STUART. The following proviso will meet the views of the gentleman from Maryland:

And provided further, That the same can be granted without detriment to the public interest, in the opinion of the Secretary of War.

Mr. EVANS. That amendment does meet my views, and I offer it.

Mr. STUART. I call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed a bill of the following title, viz:

S. No. 601. An act for the relief of Moses Olmstead and Mrs. Elizabeth Craig.

And directed the House to be furnished with a certified copy of the bill of the Senate, (No. 358,) "directing a survey and estimate of the cost of constructing a canal basin at the terminus of the Chesapeake and Ohio Canal, in Georgtown."]

The question was taken on Mr. STEVENS's amendment, and it was agreed to.

The question was then taken upon the amendments of the Senate, and they were concurred in.

RAILROAD GRANTS.

Senate bill No. 13, entitled "An act granting 'to the State of Wisconsin the right of way and 'a donation of public lands for the purpose of con-'structing a canal or railroad across the peninsula 'of Michigan," was read a first and second time by its title.

Mr. DOTY. I desire to offer an amendment, and to put the bill upon its passage. I desire to say that the subject has been before the Committee on Public Lands, and they have agreed to report to this House a bill precisely similar to that which is now in the Senate. The amendment I offer is the following:

Strike out section five of the bill, and add to the bill the following:

And be it further enacted, That the lands hereby granted to said State shall be disposed of by said State only in manner following, that is to say, that a quantity of land not exceeding one hundred and twenty sections on each road, and included within a continuous length of twenty miles of said road, may be sold, and when the Governor of said State shall certify to the Secretary of the Interior that said twenty miles of said road is completed, then another like quantity of land hereby granted may be sold, and so, from time to time, until said roads be completed; and if said roads are not completed within ten years, no further sales shall be made for the road not completed, and the land granted for such road shall revert to the United States: *Provided*, That the said first mentioned road shall commence at the city of Chicago, in the State of Illinois, and be run thence through Janesville and Fond du Lac, on Winnebago Lake, to Lake Superior, and the said second road mentioned shall commence at La Crosse, and run thence through the county of Washington, in said State, to the city of Milwaukie.

Mr. DOTY. I demand the previous question.

Mr. FREEMAN. I hope the gentleman will allow me to offer an amendment to his amendment.

Mr. DOTY. I would be glad to do so, but I am under obligations to move the previous question.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, notifying the House that they had passed House bill No. 351, entitled "An act for the relief of Brevet Brigadier General Riley, and to enable him to settle his accounts with the United States."]

Mr. BENNETT. I would appeal to the gentleman from Wisconsin [Mr. DOTY] to withdraw his demand for the previous question.

Mr. LETCHER. I move to lay the bill and amendments on the table; and upon that motion I demand the yeas and nays.

The SPEAKER. The previous question having been demanded, it deprives every one of the floor, except it be for the purpose of making a motion to adjourn or lay the bill upon the table.

Mr. FREEMAN. I understood the gentleman from Wisconsin to say that he was willing to withdraw the demand for the previous question for the benefit of the gentleman from New York, [Mr. BENNETT.] Has the gentleman done so?

Mr. DOTY. I have not done so.

Mr. LETCHER. I ask the yeas and nays upon my motion.

Mr. BENNETT. I wish to make an appeal to the gentleman from Wisconsin to withdraw his call for the previous question, and to allow me to offer an amendment to the amendment.

[Cries of "Order!" "Order!"]

The SPEAKER. That can only be done by unanimous consent at this stage of the proceedings, for amotion to lay on the table cuts off everything like amendment.

The yeas and nays were ordered.

The question was then taken on laying the bill and amendments upon the table, and there were—yeas 73, nays 83; as follows:

YEAS—Messrs. Allison, Averett, David J. Bailey, Bragg, Busby, Caldwell, Caskie, Chastain, Churchwell, Clemens, Cobb, Colcock, Cullom, Curtis, Dawson, Dean, Dimmick, Dockery, Edmundson, Faulkner, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Grow, Sampson W. Harris, Hascall, Hendricks, Hibbard, Houston, John W. Howe, Ives, Jenkins, Andrew Johnson, George W. Jones, George G. King, Letcher, McDonald, McLanahan, McMullin, McNair, McQueen, Millson, Morehead, Morrison, Murphy, Murray, Orr, Outlaw, Samuel W. Parker, Perkins, Powell, Robbins, Robie, Robinson, Ross, Russell, Savage, Skelton, Thaddeus Stevens, Stratton, Sutherland, Sweetser, Thurston, Toombs, Tuck, Venable, Wallace, Watkins, Wildrick, and Woodward—73.

NAYS—Messrs. Abercrombie, Willis Allen, Barrere, Bennett, Bowie, Bowne, Brenton, Brooks, Albert G. Brown, Burrows, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Cartter, Chandler, Chapman, Clark, Conger, Cottman, Darby, John G. Davis, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ewing, Fay, Ficklin, Freeman, Goodenow, Gorman, Grey, Hall, Harper, Haven, Henn, Horsford, Howard, Thomas M. Howe, Jackson, Landry, Little, Lockhart, Mace, Martin, Meacham, Miller, Miner, Molony, Henry D. Moore, John Moore, Nabers, Newton, Olds, Penn, Penniman, Phelps, Porter, Preston, Price, Sabine, Sackett, Schermerhorn, Schoolcraft, Scurry, Smart, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Stuart, Taylor, Ward, Washburn, Welch, Alexander White, Wilcox, and Yates—83.

So the House refused to lay the bill and amendments upon the table.

The SPEAKER. The question now is on seconding the demand for the previous question.

Mr. DOTY. Do I understand the decision of the Chair to be, if I withdraw the demand for the previous question, that the floor must be assigned to the gentleman from Mississippi? [Mr. FREEMAN.]

The SPEAKER. The Chair has not determined whom he will recognize as entitled to the floor. No one is entitled to the floor now, the previous question having been demanded by the gentleman from Wisconsin, [Mr. DOTY,] unless it may be himself, if he desires to withdraw it.

Mr. BENNETT. I appeal to the gentleman from Wisconsin to withdraw it, that I may offer an amendment to his amendment.

Mr. JONES, of Tennessee. If it is withdrawn must it not be unconditional?

The SPEAKER. It must be unconditional, and it is with the Speaker to assign the floor to somebody. The Chair cannot make a bargain.

Mr. DOTY. Has the floor been assigned to the gentleman from New York? [Mr. BENNETT.]

The SPEAKER. It has not been determined.

Mr. DOTY. I feel in honor bound to offer the amendment which he would have offered if he could have obtained the floor for that purpose. I withdraw the previous question, and propose an amendment to the one I have already offered, and demand the previous question.

Mr. GORMAN. I rise to a privileged question. Since the gentleman from Wisconsin takes such a course, I move to lay the whole subject upon the table, and upon that I demand the yeas and nays.

Mr. HALL. I object to the amendment offered by the gentleman from Wisconsin, and raise a point of order.

The SPEAKER. The Chair will reserve the right to look at the amendment.

Mr. GORMAN. If the gentleman from Missouri [Mr. HALL] desires to make a point of order, by which the amendment of the gentleman from New York may be properly ruled out of order, I withdraw my motion to lay upon the table.

Mr. HALL. I ask that the amendment just offered by the gentleman from Wisconsin be read, so that the House may understand my point of order.

The first amendment was then read.

Mr. JONES, of Tennessee. I wish to inquire how the gentleman from Wisconsin offers it?

The SPEAKER. The gentleman from Wisconsin withdrew the demand for the previous question, offered an amendment which has not

been read, and demanded the previous question upon it.

Mr. JONES. Whereabout does he propose to put it into this bill?

Mr. DOTY. I propose to add it to the bill.

Mr. JONES. Then the gentleman cannot offer two amendments at one time. His first amendment is under consideration, and he cannot make another one, no matter what it is.

Mr. DOTY. It was offered as an amendment to the amendment.

The SPEAKER. The Chair will see the character of the amendment.

Mr. JONES. He could not offer an amendment to his own amendment. It would be a modification.

The SPEAKER. The question of order is already made, and the Chair will decide it when he hears the amendment read.

Mr. JONES. Is it not the same bill that was passed the last session? If so, it is not necessary to read it all.

[Cries of "Read it!" "Read it!"]

The Clerk then read the amendment, as follows:

And be it further enacted, That there are hereby severally granted to the States named herein the following amounts of public land, respectively, for the purposes hereinafter named, viz: To Missouri, three million acres; to Alabama, two million five hundred thousand acres; to Iowa, three million acres; to Michigan, three million acres; to Wisconsin, three million acres; to Louisiana, two million five hundred thousand acres; to Mississippi, two million five hundred thousand acres; to Florida, two million five hundred thousand acres; to Arkansas, three million acres; to California, three million acres; to Illinois, two million acres; to Indiana, all the public lands not sold, located, or reserved for public purposes, lying within her limits, and two million acres in addition thereto; to Ohio, all the public land not sold, located, or reserved for public purposes, lying within her limits, and two million five hundred thousand acres in addition thereto; and to each of the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, Georgia, Maryland, Virginia, Kentucky, and Tennessee, at the rate of one hundred and fifty thousand acres for each Senator and Representative in the Thirty-second Congress from said States, respectively, and to the District of Columbia, for the support of schools, five hundred thousand acres.

SEC. 2. *And be it further enacted*, That the eleven States in the preceding section first named are authorized to apply the proceeds of the lands hereby severally granted to them to aid in the construction of railroads in the said States, respectively. And a right of way through the public lands is hereby severally granted to the said States, and they are severally authorized to take necessary materials of earth, stone, and timber, for the construction of the said railroads, respectively, from the public lands adjacent thereto; and in locating each of the said railroads, and assigning the limits thereto, no more land shall be taken from the United States than is necessary for the convenient construction and use of each of said railroads, with double track, respectively, including stations and the public buildings of all kinds connected with said roads, turnouts, and such other appurtenances as are necessary or usually enjoyed by first-class railroads; and a copy of the location of said several roads, respectively, as now made or hereafter to be made, shall be forwarded to the proper local land offices, and the General Land Office at Washington city, as soon as practicable after the same are completed, respectively, and shall be duly recorded; and there is hereby severally granted to each of the eleven States in the preceding section first named, respectively, the amount of land therein specified, for the purpose of making railroads therein, respectively, as aforesaid, to be taken along the entire length of the line or route of said several railroads, so far as the United States own lands on the line of said several roads, in manner following, viz: every alternate section of land subject to private entry, and designated by odd numbers, for six miles in width on each side of said several railroads; but in case it shall appear that the United States have, when the lines or routes of any of said roads are definitely fixed in the manner and by the authority aforesaid, sold any section, or any part thereof, granted aforesaid, or that the right of preëmption has attached to the same, then it shall be lawful for any agent or agents, to be appointed by the Governor of each of the States, respectively, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States most contiguous to the tiers or sections above specified, so much land in alternate sections or parts of sections as shall be equal to such lands as the United States have sold or to which the right of preëmption has attached as aforesaid, which lands (thus selected in lieu of those sold or to which preëmption rights have attached as aforesaid, together with the sections or parts of sections designated by odd numbers as aforesaid, and appropriated as aforesaid) shall be held by each of the said eleven States first named, respectively, to the amount in the preceding section named for each of the said several States, for the uses and purposes aforesaid; but the lands to be so located and selected for and on account of each of said roads shall in no case be more than six sections of land for each mile of said road: *Provided*, That the lands hereby granted to the said eleven first-named States shall be exclusively applied to construct or aid in the construction of railroads in said States, respectively, and shall be sold and disposed of only as the work progresses, and in proportion to the length of railroad completed upon each of said roads, and the same shall be applied to no other road or purpose: *And provided, also*, That any and all lands heretofore reserved to the United States by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal improvement, or for any other purpose whatever, shall be, and the same are hereby, reserved to the United States from the operation of this section, except so far as it may be found necessary to locate the routes of said railroad through such reserved lands, in which case the right of way only shall be, and is hereby, granted.

SEC. 3. *And be it further enacted*, That of the lands granted by this act to the several States of Missouri, Iowa, Wisconsin, Alabama, Michigan, Louisiana, Mississippi, Florida, Arkansas, Illinois, and California, a portion thereof shall be applied by each of said last-named States, respectively, in the manner and to the amount in the preceding section provided, to aid in the construction of the following lines of railroad, so far as the same are within the limits of said States, respectively; and a portion of the lands and land warrants hereinafter mentioned, granted to each of the States of Indiana and Ohio, shall be applied in like manner, at the rate of six sections per mile, to aid in the construction of the following railroads, so far as the same are within said States respectively, viz:

First. From Manitoowoc, via Menasha and Stevens's Point, to St. Paul; from Madison, via the mouth of the Wisconsin, to the mouth of the Big Sioux; from Iron Bay, via the Iron mountains, to Little Bay Du Noc; from Sheboygan to the Mississippi river.

Second. From Toledo, via Hicksville, Fort Wayne, Lafayette, Peoria, and Burlington, to or near the mouth of the Platte river, with a branch to Keokuck; from La Salle, via Davenport and Iowa City, to Council Bluffs; from Fort Des Moines to Dubuque.

Third. From Belpre, via Athens, Chilicothe, Hillsboro', Cincinnati, and Vincennes, to St. Louis, and thence to the Iron mountains and Pilot Knob.

Fourth. From Girard to Mobile, and thence, via New Orleans and Opelousas, to the Sabine river; from New Orleans, via Jackson, to the Mobile and Ohio railroad, with a branch in the direction of Nashville, to the line of the State of Tennessee.

Fifth. From Montgomery, via Brandon, Vicksburg, and Shreveport, to the line of Texas, with a branch to Biloxi; from Montgomery to Pensacola; from St. Paul, via the Falls of the St. Croix, to the mouth of the St. Louis river.

Sixth. From Mobile, via Pensacola and Tallahassee, to the St. Mary's or St. John's river, with branches to St. Mark's and to Tampa Bay; from Pensacola, in the direction of Brunswick and Savannah, to the boundary line of the State of Florida.

Seventh. From Selma to Gunter's Landing; from the boundary line of Alabama, across Alabama and Mississippi, to the boundary line of Mississippi, along the line of the Charleston and Memphis railroad.

Eighth. From Louisville, Kentucky, via Vincennes, to Carlyle, with a branch to Alton; from Lafayette to Chicago.

Ninth. From Zilwaukie, via Grand Traverse Bay, to Mackinaw; from Manitoowoc, via Green Bay, to Kewawana Point, with a branch, via the principal copper mines, to the mouth of the Ontonagon river; from the mouth of the Marquette river, via Flint, to Pontiac, with a branch from Flint to Port Huron; from Pontiac to the mouth of the Grand river.

Tenth. From Gaines's Landing to Fulton; from Fulton, via Little Rock and the principal copper mines, to St. Louis; from Memphis, via Little Rock, to Fort Smith.

Eleventh. From Terre Haute to Alton, and also to Vernon; from Indianapolis to Springfield; from Allentown to the mouth of the Kansas; from Kansas to the mouth of the Platte river; from Quincy, via Galesburg, to Rockford; from Springfield to Chicago.

Twelfth. From a point opposite New Orleans, on the west side of the Mississippi river, on the most direct route, consistent with a good grade, upon good ground, to St. Louis; from Hermann, on the Missouri river, via Fort Des Moines, to the southern bend of the Minnesota river.

Thirteenth. From San Francisco to San José, and also to Walker's Pass, with a branch to the Columbia river, in Oregon.

And where any part of said designated lines of railroad is within any Territory of the United States, public lands are hereby granted to such Territory to the same amount, and to be taken in the same manner, as before specified, (to wit: in alternate sections, at the rate of six sections per mile,) to aid in the construction of said railroads within such Territory. Said railroads, in all cases, to be made on the most direct, feasible routes; each State to take its lands to aid in their construction within its own limits, except Ohio and Indiana, and those States so far as may be, and the residue in land warrants, as hereinafter provided. And in case the amount granted to any one of said States is found insufficient, after an actual location of the roads on direct routes, to allow six sections per mile to the railroads in said State, hereinbefore specified, such State is hereby authorized to take, in the aforesaid manner, enough more of the public lands of the United States to make up such deficiency; and the residue of said lands granted to each of said States, not taken for said railroads, (if any,) may be applied, in the manner aforesaid, to aid in the construction of such other railroads as the Legislatures of said States may respectively designate. And there is hereby granted to the States of Missouri, Alabama, and Mississippi, respectively, to aid in the construction of the railroads for which grants were made by the act of Congress, approved twentieth of September, eighteen hundred and fifty, and by the act approved tenth of June, eighteen hundred and fifty-two, a quantity of land sufficient, with the amount granted by said former acts, to give six sections per mile to each of said railroads, to be taken in the manner specified in this act: *Provided*, That said railroads, in said several States and Territories, shall be completed within ten years; and the land hereby granted to aid in their construction, so far as they shall not be completed within that time, shall revert to the United States.

SEC. 4. *And be it further enacted*, That the nineteen States in the seventh section of this act last named, are severally authorized to apply the proceeds of the lands hereby severally granted to each of said States to the support of schools or for other useful public purposes, except so far as is otherwise provided by the preceding section in regard to the lands granted to Indiana and Ohio. And the Commissioner of Public Lands, under the direction of the Secretary of the Interior, shall issue to each of said nineteen States and said District, respectively, land warrants to the amount in all to which each of said nineteen States and said District are respectively entitled under this act, (except so far as the lands granted to Ohio and Indiana are situated within the limits of said States;) and said nineteen States and said District are severally authorized to sell and dispose of said land warrants; and the same are to be valid and effectual in the hands of any owner or holder thereof, and may be located by such owner or holder upon any public lands for sale or subject to private entry, and the same fees to be paid therefor by the holders thereof. And the title of the land so located by any owner or holder of said land warrants shall be secured and perfected to such owner or holder in the same manner as other land warrants issued by the United States. Said land warrants shall be so engraved and printed as to prevent deception and counterfeiting; shall be signed by the Secretary of the Interior or the Commissioner of the Public Lands, or for them by such other persons as the Secretary may direct, and countersigned by the Governor of each State receiving the same, or by such other officers as the said nineteen States and said District may respectively designate for that purpose; and said land warrants shall be for not less than eighty nor over one hundred and sixty acres each: *Provided*, That no State nor the said District shall be authorized to locate any warrants in its own name or for its own benefit; and that no warrant issued under the provisions of this act shall be located upon any lands to which there shall be a preëmption right, or on which there shall be an actual settlement and cultivation, except by the person holding such preëmption right, or by such settler and cultivator.

SEC. 5. *And be it further enacted*, That each and all of the railroads in any State in the Union, made either wholly or in part from the proceeds of the lands granted by this act, are hereby made and declared post roads, and shall forever hereafter, at all times, transport the mails, military stores, forces, and property of the United States, under the direction of the proper officers thereof, and Congress may by law fix the rate of compensation to be allowed for such services.

SEC. 6. *And be it further enacted*, That all mineral lands are hereby reserved to the United States from the operation of this act, except such as are, or hereafter may be, by law subject to private entry by individuals.

SEC. 7. *And be it further enacted*, That all the land granted (by any other act) during the present Congress, to any State, to aid in the construction of any railroad therein, shall be deducted from the amount granted by this act to said State.

Mr. AVERETT. I move to lay the bill and the amendments upon the table.

Mr. ORR. I submit that that motion is not yet in order. No business has transpired since the last motion was made to lay upon the table.

The SPEAKER. An amendment has been proposed and a question of order raised upon it.

Mr. ORR. Suppose the Speaker decides that that amendment is not in order, is that a sufficient amount of business to authorize the motion to lay on the table to be again made?

The SPEAKER. The offering of the amendment itself is business.

Mr. ORR. Whether it is in order or not?

The SPEAKER. The Chair thinks so. The motion to lay on the table may be repeated as often as it is made. That has been the practice of the House. The present occupant of the Chair, however, has ruled that the motion is not in order again until business has intervened, and the House has sustained that decision. But it is a new practice.

Mr. AVERETT. I insist on my motion to lay the bill and amendments upon the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BROWN, of Mississippi. I desire to make an inquiry of the Chair which will control my vote, and perhaps the votes of other members. If the motion to lay on the table does not prevail, and the point of order raised by the gentleman from Missouri [Mr. HALL] should be decided so as to admit this amendment, will it then be in order, without further proceedings, again to move to lay the bill upon the table?

The SPEAKER. It will depend altogether on whether any proceedings intervene between the motions.

Mr. BROWN. Would the proceedings on the point of order be such as to justify another motion to lay upon the table?

The SPEAKER. The Chair supposes that they would, but must reserve to himself the right of deciding each question as it arises.

The question was then taken upon Mr. AVERETT's motion, and it was decided in the negative—yeas 76, nays 81; as follows:

YEAS—Messrs. Abercrombie, John Appleton, Averett, David J. Bailey, Bocock, Bragg, Joseph Cable, Thompson Campbell, Cartter, Caskie, Chastain, Churchwell, Clemens, Cobb, Colcock, Dawson, Dean, Dimmick, Dockery, Dunham, Edmundson, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Gorman, Green, Grow, Hall,

Sampson W. Harris, Hascall, Hendricks, Hibbard, Holladay, Houston, Howard, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Letcher, McDonald, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Morrison, Murphy, Murray, Olds, Orr, Peaslee, Powell, Robbins, Robie, Robinson, Ross, Russell, Savage, Skelton, Smith, Thaddeus Stevens, Stratton, Sutherland, Sweetser, Toombs, Alexander White, Wildrick, and Woodward—76.

NAYS—Messrs. Charles Allen, Willis Allen, Allison, William Appleton, Barrere, Bennett, Bowie, Bowne, Brenton, Brooks, Albert G. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Clingman, Conger, Cottman, Cullom, Curtis, Darby, George T. Davis, John G. Davis, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ewing, Fay, Ficklin, Freeman, Henry M. Fuller, Giddings, Gilmore, Goodenow, Grey, Harper, Haven, Henn, Horsford, John W. Howe, Thoams M. Howe, George G. King, Landry, Little, Lockhart, Mace, Mann, Martin, McCorkle, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morehead, Nabers, Newton, Outlaw, Samuel W. Parker, Penn, Penniman, Perkins, Phelps, Porter, Preston, Price, Riddle, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Smart, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Taylor, Thurston, Tuck, Venable, Ward, Washburn, Watkins, Welch, Wilcox, and Yates—81.

So the House refused to lay the bill upon the table.

Mr. CLARK. Is it in order now to offer an amendment to the bill?

The SPEAKER. It is not in order.

Mr. CLARK. I hope that, by unanimous consent, the amendment may be read for information.

The SPEAKER. There is a question of order pending, with reference to the amendment offered by the gentleman from Wisconsin, [Mr. DOTY,] which must first be disposed of.

Mr. CLARK. I desire only to have my amendment read for the information of the House.

The SPEAKER. The gentleman from Iowa asks the unanimous consent of the House to have his amendment read for information.

Mr. GORMAN. I object.

[Mr. CLARK handed his proposed amendment to the Reporters. It is as follows:

"*And provided further*, That no person shall, under the provisions of this act, locate more than three hundred and twenty acres of land."]

Mr. JONES, of Tennessee. I rise to make a motion which is in order. That we may have a full vote upon this question, I move that there be a call of the House; and upon that motion I call for the yeas and nays.

Mr. CARTTER. I rise to a privileged question. I move that the House do now adjourn; and upon that I ask for tellers.

Tellers were not ordered.

The question was then put, and on a division, there were—ayes 69, noes 69.

The SPEAKER voting in the affirmative, the motion was agreed to; and the House adjourned until to-morrow, at 12 o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. SUTHERLAND: The petition of the Ocean Steam Navigation Company of New York, for increase of compensation for mail service between New York, Southampton, and Bremen.

By Mr. EASTMAN: The petition of 62 citizens of Wisconsin, praying for an appropriation to complete the improvement of Grand River Slough, at Potosi, Wisconsin.

By Mr. GILMORE: The petition of citizens of Indiana county, Pennsylvania, deploring the evils of war, and praying Congress to make provision in their treaties with other nations to refer all misunderstandings to the decision of umpires.

By Mr. FLORENCE: The memorial of F. Dankworth and 7 others, engravers employed in the office of the Coast Survey, praying relief from the decision made by the Hon. Elisha Whittlesey, whereby they are deprived of the advance of twenty per cent. voted by act of Congress to clerks, &c., employed in the city of Washington.

Also, the memorial of Jacob Frick, William F. Miskey, Charles B. Ress, and 22 others, citizens of Philadelphia, praying Congress to pass a law giving one hundred and sixty acres of land to the soldiers of the war of 1812, &c.

By Mr. DISNEY: Memorials of members of the General Assembly of the State of Ohio, asking Congress to create an additional district court of the United States within that State.

IN SENATE.

THURSDAY, *February* 3, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a copy of the acts, resolutions, and memorials, passed at the first annual and special sessions of the Legislature of the Territory of Utah, begun and held on the 22d September, 1851, transmitted to the President of the Senate in compliance with law; which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Mr. SEWARD presented the petition of the heirs-at-law of General James Clinton, praying to be allowed for the depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Also, the petition of the heirs-at-law of Samuel Lewis, praying to be allowed for the depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Also, the petition of the heirs-at-law of Udney Hay, praying to be allowed for the depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Also, the petition of the heirs-at-law of Joshua Danforth, praying to be allowed for the depreciation on commutation certificates; which was referred to the Committee on Revolutionary Claims.

Also, the petition of Ephraim Munson, praying a pension, in consideration of his services in the Indian wars which continued after the Revolution; which was referred to the Committee on Pensions.

Also, a memorial of citizens of Williamson, Wayne county, New York, praying an appropriation of land for the construction of a ship canal around the Falls of Niagara; which was referred to the Committee on Commerce.

REPORTS FROM STANDING COMMITTEES.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred the bill from the House of Representatives for the relief of Joseph M. Wilcoxon, of the State of Missouri, reported it without amendment.

On motion by Mr. DOWNS, the Senate proceeded to consider the bill as in Committee of the Whole. It proposes to confirm to Joseph M. Wilcoxon certain tracts of land in Missouri, which he has entered.

No amendment being made, it was reported to the Senate without amendment; ordered to a third reading, read a third time, and passed.

Mr. SHIELDS, from the Committee on the District of Columbia, reported a bill to provide a library for young men in the District of Columbia; which was read and passed to a second reading.

THIRD READING OF A BILL.

The engrossed bill to authorize the Secretary of the Treasury to issue certificates of registry or enrollment to American-built vessels in certain cases, was read a third time and passed.

BRITAIN FRANKS.

The bill from the House of Representatives for the relief of Britain Franks, assignee of Joseph M. Smith, was read a first and second time by its title, and considered as in Committee of the Whole.

An amendment being proposed by Mr. BRODHEAD, the bill, with the proposed amendment, was referred to the Committee on Finance.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read a first and second time by their titles, and referred as follows:

An act for the relief of Captain Lewis E. Simonds. Referred to the Committee on Naval Affairs.

An act for the relief of Jasper A. Maltby. Referred to the Committee on Pensions.

An act for the relief of James H. Jenkins. Referred to the Committee on the Post Office and Post Roads.

An act for the relief of John Frink. Referred to the Committee on the Post Office and Post Roads.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it had agreed to the amendment of the Senate to the bill entitled "An act for the relief of Maurice K. Simons."

Also, that it had agreed to the amendment of the Senate to the bill granting the right of way to the St. Louis and Iron Mountain Railroad Company, with an amendment, in which it requests the concurrence of the Senate.

SELECT COMMITTEE ON ETHER.

Mr. SMITH. If it be in order, I wish to state to the Senate that I am requested by the Hon. ARCHIBALD DIXON to ask that he may be excused from further service on the Select Committee appointed upon the memorial of Charles Thomas Wells, on account of ill health. It is well known to the Senate that Mr. DIXON has been obliged to leave the city, in consequence of the critical state of his health. I move that he be excused, and that the President *pro tem.* be authorized to fill the vacancy.

Mr. WALKER expressed the hope that the subject might be allowed to lie over until to-morrow, to which Mr. SMITH assented, and the vacancy was not filled.

JAMES ROBERTSON.

Mr. UNDERWOOD. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate, to report two resolutions to the body, and to ask their adoption at the present time. They refer to the case of James Robertson, and the Senate will accommodate the committee, and perhaps the whole body, very much by adopting them at this time. The committee report two resolutions, the first of which is, that the prayer of the memorialist be rejected; and then the committee have thought proper, after making that report, to add the following:

But in consideration that James Robertson has remained in the city of Washington during the sessions of Congress since his arrest, and the influence which the payment of $100 to him heretofore may have had upon his mind, to induce the belief that he had a just claim against the Senate worthy of prosecution, and for the purpose of enabling him to return to his friends, the committee have thought proper to submit, for the adoption of the Senate, the following resolution:

Resolved, That there be paid to James Robertson, out of the contingent fund of the Senate, $150, the acceptance of which by him is to be in full of all demands which he may conceive he has against this body.

Allow me to say, that we have worded the resolution in this way so that he may understand that, upon the acceptance of the money, there is to be an end of the matter, and the Senate and its members are no longer to be troubled upon the subject. If he rejects this, as it is possible he may, the committee are of opinion that if he be a lunatic, as is suggested, he ought to be found such by an inquest, and ought to be provided for as we provide for other lunatics throughout the country. We hope that this will terminate the matter, and relieve the members of the Senate from all further trouble. I hope, therefore, that both resolutions will be acted upon and adopted, and that the report will be printed.

Mr. WALKER. I move to lay upon the table the resolution giving this man $150.

Mr. HALE. I ask for a division of the question. Let the vote first be taken upon the resolution that the memorial be rejected. I suppose the Senator from Wisconsin does not want to lay that upon the table. The committee report two resolutions; one is, that the memorial be rejected, and the other is that $150 be paid to Robertson. I ask for a division of the question. Let us first have a vote on the one rejecting the memorial.

Mr. WALKER. I agree to that course, and withdraw my motion for the present.

The first resolution of the committee, "*Resolved*, that the prayer of the memorialist be rejected," was agreed to.

The question then recurred on the second resolution, authorizing the payment of $150 to James Robertson.

Mr. UNDERWOOD. I hope the Senate will adopt that resolution. The committee have been influenced by considerations which it is hardly necessary to mention to the Senate, and reported it with the hope that this would terminate the matter forever, and that we should have no further trouble. I hope, therefore, that it will be adopted.

Mr. HUNTER. It is obvious that this matter is going to lead to debate, and there is a special order for half-past twelve o'clock, which ought to be taken up and acted upon.

Several SENATORS. There will be no debate.

Mr. WALKER. I move to lay the resolution now under consideration upon the table.

The motion was not agreed to.

Mr. WALKER. I intend to ask for the yeas and nays upon this question; and I propose that there shall go along with this vote a very brief explanation of this matter. During the life of Mr.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

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Clay, and upon some memorable occasion, it was thought by some person or persons that they heard a threat made against his life by this man Robertson. This fact was communicated to some of the authorities of the Senate, perhaps to the Sergeant-at-Arms; and I understand that it was accompanied with a communication of the apprehension of the hearers that there was some danger involved in the threat, and that it would be better to secure the man and take care of him. In the exercise of his duty, the Sergeant-at-Arms felt it incumbent upon him to take the man before the civil authorities, and, if I understand it rightly, he was by the civil authorities ordered into custody: and he was kept in custody for a short time and discharged. From that day to this, he has been before the Senate demanding payment for the wrongs inflicted upon him.

During the lifetime of Mr. Clay there was a resolution introduced and passed, almost as a matter of course, giving this man $100; but it did not silence his clamors for an instant. He has continued dogging the members of the Senate, from that day to this, until at last he has induced a man who, in his character and in his actions has uniformly been just—I mean the honorable Senator from Kentucky—to come forward with a resolution to give him $150 more. Does the Senator suppose that he will get rid of Robertson in this way? Does he dream that the Senate is to get rid of the annoyance of this man by giving him $150? If he does, my impression is that he vastly misapprehends the future. This is another demand made for a useless object, and a worse than useless object, upon our contingent fund. That fund is now made to bear all the censure that can possibly be heaped upon it. It does seem to me that the Senate, in justice to itself, should vote down this resolution, and no longer pander to this application. I hope and trust it may do so. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. UNDERWOOD. I have a very few words to say.

Several SENATORS. It is not necessary to say anything.

Mr. UNDERWOOD. I feel bound to make a very short statement, and I shall be very brief. This claim was referred by a memorial to the Committee on Claims at the first session of the last Congress, of which committee I was then a member. I made a written report adverse to the claim, but the Senate never acted upon it. When it was reported by the Committee on Claims, the Senate passed a resolution giving Robertson $100, without deciding against his claim; and from that day to this, this individual, who has given us all so much trouble, has been applying to each member and to the body in every shape and way. This resolution goes upon the idea, that by giving him that money, you have rather encouraged him to remain here, and to make his application day and night in almost every shape, for additional compensation. We say, therefore, that he having been encouraged, as it were, by the payment he has received, and his claim never having been rejected by a direct vote until now—in consideration of that, and with motives of compassion for him, we propose to give him $150, telling him at the same time that "this is in full of all claims you may conceive you have, and if you take it you are not to trouble us any more; and if you do not, then we intend to turn you over to the authorities to inquire into the state of your mind." I hope that with this explanation the gentleman from Wisconsin will not think that I have been actuated by any bad or unjust motive in introducing this resolution.

Mr. WALKER. I never entertained such an idea.

Mr. BADGER. I believe there is a great deal of probability in what is said by my friend from Wisconsin. I have very little hope that the $150 proposed to be paid to this man will satisfy his demand, or stop his further application. I have very little hope that the $150 will induce him to go back to his friends; but I will say to my friend from Wisconsin, that as the object is so highly desirable, and as there is some hope, as there is a scintilla of expectation upon which the mind can rest with some pleasing anticipation, although it is not very bright, I shall for that reason, and that only, vote for the adoption of the resolution. [Laughter.]

Mr. WALKER. It amounts then to this: there being a glimmer of hope that these gentlemen can do, through the Treasury, what they could so easily do for themselves—get rid of the annoyances of this fellow—they will vote for the resolution. I have not been much annoyed by him, but other gentlemen appear to have been, and they entertain a glimmering and remote hope that they will get rid of his annoyances by passing this resolution. Let them use their own pockets to get rid of him, if they please to do it; let them use their own funds for the purpose, but let them not dip their hands into the Public Treasury, to fee a man to let them alone. I think, sir, that it would be a desirable thing to get rid of this man; but it is only the encouragement which men have lent him, through the kindness of their natures, that has kept him about us, the object of annoyance and complaint. It is a very easy matter to get rid of him; but, in my opinion, the result of this proposition, if it be adopted, will be this: In the course of time, when the circumstances of the matter shall have been forgotten, the favorable points of the claim will be extracted, some agent will get hold of it, and will make out Robertson a patriot, as one who was persecuted by the Senate, and that agent will probably make $25,000 or $50,000 out of our trifling with this fellow. Something similar has been the result in cases, in my opinion, which have far less merit than this; and that will probably be the result of entertaining these propositions from time to time, in the manner which we are doing.

Mr. HUNTER. It is obvious that this case is to lead to debate, and I hope we shall not now proceed with it, but that we shall go on with the special order

Mr. BADGER. We have got through with the debate, and are ready to vote.

Mr. HUNTER. If gentlemen are ready to vote, I will not make any motion.

The PRESIDENT. The Chair will observe that this resolution appropriates money out of the contingent fund; and therefore must, under the rule, have three readings on three separate days, in the same manner as a bill, unless by unanimous consent they be dispensed with. It has been read once, and it requires unanimous consent to read it a second time to-day.

Mr. BUTLER. I cannot agree to give unanimous consent. I concur with the Senator from Wisconsin. It seems to me that if we yield to this claim under the circumstances, it will be allowing not only the Senate to be an insurance office, for the claims of any agents, but for any claims that may be brought against it. Why, Amy Darden's claim for a horse is nothing to this, and that has been pending, I believe, for nearly half a century. The Senator from North Carolina [Mr. BADGER] is a good common-law lawyer, and he must know that in Pennell's case it was decided that if a man owed another one hundred pounds, and paid out five, although he said that was in satisfaction of the whole debt, it would amount to nothing unless the agreement that it should be in full was under seal; but that if he gave a hawk, and that was accepted, it would be satisfaction, because it was an aristocratic article, and one of no fixed value. Now, if we were to give Robertson some office, perhaps a Cabinet office, it would satisfy him; that would be his "hawk." [Laughter.] But I agree with the Senator from Wisconsin, and I hope that this resolution will not be passed.

Mr. DOUGLAS. I rise for the purpose of getting rid of the matter, and, therefore, before I sit down I shall submit a motion that the resolution lie upon the table, and ask the yeas and nays upon that. I am perfectly satisfied that this resolution cuts off the last hope of getting rid of the annoyances of this troublesome man. He annoyed us, and induced us to give him $100, in the first place. On that $100 he has lived and begged along, until it is now proposed to give him $150 more. As long as you entertain such propositions you will have him here. I hope the Senate will lay the resolution upon the table, and thus show their indignation at this course of conduct, and give, at the same time, a gentle intimation to the corporation of Washington, that if they wish any respect, or courtesy, or attention from Congress, they are to protect the members of Congress from the annoyances of such men as this. The corporation of Washington should be held responsible for the set of men that they allow to go at large here, who are dangerous to the liberties, and even to the persons of men. I hope we shall give this application no countenance, and shall, at the same time, give the corporation of Washington a gentle hint that if they do not prevent the practice of such men going at large and annoying us here, we may know how to attend to them when their applications come before us.

Mr. HALE. As the honorable Senator from Kentucky, who reported this resolution, does not seem to be well versed in the history of the matter, I wish to read to him from the Journal of January 8th, 1851, which was after the Committee on Claims had reported on the subject.

Mr. DOUGLAS. I intended to make the motion that the resolution lie on the table.

Mr. HALE. I have the floor, I believe, but I shall make that motion before I sit down. On the Journal I find:

"Mr. CLEMENS presented the petition of James Robertson, praying that his petition, referred to the Committee on Claims on the 23d of December, and from which that committee were discharged, may be referred to a Select Committee. The petition was read, and, on motion by Mr. HALE, that the prayer of the petitioner be rejected, it was decided in the affirmative."

That shows that as long ago as January 8th, 1851, there was an affirmative vote of the Senate rejecting the prayer of the petitioner. Having shown this, I move that the resolution lie on the table.

Mr. MANGUM. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. ADAMS. I desire to ask whether it was not the decision of the Chair that as the resolution has been read once, and as a second reading today has been objected to, it must go over till tomorrow?

The PRESIDENT. The resolution has been read once; but a motion to lie on the table is always in order.

The question being taken by yeas and nays, resulted—yeas 25, nays 21; as follows:

YEAS—Messrs. Atchison, Borland, Butler, Cass, Charlton, Dodge of Wisconsin, Douglas, Downs, Felch, Fitzpatrick, Gwin, Hale, Hamlin, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Norris, Pettit, Sebastian, Shields, Smith, and Walker—25.

NAYS—Messrs. Adams, Badger, Bell, Chase, Clarke, Davis, Dawson, Dodge of Iowa, Foot, Houston, Mangum, Miller, Pratt, Rusk, Seward, Spruance, Stockton, Sumner, Underwood, Wade, and Weller—21.

So the motion was agreed to.

WAREHOUSING SYSTEM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to extend the warehousing system by establishing private bonded warehouses, and for other purposes.

Mr. MILLER. Mr. President, the great amount of business now pressing upon the attention of the Senate, will necessarily prevent me from going so largely into the consideration of this subject as its importance, under other circumstances, would demand. I will therefore confine my remarks to one or two objections to the provisions of this bill. The bill proposes two important alterations in our present revenue laws. The first alteration is the provision contained in the first section of the bill which authorizes the establishment of private warehouses, in which the importer, at his option, may place his goods, instead of placing them in a public warehouse, as now required by law. I have no particular objection to this change, although I would suggest that it may lead to frauds upon the revenue, inasmuch as it will increase the number of warehouses, and the number of officers con-

nected with the duty of collecting the revenues, over which the Government will not have as complete a control as they now have over public warehouses.

The second change proposed is that of extending the time during which goods may be put in warehouses, though designed for consumption. This bill extends the time to three years. This, sir, I consider a very important change, and one which I think deeply affects certain great interests in this country. As the law now stands, by the act of August 6, 1846, all duties upon importations are required to be paid in cash, with a provision in that act, that if not paid at the time prescribed by law, the goods may be taken possession of by the Government, or may be put in the public warehouses, and if not taken out within one year and the duties paid, then to be sold.

By the act of the 3d of March, 1849, another alteration was made. That act declares that all goods intended for immediate reëxportation may be taken out at any time within two years, and if intended for consumption, they may be taken out within one year. So the Senate will perceive that at this time, goods can only be put in warehouses when designed for consumption, for one year; and when they are intended to be reëxported, for two years. Thus stands the law at the present time. The proposed act makes no difference between goods placed in a warehouse which are intended for consumption and those which are to be reëxported, as to the extent of time that they may remain there; but extends the time in both cases to three years. The effect of this act will be to make a depôt in this country for three years, of any kind of goods which may be imported into this country for consumption. In other words, goods imported for consumption may remain three years, without any duty being paid upon them; thus giving to the foreign importer an opportunity of consulting the state of our market, and of throwing his goods into it for sale at any time which he may deem most advantageous to his interest, and most detrimental to our domestic trade.

Now, sir, if the bill reported by the Committee on Finance confined the privilege of placing goods in a warehouse for three years, to those goods only which are intended for reëxportation, it would not be so objectionable; but, sir, it goes further, and alters the existing law so as to enable the importer to put goods designed for consumption into warehouses for three years. It makes no distinction between goods imported for consumption and those imported for reëxportation. It is to this provision that I make my principal objection. My first objection to it is, that it removes the check upon over-importation, a check which was designed by the tariff of 1846, by requiring the duties to be paid in cash. The policy of that act was, while it encouraged, by its low duties, importation to a great extent, at the same time put a check upon too great an importation, by means of cash duties, so as to prevent the evil of an overstocked market, and to keep up something like regularity in trade. That little collateral protection, cash duties, thrown around our domestic manufactures, is taken away by this provision of the bill.

In the second place, my objection to this bill is, that it will give to importers, or rather to foreign manufacturers, the control of our market over certain articles of manufacture in this country, by bringing the foreign article of the like character into a still closer competition with ours. If this bill was confined to the importation of such goods which have no competition or rival in this country, it would encourage commerce without injuring our manufacturers. But it is broad enough in extent to admit all articles which come in competition with the manufactures of this country. It brings the manufacturer from England to New York, where he makes his depôt for iron for three years, and thus accumulate his stock during that period. He can as well keep it there as in Liverpool; so that when the time is favorable for sale, he may throw it into our market, to interfere with and put down his rival in this country. I think this is unfair. The manufacturers, in this country, being our own citizens, employing domestic labor, ought at least to have the benefit of locality, and the natural advantages which their position gives them over the manufacturers of England, in our markets.

But, sir, if this bill passes, and you permit the English manufacturer to make his depôt here for three years, without paying during that time duty upon his goods, you deprive us of that protection which we are justly entitled to, both by position and by the law of 1846. And when you take into consideration the facilities for communication now existing between this country and England, you will perceive that that also will tend to our disadvantage.

The reasons assigned for extending the time for warehousing goods is, the encouragement of commerce; that is, facilitating the reëxportation of articles from this country, by creating a depôt at the commercial emporiums, where what are called assorted cargoes may be had. With regard to all articles not raised or manufactured in this country, and all merchandise which comes from beyond the Cape of Good Hope, a depôt of that kind would be of great advantage to our commerce; and if the provisions of this bill were confined to such importations, permiting them to come here for the purpose of reëxportation, I would not object, because I believe it would encourage our own commerce. But why should we give an opportunity for bringing in the articles manufactured in England which we produce here, and thus give to them the advantage of competing successfully in our own market? I can see no good reason for this. This bill, to a certain extent, would deprive the American manufacturer of that little modicum of protection secured by the tariff of 1846. Sir, we had great promises made during the late canvass, especially at the North, that our manufactories were to be in some way relieved by Congress, and that certain articles of manufacture, especially iron, were to be delivered from the partial effect of *ad valorem* duties and the frauds committed under them. But, instead of giving us that relief, or any measure being proposed to that end, what has been done?

The chairman of the Committee on Finance has reported a bill, which, in my opinion, takes away from the act of 1846 one of its features of protection—cash duties. It goes further than that, for it will enable the foreign manufacturer, as I have said before, to compete with us, in a position in which he will take advantage of any rise or fall in the markets, for the purpose of breaking down our manufactures. Take for example the article of iron. The price of iron has advanced considerably within the last year, owing to an increased demand for it; but unfortunately for us, just at this time, when money can be made by its manufacture, our forges are broken down, so that when the rain commences our dishes are wrong side up. Suppose again, that in the course of three years there is another change in the price of iron, and there is a surplus of the article in England, and it is brought here and collects here for three years, ready to be thrown into market, to produce an effect upon the prices. Thus the market will be kept continually in confusion, and our weak and young manufacturers, who depend upon a ready market, will be broken down, and deprived of the ability to secure any benefit from improvement in prices that may occur in the course of trade.

Again: I object to this bill because it is too general. Under this bill, what is to prevent England from throwing coal, or an article of like character, into this country, making a depôt at Boston or New York, and collecting it there for three years in large quantities? She may bring it there and sell it whenever the state of the market will warrant it, for there is no risk in keeping articles of this kind, while she has three years time to avoid losses. And besides, if it is kept in warehouses three years, and then reëxported, there will be no duty to be paid upon it. But if there should be during that time a rise in price, owing to the crippling of our domestic supplies, England will take advantage of it.

I have no doubt, as I have said, that some of the features of this bill would give considerable advantage to commerce. I am as much in favor of encouraging that great interest of the country, as any gentleman here; but I think that there has been rather an undue encouragement given to foreign commerce. I do not complain of the encouragements which have already been extended to it; but we all know that, under its influence, our foreign commerce has advanced, I was going to say, to a fearful extent. But, however that may be, I am not willing to give to foreign commerce an advantage which I think is going to affect materially another great interest of the country; that is, the home trade, and domestic manufactures. I know that free trade is the order of the day, and great blessings are anticipated from it. We have not yet gone to the extent of freedom in free trade, for I notice, by the last arrival from England, we have information that she looks to a glorious era of free trade in this country. She anticipates a further advancement in the good fellowship of commercial union. For the purpose of showing what she anticipates, I will take the liberty of reading to the Senate an extract from an English correspondent, published in yesterday's Union:

"ENGLAND AND THE UNITED STATES.—The Government have directed that the Cunard mail steamers, advertised to sail this day, shall be delayed at Liverpool till to-morrow, in order that she may bear across the Atlantic dispatches from the Secretary of State for Foreign Affairs, Lord John Russell. There is every reason to hope and believe that these dispatches are of a character likely to promote objects in which the public have long taken deep interest.

"We may expect to see the present Government play two winning cards in America—the one by the settlement of the clergy-reserves question in Canada, the other by arranging free trade between our American dependencies and the United States. The late Government, it is understood, had entered into negotiations with the Americans on the subject of the opening of the fisheries and the St. Lawrence, within certain restrictions—obtaining in return free intercommunications as to native products between the United States and the British dependencies.

"The present free-trade Government cannot do otherwise than follow up in a hearty and cordial spirit any propositions on this subject made by their predecessors. Indeed, it is far more natural to expect a sincere advocacy of commercial freedom abroad from a Cabinet of Whigs and Peelites, leavened by a wholesome spice of radicalism, than from any administration led by the protectionist, Earl of Derby. The task of carrying out such advocacy in the present case will of course be facilitated by the accession of Mr. Pierce, a Democrat and free trader, to the Presidency of the United States.

"Everything that tends to cement the union between England and our transatlantic brethren must be regarded as highly desirable. In America we ought to find our very best friends, our surest allies, our most valuable customers. We want American corn and American cotton, whilst America needs vast supplies of manufactured goods, which we can send her better and cheaper than any one else. She needs capital, for which she can offer good security; while we have an abundance of money seeking good investment.

"All this invites the most intimate national union. To cement our Canadian dependencies to their Yankee neighbors and cousins is to rid us of one source of colonial difficulty. The interchange of the native products of the two countries will relieve both from vexatious cust m-house regulations, and both from the demoralizing effect of a system of smuggling which now exists, and which no possible vigilance could subdue along so vast an extent of river and lake frontier."

Mr. President, the patronizing tone of this article is truly flattering to American pride and enterprise. "They have the capital" seeking investments; "they have the manufactures to supply us better than we can supply ourselves, or from any other country." They desire to "play two winning cards in America." Sir, if this bill passes, to carry out the figure, England will have another trump in hand, which will enable her to play out the game of free trade, by making a depôt of our commercial ports for their manufactures, which will control hereafter the advancement of American labor and enterprise.

Mr. President, I will not consume the time of the Senate further. I know that my colleague [Mr. STOCKTON] is anxious to get up his bill providing for the reorganization of the Navy. I will merely remark, that I intend, when this bill comes up again for action, to move to amend the fourth section, in the second line, so as to except from its operation all iron in bloom, bars, pigs, rods, slabs, and castings of all kinds; and then I shal lmove to strike out the whole of the section, unless it be amended to shorten the time in which merchandise imported for consumption shall continue in warehouse.

Mr. STOCKTON. Mr. President——

Mr. HUNTER. I ask my friend from New Jersey to allow me one minute. I shall move to postpone this bill until to-morrow at half past twelve o'clock, with the hope and expectation that I shall then be able to dispose of it in half an hour, or three quarters of an hour at the most; for if I cannot get all I want, I will get as much as I can, which will be an improvement upon the present system. I think, however, that I shall be able, in the course of a few minutes to-morrow, to show the Senator from New Jersey [Mr. MILLER] that he is mistaken in regard to the probable effects of this bill if it passes, upon our manufactures. But I will not be longer in the way of the other Senator from New Jersey, [Mr. STOCKTON.] I move to

postpone the further consideration of the bill to, and make it the special order for, half-past twelve o'clock to-morrow.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. STOCKTON. I move to proceed to the consideration of the special order, the bill to reorganize the Navy of the United States.

Mr. DODGE, of Iowa. I wish to inquire if the homestead bill is not the special order of the day, and if it has not the precedence over the Navy bill?

The PRESIDENT. The homestead bill was postponed to, and made the special order for, to-day.

Mr. HALE. The homestead bill is an older special order than the Navy bill.

The PRESIDENT. The Chair will state that the first special order is the unfinished business of yesterday. The Senator from New Jersey moves to proceed to the consideration of the bill for reorganizing the Navy of the United States. That is the question for the Senate to decide.

Mr. DODGE, of Iowa. If the Senator from New Jersey wishes to address the Senate to-day on the subject of his bill, I will interpose no obstacle whatever, but will give way. But if it is a test question between this Navy bill and the homestead bill, I must resist the motion of the Senator, because the homestead bill is a House bill, and has been before this body a long time; and I think it ought to have the preference.

Mr. STOCKTON. I really hope there will be no contest between the Navy bill and any other bill whatever, and there shall not be any by any agency of mine. I ask that it may be taken up, because I think it will pass without objection. I shall forego the satisfaction of making a speech, because I know there are other members of the Senate who are anxious to have the bill disposed of, in order that they may bring up bills which they desire to have considered.

Mr. BELL. The Senator had better move to postpone the bill which is first in order—the unfinished business of yesterday—to a certain hour to-day or to-morrow, otherwise it may lose its right to precedence in the business on the calendar. I do not wish to offer any impediment to the Senator, but simply make the suggestion. The railroad bill has occupied too much time to be thrown aside out of its order altogether. It has a claim to prior attention on the part of the Senate. I suggest, therefore, if the Senator from New Jersey thinks he can dispose of his bill in an hour or two, that the motion be made to postpone the railroad bill until two or three o'clock this afternoon, or until to-morrow morning. Then it will have its place on the calendar. If the Chair, however, thinks that the adoption of the motion of the Senator will not have the effect to override the priority of the railroad bill, I have no objection to agreeing to it.

The PRESIDENT. In the opinion of the Chair, it will not do so, if this bill is taken up by unanimous consent.

Mr. STOCKTON's motion was agreed to.

REORGANIZATION OF THE NAVY.

The Senate accordingly, as in Committee of the Whole, proceeded to consider the bill "to organize the Navy of the United States."

Mr. STOCKTON. Mr. President, I shall forego the honor and satisfaction of making an oration upon this subject to-day, because I think it is entirely unnecessary. All the Senators feel, no doubt, as keenly as I feel, the great responsibility which this day rests upon us. They all love their country as well as I do. They all know as well as I know the pressing and urgent wants of the Navy; and those wants are known at the other end of the Capitol, where perhaps they await our action upon this bill; and it is not too much to say that they are known throughout the whole country. Therefore it would be an unnecessary interference with the time of the Senate, if I were to undertake to enforce, either by argument or eloquence, propositions that seem to be universally conceded to be true. I will simply state, in the first place, what the bill does not contemplate, and in the next place, what it does contemplate, and I will only devote one sentence to each.

Before I do even that, however, it becomes me to observe that the bill has been prepared with great care and attention by the Committee on Naval Affairs of the Senate, and has been reported with the amendments, by the advice, consent, and approval of the Naval Committee in the other House of Congress; and I have been instructed by them to offer the amendments which I now hold in my hand. I will also add, that the bill has been published for three weeks throughout the country, and I am yet to hear of any opposition to it; and what is more extraordinary still, is, that it has received the unanimous approbation of the Navy, as far as I know. I believed, and still hope, that it will receive the unanimous approbation of the Senate. I hope it will, that it may go to the other House impressed with the moral force which such a vote will give it.

To fulfill my obligation not to make a speech, I will proceed at once to say that the bill does not propose any increase of the Navy. It does not propose any considerable addition to the expenditures of the Navy in any shape or form. The great object of the bill is, by a reorganization of the whole naval establishment, to secure, as far as human means can secure, an economical and wise expenditure of the money that may hereafter be appropriated for it by Congress. I think I have now said as much as is needful, and will proceed to read the amendments which I propose to the Senate in the name of the committee.

The first section of the bill reads as follows:

"*Be it enacted, &c.*, That the commissioned officers of the Navy of the United States shall be of the number and the grades following, to wit: twenty commodores, sixty-eight captains, ninety-seven commanders, fifty lieutenant commandants, three hundred and twenty-five first lieutenants, two hundred and five second lieutenants, sixty-nine surgeons, thirty-four passed assistant surgeons, forty-five assistant surgeons, sixty-four pursers, twenty assistant pursers, ten chief engineers, nineteen first assistant engineers, twenty-nine second assistant engineers, thirty-seven third assistant engineers, twenty-four chaplains, and the twelve professors of mathematics now in service: *Provided*, That no professors of mathematics shall hereafter be appointed in the Navy. And that the warrant officers shall be the nineteen masters now in service: *Provided*, That no masters shall be appointed or warranted in the service. Two hundred and two midshipmen, forty-one boatswains, forty-five gunners, forty-five carpenters, and thirty-eight sailmakers. When midshipmen shall have passed their examination, and been assigned to the naval service, they shall be commissioned as second lieutenants; and the number so assigned and commissioned shall not exceed sixty in any one year."

I propose to amend it as follows: Insert before the word "commissioned," the word "active." Strike out the words "shall be," and insert "may be, but shall not exceed." Strike out the words "sixty-eight," and insert "seventy." Strike out "ninety-seven," and insert "eighty." Strike out "commandants," and insert "commanders." In the sentence "three hundred and twenty-five first lieutenants," strike out "three," and insert "two," and strike out "twenty-five," and insert "seventy." In the sentence "two hundred and five second lieutenants," strike out "two," and insert "one," and strike out "and five." After "twenty assistant pursers," insert "one chief engineer." I have made no explanation of these amendments, because they are so unimportant that I thought it would not be necessary. On the next amendment, which is to strike out "ten chief," and insert "thirteen," in regard to the number of engineers, I will make a word of explanation. It proposes to insert "thirteen" instead of "ten," because there are now thirteen engineers in the Navy, and we do not propose to dismiss any.

The next amendments are to insert in the sentence "and that the warrant officers shall be nineteen masters now in service," after the word "masters" the words "not in the line of promotion;" in the sentence "two hundred and two midshipmen" strike out "two hundred and two" and insert "two hundred and fifty," and add after "midshipmen" the words "and also the acting midshipmen at the Naval Academy;" in the sentence "forty-one boatswains" strike out "forty-one" and insert "sixty;" in the sentence "when 'midshipmen shall have passed their examination, 'and been assigned to the naval service, they shall 'be commissioned as second lieutenants; and the 'number so assigned and commissioned shall not 'exceed sixty in any one year," insert before "examination" "final;" strike out "the" before "naval service," and insert "no greater;" and add after "number" the words "shall be;" after "commissioned" insert "than;" strike out "not exceed sixty in any one year," and insert "be sufficient to fill the complement of second lieutenants above prescribed."

The next amendment is in the second section, which is as follows:

"*And be it further enacted*, That before any change of the grades or number of officers shall take place, there shall be created a retired list and a permanent furlough list of the Navy, for the establishment of which the President of the United States may convene, at the city of Washington, a board of naval officers, to consist of two captains, two commanders, and two lieutenants of the Navy, each of whom shall have seen at least five years' sea service in his respective grade."

I will observe, in regard to this proviso, that, upon reflection, it was not deemed very prudent to entrust so great responsibility entirely with six men. I should like if my honorable friend from North Carolina were in his seat now, because, at an early period of my Senatorial career, he asked me on one occasion whether I should like to have trial by jury in the Navy? I told him I would, but I little expected the time would so soon come. Instead of allowing six men to determine upon the qualifications of officers, we thought it best to substitute a jury of their own peers, who should sit in judgment on their demerits, and that they should decide who were fit for promotion, and who were unfit for the performance of their duty. Sir, the great principles of this bill are, that while we endeavor to increase the efficiency of the Navy, we at the same time desire to do justice, perfect and entire justice, to the officers. Therefore we propose, as an amendment, to strike out all of that section after "Navy," and insert:

Provided, That before any officer or officers shall be retired or furloughed under the provisions of this act, it shall be the duty of the Secretary of the Navy to transmit a navy register to each captain and commander, and to each of the sixty lieutenants, oldest in commission, whose duty it shall be on receipt of the same, on his honor, without consultation with, and without the knowledge of, any other person, to designate with the letter R, on said register, all officers of his own, and of all inferior grades who he may think ought, on account of infirmity of health or any other disqualification not affecting their moral characters, to be retired; and in like manner to designate with the letter F, on said register, all such officers who, for the good of the service, and by reason of incapacity, or any other cause, should be furloughed; and thereupon transmit under seal, to the Navy Department, said registers. And it shall be the duty of the Secretary of the Navy to submit said registers, designated as aforesaid, to the board of officers hereinbefore provided for, who shall open and examine the same, and make record of the designations therein contained; and in selecting the officers to be retired or furloughed, said Board shall commence with those officers having the greatest number of said letters R. or F. affixed respectively to their names on said register.

Mr. CASS. I suggest to the Senator, whether it would not be better to read the amendments in conjunction with the original clauses of the bill, or we shall not recollect them. That would save some time and trouble.

Mr. STOCKTON. I will be glad to save the time of the Senate. I desire to make some progress with the bill, and will comply with the suggestion of the Senator.

The PRESIDENT. The first amendment proposed is to insert in the first section before "commissioned," the word "active," so that the section will read: "The numberof the active commissioned officers of the Navy of the United States, shall be of the number or grades following, to wit," &c.

Mr. HUNTER. Before acting upon this question, I should be glad to have some information from the Senator from New Jersey in regard to this matter. I shall have to depend on the Committee on Naval Affairs on this subject. There are some two or three points in relation to which I should like to be informed; and one is, whether this is to increase the number of officers.

Mr. STOCKTON. It does not increase them.

Mr. HUNTER. The next question is, how much does it increase their pay?

Mr. STOCKTON. It will be an increase to an amount equal to the difference between the pay of ten captains and that of ten commanders of the Navy. It may be about ten thousand dollars a year.

Mr. HUNTER. Then it does not increase the actual pay of any of the captains?

Mr. STOCKTON. No, sir; it increases no pay except that of the sailors. I believe there is no other increase.

Mr. HUNTER. It provides for a retired list?

Mr. STOCKTON. Yes, sir; for a retired list and for a furlough list.

Mr. HALE. I want to vote upon that amendment separately.

The PRESIDENT. The question will then be on the first amendment.

Mr. HALE. I want the ear of the honorable

Senator from New Jersey for a moment. I do not intend to oppose the bill at all, but if I understand the meaning of this amendment, it will increase the number of officers. I wish I could have the ear of the Senate also, for I understood the honorable Senator from New Jersey to say that the amendment would not increase the number of officers in the Navy. If I understand the meaning of this little word, this simple word which he says is only a verbal amendment, it may increase the number of officers one half, and probably will increase the number very considerably. I will tell you how it will be done. The bill, if it is amended as it is proposed, by inserting the word "active" before the word "commissioned," will keep up the full number of active captains, and active commanders, and first and second lieutenants.

Mr. STOCKTON. If the Senator will allow me to interrupt him, I will suggest that if he will be kind enough to make an amendment, I will be satisfied without an explanation. The object was to limit the number of officers.

Mr. HALE. It will be better to let the bill stand without putting in anything there at all. I am opposed to the amendment of the Senator.

Mr. CASS. I would suggest to the Senator from New Hampshire, that the list, as it now stands, would be entirely exclusive of whoever may be on the retired and furloughed lists.

Mr. HALE. Exactly. That is what I want to call attention to.

Mr. CASS. The section reads so.

Mr. HALE. If you get the word "active" put in, you will have your sixty-eight captains, ninety-seven commanders, and your infinite number of lieutenants and midshipmen, just as they now stand, and then you will have your retired and furloughed list, which may be made to include—and if the Senator from New Jersey was right the other day in what he said, and I will not disbelieve him, the retired list ought to take—nearly the whole list of your present officers. Then, according to the bill and amendment, the list of active officers will be just exactly as large as it is now after the retired and furloughed lists are filled up. I think the bill is better without the amendment.

Mr. STOCKTON. I did not understand the gentleman at first. But now I cannot give up the amendment. If he were not such a reasonable gentleman, I might use a hard word about his proposition. The object of the bill is to make the Navy of the United States more efficient. Now, if my conjecture be true, and you withdraw half of the present officers from active duty——

Mr. HALE. I did not give way.

The PRESIDENT. The Senator from New Hampshire is entitled to the floor.

Mr. HALE. I was saying that that will be the effect of the amendment, and I think the Senator from New Jersey understands it. I think the Senate understands it. I know the Senator from Michigan does. You have sixty-eight captains now, and thirty-eight of the sixty-eight are waiting orders. Of course they have nothing to do. I supposed they would be put upon the furloughed or retired list. Then we have at present thirty-eight captains who would be put on the furloughed and retired lists, and their places on active service would be supplied by thirty-eight new captains. We have ninety-five commanders; about half of them—I have only looked hastily into this, I think some forty-five or fifty of them—are waiting orders. They will probably be put on the retired and furloughed lists, and there will be forty-five or fifty more added to the active service. So that this little verbal amendment, which is of no sort of consequence at all, if it is adopted, will increase your Navy probably one half. When you get to the lieutenants, there are so many of them that one of the Secretaries of the Navy, within four years, recommended us to build more ships to find something for the lieutenants to do, we have so many; and just insert this little word "active"—it is a small word; I believe it is an adjective, and means but little; but insert it, and it increases largely the number of your officers. I tell you that in twelve months it will increase it fifty per cent. For that reason I am opposed to the amendment.

Mr. STOCKTON. The word is just exactly in the proper place, and was intended to mean just what the Senator supposes it means. When the Senator from New Hampshire first stated his objection, I did not suppose that he intended what I now perceive is his object. I did not suppose that any such suggestion would have emanated from his mind. The idea of the committee was to render the Navy more efficient. If two thirds of its officers are unfit for service, and are retired, and you only leave one third, or one half, you do not, surely, make the Navy more efficient. The object of the amendment is to dispose of, honorably, those gallant and honorable and high-minded and patriotic officers, who have passed their grand climacteric in the service, and who continue to be an honor to the country, and who are able and willing to serve it in civil capacities, but whom

> "The bullets and the gout
> Have so knock'd their hulls about,"

that they are no more fit for sea. We propose to retire those men, that they shall be out of the line of active service; and we propose to put other officers, who are young and efficient, in their stead. We propose to retain seventy captains—two more than we have at present; but instead of having sixty-eight superannuated captains, as they may all some day be, we desire to have seventy, all in the prime of life and the strength of manhood, and invigorated by the ardor of an honorable and patriotic ambition. We want men that can look in the cannon's mouth, and hear its thunder without suffering a nerve to shake; and that, Mr. President, is more than is to be expected from old men. On that subject I may speak from experience. [Laughter.] If my naval experience has taught me anything, it is, that I do not like to fight half as much now as I did twenty years ago, if I like it at all. If this amendment is not agreed to, I regard it as fatal to the bill. If the Senate reject the proposed amendment, then I am done with the bill, as in my judgment it will then be useless. We want seventy good captains.

Mr. CASS. The Senator is perfectly right in his view of the way the bill reads. Sixty-eight captains may be needed. I do not know as to that. I have no right to give any opinion on that point. I shall follow the lead of the Senator from New Jersey in that respect. I am willing to vote the most liberal bill necessary, but I want to understand the matter. I observe that independently of the sixty-eight captains provided for, there are twenty commodores. This is the first time that grade has been recognized by law. It is well known that in the commencement of the Navy the office of commodore merely depended upon Executive regulation. I have no objection to its creation. I think it is right. But as I understand the bill, it provides for sixty-eight captains and twenty commodores.

Mr. STOCKTON. No, sir; there are seventy captains, and the commodores are to be taken from the number of captains, which will leave only fifty captains.

Mr. CASS. The phraseology of the bill is "sixty-eight captains" and "twenty commodores." I repeat, I do not know but it is necessary, and I would be perfectly willing to vote for anything that is necessary; and on that subject I must depend upon the opinion of the Senator from New Jersey. But the bill certainly provides for sixty-eight captains and twenty commodores, as I read it.

Mr. STOCKTON. We want fifty captains and twenty commodores.

Mr. CASS. But that is not the provision of the bill. It contains a positive provision for twenty commodores and sixty-eight captains.

Mr. HUNTER. One of the amendments of the Senator from New Jersey is to strike out "sixty-eight" and insert "fifty."

Mr. CASS. I beg pardon; I did not notice that.

Mr. STOCKTON. The bill proposes sixty-eight captains and ninety-seven commanders. One of the amendments which I propose is, to strike out sixty-eight and insert fifty, as the number of captains; and there is another amendment not to increase the other grade of officers, but merely to make the proportion between the commanders and captains more equal, so that it will make seventy captains, and the commodores will come out of those seventy.

Mr. HUNTER. I would suggest to the Senator from New Jersey, that it would perhaps be better to proceed a little more gradually than he seems to be disposed to do with this bill. I approve of its leading object; it will be very well to make a retired list, and to classify the officers as he proposes, but it does seem to me that if we adopt the amendment, we shall increase the number of officers of the Navy largely, for we shall have the present establishment of active officers, besides those on the furloughed and retired list. I think that is proceeding rather too rapidly. Would it not be better to begin upon this basis: to take the existing corps of officers, classify and distribute them as he proposes, and if we find it is not enough, we can add to it hereafter. It is much easier to add to the number than to diminish it. I think it would be safer to proceed upon the basis of the present number, and hereafter, if we find that there are not enough for active service, we can add to them.

Mr. STOCKTON. The reason I am so desirous to hasten this bill through the Senate arises in the first place from the conviction that it is just and right, and accords with my naval experience and my deliberate judgment. The other reason is, that I intend, in my place here, at a proper time, if nobody else sees fit to do so, to make a motion to increase the Navy of the United States. The truth need not be disguised, that the Navy of the United States, to be efficient, ought to be increased. One half of our surplus revenue is not, in my opinion, too much to go for the protection of California. Let not Senators be startled at this annunciation. It is true, and candor compels me to say so. What is our young sister to depend upon now, and for years to come, for the protection of her growing cities and her valuable commerce, but your Navy? Not a cannon to fire a salute! Should this long continue to be so? Gentlemen here cavil, and find fault with the bill, and complain that it may take a few dollars out of the public Treasury. Sir, ought the defenses of California, to say nothing about your other extended coasts, be left in this condition? How can Senators reflect on these things, and say that we must not increase the Navy, when day after day pronunciamientos are issued from this arsenal of warlike words, signifying not war, certainly, but still warlike words, calculated to fret and irritate foreign nations, and to excite the military ardor of our own people.

Sir, whilst these things are going on, let me remind Senators that if not their only, their principal security from war has laid, and now lies behind the cotton bags and rice tierces of the South. It is time we should have something else to rely upon than the avarice of other nations. It is time that this system, this political game of hazard, should be stopped; if we are worthy to enjoy the benefits of a free Government, we ought to be manly enough to hold them by a different tenure. Sir, I will undertake to say that this nation has been more than once saved from disgrace, if not from irreparable loss, by your cotton bags; but remember that there is a point at which national indignation will not stoop to be counseled by national avarice; and unless we do attend to the defenses of the country, the day will come—and perhaps is even now not distant—when you will find the nations of the earth in arms against you, your vessels will be swept from the ocean, your coast, your valuable commerce abandoned, and the empire of the seas given up, and all your glory in "the deep bosom of the ocean buried."

Sir, when I think of the defenseless, forlorn condition of California, and when I see the cold shoulder of this Senate turned to her able and gallant and persevering representatives on this floor upon every occasion when they ask for appropriations for the defense of that valuable and beautiful country; sir, when I have heard menacing speeches here, my heart has sickened for California. Can you not appreciate her importance, her value, her beauty? See her azure skies, full of health and happiness; look at her gorgeous mountains, full of gold; look at her beautiful hills, with the luxuriant oats growing spontaneously from their base to their summit; look at her flower-covered valleys, teeming with unsurpassed fertility; look at her noble, enterprising, and gallant people, and ask whether they cannot claim some protection from this Government. And yet they are in a most dangerous and pitiable condition.

Mr. President, if you should provoke a general war, what would be the consequence to California and to this nation? Sir, as I approach this threshold I am myself alarmed—my own reflections alarm me; they make me hesitate before I

proclaim in the public Senate, your unfortunate, your helpless condition. I need not appeal to the imagination of Senators. Oh no! Look at California, with her immense commercial wealth, her agricultural products and her bullion, the only protection for which must be your Navy. She has no other protection. I had hoped, sir, that it would not be necessary to call the attention of the Senate to this subject; but when gentlemen tell us that they are opposed to any increase of the officers of the Navy, it seems to be necessary to tell the whole truth, and a part of the truth is, that the committee intend, as far as it may depend upon them, to increase the Navy. And the Army ought to be increased too; and when both arms of the national defense are placed upon such a basis as to insure protection and to enable us to carry out our paper proclamations, I shall be as ready to come to the issue as any member of the Senate. But, sir, at present I implore the Senate to begin the preparation by passing this bill; it adds nothing, or but little, to your expenses, but it provides an honorable retirement for men who have served all their lives and are no longer efficient, and it affords the best means for raising your active men to a position in which they can render efficient service to the country. Now, I appeal to Senators whether there is anything objectionable in the amendment before us. I hope it will be passed upon without delay.

Mr. MALLORY. As this is an exceedingly tempting subject to address the Senate upon, I wish to give notice that it is not my purpose to do anything more than to offer explanations. It is very well for the honorable chairman of the Committee on Finance to make this objection; and in reply to his objection that the line of the Navy will be increased by the passage of this bill and the creation of a retired list, I would say that I think it is unfounded. According to my basis, there will be eighty officers on the retired list. It is not necessary for me to name the grades. I have gone over the calculation, and I find that, instead of an increase of the Navy, the practical result will be a decrease of seventeen in the number of the commissioned officers. It is not necessary to state the grades in which this decrease will occur. The honorable Senator asked why we do not make up the retired furlough and active list from the present officers of the Navy? That is precisely what this bill does; but there are seventeen of the present officers not provided for in it. There is a decrease to that extent.

Mr. HALE. I ask the yeas and nays upon this question, because I look upon this as the test question of whether the Senate are willing to increase the naval force of the country in the manner proposed. I want to call the attention of the Senate and of the country to one fact—for I think this is a very important point. More than half the officers of the two highest grades on the Navy Register are "waiting orders," and have been in that condition for years. Of that portion of the captains—I believe they are about thirty—in active duty, a great many are on what is called bureau duty here in the city of Washington, and a great portion of the remainder are commanding navy-yards. This bill proposes—and the honorable Senator from New Jersey has disclosed his purpose with that frankness which belongs to him—to increase the Navy, and he says he will propose still further to increase it.

The Senator from New Jersey [Mr. STOCKTON] and the Senator from Florida [Mr. MALLORY] have accused me more than once of being hostile to the Navy; but, sir, when I begin to say anything that is a hundredth part so severe upon the Navy as what both these gentlemen said the other day, I shall then be content to be put down as an enemy to the Navy. I tell the Navy, if they want friends to defend them, they had better not put forward as their friends here those who go for their measures on the ground that they are utterly worthless—for that is the ground on which this bill is put. I am a friend to the Navy, but I am a friend to the country also, and when I think of these expenditures, I think of those who pay the taxes.

When the Senator from New Jersey delivered that eulogium on California, to which I listened with so much pleasure, it seemed to me that he was not laying down premises which led logically to his conclusions. He described the golden hills, the fruitful valleys, and the verdant fields of California very well. And what is the conclusion? California has got mines of gold, rich valleys, and verdant fields; therefore you must enlarge the Navy, and have a great retired list. I do not see that the conclusion follows the premises. I recollect once of hearing of a young lawyer defending a client of his who happened to have been a soldier at Bunker Hill. The young man went on to give a very glowing description of the battle of Bunker Hill. The justice listened to it very patiently, and with a good deal of satisfaction, but he said, "Young man, I do not know that I exactly understand what you are after." "Well," said the lawyer, "I want a continuance of this cause." "Why did you not say so at once?" inquired the justice. Now, sir, I think the conclusion and the premises were no further apart there than they are here.

If we have got thirty-eight captains waiting orders, what is the use of putting them into retiracy, and filling up their places with thirty-eight more, when, if we wanted the service of those other men, we could have it? The honorable Senator does not mean to say that these thirty-eight captains are inefficient; but that they are old, and therefore unable to do anything; for the fact is—and if you look at the register you will see it—that some of the very oldest of them are in active duty. It is not the old and superannuated men who are waiting orders. I believe Commodore Morris is the oldest officer in the Navy, with the exception of Commodore Stewart, and he is one of those in active service, and always has been. If you look at it, you will find that it is not the old men that are lying by, or if they are, it is because there is nothing for them to do. That is the reason they are put on bureau duty, and located at navy-yards. The fact is, the young men of the Navy are pressing and urging and calling for employment, and there is no employment for them, because the ranks of the officers of the Navy are all so full that there is not enough for them to do. The bill, so far as that is concerned, affords not the least relief; because when those who are incompetent for the performance of duty, through age, infirmity, or inefficiency of any sort, shall have been moved out, their places will be filled up, and in that way you increase fifty per cent. the number of officers.

By what second sight, by what mesmeric communication, by what revelation, the honorable Senator from Florida is enabled to tell just exactly how many men will be put on the retired and on the furloughed list, and exactly what number—for he comes down to the units, he says seventeen is to be left out of the new organization—I confess myself utterly at a loss to imagine. I would not have believed that anything short of omniscience could have revealed that. The Senator could not have known it, or if he does know it, there has been an agency at work in this bill, with a view to particular results, which makes me look upon it with a suspicion with which I should not have regarded it except for the suggestion of the honorable Senator from Florida. I may not know anything about this subject, but I do know that ever since I have been a member of Congress, in either House, the Navy Registers have shown that something like half, and I believe more than half, of these high officers have had nothing in the world to do.

The Secretary of the Navy has recommended to us to build more ships, not on the ground that they were necessary to defend California, not on the ground that the defense of the country, or that the interests of commerce required them, but to give these young officers something to do. Now, suppose you go on and build more ships and give the officers something to do, and they do not happen to fit exactly right, the Secretary will then come and want some more young officers to take care of the ships; and if they do not happen to tally exactly again, more ships must be built to use up the surplus officers, and so on.

I think the suggestion of the honorable Senator from Virginia is a highly practical one, and that is to begin with our present quota; for, as he has well suggested, it is a great deal easier to add to, than it is to subtract from, the number of officers. Although the Senator from Florida has said that this bill diminishes the number of naval officers, yet, if you put in this little word "active"—and I do not believe the word "active" ever had so much activity given to it before—if you insert it as an amendment in this clause, why, your naval force will be increased fifty per cent.; and that, too, just as quickly as a magician changes the face of things before your eyes when you have been admitted to his show. The children's children of the men who sit here never will see it reduced. This matter is one where you may add, but you never can diminish. It appears to me that it would be the part of prudence to begin this retired-list system, which is a novel one in this country, upon the present basis of officers which we have got. Let us see how it operates with regard to them. Let us see how many of those old fogies in the Navy—I do not mean anything personal—ought to be set aside, and how many of their places should be supplied by young Americans.

Mr. CASS. You do not mean anything personal? [Laughter.]

Mr. HALE. I think that would be going far enough now; and if it turns out that we shall get rid of so many of them that an increase of the number of officers will be actually required, it will be time enough to increase them. The honorable Senator from New Jersey is progressive—highly so; but I think he is a little too progressive for this progressive age. There is such a thing as making progress too fast. He need not be worried about the want of ways and means to dispose of the surplus revenue. That has never yet been a great bother to this Government; and I think that, as we are going on, we shall find ways enough to dispose of the surplus revenue, if that is what the Senator wants, without increasing the *personnel* or the force of the Navy.

Let me here disavow, now and forever, any hostility to the Navy, except to say that I think it is, in a great measure, entirely useless. As I am up, and as I do not know that I shall ever speak on the subject again, let me tell you what your true policy is: Disband the whole of your Navy; turn out every officer that is in commission; sell out every navy-yard and dock-yard that you have got, and when you want a ship built, contract for her—have her built as a merchant has his ships built, and then you will get vastly better ships. You will not then have steamers, which, when you want them to go to Japan, cannot make their way to Norfolk before their boilers get out of order. You will not have anything of that sort when you build your ships by contract, as merchants do. When you want men to command your ships, and men to work them, do as the sagacious merchants of the country do—go into the market where are to be had men whose business it is to navigate ships, and then you can get as intelligent, as active, and as energetic men to command your ships-of-war as the merchants of the United States now have to command their merchant ships, which you have not got to-day. The present system is totally wrong; but I do not expect to remedy it. It is too late to do so. It is one of the abuses which have come down to us from other days, and other times, and other nations. It is a part of the system which we have inherited from our British ancestors. But it is all wrong. Still I do not propose to amend it, because I see that it is utterly useless to hope for any amendment at this time. I am willing to take the thing as it is, and as it is, to do the best with it. I am willing, as we have got these officers, that we shall do by them everything that is just, honorable, generous, and fair. I do not want to increase their number when we have not got work for half those we have. I do not want to increase the number still more, so that we shall be further encumbered with paying men for whom we have nothing to do.

If the Senate understand what the effect of this amendment will be, and I believe they do, if gentlemen are ready to go home and tell their constituents that the aspect of the world is so threatening, that the terrors and horrors of war are so impending, so imminent, that it is necessary now to increase our naval force in the manner in which this bill proposes to increase it, I am as contented as anybody. My people can as well and as willingly bear the increased burdens of this taxation, as those of any part of the country. They have been habituated to it as long as others; but believing that it is uncalled for and improvident, I shall vote against it. I shall content myself with asking the yeas and nays upon this amendment, and if the Senate, by the vote which is to be taken upon it, indicate that it is their purpose to increase the Navy, I pledge my word to the honor-

able Senator from New Jersey, who has the bill so much at heart, that my lips will be sealed upon the subject, and I shall give but a silent vote upon all the other propositions involved in the bill.

The yeas and nays were ordered.

Mr. HUNTER. I am friendly to the general objects of this bill, and I do not propose to make a speech upon it. I only wish to obtain that information which is necessary to enable me to vote understandingly upon it. I am afraid that my friend from Florida, who is usually, I know, very accurate in regard to naval matters, has made his calculation upon a basis which the facts will not sustain. He has asserted, that to adopt the amendment which is proposed, and to allow this number of active officers, will not increase the whole number of officers in the service. But that is based upon the supposition that in certain grades certain reductions will be made, which I think he will find the Senate hardly willing to agree to. This bill rather increases the number of captains, because there are at present sixty-eight captains, of whom some are commodores. This bill proposes to make seventy commodores and captains altogether; and while it increases that class of aged men in the service, it diminishes perhaps the most efficient portion of our naval force, and that is the second lieutenants, or those now called passed midshipmen. I think it is an excellent change to give those officers the grade of "second lieutenants" instead of "passed midshipmen;" but I am inclined to think that this bill diminishes the *personnel* of the Navy precisely where that *personnel* is most needed. I am inclined to think that this diminution cannot be properly made while we are increasing the number in the higher grades of captain and commodore. If this provision be retained, the result will be, as I said I feared, and as the Senator from New Hampshire suggested, that we shall increase the number of officers. I do not wish to do that now. It may be necessary hereafter, but I think it will suffice to begin more gradually, and proceed more slowly. I believe that if we were to begin with this system of classification upon the basis of the existing number of officers in the Navy, it would be effecting a great deal; but I think we shall proceed more safely, if we take the number of active officers now in commission, and take from them those who are to be retired. It seems to me that neither the Senator from Florida, nor any one else, can tell how many are to be retired until the board meets. There is no limitation as to that in the bill. I only throw out this as a suggestion, that those Senators who are better informed on the subject than I am may look into it. As I said before, I am friendly to the general objects of the bill.

Mr. MALLORY. I only aim at what is practicable, and I have not hazarded an opinion as to the number of officers without due meditation. Let me, in the first place, reply to the Senator from New Hampshire, who perhaps has created an impression that he should not create upon the Senate in relation to those officers who are "waiting orders." There will always appear upon the Navy Register a large number of officers who are waiting orders. The country does not presuppose that a sea-going officer is to be at sea all the time. Such an expectation would preclude some of the dearest ties of life. When an officer returns from a cruise, he is necessarily waiting orders until he is again sent off, precisely as the Senator from New Hampshire is, when Congress is not in session, or as the judges of the Supreme Court are when they are not holding their circuits.

As to any remark I may have made about the opposition of the honorable Senator from New Hampshire to the Navy, I have only to say, that if he has not, since I have had the honor of having a seat here, evinced an hostility to the Navy, he has had the most logical, the most seductive and insinuating way of impressing that conviction upon the minds of others. But I take it back; and although he is opposed, as he admits, to the existence of the Navy, and would withdraw our ships from the ocean, and disband our officers, I am perfectly willing to review my opinion, and say from this time forward that he is in favor of the Navy. I know that he aims at practical legislation, and therefore I shall now endeavor to satisfy him upon what principle I have stated that this bill will not increase the number of officers, and is not designed to increase them. My calculation is based upon the relative services of the officers and their ages; and I take as the basis that there will be eighty on the retired list. It is a mere calculation, but it is one based upon the best information we can have. I assume that twenty captains, twenty commanders, and forty lieutenants will be upon the retired list; and if these officers are retired, I say you would not have the same number of officers you now have in the Navy, but that there would still remain, according to this bill, a decrease of seventeen. Instead of increasing the number of officers in the Navy, this bill decreases them by seventeen. Instead of three hundred and twenty-five first lieutenants, it proposes, as amended, to have two hundred and seventy first lieutenants, and instead of two hundred and five passed midshipmen or second lieutenants, it proposes one hundred second lieutenants. There is a decrease in those two grades of one hundred and sixty. That shows why it is that I say this bill decreases the number of officers. When I speak of the bill, I mean of the bill as it will stand when the amendments of the committee, submitted by the Senator from New Jersey, shall have been adopted.

The bill provides in effect that the officers forming the retired, the furloughed, and the active list of the Navy shall be made out of the present officers of the Navy; but it will still leave seventeen of them who will not be included in the new establishment. Therefore I think the objection that this bill will increase the number of officers does not pertain. We must have some calculations in order to form an estimate. In order to estimate the number on the retired and furloughed list, I take into consideration the relative ages and service of the officers, and the amount of their sea-going service. On that basis we can form an approximation. I have fixed the number at eighty. I think, therefore, the objection of my friend from Virginia does not pertain. The number of officers will not be increased by this bill; and if the Senate will agree to have a retired list at all, I think there can be no objection to this bill.

The question being taken on the first amendment of the committee, to insert the word "active" before the word "commissioned," resulted—yeas 30, nays 14; as follows:

YEAS—Messrs. Atchison, Bayard, Bell, Bright, Brodhead, Butler, Cass, Charlton, Clarke, Davis, Dawson, De Saussure, Foot, Geyer, Gwin, Houston, Jones of Tennessee, Mallory, Mangum, Miller, Morton, Rusk, Sebastian, Seward, Shields, Smith, Spruance, Stockton, Toucey, and Walker—30.

NAYS—Messrs. Bradbury, Chase, Cooper, Dodge of Iowa, Felch, Fitzpatrick, Hale, Hamlin, Hunter, Jones of Iowa, Pettit, Sumner, Underwood, and Wade—14.

So it was agreed to.

Mr. GWIN. There is evidently a determination on the part of the Senate to take the amendments of the committee, and I hope the question will be put upon the whole of them together. It will save a great deal of time. Let the vote be taken on the whole of them, unless some Senator wants to reserve some particular one.

The suggestion was acceded to, and the amendments were adopted together. For an intelligent understanding of them we give them in detail:

The next amendment was to strike out the words "shall be of," and insert "may be, but shall not exceed;" so that the bill should read, "the active commissioned officers of the Navy of the United States may be, but shall not exceed the number and grades following," &c.

The amendment was agreed to.

The next amendment was to strike out sixty-eight" and insert "fifty," so as to reduce the number of captains to fifty.

The amendment was agreed to.

The next amendment, which was to increase the number of commanders from ninety-seven to one hundred, was agreed to.

The next amendment was to strike out the word "commandant" and insert "commanders," so as to provide fifty first lieutenant commanders; and it was agreed to.

The next amendment was to reduce the number of first lieutenants from three hundred and twenty-five to two hundred and seventy; and it was agreed to.

The next amendment was to reduce the number of second lieutenants from two hundred and five to one hundred; and it was agreed to.

The next amendment was to strike out the words "ten chief engineers," and insert "one chief engineer and thirteen engineers;" and it was agreed to.

The next amendment was to provide that no masters "not in the line of promotion" should be appointed, or warranted, in the service; and it was agreed to.

The next amendment was to increase the number of midshipmen from two hundred and two to two hundred and fifty, and to add "and also the acting midshipmen of the Naval Academy."

The amendment was agreed to.

The next amendment was to increase the number of boatswains from forty-one to sixty; and it was agreed to.

The next amendment was to strike out the following clause:

"When midshipmen shall have passed their examination and been assigned to the naval service, they shall be commissioned as second lieutenants; and the number so assigned and commissioned shall not exceed sixty in any one year;"

And to insert in lieu of it:

"When midshipmen shall have passed their final examination and been assigned to the naval service, they shall be commissioned as second lieutenants; and no greater number shall be so assigned and commissioned than shall be sufficient to fill the complement of second lieutenants above prescribed."

The amendment was agreed to.

The next amendment was to strike out, in the second section, which requires each of the officers composing the board to determine on applications for entering into the retired list, the provision requiring each of its members to have seen at least five years sea service in his grade, and to insert in lieu of it:

"*Provided*, That before any officer or officers shall be retired or furloughed under the provisions of this act, it shall be the duty of the Secretary of the Navy to transmit a Naval Register to each captain and commander, and to each of the sixty lieutenants oldest in commission, whose duty it shall be, on receipt of the same, on his honor, without consultation with, and without the knowledge of, any other person, to designate with the letter R, on said register, all officers of his own, and of all inferior grades whom he may think ought, on account of infirmity of health, or any other disqualification not affecting their moral characters, to be retired; and in like manner to designate with the letter F, on said register, all such officers who, for the good of the service, and by reason of incapacity, or any other cause, should be furloughed; and thereupon transmit, under seal, to the Navy Department, said registers. And it shall be the duty of the Secretary of the Navy to submit said registers, designated as aforesaid, to the board of officers hereinbefore provided for, who shall open and examine the same, and make record of the designations therein contained; and in selecting the officers to be retired or furloughed, said Board shall commence with those officers having the greatest number of said letters R or F affixed respectively to their names on said register."

The amendment was agreed to.

The next amendment was to extend the list from which the officers to be retired and furloughed should be selected, to warrant officers, midshipmen excepted, and not restrict it to commissioned officers.

The amendment was agreed to.

The next amendment was to strike out the words in the fourth section, "and qualification for sea service," so that it may authorize the President to fill the vacancies in the Board by preserving the relative proportion of grades, without reference to sea service.

The amendment was agreed to.

The next amendment was to amend the fifth section, so as to provide that at the expiration of five years from convening the Board, the President shall assemble another Board, and in like manner at the expiration of every five years thereafter.

The amendment was agreed to.

The next amendment was to insert, in the sixth section, after the word "commission," the words "or warrant," so as to allow promotions to be by seniority of commission or warrant.

The amendment was agreed to.

The next amendment was in section seven, to strike out the words "but that the duties of master shall continue to be performed by officers of this grade," [passed midshipmen,] and insert "and the duties of master and watch officer shall be performed by officers of this grade, together with such other duties as may be assigned to them by the proper authority."

The amendment was agreed to.

The next amendment was in the eighth section, to strike out the words:

"It shall be the duty of every commodore to transmit annually to the Navy Department, under such regulations as may be prescribed by the Secretary thereof, a list of such captains as he may, on his honor, deem to possess most professional character, ability, and experience; and i

shall be the duty of every captain, commander, lieutenant commandant, and first lieutenant, in like manner to transmit a list of the officers composing the grades immediately below them respectively; and such lists shall contain, as nearly as practicable, one fifth of the names of all the officers of the several grades reported upon. The Secretary of the Navy shall scrutinize and compare such lists, ascertain the one fifth of the officers of each grade who have received the highest number of designations, and annex to their names and lineal rank, in each annual Naval Register, the numbers so received"—

And insert in lieu of it the following:

"It shall be the duty of each commissioned officer of the line of the Navy to transmit, sealed, to the Secretary of the Navy, once in every three years, from the first day of January next after the passage of this act, a Navy Register, in which he shall designate such officers composing the grade next below him in rank whose services he may deem least essential to the public interests; and the Secretary of the Navy shall scrutinize and compare such lists, and make a record therefrom for the use of the Navy Department; and such registers shall be regarded as confidential communications, and may be referred to for information by the retiring Boards designated by this act."

The next amendment was to insert the words "naval bureaus," so as to fix the pay of the senior commodore "at navy-yards, naval bureaus, or on other duty," at $4,500.

The amendment was agreed to.

The next amendment was to insert "at naval bureaus" before the words "or other duty," in relation to the compensation of commodores; and it was agreed to.

The next amendment was to strike out the provision giving captains $3,500 while on sea service and $3,000 while on other duty, and insert in lieu of it a provision giving them $3,500 while on sea service, at naval bureaus, or on other duty; and it was agreed to.

The next amendment was to provide that officers on the retired list should retain their uniforms, and officers on the furloughed list should not be entitled to wear the naval uniform; and it was agreed to.

The next amendment was in the twelfth section, in the provision giving the President of the United States discretion to place upon the retired list any officer, to strike out the words "who may apply for the same," and insert "who may, in his opinion, be incapable to perform active duty."

The amendment was agreed to.

The next amendment was to strike out the whole of the thirteenth section, which provided that no commissioned officer of the Navy, other than pursers or assistant pursers, should be required to discharge the duty of purser or assistant purser, and that no officer (midshipmen, and second lieutenants, and officers acting as judges-advocate excepted) should be entitled to receive any pay, compensation, or emolument, beyond what his rank on the Naval Register might entitle him to receive, for the performance of any duty in the Navy, and insert in lieu of it the following:

"No officer of the line of the Navy shall be required to discharge the duties of purser or assistant purser; but the Secretary of the Navy, and the commanders of single ships and squadrons, may confer acting appointments in the line of the Navy, as the exigency of the service may require; and line officers, while performing the duties of a higher grade under such appointments, shall have the rank of such higher grade; and if such appointments shall be approved by the Secretary of the Navy, they shall also have the pay of such higher grade in lieu of the pay of their grades proper."

The amendment was agreed to.

The next amendment was to include surgeons and professors of mathematics as staff officers of the Navy.

The amendment was agreed to.

The next amendment was to strike out the whole of the seventeenth section, which related to the relative rank of officers of the Navy, and insert in lieu of it the following:

"That if, after all the officers shall be retired or furloughed, according to the provisions of this act, and all the promotions shall be made which are herein authorized, there shall remain a greater number of midshipmen, passed or otherwise, than are authorized by the first section of this act, the President of the United States is hereby authorized to discharge the excess over that number, and each midshipman so discharged shall be entitled to receive three years' extra pay."

The amendment was agreed to.

The next amendment was to add to the twentieth section the following:

"And in addition to the appointments to the Naval Academy, as now determined by law, the President may make annually ten appointments at large."

The amendment was agreed to.

The next amendment was to strike out the provision giving masters' mates thirty dollars per month, so as to leave them on the same footing as other mates, at twenty-five dollars per month.

The amendment was agreed to.

The next amendment was to strike out the provision for a bureau to be called "The Bureau of Courts-Martial;" and it was agreed to.

The next amendment was to strike out the restriction confining the President, in the selection of the chiefs of the bureaus, except those of Provisions and Clothing, and of Medicine and Surgery, to officers above the rank of midshipmen; and it was agreed to.

Mr. HALE. I want to ask the Senator from New Jersey one question. In some discussions which took place here the other day, it was said there was to be in the bill a distinction made in favor of the officers who had to go on the retired list, and those who go on the furloughed list for disability received in honorable service. It was said they would have an advantage over those who were disabled in some other way. I wish to ask if that is in the bill as reported?

Mr. STOCKTON. Yes, sir. There is the furloughed list which retires an officer on half pay, and the retired list which allows him full pay.

Mr. HUNTER. There is one point in the bill about which I should like to have some information. There is now, as I understand, three hundred and five lieutenants, and two hundred and five passed midshipmen; and these together discharge the duties of lieutenants in the Navy. One amendment which has been adopted proposes, as I understand, to reduce the number of first lieutenants to two hundred and seventy-five, and the number of passed midshipmen from two hundred and five to one hundred. This makes a very great reduction in what appears to be the most efficient arm of the service. The bill reduces the number of men now capable of performing the service of lieutenants, and at the same time increases the number of captains and commodores. That is a feature of the bill that I do not understand.

Mr. STOCKTON. The last objection that I should have expected to hear from the Senator is, that the bill reduces the number of officers. I thought he objected before that the bill increased them.

Mr. HUNTER. I object to the grades in which the reductions are made.

Mr. STOCKTON. The reason for the feature of the bill to which the Senator refers is this: The class of midshipmen is increased every year from the graduates at the Naval Academy. The class of other officers is not so increased, and the former class is now so well filled up that there is no room for more, unless the number is increased.

Mr. HUNTER. The bill as it now stands, increases the number of midshipmen from two hundred and two to two hundred and fifty, and adds to their number the acting midshipmen of the Naval Academy.

Mr. STOCKTON. But we have taken away from the number of passed midshipmen. The aggregate number of passed midshipmen and midshipmen at present in the service amounts to three hundred and fifty, I believe. The aggregate number of second lieutenants and midshipmen which we propose by this bill makes up the same number.

Mr. HUNTER. Then the dismissals fall mainly on the corps of midshipmen, who are among the most efficient and best officers in the Navy.

Mr. STOCKTON. No, sir; that will depend entirely upon the Board.

The bill was then reported to the Senate as amended, and the amendments were concurred in.

Mr. HAMLIN. It will be seen that the thirteenth section as it stands precludes any other officer but the purser or assistant purser performing the duties of those grades. I think that ought to be amended. I therefore move to amend, by adding after the word "purser,"

"Unless the office of purser or assistant purser shall become vacant by death or otherwise, on ships at sea, or on foreign stations; and then in that case the duties of purser shall be performed by the first lieutenant until another purser or assistant purser shall report for duty."

The amendment was agreed to.

Mr. CHASE. I know that some Senators who are absent desire to have an opportunity of looking into this bill when it shall have been perfected according to the wish of the committee. I desire to have it printed as amended, and then to postpone its further consideration until to-morrow, and I make that motion.

Mr. STOCKTON. I hope the Senator from Ohio, considering the late period of the session, the importance of this bill, and that it adds but little to the Navy, will consent to allow it to be put upon its passage now. I want to make this day memorable in the annals of the Senate for a right-down, working, useful, and practical day.

Mr. CHASE. The Senate has manifested a very general disposition to follow the lead of the Committee on Naval Affairs, which is so worthily represented on this occasion by the Senator from New Jersey, and acquiesced in all the amendments proposed by him. I think, however, it is due to ourselves that this bill should be printed, in order that we may look at it in the shape which it has assumed as it now stands amended. It is now perfected, and is in its final form, and it seems to me that it is proper that we should have it printed as it is amended; and then we can look into it, and decide upon it understandingly.

Mr. BADGER. Would not the purpose of the Senator from Ohio be answered by allowing the bill to be ordered to be engrossed for a third reading, and then it can be printed, and Senators can have it before them when it comes up to-morrow on its passage?

Mr. STOCKTON. I hope the Senator will yield to that suggestion.

Mr. CHASE. Certainly.

Mr. HAMLIN. I desire to call the attention of the Senator from New Jersey to another feature of this bill, which I think requires amendment. The fifteenth section provides for the pay of the assistant pursers, and fixes it at $1,000 per annum, and it makes no distinction between the pay of the assistant pursers, when doing duty and when waiting orders. I think it would be well to amend the bill, by providing that they shall have $1,000 when waiting orders, and $1,200 when on duty.

Mr. MALLORY. I would say to the Senator from Maine, that the salary of the assistant pursers fixed at $1,000 is, I know, very low; but the assistant purser is a new grade from which the pursers are to be selected, and no purser, as a matter of course, will be promoted from this grade, until he shall have seen a certain quantity of sea service. The assistant pursers in small vessels will be kept in constant employment, and you will scarcely ever find one of them waiting orders. The salary proposed is, I know, very small; but the difficulty in regard to the amendment suggested is, that the Committee on Naval Affairs of the House and of the Senate, have agreed to the amendments as they have been adopted, and we have it in our power now to send the bill to the House as it stands, and say that not a dollar has been added to it. I am unwilling to see a single dollar added to the salary of any officer in the Navy, as provided in this bill as it now stands. I hope, that as this is a very small item, the Senator will yield.

Mr. HAMLIN. I withdraw the amendment.

The bill was then ordered to be engrossed for a third reading.

Mr. GWIN. I now move that the bill be ordered to be printed as amended.

The motion was agreed to.

Mr. HALE. I voted with the majority on the engrossment of the bill, and I move to reconsider the vote by which it was ordered to be engrossed. That motion can lie over till to-morrow.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The question is on the motion to reconsider.

Mr. HALE. If the question is to be taken now, I withdraw the motion, but I may renew it to-morrow.

Mr. STOCKTON. I desire to make a motion to reconsider the vote by which the bill was ordered to be engrossed for a third reading.

Mr. HAMLIN. I know very well that that is the practice of the House, but I shall regret to see that practice introduced here. I hope the Senator will withdraw the motion.

Mr. DAVIS. So do I. I hope the practice will not be introduced here.

Several SENATORS. Withdraw the motion.

Mr. STOCKTON. I bow under the rebuke of the Senator from Maine, and withdraw the motion.

S. MORRIS WALN.

The bill from the House of Representatives, for the relief of S. Morris Waln, was read the first and second time.

The PRESIDENT. It will be referred to the Committee on Finance, if there be no objection.

Mr. GWIN. The Committee on Finance have considered the bill informally, and there is no objection to it; so that I hope it will be put upon its passage.

The Senate proceeded to consider the bill, as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to pay to S. Morris Waln, surviving partner of the firm of S. Morris Waln & Co., the amount of duties paid on certain importations of wine in 1833, which were destroyed by fire in Philadelphia, while in the custody of the custom-house officers.

Mr. CASS. Is there any report in this case?

Mr. GWIN. There is a report from the House committee. The bill has been passed by the House, and it has been examined informally by the Committee on Finance, and there is no objection to it. The Committee on Finance have reported a general bill, covering the same principle.

Mr. DAVIS. I would inquire whether this bill is limited to goods imported in the original packages?

Mr. GWIN. Yes, sir; goods which were burned in the original packages, while in the custody of the Government officers.

Mr. PRATT. I think it much better that a bill of this importance should go to the appropriate committee of the Senate. It involves certain principles which we do not certainly understand by merely hearing the reading of the bill. Its object is to release, on the part of the Government, certain duties which have been incurred by the party in the importation of wines. I think it should go to the Committee on Finance.

The bill was referred to the Committee on Finance.

MARY PERRY.

On motion by Mr. CHARLTON, the Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of Mrs. Mary Perry. It proposes to direct the Secretary of the Treasury to pay to her, as the legal representative of Michael Watson, deceased, late captain in the Army of the Revolution, and who was slain in that war, $2,100, being seven years' half-pay of a captain.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the "bill for the protection of the emigrant route and a telegraphic line, and for an overland mail, between the Missouri river and the settlements in California and Oregon."

The pending question being on the amendment of Mr. BRODHEAD to the amendment reported from the Select Committee, to strike out all after the word "that," and insert:

"The Secretary of War be, and he is hereby authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make a reconnoissance and survey of the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, and that the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of such exploration and survey."

Mr. CHASE. The amendment of the Senator from Pennsylvania, as I understand it, is an amendment to an amendment, and it therefore cannot be amended except by his consent. I have, however, prepared some amendments which the honorable Senator from Pennsylvania has agreed to accept, and also an additional section to his amendment. With these modifications, his amendment will be to strike out all the amendment of the Select Committee after the word "that," and insert:

The Secretary of War be, and he is hereby authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and survey as he may deem advisable, to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expenses of such explorations and survey.

SEC. 2. *And be it further enacted*, That in making such explorations and survey, the engineers and other persons employed under the authority of this act, may be directed to act in concert with any engineers, or other persons employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals, or associations, for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and to lay the same before Congress at the next session.

Mr. BRODHEAD. The amendments of the Senator from Ohio to the section which I originally proposed are merely verbal; they do not change its tenor; but the additional section which he has proposed is quite an important one. Nevertheless, I agree to it; I cheerfully accept it, and modify my amendment as suggested by him.

The PRESIDENT. The question will then be on the amendment of the Senator from Pennsylvania to the amendment reported by the Select Committee, as the former amendment has been modified on the suggestion of the Senator from Ohio.

Mr. WELLER. Mr. President, I suppose the vote which is about to be taken will be a decisive one. It will be a test vote. If the Senate are now prepared to decide the question whether they will engage in the prosecution of this work, I think it would be well perhaps that we should have a full Senate. If the amendment of the Senator from Pennsylvania, as modified at the suggestion of the Senator from Ohio, should be agreed to, this work cannot be prosecuted at present, but will be postponed for an indefinite period. I hope for that reason that this amendment will be rejected.

I had intended to submit some remarks upon the general question, because that portion of the Confederacy from which I come, is deeply interested in the prosecution of this work; but I have been laboring under a hoarseness, produced by a soreness of the throat, during the whole session, which has precluded the possibility of my participating in the debate. This I have deeply regretted; but, perhaps, this may not now be necessary, as my colleague [Mr. GWIN] has fully presented all the facts necessary to establish the importance of the work, and the practicability of its construction. There were, however, some remarks made yesterday which I had hoped those Senators who were opposed to the construction of the road would find it necessary to go into more fully today.

My friend from Delaware [Mr. BAYARD] has discovered that there is an immense corporation covered up somewhere in the bill of the Senator from Texas. It is true that the Senator is not able to locate this tremendous corporation in any particular section of the bill, yet he is very sure that, with the aid of his Democratic glasses, he can fix it somewhere.

"Optics keen, it takes, I ween,
To see what is not to be seen."

If that Senator can show me that the effect of this bill is to incorporate a dangerous company, with the immense power which he claims can be exercised in controlling a work of this sort, I am against it. But what is this corporation? The President of the United States is authorized to make a contract with some private individual or individuals for the construction of this road. This is all. As well might it be claimed that in all contracts which are made between the Executive Department of the Government and individuals, corporations are constituted. If you were to pass a bill authorizing the President to make a contract for the construction of light-houses on the Pacific coast, you might, with as much propriety, claim that that was an act of incorporation dangerous to the public weal. Sir, the simple authority here conferred upon the President of the United States, is to make a contract for the construction of the road; and that, in the estimation of the Senator from Delaware, is more dangerous than the late Bank of the United States was! If there be any such act of incorporation in this bill, let the Senator point it out, and then I shall be against it. If my friend from Texas has been overreached, or if he is attempting to overreach me by forcing a bank of the United States upon this country, under the pretext of constructing a railroad, I desire that my able friend from Delaware shall give me the necessary information that I may convict that Senator, and then he shall be read out of the Democratic party.

The Senator from Indiana, [Mr. BRIGHT,] who also says here is an incorporation which is going to eat out the liberties of the country, contended that this work was not within the constitutional powers of the Government. I desire to know whether there is no power in Congress to construct a military road? Is there no power in Congress to establish a post route? Is there not an obligation resting upon this Government to protect the people who stand upon its frontier? Sir, the man who stands upon the remotest portion of the Republic is as much entitled to the protection of this Government as he who stands in its center. If you desire the confidence and support of the people, you must take care to protect them.

The simple proposition that a contract shall be made for the construction of a railroad connecting the waters of the Mississippi with the Pacific ocean, is, in the estimation of my friend from Delaware, a dangerous act of incorporation. I submit to him whether this is not an effort to defeat the bill upon a sort of "mad-dog" cry. No general denunciation will answer. My friend from Delaware is an able lawyer. I know him to be a distinguished special pleader. If, by the aid of his legal knowledge, and his ability, he can show me an act of incorporation in this bill which is dangerous to the public weal, he may count upon my opposition to it. If there be any bank seed concealed in this bill, show it to me, and I am against its charter. Monopolies, especially banking institutions, have never been favorites with me.

The Senator from Indiana said that there was no power in this Government to make this appropriation of money, and that the Democratic creed was, that this Government never could appropriate the public money to carry on works of improvement within the States. Does that Senator represent the Democracy of Indiana? I had supposed that there was no Democracy in this Union more clamorous of late years for appropriations for the National road, and other works of internal improvement, than the Democracy of his own State. Does he undertake to tell me that there was no constitutional power in this Government to carry on the National road? Were all these appropriations in violation of the Federal Constitution?

I had supposed that it was long since settled that Congress had a constitutional power to appropriate the public money for works of internal improvement of a national character. There has, I grant, been a difference of opinion between political parties in this country, in regard to the constitutional power of Congress to make appropriations for works of internal improvement—the one desired the Government to engage in a ruinous system of local improvements within the States. The Cumberland or National road, which was designed to connect the East with what was then the far West, was first sanctioned by Mr. Jefferson. It was approved by all our Democratic Presidents down to Mr. Polk. Yet, sir, a new light has sprung up here in the State of Indiana, discovering that there is no constitutional power to do that which all those apostles of Democracy have sanctioned. I am inclined to think that they were right and the Senator wrong.

I do not propose to enter into the discussion of the constitutional power of Congress to carry on this work. I am only claiming that it is a great national work—important in a commercial, in a political, and in a military point of view; one which is indispensably necessary to secure the permanence of our Government. And if you desire to put down that feeling, which oftentimes springs up upon the frontier, of disaffection towards the central Government, you must take care to bind the people of your frontier more closely to you in interest and in feeling. Such a work as is proposed will do more to strengthen the Union, and bind the States more firmly together, than any other measure which can be devised. Let our interests be united; let us feel that the protecting hand of the Federal Government is extended over us, and the Union will be perpetual.

If my friend from Delaware is prepared to enter into this discussion, and show me that this bill creates a corporation dangerous to this country, I shall yield the point; but I ask him to point it out in good faith. I have a friend from South Carolina [Mr. BUTLER] who, I doubt not, can see a monstrous corporation in it; at all events, he will be able to discover something that violates the Constitution; but I beg of him to remember that

I belong to the strict-construction school of politicians. I hold the Federal Government strictly to the exercise of that power which has been given to it by the Constitution, leaving to the States and the people all power which has not thus been delegated. If he can show that the bill is unconstitutional, as a matter of course I shall vote against it. If he can show that it violates that construction which has been given to the Constitution by the Democratic party, I shall be against it; but until then—until he shall have satisfied me of these facts, the immense importance of this work will induce me to give it my support. I am wedded to no scheme—to no particular measure. It is a matter of no sort of importance to me what plan be adopted, if it be only a practicable one, and one which can be executed within the shortest possible time; in other words, I want the road. Now, I ask that my friend from Delaware shall make good his assertions of yesterday, and show the Senate that this bill creates a dangerous corporation.

Mr. BAYARD. I do not purpose to go into the argument any further than to read the sections which, as I consider, support the view which I have taken, and which has been commented upon by the Senator from California. I understand the issue between the honorable Senator from California and myself to be this: He says that this bill does not create a corporation, be it great or small, a corporate body, for the purpose of constructing this work, and not only for its construction but for the subsequent working of the road. Now, when I look at the first section of the bill of the Senator from Texas, I find that it provides—

"That it shall be the duty of the President of the United States to cause to be constructed by contract as hereinafter provided, so soon as it may be practicable after the passage of this act, a railroad and telegraphic line connecting the valley of the Mississippi with the Pacific ocean."

In the third section, particular appropriations are made "for the purpose of aiding in the construction of the said railroad and line of telegraph." The fifth section provides the mode of construction, and requires the President, so soon as the general route shall have been selected and determined upon, "to cause advertisements to be published in at least two of the newspapers in each of the States, specifying the various descriptions of work to be done, and inviting sealed proposals," and so on, "and said road shall be let to the lowest and best bidders." What road is to be let? The entire road of course, and not a part of it. The contract is to be for the whole road. Then I come to the thirteenth section, which is in these words:

"That for the purposes of this act the contractors, their associates and successors, are hereby created and constituted a body politic and corporate, by the name of 'The Pacific Railroad and Telegraph Company,' by which name they may sue and be sued, plead and be impleaded, and have and enjoy all proper remedies at law and in equity; may organize and elect such officers as they may deem necessary, and have and use a common seal; they may also open books and issue certificates of stock, and perform all other acts necessary to carry into effect the provisions herein contained: *Provided, however*, That the provisions of this act shall have no force nor effect whatever within the limits of any State without the consent of the Legislature of said State previously had and obtained."

That consent is necessary, also, to the location of the road within the States; but that consent having been obtained—and the contract cannot be made without it—the contractors are made a body politic and corporate, a great corporation, extending throughout the whole line of the road, and created for the express purpose of constructing the road. Then the ninth section refers to the terms of the contract, and we must construe the whole bill together. It refers in terms to the existence of a company for the purpose of working this road. It secures the rights of that company, but provides that at the lapse of thirty years, the Government may purchase the road from them, paying them their capital, with ten per cent. interest.

Now, if, after looking at all these sections, any one can say that this bill does not create a corporation, that it does not contemplate the construction of this road by means of a great corporation, which is only to a very limited extent to be within the control of the Congress of the United States, I confess that I cannot understand the meaning of language and the objects of the bill.

Mr. COOPER. As I have made up my mind to vote against this measure, I feel called upon to state the reasons upon which my determination is based. I am not opposed to the construction of a road to unite the two great oceans; on the contrary, I am in favor of some great thoroughfare of the kind, to be constructed at some proper points, between the East and the West. I believe that the construction of such a road is necessary in order to realize the full benefit of our possessions on the Pacific, and to secure the trade of the eastern world. In the great race which the commercial nations of the earth are running with each other for its trade, and for mercantile and maritime ascendency, I look upon the construction of such a road as necessary to the maintenance of the wealth, power, and increasing greatness of the United States. Without it the relative progress of the country in its march to the fulfillment of its future destiny, as indicated by its past history, would be checked.

I am not opposed, either, to the route that I presume would be taken under the bill. I have no preference except that such a route may be selected as will be the most practicable and best subserve the great purposes which we have in view; and I think, from what I have learned upon the subject, that the route, whenever it shall have been selected, will be some route in a latitude far south of this; for it is perfectly apparent to every one who has reflected upon the subject at all, that it would be impracticable to make a road to the Pacific by any northern route. It is known to us all that the passes in the Rocky Mountains, if they were otherwise practicable, are blocked up for six, or perhaps eight months in the year by snow, sometimes from fifty to sixty feet in depth. A route, therefore, by which these obstacles would be avoided will be necessary; and from the information which I possess, I presume that El Paso, or the neighborhood of El Paso, will afford the most practicable route. In that latitude no obstructions from continuous chains of mountains would be met. The character of the country there is peculiar. It is of volcanic character. There are elevations or hills, but they are not unbroken, continuous chains, but pyramidal in form, with valleys between them, through which a road might pass without grades of an impracticable, or even very difficult kind. I therefore look to a southern route to be adopted where this road is to be constructed.

But, sir, although I am in favor of a road, it does seem to me that, in an enterprise of such magnitude as this, we should not embark in it without having clearly ascertained that the object in contemplation is a practicable one. It is not enough that scientific, skillful engineers have expressed a belief that a railroad is practicable from the Mississippi to the Pacific ocean. Before we embark in such an enterprise, we ought to ascertain beyond a doubt, by practical observations and reconnoissances, that the route is practicable. Why, sir, when you embark in an enterprise of this kind, the amount of the cost of which would be but some few hundred thousand dollars, wisdom always dictates that a thorough reconnoissance should be made. That, sir, is done even in a country where every step of it has been explored, and is known to everybody; much more, then, is it necessary in a country which has rarely been passed over until lately. The work which this bill contemplates, is the greatest probably ever set on foot by human enterprise. The grandest and most surprising of the works of antiquity are no more in comparison than the Indian's path to the thoroughfares which science has constructed to meet the wants of modern commerce and civilization. What comparison, Mr. President, would the Appian and Flaminian ways, the pride and boast of Roman grandeur and power, bear with this vast enterprise? None. Less, at any rate, than the mill-roads of our ancestors bear to the great avenues of the present day constructed for the purposes of commerce.

This, then, is one of the reasons why I am opposed to it: that there has been no sufficient exploration made of the country; because we are not perfectly assured that a road is practicable at all. But, sir, even if we may suppose that it is practicable, what idea have we of the cost?

The honorable Senator from Texas told us yesterday, that the bill prescribed the cost, and that the $20,000,000, for which bonds are to be issued, and the expense of keeping engineers upon the road, to inform the President of its progress, was all the cost the United States would be called upon to incur. Sir, I doubt it very much. If the route should be found to be practicable by the company undertaking its construction, we might probably not be called upon for any further outlay; but if it should be found impracticable, when the $20,000,000 have been expended by the Government, and after $50,000,000 or $100,000,000 have perhaps been expended by private individuals, would not the Government be besought by this huge corporation—for a corporation it is to all intents and purposes? and do you believe that Congress would resist an application backed by the influence of such a company, with such interests at stake? You, sir, have seen enough—I, sir, have seen enough in the short period I have been here—to know that any great, influential corporation or company can bring means to operate upon Congress to induce it to overstep the boundaries of prudence in making appropriations; and such would be the case here. But suppose they should go on and complete it by the aid that the Government is to lend in money or lands, and it should be found out afterwards to be unprofitable. Gentlemen may say there is no danger of that; but I am not at all sure that there is no danger of that kind.

How are you to traverse wastes of almost a thousand miles, where there is no fuel and no means for the generation of motive power? Are you sure that this great thoroughfare when completed will be practicable for the purposes of commerce? It is enough for me that it is possible that it will not be so. Suppose it should be found out not to be so after the road shall have been completed; why, sir, hundreds of millions would be expended, and hundreds of thousands of individuals would be interested directly and indirectly in it; and do you suppose if they were to come here and ask the Government to take it off the hands of the company, on the terms proposed in the eighth section of this bill, we should not be induced at length to do it?

Who that has seen the operation of such influences here, as those to which I have referrred, can doubt it? We know that some seventy-five years ago, one of England's greatest statesmen projected a scheme by which it was designed to control the British empire. I refer to Fox's celebrated East India scheme. But that scheme was nothing in comparison with this—absolutely nothing; and yet through its instrumentality he aimed at the Government of England; and if he had succeeded, he would have placed in his own hands, and those of his party, the Government of the country, and would have maintained it as long as they conducted it with prudence. Such, sir, may be the case here, because this is a corporation. I do not care how many individuals may be employed in the construction of this road—how many companies may be engaged in it—their interests will be similar; they will have the same object in view; there will be a combination from one end of it to the other; all the interests embarked in it will be combined; and when combined, do you suppose that Congress could resist the influence which would be brought to bear?

A money influence of hundreds of millions would be vested in such a company, and who can suppose that Congress would be able to resist an application that it should take such a work out of their hands, if it should be found unprofitable? That would undoubtedly take place, if asked. This is another reason, and perhaps it is the main one, why I am opposed to this measure.

I think there are two things which should be ascertained before we embark in an enterprise of this magnitude. The first should be to ascertain, by practical observations and reconnoissances, that such a railroad is practicable; and, in the second place, we should know something like what it is to cost when completed. We are not sure that when this road has been once commenced, twenty millions may not be expended by the Government, and perhaps two or three times as much as that by individuals; and that the balance necessary for its completion may not be shouldered upon the Government. The amount expended will be an argument for further aid on the part of the Government; and this corporation calling to its aid the influences which it will possess, as I have stated already, will no doubt succeed in either saddling the whole of the expense necessary for the completion of the road upon the Government, or at least inducing it to appropriate liberally and largely.

This view is important, therefore, notwithstanding the fact that my honorable friend from Texas believes that the bill before us already discloses all that the Government will be called upon to do in the construction of this road. Sir, I am afraid of it. I want to know before we begin how much the whole of it will cost, in order that if the whole burden is to be cast upon the shoulders of the Government, I may be sure that they are strong enough to bear it.

These are two reasons why I oppose this bill; but the most powerful one of all, in my judgment, is that to which I referred a moment ago—the extent of this corporation, and the power which it will possess to control the Government. Who ever before heard of such an enterprise—spanning a continent of three thousand miles in width, over territory larger than the whole territory of Great Britain and Ireland—larger than the whole territory of the Austrian empire west of the Alps? Who can foretell—who can judge, with any degree of accuracy, the amount of power which such a corporation as this would possess? The honorable Senator from California has said that this bill, as it now stands, created no corporation. If it does not do that, what does it?

Mr. WELLER. There were several Senators who opposed the bill originally introduced by my colleague, [Mr. GWIN,] because they believed it created a corporation; and I understood that the Select Committee, in order to obviate that difficulty, had reported a bill presenting different features. I confess that when I made the remarks which I did make this morning, I was not aware of the last section contained in that bill; but after having heard it read by the Senator from Delaware, I do regard it as an act of incorporation, and that, under the power which is thus conferred upon the company, they can, if they choose, exercise almost unlimited control. Unless there be some modification made, so as to obviate the difficulties which are presented to my mind, I shall hesitate long before I vote for the bill with that section in the shape in which it is now presented; not that I believe it violates the Constitution, because there is a proviso requiring the assent of the States; and I have never doubted the constitutional power of Congress to incorporate a company to construct roads, &c., in the Territories of the United States. My opposition would be to the creation of a corporation with almost unlimited power; for if there be not a bank contained in that section or act of incorporation, I am not able to understand the English language. I know that there are many banks under acts of incorporation for manufacturing companies, &c., where no distinct power was given to issue paper money, and yet the judiciary have decided that these companies have power to issue it. There is in the last section of the bill of the Senator from Texas a general power given to do and perform all acts which may be necessary to carry out the object of the incorporation. If, in the judgment of the company, an issue of a hundred millions of paper money should be necessary for the construction of the road, they have, in my opinion, power to issue it. This I regard as a dangerous power, which ought not to be conferred even by implication.

Mr. RUSK. I ask the Senator from Pennsylvania to yield to me for a moment. I would be very glad if honorable Senators, in pointing out the dangerous power contained in my bill, which is to result in reading me out of the Democratic party, would take up the bill and read the sections wherein that power is concealed. The honorable Senator from Pennsylvania finds in it something similar to Fox's East India scheme.

Mr. COOPER. Not at all. I did not say any such thing.

Mr. RUSK. I heard something about Fox's East India scheme, and about controlling the Government of England, and that being insignificant compared to this.

Mr. COOPER. Yes, sir; I said that.

Mr. RUSK. I have nothing to say as to that point. But I wish to read the thirteenth section to gentlemen:

"*And be it further enacted*, That——"

For banks? No, sir; but,

"For the purposes of this act, the contractors, their associates, and successors, are hereby created and constituted a body politic and corporate, by the name of 'The Pacific Railroad and Telegraphic Company,' by which name they may sue and be sued, plead and be impleaded, and have and enjoy all proper remedies at law and in equity, may organize and elect such officers as they may deem necessary, and have and use a common seal; and they may also open books and issue certificates of stock, and perform all other acts necessary to carry into effect——"

What?

"The provisions herein contained;——"

And them alone.

"*Provided, however*, That the provisions of this act shall have no force or effect whatever within the limits of any State without the consent of the Legislature of that State previously had and obtained."

Thus it will be seen, as I stated yesterday, that my bill raises the single question of the power of Congress to create a corporation within the Territories of the United States for the purposes contained in the bill. We intend it to do that, and to do nothing more. We may have misunderstood the English language. We may have said more than that, but I think not. We have drawn up this bill for the purpose of restricting this company to the strict performance of the contract for the construction of the road. If gentlemen are not satisfied with this language, let them draw up the most restrictive clause possible, and I will agree to it, because it has been the object of the Select Committee to endeavor to control these men, and to keep them under the supervision of Congress.

I shall not trespass further on the time of the Senate now. All I have to ask is, that if this be the only objection gentlemen have, they will offer their restrictive amendments. They cannot go so far in the way of restriction as to defeat the object the committee had in view. The committee wished to confine the contractors to the mere construction of the road. That is all we ask or desire. I hope, therefore, that if gentlemen are opposed to the bill, they will take a general view of the subject and oppose the bill, and not raise objections on incidental matters of this sort.

Mr. COOPER. Mr. President, I am very happy to find that the Senator from California views this measure, in some respects, in the same light that I do. I will, however, say to the Senator from Texas that I do not believe—and I owe it to candor so to say—that under the section to which reference has been made, banking powers would be conferred upon the corporation. I do not think they would. But my objection is none the less strong. It is because of the extent of the power, and the influence and means which would be in the hands of such a company that I object to it. Even if it were not proposed to constitute it a body corporate and politic, it would not have been free from the objections which I have stated. The parties, even if the road were constructed by a dozen or fifty independent companies, could unite and coalesce, because their interests would be the same; they would all act in concert when it was necessary to influence Congress to adopt their views. These are the reasons which will lead me to oppose the bill.

What I said of Fox's bill, for the government of India, was not that it resembled this in any of its features, but what I meant to say, and what I did say, was, that this would put into the possession of the corporators or individuals clothed with these powers, and with such immense interests, an authority larger than that which the East India Company would have exercised under the bill prepared by Fox, and submitted by him to the British Parliament.

I will say another thing in which I agree with the Senator from Texas. I see nothing unconstitutional in the provisions of the bill. I believe it is constitutional. The only difficulty that there was on that scorce, if difficulty it be, has been obviated by requiring the consent of the States to be obtained to the construction of the road through their boders. My objections were the three that I have stated, and I will not detain the Senate by a repetition of them.

Mr. DAVIS. Mr. President, I will on another day—I think it is too late to do it to-day—make some reply to some of these arguments. I therefore move that the Senate adjourn.

The motion was agreed to.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 3, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. C. M. BUTLER.

The SPEAKER, having counted the number of members in attendance, announced that there was no quorum present.

Mr. CABLE, of Ohio, moved that there be a call of the House.

The motion was agreed to.

The roll was accordingly called, and 146 members answered to their names.

A quorum being now present,

Mr. DAVIS, of Indiana, moved that all further proceedings in the call be dispensed with.

Mr. LETCHER. I hope that motion will not be successful. We have to go through this ceremony every morning, and I hope the call will be proceeded with.

The question was then taken on Mr. DAVIS's motion, and it was agreed to; and the proceedings in the call were accordingly suspended.

The Journal of yesterday was then read and approved.

BOUNTY LAND.

Mr. HALL, by unanimous consent, from the Committee on Public Lands, introduced a bill of the following title, viz: "An act granting bounty land to certain volunteers of the Territory of Oregon;" which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HOUSTON. I call for the regular order of business.

COINAGE.

The SPEAKER stated that the business first in order was the consideration of a bill of the Senate (No. 271) "amendatory of existing laws relative to the half dollar, the quarter dollar, the dime, and the half dime," and that the gentleman from Tennessee [Mr. JOHNSON] was entitled to the floor.

Mr. JOHNSON. When the morning hour expired yesterday, I was proceeding to discuss the bill now under consideration, which provides for the issuance of a new description of coin, differing from any that we have had heretofore.

The gentleman from New Jersey [Mr. SKELTON] assumed that our present currency was defective, and that as I was opposed to the proposition now before us, I was bound to furnish another remedy. Now, sir, I do not admit that proposition at all. If there is a defect in the currency, and if something is necessary to be done, that does not prove that the remedy proposed is the right one; and if it is not the right one, why, we might just as well let the currency remain as it is as to adopt something which seems to be a remedy, but which really will only increase the disease. The gentleman seems to think that I am bound to offer a remedy. Well, that is only another evidence of the quackery of the times. If a person goes into a room where there is a sick man, he may feel his pulse, may look at his tongue, and examine all the symptoms, and yet not understand the nature or character of the disease. But is he bound to administer a remedy without understanding the case, because the man is diseased? I hope, at all events, that I may be kept out of the hands of such doctors as that. It seems to me that in such a case, the proper course would be for the physician to retire, and say, "I do not understand the case," and leave the patient just as he found him. Well, in this case, as I have got no remedy, I prefer to act the part of a prudent physician and to retire; as I do not understand the case, I will not attempt to administer to the disease.

But the gentleman says there is a disease, and that it results from the great increase in the commodity of gold. In that I think he is mistaken. I humbly conceive that the gentleman does not understand the proposition as it is. I assume here, and I defy successful refutation of it, that the quantity of gold may be increased upon that of silver without changing the relative commercial value of the metals. We in the United States have about one hundred and seventy-five millions of paper in circulation. Now, if Congress or the States had the power to drive that one hundred and seventy-five millions of paper from circulation and introduce one hundred and seventy-five millions of gold to fill the vacuum created by the withdrawal of the paper circulating medium, I say that, though you would increase the quantity of gold, the relative commercial value of gold and silver would be the same. Notwithstanding the relative quantities would be changed, the relative commercial value would stand as it did before. I defy contradiction of that proposition. The gentleman from New Jersey has imagined a disease when none exists. He is doctoring and giving his

medicines to a man who is well. Now, if the man is well, I think it is best to let him remain so, and not to commence administering to his case when he does not need medicine.

So far as coin is concerned, the changing of our standard of gold or silver has no more effect upon the gold and silver coinage of the United States, than a change in the standard of weights and measures would have upon the price of our cotton or wheat. Let us take the case of wheat, as an illustration. A standard bushel of wheat now contains two thousand one hundred and fifty cubic inches. We usually consider wheat good that weighs sixty-five pounds to the bushel. But notwithstanding that that is our standard bushel, when you take wheat to Great Britain what do they do? Are they regulated by the measure here? No, sir; they give you so much for your wheat per quarter, requiring eight bushels to the quarter, and that it shall weigh seventy pounds a bushel. Notwithstanding that you have established a standard of measure here, you are regulated by the market where you propose to send the article. Just so with your gold and silver. You may put four hundred and twelve grains in a silver dollar, and two hundred and fifty-eight grains in a gold five-dollar piece, or change it in any way you think proper, but you will still be regulated by the standard where you undertake to sell the article or to circulate it.

But, sir, the great error into which the introducers and advocates of this bill have fallen, is this: They say that there is a demand for specie abroad; that a premium is paid for it for the purpose of exportation, and that we must do something to keep specie in the country; and in attempting to imitate what Great Britain has done, so far as her silver currency is concerned, they have adopted precisely the opposite means. How does the matter stand in Great Britain, and why does this difference exist between an ounce of silver and an ounce of gold in Great Britain? It will be remembered that silver is not a currency there in the payment of debts over ten dollars, or forty shillings. Great Britain says that silver shall be a legal tender in the payment of debts under ten dollars, *both to the Government and to individuals*, and the Government is bound to redeem it in gold, which always keeps silver at par and in circulation. But what is the proposition here? Are gentlemen following the example of Great Britain? No, they have taken the converse of the proposition, and undertake to do what Great Britain has done, by precisely opposite means. What do they propose to do? They propose, first, to change the standard of metal, to change the intrinsic value of the dollar, to change the dollar in quantity. And then what next does the bill propose? It proposes that silver shall be received in the payment of dues to the Government, but not in the payment of debts between individuals. How does that operate? Why, do you not see that you thereby make one portion of your specie a mere commercial article, while another portion of the specie in the community is a legal tender?

The legal tender now between individuals contains more silver than that which you propose to make a lawful tender for the dues of the Government. Now, you propose to depreciate this silver, and make a currency of it for the Government, but not a tender in payment of debts. Does not every one see that if you depreciate this silver, nobody is bound to receive it, except the Government, in payment of its dues? And that if the Government collects its dues in this coin, the creditors of the Government will not be obliged to receive it as lawful tender? Do not gentlemen see that in this manner the Government, by collecting its dues in the new currency and paying its debts in the old, will be shaved to the amount of seven per cent.? That will be the practical operation of this bill.

Mr. Lawrence, in his letter to Mr. Webster, of February 19th, 1851, gives what he thinks is the best plan for regulating our currency; and as an expedient, I am inclined to the opinion that it is the most feasible one that has been suggested. It is his opinion that the Government will have to adopt it. His suggestion is:

"If it should be thought wise to abolish the double standard, (and upon this point I have little doubt,) I should suggest the coinage of silver tokens with ten or twelve per cent. alloy, which shall be made a legal tender for any sum not exceeding five dollars, *and which the Government shall be always bound to redeem in gold on demand.* The issue of such tokens would save the country from inconvenience for the want of silver change. They would furnish a sufficient circulation for the necessities of the community—they would be prevented from depreciation at home by being redeemable in gold; and they would not be shipped, because their value in Europe would be less than in our own country."

He recommends to Mr. Webster that we should make silver a circulating medium, make it a lawful tender, redeemable at the Treasury of the United States in gold; in fact, that we should constitute gold the bulk of the circulating medium of the country. But here you propose to make your small change out of silver, but to diminish the quantity of silver contained in the half dollar, the quarter dollar, &c. Now, if this alloyed coin be thrown into the market, and it be not made a legal tender for small amounts, whether it passes into the hands of the Government or into the hands of the small dealer, the effect will be to shave them to the amount of seven per cent.

Mr. DUNHAM. I desire to correct the gentleman in a point of fact. As the bill stands, it provides that this coin shall be made a legal tender for any amount less than five dollars. The committee, however, propose to amend it, and to make it receivable only in payment of the public dues. If the House leave it as it is in the Senate bill, this coin will be made a legal tender for sums of less than five dollars.

Mr. JOHNSON. Well, Mr. Speaker, it involves this difficulty: It shows that those who have taken this matter in hand do not understand upon what they are acting; for they do not agree among themselves. How does the matter stand? Mr. Lawrence assumes to understand the subject of the currency, and recommends one thing. Mr. Corwin recommends another plan, and he assumes to understand the question of currency. The Senate recommend that this coin shall be made a legal tender for any amount less than five dollars, and pass a bill containing such a provision. That bill comes to the House, and the Committee on Ways and Means recommend a fourth process. That is the position in which the matter stands before the House and the country. The fact that those who assume to understand the defects in the currency of the country cannot agree upon the proper plan to remedy them, is enough to convince those who do not pretend to understand the subject that this bill ought not to pass. In fact, the various and conflicting remedies proposed by these doctors of the currency remind me very much of the awkward attitude of the young and unskillful winder of the hank, who had put the ball under and over until it resulted in a general derangement and confusion.

[Here the hammer fell.]

Mr. SKELTON next obtained the floor and said: Mr. Chairman, I do not intend to occupy at any length the time of the House in the discussion of this bill. I am anxious that the bill should pass, and therefore only propose to glance at the question in its true bearing.

My friend from Tennessee [Mr. JOHNSON] has remarked that we are in the position of a man laboring under a disease; but if I did not misunderstand him, he pretends that we are really sick abed with a pretended disease; that there is no real disease at all, or if there is, we are in the position of quacks, and have not the ability to propose the proper remedy.

Now, I want this House to understand that both these propositions brought forward by the gentleman from Tennessee are untrue in fact. Who will dispute that the country is in want of silver for small change? Is there a man upon this floor who will dispute that fact? Why, sir, there is not a man in the country who is engaged in any business that does not feel the want of it. There is not a man in this House, I presume, who will take a gold dollar and go upon the Avenue, and buy three cents' worth of any commodity, and get the change back. Why is this? It is simply from the fact that the silver dollar in commerce has become more valuable comparatively than the gold dollar. The whole difficulty arises from one fact, and I should like my friend from Tennessee to bear that fact in mind. He says we cannot change the laws of trade nor change the commercial value of gold or silver, or of any other commodity, and for this reason he brands those members of this House who propose this change in the currency of the country with being quacks.

Now, I contend that the very fact which the gentleman states demonstrates to the House the necessity of a change of the value which is now stamped upon our silver or gold coin, one or the other. We have impressed the stamp of one dollar upon a certain quantity of silver, and the same stamp upon a certain quantity of gold. But the relative commercial value of these two metals has changed since that stamp has been impressed upon them. The causes of this change it is now not important to inquire into. The fact is before the country that this change has taken place upon the coins which have received the impress of the United States Mint. Now, sir, we do not propose to change the commercial value of these metals. We cannot change them, as the gentleman from Tennessee has said; but the fact that we cannot change that value, taken with the fact that that commercial value has been changed, forms the very reason why we should change the stamps we have placed upon them, so as to accord with the change which has taken place in their commercial value. In other words, all this bill proposes to do is to provide for stamping the true value upon the metals which are to be used as the medium of commercial exchange.

But the gentleman from Tennessee says the only remedy he proposes is to lessen the amount of paper in circulation. Well, sir, this will not change the relative values of gold and silver. I concur perfectly in the opinion expressed by the gentleman, that we have too much paper currency in circulation; and I will go as far as any other man upon this floor to relieve the country from such circulation. But when you have done this, the relative commercial value of gold and silver will remain the same; and hence the necessity of the change in the value which is stamped upon these coins by the Mint of the United States.

Now, the gentleman from Tennessee brands us as quacks, and says we do not understand the disease which everybody knows now exists in our currency, yet he himself proposes no remedy. Sir, I tell the House that we do understand the disease, and that we have a remedy; and if he does not understand, and has no remedy, it does not become him to place himself in the position of a quack, and, because he has no remedy, deny that we have any.

Mr. JOHNSON, of Tennessee. With the permission of the gentleman, I desire to ask him a question.

Mr. SKELTON. As many as you please.

Mr. JOHNSON. I understand the gentleman to assume that the friends of this bill do understand this disease.

Mr. SKELTON. That is true.

Mr. JOHNSON. And understanding the disease, of course, know what remedy to apply?

Mr. SKELTON. Yes, sir.

Mr. JOHNSON. For instance, there is Dr. Corwin called in. There is Dr. Lawrence called in, and here is the Committee on Ways and Means, with the chancellor of the exchequer at its head—they are called in, and the House comes to their relief. But every one of these doctors who have been called in, prescribe a different remedy for the disease. Now, I ask the gentleman whether any one of all these remedies will cure the disease, or if not, which one he will adopt?

Mr. SKELTON. I will answer the gentleman. In the first place, I have no knowledge of Dr. Corwin or Dr. Lawrence or any other doctor outside this Capitol. I presume they are not the constitutional doctors for this disease, and therefore I have nothing to do with their remedies. I do not even know what they are. But in answer to the gentleman's question, the disease under which the currency of the country is now laboring is the change which has taken place in the commercial value of gold and silver; as I remarked, it is immaterial how this change has been brought about; though I believe it has been brought about by the increased amount of gold which has been put in circulation. The reason of the disease is, that we have two metals which constitute the currency of the country. If we had but one, the disease would never arise, for there could then be no relative change in its value; whether its value should rise or fall, it would still represent the value of commodities in the commercial world, and no difficulty could arise.

But inasmuch as we have here both gold and silver as mediums of exchange, both representing the value of commodities in the community, any

change in their relative value produces a derangement in the currency of the country, and one drives the other out of circulation.

Now, sir, this disease is, that you have two different metals used as a circulating medium, upon one or both of which is stamped a false impression by order of the United States Government through its mintal regulations. And how do we propose to remedy this evil? Why, sir, many diseases will admit of more than one remedy. Some may be cured by remedies of an opposite character; and I tell the gentleman from Tennessee that there are two remedies which may be applied to this very disease. You have either to change the stamp value of your gold, and make that conform to its commercial value, compared with that of silver, or you must change the stamp value of your silver to make it conform to the commercial value of the gold. Either one of these remedies would meet the wants of the disease; either one would have the effect of making the commercial values of the two metals assimilate to the stamp value, as impressed by the Mint of the United States upon the currency of the country. Here, then, is a disease for which you have two remedies; and why do we choose the remedy proposed by the Senate of the United States? There are various reasons. One is, that if you increase the weight of the gold currency of the country, you compel a man who has a quantity of gold coin to receive less for a dollar for that piece of money stamped with one dollar upon its face. Hence you would take from the pockets of the individual holding this gold coin so much money—three, four, or five per cent., whatever the change may be. You will therefore see at once that to attempt to assimilate the stamp with the commercial values, by taking so large an amount of money out of the pockets of this class of people, would be an act of injustice. It is also true, that with this remedy, the United States would be compelled to receive at its Mint the light gold coin at the value of the heavy, and thus, in in order to accomplish the remedy, we should have to pay out of the Treasury some ten, fifteen, or twenty millions of dollars. That would be the result with that remedy.

Now let us try the other, which is by lightening the silver coin of the country. By adopting this plan, you take nothing from anybody's pocket, but, on the contrary, it will increase its value to the amount of the reduction you propose to make in the weight of the coin, say three, four, or five per cent., or whatever it may be, for I am not well enough posted up in these matters to speak with any precision as to the precise amount of the reduction which it will be necessary to make. The silver coin which now bears the stamp of one dollar is worth in the commercial market one hundred and three cents, while the gold dollar is worth but one hundred cents. Hence the individual who has contracted debts by the purchase of merchandise will not pay out silver, because he is compelled to pay out as one dollar a piece of coin which is commercially worth one dollar and three cents.

But when you lighten the silver coin, and make the silver dollar worth just one hundred cents in the commercial market, it will then circulate with the gold coin.

But I anticipate a difficulty here. As long as we have two metals circulating as legal tenders for debts, the relative value of the metals in the commercial market is constantly liable to change, and, no doubt, will change. But, in order to meet this difficulty, a committee of the United States Senate have proposed a remedy, and that is, that they will make the silver coin so light that it will be of less value, commercially, than the gold coin; and in order to prevent any injustice arising from this, they say that the silver coin shall not be made a legal tender for debts of over five dollars.

Now, it appears to me, that this meets the difficulty in both cases. If the weight, as proposed in this bill, is such as to meet the difficulty, and reduces the weight of the silver coin so that it will be really below the gold coin of our country, then the gold and silver coin will both circulate in the community—the silver for small change as a matter of convenience, and gold for commercial purposes; for it is well known that, for commercial purposes, gold coin is the more convenient.

Now, I believe I have succeeded in showing what the nature of the disease is, and that we have ascertained what, I contend, will be a remedy to meet the difficulty. Now, if the gentleman from Tennessee [Mr. JOHNSON] has no remedy of his own, which he acknowledges, it is no more than right and generous, that, as we propose a reasonable remedy, he should allow us to apply it.

Mr. JOHNSON. The gentleman assumes that I have no remedy.

Mr. SKELTON. I understood the gentleman to say so.

Mr. JOHNSON. I made no such statement. My remedy is, to let the patient alone. That is a great deal better than the remedy proposed by these doctors.

Mr. SKELTON. That remedy is like the Irishman's secret, which, when it came out, was no secret at all. But there is a disease existing here, and if the patient is let alone, he will be every day growing worse instead of better, because you know that the amount of gold received from the mines of California and Australia is rapidly changing the commercial values of the two metals, as compared one with the other, and that commercial value will continue to change, unless we can get a larger amount of silver from the mines of South America, Mexico, or somewhere else, or unless the amount of gold in the community shall diminish. Now, the gentleman from Tennessee will not dispute the fact that the value of all commodities depends, to a great extent, upon the amount in the market. Even when the crop of wheat, grain, or the products of industry of any kind, is plentiful, and the market becomes supplied, it sinks in price. As a matter of necessity it must be so. I agree with the gentleman from Tennessee in theory, that we cannot change the laws of trade. I say his theory is correct. He has got a glimpse at a correct theory of the currency of the country, but he neglects to look at the practical difficulties which exist, and which every man, whether he says so or not, knows to be a difficulty existing in the community. Some years ago we had the same difficulty on the other side. Then our gold coin, according to the impress of the Mint of the United States was entirely too heavy, and it would not circulate with the silver coin. The remedy applied at that time, was to lessen the weight of the gold coin, and the result shows that the remedy met the disease, and the gold coin immediately circulated with the silver, throughout the country; and it has now become almost the entire currency of the country, because it has less commercial value, according to the impress of the United States Mint, than silver has. Here we have an illustration of the remedy applied, and of a remedy reaching the disease, and of a cure accomplished.

Now, the difficulty has changed to the other side, by the laws of trade, and silver has become to be the more valuable, commercially, according to the impress of the United States Mint upon it, and we propose to apply the same remedy to silver; and in order to prevent this constant tinkering with the currency, which my friend [Mr. JOHNSON] deprecates, and which I deprecate—because we should not change the relative value of the metals unless there is an absolute necessity for it—I say that in order to prevent——

Mr. JOHNSON, (interrupting.) I do not wish to interrupt the gentleman or consume his time; but by way of illustrating this description of doctrine, I wish to call his attention to some facts. We have regulated and fixed by law that a silver dollar shall be equal to just one hundred cents, but still in commerce it is worth from one hundred and three to one hundred and five cents. In 1834, we fixed by legislation the value of the half eagle at five dollars. You may take one hundred dollars of these five-dollar pieces, and in commerce you must add nine dollars to them, because they are worth nine per cent. less than the value fixed for them by law. I merely give this as an evidence of the kind of legislation we have had heretofore, and the kind which is proposed now.

Mr. SKELTON. I answer the gentleman by saying that we have impressed the silver dollar with the value of one hundred cents, when, according to his admission, it is worth in market from three to five per cent. premium.

Now I say the United States Mint, by the authority of the Congress of the United States, has stamped a lie upon that piece of coin, and the gentleman wants it to remain there. I say, when we find that we have told a false story to the country, and that story is going out to all the world, we are bound, as honest men, to come forward, and strike that falsehood from the face of our coin.

Mr. JONES, of Tennessee. I wish to ask the gentleman one question. I am a member of the committee which reported this bill, but did not agree with them in recommending that it should pass. I ask the gentleman what has caused the difference in the relative value of the gold and silver in the country? Is it not from the fact that the gold has been increased in quantity until it has depreciated in value, as compared with silver? As the gentleman remarked a few moments ago, the productions of the country depreciate in value as they increase in quantity. Now, if the change in this relative value of the two metals has been caused by the largely-augmented quantity of gold in the country, would not the correct remedy be to increase the weight of the gold coin, and let the silver remain as it is?

Some one says that would not keep the silver here. He is mistaken. The silver will be kept here, because it will take as much more of gold to purchase a given quantity of silver, as it will now take less of silver to get that quantity of gold.

I say, too, that remedy should be applied, for another very good reason; that gold, being now one of the great staple productions of this country, is not as proper a medium of exchange and standard of value as silver is. Why, sir, making gold the standard now is something like making standards of tobacco, rice, cotton, or any other of the staple productions of the country.

Then, I think that if we want to correct this evil, and apply the proper remedy, we should increase the weight of the gold coin, and allow the silver to remain as it is.

Mr. SKELTON. In reply to my friend from Tennessee, I remark that theoretically his proposition is a correct one. If he had listened to my remarks at the commencement, he would have noticed that I touched upon that very subject. The truth is, that the gold has become less valuable, not the silver more valuable. His remedy would cure the evil, I admit; but in practice we are met with this difficulty: that if we attempt to increase the weight of the gold currency of the country, we depreciate as standard of value the light coins in circulation, and we take from the pockets of those who are able to hold this light currency an amount equal to the depreciation. We should meet that difficulty when we returned home to our constituents. They would say we have robbed them of so much money; that we had declared that gold coin of a certain weight should be a legal tender in payment of debts, and that when they had received it as payment, we turned round and said that the coin is worth too much, and hereafter it shall be worth ninety-five cents on the dollar instead of one hundred. But if the gentleman's remedy is to be applied, I have no objection to it, if he will provide that we shall reimburse those men their losses out of the Treasury of the United States. If the gentleman's remedy is to be applied, those light coin now circulating in the country should be exchanged for heavier ones, according to their real intrinsic commercial value. I would ask the gentleman from Tennessee if he is prepared to take that step now? If he is prepared to make a draft upon the United States Treasury to the amount of fifteen or twenty millions of dollars?

Mr. JONES. I am not; nor do I believe justice requires it. Gold has increased, and consequently it is not worth as much as it was before this great influx of that metal into the United States. In consequence of this increased quantity of gold, the man who has debts owing to him, cannot get any more gold in weight than when the debt was created, and still he cannot purchase anything like as much of anything he wants as he could before.

Mr. SKELTON. The gentleman's remarks show the great importance of this subject; its extreme delicacy as connected with the business transactions of the country, and the caution with which we should approach the currency of the country at all times.

Now, sir, it is true that gold has fallen in value, and it is equally true that certain individuals, by authority of Congress, hold in their pockets a quantity of gold of a certain specified value in the payment of debts. It is equally true, on the other

hand, that there are other individuals who hold mortgages upon real estate, which would yield them a thousand dollars of that light coin, and we turn round and say to the individual who borrowed a thousand dollars, and gave the mortgage as security, that he shall pay it in a heavier coin. This would bear heavily on the debtor. He must pay not only the legal interest, but he must pay, in addition, the loss which the currency of the country has suffered in consequence of the depreciation of the coin. This would be an act of injustice to the debtor, and while it would give to the creditor from three to five per cent. more than he was entitled to, it would take the same amount from the debtor more than he ought to pay. For this reason I say, if we were to adopt the remedy of the gentleman from Tennessee the Government of the United States would be compelled, in justice and good faith, to redeem these light coins with the heavier ones. Let us take care that we do no injustice to the holders of this coin. Let us hold in sacred regard these principles of justice. It is by act of Congress that the value of that coin is fixed, and if that standard is changed, we are responsible for the loss to the holders of it.

Mr. DUNHAM. The gentleman from New Jersey has to a great extent, by his reply, accomplished the object I had in view. If the gentleman from Tennessee had started soon enough he might have afforded his remedy. Suppose to-day he gives his note to pay $100 in the amount of gold contained in one hundred dollars' worth of gold coin of to-day. Well, to-morrow we pass this bill, and thereby change the standard of gold, and the debt which he might have paid with the amount of gold in one hundred dollars' worth of gold coin in circulation at the time of its contraction, he will to-morrow have to pay with an increased quantity of gold, which you may put in your heavier coin.

Mr. JONES, of Tennessee. Decidedly, sir.

Mr. DUNHAM. And I ask the gentleman from Tennessee, because he is pretty clear in his opinions, whether he proposes in that manner to legislate for the capitalists of the country, to whom the debts are coming, at the expense of the debtors, who are the poorer class of the community? Or will he rather legislate in favor of the debtors at no expense?

I desire, with the permission of the gentleman, to make an inquiry with respect to one other thing. It is this: Suppose a debt be due which was by the debtor agreed to be paid in gold. If the value of gold instead of depreciating had increased, I would ask the gentleman from Tennessee whether he would entertain the presumption that the creditor, in consideration of that fact, would be willing to throw off some of the debt? For instance: I agree to pay one hundred dollars in gold, and because gold, before the payment of the debt, has increased in value, it would be the gentleman's argument, that the creditor would be willing to take a less quantity of gold in satisfaction of the debt. I think otherwise. I am of the opinion, that when we enter into a contract to pay $100 in gold, we place ourselves under obligation to pay the quantities of gold in $100 of coin. We both assume responsibility. If the value of gold is increased I lose, and if it is diminished he loses. The gentleman would say that the debtor should take the whole responsibility, that if the value of gold be increased the creditor should realize nothing, and if it be diminished he shall assume the consequent loss.

Mr. JONES, of Tennessee. Now, whether the mistake be in myself, or those who take an opposite position, depends very much on what we consider value to be.

Mr. DUNHAM. Let me give the gentleman an illustration, so that he may clearly understand my view of the matter. Were I to make a contract with the gentleman to pay him one hundred bushels of wheat, which wheat was worth at the time $100, and its value increased five dollars—instead of $100 being really worth $105—would the gentleman be willing to pay five dollars in addition? I presume not. Or if the value of the wheat had diminished five dollars, would he expect me to add five dollars' worth of wheat more in payment of the debt? This is a precise illustration of the case.

Mr. JONES. As I have already stated, the mistake, whether of myself or those who hold opposite opinions, depends on what we consider the value to be. The gentleman considers the value to be in the gold, while I, on the contrary, consider it to be the wheat——

Mr. DUNHAM. Not at all; the gentleman misapprehended me. The standard I mean is this——

Mr. JONES. He supposes the value to be in the gold, and I, in the wheat. For instance: If he give one dollar, five dollars, two pennyweights, or an ounce of gold for a bushel of wheat, that bushel of wheat will support his life as long at one price as at the other. Now, the gentleman has property to-day which he is desirous of selling, and he sells it for $100, based on the standard value of gold at the time, payable in twelve months; he wishes to get that $100 twelve months afterwards for the purpose of purchasing wheat. At the present time he, perhaps, could get that wheat at one dollar per bushel, or for the $100 one hundred bushels. It happens that between now and the expiration of the twelve months, when the debt is due, the quantity of gold in the country has exactly doubled, while there is no addition to the wheat. It has no more nutriment in it, and it would support life no longer then than now; but, in consequence of the increased quantity of gold, the price of wheat has doubled, and instead of getting one hundred bushels of wheat for the amount of the debt, the gentleman will only get fifty bushels. Would he, or would the gentleman from New Jersey, be willing to reimburse all those thus subjected to loss by the augmentation of the gold in circulation?

Mr. SKELTON. I will answer the gentleman's inquiry now, for fear that I should forget it. He wants to know why we ought not to reimburse the holder of the wheat, who has lost by the increase of gold. I will tell the gentleman: we ought to reimburse him for this reason: Congress has never been silly enough to impress any commercial value on a bushel of wheat. That matter is left entirely under the control of commerce. With gold, however, it is quite different. We have selected gold as the representative of all other commodities in exchange, and we have placed on that, as well as on silver, a specific value. But the relative value of the metals has changed, and it is for that reason we should reimburse their holders. We do it on the faith of Congress, because we have fixed their value in order that we should have something to represent the commodities of the country. Gold and silver are merely the representatives of so much labor, and we should reimburse in order to carry out in good faith the acts of Congress.

Mr. JOHNSON, of Tennessee. I want to call the attention of the gentleman from Indiana—the legal gentleman——

Mr. SKELTON. I will yield to the gentleman to propound an inquiry to me, but not that he shall interrogate others.

Mr. JOHNSON. I will put the question then to the gentleman from New Jersey. An interrogatory has been propounded with reference to the making of a contract for one hundred bushels of wheat; now, suppose that when the contract was entered into, the bushel contained so much, without reference to the price; I would ask the gentleman from New Jersey and the gentleman from Indiana whether they can come forward, change the standard, and afterwards pay the debt?

Mr. SKELTON. I have already answered the question of the gentleman. We are not responsible for the commercial value of a bushel of wheat, because Congress has never fixed it.

Mr. JOHNSON. I want my question understood. I say that the legislation in that case, by changing the standard, changes the nature of the contract. The wheat might go up or down in price if you let the standard of the bushel alone. But have you the authority to come forward and change the standard by which the bushel is to be measured?

Mr. SKELTON. The gentleman has wandered from the question. He loses sight of the fact that gold is made the medium of exchange for all commodities in our community, while wheat is left as a commercial article like all others. The reason we have chosen gold as the exchange for all other commodities is, that it is small in bulk, of great value, and convenient. Another reason is, that it is not subject to the fluctuations of the products of labor. It is more permanent in its value; and I will call the attention of the House to the fact, that the whole difficulty springs from our having two metals as a medium of exchange instead of one.

In Holland, silver has been selected as the only legal tender for debts, and in England gold is made the legal tender in payment of debts over a specified amount. By these means those countries have remedied the difficulties under which we are now laboring. In the experiments we have been making, we have lost sight of these difficulties. Convenience makes it necessary for us to have silver as well as gold. Gold is too valuable, and makes too small a coin for a sum less than a dollar; and even down to that sum the currency is so small that it is not convenient. Hence, we are under the necessity of having a less valuable metal, in order to have larger coins for small sums of money, and we have come down as far as copper coin, for a silver cent would be too small for convenience. We labor under a difficulty, therefore, in consequence of the necessity for convenience, to have small change. The remedy the Senate of the United States has proposed, will meet the case, and inflicts injury on nobody. We do not, in this measure, legislate a single cent out of the pockets of anybody, nor do we legislate into the pockets of anybody a single cent. We fix the relative value of the two metals, and accomplish, thus, an object of great advantage to the country. We furnish a small change for the small transactions of business, and gold for the larger ones. You will perceive, therefore, that we accomplish all the objects proposed, and we do so without doing injustice to anybody. It is for that reason I contend that we have found the disease and understand it; that we have ascertained the remedy and know its operations.

Mr. JONES, of Tennessee. I understand the gentleman to say that this bill will not legislate a cent out of the pocket, nor a cent in the pocket, of any individual. Now, sir, I believe that it is admitted the silver coin is worth from three to five per cent. in the market more than gold. This bill makes it a mere shade of a fraction under seven per cent. Then, if we authorize a man to make $107 out of $100 in silver, which, with the addition, stands for $105, do we not legislate two dollars into his pocket?—do we not legislate two dollars into the pocket of every man in the possession of $100 in silver?

Mr. SKELTON. Certainly not, Mr. Speaker. Silver, it will be borne in mind, is worth the difference now, and no man will pass a silver dollar for one hundred cents, because he can get more for it in the market. If the Congress of the United States makes the silver coin lighter than its commercial value, it will pass only for what it is received for in market. No man yet has the new coin, and, therefore, no man is benefited. If there be any benefit, it is to the United States, but all participate alike in that particular.

I have now a few remarks to make with regard to the amendments that have been proposed to the bill. When I have made them I shall take my seat.

Mr. MACE. Has the morning hour expired?

The SPEAKER. It has.

Mr. MACE. I then call up the privileged motion I indicated on yesterday for consideration. It is the motion to reconsider the vote by which bill No. 200, to admit railroad iron free of duty, was laid on the table.

The SPEAKER. It is questionable, under the rule, whether the floor can be taken from the gentleman from New Jersey to call up that motion. The morning hour has expired, but the gentleman can only be arrested at the termination of the morning hour by the submission of the motion that the House proceed to the consideration of the business on the Speaker's table.

Mr. ORR. I move that the House proceed to the consideration of the business on the Speaker's table.

Mr. HOUSTON. I move that the House proceed to the business upon the Speaker's table, and in connection with that I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. I make the point of order that the gentleman from Alabama [Mr. HOUSTON] has no right to make these two motions. They are inconsistent with each other.

The SPEAKER. The gentleman from South Carolina [Mr. ORR] made the motion to proceed to the business upon the Speaker's table. The

everyday practice of the House has been, however, to allow the two motions to be made by the same gentleman; for during the pendency of a motion to go to business upon the Speaker's table, it is in order to move to go into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. I submit to the Chair, the bill referred to by the gentleman from Indiana, [Mr. MACE,] being a privileged question, and called up by him, whether the motion to reconsider would not take precedence; and that unless the House shall by vote pass from it, that it will be the business first in order?

The SPEAKER. The Chair understands that a motion was made to reconsider the vote upon the bill admitting railroad iron free of duty at the last session, and a motion was made to lay the motion to reconsider upon the table. That circumstance escaped the attention of the Chair altogether, and the motion to lay upon the table has been neglected from that day to this. It is a motion first in order, and will take precedence of all other motions.

Mr. CLINGMAN. I ask for the yeas and nays upon the motion to lay on the table.

Mr. DEAN. I rise to a question of order.

The SPEAKER. While the Chair states that the motion to lay on the table a motion to reconsider is a highly privileged motion, and would override other motions before the body, yet, in the opinion of the Chair, it cannot override the motion made by the gentleman from Alabama, [Mr. HOUSTON,] that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. CLINGMAN. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. PARKER and HENDRICKS were appointed.

The question was then taken, and the tellers reported that there were—ayes 57, noes 78.

Mr. MILLSON demanded the yeas and nays.

Mr. STANLY. What has become of the bill under consideration yesterday?

The SPEAKER. It is upon the table.

Mr. STANLY. How did it get there?

The SPEAKER. By the force of the rules and the practice of the House.

Mr. STANLY. I make a question of order upon that.

The SPEAKER. A question of order has been raised by the gentleman from North Carolina, [Mr. STANLY,] the effect of which is that the motion made by the gentleman from Alabama [Mr. HOUSTON] at this stage of proceedings is out of order.

Mr. STANLY. That the unfinished business of yesterday—the railroad bill—has preference over every other.

Mr. ORR. Is there an appeal from the decision of the Chair?

The SPEAKER. The Chair understood the gentleman from North Carolina to take an appeal.

Mr. STANLY. I did take an appeal.

The SPEAKER. If there was any force, in the opinion of the Chair, in the question of order proposed by the gentleman from North Carolina, it could only occur when the House had determined to go to the business on the Speaker's table; but not being engaged upon that business, the Chair submits to gentlemen that this point of order cannot now be made.

Mr. STANLY. I want to get at the matter fairly. Suppose the House refuse to go into the Committee of the Whole on the state of the Union, will not this question then come up?

The SPEAKER. The Chair will decide that matter when it comes up. The Chair has no doubt, however, that the bill is upon the table.

Mr. STANLY. I take an appeal, so that the House may give us a precedent which everybody may understand hereafter.

The SPEAKER. The gentleman from North Carolina takes an appeal from the decision of the Chair in this matter. Under the rules of the House, it is in order at any time to go into the Committee of the Whole on the state of the Union. That is the pending motion. The gentleman from North Carolina [Mr. STANLY] insists that the motion is not now in order, and that the House has in fact proceeded to business upon the Speaker's table, and is engaged in considering the unfinished business of yesterday.

Mr. STANLY. I do not make any such point.

The SPEAKER. Will the gentleman then state his point of order?

Mr. STANLY. That the bill we had under consideration yesterday is unfinished business, and has preference to the orders of the day, and all other matters.

Mr. JONES, of Tennessee. I submit this question to the gentleman from North Carolina, [Mr. STANLY.] If the bill which the gentleman contends is in order was now under consideration, and the gentleman from Alabama [Mr. HOUSTON] or the gentleman from North Carolina [Mr. STANLY] should obtain the floor, would it not be competent for either of them to move to go into the Committee of the Whole on the state of the Union?

Mr. STANLY. My friend always supposes something that does not exist. We are not in that condition in which he wants us to be. We are speaking of business as it stands before the House, and not as he wants it.

Mr. JONES. Suppose such a case, and the motion would be in order.

Mr. LETCHER. I rise to a question of order, and that is, that the point which the gentleman from North Carolina now makes is too late. The House was divided before he raised the question of order. The vote had been taken, and report made by tellers.

The SPEAKER. There had been no decision on the proposition, and the Chair thinks that the gentleman had the right to take an appeal.

Mr. LETCHER. I move to lay the appeal upon the table.

The SPEAKER. The Chair decides that the motion made by the gentleman from Alabama to go into the Committee of the Whole on the state of the Union, is in order. The gentleman from North Carolina [Mr. STANLY] insists that it is not in order, for the reason that there is unfinished business of yesterday, which he says is in order.

The question was then taken on the motion to lay the appeal upon the table, and there were—ayes 100, noes not counted.

So the appeal was laid upon the table.

Mr. MILLSON. If the House refuse to go into the Committee of the Whole on the state of the Union, what will be the next business in order?

The SPEAKER. There is a question pending to go to the business upon the Speaker's table, which would be first in order. If that be voted down, the business of the morning would proceed, and the gentleman from New Jersey [Mr. SKELTON] would be entitled to the floor.

Mr. CLINGMAN. I understood the Chair to decide that another question was in order—the question of reconsideration.

The SPEAKER. The Chair will decide those questions when they properly arise.

Mr. MILLSON. I insist upon my demand for the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 79, nays 89; as follows:

YEAS—Messrs. Averett, Beale, Bocock, Bragg, Albert G. Brown, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Chastain, Churchwell, Clemens, Cullom, Dawson, Dean, Dimmick, Dockery, Ficklin, Floyd, Gamble, Gaylord, Giddings, Gorman, Grow, Hamilton, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Holladay, Houston, Howard, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, Mason, McLanahan, McNair, Meade, Millson, Morehead, Murphy, Murray, Outlaw, Andrew Parker, Peaslee, Penniman, Perkins, Phelps, Richardson, Robbins, Robie, Ross, Russell, Savage, Schoolcraft, Schoonmaker, Origen S. Seymour, Skelton, Smart, Benjamin Stanton, Richard H. Stanton, Thaddeus Stevens, St. Martin, Stratton, Thurston, Watkins, Wildrick, and Woodward—79.

NAYS—Messrs. Abercrombie, Charles Allen, William Appleton, Babcock, David J. Bailey, Barrere, Bartlett, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Burrows, E. Carrington Cabell, Caldwell, Cartter, Chandler, Chapman, Clingman, Cobb, Colcock, Conger, Curtis, Darby, George T. Davis, John G. Davis, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ewing, Fay, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gilmore, Goodenow, Green, Grey, Harper, Henn, John W. Howe, Thomas M. Howe, George G. King, Landry, Little, Mace, Martin, McDonald, McQueen, Miner, Henry D. Moore, John Moore, Morrison, Nabers, Newton, Samuel W. Parker, Penn, Porter, Powell, Preston, Price, Reed, Riddle, Sackett, Schermerhorn, David L. Seymour, Smith, Snow, Stanly, Abraham P. Stephens, Alexander H. Stephens, Stuart, Taylor, Tuck, Venable, Wallace, Ward, Washburn, Welch, Wilcox, and Yates—89.

Mr. STANLY. What is the first business in order?

The SPEAKER. Communications from the Departments.

DUTY ON RAILROAD IRON.

Mr. MACE. I believe it is in order now to take up and dispose of the bill to admit railroad iron duty free.

The SPEAKER. That bill, by a vote of the House last session, was laid upon the table. A motion was made to reconsider that vote; and then a motion was made to lay the motion to reconsider upon the table.

Mr. STUART. I desire to ask the Chair a question in reference to the order of business. I wish simply to call attention to the fact that the House has just decided to go to business upon the Speaker's table. It is not in order then to take up this motion of reconsideration which prevents that business from being taken up.

The SPEAKER. The Chair decides that at the point when any particular and distinct business upon the Speaker's table shall be disposed of, that a privileged question of this kind may intervene between that and the taking up of bills, and that going to the Speaker's table does not preclude it.

Mr. STUART. But the Chair had announced a message from one of the Departments.

The SPEAKER. The Chair had announced it, it is true, but simultaneously with the announcement, the gentleman from Indiana [Mr. MACE] rose to a privileged question.

Mr. COBB. I desire to ask the Chair a question, with a view of enabling me to vote correctly upon that bill. If the vote is reconsidered again, can I or any other member offer a substitute for that bill to extend the time for paying the duties upon railroad iron four years? I hold such a bill in my hands, which I intend to offer. That is my object in voting for a reconsideration.

The SPEAKER. The motion to lay upon the table is not debatable.

The following is the amendment which the gentlemen from Alabama [Mr. COBB] proposes to offer:

Be it enacted, &c., That the Secretary of the Treasury be, and he is hereby, authorized and directed to extend the time of payment of all duties, except only the amount due in fees to custom-house officers, upon all iron rails, spikes, bolts, fastenings, and other iron necessary for and to be used in the construction of railroads, now or hereafter to be imported into any of the ports of the United States for the term of four years: *Provided*, That before the delivery of such iron rails, spikes, bolts, fastenings, as above, the payment of the said duties so suspended by this act shall be secured by the bonds of such railroad companies, with good personal security, to be approved by the United States district judges: *Provided further*, That so soon as any portion of such railroads shall be completed as will render it expedient, in the judgment of the Postmaster General, to contract with such railroad companies for the transportation of the mail upon such railroads, that the Postmaster General do make contracts with such railroad companies to carry the mail as aforesaid, within such rates as are charged by other railroad companies for like service, and that all such sums as may arise in favor of such railroad companies for carrying the mail as aforesaid, within the said term of four years, from and after the passage of this act, shall be reserved by the Postmaster General for the benefit of the Treasury, and applied as they fall due towards the payment and satisfaction of the bonds of said companies, to be executed by them for the payment of duties as aforesaid.

SEC. 2. *And be it further enacted*, That before such railroad companies shall be entitled to the benefit of this act, they shall enter into an agreement to transport the United States mail upon the terms and conditions prescribed by law, and the regulations of the Post Office Department, made in pursuance thereof: *Provided*, That the bonds to be executed to secure the payment of the duties suspended by this act, shall be so drawn as to secure the payment of interest on said duties at the rate of six per cent. per annum.

Mr. MACE. It is my intention to offer a substitute myself.

Mr. STANLY. I understood the Chair a while ago to say, that the first business in order were Executive communications. I only want to know how we get to this matter now?

The SPEAKER. The Chair states to the gentleman from North Carolina, that the bill now under consideration, by a vote of the House, was laid upon the table. A motion was made to reconsider the vote by which the bill was laid upon the table, and then a motion was made to lay the motion to reconsider upon the table. The Chair decides that the question of laying the motion to reconsider upon the table is a highly privileged question, and may properly be called up now.

Mr. STANLY. At any time?

The SPEAKER. There may be a state of the case when it cannot.

Mr. STANLY. Under what rule of the House

is this bill taken up in preference to the business upon the Speaker's table?

The SPEAKER. The Chair again decides that it is a question privileged in its character; so much so, that it may be called up by any member at any time when the House is not absolutely engaged in the consideration of a particular bill, whether from the Speaker's table or a report from the committee.

Mr. STANLY. I yield.

The SPEAKER. The question is on laying the motion to reconsider upon the table.

Mr. GORMAN. I desire to make a report from the Committee on Printing.

The SPEAKER. It is not in order, in the opinion of the Chair.

Mr. STUART. I desire the yeas and nays on the motion to lay on the table the motion to reconsider the vote.

Mr. ROBBINS. Did the gentleman who moves a reconsideration vote in the majority?

The SPEAKER. The gentleman from New York, [Mr. BUELL,] who made the motion, is not now living.

The yeas and nays were ordered.

Mr. MACE. I ask if it is now in order to send to the Chair the substitute which I desire to offer?

The SPEAKER. It is not, except by unanimous consent.

Mr. DEAN. I object.

The question was then taken, and it was decided in the affirmative—yeas 95, nays 82, as follows:

YEAS—Messrs. Charles Allen, John Appleton, William Appleton, Averett, Babcock, David J. Bailey, Beale, Bennett, Bowie, Burrows, Busby, Joseph Cable, Chandler, Chapman, Clark, Curtis, George T. Davis, Dawson, Dean, Dimmick, Duncan, Edgerton, Evans, Faulkner, Fay, Ficklin, Florence, Floyd, Henry M. Fuller, Gamble, Gaylord, Gilmore, Goodenow, Grow, Hamilton, Isham G. Harris, Hascall, Haven, Hibbard, Holladay, Horsford, Houston, John W. Howe, Thomas M. Howe, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, George G. King, Letcher, Little, Martin, Mason, McDonald, McLanahan, McNair, Meacham, Miner, Henry D. Moore, Morrison, Murphy, Murray, Newton, Andrew Parker, Penniman, Perkins, Phelps, Price, Reed, Riddle, Robbins, Robie, Russell, Sabine, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Snow, Benjamin Stanton, Abraham P. Stephens, Thaddeus Stevens, Stratton, Stuart, Sutherland, Thurston, Tuck, Washburn, and Wildrick—95.

NAYS—Messrs. Abercrombie, Barrere, Bell, Bocock, Bowne, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Thompson Campbell, Carter, Caskie, Chastain, Churchwell, Clemens, Clingman, Cobb, Colcock, Conger, Cottman, Cullom, Darby, John G. Davis, Disney, Dockery, Eastman, Edmundson, Ewing, Freeman, Gentry, Gorman, Green, Grey, Hall, Harper, Sampson W. Harris, Hendricks, Henn, Howard, Jackson, Robert W. Johnson, Landry, Lockhart, Mace, McCorkle, McQueen, Meade, Miller, Millson, Molony, John Moore, Morehead, Nabers, Olds, Orr, Outlaw, Samuel W. Parker, Penn, Porter, Powell, Preston, Richardson, Ross, Scurry, Smart, Smith, Frederick P. Stanton, Alexander H. Stephens, St. Martin, Taylor, Venable, Wallace, Ward, Watkins, Welch, Wilcox, Woodward, and Yates—82.

So the motion to reconsider was laid upon the table.

PRINTING OF THE SEVENTH CENSUS.

Mr. GORMAN. I have been instructed by the Committee on Printing to make a report, accompanied by a joint resolution, upon the subject of the printing of the Seventh Census of the United States, in obedience to a resolution of the House referred to that committee a few days since.

The joint resolution was then read a first and second time by its title, viz:

"Joint resolution providing for printing and binding the returns of the Seventh Census."

Mr. GORMAN. The report is somewhat in detail, and contains the estimates and bids of the persons who have proposed to the committee to do this work. It also contains an appendix, giving the estimates under the public contractor's prices, and a report from the Superintendent of Printing. It will require a little investigation, and I therefore move that the report be recommitted and printed. I also ask that it may be passed over informally until Saturday, that the joint resolution and the report may be before the House in a printed form.

The SPEAKER. Ordinarily, the question on committing is taken first.

Mr. GORMAN. Well, I ask the House to pass that over informally until Saturday.

Mr. JONES, of Tennessee. The gentleman had better let the question be taken on the motion to recommit and print. He can report again on Saturday, or at any other time he pleases.

Mr. GORMAN. I am aware of that fact; but I might not, perhaps, have an opportunity to have it printed.

Mr. JONES. We can order it to be printed now.

The question was then put upon the motion to print, and it was agreed to.

Mr. STEPHENS, of Georgia. I move to postpone the further consideration of the motion to recommit until Saturday next.

The motion was agreed to.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House the following communications from the Treasury Department; which were severally disposed of as indicated below, viz:

I. A communication from the Secretary of the Treasury, transmitting copies of the estimates of expenses for the Legislative Assembly of Minnesota for the next fiscal year, with an accompanying letter from the First Comptroller; which was referred to the Committee on Ways and Means, and ordered to be printed.

II. A communication from the Treasury Department, transmitting a statement of balances on the books of the Register of the Treasury which have remained unsettled or appear to have been due three years prior to the 30th of June, 1852; which was laid upon the table.

III. A communication from the same Department, transmitting, in compliance with the twentieth section of the act of 26th August, 1842, a detailed statement of the manner in which the contingent fund of said Department for the year ending 30th September, has been expended; which was laid upon the table, and ordered to be printed.

PRIORITY OF BUSINESS.

The SPEAKER stated that the business first in order was the first reading of the bill from the Senate (No. 90) "granting to the State of Michigan the 'right of way and a donation of public lands for 'the purpose of constructing a canal or railroad 'across the peninsula of Michigan."

Mr. STANLY. I rise to a question of order. I wish to bring up now the question whether the unfinished business of yesterday does not take precedence of all other business?

The SPEAKER. The gentleman from North Carolina raises the question of order, that the bill which was up yesterday, granting lands to a railroad in Wisconsin, is the first business in order to-day. The Chair decides that that bill is upon the Speaker's table in the fifth class.

With regard to the orders of the day, if the gentleman from North Carolina will turn to the 27th rule, he will find that they cannot be taken up until after the fifth class of business upon the Speaker's table has been disposed of. The Chair would like to have the ear of the House whilst he reads the rule, and the House will then be able to determine the point of order for itself. By turning to that rule, gentlemen will see the order of business as prescribed by the rules. The rule says:

"27. After one hour shall have been devoted to reports from committees and resolutions, it shall be in order, pending the consideration or discussion thereof, to entertain a motion that the House do now proceed to dispose of the business on the Speaker's table, and to the orders of the day—which being decided in the affirmative, the Speaker shall dispose of the business on his table in the following order, viz:

"1st. Messages and other Executive communications."

Well, we have passed to the business on the Speaker's table by a vote of the House. That was done on yesterday, also, and on yesterday we first took up "messages and other Executive communications," and disposed of them.

"2d. Messages from the Senate and amendments proposed by the Senate to bills of the House."

That we also did yesterday, and are in the act of doing to-day.

"3d. Bills and resolutions from the Senate on their first and second reading, that they be referred to committees and put under way; but if, on being read a second time—"

As was the case with the bill on yesterday—

"No motion be made to commit, they are to be ordered to their third reading, unless objection be made; in which case, if not otherwise ordered by a majority of the House, they are to be laid on the table in the general file of bills on the Speaker's table, to be taken up in their turn."

Now, by the rule—not by any peculiar decision of the Chair, but by the universal practice of all his predecessors—that bill, the House having adjourned yesterday without making any order in regard to it, is to be found in the fifth class, which is:

"5th. Bills of the House and from the Senate, on the Speaker's table, on their engrossment, or on being ordered to a third reading, to be taken up and considered in the order of time in which they passed to a second reading."

The Chair decides that if there is anything at all in that rule, the bill is in that class of business, being upon its engrossment, or rather, as it is a Senate bill, on being ordered to a third reading.

Mr. STANLY. I call the attention of the Chair respectfully to the 58th rule, which is as follows:

"58. The unfinished business, in which the House was engaged at the last preceding adjournment, shall have the preference in the orders of the day; and no motion on any other business shall be received, without special leave of the House, until the former is disposed of."

I want to see what bearing that rule has upon this matter.

The SPEAKER. That is in reference to the unfinished business in the orders of the day.

Mr. STANLY. Then when shall we get at that?

The SPEAKER. On Saturday next, when the report of the Committee on Printing in relation to the printing of the Seventh Census comes up, the House having ordered it to be postponed until then. The Chair will call the attention of the gentleman from North Carolina to that portion of the rule which follows the part in regard to the fifth class of business. It reads thus:

"The messages, communications, and bills, on his table, having been disposed of, the Speaker shall then proceed to call the orders of the day."

Now, if that bill be in the orders of the day, we shall have to strip everything from the Speaker's table before we can reach it.

Mr. STANLY. I understand the decision of the Chair, and will not trouble the House with an appeal.

The SPEAKER. The gentleman from North Carolina acquiesces in the decision of the Chair.

Mr. FREEMAN. I would inquire of the Chair if the bill was ordered to a third reading before we adjourned on yesterday?

The SPEAKER. It was not. Being a Senate bill, the question was, "Shall the bill be read a third time?"

Mr. FREEMAN. I desire, then, to call the attention of the Chair to this point in the case. The Chair admits that the bill was not ordered to a third reading. Now, under the third class of business on the Speaker's table, we find the following:

"But if on being read a second time, no motion be made to commit, they are to be ordered to their third reading, unless objection be made."

Mr. DEAN. I rise to a question of order. Has an appeal been taken from the decision of the Chair?

Mr. FREEMAN. I have the floor upon a point of order.

The SPEAKER. If an appeal is taken, debate is in order. Does the gentleman from Mississippi appeal?

Mr. FREEMAN. Yes, sir. I appeal from the decision of the Chair, and I wish to state my point of order. I hope the gentleman from New York will not be so very uneasy.

Mr. DEAN. The appeal is not debatable, and I move that it be laid upon the table.

Mr. JONES, of Tennessee. No debate on the priority of business is in order.

The SPEAKER. The gentleman is right. Such is the rule. The appeal itself is not debatable, as it is on a question of priority of business. The Chair would be very happy to hear the suggestion of the gentleman from Mississippi, if it was the pleasure of the House. But as the gentleman from New York insists on the enforcement of the rule, the Chair is compelled to decide that the appeal is not debatable.

Mr. FREEMAN. The Chair stated that the House acquiesced in the decision of the Chair. I then rose to explain a point of order I wished to make, and, if necessary, to take an appeal. The gentleman from New York [Mr. DEAN] interfered and called me to order.

Mr. DEAN. I understand the Chair to decide that the gentleman from New York was right.

The SPEAKER. If the gentleman from Mississippi appeals from the decision of the Chair, he has a right to state simply the grounds on which he appeals.

Mr. FREEMAN. That is what I desire to do

by calling the attention of the House to the rule. My point is, that under the third section of the 27th rule, we have a right to order the bill to a third reading, which has not yet been done. The House adjourned at the very moment when we had a right to order it to a third reading.

The SPEAKER. And in that case the rule puts the bill upon the table.

Mr. FREEMAN. "Bills, and other matters 'before the House, and unfinished on the preceding 'day, whether taken up in turn, or on special order, 'are entitled to be resumed and passed on through 'their present stages." I read from Jefferson's Manual.

The SPEAKER. The Chair is governed by the rules which this body has adopted. Is an appeal taken?

Mr. DOTY. Yes, sir. I appeal from the decision of the Chair.

Mr. LETCHER. I move that the appeal be laid upon the table.

Mr. DOTY. Upon that, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. STEVENS, of Pennsylvania. I call for tellers.

Tellers were ordered; and Messrs. HARRIS of Tennessee, and CHANDLER were appointed.

Mr. SACKETT. I wish to inquire of the Chair, if there was not an amendment pending to the bill, on which a question of order had been raised, which had to be determined before we could reach the point of the third reading? and if that does not keep the bill before the House?

The SPEAKER. All questions connected with the bill go with it to the Speaker's table, in the fifth class of business.

The question was then taken upon Mr. LETCHER's motion, and the tellers reported—ayes 78, noes 57.

So the appeal was laid upon the table, and the decision of the Chair stands as the judgment of the House.

ARMY APPROPRIATION BILL.

Mr. DEAN. Is it in order for me to move to go into the Committee of the Whole on the state of the Union?

The SPEAKER. That motion is in order.

Mr. DEAN. I make that motion.

The question was then taken, and upon a division there were—ayes 75, noes not counted.

So the rules were suspended, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair,) and resumed the consideration of House bill No. 336, making appropriations for the support of the Army during the fiscal year ending 30th June, 1854; the pending question being upon the amendment proposed by the gentleman from Indiana, [Mr. GORMAN,] upon which the gentleman from Kentucky [Mr. EWING] was entitled to the floor.

The following is the amendment proposed:

"*Provided*, That from and after the first day of July next, so much of the act of Congress, approved August 3d, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps, be, and the same is hereby repealed, and from that day, the said armories shall be under that system of superintendence which existed prior to the passage of the said act of Congress."

Mr. EWING at this moment being absent from the Hall, the question was about to be put, when

Mr. GORMAN said: If this amendment is now to be disposed of, I ask that it may again be read.

The amendment was again reported by the Clerk.

Mr. STANLY. Mr. Chairman, this subject comes upon me rather unexpectedly. The gentleman from Massachusetts [Mr. DAVIS] comes from the district where this Springfield armory is located, and, I understand, wishes to offer some remarks, which I desire the House should hear. I do not wish to have more time consumed than is necessary, but I hope the House will be put in possession of the facts which the gentleman from Massachusetts desires to present.

Mr. DAVIS, of Massachusetts, obtained the floor.

Mr. EWING now entered the Hall and said: Mr. Chairman, I rise to a question of order. I understand I am entitled to the floor.

The CHAIRMAN. The Chair stated that the gentleman from Kentucky was entitled to the floor, but he did not claim it, and it was then awarded to the gentleman from Massachusetts, [Mr. DAVIS.]

Mr. STANLY. There is no difficulty about this matter. The gentleman from Kentucky was not present when the question was called, and I am sure the gentleman from Massachusetts will yield the floor to him.

Mr. DAVIS. Certainly.

Mr. EWING. I do not intend to occupy the floor to make a speech. I only wanted to assert my right to it.

Mr. Chairman, it will be remembered that some time ago I offered a resolution which was adopted by the House, instructing the Committee on the Judiciary to inquire into the expediency of choosing presidential electors, in such a manner as to substitute the district system for the system now in operation—by the vote of the States at large. I had intended to occupy the floor upon that question. However, being always disposed to subserve the ends of patriotism, and finding the committee now inclined to discuss legitimately the bill before them, I believe I will postpone my remarks—intended as reasons for offering that resolution—perhaps till the next session, provided I should be here upon that occasion to make them. [Laughter.] As to that matter, however, although I have no doubt it is one of a good deal of interest both to the House and the country at large, I cannot decide until I have consulted a large circle of friends at home, whom I foresee will be very reluctant to part with me. [Laughter.] If they can spare me, I shall be here the next session, and shall prosecute this subject, I hope, to some purpose; at all events, with that view. For the present, however, as my bosom is swelled with patriotic emotions, and as I see the House is disposed to transact some business in a practical form, and as they desire to listen to the gentleman from Massachusetts, I will yield the honor of the floor cheerfully.

Mr. DAVIS, of Massachusetts. Mr. Chairman, I believe the question now pending before the House is upon the amendment proposed by the chairman of the Committee on Military Affairs, [Mr. GORMAN,] proposing to change the superintendency of the various armories of the United States, from military to civil control. I was not present at the commencement of the debate upon this subject, but from the examination I have been able to give it as published, it seemed to me that the House should not act upon this amendment without a more full knowledge of the subject to which it relates.

I reside in the district where one of these armories is located, and I think I know something of the character and custom of that armory, as well as of the sentiment existing there in relation to it. So far as the armory itself is concerned, the character of the arms manufactured there, the order in which the buildings are kept, and the efficiency with which the whole concern is managed, are, I think, not a subject of serious division of opinion. But it has been suggested by the Committee on Military Affairs, in their report made at the last session upon this subject, and it has been suggested upon this floor in debate, that the expense of the management of the armory under military control, the cost of the manufacture of the arms, &c., is greater now than it was under the civil superintendence. Sir, I have not seen any authorized facts or figures going to sustain that view of the case.

Mr. Chairman, I have strong objections to any change of the system of superintendence, until the House, or the committee recommending the change to the House, shall have taken pains to satisfy themselves, by a reference to the best sources of information, as to what are the facts of the case. Reference has been made here to a pamphlet upon this subject, which has been distributed among the members; but no pains have, to my knowledge, been taken to ascertain whether the facts set forth in that pamphlet are correct or not; and therefore, I say we ought not to act in this matter until we have verified the facts, and have thus secured the means of correct judgment. The natural course to be pursued, before making so important a change as this, would be to call upon the Department which has the means of furnishing information upon this subject, to furnish it to the House. If there are charges as to the mode in which the superintendent of the Springfield armory has conducted the affairs of that armory, there should be some opportunity afforded him to come forward and meet them. This would be fair, manly, and American.

But, sir, the larger part of these charges are not new. This is a controversy of ten years' standing. The superintendent of that armory has been called upon to meet precisely the same charges, with few exceptions, before. He has been arraigned before a military court of inquiry, and before commissions taken from the civil walks of life, and he has met all the charges successfully. I recognize only a few items in the charges which have been made against him here, which have not been made heretofore, and successfully refuted by him.

Now, sir, I do not mean to prejudge this case. I occupy no partisan position in relation to it. I desire that justice shall be done, and on manly, above-board inquiry. All I ask is, that there shall be a full and impartial hearing, and if it appears that any suggestions of waste, corruption, and tyranny are established against this superintendent, there will be good cause for his removal. And if these charges shall be found to attach necessarily to the system adopted for the control of those establishments, that fact will furnish a good reason for a change in the system. But it is unfair to the man, and I do not think it is the proper mode of transacting business, so far as the public is concerned, to act in so important a matter as this upon mere general statements, without taking the pains to get precisely and definitely at the facts in the case.

It has been stated here, that the expenses under the civil were less than under the military superintendency. There have been charges of extravagance. It has been said, I repeat, that the cost of the manufacture of arms is greater under the present arrangement than under the civil superintendency. I understand the fact to be otherwise. It is conceded by the advocates of a change, that the cost of a musket under the old system was from eleven to twelve dollars per musket. During the last year, under the present system, it was between eight and nine dollars, as appears by the report of the Colonel of Ordnance among the papers accompanying the President's message.

Mr. INGERSOLL. I should like to know how that fact was ascertained?

Mr. DAVIS. I am very glad the gentleman has asked that question, and I hope he will ask more. I resorted to a source which, I am sure, from the statements made by him yesterday, he has not resorted to—to the public documents—to the authorized statements of the Department. It is upon such statements that I desire to predicate my action, and when I find that the majority of the Military Committee recommending this change have not thought fit to apply to any such source, I think there is so much the more reason why the House should pause before adopting their recommendation.

Mr. INGERSOLL. I find, Mr. Chairman, some figures in relation to this matter, which I presume the gentleman will not deny. In the first place, it is claimed that in 1851 the cost of a musket at the Springfield armory was $8 75. This, I presume, has been ascertained by dividing the amount so appropriated by the number of muskets manufactured during the year. I presume this is the fact, because by making the division, nearly that result will be produced.

Mr. DAVIS. Do those figures come from an official source?

Mr. INGERSOLL. They were furnished, I believe, by the honorable gentleman from Virginia, [Mr. FAULKNER,] and I presume they will not be disputed. But I proceed. If this be so, I ask the honorable gentleman from Massachusetts if the number of workmen at the Springfield armory were not about the same in 1850? Was not the machinery substantially the same? Were not the hours of labor the same during these two years? I believe this was so. Well, sir, in the year 1850 the annual appropriation was the same for the Springfield armory as in 1851; yet it is claimed that twenty-three thousand muskets were manufactured in 1851, while there were but ten thousand one hundred and fifty-five furnished in 1850. In other words, there were less than half the number of muskets manufactured in 1850 than were manufactured in 1851.

Mr. DAVIS. I should have adverted to that matter in any event. The gentleman read from a small pamphlet. It was not an official document.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32d Congress, 1st Session. FRIDAY, FEBRUARY 4, 1853. New Series.....No. 32.

Mr. INGERSOLL. Does the gentleman deny the figures?

Mr. DAVIS. I do. Is the gentleman satisfied? There is a mistake of one hundred per cent. in his figures.

Mr. INGERSOLL. Let us have your figures.

Mr. DAVIS. The gentleman's error is not an intentional one; but it is one likely to happen where men are not confronted face to face. Of course it is unintentional, but I am informed, and I understand that this very calculation, upon which the House is called to change the present system, instead of exhibiting a production of ten thousand one hundred and fifty muskets for 1850, shall exhibit a production of twenty thousand one hundred and fifty-five muskets for the same year. I further state—and it will turn out to be so—that in making up and swelling up the cost of manufacturing muskets for the last ten years, the persons making the estimate upon which the gentleman relies, have included all the cost of altering one hundred and thirteen thousand four hundred and six flint-lock muskets to percussion, and of fabricating four hundred and fourteen thousand one hundred and seventy-eight extra cones, hammers, and screw-drivers, for muskets so altered, amounting to $116,083 84.

They have put all that amount into the cost of manufacturing muskets.

Mr. FAULKNER. I do not know, Mr Chairman, what statement the gentleman from Massachusetts has seen. The only statement I have is one I have very carefully made out.

Mr. DAVIS. The gentleman will understand that I have already said if there are any errors, I take it for granted that they are unintentional ones. I say there are errors, I care not whose the statement is. The very difficulty which the House encounters in acting upon this subject, arises from the fact that the committee seems to have avoided seeking information in the quarters where the most accurate information was to be found.

Mr. FAULKNER. There may be typographical errors in the printing.

Mr. DAVIS. The gentleman will find that the errors to which I advert extend to the footings, and taint the whole calculation. Twice during the last ten years has Colonel Ripley been called upon to meet these charges before courts of inquiry, and he always met them successfully. When the Committee on Military Affairs made their report at the last session, in which they allege that the cost of the manufacture of muskets has increased, they entered into no details. They did not call upon the Departments for information, and have never, as I believe, gone to any authentic source of information upon this subject.

Now, sir, I may be right in my statements, or I may be wrong. They are just as likely to be right as those of the committee. I will venture to say that they were derived from quite as authentic sources. But the point I most strongly wish to impress upon the members of this House is, that they ought not to rely, in their action, either upon the statement of the committee, or upon my own. It is not right as regards the man, and it is not right as regards the system, that they should make a change, without having full and official information. I further state—which will be found to be true upon an investigation of the facts—that the total amount of muskets manufactured under military superintendence is one hundred and forty-one thousand eight hundred and two, instead of one hundred and twenty thousand seven hundred and ninety-four, as given by the figures upon which the gentleman seems to rely. I tell the gentleman further, that adopting his own figures, with the corrections which I have above suggested, and he will find that the price of the musket is still forty-three cents less under the new than the old system, besides paying for all the new buildings and machinery. I tell him, further, that he will find, on an impartial investigation, that out of the savings made in the cost of construction, every building and all purchases and improvements in the power of productions within ten years past have been paid for, and a surplus of $61,000 besides. I tell him that this sum has not been made, I am most glad to say, by diminishing the amount earned by the operatives, but partly by the advantages of machinery, and partly by getting the full benefit of the ten hours of labor for which the Government pays. He will find, if he will take the trouble to inquire, that the average pay earned by each operative per month, in 1840, was $37 87, and that the average pay per month earned by each operative in 1851, was $38 84. He will find that the average daily pay of each man in 1840 was $1 51, and in 1851 was $1 55. And yet with all this, the cost of labor on each musket is reduced from $8 27 in 1841, to $4 43 in 1851, making a saving in that item of $3 83 on each musket. And while every man earns more pay than before, the saving on cost of labor in ten years equals $440,000 in that one establishment. Buildings have been erected, spacious, substantial, and massive. The grounds occupied by the armory have been extended, and the whole establishment made a model of order, neatness, and efficiency; and every dollar of cost, with a surplus of $61,000 beside, has been saved to the Government by the enlightened and enterprising economy of the man who is sought to be denounced here as wasteful.

I do not put my opposition to this amendment upon the ground that I am more sure to be right than the committee as regards these details; but what I undertake to say is, that this House ought not to act upon so important a subject while there is such a controversy about material facts, and while the committee whose business it was to ascertain them has studiously avoided the authentic sources of information.

Mr. FAULKNER. Whence does the gentleman derive his authority for the statement that the committee have studiously avoided going to official sources for information?

Mr. STANLY. I object to the gentleman from Massachusetts being interrupted.

Mr. DAVIS. It gives me great pleasure to be interrupted by the gentleman from Virginia, and to answer any questions from him.

Mr. FAULKNER. Now, sir, without prescribing a course for other gentlemen, I take this occasion to state, that when I shall address the House upon this question, I shall refer to nothing but official data and official reports as the basis of my information, and as the basis of the action of the Committee on Military affairs.

Mr. DAVIS. I presume and hope that it will so appear; and if that be the case, then I presume the gentleman will arrive at this same result that I have reached.

Mr. FAULKNER. We will see.

Mr. DAVIS. If he relies upon correct data, no doubt he will; if he does not, he will draw an opposite conclusion.

Now, another word in relation to the character and mode of supervision. In 1841, a change was made from a civil to a military superintendency. Since that time the establishment has become a model of order, neatness, efficiency, and force. Still, I admit the force of the suggestion, what if it should turn out that accompanying these improvements there has been tyranny and despotism and caprice? The mere fact that there has been a saving will not, with a high-minded people and Government, serve as an excuse for a tyrannical use of power. On this point, it is obviously more difficult to form an accurate judgment than on the pecuniary results of the system. These are exhibited by figures and show for themselves. It is difficult to determine how much allowance should be made for misrepresentation, for mistakes of judgment, for the ill-will which resolute men in responsible situations must almost necessarily encounter. An officer in the position of the superintendent of the armory will of course, if he does his duty to the Government, make enemies; but it will be very singular if he does not occasionally commit errors of temper or of judgment. Of the charges brought against this superintendent, it would perhaps be enough to say, that it is an outrage to judge him or any other man on *ex parte* statements.

In the absence of any evidence of a definite character, properly presented, I am driven to rely upon certain general considerations. I reside some forty miles from this armory, but I have always had a general knowledge of the state of its affairs, its mode of operation and its government. When the present superintendent came there, at the time this change was made, there was throughout the town of Springfield, among a great majority of the inhabitants, a feeling little short of hatred of him, and of the changes which he introduced. And now, when this question comes up again, it is perfectly natural, whether that feeling still exists, or whether it has been to any extent effaced by experience and time. Now, what evidence have I upon that subject, which ought to guide me in my action here?

There was presented here at the beginning of the session, a paper which, according to my recollection, contained some seven or eight hundred names, in favor of a change from a military to a civil superintendency. Seeing some seven or eight hundred names which I supposed to be of my constituents, I thought it desirable to look further into the matter. I caused that paper to be examined, and out of the whole number of names I only found one hundred and seventy-one which were upon the Springfield Directory. The rest, where did they come from? What special interest had they in this matter? Probably they were some of the constituents of my friend from Connecticut, [Mr. Ingersoll,] who work in the rival establishments in Connecticut. That is all right. I see my friend [Mr. Ingersoll] showed great candor in stating some of his reasons for desiring this change. I will read a part of his remarks, that gentlemen may understand the leading motives of the course of my friend from Connecticut. He says:

"Two of these manufactories are in my own district. Now, sir, if this military system is carried out, it will end in the withdrawal of all contracts from private individuals and manufactories. I am opposed to the change so long as private industry can furnish us with what the Government wants."

Now, what is the meaning of that? Is it not that these private manufacturers cannot manufacture as cheaply as the Government can?

Mr. INGERSOLL. By reading further, the gentleman will find that these manufacturers were induced, under the operation of a law of Congress, to enter into this kind of business, and this military system will break up these private manufactories.

Mr. DAVIS. The gentleman says it will break up the private establishments, because the Government manufactures cheaper, and yet he turns round, and says that this military system is wasteful—in other words, that the civil superintendency ought to be introduced, with the view of increasing the cost of the musket, in order to enable these private establishments to compete for contracts. The gentleman will find among the published papers the evidence of Mr. Pomeroy, an old and highly respectable manufacturer, who frankly admits, that under the old system, he could go on and make money by contracting to furnish Government with arms at the price which it cost the Government to manufacture at Springfield; but that it is now no longer possible, since the late reductions of cost have been effected.

The Government had buildings, land, tools, and work-shops, yet under the old system it did not succeed in manufacturing as cheaply as the private manufacturer alongside of the Government, furnishing his own capital, and his own work-shops. I want gentlemen to assume one position or the other, and when they have taken it, to adhere to it. The gentleman from Connecticut [Mr. Ingersoll] takes the ground that the existing system ought to be abolished, because arms are so cheaply manufactured at the armories of the United States, that private establishments cannot live alongside of them. And, for aught I know, the member from Virginia [Mr. Faulkner] will argue that the system ought to be abolished because of the increased expenditure under the mili-

tary to what there was under the civil superintendency. I will not, however, anticipate the gentlemen's argument. I only hope that they will to some extent be consistent with each other in their arguments.

When this digression took place, I was commenting on the petition with seven or eight hundred subscribers, citizens of Springfield and its vicinity. When received, as I have stated, I caused it to be examined, and ascertained that in fact, of the seven or eight hundred subscribers' names, only one hundred and seventy-one were found in the Springfield Directory. It might have been that some of the names of the subscribers to that petition, who were inhabitants of Springfield, were left out of the Directory. I have strong reason to believe that a large number of the names were of persons *slightly* interested in the concerns of the private manufacturers of arms, whom my friend from Connecticut [Mr. INGERSOLL] represents, and whose disposition, of course, will be to have establishments of this character broken up. Another petition, opposing any change, was sent here, subscribed, I think, by some four or five hundred people. I do not recollect precisely the number of signatures, but I believe that they were, without an exception, inhabitants of Springfield. I found, on examining the list, a fair representation of men of every class, sect, and political faith in the town of Springfield. It was an opinion from a most authoritative source in favor of sustaining the existing system.

That petition is more entitled to notice, because it is the expression of a state of things succeeding the most violent hostility, not only to the system, but the superintendent himself. It is not conclusive; and I do not pretend that it is conclusive. Various influences may have operated on these people to sign the petition against change, as various influences may have operated for signatures to the other petition. I do not pretend to say that it is anything more than an indication of more or less importance. I do assure the committee, however, that I have faith in the inhabitants of Springfield. I have faith in the human heart everywhere. I believe, if there was such oppression, cruelty, or fraud carried on, as has been here suggested, a voice would be heard from the place where they occurred. The echoes are apparently louder here than there. I look to the Whig and Democratic press of that city, and I look in vain for indications of such hostility to this system and to the man, as I am sure would be called out by any gross violations of honor or right on his part.

Mr. CHANDLER. With the gentleman's permission, I move that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman of the committee (Mr. BROWN, of Mississippi) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 336, making appropriation for the support of the Army, and had come to no resolution thereon.

Mr. DOTY. I move to reconsider the vote by which the House refused to lay on the table the bill of the Senate No. 131, granting the right of way and a donation of the public land to the State of Wisconsin, for the purpose of locating and constructing certain railroads in that State, and the amendments thereto.

[ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills and joint resolution; which thereupon received the signature of the Speaker, viz:

An act for the relief Maurice K. Simons;

An act for the relief of Brevet Brigadier General Bennet Riley, and to enable him to settle his accounts with the United States;

An act for the relief of the heirs of Jeremiah Wingate;

An act for the relief of the legal representatives of Bernard Todd, deceased; and

A joint resolution granting the petition of William and Matthew Moss.]

Mr. LETCHER. I move that the House do now adjourn.

The motion was agreed to; and the House thereupon adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. MURRAY: The petition of S. W. Mills and 38 other persons of Bloomingburg, New York, asking Congress to adopt such measures as will secure to American citizens residing or traveling in foreign lands the same enjoyment of the rights of conscience and public worship that is granted to foreigners residing here.

By Mr. EVANS: The petitions of Joseph Mahan and William S. Mahan, for compensation for taking the census of 1850, in Cecil county, Maryland.

By Mr. MOORE, of Louisiana: The petition of merchants of New Orleans, praying for an extension of the port of New Orleans.

By Mr. McDONALD: The petition of Benjamin Rowe, for a pension.

By Mr. BURROWS: The memorial of citizens of Niagara county, New York, praying Congress for an appropriation of a portion of the public lands to aid in the construction of a channel suitable to ship navigation, between the Lakes Erie and Ontario, in conformity with the Government survey made in 1835 by Captain William G. Williams, of the Topographical Engineers, and reported to Congress in April, 1836.

By Mr. CABLE, of Ohio: The memorial of Esther Vanernburgh, on the subject of lost papers on the subject of a pension for the services of Joseph Lull, in the revolutionary war.

IN SENATE.

FRIDAY, *February* 4, 1853.

Prayer by the Rev. JAMES GALLAHER.

A message was received from the President of the United States, by Mr. M. P. FILLMORE, his Secretary, transmitting, in compliance with a resolution of the Senate asking for information with regard to the execution of the postal convention between the United States and Great Britian, a report from the Secretary of State, and the documents which accompanied it.

The message was referred to the Committee on the Post Office and Post Roads.

PETITIONS, ETC.

Mr. SEWARD presented three memorials of citizens of Lewiston, Buffalo, and New York city, New York, engaged in carrying passengers and freight by steamboats, praying the repeal or modification of the late act of Congress to provide for the better security of the lives of passengers on board of vessels propelled, in whole or in part, by steam; which were referred to the Committee on Commerce.

Mr. WADE presented a memorial of citizens of Cleveland, Ohio, praying an appropriation of land for the construction of a ship-canal around the Falls of Niagara; which was referred to the Committee on Commerce.

Mr. COOPER presented a memorial of John Shaw and others, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. TOUCEY presented a petition of masters and pilots of steamboats, and other vessels, navigating the Connecticut river, praying an appropriation for placing lights, spindles, and buoys in that river; which was referred to the Committee on Commerce.

Mr. BRODHEAD presented a memorial of citizens of Philadelphia, praying a modification of the bounty land law; which was referred to the Committee on Public Lands. He called attention to the fact that he had introduced a bill upon the subject, which was before the Committee on Public Lands, which committee he hoped would report it at an early day.

Mr. BRODHEAD also presented a petition of the engravers employed in the office of the United States Coast Survey, praying to be allowed to participate in the benefits of the law of the last session of Congress, granting a percentage on the salaries of clerks and others; which was referred to the Committee on Finance.

Also, the petition of P. A. Browne and others, praying an alteration in the organization of the Military Academy at West Point; which was referred to the Committee on Military Affairs.

Mr. GWIN presented the memorial of Francis W. Rice, late United States Consul at Acapulco, in Mexico, relative to the outrages committed upon him and other American citizens by the Mexican authorities; which was referred to the Committee on Foreign Relations.

A motion by Mr. GWIN to print the above memorial, as an appendix to Executive Document No. 17, of this session, was referred to the Committee on Printing.

Mr. FISK presented a petition signed by all the members of the Senate of New York, praying that measures may be taken to secure to American citizens abroad the rights of conscience and of public worship; which was referred to the Committee on Foreign Relations.

Mr. SHIELDS presented a memorial of the Directors of the Washington Infirmary, praying an appropriation for enlarging and furnishing the building, and an increase of the annual appropriation for the support of the institution; which was referred to the Committee on the District of Columbia.

Mr. WALKER presented a petition of citizens of Wisconsin, praying that the homestead bill may become a law; which was ordered to lie on the table.

REPORTS FROM STANDING COMMITTEES.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was referred the bill from the House of Representatives for the relief of Jasper A. Maltby, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. WELLER, from the Committee on Pensions, to which was referred the petition of Betsey Norton, widow of Freeman Norton, a seaman in the naval service of the United States during the war of the Revolution, reported a bill for her relief; which was read and passed to the second reading.

Mr. FELCH, from the Committee on Public Lands, to which was referred a bill to extend preemption rights to unsurveyed lands, and for other purposes, reported it back, with an amendment.

He also, from the same committee, to which was referred the petition of the Niagara Falls and Lake Ontario Railroad Company, reported a bill granting to the Niagara Falls and Lake Ontario Railroad Company, the right of way through or along the river side of the military reservation at Fort Niagara, in the State of New York; which was read a first and second time by its title.

On motion by Mr. SEWARD, the Senate proceeded to consider the last-named bill as in Committee of the Whole. No amendment being made, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

Mr. FELCH, from the Committee on Public Lands, to which was referred the petition of citizens of Illinois, praying that the right of preëmption to settlers on the public lands may be extended to the period of five years, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the same committee, to which was referred the petition of John Thorne, praying a donation of land, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. UNDERWOOD, from the Committee on Public Lands, to which was referred the bill from the House of Representatives for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip, reported it without amendment; and on his motion the Senate proceeded to consider it as in Committee of the Whole. It proposes to direct the Commissioner of the General Land Office to approve the location of certain Choctaw land scrip entered by Swayze in Louisiana.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

Mr. BADGER, from the Committee on the Judiciary, to which was referred the bill from the House of Representatives for the relief of David Myerle, reported it without amendment.

MARINE CORPS.

Mr. HOUSTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the mode in which the Marine Corps, attached to the Navy, is supplied with clothing, arms, subsistence, &c., and whether or not the same is done by public notice and contract, or by private agreement, and how much, if at all, the same exceeds the cost of similar articles furnished for the Army and Navy respectively, of a like description; and that for this purpose the said commit-

tee have power to send for persons and papers, and report thereupon to the Senate.

Resolved, That the said committee also be instructed to inquire into the expediency of a thorough reorganization of the Marine Corps, so as to dispense with a large number of officers who are, from the nature of their service, useless as "field officers," above the rank of captain, and of so distributing and employing the said Marine Corps as to render them effective for the purposes to which they are suited, and for which they were designed.

MARCY'S REPORT.

Mr. SEBASTIAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate the report of Captain R. B. Marcy of his exploration of the waters of Red river; and if not ready by the close of the session, that the Secretary of the Senate be authorized to have it printed for the use of the Senate.

THE BROTHERTON INDIANS.

Mr. WALKER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Indian Affairs be instructed to inquire and report to the Senate what sum of money, if any, is equitably and justly due from the United States to the Brotherton tribe of Indians, now located in the State of Wisconsin.

PRESIDENTIAL VOTES.

Mr. HUNTER, from the Joint Committee appointed on the 31st of January last, to ascertain and report a mode for examining the votes for President and Vice President of the United States, and notifying the persons elected of their election, reported the following resolution; which was considered by unanimous consent, and agreed to.

Resolved, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 9th instant, at twelve o'clock, and the President of the Senate *pro tem.* shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tem.*, who shall announce the state of the vote and the persons elected, to the Houses assembled as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses.

On motion, it was ordered, that the teller be appointed by the President *pro tem.;* and Mr. HUNTER was appointed.

MARINE HOSPITAL.

Mr. DODGE, of Iowa. I wish to offer the following resolution:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of establishing a marine hospital at Burlington, in the State of Iowa.

Mr. President, as the resolution is one simply of inquiry, I ask the Senate to do me the favor to act upon it now. I also ask that a letter of Dr. John H. Ranch, containing some valuable suggestions and statistics in support of the establishment of a marine hospital at Burlington, on the Upper Mississippi, may be also referred to the Committee on Commerce.

The resolution was agreed to; and the letter was referred to the Committee on Commerce.

THE FISHERIES QUESTION.

Mr. DAVIS gave notice of his intention to ask leave to introduce a bill concerning the fisheries.

COMMITTEE ON THE LIBRARY.

Mr. DODGE, of Iowa, was, on his motion, excused from serving on the Committee on the Library, because, as he said, he was already on two committees, which engrossed nearly all his time. On his motion it was ordered that the President *pro tempore* appoint a member to fill the vacancy in said committee. In accordance therewith, Mr. BAYARD was appointed.

SELECT COMMITTEE ON ETHER.

The motion submitted yesterday by Mr. SMITH, that the President *pro tempore* be authorized to fill the vacancy in the Select Committee on anæsthetic agents, was agreed to.

LAND DONATIONS IN OREGON.

Mr. BRIGHT. I ask the indulgence of the Senate to take up this morning the bill from the House of Representatives to amend an act entitled "An act to create the office of surveyor general of 'the public lands in Oregon, and to provide for the 'survey, and to make donations to the settlers of 'the said public lands," approved September 27th, 1850, which bill has been reported by the Committee on Public Lands, with an amendment. The reason why I make the motion now is, that Tuesday next has been fixed by the House of Representatives as the day on which they will consider territorial business, and it is important that this bill should be acted upon so that the amendment may go there before that time. My impression is that it will consume but a few moments.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

Mr. BRIGHT. The amendment of the Committee on Public Lands I can state in a few words, so as to obviate the necessity of reading it. The original bill, passed in 1850, limited the beneficiaries of the donations to those settlers who should arrive in the Territory before the first of December, 1853. The bill will therefore expire at that time; and the amendment of the Committee on Public Lands is to extend the provisions of the former act, so as to grant to settlers who may arrive before December, 1855, the same quantity of land which was heretofore given or may be given to those who may arrive there previous to that time; and to give to the widows of those persons who have died, who emigrated there, the same amount of land that their husbands would be entitled to if they had lived.

The amendment of the Committee on Public Lands was agreed to, and the bill was reported to the Senate as amended.

Mr. FELCH. Before the amendment is concurred in by the Senate, I wish to amend it in one or two particulars. I move to strike out in the fifteenth and sixteenth lines of the fourth page of the printed amendment, the words "on or prior to the 1st of December, 1853." It is an unnecessary repetition of a date, and keeping it in that way may cause confusion.

The amendment was agreed to.

Mr. FELCH. There is a blank in the amendment which I wish to fill. It provides certain percentage for compensation for the receiver, to be appointed under the bill, for certain moneys received. The compensation of that officer is now $2,500. I propose to increase it to $3,000 in consequence of these additional duties, which is the amount which registers and receivers, whose duties he performs, are entitled to receive.

The amendment was agreed to, and the amendment made in Committee of the Whole, as thus modified, was concurred in; the amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read a third time and passed.

WAREHOUSING SYSTEM.

The Senate, as in Committee of the Whole, resumed the consideration of the bill to extend the warehousing system by establishing private bonded warehouses, and for other purposes.

Mr. HUNTER. I am very anxious, Mr. President, to dispose of this bill to-day. It is not my purpose to make a speech in favor of it, for I know that it would be killed quite as readily by a speech in its favor as by one against it. I know that the time of the Senate is precious, and in order that I may consume as little of it as possible, I will say that if I find that the provision, which is the only one that has given rise to objection, is still considered objectionable by gentlemen, I shall be prepared to give way upon that in order to carry through the other provisions of the bill which will be beneficial to commerce. But I regard the provision to which objection has been made, as so important, that I am not willing to abandon it without some struggle. I wish, however, to consume a few minutes in presenting some reply to the views urged yesterday by the Senator from New Jersey, [Mr. MILLER,] saying at the same time, that if the opposition to this feature, although a minority, should be determined not to suffer the bill to pass without a modification of that portion of it, I shall submit to that modification, in order to get the other provisions through; but I shall reserve the right to myself, at another session, when there will be more time, to bring up as a separate and isolated measure, the question upon the extension of the time for allowing goods to remain in warehouse.

It seems to me, sir, that the Senator from New Jersey was wrong in supposing that this extension would operate in any way to the prejudice of the manufacturing interests. He says it would be prejudicial, because it would be readopting the old credit system in relation to duties, and because if we allow these facilities for storing goods here, our markets will be flooded with foreign goods. I think he is mistaken in both positions. In regard to the first, I would say that this is very different from the old credit system. Under that system, the duties were not required to be paid until the goods had passed into consumption. Under this bill, whenever the goods are taken out of the warehouse, the cash is to be paid before they can pass into consumption. It can make very little difference, so far as that question is concerned, whether the goods be taken out of warehouse in Liverpool or in New York.

The Senator from New Jersey supposes that the practice of storing goods here will be prejudicial to the manufacturers, because it would enable foreigners to flood our markets at a time when goods were about to rise in prices. Why, sir, if he will look into the matter a little, he will find that this is one great step to secure the very thing which the manufacturers desire so earnestly, and that is, steadiness in prices. Under the proposed system, when the prices are low, it would be to the interest of those who hold goods to store them in warehouse, for the purpose of waiting for increased prices, and thus it will prevent prices descending to so low a level as would otherwise be the case. And when prices are high, owing to the scarcity of supply, that supply will be aided by the goods already in warehouse, and thus they will be prevented from ascending to as high a price as otherwise. Thus, the operation of this bill will have a tendency to secure the very thing which the manufacturers so much desire—steadiness and stability in prices.

So, too, in regard to freights and to the navigating interest; and it is especially important in this point of view. When the prices of freights are low, then, under the operation of this bill, our vessels will be employed in distributing the goods of the world, or rather in collecting them and bringing them to the depôts on our shores. Not only this, but it is obvious that inasmuch as this system would increase the general wealth of the country and its capacity to consume, it would to that extent benefit the manufacturers. Not only must it be beneficial to them, in that point of view, but now, when we are engaged in a competition for the commerce of the world, it would benefit the manufacturers, and by enabling them to obtain an assorted cargo at home, whenever they wish to send their manufactures abroad.

So that, in all these points of view, it seems to me this system would be much more beneficial than prejudicial to the manufacturing interests.

But, sir, does not the honorable Senator from New Jersey perceive that he will not, by rejecting this bill, obviate the difficulty, if difficulty it be, that these goods would be stored, and out of the storehouses would flood our markets, and exclude our own people from the business? This system is allowed in Great Britain, and the consequence will be, that if we do not adopt it, instead of getting goods from the storehouses in New York, you will get them from the storehouses in Great Britain; so that you will still have that evil to encounter, if evil it be. The only difference would be, that instead of allowing our own citizens to enjoy the profits of the business of storage, and our navigating interest to enjoy the advantages which would be derived from thus concentrating goods upon this continent, and enabling them to take an assorted cargo to any of the markets of the world, if you reject the bill, it would be an advantage which would be exclusively enjoyed by the British merchant, the British shipowner, and the British store-owner.

It is not my purpose to consume time; but I find that the benefits of this warehouse system were so concisely stated and so truly stated by Mr. Walker, late Secretary of the Treasury, in his report upon that subject, that I wish to call the attention of the Senate to it, for the purpose of showing the benefits which he thus enumerates. He says we will derive these benefits from this system:

"1st. The freights upon the importation of the goods. 2d. The freights upon such as are reëxported. 3d. The storage. 4th. The insurance whilst on deposit, as well as when imported or exported. 5th. The labor attending the landing, receiving, and reshipments, including the wharfage, drayage, cartage, craneage, hoisting, stowing, piling, packing, repacking, &c. 6th. The profit upon the sale of

the goods; or 7th. The commissions when sold and re-shipped on foreign account. 8th. The wages and compensation paid to the clerks, storekeepers, &c. 9th. The yearly appreciation of property arising from the extension of business, and the erection of docks and warehouses. 10th. The augmented market for domestic products and manufactures, purchased to complete assortments, and freighted abroad at cheaper rates, thus augmenting domestic exports, as well as the profits upon them. 11th. The use of the capital, credit, and specie, and the command of the exchanges of the world. 12th. The augmented home market for domestic products and fabrics, arising from the increase of capital, business, and population, growing out of the warehousing system. There are some of these items known to be great, not susceptible of any accurate approximate estimate; taking, however, those only where the data are established, it may be safely assumed that the gross income yielded on such items to the country, from warehoused goods, is not less than twenty per cent. on the value of such goods stored for sale and distribution."

This is the profit which Great Britain has derived from three hundred and eighty-seven million two hundred thousand dollars' worth of goods that are annually stored in her warehouses.

As I said before, I know that the consumption of time will kill this bill; and if those who are opposed to it are determined not to give it their support, or to speak against it in the event that we retain the provision for extending the time for warehousing goods intended for domestic consumption, I am prepared to give up that provision, if I can thereby succeed in getting passed the other portions of the bill, reserving, however, to myself the chance at the next session, if I should be living and here, to renew the question then upon that single and isolated point. I may be permitted to add, however, that I shall do so with extreme regret, for I believe that at this time, when we are engaged in a competition with Great Britain for the commerce of the world, nothing could be more important to us than to provide these means and facilities for the purpose of carrying on that commerce. Nothing could be more important to the cities of New York and San Francisco, which are destined to be the great commercial depôts of this country on the Atlantic and Pacific sides. But as I know that any extension of debate beyond to-day may be fatal to the whole bill, if I can get the residue of the bill passed, I shall be willing to submit to the modification of the feature which is so objectionable to the Senator from New Jersey.

Mr. GWIN. If I understand the Senator, he says he is willing to submit to a modification of the provision allowing goods to remain in warehouse for three years.

Mr. HUNTER. I am willing to do so rather than lose the other features of the bill.

Mr. GWIN. I hope the Senator will adhere to the bill as it is upon that subject. That is the greatest point in it, and one of the greatest possible importance; and I am sure we can carry it if we adhere to it.

Mr. BUTLER. Yes, if you do not take up your railroad bill.

Mr. GWIN. I hope we shall adhere to this provision. Let us have the vote.

Mr. HUNTER. I hope we shall have a vote.

Mr. BRODHEAD. I do not very well understand the machinery of this warehousing system; but it seems to me this is a dangerous extension of it. You are about to make public warehouses out of every man's private storehouse. I am not prepared to say that a bill of this sort ought not to be passed, but I confess I do feel it to be my duty to look into this subject, and to examine its features. My friend from Virginia says that New York and San Francisco are destined to become the great commercial *depôts* of this country. From that opinion I beg to dissent. I believe that Philadelphia will be one of the great commercial depôts of this country, and as great a one as can be found. Besides, Mr. President, this is a bill for the benefit of those who are engaged in the importation of goods, and they are generally foreigners. I do not object to foreigners being engaged in business in this country; but, sir, when the capitalists of foreign countries send their agents here to carry on their business, I do not think we should be so very desirous to extend the warehousing system for their particular benefit.

I do not believe that this bill will become a law during this session, for I doubt very much if it will pass the House of Representatives, at this late period of the session, with such other pressing business as is now before that body. I do not intend to offer a factious opposition to this bill, or to speak for the mere purpose of delaying it. I distrust my own judgment when I find myself differing from my friend from Virginia; but if he will consent to strike out the section referred to by the Senator from New Jersey, I do not suppose I should object to the bill further.

Mr. SEWARD. Mr. President, I hope the honorable Senator from Virginia, who has the bill in charge, will not hastily yield the point which he has proposed to yield. It is not my purpose to debate the bill at any length, but simply to declare, as I feel bound to do, my conviction that it is not only right in itself, but that the provision objected to is very essential, and without it the bill will be shorn of one of its most valuable features. Still I agree with him that it would be better to yield it, if the bill cannot be carried without doing so.

The first objection taken to the bill is, that it extends the warehouse system to the adoption of private warehouses. I think, sir, that is one of the most important features of the bill. I believe we would have been better off if we had never had a public warehouse at all. Where public warehouses have been built, it has been at a vast expense, and I think other warehouses furnished by private capital, and guarantied to the public by private individuals at the risk of their own profit, would be a much more economical system; and when the warehouse system was first adopted, the chief objection to it was the vast extent of expenditure to be incurred in the erection of public warehouses.

The next objection is to that provision allowing the storing of goods in warehouses for three years. If the system be right at all, it is important that the storage should be allowed for a period so long as to prevent the necessity of spasmodic importations in consequence of violent and sudden changes of the market.

I shall not dispute with the honorable Senator from Pennsylvania at this day, whether Philadelphia and San Francisco, or New York and San Francisco, are to be the great marts for the commerce of the world. For all our purposes, Philadelphia and New York will ultimately be found to be one, having one interest, and a common feeling. But I would say to that honorable Senator, that neither Philadelphia nor New York will ever be able to become great commercial marts of the world, or even of this continent, if they adopt a policy which discourages foreigners from carrying on the operations of commerce in those cities.

Mr. TOUCEY. I hope that the Senator from Virginia will not consent to the modification which has been suggested, and I hope that the Senate will not debate this bill so as to defeat its passage at this time. The subject has been very fully and very long under consideration in the country. This is a measure of very great public importance. It is not limited to any one city upon the Atlantic, or any one upon the Pacific coast, but it is one of great public importance, applicable to all. If there be any objection on the part of the honorable Senators from Pennsylvania and New Jersey to the particular provision of the bill which has been referred to, I hope they will feel it to be consistent with their duty to allow the bill to pass now, and resort hereafter to any remedy which may be found necessary.

Mr. DAVIS. I move to amend the fourth section of this bill, which provides for allowing the continuance of goods in warehouse for three years, by adding to it the following proviso:

"*And provided further*, That nothing herein contained shall extend the time of withdrawing goods for consumption beyond one year."

I would ask the honorable Senator from Virginia, after the conversation which has taken place, whether he is prepared to adopt this amendment? If he is, I shall withdraw objection to the bill; if not, I wish to address the Senate upon it.

Mr. HUNTER. It seems to me that the sense of the Senate is the other way. I certainly would be willing to give up the other provisions of the bill, and allow the provision to which the Senator from Massachusetts objects, to be stricken out, if that be the sense of the Senate, but their sense seems to be the other way, and therefore I would prefer to take the vote upon the provision.

Mr. DAVIS. As the hour of one o'clock has arrived, I suppose the time has gone by when we can consider the bill, and I wish to address the Senate upon the subject. If the Senator from Virginia, and other gentlemen, are prepared to keep the limitation in regard to goods entered for consumption where it now is, I should concede, so far as I am concerned, the provision allowing goods to be reëxported within three years from their deposit in warehouse. I would allow that. I would allow them to pile up those goods as high as they please. I would concede, so far as I am concerned, the right to adopt, according to the provisions of this bill, private warehouses, although I can foresee very clearly, that if private warehouses can be obtained at less expense than the public warehouses, which you have under lease, your public warehouses will be vacant. They will not be used or employed. I can understand that very well, but still I would not object to a system for the adoption of private warehouses, provided it be properly secured and properly protected. The Senator from Virginia, then, by conceding thus much to me, will get the two great points at which he aims. In the first place, he will secure the adoption of private warehouses; and in the second place, the proposed time within which to allow the accumulation of goods for reexportation; and those were the main grounds upon which he rested his argument. These points I am willing to concede. But the bill extends the time of piling up in warehouse goods intended for domestic consumption to three years; and to that I object. I wish to have the law in that respect to stand as it is now limited; and that is the effect of the amendment which I propose. I should wish to go much more fully into this subject, but I suppose the Senator from Texas [Mr. RUSK] will claim that the rest of the day shall be devoted to the Pacific railroad bill.

Mr. SEWARD. I hope the Senator from Virginia, under the circumstances, will accept this amendment rather than lose the bill.

Mr. GWIN. I hope the Senator from Virginia will let the bill go over until to-morrow morning. I am as anxious to pass this bill as he can be, but it is now one o'clock, and we have another special order to go on with; and we can take this bill up to-morrow morning, and dispose of it.

Mr. HUNTER. Very well, sir; I accede to that.

Mr. GWIN. Then I move to postpone the further consideration of this bill, and make it the special order for to-morrow, at half-past twelve o'clock. I hope, as it has been heretofore taken up in the morning hour, we shall be allowed the morning hour to-morrow, for the purpose of disposing of it.

Mr. BRODHEAD. Why not go on now?

Mr. GWIN. We have another measure which is the special order for one o'clock, and it will not certainly require half an hour to-morrow morning to dispose of this bill. I want to examine this amendment. I do not want to have hasty legislation on so important a measure, and therefore I move to postpone the further consideration of the subject until to-morrow morning at half-past twelve o'clock.

Mr. BRODHEAD. I hope to-morrow morning will be given to the honorable Senator from Maine, [Mr. BRADBURY,] for the consideration of the bill from the House relative to abuses in assessing fees in the United States courts, which is a bill of much more importance than this.

Mr. GWIN. The Senator from Maine will not advance that bill by bringing it in contact with a measure so far matured as this.

Mr. BRADBURY. I find that special orders are consuming the time of the Senate, and the measure to which the Senator from Pennsylvania has referred, and which I have reported from the Committee on the Judiciary, is the only measure of reform that I know of. It is the only one tending to the reduction of the public expenses, which has been suggested. It undertakes to correct existing abuses, by regulating the fees of the ministerial officers of the United States courts. I have endeavored for the last fortnight to get the floor, in order to move that the Senate proceed to its consideration, but I have sought in vain that opportunity. There are some amendments to it, which have been reported from the Committee on the Judiciary, and which, if adopted, will make it necessary for the bill to be sent back to the House. If I cannot have an opportunity for its consideration this week, it may be too late. I hope, therefore, that the bill of the Senator from Virginia will not be made the special order for an earlier hour

than one o'clock to-morrow, so that we may have half an hour for the other bill.

Mr. HUNTER. I am willing to go on with this bill now, and dispose of it.

Mr. GWIN. I withdraw my motion to postpone.

Mr. HUNTER. I will make no objection to the amendment of the Senator from Massachusetts, [Mr. DAVIS,] but at the same time I give notice that I shall raise the question at the next session.

Several SENATORS. Very well.

The amendment was agreed to.

Mr. MILLER. I now move the amendment which I indicated yesterday. It is to insert in the fourth section, after the word "merchandise," the words "except iron in bars, blooms, bolts, loops, pigs, rods, slats, and castings." I will state, very briefly, why I offer the amendment, and the effect which it will have. I do not want any depôt in New York for the storage of foreign iron, even for reëxportation. One reason assigned for such a provision in the report of Mr. Secretary Walker, from which the Senator from Virginia read, is that it will enable us to obtain, without delay in our ports, assorted cargoes of our own products and fabrics, as well as those of other countries, of every quality, character, and price. The product of iron is, if anything, one of the great products of this country. It is manufactured here, and we wish to encourage that manufacture, not only by consumption in the country, but by supplying foreign countries. We have the means to enable us to do it, therefore I think it is not necessary, even to obtain assorted cargoes, that we should encourage an importation of iron from abroad, and place it in warehouse in our commercial metropolis for any length of time for that purpose. For this reason, I ask that the article of iron shall be excepted from the operations of this bill. This will not interfere with commerce at all, but it will at the same time give encouragement to the manfacturing interest.

Mr. GWIN. I hope the amendment will be voted down.

Mr. HAMLIN. It seems to me that the discussion of this amendment would open the whole question of the tariff. But having adopted the amendment proposed by the Senator from Massachusetts, we should certainly stop there. I was for the bill as reported, but still I was very willing to take that amendment of the Senator from Massachusetts as a compromise; and I was glad that the Senator from Virginia did so. As the bill now stands, and as the existing law now is, the article of iron has to pay the duty fixed by law, and is only allowed to remain in warehouse for twelve months, if the object is to withdraw it for domestic consumption. If you are to exclude iron, there are other productions that enter into the consumption of the whole country in which people are vastly more interested than that of iron; and if this article is to be excluded from the operation of the tariff or of this bill, you must certainly exclude others. It seems to me that this opens up the whole tariff discussion, and I hope it will not be adopted.

Mr. MILLER. The Senator is mistaken in supposing that my amendment excludes iron from the operation of the tariff duty.

Mr. HAMLIN. I do not suppose so.

Mr. MILLER. The only design of the amendment is, that American iron shall have the preference in the fitting out of the assorted cargoes to which Mr. Secretary Walker refers. We are entitled to that preference by locality. We have iron here; we manufacture it here; and I wish to sustain that preference in whatever adjustment we may make with regard to these warehouses. The amendment can injure no one. It does not prevent the importation of any amount of iron from abroad for the consumption of this country or for our domestic market. It simply prevents keeping it here in warehouse for the purpose of giving it a preference in our exportations to other countries. If our ship-owners, if our commercial men, in fitting out their cargoes to supply other countries, will not give this small advantage to our own manufactures, I must say that they claim a privilege rather of a selfish order. For this reason I wish to except this great article of national production from the operations of this bill. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question being taken on the amendment by yeas and nays, resulted—yeas 14, nays 31; as follows:

YEAS—Messrs. Bell, Brodhead, Clarke, Cooper, Foot, Geyer, Jones of Tennessee, Miller, Morton, Pratt, Smith, Spruance, Underwood, and Wade—14.

NAYS—Messrs. Adams, Atchison, Badger, Bayard, Bradbury, Bright, Cass, Charlton, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fish, Fitzpatrick, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Mangum, Norris, Pettit, Rusk, Seward, Shields, Sumner, Toucey, Walker, and Weller—31.

So the amendment was rejected.

Mr. DAVIS. I omitted to vote on that amendment, because I could not, in so complicated a question as this, understand what relation that amendment could bear to existing laws. I could not, in other words, see where iron was to be left by the proposition; and, therefore, I felt justified in not voting one way or the other.

Mr. JAMES. I omitted to vote on the amendment, for the reason that the Senator from Virginia consented to an amendment which I considered a compromise. While up, I will say that I am opposed to the whole system; but I am not prepared at this time to go into the facts.

Mr. BRIGHT. As gentlemen are stating the reasons why they did not vote, I will say that my reason for voting against the amendment, and the reason why I shall vote for the bill is, that I think the bill will be one step towards free trade; and I am anxious to reach that as soon as possible.

Mr. RUSK. It is very evident that we cannot reach a vote on the bill to-day.

Mr. HUNTER. We can take the vote now.

Mr. RUSK. There are amendments to be offered. The Senator from New York has some.

Mr. FISH. The only amendments which I have to offer are verbal, and will not occupy two minutes. I propose to amend the first section in the clause, "the cellars or vaults aforesaid shall 'be exclusively appropriated to the storage of 'wines or distilled spirits, and shall have no open-'ing or entrance except the one from the street, on 'which *joint* locks of the custom-house and the 'owner or proprietor of the cellars or vaults shall 'be placed," by striking out "joint" and inserting "separate." There should be two locks—one belonging to the owner, and one to the custom-house.

Mr. HUNTER. I agree to that. It is right.

The amendment was made by unanimous consent.

Mr. FISH. There is a typographical error in the fourth section, which should be corrected. It now reads, "and likewise all merchandise *not* 'remaining in warehouse under bond, may con-'tinue in warehouse without payment of duties 'thereupon for a period of three years." "Not" should be "now."

The correction was made by unanimous consent.

Mr. FISH. I move to amend the fourth section in the following proviso:

"*Provided, however*, That where the duties shall have been paid upon any goods, wares, or merchandise entered for consumption, said duties shall not be refunded on exportation of any such goods, wares, or merchandise, without the limits of the United States,"

—by striking out "have been," and inserting "hereafter be." Duties have been paid upon many goods heretofore, which the parties are entitled to have refunded. I want to avoid any conflict with existing rights, and make the proviso applicable only to the duties which "shall hereafter be paid."

Mr. HUNTER. I have no objection to the amendment, with the simple reservation that I do not mean to affirm, by agreeing to it, that the reintroduction of the debenture system has been lawful. Upon that I reserve my opinion.

The amendment was agreed to.

Mr. WALKER. I move to amend the fourth section by inserting after "merchandise"—which, I believe, was the point the Senator from New Jersey proposed to amend—the words "except wheat, corn, barley, beef, and pork."

Mr. SEWARD. I will vote for that amendment, and in saying so, I wish to make one word of explanation. Senators have explained why they did not vote on the amendment of the Senator from New Jersey, and why they voted a particular way. I suppose it must be legitimate, therefore, to explain why I voted both ways. On the division I voted for the amendment, and on the yeas and nays I voted against it, because I at first supposed that it would have allowed the importation of iron and storage for one year when it was for exportation; but, on critical examination—too late to make any comment upon it—just before my name was called I ascertained that it would exclude the iron to be stored from the market; therefore, on the yeas and nays I changed my vote.

Mr. WALKER. I will explain my motives in offering this amendment. I represent an agricultural region of the country, which is removed at a considerable distance, however, from the great depôt of importations for the country—New York. By the present system of New York improvements, Canada is brought into the New York market about three weeks earlier in the spring, and retains the market from three to six weeks later in the fall, than the country which I represent. The result is, that Canada is always prepared—Canada wheat, corn, barley, and other articles, are always in the market, and ready to take advantage of the best prices, in competition with the Northwest and the Mississippi valley, in consequence of this bonding system. There they are already in the market some three or four weeks ahead of us, after the opening of the public works in the spring, and they are there after us in the fall, on the close of navigation. The Canadian stores, then, take advantage of the best markets in both seasons. The market, consequently, is supplied at both extremities of the season, by the Canadian articles which are accumulated there. The object of the amendment is to prevent their storage to be thus in competition with the agricultural section of our country.

Mr. HUNTER. I hope that no exception will be made in regard to particular commodities, and that we shall not make this bill the means of altering the existing acts in regard to this matter of storage of grain, &c., which was adopted a long time since. We are not going to extend it in this bill; we leave it as it is. I hope the bill will not be used as the means for an effort to repeal the existing provision in regard to it. I hope the amendment will not be agreed to, and that no exception of any commodities will be made.

The yeas and nays were ordered on the amendment.

Mr. FELCH. Let the section, as it will stand with the proposed amendment, be read.

It was read, as follows:

"SEC. 4. *And be it further enacted*, That all goods, wares, and merchandise, except wheat, corn, barley, beef, and pork, which may be hereafter duly entered for warehousing under bond, and likewise all merchandise now remaining in warehouse under bond, may continue in warehouse without payment of duties thereupon for a period of three years from the date of original importation, and may be withdrawn for consumption on due entry and payment of the duties and charges, or upon entry for exportation, without the payment of duties at any time within the period aforesaid; in the latter case the goods to be subject only to the payment of such storage and charges as may be due thereon: *Provided, however*, That where the duties shall hereafter be paid upon any goods, wares, or merchandise entered for consumption, said duties shall not be refunded on exportation of any such goods, wares, or merchandise without the limits of the United States: *And provided further*, That there shall be no abatement of the duties, or allowance made for any injury, damage, deterioration, loss or leakage sustained by any goods, wares, or merchandise whilst deposited in any public or private bonded warehouse established or recognized by this act: *And provided further*, That nothing herein contained shall extend the time of withdrawing goods for consumption beyond one year."

Mr. WALKER. The section as it now reads, so far as my amendment affects it, is:

"That all goods, wares, and merchandise, which may be hereafter duly entered for warehousing under bond, and likewise all merchandise now remaining in warehouse under bond,,may continue in warehouse without payment of duties thereupon for a period of three years from the date of original importation, and may be withdrawn," &c.

I propose the amendment to make the section read "that all goods, wares, and merchandise, except wheat, corn, barley, beef, and pork," shall be thus indulged. I did not wish to consume time before, or I would have gone on to remark further upon the operation of the bondage system in New York, as making Canada a competitor with our western interests. It is this: The provisions from Canada being in store in New York, can be withdrawn for exportation without the payment of any duty. The Canadian dealers, watching, as they are of course, the markets, if they can withdraw and reach the foreign market, and get a good sale, they will do so; but if they find the prices up in our country, they can compete with us after the payment of duties. They then withdraw for consumption, pay the duties, and sell. They are, consequently, in store there ahead of the Missis-

sippi valley with these articles, for the purpose not only of monopolizing the home consumption market, but of reaching the foreign market before us. It is an oppressive operation. I have long looked at it, and intended to call the attention of the Senate to it, and do so intend hereafter. But at this time I feel it my duty, upon this bill, to make the proposition to exclude these articles from the benefits which are to be given under the bill generally in regard to other merchandise. These are products of our own country. From the proximity of Canada, and her position in regard to the Atlantic sea-board, every one must know that she has the advantage now in the competition with the Mississippi valley; and it is a matter which gentlemen can judge of very easily whether they will affirm this depositing system, to be thus in competition with the agricultural interests of their own country; or whether they will, so far as they can, remove the embarrassments which are in the way of those interests.

Mr. BRODHEAD. My friend from Wisconsin has made so good an argument in favor of his amendment, that I hope he will be willing now to extend it, so as to include iron. I therefore propose to amend that amendment by adding to it, "iron in bars, blooms, bolts, loops, pigs, slats, and castings." If we depart at all from what I supposed to be the understanding when the Senator from Virginia withdrew his opposition to the amendment offered by the Senator from Massachusetts, I hope that this amendment to the amendment of the Senator from Wisconsin will be agreed to. I hope he will agree to accept it as a part of his own; because, if there is any reason for making the exception in favor of the articles which he has named, the same reason applies to the kinds of iron which I have suggested.

Mr. HUNTER. I think the Senator from Wisconsin will perceive that there can be no necessity for his amendment, even upon his own view. The bill proposes to extend the period of warehousing, provided that it is for exportation, for three years. It does not come into competition with the products of his portion of the country for the domestic supply at all. And in regard to the three years' storage for exportation, it is not likely that they will store provisions for three years. That would be a most unlikely thing.

Mr. CASS. That is precisely what I was going to suggest to the honorable Senator.

Mr. HUNTER. The only effect of the amendment will be to embarrass the bill. If it is agreed to, other Senators will introduce articles in which their States are supposed to be specially interested, and the result will be that we shall destroy the whole object of the bill.

Mr. WALKER. I did not anticipate that the amendment would have much effect upon the provision of the bill allowing storage and withdrawal within three years for exportation. I adverted to that fact, and intended to apply it in relation to free trade, perhaps with Canada; but I shall not do it. Time is too precious. But it will have the effect, in the other point of view, which I have presented, when these articles are withdrawn within one year for consumption. It is just precisely what is desired on the part of Canada—that they may store here, and always have one year to avail themselves of the best market, and that, too, in competition with the western products. Of course they desire that, and being ahead of us in the market in spring and behind us in the fall, they can take advantage of a better market, and pay duty, and still make a better profit than we do. It is against that one year provision that I wish the amendment to operate.

One word in answer to the Senator from Pennsylvania. If I am not mistaken, his State, and New York, which wants this great depository, and the whole of New England, built their railroads with iron upon which they paid no duty.

Mr. BRADBURY. The Senator is mistaken, in regard to my State, at least.

Mr. WALKER. There may be exceptions. Some of them may have begun after the free importation act was repealed; we know, however, that a great many of the roads were built with iron that paid no duty; but as soon as they accommodate themselves, they want the duty on for their protection. We have never had that protection; but, on the other hand, we have long been embarrassed by the facility with which Canada competes with us in the way I have mentioned, and I desire, by the amendment, to obtain some relief from that.

Mr. DAVIS. I think the Senator overrates the benefit of the act to which he alludes. The most of our railroads, in Massachusetts at least, were made before it took effect, and the larger portion of them received very little benefit from it. We profited very little by it.

Mr. GWIN. I shall not pursue this discussion. I wish the debate to stop, and the bill acted upon; but I want it distinctly understood, that I am not only opposed to the amendment of the Senator from Wisconsin, but I shall, during the present session, if possible, move to repeal all duties on breadstuffs. Do you suppose that it is necessary for the farmers of the United States to ask protection against Canada, or any part of the world, in regard to breadstuffs? In California we pay duties upon nearly all the flour we import there. We are paying enormous taxes constantly upon all the provisions we use there. It is a most oppressive tax; and I intend to make it a point, whenever I can bring the subject up with any hope of success, to move to repeal all duties on breadstuffs throughout the United States; and also upon iron, if I can get it, but especially upon breadstuffs.

Mr. RUSK. It is evident that we cannot vote upon the bill to-day. I have given more than half an hour beyond the time which the Senator from Virginia [Mr. HUNTER] asked. I therefore move to postpone the further consideration of the bill to, and make it a special order for, to-morrow at half past twelve o'clock.

Mr. HUNTER. I admit the Senator has extended the time for which I asked, but I appeal to him whether he will not save time by letting us vote upon the bill now. I think we can dispose of it in a few minutes.

Mr. RUSK. We cannot possibly do it.

Mr. HUNTER. We are ready to take the vote now—let us take the vote.

Mr. RUSK. I know we cannot get to a vote now. I therefore insist on my motion.

Mr. HUNTER. I hope the Senator will permit us to see if we cannot get a vote.

Mr. RUSK. I have been sitting here for half an hour, although there was a distinct understanding with the Senator from Virginia, that when one o'clock came, I should move to take up the Pacific railroad bill.

Mr. HUNTER. If the Senator insists, I must give way, for that was the understanding.

Mr. RUSK. I know of two or three amendments which are to be offered to the bill. It is therefore evident that we cannot act upon it today.

Mr. SMITH. I will ask the Senator from Texas whether it will not expedite his bill to dispose of this now? It seems to me that it will. I think it will be better to settle this bill now.

Mr. RUSK. I can see no possibility of voting upon it to-day. I feel confident it will consume much time.

Mr. BADGER. Make a compromise, and give ten minutes more.

Mr. RUSK. Ten minutes will result in the same thing as the half hour, which I have already yielded. I will, however, agree to give ten minutes longer.

Mr. BRIGHT. Let us dispose of this amendment, and then the bill can go over, if it leads to discussion.

Mr. BRODHEAD's amendment to the amendment was rejected; and the question being taken by yeas and nays on Mr. WALKER's amendment, resulted—yeas 18, nays 29; as follows:

YEAS—Messrs. Badger, Bell, Clarke, Cooper, Dawson, Foot, Geyer, Jones of Tennessee, Mangum, Miller, Morton, Pratt, Seward, Smith, Spruance, Underwood, Wade, and Walker—18.

NAYS—Messrs. Atchison, Bayard, Bradbury, Bright, Brodhead, Butler, Cass, Charlton, Chase, Clemens, De Saussure, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Mallory, Norris, Rusk, Sebastian, Shields, Sumner, Toucey, and Weller—29.

So it was rejected.

The bill was then reported to the Senate as amended, the amendments were concurred in, the bill was ordered to be engrossed for a third reading, and was read a third time, and passed.

STEAMSHIP ALBATROSS.

On motion by Mr. SEWARD, the Senate, as in Committee of the Whole, proceeded to consider the bill authorizing the Secretary of the Treasury to issue a register to the American-built steamship Albatross. It proposes to authorize the Secretary of the Treasury to issue a register to Simeon Draper, a citizen of New York, for the steamship Albatross, which had been sold to a citizen of Great Britain, and reconveyed to Simeon Draper.

The bill was reported to the Senate without amendment, and ordered to be engrossed for a third reading. It was read a third time and passed.

COLONIZATION IN NORTH AMERICA.

Mr. CLEMENS. I desire to give notice that I shall, on Monday next, call up the joint resolution submitted by the honorable Senator from Michigan, [Mr. CASS,] declaratory of the views of the United States respecting colonization on the North American continent by European Powers, and respecting the Island of Cuba. My health has been so bad that I have not been able to be here during the discussion on it. I shall, therefore, move on Monday to take it up, and ask the courtesy of the Senate to be heard on it.

Mr. CASS. In relation to that, I will observe, that the Senator has done what I have not been able to do the last two days. Yesterday was the day assigned for the consideration of that resolution. For one, I am determined not to let it be passed over, but shall endeavor to have the decision of the Senate upon it.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the "bill for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon."

The pending question being on the amendment of Mr. BRODHEAD to the amendment reported from the Select Committee, to strike out all after the word "that," and insert:

"The Secretary of War be, and he is hereby authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and survey as he may deem advisable, to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $100,000 be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of such explorations and survey.

"SEC. 2. *And be it further enacted*, That in making such explorations and survey, the engineers and other persons employed under the authority of this act, may be directed to act in concert with any engineers, or other persons employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals, or associations, for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and to lay the same before Congress at the next session."

Mr. DAVIS. Mr. President, when we adjourned yesterday, I intimated that I would reply to some of the objections and arguments which had been urged in opposition to this bill. That I shall do with great brevity, noticing only those objections which are most material. The first which I shall notice is, that there has not been made a proper preliminary survey, and that a suitable reconnoissance has not been had; and consequently, that the Senate, if they legislate upon this subject, will do it without that information which is necessary to intelligent action. I admit the full force of this reasoning; I admit that reconnoissances and surveys are necessary—are indispensable before the railroad is constructed. It would be idle to look for action upon any other principle. But if I can show that suitable provision is made with regard to all these matters in the bill before the Senate—provisions as ample and as complete in their character as those proposed by the honorable Senator from Pennsylvania, [Mr. BRODHEAD]—then I apprehend the necessity which exists in his mind for the amendment will be removed, and much time saved, which is a circumstance of great importance, since the completion of the road is remote, under the most favoring circumstances.

Sir, in order to show you that the interest of the country is properly protected in this respect, and that nothing is to be done unwisely or rashly, I ask the attention of the Senate to the provisions which are made with regard to it. In the first place, the President is authorized to contract with a company to construct this road. But he is him-

self authorized to fix the termini at the eastern and western extremities of the route. When he establishes those termini, he is required by the terms of the bill to take into consideration certain facts, and among them these: He is to have regard to the expense of constructing the road, to the grades of the road, to the commerce and intercourse of the whole country, and also to the defense and protection of the country. He is not authorized to fix those termini without taking into consideration all these facts. The President is also authorized to establish, or, in other words, to locate, the points in the passes of the mountains where the road shall go through them. And he is alike required, when he establishes these points, to take into consideration, first the expense, second the grades, and lastly, the commerce and intercourse, the protection, and defense of the country.

Well, sir, when you sum up these provisions, they amount to this: that he cannot establish the termini, nor the pass in the mountains without, in the first place, having estimated the expense of the route selected, and taken a comparative view of the expense of the different places where a passage is deemed practicable through the mountains. He cannot establish the point to pass to the mountains without, in the first place, ascertaining the grades by which it is to pass. Then the provisions of the bill require certain other things of a more general nature. The President is to establish a road which shall accommodate the commerce and the intercourse of the whole country, while he looks also to its defense and protection. This, it is perfectly evident upon the face of things, cannot be done without preliminary surveys, and surveys of a suitable and proper character; surveys which shall bring to the President all the information which is necessary to enable him to perform this duty.

But, Mr. President, this is not all the security which we have that proper reconnoissances and surveys will be seasonably made. The President is to contract with a company. Every gentleman must be satisfied that no company can contract until they understand the facts which result from the reconnoissances and surveys. No company can contract with intelligence, and protect their own interests, until they make an estimate of the expense; and no company can determine that any route from here to the Pacific is a practicable route, and can be used as such with successful economy after the road is constructed, until they have all this preliminary information. Then, sir, on this point you have a twofold protection, larger, broader, and more complete in its character, than that proposed by the honorable Senator from Pennsylvania; you have a concurrent interest, that of the company on the one hand, and that of the country on the other, both desiring alike the same information, and the same information being alike indispensable to both before specific and final measures are adopted.

I need not, Mr. President, go into a more elaborate argument to prove that ample provisions are made for a preliminary survey, and that there is no danger of acting hastily or inconsiderately upon this subject. The bill gives to you ample protection.

The next objection which is urged with some degree of zeal, is, that the bill is uncertain. Some gentlemen have said that it is unlimited in its character. Well, if it be so, it is very easy to strip it of that character by amendments. But I apprehend that gentlemen who take that position take an untenable one, as they will find nothing in the bill to countenance it when they read and analyze it. Let me ask the Senate to what we commit ourselves by the provisions of this bill? In the first place, where the road passes through States, there is a grant of alternate sections of land twelve miles in width—six miles wide on each side of the road—and where it passes through Territories, there is a grant of alternate sections of land of twice that quantity, or twenty-four miles in width.

Now, is there anything indistinct, indefinite, uncertain, in this? Can anything be more absolutely certain? Cannot every individual comprehend and understand the full extent and character of the grant? I apprehend that no gentleman need be at a loss on this point.

The bill proposes next that the President may issue scrip of the United States, to an amount not exceeding $20,000,000, upon terms and conditions mentioned in the bill. That scrip, the bill provides, shall run for fifty years, and bear interest at the rate of five per cent. All this is sufficiently certain; it is all easily and readily comprehended by any gentleman. But mark you, Mr. President, this is the outward limit of the power of the President. He has a right to propose to contractors these two considerations, and nothing else. He has no power by which he can transcend these limits, or do more than proffer these considerations to the company. But he has a discretion the other way, to contract upon more favorable terms. And the country has all the security which springs from considerations which I am about to mention. The President is required to make an advertisement of his purpose to contract throughout the country, by publishing in two papers of the largest circulation, in each State, inviting, in the most public manner, any and all persons to make him an offer, founded upon the terms proposed in this bill, to execute the work. Is there no security in the competition itself that arises in this matter? May we not trust, with some degree of certainty, that men of intelligence, acquainted with undertakings of this kind, will come forward and propose terms which they think secure for themselves? If they cannot come within the limits prescribed by this act, they cannot come at all. The country has this degree of security, then, on that point, that the bids for the contract will probably be made on as reasonable terms as it can be afforded. If it can be done for less money than the sum named, there will, beyond doubt, be persons who will seek the contract on terms more favorable to the United States.

In addition to this, the President of the United States is to appoint a time for opening the sealed proposals of such persons as see fit to make propositions to contract; and he is to give the work to that bidder who proposes the most favorable terms, if satisfied of his ability to go on and execute the work, and if he can furnish the guarantees which the bill requires. Now, is there, in all this, anything unlimited—is there any thing uncertain—is there anything doubtful in its character? I apprehend there is nothing.

The next objection made to the bill is, that it proposes to invest this company, who may undertake the work, with corporate powers. This seems to have excited very great alarm in the minds of some Senators. They look upon a corporation as

> "——— a monster, of so frightful mien,
> As to be hated, needs but to be seen."

Sir, this corporation seems to be, in their judgment, a Trojan horse, filled with armed men; and we who come here to support this bill as voluntarily prostrating the walls of the citadel to let the monster in, that those concealed in it may prey upon the confiding and unsuspicious. But, Mr. President, I think a little calmer view of this subject will greatly modify their idea of the magnitude of this evil. The proposition in this bill is to confer upon this company the corporate powers which are daily conferred on those who undertake to construct railroads. If there be a State in this Union that has not had the rashness, the temerity, to create just such corporations, I do not know which State it is. It is, certainly, a fact that just such corporations exist in nearly all, if not all, the States of the Union, created by the legislative authority of those States.

This matter has been experimented upon sufficiently to test its safety and its exemption from the appalling consequences which have been depicted by some Senators. These States go on from year to year, every time their Legislatures are in session, making more or less grants of this kind; and if there be a railroad made in this wide country which has not been constructed by a corporation, created for that purpose, I know not where it is. The danger resulting from a corporation seems to spring entirely from the character of its paternity. If it be within a State, its claws are cut, its teeth are drawn; if it be a work of the United States, it becomes a savage monster, full of evil and full of defilement. The only question here is, whether this work shall be done by a corporation, or done by the direct act of the Government, if it is done at all. I am a little surprised, I confess, to find both of my friends from Pennsylvania making a demonstration against this measure, because it is to be done through the instrumentality of a corporation. They speak of their own experience, especially the one that spoke first, [Mr. BRODHEAD.] He spoke of his disgust at the measures which were used to bring down oppressive taxation upon the people. I do not suppose that my friend intended that the Senate should understand that any corporation is answerable for these acts, for they are the work of the State itself.

Sir, the State of Pennsylvania undertook to carry forward a system of internal improvements, and out of that fact grew all the difficulties and the oppressive debt of which my friend complains; and I should have thought that long since, the example of his own State would have taught him this lesson, at least: that a corporation is much safer than the State itself, and much less liable to deal corruptly. I do not doubt the truth of all the honorable gentleman said, that a great and unnecessary debt has been created in his State, but it was through the instrumentality and management of the State itself. I will ask him now, if he has any allegations to make of dangerous influence or corruptions in any railroad corporation existing within his State? I ask him whether he is willing to rise and say that any corporation there is so defiled with corruption as to set an example which is offensive to the community? Why, sir, if we are to go to either of the two modes, that by means of a corporation, or that of the Government itself, for the construction of a railroad, the former is infinitely preferable to the latter, because we all know from our experience and observation, and we might know by reasoning *a priori*, that, if the Government undertakes, by its own immediate exercise of power, to carry on such a work under its own direction and superintendence, abuses will creep in, and that it will become a political engine necessarily. That is precisely the objection made to a corporation, and yet how infinitely greater are the abuses under the management of a Government itself than those which arise under the management of any corporation whatever.

What is it feared this monster corporation will do? I should be very greatly obliged to gentlemen if they will point out the probable abuses which will grow out of the power proposed to be vested in it. We hear gentlemen saying, substantially, that a corporation of that sort will come here and control Congress itself—having a power greater and higher than the Legislature of the nation. I should like to have gentlemen point out the process by which that is to be done; I should like to see the means exposed by which such results are to be produced. I should be gratified to see both the sources of the power and the corruption, if they are to exist necessarily in a body of that sort; and if there be not a way of avoiding the evils predicted, it will be some consolation to have that which seems so manifest pointed out, that we may be admonished by it, and inquire whether a purer and better course cannot be adopted—one more free from the objections raised here, and one which shall be carried forward more to the satisfaction of the country.

My honorable friend from Pennsylvania [Mr. COOPER] likened this bill to Fox's East India bill. Well, sir, Fox's East India bill is an old affair. My learning does not extend to its provisions; but it goes far enough to inform me that there is no similarity between them. What was the East India Company? It was a corporation clothed with such vast powers and resources that it planted itself in a foreign land, and exercised a complete monopoly of all the trade and commerce connected with it. Among the rights which they claimed and exercised was that of sovereignty. They established and maintained civil government. They raised revenues, maintained large armies, declared war, conquered principality after principality, made treaties, and have advanced by one aggression after another, till they have subjected to their dominion the vast territory which they now possess, inhabited by from two to three hundred millions of people. This was the character of the great East India Company. At the time of which the Senator speaks, they had these enlarged powers of trade and civil government, but they have been since modified, and the Crown now appoints the governor. But, sir, they held and exercised, during the existence of their earlier charters, a complete monopoly, holding all the trade of the country within their own power and control.

Mr. COOPER. Will the Senator from Massachusetts allow me to ask him one question?

Mr. DAVIS. Certainly.

Mr. COOPER. The Senator says the company had the power originally to raise armies. I wish to ask him if the company did not usurp the power, and if it was by the direction of the Crown that the power was exercised? It is just such a power as that against which I protest.

Mr. DAVIS. I will answer the gentleman. I say that whatever of opposition there may have been to the exercise of that power, Great Britain holds every foot of the land to this day, and every subject conquered, and under the authority and dominion of the Crown, too. They reaped the profit which came out of the usurpations of the East India Company, if the gentleman calls it a usurpation. The Government sanctioned the acts.

Mr. COOPER. Merely because the company could control the legislation of Great Britain.

Mr. DAVIS. Very well. All I wish to say with regard to this is, that I referred to the remark of the Senator from Pennsylvania for no purpose except to show that there is not the slightest semblance of similarity between the propositions in this bill and the existence of the East India Company, and that that cannot be fairly, and in the exercise of candor, quoted as an illustration of the probable conduct of this company in the exercise of any power they may have.

These are the principal objections, as I understand them, which have been urged against this bill. There may be others, but I shall leave them unnoticed, as I wish to say a word or two on the merits of the question itself. Mr. President, when I turn my attention to the great valley of the Mississippi, and remember that many men are now living born while that great valley was yet a solitary wilderness, the haunt of beasts of prey and of savages, a wild, uncultivated, yet a fertile region; when I reflect, sir, that there meanders through that great valley to drain it a river four thousand miles in length, of a magnitude commensurate with its great territory, swelled into a majestic current by its great and numerous tributaries; and when I further see that there are now millions of inhabitants living in freedom and in abundance upon this fair territory, I am naturally led to inquire how this has been accomplished? How the obstacles placed in the way by nature, and discouraging occupancy and settlement, have been surmounted? and how this vast expanse, large enough for an empire, and capable of sustaining a population of a hundred and fifty millions, has been subjected to the use of man?

Sir, within the memory of many men now living—within the memory of many Senators in this Chamber—it was a problem whether these great rivers could be turned into highways for the uses of commerce. The voyage down was the *facilis descensus;* the voyage upwards was the labor of Sisyphus; and it remained a problem whether the difficulty in the upward voyage could be overcome, and this country filled with inhabitants, until the application of steam to navigation was discovered. That great discovery came contemporaneously with the wants of our people. It made the ascending navigation both easy and expeditious and has poured millions into that happy territory. All the great and strong currents of these mighty rivers have been conquered and subjected to the use of man. But since that day, our boundary upon Texas has been taken up and carried south to the Gulf, and placed there. Our boundary has also been carried West to the Rio del Norte and to the Pacific ocean; and we have added enough nearly to double the territory of the country.

And now, sir, almost contemporaneous with this acquisition, comes the locomotive to enable us to pass with equal facility this broad expanse of plain and mountain between the Mississippi river and the shores of the Pacific. These two discoveries seem like the cloud by day and the pillar of fire by night guiding us onward in the path of duty that lies before us. Sir, they afford just the means, and are developed just at the moment when there is a necessity for binding these numerous members of the Union in one great, harmonious fraternity of States. And, sir, they seem to be the only means which are adequate to so great a purpose; and if we were back in an age less philosophical and more devout than that in which we live, we should proclaim that the hand of Providence was in it.

Now, sir, the path is open for us, and there is but one way by which a country so extensive, and so diversified in its interests as this is, can be bound together. It is by means of commerce and intercourse. It is by facilitating the intercommunication; and, sir, this affords us the means of binding the whole, not only in the fraternal bonds of the Union, but by all the ties of interest and affection. Sir, we need this road, as a thing indispensable to our peace and tranquillity. We need it, in the first place, to give greater dispatch to intercourse. We wish to have a more rapid intercommunication than we have, both for safety and convenience. We need it, also, for commercial purposes.

The gentleman from Virginia said this morning that the bill under consideration (the warehouse bill) was a matter of great moment and importance, because it concentrated commerce at the great points of New York and San Francisco, which are, in his opinion, the two great centralizing points of business. Sir, I am aware of that; but if we look a little further into the future, and make a wise use of the means which are in our hands, the electric telegraph and other facilities for intercommunication, together with the gold upon the Pacific coast, it will be seen that the tendency towards this centralization of trade and commerce is more rapid and more powerful than it ever has been at any moment of time in our history. The gravitating point, which has long been in Europe, is now tending, under these influences, towards this country, and is working out a revolution in the channels of commerce. We lie between Asia on the one hand and Europe upon the other, and natural causes are coöperating with other things to hasten this centralization of trade, and will go on with a power that will astonish the whole world.

We need this communication to harmonize our own system, to make it strong, to give it unity of character and strength. But, sir, we need this road for other reasons. We heard the eloquent Senator from New Jersey [Mr. STOCKTON] expatiating largely upon the necessity of a Navy—a Navy to protect our country upon the Pacific. Well, sir, I am not prepared to say that he is not right about it; but in my judgment, sir, this measure is quite as important, and ultimately designed to be infinitely more so, than the Navy itself. If we would give strength and security to California; if we would render these possessions secure against aggression from all quarters, let the world understand that in ten days we can transfer seamen and soldiers from the Atlantic to the Pacific. There is something in that more effective, more powerful in bringing the whole strength of the Union together to coöperate, than there can be in the construction and equipment of armed vessels. It places the means of defense within our control, whenever and wherever needed.

But, sir, that is not all. We have a treaty with Mexico, and we are bound to suppress the aggressions of the Indian tribes upon her. We have pledged our faith to this; and now, in my judgment, there is no way in which you can execute that treaty so cheaply and so effectually as through the instrumentality of this road, and you have no such effective means of overawing and keeping in subjection the tribes upon the route. Every gentleman can see, that if a military force is wanted, if the exigencies of the country demand it, it can be transported in a few days, at any time, to any point in the country which is near the line. We need this road, then, for these reasons, and we need it for another that is greater than all. It is a passage through our own territory, under our own jurisdiction, under and subject to our will. In our intercourse with this now remote country, we pass through territory that is under foreign jurisdiction; and will any one say that it is expedient in time of trouble and of hostilities to depend upon the caprice, the mercy, or faith of any country, to pass through it armed men and other means of defense? No, sir. This sort of dependence has been a topic of difficulty from the commencement of it down to this time. It is much discussed in this body, and we are called upon to put on our armor and assert our rights, because some company is dissatisfied with the management of the Government of Mexico; and much of the difficulty which sprung up in regard to the Mosquito kingdom, which gave birth to the Clayton-Bulwer treaty, grew out of the fact that we came into possession of territory on the Pacific. No sooner had we made a treaty with Mexico, by which we acquired this country, than the Mosquito king, under the direction of his protector, Great Britain, took up the line which had hitherto circumscribed the southern limits at Blewfield's Point, and carried it forward to embrace the mouth of the river San Juan, that being one of the *termini* of the Nicaraguan route from the Atlantic to the Pacific. Great Britain sent a ship to that place to give notice that, unless that port, which was a port of entry, and had been for fifty years, first under the Spanish Government, and then under Nicaragua, was peaceably vacated in two months, they would take possession of the country. The day came. The feeble people there could do nothing. An English frigate was sent there, under the Mosquito flag, with an Englishman on board, acting as the counsellor of the king, and they took forcible possession of the country. As they could find no Mosquito kingdom on the Pacific side, they took forcible possession of Tigre Island, without any such covert proceeding, and thus commanded the two outlets of this passage across.

Now I shall let these matters take care of themselves. I only state these historical facts, to show you, sir, and the Senate, the eagerness with which those interested to do it stir up difficulty, when we go into foreign countries for rights of this description. There is no security in them. I am against the whole policy of such dependence. I am not opposed to private gentlemen going there, and making such contracts as they see fit, and if they can build rival highways, and give greater facilities to the public, I shall be glad of it; but for ourselves as a people, let us have a road within our own jurisdiction, one that, under all exigencies and all circumstances, we can depend upon for the business and intercourse which grows up between the different portions of the Union. Sir, I did not intend to go beyond speaking of the objections made to this bill; I did not intend to go largely into a discussion of the subject. I believe I have accomplished the object I had in view; and I shall, for the present, leave the discussion to be continued by others.

Mr. SMITH. Mr. President, I have made up my mind to vote in favor of this bill, as reported by the Senator from Texas, and I am desirous of doing what little I can to perfect its details. But there is one clause in it which, it seems to me, is too vague and indefinite, and with a view to make it explicit, I wish to move to amend the substitute reported by the committee, in its third section, by striking out the words:

"And in cases where the public domain adjacent to the said road may not be sufficient to enable the Government to carry into effect the above provisions, then, and in that event, any deficiency which may exist shall be supplied from the public domain nearest the point at which such deficiency shall exist, and be selected in alternate sections as aforesaid."

I think that if it is necessary to retain this provision, other language should be used.

Mr. CHASE. I wish to inquire whether it is in order now to offer an amendment, until the amendment of the Senator from Pennsylvania shall have been disposed of. The original proposition before the Senate was bill No. 396, "for the 'protection of the emigrant route and a telegraphic 'line, and for an overland mail between the Mis-'souri river and the settlements in California and 'Oregon," to which bill the Select Committee has reported an amendment. To that amendment the Senator from Pennsylvania has offered an amendment; and the first amendment cannot be amended, according to the rules which govern the practice of the Senate, until that question shall have been taken. It seems to me very desirable that the question should be taken upon that amendment at once, as soon as Senators have expressed their judgment upon it, in order that we may determine whether or not the Senate will at this session consider a bill for the actual construction of a railroad to the Pacific, and the incorporation of a company for that purpose.

The amendment of the Senator from Pennsylvania, as now modified, provides for three things: in the first place for surveys and explorations before the final selection of any route; in the second place, that these surveys shall be made, if in the judgment of the President of the United States it shall seem expedient, in concert with engineers employed by individuals or associations; and in the third place, that when those surveys and explorations shall have been made, the result thereof shall be laid before Congress at the next session.

Mr. SMITH. If the honorable Senator will

permit me, I will make a suggestion. I do not wish to embarrass the deliberations of the Senate with any question of order; I will therefore withdraw this amendment for the present, but I ask, as it is an important one, that I may have the unanimous consent of the Senate to have it printed, and laid upon the table informally.

Mr. RUSK. It seems to me the point of order is clearly with the Senator from Connecticut. The amendment proposed by the Select Committee is to strike out all after the enacting clause of the bill and insert a substitute. We can amend that substitute before taking the final vote on the amendment of the Senator from Pennsylvania, which is to strike out all of the committee's amendment and insert another proposition. It seems to me that, according to the rules, the question cannot be taken on his amendment while there is a proposition to amend any portion that is left of the original proposition. But when an amendment is offered to strike out a part and insert other words, that is in order; and that question is first to be taken before the question on striking out all. It seems to me that there can be no doubt about that.

Mr. SMITH. As it is the opinion of the honorable chairman of the Select Committee that this amendment of mine is in order, and as it is highly important, as I conceive, that the bill should be perfected in all its details, so that the Senate may have distinctly before them the question of preference between the plan of the Senator from Pennsylvania and that reported by the Select Committee, I will renew the amendment.

Mr. CHASE. Then I would ask whether that amendment is in order, and I desire that that question shall be decided by the Chair.

The PRESIDING OFFICER, (Mr. DE SAUSSURE in the chair.) The Chair is of opinion that the amendment of the Senator from Connecticut is not in order.

Mr. SMITH. I yield, sir; but I ask unanimous consent to move that the amendment which I propose be ordered to be printed.

There being no objection, that order was made.

Mr. DAWSON. I desire to say a few words on the proposition before the body, which I consider to be important, and which arises out of the amendment proposed by the Senator from Pennsylvania. I am decidedly in favor of that amendment, and I wish to give briefly to the Senate and to the country, the reasons for my preference in its favor. It has been justly stated that there has never before been started in any Government in the civilized world, any measure of internal improvement so magnificent or so extensive as this. Sure I am that in point of magnitude, this is a very great and a very extraordinary measure. But that is not one of my objections, or one of the reasons which I assign for the course which I am about to pursue, although it might be considered a strong reason why I should pursue that course.

Mr. President, do we understand this subject in all its length and breadth? Do we comprehend the consequences that are to grow out of this measure? Have we any facts before us that will authorize us to act understandingly? I have been taught by my experience in this body that you will not appropriate a thousand dollars for the improvement of a river or a harbor, unless you have a survey and estimate beforehand. You will not commit the Government to the expenditure of money in that way, until you know the facts upon which the expenditure is to be based. Then shall we, when a subject of this immense magnitude is before us, suffer ourselves, within the last twenty-four or twenty-five days of the expiration of the last session of this Congress, to be driven into the adoption of a measure from which we shall not be permitted to retract? Yet that is the course now presented for our action.

I wish to ask one question for information. Why has this bill been drawn in these terms? Why shall Congress pledge itself to this course now? Why shall we place power in the hands of the President to carry the work into execution whenever there shall be presented to him the survey upon which he must act, and those estimates in relation to the cost and practicability of cutting through the mountain passes spoken of by the Senator from Massachusetts, which must be presented to his mind before he can honestly decide? Why do we not wait for that information ourselves? Why do we not pursue the course which has been hitherto adopted by this body in making appropriations for all works of internal improvement?

Mr. RUSK. If the Senator wants an answer I will furnish it immediately. The reason why I make such a proposition, is this——

Mr. DAWSON. I presume the reason of the Senator is similar to that given by the Senator from Massachusetts.

Mr. RUSK. I have another and a very substantial one. I hope the honorable Senator will allow me to explain.

Mr. DAWSON. I will give way to the honorable Senator, if he will be brief.

Mr. RUSK. I shall be brief. The bill as it stands, provides for a general survey before the location shall be made by the President; and when that survey shall have been made, he is to advertise for proposals, and then there is to be a more minute survey. If you merely pass a bill for a survey, without making provision for contracts for doing the work, what will be the result? I will show you.

Mr. DAWSON. I cannot yield to the Senator to make a speech.

Mr. RUSK. I wish to show the Senator that an appropriation was made in the year 1849 for a survey for this very road, and we have received no information in regard to it.

Mr. DAWSON. I wish the Senator would refer me to that act.

Mr. RUSK. I can find it in a moment, in the ninth volume of laws, which I have before me; but as the Senator insists on going on without giving me an opportunity to explain, I will yield to him, and make my explanation after he shall have got through.

Mr. DAWSON. This bill involves the largest appropriation of any bill that has ever been presented to Congress from the foundation of the Government, not even excepting any war appropriations at any time; and the magnitude of the appropriation, I suppose, is to be considered a pledge for the purpose of carrying the road through, whether its practicability shall be ascertained or not. We ought to hesitate long before we adopt such a proposition. We should move cautiously and prudently before we thus involve ourselves. I have taken some pains to ascertain what is the amount of the appropriation involved in this bill. The lands proposed to be appropriated amount to fifty millions of acres, according to my calculation; and besides that, there is a money appropriation, in five per cent. bonds, of $20,000,000. This bill also involves an increase of the Army of the United States, and a most tremendous expenditure will be created by that increase of the Army, growing out of the character of the country through which you are about to run this road.

Mr. RUSK. I want the gentleman to point out that line of the bill which increases the Army.

Mr. DAWSON. I will. The President of the United States, according to the last section of the bill, is required to protect the laborers upon this line, or these lines, for there is to be a line of railroad and telegraph.

Mr. RUSK. Will that increase the Army?

Mr. DAWSON. Does not the gentleman perceive that we pledge ourselves by this clause to protect those who are employed in the construction of this road, and have we a force large enough now in the Army that we can call into action, and place upon that line, which is at least three thousand miles long? The State of Texas at this time has nearly one half of the active soldiers of the United States within its borders.

Mr. RUSK. We are not half protected.

Mr. DAWSON. And yet I understand the gentleman to say that there are not half enough there.

Mr. RUSK. No, sir; I say we are not half protected.

Mr. DAWSON. There are eighteen military stations now within the limits of Texas to protect her people from the marauding tribes of Indians.

This road is to run through a wilderness of over three thousand miles. How are the laborers on the line of the road to be protected with our present Army? Why, sir, Congress would be called upon to increase the Army, in order to send men along the line to protect the laborers, and we should be asked, probably, to establish stations at least thirty miles apart, and perhaps every twenty miles; and will not that increase the Army? If we pass the bill of the Senator from Texas as it now is, how can we retire from this obligation that we incur by our own action? Will the bill not involve an immense expenditure of money, for the purpose of increasing the Army in the way I have suggested? Let us look at what this Territory costs us now. I wish to lay the facts before the Senate and before the country. It costs this Government now for the expense of the transportation for necessary supplies for the army in New Mexico, and in California, a large amount of money. The expenditure is a very great proportion of the whole Army appropriations.

How will you get your supplies to your army which is to be stationed over these two or three thousand miles through the wilderness, but by dragging these supplies along by oxen? What will be the cost of such a process? What limit will there be to the number of stations which it will be necessary to erect, in order to protect our soldiers in the wilderness from the savages, and from the pelting of the pitiless storm? Gentlemen cannot have looked into these questions; yet they wish us to plunge into this measure in a way for which the Treasury of the country is not prepared. Why should gentlemen seek to carry it through, right or wrong, without letting us know all the facts in the case?

Here our public faith is to be pledged for the performance of this work. Will not this company call upon you to redeem it—to stand by your pledge? To whom is this pledge to be made? To the contractors. The Senator from Massachusetts called them a corporation—a company. They are not to compose a corporation or a company until after the completion of the road. The contractors are the men to whom the Government makes the pledge to appropriate fifty millions of acres of public land, and $20,000,000 in five per cent. bonds; and then you are to give them the protection of the Army of the United States in order to enable them to keep their men at work on a line of road of from two to three thousand miles. There may be three or four hundred distinct men who make these contracts—perhaps three or four thousand may be engaged in the matter.

A SENATOR. Have you read the bill?

Mr. DAWSON. I have.

Mr. RUSK. The Senator must have forgotten a great deal of it. He has just stated that fifty millions of acres of land are to be granted to this company.

Mr. UNDERWOOD. That is thirty-five millions too much.

Mr. DAWSON. Do I understand my friend from Kentucky to say that the bill grants only thirty-five millions of acres?

Mr. UNDERWOOD. No, sir; I say that is the amount of the Senator's mistake. According to my calculation, it grants fifteen millions three hundred and sixty thousand acres.

Mr. RUSK. According to my calculation, the amount granted is about fourteen millions of acres.

Mr. DAWSON. Gentlemen make their calculation upon the basis that the road is to be two thousand miles long. I count the length of the road from the Mississippi to San Francisco at three thousand five hundred miles; and when your survey shall be made, and your estimates presented in relation to the windings which the road will have to make in going through the mountain passes, you will find that it will be perhaps longer than this. I may be wrong in this estimate, but the Senator from Pennsylvania [Mr. COOPER] and myself made it out carefully. We figured it out, and I believe we are correct.

Mr. COOPER. I think we are right in the number of miles, at any rate.

Mr. DAWSON. Yes, sir, I have no doubt of it. But again; have we ascertained by a survey what is the character of the country? Do we know how great an extent of the route through which we propose that the road shall pass has no wood, no timber, no material by which you can make bridges to pass the streams? How are you to get provisions for your soldiers along that line, when they shall be there protecting the laborers in their work? You will have to carry all those provisions, perhaps, for thousands of miles. Are we to act in the dark, without information as to any of these points? Let the amendment of the Senator from Pennsylvania be adopted; let the surveys which it calls for be made; let the whole of the facts then come before Congress, and we shall know what to do Are we to go into a measure

of this sort without a survey and estimate, when, if we had before us a bill appropriating for rivers and harbors, we would not appropriate a single dollar for any work without a previous survey and estimate? You, Mr. President, [Mr. DE SAUSSURE occupying the chair,] would not ask an appropriation for a river or a harbor in your State without a previous survey and estimate. Where is there a railroad, within any of the States of the Union, that has been built or undertaken without a previous survey and estimate? Where is the legislative body that has ever been called upon to vote on such a heavy appropriation as this, without an estimate? There is none, sir; and I repeat my surprise and astonishment that such a measure should be pressed, under such circumstances.

I am not going to give my general objections to the bill as it stands, because I know that it is before the body, and is the subject of amendment, but that it may be amended to suit my views. But I have some suggestions that I wish to make upon the subject.

Who here is willing to place the power contemplated by this bill in the hands of the President of the United States? Who is willing to impose upon him the great trouble which will grow out of it? The duties of the office of the President of the United States are sufficiently heavy and laborious now to nearly destroy the constitution of any man in their discharge; and yet you propose to make him the supervisor and judge of all these contracts. You propose to drive him to the necessity of looking over the whole of them; or if he refers them to a third person to report to him, he is still to be responsible.

But have those gentlemen who are so fearful of extending the patronage of the General Government considered the extent to which this goes? Why, under the bill of the Senator from Texas, the President is to have an unlimited discretion. He is to decide between the contracts, and he is to let the road to the lowest bidders, if, in his judgment, the public interest will be subserved by so doing. He has a right to look to the ability of the parties, and to their capacity for the execution of the work. There is, therefore, given to him the power of acting almost unlimitedly in that matter. But I have every confidence in the incoming President, and I would not for a moment make this a ground for objection; the other ground is the true one. I oppose the imposing upon him of any such duties.

Gentlemen have spoken about the corporation to be created under this act. I will not, in this stage of proceedings, raise the question as to the power of Congress to grant corporations within the limits of the States, but I would make this suggestion: After this corporation shall be formed for the construction of a road three thousand miles in extent, those portions of the road within the limits of the States will be, of course, within the jurisdiction of the respective States. The corporation will have received its power from the General Government. Will not the General Government, therefore, have the right to regulate that corporation, either to extend the grant of powers to it, or limit it? If we yield to Congress the power to grant an act of incorporation to a company within the limits of the States, do we not yield the whole question as to the power to the Federal Government? Although it is provided that this corporation shall not be within the limits of the States, except by their consent, yet the question arises, can Congress exercise an unconstitutional power, even with the assent of one of the States? Can we take upon ourselves to exercise a power which we admit by this bill does not belong to us, merely because a State says it may be exercised within her limits? This road may pass through the State of Texas. Who is to obtain the right of way there? Is it the Government of the United States? The provision of the bill is, that the right of way shall be granted for the construction of this road through the public lands. There is not an acre of the public lands belonging to the United States within the limits of Texas. You will then have to acquire from that State the right of way. How is it to be procured? Have we made any arrangement for that?

Mr. RUSK. Texas has already granted the right of way.

Mr. DAWSON. To whom has she granted it?

Mr. RUSK. To anybody who will make the road.

Mr. DAWSON. Has she granted the right of way to anybody who may be under the control of the United States? Has she granted the right of way to any corporation which may be created by the Government of the United States to run the road through her limits?

Mr. RUSK. She has given the right of way for the construction of a road through that State to the Pacific ocean to anybody who chooses to construct it.

Mr. DAWSON. If that be true, and I have no doubt it is, she never contemplated that she was going to yield the jurisdiction over that road to any other government than her own.

Mr. RUSK. Nor will she do so under this bill, unless she expressly consents to it after its passage.

Mr. DAWSON. Then let her do so. Will Texas give up all her power to control that matter, and give jurisdiction to the Government of the United States if we pass this bill?

Mr. RUSK. Try her.

Mr. DAWSON. But, sir, I care nothing about that question. The corporation which is to be created by the bill now under consideration is a tremendous one, as we all know; but the dangers growing out of it I shall not now depict. If we grant them the act of incorporation, and it is carried into execution, who, I ask, will become the corporators, and upon what terms? The contractors, whoever they may be, are to be the corporators, together "with their associates and successors;" and by the word "associates," I suppose is intended to be meant such persons as these contractors may permit to associate with them. Who holds the stock that this company is to put before the country? Who authorizes the issue of the stock? Does the Government of the United States authorize it? Suppose these parties do issue stock, what are they to pay for it? The railroad is not to be built by the contractors' own money; and the Government is to grant fifty millions or thirty-five millions, or, according to some gentlemen, only fifteen millions of acres of land. Besides that, it is to issue five per cent. bonds to the amount of $20,000,000. That will cause a large portion of this road to be executed. To whose benefit will this inure? To the men who perform the labor. They get the pay for constructing the road; and after the road shall be constructed, what are you to do? You are to pay them for constructing the road, and to give it to them. That is what you are to do. Is there a Senator here who denies it?

Mr. RUSK. Yes, sir.

Mr. DAWSON. Do we not, according to this bill, give the road to them?

Mr. RUSK. We do not pay them for taking it.

Mr. DAWSON. Why, the bill allows them to hold it for thirty years, and then they can dispose of it to the Government of the United States at an advance of ten per cent., after deducting the $20,000,000 in five per cent. bonds, and the value of the lands. The Government then would only have to pay the additional sum the road may cost beyond that. How much will the road cost? That is a question in regard to which we should have information before we undertake the work. How are we to ascertain this? Men in private life, when their own interests are involved, when their own judgment and honor are involved in a transaction, when they propose such a work as this, first want to know its probable cost. I think that should be so in this case. Private individuals would not go into such a proposition without first understanding what they were about to do.

Suppose any one of the contractors should fail to execute his contract, or that any one of them could not procure means sufficient to connect different links of the road together, when the contracts shall be divided, as they no doubt will be, into hundreds of sections. I suppose he would forfeit it, according to the bill, and then you would redispose of it to some other person. Can you take the money which you have already paid to the first contractor to complete the road? Will he not have the money, although he may have done scarcely anything, and will you not have to pay the same amount over again before you can connect together the various links? But this feature may be no objection, because the bill may be amended in this respect. This bill certainly requires amendment in many respects. If the Government of the United States is to enter upon the construction of this road, from one end of it to the other, and if the twenty millions of bonds, and the public lands proposed to be granted, should be found not to be sufficient for the purpose, would they be able to proceed? Would not the contractors call upon us, from time to time, to make additional appropriations for the purpose of carrying on this great and magnificent enterprise, and should we be able to resist the appeal?

Private capital is not going to connect itself with this road; and why? Because every man who has an eye to his own interests must see that a railroad three thousand miles in length through a wilderness country, stretching to a population not over three hundred thousand or four hundred thousand, never can sustain itself by the ordinary profits on freights and passengers. No gentleman upon this floor can pretend to pledge his opinion that this is to be a money-making road? Hence it is that if there is to be a total failure in the way of profits arising from the road, the Government of the United States should say at once and boldly: "We will build the road out of our lands and money entirely, and not seek in this indirect way to pledge ourselves to a large amount, in order that the people may not see the extent of the appropriation, and be mistaken in regard to the consequences." If it be true that this road will not pay, it is certainly true that no intelligent man will invest his money in it; and the contractors will take their contracts according to the limits of your capacity to pay under this bill. The road, therefore, will be carried to such an extent as the appropriations which you may make will carry it, and not an inch further. Do gentlemen suppose that by passing this bill they will induce individuals to take stock in this road? If they do, I think they are mistaken. But by passing the bill, you pledge yourselves that if the road shall be built by your means, by your money, and by your lands, you will give it to the company after thirty years; and suppose they should say they would not take it, because it would not pay the expenses? That would be an end of the matter. So I conclude that in my judgment—and I say it reluctantly—the friends of this measure cannot suppose that it is to be a money-making road.

I would rather vote for a bill appropriating hundreds of millions of dollars to build this road, than to vote for this bill under the idea that we are merely extending a little aid to those companies which may make it. Has a single company in the United States called upon us to pass this act of incorporation? Have any petitions been presented from them asking for it? I am not at all surprised that my honorable friend from Texas should exhibit great anxiety and use great energy to have this measure passed, for I hope that if it do pass, the road will go through his State. He has told you that a survey for the road has already been ordered. I am endeavoring now to obtain information as to the practicability of this road; and therefore I ask, where is that survey? It has not yet come to us. When we get it, we shall have some information upon which we can act understandingly.

I have been told by intelligent gentlemen that this road cannot be carried entirely through our own country, although that seems to be a very desirable object with most gentlemen, and its advantages have been referred to by the Senator from Massachusetts; but I have learned that we shall be constrained to go through a part of Mexico to render the road practicable. Then before we authorize the building of this road, let us have a survey; let us ascertain that there is a practicable route over our own soil; and if we cannot have one over our own soil, let us see whether we can obtain the right of way through a part of Mexico. Perhaps then you may make another Tehuantepec affair of it. Why should we act in this hasty way? Can we not wait until the Legislatures of Iowa, Missouri, Arkansas, Louisiana, and Texas, through which States this road is to pass, meet? Can we not wait and see whether they will give us the right of way?—and then let us have surveys and estimates submitted, and if they are not too enormous, we may adopt some such measure.

But, Mr. President, has the period arrived when nobody is alarmed as to the extent of the public debt? Has nobody any fear that we shall have to increase the tariff in order to support the Government? It is true that our revenue has been

enlarged very much within the last few years, and we have a balance remaining in the Treasury; but is not that balance almost used up? Is it not somewhat extraordinary that the Government of the United States should throw herself into the money world as a borrower of money to carry on such a measure as this, for which there has been no survey and estimate? Are we to expose twenty millions of bonds of the Government of the United States to the world for sale, when we have a balance in our Treasury, and are talking daily about what we shall do with the surplus? Examine the matter in any of its bearings—take it in any of its features, it is certainly an extraordinary proposition. I have looked at it with a great deal of care. I have endeavored to comprehend it; and there is not a Senator upon this floor who would feel greater pleasure, and who, as an American, would feel prouder than I should to see a railroad extending from the Atlantic to the Pacific; and whenever the period comes when I can act understandingly, and keep myself within what I believe to be the pale of the Constitution, I will be found one of those as willing to do everything to promote the interests and greatness of this country as any gentleman here.

Mr. DOUGLAS. I do not propose at this time to go into a general discussion of this question, yet I do not think that there is any question that can come before us more worthy to occupy attention than that of a railroad to the Pacific; and I am inclined to the opinion that it is good policy for us to confine ourselves to this bill until we dispose of it one way or the other.

It is well known to the Senate that the *projet* reported by the Select Committee is not in all its features the one that I myself should propose, or that I did propose when I had charge of the subject at the previous session. That committee were kind enough to show me their bill before they reported it, and upon that examination I was free to say to them, that while it was not precisely what I should like, yet I thought it was one that we might all unite upon without any very great sacrifice of principles.

I wish now to invite for a few moments the attention of the Senate to some objections which have been raised to it by the Senator from Georgia.

One objection of the Senator is, that this road is to be made entirely by the Government of the United States, for the reason that private capitalists cannot be induced to invest in it. He has asserted, but he has not proven, he has not attempted to prove, that private capitalists will not invest their money in this road; but if he had proven that fact, he would thereby have answered every objection that he made to the bill, for the reason that it would have shown that his other objections were untenable. No other money than the twenty millions of dollars provided for in this bill can, by its very terms, be expended by the Government for this road. And, what is more, the contractors who may agree to construct the road will not be at liberty to expend these twenty millions of dollars. The terms of the bill are, that when the contractors shall have completed fifty miles of the road, they may receive a *pro rata* payment in the bonds of the United States, in the ratio that fifty miles bears to the whole length of the road; that is to say, they will get such a proportion of twenty millions of dollars as fifty miles bears to the whole length of the road. They do not get a dollar of the public money until they make fifty miles, and if, when they have made fifty miles they fail to make the next fifty, they can never draw another farthing from the Treasury. They make a forfeiture the moment they fail to construct any section of fifty miles, and all that they have expended on the road before the forfeiture then becomes the property of the United States, and their contract is at an end.

Mr. DAWSON. They not only get the money when they have completed fifty miles of road, but they get four fifths of the land.

Mr. DOUGLAS. I know they do, but that is only part of that land which lies along those fifty miles, and they get nothing at all until fifty miles have been completed. The argument of the Senator is, that the road will cost five times as much as the Government is to advance under this bill. The argument is, that one hundred millions would hardly make it, and the Government advances only twenty millions. If that be true, the company, in order to make fifty miles of this road, have to do it out of their own funds, and then they will get from the Treasury of the United States but one fifth as much money as they have expended.

If, then, they make a forfeiture by not complying with the contract, they forfeit not only the one fifth of our money which they have received, but the four fifths of their own, which they have expended. If they go on with the next section of fifty miles, four fifths of the money is expended by the contractors, and one fifth by the Government; and so it is with each section until they get through. Under this bill, therefore, the contractors can never draw the twenty millions of dollars from the Treasury until the road is completed and in working order. How is it, then, that gentlemen come forward and say, that after your twenty millions of dollars are gone, you must go on and advance more? Your twenty millions of dollars can never be gone until the road is done. Then as regards the land, the contractors, before they can get an acre of land, must complete fifty miles of road, and when those fifty miles are completed, they receive four fifths of the lands pertaining to those fifty miles; and if they do not go on and complete the road, they forfeit that portion of it which they have built, and also the lands. If they should go on and complete every section but one, and then were to fail, they would forfeit to the Government the whole of the road, and all the money that they had expended upon it, and the remainder of the lands that had been set apart.

I apprehend that gentlemen travel beyond the terms of the bill, and make arguments which are negatived by its provisions. They argue in defiance of it, when they pretend to show that the Government of the United States is about to go into an unknown expenditure, and to create a boundless public debt. One great merit of this bill is, that it fixes precisely and exactly the liability of the Government; and it not only does that, but it contains such guards that by no possibility, under its terms, can there be a loss to the United States. By no possibility can the contractors get one dollar of public money, until they have expended on the road five times that amount, and given us a priority of lien on that fivefold amount as security for our advance. We do not part with our security even when the road is completed. I think, therefore, that an examination of the provisions of the bill will put an end entirely to any apprehensions upon that score.

Mr. DAWSON. My friend will permit me to show him that I am right. The sixth section of the bill reported from the Select Committee provides:

"That whenever fifty miles of said road shall have been completed in a manner satisfactory to the President of the United States, he shall cause a *pro rata* payment to be made, according to the terms of the contract, for the work so completed, in the bonds of the Government issued under the provisions of this act, and by a grant of four fifths of the public lands to which the completion of said fifty miles may entitle said contractors," &c.

Thus it will be perceived that the contractors get the money to which fifty miles entitle them, and also four fifths of the land?

Mr. DOUGLAS. Yes, sir.

Mr. DAWSON. So I understand the matter perfectly.

Mr. DOUGLAS. That is to say, when the first fifty miles of this road are completed by the contractors expending their own money, and it has cost them say $2,000,000, they get about $500,000 in bonds of the United States, and they can draw four fifths of the public lands lying along this fifty miles. Then they go on with the next fifty miles in the same way, receiving, when they have completed them, the same amount in money and land. The United States all the time have a lien on the fifty miles completed, which have cost five times as much as the advance we make. There is, therefore, no possibility of a loss on our part under this bill. But the Senator says the contractors will stop and not complete the road. The moment they do stop and fail to complete it, they make a forfeiture of the whole road as far as they have gone, and they forfeit their contract and it reverts to the United States. Suppose they should make five hundred miles and then stop; should we lose anything by that forfeiture? We should then come into possession of all the work which had been done by our money and our lands, and four times as much more work done by the money of the contractors; and we should have besides all the materials, all the implements, and everything that had been prepared for carrying on the work; and if the contractors would only make two or three such forfeitures before they got through, we should get the road at a very cheap rate. When a forfeiture occurs, all that the Government has to do is to let the remainder of the road to a new company, and we should secure by the failure all that had been theretofore done. If the Senator from Georgia, instead of predicting that we shall be called upon hereafter for further appropriations for this road, will take the ground that he will hold the company to a strict compliance with the contract, and insist on a forfeiture the instant they fail to comply with it, there will be no difficulty.

But, sir, I pass from that point. The Senator says he would like to see this road made, provided it can be done consistently with the Constitution. I did not understand distinctly from him that it violated the Constitution.

Mr. DAWSON. I said I would do all I could to bring it within the pale of the Constitution.

Mr. DOUGLAS. But if it is already within the pale of the Constitution, of course the limitation amounted to nothing; and if it is not within the pale of the Constitution, I would like to see the objection to its constitutionality pointed out; and I will tell the Senator that, when it shall be pointed out, I will undertake either to answer the argument, or I will write an amendment to avoid the force of the objection. I pass, however, from that point, because I am not going to argue the question generally.

The Senator from Georgia went on to say that this road was to be through a wilderness of two or three thousand miles, and that there would be nothing to supply provisions for those engaged upon it; and that the travel and commerce upon it when completed, would not be sufficient to pay its expenses. He says no man dreams that the road is going to pay a fair dividend after it is made. I presume he was speaking in his usual beautiful, rhetorical manner, without pinning himself down to what he would expect us to regard as seriously the facts of the case. There are men who think that this road will pay when it is made. There are men who think they have some data by which they can arrive at that conclusion. I have seen, within the last four years, a road started within my own State through a country where hardly one tenth of the land was under cultivation, and where the same predictions were made that it would never pay, and yet that road, although only half done, now yields twenty seven per cent. upon its cost. And what is more, the road to which I refer was intended for through travel between two great points, but when it was half made, it was found that the local travel was double the capacity of the road, and the company are now beginning a double track at that end for local travel, before they finish the through road.

I undertake to predict to the honorable Senator from Georgia, that although the country through which this road is to be constructed is now a wilderness, before it is finished the line of the road and the country for a wide extent on either side will be more densely populated than the State of which he is the able representative on this floor. I undertake to say to the Senator, that I am willing to put myself on the record as predicting that when you get this road half done, the local travel along the finished portion of it will be beyond the capacity of a single track to perform. When you get one hundred miles into the wilderness, you will have shortened the distance for the transportation of your Army and other supplies into New Mexico; and who can count the number of teams, the number of mules, and oxen, and horses, that will come to the end of the road to haul supplies from that point? Who can count the number of teamsters that will be employed, the number of farmers who will be required to supply productions to the laborers, the number of tavern-keepers, and store-keepers, and shop-keepers, who will spring up at the end of the road. So, as you keep moving on each week, getting two or three more miles of your track completed, the whole country will become filled up with settlers who are to remain there permanently. Each one hundred miles that you penetrate the wilderness, you shorten the distance for hauling supplies, and a greater number of teams will be required to concentrate upon it, and population will be swelling in upon each side to raise provisions to sell to the men engaged in the work.

One of the best markets that can be opened to the agriculturists anywhere, will be along the line of this road, to supply your five thousand workmen who will be employed in its construction. Storekeepers and shop-keepers will be needed to supply them with goods and other materials. You will find mechanic shops growing up all along the road to make and repair tools and implements for the workmen. You will find the whole country turning from a wilderness into one of the most densely-populated and highly-cultivated portions of America. Such will be the natural result of the construction of this road. That being the case, I do not see the force of the gentleman's argument that this work is to be constructed through a vast wilderness.

Again: I do not see the force of the argument that we shall have to put military posts along the country, at every twenty miles, to protect the laborers from the Indians. Would not military posts look well protecting five thousand laborers along the line of that road? Why, sir, how near to those laborers do you think any hostile Indians will approach? In my opinion, the Indians will require more protection against the laborers than the laborers against the Indians, and, therefore, I do not see the force of that argument. By putting this road under contract; by stretching your laborers along the line, from one end of it to the other, you will have rendered travel along that route secure for a single man on horseback, or in a buggy, or on foot; and he will be free from the molestation of any Indians within a hundred miles of the road. That must inevitably be the result; and, therefore, instead of its requiring an additional military force upon the line, the very laborers engaged in constructing this road will furnish a more effectual protection for your settlements in New Mexico, or wherever else travel may lead across the continent, than all the armies you ever have sent, or ever will send, there. Settlers will follow the line of the laborers, and they will cultivate farms, and raise provisions to feed those laborers. Mechanics will settle there; settlements will grow up; they will form a kind of "armed occupation," not only prepared to defend themselves, but to send parties to the relief of others, at a distance, who may be threatened with attack. You will thus be enabled to withdraw your army, and save millions of dollars now expended in that country in sending provisions to them; and the country will be better protected by the quiet, silent occupation of these laborers and settlers, dependent upon the construction of the road, than by all the armies and military forces you can ever send there.

I do not see the force of the objections which the Senator raises upon the point, that you will have to get up a great army to protect five, or ten, or twenty thousand Irishmen, with pickaxes and spades in their hands, and two hundred thousand American settlers living along the line, raising provisions for them, selling goods to them, and pursuing other occupations that will be brought into existence by the construction of the road.

Mr. UNDERWOOD. We can furnish them with muskets and rifles, if necessary.

Mr. DOUGLAS. Certainly, we could furnish muskets or rifles to enable them to defend themselves; but you will never get an Indian within musket or rifle shot of such a body of men. Then, when we come to look at this question practically, as it presents itself to the mind of a man who has spent his life on the frontier, who has seen how settlements grow into existence, and how emigrants push into the wilderness, all these objections vanish, and the simple question comes to this: We want a railroad to the Pacific. Does any man deny that? Everybody admits it. Inasmuch as we want a railroad, the question arises how shall it be made? Upon that point every man has a plan of his own. I thought that I had the best plan that ever was advanced. The Senator from California [Mr. GWIN,] at this session, got up a better one in his estimation, and the Senator from Texas, [Mr. RUSK,] now has a better one in his opinion. Each man who has not brought one forward, probably has one in his pocket that beats them all. The consequence is, that by this multiplicity of good plans we defeat all, and the result will be that we shall have no road at all. Such being the danger, what are we to do? Why, the real friends of the Pacific railroad are called upon to lay aside all pride of opinion as to the authorship of the bill, and all the capital and glory to be made out of its authorship, and come together and unite upon some bill which we are certain will result in making the road, and to which there is no insuperable objection to prevent men from voting for it. I confess that I think the bill of the Select Committee accomplishes that object. It may require amendment in some of its features. I may wish to offer amendments myself. I do not know how that is, but if I do, they will be amendments in aid of the measure, and I shall insist upon none which will hazard its success.

I am free to say to you, sir, that I believe it is the first and the highest duty of this nation to see that this road is made. I believe that the integrity of the Union itself depends upon its construction. When we have connected the Atlantic and the Pacific by a railroad, there is no power on earth, no question which is in existence, or which can be brought into existence, which can sever the bonds of the Union. I believe it is necessary, also, to furnish adequate protection to the distant parts of the country. I believe, above all, the making of this road is necessary to enable America to assume the position to which she is now entitled, of the first Power on earth. We shall be the first commercial and maritime Power upon the face of the globe the moment this road is completed.

Then, how are we do it? Some say with land; some say with money. This bill says by a combination of both. Then come in gentlemen who say, "It is all right; we are for the road; but let us have a survey first." Sir, we have been at that for three years, and when we bring up a bill for a road, it is said we must have a survey. When we get up bills providing for a survey, it is said we must have the road immediately. And thus alternately one proposition or the other has received the go-by. The proposition now made to have a survey, is simply a postponement of the building of the road, and is to result in doing nothing. I do not mean to say that gentlemen mean that; but I say that will be the result.

The Senator from Georgia says that no individual, no nation, no State, ever undertook a work of this magnitude without a survey. They never did, either with or without a survey; for never has a road of this magnitude been proposed, much less executed anywhere. Works of less magnitude have been devised and executed without surveys. You objected to me, two or three years ago, because I was asking a grant of land without a survey, for a railroad from Chicago to Mobile. You made the grant, although there had been no survey on a portion of the line for four hundred miles. But I have now the pleasure of telling you that the road is under contract. It is more than half done, and it will be finished in two years, although you gave us ten years within which to do it. The Senator from Georgia then told us that we were squandering the public lands for the purpose of encouraging railroads in a State. I told him, in reply, that the Government had had lands in the market for forty-two years, at $1 25 an acre, which were upon the line of the proposed road, and they could not be sold because of the absence of timber, and their distance from market; but that if you would give us alternate sections, we would make the remaining half worth more than the whole was originally, and enable you to sell them at $2 50 an acre. He shook his head, and doubted my argument. He said it was very good in theory, but the result would not turn out as I predicted, and that if he thought it would, he would vote for the bill. I have now the pleasure of informing him that the alternate sections reserved to the Government have, some of them, been brought into market at public auction, and more of them have been sold within the last few months, since they have been brought into market, at $2 50 an acre, than were sold for years previously at $1 25. They have readily sold at from $2 50 to $6 25 per acre at auction. The average price which they have brought is $2 57 per acre, and you do not ask, at the double price, more than $2 50. That demonstrates that all apprehensions upon the subject of a grant of lands for roads through a wilderness country where settlements have never penetrated, vanish as the dew before the rising sun, when there is an inducement for opening these lands, and a means of communication by a railroad to be constructed.

Now, sir, what has been done through the State of Illinois by means of that grant, may be done in every other of the new States where there are public lands, and across that vast wilderness country, of which gentlemen speak, lying between the Mississippi and the Pacific ocean. We put more money into the Treasury by that grant of land to Illinois, than you could have got there through any other mode, and more than you asked for the lands that you had.

But, sir, it was objected then that that was being done without a survey. I did not deem it necessary to wait for a survey, because we knew that the route was practicable. A survey would be necessary before you laid down the track, in order to find out what precise spot or precise line was best adapted to the purpose. So it is from the Mississippi river to the Pacific ocean.

Well-informed men in regard to the geography and topography of that country, know that a railroad route from the Mississippi to the Pacific is practicable. I undertake to say that well-informed men know there are more than twenty-five lines through twenty-five different passes in the mountains which are practicable. Sir, instead of having difficulty in selecting an engineer that can find a practicable route, I think the engineer will immortalize himself who can find a route in our own territory which is not practicable. These mountains are full of passes—practicable passes. Some are better than others in respect to climate, in respect to the soil, timber, and coal; yet there are routes enough in which you can find tolerably good soil—not what we call good soil in the Mississippi Valley, but what I can inform my friend from Rhode Island [Mr. CLARKE] who sits near me, would be called admirable soil in New England. Gentlemen talk about the great deserts that lie there, impassable and uninhabitable. There are lands there that we who live in the valley of the Mississippi, and in the great West would call deserts. There are sections of country there which are not much better, upon the average, than the State of Georgia or the various States of New England. There are such tracts which are not very large, but quite considerable and extensive, but I undertake to say that there is no continuous line which is not susceptible of a higher degree of cultivation and a greater yield of product than the line from here to New Orleans, or the line from here to Portland, in Maine. By saying this, I do not mean to underrate the section of country on the lines to which I refer. I only undertake to show that some parts of this continent have richer lands upon them than others.

It must be remembered that those men who have crossed these plains, and the emigrants who have written back such terrible accounts of their desolation, are persons who went from the Mississippi valley, where every acre of land is capable of producing an almost incredible product of any of the ordinary grains or crops raised in this country. Such a man would be very apt to compare the land upon the plains with the land that he had left in the valley from which he came. He would compare the valleys of the Platte, or the Gila, or the Colorado, or the Snake Fork of the Columbia, or wherever else he might be, with the Illinois, or the Wabash, or the Miami, or some of those other tracts where he had happened to live; and perhaps he would describe it as desolate, because he would probably find desolation to such an extent that you could not produce more than forty or fifty bushels of corn to the acre, and not more than fifteen or twenty bushels of wheat to the acre. Why, I have seen, in some of the old States, where there is such a horror of the desolation of the West, places where, if they got twenty-five or even fifteen bushels of corn to the acre, they would feel themselves very fortunate.

Again, in traveling across that country, a man proceeds along the valleys of the streams—he goes from a country where the valleys of the streams are always rich and fertile, although the hills may be comparatively barren. When he goes up the valley of the Colorado and the Sweet Fork, and through the Salt Lake, and goes round by Humboldt's river, no doubt he finds desert wastes all along the banks of these great streams, and he will be apt to say, whoever did conceive of such desolation as this, where even the valleys of the streams do not produce grass with which to feed horses. He would not think of going to the mountain sides, and following up the tributary streams, because he would think to himself, if there is desolation in the valleys, what must be the desert as you recede from them? Such, no doubt,

were the impressions of the first travelers; but subsequent adventurers happened to find that while there are sandy plains upon the valleys, when you get in view of the mountains there come dashing down tributary streams, and if you follow them up you find abundance of good water and timber, good grass, and everything that would constitute a delightful and valuable agricultural country. You find, therefore, that it will not do to judge every section of the country by the one in which you have been raised. Although a man may have been born in what he regards the very center of the earth, and the center of civilization, where all the institutions are perfect, and where everything outside the range of his vision is on the outer borders of civilization, when he comes to travel a little into other countries, he finds that there are other places just as fertile, just as valuable, and other people just as enlightened and humane as those of the country in which he happened to be born.

When people start from their old homes and go to the western wilds, they are apt to find fault with everything they see which they do not find exactly as it was in the country which they left. They grumble at everything that is not exactly agreeable to them. If they get sick, they charge it upon the new country; if any misfortune happens to them they charge that upon it. Hence you find the first explorers of every country always underrate its value. Who does not remember that shortly after the close of the last war, President Monroe, I think it was, sent commissioners into the Territory of Michigan for the purpose of selecting lands upon which to locate military bounty land warrants?

Mr. UNDERWOOD. My country was called "Barrens."

Mr. DOUGLAS. I will come to that presently. Those commissioners went out to Michigan under instructions directing them to select no lands that were not susceptible of cultivation, and those intelligent commissioners, after spending one year in the Territory of Michigan and traveling all over it, reported officially to the War Department that there was no land in that Territory susceptible of cultivation. [Laughter.]

Mr. BUTLER. Julius Cæsar reported the same thing of England.

Mr. DOUGLAS. My friend from South Carolina reminds me that Julius Cæsar reported that of England. So it is with all the people sent out to explore new and unknown regions of country; but I think it would be hard to convince my friend from Michigan that there is not some land in his State susceptible of cultivation. I have seen considerable land there that did yield a tolerable crop, say one hundred bushels of corn and fifty bushels of wheat to the acre. I think that land which yields such a crop as that is tolerably good, even in the valley of the Mississippi.

My friend from Kentucky has reminded me that the country where he lives, was once called the "Barrens." That brings to my mind a thing which used to puzzle me very much when I first emigrated to the State of Illinois. I found that the State was divided into prairie country and barrens. The barrens consisted of portions of land on the borders of the prairies, that had grown up to shrub-oaks; but after a while, the people cultivated the barrens, and raised better wheat on them than on the prairies.

I could not find out, at that time, how it was that the best land in the State was called barrens. The people told me they did not know how it was, but that the Kentuckians, who were some of the first settlers, came over there and named it barrens, and it was said that it was a sort of Kentucky notion that the best lands in any country must be called barrens. [Laughter.] But afterwards, I went over into that section of the country, where my friend from Kentucky lives, and spent some time at the Mammoth Cave, the greatest natural curiosity in the world. While there, I inquired, and tried to ascertain why that description of land was called barrens. I was told that the first settlers who came out there from Virginia, found the country so destitute of timber, and of water, with nothing growing there but little shrub-oaks, and they thought that a country so utterly destitute of every kind of support for vegetation, that not even timber would grow upon it, ought certainly to be called barrens, and that that was a very mild and polite term for such a kind of country. They never would settle upon it; they passed round it, and settled every other nook and corner in the State, and even ascended the mountains, and fixed themselves in their deep gorges, in preference to entering these barren wastes. They named a river there Big Barren, and another Little Barren, and gave names with reference to the peculiarities upon the surface of the country. They thought these were proper names to mark the desolation. In later years, people went and settled upon these lands, and among others, my friend from Kentucky; and it was found that these spots called barrens, were among the very best lands in the Mississippi valley, or on the broad continent of America.

I remember that my intelligent friend from Connecticut, [Mr. SMITH,] when we had the subject of annexing California before us, and, I believe, after it was annexed, made a speech, or rather wrote a book and published it, descriptive of the topography and geography of California. He described it as the most desolate place upon the face of the globe. I can assure the Senator from North Carolina [Mr. BADGER] that the country which I saw in riding from Weldon to Wilmington, through the pineries of his State, would be a Garden of Eden compared with the description which the Senator from Connecticut gave of California. He described utter desolation as pervading every valley, and every stream, and every mountain top, in the whole Territory. But we find out now, sir, that the only trouble in regard to California is that it is so productive that it is actually asserted that when a man plants a ten-acre patch of potatoes, he has got to rent an adjoining tract to pile them up on. [Laughter.] And until I saw some Californians, who returned from that country, I could not comprehend the story that I heard from a gentleman who was in Texas several years ago. He said that while traveling through that country he entered the camp of a distinguished general who was in command of the Texan army, and there he found a fellow sitting on one end of a sweet potatoe while he was roasting the other in the fire. [Laughter.] I never could realize the truth of that story until the fertility of the Californian soil was described. But while I cannot credit entirely all the accounts which I have heard in relation to the fertility of the soil of California, it is undeniable that there is there in point of agricultural power and production a degree of fertility not surpassed even by the gold that has been found in the mountains and along the streams that run through her valleys.

We all remember, too, that when the Oregon treaty was before us for ratification here, it was demonstrated time and again that there was not land enough in the whole of Oregon out of which you could make one respectable Territory. Now, it is admitted that you can find good land for three or four good States not inferior to New York in capacity to furnish all the articles that contribute to the support of man.

Sir, I am under the impression that the vast regions of desert in the slopes on either side of the mountains west of the Mississippi will disappear before investigation and settlement, in the way that other deserts have. Why, sir, it is not twenty years since, passing up the Mississippi river, along where the Senators from Iowa reside, I was told that it was the finest country in the world for ten miles back, and beyond that men could not live, and beasts died. It was so desolate, and so destitute of everything to support either man or beast; and all the accounts that came to us, up to within the last fifteen or twenty years, of the western portion of Iowa, gave that description. I would now like to find the man who will go out and find one acre out of one hundred acres of land in the poorest part of Iowa, that is not susceptible of cultivation, and will not yield a very heavy crop of any agricultural product.

Mr. ADAMS. If my friend from Illinois will give way, I will move to adjourn.

Mr. DOUGLAS. I was nearly through. I should not take five minutes more; but as there is a desire for an adjournment, I believe I will stop right here.

Mr. BUTLER. I wish to make a few remarks upon this subject, but I do not propose to make them now. I move that the Senate adjourn.

The motion was agreed to, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 4, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

Mr. DEAN. Is it in order to move that there be a call of the House?

The SPEAKER. The Chair will first ascertain whether a quorum be present.

The SPEAKER counted the members present, and found that there was not a quorum; which fact he announced to the House.

Mr. DEAN. I now move that there be a call of the House.

Mr. CARTTER. I demand the yeas and nays on that motion, for in that way we can as well ascertain who are absent.

The yeas and nays were ordered.

The question was then taken, and the motion was decided in the negative—yeas 59, nays 64.

So the House refused to order a call.

The Journal of yesterday was then read and approved.

Mr. SEYMOUR, of Connecticut. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

MODE OF COUNTING VOTES.

Mr. JONES, of Tennessee. I rise to what I conceive to be a question of privilege. I submit the following report from the Joint Committee appointed to examine and report a mode for counting the votes for President and Vice President of the United States. I do not ask action on it now, but only that it shall be read and informally passed over until we shall receive a message from the Senate, announcing its adoption by that body:

Resolved, That the two Houses will assemble in the Chamber of the House of Representatives, on Wednesday, the 9th instant, at twelve o'clock, and the President of the Senate *pro tempore* shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tempore*, who shall announce the state of the vote, and the persons elected, to the two Houses assembled, as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses.

GRANTS TO RAILROADS.

Mr. DEAN. I rise to a question of order. Previous to the adjournment last evening, the gentleman from Wisconsin [Mr. DOTY] moved to reconsider the vote by which the House refused to lay on the table the bill of the Senate (No. 131) granting the right of way and a donation of the public land to the State of Wisconsin, for the purpose of locating and constructing certain railroads in that State, and the amendments thereto. The House immediately adjourned after the submission of that motion, so that this question could not then be raised. My point is, that that, like a motion to adjourn, cannot be reconsidered. The only motion for the gentleman is, to again move to lay on the table. He cannot move the reconsideration of a vote refusing to lay on the table.

Mr. DOTY. I would suggest whether it would not be time enough to raise the question of order after I have called up the motion to reconsider?

The SPEAKER. The gentleman from New York has the right to call up the motion to reconsider, and to raise a question of order on it.

Mr. DEAN. It is within the power of any member to call up the motion to reconsider.

The SPEAKER. The Chair is of the opinion that the weight of argument from the rules may be on the side of the gentleman from New York, but the practice of my predecessor has been followed by myself, and I do not feel disposed to change it during the remainder of my term of service here. The Chair holds that the motion is in order.

Mr. DEAN. Very well, then. I move, as I believe it is in order, that that motion to reconsider be laid on the table.

Mr. DOTY. How has the gentleman obtained possession of the floor?

The SPEAKER. The rule declares that any member may call up the question of reconsideration. The Chair decides that the motion to reconsider was properly entered on yesterday evening. He also decides, in conformity with the decision and practice of his predecessor, and of his own at the last session, that it is in order to

move to reconsider; and that, if decided in the affirmative, that motion will bring the bill before the House for action. It is not a debatable question, and the gentleman from Wisconsin, who made the motion, cannot speak on it. The Chair further decides that the gentleman from New York or any other gentleman is entitled to the floor to call the motion up, and move that it be laid on the table.

Mr. LETCHER. I should like to hear how the motion is entered on the Journal. If my recollection be right, I submitted the motion to adjourn before the motion to reconsider. I would inquire, then, how the motion to reconsider was brought up?

The SPEAKER. The practice has uniformly been, under the rules of the House, to allow the motion to reconsider to be entered on the Journal.

Mr. DEAN. Before I yield the floor——

The SPEAKER. The Chair is now deciding a question of order.

Mr. DOTY. I require, then, that the gentleman from New York shall take his seat.

Mr. DEAN. I demand that my motion to lay on the table shall be entered.

The SPEAKER. The gentleman from Virginia [Mr. LETCHER] submits that the motion to reconsider could not be made yesterday evening and entered on the Journal, because there was a motion pending that the House adjourn. The Chair decides that the motion could be entered.

Mr. LETCHER. Not exactly that. I say that the motion could not be made for this reason: I was on the floor, and submitted the motion "that the House do now adjourn," and the gentleman from Wisconsin [Mr. DOTY] could not take it from me, and submit his motion, under those circumstances.

The SPEAKER. The gentleman could not debate the motion to adjourn, and therefore was not entitled to occupy the floor after submitting his motion.

Mr. LETCHER. I understand that when a motion to adjourn is submitted, the House is bound to act on it, as it is not a debatable question?

Mr. AVERETT. I rise to a privileged question. The Journal ought to represent the proceedings of the House correctly. If the Journal be as the report in the Globe, the motion of the gentleman from Wisconsin precedes the motion of my colleague to adjourn. I was an eye and ear witness, and I state, as a matter of fact, that the motion to adjourn preceded the motion to reconsider. If the Journal represents it otherwise, the Journal represents what is not true.

The SPEAKER. The Chair understood that no objection whatever was made to the motion to reconsider, and that single fact was regarded by him in making up the Journal, as indicating the unanimous consent of the House. That is the only reason the Clerk gives for it. Be that as it may, the Chair decides that the gentleman from Wisconsin had the right, under the following rule, to have his intention to move, or the motion to reconsider, entered on the Journal:

"56. When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move a reconsideration thereof on the same or succeeding day; and such motion shall take precedence of all other questions except a motion to adjourn," &c., &c.

Mr. LETCHER. I desire to understand the decision of the Chair.

The SPEAKER. If the gentleman will permit the Chair to remark in that connection, he does not decide that the motion to reconsider may be considered in preference to the motion to adjourn, but that a motion to adjourn could not deprive a member from entering on the Journal a motion to reconsider within the two prescribed days.

Mr. LETCHER. So far as the mere matter of fact about general consent is concerned, I insisted upon the motion to adjourn for the express purpose of cutting off the gentleman's motion to reconsider.

The SPEAKER. The Chair waives the question of general consent, and does not base his decision upon it. His decision is a plain and direct one, that no motion to adjourn can cut off the right of a member to make a motion to reconsider a vote within the time prescribed by the rule; and the time allowed for that is two days.

Mr. SMART. That is a common-sense rule.

Mr. LETCHER. Then the motion to adjourn could not preclude the motion to reconsider.

The SPEAKER. The motion to reconsider could be entered not to be considered at the time, because the motion to adjourn took precedence of it.

The following is the note to the 56th rule, which the Clerk will read:

"The practice, of late years, has been changed, so as to allow the motion to reconsider to be made at any moment within the prescribed time. If the motion be made when a different subject is before the House, it is entered and remains until that subject is disposed of, and then 'takes precedence of all other business except a motion to adjourn.' When any final vote has been taken, and a motion made to reconsider, that motion may be laid on the table; in which case, according to the practice of several years past, the vote stands as though the motion to reconsider had not been made. This is correct; as, if the House wished to retain the matter, it would agree to the motion to reconsider, instead of laying it on the table. Motions to reconsider should be promptly acted on, otherwise it is in the power of a single member (voting on the strong side against his sentiments, solely for the purpose of placing himself in a situation to make the motion) to arrest business which a majority have determined to dispatch."

The SPEAKER. The question before the House was a motion to adjourn. The motion to reconsider was entered. It could not be considered then at all. So the right of a member under the rules was saved upon the one side, and the right of the House to adjourn when it pleases saved upon the other.

Mr. LETCHER. Is it in order to move to lay that motion upon the table?

The SPEAKER. That motion is already made by the gentleman from New York, [Mr. DEAN.]

Mr. DEAN. I call for action upon the motion.

Mr. JONES, of Tennessee. I wish to inquire of the Chair, if the question be put on laying the motion to reconsider upon the table and fail, will it then be too late to appeal from the decision of the Chair in this case?

The SPEAKER. The Chair thinks it would be too late, for the House will have entered upon the subject.

Mr. JONES. I wish, before that question is taken, to appeal from that decision. I understand the Chair to say, that the weight of argument and right is upon the side of the gentleman from New York, [Mr. DEAN,] who makes this motion; but decides the motion to reconsider to be in order, merely upon the ground that there was one precedent for it during the last Congress. The then Speaker admitted to me afterwards that he did not have confidence in that decision himself. I do not know of but one solitary precedent.

The SPEAKER. The case referred to by the gentleman from Tennessee will be read, if it be the pleasure of the House. It was a case precisely in point, however, decided by my immediate predecessor. An appeal was taken from his decision, and the House sustained his decision.

Mr. STEPHENS, of Georgia. Will the Chair have it read?

The Clerk then read, as follows:

"April 26, 1850.—The House having reconsidered the vote by which it had refused to lay upon the table the previous day, the joint resolution of the House (No. 16) 'authorizing the President of the United States to accept and attach to the Navy two vessels offered by Henry Grinnell, Esq., of New York, to be sent to the Artic seas in search of Sir John Franklin and his companions,

"The SPEAKER then stated the question to be upon the motion to lay the said joint resolution upon the table.

"Mr. JONES raised the question of order, that the House having, on yesterday, refused to lay the joint resolution upon the table, and subsequently, on that day, the question being upon its engrossment, and his colleague [Mr. SAVAGE] being entitled to the floor, the House having gone into the Committee of the Whole House on the state of the Union, the joint resolution thereby passed from before the House, and took its place upon the Speaker's table, to be taken up in its order when the House should proceed to the business on the Speaker's table, and, consequently, that the vote just taken to reconsider the vote by which the House refused to lay it upon the table, does not bring it from its place on the Speaker's table before the House.

"The SPEAKER stated, that so far as he had an opportunity of examining the precedents, it appears that in every instance where a motion to reconsider has been passed in the affirmative, the question immediately recurred upon the question reconsidered. He therefore decided that the affirmative vote just taken on the motion to reconsider the vote by which the House refused to lay the joint resolution upon the table brought the resolution before the House, and that the question now recurs upon the original motion to lay it upon the table.

"From this decision of the Chair Mr. JONES appealed; and the question being put, 'Shall the decision of the Chair stand as the judgment of the House?' it was decided in the affirmative.

"So the decision of the Chair was sustained."

Mr. STUART. I only wish to see if I understand that case correctly. I do not see that the point was made that it was not in order to move to reconsider the vote by which the House refused to lay the matter upon the table. The point of order made in that case, was as to the question to be put after the motion to reconsider had been carried.

The SPEAKER. The motion to reconsider was acquiesced in, and the appeal taken from the effect of the motion to reconsider. The Chair thinks the same principle precisely is involved. The argument upon the other side, in favor of the decision, is simply this: The gentleman from Wisconsin, [Mr. DOTY,] by his motion, is supposed to be dissatisfied with the vote given upon the motion to lay upon the table, for the reason that it carries his bill to the Speaker's table, where it will be taken up in its order; and it was in the best place, as the Chair thinks, if the table was generally cleared every day, as used to be the case. The gentleman from Wisconsin desires to prevent its going upon the Speaker's table to be acted upon in its place, to be laid, by a vote, upon the table, and diminishing its chances of passage. That is the argument upon that side.

The argument upon the other side is, that it is proper to reconsider any action of the House which they have taken, by which the bill is disposed of temporarily or otherwise. The Chair is inclined to think the latter is the more correct view, and he is not disposed to change the practice of his predecessor and himself upon the subject. An appeal is taken from the decision of the Chair.

Mr. AVERETT. I hope to be indulged in a single remark. My point is that the proceeding was not correctly entered on the Journal. The motion to reconsider was not announced by the Chair at all, and the House had no notice of it.

The SPEAKER. The gentleman from Virginia has a right to move to correct the Journal affecting this very matter.

Mr. AVERETT. My objection to the Journal is, that the motion of my colleague [Mr. LETCHER] that the House adjourn, preceded any action of the House, or any motion of the member from Wisconsin, [Mr. DOTY,] and this I wish to be entered upon the Journal.

The SPEAKER. The Chair has no objection to such an entry, because it does not affect his decision at all.

Mr. STANLY. The gentleman from Virginia is mistaken, according to my recollection. His colleague [Mr. LETCHER] made the motion to adjourn, it is true, but there is no proof that the gentleman who was in the chair [Mr. MASON]—the Speaker himself not being there—heard that motion or recognized it; and if the gentleman from Virginia was trying to get the floor to make the motion, the gentleman from Wisconsin [Mr. DOTY] made his motion to reconsider, and was recognized by the Chair. I watched the whole proceeding, and I knew what the gentleman was about. The Chair received the motion to reconsider, and then entertained the motion to adjourn.

The SPEAKER. The question is upon correcting the Journal. Will the gentleman from Virginia [Mr. AVERETT] inform us whether his proposition is to change the Journal, so that the motion to adjourn shall appear before the motion to reconsider?

Mr. AVERETT. I desire the fact shall be stated, that my colleague made the motion to adjourn, and then it will be for the House to decide whether they will have this other motion to reconsider. I want the Journal to tell the plain truth. It does not now, for it represents the gentleman from Wisconsin [Mr. DOTY] as making the motion to reconsider before my colleague [Mr. LETCHER] moved the adjournment. In this the Journal is not correct in point of fact, and I venture to say that not a dozen of the members present knew that the motion to reconsider was entered at all.

The SPEAKER. The gentleman from Virginia, then, desires that the motion to adjourn shall precede the motion to reconsider.

Mr. RICHARDSON. We do not know what the facts are in relation to that matter. Is it in the recollection of the Speaker—the Presiding Officer of the House—that the motion to adjourn preceded the motion to reconsider?

The SPEAKER. During the pendency of the motion made to adjourn, as the Chair understands, the gentleman from Wisconsin immediately arose

and moved to have his motion to reconsider entered upon the Journal.

Mr. RICHARDSON. Preceding the motion to adjourn?

The SPEAKER. Succeeding the motion to adjourn.

Mr. MASON. I was temporarily occupying the chair. The gentleman from Virginia [Mr. LETCHER] arose in his place, according to my recollection, and moved that the House adjourn.

Mr. SWEETSER. I object to this discussion. It is a question of fact, and this is not the way to arrive at it.

The SPEAKER. It is a debatable question. There is a motion made to amend the Journal, and therefore it is debatable.

Mr. MASON. Before the Chair put the motion to adjourn, the gentleman from Wisconsin [Mr. DOTY] rose and stated that he had a privileged motion to make, that he wished to give notice of his intention to reconsider the vote on a certain bill. It was not announced distinctly that he moved a reconsideration, but he stated that he wanted to give notice.

Mr. SPEAKER. The gentleman from Wisconsin sent to the Chair a paper in writing.

Mr. MASON. He sent up a paper in writing, and it was adjudged by the Chair to be a motion, and he directed the Clerk to enter it accordingly. There was some confusion in the House, but no particular objection to the entry of the motion.

Mr. RICHARDSON. Did the motion of the gentleman from Wisconsin [Mr. DOTY] succeed the motion of the gentleman from Virginia [Mr. LETCHER] to adjourn?

Mr. MASON. I think it did. The gentleman from Wisconsin seemed to be struggling for the floor, but I observed the gentleman from Virginia on the floor first, and was about proceeding to put the question to adjourn, when the gentleman from Wisconsin stated that he had a privileged question. He gave his notice, sent up his resolution, and it was entered, no person saying that he objected to it. I then put the motion to adjourn, and the House adjourned.

Mr. DEAN. Will the gentleman from Kentucky [Mr. MASON] answer me one question? Was that paper read to the House at all?

Mr. MASON. It was not read.

Mr. DEAN. How, then, could the House consent that it be entered? We knew nothing about it.

Mr. MASON. The gentleman from Wisconsin claimed the right, and the Chair decided that he had the right to make the entry upon the Journal.

The SPEAKER. The Chair begs to call the attention of the House to the following rule:

"When a motion has been once made and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or succeeding day, and such motion shall take precedence of all other questions, except a motion to adjourn."

Mr. RICHARDSON. A motion to adjourn preceded it, according to the statement of the gentleman from Kentucky, [Mr. MASON.]

Mr. MASON. I suppose, technically, it hardly did. I was about to put his motion to adjourn, when the gentleman from Wisconsin [Mr. DOTY] stated that he had a privileged question. I had not responded to him, and then I recognized the gentleman from Wisconsin, who had his motion entered. I decided that he had a clear right to have it entered.

Mr. RICHARDSON. Will the gentleman from Kentucky answer me a single question? Did the gentleman from Virginia, after the notice of the gentleman from Wisconsin, move again to adjourn, or did the Chair act upon the previous motion?

Mr. MASON. It was a previous motion. The gentleman from Virginia [Mr. LETCHER] insisted on having his motion to adjourn put.

Mr. DISNEY obtained the floor.

PRESIDENTIAL VOTES.

Here a message was received from the Senate of the United States, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed the following resolution, viz:

"*Resolved*, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 9th instant, at twelve o'clock, and the President of the Senate *pro tempore* shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tempore*, who shall announce the state of the vote, and the persons elected, to the two Houses assembled, as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses.

"*Ordered*, That Mr. HUNTER be the teller on the part of the Senate."

Mr. JONES, of Tennessee. I ask if that message from the Senate is not a question of privilege, which takes preeedence of a mere privileged question?

The SPEAKER. The Chair thinks it is a question of privilege.

Mr. JONES. The message from the Senate is the report of the Joint Committee appointed to ascertain and report the mode of counting the votes for President and Vice President, which I presented to the House this morning. I move that the resolution be concurred in.

The motion was agreed to, and the resolution of the Senate was concurred in.

Mr. JONES. I move that the Speaker of the House appoint the two tellers on the part of the House provided for in that resolution.

The motion was agreed to, and

The SPEAKER thereupon appointed Messrs. JONES of Tennessee, and CHANDLER, as tellers on the part of the House.

GRANTS TO RAILROADS.

Mr. DISNEY. I have only a word or two to say with reference to the difficulty that has sprung up here this morning. Now, whether or not the motion of the gentleman from Virginia [Mr. LETCHER] to adjourn was entertained by the Chair prior to the motion of the gentleman from Wisconsin, [Mr. DOTY,] is a question between the gentleman from Virginia and the Presiding Officer at the time. But it is perfectly immaterial. The Chair did not put the motion to adjourn to the House, and therefore it was not pending when the motion of the gentleman from Wisconsin was made. According to the parliamentary law, a motion is not in the possession of the House until it is stated from the Chair and put to the House.

Mr. RICHARDSON. I do not understand the proposition to be as the gentleman from Ohio has stated it. When the gentleman from Wisconsin obtained the floor, as I understand it, and made his motion, it was not announced by the then Presiding Officer. If I am wrong in this statement, the gentleman from Kentucky, [Mr. MASON,] who occupied the chair, can correct me. The only motion that was in the possession of the House by being announced from the Chair, was the motion to adjourn. I understand from the statement of the gentleman from Kentucky himself, that the gentleman from Wisconsin rose to give notice of his intention to move a reconsideration, and that he sent a paper to the Chair, but that the paper was not read, nor was the motion to reconsider announced by the Presiding Officer. Am I correct?

Mr. MASON. The gentleman from Wisconsin announced his intention to move a reconsideration, and sent up a paper. I did not know what it was.

Mr. RICHARDSON. The statement of the gentleman from Kentucky, who was occupying the chair at the time, places this matter precisely in the position which I supposed it to occupy. The announcement made by him at the time was, that the gentleman from Wisconsin gave notice that he intended to move to reconsider. Am I correct in that?

Mr. MASON. Yes.

Mr. RICHARDSON. No member of the House objected to that notice, because there was nothing upon which they could act. The only question before the House upon which they could or did act, was the motion to adjourn. The House was not put in possession of such a motion as they could object to, and so far as the ground of the gentleman from Ohio is concerned, it is applicable, not upon the side which he applies it to, but upon the other side; for there was no announcement by the Chair that could put the House in possession of the fact that a motion to reconsider had been made. There was no reading of the paper sent up to the Chair, and the only motion that was made and announced from the Chair, was the motion to adjourn.

Mr. McLANAHAN. What is the question now before the House?

The SPEAKER. The proposition to amend the Journal.

Mr. McLANAHAN. Would it not be in order to move to lay the whole subject upon the table?

Mr. STUART. If that motion prevailed, it would carry the Journal to the table.

The SPEAKER. That would be the effect of it.

Mr. McLANAHAN. Then I move the previous question.

A VOICE. That is right. You are a public benefactor.

The previous question received a second, and the main question was ordered to be now put.

The question was then put upon Mr. AVERETT's motion to amend the Journal, and it was not agreed to.

The question recurred on the appeal from the decision of the Chair, viz: "Shall the decision of the Chair stand as the judgment of the House?"

Mr. SEYMOUR, of New York. I move that the appeal be laid upon the table.

Mr. GORMAN. Who appealed?

Mr. JONES, of Tennessee. I did, and as the question is a very important one, I hope we shall have a direct vote on the appeal.

Mr. SWEETSER. I call the gentleman from Tennessee to order.

The SPEAKER. Discussion is not in order.

Mr. JONES. I know the appeal is not debatable, and I only wish ——

[Loud cries of "Order!"]

Mr. STEVENS, of Pennsylvania. I ask the Speaker to state what his decision is from which the appeal is taken.

The SPEAKER. The gentleman from Wisconsin, [Mr. DOTY,] on yesterday, submitted a motion to reconsider the vote by which the House refused, on the day before, to lay the Wisconsin land bill upon the table. Under the decision of the Chair, and by force of the rules of the House, that bill—no order having been taken upon it by the House—went to the Speaker's table. The right of the gentleman from Wisconsin to submit the motion to reconsider is disputed by the gentleman from Tennessee, [Mr. JONES.] The Chair decides that the gentleman from Wisconsin has a right to move to reconsider, and that the effect of that motion, if it prevails, will be to bring the bill again before the House. From this decision the gentleman from Tennessee appeals.

Mr. JONES. Have I a right to state the grounds of my appeal?

[Cries of "Order!"]

The SPEAKER. The Chair thought he had done it with great clearness.

Mr. JONES. I do not wish to argue the question at all.

The SPEAKER. The gentleman has a right to state the grounds of his appeal.

Mr. JONES. Upon the day before yesterday a motion was made to lay the Wisconsin land bill upon the table. That motion failed. We then progressed with the consideration of the bill, and the House adjourned without taking action upon it. The bill, under the rules of the House, went into a certain class of business upon the Speaker's table. The Chair so decided yesterday, and the House acquiesced in the decision. Last evening the gentleman from Wisconsin [Mr. DOTY] moved to reconsider the vote by which the House refused to lay his bill upon the table. The Chair decided that he did make that motion. The gentleman from New York [Mr. DEAN] this morning raises a question of order that the gentleman from Wisconsin had no right to make such a motion; that the bill was not disposed of by the vote which he moves to reconsider, that it did not pass from before the House by that vote, but that it passed from before the House by the operation of the rules, and that consequently that vote cannot be reconsidered. The Chair decides, as I understand it, that the motion can be made, not because he is satisfied that it is right in itself, but because there has been a precedent that way. From that decision I appeal, and ask the yeas and nays on the motion to lay the appeal upon the table.

Mr. RICHARDSON. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. STEVENS, of Pennsylvania, and HARRIS, of Tennessee, were appointed.

The House was then divided on ordering the yeas and nays, and the tellers reported 31 in the affirmative.

So the yeas and nays were ordered.

Mr. STANTON, of Ohio. Has the morning hour expired?

The SPEAKER. There has been no morning hour, and there will be none to-day.

Mr. STANLY. I ask the Chair, before the question is put, if he will state the point of order for himself. The gentleman from Tennessee [Mr. JONES] has made his argument upon it.

The SPEAKER. The Chair requests that the decision of his immediate predecessor may be again read. It fully explains the proposition before the body.

The Clerk again read the extract from the Journal, which will be found above.

Mr. STANLY. That, I understand, is the decision of Speaker Cobb, from which the gentleman from Tennessee [Mr. JONES] appealed.

The SPEAKER. It is, and in accordance with that precedent, the present occupant of the chair decided a similar proposition in a similar way at the last session. He adheres to that decision.

Mr. STANLY. Well, the Speaker is right.

The question was then taken upon Mr. SEYMOUR's motion; and it was decided in the affirmative—yeas 109, nays 57; as follows:

YEAS—Messrs. Charles Allen, Willis Allen, Allison, Wm. Appleton, Babcock, Barrere, Bartlett, Bell, Bennett, Bibighaus, Bowie, Bowne, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Busby, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clark, Clemens, Conger, Cottman, Cullom, Darby, George T. Davis, John G. Davis, Disney, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Fay, Freeman, Henry M. Fuller, Gamble, Gentry, Giddings, Goodenow, Grey, Harper, Haven, Hendricks, Henn, Horsford, John W. Howe, Thomas M. Howe, Ives, Andrew Johnson, James Johnson, George G. King, Landry, Little, Mace, Martin, Mason, McNair, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morrison, Nabers, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Porter, Riddle, Robie, Robinson, Sabine, Sackett, Schoolcraft, Schoonmaker, Scurry, David L. Seymour, Origen S. Seymour, Smart, Smith, Snow, Stanly, Benjamin Stanton, Abr'm P. Stephens, Thaddeus Stevens, St. Martin, Stratton, Sweetser, Thurston, Toombs, Tuck, Venable, Ward, Washburn, Watkins, Welch, Wilcox, Williams, Woodward, and Yates—109.

NAYS—Messrs. Ashe, Averett, David J. Bailey, Beale, Bocock, Joseph Cable, Thompson Campbell, Caskie, Chastain, Churchwell, Clingman, Cobb, Colcock, Curtis, Dawson, Dean, Dimmick, Faulkner, Florence, Floyd, Thomas J. D. Fuller, Gaylord, Gilmore, Gorman, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hibbard, Holladay, Houston, Jackson, Jenkins, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, McLanahan, McQueen, Meade, Millson, Molony, Murphy, Murray, Olds, Peaslee, Penn, Powell, Richardson, Ross, Russell, Skelton, Stuart, Wallace, and Wildrick—57.

So the appeal was laid upon the table, and the decision of the Chair stands as the judgment of the House.

The question recurred upon the motion to lay upon the table the motion to reconsider the vote by which the House refused to lay the Wisconsin railroad bill upon the table.

Mr. CARTTER. I call for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. STANLY. I wish to ask what bill we are now voting upon? My object is, if possible, to prevent the delay of the public business by this struggle for railroad bills. If I am right, the bill upon which we are now called to vote, stands upon the calendar at the head of bills from the Senate upon the Speaker's table, on their first and second reading. It is followed by a long list of other railroad bills of a like character. I hope, therefore, that the House will make this a test question, and that we shall have no more struggles about railroad bills.

Mr. JONES, of Tennessee. Are these remarks in order?

The SPEAKER. Discussion is not in order.

Mr. HENDRICKS. I wish to make an inquiry of the Chair. I understand, that if the vote by which the House refused to lay the bill upon the table is reconsidered, the bill is before the House. But if the House refuse to reconsider, is the bill then before the House?

The SPEAKER. The motion to reconsider brings the bill absolutely before the House.

Mr. STANLY. I would ask the Chair to state what the bill is upon which we are now voting.

The SPEAKER. It is a bill granting the right of way and alternate sections of the public lands to the State of Wisconsin, for the construction of certain railroads.

Mr. STANLY. Is the amendment of the gentleman from New York [Mr. BENNETT] now pending?

The SPEAKER. Everything connected with the bill will be brought before the body.

Mr. STANLY. Precisely so. Now we understand what we are voting upon.

The question was then taken upon Mr. DEAN's motion to lay the motion to reconsider upon the table; and it was decided in the negative—yeas 82, nays 91; as follows:

YEAS—Messrs. Abercrombie, Allison, John Appleton, William Appleton, Averett, David J. Bailey, Bartlett, Beale, Bocock, Bragg, Busby, Joseph Cable, Thompson Campbell, Cartter, Caskie, Chastain, Churchwell, Clemens, Cobb, Colcock, Daniel, Dawson, Dean, Dockery, Faulkner, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Gorman, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hendricks, Hibbard, Holladay, Houston, Howard, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Murphy, Murray, Olds, Samuel W. Parker, Peaslee, Phelps, Powell, Richardson, Robie, Robinson, Ross, Russell, Savage, David L. Seymour, Skelton, Smith, Benj. Stanton, Stratton, Sutherland, Sweetser, Wallace, Wildrick, and Woodward—82.

NAYS—Messrs. Charles Allen, Willis Allen, Barrere, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clingman, Conger, Cottman, Cullom, Darby, George T. Davis, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Fay, Freeman, Henry M. Fuller, Gentry, Goodenow, Grey, Hascall, Haven, Henn, Horsford, John W. Howe, Thomas M. Howe, James Johnson, Robert W. Johnson, George G. King, Landry, Little, Mace, Martin, McDonald, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morehead, Morrison, Nabers, Newton, Outlaw, Andrew Parker, Penn, Penniman, Perkins, Porter, Preston, Price, Riddle, Sabine, Sackett, Schoolcraft, Schoonmaker, Smart, Snow, Stanly, Frederick P. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, St. Martin, Thurston, Toombs, Tuck, Venable, Ward, Washburn, Watkins, Welsh, Wilcox, Williams, and Yates—91.

So the House refused to lay the motion to reconsider upon the table.

The question then recurred upon the motion to reconsider.

Mr. STANTON, of Ohio. Is it in order now to move to go into a Committee of the Whole on the Private Calendar?

The SPEAKER. The Chair thinks it is not in order.

Mr. HOUSTON. Is it in order for me to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The Chair thinks that motion would be in order.

Mr. STUART. I think the Chair is mistaken. The rules provide that a motion to reconsider shall take precedence of any other motion, except the motion to adjourn.

The SPEAKER. There is also another rule which provides that it shall be in order, at any time, to move to suspend the rules to go into the Committee of the Whole on the state of the Union. The uniform practice of the House has been to entertain that motion, and, in the opinion of the Chair, we had better not change that practice, if we do not intend to get into inextricable confusion.

Mr. SEYMOUR, of Connecticut. I rise to a question of order. I submit to the Chair that I obtained the floor for the purpose of moving to go into a Committee of the Whole House on the Private Calendar, when the floor was taken from me by the privileged motion to reconsider. I ask now if the floor can be taken from me for the purpose of moving to go into the Committee of the Whole on the state of the Union?

The SPEAKER. That is still another question of order.

Mr. JONES, of Tennessee. I desire to submit a point, which, I think, will decide this question. Suppose this motion to reconsider were not before the House, and a motion was made to go into the Committee of the Whole on the state of the Union, could not any gentleman call up this motion to reconsider? And when that motion is called up, by an express rule of the House, it must take precedence of every motion except that to adjourn.

The SPEAKER. Another rule provides that it shall be in order, at any time, to move to go into the Committee of the Whole on the state of the Union. Now, if it be the pleasure of the House to hear any decision, the Chair will decide the case which now arises. When the motion to reconsider was called up by the gentleman from New York, [Mr. DEAN,] another gentleman from Connecticut [Mr. SEYMOUR] was upon the floor, and had submitted the motion that the House resolve itself into a Committee of the Whole House upon the Private Calendar. That is, however, not a debatable question, and the gentleman from Connecticut could not retain the floor. It would have been in order for the gentleman from Alabama, [Mr. HOUSTON,] then, or at any time after the gentleman from New York had called up the motion to reconsider, to have risen in his place and moved to suspend the rules and go into the Committee of the Whole on the state of the Union; but the motion made by the gentleman from Connecticut to go into a Committee of the Whole House on the Private Calendar—this being private bill day—would have taken precedence. The effect of the motion of the gentleman from Alabama, therefore, if the decision of the Chair be correct, would be to bring the House to a vote upon the motion of the gentleman from Connecticut to go into a Committee of the Whole House. The Chair, therefore, decides that the question now is upon the motion of the gentleman from Connecticut.

Mr. HOUSTON. I will withdraw the motion to go into the Committee of the Whole on the state of the Union, for the purpose of allowing the question to be taken upon the motion to reconsider, for the purpose of having that matter disposed of.

The question then again recurred upon the motion to reconsider.

Mr. JONES, of Tennessee. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON, of Ohio. I renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. That motion will take precedence of the motion called up by the gentleman from New York; but can only be reached in the form stated by the Chair a few minutes ago, by first putting the question on the motion of the gentleman from Connecticut to go into a Committee of the Whole House.

Mr. STANTON. I will withdraw the motion.

Mr. STANLY. I ask the Chair to state what is the precise motion upon which we are about to vote?

The SPEAKER. It is the motion called up by the gentleman from New York [Mr. DEAN] to reconsider the vote by which the House refused to lay upon the table the Wisconsin railroad bill.

The question was then taken, and resulted—yeas 86, nays 80; as follows:

YEAS—Messrs. Abercrombie, Charles Allen, Willis Allen, William Appleton, Barrere, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Clingman, Conger, Cottman, Cullom, Darby, George T. Davis, Disney, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Fay, Freeman, Henry M. Fuller, Gentry, Goodenow, Grey, Harper, Hascall, Haven, Henn, Horsford, John W. Howe, Thomas M. Howe, James Johnson, George G. King, Little, Mace, Martin, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morehead, Nabers, Newton, Outlaw, Andrew Parker, Penn, Penniman, Perkins, Porter, Preston, Riddle, Sackett, Schoonmaker, Scurry, Smart, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, St. Martin, Thurston, Toombs, Tuck, Venable, Ward, Washburn, Watkins, Wilcox, Williams, and Yates—86.

NAYS—Messrs. Allison, John Appleton, Ashe, Averett, Javid J. Bailey, Beale, Bocock, Bragg, Busby, Joseph Cable, Thompson Campbell, Cartter, Caskie, Chastain, Churchwell, Clemens, Cobb, Colcock, Dawson, Dean, Dimmick, Edmundson, Florence, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Gorman, Grow, Hall, Hamilton, Isham G. Harris, Hendricks, Hibbard, Holladay, Houston, Howard, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Murphy, Murray, Olds, Orr, Samuel W. Parker, Peaslee, Phelps, Polk, Powell, Robie, Robinson, Ross, Russell, Savage, David L. Seymour, Skelton, Smith, Stratton, Sutherland, Sweetser, Wallace, Welch, Wildrick, and Woodward—80.

So the motion to reconsider was agreed to.

[Pending the call of the roll, Mr. STANTON, of Ohio, when his name was called, stated that he had paired off with Mr. LANDRY.

Mr. INGERSOLL also stated that he had paired off.]

The question then recurred upon laying the bill upon the table.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SACKETT. Is it in order to move to go

THE CONGRESSIONAL GLOBE.

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into a Committee of the Whole on the Private Calendar?

The SPEAKER. That motion is already pending.

Mr. STEPHENS, of Georgia. I hope the gentleman from Alabama will withdraw that motion, and allow us to dispose of this business at once.

Mr. HOUSTON. I desire very much to go into the Committee of the Whole on the state of the Union, and dispose of the Army bill to-day.

Mr. STEPHENS. I would suggest to the gentleman from Alabama, that if he wishes the House to unite with him in facilitating the public business, he must not run counter to the declared will of the majority.

Mr. HOUSTON. I do not desire at any time to run counter to the sentiment of the House, and regret that I am ever compelled to do so in the discharge of my duty. But from the order of business as marked out by the resolution of the House, if the Army bill is not passed to-day, it will not be passed until week after next, and then how much time have you to consider the civil and diplomatic bill, and all the other appropriation bills?

Mr. LETCHER. Is this question debatable?

The SPEAKER. It is not.

Mr. LETCHER. Then I insist upon the enforcement of the rule.

Mr. STANTON. I move to go into a Committee of the Whole on the Private Calendar.

The SPEAKER. That motion is already pending.

Mr. HOUSTON. If that motion is pending, I will withdraw mine to go into the Committee of the Whole on the state of the Union.

Mr. STANTON, of Ohio. I renew the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and ask a vote upon the motion submitted by the gentlman from Connecticut, [Mr. SEYMOUR,] to go into a Committee of the Whole on the Private Calendar. I believe that motion takes precedence.

Mr. SACKETT. I desire to inquire of the Chair if this motion to go into a Committee of the Whole on the Private Calendar prevails, what will be the condition of the bill now before the House?

The SPEAKER. The Chair will decide that question when it comes up.

Mr. SACKETT. I ask the gentleman from Ohio to withdraw his motion for a moment, to allow me to move to recommit the bill.

[Cries of "No!" "No!" "Yes!" "Yes!"]

Mr. STANTON. I do not withdraw the motion.

The question now being upon the motion that the House resolve itself into a Committee of the Whole House,

Mr. STEVENS, of Pennsylvania, demanded tellers; which were ordered; and Messrs. SEYMOUR, of New York, and SMITH were appointed.

The question was put, and the tellers reported—ayes 78, noes not counted.

Mr. STANLY. This question involves the fate of the bill. I ask the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON, of Ohio. I withdraw the motion to go into the Committee of the Whole on the state of the Union, in order to afford an opportunity to move to recommit this bill.

Mr. DEAN. I move that the House do now adjourn.

Mr. SACKETT. I move to recommit this bill.

The SPEAKER. That motion cannot now be made.

Mr. SACKETT. I submitted the motion to recommit before the motion to adjourn was made, and therefore ask that my motion shall be entered upon the Journal.

Mr. JONES, of Tennessee. There are two motions pending in relation to this bill, either of which would preclude the motion to recommit from being made, aside from the motion to adjourn. One is for the previous question, and the other is to lay the bill upon the table.

The SPEAKER. The gentleman from Tennessee is correct. Either of these motions would preclude the motion to recommit from being made.

Mr. DEAN. I insist upon my motion to adjourn.

Mr. DOTY. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered; and being taken, the result was—yeas 60, nays 103; as follows:

YEAS—Messrs. Abercrombie, Allison, John Appleton, Averett, Beale, Bragg, Busby, Joseph Cable, Thompson Campbell, Cartter, Chastain, Cullom, Dawson, Dean, Dimmick, Edmundson, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gorman, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hibbard, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Letcher, Mason, McLanahan, McNair, McQueen, Millson, Molony, Morrison, Murphy, Olds, Samuel W. Parker, Peaslee, Richardson, Robie, Robinson, Ross, Savage, David L. Seymour, Skelton, Alexander H. Stephens, St. Martin, Stratton, Sutherland, Sweetser, Wallace, and Wildrick—60.

NAYS—Messrs. Willis Allen, Babcock, David J. Bailey, Barrere, Bartlett, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Churchwell, Clemens, Clingman, Cobb, Conger, Cottman, Curtis, Darby, George T. Davis, John G. Davis, Disney, Doty, Duncan, Durkee, Eastman, Evans, Faulkner, Fay, Freeman, Henry M. Fuller, Gentry, Gilmore, Goodenow, Grey, Harper, Hascall, Haven, Hendricks, Henn, Horsford, Houston, John W. Howe, Thomas M. Howe, Ingersoll, Ives, Jackson, James Johnson, Robert W. Johnson, George G. King, Little, Mace, Marshall, Martin, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morehead, Nabers, Outlaw, Andrew Parker, Penn, Penniman, Perkins, Porter, Preston, Price, Riddle, Sabine, Sackett, Schermerhorn, Schoonmaker, Scurry, Origen S. Seymour, Smart, Smith, Snow, Stanly, Frederick P. Stanton, Abraham P. Stephens, Thaddeus, Stevens, Thurston, Toombs, Tuck, Venable, Ward, Washburn, Watkins, Welch, Wilcox, Williams, and Woodward—103.

So the House refused to adjourn.

Mr. STANLY. I desire to know what becomes of the motion submitted by the gentleman from New York [Mr. SACKETT] to recommit?

The SPEAKER. The Chair decided that that motion could not be entertained, because of the motion pending to lay the bill upon the table.

The question was then put upon the motion to go into a Committee of the Whole House, and upon a division there were—ayes 70, noes 71.

Mr. LETCHER. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. McMULLIN. I move that the House do now adjourn.

Mr. BROOKS. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered; and being taken, the result was—yeas 77, nays 84; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, John Appleton, Ashe, Averett, David J. Bailey, Beale, Bragg, Busby, Joseph Cable, Thompson Campbell, Cartter, Caskie, Chastain, Clemens, Clingman, Cullom, John G. Davis, Dawson, Dean, Dimmick, Disney, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Gorman, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hendricks, Hibbard, Holladay, Ingersoll, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Morrison, Murphy, Murray, Orr, Samuel W. Parker, Peaslee, Phelps, Powell, Robie, Ross, Russell, Savage, Skelton, Smith, Abraham P. Stephens, St. Martin, Stratton, Sutherland, Wallace, Wildrick, and Woodward—77.

NAYS—Messrs. Charles Allen, William Appleton, Barrere, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Churchwell, Cobb, Conger, Darby, George T. Davis, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Faulkner, Fay, Ficklin, Freeman, Henry M. Fuller, Goodenow, Grey, Harper, Hascall, Haven, Hebard, Henn, Horsford, Houston, John W. Howe, Thomas M. Howe, Ives, Robert W. Johnson, George G. King, Little, Mace, Marshall, Martin, Meacham, Miller, Miner, John Moore, Morehead, Nabers, Outlaw, Andrew Parker, Penn, Penniman, Perkins, Porter, Preston, Price, Riddle, Sabine, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scurry, Origen S. Seymour, Snow, Stanly, Thurston, Toombs, Tuck, Venable, Ward, Washburn, Watkins, Welch, Wilcox, and Yates—84.

So the House refused to adjourn.

Before the result of the vote was announced,

Mr. POLK remarked: I have not failed during the session to vote upon a motion to adjourn, and I ask the unanimous consent of the House to record my vote upon this motion, as I was without the bar when my name was called.

The SPEAKER. That can only be done by unanimous consent.

Objection was made, and his name was not recorded.

Mr. SACKETT. Is a motion for the previous question in order?

The SPEAKER. A call for the previous question is not in order. It was demanded upon this bill, and a motion was made to lay the bill upon the table, which the House refused to do. That vote has been reconsidered, and the question is, Shall the bill be laid upon the table? Pending that, a motion is made to go into a Committee of the Whole House upon the Private Calendar. Upon that motion the yeas and nays have been ordered, and the motion is now pending.

Mr. JONES, of Tennessee. There are several private bills which have been reported from a Committee of the Whole House——

[Cries of "Order!" "Order!" "Order!"]

Mr. JONES. Never mind, gentlemen; I am in order.

The SPEAKER. The gentleman from Tennessee is upon the floor to a point of order, and has a right to state it.

Mr. JONES. I wish to know if a motion to take up those bills, this being private bill day, would not take precedence of a motion to go into a Committee of the Whole?

The SPEAKER. The consideration of those bills would have been the business before the House, if the House were not restrained by the business brought up by the motion to reconsider; but for that it would have been the duty of the Speaker this morning to have ordered those bills to be reported, though it was in order then to go into a Committee of the Whole House upon the Private Calendar.

Mr. JONES. I call for the regular order of business.

The SPEAKER. It is the motion to go into a Committee of the Whole House upon the Private Calendar.

Mr. JONES. Does not the other motion take precedence?

The SPEAKER. Not in the opinion of the Chair. It would be the duty of the Chair, if the way were not blocked up, to go to the bills which have been reported from a Committee of the Whole House. Upon the motion to go into a Committee of the Whole House, the yeas and nays have been ordered.

Mr. GORMAN. I move that there be a call of the House.

Mr. ORR. I move that the House do now adjourn.

Mr. GORMAN. I call for the yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. ORR. I withdraw the motion to adjourn.

Mr. WASHBURN. I renew the motion.

Mr. DOTY. I demand the yeas and nays.

The House was divided on the call for the yeas and nays, and there were 31 voting in the affirmative.

So the yeas and nays were ordered.

Mr. WASHBURN. I withdraw the motion to adjourn.

Mr. LETCHER. I renew the motion.

Mr. MARSHALL. I rise to a privileged motion.

The SPEAKER. The motion to adjourn is eminently a privileged motion itself.

Mr. MARSHALL. I move that when the House adjourns, it adjourn to meet again on Monday next.

The question was taken on the latter motion; and there were, on a division—ayes 54, noes 76.

So the motion was not agreed to.

The SPEAKER. The question is upon the motion to adjourn.

Mr. DOTY. Upon that I ask the yeas and nays.

Mr. JONES. I ask for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. GAYLORD and SMITH were appointed.

The House was then divided, and the tellers reported 41 in the affirmative, noes not counted.

So the yeas and nays were ordered.

The question was then taken on the motion to adjourn, and it was decided in the negative—yeas 78, nays 80; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, John Appleton, Ashe, Averett, Beale, Busby, Joseph Cable, Thompson Campbell, Cartter, Caskie, Chastain, Clemens, Clingman, Cobb, Colcock, John G. Davis, Dawson, Dean, Dimmick, Disney, Dockery, Faulkner, Ficklin, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Gorman, Green, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hendricks, Hibbard, Holladay, Howard, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Millson, Molony, Morrison, Murphy, Orr, Peaslee, Phelps, Polk, Powell, Robie, Savage, David L. Seymour, Skelton, Smith, St. Martin, Stratton, Sutherland, Wallace, Wildrick, and Woodward—78.

NAYS—Messrs. Chas. Allen, Wm. Appleton, Babcock, Barrere, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Lewis D. Campbell, Chandler, Chapman, Churchwell, Conger, Darby, George T. Davis, Doty, Duncan, Durkee, Edgerton, Evans, Fay, Freeman, Henry M. Fuller, Goodenow, Grey, Harper, Haven, Henn, Horsford, Houston, John W. Howe, Thomas M. Howe, James Johnson, Robert W. Johnson, George G. King, Little, Mace, Marshall, Meacham, Miller, Miner, John Moore, Morehead, Nabers, Newton, Outlaw, Andrew Parker, Penn, Penniman, Perkins, Porter, Preston, Price, Sabine, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scurry, Origen S. Seymour, Smart, Snow, Stanly, Thurston, Tuck, Venable, Ward, Washburn, Watkins, Welch, Wilcox, Williams, and Yates—80.

So the House refused to adjourn.

Mr. HARRIS, of Tennessee. I move the usual resolution to close debate upon bill No. 336, the Army appropriation bill, in one hour after the committee shall have again resumed its consideration.

The SPEAKER. That motion is not in order while a motion for a call of the House is pending.

Mr. STANLY. Is such a motion now pending?

The SPEAKER. There is.

Mr. ORR. I call for the yeas and nays upon that motion.

The House was divided on the call for the yeas and nays, and there were 22 in the affirmative, and 92 in the negative.

Before the result was announced,

Mr. ORR demanded tellers upon the yeas and nays; which were refused.

Mr. ROBBINS. I move that the House do now adjourn.

Mr. DOTY. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was then taken, and it was decided in the affirmative—yeas 78, nays 70; as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, John Appleton, Ashe, Averett, Brenton, Busby, Joseph Cable, Caldwell, Thompson Campbell, Cartter, Caskie, Chastain, Churchwell, Clemens, Cobb, Colcock, Daniel, John G. Davis, Dawson, Dean, Dimmick, Faulkner, Ficklin, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gorman, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hendricks, Hibbard, Holladay, Houston, Ingersoll, Jackson, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Letcher, Lockhart, Mason, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Morrison, Murphy, Murray, Orr, Peaslee, Phelps, Powell, Robie, Robinson, Savage, David L. Seymour, Skelton, Smith, St. Martin, Stratton, Sutherland, Wallace, Watkins, Wildrick, and Woodward—78.

NAYS—Messrs. Charles Allen, William Appleton, Barrere, Bell, Bennett, Bowie, Bowne, Briggs, Brooks, Albert G. Brown, Burrows, Chandler, Chapman, Conger, Darby, George T. Davis, Dockery, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Fay, Freeman, Henry M. Fuller, Goodenow, Grey, Harper, Haven, Henn, Horsford, John W. Howe, Thomas M. Howe, Robert W. Johnson, George G. King, Landry, Little, Mace, Marshall, Miller, Miner, John Moore, Morehead, Nabers, Newton, Outlaw, Andrew Parker, Penn, Penniman, Perkins, Porter, Preston, Price, Russell, Sabine, Sackett, Schermerhorn, Schoonmaker, Scurry, Smart, Snow, Stanly, Thurston, Tuck, Venable, Washburn, Welch, Wilcox, Williams, and Yates—70.

So the House adjourned until to-morrow, at twelve o'clock, m.

IN SENATE.

SATURDAY, *February* 5, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the War Department, accompanied by an abstract of the returns of the militia of all the States and Territories, with their arms, accouterments, and ammunition; which was referred to the Committee on the Militia, and ordered to be printed.

PETITIONS, ETC.

Mr. MORTON presented a joint resolution of the Legislature of Florida in favor of the erection of a marine hospital at Appalachicola; which was referred to the Committee on Commerce, and ordered to be printed.

Also, a joint resolution of the Legislature of Florida relative to the erection of the light-house on Sea Horse Keys; which was referred to the Committee on Commerce, and ordered to be printed.

Also, a joint resolution of the Legislature of Florida, in favor of a reduction of the price of the public lands in that State; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. SEWARD presented the petition of Harriet Leavenworth, widow of General Leavenworth, late of the United States Army, praying for a pension; which was referred to the Committee on Pensions.

Also, a petition of citizens of New York, praying that the public lands may be granted, in limited quantities, to actual settlers not possessed of other land; which was ordered to lie on the table.

Mr. BRIGHT presented a memorial of the president, directors, and stockholders of the Ohio Falls Marine Railroad Company, proposing to construct a marine railway on the Indiana shore for the transportation of steamboats around the Falls of the Ohio river; which was referred to the Committee on Roads and Canals.

POSTAL CONVENTION.

On motion by Mr. RUSK, it was

Ordered, That the message of the President of the United States, respecting the Postal Convention with Great Britain, be printed.

REPORTS FROM STANDING COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to which was referred the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, reported it with amendments, and gave notice that on Monday next he should ask the Senate to take up the bill for consideration.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to which were referred the following bills and joint resolutions from the House of Representatives, reported them without amendment:

An act for the relief of the Southern Michigan Railroad Company;

An act for the relief of John Dearmit;

Joint resolution for the relief of J. P. Converse, of Ohio; and

Joint resolution for the relief of Thompson Barnett.

He also, from the same committee, to which was referred the bill for the relief of Zadock C. Ingram, reported it without amendment.

DECORATION OF THE CAPITOL.

Mr. COOPER submitted the following resolution for consideration:

Resolved, That the Committee on the Library be, and they are hereby, instructed to inquire into the expediency of commissioning Messrs. Healy, Leutze, and Rothermel, or such other eminent native artists as they may think proper, to paint, with a view to the encouragement of American artists and the decoration of the Chambers now being built for the use of the Senate and House of Representatives, two pictures each, representing scenes in our own revolutionary or ante-revolutionary history.

SELECT COMMITTEE ON ETHER.

The PRESIDENT *pro tempore* appointed Mr. HAMLIN to supply the vacancy occasioned by the resignation of Mr. DIXON, on the Select Committee on anæsthetic agents.

RIGHT OF WAY.

The PRESIDENT. The bill from the House of Representatives, granting the right of way to the St. Louis and Iron Mountain Railroad Company, which had been passed by the Senate, with an amendment, has been returned from the House, with an amendment to the Senate amendment, to insert the following as an additional section:

"SEC. 3. *And be it further enacted*, That the right of way shall be, and hereby is, granted to the Alleghany Valley Railroad Company, for the road of said company over and across the ground of the United States, at and near the Alleghany Arsenal, in the county of Alleghany, and State of Pennsylvania: *Provided*, That the route of said railroad across said ground shall be approved by the Secretary of War before the same is entered upon for the purpose of constructing said railroad: *And provided further*, That the same can be granted without detriment to the public interest in the opinion of the Secretary of War."

On motion by Mr. WADE, the Senate concurred in the amendment.

REORGANIZATION OF THE NAVY.

The bill to reorganize the Navy of the United States was read a third time.

Mr. MALLORY. I ask the unanimous consent to amend the first section of the bill, relating to the number and grades of officers, in the clause "two hundred and fifty midshipmen; and also the acting midshipmen at the Naval Academy," by striking out the words "and also the acting midshipmen at the Naval Academy," which have no place in the bill properly. It was agreed by the Naval Committees of the Senate and House that they should be taken out. The effect will be to reduce the number. I therefore ask the unanimous consent to strike them out.

There was no objection. The bill was then passed.

THE FISHERIES.

Mr. DAVIS, in pursuance of previous notice, asked and obtained leave to introduce a bill to regulate the rights of fishing, and the rights of disposing of the proceeds of the fisheries in and between the British North American Provinces and the United States; which was read a first and second time.

Mr. DAVIS. I will merely observe that I am unwilling that this session should be brought to a close without some attempt to effect the object intended by that bill. I move that it be referred to the Committee on Commerce, and if it is not regularly in order to print it now, I hope it will be printed by unanimous consent, so that Senators may see it.

The PRESIDENT. It will be referred to the Committee on Commerce, and printed, if not objected to.

There was no objection.

TREASURY REPORT.

Mr. HUNTER. Some time ago, when the order was made for printing the extra copies of the report on the finances of the country, we omitted to make the usual order of one thousand for the use of the Department. My attention has been called to that; and I now make the motion that one thousand additional copies of the report be printed for the use of the Treasury Department.

The motion was agreed to.

IMPROVEMENT OF THE ARMY.

On motion by Mr. SHIELDS, the bill to improve the efficiency of the Army of the United States;

The bill to improve the efficiency of the artillery;

The bill to repeal the several acts organizing the staff departments of the Army therein mentioned, and to provide for the discharge of the duties thereof by a detail of officers of the line;

The joint resolution concerning the national defenses;

And Senate bill No. 594; were taken up for consideration, and then postponed to, and made the special order for, Saturday next, the 12th instant.

DEFICIENCY BILL.

Mr. GWIN. I give notice that when the deficiency bill comes up for consideration, I shall move an additional section, as an amendment, to it, which I ask may be informally laid on the table and printed.

RAILROAD IN ARKANSAS AND MISSOURI.

On motion by Mr. SEBASTIAN, the Senate, as in Committee of the Whole, proceeded to consider House bill "granting the right of way and 'making a grant of land to the States of Arkansas 'and Missouri, to aid in the construction of a 'railroad from a point on the Mississippi, opposite 'the mouth of the Ohio river, via Little Rock, to 'the Texas boundary, near Fulton, in Arkansas, 'with branches to Fort Smith and the Mississippi 'river."

Mr. UNDERWOOD. When the railroad bills, which passed the Senate and went to the other House, were before the Committee on Public Lands, I voted for them, and voted for them in the Senate. It is known to the members of the Senate that I endeavored at the commencement of

this Congress to secure a distribution of the public lands, in some shape or other, so as to give the old States of the Union an interest in them. Now, sir, I will inform the Senator from Arkansas that I do not intend to go through the argument which I have already made upon the subject, or to consume the time of the Senate by arguing afresh the things which have already been discussed at a very considerable length; but I had contemplated, and do still contemplate, at the proper time, in the consideration of the bill which he has offered, to move what is known as "Bennett's land bill" as a substitute for it, if it can be done; and in moving it, I wish to submit it to the consideration of the Senate without any argument at all on my part.

I do not intend to consume the time of the Senate by a discussion, but I want the privilege either now or on the day which may be fixed by my friend from Arkansas for the consideration of his bill, of offering that as a substitute, and leaving it to the Senate whether they would adopt it or not. If it is overruled, I will have nothing more to say; if it is adopted, then Arkansas will be provided for in that bill like the rest of the States. That is all I ask the privilege of doing. I do not wish to enter into a discussion of it.

Mr. RUSK. All I desire to say on this question is, that I think it is due to Arkansas that the Senate should consider the bill now. It was passed at the last session of Congress by the House of Representatives, and has been slurred over till the present time, here. If it is not passed now, it will fail entirely, as a matter of course. It grants no more to the State of Arkansas than has been granted to other States, and no more than puts her on an equality with other States with regard to the aid given for their improvements. I think it is due to Arkansas, and will not operate so as to be any hardship upon any other State. I think there should be action upon it, and that it should be either passed or rejected at once. I hope that if the consideration of the bill is postponed, it may be to some day when we shall certainly act upon it, one way or the other.

Mr. GWIN. We discussed this question about granting alternate sections of land for railroads, for months at the last session, and nothing new can possibly be said upon the subject. I do hope that inasmuch as Arkansas has been sufficiently successful to get this bill sent here from the House, we may take it up and vote upon it. I hope that, as we have spent months in discussing a proposition equivalent to the one mentioned by the Senator from Kentucky, we may now have a vote on this bill without discussion.

Mr. UNDERWOOD. I have promised that I will not discuss it, and that I will not interpose any obstruction to considering the bill. I am willing to proceed with it now, if such be the pleasure of the Senate. All I ask is, that the amendment may be offered and voted upon. I promised not to discuss it.

The PRESIDENT. The Chair will inform the Senator, that the bill is now before the Senate as in Committee of the Whole, and is open to amendment.

Mr. FELCH. I have no objection to fixing a day for the consideration of this bill, and taking it up when the day arrives; but if the Senator from Kentucky designs to offer the amendment which he suggests, which proposes the distribution of the lands among the old States, and the new also, it will be a subject of discussion. That Senator, I recollect, discussed that question at the last session, at great length; and, of course, if it is again brought up before the Senate, before the vote is taken, there will be something said on the other side. I know, also, that there are other amendments to be offered to this bill. I know that a Senator, who is not now in his seat, designs to offer one. I hope, therefore, that the Senator from Arkansas will consent to the postponement of the bill to a future day.

Mr. SHIELDS. I hope not. I hope the bill will be acted upon now. It will occupy a great deal more time if we decide to act upon it hereafter. To save time, therefore, I hope it will be acted upon now; and I trust my friend from Kentucky will not bring up the question which he proposes upon this bill. There are various bills upon which he can try it. The bill itself, which he proposes to offer as an amendment, is now on our tables.

Mr. CHASE. The bill commonly known as "Bennett's land bill," will undoubtedly lead to a great deal of discussion. The bill of the Senator from Arkansas has been debated time and time again; its principles have been settled over and over again. It seems to me that the Senator from Kentucky will not persevere in pressing his amendment, which is a House bill, to the bill of the Senator from Arkansas, when that bill itself can be taken up at any time hereafter for consideration. It seems to me that it is evidently unjust, and I am sure he would be the very last man in this body to commit any designed injustice with regard to the bill before us. My own position, in regard to the bill, would have been such as to compel me to vote against it; but when the Senate has fully considered the whole subject, and made up its mind upon the principle, and has passed other similar bills, it seems to be wrong that we should delay the consideration of the bill of the Senator from Arkansas, for the purpose of making to it any amendment whatever. I trust, therefore, we shall act upon the bill, and act upon it at once.

Mr. UNDERWOOD. I do not intend to discuss the measure, as I have said, but I must be permitted to say a word in reply to the gentleman from Ohio. The bills making grants of lands to the States, which passed the Senate at the last session, and were sent to the House, were, as I understand, acted upon by that House, and the bill to which I referred, Bennett's land bill, as it is called, was substituted for them. I understood that that was the policy, if not the technical action of the House. The Bennett land bill makes provision for Arkansas; and if she gets the provision contained in this bill, in addition to that of Bennett's land bill, as I understand, she will get a double portion. Is not that so?

Mr. SEBASTIAN. If the Senator will allow me, I will say to him that he is entirely in error on that point. I have examined Bennett's land bill, and it provides precisely for the same roads in Arkansas as this bill, and for one additional road. It has a further provision, that the lands granted to any State by bills passed at this session of Congress, are to be deducted from the amount granted by that bill; so that there can be no difficulty whatever on that score.

Mr. UNDERWOOD. Then if that be so I have labored under a mistake in regard to that point, and I will not offer Bennett's land bill as a substitute for this, but I will allow this to be passed by itself.

At the request of Mr. BRIGHT the bill was read through. It proposes grants of alternate sections of land for six miles on each side of the road, and is, in its details, similar to other bills of the same nature, which have been heretofore before the Senate.

Mr. DODGE, of Iowa. I wish to inquire of the Senator from Arkansas if the roads as provided for in this bill, and the bill itself, meet the approbation of his colleague, [Mr. BORLAND,] who is not now in his seat?

Mr. SEBASTIAN. I will answer the inquiry so far as I know the facts. My colleague introduced at the last session, and procured their passage through this body, bills for a system of roads corresponding precisely to those embraced in this bill, with the exception of about one fourth. Three fourths of the road or roads provided for in this bill were included in the bills which were passed by the Senate at the last session. The difference simply is, that his bills provided for the termination of but one road upon the Mississippi, and this provides, in addition to that, for one to end opposite Cairo. I would say further to my friend from Iowa, that the difference between the bills of my colleague in the Senate [Mr. BORLAND] and my colleague in the House [Mr. JOHNSON] was the subject of some discussion in the Arkansas Legislature. I am not informed that they have instructed for either; but they have passed acts for the incorporation of a company or companies to construct the very roads for which this bill provides; and I am acting upon that as an indication of the acquiescence of the Legislature in this scheme.

Mr. DODGE, of Iowa. My purpose was not to oppose this road, or this bill. I wished simply to know whether the Senator from Arkansas, not now present, was in favor of it. I presumed that he was, or else the other Senator from that State, who is present, would hardly have moved to take it up now, in the absence of his colleague.

Mr. SEBASTIAN. I have conferred with my colleague upon the matter, and I understood from him that he would offer no opposition to this bill. He declined taking its paternity, but was willing to allow me to take just such a course in regard to it as my judgment might sanction, and I have done so.

Mr. DODGE, of Iowa. Mr. President, I made the inquiry because of a conversation to which the Senator from Arkansas, [Mr. BORLAND,] not now in his seat, the Senator from Michigan, [Mr. FELCH,] the chairman of the Committee on Public Lands, and myself, were parties, and not with any view to embarrass my worthy friend who is so solicitous for the passage of this bill.

Mr. President, (Mr. ATCHISON being in the chair,) you well remember that, although at the last session of Congress the House of Representatives treated the State whence I come with the most manifest injustice, I nevertheless aided you with my voice and vote in effecting the passage of your Missouri land bill. That bill passed the House by a very large majority on one day, and on the next the Iowa bill, with the same number of roads, (two,) with exactly similar provisions in all respects, and appropriating a like quantity of land, was voted down and killed by an equally large majority.

When struggling for the Iowa bill, which passed this body before any other at the last session, I declared that I wished it to pass or be rejected on its own merits, and that if defeated, I should sustain the Missouri and Arkansas bills, which were then pending in this body, and behind ours, with the same alacrity and good will that I did my own. I then wanted, and now want, all these measures to stand upon their own merits—being then, as now, opposed to "log-rolling" through, or carrying them through in an omnibus. I still intend to act in the same spirit, and not to play the part of the dog in the manger. I will not attempt to amend this bill, or to obstruct its passage, notwithstanding it has another appropriation for Missouri, besides the one for Arkansas. But I do here, in my place, seize the occasion to enter my solemn protest against the injustice that has been done the State which I in part represent, by the coördinate branch of Congress—the House of Representatives.

Another reason why I vote for this bill is, because I cannot turn a deaf ear to the impassioned appeals which have been made to me by the gallant and able Representative from Arkansas [Mr. JOHNSON] not to amend his bill, and thus send it back to the House of Representatives—that grave of the new State land bills.

Mr. GEYER. I desire to say, Mr. President, that I do not regard this bill as containing any provisions whatever for the benefit of the State of Missouri. I do not suppose that the road will ever be made from the southwestern boundary line of Arkansas to the mouth of the Ohio, and if it were not that it would embarrass this bill to send it back to the House of Representatives with an amendment, and because if that course should be pursued, I fear that it would not be passed at all at this session, and that thus Arkansas would be defeated in her attempt to procure an appropriation for roads within that State, I should offer an amendment to the bill providing, that instead of the road running to Cairo, at the mouth of the Ohio, it should run from Little Rock to St. Louis. It would then be a part of the Mississippi Valley road, which is of great interest to all the States on the western side of the Mississippi. I shall not, however, under the circumstances, propose any such amendment. I rose, Mr. President, for the purpose of saying that I do not regard this bill as making any grant of land for the benefit of the State of Missouri.

Mr. FELCH. I shall interpose no objection to the passage of this bill, but I wish to say this much: Everybody knows that, like my friend from Iowa, I have stood by these bills from first to last. I am sorry, however, that the Senator from Arkansas proposes final action upon this bill to-day. I know that the representatives of States who have been provided for by the bills which passed the Senate, but which did not pass the House, and which are equally meritorious with those which have received the favor of both Houses, would desire to look into this matter before there be final

action upon this bill. I know that my colleague [Mr. CASS] proposes to do so, though I am not able to say that he would offer any amendment to this bill, if he were here. But as the Senate seem disposed to act on the matter now, I shall not certainly interpose objection. I regret, however, that after my friend has called up this bill merely, as I understood, to assign a day for action upon it, he has seen fit to go on and press it to a final vote.

Mr. SEBASTIAN. A single word only, in explanation of my own course in this matter. I regret that the course which I have thought proper to pursue has been the subject of misconception on the part of my honorable and worthy friend from Michigan. It was not certainly my intention to press the bill to a vote to-day, as I gave my friends to understand, if there was opposition from the Senator from Kentucky, by interposing the Bennett land bill as an amendment to this; but as soon as that, which I understood was the only formidable opposition, was withdrawn, I could certainly see no reason for delay; nor could I see anything ungenerous in pressing the bill. It is a bill of great interest to the State which I represent, and I did not feel myself at liberty on trifling and unimportant grounds, when there seemed to be no serious opposition to the bill, to compromise the interests of my State. If I know myself, I am incapable of doing an ungenerous act, and I feel that I have not done so in this instance. I regret that the honorable Senator from Michigan has thought proper to allude, even in the gentle terms which he used, to the misconception on his part in respect to this matter.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had passed a bill to change the name of the steamboat Forest City.

Also, that it concurred in the resolution of the Senate respecting the mode of counting the votes for President and Vice President of the United States, and had appointed Mr. GEORGE W. JONES, of Tennessee, and Mr. CHANDLER, of Pennsylvania, tellers on their part.

ARSENAL IN NEW CASTLE.

Mr. BAYARD. I ask the Senate to take up this morning the bill "granting and reconveying the arsenal, in the town of New Castle, State of Delaware, to the trustees of said town, and their successors." It is a bill to which I suppose there will be no opposition, but if there should be, I shall consent to its postponement.

Mr. BRADBURY. I supposed that it was the common understanding of the Senate that I was to have half an hour this morning to take up the House bill, which has been reported from the Committee on the Judiciary, regulating costs and fees in the United States courts. I hope the Senator will not persist in his motion.

Mr. BAYARD. If my bill occupies three minutes I will consent to give way.

Mr. SHIELDS. I hope the motion of the Senator from Delaware will be agreed to. The Department has been consulted in regard to his bill, and there is no opposition to it.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

Mr. BAYARD. I would state in a very few words——

Mr. SHIELDS. If the honorable Senator will permit me, I will state this: The town of New Castle granted this land to the United States for an arsenal, and the United States has abandoned it and can make no use of it, and it is now proposed to restore it again to that town.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

THE FEE BILL.

On motion by Mr. BRADBURY, the Senate proceeded to consider, as in Committee of the Whole, the bill from the House of Representatives, to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes.

The PRESIDENT. The bill will be read through for information.

Mr. GWIN. I hope the reading will be dispensed with. We all have read the bill, and all understand it. It is a long one, and there will be a great waste of time if it be read through.

Mr. BRADBURY. I hope the amendments of the Judiciary Committee will be read and acted upon.

The PRESIDENT. If there be no objection, that course will be pursued.

Mr. BROOKE. I hope the bill will be read.

The PRESIDENT. The bill must be read if any Senator desires it.

After the reading of the bill had been continued for some time—

Mr. GWIN. I understand that the Senator from Mississippi withdraws his objection.

Mr. BRIGHT. I wish to hear the bill read.

Mr. BROOKE. With the consent of the Senator from Maine, I move that the further consideration of the bill be postponed until Monday at half past twelve o'clock.

Mr. BRADBURY. At the suggestion of the Senator from Mississippi, who said he wished to propose an amendment, I stated to him that I would be willing, after the adoption or consideration of the amendments reported by the Committee on the Judiciary, to have the bill postponed, and made the special order for Monday at half past twelve o'clock; but I hope that the reading will be dispensed with, and the amendments be now considered.

Mr. BRIGHT. I should like to hear the bill read, and I intend, before I vote upon it, to read it for myself, or to have it read by the Secretary for our information; but as there is a motion made to postpone, I am willing to allow that question to be taken.

The PRESIDENT. The question is on the motion to postpone the bill, and make it the special order for half past twelve o'clock on Monday.

Mr. SEWARD. I would suggest that there are already two special orders for Monday next.

Mr. HALE. I hope this bill will not be postponed. If there is a single bill before the Senate that ought to be passed, and that ought to receive the prompt consideration of the Senate, it is this bill. The object of it is to prevent piracies not on the high seas, but upon the National Treasury. It has been prepared with great care and attention. Some statistics that were submitted to the committee which framed this bill, show that fees to the amount of $9,000 were charged by a marshal in a single case in one district for a few days, or few weeks' services at the most. The $9,000 were not only charged but paid. There is the most enormous system of frauds and piracies perpetrated under the anomalous mode of collecting fees in the United States courts than is to be found anywhere. This bill is to remedy that difficulty. It has been prepared with great care, and the evil which it is proposed to remove is a crying evil. I hope the bill will not be postponed.

Mr. RUSK. If there was any possibility of coming to a decision upon the bill within any reasonable time, I should not vote for the postponement; but every one must see that we cannot do it. It will occupy nearly an hour, I am informed, to read the bill, it is so very long. Then there are various amendments to it proposed by the Committee on the Judiciary. Every Senator must remember that a bill of this sort which was introduced here a few years ago by the Committee on the Judiciary, was debated for weeks. Under such circumstances, as we are encroaching upon the hour for the special order upon which the honorable Senator from South Carolina [Mr. BUTLER] has the floor and is ready to go on, I shall certainly vote to postpone. No good will be accomplished by discussing a bill for a short time merely. I think the friends of the measure had better agree to the proposition to postpone.

Mr BRADBURY. I will not object to any proposition of the kind, if it is the understanding that we are to have the bill considered at the time to which it may be postponed, and that we are not to be defeated in its consideration by any course that may be pursued for the consumption of time. This is a bill which has been justly characterized by the Senator from New Hampshire as one to prevent frauds and piracies upon the public Treasury. It is an important bill. I am aware that communications have been made to various Senators, representing that the bill destroys many of the offices, or does not give them requisite compensation; but it is an improper representation. The bill gives ample compensation for every service rendered, but it is designed to prevent those frauds which have grown up in recent years. With the understanding that we may have its consideration on Monday, I will not press its further consideration now, because I know that the honorable Senator from South Carolina desires the floor upon another subject.

Mr. JONES, of Tennessee. I would suggest to the Senator from Maine to postpone the bill till Tuesday. It will be remembered that yesterday the Senator from Alabama, [Mr. CLEMENS,] who has been absent from the Chamber for a long while on account of sickness, came to the Senate, and notified us that on Monday he would call up the joint resolutions on the subject of the Monroe doctrine and the Cuba question, and, therefore, I would suggest to the Senator from Maine to postpone his bill till Tuesday next.

Mr. BRADBURY. I move to postpone the further consideration of the bill until Tuesday, and make it the special order for half past twelve o'clock on that day.

The motion was agreed to.

RAILROAD TO THE PACIFIC.

The Senate, as in Committee of the Whole, resumed the consideration of the bill for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon.

The question was debated by Mr. BUTLER and Mr. BELL until three o'clock, when the latter gentleman gave way without finishing, and the Senate adjourned. [This debate will be found in the Appendix.]

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 5, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the consideration of the bill for the relief of Patrick Gass, which has been reported from a Committee of the Whole House.

REGISTER TO THE BARK FANNY.

Mr. FULLER, of Maine. I ask the unanimous consent of the House to take up Senate bill No. 584, which provides simply for authorizing the Secretary of the Treasury to issue a register to the British bark Fanny, and that it may be put upon its passage.

No objection was made, and the bill was taken up and read a first and second time by its title, as follows:

"An act authorizing the Secretary of the Treasury to issue a register to the British bark Fanny, under the name of the Golden Mirror."

The bill was then ordered to be read a third time; and it was subsequently read a third time and passed.

JOHN A. LYNCH.

Mr. NABERS. I ask the unanimous consent of the House to take up and pass Senate bill No. 360, for the relief of the widow of John A. Lynch. The report in the case is short. I ask that it may be read, and then I presume there will be no objection to the passage of the bill. If the matter shall consume any time, I will not insist upon it.

No objection being made, the bill was taken up for consideration.

The report, which was read, shows that the memorialist claims compensation for services as a clerk in the Treasury Department, from the tenth day of August to the seventh of December, 1846, at three dollars per day—$306. That Mr. Young, at that time Chief Clerk of the Department, certified "that Mr. Lynch was employed from August tenth to seventh December, 1846, and for which no pay was received."

Mr. NABERS. I will remark to the House that Mr. Lynch died a few days before the passage of the bill by the Senate, and he leaves a widow who asks this relief.

The bill was then read a first and second time by its title, and ordered to a third reading, and it was subsequently read a third time and passed.

THE STEAMER FOREST CITY.

Mr. STUART. I ask the unanimous consent

of the House to present a bill. I wish to state to the House, in a few words, that the bill I propose to introduce, is to change the name of the steamboat Forest City to that of Bay City. The owners of the boat wish to put her upon the route between Detroit and Sandusky City, which cannot be done without a change of the name. I hope there will be no objection, as navigation is soon to open, and this change should be made immediately.

No objection being made, the bill was introduced, and read a first and second time by its title, as follows:

"An act to change the name of the steamboat Forest City."

The bill was then ordered to be engrossed and read a third time; and having been engrossed, it was subsequently read a third time and passed.

On motion by Mr. MACE, it was

Ordered, That leave be granted to withdraw from the files of the House the petition and papers of Ann A. Allen, for the purpose of returning them to the petitioner."

Mr. GOODENOW. I ask the unanimous consent of the House to take up and pass Senate bill No. 224, to amend an act to extend the provisions of an act entitled "An act for the relief of 'the widows and orphans of the United States officers, seamen, and marines, of the United States 'schooner Grampus."

Mr. LETCHER. I call for the regular order of business.

The SPEAKER. The regular order of business is the consideration of the report of the Committee on Printing.

Mr. GOODENOW. I do not understand the gentleman from Virginia to object to my proposition.

The SPEAKER. Certainly his call for the regular order of business is an objection.

Mr. GOODENOW. I appeal to the gentleman from Virginia to allow the bill to be taken up.

Mr. LETCHER. The objection has to come from some source, and I think it may as well come from this quarter as any other.

Mr. GORMAN. I withdraw the motion heretofore made to recommit the bill reported from the Committee on Printing, and will say to the House that if there is any member who desires to offer an amendment to the bill, I will allow them to come in before I call the previous question.

Mr. STEPHENS, of Georgia. How does the gentleman propose to fill the blanks in the bill?

Mr. GORMAN. The blanks relate to the number of copies, and can be filled by the Senate. The committee have filled the blanks pertaining to the House with ten thousand copies.

Mr. VENABLE. I ask that the bill be read.

Mr. GORMAN. I hope the joint resolution will be read, as gentlemen desire it.

The resolution was then read, as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the "returns of the Seventh Census," as required to be taken under the provisions of the act entitled "An act providing for taking the seventh and subsequent censuses of the United States," &c., approved May 23, 1850, and the act supplementary to the same, approved August 30, 1850, and nothing more nor less than the returns so ordered to be taken, be printed by the public printer; and that there be printed, in addition to the number of public documents usually ordered by each House, ten thousand copies for the use of the House of Representatives, and —— thousand copies for the use of the Senate: *Provided*, That the cost of composition for plain matter shall not exceed the sum of sixty-two and a half cents per thousand ems, the cost of composition for tabular statements shall not exceed the sum of seventy cents per thousand ems, and the cost of press-work shall not exceed the sum of —— cents per thousand quarto pages.

Resolved further, That the entire work hereinbefore ordered shall be printed in a compact quarto form, upon paper measuring not less than twenty-six by thirty-eight inches, weighing forty-eight pounds to the ream of four hundred and eighty sheets, and of the quality now used for the extra copies of documents ordered to be printed by Congress; the type to be used to be brevier, except for the headings of the several columns of the tabular statements, the notes, and such tables as will not appear to advantage in brevier, which shall be printed in nonpareil; and that, in all other respects, except those hereinbefore specified, the work shall be executed according to the provisions of the act entitled "An act providing for executing the public printing, and establishing the prices thereof, and for other purposes," approved August twenty-sixth, eighteen hundred and fifty-two.

Resolved further, That the binding of the work hereinbefore mentioned shall be executed under the direction of the respective Committees on Printing for each House, and shall be paid for out of the contingent fund of the two Houses of Congress, as is now prescribed by law.

The SPEAKER. The question is upon ordering the joint resolution to be engrossed and read a third time.

Mr. STEPHENS, of Georgia. How does the gentleman propose to fill the blank in reference to the price of press-work?

Mr. GORMAN. That will depend upon the number of copies ordered. The prices are fixed by law. It is so much for ten thousand copies, and after that a discount up to twenty thousand, and a still further discount for all over that amount.

Mr. STEPHENS. How much is the composition?

Mr. GORMAN. As the bill now stands it is sixty-two and a half cents per thousand ems for plain matter, and seventy cents for rule and figure. But the price of the press-work will depend upon the number of copies which may be ordered by the Senate. If they order ten thousand more copies, the price of the press-work will be less than if ten thousand only are ordered; and if they order twenty thousand the blank will be filled with a still less sum.

The gentleman from Mississippi [Mr. BROWN] suggests that he has an amendment to offer, and I yield the floor to allow him to do so; before I sit down, however, I shall call for the previous question.

The SPEAKER. The amendment can be so offered only by unanimous consent. It is competent for the gentleman from Indiana himself [Mr. GORMAN] to offer an amendment and call for the previous question.

Mr. BROWN. I do not desire to offer an amendment if I am not to be allowed to explain it.

The SPEAKER. The Chair made the remark in order to save the rights of other members.

Mr. TOOMBS. Does the gentleman from Indiana intend to make a speech?

Mr. GORMAN. I do not intend to make a speech at all.

Mr. TOOMBS. I object most decidedly to the mode of legislation, by which important measures are brought before this House, and pressed through under the previous question, without the House knowing anything about them, and with no opportunity for debate. Such legislation is disgraceful in the last degree to the House of Representatives.

Mr. GORMAN. I hope the gentleman does not mean to say that I would do anything disgraceful to the House of Representatives?

Mr. TOOMBS. Not at all. I refer to the mode of legislation.

Mr. GORMAN. All I have to say is, that this subject of public printing has been before this House again and again. I have no disposition to suppress debate, and I now give notice to the gentleman from Georgia, and every other gentleman, that if there be objection to my calling the previous question, I shall not do so.

Mr. VENABLE. I do not wish the gentleman to call the previous question.

Mr. GORMAN. Very well, then, I shall not do it, but shall let gentlemen discuss the resolution; but perhaps it is due to the House that I should make a brief explanation of the bill, as the committee understand it.

Mr. TOOMBS. I think it is due to the House that the gentleman should explain the bill. I do object to a measure coming from a committee being pressed through the House without discussion, or even a statement of the objects of the bill from the committee.

Mr. GORMAN. There is before the House a written report on the subject.

Mr. CAMPBELL, of Illinois. I desire to propound an interrogatory to the gentleman.

Mr. GORMAN. Permit me to make a statement of the facts of the case, and I will yield to any inquiry.

Mr. CAMPBELL. I merely desire to know of the gentleman whether these reports will be printed during the present session? and, if they be not printed during the present session, whether the members of the present Congress will be entitled to their distribution?

Mr. GORMAN. If they be ordered by the present Congress the members of the present Congress will be entitled to their distribution. If they be not ordered until the next Congress, the members of the present Congress will not be entitled to that distribution. That, I believe, is a complete answer to the gentleman's interrogatory.

Mr. CAMPBELL. I am satisfied with the gentleman's reply.

Mr. GORMAN. I desire to call the attention of the gentleman from Georgia [Mr. TOOMBS] to the fact, that the provisions of the joint resolution now under consideration are based entirely upon the prices now paid to the public printer under the law. For the purpose of placing before the country a statement of those prices, I ask that the letter I have received from the Superintendent of Public Printing be read at the Clerk's desk.

The letter was read by the Clerk, as follows:

OFFICE SUPERINTENDENT PUBLIC PRINTING, *February* 5, 1853.

SIR: In reply to your note of this morning making the inquiry "whether there is anything in the prices fixed by law for the public printing which would form a correct basis for printing the census in quarto form," I have to state, that so far as the composition is concerned the prices are those fixed by the present law. The price for press-work is arrived at by making eight quarto pages equal to sixteen octavo pages, which, so far as the *cost* of printing the census is concerned, is the true basis under that law; and in answer to the further inquiry "whether the bill now before the House corresponds to those prices," I have to state that they do, as explained above.

I have the honor to be, very respectfully, your obedient servant, JOHN T. TOWERS,
Superintendent Public Printing.

Hon. W. A. GORMAN, *House of Representatives.*

Mr. GORMAN, (resuming.) By the resolution which passed this body a few days ago, the Committee on Printing were directed to inquire and to report to the House with regard to the propriety of publishing the Seventh Census, what it would cost per copy under the prices now given by law to the public printer, and what it would cost if printed elsewhere. When that resolution passed it was understood to be an advertisement to the country—because it went into all the newspapers—for bids to be sent to the committee. Accordingly, several publishers have submitted formal bids for the execution of the work. Lippincott, Grambo & Co., of the city of Philadelphia, have made bids, which bids are in full set forth in the report of the committee.

That firm, it will be found by a reference to the figures in the report, propose to execute the printing of ten thousand copies of one thousand pages each of statistical matter for $22,000, while for the same number of copies of the same number of pages the public printer would get, according to the calculation of the Superintendent of the Public Printing, including the cost to the Government for paper, $19,163. The Superintendent declares that his calculations are correct to a mill. Of course this is left to the judgment of members. It cannot be expected that I should be in possession of all the technicalities and peculiar customs of those engaged in this art. I might study a year before I could make myself thoroughly acquainted with the manner in which these printers calculate. But the calculations I shall present with reference to the public printing are made by the Superintendent who has been appointed under the law of the last session.

I will now make a comparison between the bids of Lippincott, Grambo & Co., and the price of the public printer under the law. Lippincott, Grambo & Co., propose to print ten thousand copies for $22,000. The price of the public printer (which includes the paper) would be $19,163. That firm propose to print twenty thousand copies for $36,400, whilst for the printing of the same number General Armstrong would receive under his contract $32,564—less the amount paid by the Government for the paper. Subsequent to the opening of the bids and the publication of this joint resolution, and the fixing of the prices, I have received another bid from the firm of Lippincott, Grambo & Co., to execute this job for $400 less than the price of the public printer. Those gentlemen in that bid offer to do the composition and press-work of ten thousand copies for $9,712. The paper for that number of copies, it is estimated, would cost $9,077, and the price of the public printer being $19,163, it will be seen that this bid is less by $400.

Before the committee reported this joint resolution, a gentleman came into the committee room and stated that he had a bid to make. I stated to him that I would not submit the report until the latter part of the day if he would submit his bid previous to twelve o'clock. He said that he would do so. We waited, but he did not come in with his bid until after the bids of Lippincott, Grambo & Co., and the statement of the Superintendent

of the Public Printing were printing. The firm to which he belongs—Parrish, Dunning, Mears & Co.—offers to print ten thousand copies for $14,700. If to that bid were added the freight of the books from Philadelphia, it would not be less than the price of the public printer, under the law, by more than $1,200. Your committee thought, notwithstanding that bid came in after the report had been made, it would state this fact to the House.

Now will any member, after Congress has established a printing bureau, caused the appointment of a Superintendent of the Printing, fixed the price to be paid to the public printer for the public printing, and compelled him to expend between $50,000 and $60,000 in the outfit of a printing office, as General Armstrong has, that the public work might be properly executed, say that it is proper for us to accept a bid of $1,200 less than the price under the law, from any publisher other than the public printer? I think that it is not. Let me show to the House the reason for fixing the prices as they are fixed in the joint resolution; because this kind of work—rule and figure work—is that on which the Government has heretofore always been fleeced to death. We have fixed the prices precisely that there shall be no chance for dodging, and that the Superintendent of the Public Printing shall require the work to be executed in a peculiar manner, and thus to afford him no opportunity to construe the resolution so as to give the benefit of what printers call "fat." That word "fat," in printing, seems to apply to a large margin, without any printing on it.

I will now state to a mill what the cost will be to the public printer and what his profits will amount to. To print ten thousand copies, one thousand three hundred and thirty reams of paper will be required, which, at $6,82½ per ream, will cost $9,077. Then the composition for the rule and figure work at forty cents per thousand ems, would cost the printer $1,850. The press-work for one thousand three hundred and thirty reams at two dollars per ream, would cost $2,660. And, therefore, the actual outlay would be $4,917 25; and add $9,077 for paper, which will make $13,994 25. This does not include lights, superintendent's wages, wear and tear of material, and many incidental expenses not enumerated. For this work the public printer will receive under the law, $10,086, which, with the cost of the paper, will make up the sum of $19,163. We followed precisely a certain rule of calculation, which, for my life, I cannot explain. You were greatly alarmed, I suppose, by being informed heretofore that the printing of this census was going to cost $150,000. Large calculations were made in the Democratic Review. That journal stated it was going to be a large speculation, and was going to cost the Government $200,000.

We have shown by the report that the printing cannot by any contingency cost one thousandth part of a mill more than the present calculation, unless you resolve to print more matter and more copies. If you resolve to print more copies, the cost will be more; and if less, the cost will be less. The committee have concluded unanimously against publishing any of the historical part of the census prepared by the Superintendent of the Census Bureau, a specimen of which, with relation to the State of Maryland, was laid on the table of each member. The Committee on Printing on the part of the House of Representatives, having in view their duties towards this body, unanimously concluded to publish only what statistics were ordered to be taken by the law authorizing the taking of the Seventh Census—nothing more and nothing less. Now, I have shown you to a mill what it will cost the public printer to execute this printing, and what we propose to give him for its execution, from which you can calculate what will be his profits.

In that calculation of the cost there is no insurance, no wear and tear of material, no rent for office, and no expense for candles, fuel, gas, &c., counted. Three per cent. only is added, and you give the printer only a profit of $2,500 on ten thousand copies. The nearer you approach towards twenty thousand copies the more profit you give the printer; but the printing of thirty thousand copies will cost you less than the printing of twenty thousand copies. Though strange, that is a true declaration. When I say it will cost less, I do not mean in proportion. The public printer will get a less number of dollars for printing thirty thousand copies of this census than for printing twenty thousand copies. The Government purchases the paper by its superintendent, and furnishes it to the printer. And now let me show you how it is that the cost is less for thirty thousand copies. During the last session the gentleman from Kentucky [Mr. MARSHALL] reported a bill to the House fixing the prices to be paid for the public printing on statements sworn to before the Committee on Printing, from printers of New York, Philadelphia, and Washington. Those prices were considered by that committee to be fair ones.

Mr. DOCKERY. I want to know if we print forty thousand copies whether the cost will be still less?

Mr. GORMAN. I do not desire to be interrupted at this point. The gentleman from South Carolina [Mr. ORR] submitted an amendment for a reduction of forty per cent., which amendment was adopted. When you order over twenty thousand copies, your Superintendent commences and deducts forty per cent. from the number one up to twenty thousand, instead of commencing at twenty and deducting forty per cent. upon any number above twenty thousand copies. You make the public printer publish the whole proceedings for less than he is allowed for composition. If you wish to destroy him, publish thirty or forty thousand copies. The publishing of your Patent Office Report, but for the peculiar manner in which it is printed, would involve him in a very heavy loss—thousands of dollars. My friend from Georgia here says that it is a good law.

Mr. TOOMBS. It is a very good check. It prevents any effort to procure orders for large editions of public documents.

Mr. GORMAN. My friend has given the reason exactly. I was about to remark that Congress is becoming a great book-making concern. Will the gentleman allow me to say, for myself, that I have given, by my votes, upon all occasions, a check to this thing, and shall continue to do so? What is proposed to be printed by outsiders? One hundred thousand and as much as two hundred thousand copies. I have brought the number down to the lowest amount, and I frankly confess to you that I believe it is a good law. It will keep you from becoming a great monopoly and book-making concern; but I beg of you not to try the experiment upon our friend General Armstrong, unless you want to break him up at the start. You ought to repay the forty per cent. reduction improperly withheld from him under construction of the law. You ought not to have any squeamishness about it. Gentlemen ought to do it like honorable and just men, and do it at once. You say you will not do it. You say you have a law—that you do not want to legislate any more about public printing. You have got a law. By actual calculation you can demonstrate, under the prices which you fix of forty per cent. discount, that you make the public printer print thirty thousand copies for less than you allow him for printing twenty thousand copies, of course not including the paper. It is a good law if the object be never to print more than twenty thousand; but you always want more than twenty thousand copies of the agricultural and mechanical parts of the Patent Office Report. My friend from Georgia suggests to me, in a quiet way, that it is all wrong, and that he would not print twenty thousand copies.

Mr. TOOMBS. I would not.

Mr. GORMAN. You are getting more economical than usual.

Mr. TOOMBS. I would not print one copy of it.

Mr. GORMAN. There is a large number of the members who will insist upon one hundred thousand copies of your Patent Office Report. If you intend to do justice, if you intend to get at the real truth, you will require a committee to investigate whether the public printer is not literally ruined if you publish one or two hundred thousand copies.

Mr. TOOMBS. Will the gentleman allow me one remark? I am glad to hear the speech which he is making. I have no doubt that the effect of this law will be to prevent the publishing of a great many extra copies. So far as I am myself concerned, I would print none of them. It makes no difference what you pay the public printer; for our experience has been, that you finally pay him whatever he asks. That has been done several times. Engage him upon what terms you please, and you will pay in the end what he asks. It makes no difference about the amount. You will get a conference committee at the end of the session, and pay him the amount claimed or asked.

Mr. GORMAN. I feel the force and correctness of the gentleman's remarks. The contract system only opens the door for men to perpetrate frauds upon the Government. They will combine with agents around these Halls—they will combine with the money power, and with every interest which they can bring to bear to get a job—and at last they will come in here and bid at prices at which they cannot do the press-work. The very next thing you see, there will be a bill introduced proposing to make up the actual losses. I knew a man who did the public printing, and he can demonstrate by figures as clear as the noonday sun, that there was an actual loss of $20,000, but he has never got a cent. I intended when I arose, to confine myself to the question before the House, and I do not intend to be drawn into the discussion of any irrelevant points. I have never spoken to a question to which I have not confined myself as far as I could to the point. I desire now that my friend from Mississippi [Mr. BROWN] and this House shall have an opportunity of scanning this bill. There is one single point in which it needs amendment. Let it be offered, and let us settle the matter to-day.

Before I conclude my remarks, permit me to say, that the first part of this bill proposes simply the printing, and the latter part the binding. In regard to that, I suppose there will be no contest, and I suppose I need not refer to anything which is not before us. The prices in this bill are substantially identical with the prices fixed by law, so far as they can be identical for this kind of work, when there is nothing in the law in regard to it. The House of Representatives will bear in mind that when you passed the printing law you excepted the census; but you did not except the census from the public printer beyond this, that you reserved to yourselves the manner of printing and the matter to be printed. Whether or not the public printer is entitled to it under the law might be made a legal question. Our committee have not decided that the public printer is legally entitled to it. The question is a mooted one, and it had friends on both sides. There is another thing to which I wish to call your attention. The Senate, in all probability, will publish about ten thousand copies. They generally publish more than we do. We have left a blank to be filled up, depending upon the amount ordered by the Senate. If the Senate order as many as we do, that blank will be filled with one price; if it is a less number than ten thousand, it will be filled up by another price.

Mr. HAVEN made a remark entirely inaudible to the Reporter.

Mr. GORMAN. The gentleman is right. He has the calculation which I should have had. The Superintendent of Printing furnished my friend from New York with a paper. I thought I had it, but I could not lay my hands upon it at the time. It will be filled up, then, as stated by the gentleman from New York, at forty-five or thirty-seven and a half cents, depending upon the amount ordered by the Senate. I say to the House, that as soon as gentlemen discuss this question, I desire, at the proper time, to ask the floor, and call the previous question. At this time I shall not, for the reason that gentlemen desire to discuss the resolution.

Mr. CHANDLER. I wish to make a single correction in the remarks of the gentleman from Indiana, that the proposals of the firm of Parrish & Co. did not include conveyance of the books, after they are printed, to this city.

Mr. GORMAN. They excluded it in words.

Mr. CHANDLER. I was not in the room when the gentleman commenced his remarks. I was instructed to say that their proposals are here.

Mr. GORMAN. They have excluded it. I have no doubt the gentlemen has friends in Philadelphia who would like to come in for the job at four hundred dollars less than the prices of the public printer.

Mr. STANTON, of Kentucky. With the permission of my friend from Indiana, [Mr. GORMAN,] I will state that a letter from those gentle-

men has been but this moment placed in my hands. They state: "Our offer is dated in Washington, and we meant by that to deliver the copies *free of all freight* in this city." This settles that matter, and the gentleman will see, by reference to their proposition to the committee, that it contains no statement by which it can be inferred that they design to charge for transportation, as he supposes.

With the further indulgence of my friend, I wish to say, that it is not my design to take from the public printer any of the work ordered by Congress which he can execute, and especially the printing of the census returns. I am satisfied, however, from the information possessed by the Committee on Printing, that the job in question can be executed for a less sum than the estimate of the Superintendent of Public Printing, based upon the prices fixed in the joint resolution reported from the committee, and to be paid the public printer.

The committee were required by the resolution of the House, to ascertain what the work could be executed for according to the prices paid the public printer under the law, and also whether it could be done cheaper elsewhere. Lippincott, Grambo & Co., of Philadelphia, submitted to the committee a proposition to do the work, at prices which were considered by the Superintendent greater than those of the public printer. These prices are contained in the report of the committee, and also the cost of the work, if done by the public printer, as estimated by the Superintendent. Another firm in Philadelphia, Parrish, Dunning, Mears & Co., said to be substantial men, have, since the report of the committee was made to the House, also submitted a proposition to do this work in the style, and upon as good material as is provided for in the joint resolution, upon terms greatly cheaper than either those of the public printer or Lippincott, Grambo & Co. I have in my hand a table which shows the comparative rate of each proposition, which I submit to the consideration of the House:

No. of Copies.	Lippincott, Grambo & Co.	Public Printer.	Parrish, Dunning & Mears.
10,000 copies Statistics, 1 volume, 1,000 pages....	$25,800	$19,163	$14,700
20,000 copies Statistics, 1 volume, 1,000 pages....	46,000	32,564	27,700
For the 2 volumes, including letter press:			
10,000 copies, 2 volumes, 1,000 pages each.....	$39,600	$35,076	$27,800
20,000 copies, 2 volumes, 1,000 pages each.....	68,000	61,879	53,000

It will be seen that the offer of Parrish, Dunning, Mears & Co., is about thirty-one per cent. below that of Lippincott, Grambo & Co., and twenty-seven per cent. below the cost which will be incurred if the public printer does the work. In printing ten thousand copies of the statistical part of the census returns, the Government will save by the prices of Parrish, Dunning, Mears, & Co., over those of the public printer, $4,463. If ten thousand copies of both historical and statistical matter is published in two volumes, the saving will be $7,276; and if twenty thousand copies of both are published, we shall save $8,879; and in the same proportion for any greater number.

As I do not wish to pay more for this work than a fair price, I have prepared and offer the following amendment: to strike out all after the word "of" in the fourteenth line, and insert what I send to the Clerk's table.

Mr. BROWN, of Mississippi. I object to the gentleman's amendment.

Mr. STANTON. I am not disposed to offer it unless it is in order, but will avail myself of another opportunity to present it.

Mr. TOOMBS. I do not wish to discuss the question, but I am very much indebted to the gentleman from Indiana [Mr. GORMAN] for the information which he has given us upon the subject. I objected to the class of legislation which excluded and cut off other persons who have turned their attention to the subject, from being heard. I have been instructed by the gentleman's speech, and in a great deal I concur with him, and think it more than probable that I shall vote with him against the printing of large editions. Important legislation has been crammed down our throats during the whole of this session by the mover of a measure calling the previous question. It is an abnegation really of all the rights and duties of the House of Representatives. I do not refer especially to this case, but to the practice generally.

The SPEAKER, (Mr. STUART occupying the chair.) The Chair will state that he does not recognize the objection made by the gentleman from Mississippi [Mr. BROWN] as presenting any obstacle to the reception of the amendment of the gentleman from Kentucky, [Mr. STANTON,] if the gentleman from Indiana is willing to yield the floor to enable it to be offered.

Mr. BROWN. Do I understand the Chair to decide that a gentleman occupying the floor can yield it to another to offer an amendment?

Mr. GORMAN. I do not yield the floor to the gentleman from Kentucky to offer that amendment. I am not for the amendment.

Mr. STANTON. You have not heard it read yet.

Mr. GORMAN. Well, I am not in favor of it, if I at all understand what it is.

Mr. STANTON. I have not explained what it is yet.

Mr. BROWN. I wish to have this question settled with regard to the amendment. The Speaker of the House has ruled——

Mr. MEADE. There is no such question pending.

Mr. BROWN. Yes, there is.

Mr. MEADE. The gentleman from Indiana declines to yield the floor for the amendment to be offered.

Mr. BROWN. Then I have no question of order to raise.

Mr. GORMAN. I am going to conclude my remarks by merely referring to a single fact. You see that up to the very moment I entered this Hall, gentlemen are offering new bids. My colleague on the committee [Mr. STANTON] has got hold of a bid, the Lord knows when or where, but certainly since he and I met last, which was a very short time ago. I have no doubt that the gentleman from New York [Mr. HAVEN] has had other bids put into his hands. Why, at this rate, you may go on *ad infinitum*, until publishers will propose to give you a *bonus* for permission to publish these returns.

Mr. HAVEN. I beg leave to say to the chairman of the committee, that I have received no such propositions at all.

Mr. GORMAN. Well, sir, it was only a hypothesis. I did not state it as a fact. I know that my friend agreed with me in the committee, and I believe we were unanimous, until these bids accumulated in this way. I want the House to understand that propositions had been advertised for, and that the printers in making these propositions put their prices as low as they could do the work for. Lippincott & Co., thought, when first they bid, that their prices were about $5,000 under those of the public printer. But when the calculations came out, they found that they were a little over his prices—the difference between $19,100 and $22,000. Well, as soon as they found out that their bid was higher than the prices of the public printer, they instantly made another bid, $400 less than the prices paid to the public printer. Why did they not make that proposition at the start? Because they want to deprive the public printer of the job, and to get permission to do it themselves, and their only object is, to bid under the prices of the public printer. Let me tell gentlemen from the West who do not understand these mattters, that to my certain knowledge Lippincott & Co., of Philadelphia, will publish this book for nothing, rather than not get the job. They want to get it for the purpose of making sale of the book in Europe. They are large publishers, and they want to have the right to publish the book, that they may sell it in Europe. Nobody else could publish it without a very large subscription list; and therefore they would have a monopoly of the sale in Europe.

Mr. GOODENOW. Well, and what objection is there to that?

Mr. GORMAN. Why, when we have a public printer who proposes to do this work for fair prices, I object to its being given to the monopolists and capitalists of the country, to enable them to ride over the ordinary men of the country, and the mechanics of Washington city. They have in Philadelphia what is called the apprentice system of compensation. A communication has been handed to me by a gentleman who has been in the city of Washington, engaged on the public printing of this country for the last fifteen or twenty years, and he assures me that in Philadelphia they do, or have been doing, work on what is called the apprentice system, at about two thirds of the cost that it can be done for here. The pay for labor in Philadelphia is one third less than it is here. Now, will you take this, the legitimate business of the mechanics here, at the capital of the nation, whom you have invited here, and go abroad and give to others when you have established a printing office here by law, and made a bureau of it? I tell you now, that if you give this job to Lippincott & Co., at half the prices of the public printer, you will be cheated out of thousands of dollars before you know it. If you give it to them, they will spread out the number of pages unnecessarily, whereas if it is done here, under the eye of the Superintendent of Public Printing, it will be put into a compact form.

I have here a statement, prepared by a gentleman—I may give his name—a practical printer. He is before me now in this House. He is the Reporter sitting on that Chair—Mr. Curran. He makes this statement with regard to the apprentice system in Philadelphia, as it is called, and is willing to vouch for it.

Mr. FLORENCE. Will the gentleman allow me to interrupt him for a moment?

Mr. GORMAN. I cannot yield to the gentleman.

The following is the scale of prices paid in the two cities for composition:

In Philadelphia, for plain matter, one thousand ems, twenty-nine cents; brevier rule and figure work, fifty cents.

In Washington, for plain matter, one thousand ems, forty cents; brevier rule and figure work, eighty cents.

[Here a message was received from the Senate of the United States, by the hands of ASBURY DICKINS, Esq., its Secretary, announcing that the Senate have passed bills of the following titles:

An act granting to the Niagara Falls and Lake Ontario Railroad Company, the right of way through or along the river side of the military reservation at Fort Niagara, in the State of New York;

An act for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip;

An act to extend the warehousing system, by establishing private bonded warehouses, and for other purposes; and

An act authorizing the Secretary of the Treasury to issue a register to the American steamship Albatross.]

Mr. BROOKS. With the permission of the gentleman from Indiana, I should like to have that bill with reference to bonded warehouses referred to the Committee on Commerce.

Mr. GORMAN. I cannot yield for that purpose now. I have said that the prices in Philadelphia, for composition, are, for plain work, twenty-nine cents for one thousand ems, and fifty-eight cents for one thousand ems of brevier rule and figure work. In Washington, the prices are, for plain matter, forty cents, and for brevier rule and figure work, eighty cents—or nearly double the prices paid in Philadelphia. In Philadelphia, the wages per week are ten dollars; here, twelve dollars. The communication referred to is as follows:

SIR: Permit me, as a practical printer, to address you upon the subject of the census printing, and the printing of Congress generally. The prices established by the existing law, and those proposed by the joint resolution, are too low. They are, for small pica, sixty-two and a half cents per thousand ems; for brevier rule and figure work, seventy cents per thousand ems. To establish this position I will present to you the following facts:

The wages of the journeyman printer at Washington, as established by the Columbia Typographical Society, are: For composition, brevier plain, forty cents per thousand ems; for brevier rule and figure, the kind of work on the census, eighty cents per thousand ems.

It will be seen by the above statement, that the journeyman's wages upon the brevier rule and figure work—the same as the census—are higher, by fourteen per cent., than the prices proposed to be paid to the public printer. This kind of work is difficult and expensive. The rule used costs ten cents per foot, and each page quarto will take some twenty feet. When you come to add for the wages of foreman, proof-readers, maker-up, lights, wear and tear of material, and other and numerous small expenses incident, it would carry the cost up to ninety cents per thousand ems, for which it is proposed to allow the public printer but seventy cents.

Is it right and proper that Congress should, after passing

a law fixing the prices, and inducing the public printer in virtue of his election under that law to invest $50,000 in an establishment capable of executing the printing elegantly and promptly, divert any portion of that printing from him for execution in other cities? Is it right, even should offers be made to print at prices less than those fixed by the act of Congress? In the opinion of all reasonable men, it seems to me, such proceeding would be a violation of the plighted faith of Congress. But the prices at which Lippincott & Grambo, I understand, propose to do the census printing are greater than those fixed by the law of Congress, notwithstanding those publishers (not printers) have an advantage of twenty per cent. in the wages they pay to journeymen, if regular hands, when working by the week, or thirty-eight per cent. when working by the piece or per thousand ems. In some of the offices in Philadelphia (not unlikely some of the bidders for the census printing from that city) they have to some extent another class of employees to which they do not pay the full prices according to the society or standard rates there; or in other words, they pay for composition two thirds only of the established regular rates. If Lippincott & Co. intend to have the work executed under that system, against which the regular compositors there have been contending for years, it will give them an additional advantage of thirty-three and one third per cent. over the public printer at Washington.

The following is a scale of the prices paid in the two cities for composition:

In Philadelphia, for brevier plain, per thousand ems, twenty-nine cents; for brevier rule and figure, per thousand ems, fifty-eight cents.

In Washington, for brevier plain, per thousand ems, forty cents; for brevier rule and figure, per thousand ems, eighty cents.

In Philadelphia, wages per week, $10.

In Washington, wages per week, $12.

The above would be the *regular* wages in the two cities for the census printing.

Should the census printing be executed in Philadelphia upon the weekly system of wages, they would even then have an advantage over the public printer, if regular hands be employed, of twenty per cent.; and if irregular hands at two thirds wages, an additional thirty-three and one third per cent., or together fifty three per cent. The difference between the wages in those two cities would alone afford the Philadelphia publisher a handsome profit.

The issue here presented is this: Will Congress, after inducing the public printer to invest more than $50,000 in building up an establishment capable of executing the printing with neatness and dispatch, for the purpose of saving a paltry sum of money, divert from him for execution in other cities, under a (problematical) cheap system, the largest job connected with the public printing? Will an American Congress do this, and thereby give encouragement to a system in Philadelphia by which the workingman is oppressed? Will they violate their plighted faith, and huckster out their work to what are called cheap publishers in other cities, when they must know that reckless, irresponsible, and unprincipled men, as a general rule, are the most likely to do the lowest bidding? The man who will undertake to do work at less than cost always expects to save himself by fraud upon the Government or oppression of the laborer. One or other of the alternatives he is bound to resort to to save himself. This cheap system has always proved the dearest to Congress. Will Congress so act as to deprive the workingmen in Washington of employment, because they demand twenty per cent. more wages per week than is paid to regular hands in Philadelphia?

Do Congress hold that the journeyman printer, who labors ten hours per day and gets but two dollars therefor, is receiving too much wages, when they pay their clerks and messengers in the Executive and Legislative Departments (where, in many instances, less talent is required) from three to six dollars per day for working six hours only? Certainly, that cannot be the opinion of the *present* Congress. The journeyman printer in Washington cannot buy as much of the necessaries of life for twelve dollars per week as the regular printer in Philadelphia can for his ten dollars. Hence the necessity of higher wages here than in Philadelphia. Congress, at the last session, from their knowledge of the high price of living in this city, increased the pay of their well-fed and well-clothed clerks in the Departments from ten to twenty per cent. Is the journeyman printer in their employ, because he is practically a working man and labors ten hours per day, less worthy of the consideration of Congress? If the work be taken from this city, and they be thus deprived of employment, such will appear before the country to be the opinion of Congress. If the work be done in Philadelphia, instead of Washington, it would be practically because the workingman's wages in the former city are less than in the latter. If this be a good reason for having this particular job executed in Philadelphia, it would be equally a cogent one for having the whole of the Congress printing done there. I say again, is Congress prepared to declare that two dollars per day is too much wages for the working man in Washington? Is it prepared to indorse the cheap system of wages in Philadelphia as the best? This is the practical question at issue.

An investment of $8,000 in material and machinery would be sufficient to execute this particular job in Philadelphia, whereas the Congress printer is compelled to make an investment of $50,000 to be in readiness to execute promptly whatever work may from time to time be ordered. The probable ordering of such jobs at good prices is the inducement held out to the public printer to make this large investment. The Congress printing in the aggregate cannot be executed as cheaply as private work, although a particular job may be. The public printer is necessarily compelled, besides the large investment in material, to have a foreman, proof-readers, pressman, engineers, and others, employed as regular hands, receiving weekly wages ranging from $2 50 to $3 per day—work or no work—and it is not unfrequently the case that there is no work for them. There is a large portion of the year that the public printer has not only his capital lying idle, but is compelled to continue paying the regular hands in his employment, although they have nothing to do.

If Congress were to act justly and wisely, they would pay the public printer such prices as would enable him to have constantly at command the most experienced printers, and induce him to make a greater investment still, with the view to the most prompt execution of the work. The prices under the law are not sufficiently remunerative to justify his present investment, much less make a greater one. To execute the Congress work with proper and an economical dispatch, having reference to the business of Congress, would require an investment of $80,000.

Now, be it remembered that you have elected a public printer, who has established an office, and that that office and the new materials which he has purchased, have cost him between fifty and sixty thousand dollars. He has prepared an office equal to any in this Union, and under these circumstances, it would be exceedingly unjust and unreasonable, for a consideration of a few hundreds or even a few thousands of dollars, to take this work out of his hands and give it to publishers elsewhere. It would be unjust to the mechanics of this city. It would do no good to the mechanics of New York and Philadelphia. It would be no advantage to them. It would be a very great advantage to the mechanics of Washington city. But as I remarked before, these publishers will, in all probability, undertake to do the work for almost anything, for the sake of having control of this book and selling it in Europe. That is what has been told me by the persons themselves.

Mr. TOOMBS. I should like the gentleman to explain what injury that will be to us.

Mr. GORMAN. I do not mean to say that they have made a formal proposition to do that. I am supposing, from the manner in which they are going on, that they will ultimately propose to do the work for nothing.

Mr. TOOMBS. And is not that very desirable?

Mr. GORMAN. Why, if they were to do that they might, upon the same principle, have control of all the public documents and never give the plates unless we pay them their prices. I know of one instance, in which they have got plates of this Government which they refuse, on application, to give up unless we pay their prices; and as the work is stereotyped, we shall be compelled to pay their prices for the plates.

Now, Mr. Speaker, I am well aware to speak longer on this resolution would hurt it instead of helping it. I intend, at the proper time, whenever I can get the floor this day, to call the previous question, and I hope that those gentlemen who desire to have the returns of the census printed, will remain here and dispose of the question.

Mr. BROWN, of Mississippi. I have looked somewhat into this subject, and, with the indulgence of the House, I desire to make a few remarks with regard to it. This bill, sir, makes provisions that I think are wholly unnecessary, and are calculated to confuse our minds, not only as to the manner in which this work can be done, but as to what we are to pay for it.

Now, sir, the Superintendent of the Census Bureau has had prepared a specimen copy of this work, showing the style in which he proposed to have it executed. This volume has been before the Committee on Public Printing, and I understand they have examined it and are satisfied with it. Lippincott, Grambo & Co., of Philadelphia, taking this volume which I now exhibit as a specimen, propose to print ten thousand copies of the complete returns of the census, in two volumes, of the same size, containing one thousand pages each, for $49,500, and bind them. Seeing this fact communicated to the House of Representatives by the Secretary of the Interior, I called upon the Superintendent of the Public Printing, an officer of the Government, handed him an official letter from the Census Bureau, supplied him with this volume, and asked him to make a calculation as to what would be the cost of the work under the contract with the public printer. I ascertained from him—if his calculations were correct, and I am satisfied myself they were—that the cost of the work under our present contract with Armstrong, would be less than under the proposition made by Lippincott, Grambo & Co.

I am therefore perfectly willing that the public printer shall take this job under the contract now existing—perfectly willing. But I am not willing to vote for this bill with all the talk about brevier and minion, and all the technicalities of printers, which I do not understand. I am willing to vote for such an amendment as that which I now send to the Clerk's desk and ask to have read:

To strike out all after the word "provided," in the fourteenth line, to the end of section two, and insert the following:

"That the work shall be done in the style of a specimen volume supplied to the Committee on Public Printing, and to be embraced in two volumes, one thousand pages each; and that the cost of printing shall not exceed the prices now paid the public printer, Robert Armstrong, for like printing. The paper shall be purchased as paper for the public printing is now purchased, and that the binding shall be done in the style of the Congressional Globe and Appendix for 1852, at a cost not to exceed fifty cents per volume.

Mr. GORMAN. I doubt whether the binding can be done for fifty cents per volume.

Mr. BROWN. I know it can be done for that price.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed bills of the following titles, viz:

An act granting the right of way and making a grant of the public lands to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point on the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith, on the Mississippi river; and

An act granting the right of way to the St. Louis and Iron Mountain Railroad Company.]

Mr. McMULLIN. Will the gentleman from Mississippi [Mr. BROWN] state to the House the difference between the prices proposed to be paid to the public printer under the law and those proposed in the proposition submitted by Lippincott, Grambo & Co., in Philadelphia? I understood the gentleman to say it would cost less under the prices fixed by law, than this Philadelphia company propose to it for.

Mr. BROWN. I will answer the gentleman from Virginia. The communication made to the House by the Secretary of the Interior for Lippincott, Grambo & Co., says that they proposed to print ten thousand copies of this report, and to bind them in Russia, for $49,500. But I am informed by the Superintendent of the Census, that so far as the binding is concerned, the Secretary was mistaken, that Lippincott, Grambo & Co., proposed to furnish them in muslin, which is a much cheaper style of binding. The cost of printing ten thousand copies of the work, or twenty thousand volumes of one thousand pages each, in the style of this specimen number, and binding them in Russia backs and corners, in the style of the Congressional Globe and Appendix for 1852, would be some $52,300. I had the precise calculation furnished me by the Government officials, but the gentleman from Tennessee, [Mr. CHURCHWELL,] whom I do not now see in his seat, has it. According to that calculation, the whole work would not cost more than $53,000, if done in the style I have named, and at the present contract prices. The bid of Lippincott, Gambo & Co. amounts to more, if we calculate the difference in binding alone. But at this point I must remind gentlemen that under the contract we shall get in addition to the ten thousand extra copies, the regular number, one thousand five hundred and twenty, making a total of eleven thousand five hundred and twenty copies. The difference between Lippincott, Gambo & Co.'s bid, as communicated by the Secretary, and the sum to be paid the contractor, Armstrong, may be stated thus: Lippincott, Gambo & Co., propose to print ten thousand copies, and bind them in muslin for $49,500. The contractor and others will print and bind eleven thousand five hundred and twenty in Russia for a sum not exceeding $53,000.

I have shown the House on what data I base this statement. Presently I will submit an official statement. It is my object to do justice, and prevent deception on all hands, and it is for this reason I propose to have the work done in the style of the specimen which I have before me, and which I have shown to the House. It has been before the Committee on Printing, and they have found no fault with it. I have also provided in my amendment that the cost of the work shall not exceed the prices now paid to the public printer for like work. I have made no calculations by brevier, and nonpareil, or anything of that sort, because, not being a printer myself, I could not understand, and much less make such a calculation. But I can and do understand, when I see an existing printed volume, bound and ready for delivery, what I am to get, and how much I

am to pay for it, when I agree to take twenty thousand volumes just like the one before me, and pay $53,000 for them—and that is just what my amendment makes plain to the House. As to the other details, I propose that the paper shall be furnished as it is now, by Government contract, so that there shall be no cheating about it.

A MEMBER. How do you know that the binding can be done for fifty cents a volume?

Mr. BROWN. I am informed by those who know. Mr. Rives, who publishes the Congressional Globe, says this binding can be done for fifty cents a volume, and not for less. That is on a contract for binding twenty thousand volumes or more.

Mr. STEPHENS, of Georgia. I desire to know of the gentleman if the Superintendent of the Public Printing has given him any assurance that if this work is printed in the style of this specimen number, it can all be contained in two volumes, or whether it will not require four or five?

Mr. BROWN. I will answer the gentleman. This volume was executed by order of the Census Commissioner, as a specimen of the work he proposed to publish, and he states that it can be published in two volumes of a thousand pages each, of the size of this specimen copy. Of course, the Superintendent of the Public Printing, not having seen the manuscript, cannot tell how large or how numerous the volumes may be. My information on this point is from the Census Bureau.

Mr. STEPHENS. Well, sir, has the Superintendent of the Census ever informed the gentleman, and will he inform the House, that this whole census report can be contained in two volumes of the size of this specimen, (holding up a volume,) and printed in the same style?

Mr. BROWN. That is in smaller type than it is proposed to print it, and——

Mr. STEPHENS. I make these inquiries, because the gentleman's amendment is a very important one, if adopted. All his calculations are made up at so much a volume, and if the work extends beyond two volumes, it will multiply the prices in the same ratio.

Mr. BROWN. I will state again, that I addressed my inquiry to the Commissioner of the Census directly upon this point, and he assures me that all the matter which he deems desirable to be printed, and all he has recommended to be printed, can be put into two volumes of the size of this I hold in my hand, the printing done in the style in which this is executed, and I base my calculations of the cost of the work upon this statement of facts, taken in connection with the Superintendent's official calculation. All that I have said is based on the understanding that the whole work is to be compressed into two volumes of the size of the one in my hands.

Mr. STEPHENS. I want the House to understand this point. The Superintendent of the Public Printing has made an estimate, which the gentleman has presented here and which is correct. But that calculation is based upon what will be the cost a volume of the size of this specimen furnished by the Superintendent of the Census, of a thousand pages. Now, if you order the printing to be done in this style, and the work extends to more than two volumes, the cost will be increased in the same ratio. I do not yet understand, and I do not think it is so, that the Superintendent of the Census will state, that if the work is to be executed in the style of this volume, it can be condensed into two volumes of one thousand pages each.

Mr. BROWN. I so understood him. In answer to a direct inquiry upon that point, he assured me that the work, as he proposed to publish it, could be compressed within two volumes of this size.

Mr. STEPHENS. Was it not to be done in a different style?

Mr. BROWN. No. It was to be done in this style, for it was to this volume that I directed his attention—the volume was before him—and he stated to me distinctly, that his calculations were based upon the work being done in this style. So far as the danger of the work running to three, or four, or five volumes is concerned, I reply, if it can be done at the contract prices for a less rate per volume than Lippincott, Grambo & Co. propose to do it, the advantage would only increase to the Government. There will be as many volumes if Lippincott & Co. print it as if Armstrong or any one else does it. The bulk will depend upon the matter ordered to be printed. If Armstrong, at the contract prices, does the work in two volumes for $2,000 less than Lippincott & Co. propose, and you extend it to four volumes, the difference will be $4,000 in our favor; that is all.

Mr. CLINGMAN. I desire to know of the gentleman from Mississippi—for if it has been stated I did not hear it—if it be proposed to furnish in the work such matter as was furnished in the specimen number relative to Maryland? I examined that specimen number, which I suppose was gotten up with a good deal of care, as the object was to make a favorable impression upon Congress—and it is so full of gross errors, that a man who relied upon it would not know so much about the subjects of which it treats as a well-informed man would be who had never read it at all. There are some parts of this work which, if sent to the world, would be calculated to deceive everybody who is not already in possession of the facts, which are exactly to the contrary. I wish, therefore, to know of my friend from Mississippi [Mr. BROWN] whether it is contemplated to include in these returns such information as the medical statistics, and some other things contained in this volume?

Mr. BROWN. I will read a letter which I have received from the Superintendent of the Census, and the gentleman can judge for himself:

CENSUS OFFICE, *January* 10, 1853.

SIR: In reply to your inquiries respecting the amount of matter contained in the returns of the Seventh Census, provided the work shall be prepared on the plan which has been submitted to Congress, and which is deemed the most desirable manner of presenting the same, I may state that, in my opinion, it will be safe to say that the entire work may be presented in *two volumes, of the size of the specimen volume in possession of the House Committee on Printing*; that is, in two conveniently-sized folio volumes of about one thousand pages each. The thickness of the volumes will, of course, be affected by the character of the paper to be used. As I have no copy of the contract with the printers to Congress, it is impossible for me to state approximately what will be the cost of the work at "contract prices." It is believed that about one half of the publication will consist of tabular work.

I have the honor to be, sir, very respectfully, your obedient servant, JOS. C. G. KENNEDY.

Hon. ALBERT G. BROWN, M. C., *Ho. of Reps.*

Mr. CLINGMAN. My objection is to printing and sending out to the world such statistics as I have alluded to. I do not think Congress ought deliberately to deceive the community by publishing such matter. I would not vote to print it at any price.

Mr. STEPHENS. I think this bill excludes everything except what was ordered by law.

Mr. CLINGMAN. That is the very point I want information upon.

Mr. GORMAN. If the gentleman will look at the act approved May 23, 1850, to provide for taking the Seventh Census, he will see that it does not provide for these statistics.

Mr. CLINGMAN. I have not that act before me.

Mr. GORMAN. They are before the gentleman from New York, [Mr. HAVEN.] He has a list of the statistics which it is proposed to publish, and the gentleman can examine them. We propose to publish nothing more.

Mr. CLINGMAN. But some of the questions are calculated to deceive persons who did not understand them. I suggested an additional column of questions, but they were stricken out, and a class of results are stated there in such a manner as to deceive those who did not know how these questions were embraced; and unless some care is exercised, it will look as though we had the result ascertained under questions which were never put. The result is a matter of conjecture, which I might explain to the House in a little time. There are gross errors in the tables, which the House would see when they come to understand how the facts were arrived at.

Mr. GORMAN. I will answer the gentleman from North Carolina—and I want him to understand the answer which I give—and it will satisfy the House that they ought to publish it. If by looking over the statistics he can detect an error, it furnishes him the same data as if they told the truth.

Mr. CLINGMAN. My friend misunderstands me. In looking over the statistics no human being could detect the errors. The way I come to know it was, that, knowing the fact that those particular columns of figures had been stricken out by a vote of the Senate, I went to Mr. Kennedy, and asked him how he made up those statements. He told me how he got them, and it would amuse any man in the House to know how they obtained the facts.

Mr. GORMAN. I will state to the House that no doubt there are many inaccuracies in the commercial, agricultural, and mechanical statistics of the country. So there is in relation to the population; but on examination we were unanimously of opinion, as far as the committee on the part of the House is concerned, that they would furnish as close an approximation to the facts as a census can be expected to furnish.

Mr. BROWN. On receiving from the Superintendent of the Census the letter which I had read at the Clerk's desk, I sent it to the Superintendent of Public Printing, and with it that specimen volume, and asked him for his official calculation as to what would be the cost of printing, furnishing the paper, and putting up the volume in the style of the specimen. The result is such as I have stated to the House, that the whole cost would be some $53,000—not, as I have stated before, for ten thousand copies, but for the regular number of documents ordered to be printed by the House, one thousand five hundred and twenty, and ten thousand extra copies, in all eleven thousand five hundred and twenty copies—the binding being done in the style of the Congressional Globe and Appendix. The calculation is based upon the hypothesis that the binding could be done at an expense of fifty cents per volume, at which, I am assured from proper quarters, it can be done.

It is upon that calculation that I have based the amendment I propose to offer to this bill; and as I have interlined a few words, I will read it again:

"That the work shall be done in the style of a specimen volume supplied to the Committee on Public Printing, and to be embraced in two volumes of one thousand pages each. The cost of printing shall not exceed the prices now paid the public printer, Robert Armstrong, for like printing. The paper shall be purchased as paper for the public printing is now purchased, and that the binding shall be done in the style of the Congressional Globe and Appendix for 1852, and at a cost not to exceed fifty cents per volume."

If that amendment is adopted and added to the first part of the bill of the committee, I shall be well satisfied, because I then shall know exactly what I am voting for; I shall know precisely what kind of volumes I will get, how many we are to get, the quantity of matter to be contained in them, and the precise amount we are to pay for them. With all this knowledge before me, I shall be satisfied. And I am quite as willing that General Armstrong shall have the work as that it should be given to anybody else.

In this matter I am working for what I believe to be the public good, and not against any individual. I should in this case prefer to pay a little more, if it were required, as it is not, and know how much I am paying, than to pay a little less and leave it open to future calculation and possible difficulties. I want certainty as far as it may be had, even at a little more cost.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a bill reorganizing the Navy of the United States, in which he was directed to ask the concurrence of the House.]

Mr. STANTON, of Tennessee. I do not wish to interrupt the remarks of the gentleman from Mississippi, but I desire that the bill just received from the Senate should be referred to the Committee on Naval Affairs, and I ask that it may be done.

Mr. CABLE, of Ohio. I object.

The SPEAKER. As objection is made, it cannot be referred.

Mr. FREEMAN. I wish to ask my colleague a question. I see it stated in the last paragraph of Mr. Kennedy's letter, that one half of the publication will consist of tabular work. What I want to know is, if the one volume of tabular work proposed to be printed by the Superintendent of the Census, is stripped of everything but tabular work?

Mr. BROWN. That is it, I suppose.

Mr. FREEMAN. When it is stripped of its historical character, and nothing but tabular work remains, will it form a volume of the specimen size?

Mr. BROWN. I understand the historical part

forms a volume of this size, and the tabular part another volume of the same size.

Mr. FREEMAN. Then I understand that my colleague is in favor of printing both?

Mr. BROWN. I am in favor of printing such matter as the Superintendent of the Census, who has charge of this subject, reports to us, and says is absolutely necessary to be printed. He has a vast amount of matter, such as is contained in this Maryland book, which he does not ask Congress to print, and which is not to be included in the two volumes.

I have in my hand a letter from John T. Towers, the Superintendent of the Public Printing, which contains his calculations, based, as I before remarked, upon the letter of Mr. Kennedy, which has already been read. I send that letter to the table, and ask that it may be read. The House will observe that his calculations are for the cost of ten thousand, twenty thousand, and thirty thousand copies, each calculation, however, preceded by the regular number of documents, one thousand five hundred and twenty.

The letter was read as follows:

OFFICE SUPERINTENDENT PUBLIC PRINTING, *January* 14, 1853

SIR: In reply to your note of yesterday, asking an estimate of the cost of printing of the returns of the Seventh Census, under the contract with Robert Armstrong, the public printer, supposing the work to be of the size indicated in Mr. Kennedy's letter, I submit the following, being an estimate for two volumes of one thousand pages each, one half to be of tabular work, to wit:

For the usual number of 1,520 copies.

For composition of 1,000 pages small pica plain, of 3,570 ems each at 62½ cents per 1,000 ems, or $2 23 per page		$2,230 00
For composition of 1,000 pages brevier rule and figure, of 7,839 ems each, at 70 cents per 1,000 ems, or $5 48 per page		5,480 00
Composition of 2,000 pages		$7,710 00
For paper for the same		3,234 00
For press-work for the same		1,524 20
Total cost for printing and paper of 1,520 copies		$12,468 20

If 10,000 extra copies are ordered (the cost of composition being charged on the regular number above) the expense will be as follows:

For paper		$21,280 00
For press-work	$10,140 00	
Deduct two per cent	202 80	
		9,937 20
Total cost 10,000 extra		$31,217 20

Or, if 20,000 extra copies are ordered, the cost will be as follows:

For paper		$42,560 00
For press-work	$20,280 00	
Deduct five per cent	1,014 00	
		19,266 00
Total cost		$61,826 00

Or, if 30,000 extra copies are ordered, the cost will be as follows:

For paper		$63,840 00
For press-work	$30,420 00	
Deduct *forty* per cent	12,168 00	
		18,252 00
Total cost		$82,092 00

And in the same proportion for any greater number.

Recapitulation.

For paper and printing of regular number, consisting of 1,520 copies	$12,468 20
For paper and printing of regular number and 10,000 extra copies	$43,686 00
For paper and printing of regular number and 20,000 extra copies	$74,294 20
For paper and printing of regular number and 30,000 extra copies	$94,560 20

I have returned the volume, alluded to in your letter, to the Doorkeeper of the House, from whom it was obtained.

Very respectfully, sir, your obedient servant.

JNO. T. TOWERS,
Superintendent Public Printing.

Mr. BROWN. Now it is because we can have, as we are assured by Mr. Towers, the Superintendent of Public Printing—eleven thousand five hundred and twenty volumes, of this size, for $43,686 that I proposed the amednment which I offered. If my amendment is adopted, that will be the cost of the work without the binding; then, if gentlemen will add to that amount fifty cents per volume for binding in Russia, they will have the entire cost of the eleven thousand five hundred and twenty volumes, a sum but little exceeding $53,000. The proposition of Lippincott, Grambo & Co., is to print and bind in muslin ten thousand volumes for $49,500—the difference as we all see, being in favor of the contract with Armstrong.

With these remarks I yield the floor.

Mr. HAVEN obtained the floor, but yielded to

Mr. MEADE, who said: I do not understand distinctly now, whether, if two volumes be printed, the historical part of the census will be included or not?

Mr. BROWN. From the letter which I have received from the Superintendent of the Census, I suppose that it will.

Mr. MEADE. Then the tabular statistics will only embrace one volume. I understand that to be so.

Mr. BROWN. I do not know precisely how it is proposed to divide them. The Superintendent of the Census wrote me that the matter now designed to be published would make two volumes of one thousand pages each, unless Congress shall think proper to order more matter to be printed, which they have the power to do, but which I think they ought not to do. My amendment limits the publication to two volumes of one thousand pages each.

Mr. STANTON, of Tennessee. I will again ask the unanimous consent of the House for the reference of the bill to reorganize the Navy, just received from the Senate, as the objection made by the gentleman from Georgia [Mr. TOOMBS] has been withdrawn. It is an important measure.

Mr. GIDDINGS. I object.

Mr. HAVEN. I do not desire to say a single word in reference to this subject of printing, unless the House will hear me. I shall occupy but few minutes. I hope that the House will not find it correspondent with their judgment to adopt the amendment offered by the gentleman from Mississippi, [Mr. BROWN.] That amendment proposes that the work shall be printed in the style of the specimen volume with regard to Maryland, so far as the paper is concerned. I would be happy to see it so printed. It is well it should be so; but, if you print it in that style, the two volumes indicated in his amendment will not begin to contain what is proposed to be published; for that volume has got on one page three tables, and at the head of each a long heading occupying some two or three inches—the same heading at the top, at the middle, and at the bottom of the page. All that can be stricken out; and under the resolution I reported from the committee, by that means, in the publication, what is five pages in that specimen volume will be embraced in one page and a half or two pages. The volumes are better read and more compact. If you undertake to give this work to the public printer, or anybody else, to execute in the style of that specimen volume, it cannot be confined to two or to four volumes.

The first thing the House should determine with reference to this matter is, what shall be printed; for on that hinges the number we should print, and the price at which it should be printed. The specimen volume, which is in regard to the State of Maryland, contains varieties of information and statistics not called for by law. I would like very well to see those statistics published, but the committee could come to no conclusion as to what they would print besides what the law exacted, and they resolved to print only that, and nothing else. My opinion is, that if this House undertakes to go beyond that, it will find itself at sea, and it never will reach port. When you do determine what you will print, we can ascertain substantially the size of the work. Now, if you publish the information the law required and nothing else, according to the best statements, that statistical information can be contained in one volume of one thousand pages if printed as directed by this resolution, compact and not allowed to run loose, according to the specimen of the gentleman from Mississippi. Then, sir, if you adopt that rule, and can put it within one thousand pages, the calculation last read at the request of the gentleman from Mississippi is correct.

Now, one word more, and I can give the House no further information on the subject. Various propositions have been introduced here to print these statistics for less than the price proposed by the report of the committee. In reference to them I know nothing. I want to say about them this, and nothing else: we tried last year, and often theretofore, the system of giving the contract for the public printing to the lowest bidder. It failed, and I am not going to advise the House to go back to it. If, however, the House shall return to that system, I think the limitation of the gentleman from North Carolina [Mr. VENABLE] had better be adopted, that the Government shall furnish the paper. The paper of that specimen number is the kind provided for by this bill. We get the paper by contract with the lowest bidder. We have a contract to be furnished with the kind of paper on which these statistics and other matters that the House may desire are to be printed, for a specified price. The paper for this job will be furnished by the Government, no matter who the printer is to be; so that there is nothing left to construction. What is to be paid for is the composition and press-work.

If you adopt the mode proposed by the committee, to embrace this statistical information within one volume, and order the printing of the regular number—that is, one thousand five hundred and twenty—on our own paper, by the public printer, they will cost you $7,859 10. If you print the usual number, and ten thousand copies additional, the cost will be, for paper and all, $23,467 70. If you print the usual number and twenty thousand additional copies, the paper and all will cost $38,772 10. If you propose to publish the historical part talked of, and which was not provided to be taken by the census law, you double those prices precisely.

Mr. BROWN. I do not precisely understand what the gentleman means when he speaks of "the historical part." If you design publishing the *minutiæ* of statistics of the subdivisions of towns and counties, &c., there would be required, according to the Superintendent of the Census, a greater number of volumes; but if you only want the historical statistics with regard to counties and States, the whole can be embraced within two volumes of the size of the Maryland specimen copy. That, certainly, is all any one can desire.

Mr. HAVEN. I believe that I can convey to the gentleman's understanding what I mean by the historical part. When I speak of the historical part, I speak of the character of matter contained in the Maryland specimen copy; a copy of which, I presume, has been laid on the table of each member. It is supposed, that if you print the historical part, that work will be continued in reference to each State of the Union.

Mr. BROWN. I do not presume the proposition I have made embraces that matter at all.

Mr. HAVEN. Then the gentleman's calculation is too large; because the statistical part which the law required, and nothing else, so far as the committee can learn from all sources they can reach—the public printer, the Superintendent of the Census, and the Superintendent of the Printing—can be embraced within one thousand pages of this rule and figure work.

Mr. BROWN. The gentleman does not understand me. When I said the calculation was based on the specimen volume, I did not mean to intimate that these two volumes were to embrace all the detailed statistics in reference to towns and townships, but the statistics in reference to counties and States.

Mr. HAVEN. We have seen the work with regard to Maryland, and it seems to be unsatisfactory. The proposition now is, to let that part go by the board and print what the law asked for, and nothing else. If the House stop there, I think we will know with a reasonable degree of correctness how many volumes will have to be printed, and what the cost will be. I hope that the amendment of the gentleman from Mississippi will not be adopted, for the reason I have stated. It makes an India-rubber proposition of the joint resolution, and will extend this printing to any extent. It will cause the printing of four or six, instead of two volumes.

Mr. BROWN. I would like to know how it would do that, when it says the work shall be embraced within two volumes of one thousand pages each? It cannot make the proposition an India-rubber one.

Mr. HAVEN. That is an additional objection. It would be like declaring that you should put six quarts into a gallon measure. [Laughter.]

Mr. BROWN. No. I only propose to put two quarts in a gallon measure. My amendment limits the whole work to two volumes. The gentleman proposes to put one quart in the measure, that is, to limit the work to one volume. To this I make no objection. It would be better, perhaps, to extend the limit to two, but I make no point there. I wish only to remark that there will be

no stretching of the India-rubber, no excess in filling the measure, if we take my limit instead of the gentleman's.

Mr. HAVEN. It is a question as to the amount of work. I can only say, from the best information I and the rest of the committee can get, that this work, if printed according to the Maryland specimen copy, with its three headings of three inches each on every page, cannot be confined to three volumes.

Mr. McMULLIN. I am gratified at the discussion which has taken place this morning; but I think before the House adopts the amendment of the gentleman from Mississippi, [Mr. BROWN,] it ought to at least examine thoroughly the report and resolution of the committee. You, Mr. Speaker, as well as the members present, know that the subject of the public printing has been in constant agitation in Congress since the foundation of the Government. Now, sir, the gentleman from Mississippi, with his accustomed capacity and vigilance, has addressed letters to gentlemen to ascertain how this census printing could be executed, and he has informed the House that a publishing firm in Philadelphia has proposed to execute it for $47,000.

Mr. BROWN. Forty-nine thousand five hundred dollars. I got the statement from the Secretary's report.

Mr. McMULLIN. The House was also informed that the work could be done for less money by the public printer than the Philadelphia firm. I would then ask of the gentlemen from Pennsylvania, whether they would not be willing to pay to Robert Armstrong, the public printer, at least as much, if not more, than a Philadelphia firm, competing for a job of Government printing? All are aware of the fact, that when a contractor for the public printing under the contract system lost money, the Halls of Congress were besieged at all times with propositions to reimburse his losses. Look back to the past history of the country. You reimbursed Gales & Seaton when they were public printers. Look at the time and money expended on that occasion. Did not both parties, irrespective of party, reimburse Mr. Ritchie? But there were some few gentlemen who did not go for that proposition. The Halls of Congress were besieged upon that occasion, and we reimbursed Mr. Ritchie, as we ought to have done.

Let me tell the gentleman from Mississippi, [Mr. BROWN,] and others here, that let the printing of the census job to whomsoever you may, under a contract system, and you will lose money by it. After the work is done, you will be called upon to reimburse the loss. You will be called upon to reimburse Mr. Hamilton, and if he shall show to Congress that he absolutely sustained a loss, and faithfully discharged his duties, I will vote to reimburse him. I should like to know why my friend from Mississippi [Mr. BROWN] makes such a constant opposition to the former and present editors of the Union.

Mr. BROWN. If the gentleman will allow me, he could not have been in the House, for he has replied to a speech which I have not made. I hold no such intentions as those to which he has replied. He entirely misunderstood my speech if he listened to it, but I think he never heard it at all. [Laughter.] I made no attack upon the Union, or General Armstrong. I was for the Union, made a speech for it, and yet the gentleman is lecturing me as if I was refusing to support it. [Laughter.]

Mr. McMULLIN. It struck me forcibly that his object was to affect the interest of the editor of the Union. I know the gentleman was heretofore violently opposed to the Union.

Mr. CARTTER. Is this discussion in order? I believe we are in the House, and not in Committee of the Whole on the state of the Union.

Mr. McMULLIN. Will my friend state his point of order?

Mr. CARTTER. My point of order is, that there is no point in the gentleman's speech [laughter] affecting the subject before the House.

Mr. McMULLIN. That is a question of which I do not allow the member from Ohio [Mr. CARTTER] to be the judge. I desire that the public printing shall be done by the public printer, and under the supervision of the Superintendent of Public Printing, to whom you now pay a large salary. We are now about to try an experiment, whether we will have the public printing done upon better terms than it has been heretofore done, and for one I shall certainly be governed in my vote by the report of your committee. You have a Committee on Public Printing. That committee has investigated laboriously this subject, and for one I shall hesitate long before I give my vote for the amendment of the gentleman from Mississippi. I shall vote against his amendment, and for the report of the committee.

Mr. GORMAN. I think the House is ready to vote upon the subject.

Mr. STANLY. My friend from Indiana [Mr. GORMAN] has addressed the House upon the subject. I have not, and therefore I am entitled to the floor.

Mr. GORMAN. I wish to call the previous question.

Mr. STANLY. I rise to a point of order. It is, that my friend from Indiana [Mr. GORMAN] has already addressed the House upon the subject. I have not, and am entitled to the floor in preference to himself.

The SPEAKER. The Chair thinks the gentleman from North Carolina [Mr. STANLY] would be entitled to the floor, for the purpose of addressing the House, in preference to the gentleman from Indiana [Mr. GORMAN] for the same purpose. The Chair does not think that the gentleman's right avails against the right of the gentleman from Indiana [Mr. GORMAN] to call the previous question.

Mr. STEPHENS, of Georgia. In getting the floor the gentleman from North Carolina might want to make another motion. He might wish to make a motion in reference to this matter. Of course he is not entitled to the floor when another gentleman is occupying it for another purpose.

Mr. GORMAN. I do not want to press the demand for the previous question. If my friend wants to address the House in regard to this matter, I will withdraw it.

Mr. STANLY. I wish to say a very few words upon the subject before the House.

Mr. GORMAN. I will ask the gentleman to call the previous question when he is through.

Mr. STANLY. I cannot make that promise. It is a question which ought to be discussed.

Mr. GORMAN. I withdraw the demand for the previous question.

Mr. STANLY. I should yield the floor to the gentleman from Indiana, [Mr. GORMAN,] if he was disposed to discuss the matter, because I would rather hear him speak than speak myself, and because he is upon the committee who have had this subject under investigation. But I claim the floor to prevent debate being closed when we are discussing a subject of great importance to the whole country upon its merits. I do not acknowledge the logic of the gentleman from Virginia, [Mr. MCMULLIN,] who is going to vote for the Union, as he calls it, a large amount of money, because if he were not to do so, there would be a future application for the reimbursement of losses, which would be yielded to. I do not think it a proper mode for the regulation of our conduct as legislators. What I rose principally to say in regard to this matter was, that I have a statement in my hand concerning the public printing, to which I wish to call the attention of the House and the Committee on Printing. It is from Parrish, Dunning & Mears, of Philadelphia.

Mr. GORMAN. I proposed to read it to the House a while ago.

Mr. STANLY. I should like to know why it is that they can print for $14,700 what the public printer offers to do for $19,163; and for $27,700 what he offers to do at $32,564, and so on.

Mr. STANTON, of Kentucky. Will the gentleman from North Carolna yield to me for the purpose of an explanation?

Mr. STANLY. I will give way to the gentleman for that purpose.

Mr. STANTON, of Kentucky. I have struggled all the morning in a fruitless effort to obtain the floor, for the purpose of making an explanation in reference to the very statement which the gentleman now holds in his hand. My colleague of the committee, [Mr. GORMAN,] in referring to that statement, which I presented in my former remarks, used an expression in regard to it which I deemed somewhat personal, and requiring notice from me. I should have been, by the courtesy of the Speaker, as a member of the committee, allowed the floor to reply to that remark, and express my views on this subject. I did not, however, succeed in getting it, and I now owe to the kindness of my friend from North Carolina, [Mr. STANLY,] the privilege of saying what I ought to have been allowed to say before.

The SPEAKER, (Mr. STUART temporarily occupying the chair.) How could the Chair know what the intention of the gentleman was?

Mr. STANTON. The Chair saw me rise while the gentleman was speaking. He heard my remarks, and saw me present to the House an amendment which I intended to offer. The gentleman from Mississippi [Mr. BROWN] objected to the amendment as being out of order at that time. I remarked, loud enough for the Speaker and the whole House to hear me, that I did not desire to present the amendment *out of order*, but would avail myself of another opportunity to offer it before the debate closed. I rose repeatedly afterwards, but the Chair did not choose to recognize me.

And now, sir, I wish to say, in reply to the remarks of the gentleman from Indiana, that I have had no bid put into my hands to-day, or at any other time, that was not formally addressed to the committee. What I read from was a mere table showing the rates of each bid, and made simply for the convenience of exhibiting them in contrast. The bid of Parrish, Dunning, Mears & Co., instead of being put into my hands to-day, was addressed to the committee, and delivered to the chairman, [Mr. GORMAN.]

Mr. GORMAN. When?

Mr. STANTON. Yesterday morning.

Mr. GORMAN. Was it not after we reported to the House?

Mr. STANTON. It is true that the report——

Mr. MEADE. I rise to a question of order. Is it competent for the gentleman to address the House simply upon leave granted for explanation by the gentleman from North Carolina? [Mr. STANLY.]

Mr. STANLY. How can he explain unless he addresses the House? [Laughter.]

Mr. MEADE. The gentleman from North Carolina understood my meaning. I understand the gentleman from Kentucky [Mr. STANTON] is about to offer a proposition independent of the one upon which the gentleman from North Carolina [Mr. STANLY] rose to speak. The gentleman from Kentucky asked the floor from the gentleman from North Carolina for an explanation, and it was granted. Can it be granted for any other purpose?

The SPEAKER. The Chair does not understand that the gentleman from Kentucky proposes anything of the kind. He asks the floor for an explanation.

Mr. STANTON. I was about to say at the moment I was interrupted, that it is true the report and resolution had been presented to the House before the proposition of Parrish, Dunning, Mears & Co., was communicated to the committee. Neither, however, had then been printed. The proposition was placed in the hands of the chairman early yesterday morning, and immediately after the meeting of the House.

Mr. GORMAN. That bid of Parrish & Co. I have read to the House. It was handed to me by the gentleman from Kentucky, [Mr. STANTON,] about two o'clock, and after the report was printed and laid upon your tables. The report was printed and here at nine o'clock.

Mr. STANTON. My friend is very much mistaken as to the time when he received the proposition. It was handed to him at the very earliest moment I could see him after he reached the House. The printed report was not laid upon our tables until two hours afterwards, and the gentlemen who made the proposition had never seen it, so far as I know, or understood its contents.

The only object I have had in view has been to place the House in possession of such information as the committee had, in order that a saving might, if possible, be effected in the price to be paid for this work. Gentlemen will remember that the firm of Parrish & Co. is altogether a different one from that of Lippincott, Grambo & Co., whose bid has been commented upon by the honorable gentleman from Mississippi, [Mr. BROWN,] as so much higher than the prices fixed by the public printer. Parrish & Co. propose to execute the work at prices greatly below those of Lippincott, Grambo & Co., and below those of the public

printer. They are said to be experienced and responsible men, who know their business and the profits they will realize, and are capable of fulfilling faithfully any obligation they may assume. But, before I proceed further, I will read the amendment to which I have referred, and which I designed to offer if I can have an opportunity.

Mr. MEADE. Are the gentleman's remarks in order?

The SPEAKER. The Chair thinks they are in order. The gentleman in his explanation can say what he intends to do by and by.

Mr. MEADE. It is a strange explanation.

The SPEAKER. The gentleman from Kentucky did say that he had such a proposition to offer, and he proposed at the proper time to offer it.

Mr. STANLY. What trouble can there be about it? I yielded the floor to one who knows more about it than I do. What is the difficulty?

The SPEAKER. The Chair sees no difficulty in the explanation at all.

Mr. STANTON. I hope I shall now be allowed to proceed. Let me remind gentlemen that the resolution of the House referring the subject of printing the census returns to the committee, required us to ascertain what the cost would be if the work should be done by the public printer, and whether it could be done cheaper elsewhere. The object was to effect a saving. The work is one of magnitude, in which economy might well form an important consideration. These gentlemen of the firm of Parrish & Co., saw the resolution, learned the nature of the inquiry to be made by the committee, came to this city, and at the earliest moment presented their proposition. I know nothing of them personally. They are said to be responsible men by those who do know them, and have presented to the House through the committee a fair bid, which is now in the hands of the chairman, [Mr. GORMAN.] The table which I read to the House in the early part of the day, shows in contrast the three bids, those of Lippincott & Co., the public printer, and Parrish & Co. It is proper here to remark, that I understand the bid of Lippincott & Co. to include the binding, which is excluded in the other bids, and will cost not less than fifty cents per volume. This will reduce the cost, according to their prices, below that of the public printer, but not so low as that of Parrish & Co.

The offer of Parrish & Co. is thirty-one per cent. below that of Lippincott & Co., as it now stands, and twenty-seven per cent. below the prices of the public printer. If we adopt the prices of Parrish & Co. as those we are willing to pay for this work, a saving will be effected upon ten thousand copies of the statistics in one volume, of $4,463. If we determine to publish ten thousand copies of the historical and statistical matter in two volumes, we shall save $7,276. If we increase the number to twenty thousand copies, the saving will be $8,879. This is the result as shown by a comparison of the prices of Parrish & Co. and those fixed in the joint resolution for the public printer. I do not wish to pay more for the work than a reasonable sum, and I do not wish to deprive the public printer of the right to do it. He can execute it in good style and promptly, and the amendment which I shall now read, and which I intend to offer, proposes to give him five per cent. more than the prices of Parrish & Co. It reads thus:

"Strike out after the words 'cost of,' and insert the following: Composition, press-work, and paper, shall not exceed more than five per cent. the prices mentioned in the proposition of Parrish, Dunning, Mears & Co., submitted to the Committee on Printing; and in the event the public printer shall not be willing to execute said work for said prices and five per cent. added thereto, then said Parrish, Dunning, Mears & Co. shall be authorized to execute the same, upon the terms of their bid, upon giving bond, with good security, for the prompt and faithful completion of said work, and its delivery without cost to the Government, to the Superintendent of Public Printing in this city."

It will be seen that I do not propose to take the work from the public printer, but to require him to do it for five per cent. more than these gentlemen ask. This, in view of the character of the work, which, in the technical language of printers, is all "*fat matter*," is, in my judgment, a liberal price, and ought to satisfy gentlemen on all sides.

Before I resume my seat, I will, with the further indulgence of the honorable gentleman from North Carolina, [Mr. STANLY,] whose time I am consuming, refer to a serious objection to the amendment of the gentleman from Mississippi, [Mr. BROWN,] which has not been alluded to in this debate. If I understand the amendment, it simply provides that the work shall be done by the public printer, for the prices established by the law regulating the subject of printing. Now, gentlemen will see the uncertainty in which the cost of the work will be involved when I refer them to the fact that the prices fixed by that law do not apply to some portion of that description of work to be done in publishing the census returns. If the prices established by that act applied to such printing as we are now about to order, there would have been no necessity for the committee to name in the resolution the prices to be paid. By referring to the resolution, it will be seen that the committee names the prices to be paid for composition, and leaves blank the price of the press-work. Why is this, if the prices fixed by law for this kind of printing are certain—so certain that they may be merely referred to, as proposed by the amendment of the gentleman from Mississippi? [Mr. BROWN.] The truth is, they are not certain; but I am not sure that I can clearly explain the matter. The prices for press-work provided in the existing law refer to a particular sized page—*royal octavo*. The page to be adopted for the census returns is, I believe, *royal quarto*. One is more than twice as large as the other. I suppose, although a form of one sized pages would be as large as a form of the other, it would require more care and a slower process to do the press-work neatly of a form with quarto pages than with octavo, and hence the price should be higher. The usual Congressional printing is done upon royal octavo pages, and the prices paid by law were predicated upon work of that description. When that law was passed, the census printing was expressly excluded from its provisions, and authority reserved to Congress to have it executed as it might please thereafter.

Now, if you adopt the amendment of the gentleman from Mississippi, [Mr. BROWN,] and order the work to be done at prices fixed by the law, you leave the whole matter as regards the press-work at the discretion of the Superintendent. The law furnishes no guide for him, because it does not fix certainly the price. He can only approximate the prices established by law, by allowing, in the accounts of the public printer, prices analogous to those fixed for the press-work of other sized pages. What latitude does this allow for trouble between the printer and the Superintendent? They may differ as to what should be allowed under so uncertain a provision of the law, and this House may be required at a future day to interpose and settle the matter by extra allowances or relief. The resolution of the committee is infinitely preferable as it now stands, because it proposes to fix the prices with certainty, and to leave no room in the future for cavil or dispute. The price of the press-work may be controlled, too, to some extent, by the number of copies ordered to be published. It will, perhaps, be less if a large number is ordered, than it would be if a smaller one only is required. It is for this reason that the blank in the resolution is left, to be filled by the Senate when that body shall have determined the number of copies it will order for the use of its members. Whether the amendment I design to offer shall be adopted or not, I shall, for the reasons I have stated, vote against the amendment now pending.

Mr. STANLY. I should be glad if the gentleman from Kentucky would allow me to offer his amendment, as I have the floor.

Mr. STANTON. Certainly; I will do so.

Mr. STANLY. I suppose it is in order to offer an amendment, to perfect the part which the gentleman from Mississippi proposes to strike out, before the question is taken on his amendment. I will therefore offer the amendment which the gentleman from Kentucky has read—he will still have the credit of it—and I hope it will be adopted by the House. I ask that it may be read.

The Clerk read the amendment, which will be found above, in Mr. STANTON's remarks.

Mr. ORR. I rise to a question of order. I understand that there is an amendment already pending, to strike out and insert. The amendment now offered by the gentleman from North Carolina is also a proposition to strike out and insert. Can two amendments of that description be pending at a time?

The SPEAKER *pro tem.* The Chair will remark to the gentleman from South Carolina, that the same difficulty presented itself to his mind, but it will be seen, upon examination, that the amendment of the gentleman from North Carolina [Mr. STANLY] proposes to strike out a portion only of what the gentleman from Mississippi [Mr. BROWN] proposes to strike out, and therefore, the amendment of the gentleman from North Carolina is in order, as perfecting the resolution as it stands, before the question is put on the motion of the gentleman from Mississippi.

Mr. ORR. But does not the amendment of the gentleman from North Carolina contemplate striking out the very same words as are proposed to be stricken out by the gentleman from Mississippi?

The SPEAKER *pro tem.* Not all of them.

Mr. ORR. Well, a portion of them?

The SPEAKER *pro tem.* Only a portion of them, and therefore it is in order.

Mr. STANLY. The House will observe that the paper which I referred to, when I commenced my remarks, corresponds with the paper which the gentleman from Kentucky has presented from the Committee on Printing, and I am, therefore, confirmed in what I said relative to the state of facts. By adopting this amendment, and giving the contract to Parrish, Dunning & Mears, we shall save, if we print ten thousand copies of the statistics only, $4,463; if we print ten thousand copies of the statistics and historical matter in two volumes, we shall save $7,276; and if we print twenty thousand copies, we shall save $8,879.

Mr. STANTON, of Tennessee. I understood the chairman of the Committee on Printing to say that the bid of Parrish & Co. did not include the cost of carriage from Philadelphia here, and that that item would increase the amount very considerably.

Mr. STANLY. I understand that these gentlemen—Parrish & Co.—will deliver the work here without its costing the Government anything for carriage. They have a letter here which states that fact. The gentleman from Indiana is therefore mistaken.

Mr. GORMAN. The proposition made to me expressly excluded transportation. I do not know what letters gentlemen may have, but the proposition made to me officially, yesterday, after the report was made, did exclude transportation.

Mr. STANTON, of Kentucky. If the gentleman refers to the original bid, he will see that he is mistaken.

Mr. STEPHENS, of Georgia. The greatest objection I have to this proposition of Parrish, Dunning & Mears, is this: It is true that they say they will do this work at a saving to the Government of over $4,000 on the first ten thousand copies, one volume, but there is no guarantee how many volumes they will print. There is the point. You have the work done here by the public printer; it will be done under the supervision of the Superintendent of the Public Printing, according to his calculations, and he will be responsible for it. These men from Philadelphia say they will print a volume for so much less than the public printer will do it for. But how many volumes will they print? Will they compress the work, as the Superintendent shows us it can be done?

Mr. STANLY. I suppose the work will be done under his eye.

Mr. STEPHENS. We cannot have the Superintendent running backward and forward between here and Philadelphia, at a cost to the Government (as it must be) greater than the supposititive saving. These men may print half as much on a page as the Superintendent would make the public printer do. There is the difficulty. Their proposition is entirely too indefinite.

Mr. STANLY. This much is very obvious: that the Committee on Printing disagree about these propositions and the effect of them. Now, is this House to throw away $8,000 if the work can be as well done for less? Is it not proper that we should have a little more investigation into the matter, since the Committee on Printing do not agree? If this proposition does not suit the House, is it not our duty to ourselves and to those whom we represent, to refer it back to the committee that they may make it more correct?

Mr. STEPHENS. I think we have had this subject up long enough. We may spend more money in the time devoted to this question than $8,000. One day here must cost nearly $8,000.

I think we have approximated as near to a correct decision as we shall do if we devote another day to it.

Mr. STANLY. Well, I hope if the House do not refer this matter back to the Committee on Printing, they will decide in favor of the proposition of the gentleman from Kentucky—a member of the committee.

Mr. ORR. I rise more for the purpose of seeking information than for the purpose of communicating it. The House will remember that some three or four days ago the Committee on Printing submitted a report and a joint resolution, which resolution we are now considering. I desire to inquire of the gentleman from Indiana—the chairman of the committee—whether the Committee on Printing were unanimous, or how they were divided, in reporting that resolution?

Mr. GORMAN. So far as the Committee on Printing, on the part of the House of Representatives, were concerned, they were unanimous.

Mr. ORR. In favor of reporting the joint resolution?

Mr. GORMAN. Yes, sir, in reporting that resolution.

Mr. ORR. For the purpose of giving the House the necessary time to examine this subject, the consideration of the report was postponed until to-day, and the joint resolution and report were ordered to be printed. They have been printed. Now, it seems, an amendment is started suddenly on the House by parties who came in after the original bids were printed; and they ask to be allowed the printing of this work on such and such conditions. Their proposition has not been printed at all, and we do not know what they propose.

Now, the same difficulty suggested itself to my mind that suggested itself to the gentleman from Mississippi [Mr. BROWN] with regard to this joint resolution, and I called on the chairman to give us a solution of it. It is this: Why was it necessary to fix the prices in this joint resolution, if it was proposed to pay the public printer only the contract prices? The gentleman from Indiana [Mr. GORMAN] took it upon himself to go to the Superintendent of the Public Printing, an officer whom you have created, appointed by a Whig President, and a Whig himself, and submits these questions to him. The Superintendent writes a letter answering these inquiries, and the gentleman from Indiana has read that letter to the House, showing the reasons why it was necessary to fix the prices which are contained in this bill; and what are they? Why, simply this: Under the contract for the public printing, there were no prices fixed for printing quarto books. They were all for octavo work; and it was necessary, therefore, that the prices should be specified, in order to make it appear that the committee were not paying too much for the work executed in this quarto form.

Mr. BROWN, of Mississippi. If my friend from South Carolina will permit me to interrupt him, does he call this specimen copy a quarto volume?

Mr. ORR. Yes, sir.

Mr. BROWN. Then the Superintendent of the Public Printing is mistaken somewhere, because he reports in the letter which I have read, that according to the contract with Armstrong, a quarto volume of that size could be printed for so much money; but how he could arrive at that conclusion consistent with the statement the gentleman from South Carolina has just made, I cannot undertake to say.

Mr. ORR. I will read the letter, and I ask the attention of the gentleman and the House to it. I can easily understand how the misunderstanding between the gentleman from Mississippi [Mr. BROWN] and the Superintendent of Public Printing could arise. The Superintendent, in making his calculation of the prices as fixed by existing law for executing the public printing, has carried out the spirit of the contract fixed by that law. In the calculation of his table of prices for quarto work, he has made them twice what the joint resolution makes them for octavo work—that is, he has assimilated two pages of octavo to one of quarto—and that is a fair computation. That is carrying out the spirit of the law, though it says nothing, in terms, of quarto printing. The Superintendent, in reply to an inquiry addressed to him by the gentleman from Indiana, [Mr. GORMAN,] says:

"In reply to your note of this morning making the inquiry whether there is anything in the prices fixed by law for the public printing which would form a correct basis for printing the census in a quarto form, I have to state, that so far as the composition is concerned, the prices are those fixed by the present law. The price of press-work is arrived at by making eight quarto pages equal to sixteen octavo pages, which is, so far as the *cost* of printing the census is concerned, the true basis under that law; and in answer to the further inquiry, whether the bill now before the House corresponds with those prices, I have to state that they do, as explained above."

That was a sufficient and satisfactory explanation to my mind; and I have no doubt if the gentleman from Mississippi understands the explanation as I now do, it will be satisfactory to him. All I want in passing this bill is, to have the prices not extravagant, but to conform them as near as possible to the present contract prices which you have stipulated to pay your public printer. The Superintendent having reported *officially* to the House that the prices fixed in this joint resolution are in conformity with the existing law, I am willing to receive it as an indisputable fact; and if it should hereafter turn out to be untrue, the responsibility will be on the Superintendent of Printing. He is certainly more competent to determine the prices upon calculation than any member of the House; and if he misleads the House—and I have no idea that he would attempt any such thing—then the responsibility is placed on his shoulders, where it should be.

As to the amendments that have been offered to this bill, I do not think they ought to be adopted. The Committee on Printing have investigated the subject, and have received propositions from various sources, and those propositions indicate that your public printer, an officer of the Government, who has discharged the functions of his office with fidelity, and in a more satisfactory manner than the same duties have been performed for years past, is ready and willing to do the work. That committee has submitted their report to this House, and it has been ascertained that the prices proposed to be given the public printer are lower than any other, or at least as low as they should be to insure a faithful execution of the work to be printed. But now another firm come here and say they will save the Government $4,000 or $5,000.

A MEMBER. Yes, and after securing the job by low bidding, come to Congress hereafter for remuneration.

Mr. ORR. Certainly. If you give them the printing, and then let them go on and execute it at the prices they propose, and lose ten, twenty, or thirty thousand dollars, what would be the result? Why, you will find them knocking at the doors of Congress and elbowing members for the purpose of inducing them to give remuneration for the losses sustained.

Mr. STANLY. Will my friend allow me to ask him a question?

Mr. ORR. Certainly.

Mr. STANLY. I desire to know if the gentleman who executes this printing, at the prices named in the resolution of the committee, should lose ten, twenty, or thirty thousand dollars by the operation, whether he will not be elbowing the members and knocking at the doors of Congress for remuneration?

Mr. ORR. I do not know. I cannot answer that question; but if he does, my friend from North Carolina understands my connection with applications of that sort well enough to know that I would not vote for any such remuneration.

Mr. STANLY. I spoke of the parties themselves, and not of the gentleman from South Carolina. They will both want as much more money as they can get, of course.

Mr. ORR. It is proper that I should avail myself of this occasion also, in connection with the remarks of the gentleman from Indiana [Mr. GORMAN] as to the construction which has been placed upon the act passed at the close of the last session of Congress, by the Superintendent of the Public Printing,—I allude to that section which provides that where the number of copies of any document shall exceed twenty thousand, there shall be a reduction of forty per cent,—it will be remembered by the House, that when that law was under discussion in the House during the last session, the original bill provided a reduction of twenty per cent. where the number of copies should exceed twenty thousand; an amendment was offered by myself, providing that the reduction in that case should be forty per cent. Now it was my understanding, as I am sure it was of three fourths, indeed I might say every member of the House, that this reduction of forty per cent. should not commence until the first twenty thousand copies were printed, but that upon all the copies over that number, a reduction of forty per cent. should be made.

Several MEMBERS. That is right.

Mr. GORMAN. Will the gentleman from South Carolina state to the House what is the construction put upon this provision by the Superintendent of the Public Printing? I know what is the construction the gentleman puts upon it himself, and, in my opinion, it is the only one which can legitimately be put upon the law.

Mr. ORR. I understand the Superintendent puts this construction upon the law, and it is a very inconsistent, if not absurd construction: When Congress orders, for example, thirty thousand copies of any document to be printed, he commences with copy number one, and makes a deduction of forty per cent. upon the whole number; whereas, according to the law, or at least according to the intention of those who framed that law and introduced that amendment, the printer should be paid the full prices, according to the scale under the law, for the first twenty thousand, and that a reduction of forty per cent. should take place for all beyond that number.

Mr. FLORENCE. I desire to occupy the time of the House for but a single moment, and merely for explanation. The gentleman from Indiana, [Mr. GORMAN,] in the course of his remarks, referred to the prices paid to apprentices in the printing offices in Philadelphia. Now, sir, I do not desire to speak at all upon the merits of the bill before the House, because it would be detaining the House unprofitably and unnecessarily, for I take it for granted that every member has his mind made up, and can vote intelligibly upon it; but I desire to correct an error in the statement made by that gentleman, in point of fact, so far as the custom in relation to the pay of apprentices is concerned. The apprentice system, or what used to be called the two-thirds system, does not now prevail to any extent. Such was the custom, but it has been almost entirely abandoned.

Mr. HARRIS, of Tennessee. I rise to a question of order. I want to know what that subject has to do with the bill before the House?

Mr. FLORENCE. I wish merely to explain this statement.

Mr. HARRIS. I call the gentleman to order.

The SPEAKER *pro tempore*. The Chair hardly thinks the gentleman is in order.

Mr. ORR. One word more as to the construction given by the Superintendent of the Public Printing to the clause of the act which we passed the last session, deducting forty per cent. upon all over twenty thousand copies of any document, when more than that number are ordered. Now, suppose you order twenty thousand copies of a document the cost of which shall be $10,000; if you were to order thirty thousand copies of the same work, the printer would receive but $8,000 for them. That is precisely the construction put upon this act. The printer actually receives less for thirty thousand copies than he does for twenty thousand. This matter of construction, if it was not the intention of Congress to ruin the public printer, must be remedied, and the Superintendent should construe it according to the intention of its framers as now stated. In accordance with what I believe is the wish of the House, I now move the previous question.

[Cries of "That's right!"]

The previous question was seconded, and the main question was ordered to be put.

The question now being upon the adoption of Mr. STANLY's amendment—

Mr. STANLY demanded the yeas and nays; but a sufficient number did not second the call.

Mr. STANLY demanded tellers upon the yeas and nays; which were not ordered; and the yeas and nays were not ordered.

The question was then taken, and the amendment was not agreed to.

The question then recurred upon the adoption of Mr. BROWN's amendment.

A MEMBER. Is there not a blank in the original resolution yet to fill?

Mr. GORMAN. It is necessary to know how many the Senate are going to print before that blank can be filled.

The question was then taken, and Mr. BROWN's amendment was disagreed to.

The resolution was then ordered to be engrossed and read a third time, and having been engrossed, it was read a third time.

Mr. ORR. I demand the previous question upon the passage of the bill.

The previous question was seconded and the main question ordered to be put.

Mr. BROWN, of Mississippi. I demand the yeas and nays upon the passage of the resolution, and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. DAVIS of Indiana, and EASTMAN were appointed.

The House was then divided, and the tellers reported 32 in the affirmative—deemed to be a sufficient number.

So the yeas and nays were ordered.

The question was then taken on the passage of the resolution, and it was decided in the affirmative—yeas 117, nays 34; as follows:

YEAS—Messrs. Charles Allen, Willis Allen, John Appleton, Bartlett, Beale, Bragg, Brenton, Briggs, Busby, Joseph Cable, Caldwell, Thompson Campbell, Cartter, Chastain, Churchwell, Clark, Clemens, Cobb, Darby, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Doty, Duncan, Eastman, Edgerton, Faulkner, Ficklin, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Gilmore, Goodenow, Gorman, Grow, Hall, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Holladay, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Ingersoll, Ives, Jackson, Jenkins, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Letcher, Mace, Mann, McCorkle, McDonald, McLanahan, McMullin, Meacham, Meade, Miller, Millson, Molony, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Murray, Nabers, Orr, Samuel W. Parker, Peaslee, Penn, Perkins, Phelps, Polk, Porter, Powell, Preston, Price, Riddle, Robinson, Ross, Russell, Sabine, Schermerhorn, Schoonmaker, Scurry, Origen S. Seymour, Skelton, Smart, Smith, Snow, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, St. Martin, Stratton, Stuart, Sutherland, Sweetser, Thurston, Venable, Watkins, Wilcox, and Wildrick—117.

NAYS—Messrs. Abercrombie, Allison, Averett, David J. Bailey, Bell, Bennett, Bowne, Brooks, Albert G. Brown, Clingman, Colcock, Conger, Dockery, Evans, Ewing, Floyd, Harper, Landry, Mason, McQueen, Newton, Outlaw, Penniman, Sackett, Schoolcraft, Stanly, Benjamin Stanton, Taylor, Toombs, Wallace, Washburn, Welch, Woodward, and Yates.—34.

So the resolution was passed.

Mr. GORMAN. I move to reconsider the vote just taken, and also to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. ORR. There was a House bill sent down from the Senate this morning, with an amendment in reference to the Territory of Oregon. I ask that it may be referred to the Committee of the Whole on the state of the Union, and printed, so that it can be taken up on Tuesday and Wednesday, which are set aside for the consideration of territorial business.

Mr. COBB. I object.

Mr. STEPHENS, of Georgia. A very important bill in relation to warehouses has come down from the Senate this morning. It ought to be referred to the Committee on Commerce, and I hope there will be no objection to its being taken up and so referred.

Mr. STANLY. I object, because I am opposed to the bill as it now stands.

Mr. LETCHER. I move that the House do now adjourn.

The question was taken, and the House adjourned until Monday next, at twelve o'clock, m.

PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. St. MARTIN: The petition of Edward G. Fitch, praying Congress to buy, for the use of the Navy, his patent right for an apparatus for saving life and preventing persons from drowning.

By Mr. DARBY: The petition of M. S. Cowe, Peter D. Papin, and Catharine Papin, praying for an act to authorize them to locate land which has been confirmed to P. L. Cowe, and entered at the land office by others who now claim the same.

Also, the petition of Corwin Watson, of Missouri, for a national road.

By Mr. MOORE, of Louisiana: The petition of Isaiah Kirk and 62 other citizens along the route, praying for a post road from the mouth of Red river, in Louisiana, via Burr's Ferry, to Huntsville, Texas.

By Mr. STANTON, of Ohio: The petition of sundry citizens of Hardin county, Ohio, praying the establishment of a post route from Marysville, in Union county, Ohio, via Mt. Victory, Kenton, and Mt. Washington, in Hardin county; thence down Eagle creek, to Findlay, in Hancock county, Ohio.

By Mr. FULLER, of Maine: The memorial of sundry citizens of the city of New York, in aid of the petition of Alden & Eddy, for a donation of land by Congress, for building a telegraph line from the Atlantic to the Pacific ocean.

By Mr. ASHE: The memorial of B. A. Janvier, William R. Mathews, and others, clerks employed in the Treasury Department, praying Congress to pass a law granting to them the percentage so generously granted at the last session.

By Mr. HENDRICKS: The joint resolution of the State of Indiana, instructing the members of Congress from that State to favor the passage of a law to grant lands to actual settlers.

IN SENATE.

MONDAY, *February* 7, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Navy, in answer to a resolution of the Senate for information as to the quantity and kind of coal contracted for by that Department or its agents; which was referred to the Committee on Naval Affairs.

PETITIONS, ETC.

Mr. HAMLIN. Mr. President, I have been requested to present a memorial of John W. Smith, of the State of Maine, and other officers of the war of 1812, and the various wars of the United States in which they have been engaged, asking that bounty land may be granted to all who have survived those wars. I move that it be referred to the Committee on Public Lands.

It was so referred.

Mr. HAMLIN. Mr. President, I have also been requested to present the memorial of the owners of the schooner Union, of Sedgewick and Brooklyn, Maine, who represent that she completed within nine days the time of fishing which would have entitled her to a bounty, and that she was then seized by the British forces, unlawfully and unjustifiably condemned, and sold. They ask that the bounty provided by law be granted. I move that the memorial be referred to the Committee on Commerce.

It was so referred.

Mr. HAMLIN. I have also a memorial from the same parties, giving a detailed account of the seizure of the vessel Union, and the evidence upon which she was finally confiscated, showing that she was sold before she was legally condemned, and when she had not violated any of the provisions of the treaty stipulations between us and Great Britain. They ask that our Government may remunerate them. I move that the memorial be referred to the Committee on Foreign Relations.

It was so referred.

Mr. SHIELDS presented a petition of laborers lately employed on the addition to the Capitol, praying to be paid for the time lost by them in consequence of the suspension of the work for an examination under an order of the House of Representatives; which was referred to the Committee on Public Buildings.

Also, a petition of citizens of Washington, praying the removal of the Franklin engine house to a more suitable location, and the improvement of the public square upon which it now stands; which was referred to the Committee on the District of Columbia.

Mr. FISH presented a memorial of merchants and ship-owners of New York, praying that the same facilities which are given to steamers in unloading may be extended to sailing vessels; which was referred to the Committee on Commerce.

Mr. BADGER presented a resolution of the Legislature of North Carolina in favor of an appropriation for improving the channel at the mouth of Cape Fear river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. FELCH presented the petition of John M. Gilbert, praying that Delaware avenue, in Washington city, may not be opened through certain squares owned by him; which was referred to the Committee on the District of Columbia.

Mr. WELLER. I ask leave to present the memorial of Stanislaus Henrisz, in which he states that he was employed for many years as interpreter to the American legation in China, and thus had an opportunity of thoroughly studying the Chinese language. Now, that our proximity to that empire, with a population of three hundred millions, has brought us in contact with them, and thousands of their people are seeking bread on our shores, it has become a matter of necessity that our people and the Chinese should be able, readily and easily, to communicate with each other. He says that, in order to remove the difficulties which have heretofore existed, he has prepared a work of about two hundred and fifty pages in the English and Chinese languages, which, for all the ordinary purposes of life, will enable the people of both countries, in a very short time, to converse with each other. He says that the printing of the characters, with the explanations of their sound and meaning, will cause a very great expenditure, and one too large for one individual, relying entirely on his own limited means, to bear. As this work is eminently national, and destined to be of immense advantage to the people of California and Oregon, where there are now some fifty thousand Chinese, and as the whole commercial community of the United States will be benefited by the publication of the work, he prays Congress to authorize a subscription to a sufficient number of copies to cover the cost of its publication. I move that the memorial be referred to the Committee on the Library.

The motion was agreed to.

PAPER REFERRED.

On motion by Mr. BELL, it was

Ordered, That the report of the Secretary of War, made at the last session of Congress, on the claims of the civil officers appointed by the military governor of New Mexico, be referred to the Committee on Finance.

SEVENTH CENSUS.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed a joint resolution providing for the printing and binding of the returns of the Seventh Census.

Also, that it had passed the following bills from the Senate:

An act for the relief of the widow of the late John A. Lynch.

An act authorizing the Secretary of the Treasury to issue a register for the British bark Fanny, under the name of the Golden Mirror.

Also, that it had passed the bill from the Senate for the relief of the town of Belleview, in Iowa, with an amendment.

REPORTS FROM STANDING COMMITTEES.

Mr. HUNTER, from the Committee on Finance, reported additional amendments to the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853; which were ordered to be printed.

Mr. STOCKTON, from the Committee on Pensions, to which was referred the petition of Amos Knapp, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. SHIELDS, from the Committee on the District of Columbia, reported a bill to incorporate the Georgetown and Catoctin Railroad Company; which was read and passed to the second reading.

BILLS INTRODUCED.

Mr. HALE, by unanimous consent, asked and obtained leave to bring in a joint resolution explanatory of the act for the benefit of Amos Proctor, approved 17th June, 1844; which was read a first and second time by its title, and referred to the Committee on Commerce.

Mr. FOOT, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of Margaret Barnitz, the only surviving heir of Lieutenant Colonel David Grier, of the Army of the Revolution; which was read a first and second time by its title, and, with the papers on file, referred to the Committee on Pensions.

Mr. FISH, by unanimous consent, asked and obtained leave to introduce a bill to amend an act entitled "An act to regulate the collection of duties on imports and tonnage," approved March 2, 1799; which was read a first and second time by its title, and referred to the Committee on Commerce.

NOTICES OF BILLS.

Mr. GWIN gave notice of his intention to ask leave to introduce a bill for the establishment of several land offices in the State of California.

Mr. NORRIS gave notice of his intention to ask

leave to introduce a bill for the relief of the Buffalo Bayou, Brazos, and Colorado Railway Company.

STATE OF NICARAGUA.

Mr. DOUGLAS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate copies of any conventions which may have been entered into by Mr. Hise, on the part of the United States, with the State of Nicaragua, or either of the five States composing the late Republic of Central America, (and which have not been submitted to the Senate,) together with any correspondence with either of said States; and also all correspondence between Mr. Hise and the Department of State of the United States.

HARBOR OF SAN FRANCISCO.

Mr. GWIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate the shortest practicable time, and the annual and total appropriations required to place the harbor of San Francisco in a good condition for defense; and also the shortest practicable time, and the appropriation required to fabricate, transport, and place in secure depôts and magazines, the necessary armaments and munitions.

EXTENSION OF PRE-EMPTION RIGHTS.

Mr. FITZPATRICK. Mr. President, I dislike very much to interfere with the regular order of business, but I trust the Senate will indulge me this morning in taking up a bill to extend preëmption rights to unsurveyed lands, and for other purposes. It is short, and very simple in its provisions. I presented a petition the other morning from settlers on the great mail route from Mobile to Chicago, asking the passage of some such bill; and I think that, considering the peculiar manner in which the representation of my State in this body has stood during this session, the Senate should indulge me in taking up that bill at this time. It seems to me that it carries out the settled policy of the Government. It is a bill so simple in its character, that I think the mere reading of it will commend it to the favorable consideration of the Senate. There is a large number of very meritorious citizens residing on those lands. Some of them have been urging, by letters, the Senators from my State to attend to the matter, not knowing that those gentlemen were indisposed, and thereby prevented from attending in this Chamber. Those settlers are willing to pay the increased minimum which has been put upon those lands. The honorable gentleman from Louisiana [Mr. DOWNS] is the author of the bill; and it was reported from the Committee on Public Lands by my distinguished friend from Michigan, [Mr. FELCH.] I trust the Senate will indulge me in taking the bill up this morning. If it gives rise to any discussion, I pledge myself not to embarrass the Senate by proceeding with it.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to repeal that part of the act of September 4, 1841, which prevents the right of preëmption from attaching to lands not surveyed, or sections of land reserved to the United States, alternate to other sections granted to any of the States for the construction of canals, railroads, or other public improvements; and to grant the right of preëmption to persons who, at the passage of this bill, may be the actual settlers on either of those classes of land, and who made the first settlement thereon; and to the first settler who may hereafter settle on any such tract, as if the disabilities removed by this bill had never existed: provided that the settler on unsurveyed lands shall give the notice provided by law to the register of the proper land office, within three months after the filing of the plat of the survey in the register's office; and the settler on any of the alternate sections referred to shall file a similar notice within three months from the passage of this bill, and shall make payment for those alternate sections at the increased minimum. And it provides further that any settler who has settled, or may hereafter settle on reserved lands, shall be entitled to the right of preëmption granted by this bill, and by the act of 1841, after the land shall have been released from reservation, in the same manner as if no reservation had existed at the time of settlement.

The Committee on Public Lands reported the bill with an amendment, which was to strike out the clause:

"*And provided further*, That any settler who has settled, or may hereafter settle, on reserved lands, shall be entitled to all the rights of preëmption granted by this act, and the said act of September 4, 1841, after the lands shall have been released from reservation, in the same manner as if no reservation had at the time of settlement existed."

Mr. DOWNS. I hope that the amendment of the Committee on Public Lands will not be adopted. One great object which I had in view in drawing up the bill originally was to make the change in the law which that amendment proposes to strike out. My object was to remove a very great inconvenience which exists where reservations have been made, or where, on account of large grants being pending, or some other cause, the land has been under reservation for a length of time. Many settlers go on such lands without knowing the fact of there being a reservation; they make their settlements, and years afterwards, when the reservation is removed and the lands become public lands, the very persons who have settled there for perhaps twenty years, thinking all the time that they will be entitled to preëmption, are suddenly informed that their settlements amount to nothing, and that they may be removed without receiving any remuneration for their improvements. This has been the operation of the present law in my own State in some cases. There have been large bodies of land there covered by large grants which have been in dispute for many years; some of them have been lately decided in favor of the Government of the United States. Persons who settled on them many years ago, supposing themselves entitled to preëmption, when they came to the land office to perfect their right, found that their settlements amounted to nothing, because the lands had been under reservation on account of the title being in dispute. It was to guard against an evil of that kind that the bill was framed as it was, and that the provision which the committee proposes to strike out was inserted.

I hope the committee will not insist on the amendment; I can see no reason why it should be adopted. The provision which the committee propose to strike out does not interfere with any rights of any persons. It only removes a disability which now attaches to settlers and reserved lands. In one case, in the State of Louisiana, the right of preëmption was extended by express law; that was in the case of the Bastrop grant. The object of this proviso was to extend the same privilege to the settlers on the Maison Rouge grant, and a great many other grants in that State which have been kept under reservation, and settlers upon which are not now entitled to preëmption. I hope the committee will not insist on their amendment, but will allow the bill to remain as it was introduced.

Mr. BELL. I listened to the reading of the bill with all the attention that I could. I confess that I had not read or considered it before, and I will thank the honorable Senator from Louisiana if he will do me the favor to say whether it affects any conflicting rights to preëmption entries, in that large reservation upon the Ouachita in the State of Louisiana? If the bill does that, I shall take it as a favor if the Senate will permit it to lie over for a short time, that I may have an opportunity to look into it. I do not wish to interpose any objection to it now, and I only ask that it may lie over for the purpose I have named. I am not the particular representative of that section of the country. I undertook to take charge of some papers, which were handed to me by an acquaintance, relating to the personal rights of some contestants, with regard to the right of entry within that claim. I wish not to omit the duty undertaken on my part, by neglecting to look into this bill a little further, if the honorable Senator thinks it affects the claims I have referred to at all.

Mr. DOWNS. It does not affect them in the least.

Mr. BELL. I allude to the claim of Hyams, Chew, and others.

Mr. DOWNS. I understand that perfectly well. The bill has no bearing upon that controversy. That is a question which will not be affected in the least by this bill.

Mr. BELL. Very well; then I have no objection to the consideration of the bill now.

Mr. FELCH. This bill was introduced by the Senator from Louisiana, [Mr. DOWNS,] in the shape in which it is now printed. The committee have proposed to amend it by striking out the last proviso. The Senator from Louisiana objects to striking out that proviso, for the reasons he has given. After the bill came to the Committee on Public Lands, it was sent to the Land Office, and the amendment which is proposed is in accordance with the recommendation of that office. The bill provides for two classes of cases. The first is for extending the preëmption right to settlers on lands which have not been surveyed. It now extends only to those who settled on lands after they were surveyed. The difficulty which presents itself is simply this: A settler goes upon the public lands before they are surveyed, and, under the present law, he acquires no preëmption right. After the lands are surveyed, a second settler goes upon a portion of the same lands, where the first settler has made improvements, and obtains a right of preëmption, and in that manner deprives the first settler of the right to purchase the land The object of this bill is to remedy that difficulty, and to give the first settler the right of preëmption.

The second class of cases is that which relates to settlement upon alternate sections. We have legislated once or twice specially on that subject. It is designed to give the first settler the right of preëmption, by his simply paying the sum $2 50 per acre.

The third section of the bill provides that the preemption right shall attach to all reservations of the public domain, and that any man who goes upon a reservation may have the same right as he who goes upon and makes improvements on lands not reserved. The objection made at the Department is, that the reservations are made for numerous purposes—as for military purposes, for light-houses, and several other purposes. They are very often made in large tracts, until the particular point can be selected and surveyed for light-houses, forts, &c. Now what would be the effect of the bill? Any man may go and select the particular point in a reservation of that kind, which has been selected for an important purpose, and which the Government require for a light-house or a fort, and he would thus acquire the right of taking it out of the hands of the Government, by simply paying the sum of two dollars and a half per acre. The Senator from Louisiana is right in saying we have legislated in the case of the Bastrop grant, and in other cases, and I am ready to legislate again in such cases when the public interest will not be put in jeopardy by so doing, and when it would seem to be required by justice to the settlers. We thought it better, rather than to pass a general law, by which the public interests might be put in jeopardy, to leave these special cases for further consideration upon their own merits, whenever they present themselves. I will go—as I have always gone, in cases of claims on land ceded by a foreign Government, where it is afterwards proved to be the land of the Government, the private claim not being a good one—for giving the preëmption right according to the principles adopted by law. But I think, with the Department, and I hope the Senator, upon reflection, will not continue to urge his objection, we had better confine ourselves to the provisions of the bill, excluding the last clause; and that whenever these cases come up, we can legislate for them specially. We have cases in my own State, and there are cases elsewhere, where the public interest, in reservations of this kind, would be hazarded by the passage of a general law like this.

Mr. DOWNS. I am sorry that the Senator from Michigan will not consent to withdraw the amendment, for I consider that its adoption will defeat the great object of the bill. As far as special legislation in reference to these particular grants is concerned, I will state to the Senator that at the last session of Congress a bill with this provision precisely was presented to and passed the Senate; but it has not yet passed the House, and may not, so that it is very uncertain, if we make a special provision, whether it will be got through the two Houses of Congress. I am willing to modify the proviso in such a way as to provide for the particular class of cases to which the Senator refers; but unless some provision of the kind is made, one great object of the bill will be entirely lost. If, therefore, the gentleman will agree to modify the proviso in such a way as to apply to lands covered by those large grants in Louisiana, I will agree to it.

Mr. FITZPATRICK. I trust the gentleman will accept that amendment.

Mr. SHIELDS. I trust that will be agreed to, because it will apply to my State, to Missouri, to Arkansas, and some other States. I think that it ought to be extended to the old Spanish and French grants, where the lands have been determined to belong ultimately to the United States, and we should avoid the difficulty suggested by the Senator from Michigan.

Mr. FELCH. I have drawn up an amendment to meet the view of the Senator from Louisiana, which I will submit. It is to insert in the bill, after "settled," the words "on lands heretofore 'reserved or claimed under French and Spanish 'grants which have been or shall hereafter be de-'clared by the judicial authorities of the United 'States to be invalid." The amendment of the committee was to strike out the whole of the proviso. I propose to amend the proviso by inserting the words which I have read, and then we can vote down the proposition of the committee.

The amendment to the amendment was agreed to, and the amendment of the committee was rejected.

Mr. UNDERWOOD. I wish to move an amendment to the bill; and I desire to claim the attention of the Senate to a new feature in the bill, which I felt it my duty to oppose in committee, and which I feel it my duty to state to the Senate and oppose here. The first section of the bill states that—

"So much of the provision of the act approved the 4th September, 1841, entitled 'An act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights,' as prevents the right of preëmption from accruing to a person who shall have settled, or who shall settle, on land not surveyed"——

I yielded all objection to that in committee; but to the following I did object:

"Or on sections of land reserved to the United States, alternate to other sections granted to any of the States for the construction of any canal, railroad, or public improvement, be in the same way repealed."

I move to strike out the words:

"Or on sections of land reserved to the United States, alternate to other sections granted to any of the States for the construction of any canal, railroad, or other public improvement."

In regard to that amendment, I wish to make a very brief statement. The Senator from Illinois, [Mr. DOUGLAS,] the other day, in some eloquent remarks which he made to the Senate, told us, that by these reservations we actually got more money, when they were sold, than the $2 50 per acre. In that way he undertook to show, that instead of the United States being losers by granting lands to the States for internal improvements, and reserving the alternate sections, they were actually gainers. This bill now proposes to allow all these reserved sections to be opened to settlement and preëmption; and by that means you propose in all future time to close the door against selling these reserved lands, after you have granted the alternate sections to the States for the purpose of internal improvements. In this way you are introducing a new feature in your legislation, and you are allowing settlers upon these reserved sections by preëmption to take them up at $2 50 per acre, and preventing the accomplishment of the object which the Senator from Illinois the other day told us had actually been accomplished for the benefit of the United States, when they had brought more than $2 50 per acre at public sale. I want to know whether the Senate is willing thus to change the system of things which we have been acting upon for years, and by which there has been an inducement held out to the old States, in making these grants, that the reserved lands should sell for $2 50, or even more per acre. If this is passed, you prevent any public sale of reserved sections, so far as preëmption claims may attach to them by settlement upon them. I am unwilling to make the change, and I have thought proper to make this brief statement to the Senate as to the provision of the bill, to show the alteration about to take place, and to call the attention of the Senate to it; and then, if the Senate choose to adopt the bill as it is, I have nothing more to say.

Mr. FELCH. I hope the amendment will not be agreed to. The fact to which the Senator refers, stated by the Senator from Illinois, of the sales of those lands at an increased price, I suppose is true. It gives about seven cents an acre more by sale at public auction than it would give to allow preëmption rights upon the lands. In regard to the sales of the lands in these reserved public lands generally, there is a small percentage obtained by the auction system over and above $1 25 per acre—a percentage equal to between one and two cents an acre. Here we have seven cents an acre, or three and a half cents an acre for the same amount of money. I do think, if the Government in granting the land along a railroad or canal, by the paper which it gives to the actual settler for preëmption rights, stands in regard to the alternate sections upon a basis so nearly equal with what it does in selling to another purchaser, we ought to ask no more from the preëmptor. The settler has a hard time enough in any event to go on the public lands; and it is due to the States that we should afford encouragement to him to go on the public lands that they may be settled; and here in this case this little privilege ought to be granted to the man who makes a settlement on the alternate sections. I am sure, if my friend will look at the matter, he will see that there is nothing yielded here; the Government is fully indemnified not only for the land which it may sell, but for the land which it has parted with for the purpose of constructing a public work. I think the least liberality we can extend is to permit the settler to go on and take the benefit of it.

A SENATOR. It is justice.

Mr. FELCH. My friend is right. He says it is not liberality, it is justice. It is nothing more or less. I think it is due to the new States, and it is due to the settler; and I hope the time has not yet come, and I hope it will not come, when we shall look with indifference upon that class of men who will be benefited to this small extent by giving them the privilege of purchasing the lands which they may settle on and cultivate.

The amendment was not agreed to.

The bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third reading. It was read a third time and passed.

VERMONT COLLECTION DISTRICT.

On motion by Mr. HAMLIN, the Senate, as in Committee of the Whole, proceeded to consider the bill to create a collection district in the State of Vermont. It proposes to direct that the county of Essex, in that State, be made a collection district, by the name of the District of Essex, and that the town of Brighton be made a place of entry and delivery. It proposes further, that a collector of customs shall be appointed, who, in addition to his legal fees and emoluments, shall receive a salary of $500 per annum.

Mr. HAMLIN. That bill has been submitted to the Treasury Department, which recommends its passage. There is a railroad communication about being opened between Portland and Montreal. I see by the papers, that during the past week, cars have run to the line of Canada at the point named in the bill. Early in the coming season, the communication will be direct, and a very large portion of the importations now made at Montreal will undoubtedly pass over this route. There is, therefore, an absolute necessity for a revenue officer at the point designated in the bill. The bill has the unanimous approbation of the Committee on Commerce. I hope it will receive the sanction of the Senate.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read a third time and passed.

REMEDIES TO PATENTEES.

Mr. MILLER. I ask the indulgence of the Senate to take up for consideration the bill "giving further remedies to patentees." This bill has been before the Senate a long time. I do not desire to speak upon it. I only ask that it may be taken up and voted upon. I think it will not lead to any further debate.

The motion was agreed to, and the Senate resumed, as in Committee of the Whole, the consideration of the bill.

Mr. HUNTER. It strikes me that this is a bill which has heretofore given rise to considerable discussion. I believe the Senator from Rhode Island, [Mr. JAMES,] who is chairman of the Committee on Patents and the Patent Office, wishes to be heard in regard to it. I think, therefore, that it had better lie over for the present.

Mr. MILLER. I will state to the Senator from Virginia, that the Senator from Rhode Island was aware that it was to be called up to-day if the Senate should consent. It has been modified so as to obviate all the objections that I have heard to it. I hope the Senate will act upon it now.

The bill was then reported to the Senate as amended, the amendments formerly made as in Committee of the Whole were concurred in, and the question was stated to be, "Shall the bill be engrossed and read a third time?"

Mr. NORRIS. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CHASE. I wish to inquire of the honorable Senator from New Jersey, whether that clause in the bill which provides for the taking possession of the article imported, or manufactured, is not a new feature in the patent laws? That seems to me to be the only objection that I have to the bill; but I think that provision may lead to very serious and evil consequences if injunctions be allowed to arrest not only the business, but to take into the custody of the court all articles manufactured, which are the subject of the business itself. I should like to have an explanation upon that point. Were it not for that provision; I do not know that I should object to the bill.

Mr. MILLER. I think it is not a new feature in our patent laws. It applies to the production of a machine, which is itself in another country, and cannot be reached. If the machine were here in the country it could be seized and forfeited. The bill only extends the principle of the present patent laws to the production of a machine which is in a foreign country, and which cannot be seized under the present laws. I can see no objection to it.

The question being taken by yeas and nays on ordering the bill to be engrossed, resulted—yeas 23, nays 20; as follows:

YEAS—Messrs. Badger, Bell, Brodhead, Chase, Clarke, Foot, Hamlin, Houston, Jones of Tennessee, Mangum, Miller, Pearce, Phelps, Pratt, Seward, Smith, Spruance, Stockton, Sumner, Toucey, Underwood, Wade, and Walker—23.

NAYS—Messrs. Atchison, Cass, Charlton, Clemens, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fitzpatrick, Geyer, Gwin, Hunter, Jones of Iowa, Mallory, Norris, Rusk, Shields, and Weller—20.

So the bill was ordered to be engrossed for a third reading.

The PRESIDENT. The bill will have its third reading unless objected to.

Mr. NORRIS. I object.

Mr. MILLER. It had not its second reading to-day. I suppose, therefore, it does not require unanimous consent to read it a third time.

The PRESIDENT. It has not been engrossed.

PAYMENT OF FLORIDA MILITIA.

On motion by Mr. MALLORY, the Senate, as in Committee of the Whole, proceeded to consider House bill "to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida." It proposes to direct the Secretary of War to cause to be paid one half of the pay and allowances of mounted troops to the following militia forces of the Territory of Florida, for the period of their respective service, as specified, to wit: Captain Bush's company of mounted troops, from the twenty-fifth day of January, 1838, to the twenty-fifth day of January, 1839; Captain Price's company of mounted troops, from the twentieth day of January, 1838, to the twentieth day of July, 1839; Captain Suarez's company of mounted troops from the twentieth day of July, 1838, to the twentieth day of January, 1839; that the muster rolls according to which the payments shall be made shall be sworn to by the captain or senior surviving officer in Florida of each company, and approved by the Governor of that State; and that so much money as may be necessary for the purpose be appropriated.

Mr. MALLORY. The bill has come from the House at the present session, and has been favorably reported upon by the Committee on Military Affairs here, without amendment.

The bill was reported to the Senate without amendment, ordered to be read a third time, and was read a third time, and passed.

TEXAS DEBT.

Mr. PEARCE. I have been instructed by the Committee on Finance to report certain amendments to the bill in relation to the Texas debt, which I ask may be printed.

They were ordered to be printed.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. TUESDAY, FEBRUARY 8, 1853. NEW SERIES....No. 34.

COLONIZATION IN NORTH AMERICA.

The Senate then proceeded to consider the joint resolution declaratory of the views of the United States respecting colonization on the North American continent by European Powers, and respecting the Island of Cuba; when—

Mr. CLEMENS rose and addressed the Senate at great length against the generally received opinions regarding progress and manifest destiny, preferring that his country should pursue a course of peace, justice, and prosperity, to strife and bloodshed, when they might be avoided. He thought the Island of Cuba could not be made available to us, with its present mass of heterogenous population, unless it was made a solitude and repeopled from the United States.

Mr. CASS made a brief reply, and read extracts of a letter from a distinguished American, approving of the course which he, in conjunction with the chairman of the Committee on Foreign Relations, had pursued.

Mr. HALE spoke briefly, declaring that he had also received letters complimenting the course which he had pursued, which, the Senate would pardon him, he did not mean to read.

Mr. MALLORY made a few observations; when Mr. DOUGLAS obtained the floor, and moved that the further consideration of the subject be postponed until Monday next; which motion was agreed to, and Mr. DOUGLAS will be entitled to the floor on that day. [For the debate see Appendix.]

COLONIZATION IN CENTRAL AMERICA.

Mr. MASON. The President of the United States communicated to the Senate, on the 21st of January, all the correspondence between Mr. Lawrence and other of our foreign Ministers, and the Government of the United States, connected with the affairs of Central America, and the British possessions in that neighborhood. The correspondence was referred to the Committee on Foreign Relations, and ordered to be printed. Amongst them is one letter from Mr. Lawrence to Mr. Clayton, dated April 19, 1850—a letter of some eighty-five pages of manuscript, which comprises the whole history, and I think it is ably drawn up, with great labor and research—of the affairs of Great Britain in relation to Central America, and more especially in relation to the Mosquito Indians. It is a paper that does very great credit to the ability, industry, and research of that minister. The question to which it relates is one now of very great interest to the American people; and I propose that of that letter there be two thousand additional copies printed for circulation.

The motion was agreed to.

ORDER OF BUSINESS.

Mr. CLARKE. I move that the Senate proceed to the consideration of Executive business.

Mr. SHIELDS. If my honorable friend will give way, I wish to call up a bill, and have it passed at this time, as the Senate seems to be in such excellent humor. I refer to the bill from the House of Representatives, making a grant of land to the several States and Territories of the Union for the benefit of indigent insane persons, which is commonly known as Miss Dix's bill. I want to have a vote upon it.

Mr. ADAMS. I would inform the Senator that there is not time enough during the remainder of this session to get it through.

Mr. SHIELDS. I will promise not to say a word upon it.

Mr. ADAMS. I will promise to say a great many words.

Mr. SHIELDS. I hope no one will say a word upon it.

Mr. ADAMS. The Senator's hopes will not be gratified.

Mr. HUNTER. If the Senate does not go into Executive session, I hope it will take up the deficiency bill. It is time we should make some progress in it.

The PRESIDENT. Does the honorable Senator from Rhode Island withdraw the motion to proceed to the consideration of Executive business?

Mr. CLARKE. I withdraw it for the honorable Senator from Illinois.

Mr. RUSK. That bill will undoubtedly be debated, and I hope, therefore, it will not be taken up at this time in the day. After the discussions which I have heard, I begin to be convinced that the French have some intentions upon Sonora, and I want to get the Pacific railroad built, so that we can carry our troops over to whip them. The Pacific railroad bill is the order of the day, and I hope it will be taken up and disposed of, particularly as the honorable Senator from Tennessee [Mr. BELL] is in the middle of a speech upon it.

Mr. SHIELDS. All I want is, to get a vote upon the bill which I have moved to take up. It has been discussed here time and again, and I do not see that there is any necessity for any more discussion.

Mr. RUSK. I should be willing to vote upon the bill in a moment, but I am satisfied that we cannot get to a vote without a great deal of discussion. Besides, the honorable Senator from Tennessee is in the middle of a speech upon the other bill, and I think he ought to have an opportunity given him to-day to finish his remarks.

Mr. HUNTER. I hope we shall not take up another contested subject to the prejudice of the appropriation bills. I trust the honorable Senator from Illinois will not persist in calling up the bill.

Mr. CLARKE. There seems to be so much difficulty in getting up any subject that will satisfy gentlemen in all parts of the Chamber, that I think it better to proceed to the consideration of Executive business, and I make that motion.

The PRESIDENT. The motion of the Senator from Illinois is before the Senate, and must be disposed of.

The motion was not agreed to.

EXECUTIVE BUSINESS.

Mr. CLARKE. I now renew the motion that the Senate proceed to the consideration of Executive business.

Mr. FITZPATRICK. I will inform the honorable Senator from Rhode Island, that although I am not very tenacious as to time, this is not the day on which I expected an Executive session. I am, of course, not permitted to speak of what is to take place in Executive session; but the motion, coming from the side of the Chamber from which it does come, I suppose I cannot be at a loss to know the object. I would remark that perhaps some half a dozen gentlemen are not now in their seats whom I would desire to have present at an Executive session. I am conscious that there has been a long period intervening between the last day on which we transacted Executive business and this time. Perhaps the Senator was not as well fortified for an Executive session in the intervening time as he is now, because, as I say, there are now several gentlemen absent whose presence I would desire. The Senator from Louisiana, Mr. SOULE,] who takes a very deep interest in some Executive business, is not now in his seat.

Mr. CLARKE. He has paired off.

Mr. FITZPATRICK. I am not informed as to that.

Mr. CLARKE. I am.

Mr. FITZPATRICK. Whether he has paired off or not, I want his presence. He informed me that he desired to be present; and I hope the matter will be postponed until his return. The gentleman from Arkansas [Mr. BORLAND] is also absent, and I do not now see in his seat the gentleman from South Carolina, [Mr. BUTLER.]

Mr. JONES, of Tennessee. The gentleman from Arkansas has paired off.

Mr. FITZPATRICK. There are several Senators whom I do not see in their seats, whose presence I would desire when we have an Executive session. I am willing, at any reasonable time, to proceed to the consideration of Executive business; but to hurry us into it at this moment, it seems to me does not accord with propriety.

The PRESIDENT. The Chair would suggest to the Senator from Alabama that there are several Executive communications on the table which ought to be disposed of.

Mr. CLARKE. I was not aware that it would interfere with the convenience of the Senator from Alabama to proceed to the consideration of Executive business at this time; nor do I perceive that anything which he has said changes the state of the case. I can explain, if it is desired, with regard to every difficulty which he has raised. I hope the Senate will go in Executive session, and at least dispose of the communications upon the table.

Mr. FITZPATRICK. I call for the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. CLARKE. As the yeas and nays have been ordered, I beg leave to say a word in reply to the Senator from Alabama. He has referred to the absence of the Senator from Louisiana, [Mr. SOULE.] That gentleman has paired off with the honorable Senator from Massachusetts, [Mr. DAVIS.] The Senator from Arkansas [Mr. BORLAND] has paired off with the honorable Senator from Kentucky, [Mr. DIXON,] who has been obliged to leave the city on account of ill health. I have no doubt every gentleman who desires to be present is now in the Chamber.

Mr. DOWNS. I am very much surprised that a motion should be made to-day to proceed to the consideration of Executive business. The object of the motion, I presume, is very well understood by the Senate.

The PRESIDENT. The Chair would suggest to the Senator from Louisiana, that this question cannot, under the rules of the Senate, be discussed.

Mr. DOWNS. The honorable Senator from Rhode Island has been discussing it, and he referred to pairing off on questions connected with it; and I thought I might be permitted to state a very urgent reason why we should not go into Executive session to-day. I will not state the facts; but gentlemen may remember circumstances connected with myself in relation to the matter, which make it imperative on me to insist that the Senate shall not go into Executive business, without some little notice. I will not state the circumstances. They must be within the knowledge of every Senator. I hope, therefore, that the gentleman will not insist to-day on going into Executive session, for the purpose which, I presume, he has in view.

Mr. GWIN. I shall vote for an Executive session, because I know there are important communications on the President's table, which ought to be referred and acted upon. There is more than one subject which should engage our attention in Executive session. We ought to clear the President's table, and I shall for that object, and for that alone, vote for an Executive session.

The question being taken upon Mr. CLARKE's motion, by yeas and nays, resulted—yeas 38, nays 13; as follows:

YEAS—Messrs. Atchison, Bell, Bright, Brooke, Cass, Charlton, Chase, Clarke, Clemens, Cooper, Davis, Dawson, De Saussure, Dodge of Wisconsin, Fish, Foot, Geyer, Gwin, Hale, Hunter, Jones of Tennessee, Mallory, Mangum, Mason, Miller, Morton, Pearce, Phelps, Pratt, Rusk, Seward, Shields, Smith, Spruance, Stockton, Underwood, Wade, and Walker—38.

NAYS—Messrs. Bayard, Brodhead, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Houston, Jones of Iowa, Norris, Pettit, Toucey, and Weller—13.

So the motion was agreed to; and after some time spent in the consideration of Executive business, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 7, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Saturday was read and approved.

The SPEAKER. Resolutions are in order from the State of Pennsylvania.

Mr. CLARK. I trust I may be permitted by the House to call up a Senate bill for the purpose of putting it on its passage. It is a bill which I made several efforts at the last session to call up,

and which provides for the relinquishment of a little strip of land on the Mississippi river to the town of Belleview, in Iowa. I will say that the Government originally laid off this town and reserved this strip of land between the river from sale——

[Cries "Order!" "Order!" "Order!" and "I object!" all over the House.]

Mr. CLARK. It is proper that I should state——

Mr. STANLY. I object.

The SPEAKER. It is not in order to discuss any measure not before the House. The gentleman has been called to order by half a dozen members. The gentleman can only submit the motion by unanimous consent.

Mr. CLARK. I ask the unanimous consent of the House to take up the bill.

Mr. JOHN W. HOWE. I object.

Mr. CLARK. Then I move a suspension of the rules for that purpose.

Mr. GOODENOW. I wish to inquire of the Chair if resolutions are in order from the State of Maine?

The SPEAKER. Resolutions were called from the State of Pennsylvania, and not from Maine.

Mr. GOODENOW. I understood the Chair to call for resolutions from the State of Maine. I wish to know, if so, whether the State of Maine——

The SPEAKER. Members from the State of Pennsylvania, under the circumstances, would have been recognized by the Chair in preference to all others, if the Chair had seen any, because that was the business in order.

Mr. STANLY. A member from Pennsylvania rose and is entitled to the floor, if he claims it, I suppose.

The SPEAKER. The Chair did not see any member from that State upon the floor. The question is upon the suspension of the rules.

The question was then put, and on a division there were—93 in the affirmative, noes not counted.

The rules were accordingly suspended, and the bill was taken up and read a first and second time by its title, as follows:

"S. No. 316. An act for the relief of the town of Belleview, in Iowa."

The bill was then ordered to be read a third time, and it was subsequently read a third time, and passed.

Mr. CLARK. Would it be in order to ask that a clerical error in the bill may be corrected, and that the word "city" may be inserted in lieu of the word "town?"

The SPEAKER. The correction can be made by unanimous consent.

There being no objection, the correction was ordered to be made.

COASTING TRADE OF THE UNITED STATES.

Mr. TOOMBS. I ask the unanimous consent of the House to introduce a resolution, and ask that it may be referred to the Committee on Commerce. If it be objected to, I shall move a suspension of the rules.

The resolution was read, as follows:

Resolved, That the Committee on Commerce be instructed to inquire into the expediency of repealing the navigation laws of the United States, to the extent of throwing open the coasting trade to the free competition of all nations, and that said committee report by bill or otherwise.

Mr. STANLY. I object.

Mr. TOOMBS. I move a suspension of the rules.

Mr. CLINGMAN. I call for the yeas and nays upon the motion to suspend the rules.

The House was divided on the call for the yeas and nays, and there were—35 in the affirmative.

So the yeas and nays were ordered.

Mr. CLINGMAN. At the suggestion of the gentleman from Georgia, [Mr. TOOMBS,] I withdraw the call for the yeas and nays.

The SPEAKER. It is not competent for the gentleman from North Carolina to withdraw the call, except by unanimous consent, the yeas and nays having already been ordered.

Mr. STANLY. I object.

Mr. BROOKS. I wish to make an inquiry of the Chair, to ascertain if I understand the resolution. Does that resolution apply to the coasting trade of the Mississippi, Arkansas, and Ohio rivers, as well as to the coasting trade of the Atlantic?

Mr. TOOMBS. It applies to the whole coasting trade of the United States.

The question was then taken on the motion to suspend the rules; and it was decided in the negative—yeas 93, nays 73; as follows:

YEAS—Messrs. Willis Allen, Ashe, Averett, David J. Bailey, Beale, Bocock, Bragg, Breckinridge, Albert G. Brown, Busby, E. Carrington Cabell, J. Cable, Caldwell, Lewis D. Campbell, Thompson Campbell, Cartter, Caskie, Chastain, Churchwell, Clingman, Cobb, Colcock, Daniel, John G. Davis, Disney, Doty, Eastman, Edmundson, Ficklin, Floyd, Freeman, Gaylord, Gorman, Green, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hendricks, Henn, Hibbard, Hillyer, Holladay, Houston, Thomas Y. How, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, Letcher, Mace, Mason, McQueen, Meade, Millson, Murphy, Murray, Nabers, Orr, Outlaw, Samuel W. Parker, Peaslee, Penn, Phelps, Powell, Robie, Robinson, Ross, Scurry, Snow, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Stone, St. Martin, Stuart, Toombs, Townshend, Venable, Wallace, Watkins, Welch, Addison White, Wilcox, Wildrick, Williams, and Woodward—93.

NAYS—Messrs. Charles Allen, Allison, William Appleton, Bartlett, Bell, Bennett, Bibighaus, Bowne, Briggs, Brooks, Burrows, Chandler, Cottman, Cullom, Curtis, Darby, Dawson, Dimmick, Dockery, Duncan, Fay, Florence, Thomas J. D. Fuller, Gamble, Gentry, Giddings, Gilmore, Goodenow, Grey, Harper, Hascall, Haven, Horsford, John W. Howe, Thomas M. Howe, Ingersoll, J. Glancy Jones, George G. King, Preston King, Kurtz, Landry, Martin, McDonald, McLanahan, McMullin, McNair, Meacham, Miller, Miner, Henry D. Moore, John Moore, Morrison, Newton, Penniman, Perkins, Preston, Price, Riddle, Robbins, Sabine, Sackett, Schermerhorn, Origin S. Seymour, Skelton, Smart, Smith, Stanly, Stratton, Sweetser, Taylor, Thurston, Tuck, and Washburn—73.

So the rules were not suspended, two thirds not voting in the affirmative.

TERRITORIAL BUSINESS.

Mr. STUART. In fixing the days for the consideration of territorial business, Tuesday and Wednesday of this week were set aside for that purpose, without recollecting that Wednesday was to be appropriated for counting the votes for President and Vice President. I ask the House to substitute Thursday for Wednesday.

The SPEAKER. If there is no objection, such an order will be entered.

Mr. HOUSTON. I wish to inquire of the gentleman from Michigan whether it has not been usual in the House to transact ordinary business after the counting of the votes, and if so, we can consider territorial business on Wednesday.

Mr. STUART. I never saw the votes counted but once, and then that business consumed the whole day, and I presume it will again.

The SPEAKER. There is no question of that.

No objection was made, and Thursday was substituted for Wednesday.

EVENING SESSIONS.

Mr. CURTIS. I ask the unanimous consent of the House to offer the resolution which I send to the Clerk's table.

The resolution was then read, as follows:

Resolved, That the House will, from and after this day, hold an evening session, beginning at six and a half o'clock, for the purpose, and for no other purpose whatever, of receiving such reports as may be referred to the Committee of the Whole on the state of the Union, or to a Committee of the Whole House, and ordered to be printed, and that at such evening sessions no other business whatever shall be transacted.

Mr. FREEMAN. I suggest to the gentleman that he should place the time of meeting at seven o'clock.

Mr. HARRIS, of Tennessee. I send to the Clerk's table a resolution, which I have prepared to attain the same object, and I would ask the gentleman from Pennsylvania to accept it as a modification of his, or I will move to amend his resolution by offering mine as a substitute.

The resolution of Mr. HARRIS was as follows:

Resolved, That from and after to-day, this House will hold night sessions, to be devoted to the call of committees for reports, until all the committees have been once called: *Provided*, That no bill or resolution reported under this order shall be put upon its passage, unless by the unanimous consent of the House, a quorum being present: *And provided further*, That any bill or resolution reported and proposed to be put upon its passage, if objected to, may be withdrawn by the member reporting it.

Mr. CURTIS. I accept that as an amendment.

Mr. HARRIS. I understand the gentleman to accept my resolution as a modification, and I demand the previous question.

Mr. McMULLIN. I would inquire if the hour of meeting is fixed by that resolution.

Mr. HARRIS. The hour of meeting is fixed at seven o'clock.

The SPEAKER. There is no hour fixed in the esolution.

Mr. CURTIS. I move to modify it by inserting seven o'clock.

Mr. PHELPS. I understand that the resolution fixes the hour of meeting at seven o'clock, and then goes on to state what business shall be transacted.

The SPEAKER. The Chair in looking at the resolution, finds that the one offered by the gentleman from Pennsylvania is modified by the one offered by the gentleman from Tennessee, and fixes the hour of meeting at seven o'clock. The resolution as modified, and as it now stands, will be read.

It was then read, as follows:

Resolved, That from and after to-day, this House will hold night sessions, commencing at seven o'clock, to be devoted to the call of committees for reports, until all the committees have been once called: *Provided*, That no bill or resolution reported under this order shall be put upon its passage, unless by the unanimous consent of the House, a quorum being present: *And provided further*, That any bill or resolution reported and proposed to be put upon its passage, if objected to, may be withdrawn by the member reporting it.

Mr. JONES, of Tennessee. I wish to make an inquiry of the Chair.

The SPEAKER. The previous question has been demanded, and debate is not strictly in order.

Mr. JONES. I wish merely to remark that this resolution comes in under a call for resolutions from the State of Pennsylvania. Then, if it were a mere ordinary resolution, the majority of the House could adopt it; but it changes the order of business, and therefore, requires a vote of two thirds for its adoption.

The SPEAKER. There is no doubt of that.

Mr. JONES. For myself, if the gentleman from Pennsylvania will strike out that part which permits a bill to be passed by unanimous consent, I will vote for it; and unless that be done it will require us all to be here to see that no bills are improperly passed.

Mr. HARRIS. I desire to state to the gentleman from Tennessee, that the resolution provides that no bill shall be put upon its passage, unless by the unanimous consent of the House, a quorum being present at the time. I think the resolution is certainly sufficiently guarded.

Mr. STANLY. I hope that the resolution will pass. I opposed a similar resolution two or three weeks ago, but I am satisfied now that it will advance public business.

Mr. JONES, of Tennessee. If this resolution pass in its present form, it will require all members to be here who take an interest in public business.

Mr. HARRIS. I suggest to my colleague that unless a quorum be present no bill can be put upon its passage.

The SPEAKER. Discussion is not in order.

Mr. LETCHER. I move to lay the resolution upon the table.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken on Mr. ORR's motion, and it was decided in the negative.

Mr. STANTON, of Tennessee. Is it in order now to move to suspend the rules to introduce a resolution?

The SPEAKER. During the pendency of a motion to lay a resolution on the table, the Chair thinks that it would not be in order. That is a privileged question itself.

The question was taken on the motion to lay the resolution on the table, and it was decided in the negative; there being, on a division—ayes 49, noes not counted.

The previous question was then seconded, and the main question ordered to be put.

The SPEAKER. The question is on the adoption of the resolution.

Mr. SWEETSER. I demand the yeas and nays. Does it require a two-thirds vote?

[Many VOICES. "Yes!" "Yes!"]

The House was divided on the call for the yeas and nays, and there were—ayes 33, noes not counted.

So the yeas and nays were ordered.

Mr. ORR. Will it be in order to renew the motion to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. The previous question having been ordered, such a motion could not be in order.

The question was then taken on the adoption of the resolution, and it was decided in the affirmative—yeas 120, nays 55: as follows:

YEAS—Messrs. Abercrombie, Willis Allen, Allison, William Appleton, Ashe, Bartlett, Beale, Bell, Bennett, Bibighaus, Bowne, Briggs, Caldwell, Lewis D. Campbell, Caskie, Churchwell, Clark, Clemens, Cobb, Cottman, Cullom, Curtis, Daniel, Darby, George T. Davis, John G. Davis, Dimmick, Doty, Duncan, Edmundson, Faulkner, Fay, Ficklin, Fitch, Florence, Freeman, Gamble, Gaylord, Gentry, Giddings, Gilmore, Goodenow, Gorman, Green, Grow, Hall, Hamilton, Isham G. Harris, Hascall, Haven, Hendricks, Henn, Hibbard, Hillyer, Holladay, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, J. Glancy Jones, George G. King, Kurtz, Lockhart, Mace, Mann, Mason, McCorkle, McLanahan, McMullin, McNair, Miller, Millson, Molony, Henry D. Moore, Morrison, Murray, Nabers, Newton, Outlaw, Samuel W. Parker, Peaslee, Penn, Perkins, Phelps, Polk, Porter, Preston, Price, Riddle, Robbins, Robie, Robinson, Schoolcraft, Origen S. Seymour, Skelton, Smart, Smith, Snow, Stanly, Benjamin Stanton, Alexander H. Stephens, Stone, St. Martin, Stratton, Stuart, Sutherland, Thurston, Townshend, Tuck, Washburn, Watkins, Welch, and Yates—120.

NAYS—Messrs. Charles Allen, John Appleton, Averett, David J. Bailey, Barrere, Bocock, Bragg, Breckinridge, Brenton, Brooks, Burrows, Busby, Joseph Cable, Thompson Campbell, Carter, Chastain, Clingman, Dawson, Dean, Disney, Dockery, Eastman, Floyd, Thomas J. D. Fuller, Grey, Sampson W. Harris, Robert W. Johnson, George W. Jones, Landry, Letcher, Martin, McDonald, McQueen, Meacham, Miner, Andrew Parker, Penniman, Ross, Sackett, Schermerhorn, Scurry, Frederick P. Stanton, Richard H. Stanton, Abraham, P. Stephens, Strother, Sweetser, Taylor, Toombs, Venable, Wallace, Addison White, Wilcox, Wildrick, Williams, and Woodward—55.

So the resolution was adopted; two thirds voting in the affirmative.

Mr. HARRIS, of Tennessee. I move to reconsider the vote by which that resolution was adopted, and to lay the motion to reconsider on the table.

The question was taken, and the latter motion was agreed to.

[Here a message was received from the Senate by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed a bill of the following title, and requesting its concurrence therein:

S. No. 571. An act granting and reconveying the arsenal in the town of New Castle, in the State of Delaware, to the trustees of said town and their successors.]

SALARY OF JUDGE CRAWFORD.

Mr. McLANAHAN. I ask the unanimous consent of the House, having now obtained the floor, and not intending to give it up at present, for leave to take up Senate bill No. 97, entitled "An 'act to make the salary of the judge of the criminal court of the District of Columbia equal to that 'of an assistant judge of the circuit court of said 'District."

Mr. CARTTER. I should like to hear the bill read.

Mr. McLANAHAN. I will state that the salary of that judge is $2,000. He sits about eight or nine months in the year. The salary of an assistant circuit judge is $2,500, and they sit only about one third of the time. Judge Crawford's industry and intelligence are known to every member of this House.

Mr. CARTTER. Does the bill provide for anything else than the increased salary?

Mr. McLANAHAN. It provides for nothing else.

Objection was made.

Mr. McLANAHAN. I then move that the rules be suspended, in order that the bill may be taken up and passed.

At the request of several members, the bill was read through.

The question was taken, and the rules were suspended.

Mr. McLANAHAN. I would inquire of the Chair whether the rule requiring bills containing appropriations to be first considered in a Committee of the Whole, must be suspended before this bill can be put on its passage?

The SPEAKER. That rule must be suspended.

Mr. McLANAHAN. I then move a suspension of that rule.

The question was taken, and the rule was suspended.

The bill was then ordered to be read a third time; and according to order, was read a third time.

Mr. McLANAHAN. I call for the previous question on the passage of the bill.

The call for the previous question was seconded, and the main question was ordered to be put.

The question now being, "Shall the bill pass?" it was put and carried in the affirmative.

So the bill was passed.

Mr. McLANAHAN. I move that the vote by which that bill was passed be reconsidered, and that the motion to reconsider be laid on the table.

The question was taken, and the latter motion was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; and they thereupon received the signature of the Speaker:

S. No. 208. An act for the relief of Barbara Reily.

H. R. No. 265. An act for the relief of Joseph M. Wilcoxon, of the State of Missouri.

H. R. No. 232. An act for the relief of C. L. Swayze in relation to the location of certain Choctaw scrip.

H. R. No. 233. An act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point on the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river.

CENSUS ABSTRACT.

Mr. McNAIR. I submit the following resolution:

Resolved, That the members of the House Committee on Printing be instructed to inquire into the expediency of having an additional number of reports of the Superintendent of the Census and abstract printed for the use of members.

Mr. HAMILTON. I object.

Mr. JONES, of Tennessee. I wish to debate that resolution.

The SPEAKER. That resolution provides for the printing of extras.

Mr. McNAIR. It is in the form of instructions to the House Committee on Printing.

Mr. JONES. I will tell the gentleman that we had but two days ago a report from that committee; and we have adopted a resolution directing what number of extra copies of that census report shall be printed.

Mr. McNAIR. The printing of the document provided for by my resolution will only cost five cents. The binding will cost about six cents more. It will embrace about one hundred and thirty pages; and as it embodies the essential part of the census, and can be published at a small expense, I hope there will be no general opposition to it. It will circulate for the information of the community where the large volumes cannot be had.

Mr. STEPHENS, of Georgia. If the resolution gives rise to debate, it must go over.

The SPEAKER. That is true.

Mr. McNAIR. I call for the previous question on the adoption of the resolution.

Mr. HAVEN. I submit whether, under the operation of the law and rules of the House, the resolution does not go to the committee without a vote?

The SPEAKER. That is also true. In the opinion of the Chair, the resolution passes to the committee without a vote of the House.

REBECCA J. BURDSALL.

Mr. CHANDLER. I ask the unanimous consent of the House for leave to take from the Speaker's table and put upon its passage joint resolution from the Senate No. 58, for the relief of Rebecca J. Burdsall.

Mr. HAMILTON. Let the bill be read for information.

Mr. JONES, of Tennessee. Is this not resolution day?

The SPEAKER. It is.

Mr. JONES. Then I object to everything until after all the States have been called for resolutions.

Mr. NABERS. The inquiry of the gentleman, I think, was well-timed, and I hope that he will persist in his objection.

The SPEAKER. Then the motion of the gentleman is objected to.

Mr. CHANDLER. I submit for adoption the following resolution:

Resolved, That Senate joint resolution No. 58 be taken from the table for the action of the House.

Mr. CAMPBELL, of Illinois. I propose to debate that resolution.

The SPEAKER. The gentleman from Pennsylvania is occupying the floor.

Mr. CHANDLER. I call for the previous question on the adoption of the resolution.

Mr. CAMPBELL. If the resolution is proposed to be debated, does it not lie over?

The SPEAKER. The gentleman has not the floor to make that objection.

Mr. JONES. I would submit the question whether a two-thirds vote is not required to take a bill from the table?

The SPEAKER. It does.

Mr. JONES. Then can this resolution take up joint resolution No. 58 by a bare majority?

The SPEAKER. The Chair decides it cannot; a two-thirds vote is required for the adoption of the resolution. There is no doubt about that.

Mr. STEPHENS, of Georgia. Is not a motion to suspend the rules necessary for the entertainment of the resolution?

The SPEAKER. The Chair thinks that it is.

Mr. STEPHENS. Therefore the resolution is not in order until the rules have been suspended.

The SPEAKER. It is not that character of resolution, in the opinion of the Chair, which the gentleman can offer, his State being called without a suspension of the rules.

Mr. CHANDLER. Then I move a suspension of the rules, that I may be enabled to offer it.

Mr. CARTTER. Can a member move to suspend the rules for the introduction of a resolution which is not in order?

The SPEAKER. That is the very object of the rule. Suspensions of the rules are moved that business may be taken up for action that the rules would not allow.

Mr. HAMILTON. I call for the reading of the joint resolution.

The joint resolution was read through.

The question was then taken on the motion for the suspension of the rules, and it was disagreed to, two thirds not voting in the affirmative.

GRANTS OF LAND.

Mr. SIBLEY. I ask the unanimous consent of the House for leave to introduce a bill, in order that it may be referred to one of the standing committees. It is entitled "A bill to grant the right 'of way and a portion of the public lands to the 'States of Louisiana, Arkansas, Missouri, and 'Iowa, and the Territory of Minnesota, in aid of 'the construction of a railroad from a point opposite the city of New Orleans, to the northern 'boundary of said Territory of Minnesota, with a 'branch to the Falls of St. Anthony."

Mr. GOODENOW. I object.

Mr. SIBLEY. I move a suspension of the rules, that I may be enabled to introduce it.

The question was taken, and the motion was disagreed to, two thirds not voting in the affirmative.

JOHN WILLIAMS.

Mr. ALLISON. I submit the following resolution:

Resolved, That the bill of the Senate, No. 421, for the relief of John Williams, be now taken up for consideration.

Mr. HAMILTON. I ask that the bill be read.

The SPEAKER. The bill will be read, as the gentleman has a right to know what he is voting on.

Mr. ALLISON. It is for the relief of an old soldier who has most faithfully served his country.

The bill was read through.

Mr. ALLISON. Is it in order to have the short accompanying report read?

The SPEAKER. Not without unanimous consent.

Mr. HENDRICKS. Then I object.

The question was put on the motion for the suspension of the rules, and, on a division, there were 53 ayes——

Mr. ALLISON. I demand the yeas and nays. [Cries of "No!" "No!""]

Mr. ALLISON. Well, that time may not be unnecessarily consumed, I merely call for tellers.

Tellers were ordered; and Messrs. BOCOCK and MCNAIR were appointed.

Mr. KING, of Rhode Island. I will merely state that this bill has the favorable recommendation of the Commissioner, as well as the Committee on Pensions.

The question was taken, and the motion to suspend the rules was not agreed to, two thirds not voting in the affirmative.

SIMEON SMITH.

Mr. DIMMICK. I offer the following resolution:

Resolved, That there be paid out of the contingent fund of this House, to Simeon Smith, clerk of the Select Committee to investigate the connection of Hon. Thomas Corwin with the Gardiner claim, the same compensation allowed to a deputy clerk of the House for the time he was actually employed by the committee.

Mr. HOUSTON. Let the gentleman insert it in one of the appropriation bills. There is no contingent fund now from which it can be paid.

Mr. KING, of New York. That is the mode in which all the expenses of that committee have been paid.

Mr. HOUSTON. There is no fund left.

Mr. KING. Whenever there is one, it will come in.

Mr. HOUSTON. It would be as well to introduce it in some regular bill.

Mr. STANLY. My only objection to this resolution is the one I have stated before in like cases. If the House vote it down, well and good, I have not a word to say; but I think it a bad practice that we should allow committees to employ clerks without leave of the House, and then pay them out of the contingent fund.

Mr. KING. There was no mode of getting along without this being done.

Mr. STANLY. There is always a mode of asking leave. This Congress has already, in four or five cases, paid clerks without authority of the House. If the committee had asked for leave, I suppose the House would have sanctioned it.

Mr. HAMILTON. That resolution must go over if gentlemen undertake to debate it.

Mr. DIMMICK. I call for the previous question.

The question being on seconding the demand for the previous question.

Mr. KING, of New York, called for tellers; which were ordered; and Messrs. HARRIS of Tennessee, and JACKSON were appointed.

The question was taken, and the tellers reported that there were ayes 84, noes not counted.

So the previous question was seconded and the main question ordered to be put.

The question now being, "Shall the resolution pass?"

Mr. LETCHER demanded the yeas and nays; but they were refused.

The question was then taken, and the resolution was adopted.

CAPTAIN GEORGE B. SMITH.

Mr. ROBBINS. I move that the rules of the House be suspended for the purpose of permitting the Committee on Military Affairs to report a bill for the relief of Captain George B. Smith. I know that it is a case of great hardship, and ought to be acted upon immediately.

Mr. GORMAN. If the House will permit me to say this, Captain Smith was taken prisoner, and fifty or sixty of his men were killed. He lost all his vouchers, and he is a ruined man unless this resolution be passed.

The question being upon the suspension of the rules, it was taken and decided in the affirmative.

The question recurring on the adoption of the resolution, it was put, and decided in the affirmative.

So the resolution was agreed to.

The SPEAKER. By the order of the House, the Committee on Military Affairs are authorized to make the report.

Mr. GORMAN then, from the Committee on Military Affairs, reported a bill for the relief of George B. Smith; which was read a first and second time by its title.

Mr. PRESTON. I desire to make a statement to the House, if it will indulge me a moment, in relation to this bill. Captain George B. Smith was taken a prisoner on the southern line between Monterey and the Rio Grande, by Canales, and the train under his command were cut up, and some fifty or sixty of his teamsters were left dead. The Mexicans on that occasion, as is proved by Colonel Humphrey Marshall, late a highly-distinguished member of this House, whose affidavit is filed, destroyed the vouchers of Captain Smith. He has now no means of settlement and he cannot obtain a release on his bond; and he is prevented, after a long and gallant service in the Army, from going into a lucrative mercantile enterprise in consequence of this claim—merely a nominal claim—the most of which is for oats and forage. From this claim he desires to be exonerated, and his sureties to be released, so that he can embark in business. The Military Committee have unanimously reported the bill, and I know Captain Smith to be a gentleman of great worth, and an officer of great activity and unimpeached honor. The bill contains an appropriation of some $200, the amount of which he was robbed. This appropriation, if I mistake not, makes it necessary that the bill shall be referred to the Committee of the Whole on the state of the Union. If I am wrong the Chair will correct me.

Mr. SPEAKER. The gentleman is right.

Mr. PRESTON. Then I move that the rule which requires that this bill shall be committed to the Committee of the Whole on the state of the Union for consideration, be suspended, in order that we may put it upon its passage.

The question was then taken, and the rules were suspended.

The bill was then ordered to be engrossed and read the third time; and being engrossed, it was subsequently read the third time and passed.

ALEXANDER P. FIELD.

Mr. GROW. I offer the following resolution:

Resolved, That the rules of the House be suspended, so as to permit the Committee on the Judiciary to report Senate resolution No. 10, for the relief of Alexander P. Field, late Secretary of the Territory of Wisconsin.

Mr. STANTON, of Ohio. I rise to a question of order.

The SPEAKER. The gentleman from Pennsylvania [Mr. GROW] offers a resolution for the action of the House.

Mr. HAMILTON. I call for the reading of that resolution.

The SPEAKER. The resolution has been read. The question is raised whether the gentleman has the right to go outside of his own State.

Mr. HAMILTON. I desire to know the object of this motion to suspend the rules.

The resolution was then read through by the Clerk.

Mr. STANTON. I make a question of order. I understand the Speaker to hold that the delegation from Pennsylvania is entitled to the floor, because that State is called upon for resolutions. The point I make is, that the Chair cannot recognize the delegation from Pennsylvania in preference to all others, for the purpose of making motions to suspend the rules to introduce business not in order. I submit that this way of doing business excludes everybody but members from Pennsylvania from getting suspension of rules, and that this proposition is not in order.

The SPEAKER. The gentleman from Ohio must be aware that this is resolution day, and that Pennsylvania is the State first in order to be called, under the express provision of the rules requiring the House to begin where we left off the preceding Monday, when States were called upon for resolutions. It is impossible for the Chair to determine the object of the gentleman from Pennsylvania. The Chair admits the fact that the rules will not be very fairly carried out in their spirit, if the gentleman from Pennsylvania shall rise to make motions not strictly in order.

Mr. STANTON, of Ohio. My point is this: That the gentleman from Pennsylvania [Mr. GROW] rises to make a motion not in order, and that he forfeits his right to the floor to others. He has the floor for the purpose of making a motion in order, and for no other purpose.

The SPEAKER. That is true; but the gentleman from Pennsylvania [Mr. GROW] was recognized by the Chair, and he has a right to move to suspend the rules. It is certain that he has this right as well as any one else.

Mr. CARTTER. There is another rule which corrects the evil; and that is, a member has the privilege of offering but one resolution. That has been violated in one or two instances.

The SPEAKER. No member from Pennsylvania, in the opinion of the Chair, has offered but a single resolution. The gentleman is mistaken in point of fact.

Mr. BROWN, of Mississippi. I wish to make another point of order, for the purpose of getting information. I do not know whether the case I submit is governed by any rule of the House. Gentlemen will see at once the impropriety of this practice, that a member from Pennsylvania can receive a resolution from a member of another State, availing himself of the privilege as a member from that State to introduce it.

The SPEAKER. There is a rule to that effect.

Mr. BROWN. In this case the gentleman from Pennsylvania [Mr. GROW] moved this resolution upon his own account, and some member from Wisconsin——

Mr. GROW. It is a case for the relief of the late Secretary of Wisconsin, which ought to be taken up, and this is a resolution allowing the Secretary of the Treasury to settle his accounts. I offer it on my own account.

The SPEAKER. The resolution relates to a bill before the House in regard to which any gentleman has a right to submit a motion.

Mr. GROW. It is offered at the instance of the Comptroller of the Treasury.

The question being on the suspension of the rules,

Mr. GROW demanded tellers; which were ordered; and Messrs. JACKSON and GAYLORD were appointed.

The question was then taken, and the tellers reported—ayes 58, noes not counted.

There not being two thirds voting in the affirmative, the rules were not suspended.

EULOGIES ON DANIEL WEBSTER.

Mr. JOHN W. HOWE. I offer the following resolution:

Resolved, That thirty thousand copies of the entire speeches and proceedings on the death of Daniel Webster, in the Senate and in the House, be printed, under the direction of the Committee on Printing, for the use of the members of this House.

The SPEAKER. That resolution, under the rules, goes to the Committee on Printing.

The resolution was so referred.

ASENATH M. ELLIOT.

Mr. THOMAS M. HOWE. I move a suspension of the rules, to enable me to offer the following resolution:

Resolved, That the Senate bill (No. 510) for the relief of Asenath M. Elliot be taken from the Speaker's table and put upon its passage.

Mr. BROWN, of Mississippi. At this point, I raise the question whether that resolution is a Pennsylvania resolution, or whether the gentleman has received it from, and offers it at the instance of, some friend from some other State?

Mr. HOWE. The resolution was drawn by myself, and I offer it as a member from the State of Pennsylvania.

Mr. HAMILTON. Read the bill to which the resolution refers.

The Clerk read the bill.

It directs the Secretary of the Interior to pay to Asenath M. Elliot, widow of the late Captain Edward G. Elliot, a pension at the rate of half the pay per month to which her husband was entitled at the time of his death, to commence on the 5th of January, 1849, and to continue during her natural life or widowhood.

Mr. CARTTER. I rise to a question of order. I wish to inquire whether the gentleman from Pennsylvania [Mr. THOMAS M. HOWE] has not occupied the floor, and offered a resolution before, to-day?

Mr. THOMAS M. HOWE. I have not.

The SPEAKER. This is the only time the gentleman has occupied the floor to-day.

Mr. THOMAS M. HOWE. I ask for the reading of the report.

The SPEAKER. It will be read if there is no objection.

No objection being made, the report was read.

The question now being upon the motion to suspend the rules,

Mr. HAMILTON demanded tellers; which were ordered; and Messrs. BRIGGS and VENABLE were appointed.

The question was put, and the tellers reported—ayes 101, noes not counted.

So (two thirds voting in the affirmative) the rules were suspended.

The question was then taken upon Mr. HOWE's resolution, and it was agreed to.

The bill was accordingly taken from the Speaker's table, and read a first and second time by its title, viz:

"An act for the relief of Asenath M. Elliot."

Mr. STANLY. I move the previous question on the third reading of the bill.

The previous question was seconded, and the main question was ordered to be now put.

The bill was then ordered to a third reading, and was subsequently read the third time.

The question then was, "Shall the bill pass?"

Mr. BRIGGS. I move the previous question on the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. LETCHER. I call for the yeas and nays.

The yeas and nays were not ordered.

Mr. JONES, of Tennessee. Has the main question been ordered on the passage of the bill?

The SPEAKER. It has.

Mr. JONES. Well, sir, I understand that this case is covered by the general law, approved by the President only three days ago.

[Cries of "Order!"]

The bill was then passed.

Mr. BRIGGS. I move to reconsider the vote by which the bill was passed, and I also move that the motion to reconsider be laid upon the table.

The question was put upon the latter motion, and it was agreed to.

L. M. GOLDSBOROUGH AND OTHERS.

Mr. FULLER, of Pennsylvania. I move a suspension of the rules, to enable me to introduce the following resolution:

Resolved, That the House proceed to consider Senate bill No. 274, for the relief of L. M. Goldsborough, G. J. Van Brunt, and S. F. Blunt.

Mr. BROWN, of Mississippi. I rise to a question of order. I would inquire whether this bill is a Pennsylvania bill, or whether the gentleman is calling it up at the request of some member who is not from Pennsylvania?

Mr. FULLER. In reply to the gentleman from Mississippi, I will say that I consider every bill in this House a Pennsylvania bill, and every bill a Mississippi bill.

Mr. BROWN. Then I make this point: that a member from Pennsylvania cannot take charge of the business of any other member, and availing himself of his privilege, press it for consideration to the exclusion of everything else. If we are to legislate in this way, I move that the House adjourn. I think we have been legislating on Pennsylvania matters and for the benefit of Pennsylvania members long enough.

Mr. FULLER. Certainly the Representatives of Pennsylvania are acting with great liberality towards their fellow members. We do not require exclusive legislation for the State of Pennsylvania to-day.

The SPEAKER. The question is upon the motion to adjourn.

Mr. BROWN. I withdraw the motion.

The SPEAKER. With regard to the question of order raised by the gentleman from Mississippi, the Chair will say that he should be very happy if his idea of justice in the execution of the rules of the House could be adopted by order of the House; but it is impossible for the Speaker to enforce it by himself. The gentleman from Pennsylvania [Mr. FULLER] was recognized by the Chair because, under the rules, the State of Pennsylvania is to be called for resolutions this day. The Chair could not anticipate what object the gentleman from Pennsylvania had in rising and demanding the floor. The Chair believes that it was his duty to recognize the gentleman from Pennsylvania, because that State, under the rules, is being called for resolutions. The Chair not anticipating the gentleman's object, he was recognized. His right is as clear as that of any other gentleman having the floor, to move to suspend the rules. It is difficult for the Chair to execute the rule in any other manner than in that which he is endeavoring to do.

Mr. BROWN. Is it in order to move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union?

The SPEAKER. It is not, because there is a motion now pending to suspend the rules.

Mr. BROWN. Then I have this single remark to make, that I trust the House will stop suspending the rules for Pennsylvania members, except for their own business.

Mr. GOODENOW. I call for the yeas and nays on the motion to suspend the rules.

Mr. HAMILTON. I ask for tellers on the yeas and nays.

Tellers were ordered; and Messrs. HENDRICKS and CLINGMAN were appointed.

The House was then divided on the demand for the yeas and nays, and the tellers reported thirty-three in the affirmative. So the yeas and nays were ordered.

The question was then taken on Mr. FULLER's motion to suspend the rules, and there were—yeas 97, nays 48; as follows:

YEAS—Messrs. Allison, William Appleton, Barrere, Bell, Bennett, Bocock, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Caskie, Chandler, Chapman, Clemens, Clingman, Colcock, Conger, Cottman, Darby, George T. Davis, Dean, Dimmick, Disney, Doty, Edmundson, Fay, Florence, Freeman, Henry M. Fuller, Gamble, Gaylord, Gentry, Gorman, Green, Grey, Grow, Harper, Sampson W. Harris, Holladay, John W. Howe, Thomas M. Howe, Thomas Y. How, Jackson, Robert W. Johnson, George G. King, Landry, Letcher, McCorkle, McLanahan, McNair, McQueen, Meade, Miller, Miner, Henry D. Moore, John Moore, Morrison, Nabers, Newton, Outlaw, Samuel W. Parker, Peaslee, Penn, Polk, Powell, Preston, Price, Riddle, Robbins, Robinson, Sackett, Schermerhorn, Schoolcraft, Scurry, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Strother, Stuart, Sutherland, Sweetser, Taylor, Thurston, Toombs, Venable, Ward, Watkins, Welch, Williams, and Yates—97.

NAYS—Messrs. John Appleton, Babcock, Busby, Carter, Chastain, Clark, Cobb, John G. Davis, Dawson, Eastman, Floyd, Thomas J. D. Fuller, Goodenow, Hall, Hamilton, Isham G. Harris, Haven, Hendricks, Hillyer, Horsford, Houston, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, George W. Jones, Preston King, Martin, McDonald, McMullin, Millson, Murray, Penniman, Perkins, Phelps, Robie, Ross, Russell, Schoonmaker, Origen S. Seymour, Skelton, Benjamin Stanton, Abraham P. Stephens, Stratton, Townshend, Wallace, Wildrick, and Woodward—49.

So (two thirds not voting in the affirmative) the rules were not suspended,

Mr. MOORE, of Pennsylvania, obtained the floor.

The SPEAKER. Will the gentleman from Pennsylvania ask the House indulge the Chair for a single moment? It is not the province of the Chair to make suggestions to the body with regard to its conduct with reference to the business of the House. But the Chair calls the attention of gentlemen to the rules of the House governing the business of Mondays. One rule says that it shall be in order to suspend the rules on Mondays, and on no other days. Another rule is, that it shall be the duty of the Speaker to call the States, in their order—and the order is laid down—for resolutions and petitions on alternate Mondays. The Chair was of opinion this morning, that if the House would join the Chair in executing the rules, and he is still of opinion that if the House had joined the Chair in executing the rules in their spirit as well as in their language, every State in the Union might have been called before the usual hour for adjournment. That could only be done by the members from every State introducing only the business legitimately belonging to their State. The Chair makes this suggestion, and trusts the House will consider it. He has no doubt, from his experience here, that all the States in the Union might have been called to-day for resolutions legitimately belonging to them.

Mr. BROWN, of Mississippi. I rise to a point of order. The point which I make is this: that on this day, it is in order for any member who can get the floor, to move to suspend the rules——

The SPEAKER. That is very true.

Mr. BROWN. And that the Speaker in ruling that he will recognize the members from Pennsylvania to the exclusion of all other members is wrong. Does the Chair overrule the point of order?

The SPEAKER. The right of the Chair to recognize members is an unlimited one by an express rule. The Chair and the gentleman do not disagree as to the object to be attained. But on referring to the rule, the gentleman will see that the right of the Chair to recognize members is unlimited.

Mr. JONES, of Tennessee. If I understand the point made by the gentleman from Mississippi, I think it is a good one. This is resolution day. Resolutions are in order, and have been received nearly all day from the State of Pennsylvania. A gentleman from Pennsylvania rises, and the Chair under the rule recognizes him. That is correct. But when he offers a resolution which the Chair decides to be out of order, the Chair then recognizes him as entitled to the floor to move to suspend the rules to the exclusion of all other gentlemen. Now, when a gentleman from Pennsylvania has offered a resolution that is declared to be out of order, he has not the floor by right of its being assigned to him on the call for resolutions to move to suspend the rules. That is a new practice, introduced to-day, and never before known in this House. It is another instance of the prostitution of the rules and their consequent confusion.

Mr. BROWN. The gentleman has not stated my point of order, and I desire to state it myself.

Mr. ALLISON. I rise to a question of order. Is there any question before the House?

The SPEAKER. The gentleman from Mississippi is stating a question of order.

Mr. BROWN. The point which I make is this: that the Speaker holds it to be his duty on this day as long as a member from Pennsylvania claims the floor to assign it to him in preference to a member from any other State. Now, I hold that on this day any member who can get the floor, has as much right to be recognized as a member from Pennsylvania has.

The SPEAKER. The Chair will inform the gentleman that it is, under the rules, clearly within the discretion of the Chair to recognize whom he pleases.

Mr. BROWN. Then the Chair has exercised a very one-sided discretion, I can only say——

The SPEAKER. Then the gentleman ought to move a resolution of censure.

Mr. BROWN. Not at all. The Chair has pursued what he meant to be a very good policy, but it has turned out a very bad policy, and I want to change it. That is what I am driving at.

The SPEAKER. It is competent for the House to pass any order on the Speaker, as well as on any other member, and to change the rule which gives the Chair unlimited discretion in recognizing members. There can be no doubt about the rule; the policy is another question. The Chair holds that he has not been out of order in recognizing any gentleman to-day.

Mr. BROWN. I do not mean to say the Chair has been out of order; but I do mean to say that if the Chair rules that it is his duty, upon this day, to recognize the gentlemen from Pennsylvania in preference to other gentlemen, because it is resolution day, that I do not think the Chair is correct.

The SPEAKER. The Chair suggested this morning, that as the call of States for resolutions was the business specified by the rules for this day when gentlemen from the State of Pennsylvania rose simultaneously with others, it would be his practice to recognize those gentlemen. It is, however, equally true that it is in order to suspend the rules for any purpose, this being Monday, and if, therefore, the Chair were to vary from his ruling that he should recognize gentlemen from Pennsylvania in preference to others, he would still be correct; but it is in the discretion of the Chair to recognize a member from Pennsylvania, and he was in hopes, as a matter of policy, and as indicating the propriety of proceeding in the regular order of business on Mondays, the House would sustain him in that practice; but if the House shall fail in this, it will be his duty to vary the practice as he may think proper. The right of the Chair, however, under the rule to recognize a member from Pennsylvania, if he shall choose so to do, is very clear.

Mr. BROWN. I combat the idea which I understood the Chair to announce this morning, that this being the day upon which it was in order to call the States for resolutions, and Pennsylvania being the first State to be called, it was the duty of the Chair to recognize members from Pennsylvania to the exclusion of other members.

The SPEAKER. That it is the right of the Chair to recognize the members from Pennsylvania there can be no question; but whether it is his duty or not, it will be for the House to determine.

Mr. BROWN. Do I understand the Chair to say that it is his right to recognize a Pennsylvanian to the exclusion of all others?

The SPEAKER. The Chair thinks that it is unquestionably his right under the rule to recognize whom he pleases.

Mr. BROWN. But suppose another gentleman rises before any member from Pennsylvania.

The SPEAKER. Has the gentleman ever looked at the rule making it one of the duties of the Speaker to assign the floor to a particular member, when more than one shall claim it?

Mr. BROWN. Yes, sir; but I do not think it authorizes him to assign the floor to the members of a particular State to the exclusion of all others. I think it is the duty of the Chair to assign the floor to the member first rising.

The SPEAKER. If the Chair were to adhere strictly to that rule, there is at least one member upon the floor who would never be recognized. It is the unlimited right of the Chair to recognize whom he pleases.

Mr. BROWN. I know it is the unlimited right of the Chair, when more than one member rises at the same time; but the point I make is this: Whether it is the unlimited right of the Chair to recognize a member from Pennsylvania in preference to myself, when I rose and addressed the Chair first?

The SPEAKER. The Chair emphatically decides that he has that right.

Mr. BROWN. From that decision I appeal.

Mr. McLANAHAN. I ask the gentleman to allow me to make one suggestion.

Mr. BROWN. I will hear any suggestion.

Mr. McLANAHAN. I ask him to allow the gentleman from Pennsylvania, who has the floor, to go on and offer his resolution, and if it is not one which relates to business in which Pennsylvania is directly concerned, then let him raise his point of order upon that resolution, and I hope the House will sustain him in it.

Mr. BROWN. Oh, no; I cannot do that.

The SPEAKER. The Chair has another decision to make in relation to the question raised by the gentleman from Mississippi, [Mr. BROWN.] The question raised by him does not relate to any business legitimately before the body, and, therefore, his appeal is not in order. The Chair has recognized a gentleman from Pennsylvania, and if the gentleman from Mississippi assumes that he is not entitled to the floor, he can raise that question; and it will then be competent for him to appeal from the decision of the Chair.

Mr. BROWN. I will withdraw my appeal; but I give notice that I am a competitor for the floor, and if the Chair gives it to a Pennsylvanian in preference to another member who rises first, I will raise my question of order upon that.

ROSANNA SOWARDS.

Mr. MOORE, of Pennsylvania. I move to suspend the rules for the purpose of taking from the Speaker's table for the action of the House, Senate bill No. 397, for the relief of Rosanna Sowards.

Mr. SACKETT. I desire to make an inquiry of the Chair. I wish to know whether it would not be in order for me to amend that motion so as to provide that we shall go to the Speaker's table for the purpose of taking up and referring such private bills as may have accumulated there?

The SPEAKER. It would not be in order, for the reason that the motion is not before the House. The proposition now is to suspend the rules for the purpose of bringing it here.

Mr. STEPHENS, of Georgia. I ask that the bill may be read.

It was then read through by the Clerk.

Mr. MOORE. If the House will indulge me for one minute, I think I can explain the bill so that there will not be an objection to it.

Mr. BROWN. I object to any discussion.

The SPEAKER. Discussion is not in order.

The question "Shall the rules be suspended?" was then put, and upon a division, there were—ayes 84, noes 46.

Mr. MOORE. I demand tellers.

Tellers were ordered; and Messrs. FAULKNER and WILLIAMS were appointed.

The question was again taken, and the tellers reported—ayes 91, noes 27.

So the rules were suspended.

Mr. MOORE. I demand the previous question upon the bill.

Mr. HARRIS, of Tennessee. I desire to inquire of the gentleman from Pennsylvania if this is not a bill to grant a pension to a mother in consequence of the death of her son?

Mr. MOORE. I will state to the gentleman that it is in consequence of the death of a man who was killed in the battle of Monterey.

Mr. BROWN. I object to discussion.

Mr. CARTTER. Is it in order to inquire what is the object? for it does not appear upon the face of the bill. I understand it is to pension a mother for the death of her son.

[Cries of "Order!"]

Mr. HARRIS, of Tennessee. That is the object of the bill.

Mr. STEPHENS, of Georgia. If the House will allow me one moment, I think I can satisfy every member here of the justice of the bill. I hope the House will pass it.

Mr. BROWN. I object, unless the gentleman from Pennsylvania withdraws the demand for the previous question.

Mr. MOORE. I will withdraw the demand for the previous question a moment, if the gentleman from Georgia desires it.

Mr. BROWN. I insist that if the gentleman withdraws his demand for the previous question that he loses the floor entirely.

Mr. STEPHENS. Well, sir, then I will not take up the time of the House more than to say, that I am satisfied the bill is a just one and ought to pass.

The question now being upon seconding the demand for the previous question, upon a division 64 rose in the affirmative.

Mr. SACKETT. I demand tellers.

Mr. JONES, of Tennessee. I move to lay the bill upon the table, and upon that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BROWN. It is evident we shall do nothing here, unless it is for Pennsylvania. I move that the House do now adjourn.

The question was put, and upon a division 70 rose in the affirmative.

Mr. FLORENCE. I demand the yeas and nays.

Mr. GORMAN. I give notice that I will to-morrow move to reconsider the vote by which this bill was ordered to a second reading.

Mr. JONES, of Tennessee. I call up that motion now, and move to lay it upon the table.

The SPEAKER. The Chair decides that the motion to reconsider may be made and entered, but not acted upon pending a motion to adjourn.

The yeas and nays were not ordered upon the motion to adjourn.

Mr. FLORENCE. I demand tellers.

Mr. STANTON, of Tennessee. I desire to know if it is in order to ask the unanimous consent of the House to take up and pass a bill from the Senate?

The SPEAKER. It is in order, if there be no objection.

Mr. STANTON, of Ohio. I object.

Mr. STANLY. I desire to know what will become of the bill introduced by the gentleman from Pennsylvania, [Mr. MOORE,] if the House now adjourns?

The SPEAKER. It will go to the Speaker's table.

Mr. STANLY. Will not the motion to reconsider bring it before the House?

Mr. JONES, of Tennessee. This bill having been taken up under a supension of the rules, it must go over until the next suspension day. That has been the uniform practice of the House.

The SPEAKER. The Chair will decide the questions when they arise; the question now is, "Shall the House now adjourn?"

Tellers were ordered; and Messrs. McNAIR and BRECKINRIDGE were appointed.

The question was then taken, and the tellers reported—ayes 73, noes 49.

So the motion was agreed to, and the House adjourned until to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorial were presented under the rule, and referred to the appropriate committees:

By Mr. GREEN: The petition of 90 citizens of Crawford county, Ohio, for the relief of the Ohio and Indiana Railroad Company.

By Mr. EASTMAN: The petition of 257 citizens of Grant county, Wisconsin, for a mail route from Mineral Point, via Clifton, Lancaster, and Beetown, to Cassville.

By Mr. JOHN W. HOWE: The petition of Charles Shippen, praying Congress to compensate him for services rendered in the war of 1812, with Great Britain.

IN SENATE.

TUESDAY, *February* 8, 1853.

On motion by Mr. JONES, of Iowa, the amendment of the House of Representatives to the bill of the Senate for the relief of the town of Belleview, in Iowa, was referred to the Committee on Public Lands.

REMEDIES TO PATENTEES.

The bill giving further remedies to patentees was read a third time, and the question was, "Shall the bill pass?"

Mr. BAYARD. Mr. President, when this bill came up yesterday, not anticipating that it would then come before us, I was not prepared to state specifically, and in as condensed a manner as I would desire, without entering into a long argument, my objections to it. I propose now simply to bring to the attention of the Senate what I consider the radical objections to the passage of this bill. I should have preferred that the bill should be referred to the Committee on Patents, in accordance with the wishes of the chairman of that committee, particularly as it has, I believe, the general subject under consideration. But that course has not been acceptable to the friends of the bill, and therefore it remains for me now to state, as succinctly as I can, the objections which I suppose exist to its passage.

Special legislation, Mr. President, is undoubtedly an evil when carried too far; but it is not near so great an evil as general legislation for the furtherance of particular objects, or to afford relief in particular cases. I understand that this bill, though general in its aspect and operation, is framed for the purpose of protecting two existing patents in the United States. It may be that there are sufficient reasons for framing a bill to protect those patents, but it is to the general principles of this bill, as affecting all future patents, that my objections exist.

The first objection which I entertain, and which I state with great deference to the committee which reported this bill, is, that it is at least questionable whether the terms of the bill do not violate our treaties with many foreign nations. The first section extends the patent laws of the United States, through the medium of the revenue service, so as to prevent the importation of articles manufactured in another country from machines patented here—the only limitation being that that country shall be "adjacent," which is a point which I will presently notice. It thus proposes to extend the jurisdiction, which gives an exclusive right to a patented article, beyond the country in which the invention exists. This has not hitherto been the policy of the Government; and the bill does not confine this change of policy to any particular countries except those which are "adjoining or near" the United States. If you prohibit the importation of such articles from countries adjacent to the United States, and your treaties with any of those countries require that all articles coming from them shall be admitted into your ports on the same terms as imports from the most favored nation, or that articles shall not be prohibited coming, say from the ports of Mexico, which are not prohibited coming from the ports of any other nation, clearly a general provision applying to all articles, as does this bill, for the manufacture of which a subsisting patent exists in the United States, would be in violation of such treaty.

This particular bill relates, as I understand, to two patents; that which is known as Woodworth's patent for a planing machine, and a patent for the turning of irregular bodies in wood—both old patents, both meritorious patents, and it may well be, requiring protection. The practical effects of the bill may not extend beyond, or may look only to, the prevention of importations from Canada. And it is perfectly true, that as regards the British colonial possessions, we have no positive treaty which binds us to put them on the same footing with other nations; but the second section of the act of 1823 does put them on the same footing; and this bill, so far as it goes, is a repeal of the second section of that law. If you now have difficulties enough with Great Britain, if you are now in a state of negotiation with her in reference to other matters of conflict, why complicate them by repealing that section of the law and enacting one which shall apply to the British possessions alone?

That will be one objection. But the bill does not stop there. It does not apply simply to those particular articles for the protection of which it was introduced. It extends to all patents, and its language is, "any articles imported into the United States from any foreign territory adjoining or near thereto," which have been "manufactured in 'whole or in part in any such country, by any 'process or machine, or by any substantial modi-

'fication of such process or machine for which 'there may be, at the time, a subsisting patent 'owned by any citizen of the United States." And it further provides, that on due proof that any person has any such articles in his possession for the purpose of traffic or sale, it shall be considered a violation of the patent, in the same manner as if the articles had been in this country. The operation of the bill extends only to adjacent countries. Are you not operating against treaties with those nations lying adjacent, when by those treaties you put them on the same footing with the most favored nation? Are you not violating those treaties when you undertake to say, as to all patents, that articles made from any machine patented in the United States will come within the law, and be prohibited from importation into this country; or if imported be liable to seizure if the articles come from an adjacent country, but not liable to seizure if they come from a remote country?

There is, therefore, in my mind an objection to this bill, because it will conflict with the rights of those adjacent countries with whom you have treaties, putting them on the footing of the most favored nations. I do not wish to be understood as saying that, in practice, if applied merely to the two particular patents to which I have referred, and restricted to articles coming from Canada, it would be in violation of any existing treaty with Great Britian; but the bill is made general, and will apply to all patents hereafter, to all adjacent countries hereafter, and to all articles made in violation of any subsisting patent. Therefore, it is bad as a general law. I suppose that this objection is now understood; and as I do not propose to go into any extended argument, I will let that rest here.

The next objection which I entertain is, that it may well be questioned whether it is sound policy in any case for this Government to depart from what has always been our previous policy, which is to give the patentee the exclusive right only within the limits of our own jurisdiction, and not to complicate our revenue laws by undertaking to prevent the importation into the ports of this country of articles manufactured in any adjacent foreign country, from machines patented here, or machines similar to them. Certainly no such law has previously existed; and it is an entire change which may widely affect the revenue laws if it goes into operation, and may produce collision with other Powers.

Undoubtedly, in reference to nearly all inventions, they have come up in different countries at or about the same time in different minds; and there always will be disputes as to priority of invention. If you pass a law like this, it will not apply to any particular patent, but will be general in its operation; it will apply to the future as well as to the present; and cases of conflict as to priority of invention, here and abroad, will be constantly arising.

But here you undertake to determine by your own jurisdiction, not by giving exclusive rights within that jurisdiction, but by extending those rights to prevent the manufacture in foreign countries of articles for which patents may be or may have been issued by the United States. I think such a policy is at least questionable, and it ought to be well considered by us before we adopt it. There is stronger reason why the policy is now questionable than there was before, because by the existing laws of France and England—the only two great Powers likely to compete with us at all in reference to such matters—any inventor, whether from this country or not, may secure to himself a patent there extending to all the colonies of each Power. There would certainly be no hardship upon inventors in doing this, and it would leave the system far more uniform if the party seeking to obtain an exclusive right to manufacture a particular article in a particular mode within the limits of the jurisdiction of any country, should apply to that jurisdiction in order to grant him that privilege. This bill entirely violates that principle. There is, therefore, so far as regards the general features of the bill, no necessity for its passage, because every patentee, or at least every future patentee in this country, will have a right to apply for an exclusive privilege in France or England; and the fact of his having a patent here will not debar him from obtaining one in each of those nations, provided he can make good his claim to priority of invention. I can see no necessity, for these reasons, for this general provision; and as I stated before, the effect of this legislation is a general bill for the purpose of protecting individual rights. If a special bill were brought in properly framed and guarded for the protection of the owners of the two particular patents for whose benefit this bill was brought forward, I do not know that I would object to it if they made out a case requiring our special interposition. My objections are to this bill as it stands, affecting, as it does, all patents and all articles made from patented machines.

This brings me to the second section of the bill, and to my third objection, which would apply even to a special bill; and that is, to the extent of the power—a summary, and, as I think, an arbitrary power—which is given by the terms of that section, for the purpose of relief. The second section provides, not in reference to this particular patent to which I have referred, but as to all patents, that whenever a patentee shall file a bill in chancery on oath or affirmation, setting forth that articles have been imported, in violation of the first section, and making it appear to the satisfaction of the judge, of course, on an *ex parte* examination and by affidavit, that the facts alleged are probably true, an order is to be issued, requiring the seizure of the articles specified in the bill, and they are to be held "subject to the final order of the court." I understand them to mean that the articles necessarily have to wait the final adjudication of the case; otherwise "final" is entirely meaningless. If it means that the party may come, as in any other case in chancery, and in his answer deny the merits of the complaint, and that then the judge may make an order for the release of the goods, I say the word is very inaptly chosen for the purpose of giving such a jurisdiction; and there are great doubts in my mind whether the judge would have authority to make an order after any seizure, until his final determination of the case upon its merits; and that surely would be a very summary power.

But, Mr. President, why should the power of seizure be given at all? The principle on which you grant rights to patentees is, that they confer a benefit on the community by the discovery; and the reason for giving the exclusive right in the product of a machine is, that the benefit is conferred, and therefore it is that all patent laws are of necessity limited in point of time; for otherwise an exclusive right, held in perpetuity, would overbalance the benefit conferred upon the community by the invention, in consequence of the costliness of the price which would attach to the article if left in the will of the holder of the patent alone. The right to this special legislation, or the right to the species of property which the party cannot get without statutory enactment, is based upon the principle that the community derive a commensurate benefit from the mode in which the right is secured. In questions of time that applies; but does it not apply also in other respects? You give an exclusive right to the patentee. Is not that sufficient? Are you to go further, and not only give an exclusive right of property grounded upon the invention, but to give peculiar, summary, and arbitrary remedies, which do not attach to any other species of property?

Why should it be so? You now secure to every patentee an exclusive right to make and vend in the United States articles made from his machine. You leave the party to enforce that right by the ordinary remedies of the land as applied to every other species of property, whether *choses* in action or things in possession. Why should you go beyond that? Is not the principle of summary jurisdiction a dangerous one for purposes of legislation, or for purposes of adjudication between man and man? Under the general law securing the exclusive privilege of making and vending, the party will have his right of action against the trespasser or violator of his patent; or he would have his right to an injunction in a court of chancery, without reference to the provisions of this bill. But will you go further, and say that he shall have a right to seize the articles, on his own statement, and with only probable proof? Will you allow him to take them out of the custody of their possessors? Will you give so summary a right in regard to this species of property, which you do not give in reference to any other species of property? It seems to me that the principle of our patent laws does not require any such thing, and if you do carry it that far, you are sacrificing the interests of the community to the object of securing better remedies to the patentee.

In making these remarks I do not wish to be understood as supposing that our patent laws are not deficient. I believe they are deficient. I think there are grievances which ought to be remedied, under which all patentees labor. I admit that that provision of our patent laws which authorizes any individual, by means of a *scire facias*, to repeal a patent and makes the adjudication final as regards the rights of the patentee, ought to have a correlevant provision with sufficient guards so as to prevent collusion, which would enable a patentee to establish his right against the world, by allowing him in a suit to advertise to the world and invite any one to come in and defend, so that the suit should not only determine the particular case pending, but should be good against the world. I think such a law absolutely necessary, and that it would be but justice to pass it; and it seems to me it could be readily framed. I am as willing as any man to afford proper remedies to encourage the genius of the country, and to give for that purpose an exclusive right for a proper length of time, protected by proper guards; but I am not willing to carry those guards to an extent which I think conflicts with principle, so far as to make the injury to the community more than equal to the benefit derived by it from the invention.

It is for the three objections which I have stated that I cannot vote for this bill. The first is, that I think, as a general bill, it conflicts with our treaties with other countries. The second is, I doubt the policy of changing the revenue system of the country, and complicating the protection of patents through the medium of our revenue laws, or an interference with them, or a change of them, so as to extend our jurisdiction to patents beyond our own country. I doubt its expediency the more particularly, because, in both those countries in which a patent would be of any value, England and France, a patent can now be obtained, if the patentee is the prior discoverer, notwithstanding the fact that he has taken out a patent in this country. The third objection applies to the peculiar remedy, and will apply to any species of bill which might be framed, containing that feature. I think the remedy goes too far, by introducing a summary power which is not necessary for the purpose of giving adequate protection to the patentee or assignee of the article. Although it might comport with his views to have as stringent a remedy as possible, the justice of the case does not require that so extensive a remedy should be granted.

Mr. MILLER. Mr. President, it is certainly surprising to me that objections should be urged to the bill at this stage. I do not think it is usual to raise objections to a bill after it has been ordered to its engrossment by a vote of the Senate, and particularly when, as in this case, that vote is taken by yeas and nays. I did hope that all the objections of the honorable Senator from Delaware would have been stated before the engrossment of the bill.

Mr. BAYARD. Will the Senator allow me to say a few words, in explanation? When this bill came up originally, I merely read it as did every other Senator, and I stated the objections which occurred to my mind at the time, with the view of having it amended to meet them. The provisions of the bill were subsequently matter of reflection with me, and a few days ago I stated to one of the friends of the bill, the colleague of the honorable Senator from New Jersey, my objections as I have now stated them to the Senate. I told him that if, when the bill came up, it should not conform to my views, I should deem it my duty to oppose it. The bill came up yesterday unexpectedly, and I was not then prepared to state my objections to it in as brief a manner as I desired; but I preferred then, as I prefer now, that it should be referred to the Committee on Patents, with the view of reforming it so as to meet my objections.

Mr. MILLER. I do not think, sir, that there is a bill upon the calendar that has had more consideration, either in committee rooms or in the Senate Chamber, than this little bill. It has been here now, I think, for four sessions. It has been reported at two different Congresses by the Committee on the Judiciary of this body. It has, during this Congress, undergone various amendments, to meet the suggestions made by honorable Senators.

It must be evident to the Senate, that coming up as this bill does, at this late hour of the session, and in the hurry of business which is always attendant upon such an advanced stage of the session, it cannot be expected that its friends should go into any elaborate debate in its defense.

I listened to the objections urged by the honorable Senator from Delaware, and I do not think that he stated a single one which has not already been met, except the one in regard to the effect of the bill upon treaties with foreign Powers. That I confess is a new objection, and one which I never heard of before. It never entered into my mind that this bill would have any effect whatever upon the treaties between this Government and any foreign Power. It has not, and it cannot have, any more effect upon the treaties, or upon the importation of articles, than the existing patent laws of the land. Why, sir, if a man has a patent upon a plow in this country, and if a person in Canada manufactures such plows, and sends them across the line into this country, they could be seized at once under our existing laws. They could not only be seized in the hands of the importer, but in the hands of the man using them, and he could be made to pay damages for the use of the article thus brought in. That is the case where the patent is upon the article itself; and that shows the partiality of our existing patent laws. While they thoroughly protect the article when the patent is upon the article itself, they give no remedy at all to the man who invents a machine which turns off useful articles for the benefit of the country. He has no remedy against such piracies from abroad; whereas the man who has a patent upon the article itself has a complete remedy under the existing law; and the only object of this bill is to give to a person who has a patent upon a machine the same remedy as the man who now has a patent upon the article itself enjoys.

Although this is a general bill, the gentleman has referred to two machines for which he thinks the bill is specially designed. One is the machine for turning irregular figures. That is a very valuable machine. It may now be taken across the line to Canada, and articles manufactured from it there and sent here without any remedy on the part of the patentee. It is principally American citizens who do take them across for the very purpose of avoiding your laws and setting them at defiance. There they turn off these articles to any amount, bring them across the line perhaps half finished, cheat the Government out of half its revenue by a false valuation, and throw the articles upon the market in any quantity, and thus deprive the owner of the machine here, who has protection under your own laws, of the benefit of his patent. The object of this bill is to prevent that practice, and that is its whole object.

The honorable Senator objects to the bill, and says it gives an unheard-of power to seize the article which may be imported in violation of its terms. How is that power given? If a person makes affidavit that an article has been imported from a foreign country for the purpose of traffic or sale, he may seize it, provided the court give authority. He must prove that the article has been imported for the purpose of traffic or sale; he must prove that it has been done knowingly and willfully; and if he finds that the article is in the hands of the person who brought it across the line, or who knows it to have been brought over for that purpose, he may then, and in no other event, seize upon the articles. What objection can there be in that?

There was an objection urged to the bill, to which I conceded at once, that in its original form, you might seize an article in the hands of a person who had it for use. That feature has been stricken out, and the bill is now confined simply to cases where it is proved to the satisfaction of the court that the article has been brought over by a person willfully and knowingly for the purpose of traffic or sale.

I will not detain the Senate in going over the various arguments which might be urged in favor of this bill, and in answer to the objections which have been made by the honorable Senator from Delaware; because I think that, with one exception, they have been made and answered at various times. I am very anxious to have the matter disposed of at the earliest possible moment, and therefore I shall not consume time by debating the subject further.

Mr. BAYARD called for the yeas and nays on the passage of the bill; and they were ordered; and, being taken, resulted—yeas 21, nays 15; as follows:

YEAS—Messrs. Badger, Bell, Brodhead, Brooke, Dodge of Wisconsin, Dodge of Iowa, Downs, Geyer, Hamlin, Houston, Miller, Morton, Pearce, Phelps, Seward, Smith, Spruance, Sumner, Underwood, Wade, and Walker—21.

NAYS—Messrs. Adams, Atchison, Bayard, Bright, Cass, Charlton, Dawson, Felch, Fish, Hunter, Mallory, Mason, Norris, Pratt, and Weller—15.

So the bill was passed.

CENSUS RETURNS.

The joint resolution from the House of Representatives, providing for the printing and binding of the returns of the Seventh Census, was read a first and second time by its title, and the PRESIDENT stated that, if there were no objection, it would be referred to the Committee on Printing.

Mr. HAMLIN. I think there is no necessity for the reference of this joint resolution, because the Committee on Printing have already considered the subject, and are, no doubt, prepared to act upon it, although the chairman of that committee is not now present. I therefore move that, without a reference, the further consideration of the joint resolution be postponed until to-morrow.

Mr. SMITH. I am a member of the Committee on Printing, and I have not been present at any deliberations of the committee on this subject, and I should be glad to have the joint resolution referred, because I have some suggestions to make to the committee in regard to it.

Mr. HAMLIN. I believe the Senator is right in his recollection; he was not present at the meeting of the committee, when this subject was considered. I withdraw my motion, and am willing to allow the reference to take place.

The joint resolution was referred to the Committee on Printing.

STEAMBOAT FOREST CITY.

The bill from the House of Representatives to change the name of the steamboat Forest City, was read a first and second time by its title, and, on the suggestion of Mr. FELCH, it was read a third time and passed.

PETITIONS, ETC.

Mr. GEYER presented the petition of Brevet Major Enoch Steen, of the United States Army, praying to be allowed an amount paid by him while in command of the military post at Doña Ana, in New Mexico, for medical aid for his command; which was referred to the Committee on Military Affairs.

Also, the memorial of the Pacific Railroad Company, of Missouri, praying a grant of land to aid in the construction of a railroad from St. Louis to the mouth of the Kanzas river; which was referred to the Committee on Public Lands.

Mr. SEBASTIAN presented a petition of citizens of the western judicial district of Arkansas, praying an appropriation for the erection of a prison, by the United States, at Van Buren, in that State; which was referred to the Committee on the Judiciary.

Mr. CASS presented a petition of citizens of New York, praying that measures may be taken to secure to American citizens abroad the right of conscience and of public worship; which was referred to the Committee on Foreign Relations.

Mr. NORRIS presented the memorial of the Buffalo Bayou, Brazos, and Colorado Railway Company, praying an extension of the time for the payment of duties on rails imported for that company; which was referred to the Committee on Finance.

Mr. DAVIS presented a petition of Army officers stationed at Fort Adams, Rhode Island, praying that the price of officers' rations may be increased; which was referred to the Committee on Military Affairs.

Mr. SMITH. I hold in my hand a memorial from Mr. J. Thomas, proprietor of the Irving House, in this city, in which he alleges that he has sustained very serious losses in consequence of the sickness and death of a member of the Senate at his house during the present session of Congress. I have no doubt of the correctness of the statements made by Mr. Thomas; and I move a reference of the memorial to the Committee to Audit and Control the Contingent Expenses of the Senate, with instructions to inquire into the facts, and report such allowance as they may deem just and reasonable.

It was so referred.

REPORTS FROM STANDING COMMITTEES.

Mr. WELLER, from the Committee on Territories, submitted a report, accompanied by a bill, authorizing the construction of a line of telegraph from the Mississippi river to the Pacific ocean; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. WELLER gave notice that, as soon as the bill and report should be printed and laid before Senators, he would move to make the bill the special order for an early day.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred the memorial of William H. Henderson, submitted a report, accompanied by a bill, to confirm the claim of William H. Henderson, and the heirs of Robert Henderson, to five hundred acres of land in the Bastrop grant.

The bill was read a first and second time by its title, and considered as in Committee of the Whole. No amendment being made, it was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

The report was ordered to be printed.

Mr. WADE, from the Committee on Claims, to which was referred the memorial of Zachariah Lawrence, of Ohio, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading.

The report was ordered to be printed.

ADDITIONAL MAIL ROUTE.

Mr. ADAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a tri-weekly mail route from Pontotoc, Mississippi, via Ripley, to Lagrange, Tennessee.

HOUR OF MEETING.

Mr. GWIN submitted the following resolution for consideration:

Resolved, That the hour of meeting of the Senate shall be eleven o'clock from and after Monday next.

MEXICAN BOUNDARY.

Mr. RUSK submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Interior be directed to furnish to the Senate a copy of the report and accompanying maps of a survey between Indianola and El Paso, Texas, made in 1850 by the Topographical Engineers attached to the United States Commission for the survey and demarkation of the boundary line between the United States and Mexico.

NOTICE OF A BILL.

Mr. FISH gave notice of his intention to ask leave to introduce a bill for the better management and the safe conduct of American merchant vessels.

BILLS INTRODUCED.

Mr. GWIN, agreeably to previous notice, asked and obtained leave to bring in a bill to establish land districts in the State of California, and for other purposes; which was read a first and second time by its title, and referred to the Committee on Public Lands.

Mr. NORRIS, agreeably to previous notice, asked and obtained leave to introduce a bill for the relief of the Buffalo Bayou, Brazos, and Colorado Railroal Company; which was read a first and second time by its title, and referred to the Committee on Finance.

Mr. WALKER, by unanimous consent, asked and obtained leave to bring in a joint resolution explanatory of an act entitled "An act for the relief of Abigail Stafford;" which was read a first and second time by its title, and referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had passed the following bills from the Senate:

An act to make the salary of the judge of the criminal court of the District of Columbia equal to that of an associate judge of the circuit court of said District; and

An act for the relief of Asenath M. Elliot.

THE FISHERY QUESTION.

On motion by Mr. HAMLIN, it was

Ordered, That one thousand two hundred and fifty extra copies of that part of the report of the Secretary of the Treasury relating to the subject of the fisheries, be printed for the use of the Senate, and that two hundred and fifty copies thereof be for the use of the author of said report.

THE TEHUANTEPEC GRANT.

The Senate, on motion of Mr. MASON, resumed the consideration of the resolutions reported by the Committee on Foreign Relations in relation to the Garay grant; when—

Mr. SEWARD rose and addressed the Senate at great length, concluding by moving to strike out all after the word resolved, and insert "that 'the United States cannot suspend diplomatic negotiations with Mexico without tendering to that 'Power, or waiting a reasonable time to receive 'from it, an offer of arbitration, according to the 'terms of the treaty of Guadalupe Hidalgo." [The speech will be found in the Appendix.]

Mr. HALE. I have given some attention to this subject, and propose to address the Senate upon it. I suppose the attention of the Senate is somewhat exhausted now. The usual hour of adjournment has arrived, and I place myself entirely at the disposal of the Senate as to when I shall speak upon this subject. I would be ready to proceed to-morrow.

Mr. WELLER. To-morrow we count the votes for President and Vice President.

Mr. HALE. I am willing to postpone this subject until any day which will suit the convenience of the Senate.

Mr. WELLER. I understand that the counting of the votes will take about three hours.

Mr. HALE. I move that the further consideration of the resolutions be postponed till Tuesday next, and made the special order of the day for one o'clock.

Mr. UNDERWOOD. I want to make one or two remarks before that question is put to a vote. My friend from New York [Mr. SEWARD] has exhibited more of a belligerent propensity to-day than I supposed he possessed. I do not rise for the purpose of defending the chairman of the Committee on Foreign Relations, nor of defending my friend from Louisiana, [Mr. DOWNS.] They are both of them very capable of vindicating their own course from any assault which can be made upon it. But, sir, there is a gentleman not now here, a gentleman in my own State, who, in the range of the Senator's remarks, received several pretty hard blows. For him, then, our late Minister to Mexico, I beg leave to make a very short response.

Sir, the gentleman from New York, in the course of his remarks, represented Mr. Letcher as using language discourteous to the Mexican Government; and I thought he pretty plainly intimated that he used such language as could not be tolerated on the part of this Government, if it had been applied to us by any diplomatic representative of a foreign country resident here. Now, we all know that whether language is calculated to be offensive or not depends upon the manner in which it is uttered and the circumstances existing at the time it is used. Allow me to say, sir, that there is not to be found anywhere in our broad country, or in any country, a more courteous, a more polite, or a more respectful gentleman, in all his intercourse, official or private, with his fellow-men, than the late representative of this country at the Government of Mexico.

What language did he use, which the honorable Senator from New York seems to imagine was intended to be offensive to the Government of Mexico? He said—I repeat the language which the Senator from New York has given us—that "the facts and reasons of the Mexican authorities were not satisfactory to him." It is plain language, I admit; but the country from which that gentleman went, is in the habit of using plain and direct language. And where there is nothing offensive in manner, it seems to me to be the language which one gentleman always should use towards another, and that no exception can be taken to it. What was the sequel? The President of Mexico and the Cabinet of Mexico received our Minister, and had a long personal interview with him. It is shown conclusively by that fact, that no offense was intended by him, and none was received by them. But the Senator from New York seems to think that the conclusion of the whole matter, on the part of our Minister, Mr. Letcher, was very offensive. The Senator represents Mr. Letcher as saying in substance: "My Government must take the whole matter into its own hands, provided I cannot accomplish a satisfactory negotiation." The same thing may be said of this language which I have already said of the other. It was not a threat, or an insult, manner and circumstances considered. The thing declared was a necessary result. The treaty which he had made was rejected by the Mexican Congress. He was endeavoring by every means that lay in his power to adjust the difficulty which he had been charged with, by instructions from the State Department here, and with frankness and candor he informed them what must be the necessary result in case the controversy could not be settled. "If we can-'not accomplish anything by negotiation, it fol-'lows that my Government must take the matter 'into its own hands and apply whatever remedy 'it shall think proper." Such is the purport and meaning of Mr. Letcher's language, and nothing more. I have made these remarks, because I felt called upon to vindicate our late Minister to Mexico from what I conceived to be an imputation upon his character as a courteous gentleman. His language does not necessarily carry with it insult to the Government of Mexico; and from my knowledge of the man, Mr. Letcher was incapable of degrading his high station and his country by exhibiting towards Mexico a domineering, threatening spirit, and applying to her conduct the language of intimidation and insult.

Sir, one word more. The principal resolution reported by the Committee on Foreign Relations, and from which the gentleman from New York says the other resolutions are deduced as a proper corollary, is one, in my opinion—whether you treat it as an exception to the general rule, or as the general rule itself—is one which ought to be established by this Government in its intercourse with all the nations of the earth. And what is that rule? It is simply this: that we will insist upon the doing of justice to all our citizens. That is the whole of it, simply to require that injuries be redressed, whether they result from a contract or a tort. Now, suppose the property of any of our citizens to be upon the sea or the land, and that a foreign nation should cause that property to be seized, confiscated, and appropriated to its own use. Everybody knows that in a case of that sort the national authorities would be instantly called upon to vindicate the right of the citizen against spoliations of such a description. This is an every-day occurrence among nations. What is the difference between an injury inflicted upon a citizen by a tort of that sort and an injury inflicted upon him by a contract, in virtue of which a foreign Government gets the money or property of our citizens, appropriates it, and then refuses to pay according to the contract she has made? What is the difference? The effect is the same upon the citizen. It is the agency of the Government which inflicts the injury in both cases; in principle, in the very nature of things, in point of moral justice and equity. There cannot be a particle of difference in the cases. It is the same thing to me in point of suffering and injury, if I lose and am deprived of my property, whether it be taken by force, or whether it be taken with my consent, induced by promises of compensation which are never complied with. Getting money or property upon false pretenses is the worst and meanest swindling.

Now, sir, I know that all these injuries, whether proceeding from a tort or a contract, when the citizen asks his Government to interpose and see that his grievance is redressed, are always submitted to the sound discretion of the Government of which he is a citizen. I know very well, too, and it should be so, that Government can only be called upon to interpose upon its own terms, and after due consideration of all the consequences.

That is all right and proper. But as to the principle, it cannot make a particle of difference whether the injury be the result of fraudulent confiscations or violent spoliations, or whether it be the result of violated contracts, or any other wrongful act of the Government to be made responsible. The injury is the same to the sufferer. His loss is the same, whether superinduced in the one way or the other. We had the other day, in the debates here, a declaration that Great Britain was about to levy a distress warrant upon Cuba. And for what? To secure debts which Spain owed the citizens of Great Britain. I merely advert to this to show that other nations have contemplated the redress of wrongs to their citizens, growing out of contracts long before the Committee on Foreign Relations considered the liabilities of Mexico growing out of the charter granted for the construction of the Tehuantepec railroad.

I am not prepared to go into the facts which the gentleman from New York has collected with so much assiduity, and for which he deserves so much credit, and to which he has brought the attention of the Senate. The honorable chairman of the Committee on Foreign Relations [Mr. MASON] has been, no doubt, in his investigations of this subject, equally assiduous, and will at a proper time exhibit his view of the facts. I am satisfied that all the Senate can desire, and all the country can ask, is a proper exhibition of the true state of the case on both sides. When the facts are properly understood, our country will then do justice to Mexico in every particular. Sir, I feel an utter repugnance to put my foot upon a fallen, prostrate friend or foe. Such a thing cannot be done by any man who has a particle of magnanimity left in his bosom. This country must not, for its own honor, and for the sake of principle, treat Mexico in any other manner than she would treat the most powerful nation on the face of the earth.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) The question pending is on the motion to postpone the further consideration of this resolution until Tuesday next.

Mr. SEWARD. I ought not to suffer the Sen ate to adjourn without saying that the honorable Senator from Kentucky quite misunderstood me in supposing that I imputed any want of politeness, or propriety, or courtesy, to our late Minister to Mexico. He failed in accomplishing his mission, but I think I showed clearly that the fault lay in the source from which that person received his instructions. I by no means implied that he in any respect departed from his instructions.

Mr. HALE. I wish to say that I named next Tuesday as the day to which I would move to have this resolution postponed, because other gentlemen suggested it. I am ready to go on to-morrow; but as other business will be before us then, I cannot do so. I am ready to speak on any day which the Senate chooses.

The PRESIDING OFFICER. The question is on postponing the further consideration of the resolutions until Tuesday next.

Mr. DOWNS. I think it would be better to adjourn on them, and make them the unfinished business, to enable us to dispose of them as soon as we can. If we go on postponing the subject, it will bring us near the close of the session.

Mr. HALE. I am willing to adjourn on them.

Mr. RUSK. I do not want to be in the way of the discussion upon this subject, but I do hope that we will not adjourn on these resolutions, so as to make them the unfinished business. If we are to act at all on the Pacific railroad bill, we should act during this week, so that it may be sent to the House of Representatives to be acted upon and passed there. I regard it as a matter of importance. I do not want to be disrespectful to Senators, or to any subject before the Senate, but I regard it as my duty to press the Pacific railroad bill. I shall therefore insist on having it up on Thursday and Friday, so that we may get a final vote on it this week, at least. I shall insist on this, with great respect to other gentlemen. Still, I do think it my duty to press it. The honorable Senator from Virginia [Mr. HUNTER] has one of the appropriation bills before us now, which ought to be considered. The discussions on these subjects are interminable. Every speech which is made brings out another, and if we keep on at them, they will drive us into the adjournment of Congress without doing any practical legislation.

Mr. BADGER. I move to postpone the further consideration of this subject until Monday fortnight, to give full opportunity to prepare all the speeches which gentlemen desire to deliver, so that we can have them all in one installment.

The PRESIDING OFFICER. Does the Senator from New Hampshire withdraw his motion?

Mr. HALE. No, sir.

Mr. ADAMS. I beg leave to offer an amendment to the proposition of the Senator from North Carolina.

The PRESIDING OFFICER. The Senator

from North Carolina has no proposition before the Senate.

Mr. ADAMS. He moved to postpone the further consideration of the subject until Monday two weeks.

The PRESIDING OFFICER. The question is on the motion to postpone the further consideration of the resolutions until Tuesday next.

Mr. ADAMS. I would suggest, to avoid the difficulty mentioned by the Senator from Texas, who says that these questions are interminable, that we postpone this subject until the third day of March, so that the Senator from New Hampshire, [Mr. HALE,] who has the floor on the question, may have the last speech on it, and he can then give us a farewell address. [Laughter.]

Mr. BADGER. I suppose the question will first be put upon the longest time.

Mr. WELLER. The third of March is the longest time.

The PRESIDING OFFICER. The question is on postponing the further consideration of the resolutions until the third of March.

Mr. HALE. Then I will move that they be postponed indefinitely, which is a still longer time, and therefore, I suppose the question will be put on my motion first. If the Senator from Mississippi proposes to postpone them for the purpose of my giving a valedictory, I will say to him that I have no idea of giving it then. I move that the further consideration of the resolution be indefinitely postponed.

The PRESIDING OFFICER. The question will be then on postponing the resolutions indefinitely.

Mr. MASON. Do I understand that the motion of the Senator from New Hampshire is to postpone this matter indefinitely?

Mr. HALE. I moved that it be postponed till Tuesday next. Other gentlemen named other days, and the Senator from Mississippi suggested the third of March. I said I would prefer to have the question taken on an indefinite postponement, rather than to have it on postponing till the third of March.

Mr. MASON. This is a report, made after considerable labor, by one of the standing committees of the Senate, which presents to the Senate these resolutions for its action. I submit whether we should not have the action of the Senate upon the subject-matter of the resolution. I have no desire to enter into any discussion myself, further than to give an answer to some of the points advanced by the Senator from New York, and I shall ask leave of the Senate to do so; but I will cheerfully defer them until other Senators shall have presented their views. I hope the Senator will withdraw his motion, and that the question will be taken on postponing the further consideration of the resolution until Tuesday next.

Mr. HALE. I withdraw my motion to postpone indefinitely.

The PRESIDING OFFICER. The question then is on postponing the further consideration of the resolutions until the third of March next.

Mr. ADAMS. I withdraw that motion.

The PRESIDING OFFICER. Then it recurs on the motion to postpone it until Tuesday next.

The motion was agreed to.

NEGOTIATIONS WITH ENGLAND.

A message was received from the President of the United States, by Mr. FILLMORE, his Private Secretary, relative to the negotiations pending between the United States and Great Britain, in reference to the fisheries, navigation of the St. Lawrence, &c.

Mr. HAMLIN. The Senator from Virginia, the chairman of the Committee on Foreign Relations, [Mr. MASON,] and myself have both examined that matter. It relates to the subject of the fisheries. That subject is pending before the Committee on Commerce, and with the approval of the Senator from Virginia, I move that the message be referred to the Committee on Commerce and printed. The motion was agreed to.

On motion by Mr. BADGER,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 8, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER stated that the first business in order was the consideration of the Senate amendments to the following bill: "An act to 'amend an act to create the office of surveyor 'general of the public lands in the Territory of 'Oregon, to provide for the survey of the same, and 'to make donations to the settlers upon the same," approved September 28, 1850; and upon which the gentleman from Missouri [Mr. HALL] was entitled to the floor.

Mr. COBB. I ask the gentleman from Missouri to yield the floor for a moment. When that bill was brought in here the other day from the Senate, a proposition was made by a gentleman from South Carolina to refer it to the Committee of the Whole on the state of the Union. I then objected to that motion being made, and I have not slept well since, because I believe the one-man power should never be exercised to prevent the majority of the House from acting upon and disposing of any business according to their own will. I do not like some of the provisions of that bill, but nevertheless, if it were not now before the House as it is, I should withdraw any objection I may have made with regard to it, and leave the House to dispose of it as a majority might determine. I understand that there are some widows and orphans connected with the bill, and I could not sleep well after making an objection to any proposition for their benefit. [Laughter.]

Mr. FLORENCE obtained the floor.

Mr. RICHARDSON. I must insist upon the regular order of business.

Mr. FLORENCE. I hope the gentleman will allow me to ask the unanimous consent of the House to offer the resolution which I hold in my hand. If it is objected to, I know it must fail, as a matter of course. I was struggling yesterday, all day, strictly in the performance of my duty as a member from the State of Pennsylvania, to get the floor to offer it. I desire now, to ask the unanimous consent of the House to offer it, and if there is objection, let it go.

The resolution is as follows:

Resolved, That Senate bill, (No. 574,) to reorganize the Navy of the United States, be made the special order for Saturday next, at twelve o'clock, m.

Mr. RICHARDSON. If no one else objects I will not.

Mr. LETCHER. I was all day yesterday in the same fix with the gentleman from Pennsylvania, and did not succeed in getting the floor either. I object.

Mr. RICHARDSON. I move the previous question upon the adoption of the Senate amendments to the bill.

Mr. HALL. This bill was reported by the Committee on Public Lands, and I thought it proper to say a word or two in relation to it; but if the House are disposed to act upon it, without explanation, I have no objection.

Mr. RICHARDSON. If the gentleman from Missouri, who reported this bill, wishes to make any explanation, I will withdraw my call for the previous question.

Mr. HALL. I desire only to call the attention of the House, in a few words, to the character of this bill. The bill passed the House during the last session, with very little if any objection. The Senate amendments are substantially the same with the original bill.

They provide, in the first place, that where an individual has settled upon land under the provisions of an act donating land to settlers in the Territory of Oregon, and has resided upon that land for two years, they may, if they think proper to do so, enter the land at $1 25 per acre, and come into immediate possession of it, instead of waiting for three years, and getting it for nothing. The same section also provides that where the original settler had died before he had resided upon the land four years, his widow or orphans may enter the land at $1 25 per acre, and receive a patent for it.

The second section provides that it shall be the duty of the surveyor general to receive any moneys paid for these lands; and also furnish a certificate setting forth the boundaries of the land. It provides that the surveyor general, in consideration of these services, shall receive two per centum on all moneys thus collected, provided that the whole salary shall not, in any one year, exceed the sum of $4,000.

The fifth section extends an act granting land to settlers in Oregon two years; that is to say, the act expires on the 1st day of December next, and the fifth section provides that the provisions of the act shall be extended to the 1st day of December, 1855.

[Here a message was received from the Senate by the hand of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed House bill (No. 161) to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida, without amendment; and also that the Senate had passed the following bills:

S. No. 570. An act to create a collection district in the State of Rhode Island.

S. No. 586. An act to extend preëmption rights to unsurveyed lands and for other purposes.]

Mr. HALL, (resuming) The bill further provides, that in order to secure the Government against loss, the surveyor general shall give a bond of $50,000 for the faithful performance of his duties, and the safe-keeping of the moneys received by him under the provisions of this act.

Another section provides that all settlers under the old act, who were resident in the Territory on or prior to December, 1850, and since that time, shall give notice, within a certain time, to the surveyor general, setting forth his claims under the fourth section of the act of which this is amendatory; and if they do not give the required notice to the surveyor general, then their rights under the said fourth section shall be nullified.

Another section of the bill provides, that where the husband dies, his widow shall be entitled to the same rights to which she would have been entitled but for the death of her husband; and that in case of the death of the widow prior to the expiration of the four years' continued possession required by the act of 1850, all the rights of the deceased shall inure unto, and be vested in the heirs-at-law of such widow.

Another section provides, that after the first of April, 1855, all public lands in Oregon, west of the Cascade Mountains, which are now, or shall hereafter be surveyed, and which have not been claimed under the provisions of the act of 1850, or reserved for public uses by law, or order of the President, and excepting mineral lands, shall be subject to public sale and private entry, as other public lands of the United States; and in order to carry into effect those provisions, it authorizes the President to appoint, with the advice and consent of the Senate, one register and one receiver of public moneys, who shall give bonds for the faithful performance of their duties, and who shall be entitled to receive the same salaries which this act gives to the surveyor general, that is to say, $500 and fees, provided that the whole salary shall not exceed $4,000 a year.

And then, in order further to secure the Government of the United States against losses, the bill requires these officers in the Territory of Oregon shall be subject to the provisions of the act of 1846, entitled "An act to provide for the better 'organization of the Territory, and for the collec-'tion, safe-keeping, transfer, and disbursement of 'the public revenue."

As this bill, Mr. Speaker, was thoroughly discussed and understood at the last session, I presume that no further discussion is required at the present time, and therefore I move the previous question upon agreeing to the Senate amendments.

The previous question was then seconded, and the main question ordered to be put.

The proposed amendment of the Senate, (in the nature of a substitute,) as it has heretofore appeared in the proceedings of the Senate, were then read by the Clerk.

The SPEAKER. This bill proposes to make a small appropriation, contingent to be sure, but which, nevertheless, would require it, under the rule, to be considered first in the Committee of the Whole on the state of the Union.

Mr. HALL. I suppose, if there is no objection, it can be considered in the House.

Mr. LETCHER. I object.

Mr. HALL. I move, then, that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up territorial business.

The SPEAKER. The gentleman's motion proceeds upon the hypothesis that this bill has been referred to the Committee of the Whole by force of the rule, which is not so.

Mr. HALL. I supposed it was.

Mr. RICHARDSON. I move that the bill be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. That motion is in order.

The question was taken, and the motion was agreed to.

Mr. HALL. I now renew my motion to go into committee.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair.)

On motion by Mr. HALL, the committee took up for consideration House bill No. 224, to amend an act entitled "An act to create the office of surveyor general of the public lands of Oregon, and to provide for the survey and to make donations to the settlers of the said public lands," approved September 27, 1850.

Mr. HALL. As the amendments of the Senate, which strike out all after the enacting clause of the bill, have just been read in the House, I move that their further reading be dispensed with.

Mr. VENABLE. I must confess myself totally ignorant upon the subject of the bill, and I am really gratified that it has been brought into the Committee of the Whole on the state of the Union. It seems to have grown into a practice here, pending bills making grants of millions of acres of land, that, because a half dozen gentlemen happen to understand it, the House acts upon the presumption that everybody else does. Upon that presumption the previous question is called, and the House forced to vote upon the bill without sufficient knowledge of its contents upon the part of the members.

Mr. HALL. I move that the committee rise, with a view of closing the debate upon this bill.

Mr. RICHARDSON. If the reading of the bill is insisted upon by the gentleman from Virginia, [Mr. LETCHER,] or by any one else, I suppose it must be read.

The CHAIRMAN. Such is the opinion of the Chair. The reading can be dispensed with only by unanimous consent.

Mr. SACKETT. Is the bill under consideration the one that has just been read in the House?

The CHAIRMAN. The Chair so understands it.

Mr. SACKETT. Is it in order to move to suspend the reading of the bill?

The CHAIRMAN. It can be dispensed with only by unanimous consent.

Mr. VENABLE. I call for its reading.

The CHAIRMAN. The Clerk will read the bill.

Mr. RICHARDSON. I suppose the Clerk reads only the amendments.

Mr. CLARK. The amendments constitute the whole bill, as they strike out the whole House bill after the enacting clause.

The Clerk then proceeded to read the bill by clauses, and had proceeded, without amendment being offered, to the ninth section, which is as follows:

"*And be it further enacted*, That all reservations heretofore, as well as hereafter, made in pursuance of the fourteenth section of the act to which this is an amendment, shall, for magazines, arsenals, dock-yards, and other needful public uses, except for forts, be limited to an amount not exceeding twenty acres for each and every of said objects at any one point or place, and for forts to an amount not exceeding six hundred and forty acres at any one point or place: *Provided*, That if it shall be deemed necessary, in the judgment of the President, to include in any such reservation the improvement of any settler made previous to such reservation, it shall, in such case, be the duty of the Secretary of War to cause the value of such improvements to be ascertained; and the amount so ascertained shall be paid to the party entitled thereto, out of any money not otherwise appropriated."

Mr. JONES, of Tennessee. I do not know that I correctly understand the provisions of that section. My understanding of it is, that if any place may hereafter be selected for a fort, not including more than six hundred and forty acres, which may previously have been improved by a settler, the Secretary of War shall cause it to be valued, and that the settler shall be paid for the improvement. I wish to inquire of the gentleman from Missouri [Mr. HALL] if it is intended also to include the land? I am perfectly willing that the settler should be paid for his improvements, but that the Government should have the land without paying for it.

Mr. HALL. The bill states, in express terms, that the Government shall pay for the improvements and not for the land. If, however, the gentleman from Tennessee does not regard it as sufficiently explicit, I am willing that any amendment should be adopted to secure that end. I do not think it right that the settler should be paid for the land, but he should be paid for his improvements.

Mr. JONES. I desire to ask the gentleman from Missouri if the bill provides that the occupants of any such lands so improved, and which may have been selected by the Government for a fort, may select any other lands for his residence, in lieu of the one of which he shall be deprived for public purposes?

Mr. HALL. It does not. If the gentleman will propose an amendment to meet his objection I will accept of it.

Mr. JONES. I think the bill should certainly embrace such a case.

Mr. LANE. The existing law allows to every man one claim, and if by an act of Government he should be deprived of land which he now has, he certainly could select another tract under the law as it now exists. No amendment is necessary to cover the case alluded to by the gentleman from Tennessee. If the Government says that the tract which any settler occupies is not his, he has the right to go upon any unoccupied land and make a claim.

Mr. JONES made some remarks which could not be heard by the Reporter in consequence of the confusion in the Hall.

Mr. HALL. The suggestion made by the gentleman from Tennessee is correct, and the only objection to it is, that if the bill should be amended, it would have to go back to the Senate; and from the pressure of business at this late stage of the session, it may be lost; and inasmuch as the gentleman from Oregon says that the bill is now sufficient, I hope the gentleman from Tennessee will not press his amendment.

Mr. PENNIMAN. I desire to offer the following amendment to the section by inserting:

Provided, That improvements only shall be paid for, and the settler may locate other lands, and equal in amount to those so taken by the United States.

Mr. LANE. I have no other objection to the amendment offered by the gentleman from Michigan than this: at this late period of the session, if the bill is sent back to the Senate it may be lost. If the gentleman will look at the provisions of the bill as it now stands, he will find that it provides for the payment for improvements only. The object of his amendment is provided for in the bill. The sections were most carefully framed by the Committee on Public Lands in the Senate, and they were well satisfied that the Government was well protected in everything. It passed the Senate without a dissenting voice.

Mr. JONES, of Tennessee. Upon examination of the bill, I cannot see any good to be effected by the amendment of the gentleman from Michigan. The bill, as it now stands, provides for the examination of, and payment for the improvements, and for no more. It does not include the land. Under the general law now existing, the one deprived of his lands under this act, has the right to make another location, and will continue to have that right. As I said before, I do not see any good to be derived from the gentleman's amendments; and, if adopted, it will send back the bill to the Senate, and subject it to the danger of being lost in the press of business.

The question was then taken upon the amendment offered by Mr. PENNIMAN; and it was not ageed to.

The question then recurring upon agreeing to the Senate amendments, it was put, and decided in the affirmative.

So the amendments of the Senate were adopted.

Mr. HALL. I suppose now the chairman of the committee will report the bill to the House, with a recommendation that the amendments of the Senate be concurred in.

The CHAIRMAN. The bill will be laid aside to be reported to the House.

NEBRASKA TERRITORY.

Mr. HALL. I move that the bill for organizing the Territory of Nebraska, be now taken up.

Mr. SIBLEY. I move that House bill No. 41, entitled "A bill granting the right of way and making a donation of public lands to the Territory of Minnesota, to aid in the construction of a railroad from the falls of the St. Louis river to St. Paul on the Mississippi river," be now taken up for consideration. That bill, without objection on my part, was, during the last session, informally passed over, that there might not be embarrassment in the transaction of other territorial business. That bill is of great importance to the people of Minnesota.

The CHAIRMAN. That is the next bill on the calendar, and will now be taken up for consideration, unless otherwise ordered by the committee.

The title of the bill was then read by the Clerk.

Mr. STUART. I think that we had better dispose of the other territorial business before considering that bill. It is of vastly more importance that we should take up for consideration and action the bills for the organization of the new Territories.

Mr. SIBLEY. If the gentleman will permit me to make a remark or two, I think I can satisfy him with regard to this bill. During the last session of Congress, at the appeal of the chairman of the Committee on Territories, that the territorial business might not be retarded by a long debate, I allowed that bill to be informally passed by. I have already stated to the members of the Territorial Committee, that I am as anxious to expedite business reported from that committee as any member can be. I now only ask that the bill to which I have adverted, be taken up for consideration; and I will here state, that if it give rise to debate, I do not propose to press it to a vote. I do most earnestly solicit at the hands of this committee, the consideration at the present time, of the only bill now before it, bearing upon the interests of the Territory of Minnesota. In five or ten minutes, I think I can satisfactorily demonstrate the necessity for its passage.

The CHAIRMAN. Does the gentleman from Michigan submit any motion?

Mr. STUART. I desire to submit a motion to take up the bill to organize the Territory of Columbia, and after that the bill to organize the Territory of Nebraska, and a bill providing for a road extending from the frontier settlements through to Oregon and California. And I submit it now that those are matters of vastly more importance than the construction of a railroad in Minnesota. I have no objection to the bill of the Delegate from that Territory; so far from it, the gentleman will do me the credit to say that I have, during the time I have had the honor of being a member of the Committee on Territories, done everything that was reasonable for that Territory. But will it be said by any gentleman of this committee, that it is more important to occupy these two days—and we have only two days for the consideration of territorial business—in discussing the question of a grant of land to aid in the construction of a railroad in Minnesota, than to organize the Territories of Columbia and Nebraska, and furnish the means of protection to the emigrants thither? I cannot think so. Now, although this may be the only bill Minnesota has for consideration, it presents this state of facts: That that Territory has been most liberally dealt by heretofore. There are other measures from Territories belonging to this Union now in a suffering condition. I submit, therefore, the motion——

Mr. SIBLEY. Before the gentleman submits his motion, I desire to say a word in reply to his remarks.

Mr. RICHARDSON. I rise to a question of order. Before the bill has been read through, I think discussion is out of order.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Illinois. The question of priority of business is not debatable. What motion does the gentleman from Michigan make?

Mr. STUART. I move that the bill to organize the Territory of Columbia be now taken up for consideration.

Mr. SIBLEY. I would inquire whether my motion that House bill No. 41 be taken up for consideration be first in order?

Mr. STUART. The gentleman's motion will be in order if mine does not prevail.

The CHAIRMAN. The Chair will state that the bill referred to by the Delegate from Minnesota was the one next in order, and the committee were about proceeding to its consideration, when the

gentleman from Michigan [Mr. STUART] submitted his motion, which the Chair holds to be in order, because it is, in fact, a motion to lay aside the Minnesota bill, for the purpose of taking up another.

Mr. SIBLEY. I should like to know of the Chair, before he makes his decision, whether it is competent for the gentleman from Michigan to take the floor from me in order to submit his motion?

The CHAIRMAN. The Chair recollects that the gentleman from Michigan rose before the completion of the reading of the bill, and made his motion. The Chair does not understand that the gentleman from Michigan took the floor from the gentleman from Minnesota.

The question was stated to be on the motion of Mr. STUART.

Mr. SEYMOUR, of Connecticut. I demand tellers.

Tellers were ordered.

Mr. SIBLEY. I withdraw my motion that House bill No. 41 be taken up for consideration, because I perceive that if I persist in demanding a division of the committee, it will be found there is no quorum present, and I do not desire to retard the other territorial business which will be brought forward.

The CHAIRMAN. Then, if there be no objection, the committee will take up for consideration the bill of the gentleman from Michigan, No. 348, to organize the Territory of Columbia.

Mr. RICHARDSON. I move to lay that bill aside, with the view of taking up the Nebraska bill. I want to get them in their order before the committee, and I am desirous to have the bill to organize the Territory of Nebraska passed first.

Mr. STUART. The bill to which my motion alludes is the one next in order.

Mr. RICHARDSON. I can only accomplish my object by moving to lay aside these bills as they come up.

The CHAIRMAN. The motion of the gentleman is in order.

Mr. JONES, of Tennessee. I submit to the Chair whether bills providing for the organization of new Territories are in order to-day? This and the two succeeding days have been set apart by an order of the House for the consideration of territorial business. Those bills, I think, belong to the general business which pertains to the whole country. I think the proper mode to be adopted on this occasion is, to call the bills relating to the Territories as they stand on the calendar, and either consider or pass over them by motion.

Mr. RICHARDSON. If bills for the organization of Territories be not territorial business, I do not know what is. That is the only reply I have to make to the gentleman.

The CHAIRMAN. The gentleman from Tennessee rises to the question of order that the bill in relation to the Territory of Nebraska is not in order as territorial business. The Chair overrules that point, and decides the bill is in order. It is in the list of territorial bills.

Mr. ORR. Before the question is put, I desire only to make an inquiry.

The CHAIRMAN. The question is not debatable, though the Chair would be happy to hear any suggestion from the gentleman.

Mr. ORR. I desire to inquire whether it has not been usual, in proceeding with the consideration of territorial business, to take up the bills in the order in which they were referred to the committee?

The CHAIRMAN. That will be done, unless the committee shall choose to adopt another course.

Mr. RICHARDSON. That is what I have been trying to do. I desire to pass over one to get at the next on the calendar.

Mr. ORR. I cannot see any reason for a skip in the calendar over one for the purpose of taking up another bill. We will have time to get through with all.

The CHAIRMAN. The motion is not debatable.

Mr. RICHARDSON. As there seems to be an indisposition to receive my motion, I withdraw it.

Mr. BAYLY, of Virginia. I move that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HIBBARD) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 224, entitled "An 'act to amend an act entitled 'An act to create the 'office of surveyor general of the public lands in 'Oregon, and to provide for the survey, and to 'make donations to the settlers of the said public 'lands,' approved the 27th of September, 1850," and had instructed him to report the same to the House with a recommendation that it do pass.

A message in writing was here received from the President of the United States, by M. P. FILLMORE, his Private Secretary, and also a message notifying the House that he did on the 5th of February, approve and sign a joint resolution and bills of the House of Representatives, of the following titles, viz:

H. R. No. 351. An act for the relief of Brevet Brigadier General Bennet Riley, and to enable him to settle his accounts with the United States.

H. R. No. 185. An act for the relief of Maurice K. Simons.

H. R. No. 199. An act for the relief of the legal representatives of Bernard Todd, deceased.

H. R. No. 160. An act for the relief of the heirs of Jeremiah Wingate.

J. R. No. 28. Joint resolution granting the petition of William and Matthew Moss.

A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed a joint resolution of the following title, viz:

S. No. 51. An act giving further remedies to patentees.

THE FISHERIES—RECIPROCITY.

Mr. BAYLY, of Virginia. I ask the unanimous consent of the House to take up the message which has just been sent in by the President of the United States. I am informed by the Secretary of State that it is important it should receive early and immediate consideration. It concerns our foreign relations.

[Cries of "Read it!" "Read it!"]

The message was then read by the Clerk, as follows:

To the Senate and House of Representatives:

Having in my message to Congress at the opening of the session, adverted to the pending negotiations between this Government and that of Great Britain, relative to the fisheries and commercial reciprocity with the British American Provinces, I transmit for the information of Congress, the accompanying report from the Department of State, on the present state of the negotiations, and I respectfully invite the attention of the two Houses to the suggestion in the latter part of the report.

MILLARD FILLMORE.

WASHINGTON, 7th February, 1853.

To the President of the United States:

The Secretary of State has the honor to submit to the President the following report relative to the negotiation pending between this Government and that of Great Britain, on the subject of the fisheries, of reciprocal intercourse with the British North American Provinces, and the navigation of the St. Lawrence and the canals connected with it.

The prospects of the negotiation at the commencement of the session, were alluded to in a general way in the President's message. The attention of this Department was given to the subject at the earliest day possible, and it has been pursued with diligence. It has been perceived with satisfaction, that the Government of her Britannic Majesty is prepared to enter into an arrangement for the admission of the fishing vessels of the United States to a full participation in the public fisheries on the coasts and shores of the Provinces, (with the exception, perhaps, at present of Newfoundland,) and in the right of drying and curing fish on shore, on condition of the admission duty free into the markets of the United States, of the products of the colonial fisheries, similar privileges on the like condition to be reciprocally enjoyed by British subjects on the coasts and shores of the United States.

Such an arrangement, the Secretary has reason to believe, would be acceptable to the fishing interest of the United States. It is also understood that the British Government is desirous, in concert with the provinces, to come to an agreement with the United States for reciprocal free trade with the provinces in certain natural productions; and that the free navigation of the river St. Lawrence, and of the Welland and Rideau canals would be conceded as part of the arrangement.

An agreement of this kind has for several years received the attention of Congress, and a bill providing for reciprocal free trade in certain articles, on one occasion passed the House of Representatives. The present negotiations have been conducted by the Department under the impression that, if the details of the arrangement could be satisfactorily settled, and in such a way as to afford a prospect of mutual benefit, Congress would be disposed to perform its part to carry it into effect.

Even if the United States, as a party to the compact which furnishes by far the largest market to the other, should think it necessary in some respects to limit, and in others to enlarge the number of articles subject to the arrangement, beyond what the British Government or the provinces would prefer, the Secretary has been of opinion that the main provisions above alluded to promise so much benefit on both sides, that it would be felt to be expedient to enter into the arrangement for a definite time, leaving to future legislation and negotiation, guided by experience, to render it still more satisfactory by further limitation or enlargement.

The number and variety of the details which have presented themselves in the progress of the negotiation, and the important interests in different parts both of the United States and the British Provinces, requiring to be carefully considered, taken in connection with the necessity of a reference to London for instructions as to all questions of moment that arise unexpectedly, have thus far prevented, and will probably render impossible the conclusion of a comprehensive arrangement of the kind contemplated, in season to be submitted to the Senate, and to become the subject of legislative action during the present short session. It is believed, however, from the progress made, and the present state of the negotiations, that time only is wanted for a satisfactory agreement between the two Governments on all the subjects above alluded to.

The only part of the proposed arrangement which may be considered as of an urgent nature, is such an adjustment of the fisheries question as would remove all danger of trouble on the fishing grounds during the approaching season. This is an object of great importance, and worthy the immediate attention of Congress. As belonging to a general settlement, the British Government is not willing to dispose of it separately; but the Secretary of State is of opinion, that under the circumstances of the case, if Congress should pass an act admitting provincial fish free of duty into the United States, on condition that the fishermen of the United States are admitted to a full participation in the provincial fisheries, the Government of Great Britain would give effect to the measure by the requisite legislation on her part, in the expectation on both sides, that the question of reciprocity, and of the use of the St. Lawrence and the canals connected with it, will be taken up hereafter, with a favorable disposition to come to a mutually advantageous agreement on that part of the subject also.

Even if such an act should fail to produce the desired result, which is not apprehended, it would relieve the United States of the responsibility of the consequences.

All which is respectfully submitted,

EDWARD EVERETT.

DEPARTMENT OF STATE,
WASHINGTON, *February*, 1853.

Mr. BAYLY. I move that the communication be referred to the Committee on Foreign Relations and printed.

The question was then taken, and it was decided in the affirmative.

Mr. RICHARDSON. I move the previous question upon the bill which has been reported to the House from the Committee of the Whole—an act to create the office of surveyor general of the public lands in Oregon, and to provide for the survey, and to make donations to the settlers of the said public lands, approved the 27th of September, 1850.

The SPEAKER. The question is upon concurring in the Senate amendment. The previous question has been demanded.

The previous question was seconded, and the main question ordered.

The SPEAKER. The Chair is informed that this is a House bill returned from the Senate with an amendment. The only question is upon agreeing with the Senate amendment.

The question was then taken, and it was decided in the affirmative.

So the Senate amendment was concurred in.

Mr. RICHARDSON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and it was decided in the affirmative.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) and resumed the consideration of territorial business.

The CHAIRMAN. The gentleman from Illinois [Mr. RICHARDSON] withdrew his motion to take up the bill relating to the organization of the Territory of Nebraska. The business first in order is House bill (No. 348) in relation to the organization of the Territory of Columbia.

Mr. STUART. I move that the first reading of the bill be dispensed with, and that it be read by sections as we proceed.

The CHAIRMAN. If there be unanimous consent, that suggestion will be adopted. The Chair hears no objection, and the Clerk will read the bill by sections.

Mr. JONES, of Tennessee. Believing that the House are not prepared to make another territorial government in Oregon at this time, there not being, as I suppose, sufficient population for two Territories, and with a view to economize time, I move to lay aside this bill, and report it to the

House with a recommendation that it do not pass. If that motion should be negatived, then we can go on and perfect the bill in all its details.

Mr. LANE. It is painful for me, at any time, to differ with the gentleman from Tennessee [Mr. JONES] upon any measure.

Mr. JONES. If any gentleman has objection to its being tested now, I will withdraw the motion. You have dispensed with the first reading, and this is a reading in detail.

The CHAIRMAN. The Chair is of the opinion that it is not competent for the committee to vary the rules, and any gentleman may object to suspending the rules.

Mr. RICHARDSON. I am against the proposition of the gentleman from Tennessee to reject the bill, but I am willing that the question shall be tested. As it is the object of the gentleman from Tennessee to economize time, if the House are not disposed to pass the bill, we may as well know it now as at any other time, and the motion of the gentleman from Tennessee is a proper one to test the sense of the House.

Mr. LANE. Mr. Chairman, before the question is taken upon the motion of the gentleman from Tennessee, I beg the indulgence of the House while I present to the consideration of the committee a few of the many reasons why, in my opinion, this bill should meet the concurrence of the House. The territory proposed to be divided by the provisions of this bill, and out of which is proposed to be organized the Territory of Columbia, embraces a district of country equal in extent to that embraced within the boundaries of Ohio, Indiana, Illinois, Missouri, Iowa, Wisconsin, and Arkansas. And even with the division as proposed by the terms of the bill now under consideration, either of the two Territories—Oregon or Columbia—would contain a broad expanse of country, four times as large as that of the great State of Ohio, a State that within the short period of half a century has acquired a population of more than two millions inhabitants.

The line of boundary between these two Territories is not only natural, so far as geographical division of the country is concerned, but demanded by that which seems to be the different, if not conflicting, interests of what is now termed Northern and Southern Oregon. The face of the country immediately bordering upon the Columbia, generally is such as to preclude that profitable settlement and occupation for which the Territory is so eminently distinguished for some distance upon either side of that stream. Add to this the fact, that neither the agricultural, manufacturing, or commercial interests of these two sections of Oregon are in any sense necessarily connected, and you will perceive the complete and perfect practicability of the proposed division contemplated by the terms of this bill.

Mr. Chairman, this question is at best but a mere question of time, and it is for the consideration of the House whether they will pass to enactment the provisions of this bill as reported here now, or consign it to the keeping of a few years at most in the future. There is no question—there can be none—that the eventual result will be the division now proposed for the action of the House. When we contemplate the immense increase of population which has everywhere awaited on the settlement of our western States and Territories—the unexampled growth of the great West, which seems to increase with magic influence as it each day extends still further westward, and upon the Pacific coast, seems to us here almost utterly incredible—who will undertake to predict for this district of country we now seek to divide, its destiny, or what it will be when it shall have endured for half a century, that period of time within which Ohio has accumulated her population of millions? It is by no means unreasonable, with the history of the rapid settlement of California staring us in the face, to suppose that within the reach of the next succeeding generation this district of country may subsist a population of five millions of people; and as a question of political right, if not of political economy, is it to be supposed that such a state of facts will not demand the organization of more than a single State government, or that the sovereignty of such a State, I mean the people, would find in the Senatorial representation of a single State the material for an equitable exercise of power in that body?

The agricultural capacities of both sections of Oregon are equal to the subsistence of many millions of people; the climate is salubrious and eminently healthy, and there is no reason why it should not eclipse every other western State in the rapidity of its settlement and the density of its population.

The main point—the great and important focus of commercial interest of the Territory proposed to be organized by this bill—will concentrate at Puget's Sound, which is one of the safest navigable inlets in the world. It lies in the middle of the western limits of northern Oregon, and may be considered one uninterrupted harbor for near two hundred miles. The country surrounding this Sound is rich in the fertility of its soil and in agricultural resources. It abounds in a profusion of the finest timber in the world—an article there of extensive export—and an abundance of water power. Its destiny is that of a great country——

Mr. SKELTON. I should like to ask a question. Will the gentleman inform me what the population of the proposed new Territory will be in case the division is made?

Mr. LANE. The population of Columbia in that case will be quite as great as was that of the whole of Oregon at the period of its organization into a Territory.

Mr. Chairman, I desire to add to the remarks I have already made upon the subject before the House, that the Territory of Oregon should, for these and many other reasons I might enumerate, but which will readily suggest themselves to the House, be divided as proposed by the reported bill of the committee.

The bill makes the Columbia river, from its mouth to a point where the forty-sixth parallel crosses that river, near Fort Walla-Walla, thence on the line of that parallel to the summit of the Rocky Mountains, dividing the Territory nearly equal, but leaving, to be sure, the north side somewhat smaller in extent of country than that on the south. The quality of the soil is essentially the same on both sides of the river, and either would make a State, as I before remarked, quite as large as three or four of that of Ohio, and which would afford a home for millions of people.

With these facts before us, and upon the least reflection as to the importance of the protection of that portion of our country as against any foreign aggression, that under a state of war would in all probability fall upon our people in that far-distant country, is it not the duty of Congress, as it unquestionably is the interest of the country, to favor the speedy settlement and occupation of that Territory, so as to obviate the necessity which would otherwise exist, of immense transportation of troops to that country for their protection? Is it not the manifest policy of Congress to contribute by their legislation to the encouragement of the emigration to, and the settlement of that country? You have done much to conduce to this result by the passage of the "donation act," and again this morning by an amendment to that act, extending for a period of years its liberal provisions, and otherwise rendering the act more acceptable to the hardy pioneer who elects to avail himself of its provisions. And now, Mr. Chairman, these same emigrants, looking forward to the bright future and sure destiny of that immense scope of country, ask for a division of that Territory, that when she shall have assumed the proud attitude of sovereignty, she may do so as two great sister States of this Confederacy, and thereby command yonder in the Senate of the United States, as here, the political representation her numbers and importance entitle her to.

It may be alleged here, and perhaps elsewhere, that the passage of this bill necessarily creates additional expense to the Government. It is true, sir, that by the organization of this Territory there will arise an additional expense upon the public Treasury; but such a consideration must sink into utter insignificance when compared with the vast importance of the measure before us. But upon this point, I beg to assure gentlemen that the revenues that will be collected at Puget Sound alone will in a very short period of time more than equal all the expense of the new Territory. This, however, is a consideration, under the circumstances, so palpably unworthy the attention of the House, that I shall not annoy them with a further notice of it, but pass to the reading of the memorial of sundry citizens of Northern Oregon, adopted at a convention held near Puget Sound.

The Clerk read the memorial, as follows:

To the honorable the Senate and House of Representatives of the United States, in Congress assembled:

The memorial of the undersigned, delegates of the citizens of Northern Oregon, in convention assembled, respectfully represent to your honorable bodies that it is the earnest desire of your petitioners, and of said citizens, that all that portion of Oregon Territory lying north of the Columbia river and west of the great northern branch thereof, should be organized as a separate Territory, under the name and style of the "Territory of Columbia."

In support of the prayer of this memorial, your petitioners would respectfully urge the following among many other reasons, viz:

1. The present Territory of Oregon, containing an area of three hundred and forty-one thousand square miles, is entirely too large an extent of territory to be embraced within the limits of one State.

2. The said Territory possesses a sea coast of six hundred and fifty miles in extent; the country east of the Cascade Mountains is bound to that on the coast by the strongest ties of interest; and, inasmuch as your petitioners believe that the Territory must inevitably be divided at no very distant day, they are of opinion that it would be unjust that one State should possess so large a sea-board to the exclusion of that in the interior.

3. The territory embraced within the boundaries of the proposed "Territory of Columbia," containing an area of about thirty-two thousand square miles, is, in the opinion of your petitioners, about a fair and just medium of territorial extent to form one State.

4. The proposed "Territory of Columbia" presents natural resources capable of supporting a population at least as large as that of any State in the Union possessing an equal extent of territory.

5. Those portions of Oregon Territory lying respectively north and south of the Columbia river, must, from their geographical position, always rival each other in commercial advantages, and their respective citizens must, as they now are and always have been, be actuated by a spirit of opposition.

6. The southern part of Oregon Territory, having a majority of voters, have controlled the Territorial Legislature, and Northern Oregon has never received any benefit from the appropriations made by Congress for said Territory, which were subject to the disposition of said Legislature.

7. The seat of the Territorial Legislature is now situated, by the nearest practicable route, at a distance of five hundred miles from a large portion of the citizens of Northern Oregon.

8. A great part of the legislation suitable to the south is, for local reasons, opposed to the interests of the north, and inasmuch as the south has a majority of voters, and representatives are always bound to reflect the will of their constituents, your petitioners can entertain no reasonable hopes that their legislative wants will ever be properly regarded under the present organization.

9. Experience has, in the opinion of your petitioners, well established the principle, that in States having a moderate-sized territory the wants of the people are more easily made known to their representatives, there is less danger of a conflict between sectional interests, and more prompt and adequate legislation can always be obtained.

In conclusion, your petitioners would respectfully represent that Northern Oregon, with its great natural resources, presenting such unparalleled inducements to emigrants, and with its present large population constantly and rapidly increasing by immigration, is of sufficient importance, in a national point of view, to merit the fostering care of Congress, and its interests are so numerous and so entirely distinct in their character, as to demand the attention of a separate and independent Legislature.

Wherefore your petitioners humbly pray that your honorable bodies will, at an early day, pass a law organizing the district of country before described under a Territorial Government, to be named the "Territory of Columbia."

Done in convention assembled at the town of Monticello, Oregon Territory, this twenty-fifth day of November, A. D. 1852.

R. J. WHITE, *Secretary*,
QUINCY A. BROOKS,
CHAS. S. HATHAWAY,
C. H. WINSLOW,
G. N. McCANAHER, *President of the Convention*,
JOHN R. JACKSON,
D. S. MAYNARD,
F. A. CLARKE,
[AND OTHERS.]

Mr. Chairman, aside from the seeming reflections upon the legislative department of the government of Oregon, and waiving the consideration of what is therein represented as sectional strife between the people north and those south of the Columbia, I can scarcely hope to add to the causes set forth in this memorial, and to what I have already remarked in the expectation of influencing this House in favor of the passage of this bill. That a single Territory of this Union should become a State embracing an area of over three hundred and forty-one thousand square miles, and commanding a range of sea-coast of over six hundred miles, is a proposition so utterly at variance with the interests of the country, and with every principle of right and justice, that I sincerely trust Oregon may not be the State so admitted into the Confederacy; but that she may be divided as provided for in the bill now under consideration.

Mr. STANTON, of Kentucky. Before the question is taken on the motion of the gentleman from Tennessee, [Mr. JONES,] I desire to move to amend the bill by striking out the word "Columbia," and inserting "Washington" in lieu thereof. We have already a Territory of Columbia. This

District is called Columbia; but we never yet have dignified a Territory with the name of Washington.

Mr. LANE. I shall never object to that name.

Mr. STANTON. I have nothing more to say, except that I desire to see, if I should live so long, at some future day, a sovereign State bearing the name of the Father of his Country. I therefore move to strike out the word "Columbia," wherever it occurs in the bill, and to insert in lieu thereof the word "Washington."

Mr. STUART. It seems to me that the amendment is hardly in order at this time. The motion of the gentleman from Tennessee [Mr. JONES] must certainly preclude all amendments until it is disposed of.

Mr. TAYLOR. What is that motion?

Mr. STUART. It is to reject the bill.

The CHAIRMAN. The Chair will inform the gentleman that the question is upon the amendment of the gentleman from Kentucky.

Mr. STUART. The point I make is, that that amendment is not in order pending the motion to reject the bill.

The CHAIRMAN. The Chair understood the gentleman from Tennessee to withdraw the motion to reject the bill.

Mr. STUART. The Chair misunderstood the gentleman from Tennessee.

Mr. JONES, of Tennessee. When the gentleman from Oregon rose to address the committee, I withdrew the motion that I had made, remarking that if the gentleman from Oregon objected to the motion, I would withdraw it.

Mr. STUART. The committee certainly understood it differently.

Mr. STANLY. Do I understand the Chair to say that the amendment of the gentleman from Kentucky is now in order?

The CHAIRMAN. That is the impression of the Chair.

Mr. STANLY. I hope that amendment will be adopted——

Mr. JONES, of Tennessee, (interrupting.) If the gentleman from North Carolina does not want to make a speech, I merely wish to say, that in order to test the sense of the committee, I will now renew the motion to lay the bill aside, with a recommendation that it do not pass, as the gentleman from Oregon has been heard upon the subject. If the motion fails, we can then go on and perfect the bill.

Mr. STANLY. I did not yield the floor to the gentleman from Tennessee for the purpose of allowing him to make a motion which would cut off my right to make the remarks which I desire to submit to the House.

Mr. JONES. I certainly would not do that, if I had the right.

Mr. STANLY. Of course, if the motion of the gentleman should be adopted, it would cut off all further proceedings in relation to the bill. Now, sir, I hope the amendment of the gentleman from Kentucky [Mr. STANTON] will be adopted. There is something very appropriate in it; and it is a little singular that this same idea should have occurred to others at the same time. It was but a moment ago that, without having had any conference with the gentleman from Kentucky, I made the suggestion to a gentleman upon my right, that if this Territory was to be organized, it ought not to be done under the name of Columbia, but under that of Washington. We already have a Territory of Columbia—the District of Columbia—and if we were to organize this Territory under that title, it might lead to trouble, especially if there should be a city of Washington in that State. I hope, at least, that inasmuch as we already have a portion of territory bearing the title of Columbia, we shall not give it to another Territory.

Mr. STANTON, of Kentucky. My reason for moving the amendment was, that I thought it would be very appropriate to name a Territory situated on the distant shores of the Pacific, after the Father of his Country.

Mr. STANLY. Well, sir, I congratulate the gentleman from Kentucky upon having made the motion, and I hope it will be adopted. We have one Territory of Columbia already, and suppose there should be an Alexandria, or a Georgetown, or a Washington, in that future Territory of Columbia, it will lead to confusion without serving any good purpose. I hope the name will be changed, as suggested by the gentleman from Kentucky, and that this Territory will be called after the Father of his Country. There has been but one Washington upon earth, and there is not likely to be another; and, as Providence has sent but one, for all time, let us have one State named after that one man, and let the name be Washington. I hope there will be no objection to the amendment.

Mr. STUART. Before the committee proceed to the discussion of this amendment, I desire that we shall rise and adopt a resolution closing debate. With that view, I move that the committee do now rise.

The motion was agreed to—ayes 85, noes not counted.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. HIBBIRD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 348, for the establishment of the Territorial Government of Columbia, and had come to no resolution thereon.

Mr. STUART. I desire to submit the ordinary resolution, that debate in the Committee of the Whole on the state of the Union upon House bill No. 348, shall close in five minutes after its consideration shall next be resumed.

Mr. FAULKNER. I will ask the unanimous consent of the House to allow me, in behalf of the Committee on Military Affairs, to report a bill, which has been referred to that committee, to provide for the protection of the Territories of Oregon, New Mexico, &c.

There was no objection, and

Mr. FAULKNER, by unanimous consent, reported, from the Committee on Military Affairs, a bill to provide for the protection of the Territories of Oregon and New Mexico, and the States of Texas and California; which was referred to the Committee of the Whole on the state of the Union.

The question then recurring upon the adoption of Mr. STUART's resolution, it was read, as follows:

Resolved, That all debate in the Committee of the Whole House on the state of the Union upon bill of the House No. 348, shall cease in five minutes after its consideration shall again be resumed, if the committee shall not sooner come to a conclusion upon the same; and it shall then proceed to vote upon such amendments as may be pending or offered to the same, and report it to the House with such amendments as have been agreed to by the committee.

The question was then taken, and the resolution adopted.

Mr. STUART. I now move that the rules be suspended, and that the House do now resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) and resumed the consideration of the bill for the establishment of the Territorial Government of Columbia, the question pending being upon the amendment offered by Mr. STANTON, of Kentucky, to strike out the word "Columbia," wherever it occurs in the bill as the name of the Territory, and to insert "Washington."

Mr. RICHARDSON. I would suggest to my friend from Kentucky that the first section of the bill is now only under consideration, and it would be better for him to wait till the bill has been read through, and then offer it so as to apply to the whole bill.

Mr. STANTON. I presume there will be no objection to its being so understood now.

A MEMBER. Of course the amendment is to be applied only to the name of the Territory, and not to the "Columbia" river.

Mr. STANTON. Certainly.

The CHAIRMAN. The first section now being under consideration, the amendment can only be considered as applying to the whole bill by unanimous consent.

There was no objection, and the amendment was so considered; and the question being taken, it was adopted.

Mr. CARTTER. I move to insert between the words "the" and "Columbia," in the fifth line of the first section, the words "middle of the main channel of the," so that the clause would read:

"That from and after the passage of this act, all that portion of Oregon Territory lying and being south of the forty-ninth degree of north latitude, and north of the middle of the main channel of the Columbia river, from its mouth to where the forty-sixth degree of north latitude crosses said river, near Fort Walla-Walla, thence with said forty-sixth degree of latitude to the summit of the Rocky mountains, be organized into and constitute a temporary government, by the name of the Territory of Washington."

As the bill now stands, the whole river will belong to the Territory of Oregon, whereas it ought to be equally divided between the two Territories.

Mr. LANE. That is a proper amendment. I hope there will be no objection to it.

The amendment was adopted.

The Clerk then proceeded to read the bill section by section for amendment.

Mr. LOCKHART. I move the following as an additional section, for the purpose of supplying what seems to be an omission:

And be it further enacted, That the Territory of Oregon and the Territory of Washington shall have concurrent jurisdiction over all offenses committed, where the said river forms a common boundary between the said Territories.

The amendment was adopted.

Mr. STUART. I move that the bill be now laid aside to be reported to the House.

The motion was agreed to.

TERRITORY OF NEBRASKA.

The next bill in order was House bill No. 353, to establish the territorial government of Nebraska.

Mr. STUART. I move that, by unanimous consent, the first reading of the bill be dispensed with, and that the Clerk now proceed to read the bill by sections for amendment.

There was no objection, and the motion was agreed to.

The Clerk then proceeded to read the bill by sections.

Mr. HOUSTON. I desire to inquire of the chairman of the Committee on Territories, [Mr. RICHARDSON,] what is the effect of this bill, with regard to the Indian superintendencies for that section of country? Whether it is to create a new superintendency, or whether the present superintendents will still continue in charge?

Mr. RICHARDSON. The gentleman from Alabama is no doubt familiar with the fact in relation to the management of the Indians in these Territories—that the Governors of the Territories have vastly more influence over, and can do more with them than all the superintendents put together. The effect will be, I think, to create a new superintendency, however. This bill discontinues no offices.

Mr. HOUSTON. Will the gentleman tell me who is the superintendent now in charge of these Indians?

Mr. RICHARDSON. Colonel Mitchell, I think.

Mr. PHELPS. These Indians are now, I think, under the St. Louis superintendent, who also has charge of a portion of the Indians in the State of Iowa. It is probable that at the next session of Congress, if this bill should become a law, we may transfer the duties of the superintendent at St. Louis to the superintendent of Nebraska and the others in that region of country, and abolish the superintendency at St. Louis altogether; but I think it would be premature to do it now.

Mr. RICHARDSON. If the superintendency at St. Louis is to be abolished, I think it should be done at this session.

Mr. HOUSTON. If I understand the gentleman from Missouri, [Mr. PHELPS,] then, this bill will take from the St. Louis superintendent of Indian affairs all the Indians except a few in Iowa?

Mr. PHELPS. I will correct, by saying Minnesota.

Mr. HOUSTON. Well, Minnesota. I suppose if the Indians outside of this new Territory which we are about creating, be attached to another superintendency, it will hardly require that he St. Louis superintendency should be continued tat all. And in relation to the Indians in the Nebraska Territory, if it is true—as I have no doubt it is—that the Governor of that Territory, from his connections, caused by his contiguity with them and his constant association with them, would have more influence over them than any superintendent, why not allow the Governor to have charge over them? Where is the necessity of having any other superintendent there at all?

Mr. RICHARDSON. In reply to the gentleman from Alabama I have to say, that any provision in relation to conferring an Indian agency upon the Governor would be very unusual. It is

unusual to provide in these bills for curtailing the number of Indian agents. That is a matter which belongs to another committee in this House.

Mr. HOUSTON. I should presume it belongs as much to the Indian Committee to create a new agency as to diminish the number.

After the Clerk had read the seventeenth section of the bill,

Mr. BROOKS remarked: As I perceive that the next and last section of this bill proposes to appropriate $50,000 for extinguishing the Indian title, I avail myself of the opportunity at this particular time to ask the chairman of the Committee on Territories [Mr. RICHARDSON] two questions: First, if any Indian titles to the land there have already been extinguished? and next, if he can inform the committee what is the probable population—white population I mean—of Nebraska?

Mr. RICHARDSON. In reply to the gentleman from New York, I would say that by the treaty of 1825, between this Government and the Shawnee Indians, a tract of land in this proposed Territory of Nebraska was set aside for them. The patent for these lands was issued to them in 1844. Their interest in that land remains to them until purchased by the Government, and they are now demanding the pay from the Government for those lands, and until their title is extinguished, and also that of another band of Indians of the same tribe who emigrated from Ohio, we cannot extend a Territory over them.

Mr. BROOKS. I understand the gentleman, then, to say, in substance, that the Indian title in this proposed Territory of Nebraska is not yet extinguished, and here we are proposing to establish a new Territory over a region of country to which the Indian title is not yet extinguished.

Mr. HALL. I would say to the gentleman from New York, in regard to the Indian title to the Nebraska Territory, that the following will be found to be the fact: A tract of country, extending about three hundred miles north and south along the State of Missouri, and about forty miles wide, is set aside for the Indians under treaties made between them and the United States. About twelve or fourteen thousand Indians occupy this whole section. There is a strip of country of about the same extent, called the neutral country, which is not occupied by any tribe.

This residue of Nebraska is precisely in the same situation as was Oregon, Utah, Wisconsin, Minnesota, and Iowa, when they were organized.

There is no treaty with the Indians of Nebraska, other than as stated by which the territory is set apart for them; but they occupy it as the Indians of Oregon occupy that Territory; and we have the same right to organize a territorial government over it as we had over Oregon—precisely the same right.

Mr. PHELPS. If the gentleman from New York will allow me, I will say that there is also a strip of land lying west of the Mississippi river not now occupied by any Indians. There are two tracts, one belonging to and occupied by the Cherokees, the other, and a large one too, which was set apart for the purpose of placing Indians upon. All the Indians directly upon the frontier of Missouri, have been removed there, and from other portions of this Union. No one of them were the original occupants of that soil.

Mr. BROOKS. Then, if I understand the gentleman, the Indian titles are not yet extinguished in any part of this Territory. This proposed Territory, it seems, is divided into three classes. The southern class is *pledged* Indian territory. The second class is neutral ground, the possessory title to which belongs to the Indians.

Mr. HALL. It does not belong to the Indians, but to the Government of the United States. The Government has never recognized the right of the Indians to it at all.

Mr. BROOKS. Well, the other part, as I understand, is not occupied by Indians. We have, then, the fact before the House, that there has been no actual treaty extinguishing any part of the possessory title of these Indians to the Territory of Nebraska.

Now this being ascertained, I have to remark, my other question has not been answered, and that is: What is the number of the white population of this proposed Territory?

Mr. HALL. I trust the gentleman who has the floor [Mr. RICHARDSON] will permit me to answer the question.

By the act of 1834, the whole of the territory west of the Mississippi river, except the States of Missouri and Louisiana, and the Territory of Arkansas, was erected into what is called Indian Territory, and also that portion of the territory east of the Mississippi river, and not included within the limits of any State. Under the operation of that law, our people are not permitted to enter that territory at all, without a license from the Executive of this Government, or his agent. The result is, that there are no people occupying this territory, except those who are there with the Government license, not amounting, I believe, to over five hundred persons. But there are many who are annually passing through that territory on their way to Oregon, California, Utah, and New Mexico—probably fifty or sixty thousand annually. These people are under the protection of no law. Murders are every year perpetrated, as well as crimes of all kinds, and against which there is no law to protect the weak. If we desire that the great overland travel from our western States to our new Territories should be under the protection of law, then it is necessary that we should at once organize this Territory, and provide for the extinguishment of the Indian title.

Mr. BROOKS. In reply, I would say to the gentleman from Missouri, that may be; and taking for granted what he says, there is a very good reason for changing some of the laws of the United States, or for extending the jurisdiction of Missouri, or for the establishment of some United States jurisdiction over that country, military or civil; but I believe this is the first time that a territorial bill has ever been brought before us for the purpose of establishing a government over a territory to which the Indian title is not extinguished in any part, and over a people who do not exist there, but who it is supposed will exist if you first give them a government.

Mr. PHELPS. Will the gentleman inform me whether any portion of the Indian title to Minnesota was extinguished when that Territory was organized?

Mr. RICHARDSON. Or to Oregon?

Mr. HALL. Or to Wisconsin, or Utah, or to any other Territory?

Mr. BROOKS. Whatever may be the general facts, about which I shall not stop to dispute here, there were people certainly in these Territories before a territorial government was asked for them; but I have asked gentlemen two or three times what is the white population of Nebraska, and I have not been able to receive a definite answer, or at least such an answer as to show there are enough people there to justify the expenditures of a territorial government. The reply to me has been, that it is unsafe to travel in that country, and it is not settled because there is no government; to which I answer, that this is the first time that I ever knew of the establishment of a government without any people to be governed. In all other cases of the establishment of a territorial government, it was first thought necessary to have a people before you established a government for them. But here is a costly government to be established for a people not yet in existence. And what is the meaning of all this? Surely it cannot be just to make offices. Whenever there are a people there, I will cheerfully vote to give them a territorial government.

Mr. TOOMBS. The gentleman will allow me to correct the gentleman from Missouri, [Mr. PHELPS,] in regard to the Territory of Minnesota. At the time of the admission of Wisconsin into the Union, there was a small portion of the Territory of Wisconsin not embraced within the limits of the present State, upon which there were settlers, and to which the Indian title had been extinguished. This territory was organized into the Territory of Minnesota. The inhabitants of the Territory of Wisconsin, not embraced in the State of Wisconsin after it was settled, elected their Delegate, and he came here, and at that session of Congress the Territory of Minnesota was established, and the gentleman was admitted as a delegate from that Territory. That is the way the Territory of Minnesota was made. So the gentleman is mistaken in stating that the Indian title was not extinguished.

Mr. SIBLEY. The gentleman from Georgia [Mr. TOOMBS] was essentially correct in his statement. The portion of Wisconsin Territory which was subsequently comprised in the limits of Minnesota, lies on the east of the Mississippi river, and a considerable part had been ceded to the Government by the Indians, some years previous to the organization of the latter Territory. To the greater part the Indian title had not been extinguished, which was the fact with reference to all the country on the west of the Mississippi; but the cession of a large tract of the latter has lately been made by the Sioux Indians to the Government. When Minnesota was granted a territorial government, there was a regular county organization existing on the ceded lands not included in the State of Wisconsin. Nevertheless, although such are the facts so far as Minnesota is concerned, I trust that Nebraska will be organized at this session, whatever dissimilarity exists between the present condition of that region and that of my own Territory when it applied for a temporary government. I am convinced that the country included within its contemplated boundary requires the protection of local laws.

Mr. RICHARDSON. The gentleman from New York assumes in this case, that there is no land in the proposed Territory to which there is not an existing Indian title. In that he is mistaken. He also assumes that there is not any portion of American citizens there, over whom a government can be extended. In that he is mistaken. The population included within the limits of this proposed Territory may not be as numerous as it was in Minnesota, but it is not much less.

A VOICE. What is the population?

Mr. RICHARDSON. It is not over twelve hundred souls.

Mr. STEPHENS, of Georgia. As I suppose we shall hardly get through with this bill this afternoon, and as we are to have a night session, I move that the committee rise.

Mr. RICHARDSON. I trust the gentleman will not press his motion. We can finish the bill very soon.

Mr. STEPHENS. I withdraw the motion.

Mr. JOHN W. HOWE. I wish to inquire of the gentleman from Ohio, [Mr. GIDDINGS,] who I see in his seat now, and who, I believe, is a member of the Committee on Territories, why the ordinance of 1787 is not incorporated in this bill? [Laughter.] I should like to know whether he or the committee were intimidated on account of the platforms of 1852? [Laughter.] The gentleman pretends to be something of an anti-slavery man; at least I have understood so.

Mr. GIDDINGS. With the permission of the gentleman from Illinois, [Mr. RICHARDSON,] I will say to my friend that the south line of this Territory is 36° 30′. The law authorizing the people of Missouri to form a State Government, enacted in 1820, provides in express language—

"That in all that territory ceded by France to the United States under the name of Louisiana, which lies north of 36° 30′ north latitude, not included within the limits of the State contemplated by that act, (Missouri,) slavery and involuntary servitude, otherwise than for crimes, whereof the parties shall have been duly convicted, *shall be*, and is HEREBY FOREVER PROHIBITED."

This law stands perpetually, and I did not think that this act would receive any increased validity by a reënactment. There I leave the matter. It is very clear that the territory included in that treaty must be forever free, unless that law be repealed.

Mr. JOHN W. HOWE. I should like to know of the gentleman from Ohio, if he has not some recollection of a compromise made since that time?

Mr. GIDDINGS. That does not affect this question.

Mr. CARTTER. I rise to a question of order. I submit that this conversation between the two gentlemen is not pertinent.

Mr. POLK. They are debating the question before the House. [Laughter.]

Mr. JOHN W. HOWE. I think I am in order. I rose simply to a question of inquiry.

The CHAIRMAN. Does the gentleman from Pennsylvania propose an amendment?

Mr. JOHN W. HOWE. I do not until I hear the answer of the gentleman from Ohio.

Mr. GIDDINGS. I suppose I have answered my friend fully. I have given him my views, and I will add, Mr. Chairman, that I am not in the habit of agitating these questions of slavery unless driven to it.

Mr. JOHN W. HOWE. I knew that. [Laughter.]

Mr. GIDDINGS. And I never intend to do it.

Mr. SWEETSER. I move to strike out the last section of the bill. It reads as follows:

"SEC. 18. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to enter into negotiation with the Indian tribes of said Territory of Nebraska, for the purpose of securing the assent of said tribes to the settlement of the citizens of the United States upon the lands claimed by said Indians, and for the purpose of extinguishing the title of said Indian tribes in whole or in part to said lands; and that, for the purpose of carrying into effect the provisions of this section, the sum of fifty thousand dollars is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated."

I have submitted the motion to strike out, for the purpose of directing the attention of the committee and the country to the existing condition of our Indian relations. I think that it must be admitted by all who have taken the trouble to reflect on the subject, that the time has arrived for a change of the policy of this Government with regard to the Indian tribes. Every man who is acquainted with the present dealings of this Government with the various Indian tribes, is fully aware that almost every transaction has its commencement and its end in fraud and robbery. Notwithstanding all the agencies that have been established and all the instrumentalities of the Government for the protection of this defenseless people, they are stricken down, and seemingly abandoned to a fearful destiny; and if we are to continue this policy, I ask that it shall be done openly. Let the country know that it is our policy to plunder these people; not make a mockery anew by the pretense of a treaty. I hope to see that section stricken out, and the Congress of the United States, not only at this session, but at all future sessions, providing that the Indian tribes instead of being cheated out of their territory and rights, shall be incorporated as citizens, and by law be enabled to hold land in severalty as citizens of the United States hold it. It is my earnest desire to see the end of the system of Indian plunder. Let those people become citizens of the United States, and let them have a portion of territory assigned them.

I trust the day has come when the last treaty has been made for the acquisition of the Indian territory on the continent of America. If members will investigate the history of the past, they will be satisfied that it is demanded of us as a nation to preserve our national character, and to take a step towards a radical change of policy in relation to the Indian tribes on this continent. I take occasion, before leaving the Halls of Congress, to declare it as my solemn conviction, that there should be no more treaties made for the acquisition of the land of the Indians, in accordance with the long-established policy of the Government. There should be an effort to uphold and sustain the faith of the Government towards the Indians. Let our undertakings, as guarantied by solemn treaties, be duly appreciated and preserved.

Mr. HALL. I only desire to make a single suggestion. I am inclined to think that the gentleman is correct, and that the Indians should be so provided for that they would ultimately become citizens of the United States. But most assuredly the gentleman does not contend that ten thousand or twelve thousand Indians should occupy a country large enough for two or three large States. They can have no use for it. All this amendment prpposes is, that the Government may buy from the Indians such lands as they do not want, but which may be useful to our citizens.

Mr. SWEETSER. The gentleman will excuse me from going into details with reference to this matter. I do not now propose to look into the consequences that may follow this policy. I intend only to avow openly, as a conviction of my mind, that the time has come when there should be no more treaties with Indian tribes in this country, who have no power to enforce their rights. I protest against any more treaties until we respect those already made. They are a mockery, and I hope they will no longer be persisted in. I would be glad to see the Congress of the United States, and those gentlemen who are better prepared to discuss this subject in detail than I am, come forward and propose an entire change of policy. I am anxious to have it declared that we shall hereafter act on principles honorable to us as men, and honorable to us as a nation.

Mr. JOHN W. HOWE. I should like to ask the gentleman a question before he sits down.

Mr. BROWN. You cannot do that, for he has already taken his seat. [Laughter.]

Mr. HOWE. I desire to know of the gentleman whether he thinks any gentleman would accept the office of Governor if he could not have the eighteen per cent.?

Mr. SWEETSER. I hope the gentleman will regard me as serious, and excuse me from answering his question.

Mr. STANTON, of Ohio. I understand from the gentleman from Missouri, [Mr. HALL,] that a portion of the territory west of the Missouri has been specifically granted by treaty stipulations to certain Indian tribes, who are now in possession of the territory so ceded. I wish to know of him how the United States acquired the title to the territory so ceded; or whether they hold it by mere occupancy, as what he calls the "neutral ground" is now held by the United States. And whether any difficulty has arisen out of these cessions from adverse claimants?

Mr. HALL. I will state in reply to the gentleman, that I believe a portion of that country was acquired by treaty from the Kansas tribe of Indians. However that may be, I can only say that there has been no controversy between the Government and the Indians in regard to that territory.

Mr. SWEETSER. I will withdraw my amendment.

Mr. CLARK. I move that the committee do now rise.

Mr. RICHARDSON. I trust the gentleman will withdraw that motion, in order to enable me to move that the committee do now rise and report the bill to the House, with a recommendation that it do pass.

Mr. CLARK. I withdraw my motion for that purpose.

Mr. HOWARD. I hope that the motion of the gentleman from Illinois will not be agreed to. I have had occasion to look into this matter, and from the examination I have made, it seems very clear to me that this bill does violate the treaty of 1831. That treaty conveyed to these Indians a certain tract of land fifty miles square, *in fee*, so long as they existed as a tribe and occupied it. To that was suspended a provision that it never should be embraced within the limits of any State or Territory. Then, sir, to embrace it now within a State, would be a clear violation of that treaty; and although the bill excepts them from the jurisdiction of the Territory, yet everybody must perceive, that if their land be surrounded on all sides, it must lead to the creation of it into a new Territory and a practical violation of the treaty. Now, it strikes me as being very clear, that if there is not territory enough in that locality to create a territorial government without violating treaty stipulations, without encroaching on that set apart by treaties for the Indians, we ought not to create it. There is no reason—there is no necessity for it. We ought to keep that treaty in good faith, or we never ought to have made it. The whole object of making it, I submit to the good sense of the committee, was, as is expressly guarantied, that these people might maintain their separate political existence—that it should not be destroyed by their territory being included within any State or Territory. And they ought not to be included, and the Indians placed in such a position as to be again forced to cede their lands contrary to the treaty.

Mr. HALL. The gentleman admits that there is an express provision in that treaty that no territory belonging to any Indian tribe with whom we have a treaty shall be embraced within the limits of any State or Territory. Those Indians will not be included within the Territory proposed to be established by this bill. But the gentleman says, that if you organize a Territory which will embrace the country around the territory of these Indians, you in spirit violate that provision of the treaty. Now, I would inquire of him whether he contends that a treaty, which stipulates that fifty square miles of land shall not be embraced within any Territory, amounts to a prohibition to the establishment of a territorial government over one thousand or one hundred thousand square miles contiguous to that fifty square miles situated as that to which the gentleman adverts?

Mr. RICHARDSON. The gentleman has called the attention of the committee to the territory appropriated under the treaty of 1831 to the Shawnees of Ohio. There is a provision of that treaty that you will not extend territorial or State governments over them. Now they are in the first section of this bill excepted from its provisions. But there is another fact, which he has not investigated to the extent, I presume, that the committee have done, to which I desire to call his attention. The treaty of 1831 set apart for those Shawnee Indians by metes and bounds a particular territory west of the Missouri. They refuse to enter on and hold that land, and they come and demand of this Government pay for it. It is just and proper the Government should pay for it. The Shawnees are not in possession of that land, but they are in possession of another portion of country included in this territory. They do not, as I have said, propose to hold the land set apart by the treaty, but claim $97,000 for it. Provision is made by this bill to treat with these very Indians to extinguish their title.

I will not trouble the committee with reading, but I will content myself with saying, that I have the deed made by the President of the United States to the Shawnees of Missouri. No deed has been made to the Shawnees of the Ohio, the tribe to which the gentleman refers. The opinions, the correspondence, and everything from the Indian Bureau, go to show they do not claim, and do not propose to take, the land which was set apart by metes and bounds.

Mr. ORR. I trust the gentleman from Texas will yield to a motion that the committee do now rise.

Mr. HOWARD. When I have made a brief statement, I will give way. My friend from Illinois is mistaken in the facts in relation to this matter. The Shawnee papers have been in my hands, and I have thoroughly examined them. The treaty of 1825 secured to the Ohio and Missouri Shawnees, as tenants in common, these fifty miles square. The treaty of 1831 makes the guarantee which has already been read to the committee; and the patent issued in 1844 was for the benefit of the Ohio and Missouri Shawnees jointly, or it rather created them tenants in common.

And so far as the other branch of the treaty is concerned—to specify the country selected—the Kansas have selected a country fifty miles square, on the Kansas. They have the land vested in them by patent as well as treaty; but I will consider that subject more at length hereafter. I give way to the motion that the committee rise.

Mr. ORR. I make the motion that the committee rise.

The question was taken, and it was decided in the affirmative.

The committee then rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had had under consideration, according to order, the state of the Union generally, and particularly House bill No. 348, to establish the territorial government of Columbia, and had directed him to report the same to the House, with sundry amendments, with a recommendation that the same do pass; and that the committee had also had under consideration House bill No. 353, to organize the Territory of Nebraska, but had come to no conclusion thereon.

Mr. McMULLIN. I move that the House adjourn.

Mr. STUART. I will ask the gentleman to withdraw that motion for a moment. I do not propose to put the territorial bill reported from the committee with amendments to the House upon its passage; but I propose to make the motion, so that it may come up to-morrow morning.

Mr. McMULLIN. We have not a quorum here, and I move that the House adjourn.

Mr. STANLY. What hour does the evening session commence?

The SPEAKER. We adjourn till seven o'clock, by order of the House.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till seven o'clock, p. m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. FLORENCE: The memorial of William R. Gable, instrument maker at the National Observatory, Washington, praying that the additional percentage voted by Congress for clerks, &c., in the Executive Departments of the Government, may be enjoyed by persons employed at

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the Observatory, it having been withheld from them by an adverse decision of the Comptroller of the Treasury.

By Mr. STRATTON: Ten petitions numerously signed by citizens of New Jersey, for the establishment, by Congress, of a railway post road between Philadelphia and New York.

By Mr. ALLISON: The petition of Washington Porter, of Mercer county, Pennsylvania, for an invalid pension.

By Mr. GAYLORD: Twenty-eight petitions numerously signed by citizens of Ohio, asking for the establishment of a post route, commencing at Newark, thence via Jacksontown, Thornville, Somerset, and Maxville, Perry county, Logan and Plymouth, in Hocking county, McArthur and Charleston, in Vinton county, Berlin and Jackson, in Jackson county, and Sciotoville to Portsmouth, in Scioto county.

By Mr. GREEN: The petition of 93 citizens of Crawford county, Ohio, asking that the Ohio and Indiana railroad may have a credit of five years for the payment of duties on railroad iron.

EVENING SESSION.

The House met pursuant to adjournment.

The SPEAKER. Reports are in order from the Committee on Ways and Means.

Mr. VENABLE. Is there a quorum present?

The SPEAKER. There is no quorum present.

Mr. MACE. I presume it is in order for me to make a few remarks.

The SPEAKER. What is the proposition which the gentleman desires to discuss?

Mr. MACE. A question of order. I wish the friends of the measure of simply making reports from committes—a formal matter, which requires no particular action in the House—if the proposition is insisted upon by the gentleman from North Carolina, [Mr. VENABLE,] or any one else, may swear the same oath that was sworn in times of old, that they would never leave this Capitol until there was a quorum present, and until we are permitted to make our reports.

Mr. HARRIS, of Tennessee. I hope the gentleman from North Carolina will not raise the question as to whether there is a quorum present or not. It is unnecessary to consume this evening in a call of the House. For myself, I should regret the necessity of compelling gentlemen to come here who desire not to come. No harm can come from our making reports, and referring them to a Committee of the Whole House, or the Committee of the Whole on the state of the Union, and ordering them to be printed. Can any harm result from that? I am sure that the gentleman from North Carolina has no fears that any harm will result from it. I promise the gentleman that nothing more than that shall be done. I hope the gentleman will not embarrass the business for which the House has met, by raising the question as to whether there is a quorum or not.

Mr. SACKETT. I simply desire to say, that the committee next in order to the Committee on Ways and Means is the Committee on Private Claims.

Mr. LETCHER. I raise a question of order. What is the business before the House?

The SPEAKER. There is no proposition before the House.

Mr. SACKETT. I wish simply to make this suggestion, that the committee next in order after the Committee on Ways and Means is called, is the committee having in charge private bills.

The SPEAKER. The gentleman from New York [Mr. SACKETT] is not in order to debate any proposition.

Mr. VENABLE. As I asked the Chair whether there was a quorum present, and an appeal has been made to me, if the House will permit me, I will simply, in a remark or two, give my reason for doing so. According to the Constitution of the United States, and the rules of this House, we have no right to proceed to business without a quorum. It is a violation of the Constitution and a contempt of our rules. At any other time, should a gentleman mistake a technical usage, fifty points of order will be raised upon him. I make the point of order, that it is contrary to, and a violation of, our legislative propriety, that we shall proceed without a quorum.

Mr. BROWN, of Mississippi. I move that there be a call of the House.

Mr. OLDS. I move that the House adjourn.

Mr. HARRIS, of Tennessee. I demand the yeas and nays upon that motion.

The yeas and nays were ordered.

The question was then taken, and there were yeas 9, nays 75; as follows:

YEAS—Messrs. Allison, Averett, Caldwell, Thomas Y. How, Andrew Johnson, Landry, Olds, Ward, and Addison White—9.

NAYS—Messrs. Abercrombie, Bennett, Bibighaus, Bowie, Bowne, Brenton, Albert G. Brown, Jos. Cable, Cartter, Chandler, Churchwell, Clark, Clemens, Cobb, Cottman, Curtis, Daniel, John G. Davis, Dimmick, Doty, Duncan, Faulkner, Fay, Fitch, Thomas J. D. Fuller, Gamble, Giddings, Goodenow, Green, Grow, Hall, Harper, Isham G. Harris, Haven, Hendricks, Henn, Hillyer, Holladay, Horsford, Houston, Jackson, Robert W. Johnson, Letcher, Little, Mace, McDonald, McMullin, McNair, Miller, Millson, Molony, John Moore, Morrison, Murphy, Nabers, Newton, Orr, Perkins, Phelps, Porter, Preston, Robbins, Sabine, Sackett, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Benjamin Stanton, Stratton, Sweetser, Thurston, Townshend, Venable, and Watkins—75.

So the House refused to adjourn.

Pending the call of the roll, Mr. CASKIE desired to vote, as he was not within the bar when his name was called.

Mr. GOODENOW objected.

Mr. BRIGGS asked the unanimous consent of the House to vote and make a quorum.

Objection being made, leave was not granted.

The SPEAKER. There is a motion pending for a call of the House, made by the gentleman from Mississippi, [Mr. BROWN.]

Mr. BROWN, of Mississippi. I desire to ascertain whether there is a quorum present, and with that view I call for tellers.

Tellers were ordered; and Messrs. PHELPS and BRIGGS were appointed.

The question was put, and the tellers reported —ayes 30, noes 65; no quorum present.

Mr. HENDRICKS demanded the yeas and nays; which were ordered.

Mr. ORR. If a call of the House be commenced, I hope it will be carried through.

The question was then taken, and there were, yeas 51, nays 56; as follows:

YEAS—Messrs. Abercrombie, Averett, Bowie, Briggs, Joseph Cable, Caldwell, Chandler, Churchwell, Cobb, Darby, John G. Davis, Dean, Doty, Eastman, Faulkner, Fay, Fitch, Goodenow, Gorman, Green, Harper, Isham G. Harris, Haven, Hendricks, Hibbard, Hillyer, Horsford, Houston, Thomas Y. How, Letcher, Little, Mace, Millson, Murphy, Nabers, Orr, Perkins, Phelps, Powell, Preston, Robie, Skelton, Smith, Stanly, Benjamin Stanton, Stratton, Sweetser, Townshend, Venable, Watkins, and Yates—51.

NAYS—Messrs. Allison, Bartlett, Bennett, Bibighaus, Bowne, Brenton, Albert G. Brown, Cartter, Caskie, Chastain, Clemens, Cottman, Curtis, Daniel, Dimmick, Duncan, Durkee, Florence, Thomas J. D. Fuller, Gamble, Giddings, Grow, Hall, Henn, Holladay, Howard, Jackson, Jenkins, Andrew Johnson, John Johnson, Robert W. Johnson, Landry, McDonald, McMullin, McNair, Miller, Molony, John Moore, Morrison, Murray, Newton, Olds, Porter, Robbins, Russell, Sabine, Sackett, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Smart, Thurston, Ward, and Addison White—56.

So the House refused to order a call.

Mr. McMULLIN. I move that the House adjourn.

Mr. BROWN, of Mississippi, demanded tellers upon the motion; which were ordered; and Messrs. VENABLE and McMULLIN were appointed.

The question was then taken, and the tellers reported that there were—ayes 25, noes 70.

So the House refused to adjourn.

Mr. DEAN. I move that there be a call of the House, and I hope it will be carried through.

The question was taken, and it was decided in the affirmative.

So a call of the House was ordered.

The roll was then called, and 118 gentlemen answered to their names; as follows:

Messrs. Abercrombie, Allison, Averett, Bartlett, Bell, Bennett, Bibighaus, Bowie, Bowne, Brenton, Briggs, Brooks, Albert G. Brown, Joseph Cable, Caldwell, Cartter, Caskie, Chandler, Chastain, Churchwell, Clark, Cobb, Cottman, Curtis, Daniel, Darby, John G. Davis, Dean, Dimmick, Doty, Duncan, Durkee, Eastman, Evans, Faulkner, Fay, Fitch, Florence, Thomas J. D. Fuller, Gamble, Giddings, Goodenow, Gorman, Green, Grow, Hall, Harper, Isham G. Harris, Haven, Hendricks, Henn, Hibbard, Hillyer, Holladay, Horsford, Houston, Howard, Thomas Y. How, Ives, Jackson, Jenkins, Andrew Johnson, John Johnson, Robert W. Johnson, George G. King, Landry, Letcher, Little, Mace, McCorkle, McDonald, McMullin, McNair, Miller, Millson, Molony, John Moore, Morrison, Murphy, Murray, Nabers, Newton, Olds, Orr, Penniman, Perkins, Phelps, Porter, Powell, Preston, Price, Richardson, Robbins, Robie, Russell, Sabine, Sackett, Schoolcraft, Schoonmaker, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Smart, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Stratton, Sweetser, Taylor, Thurston, Townshend, Venable, Ward, Watkins, Addison White, and Yates.

The following is the list of absentees:

Messrs. Aiken, Charles Allen, Willis Allen, John Appleton, William Appleton, Ashe, Babcock, David J. Bailey, Thomas H. Bayly, Barrere, Beale, Bissell, Bocock, Boyd, Bragg, Breckinridge, George H. Brown, Burrows, Burt, Busby, E. Carrington Cabell, Lewis D. Campbell, Thompson Campbell, Chapman, Clemens, Cleveland, Clingman, Colcock, Conger, Cullom, George T. Davis, Dawson, Disney, Dockery, Dunham, Edgerton, Edmundson, Ewing, Ficklin, Floyd, Freeman, Henry M. Fuller, Gaylord, Gentry, Gillmore, Goodrich, Grey, Hamilton, Hammond, Sampson W. Harris, Hart, Haws, Hascall, Hebard, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kuhns, Kurtz, Lockhart, Mann, Marshall, Martin, Mason, McLanahan, McQueen, Meacham, Meade, Miner, Henry D. Moore, Morehead, Outlaw, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Polk, Reed, Riddle, Robinson, Ross, Savage, Schermerhorn, Scudder, Snow, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stone, St. Martin, Strother, Stuart, Sutherland, Toombs, Tuck, Walbridge, Wallace, Walsh, Washburn, Welch, Wells, Alexander White, Wilcox, Wildrick, Williams, and Woodward.

Mr. BROWN, of Mississippi. There is a quorum present, and I move that all further proceeding under the call be dispensed with.

Mr. ORR. I will suggest to the gentleman from Mississippi, [Mr. BROWN,] that those members who are necessarily absent from sickness or otherwise, should have the benefit of their excuses rendered, and the names of those who are absent for their own pleasure and convenience should appear upon the Journal. I hope that the House will refuse to dispense with all further proceedings under the call.

The question was taken upon Mr. BROWN's motion, and it was not agreed to.

The SPEAKER. The roll of absentees will be again called over, and gentlemen who have excuses to make for their absent friends will make them.

The Clerk called the names of the absentees in the order in which they appear below, viz:

WILLIAM AIKEN.

Mr. VENABLE. My friend, Mr. AIKEN, is in South Carolina, called home on account of sickness in his family. I move that he be excused.

The motion was agreed to, and Mr. AIKEN was excused.

CHARLES ALLEN.

Mr. GIDDINGS. Mr. ALLEN is indisposed. I called upon him as I came along, and he thought it would not be prudent for him to go out. I move that he be excused.

The motion was agreed to.

WILLIS ALLEN.

Mr. RICHARDSON. My colleague [Mr. ALLEN] is detained from the House in consequence of indisposition. He has been in his seat a portion of the day, but was not able to be here to-night. I move that he be excused.

The motion was agreed to.

JOHN APPLETON. No excuse offered.

WILLIAM APPLETON.

Mr. STANLY. I move that Mr. APPLETON be excused on account of his health. After being here three hours and a half, it is enough to make any one of his age and habits sick.

The motion was not agreed to.

WILLIAM S. ASHE. No excuse offered.

LEANDER BABCOCK.

Mr. HOW, of New York. Mr. colleague [Mr. BABCOCK] was unable to be in the House to-day, on account of indisposition. I move that he be excused.

The motion was agreed to.

DAVID J. BAILEY. No excuse offered.

THOMAS H. BAYLY.

Mr. McMULLIN. My colleague [Mr. BAYLY] has been absent from the House several days on account of indisposition. He ought not to be here to-night. I move that he be excused.

The motion was agreed to.

NELSON BARRERE. No excuse offered.

JAMES M. H. BEALE.

Mr. AVERETT. My colleague [Mr. BEALE] has not been well for several days, and I move that he be excused.

The motion was agreed to.

Mr. FULLER, of Maine. Would it be in order to move to adjourn?

The SPEAKER. It will be in order after the doors are opened, so that members may get out. [Laughter.]

WILLIAM H. BISSELL.

Mr. RICHARDSON. My colleague [Mr. BISSELL] has been detained from the House in consequence of severe indisposition during the entire session. I move that he be excused.

The motion was agreed to.

THOMAS H. BOCOCK. No excuse offered.

Mr. DIMMICK. Is it in order to move that all further proceeding under the call be dispensed with?

The SPEAKER. It is in order.

Mr. DIMMICK. Then I submit that motion.

Mr. STANTON, of Tennessee. Is that motion debatable?

The SPEAKER. It is not debatable.

The question was then taken, and there were—ayes 22, noes not counted.

So the House refused to suspend the call.

JOHN H. BOYD.

Mr. GOODENOW. Mr. BOYD has been absent from his seat for several weeks. I move that he be excused.

The motion was not agreed to.

JOHN BRAGG.

Mr. HOUSTON. Judge BRAGG's health is very delicate, and it is as much as he can do to remain in his seat during the session of the day. Every gentleman knows it who sees him, and therefore I move that he be excused.

The motion was agreed to.

JOHN C. BRECKINRIDGE. No excuse offered.

GEORGE H. BROWN. No excuse offered.

LORENZO BURROWS. No excuse offered.

Mr. GOODENOW. I move to reconsider the vote by which the House refused to excuse Mr. APPLETON, of Massachusetts.

Mr. STANTON, of Tennessee. I would inquire if that motion is debatable?

The SPEAKER. It is debatable to the extent of making an excuse. That is all the rules recognize.

Mr. STANTON. I wish to assume the privilege of debating it to that extent. I think every one is excusable for not being here to-night and at any time during the session. The Speaker has announced the principle that he has the right at all times to recognize anybody he pleases.

Mr. ORR. I call the gentleman to order.

The SPEAKER. The Chair would like to hear what the gentleman is about to say before he is called to order.

Mr. SKELTON. I rise to a question of order.

Mr. ORR. It may be gratifying to the Chair, but I do not think it proper under the circumstances.

The SPEAKER. The Chair understands the gentleman from Tennessee at least to indicate an assault upon the Speaker, and the Chair thinks that he ought to hear him.

[Cries of "Hear him!" "Hear him!"]

Mr. STANTON. I would like to say what I have to say in order. I do not mean to say anything out of order.

Mr. SWEETSER. I must call the gentleman from Tennessee to order.

Mr. STANTON. If I am in order I desire to proceed.

The SPEAKER. The Chair will hear something more in the line of remark which the gentleman from Tennessee desires to make.

Mr. STANTON. I have this to say——

Mr. STANLY. I object to the gentleman going on with that line of remark, unless we have a full hearing.

The SPEAKER. The Chair does not know what the gentleman from Tennessee had in view.

Mr. STANLY. I object to anything further.

Mr. NABERS. I think it is due to the Speaker, as well as to the gentleman from Tennessee himself, that he be allowed to proceed. If it be in order, I move, by unanimous consent, that the gentleman be allowed to proceed.

Mr. SWEETSER. My point of order is, that the gentleman from Tennessee has already indicated his purpose, and that purpose is an assault upon the Speaker of this House. He says that the Speaker has assumed the right to recognize at his pleasure members from the State of Pennsylvania, and he has charged it upon him that he has been guilty of a misapplication of the rules, and that he has committed an outrage——

[Cries of "Order!" "Order!" "Order!"]

Mr. STANTON. I do not intend to say anything disrespectful to the Speaker or this House. I mean to say this, the Speaker has announced the principle that he has the right to recognize anybody he pleases, whether he is the first to rise or not; and I say the Speaker has acted upon the principle he has announced——

Mr. PHELPS. I call the gentleman to order.

Mr. STANTON. I have had important business of a public character upon which I have endeavored to get the floor on every Monday during this session, when it ought to have been in my power to move to suspend the rules; and I believe upon many occasions I was entitled to the floor, but the Speaker has not recognized me.

The SPEAKER. The Chair calls the gentleman from Tennessee to order; and if the Chair had a right to respond, he could give reasons why the gentleman is something more than out of order.

Mr. STANTON. Very well, sir——

The SPEAKER. The gentleman is out of order, and will take his seat.

The Clerk then proceeded with the call of the roll.

ARMISTEAD BURT.

Mr. ORR. My colleague [Mr. BURT] has been confined to his lodgings for several days past by indisposition. He is still indisposed and I therefore move that he be excused.

The motion was agreed to.

GEORGE H. BUSBY. No excuse offered.

E. CARRINGTON CABELL. No excuse offered.

LEWIS D. CAMPBELL.

Mr. TAYLOR. I move that my colleague [Mr. CAMPBELL] be excused. I understand that a member of his family is very sick.

The motion was agreed to.

THOMPSON CAMPBELL. No excuse offered.

CHARLES CHAPMAN. No excuse offered.

SHERRARD CLEMENS. No excuse offered.

CHAUNCEY F. CLEVELAND.

Mr. SEYMOUR, of Connecticut. Mr. CLEVELAND went home some time since in consequence of very serious ill health; he was compelled to leave the city. I move that he be excused.

The motion was agreed to.

THOMAS L. CLINGMAN. No excuse offered.

WILLIAM F. COLCOCK. No excuse offered.

JAMES L. CONGER. No excuse offered.

JOSEPH S. COTTMAN. No excuse offered.

WILLIAM CULLOM. No excuse offered.

GEORGE T. DAVIS. No excuse offered.

JOHN L. DAWSON. No excuse offered.

DAVID T. DISNEY. No excuse offered.

ALFRED DOCKERY. No excuse offered.

CYRUS L. DUNHAM. No excuse offered.

ALFRED P. EDGERTON. No excuse offered.

HENRY A. EDMUNDSON. No excuse offered.

PRESLEY EWING. No excuse offered.

ORLANDO B. FICKLIN. No excuse offered.

JOHN D. FREEMAN. No excuse offered.

MEREDITH P. GENTRY.

Mr. HAVEN. I move that Mr. GENTRY be excused. He has been confined to the house most of the session, and has been able to be here only occasionally.

The motion was agreed to.

HENRY M. FULLER. No excuse offered.

JAMES M. GAYLORD. No excuse offered.

ALFRED GILMORE. No excuse offered.

JOHN Z. GOODRICH. No excuse offered.

BEN EDWARDS GREY. No excuse offered.

JOHN G. FLOYD.

Mr. MURRAY. Mr. FLOYD has an affection of the knee, and is at home. I move that he be excused.

The motion was not agreed to.

WILLIAM T. HAMILTON.

Mr. VENABLE. I move that Mr. HAMILTON be excused. His health is exceedingly delicate, and he ought not to be here even in the daytime.

The motion was agreed to.

EDWARD HAMMOND.

Mr. BOWIE. Mr. HAMMOND has also been in ill-health for a number of months past. I move that he be excused.

The motion was agreed to.

SAMPSON W. HARRIS. No excuse offered.

EMANUEL B. HART.

Mr. MURRAY. I received a letter from Mr. HART a day or two since, in which he stated that he was indisposed at home. I move that he be excused.

The motion was agreed to.

JOHN H. H. HAWS.

Mr. EVANS. Mr. HAWS has been several times summoned to New York as a witness in an important law case. He is there now attending as a witness, on a court of justice. I move that he be excused.

The motion was agreed to.

AUGUSTUS P. HASCALL.

Mr. SMART. I board in the same house with Judge HASCALL, and have to say that he is sick, and unable to be present this evening. I move that he be excused.

The motion was agreed to.

WILLIAM HEBARD. No excuse offered.

JOHN W. HOWE. No excuse offered.

THOMAS M. HOWE. No excuse offered.

WILLIAM F. HUNTER.

Mr. STANTON, of Ohio. Mr. HUNTER has been confined to his bed by sickness for two or three weeks, as is generally known. I move that he be excused.

The motion was agreed to.

COLIN M. INGERSOLL. No excuse offered.

JAMES JOHNSON.

Mr. JACKSON. My colleague [Mr. JOHNSON] has been detained from the House by sickness for several days past. I move that he be excused.

The motion was agreed to.

DANIEL T. JONES.

Mr. SACKETT. Mr. JONES was one of the committee who went home with the remains of my late colleague, Mr. Buell. I move that he be excused.

The motion was agreed to.

GEORGE W. JONES. No excuse offered.

J. GLANCY JONES. No excuse offered.

GEORGE G. KING. No excuse offered.

PRESTON KING.

Mr. JENKINS. It is known to the House that Mr. KING attended the remains of Mr. Buell to New York. He returned yesterday and found a large amount of business upon his hands which it was necessary for him to attend to. He has, therefore, staid at home this evening for the purpose of disposing of it, so as to be in the House to-morrow morning. I move that he be excused.

Mr. STANLY. We are all here because we have got business to dispose of.

The motion was not agreed to.

JOSEPH H. KUHNS. No excuse offered.

WILLIAM H. KURTZ. No excuse offered.

JAMES LOCKHART. No excuse offered.

HORACE MANN. No excuse offered.

EDWARD C. MARSHALL.

Mr. McCORKLE. It is well known that my colleague [Mr. MARSHALL] has lately taken unto himself a wife, and therefore he cannot come. [Laughter.] I move that he be excused.

The motion was not agreed to.

FREDERICK S. MARTIN. No excuse offered.

JOHN C. MASON. No excuse offered.

JAMES X. McLANAHAN. No excuse offered.

JOHN McQUEEN. No excuse offered.

JAMES MEACHAM.

Mr. BARTLETT. I will not say that my colleague [Mr. MEACHAM] is indisposed, because gentlemen would be at liberty to infer a great variety of things from that term. [A laugh.] But I wish to say that I know he is ill or unwell, and therefore I move that he be excused.

The motion was agreed to.

RICHARD K. MEADE.

Mr. CARTTER. With reference to Mr. MEADE, I will say that I know he is "indisposed" *to attend evening sessions*, [laughter,] and I move that he be excused.

The motion was not agreed to.

AHIMAN L. MINER. No excuse offered.

HENRY D. MOORE.

Mr. CHANDLER. My colleague [Mr. MOORE] has been complaining for some days past, although he was present this morning. I move that he be excused, on account of indisposition.

The motion was not agreed to.

JAMES T. MOREHEAD.

Mr. STANLY. My colleague [Mr. MOREHEAD] was indisposed yesterday, and left the House to-day quite unwell. I move that he be excused.

The motion was agreed to.

DAVID OUTLAW. No excuse offered.

ANDREW PARKER.

Mr. DIMMICK. I understand that Mr. PARKER had been called home in consequence of sickness in his family. I therefore move that he be excused.

The motion was agreed to.

SAMUEL W. PARKER.

Mr. STANTON, of Ohio. Mr. PARKER, of Indiana, has been in feeble health for some time past, and I have no doubt that he is detained to-night from danger to his health on account of exposure and fatigue. I therefore move that he be excused.

The motion was agreed to.

CHARLES H. PEASLEE. No excuse offered.

ALEXANDER G. PENN. No excuse offered.

WILLIAM H. POLK. No excuse offered.

ISAAC REED.

Mr. GOODENOW. I understand that Mr. REED is detained from the House by indisposition, and has been quite unwell for a week. He was in the House only for a short time to-day. I am satisfied that he is unable to attend this evening, and I therefore move that he be excused.

The motion was agreed to.

GEORGE READ RIDDLE. No excuse offered.

JOHN L. ROBINSON. No excuse offered.

THOMAS ROSS. No excuse offered.

JOHN H. SAVAGE. No excuse offered.

ABRAHAM M. SCHERMERHORN. No excuse offered.

WILLIAM W. SNOW. No excuse offered.

ZENO SCUDDER.

Mr. VENABLE. Mr. SCUDDER is confined to his bed, and is a very sick man indeed. I move that he be excused.

The motion was agreed to.

RICHARD H. STANTON.

Mr. STANTON, of Tennessee. The gentleman from Kentucky, whose name has just been called, has three reasons for not being present, which he told me himself. The first is, that inasmuch as this session, by the terms of the resolution by which it was ordered, is for the purpose of receiving reports alone, he, having no reports to make, did not feel it incumbent upon him to be present. That is the first reason. The second is, that if he should be present and make reports, they could not be acted upon at this session of Congress; they could only be printed, which would be an expense to the Government, and he, being a very economical gentlemen, would be unwilling to incur any such expense to the Government. The third excuse is, that it is well understood that the Clerk of the House desires to see his friends to-night, and the gentleman from Kentucky being disposed to pay all possible respect to so distinguished an officer, was desirous of going there, and therefore could not be present here. I move that he be excused.

The motion was not agreed to.

ABRAHAM P. STEPHENS. No excuse offered.

ALEXANDER H. STEPHENS. No excuse offered.

THADDEUS STEVENS. No excuse offered.

JAMES W. STONE. No excuse offered.

LOUIS ST. MARTIN. No excuse offered.

JAMES F. STROTHER. No excuse offered.

CHARLES E. STUART. No excuse offered.

JOSIAH SUTHERLAND.

Mr. DEAN. My colleague [Mr. SUTHERLAND] has been confined to the house for a day or two, and was only here about half an hour to-day. He is rheumatic, and, I presume, is not able to come out at night. I move that he be excused.

The motion was not agreed to.

ROBERT TOOMBS. No excuse offered.

AMOS TUCK. No excuse offered.

DANIEL WALLACE. No excuse offered.

THOMAS Y. WALSH.

Mr. BOWIE. I am informed that Mr. WALSH is detained in the city of Baltimore by sickness. I move that he be excused.

The motion was agreed to.

HENRY S. WALBRIDGE.

Mr. JENKINS. Mr. WALBRIDGE was one of the committee to attend the remains of Mr. Buell to the State of New York, and he has not yet returned. I move that he be excused.

The motion was agreed to.

ISRAEL WASHBURN, Jun. No excuse offered.

JOHN WELCH. No excuse offered.

ALEXANDER WHITE. No excuse offered.

JOHN A. WILCOX. No excuse offered.

ISAAC WILDRICK. No excuse offered.

CHRISTOPHER H. WILLIAMS. No excuse offered.

JOSEPH A. WOODWARD. No excuse offered.

JOHN WELLS.

Mr. SCHOONMAKER. Mr. WELLS was also one of the committee to attend the remains of Mr. Buell. I move that he be excused.

The motion was agreed to.

Mr. HALL. I would inquire of the Chair if there is a quorum present?

The SPEAKER. One hundred and eighteen gentlemen answered to their names before the doors were closed.

Mr. HALL. A quorum being present, the House can proceed to discharge the business for which it met. I therefore move that all further proceedings in the call be dispensed with.

The question was put, and the motion was not agreed to.

Mr. HOUSTON. If we are hard run for a quorum, there are several gentlemen in the gallery who came here a very few moments after the doors were closed.

Mr. VENABLE. They have all answered to their names.

Mr. HOUSTON. There are one or two gentlemen there who came in directly after the doors were closed. I hope they will be let in.

Mr. ORR. They can be brought in first by the Sergeant-at-Arms.

Mr. RICHARDSON. Is it in order to make any further excuses for gentlemen who were not here when their names were called?

The SPEAKER. It is not.

Mr. RICHARDSON. I desire to make an excuse for my gallant friend from Arkansas, [Mr. JOHNSON,] who is in the gallery, and has made very great efforts to get here, but has not succeeded. [Laughter.]

Mr. FLORENCE. I consider it due to my colleague [Mr. Ross] to ask that he may be excused from attendance this evening. It is known to all those members who are in daily communication with him, that for a long time he has been quite in ill health, and I apprehend that he could not get here this evening. I desire, under these circumstances, to ask that the indulgence of the House may be extended to him. I move that he be excused.

The SPEAKER. The list of absentees having been called over, the motion is not regularly in order, but the Chair will put it to the House.

The question was then put, and the motion was agreed to, and Mr. Ross was accordingly excused.

Mr. SACKETT. Doubtless the committees are very anxious to report, and we have a quorum present now. I therefore move that all further proceedings in the call be dispensed with, and upon that I ask for tellers.

Tellers were not ordered.

The question was then put, and on a division, there were—ayes 49, noes 64.

So the motion was not agreed to.

Mr. ORR. Is it necessary that the House should pass any order directing the Sergeant-at-Arms to go after the absentees?

The SPEAKER. The Chair certainly has no such power.

Mr. ORR. Then I move that the Sergeant-at-Arms be directed to bring in the defaulters.

Mr. McMULLIN. I move, as an amendment to that proposition, that the doors be opened, to allow gentlemen to come in.

The SPEAKER. The proposition is not amendable in any such manner.

Mr. STANTON, of Tennessee. I suppose it would be in order to amend it by ordering the Sergeant-at-Arms to bring in the absentees to-morrow morning. He cannot bring them in to-night.

SEVERAL MEMBERS. Oh! yes, he can!

The SPEAKER. The right to compel members to attend is very clear. The House must determine for itself whether it will compel them to attend now or hereafter.

Mr. BROWN, of Mississippi. They will come of themselves in the morning.

The SPEAKER. The Clerk will read the rule governing the matter.

The Clerk then read the 63d rule, which is as follows:

"63. Upon the call of the House, the names of the members shall be called over by the Clerk, and the absentees noted: after which, the names of the absentees shall again be called over: the doors shall then be shut, and those for whom no excuse or insufficient excuses are made may, by order of those present, if fifteen in number, be taken into custody as they appear, or may be sent for and taken into custody, wherever to be found, by special messengers to be appointed for that purpose."

Mr. STANTON. I desire to say, with reference to my amendment, that within my recollection, since I have been here, an adjournment has taken place pending a call of the House, and the absentees have been brought up the next morning. I think the Speaker must recollect such a case. On that occasion, I happened to be an absentee myself. If we direct the absentees to be brought up now, we shall have to sit here all night.

The SPEAKER. Does the gentleman from Tennessee insist on his amendment?

Mr. STANTON. I do.

Mr. BROWN, of Mississippi. I wish to propound a question to the gentleman from Tennessee.

Mr. GOODENOW. I rise to a privileged question.

The SPEAKER. The gentleman from Mississippi may be upon the floor to a privileged question. The Chair has recognized him, and begs to hear what he has to say.

Mr. BROWN. The gentleman from Tennessee says that on one occasion, the Sergeant-at-Arms arrested him at night and brought him up before the House next morning. Now I want to know what the Sergeant-at-Arms did with him during the night? [Laughter.]

Mr. STANTON. I am quite willing to answer the gentleman's question. The House adjourned pending the call, under circumstances similar to those in which we are now placed, and the Sergeant-at-Arms notified me to appear in the morning, which I did, and was fined.

Mr. GOODENOW. I rise to a privileged question. Some time since I moved to reconsider the vote by which the House refused to excuse Mr. APPLETON of Massachusetts. The question was not then put to the House. I now call up the motion to reconsider.

The SPEAKER. That question was put and decided in the negative.

Mr. GOODENOW. Well, sir, I move that the House do now adjourn.

The question was put, and on a division, there were—ayes 37, noes 66.

So the House refused to adjourn.

Mr. McMULLIN. I hope the House will now dispense with all the further proceedings in the call.

[Cries of "Order!" "Order!"]

Mr. McMULLIN. Well, I make that motion.

The question was taken, and the motion was disagreed to—ayes 45, noes 58.

Mr. DEAN. I hope the gentleman from Tennessee [Mr. STANTON] will withdraw his amendment, for the reason——

[Shouts of "Order!" "Order!"]

Mr. STANTON. I hope I shall be indulged in a single remark.

[Cries of "No!" "No!" and "Order!"]

Mr. DEAN. I rise to a point of order. I ask the Chair whether, if the amendment of the gentleman from Tennessee should carry, we could bring members here at twelve o'clock to-morrow, that being the time proscribed by law for——

[Renewed cries of "Order!"]

The SPEAKER. In the opinion of the Chair this is a debatable question.

SEVERAL MEMBERS. Then go on with your remarks.

Mr. DEAN. If the proposition is debatable, then I desire to say this: I hope the House will not adopt the amendment of the gentleman from Tennessee, for the reason that twelve o'clock to-morrow is the time fixed by law for us to meet here to count the votes for President and Vice President. I know very well what the object of the gentleman is in moving the amendment. He is in the same fix as myself. He has invited a lady to go to a party, and wants to get off.

SEVERAL VOICES. Ah!

Mr. DEAN. But I hope this thing will be car-

ried through, and for that purpose I move the previous question.

Mr. FLORENCE. Is it in order to move to divide this question?

The SPEAKER. Not now.

Mr. VENABLE. I rise to a point of order. I ask the Chair if the previous question can be seconded when there is no quorum?

The SPEAKER. The Chair has no doubt about it; but the record shows that there is a quorum.

Mr. VENABLE. But two or three of the last votes show that there is not.

The SPEAKER. If there were but fifteen members present, it would still be competent for them to call the previous question upon a resolution like this.

Mr. FLORENCE. I suggest to the gentleman from New York that he withdraw the call until we can divide this question.

The SPEAKER. The gentleman is not in order. The question is not debatable unless the gentleman from New York withdraws his call for the previous question.

Mr. FLORENCE. Well, sir, I appeal to the gentleman from New York to withdraw his call for the previous question until the question can be divided so as to have it taken first upon sending the Sergeant-at-Arms——

[Cries of "Order! Order!"]

Mr. DEAN. I should be very glad to accommodate the gentleman, but I cannot withdraw my call.

Mr. HALL. I move that the House do now adjourn.

The motion was not agreed to.

Mr. HALL. I move that the resolution of the gentleman from South Carolina [Mr. ORR] be laid upon the table.

Mr. BROWN, of Mississippi. Upon that motion I demand the yeas and nays.

Upon seconding the call for the yeas and nays, only 18 gentlemen rose.

Mr. BROWN. I demand that the other side be counted.

The SPEAKER. The gentleman must recollect that when the doors were closed only 118 had answered to their names, and 18 is not one fifth of that number.

So the yeas and nays were not ordered.

Mr. HALL. I move that all further proceedings in the call be dispensed with.

Mr. STANLY. Upon that I demand the yeas and nays.

The yeas and nays were not ordered; and the motion was not agreed to.

Mr. HALL. I move that the House do now adjourn.

The motion was not agreed to.

Mr. STANTON, of Tennessee. I desire to inquire of the Chair whether, if the House now adjourns, all further proceedings in the call will be dispensed with, or whether the question to-morrow, on our meeting, will be upon the passage of the resolution of the gentleman from South Carolina?

The SPEAKER. The proceedings in the call cannot be dispensed with without a special order from the House to that effect.

The previous question was then seconded, and the main question was ordered to be put.

The resolution was then read, as follows:

Resolved, That the Sergeant-at-Arms take into custody the absent members of the House, and bring them to the bar of the House.

The amendment is as follows:

Provided, That they be delivered here to-morrow, instead of to-night.

The question was then taken upon the adoption of the amendment, and it was decided in the negative.

Mr. STANTON, of Tennessee. I move that the House do now adjourn.

The motion was not agreed to.

Mr. STANTON. I desire to inquire of the Chair, if the resolution of the gentleman from South Carolina be adopted, what the House will do while the Sergeant-at-Arms has gone after the absentees?

The SPEAKER. That is not for the Chair to determine.

The question now being upon the passage of the resolution,

Mr. McMULLIN demanded the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON. I move that the House do now adjourn.

Mr. ORR. Has there any business transpired since that motion was put?

The SPEAKER. The yeas and nays have since been ordered.

Mr. STANTON. I demand the yeas and nays upon my motion.

The yeas and nays were not ordered.

Mr. MACE. Inasmuch as a quorum is now present, and we could proceed to business, I move that all further proceedings in the call be dispensed with.

The SPEAKER. That motion is not now in order; the main question having been ordered to be now put, upon the resolution of the gentleman from South Carolina, [Mr. ORR.] The House can only accomplish that object by first voting upon the resolution.

Mr. HENN. I demand tellers upon the motion to adjourn.

Tellers were ordered; and Messrs. McNAIR and SMITH were appointed.

The question was put; and the tellers reported—ayes 35, noes not counted.

So the House refused to adjourn.

Mr. SACKETT. I move that all further proceedings in the call be dispensed with.

The SPEAKER. That motion will not be in order until the resolution of the gentleman from South Carolina is disposed of.

Mr. SACKETT. Is it not in order to move to dispense with the entire proceeding?

The SPEAKER. It is not.

Mr. GOODENOW. I move to reconsider the vote by which the main question was ordered to be put.

Mr. ORR. I move to lay that motion upon the table.

Mr. STANTON, of Tennessee. Would it not be in order to move to take a recess till to-morrow at ten o'clock?

The SPEAKER. It is not in order to move to take a recess at all.

Mr. STANTON. Would it be in order, then, to move to adjourn till ten o'clock to-morrow morning?

The SPEAKER. It would not be in order to move to change the hour of meeting.

The question was taken, and the motion to reconsider was laid upon the table.

Mr. HALL. I move to lay the resolution of the gentleman from South Carolina on the table.

Mr. CARTTER. Has not that motion been already made and voted down?

The SPEAKER. It has; but some work, such as it is, [laughter,] has been done since.

Mr. CARTTER. Has there been any vote to change the position of the resolution?

The SPEAKER. A vote upon the amendment has been taken.

Mr. CARTTER. Then the motion is in order.

The question was taken, and the resolution was not laid upon the table.

Mr. HALL. I move that the House do now adjourn.

The question was put, and the motion was not agreed to.

The question again recurred upon the adoption of the resolution.

Mr. HALL. I move that I be excused from voting upon that resolution.

Mr. RICHARDSON. The previous question having been moved and seconded, by our rules there are but two motions which are in order. I think, therefore, the gentleman from Missouri has not the right to move to be excused from voting. He can only move to adjourn, or to lay the resolution upon the table.

Mr. HALL. If the gentleman will read the rule, I think he will see that I have the right to be excused from voting.

The SPEAKER. Before the question is put upon the adoption of the resolution, the gentleman from Missouri has the right to ask to be excused from voting; but if the Chair recollects the rule aright, that proposition is not a debatable one.

Mr. DUNCAN. I ask the Chair whether the gentleman from Missouri has that right until his name is called?

The SPEAKER. The rule prescribes that it must be done before the call of the roll commences.

The question was then taken, and Mr. HALL was not excused from voting.

Mr. HALL. I move that the House do now adjourn.

The motion was not agreed to.

[Cries of "Call the roll!"]

The Clerk proceeded to call the name of Mr. ABERCROMBIE.

Mr. ABERCROMBIE. I desire to direct the attention of the House to the fact that it is now past nine o'clock——

[Shouts of "Order!" "Order!"]

The SPEAKER. Does the gentleman from Alabama rise to make a motion?

Mr. ABERCROMBIE. No, sir.

A MEMBER. Move to be excused from voting.

Mr. ABERCROMBIE. I do not want to be excused. I want to vote, but I desire to know if I can give my reasons for the vote I shall give?

The SPEAKER. The gentleman cannot, the main question having been ordered by an express rule of the House.

Mr. ABERCROMBIE. Then I vote against the resolution.

Mr. CARTTER. I move to be excused from voting.

Mr. HARRIS, of Tennessee. I rise to a question of order. I submit that it is not in order for the gentleman from Ohio to be excused from voting after the Clerk has commenced to call the roll.

The SPEAKER. Will the gentleman from Alabama state whether he responded to the call?

Mr. ABERCROMBIE. When I sat down I stated that I voted against the resolution.

The SPEAKER. Then the motion of the gentleman from Ohio is not in order. The Clerk will proceed with the call.

Mr. TAYLOR. Will it be in order to have the resolution read?

[Cries of "No!" "No!" "No!"]

The SPEAKER. It is not, except by unanimous consent.

The question was then taken, and it was decided in the negative—yeas 41, nays 68; as follows:

YEAS—Messrs. Bartlett, Briggs, Joseph Cable, Caldwell, Curtis, Daniel, Darby, John G. Davis, Dean, Duncan, Eastman, Faulkner, Gamble, Gorman, Green, Haven, Hendricks, Hibbard, Hillyer, Letcher, Mace, Millson, Molony, Murray, Nabers, Orr, Penniman, Perkins, Phelps, Price, Robie, Russell, David L. Seymour, Origen S. Seymour, Skelton, Smart, Smith, Stanly, Benjamin Stanton, Stratton, and Venable—41.

NAYS—Messrs. Abercrombie, Allison, Averett, Bell, Bennett, Bibighaus, Bowie, Brenton, Albert G. Brown, Cartter, Caskie, Chandler, Chastain, Clark, Cobb, Cottman, Dimmick, Doty, Evans, Fay, Fitch, Florence, Thomas J. D. Fuller, Giddings, Goodenow, Grow, Hall, Harper, Isham G. Harris, Henn, Holladay, Horsford, Houston, Howard, Thomas Y. Howe, Ives, Jackson, Jenkins, John Johnson, Robert W. Johnson, George G. King, Landry, Little, McCorkle, McDonald, McMullin, McNair, Miller, John Moore, Morrison, Murphy, Newton, Porter, Preston, Richardson, Robbins, Sabine, Sackett, Schoolcraft, Schoonmaker, Scurry, Frederick P. Stanton, Sweetser, Taylor, Thurston, Townshend, Ward, and Yates—68.

So the resolution was not adopted.

Pending the call,

Mr. LOCKHART said: I should like to vote in the negative on this question. [Laughter.]

Mr. ORR. I desire to inquire whether it is in order for a gentleman to reach the Hall from the gallery? [Great laughter.]

Mr. CARTTER. There is no rule upon that subject.

Mr. JENKINS. I move that the House do now adjourn.

Mr. HALL. I ask the gentleman to withdraw the motion, that I may make a motion that all further proceedings in the call be dispensed with.

Mr. CARTTER. Oh, no. It is now ten o'clock.

Mr. STANLY. Let us go to work.

Mr. JENKINS. I withdraw my motion.

Mr. HALL. Then I move that all further proceedings in the call be dispensed with.

The question was taken, and the motion was agreed to.

Mr. CARTTER. I move that the House now adjourn.

The motion was agreed to, and the House adjourned until to-morrow at twelve o'clock, m.

IN SENATE.

WEDNESDAY, *February* 9, 1853.

Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had agreed to the amendments of the Senate to the bill of the House to amend the act entitled "An act to create the office of surveyor general of the public lands in Oregon, to provide for the survey, and make donations to the settlers of the said public lands," approved September 27, 1850.

COUNTING THE ELECTORAL VOTES.

The twelfth amendment to the Constitution of the United States provides that the electoral colleges shall make distinct lists of all persons voted for as President and Vice President, and of the number of votes for each, "which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed." The same provision is applied to the election of Vice President.

The act of Congress approved March 1, 1792, section 2, provides that "the electors shall meet and give their votes on the said first Wednesday in December, at such place in each State as shall be directed by the Legislature thereof; and the electors in each State shall make and sign three certificates of all the votes by them given, and shall seal up the same, certifying on each that a list of the votes of such State, for President and Vice President, is contained therein; and shall, by writing under their hands, or under the hands of a majority of them, appoint a person to take charge of and deliver to the President of the Senate, at the seat of Government, before the first Wednesday in January then next ensuing, one of the said certificates; and the said electors shall forthwith forward, by the post office, to the President of the Senate, at the seat of Government, one other of the said certificates; and shall forthwith cause the other of the said certificates to be delivered to the judge of that district in which the said electors shall assemble."

A joint committee having been appointed by the Senate and House of Representatives to ascertain and report a mode of examining the votes for President and Vice President of the United States, and of notifying the persons elected of their election, under these provisions of law and of the Constitution, the following resolution was reported and approved, and the tellers appointed were Mr. HUNTER, of Virginia, on the part of the Senate, and Mr. GEORGE W. JONES, of Tennessee, and Mr. JOSEPH R. CHANDLER, of Pennsylvania, on the part of the House:

"*Resolved*, That the two Houses will assemble in the Chamber of the House of Representatives on Wednesday, the 9th instant, at twelve o'clock, and the President of the Senate *pro tempore* shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tempore*, who shall announce the state of the vote, and the persons elected, to the two Houses assembled, as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses."

A message having been received from the House of Representatives by Mr. FORNEY, its Clerk, announcing that the House of Representatives was ready to receive the Senate, in conformity to the Constitution and in compliance with the order of the two Houses, for the purpose of opening and counting the votes of the electors of the several States for President and Vice President of the United States, the Senate proceeded to the Chamber of the House of Representatives, preceded by its President and other officers.

The Senators having returned to their Chamber, the President resumed the chair.

Mr. HUNTER. The tellers appointed by the two Houses to count the votes for President and Vice President of the United States have instructed me to make a further report:

Resolved, That a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by the House, to wait on FRANKLIN PIERCE, of New Hampshire, and notify him that he has been duly elected President of the United States for four years, to commence on the 4th day of March, 1853.

The resolution was considered by unanimous consent, and agreed to.

Mr. HUNTER. I move that the President of the Senate, by unanimous consent, appoint the committee on the part of the Senate.

The motion was agreed to; and Mr. HUNTER was appointed.

Mr. HUNTER. I am also instructed by the same committee to report the following resolution:

Resolved, That the President of the Senate do cause WILLIAM R. KING, of Alabama, to be notified that he has been duly elected Vice President of the United States for four years, to commence on the 4th day of March, 1853.

The resolution was considered by unanimous consent, and agreed to.

MARINE HOSPITAL FUND.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Treasury Department, transmitting a statement of the expenditure of the Marine Hospital fund for the relief of sick and disabled seamen for the year ending June 30, 1852; which was ordered to lie on the table and be printed.

Mr. RUSK. I move that the Senate proceed to the consideration of the Pacific railroad bill.

Mr. CASS. I move that the Senate adjourn.

The motion was agreed to, there being, on a division—ayes 22, noes 12.

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 9, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read.

Mr. MACE. I rise to a privileged motion.

Mr. JONES, of Tennessee. I have a motion to make, which is, perhaps, the highest privileged motion that can be made this day.

The SPEAKER. The Chair will hear both.

Mr. MACE. I move to amend the Journal, by expunging therefrom the whole proceedings of last evening's session, because the same shows a spirit of faction on the part of a factious minority, in total disregard of the legitimate business of the country, and highly disgraceful to the American Congress.

Mr. EVANS. I object to that motion.

The SPEAKER. The gentleman's proposition is not, legitimately, to amend the Journal, and the Chair rules it out of order.

Mr. JONES. My motion is, that the Clerk of the House inform the Senate that the House of Representatives are now ready to receive the President and Members of the Senate, to count the votes for the late election of President and Vice President of the United States, this being the day fixed by the Constitution for that purpose.

The question was taken, and the motion was agreed to.

The message was transmitted to the Senate.

At half past twelve o'clock, the Senate, preceded by the Hon. D. R. ATCHISON, its President *pro tempore*, and its officers, entered the Hall of the House, to join the House of Representatives in counting the votes for President and Vice President of the United States, in conformity to the Constitution, and in pursuance of the following joint resolution, heretofore adopted by the two Houses:

"*Resolved*, That the two Houses will assemble in the Chamber of the House of Representatives, on Wednesday, the 9th instant, at twelve o'clock, and the President of the Senate *pro tempore* shall be the presiding officer; that one person be appointed a teller on the part of the Senate, and two on the part of the House of Representatives, to make a list of the votes as they shall be declared; that the result shall be delivered to the President of the Senate *pro tempore*, who shall announce the state of the vote, and the persons elected, to the two Houses assembled, as aforesaid, which shall be deemed a declaration of the persons elected President and Vice President of the United States, and, together with a list of votes, be entered on the Journals of the two Houses."

When the Senate entered the Hall of Representatives, they were received by the House standing.

The PRESIDENT *pro tempore* of the Senate, having been conducted to the chair, the Speaker of the House (the Hon. LINN BOYD) took a seat on his left, and the Senators occupied the seats assigned to them, in the area fronting the Clerk's desk.

The Sergeants-at-Arms of the two Houses occupied seats on the platform, at the right and left of the chair.

The Hon. R. M. T. HUNTER, the teller on the part of the Senate, and the Hon. GEORGE W. JONES and the Hon. JOSEPH R. CHANDLER, the tellers on the part of the House of Representatives, took their seats at the Clerk's desk, and were assisted on the right by Asbury Dickins, the Secretary of the Senate, and on the left by John W. Forney, the Clerk of the House.

Messrs. Machin and Hickey, clerks of the Senate, and Messrs. Hays and Barclay, clerks of the House, acting as recording clerks, were seated at a table in front of the Clerk's desk.

The two Houses being thus organized—

The PRESIDENT *pro tempore* of the Senate rose and said: The Senate and House of Representatives have assembled for the purpose of counting the votes for President and Vice President of the United States. I present to the tellers the certificates of the Electoral College of the State of Maine.

Mr. R. M. T. HUNTER received, and read the certificate, and the vote reported was duly recorded by the tellers.

The same proceedings were observed with reference to the certificates from the several States.

The certificates from the States of Rhode Island, New York, Delaware, North Carolina, Kentucky, Louisiana, Illinois, Arkansas, Texas, and California, were read by Mr. HUNTER.

Those from New Hampshire, Connecticut, New Jersey, Maryland, South Carolina, Tennessee Mississippi, Alabama, Michigan, and Iowa, were read by Mr. JONES; and

Those from Massachusetts, Vermont, Pennsylvania, Virginia, Georgia, Ohio, Indiana, Missouri, Florida, and Wisconsin, were read by Mr. CHANDLER.

The tellers, having read, counted, and registered the votes of the Electoral Colleges of the thirty-one States, and compared their lists, delivered to the PRESIDENT *pro tempore* of the Senate the result, which was read by him, as follows:

Statement of the Votes for President and Vice President of the United States for four years, from the fourth day of March, eighteen hundred and fifty-three.

No. of Electoral Votes.	States.	FOR PRESIDENT. Franklin Pierce, of N. Hampshire.	FOR PRESIDENT. Winfield Scott, of N. Jersey.	FOR V. PRESID'T. William R. King, of Alabama.	FOR V. PRESID'T. William A. Graham, of N. Carolina.
8	Maine	8	-	8	-
5	New Hampshire	5	-	5	-
13	Massachusetts	-	13	-	13
4	Rhode Island	4	-	4	-
6	Connecticut	6	-	6	-
5	Vermont	-	5	-	5
35	New York	35	-	35	-
7	New Jersey	7	-	7	-
27	Pennsylvania	27	-	27	-
3	Delaware	3	-	3	-
8	Maryland	8	-	8	-
15	Virginia	15	-	15	-
10	North Carolina	10	-	10	-
8	South Carolina	8	-	8	-
10	Georgia	10	-	10	-
12	Kentucky	-	12	-	12
12	Tennessee	-	12	-	12
23	Ohio	23	-	23	-
6	Louisiana	6	-	6	-
7	Mississippi	7	-	7	-
13	Indiana	13	-	13	-
11	Illinois	11	-	11	-
9	Alabama	9	-	9	-
9	Missouri	9	-	9	-
4	Arkansas	4	-	4	-
6	Michigan	6	-	6	-
3	Florida	3	-	3	-
4	Texas	4	-	4	-
4	Iowa	4	-	4	-
5	Wisconsin	5	-	5	-
4	California	4	-	4	-
296	Whole No. votes.	254	42	254	42

The PRESIDENT *pro tem.* of the Senate said: GENTLEMEN: The whole number of electoral votes cast for President and Vice President of the United States is 296, of which 149 are necessary to a choice. The state of the vote for President of the United States, as delivered by the tellers, is, for

FRANKLIN PIERCE, of New Hampshire, 254; for WINFIELD SCOTT, of New Jersey, 42; and the state of the vote for Vice President of the United States, as delivered by the tellers, is, for WILLIAM R. KING, of Alabama, 254; and for WILLIAM A. GRAHAM, of North Carolina, 42.

I therefore declare that FRANKLIN PIERCE, of the State of New Hampshire, having the greatest number of votes for President, and that number being a majority of the whole number of electors, has been duly elected President of the United States for four years, to commence on the fourth day of March next.

I also declare that WILLIAM R. KING, of the State of Alabama, having the greatest number of votes for Vice President, and that number being a majority of the whole number of electors, has been duly elected Vice President of the United States for four years, to commence on the fourth day of March next.

The business for which the joint meeting of the two Houses was convened is dispatched, and Senators will now return to their Chamber.

The joint meeting of the two Houses of Congress was then dissolved, and the Senators repaired to the Senate Chamber.

The SPEAKER then resumed the chair.

COMMITTEE TO WAIT UPON THE PRESIDENT ELECT.

Mr. JONES, of Tennessee, submitted the following resolution:

Resolved, That two members of the House be appointed by that body to join a committee of one member of the Senate, to be appointed by that body, to wait on FRANKLIN PIERCE, of New Hampshire, and inform him that he has been duly elected President of the United States for four years, commencing on the fourth day of March, 1853.

Mr. JONES. That resolution is the one usually adopted by the two Houses upon such occasions. It merely provides for the appointment of a joint committee to wait upon the President elect, to inform him of his election. It says nothing as to informing the Vice President of his election. The custom, upon examination, is found to have been that, when the Vice President was in the city, or was expected to be here by the time of the inauguration, the committee would also wait upon him and inform him of his election. But it has been the universal custom, when the Vice President elect was not at the seat of Government, for the Senate to adopt a resolution directing their Presiding Officer to cause the Vice President elect to be informed of his election. That is the reason that this resolution does not include him.

The question was then taken on the adoption of the resolution, and it was decided in the affirmative.

Mr. JONES, of Tennessee. I move that the Speaker appoint the committee provided for in that resolution.

The SPEAKER. Does not that follow as a matter of course?

Mr. CARTTER. Certainly it does.

The SPEAKER. The attention of the Chair has been called to the resolution just adopted. From its language the Chair cannot appoint the committee unless directed by the House.

Mr. JONES, of Tennessee. I move that the Chair appoint the committee named in the resolution.

The question was taken, and the motion was decided in the affirmative.

REPORTS OF COMMITTEES.

Mr. WILDRICK, from the Committee on Enrolled Bills, here reported as correctly enrolled the following bills:

Senate bill (No. 510) for the relief of Asa M. Elliott;

Senate bill (No. 97) to make the salary of the judge of the criminal court of the District of Columbia equal to that of an assistant judge of the circuit court of said District;

Senate bill (No. 360) for the relief of the widow of John A. Lynch; and

Senate bill (No. 584) to authorize the Secretary of the Treasury to issue a register to the barque Fanny, under the name of Golden Mirror.

Which said bills thereupon received the signature of the Speaker.

ADJOURNMENT.

Mr. VENABLE. I move that when the House adjourns it adjourn to meet at twelve o'clock, m., to-morrow.

The SPEAKER. The House has, by a two-thirds vote, adopted a resolution that there shall be evening sessions, and the Chair is of opinion that the motion is not in order.

Mr. VENABLE. I appeal from the decision of the Chair.

Mr. LANE. I appeal to the gentleman from North Carolina to withdraw his motion, to allow me to introduce a bill in reference to Territories, so that it may be taken up and considered to-morrow, which day is to be devoted to territorial business.

Mr. VENABLE. I withdraw it.

Mr. LANE, by unanimous consent, then introduced a bill to amend an act entitled "An act to 'amend an act to settle and adjust the expenses of 'the people of Oregon from attacks and hostilities 'of the Cayuse Indians, in the years 1847 and '1848," approved August 21, 1852; which was read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The SPEAKER. The business first in order before the House is the further consideration of the report from the Committee on Ways and Means in regard to——

Mr. HALL. Is not this the day for territorial business?

The SPEAKER. The Chair supposed that this day was stricken out by an amendment the other day, and Thursday substituted; but the Chair is now informed by the Clerk that Thursday was added to the days for the consideration of territorial business, and such business is now in order.

A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a resolution that a committee of one member of the Senate be appointed by that body, to join a committee of two members of the House of Representatives, to be appointed by the House, to wait upon Franklin Pierce, of New Hampshire, to notify him that he has been duly elected President of the United States for four years, to commence on the 4th day of March, 1853, and that Mr. HUNTER had been appointed such committee on the part of the Senate.

Mr. JONES, of Tennessee. I move that the message be taken up and concurred in.

The motion was agreed to, and the resolution concurred in.

Mr. JONES. I move that the Speaker appoint the committee.

The SPEAKER. The House has already ordered the committee to be appointed by the Chair.

Mr. JONES. Our resolution has not yet gone to the Senate, and it will not be necessary to send it, as the Senate resolution has been concurred in, and the Speaker can appoint the committee under this Senate resolution.

The motion of Mr. JONES was agreed to, and the Speaker appointed Messrs. GEORGE W. JONES and HARRY HIBBARD as such committee on the part of the House.

Mr. HOUSTON. I wish to appeal to gentlemen who have charge of territorial business, that, as they can get through with their business to-morrow, they will give this day to the consideration of the Army appropriation bill. It is important that it should be passed, and there is no difficulty in getting their business through to-morrow.

The SPEAKER. According to the special order of the House, the business first in order is the consideration of the amendments reported from the Committee of the Whole on the state of the Union.

Mr. HALL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. EWING. I rise to a privileged motion. I move that when the House adjourns it adjourn to meet to-morrow at twelve o'clock, m.

Mr. HARRIS. I make the question of order that the motion just made is not in order.

The SPEAKER. The Chair holds that the motion is not in order.

Mr. EWING. I appeal from the decision of the Chair.

Mr. STANLY. I move to lay the appeal upon the table.

Mr. EWING. I will state my reasons in three words.

The SPEAKER. In regard to the adjournment, no debate is in order.

Mr. EWING. I wish merely to state the grounds of my appeal.

Mr. HALL. I rise to make an inquiry of the Chair.

Mr. EWING. May I not as well make an inquiry of the Chair?

The SPEAKER. The Chair would be happy to hear the gentleman's reasons for taking an appeal.

Mr. EWING. Can I ask whether the House, in the same way, can adjourn over for three days without disturbing the resolution, and without its having its general effect for the time being?

The SPEAKER. The Chair is of the opinion the motion is in order.

Mr. HARRIS, of Tennessee. I demand the yeas and nays on it.

Mr. HENDRICKS. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. HENDRICKS and HILLYER were appointed.

Mr. ORR. What is the question before the House?

The SPEAKER. The question is on the motion that when the House adjourns, it be to meet to-morrow at twelve o'clock.

Mr. ORR. Does the Speaker decide that it is in order to submit that motion?

The SPEAKER. The Chair decides that it is in order.

Mr. ORR. The adoption of that resolution will be the rescinding of the one for night sessions.

The SPEAKER. Under the Constitution it would be competent for the House to adjourn for three days.

Mr. ORR. With great respect, I appeal from the decision of the Chair.

Mr. CARTTER. I move to lay that appeal upon the table.

The SPEAKER. When the proposition was first made, it occurred to the Chair that the effect of its adoption would be to rescind the order of the House to meet at seven o'clock. It is competent for the House, under the Constitution, to adjourn, if it choose, for three days at a time, but not for a longer period.

Mr. WOODWARD. I understand that the resolution requires the House to take a recess until seven o'clock in the evening. If so, I hold that we cannot adjourn now to twelve o'clock to-morrow. I may be mistaken as to the language of the resolution.

Mr. STEPHENS, of Georgia. If the gentleman from South Carolina will allow me a word, the order of the House requiring us to meet at seven o'clock in the evening is not more binding than the imperative standing order that we shall meet each day at twelve o'clock. If we can adjourn over one day, why cannot we adjourn over one night, notwithstanding the special order?

Mr. ORR. I desire to inquire of the Speaker whether it would be in order for the gentleman to rise and move that when the House adjourns, it be to meet to-morrow at eleven o'clock?

The SPEAKER. It would not.

Mr. ORR. Why? Because there is a resolution adopted by a two-thirds vote of the House fixing the hour of meeting? The standing rule providing for the meeting of the House cannot be amended unless by a two-thirds vote.

The SPEAKER. Is it not a standing order that the House shall meet at twelve o'clock daily?

Mr. ORR. That is so.

The SPEAKER. Then, would the gentleman insist that it was not competent for the House to adjourn over one day?

Mr. ORR. That has been the practice.

The SPEAKER. It is the right of the House.

Mr. ORR. The effect of the pending proposition is to set aside, by a majority vote, a rule adopted by a two-thirds vote.

The SPEAKER. The Chair cannot see how a greater dignity or force can be given to an order of the House to meet at seven o'clock than to an order to meet at twelve o'clock; and if it be in order to adjourn to meet the next day after to-morrow at twelve o'clock, it is in order to meet to-morrow at that hour.

Mr. CARTTER. I believe the motion to lay the appeal on the table is not debatable?

The SPEAKER. It is not.

Mr. WOODWARD. In reply to the remark

of the gentleman from Georgia, [Mr. STEPHENS,] I would suggest, that the general rule of the House, fixing the hour of twelve of every day for meeting, does no more than establish an hour, and does not require a meeting to be held every day. But the resolution of yesterday or the day before, positively requires the House to meet in the evening, and indicates seven, p. m., as the hour.

If the general rule, not only fixed the hour of meeting, but also required a meeting to be held every day, I submit that it would be incompetent, upon mere motion, to adjourn over to a day beyond to-morrow. But the resolution not only fixes the hour of seven, p. m., for meeting, but requires a meeting to take place. To decline to meet, therefore, upon mere motion, is a departure from the resolution.

Suppose we should adopt a resolution, that in future the House should meet every day; would not such a resolution disable us, upon mere motion, to adjourn beyond a day? I think it would. If, therefore, we have the power to adjourn over beyond a day, the general rule does not require us to meet every day.

Mr. EWING. This rule also requires that when we do meet it shall be at seven o'clock in the evening; but we are not bound to meet at night at all.

Mr. WOODWARD. Does not the resolution fix the hour of meeting in the evening, and, therefore, does it not fix an hour within which the House shall not adjourn? That is the effect of your resolution.

Mr. CARTTER. I insist that the question is not debatable.

Mr. MACE. I demand the yeas and nays on the appeal.

Mr. POLK Would it be in order to move an amendment?

The SPEAKER. Amendments are not now in order.

Mr. POLK. I only desire to submit the motion that a few hundred copies of the proceedings of last night's session be laid on the tables of members, to show the utility of evening sessions. [Laughter.]

The yeas and nays were not ordered.

The question was taken, and the appeal was laid on the table.

The yeas and nays were ordered on the motion that when the House adjourns it be to meet to-morrow at twelve o'clock.

[A message in writing was here received from the President of the United States, by M. P. FILLMORE, his Private Secretary.]

The question was then taken on the motion that when the House adjourns it be to meet to-morrow at twelve o'clock; and it was decided in the affirmative—yeas 91, nays 76; as follows:

YEAS—Messrs. Aiken, Allison, John Appleton, William Appleton, Ashe, Averett, Babcock, David J. Bailey, Barrere, Bocock, Bragg, Brenton, Burrows, Busby, Caldwell, Lewis D. Campbell, Thompson Campbell, Cartter, Chandler, Chastain, Churchwell, Cleveland, Clingman, Colcock, Conger, Cottman, Cullom, George T. Davis, Dimmick, Edgerton, Ewing, Florence, Henry M. Fuller, Thomas J. D. Fuller, Goodenow, Gorman, Grey, Hall, Harper, Sampson W. Harris, Hascall, Haven, Hibbard, Horsford, Thomas M. Howe, Ingersoll, Ives, Andrew Johnson, James Johnson, George W. Jones, George G. King, Preston King, Landry, Martin, McDonald, McLanahan, McMullin, McQueen, Miller, Samuel W. Parker, Peaslee, Perkins, Polk, Powell, Robbins, Ross, Russell, Schoolcraft, Schoonmaker, Scurry, David L. Seymour, Smart, Frederick P. Stanton, Alexander H. Stephens, St. Martin, Sweetser, Taylor, Thurston, Toombs, Towshend, Tuck, Venable, Wallace, Washburn, Watkins, Addison White, Wilcox, Wildrick, Williams, Woodward, and Yates—91.

NAYS—Messrs. Bell, Bennett, Bibighaus, Bowie, Albert G. Brown, Caskie, Clark, Cobb, Curtis, Daniel, Darby, John G. Davis, Duncan, Dunham, Eastman, Edmundson, Evans, Faulkner, Fay, Fitch, Gamble, Gaylord, Gilmore, Green, Grow, Hamilton, Isham G. Harris, Haws, Hendricks, Hillyer, Holladay, Houston, John W. Howe, Thomas Y. How, Jackson, J. Glancy Jones, Letcher, Little, Lockhart, Mace, Mann, McNair, Millson, Molony, John Moore, Morrison, Murphy, Murray, Nabers, Newton, Orr, Outlaw, Penniman, Phelps, Porter, Preston, Price, Reed, Riddle, Robie, Robinson, Sabine, Schermerhorn, Origen S. Seymour, Skelton, Smith, Stanly, Benjamin Stanton, Abraham P. Stephens, Stratton, Strother, Sutherland, Walsh, Welch, and Alexander White—76.

So the motion was agreed to.

Mr. HALL. I move the usual resolution that debate be closed on the bill to organize the Territory of Nebraska in thirty minutes after its consideration shall be again resumed in the Committee of the Whole on the state of the Union.

Mr. ORR. The Nebraska bill has been debated, I believe, only about ten or fifteen minutes, and as there was an important question sprung yesterday previous to the rising of the committee, I trust the gentleman will extend the time. There has been no disposition manifested to unnecessarily consume the time of the committee, and I think the time for closing the debate should be extended to one hour and a half.

Mr. HALL. I wish to call the attention of the gentleman to the fact, that to-morrow is the last day for the consideration of territorial business. If the gentleman submits an amendment, I shall not object.

Mr. ORR. I then move that the debate on the Nebraska bill be closed in one hour after its consideration shall be again resumed in the Committee of the Whole on the state of the Union instead of in half an hour.

The question was taken, and the amendment was adopted.

The resolution as amended was then adopted.

Mr. POLK. I move that the House do now adjourn.

The motion was agreed to, and the House thereupon adjourned till to-morrow, at twelve o'clock.

IN SENATE.

THURSDAY, *February* 10, 1853.

Prayer by the Rev. JAMES GALLAHER.

Mr. RUSK presented the credentials of the Hon. SAM HOUSTON, elected a Senator by the Legislature of Texas for six years from and after the third day of March next; which were read.

OREGON TERRITORY.

The PRESIDENT *pro tem.* laid before the Senate a copy of the Laws and Journals of the third regular session, and the Journals of the special session of the Legislative Assembly of Oregon; which were referred to the Committee on the Judiciary.

MESSAGE FROM THE PRESIDENT.

A message from the President of the United States was received, by Mr. M. P. FILLMORE, his Secretary, transmitting a communication from the Secretary of the Navy, accompanied by the first part of Lieutenant Herndon's report of the exploration of the Valley of the Amazon and its tributaries, made by him in connection with Lieutenant Lardner Gibbon, under instructions from the Navy Department; which was referred to the Committee on Naval Affairs, and ordered to be printed.

PETITIONS, ETC.

Mr. CASS presented a petition of citizens of Albany, New York, praying that measures may be taken to secure to American citizens abroad the rights of conscience and of public worship; which was referred to the Committee on Foreign Relations.

Also, a resolution passed at a meeting of the Genesee Congregational Association in favor of the interposition of the United States for the protection of American citizens in the enjoyment of religious liberty abroad; which was referred to the Committee on Foreign Relations.

Also, the petition of John McLean and P. Nicholas, praying that some further redress than that afforded by the marine court of New York may be provided for injured passengers in vessels to California; which was referred to the Committee on Commerce.

Mr. HAMLIN presented a petition of citizens of Maine who served in the last war with Great Britain and in the "Aroostook war," praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. JONES, of Tennessee, presented the memorial of Margaret A. Hanks, Calvin J. Hanks, and Bettie Hanks, praying that the Secretary of the Treasury may be directed to pay them the amount due to them under the act of 29th of July, 1848, for the relief of the Cherokee Indians who remained in North Carolina; which was referred to the Committee on Indian Affairs.

Mr. UNDERWOOD presented a petition of Rev. Thomas Cleland and others, praying that measures may be taken to secure to American citizens abroad the rights of religious worship; which was referred to the Committee on Foreign Relations.

Mr. BUTLER presented a petition of citizens of Due West and its vicinity, South Carolina, praying that measures may be taken to secure to American citizens abroad freedom in religious worship; which was referred to the Committee on Foreign Relations.

Mr. FELCH presented a resolution of the Legislature of Michigan, requesting its Senators and Representatives to vote in favor of the enactment of a law securing, free of charge, one hundred and sixty acres of land to every landless head of a family, who shall settle and cultivate the same for five years; which was ordered to lie on the table and be printed.

Mr. DOWNS presented the petition of Edward G. Fitch, praying an appropriation to test a carriage invented by him to travel on common roads, plank roads, or railroads; which was referred to the Committee on Roads and Canals.

Mr. DODGE, of Iowa, presented the petition of Maria Stevenson, praying to be allowed the commutation pay to which her husband, George Stevenson, was entitled for services as a surgeon's mate in the general hospital during the revolutionary war; which was referred to the Committee on Revolutionary Claims.

MIDSHIPMEN WELSH AND WELLS.

On motion by Mr. BRODHEAD, the Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of passed midshipmen George P. Welsh and Clark H. Wells. It proposes to direct the proper accounting officers of the Treasury to pay to passed midshipman George P. Welsh $341 66, and to passed midshipman C. H. Wells $342 93.

Mr. HALE. For what is this money to be paid?

Mr. BRODHEAD. The report states the facts. It is a bill which has been reported unanimously by the Committee on Naval Affairs, and if the Senator from New Hampshire desires to hear the report read, I have no objection.

Mr. HALE. I merely wish to understand for what the money is to be paid.

Mr. BRODHEAD. These two midshipmen, while in the Pacific squadron, were appointed masters, not knowing of an order which had been issued from the Navy Department that their appointments must be first confirmed; and this bill gives nothing more than what the law would have allowed if they had been here.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

RAILROAD TO THE PACIFIC.

Mr. GWIN. I am requested to present the memorial of the Legislative Assembly of the Territory of New Mexico, in favor of the establishment of a national railroad from the Mississippi river to the Pacific ocean. They very briefly give the reasons why the road in question should be located so as to pass through New Mexico. The first is, that the central position of the Territory would afford facilities, in connecting a road upon this route with several railroads which terminate in the west. Secondly, the cheapness of its construction, because it may be made over a very direct line, without crossing a single elevation. Thirdly, that a road upon this route would never be impeded by snow; and fourthly, that the whole line of the road across New Mexico would be abundantly supplied with excellent stone coal for fuel. They also pray that encouragement may be given by Congress for the erection of an electric telegraph across the continent, and that the line may either pass through New Mexico, or send off a branch to this Territory. I move that it be laid on the table and printed.

The memorial was laid on the table, and the motion to print it was referred to the Committee on Printing.

REPORTS FROM A STANDING COMMITTEE.

Mr. HAMLIN, from the Committee on Commerce, to which was referred the bill to amend an act entitled "An act to regulate the collection of duties on imports and tonnage," approved March 2, 1799, reported it with an amendment.

He also, from the same committee, reported a bill to authorize the erection of a marine hospital at Burlington, in the State of Iowa; which was read and passed to the second reading.

AMOS PROCTOR.

Mr. HAMLIN. The Committee on Commerce, to which was referred a joint resolution explana-

tory of the act for the benefit of Amos Proctor, approved the 17th of June, 1844, have directed me to report it back and recommend its adoption; and I ask the Senate to consider it at this time.

The motion was agreed to, and the Senate proceeded to consider the resolution as in Committee of the Whole. It proposes to resolve that under the act for the benefit of Amos Proctor, approved June 17th, 1844, his legal representatives are entitled to one half of one moiety, being one fourth of the appraised value, of the goods therein mentioned as having been seized and libeled on his information.

Mr. HAMLIN. I can state in a very few words the merits of the case. There is a report accompanying the bill, which was made by the Committee on Commerce at the last session of Congress, and which can be read if desired. During the war of 1812, Amos Proctor seized certain goods on the Canadian frontier, in the State of Vermont. By the law, he was entitled to half of a moiety of those goods, when libeled and forfeited. Afterwards a law passed Congress, to relieve the goods, and surrender them up to the owners. Amos Proctor came here and presented his claim to Congress, stating that by law he was entitled to the half of a moiety of the goods; and Congress passed a law granting him one half of a moiety of the goods. He went to the Department after the passage of the law, but, by some strange construction of it, they granted him but a half of a moiety of the duty on those goods. During the last session of Congress, this matter came before the Committee on Commerce, and they reported a resolution, unanimously, saying that the terms of the law of 1844 included a half of a moiety of the value of the goods, supposing that, upon the passage of such a resolution, the accounting officer would pay the amount. Indeed, I think I can say, and in fact I know, that the opinion of the Secretary of the Treasury was that it should be paid; but one of the accounting officers holds a different opinion, and hence the necessity of this resolution.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

MAIL AND WAR STEAMERS TO CHINA.

Mr. COOPER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to lay before the Senate all the information in his possession in relation to the establishment of a line of mail and war-steamers between the western coast of the United States and the free ports in China, together with his opinion on the practicability and expediency thereof.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had concurred in the resolution of the Senate for the appointment of a joint committee to wait on Franklin Pierce, of New Hampshire, and inform him of his election as President of the United States, and that it had appointed Mr. GEORGE W. JONES, of Tennessee, and Mr. HARRY HIBBARD, of New Hampshire, the committee on their part.

Also, that it had passed the following bills:

An act to establish the Territorial Government of Washington; and

An act to amend an act entitled "An act for the relief of Joseph Johnston," approved May 4, 1852, by correcting a clerical error.

Also, that it had passed a bill from the Senate, authorizing the Secretary of the Treasury to issue a register to the steamship Albatross.

GEORGE P. SMITH.

The bill from the House of Representatives for the relief of George P. Smith, was read a first and second time by its title. On motion by Mr. BORLAND, the Senate proceeded to consider it as in Committee of the Whole.

It proposes to release George P. Smith, late a quartermaster in the Army of the United States, from a bond executed by him for the discharge of his duties as quartermaster, in consequence of his having been taken prisoner, and the public property under his charge, and his vouchers and papers destroyed.

Mr. PRATT. I would inquire whether the bill has been referred to a committee of the Senate?

Mr. BORLAND. I will answer the Senator. The bill was passed unanimously by the House of Representatives on Monday, and it has been considered informally by the members of the Committee on Military Affairs of the Senate. I have consulted with the chairman of that committee, and he is perfectly in favor of it, and we should report it back as soon as possible, if it were referred; but it being a matter of pressing consequence, I hope it will pass without that reference. There is no necessity for reference, and it will only consume time, because the Committee on Military Affairs have informally considered the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

GENERAL RIPLEY.

On motion by Mr. BADGER, the Senate, as in Committee of the Whole, proceeded to the consideration of the joint resolution for the relief of Mrs. L. E. L. A. Lawson, sole surviving heiress of General Eleazar W. Ripley, deceased. It proposes to direct the Secretary of War to cause the accounts of the late General Ripley with the Government of the United States to be audited and settled, and to cause to be paid to his sole surviving heiress, mentioned in the title of the joint resolution, such sum as may be found to be due her late father, according to principles of equity and justice, not to exceed the sum of $13,720 12, being the balance due by the United States, as found by a verdict in favor of General Ripley, at the May term, 1835, of the district court of the United States for the eastern district of Louisiana.

Mr. BADGER. I will explain the joint resolution in a few words. An action was brought by the United States against General Ripley, in his lifetime, for the purpose of recovering a sum of money alleged to be in his hands, and for which he was a defaulter to the Government. His reputation is known to us all as a gallant officer in the last war with Great Britain, and he received testimonials of the highest character for his gallantry and skill. That action was pending against him for years, and it bore him down with a continual sense of impending disgrace, as a man whose reputation stood under a cloud, charged with being a defaulter to the Government. It was at length brought to a trial, and the jury found, upon investigation of his accounts, that, instead of his being a defaulter, there was a large sum of money due to him. It is upon the footing of that claim, that case, and that verdict, that the application is made in this case for the relief of Mrs. Lawson. The committee found that there was every reason to believe that there was a sum due to General Ripley, but the extent and complication of the accounts, and the deficiency of the means that we possessed of entering into an investigation of them, rendered it impossible that we could arrive at any sum with the probability of doing justice to the Government and to the claimant, and we therefore concluded to report a joint resolution directing an investigation into his accounts by the Secretary, and the payment of such a balance as is ascertained to be due, which, in no case, is to exceed that mentioned in the joint resolution.

Mr. BUTLER. I differed somewhat with my colleagues on the committee in relation to this claim. I originally drew up a report myself rather adverse to it. As well as I can understand the claim, it stands thus: General Ripley was a disbursing officer as well as a commanding general at New Orleans, and as a paymaster, he had to disburse a large amount of the public money. He did not account when he was called upon, and he was sued. Several verdicts were rendered, some allowing him one amount, some another, and some denying him altogether any amount. Finally, a verdict was given, I believe, by way of set-off, in his favor, to the amount of $13,726 12; and Mrs. Lawson, his daughter, petitioned Congress to allow that amount, on the ground that the jury had found it in favor of her father. I could not allow that amount in the report which I have submitted, to be paid to her, because it was not a judgment of the court. I never can agree that any jury, by a set-off of that kind, can find for an individual and make it a positive judgment of the court; neither do my friends so regard it; nor could I allow that amount to be paid her. Having made this statement I shall make no further objection. If the Senate think proper to allow it to go to the Secretary of War to adjust the accounts according to equity and justice, I do not know that I can entirely object. I was perfectly willing—and I thought that was enough—that the estate of General Ripley should be released from all obligations to the Government. How far, and what may be the true state of his accounts, is difficult to determine, as also what was found for him in the other cases.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

CIRCULATION OF SMALL NOTES.

Mr. NORRIS. The Committee on the District of Columbia have had under consideration House bill No. 345, to suppress the circulation of small notes as a currency, in the District of Columbia, and have instructed me to report back sundry amendments, which I ask may be printed.

The amendments were ordered to be printed.

Mr. SHIELDS. I hope that bill will be put on its passage now. Its object is to abolish the law authorizing small notes in this District, and I want the amendments to go to the House as quickly as possible, or it will not pass this session.

Mr. RUSK objected, as he desired to get up the joint resolution relative to the officers of the late Texas Navy, and therefore the bill was not passed.

MEXICAN BOUNDARY.

Mr. CLARKE. I offer the following resolution:

Resolved, That the Secretary of the Interior be directed to furnish to the Senate, copies of any papers or reports relating to the Mexican Boundary Commission, and particularly a report from the Commissioner, which may have been received since his last communication to the Senate upon the subject of said Commission.

The resolution was considered by unanimous consent, and agreed to.

ORDER OF BUSINESS.

Mr. BRIGHT. I move to take up for consideration the bill in relation to the debts of Texas. It was made the first special order at this session of the Senate, which has been postponed from time to time, partly to give place to the very important bill for the railroad to the Pacific, and partly from the consideration that the Senator from Maryland [Mr. PEARCE] has been confined to his room by indisposition. He is now prepared to go forward, and has his books and papers before him. He has business that calls him from the city, and he is anxious to be heard now. I hope there will be no objection to having the bill taken up, and hearing the Senator make the opening speech.

Mr. RUSK. I have made the motion to take up the bill in relation to the Texas navy, which has been before us several years. I regret much that I shall be under the necessity of opposing the motion to proceed to the consideration of the Texas debt bill. I regret it extremely, for under ordinary circumstances, I should give it the preference of all other subjects. I expressed myself here more than a year ago, upon the presentation, by the Senator from Kentucky, of the petition of some of the Texas creditors, anxious that the Committee on Finance should make a report at an early day, so that the whole matter could be taken up and discussed. The position that Texas occupies in the matter has been misunderstood entirely; and I have, therefore, been anxious, from that day until this, to have an opportunity to present the case in its proper aspect. I utter no complaint against the Committee on Finance. It reported the bill at a late hour in the last session, when it was impossible for us to discuss it.

I regret extremely to oppose the taking up of the bill on another account. There is no Senator, certainly, to whom I would extend a courtesy more willingly than to the Senator from Maryland, particularly since the subject is a matter which has two sides to it which should be discussed. There has been, however, a representation, on the part of the creditors, of the legislative action of Texas, which deserves to be answered by the facts, and which I am prepared, when we have time, to answer. The bill which I had the honor of reporting from the Special Committee for the construction of a railroad to the Pacific is the special order, and, sir, unless we get a vote upon it this week, it is almost useless to discuss it. It is due to the country that the Senate should act upon the proposition, and if it is rejected, there is an end to it. If it is passed by the Senate, it is due to the House of Representatives that it should go to it in season to give them an opportunity to discuss its merits,

and act upon it understandingly. With regard to the Texas debt bill, I apprehend its friends do not expect that it will pass the Senate and House of Representatives in the shape of a separate bill. I imagine, from hints which have been thrown out, that it is intended to offer it as an amendment to one of the appropriation bills. If so, the discussion can take place then. I repeat, I feel an anxiety—and I hope the Senate will sustain me in that anxiety—to come to a vote on the Pacific railroad bill during the present week.

Mr. PEARCE. Mr. President, I wish to be permitted to say to the honorable Senator from Texas, that I think he is mistaken in supposing that the Pacific railroad bill is the special order for to-day. The bill relating to the Texas debt was made the order of the day for the sixth of January. It was postponed through courtesy, and was made the order of the day for the next Monday following. Other business intervened on that day, so that it is true the Texas bill was not taken up. Subsequently, the Senator from Texas got up the bill which he introduced, for constructing the railroad to the Pacific. That bill had the precedence of the Texas bill so long as it remained the unfinished business from day to day; but more than one day having intervened, it has lost its precedence, and now, as I understand the rules of the Senate, the Texas debt bill is the order of the day for to-day. It is the first on the list. That being the case, and it having been put aside so long, I hope we shall be allowed to take it up to-day. It is desirable at all events, whether we pass the bill or not, that the discussion should be had upon it now. I do not know that there is any intention to offer it as an amendment to any other bill; but if that be so, it is clear we shall have no time to discuss such an amendment when the civil and diplomatic bill is before us. It is desirable that we should discuss it now; otherwise, the Senate will not be prepared to act upon it at any time.

Mr. RUSK. The reason why I stated that the Pacific railroad bill was the order of the day, was this: I think the Senator from Maryland was not in his seat when it was last up. It will be remembered that on Tuesday that bill was before us, and the honorable Senator from Tennessee [Mr. BELL] was going on with a speech when he gave way for a motion for an adjournment. Yesterday was appropriated to other business, and no legislative business was done; so that to-day stands in the same relation, legislatively, that yesterday did to the day before, when it was the unfinished business. The honorable Senator from Tennessee [Mr. BELL] was in the middle of his speech when he yielded to a motion to adjourn.

Mr. HUNTER. I hope we will take up the bill relating to the Texas debt, and decide it in some way or other to-day; either pass it or postpone it indefinitely, which I should prefer. As to the idea of having a debate upon that question when we have an appropriation bill before us at the close of the session, it is manifestly impossible that we should have such a debate at that time. I hope we shall have the debate to-day, and dispose of the question in some shape or other. It seems to me the Senator from Maryland is right, and that the Texas bill is the special order. The bill relating to the Pacific railroad lost its precedence because we did not adjourn on it yesterday. We adjourned on it on the day before, which would have given it the precedence yesterday, and therefore the Texas bill seems to me to be the special order for to-day.

Mr. BRIGHT. I believe the Senator from Maryland is, strictly speaking, in a parliamentary sense, correct, that there is really no special order before the Texas bill. But I did not intend, by my motion, to raise that question, or take any advantage of the situation of the bill which the honorable Senator from Texas is so anxious to have disposed of. I shall be perfectly content, after the honorable Senator from Maryland has been heard, to pass the bill over, with a view to take up the railroad bill. I made the motion for that purpose, to enable the Senator from Maryland to go on with his remarks; and if we see proper to discuss the matter further, we can do so at a future time. I know of no intention to discuss it in connection with the appropriation bills. I have heard of none.

Mr. HUNTER. Does the Senator from Indiana intend that the Senator from Maryland shall be heard on the question, and nobody reply to him?

Mr. BRIGHT. I merely suggested that the Senator from Maryland should be heard to-day. As a matter of course, others will have an opportunity to speak on the question, if they wish to do so. I shall wish to say something upon it myself.

Mr. HUNTER. I hope, if the bill is taken up, we shall go on with the discussion, and dispose of the question. If the Senator from Maryland speaks, I shall reply to him.

Mr. CASS. I agree with the honorable Senator from Indiana that every proper courtesy to a member of the Senate requires that the Senator from Maryland should be allowed to go on to-day. He has come prepared with that view. But then I agree with the Senator from Indiana that the other bill is very important. After the Senator from Maryland has spoken, I shall be willing to let his bill go by for a day or two. That will not stop the discussion upon it. It is not necessary to have all the discussion in one day. We know from experience that our deliberations last a good while in some cases, and that nothing is foreclosed by the delay and letting the questions go over.

Mr. ADAMS. The morning hour has not yet expired. We have a resolution upon the table, offered by the Senator from California, [Mr. GWIN,] in relation to the time of the meeting of this body, which, I think, the anxiety which is expressed to take up different bills, presents in a most favorable attitude for consideration at this time; and therefore, as the morning hour has not expired—I take no interest in the contest between gentlemen as to which bill shall have the preference—I propose, by unanimous consent, that we take up that resolution changing our hour of meeting; and I notify the Senate that if it shall be taken up, I will move to strike out "Monday next" and insert "from and after this day," so that we shall meet at eleven o'clock instead of twelve, after to-day. That will enable us to do a great deal of business. The committees have already reported more than can possibly be acted on at this session, and by meeting at eleven we can save an hour each day, which will be of great service to the Senate. I suggest that we act upon that resolution now.

Mr. BUTLER. We have not many days left for the transaction of legislative business at this session. I suppose there are now under discussion three or four of the most important measures that have ever been discussed in this body; and I do not think it would be an unfortunate thing for the country if none of them passed at this session. The resolutions in reference to Cuba and our foreign relations, which have been made, I am sorry to say, the subject of public agitation in this body, the Pacific railroad bill, this Texas matter, the homestead bill, Bennett's land bill, and others, are all under consideration, and I think it would be better for the country if there should be no judgment formed upon them at this session at all, and on that account, paradoxical as it may appear, I shall oppose the Senate's meeting at eleven o'clock. I think the shorter time we sit, and the sooner we go home, the better. It was my purpose to have participated in the discussion of some of these questions on our foreign relations, but I have not had the opportunity. Gentlemen take them up as they choose, discuss them as much as they think proper, and others lose all opportunity to speak upon them; and thus we have but a single view of these subjects going out to the community, without any response from public opinion, except so far as is presented by those gentlemen.

Here is my friend from Connecticut, [Mr. TOUCEY,] who has been anxious to speak on many of these important questions. Gentlemen who have great projects, and command the ear of the Senate by their eloquence, advertise on what day they intend to speak, and courtesy will allow it. I think the more speaking and the less action on those subjects the better. I do not care how much gentlemen speak upon them, but if the speaking is to go on, "let us," as the Kentuckian said, "have a free fight;" let us all have an opportunity to express our views. According to the courtesy heretofore extended to others, I think the Senator from Maryland should speak this morning; but when he does speak, he must expect to be spoken to back again. [Laughter.] Let us have a fair fight, sir. Therefore, I shall oppose taking up this railroad bill, this mammoth bill that everybody is willing to ride on, and shall go for taking up the Texas debt bill. I am rather impartial in regard to both. I give these reasons to the Senator from Mississippi for not meeting at eleven o'clock. I say it will be an unwise thing to meet sooner than twelve o'clock.

Mr. GWIN. I hope the resolution which I offered yesterday will be taken up.

Mr. BRIGHT. I hope my motion will be put.

The PRESIDENT. The Senator from Indiana has a motion pending before the Senate.

Mr. GWIN. Is it in order? Is not until one o'clock appropriated to morning business? And cannot I object to taking up any other subject until we get through the morning business?

The PRESIDENT. The Senate can determine by a majority of votes what it will take up.

Mr. GWIN. I hope my resolution will be taken up and acted upon.

Mr. BRIGHT. If I believed the vote could be taken on it without discussion, I should not object.

Mr. GWIN. It will not be discussed.

Mr. BRIGHT. The Senator from South Carolina has notified us that he will object to it. There are other Senators who will object to it. I desire the question put on my motion.

Mr. RUSK. I differ entirely from the honorable Senator from South Carolina, who thinks that we should do better to talk and not act. I am one of those who go for talking little and acting much. I am not anxious to get up the Pacific railroad bill for the purpose of discussing it, although I stand, perhaps, in a situation to be read out of the Democratic party for my supporting it. I feel amply able to defend myself on that score; but I shall not consume the time of the Senate in doing it. My object in getting up the bill is to get a vote upon it. The honorable Senator from South Carolina says we should wait. Sir, the section of country from which both he and I come have waited until all the balance of the country is ahead of us. We have waited long enough, and upon this very subject we are behind the times. A large majority of the Legislatures of the States have said that we should make a road from the Mississippi to the Pacific ocean. It has been before us an absolute necessity for seven or eight years. Therefore, it seems to me, the time has come for action; and I hope the friends of the bill will stand by it, if there is a majority of the Senate in favor of it, not for the purpose of discussing it, but for the purpose of acting upon it during the present week.

The honorable Senator from Michigan talks about courtesy to the Senator from Maryland. He cannot go further in courtesy towards that Senator than I would; but where is our courtesy to the Senator from Tennessee, [Mr. BELL,] who is in the middle of a speech upon the Pacific railroad bill, and who regards that bill, however others may, as an important matter for the country? Where is our courtesy to him? I hope the Senator from Maryland will not misunderstand me. I would go as far towards extending courtesy to him as I would to any one else; but my State is involved in the question. I know he will represent it fairly; I feel confident he will; but there is something to be said on the side of the State of Texas; and is it proper and right to bring up a bill of indictment against the State, and immediately after the charge is made, postpone it without any answer being given to what is said against the State? Is that courtesy? Is that fair? Is that right? I am anxious to meet this question the moment I have any opportunity of doing so. I am anxious to meet it fairly, and, as I have stated before, whenever I have time to do so, I mean to prove my words before the Senate, that if there is repudiation in this matter, it is the United States Government that has made the repudiation.

Mr. CASS. Unlike the honorable Senator from South Carolina, [Mr. BUTLER,] I think there are topics which should be brought to a decision, and which I trust will be brought to a decision. I believe it is understood that the honorable Senator from Illinois [Mr. DOUGLAS] has the floor on Monday on certain resolutions which I offered; and I merely desire to express the hope that gentlemen who intend to take part in the debate on that subject, will then be prepared to go on. Then, with a joke or two from our fountain of hilarity, which runs in a perennial stream, and copiously at all times, let the senatorial temper be what it may, whether our subjects be gay or

grave, light or important; and in addition to that any arguments which may be made, I do hope and trust the Senate will come to a decision, and establish the foreign policy of the Government upon principles compatible with its honor and interest.

Mr. HALE. Mr. President, I should like to know which the Senator considers the joke, taking Cuba or Canada? I am serious about Canada; and if the Senator is joking about Cuba, I think he had better stop it. [Laughter.]

Mr. CASS. The honorable Senator will allow me to say to him—and I say it in a spirit of kindness, for I have a personal regard for him, and he knows it—what every member feels as strongly as I do, and, I believe, every auditor, also, that there are theaters in this country more appropriate for the display of the peculiar propensities in which he is too much in the habit of indulging than this great theater of executive and legislative action. I repeat, sir, there are theaters more appropriate; and we are told by the wise man of Israel that "there is a time for all things." I think so; and, sir, there should be a time when the grave nature of our discussions should shield us from the interruption of an untimely joke; and I regret, sir, that neither our dignity, and I may say our usefulness, has been regarded; and I regret that the history of our proceedings for the last six years shows that we are rarely exempt from the gratification of the propensity to which I allude. That is all I have to say, and now the Senator from New Hampshire can go on.

Mr. HALE. Sir, I did not expect such a lecture as that this morning, and I really think it would have been fair that I should have had notice of it; but as it has come, I will endeavor to meet it as well as I may. I will say to the honorable Senator from Michigan, as he is here a Senator, and I am too, that I am obliged to him for the suggestion, and will endeavor to profit by it. I perhaps should have been able to profit by it more to the advantage of the country if it had come earlier, because my term of six years is now nearly out, and if it had come sooner I might have taken advantage of it; but as the honorable Senator has some time to stay here, and any advice which I may give him may do some good, I will give him some, and it is this: If we will come here, and devote ourselves to the legitimate purposes of legislation—if we will remember that we are Senators of the United States, not knights-errant of mankind in general and the world at large—if we will endeavor, in the discharge of our duties, to confine ourselves to those matters which appropriately belong to discussion here, and if we will not, even from considerations pertinent and appropriate, no doubt, undertake to throw a drag-net over all creation, fancying that we have a responsibility and a reputation wide enough to take in charge all the nations and families of the earth, and all the interests pertaining to time, not to say eternity—if we will content ourselves with the legitimate discharge of the duties that appropriately belong to us, remembering that we are Senators of the United States—I can assure the Senator, that so far as I am concerned, in the little time that I have to stay here, he will find me working as hard, and as earnestly, and as seriously as any man who comes here. But when I see what I deem censurable—when I see what I deem unworthy conduct in an American Senator, and matters brought up which are unworthy to be brought before the consideration of an American Senate, if I am young and humble, I think I can better administer a merited rebuke under the mild form of a pleasant joke or a smooth sarcasm, instead of getting up and thundering out anathemas against what I consider erratic influences that ought to be pruned, and kept, to say the least of it, from the Senate Chamber—if I can do so, I think I ought to have credit for kindness, instead of being rebuked in the manner in which I have been.

I say, then, sir, that I have had occasion to think—and I am sorry that the honorable Senator has given me cause to say it—that the Senator from Michigan, governed, no doubt, by high and honorable and patriotic and noble impulses, has brought to the consideration of the Senate, matters and subjects, at a time and in a manner that I thought entirely improper. My respect for him, my kind feelings, and my regard for him, have induced me to give utterance to the sentiments which I have entertained in a manner not savoring of severity, not savoring of harshness—nothing of that sort—but by a mild and gentle satire, not appropriate to the case, I confess, but I think eminently called for in the judgment of the country; I have endeavored to rebuke those matters in the way that I have done. If it has not met his approbation, I regret it. But I say now, that if the thing was to be done over again, so far as the Senator from Michigan is concerned, I would adopt a different course. I think that I have as clear perceptions, possibly, as most men of my years. I think that I have the mode and the manner, and the power of giving utterance to those perceptions plainly, when I will; and if I have endeavored to point, or rather to take off the point, of the censure which I have thought it my duty to administer to erroneous propositions improperly brought forward, under the form of mildness, and in the mode with which the Senator seems disposed to find fault, it should be attributed to an excess of good nature, rather than a desire to throw ridicule upon the Senate, and upon subjects which are brought here for consideration.

I will not go on to instance those matters in relation to which I have thought I was called upon to find fault. I leave the matter with the Senate, and I leave it with the country. I am willing that the issue shall go out to the country, and let it settle who it is that has trifled with the Senate, or with the legitimate and appropriate business that belongs to the Senate.

Mr. GWIN. We have been three quarters of an hour trying to find out what we shall commence with. I hope we shall have a vote now.

Mr. HOUSTON. I wish to make one remark upon the motion of the honorable Senator from Indiana, and I do not often trouble the Senate. I hope that the subject of the Texas debt will not be taken up if it is not to be discussed at length, or discussed at least so far as that a speech shall be made for and against it. It is not fair that the honorable Senator from Maryland, prepared as he is, and able as he is, should give his impressions upon one side of the subject, and send them out to the world unanswered, and if anything which he said should happen to be erroneous, left to go unrefuted. I therefore hope, that unless it is in contemplation to hear the subject discussed fully on both sides, it will not be taken up at all. I am as anxious as any Senator on this floor to hear the subject discussed at length, and to derive all the information I can on the subject, and be instructed by the discussion, if I am in error in my convictions; but I object to the discussion going on with one speech in favor of the bill and none against it.

Mr. PEARCE. I have no desire to escape a reply—none at all.

Mr. HOUSTON. I am aware of that.

Mr. PEARCE. On the contrary, I should feel mortified if my remarks should be deemed to have so little weight as to go without a reply; and I will say to the honorable gentleman, that so far as I am concerned, he shall have every opportunity of replying.

The motion of Mr. BRIGHT was agreed to.

TEXAS DEBT BILL.

The Senate accordingly proceeded, as in Committee of the Whole, to consider the bill to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850; the question pending being the amendments reported by Mr. PEARCE, from the Committee on Finance, to the bill.

Mr. MASON. Before the Senator from Maryland proceeds with his remarks upon the bill, and the amendments which he has offered, as a member of the Committee on Finance I wish to offer a substitute for the whole bill, in order that it may be before him when he makes his remarks.

Mr. PEARCE. I would suggest to the Senator that I would prefer that the vote should first be taken on the amendments of the committee. I think it would be proper to allow the bill to be perfected by the committee before the gentleman offers his substitute, and I presume it is the same which he offered at the last session as an amendment to one of the appropriation bills. I shall notice it in the course of my remarks, as if it were before the Senate, but I should prefer that it should not be moved as an amendment to the bill until the Committee on Finance have proposed their amendments intended to perfect the bill, which I think is the proper and parliamentary course.

Mr. MASON. I supposed that the Senate would allow the Committee on Finance to present the bill in its amended form, as their bill, and if that course should be taken, I should attain my desire, which is to have a vote on the substitute which I intend to present. My desire is to have that substitute before the Senate in regular order when the discussion commences; but I do not wish to embarrass the Senator from Maryland in the least degree.

The PRESIDING OFFICER, (Mr. MORTON in the chair.) The Senator from Maryland is entitled to the floor, and unless he yields, the substitute cannot be received.

Mr. MASON. I desire to have my amendment before the Senate when the discussion commences; but I do not wish to embarrass the Senator from Maryland.

Mr. PEARCE. I think the amendment has been laid on the table and printed.

Mr. MASON. Informally. It has not yet been offered.

Mr. PEARCE. It can be considered as offered, and we can discuss it the same as if it were actually offered, and therefore I do not see any advantage to be gained by offering it at this time.

Mr. MASON. The only advantage will be this: In offering it now, I shall attain the end I desire to attain, and have a vote upon this as the first vote taken upon the measure.

Mr. PEARCE. The Senator will permit me to suggest, that if the Senate will now consider the amendments submitted by the Committee on Finance which have been printed, and one other which has not been printed; but which is necessary to carry out the same idea, I then shall have no objection to the Senator offering his proposition as a substitute.

Mr. MASON. Perhaps it would not be well to hurry the Senate into that, because if the amendments of the committee were adopted, they might not afterwards be open to modification; but I will wait for another opportunity.

Mr. PEARCE rose and addressed the Senate at length in favor of the bill.

Mr. HUNTER replied in opposition to the bill. [The remarks of both gentlemen will be found in the Appendix.]

Mr. HOUSTON obtained the floor.

Mr. RUSK. It is evident that we cannot come to a vote on this question to-day, and therefore I move to postpone its further consideration until Tuesday next.

Mr. HOUSTON. I would suggest to my colleague to move its postponement until to-morrow, for I should like to speak then on the subject.

Mr. HALE. I would suggest that Tuesday next has been made the special order for the report of the Committee on Foreign Relations on the Tehuantepec grant.

Mr. RUSK. The Pacific railroad bill has been made already to give way to the Tehuantepec grant, and we can see whether this or the Tehuantepec grant shall give way on Tuesday next.

Mr. CASS. Let us finish this matter now.

Mr. BUTLER. We cannot do it, unless we sit till midnight.

Mr. RUSK. It has taken nearly a whole session to perfect one practical measure, and I doubt, therefore, whether we can finish this in a day. I move to postpone its further consideration until Tuesday next.

Mr. BROOKE. I move that the Senate adjourn.

Mr. BUTLER. I know that it is not in order to discuss the motion to adjourn, but I wish to say that I shall vote for the adjournment in order to give the Senator from Texas [Mr. HOUSTON] an opportunity of being heard on this subject to-morrow.

The motion to adjourn was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 10, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the bill reported from the Committee of the Whole on the state of the Union to establish the Territorial Government of Columbia.

Mr. STUART. I demand the previous ques-

tion on concurring in the amendments of the Committee of the Whole on the state of the Union to that bill.

Mr. SEYMOUR, of New York. I ask the unanimous consent of the House for leave to have taken from the Speaker's table the bill of the Senate relating to the warehousing system, in order that it may be referred for consideration to the Committee on Commerce. It is the second bill in order on the table.

Mr. STANTON, of Ohio. I object.

Mr. MEACHAM. I rise to the correction of a clerical error. During the last session a pension was granted to a man by the name of Johnson, from the State of Vermont. Through some clerical error the letter "t" was inserted, making the name "Johnston," and by that means that man has been kept out of the pension granted him by the laws of the land. I now ask that the correction may be made by means of the following bill:

The Clerk read the title of the bill, as follows:

"An act to amend an act entitled 'An act for the relief of Joseph Johnson,' approved May 4, 1852, by correcting a clerical error."

The bill was received and read a first and second time by its title, and ordered to be engrossed and read a third time; and having been engrossed, it was accordingly read the third time, and passed.

Mr. BRIGGS. I ask the unanimous consent of the House for leave to have taken up and passed the bill from the Senate granting a register to an American-built steamship.

The SPEAKER. The previous question on the bill to organize the Territory of Columbia is called for by the gentleman from Michigan.

Mr. STUART. I would be willing to yield to the gentleman were this not the last day we have for the consideration of the territorial business.

REGISTER TO THE ALBATROSS.

Mr. BRIGGS. If the gentleman will allow a brief explanation, I do not think that he will object. On the table of the Speaker there is a Senate bill authorizing the Secretary of the Treasury to issue a new register to the American-built steamship Albatross, which was sold to a British subject, but afterwards reconveyed to Simeon Draper. Such bills have heretofore been unanimously passed, and there is now great inconvenience accruing from the want of a register for that steamship.

Mr. STUART. I shall interpose no objection to the bill, if it leads to no discussion.

The Clerk then read the title of the bill, as follows:

"S. No. 603. An act authorizing the Secretary of the Treasury to issue a register to the American-built steamship Albatross."

It was read a first and second time by its title, and, according to order, read a third time and passed.

TERRITORY OF WASHINGTON.

Mr. STUART. I now call up for consideration the regular order of business.

The SPEAKER. The first business in order is the consideration of the bill to organize the Territory of Columbia, which was, day before yesterday, reported from the Committee of the Whole on the state of the Union, with several amendments.

The Clerk reported the title of the bill, as follows:

"A bill to establish the territorial government of Columbia."

Mr. STANLY. The Clerk has not reported the title of the bill correctly. It is to organize the Territory of Washington.

Mr. RICHARDSON. The Clerk has read the title of the bill correctly. The word "Columbia" was stricken from the body of the bill wherever it occurred, and "Washington" substituted; but the title could not be amended in the committee. It has to be done in the House.

The call for the previous question was seconded, and the main question was then ordered to be put.

Mr. JONES, of Tennessee. That the sense of the House may be tested on the bill at this time, I move that it and the amendments be laid upon the table.

The question was put, and on a division there were—ayes 31——

Mr. STUART. I demand tellers.

Tellers were ordered; and Messrs. McNAIR and GAYLORD were appointed.

The question was taken, and the motion was decided in the negative; the tellers having reported—ayes 26, noes 99.

The question was then taken on the following amendments of the Committee of the Whole on the state of the Union, and they were severally agreed to:

"1. Strike out, wherever it occurs in the bill, the word 'Columbia,' and insert 'Washington.'"

"2. Insert between the words 'the' and 'Columbia,' in the fifth line of the first section, the words 'middle of the main channel of the,' so that the clause would read:

"That from and after the passage of this act, all that portion of Oregon Territory lying and being south of the forty-ninth degree of north latitude, and north of the middle of the main channel of the Columbia river, from its mouth to where the forty-sixth degree of north latitude crosses said river, near Fort Walla Walla, thence with said forty sixth degree of latitude to the summit of the Rocky mountains, be organized into and constitute a temporary government, by the name of the Territory of Washington."

"3. Insert the following as an additional section:

"*And be it further enacted*, That the Territory of Oregon and the Territory of Washington shall have concurrent jurisdiction over all offenses committed, where the said river forms a common boundary between the said Territories."

The bill was then ordered to be engrossed and read a third time.

Mr. LANE. I desire to inquire whether the amendments of the Committee of the Whole on the state of the Union, striking out the word "Columbia," applies to the Columbia river? Is the name of that river changed by the force of the amendments to that of Washington?

[Cries of "No!" "No!" all over the Hall.]

Mr. LANE. Very well, then; it is understood it does not affect the name of the river.

Mr. RICHARDSON. The change of name applies to the Territory and not the river.

Mr. JONES, of Tennessee. I understood the Clerk to report the amendment that the word "Columbia" be stricken from the bill wherever it occurs, and the word "Washington" substituted.

The SPEAKER. The word "Washington" is to be inserted before the word "Territory."

Mr. STUART. I call for the previous question on the passage of the bill.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. JONES. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was then taken, and resulted—yeas 128, nays 29; as follows:

YEAS—Messrs. Charles Allen, Willis Allen, Allison, John Appleton, William Appleton, Averett, Bartlett, Bennett, Bibighaus, Bowie, Brenton, Briggs, Busby, Joseph Cable, Thompson Campbell, Cartter, Chandler, Churchwell, Clark, Clingman, Cottman, Cullom, Daniel, Darby, George T. Davis, John G. Davis, Dawson, Dimmick, Disney, Doty, Duncan, Durkee, Edgerton, Evans, Fay, Ficklin, Fitch, Florence, Floyd, Freeman, Gamble, Gaylord, Giddings, Goodenow, Gorman, Green, Grey, Grow, Hall, Harper, Hart, Hendricks, Henn, Hibbard, Holladay, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, John Johnson, Robert W. Johnson, J. Glancy Jones, George G. King, Preston King, Kurtz, Landry, Little, Lockhart, Mann, McDonald, McLanahan, McMullin, McNair, Meacham, Miller, Millson, Miner, Molony, Henry D. Moore, Morrison, Murray, Nabers, Newton, Orr, Samuel W. Parker, Peaslee, Penn, Penniman, Perkins, Powell, Preston, Price, Reed, Richardson, Riddle, Robbins, Robie, Robinson, Sabine, Sackett, Schermerhorn, Origen S. Seymour, Skelton, Smart, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, Stratton, Stuart, Sweetser, Taylor, Thurston, Townshend, Venable, Ward, Washburn, Welch, Wells, Addison White, Wilcox, Williams, Woodward, and Yates—128.

NAYS—Messrs. Abercrombie, Barrere, Caldwell, Lewis D. Campbell, Chastain, Cobb, Colcock, Dockery, Dunham, Gentry, Isham G. Harris, Sampson W. Harris, Haven, Houston, Jackson, James Johnson, George W. Jones, Letcher, Martin, McQueen, John Moore, Morehead, Murphy, Outlaw, Wallace, Walsh, Watkins, Alexander White, and Wildrick—29.

So the bill was passed.

Mr. STUART. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

Mr. RICHARDSON. I move to amend the title of the bill by striking out the word "Columbia," and inserting "Washington," so as to make it agree with the body of the bill.

Mr. EVANS. I suppose there would not be in the whole United States one dissenting voice upon a question of doing honor to the memory of George Washington, but I wish, if it is possible, now—for I was not in the House yesterday when that name was given to this Territory—to have the bill altered in that respect, for the single reason that our geographical nomenclature has become such a mass of confusion that it is almost impossible, when you hear the name of a town, to know in what part of the world it is, much less to know in what part of the United States it may be found. We have perhaps in this country one hundred counties and towns of the name of Washington.

Mr. STUART. I desire to make a suggestion to the gentleman. I did not like this change of name myself; but I saw that a majority of the House were disposed to make it, and there was no objection to it. It is impossible in this House to restore the name of Columbia, because the name is in the entire body of the bill; and I therefore ask him, as a matter of favor, not to take up the time of the House, because it is the only day we have for territorial business.

Mr. EVANS. I know that I cannot make a change in the entire body of the bill, therefore do I wish to make these remarks, strictly in order, in regard to the title, that they may be read elsewhere where the bill can be changed. I wish to say, at the same time, that I would rejoice to see a State of the Union called after George Washington; but as the capital of the nation, a great number of counties, and a large number of towns in the Union bear the name, we will have endless difficulties in the transmission of correspondence; and I think it far more proper to avoid the difficulties of geographical nomenclature by giving to this Territory some one of the beautiful Indian names which prevail in that part of the country.

Mr. STUART. If there is any disposition to discuss this question, I shall call the previous question.

Mr. STANLY. I was only about to say that I do not want any more speeches made to the Senate.

The previous question was seconded, and the main question ordered.

The question was then taken upon the amendment to the title of the bill, and it was agreed to.

So the title of the bill was changed to that of Washington.

Mr. RICHARDSON. I move to terminate all debate in Committee of the Whole on the state of the Union upon the bill establishing the Territory of Nebraska.

The SPEAKER. That has already been done, by fixing one hour.

PUBLIC BUILDINGS IN NEW MEXICO.

Mr. RICHARDSON. I desire to report, from the Committee on Territories, a bill, which I ask may be read, and referred to the Committee of the Whole on the state of the Union, making appropriations for the construction of public buildings in the Territory of New Mexico.

There being no objection, the bill was introduced, read a first and second time by its title, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

BINDING OF MAPS.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That the House Committee on Printing cause the maps accompanying the report of the Superintendent of the Coast Survey to be bound in quarto form, provided that the cost shall not exceed eighteen cents per volume; and that they also cause to be bound the maps accompanying the report of the Secretary of the Treasury, on the trade of the British North American Colonies, in a separate volume, and style similar to the maps accompanying the report of Foster & Whitney, as published by the Senate, provided the cost shall not exceed twelve and a half cents per volume.

Mr. RICHARDSON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the special order.

Mr. STANTON. This report is a privileged one.

The SPEAKER. We are acting to-day under a special order.

Mr. STANTON. It seems to me that under the rules, I have a right to make a report at any time.

The SPEAKER. The Chair would be bound to rule as out of order anything proposed to-day, unless it be territorial in its character, as we are acting under a special order. If the House refuse to go into Committee of the Whole on the state of the Union, then the resolution of the gentleman would be in order for the action of the House.

Mr. GORMAN. I ask the unanimous consent

of the House to introduce a bill from the Committee on Military Affairs, in regard to the Territory of New Mexico. I ask to have it reported, and referred to the Committee of the Whole on the state of the Union.

The title of the bill was then read, as follows:

"A bill extending the provisions of the act of September 28, 1850, in regard to the extra pay of commissioned officers and enlisted men serving in Oregon and California, so as to include officers and enlisted men of the Army serving in New Mexico."

Mr. HOUSTON. Is that a territorial bill?

The SPEAKER. It is not, in the opinion of the Chair.

Mr. HOUSTON. Then I must object to it.

The question was then taken upon Mr. RICHARDSON's motion, and it was decided in the affirmative.

[A message in writing was here received from the President of the United States, by MILLARD P. FILLMORE, his Private Secretary. Also a message notifying the House that he did, on the 9th instant, approve and sign bills of the following titles, viz:

H. R. No. 232. An act for the relief of C. L. Swayze, in relation to the location of certain Choctaw scrip.

H. R. No. 233. An act granting the right of way and making a grant of lands to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point on the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith, on the Mississippi river.

H. R. No. 265. An act for the relief of Joseph M. Wilcoxon, of the State of Missouri.]

TERRITORY OF NEBRASKA.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HIBBARD in the chair,) upon House bill No. 353, to organize the Territory of Nebraska, upon which the gentleman from Texas [Mr. HOWARD] was entitled to the floor.

Mr. HOWARD. I will not detain the House long with any observations upon this subject. In looking into the subject since the adjournment of the other evening, I have come to the conclusion that the bill in its present form is in every way exceptionable and should not pass this Congress. In the first place, it is a bill to create the Territory of Nebraska within limits which contain about three hundred and forty thousand square miles. Within the limits of that vast territory it is not even asserted that the white population exceeds some six hundred souls. I do not conceive that the wants of that people can call upon Congress at this time to create a Territory of that extent, which must in the sequel lead to the formation of two States. Apart and separate from all that, there is another objection to the measure, which I think should be conclusive with this committee: It is, that it violates the treaty stipulations with some eighteen Indian tribes and bands of Indians who have been moved west of the Mississippi, to whom this Government has given certain guarantees that they shall never be included within any State or Territory, which this bill, in my estimation, violates. It is well known that the policy of emigrating Indians in the United States, west of the Mississippi, originated with Mr. Monroe, in 1825. It was matured under the administration of General Jackson, and the policy was carried out by the act of 1830; and if he had left no other monument of the great measures of his Administration, this would be one which would perpetuate his name in history.

The act of 1830 sets apart a certain country, which is to be outside of any State or any organized Territory, and authorizes the President to give guarantees to the Indians who move there that they shall maintain their position beyond the limits of any Territory or any State. That the committee may understand the question fully, I will read the first and third sections of the act:

"SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That it shall and may be lawful for the President of the United States to cause so much of any territory belonging to the United States west of the river Mississippi, and not included in any State or organized Territory, and to which the Indian title has been extinguished, as he may adjudge necessary, to be divided into a suitable number of districts for the reception of such tribes or nations of Indians as may choose to exchange the lands where they now reside and remove there; and to cause each of said districts to be so described, by natural or artificial marks, as to be easily distinguished from every other."

"SEC. 3. *And be it further enacted*, That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, that the United States will forever secure and guarantee to them and their heirs or successors, the country so exchanged with them; and, if they prefer it, that the United States will cause a patent or grant to be made and executed to them for the same: *Provided also*, That such lands shall revert to the United States if the Indians become extinct or abandon the same."

It is clear that the foregoing provisions constitute a compact with these tribes in relation to these lands which it is not competent for this Congress to violate, and which it ought not to disregard, if it had the power.

It is well known that when these tribes agreed to remove, that third section of the act was acted on to the extent that those who negotiated treaties with the different tribes of Indians assured those tribes, one and all, that they should be maintained west of the Mississippi, outside of the limits of any State or Territory, and that no State or Territory should be organized which would embrace them. In a large number of cases, the assurances thus given by the act of 1830 was incorporated in the treaties. For the purpose of enabling the committee to understand at once the extent to which this provision was incorporated in the various treaties removing these tribes, I have had the provisions extracted from those treaties, and I will now send them to the Clerk's desk, that they may be read. The committee will bear in mind that these are precisely the tribes that are to be interfered with by this bill, and that are to be embraced in the Territory of Nebraska, if it is organized with its present limits.

The Clerk then read the extracts, which are as follows:

Cherokees.

Treaty of 1835. "ART. V. The United States hereby covenant and agree that the lands ceded to the Cherokee Nation in the foregoing article shall in no future time, without their consent, be included within the *territorial limits or jurisdiction of any* State or Territory."—*Stat. at Large, vol.* 7, *p.* 481.—[*See also preamble to treaty of* 1828.—*Stat. at Large, vol.* 7, *p.* 311, *and art.* 1, *treaty of* 1846.—*Stat. at Large, vol.* 7, *p.* 871.]

Senecas and Shawnees.

Treaty of 1831. "ART. XI. The lands granted by this agreement and convention to the said band of Senecas and Shawnees shall not be sold or ceded by them, except to the United States, and the United States guarantee that said lands shall never be within the bounds of any State or Territory, nor *subject to the laws thereof*."—*See Stat. at Large, vol.* 7, *p.* 353.—*See also* 2*d art. of treaty of February* 28, 1831, *with Senecas.*—*Stat. at Large, vol.* 7, *p.* 349.

Quapaws.

Treaty of 1833. "ART. II. * * * the United States agree to convey the same by patent to them and their descendants as long as they shall exist as a nation or continue to reside thereon; and they also agree to protect them in their new residence against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever."—*See Stat. at Large, vol.* 7, *p.* 425.

Kaskaskias, Peorias, Weas, and Piankeshaws.

Treaty of October 7, 1832. "ART. IV. The United States cede to the combined tribe of Kaskaskias and Peorias, and the bands aforesaid united with them, one hundred and fifty sections of *land forever, or as long as they live upon it as a tribe.*"—*See Stat. at Large, vol.* 7, *p.* 404.

Treaty of October 29, 1852. "ART. II. The United States cede to the Piankeshaws and Wea tribes, for their permanent residence, two hundred and fifty sections of land within the limits of the survey of the lands set apart for the Piankeshaws, Weas, and Peorias."—*See Stat. at Large, vol.* 7, *p.* 410.

Miamies.

Treaty of 1838. "ART. X. The United States stipulate to possess the Miami tribe of Indians of, and guarantee to them forever, a country west of the Mississippi river, to remove to and settle on *when the said tribe may be disposed to emigrate from their present country*, and that guarantee is hereby pledged."—*See Stat. at Large, vol.* 7, *p.* 571.

Treaty of 1840. "ART. VIII. "It is hereby stipulated that the Miami tribe of Indians shall remove to the country assigned to them west of the Mississippi, within five years from this date.—*See Stat. at Large, vol.* 7, *p.* 583.

Ottawas.

Treaty of 1831. "ART. IX. * * * And the United States guarantee that said lands shall never be within the bounds of any State or Territory, nor subject to the laws thereof; and further, that the President of the United States will cause said land to be protected at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, and from any other person or persons whatever.—*See Stat. at Large, vol.* 7, *p.* 361.

Shawnees of Ohio.

Treaty of 1831. ART. X. Same as preceding.—*See Stat. at Large, vol.* 7, *p.* 357.

Shawnees of Missouri.

Treaty of 1825. "ART. II. It is further agreed by the contracting parties, that in consideration of the cession aforesaid, the United States do hereby agree to give to the Shawnee tribe of Indians, within the State of Missouri, for themselves and for those of the same nation now residing in Ohio, who may hereafter emigrate to the west of the Mississippi, a tract of land equal to fifty (50) miles square, situated west of the State of Missouri and within the purchase lately made from the Osages."—*See Stat. at Large, vol.* 7, *p.* 284.

Delawares.

Treaty of 1818.—"ART. II. In consideration of the aforesaid cession, the United States agree to provide for the Delawares a country to reside in, upon the west side of the Mississippi, and to guarantee to them the peaceable possession of the same."—*Stat. at Large, vol.* 7, *p.* 188.

Treaty Preamble, (supplementary) 1829. * * "And the United States hereby pledges the faith of the Government to guarantee to the said Delaware nation forever, the quiet and peaceable possession and undisturbed enjoyment of the same against the claims and assaults of all and every other people whatever."—*Stat. at Large, vol.* 7, *p.* 327.

Kickapoos.

Treaty of 1832.—"ART. II. The United States will provide for the Kickapoo tribe a country to reside in, southwest of the Missouri river, as their permanent place of residence as long as they remain a tribe. And whereas the said Kickapoo tribe are now willing to remove on the following condition, from the country ceded on Osage river, in the State of Missouri, to the country selected on the Missouri river, north of lands which have been assigned to the Delawares, it is hereby agreed that the country within the following boundaries shall be assigned, conveyed, and forever secured, and is hereby so assigned, conveyed, and secured by the United States to the said Kickapoo tribe as their permanent residence."—*Stat. at Large, vol.* 7, *p.* 391.

Pottawatomies.

Treaty of 1846.—"ART. IV. The United States agree to grant to the said united tribes of Indians possession and title to a tract or parcel of land containing five hundred and seventy-six thousand acres, being thirty miles square, and being the eastern part of the lands ceded to the United States by the Kansas tribe of Indians by a treaty concluded on the 14th day of January and ratified on the 15th of April of the present year, lying adjoining the Shawnees on the south, and the Delawares and Shawnees on the east, on both sides of the Kansas river, and to guarantee the full and complete possession of the same to the Pottawatomie nation parties to this treaty as their land and home forever."—*Stat. at Large, vol.* 9, *p.* 854.

Kansas.

Treaty of 1846.—"ART. V. As doubts exist whether there is a sufficiency of timber on the land remaining to the Kansas, after taking off the land ceded in the first article of this treaty, it is agreed by the contracting parties, that after the western line of the said cession shall be ascertained, (and) the President of the United States shall be satisfied that there is not a sufficiency of timber, he shall cause to be selected and laid off for the Kansas a suitable country, near the western boundary of the lands ceded by this treaty, which shall remain for their use forever."—*Stat. at Large, vol.* 9, *p.* 843.

Sacs and Foxes south of the Shawnees.

Treaty of 1842.—"ART. II. * * * *First*, That the President will, as soon after this treaty is ratified on their part as may be convenient, assign a tract of land, suitable and convenient for Indian purposes, to the Sacs and Foxes for a *permanent and perpetual residence* for them and their descendants, which tract of land shall be upon the Missouri river, or some of its waters."—*Stat. at Large, vol.* 7, *p.* 596.

Osages.

Treaty of June 2*d*, 1825.—"From the lands ceded by the first article of this treaty, there was reserved, by the second article, to and for the Great and Little Osage tribes, 'so *long as they may choose to occupy the same*,' a certain tract therein described, which is now occupied and held by them under their original title."—*Stat. at Large, vol.* 7, *p.* 240.

Iowas and Sacs and Foxes of Missouri.

Treaty of September 17, 1836.—"ART. II. * * Therefore I, William Clark, Superintendent of Indian Affairs, do further agree, on behalf of the United States, to assign to the Iowa tribe and Missouri band of Sacs and Foxes, the small strip of land on the south side of the Missouri river, lying between the Kickapoo northern boundary line and the Grand Nemeha river, and extending from the Missouri back and westwardly with the said Kickapoo line and the Grand Nemeha river, making four hundred sections, to be divided between the said Iowas and Missouri band of Sacs and Foxes, the lower half to the Sacs and Foxes, and the upper half to the Iowas."—*Stat. at Large, vol.* 7, *p.* 512.

New York Indians.

Treaty of 1838.—"ART. IV. * * * The lands secured to them by patent under this treaty, shall never be included in any State or Territory of this Union. The said Indians shall also be entitled, in all respects, to the same political and civil rights and privileges that are granted and secured by the United States to any of the several tribes of emigrant Indians settled in the Indian Territory."—*Stat. at Large, vol.* 7, *p.* 552.

Mr. SIBLEY, (Mr. HOWARD yielding the floor.) I desire to say, that I have prepared a speech upon a bill which is now on the calendar, but which, it is very evident, will not be reached. I hope I shall be allowed to print my speech in the proceedings of the House. [This speech will be found in the Appendix.]

Mr. HOWARD, (resuming.) The present bill embraces all the tribes mentioned in the extracts which have been read—some eighteen in number. It embraces all their territory, except that of the Cherokee Indians, and it includes about half of the country which was set apart for the use of the Cherokees. It will therefore be seen that the bill,

as to all these tribes, violates the spirit of the act of 1830, and, as to a large portion of them, violates the provisions expressly contained in the treaties, which say that they shall not be incorporated within any State or Territory. It is contended that this bill provides that they shall not be brought within this Territory except by their own consent.

But the bill looks to the ultimate extinguishment of all these Indian titles embraced within the limits of the Territory, and must, as a matter of course, if it succeeds, result in the total destruction of the whole Indian policy recommended and carried out by General Jackson. If the policy set forth in this bill prevails, one of two events must necessarily follow: Either these Indians must become citizens, in common with the whites in that Territory, or the whites will surround them, and the result will be the final extinction of these tribes in that Territory, and the defeat of the whole policy of the Government heretofore pursued with relation to them.

It seems to me that it is too obvious to admit of argument that this Territory ought not to be created at all, for various reasons. In the first place, there is not population enough within the limits prescribed to justify the organization of a territorial government. But, if it is to be formed at all, we ought first to have a negotiation with these Indians, and to make an arrangement by which they shall be removed to some other country. Again: if this Territory is to be created, the limits provided for in this bill are too large, and would not leave the Indians, for whom we must provide, room enough to live on, even if they were to devote themselves to agricultural pursuits exclusively.

It is, therefore, to me perfectly obvious, that instead of fixing the southern boundary at 36° 30′, it should be established at 39° 30′. That would give to this Territory one hundred and fifty thousand square miles, and which would be territory sufficient for a very large State, and, at the same time, it would reserve to the Indian tribes a tract of country large enough to preserve them from entire destruction.

Mr. McLANAHAN, (interrupting.) I desire to ask the gentleman from Texas, if the same provision did not exist in the organic law of Minnesota, into which the Winnebago tribe of Indians had been removed and now reside? I desire to call the attention of the gentleman from Texas to the provisions of that act, and ask him whether any practical difficulty has occurred from the formation of a territorial government in that Territory?

Mr. HOWARD. I have not examined the provisions of that act with any degree of care.

Mr. McLANAHAN. Well, sir, the same provision exists in reference to that Territory, but I am not aware that any practical difficulty has resulted from the introduction of an organic law there.

Mr. HOWARD. The chairman of the Committee on the Judiciary surely will not contend that a practical violation of a treaty in one case will make the same violation in another case legal. If the treaty provided that these Indians should not be incorporated within the limits of any Territory, and an act of Congress has been passed incorporating them within the limits of a territorial government, in violation of that treaty, it is no argument to prove the propriety of violating our treaties in this instance; and if the act to which the gentleman alludes could be brought before the Supreme Court of the United States in any manner, it would pronounce that act null and void, and preserve the Indians in their rights secured by treaty.

Mr. McLANAHAN. I yield to the force of the gentleman's argument, and I admit there is a great deal in it. My object was not to embarrass him in this matter, but to obtain information, because I know he is familiar with all subjects connected with territorial governments. But I will suggest to the gentleman that there is a provision in the first section of the bill that nothing in the act shall be so construed as to impair the rights of persons or property now pertaining to the Indians, nor shall it interfere with treaties which have been formed there. Now, if this provision of law does not confirm these Indians in the rights they now possess, I shall be opposed to the bill on that ground. My only object in rising was to ask the gentleman if any practical difficulty had resulted from the existence of a similar provision in relation to Minnesota, and to turn his attention to this proviso in the bill.

Mr. HOWARD. Well, sir, I cannot see any beneficial legal effect to be produced from the proviso specified by the gentleman. You have a treaty saying that these Indians shall not be incorporated within the limits of any territorial government, and this act provides that they shall be protected in their rights of person and property. Why, is it not evident that if you pass this act incorporating them in the Territory you are about to create, you violate the treaty? If there be any force in this provision at all, it merely shows that the law is inconsistent with itself. The treaty provides that these Indians shall not be incorporated in any Territory, and it is therefore perfectly idle to pass an act incorporating them into a Territory, and by a proviso in that act, say they shall not be injured in their property or persons. Such legislation, in my opinion, cannot have any legal effect at all. If it has, it is merely delusive. The practical result will be that this white population will immediately surround the Indians; under the pretended authority of the act they will oppress them on all sides, and the Indians then must either become citizens, or they must sell their land and emigrate somewhere else. If it is the intention that they shall be admitted to the benefits of American citizens, the act ought to so provide, and not leave the subject open to controversy between the Indians and the white inhabitants of the Territory.

If, then, there was no legal objection to the establishment of this territorial government, there would still be the objection that it would work the destruction of the whole policy of the Government in relation to the Indians, forcing them to retire outside this Territory, in order to preserve their tribal existence, and to enjoy their rights as a separate people. I object, then, to the passage of this bill, because, even if there were no legal objection, it would produce a course of circumstances which must result in the defeat of the policy of the Government, and in a violation of the treaties we have made with the Indians.

It has been stated in reference to one of these tribes of Shawnees—the Ohio tribe—that there was no treaty stipulation existing for their benefit, because they have no land by virtue of the treaty, under which they emigrated thither. I apprehend that is a mistake. In the first place, the treaty with the Missouri portion of the tribe, gave them a tract of land fifty miles square. They were both one tribe originally, but a portion of the tribe, in process of time, settled in Missouri, and another portion in Ohio. They were again united by the treaties of 1825 and 1831. The treaty of 1825 stipulates that a tract of country fifty miles square shall be set apart for the Missouri Shawnees and those in Ohio. By the decision of the Supreme Court of the United States, it has been held that a title may vest by virtue of an act of Congress, or by treaty, as well as by patent. Both the Ohio and Missouri Shawnees were included in the provisions of the treaty of 1825. It has been decided in a variety of cases, and especially in the case of Grignor and Astor, that title by an act of Congress is a higher evidence of title than a patent, which is a mere ministerial act. Now, the treaty of 1831 stipulates that the Ohio Shawnees shall have within these fifty miles square one hundred thousand acres when they emigrated, but they did not ask for a division; they mixed with the whole tribe; and the reason of their doing so was obvious, for under the treaty of 1831, they were entitled to only one hundred thousand, while if they took, as they had the right to do, under the treaty of 1825, they would receive three hundred and twenty thousand acres of land. They therefore pursued that course. The whole tribe settled within the limits of the grant, numbering about eight hundred, which gives to each Indian about two thousand acres of land; whereas, if the Ohio Shawnees had settled under the grant made in the treaty of 1831, claiming a division, each one would have received only about two hundred and fifty acres.

The whole effect of the provision of the treaty of 1831 was to secure to these Indians at least one hundred thousand acres of land within the fifty miles square; but when they arrived within the territory, they found that they could obtain more than two hundred thousand, by claiming their grant under the treaty of 1831, which they concluded to do, as they had the right, and they were accordingly incorporated as one people with the Missouri Shawnees. The guarantee of the treaty of 1831 that the Ohio Shawnees should never be incorporated within any State or Territory, therefore inures to the benefit of the whole tribe, although there was no such provision in the treaty of 1825 with the Missouri Shawnees.

Mr. McLANAHAN. I wish not to interrupt the gentleman too often, but I desire to know whether the policy of the Government, as he understands it, is, that we can never form any territorial government where lands have been ceded, either by law or treaty to the Indians, as these lands have been ceded, which he contends, to certain tribes of Indians within this Territory? If so, then no more territorial governments can be formed. But I do not suppose an imaginary line drawn round this Territory, is an incorporation of this tribe of Indians into that Territory, in the sense intended by the treaty, when all the rights, privileges, and immunities provided for in the treaties with them are guarantied to them by the organic law of the Territory, which we are now asked to enact. Otherwise, it must be evident to the gentleman there can be no territorial government ever established in that portion of the eminent domain of the United States.

Mr. HOWARD. That does not apply to this case. The gentleman assumes his premises, and says that running an imaginary line round this Territory cannot be a violation of the treaty with these Indians. Now, sir, the treaties provide that these Indians shall not be included within the limits of any State or Territory, and you cannot violate that treaty, nor can you change it without the consent of the Indians. It requires two parties to make a contract, and if these Indians do not come forward and agree to be incorporated within this Territory, it is perfectly idle to talk of doing it without. There is no power in Congress to violate this treaty and incorporate them.

Why, sir, what was the mischief to be provided against? What was the object of these treaty stipulations? It was to prevent the very thing which you now propose to do. It was to prevent including these Indian tribes within the limits of a State or Territory, because that would, in the process of time, result in their being compelled to come under the jurisdiction of the laws of that State or Territory, to the destruction of the tribe thus incorporated within its limits. Therefore there is no such thing as saying that the thing can be done consistently without first obtaining the consent of the Indians themselves.

If a line is drawn around them, they are embraced in the Territory, if not specially excepted both from its limits and jurisdiction.

Mr. MILLER, (interrupting.) I desire to ask the gentleman from Texas what construction he puts upon the proviso attached to the first section of the bill? Now, I understand that this bill not only provides that all the rights of person and property now pertaining to the Indians shall not be impaired, but it has also this provision:

"*Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States, to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed."

Now, I understand that this provision expressly excludes the land secured by treaty, to those Indians, from the territorial organization or jurisdiction until they shall positively express their consent that it shall be done.

Mr. HOWARD. I understand the gentleman; but that is but to keep the treaty to the ear and break it to the hope. You declare in the act, that these Indians shall not be included in the Territory; but you organize a territorial government over a country of three hundred and forty thousand square miles, and include these Indian tribes within it, by which you will surround them by a white population on all sides, and it will result in the same condition of things as though you had placed them within the Territory subject to its jurisdiction. The act does not make them citizens. It is apparent that there will always be a struggle between them and the whites, by whom they will

be surrounded. The settlers will covet their lands, and constantly encroach upon them, until the Indians will be forced to emigrate once more.

If such a course is not a violation of the treaties in terms, it is a violation of the spirit of their provisions, and of the act of 1830. It was the intention of both that this country, or a tract large enough, should be set aside for the use of these Indians, where they could be free from the encroachments of the white man, and exempt from the jurisdiction of any State or Territory—could maintain their own government, laws, and customs. All of these emigrated tribes have made great progress in the arts of civilization. They are all engaged in agriculture, and making progress in the mechanic arts. They have schools and churches, and most of them regular governments. It is evident, that to break them up again, and drive them from their improvements, will greatly discourage them, and retard their progress in civilization and government.

Another not less cogent objection to this bill is, that it leaves no vacant country for the other tribes east of the Rocky Mountains and west of the Mississippi, who must be provided with a home unless you intend to destroy them. The Government, after the creation of this Territory, will have no country left in which they can provide them with a home. It is therefore unreasonable to give this Territory an extent of boundary large enough for three or four States, and thereby render it impossible for the Government to provide a home for these unfortunate people.

Mr. HALL. The gentleman from Texas has extended the objection which he took to this bill the other day. Then his objection was, that the bill included the Shawnee Indians. Now the objection is that the bill includes, virtually, within its limits, all the border tribes of Indians, and his objection is not merely temporary, but it is permanent. If the objection amounts to anything at all, it amounts to this, that the Territory of Nebraska shall not only not be organized now, but that it shall never be organized while the border tribes of Indians continue to exist, and that it shall never be settled by a white population.

Now, Mr. Chairman, I congratulate the gentleman from Texas. I must congratulate his constituents and the country at large, upon the wonderful change which, the gentleman shows, has taken place in Texas in regard to the rights of the Indians. I had supposed, sir, that, according to Texas politics, and according to Texas morals, the Indians had no rights whatever.

Mr. HOWARD, (interrupting.) The gentleman says that, according to Texas politics, and Texas morals! Sir, it is according to the law of Spain and Mexico, from whom she derived these lands and her jurisdiction over these tribes, if she has any jurisdiction over them, as it is well known to the gentleman, and to everybody who is acquainted with the history of this subject, that Spain never recognized any title by occupancy in these wild tribes. The English Government did admit a right of occupancy in the Indians to the countries which they subdued, but they claimed the ultimate fee, and the right in the Government only to extinguish the title of occupancy. The Government of Spain admitted no right of occupancy, but claimed the whole fee, and said to the Indians, that if you become civilized and embrace the Catholic religion, we will give you land in fee. This she did under general laws, whenever they settled upon any spot and took upon themselves habits of civilized life. The assertion that the State of Texas has treated with disrespect any Indian rights is entirely without foundation, and cannot be supported either from the history of the subject, or the Spanish and Mexican laws. Texas has admitted all the right in her Indians that existed at the time of her revolution, under the laws and usages of the Mexican Government. But the effect of this bill is to override the law, and destroy treaty rights.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed, without amendment, House bill No. 356 for the relief of Captain George P. Smith.

Senate bill No. 615 to confirm the claim of William H. Henderson, and the heirs of Robert Henderson, to five hundred acres of land in the Bastrop grant.]

Mr. HALL, (resuming.) It may be as the gentleman asserts, that, under the Spanish law, the Indians were not considered as having any rights whatever; but I ask the gentleman from Texas whether a spirit of liberality and enlarged philanthropy towards the Indians, and upon which he bases his objection to this territorial bill, ought not to tell him and the people of Texas, as the country tells them, that it is a crying shame to insist upon the old Spanish laws, in order to drive the Indians from a home where they have lived from "time whereof the memory of man runneth not to the contrary."

Mr. HOWARD, (interrupting.) I do not wish the gentleman to misrepresent me personally. So far as I am concerned, I have always urged upon the people of Texas the propriety of setting apart some country for these Indians, and the records of the Indian Office show that fact, but that they have not pursued that course is not a justification for a violation on the part of the Government of the United States of its treaty stipulations. These Indians have no treaty with the State of Texas.

Mr. HALL. I trust, at any rate, that the gentleman's influence may be as potential in Texas, in urging a law to secure to the Indians their rights, as I fear it has been in this House to array an interest against the organization of Nebraska Territory, and the protection of our people who go to Oregon and California every year.

But I wish to suggest to the gentleman from Texas whether he may not have been influenced to some degree, unconsciously, to oppose this bill from considerations of this kind? If the gentleman can convince this House and the country that the Territory of Nebraska shall not be organized, either at this session or any future session of Congress; if the people of Texas can prevail upon the Government of the United States to drive the Indians of Texas, the Camanches, and other wild tribes, into the Territory of Nebraska, it may have the effect of rendering your overland routes from Missouri and Iowa to Oregon and California so dangerous that the tide of emigration will have to pass through Texas—an object which Texas has most zealously sought to accomplish for many years past.

In addition to that, if in the course of time a great railroad should be found necessary from this part of the continent to the shores of the Pacific, and the doctrine prevail that all the territory west of the Missouri is to be a wilderness from this day henceforth and forever, Texas being settled, the people of this country will have no alternative but to make the Pacific road terminate at Galveston, or some other point in Texas.

Now, Mr. Chairman, while I fear that considerations of this kind may have operated somewhat upon the mind of the gentleman from Texas, I am free to admit that if there is anything in our treaties with the Indian tribes which would be violated by the organization of Nebraska Territory, this bill ought to fall. I do not believe we ought to violate our treaties with the Indians, or with foreign countries, and I will, to the best of my abilities, maintain all treaties, upon the part of this Government, intact and inviolate.

Now, what is the objection of the gentleman? He says that the Territory of Nebraska includes Indian tribes with whom we have treaties which provide that they shall not be included within any organized State or Territory, and that this bill violates those treaty stipulations. I deny the assertion. I assert that the bill does not include a single tribe with whom we have any such treaties, and I appeal to the bill itself for the truth of what I say. The bill in express terms provides that nothing in this act contained shall be construed to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory until such tribe shall signify their assent to the President of the United States.

Mr. SUTHERLAND, (interrupting.) I would say to the gentleman, that so far from that being correct, I look upon the section referred to by the gentleman as an express admission upon the face of the bill that the point taken by the gentleman from Texas [Mr. HOWARD] was well taken. It is an express admission that we have these treaties with the Indians, and that this bill itself, in erecting this Territory, is a violation of those treaties. The very words of the provision show it. The language of the section is:

"*Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the Government to make if this act had never passed: *And provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States."

Now, what are the territorial limits? You have the boundaries set out in the first section of the bill. You say the Indian territory is excepted. It is in words, but will that exception of words take out that Indian land from the boundaries prescribed in the bill? What is the case then? You simply have a section repugnant to the bill itself. What is the principle which applies to it? It is that the exception is void, and away go the Indian rights, and the section is evidence that the committee knew it.

Mr. HALL. I can assure the gentleman from New York, that the committee knew precisely what they were doing; they knew that we had treaties with the Indians, and they intended to respect them. If the gentleman from New York, and the gentleman from Texas, do not consider these exceptions sufficiently extensive, all that they have to do, is to provide a clause extensive enough to exclude the Indian territory they refer to from the provisions of the bill. But the committee thought that the provisions of the bill are already sufficient to exclude the Indians referred to by the gentleman from Texas. It was to exclude those very Indians that the proviso was put in the bill. In my opinion, it accomplishes that object. If it does not, adopt an amendment providing that the Shawnees, the Cherokees, and the other tribes mentioned by the gentleman from Texas, shall not be included. It was not the intention of the committee, it was not my intention, nor is it my intention now, nor will I consent, to violate any treaty with our Indian tribes.

Mr. Chairman, let us follow out the argument of the gentleman from Texas, [Mr. HOWARD.] His argument is not merely that we shall not organize this Territory, but that we shall never settle Nebraska at all. That is the effect of his argument. He admits that it leads to that result. Now, let us bring this objection home. Suppose that in the great State of Indiana, one central county in that State had been set apart for a particular Indian tribe, under a provision that it should not be included within the limits of any State or Territory. Would that be a treaty stipulation on our part that the remainder of the State of Indiana should never be settled by white men? Would that be the scope and meaning of the treaty? When you give to the Indians a few hundred acres of land, in the midst of a sea or ocean of territory, under a stipulation that it shall not be included within a territorial government, do you mean that none of that immense ocean of territory shall ever be settled by white men? Sir, I do not perceive that there is any law or common sense in such a construction.

The gentleman from Texas [Mr. HOWARD] entirely misapprehends the reasons upon which the organization of the Territory of Nebraska rests. He states, that Nebraska Territory comprises three hundred and forty thousand square miles of land, and that only some four or five hundred people reside in the Territory; and he says the wants of these people do not require a territorial organization. We do not want this bill merely to protect the inhabitants of Nebraska; we want it for other equally important purposes.

I wish the gentleman from Texas would turn to the map of the United States, and look at the situation of Nebraska.

I wish the gentleman would also look to the situation of Oregon, California, and Utah. An immense wilderness of one thousand miles in extent separates the people on this side of the continent from those occupying the territory bordering on the Pacific ocean. How are Oregon and Califor-

nia to be protected in time of war if this great wilderness is forever to remain without settlement? It appears to me to be a self-evident truth—one about which there cannot be two opinions—that if California and Oregon are to remain portions of this Union, you must extend your line of settlements from the Missouri river to the summits of the Rocky Mountains, and continue the farm, the village, and city of the white man from ocean to ocean. How is your commerce carried on with California and Oregon? It is carried on by the way of Cape Horn, or across the Isthmus of Panama. And how do your emigrants reach those sections? They have to pass through the immense wilderness west of the State of Missouri, exposed to all kinds of diseases, the inclemency of the weather, and the attacks of savage Indians. There is no house on that great line of travel in which a sick man can take refuge, or a helpless woman seek shelter from the storm; and yet the gentleman says, because we have a treaty with a few Indian tribes which stipulates that their territory shall not be included within any territorial government, that neither now nor hereafter can we protect that extensive overland route.

We want the organization of the Territory of Nebraska, then, not merely for the protection of the few people who reside there, but also for the protection of Oregon and California in time of war, and the protection of our commerce, and the fifty thousand or sixty thousand emigrants who annually cross the plains. These emigrants have now no protection, and murder, and crimes of various kinds, are committed among them which are not and cannot be punished under existing laws. Establish a territorial government and judicial tribunals there, and protection will be afforded them.

The gentleman tells me that the bill violates the act of 1830. Now, sir, that act does not provide that this country shall not be included within the limits of any territory. It provides nothing of the kind; but it says that the rights of these Indians shall always be respected; and that is what I want to do. There is a clause in this act of 1830 to which I desire to call the attention of the committee. Its sixth section is in these words:

"*And be it further enacted*, That it shall and may be lawful for the President to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever."

Will the gentleman from Texas tell me whether it is possible at this time to carry into effect that act? The crowd of emigrants, to which I have adverted, every year violates to a greater or less extent the rights of the Indians. They destroy their timber, and spread the cholera, small-pox, and measles, and other contagious diseases, among them. They subject them to innumerable annoyances; and you cannot protect these Indians from encroachments on their rights unless you do what I have no doubt the State of Texas would wish were done: establish a decree that no man shall ever pass through that Territory at all, either in going to or returning from California and Oregon, or remove these Indians off the great highways to the Pacific coast, and settle them as far as possible from the emigrants who now pass through their country in crowds. Establish the Territory of Nebraska, place its government under the direction of men of character, supported by the laws of the country, and, if necessary, by military force. Do that, and in some degree you may expect to secure these Indians from disturbance.

The gentleman has expressed great anxiety that the rights of these Indians should not be infringed on. I desire briefly to call the attention of the committee to what has, from time to time, been said by the Indian Department with reference to these various tribes—a Department in the charge of men whose duty it is to see that the Indians are subjected to no injury. Mr. Medill, when Commissioner of Indian Affairs, used the following language with regard to the Indians in the Territory of Nebraska:

"This great change in disposition and condition has taken place, to a greater or less extent, in all the tribes that have been removed and permanently settled west of the Mississippi. It is true, that portions of some of them enjoyed a considerable degree of civilization before they were transplanted; but prior to that event they were retrograding in all respects; while now, they and others who have been colonized and confined within reasonable and fixed limits, are rapidly advancing in intelligence and morality, and in all the means and elements of national and individual prosperity; so that before many years, if we sacredly observe all our obligations towards them, they will have reached a point at which they will be able to compete with a white population, and to sustain themselves under any probable circumstances of contact or connection with it. If this great end is to be accomplished, however, material changes will soon have to be made in the position of some of the smaller tribes on the frontier, so as to leave an ample outlet for our white population to spread and to pass towards and beyond the Rocky Mountains; else, not only will they be overrun and extinguished, but all may be materially injured."

Here the Commissioner of Indian Affairs (Mr. Medill) tells you, that unless you do something with regard to these border tribes of Indians, which the gentleman from Texas contends must never be interfered with, unless you remove them from the great thoroughfares across your plains, not only will they be overrun and extinguished, but all will be materially injured. The aggressions on these Indians the last year had reached such a degree that you appropriated in one of the appropriation bills $25,000 as damages to one tribe alone. This is every year becoming worse and worse; and yet the gentleman from Texas says that we are under treaty obligations to never interfere with them, now or hereafter.

The Commissioner states as follows, with regard to other tribes of Indians:

"Indeed, it would be a measure of great humanity to purchase out and remove the Omahas and the Ottoes and Missourias at an early period, particularly the former, who are a very interesting people, being mild and tractable in disposition, and much attached to the whites. Were they in a better position, they might, with proper measures, be easily civilized, and be made the instruments of imparting civilization to others. Their proper position would be with the Osages or Kanzas, as they speak nearly if not quite the same language, and are probably of the same primary stock. They are the original owners of the soil, and receive no annuities from the United States; and as they are circumscribed in their hunting expeditions by the Sioux and Pawnees, they are liable at times to destitution and great suffering. The Sioux also not unfrequently attack and murder them in their own country, so that their situation is truly an unfortunate one. Their country is estimated to contain from five to six millions of acres of valuable land, which could be obtained at this time at a very moderate price; and so tractable is their character, there would be no difficulty in making ample provision out of the purchase money for their civilization and improvement. Reasons of a similar kind exist for buying out and removing at an early period, the Ottoes and Missourias, whose affinities of character and language are said to be with the Ioways. The lands claimed by them are estimated to embrace from two to three millions of acres. These two measures consummated, the Pawnees all removed north of the Platte, and the Sioux of the Missouri restrained from coming south of that river, there would be a wide and safe passage for our Oregon emigrants, and for such of those to California as may prefer to take that route, which I am informed will probably be the case with many."

The recommendations of Mr. Medill have been repeated by the incumbent Commissioner of Indian Affairs, and Mr. Mitchell, the Superintendent of Indian Affairs at St. Louis. They all agree that if you wish the welfare of the Indians, if you wish to civilize them and secure them from interruption and disturbance, you must do something, and that speedily, for their removal from the great thoroughfares of California, Oregon, and New Mexico.

The CHAIRMAN. The time fixed by the House for the termination of the debate on this bill has arrived. The gentleman from Illinois, [Mr. RICHARDSON,] having reported the bill from the Committee on Territories, is, under the rule, entitled to address the committee for one hour.

Mr. RICHARDSON. I will yield a portion of my time to the gentleman from Missouri. I intend to yield also a small portion to the gentleman from North Carolina [Mr. CLINGMAN] in opposition to the bill.

Mr. HALL. Time will not permit me to read at length the reports of all the Indian officers, with regard to the condition of these tribes; but I wish to call attention particularly to what is said by the agents of the Quapaws and Cherokees residing west of the State of Missouri. Remember, Mr. Chairman, that the Quapaws are one of the tribes with whom we have treaties, as the gentleman says, prohibiting us ever buying their lands.

Mr. HOWARD. I said without their consent.

Mr. HALL. The gentleman says that we may buy with their consent. In the name of common sense, cannot we then establish a Territory?

Mr. HOWARD. I say that we may, with their consent, incorporate them into a Territory, but we cannot change the treaty without their assent.

Mr. HALL. There is no doubt about that, and for that the Committee on Territories have provided. The bill provides they shall not, without their consent, be incorporated in a Territory. I want to call the attention of gentlemen to the pressing necessity to purchase their land, to protect them, and, if possible, to do something to civilize them.

Mr. HOWARD. If the gentleman will allow me. The objection I make is to the organization of a Territory including within its limits the territory of these Indians, without their consent, which is necessary, in the performance in good faith, on our part, of the treaty obligations. We ought to instruct the Department of Indian Affairs to first open negotiations, and secure such a country as would be sufficient for these Indians, and not by this proposed legislation violate the treaty.

Mr. HALL. If that be the object of the gentleman, why does he not move to strike out the whole of this bill, excepting the last section, which provides for what he asks? But I understood the gentleman to say that we ought never to buy the Indians' lands.

I will now call attention to what is said by the Indian agent of the Quapaws:

"In view of the expiration of their annuity, they express themselves deeply concerned. It is a crisis they are illy prepared to meet. They are very poor, and, when the Government ceases to pay them an annuity, I cannot conceive how they are to subsist. My opinion is that but few of them will remain in their own country. A large majority of them, in all probability, will wander off among the wild Indians of the prairies, and 'the places that now them will soon know them no more forever.'"

This is one of the Indian tribes the gentleman says we intend to plunder and curse.

Mr. HOWARD. No, sir.

Mr. HALL. Then this is one of the Indian tribes we are to wrong by the passage of the Nebraska bill. One section of the bill directs the President of the United States to negotiate treaties with all of the border Indians who are willing to sell their lands, for their purchase, either in whole or in part. The Quapaws are, therefore, comprehended in that provision—a provision absolutely necessary to preserve them from starvation.

How is it with the Cherokees? The Cherokee country west of the State of Arkansas, where the greater portion of the Cherokee nation resides, nobody supposes we will purchase. The Indians do not want to sell it; but there is what is called the neutral country, containing eight hundred thousand acres, which the Indian agent says is worthless for their purpose. It is west of the district represented by my friend, [Mr. PHELPS,] and the Cherokees are exceedingly anxious to sell it. Now, what does the agent say with reference to them? He uses the following language:

"A matter of much importance is now before the Cherokees—that of selling their neutral land; it being valuable for its mineral purposes, and useless to them as such. This land borders on Missouri, and has very few Cherokee families upon it. Those would return to the nation proper very readily, where there is vacant land sufficient for the use of the Cherokees for years to come. They have instructed a delegation to treat with the United States to purchase it; and, unless the United States Government receive it, I am fearful that the Cherokee government cannot sustain itself. The money is very much needed by the nation to liquidate the large debt by which it is incumbered, as well as to defray the expenses of the government. The last council passed an act to build a jail, which will create an additional and very necessary expense."

Here, then, the agent of the Cherokees joins his recommendation with the agent of the Quapaws, that the Government should take measures for the protection of the Cherokees themselves, and purchase out a part of this very territory which we wish to organize in the form of a territorial government, and place our own citizens upon it. Yet the gentleman says, taking this initiatory step by act of the Legislature—taking this step to buy out the Indians, is a great wrong and outrage upon the Indians. I leave it to the committee to determine—I ask the country to determine who is the most anxious for the welfare of the Indians, the Committee on Territories, who desire as far as possible to comply with the recommendations of those officers whose duty it is to take care of the Indians, or the gentleman from Texas, [Mr. HOWARD,] who sets himself resolutely against these recommendations.

Mr. CLINGMAN. I wish to state one or two difficulties which I have to the proposition of the gentleman from Missouri.

Mr. HALL. I am willing to hear the gentleman.

Mr. CLINGMAN. It will take me about five minutes to do it. I wish to be satisfied.

Mr. HALL. Very well.

Mr. CLINGMAN. I have listened to the gen-

tleman from Missouri, in the hope that he might remove the difficulties which I have in regard to this question. He has not succeeded in doing it, and unless it can be done, I shall vote against this bill. As I understand it, this bill, by its provisions, includes all that territory which necessarily embraces a part of the lands upon which the Cherokees and other tribes were settled. When they were removed to that western country and settled there, there was an express agreement upon the part of this Government that they never should be included in any State or Territory. That is the provision. If we do include them, of a necessity we violate that provision. There is, however, a clause in this bill which says that we will not interfere with the rights of these Indians. If the first clause is to take effect——

Mr. HALL. It says that they shall not be included.

Mr. CLINGMAN. I understand all that. But notwithstanding, the words of the bill will necessarily embrace them. It seems to me that it ought to be so framed as to except the territory, and the boundary so arranged as not to embrace any of these Indians; for if we go on thus, we shall involve ourselves in precisely the same difficulty we had to contend with in the case of Georgia. You remember that the Cherokee Indians were embraced in Georgia, North Carolina, and Tennessee. Well, those States, became impatient and finally called upon Government to remove them, and the Government did remove them west, at an expenditure of some eight or ten millions of dollars. I believe it has cost us over ten millions of dollars in all. If you lay off this Territory, embracing those Indians in its boundary, in a few years we will create a State. That State will come forward and call upon the Government to remove the Indians, and insist that it shall be put in possession of this territory, and the Government will be bound to do it. Then you must remember that those lands are much more valuable than were the lands held in North Carolina and Georgia, and the Indians are going on and making improvements, and the result will be, instead of paying ten millions as an act of justice, perhaps the Government will have to pay twenty millions to remove these Indians somewhere else. Why shall we, without any public necessity, involve ourselves in that difficulty? If gentlemen choose to lay off the bounds of a Territory not embracing these Indians, I am disposed to vote for it. They must remember if our white people have gone in among the Indians, that they have gone in express violation of treaty stipulations, and they have no right to require us to create a Territory now embracing them.

But I see no necessity, in fact, for creating this Territory. I understand that its population does not exceed nine hundred, and is probably less than six hundred; and setting off a Territory there will require an expenditure of nearly $100,000 a year. Some gentlemen say that there is not more than a population of six hundred there. If there were six thousand, unless they were all thrown together in some part of the Territory, I do not think that we should form a separate government. I understand gentlemen to say that we need this territorial organization to protect our people going to the West; but I do not see much force in it, and I hope the gentleman from Missouri [Mr. HALL] will explain it. Those hostile Indians who are likely to do much mischief will never examine our statute-book to see whether we have passed a territorial bill or not. They will never know that this bill has become a law. Is it not better to increase the number of military posts, or to encourage the settlements there as we did in Oregon, by giving every man who goes and settles in that country where our people are allowed to settle, a mile square? Offer him, as was done in the case of Oregon and Florida, an inducement to go there, and I will vote for a bill of that sort. I admit, if you get people there you will protect our emigrants; but it seems to me that the creating of a territorial government is not the most economical mode. I would give a large body of lands to settlers along those lines of travel, and whenever there is a population to justify it, I would give them a territorial government; and I am even willing now, to meet the wishes of its friends, to vote for it, if you will leave out these Indian tribes, though I think it rather premature.

Mr. HALL. The chief part of the argument of the gentleman from North Carolina [Mr. CLINGMAN] is only a repetition of the argument of the gentleman from Texas, [Mr. HOWARD.]

Mr. CLINGMAN. The gentleman did not then meet the objection, and I desire to call his attention to it again.

Mr. HALL. There is a point or two, however, in the argument of the gentleman from North Carolina to which I desire to allude. The gentleman from North Carolina, [Mr. CLINGMAN,] in the first place, objects to this Territory because there are only five or six hundred people settled there. Why is it that there are not more people there? Simply because your laws will not let a white man settle there. Whenever it should go out to the people of this country that the settlers in that Territory shall have a territorial organization to protect them, I can assure the gentleman that within three or four months, there will be thirty or forty thousand people upon those lands. Our people have respected your laws. They never supposed that would be a reason why the territorial government should not be organized; and if the fact that they respect the laws of their country is to be urged against granting them what they ask, then I can assure gentlemen that their respect to the laws will not continue much longer. The gentleman from North Carolina, [Mr. CLINGMAN,] however, asks us how are these people in the Territory of Nebraska going to protect emigrants? Why, the greatest danger to which your emigrants to Oregon and California are exposed, is not from the Indians, but it is from disease, and from the inclemency of the weather. Whenever you put people there, so that emigrants can find houses where they can seek shelter from disease and storm, does not the gentleman see that they will be protected, and in the only way it is possible to protect them from dangers of that kind? The gentleman says he wants to give six hundred and forty acres to each settler to settle that Territory. I am utterly opposed to such a proposition. I am opposed to it, because it requires no such bounty to induce people to go there. It is one of the most desirable Territories on the face of this continent, and it offers greater inducements to settlement, than any other part of the Union, California excepted. The reason, however, why people do not go there is, because your laws will not let them go there.

As soon as a white man goes into the territory without a license from the Indian Department, there is a company of dragoons to run him out of the territory. Just organize your territorial government, and allow individuals to settle in the Territory of Nebraska, and they will settle there with a rapidity which has never been equaled in this country, except in the case of California.

Mr. CLINGMAN. The gentleman says that our people are not allowed to go into that territory. Is it by treaty with the Indians?

Mr. HALL. It is by the Indian intercourse act of 1834. That intercourse act does not merely embrace Nebraska Territory. Let me call the gentleman's attention to that fact. It embraces all of what comprises the new States of Wisconsin, Iowa, and the Territory of Minnesota. It was a part of the policy of General Jackson—which has been alluded to so much to-day—that all of that country which I have just described should be forever Indian territory, and beyond the reach of white settlements, and yet you have organized Territories, and you have admitted people into all that region of country, until now two States are carved out of it, and you are about to form a third State.

Mr. CLINGMAN. I will remind the gentleman that ever since 1787, this Wisconsin country has been under a territorial government.

Mr. HALL. I will remind the gentleman of another fact. When the act of 1834 was passed, the Territory of Wisconsin was not established. The act of 1834 expressly erected it into Indian Territory, and in 1835 the Territory of Wisconsin was organized, and then shortly afterwards the Territory of Iowa.

Mr. CLINGMAN. Was there any provision by which the treaty agreed to include them in a State or Territory?

Mr. HALL. No, sir.

Mr. CLINGMAN. Then the cases are not parallel.

Mr. HALL. There is no provision in any act of Congress now that we shall not include the territory west of Missouri in any State. There are a few treaties with some Indian tribes, and I propose to except them in the bill.

Mr. SIBLEY. I will say to the gentleman from North Carolina that it has been the invariable practice of the Government, whenever they have removed Indians from one region to another, to guarantee them a perpetual possession of the country to which they have been removed, but we have invariably broken it.

Mr. CLINGMAN. Am I to understand because we have invariably broken every treaty with the Indians, that we are justified in doing it again?

Mr. SIBLEY. The only reason why I stated this fact, was because the gentleman from North Carolina had adverted to the peculiar features in this case of Nebraska.

Mr. CLINGMAN. I will ask the gentleman a question.

Mr. HALL. I must go on with my remarks. I will conclude in five minutes.

Mr. CLINGMAN. I wish merely to ask the gentleman from Missouri a question. Have we in any instance, where we agreed by treaty that we would not include those Indians in any State or Territory, ever violated such a treaty?

Mr. HALL. I do not suppose we have, and I trust we never will.

Mr. CLINGMAN. I hope not, and therefore object to this bill.

Mr. HALL. I never will go for a bill to violate a treaty with any Indians, or anybody else. But, says the gentleman, this will change our entire Indian policy. Yes, sir, it will. Does not the gentleman know that since the act of 1834 was passed, the condition of the country has been totally changed? In 1834, Oregon was not settled, and I suppose a majority of the people of the United States thought it never would be settled. Since that time we have acquired a great and powerful State on the coast of the Pacific, and we have acquired New Mexico, too; but under the Indian intercourse act, that immense country which intervenes between Missouri and the summit of the Rocky Mountains is made a wilderness, and we are cut off from the great coast of the Pacific. I appeal to gentlemen of this committee if that change of the circumstances of the country does not imperatively demand a change in the Indian policy of the country? Why, everybody is talking about a railroad to the Pacific ocean. In the name of God, how is the railroad to be made if you will never let people live on the lands through which the road passes? Are you going to construct a road through the Indian Territory, at the expense of $200,000,000, and say that no one shall live upon the land through which it passes?

But this territory is too extensive, says the gentleman from Texas. I admit that it is extensive. It extends from the forty-third parallel of north latitude to the parallel of 36° 30′ north latitude, and from the Missouri river to the summit of the Rocky Mountains. It has to be thus extended, in order to embrace the great line of travel to Oregon, New Mexico, and California. The South Pass is in latitude 42° 30′, and hence the territory has to extend to the forty-third degree of north latitude.

The reason why this bill fixes 36° 30′ as the southern boundary of Nebraska is, because the road from Missouri to New Mexico crosses the line of 36° 30′, and therefore you have to run down to that line to protect that great travel. That is the reason why the boundaries are so extensive. Now, I wish to put a question to the committee. Gentlemen seem to think that it is a sufficient protection for the people *en route* to Oregon and California, to have a few military posts on the way, and a few soldiers stationed there. Let me suppose that there was a wilderness extending from this city across to the valley of the Mississippi. Would you consider it a sufficient protection to the people who were passing from the Atlantic sea-board to the great valley, to have two or three military posts, with a handful of soldiers at each, along the line of travel, to protect them against hordes of Camanches, Black Feet, and other wild Indians, such as those of the plains? Sir, such a state of things would not be allowed to continue even for a few years. You would not let it continue one single moment longer than was necessary to pass a bill through Congress, and get the signature of the President to it, to throw population into that great wilderness which separated us valley of the Mississippi. You would give every

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encouragement and protection to the people who might inhabit that territory, in order not only that they might increase and multiply, but in order also that there might be roads and means of access between the valley of the Mississippi and this portion of the country. Now, sir, to me Oregon and California are just as dear as any other portion of the Confederacy.

The CHAIRMAN. The gentleman from Missouri will suspend his remarks until order is restored in the committee. The Chair will remind gentlemen that there is too much noise and loud talking in the Hall.

Mr. STANLY. The disorder is all on the other side of the House.

A Member. Oh, no! It is on both sides.

The CHAIRMAN. The disorder is on both sides of the House.

Mr. SUTHERLAND. Will the gentleman allow me five minutes?

Mr. HALL. In two or three minutes more I shall close what I have to say, and yield the floor. I was about to say when I was interrupted, that in my opinion, it is just as much the duty of this Government to take care of the interests of California and Oregon, and to protect those countries by extending our settlements to their borders, from Missouri and Iowa, as it would be to extend our settlements from the Atlantic coast to the Mississippi valley, if there was a wilderness now separating them.

As to the Indian intercourse act and that policy, I regret that it ever was established. It appears to me that those who at that day represented the State which I now represent, did not go quite as far into futurity as they might have done, and as the interests of the people of my section of the country required. I regret that it is the case, but having been established, I wish to do nothing that will interfere with any treaties that may have been made whilst that policy prevailed. In my opinion, however, this bill is sufficiently guarded to protect the rights of the Indian tribes. If it is not so, then I beg gentlemen to devise amendments calculated to protect the Indians, and I will vote for them; but do not raise objections to the bill and then make no effort to relieve it from the weight of those objections.

Mr. SUTHERLAND, (Mr. Richardson yielding the floor.) Mr. Chairman, I think the House will believe that I tell the truth when I say that the only argument that has been advanced here in favor of this bill is that which was stated by the gentleman from Missouri [Mr. Hall] a moment or two since, to wit: that the effect of erecting this country into a Territory will be its rapid settlement. It may be true, as he asserts, that within two or three years thirty thousand white inhabitants will settle there. I at all events admit that, for the sake of the argument. And now I want to ask the gentleman if he thinks it politic, or if there is any necessity, for erecting this Territory on that ground?

Mr. HALL. Will the gentleman from New York only take into consideration that we have California, Oregon, and Utah, which are separated from the rest of the Union? I ask him if it is not necessary to unite them to the Atlantic side of the Union by the settlement of the intervening territory?

Mr. SUTHERLAND. All I have to say is in figures. I want to call the attention of the committee and of the gentleman to this fact: there are, in the States of Missouri, Illinois, Indiana, Iowa, Wisconsin, Michigan, Arkansas, Mississippi, Alabama, Louisiana, and Florida—these eleven States—one hundred and thirty-seven millions of acres of unimproved land, which have been already disposed of by the Government. There are, in addition to that, two hundred millions of acres of unimproved land which now belong to the Government, making a total of nearly four hundred millions of acres of unimproved land in these eleven land States alone.

Mr. HALL. The gentleman is using the same sort of argument as was made use of by Fisher Ames against the settlement of the Northwestern Territory.

Mr. SUTHERLAND. It is for the committee to judge what sort of an argument I am making. I want the gentleman to answer my question, and say what necessity there is for erecting this country into a Territory at this time, particularly at the risk of violating the solemn treaty rights of the red men. That question ought to be answered. I say that there is no necessity for it on the ground stated by the gentleman, to wit: that it will induce white population to settle there. I admit, what the gentleman assumes, that in a few years thirty thousand white people will settle there. But I ask the gentleman, and I ask the committee, where those thirty thousand people are to come from? Are they to be all immigrants from abroad? Are not a portion of them to go from Illinois, Missouri, and the other western States? I submit that there can be no necessity for erecting this new Territory while you have in the eleven adjoining land States, four hundred millions of acres of land yet unsettled and unoccupied—two hundred millions of acres of which or more are now in the market.

Sir, in 1842, Mr. Calhoun said that he questioned the policy of having the public domain surveyed and brought into market as rapidly as it had been. He said the effect of it had been to produce the very speculation, the very evils of which the land States complained. I ask the gentleman from Missouri, and other gentlemen from the land States, if they have not complained of large tracts of unimproved land being held and owned in their States by speculators and non-residents, and if the ground upon which the homestead bill, and many others of the land measures of this and the last session, were brought forward and urged, was not to prevent further speculations in the public lands? I admit that, upon the organization of this Territory, settlers, under the act extending preëmption rights to the unsurveyed lands of the United States, which passed the Senate a day or two since, and under the homestead bill, (if they should become laws,) if not under the existing laws and preëmption rights, will rush into it from Missouri and the other land States. But what have you, what has the United States gained by thus forcing the population from the land States into this new territory, leaving four hundred millions of acres of land in these land States unsettled and unimproved, nearer market? As to foreigners and settlers from the old States, will not the four hundred millions of acres of unimproved land in these eleven land States alone, furnish room enough for them for many, many years to come?—and there is Texas with its many million of acres. I do not, therefore, see any necessity, or even expediency, for this hasty organization of a territorial government over an immense tract of land, no part of which, I believe, has been yet even surveyed, and the Indian title to not one foot of which has, I believe, been extinguished. Certainly there can be no such urgent necessity for the erection of this Territory, as to justify an open violation of the treaty rights of the Indian occupants, when it is admitted that there are not to exceed six hundred white inhabitants in the territory; and even they, it is evident, must be there without any authority or right from the United States.

But, to return to the principal, if not the only ground, upon which the expediency and necessity for the erection of this Territory is urged by the gentleman from Missouri, [Mr. Hall.] You erect your Territory; you buy out the Indian title to the land; the settler goes there and picks out the best land. Where the country is best watered, where the verdure is most green and the soil is richest, there goes the settler. The settlers are but the pioneers of the speculators; they select the choicest lands, and hold on to them only until the speculators come along and buy them out. Thus it is that the millions of acres in your land States are held by speculators. How is that to be prevented? Not by bringing into market, or by giving away hundreds of millions of acres of wild, unimproved land, vastly in advance of the wants of settlers, and the demands for cultivation. Not by uselessly and unnecessarily expending millions on millions of dollars in extinguishing Indian titles and making surveys, long, long before demanded or called for by the increase of population. Sir, this proposal to erect a Territory with only six hundred white inhabitants, is but a part of that "progress" which is so much talked of in these days. I see no necessity for it. I think that the Committee on Territories were bound to show the necessity of erecting, at this expense, a Territory containing only six hundred white inhabitants; and the more especially, as it cannot be done without a total disregard of most solemn treaty stipulations with its Indian occupants.

Mr. RICHARDSON. I have already yielded a good deal of my time, and I am very desirous to bring this debate to a close. I think I can answer the gentleman from New York in one or two words. I can understand this policy of gentlemen coming from the old States who are afraid that their people will go away and settle in the new Territory; and that is the argument of the gentleman from New York—and his whole argument. That is the only point he makes. It is one that has been urged year after year in Congress, whenever any proposition has come up for the benefit of the West. The gentleman is very much alarmed indeed, and says it is a crying wrong that the man who goes to a new country in the West will select the very best location. He would certainly be a very great fool if he did not, or if he took the worst. The gentleman says that we have land enough to sell in Illinois, Indiana, Missouri, and the other western States, and he wants to know if we are ready to enter into competition with this new country for our population? Certainly we are—we are desirous of doing it. If our people do not desire to remain with us, but want to go further west, we are willing to give them an opportunity of doing so. But I turn from that point to another.

Mr. Chairman, the argument that is urged most strongly by gentlemen in opposition to this bill is the want of population. It is the one that is urged with most force. Gentlemen have stated that the population of this Territory amounts to only six or eight hundred persons. Probably it does not amount to more than that. The settlement of that Territory has been prevented for six or seven years by the Indian intercourse act and the policy pursued by this Government. But there are to-day, upon the borders of the Missouri, five, ten, or fifteen thousand people waiting for you to give them permission to settle in the Territory, and to relieve the Government from the expense of the military force that you keep there. Five thousand settlers would do more to protect the lines of travel to Oregon, California, and New Mexico, and all the interests that you have in the proposed Territory, than all the troops in your regular Army.

I beseech gentlemen, then, in their investigation of this matter, if they mean to bind these States together—if they do not mean to make impassable the vast wilderness which lies between us and the Pacific coast—to reflect that the only means by which you can unite them, the only means by which you can send emigrants into that Territory, is by establishing a government there. And that is the only means by which you can protect the Indians themselves.

Mr. Chairman, the expense of establishing a territorial government over that portion of country will be more than reimbursed ten times over, when you come to withdraw from the Army the great source of public expenditures—the support of the Quartermaster's Department. The necessity of keeping three military posts in that region of country, to be supplied from the settlements with provisions and the necessary stores, involves an enormous expense. Sir, the best army you can send there to protect these emigrants you will find in the men upon our frontier—the men who go west—the men who cannot see any other smoke than that from their own fires—the pioneers, those men who are always upon the fron-

tier, and who always will be there. They will protect your settlements from the Indians, and they will protect your emigrant routes better than your army can do it. That is the great object in the passage of this bill.

Mr. Chairman, when the gentleman from Texas [Mr. HOWARD] the other day called the attention of the House to the treaty existing with the Shawnee Indians, he pledged himself to do what he failed to do. He said he would satisfy me before he was through that the statement of facts I had made was incorrect.

Mr. HOWARD. Oh, no; I did not say that. I said I would show the gentleman's argument to be incorrect.

Mr. RICHARDSON. Well, sir, I am ready to meet the gentleman in his argument or in his statement of facts, and to support my own. The gentleman says that the Ohio band of Shawnee Indians held their title by the provisions of the treaty of 1825, and not under the treaty of 1831.

Mr. HOWARD. I will state to the gentleman what was my understanding. The treaty of 1825 provides that these Ohio Shawnees shall have that land in conjunction with the Missouri Shawnees. But the treaty of 1831 provides that the Ohio Shawnees shall have one hundred thousand acres of the land ceded in the treaty of 1825.

A MEMBER. What authority is there that the treaty of 1825 included both bands of the Shawnees?

Mr. HOWARD. The patents granting these lands settles that matter. They were issued to both parties.

Mr. RICHARDSON. I stated the other day that the Shawnee Indians of Ohio were the only Indians who could claim protection under this treaty of 1831, or to be exempted from being included in a territorial government; that the Missouri Shawnees were not included in the provision of that treaty, and I am ready to prove it. The Indians themselves, in their petition to Congress during the last session, from their chiefs and headmen, say that that nation think they should have the money received by the Government for their lands for which they ask, because the Government cannot issue a patent for one hundred thousand acres of land under the treaty of 1831, which they have already ceded to another people. I alleged on the day before yesterday, that by the patent these Indians were made tenants in common with the other band which went from Missouri. But I ask the gentleman what right this Government has in the execution of its treaty, which has undertaken to do a specific thing, to confer upon them something else than what is provided for in the treaty? I ask the gentleman from Texas, if he undertakes to-day to say that the Government, by issuing that patent for one hundred thousand acres of land, making them tenants in common with another nation, executed that treaty?

Mr. HOWARD. I will inform the gentleman that these two treaties are entirely consistent with each other. The first treaty makes them tenants in common; the second requires the Ohio Shawnees to move on this tract of land, and guarantees them one hundred thousand acres of land. But when they get within the limits of that tract of country, they find that by the treaty of 1825 they get three hundred and twenty thousand instead of one hundred thousand acres of land, which was conferred by the treaty of 1831, and they preferred taking their grant under the treaty of 1825, as they had an undoubted right to do.

Mr. RICHARDSON. But they say they have got nothing.

Mr. HOWARD. Where do they say that?

Mr. RICHARDSON. I will refer the gentleman to their petition sent here at the last session.

Mr. HOWARD. Well, sir, I might as well state the whole fact. Afterwards they came here, where claims are very easily made, and alleged that the one hundred thousand acres of land which the Government ceded by the second treaty, was land for which they had already, in conjunction with the Missouri band, paid for once; that the Government had again ceded it to them by the second treaty for a consideration, and thus they had been made to pay for it twice over, and asked that the Government should refund them the money. The Missouri Shawnees alleged that they had paid for the land in the first instance, and therefore asked that the Government should refund the money to them. And thus, by cross-petitioning, if I may so express it, they succeeded in getting the money refunded to the whole tribe in common, though, in my opinion, they were not entitled to it. The money was not due, because they have the land, and that is precisely what they stipulated for.

Mr. RICHARDSON. I have succeeded, at last, in inducing the gentleman to make a satisfactory answer to the charge made that the Government has not acted fairly, honorably, and honestly, with these Indians.

Mr. HOWARD. I have not made that charge.

Mr. RICHARDSON. The gentleman makes it by his argument, at least, if he did not say it in so many words, and I count this as a reply to that portion of his argument, so far as it goes. But the other great objection the gentleman urges to the passage of this bill is the expense which it will involve.

Mr. SWEETSER. With the permission of the gentleman. If there is anything in the argument of the gentleman from Texas, [Mr. HOWARD,] this morning, it is that by establishing this territorial government, we interfere with treaties made by the Government of the United States with the tribes of Indians now in that region.

Now, sir, I do not care to go into the matter in detail, but I contend that it was never intended by these treaties that this Government should part with the right of eminent domain. The Government never ceded to them the right of eminent domain and the right to extend territorial laws over them.

It seems to me, that before the argument of the gentleman from Texas can be of any avail, it must be shown that the Government of the United States conferred upon them a higher right than it confers upon its own citizens. Sir, they have the right to occupy this land, and they can hold it in fee, or they can hold it by any title the Government of the United States chooses to give them; but when the question of jurisdiction, which the United States never intended to transfer, comes up, it is for us to determine whether the Government of the United States have ever relinquished the right of eminent domain over the territory. That seems to me to be the question, and the only question in point, so far as the right of Congress to extend a territorial government over the limits of the tract of country occupied by these Indians. In relation to this, the case of the Wyandot Indians, who were settled in Ohio, is a case in point. Those Indians occupied a tract of country there for a long series of years, and yet, when that State was organized into counties, there was no conflict of jurisdiction, although they continued to remain within the State and to hold the land within their boundaries for a long time.

Mr. HOWARD. I desire to say one word in order to set the gentleman right in regard to this matter. The act of 1830, which exchanges these lands, and gives these Indians lands west of the Mississippi, as well as the treaties assigning lands to these Indians, passed to each tribe the right of eminent domain. They passed the title in fee in several cases, with the limitation placed upon them that whenever the tribe should cease to exist, or should cease to occupy the land, it should revert again to the Government. But there is an express declaration in the act of 1830, as well as in these treaties, that these tribes shall not, without their consent, be incorporated within the limits of a Territory.

Mr. RICHARDSON. If I understand the remarks of the gentleman from Texas, he says that by the law of 1830, and by the treaties made under it subsequent to that time, all the tribes of Indians settled upon our frontier are independent nations, over which the Government of the United States can have no jurisdiction.

Mr. HOWARD. They have one control over them. They have that control which the General Government have always exercised over our Indian relations; but under the act of 1830, and under the treaties made since the passage of that act, they have parted with all right to the land except the right of reversion.

Mr. RICHARDSON. The gentleman's argument cannot stop at a half-way point. It is either true that the Government has the right of jurisdiction, or it is true that some other Power has that right. The power must lodge somewhere.

Mr. HOWARD. Certainly it does.

Mr. RICHARDSON. The gentleman is of the opinion that it is with the Indians. That is his argument. That is the tenor of his whole argument in opposition to this bill. Now, I ask this House of Representatives if they are prepared to recognize such a monstrous doctrine, now urged for the first time in the history of this Government, or upon this continent? I repeat, there is no half-way point in this matter of jurisdiction. It either lodges with the Government of the United States or with the Indians.

Mr. HOWARD. The Supreme Court has decided that there is a half-way point, and it is that distinction which I desire to make. It is true that we exercise a certain jurisdiction over them, but when we have passed a tract of territory to them, we allow them to maintain their tribal existence within that territory, and to exercise jurisdiction over it so long as they continue to occupy it.

Mr. RICHARDSON. I ask the gentleman, then, in what consists the difference between the jurisdiction conferred upon the tribes of Indians west of the Mississippi, and those referred to by the gentleman from Ohio [Mr. SWEETSER] in that State? Is there any?

Mr. HOWARD. The sovereignty of the State of Ohio was vested in her, by her admission into the Union; but the right of the Indians to any portion of the State of Ohio, under the laws of the United States and the laws of Ohio, was only that of occupancy; and when you take that tribe and transfer it beyond the Mississippi, and guarantee to it a certain extent of territory, with a stipulation that it shall never be brought within the limits of any State or Territory, then you change the whole character of its title, and the whole relation of the tribe to the United States. The United States has then no control over the soil, and no control over them, except that which it exercises over all the Indian tribes.

Mr. RICHARDSON. I have no doubt the gentleman has made an argument very satisfactory to himself, but I acknowledge that I do not comprehend it.

Mr. HOWARD. If the gentleman will read the decision of the Supreme Court of the United States, in the case of the State of Georgia, he will not fail to comprehend it.

Mr. RICHARDSON. If the gentleman's opposition to this bill did not go further than the objection which he has urged against it would seem to imply, instead of presenting the argument which he has, he would have sought so to amend the bill as to secure all the objects intended to be secured by the bill, and would endeavor to promote its passage. I am very much inclined to the opinion that we can place it in no shape nor form in which it would secure the vote of the gentleman from Texas.

Mr. HOWARD. The gentleman is mistaken. I am willing that he should have the last section of the bill.

Mr. RICHARDSON. The gentleman from New York [Mr. SUTHERLAND] assumes that the very first section of the bill—one which the Committee on Territories believed, and now think, secures to the Indians all the rights which the Government has guarentied to them—is one which violates the treaties with them. The conclusion which the committee, and the one which the gentleman from New York comes to, are very contradictory; and I may as well call the attention of the committee to the fact, that if this bill is so framed as to make the eastern boundary of this Territory only come up to the Indians' lands, or reservations, or whatever you choose to call them, as you acquire the title of each tribe of Indians to a particular line, lying between the States and the Territories you organize, you would have to pass an act of Congress to bring that land within the Territory. This is a pure quarrel about words.

Now, I ask them, what is the difference between excluding them, as it is done in this bill, and excluding them by metes and bounds? I will state to the gentleman a very important one. There are some of these tribes of Indians with whom we have no stipulation that we will not extend a territorial government over them. With other tribes, with whom we have made treaties since 1830, we have such stipulations. Whether they are excluded or included within the limits of a Territory under this bill, is a judicial, and not a legislative question. The provisions are made under our laws, by which all their rights can and will be secured. If the gentleman from Texas is right, the

bill violates a simple treaty, and the courts will hold it to be null. The gentleman is too good a lawyer to entertain very much confidence in securing any such decision.

The gentleman says he is in favor of the last section of the bill, and in favor of that only. We then understand the gentleman from Texas. He is opposed to all bills which create territorial governments. He is willing to treat with these Indians, to go through that slow process, and in the mean time all the great objects of the establishment of a territorial government will be lost, and emigration to the Pacific will be driven to another portion of the Union, from the route which it now follows. He wants time, but the great interests of our western people demand the passage of this bill, and demand it now, and its passage will be a saving to the Government of many hundred thousands of dollars; for, as I said before, the protection which you now give to this line of travel, along which your troops are stationed, and where two thirds of the expenses of your Army accrue, will be done hereafter by the pioneer—by the men who carry civilization with them—by men who fell the forest and the foe.

The gentleman from North Carolina says he has prepared an amendment to the bill, the object of which is to provide that no territory which by treaty with any Indian tribe, is not to be brought under any State or territorial jurisdiction, shall be included. I yield to allow the gentleman to introduce it.

Mr. CLINGMAN. In the proviso of the first section which is as follows:

Provided, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory, until said tribe shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed: *And provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said territory to any other State or Territory of the United States—

Insert after the words, "State or Territory," the words "and the said territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska."

The object of the amendment is to except, out of the Territory of Nebraska, the territory guarantied to the Indians, until they signify their assent to be included. We shall thus avoid violating our treaties. If this amendment is adopted, I shall vote for the bill, though I do not see any great necessity for its passage.

Mr. RICHARDSON. I am in favor of the amendment if it will add strength to the bill. My own opinion and conviction is, that the language used in the bill is quite as strong, quite as pointed, and quite as specific, as that of the amendment of my friend from North Carolina; but I do not think it will do any mischief to the bill, and I am perfectly willing that it should be included in it.

Mr. CLINGMAN. I hope there will no objection to the amendment.

The CHAIRMAN. The question is upon the adoption of the amendment just offered.

Mr. SUTHERLAND. I object to the amendment, and I wish to state the grounds of my objection. The amendment does not remove the objection which I have to that part of the bill. My position is this: Here is a bill which organizes a Territory by metes and bounds. It is to be bounded by the Rocky Mountains on the west, by the States of Missouri and Iowa on the east, by the forty-third degree of north latitude on the north, and by the Territory of New Mexico and the parallel of 36° 30′ on the south. Now, the lands occupied by the Indians, which the gentleman from North Carolina intends by his amendment to except, and which the proviso in the first section of the bill, as it now stands, was probably intended to except, are within those bounds. It is simply absurd—it is an absurdity in words to say that you can organize a Territory by metes and bounds, which includes, for instance, fifty thousand acres of land in the center of that Territory, occupied by the Shawnees, and then say that the lands so occupied by the Shawnees are excepted out of that Territory. It is a Territory bounded so and so, and can you, by words, prevent the lands of the Shawnees from being included within that boundary? Can you by any verbiage, by any amendment, take the lands of the Shawnees, and place them south of that degree of latitude, or west of the Rocky Mountains? The land is included in the boundary, and are within the Territory. Words cannot take the lands out. Words cannot take the Shawnees out. No exception or proviso will remove them. Their lands are and must remain within the Territory, and they themselves are, and ought to be, within it until the Government, in a legal and proper manner, and without breaking treaty obligations, by treaty or otherwise, purchase out their title and effect their removal; and whether the land is owned by the Shawnees or by the Government, it is equally within the Territory.

Whether the Shawnees, by this proviso, would not be excepted from the political jurisdiction of the Territory, is another question. If the treaties, which have been referred to here, had provided that these Indians should not be included within the political jurisdiction of any Territory, that would have presented a different question, and might have raised a doubt. But as the language of these treaties, and of the law of 1830, is, that they shall not be included within a Territory, and as you cannot erect a Territory with these boundaries without including them, you cannot, by any mere words or proviso in this bill, take them out. Sir, the language of the proviso, with or without the proposed amendment, is a simple absurdity. The proviso as it now stands is repugnant in words to that part of the section preceding it, and would be equally repugnant if amended as proposed by the gentleman from North Carolina. It is a contradiction of words, and must strike every one so.

The question then recurring on the adoption of the amendment, it was put, and the amendment agreed to.

Mr. VENABLE. I offer the following amendment:

Provided, That the provisions of this act shall not go into effect before the 1st day of January, 1860.

I have submitted this amendment to afford me an opportunity to express my opposition to all of the provisions of this bill. The good faith of the Government stands pledged for the protection of the Indian tribes who have emigrated to the country over which it is now proposed to erect the territorial government of Nebraska. I know the feeling has, to some extent, pervaded the country that the Indians are a doomed race and must perish, and that, perhaps, the sooner the better. I have not cherished that feeling, and I never will be one of those who, by any legislation to which I may be a party, shall stain my name by a vote which shall doom to destruction a large portion of the human race. The bad faith we have kept with the aboriginal inhabitants of the land we occupy will go down to future generations to the infamy of our Government. A race so proud, so brave, and so stubborn that they would never be conquered, who have fought us behind every pile of stones and every tree, to protect the graves of their ancestors and the homes of their birth, and who have, by the mockery of treaties extorted by force, been driven beyond the river Mississippi, are now, in the spirit of rapacity, to be placed under the operation of our laws. Pressed on the west by Oregon, and on the east by the States, until, coiling round them like a serpent, they are enveloped in its scaly folds and crushed in its horrid embrace. When that thing is done—when such a law is passed, I do not mean to be accessory to such an act of oppression. They are our fellow-men, but we have driven them from their land by the hand of force and rapine. We have made treaties with them at the point of the bayonet, and we have removed them beyond the river Mississippi. We have pledged the faith of the Government to protect them from interruption and disturbance in the territory given them in exchange for their homes; and we are now asked to throw around them what is called civilization, to bring them in contact with the white man, with all his vices. Encroachments upon their rights will cause them to resent what they have resented before. A national war will ensue, and after their homes have been bathed in blood, we will take possession of the country which the strong hand of rapacity has seized. I never mean, under any circumstances, to sustain a proposition of the sort. When the Camanche mounts his steed, after having placed his ear to the earth and heard the hostile tread of enemies, and placed his lance before him, prepared to meet the attack, fights in defense of his altar, his wife, and his children, and all that is dear to him, I honor him for it. After we have placed them under the protection of the treaty pledged by the good faith of the United States, and when there are only a few hundred white men there, it is gross iniquity for us to erect over them a territorial government, which none can doubt will lead to their total extermination.

The system of removal of the Indian tribes recommended by General Jackson, and carried out at great expense, was predicated upon the high duty which devolved upon this Government to protect and preserve the remnant of the aborigines, now melting away before the aggression of the white man like the snow before the sun. The policy was founded in benevolence, and completed by the will and purpose of the distinguished author of the system—one who in peace and in war well understood the Indian character, and, following the kind impulses of a generous heart as well as the convictions of a sound judgment, advised a course which will effectually protect the remnant of Indians who now linger on our continents. This bill is the first step to the overthrow of that policy. The white men who emigrate to these Indian reservations, are subject to Indian rule, or they are trespassers from the beginning. They have no claims upon us, or none which should override our treaty obligations with those whose very helplessness entitle them to protection, justice, and good faith.

[Here the hammer fell.]

Mr. RICHARDSON. I am opposed to the amendment. We are not proposing to declare war against the Indians. I would oppose it and vote against it at all times.

The question was then taken, and the amendment was not agreed to.

Mr. JONES, of Tennessee. I move to strike out all after the enacting clause, and in lieu thereof to insert the following:

That the President of the United States be, and he hereby is, authorized to enter into negotiation with the Indian tribes occupying the lands west of Missouri and Iowa, for the purpose of securing the assent of said tribes to the settlement of the citizens of the United States upon the lands claimed by said Indians, and for the purpose of extinguishing the title of said Indian tribes in whole or in part to said lands; and that for the purpose of carrying into effect the provisions of this act, the sum of $50,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. STUART. I rise to a question of order. I make the point that the amendment is not in order at this place.

Mr. JONES. Will the gentleman state his reasons why it is not in order?

Mr. STUART. I make the point that the gentleman's amendment is not in order to this bill to organize the territorial government of Nebraska.

Mr. JONES. It is certainly in order, because it is one of the sections of the bill.

The CHAIRMAN. The question of order is not debatable.

Mr. HOUSTON. I desire to propose an amendment to the original bill.

The CHAIRMAN. The question of order must be first decided. The Chair, however, would be happy to hear any suggestion with reference to the point of order. The gentleman from Tennessee moves to amend the bill by striking out all after the enacting clause, and inserting the substitute which has been read; which substitute the Chair perceives to be substantially in effect and in terms the last section of the bill. The title is "A bill to organize the Territory of Nebraska," but the title of a bill does not always state all of its contents, and in this case sections are contained in the bill, in addition to those for the organization of the Territory, to make provisions concerning the title of the Indian tribes to the land of the Territory. The effect of the amendment of the gentleman from Tennessee is, to reject all the provisions of the bill except the one which he proposes to retain. In the opinion of the Chair, the amendment is in order.

Mr. JONES. I have not offered this amendment to enable me to make a five minutes' speech, but I have submitted it in good faith. If adopted,

I shall give my vote in favor of the passage of the bill; but I cannot vote for the bill to organize the Territory of Nebraska as it now stands. We have not, as I understand, one foot of land in that proposed Territory to which the Indian title has been extinguished. I am for starting fair and according to justice. It is contended that if the restrictions of the existing laws are removed, our people will crowd there; but I think that it will be time enough for us to organize a territorial government for that country when we have, with the consent of the Indians and by the payment of a fair price, extinguished their title to the lands, and they have been settled on by our citizens. If, however, this amendment be adopted, authorizing the President of the United States to negotiate for the extinguishment of the Indian title, I will vote for the bill.

Mr. STUART. Mr. Chairman, I am very reluctant to enter into the discussion of this proposition. The day has been spent in talking on a subject which has seemed to me to be very plain. A new proposition is now started, that inasmuch as the Indian title is not extinguished, we should not provide a territorial government.

Mr. LANE. You extended your laws over the Territory of Oregon, and to this day the Indian title has not been extinguished to one foot of that Territory, which is occupied by between fifty and sixty tribes, consisting of more than one hundred thousand Indians. You have no treaties with them.

Mr. STUART. That never has constituted a reason why territorial government should not be extended over the Indian country. There is nothing that would argue it should become one. On the contrary, a single glance at this subject will show that the fifty or sixty thousand emigrants on their way to California and Oregon, demand at the hands of the Government protection. In the manner proposed protection will be afforded them by a trifling expenditure out of the Treasury. By establishing a territorial government, you give those who may hereafter settle there the protection of the laws, and by the construction of a road through the country, you furnish the very best protection to the overland emigration. If you do not do that, you must establish military posts there which will cost the Government thousands of dollars, and afford even then an inadequate defense to the emigrants. Do something while you can. Begin now instead of eighteen months hence to do what ought to have been done two years ago. Protect your own citizens, and their wives and children, from the scalping-knife and the tomahawk of the savage, before you extend your sickly sympathy to their murderers.

Mr. HOUSTON. I propose to add as a new section the following before the vote is taken on the amendment of the gentleman from Tennessee, [Mr. JONES.]

And be it further enacted, That so soon as the Governor of the Territory of Nebraska shall enter upon the discharge of his duties as such, the Indian superintendency at St. Louis, in the State of Missouri, shall be abolished, and its duties shall be transferred to and performed by the said Governor of Nebraska.

The question was taken on the amendment, and it was agreed to; there being on a division—ayes 92, noes not counted.

Mr. SUTHERLAND. I wish to offer an amendment striking out the proviso in the first section, and inserting the following:

Provided, That no part of this act, except the eighteenth section, shall go into effect without the consent of the Indian tribes now occupying said Territory under treaty or treaties with the United States.

Mr. RICHARDSON. I rise to a question of order, and it is this: that we have passed from the consideration of that section, and made an additional section to the bill.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment of the gentleman from New York out of order, the committee having passed from that section.

Mr. CLARK. Is it in order to move an amendment to the first section?

The CHAIRMAN. It is not in order if objected to.

Mr. CLARK. It is to insert in the sixth line, after the words "forty-three," the words "and a half." My reason for this is, that the northern boundary line of Iowa is upon that latitude.

Mr. RICHARDSON. I object to going back, and shall raise objection to every proposition of the kind.

Mr. CLARK. I apprehend it is too late now.

The CHAIRMAN. The gentleman should have made his objection before the gentleman submitted his amendment.

Mr. RICHARDSON. Do I understand the Chair that he deems it necessary that I should make an objection again, when I had made one in a similar case, and said that I should object to every proposition of the kind?

The CHAIRMAN. The Chair stated that the amendment of the gentleman from Iowa would be received, if there was unanimous consent of the House, called for objections, heard none, and then stated that the gentleman from Iowa could proceed.

Mr. RICHARDSON. I have no doubt that the Chair is correct, but I do not desire to open the bill to amendments, so as to defeat its passage.

Mr. CLARK. I think it will be most convenient that the boundary designated by me should be the northern boundary of this Territory. The northern boundary of Iowa has been surveyed at great trouble and expense. It cost several thousands of dollars even to fix the starting point, and although I am not much of a practical surveyor, I am inclined to the opinion that it will be much easier to prolong this line than to fix a new point, and from that prolong the line. At all events, it will be most convenient, and I think it will be wisest in view of the suggestion which I make. It will be only necessary to take up the line already run, and continue it on westward; whereas if you have to establish a new starting point and run a new line, I think it will be attended with no little trouble and expense.

Mr. CARTTER. I wish to inquire of the member from Iowa, whether the point of time for considering his amendment for fixing the boundary would not be upon the admission of the Territory into the Union as a State?

Mr. CLARK. It may be so, but I apprehend that these boundaries usually proceed from the territorial limits. I know that it is not actually necessary at this time; but I think it may as well be fixed now as at any other time.

The question was then taken upon Mr. CLARK's amendment, and it was not agreed to.

Mr. SUTHERLAND. I move to amend the bill by adding at the end of the eighteenth section this proviso:

Provided, That no part of this act, except the eighteenth section, shall go into effect without the consent of the Indian tribes now occupying said territory under treaty or treaties with the United States.

The CHAIRMAN. The Chair would remind the gentleman that the eighteenth section has been passed from, and a new section added to it.

Mr. SUTHERLAND. Then insert it at the end of the bill as a new section.

The question raised here in regard to the rights of the Indians has not been answered by the gentleman from Michigan, [Mr. STUART.] The point here is, whether these Indians have certain rights under certain treaties—the point is, whether the Government has the right to include their lands in this Territory without their consent, in consequence of certain treaties which we have made with them. If we have not this right, then this act would be a gross violation of our treaties. In what I have said hitherto I have not expressed one word of sympathy for the poor red man. I had intended, however, to have said this: that I think this country, for its treatment of the red man, under the plea of the laws of nations, of the right of discovery, of civilization, and Christianity, has enough to answer for to high Heaven and eternal justice without adding to it a gross violation of treaties. I admit that the original Indian title and Indian possession is not now, and never has been, acknowledged in this country as a *source* of title; but when this Government dignifies the Indian by entering into a treaty with him, must we be answered that his occupation under that treaty is a simple Indian occupation—an occupation under a contract with a Government which boasts of its might, power, greatness, and progress, which says, On! on! on! which, not satisfied with stopping this side of the Rocky Mountains, leaps over them and plants itself upon the shore of the Pacific, and not resting there, cries, On! on! on to the south! until Cuba, and the islands of the sea, and the whole South American continent shall be reached? And now we attack these poor Indians and, without excuse, we propose grossly—for that point has not been answered—to violate their rights. Why? To give a settlement to the white man; to send our settlers there to protect emigrants to California. For a nation to be great it must be just. Can there be any harm in this additional section, if the Indians have rights to be protected? It has been attempted by this proviso, in the first place, and then by the amendment of the gentleman from North Carolina, to do what? To protect the rights of the Indians. I will tell you what this whole question is. I will tell you how the argument has been answered by the other side. It is said that this bill would not violate the *words of the treaty*. The gentleman from Missouri said this in substance. We have agreed with the Indians not to burn their wigwams. We do not burn their wigwams; but we set fire to the prairie all about them, and when the wigwams are on fire, we say to the poor Indians, We have not burned your wigwams. We have not violated the treaty.

[Here the hammer fell.]

Mr. BELL. I am opposed to that amendment, because I think it is unnecessary. It appears to me that the rights of these tribes of Indians will not be infringed upon by the provisions of this bill, and I think the day has passed when we should begin to act in this matter upon the ground of sympathy. If there ever was a time when these feelings should control the action of Congress, it was before we commenced a forcible removal of the Cherokees and the other tribes. I have heard much sympathy expressed in relation to the Shawnees and their rights. I tell you, so far as I know, when you once forcibly remove the red man of the forest from his home and the graves of his fathers, you can give him no place around which his affections will entwine as did they around the place of his nativity. I saw the Shawnee tribe removed by the powers of this Government. I saw them encamped three days at the home of Tecumseh, and at the graves of their fathers. I witnessed there those strong feelings which bound them to their homes and the graves of their fathers. I saw them on the morning of their departure, when they went through the ceremony peculiar to the race, and with their little ones around them, took a final leave of their homes. Then I thought that it was indeed a great pity to remove the red man of the forest from his native home. But I do not understand that we are now commencing this policy; we have adopted it before. As to establishing a territorial government to embrace these tribes, we give to that Territory no additional powers from what we now hold. We are now exercising a kind of jurisdiction over that vast domain which is proposed to be created into this Territory. Where was your Indian title at the first territorial government established by this Government northwest of the river Ohio? Was there a foot of land that was purchased by the United States? Treaty after treaty was broken. The celebrated treaty of Wayne was broken, which extinguished the Indian title to that vast territory embracing the Maumees at the time. And so it has been with the other Territories. I believe it will be for the benefit of the country and the Indian tribes that we establish this territorial government.

Mr. LETCHER. I move that the committee do now rise.

Mr. POLK. I would inquire if the gentleman from Virginia is in favor of night sessions?

Mr. LETCHER. I am——

[Loud cries of "Order!"]

Mr. CARTTER. I move as an amendment to the motion of the gentleman from Virginia, that the committee do now rise and report the bill.

The CHAIRMAN. It is not so amendable.

Mr. STANLY. Is it in order to ask the Chair if this is not the last day set apart for territorial business?

Several MEMBERS. It is the last day.

The CHAIRMAN. The Chair did not hear the inquiry of the gentleman from North Carolina.

Mr. STANLY. I asked a question which the committee heard. That was all I wanted.

The question was then taken on Mr. LETCHER's motion, and it was decided in the negative.

So the committee refused to rise.

The question recurred upon Mr. SUTHERLAND's

amendment, and being put, it was decided in the negative.

So the amendment was rejected.

The question next recurred upon the substitute for the bill proposed by Mr. JONES, of Tennessee.

Mr. ORR. I call for tellers on that question.

Tellers were ordered, and Messrs. JONES of Tennessee, and GAYLORD were appointed.

The question was put, and the tellers reported —ayes 51, noes 77.

So the amendment was rejected.

Mr. RICHARDSON. I move that the committee rise, and report the bill.

Mr. ORR. I move as an amendment, that the committee rise and report the bill, with a recommendation that it do not pass.

The CHAIRMAN. The Chair holds that a negative vote on the motion of the gentleman from Illinois, would be equivalent to the motion of the gentleman from South Carolina.

Mr. ORR. The gentleman from Illinois did not move that the committee rise and report the bill with a recommendation that it do pass.

Mr. RICHARDSON. I do not care in what way it is done. I only want to get the bill into the House.

The CHAIRMAN. The motion of the gentleman from South Carolinawill be received.

Mr. ORR. I ask for tellers.

Tellers were ordered; and Messrs. ORR and RICHARDSON were appointed.

The question was put upon Mr. ORR's motion, and the tellers reported—ayes 98, noes 30.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. HIBBARD) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly House bill No. 353, to organize the Territory of Nebraska, and had directed him to report the same to the House, with two several amendments, and with a recommendation that the bill do not pass.

The SPEAKER stated the question to be on agreeing to the amendments reported by the Committee of the Whole on the state of the Union.

Mr. RICHARDSON. I move the previous question.

The previous question was seconded, and the main question was ordered to be now put.

Mr. LETCHER. I move that the bill and amendments be laid upon the table; and upon that motion, I call for the yeas and nays.

Mr. ORR. I ask for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ASHE and HALL were appointed.

The House was then divided on the call for the yeas and nays, and the tellers reported—ayes 27, noes 106.

So (one fifth voting therefor) the yeas and nays were ordered.

Mr. JONES, of Tennessee. In order to avoid a night session, I now move that when the House adjourns, it adjourn to meet at twelve o'clock to-morrow.

Mr. BROWN, of Mississippi. On that motion I ask for the yeas and nays.

Many MEMBERS. "Oh, no!" and "Withdraw the call."

Mr. STUART. I hope the gentleman from Tennessee will withdraw his motion until this bill is disposed of.

Mr. JONES. I cannot withdraw it.

The yeas and nays were not ordered.

The question was then taken on Mr. JONES's motion, and on a division, there were—ayes 101, noes 41.

So the motion was agreed to.

The question was then taken on Mr. LETCHER's motion, and it was decided in the negative—yeas 49, nays 107; as follows:

YEAS—Messrs. Abercrombie, Ashe, Averett, David J. Bailey, Bocock, Bowie, Brooks, Albert G. Brown, Caskie, Chastain, Cobb, Colcock, Cottman, Cullom, Daniel, Dockery, Dunham, Edmundson, Sampson W. Harris, Haws, Haven, Henn, Horsford, Houston, Howard, Thomas M. Howe, Jackson, George W. Jones, Letcher, McQueen, Meacham, Meade, Millson, Morehead, Murphy, Orr, Outlaw, Ross, Sackett, Stanly, Abraham P. Stephens, Strother, Sutherland, Venable, Wallace, Walsh, Wilcox, Wildrick, and Woodward—49.

NAYS—Messrs. Charles Allen, Willis Allen, Allison, William Appleton, Babcock, Barrere, Bell, Bennett, Bibighaus, Brenton, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Chandler, Clark, Cleveland, Clingman, Conger, Darby, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ficklin, Fitch, Florence, Gamble, Gaylord, Giddings, Gilmore, Goodrich, Gorman, Green, Grey, Grow, Hall, Harper, Hart, Hendricks, Hibbard, Holladay, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, J. Glancy Jones, Preston King, Landry, Little, Lockhart, Mace, McCorkle, McDonald, McMullin, McNair, Miller, Molony, Henry D. Moore, Morrison, Murray, Newton, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Phelps, Porter, Powell, Price, Reed, Richardson, Robbins, Robie, Sabine, Origen S. Seymour, Skelton, Smart, Smith, Benjamin Stanton, Stone, St. Martin, Stratton, Stuart, Taylor, Thurston, Townshend, Walbridge, Ward, Washburn, Watkins, Wells, Alexander White, Williams, and Yates—107.

So the House refused to lay the bill upon the table.

The SPEAKER stated the question to be on agreeing to the two amendments of the bill reported from the Committee of the Whole on the state of the Union.

The first amendment was read as follows:

"In section first, line eighteen, after the word 'territory,' insert the following:

"And the said territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska.

"So as to make the section read:

"*Provided*, That nothing in this act contained shall be construed to impair the rights of person or property, now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians, or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory, and the said territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until said tribe shall signify their assent to the President of the United States, to be included within the said Territory of Nebraska," &c.

The amendment was adopted.

The second amendment was then read, as follows:

"Add as section 19 the following:

"*And be it further enacted*, That as soon as the Governor of said Territory of Nebraska shall enter upon the discharge of his duties as such, the Indian Superintendency at St. Louis, in the State of Missouri, shall be abolished, and the duties shall be transferred to and performed by said Governor of Nebraska."

The amendment was adopted.

Mr. HENN. Is it in order to move to amend the bill by striking out all but the 18th section?

The SPEAKER. No motion to amend the bill is in order, the previous question having been ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed was subsequently read a third time.

The question then was "Shall the bill pass?"

Mr. RICHARDSON. I demand the previous question on the passage of the bill.

The previous question was seconded, on a division—ayes 87, noes not counted.

The main question was ordered to be now put.

Mr. VENABLE. I demand the yeas and nays on the passage of the bill.

Mr. MOREHEAD. I ask for tellers on the yeas and nays.

Tellers were ordered; and Messrs. McNAIR and GAYLORD were appointed.

The House was then divided on the demand for the yeas and nays, and the tellers reported 31 in the affirmative.

So the yeas and nays were ordered.

Mr. HENN. I move that the House do now adjourn.

The question was taken and it was decided in the negative.

So the House refused to adjourn.

The question was then taken, "Shall the bill pass?" and it was decided in the affirmative—yeas 98, nays 43; as follows:

YEAS—Messrs. Chas. Allen, Willis Allen, Allison, Babcock, Barrere, Bell, Bibighaus, Busby, Jos. Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Clark, Cleveland, Clingman, Darby, John G. Davis, Dawson, Dean, Dimmick, Doty, Duncan, Durkee, Eastman, Edgerton, Evans, Ficklin, Fitch, Florence, Gamble, Gaylord, Giddings, Gilmore, Goodrich, Gorman, Green, Grey, Grow, Hall, Harper, Hart, Hendricks, Hibbard, Holladay, John W. Howe, Thomas Y. How, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, J. Glancy Jones, Preston King, Landry, Little, Lockhart, Mace, Mann, McDonald, McMullin, McNair, Miller, Molony, Henry D. Moore, Morrison, Murray, Newton, Andrew Parker, Penniman, Perkins, Porter, Powell, Price, Reed, Richardson, Robbins, Robie, Sabine, Origen S. Seymour, Skelton, Smart, Smith, Benjamin Stanton, Stone, St. Martin, Stratton, Stuart, Taylor, Thurston, Townshend, Walbridge, Ward, Washburn, Watkins, Welch, Wells, Williams, and Yates—98.

NAYS—Messrs. Abercrombie, William Appleton, Averett, Bocock, Bowie, Brooks, Albert G. Brown, Caskie, Chastain, Cobb, Colcock, Cottman, Daniel, Dockery, Dunham, Edmundson, Sampson W. Harris, Haws, Haven, Henn, Horsford, Houston, Howard, Thomas M. Howe, Jackson, George W. Jones, Letcher, McQueen, Meacham, Millson, Morehead, Orr, Outlaw, Ross, Stanly, Abraham P. Stephens, Strother, Sutherland, Venable, Wallace, Walsh, Wildrick, and Woodward—43.

So the bill was passed.

Mr. RICHARDSON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, announcing that the Senate had passed, without amendment, a bill of the House of the following title:

H. R. No. 355. An act to change the name of the steamship Forest City.

And that the Senate also passed a bill and joint resolution of the following titles:

S. No. 359. An act for the relief of passed midshipmen G. P. Welsh and Clark H. Wells.

And a resolution for the relief of L. E. L. A. Lawson, sole surviving heir of General Eleazar W. Ripley, deceased; in which he was directed to ask the concurrence of the House.]

EXPENSES OF THE CAYUSE WAR.

Mr. LANE. I hold in my hand a bill which was introduced yesterday. It provides for paying out an appropriation made two years ago, for expenses incurred in the Cayuse war. The Secretary of the Treasury finds some difficulty in paying the awards allowed by the commissioners. I ask that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill, and that it may be put upon its passage now.

A MEMBER. Read the title of the bill.

The Clerk read the title of the bill, as follows:

"H. R. No. 357. To amend an act entitled 'An act to amend an act to settle and adjust the expenses of the people of Oregon, from the attacks and hostilities of the Cayuse Indians in the year 1847-'48,' approved August 21, 1852."

Mr. JONES, of Tennessee. The Governor of the Territory was added to a Commission, I believe, by the Territorial Legislature, and in consequence of that, they cannot adjust the accounts and pay the awards made by the Commission, of which the Governor was one of the members.

This bill, I believe, has been prepared by the Secretary of the Treasury, or at the Department, with a view to enable them to pay those awards. It makes no appropriation, nor does it divert any fund from its legitimate object. It is merely to execute a law heretofore passed.

Mr. STANLY. There is no quorum here to pass the bill now. If the gentleman from Tennessee will let us have a night session to-morrow night, I will not object to his bill.

Mr. JONES. It is not my bill. I have no interest in it, nor do I ask its passage. And I will tell the gentleman from North Carolina that I shall not attend a night session to-morrow night.

Mr. LANE. I trust the gentleman from North Carolina will withdraw his objection.

Mr. STUART. I appeal to the gentleman from North Carolina to allow the bill to be put in such a shape that it can be passed to-morrow.

Mr. STANLY. I have no objection to that.

Mr. JONES. If the Committee of the Whole on the state of the Union are discharged from the further consideration of the bill, and we order the main question upon it, it will come up to-morrow.

The SPEAKER. If there be no objection, the Committee of the Whole on the state of the Union will be discharged from the further consideration of the bill.

No objection was made.

The bill was accordingly brought before the House, the question being upon ordering it to be engrossed and read a third time.

Mr. STUART. As the gentleman from North Carolina objects to the bill being put upon its passage now, on account of there being no quorum present, I wish to make an inquiry of the Chair. If I enter a motion now to reconsider the vote by which the Committee of the Whole on the state of the Union was discharged from the further consideration of this bill, will it come up to-morrow?

The SPEAKER. The Chair will decide that question when it arises.

Mr. STUART. Very well, sir; then I move

to reconsider the vote by which the Committee of the Whole on the state of the Union was discharged from the further consideration of the bill.

The SPEAKER. The Chair did not understand the inquiry of the gentleman just now. That motion will bring the bill up.

Mr. STUART. Very well, sir.

Mr. STANLY. I rise to a question of order. The gentleman cannot make that motion now. There is no quorum present.

Mr. JONES, of Tennessee. It will be in order to-morrow when there is a quorum here.

The SPEAKER. It is in order to make the motion now.

Mr. STANLY. I appeal from that decision, in order to see if there is a quorum present.

The SPEAKER. The Chair decides that no action can be had upon the motion if there is not a quorum present, so that the gentleman from North Carolina will reach his object.

Mr. STUART. I do not ask for action on the motion.

Mr. McNAIR. I move that the House do now adjourn.

Mr. GORMAN. Will the gentleman withdraw that motion for a moment?

Mr. McNAIR. Yes, sir; I withdraw it.

Mr. GORMAN. I ask the consent of the House to give notice of my intention to introduce a bill "to indemnify the State of Indiana for a failure of the title to a portion of the lands heretofore granted to that State by Congress for a State seminary of learning."

The SPEAKER. If there be no objection, the motion will be entered.

No objection was made.

The SPEAKER. The motion to reconsider will be entered, but no vote can be taken upon it now.

Mr. McNAIR. I renew the motion, that the House do now adjourn.

The motion was agreed to,

And the House thereupon adjourned until to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorial were presented under the rules and referred to the appropriate committees:

By Mr. IVES: The petition of W. W. Dodge and 100 others, citizens of Jefferson county, New York, asking the grant of public lands to aid in the construction of a ship-canal around the Falls of Niagara, in the State of New York.

By Mr. YATES: The petition of the Industrial Convention of the State of Illinois, assembled at Springfield, Illinois, on the 5th January, 1853, by their committee, Governor A. C. French, D. L. Grigg, and L. S. Pennington, praying for the passage of a bill appropriating portions of the public lands to each of the several States, to an amount not less than five hundred thousand acres, for the endowment of a system of industrial universities in each State in the Union, coöperating with each other, and with the Smithsonian Institution at Washington, for the liberal practical education of our industrial classes, in their various pursuits; for producing the knowledge and literature needful in those pursuits; and developing, to the fullest extent, the resources of our soil and our arts; and especially the intelligence, refinement, and virtue of our people, and the true glory of our common country.

By Mr. ROSS: The memorial of 85 citizens of Bucks county, Pennsylvania, asking Congress so to modify the act of September 28, 1850, as to give each of the persons intended to be benefited by said act, and to seamen and marines, who served in the war of 1812, not less than one hundred and sixty acres of land.

By Mr. BURROWS: The memorial of H. U. Soper and others, citizens of the State of New York, remonstrating against the renewal of C. H. McCormick's patent for a reaping machine.

By Mr. FITCH: The petition of Solomon Fowler and others, of Elkhart county, Indiana, asking that the public lands be donated in farms or lots to those who have no lands.

Also, six petitions of sundry citizens of Wabash, Miami, Howard, and Tipton counties, Indiana, for a post route from Wabash, in Wabash county, to Tipton, in Tipton county.

By Mr. WALSH: The memorial of the president, directors, and stockholders of the Ohio Falls Marine Railroad Company, praying that Congress will aid them in overcoming the obstruction to the navigation of the Ohio river, at the Falls, by means of lift locks, and a marine railway.

IN SENATE.

FRIDAY, *February* 11, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of State, showing the names and compensation of clerks and other persons employed in that Department during the year 1852; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of State, showing the disbursements for the service of the State Department, including foreign missions, for the fiscal year ending 30th June, 1852; which was referred to the Committee on Finance.

Mr. SEWARD presented a memorial signed by Cornelius Vanderbilt, the owner and representative of two millions of dollars' worth of low-pressure steamers; Edward K. Collins, one of the largest owners of the New York and Liverpool United States mail steamers, and other proprietors of, and agents for steamships in the United States, praying that the late act of Congress to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, may be repealed or amended.

Also, a petition of citizens of New York and its vicinity, in favor of the same object.

Also, a memorial of the owners of steamboats on Lakes Erie and Michigan, in favor of the same object.

Also, a memorial from citizens residing in Hartford, New Haven, and New York, praying a suspension of the steamboat law.

The above petitions were referred to the Committee on Commerce.

Also, two petitions of citizens of New York and Brooklyn, praying that a contract may be entered into with Christian Hansen for the transportation of the mails in steamers between Brooklyn and Gluckstadt, and between Kiel and St. Petersburgh; which were referred to the Committee on the Post Office and Post Roads.

Mr. WALKER presented a petition of inhabitants of Waushara county, Wisconsin, praying that the homestead bill may become a law; which was ordered to lie on the table.

Mr. DODGE, of Iowa, presented a resolution of the Legislature of Iowa, in favor of the enactment of the homestead bill; which was ordered to lie on the table.

Also, a resolution of the Legislature of Iowa, in favor of the removal of certain restrictions to the sale of lands granted for the improvement of the Des Moines river; which was referred to the Committee on Public Lands.

Mr. JONES, of Iowa, presented a resolution of the Legislature of Iowa, in favor of an appropriation for the survey of the line of the half-breed tract in Lee county; which was referred to the Committee on Private Land Claims, and ordered to be printed.

Mr. CASS presented two petitions of citizens of Troy, New York, praying that measures may be taken to secure to American citizens abroad the rights of public worship; which were referred to the Committee on Foreign Relations.

Mr. FISH presented the petition of C. F. Hagedom, Consul of the Bavarian Government at Philadelphia, praying that the National Library at Munich may be furnished with the laws of the United States, the American State Papers, and certain other public works; and tendering, in behalf of the Bavarian Government, all works of a public nature; which was referred to the Committee on the Library.

Mr. HALE presented resolutions passed at a meeting of the Industrial Union of Philadelphia, against the granting of land for railroads, and in favor of the immediate passage of the homestead bill; which were read. The members of the Union, in their resolutions, state that God and human reason alike declare that the earth was made for man, to be cultivated by him, and used for the happiness of the whole human family; that all history proves that the monopoly of land is the worst social evil ever entailed on the human family; and that it is a democratic truth that the public domain of this continent belongs, by right and justice, to the people, and that consequently, without their consent, the public domain should not be granted to any person, or company, for any other purpose than cultivation; they therefore express their deep regret at the present anxiety evinced, on the part of speculators, to push through the various land-bill schemes now before Congress; and in the exercise of their rights as citizens, they protest against their representatives in Congress casting their votes in favor of any bill granting land to any railroad or other company; and they earnestly request their influence and votes in favor of the immediate passage of the homestead bill, settling, now and forever, the land question, by appropriating the American domain to actual settlers. They further say, that if the aid of Government is needed to assist in carrying forward any railroad, the construction of which will evidently benefit the whole country, they earnestly recommend the Government to issue United States bonds, in the usual form, to the amount required, and in no case to dispose of the public lands otherwise than to actual settlers.

The resolutions were ordered to lie on the table.

REPORTS FROM STANDING COMMITTEES.

Mr. FOOT, from the Committee on Pensions, to which was referred the bill for the relief of Margaret Barnitz, only surviving heir of Lieutenant Colonel Greer, asked to be discharged from the further consideration thereof, and that it be referred, together with the documents accompanying the same, to the Committee on Revolutionary Claims; which was agreed to.

Mr. JONES, of Iowa, from the Committee on Pensions, to which were referred documents in support of the claim of the late George D. Twiggs, to remuneration for certain expenses incurred at Havana, while on the way to Mexico during the late war, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Claims; which was agreed to.

Mr. JONES, of Tennessee, from the Committee on Military Affairs, to which was referred the petition of Thomas S. J. Johnson, praying payment for wagons taken for the use of the United States army in New Mexico, submitted an adverse report thereon.

Mr. BORLAND, from the Committee on Printing, to which was referred the motion to print the memorial of the Legislative Assembly of New Mexico, relative to the Pacific railroad, reported in favor of printing the same; which was concurred in.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the memorial of William B. Scott, praying to be allowed a percentage on the distribution of public moneys by him, submitted a report, accompanied by a bill, for his relief; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. SEWARD, from the Committee on Private Land Claims, to which was referred the memorial of Albert G. Howel, submitted a report, accompanied by a bill for the relief of the heirs and legal representatives of William Weeks; which was read and passed to the second reading; and on motion by Mr. SEWARD, the Senate, as in Committee of the Whole, proceeded to consider it. It proposes to confirm the claim of the heirs and legal representatives of William Weeks to two thousand and thirty arpens of land in the parish of West Feliciana, Louisiana.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

TOWN OF BELLEVIEW, IOWA.

Mr. DODGE, of Iowa. The Committee on Public Lands, to which was referred the bill for the relief of the town of Belleview, in Iowa, with the amendments of the House of Representatives thereto, has directed me to report them back, with amendments. I would state that the original bill, as it passed the Senate, granted accretions in front of the town of Belleview, Iowa, to that town. It was sent to the House, and there amended, and the Committee on Public Lands now propose to include the cities of Burlington and Dubuque, in Iowa. It is a question which in no way affects the interests of this Government. The Senator from Georgia, [Mr. DAWSON,] and myself, once had a little discussion in reference to it when the bill first came up, but I then answered satisfactorily all his inquiries, and I believe satisfied him that the Government was in no way interested, and would receive no money if the lands were sold. I hope the amendment will be acted upon immediately.

The amendment of the committee was agreed to. It was to add the following as additional sections:

SEC. 2. *And be it further enacted*, That there shall be, and there hereby is, granted to the cities of Burlington and Dubuque, in Iowa, the land bordering on the Mississippi river, in front of said cities, reserved by the act of 2d July, 1836, for a public highway, and for other public uses, together with the accretions which may have formed thereon, or in front thereof, to be disposed of in such manner as the corporate authorities of said cities may direct.

SEC. 3. *And be it further enacted*, That the grants made by this act shall operate as a relinquishment only of the right of the United States in and to the said premises, and shall in no manner affect the rights of third persons therein or to the use thereof, but shall be subject to the same; and on application by a duly authorized agent of the corporate authorities of the said cities to the Commissioner of the General Land Office, a patent of relinquishment in consequence of the provisions of this act shall be issued therefor as in other cases.

SEC. 4. *And be it further enacted*, That the land or parcel of land in the city of Dubuque, heretofore set apart and used by the authorities of said city as a cemetery or burying-ground, under the act of Congress of the second of July, 1836, and the act of the third of March, 1847, amendatory thereof, be, and the same hereby is, granted to the Common Council of the said city of Dubuque, to make such disposition of the said land included in the said cemetery or burying-ground as that Common Council may deem proper.

The amendments were agreed to, and the amendments of the House as amended were concurred in, and the title of the bill was amended so as to read, "An act for the relief of the town of Belleview, and the cities of Burlington and Dubuque in Iowa."

LOCATION OF LAND OFFICES.

Mr. FELCH, from the Committee on Public Lands, to which were referred a resolution of the Legislature of Arkansas, and a document relating to the subject, reported a bill authorizing changes in the location of land offices; which was read and passed to a second reading.

By unanimous consent, it was read a second time and considered by the Senate as in Committee of the Whole.

It proposes to authorize the President to change the locality of the land offices in the several land districts established by law, and to establish the same from time to time, at such a point in the district as he may deem expedient.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

THE CLAYTON-BULWER TREATY.

Mr. MASON, from the Committee on Foreign Relations, to which was referred the message of the President of the United States of the 4th of January, 1853, respecting the establishment of a new British colony in Central America, and a resolution of the Senate of the 27th of January on the same subject, submitted a report, accompanied by the following resolution; which was read:

Resolved, (as the opinion of the committee,) That the declaration on the part of the British Government, and the reply thereto by the Secretary of State, as preliminary to the exchange of ratifications of the treaty concluded at Washington between the Governments of Great Britain and the United States on the 19th of April, 1850, import nothing more than an admission on the part of the two Governments, or their functionaries, at the time of such exchange, that nothing contained in the treaty was to be considered as affecting the title or existing rights of Great Britain to the English settlements in Honduras Bay; and consequently, in the opinion of the committee, that no measures are necessary on the part of the Senate to be taken because of such declaration and reply.

On motion by Mr. MASON, the report was ordered to be printed.

Mr. CASS. This is a subject of very great importance, and I desire that some extra copies of the report may be printed. I therefore move to print two thousand extra copies of it.

Mr. UNDERWOOD. I rise simply for the purpose of stating that, so far as I heard portions of the report read, I do not concur in it. I do not wish to be concluded in regard to the matter by giving a silent sanction to the positions of the report, some of which I do not approve.

The motion to print two thousand extra copies was agreed to.

REPUBLIC OF LIBERIA.

Mr. MILLER. I submitted a few days ago, a resolution in regard to the recognition of the independence of Liberia. I am anxious to call it up and detain the Senate upon it for about thirty minutes; and I rise now merely for the purpose of giving notice that I shall ask the indulgence of the Senate to call it up to-morrow morning.

MERCHANT MARINE.

Mr. FISH, agreeably to previous notice, asked and obtained leave to introduce a bill for the better management and safe conduct of American merchant vessels, and for maintaining discipline on board the same; which was read a first and second time by its title, and referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the following bills:

An act to organize the Territory of Nebraska.

An act to amend an act entitled "An act to 'amend an act to settle and adjust the expenses of 'the people of Oregon from attacks and hostilities 'of Cayuse Indians in the years 1847 and 1848," approved August 21, 1852.

MARY WOODWARD.

On motion by Mr. JONES, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of Mary Woodward. It proposes to require the Secretary of the Interior to place on the pension roll, at the rate of thirty dollars per month, the name of Mary Woodward, widow of the late Lieutenant Kirby S. Woodward, of the United States revenue service, who was drowned at the mouth of the Klamath river, off the coast of California, on or about the 5th of November, 1850.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

JOSIAH P. PILCHER.

On motion by Mr. SHIELDS, the Senate, as in Committee of the Whole, proceeded to consider House bill "for the relief of Josiah P. Pilcher, late a private in Company F, Second Kentucky Regiment of Volunteers in the war with Mexico." It proposes to direct the proper officers of the Government to pay to Josiah P. Pilcher his regular pay from July 7, 1846, until the date of the discharge of his company; his mileage from New Orleans home, as others of his company were paid; three months' extra pay, and a land warrant for one hundred and sixty acres.

Mr. SHIELDS. I propose to amend the bill by adding the following as an additional section:

SEC. 2. *And be it further enacted*, That five years' full pay be granted to Christine Barnard, widow of the late Brevet Major Moses J. Barnard, Captain in Company H, regiment of voltigeurs, who rendered gallant services in the Mexican war, and who died of a disease greatly enhanced by the hardships, exposure, and fatigue of the campaign; said half pay to commence with the day of his death, (4th July,) 1852, and to be held by her, or by her children, according to the provision of the general law now in force, made in reference to the widows and children of those who died from wounds or disease received or contracted during the said war.

The amendment was agreed to, and the bill was reported to the Senate as amended.

The PRESIDENT. The question is on concurring in the amendment.

Mr. HALE. Is that an amendment adopted by the Senate to a House bill?

The PRESIDENT. It is. It has been adopted by the Senate as in Committee of the Whole.

Mr. HALE. I want to suggest to those interested in the pension granted by the bill itself, that this is hardly using that claimant fair. It is a House bill which has come to us, and if we agree to it it will become a law; but if we put on this amendment and send it back to the House, instead of giving two pensions, we may defeat both. I think each ought to stand upon its own merits, and that by saddling one on the other, you will defeat both.

Mr. SHIELDS. I take a deep interest in both cases—both are just—and the friends of each have agreed to put them together.

Mr. HALE. Then I am perfectly willing.

The amendment was concurred in, and ordered to be engrossed; and the bill was ordered to a third reading, read a third time, and passed; and its title was amended by adding to it the words "and for other purposes."

ORDER OF BUSINESS.

Mr. BRIGHT. I move to suspend the prior order of business, for the purpose of taking up the bill to provide for the payment of such creditors of the late Republic of Texas, as are comprehended in the act of September 9th, 1850. I do it at this time because it is understood that the special order at two o'clock is to proceed to the consideration of Executive business.

Mr. DAWSON, Mr. UNDERWOOD, and others. One o'clock.

Mr. BRIGHT. Two o'clock. The honorable Senator from Texas, [Mr. HOUSTON,] who obtained the floor yesterday, is prepared and anxious to go on this morning, and I hope the Senate will indulge him.

Mr. BRADBURY. I believe there is a special order which was made for Tuesday last, at half-past twelve o'clock. I refer to the bill to regulate the fees and costs to be allowed clerks, marshals, and attorneys in the courts of the United States. I think the Senator from Texas will hardly have time to finish to-day before we go into Executive session, and therefore I would suggest that the bill to which I have referred be taken up, or at least that some day be indicated for action upon it.

Mr. GWIN. I hope the Senate will take up the resolution I submitted a few days ago, relative to changing the hour of meeting to eleven o'clock.

Mr. DAWSON. I understand that we agreed to go into Executive session to-day at one o'clock. I believe that is the order of the day, and I do not suppose my friend from Texas would like to commence now when it is but five minutes to one.

Mr. BRIGHT. The hour fixed for Executive session was two o'clock, as I recollect.

Mr. CASS. Turn to the Journal; that will show the facts.

The PRESIDENT. The Journal shows that one o'clock was the hour fixed.

Mr. BRIGHT. I had the honor of making the motion fixing to-day for Executive business, and I named two o'clock; but it may have been changed afterwards.

Several SENATORS. It was two o'clock.

TEXAS DEBT BILL

The motion of Mr. BRIGHT was agreed to; and the Senate accordingly resumed, as in Committee of the Whole, the consideration of the bill to provide for the payment of such creditors of the late Republic of Texas as are comprehended in the act of Congress of September 9, 1850.

Mr. HOUSTON then rose and addressed the Senate at length against the pending bill. [His speech will be found in the Appendix.]

Mr. CLARKE moved to postpone the further consideration of the subject until any day which gentlemen may designate.

Mr. GWIN. Thursday next.

Mr. CLARKE. I move to postpone it until Thursday next.

Mr. BRIGHT. And make it the special order for one o'clock.

Mr. CLARKE. I include that in my motion.

The motion was agreed to.

EXECUTIVE SESSION.

On motion by Mr. CLARKE, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened,

And the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 11, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

INDIAN EXPENSES IN OREGON.

Mr. STUART. I rise to a privileged question. When the House adjourned on yesterday, it had before it a bill introduced by the gentleman from Oregon, [Mr. LANE,] for the purpose of enabling the Department to settle the Indian expenses in Oregon. The bill was explained, and I believe there was no objection to it. In order to keep it before the House, before the adjournment, I interposed a motion to reconsider the vote by which the House discharged the Committee of the Whole on the state of the Union from the further consideration of the bill. The question pending, as the Journal correctly states, when the House adjourned, was upon the engrossment of the bill. I now call up the motion to reconsider, and ask that the bill may be passed. It has been fully explained by the gentleman from Oregon, [Mr. LANE,] as well as by the gentleman from Tennessee, [Mr. JONES,] who had examined the question, and I presume there will be no objection to it. I now withdraw the motion to reconsider, and ask that the question may be taken upon the engrossment of the bill.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, it was read a third time and passed.

RECIPROCAL TRADE.

Mr. SEYMOUR, of New York. I ask the

unanimous consent of the House to make a report from the Committee on Commerce, for the purpose of having it printed at the proper time, for the consideration of the House. It is a bill relative to the fisheries, and embracing those subjects which were embraced in the message of the President, which was ordered by the House to be printed, the other day, and which have since been under consideration by the Committee on Commerce.

There was no objection, and

Mr. SEYMOUR, from the Committee on Commerce, reported a bill to establish a reciprocal trade with the British North American Colonies, upon certain conditions; which was read a first and second time by its title.

Mr. SEYMOUR. I move that the bill and report be printed.

The motion was agreed to.

Mr. FULLER, of Maine. I have an amendment which I desire to offer to that bill.

Mr. SEYMOUR. I have no objection to the amendment of my colleague upon the committee being received and printed with the bill and report, and will make that motion.

The motion was agreed to.

Mr. SEYMOUR. I now move to recommit the bill to the Committee on Commerce, and ask that the further consideration of the motion and of the bill may be postponed till Thursday next.

Mr. JONES, of Tennessee. I object to that motion. This bill was allowed by unanimous consent to be introduced, and read a first and second time, with the understanding that it was only to be referred and printed. But now the gentleman moves to postpone its consideration to a day certain, which is in effect to make it a special order. I do not think that is carrying out the understanding with the House fairly.

Mr. SEYMOUR. My object in making this motion was not to make the bill a special order, but to keep it before the House, and from going to the Speaker's table. I desire that the bill may be considered, if it be the pleasure of the House, at a proper time, after they have had time to examine it with the report. I indicated Thursday next as a time when I thought the House might properly consider it; but I did not suppose that the motion to postpone till that day would have the effect to make it a special order. I thought that was a usual and proper course.

Mr. JONES. I move to refer the bill to the Committee of the Whole on the state of the Union, and that the bill and report be printed.

The SPEAKER. The Chair will say to the gentleman, that the bill and report have already been ordered to be printed.

Mr. JONES. I object to its being made a special order.

Mr. SEYMOUR. That is not my wish.

Mr. JONES. That is the effect of the gentleman's motion. If you adopt it, it will be tantamount to that.

Mr. SEYMOUR. I stated to the House that I did not desire to make it a special order. My only object is to keep the bill from going to the Speaker's table, and let the House call it up whenever they wish.

The SPEAKER. The gentleman from New York moves to recommit the bill to the Committee on Commerce, and moves to postpone its further consideration until Thursday next. The gentleman from Tennessee [Mr. JONES] moves to commit the bill to the Committee of the Whole on the state of the Union. The motion to postpone to a day certain, cuts off the motion to commit, and the question therefore will be upon the motion of the gentleman from New York.

Mr. CLINGMAN. I desire to know what is the bill before the House, for the confusion has been so great in the Hall that I confess I have not been able to ascertain, and several gentlemen around me are in the same situation. I desire to understand the question before us before we are called upon to vote.

The SPEAKER. The title of the bill has been read twice.

Mr. CLINGMAN. I have no doubt of that, because the Speaker tells me so; but I have no other reason for knowing it, for we in this quarter of the House have not been able to ascertain what was going on. I ask that the bill may be again read.

The bill was again read by its title.

Mr. CLINGMAN. When was this bill introduced?

The SPEAKER. It was introduced a few minutes ago by the gentleman from New York, [Mr. SEYMOUR,] and ordered to be printed.

Mr. CLINGMAN. Well, what is the question now pending?

The SPEAKER. It is the motion of the gentleman from New York, to recommit the bill to the Committee on Commerce, and to postpone its consideration until Thursday next.

Mr. SEYMOUR. If there be any objection in the House to postpone the consideration of the bill until Thursday next, I will withdraw that portion of the motion, and let it stand simply to recommit the bill to the Committee on Commerce.

Mr. CLINGMAN. I have no objection to the motion of the gentleman to postpone the consideration of this bill till Thursday next. I am very anxious that the subject should be brought before the House, and I do not care at how early a day. I do not mean to support the bill of the gentleman, but I want the subject brought before us.

Mr. JONES, of Tennessee. Do I understand the motion to postpone to be withdrawn?

Mr. SEYMOUR. Yes, sir; I will withdraw the motion to postpone, and move simply to recommit the bill to the Committee on Commerce.

Mr. JONES, of Tennessee. I move to refer the bill to the Committee of the Whole on the state of the Union, and upon that motion I demand the previous question.

The previous question was seconded, and the main question was ordered to be put.

The question now being upon the motion to refer to the Committee of the Whole on the state of the Union, upon a division 65 rose in the affirmative.

Mr. SEYMOUR. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. HOUSTON. Before the question is put upon that motion, I desire to offer the usual resolution to close debate upon the Army bill. I move the following resolution:

Resolved, That all debate in the Committee of the Whole House on the state of the Union on the bill making appropriations for the service of the Army during the fiscal year ending the 30th of June, 1854, shall cease in one hour and a half after its consideration shall again be resumed, (if the committee shall not sooner come to a conclusion upon the same,) and the committee shall then proceed to vote on such amendments as may be pending, or offered to the same, and shall then report it to the House, with such amendments as may have been agreed to by the committee.

Mr. VENABLE. I move to amend that resolution by striking out "one hour and a half," and inserting "one hour."

Mr. HOUSTON. I now demand the previous question upon the resolution and amendment.

Mr. SABINE. I ask what has become of the motion to print the bill and report from the Committee on Commerce?

The SPEAKER. That motion was agreed to by the House.

Mr. SEYMOUR, of New York. If, at this stage of proceedings, the House proceed to other business, what will become of the bill which I just reported?

A MEMBER. It will come up in the morning hour.

Mr. JONES. I presume, as this bill was introduced by unanimous consent, this is not in the morning hour.

The SPEAKER. This being private bill day, there is no morning hour. The Chair will decide these questions of priority of business when they arise.

Mr. SEYMOUR. I submitted the motion to recommit the bill to the Committee of Commerce, and I ask if that motion will not keep the bill before the House?

The SPEAKER. The motion was also made to refer the bill to the Committee of the Whole on the state of the Union. When the bill again comes up, the question must be first taken upon that motion, and if voted down, it will then be upon the gentleman's motion.

Mr. EDGERTON. Is it in order now to move to go into a Committee of the Whole House upon the Private Calendar?

The SPEAKER. It will be in order as soon as the House shall have disposed of the resolution of the gentleman from Alabama, [Mr. HOUSTON,] upon which the previous question has been demanded.

The previous question was then seconded, and the main question ordered to be put.

Mr. FAULKNER. I ask that the Chair will state what is the resolution of the gentleman from Alabama.

The SPEAKER. The gentleman from Alabama moves to terminate debate in the Committee of the Whole on the state of the Union in one hour and a half. The amendment proposes to close it in one hour.

Mr. FAULKNER. I hope the House will vote down the amendment. The gentleman from Massachusetts [Mr. DAVIS] is entitled to half an hour to conclude his remarks, and then I hope the House will indulge me for an hour before the debate shall close.

The question was taken, and the amendment was disagreed to.

The question then recurred upon the original resolution, and being taken, it was adopted.

Mr. HOUSTON. I move to reconsider the vote by which the House adopted the resolution, and move to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

Mr. EDGERTON. I now move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House upon the Private Calendar.

The question was put, and upon a division, 73 rose in the affirmative.

Mr. WILDRICK. I demand the yeas and nays. I want to see who it is that will refuse to go to the public business of the country.

Mr. SEYMOUR, of New York. I demand tellers upon the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

Mr. SEYMOUR, of Connecticut. I demand tellers upon the question.

Tellers were ordered; and Messrs. MCNAIR and LOCKHART were appointed.

The question was then again put, and the tellers reported—ayes 68, noes 72.

So the House refused to go into a Committee of the Whole House upon the Private Calendar.

Mr. SABINE. Is it in order now to move that the bill reported by the Committee on Commerce, to regulate the rights of fishing, should be assigned to a day certain for consideration?

The SPEAKER. It is not. The pending proposition is upon the motion made by the gentleman from Alabama, that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. SACKETT. I wish to make an inquiry of the Chair before that question is put. If the House refuse to go into the Committee of the Whole, will it be in order again to make a motion to go into a Committee of the Whole House upon the Private Calendar?

The SPEAKER. The Chair will decide that question when it comes up.

Mr. SACKETT. I hope the House will refuse to go into the Committee of the Whole on the state of the Union.

The question was then taken, and it was decided in the affirmative.

ARMY APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BROWN, of Mississippi, in the chair,) and resumed the consideration of House bill No. 336, making appropriation for the support of the Army for the year ending the 30th of June, 1854.

The CHAIRMAN. The amendment pending when the bill was last under consideration was the one offered by the gentleman from Indiana [Mr. GORMAN] to change the military superintendencies of the armories of the United States to civil superintendencies, and upon that question the gentleman from Massachusetts [Mr. DAVIS] has the floor.

Mr. DAVIS. I propose to submit the following substitute for the amendment offered by the gentleman from Indiana. His amendment contemplates a change of the superintendence of the armories from a military to a civil one. I submit

the substitute because I do not consider that there is any information before the House which will warrant its action in that direction:

For the expenses of a commission to examine and report upon the management of the several United States Armories the sum of $5,000; and the Secretary of War is hereby authorized to appoint three persons, civilians, whose duty it shall be to report to the next Congress a detailed statement of the cost of manufacture of arms at said arsenals, and recommend any change in the system of management which in their judgment may be required by the public interest.

Mr. Chairman, the amendment proposed by the gentleman from Indiana contemplates a change from the military to the civil superintendency. In the remarks which I have heretofore submitted to the committee, I undertook to show, that so far as there was any evidence before the House, it went to sustain the efficiency of the military superintendency. I propose now to make some addition to the facts which I exhibited upon that occasion.

I find, on referring to the report of the Committee on Military Affairs, made on the 13th day of August, 1852, that it contains the following statement as to the mode in which the armories were managed under the civil supervision. It says:

"A reference to the consecutive annual reports made to Congress for many years, will show that during the entire period that these manufactories were under the management of persons so selected, the highest testimony is uniformly borne, by the Departments to which they were responsible, to the vigor and efficiency of the system then existing, to the general economy of their management, to the order and subordination prevalent in them, and to the gratifying and increasing improvement in the machinery used, and in the excellence of the fire arms fabricated there. Contentment and order prevailed among the operatives; permanent residences were acquired by the intelligent mechanics there employed; and active zeal was manifested for the public interests, and mechanical skill and ingenuity stimulated to its highest point, from which the Government has received inappreciable benefits. These manufactories have been, since 1815, under the supervision and control of the Ordnance Department."

That is the language in which the Committee on Military Affairs spoke of the civil superintendence, and the results achieved under it. I do not mean to attack the civil superintendence, but I propose to show that if it is entitled to these compliments, it would be difficult to measure the amount of praise to which the military superintendence is entitled.

I take facts as I find them, and I will first refer to the economical part of this subject. In the year 1822 a musket of the old pattern was produced at the Springfield Armory for $11 50, and in 1839, the last year in which muskets of the old pattern were made, it was produced at a cost of $11 79. There were some slight fluctuations of cost in the years intervening between 1822 and 1839, and in the last year there was a slight increase in the cost at which the old musket was produced.

In 1840 the new model was introduced, and the cost of the muskets that year, under civil superintendence, was $17 44. The cost rose at once, although most of the muskets manufactured that year were of the old model, some five or six dollars. For reasons, however, which it is unnecessary to go into, I do not rely on the cost for the year 1840 as a basis of comparison.

In 1841 the change of superintendence was made, and in April of that year Colonel Ripley, the present superintendent, took the charge of the Springfield Armory. He made no changes of any importance until after September, 1841, which was the close of the fiscal year. During that year, partly under his superintendence, but actually under the rules and labor tariff of the civil system, the cost of the musket was $16 53. I then assume, and I believe it cannot be contradicted, that when the military superintendent came there, the settled cost of the musket, under the civil superintendence, from which superintendence the committee say the Government received inappreciable benefits, was $16 53. More than ten years have since elapsed. Now, during the seventeen years which preceded that time, with all the improvements in machinery claimed by the committee, and all the energy which it is said that the civil superintendency exhibited, the cost of the musket of the old model not only did not diminish, but slightly increased. During the last year of the practical operation of the civil system, after the machinery had been completed and the new labor tariff established for the new musket, the cost of manufacturing the musket was $16 53. I now take the subsequent ten years, in which the military superintendence has been in operation, and I find that the cost of manufacturing muskets has been reduced from $16 53 down to $8 75—a diminution of just about one half.

The following statement, taken from official returns, illustrates what I have said;

Statement of the annual cost of the musket, at the Springfield Armory, from 1822 to 1851, inclusive, taken from the official returns.

In 1822	$11 50	In 1837	$11 69
1823	11 45	1838	11 84
1824	11 27	1839	11 79
1825	10 50	1840	17 44
1826	10 47	1841	16 53
1827	10 49	1842	13 58
1828	10 50	1843	13 26
1829	10 02	1844	11 76
1830	10 80	1845	11 02
1831	11 44	1846	10 74
1832	11 66	1847	10 56
1833	12 39	1848	10 60
1834	11 05	1849	9 88
1835	10 93	1850	9 03
1836	11 07	1851	8 75

I say, then, that if the civil superintendency which, in the seventeen years, made no change in the cost of manufacturing muskets, or if any change, a change in the wrong direction, is entitled to the credit which the Military Committee awards to it, how much more is the military superintendency entitled to credit for having diminished the cost one half.

Mr. McNAIR. Did it not cost a great deal to make the tools with which to manufacture the new muskets, and did not that greatly increase the cost of their production under the last years of the civil superintendency?

Mr. DAVIS. I have no doubt that that is true for the year 1840; but I take the general fact, that from 1822 down to 1839, the old muskets, which really were worth five dollars less than the new, cost from $11 50 to $11 79; and the gentleman should remember, that in 1841, after the new tools and machinery had been constructed, the cost of the new muskets was $16 53, and that fact cannot be gainsayed. But in eleven years, the cost was brought down to $8 75. Now, how was that done? If it had been done by reducing the wages of the workmen below a living price, it might have been said that it was such a saving as was unworthy of this Government to make. But it was not so. They were required to work only ten hours a day, while workmen in other establishments were required to work twelve hours a day; and it is a fact that the average sum earned by the Springfield workmen has been a little more, for the last ten years, than the average under the old system; for they earned on the average, $37 87 per month on the old system, and have earned an average of $38 84 per month on the new system. So that in the most essential particular, of compensation, the workmen are as well off as they were before, while the Government has made these enormous savings.

I call the attention of the gentleman from Pennsylvania, [Mr. McNAIR,] who talks about the expense of the manufacture of new tools, to the fact, that the difference of the cost of labor bestowed upon a musket, under the civil superintendence, as compared with the present cost, is $3 83 on each musket.

That result has been obtained mainly in two modes—one is by improvements in machinery, and the other by savings in labor, by requiring that the workmen should labor during the ten hours per day for which they are paid. There were, at the time the military superintendent came there, workmen who, by working ten hours a day, at the prices then paid, might have earned $7 99 per day, and those very workmen, by laboring ten hours under the present tariff of prices, can earn $3 83 per day.

The fact is, that under the old system, many of the workmen labored but from three to six and seven hours a day, and in many instances it would appear that they did not work the full extent of time, because they could earn a good day's wages without doing so. Now, these things needed reform. I care not what general praises are bestowed upon the civil system; I take the simple facts, that for seventeen years before the military superintendency went into operation, there had been no reduction in the cost of manufacturing muskets, and that two years before that time, the cost all at once ran up five or six dollars; that when the military system came in, they cost $16 53, and in ten or eleven years, that cost was reduced about one half, as evidence enough of the efficiency of the economy with which that establishment has been managed.

Mr. McNAIR. A gentleman from my district has informed me that it costs $1,500 to make the tools before they could make a single musket.

Mr. DAVIS. I do not know how that is, but the gentleman will see, upon examination and calculation, that if he will leave out of view the year 1840, when the cost of manufacturing a musket was $17 44, and when these tools were made, and come to the year 1841, after the tools were made and in full operation, the cost of a musket to the Government was still $16 53.

Mr. McNAIR. I have been trying to get $14 75 a musket for a friend of mine in Montgomery county, and I cannot obtain it.

Mr. DAVIS. That is to say you have been trying to get the Government to pay $14 75 for muskets, and six dollars more than they cost at Springfield. Why should the Government pay that, when it can make them for $8 75? I presume the gentleman's friend would be glad to have the system changed.

Mr. McNAIR. They were not made for that sum for several years.

Mr. DAVIS. It formerly cost sixteen or seventeen dollars, up to the time the change was made; and this superintendent has succeeded in reducing the expense to $8 75.

I will now refer to the testimony of Mr. Pomroy, a highly-respectable gentleman, an inhabitant of Pittsfield, who used to manufacture arms for the Government on contract. In 1844 he testified as follows:

"I have examined muskets this morning, and I can say that there is a general improvement in them from 1840 to 1844. I think there has been a decided improvement in model, and material, and workmanship. The improvements have progressed more rapidly from year to year since Major Ripley has been there than before. The work has been better done since Major Ripley has been here than before he came."

In answer to a question as to the effect of Major Ripley's administration upon his armory, he says:

"It has destroyed the whole capital for me. I own an armory which cost me $30,000, and it is not now worth, for making arms, anything to me, which would not have been the case, I think, if a civil superintendent had been here."

He also says:

"My workmen for twenty years past have complained that at the United States armory they got much better wages for less work than they did at my armory."

There were one hundred and forty-eight thousand seven hundred and ninety-three muskets made within the last twelve years. At the stated price of 1840, which was the last year of the unmixed civil superintendency, that quantity of muskets would have cost $2,594,000. It has actually cost $1,660,000, making a difference of $934,000. If you adopt the price of 1841 as a basis, which is undoubtedly fairer, the difference is still nearly a million of dollars saved to the Government.

I have heard a great deal about economy in this House. I hear it every day, and it does me good to hear such good talking on the subject as we sometimes get here. But Colonel Ripley has carried out what our speech-makers theorize about. He has saved on a grand scale enough to pay five times over for all the time we have wasted here. Nor do I admit that he can be justly charged with extravagance for expenditures upon buildings. The new buildings which have been erected there are doubtless noble pieces of architecture: plain, massive, firm as the hills, of the very best material, calculated to last for centuries, and to illustrate the completeness and thoroughness of those who planned and built them. But not one of those buildings was erected without the order of his official superiors of the Democratic party, and not a dollar has been expended but can be satisfactorily accounted for.

It may be said that the economic changes made by Colonel Ripley would have taken place at any rate; that in any event, and under any system, the cost of the musket would inevitably have been reduced by reason of improved machinery and reduced cost of materials. The answer to that suggestion is, that in it, during the seventeen last years of the civil superintendency, no such reductions occurred in price, and that the price of arms gradually increased. It was perfectly obvious, then, that reform was needed; for the Government, the best paymaster in the country, had to pay more for arms than private individuals.

Mr. CARTTER. I wish to submit a question

to the honorable gentleman from Massachusetts. It is: Whether the argument of economy, so far as the Springfield armory is concerned, holds good with reference to the one at Harper's Ferry? I desire to ascertain whether there is an uniformity of improvement.

Mr. DAVIS. I am not able to answer the gentleman's inquiry as fully as I would wish. The subject of the economy of the Harper's Ferry armory will fall under the consideration of my friend from Virginia, [Mr. FAULKNER,] who is to reply to me. I cannot see any reason why arms should not be manufactured as cheap at Harper's Ferry as at Springfield. Though coal and iron is not as cheap at the latter as at the former place, there is a difference in favor of the Springfield armory in the cost of the manufacture of arms. At Springfield, for the last two years, the average cost of the musket has been $8 75, whilst at Harper's Ferry it has been $9 60. The difference is less than what I at first supposed; but there still is a difference. I am led to believe, however, that there is a very essential reduction in the cost since the abolition of the civil superintendency.

I take with regard to the system the same view that I think any business man would take. I judge of the skill with which a farm has been cultivated by the amount of the crop, as compared with the nature of the soil. I judge of the skill with which a manufacturing establishment is conducted, by the results produced. If the amendment of the gentleman from Indiana shall be adopted, and the office of a superintendent shall again become what he nicknames a civil, but what in fact will be a political appointment, all the sluggishness and all the waste which formerly existed, will exist again. Against Mr. Robb, the former civil superintendent, I would say nothing harsh. He, I believe, had at one time been in the Army as a non-commissioned officer. He afterwards became a clergyman, and whilst a clergyman he was appointed to the superintendency. So that it would appear that the existence of a civil superintendency did by no means in fact insure the appointment of the person best qualified, by training and experience, to superintend a mechanical business.

I am willing to take it for granted that Mr. Robb was quite as well fitted for the office as any person likely to be selected under the civil system, and by an appointing power swayed by political considerations. Believing that the civil system has been fairly tried, and has done its best, I would ask the economists of the committee, whether it is right at this time to change back to it again, when it is susceptible by demonstration that not far from one million of dollars has been saved at the single armory of Springfield, by the energy and efficiency of the new system of superintendency? My sympathies are for the civil rather than the military system. But if the one system has proved wasteful, and the other has proved economical, can there be a doubt which of these it is our duty to abide by, unless it is proved that in the one there is an inherent and inevitable tendency to oppression which is not found in the other? And on this point I am much influenced by the consideration already adverted to, that the wages now earned are as great as ever; that the time of labor is two hours less than in private establishments; that there is nothing military in the system except the control of a military man; and that the rules as to reading, tobacco-spitting, &c., are not a whit more stringent than those of all the principal manufacturing establishments of the eastern States, nor materially different in terms, as I understand, from what they were under the civil system, although more rigidly enforced.

I am far from claiming that there is an exclusive fitness of military men for the superintendence of these establishments. I am of opinion, however, that there is much in their education and in their habits which would fit them for such a superintendency. Their education gives them, or should give them, a knowledge of the modes of preparing the materials of war. Then the military education, all over the world, promotes habits of neatness, of order, of method, so essential where economical results are to be produced by the coöperating labor of large bodies of men. I find that men of business, at the North and the South, have acted often on the idea that we are now called upon to repudiate. A large proportion of the early railroads in New England were constructed under the direction of military men. The Providence railroad was constructed under the direction of General McNeil. The Worcester railroad was constructed under the supervision of Colonel Fessenden, the Connecticut river railroad under that of Captain Childe, and the Western railroad under the charge of Major Whistler. The president of the latter road, which is the largest railroad corporation in New England, is Captain Swift, also a graduate at West Point.

I understand from the member from the Suffolk district, [Mr. APPLETON,] now near me, that Major Whistler was, for a number of years, in charge of the machine shop at Lowell, and that he was as efficient and as popular a superintendent as that establishment ever had; and that at this moment a former lieutenant in the Navy has the charge of one of the principal manufacturing establishments of Massachusetts. I find, then, that business men, looking at this thing as a business matter, although they by no means go upon the ground of the exclusive fitness of military men, yet have found in them a fitness, a marked fitness, for such posts. I am not aware that the employees of these corporations have ever objected to the appointment of military superintendents. On the contrary, I think that these military superintendents are, as a general rule, as popular with the persons employed as the civil superintendents have been; and yet it would be as correct to say that the military discipline has been introduced into all the establishments I have named as into the Springfield armory.

The proposition of the gentleman from Indiana implies the creation of two new offices and two new salaries; for the present superintendents, as officers of the Army, must at any rate continue to be paid from the public treasury, and the duties which they now perform at the armories are merely devolved upon them in addition to their other military duties. I will not discuss at length the considerations of economy which should forbid this unnecessary addition to the civil list of the country; for there is another objection which lies deeper down, and has far more weight in my mind. It is, that the proposition of the gentleman from Indiana is to create two new *political* offices; and by that very act to make six hundred places of workmen at these two armories *political* places also. At this moment, in the Springfield armory, out of three hundred persons employed, less than fifty hold the opinions of the party to which I belong. Under a Whig national Administration, that armory has remained untouched by party proscription. I do not wish to see that state of things changed. We have enough of proscription for opinion's sake now. It is the cancerous sore of the body-politic.

Under the operation of the amendment of the gentleman from Indiana, the office of superintendent will become again political, and the three hundred Springfield workmen will also be added to the melancholy crowd whose subsistence depends upon the fluctuations of politics. The day will come when they will find the little finger of a party hack superintendent heavier upon them than the loins of any army martinet. Will any man deny this? Will any man say that the reasons which all over the Union dictate the appointment and removal of postmasters, sheriffs, registers of probate, constables, &c., may not be made to apply with equal force to the laborer who earns the Government money with the sweat of his brow? I protest in advance against this result. In 1840, if this office had then been political, the Whigs, if they had followed the example previously set by the Democrats, would have made a clean sweep of all Democratic workmen. In 1844, the Whigs thus appointed would again have had the poisoned chalice returned to their own lips. In 1848, the same see-saw game of mutual injury, breeding mutual hatred, would again have been played; and we are now called upon, in 1853, to extend, in a new direction, a system so revolting in itself, and so injurious to the country. Mr. Chairman, has this system of making non-political offices the reward of political adventurers been so productive of good that we had better extend it?

I may perhaps be told that my apprehensions are unfounded, and that political proscription will never be extended to the operatives of the armories. Who can tell that? Why not remove an operative who has wrong opinions on the subject of the tariff as readily as a sorter of letters who disbelieves in the resolutions of '98? Who, after what we have seen on all sides, shall set limits to party cupidity or to political rancor? It will not be the man who makes the best guns, but the man who makes the best stump-speeches, who is the best party man, that will stand the best chance, whether as superintendent or as workman. This sort of thing has already gone far enough. The country has not suffered so much from the partisan character of post office appointments, because in truth one person can easily become about as skillful as another in the sorting and distribution of letters; but when it comes to the construction of materials of national defense, requiring the utmost skill and the greatest fidelity, I am inclined to abide by that system which will produce the best guns for the lowest price, and which, at the same time, shall make the condition of the persons employed most comfortable and most certain. The amendment which I have offered, if adopted, will enable Congress at least to do what they cannot do now, to judge the facts of the matter on full and impartial information, without being driven to rely on *ex parte* and informal statements. Without such full information, I think Congress ought not to come to any final action on the subject, and after such information shall have been obtained, the action of Congress, whatever it may be, will at least be exempt from the charge of being immature, passionate and ill-considered.

Mr. FAULKNER. I avail myself of the earliest opportunity of returning my thanks to the House for the vote taken this morning, by which I have been allowed to be heard on the question under consideration. I have desired to present my views on this amendment, because, in my judgment, it will, if adopted, promote the just wishes of a portion of my constituents, and will, as I shall endeavor to show, advance the true interests of this Government. A distinguished member of this body remarked in this Hall, a few days ago, that he did not believe that Henry Clay himself, in the palmiest days of his eloquence, could, at this period of the session, arrest the attention of the committee on the armory bill. Sir, I have no claims upon the attention of this body, beyond the official facts which I shall lay before it, and if the remark of my friend from Mississippi [Mr. BROWN] be founded in a correct estimate of the members here present, the prospect of reaching what I consider a sound conclusion on this controverted question of national policy is certainly a very gloomy one. What do we see around us? The agitation of this question before Congress has brought the whole Ordnance Corps, and its friends, into the field. The respectable head of that bureau has addressed us through the public press in denunciation of the former and in vindication of the existing system. The superintendent of the armory at Springfield has abandoned his post there, and is kindly aiding us in our legislative functions here. Other ordnance officers have been visiting the members at their chambers, instilling into their ears their *ex parte* views of this question, and if I, a representative of the people, in the only forum which the Constitution has provided for the discussion of such subjects, cannot receive a fair and patient hearing to controvert the statements which have been made, then I say that, so far as this question is concerned, legislation is a farce, and Congress has ceased to be that tribunal which the Constitution designed it.

Sir, I believe I am justified in saying, that the entire population of that portion of my district where the national armory is situated, is against the continuance of the present military system. I speak not merely of the mechanics in the employment of the Government, but of all who profess to take any interest in, or to comprehend the subject. If there be any dissenting voices, they have not reached my ears.

The gentleman from Massachusetts [Mr. DAVIS] represents the only other national armory in the country, and notwithstanding the numerously-signed petitions which have been forwarded from that place, remonstrating against the existing policy, he tells us that the better class of the population in Springfield, meaning, I suppose, the merchants, lawyers, hotel-keepers, editors, and gentlemen at large, are opposed to any change. Sir, such was not the voice of Springfield once. The day was, when, in her town hall, in a full meeting of her people, after discussion by leading men of the town, she unanimously announced that "the system of military superintendence was pre-

'judicial to the interests of the Government, unjust 'and cruel to the armorers, degrading to freemen, 'and unsuited to the character of New England 'mechanics." Whence this change in the spirit of her dream? Her citizens then understood the question. It was a question involving principle. Why this change, if, according to the statement of the gentleman from Massachusetts, change there be? Is it one of those miraculous conversions which the potent influence of money so frequently achieves in this world? Is it to be ascribed to those special appropriations, amounting to near a million of dollars, which have been expended there in the ten years of the military system? Is it to those costly buildings erected by the Government, which embellish and adorn that prosperous New England village? Has experience shown that the Government mechanic may be degraded, and yet that Springfield may nevertheless advance in prosperity and beauty? We also have had our special appropriations at Harper's Ferry, not so large, it is true, as those at Springfield, but still very large; we have had magnificent buildings erected there; in addition to all that, we have a superintendent and a paymaster whom everybody loves, and yet my constituents are not reconciled to the military rule. They have struggled against it for ten years, and they mean to struggle against it until it is abolished. The expenditure of money cannot purchase their support of a policy in conflict with their republican tastes and opinions.

Whilst the gentleman from Massachusetts [Mr. DAVIS] very kindly disclaimed anticipating my course of argument, he nevertheless suggested that I might devote some portion of my remarks to those personal controversies which have grown up between the superintendent at Springfield and the armorers and others at that place. I beg to assure him that I have no such purpose. If Colonel Ripley has been guilty of any acts of maladministration in office, of which I have formed no opinion and shall pronounce no judgment, that is an Executive inquiry, with which I have nothing to do. I propose to examine the system, not to assail individuals. I am the organ of the private feelings of no man or set of men. I represent no private interests on this question. I shall discuss it as a question of national economy and of national justice. I shall limit myself in its consideration to such topics only as in my judgment are worthy of the attention of an American Congress.

Like the gentleman from Connecticut, [Mr. INGERSOLL,] I have in my possession a large mass of affidavits, which have been forwarded to me, the perusal of which is well calculated to excite my deepest sympathy and indignation. But I can never permit my own opinions to be formed on such *ex parte* statements, still less use them on this floor in the discussion of a public question. I never resort to facts about which there may be doubt or controversy. In all that I shall say on this question, I will, so far as the nature of the case will admit, fortify myself by reference to the official reports of the War Department.

Much has been said in this debate to which I could wish to reply, if the limited time allowed me did not admonish me of the necessity of confining my remarks exclusively to what is pertinent to the question now before us. I cannot, however, pass on without tendering my warmest thanks to the distinguished gentleman from Indiana [Mr. GORMAN] for the amendment which he has offered, and for the liberal, manly, and able argument which he has presented to the House in support of that amendment. I do this the more cheerfully, as he is removed from every local or personal influence which could be supposed to bias his judgment. The eager and expectant mechanics at your national armories, who are looking with such painful interest to the result of your action, will thank that gentleman for his generous sympathy and support. The mechanics of the whole Union will thank him for the noble vindication which he has made of the just prerogatives and dignity of that respectable class of our fellow-citizens.

Sir, a gentleman in the course of the debate, a few days ago, ascribed the present agitation of the armory question to that progressive spirit of radicalism, which, like a tornado, is sweeping through the country, prostrating all the established institutions of the land under the tread of popular power.

Mr. WILCOX. Does the gentleman allude to me?

Mr. FAULKNER. I do.

Mr. WILCOX. Will the gentleman give me five minutes for explanation?

Mr. FAULKNER. My friend will pardon me. I cannot spare the time. I have much to say and but a limited period within which to speak. I do not know to what class of conservatives the gentleman from Mississippi belongs; but when that gentleman is informed that the system which we propose to restore is that which was originally established by the fathers of this Republic—that it had its commencement under the administration of George Washington, and was continued through the administrations of Jefferson, Madison, Monroe, and Jackson, without complaint from any quarter—he will perceive how wholly inappropriate to this amendment is the imputation of progressive radicalism.

The gentleman from Mississippi [Mr. WILCOX] also traced the source of the present movement to an unjustifiable hatred of military men, whilst the gentleman from North Carolina [Mr. STANLY] ascribed it to an inordinate love for civil office. There is not, I think, any foundation for either of these opinions. Whether the gentleman from North Carolina has based his conjecture upon any special information which he possesses of applications for this appointment, or has merely uttered the remark as a general sarcasm against an infirmity very common throughout the country, and from which my district may not be more exempt than any other, I do not know. All that I can say is, that I am not aware that any such motive operates either at Harper's Ferry or Springfield in producing hostility to the present system.

Sir, gentlemen may tax their inventions for the probable sources of the present agitation of this question, but they will never discover its true cause until they have studied more deeply than they seem to have done, the character of the American people; and when they have done this, they will find that this unflagging, sometimes slumbering, but never-dying hostility to the military rule springs from the genius of our institutions, and from the republican sentiments of our people. It is to be ascribed to that innate abhorrence which every citizen feels at the gratuitous and unnecessary introduction of military rule into the heart of a civil community; to that natural distrust and jealousy of military power which marks the character of every free people, except when invoked for national defense, or in the prosecution of a foreign war. It is to be found in the absurd inappropriateness of placing an officer of the Army to regulate the daily work of a corps of mechanics; in that fretful and feverish feeling which every worthy and respectable mechanic experiences at being subjected in his daily conduct to the petty restraints and annoyances of military discipline, without any adequate object or corresponding benefit to the country. Satisfy an American citizen that submission to restraint is the duty of patriotism, and no one will be found more obedient than he to its most rigid requirements. Let him believe that it is capriciously and unnecessarily imposed, and he instantly becomes a rebel to such high-handed authority. This agitation is futher to be traced to that sympathy which such a state of things will excite in every community amongst those who are spectators of such needless wrong and injustice.

Sir, that sympathy is seen in the petitions which now crowd your tables. Think you they came from the mechanics who are in the employment of the Government? No, sir. The mechanics dare not petition an American Congress for relief. Whether the power of dismission would be exercised for such cause by any of the officers now in command, I cannot say; but such insubordination, under the existing regulations, would be cause for dismission from the armory. Their smothered feelings can alone find expression through the sympathy of friends, and through the voice of their representative upon this floor.

The gentleman from Maryland [Mr. EVANS] besought and implored the House not to sanction the amendment of my friend from Indiana, in a tone and fervency of language well calculated to lead those not acquainted with the subject, to the conclusion that we were rushing upon some novel and reckless experiment heretofore unknown to the practice of this Government. Why, sir, is that gentleman uninformed of the fact, that the system of civil superintendency which we propose now to restore, was in operation in this country from 1793 up to the 1st of April, 1841, when it was, as I conceive, without due authority of law, changed by the then Secretary of War? During the period of near half a century of its existence, what were its practical results? I undertake to affirm, from the best information which I have been enabled to obtain, that the armories were never in a more prosperous condition than during the latter period of their civil administration. That there have been periods when the same lethargy characterized *their* operations which was apparent in all the other subordinate departments of the Government, I have no doubt. I allude to that unwholesome languor which marked the general condition of the Government after Mr. Monroe came into power, when not a ripple disturbed the tranquilized surface of politics, and when the vigilant eye of party was withdrawn from the abuses and errors of public officers. That the national armories then may have participated in the general debility of the body-politic, is very probable. But take the ten years preceding the period when the civil superintendence was supplanted, and I affirm that it will compare advantageously in every respect, with the ten years' experiment which we have had of the present system. Happiness and contentment marked the condition of the mechanics; economy, good order, and the highest attainments of skill distinguished the general operations of those public establishments. Mechanical genius was stimulated by the liberal and manly policy of the Government. It was during the civil administration of these establishments that the inventive talents of Greer, Hall, and Moor were displayed in cheapening and perfecting your small arms, from which the Government has derived such great and important benefits. It was then that the musket and rifle attained its most perfect model. If a solitary ray of inventive genius has been elicited under the crushing and deadening influence of the military rule—if one single improvement has been suggested by any artisan or superintendent under the present system—I have not heard of it. Money has been largely expended, it is true, of late years, and the exterior appearance of the national armories greatly improved. Handsome officers' quarters and capacious workshops will now strike the eye, but the spirit which once gave life and elevation to the moral beings who occupy those large establishments is to a great extent gone. It might, without much exaggeration, be said of them what the poet has said of Italy—

> "In florid beauty palaces appear,
> Man is the only growth that dwindles here."

When the Ordnance Bureau was established, in the year 1815, the national armories were placed under the control and supervision of that Department, but the civil administration of them continued as before. Now, sir, I challenge the production of one single paragraph in all the reports of the Ordnance Department, from the time they were placed under its control up to the period when the civil administration was abolished, exhibiting the slightest ground of dissatisfaction with that system of administrative policy. On the contrary, I will show, by the reports of that Bureau, that up to the period of the change, in 1841, the highest evidence was uniformly borne to the successful operation of the policy for which I contend.

In his report of the 29th of November, 1839, the Chief of that Bureau says:

"The superiority of the small arms recently fabricated over those formerly made, evinces the utility of public establishments for improving this branch of the service."

Again, in his report of the 30th of November, 1840, he says:

"The manufacture of muskets, according to the new model, has been successfully established at both of the national armories. The substitution of percussion instead of flint locks, which is becoming general in Europe, will render the arms as *nearly perfect* as can be attained, and judging from the specimen of foreign arms of the most *approved patterns*, recently imported, *decidedly superior to any arms of foreign manufacture.*"

Here, then, sir, within a few short months before violent hands were laid upon this system, we have the official declaration of the Ordnance Department that the arms were nearly as perfect as art and science could make them, and decidedly superior to the most approved patterns of foreign manufacture. So much for this now-decried system of civil administration.

Why was it changed? What public necessity,

what public good required it? Sir, I can see none. I can attribute it alone to the grasping and encroaching spirit of this military bureau, which has caused it, with an eye that has never winked, and a tongue that has never tired, to amplify its jurisdiction, and to extend its ramifications over the whole country, even into the heart of our peaceful and quiet villages. Why, sir, when this change was proposed ten years ago, upon the pretext of giving employment to the officers of the Ordnance Corps, their whole number consisted but of twenty-eight persons. Now, according to the Army Register just received, they have multiplied to fifty-five.

Mr. DAVIS. I will ask the gentleman from Virginia whether the statement is correct, which I find in a pamphlet here, that the workmen, during the superintendency of Mr. Ames, were enlisted as common soldiers, and until the close of Colonel Prescott's term, drew their rations like common soldiers?

Mr. FAULKNER. I believe there was a period in the history of the armories when the mechanics were enlisted as soldiers. How long such a barbarous system prevailed I cannot say. It has been many years since it disgraced our public establishments.

When, and under what circumstances was this change effected in the government of our national armories? In 1840, the Secretary of War dispatched a commission of ordnance officers to examine the most important arsenals, cannon founderies and manufactories of small arms in Europe. They spent a few months in traveling over the Continent, and made a report of their observations to the War Department. Amongst their explorations, they found in the military and despotic monarchy of Prussia one or more establishments for the manufacture of arms under the control and management of officers of the army. From the return of this commission from Europe, the idea seems to have taken possession of the Ordnance Department to follow out this Prussian precedent, and to place our national armories under similar regulations. If they made any effort to induce the Secretary of War, (Mr. Poinsett,) he who had sent the commission to Europe, to adopt their views, it was wholly unsuccessful. On the 4th of March, 1841, a Whig administration came into power, and in less than four weeks from that day the civil superintendents were dismissed from office, and ordnance officers substituted in their places.

At the following session (1841-'42) the subject attracted the consideration of Congress, and in a bill reported by the Committee on Military Affairs of the Senate for the general reorganization of the Army, a section was inserted to legalize the act of the Secretary of War, and to authorize the appointment of officers of the Ordnance Corps to take charge of those establishments. After debate in the Senate, (as in Committee of the Whole,) this section was struck from the bill by the decisive vote of twenty-three to fourteen. Upon a subsequent day it was reinstated, the head of the Ordnance Bureau, Colonel Talcott, having on the morning of the day when it was to be finally acted upon by the Senate, placed on the desk of each Senator a manuscript statement of the reasons which impelled that department to take so active and zealous a part in urging the change of system upon Congress. That statement from the Ordnance Bureau had its effect. It changed the opinion of several Senators, enough to cause the section before referred to, to be reinstated in the bill. That statement is now before me, and I am prepared to assert that it contains gross errors, which, if exposed at the time, as they might have been, would have saved this country from the agitation of this subject for the last ten years. My object is not to review that paper of Colonel Talcott. It has performed the function for which it was designed; nor would I refer further to it here, but that I learn some high officers of this Government have, with a view to influence the present action of Congress, been retailing one or two of its misstatements. In that paper he says: "The armorers 'can control a civil superintendent, and have often 'done it; they have occasionally ousted one, and 'they have *shot* one."

Now, sir, I pronounce this paragraph a slander upon the civil superintendents and upon the armorers. I defy the production of a single instance in which any improper control was exercised by the workmen over the civil superintendents. I defy the citation of a case where they ever ousted or sought to oust a superintendent, and the charge that they shot one is wholly and absolutely untrue. The unfortunate deed referred to occurred in my district. Dunn, a most accomplished gentleman and officer, was shot by a youth of the name of Cox, who was certainly not at the time, if he ever had been, in the employment of the Government. He was believed to be under the influence of liquor when he perpetrated the deed, and many thought his conduct gave evidence of partial insanity. But be that as it may, he expiated his crime upon the gallows, and from that day until my eye rested upon this statement of Colonel Talcott, I never heard the intimation expressed that any armorer or mechanic in the employment of the Government had any agency whatever in it. If it be intended as an imputation upon the body of mechanics then at Harper's Ferry, and many of whom still reside there, I pronounce it grossly and cruelly false.

But to proceed with the legislative history of this measure. The bill for the reorganization of the Army having passed the Senate, was sent to the House of Representatives, and this House, by the decisive vote of 103 to 77, struck out the section abolishing the civil superintendencies and authorizing the appointment of ordnance officers to take charge of the national armories. A Committee of Conference was the result between the two Houses. That committee recommended that the section authorizing the appointment of military superintendents should be retained. This House disagreed to the report. Another committee was appointed, and they, concurring in the same recommendation, this House, to save a more important measure of national policy, was compelled to surrender its convictions on the particular provision now under consideration. And I think I shall be justified in asserting, that there never has been, and never will be, a moment when this House could give a free and untrammeled judgment upon the system of military superintendence in our national workshops, that it at least, whatever another branch of the Government may do, would not be prompt to express its hostility to such a system.

We have now seen how this system has been forced upon us. Let us next examine what its results have been.

Mr. Chairman, this system was introduced upon the pretext of economy, and economy has been the cry of the gentleman from Massachusetts, [Mr. DAVIS,] throughout his whole speech. It was said: We have an Ordnance Corps who have not sufficient employment; they can take charge of these national armories, and thus we can get rid of two otherwise useless officers.

Let me now call the attention of the committee to a few statistics, drawn from the official records of this body, and then let it be seen what economy has been achieved for this nation by the substitution of the military for the civil system. These statistics have been most carefully examined, and I am satisfied that there is not one material error in them. I find that in ten years under the military system, the gross expenditures were $4,060,657 45, while in ten years under the civil system, the gross expenditures were $3,760,397 98; showing an excess in the expenditures under the military system over those under the civil system of $300,259 47.

Mr. MASON. I would inquire of the gentleman if those ten years under the military system, were not during a period of war?

Mr. FAULKNER. The periods embraced in my calculation to throw light upon the two systems, are the last ten years of the civil, and the ten years which have expired of the military system.

Mr. MASON. At what date were they?

Mr. FAULKNER. From 1830 to 1840 under the civil, and from 1841 to 1851 inclusive, under the military administration.

Mr. MASON. Exactly. Then the Mexican war took place during the ten years you have taken under the military system.

Mr. FAULKNER. True. But I cannot perceive what possible influence that fact is to exert on the comparative results of the two systems.

Mr. MASON. Why, of course more arms are required during a period of war than during a period of peace.

Mr. FAULKNER. More arms may be required for use in a period of war than in a period of peace. But it does not follow that more are manufactured in war. The very reverse will appear upon an examination of the statistics of the armories. We had a large stock on hand in 1846, as we have now.

But to proceed with my exhibit of the expenditures under the two systems. I find that the *special* appropriations, which embraces the appropriations for all other objects, except the manufacture of arms, made during the ten years of the military *regime*, amount to $970,301, and during ten years of the civil, to $413,308 73, showing an excess of special appropriations during the military rule of $556,992 27.

Mr. DAVIS. Has the gentleman satisfied himself that this excess was not for the construction of machinery, and not for the manufacture of arms?

Mr. FAULKNER. I am satisfied it was in part for new machinery. I classed them as *special* appropriations, which implies that they are not appropriations for the manufacture of arms. My purpose is to deal fairly with the subject, and I beg my friend from Massachusetts to hear me coolly, and he will find I will omit no fair view of the subject.

Let us now see what were the appropriations during those respective periods for repairs, improvments, and new machinery. During the ten years of the military, they amounted to $464,550; during the ten years of the civil, to $173,999 73; showing an excess of appropriations during the military, under this head, of $290,550 27.

Mr. STANLY. Will the gentleman from Virginia inform me from what document he is quoting those facts?

Mr. FAULKNER. From the reports of the Ordnance Department.

Mr. STANLY. For what year?

Mr. FAULKNER. For the several years embraced in my calculations.

Mr. STANLY. Can you furnish them for each year?

Mr. FAULKNER. I can. I have the tables now before me, carefully prepared under my instruction, by one of the most competent and intelligent clerks of the Capitol, exhibiting in separate columns the appropriations, expenditures, and products of the two armories for each and every year since 1830. The limited time allowed me to speak, enables me to present general results only. I have not time to go into many details that I would gladly lay before the committee. I am satisfied of the accuracy of these statistics. They are open to the examination of any gentleman who wishes to look at them. I will annex them to my remarks in the form of an appendix. [See tables A and B next page.]

I have now shown the general expenditures of the national armories under the two systems of administration, and have shown how much greater the expenditures have been under the military than under the civil, in a like number of years. And yet I am not here to contend that every expenditure of money is necessarily waste and extravagance, for it often happens that a judicious expenditure is the wisest economy. Then let us look at the product of arms fabricated under the two systems, and comparing the expenditures with the products, inquire what the Government has gained by this excess of expenditure during the military system. I find that the number of arms fabricated during the ten years of the civil system amounted to 235,410, and during the ten years of the military system to 232,710, including musketoons, showing, notwithstanding the excess of expenditure during the military, an excess of product under the civil system of 2,700 guns.

Mr. DAVIS. In the statement which the gentleman made the other day, I understood him to say that the number of muskets fabricated during the last ten years was 137,794, and that the number fabricated during the period of the civil superintendence was 127,876. But now, he states that the number manufactured during the last period of ten years, were 232,710, while the number manufactured during the ten years under the civil system, was 235,410. Now, I ask him to state his last calculation, and tell me what is the reason why it differs from the former one?

Mr. FAULKNER. There is no discrepancy

in the two statements referred to by the gentleman from Massachusetts. The error is entirely in himself, in confounding the products of one of the armories, with the aggregated products of both. I am not examining this system in any partial or sectional spirit, to exhibit what was done at Springfield, and what was done at Harper's Ferry.

A.—HARPER'S FERRY ARMORY.

Year.	Amount appropriated. Man. of arms.	Special.	Amount expended.	Arms man'd. Msk'ts.	Rifl's
1831	$180,000 00	-	$187,511 13	11,160	-
1832	180,000 00	-	223,298 99	12,000	-
1833	180,000 00	$50,295 00	209,000 39	12,000	-
1834	180,000 00	46,704 73	220,410 48	12,000	-
1835	165,000 00	-	169,689 64	10,000	1,714
1836	165,000 00	77,897 00	192,762 46	9,150	1,800
1837	180,000 00	62,312 00	190,698 98	8,200	-
1838	180,000 00	-	240,483 89	12,000	2,934
1839	180,000 00	-	182,387 51	5,850	-
1840	180,000 00	50,000 00	174,453 56	8,304	422
	$1,770,000 00	$287,208 73	$1,990,697 03	100,664	6,870

Average cost from the year 1831 to 1840, both inclusive, on 107,535 arms, is.....$18 51

HARPER'S FERRY ARMORY.

Year.	Amount appropriated. Man. of arms.	Special.	Amount expended.	Arms man'd. M'kts.	Rifles.
1842	$175,000 00	$30,000 00	$159,825 15	6,575	1,301
1843	150,000 00	30,500 00	118,694 70	3,105	-
1844	100,000 00	12,000 00	129,693 29	600	2,709
1845	180,000 00	18,000 00	168,451 54	2,225	-
1846	150,000 00	128,360 00	235,613 61	12,203	700
1847	180,000 00	17,770 00	282,824 61	12,000	3,054
1848	180,000 00	53,091 00	258,534 18	11,000	2,802
1849	180,000 00	62,820 00	237,227 56	8,300	1,925
1850	180,000 00	50,560 00	219,414 25	9,600	2,676
1851	180,000 00	23,160 00	252,088 69	11,100	3,050
	$1,655,000 00	$426,201 00	$2,042,367 58	76,708	18,208
Deduct amount paid from ordnance appropriation.....			14,048 00		
			$2,028,319 58		

Average cost from the year 1842 to 1851, both inclusive, on 94,916 arms, is.....$21 34
Cost prior to 1842..... 18 51

Excess of military over civil on each arm..... $2 83
Difference on the average cost of $2 83 on 94,916 arms, amounts to.....$268,612 28

B.—SPRINGFIELD ARMORY.

Year.	Amount appropriated. Man. of arms.	Special.	Amount expended.	No. of arms fab'ed.
1831	$180,000 00	-	$194,318 61	16,500
1832	180,000 00	-	182,649 58	13,000
1833	180,000 00	$25,100 00	178,918 18	12,400
1834	180,000 00	25,500 00	184,573 03	14,000
1835	165,000 00	-	164,959 92	13,000
1836	165,000 00	45,000 00	186,607 79	13,500
1837	180,000 00	-	222,843 32	14,500
1838	180,000 00	-	187,902 90	15,000
1839	180,000 00	20,000 00	131,441 05	10,000
1840	180,000 00	10,500 00	135,486 57	5,976
	$1,770,000 00	$126,000 00	$1,769,700 95	127,876

Average cost from the year 1831 to 1840, inclusive, on 127,876 muskets is $13 85.

SPRINGFIELD ARMORY.

Year.	Amount appropriated. Man. of arms.	Special.	Amount expended.	No. of arms fab'ed.
1842	$175,000 00	$20,000 00	$156,131 92	9,720
1843	150,000 00	26,500 00	78,816 13	4,600
1844	100,000 00	25,000 00	139,240 70	7,890
1845	180,000 00	29,500 00	173,047 24	11,379
1846	150,000 00	125,000 00	214,324 57	14,265
1847	180,000 00	18,500 00	253,304 84	14,501
1848	180,000 00	96,000 00	227,544 21	16,069
1849	180,000 00	91,500 00	261,475 14	16,215
1850	180,000 00	65,100 00	243,096 79	20,155
1851	180,000 00	47,000 00	271,308 33	23,000
	$1,655,000 00	$544,100 00	$2,018,289 87	137,794
Deduct amount paid from ordnance appropriation.....			57,577 37	
			$1,960,712 50	

Difference in the average cost of $1 49 on 127,794 muskets amounts to $190,413 06.
Average cost on 137,794 is.....$14 22
Cost under civil administration.....13 85
Difference..... 37

Difference in the average cost of, $50,963 78.

ry. I am looking at the system as a whole, and presenting its results. I say, then, taking the products of the two national armories, the aggregate of guns fabricated during the ten years of civil administration was 235,410, and during the ten years at the military, 232,710; showing an excess under the civil, of 2,700 guns.

But the gentleman from Massachusetts, who looks with a fond and somewhat partial feeling upon the Springfield armory, may say that by these aggregated results, I do injustice to the northern establishment, and that the result of a comparison of product during ten years of civil, and ten years of military rule at Springfield, will show an excess of product during the latter:

Product in ten years of military.....137,794
Product in ten years of civil.....127,876

Excess in favor of military..... 9,918

This is all true, sir. But look at the enormous difference of expenditure during the same periods at Springfield:

Expenditures during ten years of military.....2,018,289 87
Expenditures during ten years of civil.....1,769,700 00

248,588 92

Thus exhibiting an excess of expenditure of nearly one quarter of a million of dollars, and an excess of product of less than ten thousand muskets and musketoons! Does my friend from Massachusetts regard these results as furnishing any ground for boasting of the operations of the Springfield armory?

Mr. DAVIS. I ask the gentleman whether, out of that nearly a quarter of a million of dollars, there is not to be taken out the cost of altering a hundred and sixteen thousand old muskets into the new form?

Mr. FAULKNER. Sir, it is impossible for me to examine these expenditures, within the short time allowed me, in all of their minute details. I can only look at general results. I am allowed but a single hour to present the subject before this House in its various statistical, economical, and moral aspects, and I must be pardoned if I cannot permit myself to be drawn from the course of argument which I think best calculated to enlighten the committee.

Mr. DAVIS. I will only ask this simple question, and I trust I shall not trespass upon the gentleman's courtesy again. I desire to know whether he undertakes to show, taking out the cost of altering these one hundred and sixteen thousand muskets, that the excess in the appropriations for the Springfield armory was what he now states?

Mr. FAULKNER. I repeat to the gentleman that his inquiry would involve the necessity of an examination of these expenditures in all their detail—an examination from which I would not shrink if I had time to pursue it, and do justice to other views of this subject.

I have thus shown the general results of the two systems, in their expenditures and products. I will now examine the cost of the musket under the two systems. I have shown that there has been nearly one million of dollars of special appropriations within the last ten years. The main purpose of this expenditure has been to cheapen the cost of the production of the arms, and much of it has been expended on new machinery for that purpose. The standing vaunt of the present system is, that it has reduced the cost of the production of the musket, and upon this it boldly challenges a continuance of public favor.

From the ordnance report, we learn that the average cost of the musket at the two armories during the last year was: at Springfield $8 75, at Harper's Ferry $9 99½, making an average of $9 37. This is the superintendent's estimate of the cost of the musket. Upon what principles and data does he make his estimate? We do not know. If we did, we might most materially differ from him in opinion as to the elements entering into the fair cost of the musket. Does he estimate the cost to the Government upon the same principle that a private capitalist would estimate the cost to himself? Is there any allowance for wear and tear of machinery? for capital invested? for superintendent's salary, &c., &c.? Sir, these sort of estimates are no criterion for the judgment and action of this body, as I shall hereafter endeavour to show. But concede the fact that the average price of a musket in 1852 costs the Government but $9 37, is it fair to take the cost of one or two years to test the relative merits of two systems? Let us take the two systems for a series of years, and see what has been the average cost of each. In House document 207, page 23, Twenty-seventh Congress, second session, we have the price of the musket under the civil system, for a period of eighteen years, from 1822, inclusive, to 1840. We find that the musket in no year during this time exceeded $11 84, and in 1829 was as low as $10 02; making an average during those eighteen years of $11 15. I have now before me a statement of the cost of the musket from 1841 to the present time, and the average cost I find to be $11 14½. In this estimate I have excluded the cost of 1840 from the civil, and of 1841 from the military period, for reasons obvious to all acquainted with the subject. Here, then, we have the same average cost of the musket under the civil and under the military system.

Mr. DAVIS. Now, I ask the gentleman, in all fairness, whether he intends to draw any argument from that? Is it not true that the new musket costs five or six dollars more than the old one? The gentleman knows that the cost of the new muskets is twenty-eight per cent. more than the old ones, and I ask in all fairness whether, if the gentleman is to make this comparison, he should not make a proper allowance for the difference of the articles manufactered?

Mr. FAULKNER. The gentleman is now yielding his claim of greater cheapness, and is falling back upon the indefinite pretension of a superior manufactured article. Upon this latter point there will be a variety of opinions; but if "allowances" are to be claimed as entering into this comparative estimate of costs, let the gentleman from Massachusetts reflect upon the following elements of calculation in the price of the gun under the present and former system:

1st. Under the civil system, the superintendent's salary was charged to the price of the musket. Now it is paid from your public Treasury, and no account of it.

2d. The substitution of the percussion for the flint lock has alone reduced the cost twenty-five cents on every musket.

3d. The diminished cost of coal, iron, and steel, or certainly the diminished cost of freight on those articles to the armories. Coal, under the civil system, at Harper's Ferry, cost seven dollars per ton. It can now be delivered there for three dollars or three dollars and twenty-five cents.

Again: we are told by the gentleman from Massachusetts himself, and I cheerfully concede the fact, that the reduced cost of labor upon each musket, in consequence of the extensive and costly machinery introduced, is $3 87! Now make a due "allowance" for all these considerations, and then see how far the present system can claim any advantages in cheapening the musket over the former system. I think there is not a gentleman who hears me who will not accord the meed of greater cheapness and economy to the civil system, when all things are justly weighed.

So far I have been considering the cost of the musket upon the basis of the superintendent's estimate of that cost; but will this House, in such an inquiry as the present, be satisfied with any such estimate? You want to know the cost of the musket to the Government under the two respective systems. How is this to be attained to your satisfaction but by ascertaining the whole expenditure at these armories for a given period—say ten years—then ascertaining the product in arms, and you thus see, not what a superintendent tells you that a musket costs you, but what your Treasury records tell you that it has cost you. When Captain Maynadier, a distinguished officer of the Ordnance Department, was examined as a witness on the trial of Colonel Ripley, as to the cost of the musket at the national armories, he said:

"In making this comparison, I have taken no superintendent's estimate of the cost of muskets made under his administration, but I have determined it for myself on the basis of the *money spent* and the *arms made*."

Now I apprehend this is the basis upon which this House will determine that question for itself—the money spent and the arms made. Let us see the results upon this principle of calculation. The expenditures during the last ten years of the civil system at Harper's Ferry was $1,990,697 03;

product in arms, 107,534; upon this principle of calculation, making each arm cost $18 51. During the ten years of the military system, the expenditures were $2,042,367 58, from which deduct amount paid from ordnance appropriation, $13,048, leaves $2,028,319 58; arms manufactured during these ten years, 94,916—average cost of each arm, $21 34. Excess of cost on each arm during military system $2 83, and that on 94,916 arms is equal to $268,612 28.

So at Springfield, the amount expended during the ten years of civil system was $1,769,700 95; number of arms fabricated, 127,876; average cost of each, $13 15. Under military rule, expenditures $2,018,289 87; deduct $57,577 37 paid from ordnance appropriation, leaves $1,960,712 50; number of arms fabricated, including musketoons, 137,794; average cost of each, $14 22; excess of cost of military over civil on each arm, thirty-seven cents, and that on 137,794 arms, equal to $50,983 73.

I maintain, then, sir, that there is no aspect of this question in which, upon any ground of public economy, it can be made to appear that the Government has gained anything by the introduction of the present system.

It has been asked, what grievances do the mechanics labor under in consequence of the present system, that there should be so much hostility to it? It would be impossible for me to go into an examination of the restraints and annoyances which have grown out of this system, without resorting to a species of evidence which I never wish to bring to my aid on this floor. Perhaps I might be justified in calling the attention of the gentleman from Massachusetts to sundry statements of his own constituents, sustained by the affidavit published and embraced in a pamphlet from which he has himself to-day quoted largely, and which statements have not, so far as I am informed, been denied.

If these statements be true—and no one ought to know the respectability of the affiants better than the gentleman from Massachusetts—it will be conceded that this system is liable to great abuses. But I will prejudge no man or system upon *ex parte* affidavit, even if they be published and are uncontradicted. I resort to a higher grade of evidence—to objections inherent in the system itself. That system contemplates an Army officer to take charge of these manufacturing establishments. For what purpose select him? Is it that he may enforce military rule and military discipline over a body of peaceful artisans and mechanics? What propriety or necessity for this? Has experience demonstrated to us that our mechanics will not work except under the lash of military rule? Has it been left for our Government to make a discovery which no private capitalist seems yet to have dreamed of—a discovery so injurious and degrading to the character of the American mechanic? Is not such a system a standing libel upon the artisans of this nation, and a bold proclamation of their unfitness for work, except under restraints humiliating to every freeman? If it is not to enforce military control and discipline over the mechanics, for what other purpose is an Army officer stationed there? It is idle to say that his previous education and habits give him any peculiar fitness for the duties of a superintendent of a manufacture of arms. In what military school in this country is the manufacture of arms a branch of study? In what encampment are they taught to judge of the quality of iron, of steel, of coal, and all the multifarious duties of the head of extensive workshops like Harper's Ferry and Springfield? To say, as has so often been said since the agitation of this subject, that those whose business it is to use arms are the men best qualified to superintend their manufacture, may well remind us of Dr. Johnson's criticism upon a line of poetry submitted to him, and which criticism he embodied in another line since become very familiar:

"Who drives fat oxen should himself be fat."

One conclusive view in opposition to the present system is that which Colonel Craig, now the head of the Ordnance Department, and General Churchill, gave expression to in an official paper in 1841. They were selected by the Secretary of War to inspect the armory at Harper's Ferry, and amongst other matters, to report their opinions upon the propriety of a change from the civil to the military superintendency. Without expressing any decided opinion upon the question submitted, they say, "the walks of *civil life* afford the widest range to make a *suitable selection*." And so it unquestionably does. Under the existing law, the President is restricted in the selection for these important posts to a few officers of ordnance, and deprived of the liberty of casting his eyes over the country, and selecting for these appointments the men best qualified to fill them with interest and advantage to the public service. If the law of 1842 had left it discretionary with the President to have appointed a civilian or an ordnance officer as, in his judgment, the interests of the public service would have been best promoted, it would not have been so objectionable. But that would not have suited the grasping spirit of the Ordnance Bureau. They wished to have the enjoyment of these posts vested in their own corps, to the exclusion of all competition, and they have for ten years enjoyed that exclusive privilege. It is time it should cease, and with it, the system of petty restraints and annoyance which they introduced with themselves into the armories.

Colonel Craig, in his recent argument addressed through the public papers to the members of this House, in replying to that portion of the report of the Committee on Military Affairs which seeks to show that the superintendence of the national armories is not proper duty for *officers of the Army*, says: "This is very true of a certain portion of 'the officers of the Army; but the laws of the land 'include in our Army other officers besides those 'to lead and command the troops, and amongst 'those officers are those whose duty it is to pro-'vide food, clothing, and shelter for the troops, to 'transport military supplies," &c., alluding, of course, to the officers of the Quartermaster's and Commissary Departments. Now, whilst I cannot concur that these are analogous cases, and whilst I cannot regard such a defense as very complimentary to the Ordnance Corps, I beg leave to call the attention of the committee to a communication recently addressed by the present Secretary of War to the Committee on Military Affairs of this House, in which he vehemently protests against those departments being any longer filled from the line of the Army. In this communication, bearing date 30th of March, 1852, Mr. Conrad says:

"The Department, on its part, has omitted no precaution to insure fidelity and efficiency in the officers of these departments; but the mode in which they are appointed, and their tenure of office, is not calculated, in my opinion, to promote this object. They are required by law to be taken from the line of the Army, and the appointing power has rarely any means of determining their fitness for the responsible duties of these departments. The military education of the officers does not peculiarly qualify them for duties which are rather of a civil than a military character. Nevertheless, these officers, when once appointed, hold their commissions in these departments by the same tenure as that of their commissions in the Army itself; and unless they do some act which subjects them to a court martial, or to be removed by the President, (a power rarely exercised,) they must be retained in a department, for the performance of the duties of which their character or habits may entirely disqualify them. This evil can only be remedied by legislation. The Department has bestowed some reflection as to the best mode of remedying the evil, and is prepared to submit its views to the committee, if it be its pleasure to receive them."

So far, then, as the authority of the Secretary of War is to be respected, Colonel Craig can derive no aid from the existing provisions in regard to officers of the Quartermaster's and Commissary Departments; experience having demonstrated that it has been as unwise to expect the satisfactory discharge of those civil functions by officers of the Army, as experience will every day continue to demonstrate the same fact in regard to our national manufactories.

Sir, we have been told that if these men are not content to live under the system of administration established by the Government, let them go elsewhere and seek employment. Such taunts as these might well befit the supercilious lips of the head of an ordnance bureau, seeking to enlarge a power which has forever vanished from his grasp, but they come with a very bad grace from the representatives of the people, certainly if they knew the men who are thus coldly and cruelly derided. The mechanics at your armories are not a wandering band of artisans, traveling from State to State seeking employment. Many of them have been at these establishments for years—some for thirty, some forty, and some for fifty years. Their children have been trained from early life to some peculiar branch of the business. They have purchased their little homesteads. They have married and intermarried, and formed their personal and local attachments. They have, as the head of the Ordnance Department informs you, in his report of 1851, acquired "a species of mechanical skill and ingenuity which is chiefly and almost *exclusively* applied to the construction of *articles* requisite for *national purposes*." They have been invited by the policy of your Government to acquire fixed and permanent residences about the armories. As a class, they are men of more than ordinary intelligence and information; distinguished for their observance of law and order; exemplary citizens, with families to support. Some of the cleverest men, in point of intellect, lofty and refined feeling, high inventive genius, pure morality, and exalted patriotism, whom I have known in that section of country, have belonged to the corps of mechanics at your national armory. I could name several, but I will refer, by name, to but one, the father of the distinguished member from Missouri, [Mr. HALL.] It is such men that you would drive from their homes for the purpose of enforcing an odious and mistaken policy. Many of the best of these men have to submit to your military system, because they have homes that they cannot abandon, families that they cannot see perish for the want of food; still they abhor the system; the workmen never have and never will become reconciled to it; they have struggled against it, and they will continue to struggle against it. Discontent has prevailed at these establishments since the introduction of the present system. The feeling may be smothered for a time, but it is ready, at every favorable moment, to burst forth. Is it wise, is it proper, to continue a system, productive, as I have shown, of no benefit to the country, and at war with the sentiments and feelings of all upon whom it operates?

[Here the hammer fell.]

The CHAIRMAN. The pending question is on the amendment proposed by the gentleman from Massachusetts [Mr. DAVIS] to the amendment proposed by the gentleman from Indiana, [Mr. GORMAN.]

Mr. STANLY. If the gentleman from Alabama [Mr. HOUSTON] does not want to consume the hour to which he is entitled under the rules, I would be glad if he would allow me one half of it to say what I have to say in answer to the speech of the gentleman from Virginia, [Mr. FAULKNER.] I think it due to the public interest to say something; and if the gentleman will not accede to my request, I shall have to avail myself of the five minutes rule.

Mr. HOUSTON. I do not propose to consume the hour allotted to me under the rules. I have heretofore declined such requests, believing that the rule confined the hour to the use of the member reporting the measure, and no one else; but as the decision has been otherwise, I have no objection to the gentleman occupying one half of my hour.

Mr. STANLY. I feel it to be a duty incumbent upon me as a Representative in the American Congress, to answer as briefly as I can the extraordinary remarks of the gentleman from Virginia. I have not heard anything particularly new from him. But we have had a new pamphlet laid upon our tables within the last few days, which contains the picture of the armories, got up with a great deal of labor, and a determination and spirit that nobody but a Massachusetts Whig, descended from the Puritans, a member of a State Legislature, and who expects to be a candidate for reëlection, could have commanded.

The gentleman from Virginia starts out by saying that the "whole population" of his district are against military rule. No doubt of it, and that accounts for his extraordinary zeal for its abolition. He has been returned here by the popular suffrage, and, I take it for granted, from indications, that he is again a candidate for the seat which I am glad to see him fill, on either side of politics, or both. [Laughter.] I would ask whether he is a fair judge of the effect of this system, when his opinions are biased by that of the "whole population" of his district? It is very natural they should be biased.

The gentleman next says, that the "entire people" of our country are opposed to the military rule. Especially are they so in the "Old Dominion"—especially are they so in the "Old Bay State"—two of the proudest States in this Union,

which have a great deal to be proud of in the past and something in the present. But the gentleman says there is a "principle" in this thing. Where is the principle? He did not tell us what it was. If I understand the gentleman's idea as to a principle, it is this: that free white men in America ought not to work under a soldier. Take that principle to Springfield, and you will find that neither a white or black man ought to work under a soldier or civilian either, unless he pleases. Change the theater, and you will learn that some think it is not commendable to work at all; you find that the principle expands or narrows itself to suit the "population of the country." Does not that principle apply to forts constructed under the direction of engineers? Does it not apply to military roads laid out under the supervision of the War Department? Does it not apply to the works now in progress under the act of Congress of last session, which are under the charge of the Topographical Bureau? Are not those works carried on under military superintendence? Why, sir, there are hundreds of works done in the country under military supervision, which I could not specify in half an hour.

But I confess I was pained to hear the honorable and talented, the courteous and well-bred gentleman from Virginia—and I say it in no spirit of sarcasm—whose uniform courtesy is that of a gentleman in and out of this Hall—I say I was pained to hear him talking about the "palaces and fine buildings" at Springfield. Now, sir, I am sorry to speak of the pamphlet to which I have adverted. Its author, I presume, is Mr. Charles Stearn, a stern man I have no doubt, who has probably some of the blood of the Puritans in him, and who would die at the stake for any principle or any shadow of principle he might take it into his head to assert. He would search a month for a principle, that he might valiantly fight for it for a day. He is a higher-law man, I dare say, in some of his notions about constitutional rights, principles, and privileges. His opposition to Colonel Ripley is not at all surprising, as I shall presently show; but I repeat, such an appeal from the gentleman from Virginia pained me. Shall we have, hereafter, pictures showing what fine houses the President and his Secretaries live in? Shall we have them to show what fine buildings members of Congress have to transact their public business in? Shall we hereafter have libelous publications, ornamented or disgraced by pictures representing "palaces" in which candidates for Congress reside? What does it mean? Here is the picture to amuse children with, and to excite the prejudice of the House against an alleged extravagant expenditure of the public money. I shall speak of Mr. Stearn with respect, on account of his gray hairs. I cannot speak of him with disrespect. I believe he is a Whig; I heard that he was, and I like him all the better for it—of course I do. But I wish he had put on the opposite page a picture of the old building that had to be torn down because it was put up badly. He was employed in erecting that old building, and did not use his materials to better advantage than he has in concocting this pamphlet.

I wish I had time to amuse the committee by reading extracts from the report of the committee of inquiry called to investigate the charge made against Colonel Ripley. If I had time to read extracts from that report, there are not a dozen members who heard them that would vote for a change of the existing system. Mr. Charles Stearn was the man who was employed in putting up the old building. Sworn witnesses testify that when Colonel Ripley took charge of the armory, the old building was in a very bad condition. They swear that it would not bear a slate roof—that it was cracked. On examination it was found to be put up with soft brick, and with morter in cold weather. If Colonel Ripley was married when he was sent to Springfield—I do not know how that is, and have the honor of but a slight acquaintance with him—I think his wife's friends should have prevented him from holding the place for fear that it would have fallen in and killed her and her children. A picture of that fine building is here, and it is taken from a publication which does honor to the country—Harper's Magazine. It was put there to show what were our public buildings, but it is perverted by the polished gentleman from Virginia and the calm, cool, charitable Mr. Stearn, to stir up a prejudice against an American institution! Have I not a right to be surprised at the appeal the gentleman makes? *He* talks about palaces, gravel walks, fine buildings! Ogle referred to "gold spoons," and no doubt the accomplished gentleman from the Old Dominion would have started with horror, if it had been predicted that he could ever descend to do such a thing. In how much better taste his speech is, on "palaces, gravel walks, and fine buildings," I leave for others to say. A handsome, substantial house for the superintendents of our public armories is called a "palace" in the pamphlet from which the gentleman borrowed his taste, if not his argument. It is a handsome edifice, not an extravagant one, fitted for all time, and one which the Government ought to have.

The gentleman says that he is going to war against this system "*forever*." These men are going to war against it until it is abolished. There it is; war to the knife against this system, whether it works well or whether it works ill. The old Puritans of Massachusetts and the Cavalier blood of the South are warring against principle, and they are going to war against it because there is a soldier to rule over white men in a military establishment. They are going to war against it, whether arms are made better and cheaper under it or not, until it is abolished. That is the spirit. The gentleman says that he represents no private interest in this matter. I do not suppose that he does, though he is not above them more than the rest of us. He will not assume that to himself. He represents the opinions of his constituents—the voters; and, if it would not be deemed uncivil, I would be glad for him to tell me how many aspirants he knows of that want the superintendency the 4th of March next?

Mr. FAULKNER. I will frankly answer the gentleman that I have had no intimation from anybody in regard to that matter. It never entered my head.

Mr. STANLY. If the gentleman has not, I have no doubt that he will have several intimations—at least as soon as his Democracy is old enough to entitle him to Democratic confidence. And I shrewdly suspect that he has picked out the worthy man in his own mind, who is to fill this comfortable office. Honest gentlemen, who talk about this fine house, would consent, I have no doubt, to go to Springfield and occupy it. It has comfortable apartments. It is an easy place, with a salary of $1,300 or $1,400. When a thousand or more dollars is added by the Committee of Conference, it will be a comfortable place for a Massachusetts man, or a first-family gentleman in the district my friend represents. It will be taken care of as soon as the 4th of March arrives, I reckon.

My friend says that the civil institution has come down to us from the time of Washington. It is time-honored and hallowed by length of years. When did he, in his new rage for progress, get fond of old institutions? The Bank of the United States was an old institution. It came down from the time of Washington, was chartered in his administration, and approved by him. It lasted twenty years, and Mr. Madison, under oath, approved of it. Does my friend want to go back to that because it is time-honored, and because Washington and other great men of Virginia approved of it? Not he. It is against the weight of influence—against the feeling of the "whole population" in his district.

Mr. FAULKER here made a remark entirely inaudible at the Reporter's seat.

Mr. STANLY. My friend in his progress towards radicalism, in his opposition to palaces and gravel walks, will, I fear, soon forget his former self, and go ahead of the Young Giant, General Cass, or the Democratic Review. The gentleman spoke of some civil office. I did not hear what he said about that, and cannot, therefore, comment on it. Here is the whole truth about this, Mr. Chairman: Mr. Dwight, who was a witness for Mr. Stearn and his friends, in the prosecution of Colonel Ripley, says (on page 68 of the report of the court-martial, Senate document, first session Twenty-ninth Congress, No. 344—I cannot read it for want of time) that when the Whigs came into power in 1840, they wanted the office.

[Here is the extract referred to by Mr. Stanly:

"Mr. Dwight was asked, 'Was there not a very general opposition to the new system and to Major Ripley when he first came here?'

"*Answer.* Yes, very.

"*Question.* Please state its origin as far as you can.

"*Answer.* As far as I know, Whigs came into power in 1840, and of course never had any offices. We wanted a chance at some. We meant to have one of our men superintendent of the armory, and, of course, we did not like Major R. coming in here to interfere with that business. Therefore, Major R. in the first place encountered political hostility," &c., &c., &c.

Again he says:

"When Major R. first came here, he had been hooted at in the streets; he had been provoked by us all; has encountered a storm of opposition from the time he came here."

He says further:

"I have heard boys going by his house stop and hoot and insult the 'old military devil,' and such like language."]

For the sake of argument, I will say they were as greedy for office as the gentleman's friends may be now. It was said that Mr. Van Buren and his friends had these offices, and it was complained that when General Harrison came into power, Colonel Bell unjustly held the friends of the Administration out of them. He deserves a monument from Congress for that—as we have the disposition to erect monuments this session. No one will say this Congress has deserved any monument for what we have done. Colonel Bell turned a deaf ear to the solicitations of his political friends, and that was the reason of the outcry of Mr. Dwight, who appeared against Colonel Ripley, and this was the Whig quarrel in the Bay State, and this whole testimony shows it. It is a new page in the history of Massachusetts to me. When Colonel Ripley went there, as this report shows, he was "hooted" at in the streets, he was assailed as he walked along, and he was called "that old military devil," and a "West Point Nero." He had absolutely to arm himself for protection. He did not seek the place, but he went there by the orders of his Government. The principle-loving gentlemen of Springfield sent petitions to the General Government, and to the Administration, and a court of inquiry was had. Look at the opinion and finding of this court of inquiry, which was approved by Wilkins, in his time, by Marcy, by President Polk, Colonel Bell, and everybody who had anything to do with it. A court composed of men of high character—General Wool, Colonel N. S. Clarke, Major S. Cooper, assistant adjutant general—examined all the charges against Colonel Ripley, and declared that he had been actuated by "honest purposes and an enlightened zeal for the public interest; and, by his 'administrative capacity, he had enforced order 'and secured economy; and that, in achieving such 'purposes, he has not, in any degree, oppressed 'any person or persons." Colonel Ripley was "fully and honorably" acquitted of the charges, after an attentive and patient investigation by Wool, Clarke, and Cooper. The pamphlet, with the picture from which the gentleman from Virginia borrowed, censures this court as not being an "impartial tribunal!" If any man doubts the propriety of the civil superintendency, he is a Nero, lives in a palace, and opposed to principle.

Mr. WILCOX. Mr. Chairman, if the honorable gentleman from North Carolina will give way for a moment. The gentleman from Virginia, in the course of his speech, alluded to the remarks I submitted a few days ago upon this proposition, and charges me with saying that I opposed it from the fact that the advocates of the change are radicals. If my recollection serves me, I used no such language. I will now give the reasons why I opposed the change. Charges and complaints against the military superintendencies, similar to those now made, were preferred against Major Ripley in 1846. That the committee may properly appreciate my opposition, I will here give the charges:

"1st. That he has discharged great numbers of skillful, efficient, and worthy artisans from employment without just cause, thereby causing much distress to numerous families, and substituted other hands totally unacquainted with the manufacture of arms, to the detriment of the public interest. That he has indulged in the exhibition of the most unnecessary and wanton harshness in the treatment of armorers, and contempt of the distressed situation to which he has reduced them.

"2d. That he has discharged competent and faithful citizens from the night-watch, and placed the public stores and property in charge, by *night*, of irresponsible and reckless foreigners, and furnished them with muskets, loaded with powder and ball cartridges, to the great annoyance and repeated *jeopardy to life* of peaceful citizens in the public highway.

"3d. That he has disregarded the duties of superintendent, particularly in neglecting to visit the most important divisions of the armory for many months together.

"4th. That, for two years, he permitted a deterioration in the quality of the arms manufactured; while, at the same time, he greatly increased the cost of the manufacture.

"5th. That he has neglected to take proper care of public property in his charge, particularly of finished arms in the arsenal, through which neglect many have been seriously damaged, and the Government subjected to expense and loss.

"6th. That he has used deception and fraud with the Government in procuring an order in pursuance of which a spacious and valuable edifice, erected a few years since as quarters for the superintendent, and used as such, has been totally demolished by him, though the site was not wanted for other buildings, and several other dwelling-houses of less value pulled down and otherwise disposed of.

"7th. That he has charged the United States, and received commutation for quarters for nearly *five years*, when several expensive and elegant houses, erected and finished for officers' quarters, some six years since, have been allowed to stand unoccupied.

"8th. That he has made extravagant, prodigal, and wasteful expenditures of the public money, particularly in building a magnificent palace for his own residence, which, when completed on the plan adopted, with the preparation and projected embellishments of the ground, will cost the United States a far greater sum than has been expended on the most costly private residence in this section of the country. Also in constructing gravel walks, at a cost of some thousands of dollars, which are entirely unnecessary for the purposes of the armory, and in any event can be of little use. Also in purchasing sundry houses and tracts of lands, totally useless to the Government for any legitimate purposes of the armory, and at prices far above their real and market value, and *without authority of any existing law*. The enumeration of particulars in this connection might be much extended.

"9th. That he has wantonly encroached on the rights of the town of Springfield, by fencing up and obstructing public highways, to the great inconvenience of the citizens.

"10th. That he has encroached on the rights of individual citizens by fencing in their grounds, and otherwise incumbering them with nuisances.

"11th. That he has committed wrong and oppression on an individual citizen unconnected with the armory, by procuring his arrest and trial before a distant tribunal on a pretended criminal charge, thereby subjecting said citizen to very great expense and trouble in defending himself in said suit. Also, that he has committed oppression and wrong on seven other citizens, by a similar vexatious prosecution, obliging them to defend themselves before a distant tribunal on a charge of a pretended criminal act, at a cost which said individuals were wholly unable to meet. Also, that he has committed oppression and wrong on a religious society, which had purchased a lot on which to erect a church, by taking measures manifestly and *avowedly* to drive said society to the necessity of abandoning their design of erecting a church on said lot.

"12th. That he has been oppressive and tyrannical in discharging armorers from employment, refusing to assign any reason for the act, and then using his official influence with private manufacturers to prevent said discharged armorers from obtaining employment elsewhere.

"13th. That he has interfered with the *public press*, and with the rights of workmen, by threats of discharge to armorers if they persisted in taking one of the newspapers published in the neighborhood of the armory."

Now, sir, if these charges had been true, Major Ripley should have been cashiered, and would have received, as he justly merited, the condemnation and execration of all honorable men. But, sir, what are the facts? Mr. Polk ordered a court of inquiry to assemble at Springfield. Charges and specifications were preferred against Major Ripley; a lawyer employed to prosecute him; witnesses were sworn and examined; several days spent in the investigation; and to what conclusion did the court arrive? Here it is:

"*Final Remarks.*—The court, during the investigation, observed with pain, that several witnesses showed how little confidence could be placed in their testimony, by their manner, their tone, their reluctance, and in some cases their refusal to answer questions, by evasive answers in some instances, and by palpable contradictions in others. It refrains from specifying names, because, where a whole community appears to have lost, in a universal prevalence of excitement and misconceptions, its propriety, it would seem to be invidious, and perhaps harsh, to subject individuals to animadversions which, with the exception that some have uttered opinions and made declarations in a graver form than others, are perhaps equally deserved by all; particularization on this behalf would probably affect persons whose standing in society may have been good, and who, in reality, have testified under impressions and influences that have been fully participated in by their neighbors and acquaintances.

"In remarking upon the manner, tone, reluctance, and evasiveness of some witnesses in the case, it will now add its opinion that much testimony was vague; so much so as to leave an impression on the mind that witnesses meant concealment, or were so operated upon by doubts of the accuracy of their previously-formed opinions and perceptions, as insensibly produced in their minds a blindness to its real bearing.

"Finally, in the opinion of the court, the accused, in his administration of the affairs of the armory, has been actuated by honest purposes and an enlightened zeal for the public interest; and, by his administrative capacity, he has enforced order, and insured economy; and that, in achieving such purposes, he has not in any degree oppressed any person or persons. By an examination of the establishment made by the court, there appears to be a due observance of order, regularity, efficiency, and economy, in all its various departments and branches.

"An attentive and patient investigation of the charges presented by the memorialists, with the most untiring zeal, enables the court to pronounce, and it does pronounce, an opinion that Major *James W. Ripley*, superintendent of this armory, is acquitted fully and honorably of all the charges exhibited against him."

This decision of the court was sent to the President of the United States for his approval or rejection. After having read the charges and testimony in the cause, he speaks as follows:

WASHINGTON, *April* 9, 1846.

I have examined the proceedings of the court of inquiry in the case of Major *James W. Ripley*, of the Ordnance Department, and approve the "findings and opinion" of the court, and they are hereby approved and confirmed.

JAMES K. POLK.

Now, Mr. Chairman, you have my reasons, in part, for opposing the change. I am one of those who believe that Mr. Polk was always right, and am unwilling to reflect upon his memory by saying that he was wrong. Mr. Polk says, by his decision, that the military superintendency, by its administrative capacity, has enforced order and insured economy in all its various branches and departments. With such backing I am content. But again, sir, in 1842 a committee from civil life, consisting of Charles Davies, John Chase, and Daniel Tyler, were appointed to inquire into the Springfield armory, under civil superintendency, who reported as follows:

"It was a matter of surprise to the Board to find that no regular hours were established for labor. Every mechanic, working by the piece, is permitted to go to his work at any hour he chooses, and to leave off at his pleasure. In some instances the machinery at the water shops has been kept running for the accommodation of a single mechanic; and in most of the visits of the Board, though made in hours usually devoted to labor, these shops were found nearly deserted. The reading of newspapers during the ordinary hours of labor appears to be so common a practice as not to be deemed improper; for, in several instances, the reading was continued even during the inspection of the Board.

"The practice of commencing and leaving off work at irregular hours, by those who are employed by the piece, is, in the opinion of the Board, attended with serious evils. It leads to great irregularity in the hours of labor, and operates as a strong motive to dispatch the work of the day in the shortest time possible, often to the injury of the work itself, and not unfrequently to that of the health of the mechanic."

* * * * * * *

"*First.* It appears that men have been absent from their shops several days in a month, and yet have been able to earn from $50 to $60; and it was the opinion of the inspectors, that, at some branches, from $70 to $100 per month might be earned by a mechanic working ten hours a day. For example: one man worked fourteen days, and turned in $41 worth of work; two others, who were absent two weeks, or certainly ten working days, turned in work, respectively, to the amount of $44 and $49. It also appears, that one man who was absent an entire month, yet turned in work to the amount of $30, which work was doubtless executed by another individual, who himself received full wages. There appears to be no reason to doubt that a workman, on some of the branches, may be absent one fourth of his time, and yet make up a full month's work, without laboring longer than ten hours a day.

"*Secondly.* It appears that an opinion prevails among the workmen that their monthly earnings ought not to appear too large on the pay roll; and, to avoid such a result, work is transferred from one to another, or kept back at the end of the month; and this has been done with the knowledge of the inspectors, though in direct violation of the regulations of the armory. These facts show a general looseness in the management of the armory, which could not exist in a private, and ought not to be permitted in a public establishment."

Again, sir:

"The Board have witnessed with regret the exercise of a strong local influence, by the citizens and press of this place, in the affairs and management of the armory. It is an influence growing out of the feeling that the establishment is a local one, and should be managed with reference to the interests of the town. Such an influence will always be adverse to the interests of the Government, which can only be properly protected by regarding the establishment in its national character, and keeping it under the immediate control of the War Department."

Now, Mr. Chairman, after tendering my thanks to the honorable gentleman from North Carolina, I will conclude by saying, that I feel perfectly justified in the course I have pursued, having been sustained by two courts of inquiry—one from civil and one from the military—indorsed by the lamented Polk.

Mr. STANLY. I am obliged to my friend from Mississippi [Mr. WILCOX] for referring to that part of the proceedings, for I might have forgotten it.

Mr. INGERSOLL made an inquiry, which was entirely inaudible to the Reporter.

Mr. STANLY. There were two or three civilians sent there, and they reported the same thing. The gentleman will find that he has read nothing but the handbills in his district; he has not examined the public documents as I have.

Mr. WILCOX. I have got reports from civilians.

Mr. STANLY. Mr. Polk was a civilian, and he examined this matter and approved Colonel Ripley's conduct. This pamphlet, to which allusion has been made, and which the gentleman from Virginia has dignified by his notice, is one of the most abusive pamphlets I ever saw from a northern State—(for the people there generally claim to be more mild in their expressions than the southern people are, more to their credit, and more to our shame, too, if this be true; if this publication is a fair specimen, their claim will not be allowed.) It is a most abusive, uncharitable pamphlet about these armories, endeavoring to excite prejudice against them. The gentleman talked about the "genius of the American people." I will not say how far my friend is cultivating the genius which he thinks will enable him to run with the people. Let him take care how far he goes. He has not been playing upon this key long, and he may go further than he intends. He is not at home in his present position; he has not been long in his present "stripe" of politics, and I fear he may cultivate too diligently the "genius" which American politicians have, of being on the strong side—a going with the "entire population." In his tirade against military men, the gentleman spoke of the despotisms of Europe. I thought he was going on to say that we ought not to have guns, or cannon, or books from Europe, because the first ones were brought from Europe by our forefathers, and that we should have nothing from Europe, either good or bad. It is submitting to an European despotism, according to the gentleman's idea, so we ought not to have armories, because the despots of Europe have them. The gentleman from Virginia refers to the pamphlet, when he speaks of the expenditure. It is said that figures will not lie. I do not apply that word to the author of this pamphlet, of whom individually I wish to say nothing harsh. I only wish to comment on the bowie-knife spirit of those who compiled and published the libelous matter in it.

Mr. FAULKNER. Have I referred to that pamphlet, or any pamphlet at all?

Mr. STANLY. My friend gives the figures from 1822 to 1839, and from 1841 to 1851, as nearly as I could understand him, and the same statement is given on page fifteen of the pamphlet with the palace picture in it.

Mr. FAULKNER. I referred to official documents.

Mr. STANLY. This pamphlet professes to copy from the "official documents." I referred to the common saying that figures cannot lie; some shrewd fellow said once that nothing could lie as well in the proper hands. I repeat, I do not impute that to the author of this pamphlet; but let any one look at page fifteen, where he gives his statements, and see how cunningly he divides the years. He takes very good care, after the system was changed in making muskets, to put those years in which the cost of making them was the highest within the last ten years, and then makes an average. He suppresses the reason of the increase of cost, probably from tender regard for some former civil superintendent. That is the sort of evidence which the gentleman from Virginia gives us when he talks about figures and facts from official documents. The picture pamphlet, full of mistakes, professes to have been copied from "official documents."

The gentleman from Virginia spoke of affidavits having been made to sustain his statements. I believe all I have stated is supported by evidence on oath, and by statements of men of high character, educated in the public service, with integrity never impeached, until Whigs, I regret to say, wanted the office of civil superintendents. I speak of such men as Colonels Churchill, Craig, Ripley, and Magruder, and others. I refer again to Senate Document No. 344, Twenty-ninth Congress, first session, which I hold in my hand, and have not time to read from. It was sent to the Senate and ordered to be printed May 14th, 1846. On page 189 of that report, Colonel Ripley refers to the testimony of Captain Magruder, "which 'shows that under the present system there has 'been saved to the Government $205,334 57, being '$51,333 64 annually during Ripley's superintendence, and amounting to nearly the whole pay 'and allowancee of all the officers of the Ordnance 'Corps," &c., &c. These documents the polished gentleman, opposed to palaces, has not condescended to examine.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. SATURDAY, FEBRUARY 12, 1853. NEW SERIES....No. 37.

It has been more agreeable to him to get his tables from clerks. There is more "genius of the American people" in four or five clerks, more of the *vox populi*—if they reside in the gentleman's district—than there is in a dozen West Pointers, who speak and write of subjects which they were educated to understand, although they may have lived thirty years in the public service. Did we not have an exhibition here, a day or two ago, of how little reliance could be placed on estimates by clerks? The chairman of Ways and Means, after examination, thought about $6,000 were necessary for the deficiency in the contingent fund of the House of Representatives; and the Clerk of this House asked his friend from Pennsylvania [Mr. FLORENCE] to get the appropriation increased to near $24,000! What clerk, I ask, made out these "official documents?" Does the gentleman from Virginia get them from any one who has been in the armory? Does some friendly clerk want to get in that "palace with gravel walks?" Where are the documents, I ask the gentleman from Virginia? Official data! public documents! What sort of data?

Give me the title of the book and page, and let me see whether the thing is done correctly, and not refer to the clerks of the House, who may have their own reasons and prejudices for compiling these statements. They are not to be relied upon.

The gentleman says that the affidavits which have been read here are not denied. Look at the proceedings of the court-martial, (Doc. 344,) just referred to, and see what is sworn to and what proven. Every material charge now repeated, which was made by the vindictive persons who compiled the pamphlet, in Mr. Polk's time, in 1846, was not only denied, but shown to be incorrect. The counter affidavits show a wholesale and vindictive hostility against the man who was sent to Springfield, and against the system, because he went there at the orders of the Government. I beg leave to say in conclusion, for I see that my time has nearly expired, that I have not had an opportunity of referring to one half of the facts which I would like to lay before the House, before honest gentlemen upon both sides—and there are more than fifty or one hundred here—so that they might see what they are about before they establish this civil superintendency, in times when it is quite too much the case, upon both sides, to declare that to the victors belong the spoils. In the *possible* change of parties—I speak modestly, so soon after hearing the votes counted out on Wednesday—it is *possible*, in four years from this time, that we may have some other men, of a different stripe from my friend from Virginia, put into that armory, and they will have to electioneer to keep their places. Why not let the superintendents be elected by Springfield and the "population" of Harper's Ferry? Why not give to Virginia and Massachusetts free suffrage in this matter? Why not let all the white persons vote in Virginia, and let the white and black, naturalized and native, vote in Springfield, and elect their man? That is carrying out "the principle." Let them elect their superintendent. Why can you not trust Mr. Pierce and his Secretary of War, no matter who he may be, with the regulation of this matter? Let Mr. Pierce's Secretary of War examine and report what is best for the public interest. Have you not trusted Mr. Polk, and all the administrations and Secretaries of War —Bell, Spencer, Porter, Wilkins, and Marcy—for twelve years past?

The gentleman speaks of the "public feeling" in his district—a feeling which sprung up in 1840 from Whigs when they wanted office, and sprung up since last November from some one else. Will not this feeling, if indulged, lead us to have civil superintendents in our arsenals, in the erection of forts, and in our navy-yards? If, according to the picture pamphlet, persons educated at West Point are "tyrants," let us hang all who have inkhorns around their necks, as Jack Cade would have done, and educate no more "Neros" at West Point. Have the armories "in common," and "kill all the lawyers," military men, and Secretaries of War, and all who inhabit' palaces with gravel walks.

I have no personal interest in this controversy. Every other member has the same interest that I have. Appeals have been made to me as a Whig to cease my opposition to this matter. I examined the subject in 1842. I relied upon the judgment of those better acquainted with such matters than myself, and experience of near twelve years has fully proved they were correct. I was censured then by the politicians of the day for my course. I resisted the effort to place a Whig civil superintendent in office for the same reasons that now influence my conduct. As an American, I am proud of the condition of our armories. I am proud of the genius and skill of the worthy mechanics who have brought our arms to such perfection. I wish to see them continuing happy, well-paid for their labor, uncorrupted by political influence. When politicians bear sway, preference will be shown, not to fidelity, honesty, and skill, as the case is now, but to Whigs or Democrats, as the case may be. Some uncivil man will be appointed civil superintendent from the neighborhood of the armories; and will he not prefer to employ a friend who has voted for him to an opponent who has exerted his influence against him? Can any man acquainted with human nature doubt it? I know it is not so intended, but I fear the result of the change will be to destroy the national armories. Why should Government keep up such costly establishments, when arms may be made under civilians in other States as well, if not better, than at Springfield or Harper's Ferry? Will not men of both parties be found to regard political consideration when you establish the civil superintendency?

Why not give Connecticut an opportunity of making guns as well as Massachusetts? Why not Pennsylvania and Maryland as well as Virginia, if civilians can do the work as well as the Government? Let the manufacturers in the district of the gentleman from Connecticut [Mr. INGERSOLL] chew tobacco, smoke cigars, play the fiddle during hours assigned for work, and *keep* their Bible in the drawers of the armories. If George Thompson comes along again, let the civil superintendent entertain him in the armory; or let him open the building for the use of temperance societies; or to enable the descendents of the Pilgrims—proud of their descent, as they ought to be—to hold public meetings, and petition Congress for a redress of their own grievances and those of all other people. If one should come along fighting against the "despots of Europe"—naughty fellows, who have military men in office—let him be welcomed, even though he denounce our revolutionary forefathers. This course might possibly suit the "public feeling" for the time.

When a civil superintendent is to be appointed, how can the Secretary of War for the time being know his qualifications? Is he to be recommended by members of Congress? Do we not prefer our own political friends? Will not the member from the district prefer that one who presided over a meeting at the armory, or attended a State or National convention, and procured by his influence one hundred votes for said member? If you take it by petitions and recommendations, you will find many names on all the petitions. So that party service is to be the test of fitness under Whig or Democratic rule, for a superintendent of a national armory.

Then you will see old abuses revived; the prices of guns greatly increased; brick houses put up by "an honest man, but not a good bricklayer;" houses "cracked at the end," made of "soft brick," with "frozen mortar"—I refer to the evidence in document 344—evidence, not of "West Point Neros and tyrants," but of honest mechanics at Springfield. That house would hardly have made a picture to decorate Harper's Magazine, or have been a fit residence for a well-bred, polished gentleman of fortune from the Old Dominion, whether in civil life, in Congress, or in the armory.

I have said I was proud of the work of the mechanics at these armories. But I am also proud of the good conduct of the West Pointers, in peace or in war. They are not "tyrants." For years, until the war with Mexico, it was almost fashionable to denounce them. But when the country needed their services, they were ready, and in common with their countrymen from civil life, they displayed bravery in the hour of danger; but they also convinced those who before doubted, that skill and military education are indispensable to success. One of these West Point men is superintendent at Springfield, and the more closely his conduct is examined, the more it will be approved. He ought to feel proud, that amidst great difficulties he has so conducted himself as to have secured the commendation of many gallant and worthy men in military and civil life.

I know I am not now advocating the side of this question which is popular at Harper's Ferry or at Springfield. But what is a public man worth, who forgets his duty to his country that he may secure a little fame to himself? Let us do right, and trust to the good sense and patriotism of the people. Give all the largest liberty, is now the cry. It is all for the "principle" of the thing; and having the right to assemble together and petition Congress for a redress of grievances, they want the right to meet in all the armories and talk politics. "Freedom of speech" is secured by the Constitution. Every man has a right to worship according to his own conscience; why not hold religious meetings in the armories? These are "principles" dear to the "population" of our entire country. Where is the tyrant who dare go to the Old Dominion, and say that they shall not discuss the resolutions of 1798–'99 in the armory? Will any arrant boaster go there, and tell a gentleman of the first family, or second—if he can run down one of that kind, though I never met with one, (laughter)—that he shall not make a speech upon a 1798 or '99-ism? or will he go to Massachusetts, and tell one of the descendants of the Pilgrims that he shall not petition the Government for the largest liberty? I tell the honorable gentleman from Virginia, it does not become him, if he will pardon me for saying so, to talk to us as he has about "palaces and graveled walks," &c., because it does not become him as a gentleman of the South to enter upon that sort of argument. I appeal to those gentleman who have a proper regard to what the public interest requires, to look at what men who have examined this subject have said, and pause before they commit this great wrong, or they will break down these armories, and ruin them forever.

[Here the hammer fell.]

[At the request of Mr. STANLY, the Reporter inserts as a note to his remarks, the following report of the Committee on Military Affairs:

"*April* 12, 1842. Mr. Goggin, from the Committee on Military Affairs, made the following report:

"The Committee on Military Affairs, to which were referred the several memorials of citizens of Jefferson and Loudoun counties, and of Harper's Ferry, in Virginia, remonstrating against the appointment of officers of the Army as superintendents of the armory at Harper's Ferry, made the following report:

"That before these memorials were presented to Congress, the committee had very fully and maturely considered the subject referred to, the same having been presented to their notice by the message and documents sent to Congress at the present, the last, and extra sessions; that, before coming to any conclusion, the committee heard arguments against the appointment of military superintendents of the armories of the United States, both at Harper's Ferry and at Springfield, which are the only armories of their class in the Union.

"The committee listened with patience to the statements of the late superintendent (Mr. Robb) at Springfield, as well as others.

"After hearing these, and reading with the greatest care the reports of the boards of officers who have examined the subject, together with the law which was before the committee, and which places these armories under the control of the Ordnance Corps, they came to the conclusion that the views, as expressed by the Ordnance Corps, were in the main correct; that there were sufficient reasons for the change which had been made in the early part of the year 1841, by the War Department, or, at least, that the reasons were sufficient, in their opinion, to sanction the passage of a bill for a permanent change in the system of management at these armories.

"The committee decided in favor of a change, and accordingly reported a bill for the purpose, which is hereby made a part of this report. This bill was reported, receiving the sanction of the committee sometime before the pre-

sentation of the memorials aforesaid; but desirous, as the committee have been, to have all the facts before them that could be presented by the memorials, they examined them again, but could see no reasons set forth therein which were not urged with force and ability by the advocates of the views of the memorialists when before the committee.

"The committee, therefore, recommend that the prayer of the memorialists ought not to be granted."

Committee on Military Affairs, 2d Sess. 27th Cong.—Messrs. Pendleton, of Ohio, Goggin, of Virginia, W. B. Campbell, of Tennessee, Stokely, of Ohio, Wm. O. Butler, of Kentucky, Sumpter, of South Charolina, John Miller, of Missouri, J. Thompson Mason, of Maryland, and Stanly, of North Carolina.

The documents from which Mr. Stanly spoke, are Senate Doc. No. 344, 29th Cong. 1st Sess., and Doc. No. 207, H. R., 27th Cong. 2d Sess., and the letter of Colonel Craig, dated February 8, 1853.]

The CHAIRMAN. The question pending is upon the amendment offered by the gentleman from Massachusetts, [Mr. DAVIS,] which reads as follows:

"For the expenses of a commission to examine and report upon the management of the several United States armories, the sum of $5,000; and the Secretary of War is hereby authorized to appoint three persons, civilians, whose duty it shall be to report to the next Congress a detailed statement of the cost of the manufacture of arms at said armories, and recommend any change in the system of management which in their judgment may be requisite by the public interests."

Mr. GORMAN. I believe I have a right to oppose that amendment under the five minutes rule.

The CHAIRMAN. The amendment has already been opposed by the gentleman from Virginia [Mr. FAULKNER] in an hour's speech.

Mr. GORMAN. I thought the time allowed for debate had not quite expired.

The CHAIRMAN. There are five minutes of the hour and a half allowed for debate, still left, and the gentleman can occupy them if he chooses.

Mr. GORMAN. I do not want to make a speech, for I have already said more upon this subject than I desired to say, and have heard others say more upon it than I expected. I believe I really should not have troubled the committee by proposing this amendment, if I had known it would have taken up so much of the time of the House. But it is before the House and the country now, and it has to be disposed of.

The gentleman from North Carolina [Mr. STANLY] has seen proper to read us a political homily here, and to talk about "party," and "the spoils of office," and so forth. Now, if the gentleman had borne in mind that that was not the question before the committee, and if he had confined himself to the point at issue—which, I think, he very often failed to do—he might, perhaps, have enlightened the House. The whole question before the committee is, whether it is best to have civil or military superintendents over the mechanics in the armories.

Now, I should like some gentleman who has had some experience in military arts, to tell me what there is in the education of an ordnance officer that fits him for superintending mechanics, or the manufacture of ordnance. I undertake to assert that no part of the education at West Point prepares a man, in the slightest degree, for the superintendence of the manufacture of this material of war. What is a man taught when he graduates at West Point? What has he learned about ordnance? He has learned what are the most efficient arms. He has learned the efficiency of particular arms in the service of the country. He has learned the component parts of those arms, and the materials that give them strength, power, and capacity. Can the fertility of any gentleman's brains inform us that he has learned anything else? Well, sir, if you place the armories under the control of civil superintendents, the ordnance corps will still designate what kind of arms or ordnance are to be made; they will designate the particular character and quality of the arms, through their commander, Colonel Craig. I believe that he, too, has taken the field about this matter. He has come out of the bureau to which he belongs, and has written an article and laid it upon our desks here, for the purpose of influencing our decision. If you had just taken the pains, you gentlemen who are civilians—and we are all here as civilians—to look into this matter, you would have seen that an ordnance officer, or any other officer of the Army, when he gets the command of a post, gets double rations. I guess that is the secret of it. He gets double rations and very fine quarters. All the commutations and perquisites which he receives amount to one third of his whole salary. It is for the interest of your officers of the Army to have as many stations, forts, arsenals, armories, and national depôts for arms, as possible. It is a very nice thing to get fine quarters and double rations. If the officer's ration is six dollars a month, he gets twelve dollars a month, over and above his pay, which is a very nice thing. No wonder, then, that the officers of the Army desire to continue this system.

Now, I should like any gentleman here to exercise his ingenuity for a moment, and tell me what a man learns at West Point that fits and prepares him for controlling and directing the manufacture of iron into particular shapes?

[Here the hammer fell.]

The question was then taken upon the amendment proposed by Mr. DAVIS, of Massachusetts, and it was not agreed to.

The question recurred upon Mr. GORMAN's amendment.

Mr. BEALE. Read the amendment.

The Clerk read the amendment, which is as follows:

"*Provided*, That from and after the first day of July next, so much of the act of Congress, approved August 3d, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps, be, and the same is hereby repealed, and from that day, the said armories shall be under that system of superintendence which existed prior to the passage of the said act of Congress."

Mr. GORMAN. I ask for tellers on the amendment.

Tellers were ordered; and Messrs. HALL and MCNAIR were appointed.

The question was then put, and the tellers reported—ayes 83, noes 69.

So the amendment was agreed to.

Mr. MEADE. I have an amendment to offer to this bill which, if critically examined, might be pronounced to be out of order; but I trust that the nature of the amendment will commend it to the general approbation of the House, and that no objection will be made to it on account of its being probably out of order.

Several VOICES. Read the amendment.

The Clerk read the amendment as follows:

Add as an additional section the following:

Be it further enacted, That all bounty land warrants which have been, or shall hereafter be issued under any act of Congress, where the applicant shall have died, pending the application and before the date of issuing the warrant, having no widow or minor children, the same shall be as good and valid as if the same had been issued in the lifetime of such applicant, and shall descend to the heirs of such applicant in the same manner as warrants issued during his or her lifetime.

Mr. HOUSTON. I object to the reception of that amendment.

Mr. MEADE. I hope the gentleman will hear me but for a moment before he objects.

Mr. HOUSTON. I object to the amendment as out of order. It has no relation to this bill at all.

Mr. MEADE. I did hope that the committee would have generally acquiesced in the reception of that amendment, because of the hardship that the bounty land law as it now stands is working throughout the country. There are many cases——

The CHAIRMAN. If the amendment is objected to, the Chair will be compelled to arrest debate.

Mr. MEADE. I hope the gentleman from Alabama will withdraw his objection.

Mr. HOUSTON. No, sir, I cannot.

Mr. MEADE. I desire to offer the amendment now, because I can get it into no other bill, and the inconvenience which it is designed to remedy is felt every day. Warrants are frequently issued the day after the deaths of the applicants, and, under the existing law, the heirs are deprived of all benefit——

The CHAIRMAN. The gentleman from Virginia is out of order.

Mr. MEADE. Does the Chair decide that the amendment is out of order?

The CHAIRMAN. The Chair decides that it is out of order.

Mr. MEADE. I appeal from the decision of the Chair, and I hope it will be sustained.

The CHAIRMAN. The gentleman from Alabama [Mr. HOUSTON] makes the point of order that the amendment of the gentleman from Virginia [Mr. MEADE] cannot be received. The Chair sustains the point of order. From that decision the gentleman from Virginia appeals.

Mr. JOHNSON, of Tennessee. I move that the appeal be laid upon the table.

Mr. JONES, of Tennessee. That cannot be done. There is no table in committee.

The CHAIRMAN. That is a fact.

Mr. JONES. I understood the gentleman from Virginia to say just now, that he hoped the decision of the Chair would be sustained. [A laugh.]

Mr. MEADE. I did not mean that.

The question was then taken upon the appeal, viz: "Shall the decision of the Chair stand as the judgment of the committee?" and it was decided in the affirmative.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. GORMAN. I am instructed by the Committee on Military Affairs to offer the following amendment:

For bridges and establishing communication between Fort Leavenworth and the Republican Fork of the Kansas river, $11,725.

That is an amendment which the Committee on Ways and Means would have reported, but the subject had been referred to the Committee on Military Affairs.

The amendment was agreed to.

Mr. GORMAN. I offer the following amendment:

That there shall be raised one additional regiment of mounted riflemen, to be composed, organized, recruited, paid, and provided for in conformity with the provisions of the *first*, *second*, *third*, and *fourth* sections of the act entitled "An act to provide for raising a regiment of mounted riflemen, and for establishing military stations on the route to Oregon," approved May 19th, 1846: *Provided*, That there shall be appointed an additional major to be continued in the service under the same provisions of law that additional majors in the other regiments of the Army are now kept.

SEC. —. That the sum of seventy-six thousand five hundred dollars for mounting and equipping said regiment, be and the same is hereby appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

Mr. TOOMBS. I rise to a point of order upon that amendment. This bill is intended to make appropriations of money for the existing military establishment of the Government. This amendment proposes to create an additional regiment. If that be in order, you might go on and remodel your whole Army in this bill. The duty of the Committee on Ways and Means is to bring in a bill appropriating money expressly for the existing military establishment of the United States. They cannot enlarge that establishment. They cannot create another Department of the Government or other regiments. I therefore object to the amendment as out of order.

Mr. GORMAN. I believe the point of order is debatable.

Several MEMBERS. No, it is not.

Mr. GORMAN. Why not?

Mr. JONES, of Tennessee. All debate has been terminated, except upon amendments.

Mr. GORMAN. Let me say to the gentleman from Georgia that this course has been pursued in bills of this very character. During the existence of the war with Mexico, provisions for the recruiting of regiments and increasing the number of rank and file in each company were inserted in bills of a similar character to this. I am only following precedents.

Mr. TOOMBS. It is expressly against the rules of the House.

The CHAIRMAN. The Chair knows of no rule under which the amendment could be received. The Chair, however, is not very familiar with the rules, and perhaps the gentleman can point to a rule under which the amendment is in order. Otherwise the Chair must rule that the amendment is out of order.

Mr. CABELL, of Florida. I desire to offer an amendment to the bill, to which I think there will be no objection. It will be remembered that in the appropriation bill of last year, provision was made to pay certain States for services rendered by their militia—among others, to pay certain claims of the States of Virginia, Georgia and Florida.

A MEMBER. What is your amendment?

Mr. CABELL. I ask that it may be read.

The Clerk read the amendment, as follows:

And be it further enacted, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized to adjust and settle the claim of the State of Florida for the services of her troops, under the act of February 27, 1851, according to the provisions made for the settlement of the claim of the State of Georgia for like services, prescribed by the act approved 31st August, 1852, entitled "An act making appropriation for the support of the Army for the year ending 30th June, 1853."

Mr. JONES, of Tennessee. I submit to the Chair whether that amendment is in order?

Mr. CABELL. There was a similar provision made in the last appropriation bill.

Mr. JONES. Then it was done by the House or the committee overriding the rules.

Mr. CABELL. I will state that this amendment is merely to correct a mistake committed in the appropriation bill last year. It was intended by the House that the State of Florida should be paid this claim, whether rightfully or wrongfully, and it was provided that it should be paid according to the principles laid down in the settlement of the claim *of Virginia*. I wrote it Georgia, but by some mistake, Virginia was substituted. Now, our claim assimilates to that of Georgia, and bears no resemblance to the claim of Virginia. I merely ask Congress now to correct that mistake, and do what it intended to have done at the last session.

The CHAIRMAN. Does the gentleman from Tennessee insist upon his point of order?

Mr. JONES. No, sir, I will not insist upon it.

Mr. MEADE. As the committee has decided that it is in order to correct mistakes made in a former year in this bill, I now offer as an amendment to the amendment just offered by the gentleman from Florida the amendment which I attempted to offer a few minutes ago as an independent section, inasmuch as I believe the House never made a greater mistake than when they refused at the last session to include those mentioned in this amendment in the grant which they made. But as they have not been included in any former legislation, I hope I shall be allowed to offer this as an amendment to the amendment of the gentleman from Florida; for if it was in order to offer it as an amendment to the original bill, it certainly is not out of order to offer this as an amendment to the amendment of the gentleman from Florida, which is in itself foreign to the subject of the bill. If this is in order, I presume it is as much in order to amend upon one subject as another.

Mr. JONES, of Tennessee. I submit this question of order: The committee have read the bill through and disposed of all its provisions. There is, therefore, no part of the bill now before them. There is nothing to which an amendment can be offered.

A MEMBER. You may offer additional sections.

Mr. JONES. No, sir, I take it that there can be no additional sections offered, because the committee have disposed of everything in the bill. In order to have made it proper to offer additional sections, there should have been some clause left, to which they could have been attached.

Mr. MEADE. If the gentleman from Tennessee is making his point of order against the reception of the amendment of the gentleman from Florida, I understand that amendment has been received already, and it is now too late to object to that.

The CHAIRMAN. Does the gentleman from Virginia rise to a point of order?

Mr. MEADE. I do rise to a point of order. I say the amendment of the gentleman from Florida, was received, and the Chair was about putting the question when I rose to offer my proposition as an amendment to it. But it was received by the committee without a single objection, and I submit that it is now too late for the gentleman from Tennessee to raise his point of order. But if the gentleman will withdraw his point of order, I will withdraw my amendment.

Mr. SWEETSER. I rise to a point of order.

The CHAIRMAN. There is already one question pending.

Mr. MEADE. I will now withdraw my amendment.

The CHAIRMAN. The gentleman from Tennessee [Mr. JONES] rises to a point of order, that the amendment of the gentleman from Florida is not in order as an independent section to the bill. The Chair decides, that, proposing as it does, to change the phraseology of the act of the last session, it is in order. If it were an original proposition it might be out of order, but it is simply to change the phraseology of an existing act. The Chair holds further, that it is competent for this committee to make additional sections to this bill, and therefore overrules the point of order raised by the gentleman from Tennessee.

The question was then taken upon Mr. CABELL's amendment, and it was adopted.

Mr. EVANS. I move the following as an additional section to the bill:

And be it further enacted, That nothing in this act contained shall be so construed as to authorize a change from military to civil superintendence at the armories, until the President of the United States and Secretary of War shall have approved and directed such a change.

Mr. JONES, of Tennessee. I submit that this amendment should have been offered to the amendment to which it relates, but having passed that amendment it cannot now be offered.

The CHAIRMAN. The Chair thinks it is too late to offer this amendment.

Mr. EVANS. I offer this to explain the main bill. It relates to the subject-matter of the bill, and I submit that it is in order.

The CHAIRMAN. Upon a further examination of the amendment, the Chair thinks it is sufficiently general in its phraseology to make it apply to the whole bill, and, therefore, rules it in order.

Mr. EVANS. If I were not well convinced that this committee has done here to-day what the country will have cause to regret hereafter, I should not think of offering this amendment. Sir, for one I can say that I have considered this subject entirely divested of all personal feeling in these armories; having no personal connection in them in any way, nor with any one connected with them; not having one of them in my district; not having the acquaintance of a single officer in charge of them, I have no object in view, nor any interest in the subject other than that of the good of the country. But, sir, I am persuaded the House has taken a mischievous step when it has decided to change the superintendency of these armories from the military to the civil control—one which will entail expense upon the Government, that will result in the destruction of all good order, and substitute in its place anarchy and discord.

And what do I propose to do? I propose to leave it to General Pierce, when he comes into office, and to his Secretary of War, after a proper examination of the subject, to determine whether the change proposed in this bill is such a one as is demanded by the public interests. I desire to leave it to them. General Pierce is himself a man of military education and experience in the field, and his Secretary of War will no doubt be a man entirely competent to decide upon questions like this. But I say this House ought not to take so important a step, without official information upon the subject; without any report from the proper authorities, unless we leave it to the discretion of some one who may be competent to decide. Why, sir, the whole affair is nothing but a mere attempt upon the part of certain parties, at work in these armories, who desire to escape from under a just restraint. It is the effect of that spirit of insubordination which is abroad all over the land. That is my opinion in relation to it.

Now, the official information which the President of the United States may receive will enable General Pierce to judge intelligibly upon this subject; and I submit to gentlemen whether it would not be better to leave it discretionary with him to make the change or not, as he and his Secretary may judge advisable. They will be able to judge more understandingly than we by any possibility can do. Too many prejudices, brought about by outside factions, have been at work here. All I want is, that in a matter so important as this, we should act with discretion. I do not ask you to continue this military superintendence over those armories if it is wrong; nor do I desire to change it if it be right. What I propose to do is, to leave it to those who are best able to judge—to the incoming Administration. I propose to leave it to that Administration to say how far these armories should be thrown open to a civil superitendence. I do not know specially of the persons who had charge of them before they came under the military system; but I have no doubt there were persons there who were not competent.

Now, with regard to what has been said of the competency of those educated at West Point for this place: if their education is not sufficient they ought to be educated for it. They who are educated to the use of arms, ought to know how to construct or make arms; and these armories are the only places where you can teach them. Why, sir, for what purpose do you organize your ordnance corps? Its officers ought to be instructed in the manufacture of arms in all its minutiæ; and you cannot instruct them unless you place them in these armories. If they are not acquainted with it, they ought to be made acquainted with it. If they cannot learn it at West Point, they should be made to learn it elsewhere.

[Here the hammer fell.]

Mr. MEADE. I ask the gentleman to change the phraseology of his amendment, by striking out the words "and Secretary of War," so as to leave it to the discretion of the President.

Mr. EVANS. I have no objection to that. I will accept that amendment, if the gentleman desires.

Mr. GORMAN. I am opposed to that amendment for the same reason that I have expressed time and again. The gentleman has come here again, and revamped up his old argument, which we have heard from him before—that we have struck a lick here to-day which will be disastrous to the interests of the country.

Now, sir, that gentleman has a military education in part, and if his imagination can conjure up another single point of view which has not already been presented here, I will stop and listen to him.

Why, a West Point education gives a man no knowledge of the manufacture of arms. It has no more to do with that subject than of any mathematician in any other school in this country. If you put a civil superintendent over these armories —I speak this for the ear of the gentleman from Maryland—your ordnance corps will devise what species of arms shall be manufactured, what their capacity, and what their caliber shall be, the same as now. That is all your ordnance corps do now, and they may do that as well after the armories are under a civil superintendence as before. Now, what do you want a military superintendent to control these mechanics for? The gentleman says it is to make them do their duty. Why, the mechanics of the country need not be made to do their duty. When there is a rule laid down how many hours they shall work, there is no difficulty in controlling them. But what they complain of is, that they are brought under military discipline; that they are brought down to military rule. Now, any gentleman who has ever been in the Army, knows something of that rule. Does not every man know that it is an absolute monarchy from the time the sergeant commences to drill his squad up to the regiment and brigade drill? But there is another thing. When you put a military man as superintendent of that armory, you double his rations; and these military men are continually seeking these places.

Suppose now you put a civil superintendent there, these men will work the same number of hours in the day at the same kind of labor, and it is probable the same amount of money will be spent. But I insist, if gentlemen argue this question, they shall come down to the only practical point involved. The question is, whether these mechanics should be placed under a military man or a civilian. That is the only question at issue. Your ordnance corps will decide what kind of arms to manufacture, whether the armorers are under civil or military superintendence, and that is all they would do if they were to continue to have control of them.

Mr. Chairman, I have every confidence in the President of the United States, and I believe if this question were left to his discretion, he would act wisely; but I am opposed to the amendment of the gentleman from Maryland, because it belongs to this House of Representatives to say what shall be done in this matter. A large majority have already decided in favor of the civil superintendence; and if the President approves or disapproves of it, what has he to do with it? If he leaves it to the Army officers, he would make half a dozen more military posts over the country The military committees have reported in favor of abolishing half a dozen military posts which already exist; and why have they done so? It is because they are of no public utility, and because there is no necessity of involving the Government in the expense of maintaining them But they are abolished, and the consequence is that you have fewer posts at which you have to double the rations and increase the compensation of these Army officers.

Mr. STANLY. I move to amend, *pro forma*, by including the Secretary of War. My friend from Indiana [Mr. GORMAN] asks, with a good deal of emphasis and a tone of defiance, if any one can give a good reason why an ordnance officer is better calculated to judge of the manufac-

ture of arms than a civilian? Now, in the first place, who is to be the civilian there? Do I understand my friend from Indiana to say that all the Presidents who are hereaftar to be elected, will put into that office civilians who are well qualfied to judge of the manufacture of arms? Suppose he be a preacher, will he be a good judge of arms? Suppose he be an ex-member of Congress—a Whig or a Democrat, I care not which—is he a better judge of arms than an ordnance officer? Why, sir, what is an ordnance officer? Will the gentleman tell me?

Mr. GORMAN. I have said that if you put a civil superintendent there, your ordnance officers prescribe the character, the capacity, the peculiarity, and the kind of arms that are to be manufactured. If you put a military superintendent there, he will do no more than control the labor of manufacturing, and the men who discharge that duty. That is the point.

Mr. STANLY. Now, my friend from Indiana gives up the whole question in the answer which he has made. I am obliged to the gentleman. "I thank thee, Jew, for teaching me that word." He has answered his whole argument, and saved me the trouble of going into it. I could not do it as well. Then, sir, the confession has come out in this debate, it has sprung out from the gentleman's own mind and mouth that there is a necessity for an Ordnance Corps to "prescribe the character, the capacity, peculiarity, and the kind of arms that are to be manufactured." Indeed! Then my friend from Indiana will have this state of things existing: there is to be a civil officer there, under whose charge the arms are to be made, right or wrong, and then they are to be approved by an ordnance officer. Are you going to have a civil superintendent—an ex-member of Congress, or a preacher—under the control of an ordnance officer, to tell him how the arms are to be made? Does not the gentleman, in his answer, tell us that ordnance officers are necessary to examine the arms and see if they are right? Does he not give up the whole question? Where is the principle gone? Are not the arsenals under military superintendence? How is it in the navy-yards? Why do you not get civilians to manage ships and sailors? Are not sailors citizens? Are they not under military rule? These men have no military rule over them. The men educated at West Point are chemists and mineralogists; they are taught to test iron, and are placed in the Ordnance Corps because of their peculiar qualifications, and know, from actual service, that this or that kind of metal is better for muskets than another kind; that this kind of carriage for cannon, by actual experience at West Point, is better than another. A part of my friend's argument goes against himself, and he says that any man who comes here with the best recommendations from his own district is as well qualified to judge of arms as men whose special training has been in that line.

Mr. GORMAN. Your ordnance bureau prescribes the character of the arms, and not the superintendent.

Mr. STANLY. The whole substance of my friend's argument is, that "education comes by nature," and that any man, picked up anywhere, Whig or Democrat, is just as well qualified to judge of arms as Colonels Ripley, Churchill, or Craig, or any other man who has been in the service of his country thirty or forty years, in peace or war, and whose special duty it is, and who has been educated with a view of enabling him to superintend the manufacture of arms. I thank my friend for answering his own question as he has just now. If there is no objection I will withdraw my amendment.

The amendment was withdrawn.

The CHAIRMAN. The question is upon the amendment of the gentleman from Maryland.

Mr. EVANS. I ask for tellers.

Mr. SACKETT. I ask for the reading of the amendment as it now stands.

The amendment was accordingly read, as above inserted.

Tellers were then ordered, and Messrs. MEADE and BRIGGS appointed.

The question was then taken, and the tellers reported—ayes 60, noes 80.

So the amendment was not agreed to.

Mr. GORMAN. I offer the following amendment:

And that the Secretary of War be authorized to distribute the arms provided for by the act of Congress of 1808, to the State of Iowa, according to her representation in Congress.

The reason for my offering this amendment is, that Iowa is the only State from which there has been no militia returns. The Secretary of War recommends that some action should be taken on the subject by Congress; and the member from Iowa desires it.

The question was taken on the amendment, and it was adopted.

Mr. SNOW. I offer the following, as an additional section to the bill:

And be it further enacted, That the provisions of the act making appropriations for the support of the Army, for the year ending 30th June, 1851, approved 28th September, 1850, granting extra pay to the commissioned officers and enlisted men in the United States Army, serving in California and Oregon, from June 30th, 1850, to March 1st, 1852, be, and the same is hereby, extended to the commissioned officers and enlisted men serving during the same time in the ninth military department, and the troops stationed at Fort Laramie. And that so much as may be necessary of the moneys now remaining unapplied of the said act, be also applied to the payment of the officers and enlisted men serving in the ninth military department, as aforesaid.

Mr. HOUSTON. I would inquire if that amendment is in order? It proposes to make an appropriation of money to pay officers and men who served some three, four, or five years ago, and for which there is clearly, at present, no law.

The CHAIRMAN. The Chair thinks it is not in order, but he will hear the gentleman's suggestion in regard to it.

Mr. SNOW. I will state to the House, for its information, that in 1850 a law was passed granting extra pay to the commissioned officers and enlisted men of the army of the United States serving in Oregon or California, to the amount of $325,854, on this basis: That there should be allowed to each commissioned officer, while serving in Oregon or California, a per diem, in addition to their regular pay and allowance, of two dollars each, and to each enlisted man, a per diem, in addition to their usual allowance and pay, equal to the pay proper of each as established by the then existing laws; which extra pay to the enlisted men was to be continued until the first of March, 1852, or until otherwise discharged.

Over $100,000 of that appropriation remains unexpended, after settling with the California and Oregon service. The amendment I propose to the bill provides that there shall be paid out of this surplus fund, to the commissioned officers and enlisted men serving during the same time in the ninth military department, and to the troops stationed at Fort Laramie, the same extra pay as was provided by the act of 1850.

Mr. HOUSTON. The gentleman is greatly in error as to his facts in relation to the law of 1850. That was not a mere appropriation, like this proposed by the gentleman from New York. The law of 1850 provided that the officers and enlisted men who served in California and Oregon should have a certain additional compensation, for a specified length of time, and an appropriation was regularly made to meet that law. So the gentleman is mistaken in supposing that any of that appropriation remains. The tenth section of the civil and diplomatic bill would carry it back to the Treasury, even if it had remained. Last session we made an appropriation for California, and included the very troops which the gentleman now speaks of.

The point made by the gentleman from Georgia [Mr. TOOMBS] against the amendment offered by the gentleman from Indiana, which proposed to create an additional regiment, will clearly apply, with all its force, to this amendment.

Mr. SNOW. I would say to the gentleman that the appropriation of 1850 was specific.

Mr. HOUSTON. I know it was.

Mr. SNOW. It has not been expended, and the appropriation more than covered the service.

Mr. HOUSTON. Does the gentleman speak of the appropriation of 1850 or 1852?

Mr. SNOW. Of that of 1850.

Mr. HOUSTON. I assure the gentleman that there is none of that appropriation now left. It has gone back into the Treasury, as required by law.

Mr. HENDRICKS. Has the Chair decided that the amendment is in order?

The CHAIRMAN. Under the state of facts elicited by the remarks, the Chair decides that the amendment is not in order.

So the amendment was not received.

Mr. STANLY. I move the following additional section, and I trust it will be adopted:

And be it further enacted, That the Secretary of War be directed to report to Congress, whether, in his opinion, it would not be more economical to cause all the arms of the United States to be made by contract.

The question was taken on the amendment, and it was agreed to.

Mr. HOUSTON. I now move that the bill be laid aside, for the purpose of taking up the Indian bill.

Mr. FREEMAN. I hope the gentleman will withdraw his motion, and allow me to offer another amendment.

The CHAIRMAN. It is the right of the gentleman to propose an amendment, if he desires to.

Mr. FREEMAN. I offer the following amendment:

And be it further enacted, That the sum of $10,000 is hereby reappropriated for the purchase of a site for the marine hospital at Vicksburg, in Mississippi.

This amount of money was appropriated for a marine hospital at Vicksburg two years ago; but the commission sent out to select a site had not yet made a report to the Treasury Department, and the appropriation will have been carried to the surplus fund by the 30th June next. I now only ask its reappropriation, so that as soon as the site is selected the building may be erected.

The question was taken, and the amendment was agreed to.

Mr. SUTHERLAND. I submit the following amendment, to come in as an additional section:

And be it further enacted, That whenever the lieutenant of the Corps of Engineers or Ordinance Corps shall have served fourteen years continuous service as lieutenant, he shall be promoted to the rank of captain: *Provided*, The whole number of officers in either of said corps shall not be extended beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps.

Mr. HOUSTON. A proposition similar to that was decided at the last session to be out of order. I now rise to the point of order, whether, in this bill making appropriations simply for the military establishment as now existing by law, we have the power under the rules of the House to remodel the whole military establishment.

Mr. SUTHERLAND. I have offered it to come in as an additional section.

Mr. JONES, of Tennessee. It is clearly out of order.

Mr. GORMAN. If there is anything in order, it is that amendment.

Mr. STANLY. It is a very proper amendment. The Senate have passed it.

Mr. SUTHERLAND. It is the precise copy of a Senate bill now on the Speaker's table.

Mr JONES. For that very reason, then, it is out of order.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. JONES. It is clearly out of order, under an express rule that no bill pending in the House shall be offered as an amendment to another.

The CHAIRMAN. The question will be on the adoption of the amendment.

Mr. JONES. The gentleman says that it is an exact copy of the Senate bill, and I ask the Chair to make his decision on the point of order I have raised.

The CHAIRMAN. The Chair supposed the gentleman stated that it was not a precise copy, but the substance of the Senate bill. If it be an exact transcript of that bill, the Chair will rule it out of order.

Mr. SUTHERLAND withdrew his amendment.

Mr. HOUSTON. I move that the committee do now rise, and report the bill.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. BROWN, of Mississippi) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 336, making appropriations for the support of the Army for the year ending the 30th of June, 1854, and had instructed him to report the bill back to the House with sundry amendments.

Mr. HENN, from the Committee on Enrolled Bills, reported as correctly enrolled the bill of the following title; and it thereupon received the signature of the Speaker:

"An act authorizing the Secretary of the Treasury to issue a register to the American-built steamship Albatross."

A message was here received from the Senate by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had concurred in the amendments of the House to the following bill, with an amendment:

S. No. 310. An act for the relief of the town of Belleview, in Iowa.

And concurred in the following bill, with amendments:

H. R. No. 157. An act for the relief of Josiah P. Pilcher, late a private in company F, second Kentucky volunteers, in the war with Mexico.

And passed the following bill:

S. No. 463. An act for the relief of Mary Woodward.

And that the President had notified that body that he did on the 9th of February approve and sign the following bill:

S. No. 208. An act for the relief of Barbara Reily.

Mr. HOUSTON. I call for the previous question on the Army bill, and the amendments proposed to it by the Committee of the Whole on the state of the Union.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. HALL. I move that when the House adjourns it be to meet to-morrow at twelve o'clock, m.

The question was taken, and the motion was agreed to.

The SPEAKER. The Chair understands that there are some ten amendments. If there be no objection, those on which no separate vote is demanded will be voted for *en masse*. If any gentleman desire a separate vote on any amendment, he will please signify it as it is read.

The amendments were read by the Clerk, and separate votes were demanded on the sixth amendment by Mr. EVANS, and on the tenth by Mr. SWEETSER.

The question was taken on the remaining amendments, and they were agreed to.

The sixth amendment was reported as follows:

"*Provided*, That from and after the first day of July next so much of the act of Congress, approved August 3d, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps, be, and the same is hereby repealed, and from that day, the said armories shall be under that system of superintendence which existed prior to the passage of the said act of Congress."

Mr. EVANS. I demand the yeas and nays on that amendment.

The yeas and nays were ordered.

The question was taken, and the amendment was agreed to—yeas 87, nays 59, as follows:

YEAS—Messrs. Charles Allen, Willis Allen, Averett, David J. Bailey, Bartlett, Bocock, Briggs, Busby, Joseph Cable, Thompson Campbell, Chastain, Churchwell, Clark, Clemens, Cleveland, Cobb, John G. Davis, Dawson, Dean, Dimmick, Durkee, Eastman, Edgerton, Edmundson, Faulkner, Fay, Ficklin, Fitch, Florence, Floyd, Freeman, Gamble, Gaylord, Giddings, Goodrich, Gorman, Green, Grow, Hall, Isham G. Harris, Hart, Hendricks, Henn, Holladay, Thomas Y. How, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Little, Mann, McLanahan, McNair, Meade, Millson, Molony, Morrison, Murphy, Murray, Nabers, Andrew Parker, Phelps, Polk, Powell, Reed, Robbins, Robie, Russell, David L. Seymour, Origen S. Seymour, Skelton, Snow, St. Martin, Stratton, Sutherland, Sweetser, Thurston, Townsend, Tuck, Walsh, and Wildrick—87.

NAYS—Messrs. Allison, William Appleton, Barrere, Bell, Bennett, Bowie, John H. Boyd, Brenton, Brooks, Albert G. Brown, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Clingman, Colcock, Cottman, Daniel, Darby, George T. Davis, Dockery, Duncan, Evans, Grey, Harper, Haws, Haven, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, George G. King, Landry, McQueen, Miller, Henry D. Moore, John Moore, Morehead, Newton, Orr, Penniman, Porter, Preston, Sabine, Sackett, Schoonmaker, Stanly, Benjamin Stanton, Taylor, Venable, Walbridge, Ward, Washburn, Watkins, Welch, Wilcox, Williams, and Woodward—59.

So the amendment was adopted.

Pending the above vote, Mr. OUTLAW rose in his place, and stated that on this question he had paired off with Mr. JOHNSON of Arkansas.

The tenth amendment was then reported as follows:

"*And be it further enacted*, That the Secretary of War be directed to report to Congress whether, in his opinion, it would not be economical to cause all of the arms of the United States to be made by contract."

The question was taken on the amendment, and it was agreed to.

The bill was then ordered to be engrossed and read a third time, and being engrossed, it was, according to order, read the third time, and passed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. KING, of New York. I send to the Speaker a resolution which was handed to me by the Sergeant-at-Arms, for the purpose of enabling him to close the account of Mr. BUELL.

The resolution was reported as follows:

Resolved, That the Speaker be authorized to pay to the widow of Hon. ALEXANDER H. BUELL, deceased, whatever balance was due said deceased, on account of mileage and per diem at the time of his death.

The question was taken and the resolution was adopted.

Mr. STANLY. I would suggest, if we are to have no evening sessions, that we meet at eleven o'clock in the morning.

Objection was made.

Mr. PENNIMAN. I would ask the unanimous consent of the House for leave to introduce the following joint resolutions of the State of Michigan:

"Joint resolution relative to the public domain.

"*Resolved by the Senate of the State of Michigan, the House of Representatives concurring herein*, That our Senators and our Representatives in Congress be requested to use their influence to procure the passage of a law securing the title to every landless head of a family, free of charge, to one hundred and sixty acres of land from our public domain, who shall settle and cultivate the same for five years.

"*Resolved*, That the Governor be respectfully requested to transmit a copy of this resolution to our Senators and Representatives in Congress.

"APPROVED January 29, 1853."

Objection was made.

Mr. SWEETSER. I move that the House do now adjourn.

The motion was agreed to; and the House thereupon adjourned till to-morrow at twelve o'clock, m.

PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ROBBINS: The petition of R. W. Lolly and 38 other citizens of Philadelphia county, asking Congress to modify the act of 1850 so as to give to each person intended to be benefited thereby, and to seamen and marines, one hundred and sixty acres of land.

By Mr. PHELPS: The petition of James W. Owens, of Laclide county, Missouri, praying to be permitted to correct a mistake in describing a tract of land which he claims by preëmption.

By Mr. WALSH: A memorial of the Board of Trade of Baltimore, praying that the third section of the act passed 31st August, 1852, being an act to establish certain post roads, &c., may be repealed or modified.

Also, the memorial of Joseph J. Taylor, Moore N. Falls, and others, steamboat owners of the city of Baltimore, praying a modification of the steamboat law passed at the last session.

By Mr. WALBRIDGE: The memorial of William H. Skinner and 59 others, citizens of Chemung county, New York, asking an appropriation of public lands to aid in the construction of a ship canal around Niagara Falls on the American side.

By Mr. BELL: The memorial of Amos Soaper, of the county of Monroe and State of New York, representing that he was one of the valiant band who signalized themselves in the defense of Plattsburg in the late war with Great Britain, and to whom Congress, by resolution, May 20, 1826, directed the presentation to each of a rifle for their services on that occasion, but that their time of service not amounting to thirty days, they could receive no bounty land under the existing laws, praying a special act allowing to each of said company one hundred and sixty acres.

By Mr. IVES: The petition of Daniel Lee, and 32 others, citizens of Jefferson county, for the construction of breakwaters in the harbor of Cape Vincent, New York, and the construction and repair of light-houses in the vicinity of Cape Vincent.

By Mr. DARBY: The petition of Henry Papin, Mary Atchison, and others, praying for the confirmation of certain lands in the State of Missouri.

By Mr. DURKEE: The petition of Martin Lownson, for a pension.

Also, the petition of Lewis Washburn for a pension.

By Mr. DOTY: His petition for the passage of the bill, of which he has heretofore given notice, to establish a railroad post route upon an air line between Washington city and New York, and to provide for the construction of said road.

Also, a joint resolution to authorize the Secretary of State to contract with American sculptors for full-length statues of all the Presidents.

By Mr. GILMORE: The petition of citizens of Armstrong county, Pennsylvania, for a post route from State Lick, Pennsylvania, to Cowersville, Pennsylvania.

By Mr. WALBRIDGE: The petition of Stephen McKinney and 52 others, citizens of Tioga county, New York, for a mail route from Owego, through the towns of Tioga and Barton, to Waverly, in said county of Tioga.

By Mr. BABCOCK: The petition of citizens of the county of Oswego, praying an appropriation of land to construct a ship-canal around Niagara Falls, in the State of New York.

By Mr. FLORENCE: The memorial of William H. Gatzmer, agent of the Camden and Amboy Steamboat and Railroad Company; S. M. Felton, president New Castle and Frenchtown Steamboat Company, and Baltimore, Wilmington, and Philadelphia Railroad Company; M. Williamson, president Philadelphia and Savannah Steam Navigation Company; W. M. Baird, president Union Steamship Company from Philadelphia to Richmond; A. Groves, jr., agent Baltimore and Philadelphia Steamboat Company; R. T. Loper, president New York and Philadelphia Steamboat Company; D. W. Eldredge, agent Sanford's line between New York and Philadelphia; Henry Winson, agent Boston and Philadelphia Steamboat Company; Wilmon Whelden, jr., owner and proprietor Philadelphia and Wilmington steamboats; McMakin & Bro., owners and proprietors of steamer Edwin Forrest; Charles W. Bender, for the Schuylkill River Company; John L. Roberson, owner and proprietor of steamer Cohansey; Isaac Mickel, president Camden and Philadelphia Steamboat Company; and Henry H. Fisher, in relation to the law passed 30th August, 1852, entitled "An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam;" petitioning Congress to repeal said act, or that it be so amended that it shall not take effect until nine months after the publication by the supervisory inspectors of the regulations required by said act.

IN SENATE.

SATURDAY, *February* 12, 1853.

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, communicating the report of the Director of the Mint for the past year; which was referred to the Committee on Finance, and ordered to be printed.

Also, a report of the Secretary of the Interior, in answer to a resolution of the Senate calling for a copy of the report and maps of a survey between Indianola and El Paso, by the Topographical Engineers attached to the Mexican Boundary Commission; which was ordered to lie on the table and be printed.

HOUR OF MEETING.

Mr. GWIN. I ask the Senate to indulge me in taking up and considering the resolution which I offered the other day, with regard to changing the hour of meeting.

Mr. HALE. I object. I want the morning business through with.

Mr. GWIN. I move, then, to postpone all prior business for the purpose of taking up the resolution.

The question was taken, and on a division, there were—ayes 21, noes 9; no quorum voting.

Mr. GWIN. I ask for the yeas and nays on the question.

The yeas and nays were ordered.

Mr. BADGER. If it is in order, I will ask that the resolution may be read.

The resolution was read, as follows:

Resolved, That the hour of meeting of the Senate shall be eleven o'clock, from and after Monday next.

The question was then taken with the following result—yeas 33, nays 8:

YEAS—Messrs. Adams, Atchison, Bell, Borland, Bradbury, Bright, Brodhead, Brooke, Cass, Charlton, Chase, Cooper, Davis, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Fish, Foot, Geyer, Gwin, Houston, James, Mallory, Miller, Phelps, Rusk, Shields, Smith, Spruance, Sumner, Wade, and Walker—33.

NAYS—Messrs. Bayard, Dawson, De Saussure, Fitzpatrick, Hamlin, Mason, Pettit, and Underwood—8.

So the motion was agreed to.

The question was then taken on the resolution, and it was adopted.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read a first and second time by their titles, and referred to the Committee on Territories:

An act to establish the territorial government of Washington;

An act to organize the Territory of Nebraska; and

An act to amend an act entitled "An act to 'amend an act to settle and adjust the expenses of 'the people of Oregon from attacks and hostilities 'of Cayuse Indians, in the years 1847 and 1848," approved August 21, 1852.

The bill from the House of Representatives, to amend an act entitled "An act for the relief of Joseph Johnston," approved May 4, 1852, by correcting a clerical error, was read a first and second time by its title, and referred to the Committee on Pensions.

PETITIONS, ETC.

Mr. HAMLIN presented a petition of citizens of Maine, who have been in the military service of the United States, praying a modification of the

bounty land law; which was referred to the Committee on Public Lands.

Mr. SMITH submitted additional documents in support of the claim of Dr. Wells to priority of discovery of the use of ether as an anæsthetic agent in surgical operations; which were referred to the select committee appointed on the subject.

Mr. SOULE presented the petition of Joseph H. Waring, praying compensation for clerical services in the office of the Solicitor of the Treasury; which was referred to the Committee on Claims.

Also, a petition of John Gusman, praying confirmation of his right to a tract of land in the Greensburg land district, Louisiana; which was referred to the Committee on Private Land Claims.

Mr. DAWSON presented the memorial of J. Wilson Smith, praying indemnity for the illegal seizure of the steamer Fanny by the United States district attorney, and the custom-house officers at Savannah; which was referred to the Committee on Commerce.

RELIGIOUS LIBERTY ABROAD.

Mr. HALE. I have received and been requested to present to the Senate a petition from legal voters of the township of Windham, Portage county, Ohio, in which they ask the Government to take such steps as to them may seem proper to set forth to the Governments of the world, under which religious liberty is not enjoyed, the duty and advantage of granting this great right to their subjects. The petition is accompanied by a letter in which is expressed the hope that our Government will take the subject into consideration, and urge it upon other Governments; and that they in return will induce our Government to give not only civil but religious liberty to the millions of slaves we have in our own land.. I do not know that——

The PRESIDENT. The motion to receive the petition will lie upon the table.

Mr. HALE. There is nothing of the latter part of my statement in the petition. That is only in a private letter, which I do not present to the Senate.

The PRESIDENT. The petition then will be referred to the Committee on Foreign Relations.

BILLS RECOMMITTED.

Mr. UNDERWOOD. A bill came to us from the House of Representatives to place a man by the name of Bennet upon the pension rolls. It was referred to the Committee on Pensions here, and reported back adversely, upon the ground that it did not appear from the testimony that he had been wounded in the line of his duty. I wrote home, as he was a Kentuckian, and I have been furnished with evidence to show exactly how he was wounded. I desire to ask that the bill may be taken up and recommitted, with this additional evidence; or, if the Senate will allow me to read a single affidavit, it will perhaps consent to act on the bill now.

Several SENATORS. Oh, no.

Mr. UNDERWOOD. I hope, then, it will be taken up and recommitted with the additional evidence.

The PRESIDENT. If there be no objection, the bill will be considered as before the Senate, and will be referred, together with the testimony offered by the Senator from Kentucky.

There was no objection.

CHARLES STEARNS.

Mr. BADGER. I reported a bill the other day, from the Committee on the Judiciary, for the relief of Charles Stearns. I wish that some further evidence may be laid before the committee, and, therefore, I desire that the bill be recommitted. With that view, I move that the bill be now taken up.

The bill was accordingly read a second time, and considered as in Committee of the Whole.

On motion by Mr. BADGER, it was ordered to be recommitted to the Committee on the Judiciary.

JOHN P. CONVERSE.

On motion by Mr. WADE, the Senate, as in Committee of the Whole, proceeded to consider a joint resolution from the House for the relief of John P. Converse, of Ohio. It proposes to direct the Postmaster General to pay to him the sum of $636 98, as compensation for his per diem services and traveling and other expenses while acting as special agent for the Post Office Department.

The joint resolution was reported to the Senate without amendment, and ordered to be read a third time, and was read a third time and passed.

FISHERIES.

Mr. DAVIS. I have been instructed by the Committee on Commerce, which has had under consideration a bill to regulate the rights of fishing and the rights of disposing of the proceeds of the fisheries in and between the British North American provinces and the United States, to report it back with two or three substantially verbal amendments; and I am instructed also to ask the Senate to consider it at this time, and if it meets its approbation, to pass it. I apprehend that it will not occupy much of the time of the Senate, or lead to any discussion.

The PRESIDENT. It requires unanimous consent to consider the bill at this time.

Mr. GWIN. It seems to me that it will take up an hour.

Mr. DAVIS. I think it will occupy but little time. It is a bill of a good deal of importance, and I do not know that any gentleman can have any objection to it.

Mr. GWIN. I have no objection to taking it up.

Mr. MALLORY. I must ask the honorable Senator to permit it to lie over until Monday. I have not had an opportunity to see its provisions. Perhaps if I could hear it read, I might not object to its consideration.

The PRESIDENT. The bill will be read for the information of the Senate.

It was accordingly read. It proposes to direct that whenever the President of the United States shall receive satisfactory evidence that the fishermen and fishing vessels of the United States are admitted to the common rights and privileges of British subjects resident in those provinces to fish in the waters thereof and adjacent thereto, together with the rights of curing and preparing for the market the proceeds of such fisheries both upon the water and the land, then he shall issue his proclamation, authorizing the fishermen and fishing vessels of said provinces to enjoy like privileges in the waters of the United States, together with the privilege to enter the ports of entry in the United States, and make sale of the fish and the proceeds of the fisheries upon the payment of the same duties which are required by law, of the fishing vessels and their cargoes belonging to the United States; provided, that nothing contained in the bill shall affect private rights of fishing, or give any right to occupy private property except upon agreement.

The committee propose to amend it, so that it will read:

"That whenever the President of the United States shall receive satisfactory evidence that the fishermen and fishing vessels of the United States are admitted to the common rights and privileges of British subjects, resident in those provinces, to fish in the waters thereof and adjacent thereto, together with the right upon the water and the land, of curing, preparing for the market, and to sell therein the proceeds of such fisheries, then he shall issue his proclamation authorizing the fishermen and fishing vessels of said provinces to enjoy like privileges in the waters of the United States, together with the privilege of entering the ports of entry in the United States, and making sale of fish, and the proceeds of the fishing, upon the payment of the same duties which are required by law of the fishing vessels and their cargoes belonging to the United States: *Provided*, That nothing herein contained shall affect private rights of fishing, or give any right to occupy private property, except upon agreement."

Mr. MALLORY. I must ask the honorable Senator to permit it to go over.

Mr. DAVIS. If the Senator will allow me, I will state that it is a proposition to the British Government to settle the difficulty in regard to the fisheries upon an entirely reciprocal basis. Whenever the bill is passed, it will give to the British Government just the same privilege of fishing in our waters that we obtain in theirs, and just the same right of entry to dispose of fish. It is entirely reciprocal. What is given to one country by it, is given to the other; that is the whole proposition. Now, if the fishermen of our country can stand that proposition, I think nobody can have any objection to it at all; and therefore it is, as we are drawing towards the close of the session, and this is a question which, if unsettled, is likely to be the cause of great difficulty hereafter, that it is desirable it should be passed now, and go to the House. I introduced it a week ago. I had it printed and laid upon the tables of gentlemen that they might see it, and gave notice that I would early ask for its consideration. I have postponed all movement in it for a week, and now I hope that the Senator will withdraw his objection, and let it be considered.

Mr. MALLORY. The proposition is precisely what I supposed it was. There is a portion of this country which has a very great interest in this proposition. I have no design or wish to throw any obstacle in the way of reciprocity in fishing upon the northern coasts; but some of the most extensive fisheries of this country have yet to be developed upon the southern coast of the United States, and the class of persons who will enter into those fisheries will be that class which the southern country most wishes to exclude. When the bill comes up for consideration, I design to submit an amendment which will touch the interests of some of the most valuable and extensive fisheries we have. I must therefore ask that the bill may go over.

The PRESIDENT. It goes over, as a matter of course, when objected to.

ARMY APPROPRIATION BILL.

A message from the House of Representatives was received, by Mr. P. B. HAYES, its Chief Clerk, announcing that it had passed a bill making appropriations for the support of the Army for the year ending the 30th of June, 1854.

It was read a first and second time by its title, and referred to the Committee on Finance.

MESSAGES FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. P. B. HAYES, its Chief Clerk, announcing that it had passed a bill for the relief of John Millar.

Also, by Mr. FORNEY, its Clerk, announcing that it had agreed to the amendments of the Senate to the amendment of the House to the bill for the benefit of the town of Belleview, in Iowa.

Also, that it had passed a bill from the Senate for the relief of John Williams.

COMMITTEE ON ENROLLED BILLS.

On motion by Mr. JONES, of Iowa, it was

Ordered, That a member be appointed to fill the vacancy in the Committee on Enrolled Bills, and that the appointment be made by the President *pro tempore*.

And Mr. PETTIT was appointed.

FEE BILL.

Mr. BRADBURY. I move that the Senate now proceed to the consideration of the special order, which is the bill to regulate fees, costs, &c., in the courts of the United States.

Mr. MILLER. Is that bill the special order before one o'clock?

The PRESIDENT. It was made the special order for half past twelve o'clock.

Mr. MILLER. I hope the honorable Senator from Maine will not object to taking up the resolution with regard to Liberia, on which I gave notice yesterday that I desired to be heard for a few minutes to-day. I desire to express a few remarks only, and then to have it referred to the committee.

Mr. BRADBURY. I would like to accommodate the honorable Senator from New Jersey, but I cannot.

Mr. BUTLER. I give notice to the Senator from New Jersey, that when that subject comes up, it is not to be one of those complimentary courtesies of which the mover has the monopoly. I give notice that he will be replied to, and by many gentlemen on this floor.

Mr. MILLER. I will not then insist upon its being taken up now.

Mr. BRODHEAD. I hope that the Senator from New Jersey will give way to the request of the Senator from Maine, who has been trying for a long time to get up an important bill. It has been made a special order for to-day, and I hope he may be gratified.

Mr. MILLER. I stated that I would not object.

The Senate then proceeded, as in Committee of the Whole, to consider the bill to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes.

Mr. BRADBURY. The Committee on the Judiciary have instructed me to report sundry amendments, which I ask may be considered: and I will state, with regard to these amendments, that, with the exception of the first one, they are designed to correct some supposed deficiencies in the

bill, where it was believed the compensation allowed to the officers was inadequate. The first amendment requires a verbal alteration, which, being adopted, I will ask that the amendments be considered and adopted.

Mr. GWIN. I would suggest that, as these amendments have been reported by the Committee on the Judiciary, who fully understand the subject, they be adopted together without reading.

The PRESIDENT. The amendments must be read, unless, by unanimous consent, their reading be dispensed with.

Mr. FISH. I want to hear them read.

They were accordingly read.

The first amendment of the committee was to add to the provisions allowing a docket fee of twenty dollars to attorneys, solicitors, and proctors, in trials of civil and criminal causes, or on a final hearing in equity and admiralty, the following proviso:

"*Provided*, That in causes in admiralty and maritime jurisdiction, where the libelant shall recover less than fifty dollars, the docket fee of his proctor shall be but ten dollars."

The amendment was agreed to.

The second amendment of the committee was to amend the provision for the compensation of marshals, for the service of writs, by adding the following proviso:

"*Provided*, That on petition setting forth the facts on oath, the court may allow such fair compensation for the keeping of personal property attached and held on mesne process, as shall, on examination, be found to be reasonable."

Mr. BRADBURY. The necessity for this amendment arises from the practice in many States, of making attachments of personal property upon mesne process. No provision was made in the original bill for compensating the officer in any degree for such service, and it is to meet that deficiency that the amendment is proposed.

The amendment was agreed to.

The third amendment of the committee, which was to insert "and witnesses," so as to include witnesses in the provisions of that section of the bill, was agreed to.

The fourth amendment of the committee was to insert:

"The marshal of the district of South Carolina shall hereafter be entitled to receive a salary of $200 per annum."

Mr. BRADBURY. South Carolina is the only State where the marshal receives no salary. This bill does not cut off the salaries of marshals, and therefore it was thought just that the marshal for South Carolina should be placed upon the same footing as marshals in the other States, and receive the usual salary.

Mr. CHARLTON. I move to amend that amendment by including the marshal for Georgia, for I believe he is in the same predicament.

Mr. BUTLER. No, sir; the marshal in Georgia receives $200 salary, and we are only trying to put South Carolina on an equality with Georgia.

Mr. CHARLTON. I withdraw my amendment.

The amendment of the committee was agreed to.

The fifth amendment of the committee was to amend the provision for the compensation of clerks of the United States courts by inserting:

"*Provided*, That when the compensation of any clerk shall be less than $500 per annum, the difference, ascertained and allowed by the proper accounting officer of the Treasury, shall be paid to him therefrom."

The amendment was agreed to.

The sixth amendment of the committee, which was to strike out the word "jurors," in that part of the bill that allows recovery of costs, as it was not deemed advisable to allow the fees of jurors to be recovered against the losing party, was agreed to.

The seventh amendment of the committee was a verbal one, by striking out "lie," and inserting "be had," so as to provide that the punishment for corruptly and fraudulently taking illegal fees shall be imposed by the court before whom the conviction shall be had.

The amendment was agreed to.

The PRESIDENT. The amendments of the committee have now been gone through with. The bill is still open to amendment.

Mr. BRADBURY. I have an amendment now to propose which has not been recommended by the Committee on the Judiciary, their attention not having been drawn to the subject. The bill, in that portion of it relating to the fees of clerks of the courts, contains these words: "For every search for each mortgage, judgment, or other lien, fifteen cents." I propose to strike out the words "mortgage, judgment, or other lien," and insert "person against whom the search is made." The necessity of the amendment arises from this fact, that clerks of the courts are required to make search for liens, mortgages, and judgments—judgments in the courts of the United States creating in the State of New York a lien. Under the local laws of the State a specific sum, so many cents, is given for each name against whom the search is made for each year, going back for ten years; but in the United States courts the clerk goes back to the establishment of the courts, and thus the fees become enormous. It will not answer the necessities of the case to leave the bill as it is, because in nine cases out of ten no mortgage or judgment is found, and therefore the clerk would get no compensation whatever in such a case. Therefore I propose to strike out the words I have indicated, and insert those named by me in their place.

Mr. FISH. I propose to amend that section in a mode which I think will meet the view of the Senator from Maine. It is to strike out in the clause which he has read the word "each," and insert the words "any particular," so that it shall read, "For every search for any particular mortgage, judgment, or other lien, fifteen cents," and at the end of the clause to add:

For searching the records of the court for judgments, decrees, and other instruments constituting a general lien upon real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.

Mr. BRADBURY. I will not offer my amendment, but accept that of the Senator from New York. It tends to correct an abuse which now exists, and I hope it will be adopted.

The amendment was agreed to.

Mr. HAMLIN. I propose to amend the bill by adding to that part of it which provides for clerks' fees, the following:

And the clerks of the district and circuit courts respectively, *ex officio*, shall be and hereby are authorized and empowered to administer oaths, take acknowledgments, take and certify affidavits and depositions, in the same manner as commissioners, and shall be entitled to the same fees and compensation therefor.

Mr. President, this amendment was made to a similar bill which was before the Senate two years ago, and I believe I am justified in saying that it meets the approbation of a majority of the Committee on the Judiciary, if not all the members of that committee. The necessity of it arises from this: In the smaller towns where the district or circuit courts may sit, there sometimes is a difficulty found in obtaining a commissioner, simply to administer an oath, to acknowledge a deed, or take an affidavit, and this is to supply that deficiency. It only makes the clerk a commissioner for the purpose specified in the amendment. I hope it will be adopted.

The amendment was agreed to.

Mr. BROOKE. I propose to insert, after the provision allowing marshals of the United States courts the same fees for receiving and paying over money as sheriffs of States, the following:

Provided, That in the State of Mississippi the commission for collecting money in final process, shall remain as now prescribed by law.

Mr. BRADBURY. I see no necessity for adopting that amendment.

Mr. BROOKE. I offer the amendment for the reason that the present commissions for collecting money are nearly all the marshal has to rely upon for compensation, and they afford barely a remunerative compensation; and if reduced to the same fees as sheriffs have in my State, I am very certain that the fees will not afford a sum that will be at all remunerative. That does not concern, I presume, any other State in the Union; but I know from conversations with gentlemen acquainted with this state of things in Mississippi, whom I have seen here, and from a gentleman once connected with this office, that the bill, as it now stands, will so reduce the compensation received by the marshals in that State, as to render the office almost worthless. I hope, therefore, that the Senator from Maine will not offer any opposition to my amendment.

Mr. BRADBURY. I think the honorable Senator from Mississippi is not aware of the state of facts in his own State. I have before me the statistics, and can refer him to the compensation received by the marshal of Mississippi for different years, to show that he certainly receives a remunerative compensation. The marshal of the southern district of Mississippi, in 1842, received $10,158; in 1846, his compensation was $7,093; in 1850, it was $7,048; and in 1843, he charged no less than $21,178. It is to correct some of the extraordinary abuses which have grown up that this bill has been introduced.

Now, in regard to compensation for services actually rendered, I will state that this bill gives as high remuneration as the fee bills in nearly all the States, and higher than most of them; but it cuts off abuses that exist. Let me give an instance: In the State of Mississippi, a sheriff receives for the service of a writ, from fifty cents to one dollar and fifty cents, according to its nature, and for traveling, nothing; but this bill proposes to give the marshal for each service upon each person, two dollars; and for travel, six cents per mile. I think the Senator will find that the bill gives adequate remuneration for every service rendered, and it would entirely destroy the symmetry of the bill, to undertake to except particular districts, particularly in States where the correcting hand of the law is needed as much as anywhere else.

Mr. BUTLER. I can tell the Senator from Maine that unless, when amendments are carried to him, he chooses to reject them at once, and proclaim to the Senate that he will accept no amendments, he will not carry the bill through. That is the only course by which the bill can be passed, in my opinion. I remember three years ago having a similar bill in my charge, and I endeavored to carry it through the Senate, but objections were made and amendments were moved, and it was lost. My friend Judge Berrien, formerly Senator from Georgia, made an attempt to carry a similar bill through two years ago. Objections were made to it, and it failed. Now, the bill is in the hands of the Senator from Maine, and I tell him, as the organ of the Committee on the Judiciary, that if he allows himself to be diverted from the main purpose, and to accept these amendments which are offered, he will not accomplish what the bill proposes, and that is, a radical reform of these abuses. When I state to the Senate one fact, which can be confirmed by all the members of the Judiciary Committee, they will see that there is a necessity for the passage of this bill. There are persons in the United States—I will not name them—marshals, district attorneys, and clerks, or other Federal officers, who, notwithstanding they are entitled to receive only $3,000 a year, are making $17,000, $18,000, and $20,000 a year, in the form of fees. Let the bill pass, and if the gentleman from Mississippi should find it objectionable in practice hereafter, it can then be amended. But you cannot get through with the bill, if you undertake to trifle with amendments in this way.

Mr. BAYARD. The amendment of the Senator from Mississippi, it seems to me, involves a difficulty which has been suggested by the Senator from South Carolina, and will necessarily defeat the bill. It proposes to except officers in a particular State from the provisions of a statute proposed to be passed for the purpose of producing a uniformity in the charges of the officers of the United States courts. If this is to be done in one case, representatives from other States will make the same application as to their States, on the ground that this bill interferes with the existing compensation of particular officers, and thus an end will be put to all uniformity. The object of the bill will be entirely defeated, if an amendment of that kind be sanctioned by the Senate. At least, I may be allowed to remark, that if we are called upon to make an amendment in a specific case, we should have the exact facts of that case before us. We should know the ratio of compensation that exists in reference to the marshal of Mississippi, in order to see whether the ratio is too little, according to the character of the duties to be performed; for it will not do, in passing a measure of this kind, to look merely to the emoluments to be derived in the gross by particular officers, but whether the services to be performed are fairly compensated, be they performed where they may. Then, if the individual who accepts the office is fairly compensated for the service to be performed, he takes it according to the advantage of locality in any State; and that must

always be so. The emoluments will always be commensurate with the extent of business; and if you vary from that principle, the result will be that the bill will result in nothing like the shape of uniformity, and it will produce no reform at all.

Mr. BROOKE. I know that in times gone by, the office of marshal in Mississippi has been a very valuable one; but for several years past, its compensation has been decreasing, and the fees now have got down to a rate barely sufficient to compensate the officer. And at the last court in Jackson, for the southern district of the State, the appearances were only twenty-five, I think—certainly not more than thirty—and those for small amounts, ranging from $500 to $3,000 or $4,000. I know very well, from representations made to me by intelligent gentlemen who have an opportunity of knowing, that for the last two or three years the marshal there has not realized over $1,500 a year. Now, I am opposed to the Senator from Maine measuring by by-gone years. I presume that I know as much about the compensation of the officers of the State of Mississippi, and what that compensation should be, as the Senator from Maine does; and I am not disposed to see injustice done to this class of men, simply for the sake of preserving the symmetry of this bill. If the bill does injustice, let it be corrected, although its fair proportions may be thereby marred.

Mr. HALE. Mr. President, I wish that the Senator from Mississippi would be kind enough to inform the Senate how many days the marshal in Mississippi has to work to obtain those $1,500, in the course of the year?

Mr. BROOKE. I am not able to say.

Mr. HALE. Nor am I; but I venture to say not thirty; and when the Senator appeals to us on account of the marshal for Mississippi, because he does not get more than $1,500 a year, he ought to remember that this country was set on fire from one end of it to the other some years ago, because members of Congress voted themselves $1,500 a year; and now this bill is to be opposed because the marshal of Mississippi, for a service probably not exceeding thirty, or sixty days at the outside, gets what the whole country was up in arms against members of Congress voting for themselves. I think that if the Senator from Mississippi would look at the disclosures which came to us from the First Comptroller's Office of the abuses that are practiced under the existing table of fees, he would not oppose this bill, even if it should in a few cases operate so oppressively as to reduce the compensation of the marshal of Mississippi to $1,500 a year. The marshals in a good many of the States do not get that. My friend from North Carolina [Mr. BADGER] says that the marshal of his district would be glad to get $1,200 a year. I will give bond that the marshal of the State of New Hampshire will be satisfied in all coming time, if he gets $1,000 a year. Let Senators look at the facts which are disclosed by Mr. Whittlesey, First Comptroller, in his report on the subject. By that it will be seen that in what was substantially one case in the district of Massachusetts, a marshal received about $6,000 fees. I am right, I think.

Mr. BRADBURY. Yes, sir.

Mr. HALE. In substantially one single case, fees were there charged and received to the amount of $6,000. There is no possible way in which the Treasury can be more plundered than it is now, by the anomalous condition of the fee bill which at present exists. This is a simple attempt at reform. If it is not perfect, there is a better time coming; there is a new Administration coming into power that will set all these things right, and put in better men to fill these offices. But now let us make a beginning. Let us, in the words of a great orator, "hear the footsteps of the coming hero," and prepare for him by beginning the work of reform which he is to carry out so thoroughly and efficiently; and I can assure the Senate, and the country, that there is no way in which it can be done more effectually than by passing this fee bill; and if it turns out to be oppressive in any individual case, so that there are some marshals so horribly oppressed that they do not receive more than $1,500 a year, and we find that that is entirely inadequate and incompetent, the new Administration which is coming in so soon will remedy the evil. They will not suffer such injustice as that to remain long. But let us do something, for if this bill goes by, we shall lose a great chance of doing good.

Mr. BRADBURY addressed the Senate, at some length, upon the general principles involved in the bill, in a speech which will be published hereafter in the Appendix.

The amendment of Mr. BROOKE was rejected.

Mr. ADAMS. I beg leave to offer an amendment, which I believe meets the approbation of the Senator who has this bill in charge. It is to add at the end of the section fixing the tax fees of attorneys, the following:

Provided, That in those States wherein, in the State courts costs are not recovered against the losing party in civil suits by the other party, or his attorney, no docket fee shall be taxed in such cases in the circuit or district courts of the United States held in such States.

Mr. BRADBURY. I am afraid to adopt any such amendment as this, lest by a multiplicity of amendments we shall lose the bill in the House, and thus lose the benefits of the reform which the bill is designed to effect. The effect of the amendment will be this: In civil suits many of the States have no fee bill, and therefore the prevailing party does not recover costs for the attorney of the prevailing party. In this bill it is proposed to give a uniform fee in all the States. The Senator from Mississippi desires to except his State, and to provide that inasmuch as they have no fee bill giving costs in the State courts in civil suits, there shall be none in the United States courts. I think the bill had better stand as it is. This amendment might not be very objectionable, but at the same time it may hazard the bill in the House, and therefore I hope he will not insist upon it.

Mr. ADAMS. I have no disposition to throw difficulties in the way of this bill, but I will explain the amendment. The bill proposes a reformation of abuses, with a view to reduce the expenses of suits in the Federal courts, which come out of the pockets of the unfortunate debtor. But if you scan the bill, you will find that in many States, instead of reducing, it increases the costs, but transfers their receipt from clerks and marshals, and gives them to the successful attorney; and the title of the bill should be amended so as to read, one for transferring fees and costs from clerks and marshals to attorneys. Twenty dollars is the tax fee allowed by this bill to the successful attorney. Where the matter in dispute is $500, and it is between citizens of different States, the suit may be brought in the United States courts. Suppose such a case as that—the case of a debt, and a suit is brought in the United States courts. If it were brought in the State courts, which would be just as good a place for the collection of debts, the entire court costs would be from eight to eleven dollars; but the collecting attorney has an inducement to bring the action in the Federal courts, that it may cost the unfortunate debtor five or ten times as much as it would if brought in the State courts, and put him to a great deal of inconvenience. Suppose the debtor has an offset which the creditor refuses to allow him for, and the action is brought in the Federal courts, and the offset should be allowed, and leave a balance of one hundred dollars, which should be recovered by the plaintiff. There would be twenty dollars of a tax fee to the successful attorney, to be paid by the party losing one hundred dollars. Would that be just?

In my opinion there is no propriety, and never was any propriety, in giving the successful attorney one cent from the pocket of the unfortunate debtor. What propriety can there be in requiring the unsuccessful defendant to pay for the attorney who prosecutes him? If such a provision is wanted in the other States, I have no objection. The Legislature of my State has long since abolished the tax fee of the attorney, as it is generally termed; and now to pretend here that you are reducing the fees when you leave this provision in the bill, is an assertion not supported by fact. It is but a transfer of them. The tax now, by a rule of the United States courts, is, I believe, ten dollars. You reduce the marshal and the clerk, who perform the labor, and give the successful attorney twenty dollars in place of ten dollars.

Mr. BRADBURY. He gets twenty dollars if the case goes to the jury; ten dollars if it does not.

Mr. ADAMS. I am aware of that, but there is no propriety in the provision at all; and it is more objectionable to retain the feature to which I allude, than to have no bill passed. I know there are many abuses which ought to be corrected, but what propriety—what reason is there in requiring the unsuccessful party to give the successful attorney twenty dollars out of his own pocket? Men often differ honestly in regard to their rights, and it is a very difficult matter to determine which is wrong, and the man who is unsuccessful and has a judgment of the court against him, and all the legitimate costs to pay, ought not, in my opinion, to be taxed with twenty dollars more for the successful attorney. There is no consideration requiring this payment, it seems to me. The client gives the attorney a reasonable compensation for his services. He gives him a percentage upon the money which he collects; and to make the unfortunate debtor pay for the collection of the debt, is wrong in principle.

I wish, however, to throw no difficulty in the way of this bill; and I understood that the Senator who had charge of it would be willing to agree to the amendment, and in fact, it was drawn up by him at my suggestion. He has no objection to its principle, but his suggestion is that if we adopt it, we may lose the bill in the other House. Let me remind him that there are many amendments which have been made at the suggestion of the Committee on the Judiciary, and if this amendment should be adopted by the sanction of the Senate, the House of Representatives will not inquire as to this or any other particular amendment, whether it was recommended by the committee or put in by an exercise of the judgment of the Senate. I shall insist upon my amendment, and I would greatly prefer, much as I desire to see the prevalent abuses reformed, that the whole bill should be lost rather than that you should increase in place of diminishing expenses, by giving twenty dollars to the successful attorney from the pocket of the unfortunate loser of the suit.

Mr. BAYARD. It seems to me that the same objection pertains to this amendment as to the former one; that is, it seeks to alter a bill whose object is not merely reduction but uniformity, so as to conform to the particular State practice. That, I think, is a sufficient objection; but I have a word to say in reply to the remarks of the honorable Senator from Mississippi, as to the view which he takes of this compensation to the attorney. He seems to suppose that its object is to favor the attorney. Not so; it favors the client.

The question has been often mooted as to whom the obligations of the expense of a litigated suit should fall upon—whether costs should be allowed to the party who succeeds in the contest, or whether no costs should be allowed, and each should pay his own. But, generally speaking, in all courts, a certain amount, at all events, is allowed to the party succeeding, in the shape of costs, on the ground that he who, either from error of judgment or intention, chooses to compel his opponent to go into a court of justice to contend for rights which he there establishes, ought to bear, in part, the *onus* for their recovery. That is the principle on which costs are allowed, as well to the attorney as to clerical and ministerial officers. I know not how it may be in the State of Mississippi; it may be that the attorneys there do nothing, and that the marshals and clerks may do everything. It is not so, however, within the range of practice which has come within my experience, either in my own State, in the State of Maryland, in the State of Pennsylvania, or in the State of New York.

Mr. ADAMS. If the Senator will allow me, I will explain the course of things in my State. We formerly had a tax fee in our circuit courts, but it was afterwards abolished; and its abolition did not in the least degree affect the amount of compensation which attorneys charged for the collection of debts or the bringing of suits. The fee was simply a *bonus* to the attorney, and experience showed that its abolition does not affect in the least the party in employing and paying counsel.

Mr. BAYARD. I have no doubt that the allowance of the fee does tend to reduce the costs of the successful party; but if I understood correctly the honorable Senator from Mississippi, the costs which the party would recover for the attorney in the State of Mississippi in the State courts, would be from eight to eleven dollars.

Mr. ADAMS. Nothing at all.

Mr. BAYARD. Then they allow no costs, and I was mistaken as to that point. But for myself,

I hold the principle to be sound, that the party should pay some costs; and I hold further, that it follows from necessity, that if these costs are reasonable, as a matter of compensation between the counsel and the client who succeed, they will ameliorate the extent of the counsel's charge against his own client.

The principle in Mississippi, it seems, is this: that the party who sues a debtor, even where there is no defense, where merely for the sake of gaining time the debtor denies the existence of the debt, and then gives judgment as a matter of form, and so gains time to which he would not otherwise be entitled, and not pay costs in any proportion or in any degree to him who sues him. I hold that principle to be utterly unjust.

So, too, in litigated cases. Litigated cases may arise either from intentional wrong on the part of the plaintiff or defendant, or they may arise from ignorance or the absence of particular knowledge; but in either case you can take no criterion, except that the party who, when he comes fairly into a court of justice, fully represented, loses the case, ought to remunerate the individual whom he has compelled to go there in order to assert his rights. I hold it to be certain that that remuneration does not give to the attorney one particle more than he would otherwise receive. What lawyer in this body supposes you could try litigated cases in the courts of Mississippi, or anywhere else, where the slightest amount was involved, for an attorney's fee of twenty dollars? No lawyer would do it. His own client would have to pay him beyond that amount. Besides, this bill, I understand, allows to the attorney a docket fee of only ten dollars for the simple collection, where there is no jury trial. I speak from experience, from what I understand of the practice of New York, when I say, that under the system of costs there, lawyers formerly did not charge any collection fees to their own clients, but were satisfied to take the costs of the case. Subsequently, when those costs were cut down, they got to charging a small amount, and yet, throughout the middle States, the general charge for collections is five per cent.

I am perfectly satisfied in my own mind that the provision contained in the bill which the Senator from Mississippi seeks to amend, will have the effect of reducing the expense of the party collecting the debt, which is withheld merely for the purpose of delay; and, as between the delaying debtor who has no defense, and the creditor who has a just demand, I think, on every principle of justice, that debtor is entitled to pay a proportion of the compensation for the recovery of the claim.

Mr. BRADBURY. I rise merely to express the hope that we may have a vote upon the amendment, and then upon the bill. There is no necessity for any extended debate.

The amendment of Mr. ADAMS was rejected.

Mr. WALKER. I wish to offer an amendment which, if adopted, will, I think, be the means of reforming a great many abuses that now exist; and besides that, I would say to the Senator from Delaware that I think it is not obnoxious to the objection which he makes, and would not disarrange the symmetry of the system. The amendment which I propose to offer is, to add the following as an additional section:

SEC. 6. *And be it further enacted*, That hereafter it shall not be lawful for any circuit or district judge of the United States to appoint or continue in office, directly or indirectly, any relation of such judge, as clerk or deputy clerk of the court of which he is or may be judge.

Mr. BAYARD. I would suggest to the honorable Senator that I think he carries this amendment too far. If he would restrict it to lineal descendants, or to the immediate relations, perhaps there might be some propriety in it; but I think it is going entirely too far to say, "any relation."

Mr. ADAMS. We have no power to disfranchise any of the free citizens of this country.

Mr. BUTLER. Certainly not.

Mr. BRADBURY. I think that would be rather an invidious amendment. There may be abuses of the kind which require correction, but I hope the amendment will not be adopted upon this bill.

Several SENATORS. Let us vote it down.

Mr. WALKER. I did not intend to say anything upon the amendment, but the peculiar spirit exhibited by some gentlemen in the Chamber on this matter, induces me to say a few words in regard to what has brought about a great portion of the abuses complained of.

Mr. SEWARD. Will the honorable Senator allow me to make one suggestion? I think he will find more favor for his amendment if he will restrict his degrees of relationship to some near relationship—say son or brother.

Mr. WALKER. I will accept that, and substitute, instead of the word "relation," the words "son or brother."

Mr. BRIGHT. I would suggest also, to include son-in-law, brother-in-law, or nephew.

The PRESIDENT. Does the Senator from Wisconsin accept the proposed amendments?

Mr. WALKER. I accept the suggestion of the Senator from New York. I was going on to speak about what has produced a great amount of the abuses complained of. It is the practice of appointing the relatives of the judges to clerkships of courts. I speak from knowledge upon that point. I know a case of the sort. The case to which I refer, was where a son or other relation of the district judge had been appointed a clerk. When such an appointment is made, it becomes the interest of the judge, of course, to certify as large an amount of fees as he possibly can, and not render himself subject to impeachment. This has been, to my knowledge, complained of in a locality where the courts sat; and complaints will continue, unless by some prohibitory act an end be put to the practice. I do not intend to say anything more upon the amendment, but I shall call for the yeas and nays upon it.

Mr. MALLORY. I trust this amendment will not be adopted. Why, sir, it is based upon the presumption that every man whom you select as a judge—the choicest men of your bar throughout the United States—men peculiarly fitted by their integrity and qualifications to fill these high posts, the moment you put them in office would abuse their power for their own base purposes.

Mr. WALKER. It has been done.

Mr. MALLORY. I am told they have done it; but, sir, the exceptions to the rule have been so few as almost to put the judiciary of this country above reproach. Is not this a direct charge against the judiciary of the conntry? If a judge could exercise this influence over his relatives, might he not find a much more willing instrument in a stranger? If a judge can make contracts and bargains with clerks, with his own relatives, might he not do it with strangers? If the judges are disposed to have the business of the country done uprightly and justly, can they not do it through a son or a brother? Is there no other way? Is there any direct line of integrity in some persons more than in others? I think not.

Mr. BRADBURY. The bill, if left as it stands, will correct many of the abuses to which the Senator from Wisconsin has alluded; but I fear that adopting an amendment of this character, which undertakes to legislate certain officers out of office, and to disqualify a certain class of persons from holding office, would lead to such a diversity of opinion in the other House, as might defeat the bill. I can assure the honorable Senator, that the bill itself will reach the abuses which he is desirous of correcting, and I hope he will not jeopard the whole bill by an amendment of this character.

Mr. WALKER. I do not wish to jeopard the bill, nor do I believe the adoption of this amendment will jeopard it. On the contrary, I think it will give the bill strength. I know that this abuse has been complained of in the State in which I live, and I feel it to be my duty to the people of Wisconsin to propose this amendment; for, whatever the Senator from Florida may say about this amendment imputing favoritism directly against the judiciary, I would ask him, are we not liable to have appointed to the bench, men whose avarice and cupidity are as great as those of any other class of society in the world? I do not mean it as a charge, direct or indirect, against the judiciary; but if this be a direct or indirect charge, is not this whole bill a charge against the judiciary? for it must be remembered that the judiciary is made up of judges, clerks, marshals, and attorneys; and here you have a general bill to deprive the three latter classes of the power of swindling the whole country, as it is contended here; and yet, forsooth, when we propose to remove one further objection, it is clamorously proclaimed that we are making insinuations against the immaculate purity of the judicial ermine! Sir, I have, I hope, as exalted an opinion of the purity and integrity of the judiciary as the Senator from Florida, or any other Senator here, but I know that there must be human nature in the breast of a judge, as well after he is upon the bench as before; and I can see no impropriety whatever in depriving him of the ability of consummating the abuses, or some of the abuses, which are complained of. I ask for the yeas and nays upon my amendment.

The yeas and nays were ordered.

Mr. UNDERWOOD. I am not willing to introduce a new principle to disqualify men from accepting office because they are related to judges. I am opposed to making degrees of consanguinity a test upon which office is to be conferred or filled. Religious tests, I believe, are put down, but now it is proposed to introduce tests in regard to relationship. Consanguinity is to be made a test to office. I am not willing to do any such thing. Suppose this case: Suppose there is now in office a first-rate clerk—one against whom no objection can be made; are you to prohibit all his relations within the forbidden degrees from becoming judges? If we were to permit his relations to go in as judges, according to the amendment, as soon as one of them came in, he would have to dismiss the clerk. That is a new test, which I am not willing to introduce. But I will not consume time by making a speech against it. I will merely say that it is introducing a new principle, which I think ought not to be tolerated.

Mr. SEWARD. I shall vote for this amendment, but at the same time, I must say that I think the fault lies in the system of appointments. I think that judges ought not to be invested with the power of appointing their clerks, for, either directly or indirectly, it results in increasing the salaries of the judges beyond the amount which Congress apportions to them. They ought to have their salaries fixed at a just and reasonable sum, and not to be dependent upon the advantage which they can gain by assigning the clerk's office to relations or friends. Now, I wish to state what I know on this subject very briefly.

In the State of New York, Chancellor Kent held the office of chancellor, and was as pure a man as ever lived. His brother was his register from the time he was appointed until he ceased to be chancellor. In the southern district of New York, Judge Betts was appointed judge, and his brother was made the clerk of the court, and has since retired rich, leaving Judge Betts still on the bench. Who holds that office now I do not exactly know, but I believe a son of the judge is clerk of the district court, and a brother of the judge is clerk of the circuit court. In the northern district of New York, a son of the late judge was clerk of that court. In the district of Michigan, a son of the judge, who is an excellent man, and whose salary is too low, is clerk. In the district of New Jersey, a son of the district judge is clerk. In the district of Massachusetts, the same is true. In all these cases perhaps the judges get too little and the clerks get too much, and out of the two the judge is enabled some way or other, fairly or otherwise, to get a compensation which is no more than he ought to have.

Mr. UNDERWOOD. Do you charge that they take illegal fees?

Mr. SEWARD. I charge that the fees of the clerks are too large, and the salaries of the judges too small, and in this way, this system of kinsmanship—this system of nepotism, which is comparatively a harmless vice in every other Government but this, but the worst in a Republic—is introduced here, and introduced in the judiciary, the very branch where nepotism ought least to be found. I shall vote for the amendment, though, at the same time, I wish that it might strike deeper and reach the root of the evil.

Mr. WALKER. I wish to say one word in reply to the Senator from Kentucky, [Mr. UNDERWOOD.] He says the Constitution inhibits religious tests, and that I now propose to establish a test regulated by kinsmanship. Let me ask the Senator if he reflected upon the character of this objection when he made it? Is not this very test a discrimination made in the judicial proceedings of his own State now? Can the son or brother of an interested party decide upon a cause as judge? Would he, in selecting a jury in his State, permit a brother or a son of the party in the cause to sit upon that jury? Is this making any greater discrimination in that respect than has always been made, and always must be made to preserve the purity of judicial proceedings? Not at all. The

discrimination has long been made. It existed in England before we were a Government. It exists there yet. It has existed here since the foundation of this Government, and still exists, and I hope it will always continue. This, consequently, is making no new discrimination.

Mr. BRIGHT. If the amendment offered by the honorable Senator from Wisconsin be voted down, I have an amendment which I shall propose. I hope his amendment will be voted down, for the reason that I think there is something unfair and illiberal in the test proposed to be made by that amendment. It looks to me like disfranchising a portion of the community, which would, I think, under the circumstances, be unfair. If it should be voted down I propose to offer the following:

That hereafter all clerks of the circuit and district courts of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

Mr. SEWARD. That will do.

Mr. BRIGHT. I see no reason why these officers should not be appointed by the President, subject to confirmation by the Senate, in the same manner as marshals. There is great responsibility in both cases, and the emoluments are larger, and perhaps more responsibility attaches to the clerk than to the marshal.

Mr. BAYARD. If the amendment be voted down, I also propose offering an amendment somewhat similar to that of the honorable Senator from Wisconsin; but I do not concur in the propriety of that which has been suggested by the honorable Senator from Indiana. The reason why I assent to the principle of the amendment of the honorable Senator from Wisconsin is this: you now confide by law the power of appointing the clerks of your courts to the judges of those courts, on the assumption—and I think it is a sound one—that the duties being peculiar in their character, requiring a degree of technical knowledge which the judge is competent to supervise, and I may say, requiring a peculiarity of intellectual power on the part of the clerk, that it is proper the controlling and appointing power over that officer should be in the hands of the judge. The reason why I think the principle of the amendment of the honorable Senator from Wisconsin ought to be applied is, that judges holding their office during good behavior, there ought to be a restriction on their appointing power, which does not belong to the appointing power when conferred upon the President, who holds by a different tenure, and is responsible to the people.

I am in favor, as I have said, of the principle of the amendment of the honorable Senator from Wisconsin; but I am opposed to its action upon existing cases, because, when I pass a general law, I do not wish to reflect upon, or condemn men without giving them an opportunity to be heard. The cases to which such an amendment would apply, must now be few in number, and they will soon die off. The object is to provide for the future, and for purposes of general legislation, and therefore it is that I am willing to vote for some such amendment. With a view to simplify the matter, and with a view to restrict the power of the judges in any future appointments, looking to the infirmity of humanity, and taking into consideration the term of the judge, during good behavior, I intend to propose this amendment:

That no circuit or district court shall hereafter appoint any lineal relation or collateral relative, by blood or marriage, of any judge thereof within the third degree.

I think that would cover entirely all future appointments, and would be a proper restriction upon the appointing power of an officer who, holding during good behavior, does not stand in the same degree of responsibility, and whose tenure is not limited like that of the President. If it were not for that consideration, I could see no reason for imposing any restriction at all upon his power of appointment. But I prefer this to the amendment of the Senator from Indiana, because I do think that in the selection of clerks, guarding against that infirmity of humanity to which we are all liable, the judge of the court is the person who, from his knowledge and position, is most appropriate to select an individual to perform correctly the duties of the clerk of the court. I do not now offer the amendment which I have suggested, but I hope the honorable Senator from Wisconsin will accept it as a substitute for his.

Mr. WALKER. I would not have any objection to accepting it if it contained after the word "appoint," the words "continue in office."

Mr. ADAMS. I should not have opened my mouth upon this amendment if the vote had been taken when the proposition was first made; but perceiving that there are indications favorable to its adoption, I cannot suffer it to pass without entering my protest against it. The Senator from Kentucky was perfectly right in his comparison of this proposition to a religious test. Why what is proposed here in this free country? A test of qualification for office. Let me ask, what are the duties of the clerk of a court? He has no judicial power. He is a mere register of the decrees and the orders and the judgments of the court, as your Secretary here is the register of the proceedings of this body. Heretofore it has been supposed to be right and proper that the judge should render the judgments; and inasmuch as it was inconvenient for him to enter his own judgments, should select an individual to do it for him. But now it is proposed that a certain class of persons shall be disfranchised and disqualified from receiving that appointment—and for what offense? The odious offense of being related in some way or other to the presiding judge. Is that an offense for which an individual should be disqualified by the laws of the United States from holding an office? It has not been so considered heretofore. If abuses have grown up under the system, change the appointing power; but if you give to the judge who renders the judgment the authority of selecting the individuals who are to register his decrees, give it to him untrammeled, and do not restrict him, and prevent him from appointing individuals who may happen to be related to him.

These men now hold their offices for life, or during good behavior, and this attempt to legislate them out of office is of at least doubtful constitutionality. While the officers remain, they having received their offices, it seems to me that they cannot be removed by any act of this Legislature. All that can be done must be done prospectively; and even then what power has this Government to say that any particular class of individuals shall not be permitted or entitled to hold any office within the gift either of the people or of any of the constituted authorities of the country? Where do you get such power to disfranchise individuals simply on account of relationship to the presiding judge? I say that you have no right to disfranchise men unless it be for crime. Men convicted of crimes may be disqualified, and the Senate may pass upon an officer by impeachment, and disqualify him; but you have no power under the Constitution to vacate a man's appointment after he has been in office, because of his being related to a judge. His relationship is not such a tainting of his blood, it is not such a crime, as confers upon Congress power to disfranchise him, or disqualify him from holding office.

Mr. UNDERWOOD. I shall favor the amendment offered by the gentleman from Indiana. I am, nevertheless, for reasons which I have already advanced, and those which have been so well advanced by the gentleman from Mississippi, against introducing a test in regard to relationship, and especially as the gentleman from Wisconsin seeks to apply it. His amendment does not object to the manner in which a clerk now in office discharges his duty. By no means. But although he may be the best clerk in the whole country, performing every function with the utmost propriety and honesty, if he happens to be tainted by this relationship to the judge, he is to be turned out, not for any fault, but simply because of his relationship. I cannot sanction in any way a principle of that sort. I am, however, as much against nepotism as is the Senator from New York, [Mr. SEWARD,] or any one else. I do not know that any relation of mine is a clerk of a United States court. I do not know that any of my family will be affected by these new tests. For myself, I shall hold office for a very short time, and therefore I am perfectly disinterested.

I am in favor of the amendment suggested by the honorable Senator from Indiana, because it has been said by gentlemen that the practice of judges appointing their relations to office has existed to an improper extent. I say that the remedy for that is the one pointed out by the Constitution. It is to allow the Executive of the country to appoint these officers subject to ratification by and with the advice and consent of the Senate.

This bill authorizes these officers to obtain salaries to the amount of $3,500 per annum. You have heretofore, in reference to the Post Office Department, provided by law that if the fees and emoluments of any postmaster shall amount to a $1,000 a year, his appointment shall be given to the President, subject to the advice and consent of the Senate. Here, then, are officers, according to your legislation—according to your action—according to facts known through the country, three times more important in reference to salary, and ten times more important in reference to fees than those to which I have referred, and yet you allow those officers, under that provision of the Constitution authorizing Congress to vest the appointment of inferior officers in the heads of Departments, and in the courts of law—those more important officers in point of duties and salary—to be appointed in a way liable to abuse, and you require postmasters who only get $1,000 a year to be appointed by the Executive, subject to the ratification of the Senate. I think the gentleman from Indiana has given us the proper remedy. I will vote for his amendment, and against that of the Senator from Wisconsin. The latter is to turn out clerks without fault on their part, merely because of relationship. The amendment suggested by the Senator from Indiana is prospective, and I think will work most admirably under the Constitution.

Mr. SHIELDS. I move the postponement of this subject. It seems that instead of taking up a day, it will take a week; and in the way in which we are going on, I doubt whether we shall ever be able to complete any subject. The regular order of the day was postponed for this bill; and I have from day to day given way and allowed other bills to come up. Several bills introduced long ago were made the order of the day for to-day; and I hope they will be taken up. I promise that if they shall be taken up, and they be debated and discussed, I will agree to postpone them, rather than that the time of the Senate shall be consumed as it has been this morning. I move to postpone the further consideration of this subject until Monday, for that purpose.

Mr. BRADBURY. I appeal to the honorable Senator from Illinois to withdraw his motion, and I appeal to the friends of the bill to allow the vote to be taken. I hope we may be able to dispose of the bill in a very short time. It has occupied now about an hour, which is longer, perhaps, than is necessary; but it is a bill of great importance. Let me, however, before I sit down, state one fact: Under the existing system, I understand that $150,000 have been claimed by a single officer in a single district. I hope that a stop will be put to such practices at once; therefore I hope we shall immediately vote upon the amendments, and then upon the bill.

Mr. BUTLER. When new propositions are before the Senate, I think we ought to have a latitude of debate upon them. I do not think that this proposition ought to have been brought forward as an amendment to this bill; but if a proposition of this kind, involving a great principle, be brought forward, I cannot yield to the force of the suggestions of the honorable Senator from Illinois, that we should vote blindfold, and have no discussion upon a most important principle. This is one of those bills where the gentleman having charge of it should say, "I will refuse all amendments, and I call upon the Senate to vote."

So far as it regards this amendment, I concur entirely with the Senator from Kentucky, [Mr. UNDERWOOD.] I will not drive a judge into such a position that he cannot take into his confidence as clerk, a clever son-in-law, when he may be compelled, by the adoption of the amendment, to take a political adversary to be one of his own household. Why, it is a strange kind of legislation, if we are to disfranchise a judge from making a selection of the very kind of persons who, perhaps, he would most wish to have in his confidence. I shall oppose the amendment suggested by the honorable Senator from Indiana, and for this reason: The President has too much patronage already, and this will give rise to other contests such as we have seen for years past—a contest for a clerkship worth, perhaps, not more than $1,500 or $2,000 a year. The Senator from Indiana has drawn a parallel between the clerk and the marshal. He must remember that the marshal collects thousands and perhaps millions of dollars in the course of a year, and the district attorney has the

management of large sums of money. There is, therefore, a propriety in their being appointed by the President; but as to the appointment of a clerk, why should we make that a serious State question? I do not think a judge ought to be deprived of the opportunity of appointing a clerk who is to be associated with him.

Mr. BRADBURY. Let us have a vote.

Mr. BUTLER. I am very willing to discuss, or to vote upon the amendment.

Mr. BRADBURY. I hope the motion to postpone will not be agreed to, for I am satisfied that we can dispose of the bill in a very few moments.

The motion was not agreed to.

Mr. BRIGHT. I believe we shall save time by taking the vote first upon the amendment which I suggested, and which I now offer. I move to amend the amendment of the Senator from Wisconsin, for I believe it is in the form of an additional section, by striking out all after its enacting clause, and inserting in lieu of it the following:

That hereafter all clerks of the circuit and district courts of the United States shall be appointed by the President of the United States, by and with the advice and consent of the Senate, for the term of four years, unless sooner removed by the President.

Mr. BRODHEAD. I would like to inquire of the Senator from Indiana, whether, under his amendment, the President would have power to remove those now in office?

Mr. BRIGHT. Clearly not. The amendment is, of course, silent upon that point, but it is prospective in its operation, and I do not think the President of the United States would have any power in reference to the clerks now in commission.

Mr. PETTIT. Then they would hold for life.

Mr. BAYARD. During the pleasure of the court: that is the tenure of their appointment.

Mr. BADGER. I agree with the honorable Senator from South Carolina, [Mr. BUTLER,] that if any public functionary ought to have the selection of the clerk of the court, it is the judge of that court. No reason in the world can be assigned why that officer of the court should be taken from under the power of appointment, and be no longer subject to the control of the judge of the court. All the functions he has to discharge are clerical functions in relation to the transaction of the business of the court, in the court for the benefit and in connection with the suitors of the court; for recording, copying, and preserving the decrees and the proceedings of the court. As we have never had in the United States an instance in which the courts of the United States did not appoint their own clerks since the Constitution was established, it is very difficult, I imagine, to assign any reason why a system adopted by the wisdom of our forefathers, and acted upon for sixty years, should now at once be altered. What good is to be accomplished by the alteration? Why, sir, when a clerk of a court is about to be appointed, do you wish to have a rush of political applicants here, troubling Senators and members of the House of Representatives for recommendations to the President of the United States, bringing forward and parading their miserable party services as a qualification for holding this office? Do you wish to extend the range of this scramble, already sufficiently disgraceful and injurious to the country, and sufficiently annoying to the members of the two Houses of Congress?

What object is to be accomplished by the change? Is it for the purpose of increasing the Executive patronage of the Government? Sir, upon that subject if we were to have a Whig President, I should feel it my duty to lift up my voice, to "cry aloud and spare not." But I am the more reconciled with that idea now, because I think that the honorable gentleman from Indiana looks forward shortly to see installed into the presidential office, a gentleman upon whom the most perfect reliance can be placed, and that everything in his charge will be well managed. Therefore, in the existing circumstances of the country, that objection loses a great part of its force, but the other remains without any abatement.

The person who holds the office of clerk of a court, requires particular qualifications for that office. The Senator from Mississippi [Mr. ADAMS] asks, What is he to do but to record the proceedings of the court? Why, sir, that Senator I think knows, certainly—I had supposed that every legal gentleman knew—that it is not the easiest thing in the world, but, on the contrary, it is a difficult thing to procure a person who possesses the qualifications for a good clerk. He should be appointed by a man who has an interest in his possessing those qualifications. He should be appointed by a man separated by his condition from the active political agitations of the country. He should be appointed, if we can possibly have any officer appointed, with a view to the discharge of the duties for which he is to be selected.

Now, Mr. President, why incorporate such a provision into this bill? I agree entirely with the Senator from South Carolina; I am totally opposed to any such change. I am not for introducing it. I do not speak of the range which it would give to Executive patronage; that is comparatively an unimportant thing; but I am not for having these offices filled by political partisans in consideration of political services. The President of the United States may have the best disposition, as no doubt he will, to make the best and most judicious selections; but how is he to know? I hope that the Senate will not adopt the amendment.

Mr. DOUGLAS. I shall oppose the proposition of the Senator from Indiana, for this simple reason: I think that the clerk of a court ought to be substantially under the direction of the judge in the performance of his duties. I can imagine nothing more disagreeable, and which may sometimes be more detrimental to the public interests, than a disagreement between the judge and the clerk. I doubt whether there is any member of the Senate who has ever been so unfortunate as to be upon the bench, who would be willing again to go on the bench with a clerk independent of him, and with whom he might possibly be on terms of difference. I think that the judge should have power to say to the clerk, "Make that entry;" and if he does not make it, the judge should have power to dismiss him from office, and let the judge be held responsible. I think he should have the power in that respect. I think the judge should be the appointing power, and especially should he be the appointing power in preference to the President of the United States. I believe it would introduce much mischief and much confusion in the judicial system, if this change should be made. I hope it will not be made, but that the system will be preserved as it is.

Mr. BRIGHT. Mr. President, the remarks which have fallen from the honorable Senator from North Carolina and the honorable Senator from Illinois indicate that they both attach a degree of prefectibility to the general conduct of judges of the circuit and district courts of the United States that they would not to the general conduct of judges of the circuit and inferior courts of the States of this Union. In most of the States clerks are elected by the people, and not subject to removal by the "fiat" of the court, as proposed by the Senator from Illinois, [Mr. DOUGLAS.] I mean not the slightest disrespect to any branch of the judiciary known to the laws of the country, nor do I think any can fairly be implied by offering this amendment. I hope that I have quite as high an estimate of their honesty and purity of purpose as either of those honorable Senators.

I was not the first to propose an amendment to the bill under consideration. I was willing to take this part of the bill as it came from the committee; but when the honorable Senator from Wisconsin moved an amendment, which in direct terms disfranchises a portion of my fellow-citizens because they are related by ties of consanguinity to the judges in whom the appointing power is now vested by law, I object; and with a hope of making my objection effective, offer an amendment that has for its object the establishment of the same mode and manner of appointing clerks in the circuit and district courts of the United States that govern the selection of nine tenths of all the important offices of the Federal Government. Now, is there anything wrong in this? Is there anything unreasonable in this? But the honorable Senator from North Carolina says it is increasing the patronage of the Executive; it multiplies the number of already numerous applicants for office; that it subjects Senators and Representatives to a further annoyance of friends importuning for office. All this is true, Mr. President, to a certain extent. "Executive patronage is increased." It could not be otherwise. But where can the power be more wisely and safely placed than with the President, subject to approval or disapproval by the Senate? Would you not think it quite as safe to trust this power to two Senators of a State, sent here by the expressed will of a legislative body, chosen by the people, as to delegate the power to a judge, appointed by this same President and ratified by the Senate? I think so. The office of marshal, in the Federal courts, is not more important in any respect, or as lucrative, generally speaking, as that of clerks in these courts; and yet all in each of the States are nominated and confirmed as proposed by the amendment under consideration.

As to the other objection urged by the honorable Senator from North Carolina, I have only to say the annoyances he speaks of by political friends are incidental to public life; they are in part the price those pay who wear honors; they go toward making up that entire whole, which is embraced in the public duties of every public man; and then again, that which would be regarded as an annoyance by one, would not be so regarded by another. For myself, I am happily so constituted that my reasonable friends cannot annoy me.

But again, I am charged with a preference for this amendment because the incoming Administration is Democratic, and the effect of it will be to swell that crowd of office-seeking friends, described by the honorable Senator from North Carolina. I can assure the honorable Senator, that in this he does me injustice. Under the same state of facts I should have offered the same amendment, it is immaterial who, or what party may have the patronage to bestow. It is a principle that I am contending for, uninfluenced by any such considerations as the Senator suggests. True, I have my political preferences, and I would at any time rather publish than conceal them. I believe that I am right in the opinions I profess, and do not deny, that all my sympathies (politically speaking) are with those of the same faith. From the Supreme Court down I have ever made it a rule to prefer those who are of the same political principles with myself; but in this connection I beg to be understood as never legislating with a view to create new offices, or altering the mode of filling those already created, in order to increase the patronage of a triumphant party. The humble part I act here is governed by considerations infinitely beyond and above the mere question of who fills an office.

One word more in reference to the amendments. I am not dissatisfied with the bill as it now stands, at least with the section under consideration; but if the Senate determine to alter it, I think the amendment I have offered better than that offered by the honorable Senator from Wisconsin.

Mr. BADGER. The honorable Senator from Indiana, Mr. President, has spoken of some perfection, which he says is attributed to the circuit and district judges of the United States by the Senator from Illinois and myself. Sir, I heard nothing from the Senator from Illinois which attributed perfection to anybody; and it is very certain that I neither said nor intended to say anything that attributed perfection to anybody, and therefore I suppose the honorable Senator from Indiana, being unable to meet fairly what was said, thought proper to substitute a proposition which had not been uttered, which no man was unreasonable enough to utter, and which, therefore, it was easy to refute, because nobody maintained it. I do not precisely suppose that there is any exact perfection in any human being—in the judges of the circuit courts of the United States, or the judges of the circuit courts of the States.

The honorable Senator says that the clerks of the circuit courts of the States are in many, and perhaps in most instances, appointed, not by the judge of the court, but by the people. Very well, sir. Suppose they are. When you give this appointment to the people, you revert to the original and primal sovereign authority of the nation or of the State; and when you deposit the power there, as each of these public servants draws his commission and receives his official life from the same ultimate sovereign, there is, at all events, no right to complain of the depositary of the power, however much you may think it is not judiciously made. But that is not the case here. It is now proposed to take this appointment from the judge, the proper public functionary by whom it is now exercised, and ever has been exerted under our system, and,

to give it to whom? Not to the ultimate sovereigns of this country; not to the people of the United States; not to the people of a State or of a district, but to the President of the United States. That is the object of the amendment. Until it can be shown that the functionary to whom it is proposed to give this power is better qualified to exert it than the functionary from whom it is proposed to be taken, the proposition is an untenable one.

The Senator says that I attributed to him the purpose of increasing Executive patronage. I did not say so, though I must confess I doubt very much whether the honorable Senator would have submitted his proposition if the condition and circumstances of the parties of this country, and the incoming Administration, were different from what they are now. Not that I suppose the honorable Senator is conscious or would willingly yield to any influence of that kind. But still, as I do not attribute perfection to the judges of these courts, neither do I attribute it to the honorable Senator himself; and we are all likely to be swayed by considerations of that kind, without being distinctly sensible of them, and when we would not willingly yield to such influences.

As to the remark which the honorable Senator was pleased to make about a judge of the Supreme Court of the United States, I submit the good taste and decency of it to the Senate. I have no reply to make to it.

Mr. BRADBURY. I appeal to the Senators who are desirous of passing this bill, that they will not insist upon their amendments. It is perfectly obvious that the amendments which cause so much discussion here might lead to the loss of the bill in the other House.

Mr. BRODHEAD. They have the previous question there.

Mr. BRADBURY. But still the adoption of such amendments by the Senate, might have the effect of preventing the bill being taken up for consideration in that House, for it must be done by a two-thirds vote, I believe. Let us vote upon the amendments. If there is a majority of the Senate for them, let us adopt them. I hope, however, they will not be adopted, but that we shall take the bill as it is, leaving to the future the regulation of the appointments now sought to be controlled in this bill. There will be opportunities upon other bills to offer the same amendments, and I hope they will not be placed upon this bill.

Mr. BRIGHT. I do not know, Mr. President, whether I correctly interpret the concluding remark of the Senator from North Carolina; but if I do, that Senator, greatly to my surprise, supposes that I referred to him, in speaking of my preference for officers of the same political faith as myself, from supreme judges down. I can assure him that I did not. There is nothing in my course here that warrants him, or any other Senator, in supposing me capable of so great a discourtesy as that would have been. Perhaps I was unfortunate in not making myself clearly understood. I spoke of a principle that had guided me through life in the choice of any and all officers I had ever voted for, not intending to apply it to any particular case; and if a personal application of the remark is made, it will grow out of what has been said by that honorable Senator, and not out of anything said by me.

Mr. UNDERWOOD. If the question is put upon striking out and inserting, and it should be agreed to, will the matter inserted then be subject to amendment?

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) It will not be subject to amendment, unless by additions.

Mr. UNDERWOOD. Then I ask for a division of the question, and to have the vote first taken upon striking out.

The PRESIDING OFFICER. According to the rules of the Senate, a motion to strike out and insert is not divisible.

Mr. UNDERWOOD. Then I would be very glad if the gentleman from Indiana would so modify his amendment as to strike out that part of it which requires an appointment to be made for four years. I would like to have these clerks appointed as officers of the Army and Navy are appointed, and that will get clear of the objection that we are making a mere political machine of it, and that we are going in for patronage and not for principle; and thus it will avoid this struggle every four years. I hope those words will be stricken out.

Mr. HALE. I wish to suggest to the Senator from Kentucky, that if this amendment should be adopted, he can amend it when the question comes up in the Senate on concurring in it when made in Committee of the Whole, and then it can be amended.

Mr. UNDERWOOD. Very well, sir; I will wait until that time.

Mr. RUSK. I shall vote against the whole of these amendments, irrespective of their merits or demerits. We are engaged in the consideration of a bill for the purpose of regulating the fees of certain officers of the United States courts. We are not fixing, according to my estimation of the matter, the tenure of the office or the appointing power. That matter, when it comes up, ought to be well and judiciously considered. We are attempting here to remedy, by this bill, a great abuse; and I trust we shall pass the bill as it stands, and whenever it becomes necessary to increase or diminish patronage, we can do it in a separate bill upon its own merits.

The amendment to the amendment was rejected, and the question recurred on the original amendment as offered by Mr. WALKER.

Mr. HALE. I shall vote against the amendment, concurring, as I do, in the views of the honorable Senator from Texas. I am in favor of the principle of the amendment, but I shall not vote to attach it to this bill. While I am up, I wish to say that I differ from almost everybody who has spoken here, in expressing such great confidence in the judges. I think the judges are made up of human nature. I think I have seen as much of it in judges as in most men, and I have as little confidence in them as in members of Congress, and rather less. I wanted to express this sentiment, because it is fashionable to express so much confidence in judges. I tell you, that when you put them on the bench, on those life seats, the current of their opinion turns very rapidly, and I, for one, have very little confidence in them.

Mr. BAYARD. I propose to amend the amendment of the honorable Senator from Wisconsin, by striking out all of it after the enacting clause, and inserting these words:

That no circuit or district court shall hereafter appoint any lineal relation or collateral relative, by blood or marriage, of any judge thereof, within the third degree.

This amendment varies the proposition of the honorable Senator from Wisconsin in two respects; one is, that it makes that proposition entirely prospective; the other is, that it does not prevent a man now in office from retaining the office of clerk, because a relation has been appointed judge. I am opposed to the amendment of the honorable Senator from Wisconsin, if these provisions are retained in it. I am willing to vote for the general principle of it, as modified in the proposition which I have offered.

The amendment to the amendment was rejected, and the question recurred on the original amendment of Mr. WALKER.

The question being taken by yeas and nays upon that amendment, resulted—yeas 16, nays 36; as follows:

YEAS—Messrs. Borland, Brodhead, Cass, Chase, Davis, Felch, Hamlin, Houston, James, Jones of Tennessee, Seward, Smith, Sumner, Wade, Walker, and Weller—16.
NAYS—Messrs. Adams, Atchison, Badger, Bayard, Bell, Bradbury, Bright, Brooke, Butler, Charlton, Cooper, Dawson, De Saussure, Douglas, Fish, Fitzpatrick, Foot, Geyer, Hale, Hunter, Jones of Iowa, Mallory, Mangum, Mason, Morton, Norris, Pettit, Phelps, Pratt, Rusk, Sebastian, Shields, Soulé, Spruance, Toucey, and Underwood—36.

So the amendment was not agreed to.

Mr. UNDERWOOD. I wish to read a portion of this bill, and then to ask a question for information; and perhaps it may be necessary, according as that information may be communicated to the Senate, to offer an amendment. This bill provides that "no district attorney, marshal, or 'clerk, or other deputies, shall receive any other 'or greater compensation for any services ren-'dered by him than is provided in this act." Then toward the latter part of the same paragraph I find these words: that if any of them shall "de-'mand and receive any other or greater fees than 'those allowed in this act, he shall, on conviction 'thereof in any court of the United States, forfeit 'and pay a fine not exceeding $500, and be im-'prisoned not exceeding six months, at the dis-'cretion of the court." Now, sir, I am a friend of the clerk of the court in this District, and I should regret very much to see him in the penitentiary, or in jail; I wish, therefore, to ask this question: Is it the intention of the committee that reported this bill, to repeal all laws which allow fees in the courts of the District of Columbia for administration upon decedents' estates, for the settlement of guardians' accounts, for recording deeds in regard to conveyances, and in fact for doing all the local business which pertains to State jurisdiction proper, exclusive of those matters which pertain to the administration of the powers of the General Government? The district and circuit courts of the United States in the District of Columbia, embrace all the civil and criminal matters, and the business in connection with inheritances that belong in the States to the State courts, and also all the matters properly belonging to district and circuit courts of the United States within the States. This bill does not grant fees for all of those services. Now I want to know whether it repeals laws authorizing fees for them in this District?

Mr. BRADBURY. If the Senator had commenced reading a few lines before those which he did read, he would have found these words: "if 'any officer hereinbefore mentioned, or his depu-'ty, shall, by reason, or by color of his office, will-'fully and corruptly demand and receive other or 'greater fees," he shall be liable to the penalty. I had supposed that the bill, as prepared in the House, had reference to the fees of officers in the United States courts within the States; but, as the Senator from Kentucky has observed, there are various services rendered by the clerk of the circuit court in this District which would not be specifically provided for by the bill as it stands, although I think he could receive an adequate compensation under it. Hence it was that the honorable Senator from North Carolina [Mr. BADGER] is, I believe, about to propose an amendment to restrict the bill to courts within the States. I hope that will be satisfactory to the Senator from Kentucky.

Mr. BADGER. I intend at the proper moment to suggest an amendment of that kind. The bill, as it is framed, does not, according to the strictness of its language, exclude the courts of this District; manifestly it ought to exclude them.

Mr. BUTLER. It was so understood by the Committee on the Judiciary.

Mr. BADGER. Certainly it was; but since the bill has been reported, we have learned that the interpretation given at the Comptroller's Office will include the courts of this District. I propose, therefore, to insert in the first section of the bill, after the words "United States courts," where they first occur, the words "except the courts of the District of Columbia."

Mr. GEYER. I would suggest that the object would be better accomplished by inserting after the word "printers," in the first section, the words, "within the several States."

Mr. BADGER. As my friend from Missouri is much more accurate in phraseology than I am, and his is briefer, to get at the object, I will move to amend the bill by inserting in the first section, after the word "printers," the words, "within the several States." So that the bill shall read:

"In lieu of the compensation now allowed by law to attorneys, solicitors, and proctors in the United States courts, to the United States district attorneys, clerks of the district and circuit courts, marshals, witnesses, jurors, commissioners, and printers within the several States, the following, and no other compensation shall be taxed and allowed."

The amendment was agreed to.

Mr. BROOKE. The Senator from Maine [Mr. BRADBURY] is so very careful of the symmetry of this bill, that I wish to call his attention to one part of it which it strikes me needs amendment, in order to preserve its symmetry. In the section providing for the compensation of the district attorney, I find this clause:

"For each day of his necessary attendance in a court of the United States, on the business of the United States, when the same shall be held at the place of his abode, five dollars; and the like sum for his attendance for each day of the term when the said court shall be held elsewhere."

That is, he gets five dollars a day for attendance anyhow. Now, why encumber the bill with so much unnecessary tautology? Why should it not read thus: "For each day of his necessary attendance in a court of the United States, on the business of the United States, five dollars?" What is the use of saying that he shall have five dollars

when the court is held at the place of his abode, and five dollars when held elsewhere? I make this suggestion to the honorable Senator from Maine, because he expressed such a desire to preserve the symmetry of the bill. I think he ought to attend to this language, and modify it.

Mr. BRADBURY. The amendment suggested by the Senator from Mississippi is merely a verbal one. I did not prepare the bill; it came to us from the House, and I suppose the reason for the phraseology to which he adverts is, that when the court is held at a place remote from the residence of the district attorney, he gets mileage in addition to his per diem. That explains the matter.

Mr. GEYER. I move to amend the bill by adding before the provision imposing certain penalties upon the officers for taking greater fees than are allowed by the bill, the following provision:

In case of official service rendered by any district attorney, marshal, or clerk, for which no fee is prescribed by this act, there shall be allowed such fee as is allowed by the laws of the State in which the court is held, for like service in the courts of such State of general original jurisdiction.

The object of that amendment is to cover cases not provided for by this bill. There are some services required in the courts of the United States, which are similar to those required in the State courts in which that United States court may be held. In Missouri, for example, and perhaps in some of the other States, the marshal's deed, where he conveys lands sold under execution, has by law necessarily to be acknowledged before, and certified to by the clerk of the court out of which the execution issues. This bill provides no fee for that service. It often happens that surveys must be copied in the transcript of the record, and no fee is provided in this bill for that. The sole object of the amendment is, in cases where no specific fee is provided, to allow the fee granted by the local laws for similar service.

Mr. BRADBURY. The effect of the amendment of the Senator from Missouri would be equivalent to saying at the end of the bill, "provided this act shall have no effect." The difficulty under which we now labor is that there is a general provision of law, that for services not specifically provided for, the compensation shall be governed by that allowed in the State courts, and under that provision, if the State courts have gone on and cut down the compensation, the costs have remained, and great abuses have grown up by allowing such enormous compensation as is claimed in New York, under precisely similar phraseology. There a district attorney has claimed $400 or $500 in a single case. I appeal to the Senator from Missouri not to press his amendment, and if in particular cases experience shall show the necessity of making any change, it can then be made; but do not let us destroy this bill by inserting this phraseology.

Mr. GEYER. I apprehend that the defect in the law, as it now stands, is, that it does not specify cases; that it does not fix, specifically, the fees, as this bill does. This bill, in the clause which follows the part in which I propose to insert this amendment, imposes a heavy penalty upon any "clerk, marshal, or attorney, who shall charge any other or greater fees than are allowed by this act." The bill was intended to cover all cases; but it has left out several, two of which I have named, and it will only be in cases for which this act does not provide, and in which there is a State law, that the amendment will apply. The act itself will cover all cases where the fee is specified; but if a fee is not provided, the State law will apply, if there be one.

Mr. BRADBURY. I wish to make an explanation. We give a single item of a docket fee, as full compensation for the attorney. Now, in the State courts they have no such item; and in nine cases out of ten the compensation is made up of little items; therefore the effect of this amendment would be, in addition to that docket fee, to give the various items allowed by the States, and thus make the law infinitely worse than that which exists at present.

The amendment was rejected.

Mr. WELLER. I have an amendment which I desire to submit. It is, to add the following as an additional section:

SEC. —. *And be it further enacted*, That the tenth section of the act approved September 28th, 1850, entitled "An act to provide for extending the laws and judicial system of the United States to the State of California," be so amended as to confer on the district court for the State of California, jurisdiction in all criminal cases, as fully and completely as is conferred, by law, upon the district or circuit court for the State of New York.

I would simply remark, that the act which I seek to amend, confers jurisdiction only in civil cases. My object is to confer jurisdiction in criminal cases; for, under that law, the district court of California cannot try a case of murder upon the high seas.

Mr. BUTLER. The honorable Senator from California consulted me upon that subject. I do not know how the omission occurred in the other act. I did not draw it up myself, though I believe the bill passed through my hands. I think it eminently proper that the district courts of California should have jurisdiction in criminal cases.

The amendment was agreed to.

Mr. MALLORY. There are various small amendments which I desire to offer to the bill, but I do not like to embarrass it, because I really wish it to pass. There is one amendment, however, which I am confident the committee would have inserted, if their attention had been called to it. It is to insert in line thirty-four, page eight, of the bill, after the words "for every," the words "monition in admiralty, two dollars." The bill, in that line, provides that for every proclamation thirty cents shall be paid. There are a great many monitions in admiralty for which thirty cents would be ample compensation; but this is a provision for a monition which issues at the command of the courts by the executive officer of the courts, which is a notice to all the world, and is sometimes an abstract of a libel which may be twenty pages in length, and for which thirty cents would be no compensation whatever. I simply ask that the words I have named may be inserted, and that is the only amendment which I will ask the Senate to consider at this time.

The amendment was not agreed to.

Mr. BROOKE. I wish simply to ask the honorable Senator who has charge of this bill for an explanation of the effect of the provision on page four, which reads thus:

"Whenever two or more things, belonging to the same person or persons, are, or shall be, seized for an alleged violation of the revenue laws, the whole shall be included in one suit; and if not so included, and separate actions are prosecuted, the court may consolidate them."

What I want to know is, whether this provision applies to goods imported at different times, in different vessels? I want to know whether the law will require or permit the court to consolidate the actions in such a case as that?

Mr. BRADBURY. Not at all. It only leaves it for the court to consolidate when the cases should be consolidated, in order to avoid libeling five hundred chests of tea, for example, under five hundred separate libels.

Mr. BROOKE. There is one other question relating to the phraseology of the bill.

Mr. BRADBURY. I have nothing to do with that.

Mr. BROOKE. I wish to ask a question respecting the proviso on the fourteenth page, which is in these words:

"*Provided*, That when the compensation of any clerk shall be less than five hundred dollars per annum, the difference ascertained and allowed by the proper accounting officer of the Treasury shall be paid to him therefrom."

From what? From the sum "less than five hundred dollars?"

Mr. BRADBURY. From the "Treasury."

The bill was then reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. It was read a third time, and passed.

Mr. ADAMS. Before the question is taken on the title of the bill, I wish to suggest an amendment to it. I think the title of a bill should always indicate the contents of the bill. I propose, therefore, that instead of the words "and for other purposes," there be inserted the words "and for the benefit of attorneys."

The amendment was rejected, and the title was agreed to.

STAFF DEPARTMENTS OF THE ARMY.

Mr. SHIELDS. I ask the Senate now to take up the order of the day, consisting of several military bills. I want to get through with them this evening if we can. The greater part of the day has been consumed, but perhaps there is time enough left to act upon them. I move first to take up the bill to repeal the several acts organizing the staff departments of the Army therein mentioned, and to provide for the discharge of the duties thereof by a detail of officers of the line.

The motion was agreed to, and the bill was read a second time, and considered as in Committee of the Whole. It proposes to abolish the staff commissions of the officers of the adjutant general's, inspector-general's, quartermaster's, and subsistence departments, and to authorize the President to assign them, as well as the chiefs of those departments, with their present regimental rank, or that to which they would be entitled at this time if they had not received staff appointments. It also empowers the President to order a detail of a sufficient number of officers to be made by the General-in-Chief, to perform the duties of the departments before enumerated.

Mr. SHIELDS. I move to strike out all after the enacting clause, and insert:

That the President of the United States is hereby authorized and empowered, in his discretion, to assign any officer of the adjutant general's, inspector general's, quartermaster's, and subsistence departments, to service in the line of the Army with his present rank, or that to which he would be entitled at this time had he not received such staff appointment, and his appointment as staff officer shall cease upon such assignment.

SEC. 2. *And be it further enacted*, That to supply the place of any officer thus assigned, if it be necessary to supply his place, the President is hereby authorized and empowered to direct a detail to be made from the line of the Army of such officer as he may think best qualified for the purpose, and the said officer while employed in the discharge of staff duties shall receive the pay and allowance to which a staff officer of like grade is entitled, and shall give a bond and security for the faithful discharge of his duties in the manner now provided by law.

The PRESIDING OFFICER, (Mr. NORRIS in the chair.) The original bill is open to amendment.

Mr. DAVIS. I should like to have some information about the present system, and how this differs from it.

Mr. SHIELDS. If the honorable Senator will permit me, in order to save time, I propose to adopt the following course. There are five of these military bills. I want to get through with them to-day, and in order to do that, I propose to submit the amendment which I desire to offer to them, and then take them up and explain them. I wish to get through with them to-day, and it is utterly impossible for me to do so, unless I proceed in that way.

The PRESIDING OFFICER. The Chair does not know any mode by which five bills can be considered at the same time.

Mr. RUSK. Does the honorable Senator propose to act on this bill to-day?

Mr. SHIELDS. Certainly, if I can succeed in doing so. I think it will save time if I can be allowed to propose the amendments to each, and then explain briefly their nature.

Mr. WELLER. You cannot do that.

Mr. SHIELDS. I can explain the other bills in connection with this, and altogether they form a series of measures intended by the committee to improve the condition of the Army. I may as well give a brief explanation of the character and object of the measures—not because I have any hope of their passage this session, for I fear it will be impossible to call attention to a subject of this kind at this stage of the session—but to call attention to their provisions and to facilitate their passage, if possible, hereafter. These measures are very simple in their character, only attempting to remedy defects and correct abuses which experience proves to exist in our present military system, and which have been developed by time and aggravated somewhat by neglect. They contemplate no radical change in any portion of the system. They merely aim to effect some practical reform by removing impediments, and this being done, then trust to the activity, zeal, and intelligence of the Army to work out its own improvement. The first step in any reform of this kind is to make provision for the support of a very meritorious class of officers who have become unable to discharge their duties on account of wounds, sickness, and old age. While these continue in the service there can be no efficiency, and no Government could be so inhuman as to turn them adrift after having squeezed all health and strength and energy out of them, without making some moderate provision for their support in their dreary, declining years. This is why they remain in the Army, a burden to themselves and a clog

upon the service; and you might as well expect a great complex machine to move with rapidity, regularity, and efficiency, with many of the principal wheels broken, and with those broken wheels clogging and impeding the machine, as to expect the Army to be efficient while its ranks are filled with disabled and superannuated officers.

A bill providing for the retirement of these officers from the service, and making moderate, but, I think, competent provision for their subsistence, has already passed the Senate this session, and I sincerely hope it will also pass the House. It is recommended by considerations of policy and humanity. The bill to which I first invite attention, and to which I propose an amendment, relates to the staff department of the Army. For the size of our Army, our military staff is excessive. No other Army has a staff as large, in proportion. This bill, as amended, gives the President the power to diminish it, if the service will admit of such diminution. It leaves this, however, to his discretion. The efficiency of an Army depends very much upon the efficiency of its staff. It would not be just to say that the staff of our Army is inefficient; but, it is right to say, that some of the gallant officers, who fill places in these Departments, are better fitted to lead companies against flaming batteries than to make judicious contracts for provisions, forage, wagons, and horses; and that others, who once led the charge, and braved death in the front of battle, are, at this moment, from the infirmity of old age—and old age is an enemy that overtakes the hero as well as the coward—fit for nothing but to be placed upon a retired list for the rest of their lives. As the law now stands, these can only be removed by dismissal from the service. This bill gives the President the discretion, and enables him to send those who are good soldiers, but bad contractors and bad managers of the public property, back to the line of those companies and regiments, and the retired list will dispose of the old and disabled.

The next bill is one of reform and retrenchment. It proposes to abolish brevet pay and double rations, and is likely to be very unpopular with those whom it will affect. It is a very unpleasant duty to bring forward a measure to strip some of our best officers of a large portion of their present emoluments. They will consider this as a personal wrong. Every man who is deprived of any portion of his accustomed receipts, feels himself aggrieved. The man who introduces a measure for the reduction of salaries, or the withdrawal of perquisites, may calculate upon very active and interested opposition. This is why we have a great deal of speculative, but very little practical reform in Congress. This is essentially a measure of practical reform. It cuts off extra allowances. Here the retrenchment can be calculated; but if it fully accomplishes its purpose, the retrenchment in other respects will be incalculable. One of the greatest evils of the present system of military service is, the multiplicity of petty military posts. The Army is broken into a myriad of posts scattered over the continent, from the Atlantic to the Pacific.

The first vicious effect of this is military disorganization, transforming the rank and file from soldiers into policemen. The second is a plethoric military staff. As we increase the number of posts we must increase the number of surgeons, quartermasters, paymasters, and commissaries; and the last and greatest evil is, that it increases the necessary and incidental expenses—for posts are expensive in a thousand ways. It renders the expenses of transportation exorbitant beyond all calculation; it augments the wear and tear of the Army, and renders it less efficient for the protection of the frontier. A few well-selected commanding positions which would overawe the Indian tribes, and from which they could be reached and chastised when necessary, would make our present military force more efficient to protect the frontier, than five times the number broken into a multitude of petty posts, and scattered over the continent. The object of this bill is to cut up this evil by the roots; to take away all incentive and inducement for the establishment of these numerous posts. Every officer who commands a post now receives double rations and brevet pay. This temptation is irresistible. It is a premium upon the multiplication of posts. This bill will check the evil by removing the motive, and the wisdom and energy of the President must do the rest. I hope to bring forward a measure hereafter to regulate and equalize pay, and thus make up, to some extent, in a general and equitable way, for this deduction. There are other provisions in this bill for the improvement of the prospects of the common soldier, and for affording him some opportunities for instruction and promotion, which will meet, I hope, with universal approval. As our Army is at present, a soldier in the ranks has fewer chances of promotion than in any other army in Christendom.

The next measure relates to the artillery. This I regard as a very important measure. Nominally we have four regiments of artillery, but in reality we cannot be said to have one. Most of them are serving on the frontier as infantry. I have introduced a bill to raise a regiment of cavalry, one of the principal objects of which is to enable us to withdraw a nearly equal number of artillery, and place them under an able and experienced chief, for the purpose of instruction and improvement. There are four regiments now, with four colonels; that is, with four independent heads. The first essential in military service is unity. There is no unity of purpose, action, or command in our artillery. It can never be rendered efficient without a head. The object of this bill is to give it that head, whose duty it will be to devote his time, talents, energy, and experience to the perfection of the artillery. We can easily improvise an army of infantry. Our people are generally excellent horsemen, and easily converted into cavalry; but artillery is the work of time; its efficiency depends upon instruction and practice, and its perfection can only be attained by the most careful instruction, the most indefatigable perseverance, and the most continued practice. The use of artillery, in all its forms, the preparation of all the different species of munitions, the repair and construction of carriages, the construction of field-works, and all kinds of temporary defenses, are duties that may devolve upon a corps of artillery in time of war, and in which it ought to be perfectly instructed in time of peace.

If we ever have another war, so far as it may be defensive, it will be a war of artillery. Indeed, the application of science to the improvement of this formidable arm may give a new character to future modes of warfare. Our officers of artillery—as spirited a body of men as any in America—cal. upon us with one voice, to save that branch of the military service from falling into absolute neglect. Once down, it will require years to restore it to a state of serviceable efficiency, and it is falling fast—and this, too, at a time when the nations of Europe are bending their energies to the improvement of their artillery. In England you hear no vaporing in Parliament, no speeches about war, but you hear the note of military preparation throughout the island. The energies of the English mind are turned at this moment to the perfection of their artillery, the construction of defenses, and the augmentation of the navy. The following extract from the Times will show how they value their artillery:

"The arm in which we have hitherto been mainly deficient has been the artillery. It was a matter of doubt last year amongst competent authorities, if half a dozen field-batteries could have been produced on a sudden emergency for the defense of England. Yet it is upon the artillery we must mainly rely for the speedy destruction of an invading force. To repair this defect in our preparations, orders have just been issued for the enlistment of two thousand additional artillerymen, and for the purchase of one thousand horses, which are to be exclusively appropriated to this branch of the service. Nor is this all. Vigorous measures are in progress for the construction of so many carriages and ammunition wagons as may be requisite for two hundred field guns. At the present rate of preparation, these batteries will be ready for service by the latter end of winter, or early in the spring; but, if any greater expedition were necessary, the time of preparation could be very materially shortened. This is a portion of the military preparations which must not be postponed; for guns are not cast, or carriages constructed, or horses purchased, or artillerymen trained in a day."

France has kept up—in spite of her revolutions—a higher military organization than ever existed there before, even in the triumphal days of Napoleon. The present inscrutable ruler of France, whose career for good or evil is destined to leave a deep trace on the face of this world, has effected a change in the artillery of that country which is destined to add to the terrible effect of that arm in future conflicts. This bill will give our artillery an opportunity for unlimited improvement; and it is not too much to say that the practical genius of our American officers is peculiarly fitted to advance this arm to the highest possible perfection.

The next bill to which I invite attention, relates to our national defense. This is one of the most important, and at the same time one of the most neglected branches of the public service. This great system was commenced in 1816, and prosecuted for a number of years with the most extraordinary zeal; but latterly it seems to have been abandoned, under the plea and pretext of economy. The last war with England opened the eyes of the nation to the necessity of a system of defense. The unprotected inhabitants of the coast were left in constant alarm. A contemptible force, more like a marauding party than an army, entered the Chesapeake Bay, effected a landing at Benedict, on the Patuxent river, marched to Washington, burned down the Capitol, and returned to their ships with perfect impunity. Unprotected cities and towns along the coast were subjected to the insults and assaults of the most insignificant maritime force.

The war of 1812, however, taught a profitable lesson to the statesmen of that day. They established a board in 1816. They called a distinguished French engineer, General Bernard, to their assistance. They entered upon a magnificent system of national defense, and prosecuted it with vigor, so long as they exercised a controlling influence in the councils of the nation. But now they have passed from the stage of action, and this system is to be abandoned. Our Congressional economists have found out that it is expensive. They forget the lessons of the last war with England. They forget that the first duty of Government is to provide for the national safety; that one of the first objects of revenue is to provide for the protection of our cities, harbors, dockyards, and naval depôts. They forget, in my opinion, their duty to the country, and they call this dereliction of duty, economy. Upwards of twenty millions have been already expended on works of defense, and six or seven millions more will complete the system;—and now it is to be abandoned on the plea of economy. This is strange economy—to prosecute a great system almost to completion, and just before it is fully completed, discover that it is expensive, and therefore abandon it. This vacillation is unworthy of Congress. Our system of national defense ought to be completed as speedily as possible. The points that are most important and most exposed should be first defended: the Pacific, the Gulf, the southern and northern Atlantic, require the speedy completion of works of defense.

The object of the measure now under consideration is to authorize a board of engineers to select the most important locality, and complete our defenses there first where defense is absolutely necessary. Also to diminish the size and expense of the structures by adopting a cheaper and simpler plan of construction. Many of the forts built according to the system of 1816 are unnecessarily large and expensive. If the board perform its duty with energy and judgment, it will be able to save millions to the country, and complete an ample system of national defense in a few years; and without the completion of this system, a large portion of our coast will be exposed to the insults and inroads of any maritime Power.

As I am no alarmist, I may as well say here that these measures are not brought forward with any reference whatsoever to the state of our foreign relations, or to any preparation for war. For my own part, I see no ground for apprehension of any kind on this subject. There are no indications, except in some of our speeches, of any difficulty or collision with any of the great nations of the world. These are only ordinary measures to diminish expenditure, and increase the efficiency of the Army. Our regular Army is small, and therefore it ought to be as highly disciplined and well organized as possible. It ought to make up in quality for what it wants in quantity. It ought to keep on a level with the military improvements of the age. This would render it a well-disciplined, and well-organized nucleus, around which, in case of necessity, we could collect the strength and force and power of the nation. I have no fear of war, so far as this country is concerned; but still this is not the time to neglect our Army, Navy, or national defenses. In the midst of profound peace the world is ring-

ing with military preparation. The nations of Europe are arming in expectation of some unseen danger. In my opinion, the first hostile cannon fired on that continent, will be the signal of general war. Our policy is peace—a firm and peaceful attitude; in case of war, an impartial and dignified neutrality. But to preserve our neutrality in the event of general war, we must be feared and respected by the belligerent Powers. A state of reasonable preparation, therefore, is the best security for peace, and the only guarantee for the preservation of neutrality.

Mr. RUSK. The bill under consideration is one which proposes to abolish the general staff of the Army.

Mr. SHIELDS. I will state to my friend from Texas, that I have offered an amendment which changes its whole character.

Mr. RUSK. I regard it as a very hazardous experiment. We may have too many staff officers. That, I think, is very likely; but there is one thing about it of which I feel perfectly satisfied: no country in the world has a better system of staff appointments, or a more efficient corps, than the United States. It has been our boast that there has been accountability, responsibility, and efficiency in it. They have shown it in peace as well as in war. This bill, as well as the substitute for it, proposes to repeal entirely what was regarded, I believe, at the time it was introduced, as one of the most creditable measures of reform. It was introduced by a late Senator from South Carolina, now no more, while he was Secretary of War. These officers are appointed by the President and confirmed by the Senate. They have long experience. There may be abuses in the system; I have not inquired particularly into that matter; but as a general thing, I know that these departments are as well conducted as in any country upon earth. Some of the most meritorious officers that I know belong to these staff departments. Now the bill as it stood originally, and as it is proposed to be amended, proposes to repeal all these officers, and to authorize——

Mr. SHIELDS. The Senator is utterly and entirely mistaken.

Mr. RUSK. Then I do not understand the English language.

Mr. SHIELDS. It merely gives the President the power, in his discretion, if he finds an officer unfit for a staff department, to take him out of that department and send him back to his company and regiment. There is no officer in the Army who can object to that. The officers in those departments may sometimes wish to be restored to their active commands, but the President cannot do it, because the departments are permanent by our law. This bill, as amended, gives the President the discretion to send an officer out of the department to serve in the line—retaining the rank in the line which he loses in the department; he cannot hold both ranks at the same time.

Mr. RUSK. The reading of the bill will show who is right. The bill as originally reported commences:

"A bill to repeal the several acts organizing the staff departments of the Army therein mentioned, and to provide for the discharge of the duties thereof by a detail of officers of the line."

Mr. SHIELDS. I am going to change that title.

Mr. RUSK. It then goes on:

"*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to assign the officers of the adjutant general's, inspector general's, quartermaster's, and subsistence departments, as well as the respective chiefs of those departments, to the several regiments and corps of the Army, with their present regimental or rank, or that to which they would be entitled at this time had they not received such staff appointments, and that the staff commissions of the officers so assigned shall thereafter be abolished.

"SEC. 2. *And be it further enacted*, That for the performance of the duties of the several departments enumerated in the foregoing section, the President of the United States is hereby authorized and empowered to order a detail to be made by the General in-Chief of such officers of the line of the Army as he may deem necessary, or as the wants of the service may require, who, while employed in the staff, shall receive the pay and allowances to which staff officers of the like grade are respectively entitled, and shall give bonds with sureties in the manner now provided by law; and the Secretary of War is empowered to prescribe by general orders for that purpose, the responsibility of all officers commanding independent military posts, garrisons, or districts, for all expenditure of public money by staff officers within their respective commands: *Provided*, That nothing herein contained shall be so construed as to impair or lessen, in any case, the responsibility of the proper staff officers for such expenditures.

"SEC. 3. *And be it further enacted*, That all laws now in force providing for the organization of the above-mentioned departments, in so far as they are inconsistent with the provisions of this act be, and the same are hereby, repealed."

The honorable Senator has presented a substitute, which I will also read:

"That the President of the United States is hereby authorized and empowered, in his discretion, to assign any officer of the adjutant general's, inspector general's, quartermaster's, and subsistence departments, to service in the line of the Army with his present rank, or that to which he would be entitled at this time, had he not received such staff appointment; and his appointment as staff officer shall cease upon such assignment."

That is just legislating out of office those staff officers who have received the appointment of the President and the sanction of the Senate.

"SEC. 2. *And be it further enacted*, That to supply the place of any officer thus assigned, if it be necessary to supply his place, the President is hereby authorized and empowered to direct a detail to be made from the line of the Army of such officer as he may think best qualified for the purpose; and the said officer, while employed in the discharge of staff duties, shall receive the pay and allowance to which a staff officer of like grade is entitled, and shall give bond and security for the faithful discharge of his duties in the manner now provided by law."

Mr. SHIELDS. I desire to make a suggestion; I see that the honorable Senator does not understand the bill.

Mr. RUSK. I think I do.

Mr. SHIELDS. There is no time now to enter into the discussion of the bill. I have stated that my desire is to pass these bills this evening, if we can. I do not now want to enter into a debate upon them. I therefore wish to call up the other bills, to which I hope there will be no objection, so as to pass them. If there be any objection to them, I will agree to pass over them.

Mr. RUSK. What will you do with this bill?

Mr. WELLER. Lay it on the table.

Mr. RUSK. I move that it lie upon the table.

The motion was agreed to.

EFFICIENCY OF THE ARMY.

Mr. SHIELDS. I suppose there will not be so much objection to the next bill. It is a bill to improve the efficiency of the Army of the United States, and its object is to abolish brevet pay and double rations. I move to take it up.

The motion was agreed to, and the bill was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to direct that from and after the first day of August, 1852, all allowances of double rations, except to the general officer commanding the Army of the United States, and to general officers commanding separate armies actually in the field, and all allowances of pay and emoluments to officers holding commissions by brevet, on account of such commissions, except the majors and captains by brevet in the Adjutant General's department, and the judge advocate of the Army, and all bounties to non-commissioned officers and soldiers in the Army of the United States, shall be abolished. That from and after the 1st day of August, 1852, the pay of the officers of the Army shall be as follows: Of all colonels, $90 per month; of all lieutenant colonels, $75 per month; of all majors, $60 per month; of all captains, $50 per month; of all first lieutenants, $40 per month; of all second lieutenants, $30 per month; and of all other grades, as is now provided by existing laws; provided that the $10 per month additional pay to officers in actual command of companies, as compensation for their duties and responsibilities with respect to clothing, arms, accouterments, &c., is hereafter discontinued. That to each non-commissioned officer, artificer, musician, or private of the Army of the United States, who shall reënlist in the service of the United States within one month after the expiration of each respective term of his service, there shall be allowed $2 per month in addition to his monthly pay, during the period of his second enlistment; and $1 per month in further addition thereto, during the period of his third enlistment; and $1 per month in further addition thereto, during the period subsequent to the expiration of his third enlistment that he may remain in the Army. That so much of section sixteen of an act entitled "An act to increase the present military establishment of the United States, and for other purposes," approved July 5th, 1838, and so much of an act supplementary thereto, approved July 7, 1838, as authorizes any portion of the monthly pay of a soldier to be retained until the expiration of his term of service, shall be repealed. That the President of the United States shall be authorized to appoint, from such non-commissioned officers of the artillery as shall be recommended by their officers, under such rules and regulations as he may prescribe for that purpose, two cadets of the United States Military Academy, and from the non-commissioned officers of each regiment of cavalry and infantry, who shall be in like manner recommended and qualified, one cadet; provided that no non-commissioned officer shall be eligible to such appointment who shall be over twenty-three years of age; and provided further, that the several corps, as above, be permanently entitled to the above number of cadet appointments, the corps of cadets to be increased accordingly, over and above the number now authorized by existing laws, and that all vacancies be filled in the same manner as the original appointments. That reports shall be made from time to time, to the War Department, under such rules and regulations as may be prescribed by the President, of such non-commissioned officers as may be considered worthy of promotion, on account of their intelligence, education, character, and services; and that the President of the United States shall be authorized to attach as many of such non-commissioned officers to any corps or regiment of the Army, as brevet second lieutenants, as he may deem expedient, whenever the number of brevet second lieutenants shall be insufficient for the wants of the service; provided that the whole number of second lieutenants shall at no time exceed the number allowed by existing laws. That section seventeen of the act of March 3, 1847, entitled "An act making provision for an additional number of general officers, and for other purposes," shall be so construed as to authorize the President of the United States, in the manner therein prescribed, to confer on such non-commissioned officers as he is therein authorized to promote by brevet, either the said rank by brevet, or the certificate of merit therein described. That all non-commissioned officers and privates holding certificates of merit, who have reënlisted, or who may reënlist, within six months after the passage of the bill, shall be allowed the same pay to which they would have been entitled if they had remained continuously in service.

Mr. SHIELDS. I propose, as an amendment, to strike out the whole of the second section, which regulates the pay. That was put in on consultation with the Department; but it is not quite as satisfactory as we could wish. I shall also offer a proviso, that all general officers shall hereafter be entitled to service rations as other officers of the Army. As they are now, they have no service rations. By abolishing the brevet pay and double rations, one of the old colonels will get higher pay than a brigadier general, if we leave the bill to stand as it is; because the former gets a service ration, whereas the brigadier general does not. My object is, after abolishing the brevet pay and double rations, to put the brigadier generals on the same footing as other officers. That diminishes the pay considerably from what it is now. The residue of the bill is in relation to the common soldiers of the Army. It improves their condition a little without increasing the pay. If there be any objection to it, however, I shall be willing to let it go over.

Mr. CASS. I shall certainly join with the honorable Senator in every endeavor to make the Army more economical and efficient. But I think it must be obvious that great changes like this cannot be made suddenly. Senators must have time to examine them. I want to understand better the bearing of the changes which are proposed; and I believe that is the case with almost every Senator. With some of the ideas thrown out by the honorable Senator, I fully concur; with others I do not, though, perhaps, I shall on a further examination. I believe the amendments which the Senator proposes have not been printed; if they have, I have not been able to find them. The bills propose to make a radical change in regard to the Army; and I therefore suggest to the Senator whether he had not better let them lie over. If, however, he goes on with this brevet bill, I shall probably offer some amendments to it. I will state one amendment which I have to propose, and I think the Senator will agree with me. One of the roots of the great evil in the American Army is this brevet rank. It is unknown, in any other service in the world, as it is in ours; and Napoleon well said,

with respect to even the English brevets—"How do you get along with giving the same officer two different ranks, and two different services, this thing to-day, and that to-morrow?" It has introduced endless confusion and expense into our service. I want to abolish the brevet command. In time of war, I might be willing to confer a brevet for eminent services, but in time of peace I would not. I would abolish the brevet command. That is one of the provisions which I should wish to introduce in the bill; and I submit it to the consideration of my honorable friend. Some other amendments have occurred to me, which I may offer, if the bill continues under consideration; but I mention this to him now.

Mr. SHIELDS. Very well; I will move to postpone the bill. I will state that I am for abolishing the brevet rank too. I agree with the honorable Senator, but I am not for abolishing the brevet which men have earned with their blood.

Mr. CASS. I am for abolishing the command.

Mr. SHIELDS. I am for abolishing the pay, which is the same thing. That is what they seek the command for. But reports were made in the early part of the last session on all these subjects, and it is certainly strange that Senators say they have not seen them. I move to postpone the further consideration of the subject until Monday next.

The motion was agreed to.

EFFICIENCY OF THE ARTILLERY.

Mr. SHIELDS. The next bill I wish to call up is the one to increase the efficiency of the artillery. If there should be any objection to it, I will let it take the same course as the other. The only object of it is to appoint a chief for the artillery. There are four colonels now. The object is to appoint a brigadier general to have charge of that special arm of the service.

Mr. CASS. I do not believe we want any more generals in the American army. I do not believe the efficiency of the artillery will be diminished by letting a colonel have command of the corps. But the fact is, in our service a heavy artillery corps was never brought together in time of war.

Mr. SHIELDS. Let that go over

NATIONAL DEFENSES.

Mr. SHIELDS. The next is a joint resolution concerning the national defenses. It has been prepared by the advice of the War Department, as were also the various bills. The object is to establish a board of engineers to select the locality, and adopt a cheaper and a simpler system of military structure. I rather think there will be no objection to this. If there should be, I will consent to let it take the same course as the others. I move to take it up.

The motion was agreed to, and the joint resolution was read a second time, and considered by the Senate as in Committee of the Whole. It proposes to authorize the President of the United States to constitute a temporary board, to consist of two engineer officers of the Army, two officers of the Navy, and one civilian, whose duty it shall be to investigate the whole subject of the national defenses, and ascertain the localities where defensive works are absolutely necessary to national security, and the general nature and character of the works to be constructed at such places; and whether all or most of the works contemplated in classes D, E, and F may not safely be dispensed with; and to make a full report, with the reasons at length for their several recommendations, as soon as possible, that the President may be able to report the result, at furthest, at the next session of Congress. It proposes further that the civilian appointed under the act shall be allowed eight dollars per day, and the ordinary traveling expenses allowed to officers of the Army while engaged upon the duties appertaining to the board provided for in the act; and the board, when appointed and organized, are authorized to appoint a secretary, at a salary not exceeding five dollars per day, and to call to their assistance the services of any one or more of the engineers or officers of the Army or Navy of the United States, to aid them in the performance of their duty.

Mr. HUNTER. I hope this will be laid over. It is too important to be considered now. I move to postpone it until Monday.

The motion was agreed to.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 12, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. Before proceeding to the business in order, if it be the pleasure of the House, the Chair will lay before the body several messages from the President of the United States and communications from the Executive Departments, some of which it is believed should be referred.

There was no objection, and

The SPEAKER then laid before the House a message from the President of the United States, transmitting a communication from the Secretary of the Interior, accompanied by the annual report of the Board of Inspectors of the Penitentiary of the District of Columbia, for the year ending the 31st of December, 1852, as required by law; which was, on motion by Mr. JONES, of Tennessee, referred to the Committee on the District of Columbia, and ordered to be printed.

The SPEAKER also laid before the House a message from the President of the United States, transmitting, for the information of Congress, a copy of the report of the Director of the Mint for the past year; which was, on motion by Mr. JONES, of Tennessee, laid on the table, and ordered to be printed.

Also, a message from the President of the United States, transmitting a communication from the Secretary of the Navy, accompanied by the first part of Lieutenant Herndon's report of the exploration of the valley of the Amazon and its tributaries, made by him in connection with Lieutenant Lardner Gibbon, under instructions from the Navy Department; which was, on motion by Mr. JONES, of Tennessee, referred to the Committee on Naval Affairs, and ordered to be printed.

Also, a letter from the Secretary of State, transmitting, in compliance with law, a list of clerks and other persons employed in his Department during the last year; which was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of State, transmitting, agreeably to the act of Congress of March 2d, 1819, regulating passenger ships and vessels, tabular statements showing the number and designation of passengers who arrived in the United States during the year ending December 31, 1852, compiled from returns made to that Department by the collectors of customs, in conformity with the provisions of said act; which was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of State, transmitting statements showing the expenditures out of the contingent fund of that Department for the last fiscal year; which was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of the Treasury, transmitting a statement of the expenditures from the marine hospital fund for the relief of sick and disabled seamen, for the year ending the 30th of June, 1852; which, on motion by Mr. JONES, of Tennessee, was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of War, transmitting a transcript of the official Army Register for the year ending the 30th June, 1851, showing the pay and allowance of each officer of the Army.

Mr. JONES, of Tennessee. I move that that letter be laid on the table, and be printed. The Army Register has already been printed and distributed by the Department.

The question was taken, and the communication was laid on the table, and ordered to be printed.

Also, a letter from the Secretary of War, transmitting "An abstract of the returns of the militia of all the States and Territories, with their arms, accouterments, and ammunition," taken from the latest returns that have been received by that Department; which was, on motion by Mr. JONES, of Tennessee, laid on the table, and ordered to be printed.

Also, a letter from the Superintendent of Public Printing, submitting estimates for the paper required for the printing of the first session of the Thirty-third Congress, for the paper for the printing of the several Executive Departments, for the fiscal year ending June 30th, 1854, and for the expenses of that office for the same period; which was, on motion by Mr. JONES, referred to the Committee on Ways and Means, and ordered to be printed.

The SPEAKER. The business first in order is the consideration of the bill for the benefit of Patrick Gass, reported from a Committee of the Whole House.

Mr. CLARK. I was permitted, by favor of the House, on Monday last, to call up bill No. 316, providing for the relinquishment of a small strip of land to the town of Belleview. That bill passed this House, and has come from the Senate amended so as to provide for the relinquishment of two like strips of land to the towns of Burlington and Dubuque, which have been held by the General Government. I ask the unanimous consent of the House—and I hope I shall have it—to call up that bill with the amendments.

Mr. JONES, of Tennessee. They are unimportant amendments. They apply the principles of the bill to two other towns on the river besides Belleview.

The amendments of the Senate, making like concessions to the towns of Burlington and Dubuque, were then read.

The question was then taken, and the amendments of the Senate were concurred in.

Mr. DUNCAN. I ask the unanimous consent of the House to report from the Committee on Commerce a bill for the relief of John Miller. It is to grant a register to a ship now afloat in the harbor of New York—an American-built ship.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman, as a member of the Committee on Commerce, if they could not frame some general law by which the Secretary of the Treasury might be authorized to issue registers to vessels thus situated, and thus avoid these frequent applications to Congress?

Mr. DUNCAN. There could not, to meet the great variety of cases which arise. There was an act passed, but it does not embrace this case.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, it was subsequently read the third time and passed.

Mr. DUNCAN. I have another bill of the same kind, which I should like to introduce and have action upon.

Mr. JONES, of Tennessee. There are very few favors which I ever ask of the House, but I have one which I suppose to be as fully important as the registry of any ship. I desire to call up Senate bill No. 421, for the relief of John Williams, a poor man who has been shot to pieces. It is but a small amount which he asks for; and if the House will take up the bill and pass it, they will accommodate him very much, and do an act of justice. The bill asks for a small increase of pension.

The SPEAKER. The gentleman from Massachusetts [Mr. DUNCAN] was regularly recognized by the Chair.

Mr. DUNCAN. The bill which I ask to have taken up, is to grant a register to the brig Bounty. It was agreed upon by the Committee on Commerce some time since.

Mr. JONES. It is a new bill.

Mr. HARRIS, of Tennessee. It will take but a few minutes to dispose of the bill for the relief of John Williams; and then the gentleman's bill can be taken up.

Mr. WALSH. I have no objection to the motion of the gentleman from Massachusetts, [Mr. DUNCAN,] but there are hundreds of bills upon that table for registry of vessels, just as pressing. Let us devote half an hour to the disposition of private bills on the Speaker's table, when all such cases may be reached.

The SPEAKER. The gentleman from Massachusetts [Mr. DUNCAN] asks the unanimous consent of the House to take up the bill indicated by him.

Mr. WALSH. I object to it, because there is no chance of doing justice in a hundred other, and similar cases.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed bills of the following titles, viz:

S. No. 621. An act for the relief of the heirs and legal representatives of William Weeks; and

S. No. 622. An act to authorize changes in the location of land offices; and asking the concurrence of the House therein.]

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. MONDAY, FEBRUARY 14, 1853. NEW SERIES.....No. 38.

JOHN WILLIAMS.

Mr. JONES. I ask the unanimous consent of the House to take up the case of John Williams.

Mr. STEPHENS, of Georgia. I have no objection to the gentleman's bill; but I have this suggestion to make to him and the House, that we take up and proceed now to consider all the private bills from the Senate upon the Speaker's table. Under this order, we will soon reach the case of John Williams, and a great many others, without detaining the House by these frequent appeals to the Speaker and the House, by which much time is consumed. I hope the gentleman from Tennessee [Mr. JONES] will yield to this suggestion; and I move that we now proceed to the consideration of the private bills upon the Speaker's table.

The SPEAKER. Under the rules, if the House refuse to go either into a Committee of the Whole House, or the Committee of the Whole on the state of the Union, it will be the duty of the Speaker to proceed to the business upon the Speaker's table, upon private bills alone. That is the order. Does the gentleman from Tennessee [Mr. JONES] insist upon his proposition? The Chair hears no objection to its consideration.

The Senate bill, entitled "An act for the relief of John Williams," was then read a first and second time, and ordered to a third reading; and according to order, was read the third time, and passed.

PATRICK GAS.

Mr. STEPHENS, of Georgia. I call for the regular order of business.

The SPEAKER. The regular order is the consideration of the bill for the benefit of Patrick Gas, reported from a Committee of the Whole House.

Mr. GORMAN. I suppose I have the right to make the motion which I now intend to submit.

Mr. WALSH. What has become of the motion of the gentleman from Georgia, [Mr. STEPHENS,] to proceed to the private bills upon the Speaker's table?

The SPEAKER. There is no motion necessary to proceed to the business upon the Speaker's table, if the House do not pass to other business.

JOHN CHARLES FREMONT.

Mr. GORMAN. Senate bill No. 573 was referred to the Committee on Military Affairs, with leave to report at any time; and I suppose it to be my privilege to report the bill back now, as the order by which it was referred to the Committee on Military Affairs would imply. It is a bill for the relief of John C. Frémont, late lieutenant colonel in the Army of the United States. It is known to the country that Colonel Frémont has been imprisoned in England, and his case has been delayed here for information of the vouchers. They are all found now, and I ask leave to report the bill.

Mr. SACKETT. I object.

Mr. PHELPS. Unanimous consent is not required.

The SPEAKER. Is there a special order relating to this case?

Mr. GORMAN. There was a special order made, conferring upon the Committee on Military Affairs the privilege of reporting at any time; and it was so indorsed upon the bill by the Clerk of the House.

The SPEAKER. If that be the order of the House, the bill will be reported.

Mr. GORMAN. I then report the bill with one amendment, which is verbal in its character; it is to insert in the thirteenth line the letter F, before the name of Huttman, instead of the letter I.

The question was then taken upon the amendment, and it was agreed to.

The SPEAKER. The question is upon ordering the bill to be read a third time.

Mr. JONES, of Tennessee. I wish to inquire of the gentleman who reported this bill back if the Military Committee have ascertained whether or not Colonel Frémont has ever settled with the Government, and accounted to it for the proceeds of the bills drawn and upon which he was imprisoned in England?

Mr. GORMAN. I ask for the reading of the report.

The report was then read.

Mr. JONES. What amount will be probably paid under this bill?

Mr. GORMAN. It is proposed to pay the sum $19,500. I will observe, for the satisfaction of the House and the gentleman from Tennessee, that there is upwards of $866 for which there are no vouchers on file. That amount was paid to the quartermasters, but the vouchers are not yet found. Colonel Frémont has sent vouchers, and the accounts are in process of settlement. Had they been settled at the Department, there would have been no necessity for introducing the bill, because they would have reported an estimate for the purpose, which would have been put into the appropriation bill. There remains, however, $866 88 unaccounted for by vouchers, which no doubt exist, but which have not been found. The vouchers which have been presented, and copies of which I have here, are clear and satisfactory. It is satisfactorily shown that the sum of $866 88, for which there are no vouchers at hand, has been paid. The Committee on Military Affairs called before them an officer of the Army who was with Colonel Frémont, who testifies to facts which ought to satisfy the House that every dollar has been accounted for. Colonel Frémont has been arrested in England, imprisoned, and is now upon bail, for that amount of money expended for the use of the Government.

Mr. JOHNSON, of Georgia. I believe this bill proposes to pay judgments rendered against Colonel Frémont, and which may hereafter be rendered against him.

Mr. GORMAN. No, sir; it proposes to pay $19,500.

Mr. PHELPS. There are four bills of exchange, the total of which is $19,500, and the costs and damages.

Mr. JOHNSON. I ask for the reading of the bill.

The bill was then read.

Mr. JONES, of Tennessee. I would ask the gentleman from Missouri if there are any more drafts behind?

Mr. PHELPS. I am informed that some other sums of money were borrowed in California by Colonel Frémont. Such is the information obtained from the report of the board of officers to which I referred when this bill wast last under consideration. The amount of money loaned to Colonel Frémont, to be expended for the services of the California battalion, was but small. There were many debts, however, contracted for supplies other than money, amounting to something like $300,000, which this bill does not provide for.

Mr. FULLER, of Maine. I wish to make an inquiry of the gentleman from Missouri, [Mr. PHELPS.] I wish to inquire of the gentleman on what account, and for what purpose, this money was borrowed and expended?

Mr. PHELPS. The report made by the Committee on Military Affairs gives the information required by the gentleman. Perhaps the gentleman was not present when it was read. This money was borrowed by Colonel Frémont for the purpose of defraying the expenses of the troops called into the service of the Government of the United States in the then Territory of California—for their pay, and for the quartermaster's expenses.

Mr. FULLER. Is this the account which was submitted by the military board of officers?

Mr. PHELPS. It is only a part of the report of the board. Demands amounting to about $300,000 were submitted to that board of officers, who reported upon only about $30,000 favorably. The residue was rejected or suspended for further consideration and for further testimony.

Mr. FULLER. Was that board of officers unanimous in reporting favorably upon this amount?

Mr. PHELPS. As to that, I have no other knowledge than is contained in the report which is here.

Mr. FULLER. How is it signed?

Mr. PHELPS. It is signed by the president of the board. The conclusion of the report reads as follows:

"All of which is respectfully submitted by the direction of the board. C. T. Smith, Colonel of the United States Army, and president of the board."

Mr. FULLER. I understand the fact to be, that the board was composed of three officers, and that two were in favor of allowing the claim. The report was signed in that manner, indicating that it was the opinion of the board. I am informed, further, that when these drafts were drawn by Colonel Frémont, negotiated by him, and he received the money upon them, that instead—as he should have done—of charging himself with the money and crediting the Government with the draft, he only credited, and did not charge himself with the money, and since those drafts the sum of $19,500 has been paid out of the Treasury to him. So these very drafts have been once paid. I further understand that Colonel Frémont cares but very little about these matters.

Mr. PHELPS. In reply to some of the accusations made by my friend from the State of Maine, I have to say this: As he speaks of information derived from other than official sources, I can also speak with the same propriety of information derived from other sources. I am informed that of this money received of Huttman, not a dollar of it ever went into the hands of Colonel Frémont; yet, so far as the vouchers are concerned, they show that it was received by him. I understand that the transaction was in this way: That the loan was negotiated by Colonel Frémont with Huttman, and as the disbursing officers of the battalion needed the money, they first made the requisition upon Colonel Frémont for that amount of money, and simultaneously executed their receipt for it, and Huttman advanced the money therefor to the disbursing officer.

Mr. FULLER. I wish to ask the gentleman this question: If the vouchers for the expenditure of the money which Colonel Frémont received on these drafts have not been filed with the Secretary of the Treasury in the settlement of his accounts?

Mr. PHELPS. I learn that vouchers have been filed at the Treasury Department; and the accounts show upon the books a certain amount of money advanced by Colonel Frémont to one officer, to the amount of $21,000, and to another officer to the amount of $14,000. I have not been able myself to ascertain from official sources the exact amount, but I know very well—and this report of the board of officers shows it—that these demands are mixed up; that is, the supplies of money are mixed up with the demands for horses, cattle, provisions for the men, and forage for the animals, and for all the various requirements and necessaries of a body of troops.

Mr. BROWN, of Mississippi. By what authority were the troops called into service for which this money was expended? Was it under the requisition of the Government, or was it done by Colonel Frémont upon his own responsibility?

Mr. PHELPS. The troops of which I speak were called into service after the news of the commencement of the war between the United States and Mexico. There are some gentlemen here who were in California at the time, and who know more about this matter than I do. These troops, I believe, were called into the service of the United States by the authority of Commodore Stockton.

Mr. BROWN. I have some other questions to ask the gentleman about this matter. Were the troops thus called into service ever recognized by the President and Secretary of War, or did they disapprove of the proceeding?

Mr. PHELPS. The Government of the United States approved of that proceeding, and sent a dispatch to California desiring to have those soldiers regularly mustered into the service of the United States. But either from the dispatch reaching there too late, or from some other cause of

which I am not now fully prepared to speak, those troops were not mustered into the service of the United States. We, however, recognized their right to be paid, at the last session of Congress.

Mr. BROWN. If I understand the gentleman correctly, he says that these troops have been treated by Congress as if they were in the service of the United States, and paid accordingly. Then, sir, why is it that Colonel Frémont has not presented his claims to the War Department, under the general law authorizing that Department to settle all such claims?

Mr. GORMAN. They have been presented.

Mr. BROWN. If they have, then the War Department has doubtless paid them.

Mr. GORMAN. No, it has not.

Mr. BROWN. Why not?

Mr. GORMAN. Colonel Frémont's accounts are not settled yet.

Mr. BROWN. Why, then, has not Colonel Frémont gone to the Department like other people, and had his accounts settled and adjusted there? But the committee ask us to pass a sum of nineteen or twenty thousand dollars in gross, without knowing for what purpose the money has been expended.

Mr. PHELPS. It was expended for the benefit of the troops.

Mr. BROWN. The gentleman tells us that the money was expended for the benefit of the troops. Well, we all know that money may be expended in that way without being expended according to law. I want to know, not only that the money was expended for the benefit of troops in the service of the Government of the United States, but that it was properly expended. Why have not the vouchers been recognized by the Department? There is ample authority on the statute-book so to recognize them, if the debts were contracted according to law, and if the money was expended for purposes necessary and proper for the support of the troops. If it has not been, then I am opposed to paying it until these things are explained.

Mr. FULLER, of Maine. I desire to ask the gentleman from Missouri, [Mr. PHELPS,] for the information of the House, if the book which he now has before him, being the report of the commission, does not show the fact, that some accounts for horses presented were charged three times over, at three different prices, and certified to by the same officer?

Mr. PHELPS. I desire to know of the gentleman from Maine what the purchase of horses, whether charged for two or three times over by individuals in California or not, has to do with this question? This money, the Committee on Military Affairs report, passed through the hands of the paymaster, and the gentleman from Maine very well knows that the paymaster is not the proper officer to purchase horses for the use of the Army. That belongs to the Quartermaster's Department. I have not examined into all the accounts. This board of officers, if they have done their duty, have given all the evidence. But the gentleman's inquiry has nothing to do with this question. As well might you inquire, when a case was pending between A and B, into a transaction which occurred between X and Y, or between A and Y.

So far, however, as the inquiry of the gentleman from Mississippi is concerned, the act of last session provided for the payment of the soldiers who were called into the service of the Government of the United States in California. Prior to the passage of that act, Colonel Frémont was a prisoner in England. He was arrested there, as is related in the report of the committee, and as has been shown by the affidavit of his solicitor, which I read when this bill was before the House the other day. He has, therefore, had no opportunity to present these accounts, or any other accounts than have already been presented. Again: Major Reading was the paymaster of the California battalion, and I am informed that he has presented accounts for the disbursements which took place. As far as this money is concerned, $15,000 would go but a small way towards paying the services of mounted men, and the officers who had command of them.

Mr. BROWN. The gentleman does not seem to comprehend my point. He says that the law was only passed last year for the payment of the troops called into service in California, under the authority of Stockton and Frémont. That did not at all prevent Frémont, when he returned to the States, from filing those vouchers in the War Department, where they properly belong. As to Major Reading being paymaster, that has nothing to do with Colonel Frémont's accounts. If he drew a draft on the National Treasury for $19,000, got the money for it, and paid it out, you ought to have his receipts, stating for what purpose the money was paid, and showing that it was paid for purposes recognized by law. A colonel in the Army, if he pays out money, ought to know that he has authority for paying it out.

Mr. COBB. I rise to a point of order. When this matter was first presented to the House, my impulse was to vote for it. But it has clouded over, and I cannot exactly see through it. Inasmuch as this bill makes an appropriation, I raise the point that we cannot consider it now, but that it must be referred to a Committee of the Whole House. There we may be able to investigate it for ourselves. The case is no harder than hundreds that are now in the drawers of the various committees.

Mr. PHELPS. It is true that the bill makes an appropriation, but when the rules were suspended for its introduction, the rule was also suspended which requires a bill making an appropriation to be considered in Committee of the Whole. The gentleman from Arkansas [Mr. JOHNSON] suggested to me that that course should be pursued, and there was, at that time, an order made suspending that rule, and the Committee on Military Affairs were authorized to report the bill at any time.

Mr. COBB. Most assuredly so. I do not object to that.

Mr. PHELPS. Well, the rule was suspended requiring the bill to be considered in Committee of the Whole.

Mr. COBB. The rule was suspended for that day alone, but we did not pass the bill then.

Mr. PHELPS. It was suspended for all time, so far as this bill is concerned.

Mr. COBB. Well, I insist upon my point of order.

The SPEAKER. The Chair will decide that question as soon as he learns the history of the case in that particular.

Mr. LETCHER. I desire to propound a question to the gentleman from Missouri.

Mr. COBB. There is a question of order pending.

The SPEAKER. It will take the Clerk some time to turn to the proceedings on this bill when it was last up.

Mr. LETCHER. I desire to inquire of the gentleman from Missouri, whether this draft was drawn in favor of a citizen of the United States?

Mr. PHELPS. It was drawn in favor of Huttman, at that time in California, but whether a citizen of the United States or not, I do not know.

The SPEAKER. The Chair would inquire whether it is within the recollection of the gentleman from Missouri, or of any other gentleman, that the rule requiring this bill to be committed to a Committee of the Whole House, because of its containing an appropriation, was suspended?

Mr. PHELPS. It was suspended upon my motion.

The SPEAKER. Then the Chair must overrule the point of order raised by the gentleman from Alabama. The Journal shows that the rule was suspended.

Mr. LETCHER. I would inquire of the gentleman from Missouri why it is that the collection of this money was not sought to be enforced by the creditor while Colonel Frémont was in California?

Mr. PHELPS. Why the creditor did not seek to enforce the demand in California, I know not. But Colonel Frémont left California with the intention of proceeding to London, and I presume that the creditor was desirous of embarrassing him there. When Colonel Frémont reached London, the draft was assigned by Huttman to Anthony Gibbs & Son, bankers in London, and they are the parties who have proceeded against Colonel Frémont.

Mr. LETCHER. Will the gentleman from Missouri tell me the date of the draft and the date of the assignment?

Mr. PHELPS. The date of the draft, I believe, was 8th March, 1847. I cannot tell the date of the assignment. Like all indorsements upon bills of exchange or negotiable notes, I presume the indorsement was in blank with respect to the date.

Mr. LETCHER. Can the gentleman say whether Colonel Frémont knew before he left California that the bill had been assigned?

Mr. PHELPS. I am informed that he was ignorant of that fact, and had no expectation of being arrested in London. If there had been collusion between Colonel Frémont and the creditor, assuredly Colonel Frémont would not have been arrested just as he was getting into his carriage with his wife and some of his friends to go to a dinner party given to him by a distinguished American residing in London.

Mr. GORMAN obtained the floor.

Mr. RICHARDSON. I ask the gentleman from Indiana to permit me to propound to him some interrogatories in relation to this matter.

Mr. GORMAN. Certainly.

Mr. RICHARDSON. I do not think there ought to be any fog or doubt about this matter, and it can all be ascertained, I think, by reference to the accounts that have been sent in by Colonel Frémont, or charged against him in the Department. I would inquire of the gentleman from Indiana if he has examined the accounts between Colonel Frémont and the Department here? If those accounts have been settled? If this is a portion of them? Whether it was accounted for by Frémont and allowed by the Department? And what are the facts as they appear at the Department in relation to this matter? It seems to me that that point ought to cover the entire case.

Mr. GORMAN. All these suggestions that have been made by the gentleman from Virginia, by the gentleman from Maine, and by the gentleman from Illinois, were whispered into my ear outside of this Hall. We passed this bill in the Committee on Military Affairs upon evidence which we thought at first satisfactory, and I was ordered to report it to the House. At the next meeting of the committee, I suggested that information had come to my ears which gave me reason to doubt the correctness of this claim of $19,500, and I asked the committee myself, as the bill had been put into my hands to report, that I or some other member of the committee should investigate the whole of this question, to see how Colonel Frémont got this money, what he got it for, where he expended it, and whether he had got any vouchers for it. A doubt was thrown over the whole transaction by a suggestion made to me by a distinguished member of this House. I therefore went to the proper Department to ascertain the facts of the case. I found that the Board heretofore appointed to adjust the California claims had passed upon this identical claim of $19,500 and allowed it. Colonel Frémont had claims to the amount of upwards of $100,000, but they were all rejected except about $30,000.

The whole amount of these drafts is $19,500. I find that upon the 18th of March, 1847, there is a draft for $5,000, one for $4,000, one for $6,000, and one for $4,500, making in all, $19,500. I found at the Department, that these drafts had been presented, but had never been paid because there was no appropriation out of which they could be paid. Upon examining the papers in relation to this claim, I found vouchers for the certain debts, drafts, and requisitions, of which I took a copy. But I was still not satisfied with the correctness of these drafts, when some person suggested to me that there were the receipts of Mr. Reading, the paymaster. Upon examination, I found the receipts of the paymaster for the following sums:

Drafts in favor of Huttman.

18th March, 1847		$5,000 00	
Do.		4,000 00	
Do.		6,000 00	
			$15,000 00
Do.	(premium)		4,500 00
			$19,500 00

Turned over to Paymaster Reading:

Received 21st March, 1847		$562 86
Do. 29th do		1,225 01
Do. 30th do		550 00
Do. 30th do		367 00
Do. 21st April		3,308 09
Do. 21st do		5,670 16

Turned over to Quartermaster J. R. Snyder:

Received 29th March, 1847		$650 00
Do. 29th do		650 00

Turned over to Commisary General of Subsistence, S. J. Hendley:

Received 29th March, 1847		$500 00
Do. 2d April		250 00
Do. 17th do		200 00
		$14,133 12

Amount for which no vouchers can be found.....$866 88

The question arose with me as to the genuineness of the signatures; but I succeeded in finding an individual who knew the handwriting of both the Paymaster and Commissary of Supplies, and I required him to certify to that fact, which certificate I have in my possession.

The above statement is made from vouchers which were left by Colonel Frémont, which I have also in my possession. I have certificates from persons acquainted with the handwriting of these persons that they are genuine and correct. I required this fact to be established before I would pass the claim. Every suggestion which has been made here this morning was made before the committee; every point which has been raised by the gentleman from Virginia, [Mr. LETCHER,] or the gentleman from Illinois, [Mr. RICHARDSON,] or the gentleman from Maine, [Mr. FULLER,] was made to me, and I went to the Departments, and the various persons having possession of those vouchers, and ascertained the facts for myself.

It has been asked by the gentleman from Mississippi, [Mr. BROWN,] what Colonel Frémont wanted with all this money? Sir, I took a copy of the requisitions of the paymaster appointed by the President of the United States. Here is a copy of the first:

[No. 1.] ANGELES, *March* 21, 1847.

SIR: The sum of five hundred and sixty-two dollars and eighty-six cents is required for the payment of the troops of the California battalion. Very respectfully, your obedient servant, J. B. READING,

[$562 86] *Paymaster California Battalion.*

To his Excellency J. C. FREMONT, *Gov. California, Lieut. Col. Commanding California Battalion.*

That is the requisition made upon Colonel Frémont for the money. Now, here is the receipt:

Received, Angeles, March 21st, 1847, the sum of five hundred and sixty-two dollars and eighty-six cents, on the above requisition. J. B. READING,

[$562 86.] *Paymaster California Bat. U. S. Forces.*

To this I required that the handwriting of Mr. Reading should be proved.

The second requisition is in like form, and the signature is also proved to be genuine. It is for $1,225 01, and here is the receipt:

Received on the above requisition the sum of twelve hundred and twenty-five dollars and one cent.

[$1,225 01.] J. B. READING, *Paymaster.*

ANGELES, *March 27th*, 1847.

The others are as follows:

No. 3. *Requisition in like form for* $550.

ANGELES, *March* 30, 1847.

Received on the above requisition the sum of five hundred and fifty dollars.

[$550.] J. B. READING,

Paymaster California Bat. U. S. Forces.

No. 4. *Requisition on J. C. Frémont, Governor, as before, for* $367.

Received, Angeles, March 30th, 1847, on the above requisition, the sum of three hundred and sixty-seven dollars.

[$367.] J. B. READING,

Paymaster California Bat. U. S. Forces.

No. 5. *Requisition 21st April*, 1847, *as above, for* $3,308 09.

Received, Angeles, April 21st, 1847, from Lieutenant Colonel Frémont, the sum of three thousand three hundred and eight dollars and nine cents ($3,308 09) on the above requisition, and for the use of the pay department California battalion U. S. troops.

[$3,308 09.] J. B. READING, *Paymaster.*

No. 6. *Requisition 21st April*, 1847, *for* $5,670 16.

Received, Angeles, April 21st, 1847, from Lieutenant Colonel J. C. Frémont, U. S. Army, the sum of five thousand six hundred and seventy dollars and sixteen cents ($5,670 16) on the above requisition, on account of the pay department California battalion U. S. troops.

[$5,670 16.] J. B. READING, *Paymaster.*

I took copies of all these, amounting to within $866 88 of the $19,500. For this $866 88 I found no voucher. That is the history of the whole matter.

But the question is asked why Colonel Frémont did not get this allowed at the Department? Well, sir, all I know in relation to this matter is, that when his accounts are settled at the Department, whatever is due him according to the legitimate and proper vouchers which he has on file, will be paid him. But his accounts have not been settled, and those who are familiar with the settlement of the accounts of many of these officers know that there are more than ten or twenty of them to settle.

Mr. FULLER. I desire to ask the gentleman from Indiana one question. Has not one class of the accounts of Colonel Frémont been settled at the Department, and has he not been paid $19,000 or thereabouts?

Mr. GORMAN. It is true that a certain class of accounts have been settled by the Department, but the question for us to decide is, are those drafts for which these vouchers that cannot be questioned, paid by the Department? That is the question; and I can tell the gentleman they have not.

Mr. TOOMBS. Why did not the Treasury Department settle these accounts? That is one important matter to know.

Mr. GORMAN. Colonel Frémont went back to California during the first part of the campaign, and there are a part of his vouchers which have been passed upon, and the remainder have not been passed upon. Now, it is not for me to give the reason why these drafts have not been settled at the Departments. Some one must be charged with them, and the Government must show that they have paid them, if they have paid them. But they do not show it. These amounts of money are not credited to Colonel Frémont, nor charged to him; and if they have been paid, the records of the Department have not been kept with correctness. They do not show that these debts have ever been liquidated, and that is as far as you can go. There is no evidence of the payment of these drafts, none whatever.

Mr. FULLER. If the gentleman will allow me, I wish to send up to the Clerk's desk and have read an extract from the record of the court which investigated this case, and under whose decisions we are now called upon to act.

Mr. GORMAN. I have no objection.

Mr. STUART. I object to the reading of that paper.

The SPEAKER. It cannot be read if objected to, unless as a portion of the gentleman's speech.

Mr. GORMAN. The gentleman from Maine made a suggestion that those accounts were passed upon by a board of officers. They were thus passed upon, and these $19,000 were allowed unanimously. As far as other items were concerned, making it up to $30,000, the board were, perhaps, not unanimous; and for the items over $30,000, they were perhaps unanimous in rejecting.

But why was it necessary for a board of claims to examine these accounts? It was because these vouchers had not been submitted to the Department, and from the fact that this kind of transactions—indeed, the whole transactions in California connected with the army there—were exceedingly loose. They were so from the necessity of the case. They were there sometimes without a paymaster, sometimes without a quartermaster, and sometimes without anybody to give them a voucher.

Mr. TOOMBS. And some of the time without any authority at all.

Mr. GORMAN. Yes, and some of the time without any other authority than their own. Yet this battalion fought some of the most gallant battles in California. Upon our whole Pacific border no battalion behaved with more distinguished bravery than did that battalion under Colonel Frémont. No battles were ever fought against such tremendous odds. The battle of Buena Vista even was not fought against such odds as were some of the battles fought by this little battalion under Colonel Frémont. But this brave soldier, who served his country faithfully and honorably, is now incarcerated abroad for debts incurred for the benefit of his Government, the payment of which is sought to be denied by mere quibbling.

The gentleman from Mississippi [Mr. BROWN] raises the question whether these troops were acting under authority of law. I can tell that gentleman that they were in the service of the country by authority of law. After they had received the information that war had been declared between the United States and Mexico they were called promptly by Commodore Stockton into service, and commanded to take possession of California, and, actuated by a spirit of patriotism, they gallantly executed the order.

Mr. TOOMBS. I desire to inquire of the gentleman if this regiment was not raised by Colonel Frémont at a time when we were in a state of profound peace, before there was any declaration of war?

Mr. PHELPS made some remarks inaudible to the reporter.

Mr. GORMAN. That is not my understanding of his position.

Mr. TOOMBS. That is the truth of history. This California regiment was gotten up before there was any declaration of war against Mexico at all. It was gotten up to aid in this California rebellion, without any reference to the war between Mexico and this country.

Mr. GORMAN. There may have been some filibustering there, and there was, very likely, by this regiment when it was first raised; but the very moment the news reached that country of the declaration of war between the United States and Mexico, Commodore Stockton thought it necessary to take California as soon as possible, and immediately ordered Colonel Frémont's regiment into the service of the Government. They obeyed the order, and from that time acted under the orders of the Government, and conformed to all the rules and articles of war.

Mr. BROWN, of Mississippi. I desire to correct an impression which my friend from Indiana seems to have formed because I made the inquiry as to whether these troops were in the service of the United States in pursuance of a requisition from the Department. From that inquiry the gentleman seems to infer that I was in some way disposed to depreciate their gallantry or the value of their services. Not at all. I made the inquiry in order that I might base upon it the further inquiry as to the reason why they were not paid by the Department, if they had been called into service under authority of law. If they were in the service regularly, they should have been paid as the other troops were; but if they were not there regularly, although their services may have been ever so valuable, it furnishes a reason why they should not be paid by the Department, and a very good reason why the claim should be brought before Congress. It was with that view I asked the question, and not with any desire to depreciate the value or the gallantry of their services.

Mr. GORMAN. If my friend from Mississippi will allow me, I can make that as clear as the noonday sun. Up to a very late date, no rolls have ever been returned of the California troops. Your law requires that the rolls shall be returned to the proper Department before the troops are paid their extra allowance. But as to the California troops, some of them were so loosely regulated as scarcely to have any rolls at all. It was in this respect like the war of 1812, upon our frontiers. The California war was carried on for a part of the time without rolls. After the war, they had to gather and patch them up as they could; and they now have them at the Department. By law you cannot pay the troops until you have the rolls upon which to pay them. But you have paid some of them to a certain extent; and by whom? By Paymaster Reading. And how do I know that? I know it by his receipts for the money obtained through Colonel Frémont, upon his requisitions for the payment of his troops. I have copies of those requisitions and receipts before me, and which I have read to the House. If Paymaster Reading obtained this money, and did not pay it all out to the troops, that is easily ascertained. If you will go to the Department and look at Major Reading's account, you will find him credited with so much money paid to the California battalion, under Colonel Frémont, and so much paid to Mr. Snyder, the quartermaster for transportation, and so much to the Commissary of Subsistence for supplies. You will find that Major Reading's accounts have been settled, and that these allowances have been made. You will find that the quartermaster's accounts have been settled, and that specific allowances have been made; and you will also find the same with regard to the commissary's accounts. Col. Frémont, therefore, when he drew these drafts, acted in the capacity of civil and military Governor. He supposed his Government would honor the drafts. They would have done so, as I am informed at the Department, but for the fact that there was no appropriation out of which they could be paid in accordance to law. That, and that alone, was the reason given by Mr. Buchanan for the non-payment of these four drafts.

Sir, I say that I have looked into every single point, and raised every doubt myself, before my

colleagues on the committee, which have been raised here by the gentleman from Maine, [Mr. FULLER,] the gentleman from Mississippi, [Mr. BROWN,] and by other gentlemen. Yes, sir, I say every one of them: and it was concluded that we should look into every item, and unless we found the vouchers we would not recommend the passage of the bill; and unless we found, too, that this $19,500 had never been settled in some other account, we would regard this evidence as proving a negative.

Mr. FULLER. The gentleman says he has investigated every objection which I have raised. I wish to ask him if Colonel Frémont, upon the presentation of certain vouchers by him, at the Treasury Department, for moneys disbursed in California, was not paid a balance of $19,000 or thereabout? He drew it in this city. Will the gentleman answer whether he has investigated that point?

Mr. GORMAN. I will answer the gentleman, and to the satisfaction of every man in the House. Suppose I had an account of $100,000, and in a settlement the items were specified, the property I had purchased was specified, and in the items of that account there are no amounts for drafts drawn upon Mr. Buchanan ——

Mr. FULLER, (interrupting.) One question more.

Mr. GORMAN. No; one question at a time. There is not a single voucher which shows that one solitary cent of these drafts upon Mr. Buchanan has ever been paid. Now, is the gentleman answered?

Mr. FULLER. I would ask if in his investigations he has found on the Treasury books that Colonel Frémont has charged himself with this $19,000 which he received from the negotiation of those drafts?

Mr. GORMAN. Did any man ever hear such an interrogation? Is not a draft, drawn by an officer upon the Government, a charge upon the officer that draws it? Will the gentleman be good enough to answer me that question?

Mr. FULLER. I do not know as I understand the gentleman; but I suppose that if he drew these drafts, and negotiated them, and obtained the money, he is accountable for the money thus obtained.

Mr. GORMAN. Not a cent of the money ever came into his possession. The avails went to the paymaster, for which his receipts have been read to the House.

Mr. FULLER. I have seen no evidence of that fact.

Mr. GORMAN. Not a cent; literally, not a cent was paid into the hands directly of Colonel Frémont. It went indirectly through his hands, because he was the responsible agent, by which the drafts were drawn upon Mr. Buchanan. The Government holds him responsible for the manner in which the money is used, and he is charged with that $19,500, because he drew the drafts, and he is to show that he disbursed it in the service. He has shown it, and he is charged with it, and the Government of the United States refused to pay it, only because they had no appropriation. If the Government, in the settlement of these accounts, have not paid it, is it not proper that they should pay it?

It is asked, why was Colonel Frémont sued in England? I will tell you. While he was in California, and before notice of the negotiation of these drafts got here, Colonel Frémont and General Kearny got into a difficulty. Colonel Frémont came to this country, remained here some time, and afterwards returned to California. These drafts were assigned by Huttman to a house in London. After they were protested for non-payment, Colonel Frémont was either here, and going to California, or in California—I cannot say which—but the drafts were not in California when he arrived there. These facts I had proven by an officer of the Army who was with him.

I have now answered all the objections that I know of; and allow me to say that in the settlement of these accounts, another item was thrown into it, and embarrassed it. It was said that Colonel Frémont had got this $19,500, and bought the Mariposa land with it; and a distinguished gentleman of this House told me that he had heard that he had purchased a large amount of cattle with it, upon which he had made large profits. Now, the Mariposa land only cost about $5,000, though it turned out to be exceedingly valuable, and worth forty or fifty times what he paid for it. But the date of that purchase was anterior to this transaction. As to the alleged purchase of a large amount of cattle, and the grand speculation out of the operation! how did we act as to that charge? Did we believe it blindly? No, sir; we went into an investigation of it, and what was the result? We found that he had purchased a certain amount of cattle for the use of the Army, but because he had not the means of paying for them, he left the cattle in the possession of the vender, who had finally to take them back for non-payment. So that transaction ended in smoke, as does the charge.

I will say for Colonel Frémont, that when I went into the investigation of this transaction, I had some prejudices, which I thought perhaps might be unfounded, and which I am now satisfied were unfounded. The prejudices which had been impressed upon my mind have been dispelled by the investigation of all his conduct in California, and I am prepared to bear testimony, upon this occasion, to the correctness of his whole line of conduct as an officer and as a disbursing agent. Not one dollar can be traced to his hands, no property can be traced to his hands, for which he cannot give to the Government satisfactory vouchers that it has been appropriately and properly applied.

Mr. STUART. I do not rise for the purpose of participating in this discussion, but simply to say for myself, that I think all the information which can be derived on this subject, has been had, and to add a remark as to what considerations will control my vote upon this bill. I deem it my duty, as a member of this House, to do one of two things—either to adopt the report of a committee because of the confidence I have in that committee, when I have heard their report, or else to reject it upon the ground that I believe the report to be wrong. Sir, I have not heard any gentleman discuss this question to-day who seems to be in a condition of a gentleman who has examined it for himself, and is prepared to overthrow the report of the committee. The discussion has been a species of inquiry for the purpose of drawing out remarks on particular points, upon which certain gentlemen desire to be informed. This subject, in reference to Colonel Frémont's debts, has been before the country a great while, and in a variety of shapes. The chairman of the Committee on Military Affairs reports that the committee has investigated the subject thoroughly. They come forward and recommend to the House the passage of this bill. I have heard nothing to shake my confidence in the report of that committee, and therefore, for the purpose of bringing the question to a test, I demand the previous question.

Mr. LETCHER. I ask the gentleman from Michigan to withdraw his motion, in order that a part of the report of the board for examining the claims under contracts made in California, may be read.

Mr. STUART. If the gentleman from Virginia desires to address the House, or desires to have the report read, I will do so.

Mr. TOOMBS. I hope that those who desire to speak upon the other side will be permitted to do so. I am satisfied, from the committee's own showing, that the other side should be heard. There are in my mind strong objections against paying one part of Colonel Frémont's account, and allowing the balance to remain for future adjustment by the Department.

Mr. GORMAN. I would remark to the gentleman from Georgia, that the only reason in the world for introducing this subject in the House at this time, is the fact of the present embarrassment of Colonel Frémont. The gentleman's objection would be tangible and proper but for that fact.

Mr. TOOMBS. I cannot know that anything is due Colonel Frémont until I know how the balance stands. The committee do not pretend that they have examined into all of the accounts. This item may be right, but there may be a balance against him in the settlement of the accounts, and it is the height of folly to select one item of an account and pay it, without giving attention to the other side of the account.

Mr. LETCHER. I ask the Clerk to read a part of the report of the board appointed to examine these accounts.

A part of the report was read, as follows:

"Claims against the United States for funds advanced, subsistence and supplies of all kinds furnished or taken for the use of the volunteers serving under the command of Captain John C. Frémont, in California, during the year 1846, amounting to $278,849 25, have been presented for the consideration of the board.

"The very limited powers conferred upon the board by law, restricted it in the examination of the claims presented, to simply receiving such explanations and testimony as might be offered by the claimants, or their agents, or assignees, and not to seek the same from any other than official sources, such as the records of the Treasury, and other Departments of Government might furnish.

"The insufficiency of the testimony produced; the irregularities, and conflicting nature of some of the accounts presented; the irreconcilable differences of prices paid for similar articles; the fact that many articles have been charged for more than once, and at widely different prices; the want of proof, or explanation of the necessity or object of heavy purchases and expenditures; the apparent and unexplained magnitude of the expenditures in comparison with the force actually employed, &c., make it proper to refer the subject to Congress for such further legislation as may be deemed expedient."

Mr. BROWN, of Mississippi. I propose to strike out all after the enacting clause, and insert the following as a substitute:

That the Secretary of War be, and he is hereby, authorized to pay to John Charles Frémont, nineteen thousand five hundred dollars, and deduct the same from the amount that may be found due to said Frémont on a final settlement of his accounts.

I will explain my object in proposing this amendment, in a very few words. Colonel Frémont has, as we understand, a very large claim against the Government, amounting to some two or three hundred thousand dollars. I object to the selecting out from these accounts, one or two items of very doubtful validity, and paying them specifically, and leaving all the others open to future legislation, and that, too, upon the ground that he is in difficulty in London. I think very likely, that upon a fair settlement of his accounts, you will be found indebted to him $19,500, possibly a little more. But upon the same investigation, it may turn out that this precise $19,500, which you are now to pay to him, you do not owe him, but that you do owe him that sum upon some other account. If, then, you pay this, which you do not owe, will it stand as any bar against the $19,000 which you do owe him; and especially if you do it by this special act of legislation? If Colonel Frémont only wants $19,500 to relieve his present embarrassments, why, sir, vote it to him, and let him come home and settle his accounts at the Departments like others, be credited with this amount, and receive any balance that may be due him. Make him this advance to relieve his present necessities, but do not pay it on a specific item without positively knowing that you owe it. I am not satisfied that this $19,500 has been properly applied, but to relieve his embarrassment, I repeat, I will vote that sum. I respect his gallantry as highly as my honorable friend from Indiana. I respect, as much as he does, the gallant services of the men called into the service of the United States without authority of law. They rendered services for which they ought to be paid, and, whether they were called in by any specific law, any positive regulation according to the strict letter of the statute, is now of no sort of consequence. My friend says that all the committee wants, and all Colonel Frémont wants, is that he shall be relieved from present embarrassments. Then make the appropriation, charge him with it, and when he has proved his accounts and demonstrated that he is entitled to more, deduct the $19,500, and give him the balance. That is my opinion of the matter.

Mr. TOOMBS. This question, Mr. Speaker, in all of its bearings, has been before Congress for the last five or six years. The claim was originally for the amount of $600,000 or $700,000. It passed the other branch of the National Legislature in 1848, but failed in this. It arose out of what was called the White Bear revolution.

A MEMBER. The grizzly bear revolution.

Mr. TOOMBS. It was called the white bear war, from the flag borne by the revolutionists. In other words, before war had broken out between the United States and Mexico, certain Mexicans and American residents in California got up a rebellion against the Mexican Government. Pending these troubles, Lieutenant Gillespie was sent to California by President Polk to communicate with Lieutenant Frémont, who was out there on an exploring expedition, and who received orders from the Government, the character of which have never been disclosed. Now, this war

was contrary to law; it was in violation of our neutrality, and it was in violation of our treaty with Mexico. The first Congress before which the claim was brought utterly refused to recognize it to the extent demanded, because it was wholly unauthorized by our Government, and because it grew out of hostilities against a nation with which we were at peace, and also on account of the character of the accounts themselves. He assumed the right, on his own responsibility, without the consent of the war-making power of the Government, to make war. Subsequently, however, a commission was created for the investigation of the claims, and the report made by it shows conclusively, as has been said by the gentleman from Virginia, [Mr. LETCHER,] that these claims should not be allowed. From what was a while ago read at the Clerk's desk, it appears that a large portion of the claims presented to that commission were fraudulent ones. I will take the statement of the chairman of the Committee on Military Affairs himself. He has told you that the commission rejected a large amount of these claims. He told you that of the $100,000 of claims presented, only about $30,000 were allowed. The remaining portion were unanimously rejected.

Mr. PRICE. For what?

Mr. TOOMBS. I do not know. I am now giving the statement of the chairman of the Military Committee. I am speaking of official information that has been communicated to the House. If I have heard the gentleman correctly, this $19,500 was unanimously passed; but I will come to that after a while. Another amount was allowed, but not with the same unanimity. About $30,000 of the $100,000 for which claims were submitted were allowed, as I understand the statement. The report of the commissioners states that these claims were tainted with fraud. It goes on to state that—

"The insufficiency of the testimony produced; the irregularities and conflicting nature of some of the accounts presented; the irreconcilable differences of prices paid for similar articles; the fact that many articles have been charged for *more than once, and at widely different prices.*"

Well, I call that a fraud. Here is the fact in the paper I have before me. It is not a may be—a conjecture merely.

Mr. FULLER, of Maine. If the gentleman will allow me, I would call his attention to a certain portion of the record, for I have read it, which sets forth the charges made before that board. It will there be seen that the same things were charged for three times over, and that there was a difference in some places of $100 a head for mules.

Mr. CARTTER. I wish to inquire whether these disputed articles are involved in the finding of the court in the case of Colonel Frémont, or others?

Mr. TOOMBS. I refer the gentleman to what was read by the gentleman from Virginia from the report of the board on these accounts.

Mr. CAMPBELL, of Illinois. I merely desire to ask a question. Were these claims for articles fraudulently charged several times presented by Colonel Frémont, or were they presented by other persons pretending to hold them against the Government?

Mr. TOOMBS. I do not know. The report says they were certified by him to be just and true.

Mr. CARTTER. That is what I want to know.

Mr. CAMPBELL. I do not think that Colonel Frémont should be held accountable for all the fraudulent claims other persons may see fit to present.

Mr. GORMAN. Those claims were not presented by Colonel Frémont, but by other individuals.

Mr. FULLER. Those claims of which I speak are called the Vallejo claims, and they are recorded as being certified to by John C. Frémont.

Mr. PRICE. He certifies that certain property belonging to those individuals was taken by the military officers of the United Sates, for the purpose of carrying on the war. He does not state the valuation, but he states, as to his belief, that those articles were taken. There is no reference whatever to valuation.

Mr. FULLER. I would like very much to have them read to the House.

Mr. LETCHER. I have had no opportunity of looking into this matter, until I was furnished by the gentleman from Missouri [Mr. PHELPS] with this record. It sets forth the facts which I communicated to the gentleman from Georgia. It states the fact, that many articles have been more than once charged, and at widely different prices. Then I find some of these reports are embraced under this head:

"A schedule of claims contracted in California under Lieutenant Colonel Frémont in 1846-'7, recommended to the favorable consideration of Congress."

Now, I understand that the gentleman has no other book which shows the character of these claims, and their recommendation on the part of Colonel Frémont.

Mr. GORMAN. If the gentleman will allow me, there is a fact, of which the House ought to be made aware. The claims which are there stated, originated in this wise: Colonel Frémont, while there, when necessary, sent a guard of men to take the property of the citizens—mules, horses, and cattle—for the public use. We regarded them then as enemies, and took the property as that of enemies. The owners came and made claim to Colonel Frémont, as civil and military Governor of California, for compensation for their property. Colonel Frémont laid all the claims presented to him before this board. The case was precisely similar to that of the army of the United States in Mexico. I have done the same thing myself on a march. I have forced men to give me mules when those on which the soldiers rode gave out. I have seen the same thing often done by other officers of the Army. The owners of the property taken would follow to the next town, and there would receive a certificate that such and such property had been taken for the public service, which they presented to the quartermaster, who sometimes paid for it. If those charges were made by Mexicans, I would not be amazed if the same articles had been charged for one hundred times.

The gentleman suggests, "How does Colonel Frémont's certificate come to be attached to these claims?" I shall, I think, answer the gentleman satisfactorily. When claims were presented, Colonel Frémont gave a certificate that certain property had been taken. These individuals may have been paid for that property. Another man, whom Colonel Frémont may not recognize, may make claim for the property of another. When the owner claimed compensation for property taken by the soldiers, some of them may have come forward and acknowledged that they had taken it. Colonel Frémont, not knowing of his own knowledge that they had, and depending entirely on the evidence of his officers and soldiers, would give his certificate, and let the man go his way. He would do it to get clear of him. That, I think, is about as good an answer as I can make.

Mr. TOOMBS. The gentleman who has just taken his seat, has given the House as conclusive a reason as if I had spoken my whole hour, why not one of these claims should be paid. If he has acted on the principle the gentleman says he has, if he has given certificates merely to get rid of the importunity of claimants, let him fight them before the Queen's Bench, where it seems he has been sued on some of them. If he has acted, as it is stated he did, this House ought not at its peril, pay one shilling until a thorough investigation has been had of all of the accounts.

Mr. GORMAN. What I have stated with regard to the taking of property is not official, and you ought not to take it as such.

Mr. TOOMBS. The gentleman has given the best apology for Colonel Frémont's conduct, I dare say. It is not conclusive, however, from the disclosures we have just had, that we ought not now to pay these claims. Here is much information in the report of the Board of Commissioners which I have before me. Every dollar was contracted by Colonel Frémont, if contracted at all. But what does the report say? I was about reading an extract from it when interrupted. My reading of it is right, and the gentleman's is wrong, so far as the fraudulent character of these claims is concerned. I will direct the attention of members to the following extract:

"The insufficiency of the testimony produced, the irregularities and conflicting nature of some of the accounts presented, the irreconcilable differences of prices paid for similar articles, the fact that many articles have been charged for more than once, and at widely different prices, the want of proof or explanation of the necessity or object of heavy purchases and expenditures, the apparent and unexplained magnitude of the expenditures in comparison with the force actually employed, &c., makes it proper to refer the subject to Congress for such further legislation as may be deemed expedient."

Here you have facts with reference to the fraudulent nature of the claims. Some articles have been charged several times, and at widely different prices. The great disparity between the smallness of the force and the magnitude of the expenditures is alluded to, and the fact of the charge of the same articles at different rates tend to stamp his accounts with being fraudulent.

Mr. PRICE. Then he did not regard him as having committed a fraud.

Mr. TOOMBS. I do not know, and I will not part with the public money until I do know.

Mr. GORMAN. If the gentleman takes the latter part of the report of that board, and furnishes himself with an argument satisfactory to his own mind that the claims ought not to be allowed, is it not equally legitimate that he should take the preceding part of that report, which shows that they should be allowed?

Mr. TOOMBS. Not at all.

Mr. GORMAN. I think that one conclusion carries with it the other.

Mr. TOOMBS. That does not follow, by any means. A man's confession may be taken against himself and not for himself.

Mr. GORMAN. If you use one, however, you must use the other.

Mr. TOOMBS. The rule of law is, to try before a jury all confessions made at a given time, and they can believe as much as they please. That is the rule of evidence in courts of justice. It must all go there, and those who are to pass upon it can believe one part and reject the other.

Mr. GORMAN. But this is the decision of a legally-constituted tribunal. If it is evidence against Colonel Frémont, it is evidence for him. It is conclusive either way.

Mr. TOOMBS. The latter proposition does not follow. It is evidence; and that is all it is. Then I say that there is a large class of cases which are fraudulent. The gentleman from New Jersey, formerly in California, asks me who committed it. I have no knowledge of these people, and cannot say to what extent frauds have been committed, or who committed them. But the foundation of these claims being illegal, and being against all law—the public law, the municipal law, and the treaty, ought to be scrutinized. Colonel Frémont gave his drafts for raising the money in this case; he presented a large amount of other claims, the greater portion of which were rejected. Then, before you pay any of these claims of Colonel Frémont, let there be a proper adjustment of his accounts. Some of the claims may be allowed, and some disallowed.

After investigation by the proper Department, and the ascertainment of the just demands upon the Government, I shall be ready to pay, to the uttermost farthing, whatever may be found to be due. But if you select, as proposed, and pay to him all the items of account which this board may have determined to be just, and not hold him responsible for any he is chargeable with, you may leave the Government in a condition of a hopeless creditor. That will be the result. Inasmuch as we are without information upon this subject, for the purpose of relieving Colonel Frémont, who seems to have acted in this case without precaution and circumspection, according to the gentleman's own account, this Government should let him settle his own accounts, and come to the Treasury to be paid as others are paid. That is the proper mode.

A VOICE. He is in jail.

Mr. TOOMBS. No, sir; he is not in jail.

Mr. GORMAN. If he leaves England, his special bail will have to pay his debt.

Mr. TOOMBS. Such is not the effect of special bail, and he will not have to pay the debt without a judgment against him.

Mr. GORMAN. As soon as there is either a judgment or execution, I presume he will have to pay it.

Mr. TOOMBS. Certainly; then he ought to pay it. There is no more difficulty in coming here and settling up than in staying in Paris six or eight months. He can come here in ten or twelve days. He would be beyond the seas in Washington as well as in Paris and the accounts could be settled and passed upon here. Suits are carried on in England pretty much as they are here, and they are not remarkable for expedition.

Mr. DISNEY. I desire only to ask one question. I understand that all these matters which

have been discussed here to-day are not matters of claim upon the part of Colonel Frémont, but upon the part of various individuals now in the State of California, for materials and property furnished to him, the evidence of which is his acknowledgment in the form of certificates before you. The query is this: It is admitted, as I understand, by the chairman of the committee, that there are many and various other cases of claims upon the part of individuals yet unsettled and unadjusted. If, then, this Congress should undertake to relieve Colonel Frémont, by paying him $19,500, what guarantee have you, or the friends of Colonel Frémont, or Frémont himself, that he will not be put in like condition by each and all the other claimants?

Mr. GORMAN. I can answer. The certificates which Colonel Frémont gave to the Mexicans for property taken for Government use are in the possession of the Government. They are mere certificates that he received or took from them horses, cattle, and mules for the public service. He would never be sued upon them, because there is no promise to pay on his part; but where he drew drafts in his own name, there is a liability direct. These certificates which he gave are filed upon the part of the individual against our Government. They are filed in the Departments, and are not in the possession of the original owner of this property, and now you cannot, by any possibility, sue Colonel Frémont upon them. The gentleman is a lawyer, and will not pretend, as they are out of the possession of the claimants, that they could sue Colonel Frémont upon them. There is no promise to pay, either express or implied; but there is a promise to pay on the part of Colonel Frémont in drawing the drafts, because he is known only as John C. Frémont. There is no evidence that he was lieutenant colonel, or anything else. He was only a civil and military governor. There is a liability on the part of these drafts when protested for non-payment. If I give a certificate and drafts under my hand, and use your property, I am not liable upon that, even if it were at home.

Mr. TOOMBS. I am unfortunate in differing with the chairman of the committee. We do not understand law alike. I hold that these seizures of property were without the authority of his Government, and not justifiable in law, and that is the whole difficulty in the matter. There being no authority of law to justify the act, he can be sued in any civilized country in the world, and if the fact is proven upon him, they can recover the money of him. That I hold to be the law of any country where laws exist. I take issue with the gentleman as to what law is.

Mr. GORMAN. Will the gentleman say, as a lawyer, that if property is used by an officer in the discharge of his official duty, and this official duty is recognized by your Government, that the individual is liable?

Mr. TOOMBS. I do; and the Supreme Court of the United States, in the case of Mitchell, have decided it. This Government may protect him, but unless he can show law for the seizure they can recover. But I will not dispute with the gentleman any longer as to the law, but will refer him to a case which passed this very House within a few years, and was decided by the Supreme Court of the United Statrs, and therefore let us pass by the law question. I say, unless there be law for the seizure of property taken in war, the individuals who have lost it can recover from the officer.

Mr. GORMAN. I say that there is no point in that decision. According to international law, you have a right to appropriate the property of a public enemy for public uses. They were public enemies in this case, regarded so by the declaration of war. It was not private property which Colonel Frémont seized. I admit his rule if it were private property; but I do not admit the rule in this case, for international law will authorize us to take the property of an enemy wherever it is to be found, and pay or not pay for it as we please.

Mr. TOOMBS. I am compelled to answer another error. There is no such principle. You have the right to take the enemy's property when your laws authorize you to take it. The Supreme Court have decided, that when you show a law regulating captures by land and sea, then the public enemy cannot get redress out of anybody. One of the belligerent rights is to take the enemy's property wherever you please, if your own laws authorize it, and there is no redress; but the question of having taken the enemy's property is not involved here.

Mr. GORMAN. I will beg the gentleman's pardon for interrupting him. When the property was taken they were a belligerent Power. When they were conquered, they become constituent parts of the Government, they became citizens *de facto* and *de jure* by the treaty. When they thus became citizens by virtue of the treaty, they presented their claims as citizens for property that was taken by our Government before they were citizens, and while they were regarded as public enemies. They say by your treaty, recognizing them as citizens *de facto* and *de jure*, that they have the right to claim compensation of you for property confiscated and taken by you as belligerent property.

Mr. TOOMBS. Wrong again.

Mr. GORMAN. I am right, if I understand myself. I do not say that we should pay the claim every time it is presented, nor do I pretend to say that the Government is liable, from the fact that they became citizens afterwards, but this is the ground upon which they present it——

Mr. TOOMBS. If this is the ground, it cannot be paid by the law of nations as by any other law. The gentleman is wrong again in his position. If we took it as enemy's property, and they were brought into the Union by treaty, unless that treaty provided for paying for that property, why, it cannot be paid for. This treaty of Guadalupe Hidalgo does not provide for the payment of property of these people which we took from them during the war.

Mr. GORMAN. My friend will bear in mind that the proclamation issued by Commodore Stockton in California guarantied to the citizens payment for the property taken for the use of the United States troops. That proclamation, whether it had the authority of international or any other law, is a question for the consideration of the gentleman. That proclamation guarantied to the citizens payment for their private property when it was used for the service of the Government, so long as they were not found in arms, and it bid them come in and take shelter under the flag of our country. If they did so, we guarantied to pay them for their property. If they did not do so, they were regarded as belligerents, and treated as public enemies.

Mr. TOOMBS. The gentleman drives from one point to another; lays down principles, a bare statement of which shows that they do not stand upon sound principle, or national law. First, as to his statement of Stockton's proclamation. If that be correct, it would have been a strong reason for incorporating in the treaty some provisions fixing the rights of these parties. But there is nothing of that sort in the treaty.

Mr. GORMAN. As citizens.

Mr. TOOMBS. They had no rights whatever to compensation from this Government for injuries done while they were belligerents, except what was given them by treaty. The treaty gave them none, and therefore they have none; and that is the whole case.

Mr. SWEETSER. Colonel Frémont did not take the property of a belligerent. These claims are for property sold to him.

Mr. JONES, of Tennessee. Will the gentleman from Georgia permit me to make an inquiry of him, or any other gentleman who may have the information? Is there any petition, memorial, or statement of the fact in any way, by Colonel Frémont, which has been presented to Congress, asking for the payment of money, or has the Department asked for it, in order to enable them to settle that account, and how has this case come before Congress?

Mr. TOOMBS. I think Colonel Frémont did memorialize Congress, some four or five years ago, to pay these claims, and, as I stated on the threshold of this argument, I know a bill passed the Senate to appoint commissioners, and appropriated $600,000 or more, for the purpose of adjusting them, but it was defeated in this branch of Congress. Whether this particular claim came here by memorial I do not know, and I do not think it very important to the discussion of this question. But the House will perceive that the friends of this bill are jumping from point to point in their efforts to put this claim everywhere and anywhere. The facts may be true as stated by the chairman of the Committee on Military Affairs, for doubtless he has given the case all proper investigation. It may be that $19,500 is due, but the documents before the House discloses the fact that Colonel Frémont received in cash other considerable sums of money, and became liable, by illegal seizures of property, for other large sums; and, as was well remarked by the gentleman from Ohio, when this one is paid, all he will have to do is to get himself arrested in Paris, and then come here again for relief. It is a very convenient contrivance to get the drafts paid; so convenient, that a man who intended to perpetrate a fraud would do it just that way. He would go to England and have himself taken up before the Queen's Bench, and put in the Fleet or some other prison, and then ask Congress for relief. That course, according to the principle here sought to be established, closes all investigation. But I do not intend that it shall be so closed, as far as I am concerned. I do not charge Colonel Frémont thus to have acted, because I have no evidence of that fact. We ought not to be called upon to decide this case *ex parte*. If Colonel Frémont is entitled to this $19,500, let him account for the expenditure of it. Settle all his accounts, and then give him whatever balance may be due to him. Until that is done, do not take up a separate item of the account. If you do that, you will violate a sound principle in the settlement of accounts.

Mr. CAMPBELL, of Illinois. Mr. Speaker, I have listened with considerable attention and interest to this discussion—not having understood anything of the particular merits of this case, except from what I have heard here—and I desire to make a few remarks upon the arguments which have been urged against the bill.

Now, sir, it seems to me that there is but one question to be settled by this House, and that is, whether this is a debt of Colonel Frémont, or a debt of this Government. If it is a debt of this Government, then, sir, I maintain that we should not hesitate to assume the responsibility of that debt. If it is a debt which belongs to Colonel Frémont, in his individual capacity, contracted for his own benefit, then this bill should not pass, and we should repudiate the claim.

What are the facts? I understand that the argument of the gentleman from Georgia [Mr. TOOMBS] goes to the foundation of this matter. I understand from his argument, that he repudiates the services of Colonel Frémont in California as being unauthorized by law, and maintains that, for that reason, the Government of the United States should not pay these drafts. Sir, is this Government prepared to repudiate wholly and entirely the services of Colonel Frémont in California? If it is, then this question is settled at once, and the Court of Queen's Bench, in England, where Colonel Frémont's case is now about to be adjusted, will be compelled to render judgment against him, and the Government of the United States must decline to relieve him. But, sir, I apprehend that at this day, in the face of the history of the services of Colonel Frémont in California, this Government is not prepared to repudiate those services.

The gentleman from Georgia says that Colonel Frémont may have other accounts unsettled. Why, I understand the chairman of the Committee on Military Affairs to say that they have given to these accounts of Colonel Frémont a very close investigation, and that they have found on file in the Department, vouchers satisfactorily accounting for every dollar which went into the hands of Frémont, and which he, as the disbursing officer and agent of this Government, paid out. What more do you want? What more can you ask? The Committee on Military Affairs have investigated this question, and the chairman of that committee, on his responsibility, has come here and made this statement. What, then, have you to pay? In what particular way is Frémont indebted to this Government? Why, sir, what is the question which is pending in England against Frémont? The point at issue is, whether this is a debt of Colonel Frémont, or a debt of the Government of the United States; and they have taken evidence here, by commissions and by depositions, for the purpose of determining that fact. Colonel Frémont's defense to the action which has been brought against him, rests upon that point and that point alone. If, then, we as a Government, come forward and repudiate those services, and by our

action here, in this case, decide that this is a debt of Colonel Frémont, and not a debt of this Government, we decide the case that is pending in the Court of Queen's Bench in England. That is the true position of the case, and that will be the effect of the decision of the House upon this bill.

Now, I would ask the gentleman from Virginia [Mr. LETCHER] what motive he could possibly have in producing a record here to show that third persons had presented claims against the Government which the commission had pronounced to be fraudulent? In what way does that implicate Colonel Frémont? Is he bound by their acts? Why, what was the nature of the certificates which he gave? He sent out his officers in California to take mules and other articles. His officers returned with them, and gave certificates to the persons from whom they took them. Those certificates were afterwards presented to Frémont, and he certified to the truth of the certificates, without regard to the value of the articles taken. At the time the mules were taken in California, they were worth only twenty or twenty-five dollars, but when the claims were presented, mules were worth one and two hundred dollars. That accounts for the discrepancies to which the gentleman from Maine [Mr. FULLER] has referred.

Looking, then, at this case in every aspect in which it presents itself, I am satisfied that the claim is a just one, and that the Government of the United States is in honor bound to protect its own citizen when his liberty has been invaded in a foreign country, on account of a debt of the Government, and not of the individual in his personal capacity.

Mr. PRICE. The House seems to be in a great deal of embarrassment with regard to the origin of these claims which have been presented as a part of the evidence to justify the demand that Colonel Frémont makes for the payment of the drafts which the bill now before the House contemplates the payment of, and which were a portion of the necessary expenses incurred in the conquest of California. I was in that country at the time those claims originated. I am intimately acquainted with the manner of their origin, and I desire to give a brief history of the circumstances under which they were created.

In the first place, sir, Colonel Frémont was sent by this Government on a scientific exploration and survey of the country west of the Rocky Mountains. The gentleman from Georgia [Mr. TOOMBS] has been pleased to say that "Frémont was in California without the authority of law, and against treaty stipulations." It is true that treaty stipulations prohibited this Government from sending any military expedition into the territory of Mexico; but, I believe I am correct in saying, that before Colonel Frémont set out upon that expedition, the United States Government obtained the consent of the General Government of Mexico for him to go into their territory for the purpose of survey and exploration. Now, sir, if I am correct, Colonel Frémont was there by the consent of the Mexican Government.

Mr. TOOMBS. Will the gentleman inform me where he obtained his authority for that statement?

Mr. PRICE. I state it from general report. I have never seen the paper; but I so understood it at the time. I was so informed by Colonel Frémont, if I mistake not. It was the general impression at that time in that country, that Colonel Frémont had the consent of the General Government of Mexico for being there, and was also authorized to be there by his own Government. Colonel Frémont so informed the Governor of California at the time.

Sir, I was at Monterey in March, 1846, when a messenger arrived, informing us that Colonel Frémont was encamped about twenty miles from that place, in want of provisions and other necessaries for his people. The letter came to our Consul at Monterey, and he immediately took measures for the relief of Frémont. But the military governor of California—General José Castro—as soon as he heard that Colonel Frémont was encamped twenty miles from that town, immediately notified him to leave the country instantly. Colonel Frémont replied to that note, through the United States Consul, saying that his objects in being there at that time were purely scientific; that he was there by the consent of the Mexican Government; and that he should take his own time in leaving, as he was waiting for supplies to be furnished him by the United States Consul. General Castro at once drew off all the force at his command, and marched to the immediate vicinity of the encampment of Frémont, (who was then a captain or lieutenant in the Topographical Engineers,) with the avowed intention of attacking and driving him out of the country. Frémont had but very few men, no camp equipage, and no provisions. He was, therefore, unable to maintain his position, as his anticipated supplies were cut off by General Castro, who had besieged him with a large force. He was compelled therefore to break up his encampment and proceed to the Sacramento valley at the north, where a few American citizens resided. This uncivilized treatment of Frémont, and insult to our flag, as every American there at that time regarded it, aroused the indignation of the Americans in California. Every man of them at once volunteered his services to sustain Colonel Frémont, to enable him to force his way where his researches might require him to go, under the consent granted to him by the General Government of Mexico, and to chastise Castro for his barbarous conduct.

After Frémont left his encampment near Monterey, Castro issued a pronunciamiento, asserting that Frémont had made a cowardly and hasty flight on his approach, and had left much of his camp equipage, which he had captured. This was false. He persevered in his intention of driving Frémont out of the country; and also clearly indicated that he meant to expel every American located in California. For this purpose, he sent to the military commandants of the different districts in California, and ordered that all the munitions of war and horses should be sent to him at Monterey, fearing that the Americans would seize them. This gave indications to the Americans which they could not misunderstand—that they were to be treated again as they had been a few years previous, when they were seized in the night time, by a military force, and carried down to the city of Mexico, suffering the most cruel treatment. A number of our citizens have received large indemnities, under our late treaty of peace with Mexico, awarded by the commissioners, since the Mexican war, for injuries perpetrated by the Mexican authorities in California.

In the year 1846, on the occasion to which I am now referring, the American citizens, in order to defend their lives and property from the premeditated assaults of the tyrannical military governor, took up arms to protect themselves. The first act they did was to capture a band of horses belonging to the Mexican Government, then under military escort, which had been ordered by Castro to Monterey for the undoubted purpose of prosecuting a war against Americans. Subsequently they formed a military organization, and raised the "Bear flag," which has been alluded to by the honorable gentleman from Georgia, [Mr. TOOMBS,] and chose for their leader an American named Ide, who, as commander, issued a proclamation to the Americans in California, setting forth the cause of their rising in arms, their grievances and fears, and inviting them to unite under his flag for common defense. A part of this force, under Messrs. Ide, Semple, and Merritt, proceeded to Sonoma; and although numbering but sixteen in all, they took that town, seized the military commandant, General Vallejo, and other officers, and carried them to Sutter's Fort, where they were held as hostages. Colonel Frémont was then at that post, and immediately took charge of the prisoners, having recently returned from Oregon, where he had received verbal dispatches from the State Department by Lieutenant Gillespie, a special messenger. In my humble judgment, a more patriotic movement than this was never made by any American citizens in the dark days of our Revolution.

Mr. TOOMBS. Where was Frémont's authority to go there and raise a military force?

Mr. PRICE. At this time, the rumors were constant that war had been declared between this country and Mexico, although we had not then the information from any official source. It required nine or ten months for a letter from the Atlantic coast to reach the Pacific; and our squadron in that ocean had not then received any communication from the Navy Department in more than eight months. It was generally believed in that country that war did exist between Mexico and the United States.

Under these circumstances, while this war was going on, Colonel Frémont's forces increased rapidly, every American putting himself under his command for protection.

Mr. TOOMBS. Does the gentleman say that this war was carried on under our national flag?

Mr. PRICE. Yes, sir. I say at this time, the Americans in California joined themselves to Colonel Frémont, and rallied around him for protection.

Mr. TOOMBS. Was it not under the "Bear" flag?

Mr. PRICE. No, sir. Colonel Frémont never acted under any other flag than that of his country. He never, to my knowledge, organized or commanded any body of men under any other flag than that of the United States.

Mr. TOOMBS. That is not Colonel Frémont's statement of it. I have looked to his own statement, and he says that at that time he was under the "White Bear" flag, and that he carried on his operations under that flag until the commencement of the war with Mexico; and after that he fought under the flag of the United States.

Mr. PRICE. Colonel Frémont was never, to my knowledge, under the "Bear flag." I was in that country all the time.

Mr. TOOMBS. Well, sir, that is his own statement.

Mr. PRICE. Several battles, however, were fought in California by the Americans, under the "Bear" flag, and under that flag they achieved some of their most successful victories. In the month of June, 1846, Colonel Frémont marched to the south to meet the military Governor of California, who had organized all the forces under his command, and was marching north to meet the Americans. At Monterey, during that month, we expected to hear of a conflict between the organized American inhabitants in California and the military governor of the country. But, upon the near approach of the American forces, the Mexicans gave way and fled towards the South.

In July following, we had still further intimations that war positively existed between this country and Mexico; and it was then that the commander of the United States naval forces in the Pacific, acting upon that information which he believed was well founded, decided to take possession of California. Under these circumstances, upon the 7th day of July, 1846, the American flag was raised at Monterey, and orders given that it should be raised in all the towns in the possession of the Americans.

Another strong reason for the raising of our flag in California at that time by our naval commander, was the belief that it was the intention of the English admiral on that coast (then within a few days' sail of Monterey, one of the British ships being in the adjacent port of Santa Barbara) to take possession of the whole country in the name of the Crown of England. An arrangement had actually been made with a British agent by the Mexican authorities in California, for the grant of a large tract of land in that country, and its colonization by twenty thousand English subjects in the following year. Subsequent events abundantly prove that the British admiral intended to raise the English flag in California, for the security of the debt of England against Mexico. He came into Monterey in a line-of-battle ship, with this object in view, only a few days after the American flag had been raised at that port. At the very moment of the entrance of the English man-of-war into the harbor of Monterey, the American ships were prepared for action, under the firm conviction that the English had come there to take possession of the country, and to prevent us from doing so. The British admiral undoubtedly had orders to prevent the Americans from getting a foothold in California at any time.

About the 16th of July, Colonel Frémont entered the town of Monterey by order of the commanding naval officer, with about two hundred men, including his exploring force. Commodore Stockton then ordered Frémont to increase his forces to as large a number as possible, and proceed in the sloop-of-war Cyane to San Diego, to take and garrison that place. Commodore Stockton subsequently took the capital of California, Los Angeles, where he was joined by Colonel Frémont. Under this order of Stockton, some of the expenditures which have here been enumerated were incurred.

At Los Angeles Commodore Stockton first received the formal declaration of war between the United States and Mexico. He immediately took possession of all the principal places of California, and put them in a state of defense. The country remained quiet for several months. The Californians rose upon the American garrison at Los Angeles, aided secretly by Englishmen and others, and retook the place, after a hard contest under Lieutenant Gillespie. In order to reëstablish our supremacy, Commodore Stockton ordered Colonel Frémont to raise what is called the California battalion, mustering them at the mission of San Juan, near Monterey. Most of the officers of his command were officers of the squadron. To fit out that expedition, it was requisite to gather in all the animals and all the supplies which the country was capable of furnishing. At this important crisis of the war, the chief expenses were required. The claims for these expenses are those which have been presented to the Commissioners, and which, if duly authenticated, are justly due.

Well, sir, the battalion was organized, and the record of its march from San Juan, where it was mustered, to Los Angeles, is one of the most remarkable of any in military history. It was marked throughout by the greatest valor, exposure, and perseverance. In one night, during a terrific storm, while climbing over the mountains of San Innes, more than a hundred animals were killed, or so disabled as never to get out of the ravines.

They took their field-pieces with them over that wild and rugged mountain, the highest on the Pacific coast, descended upon the town of Santa Barbara, and took it without opposition. The indomitable courage displayed by Colonel Frémont and his gallant troops in that extraordinary march, so surprised the Mexicans that they evacuated the post.

For such services as these, it may well be believed that large expenditures were necessarily incurred. In organizing his battalion, and furnishing them with riding animals during the march, with provisions and the other necessary supplies, Frémont and his officers gave receipts for horses, saddles, beef cattle, and whatever they required, without specifying their valuation. Now, sir, at that time, horses were worth from ten to twenty-five dollars each, and cattle, for provisions, from ten to fifteen dollars each. These cattle were the entire subsistence of the battalion.

In order to account for the discrepancy in the charges, as originally made out and presented for payment in California, and as now laid before the Board of Commissioners sitting in Washington—for it must be remembered that this is the first time these claimants have had the opportunity of presenting their accounts before any authority empowered to adjust them—immediately after the war horses and cattle increased in value in California. Horses which were worth, during the war, ten, fifteen, or twenty dollars, are now worth two or three hundred dollars; and these claimants, I am told, now present their accounts based upon the increased prices. As to the justice of this demand, I do not offer any opinion. But this accounts for the discrepancy in the prices, as spoken of in California at the time the articles were taken, and as presented before the Board of Commissioners.

It will be observed that it was after the reception of the declaration of war, that the principal expenditures in California were incurred; and it was after this time that Colonel Frémont drew the drafts which he now asks this Government to honor. It was after he had a full knowledge that we were in open war with Mexico, and we were authorized to carry on the most active military operations against that people.

It should be borne in mind by Congress and the country, that while Colonel Frémont was engaged in his perilous southern march, Commodore Stockton was similarly occupied in another direction. Landing at San Diego, he organized his brave tars into a military corps, drilled them as soldiers, mounted a park of artillery while the enemy were in possession of the adjacent country, commanding all the principal heights, and marched with his men a long distance into the interior, through several of the most difficult and dangerous mountain passes or defiles. He rescued General Kearny and his command from his dangerous situation in the heart of the enemy's country, where he was surrounded and hemmed in at San Pasqually, at which place he had lost a large portion of his force. The Commodore brought the general in safety to San Diego. Subsequently, he made his memorable march to Los Angeles, encountering the Mexicans at Rio San Gabriel, and the plains of the Mesa, where he fought two hard battles, and retook the capital. Frémont, marching from the north, intercepted the retreating forces of the Mexicans, and compelled them to capitulate. This resulted in the armistice of San Fernando. This is the history of the transactions.

When Colonel Frémont disbanded his battalion, who had served under him at Los Angeles, his soldiers required that he should pay them a sufficient amount of money to carry them back to their homes, many of which were five or six hundred miles distant. At this time, money was very scarce in that almost unknown country, hides being the currency; but Colonel Frémont succeeded in raising what was necessary upon these drafts, for the payment of which this bill provides. I have here a statement, made out by the chairman of the Committee on Military Affairs, [Mr. GORMAN,] which shows clearly and distinctly that every dollar of that money was paid out to those soldiers, that Colonel Frémont never drew a dollar of it himself, but that it was all drawn and disbursed by his quartermaster, commissary, and paymaster.

It was well known at that time that Colonel Frémont had drawn these drafts, and that Mr. Huttman had cashed them, and the proceeds appropriated to paying the soldiers. And no one supposed for a moment that it was not proper for him to draw them. He was called upon to raise money in order that he might put a few dollars into the hands of these poor soldiers to help them to their homes, and he did what he could to raise it. These are the facts in the case.

Mr. ORR. I ask the gentleman to allow me to ask him one question.

Mr. PRICE. I cannot yield the floor. As I was saying, these are the facts under which these drafts were drawn. It was publicly known there at that time, that he had done it; and Colonel Frémont received the thanks of those men for raising a few dollars for their relief. But to proceed. He gave them a few dollars each and certificates for the balance of their pay. Many of those certificates have been paid, and many of them have not to this day. Those certificates were for a long time current in California, because they considered that the honor of the Government was involved in their issue, and I think the honor and credit of the Government are involved in their payment, as it is also in the payment of these drafts. I hold that the Government never ought to have refused payment. They never should have disgraced the credit of the country by allowing them to be protested. They should have paid them, and represented the fact to the National Legislature, and had the item placed in one of your deficiency bills, as many other items are. But, sir, the credit of the country is too often disgraced by the protest of drafts drawn by your authorized agents. In this view the country is the loser by such refusals, because whenever United States drafts are to be negotiated abroad, from the fact that they are so often repudiated at home, they can only be done at a large discount. I hold that your whole consular system should be reorganized and placed upon a new basis, for it is well known that the present system has given us as a nation great discredit abroad.

Now, sir, I believe I have given a succinct history of the manner in which these drafts originated; but I have one other fact which I desire to state to the House. When Colonel Frémont came back to the United States, he had an account to settle with the United States, as Lieutenant of Topographical Engineers, for moneys expended under the orders with which he went to California. He had an account to settle as Lieutenant Colonel, commanding the California battalion, and he had further, another account to settle as the civil and military Governor of California. These three different accounts have probably gone to three different Departments, or at least to three different accounting officers; and therefore it is that this embarrassment has been thrown around the settlement of the various accounts which he has presented. In my judgment, it is clear and distinct that these are cash accounts, and that the money received upon those drafts was honestly and faithfully paid out for legitimate purposes; and I hope the House will not hesitate one moment in honoring them, and relieving Colonel Frémont from the embarrassment and disgrace which have been cast upon him in England, in consequence of the non-payment of a legitimate debt incurred by him as an officer of this Government.

It is to be regretted that the payment of these just claims has been delayed so long. Such neglect is calculated to lessen the inducements which all men need to encourage them to perilous deeds in the prosecution of great public enterprises. The delay of payment in this case operates more injuriously on the interests of the honest creditor in California than on almost any other class of our citizens. In that country money is worth a higher percentage than anywhere else; and consequently those who are unfairly kept out of its use are called to suffer greater losses. Besides, such gallant officers as Frémont and Stockton ought to be at once relieved from pecuniary responsibility, when incurred in not only protecting the honor of our flag, but in securing to us the vast resources of California.

The report here presented of the proceedings of the commissioners, sitting in Washington, to adjust the numerous claims arising out of the military operations carried on in California during the war, conclusively shows that a proper understanding can never be had of those claims without transferring the sittings of the board to California, where only the requisite process can be obtained.

Mr. STANTON, of Ohio. I do not believe there is any necessity for our going through with the controversy between Colonel Frémont and General Kearny. I therefore move that this bill be committed to a Committee of the Whole House, and upon that I move the previous question.

Mr. CARTTER. Will my colleague withdraw his call for the previous question a few minutes, and I will renew it?

Mr. STANTON. I cannot.

Mr. CARTTER. I hope, then, the call for the previous question will not be sustained.

Mr. ORR. I hope the gentleman will withdraw his call, as I desire to propound a question to some gentleman who can answer it before I vote upon the proposition.

Mr. STANTON. I withdraw the demand.

Mr. ORR. I wish to inquire of some gentleman who can give the information, why it is that Colonel Frémont's accounts have not been settled by the Secretary of War heretofore? It has been some four or five years since these matters transpired, and I should like to have some information upon that point. Can any gentleman give it to me?

Mr. TOOMBS. I can answer the gentleman from Colonel Frémont himself. It appears in the House reports, a volume of which I hold in my hand, that Colonel Frémont had gone out to Oregon upon his exploring expedition when Gillespie overtook him. He came back and joined the expedition under the white bear flag, as he says himself, upon his own responsibility, and gave his drafts. He gave them upon his own authority, not as an officer of the United States at all. That is one reason why these accounts have to be passed by legislation. He makes his drafts, or borrows money and offers to pay three per cent. a month. I have his agreements before me in this book of House reports, and in one of them he says he received $2,000 from one man and agreed to pay him three per cent. a month.

Mr. ORR. I desire to ask the gentleman another question. There were large sums of money, as I learn, which passed through his hands while in California. Has there been any accounting between him and the officers at the War Department in reference to those moneys?

Mr. TOOMBS. There has not.

Mr. ORR. What is the reason?

Mr. TOOMBS. I cannot tell. That is what should be known. The public records show that he received large sums of money, which he promised that the United States should account for. His account has not been settled, and that money has not been accounted for. The chairman of the Committee on Military Affairs is mistaken in saying that he had no money in his hands. I have his own statements that he did receive money, in

hard cash, and which he promised that the United States should pay. I want the whole account settled.

Mr. ORR. I desire the gentleman from Missouri [Mr. PHELPS] to give the information I seek, and that is, if there are large pecuniary transactions between Colonel Frémont, as an officer of the United States, and the proper accounting officer of this Government, and those accounts have not been settled, why is it that they have not been?

Mr. TOOMBS. I will read one of the documents which I have before me, in this volume of House reports, to show the character of the transactions of Colonel Frémont. One is as follows:

I, the undersigned, Governor of California, for the United States of North America, acknowledge that I have received from Don Antonio José Cot, merchant of this city, two thousand dollars, in hard cash, which he has furnished this Government for the public service. And I bind myself, in the name of the United States Government, to return the said sum within the term of two months from this date, paying for interest three per cent. per month, or one hundred and twenty dollars. But if at the expiration of this time the Government should see fit still to make use of these two thousand dollars, Mr. Cot agrees that the interest shall run for four months longer, at two per cent per month, or one hundred and sixty dollars for the four months. And for the fulfillment of what has been stipulated, I bind myself as Governor of California.

J. C. FREMONT.

ANGELES, *February* 4, 1847.

I have received from the said Mr. Cot, the sum of one thousand dollars on the terms expressed above.

J. C. FREMONT.

ANGELES, *February* 20, 1847.

Mr. ORR. How is the agreement signed?

Mr. TOOMBS. J. C. Frémont.

Mr. ORR. Without any title?

Mr. TOOMBS. Without any title.

Mr. ORR. Will the gentleman from Missouri answer my question?

Mr. PHELPS. These accounts cannot be settled except by additional legislation. That is the reason that they have not been settled before.

Mr. McLANAHAN. I rise to a point of order. I do not think the time of the House should be consumed by my friend from South Carolina, [Mr. ORR,] when his first intimation to the House was, that he wished to make only one inquiry. We have now had a series of interrogatories. I should like to be heard for a few minutes upon this subject.

The SPEAKER. The gentleman from South Carolina is entitled to the floor, having been regularly recognized by the Chair.

Mr. McLANAHAN. But for only one interrogatory, as the gentleman stated when he arose.

The SPEAKER. The gentleman is entitled to the floor to make a speech, if he chooses.

Mr. ORR. I desire to vote understandingly upon this question. Inasmuch as I have not seen the report of the committee in print, and inasmuch as I have had no opportunity to examine it, I feel that I have not sufficient information upon the question to give an intelligent vote, and I have propounded these questions to gentlemen whom I suppose to possess the information, with the view of informing myself. I am less fortunate than my friend from Pennsylvania, [Mr. McLANAHAN,] if he is prepared to vote intelligently upon the bill. That is the reason why I desire to seek information from the House.

Mr. McLANAHAN. Will the gentleman allow me to state why I am able to cast an intelligible vote upon this question?

Mr. ORR. If the gentleman proposes to throw any light upon the subject, I will yield with a great deal of pleasure, that he may do so.

Mr. CARTTER. I rise to a question of order. I concede the right, under the practice of this House, for a member in possession of the floor to yield it for the purpose of explanation; but——

Mr. McLANAHAN. I desire to make an explanation.

Mr. CARTTER. The gentleman from Pennsylvania has not occupied the floor upon the subject at all, and has nothing to explain.

The SPEAKER. How can the gentleman from Ohio expect the Chair to know that fact?

Mr. CARTTER. From the fact that he has not said anything upon the subject.

The SPEAKER. The Chair overrules the point of order.

Mr. McLANAHAN. I shall not occupy much of the time of the House in discussing this question. I am too well aware, at this late day of the session, of the value of the time of the House, both to the House and to the country, to do anything more than what I conceive to be a proper discharge of my official duties. It does strike me that many questions, both of law and fact, have been introduced into this debate which are wholly irrelevant.

Mr. CARTTER. I again make my point of order.

The SPEAKER. The Chair decides that it is not competent for the gentleman from South Carolina to yield the floor to another gentleman to make a speech, and that it is competent to yield the floor only for an explanation.

Mr. McLANAHAN. I assure the gentleman that I will be very brief.

Mr. CARTTER. I should be happy to hear the gentleman from Pennsylvania, but I have been struggling for the floor for myself.

The SPEAKER. The Chair desires to execute the rules of the House with fairness. It is competent for the gentleman from South Carolina to yield the floor to the gentleman from Pennsylvania for explanation, but not for the purpose of making a speech.

Mr. ORR. If there is any objection to the gentleman from Pennsylvania going on, I will resume, and will not detain the House much longer. I desire to inquire of the gentleman from Missouri, [Mr. PHELPS,] whether the accounts of Colonel Frémont are in such a condition now, that they never can be settled by the accounting officers of the Treasury, until some law has been passed, and why it is that his accounts are in this anomalous condition, when the accounts of other officers have been settled three or four or five years ago?

Mr. PHELPS. At the time of the war with Mexico, the Secretary of War, anticipating that troops would be raised in California, gave instructions that such troops as were raised there should be mustered into the service of the United States. That battalion, during the latter part of the year 1846, and the year 1847, as long as it was in service, was under the command of Colonel Frémont, by virtue of his appointment from Commodore Stockton. Those troops, as I am informed, were never mustered into the service of the United States. Of the moneys received by Colonel Frémont, and which he obtained by loan, the Department had no knowledge, except from his own statement, and from the presentation of his accounts, showing that certain moneys had passed into his hands, and also showing that they had passed out of his hands, by requisitions drawn by Paymaster Reading, by Commissary Saunders, and by two or three other disbursing officers, who drew upon him, either as commandant of the battalion, or as military Governor of the Territory of California. And upon the same piece of paper upon which that requsition is written, there is a receipt of the officer, acknowledging that he had received from Colonel Frémont the amount there specified. As I am informed, the money never passed into the hands of Colonel Frémont, but passed from the hands of the lender into the hands of the disbursing officer. Consequently, the accounts of Colonel Frémont with the Department will show that certain amounts of money passed into his hands, which were actually paid to Paymaster Reading, Commissary Saunders, and other officers.

Mr. ORR. What sum does Colonel Frémont claim?

Mr. PHELPS. The sum of $19,500, comprehending $4,500 interest. The rate of interest in California at that time was two or three per cent. a month.

Mr. ORR. What is the whole amount he originally claimed against the Government beyond the credits?

Mr. PHELPS. I know of no other claim which he has against the Government besides this one.

Mr. ORR. Are there no other accounts to be settled?

Mr. PHELPS. There are other accounts, but they are not in the name of Colonel Frémont, but in the name of persons who furnished supplies, and in the name of the soldiers and officers who served in the California battalion, whose claim is for their pay.

Mr. McLANAHAN. I believe I am entitled to the floor.

Mr. ORR. The gentleman from Pennsylvania will remember, that when I yielded the floor the gentleman from Ohio rose to a question of order, and the Chair indicated his purpose to sustain that point of order. I therefore stated that I would proceed with my interrogatories. I did not desire to treat my friend from Pennsylvania with discourtesy at all. I understood that objection was made to his being allowed to make a speech.

Mr. McLANAHAN. I desire to go on with the explanation I have commenced. I hope the gentleman will withdraw his point of order. I will be very brief.

Mr. ORR. I will say what I have to say in ten minutes, and resume my seat without calling the previous question, so that the gentleman will then have the chances of war. If the gentleman, however, wishes the floor for an explanation, I have no objection to yielding it to him. I do not wish to treat him with any discourtesy.

Mr. McLANAHAN. I was about to remark when interrupted by my honorable friend from Ohio, whose usual courtesy I am certain will not be withheld from me on this occasion——

Mr. CARTTER. I rise to a point of order. [Laughter.] I repeat the point I made before. My honorable friend from Pennsylvania does not disguise the fact at all that he rises to make a speech from the beginning, and not an explanation. Now, I would be pleased to hear him, but we have common rights on this floor, and I am a candidate for them.

Mr. McLANAHAN. I rise for the purpose of making an explanation. I was called on for that explanation by the gentleman from South Carolina, and I intend in a few words to give it.

The SPEAKER. The gentleman will proceed with his explanation.

Mr. McLANAHAN. It appears that the right of Colonel Frémont to act in a public capacity in the State of California, was first called into question by the honorable member from Georgia, [Mr. TOOMBS.] Well, sir, for the sake of argument, I will at once admit that he was neither acting under the authority of the Government of the United States, nor by the warrant of law at that time. But I reply at once, it is too late to rely upon such a plea—a plea that possesses no merit either in point of law or of fact. That argument must be yielded now, and the question (if question there be) set at rest, because this Government has recognized his acts by subsequent legislation, and thereby confirmed all he did in the premises now under consideration. As late as the last session of Congress, in passing the Army appropriation bill, authority was given to the Secretary of War to institute a commission for the purpose of ascertaining the validity of the claims that were brought from California by volunteers who served under Colonel Frémont. That commission sat in this city. The object for which the Commissioners were appointed is expressed in the order of the Secretary of War. It is as follows:

"Colonel Charles T. Smith, Lieutenant Colonel Charles Thomas, Major Richard R. Lee, are hereby appointed to examine and report to Congress on such claims as shall be presented against the United States for funds advanced, subsistence and supplies of all kinds furnished or taken for the use of the volunteers serving under the command of Captain John C. Frémont, in California, during the year 1846."

Thus, sir, it will be seen that the Government of the United States, in selecting three officers of high grade in her Army, "all honorable men," for the purposes set forth in the above order, was not only disposed to acknowledge the brilliant and important services of one of her distinguished sons, but was ready and willing to do ample justice to all the claims that grew out of such service. The Government created her own tribunal, selected her own judges, and made up the issue with these claimants. The competency of those who constituted this commission is not questioned, their integrity cannot be doubted, and their judgment should not be gainsayed. It would be derogatory to the honor and the character of the country to reject the report of the judges we selected, for no other and no better reason than that it was in favor of the claimants. I trust that this House will not consent to register its own disgrace by such a vote.

Upwards of $200,000 of claims were presented to that commission, and from the report it appears that but one single claim was presented against this Government in which Colonel Frémont had any privity whatever; and that, I beg to say, is the very first claim allowed on the schedule fur-

nished by the commission. Sir, we have been informed by the chairman of the Committee on Military Affairs, that the claim of the parties who cashed the drafts for $19,500, drawn by Colonel Frémont on the Treasury of the United States, was unanimously agreed upon by the commission as a just demand against this Government. It is unnecessary, perhaps, for me to recapitulate what has already been so fully explained in regard to these drafts. It is well known that they were protested for non-payment. The fiscal functionaries of the Government had no authority of law to pay them. They were sent back under protest, and those who advanced the money on them to Colonel Frémont in time of war, to sustain the honor and interests of the United States, have caused the arrest of this gallant officer, and confined him in order to obtain payment of the debt, within the walls of a British prison. Sir, is this consistent with the magnanimity, the integrity, the justice of the Republic? Who will say so?

But I put the case on strictly legal grounds, and I assert, without the fear of successful contradiction, that it is not competent for this House, after having instituted this commission, delegated to it the power of investigation, and after the investigation has been fully and fairly made, and the claim has been allowed, to reject it for any or for all of the reasons suggested by the gentleman from Georgia. The debt was contracted, as it was ascertained in the first place, for the Government. The Government, by its commission, has ascertained its own responsibility and its duty to pay this claim. Instead of higgling and hesitating about it *now*, the heart of every member on this floor should leap forth to embrace this opportunity —not of sacrificing a principle—not of conferring a favor, but of doing a long, a too long neglected act of justice.

It is alleged that Colonel Frémont has a large account to settle with the Treasury. There is no evidence before us of this fact that I can see; nor, indeed, is it at all material if the fact be so. But let us look at the question as it now stands. Upwards of $200,000 of claims were presented to the Commissioners. They allowed and passed favorably on some $31,000; the balance, about $170,000, were not sustained by evidence, and were consequently rejected. Of the $31,000 allowed, the claim of $19,500, on which Colonel Frémont was imprisoned in London, was unanimously allowed, and placed first on the list submitted to us by the Commissioners. This is the only demand against the Government in which Colonel Frémont appears to have the slightest personal interest.

Then, sir, whether Colonel Frémont was in California without the warrant of law, and without the authority of the Government, I take it, is not now legitimately involved in this discussion, nor is it a question for us now to ascertain whether the money raised upon these drafts was disbursed properly or improperly. The money was raised by Colonel Frémont to sustain the honor and the interests of the United States, and the Government has justified him in thus raising it by its subsequent legislative action. That it was paid over by Colonel Frémont to officers of the Army whose duty it was to disburse it, and to disburse it properly, is not doubted by any one who has investigated the subject. If they failed to do so, they were amenable to the law. If they did do so, and I believe it has been ascertained by the commission they did, then it is the duty of this Government, under the circumstances, to pay that debt, and to pay it at once.

The gentleman talks about all over $30,000 having been rejected; but he should remember that same Commission which spoke of fraudulent claims above $30,000, spoke of other claims, amounting to $30,000, that it esteemed just and proper to be paid by the Government. This is the judgment rendered by the court you created, by the judges you selected. Will you adopt what is in your favor, and reject what is against you? Will you go back of the duties you imposed on this Commission, and tell them they have not investigated, because they have not found all in your favor? that their report is not to be received or believed? that Colonel Frémont was acting without authority of the Government, and against treaty stipulations, and the laws of the land? that he neither subserved the interests or honor of his country in California? that he fraudulently received, and fraudulently squandered, the sum now sought to be recovered from the Government for his use? Sir, it is too late to set up such a defense. It is against every principle of law and justice that it should prevail. You are to take, and you ought to take, the report of these Commissioners as conclusive evidence. It is a liquidated debt, and it is the duty, as it should be the pride, of the Government to pay it promptly.

Mr. ORR. If any legislation is to be had at the present time, I prefer that the amendment of the gentleman from Mississippi [Mr. BROWN] should be adopted by the House in lieu of the original bill. I propose to offer the following proviso to that amendment:

Provided, That nothing herein contained shall be construed so as to require the Secretary of War to recognize the validity of the claims of said Frémont, upon which actions are pending or judgments may have been obtained in favor of Anthony Gibbs & Sons, assignees of F. Huttman, in the courts of her Majesty the Queen of Great Britain.

The SPEAKER. There is a motion to commit the bill pending, which cuts off all amendments.

Mr. ORR. Well, then, I will offer it as an amendment when afforded the opportunity.

Mr. CAMPBELL, of Illinois. I desire to ask the gentleman this question: Suppose Colonel Frémont has unsettled accounts with the Government, or, to make it stronger, suppose in some other capacity in which he is acting he is a defaulter to the Government, and the Government has received the benefit of the proceeds of these drafts, would that be any reason for its withholding their payment?

Mr. ORR. That would be assuming the very thing about which I have doubts in my own mind; that is, the validity of the claims on which suits have been instituted against Frémont in England. We have a report of the Commissioners, authorized to be appointed at the last session of Congress, recognizing, to a certain extent, the claims embraced within these drafts in favor of Huttman; and I am, therefore, willing to pay to Colonel Frémont this $19,500, provided the Government is to get the benefit of that amount in a final settlement of his accounts, if he fails to establish to the satisfaction of the accounting officers that this demand of Huttman's is legitimately chargeable to the Government.

Mr. CAMPBELL. If Colonel Frémont establishes to the satisfaction of the Government that it did receive the benefit of the proceeds of these drafts, would not the gentleman be willing they should be paid independent of all other unsettled accounts?

Mr. ORR. The amendment of the gentleman from Mississippi specifically provides for the payment to Colonel Frémont of $19,500 at the present time, but that the Secretary of War shall charge that amount to his account, to be deducted from his allowance on a final settlement by the accounting officers. It may be there is a sum due to Colonel Frémont—it may be $20,000; and it may turn out on examination that this $20,000 is not embraced within these judgments. If that should turn out to be so, the Secretary of War would not be able, in settling the accounts of Colonel Frémont, to set up the discount for the payment now made unless the amendment of the gentleman from Mississippi be adopted. In adopting that, although there is nothing said as to the reason why this payment is made, the amendment will indicate it. As I understand it, this is simply an advance payment. I am willing to go that far—I am willing to make that advance, and depend on the final settlement whether the Government owes him that much. If the Government has received the money upon which these drafts were predicated, I think it ought to pay them. The whole proceeding in California was irregular and informal, from the time you first entered the Territory until the State of California was admitted into the Union. But if the expenditures made by Colonel Frémont were for the benefit of the Government, although unauthorized by legislative enactment, I think that justice requires he should be indemnified, and I am willing to deal not only justly but generously with him.

Mr. BROWN, of Mississippi. I desire to make a single remark in connection with what the gentleman has said. He is right in supposing that I mean by my amendment to pay Colonel Frémont $19,500 to relieve his present embarrassments in London. I do not propose that $19,500 shall be paid on these drafts, but on his whole account. If the balance is against him we must sustain a loss; but I do not think there will be a balance against him. But if you pay $19,500 upon these specific drafts, and in future investigations it should turn out, as I apprehend it may, that this money was not applied to the use of the Government, but that Colonel Frémont applied to the use of Government moneys derived from other sources, you cannot set off the payment of these drafts against the claim of money which he has used for your benefit. Therefore I want to make the appropriation of $19,500 upon the general account, and not to the payment of any particular item, and when the accounts are finally settled, let there be paid to him anything which may be due him.

Mr. ORR. Will the gentleman from Ohio [Mr. STANTON] withdraw his motion to refer this matter to the Committee of the Whole?

Mr. STANTON. I will, for we cannot stop this talk. [Laughter.]

Mr. ORR. I offer the amendment which I have already indicated, and I renew the motion of the gentleman from Ohio, [Mr. STANTON,] to refer this bill to the Committee of the Whole on the state of the Union.

Mr. CARTTER. Mr. Speaker, I look upon this matter in a different view from that which seems to have been entertained of it by other gentlemen who have spoken upon this subject. This fact is conceded: that Colonel Frémont served the United States regularly, and under the authority of the Government in California, or he did that service irregularly. That the service was performed by him, nobody can doubt, particularly when his achievements are so fresh in the memory of the whole country. Whether he performed this service under corporal drill, or without, is to me a matter of no consideration in connection with the question that is now pending, and all the light and learning which has been expended upon that subject here, is totally devoid of any interest to me. It is sufficient that this nation has enjoyed the fruits of this gallant man's services, and in doing it have given sanction to his services. That is sufficient for me. This idea of fighting irregularly is a matter of little consequence, in my judgment. I think that those who fight most regularly are the last that ought to be rewarded as a general proposition. In performing these services, Frémont brought to the credit of this nation as large a fund of national fame and personal honor as any other citizen or soldier in the regular or national army. There is no man who can deny this: that in performing his services he encountered more enemies than any other man that ever went forth to do service for his country. His campaigns led him through trackless wilds, beset at every step with peril; and one of the greatest achievements, that for which I render him the most homage, is his bringing out and developing to the world a region abounding with untold treasures, which had rested for years unknown and in profound mystery, and for opening a road traveled with great peril—and still marked with danger—to those vast domains on the Pacific. Colonel Frémont visited England, and was there disgraced to a great extent—and so far as this nation held property in his character and fame, the nation too—by being incarcerated in a British prison for a debt which he said was not his own, which the Senate Chamber of the United States has said was not his own, which a committee of this House has said was not his own, and which the Board of Commissioners, legally constituted to investigate, has said was not his own. It is not to be disputed that the pettifogging made use of to get rid of his claim lies behind all these manifestations of public functionaries. That the claim against Frémont has been prosecuted to judgment is an ascertained fact.

Here let me say a word in reply to the honorable gentleman from Georgia, [Mr. TOOMBS,] the impulses of whose heart I know, and I know them to be good. I know his love of justice, too, and believe it sincere; but he did himself great injustice, and to Colonel Frémont more than he intended to do, when in the pathway of his remarks he carried the idea, or permitted the idea to float in connection with his remarks—for such would be the inference of any gentleman who read his remarks on paper—that Colonel Frémont traversed three thousand miles of ocean, with as gallant a reputation as ever left this continent, in collusion

with men who prosecuted him for $20,000. That is the inference to be drawn from the gentleman's remarks; and it is this feature of the case which has more effect, in my judgment, to prejudice the case and Colonel Frémont than any other. We have drawn from the energy and courage and talents of Colonel Frémont, into the treasury of the national fame of this country, too much to break him down now by innuendo. Now, I acquit the honorable gentleman of any intention to do it. I know that he would not do it, especially in his absence, if he did it at all. I know he is too gallant a man to do it, when there are three thousand miles of ocean between him and Colonel Frémont.

Mr. TOOMBS. I would not do it, for another reason. I do not know it to be true; but I say, if you pay this one, other claims might arise where the parties would go over to Europe, and it would be a convenient way of perpetrating frauds upon the Government. I will make no such charge. That is the only reason which will control me.

Mr. CARTTER. I am happy the gentleman from Georgia should cut off the possibility of anybody drawing the inference from his remarks, that he intended any imputation involving the character of Colonel Frémont. I know he did not intend that his remarks should imply an imputation; but still the reader of his remarks, who might take them up, ignorant of the character of both gentlemen, would be led to the inference that Colonel Frémont had played the part of cozen with his prosecutors, for the purpose of defrauding the Federal Treasury. With such a charge as that made against Colonel Frémont, or any public officer who had rendered a tithe of his services to the nation's character, I would vote him $20,000, if every dollar was thrown away. Great Britain should not be permitted to adjudge American character under such a charge, after having incarcerated one of America's most gallant sons in her dungeon, under a *capias* system. It is true that he stands liable to confinement for this debt. What are we going to do? One gentleman says, refer this matter to the Departments. Why? Because you suspect the integrity of his account? You can assign no other reason for it. The Board constituted to ascertain the liability, report that it is due to him. The Senate sanctioned the claim. It comes here, and you say no. No, although this finding is *prima facie* evidence, yet we will be permitted to go behind it, and throw over the reputation of a gallant soldier the reflection of distrust. My friend from Georgia treats this case as a matter of little importance; but to my mind, it is a matter of very grave consideration when the character of a man who has done as good public service as Colonel Frémont, is thrown into the scale. I apprehend that if a debt less than half of this weighed upon my honorable friend from Georgia, he would shrink from it, and appreciate it. Well, now, there are not very good counting-rooms on the summit of the Rocky Mountains. There are not very good counting-rooms in its gorges. The formulas, at least, of business must be dispensed with there. The very reason why Colonel Frémont was compelled to draw these drafts, was, that he was walled out from all intercourse with the Government; that between him and his Government lay mountain ridges and gorges, and snow and rain and starvation, and upon the Pacific shore lay the enemies of his country whom his gallant spirit subdued. And here we are, in such a case, caviling about the irregularities of an account for some mules. [A laugh.]

Now, sir, I have said about all that I desire to say. I was in hopes this House would not headlong disgrace and dishonor this man, by quibbling over an account of his, which has passed all the ordeals to which it has been submitted, when he is not within reach of explanation. Personally, I know Colonel Frémont but very slightly. I have had the honor of an introduction to him. He is a small man, but he is as gallant as any mass of stuff of the same size that ever was wrapped up in a coat that would fit him. [Great laughter.] And, sir, he met a combination of enemies, such as very few of the public servants of this Republic have ever met—both enemies that man presents and enemies that God presents—mountain enemies, ravine enemies, enemies of frost and of heat and of fasting. Now, I do not think that a man who has marched for a week, feeding on green hides and on the skeletons of worn-out and diseased mules, would go across the Atlantic to cheat his Government out of twenty or fifty thousand dollars. My own opinion is, that when a man had garnered up a reputation, by deeds of almost unparalleled peril, he would want to transmit it undefiled to his posterity, and that twenty thousand dollars would have no more influence upon him than twenty cents. That is my appreciation of such service as Frémont's. It is not like sitting cross-legged up here in one of these bureaus. [Laughter.] There was no "soup" about it. He was not afraid of "a fire in the rear." [Renewed laughter.] It was enough for him to know that that part of this continent belonged to the United States; that they put upon him the peril of exploring it; that he was desired by his Government to make the way open to the thousands and thousands who were to follow it to fortune, and to define a State that in magic time would become an empire. Sir, you might as well undertake to separate Frémont's soul from his body by your action here, he being three thousand miles distant, as to separate Frémont's fame from the fame of the Pacific side of this Republic. Talk about little questions of adjustment of accounts, when you have a claim of this kind before you, and under these circumstances! Can you reject this claim without rejecting the integrity of Colonel Frémont? Can you reject this claim without a direct impeachment upon him?

Mr. TOOMBS. I ask the gentleman if he knows that the Commission have rejected $75,000 that Frémont certified?

Mr. CARTTER. I know that the same Commission have admitted this. I heard my honorable friend from Georgia make use of an argument that is very frequently used before twelve men of a low order of intellect in a court of justice. He says that in connection with this subject we have a right to accept what we believe, and reject the balance from the same authority. I deny the proposition, both as a legal and metaphysical proposition. [Laughter.] There is not any truth in it. Why, mark the point! The proposition is that you have a right, a metaphysical right, to draw a knife through the evidence produced in a given cause, and swallow half and reject the balance. [Much laughter.] Now, there is neither law nor logic in that. The true rule of evidence, to which the gentleman refers, is, that if you have no other evidence save the confession—save the declaration—save the finding—then you are bound by the finding. Where you have other evidence that may be brought into question and weighed with it, you may make your outside evidence overrule or confirm. But it is a metaphysical absurdity to reject a part of the sole product of a given cause, and admit the balance. Now, sir, I hope that will not be done. I hope we will decide this question upon the evidences that have been fairly furnished; not in a caviling spirit, but with a view to the honor of the nation, and the nation's honorable men;—not men of title, not men of place, but the men who served the Republic in its perilous places and in its hours of peril. You have such a case in Frémont, and it is a glorious pride to me to be able to announce it here in vindication of him from what would appear to be, although undesigned, an insidious attack upon his reputation.

I am under obligations to the House for listening to what I have said, and I am under a further obligation to call the previous question, which I now do.

The previous question was seconded, and the main question was ordered to be put.

ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills; which thereupon received the signature of the Speaker, viz:

An act granting the right of way to the St. Louis and Iron Mountain Railroad Company, and for other purposes;

An act to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida;

An act to change the name of the steamboat Forest City;

An act for the relief of Captain George P. Smith; and

An act to amend an act entitled "An act to create the office of surveyor general of the public lands in Oregon, to provide for surveys, and to make donations to the settlers on said public lands," approved September 27, 1850.

ADJOURNMENT TILL MONDAY,

Mr. CLINGMAN. I rise to make a privileged motion. I move that when this House adjourns it adjourn to meet at the usual hour on Monday.

The motion was agreed to.

COLONEL FREMONT.

The question now being upon the motion to refer the bill for the relief of Colonel Frémont to a Committee of the Whole House, it was put, and the motion was not agreed to.

The question recurred upon the amendment to the substitute.

The substitute offered by Mr. BROWN, of Mississippi, and the amendment thereto, submitted by Mr. ORR, were then reported to the House.

The substitute for the bill is as follows:

"That the Secretary of War be, and he is hereby, authorized to pay John Charles Frémont $19,500, and deduct the same from the amount that may be found due said Frémont on the final settlement of his accounts."

The following is Mr. ORR's amendment:

"*Provided*, That nothing herein contained shall be construed so as to require the Secretary of War to recognize the validity of the claim of said Frémont, upon which actions are pending, or judgments may have been obtained in favor of Anthony Gibbs & Son, assignees of Huttman, in the courts of her Majesty the Queen of Great Britain."

The question now being upon agreeing to the amendment to the substitute—

Mr. ROBIE demanded tellers; but they were not ordered.

The question was then put; and on a division, there were—ayes 69, noes 62.

So the amendment to the substitute was adopted.

Mr. POLK. I move that the House do now adjourn.

The question was put, and the motion was disagreed to.

Mr. CAMPBELL, of Illinois. I desire to inquire of the Chair, what is the question upon which we are to vote?

The SPEAKER. It is upon the adoption of the amendment of the gentleman from Mississippi, [Mr. BROWN,] as amended by the gentleman from South Carolina, [Mr. ORR.]

The question was then put, and upon a division, 89 rose in the affirmative.

Mr. CAMPBELL. I demand the yeas and nays upon the amendment.

The yeas and nays were not ordered.

The House was again divided, and there were—ayes 88, noes 49.

So the amendment as amended was adopted as a substitute for the bill.

The bill as amended was then ordered to be engrossed and read a third time, and having been engrossed, it was read a third time, and passed.

Mr. GORMAN. I move to reconsider the vote last taken, by which the bill passed, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

Mr. GORMAN. I move that the House do now adjourn.

The motion was agreed to, and

The House thereupon adjourned until Monday at twelve o'clock, m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. BURROWS: The petition of John Porter and others, citizens of Youngstown, New York, asking for an appropriation of public land to aid in the construction of a ship canal around the Falls of Niagara, in the State of New York.

By Mr. ROSS: The petition of Solomon Fogel and others, for a post route from Norristown, Pennsylvania, to Fogelsville, in Lehigh county, by the way of Fairview, Perkiomen Bridge, Hereford, Zionsville, and Trexlertown.

By Mr. GOODRICH: The petition of Robert Nesbit, for an allowance under a contract to deliver a quantity of hay at Santa Fé, New Mexico.

By Mr. DOTY: The petition of Lewis Rouse, of Green Bay, praying for a confirmation of his title to the rear of lots 10 and 11 in the Green Bay Settlement.

By Mr. BRAGG: The petition of William C. White, of Monroe county, Alabama, asking to be allowed to enter a tract of land purchased from a Creek Indian.

By Mr. SIBLEY: The memorial of 182 citizens of Pembina county, in the Territory of Minnesota, praying Congress to establish a military post at St. Joseph, for the protection of the inhabitants against attacks of the Sioux Indians, and to prevent the frequent incursions of the hunters of the Hudson's Bay Company into our territory, in defiance of existing laws; also praying for the negotiation

of a treaty for the extinguishment of the Indian title to the land in the valley of the Red river of the North.

By Mr. THURSTON: The memorial of David Melville, Newport, Rhode Island, for increase of bounty land.

IN SENATE.

MONDAY, *February* 14, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, in answer to a resolution of the Senate for information as to the quantity and kind of coals contracted for by that Department, and its officers and agents, during the past year; which was ordered to be printed.

Also, a report of the Secretary of War, in answer to a resolution of the Senate, for information in relation to the defense of the harbor of San Francisco; which was referred to the Committee on Commerce.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed a bill from the Senate for the relief of John Charles Frémont, late Lieutenant Colonel in the Army of the United States, with an amendment.

REGISTER OF THE SHIP RESOLUTE.

Mr. SEWARD. I wish to read to the Senate a very brief note, and then to ask them to take up a bill from the House. The note is in these words:

"The ship Resolute is now completely laden, and awaits her papers to proceed to sea. You will be kind enough to communicate by telegraph whether there is any prospect of obtaining the register proposed for her."

I ask the Senate, in consideration of this circumstance, and the fact that I am obliged to be out of the Senate Chamber this morning, to take up the bill from the House of Representatives for the relief of John Millar.

There being no objection, the bill was read twice and considered as in Committee of the Whole. It proposes to issue a certificate of registry to such vessels within the United States as may be owned in whole or in part by John Millar, formerly of Belfast, Ireland, but now of the city of New York, who has declared his intention to become a citizen of the United States; such certificates to have the same force and effect during five years, and no longer, as if issued to a citizen of the United States; and that if Millar shall not, during the term of five years, become a citizen of the United States, the certificates issued shall be void.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed; and, on motion by Mr. SEWARD, it was

Ordered, That John Millar have leave to withdraw his petition and papers now on the files of the Senate.

PETITION.

Mr. SEWARD presented a petition of citizens of New York and Brooklyn, praying that a contract may be entered into with Christian Hansen for the transportation of the mails between Brooklyn and Gluckstadt, and between Kiel and St. Petersburgh; which was referred to the Committee on the Post Office and Post Roads.

IMPROVED ENGINE AND RAILWAY.

Mr. FOOT. Mr. President, I am charged with the presentation of the memorial of Colonel James S. French, of Virginia, the patentee of a new and improved engine and railway structure, praying Congress to aid in putting his improvement in operation here at the seat of Government, upon a scale sufficiently extensive to make a thorough test of the practicability of his plan.

It is not, perhaps, an appropriate occasion, upon the presentation of the memorial, to occupy the time and attention of the Senate with a statement of the construction and operation of this invention, and it is rendered the less necessary as there is now a model railway and engine of Colonel French's improved plan upon daily exhibition in the rotunda of the Capitol, so that we can all examine it for ourselves, and form our own judgments of its practical utility from personal inspection. I hope all will avail themselves of the opportunity of examining this model.

It is enough for me to say, for the present, that I have examined it with some care and with very great interest, and have quite satisfied my own judgment of the practicability of Colonel French's plan, and of its ultimate complete success. The great practical ends to be attained by this improvement are, to overrun heavy grades, much heavier than are now deemed practicable; to run all grades, high or low, with much lighter machinery than is now in common use; and the greater security against trains being thrown from the track. If these ends are attained, it follows that a vast expenditure will be saved in the grading of roads, especially in the rough and mountainous sections of the country; a vast expense in the wear and tear of roads caused by running a heavy class of engines upon them, will be saved, and the hazards to personal injuries will be greatly diminished. These are most important and desirable results, and of universal interest.

If this invention or improvement affords even a reasonable probability of producing such results, it appeals most strongly to Congress for its favor and patronage, so far at least, as to give it a full and satisfactory experimental trial. And now is the time for such an experiment—now, when the whole country is engaged in railroad building; now, when we are here engaged in discussing various projects for a line of railroad to the Pacific coast by the aid and the agency of the General Government.

I move the reference of this memorial to a Select Committee of five, to be appointed by the Chair.

The motion was agreed to; and the President appointed Messrs. FOOT, RUSK, DAWSON, JAMES, and NORRIS, the committee.

REPORTS FROM STANDING COMMITTEES.

Mr. GWIN, from the Committee on Finance, to which was referred the bill from the House of Representatives for the relief of S. Morris Waln, reported it with an amendment.

Mr. WALKER, from the Committee on Indian Affairs, which was instructed by a resolution of the Senate to inquire and report what sum is due to the Menomonee tribe of Indians, and the terms on which the payment should be made, submitted a report on the subject; which was ordered to be printed.

NAVY REGULATIONS.

Mr. HALE submitted the following resolution for consideration:

Resolved, That the Secretary of the Navy inform the Senate whether a code of rules and regulations or instructions for the government of the Navy is now in course of preparation, or has recently been prepared by a board of officers acting under his authority; and if so, that he be requested to submit the same to this House for the consideration and approval of Congress before taking effect.

INDIAN INCURSIONS.

Mr. HALE submitted the following resolution for consideration:

Resolved, That the President of the United States be requested to inform the Senate if any complaints have been made by the Mexican Government to this Government of a violation of the provisions of the eleventh article of the treaty of Guadalupe Hidalgo, or of any neglect on the part of this Government to perform the stipulations of that article of the treaty relative to the suppression of savage incursions into the territory of Mexico from the territory of the United States.

SENATOR FROM KENTUCKY.

Mr. UNDERWOOD presented the credentials of the Hon. JOHN B. THOMPSON, elected a Senator by the Legislature of the State of Kentucky, for six years, from and after the 4th day of March, 1853; which were read.

THE FISHERIES.

Mr. MALLORY informally submitted an amendment, which he intends to propose to the bill reported on Saturday by Mr. DAVIS, from the Committee on Commerce, in relation to the fisheries; which was ordered to be printed.

DEFICIENCY BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, which had been reported from the Committee on Finance, with various amendments.

The first amendment of the committee was in the clause—

"*To pay for the Congressional Globe and Appendix, and the Annals of Congress, ordered for the use of the Congressional Library*, under the resolution of the House of September 28, 1850, $4,500—"

to strike out the words in italics, and insert in lieu thereof the words—

"To enable the Clerk of the House of Representatives to pay for certain books ordered for its Library."

Mr. HUNTER. That is to make the appropriation correspond with the fact. It is for the House, and not for the Congressional Library.

The amendment was agreed to.

The next amendment of the committee was a verbal one, in the clause relating to the furnishing of books to members of the House of Representatives, by striking out "this House," and inserting "the House of Representatives."

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For payment of arrearages due to the chief clerk of the Bureau of Yards and Docks, on account of salary, as provided by the act of 3d March, 1851, restoring the same to that paid the chief clerk of the late Navy Board, $1,766."

Mr. HUNTER. That is upon estimate. One of the clerks was cut down by mistake. His office was restored, but not his salary.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For payment of arrearages due to David Finch, as superintendent of the painting the exterior walls of the Patent Office and Treasury buildings, $117 50."

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For repairs of vessels employed in the coast survey, $10,000."

Mr. HUNTER. That is upon estimate. It will enable the Superintendent of the Coast Survey to forward his work, to make the appropriation in the deficiency bill, instead of in the bill for the next fiscal year.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For services rendered by the clerk in the General Land Office charged with the superintendence of the Chickasaw Indian business, from the 23d of May, 1837, to the 28th of February, 1851, at $250 per annum, $3,437 50."

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"To supply a deficiency in the contingent expenses of the office of the Secretary of the Treasury for the fiscal year ending 30th June, 1853, $5,000."

Mr. HUNTER. That is according to estimate.

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For the repair of damages to and the improvement of Lafayette Square, $1,278."

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For the erection of the necessary building for making and providing gas, and fitting the pipes for distributing it at the Naval Academy, $2,500."

The amendment was agreed to.

The next amendment of the committee was to insert the following:

"For compensation of United States assayer at San Francisco, California, from the 1st of January, 1852, to the 30th of June, 1853, $7,500."

Mr. HUNTER. That is according to estimate. It seems that there has been an omission in the appropriation for the salary of that officer.

The amendment was agreed to.

The next amendment of the committee was to add the following as an additional section:

"SEC. 4. *And be it further enacted*, That so much of the second section of the act making appropriations for the support of the Army for the year ending 30th of June, 1853, approved 31st August, 1852, as provides that 'no portions of the moneys appropriated by this act shall be applied to the payment of any expenses incurred prior to the first day of July, 1852,' be, and the same is hereby repealed, so far as it relates to the appropriations for light-houses contained in said act."

Mr. BORLAND. Before the vote is taken on that amendment I should like to have some explanation of it.

Mr. HUNTER. The explanation is this: There was a provision in the Army appropriation bill of last year that no part of the money appropriated in it should be expended for arrearages. In the expenditure for light-houses the accounts are carried on from year to year. It is a continuous work; and although that provision operates very well in regard to most matters, it has been

found inconvenient in relation to the light-house system; and therefore it is proposed to suspend so much of the provision as applied to the light-house system, so as to permit the Department to pay for arrearages in that service which occurred prior to that year.

Mr. BORLAND. I would ask the Senator from Virginia if this appropriation applies to the construction of light-houses on the Pacific coast?

Mr. HUNTER. I presume it will apply to all light-houses, and therefore includes those.

Mr. BORLAND. I asked that question because if it does include them, I think it is time that something should be said on that subject, and that the Senate and the country should be put in possession of facts which have been developed in regard to contracts made in relation to those light-houses, and the moneys stipulated to be paid for them, which, when made known, I undertake to say, will astound the mind of any man who has supposed that the funds of this country have been administered upon principles of honesty and common fair dealing. This is the first occasion which I have had to allude to that subject, and I deem it my duty now to call the attention of the Senator from Virginia, the chairman of the Committee on Finance, to this particular subject. I would suggest to the Senator, in consideration of the general fact which I have stated, that it would be as well to except the construction of light-houses on the Pacific coast. I do not desire now to go into a discussion of the subject. There are reasons, perhaps, why it is not proper to do so, because there is a committee of this body now engaged in investigations, a part of which relate to this matter. But I will state to the Senate in general terms, that that investigation will expose a system of fraud which will astonish the Senate and the country when it comes to be made known.

Mr. HUNTER. The Senator, if I understand him, proposes to except the light-houses on the Pacific coast from the operation of this amendment. I would suggest to him the propriety of passing over this amendment for the present, so that he may prepare his modification of it.

Mr. DAVIS. I wish the chairman of the Committee on Finance would state the operation of this amendment. I would like to know what the effect of it is.

Mr. HUNTER. It will give me pleasure to state its operation. In the Army appropriation bill of the last session, there was a provision that no moneys appropriated by it for this fiscal year should be applied for the payment of arrearages for the last fiscal year. The Secretary has told me that this operated very well, except in regard to the light-house system, and that, in regard to that, they find it necessary to be able to use existing appropriations for the payment of balances, and it is proposed, upon the recommendation of the Department, to except the light-house system from the operation of that section in the appropriation bill of last year.

Mr. BORLAND. Upon reflection, I think it would be best, and I submit it to the Senator from Virginia, not to make this exception at all. I propose to except from the exception the light-houses on the Pacific coast; but I think it very probable, and indeed it is reasonable to suppose, that if improprieties have been committed in regard to them, the whole system is tinctured with them; and I think it is a good safeguard now, to let the matter stand as it is, and not except any of the light-houses at all. If we agree to the recommendation here, and except any light-houses from the operation of this law, I shall have to make an exception from that exception with special reference to the Pacific light-houses. I think, however, it would be better to let them all stand on the same footing, and let the whole matter be investigated together.

Mr. HUNTER. If the Senator will allow me, I think I can convince him that it would be better to let the amendment lie over, and then when we take up the bill to-morrow, the Senator can make any amendment which reflection in the mean time may convince him is necessary. This provision is necessary to be made, and the special case which suggested it is this: A portion of the money applied to light-houses was, under the decree of a court in Florida, paid for salvage; and some of those important light-houses are now without oil, and all the lights must be extinguished unless more money is appropriated, or we pass this section. It is necessary either to permit a portion of the money appropriated in this fiscal year in the bill of the last session to be applied to that purpose, or we shall have to make a special appropriation for certain light-houses. The Senator will find that it is indispensable to make some provision in regard to this matter, and I would suggest that it would be better to let this amendment lie over for the present, and by to-morrow he can inquire into it and be ready to propose whatever he may think necessary.

Mr. DAVIS. I wish to say a word to the chairman of the Committee on Finance. This deficiency bill, I suppose, relates to all branches of the service of the Government, and relates to the light-house system as well as to others; but what I wish to draw to the attention of the chairman is this: The expediency of separating entirely the coast survey and the light-house system from the Army and Navy accounts, that we may be able at all times, and under all circumstances, to understand what the light-house system costs us, and what the coast survey costs us. They are separate bureaus entirely; separate in all their operations; and among other things, the accounts, in my judgment, should be kept separate; and I hope that the chairman of the Committee on Finance and his committee will, in the measures hereafter to be adopted, keep that in view constantly, in order that the country may see what the system costs. I said here last year, what I think will turn out to be true, that a system was then adopted by Congress in regard to light houses that will prove, if we can reach the bottom of it, if we can understand where the money comes from, an immensly expensive system—one that is complicated in its character, and will turn out to be cumbrous in its whole machinery. One man placed at the head of the light-house system would be worth the whole present system from top to bottom. But I will not go into that.

Mr. HUNTER. I would simply reply to the Senator from Massachusetts, that in the deficiency bill we have appropriations for all the different branches of expenditure, all the different arms of the public service; and it would be impossible to reorganize such a system as the coast survey and the light-house system upon the deficiency bill. If he will look back he will find that it is no new thing to obtain appropriations for those services in this bill, and in various bills. Some appropriations for light-houses are contained in the military appropriation bill, and some in the civil and diplomatic bill. New works are generally, during their construction at least, under the jurisdiction of the War Department, and those that are established, and are in operation, are under the Treasury Department. I dare say the Senator is right in his wish that these matters should be separated, but it cannot be done at once, and upon a deficiency bill.

Mr. DAVIS. I remember that a few years ago, for example in the light-house bill, an appropriation was made for the construction of a steamer, costing some $70,000 or $80,000, which was designed for the use of the coast survey, and yet it was put in the light-house bill, and charged to the light-house system. Now, what I want to get rid of is this complication. I want to separate the two things and let each stand on its own legs.

Mr. HUNTER. I am perfectly willing to agree to that, but the Senate will remember that the light-house bill always comes from the Committee on Commerce, and not from the Committee on Finance.

Mr. DAVIS. I know that, and I think it is an erroneous system. I am complaining against it.

Mr. HUNTER. The Senator from Massachusetts is a member of the Committee on Commerce. I am not.

Mr. DAVIS. I did what I could to correct it there, but I failed. I think the system is an erroneous one, and I wish to correct it elsewhere if I cannot get it corrected in the Committee on Commerce.

The PRESIDENT. If there is no objection, the amendment will be passed over in pursuance of the suggestion of the Senator from Virginia.

Mr. BORLAND. With the consent of the Senator, I am willing now to offer my amendment to the amendment. While we have it before us, we may as well dispose of it.

Mr. HUNTER. I have no objection to that.

Mr. BORLAND. Then I move to amend the amendment by adding to the end of it the following:

"Except as to the light-houses which have been contracted for to be erected upon the Pacific coast."

The amendment to the amendment was agreed to, and the amendment as amended was agreed to.

The next amendment of the committee was to add the following as an additional section:

"SEC. 5. *And be it further enacted*, That the officers appointed to assist the superintendent of the naval astronomical expedition in Chili, directed by the act of the third of August, eighteen hundred and forty-eight, shall be allowed an increased compensation in a ratable proportion, according to pay and rank, at the time of departure from the United States, to the allowance made to the said superintendent by the act of March third, eighteen hundred and fifty-one, to be paid out of any moneys in the Treasury not otherwise appropriated."

The amendment was agreed to.

The PRESIDENT. The amendments reported by the Committee on Finance, with the bill, have not been gone through with. There are some additional amendments reported, which will be now considered. The first additional amendment was to add, at the end of the first section, the following:

"For arrears of compensation due A. J. Downing for services as rural architect at the time of his death, $625."

Mr. RUSK. I have an amendment to offer to that amendment, which I presume will not be objected to. It is to add to it:

"For temporary clerk hire in the office of the Auditor of the Post Office Department, $1,000."

The amendment to the amendment was agreed to, and the amendment as amended was agreed to.

The next amendment of the committee was to insert the following:

"For laying out and graveling the roads and walks, purchasing manure and trees, and seeding down in grass the square south of the President's House, $12,000."

"For providing proper foundations for the custom-house at San Francisco, authorized by the sixth section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending the thirtieth of June, one thousand eight hundred and fifty-two,' and in addition to the sum of forty thousand dollars heretofore appropriated, $25,000."

The amendment was agreed to.

The next amendment of the committee was to add the following additional sections:

"SEC. 6. *And be it further enacted*, That nothing in the provisions of the act entitled 'An act to establish a branch of the Mint of the United States in California,' shall be construed so as to prohibit the appointment of the assayer therein authorized before the execution of the contract for, and the completion of, the branch Mint buildings therein authorized; but that the President is hereby empowered to appoint, in the manner prescribed by that act, an assayer for said branch Mint in anticipation of the completion and establishment thereof.

"SEC. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to procure, by rent or lease, a building or apartments in the city of San Francisco, suitable for the receipt, melting, and assay of deposits of gold, in dust or otherwise, and for the custody of gold coin; and that thereupon the office of the treasurer of the branch Mint aforesaid, ex-officio assistant treasurer of the United States, as well as the office of the assayer thereof, shall be established in such building or apartments until such time as the said branch Mint shall be completed.

"SEC. 8. *And be it further enacted*, That the owners of gold bullion, in dust or otherwise, shall be entitled to deposit the same with the treasurer aforesaid, who shall give a receipt, stating the weight and description thereof; and the said treasurer shall, from time to time, deliver such bullion to the assayer herein authorized, whose duty it shall be to melt the same, cast it into bar or bars, or disks, of suitable and convenient size and form, to assay the same, and to stamp thereon the proportions, in thousandths, of the precious metal contained. And, thereupon, the said assayer shall return to the said treasurer the bars or disks so melted and assayed, who shall deliver the same to the depositor thereof, or his order.

"SEC. 9. *And be it further enacted*, That the said treasurer is hereby empowered to appoint, with the approval of the Secretary of the Treasury, one clerk to aid him in the receipt and delivery of bullion, the preparation of accounts, and in such other duties as he may designate; also one weigher to weigh such bullion, and such watchmen and servants as may be necessary in carrying on the business devolved upon him. And the said assayer shall have authority, with the approval of the Secretary of the Treasury, to appoint an assistant, and also such subordinate workmen as may be necessary for melting and assaying such bullion: *Provided*, That the annual salary of said assayer shall be four thousand five hundred dollars, and that to the said clerk and assistant there shall be allowed such annual salary, not to exceed three thousand dollars, as the Secretary of the Treasury may approve; to the weigher there shall be allowed, on like approval, a salary not to exceed two thousand dollars, and to the subordinate workmen and servants such wages as are customary and reasonable in their respective stations and occupations: *And provided further*, That the said treasurer and assayer, as well as the assistant assayer, clerk, and weigher herein authorized, shall, before entering on their respective duties, take oath before some judge of the United States or of the State of California for the faithful performance of their respective duties, and shall also give bond, with one or more sureties, to the satisfac-

tion of the Secretary of the Treasury, and in such sums as he shall prescribe, conditioned for the faithful performance thereof.

"SEC. 10. *And be it further enacted*, That the general direction of the operations herein authorized shall be devolved upon the Director of the Mint in subordination to the Secretary of the Treasury; and it shall be the duty of the said Director to prescribe such regulations and order such tests as shall be requisite to insure the faithfulness and accuracy of the aforesaid officers in the performance of their respective duties: *Provided*, That no bar, ingot, or disk cast in said assay establishment, shall be less in weight than three ounces.

"SEC. 11. *And be it further enacted*, That there is hereby appropriated, out of the money heretofore appropriated for the establishment of a Mint in California, so much as may be necessary for the purposes of this act: *Provided*, That no contract be made for the erection and establishment of the said Mint until the further order of Congress: *And provided further*, That the lease of buildings herein authorized shall not be for a period of more than three years."

Mr. HUNTER. I move to amend the amendment, at the request of the Secretary of the Treasury, by inserting after the word "apartments," in the seventh section, the words:

"And to lease, purchase, or rent machinery."

He has doubts whether the amendment, as it stands, gives him authority to purchase, rent, or lease the necessary machinery to carry the establishment into operation, and I therefore move to add these words.

The amendment to the amendment was agreed to.

Mr. HUNTER. I further move to amend the amendment, by adding, after the words "three thousand dollars," the word "each," so as to provide that the clerk and assistant assayer may receive an annual salary not exceeding $3,000 each.

The amendment to the amendment was agreed to.

Mr. HUNTER. I move to amend the amendment further by increasing the salary of the weigher from $2,000 to $3,000. Two thousand dollars was the amount originally proposed, but I understand that the salary is not sufficient to procure in California a competent officer for so responsible a station.

The amendment to the amendment was agreed to, and the amendment as amended was agreed to.

The next amendment was to insert, in the first section, before the appropriation for contingent expenses of the House of Representatives, the following:

For contingent expenses of the Senate, viz:
For binding, $20,000;
For lithographing and engraving, $20,000;
For books, $2,300;
For Congressional Globe, and binding the same, $1,843;
For messengers, pages, laborers, police, horses, and carry-alls, $10,000;
For clerks of President of the Senate and committees, draughtsmen, fireman in crypt, and other miscellaneous items, $20,000.

Mr. HUNTER. I move to amend the amendment by striking out in the last item "$20,000," and inserting "$36,600."

Mr. CASS. There is one item which I wish to understand the bearing of, and which I do not understand at present. I think there is a provision in the amendment appropriating $10,000 for the payment of messengers, pages, police, and laborers about the Capitol. Now, I understand that the sum usually allowed at the close of the session to the clerks, messengers, and persons about the Capitol, unless that appropriation is increased, cannot be granted at the present year.

Mr. HUNTER. I would inform the Senator that the reason why I propose the amendment to the amendment is to accomplish the object he has in view.

Mr. CASS. How much addition do you propose by your amendment?

Mr. HUNTER. I propose to add $16,600, which, according to the estimate, is sufficient to cover it.

Mr. CASS. Then I have no objection.

The amendment to the amendment was agreed to, and the amendment as amended was agreed to.

Mr. HUNTER. In the first section of the bill there is an appropriation for the outfit of a *Chargé d'Affaires* to Austria, $4,500. I move to strike out "Austria" and insert "Denmark," so that the appropriation shall be for the outfit for a *Chargé d'Affaires* to Denmark. This amendment is proposed at the request of the Secretary of the Treasury.

The amendment was agreed to.

Mr. HUNTER. The next amendment is to insert the following:

"For the compensation of Senators for the year ending the 30th of June, 1853, in addition to appropriations heretofore made, and including that for the special session, commencing the 4th March, 1853, $25,000."

That is an appropriation for the approaching called session.

The amendment was agreed to.

Mr. HUNTER. I have another amendment; to add the following at the end of the first section:

"For fuel, and quarters for officers of the Army serving on light-house duty, the payment of which is no longer made by the Quartermaster's Department, $2,341 27."

That is an amendment carrying out to some extent the idea of the Senator from Massachusetts. The Quartermaster General has objected to paying these allowances for officers of the Army who are engaged in light-house duty. It is no addition to the annual appropriation; it is only transferring it, and making a special appropriation for that purpose instead of a general one in the appropriation for the Army.

The amendment was agreed to.

Mr. HUNTER. The next amendment which I propose is to insert the following:

"For deficiency in the fund for purchasing light-house supplies, $6,200."

Mr. WALKER. It seems to me that what is now proposed to be appropriated was embraced in the amendment which the Senator formerly offered. He stated to us then that these supplies could not be furnished to keep up the lights, unless the restriction formerly imposed upon the light-house law should be removed, and he instanced it as a cause of the deficiency in some of the most important of the light-houses on the southern coast. Now, it seems to me, that in addition to removing that restriction, here is an amendment specifically appropriating an amount to make good these supplies. The reason why it is offered may be satisfactory, but it might operate to duplicate the appropriation for that object.

Mr. HUNTER. It does not duplicate the appropriation. The one we have passed does not add to the appropriation at all. It only enables them to use the amount already appropriated for the service of this year, from arrearages incurred in the past year. This, however, is an additional appropriation which is wanted. I believe the explanation which I gave in relation to the last applies more to this sum than the other; but here is a paper which, if the Senator desires to hear it, can be read.

Mr. WALKER. There is no necessity for it.

Mr. HUNTER. The Senator is satisfied.

Mr. BRADBURY. I would inquire of the chairman of the Committee on Finance, how much the expense of the present light-house system exceeds that of former years, under the old system? I have an idea that it will be found that the present will be an enormously expensive system, and we shall have to return to the old one.

Mr. HUNTER. I am not prepared to answer that question. It would be more appropriate, when the light-house bill comes up. I do not know how the present system will compare with the former in regard to expense. It will take some time to ascertain from the Department the true state of the case.

The amendment was agreed to.

Mr. HUNTER. The last amendment which I have to offer is to insert the following:

"For the reappropriation of $754 40, being a portion of the amount heretofore appropriated for the erection of a custom-house at Eastport, Maine, carried to the surplus fund on the 30th June, 1852."

That is according to estimate.

The amendment was agreed to.

Mr. DAWSON. I desire to propound one question to the chairman of the Committee on Finance. In the first section there is an appropriation "for outfit to the Chargé to Austria, $4,500." As I understand, there was a Chargé sent to Sweden, and there was the usual appropriation made for the purpose, but the appropriation was omitted to be enrolled at the last session. Is there any provision for the Chargé to Sweden?

Mr. HUNTER. The only provision is that made at the request of the Secretary of State, substituting Denmark for Austria.

Mr. SHIELDS. I desire to offer the following amendment:

That hereafter the salary of the Master of the Sword at the Military Academy at West Point, shall be at the rate of $1,200 per annum.

My reason for offering that amendment is, that in the bill making provision for the West Point Academy this item was omitted; consequently there is a deficiency. At the time that bill was before us we had not the particular information necessary to act upon this subject. All the others were provided for at that time but this. I presume it may as well be offered now.

Mr. GWIN. As the Senator from Illinois has not indicated in what part of the bill he proposes to have his amendment come in, while he is looking for a suitable clause to which to attach it, I will, with his consent, offer the following as an additional section:

SEC. —. *And be it further enacted*, That of the moneys collected in the ports now embraced within the limits of the State of California, as duties upon foreign imports, the sum of $300,000 be paid to the State of California, out of any moneys in the Treasury not otherwise appropriated, to be applied to the expenses of the State government prior to the admission of California into the Union as a State.

I will state that the provision of that section has passed the Senate twice, at two different sessions. It passed two years ago, and again the last year. It was a section left out of the bill lately passed for the relief of General Riley, authorizing the settlement of his accounts. I contended for its insertion into that bill, but at the suggestion of the Senator from Texas [Mr. RUSK] I withdrew it, with the intention of offering it as an amendment to this bill.

Mr. HUNTER. For one, I am not willing that this amendment should be adopted. I agreed to the provision which formerly passed the Senate, but I agreed to it, as I stated then, as a compromise. If the amendment stated on its face that it was in lieu of all demands by California in regard to the civil fund, I might vote for it; but as it is, I cannot do it. That is all I have to say on the subject. As it now stands, it proposes to pay $300,000 to California out of the civil fund, and still leaves the demand open if they choose to make it hereafter.

Mr. GWIN. I will state to the honorable Senator that I think he misapprehends that bill. I did not, nor did the Senator from Maryland, when he drew it up and offered it in the Committee on Finance, intend it to have that meaning. He intended it as an outfit to the State, to be paid out of the moneys collected prior to the admission of the State into the Union. Now, in regard to the compromise, I hope the Senate will not put any such provision in this amendment. The Senate has twice voted to the State the sum proposed in this section. There is no question that creates more angry feeling against the General Government in California than the withholding of this fund from the State. The judgment of the Senate will not be influenced at all by putting this proviso to the section; and allow me to state that the refusal to pay this $300,000 until we relinquish all of our claim to this fund will involve a violation of the pledged faith of the State. By a law of that State, it is provided that the whole proceeds of the civil fund received from the Government shall be set apart for the payment of its debts. Our bonds are issued, and our creditors hold them, and this fund is a part of the assets which the Legislature of California set apart to pay them. I hope, as the Senate has on two different occasions passed a bill in these very words, that it will not alter it now.

Mr. BRODHEAD. I think this is a proper time to come to some understanding with regard to this civil fund. That fund amounted, if I recollect right, to between $1,200,000 and $1,300,000. I think it will be proper to ascertain at this time how much of that fund, in the hands of General Riley, will be paid out under the bill which we passed for his relief. By that bill he is directed to have credit for certain amounts which he paid for the purpose of carrying on the government in California. How much of this civil fund will be left in the Treasury after the accounts of General Riley have been settled? That is the first inquiry which I make. Then, how much will it be proper for us to pay out of that civil fund to the State of California? When this subject was before the Senate at its last session, I concurred in the opinion which seemed to be general in the Senate, that we would give of this civil fund $300,000 as a kind of outfit and by way of compromise with regard to the claim. I admit that my friend from California did not agree to it, but he contended that the whole fund should be paid to California. I have no doubt that either the Senator from Cal-

ifornia or the chairman of the Committee on Finance can state about how much of this civil fund will be left after General Riley's accounts are settled.

Mr. GWIN. The bill that passed the other day for the relief of General Riley provides for paying the expenses of the *de facto* government, the expense of holding the constitutional convention, and also for the advances to the overland emigration of 1849. These three items of expenditure do not exceed $300,000, as was stated by the Senator from Maryland when he reported the bill—that is, $300,000 out of the $1,200,000, leaving between $800,000 and $900,000 of this civil fund unappropriated by Congress. It was supposed, when that bill passed, that, including the sum I now ask for the State, an appropriation of $600,000 had been given, leaving at least one half of the fund to go into the Treasury of the United States which the State of California claims, and to which she asserts, and will assert, her right. Now, as the Senate have appropriated this sum upon two different occasions, and sent it to the House to sleep, as most bills for the benefit of California do, I hope they will not object to passing it now. I offered an amendment to the bill which originated in the House for the relief of General Riley to pay the whole fund to California. I considered it to be due to my State, and to put her in the right position every time the question of the civil fund comes before us. I have already stated that what the State may get from this civil fund has been set apart to pay the bonds issued for the debt we created in putting the State government into operation; and if we accept this sum, with the proviso that the State should give up all claim to that fund, you require us to commit a breach of faith to our creditors, who look to this claim as part of the security for our debt.

The Legislature of California have sent instructions to myself and my colleague, which were passed on the 18th of last March. They are in the following words:

Resolved by the Senate and Assembly, That we deeply regret that Congress has so long delayed in refunding to the State of California moneys collected in her ports, and from the honest industry of her citizens, previous to her admission into the Federal Union.

Resolved, That we consider the fund heretofore known as the "Civil Fund of California," to be the property of this State; and that any other appropriation of it by the General Government we hold to be unjust and ungenerous. Taxation without representation is a principle always repudiated by the American people.

Resolved, That our Senators be instructed, and our Representatives requested, to continue all honorable exertions to procure from Congress the recognition of our rights to the moneys taken from us by the General Government, and an appropriation to that effect; and that we call upon our sister States to see that this act of justice is performed towards the youngest of the Republic.

Resolved, That the Governor be requested to present to our Senators and Representatives, each, a copy of the foregoing resolutions.

Signed February 5, 1852:
RICHARD P. HAMMOND,
Speaker of Assembly.

Signed February 6, 1852:
SAMUEL PURDY,
President of Senate.

Approved February 6, 1852.
JOHN BIGLER.

These resolutions were passed unanimously, and the strong language used shows the state of feeling which exists in our State on this subject. I think that under the circumstances, and considering that a bill with this section in it, has passed the Senate at two different sessions, without any proviso as to our claim to the civil fund, it is unnecessary to put it in now, as it might, and no doubt would be very offensive to the State.

Mr. RUSK. I shall vote very cheerfully for that amendment, and I hope no conditions will be attached to it which will be at all regarded as offensive to the State of California. I think that would be improper in every respect. It is true that large appropriations have been made for California; but I doubt whether they have been misapplied. They have not received as much as they should have had. She is a part of the United States, and we are as much bound to protect her, and even more bound to do it now, on account of her isolated condition, than the older portions of the Union. The money asked for was collected before her admission into the Union. I shall not only vote cheerfully to give this $300,000 without any humiliating conditions attached to it, with regard to the State of California, but I would vote to give her the whole fund. I think it is right. Gentlemen smile, and no doubt we shall have lectures on the subject of economy; but let us look at the condition of affairs. In what condition should we have been but for the exertions of the people of California? Strike out something like four millions of bullion received monthly, and what would have been the condition of the commercial affairs of the United States? We should certainly have been in a crisis in our commercial, manufacturing, and all the business affairs of the United States, unless we had received the gold which has been brought in in such large quantities from California. Without that we should have been in a much worse condition than at present. It has been, and still is, one of the strong elements of national prosperity. The people of California are far removed from us, and unprotected to a very great extent, and it is no more than just that this money should be paid. It is far from being liberal to give her the $300,000 without any humiliating condition attached to it.

Mr. BORLAND. This matter has been before the Senate two or three times, and it has passed the Senate once. The Senator from California says it has passed twice; that may be, but I have no recollection of its having passed but once, and that was on the occasion to which the Senator from Virginia has alluded, when it was supposed that a compromise was made. I well remember the consideration upon which I voted for it at that time. I stated then that it was because it was a compromise for the purpose, not of giving what I believed California was entitled to, but for the purpose of getting through a bill equivalent to the one which we passed the other day for the relief of General Riley, and to settle his accounts. It was because I believed that the public interest required that that settlement should take place, and that that meritorious officer should be relieved from embarrassments which were threatening ruin to him unless he could have the settlements, that I was willing to concede even the $300,000 to California. I was willing to do that to accomplish those two purposes, but as a separate proposition I never would have voted to give California any portion of the fund. It seems to me now, as a single separate proposition, if we give her $300,000, we concede the whole question, and are bound to give the whole amount of the civil fund. Upon what ground do we give any? Is it because she is entitled to it by right? The Senator from California contends that it is a matter of justice.

Mr. GWIN. Will the Senator allow me to suggest to him that this appropriation is not to come out of the civil fund at all. It is an outfit for the State at the time the State government was organized.

Mr. BORLAND. That seems to me an indirect way of arriving at the same thing. We understand that the proposition and the argument has rested heretofore upon her right to this; and whether we give it out of one fund or the other—if we keep the whole amount of the civil fund, and pay her out of the general Treasury, because the civil fund has been paid in—it is just equivalent to paying it directly out of the civil fund.

The argument made by the honorable Senator from Texas, it seems to me, is a very extraordinary one, that we are to pay these $300,000, or the whole amount of the civil fund, and for what? Because her admission into the Union has conferred benefits on the Union. Upon that ground every State in this Union may come forward and claim a bonus. Has the existence of New York in the Union been of no service to the Union? Strike her out and what a change would there be in the condition of this Union? Take any other important State; take Ohio, take Louisiana, which commands the mouth of the Mississippi. Of what use has she been to the Union? And shall she set down in dollars and cents the amount of the benefit which her admission into the Union, or her existence in the Union conferred, and bring up an account here, and demand payment for it? I apprehend that if either of these States should present an account, they would be entitled to it fully as much as the gold of California entitles her to this payment.

This is put upon the supposition that all these benefits have been conferred by California; but that is a mooted question, I believe. I am not satisfied that these great benefits to the country have been conferred by her. California has been admitted into the Union, and I am glad she is in it. I would favor her interests as much as any other State, but I want her to stand on the same footing as other States. An extraordinary favor was shown to her; an extraordinary departure from the general custom was made for the purpose of introducing her into the Union. We have already incurred very heavy expenditures for her; and I am unwilling to increase the amount merely on the ground stated by the Senator from Texas.

But I will not dwell longer upon the view of the subject which is presented, that a State is entitled to receive pecuniary compensation because she conferred benefits upon the Union by her admission into it. It seems to me that simply to state the proposition is a sufficient answer to it. But we are told by the Senator from California, and also, as I understood, by the Senator from Texas, that this is required to pay the outfit of California coming into the Union as a State. Now, I would inquire how much she has already received as an outfit? I think at least $300,000 have been already appropriated for that purpose out of this fund from which General Riley is entitled to a credit. I will ask the honorable chairman of the Committee on Finance, who I presume is informed on the subject, if not as much as $300,000 have already been paid for the expenses of the convention of California, and her admission into the Union, constituting what I understand the Senator from California to mean by the term "outfit?"

Mr. GWIN. I will state to the honorable Senator, that the expenses of the *de facto* government, the military government which was in operation in California from the time it was acquired until she was admitted into the Union, were paid out of this fund. The expenses of the convention to frame the constitution called by General Riley were paid out of this fund; and the expenditures for the overland emigration, about $125,000, were paid out of this fund. That is all that has been paid to the State of California since she came into the Confederacy.

Mr. BORLAND. That is the same thing. We brought her into the Union, paid all the preliminary expenses, and as the Senator says, we have paid $125,000 to encourage emigration into the State. Was anything of the sort ever done for any other State in the Union? What other State had all these preliminary expenses paid, and $125,000 besides to pay the expenses of emigration into the State to give her people enough to form a State?

I do insist that if we recognize the claim of California to be paid this money, and pay it even to the extent of only $300,000, we shall have already conceded that we are bound to pay the whole amount of the civil fund, no matter what it may be; and then when any other State comes forward with a similar account, we shall be bound to audit and pay it just as we have paid California. New York may come with hers; Massachusetts and Louisiana, and every other State in the Union, may come with their accounts; and I insist that if we pay to California, it will be establishing a principle upon which we shall be bound to pay them. I should bring forward the account of my State, humble and small as she is, and insist upon having her accounts paid. I ask for the yeas and nays upon the amendment.

Mr. BUTLER. If we give this $300,000 to California, it goes upon the broad ground of making a discriminating bounty in her favor on account of pecuniary deserts. Such a thing was never done for any of the Territories. Michigan formed her constitution, I believe, without the previous permission of Congress, and were the expenses of her convention paid? Were the expenses of the convention of Arkansas ever paid, or the expenses of any Territory going into a State existence? We are to pay the expenses of California—for what? For the peculiar manner in which she came into the Union. I shall say nothing of the peculiar manner in which that State came into the Union. I acquiesce in it. She has had my hand of fellowship long ago. To say the least of it, however, she came in very much upon her own terms. She dictated the terms upon which she came into the Union. She took as much territory as she wanted. Yes, sir, she prescribed with her own hand the extent of the territory she intended to claim. That is true. Is it not? She came here without previous leave of Congress, to form a constitution. That has been acquiesced in. I say nothing about it; but if you give her $300,000,

or the whole of this civil fund, as a reward for her becoming one of the States of this Union, you pay not only her expenses for coming to the marriage feast, but you pay her a discriminating bounty as a favored guest. She should be no more a favored guest, if you choose to speak of it as a marriage portion, than any other State. It is a discrimination in favor of the youngest sister. I know she is a brilliant, dashing young belle. I know she is likely to captivate a great many by the richness of her dowry, [laughter,] but I think she ought to be content with the splendor of her reputation, and the fascination of her charms. She has already endowed herself very bountifully; and yet she thinks she has been moderate. I know not to what to compare her, unless to Lord Clive, who, when called upon by the British Government to account for immense sums taken while he was Governor of Calcutta, under the East India Company, said, upon looking at it, that he was absolutely astonished at his moderation. [Laughter.]

Mr. PEARCE. The Senator from Pennsylvania [Mr. BRODHEAD] asked a question which I think has not yet been answered. It will be recollected that this civil fund consisted of the duties which were collected after the termination of hostilities with Mexico. During the pendency of those hostilities, duties were collected under Executive authority, which were called military contributions. After the cessation of hostilities they continued to be collected, although there was no machinery established there for the collection of duties. This was then called the civil fund. California set up a claim to the whole of it, as of right hers. The Senate will remember that the question was debated at length between the Senator from California and myself, some few years ago. The Senate did not think that California was entitled to that civil fund as a right, for they rejected the amendment of the Senator, which was to pay her the amount of the civil fund. This fund, during the existence of what was called the government *de facto*, was used by that government, and applied to various purposes. Part of it, as explained by the Senator from California, was paid to defray the expenses of the constitutional convention, part for the relief of the overland emigrants, who were destitute and suffering, and then there was a much larger portion of it which was appropriated to military and naval expenses. I think several hundred thousand dollars were appropriated for the erection of buildings at Benicia. Certain it is that large amounts were appropriated for military and naval expenditure on the Pacific coast, and I apprehend, though I cannot state positively, that when the accounts of General Riley come to be settled, it will be found that there was a very small amount in his hands, not much more than will be sufficient, probably, to pay the allowance which the bill passed the other day gives to him and the other officers concerned in the collection of those duties. I have no doubt, myself, that there will not be a fund sufficient to pay the $300,000. The provision of the law passed at the last session of Congress was, to pay California out of the Treasury of the United States, and not out of the civil fund. I never had any idea that the payment of $300,000 to the State of California, as provided for by the bill of the last session, was made by way of compromise for the collection of the civil fund, because I denied then, entirely, the right of California to that fund, or any part of it. The reason why it was inserted, and why the Senate passed it, as I suppose—and I know no other—was, that California had not gone through the process which other Territories of the United States usually pass through. They commonly pass through a period of pupilage, during which the United States defray all the expenses of the territorial government. They give money for erecting the public buildings, furnish a State library, &c. For none of these purposes had money been given to California, for owing to the anomalous state of things there, she sprung at once into the Union, a full-grown State. Inasmuch as she had not had the advantage which every other Territory has had of appropriations for the purposes which I have indicated, the committee thought they would not refuse to give such an allowance as she would have had from the Treasury, if she had gone through the ordinary state of pupilage. That, I believe, was the true and only reason for the appropriation.

Mr. BORLAND. I wish to make one suggestion to the honorable Senator from Maryland. I would ask him if all the expenses of any State which has ever come into the Federal Union, previous to her admission, and during her pupilage, would equal the sum which has already been paid to California? I think it will be found that we have already appropriated more for the State of California than was ever given to any State while it was in its territorial condition.

Mr. PEARCE. That is true. It was so stated at the time; but owing to the extraordinary condition of things the appropriation was increased. You had to make your appropriations correspond in some measure to the scale of prices which prevailed there, and which was five or six times greater than elsewhere. In order to do equal justice to California, it was thought necessary to give her a larger sum than other States had received.

Mr. BORLAND. I would say that, at any rate, we paid all the expenses of the Government of California out of the Treasury of the Federal Government; whereas, in the case of those States which first went through a long period under a territorial government, we paid only a small part of the territorial expenses. As to the expenses of the State government, by way of erecting public buildings, &c., I think that about ten sections of land is all that has been given to any State for that purpose. But the main body of the expenses of the administration of public affairs in the Territories has been paid by the Territories themselves, and a very small portion of it by the General Government.

Mr. GWIN. The Senator from Maryland is mistaken when he says that a large proportion of this fund was paid out by the *de facto* Government for military and naval purposes. What was paid for military and naval purposes in California was in accordance with an appropriation, then or subsequently made, for the support of the Army and Navy; but the civil fund never was used for that purpose at all in accordance with the acts of Congress. These payments were made from the National Treasury for the defense of the United States. It is not pretended that the *de facto* government thus used this civil fund, and General Riley does not thus account for a dollar of it. All of this fund, used for military or naval purposes, was loaned to the quartermasters of the United States Army, and their receipts taken therefor. These vouchers of General Riley amount to $700,000 or $800,000, and as quartermasters of the United States they have to settle and account for this money. Everything you allowed for the *de facto* government, for overland emigration, and for the expenses of the constitutional convention, will not exceed $300,000, all told.

I am not going at large into a discussion on this amendment. I know that talking will kill it; but I want it distinctly understood that the whole of these duties were collected without the authority of law. It was a mere military exaction. The merchants who were importing the goods were told that their ships would be sunk unless they paid the duties. They paid them under protest. The ships bringing provisions to feed the people, when they attempted to go into the harbor, were notified that if they did not pay these duties, although there was no law for there collection, they would be driven off, and the people had to revolt, starve, or pay the duties thus illegally exacted.

The Senator from Arkansas talks about what we have got. Why, sir, I have submitted to the Senate, on a former occasion, a statement of the comptrollers of the State, showing that the expenses of the government of California from the time of its organization up to the date of its admission as a State, was $437,000; and it is known to the Committee on Finance that I urged, when they were giving what was considered an equivalent for our expenses in that anomalous condition, before our State was recognized, that they should give what it cost. We had not a dollar to commence with; and this very fund was set apart and applied for the purpose of the expenses of the State government, from the time that it went into operation, until the date of its admission into the Union, which amounted, as I have just stated, to $437,000; but I could only get $300,000 appropriated by that committee, and it thus passed the Senate. From the treaty of peace with Mexico to the date of the admission of the State into the Union, there were upwards of three millions of dollars of revenue collected in California, and paid into the Treasury of the United States, of which sum it is not proposed that we, by this or any other bill that has passed Congress, shall receive more than $600,000, including this $300,000. We have paid into the Treasury of the United States three millions, and including this $300,000, we are to get but $600,000. I shall not, however, go into the argument of this question at length, for it may postpone this appropriation, although much less than we are entitled to, still greatly needed by our State in her present embarrassed condition.

Mr. RUSK. I desire to say but a few words upon this subject. As soon as California was acquired, the citizens of the United States had a right to go there and reside. They had a right, also, to a territorial government at the expense of this Government. Everybody knows they did not obtain one. Political differences here prevented them from acquiring it. It was not, however, their fault. They belonged to the United States, and the United States have derived a benefit from the exertions of the hardy pioneers who went there to settle it. We furnished them, then, with no government. They went there upon their own responsibility, braving all the toils and dangers incident to it, and all the difficulties of getting there; and their exertions, labor, and industry have contributed to the general prosperity of the United States. If this be not a merit, it is certainly no demerit. We furnished them, then, no government, for the protection of life or property. That was not their fault. We cannot punish them for the divisions here. It would be extremely unjust to do that. You taxed them; you taxed the necessaries of life of the very men by whose exertions you were reaping large national benefits. You had no law on your statute-books authorizing that, but you had officers there to enforce it, or starve those men. You claim upwards of $1,300,000, I believe. You left them for a length of time without any government at all, and they were bound at their own expense to form a government. They were kept out here for a length of time, and this accumulation of expenses fell upon them. When you had taxed them, and had not paid the expenses of their government—taxed them without law, and brought that money into the Treasury—then you come in and say, because they are prosperous, and it is a fine country—because they have contributed to the general prosperity of the country, you will not put them on an equality with the other States. The expenses of the government of Michigan, for the protection of life and property, and more, for protection against foreign enemies, were paid; so that it does not stand upon the same footing with California at all. Now, after we have been receiving benefits through the labors of these hardy pioneers, these men who have risked life, and fortune, and everything, and have contributed to the general welfare of the country in an eminent degree, we are to turn round and say to them, "We will not pay your expenses." Free-Soilers and the Wilmot proviso men impeded the establishment of a territorial government, or southern men, if you choose, impeded their admission as a State.

Mr. BORLAND. Will the honorable Senator permit me to say a single word? I know he would be the last man to do injustice to the South; but I desire to say, that the southern votes were not given against the formation of a territorial government in California.

Mr. RUSK. Certainly not.

Mr. BORLAND. They were given for the formation of a territorial government.

Mr. RUSK. Certainly. I did not say anything else. The records show that throughout; but whatever they may charge it to, the inhabitants of California were thus prevented from receiving the attention to which they were entitled under the Constitution, and which all the other Territories had received. They were compelled, then, from necessity, to incur these expenses themselves. You took this tax out of the hard earnings of the miners and others, from whom you reaped a great national benefit; and now it is claimed that we should refuse to pay them this sum. I cannot do it.

Mr. BRIGHT. The claim of California to this fund is based upon the fact, that a sum of about $1,300,000 was collected before any State organization was formed there in any shape.

Mr. GWIN. Before the act of March 3, 1849,

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extending the revenue laws over California went into operation.

Mr. BRIGHT. So I understood. If the $1,300,000 had not been thus collected, the Senator from California would not have offered the amendment. Though that amendment does not provide that the $300,000 shall be paid out of that fund, it is based upon the fact that that fund was collected, and that therefore California is entitled to it. Now, if we pay the $300,000, upon the same principle will we be called upon again and again to pay, until we have paid the whole amount of the fund.

Mr. GWIN. I do not intend to speak again on the subject, and therefore if the Senator will permit me, I will interrupt him for a moment. From the time the act of March 3, 1849, went into operation up to the time when California was recognized as one of the States of the Union, the Government collected $2,000,000 in addition to the civil fund, and we say we are entitled to every dollar of that additional fund.

Mr. BRIGHT. I understand so. I have uniformly opposed this amendment before the Committee on Finance, and I have opposed it here, for the reason that I do not believe that the State of California has any more right to the money collected there, in the shape of duties, than any one of the States in which custom-houses are situated have a right to the duties collected there. I have been willing to assent to the proposition that if $300,000 would be taken as a final settlement, to give it; at least, I was willing to assent to it up to the period when I ascertained that the merchants who paid the fund in the shape of duties have sued the officers of the United States, and are seeking to collect it back again. Suits are now pending, I understand, in the courts of the United States, entered on the part of the merchants who paid the duties, alleging that they were collected without any authority of law. Now, if those suits can be sustained, if the money can be collected back by the merchants, the effect of passing the amendment will be to pay the money twice. We will pay it, in the first place, under these suits, to the merchants, and we will pay to the State of California. For this reason I am opposed to the amendment, and shall vote against it.

Mr. BADGER. I agree with the honorable Senator from Indiana, that as this amendment now stands, the adoption of it will be a recognition of the right of the State of California to the whole of the civil fund, as it is called. I am not prepared to admit that the State of California has any such right; and, therefore, in the form in which the amendment now stands, I cannot vote for it. Upon what is the claim to this money based? The honorable Senator from California, and my friend from Texas, [Mr. RUSK,] refer to the fact, that owing to a difference of opinion in Congress, no territorial government was established for California. Then, I suppose, Mr. President, in order to come exactly at the equity and justice of this case, we must put California now as she would have been if there had been a territorial government established. Suppose a territorial government had been established in California, would the Territory of California have been entitled to the money collected in her ports? Would the duties levied under the revenue laws of the United States in that Territory, have gone into the treasury of the Territory? Certainly not. If a territorial government had been established, and it had continued until the State of California was admitted into the Union, that Territory or that State would not have been entitled to one farthing of the money. The money would all have been the money of the United States, and being the money of the United States, in case of our having done what it was our duty to do, how does it happen, when we have not done that which they say it was our duty to have done, that what would have been our money, becomes the money of the State of California? I cannot see and understand the application of the argument. These duties which have been collected, they say we must pay to the State of California, because no territorial government was established when the duties were paid, when, if a territorial government had been established, she would not have been entitled to a penny. What is the logic of this? It is, that in a certain event which did not exist, this money would have belonged to the United States; that event ought to have existed, and, therefore, it now belongs to the State of California. That is the argument.

Then the Senator from California says this $1,300,000 was collected by military authority. Be it so. What was collected? Nothing except what is collected from the citizens of every State and Territory in the Union. The same duties were levied in California as are levied everywhere else. The thing done was right. It would have been manifestly unjust that California should have free ports and escape all duties, while every other portion of the United States was subject to the regulations imposed by the revenue laws of the United States. The thing done, then, was right. But it is said it was done without lawful authority. Well, if done without lawful authority, pray, sir, who is entitled to the money unlawfully collected? Not California, but the people who paid it. What sort of justice would it be to say that because the United States had, by military power, without right, exacted $10,000 from a merchant in California, therefore the United States shall pay $10,000 to the State of California? Is that sound logic? Would it be just to take the money of a merchant in North Carolina, or New York, or Massachusetts, and pay it over to the State in which he lived? It is taking the money of one person wrongfully, and then compensating him by paying it over to another wrongfully, as my friend from New Jersey [Mr. MILLER] suggests.

Then, as between the State of California and the United States, the case is this: The same duties were collected in California, and from her citizens, that are collected from the citizens of every other State of the Union. California has no right to complain of that, then. If it was collected without law, the money should be returned to the pockets of the individuals who paid it, and not to the State of California. Nor, Mr. President, does the amount of the duties collected in California, in the slightest degree affect this question. Suppose there was a large amount of duties collected in California. Those duties belong to the United States, and they are to be expended for the general purposes of the United States. They have been appropriated certainly with no niggard hand toward doing for the State of California what the United States are bound to do for every State of the Union.

But, abstracted from the considerations I have spoken of, and I think effectually disposed of, and letting this matter stand precisely on the ground that large duties have been collected in California, and how is it? Three millions of dollars were collected in California; therefore California has a right to $1,300,000. If that is an argument which applies to the State of California, it applies equally with regard to every other State in the Union. If that principle is adopted and recognized as just, then one third of all the duties collected in any State of the Union would immediately be taken out of the Treasury of the United States and returned to the citizens of those States where it was collected. Sir, so far as I am able to see, there is neither argument nor plausibility in such a proposition. But on the principle stated by the honorable Senator from Maryland, [Mr. PEARCE,] if the amendment is put in such a shape as does not involve an acquiescence in the right of California to the $1,300,000, I am willing to vote the $300,000. Under the particular circumstances of the case I will do it, and do it willingly; and for the purpose of testing the sense of the Senate as to whether they are willing to agree to that principle, I move to amend the amendment by striking out the words, "of the moneys collected in the ports now embraced within the limits of the State of California as duties upon foreign imports," so that the section would read thus:

"*And be it further enacted*, That the sum of $300,000 be paid to the State of California, out of any moneys in the Treasury not otherwise appropriated, to be applied to the expenses of the State government prior to the admission of California into the Union as a State."

That amendment will avoid two things for which I do not wish to vote. I do not wish to append any condition which will be in any way disrespectful to the State of California.

Mr. GWIN. I accept that. It will answer my purpose.

Mr. BORLAND. I would suggest that the hour of one o'clock, which was set apart for the consideration of a special order, has arrived; and that this bill should be now postponed until to-morrow.

Mr. WALKER. If the understanding is that this bill is to be passed over until to-morrow, I will not say anything about the amendment now.

Mr. BORLAND. It was taken up with that understanding.

Mr. WALKER. Then I give way.

The further consideration of the bill was accordingly postponed until to-morrow.

COLONIZATION IN NORTH AMERICA.

The Senate, as in Committee of the Whole, then proceeded to consider the joint resolution declaratory of the views of the United States respecting colonization on the North American continent by European Powers, and respecting the Island of Cuba.

After a debate of nearly three hours, in which Mr. DOUGLAS, Mr. CASS, Mr. BADGER, and Mr. UNDERWOOD engaged, Mr. HOUSTON obtained the floor, and on his motion, the further consideration of the subject was postponed until Saturday next. [For this debate see Appendix.]

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 14, 1853.

The House met at twelve o'clock, m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Saturday was read and approved.

The SPEAKER. The business first in order is the motion to reconsider the vote by which the bill for the relief of Rosanna Sowards was ordered to a second reading.

HOUR OF MEETING.

Mr. HOUSTON. I ask the unanimous consent of the House to offer a resolution, to which now, I presume, there will not be a single member to object. I offer the following resolution:

Resolved, That until otherwise ordered, the daily hour of meeting of the House of Representatives shall be at eleven o'clock, a. m.

There was no objection, and the resolution was accordingly received.

Mr. SEYMOUR, of New York. I would suggest to the gentleman from Alabama that he so modify his resolution as to make it provide for meeting at ten o'clock.

Mr. HOUSTON. The gentleman can move that as an amendment if he desires, and then I will call the previous question.

Mr. SEYMOUR. I move that as an amendment.

Mr. HOUSTON. I now demand the previous question upon the passage of the resolution.

Mr. CAMPBELL, of Illinois. I desire to make a suggestion to the gentleman from Alabama, in reference to his resolution. If we are hereafter to meet at eleven o'clock, I think it would be better that the order for night sessions should be dispensed with.

Several MEMBERS. That's right.

Mr. HOUSTON. As it seems to be the wish of the House to dispense with these night sessions, I will so modify my resolution as to rescind the resolution requiring an evening meeting.

Mr. DAWSON. I would suggest to the gentleman from Alabama, that if we are to meet at eleven o'clock, the morning hour, between eleven and twelve o'clock, might very properly be appropriated to the call of committees for reports. I

hope the gentleman will modify his resolution so as to require that disposition to be made of it.

Mr. VENABLE. I ask the gentleman from Pennsylvania to waive his suggestion for a moment. I have prepared an amendment in the nature of a substitute, which I think will cover the whole ground. It provides for rescinding these night sessions, and——

The SPEAKER. The gentleman from Alabama has so modified his resolution, and called the previous question. It is not therefore in order for the gentleman to move his amendment.

Mr. VENABLE. My amendment also provides that the morning hour shall be devoted to the call of committees for reports.

Mr. CAMPBELL, of Illinois. A standing rule of the House requires that.

The previous question was then seconded, and the main question ordered to be put.

The question was then taken upon Mr. SEYMOUR's amendment, providing that the hour of meeting should be at ten o'clock, and it was disagreed to.

The resolution was then adopted.

SWAMP LANDS.

Mr. DAVIS, of Indiana. I move to suspend the rules, to enable the Committee on Public Lands to report a bill to settle the conflicting titles in relation to swamp lands.

Mr. STANLY. I rise to a question of order. I understood the Chair to say that the first business in order was the motion to reconsider the vote by which the bill for the relief of Rosanna Sowards was ordered to a second reading; and that the gentleman from Alabama [Mr. HOUSTON] had the floor only by unanimous consent to offer his resolution. I suppose after that, the consideration of this bill is the regular order of the day?

The SPEAKER. The Chair so announced. It is the order of the day, if called up. It is, however, competent for the House to pass it over in silence, and will be so passed over unless called up. The Chair thought it his duty to call the attention of the House to it, and he therefore announced that it was the first business in order.

Mr. STANLY. Well, sir, I asked for the floor for the purpose of calling up the motion to reconsider; and now that I have it, in order that the rules of the House may be observed, and the regular order of business adhered to, I call up that motion.

The SPEAKER. The gentleman from Indiana [Mr. DAVIS] obtained the floor regularly, and submitted the motion, which he had the right to submit, to suspend the rules for the purpose indicated by him. It is not, therefore, competent for the gentleman from North Carolina, at this time, to call up the motion to reconsider.

Mr. STANLY. Has the gentleman from Indiana the right to move to suspend the rules and lay this bill aside?

The SPEAKER. Certainly, to lay this and all other business aside. That is the very object of suspending the rules.

Mr. STANLY. Suppose the rules are not suspended, can I then call up this bill as the regular order of business?

The SPEAKER. The gentleman may call it up if he can get the floor for that purpose.

Mr. STANLY. But the Chair says this is the first business in order; now, cannot I, or anybody else entitled to the floor, call for the regular order of business?

The SPEAKER. It is true that this motion to reconsider is the regular order of business. The rules also provide that the call of States for petitions shall also be in order; but nevertheless it is in order for any gentleman who can get the floor to do—what? To move to suspend the rules, this being Monday. That motion is as much in order as anything else.

Mr. STEPHENS, of Georgia. The point is this: This business is before the House under a suspension of the rules. It was introduced on Monday last under a suspension of the rules. I say, therefore, that any gentleman has the right to call it up and have it considered, to the exclusion of all other motions. It is not even in order for the gentleman from Indiana to move a suspension of the rules for the purpose he indicates, because the House are already acting under a suspension of the rules.

The SPEAKER. In reply to the gentleman from Georgia, the Chair will state that the rules were suspended on Monday last for the purpose of taking up the bill, and for no other purpose. The bill, however, being up, was under consideration. The House adjourned, leaving the consideration of the bill from that day to this upon the motion to reconsider the vote by which it was ordered to a third reading.

Mr. STEPHENS. Was not the previous question ordered? I understand it was, and that is why it comes up now.

The SPEAKER. The previous question was demanded but not seconded, and the bill went to the Speaker's table, where it remains, and where it will continue to remain, until the motion to reconsider the vote by which it was ordered to a second reading be called up. It is not before the House at all, and cannot be brought there except by calling up the motion to reconsider.

Mr. STANLY. If the gentleman from Indiana makes his motion and takes his seat, why is it not in order for me to address the Chair, be recognized, and move to suspend the rules, and to take up some other bill than the one he indicates?

The SPEAKER. For the reason that the motion of the gentleman from Indiana is legitimately before the House, and must be first put.

Mr. STANLY. That is the answer I expected, because the Chair cannot make any other. Now, I maintain that the bill which the Chair announced as before the body must take priority of all others, and if the Chair does not so decide, I will take an appeal, and let the House decide whether we will do something in order or leave every one to take his chance for the floor, and bring up what business he pleases.

The SPEAKER. On last Monday, by a suspension of the rules, a private bill was taken from the Speaker's table, and read a first and second time. A motion was made to reconsider the vote by which the bill was ordered to a second reading, but before the vote was taken upon the motion to reconsider, the House adjourned. Now, the Chair decides that it is competent for the gentleman from North Carolina to call up the motion to reconsider, or for any other gentleman to call it up, when they can obtain the floor for that purpose. But upon Mondays it is in order to move to suspend the rules for any purpose; the rules upon reconsiderations as well as every other rule of the House. That stands in the way of accomplishing the object sought by the gentleman from North Carolina. The gentleman from Indiana—no gentleman having risen before him to call up the motion to reconsider, was legitimately upon the floor; his motion was legitimately made, and, in the opinion of the Chair, must first be put to the House.

Mr. STANLY. I was upon the floor when the gentleman from Indiana was recognized, for the purpose of calling up the motion to reconsider, when I yielded with others to allow the resolution of the gentleman from Alabama [Mr. HOUSTON] to be introduced.

The SPEAKER. If the gentleman had been recognized, it would have been competent for him to have called up the motion to reconsider.

Mr. STANLY. How can I be recognized?

The SPEAKER. That is the difficulty. The gentleman from Indiana has the floor.

Mr. STANLY. I desired the floor for the purpose of calling up the business which the Chair stated had priority. I submit, therefore, that I should have been recognized for that purpose in preference to the gentleman from Indiana.

The SPEAKER. The Chair cannot tell the objects for which gentlemen seek the floor. If the gentleman had succeeded in obtaining the floor, he could have accomplished his object.

Mr. STANLY. Well, sir, I state now that it was for that purpose.

The SPEAKER. It is too late. The Chair decides that the gentleman cannot now call up the motion to reconsider, a motion having been made by another member to suspend the rules. From this decision the gentleman from North Carolina appeals.

The question "Shall the decision of the Chair stand as the judgment of the House?" was then taken, and decided in the affirmative.

So the decision of the Chair was sustained.

[A message was here received from the Senate, announcing that they had passed bills of the following titles, viz:

Joint resolution for the relief of John P. Converse, of Ohio;

An act for the relief of John Millar; and

An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts, and for other purposes; the two former without amendment, and the latter with amendment.

Also, a resolution explanatory of the act for the benefit of Amos Proctor, approved the 17th June, 1844.

Also, announcing that the President of the United States had notified the Senate that he had approved and signed bills of the following titles:

An act to make the salary of the judge of the criminal court of the District of Columbia equal to that of a judge of the circuit court of the said District;

An act for the relief of the widow of the late John A. Lynch;

An act for the relief of Asenath M. Elliot; and

An act authorizing the Secretary of the Treasury to issue a register to the British bark Fanny, under the name of Golden Mirror.]

Mr. DEAN. I rise to a point of order. There is a bill brought here in the message just received, which it is very necessary should receive the early action of the House. I ask the Chair whether that bill must necessarily go to the Speaker's table?

The SPEAKER. Certainly it must go there, and be taken up in its regular order, under the rules.

Mr. DEAN. Then I ask the unanimous consent of the House to take it up now.

A MEMBER. I object.

SWAMP LANDS—TITLES.

Mr. DAVIS, of Indiana. I move to suspend the rules for the purpose of enabling the Committee on Public Lands to report a bill of the following title:

"A bill for the adjustment of sales and locations, conflicting with the swamp land selections."

Mr. Speaker, if the House will indulge me for one moment, I will explain the object of the bill. I assure the House that I will not occupy twenty minutes, and perhaps not ten minutes. By the act of 1850, granting the swamp lands in certain States to those States, the title was vested in them from the passage of the act; but the land offices not having been closed, the Government went on and sold many of the lands afterwards selected under the swamp land act. This brings up a conflict of title, and the object of this bill is to adjust that conflict. It makes it the duty of the respective States to relinquish to the General Government the titles which they have acquired by the sales made since the passage of these acts, and then it makes it the duty of the Government to pay over to those States the money which it has received in payment for these lands. The object is to settle this question of conflicting titles. This bill comes recommended by the Commissioner of the General Land Office, and it is one in which not only the General Government and the States, but in which individual interests are involved, and when it shall be read to the House, and its character understood, I am sure no objection will be raised to its passage. I do not desire further to take up the time of the House, but I hope the rules will be suspended, and the bill considered at this time.

The question was taken, and upon a division there were—ayes 97, noes 37.

Mr. ALLISON. I demand tellers.

Tellers were not ordered; and two thirds having voted in the affirmative, the rules were suspended.

Mr. HALL, in pursuance of leave, reported from the Committee on Public Lands a bill for the adjustment of the sales and locations conflicting with swamp land locations; which was read a first and second time by its title.

Mr. HALL. I ask that the bill may be read, and I send to the Clerk some amendments which the Committee on Public Lands propose to the bill, that they also may be read.

The bill was then read as follows; the portions in *italics* being the portions proposed by the committee to be stricken out, and the parts in brackets those proposed to be inserted, viz:

A BILL for the adjustment of sales and locations conflicting with swamp land selections.

Whereas many of the lands granted to the State of Louisiana by the act entitled "An act to aid the State of Louisiana in draining the swamp lands therein," approved 2d

March, 1849, and to the several States by the act entitled "An act to enable the State of Arkansas and other States to reclaim the 'swamp lands' within their limits," approved 28th September, 1850, have been sold by the United States, or located with bounty land warrants, or other certificates or scrip, or for railroads, internal improvements, &c.: and whereas, the States referred to are willing that most of the sales, locations, and selections thus made should be confirmed, provided that the proceeds received by the United States thereof should be transferred to the States respectively entitled thereto: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon application by the Governor of either of the States aforesaid, or such officer as may by law be designated for that purpose, it shall and may be lawful *to pay over to such State the purchase money received by the United States for any lands granted to such State by the act aforesaid; and* for said State to select other lands, in lieu of any lands granted as aforesaid, which have been [sold and] located with bounty land warrants, or other certificates or scrip, or selected for railroads, or other internal improvements: *Provided, however*, That before any such *payments or* locations shall be made, the Governor of said State, or such person as may be duly authorized for that purpose, shall file in the General Land Office a relinquishment to the United States of all the right, title, and interest of such State in and to the lands specifically designated therein; the whole to be done according to such rules, regulations, and forms as may be prescribed by the General Land Office for that purpose; and all patents which have been, or may hereafter be issued by the United States for any of the lands embraced by the swamp land grants aforesaid, which have thus been relinquished by the States respectively, and which are in other respects fair and regular, shall be, and the same are hereby, declared to be valid and binding in law and equity.

Mr. HALL. I can explain, in a few words, the nature of the amendments. The bill provides that where the lands granted to the several States by the various acts of Congress, in reference to swamp land, have been sold by the United States, or located with bounty land warrants, or other certificates or scrip, or for railroads, internal improvements, &c., the purchase money, where sold for cash, received by the Government, shall, upon the requisition of the Governor of the several States having such swamp lands, be paid over to such States.

Mr. VENABLE. Allow me to ask the gentleman one question. Does the Committee on Public Lands propose that the States shall, instead of getting the money which has been received by the United States for the lands sold, receive other lands in lieu thereof, and also that they should receive other land, acre for acre, for those which have been located by land warrants, &c.?

Mr. LETCHER. I should like to inquire further of the gentleman from Missouri, whether those lands thus sold and located were under water at the time the parties took them, and whether they really were swamp lands, and whether he asks that lands of like character shall be granted in lieu of them?

Mr. HALL. I can only answer the gentleman in this way: They were lands which the Department decided belonged, under the law, to the States. Whether they were covered by water or not I am not able to say. But the Department decided that they were swamp lands.

Mr. VENABLE. Will the gentleman from Missouri answer me this question: Did these sales, to which he alludes, take place before or after the passage of the act of 1850?

Mr. HALL. Since the passage of that act. By the act of 1850, the Government of the United States granted to certain of the States of this Union the swamp lands within their limits. After the passage of that act, and after the Department determined that these lands vested in the States, the Government of the United States sold some of them to individuals, and others were selected and located by persons having military land warrants. Here, then, arises a conflict between the States under the act of 1850, and individuals claiming as purchasers from the Government, they having located their land warrants upon the lands.

The Department determines that the State title is the better title, that these lands vested in the States by the act of 1850, and consequently that all purchases since that time, and all locations of warrants upon them since the same period, are null and void. The individuals, however, who have purchased them, or located them by their warrants, have, in certain cases, put improvements upon the lands. In order, then, to secure the purchaser under the United States, who otherwise will be ousted by the States, this bill provides that the States upon confirming the titles to the purchasers under the United States, and to those who located their land warrants, may be permitted to locate an equal amount of land subject to private entry within the limits of the several States.

Mr. HARRIS, of Tennessee. I desire to ask the gentleman from Missouri, if this bill makes it the duty of this Government to perfect the title to the party who has entered the land in the Government land office, or if it does not leave it to the option of the State to do or not to do it?

Mr. HALL. The Department decides that these lands belong to the States. Of course no act of Congress can take the land away from the State without its consent. The bill, however, provides that where the State gives its consent, then the title may be perfected to the purchaser under the Government, and the State may be permitted, in lieu thereof, to select other lands of similar quality within its own limits. I move to recommit the bill to the Committee on Public Lands.

Mr. FULLER, of Maine. I would ask the gentleman, how it happened, that when Congress had granted these swamp lands to the States, and when the Department had decided that they belonged to the States, the Government went on subsequently and granted the same lands to individuals? What means had the Department of knowing, under the act, what lands vested in the State, and what did not vest?

Mr. HALL. I state to the gentleman, in answer, that the act itself requires these lands to be located, and, as a matter of course, the Department could not tell what lands belonged to the State, and what not, until they were selected under the terms of the act. As soon as they were selected the Department had the requisite information.

Mr. FULLER. Does not the act by its terms prescribe that they should be such lands as were returned to the land office as swamp lands?

Mr. HALL. The act does not confine itself to those lands. If it did, there would be no difficulty.

Mr. JOHNSON, of Arkansas. I think I can explain this matter pretty well, as I was concerned in this swamp land matter; and, according to the declaration of some friends, lost considerable reputation upon it. The swamp lands were granted to, and by the terms of the act they vested in, the States from the moment of the passage of the act. That was in 1850.

Mr. TOOMBS. The gentleman is mistaken in the statement that the land vested in the States from the passage of the act. The act itself provides otherwise.

Mr. JOHNSON. Well, that is a question; and I would not place my judgment against that of the gentleman from Georgia. He may be right about it, and possibly I may be myself. I will only say that it has been decided by the Departments of this Government, that the grant took effect from the passage of the act and its signature by the President.

That, then, vested in the States certain lands which are described in the bill. Those lands, it is true, were not selected; and the consequence was that they still remained subject to entry in the United States land offices. The citizens of the several States went on and entered whatever lands were subject to entry, according to the books in the land offices, and among others entered portions of these lands described as swamp lands, and already granted to the several States. Now, the object of this bill is to enable these States, by their Legislatures, where the Government of the United States has received pay for those swamp lands, to allow the Government to retain the pay, and the States to locate somewhere else, in lieu of those so sold and located by land warrants, other lands, which, the presumption is, are not as good as those originally granted to the States. It is important to this body, if they wish to legislate well, for the purpose not only of preserving in the Treasury of the United States the money already there, but for the purpose of quieting title, that the State Legislatures should do that.

Then, sir, in addition, if this is not done, what are we to do? You will be compelled, in every instance where the land offices have permitted these lands, which had already been granted to the States, to be entered, to cancel the entry, and to pay back to the men who have made entries of lands, the gold and silver received from them by the United States, and thus it passes out of the Treasury of the United States. This is the plain and sensible operation of the matter, and it is not only just to the Treasury of the United States, but it is benevolent to the interests of the people of the United States that the provisions of the bill should be adopted.

Mr. BRENTON. Will the gentleman from Missouri [Mr. HALL] yield to me a moment?

Mr. SWEETSER. I rise to a point of order. It is not in order for the gentleman from Missouri to transfer the floor from one person to another.

The SPEAKER. The Chair decides that it is competent for the gentleman to yield to another for explanation, but not for the purpose of making a speech.

Mr. BRENTON. I rise for the purpose of explanation. There have been several inquiries in relation to the operation of the act granting swamp lands to the States in which they lie. It is asked why the Government permitted these lands to be sold? In reply to that, I would answer, that under the act of September 28, 1850, the Commissioner of the General Land Office, on the 21st of November, 1850, issued his circular of instructions to the registers and receivers of the different land offices, in reference to their mode of procedure in selecting the lands granted to the States. He decided, at the same time, that the title of the lands vested in the States from the time of the passage of the act. I have before me a copy of the first circular issued under these acts. Under the instructions thus given to the officers, in the month of November, they immediately commenced, in the different States, to make the selection of these swamp lands according to the terms of the law; but, at the same time, the officers, not knowing what lands were swamp and what were dry lands, continued the sales of land at their offices up to the time of the completion of the selection. Then the sales were suspended upon lands of that character. The sales made to individuals, of these lands which were so selected as swamp lands, are now declared to be illegal; and the Commissioner of the General Land Office has sent out instructions to the registers and receivers, requiring the purchaser, within sixty days from the receipt of the notice, to show cause why the sale shall not be canceled; and if sufficient cause is not shown, then an application must be made, on the part of the purchaser, for the refunding of the money. So the money will go out of the Treasury of the United States.

The question is simply this: whether we shall permit the Land Office to be at the expense and trouble, upon individual application, of refunding the moneys which have thus been paid in, or whether we shall confirm the title of the purchaser, and pay over the money to the State. That is the question, and the only question.

Mr. DAVIS. I do not intend to occupy much of the time of the House in the discussion of this question, but I desire to have an extract from the last report of the Commissioner of the General Land Office in reference to this grant read, and then to make a remark or two in explanation of the merits of the bill.

The report was then read by the Clerk, as follows:

"Much difficulty has also been experienced because of the numerous conflicts that have grown out of this grant. The suspension of the sale and disposal of all the public domain was not contemplated by these laws, and could not be made unless specially directed by Congress; and hence numerous entries and locations have been made of lands claimed by the States under these laws. The grant took effect from the dates of the acts making it; and, therefore, in numerous cases conflicts of title arise, which have to be adjudicated by the Department. To relieve this difficulty as far as practicable, I suggest that where such lands have been purchased, authority be granted for paying over the purchase money to the State, on a relinquishment by the Governor, or other officer appointed by him for that purpose, of all the right of the State in and to such lands; and where those lands were located by warrants or scrip, to authorize the State to locate a like amount elsewhere, upon a similar relinquishment.

"Exclusive of this difficulty, however, the labor in adjusting these grants is very great, as all the lists returned have to be carefully compared with the tract-books; all selections, where the land was disposed of previous to the passage of the laws annulled, and those since suspended; all the selections are then posted, lists of them are prepared and sent to the land officers, and also to the Governors, with diagrams exhibiting the lands embraced by the lists; and, on the request of the Governor, the patents are then issued. As all this work must be done in connection with the current business of the office, and but few can be employed on it, the progress must necessarily be slow."

[Mr. HENN, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles:

S. No. 421. An act for the relief of John Williams;

S. No. 316. An act for the benefit of the town

of Belleview, and the cities of Burlington and Dubuque, in the State of Iowa; and

H. R. No. 361. An act for the relief of John Millar.]

Mr. CHASTAIN. I desire to ascertain, Mr. Speaker, from the chairman of the Committee on Public Lands, [Mr. HALL,] whether these entries were made before or since the grant to the States?

Mr. HALL. Since the act granting the land to the States passed.

Mr. CHASTAIN. In connection, I would like to know how the officer who has the charge of the public lands is to ascertain what are and what are not swamp lands?

Mr. HALL. He ascertains it from affidavits of persons, according to the regulations of the Departments, who swear to the character of the lands, and which are reported to the Department.

Mr. CHASTAIN. How is it that these lands have been entered since the passage of the act?

Mr. HALL. These entries were made before the selection by the States. It takes some time to make these selections, and hence the Department has no information until the selections are made of the lands falling under the description of swamp lands.

Mr. CHASTAIN. One other inquiry and I shall have done. Are there in the new States any other than swamp lands subject to entry? Or, in other words, does not the grant of the swamp lands cover all the public lands in the new States?

Mr. HALL. If the gentleman had looked into the bill he would see by its terms what it grants. Of course neither the Committee on Public Lands or myself are responsible for the decision of the Department. If the Department has decided lands are swamp lands which are not, in the meaning of that act, they have decided wrong. I do not believe that they have decided improperly; I will tell the gentleman, however, that nine tenths of the lands in the new States, with the exception of that of Louisiana, are not swamp lands.

Mr. MEADE. There is in that bill a provision to which I call the attention of the gentleman from Indiana. Now, sir, I perceive that some of these swamp lands are owned by the States under two distinct titles: one by the act of 1850, and the other by the special act granting land to States for railroad purposes. I find that the bill provides that any of the lands which have been granted to the States, and appropriated for railroad purposes, shall be substituted for other lands according to its provisions; so that the States are not only a gainer with regard to the swamp lands by the substitution of others, but they obtain, through the means of the bill, lands which are not swamp lands, and which the State derives title to through two distinct laws. That bill provides, if I understand it correctly, that wherever bounty land warrants have been located on swamp lands, or wherever entries have been, and the money paid into the Treasury, or wherever, by special acts, any swamp lands are donated to States for railroad purposes, other lands are to be substituted for them; so that the States claim, by virtue of these laws, a portion of these swamp lands by two distinct titles. And this bill is made to grant, in lieu of swamp lands donated to States for railroad purposes, other lands. Now, it was not certainly the intention of the act of 1850 that, while the swamp lands were granted to the States, these lands theretofore or subsequently granted for railroad purposes should be substituted by other and distinct lands.

Mr. DAVIS. That is not so.

Mr. MEADE. I should then like to have the bill read, that the House may judge for itself.

Mr. DAVIS. There is not a foot of land granted by the terms of this bill in addition to what was granted by the swamp land act. The State of Indiana does not, nor do any of the new or land States, acquire title by this bill to a single acre or a single section of land. Such is not its object; nor can such construction be given to it. Now, in regard to railroads, it provides simply, that where lands have been granted for the construction of railroads, and have subsequently been selected by the States as swamp lands, a like number of acres may be located for the benefit of such roads, thereby placing these roads on the same footing with individuals. In my State, no lands have ever been granted for constructing railroads.

Mr. TOOMBS. Let me ask the gentleman a question. Is it not true that, by the express provision of the swamp land act, the title was not vested in the State until the patent issued?

Mr. DAVIS. No, sir.

Mr. TOOMBS. If the gentleman will allow me, I will read the second section of the act. It is in these words:

"SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the Governor of the State of Arkansas, and, at the request of said Governor, cause a patent to be issued to the State therefor; and on that patent, the fee-simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the Legislature thereof: *Provided, however*, That the proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the purpose of reclaiming said lands by means of the levees and drains aforesaid."

So the whole foundation is wrong.

Mr. DAVIS. Will the gentleman now read the first section.

Mr. TOOMBS. I will. It is as follows:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands, made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State."

The subsequent section says, that the title shall vest on the issuance of a patent. If a decision has been made otherwise by the Department, it has been wrongfully made.

Mr. DAVIS. The first section of the act vests the title to the lands in the States from the date of its passage and approval. This is my opinion, and I am glad to know I am not alone in this opinion. I hold in my hand a copy of the opinion of the Secretary of the Interior, upon which the Government has acted hitherto, and which settles the question beyond cavil; which was read by the Clerk as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *December* 23, 1851.

SIR: I have carefully reviewed my affirmance of your decision in regard to the proper construction of the acts of 2d of March, 1849, and 28th of September, 1850, granting to the several States of the Union the swamp and overflowed public lands within their respective limits, and am satisfied that the decision heretofore made was erroneous.

The first question involved in the case, is as to the period when the grants take effect, whether it be the date of the law, or the date of the approval of the selections by the Secretary of the Interior, or the issuing of the patent to the State? The language of the first section of the act of March 2d, 1849, is as follows, viz: "That to aid the State 'of Louisiana in constructing the necessary levees and 'drains to reclaim the swamp and overflowed lands which 'may be or are found unfit for cultivation, *shall be, and the 'same are hereby, granted to that State*," and the first section of the act of 28th September, 1850, is, in language, almost identical. The act of 1849, in regard to the State of Louisiana, declares that the *fee-simple* in said lands shall vest in the State *upon the approval of the selections by the Secretary;* and the general law of September, 1850, enacts that the fee shall vest in the State *upon the issuing of a patent*. In each case the granting clause is in the first section, and the words employed, viz: "*are hereby granted*," seem to me to import a grant *in presenti*. They confer *the right* to the land, though other proceedings are necessary to *perfect the title*. When the selections are made and approved, or the patent issued, the title thereby becomes perfect, and has relation back to the date of the grant.

The second question is, whether it is proper and competent to approve or patent portions of the lands selected, as they may from time to time be reported, or whether the whole of the lands to which a State may be entitled must first be designated?

I do not conceive that, because the language of the law respecting the lists of the lands and the patents to the States is in the singular, it is inconsistent with the law to approve or patent lists of the lands as they may from time to time be submitted for that purpose; and looking to the convenience and important interests of the States, which might be seriously injured by any other course, I think this ought to be done.

To these points my attention has recently been called by the Governor of Louisiana, but they present questions involving the interests of all the States affected by the grants.

The Governor of Alabama has also addressed the Department on another point, which has reference to the mode of executing the law of September, 1850, and which presents the question whether the provisions of the acts of 2d March, 1849, and 28th September, 1850, are to be construed *in pari materia*, thereby requiring that the selections shall be made by the States, as was the case with the Louisiana grant, and not by the General Government. This question I decide in the negative. The act of 2d March, 1849, had reference to Louisiana alone, and required that the selections should be made under the direction of the surveyor general, at the expense of the State of Louisiana entirely, and after the Governor of that State should have informed the Secretary of the Treasury that the necessary preparations to defray those expenses had been made by the State. The provision in the act of September, 1850, is entirely different, for it makes it the duty of the Secretary of the Interior to make out lists and plats of the lands thereby granted, and to transmit the same to the Governors of the States, and when so requested by them, to cause patents to be issued to the States for said lands. It follows, therefore, that while the selections in Louisiana are to be made under the direction of the surveyor general, at the expense of the State, those in Arkansas and the other States are to be made by the Secretary of the Interior, at the expense of the United States.

As the grants are regarded as taking effect from the dates of the laws making them, respectively, and as vesting the inchoate title in the States, it follows, that any subsequent sale or location of swamp or overflowed lands must be held to be illegal, and the purchase money refunded, or a change of location ordered. Subsequent entries, however, which have been made by preëmption, in virtue of settlements made prior to the grants, will be valid, because, in those cases the right of preëmption attached from the date of settlement, and became a vested right, which can be divested only by abandonment, or a failure in the performance of its conditions.

I have to request that you will communicate copies of this decision to the Governors of Louisiana and Alabama (whose letters are herewith referred to you) as soon as possible, and that you will modify your instructions and conform your action to the views herein expressed.

I am sir, very respectfully, your obedient servant,
ALEX. H. H. STUART, *Secretary*.
The COMMISSIONER OF THE GENERAL LAND OFFICE.

I think that ought fully to satisfy the gentleman from Georgia that the title to these lands vested in the States in which they lie from the date of the act making the grant. Not only so, the Secretary goes on to say, that "any subse-'quent sale or location of swamp or overflowed 'lands must be held to be illegal, and the purchase 'money refunded, or a change of location or-'dered." This is all which is sought by this bill.

In connection with the argument I will read the following letter from the Commissioner of the General Land Office:

GENERAL LAND OFFICE, *December* 16, 1852.

* * * * * * * *

This bill embodies the recommendations on the subject contained in the last annual report from this office. The facts set forth in the preamble are fully corroborated by record evidence in this office. Believing that this bill, or one similar in its provisions, should become a law, for the purpose of properly adjusting the swamp land grants of 28th September, 1850, and 2d March, 1849, I respectfully recommend the passage of it.

With great respect, your obedient servant,
JOHN WILSON, *Commissioner*.
Hon. JOHN G. DAVIS, *House of Representatives*.

Mr. BROWN, of Mississippi. I rise to make a request of the gentleman from Indiana, and the friends of this measure, which is likely to occupy the whole day, to the detriment of other business. If the gentleman will allow it to be passed over until to-morrow, it will then come up in the morning hour, after the seigniorage bill has been disposed of, being as it is, a report from one of the committees.

Mr. TOOMBS. I trust that the previous question will not be sustained. I voted for the bill originally, and I desire to make an explanation of it.

Mr. BROWN. If the Speaker will not decide, I will not press the question.

Mr. DAVIS. If I yield the floor and allow this bill to be passed over, will it come up to-morrow in the morning hour?

The SPEAKER. It would be unfinished business belonging to the morning hour. There are two other bills—the seigniorage bill and the bill in regard to reciprocity.

Mr. STEPHENS, of Georgia. I rise to a question of order. I inquire of the Chair if this bill coming up under a suspension of the rules on Monday, would not come up in the morning hour on next Monday.

The SPEAKER. It is the unfinished business of the morning hour, in the opinion of the Chair. The rules having been suspended for its introduction—the bill will be subject to the same rules of the House in regard to it as in other bills.

Mr. DAVIS. I had better finish my remarks now. I will occupy but a few minutes only, and then the gentleman from Georgia [Mr. TOOMBS] can take the floor.

This question is a very simple one. This bill, as I remarked a while ago, does not grant to the States a single foot of land in addition to what the "swamp land" act gives them. The Government, instead of suspending the sales of land, went on and sold to innocent persons before the selections could be made under this act, a large quantity of lands which have since been selected as swamp lands, and as such have been or will be patented to the States; and the sole object of the bill under consideration is to arrange and settle this difficulty with the States, instead of with each individual purchaser, and nothing more. The

Government has our money. She is willing to refund it, either to the individuals who paid it, or to the States. Believing that the course proposed by this bill would accomplish the desired object with the least delay, and secure justice to the Government, to the States, and to individuals, in the simplest way, I introduced the bill for the action of this House.

As an illustration of these facts, I desire to say, that in the State of Indiana alone there has been sold by the Government, of lands subsequently selected under the act which has been read, 39,265 acres, and of this amount 23,589 acres were sold for cash, and produced $29,498; 15,666 acres were located with bounty land warrants, amounting to $19,582, making together $49,080. This same state of things existed in all the States. This money is, then, in the Treasury of the United States. The Government admits it, and is willing to refund it either to the individuals or the States, as I have already shown by the decision of the Secretary of the Interior, and which I shall further show by the secret instructions recently issued by the Commissioner of the General Land Office. I will here answer a question which was propounded to me by a gentleman in the progress of this discussion, which was, "If the swamp land grant did not cover all the public lands in the new States?" So far as my State is concerned, I answer no. Indiana receives but a small portion of land under that act. Another gentleman asks why it is that these lands had been sold, and why it is that they found purchasers after the passage of these swamp land acts? thereby conveying the idea that there was something wrong in reference to this matter, because if these lands were wet and unfit for cultivation, they were of course valueless. Why, sir, by the act of September 28th, 1850, all the lands, a greater part of which are wet and unfit for cultivation, are regarded and designated as "swamp lands." Some poor men, with their fifty dollars or one hundred dollars, and who were unable to purchase better lands, have purchased a forty or an eighty acre lot, on which may be found a few acres of dry arable land; but the greater part of which being wet and unfit for cultivation has been returned as swamp lands, and as such conveyed, or in course of conveyance to the States. They have settled upon and improved these lands, and in many instances transferred them to third persons.

It appears from the instructions issued by the Commissioner of the General Land Office of the 16th of September, and the 3d of December, 1852, that these sales will be vacated, and the land patented to the States, unless cause to the contrary be shown within sixty days from the latter date. But, inasmuch as these instructions will shed some further light on the subject, I will have them read.

They were then read, as follows:

GENERAL LAND OFFICE, *September* 16, 1852.

GENTLEMEN: Herewith is inclosed a list of illegal sales, conflicting with swamp selections made under the act of September 28, 1850, with a copy of the decision of the Secretary of the Interior, made on the 27th of May, 1852, as to the operation of that act. I have to request that you will advise the parties of the illegality of these entries, and of the necessity of their making application through you for the repayment of the purchase money; also that you will report the cases to this office as soon as the proof is completed in each case, as required by the circular of the 31st of August, 1830. In addition to what is required by said circular, you will with each case inclose the party's affidavit, stating that he has not transferred or otherwise encumbered the land, and the receiver's duplicate receipt. The affidavit can be acknowledged before either of you officially.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Acting Commissioner.*

REGISTER AND RECEIVER, *Winnamac, Indiana.*

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GENERAL LAND OFFICE, *December* 3, 1852.

GENTLEMEN: In addition to the instructions contained in my letter of the 16th September, 1852, on the subject of entries conflicting with swamp land selections, I have to request that you will, without delay, notify all persons whose entries or locations conflict or interfere with the claim of the State of Indiana, under the swamp land grant, that their entries and locations will be vacated and the land patented to the State, unless cause to the contrary be shown within sixty days. In all cases where the parties fail to give notice by that time of an intention to contest the right of the State, the land will be patented to the State, and the purchase money afterwards refunded to them or their assignees, or in cases of locations a re location authorized, on their application. In all cases where the patents, either for cash entries or military locations, conflicting with the swamp land selections, have been delivered, you will request the parties to return them with the usual relinquishment indorsed thereon. Upon the receipt of which you will note upon them in pencil the cause of such surrender, and transmit them to this office with the usual report. If there are any patents in a similar condition remaining in your office, that have not been delivered, you will return them to this office in like manner, without any relinquishment, being careful to note that they have not been delivered. You will report all cases, whether patented or not, to this office, as soon as you learn the intention of the parties, and should you fail to learn such intention within the sixty days above specified, you will also report that fact.

Very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

REGISTER AND RECEIVER, *Indianapolis, Indiana.*

[A copy addressed to each register and receiver in the State of Indiana.]

Now, suppose these sales are set aside and vacated, what will be the result? Why these purchasers will claim indemnity from the Government for their improvements; they will beseech Congress for relief from year to year; a system of vexatious legislation will grow out of it, the end of which we cannot foresee. These persons, who have purchased these lands in good faith, paid their money into the Treasury, and made improvements, ought not to suffer on account of the *laches* of the Government. I want to know, in the name of common sense, justice, and equity, if gentlemen can wish to produce this state of things? If they do not, what objection can there be to the passage of this bill? I am very well aware that when we touch the subject of the public lands, that there are some gentlemen who suspect "there is a cat under the heap of meal"—that there is something wrong, and their suspicions become at once excited. Let me say to them, that in this case at least, they need have no fears or apprehension of danger; it is a plain, fair, honest transaction.

The Secretary of the Interior, the Commissioner of the General Land Office, and every Department of the Government interested in the administration of this law, are willing that this bill shall pass. The Commissioner of the General Land Office, by the letter which has just been read, has not only indorsed it, but recommended its passage. One more remark, and I am done.

Mr. JOHNSON, of Georgia. I understand from the argument of the gentleman, that the main object of this bill is to confirm titles in individual purchases, and not to confirm titles to the States to which grants have been made. It is to confirm titles to purchasers—these poor men who have been spoken of.

Mr. DAVIS. The preamble to the bill settles that question.

Mr. JOHNSON. I desire to know why it is that this bill provides for the confirmation of title to the purchasers, and provides that the Treasury of the United States shall pay over the amount received from these purchasers to the States? The title of these purchasers is paramount against the Government, and good against the States under the law.

Mr. TOOMBS. There is no difficulty about it.

Mr. JOHNSON. We have been making donations of lands for railroads, and grants of swamp lands, and because we have granted these bounties to a certain extent, and because the good expected has not been received, we must turn the money over to the States.

Mr. DAVIS. I can answer this in a moment. If the gentleman had listened to the reading of the bill, he would have found his question answered in the preamble. That gives a full answer to his interrogatories. Why, the Governor of the State relinquishes to the General Government the title which the State acquires by virtue of this grant, and thereupon the Government confirms the sale, and issues a patent to the innocent purchaser; and if my honorable friend from Georgia had listened to the reading of the bill, it would have saved him the necessity of propounding to me the interrogatory he has. The object of this bill is merely to save the General and State Governments a great deal of trouble, avoid complexity, and secure to individuals their just rights; nothing more. I will not consume the time of the House any more in the discussion of this question for the present. I have already said much more than I had intended. I demand the previous question.

Mr. TOOMBS. I hope the previous question will not be seconded without an investigation of this bill. It is important that the House should understand it.

Mr. MEADE. I ask for the reading of the bill.

Mr. BROWN, of Mississippi. I wish to renew my appeal to the friends of the measure, and allow it to be passed over until to-morrow. Unless that is done, I shall be compelled to vote to lay the bill upon the table.

The SPEAKER. If not objected to, the bill will be read.

There being no objection, the bill was then read through by the Clerk.

Mr. CLEVELAND. I desire to ask my friend to withdraw his demand for the previous question, to allow me to ask a single question.

Mr. VENABLE. Let us vote it down.

Mr. CLEVELAND. I wish to know if this bill means anything more than simply to get an act of Congress to confirm the opinion of the Secretary of the Interior, when that opinion is clearly against the act of 1850? Is there anything more or less in this bill?

Mr. DAVIS. The opinion of the Secretary of the Interior is within the meaning and spirit of the act, and in my judgment clearly right. This bill explains itself. I trust my friend can understand me now.

Mr. CLEVELAND. This House is competent to legislate for itself.

Mr. ORR. I hope the gentleman from Indiana [Mr. DAVIS] will consent to withdraw the demand for the previous question.

The question was then taken upon seconding the demand for the previous question, and only 35 rising in the affirmative, it was decided in the negative.

So the previous question was not seconded.

Mr. TOOMBS. I desire to ask the attention of the House for a few minutes. When this bill, now the subject of controversy, was passed, I was a member of the House and voted for it. I think the policy of it, as then understood by Congress, was a wise and liberal policy to the new States. The express provisions of the act support my recollection of it. There were large bodies of these swamp lands which gentlemen who come here from the new States represented as unfit for cultivation by reason of inundations. That their extent and the peculiarities of situation rendered impossible for individual settlers to remedy the evil. They further represented that these lands were worthless to the Government, unhealthy, and obstructed the settlement of the new States, and the question was whether the General Government should drain them and prepare them for cultivation, or the States themselves. Believing that it was important to the progress of the new States that the lands should be drained by the one or the other, and that it could be better and more wisely and economically done by the States than by the General Government, the bill received my support. But, sir, the class of lands was expressly specified as being "swamp and overflowed lands," and "unfit for cultivation."

Now, sir, I have looked somewhat into this question, and I say that most extravagant and unwarrantable decisions have been made at the Land Office, under that law, so as to make it include a class of lands that was never asked for, never intended to be given, and not fairly and honestly within the purview of the Legislature, or fairly deducible from its words. This has been done, with the intent (and such has been the effect) of extending the law to other lands, to an enormous extent; and, I will say here, as a public man, contrary to law, to an unwarrantable and disgraceful sacrifice of the public property.

Mr. JOHNSON, of Arkansas. Will the gentleman identify those officers? When a gentleman makes such charges as these, it is due to the parties against whom the allegations are made, that he should designate the officers. I deny it.

Mr. TOOMBS. As to the gentleman denying the extent of the construction at the office——

Mr. JOHNSON. When the gentleman is through, I will show that the construction which he is trying to put upon that law is not based upon sound intelligence.

Mr. TOOMBS. The gentleman may be heard if the House chooses to hear him. I am stating *facts*. It does not depend upon my own recollection. It was expressly declared in the words of the act itself what was the object in view. Here is the first section of the act:

"That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands, '*made unfit thereby for cultivation*,' which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State."

That section declares precisely what I have stated, that to enable the States to reclaim and drain the swamp lands, rendered thereby "unfit

for cultivation," said swamp lands shall be granted to the different States; for the same provision was made with regard to the other land States. But how, when, at what time the title shall vest is clearly, distinctly, and unequivocally stated in the second section. Here is the second section;

"*And be it further enacted*, That it shall be the duty of the Secretary of the Interior, as soon as may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the Governor of the State of Arkansas, and, at the request of said Governor, cause a patent to be issued to the State therefor; and on that patent, the fee simple to said lands shall vest in the said State of Arkansas, subject to the disposal of the Legislature thereof."

There is the express language. "The fee-simple" to pass with the patent, subject to the disposal of the Legislature thereof.

Mr. FICKLIN, (who was nearly inaudible.) I desire, with the permission of the gentleman from Georgia, to say a single word. I understand that, under the decision of the head of the Department of the Interior, the money received for these lands, and the land warrants received for them, will be returned to the individuals.

Mr. TOOMBS. If the Secretary of the Interior was to do that he ought to be impeached. In such a case, he would be taking money from the public Treasury without authority of law. I know there has been an effort to misconstrue one law to aid in the violation of another. But money paid for instance before the patent issues to the States under this law, is as well protected as any other dollar in the Treasury.

Mr. FICKLIN. That is his order.

Mr. TOOMBS. I am not discussing the Secretary's order. I have indicated the only way in which we can control these officers. I am endeavoring to present my views upon the law itself, and the meaning of that law is clear upon its face, and is stamped on every line of it.

The third section says:

"That in making out a list and plats of the land aforesaid, all legal subdivisions, the greater part of which is 'waste and unfit for cultivation,' shall be included in said list and plats; but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom."

So that, if there are forty-one acres of waste land, the thirty-nine acres of good land would go with it. I have read the whole act. Now, it seems that in some States there were a great many lands entered immediately after the passage of the act, and before any grant issued to the States which have since been decided to be "unfit for cultivation," and in some cases the land thus entered has been patented to the States, and hence the necessity of this bill. The Secretary of the Interior has decided that these entries are void, and that the lands thus entered under the act in question belong to the States. This conflict we are called on to settle.

Mr. DAVIS. Let me ask the gentleman what he is going to do with the innocent purchasers who went and purchased the land in good faith?

Mr. TOOMBS. That is the very question I propose to discuss. I say, give them a patent for it to-morrow. There is no difficulty about that. Their title is good against the United States and the States.

Mr. DAVIS. But the Government say they cannot do that.

Mr. TOOMBS. Then compel it to do it.

Mr. DAVIS. The Government ought to have suspended these land offices, and stopped the sales of the public lands until these lists were made out. But instead of that they kept the land offices open, and persons went and purchased lands, the greater portion of which were swamp lands, and which, therefore, came under the provisions of the swamp lands act. Now, I want to know if the gentleman would turn those people out and keep their money?

Mr. TOOMBS. No, sir; I would not turn them out. I would give them patents. Their title is good against the Government, and against the States. But it is no tenderness for those men that brings this bill here.

Mr. DAVIS. I will state to the gentleman that the Government has patented some of these lands to the State of Indiana, and intends patenting the whole of them soon. What would the gentleman do in that case?

Mr. TOOMBS. Very well; it is a conflict in which, when I am permitted to proceed, I shall ndeavor to show that the settler has the better title. I would therefore give him the patent and protect him in its enjoyment. The object of this bill is to give the States the money, or to allow them to get lands to which they were not entitled under the swamp lands act.

Mr. DAVIS. I dislike to interrupt the gentleman. I only desire to say that this bill, as it was originally introduced, made it the duty of the Government to refund the money where the lands have been sold for money, and land warrants where they have been sold for land warrants. But the Committee on Public Lands have stricken out the money clause, and put in an amendment making it the duty of the Government to give scrip for all.

Mr. TOOMBS. Then I can only say that the committee may have done great injustice. If the Government has received money for the lands, they ought not to give them lands in lieu of the money without their consent. You have no right to force lands upon such persons. I desire to act on right principles. If a man has paid his money for certain land, you have no right to force him to take other lands from you which he did not buy and may not want. I intend, as far as my vote goes, to vote down the amendment, and I would like to have a substitute for the bill that would compel the Executive officers of this Government to issue patents to the men who have entered these lands before the title of the States accrued, according to the second section of the act.

Mr. McLANAHAN. I would ask the gentleman what is the date of the deeds of patent issued by the Secretary of the Interior?

Mr. TOOMBS. I do not know. It was the gentleman from Indiana [Mr. DAVIS] who said that patents had been issued.

Mr. McLANAHAN. If the lands were purchased from the Government, or the warrants were located before the patents were issued to the State, there can be no doubt at all about the title of those who hold the land under purchase. I therefore ask what is the date of the patent?

Mr. TOOMBS. I am well satisfied, as the gentleman from Pennsylvania suggests, that if those patents have ever been issued in derogation of the rights of settlers, the patents themselves are void.

Mr. McLANAHAN. I want to know the date of the deeds of patent.

Mr. FICKLIN. Patents have not been issued.

Mr. TOOMBS. Then the two gentlemen from Indiana disagree as to the facts. The other gentleman [Mr. DAVIS] said that patents had been issued.

A MEMBER. They are not both from Indiana. One of the gentlemen is from Illinois.

Mr. DAVIS. What is the precise question of the gentleman from Pennsylvania?

Mr. McLANAHAN. I ask when the deeds of patent were issued by this Government to the State of Indiana?

Mr. DAVIS. I cannot give the exact date, but I can give the number of acres patented to the State.

Mr. McLANAHAN. I merely wish to direct the attention of the gentleman from Indiana to this point: If the purchases were made, and the purchase money paid, or if the land warrants were located before the patents were issued by this Government, then the purchasers, or those who located the land warrants, in my humble judgment, have a good title both against the State and against the General Government.

Mr. DAVIS. In some instances it was before, and in some instances afterwards.

Mr. JOHNSON, of Arkansas. If the gentleman from Georgia will allow me, I desire to turn to the point where this whole error began. The gentleman from Georgia—for whose opinion I have the highest respect, as I believe the entire House has—has one opinion in the construction of this law, and the Secretary of the Interior, backed by a large number, at least, of humble individuals, has another and a very distinct opinion. That the House may be able to judge between the two constructions, let them hear the act read by two different persons; for the identical thing may sound differently when read by two different persons.

The act is drawn in the name of the State of Arkansas, because it was drawn in the first place for her benefit; but all the new States were put upon the same footing, so that it applies to them all. The first section is as follows: "That to enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation"—there was a great discussion upon that point at the time the act passed, and these words were inserted, "*as shall remain unsold at the passage of this act*, shall be, and the same are hereby, granted to said State." Mark the words! "As shall remain unsold at the passage of this act." When is that? Ten years afterwards, when the patent is issued to the State, all the lands having been entered in the mean time, "which shall remain unsold at the passage of this act shall be, and the same are hereby, granted to the State." That is the language of the act. Now, says the gentleman, the patent shall issue, and that shall grant a fee-simple. Sir, is there such a thing in existence as an equitable title upon which you can force possession in a court of law? If there is, then the second section of this act is valid, and yet not at all inconsistent with the first; and if the equity exists in the State to the lands as they are described, to use the language of the act, "from and after its passage," I ask the gentleman how he can escape the equitable title so clearly given by the law?

Mr. STEVENS, of Pennsylvania. Will the gentleman inform me whether equity will compel the execution of a title for a naked, voluntary grant without consideration?

Mr. JOHNSON. We will easily answer that, and perhaps in a manner little expected by the gentleman from Pennsylvania. We will answer it as applicable to this case. The case will stand thus: The land is granted away by all the power there is in Congress to grant it away, and if the title is confirmed in this way, the grantee and his assignees have an equity, and can enforce it.

Mr. TOOMBS. I hope the gentleman will not take up all my time.

Mr. JOHNSON. I will conclude in a minute. Now, sir, this grant is made; and suppose I, knowing that this land has been granted to the State of Arkansas, go to the United States land office, which is still open, and purchase a hundred or a thousand acres of it from the United States, the United States having no title to sell, having already granted it away to the State of Arkansas; but she receives my money, and gives me a certificate of title for the land. Well, sir, we will suppose that I settle upon the land, relying for title upon the certificate, whilst, in the mean time, the State goes on and makes a selection of *this identical land*, under the act giving swamp lands to the States; the State or its assignee comes foward and sues for possession. Unquestionably, after the grant has been made by Congress, and the fee-simple title to the land vested by patent, whether to one party or another, my right to the possession could and would be destroyed in a court of justice, when brought in conflict with an older equitable title. There is no question about it. But until a legal title has been vested in the State, or some other party, I admit, with the gentleman, that neither the State nor her assignee could recover the possession of the land. The legal title must have passed in some shape from the Government, before it can be matter of litigation in a court.

Now to resume, (for this has been an interruption,) the act goes on to say:

"It shall be the duty of the Secretary of the Interior, as soon as it may be practicable after the passage of this act, to make out an accurate list and plats of the lands described as aforesaid, and transmit the same to the Governor of the State of Arkansas, and at the request of said Governor, cause a patent to be issued to the State therefor; and on that patent, the fee-simple to said lands shall vest in the State of Arkansas, subject to the disposal of the Legislature thereof."

Does that say when the patent shall be issued, or does it only merely prescribe the manner in which it shall be issued? Does that cut off the grant of all the lands entered from and after the passage of the act? It unquestionably does not cut it off. It is granted; but until the patent is issued, no suit at law can be maintained, at least until the legal title has gone away from the United States into some other hands. An equitable title being in the State as the assignee under that original grant, the United States might go and make up a similar title to anybody else, in defiance of that original grant; but could a court of equity or law compel the execution of this last grant? No such thing. And if this Congress can come in

and pass such a law as the gentleman from Georgia says ought to pass, compelling the States to give patents to those individuals after the lands had first been granted by Congress to the States, I say it would be a barefaced usurpation, and an abuse of its powers. Congress would erect itself into a tribunal that would destroy, more than make law, and would annihilate the judiciary, a great coördinate branch of the Government.

By that course you would act in utter violation of the first principles upon which your Government was established. That is the position in which the honorable gentleman from Georgia would place the Government of the United States by the course he proposes. That will be the effect of the law which he says he would vote for. Here is the grant in full. Now, if he will show me that this section does not contain a full, complete, and perfect grant, from the passage of the act, of all the lands therein described, remaining unsold, then I must admit that the English language is a stranger to me, or I am a numskull.

Mr. FREEMAN. I ask the gentleman to allow me a moment——

Mr. TOOMBS. I have already given away more than half my time. I should have been through in one fourth the time which has been consumed by these interruptions. I shall be very brief, if gentlemen will allow me to go on.

Mr. ORR. I ask the gentleman that he will allow me just one remark.

Mr. TOOMBS. I have declined to yield to the gentleman from Mississippi, [Mr. FREEMAN,] and I cannot yield to the gentleman from South Carolina.

Mr. ORR. What I desired to say is in the nature of a personal explanation.

Mr. TOOMBS. I will yield to the gentleman for a personal explanation.

Mr. ORR. I am a member of the Committee on Public Lands, and I desire to say that the report of that committee in relation to this subject does not meet with the concurrence of all that committee. I did not happen to be present when this bill was taken up, or I should have opposed it in committee. I think the bill is wrong. The argument of the gentleman from Georgia [Mr. TOOMBS] in relation to the design of the act granting these swamp lands is conclusive with me.

Mr. TOOMBS. Our land system is a very good one. The lands which have been brought into the market are subject to entry at $1 25 per acre, by anybody who chooses to enter them, or lay land warrants upon them. The object of Congress in making grants to the States of these swamp lands, was to give away those lands which, by being overflowed with water, are rendered unfit for cultivation. It required great expenditure by somebody, either by the General Government or by the States, before they could be brought into cultivation. As I stated, it is the strongest presumptive evidence—these lands having been entered before the selections under the grant to the States were made, and consequently before a single dollar could have been expended upon them—that they were not included in the class of lands intended to have been granted by the United States. The lands intended to be included in these grants were those which, by reason of being overflowed, were not fit for cultivation, and it was necessary that capital should be expended upon them to make them fit for entry. It was upon that principle that I supported that bill, and I think it was upon that principle that it was passed by Congress. I supported it then, and I would support it again upon the same principle, because I know the inconvenience of new States of having large bodies of swamp lands, which will not be taken up by private individuals because they require too much money to be expended upon them to make them at all valuable. I think it was perfectly competent, wise and proper for Congress to carry out this object by the act.

The remark of the gentleman from Pennsylvania [Mr. STEVENS] has much force upon the point, that the voluntary grant of Congress must yield to a *bona fide* purchaser for valuable consideration, even if the grant had been made. The first section of this act, to which the gentleman has referred, sets forth the object of the grant; it gives the conditions upon which they were to be granted.

The second section prescribes the time when the State shall come in possession of the land, and get the fee-simple. This section was necessary to prevent the possibility of the very conflict which it is contended now exists. Without this section, such a construction might have been put upon the act. The object, as well as effect of the section, was to prevent such conflict. It was therefore a wise precaution; it prescribes that no title shall vest in the State until the patent shall be issued. It provides that the fee-simple shall remain in the United States, subject to the general land law until the patent shall be issued. That is what the second section of the act says. I repeat, the fee shall vest in the State where the patent shall be issued, and not till then.

Mr. DAVIS, of Indiana. My friend from Georgia puts a construction upon this section which is clearly a forced construction. Now, the gentleman is a lawyer, I am not, and yet I would not shrink from a discussion with him on this point, as a legal question. These lands are granted to the States upon certain terms and conditions, and what are they? That they shall be drained and brought into a state fit for cultivation. It is a contract between the States and the General Government, and the object of that contract must be obvious to every gentleman in this Hall. These swamp lands are worthless to the General Government. In this present condition they are a blank. The object in making the contract is, that they may be brought into a state fit for cultivation, and thereby give the Government lands lying alongside an increased value, and in addition, add to the health of the surrounding country.

Mr. AVERETT. Will the gentleman allow me to ask the gentleman from Indiana a question?

Mr. TOOMBS. I cannot allow the gentleman, and I hope I shall not be interrupted again. I am compelled to present the case in a very disjointed manner, from the frequent interruptions and unimportant collateral issues.

Mr. AVERETT. I have no new point to raise.

Mr. DAVIS, of Indiana. If the gentleman from Georgia will allow me, I will answer the gentleman from Virginia.

Mr. TOOMBS. Well, I have given away already two or three minutes where I have occupied one myself, and gentlemen certainly cannot complain of discourtesy. I decline to be interrupted further. I will only state the facts and reasons which have brought me to the conclusions to which I have come, as briefly as possible, and if gentlemen will allow me to go on and conclude what I have to say, they may then have the floor, and I give my word that I will not call the previous question upon them between now and the 4th of March.

It is there proposed to give the settlers these lands which they have entered, and to which they have an equitable title, as my friend from Arkansas says, and to pay to the States the value of the lands. These settlers entered their lands under the existing laws of the Government, and are entitled to a patent for their lands. But if the two titles conflict, let them determine them in the courts of justice. But the Secretary of the Interior does not put them upon the same ground. He will not respect this primary title. This act says the title, the fee-simple, shall not pass out of the hands of the Government until the patent shall have been issued, but Mr. Stuart says it shall; the law says the fee-simple passes out of the hands of the United States after the patent has been granted; Mr. Stuart says it goes the day the act passes. Why, sir, there is an apparent conflict between the two sections, and you must construe them by taking the whole act, and judge from its scope, its intentions, its general language, as well as from its express words. You must reconcile the conflicting sections by the usual rules of legal construction. Now, the object of the law was to get the swamp lands into cultivation. They were to be granted upon that condition, but only such lands as were worthless to the Government came within the intention of the act. It was not even presumed that there could be any conflict of title, because they did not ask for lands which anybody else wanted. They put the demand upon that ground, and therefore this construction must prevail, if the words of the act will allow it.

I have already shown that the construction I contend for does no violence to the words of the act, but is in legal conformity thereto, and carries out the admitted object of both parties to the grant.

But there is a principle in this bill still more important and objectionable. Its effect, and doubtless its object, is to increase the already enormous grants to railroad companies to a prodigious extent. In granting lands to railroads, and to the States for them, you gave alternate sections along the road within a prescribed distance, upon the performance of certain conditions. You go on and locate those alternate sections where the lands have not already been entered by settlers; but upon the same principle sought to be established in relation to these swamp lands, you come up to the General Government and say, "We cannot locate our alternate sections, because settlers have already entered a portion of them; now, we will surrender up our title to those which have been entered, if you will pay us back the money you have received for them, or give us land warrants to locate where we please." Indeed, this will provide for just such cases. Another effect will be accomplished: you first grant the alternate sections to the States for internal improvements, the States grant them to the companies before their second grant is perfected under the swamp law. The States then claim the very lands under the latter law which they took under the first, and then by this contrivance of locating her own grant, she turns these companies over to the Government to get other land scrip, and thus the woes of actual settlers are sung to swell the coffers of the railroad companies.

Many of the new States have not spent a dollar, or an acre of land in reclaiming the lands; many of them needed no reclamation, but have gone on and disposed of portions of them to individuals or corporations; others of the new States, especially Arkansas, has appropriated her lands wisely to the purposes intended by Congress, and has reclaimed, partially or totally, hundreds of thousands of acres of the most valuable land in the Union, thus faithfully carrying out the policy of the Government, and greatly promoting their own prosperity.

I should like to know what Missouri has done with hers? Has she sold them?

Mr. DAVIS. I will say this: that Indiana has not sold any of the lands which have been granted to her. Individuals, who have recently purchased these lands from the Government, have made improvements upon them, and, in some instances, they have been transferred to a third, fourth, or fifth person.

Mr. TOOMBS. Their titles were derived from the United States.

Mr. DAVIS. They went and entered these lands at the United States land offices, after the passage of the swamp land act, and before they were selected by the State under that act.

Mr. TOOMBS. Very well. That is what I stated. There is no confusion about that; and I desire no information upon that point. They are the people whom I am trying to protect, and they constitute the class I intend to protect by my vote here, and to give them the patent for their lands. They are entitled to a patent. The title to the lands did not vest in the States until after the patents to the individuals had issued, and they having acquired the title by entering the land before the patent issued to the States, they are entitled to the patent in preference to Indiana, or any one else. That is my construction of the law.

Now, I think the House should protect this class of individuals; but the friends of this bill desire to ride in other interests upon the back of the settlers. I desire to protect them, and give them ample protection, but the friends of this bill hold them as hostages for other objects. I am for giving them directly what they are entitled to—for giving them a patent instantly.

I think the House ought to retain this bill until an amendment can be made to confirm the title of those who purchased or located these lands before the States received their patents, and leave the States and railroad companies where the true construction of the act leaves them—stated by the gentleman from Pennsylvania, [Mr. MCLANAHAN.] But we are volunteer conveyancers for the public interest, and consequently, by their own construction, they have no right or title until they receive the patent.

Mr. CLEVELAND here obtained the floor.

Mr. MOORE, of Louisiana. Will the gentleman allow me to read the act in relation to the Louisiana swamp lands? It is entirely different from the one which the gentleman has just read.

It vests the lands in the State from the date of the act, and not from the time of the issuing of the patent.

While I am up, I will, with the gentleman's permission, state, that in Louisiana large quantities of lands have been entered which could never be otherwise called than swamp lands. I know of my own individual knowledge that lands have been entered which are covered with water nine months in the year, and over which a man can with difficulty walk, and on which no animal except alligators can travel. They are swamp lands, and are entered for the sake of the timber. The wood is chopped off, and then the land is abandoned.

Now, sir, I will read the act, and it will be seen that it vests the title in the State from the date of the act. It is in these words:

"That to aid the State of Louisiana in constructing the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands which may be or are found unfit for cultivation, shall be, and the same are, hereby granted to that State."

In this state of things I would ask the gentleman what he will do with a case like this? The lands between the thirty-first and thirty-third degree of north latitude, upon the Mississippi river, have, from my certain knowledge, been inundated five, ten, or fifteen feet in depth. The lands on the margin of the river have been reclaimed by individual enterprise. The very moment you let the levees loose, every foot of land will be inundated. The United States have sold nearly a million and a half of acres along the river, and back on the bayous, which, to my certain knowledge, was under water in 1828. Now, will you call them overflowed lands, and swamp lands, or not? They are now valuable because they have been reclaimed by individual enterprise; and if a man should go and enter lands upon one of the bayous back of these lands, which can now be cultivated because it has been reclaimed by individual enterprise, would you not class it among overflowed lands? What will you do in that case?

Now, sir, in the part of the country in which I live, there are lands upon which no human being can live, and yet men enter them for the sake of the wood and timber. They have been selected as swamp lands by the officers of the United States, and will you, because they have been entered by individuals, not consider them swamp lands? What would a court of justice decide in such a case? Would it not say that they are swamp lands, and were ceded as such by the United States at the date of the act?

Mr. JOHNSON, of Georgia. I desire to call the attention of the gentleman from Louisiana to the second section of the act which he has referred to. It provides:

"That as soon as the Secretary of the Treasury shall be advised by the Governor of Louisiana, that that State has made the necessary preparation to defray the expenses thereof, he shall cause a personal examination to be made, under the direction of the surveyor general thereof, by experienced and faithful deputies, of all the swamp lands therein which are subject to overflow and unfit for cultivation; and a list of the same to be made out, and certified by the deputies and surveyor general to the Secretary of the Treasury, who shall approve the same, so far as they are not claimed or held by individuals; and on that approval, the fee-simple to said lands shall vest in the said State of Louisiana, subject to the disposal of the Legislature: *Provided, however*, That the proceeds of said lands shall be applied exclusively, as far as necessary, to the construction of the levees and drains aforesaid."

Mr. STUART, (interrupting.) If the gentleman from Connecticut [Mr. CLEVELAND] will allow me a few moments, I pledge him and the House that I will be very brief in my remarks.

Mr. CLEVELAND. The gentleman from Michigan will excuse me, as I am anxious to say now what I have to say upon this subject; but I will afford him an opportunity to express his views by yielding him a portion of my time before I conclude.

This is a subject which was up during the last Congress, and all the gentlemen now here, who were members then, will bear me witness that I am correct when I say, that at that time no man stood upon this floor and asked to have a grant made of a single rood of land, except such as was entirely valueless, in its then condition, to the General Government. From all quarters of this Hall, every man who was an advocate of the law which gentlemen are now so anxious to avoid, avowed his determination to claim nothing under the act except what was entirely valueless to the Government. Nothing whatever, they said, was parted with by the Government, because not an acre of these lands was ever entered, and, therefore, not a dollar would ever come into the Treasury from the sale of them; and the act read by the gentleman from Louisiana [Mr. MOORE] is predicated upon the idea that they shall have these lands for the express purpose of making that valuable which, in its present condition, is entirely valueless.

Now, gentlemen say, that for certain other purposes, the lands are worth something. But why did we make the grant at that time? It was upon the ground that the General Government would never make an expenditure of money to drain and make valuable the large amount of overflowed land, then entirely unsalable, and, indeed, which were, with the water standing upon them, injurious to human life. There was no other ground upon which it was placed.

Everybody can see, by reading the last act, that it confirms the opinion expressed by the gentleman from Georgia, in regard to the construction which was sought to be placed upon it, and that at the time, there was no grant made, or ever intended to be made, of a single acre of land which could be used for the purpose of cultivation, without a large expenditure of capital.

And now I ask, if the gentleman does not come forward and ask that this money may be refunded and paid over, on the ground that these lands have been taken for just the purposes which were excluded by the terms of the act under which the States took the land?

The gentleman says that it is not advisable to have the large amount of money which has been received by the registers and receivers of the various land offices for these lands, from the passage of the act of 1850 to the time when the patent issued to the States, taken out of the Treasury. This is the argument of a number of gentlemen upon this floor. Now, let us see what the bill before the House provides for. It says:

"*Be it enacted*, That upon application by the Governor of either of the States aforesaid, or such officer as may by law be designated for that purpose, it shall and may be lawful to pay over to such State the purchase money received by the United States for any lands granted to such State by the act aforesaid."

Here the proposition is made, not to let the money remain in the Treasury of the United States, but that the money which has been received at the several land offices in the State of Indiana and others, shall be transferred from the Treasury of the United States to the treasury of these several States. That is the whole length and breadth of it.

But this, Mr. Speaker, is not all. Here is a proposition designed to transfer, as I understood my honorable friend, some $50,000 or $60,000 from the Treasury of the United States to the coffers of the States which were the grantees of these swamp lands, and that, too, in violation of one of the most wholesome rules adopted for the regulation of the proceedings of this House—the rule requiring all bills containing appropriations of money to have their first consideration in the Committee of the Whole on the state of the Union. Our attention was at first invited to the bill as one merely having for its object the settlement of a difficulty between the opinion of the head of one of the Executive Departments and the legislation of Congress, and the quieting of a consequent conflict of titles. The rules were suspended for its introduction, and without a discussion of its provisions, or an understanding of its effect by the House, the unfair course was pursued of calling for the previous question. The call, however, was not sustained. This measure, which should, on every principle, go, for thorough examination, to the Committee of the Whole, was endeavored to be pressed through without explanation or discussion under the operation of that odious and tyrannical proposition. What will be the effect of this bill, reported from the Committee on Public Lands, under a suspension of the rules of the House, on motion by the gentleman from Indiana, [Mr. DAVIS,] if passed by Congress? It will be to transfer the money received from the sales of public lands in Indiana and other land States of the Union—never asked for, never granted, and never intended to be granted by the terms of the swamp land act, amounting to some $50,000 or $60,000 in Indiana alone, we are told, but how much precisely we know not—from the Treasury of the United States to the treasuries of those States. On what equitable principle is the measure founded? Was it not enough that, without consideration, we granted the overflowed lands to them? My friend from Louisiana says that in 1828 the lands on the Mississippi were overflowed. Why, sir, the very best lands in New England are annually overflowed.

Mr. MOORE, of Louisiana. There is part of the bill that does not meet with my approbation. I allude to that part where the land may have been granted under the swamp land grant, and again in a grant for railroads, which would allow the State scrip in both cases. That would be unfair. In other respects I approve of the bill, because I believe that it will prevent many lawsuits and difficulties.

Mr. CLEVELAND. I will say here a word with reference to these lawsuits. It is a bugbear that, I trust, will not frighten the House. In my judgment, there is not a well-read lawyer in this country who would get up a lawsuit on such claims as have been presented to us.

The gentleman has told the House that at one time the lands in Louisiana bordering on the Mississippi were overflowed. Why, sir, the lands along the Connecticut river, decidedly the best for cultivation in all New England, are almost annually overflowed, and have been for centuries. Therefore, that portion of the argument is entitled to no weight. I have not time to read the act which made this grant to the land States, but every member will see, by taking the trouble to examine it, that the intention was to grant only such lands as were inundated and unfit for cultivation. It is now proposed, after obtaining a decision from the Secretary of the Interior that this grant extended a vast deal further than any court would say it did, that we shall acknowledge its correctness. It is desired that we shall now pass an act to legalize that which never was intended.

Instead of the United States, it is the States who desire this legislation, that the amount of money received, as I have already stated, from the sales of the public lands indicated may be transferred to their coffers. They are not satisfied with the $50,000 or $60,000, but the bill goes on to provide with regard to lands entered by land warrants and not money:

"And for said State to select other lands, in lieu of any lands granted, as aforesaid, which have been sold and located with bounty land warrants, or other certificates or scrip, or selected for railroads, or other internal improvements."

Not satisfied with calling on the House to pass a law that they shall have every dollar of money received for these lands, they ask for other lands for those entered by land warrants, or appropriated for railroads, or other internal improvements. Did the Thirty-first Congress intend to give the States the moneys received from the sales of lands of the United States? Will you now give a construction to the swamp land act which will make the General Government the debtor of the States? For lands, too, which we owned, and sold, and which they claim we gave them? We have given millions and millions of acres of land to be made valuable by draining, but they are not content. They tell you that you had no right to sell these lands, and that, if they can get a man in power to decide these lands may be covered by that grant, whether the decision is or is not just, they will petition for the transfer to them of the money received. What thankfulness—what gratitude on the part of the States for this gratuity which, no doubt, will turn out to be the best lands in the Union!

It is contended that we should not have sold lands in these States after the passage of the act, until after the time provided that a title should issue for lands granted under the swamp act. The act granted the lands to the States on certain conditions, but without any consideration. It was a deed of gift. Congress told the land States to ascertain what swamp lands were within their limits—lands unfit for cultivation—and to take them and make them valuable by drainage. Is not this a correct statement? Did Congress, by the act of 1850, intend to grant to the States lands valuable to the Government? The preamble and the entire law shows the reverse. To guard against the very construction given, the act provided that upon the ascertainment of the lands within the States valueless to the Government and unfit for

cultivation, a patent should issue to the States for them, and that, upon the issuance of the patent, the title should vest in the States. Is the title to vest until then? Is there a lawyer, uninterested in this question, who will claim that it was necessary to use words more significant than those of the bill to convey the intention of Congress? Though the grant of lands was without consideration, and a deed of gift, and though every precaution was taken against the construction now put upon it by the Secretary of the Interior, we have this bill slipped in here as a matter of no importance; the rules suspended, and we are, without consideration, about to transfer unknown hundreds of thousands of dollars from the United States Treasury to the States. And for what? Why, to sweeten the gift of millions of acres of the public land.

Mr. MOORE. Louisiana does not ask for anything by this bill.

Mr. CLEVELAND. The representatives of the States which were the recipients of this gratuity of lands of great value, come in now and claim under the law making the grant money from the Treasury for land which it was never intended to give away. I do not believe the States want this money to sweeten the donation they have already received. I do not think they ought to have it.

But look at the ground on which the claim is based. Gentlemen seem to advocate it as a prevention of injury to a meritorious class of purchasers. How can that be? These men have got from the United States permission to enter upon that land and cultivate it as their own. Nobody doubts the authority of the United States to grant it. If the State of Indiana had come forward and complained that we had done wrong, would not Congress have decided against the complaint? The States claim to be remunerated—for what? They ask that the General Government shall transfer the money it has received for lands sold *for cultivation*, and not swamp lands, because these lands belonged to them under an act of Congress which granted them lands within their limits *wholly unfit for cultivation*. They stand before Congress virtually as petitioners for this money. If this is not assurance, I know not what is!

I will now give my friend from Michigan [Mr. STUART] the ten minutes of my time which I promised him.

Mr. STUART. I should like to know of the Chair whether I will have time to make my remarks. How long has the gentleman from Connecticut been speaking?

The SPEAKER. About thirty minutes.

Mr. STUART. I desire to submit a few remarks to the House, mainly upon the construction of this act. I have only examined the bill now before the House by a single reading of it at the Clerk's desk. I approach the discussion of this subject with no small degree of reluctance, after what has been said by gentlemen upon the other side, and especially by the gentleman from Georgia, [Mr. TOOMBS.] I have great confidence in that gentleman's legal ability, and when he says, as he does here to-day, that he would vote to impeach an officer who would give the opinion that the Secretary of the Interior has given on this subject——

Mr. TOOMBS. Let me correct the gentleman. The gentleman from Indiana told me that the Secretary was about to pay the money. I said if he paid it out he should be impeached, because he would take the money out of the Treasury without the authority of law. It was not for his opinion. No such statement was made by me.

Mr. STUART. I thank the gentleman for the interruption. I desire to state the case properly, and I do not desire to state it otherwise. There was so much noise in the House that I heard him with difficulty, and I am very glad to be corrected. The gentleman gives us as his opinion, that there is no grant of lands to the States by this act, which can give them any right to the lands, or the proceeds of the lands, until the patent is issued and delivered. It is upon that statement, and I have stated it fairly, that I take issue. The first section of the act contains substantially this: that all the lands of a certain description, which description is clearly indicated therein, not sold at the time of the passage of the act, are by the act itself granted to the States. Will it be said, if there were no other grant in terms in this act, there would be any doubt that the lands would pass to the States? It is not necessary that a patent should be granted to the State by the General Government in order to convey the lands. It is a mode which may or may not be adopted.

But I am willing to present the case upon the supposition that it is necessary that the General Government shall issue and deliver a patent in order to carry the title. Let me liken it to cases existing between individuals. There is scarcely an instance under this Government where an individual purchases lands, and gets his patent at the time. During the years 1835-'6-'7-'8, patents were not issued from the United States land office for more than a year, and sometimes three years, and after the land had been purchased and paid for. The fee-simple—it was held everywhere under the laws of the United States—remained in the General Government, and hence it became necessary for the State or Territory in which the land was, to pass a law authorizing the owner who was not the actual occupant of the land, to maintain an action of trespass, until he had obtained his patent. He could then do it in every court, and the land was to all intents and purposes his. Did the General Government ever refuse, in a single instance, to make his title good, if they sold his land to any one else before issuing his patent? Take this case for an illustration: Suppose the gentleman from Georgia [Mr. TOOMBS] had owned this land, and contracted upon terms to suit himself to sell it to the States, and that he would ascertain by his own agents how much he had sold, and when so ascertained, he would grant the fee and execute and deliver the deed. To make it still plainer: The gentleman from Georgia contracts and agrees with me that he will grant to me the swamp lands in the United States—he owning them—from and after this date; that he will, by his own agents, ascertain what portion of his lands this grant covers, and when he has ascertained it he will of course deliver to me a deed. When does my right to that land pass as between me and the gentleman? Suppose some one else goes on, under a general power of attorney from him, and sells a portion of the lands that his agents subsequently return to him as being covered by the contract with me: would he hesitate to indemnify me? Is not that the very case in hand? The Government of the United States agrees, by an act of Congress, that they will grant, and they do hereby grant, to the States respectively all the swamp lands. They direct their officer, the Secretary of the Interior, to ascertain what the amount of lands in each States is covered by this act. That is reported to the Secretary of the Interior by the surveyor-general of the respective States or districts, and when so reported, he is to issue a patent.

I want to know if this proposition is not fairly stated. If it turns out in the mean time that, under the general laws of the United States, individuals have entered a portion of this very land granted by this act, upon what principle is it held that you are not to indemnify the State? Here is where the gentleman from Connecticut [Mr. CLEVELAND] is mistaken in the facts, as well as in the construction of the act. He says that the language of the act granting swamp lands to the States is, in substance and effect, that you should go on, ascertain and report how much swamp land there is within your borders, and we will deed it to you. Not at all. The States have no lot or part in this transaction, except to be recipients. The General Government, by its own officers, determines the extent of the grant. This takes time. It may require six months; it may require a year, or five years. In my State the report is not yet made in full. I should like to know if, when the surveyor general at Detroit returns to the Secretary of the Interior the lands that are covered, as determined by the United States officers by this grant—if it turns out that twenty thousand acres have been sold since the act was passed, by what principle the Government of the United States are going to refuse to indemnify the State. I submit that it would not be tolerated and entertained between individuals, by any court in any civilized country. I state it somewhat confidently. A sells to B certain lands by a general description, and agrees to take upon himself the labor of ascertaining how much that general description covers. But when that is ascertained by his own agents, and it turns out that he has subsequently sold a portion of the lands to some one else, I say there is no court that would hesitate to say that he would be bound to indemnify the purchaser.

Mr. CLEVELAND here claimed the floor.

Mr. STUART. I only wish to say, that I am much obliged to the gentleman for the time he has given me, and I hope he does not cut me off because he does not like to answer the argument. [Laughter.]

Mr. CLEVELAND. If the gentleman supposes by that remark to retain the floor, he is certainly mistaken. I would much sooner give it to him as I did before, at his request.

The gentleman from Michigan [Mr. STUART] assumes as a foundation for the claim made by this bill, the act of the party surveying these lands, and the act of the Secretary of the Interior, confirming such surveys, not the grant itself.

Suppose all the public lands in the different States had been surveyed under the act of 1850, and reported to the Secretary as swamp lands, and the report sanctioned by that officer: would that action confirm them as such, and vest the title thereto in the States? In other words, would not the claim of the gentleman substitute the action of the Surveyor and Secretary for the legislation of Congress? The only question is, What did Congress (who alone has power to dispose of the public lands) *grant*?—not what did the Surveyor or Secretary understand it as granting.

In regard to the argument about the rights of the States;—let them, if they choose to go into this question, come here with their petition. Let them ground such petition upon the arguments used in support of this bill, and when they get here they will then understand better what position they occupy than they do to-day.

The gentleman from Michigan [Mr. STUART] claims that this grant is to be likened in all respects as regards the *sale* of these lands, and that there is a consideration received. If I am wrong, I beg him to correct me. I think there is a marked difference between this case and the one he puts. Here the Government are induced to make a grant of lands to the States for certain reasons, and can any one suppose that any court or Legislature in the country will ever give a construction to that grant without looking at the circumstances under which it was made? Will they ever put it upon the ground that the Government have attempted to contract with the States—that they should have a certain amount of lands for a certain amount of money? If the gentleman is right in this, there would be some force in the argument. I hold the cases to be entirely unlike. There was no consideration passing from these States to the grantors. It was a mere gift, and that gift the donor had the right to regulate in his own way. The donee gained no legal rights contrary to the true intent, spirit, and meaning of the donor at the time the donation was made. Will it be said, that because the Government is to be bound by its contract for a valuable consideration, that therefore the court, in giving a construction to the deed of gift and the grant of land, will not look at all the circumstances attending the grant to see what was the intention of the grantor at the time the donation was made? It strikes me that the argument of the gentleman, in a court of equity, could not live for an instant. In a court of law it would be only an ingenious argument.

Mr. STUART. If the gentleman desires me to answer that proposition, I should like to answer it right here. I wish to say to him, that there is no distinction between the grant of land or lands by the General Government to the States, for specific purposes, and a contract for the sale of lands for a valuable consideration between individuals. This Government has never sought to recognize such distinctions. It would be dishonorable, and it would be beneath the dignity of any such Government as that of the United States. Allow me to cite a single instance. Take the grant of land to the respective States of this Union for university and school purposes. There is no consideration passing between the States and the General Government, and the consideration is as it is in this case. It is a reserved benefit to the Government and the people of the United States, and there has never been an argument raised upon it.

Mr. CLEVELAND. Let me test the correctness of the gentleman's remark. Judging by the conduct of the very Government under whose

decision he hopes to obtain this additional gratuity, how did they understand the law, and how treat it during the time they were receiving this money? That ought to be an answer to any man—to any legislator. The Government treated that land as not belonging to the States, and kept the land offices open during the time. I call the attention of the House to the very reason given in the first section of this act, for granting these lands at all. The gentleman says that where a grant is made for specific purposes, it is binding, and in the nature of a contract. What was the object of this grant? That is one of the questions that ought to be understood by the House. The act says:

"To enable the State of Arkansas to construct the necessary levees and drains to reclaim the swamp and overflowed lands therein, the whole of those swamp and overflowed lands made unfit thereby for cultivation, which shall remain unsold at the passage of this act, shall be, and the same are hereby, granted to said State."

What is the fact? I am informed by a gentleman that the States most deeply interested in these swamp lands, have run a line from headland to headland, taking the head of one swamp and running across to the head of another, so as to include, as swamp lands, some of the very best and most fertile—the very Egypt of America, as the gentleman calls it.

Mr. DUNHAM. The gentleman is very much mistaken.

Mr. CLEVELAND. My authority is the gentleman from North Carolina, [Mr. DOCKERY,] who has seen and knows all about it.

Mr. DUNHAM. The gentleman from North Carolina is very much mistaken.

Mr. CLEVELAND. I think that the very existence of this bill shows that he is not. There is not a gentleman upon this floor, in my judgment, who can say that one single rood of that land which has been sold by the Government, and which they now seek to reclaim, is swamp land.

Mr. DUNHAM. That is an important fact, and the gentleman is certainly mistaken. I can speak from my own personal observation, for there is a large tract of this swamp land within two miles of my own place of residence, and I know that much of the land which has been entered by individuals is swamp land that the gentleman could not get across on his horse.

Mr. CLEVELAND. Then what is it taken for?

Mr. DUNHAM. For the timber.

Mr. CLEVELAND. All for the timber?

Mr. DUNHAM. For the timber in some instance, and in some instances, a poor man who is not able to take his family further, where he could enter dry land, perhaps gets ten or fifteen acres of dry land and the rest in swamp land, and works out on the neighboring farms by the month. It is to protect such men that this bill is intended.

Mr. CLEVELAND. How many acres of land did the State of Indiana get under this grant?

Mr. DUNHAM. I am not prepared to answer that question at this time, but I know that much of the land was swamp land.

Mr. CLEVELAND. My western friends are so fond of talking that they cannot always be quiet when they should be. [A laugh.] I call the attention of the House to the first section of the act, which provides that these swamp lands shall be granted to them for a specific purpose, and for nothing else. Now, it will be remarked that during this whole debate, with the exception of the remarks made by the gentleman from Louisiana, [Mr. MOORE,] and the gentleman who has just sat down—who has named a little patch of swamp land near his house, where I suppose the people go and settle that they may be near their member of Congress—that there has not been a single gentleman advocating the passage of this bill who has shown that a single entry has been made of land that is unfit for cultivation. It is very convenient now to talk about timber. Who believes timber will grow in such lands as were contemplated by the act of 1850?

Mr. BRENTON. Will the gentleman allow me to interrupt him for a moment?

Mr. CLEVELAND. No, sir; I cannot.

Mr. BRENTON. I desire to state a fact which is within my personal knowledge.

Mr. CLEVELAND. I decline to yield the floor.

Mr. BRENTON. Then the gentleman does not desire information.

Mr. CLEVELAND. The evident intention of Congress at the time that act was passed, was to give to the States the lands which were overflowed, and swamp lands. The idea that swamp lands will grow timber is a new one, at least to me.

Mr. PENN. Will the gentleman allow me to ask him one question?

Mr. CLEVELAND. No, sir; I cannot. When I was interrupted just now by half a dozen gentlemen, I was proceeding to say that when the question, which was made by the gentleman from Michigan, [Mr. STUART,] is considered fairly, it will be seen, that by the grant itself, there never was any intention of granting to these States the lands for which they now claim money. Suppose his construction of the law is right, and there should be a contest between the occupants of a piece of land that has become valuable, and the Government, in consequence of the passage of this law, could you deprive him of his title to the land? I ask if any act could be presented more prolific of litigation than the bill which is now attempted to pass? There are individuals who have entered lands on the lines of railroads which are valuable, and they will not give them up. The gentleman from Michigan says that this bill is to confirm the titles of purchasers from Government. They need no such confirmation, for their title is perfect under existing laws. But, suppose a conflict arises between the purchaser and the General or State Government, is it to be settled by this bill? If so, it seems to me that the bill is imperfect. If gentlemen will turn to the third section of the act of 1850, they will see that it provides, "that in making out a 'list and plats of the lands aforesaid, all legal sub-'divisions, the greater part of which is 'waste and 'unfit for cultivation,' should be included in said 'list and plats; but when the greater part of a sub-'division is not of that character, the whole of it 'shall be excluded therefrom."

The bill under consideration merely aims at two things—one in substance, but in two forms. The object is to get from the General Government a large amount of money and a grant of lands, and nothing else. It does not even look to the quieting of titles. It is simply to give the Governor of Indiana, and the Governor of every other State in which are swamp lands, the power to make a draft upon the Treasury for the amount of money received from the sale of lands claimed by them under the erroneous decision of the Secretary of the Interior since the passage of the act of 1850.

Mr. WALSH. I desire to ask the gentleman from Connecticut a question or two. He speaks of this as being a grant without any valuable consideration. Now, I ask him to state whether the imposition upon these States of the burden of clearing and draining the lands is not a consideration that would be sustained in any court of law as between private individuals? I ask him this further question, whether the second section of the act of Congress which has been referred to, and which the gentleman from Georgia [Mr. TOOMBS] and others suppose to have qualified the grant in the first section, is anything more than demonstrative of the form of conveyance—that there shall be a patent, and that that patent shall be in fee? And whether any lawyer will give the construction to that section that it can have any legal effect in qualifying the positive, unqualified grant contained in the first section? I should like the gentleman to answer those questions.

Mr. ORR. If the gentleman from Connecticut will allow me, I will answer the questions propounded by the gentleman from Maryland.

Mr. CLEVELAND. I will save the gentleman from South Carolina that trouble, for I will answer them myself. [A laugh.] There was no obligation imposed upon the States by the passage of the act of 1850; no State is bound under it to drain a single foot of that land, nor can they be called upon to pay a dollar for any such purpose. There was no obligation created on the part of the States. We simply said, we will give you the land because you say you want it for that purpose.

In reply to the gentleman's second question, I only remark, that a case cannot arise to which it is applicable, as the act granting swamp lands was never intended, nor did it convey to the States the lands for which indemnity is now sought.

Will the honorable gentleman from Maryland [Mr. WALSH] claim, that because we have granted to the State of Indiana the swamp lands within her limits for certain purposes, that, therefore, she is bound to drain those lands? If that had been the understanding, we should never have been troubled with any bill, for she would never have agreed to do it for ten times the amount of lands granted. I will now yield a moment of my time to the gentleman from Georgia over the way.

Mr. JOHNSON, of Georgia. I desire to offer a substitute for the bill.

The SPEAKER. There is a motion pending to commit the bill, which precludes amendments, unless by unanimous consent.

[Cries of "Object!"]

Mr. CLEVELAND. I move, under these circumstances, that the bill be laid upon the table.

A MEMBER. That is fair play.

Mr. SUTHERLAND. I ask the gentleman from Connecticut to withdraw his motion.

Mr. STUART. I hope the gentleman will withdraw it for one moment.

Mr. SUTHERLAND. I do not want more than ten minutes, and then I will renew the motion.

Mr. CLEVELAND. I cannot withdraw it. The House can vote it down if they choose. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DAVIS, of Indiana. Before the question is put, I should like to have one clause from the decision of the Secretary of the Interior read.

The SPEAKER. It will be read if there is no objection.

Mr. STEPHENS, of Georgia. I object.

Mr. BOWIE. Has this bill ever been printed?

The SPEAKER. It has not.

A MEMBER. It is a Senate bill, I believe.

The question was then taken upon Mr. CLEVELAND's motion, and it was decided in the affirmative—yeas 116, nays 50; as follows:

YEAS—Messrs. Aiken, Charles Allen, Allison, William Appleton, Averett, Thomas H. Bayly, Barrere, Bartlett, Bennett, Bibighaus, Bocock, Bowie, Bowne, John H. Boyd, Bragg, Briggs, Brooks, George H. Brown, Burrows, Caskie, Churchwell, Cleveland, Clingman, Cobb, Colcock, Curtis, George T. Davis, Dawson, Dimmick, Dockery, Evans, Fay, Florence, Floyd, Henry M. Fuller, Thomas J. D. Fuller, Gaylord, Giddings, Goodenow, Goodrich, Grey, Grow, Harper, Isham G. Harris, Hart, Haws, Hascall, Haven, Hebard, Hibbard, Holladay, Horsford, Houston, John W. Howe, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Little, Mann, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Henry D. Moore, Morehead, Murray, Newton, Orr, Outlaw, Peaslee, Perkins, Powell, Preston, Price, Reed, Robie, Ross, Russell, Sabine, Sackett, Savage, Schermerhorn, Schoolcraft, Origen S. Seymour, Skelton, Stanly, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stone, Stratton, Sutherland, Thurston, Toombs, Venable, Walbridge, Ward, Washburn, Watkins, Welch, Wells, Wildrick, and Woodward—116.

NAYS—Messrs. Willis Allen, Bell, Brenton, Albert G. Brown, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Conger, Darby, John G. Davis, Disney, Doty, Duncan, Dunham, Durkee, Eastman, Edgerton, Ficklin, Fitch, Freeman, Green, Hendricks, Henn, John Johnson, Robert W. Johnson, Landry, Lockhart, Miller, Molony, John Moore, Nabers, Olds, Samuel W. Parker, Penn, Penniman, Phelps, Porter, Robinson, Scurry, David L. Seymour, Smith, Benjamin Stanton, St. Martin, Stuart, Sweetser, Townshend, Walsh, Wilcox, Williams, and Yates—50.

So the bill was laid upon the table.

Mr. STANLY obtained the floor.

Mr. ORR. I rise to a privileged question. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. FICKLIN. I move that the House do now adjourn.

Mr. STANLY. I believe I have the floor.

The SPEAKER. The gentleman from North Carolina will state the object for which he rose.

Mr. STANLY. My object is to move to suspend the rules, to take up from the Speaker's table Senate bill No. 513, for the relief of a man who was formerly in the Navy.

The SPEAKER. A motion is made that the House do now adjourn.

Mr. STANLY. Well, I suppose my motion is entered.

Mr. JONES, of Tennessee. I was not here when the House met this morning, and I wish to inquire of the Chair if a motion has been made that when the House adjourns, it adjourn to meet to-morrow?

The SPEAKER. The House has rescinded the order for evening sessions, and fixed the hour of meeting at eleven o'clock.

The question was then taken on Mr. FICKLIN's motion, and it was decided in the negative.

So the House refused to adjourn.

The SPEAKER. The propositions made by the gentleman from South Carolina [Mr. ORR] and the gentleman from North Carolina [Mr. STANLY] are equally privileged. But before the motion of the gentleman from North Carolina was submitted, the privileged motion to reconsider was made, and in all such cases the question on the motion to reconsider is taken, if insisted on, at the time.

Mr. STANLY. Well, sir, I yield.

Mr. DAVIS, of Indiana. I ask for the yeas and nays on the motion of the gentleman from South Carolina.

Mr. JOHNSON, of Arkansas. I hope this matter will be permitted to lie over.

The yeas and nays were ordered.

Mr. ST. MARTIN. I rise to a privileged question. I move that this House do now adjourn.

Mr. FICKLIN. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were not ordered.

The question was then taken on Mr. ST. MARTIN's motion, and it was decided in the negative.

So the House refused to adjourn.

The question was then taken on Mr. ORR's motion, and it was decided in the affirmative—yeas 115, nays 54; as follows:

YEAS—Messrs. Charles Allen, Allison, William Appleton, David J. Bailey, Thomas H. Bayly, Barrere, Bartlett, Beale, Bennett, Bibighaus, Bocock, Bowie, Bowne, John H. Boyd, Bragg, Briggs, Brooks, Burrows, Caskie, Churchwell, Clark, Cleveland, Cobb, Colcock, Cullom, Curtis, Dawson, Dean, Dimmick, Dockery, Evans, Fay, Florence, Floyd, Henry M. Fuller, Thomas J. D. Fuller, Giddings, Gilmore, Goodenow, Grey, Grow, Harper, Isham G. Harris, Hart, Haws, Hascall, Haven, Hebard, Hibbard, Holladay, Horsford, Houston, John W. Howe, Thomas M. Howe, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Little, Mann, Martin, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Morehead, Murray, Newton, Orr, Outlaw, Peaslee, Perkins, Powell, Preston, Price, Reed, Robie, Ross, Sabine, Sackett, Savage, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Stanly, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stone, Stratton, Taylor, Thurston, Toombs, Venable, Walbridge, Washburn, Watkins, Welch, Wells, Wildrick, and Woodward—115.

NAYS—Messrs. Willis Allen, Bell, Brenton, Albert G. Brown, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Conger, Darby, John G. Davis, Disney, Doty, Duncan, Dunham, Durkee, Eastman, Edgerton, Ficklin, Fitch, Freeman, Gaylord, Green, Hall, Hendricks, Henn, Thomas Y. How, John Johnson, Robert W. Johnson, Landry, Miller, Molony, John Moore, Nabers, Samuel W. Parker, Penn, Penniman, Phelps, Porter, Richardson, Robinson, Scurry, Smith, Benjamin Stanton, St. Martin, Stuart, Sutherland, Sweetser, Townshend, Walsh, Ward, Alexander White, Wilcox, Williams, and Yates—54.

So the motion to reconsider was laid on the table, and the bill was laid on the table.

JOSEPH MOREHEAD.

Mr. STANLY. I now call up my motion to suspend the rules, for the purpose of taking up Senate bill (No. 513) for the relief of Joseph Morehead; and if I can make a single statement I think there will be no objection.

There was no objection; and the bill was accordingly taken up, and read a first and second time by its title, and ordered to a third reading. It was accordingly read the third time, and passed.

Mr. BOCOCK obtained the floor.

ROSANNA SOWARDS.

Mr. POLK. I submit to the Chair, whether the motion to reconsider the vote by which the bill for the relief of Rosanna Sowards was ordered to a second reading, is not the first business in order; and whether the motion to call it up is not a privileged motion?

The SPEAKER. The motion to reconsider is a privileged one, and may be called up at any time.

Mr. POLK. Then I call up the motion now.

The SPEAKER. The question is upon reconsidering the vote by which the bill was ordered to a second reading.

Mr. STEPHENS, of Georgia. I hope the vote will be reconsidered. That will bring the bill before the House, and we can then go on and pass it.

Mr. ORR. Is that motion debatable?

The SPEAKER. According to the decision of the Chair that it would be in order to debate the motion to reject the bill on its second reading, the Chair thinks this motion is debatable.

Mr. ORR. I know nothing of the bill, except that there was some objection to its passage on Monday last.

Mr. STEPHENS. If the gentleman will allow me, I can explain it in a half dozen words.

Mr. ORR. I should be very glad to hear an explanation.

Mr. STEPHENS. The lady for whose benefit this bill is designed, resided in the State of Kentucky. Her son, under legal age, was pressed into the service. She was very much opposed to it, for he was her only support. He fell in the battle of Monterey, and she is left utterly destitute and helpless, and the bill is to grant her a pension.

The question was then taken, and the motion to reconsider was agreed to.

The question then recurred upon ordering the bill to a second reading; and, there being no objection, it was read a second time by its title.

The bill was then ordered to a third reading.

Mr. MILLSON. Were not the yeas and nays ordered on the passage of that bill last Monday?

The SPEAKER. They were not ordered, according to the recollection of the Chair.

Mr. MILLSON. My impression was that they were ordered.

Mr. JONES, of Tennessee. That is my recollection, too.

The SPEAKER. Does the gentleman from Virginia demand the yeas and nays?

Mr. MILLSON. No, sir; I do not demand them; but my impression still is that they were ordered on last Monday.

Mr. STUART. It would not have been possible to have ordered them on the passage of the bill on last Monday, because the bill had only reached its second reading.

The bill was then read the third time and passed.

REORGANIZATION OF THE NAVY.

Mr. BOCOCK. If I am now entitled to the floor, I ask the unanimous consent of the House to take up Senate bill No. 574, entitled "An act to reorganize the Navy of the United States," not with a view of considering it at the present time, but with a view of placing it in a position where it shall receive the consideration of the House some time during the present session; in other words, with the view of making it the special order for some particular day, perhaps on Friday next, if it is the pleasure of the House.

A MEMBER. I object.

Mr. BOCOCK. I move to suspend the rules.

Mr. STEPHENS. Will the gentleman allow me, for a moment, to ask the consent of the House to take up and pass a bill to which, I suppose, there will be no objection in this House?

Mr. BOCOCK. I have not the slightest objection, if it will not cut off my motion from being made.

Mr. STEPHENS. I will not press the matter if there is objection.

Mr. JENKINS. I move that the House do now adjourn.

The question was put, and upon a division there were—ayes 56, noes 73.

Mr. JONES, of Tennessee. I demand tellers.

Tellers were ordered; and Messrs. HARRIS, of Alabama, and CLINGMAN were appointed.

The question was again put, and the tellers reported—ayes 66, noes 54.

So the motion was agreed to, and the House thereupon adjourned till to-morrow at eleven o'clock, a. m.

PETITIONS, &c.

The following petitions, memorials, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DUNCAN: The petitions of Rufus Choate and others, Robert C. Winthrop and others, N. Appleton and others, praying Congress to take measures to secure to American citizens in foreign countries the same enjoyment of the rights of conscience and of public worship which is secured to foreigners residing in the United States.

By Mr. HAWS: The memorial of Robert W. Jenks, of the city of New York, setting forth that he has invented and perfected a new art, called by him the "Brachial Telegraph," and praying a subscription for the book published by him on the subject, for the use in the public service in the Navy.

By Mr. PARKER, of Pennsylvania: The memorial of S. Van Fries and 50 others, citizens of Centre county, Pennsylvania, praying Congress to repeal or modify the first and eleventh sections of the act of Congress approved the 3d of March, 1825, entitled "An act for establishing and regulating the Post Office Department."

By Mr. MASON: The memorial of Carter H. Jacobs, praying Congress to pass a law authorizing him to locate a certain land warrant heretofore granted to his father for military services upon any vacant lands of the United States subject to private entry.

Also, the memorial of Elizabeth McCann, widow of Patrick McCann, praying for a pension.

By Mr. HEBARD: A resolution of the Legislature of the State of Vermont, in favor of the bill "making a grant of lands to aid in the construction of railroads, and for other purposes," which passed this House at the last session.

Also, a resolution of the same Legislature, recommending the settling of national difficulties by referring the same to an umpire.

IN SENATE.

TUESDAY, *February* 15, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the Senate, a report from Commissioner Bartlett on the subject of the boundary line between the United States and Mexico; which was referred to the Select Committee appointed on the subject, and ordered to be printed. A motion by Mr. CLARKE to print two thousand extra copies was referred to the Committee on Printing.

The PRESIDENT also laid before the Senate a report of the Secretary of War, communicating, in compliance with a resolution of the Senate, the report of an expedition down the Zuni and Colorado rivers by Captain Sitgreaves; which was referred to the Committee on Military Affairs.

PETITIONS, ETC.

Mr. DAVIS presented three petitions of citizens of Boston, praying that measures may be taken to secure to American citizens abroad the rights of conscience and of public worship; which were referred to the Committee on Foreign Relations.

Mr. MORTON. I beg leave to present the memorial of Dudley Walker, a purser in the United States Navy, who represents that he has been for many years stationed at the Pensacola navy-yard, where, in addition to his duties as purser, he has been called upon by the Government to discharge the duties of navy agent, which has subjected him to great expense and inattention to his duties as purser of the yard. In the settlement of his accounts by the accounting officers of the Treasury, no allowance has been made to him for clerk hire, as the acting naval agent, for office rent, or anything of the kind; and he asks Congress to afford him that relief to which he is in justice entitled. I move the reference of the memorial to the Committee on Naval Affairs.

It was so referred.

Mr. JONES, of Iowa, presented seven petitions of citizens of Iowa, praying the establishment of a mail route from Prairie du Chien to Moneek; which was referred to the Committee on the Post Office and Post Roads.

Mr. HAMLIN presented a petition of citizens of Waterville, Maine, praying that measures may be taken to secure to American citizens abroad the blessings of religious liberty; which was referred to the Committee on Foreign Relations.

Also, two petitions of citizens of Maine who have been in the military service of the United States, praying a modification of the bounty land law; which were referred to the Committee on Public Lands.

Mr. CASS presented a petition of residents of the State of New York, praying that Congress will take measures to secure to American citizens residing or traveling in foreign countries, protection in the exercise of the rights of conscience and of public worship; which was referred to the Committee on Foreign Relations.

Mr. PHELPS presented a joint resolution of the Legislature of the State of Vermont, instructing the Senators and requesting the Representatives from that State to oppose the adoption of any measure of partiality in commercial intercourse with any foreign nation or province, and protesting especially against the proposed measure of reciprocal trade with Canada, considering that the effect of such measure would be injurious to American products, and particularly to the agricultural interest of the United States. The resolution was referred to the Committee on Finance, and ordered to be printed.

Also, joint resolutions of the Legislature of Vermont, instructing the Senators and requesting the Representatives from that State to use their influence for the passage of a bill similar to that passed

by the House of Representatives at the last session, granting lands to aid in the construction of railroads, and for other purposes, commonly known as Bennett's land bill; which were referred to the Committee on Public Lands, and ordered to be printed.

Also, a joint resolution of the Legislature of Vermont, instructing the Senators and requesting the Representatives from that State to use their influence to secure provisions in treaties of this Government with other nations, for referring to the decision of umpires all future misunderstandings between this Government and other nations, which cannot be adjusted by amicable negotiation; which was ordered to lie on the table and be printed.

Mr. DAWSON presented the memorial of the agent of the State of Georgia, asking provision by law for the final adjustment of the claims of the State for military services in the suppression of Indian hostilities; which was referred to the Committee on Military Affairs.

PAPER WITHDRAWN AND REFERRED.

On motion by Mr. BRADBURY, it was

Ordered, That the petition of Thomas Dyer and others, praying to be indemnified for losses sustained by the destruction of the United States ship Adams, during the late war, on the files of the Senate, be referred to the Committee on Naval Affairs.

REPORTS FROM STANDING COMMITTEES.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the letter of the Secretary of the Navy, communicating the report of Lieutenant Herndon and Lieutenant Gibbon, reported the following resolution:

Resolved, That there be printed for the use of the Senate, ten thousand extra copies of the first part of the report of the exploration of the valley of the Amazon and its tributaries, made by Lieutenant William L. Herndon in connection with Lieutenant Lardner Gibbon, under instructions from the Navy Department; and also the same number of copies of the remaining portion of the report which may hereafter be furnished, together with the maps, charts, and sketches illustrating the subjects treated of in said report.

He also, from the Committee on Finance, to which was referred the bill from the House of Representatives for the relief of S. Morris Waln, reported it without amendment.

Mr. BORLAND, from the Committee on Printing, to which was referred the joint resolution from the House of Representatives, providing for the printing and binding of the return of the Seventh Census, and also a Senate resolution directing that committee to take into consideration the best means of providing for that object, reported back the joint resolution with sundry amendments.

Mr. JONES, of Iowa, from the Committee on Pensions, to which was recommitted the bill from the House of Representatives for the relief of B. B. Bennett, reported it back without amendment.

CONTINUANCE OF CAUSES.

Mr. BADGER. I am directed by the Committee on the Judiciary to report a bill to prevent, in certain cases, a failure or delay of justice in the courts of the District of Columbia, which I ask the Senate to consider at this time. I will explain in a few words the purpose which it is intended to answer, and the reason for reporting it. I noticed the other day, in an account of proceedings of the criminal court of this District, that the attorney of the United States asked the court to appoint a day for taking up the prosecution in reference to the Gardiner claim. The judge said he would appoint a day, but he advised the counsel that, under the law as it now stands, if the case should continue until the first Monday in March, which by law is appointed for the next term of the court, he should feel himself bound to discharge the jury, and would have no authority to go on and finish the trial, but would have to begin at the new term *de novo*. It very often happens, or at least it is very likely to happen in prosecutions in this District, that such cases will occur, and certainly it would be a very great grievance if such an event should happen. The object of this bill is to require the court, under such circumstances, to go on and finish the trial. I hope there will be no objection to considering the bill at this time.

The bill was read a first and second time by unanimous consent, and considered as in Committee of the Whole.

It proposes to enact that where, at any term of the circuit or criminal court of the District of Columbia, a jury shall be empanneled to try any cause, or any issue or issues joined in any cause, and it shall happen that no verdict shall be found, nor the jury shall be otherwise discharged before the day appointed by law for the commencement of the next term of the court, the court shall and may proceed with the trial by the same jury, in every respect, as if the succeeding term had not commenced; and all subsequent proceedings to final judgment, if such judgment shall be rendered, shall have legal effect and operation as of the term at which the jury shall have been empanneled, any law or usage to the contrary notwithstanding.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

THE FLORIDA FISHERIES.

Mr. MALLORY submitted the following resolution for consideration; which was agreed to:

Resolved, That the President be requested to communicate to the Senate, if consistent with the public interests, copies of the applications made in 1831 or 1832, and 1844 or 1845, to the Government of the United States by the British Minister for permission to the British Bahamians to fish on the coasts and in the waters of Florida, or in 1847, claiming the right for the colored emancipees of the Bahamas, or British West Indies, if of the company or crew of a British vessel, to come within the waters and jurisdiction of the State of Florida; and also copies of the letters from the Executive of Florida in 1844 or 1845, or of part of the delegation from that State in 1847 to the Secretary of State, remonstrating against the same being acceded to, and likewise copies of the answers of the Secretary of State to the applications and claim, and copies of any other papers in the State Department touching said subjects that he may deem proper to communicate to the Senate.

THE HOMESTEAD BILL.

Mr. ADAMS. I beg leave to give notice to the Senate, that I shall ask them on Thursday next, during the morning hour, to allow me half an hour upon the homestead bill.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had passed the following bills from the Senate:

An act for the relief of Rosanna Sowards; and

An act for the relief of Joseph Morehead.

A subsequent message announced that it had passed the following bills from the Senate:

An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime.

An act to prevent, in certain cases, a failure or delay of justice in the courts of the District of Columbia.

Also, that the House of Representatives had disagreed to the first and fourth amendments of the Senate to the bill from the House to prevent frauds upon the Treasury of the United States, and had agreed to the residue of the amendments of the Senate to that bill.

DEFICIENCY BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives, "to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1853;" the pending question being on the amendment of Mr. GWIN, as modified, to add the following as an additional section:

SEC. —. *And be it further enacted*, That the sum of $300,000 be paid to the State of California, out of any moneys in the Treasury not otherwise appropriated, to be applied to the expenses of the State government prior to the admission of California into the Union as a State.

Mr. WALKER. Mr. President, I rose yesterday for the purpose of submitting some remarks upon this subject, but as the probability is that the points to which I then intended to allude, have almost passed out of the memory of the Senate, I shall not make the remarks which I then intended to submit. I wish, however, simply to say that it does occur to me that whatever we may ultimately do with this civil fund; whatever proportion of it we may grant or allow to California, now is not the proper time to do it. There are two prominent reasons why this is not the proper time. The first is, that an act has already been passed at this session by both Houses of Congress, by which the fund is to be put in a course of settlement between the Government and General Riley, who was the principal collector of it. By that act, it is provided that certain expenses incurred in the formation of the State government of California shall be paid, and paid out of that fund; and it further provides that General Riley shall be allowed out of it certain compensation for collecting it. My information is—and I think the result will prove it—that when that is done, there will, in reality, be nothing of this fund left. My opinion is, that we should wait for that settlement, to see what amount goes to California under it, and we should wait to see to what extent the fund will be exhausted by that settlement.

The second prominent fact to which I wish to call the attention of the Senate, is this: That the officers, or some of the officers who collected this fund, have been sued in the courts of California by those who paid the money, for the purpose of recovering back the sums which they paid. If these suits go against the officers who collected the revenue, and in favor of those who paid, I apprehend there is no one in the Senate who doubts that the Government will have to make good those officers against any judgment rendered, or any amount recovered against them. In that event, we shall not only have paid the money in defraying the expenses incurred in the formation of the State government of California, but if we pass this amendment, we shall have paid it to California by way of State outfit, and we shall have paid it the third time by remunerating the collecting officers for the amounts which they may have lost under the judgment.

In view of these two prominent facts, it seems to me that it would be better for us to delay final action on the subject until some future day. I have no doubt that ultimately this sum will be appropriated to California. I do not speak now of the justice or injustice of it; but I am inclined to the opinion that ultimately it ought to be appropriated to her. Certainly we are now acting in the dark in regard to what we shall do, or what we are doing for California, and it can make but little difference to her whether the amount be appropriated now, or she wait until we get all the *data;* and then we can appropriate whatever may be necessary.

Mr. GWIN. This amendment does not refer to the civil fund at all. The question of the State claim to that fund is not before the Senate, nor was it intended to be by the amendment. It is not proposed that this payment should be made out of the civil fund; and so the Senator from Maryland, [Mr. PEARCE,] who originally reported the bill giving this amount to California, stated distinctly yesterday. He said he would not, by proposing this payment from that fund, recognize the right of the State of California to any portion of it. This amendment proposes an appropriation out of the Treasury of the United States, for what purpose? Towards defraying the expenses of the State government of California from the time it went into operation until the admission of the State into the Union. It is not a question in regard to the civil fund at all. The proposition to give that fund to California was rejected by the Committee on Finance when I brought it before them, and in lieu of giving us the civil fund, or any part of it, they proposed, in the bill reported by the Senator from Maryland, which passed the Senate at the last session, the section which I have now offered as an amendment to this bill. It does not touch the question of the proper direction of the civil fund. I have not intended to bring that question before the Senate by this amendment; but it carries out the determination of the Finance Committee when they rejected the claim of the State to the civil fund. I repeat, they rejected that application, and brought in a bill granting this amount of money to California out of the Treasury, and not out of the civil fund.

In regard to the settlement of General Riley's accounts, which has been referred to by the Senator from Wisconsin, I would say, that the bill which passed the Senate for that purpose, and to which he alluded, provided for the defense of suits that have been brought by the merchants for this civil fund. Let me repeat to the Senate, once for all, that whenever our application to pay the civil fund to California shall come up, and receive the favorable consideration of the Senate, I shall be perfectly willing that any Senator may put in a proviso that we shall defend those suits. If you give us the fund, we will take care of those merchants, and will guaranty that they shall never come upon the United States; and we do not want one dollar, except upon that condition. Gentlemen seem to forget that it is not the merchants, but the consumers, the people of California, who finally paid these duties. But, as I said before,

this amendment has no reference to the civil fund, and I wish the Senate to understand that.

Mr. BORLAND. I called for the yeas and nays yesterday on this amendment, under the impression that it was reported from the Committee on Finance. I learn, however, that a majority of that committee are unfavorable to it, and I therefore ask the Chair if, under the rule, this amendment can be offered? It is a proposition, as the Senator from California himself says, to pay directly out of the Treasury of the United States $300,000 to the State of California, and as I understand the rule, this provision is excluded unless it be reported by a committee, or be in pursuance of an estimate from the head of some of the Departments.

Mr. WALKER. Before the Chair decides this question I wish to say, that if the proposed appropriation is not out of the civil fund, I cannot see for my life upon what principle it can be paid. It seems to me a clear unfounded gratuity, to be paid to California without anything on which to base it, without any principle from which it is to be derived, except, I suppose, this, that as California had not the usual appropriations made to her during the time of her territorial probation, or pupilage, as it has been termed, she now, in her State capacity, is entitled to what she would have received if she had gone through the same course as the other Territories. I am sorry that I must say, sir, that I regret that all the principles which the Senate have heretofore looked to will be overlooked and abandoned, if we make this appropriation to California. I cannot see how any one here can feel justified in voting for it. I cannot see on what ground we can be asked to vote for it. The Senator from North Carolina, [Mr. BADGER,] who yesterday suggested the modification of the amendment in the form in which it now is, I do not now see in his seat; and I do not remember upon what ground he placed it, or whether he really laid down for us any principle on which we could make the appropriation.

Mr. GWIN. I submit the question whether it is not too late to raise the point of order? We have debated the question for a day and a half, and this is not a private claim. I submit that it does not come within the rule, and that it is too late to raise the question of order.

The PRESIDENT. The Chair is of the opinion that it is not too late to raise the question of order, and that the point can be raised at any time before a decision. The only question under the rule is, whether this be one of the appropriation bills contemplated by it. The only point of doubt in the mind of the Chair is, whether the deficiency bill is a general appropriation bill within the meaning of the rule. The rule will be read.

The Secretary accordingly read the rule, as follows:

"30. No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received, whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

Mr. GWIN. This proposition passed the Senate at the last session, in a separate bill. Whether it be excluded or not now, I do not intend to say another word on the subject. I wish it to be understood, that the State of California is not here begging or asking for anything. If the rule excludes it, I have nothing to say. I shall not say another word on the subject.

Mr. HUNTER. This is an appropriation bill, and I think it is a general appropriation bill; but still the amendment is not excluded by the rule, for a reason which the Senator from Arkansas has not touched This subject has been voted upon by the Senate in a bill which they have sent down to the House, and which has not been acted upon there. The amendment is therefore not out of order, but I myself shall vote against it.

Mr. BORLAND. I presume it is not in order to discuss the question of order, but I would suggest to the Senator from Virginia that the objection he raises does not apply here. The rule allows amendments for additional appropriations to carry out the provisions of some existing law. There is no existing law authorizing this, because the appropriation to which he alludes, as passed by the Senate, has not been adopted by the House. That bill has not passed the two Houses, and consequently there is no law which this amendment is to carry out. There has only been action of one House on the subject.

Mr. HUNTER. The words of the rule are these:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate."

The rule was designed to allow such an amendment as this, where the opinion of the Senate had been taken, and had been favorably expressed upon the provision, as is the case in regard to this amendment, because it is a feature in a bill which we have already passed, but which has not been acted upon by the House.

The PRESIDENT. The Chair is of the opinion that under that state of facts, the amendment is in order, and he will therefore put the question upon it.

The question being taken by yeas and nays, resulted—yeas 21, nays 20; as follows:

YEAS—Messrs. Adams, Atchinson, Bell, Bradbury, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Gwin, Houston, Jones of Iowa, Mallory, Pettit, Rusk, Seward, Soulé, Wade, and Weller—21.

NAYS—Messrs. Borland, Bright, Brooke, Butler, Clarke, Davis, Dawson, De Saussure, Fish, Fitzpatrick, Foot, Geyer, Hamlin, Hunter, Jones of Tennessee, Morton, Phelps, Smith, Spruance, and Toucey—20.

So the amendment was agreed to.

Mr. HAMLIN. I am directed by the Committee on Commerce to offer the following amendment:

"For salary to the Commissioner at the Sandwich Islands, from the 7th of June, 1850, to July 1st, 1852, and to make the same equal to the sum now provided for by law, $4,414."

Mr. President, the salary of the Commissioner at the Sandwich Islands was originally $3,000 per annum. I think there have been three Commissioners there at different periods of time, and all of them have received, by special legislation, additional appropriations of $3,000, except the present incumbent, making their salaries equal to $6,000 per annum. At the last session of Congress, the salary was raised from $3,000 to $5,000, and that provision was made prospective, leaving, therefore, the present incumbent with a salary of only $3,000 for the last two years. The object of this amendment is to bring up his salary so as to make it equal to $5,000; it will then be $1,000 less than the salary of those who preceded him, and I have the estimate here from the Secretary of State covering this amount. Inasmuch as this Commissioner will, if this amendment be adopted, receive $1,000 per annum less than those who preceded him, I apprehend it will meet with no objection. The Senators from California know very well that the increased expenses of living in that place render a salary of $3,000, which might have been adequate at one period of time, totally inadequate now.

Mr. GWIN. I can say to the Senate that I am perfectly confident $3,000 cannot pay the expenses of the Commissioner at the Sandwich Islands. When that salary was first established, the prices of living there were not one fourth what they are now.

The amendment was agreed to.

Mr. HAMLIN. I have another amendment from the Committee on Commerce. It is to insert:

"For payment of salaries of deputy surveyors at Boston, New York, Philadelphia, Baltimore, and New Orleans, $2,500, and the salary of said officers shall be $2,000 per annum, commencing on the 1st day of July, 1852."

Mr. President, at the last session of Congress an amendment was reported from the Committee on Commerce to the civil and diplomatic appropriation bill, fixing the salary of deputy naval officers and deputy surveyors at $2,500. It went to the House, and in the manner in which that bill was disposed of, it, with all the other amendments, was disagreed to, and the subject was referred to a committee of conference. The committee of conference on the part of the House agreed to make these salaries $2,000; but in enrolling the bill the deputy surveyors were by some mistake left out. The object of this amendment, therefore, is to make this bill precisely what was intended by the vote of both the House and the Senate at the last session of Congress, and to correct the error which occurred in enrolling the bill.

The amendment was agreed to.

Mr. RUSK. I am instructed by the Committee on the Post Office and Post Roads to offer a small amendment, to come in after the appropriation for the compensation of clerks in the Post Office Department. It is to insert:

"For compensation to an assistant day watchman of the General Post Office, from the 15th September, 1852, to the 30th of June, 1853, $475."

The amendment was agreed to.

Mr. CHASE. I move to amend the bill by inserting the following:

"To enable the President of the United States to contract with Hiram Powers, for the purchase of the statue of America, designed by him, $30,000."

I desire to say simply, that this amendment is offered with the consent of the chairman of the Committee on Finance, and with the unanimous sanction of the Committee on the Library; and I trust it will receive the unanimous assent of the Senate, especially as we have on a former occasion voted our unanimous approbation of a similar measure which came from the House of Representatives, making an appropriation of $50,000 for the erection of an equestrian statue of General Washington, to be executed by Clark Mills.

Mr. ADAMS. I have no disposition to throw anything in the way of that amendment; but I would inquire whether it comes within the rule? I do not wish to depart from the rule. How that can be a deficiency I do not understand.

The PRESIDENT. The Chair understood that it was offered by the direction of a committee. If so, it comes within the rule.

Mr. CHASE. I do not wish to be misunderstood. I stated that the amendment had received the sanction of every member of the Senate Committee on the Library. It was not referred formally to that committee, but it received the sanction of every member, of the Senator from Delaware, [Mr. BAYARD,] the Senator from Alabama, [Mr. CLEMENS,] and the Senator from Maryland, [Mr. PEARCE.] I trust, that since this body has concurred, so promptly and so liberally, in the appropriation of $50,000 made by the House of Representatives for the equestrian statue of Washington, by Mills, a gentleman who has certainly won great and deserved distinction by that admirable work of his, the equestrian statue of General Jackson, they will not hesitate to award this small boon to an artist whose fame is one of the distinctions of his country. This statue of America is the chief work of Hiram Powers, whose very name appeals to the sympathies of every American, as that of one who has contributed more to the reputation of his country by his works of art than almost any other, not to say than any other. I wish to avoid the use of time, which I know is precious, otherwise I would read extracts from the memorial presented here at a former session, and the report of the committee of the other House, and should dwell more fully on the deep interest felt, not merely by the friends of the artist, but by the lovers of art, as well as by many eminent citizens, in the success of this proposition. I do hope the Senator from Mississippi will withdraw his objection.

Mr. ADAMS. That has nothing to do with the question of order. I do not wish now to hear anything with regard to the propriety of making such an appropriation. The question is, whether, according to the rule which governs our action, this amendment is in order?

The PRESIDENT. It is the opinion of the Chair that it is out of order.

Mr. CHASE. I ask that the amendment may be received by unanimous consent. No objection was made to the other appropriation to which I have alluded, and I trust no Senator will make any objection now.

Mr. HUNTER. I would suggest to the honorable Senator from Ohio, that when the civil and diplomatic bill comes up, he can offer his amendment. No such objection can then be raised.

Mr. CHASE. I hope there will be none now. We may as well act upon it at this time.

Mr. HUNTER. If we can get on with it, I have no objection.

Mr. BADGER. I would ask if there is not an appropriation in the bill already of $400,000, to supply a deficiency in the appropriation for the extension of the Capitol?

Mr. HUNTER. There is.

Mr. BADGER. Then I would suggest to the Senator from Ohio that he can make his amendment clearly in order by moving as an amendment

to that appropriation, that out of the sum of $400,000 the President shall be authorized to apply $30,000 for the purchase of this statue. Certainly we have the right to direct what shall be done with the appropriation which is made in the bill.

Mr. CHASE. It is undoubtedly true that that amendment could be made, and I should have offered it in that form had it not been for the suggestion of the chairman of the Committee on Finance, [Mr. HUNTER,] that it was inexpedient to interfere with the amount appropriated for that object, and that it would be better to introduce a separate appropriation.

Mr. BADGER. That will not hurt it.

The PRESIDENT. By unanimous consent the amendment may be considered in order.

Mr. ADAMS. I cannot consent to that. This can be as well offered as an amendment to the civil and diplomatic appropriation bill.

Mr. BADGER. Why not now?

Mr. ADAMS. I cannot consent to a violation of the rules.

Mr. CHASE. I will alter the form of the amendment to meet the objection. I therefore withdraw the amendment which I submitted, and submit the following: To insert after the clause "for the extension of the United States Capitol, $400,000," the words:

"Of which $30,000 shall be applied, under the direction of the President, to the purchase of the statue of America designed by Hiram Powers."

Mr. BORLAND. It seems to me that the phraseology of that amendment is somewhat objectionable. It makes it obligatory upon the President to give $30,000. It says that the $30,000 "shall be applied." Suppose, in an examination of the work, that the President does not choose to do it, that he does not think it proper to purchase the statue?

Mr. BADGER. Make it read "may."

Mr. BORLAND. There are still other objections to the amendment. I mention that as one of them. This, it seems to me, is leaping a little in the dark. No one has a higher admiration for the genius of Hiram Powers than I have, so far as I am capable of forming an opinion on the subject in relation to which he has become celebrated; but I do not know the merits of this statue, nor do I think there is any evidence before the Senate in regard to it, that would justify an obligation being entered into to purchase it, or satisfy us whether it will meet the wants or the wishes of the people when brought to the United States. The Senator refers to the appropriation of $50,000 made for the statue of Washington. Why, Mr. President, it is well known that that appropriation was based upon the obligation of the Government—upon an act of Congress passed many years ago—a revolutionary Congress. It was to carry out a great national object, for the purpose of testifying the national gratitude to the Father of his Country. At this late day Congress has acted, and has made a sufficient appropriation; but it furnishes no precedent for this amendment. The cases are not similar. We knew what we wanted. We wanted a statue of Washington, and we appropriated the money to purchase one; but in this case there is an ideal creation by an artist. I have no doubt it will add to his reputation, but really what do we know about it? Has any Senator seen it? Shall we, then, in the dark, make an appropriation of $30,000 to purchase a work of art of which we know nothing? I think a little more caution in appropriating the public money would become us.

Mr. GWIN. I hope the Senator from Ohio will withdraw his amendment, and make it a question on a general appropriation bill. It is not a deficiency, and it will lose nothing by being postponed until we have another bill before us.

Mr. HUNTER. I hope the Senator will agree to that suggestion.

Mr. ADAMS. I desire to suggest a point of order again. We cannot do indirectly that which we cannot do directly.

Mr. CHASE. In deference to the suggestion of the Senators from California and Virginia, to withdraw the amendment and bring the subject up on the civil and diplomatic bill, I withdraw the amendment.

Mr. BRIGHT. I submit the following amendment from the Committee on Finance:

"For balance due Levi Johnson for a site for the marine hospital at Cleveland, Ohio, $3,396."

The amendment was agreed to.

Mr. WALKER. I am directed by the Committee on Indian Affairs to submit the following amendment, for which we have an estimate from the proper Department:

"For the services of a striker in the shop of the Delaware Indians, from August 1, 1823, to August 21, 1826, and for the services of a smith and striker in the shop of the Senecas and Shawnees of Lewiston, from the 17th of November, 1833, to the 15th of February, 1837, deducting all amounts paid for such service during said period; and for the balance due for the service of the Senecas' mill-dam, as estimated by the proper Department, $2,229."

The amendment was agreed to.

Mr. JAMES. I move to amend the bill by inserting in it the following:

"To pay Walter S. Burgess, late district attorney of the State of Rhode Island, the sum of $584 80, being in full for his services, and money paid out in defending Captain Simunds, of the brig Casket, by order of John Y. Mason, late Secretary of the Navy."

Mr. HUNTER. That is in pursuance of an estimate sent to the Committee on Finance, which is in its possession.

The amendment was agreed to.

Mr. MASON. I am instructed by the Committee on Foreign Relations to move to amend the bill by inserting in it the following:

For clerk hire to the legation of the United States at London, for one year, $800.

That appropriation is based upon a letter of the Secretary of State to the Committee on Foreign Relations, showing that it has for many years heretofore been paid out of the contingent fund of the legation as a matter of indispensable necessity. If the Senate desire it, I will ask that that letter be read.

Several SENATORS. It is not necessary.

The amendment was agreed to.

Mr. MASON. The same committee has instructed me to report the following:

"And that there be paid to Captain Hiram B. Bangs, master of the American bark Rienzi, or to his assignee, the sum of $608, being the amount contracted to be paid to him by the American Consul at Gibraltar, for transporting to the United States nineteen prisoners, captured in Cuba and carried to Spain, who were not American citizens, subject to any deduction that may be proper for any advances on account of such transportation that may have been made to him by said Consul; and that there be allowed and paid to Horatio J. Sprague, the Consul aforesaid, the sum of $533 34, and interest thereon from the 19th of April, 1852, being for expenses incurred by him in taking care of and providing for said prisoners, under the direction of the American Minister at Madrid; the foregoing respective sums to be paid out of the appropriation formerly made for bringing American citizens, prisoners in Spain, to the United States; and if there be not a sufficiency thereof unappropriated, then any additional amount necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated."

I will state to the Senate, in a few words, the necessity for this amendment. At the last session there was appropriated the sum of $9,000 to bring home the prisoners who were taken in Cuba and carried to Spain; but from the terms of the appropriation it was inadvertently, I presume, confined to American citizens. There were fifteen who were ascertained not to have been naturalized, although they had taken the preliminary steps by making a declaration; and the accounting officer found that the expense in their case could not be paid out of that appropriation; but they have been brought home by the direction of the Minister at Madrid, and this is to pay for that.

The amendment was agreed to.

Mr. GWIN. I am instructed by the Committee on Finance to offer the following amendment:

"*And be it further enacted*, That, in the settlement of his accounts, the late collector of the port of San Francisco, in the State of California, be allowed credit for $5,000 advanced to John Neely Johnson, for taking the Seventh Census."

That was an advance made to the census agent, and he is charged with it, and has to account for it; but the accounting officers of the Treasury cannot settle the collector's accounts unless authorized by law. The Secretary of the Interior recommends the appropriation, and we have the estimate from the Department.

The amendment was agreed to.

Mr. BORLAND. I have a few amendments to offer to the bill. The first is a small one, directed by the Committee on Military Affairs, to insert in the bill, after the appropriation for the expenses of the board of officers of the Military Academy, the following:

"And that hereafter the salary of the Master-of-the-Sword at the Military Academy at West Point shall be at the rate of $1,200 per annum."

The amendment was agreed to.

Mr. BORLAND. I have another amendment to offer, to come in after the appropriation "for the extension of the United States Capitol, $400,000." I will state that the amendment is to regulate the manner in which that money shall be disposed of. The amendment is to add the following:

Provided, That so much of former appropriations for the extension of the Capitol as remains unexpended, and the appropriation now made, or which may hereafter be made for that object, shall be disbursed by the Commissioner of Public Buildings, under such regulations as the President of the United States may prescribe; said Commissioner's accounts for such disbursements to be audited and paid at the Treasury in the same manner as the accounts of other civil officers charged with the disbursements of public money, and said Commissioner shall report to the President his disbursement and proceedings, in time to be presented to Congress at the commencement of each annual session, and at any other time when required.

I do not like to occupy the time of the Senate, but I think it proper, in offering this amendment, to say a very few words as to the reason for it. The public interests generally require that Congress and the public should be put in possession of the facts and circumstances which are connected with the disbursement of the public money in the extension of the Capitol heretofore, and which creates the necessity, if we will guard against frauds upon the Treasury hereafter, of providing for a different mode of disbursement of the public money. I will here take occasion to say, before stating these facts and circumstances, that I do not believe there is any necessity for it, so far as guarding the Treasury under the incoming Administration is concerned, because I believe the men who will be intrusted with that business under that Administration will see that the money will be faithfully and honestly expended, even though no such provision as this were made.

But, sir, I proceed upon a general principle; one that I contended for when the appropriation of $500,000 was made, that no matter who may be intrusted with the expenditure of the public money, we should provide by law how it shall be expended. It will be recollected that when the appropriation of $500,000 was made, I called the attention of the Senate to the fact that the individual who was intrusted by law with the disbursement of that money, was an irresponsible person; that is, he was an officer not known to the Constitution, being created by a law, and by a very small clause of a law, appointed by the President, not subject to the approval of the Senate, and that he upon his simple order drew out of the Treasury, without vouchers, any sum of money he chose of the amount appropriated, and his accounts were subsequently settled.

My friend from North Carolina [Mr. BADGER] then told me that I was not properly informed as to the mode in which the public money was commonly disposed of, and that the course then pursued did not deviate from the usual course. I told him I thought differently. The facts as developed have shown, not only that I was right on that point, but that the suggestion I made, if carried out, would have saved to this Government perhaps nearly one half that which has been appropriated. Sir, I hold in my hand papers, which are only a part, a very small part, of the immense mass of testimony which a committee of this body has before it, and is proceeding to embody in the form of a report, showing a disregard of the public interests, and a fraudulent misuse of the public money to an enormous amount, to an extent, and in a manner which has never been heard of before.

Sir, when I called the attention of the Senate to a state of things which would be likely to happen, and to what was happening at the time, during the last session of Congress, what was the consequence? The special organ of this Administration, the confidential channel through which the President communicates his views to the public, arraigned me before the public, and denounced me as factious, and as throwing myself before the mouths of starving men and women, and keeping from them the food necessary to sustain life. That was the denunciation by this Administration, through its responsible organ, the Republic newspaper, against me, because in my place in the Senate, I contended that we should guard the public against the fraud which was going on before us so plainly that each and every Senator might see it for himself.

Now, sir, here is the proof; here is the sworn testimony of the Commissioner of Public Build-

ings; here is the sworn testimony of a respectable gentleman in New York—a member of the New York Legislature, I believe. We have on the files of the committee testimony piled up, proving beyond a doubt, that right in our very faces, in violation of law and every principle of common honesty, the public money has been embezzled.

Mr. FISH. The gentleman to whom you allude is not a member of the Legislature of New York.

Mr. BORLAND. The Senator says he is not a member of the Legislature.

Mr. FISH. He is a highly respectable gentleman.

Mr. BORLAND. He is a highly respectable gentleman, he says. The Commissioner of Public Buildings swears that when he saw the frauds going on, when the Superintendent of the work came to him and made a dishonest and fraudulent proposition for the purpose of making money, he went immediately to the Architect, who was the agent of the President, and pointed out to him the frauds which were going on every day, and told him how they ought to be prevented, but the Architect passed them over with perfect indifference, and gave no attention to them at all.

This may be considered a small matter; but small as some may consider it, it amounts to a loss to the Government of perhaps over $200,000. I will not go into the particulars now, but I state these facts, which are matters now of record on the files of the committee, and will be matters of record as a report from that committee, on testimony which cannot be doubted, of men of the highest responsibility, and evidence collected from various quarters, which render the facts on the subject indisputable.

I have said thus much, because it was necessary to vindicate the course which I pursued a year ago; for I was then denounced by the organ of this Administration, and in order that for the future, at least, we may guard against all similar practices, and, to some extent, make sure that the administration of this Government by the officers charged with the expenditure of the public money, shall bear upon its face the appearance of common honesty and decency.

Mr. HUNTER. I am in favor of the amendment of the Senator from Arkansas, and of any other amendment which will give us additional security in disbursing the public money. In regard to the mode in which it has been expended here, I have no means of knowing. The Select Committee charged with that subject will doubtless report In the mean time, however, this is not the place to enter into that discussion or investigation, although it is perhaps well enough to warn the Senate, as the Senator from Arkansas has done, that there is doubt in relation to the mode in which moneys are applied to this building. I hope we will take the vote upon his amendment, and proceed with the bill. I am anxious to dispose of it this morning.

The amendment was agreed to.

Mr. BRODHEAD. I desire to move an amendment, for the purpose of making an inquiry of the honorable chairman of the Committee on Finance, who is also a member of the Committee on Public Buildings. I move to strike out the clause—

"For the completion of the repairs of the Library room authorized by the act approved March 19, 1852, $20,500."

At the last session we appropriated $75,000 for this purpose. This appropriation will make $95,500 for fitting up and repairing one room. I know nothing against the integrity of the architect who has this work in charge; but I thought, when the $75,000 were asked for, that it was a very large sum to require to fix up one room and to repair it for the reception of books; and now, when $20,500 in addition is asked for, I think there ought to be some explanation of it given to the Senate. It may be proper that $95,500 should be appropriated for this purpose, but it does seem to me to be a very large amount.

Mr. HUNTER. It is true that the expenditure for the repair of the Library room is likely to exceed the estimate originally made by the architect. We all know that that room was destroyed by fire. It was impossible to ascertain from a superficial inspection how far the building had been injured. In taking down the portions which were burned, it was found that the injury was much greater than had been supposed. In addition to that, it is to be observed—this I am told by the Architect, and I presume it is so—that this is the largest room made of iron in the world, and of course there would be a greater liability to error in estimating for a room of that sort, when the first experiment was to be made, than there would be in regard to any other. The Architect showed me the bids for the iron alone, and they ranged from seventy-odd thousand dollars—nearly the amount originally appropriated—down to fifty thousand dollars. He took the lowest bid; and it seems to have been very well executed. But it was found that, in order to finish this room, it would require an additional sum. I believe it passed through the supervision of the Committee on Public Buildings in the House of Representatives. This is the estimate. When completed, the room will probably be one of the most beautiful in the world. The Architect designs to finish it in such a style as may present this new species of architecture in a more elegant and inviting form; and surely no man has more interest than the Senator from Pennsylvania in the material which is adopted in the construction of that room. [Laughter.]

Mr. BORLAND. I desire to take this occasion to say a word upon the subject of this Architect's estimates. I know the argument that the Senator from Virginia has made to my friend from Pennsylvania is a very strong one. We have heard of a great many different kinds of arguments. There is the *argumentum ad hominem*, and there are various other arguments. The argument applied to the Senator from Pennsylvania, seems to be the *argumentum ad ferrum*. The Senator from Texas made the same appeal to the Senator from Pennsylvania the other day, and the Senator from Virginia renews it to-day. I am afraid that this constant striking of my friend from Pennsylvania with an iron argument, if he is not a man of iron nerve, will break down his resolution.

But, Mr. President, I desire to avail myself of the occcasion offered by the proposed amendment, to say a word with regard to the contracts which this Architect has been making for the public works; and I do so for the purpose of supplying a small omission which I made a few moments ago. Speaking in regard to this matter of contracts, I will state a single fact which has been proved before the Committee on Frauds. It will strike the Senate, I think, as a very extraordinary one. The contracts made for the marble to be used in the construction of the extension of the Capitol, were very curiously worded. A difference is made in the pieces of marble containing thirty cubic feet and over, and those containing less than thirty cubic feet; and there is a very extraordinary difference. The Architect pays for the marble, in pieces of thirty cubic feet and over, $1 98 per cubic foot, and for pieces under thirty cubic feet in size, sixty-five cents a cubic foot. In receiving the estimates from the different individuals who propose to furnish this marble, he received, of course, as to the aggregate number of cubic feet that would be required in the building. There were various amounts stated: Mr. Smith, of New York, to whose high character as a man of integrity the Senator from New York will bear testimony, came, at the request of the Architect, and submitted an estimate for thirty-five thousand cubic feet. The Architect told him that he thought it was too little; that more would be required, and suggested fifty thousand cubic feet as the estimated amount for the whole. Upon that, Mr. Smith based a proposition to furnish it at a certain price. That was the largest amount then which the Architect deemed necessary. He made the contract with others, estimating for one hundred thousand cubic feet—more than double what he at first supposed would be necessary—but it is found that about one half of this one hundred thousand cubic feet has been received in pieces over thirty cubic feet in size. Now, sir, a very simple estimate shows what is the result, and what we find before our eyes every day, namely: that at least half, or more than half, has been furnished in pieces over thirty cubic feet in size. With what result? Why, sir, they bring these pieces here, and at the expense of the Government cut them up into small pieces; so instead of getting the small pieces which were needed, at sixty-five cents per cubic foot, they pay $1 98 per cubic foot for large pieces, and bring them here, and, at an additional expense to the Government, cut them up in small pieces. What is the difference? The Commissioner of Public Buildings states the difference. He makes an estimate of what came under his own observation, which he communicated to Mr. Walter, the Architect, of more than $65,000 paid out, which ought not to have been paid. So much for the contracts and estimates and statements which the Architect may make. I have no comment to make upon it. I state this as a fact, proved beyond all controversy, which any man can see to be true by looking at the thing as it is passing every day before our eyes. I leave the Senate to judge what confidence should be placed in the statements and estimates of the Architect.

Mr. BROOKE. I do not rise to say anything about this amendment; but I rise for the purpose of protesting against any member of any investigating committee which is now in session, divulging what has been testified before that committee, until the report is complete, and published by the authority of the Senate. The statements, so far as they have been made, are entirely *ex parte*. The investigating committee has the power of arraigning the individuals brought before it, and they hear testimony concerning charges that have been made. The characters of men are involved; and the simple rule of justice requires that these charges, and the proof—the *ex parte* proof—so far had upon them, should not be divulged to the world, until the parties implicated and accused have had an opportunity to defend themselves. I rise, as I remarked, simply for the purpose of protesting against any such course of proceeding.

Mr. BORLAND. The Senator from Mississippi protests against my use of these papers. Has that Senator forgotten that before I took them from the committee-room, I proposed it to the committee, and received its permission to use them for this very purpose? I did not take them to bring them to the Senate without stating the use which I was going to make of them, which was rendered necessary because this appropriation was pending before us.

Mr. BROOKE. I was not aware that the Senator had the consent of the committee; but if he had, it makes no difference. I protest against the principle of the thing, whether he comes with the permission of the committee or not.

Mr. WALKER. Money is about being appropriated for certain public objects I differ from the honorable Senator from Mississippi in this. I believe it to be the duty of that committee, either by its individuals or in its aggregate, to make known such general facts to the Senate as may put us on our guard in reference to these appropriations. Sir, if with the knowledge which we possess, we should sit quietly by, and see $400,000 appropriated for the extension of the Capitol, and $20,500 for the Library room, and not make known that there was danger ahead, and that injury had been sustained by the Government, I should think that we were derelict in our duty. I think the Senator from Arkansas has mentioned nothing more and nothing less than it was his duty to mention. Why, sir, he did not even skim the surface of what he might say, but he said enough, if confidence can be placed in what he says—and I know no Senator in whom more confidence should be placed—to alarm the Senate, and make it take care of what it is doing. I do not think there has been any outrage committed upon the individuals of the Senate, or other members of the committee, by what the Senator from Arkansas has mentioned.

Mr. HUNTER. I hope that this line of debate will not proceed further. It seems to me that it cannot be well to go further into it, as we are anxious to dispose of the bill this morning. The contracts to which the Senator from Arkansas alludes are contracts in relation to a subject which has been passed by—not to the Library room. We are all anxious to have that room completed, and without this additional appropriation it cannot be done. We must either vote the money or suspend the work, and thus postpone, perhaps for another year, the advantages which we derive from the Congressional Library. But I suppose that the Senator from Arkansas is not opposing this additional appropriation for the Library. He is only deriving from this an opportunity to expose the frauds which he discovers in relation to the other matters. I hope we shall be allowed to take a vote upon the amendment.

Mr. BORLAND. I did not rise to oppose this amendment particularly, but simply for the purpose of saying this: The Senator from Pennsyl-

vania asked a question with reference to this very appropriation, and the grounds upon which it is based. The Senator from Virginia, in explaining that appropriation and the grounds upon which it is given, stated as an authority for the amount required the estimate of the Architect employed on the extension of the Capitol. In order to make an answer to that, and to show how much authority of that kind can be relied on in determining this question with regard to the amount of the appropriation required, I deemed it my duty to call the attention of the Senate to the facts which exist, in order to put the Senate in possession of the means of judging for themselves. That was my reason.

One word as to that which the Senator from Mississippi chooses to regard as so very wrong in the exposures which I have made. Why, sir, the facts are not only before the committee, but they are published in the newspapers; at least rumors about the matter are published. In that state of things, propositions are made to expend large sums of money. In connection with that proposition, I, as a member of a committee charged by the Senate with the performance of certain duties, have ascertained certain facts, and when could I more appropriately make those facts known than when the subject was before us? When ought the statement to be made known, except at the time when it can do some good by enabling the Senate to legislate intelligently? The Senator from Mississippi says I have no right to speak of these things. I speak of them as making a report. I have the consent of the committee to bring these things forward, and to that extent it is a report. I do it, not only by my own authority, but by that of the committee. The Senator seems not to have been aware of the permission of the committee that this statement should be made, but certainly he was in the committee room at the time the permission was given, and I thought that he also gave his assent. At any rate these are the facts; and I hold it to be never wrong to expose frauds committed upon the Government. Whatever other Senators may think, I not only think it right at all times when the facts are ascertained to make them known, but I shall certainly do it when any subject comes before us which makes it necessary, in my opinion, to mention them.

Mr. BRODHEAD. Having obtained the information that I desired, I withdraw the amendment.

Mr. RUSK. I offer the following amendment:

For arrearages of expenses of Indian services in Texas, $1,015 68.

The amendment was agreed to.

Mr. SEBASTIAN. I am instructed by the Committee on Indian Affairs to move to amend the bill by inserting the following:

For payment of the amount due James W. Lane, upon three several drafts drawn in his favor by G. W. Barbour, Indian agent in California, upon R. McKee, disbursing agent, for transportation, supplies, and labor furnished said agent upon special contract, while treating with the Indians in said State, $3,825.

Mr. HUNTER. I should like to have some explanation of that. I do not understand it.

Mr. SEBASTIAN. The explanation is very brief. It is for three several amounts due to James W. Lane in full of three several drafts which were drawn in his favor by George W. Barbour, one of our Indian agents in California, upon the disbursing agent in that State, for transportation, supplies, and labor furnished him while, as Indian commissioner, he was treating with the Indians. The drafts were drawn on McKee, the disbursing agent, and were accepted by him to be paid when he had funds. They have never been paid; the acceptances, which are on file, speak for themselves. I will say, further, that the drafts in each case specify the particular considerations for which they were given—being for a certain number of head of beef in one instance, several hundred barrels of flour in another, and a special contract of $1,800 for transportation and labor incident to the commission while upon its journey from one treating ground to another. That is the only explanation which I have. The documents are all on file, and speak for themselves. This is not a private claim. There has been no action on it heretofore, for the simple reason that the committee, at first, upon examining it, supposed it was in some way connected with the claim for eight or nine hundred thousand dollars arising out of the rejected treaties in California. I am authorized to say, however, upon examination—and all the members of the committee concur in it—that it is in no way connected with that. It is simply a balance due for three several drafts, for the payment of which there were no funds in the hands of the disbursing agent.

Mr. GWIN. I can state this matter so that it will be entirely satisfactory to the chairman of the Committee on Finance. This commission went out under the authority of the United States, under an appropriation made by Congress. They were in session making treaties, and they had a contract to be supplied with various articles. Mr. McKee was the disbursing agent of the commission. Twenty-five thousand dollars had been appropriated, and they were using that, but it was expended before they got through making the treaties. At the next session of Congress $25,000 more was appropriated. In the interval Mr. McKee accepted these drafts, to be paid when in funds; but when he was put in possession of funds they were not paid. This gentleman acted in good faith in furnishing the provisions and supplies to enable the commission to continue in the discharge of their duties. The appropriation was not applied to discharge this just and honest debt, and the amendment should be agreed to, to pay it now.

Mr. BADGER. After the explanation given by the two Senators, I have no objection at all to the passage of a bill appropriating for this object, nor have I any objection personally to its being inserted in this bill; but that there may be even-handed justice dealt to all, I desire to ask the Chair whether it is not a private claim, and whether, as such, it is not excluded by the rule?

The PRESIDENT. The Chair is of the opinion that it is not. It is a deficiency. The appropriation passed to make the treaties in California, fell short this amount.

Mr. BADGER. The amendment does not say so. It is to pay Lane a certain sum of money.

The PRESIDENT. That is to identify the transaction.

The amendment was agreed to.

Mr. JONES, of Iowa. I move to amend the bill by inserting the following:

For additional allowance to E. S. Norris, the sum of $2,260 34, and to George R. Stunz, the sum of $1,958 50, additional allowance made to them as deputy surveyors under the surveyor general of Wisconsin and Iowa, and in accordance with the recommendations and estimates of the Commissioner of the General Land Office and the Secretary of the Interior, dated respectively on the 11th and 14th instant.

Mr. HUNTER. I understand that to be a case of this sort: These men made a contract, which, they say, is a losing one. The Secretary of the Interior, I believe, is of that opinion, and estimates and recommends the payment of the sums moved by the Senator from Iowa. But it is fair to state, on the other side, that there are similar claims before the Committee on Public Lands, over which the Senator from Michigan [Mr. FELCH] presides with so much vigilance and ability, and it has refused to report in favor of them; and I defer so much to the judgment of that committee, that I am not disposed to vote for the amendment.

Mr. JONES, of Iowa. I will ask the Senator whether estimates have been made by the proper Department in the cases to which he refers, as in this case?

Mr. HUNTER. I have just stated that they were made by the Secretary of the Interior.

Mr. JONES, of Iowa. At the last session of Congress, and every session since I have been here, precisely similar appropriations have been made to pay deputy surveyors, and for the simple reason that the surveyor general had not the funds in hands with which to pay them. He had to promise them that when the work was done, he would make an estimate, and recommend it to the Commisioner of the General Land Office, and through the Commissioner to the Secretary of the Interior, to have the appropriation made. In this case the work has been done by these gentlemen. They have lost money by it, and the amendment is to compensate them for what they have done, in accordance with the understanding between them and the surveyor general, for the General Government.

The PRESIDENT. Does the Senator from Virginia raise a question of order in regard to the amendment?

Mr. HUNTER. Yes, sir.

The PRESIDENT. The Chair is of the opinion that the amendment provides for a private claim, and therefore, under the rule, cannot be considered.

Mr. JONES, of Iowa. It is estimated for.

The PRESIDENT. The Chair is aware of that; but the rule reads:

"And no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

Mr. BORLAND. Before a final decision upon the question of order is made, I would be glad to make a suggestion. As I undertand the rule, the private claims which are excluded are those which are not connected with the public service. The amendment proposes to carry out a provision of law. Surveys of the public lands were ordered by competent, lawful authority, and a compensation under the law, and by competent authority, agreed to be paid to the two individuals mentioned. The amount of money on hand which had been appropriated for such purposes was exhausted, and now the amendment is simply to supply a deficiency in a former appropriation to carry out a lawful and proper object, regularly and lawfully authorized. Therefore I think it is not a private claim, in the sense intended by the rule.

Mr. JONES, of Iowa. I hope the Chair will allow me to send to the Secretary, and have read, a letter from the Secretary of the Interior, asking for this appropriation.

The letter was read, as follows:

"DEPARTMENT OF THE INTERIOR, *February* 14.

"SIR: I have the honor to transmit herewith a communication from the Commissioner of the General Land Office, dated the 11th instant, recommending an appropriation, and submitting an estimate, for additional compensation to E. S. Norris and G. R. Stunz, two deputy surveyors in the State of Wisconsin for work already executed by them. The additional allowance recommended is at the rate of three dollars per mile, and amounts in the aggregate to the sum of $4,218 34. From the character of the surveying done by these gentlemen, as appears from the inclosed papers, I doubt not the reasonableness of their present demand, and recommend, therefore, that the appropriation asked for may be made."

The PRESIDENT. The Chair is now of the opinion, that the amendment is not excluded by the rule.

Mr. FELCH. I desire to say a few words before the question is taken. It is very well for us to understand the principle involved in the amendment. I looked at the papers presented in relation to this case, before the subject came up this morning, with all the evidence in the case. The point is simply this: The act of Congress on the subject of pay to surveyors, authorized the proper Department to contract for the survey of the land mentioned in these papers, at a rate not exceeding five dollars per mile for the survey. The contract was entered into with these gentlemen for five dollars per mile, the maximum allowed by law, and the surveys went on. One of them, it seems, has perfected his survey, and the other has not finished running his line. The parties come here now, and say that the amount which they contracted to receive, and which they have received, so far as they have performed the work, five dollars per mile, does not give them full compensation; and that they lost money by the contract. There are no special reasons set down of any misapprehension, misunderstanding, misrepresentation, or anything of the kind. They allege that the country was at a distance, and therefore it cost them a great deal to get there, and that there were difficulties in the survey, requiring the use of the solar compass instead of the ordinary compass. All the facts set forth as reasons why the contract was a bad one, so far as I can understand them, are facts which were as well known to the parties when they made the contract as they are at this very day. In other words, they entered into the contract knowing all the facts, the position of the country, the expense of going there, and the condition of everything; but finding the contract not to be a good one, they come here and ask Congress to give them three dollars per mile in addition to what was agreed upon. It presents this simple question: Will Congress, when a party has entered into a contract according to law, and it turns out, or he alleges that it turns out not to be a good one, revise such a contract and pay enough more to make up to the party what he may allege that he has lost? That is the true question.

The Department had formerly a rule of making up losses in some cases when they occurred in

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consequence of the parties having entered into a contract for a less sum than the maximum allowed by law. In such cases the Department did in their discretion increase the sum up to the limit of the maximum allowed by law, five dollars per mile. But very recently they have changed their rule at the Department; because every surveyor who took a contract for a less sum than the law allowed as the maximum, would come and ask for an additional compensation. They were annoyed by the rule so that they were obliged to give notice that every one who made a contract must abide by it. In accordance with the practice at the Department, when that rule was applied, parties used to come here with a recommendation, and get an additional compensation, generally in accordance with a report in favor of an appropriation. The Committee on Public Lands have not thought proper to go back and call in all the contractors, to review their contracts to see whether they may have lost money, and are entitled to additional compensation. If that were done, it would be a wholesale business, and if we enter upon it we must revise the whole. That will be the effect of it. In the cases referred to the Committee on Public Lands, we thought it better not to allow the additional compensation. However, if the Senate adopt the principle of giving the increased pay in this case, there are several other cases which have been presented to the committee which should be allowed; one of George McKee, in Florida, and one of a Polish gentleman. Those cases present stronger claims than these now before us. If this principle be adopted, and we apply the rule in one case, we should apply it to all cases of a similar character.

Mr. RUSK. I will move to postpone the further consideration of this bill until to-morrow.

Mr. JONES. I hope not. I hope we may have a vote on this amendment.

Mr. RUSK. That will be impossible.

Mr. JONES. I hope the Senator will allow this matter to be decided. It will not take five minutes. I do not believe anybody else will say anything upon the subject. I only desire to say, in addition to what the Senator has said, that the surveyor general told these surveyors at the time he employed them—they live in my town, and I know all about it—that the appropriation would not allow him to pay them any more, or he would have agreed at the time to pay them more; that he would necessarily have to ask an additional appropriation to make these allowances to them. That is the reason why it was not done in the first instance. The amount appropriated to the surveyor general was not sufficient, and the work would have been delayed to this time, if he had not sent the surveyors out with the understanding that they would be paid when the appropriation was made, for which he then intended and promised them he would ask at the then approaching—the present—session of Congress.

I trust the Senate will agree to these appropriations, as it did at the last session under precisely similar circumstances, to compensate John Ryan, another deputy of this same surveyor general, who had contracted with him to execute a district of surveying under him under circumstances precisely similar to those involved in the present instances. I know that the case of Ryan was submitted—but not formally, on motion in the Senate through the chairman of the Committee on Finance—to the Committee on Public Lands, and that that committee then agreed to recommend the same, and so it passed this body, and the other House too, the like recommendations having been made then, as now, from the surveyor general, Commissioner of the General Land Office, and Secretary of the Interior. As surveyor general in times past, I have had to act in such matters, and have no hesitation in saying now, that the action of those who have been consulted in these cases was judicious and proper.

The Comptroller of the Treasury has the right, under existing law, or at least his predecessor and he himself have exercised it, to make the additional remuneration asked for in these cases, but to save himself annoyance, he has adopted a *rule* to refer all to the Department and to Congress for relief.

If the honorable Senator from Michigan desires to obviate the pernicious precedent which the adoption of my amendment will set, and to which he objects, let him so amend the law as to authorize the surveyor general for Wisconsin and Iowa to pay eight dollars per mile, as a maximum, as is the case in, I believe, Louisiana and Florida. We shall not then be troubled with the applications for relief, but we will soon find that the annual appropriations for carrying the surveys will have to be doubled, or very nearly so I know all about the hardships to which these and other deputy surveyors are exposed in earning the trifling compensation which is now allowed them for the work which they execute, in our northwestern region, for the General Government. The most of the work done by these deputies—who are gentlemen of the highest respectability and of scientific attainments—was executed under a system of *triangulation*—rendered absolutely necessary under the peculiar circumstances of these cases—a system similar to that practiced in the Coast Survey, under the learned Professor Bache, but not costing the Government one tenth part as much per mile. Such is also the case with respect to the running of the southern and northern boundaries of my State, the execution of which costs the Government a trifle when compared to the enormous outlay for the surveys of the northeastern boundary of the United States, and that also between us and Mexico on the southwest. I can see no reason for this great distinction between allowances to our people for service of like character, except that we in the northwest have become accustomed to have the reins drawn tightly over us.

Mr. FELCH. I merely wish to say that so far as the action of the Committee on Public Lands is concerned, I am sure there has been no instance, since I have been a member of it, in which it has recognized the principle.

The amendment was agreed to.

Mr. RUSK. I move to postpone the further consideration of the bill until to-morrow.

Mr. MASON. If the bill can be gone through in the course of an hour now, I am willing to continue at it so far as I am concerned. I shall then ask the Senate to take up the resolutions concerning the right of way at Tehuantepec, upon which the Senator from New Hampshire has the floor. They were postponed until this day.

Mr. RUSK. My object in moving the postponement, was to take up the Pacific railroad bill, which stands first in the order of business on the calendar. I have for a long time stood by and yielded, as a matter of courtesy, to others, for the purpose of speech-making, until it has become evident that unless we get some action on it in a day or two, we shall get none. My object is to take up that bill; but I am still willing to be forbearing, and if the Senate will indulge me by taking it up and making it the special order for half after eleven to-morrow, I will agree to it.

Mr. HUNTER. Does the Senator propose to go on to-day and finish this bill? I think we can finish it in half an hour; and I hope the Senate will proceed with it.

Mr. RUSK. I have no objection to doing that. I withdraw my motion.

Mr. BRADBURY. I move to amend the bill by adding the following:

SEC. —. *And be it further enacted*, That the proper accounting officer of the Treasury Department be, and he is hereby, authorized to settle and adjust the accounts of John O. Mears, as acting purser of the United States brig Dolphin, under the appointment of the commander of the squadron, then on the coast of Africa, and to allow him the pay of a purser while in the discharge of the duties of that appointment.

Mr. HUNTER. Is not that a private claim?

The PRESIDENT. In the opinion of the Chair, it is.

Mr. BRADBURY. Upon that question, I would like to be heard. It certainly is no more a private claim than that which the Senate has just agreed to. It provides, that a young man, who was some years ago called to act as a purser on the coast of Africa, and who is entitled to no compensation whatever, as the law stands, shall receive his compensation. I will state further, that a bill for his relief was approved and recommended by the Secretary of the Treasury some years ago, and it has passed the Senate three times. It is now in the House of Representatives, and there is no hope of its being reached at this session.

Mr. HUNTER. I understand it is decided to be a private claim. If so, it is out of order.

The PRESIDENT. The Chair will suspend his opinion on the question until the Senator from Maine gets through.

Mr. BRADBURY. It is important that there should be action upon this question. The captain of the ship in which the purser sailed is held accountable for all the moneys disposed of by him. He is ordered upon the expedition to Japan, and there is a necessity that the accounts should be adjusted, as he is about to sail. I find a precedent in the allowance to Adjutant General Jones. I find a precedent in an allowance to two men who were supposed to have sustained a loss under a private contract. The case is as fully within the rule as the case just adopted by the Senate, because it has been recommended by the Secretary of the Treasury again and again. The individual cannot settle his accounts, involving many thousand dollars, without some action on the part of Congress; and an officer who is ordered on an expedition to a distant region, is responsible for the amount. I hope the Senate will consent to receive and adopt this amendment.

Mr. HUNTER. I have no doubt the Senator can find more than one instance in which the Senate have departed from the rule. I think the Senate has been occasionally mistaken in its decisions. I think the decision of the Chair is right in this instance, and I hope the Senator will not persist in offering his amendment, but allow us to proceed with the bill.

Mr. BRADBURY. I hope the Senate will take into consideration the situation of the officer, who is ordered to a distant station, and who will not return for many years. It is very important to him that he shall not be held responsible for many thousand dollars which have not come into his hands. I hope the matter will be submitted to the Senate, and that it will agree to the amendment.

The PRESIDENT. The Chair is of the opinion that the amendment upon its face shows a private claim, and is excluded by the rule.

Mr. BRADBURY. Will the Chair put the question to the Senate?

Mr. HUNTER. Does the Senator appeal from the decision of the Chair?

Mr. BRADBURY. I do, if the decision is that it is not in order. There is such an exigency in this case that I hope the Chair will indulge me, and that the amendment may be adopted.

The PRESIDENT. The Chair, under one of the rules of the Senate, has a right to ask the advice of the Senate upon any question of order. The Chair will state that he is of opinion that the amendment cannot be received under the rule. He will, however, submit the question to the Senate. The rule will be read, together with the amendment, that the Senate will understand the question.

The rule is as follows:

"No amendment, proposing additional appropriations, shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate, during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

The amendment was also read.

The PRESIDENT. The question now is, can the amendment be received under the rule?

The question was taken, and it was decided in the negative.

Mr. BORLAND. I move to strike out of the bill the following clause:

"For the extension of the United States Capitol, $400,000.

Mr. President, I make this motion not that I

desire to discontinue altogether the work upon the Capitol, although I was opposed to it in the beginning, and thought then, and think now, that it would have been well not to have gone on with it, but as the work has been commenced and is going on, I think we cannot now well avoid its completion. I do, however, want to suspend the work upon it. I think, in view of the facts to which I have alluded this morning—and I can assure the Senate, and the committee will bear me witness, that, as the Senator from Wisconsin [Mr. WALKER] says, I have but skimmed the surface—we ought at least to suspend operations until we can have some chance to correct the abuses and put the work in proper hands. I am unwilling for one, and it seems to me the Senate ought to be unwilling, to intrust the further expenditure of money to the hands which have so misused that which has already been appropriated. There can be no question, I think, that at least one half of the money which we have already appropriated—$600,000—for this work, has been misapplied and converted to a private and not to a public use. Sir, the suspension need not be long, and I do hope that we will suspend, that we will not make the appropriation in this bill, but will wait, and make what appropriations may be necessary in the general appropriation bill.

In connection with this, I wish to ask the Senator from Virginia one question. I wish first to call his attention to what I believe is the fact; that in the appropriation of $500,000, it was provided that the contracts then to be entered into should not exceed that amount. I think we adopted that in view of what we supposed were improprieties. I want to inquire—this appropriation being reported as a deficiency, in addition to the $500,000—if it means that that work has been contracted for and has been done, which requires the appropriation of this $400,000? That I understand to be the case if it be a deficiency. If there be no deficiency, and no work has been done which requires the expenditure of the money at this time, but the work has been kept within the limits of the appropriation of $500,000, as the law expressly required, and expressly required to prevent fraud, is it not proper now to withhold this as a deficiency, and wait until the opportunity is offered to ascertain the fact, and make the appropriation hereafter conform to the necessities of the case, and secure its expenditure in accordance with the public interest and prevent further fraud?

Mr. HUNTER. There was a provision in the last appropriation, as well as I remember, and I am sure my memory does not deceive me, to confine the amount of the contracts to the amount appropriated, $500,000. I do not understand that this deficiency is asked for on the ground that the contracts exceeded the amount which was appropriated, nor do I know what is the state of the facts. But I presume it is asked for for the reason that they can go on faster during the next fiscal year with the work than they originally contemplated, and that they can expend a larger sum. The effect of withholding the appropriation will be, as I suppose, to suspend the work in the very best part of the working season, because the appropriation bill for the next fiscal year will not take effect until July 1st, 1853.

If there have been frauds and mismanagement in relation to this matter—and I know nothing about that—there is no doubt that the Senator from Arkansas and the committee of which he is a member will expose the facts, and there is as little doubt, I suppose, that when they shall have exposed them the President will transfer the management to some other individual. That will be the proper remedy; and not to stop the work. If we are to carry it on we had better proceed with it during the working season, and not suspend the whole work merely for the sake of one appointment. It is now but a short time to the 4th of March, and the remedy which the Senator from Arkansas wishes to have applied can be applied by the appointing power, and not by withholding the appropriation.

Mr. BORLAND. It seems to me, from the answer to my inquiry, that we are legislating in the dark as to the extent of the appropriation. The Senator says he does not know whether it is necessary for the purpose set forth or not. Now, sir, if the Senator from Virginia, in whose judgment I have the greatest confidence, had investigated this matter, and knew of the necessity of the course which I suggest, he would take a different view of it. When we had the subject of the appropriation of $500,000 before us, and when it was urged upon us, it was carried through rapidly, on the ground that there was no time to consider it, and that the best part of the season would be past before we could act unless we acted at that time. We were told all this before, and thus we were not successful in guarding against frauds upon the Treasury, which have been since committed. We were told that the proper season for the work was coming on, that the most favorable time for doing it was at hand, and it would not do to postpone it. What has been the result? What I have exposed this morning.

Mr. HUNTER. The Senator misunderstands me if he supposes I have said that we are legislating in the dark. We are legislating with precisely such information as we have with regard to all other appropriations. This is estimated for by the proper Department. We do not go to the War or to the Navy Department, and make an actual examination of every particular work which is going on. We have to trust something to the Departments. Our knowledge is based upon estimates. I do not know whether the contracts exceed the amount appropriated. I only presume they have not violated the law. I do not know whether they have or not. It is a fair presumption that they have not—a presumption upon which all committees must act until the contrary is made to appear. I presume they have not violated the law.

Mr. BORLAND. The Senator misunderstands me. I did not design to suggest that he should have taken the course of which he speaks. That is not the question. The question is, whether this money is absolutely necessary to carry on the work from this time till the regular appropriation bills are passed, and an appropriation is made for it? If it be such a case of emergency that we cannot wait—if the funds are exhausted which were appropriated for this purpose, and it is absolutely necessary, in order to save what has been done, to make this particular appropriation—I think we ought to make it. But surely then this amount is too great. Four hundred thousand dollars cannot be necessary between this time and the period when the regular appropriation will be made, and when the execution of the work shall have been transferred to some other person. The very fact that $400,000 is required as a deficiency affords upon its face, in my estimation, the very best evidence that the law has been violated, and that contracts have been entered into which the law of the last session positively forbade.

Mr. COOPER. I was not present when this discussion commenced, and I am not aware precisely of the character of the remarks made derogatory to the character of Mr. Walter. I understand that remarks reflecting upon his character have been made by certain Senators. I am sure, Mr. President, that the Senators who made charges reflecting upon the character of that gentleman can know but little of him.

Mr. BORLAND. I will suggest to the Senator that before he proceeds to pass any opinion upon what was said by Senators in relation to the Architect, he should at least know what those Senators said. But he confesses he does not.

Mr. COOPER. The Senator from Pennsylvania will be the judge of his own course of argument. The Senator from Arkansas volunteers to instruct me as to what he supposes would be a proper course for me to pursue in relation to this subject. Sir, I shall always judge of what is fitting for myself, and it was enough for me to hear that the character of this gentleman had been assailed, to induce me to rise at once to enter my protest against what may have been said; for I am sure that anything derogatory to his character, reflecting either upon his integrity, or upon his ability or skillfulness as an artist, would be undeserved. That much I felt bound to say at once. And, sir, I will say further, for the information of the Senate, that the examination that has been in progress in relation to the conduct of Mr. Walter, connected with the extension of the Capitol, has been conducted in his absence. He has not been permitted to know the charges that have been urged against him, or to know who were the witnesses.

Mr. BORLAND. The Senator is mistaken. Mr. Walter has been before the committee, and knows what is charged against him, and has had an opportunity to make his own statement.

Mr. COOPER. I am informed by a friend of the gentleman that he had not.

Mr. BORLAND. I do not care who informed the Senator. What I stated is the fact.

Mr. COOPER. I shall not deny what the Senator says. He was undoubtedly present if the Senator says so; but I presume he has had no opportunity, at least, to answer the charges which have been made. I was informed that he did not know who the witnesses against him were, or what the character of the charges was. The Senator says that he is acquainted with the character of the charges. But I may say this much, that if he has an opportunity to vindicate himself, he will do it, and do it successfully, for he has not lived until the period of life that he has attained, with the character which he possesses, to have bartered it so instantaneously as he must have done. I am perfectly sure his character, earned by a life not now very short, is not going to be sacrificed through the hope of gain or any motive of any kind. Sir, I do not defend him because he is a Whig. I do not know whether he is a Whig or a Democrat, and I do not know what fate is to await him, as connected with his present position of architect. I do not care, sir, for that; but as he is a constituent of mine, and as I look upon him as a deserving one, I feel it but just to vindicate him.

Mr. UNDERWOOD. I rise for the purpose of asking Senators not to go into the matters which are pending before the committee raised to investigate frauds. If this discussion is to be continued, we shall get into those personalities which excite feeling, and perhaps consume a very unreasonable portion of our time, considering the nearness of the end of the session. It is very clear to me that if we go into the discussion of these matters, we shall do nothing else. I know something with regard to Mr. Walter, and for the purpose of reconciling the gentlemen on both sides, I will state that the Senator from Arkansas is right when he says that Mr. Walter has been before the committee, and knows some of the charges against him. The Senator from Pennsylvania is equally right when he says some of the charges have been made since he was before the committee, and that he has had no chance to respond to them. Now, if we go into this matter, everybody must see that there will be no end to it, and we shall consume the balance of the session upon an investigation which has been pending for weeks before the committee. I do not see that any harm can arise by the course recommended by the Senator from Virginia; but if there is to be a change in the architect, and other changes are to take place, and new individuals are to come in to superintend the building, the money will be just as necessary when these changes occur. I presume that whether you appropriate or fail to appropriate, the hands and employees will continue in office until there is time to make changes, and other persons are put in their places; so that we shall lose nothing by making the appropriation at this time. I therefore think that as the appropriation is prospective, and as these changes may be made, if made at all, within a few weeks, it is really useless to consume the time of the Senate upon the question.

Mr. BORLAND. There is an explanation particularly called for by the suggestion of the Senator from Kentucky. He says no harm can come from making this appropriation. That is the very point that my proposition involves. I say that harm can result from it, in this way: The suggestion I made in the beginning of my remarks as an objection to this appropriation, is this: that there is evidence enough to satisfy my mind—and I apprehend that every member of the committee was satisfied—that fraud had been perpetrated, and is now being perpetrated, in carrying on the contracts. I believe these contracts have been made in violation of law, and are in themselves fraudulent in their terms. I apprehend that these contracts cover a large amount, and I suppose it is for the purpose of meeting them the appropriation of $400,000 is asked for. Suppose we make this appropriation of $400,000;—it goes into the hands of those who pay the very persons who, I say, are now fraudulent in their practice. It will be too late to prevent the evil after the appropriation is made; the frauds will be consummated. My

proposition is to arrest that; so far as these contracts are made in pursuance of law, so far as they are not fraudulent, they can be paid for hereafter. They can be paid when those who are charged with the money can have time to investigate the contracts, and see how far they can be allowed, and how far it is necessary to check the fraudulent purposes involved in them. That is the very purpose of the amendment; not to discontinue the work, as I said before, but simply to suspend the paying for that which has been done, or contracted to be done, until the means are in our possession to prevent the consummation of frauds. I say that the persons now employed will continue in employment until displaced by some other power—the incoming Administration, if you please. I have no idea that the present Administration will remove them. They will continue in office until the 4th of March, and how much longer I will not undertake to say. But it is very certain if this money be appropriated now, it will pass directly into the hands of the disbursing officers, and it will be paid out to consummate the very frauds to which I object, and to meet the contracts which are shown by the evidence before the committee to be fraudulent. It seems to me that in that respect it is a fair proposition.

One word as to the opening remark of the Senator from Pennsylvania, [Mr. COOPER,] who addressed the Senate just now. He has confidence in the Architect. I do not pretend to question his opinion. I do not doubt that so far as his knowledge goes he is justifiable in his opinion; and he is justifiable in vindicating him as a constituent. But what I objected to, and what he did not seem to understand when I made the objection, was, that he commenced by saying that he understood remarks had been made, but which remarks he had not heard, and then was proceeding to comment upon them, and to controvert them. To that I objected, and I thought it only fair, before the Senator proceeded to comment upon and controvert the remarks, that he should at least know what had been said. I had no objection that he should consider the remarks when he came to know them, and say what he thought proper with regard to them; for I am the last to wish to avoid anything like a fair investigation. But what I objected to was, when he avowed his ignorance of the remarks, because he was not present when they were made, that he should proceed to comment upon them.

Mr. HUNTER. I hope the question will be taken.

Mr. BORLAND. I call the yeas and nays.

The yeas and nays were ordered; and, being taken, resulted—yeas 23, nays 24, as follows:

YEAS—Messrs. Adams, Borland, Bradbury, Brodhead, Butler, Chase, Clarke, Dodge of Iowa, Douglas, Felch, Fitzpatrick, Houston, James, Jones of Iowa, Norris, Rusk, Seward, Soulé, Sumner, Toucey, Wade, Walker, and Weller—23.

NAYS—Messrs. Bell, Brooke, Cooper, Davis, Dawson, De Saussure, Downs, Fish, Foot, Geyer, Hale, Hamlin, Hunter, Jones of Tennessee, Mallory, Mason, Miller, Morton, Phelps, Pratt, Sebastian, Smith, Spruance, and Underwood—24.

So the amendment was rejected.

Mr. DOUGLAS, when his name was called, said: I think it will be more proper to leave the matter to be provided for in the general appropriation bill, and therefore I vote "aye."

Mr. JAMES, when his name was called, said: For the same reason, I vote "aye."

Mr. WALKER. I wish to make a motion which will obtain the vote of the Senate, I believe the fourth or fifth time upon the same matter. I move to strike out of the clause—

"For completing the work of the Seventh Census, and to prepare the same for publication, $25,000, out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceased—"

—the words—

"Out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceased."

The Senate has been called upon to vote several times in regard to this proposition, and upon every occasion it has voted its refusal to increase the salary of this officer. It comes, however, in this form from the House of Representatives, and I have raised the question for the vote of the Senate again in the form I have indicated.

This, I take it, is an appropriation to complete the preparation of the census, and the amount proposed to be appropriated to complete it is $25,000. I believe it may be safely said that there has been an average of one hundred and fifty clerks upon this work; at one time the number was as high as one hundred and ninety. How long that number were employed I do not now remember; but it seems to me that the preparation of the ordinary matter which ought to be embraced in the census could have been done by thirty good clerks in a month, at the furthest. If the material for each State had been set apart to a good clerk, and he had worked upon it for a month, it seems to me he ought to have prepared the matter for publication. But it is not that alone upon which those clerks have been engaged; they have been engaged upon a history of the various States. We do not know yet that we are going to publish this history; but I will mention a fact, and if it be insisted upon, I will give my author. The preparation of this history is still in progress, and whether Congress shall order its publication or not, is a matter of very great indifference to the Superintendent of the Census. It is rather hoped, I should infer from what I have heard, that Congress should refuse to publish it, and for this reason: If they do refuse, he considers it as his private property, and there are now standing propositions from Lippincott, Grambo & Co., and others, to take it and publish it as a private work upon private speculation. I infer, then, that these $25,000 to complete the census is to put at the disposal of the Superintendent of the Census a corps of clerks to complete what is to constitute for him, if it is not taken by the General Government, a private and independent fortune; and in the mean time out of it shall be carved an increase of salary from $2,500 to $3,000 a year.

Mr. BRADBURY. If I understand the amendment, its only effect will be to strike out the salary of the Superintendent.

Mr. WALKER. Strike out the increase.

Mr. BRADBURY. The increase from what sum?

Mr. WALKER. From $2,500.

Mr. BRADBURY. Then the question is whether the head of the Census Bureau shall receive the same compensation as the heads of other bureaus. I suppose he has as laborious a position as any other, and I see no particular reason for making the discrimination. The subject was a good deal debated at the last session. I cannot see that it is a matter of very great consequence to place him upon a different footing from the chiefs of other bureaus. In regard to the publication of the history which is said to be in preparation, I am glad to be informed that it is likely to be such a work as that publishers would upon their own responsibility give it to the world, for a large portion of the documents published by Congress are certainly of a very inferior character to that, and never would be published by anybody else, if they were not published by Congress.

Mr. DAVIS. I agree entirely with the Senator from Wisconsin, [Mr. WALKER,] that there is no propriety whatever in allowing this compensation. This gentleman sought the compensation of $3,000, when the original census bill was passed, and it was defeated in the House of Representatives when the bill passed there. There has been a struggle ever since that time, in one mode and another, to raise the salary from the sum given him by law, up to $3,000. In the first place, the Department of the Interior allowed to him a double salary on account of his being Superintendent of the Census, and a clerk of the Census Bureau; and it was only at the last session that we had this subject before us under consideration, and then this gentleman and his friends contended here that the Census Bureau was still in existence, and that he was entitled to double compensation, because that Board still existed. The Senate decided otherwise. And then what followed? Every gentleman who opposed the double compensation in the Senate, was held up to scorn in the newspapers as having done injustice to the individual. And yet when that law went to the House of Representatives, it passed there without a dissenting voice, and went through here by an immense majority.

That law was passed, sir, to correct a mistake made by the Senate in amending the census law of 1850. There did an amendment pass through the Senate without our comprehending what it was, as many amendments do, by which a construction was attempted to be given to that law, giving him the sum of $3,000 a year. Well, sir, notwithstanding that bill passed the Senate and went to the House, at the close of the last session it had not got through the House. And, as I am told, the Secretary of the Interior, on finding that the bill was not acted upon by the House, actually made up the compensation to him in the Interior Department, on the supposition that the bill of the Senate would not pass through the House. But one of the very first acts of the House of Representatives at this session, was to pass that bill, which they did without a dissenting voice, thus putting a stopper upon the allowance made under the authority of the Department of the Interior contrary to the expressed will of the Senate, and contrary to the will of the House. Now, it is attempted to cover that allowance, if I can understand it, by the provision which the Senator from Wisconsin moves to strike from the bill. I think no injustice will be done to this individual by striking it out. In the first place, he is not the head of a bureau; he is a superintending clerk, and as superintending clerk he has a greater salary than any other clerk in the Department. He has never been dignified by being the head of a bureau. This business is under the Department of the Interior. I believe that when the Senate comes to understand the expense incurred in taking the census, and more especially in making the abstracts and reducing them to a form for publication, they will see such an exhibition of the amount expended as has never been equaled or approached on any former similar occasion. I should not be surprised if the expense of taking this census exceeded in amount all that has been paid for taking every census before it. The sum is perfectly enormous.

The Senator from Wisconsin says that thirty clerks would have been adequate where one hundred and fifty and upwards have been employed to do the work. Now, sir, one of the most experienced officers of this Government, one of the best working officers in it, told me that if you would give him twenty-five clerks he would accomplish the work in much less time than it has been done with these one hundred and fifty or one hundred and ninety, as the gentleman says—I do not know the exact number; it is, however, very great. It has been perfectly manifest from the beginning of this work to the end, that the gentleman at the head of it has been incompetent to the task put into his hands. Nothing has been more certain than that; and I say that—and my friend [Mr. BORLAND] knows it as well as I do—no qualifications have been shown by him for his position; but it has been dragged onward and onward by the expenditure of money. I would be glad if the footing up of all these sums was made, and the whole amount was laid before the Senate; and I take leave to say that there have been many extravagances committed which are not to be justified—among others, was this man's being sent to Europe; and what was he sent for? Why, every man that has ever thought or considered of this subject knows perfectly well that all the information which any gentleman can get, either by inquiry or otherwise, can be obtained at any time by correspondence. There is no difficulty in obtaining it at all.

The results of the census, in the first place, are all published; but if there is any organization, or any machinery to inquire into, if there is any secret about it which all the world does not understand, it is obtained with the utmost ease by correspondence. Yet we find this gentleman going away from the business committed to his charge, and spending some two or three or more months in Europe, leaving the office in the mean time to take care of itself. I have heard from gentlemen—though I cannot vouch for it—that the business during his absence made little progress, and it was impossible to arrange it so to make the progress which the public had a right to expect. That was one of the means by which this great expenditure was incurred by the Government. I am not for encouraging any man in a course like this. I am not willing, merely to gratify him, because he comes here pertinaciously session after session, and devises first one means and then another, to increase his salary. I am not willing to gratify him by doing it.

Mr. MILLER. The amendment proposed by the Senator from Wisconsin is to strike out a por-

tion of the bill as it came from the House. This subject did not escape the attention of the Committee on Finance. I think my honorable friend from Massachusetts is mistaken in regard to the object of putting this in the bill. I was aware that at the last session the subject was brought before the Senate, and the question was raised here whether there had not been an attempt to procure two salaries; one as Superintendent of the Census and the other as Secretary of the Census Board. That, I believe, was the statement of the Senator to-day.

Mr. DAVIS. My statement is this: the salary of this gentleman is $2,500. The purpose of the provision in the bill is to make it $3,000 hereafter, and to make it $3,000 from a period which, according to his statement, is a very indistinct one, that is, from the time the Census Board ceased. I do not know when that was.

Mr. MILLER. I believe I understood the honorable Senator. I do not think the question, at the last session, was as to the amount of the salary, but it was supposed that there had been an attempt to take salaries for the two offices. The provision in the bill is very plain and explicit in its terms. It declares that he shall receive a salary of $3,000 from the time his office as clerk of the Census Board ceased. So it puts out of the question altogether, the idea of his receiving salaries for the two offices, and the only question is, whether he shall receive the salary of $3,000 during the time he performed the duties of this office.

I do not intend to go into the question with regard to the expenditure of the money in getting up this census, or as to the capacity or honesty of the particular gentleman who has the superintendence of it. That is not the question here. He is in the office—he is performing the duties of the office; and it appears to me that the salary of $3,000 is not an extravagant salary, and that he ought to receive it, inasmuch as he performs as responsible and arduous duties as any person at the head of any bureau. If we were to go into the question of the capability of the officer every time his salary is brought before us, we should never get through. The question is not with regard to the way he performs his duties there. That is a question under the control of the Executive. He is there performing the duties, and this clause is simply to give him a salary of $3,000 from the time his duties as Clerk of the Census Board ceased. I hope it will not be stricken out.

Mr. DAWSON. I am a little surprised that this discussion should arise here every time the name of Mr. Kennedy is mentioned on this floor. A few words will enable us to understand the whole question. When the census was ordered to be taken, a board was organized, and they had power to appoint a clerk. That board was composed of gentlemen of high distinction; and they appointed Mr. Kennedy as clerk, and gave him a salary of $3,000 a year. At a subsequent period, when the law authorizing the census to be taken, and a table of statistics planned and arranged was passed, a Superintendent of the Census was ordered under that law at a salary of $2,500 a year. The Census Board was not repealed by the law for taking the census, and that Board continued to act down to the commencement of the last session of Congress. Their report is before us. The question came here, as this individual was acting both as Superintendent of the Census and as Clerk of the Board, what his salary should be. The idea at first promulgated, and I believe by some honestly, was, that he was claiming both the salaries; one as Superintendent of the Census and the other as Clerk of the Census Bureau. This was not the fact. The Secretary of the Interior decided, that, as both salaries were appropriated by law, one to the Superintendent of the Census and one to the Clerk of the Bureau, and as both offices were discharged by Mr. Kennedy, he was entitled to the higher salary.

So the Secretary of the Interior decided, and so the Census Board decided, and he received the salary in that way. At a subsequent period, some one of the officers—one of the Comptrollers, I believe—decided that he was entitled to only $2,500. An appeal was taken and carried to the Secretary of the Interior, and he again decided that he was entitled to $3,000. We had this subject before us once before in order to settle the question, and the bill was lost in the House of Representatives as was stated.

Mr. DAVIS. It was not acted upon in the House.

Mr. DAWSON. It was not acted upon in the other House. At this session the House of Representatives provide in the deficiency bill for the highest salary, the same which the Secretary of the Interior has declared over and over again he ought to have; and what the Census Board has said he was entitled to—$3,000. He never has claimed more, and this bill is to give him that salary from the time he was appointed down to the present hour. Is this not right? But it is said that he is not the head of a bureau, that he is but the superintending clerk, thereby intending that we shall infer that he is not entitled to a salary of $3,000. All of the heads of bureaus are attached to some of the Departments. Can there be a Senator who will say that the Superintendent has not labored as industriously as any officer in this Government? In the opinion of some he is not a very competent man; in the estimation of others he is very competent. In the language of the Senator from New Jersey, one thing is certain: this Administration, from the President down, has sustained this officer in his present position; and the country look with a great deal of interest and anxiety to any publication which comes from his bureau. As to his trip to Europe that is not the question before us. That may have been an indiscreet thing, not done by his own act, but by the order of the Secretary of the Interior. The only question is, whether we will declare him entitled to the salary which the Census Board and the Secretary of the Interior have decided belongs to him from the time of his appointment to the present?

Mr. MASON. It is very manifest that we cannot get through with this bill to-day, and I am committed to the honorable Senator from New Hampshire, who has the floor for to-day on another subject, to move, as I do now, that the further consideration of this bill be postponed to to-morrow morning.

Mr. HUNTER. I think we can get through with the bill to-day; at any rate we can try to do so. I hope therefore we shall go on with it.

The motion to postpone was agreed to.

PACIFIC RAILROAD.

Mr. MASON. I move that the Senate now proceed to the consideration of the resolutions relating to the right of way at Tehuantepec.

Mr. RUSK. Before that motion is put, I move that the Senate take up Senate bill No. 396, for the purpose of assigning another day for its consideration. I will fix to-morrow morning at twelve o'clock as the hour at which I desire it to be the special order.

Mr. MASON. I shall be perfectly willing, so far as I am concerned, to conclude the debate on the Tehuantepec resolutions to-day; but if it shall not be concluded to-day, I hope the Senate will go on with it from day to day until it shall be concluded. I shall ask the Senate to allow me a very short time to answer some remarks and arguments that have been urged by the honorable Senator from New York, [Mr. SEWARD.] It shall occupy but very little of the time of the Senate, and I will cheerfully do it at any hour this evening. I, however, would suggest to the honorable Senator from Texas to name a later day for the consideration of the bill to which he refers, than that which he has suggested—say Friday.

Mr. RUSK. I cannot do that. I hope the Senate will allow me to-morrow.

The PRESIDING OFFICER, (Mr. NORRIS.) Does the Senator from Virginia withdraw his motion?

Mr. MASON. I do not withdraw it.

The PRESIDING OFFICER. Then the motion of the Senator from Texas cannot be received.

Mr. MASON. I will withdraw my motion to allow the Senator from Texas to take up his bill for the purpose of fixing a day for its consideration.

Mr. HUNTER. I hope the Senate will not fix to-morrow at twelve o'clock, but that we shall then go on with and conclude the discussion on the deficiency bill. At least I hope the Senate will give me until one o'clock.

Mr. RUSK. I have yielded time after time.

The PRESIDING OFFICER put the question on Mr. RUSK's motion to take up the Pacific railroad bill, and it was agreed to.

Mr. RUSK. I now move that its further consideration be postponed until to-morrow at twelve o'clock, and that it be made the special order for that hour.

Mr. MASON. I move to amend that motion by making it the special order for Friday next, at one o'clock, in order that we may get through with these Tehuantepec resolutions. I hope we shall continue their consideration until we dispose of them. When we have got through with these resolutions the Senator from Texas can have his bill considered. If he thinks Friday too distant a day, I will say Thursday, at one o'clock.

Mr. RUSK. There is a special order for Thursday. The Texas debt bill is the special order for that day, and I am bound to give way for that. The Tehuantepec resolutions will not require the action of the House of Representatives; whereas the postponement of the Pacific railroad bill beyond to-morrow will operate so as to defeat it, because there will be no time left for its consideration in the House of Representatives.

Mr. MASON. I was not aware that the special order for Thursday was the Texas debt bill; but as that bill is assigned for Thursday, I withdraw my motion and renew that which I made originally, to postpone the consideration of the bill which the Senator from Texas has called up until Friday at one o'clock.

Mr. BELL. You may as well say the 4th of March.

Mr. ADAMS. I beg leave to suggest, that as the resolutions alluded to by the Senator from Virginia are separate resolutions of the Senate, and do not require the action of the House, they can be postponed until the 4th of March without any detriment in any way to the public interests. I would therefore suggest to him the propriety of moving their postponement until the 4th of March. We shall then have more time to consider such subjects.

Mr. BROOKE. My colleague must permit me to remind him that there are some Senators on this floor who will not have the pleasure of being here on the 4th of March.

Mr. ADAMS. That is the very reason why I made the suggestion, so that those who expect to vote for the resolutions may remain here and sustain their principles; but if my colleague wishes to address the Senate upon the subject, I will withdraw my suggestion.

Mr. RUSK's motion was agreed to, and the Pacific railroad bill is therefore made the special order for to-morrow, at twelve o'clock.

THE TEHUANTEPEC GRANT.

The Senate then proceeded to consider the joint resolutions of the Committee on Foreign Relations in relation to the Garay grant; when—

Mr. HALE delivered his views at length, and was followed by Mr. BROOKE, who, without concluding, gave way, and the Senate adjourned.

[These speeches will be found in the Appendix.]

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 15, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. BUTLER.

Mr. CABLE, of Ohio. I desire to know if a quorum of members is present?

The SPEAKER counted the House, and replied that a quorum was not present.

Mr. ROBIE. I move that there be a call of the House.

The motion was agreed to, and the Clerk proceeded to call the roll, when the Speaker announced that 95 members had answered to their names.

The absentees were then called, and it was ascertained that a quorum had answered to their names.

Mr. STANLY. I move that all further proceedings in the call be dispensed with.

The motion was agreed to.

The Journal of yesterday was then read.

Mr. STANLY. I rise to correct the Journal. If the Speaker will refer to that portion of the Journal which states the ground upon which I took an appeal from the decision of the Chair, he will, I think, see there is a slight error in the statement as there made. It is a matter of no great consequence; but the correction I make is this: I did not appeal from the decision of the Chair upon the ground that the House was act-

ing under a suspension of the rules; the point I made was, that the Speaker having announced that the bill for the relief of Rosanna Sowards was the first business in order, I had the right to call up that bill.

The SPEAKER. It is true, the announcement was made, but the gentleman will not dispute the fact, that immediately after the reading of the Journal, the House proceeded to the consideration of other business. The Chair was not bound to announce that a motion to reconsider was pending at all, and no gentleman having at the time called up the motion, it was perfectly competent for the House to proceed to other business.

Mr. STANLY. The point with me was, that this being announced as the business in order, it was competent for me to claim the floor and call it up to the exclusion of all other business.

The SPEAKER. There is a clear distinction, which, had it been properly considered, would have prevented any disagreement between the Chair and the gentleman at the time. The gentleman from Indiana [Mr. DAVIS] rose and submitted a motion, which was clearly in order, before the gentleman from North Carolina proposed to take up the privileged question of reconsideration.

Mr. STANLY. I will repeat, the point I made, and upon which I appealed, was, that the gentleman from Indiana was not entitled to the floor to submit his motion when any one else wanted it to call up the motion which the Speaker had announced was first in order. It is a matter of no great consequence. I merely desired to call the attention of the Speaker to the error. I will make no motion with regard to it.

The Journal was then approved.

COINAGE.

The SPEAKER. The business regularly in order is the consideration of Senate bill No 271, "amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime," upon which the gentleman from New Jersey [Mr. SKELTON] is entitled to the floor.

Mr. SKELTON. Before I commence my remarks, I wish to submit to the House a petition in relation to the subject of this bill, signed by a large number of the members of the Legislature of the State of New Jersey, and by the Governor of the State. I send it to the Clerk's desk, and ask that it may be read.

The petition was read by the Clerk, as follows:

To the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the subscribers respectfully represents, that the greatly increased value of silver compared with that of gold as regulated by law, at the Mint of the United States, has almost wholly withdrawn all the silver coins of proper weight from circulation as a currency. They are no longer a standard of value in payment, and are only used as an article of commerce.

Your honorable bodies are fully aware that the ordinary business of the community, comprising probably ninety-nine hundredths of all individual transactions, cannot be conducted without small coins, or paper tokens, to settle small balances; and however repugnant the use of such paper trash may be to public opinion, or discreditable to the Government and nation, the indispensable necessity for it will, as your memorialists seriously apprehend, soon force it upon the whole country, unless Congress shall, during the present session, provide an efficient remedy.

Your memorialists believe that such a remedy may be found in the passage of a bill that passed the Senate of the United States at their last session, which proposes a silver coinage about seven per cent. lighter than the present coin, comprising all the existing denominations less than one dollar, and making these new coins a legal tender only for payments not exceeding five dollars.

Your memorialists believe that this measure will remove all difficulty as soon as the proposed coins can be minted in sufficient numbers, and distributed; and in the mean time, it will entirely prevent the exportation or melting of silver coins, as these will become more valuable for recoinage than for any other purpose. Nor can it in the slightest degree disturb the monetary affairs of the nation, or infringe existing rights in contracts.

Your memorialists forbear to occupy your time with further argument in favor of such a coinage. It has been fully discussed in an able report of a committee of the Senate, and so long under consideration that it must be fully understood.

Your memorialists will therefore only remark further, that, except those engaged in buying or melting silver coin, every individual in the United States who uses money must be interested in having relief from the increasing embarrassment arising from the want of a permanent regulation of the small silver coin.

That your honorable body will determine to act upon this subject at the present session, is the earnest prayer of your memorialists.

TRENTON, (N. J.,) *February* 4, 1853.

Mr. S. continued. At the expiration of the morning hour, when this bill was last under consideration, the House will recollect that I had nearly concluded the remarks I then thought it necessary to make relative to the bill. But, sir, this petition, signed as it is by a large number of the members of the Legislature of the State of New Jersey, now in session, presents another consideration why this bill should meet the approbation of the House, which is, that the want of small change is at present so great in the State in which I reside that the people will be compelled to resort to small paper tickets, as a medium of circulation, in the transaction of small business.

Now, sir, no one will question that a return to the ticket system in this country, from any cause, would be a calamity very much to be regretted by the American people. In addition to this, the State which I have the honor in part to represent, and some of the adjoining States, have recently adopted measures, and others are about adopting, to drive out of circulation all notes under the denomination of five dollars. This measure is considered indispensable in my State for carrying out this wholesome reform in the currency of our country. This is another reason why this bill should meet the approbation of and pass this House at the present time.

At the time I was concluding my remarks, a few days since, and when the House passed from the business of the morning hour, I was stating that the few remarks I had to make would be confined to the amendments proposed by the Committee on Ways and Means to the bill under consideration.

I stated that I believed the friends of the bill would do well to vote down all the amendments proposed to the bill as it came from the Senate. Only two of the amendments which are proposed are of any importance to the general measure. The first amendment is to the first section of the bill, which makes the coin, about to be coined under this new act, a legal tender for all debts under the denomination of five dollars, and the amendment proposes to strike out that provision, and insert a provision that it shall be received in payment of dues to the United States. Now, if that amendment is adopted, the effect will be to destroy the bill, and to defeat the object for which the bill is proposed. The difficulty now to contend with is, that silver is more valuable, relatively, than gold. By adopting the amendment proposed by the Committee on Ways and Means, the opposite difficulty, and a greater one, will be encountered by the country. The silver coin would then be the least valuable; and the result would be to drive the gold coin entirely from circulation, and substitute that of silver, thus producing a greater evil than the one proposed to be remedied. For this reason, I hope that this amendment, above all others, will be voted down.

There is another amendment which is important, if time, and the pressing wants of the country, would permit its passing into effect. I allude to the amendment proposed to the bill, which provides that the Secretary of the Treasury may change the devices of the coin, about to be struck under the bill. This may appear to be, at first sight, an important amendment, in order to enable the citizens of the United States to distinguish between the heavy and the light coins. But when you take into consideration that the light coin will entirely drive out the heavy coin in circulation, and that if occasionally a heavy coin should fall into the hands of an individual, no evil consequence will follow, because he will receive a more valuable piece of money instead of a less valuable one, there will appear to be no necessity for that amendment. As the heavy gold coin of 1834 was driven out of circulation by the light coin, so will the small amount of heavy silver coin now in circulation be driven out by the light. Thus you will perceive that it is not important that such an amendment should be adopted.

In addition to that, I have been informed by one of the officers of the Mint, that if this change of the devices is to be carried out, the officers of the Mint will necessarily be delayed in striking off the new coin for some six or eight months, and that it will be necessary to employ an additional engraver in the Mint of the United States, which I believe to be unnecessary. The same devices may remain under the passage of this bill, and the coin may be immediately struck, and the pressing wants of the country immediately supplied, which would be impossible by the passage of the amendment.

So, sir, in regard to the other amendments, they are not important to the bill. I have examined the bill over and over again, very carefully, with reference to the wants of the country, and I have come to the conclusion—and I believe that every man who examines the bill will arrive at the same conclusion—that it is drafted with exceeding care, and that it will meet the wants of the country at the present time.

It is for these reasons that I recommend to the friends of this bill to vote down the amendments proposed to it, and to put it immediately upon its passage. If we do so, we shall receive the thanks of the people throughout the entire extent of this country. There is scarcely an individual in the United States whose interests will not be promoted by the passage of this bill.

One word in regard to the objects which this bill proposes to accomplish. The main object of the bill is to supply small silver change, half dollars, quarter dollars, dimes, and half dimes. No one will question the necessity of some change of this kind to supply the pressing wants of the community for small change. The bill does not propose to change the value of the gold currency; it does not propose to disturb the standard of value now in existence throughout the country. Gold is the only standard of value by which all property is now measured; it is virtually the only currency of the country.

With this view, it will be seen by the House at once that the bill proposes nothing injurious to anybody, and that it proposes an important measure, which will be beneficial to every one.

I do not propose to consume any further the time of this House, and I will forego any further discussion upon other points, which I might dwell upon.

I will, however, mention one other object, which the bill proposes to accomplish. It allows the Mint of the United States to assay and strike the value of gold and silver bullion, charging the depositor the cost of assaying and stamping the value upon it. You will perceive that it affords to the commercial community, when it wants to export its gold and silver, the best means of having it coined into bars and disks, with the impress of the value and quality upon them. Why should we coin fifty millions of dollars to be exported to Europe? Why not let the merchant pay for the assay, and coining it into disks and bars, and let them send their gold abroad in that form? It is for the coinage of the currency of the country only, that the people are legitimately chargeable.

The pressing wants of the country and my sense of obligation compels me, reluctantly, to take my seat, and at this time, to demand the previous question on the passage of this bill. I have no disposition to deprive any individual of the privilege of discussing the bill, by calling the previous question, but a sense of duty to my constituents and to the country requires me to do it.

Mr. FREEMAN. I move to lay the bill upon the table.

Mr. BROOKS. I hope the gentleman will withdraw his demand for the previous question. This is too important a bill to be hurried through in this way.

Mr. ORR. I call for the yeas and nays upon the motion to lay the bill upon the table.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 54, nays 109; as follows:

YEAS—Messrs. Aiken, Beale, Bragg, Albert G. Brown, Busby, Joseph Cable, Caldwell, Thompson Campbell, Chastain, Colcock, Cullom, Dockery, Doty, Eastman, Edgerton, Floyd, Freeman, Thomas J. D. Fuller, Gaylord, Giddings, Green, Grow, Isham G. Harris, Haven, Hillyer, Andrew Johnson, James Johnson, George W. Jones, Landry, Mason, McCorkle, McLanahan, McNair, McQueen, Meacham, John Moore, Morehead, Murphy, Nabers, Newton, Orr, Outlaw, Andrew Parker, Phelps, Robinson, Scurry, Origen S. Seymour, Smith, Alexander H. Stephens, St. Martin, Wallace, Watkins, Addison White, Alexander White, and Williams—54.

NAYS—Messrs. Allison, William Appleton, Thomas H. Bayly, Barrere, Bennett, Bibighaus, Bocock, Bowie, Bowne, John H. Boyd, Breckinridge, Briggs, Brooks, George H. Brown, Burrows, Lewis D. Campbell, Cartter, Caskie, Clemens, Cleveland, Clingman, Cobb, Darby, Geo. T. Davis, John G. Davis, Dawson, Dean, Dimmick, Duncan, Dunham, Edmundson, Fay, Ficklin, Fitch, Florence, Gentry, Goodenow, Goodrich, Gorman, Grey, Hall, Harper, Sampson W. Harris, Hart, Haws, Hebard, Hendricks, Hibbard, Holladay, Horsford, Houston, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, Ives, Jackson, John Johnson, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Letcher, Little, Lockhart, Mace, Mann, McMullin, Meade, Miller, Millson, Molony, Henry D.

Moore, Morrison, Murray, Samuel W. Parker, Peaslee, Penniman, Perkins, Porter, Powell, Reed, Richardson, Robbins, Robie, Sabine, Schermerhorn, Schoolcraft, Schoonmaker, Skelton, Stanly, Benjamin Stanton, Abraham P. Stephens, Stone, Stratton, Sutherland, Sweetser, Thurston, Toombs, Venable, Walbridge, Walsh, Washburn, Welch, Wells, Wilcox, Wildrick, and Woodward—109.

So the House refused to lay the bill upon the table.

Mr. BROOKS. I now ask the gentleman from New Jersey [Mr. SKELTON] to withdraw his call for the previous question. I can satisfy the House that there are erroneous calculations in this bill, and that it is a very dangerous bill to pass.

Mr. HOUSTON. I object to debate.

Mr. BROOKS. I hope the House will not sustain the call for the previous question.

The House was then divided upon seconding the demand for the previous question; and there were—ayes 77, when—

Mr. JOHNSON, of Georgia, demanded tellers.

Tellers were ordered; and Messrs. HALL and GAYLORD appointed.

The House was again divided, and the tellers reported—ayes 78, noes 40.

So the previous question was seconded. The main question was then ordered to be put; which main question being, "Shall the bill be recommitted to the Committee of the Whole upon the state of the Union?"—

Mr. BROWN demanded tellers upon it.

Tellers were ordered; and Messrs. VENABLE and HALL appointed.

The question was then taken, and the tellers reported—ayes 48, noes not counted.

So the House refused to commit the bill.

The SPEAKER. The question now is upon agreeing to the amendments reported by the Committee on Ways and Means.

Mr. FREEMAN. Has the morning hour expired?

The SPEAKER. It has not, and if it had, the previous question having been ordered, this bill must be considered.

Mr. DUNHAM. If there is no objection, I should like to offer another amendment before these amendments are acted upon. I can explain it in a few words.

Mr. HALL. I object to any amendment being offered to the bill.

The SPEAKER. No amendment can be offered except by unanimous consent.

Mr. DUNHAM. The amendment I desire to offer is one to provide that the three-cent piece shall be made of standard silver, the same as other silver coin.

Mr. HALL. I consider this bill one of very great importance, and I believe the only chance of passing it is to pass it in the shape in which it came from the Senate; and hence I am opposed to all amendments.

The amendments proposed by the Committee on Ways and Means were then read in order, as inserted below, and the question being taken upon them severally, they were rejected, viz:

In section two, strike out the words "debts for all sums not exceeding five dollars," and insert in lieu thereof the words "dues of the United States."

In section three, after the words "intrinsic value thereof," insert the words "estimated in dollars of silver."

In section four, insert before the words "quarter dollars," the words "half dollars."

In section six, strike out the words "of either pure metals," and insert in lieu thereof the words "or coined into disks of metals, either refined or as nearly as may be practicable, to purity."

In same section strike out the word "whether," after the words "but in case," and insert in lieu thereof the word "where." In the same section, and immediately after the last amendment, strike out the words "or cast into bars or ingots." In the same section, after the words "one half of one per cent.," insert the words "and where it is cast into bars or ingots, or formed into disks, the charge shall not exceed the expense, to be regulated from time to time by the Secretary of the Treasury."

At the end of the same section, insert the words "and provided also that the Secretary of the Treasury shall regulate the size and devices of the new silver coin authorized by this act."

In section eight, strike out the words "the first day of June next," and insert in lieu thereof the words "its passage."

The question was then taken on ordering the bill to be read a third time, and it was agreed to, there being on a division—ayes 82, noes not counted.

The bill was then read the third time.

Mr. DUNHAM. I demand the previous question on the passage of the bill.

Mr. HART. I move that the bill be laid on the table.

Mr. JOHNSON. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. DUNHAM. Is it in order for me to withdraw my call for the previous question?

The SPEAKER. It is not in order, and no motion can be made pending the motion to lay upon the table.

The question was taken on the motion that the bill be laid on the table, and it was disagreed to—yeas 65, nays 111; as follows:

YEAS—Messrs. Aiken, Beale, Bragg, Briggs, Brooks, Albert G. Brown, Busby, Joseph Cable, Caldwell, Thompson Campbell, Chastain, Churchwell, Colcock, Conger, Cullom, Dockery, Doty, Eastman, Edgerton, Floyd, Freeman, Thomas J. D. Fuller, Gaylord, Giddings, Green, Grow, Isham G. Harris, Hart, Haven, Hillyer, Howard, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, Landry, McCorkle, McNair, McQueen, Millson, Molony, John Moore, Morehead, Murphy, Newton, Orr, Outlaw, Andrew Parker, Phelps, Powell, Ross, Russell, Sackett, Scurry, Origen S. Seymour, Smith, Alexander H. Stephens, St. Martin, Sutherland, Townshend, Wallace, Watkins, A. White, and Williams—65.

NAYS—Messrs. Charles Allen, Allison, William Appleton, Ashe, Averett, Barrere, Bell, Bibighaus, Bocock, Bowie, Bowne, John H. Boyd, Breckinridge, George H. Brown, Burrows, Lewis D. Campbell, Cartter, Caskie, Clark, Cleveland, Clingman, Cobb, Cottman, Darby, George T. Davis, John G. Davis, Dawson, Dean, Dimmick, Disney, Duncan, Dunham, Durkee, Edmundson, Faulkner, Fay, Ficklin, Florence, Henry M. Fuller, Gamble, Gentry, Goodenow, Goodrich, Gorman, Hall, Hammond, Harper, Sampson W. Harris, Haws, Hebard, Hendricks, Hibbard, Holladay, Horsford, Houston, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, Ives, Jackson, Robert W. Johnson, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Letcher, Little, Mace, Mann, Mason, McMullin, Meade, Miller, Henry D. Moore, Morrison, Murray, Samuel W. Parker, Penn, Penniman, Perkins, Porter, Reed, Robbins, Robie, Robinson, Sabine, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Skelton, Snow, Stanly, Benjamin Stanton, Stratton, Sweetser, Taylor, Thurston, Toombs, Tuck, Venable, Walbridge, Walsh, Wells, Wilcox, Wildrick, Woodward, and Yates—111.

So the House refused to lay the bill on the table.

Mr. DUNHAM. I withdraw the call for the previous question on the passage of the bill; and I now move to recommit the bill to the Committee on Ways and Means, and demand the previous question.

Mr. KING, of New York. Has the morning hour expired?

The SPEAKER. It has.

Mr. KING. There is a bill on the Speaker's table which passed the Senate under the following circumstances: The District Attorney of this District desires to take up for trial the Gardiner causes. By law the term of the court is fixed. It is believed these causes would be protracted beyond the time limited for the term, and that they would expire with it, without ability on the part of the law officers to conclude or to continue them to the next term. The Senate have passed a bill to allow the continuance of trials. The bill is entitled "An act to prevent in certain cases a failure or delay of justice in the courts of the District of Columbia."

Mr. JONES, of Tennessee. It is evident from the votes which have been taken this morning, that a majority of the House have determined to pass the bill under consideration. It will take no more time to pass it now than to resume its consideration at some other time.

[Cries of "Order!"]

The SPEAKER. Discussion is not in order.

Mr. KING. I trust that the Senate bill (No. 624) to which I have called attention, may be taken up and passed. I have no objection to the coinage bill being disposed of first——

Objection was made.

The SPEAKER. The question now is on sustaining the call for the previous question on the motion to recommit the coinage bill to the Committee on Ways and Means.

The call for the previous question was seconded, and the main question was ordered to be put.

The question was taken, and the House refused to recommit the bill to the Committee on Ways and Means.

Mr. JOHNSON, of Tennessee. I demand the yeas and nays on the passage of the bill.

The House was divided on ordering the yeas and nays, and there were—ayes 20—not one fifth of a quorum, and therefore not a sufficient number.

Mr. ORR. I demand tellers on ordering the yeas and nays.

The tellers were not ordered.

The bill was then passed, there being, on a division of the House, ayes 94, noes not counted.

Mr. DUNHAM. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed "An act to prevent, in certain cases, a failure or delay of justice in the courts of the District of Columbia."]

CONTINUANCE OF CAUSES.

Mr. KING. I now ask that bill of the Senate, No. 624, to prevent in certain cases a failure or delay of justice in the courts of the District of Columbia, be taken up and put on its passage.

The bill, there being no objection to its consideration, was taken up, read three several times, and passed.

Mr. KING. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

FRAUDS ON THE TREASURY.

Mr. KING. I now ask to take up a privileged question. I call up the motion to reconsider the vote by which the bill to prevent frauds on the Treasury was recommitted to the Select Committee, so that the amendments of the Senate may be brought up to be concurred in or rejected. Those amendments have been considered by that committee, though informally, because the motion for reconsideration was pending, and the committee recommend to the House concurrence in some and the rejection of others.

Mr. STEPHENS, of Georgia. I made the motion to reconsider because there was no special committee to which the reference was made.

The question was taken, and the motion to reconsider was agreed to.

Mr. KING. I withdraw the motion to recommit.

The bill as it passed the House, makes it a penal offense for any officer of the United States, or person holding any place of trust or profit in connection with the Executive Department of the Government, or for any Senator or Representative in Congress, who, after the passage of this act, shall receive any gratuity from any claimant against the United States, or agree to receive, or receive, except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the United States.

The amendments of the Senate struck this clause out of the second and third sections of the bill—the second section applying to Executive officers, and the third section to Senators and Representatives.

To these amendments of the Senate, striking these prohibitions from the bill, the committee recommended a disagreement.

It is deemed important to retain these clauses in the second and third sections.

In the several other amendments of the Senate, not affecting the character and purpose of the bill, they recommended a concurrence. I call for the previous question on the Senate amendments.

The call for the previous question was seconded, and the main question was ordered to be put.

The amendments of the Senate were then read by the Clerk, and those recommended by the committee to be non-concurred in (as inserted above) were non-concurred in, and those recommended to be concurred in were concurred in.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

Mr. HOUSTON. Mr. Chairman, I move to take up House bill No. 350, making appropriations for the service of the Post Office Department, during the fiscal year ending June 30, 1854.

There was no objection, and the bill was taken up.

Mr. HOUSTON. I move that the first reading of the bill be dispensed with, and that it be read a

second time for amendment. It is a very short bill, and may be considered in a very few minutes.

The first reading of the bill was dispensed with; and it was read a second time.

Mr. HOUSTON. I now move that that bill be laid aside, to be reported to the House with a recommendation that it do pass, and that the civil and diplomatic appropriation bill be taken up for consideration.

Mr. BAYLY, of Virginia. I will suggest to the gentleman from Alabama, that it will be more convenient to take up the naval, in advance of the civil and diplomatic appropriation bill. Besides, that has usually been the course pursued. I beg leave to say, that in consequence of my indisposition, the Committee on Foreign Affairs are not prepared with some amendments they desire to submit to this bill, which amendments I am sure will meet with the approbation of this committee. We are prepared, however, with many other amendments.

Mr. HOUSTON. It is impossible for me to lay off business to suit every committee. I proposed to take up the Indian appropriation bill, but as the gentleman from Arkansas [Mr. JOHNSON] was compelled to leave his seat to-day in consequence of sickness, I refrained from doing so, and desired, as suggested by the gentleman from Virginia, to take up the naval bill; but the chairman of the Committee on Naval Affairs is not in his seat, and I have now moved that the civil and diplomatic bill be taken up for consideration. I am ready for any of them.

The CHAIRMAN. The question is on laying aside the Post Office appropriation bill, to be reported to the House with the recommendation that it do pass.

Mr. BAYLY. The committee will perceive, from the statement of the chairman of the Committee on Ways and Means, that the Committee on Indian Affairs and the Committee on Foreign Affairs do not stand on the same footing with the Committee on Naval Affairs, and, if there is any difference in this respect, the two first named committees are certainly entitled to consideration. The chairman of one is absent on account of sickness, and the business of the other is not entirely prepared, in consequence of the sickness of its chairman. We are very nearly ready.

Mr. JONES, of Tennessee. I should like very much, as gentlemen cannot agree, that the committee would take up for consideration a very short Senate bill, which passed that body in January, 1852. It was sent here, referred to the Committee on Ways and Means, and reported back from that committee by myself in August last. It is a bill designating the depositaries under the sub-treasury act of 1846. It is very simple, and will require no discussion. A good many gentlemen who represent land offices, and the collection of customs are interested in it, and I should like to have it taken up and considered.

The CHAIRMAN. The committee has not yet disposed of the Post Office appropriation bill.

The Post Office appropriation bill was then laid aside, to be reported to the House with the recommendation that it do pass.

Mr. BOCOCK. I hope I may be indulged in a suggestion, which will reconcile conflicting opinions.

The CHAIRMAN. The Chair will hear any suggestion, though he believes that debate is not in order on the question of priority of business.

Mr. BOCOCK. I shall make a motion before I resume my seat. My colleague from the Accomac district has stated that the Foreign and Indian Committees stand on some different footing in regard to the business of this House from what the Committee on Naval Affairs does. How that is so, I do not precisely understand.

Mr. BAYLY. If my colleague will allow me, I only stated that there was a difference in respect to the excuse I made, because the chairman of the Committee on Indian Affairs [Mr. JOHNSON of Arkansas] was compelled to leave his seat by sickness, and I have been sick for three weeks, whilst the chairman of the Committee on Naval Affairs [Mr. STANTON of Tennessee] is not sick, as I understand.

Mr. BOCOCK. I will say in regard to that, that the chairman of the Committee on Naval Affairs left the city under the expectation that the naval bill would not be taken up until the Indian bill had been disposed of. The Committee on Naval Affairs has not been called to consider the naval bill, and I know they have various amendments to offer, some of which are of great importance. The committee should have an opportunity to consider the bill and determine what amendments they will submit to it.

There is a little bill which is first in order on the calendar, which I ask that the committee would take up and consider. It is a bill to refund to the State of Virginia certain moneys she loaned to the General Government some years ago. If it be in order, I will move that it be taken up.

[Cries of "Oh! no."]

Mr. HOUSTON. I regret very much to find that gentlemen, who have in charge peculiar business, are not ready with it. I move to take up House bill No. 337, making appropriations for the civil and diplomatic expenses of the Government.

Mr. BAYLY. I withdraw all opposition. I presume the bill will not be disposed of to-day, and I shall be ready to-morrow.

The question was taken, and the bill was taken up.

Mr. HOUSTON. I move that the first reading of the bill be dispensed with, and that it be read a second time for amendment.

The first reading of the bill was dispensed with.

Mr. VENABLE. It is manifest, Mr. Chairman, to even the most casual observer, that there is very great dissatisfaction in the public mind in regard to the manner in which the business of Congress is transacted. Public discontent is always well-founded, and although it may sometimes be excessive, it is no less our duty, as legislators, to ascertain its causes and to remove them. No person who has looked on the progress of legislation for the last two sesions, but must be satisfied, in his own mind, that there is something radically wrong. And now that we are considering the state of the Union, I think that there is no subject which more legitimately presents itself before us, than the analysis of those elements of delay which have obstructed the public business, and brought the House to the close of a second session of Congress, with scarcely any business transacted. It is also true, that discontent often pervades the public mind, exactly in proportion to the obscurity of the cause producing it. So long as they are in doubt, they are apt to consider the evil greater than it really is; hence it becomes our duty to dispel this doubt, and to present to the public the reason why the business of the country has been neglected, delayed, and obstructed. An experience of six years in this body has taught me that the whole evil originates either in the misapplication of, or some radical defect in, the rules by which we profess to regulate the transaction of business.

If I understand what a rule means, it is a restraint which majorities put on themselves in order to protect minorities. Majorities need no protection; they need the operation of no rule, because they have the power in their own hands. Rules are those voluntary restraints assumed by majorities for their own control, and the protection of the rights of minorities; and here, sir, allow me to say that the rules of this House present one of the most remarkable incidents in the history of legislation. In the first place, we have one hundred and fifty-three rules, besides some twenty-five joint rules of the two Houses, and all these in addition to parliamentary law, which is in full authority; added to these, we have some thousands of precedents, conflicting and contradictory, utterly unintelligible by the most mature and enlarged experience, and the most astute observation. It is, perhaps, the only assembly to be found in the world in which a precedent has no authority; the only assembly which professes to be governed by laws where the authoritative construction of the law by the highest court upon an appeal from the Speaker's decision has no influence, no weight, and in no way regarded. The result is, that we cannot look to one week of our experience without finding the same question decided in two different ways; questions which interest us, those which regulate our interests, and in which the private good is most deeply involved, decided in as many and various ways as the caprice of the House or the present inclinations of the members may determine.

We well know that with all the particularity and minuteness with which our rules are arranged, and with solemn gravity promulgated, that the House neither regards or respects them. Whenever it is the purpose of a majority to arrive at a foregone conclusion (and I speak respectfully) to commit a revolutionary act, although the Speaker has notoriously and clearly decided according to the rules of the House, if his decision is in the way of the preconceived purpose, an appeal is taken, and the majority reverses the decision, and changes the whole order of business. It is provided that before the rules of this House shall be altered, and the order of business changed, two thirds of the House shall agree. That there shall be notice given of a design to repeal a rule or add to the number. The Speaker decides accordingly, an appeal is taken from the decision of the Chair, and although that decision is according to the rules, the House reverses it, tramples down the rule, and carries the business according to the will of the then existing majority, whether it be in a full House or a bare quorum. Shall I call your attention to a most important fact in revolutionary measures as connected with your rules? There is no rule which is more clearly written upon your book than that no measure shall be twice reconsidered. It is distinctly known; it is written with a sunbeam; and yet there are many gentlemen in this House, who witnessed upon the Texas boundary bill the reconsideration of that bill twice. The Speaker decided it was the same bill, and that it could not be reconsidered; but by a revolutionary movement, this House, in face of the rules, trampled down the rights of the minority, repealed the rule, and reversed the decision of the Speaker, and it so stands upon your Journal. I know that I address gentlemen who would acknowledge that it was a revolutionary measure, and in entire disregard of the protection which the rules of this House were intended to give the minority. The majority, by a mere act of lawless power, trampled under foot the regulations which were intended to restrain them, and careless of the rights of the minority, accomplished their purpose. The bill was reconsidered a second time, and a law passed in defiance of the rules of Congress. The Speaker in the chair recognized the rule, and decided according to its requisitions.

Mr. BAYLY, of Virginia. Will my friend allow——

Mr. VENABLE. I must say, as I shall in the course of my remarks notice the habit of interrupting speakers which prevails to such a painful extent, that I cannot consent that anybody shall interrupt me during my hour. I mean to be respectful to my friend, and there is no gentleman for whom I have kindlier feelings than the gentleman from Virginia.

Mr. BAYLY. I desire to state some facts in regard to that vote reversing the decision of the Chair. Many who voted to reverse it were most inimical to the Texas boundary bill.

Mr. VENABLE. I was going to show my friend the reason why I do not wish to be interrupted. I intended to say, in the progress of my remarks, that one of the most serious and annoying abuses grows out of the rule which limits the speech of a member to one hour. A gentleman, after mature preparation, and much difficulty in obtaining the floor, commences a speech with a view to the elucidation of some subject interesting to the House and the country, and such is the want of courtesy that he is frequently interrupted by several members at the same time. His speech, injected with the remarks of the member who interrupted him, and subjected often to another infliction of the same kind by one who rises to ask the first interpolator for an explanation, the course of argument is deranged, and confusion necessarily results. The time rolls on, and after a series of unseasonable and, I must say, uncourteous interruptions, the hour expires, and the speaker, discouraged, is driven to the necessity of writing out a speech, all of which he did not deliver, to preserve his reputation for common intelligence. I therefore decline to yield the floor during my hour, intending, so far as I have the time, to give the committee the conclusions which the most mature reflection, founded upon observation, have fixed upon my mind.

On my return to my constituents they will demand of me, why Congress sit here year after year and do so little of the business of the country, and why it is that the highest duties of legis-

lators are passed by? I have to tell them that it is caused by the legerdemain, so like thimble-rigging, and the chicanery which is practiced under the rules of the House. An unsophisticated man comes in here and finds that a bill is before the House and almost ready to pass; already have two or three votes been taken upon it, and when he would naturally suppose that one more vote will complete the transaction, all at once some gentleman, who understands the rules, rises to a point of order, and the bill drops through the platform, and gets at the lower end of the Speaker's table. If you look back at the experience of this session, you will find that one fourth of the entire time has been consumed in settling points of order, which, when settled, are neither rules or precedents, because the next day the House may settle the point of order exactly the other way.

A gentleman rises in his place, and says, "I rise to a point of order." Well, the Speaker decides it. Nobody can blame him for deciding wrong, because he must be wiser than Solomon, and of more experience than Methuselah, if he can understand the rules which we have adopted, and the precedents which ought to direct the government of the House. He makes his decision, and an appeal is taken. The question is taken upon the appeal, and the House reverses the decision of the Speaker. Next day the same question arises, and the Speaker decides according to the precedent already laid down. Some one rises and appeals, and the House overrules the decision of the day before. I profess to understand something of parliamentary law, but I acknowledge to this House that I have frequently undertaken to read and understand these rules, and at the various times that I have tried to read them through, I have been utterly filled with disgust at their conflicting and contradictory character. I could but see that here were the elements of delay and obstruction of public business, of which the country was so justly complaining—manifest as well in the disregard of those plain and obvious requirements which are indispensable to the progress of business, as in the facility and importance which is bestowed upon parliamentary maneuvering—the offspring of anything rather than enlarged and liberal statesmanship; a system which substitutes mere adroitness for ability, cunning for wisdom, and which bestows equal or superior distinction upon those who, by ingenious devices, contrive to obstruct the progress of legislation, as upon others who, pursuing the dictates of common sense, go on to finish the work which the country has placed before them. One of your most prominent rules requires that during the morning hour of each day committees shall be called for reports. The country expects this to be done. Each applicant to Congress for relief looks for action on his case by the House on the report. His petition has been filed and referred, under the rule, and the committee have had the subject in charge. The expectation is reasonable and just. But what are the facts? Month after month and session after session passes and their cases never appear. They ask when, under the rules of the House, committees shall be called upon for reports? They are told, that by the rules, every day; yet no committee has reported for fifteen months, except the Committee on Public Lands. This committee was called, and appropriated a long time to their reports. They would introduce a bill, have it read, call the previous question upon its passage, and if it failed, we would have essentially the same bill again from the committee, with modifications making it a little different, just enough to be within the rule. Thus, like a mechanical contrivance known as the endless screw, it was ready at every revolution to catch the cogs and control the wheel which propelled the legislative action of the House. For months the time devoted to the calling upon committees for reports was occupied upon railroad bills and reports from the Committee on Public Lands. I refer to the facts, the Journal, and the records, for the evidence. The entire business of the country was overslaughed. It is true, the House passed the appropriation for the Collins line, and some other bills with large appropriations, and the rest of the session, so far as committees were concerned, with receiving reports from the Committee on Public Lands. Do you wonder that there is public discontent? Do you wonder that plain and sensible men at home should be indignant when they find that there is none but a particular class of individuals who can receive the benefits of your legislation? Do you wonder that men murmur and complain when they see the widow of the sailor, who has been drowned upon your coast, sinking into the grave under that delay which makes the heart sick? How often is it the case that a bill for the relief of some widow passes through the Senate, comes here for our action, but fails to receive a hearing here, and the poor woman goes home to weep over her impoverished children, finding no relief at the hands of that country which should protect her. These rules stand out in bold relief upon your book. They imperatively direct the order of business, but make it not only possible, but the practice of every day; to place the last first and the first last. The practice of the House is in open repudiation of the rules, and none are made to feel the constraint except the minority, or some unlucky wight who, not having the fear of their operation before his eyes, has obtained, after a long struggle, the floor, and making headway with his speech, is brought down by some astute marksman, who rises and makes a *point of order upon him*—points, many of which are as recondite and learned as those involved in the case of Straddling *vs.* Stiles, so well known in the history of legal decisions.

But the brightest commentary upon the worthlessness of the rules, their entire uselessness except to oppress minorities and obstruct business, is to be found in the fact that you never pass any law without first suspending all rules, relieving the House from those manacles worn so long that they are fancied to be ornaments. The children of my district would be amused if I were to tell them that the wise people here, the representatives of the people, have so tied their hands with a parcel of rules that it is often the case that before they can either speak or legislate, they have to cut the strings, throw the rules away, and act without them. Point to a bill that is passed without suspending the rules, except, perhaps, some that have been caught up and, by maneuvering, kept alive for discussion in the morning hour, to the exclusion of committee reports. Was there ever such a commentary upon human fatuity? This is a faithful history of the whole matter. Show me a law that has passed without asking the unanimous consent of the House, which is the *modus operandi* on all days except Monday, or on that day (devoted by the rules to resolutions and petitions from sovereign States, now scarcely ever called) by a motion to suspend the rules, so that we may get rid of the artificial obstructions thrown around us, and enable us to act like sensible men, doing the business of the country. With that fact so prominent, how can you go before the public and say that these evils should continue without immediate reform?

Mr. Chairman, gentlemen complain that we have discursive debates—that in Committee of the Whole on the state of the Union, gentlemen rise and discuss subjects that are not legitimately under consideration. This, sir, is true, and it certainly must appear strange to the country, that when a post office bill is under consideration, a speaker here should discuss a territorial bill. But that practice has arisen from the absurdity of the rules and their abominable and oppressive working. A gentleman who has a favorite bill obtains the consent of the House, and has it read. No human being has ever heard of it except those members who happen to be on the same committee, and perhaps a few other individuals with whom he may have conversed about its provisions. He makes a statement of the contents of the bill, asks to put it on its passage, and forthwith calls the previous question. A bare majority of a quorum can sustain the previous question and cut off debate, and the only chance a member has to instruct his constituents with regard to that measure, should he be so fortunate as to know of its existence, is to discuss it in Committee of the Whole on the state of the Union. That is the only opportunity which we have to discuss general policy and general subjects without being gagged by the tyranny of the previous question, and prevented from informing our constituents and the country as to the schemes of legislation introduced into this Hall. Sir, I am glad that this sort of general debate takes place in Committee of the Whole on the state of the Union. Many things have leaked out to our constituents which they never would have heard of under any circumstances, unless gentlemen had discussed them in Committee of the Whole on the state of the Union.

But permit me to illustrate the oppressive operation of the previous question. More than two thirds of the most important measures that have passed Congress since I have been a member, have been passed under the tyrannical gag of the previous question, and the entire suppression of debate. Members have been required to vote upon bills which were of great importance, and should they have been accidentally out of the House when they were read, of which they are utterly uninformed. A single objection may prevent the reading again, and it must be remembered that it is scarcely possible to hear anything read in this Hall so that it is understood. In this state of things, we are forced to the final vote. To add to the absurdity of the position of affairs, the main question being ordered, a call of the House cannot be made, and if no quorum be present, an adjournment is the only resource. A bare quorum being present, a minority of Congress pass the most important measures of the session, with the nominal authority to compel members to attend; the previous question paralyzes this arm of the power of the House, and leaves it in bondage to rules ingeniously contrived to obstruct instead of forwarding business, effectual only to do mischief, and powerless for good. Members, however reluctant, are called upon to vote upon bills that they have never heard read, and to vote away millions after millions without even hearing what it was for, and all because an impatient majority of the House would call the previous question, and force them to say yea or nay.

But there is another and more deeply-seated evil. In many instances the House is dependent for its information with regard to important bills upon the individual action of the members of the committee which reports the bill. They must go round and give the information, or the House would have no information at all. Is this the proper mode of legislation? Is it right and proper, when all our transactions must come before the public, that we should be dependent for information with regard to important measures, upon private reports and private statements, and then be forced, under the previous question, to vote for or against them, without understanding them? And yet such is the result. How often is it the case that the chairman of a committee rises and says: "I am instructed by the Committee on Public Lands, or by the Committee on Commerce, to report the following bill. I ask to have it put upon its passage, and demand the previous question." And when some gentleman rises and says that he does not understand the bill, and would like to discuss it, the answer is, "Oh it has been fully discussed in the Senate, and every one understands everything about it." Gentlemen take it for granted that because a measure has been discussed in the other Chamber, it is understood by everybody here. Now I have always understood that the object in having two Houses was, that measures should be separately discussed in each. I do not understand that it was intended that discussion in the Senate should supersede discussion here, or that discussion here should supersede discussion in the Senate. They have in the Senate only fifty-four rules; sixteen of those relate to their Executive sessions and peculiar organization. The balance of those rules relate to the mode in which they shall transact business in their legislative sessions. And, Mr. Chairman, the Senate does much more business than the House of Representatives; they have no hour rule there; no previous question; no limitation to discussion except the courtesy and will of the Senate; and yet that body transacts just four times as much business as this House! What is the reason? I answer, the operation of our rules. The whole House here desires to transact business—the whole House desires to pass a bill, and some gentleman says, "I object," and there is an end of it. That eloquent, that overwhelming, that brilliant expression breaks down all barriers, and the House sits powerless under the electric effect of that resistless word! [Laughter.] Sir, we have entangled ourselves in such a way that it is impossible for us to move. We are running a race for life, in taking care of the interests of the people, and we have put such weights upon ourselves that locomotion is impossible, except when we throw them off for a few moments for legislative exercise.

Again: What, under our system, is the condition of business at the present time? I do but justice to my friend, the chairman of the Committee on Ways and Means, when I say that the appropriation bills were reported earlier this session than I have ever seen them. In season and out of season, he has urged upon this House the necessity of passing those bills. He has been at all times at his post, and at all times ready to discharge his duty as leader of the financial committee of this House. And yet we are now within less than twenty days of the conclusion of the session, and none of the important appropriation bills have passed. There are some bills on the Speaker's table that carry more weight than the Government of the country carries. There are bills upon that table relating to millions and millions of private interests which may make appeals to the hearts and understandings of members, at least as strong as the bills necessary for carrying on the Government. And yet obstruction after obstruction, and difficulty after difficulty is thrown in the way of the public business. It is all done under the rules. "I object," says one. "It goes to the Speaker's table," says another. All under the rules and according to law—everything is ruled down by points of order; the business of the country is brought to a standstill, and we sit here like a parcel of truant school-boys, responsible for it to our constituents. I mean, for one, that, so far as I am concerned, the people shall understand the reason why the business of this country is not transacted.

There is another fact to which I desire to call the attention of the committee. It is an evil under which the country has groaned, and which every one of us must feel deeply. I refer to the mode in which our appropriation bills are passed. We crowd into the last hours of the session the passage of all the most important bills for the support of this Government. We pass the civil and diplomatic bill, and it goes to the Senate. They load it with millions and millions, and then it is brought back here, and every amendment of the Senate is rejected. Then, sir, a committee of conference is appointed, consisting of two members of this House and two members of the Senate, and they come back with a report fixing millions upon the civil and diplomatic bill. The report being read, the House is admonished that the wheels of the Government must stop unless they agree to the report of the committee of conference; for one of the rules by which we are governed, which I am apprised is a principle of the general parliamentary law, is, that you must either take the whole of the report of a committee of conference, or reject the whole of it. You cannot divide it. You must reject the whole, and thereby lose the bill, or take the report of the committee of conference, with all of its objectionable provisions. If you look at the civil and diplomatic bills, and the other bills appropriating money for the last five years, you will find that they have all been passed by *four* men! The report is brought back to us. The cup is put to our lips. "Will you take the responsibility of stopping the wheels of the Government and arresting its progress, or will you vote for this bill with all the nauseous ingredients which it contains?" Sir, I have been compelled to sit down and cipher out whether it will cost most to pass the bill with all its enormities, or to call an extra session of Congress; and finding that the extra session would cost most, I have taken the nauseous dose reluctantly, but from necessity, and voted for the bill. Why? Because I felt that my arm was powerless, although my constituents were being cheated and the country wronged. Sir, this regulation which compels the House either to adopt or to reject the whole of the report of a committee of conference, virtually deprives the representatives of the people of the right to appropriate the public money. By way of illustration, I call the attention of the House to a report from a committee of conference made the other day in relation to a bill for the relief of the widows of soldiers. The report, as I understand it, did not relate to the points of difference between the Houses, but was a mere enlargement of the provisions of the bill—provisions on which both Houses had agreed. I do not object particularly to that bill. I refer to it for the purpose of showing the operation of the rule.

Mr. Chairman, it may be that I am not sufficiently acquainted with the rules. I acknowledge to you that I do not understand them, except as conflicting with each other. I acknowledge to you that I do not consider it any discredit not to understand them, because they are contradictory. The decisions of the distinguished Speaker, whose duty it is to study and understand the rules, have been so often reversed during the present session, that I do not feel at all discredited by being put in such enlightened company. A friend suggests that I ought not to object to what I do not understand. Well, perhaps it is so; but it appears to me to be a *non sequitur*. Having made a faithful attempt to understand the rules of this House, and believing myself to be in possession of ordinary intellect, I think there must be some radical objection to that which is unintelligible after six years' study. It is manifest that there must be something wrong, when those who profess to understand the minutiæ of the rules, and raise the most frequent points of order—those to whom we look for light with regard to this great subject, and *who are learned in this kind of law*—are unable to agree amongst themselves. But, sir, there is something radically wrong in the whole matter. The remedy is, to repeal the whole of this complicated, contradictory system, and the substitution of a mere detail of the order of business, and a provision against some few abuses. As we never pass laws without a suspension of the rules, we might probably do business if we repealed them all. I think that if we were to abolish the rules, which we have to suspend every time we pass a law, and go back upon the parliamentary law—that parliamentary law which resulted from the experience of the wisest and most astute of legislative assemblies—we might do something for the good of the country. A few modifications of that law would be necessary; but few, and exceedingly simple.

But, Mr. Chairman, under the rules of the House, and the mode in which business is transacted, there is another serious and crying evil. Questions are brought up here, which at first blush would not receive a single vote. They are kept upon the *tapis* for weeks and weeks, and continually thrown in to obstruct other business, while, in the mean time, there are outside influences at work to bring about their passage at a favorable moment. I appeal to the experience of every member of the House. Three times to-day persons have been to me to talk with me about some men's private claims that are upon the Speaker's table and subject to the legislation of this House. They are placed in a position for the action of lobby influence, and under the effect of outside pressure, to the injury of the country and the annoyance of all who desire to do their duty here. There is a constant pressure from without; an unremitted influence brought to bear upon the measures before the House. These things are done continually, and the position in which you keep the business of the House is just that in which this influence can be used most effectively. We are all affected by it more or less, and must be conscious of it.

But, sir, without looking at the action of the rules, what is the result? I take this morning for a specimen. We had two votes upon the currency bill, as to whether it should lie upon the table, each decisive of its fate, and these votes upon the yeas and nays. Some gentleman moved to lay the bill upon the table, the yeas and nays were taken upon the motion, and the motion was voted down by a very decisive majority. Some other transactions took place, and another motion was made to lay the bill upon the table; the yeas and nays were again called, and the motion was again voted down by a very large majority. And here we are within eighteen days of the close of the session, and have not passed one of the important appropriation bills. A vast amount of business lies upon your table untouched, and yet hour after hour of the time of the House is spent in parliamentary maneuver, when it was perfectly manifest that the House meant to pass the bill. If our object in coming here is to perfect ourselves in the science of parliamentary law, why then I can understand our principle of action; but I wish the people of the country to know why it is that none of the business of the country is transacted. If they send us here to make parliamentarians of us, why it is very well to raise these points of order to let them know the proficiency we have made, and what bright scholars we have become. But if they send us here to transact the business of the country, I desire that they shall know why our legislation, with reference to their business, is restricted, and the business itself not transacted. It may be a matter of particular interest to gentlemen in some places to know how particular points of order are settled, but it is not to the people of my section of the country. The constituents of other gentlemen may be very anxious to know how the Speaker decided a certain point of order, and whether the House sustained or reversed that decision, but mine are not. If in consequence of the rules that are written in our book, or because of the caprice of members in failing to execute those rules, the business of the country is to be utterly neglected, I desire that at least I shall go clear of the responsibility.

Sir, I wish here, when my term as a member of this House for the present Congress is about to run out, to say to my constituents, and to this House, that the cause of the delay in considering and passing, with deliberate caution, the appropriation bills long before this, is not referable to any want of diligence on the part of the chairman of the Committee on Ways and Means. I before adverted to this subject, and now refer to it again, in order to remark, that I see no cause for censuring any of the heads of committees. Doubtless they are ready to make reports, as I know to be true concerning the committee to which I belong, who have been intensely anxious to make reports during the past fifteen months, but have had no call to do so. This has all happened under the rules, precedents, and points of order, raised and adjudicated after solemn discussion, and more solemn appeals, with the decided advantage over other reports, that they show authorities on every imaginable side of the question. It is referable to the power of producing obstruction and delay derived from the rules of the House. The people of the country, when they come to see that no work can be done without suspending the rules of the House, will see that the rules themselves are alone in the way of doing business. Why, sir, any company of plain, sensible men, in the country, would disembarrass themselves at once of this difficulty, without consuming much time in the operation. There is not an intelligent person who reads the proceedings of this House, and sees that nearly all the laws which are passed here are passed on Mondays, when we suspend the rules for that purpose, who will not at once be astonished that such a nuisance should be permitted to exist merely for the pleasure of occasionally suspending it. The very mode in which we pretend to observe the rules is conclusive upon this point, that the effect is precisely the reverse of what is intended; and the country will feel refreshed when Monday comes, and the nuisances of our rules may be cleared away, and the rights and interests of the people may receive attention.

Mr. Chairman, I again take occasion to say that the greater portion of this evil grows out of the rules of this House. The very manner in which they have been adopted makes it necessarily so. They are the result of special legislation. A particular evil manifests itself in the business of this House, and some gentleman who has not attended to the whole matter, thinks he sees a remedy, and accordingly introduces a special provision for the purpose. Like all other special legislation, it wars against the general system, and when the thing begins to work, they find that the remedy is itself a greater inconvenience than the original evil; that it creates a great many annoyances more insufferable than the first. That is the result of special legislation. Thus we have gone on remedying each abuse by special legislation, and heaping one upon another, until they have accumulated to such an extent as to place the control of this House in the hands of any person whose taste and inclinations lead him to the study of the *liberal, enlightened, and comprehensive* system of rules contained in the hand-book furnished the members at the first of each session. Such a one would be irresistible if he would add to his researches the precedents furnished by the Speakers and this House. To afford an illustration, I will refer to a bill before the House some days since. When we had spent a whole day upon it, and the House had taken a half a dozen votes in relation to it, just before the final vote, the House adjourned; and the next morning, when every plain

man would suppose that vote would be taken, as the first business in the morning, the Speaker stated that no motion to recommit having been made, the bill was back to the foot of the calendar. Would any plain man comprehend the manner in which that bill came there? Would he understand why, after we had spent a whole day in the consideration of this bill, at a cost of some six or seven thousand dollars, we should have lost the benefit of that consideration, and the bill placed where it could not be again reached? Would he comprehend it? You may tell him that you have a rule here, that when a motion was not made to recommit the bill under consideration always went to the Speaker's table; but what would he say? Why did you not take it up from the Speaker's table? You can only explain, that when the House adjourned, it fell through a trap-door to the bottom, and nothing more can be heard of it. Why, sir, could you convince any plain man of the propriety or necessity of these devices by which so much of the people's money should be sunk by the ingenuity of gentlemen who understand the legerdemain of making these rules so potent in particular cases? Our people do not understand it. They suppose that we come here to conduct the public business, and it is impossible to justify ourselves before them for this enormous expense incurred in trickery which they cannot comprehend. They will, however, comprehend the fact that the business of the country is obstructed and a vast expense incurred.

Now, sir, this whole system of special legislation is wrong. Elsewhere the authority of a judge expounding a law is at least regarded as creating a precedent; but here you find the Speaker of this House makes a decision one day, and the House sustains him in that decision, and yet the next day you find precisely the same point arises, and is decided by the Speaker in the same manner, and the House, upon an appeal, overrules his decision. Sir, I feel that I have myself been a sufferer under this kind of movement. I have been made to feel that the interests of those whom I represent have been the sport of these conflicting interpretations, that they were victims to these revolutionary movements; the majority, for special purposes, reversing the decisions of the Chair, when the Speaker was sustained by the rule, so clearly expressed that "he that runs may read it." Whenever a decision of the Speaker is once made, and that decision is sustained by the rule, whether the measure to which it relates meets my approbation or not—whether I am friendly or unfriendly to it, I feel as much bound to sustain him as I should to do right if I were acting upon a jury under oath. Satisfy my judgment that it is right—satisfy me that the rules require him to make such a decision, and I would no more vote to reverse it than I would place intentionally a false construction upon any other law.

Sir, I always tremble when I find my fortune and interests, my character and position, under the control of a mere majority unrestrained by constitutions or laws. I here declare that if human ingenuity were exhausted to devise the most effectual means of producing the most oppressive Government which was ever conceived, it would be an unchecked, naked, unbridled government of a majority. There is nothing that the mind of man can conceive so cruel, there is nothing which has so deeply dyed the page of history with the blood of the upright and virtuous as the dominion of an unbridled majority. I am a Republican, I am a Democrat, if you please, but I am a Democrat who looks to the Constitution of the country and the laws of the country for my protection, as those safeguards which are thrown around me in the beneficence of those who framed the government—ramparts erected around me and mine to protect me from the dominion of a corrupt, unchecked majority; so that every American citizen may say, I stand in my own house, with the shield of the Constitution and laws of the country around and before me, and the arm that is raised to assail me, falls powerless before the majesty of the laws. Our own Government is not one of a majority, but one of constitutional provisions; and were the alternative presented of living under a social organization which is controlled by the mere will of a majority knowing no restraints, and without any limitations from Constitution or laws, or seeking the protection of the strong arm of absolute power, no discreet man would hesitate in the choice. The ruler would be a man with a human heart and human sensibilities, approachable by the usual avenues which lead to the communion of man with his fellow-men. Should he be corrupt, he may be bought; weak, he may be flattered; malignant, he may be avoided; ignorant, the extent of his influence may be so decreased as to disarm him in a great measure from evil; and should he be all these combined, still flight is a mode of escape left after all others are cut off. But the imagination in vain endeavors to conceive of a calamity comparable to a Government which emanates from a mere majority, without restraints of constitution or laws, conscious of power, and willing to use it, with eyes on every side, and a concentration of every passion which inflames the human heart, fierce and unrelenting, everywhere present and all-powerful, whose watchfulness never abates, whose wrath never can be soothed, whose eye marks its victim whichever way he goes, and whose arms will reach him wherever he is.

Sir, the object of law is for the protection of minorities; majorities ask for none. Laws are made for the protection of the weak; the strong ask none. Laws are made for the protection of those who are crushed down by the iron arm of power; those who wield that arm need no protection. Minorities here are held by the rule when it is against them, and the rule is reversed by appeals when in their favor. The rules are made the instruments of oppression. Examine, sir, the precedents existing from decisions made under our rules. We shall discover the utter recklessness with which this House reverses the decisions of Speakers made according to these rules. A few hours' search will disclose the conflicting character of the decisions made under those rules. We shall thus learn the reason for the eighteen months of inefficiency which has marked the proceedings of this Congress. If we turn and look to the claimants who have come here to ask for simple justice, we find a rule which prescribes that Fridays and Saturdays shall be devoted to the interests of these private claimants. We shall see how few of those days are devoted to their interests. What is the history of our legislation in this respect? We very properly do not allow a private claimant to sue the Government. We are the court in which they appear by humble petition. The widow of the soldier who fell in the service of the country, who has wept over children who are paupers as well as orphans, has come, year after year, to knock at the doors of this House for relief, because invited here by our rules. They proclaim to the world that Friday and Saturday of each week shall be devoted to hearing and deciding the causes of private claimants. Many of those petitions, after long delay, reach us from the Senate. Many pass through our committees and reach the calendar. In the face of this rule, absolute and imperative, the House rarely ever goes into the Committee of the Whole on the Private Calendar. If they should, another rule, making one of the days objection day, when the resistless eloquence of "I object!" whether made by one who understands the claim or not, places the whole matter beyond the reach of the House until another occasion shall be made for the consideration of such claims on some remote day.

This course, sir, of objection and delay—these oppressive and senseless rules, whilst they have worked grievous wrongs upon the claimants on this Government, have turned away the prayers and affections of their victims from us, have been the fruitful source of the lobby influence—the dominion of claim agents and jobbers, which, like a fungus, has grown upon the administration of the Government, and is extracting all of wholesome vitality from its branches and Departments. We have given those harpies an excuse for their importunities and their combinations. The poor claimant cannot employ them. The wealthy do. The poor are neglected, and the rich are satisfied in their demands. These things are true. Look at your private calendar. Look at your denial of justice and delay of claims which are just. Look at the laws which we throw around ourselves for our own protection, providing that we cannot be sued, providing that the Government shall not become the defendant in any suit against itself by a claimant. With all this abuse, with all these claims crying for justice, we spend half of our Fridays and Saturdays in discussing some land bill, or discussing some measure until we arrive at the point when we are about to pass it, when, by some parliamentary chicanery, it falls to the bottom and cannot again be reached. I have drawn a true picture of this state of things. I could not permit this session to close, without relieving my mind and my conscience of the burden which was upon it. I could not go back to my people and tell them, that in a Congress of nearly two years, it has been twelve months since the committees of the House have been called on to report, or private claims have been, to any extent, regularly considered.

Sir, it may be that the House is wrong, and that the rules are right. If that be so, I call the attention of this committee to an observance of the rules, and to the discharge of their duties, and I shall not have spoken in vain. It may be that there is a want of capacity on my part to understand the rules. If that be so, and I shall have succeeded in directing others to look at them, and understand them better than I do, I shall be satisfied that I have enlisted in a good cause.

It is a matter of little importance to the world whether I am esteemed sufficiently astute to understand the rules or not; but it is a matter of the first importance to the country that the rules should be so observed that the claimants upon the Government should have justice done them when they come here and ask it at the hands of Congress, and that the business of the country should be done, and not delayed.

Look at your Speaker's table. Look at the pile of bills sent there from the Senate,—an assembly which has no hour rule; an assembly which has no previous question; an assembly whose matters are thoroughly and fully discussed; an assembly where a member will rise and give notice three or four days ahead that he desires the permission of the Senate to speak upon a certain subject on a certain day, and which consent is uniformly granted; an assembly which transacts their business under rules more of courtesy than of any other kind; an assembly which fully discusses, without an hour rule, all business which comes before it. Look, I say, and see the amount of business which has come down from that Senate, and which has accumulated there in defiance of all that we have done.

There is something radically wrong; but, as I remarked to the House, it is not philosophical to speak of an evil without suggesting a remedy. A most obvious remedy, to my mind, is, that inasmuch as we have never been able to do any business without suspending the rules and coming back to parliamentary law, perhaps we should do better by dispensing with the rules as now constituted. The parliamentary law, with some modifications, especially to adapt it to the peculiarity of our institutions, and to prevent some ascertained evils, and a plain and simple order for the transaction of business, adopted and adhered to, the country will be satisfied and our time profitably spent.

Under the operation of the previous question the most important matters are acted upon in this House without consideration and without discussion.

Under the committee-of-conference system millions of appropriation may be crowded into any bill, be brought down here and forced upon us, under the alternative of adopting the action of the committee of conference, or losing the bill.

Sir, these are obvious evils, and, inasmuch as we can do nothing without a suspension of the rules altogether, why not abrogate them altogether? With the modifications suggested, the experiment is worth trying, as nothing can be worse than the present system.

I trust that by another session of Congress, the public mind will be enlightened upon this subject. Those gentlemen who are here disposed to do business, and to labor for the public good, should not bear the responsibility of the delay of that business. They should show to the country that it does not rest upon them.

Sir, your committees have their tables burdened with reports. There is not a committee in this House that is not ready with reports, which they have not had opportunity to bring before the House for its action. The committee to which I belong—the Committee on the Judiciary—one of the most important in the House, has not been called upon for reports for fourteen months. We have met,

and met to transact business, and have prepared and made out reports, but have not been called upon for them for that long time. In all I say, I desire to be entirely respectful; and I trust I shall never be otherwise; but if this state of things shall go on, if another and another Congress shall permit the public business to pass by, as this Congress has for the last two years, what I apprehend is—and it is one of the most distressing evils which can come upon a people—a total want of confidence in the Legislative Assembly of the country. They will look here for justice, and look in vain. They will look to the representatives of the people for the protection of their rights, and look in vain. They will come to the conclusion that the experiment of a representative government is a failure. Sir, there is not a more important question presented for our consideration than this, and it becomes us to endeavor to secure the confidence of the country. Without it, we are powerless. When we become the subjects of distrust, every honest man in the country will feel that it will be indispensable to have a radical change in our institutions. Nothing will secure the regard and attachment of the people but a prompt discharge of our duties.

I regret, sir, that I have consumed so much of the time of the committee. It is only the second time, with the exception of one or two five-minute speeches, that I have asked the attention of the House. I apologize for throwing myself upon their indulgence. I trust that, in the transaction of our business for the few days of the session that are left to us, there will be on all hands a fixed and steady purpose to go on, and at least pass the appropriation bills in time to consider the amendments which may be made to them by the Senate, so as not to place the House in the power of a committee of conference, who can load the bill with matter which may operate unjustly and oppressively upon the country, and leave us without a remedy for the evil.

Mr. STEPHENS, of Georgia, here obtained the floor.

Mr. COBB. I hope the gentleman from Georgia will allow me a few moments, as a word of explanation may be due, in answer to the remarks of the gentleman who has just taken his seat. I regret that the gentleman from North Carolina [Mr. VENABLE] happened to be within the range of my voice, and heard my remark, which was rather casually spoken, in my seat, and not for the purpose of giving any offense, and which has called forth from him such a severe rebuke.

I wish to make an explanation. When a gentleman uses the words "the gentleman from Alabama," they shall not apply to any other member than myself from Alabama. I father every sentence and expression that I make in this House, desiring, as I do, that nothing shall go out to the country as the remark of anybody else, when I made them myself.

I want to state to the gentleman, before I proceed, that there is not a gentleman in this House for whom I entertain a higher respect than for the gentleman from North Carolina; and I want to state further, that there is not an individual in this House to whom I would give the slightest offense by any remark I could make.

Mr. VENABLE, (interrupting.) I had no intention of giving any offense to the gentleman by the remarks I made.

Mr. COBB. The gentleman says that he meant no offense, and perhaps the remarks were playful on both sides. If so, I shall desist from the course I intended to pursue, for I intended to show to the House and to the country that I have filled this seat every day during this session, and endeavored to expedite the business. I intended to show that I have made no speeches, and consumed none of the time of this House in lecturing the House, but have endeavored to discharge, in my humble manner, and to the best of my abilities, the duties of a member of Congress from the district I represent. I shall say nothing more, as it is apparent that the remarks were playful on both sides.

Mr. STEPHENS, of Georgia. The evils of which the gentleman from North Carolina [Mr. VENABLE] complains, are not, I think, attributable to the causes to which he attributes them. He has said a great deal against the rules of this House; of their obstructing public business, and of their absurdity. Now, sir, I should be pleased to hear him point out a single rule which contains an absurdity. A single one that is unwise, unmeaning, or foolish. A large majority of these rules have been the standing rules of the House of Representatives since 1789. Nearly all regulating the order of business were adopted in the early history of the Government. Did not the House do business under them then? Did not they legislate in 1789, 1791, in 1810, and 1812, in 1820 and 1825? Sir, there have been very few rules intertering with the mode of doing business in this House established within the last quarter of a century. We have had some new ones within that time, such as the 21st rule and the hour rule, but they are not many.

The evil, therefore, cannot be attributed to your rules, and I call the public attention to this fact, because it has become fashionable, not only in the House, but out of it, for those who do not understand the subject, to cry out, "The rules!" "The rules!" "Oh, the abominable rules!" Sir, twenty-five years ago, men came here and did the business of the country, and they conformed to these rules. There was no great fault then in the rules; nor is there any great fault in them now; and, as the gentleman from North Carolina [Mr. VENABLE] intimates an intention to go to his constituents and tell them where the evil lies, I wish him to carry this message to them from me: that it is in the men whom they send here. Tell them to send men, such as they sent in former times; to send legislators and statesmen, and not demagogues, and then the public business will be attended to under the same rules that it used to be. The evil is in the organization of the House, and the material it is made of, and not in the rules. They are, in the main, good and wise. Conform to them, and you could soon clear your table, now groaning under the burden of so many bills unacted on. Put a man in the chair who understands the rules and will enforce them; organize your committees from proper materials; and let men be sent to Congress who understand the public business, and you will hear none of this complaint against the rules of the House.

The gentleman brought a complaint against the mode of acting on reports from committees of conference. I agree with him in that; but he said it was one of the blessed rules of this House.

Mr. VENABLE. I was mistaken in that.

Mr. STEPHENS. I know he was mistaken; for this mode of acting is by no rule of this House; we have no rule on that subject, but are governed, in that particular, by general parliamentary law, and I allude to it particularly because of another suggestion he made. He said we had better suspend all the rules—repeal them. Where will you go then? To parliamentary law? He complains of one hundred and fifty-three rules now, and he will then, perhaps, complain of more than three times the number, under the general parliamentary law. What sort of rules would you then have? Could any man be found who would understand them any better than he can those you now have?

But there is a strange inconsistency in the gentleman's speech! He says that the Senate have but few rules, (well, that shows that they are not under the general parliamentary law, where he would have us,) and he says that they do business. And then one of the great burdens of his complaint is, that the Senate often put large appropriations of money in the appropriation bills, which members are unwilling to vote for, and after being rejected by the House are adhered to by the Senate, and are finally reported in favor of by a committee of conference, when the House is compelled to vote for them all together in a lump, or lose the bills. This, sir, is an evil. But what I wish to say is, that the evil does not arise from the number of the rules of this House, but from the want of one more. By the general parliamentary law, the question on the report of a committee of conference is indivisible. You have to agree to the whole report or reject the whole. And what we want to cure this evil which has sprung up with us is a new and an additional rule modifying the parliamentary law in this particular, so as to allow a division of the question on the report of a committee of conference, so as to get a vote on each item embraced in it. The gentleman's cure for this evil of which he complains, is to adopt that very parliamentary law out of which it arises. Now, sir, I would cure it not by abolishing all present rules, but by making one more by which the question on the report of a committee of conference should be divisible—that is the proper remedy. And, I say this House should not pass another day before they have another rule to their present one hundred and fifty-three, and it should be this: That on the report of a committee of conference there shall be a division of the question, and a separate vote of the House be taken upon every distinct measure embraced in such report, if demanded by one fifth of those present. You have now no rule upon that point, and the Speaker is bound to decide according to parliamentary law, and hence the evil of which the gentleman complains. I give you the remedy. While I am upon this subject, I desire to say something upon the true cause of the great delay in getting along with the public business, and the heavy accumulation of bills now upon the Speaker's table, and which will probably not be reached before the close of the session. There has been great delay, and blame is due somewhere. I am not going into particulars to show where I think the blame is attributable, but I do believe that if the heads of committees had been efficient in the discharge of their duties, the business before the House would not have been in its present condition. I think there has been delay, and unnecessary delay. We are within comparatively a few days of the adjournment of this Congress.

Mr. McLANAHAN. I would ask the gentleman from Georgia how the chairmen of the committees having charge of the public business are to make their reports and introduce their bills unless under the rules of the House? For instance: The Committee on the Judiciary has never been called on under the rules to report, and how can it report unless by a suspension of the rules or unanimous consent?

Mr. STEPHENS. The chairmen of committees are presumed to be men of influence in the House. Now, if they had that influence which their position gives them, or ought to give them, they would have induced the House to conform daily to the execution of its rules, and public business would have been expedited. But, if the gentleman desires it, I will tell him that the heads of committees, in my opinion, have not the confidence of the House; they do not exert that influence which men in their position ought to exert, and therefore everybody puts in for himself, and everything goes pell-mell and in wild disorder. That is my opinion.

Mr. McLANAHAN was understood to say: It would be well then, as the gentleman has become somewhat personal, that he would point out those who do and those who do not command influence?

Mr. STEPHENS. Perhaps, if I proceed to specify, I might commence at a point where the gentleman would not be very anxious that I should.

Mr. McLANAHAN. I interpose no objection to the full and free expression of the gentleman's opinions on that subject.

Mr. STEPHENS. But my object is not to make specifications; I am replying to the gentleman from North Carolina and his complaints against the rules. The fault is not with them, but their administration. It is with the House and its general organization, and my object in speaking was that the remarks of the gentleman should not go to the country unanswered. If they did, it might be supposed that this House had committed some great outrage, that they had passed one hundred and fifty-three rules which nobody could understand, and which even those who framed them could not understand themselves. Well, sir, I think the gentleman has been here for six years. I would ask him how many new rules have been adopted during that time? One to allow five minutes debate, and, perhaps, another excluding particular individuals from the Hall. These two are about all. So the rules are very little worse than they were six years ago at least. Public business then could be done. Has the gentleman ever introduced any change or modification of the rules?

Mr. VENABLE. I voted last Congress in the Committee on Rules, to repeal these rules.

Mr. STEPHENS. The gentleman voted for the repeal of the rules, but he brought forward nothing better. He has proposed no amendment. If the rules were repealed, the general parliamentary law would be adopted until others were made, and, as I have shown, you would have that sys-

tem against one feature of which he has complained so loudly to-day; that is, the mode of acting on reports from committees of conference. Now, one word as to the reasons why the committees have not been called. In my opinion, the reason of this has been because the House has not sustained the Speaker in the administration of the rules, in first calling on the committees each day for reports for one hour, afterwards proceeding to the business on the Speaker's table, and then going to the regular orders of the day. Had the Chair been sustained in this, your committees would have been called almost every day in the session, and the Speaker's table would not now be burdened with a vast amount of business. It would have been cleared each day. If the gentleman from North Carolina wants to know how the thing works now, as he has given us some comparisons, I will tell him. There are two hundred and thirty-three members in the House. They come here, and all want their business dispatched, and, just like a crowd endeavoring to get out of a building on fire, all rush together, twenty and thirty get on the floor at the same time, calling out "Mr. Speaker!" "Mr. Speaker!" first one and then another, and not unfrequently all together. They do not conform to the rules, and the Chair does not make them conform, and hence all attempting to rush in their business at once, the way is blocked up and none is done. You ought to have a Speaker who would proceed regularly under the rules with the business, who would recognize no man out of order, and who would let each one have a hearing in order when his turn regularly came. Then the multitude of business, instead of being crowded and mashed in the general confusion, would all be acted on in a regular and orderly way. That is the way it used to be done. You did not hear twenty-five and thirty years ago, complaints of the rules. They were essentially the same then as now. They were better administered, that is all. Members conformed to them; and if they did not, the Speaker required them to do so.

But I do not desire to prolong this discussion. I only wished that the gentleman's remarks on the rules might not go unanswered. I wish the constituents of the gentleman, and all of our constituents, to know the fact that the rules are essentially the same now as they have been for half a century. If the men who have been here within that long period could legislate under these rules, and those who are here now cannot, let the people look out for others who can. If they will but do this, you will have wise and proper legislation, and you will not have the reports of committees on important bills put off until near the end of the session, and committees of conference appointed, and four or five men constituting these committees, voting heavy appropriations, and measures which cannot be understood by the House. I notify this House that, so far as I am concerned, I do not intend to sustain a single report from a conference committee, at the close of this session—I do not care what be the consequence—unless my judgment approves of its details. A committee of conference at the last session made a report of about twenty or thirty pages of matter, not understood by the House, or which, if voted on separately by the House, would never, I think, have got its sanction. The House did not understand it, and the question then came up—take this report of the committee of conference or lose the appropriation bill. Well, I intend, so far as I am concerned, that they may be lost before I shall vote under this sort of gag or duress.

A MEMBER. How are these reports to be understood when they come in on the last night of the session?

Mr. STEPHENS. The gentleman asks how can they be understood when they come in at the very end of the session? They cannot be properly understood, and that is the evil of putting off action until so late a period in the session—this comes from your tardiness and delay. On this point of reports from conference committees, I agree with the gentleman from North Carolina as to my course; I do not intend to turn over legislation by that sort of proceeding, to four or five men. The House may do as it pleases, but so far as I am concerned, I am not going to be forced to sustain such reports from any threat or apprehension which may be thrown out that the appropriation bills will be lost. Let them be lost, and let the consequences fall where they justly belong; and now, sir, let us go to work—I will detain the House no longer. Proceed according to the rules; take up the bills, and let us understand them. If amendments are put on them in the Senate, let them be returned in time for us to understand them. Let the House take its position understandingly upon each amendment, and let it stand by its own judgment. If the bills should be lost by any of these amendments being adhered to by the Senate let them be lost. But let no one say that such a result, if it should happen, was owing to the rules of this House.

Mr. STUART. I desire, Mr. Chairman, to make a few remarks in regard to the rules of the House and the evils complained of by the gentleman from North Carolina, [Mr. VENABLE;] but in doing so, I shall not detain the committee long. I am not going to contend that the rules are what they might be; but I will endeavor briefly to show that they might be much better administered than they are if it were the disposition of a majority of the House to do so. It is a principle ingrafted, perhaps, on our nature, when there is an evil existing, to charge it to some source other than ourselves. I will try to demonstrate, that if the House will at any time, this or any other day, undertake to execute the rules in their letter and in their spirit, there will exist no such evils as those of which complaint is made. It is contended by many, perhaps a majority of the members, that it is not possible to reach the business on the Speaker's table. If the rules be administered as they exist, it would be competent for a majority of the House any and every day to go to the business on the Speaker's table, and stay there as long as they chose. Is that understood generally throughout the country? Not at all. It has become the fear of gentlemen who desire to get their bills through, that by some parliamentary maneuver their bills will go to the Speaker's table. Why, sir, if you would execute the rules they might be as well there as any other place, because they would be reached the very next day in their order. But how came the difficulty? It originated in this wise: At an early day during the last session, on motion of the gentleman from Tennessee, [Mr. JOHNSON,] the homestead bill was made the special order. By a rule of the House it is in order at any time to move a suspension of the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union. Now, what did we do when we reached that special order? A majority of this House, regardless of the business on the Speaker's table, regardless of the duties incident to the morning hour, to wit: the reports of committees, would vote to suspend the rules every day for about four months, and go into the Committee of the Whole on the state of the Union to discuss the homestead bill. What was done in the mean time? Business came from the Senate, and bills to the number of one hundred and fifty accumulated on the Speaker's table. Were the rules to blame for this? No, sir; it was the majority of the House who were to blame, who determined, rather than transact the business which was accumulating, they would make speeches in the Committee of the Whole. There began the difficulty. Will gentlemen, therefore, I repeat, charge it to the rules or to themselves?

The Committee on Public Lands has come in for its full share of condemnation for retarding the business of Congress, especially in this House. Let us look a little to that. I desire, inasmuch as this matter is to go to the country on the speech of the gentleman from North Carolina, that we shall show where the blame does rest. No sooner was a bill introduced from the Committee on Public Lands, than its opponents resorted to every possible means to prevent a direct vote being had on it.

Mr. AVERETT. Will the gentleman allow me to make a single remark?

Mr. STUART. I will yield to the gentleman in a moment. I only desire to say before I do it, that one of the most serious evils which exist in this House is the constant liability to interruption. A gentleman is confined to an hour's speech, no matter how extensive the subject, and he cannot speak continuously five minutes without some one desiring to interrupt him. I do not mean to exculpate myself from this practice. I shall yield the floor to my friend from Virginia [Mr. AVERETT] with great pleasure, but I will preface it by saying, that I shall call the attention of the House to this matter as one of the most serious evils which exist here.

Mr. AVERETT. The remark which I wish to make is this: It is a matter of history that the Committee on Public Lands at the last session of Congress, monopolized two thirds of the session. How and why? By starting out upon the abstraction, (as would have been charged to any of my South Carolina friends if they had pursued a like course,) that if you refer a matter to the Committee of the Whole, it would be killed, and therefore they moved the immediate passage of the bills without subjecting them to an ordeal which would give us the right of free discussion—that would have exposed the iniquity of the thing in such a manner as would have awakened "Buncombe" to a proper sense of the immorality of the whole scheme. That is what I mean to say.

Mr. STUART. If gentlemen will allow me a few minutes, they will find that I do not assume to be the advocate of the Committee on Public Lands, or any other committee in the House, or any gentleman in the House; nor am I assuming to-day to censure the House, or any one in it. My object is to have, in connection with the speech of the gentleman from North Carolina, [Mr. VENABLE,] a history of the action of the House go before the country. But I will return to what I was remarking before. It is unfair and unjust, because it is untrue, to charge the Committee on Public Lands with throwing any obstacle in the way of the disposition of the business before the House at the last and the present session of Congress. I repeat, the opponents of these measures resorted to every parliamentary maneuver to prevent a vote upon the bill. I ask you, Mr. Chairman,—I ask any gentleman in this House,—how long it would have taken to have finished the business of receiving reports from committees, if you had followed the course which the Committee on Public Lands saw fit to adopt? I beg to say again, that I neither sanction nor condemn it. I do not intend to pass opinion upon it at all; but if you had sustained the previous question, it would have brought you to a direct vote on engrossing the bill, and it would have taken but thirty minutes to determine whether the bill should pass or not.

Mr. JONES, of Tennessee. The question which I wish to ask the gentleman is this: If there was ever an opportunity afforded to any member of this House opposed to the bill to which he refers, to get the floor upon it? Did not the person who reported any of these railroad bills farm out his time for some other gentleman to interrogate him, and before the close of his hour the previous question would be called?

Mr. STUART. I am surprised that the gentleman from Tennessee has so very short a memory. Does not he know that every one of these bills was drafted upon the same model, and that the Missouri land bill, introduced at the commencement of the session, was the model for all the rest? Does he not know that the Missouri land bill was discussed here fully and fairly before the chairman of the committee who had it in charge demanded the previous question upon it? The whole subject was discussed, and I say that the House was as well informed upon the principle involved in these bills, as they could be after three months' discussion. It is the opponents of the bill, and not the Committee on Public Lands, who ought to suffer for the delay of business on that account.

Mr. DEAN. I understand the gentleman to make the assertion that the opponents of the land bill had the opportunity of being heard before the House. My recollection is, that no man has been able to obtain the floor in this House who was opposed to these bills. Mr. BENNETT, who was a member of the Committee on Public Lands, reported another bill, the design of which was to embrace all the bills.

Mr. CLARK. Did not the gentleman from New York [Mr. JENKINS] make a speech? Did not the gentleman from Maine [Mr. FULLER] make a speech against the bills?

Mr. DEAN. Within my own recollection, for two months after the committee had the floor during the morning hour, I attempted to get it, but never could, and no one opposed to the bill could do it. I recollect, distinctly, that in the Committee of the Whole on the state of the Union several

individuals made speeches against it, but not one before the House. The friends only of the bill had the floor there.

Mr. HALL. I am perfectly indifferent about this matter. It has all gone by, and it is apparently lost time to talk about it; but I wish to call the attention of the gentleman from New York to this fact, that his colleague, Mr. BENNETT, did, in this House, while the Missouri land bill was pending, not only make a speech, but a very able speech against it.

Mr. DEAN. If he did, I did not hear him, and I never heard of it before. And Mr. BENNETT is a member of the Committee on Public Lands.

Mr. STUART. It is not important whether the gentleman from New York heard it or not. We know such a thing occurred here, and we all know that the truth of the remark I made cannot be denied. The chairman of the Committee on Public Lands, when he reported the Missouri land bill, said he was intending to allow full and fair discussion upon that bill, inasmuch as it was the pioneer bill; that subsequent ones would be reported upon the same principle, and that when it had been fairly discussed, he intended to move the previous question, and he asked gentlemen to either vote it down or pass it, but not to refer it to the Committee of the Whole on the state of the Union. If the gentleman from New York [Mr. DEAN] did not hear it, it is not the fault of the House and country. The gentleman will recollect that he went home a great many times during the last session. Very likely these things occurred when he was absent. Those who were here heard it.

Mr. JOHNSON, of Tennessee. I wish to ask the gentleman from Michigan a question, for the purpose of keeping all the facts right in the legislative history of the homestead bill. Does the gentleman know on what day the special order commenced, and on what day the bill finally passed the House?

Mr. STUART. I cannot answer that precisely, nor is the length of time important to my argument.

Mr. JOHNSON. How, then, can the gentleman assert so positively in his speech that it was "*about four months*," and that, too, to the exclusion of all other business? If the gentleman is familiar with all the facts connected with this special order, he has stated that which he ought to have known was untrue. If he was not familiar with them, he ought not to have asserted that which he does not know. The facts do not sustain the gentleman in his broad assertions in reference to the homestead bill. It was made the special order for the first Tuesday in March, and finally passed the House on the 12th day of May, a few days over two months instead of four; and besides, much of this two months was appropriated to other business—at times passing it over by general consent; and never in a single instance, if memory serves me aright, was the morning hour cut off by a motion to go into the Committee of the Whole House on the state of the Union, for the purpose of considering the homestead bill. These are the facts as they occurred, and I desire them to go to the country with the gentleman's speech.

Mr. STUART. It is very polite, when a gentleman asks another to yield the floor, to conclude his remarks with something of personal disrespect.

Mr. JOHNSON. I did not intend my remarks as personal, but they are stated as facts.

Mr. STUART. If the gentleman has treated my courtesy satisfactorily to himself, he has treated it entirely so to me, for I adopt in the fullest sense the maxim of Lord Chesterfield, that "a well-bred man will never insult me, and none other can."

Mr. JOHNSON. If the gentleman intends to make any personal allusions to me, there are other places——

The CHAIRMAN. The gentleman must not indulge in personalities.

Mr. JOHNSON. I did not intend to do so. My intention was not to make personal allusion to the gentleman from Michigan, but it was to set the facts right, and as the record bears me out in stating.

The gentleman complains that I have abused the courtesy he extended to me by concluding my remarks with a personality, and attempts to throw it back by a quotation of some poetry he attributes to Lord Chesterfield. The gentleman has fallen into as great an error in this attempt to throw off a little crumb of literature, both as to the correctness of the quotation and the authorship, as he did in regard to the facts with reference to the special order. I will now quote from Cowper's Conversation, in reply to the gentleman's intended personality, the correct reading:

"Am I to set my life upon a throw,
Because a bear is rude and surly? No!
A moral, sensible, and well-bred man,
Will not affront me, and no other can."

[Laughter.]

In conclusion, I repeat what I said in the first instance, that if the gentleman is familiar with all the facts connected with the special order referred to, he has stated what he ought to have known was untrue; and if he was not familiar with them, he ought not to have asserted that which he did not know; and the gentleman is at liberty to take that horn of the dilemma which suits him best. I have made the statement I did, believing that the truth would be at all times both courteous and respectful.*

Mr. STUART. If the gentleman is as fortunate in his poetry as he is in his etiquette, it would ill become me to undertake to cope with him in respect to either. Notwithstanding, I think Lord Chesterfield did use the remark to which I referred. I have always endeavored on this floor to treat gentlemen with personal respect, but when a gentleman says to me that it is my duty before I rise and undertake to state facts to the House, to know that they are facts, and that if I state them without knowledge I am guilty of ignorance, and that if I state them with knowledge incorrectly, I state that which I know to be untrue, he must have more ingenuity than I have in making the application, if there is nothing personal in the remarks. I shall continue the same course of treatment which has characterized my conduct since I have had a seat in this House. I have felt proud in saying in private conversation, what I now say to the House and country, that the most agreeable business portion of my life has been spent here. I have been proud to be the associate of some three hundred members of Congress—more or less—always upon good terms. I have been proud of their society and grateful for their repeated kindness, and prouder still of the estimation in which they have been pleased to hold me. And, sir, whether I shall live thirty years or thirty minutes, I shall ever cherish these feelings, and there will be no association upon which I shall have more agreeable reflections in my last moments than that to which I have referred.

But, sir, we have wandered far from the subject of my remarks. Let us return to it. I had said all I desired to say with regard to the Committee on Public Lands, but I was about to allude to a fact which is known to the whole country. The gentleman from New York, [Mr. BENNETT,] a member of that committee, reported a bill which the committee had directed him to report, with a recommendation that it do not pass. But that recommendation was not made known to the House until the bill had been so far considered that the Speaker declared, upon my suggestion, that it was too late to have made it available; and, sir, that measure was passed, under the pressure of the previous question, without any gentleman having an opportunity to utter a word against it.

Mr. BENNETT, (interrupting.) As this seems to be a general time of explanations and corrections, I must correct an error into which the gentleman from Michigan [Mr. STUART] has no doubt quite unintentionally fallen. He says the recommendation of the Land Committee, that the land bill introduced by me at the last session should *not* pass, was not stated by me to the House at the time the bill was first reported, and not until it was too late to object to it on that account. It was stated when the bill was first reported, and objections were made to it on that account, and overruled by the Speaker, and that decision sustained by the House on appeal. So the gentleman is mistaken. One other word in reply to a statement of the gentleman from New York, [Mr. DEAN,] that this bill was to make a general distribution of *all* the public land. It proposed no such thing. It only proposed to equalize the grants made to the States—to give to all what a part had had, and would only take sixty millions out of one billion four hundred millions of acres, and did not seek to dispose of the public lands.

Mr. STUART, (continuing.) I beg the gentleman from New York to understand that in the remark which I made I did not design to cast any censure upon him; not at all. I am only reciting the history of this Congress, as far as the House of Representatives is concerned; and as the gentleman now says that he did, on reporting the bill, make known to the House the recommendation of the committee, I must concede that it was so; though I assure him it was not so understood by me or the House generally, and I gave to him my undivided attention during the whole proceeding. For, when I subsequently made the point myself, that the report of the committee was the first question in order, the Speaker decided that it was too late to make the question, and the House was brought to a vote upon that bill, without there being any opportunity to have it discussed at all. Well, sir, what followed? The friends of that bill took the ground that no railroad bill should pass until the Senate passed that bill; and they resorted to all the powers that astute gentlemen can exercise, under the rules of this House, to prevent a direct vote being had upon any railroad bill. The consequence is, that from that day to this there has not been a direct vote had upon any railroad bill, except upon the bills granting lands to the States of Missouri and Arkansas for that purpose. Whenever a bill of that character has come before the House, there have been motions for a call of the House, motions to adjourn, motions to lay the bill upon the table, and everything else that would keep the bill at a point where the morning hour would expire, and send it to the table, where, by the very course that was being pursued, that bill would be past the hope of resurrection.

Mr. CARTTER, (interrupting.) With the permission of the gentleman from Michigan, I de-

*NOTE.—The resolution of Congress, authorizing its debates to be published, says: "*Provided*, The report of said debates shall be subject to the revision of the speakers." Under this authority, Mr. JOHNSON revised his remarks published above. Mr. STUART insists that in debates which are personal, the remarks, as written out by the Reporters, shall be published. They are as follows:

Mr. JOHNSON, of Tennessee. I wish to ask the gentleman from Michigan a question, for the purpose of setting this matter right. The question I ask, is this: What day the homestead bill was set apart and made the special order? Then I wish him to answer what day it passed.

Mr. STUART. I cannot answer that precisely.

Mr. JOHNSON. I understood the gentleman to say that it was made the special order for four months.

Mr. STUART. No, sir; I said about four months.

Mr. JOHNSON. I understood the gentleman to say this in his speech. The homestead bill was made the special order on the first Tuesday of March, and it passed on the first of May. During the two months in which it was a special order, the business of the morning hour was regularly disposed of, and a great deal of other business transacted in the time when the homestead bill was not under consideration. It was postponed from day to day, and many speeches were made in the Committee of the Whole, which would have been made upon other subjects, and which are not attributable to the homestead bill at all. I wish to say one thing. That when a gentleman gets up, states things as facts, and makes round assertions, he ought to know what he is stating. If the gentleman did not know when the special order was acted upon, and when the bill was passed by Congress, he ought not to have stated that which he did not know. If he knew when it was made a special order, and when it was passed, he stated that which was untrue.

Mr. STUART. It is very polite when a gentleman asks another to yield the floor, to conclude his remarks with something of personal disrespect.

Mr. JOHNSON. I did not intend my remarks as personal, but they are stated as facts.

Mr. STUART. If the gentleman has treated my courtesy satisfactorily to himself, he has treated it entirely so to me, for I adopt in the fullest sense the maxim of Lord Chesterfield that, "A well-bred man ne'er will insult me, and none other can."

Mr. JOHNSON. If the gentleman intends to make any personal allusions to me, there are other places——

The CHAIRMAN. The gentleman must not indulge in personalities.

Mr. JOHNSON. I did not intend to do so. My intention was not to make personal allusion to the gentleman from Michigan, but it was to set the facts right, and as the record bears me out in stating. I state another fact: that no gentleman ought to state a thing which he does not know, and if he does know it, he ought not to state it different from what it is. Can the gentleman consider that as anything personal? I wish to correct him again, by his permission. The gentleman, by way of showing off a little literature, makes a quotation which he attributes to Lord Chesterfield, but the credit of which should be given in fact to Cowper. [Laughter.] And if the gentleman will permit me, I will reply to his remark, not in a personal sense, but in his language:

"Am I to set my life upon a throw,
Because a bear is rude and surly? No!
A moral, sensible, and well-bred man
Will not affront me, and no other can."

[Laughter.]

sire to know what question there is before the committee? [A laugh.]

Mr. STUART. We are all of us not unfrequently at a loss to determine what question is before the committee. But if the gentleman had listened for a few moments, he might perhaps have learned what my views are upon that subject, humble as they may be, because I am going, by and by, to say something with reference to a remedy of the evil which the gentleman from North Carolina complained of. I will say, in connection with the remark of the gentleman from Ohio—because I know he will not understand me as alluding to him or to anybody else in particular—that we are all in the habit of getting up here and consuming hours of the time of the House, in telling the House what we do not know, and that we do not understand this thing, and that thing, and the other thing, instead of giving gentlemen who have reported measures and who do understand them, an opportunity to present them to the House. We frequently continue that system of discussion until the majority get out of all patience, and having learned nothing on the subject, demand and enforce the previous question. There is no difficulty, in my judgment, in getting rid of this evil, and it might be done in this way: confine the discussion in Committee of the Whole on the state of the Union, as you do in the House, to the bill under consideration, and abolish your hour rule. What would be the result? No gentleman would rise to speak upon any subject, unless he had investigated it and fully understood it. In the course of two or three hours he could exhaust the subject. Under such a system, perhaps four members would speak upon the bill, or may be six, but rarely, in my judgment, over four. The subject would then be exhausted, and the House would be ready to vote upon it and take up another subject, which would be discussed by a different set of members who understood it, and so on through the legitimate business of the House.

As it is now, everything is discussed except the bill legitimately under consideration, and it is not until we close debate and enter upon the five minutes discussion, that the bill is touched at all. One gentleman wants to speak upon rivers and harbors; another gentleman wants to speak upon the public lands; another wants to speak upon finance; another upon the presidential question; and the result is, that fifty or sixty, and sometimes hundreds of hour speeches are made here, and we are kept in Committee of the Whole on the state of the Union, upon a single bill, for four or six weeks, without the subject itself being ever touched. Now, in my judgment, the remedy for this evil lies in a nutshell. Confine the discussion in Committee of the Whole on the state of the Union, as you do in the House, to the subject legitimately under consideration, and abolish the one hour rule.

Mr. HALL, (Mr. STUART yielding the floor.) I had supposed that the gentleman from Michigan, after defending the Committee on Public Lands, which I did not hear attacked, would have said a word or two in defense of a high officer of this House, who, I believe, has been unjustly assailed. We have been told here to-day that the Speaker of the House of Representatives is responsible for the condition of the business before the House. Sir, I am utterly astonished that such a charge could be made by anybody, and most especially by a gentleman so well acquainted with the rules of the House and the history of the conduct of former Speakers as the gentleman from Georgia, [Mr. STEPHENS.] That gentleman must know what was the condition of business in this House during the first session of the last Congress. That gentleman must know that we did nothing at all, or next to nothing at all, until the 7th day of September, when the compromise measures were passed. That gentleman knows that the Presiding Officer of the last House of Representatives was, in the estimation of almost every one, the ablest and most efficient Presiding Officer that ever sat in the Speaker's chair of this House. Now, sir, what has the Speaker of the present House omitted to do which it was in his power to do, to facilitate the progress of the public business? Has he not regularly declared, every day, when the House met, what was the regular order of business? Has he not endeavored, as far as he could, to have the regular order of business proceeded with? So far as I have been an observer of his conduct I must answer these questions in the affimative. But, sir, a majority of this House can, whenever they please, go into Committee of the Whole on the state of the Union, under an express rule of the House, and consequently it is impossible for the Speaker of this House to dispatch the business upon the Speaker's table. The gentleman from Georgia must certainly remember what took place only some eight or ten days ago. The Speaker of the House, in his anxiety to proceed with the regular course of business, determined that he would not recognize any gentleman upon this floor, on Monday, except a gentleman from the State of Pennsylvania, resolutions from that State being in order upon that day. What was the result? Did we do any more business then than on any other day? On the contrary, was it not the almost universal opinion of the House that the Speaker had acted improperly, in that rigid adherence to the rules of the House?

A great deal has been said about the business on the Speaker's table. I am not aware that the situation of that business is much worse than it has been heretofore. But be that as it may, I tell the gentleman from Georgia, and I tell the gentleman from North Carolina, [Mr. VENABLE,] that whenever a bill comes into the House or into the Committee of the Whole on the state of the Union, which, I believe, it would be highly improper to pass, and which will justify dilatory movements or revolutionary movements, as they designate them, I, for one, shall engage in those movements. I have always done it, and I always mean to do it. I have no fear of the denunciations of the Republic. I have no fear of the denunciations of gentlemen who do not approve of my conduct. I always endeavor to do what I believe to be right, and when I have done that, I am satisfied, provided I can satisfy my constituents.

Mr. ALLISON, (Mr. STUART further yielding the floor.) I wish to call to the recollection of the gentleman from Missouri [Mr. HALL] a single fact. I understood the gentleman from Missouri to rise for the purpose of defending the Speaker, and if I understood him aright, I think he, unintentionally of course, cast more censure upon the Speaker than any other gentleman has done. He said that the Speaker, in the discharge of his duty on last Monday week, recognized none but gentlemen from the State which I in part represent, and in doing so, gave great dissatisfaction to the House. Let him remember the fact, that bills were called up by my colleagues, and the House, instead of showing dissatisfaction at that course, sustained it in almost every instance by suspending the rules and acting upon the bills thus called up, thus sustaining to the utmost the course of the Speaker. That is all I have to say.

Mr. STUART. I desire to revert for a moment to a remark which I made some minutes since, and to which the gentleman from Tennessee [Mr. JOHNSON] called my attention. When I spoke of the time during which the homestead bill was before the House, in Committee of the Whole, as a special order, I spoke comparatively. I used the term of "about four months," and I was very happy to be corrected by the gentleman. I do not intend, by anything I said of the time that bill was before the committee, to cast any imputation upon the gentleman who reported the bill, nor upon those who supported it, or to deny the importance of the measure. Quite the reverse, sir, were my views and intentions. I merely intended to show that it was under discussion for a very long time; and that while it was under consideration, as a special order, very few reports from committees were made. During all that time there were as many as from twenty-five to fifty gentlemen who desired to speak in Committee of the Whole, and who, whenever it was in order to move to go there, would vote for the motion.

Now, it is known to gentlemen that, until one hour has been spent in calling committees for reports, it is not in order to move to go to the business upon the Speaker's table; and if that rule were adhered to faithfully we should have no difficulty upon that point. But while we do sometimes insist upon having that hour thus spent, we rarely ever get to the Speaker's table, in consequence of the inordinate desire to get into the Committee of the Whole on the state of the Union.

Mr. Chairman, this is all within the control of a majority of the House. If the House had commenced at the beginning of the present Congress, and continued to administer these rules according to their legitimate designs, there would not have been a single bill upon your table longer than twenty-four or forty-eight hours at the outside. I recollect that during the Thirtieth Congress—and that is the only Congress preceding the present of which I have had the honor of being a member—there was no accumulation of business upon the Speaker's table. The House went regularly to the business on the Speaker's table every day in the week when there were any bills there, sometimes in the morning and sometimes in the evening after they came out of committee, and disposed of the business there. Your table was not then, as now, loaded down with bills undisposed of. Sir, these are not complaints which gentlemen ought to make against our rules; they ought to make them against ourselves. The true cause of complaint lies at our own door.

The practice of making special orders is a pernicious one, for which there would be no necessity, did we not create the necessity ourselves. I speak of no particular measure, but I speak of the practice of the House generally, in so conducting its business that large numbers of bills accumulate on the Speaker's table and upon the calendar for the Committee of the Whole, to an extent which compels us to make a favorite measure a special order, that we may be able to reach and consider it.

The special order thus made overrides the legitimate business of the morning hour; then comes a motion to suspend the rules, and go into the Committee of the Whole on the state of the Union, and the range of debate which is there allowed induces everybody who desires to speak to vote for the motion.

Now, sir, the gentleman from Missouri [Mr. HALL] expressed a regret that I had said nothing in defense of the Speaker of this House. Mr. Chairman, I have not entered upon that defense, for the simple reason that I did not hear the conduct of the Speaker assailed. I was not in the Hall while the gentleman from Georgia [Mr. STEPHENS] was speaking until nearly the close of his remarks, and did not hear the remark to which the gentleman alluded. But if I had, I should have said only this in reply: that, in my humble judgment, the gentleman who occupies that chair, with an integrity that no one will ever question, has desired and endeavored to execute the rules of the House in such a manner as best to facilitate the business of the House. But, sir, it is not in the power of any man in that position to prevent the accumulation of business upon your table, so long as the majority of the House will not prevent it themselves. If a motion is made to go into the Committee of the Whole on the state of the Union, can the Speaker do otherwise than to put the question? and if a majority vote in the affirmative, can the Speaker override the action of that majority? Has not the Speaker of this House announced time and again—does not he do it every morning—the order of business? and are not some gentlemen, or rather some dozens of gentlemen, continually rising and asking to dispense with the regular order of business, sometimes by unanimous consent to take up other business, and sometimes by making privileged motions, mainly to go into the Committee of the Whole on the state of the Union for the purpose of making speeches to go to their constituents and the country? As far as that is concerned, are we not all guilty? Let him who says he is not rise and cast the first stone.

Mr. Chairman, I have thus briefly stated a few of the causes of this difficulty. But, sir, if the House will, to-day or to-morrow, commence with the order of business and insist upon it, there will be no difficulty in disposing of the business upon the Speaker's table. There will be no difficulty in allowing every committee in this House to report upon every measure referred to them, and there will be no difficulty in obtaining action upon those reports. But you must not make this bill or that one a special order. You must not go, as soon as the morning hour has expired, into the Committee of the Whole on the state of the Union. You must follow out the rules, and you will find no difficulty in disposing of all the business before you.

But, sir, I have spoken a great deal longer than I intended. I desire only, in conclusion, to call the attention of the committee to a fact to which I have before alluded. One of the most serious evils in relation to our proceedings, is one which

I have allowed in my remarks upon the present occasion—that of farming out the floor to everybody to speak disjointedly and disconnectedly for two or three minutes; allowing a member to say half he wants to say, and thus rendering most of our debates incomplete and unsatisfactory, and in many cases unintelligible also.

HOMESTEAD BILL.

Mr. NEWTON. Mr. Chairman, I am much obliged for the floor, as I have been striving for it for the last year to make the few remarks I now have an opportunity of making under very disadvantageous circumstances. The committee of which I am a member have had before them various measures for the improvement of agriculture, and have been prepared for a long time to report, but have had no opportunity.

Mr. JONES, of Tennessee. I ask the gentleman to allow me to say that I have been here a good while, and have seen a great deal of time consumed unnecessarily, but I think I have never seen it more uselessly consumed than it has been to-day since you, Mr. Chairman, took that chair. [Laughter.] Now, if the gentleman from Ohio will yield me the floor for that purpose, being satisfied that there are no speeches to be made upon the bill before the committee, I will move that the committee rise, with a view of terminating debate upon this bill. Then let it go on under the five minutes rule.

Mr. NEWTON. I do not yield the floor for any such purpose.

Mr. BAYLY, of Virginia. I would inquire of the gentleman from Tennessee at what hour he proposes to terminate debate?

The CHAIRMAN. The gentleman is not in order, unless the gentleman from Ohio yields the floor

Mr. GOODENOW. If the gentleman will yield me the floor, I will move that the committee do now rise.

Mr. NEWTON. I will yield for that purpose, if the committee desire it.

Mr. GOODENOW. I submit that motion.

The motion was disagreed to.

Mr. NEWTON then addressed the Senate at length in favor of the homestead bill. [His speech will be found in the Appendix.]

Mr. BAYLY, of Virginia. I desire to submit some remarks.

Mr. JONES, of Tennessee. If the gentleman will yield, I will move that the committee do now rise, and as he has got the floor, I will move when we get into the House that debate shall be closed on the bill under consideration in the Committee of the Whole in one hour after its consideration shall be again resumed.

Mr. WILLIAMS. We have shown such a disposition to work to-day, that it would be a pity to do it. [Laughter.]

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. ORR) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 350, making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1854, and had directed him to report the same back to the House, with the recommendation that it do pass; and also the bill making appropriations for the civil and diplomatic expenses of the Government, and had come to no resolution thereon.

Mr. HOUSTON. I move that the Post Office appropriation bill be put on its passage, and on that motion call for the previous question.

Mr. OLDS. I trust the gentleman will not call for the previous question, as I have some amendments which I am instructed by the Committee on the Post Office and Post Roads to offer to it, but which I had not an opportunity to offer, as the bill was considered in committee, and laid aside in my absence.

Mr. STANLY. I move that the House do now adjourn.

Mr. HOUSTON. I suppose that the gentleman from North Carolina will be willing that the main question shall be ordered before we adjourn.

Mr. STANLY. There is no quorum present, and the gentleman from Ohio, the chairman of the Post Office Committee, wants to offer some amendments.

Mr. OLDS. Yes, sir; amendments with the recommendation of the Postmaster General, and the Post Office Committee of this House.

Mr. HOUSTON. I will withdraw the call for the previous question, and move to recommit the bill to the Committee on Ways and Means, if the gentleman will withdraw his motion to adjourn.

Mr. STANLY. I will withdraw the motion to adjourn for that purpose.

Mr. HOUSTON. Then I submit that motion, and call for the previous question on it.

Mr. STANLY. I move that the House do now adjourn.

The motion was agreed to, and the House thereupon adjourned until to-morrow at eleven o'clock a. m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. KUHNS: The petition of citizens of Maryland and Pennsylvania, praying for a mail route from Cumberland, Maryland, to Robinsonville, Pennsylvania.

Also, the petition of John J. Houseman, of Westmoreland county, Pennsylvania, a soldier of the war of 1812, praying for arrears of pension.

Also, the petition of Edward Gilchrist, of Westmoreland county, Pennsylvania, a soldier of the war of 1812, praying for a pension.

By Mr. HOLLADAY: The petition of Philip Lightfoot, heir of Lieutenant Philip Lightfoot, praying for commutation pay.

By Mr. SABINE: The petition of the clerks in the Patent Office, praying that the additional compensation allowed by an act passed at the last session may be continued.

By Mr. STEVENS, of Pennsylvania: A petition for increased quantity of bounty land to the soldiers of 1812.

Also, a petition for the establishment of a post route from Safe Harbor to Mastic, in Lancaster county.

By Mr. CABLE, of Ohio: The petition of citizens of Steubenville, Ohio, for a repeal of the fugitive slave law.

By Mr. WALSH: The memorials of Moore N. Falls and others, praying a modification of the steamboat law.

IN SENATE.

WEDNESDAY, *February* 16, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a communication from the War Department, in answer to a resolution of the Senate of the 4th of January, submitting a report of the board of officers recently appointed to make a survey and examination of the various plans for canals around the Falls of the Ohio; which was referred to the Committee on Roads and Canals, and ordered to be printed.

THE DEFICIENCY BILL.

On the motion of Mr. HUNTER, the Senate postponed all prior orders of business, and proceeded, as in Committee of the Whole, to the consideration of the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1853, the pending question being on the motion made by Mr. WALKER to amend the bill by striking out of the appropriation for the completion of the census the following words:

"Out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceased."

Mr. HUNTER. Before we go into these amendments, I hope I may be allowed to express the wish that we may push this bill on to a vote to-day. I hope there will be no debate upon it, except what may be actually necessary to explain the bearing and meaning of the amendments which may be offered. There are some amendments which have been made which I should have resisted if I had had time to do it; but I did not wish to occupy the time of the Senate.

Mr. DOWNS. I do not wish to take up time in debating this amendment, but I wish to state, as the subject was once before the Committee on the Judiciary, of which I was then and am yet a member, that I concur entirely in the views taken yesterday by the Senator from New Jersey [Mr. MILLER] and the Senator from Georgia [Mr. DAWSON] on this subject.

I have never, during the time I have been in the Senate of the United States, seen so much fuss made about so small a matter, as there has been in regard to this little affair. We have had it up, I believe, half a dozen times, and people would suppose from the interest which some individuals take in it, that the safety of the Union depended upon it; whereas the whole matter, from beginning to end, has never been anything else but the question whether Mr. Kennedy should receive a salary of $2,500 or $3,000 for his office as Superintendent of the Census. It never did, and never could amount to anything more. There are some persons who are unfriendly to this gentleman, who contend that he has been claiming a double salary as Secretary of the Census Board and Superintendent of the Census. He disavowed any such purpose before the committee, and he has disavowed it on all occasions. I do not see, therefore, how it can properly be brought in here to prejudice the case.

As stated yesterday by the Senator from Georgia, the salary of the Superintendent of the Census was fixed originally at $2,500. For a considerable length of time after he was appointed to that office, Mr. Kennedy performed the duties of Secretary of the Census Board, which had not then been dissolved, for which a salary of $3,000 was allowed. He never claimed the two salaries, but the Secretary of the Interior thought, and I believe very correctly, that under the circumstances he was entitled to the higher salary of $3,000. The Census Board has now been dissolved, and it depends on Congress to say whether the services of Mr. J. C. G. Kennedy are worth $3,000 or not. That is the whole question.

It was said by the honorable Senator from Massachusetts, [Mr. DAVIS,] yesterday, that the House had acted on this matter, and had agreed to the joint resolution passed by the Senate fixing the salary at $2,500. It is true that they did act upon it and passed it; but I presume they did it in the same manner that the Senate did, without looking particularly into the subject. But when the deficiency bill was brought before the House of Representatives, containing an appropriation for the completion of the census, the matter was explained to the House, and they saw that there was justice and propriety in allowing Mr. Kennedy the salary of $3,000, and they have accordingly inserted an appropriation for that purpose. I see no reason why the Senate should not concur in that action. I do not go into the question whether the Superintendent of the Census has performed his duties properly, or whether his report is to be adopted or not; but he has been in office, he holds the office, and this is a fair and reasonable compensation. The question is submitted whether he shall have it or not. Why should he not have it? I can certainly see no reason why the time of Congress should be taken up in debating this matter. On every occasion when the question comes up, the actual expense incurred by the delay of the business of Congress in debating it will cost three times as much as the additional $500 that Mr. Kennedy claims. I hope, therefore, that we shall not consume further time on it, but that the provision will be retained as it has come to us from the House.

Mr. JAMES. I will not occupy the time of the Senate more than a moment. I merely wish to state that I accord fully and entirely with the views of the honorable Senator from Louisiana.

Mr. BUTLER. This calls me up very unintentionally. I have said nothing upon this subject during this debate, and I do not intend to do so. I make no charge against Mr. Kennedy; for from his explanation, I presume it was *bona fide* his intention only to claim the $3,000. Now, I say, not as a lawyer, but I would say it any way, that under the law, as prepared and submitted to the committee, he could have received by any construction of it a double salary.

Mr. DOWNS. He did not claim it.

Mr. BUTLER. I do not know whether he claimed it or not, but I say the bill was so drawn up—and I believe it was drawn up by him—as to allow him to receive it.

Mr. WALKER. The Senator from Louisiana [Mr. DOWNS] has made some remarks which, while I believe he did not intend they should be construed unkindly, yet bear that construction. He says, that from the interest manifested by certain persons,—seeming to emphasize the term,—whenever this matter has been brought before the Senate, the fair inference is that there is some dislike—some enmity entertained by individuals towards Mr. Kennedy, the Superintendent of the Census.

Mr. DOWNS. I had not the least reference to

the honorable Senator from Wisconsin. I did not mean to reflect on him at all.

Mr. WALKER. I am glad to hear it; but I was the Senator who moved to strike out this provision. Sir, experience has taught me that, in matters brought before Congress, perseverance will almost universally lash the Senate and the House of Representatives into any measure, like so many spaniels. This man has persevered in this matter with a pertinacity which ought to say to gentlemen as loud as any person's voice could say it, that he is determined not to abide by the decision of the Senate.

We passed an act explanatory of the census act, under the terms of which it was the opinion of a portion of the Committee on the Judiciary, that he could get two salaries. Most certainly it was construed to give him the highest salary. The Senate took the matter under consideration, and at the last session passed an explanatory joint resolution, declaring that it was not their intention that the explanatory act should allow the highest salary, but to allow him $2,500 a year. That resolution went to the House of Representatives, and there it remained during the last session of Congress, and the House adjourned without acting upon it; and this, it seems, was a sufficient indication to the Secretary of the Interior that the House looked upon the proposition with an unfavorable eye, and therefore he paid Mr. Kennedy a salary of $3,000 in the place of $2,500, which the Senate had clearly indicated that they intended he should have. Yet, taking this as an indication of the will of the House of Representatives, he allowed $3,000 a year. Still, as it was said yesterday, one of the first acts done by the House of Representatives at this session was to pass that explanatory joint resolution, and to do what? To declare that it was not their intention that Mr. J. C. G. Kennedy should have $3,000 a year. What of that? That is nothing to a man who has the determination and perseverance in money matters that Mr. Kennedy has. Nothing at all. We see the deficiency bill coming to us from the House of Representatives with a clause, appended to a provision making an appropriation for the completion of the census, giving Mr. Kennedy $3,000 per annum as a salary, from the time when the Census Board ceased to exist, and we are called upon to pass it. The Senate has previously solemnly decided twice, if not three times, that they would not pay this amount; and now, I have raised the question again to see whether the Senate will back out, or will cause the Secretary of the Interior and Mr. Kennedy to desist from their pertinacity in regard to this matter.

Sir, remarks have been made in which I feel a justification for saying a little more than I have heretofore said. I do say now, most emphatically, that there has been a very great wrong in regard to the whole matter of the Seventh Census. To what extent has it run already? I hold in my hand a report made by this individual himself, in which he puts down the expenses incurred up to the time when this report was made, or rather the amount which had been appropriated up to that time, to the amount of $1,202,651 40. This, at that time, before the close of the last session, was the aggregate of the appropriation; and now we are asked to appropriate $25,000 more, and to do to this gentleman the extraordinary kindness of reversing our oft-repeated decisions, and give him the $3,000 of which he has been so pertinaciously in pursuit, and which, in point of fact, he has got. But this clause of the deficiency bill will do nothing more nor less than relieve the Secretary of the Interior from the embarrassment which rests upon him for committing an infraction of the law. That is what it will do.

As the friends of this gentleman press matters, I must say that he seems to be fond of money; he likes money; and if he cannot get it fairly, according to the advice which was given by a father to his son when he went forth into the world, he gets it. The father's advice was, "Get money; get it fairly if you can, but be sure to get money." He seems to have acted upon this principle. I see in the account of his expenses for his European trip these two charges: His fare from Washington to Liverpool, in England, is put down at $171 50. Then, again, on his return trip, expenses from London to Birmingham, Liverpool, New York, and Washington, including thirteen dollars for office books, $228 75.

Now, I will venture this statement—and if it turns out to be wrong, it is both my nature and my intention to take back what I say in regard to it—that he cannot show a voucher for the payment of his passage money from New York to Liverpool, nor for the payment of his passage money from Liverpool back to New York. He had a free passage, as I am informed, and yet there is a charge in the expenses of his European trip to the amount of $400. Mr. Collins never charged him a dollar for his passage, and he cannot show a voucher for it, and yet it is in his account returned here, and he asks it out of the Treasury of the United States.

For what purpose was he sent to Europe? He was sent there to ransack all Europe; to do, according to his instructions, what it would seem forty men could not do in as many years. The Secretary of the Interior told him he was not only to get at the way in which they put their census in tabular form there, but he was to examine agricultural pursuits, the means resorted to in order to facilitate, extend, and improve their agriculture. Look at the time he was away; look at the time it took him to cross the ocean; look at the intervals which occurred between his visits at different places, and you will find that he could have done nothing of the kind. He was running from place to place; money was advanced to him from the patent fund, nearly sufficient to break it down, to give him means to go there. Yet after all he comes back and charges this Government with passage money from New York to Liverpool, and from Liverpool to New York, when, I again repeat, he cannot show a voucher for it. Any that he may have shown have been rejected.

This is the man for whom sympathy and pity is asked. This is the man whose salary we are asked to increase from $2,500 to $3,000 per year; a man who has shown himself utterly incompetent for his office. He has had the aid of from one hundred and fifty to one hundred and ninety clerks, as was stated yesterday, to get up a private history to be published by Lippincott, Grambo & Co., or some other book publishers, as a private speculation, to result to his own pecuniary advantage, and to swell his own fortune. Now $25,000 are asked to complete the census. In the name of all that is just and sacred, I ask if the number of clerks he has had ought not to have been sufficient to prepare all the matter which ought properly to be embraced in the census and arrange it for publication long ago? Yet $1,202,651 40 have already been appropriated, and $25,000 more are asked for it; and the Lord only knows how much further we are to go. In 1840, when the census was taken, as was alleged, to a paltry extent of minuteness, we know it was made a subject of electioneering against Mr. Van Buren, that he had gone into an enumeration of the hens and chickens, ducks and geese, poultry and butter of all the old women in the country. Not only that, but I believe the number of clerks employed upon that census did not exceed thirteen, yet that was made a matter of grave electioneering against Mr. Van Buren, and went to swell the aggregate of the clamors against him, under which he sank at that day. But here, at this time, we have furnished to Mr. Kennedy, this immaculate Mr. Kennedy, who has such a propensity for money, from one hundred and fifty to one hundred and ninety clerks, and he has had them from the time that the returns were made by the marshals in 1851, down to this time in 1853; yet he must have $25,000 more, have his clerks continued and his salary increased from $2,500 to $3,000 per year. It seems to me to be an anomaly and an outrage.

I might, if I had time to scan these accounts, show much more which would lead the Senate to suspect the peculation of this man, but I have not the time to do it. In a court of justice, when it is made manifest that even one item of a party's account is fraudulent and unjust, it is sufficient to stain the whole with suspicion, and the court looks upon it in that light.

There are other matters which other gentlemen may refer to here. I believe others possess information authorizing them to refer to those matters, and I wish they would state them. If I possessed the information, I would do so. I believe it ought to be done. I shall, however, leave it for others to state those matters. But the friends of this man had better not press his immaculate character before the Senate. If they do; my impression is that the Senate will be informed, in due time, that all this money has not gone for the benefit of the people in getting up their census. I wish I could feel authorized to say more. I have felt authorized to say as much as I have said, and I think I shall very soon produce the proof of the important matters to which I allude.

A SENATOR. All that you have stated is true.

Mr. WALKER. I have no doubt that it is true. One of the purest officers in this Government has followed it up, and it has turned out to be true.

Mr. RUSK. I shall vote for this amendment, because the provision as it stands in the bill contains two very bad and loose principles of legislation. In the first place, it increases the salary of an officer upon a deficiency bill. It is therefore introduced in a bad place. Then it contains a new and dangerous principle, and a mischievous one, of going back to make the increase of the salary reach over several years past. If you do that in one case, you may have to do it constantly. There will be continual efforts made to increase the salaries of officers who have had only small ones, and to make the increase have a retroactive effect. I think it is a bad principle, and shall therefore vote for striking out the provision.

Mr. DAVIS. I wish to say a few words in reply to some remarks which have fallen from the Senator from Louisiana. He said that this was a very small matter, and had occupied more of the time and attention of the Senate than any matter of the same magnitude within his knowledge. He said, also, that it is simply a proposition to increase a salary from $2,500 to $3,000 a year. Sir, he has just been informed by the Senator from South Carolina [Mr. BUTLER] that it is not the increase of salary by the sum of $500 which is objected to; it is the manner of obtaining it, and that is not a small matter. The Senator says that it occupies the time of the Senate, and that it will cost more to the Government by the time spent in discussing it, tenfold over, than it is worth. I would ask the Senator who it is that brings it here?

Mr. DOWNS. The Senator from Massachusetts brought it here first.

Mr. DAVIS. It has been brought here on every occasion by this Mr. Kennedy, in his importunities for this increase of salary. I think the Senate generally will bear me out in that statement. This gentleman came to the committee of which the Senator from Louisiana was a member, to get an increase of salary. He got an amendment of the law, in a way which, as pointed out by the Senator from South Carolina, there was authority given to take both the salaries, of Superintendent of the Census Board $3,000, and superintending clerk $2,500, if there was any authority at all. Then, to be sure, the Senator from Massachusetts asked to have that corrected, as such was not the purpose of the Senate, and it was corrected by an explanatory resolution, limiting the pay of Kennedy to $2,500. But the action, in the first place, grew out of his application. All the time spent and the money expended, on this subject, have grown out of the application of this gentleman to obtain a little more money. It is to the mode of reaching this object that I object, and complain of. And now, sir, I hope I may be permitted to occupy a few moments with a view to advert to the facts connected with the means which have been employed to increase the pay of this gentleman. He applied for a salary of $3,000, when the law of 1850 was passed. But Congress fixed the salary at $2,500 a year, in the most express terms.

Mr. DOWNS. Will the honorable Senator state if Mr. Kennedy has ever demanded the two salaries?

Mr. DAVIS. No, sir; I do not state that.

Mr. DOWNS. On the contrary, has he not disclaimed any such intention?

Mr. DAVIS. I shall state the facts. I say he failed in the law of 1850 to get the amount of money he desired as salary. He still accepted the clerkship provided for in the bill of 1850, he being at the time Secretary of the Census Board. I need not go over that ground; but he went on and received the salary under that act, for several quarters, I do not remember how long, and it is not very material, when the idea came over his mind all at once that he was still Secretary of the Census Board, and was entitled to pay in the two

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offices. An order was issued by the present Secretary of the Interior to pay to Kennedy a salary of $3,000 out of the two offices. The amount paid was $3,000, but it was made up out of the two offices. That was paid. By and by, the amounts where it was allowed, reached the Comptroller, who is required, as all other officers are, to grant no money out of the Treasury without warrant of law. He said he did not consider the order of the Secretary of the Treasury a law imperative upon him, and he went into the matter to ascertain whether there was any law. He found there was none authorizing him to allow the additional $500. All that he found was the order of the Secretary of the Interior. He therefore declined paying it. There the matter stood, until Mr. Kennedy came to the Committee on the Judiciary, of which the Senator [Mr. DOWNS] is chairman, and prevailed upon it to recommend an amendment to the law of 1850—to strike out a portion of this law and put in other words which were designed, as far as they had any meaning in them, to cover the salary allowed to the Secretary of the Census Board.

I showed, on a former occasion, that the duties of that Board were limited to preliminary measures necessary to take the census; that it was appointed for that purpose, and the only duty under the act of 1850, which remained to them after the act of 1850 was passed, was to finish the printing of the preparatory papers. This money was claimed and ordered to be paid to Mr. Kennedy, not only after all the preparatory papers had been printed and used, but after the census had been taken and the returns made. One very extraordinary feature in this case is, that there are certificates of gentlemen of great respectability, saying that the Census Board still continued in existence after the taking of the census was complete in itself and finished, although the law reads in terms as plain as language can make it, that the duty of it, remaining after the law of 1850 was enforced, was only to complete the printing of the preliminary papers. In this state of things the amendment of the Senator [Mr. DOWNS] passed through both Houses of Congress, modifying the law so as, in the judgment of the Senator from South Carolina, [Mr. BUTLER,] to allow both salaries. Then the explanatory resolution, brought in by me, passed, saying that it was not the intention of the Senate or House to grant the $3,000, or to grant the two salaries in any form. The resolution is explicit on that subject. It passed this body, after a very full discussion, by a large majority, and it passed the House, I think, without opposition.

I wish to call the attention of the Senator from Louisiana—for I know he desires to be right on the subject—to one fact which was proved when this subject was up before; and I will give him the name of the witness if he chooses, a disbursing agent of the Government, that when Mr. Kennedy claimed the $3,000, he said he would still consider the subject whether he should take the two salaries or not; that he would hold that as a matter under consideration. What his purpose was I do not know, and I do not undertake to say, but that is the statement of the witness, and it stands uncontradicted. After this resolution had passed through here and gone to the other House, it failed to be acted upon there during the last session. And here I wish to call the attention of the Senate to another important fact. My information of the subsequent transactions is this: that after Congress had adjourned and separated, the Secretary of the Interior ordered that this clerk's salary should be made up from the time he entered into the office, at the rate of $3,000 a year, notwithstanding the pendency of that resolution, declaring that no such thing was intended. That order was sent to the disbursing officer, who said, "I can only disburse money under the authority of law, and I know, Mr. Secretary of the Interior, of no law which authorizes me to pay this." And, sir, he learned a lesson instructive to all who venture to maintain their integrity and honesty. He was removed from his clerkship—a man that had been a clerk under the Government for some twenty years was removed because he honestly thought there was no law authorizing the disbursement of that sum of money. Of course a man was appointed to his place who yielded obedience to the Secretary of the Interior, and paid the money.

Now, let me state to the Senator from Louisiana another thing, and I think he cannot fail to concur with me. This very movement here is to cover that payment. This provision in the bill is designed and intended to cover and legalize this payment ordered by the Secretary. That is the object of it. I say to the Senator from Louisiana, that I object to the manner, to the blind ways which are employed to obtain the money. If this gentleman had come forward and honestly and fairly stated that his salary was inadequate to sustain and support him reputably, and asked an increase of salary in so many words, he would have presented a plain proposition which we could act upon; but instead of that, he has come forward with one proposition after another in a circuitous way, and now, instead of asking for an increase of the salary allowed to him, he is to be paid at the rate of $3,000, from what time? Why, sir, from the time when he ceased to be Secretary of the Census Board down to this time.

Now, Mr. President, it was stated last August, when the joint resolution was passed, that the Census Board was then in existence, and that Kennedy was the Secretary of the Board, and that the Department acted in making the payment to him on that assumption. But the moment you pass this law, it will change the whole state of things, and he will claim that he was Secretary to the Census Board only up to the time when he took the clerkship of Superintendent of the Census. The certificates of heads of Departments will then vanish before the other evidence. If this is a debatable question, and it certainly has been debated, why should not the salary be fixed by a determinate limitation? If it be really intended to give him $3,000, or $5,000, or any other sum, why should it not be fixed specifically, instead of reverting to that old disputed matter, the Census Board, and thus raise another dispute whether it is in existence? I again repeat, it is the manner, it is the way in which Congress is approached, that I complain of, and I am ready to add to that, that I do not think the man merits the increase.

The Senator from Louisiana has intimated that I have some bias on my mind; that I am influenced by some considerations extraneous to this subject. Well, sir, take the facts as I give them, and I am willing to leave the world to judge where the bias lies—whether in him who advocates or him who opposes the allowance. I leave it to the judgment of the country, in view of the facts, whether there is not enough to justify opposition to these claims without supposing any influence of bias or prejudice to be a governing motive. I think that instead of there being anything for the public to censure in the action of those who oppose this allowance, it might be fairly submitted to the country to say in whose mind the bias lies, whether in him who supports or opposes it. But having done what I deem to be my duty, I feel indifferent about this matter; I care very little about it. I care very little what course it takes or what it comes to. But I have some self-respect. I have witnessed the course of this gentleman; I have seen the kind of language he employed with regard to the Select Committee raised by this body, of which my friend from Delaware [Mr. BAYARD] was chairman, and who made a report—an elaborate and able report upon this subject. Well, sir, it so happened that I had little knowledge of that report. I had no opportunity to read or hear it. But I ask the Senator from Louisiana to read a criticism made upon that report by Kennedy, and then decide whether it is proper for a gentleman in his position to make the remarks which were made upon the report of the Senator from Delaware, and then bring it here and lay it on the table of Senators—remarks which were rude and censorious in their character.

Then this gentleman has done other things, I think. If he is not instrumental in publishing calumny after calumny in the press, upon those gentlemen who have opposed his wishes, I know not who gets up these libels. But this I know, and I inform the Senator from Louisiana, very slanderous reports have been published in regard to the gentlemen who sit around him, as well as in regard to myself, and in relation to this very matter. We have been charged with misrepresentation, when I have studiously avoided introducing anything but facts, as the remarks which I made on a former occasion when this subject was up will prove. I limited all my opinions to the facts contained upon the record, and scarcely did more than state them in their order. There was no misrepresentation on my part. But there has been a studious effort made to get up a false issue, to hold out members in false colors to the country. This is an old trick, and in this case has not succeeded. Enough has been done by Mr. Kennedy to authorize all that has been said, and all the votes given, without supposing the existence of prejudice. There is no occasion to take shelter under any such plea, since there is no foundation for it. Mr. Kennedy has enough to do to explain the facts, and this he will be held to. I have seen his course from the time he first came here, and although I hope the census will come out of his hands worth something to the country, and I believe it will, still I do not think he will be entitled to the credit of it. It is the vast sum of money which you have expended. It is the employment of other talent and other men that are competent for the work without being sent abroad to be educated. If I chose, I could go into the incipient history of this matter, and show how he treated men of character and standing who were employed by this Census Board to draught the tables and sketch out the plans and schemes for taking the census. This would be an instructive lesson, but I shall forbear to occupy the attention of the Senate with it.

Mr. HUNTER. I hope we shall have a vote upon this question, and not expend any more time in the dissection of the character of this individual. It is obvious that this debate will run to a great length unless it is stopped. I hope we may be permitted to come to a vote upon the question.

Mr. DOWNS. I hope the Senator will not interpose in a matter in which I have some personal concern. Mr. President, I regret very much to prolong the debate, but I must say a few words on account of the extraordinary part taken by the Senator from Massachusetts. As to his bias on this subject, I shall say not one word more; except that if his speech, which he has now delivered, does not imply a little leaning that way, I am sure nothing that I could say would show it. As to the attack made by Mr. Kennedy on the Senator from Delaware, and other Democrats who sit around me, I suppose if they are seriously assailed by Mr. Kennedy they can defend themselves, without the aid of the Senator from Massachusetts.

Of the history of this affair, of which the Senator from Masachusetts has spoken, I will give my relation. It is this: When the bill was before the Judiciary Committee, and certain amendments were being made as to the census, and the manner of ascertaining the votes of the different States, an application was made by Mr. Kennedy to the committee, not for an increase of salary, as the gentleman says; not to make a provision authorizing a double salary, or any increase of salary at all; but only this: under the construction given by the Secretary of the Interior to the two laws, his accounts to a certain time had been paid at the rate of $3,000. The Comptroller of the Treasury thought that was wrong, and therefore there was a difference of opinion between two public officers as to the question whether $2,500 or $3,000 should be paid. He explained the matter to me. I, and a majority of the committee, thought that it was reasonable and fair, and that the ordinary way of removing a doubt was to express such words in the bill as would authorize the payment of $3,000 in future, in accordance with the opinion of the Secretary of the Interior. That bill was

reported to the Senate and passed this body. It went to the House, and was passed there also. Nobody discovered that the Treasury was ruined, or that great frauds were being committed upon it. The bill was discussed on other points, in the House, and perhaps on this point also. But this great cause of alarm and danger in the bill was not discovered until it was passed. After the bill had passed, it was discovered. I believe it never would have been discovered in either House of Congress but a for certain officer of this Government, who thought that the payments made by the Government must depend upon his fiat. The Comptroller who had had a controversy with the Secretary of the Interior, and had this question decided against him, was still obstinate, and came back here with a great bug-bear that this was a great fraud, that Mr. Kennedy would receive a salary of $2,500 and another of $3,000.

I recollect, with the zeal which he evinces now, the Senator from Massachusetts came to me as acting chairman of the Committee on the Judiciary, in the absence of the chairman, to explain the wonderful outrage which was likely to be committed, and the great oversight which the committee had made. I looked into the matter, and told him I thought he was mistaken. Mr. Kennedy disavowed, in the most emphatic terms, any intention to claim more than $3,000. It satisfied me at the time that there was nothing in this great scare-crow, and I refused, and other members of the committee refused, to take the matter up. I preferred to let the Senator from Massachusetts, if he chose to get himself into a controversy with his Whig brethren, to do so, and that we should take no part in it. Of so little importance did I consider it, that when his joint resolution was introduced, I said nothing on the subject. I did not feel myself called upon to say anything. I did not feel myself personally involved in the matter at that time at all. The resolution therefore passed without much notice I believe from anybody, except the Senator from Massachusetts. Afterwards some explanation took place, first when I was absent from the Senate, and then when I was here. On the latter occasion, I gave the same explanation which I give now, that the bill did not admit of the construction which the Comptroller of the Treasury and the Senator from Massachusetts said it did.

The resolution of the honorable Senator from Massachusetts passed the Senate, but it did not pass the House. He says—and he brings that charge against Mr. Kennedy—that after the resolution passed the Senate, when it did not pass the House, the Secretary of the Interior allowed the salary to be paid at $3,000, and because some officer would not pass it, he turned him out. Now, Mr. President, the gentleman's arguments are very inconsistent. They look exactly different ways. If the law which was reported by the Committee on the Judiciary was in force, and certainly it was, Mr. Kennedy was entitled to $3,000. Then it was the law. Mr. Kennedy was perfectly right in claiming the $3,000, and the Secretary of the Interior was perfectly right in allowing it; and if there was a subordinate in the office that would not carry out the provision of the law made expressly for that purpose, I say the Secretary of the Interior was perfectly right in turning him out; for I do not know how the law was to be executed in any other way when the officer refused to do it. If there be any justification for turning out of office, it is on that very ground. That was the law, and the gentleman's resolution had never passed. How was the Secretary of the Treasury to deem it as passed when it had not passed the House? which amounted to a rejection, particularly after the explanation which had been made in the Senate, which rendered it very probable that if this subject had been pressed before the Senate, it would not have passed here originally.

I say, then, Mr. President, though I do not consider Mr. Kennedy as having anything to do with this matter, that the law which was passed by the two Houses of Congress at the last session, authorizing the payment at the rate of $3,000, made it perfectly natural that Mr. Kennedy should claim it, and perfectly natural and justifiable for the Secretary to remove the officer who disobeyed him, because he could not otherwise carry out the law passed by the Legislature; and I know of no rule by which an officer of the Government is to delay the execution of an existing law, because a proposition is pending before one House of Congress to change it.

That is the true state of things. The Senate will see how I am drawn into this. I do not appear as the advocate of Mr. Kennedy, the Secretary of the Interior, or anybody else; but to vindicate my own conduct, and to show that the object, so far as I am connected with it, is to settle a doubtful question as to whether this officer was entitled to $2,500 or $3,000.

And here I would remark to my friend from Texas, that he is mistaken with regard to the object of this provision in the appropriation bill. It is not to increase a salary, or to carry the salary back in point of time. It is to explain a doubt about the law, to say whether the construction placed upon it by the Secretary of the Interior was right or not. Both Houses of Congress have given their decision in favor of his construction, and one has sanctioned it twice, by the passage of the bill at the last session. It is true, that through inadvertency, or from not understanding the subject, the Senate at the last session passed the resolution of the honorable Senator from Massachusetts. But now, when the subject has been brought to the knowledge of the House of Representatives, they have come to the same conclusion that the committee of the Senate originally came to, and have adopted this provision in the deficiency bill, which is the same provision that was in the census bill of the last session. I can see nothing in this which requires so much animadversion from the Senator from Massachusetts. I am drawn into this matter, as the Senate see, by the connection which I have had with the bill, and not from any other reason. I did the act at first without supposing there was any design in it. Certainly, so far as Mr. Kennedy is concerned, he always disavowed any intention of claiming a double salary, and I believe the resolution of the last session would never have passed the Senate, if the impression had not been made that two salaries might be drawn. That was disavowed at the time, and is now disavowed, and is not connected with this question. The question is, whether, under the circumstances, it is fair and proper to pay a salary of $3,000 instead of one of $2,500. I thought that under the circumstances it should be paid, and so I sanctioned the bill, and shall vote against the amendment.

Mr. BRADBURY. I hope the debate will terminate, and that we shall have the question taken. The question raised by the amendment is simply whether we will pay a salary of $2,500 or $3,000 to the Superintendent of the Census. It does not involve properly the question of the great expenditure which has been made in taking the census; that grew out of other causes. It would seem as if we had debated this question about long enough. It has been said that there has been importunity manifested, and that Congress has already indicated its purpose in this matter. It is true Congress passed an act authorizing the payment of $3,000 in order to settle a doubtful question. At the last session a resolution was introduced limiting the salary to $2,500, and it was advocated, as I understand, upon the ground that without it, the Superintendent would be entitled to two salaries; and it passed this body, and, as I understand, the House, under the belief that unless it was passed the Superintendent would be entitled to receive two salaries. Since that time the House has fixed the salary at $3,000 upon this bill, which has come to us in that shape, and I submit to the Senator whether it is worth while to occupy any longer time in attempting to reduce the salary of that officer.

Mr. RUSK. It is perfectly evident that we cannot come to a vote upon this bill to-day. I therefore move to postpone its further consideration until to-morrow.

Several SENATORS. Let us take the vote on this amendment.

Mr. RUSK. Several Senators desire to discuss it. I therefore move to postpone the bill.

Mr. HUNTER. I have something to say on that motion. I hope the Senate will not postpone it. Why should we postpone one of the general appropriation bills to take up any other bill? Is it not entitled to the time of the Senate as much as any other bill? Is it not one of the bills which, if we are to have debate, ought to be debated as much as any other? Are we to lay this aside because Senators are debating its provisions, and its provisions are multiform and various, and take up another debatable question—a question upon which I venture to predict there will be no action at this session? Are we now, when we have but twelve or fourteen days of the session left to transact the indispensable general business of the country, to lay the general appropriation bills aside and take up other debatable questions? I hope it will not be done. If it is, the result will be that the general appropriation bills will be delayed until the last two or three days of the session, and then they will have to be passed without knowing anything about them. Amendments of importance will depend, not upon what may be the will of the two Houses, or upon their merits, but upon whether our Secretary will have the physical ability to get from one House to the other. I hope the motion of the Senator will be voted down.

Mr. RUSK. The honorable Senator from Virginia availed himself of my aid to get up this bill, when the special order of the day for twelve o'clock was the Pacific railroad bill; and now he turns round and avails himself of the aid I have rendered to take up his bill in the morning hour, and uses that against the getting up of the special order, and for the postponing of it not only for the appropriation bills, but for abstract questions. The further continuance of the debate upon this question this morning will decide the fate of the Pacific railroad bill; and as a test question upon that subject, if the Senate determine not to consider it, I ask for the yeas and nays on the motion to postpone the deficiency bill for the purpose of taking up the railroad bill.

Mr. HUNTER. I will say to the Senator from Texas that I availed myself of no aid of his, except that he voted to take up the deficiency bill. I suppose he is as much interested in this bill as I am. It is indispensable to pass it, for the machinery of the Government to move at all.

Mr. ADAMS. I would suggest a compromise between the conflicting claims for the consideration of the Senate, that this subject be continued until one o'clock, the usual morning hour, with the understanding that if it is not then disposed of, the Senator from Texas shall renew his motion.

Mr. RUSK. At one o'clock there is another special order, the interminable Tehuantepec matter.

Mr. HOUSTON. Before the postponement of this subject, I wish to state some facts to the Senate, in relation to the motion submitted by the Senator from Wisconsin.

Mr. HUNTER. Let the question be taken on the motion to postpone first. The Senator from Texas [Mr. RUSK] calls for the yeas and nays, and I hope the Senate will decide whether they will go on with the deficiency bill, or with his bill. I do not desire to be pertinacious. Whatever the Senate determine upon, I shall submit to its decision with a good grace.

Mr. MALLORY. As the yeas and nays are called, I wish to say why I shall vote for continuing the deficiency bill. There is an eminent propriety in what has fallen from the Senator from Virginia. At the last session we made on one of the appropriation bills some forty amendments, which were all stricken out by the House. A committee of conference was agreed to, and that committee, sitting till two o'clock in the morning, finished the business, and saved the bill barely by about two minutes. If discussion is to be had at all, it is better that it should be had upon those bills upon which the legislation of the country must necessarily depend. I want to hear the Pacific railroad bill discussed, and should desire to see it taken up; but as the yeas and nays are called for, I shall vote to proceed with the deficiency bill.

Mr. BUTLER. I shall vote to continue the debate on this bill until we can get through with it; and I desire to make a remark in connection with this subject, and in reference to what took place at the last session. I recollect it was then proclaimed to the Senate that certain great bills should be discussed, and passed, with the declaration that the appropriation bills would take care of themselves, and no doubt they would be passed whether they were discussed or not. The fact is, that when the money of the Government is to be appropriated, we are to do it upon faith, without discussion, and these great projects are to be passed, I suppose, either on account of their merits, or the number

of their advocates. I say the Senator from Virginia is bound to persevere with his motion. This bill is one of the indispensable measures of Government, and it does seem to me that good faith requires the Senate to attend to it.

Mr. DODGE, of Iowa. I am one of the last members of this body, I trust, who would refuse to extend an act of courtesy to the Senator from Virginia, [Mr. HUNTER,] either as a Senator or as chairman of the Committee on Finance. I admire his industry and praiseworthy efforts to get through the regular appropriation bills; and whenever I can do it without a sacrifice of measures of paramount interest to the whole country, and especially to those who I in part represent, I never fail by my vote to sustain him. But the present case is one in which I cannot do so. Now, there is a great question to be decided by the Senate of the United States; a question of no less magnitude than that of connecting the Mississippi valley with the Pacific sea-board by means of a railway communication; and I say to my friend from Texas [Mr. RUSK] that I will back and sustain him unto the end, and to the exclusion and death if it be necessary of the appropriation bills and every other bill, so far as my vote goes. I know that no measure of such transcendent importance as the one to which I allude, can ever be passed through this body without a long and a hard battle, in which, as an humble follower of the Senator from Texas, I am willing to perform my part.

One of the occasions upon which the Senate laid aside the regular appropriation bill to which the Senator from South Carolina [Mr. BUTLER] refers, I remember well. The bill was the river and harbor bill, which passed at the last session, and I was the Senator who made the issue with the Senator from Virginia as to whether the regular appropriation bills or the river and harbor bill should be considered. The Senate decided in favor of my motion, and thus saved the river and harbor bill, and the appropriation bills passing as a matter of course. That was a crisis in the fate of the bill of the last session, to which I allude, and this is a most critical time in the progress of the pacific road bill. I trust that its friends will stand firm. We can only succeed by a hard fight, and I call upon the supporters of the great railroad bill to sustain the motion of the Senator from Texas, and to show by their votes that we do not intend that our great measure shall be overslaughed or lost.

Mr. HAMLIN. The Senator from Texas says his motion to postpone is to be a test vote. I have voted to sustain the railroad proposition from the commencement. I am in favor of the object intended to be accomplished by that bill, though I do not say now whether I shall vote for his bill; but on this occasion, I shall vote with the Senator from Virginia.

Mr. DOWNS. I wish to state very briefly the reason for my vote. I am an advocate of some bill providing for a railroad to the Pacific, but there are other important matters before the Senate besides that. I think it is important that the appropriation bills should be disposed of. We should go on with this bill as fast as we can. But in addition to that, there is one circumstance which the Senater from Texas seems to have forgotten; and that is, that even if the deficiency bill is laid over, there is another subject that has the preference this morning over the railroad bill, in which some Senators take as much interest as he or anybody else can take in the railroad bill. I allude to the subject of the Tehuantepec grant. Therefore, if this bill is postponed, I shall insist upon taking that up as the unfinished business. I think that if we go on half or three quarters of an hour longer, we may dispose of the deficiency bill and proceed regularly. Therefore I shall vote against the motion, though I am friendly to the Pacific railroad.

Mr. RUSK. The Senator from Louisiana is mistaken and not the Senator from Texas. The Pacific railroad bill is the first special order.

Mr. DOWNS. I suppose the Tehuantepec matter has the preference, as the unfinished business.

Mr. BORLAND. I shall be compelled to vote for the motion of the Senator from Texas, though I agree with the Senator from Virginia that it is important to pass the appropriation bills. I think the Senator from Iowa has put this matter on its true ground. The railroad bill is a subject of too much importance to be passed by for anything, and this, as he says, is a crisis in its fate, which our action in relation to it will determine. I think the vote to-day upon this proposition will determine the question, whether we are to take any measure during this session for the railroad. Looking upon it as the most important question which has been presented, and is now pending here, I shall vote for the motion to postpone, and shall vote to take it up to the exclusion of everything, and if it become necessary, I will vote to exclude everything until it is disposed of.

The yeas and nays were ordered on the motion to postpone, and being taken, resulted—yeas 23, nays 25; as follows:

YEAS—Messrs. Atchison, Bell, Borland, Bradbury, Chase, Clarke, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Geyer, Gwin, James, Jones of Iowa, Jones of Tennessee, Pratt, Rusk, Sebastian, Smith, Sumner, Underwood, Wade, and Walker—23.

NAYS—Messrs. Adams, Bayard, Bright, Brodhead, Brooke, Butler, Cooper, Dawson, De Saussure, Downs, Felch, Fitzpatrick, Hale, Hamlin, Hunter, Mallory, Mason, Miller, Norris, Pettit, Phelps, Seward, Soulé, Spruance, and Toucey—25.

So the motion was rejected.

Mr. HOUSTON. Mr. President, I am very reluctant to rise in the Senate when there is so much anxiety about the promotion of different measures in this body, and if I did not think it was my duty, in my plain way, to support the amendment proposed by the honorable Senator from Wisconsin, I should make no remark. But, sir, I do not think it the policy of the Government to increase salaries disproportionate to the duties to be performed by the officer, and particularly when that officer has no claims to consideration which entitle him to a just and favorable consideration of this body. I do not think, on the present occasion, that the gentleman at the head of the Census Bureau has, even by his mission to Europe, commended himself and the mission to the favorable consideration of this body.

Sir, I find in the history of this transaction little to commend, and if I were disposed to be a little rigid, I should say I find much more to censure than to commend. It appears that prior to the great World's Fair in London, it was projected by the Census Board that the Department of the Interior, I suppose, should, for the first time, be represented in Europe. Mr. Kennedy was selected as the delegate for that purpose. The Board recommended it, but there was no law appropriating the money that would be necessary to carry out that purpose. Mr. Kennedy made application to the First Comptroller of the Treasury for a warrant for $2,500 to pay his expenses; but that officer peremptorily refused, and the gentleman disappeared, although he said he had the authority of the Secretary of the Interior, but not in writing. Yes, sir, he disappeared, and was not again seen by the Comptroller of the Treasury until after he had performed his important mission. It appears, though, that instead of receiving the money at the Treasury, by the express order of the Secretary of the Interior, Mr. Williamson, disbursing clerk of the Department of the Interior, was ordered to pay him $1,750, for the expenses of his journey to London and throughout Europe. On his return he presented himself at the Comptroller's Office, presenting, not, the Secretary says in his communication, vouchers strictly to be considered as vouchers, but a memorandum of the bills of his expenses at the various points at which he touched; but Mr. Kennedy's account was not passed to his credit. It was objected to, and what was the consequence? Why, Mr. Kennedy promised that he would get vouchers. The gentleman who is the First Comptroller of the Treasury, we all know, is a little pertinacious and particular about the adjustment of accounts. He likes immensely to have vouchers for all he does, that he may be backed up. Well, sir, in these times of general carelessness, to say the least of it, I think it is very well to have a remembrancer now and then to assist a man—I grant it is unfashionable, but that does not lessen the necessity of good vouchers. He did not pass Mr. Kennedy's accounts; but Mr. Kennedy had received the money by order of Mr. Stuart, the Secretary of the Interior, without law or authority of any kind. He received it on the mere *dictum* of Mr. Stuart, and Mr. Kennedy had the money in his pocket. He was independent of the Comptroller, but the Comptroller went on to make his calculations; he called upon Mr. Kennedy for his vouchers, and Mr. Kennedy said he could procure them, and that he would do so. That was perhaps early in April—I do not know exactly the time—but several months after no voucher was furnished. In August there was none. The Comptroller, so Argus-eyed as he is, and such a bug-bear and terror to honest men, no doubt, sometimes—I do not know how often—thought he would start upon the hunt himself, and he set out. There were two little items at the outset for expenses to the great fair of nations. One item was for expenses from here to London. That headed the account. It was concluded by an item embracing all the charges from London to Washington city again. That concluded the account. There were no vouchers for these charges. The Comptroller wanted them, but he could not obtain them; so he wrote to Mr. Collins, as it was on board of one of Mr. Collins's gallant steamships that Mr. Kennedy visited Europe, and I think he returned in the same vessel, or in another one of that line. He wrote to Mr. Collins, to know whether that gentleman could furnish a voucher for the passage of Mr. Kennedy to the World's Fair and back again. Mr. Collins, by his reply, said, "No, I cannot furnish any vouchers for the expenses incurred, because he incurred no expense. Mr. Kennedy was not charged. I made an arrangement with the Post Office Department to settle it. I understood he was going on the business of the Department, and of course it was credited." But, sir, what does Mr. Kennedy say about this? How consistent is he now? We must all agree that he paid nothing, or Mr. Collins tells a story, and I do not believe he does; he has no motive to do so.

Mr. Kennedy says:

"I certify that the above amount of $1,469 76 was necessarily expended during my journey, and falls short of my actual outlay."

He has not sworn to that, but he has "certified," and that may, in that particular office, be considered a good voucher; but it was not so considered in the Comptroller's Office. The Comptroller got information as to the amount necessary to be expended by inquiring of other gentlemen. There was a Mr. Mason, who visited the World's Fair, and traversed a greater portion of Europe than even Mr. Kennedy in his statistical tour, and the expenses of Mr. Mason only amounted to about $800. There was also a Mr. Newton, whose travels were very little short of Mr. Kennedy's, and his expenses were only a little upwards of $600. Mr. Kennedy certifies to this as a fact; and if it is not true, what attitude does he now present before the world, and what has he presented before the Comptroller?

It was required, by a resolution passed by the Senate on the 9th of August last, and amended by a subsequent resolution passed on the 17th, and sent to the Department, that we should have some information on this subject. That resolution was answered on the 24th of August, by Mr. Secretary Stuart, of the Department of the Interior. What does he say? Why, sir, in the very first sentence or paragraph of the report, he says what is not supported by the facts of the case. Here is what he says:

"SIR: In reply to the resolution of the Senate of the 9th instant, modified by that of the 17th instant, I have the honor to communicate a report from the Superintendent of the Census, with sundry papers connected therewith, which I believe will furnish all the information called for by those resolutions."

That is a sweeping belief of his. Now, how far is he sustained in it by the facts? He had called upon the First Comptroller; the First Comptroller had furnished him an abstract of the vouchers which he was called upon to furnish by the resolution of the Senate. The abstract of these vouchers embrace some twenty items, amounting from $70 up to $200. Instead of giving the items that would have imparted to the Senate the information desired, he took them altogether, retaining a knowledge of them in his office, and says he believes that is all the information the Senate wants or requires by their resolution. He knew that the information desired by the Senate was particular information, that they might judge of the character of the accounts, and the items charged in the accounts. Has he believed this, or has he known one thing and asserted another? This is a very novel thing indeed. I will just give you a short sketch of the facts, as given in the abstract of the vouchers handed to the First Comptroller of the Treasury:

At the hotel in Calais, C. Restarman's bill in part:

Ditto, for five persons to 6th August, 1851.....16f. 17c.
Ditto, in Paris.....10f. 90c.

Then, in another place, instead of five persons, the charge is for six. Why, sir, such a retinue of Americans has not passed in all our missions to Europe. Our envoys extraordinary are seldom accompanied by more than a secretary or two, and perhaps one or two young gentlemen on their travels, whose fathers have ample means to send and sustain them abroad. And that this envoy extraordinary of the Department of the Interior of this Government should go on such a mission, accompanied by such a large retinue, and have such accounts allowed without law, without the sanction of law, and without precedent, is a matter to be wondered at. But we find its solution, according to one honorable gentleman who has spoken, and I believe he spoke the truth, in the just construction of the bill which was not a law, but which very nearly became a law. It passed one House and not the other; yet the Secretary chose to recognize it as a law. Sir, we have again no less than an Alexander, with his sword, to cut the Gordian knot, when it interposes obstructions to the exercise of his will, and to his grand schemes of reformation. This is a second Gordian knot. Alexander the Great cut the first, and Alexander H. H., I suppose cuts the second.

Mr. DAWSON. I hope my honorable friend from Texas will give me permission to say a word. I am very sure, from his manliness of character, that he would not design to do an injury to an officer by repeating an assertion which has been often made on this floor, but which has been as often corrected. It is now alleged that Mr. Kennedy in his accounts, charged the Government for a retinue, for the six persons who accompanied him. That was not the fact. The subject has been before us previous to this time, I presume in the absence of the Senator from Texas, or he would know the facts. This was a voucher for the payment made for all, but only the proportion which was incurred in the payment of Mr. Kennedy's individual expenses was charged in his account. That voucher was sent in because it was the only evidence of the payment, and it covered the six persons; but Mr. Kennedy only claimed for his individual expenses, and anything more has never been allowed by the Government, and has never been claimed by Mr. Kennedy.

Mr. HOUSTON. I stand corrected if I am wrong.

Mr. DAWSON. Certainly, you are wrong, and it was corrected twelve months ago.

Mr. HOUSTON. But how comes it, that when he changed those pounds and francs into the currency of the United States, the amount was $1,469 76? That is the amount exhibited at the Comptroller's Office, and it corresponds with the exhibit made here in the Secretary of the Interior's reply. That is the footing up of the items on the abstract of the vouchers, furnished the Comptroller. It must be that the sum of $1,469 76 is the amount charged here, thrown into our currency, and it corresponds with the amount in the report to which I have alluded, and which I have before me. Now, how Mr. Kennedy, when he took the round sum as charged, made up of these items, could have arranged it and subdivided it, and apportioned it according to the indebtedness of each party and the interest of each in the expenses, and then go and exhibit the whole at the Treasury, I cannot see, unless he was to receive the amount that went for the expenses of the whole. I do not understand it. The Secretary of the Interior very ingeniously touches upon that subject in the outset of his report, but he does not account for the large amount. The Secretary says:

"It will be perceived that he [Mr. Kennedy] was directed to keep an accurate account of the expenses he might actually and necessarily incur—which were to be allowed to him; but he was to receive no other or further compensation than he would have received if he had remained at Washington."

Now, the question arises, did Mr. Stuart approve of these sums as shown in the abstract of Mr. Kennedy, nearly double the amount of what a larger quantity of travel in Europe at the same time cost other parties? Did Mr. Stuart approve the charge for passage money in the steamers, when none was actually paid? Yet he retained him in office, and allowed him over $1,400 under his certificate, which I have read. There is a mistake somewhere, I have no doubt. Perhaps there is nobody to divide that responsibility with him. It is merely the money they are willing to divide, and not the responsibility of that certificate. I would not envy them the full enjoyment of it. But Mr. Stuart goes on:

"It was not expected that Mr. Kennedy would be able to furnish exact vouchers for all his expenditures; for, from their nature, it was known that it would be impracticable to do so."

How did the Secretary know this beforehand? It seems to me there could have been nothing more practicable or practical on earth than to take vouchers for his expenses; for if he stopped at hotels of any character—which of course he did—there would always be clerical gentlemen there ready to make out his bills and furnish him with a receipt, and that would be a good voucher. Could he not take receipts for money paid for tickets at railroad depôts? What difficulty was there in that? And yet the Secretary, according to the plan he has laid down for disbursements in his office, knew it would be impossible, and said it could not be expected. It ought not to be expected of that Department, I grant you, or of any one connected with it, judging from some little inklings I have had of it. The Secretary goes on, "for the satisfaction of the Comptroller, however;"—only for the satisfaction of the Comptroller! The object was not to do business in a proper and exact manner, as it ought to be done in every Department of this Government in the disbursement of money, but for the satisfaction of that Argus that watches over the Treasury—that terror to evil-doers, and blessing to those who do well—the Comptroller:

"Mr. Kennedy placed in his possession, as I have been informed, such papers as he had procured, exhibiting the justice of his charges. These papers were not presented as vouchers in the technical sense of the term, but merely as collateral evidence."

How beautifully he glosses this over; what exquisite rhetoric that is for the occasion; what an elegant glossary he could write of present transactions which are going on even about this Capitol!

Mr. Secretary Stuart continues:

"In many instances Mr. Kennedy was traveling in company with other persons."

Why did not he send in his bills to show the sufficiency of the information contained in the report? Ah! it would be glanced over, whereas if it were stated in this indirect manner, it might not be noticed. "And the bills were made out for their joint expenditures." Would it not have been just as easy to have made them out for their separate expenditures? The clerks employed in magnificent railway depôts and hotels are paid for attending to each individual. They do not expect that people will travel with such splendid retinues; and they do not always accommodate individuals as well as gentlemen who go out on these missions of exploration. "And in order to arrive at the 'true amount of his charges against the Govern-'ment, it is necessary to ascertain his proportion-'able part of them." But has he done it? The whole amounts to $1,469 76. Mr. Kennedy did not come in with his proportion of one fifth or one sixth of that, but he comes forward with the whole amount, and tacks on some three or four hundred dollars extra. Do you think the Secretary of the Interior did not know this when he made this report? I think he did. But he continues:

"In no case, however, was anything claimed by Mr. Kennedy except for his individual personal expenses, which are stated to have been for the entire trip, $1,469 76."

That is the whole amount. What would be his proportion of that, is the question which arises. The Secretary does not touch this. But he continues:

"It is proper to remark, in conclusion, that the leading facts above detailed were presented to Congress at the commencement of its present session, in my annual report which accompanied the message of the President, as will be seen from the following extract therefrom:

"'Being desirous that this great national work should be 'rendered as perfect as possible in all respects, by the ad-'vice of the Census Board, I authorized Mr. Joseph C. G. 'Kennedy, the Superintendent of the Census, to visit Eu-'rope during the past summer for the purpose of examining 'the systems of statistics of most of the enlightened nations 'of the world.'"

Then, after going on to describe the great importance of this investigation, the Secretary adds:

"Mr. Kennedy was directed to inquire into the measures which had been adopted by the most enlightened nations of Europe for the development of their agricultural resources, and the agencies employed by them respectively for that purpose.

"Upon all these points the report, which accompanies this communication, will afford much valuable information."

It is a short report, but no doubt contain s much in little.

"The whole expense incurred by him in the performance of these important duties did not exceed $1,500, being no more than his actual personal expenses."

And this is given under the hand of "Alexander H. H. Stuart;" Alexander being the first name.

When we look to Mr. Kennedy's statement of his expenses, we find the first item to be one for his traveling expenses from Washington to Liverpool, $171 50. Now, Mr. Collins says that Mr. Kennedy did not pay one cent for passage in his steamers. Mr. Kennedy certifies that he did pay; Mr. Collins avers that he did not, and Mr. Whittlesey does not think he did. [Laughter.] The last item in his account is, "Expenses from London to Birmingham, Liverpool, New York, and Washington, including thirteen dollars for books for office." What is the use of that? Could we not have had this magnificent charge, and could not Mr. Kennedy have got there without making a display to the whole world associated with this grand mission? As you multiply the points or objects around a great magnificent one they detract from the grandeur of that one, and divert the mind from the contemplation of its splendor. I object to such insignificant things coming in contrast with this magnificent design. [Laughter.] The expenses, it seems, from London to Washington, according to the statement of Mr. Kennedy, were $228 75; not one dime, not one mill of which had been paid; yet appended to this statement is:

"I certify that the above amount of $1,469 76 was necessarily expended during my journey, and falls short of my actual outlay. JOSEPH C. G. KENNEDY."

And this is approved by the Secretary of the Interior. Mr. Collins averred that the payment was not made, and Mr. Whittlesey rejected the account because there was fraud upon the face of it. I will vote for no increase of salary under such circumstances.

The amendment of Mr. WALKER was agreed to.

Mr. HUNTER. I have an amendment which is made necessary by the passage by the House, yesterday, of the bill of the Senate in regard to silver coinage. I offer it as an additional section, to come in after that section which provides for the assay office in California:

SEC. —. *And be it further enacted*, That when the gold or silver shall be cast or formed into bars, or ingots, or disks, no pieces as aforesaid shall be cast or formed of a less weight than five ounces, unless they be of standard fineness, and the charge for casting or forming said bars, ingots, or disks, shall not exceed the expense of executing; the operation to be regulated from time to time by the Secretary of the Treasury; and the Secretary of the Treasury is hereby authorized to regulate the size and the device of the new silver coin authorized by an act entitled "An act amendatory of existing laws relative to the half dollars, quarter dollars, dimes, and half dimes."

The amendment is made necessary by the action of the House, who, in order to dispose of the bill mentioned in the amendment, passed it just as we sent it to them, under the operation of the previous question. This is to incorporate two amendments, which were reported by the Committee on Ways and Means, and which are proper in themselves.

The amendment was agreed to.

Mr. HUNTER. In order that the amendment relative to the assay office, already adopted, may correspond with that, I move to strike out the following proviso:

"*Provided*, That no bar, ingot, or disk, cast in the said assay establishment shall be less in weight than three ounces."

The amendment was agreed to.

Mr. HUNTER. I have an amendment to offer according to an estimate which has come to us from the House. It is for compensation to the Committee of the House, which sat in the recess on the Gardiner claim. It is to insert:

"For compensation of members of the House of Representatives for the year ending the 30th of June, 1853, in addition to the appropriations heretofore made $3,840."

Mr. BORLAND. I have an amendment to offer to the Senate, to come in at the end of the appropriation for the extension of the Capitol. It is to accomplish substantially the purpose which I had in view yesterday, when I proposed to strike out

that item. I have, upon consultation with the Senator from Virginia and others, prepared an amendment, which I think will be acquiesced in, and which will accomplish the purpose I had in view, not to discontinue the work, but simply to suspend temporarily the use of the money, and my proposition is to add as an additional proviso to the one adopted yesterday, the following:

"*And provided further*, That no part of this appropriation shall be expended for any purpose during the present quarter of the fiscal year."

Upon my motion yesterday, the provision was amended by changing the direction of the disbursement, or rather of the hands by which the money should be disbursed, and requiring it to be disbursed as other public moneys. The object of this amendment is to suspend the work until the commencement of the next quarter, which will be the first of April. I believe the Senator from Virginia acquiesces in this.

Mr. HUNTER. I agree to that amendment. I think it proper to say, however, that, in doing so, I mean to cast no reflection upon the present Architect. I know nothing in relation to his conduct in this matter; but what little I do know of him has been in his favor; but I agree to that, in deference to the committee of inquiry of the Senate.

Mr. UNDERWOOD. I do not exactly understand this matter, sir. The Architect laid before the committee appointed to investigate this subject, the manner in which the accounts were kept; and according to the communication which he made, it seems to me that there is the utmost propriety in transacting that branch of the business. He stated to us, and other information was communicated corroborating his statement—that there are time-keepers appointed to ascertain the work per day which the various hands employed about these buildings do. These time-keepers keep their books, and after keeping them in this way, the books are presented to a clerk in the Architect's office, and from the books of the time-keepers he makes out the accounts, showing how much money each individual workman is entitled to. These accounts are the basis upon which what are called "tickets" are issued. Each individual workman, when the roll is called, draws his ticket, and then, upon the presentation of that ticket, made out from the book of the time-keeper, the man draws his pay, and gives a recept in person, sometimes, but most generally a receipt is given by putting his hand through a hole where the money is handed to him, and the workman makes a mark, which is his receipt for the payment of the money.

That is the way in which the workmen have been paid; and it seems to me a very good system to prevent mistakes.

Then, in regard to the amount of money, the Architect stated—and there has been nothing yet to contradict his statement—that he did not draw all the money appropriated, and deposit it in bank to his own credit, so that he could have the control and use of the appropriations made by Congress, as of his own money, but that he drew periodically. He drew as the accounts which had been handed in were required to be paid. When it became necessary to have some funds on hand to pay the weekly or monthly accruing accounts, he would make drafts on the Treasury. He stated the fact, that every time a large sum was drawn from the Treasury by him—except the amount of the first draft to begin with, and his drafts scarcely ever exceeded $20,000 or $30,000—the vouchers upon which the previous moneys were paid out, were surrendered and the accounts settled.

This was a system of doing business which met my entire approbation, and it showed that the Architect did not draw the money from the Treasury and deposit it in bank to his own credit, so that he could use it. He showed that every time he drew a new sum the vouchers accounting for the payment of the old sum were surrendered. I say that system met my entire approbation, for I saw that no fraud could be committed in it.

What will be the effect of this amendment? Its effect will be to suspend all operations until the end of this quarter. I believe the weather has suspended the work in its progress now, and I think most of the hands have been discharged, though there may be some who have been retained. I do not know exactly how that matter stands. But in regard to the payment for the materials which have been furnished, and in regard to the fulfillment of the contracts which have been made, you may, by the adoption of this amendment, for aught I know, compel the Government to repudiate its contracts. I know my friend from Arkansas does not want anything of that sort. Suppose the materials are delivered—the granite, the marble, the stone, or anything else, according to the contracts which may have been entered into. It may be a very great inconvenience to the contractors to do without their money; and if we were not to pay it, that might furnish the foundation of a claim hereafter for damages; and we know that wherever the Government refuses to comply punctually with its contracts, contractors are constantly in the habit of asking damages of the Government. I would therefore suggest whether it would be good policy to withhold the payment of the money which may be properly due under contracts for that space of time.

While I am up, allow me to say that my friend from Arkansas yesterday offered an amendment which did not attract my attention at the time. The bill was taken up before I came into the Senate Chamber yesterday morning, and I am not certain whether the amendment was not offered and voted upon while I was not here. I think it was, for I have no recollection of it. If it was offered after I came in, my mind was wandering, so that I paid no attention to it. But if it had attracted my attention at the time, I should have felt it my duty to object to it, and I shall object to it when the bill is reported to the Senate. The amendment to which I allude is the one providing that hereafter the Architect of the building shall not be the disbursing agent of the appropriations to carry on the work, and it gives the power of disbursement to the Commissioner of Public Buildings. I think the adoption of that proposition will be a direct censure upon the Architect. Although some things have transpired which, if true, would damn his reputation forever, and justly, I, for one, as a member of the Committee of Investigation, am not yet willing exactly to subscribe to their truth. As the committee have given permission to use all the evidence—although that permission was given when I was not present—I beg leave to state to the Senate what some of these charges are.

It was stated that the Architect had purchased inferior brick at two or three dollars per thousand to fill in the haunches of the arches, and that he had sold the brick to the Government at five or six dollars per thousand, making a difference of two or three dollars upon each thousand, and this for private gain. If that be true—and I do not know but what it is—I say the character of the Architect cannot be blackened worse than that transaction would blacken it. It has been proved by the late superintendent of the hands, (Mr. Strong,) that bricks of an inferior quality were purchased for that purpose, and that he handed them over to the Architect; but we have not yet had time to trace the settlement of the accounts for these bricks to see how the truth really is.

I could multiply various other matters of complaint brought forward against the Architect. One inquiry we made was, why this brick was bought? The answer was, for the purpose of filling up the haunches of the arches. Then the question came up, why were not the pieces of stone, left after the cutting of the granite or the blue-stone, and which, I believe, are generally called "smalls," or "spauls," used for that purpose? We traced some of these "smalls" to Mr. Strong's building over the way, and found some on the Architect's ground. It occurred to me that if rubbish of that sort could be used advantageously upon the building, it would have been a much better material than salmon, good-for-nothing brick. Therefore, it seemed to me to be improper to be using it for other purposes, and hauling it away, instead of using it to fill up the haunches of the arches, where solid materials for the foundations of the floors would be important. On subsequent information, it turned out that Emery, the contractor, who furnished the granite, claimed the right, as being the owner of these "smalls," to give them away to whoever he pleased. Then the question came up, whether he was the owner or not? That brought up another inquiry, whether the rock was measured in the rough, so as by that measurement to entitle the Government to the whole of the rock, or whether it was measured only when prepared to be placed upon the wall, thus leaving the "smalls" to the man who furnished the stone? It was proved that some of this rock was measured in the rough, for the mere purpose of increasing the price to be paid to the contractor, upon the idea that the contract did not allow him enough without measuring it in the rough.

These things, however, have not been fully investigated, and I am not willing to condemn any one until he has had a full and fair chance to respond to all accusations. But I say that if, upon a full examination and investigation, the charges cannot be explained and repelled, degradation and infamy must visit the man who, by his conduct, has shown that avarice, and the love of money, have been getting above that sense of honesty and propriety which should have bound him to serve the Government faithfully. But at present, when these things have not been fully investigated, I am not willing to condemn anybody. I acknowledge I have had a very high opinion of the Architect, and I will not surrender that opinion until I see his guilt manifestly appear, and it has not yet appeared to my satisfaction.

Mr. HUNTER. I stated that I would agree to this amendment, but I did it with no view to disparage the Architect. I would not vote anything which was calculated to cast censure on him until something is proved against him, and I regarded the amendment as intended by the Senator from Arkansas, to produce a pause until an investigation could be made. That does not disparage the Architect, and I believe he is not afraid of investigation. He told me so last evening.

Mr. UNDERWOOD. I rise for the purpose of stating a fact which has just been communicated to me, and which I think I ought to state. I did not know it when I addressed the Senate just now. I have learned for the first time, that the brick which Mr. Walter got for the Government, was charged to the Government at precisely the price which he paid for it. If that be so, the intimation which has been made in the committee against him, that he bought the brick at one price and sold it to the Government at another, of course fails. Having just learned that fact, I felt it my duty to state it to the Senate.

Mr. BORLAND. I am as little disposed to cast reflections on the character of men as any one else. I trust I set as high a value upon character, and I would be among the last of men groundlessly to cast any reflections upon the character of any one. But it seems to me, Mr. President, that there is an unnecessary degree of sensitiveness displayed on the part of those Senators who have an acquaintance with, and a high appreciation of the individuals who are in the performance of these public duties. When any purpose is manifested here to look into and examine their public conduct, it is construed at once into a personal attack. I trust that Senators may take steps, looking to a thorough investigation of the conduct of the officers of this Government in the disbursement of public money, without those steps being construed into personal attacks or a desire to blast the characters of individuals. Whether Mr. Walter, in this case, has been guilty of fraud or not, I do not undertake to say. I do not undertake to express any opinion that such is the fact, and I never shall express such an opinion until the testimony is clear and conclusive to my mind; but I do say that there is testimony enough before the committee to show that great frauds have been perpetrated, and are now in process of perpetration; and there were allegations in this testimony that the Architect and his subordinates employed on the work of the extension of the Capitol were concerned in it. For that reason, and because these investigations were not complete, and because I was satisfied at least that frauds had been perpetrated which I wanted time to look into, and the facts in regard to which I wanted to establish, I have offered the amendment. I do not think any more money should be expended upon the work in which the individuals charged with fraud are engaged, until there shall be a full investigation.

Now, apart from the fraud as alleged, there is a higher consideration upon the very face of the appropriation itself, which, it seems to me, ought to make us pause for a while at least. At the last session, when we made an appropriation of $500,000 for the continuance of the work, a provision was expressly made, and I think it was adopted in all the appropriation bills, that no more work should be done and no responsibility incurred

beyond the amount appropriated. That was done to prevent any such thing as extravagance beyond the authority of law, beyond what Congress then was prepared to do. It was said at the time that there was no power on the part of the Executive, or any of the Departments or persons employed by the Government, to exceed the appropriation; that there was a limitation by law to the exercise of their authority, and that it could not be lawfully carried further, although such a restriction were not put in the bill; yet for greater caution, to make assurance doubly sure, this restriction was expressly put in, and it was a positive and express prohibition that the expenditures upon the work should not exceed the appropriation.

Then what have we before us in this very bill? An appropriation of $400,000 for this work; not for money to continue the work beyond what was intended at the time we appropriated $500,000, at the last session, but a deficiency of $400,000. The regular appropriation for the work on the Capitol is to be made in the general appropriation bill, the provisions of which will go into operation on the first day of July next, the beginning of the next fiscal year; but there is a deficiency of $400,000 provided for in this bill, and for what? To pay for work which has been done, or contracted to be done, and now in progress, over and above what Congress intended should be done, and against which they entered upon the face of the bill making an appropriation last year an express prohibition. The Senator from Mississippi, [Mr. ADAMS,] at the time that was done, offered as an amendment a penal clause, making it a penitentiary offense to exercise any such authority without law, and especially in contravention of that express prohibition. I thought then it ought to be adopted, and I think so still; and here we have proof that something of that sort was necessary, because we have found that that prohibition was disregarded and violated to the extent of causing a deficiency of $400,000; nearly as much as we then appropriated.

Then to come to the purpose which I now have in view: it is not, as I said, an allegation which I make against the Architect, or any one else, that he or they have committed frauds; because if I had intended to make such a charge, I should have brought forward a resolution, or something of that sort, in express terms, to show the fraud in the transaction. But my object is simply to take charge of the public money, and keep it in the Treasury until there is time to investigate and ascertain the facts, and to show whether or not these frauds have been perpetrated. This amendment only suspends the work until the first of April, hardly six weeks, during which time I suppose the investigation can be made. It is to prevent the consummation of these fraudulent contracts, if fraudulent they be. If we pay the money now into the hands of the persons who have made these contracts, of course they will consummate them, and they will pay out the money. I simply desire to suspend that and to prevent them doing so, until we shall have had time to find out the truth of the charges. Can they not wait till then? Are they so anxious for money that they should press us now, when by getting possession of it a fraud may be perpetrated, and by withholding it a fraud may be prevented or avoided?

I do not know what considerations may influence others, or what view of right or wrong they may take; but taking my own sense of propriety as the standard, I should say that if such imputations as those alleged before the committee rested upon me in the performance of public duty, I could not be compelled to take any more money into my possession to carry out to consummation what was alleged to be a fraudulent transaction on my part. I should insist, and it seems to me if these individuals are conscious of rectitude they will insist, that the operation of this appropriation shall be suspended until there is time to investigate the matter. These are the reasons why I think the amendment ought to be adopted.

Mr. COOPER. I do not rise for the purpose of prolonging this discussion, but I desire to make a remark or two upon it. In the first place, it strikes me as somewhat strange that an appropriation should be made for this particular object in this bill, which is a deficiency bill, and that an amendment should be offered to restrain the expenditure of the appropriation until after the period of time when the expenditures under the bill about to be passed will become operative. However, I am not going to object to the amendment, and I only rose to say, that I am glad that all intention to cast reflection upon the Architect has been disavowed by the Senator from Arkansas. I am perfectly satisfied that what he has said is just—that he would not wish to make an imputation upon any man without giving him an opportunity, and a full opportunity, of vindicating himself. I will say that if it turns out that these charges of fraudulent conduct shall be proved, my voice will never be raised in defense of the individual.

Sir, we have heard enough to make us blush for the manner in which the duties of public officers are discharged, if the facts which have been stated upon this floor to-day are true. We heard it from a Senator from Texas, [Mr. HOUSTON,] who has had the subject in charge for the purpose of investigating it, that an officer of this Government has come forward and made charges upon the Treasury for expenses which never were incurred, and another officer of the Government stood by ratifying and paying those charges thus improperly made. I hope it will turn out that some explanation of this subject can be made that will discharge those gentlemen from the obloquy under which they must live if these charges are made good. I repeat that I shall never stand by to defend any one, whether he chances to be a constituent of mine or not, against malversations of the kind that have been referred to in the course of the discussion to-day. I only desire that the Architect, who has hitherto borne an irreproachable character and a reputation above all suspicion of dishonesty, may have a full and fair opportunity to vindicate himself against all these charges; and as the Senator from Arkansas has declared that he does not impeach his character, and that he does not wish to cast any imputation upon him, that is enough. That suspends public judgment until the time when the facts shall be developed and made manifest.

The amendment was agreed to.

Mr. HAMLIN. I desire to offer the following amendment:

For arrearages due to the Chief Clerk of the Bureau of Construction, Equipment, and Repairs, on account of salary commencing with the fiscal year 1851, the sum of $600, and that the salary of the Chief Clerk of that Bureau shall hereafter be $1,700 per annum.

A very few words will explain the nature of that amendment. All the other clerks who are at the head of bureaus have now, by law, the salary which I propose to give to this clerk. Owing to some inadvertence or design, I know not which, when the estimates were furnished, they did not place this clerk on the same footing with the others; but Commodore Shubrick called the attention of the Secretary of the Navy to the fact; and I hold in my hand a letter of the Secretary, in which he strongly recommends this appropriation. I entirely coincide with the recommendation of the Secretary, and if the amendment be adopted, it will only put this clerk on the same footing with the other chief clerks of bureaus.

Mr. BRADBURY. I understand that the chairman of the Committee on Finance does not object to this amendment. It is designed to do equal justice to a meritorious officer.

The amendment was agreed to.

Mr. SEBASTIAN. I am directed by the Committee on Indian Affairs to offer the following amendment:

"For this amount of money appropriated and goods purchased, under treaty stipulations for the Chippewa Indians, lately destroyed by fire at the agency of said Indians, $15,000: *Provided*, That the Commissioner of Indian Affairs is hereby authorized to purchase said goods in open market without the usual notice in such cases required by law."

I will briefly state the information in reference to this matter under which the Committee on Indian Affairs acted in recommending this amendment. Under treaty stipulations with the Chippewa Indians, there are annual amounts of money and goods due them. The amounts necessary for that purpose have heretofore been appropriated, and all the goods which have been purchased, and a balance of $920 in cash on hand on the 15th of last month, were destroyed by fire. The payments, according to the treaty, are to be made next spring, and if the appropriation be delayed until the general Indian appropriation bill, and the usual notice required by law be given for the purchase of the goods, it will carry us beyond the time when, according to the treaty, the money should be paid and the goods furnished. I therefore hope the Senate will adopt the amendment now.

The amendment was agreed to.

Mr. FISH. I move to amend the third section, which provides that no documents shall be furnished to members of Congress unless published by order of the Congress of which they are members, by adding to it the following proviso:

Provided, That this section shall not prohibit or interfere with the distribution to members who have heretofore received books, under an order of either House, of the remaining volumes, or parts, so as to complete the sets of which they have received a part.

Mr. WALKER. I move to amend the amendment by adding to it, "and the Debates of Congress," so as to let their distribution go on as heretofore.

Mr. FISH. I think my amendment includes that.

Mr. WALKER. If it does I am satisfied, and withdraw the motion.

The amendment was agreed to.

Mr. WALKER. I see a small appropriation in this bill "for harbor at Milwaukie, Wisconsin, $163 94." I wish to amend the phraseology of that by inserting after the word "Wisconsin," the words, "at the point named in the last appropriation for the harbor at said place," so that it will read, "for harbor at Milwaukie, Wisconsin, at the point named in the last appropriation for the harbor at said place, $163 94."

Mr. HUNTER. I will explain to the Senator from Wisconsin, and perhaps he will see that his amendment will be inappropriate. The harbor appropriations in this bill, as I understand from the chairman of the Committee on Ways and Means of the House, who went up to the Department in reference to them, are to pay existing debts. Of course it is not proper in a general appropriation bill to bring in appropriations for carrying on harbors. But it was stated to the chairman on Ways and Means, that these appropriations were needed to pay debts already due. At what point the work was done for which the debt in regard to this particular harbor was incurred, I know not; but it might be that the adoption of this provision would prevent the Department from applying this specific sum to the actual debt which exists. They told the chairman of the Committee on Ways and Means, that it was to satisfy an outstanding debt. Where the debt was incurred I do not know.

Mr. WALKER. That is most probably the case; but I would remark that at the last session of Congress, in the appropriation of $15,000 for the harbor of Milwaukie, I obtained a provision by Congress that it should be expended at the point known as the North Cut, surveyed by Lieutenant Centre. An opinion has gone abroad that Colonel Abert is disposed not to execute the law. I cannot believe such a thing.

Mr. CASS. It cannot be so.

Mr. WALKER. I do not think it can be possible; but here, in this bill is an appropriation of $163 94 for the same harbor. If it be an appropriation to meet a deficiency on the old harbor appropriation, at the old mouth of the river, which harbor is useless to us, it is somewhat singular; for I believe there has been nothing done by the Government on that harbor since 1843 or 1844; and it is strange that such a small balance should have remained up to this time. Then this sum for the harbor of Milwaukie may, by implication, if it is intended to be appropriated to the old mouth of the river where a harbor is useless, be construed into a revocation of the direction to appropriate the money at the proper point. I perceive that the citizens of Milwaukie are greatly excited about it. Petitions are in circulation in every direction on this subject. Every one is signing them. I have an article here which I have cut from the last newspaper which reached me from Milwaukie. The people there seem to be in tribulation, from the rumor that Colonel Abert will not carry out the provision of the law. While I do not believe that—and I do not mention the fact for the purpose of intimating that I do believe it—yet for the purpose of securing ourselves against the dangerous implication which might be made by leaving this appropriation as it stands, it seems to me that there can be no harm in adopting my amendment.

Mr. HUNTER. If there is any doubt about the appropriation, it would be a great deal better to strike it out, than to attach the amendment which the Senator proposes, because it may be if that be added, the money cannot be applied to the existing debt proposed to be paid, and the appropriation will be useless.

Mr. WALKER. Then we can correct it when we ascertain the fact.

The amendment was not agreed to.

The bill was then reported to the Senate as amended, and all the amendments made by the Senate as in Committee of the Whole were concurred in.

Mr. BRADBURY. I wish now to renew the amendment which I offered yesterday, and which, in the shape then presented, was decided by a vote of the Senate not to be in order. When the vote was then taken, there was a misapprehension of the question, as individuals voted in a precisely opposite manner from what they intended. The amendment, as I have now offered it, places this claim on precisely the same ground as several others which have been incorporated into this bill. The reasons for the adoption of the amendment, I gave yesterday. I now offer it in this shape:

SEC. —. *And be it further enacted*, That the proper accounting officer of the Treasury Department be, and he is hereby, authorized to settle and adjust the accounts of the acting purser of the United States frigate Dolphin, appointed in April, 1846, by the commander of the squadron then on the coast of Africa; and to allow him the pay of a purser while in the discharge of the duties of that appointment.

Mr. HUNTER. That is a private claim. It was proposed yesterday as an amendment to this bill, and was either ruled out of order or voted down—I do not remember which. The only modification which the Senator has made, is to strike out the name of the individual and describe him as an officer. I hope the amendment will be voted down.

Mr. BRADBURY. Yesterday it was voted upon under a misapprehension; otherwise it would have been adopted. I then stated that an officer of the Navy is now held responsible for many thousands of dollars which never went into his hands, because these accounts cannot be settled. That officer is now ordered on the Japan expedition, and is about to leave the country. The adoption of some such provision has been recommended by the Secretary of the Navy, and for six years it has remained in the House, the House having been unable to reach it. I trust the question may be submitted to the decision of the Senate, and that the Presiding Officer to-day will do what the President did yesterday when it was in a more objectionable shape—leave the question to the decision of the Senate; and I hope the Senate will relieve the party. I will say, however, that the individual whose accounts it is proposed to settle, served for two years upon the coast of Africa under an appointment, receiving and disbursing large sums of money, and he is entitled to no compensation whatever, unless he can have his accounts settled, while the officer in command of his ship has been charged with money that has been disbursed which never went into his hands.

Mr. BADGER. I hope that on this question we shall support the chairman of the Committee on Finance. It is not right that this bill should be burdened with amendments of this kind, merely in consequence of leaving out the name of the person to whom the money is payable. If it would not be proper to put this amendment to the bill, the person being named in it, it cannot be proper to put it upon the bill when the name of the person is left out.

The PRESIDING OFFICER, (Mr. DOWNS in the chair.) Does the Senator from Virginia make a point of order?

Mr. HUNTER. I do.

The PRESIDING OFFICER. The Chair considers that the object of this amendment is to provide for a private claim, and therefore it is not in order, under the rule.

Mr. UNDERWOOD. I did wish to have a separate vote on concurring in the amendment which changed the disbursement of the money on the Capitol extension from the Architect to the Commissioners of Public Buildings.

The PRESIDING OFFICER. That amendment has been concurred in.

Mr. UNDERWOOD. The Chair was too quick for me. He put the question before my attention was called to it. I rose for the purpose of asking whether I could not reach my object by moving a reconsideration of the vote by which the Senate concurred in that amendment?

The PRESIDING OFFICER. That is the only way in which it can be done.

Mr. UNDERWOOD. I make that motion, and I ask the liberty of making a statement. Since we had a little discussion, a few minutes ago, I have been informed that the marble-cutters on this work are now constantly employed under their sheds preparing the marble to be used in the construction of the building, and that they can go on and do this work now under their sheds as well as if the weather were better. I am told that the hands are paid off weekly, and that if you suspend the appropriation, and refuse to allow the marble-cutter to be paid, he cannot pay the hands. You therefore suspend the work, and interrupt the progress of business.

Mr. HUNTER. I would ask the Senator whether he has been informed of this by any person who knows the fact?

Mr. UNDERWOOD. I have received my information from Mr. STANTON, of Kentucky, the chairman of the Committee on Public Buildings of the House of Representatives.

Mr. HUNTER. He is well acquainted with the subject.

Mr. UNDERWOOD. He has just been by my side, and I have had a conversation with him upon the subject. I am told another thing, which I beg leave to state, and to ask the Senator from Virginia whether it is a fact. In the evidence before the Committee of Inquiry there was one thing which struck me as being extremely improper, and I will state it.

I went to the wall and examined it myself, and I thought it was very well laid; but the filling-in behind the front wall of the polished granite was equally of large granite blocks, and I said to myself, and the proof before the committee amounts to the same thing, that there was no necessity for taking this costly granite, and filling it in behind the polished or cut granite, in front of it; but that gneiss rock, or the blue stone furnished from along the banks of the Potomac, would have answered just as well; and that if the filling up was done with blue stone, it would cost about one third what the filling up with large granite blocks would cost. I have, however, just been informed that that was done at the suggestion of some engineers and my friend from Virginia, and that it was done upon these grounds: It was said that the foundation was not sufficient. Upon the statement that the foundation was not properly constructed, engineers concurred in the opinion, and my friend from Virginia so advised the Architect, that if he would put three courses of this substantial granite rock, and connect and tie them together, even if a portion of the foundation was defective and the rest was good, these ties of granite rock above the foundation, would furnish such a strength as would be sufficient, and would overcome any defect in the foundation. I understand that it was only intended to lay three courses of granite. I have learned that the Architect yielded to this advice of the engineers and of my friend from Virginia, who was then, I believe, chairman of the Committee on Public Buildings; whereas the judgment of the Architect would have taught him that the gneiss rock was sufficient. If that be the fact, I hope my friend from Virginia will say that it is so.

Mr. HUNTER. That is so, sir. Such was the suggestion of the engineers, and I urged upon Mr. Walter to put a few courses—I do not now remember how many. The reason assigned was that the stone in the foundation had been too small, and the engineers were of opinion that the foundation was sufficient, but that it would be put beyond all peradventure if a few courses of granite were put in behind the front row; because, they said, that if above the foundation there was one entire piece of stone, it would be almost impossible to crush it, and the nearer you could approach to that by the size of the granite for a few courses, the more substantial the building would be. They recommended it, and I urged it upon Mr. Walter to follow their suggestions for the purpose of placing the matter beyond doubt.

Mr. UNDERWOOD. There is another thing which I have just learned, which I wish to state to my friend from Arkansas. I learn that the whole amount expended for marble, by an examination of the books this morning, is only about $65,000. That is the whole amount paid for marble, and of course there cannot be a loss upon that.

I have mentioned these things to show that there is a propriety in what I stated when I was first up, that no man, or set of men, ought to be condemned upon *ex parte* testimony, without a full investigation—without duly weighing and sifting all the evidence, and seeing how the truth stands. Why, I had condemned this Architect myself. I had condemned him seriously, for the very fact of filling in with this granite rock, when, according to my inspection and judgment, gneiss rock would have answered just as well. Yet now I learn that that course was pursued by the Architect at the suggestion of the engineers, upon the possibility that it might protect the building, if the foundation was at all defective.

The motion which I have made is to reconsider the vote on concurring in the amendment made yesterday in Committee of the Whole, on the motion of the gentleman from Arkansas. His amendment was to take away the disbursement of the money from the Architect, and give it into the hands of the Commissioner of Public Buildings. If you do this before you have made this investigation, what will it say to the world? What will it say to the Architect? It will be saying to him, "From the investigations already made, we find that you are not trustworthy. We have discovered that you are acting so fraudulently that you cannot be trusted with the disbursement of the money. If it is retained in your hands, it will be used for fraudulent purposes, and to pay persons who have acted fraudulently against the Government, and therefore we take it from your hands, and give it to others." I do not feel myself authorized to make this change until I get a thorough investigation, and see that the Architect ought to be condemned. If I shall find that the investigation results in facts which should lead to his condemnation, although I have already said I have entertained a very high opinion of him, I trust I shall be the last man to save him from the just censure which awaits his conduct; but I am not willing thus beforehand to say to him, "You have acted in such a way that we will not let you disburse the money any longer."

Mr. BORLAND. I had hoped that after the long discussion upon this subject yesterday, we were done with it; but it seems that there is to be no end to it. What is the proposition now made? In the very face of all that has passed—although the Senate has concluded to suspend operations, the Architect is insisting that he shall have possession of the money, and shall expend it.

Mr. UNDERWOOD. I beg leave to correct my friend in that. I have not seen the Architect for a month, I believe—I do not recollect how long; but the last time I saw him was in the committee room, and an unpleasant occurrence there took place between the Architect and some of the hands, and he departed, and I have never seen him since; nor have I had one word of correspondence with him, by letter or otherwise. The movement is altogether to be charged to me. I have made the motion to carry out my own view of what I consider to be proper. The Architect has had nothing to do with it.

Mr. BORLAND. If the Senator had not said, when he got up, that he was acting from information communicated to him from without, and almost at that moment communicated to him, I should not have said anything about the movement coming from anywhere; but it was not his own free movement, as he said.

Mr. UNDERWOOD. I gave the authority of a gentleman of the other House.

Mr. BORLAND. I know the Senator did, but why should we have it insisted upon from other quarters that this individual shall be trusted with the money proposed to be paid under this appropriation for the extension of the Capitol? Previous to the bill which passed a few years ago, making the original appropriation for this work, the money appropriated for such purposes had been disbursed, as was provided for in the amendment adopted on my motion yesterday. That amendment puts the expenditure of this money on the same footing on which the expenditure of other public money for public buildings and grounds has always been put. The object was to have the accounts audited and settled in the same way; to

return to the old system. No charges, so far as I have ever heard, were made, and no suspicions entertained under that system that money had been improperly used. A change was made. Improper uses of the money were anticipated at the time of that change, and an attempt was then made to prevent it. That attempt failed, and we find now, as I suppose the Senator from Kentucky will hardly controvert, that improper uses have been made of the money; by what individual I do not now undertake to say. My proposition was to return to the old system, and to let the money be expended in the same way as formerly. If the Architect chooses to consider it an imputation upon him, I cannot help it. Surely I am not to be restrained from making a proposition to take care of the public money according to the good old plan which succeeded before, and which avoided improprieties, because any man in public employment chooses to say that it is a blow aimed at him. If he has discharged his duties properly and fairly, it does not affect his character. The facts can be made to appear. Then why his friends should insist for him that he shall have the disbursement of the money under these circumstances, I cannot conceive. If, however, in view of all that has been said, the Senate choose to give it, let them do it.

The Senator from Kentucky has alluded to some transactions which took place before the committee. Objection was made the other day to my allusion to what had taken place in the committee room, but it seems that other members of the committee may do the same thing. The Senator from Kentucky has alluded to a transaction which took place in the committee at a time when I was not present. He says that an unpleasant occurrence took place. What was that unpleasant occurrence? I was not present on the occasion myself, but I learnt it from others. It was this: when a witness was testifying before the committee to matters which were not favorable to Mr. Walter, he became enraged, and interrupted the witness, and attempted to prevent his going on; and it was with difficulty that he could be controlled. Now, suppose an individual sitting in a court, and imputations upon him were being made by a witness under oath, and he was to rise and interfere with that witness, and attempt to browbeat him, and prevent him giving his testimony, what would be thought of it? It is true, as I understand, that Mr. Walter afterwards apologized for his impropriety. I should not have alluded to this matter, but that the Senator from Kentucky himself introduced it. When a witness, one of the humble laborers who had been at work upon the Capitol, was testifying to matters under the responsibility of an oath, and his testimony was reflecting upon Mr. Walter, the latter rose, and rather violently, so violently that it was with difficulty he could be restrained, attempted to browbeat and prevent the individual giving his testimony. That does not prove the charges against him, and I do not rest any charge against him on that ground; but since the occurrence has been alluded to, I want it to go before the Senate for what it may be worth. Now it is insisted that he shall still disburse the money. If the Senate choose to put it into his hands, let them do so.

Mr. UNDERWOOD. I alluded to an unpleasant occurrence which took place in the committee room, not for the purpose of going, by any means, into the facts of the case, but to show the reason why Mr. Walter had absented himself, and to show that I had had no correspondence or communication with him from that time. I alluded to it merely to explain the position which I occupied in reference to him, and to show the Senator from Arkansas that I was not acting here at the instance of Mr. Walter, or by any communications with him, but merely from a sense of duty, as I conceived, to him, regarding him yet in the attitude of a gentleman. That is the reason why I alluded to him. But the Senator from Arkansas has gone into the particulars, although he was not present and I was.

Mr. BORLAND. I stated the facts on the authority of the Senator himself.

Mr. UNDERWOOD. I intend to state exactly what occurred. It seems that some of the hands had been discharged from working upon the public buildings here. It seems also that there is an association among the workmen, by which, that in consequence of certain of them having served apprenticeships and being master-workmen, they take exception if anybody who has not been so far advanced in mechanical employment as they deem themselves to be, is permitted to work and receive the same wages that they do. Some difficulty had grown out of an association of that kind. Some men had been discharged, and it would seem that they took an appeal to Mr. Walter as the Architect and general superintendent. Three or four of them went to his office, no doubt a good deal incensed in consequence of the manner in which they conceived they had been treated, and they appealed to him. Rough words ensued. Mr. Walter was discontented with their conduct, and he ordered them away, and threatened that if they did not go, he would call for a police officer to take them away. They said that in the course of the altercation, Mr. Walter stated in substance, that he would pay those who were engaged on the work what he pleased, and as he pleased; and that the hands employed should carry hods, or roll brick, or do anything, no matter what, he should order them to do; that he would pay them as he pleased, and order them to do what he pleased. This was the nature of the quarrel which took place at the Architect's office, according to the statements of the men. When a witness was detailing these things, Mr. Walter became excited, and said, after he got through, that he presented the quarrel which took place in the Architect's office in a way that made a false impression against him, (Mr. Walter.) He said afterwards that it was probable he used every word the witness put into his mouth; but the witness had given such a version of it as to make an unfavorable and false impression in regard to him. He interrupted the witness several times when he was going on. The chairman of the committee told him that he must be silent. I believe I interposed once myself, to tell him that he had no right thus to interrupt the witness while he was going on. After it was all over—after he was silent—he got up and apologized, by saying that his feelings had got the better of him—that perhaps he was wrong, but his impressions were such that he could not well resist speaking while the witness was going on. He begged pardon for making his interruptions—said that perhaps it was wrong for him to be there while witnesses were testifying in regard to his conduct in any way, and he would disappear. He did disappear, and I have never seen him since. That is the whole of the occurrence, from the beginning to the end, according to my recollection. Mr. Walter has never been in the committee room since, I believe, nor have I seen him. The only question, then, is, whether, under these circumstances, before the investigation is ended, we will censure and condemn Mr. Walter. That is all. I learn, too,—and I must tell my friend what I learn as I go along, and I did not learn it from Mr. Walter,—that the law, which I have not looked into, as it originally passed, required the President to give the disbursement of the money to the Architect. I have learned that from a source entitled to the highest confidence and respect. The Senate can see who has been talking with me. It comes from a chairman whose business it is to examine all these matters. If that be so, this duty was never conferred upon Mr. Walter because he wanted it, or because he made any profit upon it, but it was forced upon him by law, and he could not refuse it. It was given to him as a part of his duties, and imposed upon him by law when the President gave him his appointment. Whether he wants to continue to disburse the money or not I neither know nor care. Whether the Commissioner of Public Buildings wants it or not I have made no inquiry; I know nothing about it. The only question for me has been whether, under a partial investigation of this subject, we shall get up and say to the world and to Mr. Walter that he is no longer to be trusted in money matters. From the manner in which his accounts are kept, as I have already stated, I cannot see any way in which he can cheat the Government. Then the question is, whether you will pass this implied and direct censure on his honesty without any investigation? It is not in my power to do it, and therefore I have brought the matter before the Senate.

Mr. HUNTER. I hope the Senate will not reconsider the vote on that amendment. We have made progress so far, and I think it is time that we were disposing of this bill. We should trust something to the House of Representatives. The bill will go there, and these amendments will be subject to the revision of that chairman of the Committee on Public Buildings, of whom the Senator from Kentucky speaks, and who, I know, is well acquainted with the subject. If we were to do the thing over again, I confess that I would vote against the amendment of the Senator from Arkansas. I did not understand, at the time he introduced his amendment, that it was to transfer the disbursement of the money from the Architect to the Commissioner of Public Buildings, and I should certainly have voted against that part of the proposition, for I would sooner have the money disbursed by the Architect than by the Commissioner; but that is passed over, and we have acted upon the bill. If we reopen it, there is no telling where we shall end. It will be reopened for the very purpose of discussing the matters connected with this inquiry, and it seems to me, that to do so would be unjust to all the parties implicated, and to the Architect himself, because we should have discussions here upon *ex parte* testimony, as the Senator says, and upon testimony with which nobody is acquainted except the members of the committee. I should regard such a discussion as very unfortunate, and I wish to avoid it.

I think, after the debate, and especially after what has been said by the mover of the proposition, Mr. Walter has been placed in a position in which he may safely rest until the investigation shall be concluded; for it was declared that there was no intention to disparage Mr. Walter in the matter, but to suspend the work until the subject should be further examined into. I do not think, therefore, that under the circumstances, delay will affect Mr. Walter injuriously. If it did, I could not vote for it. I could not vote for the bill if I believed it would have that effect, unless I believed he was guilty; because, anxious as I am that this building should go on, yet I cannot consent that it shall be done at the expense of the character of any honest man. But I believe that, under the circumstances under which the amendment was voted, it does not present that issue, or involve his character. I hope, therefore, we shall act upon the bill, and send it to the House, where these matters can be further examined into.

Mr. UNDERWOOD. I would say to the gentleman, that the probability is, the previous question in that House will cut off all investigation.

Mr. HUNTER. I believe the amendments have to be considered there in Committee of the Whole, where no previous question applies.

The motion to reconsider was not agreed to.

The amendments were then ordered to be engrossed, and the bill was ordered to a third reading, read a third time, and passed.

RAILROAD TO THE POINT OF ROCKS.

Mr. BRIGHT. I move to take up the bill reported by the Committee on the District of Columbia to incorporate the Georgetown and Catoctin Railroad Company. I can state the case to the Senate in a few words, so that it will not be objected to. Citizens of Maryland propose the construction of a railroad from some point on the Baltimore and Ohio railroad, near the Point of Rocks, to Georgetown, in the District of Columbia. Before they can do so, it is necessary to have the assent of Congress to run the road from the western side of the District, to the city of Georgetown. The Legislature of Maryland is now in session. It holds only biennial sessions. It is important that this right of way should be granted as soon as possible, so that Maryland may, by concurrent legislation, authorize the road to be made.

Mr. ADAMS. Is there any money asked for the purpose?

Mr. BRIGHT. No, sir; it is a simple grant of the right of way for sixty-six feet in width.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. BRIGHT. I now move to amend the bill by striking out all after the enacting clause and inserting:

"That whenever the State of Maryland shall by law incorporate a company to lay out and construct a railroad from any point in connection with the Baltimore and Ohio railroad, at or near the Point of Rocks, to Georgetown, in the District of Columbia, the right of way, not exceeding sixty-six feet wide, be and is hereby granted to such company; provided that before any such road, depôts, and its necessary fixtures shall be located in Georgetown, the assent of said city shall first be obtained."

Mr. BORLAND. Before the vote is taken, I want to know of the Senator if the bill has a provision which retains to Congress the power of repealing the charter of this company? I have been under the impression that charters granted to corporate companies should expressly contain the power of repeal.

Mr. BRIGHT. The Senator did not listen to the reading of the amendment, or he would have seen that no company is incorporated by its provisions. It merely provides that when Maryland shall authorize the making of a railroad from a point intersecting the Baltimore and Ohio railroad, near the Point of Rocks, to a point on the western side of the District of Columbia, Congress grants the right of way to the same company from the western side of the District of Columbia to Georgetown, a distance of about three miles. It is of course through private property, which will have to be paid for by the company.

Mr. HUNTER. There is no provision requiring the company to pay for the property, and therefore, I think the bill had better lie over.

Mr. BRIGHT. As a matter of course, if the road passes through private property the company pays for it.

Mr. BORLAND. My inquiry was made on the supposition that this amendment left the bill to incorporate a company for the construction of the road, for my impression was that the amendment was in addition to the bill; but if it is to strike out all of the original bill, I have no objection to it.

Mr. BRIGHT. I took the same exception to the original bill as the Senator from Arkansas did. It contained a provision incorporating a company, and the Committee on the District of Columbia have agreed to strike that out, and give merely the right of way, and I think there can be no objection to that.

Mr. CLARKE. I should like to inquire into this matter somewhat. This bill, as I understand the Senator from Indiana, proposes to grant the right of way to this company for three miles from the western boundary of the District of Columbia to the city of Georgetown. There is no provision in the bill requiring damages to be paid to private individuals for their property taken up for the purpose of allowing that right of way; there is no provision for the assessment of those damages. Therefore, if lands should be taken for this purpose, will not the parties come upon the Government of the United States for all the damages in consequence of the right of way which we may grant? I merely submit this question for the consideration of the Senate. My own impression is, that whenever the right of way is granted, provision is always made that in a certain manner the claim of those whose property is taken for the road, and who feel themselves aggrieved, may be adjudicated and decided upon. There is nothing of that sort here. The amendment gives the mere naked right of way, sixty-six feet in width, and there it stops. There is no provision made for the indemnification of individuals whose lands may be taken under the provisions of the bill; and, in my humble opinion, if Congress pass the bill, and the lands should be taken without compensation being made to the owners by the company, Congress would be bound to remunerate the parties.

Mr. BRIGHT. I promised that if the bill consumed time, I would not ask the Senate to defer the special order of the day. If the honorable Senator is serious in his objection, of course I shall have to pass the bill over, but I do not think there is any force in the objection taken by the honorable Senator from Rhode Island. If the road passes through private property, of course the company will have no right to use the property until they pay for the privilege. No part of this road will pass through public property. It will all be through private property; but they cannot take private property without first making compensation for it.

Mr. PRATT. Perhaps I can make an explanation on this subject which will be satisfactory to the Senator from Rhode Island. The amendment, as proposed by the Senator from Indiana, is merely to confer upon a company in Maryland the power to make the road which is contemplated from the Baltimore and Ohio railroad, at or near the Point of Rocks, to the District of Columbia. It gives the mere right of way to that company to make the road through the District of Columbia. As a matter of course, the bill in reference to the citizens of Maryland, which is to be passed by the Legislature of Maryland, will designate the manner in which private property is to be taken for this purpose. It cannot be otherwise taken than is designated. It cannot be condemned unless by bargain with the individual owners. Therefore, the bill to be passed by the Legislature of Maryland, in reference to Maryland, will be applicable, under the amendment proposed by the Senator from Indiana, in reference to the property-holders in the District of Columbia, with this proviso: that the Corporation of Georgetown is first to assent to it. You, therefore, have first the securities which Maryland will throw around the property of her own citizens in reference to the construction of the road within the limits of Maryland; and you have, in the second place, the security that the assent of the corporate authorities of Georgetown is required to be given to the bill. I hope, therefore, that the Senator from Rhode Island will not persist in his objection.

Mr. CLARKE. I can see that the difficulty increases rather than diminishes as we get on. The Legislature of Maryland has not yet acted upon the subject.

Mr. BRIGHT. If the Senator persists in his objection, of course I shall have to move to postpone the further consideration of the bill until to-morrow.

Mr. CLARKE. I have no disposition to delay it. The honorable Senator can take what course he pleases.

Mr. BRIGHT. As I am under obligation that this bill shall not interfere with the special order, I move that it lie upon the table.

The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed a bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30th, 1854.

The bill was read a first and second time, by unanimous consent, and referred to the Committee on Finance.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report from the Department of the Interior, in further compliance with the resolution of the Senate of January 18th, giving further information in reference to the allegations of fraud against Alexander Ramsay, Superintendent of Indian Affairs, in the distribution of certain moneys; which was referred to the Committee on Indian Affairs, and ordered to be printed.

FALLS OF THE OHIO.

Mr. UNDERWOOD. There was laid before the Senate this morning a report communicating the various plans for constructing a canal around the Falls of the Ohio, which has been ordered to be printed. I am informed by the gentleman who represents the Louisville district in the other House, [Mr. PRESTON,] that it would be best to have that document printed under the direction of the Topographical Bureau, because it contains a great number of plates which should be very accurately engraved. As the printing has already been ordered, I move that it be done under the direction of the Topographical Bureau.

Mr. BRIGHT. I prefer that no order of that sort shall be made until the Committee on Roads and Canals, to which the document has been referred, shall have an opportunity of examining it. I presume that can be done in the course of a day or two.

Mr. UNDERWOOD. I withdraw my motion; but I hope the Committee will consider the propriety of the suggestion which I have made.

FRAUDS ON THE TREASURY.

The PRESIDENT. The Chair will present to the Senate House bill "to prevent frauds upon the Treasury of the United States," to which the Senate, on a former occasion, made certain amendments. The House has agreed to some, and disagreed to others of those amendments.

Mr. BADGER. I will state that that bill originally came from the House. The Senate passed it with certain amendments. The House has concurred in all of those amendments but two. I think I may say on the part of the Judiciary Committee, that those two amendments are all-important—so much so that the bill ought not to pass unless they are made. I move that the Senate insist upon the amendments to which the House has not agreed, and ask for a Committee of Conference.

The motion was agreed to.

Mr. BADGER. I move that the Chair appoint the managers on the part of the Senate.

The motion was agreed to; and the PRESIDENT appointed Messrs. BADGER, BUTLER, and BAYARD, the committee on the part of the Senate.

COLONEL FREMONT.

The PRESIDENT. Senate bill for the relief of John Charles Frémont, late a lieutenant colonel in the Army of the United States, has been returned from the House with an amendment.

Mr. BADGER. The Senator from California [Mr. GWIN] takes an interest in the bill, and he agrees to the course which I am about to suggest. We passed the bill directing a certain sum of money to be applied to the payment of the judgments rendered against Colonel Frémont. We passed it on the ground, and on the sole ground, that the debt was a debt against the Government, and we were, therefore, bound in honor to see it paid. The House has made an amendment striking out the whole bill after the enacting clause, and inserting a provision that $19,500 be paid to Colonel Frémont, to be accounted for when he settles his accounts. It is a total departure from the principle on which the bill was based; for if it is not the debt of the Government we ought not to pass any bill about it. If it is, we ought to pass the bill as it went to the House. I move, therefore, that the Senate refuse to agree to the amendment of the House.

The motion was agreed to.

THE TEHUANTEPEC GRANT.

On motion by Mr. BRIGHT, the Senate resumed the consideration of the resolutions reported from the Committee on Foreign Relations, in reference to the right of way across the Isthmus of Tehuantepec—the pending question being on the amendment of Mr. SEWARD.

Mr. BROOKE concluded his speech begun yesterday. For which see Appendix.

Mr. GWIN. In order to have a test question on these resolutions, and that they may not consume any more of the time of the Senate, I move that they be laid on the table, and on that question I ask for the yeas and nays.

Mr. MASON. I hope the Senator from California will withdraw that motion for a minute, that I may have an opportunity to say a word on the subject. I will renew the motion, if the Senator desires it.

Mr. GWIN. I will withdraw the motion, to accommodate the Senator.

Mr. MASON. I have no objection to taking a test vote on laying the resolution on the table, but I would ask to have a little time—not more than half an hour—to make a reply to the remarks made by the Senator from New York, before the question is put on the motion to lay on the table.

Mr. GWIN. I hope the Senator will go on now, then; for I do not want this subject coming up to interfere with the appropriation bills, and other practical measures, which we have yet to act upon.

Mr. MASON. I take it for granted that the discussion on the subject is closed, and that nobody else wishes to address the Senate upon it. I only ask a short time to reply to the remarks of the Senator from New York, and then the question can be taken.

Mr. NORRIS. I believe there may be other Senators who may wish to speak on this question, and I hope the Senator from California will not press his motion now.

Mr. MASON. I think it will be desirable to have a test vote upon the question; but I should like to be heard a short time before it is taken.

Mr. DAWSON. I move that the Senate adjourn.

Mr. GWIN. What will be the situation of the subject when it comes up again? Will the question be on my motion that the resolutions lie upon the table?

The PRESIDING OFFICER assented.

The motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February* 16, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. BUTLER.

Mr. RICHARDSON. There is no quorum present, and I therefore move there be a call of the House.

Mr. HOUSTON. I demand the yeas and nays.

Mr. STEPHENS, of Georgia. I hope that the yeas and nays may not be ordered. They will take up at least thirty minutes. I trust we will go into the call, and go through with it. We never will have members here regularly unless we do it. Let the doors be closed, and the absentees ascertained.

Mr. HOUSTON. By the time the yeas and nays are called most of the members will be here.

Mr. CLINGMAN. I think that by the time the Journal is read there will be a quorum present.

The yeas and nays were ordered.

The question was taken on the motion that there be a call of the House, and it was disagreed to—yeas 23, nays 89; as follows:

YEAS—Messrs. William Appleton, Joseph Cable, Caldwell, Clark, John G. Davis, Dean, Doty, Eastman, Green, Haven, Hibbard, John W. Howe, Hunter, Jenkins, Kuhns, McNair, Millson, Morehead, Richardson, Skelton, Smith, and Alexander H. Stephens—23.

NAYS—Messrs. Charles Allen, Ashe, Bell, Bennett, Bibighaus, Brenton, Briggs, Burrows, Chastain, Cleveland, Clingman, Cobb, Conger, Cottman, Daniel, Darby, George T. Davis, Dawson, Dimmick, Dockery, Duncan, Fay, Fitch, Floyd, Giddings, Goodenow, Goodrich, Grow, Hall, Harper, Sampson W. Harris, Hart, Hascall, Hebard, Hendricks, Henn, Hillyer, Holladay, Houston, Thomas M. Howe, Thomas Y. How, Ingersoll, Ives, George W. Jones, George G. King, Preston King, Landry, Little, Lockhart, Meacham, Miller, Molony, Henry D. Moore, John Moore, Murphy, Murray, Newton, Olds, Orr, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Penniman, Reed, Riddle, Robbins, Robinson, Schoonmaker, Scurry, David L. Seymour, Origen S. Seymour, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, Stratton, Stuart, Sutherland, Sweetser, Taylor, Thurston, Toombs, Townshend, Walsh, Watkins, Wells, Alexander White, Wildrick, and Williams—89.

So the House refused to order a call of the House.

Pending the above vote,

Mr. MASON asked leave to vote, as he was transacting business in one of the committee rooms and not within the bar when his name was called; but objection being made leave was not granted.

The SPEAKER. The Chair has counted the members present, and finds that there are 127, which number constitutes a quorum.

The Journal was then read and approved.

The SPEAKER. The business first in order is the consideration of the Post Office appropriation bill, reported on yesterday from the Committee of the Whole on the state of the Union, with the recommendation that it do pass.

On motion by Mr. GROW, it was

Ordered, That leave be granted for the withdrawal of the papers in the case of William White, that they may be referred to one of the Executive Departments.

Mr. HENN. There is a Senate bill on the Speaker's table providing for the holding of an additional term of the United States district courts in the several divisions of the State of Iowa, which I ask the unanimous consent of the House to take up and put on its passage. It passed the Senate the last and previous session. It involves no appropriation nor change of salary. The judge informs me by letter that they are unable to do the business at one term, on account of conflicting with the State courts.

Mr. JONES, of Tennessee. I think that we had better proceed regularly with the business. We spent a whole day yesterday quarreling about the manner in which it has been conducted.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. I withdraw the motion to recommit the Post Office bill, and demand the previous question on its passage.

Mr. OLDS. I trust the gentleman will withdraw his call for the previous question.

Mr. HOUSTON. The gentleman from Ohio has an amendment directed to be offered by the Committee on the Post Office and Post Roads, which he desires to submit to this bill. If there be no objection to it I will withdraw the call.

There was no objection, and the call for the previous question was withdrawn.

Mr. OLDS. I am instructed by the Committee on the Post Office and Post Roads to offer the following amendment:

And be it further enacted, That from and after the first day of April next, in place of the compensation now allowed deputy postmasters, the Postmaster General be, and is hereby, authorized to allow their commissions at the following rates, on the postage collected at their respective offices in each quarter of the year, and in due proportions for any period less than a quarter, viz: On any sum not exceeding one hundred dollars, fifty per cent.; but any postmaster at whose office the mail is to arrive regularly between the hours of nine o'clock at night and five o'clock in the morning, may be allowed sixty per cent. on the first hundred dollars. On every sum over and above one hundred dollars, but not exceeding four hundred dollars, forty per cent. On every sum over and above four hundred dollars, but not exceeding twenty-four hundred dollars, thirty-five per cent. On every sum exceeding twenty-four hundred dollars, fifteen per cent. And on the amount of postages on letters and packages received at a distributing office for distribution, the postmaster at such distributing office may be allowed ten per cent.

Every postmaster, whose compensation shall not exceed five hundred dollars in one quarter, and the postmaster at New Orleans and Washington city, shall be allowed one cent for every free letter delivered out of his office, excepting such as are for the postmaster himself. But the special allowance now made by law to the postmasters at New Orleans and Washington city shall not otherwise be either increased or diminished.

Each postmaster who shall be required to keep a register of the arrival and departure of the mails shall be allowed ten cents for each monthly return which he makes to the Postmaster General.

Each postmaster may be allowed two mills for delivering from his office to a subscriber each newspaper not chargeable with postage: *Provided*, That the commissions and allowances hereby authorized shall be subject to the provisions of the forty-first section of the act entitled "An act to reduce into one the several acts establishing and regulating the Post Office Department," approved March 3d, 1825.

Mr. HOUSTON. I now call for the previous question.

Mr. HALL. I demand tellers on sustaining the call for the previous question.

Tellers were ordered; and Messrs. GAYLORD and BOCOCK were appointed.

Mr. ORR. I would suggest that it would be better we should hear an explanation of this important amendment from the gentleman from Ohio, [Mr. OLDS.]

The SPEAKER. Discussion is not in order.

Mr. JONES, of Tennessee. I submit to the Ghair the question whether the amendment is in order.

At the request of the Speaker the bill was read.

The SPEAKER. The bill appropriates money under existing laws to the Post Office Department. The amendment proposes to change the compensation of postmasters. In the opinion of the Chair, it is not in order.

Mr. OLDS. I will not take an appeal from the decision of the Chair.

The question was taken on seconding the call for the previous question, and it was sustained, the tellers having reported—ayes 86, noes not counted.

The main question was ordered to be put.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, it was, according to order, read the third time and passed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider on the table.

The latter motion was agreed to.

RECIPROCITY BILL.

The SPEAKER. The question recurs now on a motion to recommit the reciprocity bill submitted by the gentleman from New York, [Mr. SEYMOUR.]

Mr. SEYMOUR. As the desire has been manifested from some quarters of the House, that the consideration of this bill should not go on at the present time, inasmuch as the report accompanying which, was laid on our tables but yesterday, and as the bill itself is one of considerable detail, I am willing to accede to that wish, provided the bill shall not lose its priority in the morning hour. I am willing, if it be the pleasure of the House, that the bill shall stand over for consideration until to-morrow. I have made this remark on account of a suggestion made in certain quarters by gentlemen who desire to examine more fully the details of the bill and report.

Mr. JONES, of Tennessee. I think, considering the circumstances under which that bill came before the House, that the gentleman should let the motion to reconsider be voted down, and let the bill go into the Committee of the Whole on the state of the Union.

Mr. SEYMOUR. The gentleman from Tennessee has alluded to the circumstances under which this bill got before the House. I believe these circumstances are well understood by the House. I asked the unanimous consent to report this bill, and I stated at the time that I should move that the bill be considered at some future time, if it was the pleasure of the House. I reported the bill, and I then made the usual motion to recommit it to the Committee on Commerce, for the purpose of keeping it from going upon the Speaker's table, and at the same time moved that the consideration of the bill should be postponed until Thursday. I did that for the very purpose of giving the House an opportunity of examining the report, which I had assurances would be laid upon the table on Tuesday morning. It was apprehended, and so the gentleman from Tennessee stated at the time, that it would be making it a special order. I did not desire that it should be made so.

Mr. HOUSTON. Is the question debatable?

Mr. SEYMOUR. I move that the consideration of this bill be postponed until to-morrow, without prejudice to its priority in the morning hour.

Mr. BROWN, of Mississippi. If that suggestion is adopted, would we then go on with the call of the committees?

The SPEAKER. Yes; during the morning hour.

Mr. BROWN. Then I make no objection to it.

Mr. MEACHAM. I wish to ask whether postponing the bill would make it a special order?

The SPEAKER. It does not.

Mr. JONES, of Tennessee. It does, in effect, for it comes up in the morning hour.

The question was then taken, and it was decided in the affirmative.

So the consideration of the bill was postponed.

Mr. HOUSTON. I move that the rules of the House be suspended, for the purpose of going into the Committee of the Whole on the state of the Union.

CLOSE OF DEBATE.

Mr. JONES, of Tennessee. I offer a resolution to close debate upon the civil and diplomatic bill in one hour after the committee shall again resume its consideration, and I demand the previous question upon it.

Mr. STANLY. Is it too late to amend that resolution?

The SPEAKER. It is, until the demand for the previous question is disposed of.

Mr. STANLY. I hope the demand for the previous question will not be sustained.

The question was then taken upon seconding the demand for the previous question, and there were—ayes 59, noes not counted.

Mr. JONES demanded tellers; which were ordered; and Messrs. DAVIS of Indiana, and MCNAIR, were appointed.

The question being put, the tellers reported—ayes 76, noes 52.

So the previous question was seconded, and the main question ordered to be put.

The question was then taken upon the adoption of the resolution, and there were, on a count—ayes 55, noes not counted.

Mr. JONES demanded the yeas and nays; which were ordered.

The question was then taken, and there were—yeas 100, nays 73; as follows:

YEAS—Messrs. Aiken, Allison, John Appleton, William Appleton, Ashe, Bibighaus, Bragg, Breckinridge, Briggs, Brooks, Albert G. Brown, Burrows, Caldwell, Cartter, Caskie, Chastain, Churchwell, Clark, Clingman, Cobb, Colcock, Cullom, Daniel, John G. Davis, Dawson, Dimmick, Duncan, Dunham, Edgerton, Edmundson, Ficklin, Fitch, Freeman, Thomas J. D. Fuller, Gaylord, Green, Grow, Hall, Isham G. Harris, Sampson W. Harris, Hart, Hascall, Hendricks, Henn, Hibbard, Holladay, Horsford, Houston, Ingersoll, Ives, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Lockhart, Mace, Martin, Mason, McCorkle, McDonald, McNair, McQueen, Millson, Morrison, Murphy, Murray, Nabers, Olds, Orr, Andrew Parker, Peaslee, Penn, Penniman, Perkins, Phelps, Powell, Price, Reed, Richardson, Robbins, Robie, Robinson, Ross, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Skelton, Smith, Frederick P. Stanton, Stone, Stratton, Stuart, Thurston, Townshend, Addison White, Wildrick, and Woodward—100.

NAYS—Messrs. Charles Allen, Barrere, Bartlett, Bell, Bennett, Bowie, Bowne, Brenton, George H. Brown, Joseph Cable, Cleveland, Conger, Darby, George T. Davis, Dean, Disney, Dockery, Doty, Eastman, Fay, Floyd, Gentry, Giddings, Goodenow, Goodrich, Gorman, Grey, Hammond, Harper, Haven, Hebard, Hillyer, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How,

Hunter, James Johnson, John Johnson, George G. King, Kuhns, Landry, Little, McMullin, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morehead, Newton, Outlaw, Samuel W. Parker, Porter, Riddle, Sackett, Schermerhorn, Schoonmaker, Stanly, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Sutherland, Taylor, Toombs, Venable, Walsh, Washburn, Watkins, Welch, Wells, and Alex. White—73.

Mr. JONES moved to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

So the resolution was agreed to.

Mr. HENN, from the Committee on Enrolled Bills, reported as correctly enrolled the following bills, viz:

S. No. 271. An act amendatory of the existing laws relative to the half dollar, quarter dollar, dime, and half dime;

S. No. 624. An act to prevent in certain cases the failure or delay of justice in the courts of the District of Columbia; and

S. No. 397. An act for the relief of Rosanna Sowards.

The question was then taken upon Mr. HOUSTON's motion, that the House resolve itself into the Committee of the Whole on the state of the Union; and it was decided in the affirmative.

So the House resolved itself into the Committee of the Whole on the state of the Union (Mr. ORR in the chair) upon House bill No. 337, making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854.

The CHAIRMAN. When the committee rose upon yesterday, the gentleman from Virginia [Mr. BAYLY] was entitled to the floor.

Mr. BAYLY, of Virginia. Mr. Chairman, it has been my purpose, when the civil and diplomatic bill should be under consideration, to say something to this House concerning the condition of our foreign affairs—not with a view of saying what we would do, nor still less what we would not permit to be done by others in certain contingencies, because I know, from the history of the country, that declarations beforehand of what we will do, and what we will not submit to in certain contingencies, have led to embarrassment and no good. But I did desire, as far as my information went—and I believe it is pretty accurate—to let this House, and through it the country, know, as far as I am informed, the precise condition of our foreign affairs; but the absence of the chairman of the Naval Committee from the city, and of the chairman of the Committee on Indian Affairs, in consequence of sickness, made it necessary on yesterday that the chairman of the Committee on Ways and Means should change the order in which he had apprised us that these bills were to be taken up. Thus taken by surprise, I did not come here yesterday prepared to submit the remarks which I desired to make; and if I had been thus prepared, the character of the debate introduced by the gentleman from North Carolina would have made it exceedingly disagreeable for me to have entered upon the discussion I contemplated, not only because it would have seemed to have been incongruous to the thoughts running through the minds of members, suggested by that debate, but because there were allusions made in the course of that debate concerning the causes which have produced the delay in the business of the House, which, in my estimation, make it proper that I should say something in respect to it. In the course of that debate, it was frequently remarked that the delay and obstruction to the public business was owing, in a great measure, to the inefficiency of gentlemen who were at the head of the leading committees of this House. Although I know that none of these allusions were designed for me, and though I know this House understands this pretty well, yet, as I am at the head of perhaps the most important committee in this House, other persons may suppose those remarks were designed in part for me. Although the Committee on Foreign Affairs, in one respect, is a committee of very great importance, yet it has very little to do with the ordinary legislation of Congress.

We have few bills to report requiring the action of Congress. I desire to say, in justice to myself and that committee over which I am proud to preside, that there has not been a day when our docket has not been cleared. I have not called the committee together very often, because I knew how much members are occupied, and how inconvenient it is to be frequently called to the committee rooms. I have uniformly waited until there was enough upon our docket to occupy the morning, and then I convened the committee, and we have cleared it. One of the very causes of the obstructions to the business of this House has been the promptitude of that committee. Every one knows that the French spoliation bill, which lies near the bottom of that huge mass of bills upon the Speaker's table, creates to a great extent the difficulty of getting at the business on the Speaker's table; and the opposition by the enemies of that bill to going to that business, has been augmented by the fact which is well known, that very early in the last session of Congress, as soon as this subject was referred to that committee, a meeting of the committee was called, that subject acted upon, and that I was ready at any time to take it up; and that in consequence there would be no necessity to refer the Senate bill which is now on the Speaker's table, to the Committee on Foreign Affairs, as it had been well considered and already decided upon.

There were other remarks made by some gentlemen, among others by my friend from Missouri, [Mr. HALL,] which I certainly did not take unkindly, not only because they were not so meant, but because they were not so in fact. The gentleman undertook to say—in, for him, a very proper and merited defense for the Speaker, and the committees of this House—that the business now was in no worse condition than it was at the last Congress, when Speaker Cobb presided over the House, and when I was charged with most of the business of the House. The gentleman did not intend to do me injustice, but he did me injustice in that remark. I have already at hand a statement which shows how that committee at the last session of Congress discharged its duties. It will be recollected by such members as were here at the last Congress, that some time in June a very violent attack was made upon the Committee on Ways and Means. It was said that a majority of that committee were southern men. And it was charged with delaying the public business, by a distinguished gentleman from Ohio, [Mr. SCHENCK,] with a view of stopping the wheels of Government, if we could not get a satisfactory adjustment of the slavery question. It became my duty to reply to that attack, and I have nothing to do but read from the remarks which I then made to show the condition in which the public business then was.

On that occasion, June 14th, I said:

"Sir, I undertake to say, that since the change of the termination of the fiscal year from the 31st of December to the 30th of June, the rule, which the member has attempted to resuscitate, to found upon it an attack against the Committee on Ways and Means, has been obsolete. It not only has never been complied with at the long session of Congress since that time, but it has not been desirable or even proper that it should have been complied with. I have looked to the date of the report of the appropriation bills since that time, and it bears out what I say. But I shall only refer to the period at which those bills were reported by the Committee on Ways and Means of the last Congress. I select that committee, because its chairman is now present; because it was a Whig committee, and seems to be regarded by some as having been the paragon of a committee. That committee was appointed in the first week of the session. In consequence of the delay in organizing the House, the present committee was not appointed until after Christmas. Mr. VINTON reported at the last Congress, the Military Academy bill on the 25th of January; the revolutionary pension bill also on the 25th of January; the deficiency bill of that year and the Indian bill on the 29th of January; the fortification bill and the Army bill on the 31st of January; the navy bill on the 9th of February; the civil and diplomatic bill on the 9th of March; the Navy pension bill and the Post Office bill on the 7th of April. I reported the deficiency bill and the fortification bill on the 7th of March; the Military Academy bill on the 28th of March; and Army bill and the Navy bill on the 11th of April; the revolutionary and Navy pension bills on the 15th of May. I have reported to-day all the other bills, except the civil and diplomatic, which we are nearly ready to report; and those bills have been in my desk for a month, ready to be reported, and I have been prevented from reporting them by the member from Ohio and others acting with him. And indeed such was the case to a great extent with those which preceded them. In scarcely a single instance was I able to make reports of them as soon as they were ready to be reported. The House will bear me witness, that it has been with great difficulty I could prevail upon it at any time to proceed with the regular order of business. The House will testify that, from the beginning of the session, I have persevered in my efforts to induce it to do so; but in consequence of the exciting questions before us, it has been impossible for me to succeed one time in ten. Besides this, it will be recollected that early in the session I reported the bill to provide for defraying the expenses of collecting the revenue. This was a new bill made necessary by the act of the 3d of March, 1849. It was one which the Committee on Ways and Means were never charged with before. It was earnestly pressed upon our early attention by the Administration. Action upon it was considered so important that the President made it the subject of a special message. It was a new and important subject: it required close investigation, and it underwent it in the committee and in the two Houses of Congress; and notwithstanding the mass of business before us, we were without a clerk for two months after our appointment.

"But more than all this: the Committee on Ways and Means were forcibly struck with the enormous and, as they believed, unnecessary expenditures of this Government. We determined to scrutinize the appropriations asked for closely, and, if possible, bring them into reasonable limits. In this respect we have effected something; but, I am free to say, not a great deal. I became early convinced that no real and beneficial reform can be effected in this respect, without thorough and cordial sympathy and coöperation between Congress and the Administration.

"The committee will bear me witness, that although I had no clerk, in three weeks after my appointment as chairman, I had every one of our bills, which in the aggregate would make a small volume, drawn according to the estimates from the Departments, upon our table. And we could have reported them, if it had been desirable, in a few days. But if we had, they would have been little more than skeletons of bills. This is especially true of the civil and diplomatic bill. A day has not passed since we commenced our labors to this very morning that we have not received communication after communication from the Departments, transmitting changes of estimates, additional estimates, and asking for additional appropriations. If I had reported those bills promptly, I should have been compelled to have moved so many amendments in the House, that it would have devolved upon the House itself, instead of the Committee on Ways and Means, the responsibility of framing the bill, which everybody, at all acquainted with legislation, knows would be highly inconvenient, if not impossible. How, sir, was it with the deficiency bill? In the original estimates sent to us we were asked to appropriate $304,351 47. But before the bill became a law, new items were pressed upon us until it was run up to $2,575,501 33; and most of them were brought in by amendments, after the bill was reported. And does the House not recollect, that when I was moving amendment after amendment by direction of the committee, the member from Ohio [Mr. SCHENCK] attacked us for thus moving amendments of which the House had no notice; and complained that the House could not act understandingly upon them? But this is not all: on the day we acted on that bill finally in this House, after it had come back to us from the Senate, we were apprised of a deficiency in the Quartermaster's Department, of $600,000, and also of this deficiency which I am now asking the House to provide for. It will be recollected that I moved them as amendments to the Senate amendments, and they were ruled out of order.

"Other causes beyond our control have delayed us, particularly for the last two months. Two of our members have been in bad health most of the session. Others of them have been temporarily absent from the city. Two of them [Messrs. VINTON and HIBBARD] are on special committees—the former on the Ewing investigation committee; and he has been very little with the Committee on Ways and Means since that committee was raised. And although my friend from New Hampshire [Mr. HIBBARD] has elected to serve upon our committee rather than the select committee of which he is a member, whenever his presence with us would give us a quorum, yet his presence would not always do it; and for the last month we have been very rarely able to get a quorum. Every member of the committee will bear me testimony, that I have been constant in my attendance upon the committee.

"But, sir, what inconvenience has anybody suffered in consequence of our not having reported the civil and diplomatic bill? Does not every one know that it is always the last bill acted upon? I can say with certainty, that during the four Congresses that I have been here, it has never passed before the last night of the session; and although I have not looked to ascertain precisely how the fact is, I think I am safe in saying that such has been the case for half a century. Has the House acted upon the bills already reported? So far from it, does not every one know that it is impossible, in the present juncture, [the agitation of the slavery question,] to prevail upon it to take up any of the ordinary business of legislation? Such being the case, is it not obviously better, for the reasons I have suggested, that the civil and diplomatic bill should remain in the committee until within a reasonable period of the time when the House will be ready to act upon it?

"To enable the House and the country to appreciate the spirit in which the attempt to cast reproach upon the Committee on Ways and Means originated, I desire to call its attention to some remarkable facts. On the 3d of June, the member from Ohio [Mr. SCHENCK] asked this House to instruct the Committee on Ways and Means to report the appropriation bills without delay; thus evincing, apparently, great anxiety that they should be in the possession of the House. On the next morning, in pursuance of the course I had been following all along, I called for the regular order of business, which was the call of committees for reports. I stated that I had important appropriation bills which I desired to report. I only asked that the morning hour should be devoted to ordinary Congressional business. But a motion was made to go into the Committee of the Whole on the California message, the effect of which was, if it succeeded, to defeat my purpose. Well, sir, the member from Ohio, [Mr. SCHENCK,] and most of those who voted with him to introduce his resolution, voted to go into committee, and thus prevent the committees from reporting. They voted to prevent the very thing they had asked the House to instruct us to do! This is not all. On yesterday I again called for the regular order of business, which was the call of committees for reports. A motion was made to go into the Committee of the Whole on the California message. That the country might see who it was that was not willing to devote even the morning hour to our ordinary duties, I called for the yeas and nays, and thirty-six of the fifty one members who voted to suspend the rules to introduce the resolution of censure upon the Committee on Ways and Means, again voted, in effect, to

prevent the very thing they were willing to censure us for not doing. The following gentlemen thus voted: Messrs. Allen, Andrews, Ashmun, Bennett, Burrows, Joseph Cable, Cole, Corwin, Crowell, Doty, Giddings, Goodenow, Holloway, Hampton, Henry, Howe, Hunter, William T. Jackson, James G. King, John A. King, Preston King, Nelson, Otis, Pitman, Putnam, Risley, Rose, Rumsey, Schenck, Silvester, Sprague, Taylor, Tuck, Underhill, Van Dyke, and Winthrop.

"It is due to my friend and colleague on the Committee on Ways and Means from Pennsylvania [Mr. HAMPTON] to say that he has assured me, as several others have, that he voted to suspend the rules to introduce the resolution of the member from Ohio, [Mr. SCHENCK,] not with the view of sanctioning, but to enable me to make an explanation; and that when he voted on yesterday, he was not aware that I had not had an opportunity heretofore to report the bills which he knew I had been ready to report for a month. It seems he did not hear my statement that I had important bills to report.

"This is still not all. On this morning, after I had apprised the House that I was anxious to report a bill of the most pressing necessity—the one now before us—and one for the passage of which the Administration was most urgent, upon a motion being made to go into Committee of the Whole the member from Ohio, [Mr. SCHENCK,] and many others who voted with him on the 3d of June, voted to go into Committee of the Whole!

"The attempt has been made, Mr. Chairman, to create the impression that the southern members are determined that no appropriation bills shall pass, or any other legislation be had, until the slavery question should be settled; and the object of the movement of the member from Ohio was to implicate the Committee on Ways and Means, a majority of whom are southern men, in such a purpose. It is unnecessary for me to say to this House, that no such purpose on the part of the Committee on Ways and Means exists, or has existed. I say this is unnecessary, for our whole course here has disproved it. Nor do I believe that any such purpose exists with any considerable portion of the southern members; and to prove this, I can refer to the vote on yesterday, when every member from the slave States except one voted with me to proceed with the regular order of business.

"From the facts I have stated, the country will judge who is to blame for the delay of the public business—the Committee on Ways and Means or those who assail them.

"One word as to the bills before us, and I am done. The appropriation of last year for defraying the judicial expenses of the country has proved to be insufficient. This fact was not brought to our attention until it was too late to put it in the deficiency bill. The Secretary of the Interior assures me that there is a pressing necessity for the immediate passage of the bill. I am told that unless it can pass, the United States courts about to sit, cannot be held. Under these circumstances, I hope it will be the pleasure of this body to pass it to-day."

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"He says that I gave no good reason for the delay in reporting the appropriation bills. Was it no good reason that our time was much occupied early in the session with an unusual and important bill requiring much investigation? Was it not good reason when I showed that the estimates which are sent to us from the Departments are a mere sham compliance with the law, and that they are altered and added to, and added to, and altered from day to day, and that if a bill was founded upon them as first sent to us it would be no bill at all? Was it no excuse when I showed that circumstances beyond our control had often left our committee without a quorum? Was it no excuse when I showed that the member himself and others acting with him had thrown factious obstacles in the way of the transaction of the public business? Sir, what I have said is before the House, and it will go before the country, and it will judge whether I have given any good reasons for the delay, which, by the by, has incommoded nobody."

But, sir, the complaint at this time is not that the committees have not reported. The complaint now is not so much that there is not business before the House, as it is that the business that is before the House is not transacted. During that Congress you never saw any such pile of bills upon the Speaker's table as there is there now. We kept the Speaker's table clear. I know that we did it with a great deal of difficulty; but we did it, and I know that I made myself odious to a good many members who had local bills on hand—as gentlemen who served in that Congress will recollect—by "dragooning" the House, (that was the expression frequently applied to me,) to force on the public business of Congress.

Now, sir, the fault of the delay in the public business, as was correctly stated by the gentleman from Georgia [Mr. STEPHENS] yesterday, is not in the rules. The rules are good rules. They are easily understood and easily administered. But the Speaker cannot administer them alone and unaided. The heads of committees cannot do it. This House can control the heads of committees and even the Speaker himself to a great extent. One great obstacle to the transaction of the public business here is, that a rule designed for an emergency, is invoked every day for the most ordinary purposes. Sir, the rule enabling two thirds of this House to suspend the rules to take up a subject out of its turn, was designed for an emergency, but not for everyday resort. It was designed to facilitate the passage of bills of pressing importance, a delay in the passage of which, even for a day or two, might lead to injury of the public interests. That was the design of the rule. But how is it administered here? Why, sir, it is invoked upon every occasion, and for the passage of every ordinary bill that can be brought up. Members are too impatient to wait their turns in the regular order of business, and are continually resorting to that rule. Now, if members here would turn a deaf ear to personal importunity, and administer that rule in its spirit, in a short time the practice which now prevails would be abandoned

Then, sir, another and leading cause of the delay is that pointed out by the gentleman from Georgia. Members have each some bill or other that they have promised their constituents to pass; some measure of a local character, upon which they have electioneered in their districts, and in place of letting the business take its order on the calendar, as the business in all well-regulated tribunals does take its order upon the docket—they endeavor to show their zeal by a constant attempt to get it up out of order, the only effect of which is to block up the business of the House. The figure employed by the gentleman from Georgia, comparing it to the delay in emptying a house on fire, in consequence of the rush and confusion that takes place, is entirely appropriate. Sir, in the case of the burning of the Richmond theater, it is demonstrable that every human being in that building might have been easily saved if they could have been prevailed upon to walk out quietly and without confusion; they might have walked out even leisurely, and yet, in consequence of the struggling and scuffling of every one to get ahead, many were smothered in the flames and many more came out in a mutilated condition. So it is with the business of this House. It is the constant struggling and jostling and maneuvering on the part of members to get bills in which they feel a particular interest, ahead, that cause a great part of the delay in the public business.

The rules of the House, if properly administered, are good rules. They have proved to be so. This is the fifth Congress in which I have served. When I first came here, John W. Jones was Speaker of the House, and everything went on then as smoothly and as well as possible. Every morning, the committees were called for reports, and the Speaker's table was cleared. It is true, the appropriation bills were not passed early in the session, and I undertake to say that they ought not be passed very early in the session. They ought not to be reported too precipitately by the Committee on Ways and Means. That committee ought to have time to scrutinize the bills thoroughly. They ought to have time to put in all the appropriations that are needed, so as to obviate the necessity of offering amendments in the House, and of deficiency bills. In this way time is saved, and the transaction of business facilitated.

Mr. Chairman, as there has seemed to be the disposition on the part of some gentlemen to attribute the delay and obstruction of the public business in part to the Chair, and in part to the committees of the House, I have felt it my duty, as the Committee on Foreign Affairs might by some be supposed to be implicated, to defend it. We have never been for one day—we have never been for a single moment, unprepared for action upon any subject that belongs to us. The only question now upon our docket is that with regard to the fisheries, which will be decided to-morrow. The House is well aware that that subject was brought to our notice only a few days ago; and I also felt it my duty, in justice to myself, to the committee over which I presided during the last Congress, and to the honorable gentleman who was Speaker at that time and who is absent, to show that during that Congress there were none of the difficulties that are now complained of. I say further, that so far as the complaints made early in that Congress are concerned, those who made them retracted them before the close of the Congress.

Mr. Chairman, I had designed to have gone more fully into this matter, but I find that I have already overtasked my physical strength, and I am therefore unable to make this defense as complete as I had intended.

Mr. NABERS. Mr. Chairman, I had hoped that this short session of Congress would be appropriated entirely to business, and that members, as far as lay in their power, would avoid speaking altogether. I have observed that rule, so far as I am concerned. The published proceedings of the House will show, I think, that I have not occupied five minutes time in debate, from the commencement of the session up to the present hour. Sir, I have not refrained from speaking because I did not desire to speak; for I am free to confess that I am exceedingly fond of speaking. But I have never yet satisfied myself that it would be proper to speak, if in doing so, the legitimate and proper business of the country would be retarded. The particular kind of debate, however, which sprung up on yesterday, and which was introduced by the gentleman from North Carolina, [Mr. VENABLE,] has led me to a wish to occupy some twenty or thirty minutes of the time of the committee.

In the first place, sir, I wish to review my own short experience as a member of this body. It is a fact well known, that this is my first Congress, and hence, if I and other young members like myself, should be occasionally found out of order, particularly when you consider the vast number of rules which we have, I suppose nothing very strange would be thought of it.

But I was deeply impressed on yesterday with the idea that the very first speech I ever heard made by the gentleman from North Carolina was notoriously out of order; but by the courtesy of the committee it was allowed to go on nearly to the close of his hour, in utter violation of the rules of order; and allow me to say that the first speech I ever had the desire to make was in reply to that made by the distinguished gentleman from North Carolina, though, as a matter of course, if made at all it must have been made out of order. It will be recollected, therefore, that in rising to reply to the gentleman from North Carolina, on a former occasion, knowing as I did that I must reply to him out of order, if at all, I notified the committee that if they intended to call me to order, I desired they would do it at the beginning, and not subject me, young, modest, and inexperienced as I am, [laughter,] to perpetual embarrassment by points of order. Well, sir, some gentleman from the Old Dominion was kind enough to take me at my word, and call me to order, and thereby saved the time of the House, and perhaps saved me from inconvenience in not being allowed to go on and occupy my hour.

But, sir, do not understand me as taking any particular exception to the remarks of the gentleman from North Carolina on yesterday. I disagree with him in many respects, but we must discover the evil before we can apply the remedy; and I trust that the suggestions which are now going on in the House may lead to that discovery, and may also lead to the application of the proper remedy; but I submit to the gentleman himself, and to the committee, whether a lecture from him with regard to the rules of the House, and with regard to the decorum of members, comes with a good grace? Now, sir, a gentleman should not lecture his fellow-members upon matters of decorum, unless he is well satisfied that he comes here with clean hands. Sir, I undertake to say now, that if every member of this House had occupied as much time in debate during this short session as the gentleman from North Carolina has, there never would have been time to have taken one vote. [Laughter.] The calculation is easily made. We have but three months in the session altogether. Now, the gentleman from North Carolina, some time ago, occupied one hour in making a speech against stealing Cuba, or against filibustering. Yesterday he occupied another hour in speaking against the rules of this House. There are two hours, aside from his innumerable little incidental speeches every day or two. [Laughter.] All this time has been occupied by the gentleman from North Carolina during the present session of Congress. Now, appropriate as much time as that to every member upon this floor, and I say you would not have time to take a single vote, or transact any business during the session. You could not pass your deficiency bill, or any sort of bill. The House will recollect that we are in session not more than three or four hours, ordinarily, in any one day, and they can in a moment make the calculation of how much time we should have to transact business if we all were to occupy as much time in speaking as the gentleman from North Carolina has done.

Well, sir, in noticing, as the gentleman did on yesterday, the useless consumption of time in this

House, I was surprised that he should pass over one very prolific source by which the valuable time of the House is destroyed, and that is by making precisely such speeches as the gentleman has been regularly in the habit of making this session—I believe the ordinary term is "Buncombe." Who does not know that the Cuba question has never been regularly before this House? Who does not know that no proposition to remodel or to amend our rules has been submitted to the House? Yet two hours have been occupied by one single member during the present session in the discussion of such questions as these. Well, sir, it is well enough for a member to make a speech to inform his constituents that he is "right side up with care." [Laughter.] But, sir, as I have accidentally mentioned Cuba, I will say that I should like very much to make a speech upon that subject if I had the opportunity; but as it is, I will only make one remark with regard to the speech of the distinguished gentleman from North Carolina on that subject. He observed, among other things, that he had yielded to the wishes of the people of his State in regard to what are called the compromise measures. Sir, I recollect very distinctly that the gentleman from North Carolina opposed those measures, and chiefly for the reason then assigned by him, that its effect would be to restrict the area of slavery. But in his speech the other day, he opposes the acquisition of Cuba for the reason that its acquisition would go to extend the area of slavery, or would draw slaves away from his and other States.

Mr. VENABLE. Will the gentleman allow me a word by way of correction?

Mr. NABERS. The gentleman from North Carolina made so heavy a speech againt these——

A MEMBER. "Injections."

Mr. NABERS. Yes, "injections," that I hardly know whether I ought to allow the gentleman. I am rather unwilling to submit to the infliction. [Laughter.]

Mr. VENABLE. I only wished to correct the gentleman in point of fact.

Mr. NABERS. If the gentleman is under the impression that I have misstated what he has said, I will allow him time to correct.

Mr. GIDDINGS. I desire to know whether, under the Baltimore platform, these gentlemen have the right to agitate? I raise that question of order.

The CHAIRMAN. The question is not a legitimate one for the Chair to decide.

Mr. VENABLE. I am doubly indebted to the courtesy of my friend from Mississippi, which I assure him I asked with great reluctance. I objected to the compromise measures because they limited the area of slavery upon our own territory. But I object to filibustering, and the acquisition of Cuba, because we have no right to extend the area of slavery upon the territory belonging to anybody else.

Mr. NABERS. Mr. Chairman, it is no part of my purpose to speak upon that subject. The speeches of the gentleman from North Carolina upon the various subjects to which I have alluded, are in print, and any one, therefore, who feels sufficient interest in the subject to ascertain his opinions, can examine them; but I think *the reason* against the acquisition of Cuba was a very strange one coming from *him*—very strange. There may be, and doubtless are, good reasons why Cuba should not be annexed; but I ask the gentleman himself whether *this* particular reason does not sound strangely as compared with his uniform arguments touching the interests of the slaveholding States of the Union?

But I desire to confine myself mainly to some points with regard to our rules. The gentleman from North Carolina seems solicitous to make the impression that if every member of the House had been as anxious to promote the business of the House as he was himself, these bills for the relief of injured orphans and suffering widows, and everything of that sort, would not now be undisposed of, but your entire calendar of private bills would have been cleared. Every claimant upon the justice of the Government would be satisfied. But I have already shown you that according to his mode of advancing the public business, it would be totally and utterly impossible to transact any business at all. It will be remembered, that a short time since a resolution passed providing for holding night sessions; and would any member who heard the speech of the distinguished member from North Carolina have supposed for a single moment that he fought those night sessions to the death? But he did oppose them. Yet if his speech of yesterday remains unanswered, the impression will be created throughout the country that these night sessions were opposed by every member in the House, except the gentleman from North Carolina, who desires so much the passage of every private and public bill before Congress.

There is another incident which occurred during the gentleman's speech, to which I ask the attention of the House for a moment. He made a labored argument against the rules of this House; but at the conclusion of that speech, he wound up by the candid confession that he knew nothing about them. In the progress of his remarks, the gentleman ought to have said that one great reason why the business of the country is so much retarded, is because we speak so much upon questions about which we know nothing, or, in other words, we speak so much upon the "*third head.*"

Several MEMBERS. What is that?

Mr. NABERS. I will tell you. Upon a certain occasion, a speaker got up and said to his audience, "Gentlemen, in the first place, I will tell you what I know and you do not know; in the second place, I will tell you what you know and I do not know; and, in the third place, I will tell you what *neither you nor I know anything about.*" [Laughter.] Now, the speech of my distinguished friend from North Carolina against the rules, in this House, was, by his own confession, a "*third-head*" speech; for it was a speech in relation to a subject of which, by his own acknowledgment, he knew nothing.

Now, it is a rule of universal application, that we should never condemn that about which we are not informed; for if you act upon this principle, what cannot you condemn? You may condemn the best system of government the world has ever seen. You may condemn, if you choose, the very light which comes from God out of heaven. I repeat, there is nothing you may not condemn, if you condemn everything you do not understand.

There was another fancy touch in the speech of the gentleman from North Carolina, and that is the foul monster—a majority. I do not know that the gentleman meant to leave the impression upon the public mind that our Government or our list of rules, which can be controlled by a majority, is the fearful tyrant of which he spoke. But I do not hesitate to say, if he means to create the impression that our Government, where the will of a majority rules, is oppressive and tyrannical, that he knows as little about the Government as he does about our rules. [Laughter.] Every man in our Government is conscious that such is not the fact. We know that our limbs are unfettered, our minds are free, and that we never have, and never will call any man master. The gentleman refers to the one-man power, and to the will of the majority. But is it not a notorious fact that the very rules upon which this assault has been made, were designed to protect the rights of the minority? And has not that gentleman himself resorted to the privilege given by the rules to stave off what are believed to be unwholesome measures—to a call for the yeas and nays, motions to adjourn, and to the various other stratagems known to the rules by which you may stave off unwholesome measures? I have no doubt the gentleman himself has often resorted to those means that are called revolutionary, for the purpose of defeating measures to which he is opposed, and when the gentleman succeeds, he puts on as complacent an air as any gentleman I ever had the pleasure of meeting. [Laughter.] All right—all perfectly in accordance with law, the rules, and the Constitution, provided that the particular taste of the gentleman from North Carolina is satisfied, but if not it is all tyranny and oppression.

Mr. Chairman, I do not know that I can notice all the vulnerable points which I observed in the gentleman's speech of yesterday; but there are one or two others to which I must pay a passing compliment. Among the other subjects of complaint on yesterday, was one against the hour rule, by which speeches are limited to that time. In my humble judgment, it is the most sensible rule this House ever adopted. I do not know, if we would adopt a rule to limit speeches to one half hour, but it would be better than the hour rule which we now have. But am I authorized to infer from the gentleman's complaint against the one-hour rule, that he measures the value of his speech by its volume? I hope not, because it is notorious to almost every individual who hears me to-day, that the most unmeaning speeches are generally the most voluminous. Why, a man who is in the habit of talking any how about little or nothing, can talk a day or two about nothing at all. I believe either myself, or the gentlemen from North Carolina, can do it. If we are to have such members in this or the other branch of Congress, what will be the result? Why, sir, they will kill off any measure by speaking against time. But sir, in a body, embracing so large a number of members as ours, if the rule as to the time to be occupied in debate is unlimited, it is notorious that among talking members like myself, and a few others I could name, we never should reach the legitimate and proper business for which we are assembled here under the Constitution and laws of the country.

Some gentleman yesterday went back to olden times, when our rules originated. How rarely, in the early days of this Republic, did gentlemen occupy more than one hour upon any one important question? Rarely, very rarely. These lengthy speeches seem to be of comparatively modern date. The great statesmen of Europe, at the present day, make very short speeches on important subjects. The greatest men of our times, as a general thing, are brief in their public speeches, and if more than one hour is necessary to submit their remarks, they resort to the pen, and in that way place before the country matter which the limited period of a single hour would never allow them to bring before the country.

I trust, then, sir, that this hour rule will never be repealed. If any change is to be made, the time which we occupy in debate should be limited to even less than one hour.

I presume the whole country will understand now—not from anything I have said, but from the speech of the gentleman from North Carolina, and the reply of other gentlemen—the true cause which has retarded the progress of business in this body.

I am as deeply solicitous to have the public and private business disposed of as the gentleman from North Carolina can be. I may venture to say that I am even more so, and I think the Journal of the House will prove, that up to this morning, while the gentleman from North Carolina has consumed more than two hours in debate, I have not consumed more than five minutes. The Journal will show that from the beginning of Congress up to the present time, that gentleman has consumed two dozen minutes to my one. And what I claim for myself is more than true in regard to the great mass of members upon this floor. Most of them have never uttered a syllable upon any subject. They have not even sought to obtain the floor; have not even said so much as "Mr. Speaker," with the modest wish of participating in the debates of the House.

If the responsibility of delay is to rest anywhere, let it rest in the proper place, and let not gentlemen who go into these lengthy Buncombe speeches, endeavor to shift the responsibility upon the shoulders of others who sit here from day to day and cast their votes upon the legitimate business before this body. I say, let it rest where it belongs.

The true rule, as insisted upon yesterday, is, not to take up the time of the House in a war upon the rules, but by a strict and faithful application of them. By that means, and no other upon the face of the earth, can the public business be advanced.

Again: it was observed by the gentleman from Georgia, [Mr. STEPHENS,] yesterday, that we have but one or two rules which have been made during the last twenty-five years. That, I have no doubt, is true, and although I do not pretend to understand the rules of this House as thoroughly as I desire, yet I am satisfied that they have been made, from time to time, by the most intelligent body of men that ever assembled in this city. Those rules have been adopted from the necessities of the case, and I presume there are but very few rules that have not been suggested by some particular condition of business before the body which made them.

It is folly, therefore, to talk about the rules re-

tarding business, so long as gentlemen are unwilling to abide by and execute those rules. Is it not fairly within the range of probabilities that the fault lies with us, and not with the rules?

I was astonished that the gentleman from North Carolina should have acknowledged that there was anything which he did not understand, and especially the rules of this House. He has been here six years. Could not a hundred and forty or a hundred and fifty rules be understood in that time? It is certainly a very strange position. I will venture the assertion, that in his school-boy days, his teacher compelled him to learn double that quantity in less than twelve months. It seems that a generous and confiding constituency have given him a seat upon this floor for six years, and yet he is totally uninformed in regard to the rules which govern this body. Now a great many people, who are unsophisticated, would say that if the gentleman had applied himself with any degree of industry for six years to the study of our rules, and could not understand them, it would be time to quit. [Laughter.] A great many would come to the conclusion, that if a hundred and fifty rules could not be mastered in six years, it is rather a failure. That would be only twenty-five rules a year. Now what an effect is this announcement of the gentleman from North Carolina calculated to have upon young aspiring gentlemen like myself? It would be as much as to say: "Give it up at once, and do not try to master these rules. We are to look on the understanding of them as a hopeless task." But I am, however, willing to give them one more trial. I believe myself, that any member of this body who sincerely desires to be acquainted with the rules can do so, at least to the extent to be enabled to keep himself in order; and allow me to say, that when each member is sufficiently well acquainted with the rules to keep himself in order, there will be no danger of a recurrence of those disorganizing scenes which now happen almost every day on the floor of this House. I promise to keep myself in order from this time till the adjournment. It is only fourteen days, and during that time, I think I can behave myself. I presume that every member can keep good behavior during that time, at least, if Sundays be excepted. [Laughter.]

The session must soon terminate, and a small question will be submitted to a good many of our constituents before we again return here, as to our capability of understanding the rules and doing a great many other genteel things. [Laughter.] What will be the result of their decision I am not prepared to say; but it is the nature of men, the gentleman from North Carolina and myself especially, as we have the lump of hope largely developed, to believe that everything will be most propitious. [Laughter.] We do not desire the next Congress thrown into gloom by the ascertained fact that we are not to be here. No, sir; we love the country too well for anything of that sort. [Laughter.] And I have not a particle of doubt that we will go home and tell our people that we are, to the best of our knowledge and belief, among the cleverest of men.

I would ask the Chairman how many minutes remain before the expiration of the time fixed for the closing of the debate on this bill?

The CHAIRMAN. About two minutes.

Mr. NABERS. I will now follow the example of my distinguished friend from North Carolina, who, though he gives what are called down in my country "scissors," never fails to wind up by apologizing. No matter how severely he may have assaulted an antagonist, he generally closes by a bland smile, and tells him that no harm was intended. I mean no harm to the gentleman from North Carolina. The first speech I desired to make was intended to be in reply to one of that gentleman's, but I did not get an opportunity to make it. I trust there never will be any occasion in the future for the slightest conflict between that worthy member and myself. I think, however, that he commits some very serious mistakes. I think, further, that the entire weight of this Government is not on his shoulders. [Laughter.] That is the error my friend labors under. He seems to be greatly impressed with the fact that the well-being and success of this House and this Government largely depend on his own individual exertions. If he does not say that he *looks* it. [Laughter.]

The CHAIRMAN. The hour for terminating the general debate, under the resolution of the House, has expired, and the gentleman from Alabama is entitled to one hour, under the rule, to address the committee.

Mr. HOUSTON addressed the House an hour, in reply to the remarks of the gentleman from Georgia, [Mr. STEPHENS,] of yesterday, concerning the causes of delay in the transaction of the public business. He defended his own position as chairman of the Committee on Ways and Means, and went on to show that so far as he and the committee of which he was chairman was concerned, the remarks of the gentleman from Georgia were inapplicable. [His speech will be found in the Appendix.]

Mr. BOWIE. I would inquire how much of the hour to which the gentleman from Alabama is entitled yet remains?

The CHAIRMAN. About seven minutes.

Mr. BOWIE. I desire to occupy a little——

The CHAIRMAN. The gentleman from Maryland can occupy the remaining time of the gentleman from Alabama only by unanimous consent.

Mr. CLEVELAND. I object.

The CHAIRMAN. The Clerk will proceed to read the bill by clauses, when amendments will be in order.

The Clerk then proceeded to read the bill by clauses; when—

Mr. BRENTON offered the following amendment to the clause which provides for the compensation and mileage of members of the House of Representatives:

"That from and after the 3d day of March, 1853, there shall be paid to each Senator, Representative, and Delegate in Congress, a salary for his services of two thousand dollars per annum; one half thereof to be paid upon his attendance at the first session of Congress begun in any year, and the other half at the end of the same session. And the Secretary of the Treasury shall deduct from the compensation to be paid as aforesaid, at the end of the session, ten dollars for each day the member or Delegate may have been absent from his seat during the sitting of the House of which he is a member, unless such absence was occasioned by his sickness, or the sickness of his family. Each Senator, Representative, and Delegate, shall state at the end of each session how many days he hath so absented himself, and verify his statement on oath; and if any Senator, Representative, or Delegate, shall refuse to furnish such statement, no payment shall then be made to him."

Mr. HOUSTON. I raise a point of order upon that amendment.

The CHAIRMAN. The Chair then rules the amendment out of order.

The Clerk resumed the reading of the bill.

Mr. HOUSTON. I move to amend the clause "for the contingent expenses of the Senate," by striking out the word "contingent."

The question was taken, and the amendment was agreed to.

The Clerk continued the reading of the bill, and proceeded as far as the clause "for the contingent expenses of the House of Representatives," when

Mr. HOUSTON moved to amend that clause, also, by striking out the word "contingent."

The question was taken, and the amendment agreed to.

Mr. BROOKS. I do not know that I shall have another opportunity to make an inquiry, and that I may do so now, I move, *pro forma*, to strike out the clause last read.

At the last session of Congress, in the civil and diplomatic bill, there were appended to the item for the purchase of books, two provisos, one of which was, that the account for the purchase of said books should be audited as usual by the Committee on Accounts. The second was, that a report in detail should be made at the commencement of this session of Congress, of the mode and manner of purchase of those books, and whence they were obtained. I rise to say, that notwithstanding the provisions I have referred to, I have not seen this session any such report, and I do not know that the requirements have been in any form complied with. If they have, I should be happy to be so informed by any member of the House. It is a strict and rigid provision of law, and before we proceed to appropriate for the contingent expenses of the House, it is necessary to ascertain whether these provisions of the law have been complied with. If any such report has been made, I have not been able to find it, or to ascertain where it is.

Mr. BRECKINRIDGE. I am authorized to say that the Clerk did not make the report at the beginning of the session, because there was nothing that could be reported under the law. The books had not been obtained, and the accounts were not in a condition to be rendered. But the report is now ready to be made, and will be made in a day or two. The present Clerk has furnished more books to members of Congress than any other Clerk up to this period has done heretofore.

Mr. BROOKS. I withdraw my amendment, if there is no objection.

No objection was made, and the amendment was withdrawn.

The Clerk proceeded with the reading of the bill, when—

Mr. HOUSTON, said: I move to strike out the clause "for draughtsmen and clerks on maps, $7,500." The subject-matter of this clause was discussed at the instance of the gentleman from North Carolina [Mr. STANLY] on the deficiency bill. I am satisfied that the Land Office, with its present force of clerks, can discharge that duty, and that this appropriation is unnecessary. I will state to the House, in this connection, that there is an appropriation for this purpose, already made for this year, which runs to the 30th day of June next. The appropriation which I propose to strike out would commence on the first of July next, and run to the 30th of June, 1854.

Mr. HALL. Will the gentleman from Alabama state whether he has satisfied himself, by inquiry, whether the Land Office clerks can attend to this business?

Mr. HOUSTON. That is my impression from conferences I have had with several individuals in the Land Office.

The question was taken, and the amendment was agreed to.

The next clause was then read as follows:

"For temporary clerks to committees, $4,500."

Mr. STANLY. I move to strike out that clause. The chairman of the Committee on Ways and Means knows more about these bills than all of us do, for, much to his credit, he has been far more attentive to the business of that committee, than any other member of it; but I certainly should like to have him explain this clause. Why is it, that these temporary clerks are provided for by an appropriation to the extent of $4,500?

Mr. HOUSTON. That appropriation is intended to compensate any clerks who may be ordered by the House for any of the standing committees of the House. It is not an unusual appropriation, though it is unusual in its present form. This item has heretofore been included under the head of "miscellaneous items."

Mr. STANLY. I would rather put it in the form of a miscellaneous or contingent item, for the reason that we have then a fund for the payment of these clerks, and surely we cannot appropriate to them anything like the amount of $4,500. Now, I know of but one committee that uniformly has had a clerk, and that is the Committee on Ways and Means.

A VOICE. The Committee on Claims has a clerk.

Mr. HOUSTON. That is provided for in another place.

Mr. STANLY. We made a special appropriation for that committee the other day. There is an abuse in this matter, which I wish to see corrected. We are getting into this practice by degrees of having clerks for committees, and there ought to be a stop put to it. We ought not to make an appropriation of $4,500 for temporary clerks. Certainly, if that appropriation is made, it will be expended. I hope the clause will be striken out.

Mr. HOUSTON. I certainly will go with the gentleman from North Carolina in favor of striking out from this bill everything which it should not contain; but it is necessary, I think, that something should be appropriated, and I would greatly prefer to see it appropriated under this one specific head, than under the general head of contingences; for if you put it under this latter head, it may, by a simple resolution, be appropriated and applied to any other purpose than the payment of the clerks. Now, if the House allows it to stand as it is, under this head of appropriation, only so much will be absorbed as may be ordered by the House, and if it is not consumed in paying clerks of committees, it cannot be appropriated to any other purpose.

Mr. SACKETT. I would inquire of the gentleman from Alabama if this appropriation applies to clerks employed by authority of the House?

Mr. HOUSTON. It applies to clerks that are employed in the committees of the House. Now, gentlemen around me say, and I understand the gentleman from North Carolina [Mr. STANLY] to say, that only one committee of this House has a clerk. The clerk for the Committee on Claims is provided for in another bill. Then the Committee on the Post Office and Post Roads have a clerk. They had one at the last session and they have one now. I am inclined to think that the Committee on Commerce has a clerk, but I am not sure.

Mr. DUNCAN. They have.

Mr HOUSTON. Then there are three committees that have clerks. This appropriation is intended to cover the long session of Congress, and there will not be much left after paying the three clerks.

Mr. STANLY. If I understand the argument of the chairman of the Committee on Ways and Means, it is, that by letting this appropriation stand as it is it cannot be exceeded. But what prevents the House from employing other clerks, and paying them out of the miscellaneous items? I know the object of the chairman, but he does not secure it.

Mr. HOUSTON. The miscellaneous items are intended to be devoted to other objects. Under the head of "miscellaneous" we comprehend various small items contained in the Clerk's estimate; and if you take any of the money appropriated for these items for the purpose of paying the clerks, there will consequently be a deficiency in regard to the particular items for which the appropriation was made.

The question recurring upon the amendment offered by Mr. STANLY—

Mr. McMULLIN demanded tellers; which were ordered; and Messrs. DAWSON and GOODENOW appointed.

The question was then taken, and the tellers reported—ayes 69, noes not counted.

So the amendment was agreed to.

The Clerk proceeded in the reading of the bill, to the clause, "For miscellaneous items $10,000," for the House of Representatives.

Mr. HOUSTON. I move to strike out "ten" and insert "twenty" in that clause. I will state the reason why I move that amendment. Upon an examination of the estimate submitted by the Clerk, for miscellaneous items, which amounted to $40,000, the Committee on Ways and Means determined to reduce it to $10,000. But from the investigation made in the House the other day upon the deficiency bill, in which the various items which are chargeable to this fund were enumerated, I am satisfied that $20,000 is needed. That is the reason why I introduced the amendment. If it is adopted, that will be a reduction of $20,000 from the original estimate.

Mr. STANLY. If I mistake not, in the deficiency bill we increased this item from $6,000 to $24,000.

Mr. HOUSTON. Twenty-four thousand dollars was the original estimate in the deficiency bill, and we reduced it to $6,000. On the discussion before this House a gentleman produced the items which were to be met by this miscellaneous fund, and that list of items amounted to $24,000. I propose now only $20,000 for the whole year.

Mr. STANLY. I do not like to cipher out matters in that way. I do not blame the chairman for his efforts at economy. Economy is desirable. When it can be effected it should be. But this is not the mode to accomplish it. The committee asked $6,000, and we increased it to $24,000. Now they ask for $10,000, and it is to be increased to $20,000, on the motion of the chairman. I think we are throwing a great deal of money into the hands of some one, but I suppose the Clerk has the disbursement of it.

Mr. HOUSTON. The estimate of the Clerk was $40,000 for these items. We propose now to make it $20,000, which is a reduction of one half. If the gentleman will refer to the written communication from the Clerk to the Committee on Ways and Means, he will see the various items.

Mr. TOOMBS. I propose to amend by reducing the amendment of the gentleman from Alabama one dollar.

Now, I am perfectly willing to vote what is right; but I do not conceive that the House should vote money when the committee cannot tell what it is for, and when no one else can tell what it is for. The Clerk asks of us $40,000, and we are told that we get off very well if we vote only $20,000. When we ask what it is for, the Chairman says that there is a list somewhere to explain it. If a gentleman makes a motion to increase the public expenditure, he should give a reason for it. I will not vote a dollar unless I know what it is for. Because the Clerk asks $40,000 is no reason why I should vote $20,000. If he asks $40,000, and you give him $20,000, that is a good reason why I would give him none. Therefore, I hope this amendment will not pass.

Mr. HOUSTON. When the committee investigated an item in the deficiency bill similar to this, it was determined to appropriate for the remainder of the year $24,000. The Clerk of the House estimated for miscellaneous items $40,000, and the correspondence between the Committee on Ways and Means, which is published in our documents, shows that a part of that amount was intended to cover the extra compensation voted last year to the clerks, messengers, and other officers about the Capitol. The committee, in endeavoring to prevent that, cut it down to $10,000. The subject has not been before the committee since, and I make this motion to restore it to $20,000, based on what occurred in the discussion on the deficiency bill. The appropriation of $20,000 is intended to cover such items as $1,500 for boxes, and the expenses attending the burial of deceased members of Congress.

Mr. TOOMBS. I always understood that we paid for our own boxes, and I would inquire whether that item is a usual one? I think it is not.

Mr. HOUSTON. It has been usual, I understand, to pay for boxes to hold members' books out of this fund. Of that, however, I am not, and cannot be particularly advised. I know that in the correspondence between the committee and the Clerk of the House there was an item of $1,500 or $1,800 for boxes. Then there are the expenses attending the burial of members who may die during the session of Congress, or in this city after its adjournment, and also the expenses of special committees and the salaries of their clerks, such as the one which was left in existence at the termination of the last session. There are a great many items. I voted against the continuing of a special committee during the last recess, but a majority voted otherwise, and we have now to foot its bills. We have not only to pay the expenses and salary of its clerk, but the per diem and expenses of the members constituting it.

Mr. TOOMBS. This is for the next fiscal year, and it is not for footing any bill for the present year. It cannot be so applied.

Mr. HOUSTON. The gentleman did not understand me, or he was not paying attention to what I said. I did not say it was for this, but the next Congress. But is it to be presumed that none of the members of the next Congress will die? I wish we could believe so. As deaths do occur in every Congress, and at every session, is it not proper that we should make provision to meet such necessary expenses? There are many items constituting this miscellaneous fund. I have not a list of them, and if I had, they would make up full $20,000, and I fear a little over that amount.

Mr. TOOMBS, by unanimous consent, withdrew his amendment.

The question was put on the amendment of Mr. HOUSTON, to strike out $10,000, and in its place insert $20,000, and there were, on a division—ayes 47——

Mr. STANTON, of Kentucky. I demand tellers.

Tellers were ordered.

Mr. HOUSTON, by unanimous consent, then withdrew the amendment.

The following item was read:

"For compensation of the Secretary of State, and the clerks, messenger, and assistant messenger, in his office, $33,700."

Mr. TOOMBS. I would inquire of the gentleman from Alabama, whether these items are based on the extra compensation voted at the last session or not?

Mr. HOUSTON. The estimates were not based, except in one or two instances, on the extra compensation voted at the last session, and those were cut off. This is in regard to salaries of clerks, &c.

Mr. HOUSTON. I move to strike out from the following item under the head of the State Department:

"For printing, letter-press, and copperplate books and maps, $2,000"—

the words "printing, letter-press and copperplate," and to reduce the appropriation to $1,890 70.

I am instructed by the Committee on Ways and Means to move a large class of the same kind of amendments. Though small in themselves they amount to a good deal in the construction of the law of the last Congress in regard to the public printing. At the time this bill was before the Committee on Ways and Means the estimates were regarded as they have been heretofore, and those for the Departments were embraced under their respective heads. Since that time the committee have determined to ask Congress to make appropriations for the printing according to the estimates of the Superintendent of the Public Printing, who is the responsible officer of the Government for the execution of the printing. And, under their instruction, I intend to move to strike out under the various heads of estimates for Departments, the word "printing" wherever it occurs, and to make the appropriations conform to the estimates sent to us by the Departments since the bill was before the House.

Mr. TOOMBS. I would inquire of the gentleman what the class of printing is he proposes to strike out? What class is done by contract?

Mr. HOUSTON. For the present and the next year there are no contracts, and the class of printing proposed to be stricken out is such as is done by the Public Printer, under the law of the last session of Congress.

The amendment was agreed to.

Mr. HOUSTON proposed subsequently, in accordance with the intention above expressed, to strike out all the items of appropriation for printing in the State and Treasury Departments; which amendments were severally agreed to.

Mr. STANTON, of Ohio. After the following:

"For compensation of the Commissioner of Customs, and the clerks and messenger in his office, $16,500;"

I move to insert the following:

And in settling the accounts of all officers of the customs for their services in ascertaining and collecting the revenue arising from duties on imports, the Commissioner of Customs, and all other accounting officers of the Treasury, shall be governed by the third section of the "act for the support of the Military Academy of the United States for the year 1838," approved July 7, 1838, as the same was revived and continued in force by the seventh section of the "act for the relief of Chastelain & Ponnert," approved July 21, 1840, until a different rate and rule of compensation shall be expressly prescribed by law.

I will make a brief statement, which I think will satisfy the committee of the necessity for this amendment.

Mr. HOUSTON. The gentleman had better offer his amendment as a separate section. I think that it is a desirable one, and that it ought to become the law. The Commissioner of Customs is located here in the Treasury Department, and has nothing to do with the collection of customs. The gentleman had better, I will repeat, offer it as a separate section, and make it a continuing law, so that it will not be construed to expire with this item to which he now submits it.

Mr. STANTON. It is a matter of no consequence to me where it comes in. I will withdraw at for the present.

The following item was read:

"For compensation of the clerks of the Light-House Board, $5,900."

Mr. TOOMBS. I move to strike out that new item of expenditure, in order that I may ascertain some information with reference to it. I should like the gentleman from Alabama would explain the necessity for the employment of these clerks, and tell us what is their number and compensation?

Mr. HOUSTON. If I could see my friend from Maryland [Mr. EVANS] in his seat, I would turn this question over to him. He assured the House, when he was urging the creation of the Light-House Board, that it would be much cheaper than the old system. I would be glad to hear the gentleman on that point now.

A MEMBER. He is not here now.

Mr. HOUSTON. This item is strictly in accordance with the law of last session, by which the Light-House Board was created, and the super-

intendence of the system transferred from the Fifth Auditor to the Board. The clerks provided for in this section are those that were transferred from the other offices—one a $1,700 clerk from the office of the Secretary of the Treasury; the others (three, I believe,) from the Fifth Auditor's.

Mr. TOOMBS. I have asked the question of the gentleman, because by looking at the public documents, it will be seen that a department for the making of maps and charts was started by the same kind of appropriation.

Mr. PHELPS. The gentleman will find the whole matter explained in the eleventh section of the law passed at the last session.

Mr. TOOMBS. The gentleman is not giving us information, and I do not yield to him. The fact he states I presume to be well known to everybody. The question I have asked was a preliminary one. I would now ask the gentleman whether the clerks and messengers in the Fifth Auditor's Office have been diminished by the number required for the Light-House Board?

Mr. HOUSTON. The clerks in the Secretary's office have been diminished by one, about which clerkship a contest is now going on. A $1,700 clerk, who discharged duties pertaining to the light-house establishment, was transferred from the office of the Secretary of the Treasury to the Light-House Board. In the printed estimates, that office claims the clerk and the Light-House Board claims him also. We have stricken the appropriation from the Secretary's estimate, and given it to the Light-House Board.

Mr. TOOMBS. We then take one clerk from the Fifth Auditor's Office, and add three more additional clerks to the Board. I move, therefore, that the item be stricken out.

Mr. HOUSTON. Do not misunderstand me.

Mr. TOOMBS. I say we have given $4,500 and taken away only $1,700.

Mr. HOUSTON. There is no increase of clerks. They want an increase, but the committee report against it, and if this appropriation be granted, it transfers, by law, some clerks of smaller salaries to the Light-House Board, and no more.

Mr. TOOMBS. And will there be no additional compensation?

Mr. HOUSTON. There will be no additional compensation.

Mr. TOOMBS. Then I have no objection, and withdraw my amendment.

Mr. BROOKS. I propose to reduce the appropriation from $5,900 to one dollar. I predicted, at the last session of Congress, that this Light-House Board, which was going to cost nothing, would crop out in all of the appropriation bills. While we refused to create an Agricultural Bureau because of its expense, we established this Light-House Board, which is likely to increase the expenses of the Government to a far greater extent. At page ten other appropriations for the Light-House Board are found; and in the other appropriation bills this establishment, which would cost nothing, will appear in various forms. It has been established by law, and its expenses must be paid. I do not assail them, but merely desire to vindicate the truth of history. I have no doubt these clerks are necessary, but the Secretary of the Treasury says that he cannot do without those clerks who have been transferred from his Department to this Board, and he submits to the Committee on Ways and Means appropriations for them.

Mr. HOUSTON. The Secretary of the Treasury only estimates for the $1,700 clerk.

Mr. BROOKS. The Secretary of the Treasury says that he cannot do without the clerk taken away from him and given to the Light-House Board. It was impossible to create a Board without appropriating the necessary money to sustain it. I withdraw my amendment. It was only offered *pro forma*, that I might submit these few remarks.

Mr. WALSH. I move to reduce the amount. It will be recollected by the House that at the last session of Congress, this light-house matter was sprung upon us when we were considering the appropriation bills. There was this peculiarity about the movement: that we were called upon suddenly, without knowing anything of the expenses of the French system, to adopt the suggestions made by certain gentlemen in the Army and Navy with regard to the establishment of this new bureau and new jurisdiction. This feature was presented, to which I wish to call the attention of the House now, in connection with the vote on the subject of the armories, which was given the other day. It was the withdrawal of the whole labor connected with the light-houses from the ordinary control of the Treasury Department to put it in fact under that of army and naval officers, together with civilians, and subjecting all the rights and interests of such labor to this particular authority. If gentlemen have looked to the provisions of the law which was so hastily passed, and to the rules prescribed by this new bureau for their government, they will find—and I commend it to the attention of the Democratic portion of the House—that the patronage of the Government in the premises is withdrawn from its usual channel. I think it will be found that the appointment of the light-house keepers along the whole American coast will be dependent upon this military and naval commission, and not upon the constitutional appointing power. I may be mistaken, but this is my construction of the law and the rules. I objected to this thing at the last session. It was called a reform. I had always understood reform to be preserving money in the pockets of the people, and not indulging in permanent experiments; at least, not before you knew the cost.

And I always understood another reform to be this: to keep all the public officers and appointees connected with such a system as this, directly responsible to the appointing power constitutionally established, and that appointing power responsible to the people. It is not proper to leave the designation of any such agency to a board of military and naval officers. I wish to make this explanation in the House now, because there was no opportunity for discussion at all at the last session, and because after this system was adopted, wholesale charges of ignorance were brought against gentlemen who conscientiously gave their votes against it.*

Mr. DUNCAN. I regret that the gentleman on my left should take an occasion to make an undeserved attack upon the Light-House Board, and upon the system. I believe the appointment of that Board has met with the approbation of all nautical men throughout the country. That Board is industriously engaged in perfecting the light-house system of the United States, and in making a more efficient and a less expensive system than that under which we are acting. In regard to this appropriation for clerks, the clerks employed were to be taken from the Fifth Auditor's Office, and no new clerks are to be created. It must be obvious to gentlemen that there must be some incidental expenses connected with this Board. They must have a room provided for them, stationery, and other things. I presume it was expected that incidental expenses would occur from the constitution of the Board. Let it be remembered that an important saving may be effected, in the inspection of lights throughout the country. Under the old system, we paid the collectors a salary which did not exceed a certain amount—$400 to the collector of every district for the inspection of lights. That duty is now discharged by the military and naval officers, in the districts appointed for them, without any additional pay.

The last of all the objections which my friend from Maryland [Mr. WALSH] makes, is in regard to the patronage. Why, the patronage is not changed. The Secretary of the Treasury has now the appointment of light-house keepers throughout the country as much as he ever had before. I trust that there is no gentleman in this House who is particularly anxious that the light-house keepers should be changed with every change of the Administration.

If, by the appointment of this Board, competent men are once placed in the care of the light-houses, they should be kept in them. The compensation of these officers is small, and it is very important that competent, trustworthy, and experienced men should be placed in charge of the lights. The worst policy in the world would be to remove such men from their humble positions with every change of the Administration. The truth is that the law of last session made no change in that respect. The appointing power is bestowed upon the Secretary of the Treasury, just as it was before. They are nominated, as they were before, on the recommendation of the collectors, and the Secretary of the Treasury appoints them. I trust, however, that any Secretary of the Treasury would, in making these appointments, consult the Light-House Board, and learn from them whether the incumbent in office was trustworthy and fitted for his office, before he undertook to remove him and appoint an inexperienced person.

Mr. WALSH. I withdraw my amendment.

Mr. CARTTER. I move that the committee rise, with a view to an adjournment.

The question was then taken, and it was decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole had had under consideration House bill No. 337, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854, and that they had come to no conclusion thereon.

MARBLE STATUES OF THE PRESIDENTS.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to offer the following joint resolution, authorizing the Secretary of State to contract with American sculptors for marble statues of all the Presidents of the United States:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of State be authorized to contract with native-born American sculptors for full-length marble statues of all the Presidents of the United States, commencing with Washington, and taking them in the order in which they served; and that he report said contract to Congress at its next session.

And be it further resolved, That the statues aforesaid shall be done in American marble, and in the costume, as near as may be, of the persons they are intended respectively to represent.

Mr. JONES, of Tennessee. I object.

Mr. GOODENOW. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 224, for the relief of the widows and orphans of persons who were lost on board the schooner Grampus. A bill of a similar character has been passed here, and it is just that this bill should pass also.

Several MEMBERS. I object.

Mr. POLK. I move that the House adjourn.

Mr. CLARK. I ask the unanimous consent of the House to introduce sundry joint resolutions of the Legislature of the State of Iowa, respecting the passage of the homestead bill, the Des Moines river improvement, and the Half-breed tract, in said State. I should be pleased to introduce them for the purpose of reference.

Mr. GOODENOW. I object.

Mr. POLK. I now insist upon my motion to adjourn.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till to-morrow at eleven o'clock, a. m.

PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BROWN, of Mississippi: The petition and evidence of Alexander Lea, in addition to his petition and evidence heretofore filed, praying indemnity for losses sustained by him in the destruction of the light-house of which he was keeper.

Also, the petition of Thomas Brown and 25 others, citizens of Hancock county, praying the removal of the land office from Augusta to Shedsborough, Mississippi.

By Mr. JOHN W. HOWE: The petition of sundry inhabitants, citizens of the counties of Clarion, Venango, and Butler, Pennsylvania, praying Congress to establish a post road from Shippensville, Clarion county, via Emlenton, to Butler, Butler county.

Also, the petition of Jesse Morgan and others, citizens of the counties of Clarion, Venango, and Butler, Pennsylvania, praying Congress to establish a post road from Shippensville, in Clarion county, via Eden, Jefferson, Lamartine, Agnew's Mills, Emlenton, and North Hope, to Butler, Butler county.

By Mr. ABERCROMBIE: The petition of citizens of Barbour county, in the State of Alabama, in favor of a removal of the land office at Sparta, in said State, to Elba.

By Mr. INGERSOLL: The petition of Nathaniel W. Taylor and others, citizens of New Haven, Connecticut, for the adoption of such measures as may be proper and effective to secure to American citizens abroad the enjoyment of the rights of conscience and of public worship, and protection in the same.

* Since these remarks were made, Mr. WALSH has been informed, from a most respectable source, that the construction given by the Department to the act of the last session still retains the collectors of ports as superintendents of light-houses, and that said collectors have at this time the right to nominate to the Secretary such keepers. If this be the right construction, Mr. W. is of course mistaken in a part of his observations, but he cannot see *how* such a one can be maintained.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 1ST SESSION. FRIDAY, FEBRUARY 18, 1853. NEW SERIES.....No. 42.

IN SENATE.

THURSDAY, *February* 17, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. SUMNER presented a petition of citizens of the United States, principally residents of Boston, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of inhabitants and legal voters of Massachusetts, praying a reduction of the rates of ocean postage; which was referred to the Committee on the Post Office and Post Roads.

Also, a petition of seamen and others of Cape Cod, Massachusetts, praying the repeal of the tax on seamen's wages for hospital money, the establishment of schools for the education of youths for the mercantile marine, and a repeal of the law requiring two thirds of the crews of American vessels to be citizens; which was referred to the Committee on Commerce.

Mr. SEWARD presented a petition of citizens of Lansingburg, New York, praying that measures may be taken to secure religious liberty to American citizens abroad; which was referred to the Committee on Foreign Relations.

Mr. MORTON presented sundry joint resolutions from the Legislature of Florida; which were referred as follows, and ordered to be printed:

In favor of the establishment of a tri-weekly mail between Appalachicola, Florida, and Bainbridge, Florida. Referred to the Committee on the Post Office and Post Roads.

In favor of the establishment of a mail route from Thomasville, in Georgia, to Alligator, in Florida. Referred to the Committee on the Post Office and Post Roads.

In favor of the establishment of a mail route across the Isthmus of Tehuantepec to the States bordering on the Pacific. Referred to the Committee on the Post Office and Post Roads

In favor of an appropriation for the removal of obstructions to navigation in the Yellow river. Referred to the Committee on Commerce.

In favor of an appropriation for the removal of obstructions to the navagation of Shoal river. Referred to the Committee on Commerce.

Asking permission to use the United States arsenal, in Gadsden county, as a depository for the arms belonging to the State. Referred to the Committee on Military Affairs.

Declaring the intention of that State to enforce her rights, under the treaty of Payne's Landing, by expelling the Seminole Indians. Referred to the Committee on Indian Affairs.

Mr. BRODHEAD presented a memorial of steamboat companies and others, of Philadelphia, interested in carrying passengers and freight by steamboats, praying that the late act of Congress to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, may be modified, suspended, or repealed; which was referred to the Committee on Commerce.

Mr. PRATT presented a memorial of steamboat companies and others, of Baltimore, praying that the late act of Congress to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, may be suspended or modified; which was referred to the Committee on Commerce.

Mr. DAVIS presented the petition of Alanson Norcutt, praying that a pension may be granted to the widow of William Norcutt for his services in the revolutionary war and the last war with Great Britain; which was referred to the Committee on Revolutionary Claims.

Mr. CASS presented two memorials of citizens of the United States, praying that a grant of land may be made for the construction of a ship canal around the Falls of Niagara; which were referred to the Committee on Commerce.

Mr. FELCH presented a petition of R. Shelden and others, praying the erection of a light-house at the mouth of Portage river; which was referred to the Committee on Commerce.

Also, the petition of R. Shelden and others, praying the establishment of a mail route from Copper Harbor to Ontonagon, Lake Superior; which was referred to the Committee on the Post Office and Post Roads.

Mr. BRIGHT presented the following resolutions passed by the Legislature of the State of Indiana:

Resolution in favor of a liberal appropriation for the improvement of Michigan City harbor;

Resolutions in favor of a grant of land to indemnify the State for loss sustained by the failure of the title of a portion of the lands granted for a seminary of learning;

Resolutions in favor of the grant of the right of way to the New Albany and Salem Railroad Company, and to other railroad companies; and a

Resolution in favor of the construction of a canal around the Falls of the Ohio on the Indiana side of the river.

The resolutions were ordered to lie on the table and be printed.

Mr. DOWNS presented a petition of the Faculty of the Medical Department of the Georgetown College, praying an appropriation for the erection of buildings, and the support of the Washington Central Infimary; which was referred to the Committee on the District Columbia.

HARBOR AT MILWAUKIE.

Mr. WALKER. Mr. President, when the bill providing for deficiencies was under consideration, I had occasion, upon an amendment which I offered in relation to the harbor of Milwaukie, to submit some remarks to the Senate in reference to what was the supposed determination of the Chief of the Bureau of Topographical Engineers in regard to that matter. This morning I find with my mail a very large petition, signed by several thousand persons. The petition is thirty or forty feet in length, and the names are signed very closely, as the Senate can see. The petition is accompanied by a letter from the citizens of that place, in which it is stated that they have learned with deep regret that Colonel Abert declines to carry out the provisions of the act of Congress of the last session upon the subject of the harbor at that place, he alleging, as they learn, as his excuse for not doing so, that he does not know what point is meant. I repeat what I said yesterday, that I do not believe that Colonel Abert has come to any such conclusion; but I do think, in fact I am assured by the excitement which has been got up in the city of Milwaukie, that such information has been communicated to the people there. It would be absurd for Colonel Abert to pretend that he does not know where is the point which was fixed by the bill of the last session for the location of the harbor. Every boy in the streets of Milwaukie, and every sailor boy from one end of the lakes to the other, would hiss this pretense to scorn. The letter to which I have referred speaks of various other petitions on file, as the writers suppose, in the office of the Topographical Bureau, from all the vessel-owners, and all the masters of vessels upon the lakes, asking that the appropriation shall be expended at the point named in the bill of the last session. I cannot believe that Colonel Abert has taken any such position in regard to it, as to authorize this great excitement in Milwaukie. But as this petition has been sent to me, I lay it before the Senate, with the hope, since the matter has been thus publicly brought forward, that we may hear something from the Bureau of Topographical Engineers in regard to it.

The petition was ordered to lie on the table.

PACIFIC RAILROAD.

Mr. JONES, of Tennessee. I beg leave to present the proceedings of a large meeting held in my town, Memphis, on the subject of the Pacific railroad. That question has been presented to the Senate by the report of the special committee on the subject, and therefore I ask that the paper be received and laid on the table.

Mr. HALE. I believe it is not the practice of the Senate to receive the proceedings of public meetings of that sort, unless they are addressed to the body, or accompanied with a request that they should be presented to the body. That has been the long-established practice, and I hope it will not be departed from in this case.

Mr. JONES. I hope the Senator from New Hampshire will investigate this matter a little more closely, before he comes to his conclusions. These proceedings were sent to the Senators from Tennessee, with the request that they would make such a disposition of them as they might think proper. I presume they could have referred them to a committee, without presenting them to the Senate formally. The meeting was a large and respectable one; it was numerously attended. The preamble and resolutions set forth the facts connected with the location of the road; and if the Senator would like to see them, I will ask that they be printed.

Mr. HALE. I have no objection to receiving these proceedings; but there is a regular order of business in regard to such subjects, which was established long before I came here, and which has been adhered to ever since; and I therefore submit the question to the Chair.

The PRESIDENT. The Chair will submit the question to the Senate, whether or not they will receive the paper, it being the proceedings of a public meeting, addressed to the Senators from Tennessee, with a request that they would make such a disposition of it as they might think proper.

Mr. BELL. I hope there will be no objection to merely receiving the petition, and letting it lie on the table.

The PRESIDENT. The Senator from New Hampshire objects to the reception of the paper.

Mr. HALE. I have no objection.

The paper was ordered to lie on the table.

PAPERS WITHDRAWN.

On motion by Mr. SUMNER, it was

Ordered, That the Committee on Commerce be discharged from the further consideration of the petition of the Relief Steam Tow-Boat Company, and that leave be granted to withdraw the petition and papers.

On motion by Mr. SEWARD, it was

Ordered, That James D. Cobb have leave to withdraw his petition and papers.

REPORTS FROM COMMITTEES.

Mr. FOOT, from the Committee on the Post Office and Post Roads, to which was referred a report of the Solicitor of the Treasury on the subject, submitted a report, accompanied by a bill for the relief of Joseph Nock; which was read and passed to the second reading.

The report was ordered to be printed.

He also, from the Committee on Pensions, to which were referred the petition of John Carlton, second, and the petition of Edward S. Meader, submitted adverse reports thereon; which were ordered to be printed.

He also, from the same committee, to which was referred the petition of Catharine Clarke, praying a pension, and the petition of citizens of Scituate, Massachusetts, in favor of a pension to Josiah Mann, asked to be discharged from the further consideration thereof; which was agreed to.

He also, from the select commitee to which was referred the memorial of James S. French, of Virginia, praying for an appropriation to test his newly-invented locomotive for overcoming heavy grades, submitted a report on the subject; which was ordered to lie on the table and be printed.

On motion by Mr. RUSK, it was ordered that two thousand additional copies of the report be printed for the use of the Senate.

Mr. RUSK, from the Committee on the Post Office and Post Roads, to which was referred the bill from the House of Representatives for the relief of John Frink, reported it back without amendment.

Mr. HAMLIN, from the Committee on Commerce, to which was referred resolutions of the Legislature of Florida, reported a bill to establish Palatka and Bayport, in Florida, ports of delivery, respectively; which was read and passed to the second reading.

He also, from the same committee, to which

was referred the consideration of the report of the Secretary of War, relating to the defense of the harbor of San Francisco, asked to be discharged from the further consideration thereof, and that it be referred to the Committee on Military Affairs, and printed; which was agreed to.

Mr. UNDERWOOD, from the Committee on Foreign Relations, to which were referred sundry petitions praying the adoption of measures for securing to American citizens in foreign countries the rights of conscience and religious worship, submitted a report, accompanied by the following resolutions:

Resolved, That it would be just and wise on the part of the Government of the United States, in future treaties with foreign nations, to secure, if practicable, to our citizens residing abroad the right of worshipping God freely and openly, according to the dictates of their own consciences, by providing that they shall not be disturbed, molested, or annoyed in any manner on account of their religious belief, nor in the proper exercise of their peculiar religion, either within their own private houses, or in churches, chapels, or other places appointed for public worship; and that they shall be at liberty to build and maintain places of worship in convenient situations, interfering in no way with, but respecting the religion and customs of the country in which they reside.

Resolved further, That it would be just and wise in our future treaties with foreign nations, to secure to our citizens residing abroad the right to purchase and own burial places, and to bury any of our citizens dying abroad in such places, with those religious ceremonies and observances deemed appropriate by the surviving relatives and friends of the deceased.

The report was ordered to be printed.

MEXICAN BOUNDARY COMMISSION.

Mr. MASON. The Senator from Arkansas is about to make a report from the Committee on Printing, in relation to the printing of certain documents connected with the Mexican boundary survey, and I present the following resolution upon the same subject:

Resolved, That two thousand additional copies of the report of Lieutenant Colonel James D. Graham, concerning the Mexican boundary, which was communicated to the Senate at the last session, be printed for the use of the Senate.

Mr. BORLAND. The Committee on Printing have directed me to report in favor of printing two thousand additional copies of the report of Mr. Bartlett, Commissioner for running and marking the boundary line between the United States and Mexico. The resolution of the Senator from Virginia is to print two thousand copies of a report upon the same subject, heretofore made by Colonel Graham. The committee have had that subject under consideration, informally, and are in favor of that proposition, and I therefore ask that the question may be taken on both together.

Mr. MASON's resolution and the report of the committee were agreed to.

SOPHIA KIRBY.

Mr. UNDERWOOD. I wish to appeal to the Senate to do an extraordinary act this morning, and it will not take five minutes. An old soldier died in my county in December last, and I have just received the papers of his widow, asking for a pension, accompanied by a request to submit them at the Pension Office. The old soldier got only thirty-two dollars per year, and I want to ask the Senate this morning to pass a bill giving to his widow sixty-five dollars per year; and it is done upon the most extraordinary state of facts that has ever existed, I believe. I have before me an obituary notice, which is sworn to, in a paper, concerning Mr. Kirby. He had thirteen children, one hundred and thirty-five grand-children, three hundred and thirty great-grand-children, and seven great-great-grand-children; making four hundred and eighty-five lineal descendants, in all, during his lifetime. That old woman was married in 1778, in the midst of the Revolution, to this man. He died at the age of ninety-five years one month and twenty-five days, and she is now over ninety-two years of age. I know them personally, and I ask the Senate to allow me to present a bill giving this old lady sixty-five dollars per year for the remainder of her days, instead of referring the case to the Pension Office, where she will only get thirty-two dollars.

The PRESIDENT. If there be no objection, the Chair will receive the bill.

The bill was read a first and second time, by unanimous consent, and considered as in Committee of the Whole. It proposes to authorize the Secretary of War to place Sophia Kirby, of Warren county, Kentucky, widow of Jesse Kirby, deceased, on the pension roll, and pay her a pension of sixty-five dollars per annum, commencing on the 17th of December, 1852.

Mr. CASS. I would suggest to the honorable gentleman that the Secretary of the Interior, and not the Secretary of War, should be directed to do this. The pension office is in his Department.

Mr. UNDERWOOD. That should be done, and I hope the change will be made.

The PRESIDENT. The change will be made without putting the question.

Mr. BORLAND. I would suggest to the Senator from Kentucky that the amount provided for is not enough for this old revolutionary woman. Sixty-five dollars a year is not sufficient.

Mr. UNDERWOOD and Mr. HALE. Say one hundred dollars.

Mr. BORLAND. I move to strike out sixty-five dollars and insert one hundred dollars.

The amendment was agreed to, the bill was reported to the Senate as amended, the amendment was concurred in, and the bill was ordered to be engrossed for a third time, read a third time, and passed.

ORDER OF BUSINESS.

Mr. GWIN. I move to postpone all prior orders, for the purpose of taking up the Pacific railroad bill.

Mr. COOPER. I object to that until the committees have been called for reports. I have been waiting here with some reports for several days, which I wish to get clear of.

Mr. GWIN. If I give way to one, I must give way to others. There are a dozen here who want to make reports.

Mr. FITZPATRICK. I would ask the gentleman from California to allow me to consider a local bill authorizing the sale of certain reserved lands in Alabama, which will not take five minutes.

Mr. GWIN. If I give way for one, I do not know when I shall get the floor again.

Several SENATORS. Wait till twelve o'clock.

Mr. GWIN. I cannot yield, and I ask for the yeas and nays on my motion.

The yeas and nays were ordered.

Mr. CHASE. I ask the Senator from California to make the compromise which has been suggested, and let the morning business continue till twelve o'clock. I think we shall then be able to take up his bill.

Mr. GWIN. There is a special order at one, and it is important to have this bill out of the way.

Mr. MANGUM. I am as anxious as almost any man to proceed to the consideration of the Pacific railroad bill, but really I think it will be facilitated and accelerated by suffering the morning business to go on for about ten minutes longer. I think the Senator from California had better withdraw his motion.

Mr. BRIGHT. The Senator from California seems to press his motion with reference to another special order which is to come up at one o'clock. I intend to propose that that shall not interfere with his motion, by moving, when the hour for that order arrives, to postpone it till Monday.

Mr. GWIN. Then I withdraw my motion, and do not intend to make it till twelve o'clock.

The PRESIDENT. It requires unanimous consent to give leave to withdraw the motion, the yeas and nays having been ordered.

There being no objection, leave was granted.

ADDITIONAL REPORTS FROM COMMITTEES.

Mr. DOUGLAS, from the Committee on Territories, to which were referred the following bills from the House of Representatives, reported them back without amendment:

An act to amend an act entitled "An act to amend an act to settle and adjust the expenses of the people of Oregon from attacks and hostilities of Cayuse Indians, in the years 1847 and 1848," approved August 21, 1852; and

An act to organize the Territory of Nebraska.

He also, from the same committee, to which was referred the bill from the House of Representatives, to establish the Territory of Washington, reported it back with an amendment.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the memorial of Isaac Varn, senior, submitted a report, accompanied by a bill for his relief; which was read, and passed to the second reading.

The report was ordered to be printed.

Mr. BORLAND, from the Committee on Printing, to which was referred the memorial of Thomas Ritchie, asking a further allowance on the printing executed by him for Congress, submitted a report, accompanied by joint resolution for the relief of Thomas Ritchie, assignee of W. M. Belt; which was read, and passed to a second reading.

The report was ordered to be printed.

Mr. GEYER, from the Committee on Pensions, to which were referred the petition of William T. Zollickoffer, the petition of Dr. Adam Hays, and the memorial of Elisha Putnam, submitted adverse reports thereon; which were ordered to be printed.

Mr. COOPER, from the Committee on Indian Affairs, to which was referred the petition of Henry M. Rice, praying remuneration for certain expenses incurred in Iowa, submitted a report; which was ordered to be printed.

RESERVED LANDS IN ALABAMA.

On motion by Mr. FITZPATRICK, the bill authorizing the sale of certain reserved lands in Alabama, was read a second time and considered as in Committee of the Whole. It proposes to enact that the lands in Clark county, Alabama, which have been reserved from sale as cedar lands, by virtue of an act "making reservation of certain public lands to supply timber for naval purposes," approved March 1, 1817, shall hereafter be liable to be sold in the same manner, and under the same restrictions and provisions as other public lands of the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

LOUISIANA OVERFLOWED LANDS.

Mr. DOWNS. I give notice that I shall on Saturday, during the morning hour, ask the Senate to take up and consider the bill making a grant of land to aid the State of Louisiana in reclaiming the overflowed lands therein. It was made the order of the day for an early period at this session, but it has not yet been considered. I have occupied but very little of the time of the Senate this session, and I hope they will on Saturday proceed to the consideration of that bill.

DEFENSE OF PORTLAND.

Mr. HAMLIN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to communicate to the Senate what works and appropriations are necessary, and what would be the shortest practicable time required to place Portland, the entrance of the Kennebec river, and the entrance of the Penobscot river, in Maine, in good condition of defense.

MAIL CONTRACTS.

Mr. WELLER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be directed to communicate to the Senate copies of all propositions made, or contracts entered into within the past six months, for the transportation of the mails from New York, New Orleans, and Vera Cruz, to San Francisco, in California.

WESTERN COAL MINES.

Mr. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy communicate to the Senate a copy of a report made to the Department by the Commissioner appointed to examine the qualities of the several coal fields and coal mines on the western waters.

BRITISH POSTAL TREATY.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be requested to report to the Senate the amount of postages collected in the United States, on account of the British post office, since the postal treaty with Great Britain went into operation; also, the amount of balance paid each year to the British post office; also, the commissions for the collection of these balances allowed by the Post Office Department to the postmasters of the United States; also, the amount paid for exchanges in remitting these balances to Great Britain.

CLERKS ON THE CENSUS.

Mr. WALKER. I offer the following resolution:

Resolved, That the Secretary of the Interior be directed to furnish to the Senate a list of the clerks, with the name of each, at present employed in the Census Office—stating on whose recommendation, or at whose solicitation each clerk was appointed, and how long he has been employed.

As the resolution is one of inquiry, I would ask for its consideration now, if there be no objection.

Mr. DAWSON. I object.

So the resolution lies over under the rules.

NAVY REGULATIONS.

On motion by Mr. HALE, the Senate proceeded to consider the following resolution, submitted by him on the 14th instant.

"*Resolved*, That the Secretary of the Navy inform the Senate whether a code of rules and regulations or instructions for the government of the Navy is now in course of preparation, or has recently been prepared by a board of officers acting under his authority; and if so, that he be requested to submit the same to this House for the consideration and approval of Congress before taking effect."

Mr. BELL. I understand that that code of regulations has been sanctioned and authorized by the President, as Commander-in-Chief of the Army and Navy of the United States; and I furthermore understand that it would take all the clerical force of the Department, which could be placed upon this work, at least a month to make a transcript of this code. I learn that the regulations have not yet been printed; that they are now in the hands of the printer; and it will be a great embarrassment and inconvenience to the Department to take all their clerical force, and put it to copying this code; and it could not even then be accomplished in time to be presented to Congress at the present session, for the code is a very voluminous one. Unless there is some very clear ground to make this call upon the Department, unless the honorable Senator is satisfied that the public service and the public interests demand that we should have these rules and regulations submitted to us, I think we ought not to burden the clerks of the Department with making out this transcript. When it is printed—and it is now in the hands of the printers for that purpose—we can have a printed copy for the purpose of making any examinations we please, in order to see if Congress ought to interfere, and prevent these regulations from going into effect.

I believe there is no code of regulations for the Navy of the United States as there is for the Army, and there has never been one adopted by Congress. This has been the source of great inconvenience, and great embarrassment, and the public service has suffered very much in consequence of it.

The Constitution gives Congress power "to make rules for the government and regulation of the land and naval forces" of the United States; but in the absence of any rules on the part of Congress, the President, as Commander-in-Chief of the Army and Navy, is obliged to make some regulations for the government of the officers and the Navy Department. Unless Congress specifically provide by law in what manner the Navy Department, its officers, and the various operations connected with it shall be regulated, there is no regulation. The necessity of making some was felt so great that the Secretary of the Navy has had a code prepared, and the President has given it the sanction of his authority as Commander-in-Chief. That code has been in a state of preparation, I understand, since the year 1835, receiving perhaps a second revision in 1845, and now the third and last revision, with great care, and it has received now the sanction of the Commander-in-Chief of the Army and Navy.

I do not think that, under the circumstances, there is any necessity for requiring that the voluminous code should be transcribed and sent to us.

Mr. PRATT. Mr. President, I hope the resolution of the Senator from New Hampshire will be adopted; and I think the argument of the Senator from Tennessee is conclusive to show the Senate that it ought to be adopted. He tells us that there are now no regulations governing the officers of the Navy, and that regulations have been prepared by a board of officers with a great deal of care, which will become the rule for all time to come, governing the officers of the Navy. I submit to the Senate whether this code of laws for the government of the Navy should not be submitted to Congress anterior to its going into effect. A number of officers of the Navy have spoken to me on the subject, and have complained that in some way or other the regulations operate injuriously upon certain classes of officers. They say it operates detrimentally to their rights.

I apprehend there can be no wrong—no injury done to the country in requiring that these regulations, which have been prepared with so much care, and which the Senator thinks ought to go into immediate effect, should be first submitted to Congress. If they do interfere with the rights of any class of officers—if they operate injuriously upon any class in the Navy, we ought to have the means of ascertaining and correcting the injury, rather than suffer it to be committed. I hope, therefore, that the resolution will be passed, that we may see what these regulations are before they go into effect.

We are about to adjourn in a few days, and if these regulations should be put into effect after the 4th of March, they cannot, before December next, come before the supervision of Congress; and whatever injury they may do to any class of officers, will be a continuing injury until that period. I can see no harm that will result to the public service by letting it be known to Congress what these regulations are. If they are right and proper, of course we will pass them and approve them, and they will then have the sanction of law; and I do insist that they should be passed upon by Congress, and ought not to be made by a mere dictum of the Executive Department of the Government. These regulations are to govern all the officers in the Navy. They are to be governed by the Executive Department absolutely, without any appeal, and we are the only power, we are the only persons who, under the Constitution, have authority to control that absolute power which would otherwise be exercised by the Executive Department of the Government.

Mr. HALE. I think with the honorable Senator from Maryland, and if the Senate had any doubt about calling for this code, the remarks of the Senator from Tennessee should have removed that doubt. I will mention another argument, however. It was in 1842, I think, that a code of laws was prepared by direction of one or both Houses of Congress, to be submitted to Congress for approbation before going into effect. It was submitted to Congress, and did not meet its approbation. Now there is proposed to be a general law adopted by the Department in relation to the whole Navy, for the government of every part of it. The Senator from Tennessee is advised about it—I am not—and he says that this code is very voluminous, and it is to govern the Navy for all time. This resolution simply asks that this code may be submitted to Congress for supervision before it becomes the law to which your whole naval force is to be subjected. The officers want it submitted to the revision of Congress, and I think, with this explanation, there will not be a member here who will not say that it ought to be submitted to Congress, in order that Congress may see whether the code be right or wrong.

Mr. BELL. Mr. President, I am certain that the Senator from Maryland could not have heard my remarks, or he would not have indulged in the course of observation, on my statements, in which he did indulge. The honorable Senator from New Hampshire, also, misunderstood me; and he thinks that now it is certain, at all events, that this communication should be made. I stated before, that Congress could not have the benefit of this communication during the present session of Congress, with any practicable force that could be put upon it by the Secretary of the Navy. Of course that is subject to some qualification, for if he could withdraw the whole clerical force from their proper duties, and put them upon this, he might be able to furnish it in a short time; but with a due regard to the other interests of the service, it is not possible for the Secretary of the Navy to put on to this transcript a sufficient amount of force to have it sent in to Congress during the present session. I suggested that, therefore, as one objection to the resolution. In the second place, I said this code would be shortly printed; and that it was now in the course of being printed by order of the Department. It forms a very fair-sized volume, I believe. Therefore, for that reason it would be very inconvient to take the manuscript from the printer's hands, and put the whole clerical force of the Department at work in copying it. That was another practical inconvenience which I suggested. But I suggested no such idea as both the Senators have put into my mouth, that this was to be a code of regulation for the Navy for all time. It is of course temporary in its nature. It is only to operate until Congress shall act. Congress has the supervisory and paramount power over the whole subject, over the President, and over the Department in regard to it. Therefore I said, or intended to say, that this code would be temporary in its operation, and would necessarily last only until Congress should act upon the subject. I suggested that this code has been prepared after a delay from 1835, or from the foundation of the Navy to this time. The fact that there has been no code of regulation passed by Congress, has been felt to be so great an inconvenience and such an embarrassment, and has worked so badly for the public service, that the President has been induced, under his general power as Commander-in-Chief, to approve these regulations to continue in operation until Congress shall, under their superior constitutional power, prescribe other rules. Of course they will operate only until the next session, if Congress should then think proper to exercise their power.

For these several reasons—because it would embarrass the Department to withdraw the manuscript from the printers, they now being at work, and to put the whole of the clerical force of the Department upon it; because it would not even then be practicable to get it before us prior to the adjournment of Congress—I oppose the resolution. I trust that the reasons which I have assigned will show the Senate the propriety of not passing it. I hope it will not be adopted. I am by no means anxious about it. I had no particular reason for making the remarks which I did make, but I thought it proper to suggest what, under the circumstances, appeared to me to be necessary to be known.

Mr. GWIN. I move to postpone the further consideration of this resolution until to-morrow, so that we can take up the Pacific railroad bill. This resolution is evidently going to lead to a great deal of discussion. If I thought there would be no more discussion, I would not make the motion.

Mr. PRATT. I hope the honorable Senator will withdraw the motion, to allow me to say a few words.

Mr. GWIN. I withdraw it for that purpose.

Mr. PRATT. I think I correctly understand the honorable Senator from Tennessee, and the only difference between us is this: He says that a whole book, to constitute the law of the Navy, has been drawn up by a board of naval officers, and has been approved by the President. The resolution before the Senate does not require that it shall be sent to Congress anterior to the adjournment of the present session. The only effect of the resolution is, that, until Congress shall have an opportunity of seeing and knowing that these regulations are right, they shall not go into effect. We wish to see what is this code which is voluminous, as the Senator says, which is to govern this large class of our fellow-citizens, upon some of whom it may have an injurious influence, before it goes into effect. We wish to see it; that is all.

Mr. BELL. The honorable Senator will allow me to say that if it is to be understood that Congress is not to expect the information this session, I can see no inconvenience in calling for it, except, perhaps, the unnecessary cost, because the book will be laid before us at the next session: but I do not think its operation should be suspended in the mean time.

Mr. PRATT. If the book is now in the hands of the printers in the course of publication, this resolution will not require the manuscript to be sent to us; but its only effect will be to prevent the code going into effect until Congress have an opportunity of seeing and knowing what it is.

Mr. HALE. That is all.

Mr. PRATT. Then I hope the Senate will pass the resolution at once.

Mr. CASS. The latter remark of the honorable Senator from Maryland is the very one which makes me doubt the correctness of this proceeding. It is the right of the President, in the exercise of his constitutional power as Commander-in-Chief of the Army and Navy, to make certain regulations for their government. That is done every day. It has been said that there are no regulations now for the Navy. I say there have been regulations since the foundation of the Navy.

Mr. BELL. I said that Congress had never made any regulations.

Mr. CASS. I did not allude to the honorable gentleman from Tennessee in my remarks. But

the Navy could not have got along without some Executive regulations in regard to many points, for a single day. It would have been utterly impracticable to do so. There must be certain rules and regulations from time to time by the President, as Commander-in-Chief of the Navy and of the Army. There are other regulations which depend upon the Legislature, which do not belong to his prerogative as commander-in-chief, and in those cases it is necessary to come to Congress.

The objection I have to this resolution is simply this: it delays the exercise of the President's constitutional power until the next session of Congress, or until whatever time we choose to act upon the subject. It is presupposing that these regulations contain matter for Congressional action; or, at any rate, that we should look into them before they go into effect. The operation of the resolution is to suspend the power, the constitutional prerogative of the President as Commander-in-Chief of the Navy, to make those regulations which, as an Executive officer, it is his duty to make, until Congress can look into the matter. When can that be? Certainly not at this session. I see constitutional objections to this course. I have no objection to calling for the regulations to examine them, and if there should be any one requiring legislative action, so to declare, and repeal it; but I have no idea of trenching upon the constitutional power of the President as Commander-in-Chief of the Army and Navy. To what are we coming? Day after day we are called upon to revise the proceedings of courts-martial, and now it is announced that certain officers of the Navy have seen these regulations and do not like them, and they come and appeal to Congress. I do not approve of this course of proceeding, and I will vote against the resolution.

Mr. TOUCEY. Mr. President, this is a resolution of the Senate only. It is a resolution proposed to be acted upon by the Senate only; and upon the adoption of it the Secretary of the Navy is requested not to carry into effect the regulation adopted by the President of the United States under his general constitutional power as "Commander-in-Chief of the Army and Navy," until Congress has acted upon the subject. If we adopt this resolution, it has no efficacy. We have no power to interfere with those regulations. If these regulations are in conformity to the Constitution and the laws of the United States, the Senate has no power, as a distinct body, to interfere and suspend their operation. It is not proposed that there shall be action by law before the suspension takes place; and it is a mere attempt on the part of this body to suspend, without law, the existing regulations for the government of the Navy. I say that if these regulations are according to law, and in pursuance of the Constitution and the laws, we have no power to interfere in this manner by a vote of this body, and to suspend them. And if we had the power, are we to interfere with these regulations without knowing what that action is, and that, too, without authority of law?

But I will not pursue the subject. If this resolution has any operation at all, it suspends the action of the Executive, acting as Commander-in-Chief of the Navy of the United States, when we cannot know what that action is without having it before us and deliberating upon it. As a test question, I move to lay the resolution on the table.

The motion was agreed to.

THE TEHUANTEPEC GRANT.

Mr. GWIN. I call for the special order of the day.

The PRESIDENT. The first special order is the unfinished business, being the resolutions reported by the Committee on Foreign Relations in relation to the grant of the right of way across the Isthmus of Tehuantepec.

Mr. GWIN. The Senator from New Hampshire [Mr. NORRIS] wishes to address the Senate upon this question. Not knowing it, I yesterday evening made a motion that the resolutions lie on the table. I withdraw that motion, and give the floor to him, as I understand he wishes to speak on some day next week.

Mr. NORRIS. I move that the further consideration of the subject be postponed until Wednesday next.

The motion was agreed to.

RAILROAD TO THE PACIFIC.

The PRESIDENT. The next special order is the bill for the protection of the emigrant route, and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon.

Mr. MASON. Do I understand that that bill is before the Senate by the order of the Senate?

Mr. GWIN. I have called it up.

Mr. MASON. Has there been an order of the Senate that we shall take it up to-day?

Mr. GWIN. It is the first special order.

The PRESIDENT. It was made the special order for yesterday, at twelve o'clock, and of course comes up at that hour to-day. At one o'clock there is another special order.

Mr. MASON. The bill relating to the Texas debt was made the special order for this day, and I want to know whether this takes precedence of that?

The PRESIDENT. The Chair is of the opinion, that this being the special order for twelve o'clock, takes precedence of the bill in relation to the Texas debt, which was made the special order for one o'clock.

Mr. MASON. Will it not be competent, at one o'clock, to call up the Texas debt bill?

The PRESIDENT. It will certainly be competent for the Senate to take up that bill at that time?

Mr. BRIGHT. We lose a great deal of time in talking about what is the special order. One o'clock to-day was appointed to consider the bill in relation to the Texas debt, and I think we shall save time now by agreeing to take up that bill and make it the special order for Monday next, at twelve o'clock. That will give the residue of the week to the Pacific railroad bill, and it will give sufficient time to dispose of it. I hope there will be no objection to taking up the Texas debt bill for the purpose of making it the special order for Monday, at twelve o'clock. It is the special order for to-day at one, and its friends will insist on calling it up at that hour, unless this order which I have suggested be made, and then we shall have some more time wasted in considering what shall have the preference in the order of business.

Mr. ADAMS. If the Texas debt bill be taken up, I intend to move, as a test question, that it lie on the table.

Mr. BRIGHT. I move that it be taken up for the purpose of postponing it until Monday.

The PRESIDENT. One subject being before the Senate, that motion cannot be entertained unless by unanimous consent.

Mr. GWIN. I insist on the regular order.

Mr. BRIGHT. Then I give notice that at one o'clock I shall call up the Texas debt bill, which is the special order for that hour.

Mr. BUTLER. I have this to say: that when one o'clock comes I shall insist, with others, upon the regular order of the day, which is the Texas debt bill. Gentlemen must understand that no one measure is to monopolize the whole attention of the Senate.

The PRESIDENT. The Senator from Tennessee is entitled to the floor on this bill.

Mr. BELL. There is time enough for me between now and one o'clock; but I hardly suppose that we can come to any conclusion on the bill now before the Senate at this time. I shall endeavor to condense the remarks which I have to make, in addition to those which I made the other day, within as small a compass as possible. But really, after what has been announced by so many Senators on the floor for the last two weeks, during which this measure has been suspended—after having had our foreign relations, Cuba, Central America, and Tehuantepec, thrust upon us, I suppose many Senators do not know at this time what the question is in relation to this railroad bill. I beg leave, therefore, before I proceed with any remarks upon the subject, to call their attention to the pending question, and ask the Chair to state it.

The PRESIDENT. The question pending is on the amendment of the Senator from Pennsylvania, [Mr. BRODHEAD,] as modified, to the amendment reported from the Select Committee, to strike out after the word "that," and insert:

"The Secretary of War be, and he is hereby authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and survey as he may deem advisable, to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $100,000 be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of such explorations and survey.

"SEC. 2. *And be it further enacted*, That in making such explorations and survey, the engineers and other persons employed under the authority of this act, may be directed to act in concert with any engineers, or other persons employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals, or associations, for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and to lay the same before Congress at the next session."

Mr. BELL spoke for some time in defense of the bill reported by the Select Committee. His remarks will be published in the Appendix.

Mr. SMITH next obtained the floor, and said: I do not know but this subject has been already sufficiently discussed to enlighten the judgment of the Senate, and to enable honorable members to come to such results as shall accord with the public interests; and I am free to say, that if I could see in the body a disposition to bring the sense of the Senate on the question before us to a test immediately, I would resume my seat.

Mr. GWIN. Let us try it.

Mr. SMITH. I will do so if I can understand that such is the desire, and such is the purpose of the Senate; for, Mr. President, there is some danger that this important measure may be defeated in consequence of its being over debated by its friends; and I am one of the number of the members of this body who are friends of this measure, and who believe that it ought to pass, and ought to pass now. I have already intimated to the Senate that I desire that it should be brought to a test vote.

Mr. BRODHEAD. The immediate question is upon an amendment which I proposed, and if it is the sense of the Senate that a vote be taken now, I for one will agree to have the vote taken, although I did desire to offer a very few remarks upon the question now before us.

Mr. COOPER. If the honorable Senator from Connecticut surrenders the floor, I suppose he will be hardly able to get it back again until I am done, and I have been watching an opportunity to get it a great while. I want to make a speech, and I intend to make one. I do not wish to delay the question, for I think it is due to the honorable Senators from Texas [Mr. RUSK] and from California [MR. GWIN] that a vote should be had soon. I do not intend to occupy the floor very long, but I desire to reply to some arguments which were based upon a few casual remarks which I made a few days ago, and as soon as the Senator from Connecticut is through, I design to occupy the floor a short time, but I shall endeavor to be brief.

Mr. SMITH. I will endeavor to be as brief as I possibly can, and I presume that the Senate will accord to me some indulgence in consideration of the fact, that during the present session of Congress I have not occupied over ten minutes, certainly not over a quarter of an hour of the public time.

The honorable gentleman then proceeded to address the Senate in a speech which will be published in the Appendix.

Mr. CHASE next obtained the floor.

Mr. MASON. It is necessary that we should have an Executive session, and therefore, if the Senator from Ohio will give way, I will move one.

Mr. CHASE. I am willing to give way for that purpose.

Mr. MASON. I move that the Senate proceed to the consideration of Executive business.

Mr. ADAMS. I would suggest that a great many Senators are disposed to remain to-day until this question shall be disposed of.

Mr. BORLAND. I am really unwilling to make objection to anything proposed by the Senator from Virginia; but we have got a subject under consideration which is certainly more important than any other which can come up, and I cannot see any reason for discontinuing it to take up anything else.

Mr. GWIN. I hope we shall have an Executive session. It is necessary that one should be had very shortly. I am as anxious that this bill should be disposed of as any one else, but I know that it is indispensable to the public business that we should have an Executive session.

Mr. CHASE. I am quite willing to go on to-day, and I do not wish it to be considered that any

postponement of the question is to take place because of any unwillingness on my part to proceed to-day to say all that I have to say.

Mr. MASON. If the Senator desires to go on, of course I withdraw my motion.

Mr. CHASE. I wish to say to the Senator from Virginia, in view of what has been said by the Senator from Mississippi, that if we go into an Executive session to-day, it certainly cannot be expected, that after the doors are opened and the Senate shall have become thinned, we shall proceed with the further consideration of this subject to-day; and for the purpose of ascertaining the sense of the Senate upon that point, I move that the further consideration of this bill be postponed until to-morrow for the purpose of going into Executive session.

The motion was not agreed to, there being, on a division—ayes 15, noes 21.

Mr. CHASE. Mr. President, I trust, since the Senate has manifested its disposition to proceed with this debate this evening, that we shall continue in session until we have at least taken the question upon the amendment now under consideration. I am exceedingly desirous that this whole subject shall be disposed of. It has already occupied the attention of the Senate many days; and it interferes with the consideration of other bills, certainly of equal if not of greater importance. Amongst those is the homestead bill, in which the Senator from Iowa [Mr. DODGE] takes so deep an interest. It is a bill upon which several Senators on this floor are instructed by the Legislatures of their States; and I hope it will be the pleasure of the Senate, after having passed upon this measure, to proceed to the consideration and to the disposal of that.

I am, Mr. President, in some degree responsible for the amendment which is now under discussion, since some important provisions have been incorporated in it upon my own suggestion; and I therefore desire to state briefly the considerations which will govern my vote in favor of it. The general merits of the bill have been discussed at great length; elaborate arguments have been made to satisfy the Senate that a railroad to the Pacific is necessary, and that the interests of the country require its speedy construction. Now, Mr. President, who upon this floor doubts that? Who has manifested any indisposition to the construction of this road in some way and by some means? It seems to me we might well spare elaborate discussion upon topics in regard to which the Senate is nearly unanimous.

But while a large majority of the Senate are agreed as to the construction of a road, there may be, and there are, considerable differences of opinion as to the mode in which that object shall be attained.

Mr. President, I am in favor of this road. No Senator upon this floor is a warmer friend to it, or who more fully appreciates the advantages which will flow to the country from its construction than I—and yet I desire practical, commonsense legislation upon the subject. I wish so to legislate as to secure the construction of the road over the best route, in the shortest time, and with the least expenditure.

Now, what does the amendment, which has been so condemned by the Senator from Connecticut, [Mr. SMITH,] propose? In the first place, it proposes surveys and explorations. These surveys and explorations, we are told, will consume years. Who knows that? Who has authorized any Senator to say that the surveys and explorations contemplated by this amendment will consume more time than the surveys and explorations contemplated by the bill? Sir, the bill, as much as the amendment, contemplates previous surveys, and in order to ascertain the best, the most practicable, the cheapest route, the route which will best accommodate the commerce and the travel of the country, the same preliminary examinations will be necessary to the intelligent decision of the President, as are necessary to the intelligent decision of Congress. No objection, then, lies on the amendment upon that score, which does not lie to the bill.

But it is said further, that the amendment contemplates the employment of civil engineers in addition to the topographical engineers already in service. Well, sir, the bill contemplates precisely the same thing. It directs the employment of the topographical engineers, and it provides that they shall be aided by the employment of others, at the discretion of the President, within certain limits. That objection also lies just as strongly against the bill as against the amendment. It is further objected that the amendment proposes that proposals for the construction of the road shall be received until the next session of Congress. That is true; but will not the effect of the provisions of the bill be just the same? It authorizes a contract by the President with a corporation or a company of individuals. Well, sir, will the President enter into this contract without proposals? Do Senators expect that he will act blindly upon a question of this importance? Will he not invite proposals for the construction of this road? Will he not ascertain the best terms upon which it can be constructed for the Government? Undoubtedly he will.

Mr. RUSK. It is required by the bill.

Mr. CHASE. My friend from Texas says it is required by the bill; then why object to this amendment if it proposes precisely the same thing which is required to be done by the bill? What is the objection to the amendment?

Mr. RUSK. It does not propose the same things.

Mr. CHASE. So far as I have gone, it does propose the same things. It proposes surveys and explorations. So does the bill. It proposes the employment of topographical engineers in connection with the civil engineers employed by the Government, by companies, or private individuals. The bill proposes the employment of both descriptions of engineers. It proposes to receive proposals from a company or corporation. The bill proposes precisely the same thing; and the only difference, so far, is, that the bill not merely authorizes the President to contract with these individuals, but it proposes also to incorporate them. Now, what do we gain by the adoption of the bill rather than the amendment?

I can see nothing; for we are told by Senators who have advocated this measure, that the explorations, which are required to be made, under the authority of the President, before entering into any contract with the parties to be incorporated under the provisions of this bill, will consume the whole time between the passage of the act and the next session. What, then, do we gain? Nothing at all, except to transfer this whole question from the discretion of Congress to the discretion of the Executive.

I know that some Senators, amongst them the Senator who last addressed us, [Mr. SMITH,] think this a great object. He told us that the Congress of the United States had become incompetent to the transaction of business—that the Senate and the House of Representatives were no longer fit to be intrusted with the business of the country. He seemed to think that henceforth every important question should be referred to the discretion of the Executive. Sir, I have as much confidence in the incoming Administration, I dare say, as other Senators. I look to the Executive, soon to be inaugurated, for a wise, prudent, beneficent, skillful conduct of our public affairs; but I am not one of those who propose to abdicate our constitutional functions in favor of any President. I believe it is the duty of Congress to make the laws, and it is the duty of the Executive to execute the laws. I am not willing to confer upon the President of the United States, under any circumstances, and least of all when no end of great practical importance is to be attained by so doing, the power of organizing a corporation such as that provided for by this bill. I am not willing to place at his disposal a fund so enormous. Why, this bill provides for an appropriation of twenty millions of dollars in the first place, and then, in addition to that, for the appropriation of fifteen millions of acres of land, at the lowest estimate of money and value, offers to the company which you propose to incorporate by its provisions, forty millions of dollars. The capital of the company must be at least one hundred millions. The road cannot be undertaken with less than that. Now, I am not disposed to create such a corporation and furnish two fifths of its capital, substantially as a bonus to insure the construction of the road.

Mr. RUSK. Will the Senator allow me to correct him?

Mr. CHASE. Certainly; with pleasure.

Mr. RUSK. The Senator talks of a corporation. Why, it is limited by the terms of the bill. He speaks of a bonus of forty millions of dollars being granted to the company. If he will look at the bill, he will find that not one dollar is to be paid until a section of the road is done, and then not until the company has invested three fourths more than the Government in the construction of the road. Besides, in nearly every line of this bill this enormous corporation, which is such a bugbear to gentlemen, is controlled and restrained from mischief.

Mr. CHASE. That is the universal answer to arguments against these great and powerful corporations. It is always said that the corporation is so limited and controlled that it can do no mischief.

Mr. RUSK. The gentleman can move to strike it out, if he does not like it.

Mr. CHASE. But it stands there now, and I am arguing on this bill as it stands, and comparing it with the amendment under consideration. It is said, also, by the honorable Senator from Texas, that this amount of forty millions is only to be appropriated as the work proceeds. Grant it; but still the road is to become the property of this corporation, and they are to have the forty millions. It makes no difference, so that the road is built, whether the forty millions be paid at the commencement or on the completion of the road. The only object of withholding payment is to insure the construction of the road.

Now, why should we not avail ourselves of the information to be derived from these surveys and explorations? Why legislate in advance of the information essential to prudent legislation? Do Senators say we cannot legislate, even with full information before us? Every one admits that we have at present no sufficient information in regard to the different routes by which a road may be made to connect the valley of the Mississippi and the Pacific ocean. That is true. We have no sufficient information at present. We know very little as to the New Mexican route, via Albuquerque, and through Walker's Pass. We know still less, perhaps, as to that other route which goes up the Arkansas and through the South Park. We are best acquainted with a third route which goes through the South Pass. And we know one thing, that though the New Mexican route seems to have received the special attention of Government, and has had the favor of more extensive explorations by Government officers than any other, the voluntary explorations of the people—the emigrating masses whose travel has made highways to California and Oregon through the heart of the continent—have been through the South Pass. What emigrant has ever voluntarily traveled from the Mississippi river to San Francisco by Albuquerque, by Zuñi, by the Colorado, and by Walker's Pass?

Mr. RUSK. Hundreds have gone by El Paso.

Mr. CHASE. But I ask who has gone by this route which I have mentioned? I undertake to say not one hundred persons ever went over that route.

Mr. BORLAND. The Senator will permit me to state, that a very considerable emigration from the State of Arkansas has passed by choice over the route via Albuquerque and through Walker's Pass in the mountains, and successfully.

Mr. GWIN. This route has been known for seventy-five years.

Mr. CHASE. I know there is an old Spanish trail in that direction, and I do not doubt that the route has been traveled to some extent from New Mexico to San Francisco; but I say it is not the route of emigration, and I appeal to the common information of the country to sustain me in the assertion.

Mr. BORLAND. The Senator will permit me to state further, that there is certain information, not only that persons have gone from New Mexico, but that a considerable emigration, starting from the frontier of Arkansas, went in the direction of Santa Fé; and, from information which they there got, and which was satisfactory to them, a large portion of them turned to the south and went through Albuquerque and by Walker's Pass in the mountains; the others went in a more northerly direction, and through the South Pass. The result was, that those who went by Albuquerque had the most expeditious and pleasant route, and they wrote back to their friends that it was not only practicable, but one of the best routes

that could well be conceived of across the continent.

Mr. CHASE. I have not denied that there is a practicable route for a railroad there. I do not know whether there is or not. My friend from Arkansas says people have traveled from the Rio Grande to the Pacific through Walker's Pass, and found it a good route. I am strongly inclined to the opinion that if he will examine carefully the facts he relies on, he will be apt to correct his impression that the route he refers to is the same with that designated in the bill of the Senator from California, which is the one I am speaking of.

But however this may be, the fact remains beyond question that the great route of emigration is that through the South Pass. Let it not be said, however, that I am urging any particular route. I do not design what I have said as an argument in favor of the northern route, or of the middle route, or of the southern route. I am only stating these facts to show that we have not sufficient information to enable us to determine the proper route now. And if we have not, the President has not. What then should be done? Obviously, what any prudent, practical man, having a similar private enterprise in hand would do: ascertain the best route; settle upon the proper termini. If it shall be found that those termini are Memphis on the one side, and San Francisco on the other, and that the best route is through Walker's Pass, I pledge myself to go heartily and cheerfully for that route. If, on the other hand, it be found that another route and another terminus in the Mississippi valley are demanded by the public interests, I am willing to trust the sense of public duty, which must govern the decisions of every Senator, for the right decision in favor of the best route. I go, and I believe the Senate will go, for the cheapest, safest, most direct, and most expeditious route, no matter where it is.

Mr. President, this is no sectional question. By no ingenuity—by no process of torture even, can it be converted into a sectional question. No man expects a more northern terminus for this road than Independence, in Missouri. Well, Missouri is identified, by her institutions, with the southern States; and if you look at the map you will find that this town of Independence is nearer to the Gulf of Mexico than it is to the northern border of Minnesota or Michigan.* I repeat, then, this is no sectional question. The word sectional ought never to be uttered in connection with this road. Let us ascertain the proper termini and the proper route, and make the road where it ought to be made.

Mr. President, this amendment contemplates another object, and one, in my judgment, of very great importance. That very provision in it which has been especially denounced by the Senator from Connecticut, seems to me to be the one which ought especially to recommend it to the Senate. The bill of the Select Committee proposes to give $40,000,000 outright to the corporation to be created. This amendment provides, on the contrary, for receiving proposals from individuals and companies for the construction of the road. The Senator asks, who will make proposals under the amendment, when they know nothing about the route? Let me ask, in return, who will make proposals under this bill if they know nothing about the route? The objection, if valid at all, is fatal to the bill as well as to the amendment. But we all know that proposals are made and works undertaken upon general information only. It is very easy for a company to determine what amount of money or land will form a sufficient inducement to embark the necessary capital in the construction of a road between certain termini and on a given route without minute information as to the precise amount of excavation or embankment required, or the exact measurement of every curve and grade. What is wanted is a general exploration and survey, general information as to the character of the route, the obstacles to be overcome and the distance to be traversed. The fuller the information of course the better; but the fullest and most exact information is not necessary to base proposals upon. The Senator, then, may dismiss his fears that no proposals can be obtained under this amendment. Let him consider how they are to be obtained under the bill.

This amendment, then, is recommended by the considerations of economy. It will bring into competition the various companies and individuals who have thought of embarking in the construction of this road. It will bring competing proposals from the Boston company, the New York company, and various other companies organized and to be organized, and who does not see that among these competitors, there is the strongest probability, not only that the cheapest, but the best and safest plan for the people will be brought out.

A great many considerations will enter into these proposals. The character of the gauge will be one of them; and that, in the present state of our railroad system, will be one of very considerable importance. Then there will be the consideration of the facilities upon the route for the construction of the road—the supply of timber, of iron, of water, and of food. Then there will be considerations pertaining to the working of the road after it is constructed, and chief among these will be the supply of coal. The report of Captain Stansbury shows that there is an inexhaustible bed of coal upon one of these routes. We do not know what quantities of fuel there may be on the others.

If, then, we adopt the amendment under consideration, we shall have the advantage of information. We shall have also the advantage of competition. And it is my deliberate judgment that we shall secure the construction of this road in a shorter time, upon a better plan, and by a better route, than we shall if we adopt the provisions of the bill of the Select Committee. I am therefore in favor of this amendment. I do not wish to consume the time of the Senate by any speculations of mine as to the great importance of this road. I think I see its advantages as clearly, and appreciate them as fully as other Senators; but I shall not dwell upon them now. I will only say, that so satisfied am I of the necessity of the road, and of its vast importance, that I do not entertain a doubt that it will be constructed. Commerce and travel, private enterprise and private capital will make the road, if Congress shall do nothing. But Congress ought to do something. Congress, representing the people, who are proprietors of the vast districts to be traversed by it, ought to do all that is necessary to insure not its construction merely, but its construction upon the best plan, over the best route in the shortest time. The adoption of the amendment will, in my judgment, secure all this without conferring upon the President extraordinary powers, and thus establishing a precedent which may some day lead to consequences which patriotism and prudence require us to shun.

Mr. COOPER obtained the floor.

Mr. MASON. If the Senator desires to address the Senate on this question, I will renew the motion which I made a short time ago to postpone the further consideration of the subject until to-morrow, with the view of going into Executive session.

The motion to postpone was agreed to, there being, on a division—ayes 20, noes 18.

EXECUTIVE SESSION.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business; and after some time spent therein the doors were reopened, and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 17, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. BUTLER.

Mr. LETCHER. There is manifestly no quorum present. I move that there be a call of the House.

Mr. CLINGMAN. I hope the gentleman will withdraw that motion. We might just as well have the Journal read. We can do that without a quorum, and by the time the Journal is read, a quorum will have appeared. This practice of having a call of the House before the Journal is read, is a new order of things altogether. I never saw it done until the present session. There are members enough here to amend the Journal if it needs amending.

Mr. STEPHENS, of Georgia. It requires a quorum to have the Journal read.

The SPEAKER. There is an express rule to that effect.

Mr. CLINGMAN. I am aware of that, but I have never seen it insisted on until the present session.

Mr. McLANAHAN. I hope the gentleman from Virginia will withdraw his motion for a call of the House. A quorum will have appeared by the time the Journal is read.

Mr. STEPHENS. I hope not. We shall never have a quorum here at eleven o'clock, unless we have a call of the House and carry it through.

The question was then taken on Mr. LETCHER's motion that there be a call of the House, and on a division, there were—ayes 27, noes 25.

So the motion was agreed to.

The roll was accordingly called, and 130 members answered to their names.

The doors of the House were then closed.

Mr. JONES, of Tennessee. Has a quorum appeared?

The SPEAKER. One hundred and thirty gentlemen have answered to their names.

Mr. JONES. Then I move that all further proceedings in the call be dispensed with.

The motion was agreed to, and the doors were accordingly reopened.

Mr. GOODENOW. I desire to say that my colleague, Mr. SMART, has been confined to the house for several days——

Mr. CLINGMAN. I object to this irregular proceeding.

The Journal of yesterday was then read and approved.

RECIPROCAL TRADE.

The SPEAKER stated that the business first in order was the consideration of House bill (No. 360) "establishing reciprocal trade with the British North American Colonies upon certain conditions," reported from the Committee on Commerce, and that there was a motion pending to refer the bill to the Committee of the Whole on the state of the Union, and also a motion to recommit it to the Committee on Commerce.

Mr. HENDRICKS. I would inquire if the morning hour has commenced? I want to ask the unanimous consent of the House to take up a bill.

Mr. CLINGMAN. I object to everything out of the regular order.

Mr. HENDRICKS. Well, I ask if the morning hour has commenced?

The SPEAKER. It has commenced.

Mr. HENDRICKS. Then I will not make my request now.

Mr. SEYMOUR, of New York, who was entitled to the floor, addressed the House in favor of the passage of the bill, and pointed out the great advantages which would result to the United States by the establishment of a reciprocal trade with the British North American colonies.

[His remarks will be published in the Appendix.]

Mr. FULLER, of Maine, obtained the floor.

Mr. MEACHAM. I ask the unanimous consent of the House for leave, with the consent of the gentleman from Maine, to introduce joint resolutions of the State of Vermont, instructing her Representatives on this subject.

There was no objection, and the resolutions were introduced, referred to the Committee on Commerce, and ordered to be printed.

Mr. CLINGMAN. I would ask the gentleman to yield, that I may offer an amendment to the first section of the bill. It is not very long.

Mr. TUCK. I object to the amendment.

Mr. FULLER. I wish to extend the same courtesy to the gentleman from North Carolina that I did to the gentleman from Vermont. I do not yield the floor, however, for the submission of any remarks on the amendment.

Mr. CLINGMAN. I desire only the introduction of the amendment. If I get the floor on to-morrow, I shall say something in its favor,

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*NOTE.—I annex some measurements made at my request by a friend:

Independence is six hundred and fifty miles from the Gulf of Mexico, our southern boundary.

Independence is six hundred and seventy five miles from the northern boundary of Minnesota; and six hundred and ninety miles from the northern boundary of Michigan, on the south shore of Lake Superior.

San Francisco is distant from Independance....1,530 miles.
" " " Van Buren.....1,580 "
" " " St. Louis.....1,755 "
" " " Memphis.....1,810 "
" " " Cairo.....1,835 "

The above distances were found by straight-line measurement on the map of the United States, in Mitchell's Atlas.

Independence is in latitude 39°—a few minutes further north than Washington city.

San Francisco is in latitude 37° 30'.

and in reply to the gentleman from New York, [Mr. SEYMOUR.] The amendment comes in at the end of the first section of the bill as a proviso.

The Clerk read the amendment, as follows:

Provided, That before any of the provisions of this bill shall take effect, the Government of Great Britain shall agree with the Government of the United States that all of the ports of the British dominions and of the United States, respectively, shall be open to all the vessels of both countries, whether engaged in the coasting or other trade, in the same manner and under like regulations as they are now authorized to do with reference to the foreign trade of the two countries.

Mr. WASHBURN. I would ask my colleague to yield, that I may offer an amendment to the bill.

Mr. FULLER. I yield, that the amendment may be reported, as I believe that it is not now in order to the bill.

The SPEAKER. If it be the pleasure of the House, the amendment will be received and taken up in its proper place for action.

There was no objection, and the Clerk read the amendment as follows:

Strike from the first section of the bill the following: "Grains, flour, and breadstuffs of all kinds, seeds, unmanufactured hemp, unmanufactured flax and tow, animals of all kinds, undried fruits, fish of all kinds, dried, smoked, salted, and fresh; meats, salted, smoked, and fresh; hides, sheep pelts, wool, butter, cheese, tallow, lard, horns, manures, ores of all kinds, stone and marble in its crude or worked state, gypsum, ground or unground; ashes, firewood, agricultural implements, including axes; fish oil, broom-corn, bark, unwrought burr-stones, dye-stuffs, rice, cotton, unmanufactured tobacco, unrefined sugar—"

And in lieu thereof insert the following:

"All articles the growth, production, or manufacture of the said British North American Provinces, and all articles the growth, production, or manufacture of the United States, save and except as is hereinafter provided."

Mr. JONES, of Tennessee. The morning hour is nearly out, and if the gentleman from Maine does not desire to proceed with his remarks, I will, with his consent, move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FULLER, of Maine, addressed the House in opposition to some of the provisions of the bill. He had not concluded his remarks on the expiration of the morning hour. [His speech will appear in the Appendix.]

Mr. HOUSTON. I move that the House proceed to the consideration of the business on the Speaker's table; and that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I would inquire of the Speaker whether there are any Executive communications on the Speaker's table?

The SPEAKER. There are a few there, which, if it be the pleasure of the House, the Chair will present to the body.

Mr. STUART. I trust, then, that the motion to go into the Committee of the Whole will be voted down, and that the House will proceed to the consideration of the business on the Speaker's table.

The question was put on the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole, and there were, on a division—ayes 71——

Mr. STUART. I demand tellers.

Tellers were ordered; and Messrs. McNAIR and POLK were appointed.

The question was then taken, and the motion was agreed to; the tellers having reported—ayes 75, noes 59.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of House bill, No. 337, making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854.

The CHAIRMAN. The amendment pending when the committee rose was, to strike out the words "three hundred" in miscellaneous items, under the head of contingent expenses of the Treasury Department, and insert "two hundred and twenty-five."

The question was taken, and the amendment was agreed to.

The following section was then read:

"For cash system and military patents under laws prior to 30th of September, 1850, patent and other records, tract books, blank books and *blank forms* for the district land offices; binding plats, field notes, &c., stationery, office furniture and repairs of the same, and miscellaneous items, thirty-six thousand two hundred and twenty-five dollars."

Mr. HOUSTON. I move to strike out the words "blank forms," and the words "three huhdred," and insert "two hundred and twenty-five."

The question was then taken on the amendment, and it was agreed to.

Mr. HALL. I desire to offer the following amendment, to come in at the end of that section:

Provided, Whenever the cost of collecting the revenue from the sales of the public lands in any United States land district shall be as much as one third of the whole amount of revenue collected in said district, it shall and may be lawful for the President of the United States, if in his opinion not incompatible with the public interests, to discontinue the land offices in said land district, and to annex the said district to some other adjoining land district or districts of the United States.

The object of that amendment is this: Under the existing laws, whenever the amount of land in any land district does not exceed one hundred thousand acres, then the President of the United States has the power to discontinue the land offices in that district. The Commissioner of the Land Office, however, thinks that the provisions of that law ought to be so amended as to permit the President, whenever the revenue from the sales of the public lands in any district equals or exceeds one third of the whole amount of revenue collected, then the President of the United States may, if he thinks the public interest will permit, discontinue that land office and annex it to some other adjoining district or districts.

The question was then taken on the amendment, and it was agreed to.

The next section, providing for the contingent expenses of the Department of the Interior, was then read.

Mr. HOUSTON. I move to strike out the words "blanks and printing" after the word "records" in line 285.

The question was then taken on the amendment, and it was agreed to.

Mr. HOUSTON. I move to strike out lines 303 and 304, under the head of contingent expenses of the Department of the Interior, which read as follows:

"For printing blanks, blank forms, and regulations, five thousand dollars."

The question was taken, and the amendment was agreed to.

The last clause of the section, providing for the expenses of the Department of the Interior, was then read, as follows:

"Contingent expenses of said building, viz: For labor, fuel, lights, and incidental expenses, two thousand two hundred dollars,"

Mr. HOUSTON. I move to strike out the word "said" and insert in lieu thereof the words "east wing of the Patent Office."

Mr. STANTON, of Kentucky. I desire to understand from the chairman of the Committee on Ways and Means whether his object in offering this amendment is to provide that the Secretary of the Interior shall take charge of and occupy the east wing of the Patent Office Building?

Mr. HOUSTON. It is proposed that the east wing of the building shall be occupied by the Secretary of the Interior. I will say that the object of this amendment is simply to confine the item given to the Secretary of the Interior to that part of the building which he is to occupy. It is not intended to interfere with the original Patent Office or its fund in any way. As it is, the Secretary of the Interior will occupy the east wing of the building; and the proposition is that the fund shall be applied to that purpose.

Mr. STANTON. It is for the purpose of eliciting this fact, that I propounded the question to the gentleman who stands at the head of the Committee on Ways and Means. I would like to know by what authority the Secretary of the Interior is authorized to take possession of that building. It was not constructed for that purpose, but it was intended for an altogether different purpose. It was intended for the purpose of the Patent Office, and for the deposit of models sent to the Patent Office. I know of no law, and I presume there is no low which authorizes this Secretary to enter in and take possession of the building. I hope the amendment will not prevail, if this be the effect of it.

Mr. JONES, of Tennessee. Make a law. The Government erected the building.

Mr. STANTON. Do it in a proper way. The building was erected for a different purpose.

Mr. CARTTER. I move to strike out the word "patent" in the amendment offered by the gentleman from Alabama.

I wish to call the attention of the committee to the subject of wresting from the Patent Office a building that was exclusively consecrated to that purpose in its plan and design, and to answer an imperative necessity—a building that has absorbed the entire surplus of the Patent Office fund from the time its foundation was laid. If you will refer back to the legislation upon this subject, beginning in 1836, it will be ascertained that a committee appointed by this House reported upon the necessity of constructing a building for the accommodation of your Patent Office after it was destroyed by fire. Every recommendation, Executive and Congressional, has been based exclusively upon the necessities of that office. Every architectural dictate in the construction of that building, from its foundation to its completion, has been based upon the necessities of that office. The office now, as every gentleman is aware who has had occasion to transact business with it, is encumbered for the want of room. Models are piled up without order, and in a manner preventing access on occasions of examination, and they are going to ruin in consequence of want of room. The clerks of the office are now confined to a common hall in the transaction of its business, for the want of room. Notwithstanding that, the chairman of the Committee on Ways and Means comes in, and proposes, in defiance of the whole object and design of the appropriation in connection with that Department, to transfer it to another purpose—a building conceived before the Department of the Interior was, and constructed for the purpose of accommodating the artisans of the United States in every respect. Let me ask the honorable chairman of the Committee on Ways and Means what he proposes to do with that Patent Office? Whether he proposes to turn it out of that building entirely?—for it is an ascertained fact from the report of the office that the building is not sufficient for the accommodation of its present purposes.

Mr. SWEETSER. I am opposed to the amendment of my colleague, and in favor of the proposition of the chairman of the Committee on Ways and Means. I do not profess to have so intimate an acquaintance with the details of that office as my honorable colleague. As we cast our eyes upon the present structure, we find that it covers an immense area. The west wing of the building is now in process of construction, and will in a short time be completed; and it seems to me that any man who supposes that that structure, covering as it does an entire square in the city of Washington, is needed for the Patent Office, must have extravagant notions in regard to the wants of the Patent Bureau. The question is propounded by the gentleman from Kentucky [Mr. STANTON] to know by what authority the Secretary of the Interior proposes to take possession of this building? Why, that Patent Office is under the control of the Secretary of the Interior, and is a bureau of his Department.

Mr. CARTTER. I should like to have the gentleman's authority.

Mr. SWEETSER. When the Interior Department was authorized by law, there were a certain number of Bureaus of the different Departments of the Government transferred to it.

Mr. CARTTER. Was the Patent Office?

Mr. SWEETSER. I believe so.

Mr. CARTTER. I should like to see the clause.

Mr. JONES, of Tennessee. Examine the law authorizing the Secretary of the Interior.

Mr. SWEETSER. That is so, and I hope the gentleman will not interrupt my remarks by his spirit of criticisim. The main fact stands out, that the structure now going up is of sufficient extent to accommodate the Patent Office and the entire Department of the Interior.

Mr. STANTON, of Kentucky. Will the gentleman yield to me for a moment to make a single remark? It is this: that the location of the Department of the Secretary of the Interior is in a different building from the Patent Office. It is on Fifteenth street near the Treasury Building. It will be three or four years before the Patent Office is completed.

Mr. SWEETSER. Every gentleman here knows perfectly well that the Department of the Interior—one of the most important Departments of the Government—is located in a building entirely insufficient in capacity to accommodate it. While we are carrying up immense structures in Washington, I apprehend that Congress will make the Patent Office yield, to some extent, to the accommodation of so important a Department as that of the Interior. If that whole structure is to be carried up, I care not from what fund the cost of its erection comes, it will in my judgment be of sufficient capacity to accommodate the Department of the Interior and the Patent Office too, and should be held for the accommodation of both. But, sir, the inconvenience is infinitely less than that which attaches to the Department of the Interior, in a building entirely insufficient for the accommodation of the men engaged in the public service. I do think that there ought not to be any cavil about this matter. Let us locate the Department of the Interior in the east wing of the building, and let us progress with the erection of the west wing, and in due time there will be room enough in the building to accommodate the whole Department.

Sir, I do not like to see an inferior Department, or rather a Bureau, quarreling with the head that has control of that Department with regard to the occupancy of a building. My honorable colleague being the head of the committee that has control of the Patent Office, may have some little feeling upon this subject, but I look to the accommodation of the most important Department of the Government, and I would locate it for convenience in that building.

The question was then taken upon Mr. CARTTER's amendment to the amendment, and it was decided in the negative.

So the amendment to the amendment was not agreed to.

The question recurred upon Mr. HOUSTON's amendment.

Mr. CARTTER. I move to amend the amendment by striking out the words "east wing." Mr. Chairman, my colleague [Mr. SWEETSER] certainly does not do himself ordinary justice in the position which he assumes upon this question. He starts out with the hypothesis that the Patent Office is, by law, a subsidiary office to the Department of the Interior, and in that he is corroborated by the suggestions of other gentlemen.

Mr. SWEETSER. Will the gentleman permit me to read the law?

Mr. CARTTER. I have the law in my hand. As I understand it, it merely transfers the Patent Office from the State Department, in which it was a bureau, to the Department of the Interior. The Patent Office was in existence for years before the Interior Department was conceived of. It is not a Department of the Government, in the ordinary acceptation of the term, as I understand it.

Mr. STEPHENS, of Georgia. If the gentleman will allow me, I desire to say that the amendment offered by the chairman of the Committee on Ways and Means does not contemplate, and has nothing to do with the removal of the Department of the Interior into the Patent Office Building. It is merely to make sense of the clause. It reads now: "contingent expenses of *said* building." There is no "said building." The only question is, whether the appropriation which follows is necessary for the east wing of the Patent Office. If it is, then we ought to adopt the amendment.

Mr. CARTTER. Very well; I have no objection.

Mr. STEPHENS. Then let us vote upon the amendment.

Mr. CARTTER. The gentleman says that the object of the amendment is to make sense of the clause. No, sir; it is to plaster the Department of the Interior upon the Patent Office Building, and that is a kind of sense that I do not want made of it.

Now, let me say a word or two in reference to the precise attitude of the Patent Office to the Government. In the first place, it is a Congressional office—an office created for a specific purpose, maintained by its own funds, and accountable directly to this body with the coördinate branch of the Legislature. To whom are the reports of the Patent Office made? They are made here and to this body directly. How is the machinery of the Patent Office maintained? It is maintained out of the funds contributed to it by the artisans who take out patents—a peculiarity that the inventors and mechanics seek to maintain for it. How are the appointments made? They are made directly by the President.

But, sir, in reference to the capacity of this building. My colleague says that this building is sufficiently large for the accommodation of both of these Departments. Now, there are something like one hundred and fifty clerks in the Department of the Interior. Stow them away in the Patent Office, and there will not be a room for a solitary Examiner. But my colleague says that the building is abundantly sufficient, or that it has surplus room. Why, sir, is my colleague aware that the damp from the walls of that building is to-day moulding away the models of patents granted to the genius of this country?

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. I do not intend to enter into the merits of this question, which the gentleman from Ohio has been discussing, because I do not think that it is before the House. If it was, I might, perhaps, agree with the gentleman. But I beg to call his attention, and the attention of the committee, to the amendment offered by the chairman of the Committee on Ways and Means. The clause of the bill as it now stands, means nothing. It is as follows. "contingent expenses of said building." Are the appropriations for contingent expenses which follow, necessary for the Patent Office Building? If so, we ought to adopt the amendment and specify the building. If the gentleman from Alabama afterwards brings forward a proposition for the transfer of the head of the Department of the Interior to the Patent Office Building, it will be time enough then to oppose such transfer. I do not know that there is any such proposition in contemplation. This amendment is proper, apart altogether from the considerations to which the gentleman from Ohio has alluded. I suppose the fact is, as the gentleman from Ohio has stated, that it is intended to move the Department of the Interior into that building. But that question is not before us now, nor is it involved in the amendment under consideration. Let us, therefore, pass the amendment and go on with the bill.

Mr. JONES, of Tennessee. With the permission of the gentleman from Georgia, I wish merely to say that the gentleman from Ohio [Mr. CARTTER] is entirely mistaken in his statement, that there are one hundred and fifty clerks in the Department of the Interior. There are only some ten or twelve clerks in that Department proper. If the gentleman includes the Patent Office, the General Land Office, the Indian Office, the Office of the Commissioner of Public Buildings, and all the other bureaus under the Department, he can make out more than one hundred and fifty clerks. But it is not proposed, I presume, even by the Secretary of the Interior himself, to move all of those bureaus into the Patent Office Building, and I take it for granted that it is not necessary for us here to pass any law upon the subject. Whenever that building shall be finished and the Secretary of the Interior thinks proper—the building being under his charge and direction—he can move into it without any law upon the subject, and abandon the building now rented for the use of his Department.

Mr. CARTTER. That is just what I want to prevent.

The question then was upon the amendment to the amendment.

Mr. CARTTER. I will withdraw the amendment to the amendment.

The CHAIRMAN. That can be done by unanimous consent.

No objection being made, the amendment was withdrawn.

Mr CARTTER. I now offer the following as an amendment to the amendment:

Provided, That neither the office of the Secretary of the Interior, nor any bureau thereof, other than the Patent Office, shall be located in the Patent Office Building until directed by law.

Mr. HOUSTON. I desire to ask the Chair if that amendment is in order? It is one that is likely to lead to a good deal of discussion, and if I am right in the opinion that it is out of order, I desire to save the time that would be thus consumed. I am exceedingly anxious to get through with this bill.

The CHAIRMAN. Does the gentleman from Alabama raise a question of order?

Mr. HOUSTON. Yes, sir, I do. There is no provision in this bill to transfer the Department of the Interior to that building.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. CARTTER. I appeal from that decision. This is an insidious attempt to divert the Patent Office Building from the purpose for which it was designed. I ask for the reading of my amendment.

The Clerk read the amendment.

The CHAIRMAN. The Chair decides that that amendment is not in order. From that decision the gentleman from Ohio appeals. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. SWEETSER. Upon that question I demand tellers.

Tellers were ordered; and Messrs. POLK and HART were appointed.

The question was then taken, and the tellers reported—ayes 39, noes 83.

So the decision of the Chair was overruled, and the amendment to the amendment was decided to be in order.

Mr. CARTTER. I wish simply to remark, without detaining the committee, that my sole object is to preserve the Patent Office Building under the design with which it was constructed—to answer the necessities of this self-sustaining Department until Congress shall by law say that they shall not have it. That is the whole object of the amendment.

Mr. JONES, of Tennessee. The gentleman from Ohio speaks of the Patent Office as a self-sustaining office. Now, if that gentleman is acquainted with the history of the wings that are now in the course of erection, he knows that there has been something like a million of dollars appropriated out of the Treasury for that building, and that it will require at least half a million more out of the Treasury to complete the building, independent of the Patent Office fund. The gentleman ought to know further, that many members of this House, who have heretofore voted for these appropriations out of the Treasury, have done it with the belief and expectation that, when the building should be completed, a portion of it would be occupied by the Interior Department proper.

Mr. CARTTER. I wish to ask the gentleman a question. Has not the surplus patent fund all been absorbed in that building?

Mr. JONES. A hundred thousand or a hundred and fifty thousand dollars. That is all.

Mr. CARTTER. I would ask the gentleman one more question. Does he grudge the mechanics of this Republic a house to do their business in when they maintain it themselves?

Mr. JONES. I will say to the gentleman that I feel as sincere a desire to promote the welfare and interests of the mechanics of the country as he does, without making any pretense of that which I do not feel. I will say further, that in my opinion, the honest people of the country are swindled and imposed upon by persons who go through the country, and by means of patent rights obtained here, sell articles which are really of no use to anybody.

The question was then taken on the amendment to the amendment, and on a division there were—ayes 74, noes 48.

So the amendment to the amendment was agreed to.

The question recurred on agreeing to Mr. HOUSTON's amendment as amended, and being put, it was decided in the affirmative.

So the amendment as amended was adopted.

[A message was received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed bills of the following titles, viz:

An act authorizing the sale of certain reserved lands in the State of Alabama;

An act for the relief of Sophia Kirby; and

An act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1854, with amendments.

Also, that the Senate insist upon the first and fourth amendments to the bill of the House, (No. 326,) entitled "An act to prevent frauds upon the Treasury of the United States," to which the House had disagreed, and ask a conference with the House upon the said disagreeing votes of the two Houses; and

That the Senate have disagreed to the amendments of the House to the bill of the Senate, (No. 573,) entitled "An act for the relief of John Charles Frémont, late lieutenant colonel in the Army of the United States."]

[A message was here received from the President of the United States, by the hands of MILLARD P. FILLMORE, his Private Secretary, informing the House that he had approved and signed bills of the following titles:

An act granting the right of way to the St. Louis and Iron Mountain Railroad Company, and for other purposes;

An act to provide for the payment of the companies of Captains Bush, Price, and Suarez, for military services in Florida;

An act for the relief of John Millar;

An act for the relief of Captain George P. Smith;

An act to change the name of the steamboat Forest City; and

An act to amend an act entitled "An act to 'create the office of surveyor general of the public 'lands in Oregon, and to provide for the survey, 'and to make donations to the settlers of the said 'public lands;" approved September 27, 1850.]

Mr. HOUSTON. I move to strike out the following paragraph:

"For printing Army Register, general orders, &c., one thousand four hundred dollars."

Mr. STANLY. If the effect of the adoption of this amendment will be to prevent these Army Registers, &c., from being printed, I object to it. They have always been printed, and I do not know of any reason why they should not continue to be.

Mr. HOUSTON. The same explanation which I made with regard to these printing amendments on yesterday, will apply to this: The amendment will not prevent them from being printed; but this printing is to be done by the Public Printer, under a law passed at the last session, and, therefore, it would not be proper to make provision for it in this manner.

The amendment was then adopted.

Mr. GORMAN. I move the following, to come in after the clause which provides for the miscellaneous expenses of the office of the Colonel of Ordnance:

That whenever any lieutenant of the Corps of Engineers, or Corps of Topographical Engineers, shall have served fourteen years continuous service, as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of said corps shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps.

Mr. STANLY. I rise to a question of order. This is a very unjust amendment, and I object to it on that account. But it certainly cannot be in order aside from that.

The CHAIRMAN. The Chair decides the amendment to be not in order.

Mr. GORMAN. I think this is in order. This portion of the bill provides for the expenses of the Topographical Engineers, and the amendment is certainly germane.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. GORMAN. No, sir. I will not consume the time of the committee.

Mr. JOHNSON, of Georgia. For the purpose of getting at some information, which I desire upon the subject, I move to strike out as follows:

"For rent of house on northwest corner of F and Seventeenth streets, and warming all the rooms in it, twenty-one thousand eight hundred and seventy-five dollars."

Mr. J. said: This paragraph proposes to pay a certain amount of rent for the house which I understand to be Winder's Building. The last section of the bill provides, that under certain circumstances, a certain officer of the Government shall be authorized to purchase that building. Now, if this purchase is to be made, I think that there is no necessity for this clause in the bill authorizing the payment of the rent. One section is inconsistent with the other. I am in favor of purchasing, upon the score of economy, and I hope, therefore, this clause for the payment of rent will be stricken out.

Mr. MEADE. I think it would be improper to strike out that clause, because it may not be certain that we can get a good title to the building if we determine to purchase it. The section for its purchase provides that a title shall be furnished to the Government free from liens and incumbrances, to be accepted by the Attorney General and the Secretary of the Treasury. Now, we do not know the condition of that property. We do not know whether the present proprietor will be able to furnish such a title as the Attorney General and the Secretary of the Treasury would approve. But, if the building should be purchased, then there would be no necessity for the money here appropriated to be expended for the payment of rent. But, further: I find that this clause of the bill not only provides for the payment of rent, but for warming the building, which would also be stricken out, if the amendment of the gentleman from Georgia should prevail. I think, therefore, it is best to allow the clause to remain as it is, to provide for the contingency which may arise, and which will arise, if we are not able to obtain a proper title to the building. If we desire, however, to make the purchase, as I before remarked, there will be no necessity of expending the money here appropriated for rent. None of it will be expended if the building be purchased.

Mr. HOUSTON. If the gentleman from Virginia will allow me, I thought the last section of the bill proposing to purchase this building contained a provision, that if the purchase took place, the rent should stop; but I see it does not. It will, however, be very easy to insert such a provision in that section when we arrive at it, and that will obviate all difficulty.

Mr. MEADE. There will certainly be a necessity of making provision for fuel and lights.

Mr. HOUSTON. Oh, certainly. There must be some provision made.

Mr. MEADE. I hope the gentleman from Georgia will withdraw his amendment, and allow the provision to remain as it is.

Mr. JOHNSON. I will withdraw the amendment, if there be no objection.

The amendment was, by general consent, withdrawn.

Mr. STANTON, of Kentucky. I move the following, to come in after line 411:

For the purchase of ground and the erection of suitable residences for the Secretaries of State, Treasury, Interior, War, and Navy, the Postmaster General, and Attorney General, $200,000. *Provided*, That the whole cost of the said edifices shall not exceed this sum.

Mr. JONES, of Tennessee. I submit whether the amendment is in order? We have no estimates for the work, and there is no ground purchased.

The CHAIRMAN. The Chair would have no hesitation in deciding the question, but for the decision of the committee on an amendment involving the same principle a few minutes ago. The Chair, however, decides the amendment to be out of order.

Mr. STANLY. Did the Chair say that he had decided now contrary to the decision of the committee made before upon this amendment?

The CHAIRMAN. This is not the same amendment upon which the committee before decided.

Mr. STANLY. But has the Chair decided differently now from what he did before?

The CHAIRMAN. The Chair begs leave to read the rule under which he makes his decision:

"81. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

Mr. STANTON. This is certainly a contingency for carrying on one of the departments of the Government.

The CHAIRMAN. The Chair decides that it does not come under any of the three heads specified in the rule, and therefore is not in order.

Mr. FULLER, of Maine. I move, to come in at the end of the following clause of the bill, viz:

—"For compensation of the chief of the Bureau of Construction, Equipment and Repairs, and the clerks, draughtsman, and messenger, in his office, $13,600"—

the following proviso, viz:

Provided, That the chief of the bureau shall be a skillful naval constructor, as required by the act approved August 31, 1842, instead of captain of the Navy.

Mr. STANLY. I rise to a question of order. I dare say that is a good amendment; but we have a bill for the reorganization of the Navy which will soon be up, and I would suggest that at least it would be better to provide for these matters in that bill.

Mr. FULLER. It is in confirmation of the existing laws.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. FULLER made some remarks explanatory of his amendment, and in favor of its adoption.

The amendment was adopted.

Mr. CLARK. I move to amend by inserting at the end of the 434th line the following:

For the purpose of providing a temporary hospital for the relief of sick and disabled boatmen at Dubuque, Iowa, to be expended under the direction of the Secretary of the Navy, five thousand dollars.

Mr. STANLY. Is this amendment in order? I have no objection to it, if it is not out of order to offer it.

Mr. JONES, of Tennessee. I rise to a question of order. I do object to it.

The CHAIRMAN. The Chair decides the amendment to be out of order, there being no existing law to authorize it.

Mr. OLDS. I move the following amendment:

For raising the salary of one of the $1,600 clerks in the Post Office Department to the grade of a chief clerk, to be employed in conducting the correspondence, and performing other duties relating to the foreign mails and postal arrangements with foreign countries, four hundred dollars.

I offer this amendment with the concurrence of the Committee on the Post Office and Post Roads, and also in accordance with the wish of the Department. I send a letter to the Clerk's desk from the Postmaster General, which I ask to have read.

The letter was read, as follows:

POST OFFICE DEPARTMENT, *February* 17, 1853.

SIR: At the last session of Congress, an amendment to the civil and diplomatic appropriation bill was offered and received the sanction of the Senate, authorizing the Postmaster General to appoint and employ seven additional clerks in the Post Office Department, namely: one at an annual salary of $1,800, two at $1,600, two at $1,200, and two at $1,000; but this, with other amendments, being on the last day but one of the session referred to a Committee of Conference of the two Houses, it was modified, by striking out the $1,800 and one of the $1,600 salaries, and in this shape the bill became a law. This $1,800 salary was intended for the officer having, under the immediate supervision of the Postmaster General, the charge of the foreign division of this Department—a post of great and increasing responsibility, and one requiring more than the ordinary capacity and labor to perform its duties.

On the presumption that no bill for the reorganization of this Department is likely to become a law this session, I beg respectfully and earnestly to recommend that an amendment be made to some bill, whereby the salary of this officer may be increased to $2,000 a year.

A draft of the required amendment is herewith submitted.

I have the honor to be, very respectfully, your obedient servant, S. D. HUBBARD, *Postmaster General.*

Hon. EDSON B. OLDS, *Chairman Committee on Post Office and Post Roads, House of Representatives.*

P. S. A similar letter to this has been addressed to the chairman of the Post Office and Finance Committees in the Senate.

Mr. HALL. I wish to say, in reference to the amendment offered by my friend from Ohio, that I think we ought not to adopt it. Certainly the Democrats can carry on the Government as cheap as the Whigs can. The Whig clerks receive only $1,600, and the Democrats ought to ask only the same amount.

The question was then taken on the amendment offered by Mr. OLDS, and it was disagreed to.

Mr. HOUSTON. I move to strike out the word "five" and insert the word "two" in the following clause:

"For compensation of the Auditor of the Post Office Department, and the clerks, messenger, and assistant messenger in his office, one hundred and five thousand two hundred dollars."

The question was taken, and the amendment was agreed to.

Mr. BOWIE. I desire to offer an amendment at this stage of the bill, which, it seems to me, is the proper place for it. It is nothing more than the amendment which was embodied in the bill of September, 1852. It provides an additional compensation of ten per cent. to the clerks, messengers, watchmen, and laborers, employed at annual or temporary salaries in the Executive and Legislative Departments at Washington.

Mr. HOUSTON. I would suggest that the gentleman allow us to go on with the bill, and bring up his amendment at the end of the bill.

Mr. BOWIE. It seems to me to come in appropriately here, as we pass through the appropriations for the expenses of the different Departments of the Government. In the bill of 1852 it was incorporated among the miscellaneous items. It is wholly immaterial to me at what part of the

bill it is introduced, but as the House is now full, I prefer to propose it at this time.

The amendment was then read, as follows:

And be it further enacted, That the clerks, messengers, watchmen, and laborers employed at an annual salary, or in temporary positions in the Executive and Legislative Departments of the Government, in the city of Washington, whose annual compensation does not exceed twelve hundred dollars, shall, in addition thereto, be allowed an increased compensation of twenty per cent.; all whose compensation shall exceed twelve hundred, and shall be less than sixteen hundred dollars, shall receive an additional compensation of ten per cent. upon the amount of their salaries: *Provided*, That no salary shall be increased to more than sixteen hundred dollars by the per cent. or additional compensation herein provided for, and that the same shall be paid out of any money in the Treasury not otherwise appropriated: *Provided*, That this section shall not extend to more than one salary of any person receiving a salary for discharging the duties of more than one office at the same time, or to any person who does not actually discharge the duties of the office for which he receives such salary, or to any person engaged in prosecuting any claim other than his own before any Department or Congress; and that in case any pay or accounting officer of the Government shall pay said additional percentage to any such person, it shall be a misdemeaner in the person knowingly paying or receiving such additional percentage, rendering each liable to indictment and punishment by fine and imprisonment: *Provided, further*, That the increase of salary given by this section shall not extend beyond the present fiscal year, without further legislation.

Mr. HIBBARD. I rise to a question of order. This amendment is not in order, as it proposes an appropriation which is not provided for by law, and is in contravention of existing laws. The fact that this thing has been once done does not sanctify the law.

Mr. BOWIE. This amendment is a literal transcript of the second section of the civil and diplomatic appropriation bill passed in September, 1852.

Mr. TOOMBS. If the appropriation was made last session, contrary to law, I hope the House will reverse it now.

Mr. HIBBARD. It proposes to alter the criminal law of the land, and is most clearly out of order; and however many times it may have been done heretofore, it cannot be admissible under any rule.

The CHAIRMAN. The question is not debatable; but the Chair would like to hear the suggestions of gentlemen.

Mr. BRENTON. There is another question, and that is, whether it is in order as an additional section at this stage of the bill? It purports to be a separate section.

The CHAIRMAN. If it be in order at all, the Chair is of opinion that it would come in more properly at the end of the bill, where the miscellaneous sections are inserted.

Mr. BOWIE. I do not desire to trouble the House. If it is the desire of the House that the question of order should be postponed, and the amendment presented at the end of the bill, I will give notice that it is my intention to offer it as an additional section.

Mr. HIBBARD. I hope the gentleman will offer it now, that we may settle the point of order.

The CHAIRMAN. The gentleman from Maryland offers an amendment, and a question of order is raised. The Chair is in some doubt in deciding the question, for the reason that at the preceding session the amendment was held to be in order. The Chair, however, is of the opinion that the amendment is not in order.

Mr. WALSH. In the civil and diplomatic bill of the last session we increased the salary of the Minister to China, and increased the amount to be paid to the Minister to Turkey.

Mr. TOOMBS. Ministers' salaries are not fixed by law, and that is an answer to the whole case.

Mr. WALSH. They are fixed by law.

Mr. TOOMBS. No, sir; they are never fixed by law.

Mr. WALSH. The law fixed the salary at $6,000, and we increased it to $9,000.

Mr. LETCHER. I rise to a question of order. If the gentleman is out of order, the rules ought to be enforced upon him; and I understood the Chair to decide that he was out of order.

Mr. BOWIE. I rise to inquire whether, if I submit the question of order now, I would be precluded from offering it as an additional section at the termination of the bill?

The CHAIRMAN. The gentleman can change the phraseology, and offer it again.

Mr. BOWIE. If the Chair decides that the amendment is out of order, I appeal from the decision.

The CHAIRMAN. The gentleman from Maryland has offered an amendment, which has been read. The Chair decided that it is out of order, on the ground that it is not embraced within either of the three classes of amendments competent to be offered under the 81st rule. From that decision the gentleman from Maryland appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then put, and the decision of the Chair was sustained.

The following section being under consideration, viz:

"For specimens of ores and coins, to be reserved at the Mint, three hundred dollars;"

Mr. DEAN offered the following amendment:

And the Secretary of the Treasury is hereby authorized and directed, to establish at the city of New York, in connection with the office of the Assistant Treasurer of the United States, in the city of New York, an assay office, for refining, assaying, and casting into bars or ingots, gold in grain or lump; and the Director of the United States Mint, at Philadelphia, is hereby authorized and directed to employ one or more competent assayers, and such other persons as may be necessary to assay, refine, and cast into bars and ingots, such gold in grain or lump as may be presented for that purpose. And it shall be the duty of said assayers and other persons thus employed, to assay, refine, and cast into bars or ingots, and mark the value thereof on each bar, such gold in grain or lump as shall be presented for that purpose: *Provided*, That the persons presenting or owning said gold shall pay the expense of said assaying or refining, and marking said bars: *And provided further*, That said assay office shall be under the control and direction of the Director of the United States Mint, at Philadelphia.

Mr. STEVENS, of Pennsylvania. I make this point, that the amendment is not in order.

The CHAIRMAN. The Chair decides the amendment out of order.

Mr. DEAN. I appeal from the decision of the Chair. The question is not debatable, but have I not the right to state my grounds of appeal?

The CHAIRMAN. The gentleman has that right.

Mr. DEAN. I presume the Chair bases his decision upon the 81st rule of the House, which is merely that an amendment proposing certain appropriations, is not in order. But my amendment provides for no appropriation.

The CHAIRMAN. The gentleman is debating the question and is not stating the grounds of appeal. The Chair hopes he will confine himself to a statement of the grounds upon which he takes the appeal.

Mr. DEAN. The grounds are these: That amendment, as the committee will see if they examine it, contains no appropriation, and changes no existing law.

Mr. FLORENCE. I call the gentleman to order. He is debating the question.

The CHAIRMAN. The Chair holds that the gentleman is debating the amendment.

Mr. DEAN. I am stating what the amendment is.

The CHAIRMAN. The gentleman is out of order.

Mr. DEAN. I ask that the 81st rule may be read.

Mr. WASHBURN. If I understand the gentleman, he claims that the amendment is in order because it provides for no appropriation.

Mr. DEAN. That is so.

The CHAIRMAN. That is the most conclusive reason why it is not in order. The gentleman appeals from the decision of the Chair.

Mr. HIBBARD. I ask the gentleman to withdraw his appeal. I am a friend of the New York Mint and voted for it, but his amendment is clearly out of order.

Mr. DEAN. I wish to state one other fact.

The CHAIRMAN. The gentleman is out of order in stating facts, as gentlemen have objected to a statement of anything.

Mr. DEAN. I wish to have a law read.

The CHAIRMAN. That is not in order.

Mr. DEAN. In 1850 a law precisely similar to this was passed.

The CHAIRMAN. The question on the appeal is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and the decision of the Chair was sustained.

Mr. BROOKS. I propose at this point to offer the following amendment:

Provived, That of the gold coinage, there shall be coined at least two and a half millions of pieces of quarter eagles.

I should have offered some other amendment if the gentleman from Philadelphia [Mr. CHANDLER] had been present, but I am not disposed to take advantage of his absence. My object in offering this amendment is, first, because we have passed a bill making merchandise of gold, by allowing it to be cast into bars and ingots, which relieves the Mint from a great deal of labor in casting the double eagle gold pieces, which are used mainly for exportation. The second object I have in view is, to provide the great body of the people with small coin fit for circulation, which will, in some degree do away with the immense and unnecessary quantity of bank paper now in circulation. The two and a half dollar gold piece is the most desirable coin, but it is coin difficult to be got at, and in the present state of the coinage, is a *rara avis* in commercial circulation. Last year $51,500,000 were coined in twenty dollar gold pieces, and only $1,159,381 were coined into quarter eagles.

I propose by that amendment that the Mint next year shall coin two and a half millions of quarter eagle pieces, making six and a quarter millions of dollars. It is not right, or just that the Mint employed by the country, should be devoted to the coining of twenty dollar pieces for exportation, when it is desirable on the part of the people to have gold coin in two and a half dollar pieces, which are not desirable for exportation, and which, in all probability, will be likely to circulate among the great body of the people. I can see no objection to it, unless it comes from gentlemen who desire to have the Mint coin only large ingots for the purpose of exportation, and not for the use of the people.

Mr. TOOMBS. I object to the gentleman's proposition for two very obvious reasons. According to existing laws, depositors can place their gold at the Mint and have it coined into whatever kind of pieces they please. Is there any hardship in that? The gentleman says that it is done at the public expense. Seigniorage is charged for the purpose of defraying the expense of coinage; but the gentleman wants the Government to coin for nothing. Whether you charge seigniorage or not, the taking of the bullion deposited in your Mint and putting it into coin under some fanciful idea that it will go into circulation is unjust to the depositor. Just so much will go abroad as commerce demands. I have heard the idea advanced that if you stopped coining silver dollars, our half dollars would not be taken abroad. They will be taken so long as commercially needed, and no longer. And you very wisely at this session passed a law that the Mint might, if wanted, assay and cast gold bullion into ingots. Depositors, under laws which have existed since the beginning of the Mint, can easily have their bullion, if they want it, coined into one thousand dollar slugs, ten dollar, or two and a half dollar pieces. This is an interference with the rights of citizens, under a fanciful idea of public advantage, which has not the least foundation. Let the matter alone.

Mr. STEVENS, of Pennsylvania. I rise to a question of order. This amendment alters the law in regard to coinage, and makes no appropriation whatever; and is, therefore, out of order.

Mr. JONES, of Tennessee. I will state, in addition to what the gentleman has stated, that we passed, a few days since, a bill allowing depositors to have their gold coined or cast into bars and ingots, as they chose.

Mr. BROOKS. Here are four items of appropriation. The amendment I propose is, that those appropriations shall not be made, unless on the condition specified. Now, have we not the right, in making an appropriation, to stipulate the conditions on which it is made? That is all I propose by my amendment.

The CHAIRMAN. The Chair is of the opinion that the amendment is not in order.

Mr. DUNHAM. I offer the following amendment:

Add, after the appropriations for the Mint at Philadelphia, the following:

Provided, That hereafter the standard fineness of the three-cent pieces is hereby raised to nine and one hundred thousandths, to correspond with the other coinage of the United States.

Mr. DUNHAM. I presume that when the committee understands the amendment, there will be no objection to it.

Mr. HOUSTON. I will say to my friend from

Indiana, that an amendment involving precisely the same principle has been ruled out of order by the Chair, and that, if this one be received as in order, there are perhaps twenty others behind that will be put forward. I am compelled to raise the point of order. I am in favor of the amendment, and would vote for it, if it were up in order.

Mr. DUNHAM. If the gentleman will withdraw his objection, I think that the committee, on undertanding the object and effect of the amendment, will agree to it. If there be no objection, I will make a brief explanation.

Mr. HOUSTON. I am compelled to insist on my point of order.

Mr. DUNHAM. If you will withdraw your objection nobody else will object.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order.

Mr. BROOKS. I move to strike out the lines under the head of the Mint at Dahlonega, as follows:

"For incidental and contingent expenses, including wastage, in addition to other available funds, $1,400."

Mr. HOUSTON. I rise to a question of order. The amendment is not in order, because the committee have passed that portion of the bill proposed to be stricken out.

Mr. BROOKS. Is anything in order with the gentleman from Alabama?

Mr. HOUSTON. Factious opposition is not in order.

The CHAIRMAN. An amendment may be offered by the gentleman from New York in order.

Mr. BROOKS. Perhaps, then, the gentleman from Alabama is out of order, and the gentleman from New York is in order.

Mr. HOUSTON. I do not understand the Chair as pronouncing such an opinion.

Mr. BROOKS. The gentleman from Alabama, when he undertakes to rebuke the gentleman from New York, will first procure the sanction of the rules.

Mr. HOUSTON. I did not undertake to rebuke the gentleman. If I had, I have grounds enough to do it, as he well knows.

The CHAIRMAN. Order!

Mr. BROOKS. The gentleman from Alabama being out of order, I will proceed to state the grounds of my amendment. [Laughter.] I indulge in no feeling against the Mint at Dahlonega.

The CHAIRMAN. If the Chair heard the gentleman, he proposed to strike out lines 507, 508, and 509.

Mr. BROOKS. I did; and the ground on which I propose to strike them out is, that until there is a Mint at New York, where the gold coinage of the country goes, I do not see the necessity of keeping up a Mint in the State of Georgia.

Mr. TOOMBS. I do not either. [Laughter.]

Mr. BROOKS. The gentleman from Georgia says that he does not see the reason for keeping up a Mint in Georgia. I deeply regret that a gentleman so well acquainted with the subject of a Mint in his own State, has left me to introduce this amendment for the saving of this expenditure of the public money. I do not feel that it is right or just on the part of the Government to sustain Mints in these remote places, when the city of New York, to which is imported the greater portion of the bullion, is unprovided with a Mint. The operation of a provision of the act passed the other day, would be to tax the city of New York, which I have the honor in part to represent, one quarter of a million of dollars for seigniorage. Before that act had been approved by the President, the provision which received the gentleman's "ay" has been repealed by the Senate; and when that proposition of repeal comes here, the gentleman, I presume, will vote to nullify his own affirmative record, and for the repeal.

Mr. TOOMBS. How do you know that?

Mr. BROOKS. The gentleman asks me how I know that. He was guided by the vote he gave by the wisdom of others in the other branch of the National Legislature, who framed the bill, and if he follows the precedent, he will be guided by the same sort of wisdom in voting for the repeal of that which he voted for a few days before.

Mr. TOOMBS. The gentleman has made rather a curious onslaught on me. He has mixed in several things besides his amendment. So far as the Senate repealing a law is concerned, I will only say that I do not think they can do it. I do not know on what ground the gentleman states that I would vote for any bill passed by the Senate. That the Senate have repealed a provision of a bill which passed this body, furnishes the gentleman with no reason for saying that I will vote for the proposition to repeal. I do look to committees for information with regard to matters to which they have directed their attention, but some matters I look into for myself. I regret to say, however, that I am in the habit of getting but little from them, especially with regard to local questions. [Laughter.] So far as the appropriation for the Mint at Dahlonega is concerned, I will tell the gentleman that that portion of the business of this House is not under my charge. I will frankly state, that I believe the Mints at Dahlonega and Charlotte are unnecessary, and that a Mint at New York is unnecessary. I will vote against the establishment of one there, and for the doing away with the others when the question is regularly presented. The appropriation proposed to be stricken out is a just one. If the gentleman's amendment is ruled to be in order, I will vote for it. I do not desire to continue abuses one hour in Georgia, any more than I would in the city of New York. I am willing to pull up all abuses by the roots. As I have said already, I think the Mints at Charlotte and Dahlonega unnecessary, and that another ought not to be established at New York. I presume that has all along been the difficulty with the gentleman. I have opposed abuses wherever they were attempted to be established.

The free people of Georgia, who live by their own labor, are no more benefited by an abuse in Georgia than in New York. The recipients of the public plunder may be benefited in Georgia, but not the mass of its people. I think that the existing Mint is adequate to the wants of the country. I am not willing to support abuses because they are at home, and I wish that was more generally the case with members. The general rule seems to be that you may plunder the Treasury if you can do so for the benefit of your own constituents. Many gentlemen think they are sent here for that purpose. My constituents sent me for no such purpose, but to favor an honest and fair government at home and abroad. I shall endeavor to do so by my votes.

Mr. STEVENS, of Pennsylvania. Have I a right, Mr. Chairman, to move an amendment?

The CHAIRMAN. The gentleman can move an amendment to the portion proposed to be stricken out before that question is put.

Mr. STEVENS. I then move to strike out the word "four" from the portion proposed to be stricken out by the gentleman from New York. I should not have thought it worth while to trouble the committee with a word if the gentleman from Georgia had not signified his intention to vote for the amendment, and I thought that possibly the amendment of the gentleman from New York might pass by the general consent of the committee. Now, sir, I think you cannot adopt that amendment, although I am willing to make a reduction, until you repeal the law for the establishment of the Mint. If you are to have a Mint there, and officers appointed and employed, are you not to pay all expenses? It seems to me that the gentleman was wrong in saying he would vote for the amendment.

Mr. TOOMBS. I will vote for the amendment if it is decided to be in order.

Mr. STEVENS. If it be decided in order I will vote against it. It appears to me that we are to be troubled on every question with ghosts. The ghost of the New York Mint stares us in the face at every step we take; and the imagination of the gentleman from New York will, it seems to me, never get over it. We were troubled with it by my honorable friend from Philadelphia—now absent—and my honorable friend from New York, while the Mint question was alive and pending. They never gave a straightforward vote for fear it would affect the Mint. They dodged and curled up until they got almost to look mean. [Laughter.] I had hoped they would now stand up and straighten out.

Mr. BRIGGS. I ask the gentleman whether he means to reflect on my official course since I have had a seat on this floor?

Mr. STEVENS. Not the least in the world. I think it was perfectly proper, and I am now in hopes that he will regain his original shape and attitude, for that question has gone, and hence it is I want to lay the ghost, that his official course may be as straight as ever. It was all right; there was no way to get the Mint but to act as he did. I do not blame him, therefore, for it. There is not a man more devoted to a particular question, or more honorable in carrying it out, or who would go further, in every honest and fair means of course. [Laughter.]

I think we must vote against the amendment of the gentleman from New York, [Mr. BROOKS.] I would be for repealing all these little Mints that coin the three-cent pieces, for I believe that is all they are used for down in Georgia. I would repeal them all. I would have the Mint in Philadelphia, where it is necessary, and, if it should become necessary, in New York too. All I mean to say is, that so long as the Mints exist, pay those who are employed in them, and not starve them; for that seems to be the object of the amendment.

Mr. BROOKS. I do not wish to make any particular fight upon this Dahlonega Mint, and I withdraw the amendment.

Mr. STEVENS. And I mine.

Mr. MEADE. I offer the following amendment:

For the coinage at the Mint and branches of one million of quarter eagles, and one million of gold dollars, three millions five hundred thousand dollars.

Mr. HOUSTON. That is the same amendment which has been ruled out of order.

Mr. MEADE. The amendment proposed by the gentleman from New York, [Mr. BROOKS,] and ruled out of order, is different from the one I propose. That purported to change the law. This provides for a simple appropriation of $3,500,000 out of the Treasury of the United States, to be coined into quarter eagles and gold dollars.

The CHAIRMAN. Is there any law authorizing such an appropriation out of the Treasury?

Mr. MEADE. There is no law particularly in regard to it; but we are upon that subject now. It is an appropriation in connection with the Mints for the coinage of certain pieces of coin of which the country stands greatly in need.

The CHAIRMAN. It is a similar amendment, in effect, to the one offered by the gentleman from New York, [Mr. BROOKS,] and the Chair rules it out of order.

Mr. MEADE. I take an appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Virginia [Mr. MEADE] has proposed an amendment, which the Chair rules out of order. The gentleman appeals from the decision of the Chair, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affimative.

So the decision of the Chair was sustained.

The following clause was then read, viz:

"For salaries of governor, superintendent of Indian affairs, three judges, and secretary, nine thousand seven hundred dollars."

Mr. McLANAHAN. I offer the following amendment, to come in at the end of that clause:

For compensation to Elias P. West, late United States attorney for the Territory of New Mexico, for extra services rendered by direction of the courts of New Mexico, the sum of one thousand and forty dollars.

Mr. LETCHER. I rise to a question of order. I understand that to be a private claim.

Mr. McLANAHAN. I presume that under the 81st rule this amendment would be in order. It reads:

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

I think a word of explanation would enable me to show that this appropriation would be correct.

The CHAIRMAN. Does the gentleman from Virginia insist upon his point of order?

Mr. LETCHER. I do.

The CHAIRMAN. The Chair is of the opinion that the amendment provides for the payment of a private claim, and it is not in order; the services having been rendered and not to be rendered.

Mr. McLANAHAN. Will the Chair allow me to make a suggestion?

The CHAIRMAN. The Chair would be pleased to hear the suggestion of the gentleman from Pennsylvania.

Mr HOUSTON. I object to debate; it is out of order.

Mr. McLANAHAN. The Chair allows me to make a suggestion. The Governor of New Mexico refused to appoint a district attorney. Three hundred persons were in jail for very high offenses against the territorial law——

Mr. LETCHER. I rise to a question of order. The point has been decided and no appeal has been taken.

Mr. RICHARDSON. I propose the following amendment at this point:

For the erection of a penitentiary, at such a point in the Territory of New Mexico as may be selected by the Governor and Legislative Assembly of said Territory, the sum of $20,000.

Mr. HOUSTON. I suppose there is no law authorizing the erection of that penitentiary?

Mr. RICHARDSON. There is no law authorizing it.

The CHAIRMAN. The Chair decides the amendment to be out of order.

The following clause of the same section was then read:

"For contingent expenses of said Territory, one thousand dollars."

Mr. GORMAN. I offer the following amendment, to come in at the end of that clause:

For the payment of the expenses of the Board of Commissioners to prepare and compile a code of laws for the better government of the Territory of New Mexico, authorized by the act of the Legislative Assembly, approved July 15th, 1851, the sum of one thousand eight hundred and fifty-five dollars.

That is by express authority of law, so I suppose it is in order. It is authorized by an act of the Territorial Legislature.

Mr. DEAN. I rise to a question of order, and my point of order is, that there is no law authorizing that appropriation.

Mr. GORMAN. How does the gentleman know?

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from New York, and decides the amendment to be in order.

Mr. GORMAN. The preceding law reads, "For the contingent expenses of said Territory, $1,000." By the law now in force in regard to the Territory, it is required that there should be prepared a code in accordance with that law. The Territorial Legislature of New Mexico passed the following act, which I will read:

"An Act providing for a Board of Commissioners, and for other purposes.

"*Be it enacted by the Legislative Assembly of the Territory of New Mexico*, That the Governor, by and with the advice and consent of the Council, shall appoint five persons, who shall constitute a Board of Commissioners, to prepare and compile a code of laws for the better government of this Territory; also, a digest of the laws now in force, and report at the next session of the Assembly.

"SEC. 2. Said Board of Commissioners shall have the authority to employ a clerk and translator, whose fees and compensation shall be regulated by said Commissioners; and shall have full authority to send for and procure all papers and books in the archives of the Territory, and those that may be necessary for the fulfillment of their duties.

"SEC. 3. In case of a vacancy in said Board by death, resignation, or otherwise, the Governor shall be authorized to appoint another person to fill the vacancy.

"SEC. 4. The compensation of each member of said Board of Commissioners, shall be five dollars for each day of actual session, to be certified by the President of the Board; and said compensation, and the salaries of the clerk and translator, and other necessary expenses, to be paid out of the fund appropriated for the use of the Legislative Assembly.

"SEC. 5. This act to be in force from and after its passage."

In accordance with that fact the board of commissioners met and discharged that duty. The board thus appointed, consisted of two judges of the court appointed by the President, and Mr. Watts, Speaker of the House of Representatives, and a Spanish gentleman, whose name I do not make out, whose pay in all amounted to $1,855, which comes duly certified by the proper authorities of the Territory of New Mexico. I offer the amendment in behalf of the gentleman from New Mexico, and at his request; and as I am familiar with the facts in the case, I will state them to the House. I supposed that under the law this money could be paid by an order from the First Comptroller of the Treasury. The Comptroller, however, after a careful and, as he supposed, a labored investigation of the point of law involved, decided that it needed a special appropriation by Congress. That was the code of laws made by these Commissioners; but the First Comptroller decided that he could not pay the sum asked for under the construction which he gave to the law. I am clearly satisfied, and I think I could demonstrate, if it were necessary, upon this occasion, that it is the duty of the Comptroller to pay it, because it comes within the legitimate purview and authority of the Territorial Legislature. It has been executed according to their authority, and it has been proved and accepted according to their authority, and all that remains is for the Commissioners to be paid. During the last session of Congress, I moved also in the appropriation bill, for the gentleman from New Mexico, [Mr. WEIGHTMAN,] an amendment providing for the payment of the Commissioners. It passed this House, and went to the Senate. Upon the several territorial amendments, there was a committee of conference appointed, but that committee, in the multiplicity of amendments, lost this one in regard to New Mexico.

[Here the hammer fell.]

The question was then taken upon Mr. GORMAN's amendment, and it was agreed to.

The following clause was then read:

"For compensation and mileage of the members of the Legislative Assembly, officers, clerks, and contingent expenses of the Assembly, twenty thousand dollars."

Mr. HOUSTON. I offer the following amendment: After the word "dollars" insert the following:

And it is hereby provided that the appropriation made by the act approved the 13th September, 1850, "for public buildings for the Territory of New Mexico," is to continue and be made applicable to the act originally contemplated, notwithstanding the provisions of the 10th section of the act of August 31, 1850.

The object of that amendment is this: The 10th section of the civil and diplomatic bill of the last session carries back into the Treasury appropriations which have been outstanding for two years. The Territory has not been able to make the arrangements and commence the public buildings, and they fear that they will not within the two years, and they ask this as a precautionary measure. It is a reappropriation in fact.

The question was then taken on Mr. HOUSTON's amendment, and it was agreed to.

Mr. STUART. I am instructed by the Committee on Territories to offer the following amendment:

"For additions to the territorial libraries of Oregon, Minnesota, New Mexico, and Utah, five hundred dollars each—said sums to be expended under the direction of the Governors of said Territories."

I desire only to state, in a few words, the object of this amendment. This subject has passed under the investigation of the Committee on Territories; and believing that these additions to the libraries were necessary, they have instructed me to offer it.

Mr. HOUSTON. No one will object to it.

The question was then taken on Mr. STUART's amendment, and it was agreed to.

The following clause being under consideration:

"For salaries of the district judges, seventy thousand seven hundred dollars;"

Mr. MEADE said: I move to amend that clause by striking out "seventy" and inserting "eighty" in lieu thereof; so as to make the sum eighty thousand seven hundred dollars. If this amendment shall be adopted by the committee, I intend to follow it up with an amendment to the effect that the salary of a district judge shall, in no case, be less than $2,000. I hope, therefore, that this amendment will be voted upon by the committee with a view to following it up with the amendment which I have indicated.

Mr. STUART. I suggest to the gentleman that perhaps it would be better to inquire of the Chair whether the other amendment would be regarded as in order?

Mr. MEADE. I shall follow up this amendment, if it is adopted, with a proposition to this effect: Provided, that in no case shall a district judge be paid less than two thousand dollars. I presume that, in that shape, it would be in order.

Mr. JONES, of Tennessee. The salary of each of these judges is now fixed by law. The gentleman's amendment would, therefore, propose to change the law with regard to those whose salaries are below $2,000, and, I think, would decidedly not be in order.

Mr. MEADE. The committee, in voting upon this amendment, will express their opinion as to the policy of fixing the salaries of all the district judges at $2,000.

The question was then taken upon Mr. MEADE's amendment, and it was not agreed to.

The following clause being under consideration:

"For defraying the expenses of the supreme, circuit, and district courts of the United States, including the District of Columbia; also, for jurors and witnesses in aid of the funds arising from fines, penalties, and forfeitures, incurred in the fiscal year ending June thirtieth, eighteen hundred and fifty-four, and previous years, and likewise for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States, and for the safe-keeping of prisoners, six hundred and seventy-two thousand nine hundred dollars;"

Mr. McLANAHAN said: I rise to make an inquiry of the chairman of the Committee on Ways and Means. I wish to know if the estimates for that clause are predicated upon the fee bill now pending before the House?

Mr. HOUSTON. I presume not; they were estimated in the ordinary way.

Mr. JONES, of Tennessee. I would suggest to the gentleman from Pennsylvania that a bill passed the House the other day, upon his motion, increasing the salary of the judge of the criminal court of this District. I think that increase is not included in the estimate. The gentleman had better look to that.

Mr. MEADE. The best way will be to amend the clause providing for the payment of the judges of this District by adding five hundred dollars to the appropriation. I move to strike out "two" and insert "seven," so as to make the provision read as follows:

"For salaries of the chief justice of the District of Columbia, the associate judges, and the judges of the criminal court and the orphans' court, eleven thousand seven hundred dollars"

That will cover the increase of salary which we have given to the judge of the criminal court.

Mr. JONES. I wish to inquire, first, if that bill was a Senate bill?

Mr. McLANAHAN. It was; and it has passed both Houses.

Mr. JONES. Then it is now a law?

Mr. McLANAHAN. Yes, sir.

Mr. MEADE. My amendment will cover that increase of salary.

Mr. STANLY. I am opposed to that amendmen—formally, of course. My only objection to it arises from the conduct of the present judge of the criminal court. I understand that, during the last Congress, an officer of this House was summoned before the grand jury of this District to give evidence in some case connected with the gambling-houses which are tolerated in this city, to the disgrace of the whole country; that the officer declined to attend, and that the judge of the criminal court held that he was exempted from going before the grand jury by virtue of his being an officer of this House. Now, that is a startling decision to me. Surely none but members of Congress are exempt from process of debt, and so forth. If the judge made that decision, I want to call attention to it, and to see if the chairman of the Judiciary Committee will stand up here and back the judge. I think he will find, upon inquiry amongst the gentlemen of the bar, that it is regarded as a very extraordinary decision. At all events, we ought to have a rule of some sort to make our officers attend to prosecute, not only gamblers, but thieves of all other kinds and characters, by whatever names you may call them.

Mr. McLANAHAN. This is the first time I have ever heard anything of the subject that has been introduced into this discussion by the gentleman from North Carolina. If Judge Crawford's decision was such as the gentleman has intimated, I have no hesitation in saying that that decision was made upon precedent, and is according to law. On the same principle that members of Congress are exempted from the processes of the courts, all the officers of this House would be likewise exempted. If the officers of the House were removed, under process of a court of justice, the organization of the House would be destroyed, and the public business could not progress. I apprehend that this is the principle upon which Judge Crawford based his decision. It is evident that if one of the officers of the House could be removed by judicial process, then all may be, and the business of the House would not only be interrupted, but the legislative power would become subject to the judicial. The judgment of Judge Crawford is

in accordance with the well-defined principles of common-law. I believe that such has invariably been the decision in England, when questions of privilege have been tested. I repeat, if Judge Crawford has made the decision, I undertake to say, that he is sustained by law, and whatever the gentleman's opinion may be, in regard to the propriety of the law, it is the law; and the maxim of every good judge should be "*Stare decisis.*"

Mr. WALSH. I apprehend that this is not an ordinary question of privilege, but that the decision of Judge Crawford has been in reference to the analogy suggested by the course of the courts.

The CHAIRMAN. Does the gentleman propose to amend the amendment?

Mr. WALSH. I move, *pro forma*, to increase the appropriation five dollars. The proceedings of a court of justice, where the attendance of the clerk is necessary, might be interrupted if a *subpena* could come in from another court and take him from his duties. The court, therefore, have to protect themselves; and it has been the course of judicial decisions that the clerk of a court, while actually engaged in the performance of his duty, cannot be interrupted by the operation of a *subpena* from another tribunal. But the case is not without a remedy. The course with regard to the courts is for the clerk to apply to the judges for leave of absence.

Mr. LETCHER. I shall have to call the gentleman from Maryland to order. I cannot see what his speech has to do with adding five dollars to the appropriation.

Mr. WALSH. I was about to say that on application to the tribunal where the clerk is employed, they have always allowed him to go before the tribunal that may require his attendance, and in that way the public suffers no inconvenience, and there is no conflict of jurisdiction.

Mr. STANLY. I am opposed to the amendment to the amendment. The gentleman from Pennsylvania, the chairman of the Committee on the Judiciary, has too much regard for his reputation as a lawyer to back the decision of the judge, as I understand him. He says, *If* the judge decided so and so. There is much virtue in an "if." I understand the gentleman dodges from saying that the judge decided right. If so, I commend his discretion in evading the point presented to him, and shielding himself behind an "if." [Laughter.]

Mr. McLANAHAN. I do not shield myself behind an "if." But I say this: that if Judge Crawford made that decision, which the gentleman from North Carolina says he has heard that he made, I will undertake to assert that he made it on precedent and according to law. It is the only decision he could make legally, under the circumstances stated by the gentleman from North Carolina.

Mr. STANLY. Well, there is an "if" still. The gentleman says *if* Judge Crawford did so and so.

Mr. McLANAHAN. I say if he made the decision that you impute to him, it is in accordance with the law of the land. Does the gentleman gainsay it?

Mr. STEVENS, of Pennsylvania. I must really call these gentlemen to order. This debate has nothing to do with the pending amendment.

Mr. STANLY. And I call the gentleman from Pennsylvania to order, for he has nothing to do with this question. He informed the House, some time since, that he was a military character here. [Laughter.] He is a lawyer at home, but not in the House of Representatives.

Now, sir, what the British Parliament has decided, is not to guide us in this business. Members of Parliament may have, and have privileges that we have not. We are guided by a written Constitution. It is certainly a new idea, that an officer of this House—a messenger, for instance—is to be shielded from going before a public tribunal, because he is employed to carry mails between the Capitol and one of the Departments. That is the point presented here, and that is the point which the gentleman from Pennsylvania [Mr. McLANAHAN] dodges. If Judge Crawford says it is law, it is law; if Judge Crawford says it is not law, it is not law. That is the decision of the learned chairman of the Judiciary Committee of this House! [Laughter.]

But the gentleman says, suppose all the officers of the House should be arrested, business could not go on. Well, sir, members of the House can be arrested for a breach of the peace. The gentleman ought to strike out that feature of the Constitution, because every one of us here might get into a fight, and all be arrested for a breach of the peace, and then the public business would be stopped.

Mr. WALSH. I now withdraw my amendment to the amendment.

The question was then taken upon Mr. MEADE's amendment, and it was agreed to.

Mr. WALSH. I offer the following amendment, to come in at the end of the section:

And the same amount per diem shall be hereafter paid to the jurors of the district courts of the United States as is paid to the circuit courts thereof.

Mr. HOUSTON. I raise a question of order upon that amendment. It is not in order to regulate the fees of jurors and witnesses in this bill.

Mr. WALSH. This bill makes an appropriation of money for the administration of justice. It is surely in order to provide how a particular portion of it shall be expended.

Mr. HOUSTON. We have already passed a fee bill. This is a bill to appropriate money for purposes already sanctioned by law.

Mr. CHAIRMAN. Is there any existing law providing for the payment of jurors?

Mr. WALSH. Yes, sir; there is.

The CHAIRMAN. The Chair understands that this amendment proposes to change that law.

Mr. WALSH. It only proposes to appropriate a portion of this money in a particular manner.

The CHAIRMAN. But it changes the existing law.

Mr. WALSH. That will be the operation of it; but the amendment only directs how a portion of the appropriation shall be expended.

The CHAIRMAN. The Chair decides that the amendment is out of order.

Mr. GOODENOW. I offer the following amendment, to come in at the end of the clause now under consideration:

Provided, That no clerk of any of the courts of the United States shall be permitted to appear and act as attorney or counsel in any cause in the court of which he is clerk.

Mr. HOUSTON. That is not in order.

Mr. MEADE. I have an amendment to offer which comes in before that. I move to amend the clause now under consideration by striking out the word "six" and inserting "four," so as to make the sum $472,900, instead of $672,900. I will state briefly the reason why I offer that amendment. We have a bill now before us which has been returned from the Senate, with a few immaterial amendments, reforming the law upon the subject of the costs of our judiciary. If that bill passes, I have no doubt that it will save to the country $200,000 per annum, which is the amount I propose to reduce this appropriation. I think that if the committee were to strike out "six hundred thousand," and insert "four hundred thousand," it would create a necessity to have that bill passed during the present Congress; and I do think that anything which would compel the House to take up that bill—by which $200,000 will be saved to the country—and pass it, ought to meet with the favorable consideration of the committee. If my amendment is adopted, it will involve the absolute necessity of passing that bill.

Mr. TUCK. I rise to a question of order. The gentleman from Maine [Mr. GOODENOW] proposed an amendment. The gentleman from Virginia [Mr. MEADE] rose, and, without the leave of the gentleman from Maine who was entitled to the floor, offered an amendment to the amendment upon which he is now speaking.

The CHAIRMAN. The gentleman from New Hampshire is mistaken. The gentleman from Virginia rose in his place, and stated that he proposed to offer an amendment to the section at a point preceding the amendment of the gentleman from Maine.

Mr. MEADE. It is clear to my mind that this section provides $200,000 more than is necessary, if the bill now before the House, with the amendments from the Senate, passes this body. Therefore, I propose to strike out from the present appropriation $200,000; and that will impose upon Congress the necessity of passing the bill to which I have alluded, at the present session. I am apprehensive that unless some such fire be placed upon the backs of members, that bill may be overslaughed. This bill is one of very great importance, not only for the prevention of improper practices in the judiciary department of the Government, but also as to the matter of curtailing the expenses of the Government to the amount of $200,000, and it may be more. I hope, therefore, my amendment will meet with favor from the committee, and that this bill to which I have alluded, will pass the House.

Mr. HOUSTON. The gentleman from Virginia proposes, in the first place, a very novel mode of legislation. He proposes, in advance of the legislation which he expects upon the part of the House, to reduce the appropriation which otherwise will be necessary for the purpose of carrying on a very important branch of the public service—the judiciary of the country. Suppose we reduce this appropriation, and the fee bill to which he alludes does not pass. Why, sir, the result will be that it will impose upon the next Congress the necessity of passing a very large deficiency to meet the reduction.

But again: if the gentleman had sufficiently looked into the facts, he would have found, that if that fee bill should pass, it would not reduce the expenses of the Government to the amount he now seems to anticipate. When the bill was before the House at the last session of Congress, I sent it to the proper Department for the estimates under it. Estimates were framed upon the bill as it then stood, and probably as it passed this House, and there was but a small reduction upon the estimates under the existing laws. I understand the gentleman upon my right from New York makes the calculation that it will increase the expense in the State of New York under that bill, but I know the proper officer of the Government estimated the expense under this bill, at the last session, as largely over $500,000.

Mr. McLANAHAN. Just one word. Upon that point I take issue with the gentleman from New York. Probably the strongest opposition to this bill comes from New York. Those interested alleged that under the fee bill the offices will not be worth the attention of any competent man.

Mr. HOUSTON. I cannot stop for the gentleman to settle that issue. I am only alluding to its application to this amendment. I say, that by reference to a communication made from the Comptroller's Office at the last session, you will find that the estimates under this bill, as reported by the chairman of the Committee on the Judiciary, were largely over $500,000.

Mr. McLANAHAN. They have been before as high as $600,000.

Mr. HOUSTON. The appropriation proposed for that session was for $620,000, and if the bill had passed in that form, we should have saved less than $100,000 for that session; but if that bill should not pass, and we should reduce the appropriation as proposed by the gentleman from Virginia, it might prove ruinous to the service.

Mr. STUART. I propose to amend the amendment by striking out the word "four," and inserting "five."

I offer this amendment simply for the purpose of saying that there is no such difficulty existing as the gentleman from Virginia supposes in reaching the fee bill. It is the first thing in order on the Speaker's table, after disposing of the Executive communications, and whenever we proceed to the business on the Speaker's table, will come up within thirty minutes for action. So there is not such a necessity for passing the amendment reducing the appropriation, as the gentleman from Virginia seems to indicate, for that purpose.

Mr. HOUSTON. I wish to inquire if the gentleman is in order in this kind of remark?

Mr. MEADE. If the fee bill, then, is to be passed, we certainly should reduce the appropriation here.

Mr. LETCHER. If the bill is passed, and all this appropriation is not needed, the money will remain in the Treasury.

Mr. STANTON, of Tennessee. I oppose the amendment of the gentleman from Michigan, [Mr. STUART.] It seems to me this matter may be very easily settled. Suppose the bill to which the gentleman from Virginia alludes does pass, and we do not need the whole of the $600,000 to carry on the service, the money would not be paid out of the Treasury because it had been appropriated, unless needed. But this amount is necessary

under the existing laws, and I think it had better be appropriated; and if it should turn out not to be needed, it will again return to the Treasury. I hope, therefore, without further opposition, that the appropriation will be allowed to pass.

Mr. STUART. With the consent of the committee, I will withdraw my amendment.

The amendment, by general consent, was withdrawn.

Mr. GOODENOW. I move the following as an amendment, to come in at the end of the same clause of the bill:

Provided, That no clerk of any of the courts of the United States shall be permitted to appear and act as attorney or counsel in any case in the court of which he is clerk.

Mr. CLARK. I rise to a question of order. The paragraph to which this is offered as an amendment is one providing for the compensation of the judges, and fees of the officers of the circuit courts, and not for regulating their conduct.

The CHAIRMAN. The Chair sustains the point raised by the gentleman from Iowa, and rules the amendment to be out of order.

Mr. DUNCAN. I move the following amendment, to come in at the end of the same section:

For increase of the salary of the district judge of the district of Massachusetts, $400; which salary shall hereafter be $3,000.

Mr. JONES, of Tennessee. I rise to a question of order. The Chair has just ruled a similar proposition out of order.

The CHAIRMAN. The Chair is of the opinion that the amendment is not in order.

Mr. DUNCAN. I think the gentleman from Tennessee rises upon every question.

Mr. JONES. Yes; and the gentleman from Tennessee generally rises right, too.

Mr. STUART. I wish to offer an amendment to come in at that point. I move the following:

Be it further enacted, That from and after the first Monday in June next, the offices of all the clerks of the district and circuit courts of the United States shall be deemed and held to be vacant; and that such vacancies shall be filled by appointments to be made in the same manner that United States district attorneys and marshals are now appointed, and each of said clerks shall give a bond for the faithful discharge of his duties, in the same sum required of the marshal of his district; and all future appointments of such clerks shall be made in the same manner, and when appointed, each shall execute and file the aforesaid bond; and that all acts and parts of acts contravening the provisions of this act be, and the same are hereby, repealed.

Mr. LETCHER. I rise to a point of order. That amendment is evidently not in order.

Mr. STUART. I will modify it so that it shall not appear as coming in as an additional section.

Mr. LETCHER. I raise a point of order upon it in that or any other shape.

Mr. STUART. Well, sir, I do not desire to discuss the point further than to say, that the clause to which it refers provides for defraying the expenses of the United States courts, and the object of my amendment is to lessen those expenses in the most legitimate way in which it can be accomplished.

The CHAIRMAN. The Chair desires to inquire of the gentleman whether there is any existing provisions of law for the appointment of these officers, or the regulation of their duties?

Mr. JONES. Their appointment is now provided for by law, but this proposes to change that law altogether.

The CHAIRMAN. The Chair must decide the amendment to be out of order.

Mr. GORMAN. I move the following as an amendment to the same clause of the bill:

For erecting at Indianapolis, Indiana, a suitable building in which to hold the district and circuit courts of the United States, and for the preservation of the books and records of said courts, fifteen thousand dollars.

Mr. JONES, of Tennessee. I raise the question that that amendment is not in order. There is no law authorizing it, and no estimates by any of the Departments for it.

Mr. GORMAN. There are no estimates made by the Departments for it, nor do I suppose there is any need of any. If we could do nothing in relation to the work until we had estimates for the work, we should do nothing at all. If you cannot make any appropriation for a new work until we have estimates, how should we commence? Where should we commence? Why, an appropriation is necessary in order to make a proper estimate at all. I insist that the amendment is in order, under the 81st rule.

Mr. HOUSTON. There is another point. The law of 1842 provides that whenever the Government desires to build a new house, it shall submit its estimates for the entire cost of the building and the plans. The law requires that this shall be done before the work can be commenced.

Mr. GORMAN. I insist that this amendment is in order, because the estimates can as well be made before as after the commencement of the work. The 81st rule provides that—

"No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

Now, I say this amendment comes plainly under this last head. It is a contingency for carrying on the judicial department of the Government, and an essential contingency, too.

The CHAIRMAN. The Chair decides the amendment to be out of order.

Mr. GOODENOW. I move the following amendment, to come in at the end of the same clause:

Provided, No clerk of any of the courts of the United States shall receive any part of the money herein appropriated, who acts or shall act as an attorney or counsel in any of said courts."

Mr. Chairman, I believe that amendment is in order. The object which I have in offering it, is to remedy an abuse which I understand exists in many parts of the country. I understand there are cases where the judges of the United States courts appoint their own sons as clerks, and while they receive compensation as clerks, still act as counsel in cases pending before the same courts. I think that practice is wrong, and may lead to a great abuse. I think, further, that it ought to be reformed by legislation, and therefore I have offered this amendment, which I hope may meet the approbation of the committee.

Mr. SACKETT. I am opposed to that amendment, and I propose to say a word or two in reference to the practice of which the gentleman complains.

Mr. STEVENS, of Pennsylvania. I rise to a question of order. This clause of the bill provides for the compensation of the clerks and officers of the courts, and not who shall be the clerks.

The CHAIRMAN. The Chair has some doubt in relation to the legitimacy of that amendment. He however decides it to be out of order, upon the ground that the effect of it, if adopted, would be to change the existing laws regulating the appointment and duties of clerks. That would be its practical effect.

Mr. SACKETT. I cannot see how it will change the existing law in reference to this matter.

Mr. CLEVELAND. I appeal from the decision of the Chair that this amendment is not in order.

The CHAIRMAN. The Chair has ruled the amendment out of order, upon the ground that the effect of it, if adopted, would be to change the existing laws providing for the appointment and payment of the officers therein provided for. From that decision the gentleman from Connecticut [Mr. CLEVELAND] takes an appeal.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put, and decided in the affirmative.

So the decision of the Chair was sustained.

Mr. STANLY. I desire at this point to offer the followiag amendment:

"To aid the directors of the Washington Infirmary to enlarge their accommodations for the benefit of sick and transient paupers, twenty thousand dollars."

Mr. CLARK. I shall be compelled to return the gentleman's compliment, and make a question of order upon that amendment. It is precisely of the same nature as the amendment I offered.

Mr. STANLY. I, with other members, raised a point of order when he was out of order; he returns the compliment by calling me to order when I am in order. That is not a fair return. The gentleman will not object when he hears my amendment read. But if the Chair will hear me state the facts, he will see that the amendment is in order. There is already a law of Congress appropriating money to aid that institution. There is an appropriation made every year to enable this infirmary to support transient paupers. I do not know in what bill it comes in. This amendment relates to the same object, and provides for enlarging the accommodations for those paupers who are supported every year by that institution.

The CHAIRMAN. The Chair decides, upon that state of facts, that the amendment is in order.

Mr. STANTON, of Kentucky. The amendment may be in order, but not in this place. It would properly come in at the 938th line, where there is a clause in reference to this Washington Infirmary. The amendment is not germane to the clause now under consideration.

The CHAIRMAN. If the gentleman will allow the Chair, he would suggest that it would be better to withhold the amendment until we reach the 938th line.

Mr. STANLY. I know my friend from Iowa will not oppose it.

Mr. CLARK. I cannot hear what the gentleman says, but I should be glad to know upon what ground his amendment is in order and mine not.

The CHAIRMAN. Upon the ground that Congress has been in the habit for many years of making an annual appropriation for the support of this particular hospital in the city of Washington.

Mr. SKELTON. By the authority of law?

The CHAIRMAN. I suppose so.

Mr. STANLY. The Washington Infirmary is a private corporation, supported by gentleman whose memorial was laid on our table a few days ago, signed by Thomas Miller, Joshua Riley, Grafton Tyler, William P. Johnston, J. F. May, and R. K. Stone. Congress appropriates $2,000 a year to aid in the support of transient paupers thrown here on the mercy of the Government, persons who from all parts of the country come here on business, laborers on public buildings, and to obtain pensions, &c. The accommodations are not sufficiently extensive, and this amendment proposes to enlarge them. It is indispensable for the interest of the city that this should be done. The population is fast increasing, and this excellent establishment deserves our aid. It is managed with medical ability and humanity.

The House was divided on the adoption of the amendment, and there were—ayes 64; when

Mr. STANLY called for tellers; which were ordered; and Messrs. MCNAIR and MILLSON were appointed.

The question was then taken, and the tellers reported—ayes 82, noes not counted.

So the amendment was agreed to.

Mr. GORMAN. I move that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the chairman of the committee [Mr. ORR] reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly House bill No. 337, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854, and had come to no resolution thereon.

On motion by Mr. LETCHER, it was

Ordered, That leave be granted to withdraw from the files of the House the papers of Thomas Massie, for the purpose of being returned to him.

Mr. JONES, of Tennessee. I move that the deficiency bill, which has been returned to us from the Senate, with many amendments, may be taken up, and referred to the Committee on Ways and Means, and that the amendments of the Senate may be ordered to be printed.

The question was taken, and the motion was agreed to.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Printing to offer the following resolution:

Resolved, That the House Committee on Printing cause the maps accompanying the report of the Superintendent of the Coast Survey to be bound in quarto form: *Provided*, that the cost shall not exceed eighteen cents per volume; and that they also cause to be bound the maps accompanying the report of the Secretary of the Treasury, on the trade of the British North American Colonies, in a separate volume, and style similar to the maps accompanying the reports of Foster and Whitney, as published by the Senate, provided the cost shall not exceed twelve and a half cents per volume.

I desire to say, in explanation of this resolution, that the maps accompanying the report of the Superintendent of the Coast Survey are large,

and cannot be bound in the ordinary form, with the book, which is required to be bound in octavo form. Under the resolution directing the documents of the House to be bound, we have no authority to bind these maps in that form, except by the authority of the House.

In reference to the maps accompanying the report on the subject of the fisheries, they do not make a volume large enough to be bound under the resolution, and they are so large that they cannot be bound with the book. Hence the necessity of binding them separately. The price to be paid for each is only twelve and a half cents.

Mr. STANLY. I hope that the House will not pass upon this resolution at this late hour in the day. I do not see the necessity of binding those maps.

Mr. STANTON. The maps have already been engraved, and are now in the hands of the binder, who cannot proceed without this authority.

Mr. STANLY. How long have they been in his hands?

Mr. STANTON. They have been finished nearly six months.

Mr. STANLY. I have not heard of any Coast Survey maps having been bound hitherto. The survey has been going on for more than fifty years, if I mistake not, and this is the first time the maps have been proposed to be bound.

Mr. GORMAN. I will explain. The Coast Survey has never yet been printed and laid upon our tables. The maps cannot be put into the printed volumes. If you want them bound to accompany the printed matter, you must order it to be done. We cannot do it, unless you order it to be done. The Senate have already done it.

Mr. STANTON. The work has been progressing constantly, and the maps have consequently been increasing. Now, there is a large quantity of them, and they will be wasted and of no use unless they are bound.

Mr. STANLY. Many of them ought never to be bound, and ought not to have been engraved at all. But before we get through with this civil and diplomatic bill we may have a chance to say something on the management of the Coast Survey. It has got its friends all over this House and country. I do not know how much it will cost to have these maps bound, but my impression is, it will be several thousand dollars. We had better have some calculation, and know what we are about. Of what use will they be to the constituents of my friend from Kentucky? They are useful to mariners, and to the mercantile community on the sea-coast, but they are of little or no use to men in the interior. They will be of but little use in my friend's library. How large a volume will they make?

Mr. STANTON. The resolution provides that they shall be bound in quarto form.

Mr. STANLY. In quarto form. Well, that is about "as big as a piece of chalk." [Laughter.] There are some abuses connected with this Coast Survey to which the attention of the House ought to be called. We ought to ascertain the cost before we pass this resolution.

Mr. GORMAN. I can tell my friend. There are to be six thousand volumes, and they are not to exceed in cost eighteen cents.

Mr. HALL. I move that the House now adjourn.

The motion was agreed to—

And the House adjourned until to-morrow at eleven o'clock.

PETITION, &c.

The following petition and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. JOHN W. HOWE: The petition of William Nickle and others, citizens of Venango county, Pennsylvania, praying Congress to establish a post route from Agnew's mills, via Lamartine and Five Points, to Cass, in said county.

By Mr. STEVENS, of Pennsylvania: The memorial of the Pennsylvania Society for the Prevention of Slavery, and for the Relief of Free Negroes unlawfully held in bondage, and improving the condition of the colored race, setting forth the wrongs of the African race, and the injustice and unconstitutionality of the fugitive slave law of 1850, and praying for its immediate repeal or essential modification.

By Mr. KUHNS: The memorial of Elizabeth Hamilton, daughter of Captain Samuel Moorhead, late of Westmoreland county, Pennsylvania, praying for relief for the services of her late father in the war of the Revolution.

By Mr. SKELTON: The memorial of Horace H. Day and Henry O'Reilly, praying for a declaratory law which shall protect the right of trial by jury, before the issuing of a perpetual injunction, in cases of patent rights, when the novelty or legality is denied.

IN SENATE.

FRIDAY, *February* 18, 1853.

Prayer by the Rev. C. M. BUTLER.

Mr. DAVIS. I beg permission to send to the Chair the credentials of my successor in this body.

The credentials of the Hon. EDWARD EVERETT, chosen by the Legislature of Massachusetts as Senator from that State in place of the Hon. JOHN DAVIS, whose term expires on the fourth of March next, were then read and laid on the table.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed a resolution requesting the return of the bill of the Senate entitled "An act to regulate the terms of the district court of the United States for the district of Iowa."

The Senate proceeded to consider the resolution of the House of Representatives requesting the return of the said bill, and it was ordered that it be returned to the House of Representatives agreeably to their request.

ORDER OF BUSINESS—PACIFIC RAILROAD.

Mr. GWIN. Mr. President, I move that all prior orders be postponed, and that we take up the Pacific railroad bill this morning, with the determination of going through with it. I hope we shall have this day for that business alone. I trust the Senate will take up that bill now, and go on with it and dispose of it to-day.

The motion was agreed to.

Mr. HAMLIN. I do not rise to interpose any objection to this course of proceeding, but I wish to give notice to the Senate that to-morrow morning, or on Monday morning——

Mr. BADGER. Say Monday.

Mr. HAMLIN. On Monday morning I shall move to proceed to the consideration of the bill of the House of Representatives, making a grant of land to the several States and Territories in the Union, for the benefit of indigent insane persons, commonly known as Miss DIX's bill, and I shall ask the vote of the Senate on it at that time. I will not trouble the Senate with a discussion of the bill to-day; but it having already passed the House, I shall move to take it up then and ask a vote on it. I give this notice in order that Senators may be prepared.

Mr. BUTLER. I call upon the Senator from Indiana to redeem the pledge which he made yesterday, that he would move to make the Texas debt bill the subject of consideration for Monday.

Mr. BRIGHT. I intend to do so if I can get the floor after the morning hour expires.

The PRESIDENT. The Senate has already agreed to proceed to the consideration of the Pacific railroad bill, and that is now under consideration.

Mr. HUNTER. I have no objection to this day being devoted to that bill, and to its being disposed of to-day; but there are some appropriation bills which will probably be reported next week, and I do not want them to be shut out.

The PRESIDENT. No proposition will be entertained until this bill is disposed of by the vote of the Senate in some way.

Mr. ADAMS. As notifications are being given, I desire to say that I shall insist that some disposition be made of the homestead bill before these other bills are taken up, it having the preference over them.

Mr. CHASE. I wish, in accordance with the precedent which has been set me by other Senators, to express the hope that this bill will be disposed of in the briefest possible time; that we may proceed to vote upon the amendment as speedily as possible, and then upon the bill, if the amendment shall not prevail. I desire to say, I shall second zealously the effort of the Senator from Iowa [Mr. DODGE] or the Senator from Mississippi, [Mr. ADAMS,] to take up the homestead bill next in order, immediately after this matter shall be disposed of.

The PRESIDENT. The question before the Senate is on the amendment of the Senator from Pennsylvania [Mr. BRODHEAD] to the Pacific railroad bill.

Mr. BRODHEAD. As other Senators are giving notices of very important bills, I beg leave to call the attention of the Senate to an important bill, which I introduced, giving one hundred and sixty acres of land to the soldiers who served in the war of 1812. If the Committee on Public Lands do not soon report it, I intend to offer it as an amendment to some of the land or appropriation bills.

The PRESIDENT. The question is upon the amendment of the Senator from Pennsylvania.

Mr. BRODHEAD. My honorable colleague [Mr. COOPER] took the floor last evening, and is entitled to be heard. I do not know why he is absent. I presume he supposed this bill would not be taken up until the morning business was disposed of. I do not know whether he is in his committee room or not, but I shall be pleased if he can be heard.

Several SENATORS. Send for him.

Mr. BRODHEAD. It was my own intention to address the Senate in favor of the amendment which is now pending, and which is, in my judgment, a superior proposition to the one of the honorable Senator from Texas, [Mr. RUSK;] but there seemed to be a general disposition in the Senate yesterday to come to a vote upon this question; and as I am one of those who always endeavor to make themselves useful as working men, rather than conspicuous in the way of speech-making, I agreed to forbear, and postpone any remarks that I might have intended to make in favor of the amendment. I had some data, and I had arranged some thoughts for the purpose of showing that the plan which I have proposed is the proper way to commence this great railroad to the Pacific ocean, if it is to be commenced at all by the General Government. I intended to show, furthermore, that I shall always be slow in embarking the General Government in anything looking to an internal improvement system. But having expressed a determination not to address the Senate upon the subject, I have left my papers and facts at home, supposing that my colleague would be here to proceed with his remarks this morning, and that then we should take the vote.

Mr. BUTLER. I know of two or three gentlemen who intend to speak upon the subject, and I am sure it is one whose magnitude demands discussion. They may decline to do so. I do not know how that is. The honorable Senator from Pennsylvania [Mr. COOPER] has the floor this morning, and he did not dream that this bill was to be precipitated upon us, by a motion of this kind, at this early hour. If, however, it is a foregone conclusion that this bill is to go through just as gentlemen have counted the votes, be it so. If they do not wish to have discussion—and I suppose some do not—let them say so. I assure gentlemen, however, that it is one of those subjects that ought to be discussed, and I am sorry that my friend from Pennsylvania [Mr. BRODHEAD] has intimated a disposition to decline discussion. I know that the gentleman from Virginia intends to speak, and the gentleman from Pennsylvania, [Mr. COOPER,] who has the floor also, desires to speak.

Mr. BRODHEAD. I would suggest to my honorable friend from California the propriety, by common consent, of suffering this bill to go over until my colleague shall come in.

Mr. GWIN. Eleven o'clock is the hour of meeting of the Senate, and it is understood that every Senator who has any business here, or who desires to be present at the proceedings of the Senate, will then be here. We have been notified by the honorable Senator from South Carolina that several speeches are to be made, and I presume that some of the parties who intend to speak against the bill are now in the Senate Chamber.

Mr. BUTLER. No, sir; they are not.

Mr. GWIN. The Senator from Pennsylvania, it seems to me, has forfeited his right to the floor, by not being here when the question came up.

Mr. RUSK. I would be the last man to urge a matter here in a way that would operate as a discourtesy, or prevent any gentleman from expressing his views in regard to this, or any other measure which is to be acted upon by the Senate; but I cannot see that taking a vote upon this amendment will have that effect at all. If there is any right it is on the part of the friends of the bill, because they have notified the Senate over and over again that they were willing that certain features which have been objected to should be amended, but no opportunity has been given to offer those amendments to perfect the bill itself. The Senator from Pennsylvania [Mr. COOPER] opposes the passage of the bill, and proposes to

make his speech upon this amendment. After this amendment shall be disposed of, the bill will be open. Nobody supposes that a vote will be taken on the passage of the bill before the Senator comes in, and then it will be just as much open to debate as now, and upon the very same question which the amendment presents.

Mr. BORLAND. It was my purpose to avail myself of the occasion of the taking up of this bill to make a few remarks in connection with the railroad system. Do I understand that the bill is now under consideration?

The PRESIDENT. It is.

Mr. RUSK. We are anxious to get a vote on the amendment of the Senator from Pennsylvania, [Mr. BRODHEAD.]

RAILROADS IN ARKANSAS.

Mr. BORLAND. Mr. President, if the Senator from Pennsylvania, [Mr. COOPER,] who is entitled to the floor, will be in his seat, as he probably will be presently, I perhaps could occupy the attention of the Senate twenty or thirty minutes until he comes. I desire to make a few remarks, and perhaps this will be the best time for them.

What I desire to say, though not directly, yet substantially, connects itself with the bill now before us, and for that reason, will be in order; but as it is also somewhat personal to myself, I will, with the permission of the Senate, put it in the form of explanation of what took place here upon a bill already passed. That is the House bill of last session, granting land for railroads in Arkansas, which I find by the published proceedings, passed the Senate on Saturday, the 5th instant.

That my name does not appear as a participant in the debate which preceded the passage of that bill, may seem strange to those, especially at home, who know the deep interest I feel in railroad grants to my State, the prominent part I have heretofore taken in connection with them, and the exertions I have made for them, so often and so zealously as to incur the epithet of "pertinacious" from some of my friends upon this floor. For this reason, I deem it to be a duty I owe alike to my constituents and myself, to make a statement of the cause and circumstances of my silence on the occasion alluded to. I wish to make thatstatement here, thus publicly, and in presence of those who know the truth, that it may go upon the official record. I would not be misunderstood by any one; and I would guard myself against the *injustice* of those from whom better things might have been expected, but who, to subserve what they thought to be *their own interests*, have on a former occasion willfully and grossly *misrepresented* me. For, sir, I am so far like other men, as to have enemies at home—(enemies, because the people of Arkansas, when I was not yet five years a citizen of the State, were pleased to send me here to represent them, and that too by more than a *two-thirds* vote of the whole Legislature, and by *sixty-six* out of *seventy-four Democratic* votes)—enemies who, from that time, have dogged my heels with a hostility alike relentless and vindictive. And of this hostility you may sufficiently judge, when I tell you it has spared not what even savages are said to respect; for, with an assassin's instinct, they pursued me even into the sick chamber of my humble household, when powerless to defend, and oppressed with feelings which every manly heart will appreciate—I was watching what seemed the fast-ebbing lives of those most dependent upon and most dear to me—and made the very fact of my being there the subject of their fiend-like assaults. Even then, and for that, those enemies discharged their poisoned arrows at me from behind, and some of them *from ambush;* saying, what none better than themselves knew to be false, that I was away from this Chamber to the neglect of my public duties to my State, and to avoid the *responsibility* of important votes!

The occasion I allude to, of this *misrepresentation*, was the passage of the compromise acts of 1850. And yet it was matter of record here, that I was among the first to take position, and express decided views upon those questions; but that record was not *then* in Arkansas. And yet further, also, it was known to every Senator who observed the business of the session—and I appeal to all who were then here, that no interest pertaining to my State was left unattended to by me—and that no *responsibility* which one so humble as myself could properly assume, in regard to *any* public measure, had been, or has since been, avoided, or, even by indirection or accident, evaded by me; but then there were none of you in Arkansas to testify for me the truth as here it was known. My own single, plain statement of the truth, was all I had to oppose to the calumnious clamors of the human jackalls who hunted me. But the people, and their representatives then assembled, believed me; and, out of *one hundred* members of the Legislature, but *five* could be found to say otherwise.

The Senate will, I trust, pardon these allusions which can have, of course, for others than myself, only that general interest which every honorable man must feel for fair dealing everywhere; for, in every heart, as in mine, there are, I doubt not, fountains of feeling which, however deep they may lie, the hard hand of the wrong-doer will sometimes reach, and so disturb, as to make them overflow with words of bitterness, which all must recognize as their natural expression. As, connected with the former occasion, I now stand right upon the record at home, and justified before my own people; so I would stand right, and justify myself as connected with the present question; and, therefore, I will now explain my silence when others spoke here on the 5th instant, upon the Arkansas railroad bill. I was silent, because I was not here. And I was absent, because I did not expect the bill would come up for consideration; indeed I had the best of reasons for believing it would not come up. The circumstances are these: It will be recollected, that some two weeks before my colleague gave notice that on Monday of the following week he would move to take up the bill in question. The day came and passed, but doubtless for good and proper reasons, the motion was not made. So came and passed Tuesday and Wednesday and Thursday, and the motion was not made. On Thursday I informed my colleague that, as my bad health made a few days rest desirable, and as business of some importance called me to a neighboring State, I would like to be absent until the following Monday, if he thought nothing affecting the interests of our State would come up for consideration before that time. He expressed the opinion that nothing of the kind would occur within that period. With this understanding I parted with him, and that evening left the city for Virginia. Unexpected and unusual detention of steamboats delayed my return two days, and I did not reach here again until Tuesday night last. Upon my arrival, the first paper I took up contained the Senate proceedings of the 5th, in which I saw that on Saturday—only some thirty-six hours after I went away, my colleague had called up the Arkansas bill, which, after a short dabate, was passed, Well, sir, although this did, I confess, surprise me, I mention it not to impugn the motives, nor arraign the course, of my colleague, nor to object to the passage of the bill. But I do mention it, as explaining my absence on that occasion; for, most assuredly, as my colleague well knows, and for reasons I had given him, I would not have been absent if I had supposed such proceedings were to take place at that time.

And now, sir, to complete my explanation, a word as to the reasons of my desire to be present when the bill was to be acted upon. It will be recollected, that at the last session I introduced several bills for railroad grants in Arkansas; and that subsequently I reported, from the Committee on Public Lands, two bills, embracing the provisions of those several bills; and that those two, granting land for three roads entirely across the State, with fixed *termini*, were passed by the Senate, and sent to the House. These two bills were based upon various memorials from the people of Arkansas, and framed in conformity with the wish of the memorialists, as indicated by their action, as companies, organized for the construction of these particular roads. The first, from Memphis, via Little Rock to Fulton; the second, from Helena, via Little Rock to Fort Smith; and the third, from Gaines's Landing, via Camden, to Fulton. If there ever was, anywhere, an expression of opinion, or any indication of a wish, by any one in Arkansas in favor of any other road than these, I can truly say I never heard of it, nor have I found any one else who heard of it until within the last three days of last session, there came to us here from the House, at a time, and under circumstances when, under our rules, it was *impossible* to pass it through the Senate, against a single objection, the bill which you passed last Saturday.

My exertions on this floor, and my earnestness in making what was called "pertinacious" efforts, have not been forgotten—certainly not by the Senators whose objections I labored to overcome—exertions which were continued until the last hour of the session, and not abandoned until *absolute impossibility* of success was made conclusive, and a further continuance of them would have obstructed the indispensable business of the Senate. And yet, as is well known, I did not approve the bill, because it had not been asked for, nor wished for, by the people of my State; for the reason that it was not adapted to their wants, nor calculated to promote their interests, as well as those bills *they had* asked for, and which, having passed the Senate, were then, and are now, pending, or rather sleeping the sleep of death, from which no friendly hand has sought to raise them in the House. Why, then, did I make such exertions for the passage of such a bill? For the same reasons, sir, that I would not have opposed it, this session, had I been here when it passed. Those reasons are, first, I was assured by my colleague of the House that *this* was the only bill for Arkansas which it was *possible* to get through the House. It was, therefore, *this* or *nothing* for my State, which so much needed aid for the construction of her roads; and as this covered part of the ground we wanted, though miserably short of our real wants, and especially as I hoped it might, subsequently, be amended when a "sober second thought" should prove its defects, I brought my own preference, and even the people's preference, for the sake of their interest, in subordination to my sense of duty, and accepted for them this "half a loaf," rather than get "*no bread*" *at all*. And there was peculiar force in this reason at the close of our last session. Two months from that time the Legislature of my State was to meet, and it meets but once in two years. And I thought that any sort of a grant of land, even this one, "scarce half made up" as it was, submitted to the State Legislature, under the influence of the spirit of internal improvement which was recently aroused and active with our people, might possibly be converted to some useful purpose. I was unwilling to lose the certainty of obtaining a partial good then, even for the probability of a much greater good thereafter.

Second, I confess to a reason, certainly subordinate to, yet scarcely less potential with me (at least so far as my feelings are concerned) than, the one I have stated. It was a sincere, an anxious, an almost invincible unwillingness, that either the interest, the dignity, or the honor of our State should suffer even temporary detriment or derogation, from even a seeming absence of harmony in the councils, or want of unity in the action of her Congressional delegation, upon any measure directly relating to her. And that during the whole period of my service here I have evinced that spirit, I appeal to the record to prove that no bill for Arkansas, or any one of her people, (and I remember now but two that have come, one a private and one a public bill, and both small,) has ever come here from the House that I have not devoted myself to it at once, and, thanks to the Senate's courtesy, succeeded in passing through this body, within a week at furthest from its coming to us, until this particular "Cairo bill," the circumstances of my want of success with which (because it was impossible) I have already stated.

And yet, sir, in full view, and with full knowledge of all this, those same enemies of mine, of whom I have spoken, true to their instincts, and relentlessly bent on their ulterior purposes, have made my failure to get that bill through the Senate, last session, matter of taunt and reproach against me, and, in connection with it, expressed their "great regret" at my colleague's absence from his seat in this Chamber on that occasion; not that he was sick and suffering, and his life in danger—their patriotism and public spirit soared above such vulgar considerations—but because, *had he been here*, "his influence" would have been sufficiently potential to overrule the fatal objections of the Senators from Kentucky and New York, to nullify the rules of the Senate, and to pass the bill! Another of their arrows shot "from ambush." *Jam satis!*

THE CONGRESSIONAL GLOBE.

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A remark now upon two things said in the debate on Saturday.

In the course of that debate, the following colloquy occurred:

"Mr. DODGE. My purpose was not to interpose any objection to the bill or the road, but to ascertain whether the other Senator from Arkansas, [Mr. BORLAND,] now absent, was in favor of the bill. I presumed that he was, or my friend would hardly have moved to consider it during his absence.

"Mr. SEBASTIAN. I will say to my friend from Iowa that I had conferred with my colleague upon the subject, and I understood him that he would offer no opposition to this bill. He had declined taking the paternity of the bill, but I understood him that he would leave me to take such course with it as my judgment would sanction."

So far as this goes, it is literally true; yet it fails to give a full and fair view of that position. I had said to my colleague what he stated, and I had said *more;* and it was, as I had told him, to say *still* more to the Senate, that I wished to be present when the bill should be considered. I had said to my colleague, and wished to say to the Senate, that this bill, to make its real character conform to its *ostensible* purpose of a bill for the benefit of Arkansas, required amendment, both by striking out and by insertion. Those amendments I had indicated were, first, to strike out "Cairo," as the first terminus on the Mississippi, and insert "Memphis;" and, second, to add to the bill the road from Gaines's Landing, via Camden, to Fulton. I would also have added Helena; but my colleague had told me that the Helena company had abandoned the proposed road from that place, and the people in that region no longer desired it. Thus amended, the bill would have conformed to the two which the Senate passed last session, and which it was reasonable to believe that the House, if it would make any grant at all to Arkansas, would have granted, if it had ever been asked to do so—especially as they gave very little more land, and as they were what our people wanted, and were necessary for their interest. These amendments, too, I had been requested to propose, especially that for the Gaines's Landing and Fulton road, by those authorized to speak for that enlightened and wonderfully energetic company. I hardly think I should actually have proposed those amendments, or, if proposing, should not have pressed their adoption. But if I had not, it would have been only because I was assured by my colleague here, and my colleague [Mr. JOHNSON] in the House, also, that *any* amendment whatever would prove fatal to the bill, and thus deprive Arkansas of her *last* and *only* chance for railroad grants. And to avoid that calamity, I would, as I have before intimated, do violence to my own feelings—do anything, indeed, short of dishonor. I should, however, have given my views in full upon the character of the bill in its several bearings. For that purpose I wished to be here.

My colleague [Mr. SEBASTIAN] further said:

"And I will say further to my friend from Iowa [Mr. DODGE] that the difference between the bill of my colleague in the Senate and my colleague in the House of Representatives was the subject of some discussion in the Arkansas Legislature, and I am not aware that they have instructed us in reference to either one. But this much I know: that the Legislature has passed an act incorporating this very road which this bill provides for; and I am acting upon that, as an indication of the acquiescence of the Legislature in this scheme."

Now, sir, whether this gives correctly the action or indications of our State Legislature, I will not undertake to say with certainty; and such seems to be the position of my colleague himself; for no full and reliable information as to any definite and decided action of that body upon these questions seems to have come to either of us. And, upon inquiry of my colleague in the House, he seems to be equally uninformed in regard to it.

But, so far as what is known of the action of our Legislature may be regarded as *quasi* "instructions" on this subject, it strikes me as the very reverse of what my colleague assumes. As the reason for my saying this, I give the following as what we do know to have taken place in the House of Representatives of the General Assembly of Arkansas, November 12, 1852:

"Mr. Nunn's resolution to request Robert W. Johnson, our member of Congress, to use his best efforts to procure the passage of the United States Senate bills, to grant certain lands to Arkansas, was taken up.

"Mr. Coldwell opposed the resolution, as a reflection upon our members of Congress.

"Mr. Rust moved that it be referred to a committee to inquire into any neglect of duty charged to R. W. Johnson, but upon the explanation of Mr. Nunn, offered this amendment:

"*Resolved*, That nothing herein contained shall be construed into a reflection upon the Hon. R. W. Johnson.

"The resolution as amended was adopted."

A few days subsequent to this, a resolution was introduced into the same House, to instruct the Congressional delegation in *favor* of "the Cairo bill," with the avowed purpose of making the direct issue, to test the preference of the Legislature as between this Cairo project and the series of roads provided for in the two Senate bills, which, as I said, were then, and are now, pending or sleeping in the other end of this Capitol. The result was, that after full, protracted, and a somewhat exciting discussion, the House did not adopt this resolution.

But further than this, I am informed by a letter from a reliable source, received this morning, though I have not seen the newspaper account of the proceedings of the Legislature, that a similar resolution to the one which I have read as having passed the House of Representatives without a dissenting voice, was subsequently introduced into the Senate, referred to a committee, reported back, and adopted in the Senate without opposition; indorsing, as the House had done, the two Senate bills of which I have spoken. I state this with confidence, knowing that it comes from a source perfectly reliable.

Here, then, in these proceedings, a resolution was adopted, *nem. con.*, in the most numerous House of the Legislature, requesting our sole Representative [Mr. JOHNSON] in Congress, to use his best efforts to procure the passage of the *Senate* bills; and this followed by similar, though independent action of the other House. Was not this a declaration of preference for the Senate bills over the Cairo project, and, *pro tanto*, an *instruction* in favor of the former, and against the latter? And to make my inference still stronger, it was, I repeat, followed with a negative—ay, a most *pregnant negative*—upon the Cairo project! True, my colleague in the House is not officially amenable to legislative *instructions*—and, even if he were, it is equally true that *one* House alone of the Legislature is not competent to *instruct* even a Senator. But how far the decided expression of opinion and wishes by one House—there is good ground for believing of both—is to be respected, is for each member to determine for himself, according to his sense of duty and the standard by which he measures it. Yet I must be permitted to say, with all respect to my colleague, that I cannot agree with him that in the very face of such expression of opinion, even if only by one House, it is allowable to infer from it *instructions* to do the very *reverse* of what it *requests*.

Again: whether our Legislature has chartered a company for this road to Cairo or not, no one can regard the fact as of any material consequence; for, if asked for, to make a road to Cairo, or elsewhere, in one direction, or in a dozen directions, no charter was, or would have been refused by the Legislature. Why should it be? Whatever set of men propose to make a road, and ask a charter that injures no one else, why not give it to them and let them make the trial? If the trial prove a failure, it can injure no one but themselves; whereas, if it prove successful, the community is benefited. For these reasons, our State has upon her statute-book what is known as the general corporation law, under which, without further special legislation, any association of persons, by the observance of the easiest of conditions, may become "a body-corporate, &c.," for any work of internal improvement; indeed, for almost any purpose, I believe, except *banking*, which is expressly forbidden by our constitution. But, however all this may be, I am very sure that no man, in or out of Arkansas, with sense enough to know the way to market, would ever seriously think of building a railroad from Cairo towards Little Rock; nor would any one with means enough to build a single mile of road, ever waste it in such a Serbonian enterprise.

A railroad from Cairo to Little Rock! Who conceived it? Who asked for it? Who wants it? Who will make it? and, if made, what would you do with it? *Nobody! Nothing!* The idea did not originate in Arkansas; for, as far as we may be in the "back woods," I must defend my constituents against the imputation of such nonsense as such a scheme as this exemplifies! I venture to say there is not a boy in all Arkansas, fifteen years old, who has not too much practical intelligence to favor such a scheme. And I have no belief that my colleague, in either House, would, upon his conscience, express the opinion, or does believe, that this road from *Cairo*, ever will, or ever ought to be made.

And what says Missouri? In the course of the debate last Saturday, Mr. GEYER said:

"I desire to say in regard to this bill that *I regard it as containing no provisions whatever for the benefit of the State of Missouri. I do not believe that the road will ever be made from the boundary line of Arkansas to the mouth of the Ohio;* and if it was not for embarrassing this bill, presuming that, if it goes back to the House of Representatives with an amendment, it will not pass at this session, and Arkansas would be defeated in the attempt to obtain an appropriation for roads within that State, I would offer an amendment to the bill striking out all that part of the road. *I suppose the road might be of advantage to Arkansas and to Missouri, if 'St. Louis' were inserted instead of Cairo, so that it would read, 'from Little Rock to St. Louis.' It would then be part of the Mississippi valley road, of great interest to all the States on the western side of the Mississippi.* I shall not, however, make the amendment. I rose merely for the purpose of saying that *I did not regard this bill as making any grant to the State of Missouri.*"

And the Senator from Missouri was right. It is no grant, and of no benefit to Missouri; nor to Arkansas, so far as any connection with the Mississippi river by that means is concerned. On that part of the nominal route, from the Arkansas line to Cairo, the road will not be attempted; and even if it should be, the grant of land in aid of it is merely nominal, and altogether delusive. The land, in the gift of the United States, is not there. Upon the whole route between those points, which cannot be much short of eighty miles on a straight line, I venture to say that there are not *five* thousand—I doubt whether there are more than *one* thousand—acres legally subject to the grant.

My colleague said the Arkansas Legislature had chartered a company to make the road to Cairo. Had he forgotten that Cairo is not in Arkansas, and by the proposed route at least eighty miles on a straight line, beyond the limits of Arkansas? And does he believe that Missouri will accept the grant for herself, or even grant the right of way over lands which are all her own? If so, then he must suppose that State does not understand her own rights or her own interests, and that her Senator [Mr. GEYER] who has spoken does not fairly represent her. And does my colleague not know, further, that Missouri has adopted a system of roads for herself, and, more fortunate than Arkansas, has been able to get the aid she asked for, which, with her own resources, will enable her to build those roads; that she has not, like our unfortunate State, when asking for bread, been forced to swallow a stone? Sir, Missouri wants no road through her land to Cairo; and she is too wise to distract her energies, and waste her resources, upon useless and impracticable schemes. Nor is it reasonable to suppose, that while she has the power to prevent it, she will permit any company or State to pass through her borders, and upon her land, to interfere with a system which, with due regard to her own wants and welfare, she has wisely adopted, and is now actively carrying into practice.

But, sir, looking at the mere practical question of constructing the road, and supposing Missouri either willing to undertake it herself, or to permit an Arkansas company to do it, I ask what means does this so-called grant contribute towards doing the work? I repeat it contributes *nothing*. All who know any thing of the country, know that a

route from Cairo to the Arkansas boundary, in the direction of Little Rock, must be through a swampy and overflowed region, perhaps the most swampy and most overflowed of all the country west of the Mississippi, and, as such, belongs to the State of Missouri, under the act of September 28, 1850; not excepting, I venture to say, within the whole scope of this so-called railroad grant, more, at the outside, than a dozen sections, now within the gift of the United States. And this, in connection with a provision in the bill itself, which professes to give it, makes this just no grant at all. The provision of the bill I allude to is in the fifth section, in the following words:

"SEC. 5. *And be it further enacted*, That the lands hereby granted to said States shall be disposed of by said States only in manner following; that is to say, that a quantity of land not exceeding one hundred and twenty sections, and included within a continuous length of twenty miles of said road, may be sold; and when the Governors of said State or States shall certify to the Secretary of the Interior that twenty continuous miles of said road is completed, then another like quantity of land hereby granted may be sold; and so, from time to time, until said road is completed; and if said road is not completed within ten years, no further sales shall be made, and the land unsold shall revert to the United States."

Now, sir, supposing that "chartered company," whose existence my colleague seems to regard as "instructions" in favor of this bill, should undertake to "bay the moon,"—or, what is about the same, attempt to build this road, whence would they get the land to aid in the construction of the first, the second, the third, or the fourth section of twenty miles, along the whole eighty, from Cairo to the Arkansas line? *Nowhere!* for there is none there.

The Senator from Missouri [Mr. GEYER] was especially and practically right when he said that if St. Louis, instead of Cairo, had been made the terminus on the Mississippi, the road would have been a valuable one to the range of States west of the great river. Yes, sir, that would have made a road of incalculable value to Missouri, Arkansas, and Louisiana; for it would have connected, by almost a straight line, St. Louis and New Orleans, the two great commercial centers upon the Upper and the Lower Mississippi, and made the three States I have mentioned the *thoroughfare*, at all seasons of the year, despite the obstructions to navigation, by ice and low water, for the already great and rapidly-growing tide of trade and travel, which naturally seeks, and must, in some way, find an outlet and an inlet upon the Gulf of Mexico, which latter is destined to become our own Mediterranean. Look upon the map, sir, and you cannot resist these conclusions. Look upon the map, sir, and account, if you can—I find it impossible, upon the basis of human reason—for the mental vagary which could have put Cairo, in place of St. Louis, in this bill. "Look upon this picture!—and upon this!" A railroad from Cairo! I repeat, sir, it cannot be made—it ought not to be made—it will not be made; and it would be out of place, and valueless, if it were made. Missouri did not ask for, and does not want it, as her Senator has told you. Arkansas did not ask for it, does not want it, cannot make it; and, even if it were made, she could not—and, if she exercised common sense, she would not use it. And for the following reasons, which must be obvious, and I think conclusive, to every plain-minded man:

First: The people of Arkansas have no business at Cairo. Their market, alike for exports and imports, is in the opposite direction; and if, in the prosecution of their business, whether of trade or travel, they were placed at Cairo, they would be further from market (and in a wrong direction) than when they left home; and they would have to leave the place, correct this *error loci* as soon as possible, and inevitably, at much cost of time, comfort, and money. Look at the place as you may, and the longer you study it the more strongly will the conviction be forced upon you that it can never become one of the commercial centers, or great marts of trade; and that no man of intelligence will ever go there for business or for pleasure. We know that a company, said to be of large English capitalists, have been for many years trying to make a town at Cairo. We know, also, that they have failed to make it; as every one has failed, and will always fail, and ought to fail, who so grossly violates the laws of trade, as to build a town where one is not needed, and where, if built, it could not be supported. Such a projector, sir, were just of that order of wisdom which Swift so aptly exemplifies in the Laputan architect, who begun his house at the ridge pole, and attempted to build downwards!

Second: Cairo is not a suitable terminus on the Mississippi for a railroad; because, in addition to the general objection I have stated, access to it and egress from it, by navigation, are suspended on each of its three approaches for many miles during several months of almost every year, if not of every year. I had occasion to mention this to my honorable friend from Kentucky [Mr. UNDERWOOD] a few weeks ago, when speaking of the Mississippi terminus of the Pacific railroad. I said then and repeat now, that that terminus should be at the head of perpetual navigation on the Mississippi; and I said then, and repeat now, that that point is Memphis. This is what the people of my State believe and desire. In this I understand both the Senators from Tennessee to concur with me, and I have been greatly misled if I have not also in this the concurrence of both my colleagues, the one here, the other in the House.

If, then, Memphis be the proper terminus of the great Pacific railroad, which assumes, of course, that it must pass through Arkansas, why was not Memphis made, in this bill, the terminus of the Arkansas system of roads, which was designed to constitute a part, and would indeed be the first eastern link of the Pacific chain? All this, Arkansas asked, desired, expected, to be done. Why was it not done? The same reason applies to the two cases, (which, indeed, are but parts of the same case;) and, convincing our judgment in the one should have done so in the other, and have controlled our action in both. Why, it has not done this, and why Cario! of all the places in the whole range of choice, should have been put in place of Memphis, is not for me to pronounce. In the light of circumstances, and all fair conjecture, let others judge.

And here let me call the attention of Senators and the country to a circumstance connected with the Pacific railroad and its proposed route through Arkansas, which does not seem to me to have been sufficiently noticed, but which is of great and most significant importance, in a practical point of view. This circumstance is, that the same parallel of latitude, about 35° 10′, runs from Memphis through the center of Arkansas, to Fort Smith, and thence to Albuquerque, where it seems now to be generally conceded the first mountain barrier must be passed, *en route* to the Pacific. The river, as it passes to the north of that parallel, trending eastward from Memphis, far above Cairo, and almost to St. Louis, some four hundred miles altogether, the fact is established that the shortest distance from the Mississippi anywhere between Memphis and St. Louis, to the pass in the mountains, is from Memphis, due west, very near Little Rock, through Fort Smith, (where the Arkansas river cuts the western line of the State,) along the valley of the Canadian, and through Albuquerque. And this "air line" runs its whole length, about one thousand miles, which is about one half of the whole route to the Pacific, through a country which we *know* beyond conjecture to be easily practicable, and eminently adapted for the construction and profitable use of a railroad. This is not only important and pregnant with significance to the country at large in fixing the eastern terminus of the main trunk of the Pacific road, but its importance and significance to Arkansas are of a character so peculiar and commanding as to permit no forgetfulness, and to tolerate no disregard of it by the people of the State, and least of all by her Congressional delegation, sent here, as we have been, to see that her interests suffer no detriment.

Now, make a similar measurement from Cairo to Albuquerque, and it will be found that not only is the line much longer, and through a country less favorable for railroads, but, what is of startling importance to us, *not a foot of that whole line passes through any portion of Arkansas!* I commend these facts to the especial consideration of my colleagues; and, in view of their bearing upon the interests of our common constituents, it had been better (for the State at least) if more of this consideration had been given to them before Cairo was put into this bill instead of Memphis. How far this making Cairo, a point so unnatural and remote, the river terminus of the Arkansas system of roads, instead of Memphis, which is the natural and obviously proper key to the resources of our State, may affect the question of fixing the Mississippi terminus of the great Pacific railroad, and so far deciding the question whether Arkansas or another State shall be the *thoroughfare* of the eastern section of this great highway, time alone, perhaps, will determine. Should it prove to have been a stone even of an ounce weight cast in, however unintentionally, to turn the scale against our State, I shall never covet the honors, nor the reflections of any man of whom it may be said, "He did it." And even should all fear of this untoward result, as I pray Heaven it may, prove groundless, I shall still have the conscious satisfaction of having stood always by my own State, and contended to the last, in good faith, for the interests she sent me here to protect; not because those interests are in conflict with those of other States, but I believe in others, and particularly in this case, they would be in perfect harmony with the interests of other States.

I shall be told, and I know "it is so nominated in the bond," for the bill provides, that an additional terminus on the Mississippi, within the limits of Arkansas, may be made. But where made, and by whom determined? Now, sir, a great desideratum, perhaps the greatest in this scheme of road building, was to fix, and fix at once, as the great center point of operations, the terminus, if to be but one, and all of them, if to be more than one, on the river. But how is it in this case? The bill provides for two termini. But the one it fixes at its own date and makes permanent as a basis of immediate operations; while the other it leaves loose, floating, and contingent, alike as to time and locality. And to which does it give preference—to which does it give "a local habitation and a name" in the very instant of its creation? Why, sir, to Cairo! a point far beyond the limits of Arkansas, in which her people feel no special interest, and with which they have no natural commercial relations. And which is left floating and unsettled? Why, sir, the terminus which may be in Arkansas, within our own borders, where alone our people ever asked for it, and where they deem it vital to their interests it should be.

I repeat, sir, this terminus, so important to us, and so desired by us, is, by the terms of this bill, so vaguely provided for, as to be left floating along the whole coast of the Mississippi river, between latitude 36° 30′ and 33°, the northern and southern boundaries of Arkansas, a distance by the meanderings of the river of *nearly four hundred miles!* And by what authority is this vague and floating point to be fixed? As provided in the bill, this is to be done by the Arkansas Legislature; but that body has recently adjourned, and *will not meet again for two years!* What in the mean time—what during two whole years, in this era of stirring events, while the spirit of progress and improvement is moving in the heart of our country and working its wonders of development in all the other States of this Union—what, I ask, is Arkansas to do, thus tantalized with this nominal grant, which she so much needs, and which, if fixed so that she could take hold of it, might without delay be made of incalculable practical value to every true interest of her people? What, I repeat, is Arkansas to do, thus tantalized—thus unable to act? Let those answer who can.

But I may be told that the Arkansas Legislature anticipated this contingency, and provided for it by chartering a company who will locate this terminus at Memphis. By what authority is this said? There are more companies than one chartered by the same Legislature for making a railroad to the Mississippi, and no special power has been conferred on any one of them to the exclusion of all others (could it have been?) in advance of the legislation of Congress to fix and determine the location of any vague and floating grant of land which Congress might subsequently make to the State at large. In this connection there especially occurs to me the "Mississippi, Ouachita, and Red River Company" for building the road from Gaines's Landing to Fulton. They have a charter; and the name of the talented and indefatigable John Dockery, as their president, is a guarantee that whatever human energy, well-directed, can do to insure success to the enterprise, will be done, and is now in active progress. They say that all they now want to make their success complete is such a grant of land as we made them in the bill the Senate passed last session, but which yet sleeps in the other House. Suppose that

company should claim the right to fix for their road the only terminus in Arkansas which this bill grants, who should dispute their claim? Upon the ground that a charter from the Legislature confers that power, they surely have it as much as any other company can.

With regard to this Cario road, for which I have the charter of the Legislature in my hand, it says nothing about a terminus opposite *Memphis*, on the Mississippi river, and fixes no other point except at Cairo. It fixes the point on the Red river at Fulton, and fixes the point on the Arkansas river, the western border at Fort Smith, but it fixes the point on the Mississippi, at Cairo. It fixes no other point on the Mississippi within the limits of Arkansas. Its only allusion to any other terminus is in these general terms:

"Said company may also branch and extend their said road to any other point or points within this State."

No allusion, even, is here made to Memphis, or any other fixed point; but, as I said, the whole question is left unfixed, and floating all the way from the Missouri to the Louisiana line. And in no part of that charter, or of any other granted by the Arkansas Legislature, is anything said about giving the land which Congress might thereafter grant for railroads to any one of the companies so chartered. Certainly it is not so granted to this Cairo company; nor is there anywhere any authority given to, or possessed by this or any other company, to seize upon and convert to their use any portion of the land so granted, except—mark this!—except the right of way over one hundred feet in width, and the right to use materials of construction, &c. Or, if this be objected to, and any one contend that the land can be so taken and used by any one of these chartered companies, I ask which one of them shall it be claimed by and conceded to? If any one of them can do this, I insist that one of them has as much right and is as competent as the other.

There is a road chartered from Gaines's Landing across the State to Fulton, and one from Napoleon, at the mouth of the Arkansas river, to Little Rock. Now, I ask how shall the Cairo company, without authority of law, take this grant to the exclusion of all others? No special powers have been in this way and to this effect given by the Legislature. I mention this to show how, and wherein the delay to Arkansas roads of which I have spoken, is likely to result from this bill. I may be in error in all this. I shall rejoice if the result shall prove me so; for then I shall be more than consoled, I shall rejoice, under the failure of my predictions, in the relief from a painful solicitude for the welfare of my State, which her prosperity will afford me.

Now, sir, in the Senate bills, of which I have spoken, every road asked for by the people of Arkansas was provided, and the termini of each were fixed, as the same people had requested they should be. And, although constituting a series or system of roads, all more or less connected together, yet they are so arranged that each is complete and capable of construction by itself; and if only one of them could be built, that one, no matter which, would be a valuable thoroughfare, intirely across the State, and terminating at a good point for trade and travel, and always accessible from every quarter, at all seasons of the year. The addition of a single line from St. Louis to Little Rock, which the three States of Missouri, Arkansas, and Louisiana desire, would make the series or system symmetrical and complete.

And yet, sir, this symmetry has been mutilated, these values impaired, these memorials rejected, these hopes disappointed, and for what? Why, sir, for the project of a road from Cairo! A scheme, I repeat, which is impracticable in itself and by its own terms, and, even if practicable, yet valueless in its results. Mr. President, let Esau no longer be the exemplar, *par excellence*, of the notable wisdom of selling a noble birthright "for a mess of potage!" Still, sir, if I had been here on the 5th instant, I would not have opposed the passage of this bill. I would not have embarrassed it with amendments, for I had learned from my colleagues that it would be useless; and I am, though not a very old man, yet too old to waste time in doing what I know to be useless acts. Nay, more: I would have voted for the bill; for, as I before said, although it falls so far short, as I have attempted to show, of what it ought to have been, and is calculated to do so little good, yet, as I have learned to "despise not the day of small things," I would take it rather than get nothing at all; indulging the hope, though it be a feeble one, that more wisdom may preside over its *administration* than has characterized its origin and enactment; and trusting in the mercy of Providence, that while it can, in the nature of things, do but little good, it may not be a source of unmitigated evil.

My colleague said truly, I did "decline to assume the paternity of this bill," and agree to let him take his "own course with it."

What more, if anything, I may have to say upon this subject and its connections, shall be said to my constituents at home.

Mr. SEBASTIAN. Mr. President, we are often compelled to invoke the "noise and confusion," incident on some occasions to the morning hour, as an excuse for not hearing the remarks of others. I must thus apologize for not hearing all that my colleague has said; but if I understood him rightly, and there was much that I did not hear, there was much in his remarks which called for a reply from me. I do not, however, at the present time, and upon this occasion, intend to go into them fully; for I know that the friends of the Pacific railroad bill are anxious to get a vote upon it, if they can, to-day; and besides, I could not, if I would, enter into a full review now of the facts—so many facts have been adverted to by my colleague—which it will be necessary for me to do.

I feel it to be due, however, to myself to say now, and I am prepared to say, that the reasons which induced me to call up the bill in the absence of my colleague, as the Presiding Officer of the body, the Senator from Texas, and the Senator from California, with whom I felt it my duty to confer about the bill, all know, were reasons in nowise connected at all with the absence of my colleague. Considerations entirely disconnected with his absence, temporary and necessary as I know it was, induced me to call it up on that morning. I did not intend, on that occasion, to state the position of my colleague at large. I had stated it as I understood it, and as he admits it, and although he was not in the Chamber, and did not approve of it as the best railroad system for the State of Arkansas, I understood that he would not oppose it, because my colleague in the House thought it was the only measure that could pass, and because if an amendment was made here, it would be fatal to the bill in the House. In the reply which I made to the interrogatory of the Senator from Iowa, I intimated as much. I attempted to state his position as being one in which he neither took an active part in favor of the bill or the responsibility of opposing it, but left it to me to follow the dictates of my own judgment, which I did. I will state another thing in reference to the reasons why I called up the bill that morning. The Senator from Wisconsin [Mr. WALKER] will remember, in a conversation which I had with him some days before, in which I asked him to aid me to take up the bill, he advised me to postpone action upon it until the fate of the Wisconsin bill was determined in the House. Well, sir, that was determined on Friday, the day previous to the passage of this bill. It was determined adversely. It was determined as almost all the railroad measures seem to be disposed of in that House. I conferred with the friends of the bill the next morning, and had their unanimous concurrence, that then was the time to pass this bill, and that was the only time it could be done; and the result has satisfied me that if not positively and absolutely right in my supposition, the great probability was that it could not have been done at a later period. I think that the debate on its passage will show that.

I regretted that my colleague was not here, that he might explain his views then. He has thought proper to do so in remarks to-day, which I did not have an opportunity of hearing. A part of his remarks I shall endeavor to take occasion to reply to sometime during this session. I have thought proper to reply to those which might be understood as a personal reflection upon myself, as an imputation that I had done something contrary to what he considered the implied understanding between us, in taking up the bill in his absence. I have said that it was done on considerations nowise connected with him, and on consultation with the Senators from Wisconsin, Texas, and California, and the Presiding Officer of the body. I believe that that is all I have to say on this occasion in reply to the remarks which my colleague thought proper to make on the subject. I shall probably take occasion to say something hereafter.

Mr. BORLAND. I repeat what I said in the beginning—I do not know whether my colleague heard me or not—that I made no remarks to-day to impugn his motives or to find fault with his course. But, as I had told my colleague before I went away, it was my purpose when the bill came up to be present; and though I should neither assume its paternity nor make opposition to it, yet to make an explanation necessary to a fair understanding of my position at home in regard to it. Hence I was a little surprised, when he knew the cause of my absence, that the bill was called up. I did not allege or intimate that he intended any unfairness, and this I said when I began my remarks, but I deemed an apology was due to the Senate for consuming time now in reference to a matter which had long since passed; and it was further to make myself understood at home that I made the explanation here, where the occurrence took place, to show why I was not here, and the reason I had for wishing that the bill should not be taken up in my absence. My remarks will of course be published, and if any facts contained in them be liable to controversy, of course my colleague or any one else will be at liberty to controvert them at any time hereafter.

RAILROAD TO THE PACIFIC.

Mr. COOPER, who was entitled to the floor, addressed the Senate at length against the bill.

Mr. DODGE, of Iowa, and Mr. GEYER spoke at some length in its favor, (for whose speeches, with Mr. Cooper's, see Appendix;) when—

Mr. BUTLER moved that the Senate adjourn.

The motion was not agreed to.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The question is on the amendment of the Senator from Pennsylvania, [Mr. BRODHEAD.]

Mr. BRODHEAD. Before the vote is taken, I desire to modify the amendment which I have offered, by striking out "one hundred," and inserting "one hundred and fifty," so as to allow an appropriation of $150,000 for the purpose of the proposed survey and reconnoissance. It may require $150,000 for the purpose; at any rate, no more is to be expended than is necessary. On the amendment as modified I ask for the yeas and nays.

The yeas and nays were ordered; and the Secretary called "Mr. ADAMS."

Mr. SOULE. I mean to vote against the amendment proposed by my honorable friend from Pennsylvania; but as that vote might subject me to misconstruction, I want to explain in two words how I stand with respect to the bill.

Mr. BADGER. I desire to ask whether it is proper that the Senator from Louisiana should proceed? Is the matter now open to debate? I understand that the call of the yeas and nays has commenced, and one Senator has answered.

The PRESIDING OFFICER. The Chair heard no answer.

Mr. BADGER. The name of the Senator from Mississippi [Mr. ADAMS] was called, and he answered in the affirmative.

Mr. HUNTER. The Senator from Louisiana was up, and addressed the Chair before the call commenced.

The PRESIDING OFFICER. The Chair is not advised of any answer before the Senator from Louisiana arose, and therefore he is perfectly in order.

Mr. SOULE. When the proper time comes I mean to propose an amendment, or rather a substitute, which will do away with many of the difficulties which we have encountered during the progress of the debate on this bill, and that substitute will be of such a nature as to render entirely useless the measures proposed in the amendment of the Senator from Pennsylvania. My vote, therefore, though against his amendment, is not to be construed as implying on my part that I am willing to support the bill as it now stands.

Mr. WALKER. I desire that the amendment may be read as modified.

It was accordingly read, as follows:

Strike out all after the enacting clause of the amendment of the Select Committee, and insert the following:

That the Secretary of War be, and he is hereby author-

ized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and surveys as he may deem advisable to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, and that the sum of one hundred and fifty thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated to defray the expense of such explorations and surveys.

SEC. 2. *And be it further enacted*, That, in making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers and other persons employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session.

Mr. BRADBURY. I shall vote against the amendment, and for the same reasons which influenced the vote of the Senator from Louisiana. I have been inclined to favor the amendment which I know it is his purpose to submit, and therefore, while voting against this amendment, I do not wish to be understood as favoring the bill in the shape in which it now stands.

The question being taken, resulted—yeas 22, nays 34; as follows:

YEAS—Messrs. Adams, Bayard, Bright, Brodhead, Butler, Charlton, Chase, Cooper, Dawson, De Saussure, Dodge of Wisconsin, Fitzpatrick, Foot, Hunter, Mason, Morton, Norris, Pearce, Pettit, Phelps, Toucey, and Walker—22.

NAYS—Messrs. Atchison, Badger, Bell, Borland, Bradbury, Brooke, Cass, Clarke, Davis, Dodge of Iowa, Douglas, Downs, Felch, Fish, Geyer, Gwin, Hamlin, Houston, Jones of Iowa, Jones of Tennessee, Mangum, Miller, Pratt, Rusk, Sebastian, Seward, Shields, Smith, Soulé, Spruance, Sumner, Underwood, Wade, and Weller—34.

So the amendment was rejected.

Mr. MASON. The vote which has just been taken evinces the determination of the Senate that this work shall be made, and it is according to the old maxim of royalty—*Le Roi le veut*, the King wills it. It is to be made without any preliminary survey, to determine whether it is practicable, or at what cost if it be practicable. Now, sir, after the few remarks which I intend to make with reference to this bill, I shall move that it be committed, that it be sent to a committee for the purpose of inquiring whether it be practicable to construct a road anywhere, to connect the Mississippi river with the Pacific ocean. Sir, I understood the Senator from California [Mr. GWIN] to say, on a former occasion, that if it was committed to a committee to perfect the details, it would destroy the bill.

Mr. GWIN. That was said in reference to another bill.

Mr. RUSK. That remark was made in reference to the bill of the honorable Senator from California, and not in reference to this bill, which has come from a special committee.

Mr. MASON. Then I suppose there will be no objection to the committal of the bill, if it can be shown that there is now no detail by which the American people can be informed how the road can be made, or at what expense. We have had a great deal of experience in the States on the subject of internal improvements, in the construction of railroads and canals; and although there has been in many of the States, and perhaps in all of them, an immense waste of expenditure as incident to the system of conducting works of this kind by the public authorities, I know of no instance in which the details of the plans have not been matured with great labor, and in the most minute manner, so as to satisfy the public, who is to bear the charge, or the company, if it be a mere individual company, that the work can be done, and also at what charge it can be done.

Now, in this bill, which the honorable Senator says comes from a special committee, there is a total absence of any detail of this kind. The whole organization and arrangement of detail is given to the President; and it was well said by the Senator from Pennsylvania, [Mr. COOPER,] in the course of the discussion, that the Congress of the United States, in whom the legislative power is vested by the Constitution, is to transfer it to the President, because Senators say, here in their places—as I understood the Senator from Iowa, [Mr. DODGE,] who addressed the Senate with so much ability this morning, in favor of the road to say—if you attempt to perfect the details of the bill you will destroy the measure. And this is an argument addressed to the American Senate as a reason why they should abdicate powers with which they are vested by the Constitution, and give them to a coördinate branch of the Government, to which the Constitution has denied them. Sir, I am against the whole bill, not because it makes a communication between the Atlantic and the Pacific, but because it is done in violation of the Constitution of the United States.

This is not a new subject. Those with whom I have always acted in public life, have denied the power of Congress to appropriate either money or land for the purpose of internal improvement. They have denied to Congress the power by any agency, either directly or indirectly, to construct works of internal improvement; but this bill, by one fell swoop, declares, as an order of the Congress of the United States, that it shall be done; and that if it cannot be done by ordinary legislation, it shall be done by the fiat of Executive will. What is the discretion given to the Executive? The Executive is to determine, upon the whole Mississippi border, and upon the whole Pacific border—on the east and on the west—where this road is to begin, and where it is to end. You will see at once the immense discretion vested in the Executive, and the inordinate power that it gives him when it invests him with that discretion. Why, he may control the legislation of a whole district of country, of whole tiers of States, by his will, in fixing where this road is to begin and where it is to end. But that is nothing in the world to gentlemen. The destinies of this country are well confided to an Executive, who is not responsible to the Constitution, provided they can get the road. Could such a power as this be given to the Executive, unless there was an interest behind it greater than the control of constitutional obligation—that interest with which gentlemen are so much impressed here—the indispensable importance of having this road? But that is not the only power. He is to fix the termini, and in the vague language of the bill, he is to fix all the important intermediate points. I think that is the expression. "He is to fix the termini and to select the general route" where the road is to go. He is to control the immense interests that will be involved in and affected by this work, between the North and the South, by his fiat alone. The representatives of the people in the other branch of Congress, and of the States in this branch, are not to be consulted in this matter. Everything that pertains to legislation and the expenditure of the public money, or to the regulation and adjustment of the vast and great interests of the different portions of the Confederacy, I had thought were by the Constitution vested in Congress; but the bill takes them from Congress, great and extensive as they are, and leaves them to the discretion of a single man. Why, we all know—gentlemen here admit—the conflict that will arise whenever it is determined what route this road shall take; whether it shall go to the north or to the south. They know the immense influence it will exercise in building up the section of country where it goes, and in injuring that where it does not go. Yet, gentlemen say, so indispensably necessary is it to have the road, that they will take all that power from the representatives of the people and vest it in Executive discretion alone.

Mr. President, there is but one term, in my judgment, which will characterize a measure of this kind. It is a *rape* of the Constitution. The Constitution has vested these powers in the Legislature. The bill wrests them from the Legislature, and confides them to an irresponsible Executive; for he is not responsible under the Constitution for the exercise of this discretion.

What is the next power? The Executive is to make the contracts—these immense contracts which are to involve an expense, as all admit, of at least $100,000,000. The Executive is to make these contracts, and to dispose of them at his discretion. Congress has no part nor lot in making them. The people of the United States create one agency, through their representatives, by which the public money is to be expended; but it is given by this bill, almost by rapine, to an irresponsible Executive. And the bill instigates the President to dispense, as far as practicable, with preliminary surveys. The language of the bill is, that he shall act under it "at an early day." And that emphatic language is repeated in a subsequent part of the bill, instigating him to go immediately to work, to determine where the road is to go, and at an early day commence its construction. Is this the language of solidity of judgment? Is it language which becomes the representatives of the States of this Confederacy, when they are ordering an expenditure of some $100,000,000 of the public money? It is to be done at an early day—almost with indecent haste.

Sir, there is another clause in that bill, one that struck me with extraordinary force. The honorable Senator who reported this bill from the committee undoubtedly did what he thought it was his duty to do in reporting it. He considered it a matter of such moment to effect this connection, that the extraordinary ends which the bill proposes are to be attained by the extraordinary means which the bill contains. What are they? It is proposed to pass through the territories of the United States by the potentiality of a law of Congress, and it is proposed to pass through the States by the assent of the States. That is to say, that if the States assent to be invaded by this Federal power, then the Federal power is to construct the work within their limits. Now, I submit it to the honorable Senator from Texas, and I submit it to every Senator upon this floor, where do you find anywhere in the Constitution, the power in a State to enlarge or curtail or qualify to any extent, the power of the Federal Government. Is this to be added to the platform which was spoken of by the honorable Senator from South Carolina, as presenting a fundamental law, more potent than the Constitution itself; that where the Constitution is silent, any State can increase its power or enlarge it by its single assent. Sir, the language of the Constitution is this—and I beg to call the attention of Senators to it—that the laws made pursuant to the Constitution are supreme within the limits of the States, and when the Federal power goes into a State, armed with a law of Congress, it goes there with supreme power, and the State legislation bows before it. But by the terms of this bill, the law of Congress goes within the limits of a State, and asks that State to give its sanction to it. If this be the law of the Constitution, then it is in the power of any State whatever to enlarge and amplify, or to restrain and control it at its own pleasure. And yet, the honorable Senator who reported this bill from the Special Committee, I apprehend found himself under the necessity of so construing the Constitution, in order to give his bill any value.

Again, sir: the bill creates a corporation, and a corporation to act where? To act through the whole Confederacy and based upon the public Treasury—not such a corporation as the Bank of the United States, and, by the way, that never could be chartered by Congress until, as was most eloquently said by a Senator from Kentucky, now no longer living, they resorted to almost every clause in the Constitution to find authority for it, and he called it a vagrant power. Here is a corporation proposed to be created for the purpose of a Federal agency, based upon the Federal Treasury. And what is the corporation, and who are the corporators? They are the body of the contractors for the work. The President, then, is to control this corporation, for he selects the contractors. The President is to designate who these corporators are to be, and it is by his fiat, in the exercise of the patronage given to him, that this corporation is to be called into being. The bill offers these extraordinary features. You are to bring a body of contractors to make this railroad from the Pacific to the Mississippi, and you are to pay them from the public Treasury, partly in land and partly in money. You pay them a full equivalent for the work they are to do, and then, when you have done that, you create them into a corporation and present them with the work, and they are to draw the whole emoluments from it. Sir, this extraordinary machinery it is found necessary to invoke in order to enable the Federal Government to exercise a power not granted, and through an agency unknown to the Constitution.

Look at the terms of that clause: "That for the 'purposes of this act the contractors, their asso-'ciates and successors, are hereby created and con-'stituted a body-politic and corporate, by the 'name," &c. These men who contract to do the work, under the selections and designations to be made by the President, are created into a corpora-

tion as the Federal agent, to do this Federal job. They are to be paid for it. They are to be paid a full consideration for their labor, and then the work is to be given them and they are to draw all the profits. Mr. President, is this not the most extraordinary proposition of modern times, that you are to give a body of men, who are designated by the President, $100,000,000 to do a piece of work, which is to be a source of immense revenue, and then transfer the work to them and the revenue with it?

Mr. RUSK. I beg the Senator's pardon for interrupting him, but the bill contains no such provision. It gives $20,000,000, or as much as they will agree to construct the road for, for it is to be given to the lowest bidder. In addition, alternate sections of land six miles in width through the States and twelve miles in width through the Territories, are to be given. For that money they are to transport troops, munitions, sailors, the mails, and everything that the United States requires to have transported upon it free of charge.

Mr. MASON. Then the United States is to have a qualified use of the road, in consideration of paying for making it, and the contractors who are the corporation, are to enjoy all the rest of the profits. Those are the provisions of the bill. It does provide that they are to transport the mails and troops of the United States over it. I suppose the mails and troops of the United States could be transported over such a road for some half a million of dollars, or for a million, putting it at the outside.

Mr. RUSK. Will the Senator allow me to ask him a question?

Mr. MASON. Certainly.

Mr. RUSK. Does the Senator suppose the appropriation made in the bill will be sufficient for the construction of the road and putting it in working order?

Mr. MASON. The appropriation in land and money? No, sir. Undoubtedly the Government will have to pay more to make the road, because there can be no earthly doubt on the part of those who have had any experience on this subject—and none have had more than the Senators from Texas and California—that when this Government once puts its finger to a work it is committed, and there will never be a dollar expended in the construction of the road that does not come out of the Federal Treasury in the shape of land or money.

Mr. RUSK. I do not want to interrupt the honorable Senator, but I must correct him there. The point is this: he says there will never be a dollar expended in the construction of the road that does not come out of the Federal Treasury.

Mr. MASON. Never.

Mr. RUSK. The provisions of the bill are express that not one dollar shall be paid in money, nor one acre of land be given to these men, till they have finished a particular amount of the road; till they have with their own means gone on and finished fifty miles. And it is expressly provided that they shall enter into a contract on these terms, that they shall not receive a dollar in money from the public Treasury, or a single acre of land, until it is done.

Mr. MASON. What does that amount to? Why nothing in the world but this: that instead of paying for your work as it goes on, we will pay you when fifty miles of the work are done; that instead of paying from day to day or from week to week or from month to month, or mile after mile, we will pay when fifty miles are completed. So, also, you are to make a reservation of a portion—I believe one fifth—of the land, which fifth is to be given to them after the work shall be completed. But it does not assail, in the slightest degree, the proposition with which I set out, that this is to be constructed, so far as the bill goes, wholly out of the Treasury of the United States, treating the land as money, for it is a part of the public property of the United States. Although you are to pay the contractors after they shall have made fifty miles of the road, and so on for every fifty miles, yet, so far as the source of expenditure is concerned, it comes at last from the Treasury, and in that view it is perfectly immaterial how the payments are made, on the score of time. Now, who doubts that if this appropriation, which consists of $20,000,000 in money, and a breadth of land twenty-four miles wide in the Territories and twelve miles wide in the States, is not sufficient to build the road, when Government is embarked in it, the contractors will get as much more as may be necessary, and in precisely the same way in which they get the present appropriation, by getting a majority in Congress to vote it? We have some experience on the subject of the connection of the Government with these private enterprises. What is our experience with the Collins line of steamers? Government contracted to advance a certain sum of money to carry the mail, and they come here and beset Congress to enlarge it because they could not carry it at that price. The opposition said, Put up the service to an open bid and let it stand as any business does which is open to competition. No, said the contractors, and no, said the Legislative Department of the Government; we will not put it into competition; these men are in our employment; the public faith is committed to them; and the doors of the Treasury were opened to them.

There is another provision in this bill, on which, in this connection, I should like to comment. The provision is this, one that the Senator from Illinois [Mr. DOUGLAS] said, a few days ago, furnished ample security to the Government: that if the contractor fails to comply with his contract, his work shall be forfeited. Forfeited! And who ever heard of a forfeiture enforced which was caused by a failure of that kind? Why, sir, between man and man, equals in society, the courts of justice are open, for the purpose of relieving a party from such forfeiture. It is done every day. Forfeitures are odious in law, even between man and man, and what would be a forfeiture between a citizen and the Government? It would not be enforced; and if it were enforced, what becomes of the property? Where do you find a clause in the Constitution making this Government the residuary legatee of a bankrupt contractor, to take his effects and administer them for the benefit of Government? But by the provisions of this bill, it is declared that if he do not comply with his contract, Government may take not only the work he has done, but his effects, being the residuary legatee of the bankrupt contractor. Sir, it will never be done. If the contractor fails to comply with his contract, and remains there ready to go on, he will be reinstated, especially if he is a pet of the Executive, or has political influence.

I should like to know—for it has been a part of my professional duty to be engaged in the construction of laws—what is the meaning of the bill when it says, in the thirteenth section, the corporators are to be "the contractors, their associates and successors." Who are the associates? I can understand who the contractors are. Thomas Wilson proposes to contract to build a certain portion of road for a given sum; or, Thomas Wilson and John Thompson, with others, propose to contract. They are associated together; but they are the contractors. But who are to be the associates of the contractors?

Mr. PRATT. Those who take stock.

Mr. MASON. What stock? The bill authorizes the issue of Government bonds. What sort of stock is provided for?

Mr. WALKER. The company issue stock.

Mr. MASON. I have not seen that provision, and I looked through the bill very carefully. It authorizes the company, as a corporation, to do all acts which a corporation may do, to carry into effect the provisions of this act. But if they are to be authorized to issue stock——

Mr. TOUCEY. "Certificates of stock."

Mr. MASON. Very well. I would like to see that provision of the bill.

Mr. WALKER pointed it out to the honorable Senator.

Mr. MASON. Well, sir, I had not seen it. I looked through this thirteenth section to see what these corporators were to do, and I confess that the authority given to them to issue "certificates of stock" did escape my attention. What is the stock for? Stock in what? Railroad stock, I presume, in the "Pacific Railroad and Telegraph Company," inviting subscriptions by an association with the contractors making them a part of the corporators, and entitling them to part of the profits. I should like to see the machinery by which that could be done. I should like to see how these certificates of stock will read; I should like to see them presented to the President for his approbation, to be conferred upon his pet class of contractors. I should like to see the privileges and immunities and advantages that the Executive patronage may deal out to these contractors, or their associates, or successors. Who are the "successors?" The bill says, "the contractors, their associates and successors." I suppose they are the assignees of the stockholders.

Well, if we are to have a joint stock company, in which the United States Government is to hold barren stock, and the contractors and associates the profitable or productive stock, if that is the character of it, if the Government of the United States goes in with millions of dollars, in money and lands, to be used at the discretion of the President, and any number of contractors and associates come in with an unlimited amount of stock, and the Government stock is to be barren, and the contractors' stock is to be productive, let it be so understood by the country.

Mr. President, there was a day in this Republic when we were accustomed to scan carefully and closely Executive power. The fathers of the Republic transmitted it to us as a legacy that we should scan all power, and more especially the power of the Executive. But what does this bill do? It not only gives him the power, but it gives it to him alone. This immense body of corporators, with $100,000,000 of barren stock on the part of the Government, and an unlimited issue of their own, are to be handed over to the President as the source of its authority, and the dispenser of its influence and patronage.

There is another provision in this bill, which authorizes the President to employ such military officers and troops as he may deem necessary. It puts the Army of the United States at the disposal of this immense corporation. The honorable Senator from Texas shakes his head. I should like to be corrected if I am not right.

Mr. RUSK. It leaves the Army precisely where it is left by the Constitution and laws as they now exist, at the disposition of the President to protect these men and the settlers, if he deems it necessary.

Mr. MASON. I say it puts the Army of the United States at the disposition of these contractors; for although it is to be done through the President, he is only the medium. An order is contained in this bill—an order of the Legislature—that the Army shall be placed at the disposal of these contractors, to protect them in their work.

Mr. RUSK. The President may do it—that is the bill.

Mr. MASON. Let me tell the honorable Senator from Texas that in law, "may" is construed "shall;" and when you impose upon the Executive a duty, and say he may exercise it, if it is a duty, he is required to execute it. The mandate is an imperative one—as imperative as if the word "shall" were used. Who doubts that the President of the United States will ever send a body of engineers or a body of contractors into that country, without sending a portion of the Army with them? My proposition is this: If this bill imposes a duty, and says to an officer he may execute it, it is mandatory upon that officer, and he is required to execute it. How much of the Army is to be required for this purpose nobody can tell; but if the distance be, as is said, from two thousand to three thousand miles from the Mississippi to the Pacific, and through a large portion of which you are to meet predatory and hostile bands of Indians—if you allow five soldiers to every ten miles, you have a large army employed at once. The military of the United States will not be equal to the duty, unless the Army be increased for the purpose of protecting this body of corporators. The honorable Senator from Illinois [Mr. DOUGLAS] said the other day, that the workmen on this line—the Irishmen, with their spades and shovels, will protect themselves against the Indians. I apprehend that if you sent a body of workmen, more especially if they be foreigners unaccustomed to Indian warfare, at the very first appearance of the Indians, they would throw down their shovels and spades, and fly from the enemy. But if these men do protect themselves by their implements of labor, what becomes of the work? How is it to be carried on, while the operatives are defending themselves against Indian incursions? No, sir, the bill knows better, for it has provided that they shall be protected in their work by the Army of the United States.

Now, Mr. President, what will be the practical effect of the operation of this bill if it becomes a law? The President is required to commence

the work at an early day. And there is another clause in the bill instigating him to lose no time in the commencement of the work. This horde of contractors, eager for the expenditure of public money, will be around him, like vultures, urging him on, misleading him, bringing every earthly influence to bear to induce him to begin the expenditure of the money. Do we not see it here every day? Are not the halls of legislation beseiged by contractors and the solicitors of contractors to get at the Treasury? Does anybody doubt that there are not ten thousand reasons, amiable ones, insidious ones, plausible ones, adduced here constantly to induce Congress to act upon measures involving expenditures of money when it is a little reluctant or a little diffident. Where, then, will be this army of contractors and the immense capital which will be at their back, urging the President to comply with the terms of the law, and begin the work at an early day? Yea, sir, to begin it before it is known that it can be completed.

Who knows that this work can be done? Who knows that it is physically practicable by a railroad to connect the Pacific and Atlantic across the Stony mountains? Nobody. You may conjecture it. Some may say it can be done, or it should be done, but all we have is the most vague conjecture. What will be done in the mean time? The great thing with the contractors will be to get at the money, to begin to expend it; that is the lever upon which the whole thing is to turn; it is the public money. Ten thousand arguments will be adduced; whether the President will resist them or not I know not, but ten thousand arguments will be adduced to him to commence the work on the Mississippi border, and on the Pacific border, and to push your surveys in the mean time. It may result, and there is a high degree of probability that it will result, that they will make two ends of the road and never join them together. Mighty as your Treasury is, it may not be in the power of money to do that. That may be the result, and you will then have this illimitable expenditure of money without any certainty that the ultimate object will be attained.

Mr. President, who doubts how this bill will be construed if it become a law? Who doubts how it will be carried into effect? Who can now resist, in far smaller matters, the tremendous collateral pressure of capital that is every day at the doors of the Senate? Capital is a power so potent that we are told monarchs reel before it upon their thrones. We are told every day that the strongest monarchs of Europe are powerless before the Rothschilds and the Barings, and it is true. How do we stand in this country? We have no Rothschilds or Barings, but we have men who aspire to be such: men who wield capital potentially, who, it may be, without actual bribery and corruption, bring a thousand influences to operate, which are not known until they are felt. Yes, sir, pass this bill into a law, and you will begin the work, utterly ignorant whether you will ever be able to finish it; and that is to be the character of the legislation of an American Senate at this early day of our Republic!

Mr. President, if this bill become a law, the fear which the Senator from Texas expressed a few days ago—that it might have the effect of reading him out of the Democratic party—will never be realized. If this bill become a law, there will be no longer parties in this country except the party in power and the party in opposition. The whole character of the Government will be changed. Yes, sir, the whole character of this Government will be changed, never to be reclaimed; and it will have been done by gold, and, worse than all, by gold out of the public Treasury. Sir, there will be no Democratic party then. Least of all will there be that party to which the honorable Senator I know belonged, and to which I belong—the *Republican* party—the party under whose banner you appeal from the people to the Constitution. The Constitution will be gone. There will be no appeal to that, and the Government will be one of unlimited power.

Sir, this bill, with its appropriation of a hundred millions, will make a breach in the Constitution through which everything will pass. It will be perfectly idle, after such a power, to talk about the tenets of party. After that, the only parties will be the party in power and the party in opposition, and the party in power will have no restraint or control but the will of a majority. I would recall to the Senate the vaticinations of one of our greatest men and most gifted statesmen—a statesman to whom at his death the honorable Senator from Texas paid a beautiful tribute of feeling and sensibility. I refer to the illustrious Calhoun. When the order was given by the President of the United States to march an army to the frontier of Mexico, Mr. Calhoun said to his friends, "It dropped a curtain between me and futurity; I cannot see beyond that." It was, in his view, the first aggressive march taken by an American army; and said that prophetic man, "It dropped a curtain between me and the future." "I told my friends," said he, "that here closed the first book of the history of this Republic; the second book is unwritten and unread." Mr. President, if that man were here now, he would find the curtain lifted. He would see something written which is to go into the next book of American history; and it is written on the pages of this bill. It is a measure forced upon the country. Honorable Senators may say that it is forced upon the country because we have these Pacific possessions, and cannot get to them without it.

I have said this is the opening page of the second book of American history, and if that illustrious statesman to whom I have referred were now here, he would find the curtain lifted. Here the Government is now called upon, appealing from the Constitution to the States, separately, to enlarge its powers, and the appeal is made backed by gold from the Treasury. You will have an expenditure within your limits which will be utterly illimitable. This bill does more. It transfers the legislative power to the President. It transfers this duty to the President, not as a part of the Executive power, but as a part of the legislative power. It enlarges its patronage by giving him a band of contractors, to be appointed by him and to enjoy the powers of a vast corporation. All this is to be done utterly in the dark. You are to decree a road from the Mississippi to the Pacific without information, and the President is to determine the route.

Sir, I shall deeply deplore the passage of this bill. I make no factious opposition to it, and I have made none. Sir, the State of Virginia will be as deeply interested in access to the Pacific as any other of the Atlantic States. She is very deeply interested; but the State of Virginia, I trust, never will take it at the expense of the Constitution which she has bound herself to support. This bill cannot stand with the Constitution. You must take one or the other; and if you take the bill, you make a breach in the Constitution through which everything can pass. I move that the bill be referred to the Committee on Roads and Canals.

Mr. PRATT. I do not know that I should have said one word in reference to this bill, except for the position in which it seems to me the speech of my honorable friend from Virginia [Mr. MASON] has placed all those who intend to vote for the measure, and who have not expressed their opinions on this floor. Now I submit to the Senate, and to the good judgment of the honorable Senator, whether, in reference to this measure, the ordinary rules of parliamentary courtesy have been observed. I have heretofore seen, that instead of moving that a bill should be laid upon the table, or should be recommitted, when it has been reported here, particularly to carry out a project so magnificent as that embraced in the provisions of this bill, the friends of the bill have been permitted to amend it—have been permitted to place it before the country in that point of view in which they desire to present it, and upon which they are willing to stand, before speeches are made against it, and before the measure is denounced, as this has been by my honorable friend from Virginia.

If the friends of this measure shall be permitted to amend it, they will throw down almost all the arguments which have been made by that honorable Senator. I have two amendments myself to offer; one restricting the President of the United States in the making of the contract, and obliging him not to make it unless he is able to do so for the $20,000,000 and the quantity of land given by the bill. There is, therefore, to be inserted in the bill, with the consent of its friends, the express provision that no contract is to be made unless it can be made for $20,000,000, and the amount of land which is appropriated in the bill. I have another amendment to propose, which restricts the thirteenth section, objected to by the Senator, so as to give to Congress hereafter at any time the power to restrict this corporation, to alter it, to change it, to do what they please with it. That amendment, therefore, will do away with all the objections which have been heretofore urged to this bill on the ground of the supposed unlimited grant of corporate powers; objections, Mr. President, which have been so strenuously urged by the Senator from Virginia, and made by him the chief occasion for the wholesale denunciation of this measure, in which he has been pleased to indulge.

My honorable friend commenced his argument by saying that this bill is, in effect, to say, "The king wills it." But who is the king? The President of the United States, according to his argument, is made king, to will the prosecution of this work, or to will that it shall not be prosecuted. Now I submit, in all candor, to the judgment of the honorable Senator himself, whether this is so. Who is the king here? Upon whose will are the provisions of this bill dependent? It is, Mr. President, the people of the United States, acting through their representatives, who will that this road shall be made. It is the will of the people of the United States, exercised through us, which directs the *quo modo* in which the road is to be commenced, conducted, and completed. I can see no specter in it. No king can be conjured up by my imagination as being created by the measure which I am advocating.

What are, in sober earnestness, the powers which are conferred upon the President of the United States, which are termed kingly powers by my honorable friend? Every State Legislature nearly every day confers the same powers on the Governors of the respective States. What are they? The bill incorporates a company for the purpose of making a railroad for military purposes, connecting the Atlantic and the Pacific seaboard; and it appropriates from the Treasury of the United States a part of the funds necessary for that purpose. It authorizes this company, incorporated for that purpose, with money derived from the United States Treasury to the extent of $20,000,000, and with the land appropriated by the bill, to construct the road. It is to be restricted so as to confine the appropriation to be made by the Government exclusively to the appropriations now expressed in the bill, for I have an amendment to offer to that effect, which, I have no doubt, will be accepted by the friends of the bill. It authorizes the President of the United States, after surveys have been made, after the practicability and the cost of this road shall have been established to his satisfaction, to do what? To appoint these contractors, to appoint these workmen, who, according to the argument of my friend from Virginia, are to carry on this road? No, sir; but he is authorized to advertise to the whole people of the United States to come in and bid for the construction of this road; and he is obliged to accept the bid which is the lowest. If I mistake not these are the terms of the bill, and if I do, my honorable friend from Texas can correct me.

Mr. RUSK. That is the bill.

Mr. PRATT. Then what is this kingly power which has been spoken of? It is simply that after these several routes shall have been ascertained, the President shall exercise his judgment in determining which is the most practicable and convenient route for military purposes; which for the other purposes of the Government of the United States will be most useful; and it is made his duty to adopt that route. What further? Has he then any further power? He is then to advertise, and by that advertisement the people of the country and the world are called in to bid for the purpose of constructing this road, and the lowest bidder is to make it. From this simple power of advertising, so that all the people of the world may come in and bid for the construction of the road, my friend has conjured up the fear that we are making a king of the President of the United States.

I intend to restrict by express provision this bill, so that no further money can be given out of the Treasury of the United States, and no more land than is proposed in it. My friend says that this restriction will be entirely nugatory—absolutely inoperative—and he asks us to point out a single case where the United States, after they had commenced a work of this sort, did not con-

tinue to appropriate the public money for the purpose of carrying it on.

Sir, my own State is a lamentable instance, not only of the non-observance of this rule as claimed to exist by the honorable Senator from Virginia, but of the non-observance also of justice on the part of the United States towards the State of Maryland. Sir, a work which brought my State to an expense of $10,000,000 was commenced under the auspices of the Federal Government. It was commenced at the recommendation of that great statesman to whom my friend from Virginia has eloquently referred, the lamented Calhoun. The Chesapeake and Ohio canal was recommended by him while he was Secretary of War, to be prosecuted by the Federal Government. That work, predicated upon the recommendation of that great man, was entered into by the State of Maryland conjointly with the United States and Virginia. After the expenditure of some four or five millions of dollars in the joint prosecution of this gigantic enterprise, the United States ceased to expend anything. This Democratic party, which entertains the idea that a king is raised up in every corporation that is created, came into power, and the State of Maryland was left to her own resources, and was obliged to expend some ten millions of dollars in the further prosecution of that work. Mr. President, the State of Maryland has every reason to deplore the change of Federal policy in regard to the power of constructing works of internal improvement which this Democratic party claims to have effected. But for the exercise of this power by that party, under the lead of Mr. Calhoun, Maryland would have been spared her public debt, and her people the grievous taxation to which they have been subjected.

Restricted as the proposed amendment which I have indicated to the Senate will restrict this measure, the human mind cannot point out any power which will be given by the bill to the President or the contractors, which can be dangerous to the country or to any part of it. Sir, it is the case of a simple corporation, such as is created over and over again by every State of this Union, conferring such powers and such alone, as your State, sir, and mine have conferred upon every corporation created by them, for similar purposes. So soon as the President has advertised for the construction of this road, and so soon as the bids shall have been received, and the contractors determined on, the President's power ceases, and he has no more authority left. The bill gives him no further control over the subject, and he is at once divested of all that regal pomp and power with which the Senate supposes he is invested by the bill.

Mr. President, I desire now to state the grounds which will influence my vote in favor of this measure; and I desire to state them in the shape of propositions; and I would ask my friend from Virginia, as I repeat them, to say which of them he denies the truth of; and if he does not deny the truth of any one of them, the conclusion not only that we have the power to make, but that we are obliged to make this road, necessarily results.

My first proposition is this: That it is the obligation of the Federal Government to place itself in such a position as will enable it to protect every State of this Union, in the event of a foreign war. Some of my friends seem to smile at this proposition, but it is one at any rate which no one will deny. That the Federal Government is obliged, in the performance of its constitutional duties, to place itself in reference to every member of the Confederacy in such a position, that if a war with a foreign enemy should occur, it could afford assistance and protection to our fellow-citizens in every State.

Mr. MASON. Within the pale of the Constitution.

Mr. PRATT. Undoubtedly, within the pale of the Constitution. But I am now speaking of the Constitution itself. I say that it is a constitutional obligation resting upon the Federal Government, to defend each State in the event of a war with a foreign enemy. I am not talking about the pale of the Constitution. That is the Constitution itself. It is a constitutional obligation imposed upon the Federal Government so to exercise its powers as to be enabled to protect every member of this Confederacy from a foreign enemy in the event of a war. I do not refer to it for the purpose of looking for power in the Constitution to construct this work; but I refer to this as a constitutional obligation, which must be admitted to exist on the part of every man who hears me.

My next proposition is this: That without a railroad connection between the Atlantic and Pacific sea-board, the United States cannot place themselves in the position which I have indicated in the first proposition. Without a railroad connecting the valley of the Mississippi with the Pacific, it would be impossible for the United States, in the event of a war with a foreign maritime Power, to defend California from a foreign enemy. Can anybody deny that such would be the case in the event of a war at this time, with either France or England? In case of a war with either of those Powers, what would be the necessary result? Could we send a single man, could we send an ounce of powder, to the assistance of that State? By the superior fleets of England and France—derided as the powers of those Governments may have been here—it must be manifest to every one who will reflect, that we could not (until the energies of this country and all its vast resources had been brought to bear upon the subject of resistance, and that would perhaps take ten years) send a ship from here to California unless by accident. We would not then be in a position to defend California in the event of a war with a foreign maritime Power superior to ours without such a railroad. I say, therefore, that it is necessary for the military purposes of the Federal Government that this road should be made; without it, one of the States of the Union would be beyond the reach of protection by the Federal Government.

If I am right in the first proposition, that the Federal Government is bound to defend every State in this Union; if I am right in the second proposition, that without such a road, she could give no defense to California, the conclusion is irresistible, that under the power to make a military road the Federal Government possesses the constitutional right to make the road indicated by this bill; and being otherwise unable to defend California, she is, therefore, bound to make this road. The constitutional power to make such a road for military purposes will not be denied by any one. It will be conceded by the honorable Senator from South Carolina, [Mr. BUTLER,] who may feel justly proud in being considered "par excellence" the guardian of that instrument.

Mr. BUTLER. If I am a defender of the Constitution, I am a very poor one, I am afraid.

Mr. PRATT. I thought the Senator said the other day, he was proud of the designation.

Mr. BUTLER. So I am.

Mr. PRATT. I really have believed him to be so anxious to defend the Constitution, according to his understanding of it, that I supposed he was entitled to the designation; but I hope he will not be so unreasonable as to think that nobody can differ from him and be right. I say, then, that this is a proposition which even that Senator cannot deny. If he concedes that the United States, in the event of a war with France or England, could not defend California without a military road from the Atlantic to the Pacific, he cannot avoid admitting the right of the United States to make a military road, and cannot help conceding the obligation on the part of the Federal Government to place herself in a position to defend that State. If she is not in that position without this road, if this road is the only measure by which she can place herself in that position, she is bound to make the road. He surely will not deny this.

The bill reported by my honorable friend from Texas provides for the completion of this road. It differs from all the other measures which we have had here on this subject in this particular: that its enactment by the representatives of the people of the United States declares that the road shall be made, and provides the means for making it. All the other propositions are for some preliminary steps, leaving the great question whether the road is to be made or not, to be determined at some subsequent period. By this bill the road is to be made, and by it the means are provided for its completion, and therefore it is that I am in favor of it in preference to all the other propositions which have been suggested. This bill contains a feature which has been objected to by some Senators; but it is one of the main reasons why I approve it in preference to all the other propositions, and that is, that it takes from Congress the necessity of deciding on the route. Now, sir, I am convinced that if these surveys are made designating some half a dozen routes, and as many termini upon this side and upon the Pacific sea-board, that Congress will not be enabled, by reason of conflicting interests represented here, to decide in ten years that the road shall be commenced. Now, for the purpose which I have indicated, it is not a matter of paramount consequence which route is taken. I say it is the obligation of this Government to place itself in a position to defend California in the event of a war between the United States and any foreign maritime Power, and it is not material what route may be taken; but it is material that we should place ourselves as soon as we can in a position to discharge our constitutional duties. I believe if those who oppose this bill will suffer its friends to propose the amendments which they intend to offer, it will be the better course. Then honorable Senators opposed to the bill can offer any objections they may have to it in the shape in which it may then stand, and I believe that all such objections can be readily answered. I now propose, if it be in order, to move the two amendments which I have indicated.

The PRESIDENT. The question pending is on the motion of the Senator from Virginia to commit the bill to the Committee on Roads and Canals. The amendments cannot be received till that motion shall be disposed of.

Mr. PRATT. Very well, sir; I shall wait till that time.

Mr. GWIN. Inasmuch as the proposition to commit comes from an avowed enemy of the bill for the purpose of defeating it, I hope its friends will vote down the proposition without debate.

Mr. MASON. I am an avowed enemy of this bill, but this motion is not made for the purpose of defeating it, though I trust the bill will be defeated by a fair and open vote. The object is to commit it to a committee to see if they can perfect its details. Four or five gentlemen on a committee can perfect the details of a bill which it would be impracticable for a full Senate to do. That is my view.

Mr. GWIN. I understood the Senator to say that he would vote for no bill for this purpose.

Mr. MASON. Nor will I.

Mr. GWIN. Then the Senator is an avowed enemy of this road, as I said.

Mr. RUSK. I rise simply for the purpose of saying that I regret extremely that the want of time and a sense of duty—for I believe it is our duty to come to a vote upon this bill at this time—will prevent my answering the eloquent remarks of the honorable gentleman from Virginia, [Mr. MASON.] I must be permitted, however, to say that I deny the truth of his assaults on the provisions of this bill. Sir, there is a breach of the Constitution in failing to carry out the provisions which are enforced upon your Government to protect and to extend equal rights to all the citizens of this Republic. There is now a tax on every man who goes to California of $300, which this bill repeals. Sir, the dying groans of hundreds of your fellow-citizens traversing the wilderness between this part of the country and the Pacific, and the graves of thousands of them rise up to charge that, notwithstanding the people of the United States have been for six years urging this great work, Congress has been standing here violating the Constitution by refusing to carry out what all the people of the United States desire, and what is indispensable in order to carry out your constitutional obligations.

I do not intend to debate the subject, and I do not intend to consume time; but I must say this: that upon the provisions of this bill I claim to be a Democrat. More, I will pledge myself to take up the bill, and to show that no principle of the Democratic party, from its existence down to the present day, has been violated by it; that the only danger to the Constitution that can be found in it is the danger of not carrying it out fairly and honestly, and giving to those who are three thousand miles from you, and now powerless, that protection which you here in this Capitol enjoy.

Mr. BUTLER. As I suppose we have to swallow this bill, I should like to have some explanation of the eleventh section, and I presume the Senator who introduced it can give that explanation. That section, if I understand it, undertakes to create a corporation within the limits of the State, and gives to Congress the exclusive jurisdiction over that railroad, prohibiting the States

rom having a railroad to cross this road, or get to it without the consent of Congress.

Mr. RUSK. No, sir.

Mr. BUTLER. Here is the provision.

Mr. RUSK. Read it.

Mr. BUTLER. Before I read it, let me state my proposition. According to this bill, no company within Texas, or Iowa, or Arkansas, or Missouri, and none of those States themselves, can run a road to this road, or across it, without the leave of Congress. This bill reduces the State through which this road runs to the condition of a tenant at sufferance, subject to the jurisdiction of Congress. Yes, sir; the hand of Congress is to control the franchises of one of the sovereignties of this Union by reserving to itself the power of saying whether it shall connect with this road or not. Here is the eleventh section of this bill:

"*And be it further enacted*, That Congress may at any time hereafter authorize individuals, companies, or States to form a connection between said railroad and any railroad or railroads under their control, respectively."

Congress then gets the control of a railroad within the limits of a sovereign State. It plants a corporation within the limits of a sovereign State—a corporation subject exclusively to its own control—and that sovereign State does not run a road over its soil without the previous leave of a foreign Government. Sir, I would perish sooner than I would suffer any foreign influence to have a corporation within my State, and not allow my State to exercise the franchises ordinarily incident to every sovereignty. The gentleman cannot get over it. There is the proposition.

Mr. RUSK. That only shows how easy it is for a gentleman to be mistaken. This bill gives authority to the company to construct the road through a State with its consent. There are a number of statutes in the books immediately behind the President's chair, approved by Mr. Jefferson, for the same thing. This bill authorizes the construction of a road through a State, and authorizes a company to construct it; and the reason for the provision to which the Senator has alluded is this: If the company should be unrestrained, it might be to its interest not to allow a State to join its road, or to have a cross road; and therefore we have inserted here a positive requirement that Congress may, at any time, under any circumstances, authorize a connection with the main road, so as to prevent the company keeping off States and individuals.

Mr. BUTLER. What I meant to say was, that the attempt is in this bill to prevent a State from running a road within its borders anywhere it pleases.

Mr. GWIN. It is very easy for gentlemen to make assertions. If they will look at the bill, they will see that this road cannot be located within a State without the authority of the State; and certainly when a State Legislature was passing a law for the purpose of accepting the provisions of this bill, it would reserve to itself power to connect. I have no doubt every Legislature will do it.

Mr. BAYARD. The only power given to the State Legislatures is to assent or dissent. They have no power to impose restrictions according to the bill.

Mr. BUTLER. That is all.

Mr. GWIN. Their power is not limited or qualified, and therefore they have full power to impose any condition.

Mr. MASON called for the yeas and nays on his motion to commit; and they were ordered.

Mr. SOULE. I wish to obtain some information as to a difficulty which strikes my mind in this bill, and which has not been explained by its supporters and friends. Do the friends of the bill consider that it is within the power of Congress to augment the obligations or the powers of the President under the Constitution? If that power is not vested in us, I would like to know how honorable Senators feel on this other question? Suppose the President who is soon to go out of office should give his sanction to this bill, do you believe that the incoming President is not likely to exercise his paramount power, and to see whether this is a duty known to the Constitution as belonging to him and to the office which he holds? If he should think it was not a duty properly conferred on him under the Constitution, what would be the position of the Senate? Where would stand your bill, and what answer would you give to such a President, declining to enforce such a law? I want light.

Mr. BELL. The President is bound by his oath to execute the laws.

Mr. SOULE. I know he is; but answer me this: If he tells you that he finds in the Constitution nothing that conveys to him that power, will he permit you to arrogate to yourselves the paramount right of imposing upon him new obligations, or to expand his power? I want an answer to that question.

Mr. PRATT. I had supposed that the Congress of the United States had a right, without the veto of the President, without conflicting with the constitutional powers of the President, to authorize the making of a road necessary for military purposes, necessary to defend every portion of the United States. If this bill is passed, will the Senator say that the President of the United States will not do what he is directed by the bill, or requested, or authorized by the bill to do? The Senator from Virginia correctly said, when authority is given in a bill to discharge a duty, it becomes an obligation to discharge it. Would he not exercise his power for the purpose of constructing a military road, authorized to be constructed by authority of Congress?

Mr. RUSK. I have only this to say, in answer to the Senator from Louisiana: that when the President elect comes into power, the constitutionality of this, as well as of every law passed from the foundation of the Government will be before him, and he must perform his duty according to his oath.

The question being taken by yeas and nays on the motion to commit the bill to the Committee on Roads and Canals, resulted—yeas 18, nays 33; as follows:

YEAS—Messrs. Adams, Bayard, Bright, Brodhead, Butler, Charlton, Cooper, Dawson, De Saussure, Fitzpatrick, Hunter, Mason, Norris, Pearce, Pettit, Phelps, Soulé, and Toucy—18.

NAYS—Messrs. Atchison, Badger, Bell, Borland, Brooke, Cass, Chase, Clark, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fish, Foot, Geyer, Gwin, Hamlin, Houston, Jones of Iowa, Jones of Tennessee, Miller, Pratt, Rusk, Sebastian, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, Walker, and Weller—33.

So the motion was not agreed to.

Mr. MORTON, when his name was called, stated that he had paired off with the Senator from Massachusetts, [Mr. DAVIS.]

Mr. PRATT. I now offer my amendments. The first one is to insert in the fifth section, that which provides that the President shall contract, the following proviso:

Provided, That the same can be effected upon the terms stipulated by this act, and at an expense to the United States not exceeding the $20,000,000, and the grant of land herein stipulated.

Mr. RUSK. That simply carries out and makes more explicit what is already proposed in the bill.

The amendment was agreed to.

Mr. PRATT. My next amendment is to insert at the end of the thirteenth section, incorporating the company, the following:

Provided, That nothing in this section contained shall be construed to grant to the corporation hereby created any banking powers or privileges: *And provided further*, That said corporation may be hereafter regulated and restricted by any act which may be passed by Congress at any time hereafter.

Mr. WELLER. I desire to make a motion to strike out the whole of that section. I suppose, however, that the vote will first be taken on the amendment proposed by the Senator from Maryland, because the friends of a measure have a right to perfect a section before it is striken out; but I give notice that whether the amendment prevail or not, I shall move to strike out the whole of that section, being utterly opposed to creating a corporation for this purpose.

The amendment was agreed to.

Mr. WELLER. I now move to strike out the whole of that section.

Mr. CASS. I am as much in favor of this bill as any member of the Senate, but I cannot vote for it if the section, which the Senator from California proposes to strike out, be retained. I do not believe that Congress has any power to establish a corporation in a State. If it has not the power to do it directly, I do not believe that any assent of a State can give the power. You must look at the Constitution for your power, and not to the assent of States. I hope the motion of the Senator from California to strike out the section will prevail; for if it be retained I cannot vote for the bill.

Mr. PRATT. There is one point to which I desire to call the attention of the Senator from Michigan. The Chesapeake and Ohio Canal Company, to which I referred in my remarks a short time ago, was originally chartered, according to my recollection, by the Congress of the United States. That was a measure recommended by a convention of gentlemen collected from all sections of the United States, and if my memory serves me, Mr. Calhoun acted as the presiding officer. That company was chartered by the Congress of the United States, and the act of incorporation provided that with the assent of the States of Maryland and Virginia, through whose territory this canal was to pass, the charter was to take effect. I refer to this not for the purpose of controlling the judgment of my honorable friend from Michigan, for whose opinion I have so high a respect, but for the purpose of saying that from that time down to this I had concluded that the Congress of the United States might make a proposition to a State, might pass a charter saying that the company should be authorized to do so and so, and that it should not do so within the limits of a particular State without the assent of that State. So soon as the State gives its assent, it becomes a charter passed by the State, and not by the Congress of the United States. Suppose this bill passes, and suppose that the only State upon which it is to operate is the State of Texas; the moment the State of Texas assents to this bill and to this charter it enacts the charter. It is then the State of Texas granting the charter to the persons or the company mentioned in the bill for the purpose of making a road through Texas. It would then be not the Congress of the United States giving power to make the road through Texas, but Texas assenting to the power conferred conditionally by Congress. The power is, by this bill, conferred absolutely so far as the Territories of the United States are concerned, but only conditionally in regard to Texas. It is inoperative there until her assent shall be given. When her assent is given, her charter becomes the controlling one.

Mr. CASS. I merely wish to remark to the Senator from Maryland, that the passage of an act of incorporation for the Chesapeake and Ohio Canal Company by Congress, or the assumption of jurisdiction by Congress to establish that corporation, does not alter my view of the Constitution. I look to the Constitution for the powers of Congress. Congress has passed laws establishing a national bank. I do not now believe, and I never did believe, in the constitutionality of such a measure. I am not, therefore, to be bound by any such practice. Nor does one such instance establish the construction of the Constitution. This is a Government, not of general, but of limited powers. That has all been gone over a thousand times. Every member understands it. You must go to the Constitution for your power, and not to the assent of the States. The simple question is, in what part of that instrument do you find authority to grant a charter to a company within a State, and not whether the State gives its assent or not. You cannot get the power from that assent. You must have it from the Constitution, or you cannot get it at all. I repeat, I do not find any such provision in the Constitution; and not finding it there, I cannot go to the States for it.

Mr. UNDERWOOD. I believe, Mr. President, that the retention of this corporation clause, as it is called, is essentially necessary to carry out the objects that we have in view; and I think that if we strike out this section, the whole bill will be good for nothing, and it will never be executed. Now, upon the subject of its execution let me say a few words. Where can you find an individual, or a dozen or a hundred individuals, who will have capacity by a private association to execute the work? What is a corporation in the sense that we mean by the term when we make one by this bill? It is nothing on earth but enabling these thousands and tens of thousands who may be associated for the accomplishment of this great work to use a common name by which they can contract. Allow me to say, that if you require ten thousand persons to put their signatures to the same bond, to sign the same contract for a piece of railroad iron or a cross-tie, the whole thing will become utterly impracticable. Without a corporation, if it becomes necessary to sue or be sued, you could never bring a suit of that

sort to an issue till the end of time. The deaths which will occur, the abatements which will take place in consequence of death, and the revivals which will be necessary, will postpone the determination of any such suit until the end of time, if you have thousands to enter into it as plaintiffs or defendants. All that we want is that there shall be a common name, by which these persons thus associating for a common purpose, can be reached. We want something practical. We cannot get it in any other way than through this common name.

I think the Bank of the United States was objected to because there was an object foreign to the powers embraced by the Constitution brought forward in the operations of this Government by that charter. I am as much opposed to enlarging the objects of the Federal Government as any man living. But in regard to the execution of the powers which we have—and that is the distinction—we may execute them by a corporation or by anything else; but you have not a right to make a new object, or to enlarge the powers of the Federal Government. You cannot get along practically in this association, for this purpose, without some common name by which all these persons may be regulated. It is, however, too late in the day to make a speech. No doubt every Senator has his views upon the subject, and therefore I will simply content myself with asking for the yeas and the nays on the amendment.

Mr. PEARCE. Mr. President, I desire only to say that the Government of the United States did not originate the Chesapeake and Ohio Canal Company. That company was incorporated by the Legislature of Virginia in the first place. Congress, in 1825, ratified and confirmed that act of incorporation, so far as to allow the company which might be formed under its provisions to carry all the purposes of that corporation into effect within the limits of the District of Columbia, over which Congress had jurisdiction, and no further. That is the language of the act.

Mr. TOUCEY. Mr. President, I hope that the motion of the Senator from California to strike out the thirteenth section will prevail. I regard the subject of uniting the valley of the Mississippi with the Pacific coast by railroad as one of the very highest interest. Since the ratification of the unfortunate Clayton-Bulwer treaty, which assures to Great Britain the ascendency in Central America, I regard it as a measure of vastly increased importance to unite the Pacific with the Atlantic States by a railroad across the continent; and I declare here that I am willing to go to the whole extent of the powers of this Government to accomplish this object; but I can go no further. The bill, as it now stands, contains two provisions which must meet with my uncompromising opposition. It authorizes the construction of a railroad, as the private property of a company, within the limits of the States of California, Texas, Louisiana, Arkansas, Missouri, and Iowa, or some one or more of them, at the discretion of the President. It assumes jurisdiction over the soil of those States, authorizes the construction of this road through them, and it appropriates money from the public Treasury for that object.

Now, sir, I wish to know if there is a Senator in this body who entertains the opinion that it is competent for Congress to construct a road within the limits of a State? Is there a statesman in this country who entertains the opinion that Congress has the power to assume this jurisdiction, and construct such a road, or any road, within the limits of a State on any ground—either on the ground of the public welfare, or to carry out any of the enumerated purposes of the Constitution? I had supposed that that doctrine was entirely exploded. I had supposed that it had become "an obsolete idea," abandoned by those who formerly entertained it. Has not a State sovereign and exclusive power over its own soil and over the roads and canals within its limits? It has been said that Congress has power to "establish" post roads; but will any one say that that grant of power by the Constitution authorizes Congress to construct a road, and, as in this case, to assume jurisdiction over it, to take possession of it, to control it, and to manage it, to regulate its business, and to protect it by a Federal charter or by Federal laws? Does any one suppose that the power to establish post roads is not only a power to establish the existing roads of a State as post roads, according to the uniform course of the Government, but also to construct new ones, not already existing or not already opened and established by the laws of the State?

It is enough to say, that if Congress possesses that power, it can take jurisdiction over every road and canal in the country under color of post office and military purposes. There is not a highway, a canal, a railroad, or a telegraph line in the whole country over which, upon the same grounds, Congress might not assume jurisdiction. If Congress can do that, this Government is a consolidated Government, and the sovereign powers of the States are utterly annihilated. If that broad construction is to prevail, there is no limit to the power of this Government; and a Government of such unlimited power administered here could not long exist.

It is said, that by the provisions of this bill the assent of the States is required before the road can be constructed within their limits. But can a State Legislature, under the constitution of the State, part with its legislative powers to the Federal Government? Is there a State in this Union where the people, in establishing a constitution, have authorized the legislative body, at their will, to part with their legislative powers to Congress? Can they part with the sovereign legislative powers with which the people of the State have invested their Legislature? Who advocates any such doctrine as that? Can a Legislature alter the constitution of a State?—divest itself of its own legislative powers and grant them to another Government? Again: can the Federal Government receive any such powers from the Legislature of a State? Will any Senator rise in his place and affirm the doctrine that a State Legislature can part with any of its powers to the Federal Government, or that the Federal Government can receive or exercise them except in cases expressly provided for by the Constitution?

Mr. BELL. Will the gentleman allow me to ask him a question?

Mr. TOUCEY. Certainly.

Mr. BELL. Can the State of Illinois, in consideration of receiving from the Government of the United States three million of acres of public land in aid of the construction of a road from Cairo to Chicago, stipulate that the company with which it contracts for the construction of that road shall carry forever, free of charge, the mails of the United States, and all the munitions of war, and that the exactions upon general travel shall not exceed seven, or eight, or ten, per cent.—no matter what as to the amount? If the gentleman admits that, he admits all we ask in this bill.

Mr. TOUCEY. I do not doubt, sir, that a Legislature in a proper case is authorized to make a contract; but it is a very different thing that the Legislature of a State should by one act for thirty years, or for all time to come, divest themselves of all legislative power over a road or over a district within their limits. The Legislature of a State cannot stop the public mail, cannot interfere with the Post Office Department, cannot interfere with the progress of an army; but it is a widely different matter to transfer to another government its legislative power over a road or a district which has become the private property of a company.

Mr. BELL. Will the honorable gentleman answer me another question? Can the Legislature of Illinois say to a company which may undertake the construction of that road upon the terms which I have mentioned, taking this land, "Will you take it provided the State shall not run another road within a certain distance of it, that no parallel road shall be constructed?" Can they say that?

Mr. TOUCEY. Mr. President, I do not doubt, I have not doubted, that a State Legislature may make an exclusive grant within certain limits. It is a power that has been exercised by every State in the Union, a power which I do not propose to call in question. But this bill does an entirely different thing. It creates a corporation. It authorizes that corporation to construct a road within the limits of a State, and it reserves to Congress the power or control over that road, to regulate the transportation of merchandise and passengers, and it takes the road entirely out of the hands of the Legislatures of those States through which it may pass; and this is what I denounce as an unconstitutional exercise of power.

Mr. President, I had intended to proceed further, but I am not very well able to proceed at this time.

Mr. SOULE. I move that the Senate do now adjourn.

Mr. JONES, of Iowa, called for the yeas and nays; and they were ordered.

The Secretary proceeded with the call, and had called several names——

Mr. DAWSON. Did not the Senator who was speaking ask that the Senate should adjourn for his accommodation?

Several SENATORS. Certainly he did.

Other SENATORS. He did not.

Other SENATORS. Order. Proceed with the call.

The PRESIDENT. The Secretary will proceed with the call. It is not in order to interrupt it.

The question being taken, resulted—yeas 23, nays 25; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Bradbury, Brodhead, Butler, Cass, Charlton, Cooper, Dawson, De Saussure, Downs, Fitzpatrick, Foot, Hunter, Mason, Norris, Pearce, Phelps, Shields, Soulé, Spruance, and Toucey—23.

NAYS—Messrs. Badger, Bell, Borland, Brooke, Chase, Clarke, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fish, Geyer, Gwin, Houston, Jones of Iowa, Miller, Pratt, Rusk, Sebastian, Seward, Smith. Sumner, Underwood, Wade, Walker, and Weller—25.

So the motion was not agreed to.

Mr. TOUCEY. Mr. President, I ought perhaps to say that I am not very well able to proceed, on account of indisposition, at this time; but since it is the will of the Senate that I shall do so, I will go on with the remarks that I have to make as well as I may be able.

Mr. DAWSON. It is the first time a Senator has been forced to proceed under such circumstances.

Mr. HUNTER. Will the Senate force the gentleman to proceed when he is unwell?

Mr. UNDERWOOD. I did not understand that the gentleman was unwell and wished an adjournment, or I certainly should have voted for the motion to adjourn.

Mr. BUTLER. I never knew such an act of discourtesy to a gentleman before.

Mr. UNDERWOOD. Under the circumstances, I move that the Senate do now adjourn.

Mr. RUSK. I hope the Senator will withdraw the motion for a moment in order to allow me to make an explanation.

Mr. UNDERWOOD. Certainly.

Mr. RUSK. I believe that I can safely appeal to my past experience in this body, and be justified in uttering the declaration that I am the last man in it who would extend discourtesy to a single member; therefore, I felt awkwardly situated in voting against an adjournment while the honorable Senator from Connecticut, for whom I have the very highest respect as a statesman and as a man, was desirous that we should adjourn, in order that he might have an opportunity to-morrow of addressing the Senate. I felt great reluctance in being called upon to vote without explaining my reasons, and I wish now to give them.

Mr. HUNTER. I rise to a question of order. Is a motion to adjourn debatable?

The PRESIDENT. A motion to adjourn is not debatable, but that motion is not before the Senate. The Senator from Kentucky withdrew the motion.

Mr. RUSK. Then I am in order.

Mr. TOUCEY. I must interrupt my honorable friend from Texas, to proceed with what I have to say as far as I may be able.

Mr. RUSK. I have not got through with my explanation.

Mr. TOUCEY. I think it is rather a vindication of the vote.

Mr. RUSK. No, sir, I merely wish to explain.

Mr. TOUCEY. Mr. President——

Mr. UNDERWOOD. If the Senator will allow me, I will move an adjournment. I made the motion a few moments ago, and I withdrew it for the purpose of giving the Senator from Texas an opportunity to explain.

Mr. RUSK. And I have not yet got through.

Mr. UNDERWOOD. In order to accomodate the Senator from Connecticut, I move an adjournment.

Messrs. GWIN, and JONES of Iowa, called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 30, nays 15; as follows:

YEAS—Messrs. Atchison, Bayard, Bradbury, Bright, Brodhead, Butler, Charlton, Chase, Cooper, Dawson, De Saussure, Dodge of Wisconsin, Downs, Fitzpatrick, Foot, Geyer, Houston, Hunter, Mason, Norris, Pearce, Phelps, Shields, Soulé, Spruance, Sumner, Toucey, Underwood, Walker, and Weller—30.

NAYS—Messrs. Badger, Borland, Brooke, Clarke, Dodge of Iowa, Douglas, Gwin, Jones of Iowa, Jones of Tennessee, Pratt, Rusk, Sebastian, Seward, Smith, and Wade—15.

So the motion was agreed to, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 18, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first business in order is the consideration of the resolution reported on yesterday from the Committee on Printing, providing for the binding of maps.

Mr. CLARK. I have a resolution to offer in reference to a privileged question. It relates to a bill which has been sent to the Senate through a mistake.

The resolution was as follows:

Resolved, That the Senate be requested to return to this House the bill of the Senate, (No. 242,) entitled "An act to regulate the terms of the district court of the United States for the district of Iowa."

The question was taken, and the resolution was adopted.

The SPEAKER. If not objected to, the Chair will present to the House certain Executive communications.

Mr. STANLY. I do not intend to take the floor from the Speaker, but I desire to know what is the business in order.

The SPEAKER. The Chair announced that the first business in order was the consideration of the resolution reported on yesterday from the Committee on Printing.

Mr. STANLY. I hope that resolution will lie over.

The following Executive communications were then presented to the House, and referred as indicated below:

I. A communication from the Treasury Department, stating that, from information of the Department and from recent representations upon the subject, it is of the greatest advantage, not to say necessity, that a revenue cutter on the Pacific coast be propelled by steam, and recommending an appropriation of $75,000 for the purpose of building such a vessel.

Referred to the Committee on Ways and Means, and ordered to be printed.

II. A communication from the Treasury Department, submitting for the consideration of the Committee on Ways and Means estimates of appropriations which will be required for the payment of the salaries of the supervising and local inspectors appointed under the act approved August 30, 1852, for the better preservation of the lives of passengers on board of steamboats and other vessels, for the year ending June, 1854, and also for traveling expenses, instruments, contingencies, &c.

Referred to the Committee on Ways and Means, and ordered to be printed.

III. A communication from the Department of the Interior, transmitting, in compliance with the act of August 26, 1842, a detailed statement of the manner in which the contingent fund of that Department has been expended during the last year.

Laid on the table and ordered to be printed.

IV. A communication from the Department of the Interior, transmitting a list of the clerks and other persons employed in that Department and its bureaus, during the last year, and showing the time employed, and the amount paid, to each of those officers.

Ordered to lie on the table and be printed.

V. A communication from the War Department, transmitting a report of the Topographical Bureau, in compliance with a resolution of the House, dated January 17, 1853, requesting the Secretary of War to communicate to them what plans and estimates, if any, have been made in reference to the harbor of Cape Vincent, in New York, under the superintendence of the War Department.

Referred to the Committee on Commerce, and ordered to be printed.

VI. A communication from the Commissioner of Public Buildings, comprising his report, showing how the appropriations for the public buildings and grounds, have been applied during the last year.

Referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MARY W. THOMPSON.

Mr. MILLSON. This being a day dedicated by the rules to the consideration of private bills, I desire to make a statement.

More than a year ago, a Senate bill granting a pension to Mary W. Thompson, was referred to the Committee on Revolutionary Pensions. The committee unanimously recommended the passage of the bill, but from that time I have not had an opportunity to make a report. This woman is the widow of Colonel Thompson, who was killed in battle at the head of his regiment. I ask the consent of the House to report the bill, and I trust the House will allow me to do so.

No objection being made, the bill was reported and read a first time by its title.

The SPEAKER. If there is no objection, the bill will receive its second reading.

Mr. EASTMAN. I object to reading it. My drawer is full of the same kind of matter.

LIGHT-HOUSE BILL.

Mr. DUNCAN, by unanimous consent, reported from the Committee on Commerce, "A bill making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes."

Mr. DUNCAN. I move that the bill be referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

The question was taken, and the motion was agreed to.

Mr. HOUSTON. I would appeal to the House to resolve itself into the Committee of the Whole on the state of the Union, and occupy the whole of this day in the consideration of the civil and diplomatic appropriation bill. There are but few days remaining of this session, and if the House now go into the Committee of the Whole we may get through with the bill.

BINDING OF MAPS.

The SPEAKER. The business first in order is the consideration of the report made from the Committee on Printing last evening, on which subject the gentleman from North Carolina [Mr. STANLY] is entitled to the floor.

Mr. STANLY. It would give me great pleasure to yield to the gentleman from Alabama, who desires the transaction of the public business, that he may submit his motion that the House resolve itself into the Committee of the Whole. This matter of printing does not demand immediate attention, and, as I desire to say something on it, I will move the postponement of its consideration until any day of next week that may be suggested.

The SPEAKER. The Chair cannot hear whether the gentleman submits a motion or not with reference to the business in order.

Mr. STANLY. I cannot hear the Chair very often in consequence of the buzzing of conversation outside of the bar of the House.

I should be glad to have the resolution reported from the Committee on Printing postponed for consideration to whatever day it may suit the pleasure of the House. I want the day fixed, so that we may be certain at what time it will come before us for action. It is suggested that I move the postponement until next Tuesday; and I make that motion.

Mr. DUNCAN. I object to so long a postponement. I understood from the statement of the gentleman who reported this resolution from the Committee on Printing, that it was very desirable this binding should be ordered without delay.

The SPEAKER. The motion to postpone is not debatable.

Mr. STANLY. I thought in submitting the motion to postpone that I was yielding to the public business.

The question was taken, and the consideration of the resolution was postponed until next Tuesday.

Mr. GROW. I would ask unanimous consent for leave to withdraw from the files of the House the petition and papers in the case of William F. Green, in order that they may be presented to one of the Executive Departments.

Mr. CLINGMAN. I object.

Mr. EDGERTON. I move that the rules be suspended, and that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The question was taken, and the motion was disagreed to, there being on a division—ayes 45, noes not counted.

Mr. SWEETSER. I rise to a question of privilege. I move that the chairs now in the area be removed. The difficulty of the members, in the part of the Hall in which I am, in hearing, arises in a great degree from the confusion caused by those seats. The Chair knows well enough, that in voting by tellers, members can hardly get into the area, in consequence of the aisles being partially blocked up by these chairs. They ought, in my opinion, to be removed. I demand tellers on the motion.

Tellers were not ordered.

The question was taken, and the motion was disagreed to.

Mr. GOODENOW. Is the motion to go to the business on the Speaker's table a privileged one?

The SPEAKER. It is not. The motion is now pending that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (MR. ORR in the chair.)

The CHAIRMAN. The committee, at its last sitting, had gone through the civil and diplomatic bill as far as the appropriations under the head of "surveyors general and their clerks."

The Clerk proceeded with the reading of the bill for amendment.

The following item was read:

"For fitting Cape Hatteras light with first order of illuminating apparatus and lantern, and elevating the light, fifteen thousand dollars."

Mr. STANLY. I move to increase that appropriation one dollar, in order that I may be enabled to make a single remark. Two years ago, there was some complaint about Cape Hatteras light, which is in the district I have the honor to represent. Its keeper was censured for not doing his duty. The matter was investigated, and I have received from Lieutenant Maury and others, statements showing that, on account of the fogs arising there, the light is sometimes obscured. In justice to the individual who has charge of the light, I seize this occasion to remark, that the Light-House Board, after examination, have found that he was not to blame, no matter who made the attack on him. That Board have properly recommended the elevation of the light, and this item appropriates $15,000 for that purpose. The keeper of the light is an humble man in life, who has faithfully discharged his duty. He has been entirely vindicated from charges made improperly against him by some persons connected with the Government. This is all I have to say, and I now withdraw the amendment.

Mr. FREEMAN. I move to add after the item—

"For removing the iron light-house tower, at the junction of Southwest and Northeast Passes of the Mississippi to Pass a l'Outre, and substituting a small beacon-light in its stead, six thousand dollars"—

the following:

And that the sum of one thousand dollars, appropriated in 1837 for a marine hospital at Vicksburg, Mississippi, be, and the same is hereby, reappropriated for that purpose.

Mr. HOUSTON. The amendment has no connection with the previous section.

Mr. FREEMAN. I think it has.

The CHAIRMAN. Are there any appropriations in the bill for hospitals?

Mr. HOUSTON. There were estimates for some, but whether they are in the bill or not I am not prepared to say certainly. The gentleman's amendment, however, has no connection with our light-house establishment.

Mr. FREEMAN. I desire to say that this very appropriation was embraced in the civil and diplomatic appropriation bill which passed a previous Congress.

Mr. HOUSTON. Does the Chair decide the amendment to be in order? There are a great

many of the same sort of amendments ready to be offered if this be decided to be in order.

The CHAIRMAN. The Chair thinks the amendment is in order, though it would be more appropriate to another part of the bill, if there are appropriations for such purposes in the bill.

Mr. FREEMAN. I only desire to state the fact to the committee, that in the year 1851, this very appropriation was made for the marine hospital at Vicksburg. The site has been purchased and the terms agreed upon; but in consequence of some delay in returning to the department the title papers of the property the money has not been paid out of the Treasury. Fearing that the papers may not be completed before the time when the appropriation will go to the surplus fund, I have moved this reappropriation, in order that the Secretary of the Treasury may be able to complete his contract with the parties of whom he has purchased this property. I do not think there can be objection to such a proposition.

Mr. BROWN, of Mississippi. With the permission of my colleague, I wish to add my own concurrent testimony to what he has said with reference to this appropriation of money. This amount has already been appropriated by Congress, but on account of some difficulty in regard to the title of the lot on which it is proposed to erect the hospital, it has not been expended, and unless reappropriated before the 30th of June next, it will pass back into the Treasury. We are asking for no additional appropriation. It will add nothing to the expenditures of the Government for this year. After this brief statement, in addition to what my colleague has stated, I trust that the amendment will be adopted.

Mr. HOUSTON. The House investigated the subject of this marine hospital at the last session at a good deal of labor, and it determined that there were more of them on those western rivers than were necessary. There seems to be some difficulty with reference to the title of the lot on which it is proposed to erect this hospital, and I presume that the better plan would be to let the money go back into the Treasury, and let an investigation be had when the question comes up for the establishment of other hospitals on those rivers.

Mr. BROWN. This matter was investigated by a committee of the last session. The investigation has been twice made, and this money has been twice appropriated.

Mr. HOUSTON. The Secretary of the Treasury, in answer to a call of the Committee on Commerce of the House, stated that the Government would save about one half by using private hospitals on those rivers. We have hospitals at Pittsburg, Louisville, Paducah, Napoleon and Natchez, and it is now proposed to establish one at Vicksburg. We have also one at Evansville, for which this Congress, at the last session, determined to make no additional appropriations. I do not remember them all, but they are scattered up and down the rivers.

Mr. FREEMAN. I desire to ask the gentleman a question. When Congress has determined to build a hospital, and appropriated money for that purpose, I would like to know whether he proposes to rediscuss the matter, and repudiate its action?

Mr. HOUSTON. I do not propose to repudiate anything. I leave that to my friend from Mississippi. [Laughter.] I merely desire to say that this case is precisely parallel to the one of the marine hospital at Evansville. The property for a site had been purchased there, but the appropriation not being sufficient for the erection of the building, the House determined that they would make no further appropriations. And there that marine hospital stands, Congress refusing to make any additional appropriation to build it, because the Secretary of the Treasury showed satisfactorily in his report that it was unnecessary. He also stated that there were several others unnecessary; and that it now costs the Government more than double it would cost to pay the board of every sixth seaman in the private hospitals up and down that river.

Mr. FREEMAN. I will make a brief reply to the gentleman.

The CHAIRMAN. Further discussion is not in order.

The question was taken, and the amendment was disagreed to.

Mr. DARBY. If this be the proper place for the submission of amendments with reference to hospitals, I desire to offer one.

Mr. HOUSTON. My friend from Ohio, who has examined the bill, tells me that there are no appropriations for hospitals in it.

Mr. DARBY. I shall submit my amendment, as there seems to be no more appropriate place than the one we are at. In the estimates of appropriations made by the Secretary of the Treasury and submitted to this House, a copy of which I have before me, I see that the sum of $20,000 is recommended for the completion of the marine hospital at St. Louis.

The CHAIRMAN. The Chair would suggest to the gentleman from Missouri that there are, towards the end of the bill, miscellaneous appropriations, and that perhaps his amendment would be more appropriate there. The section under consideration is for light-houses.

Mr. DARBY. I only desire to present the amendment at the proper time and in the proper place. In accordance with the Chair's suggestion I will withdraw my amendment, intending to offer it when we reach the part of the bill alluded to.

Mr. BROOKS. It seems to me that now is the time to provide that the expenses of collecting the revenue on the coast of California should come under the general law. The revenue officers there should be under some general law. They are exempted from it now, and their salaries remain *ad libitum*.

The following clause was then read:

"For continuing the survey of the Florida reefs and keys, (excluding the pay and emoluments of the officers of the Army and Navy, and petty officers and men of the Navy employed on the work,) $30,000."

Mr. HAVEN. I propose to offer the following amendment at the end of that clause:

For continuing the survey of the northern and northwestern lakes, including Lake Superior, $50,000.

I only desire to say to the committee that the amendment is for the purpose, as its language expresses, of continuing surveys which have been going on for four years past. The appropriation is included in the estimates from the Departments, and it has been put heretofore in the civil and diplomatic bill. Last year it went into the river and harbor bill; but as it is likely that no such bill will be introduced this session, I propose now that it be restored to the civil and diplomatic bill, and I hope that the committee will agree to it.

The question was then taken upon Mr. HAVEN's amendment, and it was agreed to.

The first two clauses of the section, relating to custom-houses, were then read, as follows:

"For continuing the construction of the custom-house at Charleston, South Carolina, one $100,000.

"For continuing the construction of the custom-house at New Orleans, Louisiana, $100,000."

Mr. DARBY. I offer the following amendment, to come in at the end of the second clause:

For continuing the construction of the custom-house at St. Louis, $115,000.

I would ask to have read, by the Clerk, the following letters from the Treasury Department:

WASHINGTON, *February* 16, 1853.

DEAR SIR: Under the propositions received by the Department, the new custom-house and post office at St. Louis will require a further appropriation of $115,000, and for the marine hospital, $20,000.

Very respectfully, WM. S. HODGE.

Hon. J. F. DARBY.

TREASURY DEPARTMENT, *January* 21, 1853.

SIR: I have the honor to report, that by the terms of the appropriation authorizing the erection of a custom-house at St. Louis, Missouri, the building is required to be fire-proof, and to afford accommodations for the custom-house, independent treasury, and other officers of the United States in that city, embracing the post office, surveyor general's office, register and receiver's offices, pension agent's office, and rooms for the United States courts and other officers. That exclusive of the cost of the site, the appropriation for the construction of said building, including the necessary contingent expenses, amounts to the sum of $75,000, of which a balance of $73,978 38 remains unexpended. That a suitable plan for the building, prepared with great care, and with particular reference to its most economical construction, was adopted and proposals invited for its construction; and that the lowest bids for the work, as appears from the report of the superintendents, amount in the aggregate to the sum of $189,789 97; showing a deficiency of $115,811 59.

If the building is to be constructed according to the present plan, it is obvious that a large additional appropriation will be required before any further steps can be taken, and I would therefore recommend, in order to meet all contingencies, that Congress should be asked to appropriate the further sum of $125,000 to complete building.

Very respectfully, your obedient servant,

AMMI B. YOUNG, *Supervisory Architect.*

Hon. THOMAS CORWIN, *Secretary of the Treasury.*

TREASURY DEPARTMENT, *February* 17, 1853.

DEAR SIR: In addition to the foregoing report, I would state that Mr. Rockwell, the former Commissioner of Customs, after a visit to St. Louis last fall, reported to me that, on a full examination of the plans for your building, and the present post office accommodation, he thought it absolutely necessary to order more room to be appropriated to that purpose, and that in a few years the building would not fully accommodate all the business proposed to be put into it. He further stated that the building could not be erected for the money appropriated, and if made in conformity to those now being erected by private individuals, would cost nearly $200,000.

The amount of accommodation now required is very large, and with the increase of the city in a few years, some of the offices now located in the proposed building would have to be removed to other buildings, in order to accommodate the most important business in this. St. Louis is in one of those locations that the required accommodation will very fast increase; and I think it would be very bad policy to erect a building of this kind there, that would not afford proper accommodation at this time.

Respectfully, your obedient servant,

AMMI B. YOUNG, *Supervisory Architect.*

Hon. T. F. DARBY, *M. C., Washington.*

[Here the hammer fell.]

Mr. CLEVELAND. I hope the gentleman may be indulged in making a five minutes' speech, as the reading of the letters has occupied all his time.

[Cries of "Agreed!" from all parts of the Hall.]

Mr. DARBY. I am under obligations to the House at all times for their courtesy. The House is well aware that I have not been in a situation to discharge my duties as fully as I could have wished, and which is due to the large constituency I represent. I have not time to enter into details now, as I have but a few minutes allotted to me. The appropriation which I ask for has been recommended by the Departments. I applied to the Departments to find whether there was anything more necessary, and they have given me the information which has just been read. If this building was intended for the custom-house alone, the appropriations would have been amply sufficient for the purpose; but from the report which has been read, you will discover that there are at least a dozen other offices in the building—the subtreasury, the circuit court of the United States, the superintendent of Indian affairs, the surveyor general, the collector of customs, &c., in all some ten or twelve. The amount of revenue collected at the custom-house in the city of St. Louis in the last year, I discover from the report, is two hundred and ninety-three thousand and some hundred dollars. I ask, in justice to the appropriations already made, on account of the large amount of former appropriations which were required to purchase a site on which to erect a building, and on account of the numerous other purposes for which the building is to be occupied, and the great benefit which will result to the Government, if in nothing more, in the saving of the heavy rents which the Government has been paying for a great many years, that this appropriation should be made. This certainly would be the best policy we could adopt, and it is one which is required by the growing commerce of that city.

I do not know that I should trespass longer upon the patience of the House. It has been very indulgent to me, and I hope as the sum asked for is not very large, and as the report shows it will be required to finish the building, that they will award it. It is very little more than is asked for in the preceding line for the custom-house at Charleston. I venture the assertion that in less than ten years there will not be more than three or four custom houses in the United States where the amount of revenue collected will be greater. I hope that the appropriation will be made.

Mr. HOUSTON. These estimates, coming in as they do, seem to me to be very well calculated to embarrass the action of the House. The records, facts, and history of these custom-house appropriations, will show the House the difficulties which embarrass the subject. At the last Congress an appropriation was made for custom-houses at Pittsburg, Cincinnati, Louisville, and St. Louis, one in Maine, and two in Alabama. The original law by which the custom-houses were authorized to be built, limited the cost of these buildings to a certain amount of money, which was $75,000, except in the case of the St. Louis custom-house, which was $50,000, but by a proviso in the law was not to exceed $75,000. At the last session of Congress, more than twelve months after the first appropriation, and after giving sufficient time for the Secretary of the Treasury to examine his engineers, or whoever makes esti-

mates, they estimated the second time, and for the St. Louis custom-house they asked a certain amount of money, which was given. I do not remember the amount. I believe it was about $37,000——

Mr. PHELPS. The first appropriation was $50,000, the second $25,000, and the appropriation at the last session was $37,000.

Mr. HOUSTON. There were three estimates. I was mistaken in the statement just made, it seems, not having recurred to the subject since the last session of Congress. The first appropriation was $50,000, the second $25,000, and the third was $37,000, making in all $112,000; and now the fourth estimate asked for to complete the building, amounts to a greater sum than the entire amounts heretofore appropriated. Will the House do that? We are told in the report of the Secretary of the Treasury at this session, that we appropriated at the last session of Congress $10,000,000 more than the Department estimated for. These estimates come in this way without going into the public documents—from a private communication to a member of this House—not constituting a part of the documents of the country. They will never be set down as estimates, and you will never find them upon your public documents when in after years you come to examine the estimates of the Departments. If there had been more money necessary, why did not the Secretary of the Treasury communicate the fact to Congress in his estimates, as he has done in other things? It does seem to me that $112,000 is a fair amount to be appropriated for the custom-house at St. Louis. My friend says it will in a short time be the third or fourth custom-house in the Union in point of revenue. The labor is done in New Orleans—the goods are entered in the custom-house at New Orleans—thus all the examination and labor is gone through there. You have no officer in St. Louis except a mere collector. I am not sure that he is called a collector or whether he is a clerk.

[Here the hammer fell.]

Mr. CLEVELAND. I move to reduce the amount one dollar. It seems to me that the statement of the chairman of the Committee on Ways and Means ought to satisfy the House that this appropriation should be made. I have never admired the policy pursued on the part of our committees who have charge of this business, and it seems to me the past history in regard to this matter, shows that there may be great merit in the proposition made by the gentleman from St. Louis, [Mr. DARBY.] What has been the course of the Committee on Ways and Means in regard to these appropriations? Instead of stepping forward and making such liberal appropriations as the case requires——

Mr. HOUSTON. My friend from Connecticut will allow me to say that the Committee on Ways and Means have given in every instance the appropriations which the Department has asked for.

Mr. CLEVELAND. Then the Department is entirely in fault. If the first estimate of the Department was right, why were we called upon so soon by the same Department to make an additional appropriation?

Mr. SKELTON. I rise to a question of order. It is not in order for the gentleman to oppose his own amendment.

The CHAIRMAN. The gentleman in his remarks must confine himself to his amendment.

Mr. CLEVELAND. I will be within the rules. I will avoid the gentleman's technicality by making it a dollar larger. In regard to the appropriation, it is perfectly apparent to every member of the committee that we ought to make an appropriation greater than has been proposed for the completion of that building. Why is it that we propose to build this custom-house in a most expensive manner by making appropriations, this year a little, the next year a little, and the year following a little? We have got to have a building there, to accommodate the business of that great and growing city, and is it not the true policy to make an appropriation at once, which shall enable them to go on and complete the building, and accommodate the public? The early part of this session we had a proposition made to dispose of the public money, as we had too much of it. Can there be a better disposition made of it than to erect buildings in which to accommodate the business of the nation? Why are we penurious with regard to this matter? Every member of the committee knows very well that what is needed there will be granted hereafter if not now, and the injury by delaying it will be to make the building much more expensive. It is much better to have the money granted at once. Let there be enough appropriated for the purpose of completing the work, and there will be no difficulty in finishing it; and it will be altogether better than voting a little money this year, and a little the next for that purpose. In my judgment we had better make an appropriation which shall be liberal, and give them the money they need for their purpose. The building we want, the building we must have, and the building we shall have; and the money needed for its construction will be ultimately appropriated from the Treasury. I ask whether there will be a better time to make the appropriation than now, when we have a surplus of money in the Treasury? It is a legitimate appropriation, and it is to accommodate our own officers. From the representations which have been made, the committee must be satisfied that this appropriation is needed, and although as a general principle I will stand by the recommendation of the Committee on Ways and Means, yet in this case I shall support the amendment of the gentleman from Missouri, [Mr. DARBY.]

Mr. GORMAN. I am opposed to that amendment, and I desire to say a few words with respect to the disposition on the part of the gentleman from Connecticut and other gentlemen to find fault with reports made from the Committee on Ways and Means, when the gentleman himself is not informed as to the facts of the case. Has the gentleman from Connecticut seen any estimates prepared by the proper Department? Is that gentleman informed how much the Department says is necessary to be expended during the coming fiscal year? To whom are we to look for estimates for the expenditures of the Government? Why, sir, to the proper Departments, and they furnish them to the Committee on Ways and Means. But the gentleman gets up and asks, "Why not appropriate more money?" Because the proper Department, whose business it is to prepare estimates, have not estimated for more. The gentleman knows of no reason. He gets up and finds fault without knowing upon what ground he finds fault.

Mr. CLEVELAND. Will the gentleman yield me the floor for a moment?

Mr. GORMAN. I have but five minutes myself, and I cannot, therefore, yield. The gentleman must take another occasion to reply. Sir, when the committee have to investigate a particular item of expenditure, they apply to the proper bureau for an estimate, and that bureau furnishes an estimate to the clerk of the committee. If the committee deem it not too large or otherwise inappropriate, they put it in the bill. And when they have done that, the gentleman from Connecticut gets up and inquires why they have not made a larger appropriation! Why, sir, the estimate is made upon the hypothesis that so much can be expended advantageously during the fiscal year, and no more. How does the gentleman know that more will be necessary during the next fiscal year? Where is the money to go? Into whose hands is it to go? Into the hands of Government agents. Why should it be placed there rather than be retained in the Treasury of the United States? Who wants to make additional appropriations over and above the estimates of the present Administration? Certainly, sir, it has been lavish enough, as a general thing, and last year the Committee on Ways and Means found it necessary to reduce the estimates of one Department of the Government some $700,000. But the gentleman from Connecticut is dissatisfied, and finds fault without ever having investigated the facts of the case.

[Here the hammer fell.]

Mr. CLEVELAND. If there is no objection, I will withdraw my amendment to the amendment.

No objection was made, and the amendment to the amendment was accordingly withdrawn.

The question recurred upon Mr. DARBY's amendment.

Mr. MILLER. I move to amend the amendment by adding one dollar to the amount of the appropriation.

I desire to say that I believe it would be economy upon the part of the Government to make the appropriation asked for by my colleague. I am satisfied that the Government is interested in the early construction of this building, for the better safety, preservation, and security of the books and papers of the large number of offices in St. Louis, which have been enumerated by my colleague, amounting to some ten or a dozen. If I remember aright, when this proposition was first made for a custom-house at St. Louis, it was for a fire-proof building for a custom-house, sub-treasury, and other offices, and the amount of the appropriation was $50,000, with a proviso that the aggregate cost should not exceed $75,000. I understand that upon that fact, the chairman of the Committee on Ways and Means predicates an argument that no more should be appropriated now. Sir, this Congress has time and again made similar provisoes to appropriations for custom-houses. It was done in the case of the custom-house at Mobile. An appropriation was made of $100,000, with a proviso that in no event should the cost exceed that amount, together with the proceeds of the sale of the old custom-house. And yet, sir, at the last session of Congress, the chairman of the Committee on Ways and Means reported a bill appropriating $100,000 more for the custom-house at Mobile, notwithstanding that proviso. Such has also been the case with regard to other custom-houses. This bill appropriates $100,000 for the custom-house at Charleston, in addition to the $287,000 or $387,000 heretofore appropriated.

Sir, I hope that the amendment of my colleague will be adopted. I believe it is demanded by the best interests of the Government, and that it ought to pass.

Mr. HOUSTON. I regret that the gentleman from Missouri should have seen fit to allude to a circumstance about which he has shown himself to be wholly unadvised. He must have derived his information, not from the documents, not from the record, not from anything that occurred here, but from some one who was not himself properly informed with regard to it.

Mr. MILLER. I desire to ask the gentleman in what respect I am in error?

Mr. HOUSTON. I will explain to the gentleman. He says that the appropriation for the custom-house at Mobile was originally limited to $100,000. That is true. But he says further, that at the last session of Congress I reported a bill appropriating $100,000 more. In that he is in error.

Mr. MILLER. If I am not mistaken, the civil and diplomatic bill of last session contained an appropriation of $100,000 more.

Mr. HOUSTON. That is true.

Mr. MILLER. Well, the gentleman reported that bill.

Mr. HOUSTON. Yes, sir. But if the gentleman had looked at the facts and advised himself with regard to the matter—as he ought to have done before accusing me of inconsistency—he would have found that that appropriation was not put in the bill by the committee. The members of the Committee on Ways and Means will bear me witness that I opposed it unless all the custom-houses in the same condition should have the sums estimated by the Secretary of the Treasury. The Secretary of the Treasury at the last session, estimated for additional appropriations for the custom-houses at Bath, Bangor, Pittsburg, Louisville, St. Louis, Mobile, and Norfolk, and I took the ground in the committee and in this House, that if we gave one, we should give them all.

Mr. MILLER. I ask the gentleman if he did not agree to that appropriation in the Committee of Conference?

Mr. HOUSTON. No, sir; I did not agree to it in the Committee of Conference, for the reason that the House agreed to it without its ever going to the Committee of Conference. I voted for it because I deemed it just and proper that all these custom-houses should be put upon the same footing, and that what the House determined to do for one should be done for all.

Mr. MILLER. Do I understand the gentleman to say that he voted for it?

Mr. HOUSTON. I voted for it most certainly. I say further, that the gentleman is wholly incorrect in his recollection of the facts of the case, and has done me injustice in the statement which he has made. I took the same ground with regard

to the appropriation for Mobile that I took with regard to the appropriation for St. Louis; and every gentleman who paid any attention to the discussions in this House, or in the Committee on Ways and Means, knows that that is the ground which I took. Sir, I am not in the habit of going for appropriations in my own State, and against appropriations in other States that are equally meritorious. I think if the record shows anything with respect to my course upon this subject, it shows that fact. I am sure the Committee on Ways and Means will sustain my statement.

Mr. MILLER, by unanimous consent, then withdrew his amendment to the amendment.

The question recurred upon Mr. DARBY's amendment.

Mr. TAYLOR. I move to increase the amount of the appropriation five dollars. I make that motion for the purpose of submitting a few remarks to the committee. I have no desire to find fault with the chairman of the Committee on Ways and Means; but I think he is unnecessarily severe upon the Secretary of the Treasury, when he intimates to the committee that that officer should be exact in the communication of estimates for the expenditures of the coming year, in every instance, or in this particular instance. Sir, I do not think that the Secretary of the Treasury, in sending us estimates for the appropriations necessary to be made for the ensuing fiscal year, as he is required to do by law, should be expected to be accurate in every case, or, indeed, in almost any case. Why, sir, what are estimates? They are but guesses or conjectures as to the appropriations necessary to be made in order to carry on the Government. Every intelligent gentleman in the country, who is at all familiar with legislation, might make estimates or conjectures, almost as accurate as those usually made by the Secretary of the Treasury.

But, sir, I wish to say a few words with reference to this particular appropriation for the building of a custom-house, court-house, post office, and so forth, at the city of St. Louis. I shall speak of it not only with reference to that point, but with reference to other points in the great western country, for which we should legislate as well as for the rest of the Union. My friend from St. Louis [Mr. DARBY] has had read at the Clerk's desk a letter from the Treasury Department, showing that the supervising architect of this building states in his official capacity—and that statement is indorsed by the Assistant Secretary of the Treasury—that the sum asked for by the gentleman from St. Louis is necessary to carry on and complete the building contemplated at that point.

Mr. Chairman, it should be borne in mind that this appropriation is not for a custom-house alone. It is for a United States court, for a post office, for a sub-treasury office, for a building in which to preserve the records of your public lands. Surely, if any appropriation is necessary in this broad land, it is one for the erection of fire-proof buildings for the preservation of the public records and the accommodation of the public servants of the country. Sir, I think the Congress of the United States is not sufficiently alive to the importance of these structures in the great western country. The records of the titles to lands for more than one half the State of Ohio, may be destroyed on any night by a fire in the city of Chilicothe, in which I reside. All the records of land titles in the southern half of the State of Ohio are deposited there by act of Congress, and no appropriation has ever been made for the rent or construction of a fire-proof building, in which to preserve them. The register and receiver of public moneys there, are obliged to have a house at their own expense, in which to preserve those records. These appropriations are very beneficial to the country at large. They are demanded by the increasing business of the western country, and the fact stated by the gentleman from St. Louis, that $300,000 was collected at the custom-house at that port during the last year, ought to induce the committee to vote this appropriation without another word.

[Here the hammer fell.]

Mr. DUNHAM. I did not intend to say anything with reference to this matter; but the gentleman from Ohio last up has made a remark which shows that he is not very conversant with the manner in which these appropriations for public buildings have been made. The law requires that before any appropriation shall be made for a public building, the proper Department shall adopt a plan, and then make estimates for the construction of it upon that plan. If, therefore, the Secretary of the Treasury—whom the gentleman volunteers to defend—understood his business, and obeyed the law, adopted a plan, and estimated with reference to it, he certainly could have made something more than an approximation to the amount that would be necessary to complete this building.

But, sir, any gentleman who will look at the history of these custom-houses, will find that the Treasury Department, in its original estimates for them, placed the amount much below that which has been already expended.

Mr. DARBY. Will the gentleman allow me to explain? The estimates which I furnished to the House this morning were furnished by the Secretary of the Treasury, after sending a commissioner all the way to St. Louis for the purpose of ascertaining the precise amount which would be required, and this is the amount.

Mr. DUNHAM. Well, sir, I was proceeding to say, that I supposed, in accordance with law, when the Treasury Department first proposed to construct this building at St. Louis, he submitted a plan of it, and submitted his estimates for constructing it upon that plan. But since that time, the plan has been enlarged, and we have since already made additional appropriations in two different instances to correspond with such enlargements.

Mr. DARBY. If the gentleman will allow me, I will explain that.

Mr. DUNHAM. I have but five minutes, and a great part of that time is already gone. I cannot yield any further. Now, sir, it is a very common custom for the Departments to make estimates for such a building as they believe the public interests require, but the people of the town where the building is to be erected think the plan is not upon a scale sufficiently magnificent for their tastes and consequence, and they besiege the Departments to enlarge these plans and to send to Congress new and increased estimates. I presume any gentleman who desires to have a public building commenced at any point, or to have enlarged the plan of one already commenced, can, by bringing the proper influence to bear, get estimates to suit his wishes and purposes made and sent to Congress. If it was necessary for the public interests to have the plan for this building enlarged and additional appropriations made, I should like to have some gentleman tell me why these increased estimates were not submitted in the regular estimates of the Treasury Department, and sent to the Committee on Ways and Means, as other estimates for the service of that Department were. Is it not evident that this was an afterthought, to accommodate the expensive notions of the people of St. Louis?

We first appropriated $75,000 for the erection of this building. That was in accordance with the plan then proposed, and what they then said was amply sufficient for the wants of the Government at that place. Last year, however, we added to that nearly forty thousand dollars more, which they then again said would be sufficient to complete the building. But now the gentleman from Missouri [Mr. DARBY] comes here, and tells us that an appropriation of something over one hundred thousand dollars more is necessary, and asks us to appropriate it. Now, sir, either there must be some great want of capacity in the Treasury Department, or there is something wrong in these repeated estimates sent in here year after year, we being told that each is all that will be required for the completion of the work, when the law requires that before a single dollar can be appropriated for the commencement of a public building, a plan shall be adopted and an estimate made, in accordance with that plan. There is something wrong somewhere. It cannot be possible that these sums are all to construct the work upon the plan originally estimated for, or else there was gross incapacity or dishonesty in making the first estimates.

Mr. DARBY. If the gentleman from Indiana will allow me, I will tell him why these estimates were not included in the annual report of the Secretary of the Treasury. If he had listened to the letter which was read from the Secretary of the Treasury, he would have found that the information needed by the Secretary, to enable him to make these estimates, had not then been received. His report was made on the 10th of December last, and these estimates were not received until sometime in the month of January. The bids for completing the work had not then come in. The report itself shows that he could not get in these estimates then.

But, sir, the gentleman says the people of St. Louis or Missouri have besieged the Departments. I have not heard of it. I have not myself been in a situation to besiege them, and I do not know of any such thing having been done. I suppose the idea of such a thing must be altogether imaginary upon the part of the gentleman. The Department has made its own plans for the construction of this building. The people of St. Louis have had nothing to do with it.

Mr. DUNHAM. I did not say the people of St. Louis or Missouri had besieged the Department, but I say this: the law required that the Department should determine upon its plans, and submit its estimates upon these plans.

[Here the hammer fell.]

Mr. TAYLOR, by unanimous consent, withdrew his amendment to the amendment.

Mr. JONES, of Tennessee. I ask that the pending amendment may be reported.

It was read by the Clerk.

Mr. JONES. I move to strike out the word "fifteen." I do it for the purpose of making a brief explanation of this subject. These custom-houses in St. Louis, at Louisville, at Cincinnati, at Pittsburg, and at some other points in the West, perhaps, were commenced under limitations upon them as to the amount which should be expended in their construction. They put a low limit upon them, and provided that no contract should be entered into for the commencement of the work until it was ascertained that the whole work could be completed for the amount named in the estimates.

I resisted these appropriations for the commencement of these buildings because I thought they were not necessary to the public interests; but I resisted also, at the same time, the proviso putting these limits upon the appropriations, upon the ground that if the construction of these buildings was authorized, the amount appropriated would be found inadequate, and that we should be obliged to make a further appropriation for them, and to continue to appropriate until the buildings should be finished. And this has been the fact with almost every one of these buildings. The friends of these appropriations agreed to these limitations in order to get the appropriations to commence the works, and because they could accomplish their object in that way. But since that time, they have come here and asked for further appropriations, and there is no object in withholding them. These buildings will be completed; the friends of the measure will continue to come here and ask for appropriations until they get enough to complete them; and the Government having determined, whether right or wrong, to construct them, we had better give money enough to make them substantial, fire-proof, and such as are necessary to meet the wants of the Government. It will be an economy of the public money, in my opinion. You have started out with the works, and you will have to go on and finish them.

Mr. STEPHENS, of Georgia. I think the gentleman from Tennessee has shown a sufficient reason why his own amendment should not be adopted.

Mr. JONES. It was a mere *pro forma* amendment. I do not desire that it shall be adopted.

Mr. STEPHENS. Well, sir, I avail myself of this opportunity to show why this *pro forma* amendment should not be adopted, but that the amendment originally offered by the gentleman from St. Louis [Mr. DARBY] should carry. The objection urged by the gentleman from Indiana, [Mr. DUNHAM,] so far as I understood him, was that no estimate has been presented in the annual report of the Secretary of the Treasury.

Mr. DUNHAM. The gentleman is mistaken. The objection I made was, that the law required that there should be a plan adopted for the building, and the estimates sent in, before a dollar could be appropriated; that such a plan was adopted for this custom-house, and that the estimates upon that plan were sent in for the work, of $75,000. Since then further estimates have been sent in,

and we have made large appropriations in pursuance of those estimates, and now we are asked to appropriate $100,000 more, notwithstanding this provision of law that the plan should be adopted and the estimates for the entire cost of the work presented, before a single dollar should be appropriated.

Mr. STEPHENS. There is information before us showing that this further appropriation should be made—that this amount will be necessary. Now, the question is not whether we have expended $75,000 already, or whether we have expended any other amount. We have expended a large amount of money in the commencement of the work, and the question is whether we shall abandon the work we have commenced, or whether we shall appropriate an amount sufficient to complete the building. That is the question before us.

Mr. DUNHAM. I understand these estimates are to complete the building upon a plan larger than that originally adopted.

Mr. STEPHENS. Well, sir, such is not the information before the House. That may be the gentleman's understanding of the matter, but I look upon it as simply a question of whether the House will go on and complete the work it has already commenced, or whether it will abandon what has been already done.

Mr. JONES, by unanimous consent, withdrew his amendment to the amendment.

Mr. DISNEY. I move to amend the amendment by adding thereto a like appropriation for the custom-houses in Louisville and Cincinnati.

Mr. Chairman, my object in moving this amendment is for the purpose of saying a word or two upon the subject of these appropriations. There has never been, so far as my experience in this body is concerned, a solitary proposition emanating from the West, nor for the advantage of the commerce of the West, that has not encountered a terrible opposition in this House. Millions are voted here by gentlemen upon this floor for the improvement of our Atlantic coast. Custom-houses involving the expenditures of untold millions have received the approbation of gentlemen in this House. Millions will be voted for your Coast Survey; millions for your Mints, and the thousand-and-one other expenses of the Government; but let a proposition be announced upon this floor for the expenditure of a small and niggardly sum of money for the benefit of the commercial interests of the western portion of our Confederacy, and a tremendous opposition is raised upon all sides, and from all parts of the country. Now, sir, why is this? Does not the commerce of the western portion of the Confederacy appeal with as much force to the consideration of the House of Representatives of the United States as does that of any other portion of the Union? It ought to, and why does it not do it? Gentlemen would sit here and vote millions to Boston, New York, or Philadelphia, but talk of expending $100,000 for St. Louis, Cincinnati, or Louisville, and an outcry is raised at once. They say it is a wasteful expenditure of the public money, and they cannot understand the necessity of it. Gentlemen proclaim their astonishment at the extent of the western trade of this western country, but that does not alter their opinions in relation to the necessity of the construction of custom-houses for the accommodation of that trade.

Sir, these appropriations are necessary to put up the proper buildings in these places, and if you are to have any buildings, you should have proper ones. Something has been said here about the estimates of the Secretary of the Treasury, and the question has been asked why those estimates were not submitted with his annual report? Why, the reason is that he did not receive the bids for the completion of these custom-houses soon enough to present them in his annual report, but the fact has now been developed that it will require at least $100,000 more than has been granted to erect custom-houses in each of these places. The Secretary of the Treasury did not, however, know this fact when he submitted his estimates to the Committee on Ways and Means, but he knows it now, and the simple question for you to determine is, whether you will build a proper and suitable edifice, or none at all. As I said before, the original amount appropriated will not construct buildings which will meet the public necessities. These remarks apply equally to St. Louis, Cincinnati, and Louisville, and I hope, therefore, my amendment will be adopted.

Mr. CLEVELAND. I think the gentleman from Ohio has been unjust to the Atlantic States. I am not aware that they have ever shown a disposition to vote money to build custom-houses for their own accommodation, and refuse to vote money liberally for the same purposes in the West, and I challenge the gentleman from Ohio to produce a single instance of it.

Now, sir, where does the difficulty lie? Does it lie with the Committee on Ways and Means? No. I take pleasure in saying that it does not lie with them. Where is it to be found? It is to be found in the movements of the very men who come forward and ask for these appropriations for the West. They come forward and tell the proper officers that they want a certain amount of money for a certain purpose, and they tell that officer that the sum they ask is all that will be needed. They come here and tell this House that that amount is all that will be required, and that with it they will be satisfied. The gentleman from Tennessee, [Mr. JONES,] I believe, told the truth when he said that, at the same time, they had a mental reservation, and supposed that if they once broke the ice, it would be easy to take from the Treasury all that they wanted. The real fact is, that the West do themselves injustice by not coming forward, and trusting to the liberality and sense of justice of members from the other sections of the country. We are perfectly willing to give them all they need; and all we ask of them is, to come forward like men and say that they want a custom-house in St. Louis and Louisville, and one that will cost $250,000. Then we would vote that, upon finding their claim just, quicker—I would, and I have no doubt I speak the sentiments of others from the Atlantic States—than we would vote $50,000, knowing that ultimately we shall have to appropriate $25,000 or $50,000 year after year. Such piece-meal appropriations embarrass the progress of the building, and work an injury to the Treasury, because you cannot put up a building advantageously in that way.

I repel the charge which has been brought by the gentleman from Ohio against the Representatives of our Atlantic States. We are willing to give them all they need. We are willing to vote them this $115,000, and the Committee on Ways and Means are willing to report that sum if they will come forward and ask for what they want at once, and not a part only, thinking if they can get Congress to make one appropriation, they will find no difficulty in obtaining the whole at a subsequent time. Let them come forward frankly, and they will find us ready to meet them, and give them all they need. They ought to tell us frankly what is needed, and then we will vote for it.

Mr. PHELPS, (interrupting.) In reply to the remarks of the gentleman from Connecticut, which seem to imply a censure upon my course at the last session of Congress, I will say that I then submitted an amendment for an appropriation to build a custom-house at St. Louis. That amendment embraced the entire amount of money which the Secretary of the Treasury informed us was necessary upon the plan then adopted. But since that time a different plan has been adopted, which requires a larger amount of money.

Mr. CLEVELAND. If I understand the statement of the gentleman, he casts a censure upon the proper officer who made the estimates. If he asked for money at the last session, I have no doubt that he got what he asked.

Mr. PHELPS. He did.

Mr. CLEVELAND. The difficulty seems to be, they did not know what was needed, or knowing, did not ask for it.

[Here the hammer fell.]

Mr. MILLSON. I move to reduce the appropriation $50,000. I want some information upon this subject before I can vote upon it. I desire to ask the gentleman from Missouri [Mr. DARBY] whether any application has been made to this House by the Treasury Department for this additional appropriation?

Mr. DARBY. I will answer the gentleman from Virginia, by stating that I addressed a letter to the Secretary of the Treasury, and asked him what appropriation would be needed at St. Louis, mentioning at the same time the fact that this civil and diplomatic bill was before the House, and I needed the information promptly, in order to lay it before the House. The Assistant Treasurer answered my letter, and said that the sum of $115,000 was necessary.

Mr. MILLSON. It is as I supposed. Upon an application made by the gentleman from Missouri to the Secretary of the Treasury, as to the amount that would or might be required, the information was obtained.

Now, sir, regarding all these custom-houses as Government buildings, intended for public uses, and not to ornament the cities in which they may be erected, I do not think that the demand for an appropriation ought to come from the local representatives, for it is the duty of the Department to ask for such appropriations as the public service may require. No such application has been made in this case, and we are now invited to make the appropriation merely upon the suggestion of the Representative from the district.

Will any gentleman inform me what amount we have appropriated for the custom-houses at New Orleans and Charleston? My impression is, that more than a million of dollars have already been appropriated to construct the custom-house at New Orleans, and several hundred thousand dollars for that at Charleston. If this be so, and I believe it is, I take the opportunity to say that I regard all these expenditures as very great abuses. What possible justification can there be for such a waste of the public funds in the erection of such buildings? I believe that for many years after our Government went into operation, there was no appropriation for the construction of custom-houses at all.

Here permit me to make a few remarks in reference to the appropriation made for the custom-house at Norfolk. One hundred thousand dollars were appropriated by the Government for that custom-house. I was informed this morning by Mr. Young, in a casual conversation, that he was now engaged in examining the various bids or proposals that had lately been received for building this custom-house, and that these bids probably exceeded the amount appropriated by some fifteen or twenty thousand dollars, but the precise amount he could not tell. Certainly that deficiency is very small compared with the deficiency which the gentleman from Missouri desires to provide for by his present amendment. But, sir, if there should be such a deficiency, let the Department come forward and ask for it. I do not feel myself authorized to ask an additional appropriation for the custom-house at Norfolk, merely because the architect supposes that there may be a small deficiency; nor should we make an appropriation in any case for such objects, until the Department, upon its own responsibility, asks it at our hands.

I would inquire of the gentleman from Missouri whether the building of the custom-house at St. Louis has even been commenced?

[Here the hammer fell.]

Mr. DARBY. I will state this additional fact, that this building is not a custom-house alone, but designed for all the offices of Government; and there will be, I think, a great saving to the Government by having a building and rooms sufficient for the accommodation of the public business. There is the office of the sub-treasury; of the surveyor general; the office of the recorder of land titles for the State of Missouri—an office under the General Government in which are the archives of the record-title of the whole of that country; the office of the receiver of the public money, all to be located in this building.

Mr. MILLSON. At the expiration of my five minutes' speech, I asked the gentleman a question, which I hope he will now answer; and it is, whether the building of the custom-house at St. Louis has been even commenced at this time?

Mr. DARBY. I will give the gentleman all the information I have upon the subject. A superintendent was appointed, who went out there, tore down the old building, prepared the site, and, as I am informed, the foundation has been commenced. The Commissioner of Customs visited St. Louis, under special directions of the Treasury Department, with plans and specifications, and invited bids. Those bids were not returned in time for the estimate to be included in the general appropriations asked for by the Treasury.

Mr. STEVENS, of Pennsylvania. I wish to know whether the hundred thousand and odd dollars, which has already been appropriated, has been expended, and if not, how much of it?

Mr. DARBY. I will state to the gentleman from Pennsylvania, that the first sum appropriated was $50,000, the second $25,000, and the next $37,000. Negotiations were pending for a long time in reference to a lot, and one was purchased. It was found to be of insufficient size to accommodate all the public buildings of the United States Government which were to be erected upon it. Additional ground was purchased. This did not consume the whole appropriation, and a portion of it still remains unexpended, but not enough to except of the bids, and complete the buildings according to the plans and specifications furnished by the Treasury Department.

I repeat, this appropriation is not asked for a custom-house alone, but to erect a building of sufficient capacity to accommodate all the Government business there. It should not only be made fire-proof, but rogue-proof, if you want the money of the sub-treasury protected, and that can only be done by constructing it of cement, iron, and stone. It is necessary that the building should be made perfectly fire-proof, in consequence of the valuable records there to be deposited. The records are now subject to the fires which occur in that city, and there is no place of security for them. So it is with the surveyor general's office, in which all the public records of the land for the State of Missouri are kept. They are at the mercy of the flames, and not unfrequently the people have been alarmed at the prospect of these valuable records being destroyed. It is not, therefore, a mere custom-house matter; it is also a matter of economy, by saving the large rents which the Government is now paying.

[Here the hammer fell.]

Mr. MILLSON. I withdraw my amendment, if there is no objection.

The amendment was withdrawn.

The question then recurred on the amendment of Mr. DARBY.

Mr. GOODENOW. I demand tellers.

Tellers were ordered; and Messrs. GAYLORD and HAMMOND were appointed.

The question was then taken, and the amendment was agreed to; the tellers having reported—ayes 77, noes 43.

Mr. PRESTON. I move to add after the 759th line the following words:

For proceeding with the construction of the custom-house at Louisville, Kentucky, $87,745.

Mr. Chairman, I would state to the committee that there was an original appropriation to this custom-house of $75,000, and that at the last session of Congress there was a further appropriation of $16,000 to pay for the site selected for the purpose. I have been informed by the Secretary of the Treasury that he has not yet let the contracts for the construction of the building, because if the cost be limited by the existing appropriations, they are not sufficient for the completion of a safe, serviceable, and substantial edifice. A letter from the same source informs me that a plan has been adopted, and bids have been invited—a memorandum of which is before me—so that we can act advisedly in relation to the probable expenditures, and thus obviate the objections urged by the gentleman from Indiana, [Mr. DUNHAM.] It is proper I should inform the committee, that under the applications of bidders for the contracts, the total cost will be about $162,000. A note from the Secretary informs me that $25,000 would be sufficient for the present, to proceed with the work, but I have thought it best to state at once, on accurate data, the total cost, and embrace in my amendment a sum sufficient to insure the efficient prosecution and certain completion of the structure. This I have done.

Louisville has a foreign import trade of nearly $300,000 a year, which has grown up in the last few years, and is now rapidly augmenting. It is already the seventh or eighth city of the Confederacy, with a population of sixty or seventy thousand, increasing with wonderful rapidity, and situated in the heart of the rich valley of the Ohio. Its population has doubled in the last ten years, and is advancing with proportionate progress. It would be but a costly economy to construct cheap or inconvenient public buildings, as they would soon prove inadequate, and be abandoned, while the Government would be compelled to incur fresh expenditures for others. The law contemplates that the edifice shall accommodate the post office, courts, pension office, and other public offices, so that when it is completed, the Government will annually save in the way of rents, a sum almost equivalent to the interest on the entire expenditure.

The import trade of Louisville is rapidly increasing, and if proper facilities for a direct commerce with Europe be afforded, I feel that the number of our importing houses, already numerous, will be greatly augmented.

I trust the same spirit of liberal legislation which has just marked the action of the committee in relation to St. Louis, will be exhibited towards Louisville, and that the amendment I offer may receive its approval.

Mr. SWEETSER. Mr. Chairman, I desire to say but a word or two on this subject. The committee have observed, no doubt, that the chairman of the Committee on Ways and Means seemed to complain that there has been in this class of appropriations an attempt to practice a fraud on the House of Representatives. If that gentleman had been in the Thirty-first Congress, he would have recollected that these appropriations, when made for the western cities of the Union, were not considered as sufficient for the completion of the buildings, and the policy was then adopted to accommodate in a single building the custom-house officers, the United States courts, and post office at these cities. It was well understood when we appropriated $50,000 for Pittsburg, $50,000 for Cincinnati, $50,000 for St. Louis, and $50,000 for Louisville, that those sums were intended for the commencement of the custom-houses, and probably only enough to purchase sites for them. If we stop now, we will be guilty of bad faith towards those localities, whose commerce now imperatively demands these appropriations to complete the necessary buildings, and preserve our plighted faith. When gentlemen come forward and ask for appropriations to complete these custom-houses they ask for nothing more than what is right.

And I say this without any intention of charging on one section of the country a policy at war with liberality towards the western States. I only claim that we are bound by every consideration of public duty to finish these undertakings. In many instances the sites have been selected and purchased, and the foundations laid. Shall we stop there? As was well remarked by the gentleman from Missouri, besides the facilities that will be afforded the public service by the construction of these buildings, the Government will make a great saving in the way of rent. I would appeal to gentlemen who were in the Thirty-first Congress, and who heard the charge of the chairman of the Ways and Means, to look back at the policy proposed in voting these appropriations. It is not right on the part of the gentleman from Alabama, or any other gentleman, to come forward now and charge that there has been an attempt at fraud on the part of the western cities in asking for small appropriations at first, and then expanding the work and annually asking for largely-augmented appropriations. There is not a well-informed gentleman present who does not know that at the time these appropriations were commenced it was perfectly understood that they were not sufficient to complete the purposes for which they were intended. I will vote for them all, and I will vote for them without charging any part of the Union with a desire to withhold justice from the western States. I will tell gentlemen that we make no complaints, for the day is at hand when the GREAT WEST will claim and maintain her rights. We are willing to do what is just and proper to all sections of the Confederacy. The Atlantic sea-board has been liberally dealt by, and the West has been long enough postponed. We know our rights, and we shall assert them fearlessly.

[Here the hammer fell.]

Mr. AVERETT. I am opposed to the amendment. I deny, Mr. Chairman, there was any understanding when the appropriations for these works were made that they were considered as but beginnings. At any rate, their friends did not place them on any such grounds. No, sir; we were assured that the costs should not exceed the amounts then asked for and appropriated. Without this assurance the appropriations could not have passed. I think my colleague, [Mr. BAYLY,] the chairman of the Committee on Ways and Means of the last Congress, will sustain me in this statement. If I am not mistaken, it was expressly enacted that the whole cost of each work should not exceed the amount then appropriated for it.

But the fashion of the day is, that when we go "in for a penny," to bind us for pounds, whether we will or not. The Executive, or those under the Executive having charge of these works and appropriations, cut out their patterns beyond their own estimates, and without authority of law; and the question is, whether the people's Representatives or the Executive and his subordinates are to have the mastery of the purse-strings. If we sanction the course, which has been so repeatedly pursued of late, of transcending the express limitations of law, you cannot put limits to the style or cost of any custom-house or any other public work. You surrender the rightful power of this House over the public Treasury.

We are told that we are bound to make the appropriations now asked for, or the works will go down. Down! down! I say, let them go, rather than the Representatives of the people should knuckle to such abuses and usurpations.

Mr. JOHNSON, of Georgia. I move to reduce the appropriation to one dollar. Mr. Chairman, the complaint has been made here that certain sections of this Union are unjust, at least illiberal, to the West through its Representatives. I take issue on that declaration. The West has received the sixteenth sections of the public domain; it has received five per cent. on the sales of the public lands of this Union, and it has received donations of them to aid in the construction of railroads. The South and East have received nothing of the kind. This public domain belonged to us, and in the spirit of liberality——

Mr. STANTON, of Kentucky. How much has the State of Kentucky received?

Mr. JOHNSON. I speak of the West, and the complaints that are made.

Mr. STANTON, of Ohio. I rise to a question of order. I hold that the gentleman's remarks are not relevant to the amendment under consideration.

The CHAIRMAN. The gentleman must confine his remarks to an explanation of his amendment.

Mr. JOHNSON. I am only answering an argument that has been offered here for the purpose of showing the propriety of the appropriation. The argument is, that we should be liberal to the West. We have been abundantly liberal to the West already. The West comes forward now and tells you that the day is rapidly approaching when they will ask nobody, but claim their rights. They will claim the appropriation of the whole public domain, which is the common property of all the States. But the West stands here on this floor and refuses to distribute the proceeds of the public lands among the States of this Union. Now, where is the ground for complaint? Where have we been illiberal? I say, sir, according to my judgment, there is no kind of necessity for a custom-house on any river in the interior. There is no kind of public necessity for any hospitals; yet appropriations are made for them in a spirit of liberality to the West. These complaints are unfounded. I think that it is the old States who have a right to complain. They have not been dealt fairly by in regard to the property they originally owned.

Mr. STUART. I am not going to enter into this discussion at all. I am not going to indorse what was said by the gentleman from Ohio, or to enter at all in the discussion of what has been done for the western States in regard to the public lands. But I am going to ask the gentleman from Georgia whether he has ever looked at the statistics of the Government in relation to expenditures to secure lands to the States; and whether he has found that any State has received as much at the hands of the General Government as the State of Georgia?

Mr. JOHNSON. We have given the whole of the public lands in Alabama and Mississippi to the Government.

Mr. STUART. The State of Georgia has received more for the extinguishment of the Indian title within the limits of that State, to give it the land, than has been given to any other State of this Union.

Mr. JOHNSON. That was under a contract with the Government.

Mr. STANLY. I object to all of this debate.

If we indulge in such discussions we never will get through with the bill.

The CHAIRMAN. The Chair is of the opinion that the course of remark indulged in on the amendment under consideration, is not in order.

Mr. STUART. I got done long before the gentleman had raised his point of order.

Mr. STANLY. Then it is the first time the gentleman has been done this session.

Mr. PRESTON. I know that ought to go down with a great deal of good humor——

The CHAIRMAN. No further debate is in order.

Mr. PRESTON. I will simply ask the Chair if the gentleman did not move to reduce the appropriation to one dollar, and if it is not debatable?

The CHAIRMAN. The gentleman debated it in the affirmative, and the gentleman from Michigan in the negative.

Mr. PRESTON. Not on that amendment, but on the amendment originally offered of $87,000.

The CHAIRMAN. No further debate is in order.

Mr. PRESTON. I move to strike out and insert $30.

The CHAIRMAN. There is an amendment already pending to the amendment, and a further amendment is not in order at this time.

The question was then taken on Mr. JOHNSON's amendment, and it was not agreed to.

Mr. PRESTON. I move, *pro forma*, to strike out and insert "one dollar."

The CHAIRMAN. The Chair is inclined to the opinion that it is not competent for the gentleman to offer an amendment to his own amendment. The gentleman can modify his amendment with the consent of the committee.

Mr. STEPHENS, of Georgia. I rise to a question of order. It is quite as competent for the mover of a proposition to amend it, as any other member on the floor.

The CHAIRMAN. The Chair is of the opinion that the uniform practice of the House has been of an opposite character.

Mr. FREEMAN. I offer to amend the amendment by adding "three thousand dollars."

I will remark, in relation to this matter, that we know very well the city of Louisville is rapidly increasing in commercial importance. The Baltimore and Ohio railroad is now completed, and lines of steamers are running in connection with that road from Louisville to Wheeling. The channels of commerce to the western rivers are rapidly increasing.

Mr. FULLER, of Maine. I go for all these custom-houses when they are needed; but I ask the gentleman from Mississippi what amount of revenue is collected at Louisville, and what amount of tonnage is there at that point?

Mr. FREEMAN. I will refer the gentleman to the official reports. This custom-house at Louisville—a large and rapidly-growing commercial city upon the Ohio—has been already established and is partly built. We have already ascertained, by estimates shown to this House by the gentleman from Kentucky, [Mr. PRESTON,] that this appropriation is needed. We had this same subject discussed here at the last session by Mr. Marshall, former representative of the Louisville district, and the House is therefore familiar with the subject. Allow me to say to the gentleman from Georgia, who boasts that *donations* of lands have been made to the western States for railroads, that I have yet to see the first *donation* of public lands that has been made for railroads West. I hope the gentleman will examine the statutes before he makes charges of this character. He will find that the railroad grants are *contracts* of *bargain* and *sale;* the lands are granted upon condition that the roads are built, and the public mails transported thereon at the rate of *forty* instead of *four* miles an hour. This public service, and the additional value lent to the remaining lands, is known to be a full consideration for the grant; to argue to the contrary is to exhibit a total blindness to past events.

What do the old States propose? A system of distribution according to popular representation, whereby New York (for example) would get five millions of acres, and Mississippi only two millions; but Mississippi is to build several hundred miles of railroad, and New York is to perform no public service whatever. Such is the amazing liberality of the old States! And yet they profess to be liberal, and boast largely of making munificent presents—large donations of public domain. Sir, I want to hear no more of this empty boasting.

[Here the hammer fell.]

Mr. PRESTON. I ask the indulgence of the committee to permit me again to trespass upon its time for a few moments. I would be unwilling, however important it might be, to demand or receive this appropriation upon a sectional view of the question; nor would the people I represent desire me to obtain the amendment if it be not intrinsically right. The gentleman from Georgia denies the utility of all the custom-houses in the valley of the Mississippi, and would deprive its cities of the right to engage in the direct import trade. Let me ask if the people of Cincinnati, of St. Louis, of Louisville, and of Pittsburg, the chief cities that stud that great chain of rivers, have not an equal right with the merchants of the Atlantic sea-coast to engage directly in the foreign trade? Have they not the right, by pursuing this course, to escape from the factorage, the commissions, and the profits, exacted by the importing merchant at the great Atlantic cities? I esteem it wise to diffuse and decentralize this trade. If I remember rightly, the Supreme Court have decided that admiralty jurisdiction applies to the great rivers of the valley of the Mississippi; and the chief cities on their margin have been declared ports of entry by Congress. Without doubt, the principal incidents of a port of entry should follow, and no barrier should exist, nor facility be denied, to prevent their citizens from engaging in the direct importation of foreign goods.

In reply to the gentleman from Maine, [Mr. FULLER,] I state that the amount of custom-duties received at Louisville, during the past year, was not quite $60,000, and the imports were about $300,000; and this at a point where, a few years since, there were no imports, and not a dollar of revenue derived from direct commerce.

I trust, sir, that the amendment will be adopted, and that the people of Louisville, and the western cities, under the just legislation of Congress, will be permitted to enter into a direct commerce with foreign countries, and import directly the productions of Europe for their domestic consumption, if they find it more advantageous to their interests.

Mr. FULLER. I am not opposed to granting money to build custom-houses anywhere they are needed. All I want to know is, that the sum we vote be adapted to the wants of the locality, and with a view of getting at that, I desire the information from the gentleman from Kentucky. I know that at several points in my own State, where the tonnage is $50,000 and $60,000, we build very good custom-houses for $25,000.

Mr. PRESTON. The Secretary of the Treasury has given the estimates and the bids, and if my amendment passes, all that is necessary is to enter upon the obligations, and complete the work.

Mr. SKELTON. Will the gentleman from Kentucky answer me a question?

Mr. PRESTON. I cannot yield the floor, as I have but a minute or two left. I will state that the total estimates amount to about $162,000, and the estimate of the iron-work in one of the contracts amounts to fifty-odd thousand dollars. The price of that metal has increased more than one hundred per cent. since the time the original appropriation was made, making a difference of some $20,000 in that article alone; and labor, materials, and all other articles have advanced greatly in price. Kentucky pays $2,000,000 a year into the Federal Treasury, and she has never had $500,000 drawn out of it for all the public buildings of that State. Still we go on and vote appropriations for the Atlantic sea-board, for a full and efficient Navy, for their custom-houses, and their fortifications, and I hope that a similar spirit of just and liberal statesmanship will induce the Representatives from other sections to make appropriations for our western custom-houses at St. Louis, Cincinnati, and Louisville.

[Here the hammer fell.]

Mr. PRESTON. I withdraw my amendment.

Mr. STEPHENS, of Georgia. I move to increase the appropriation one dollar. I wish barely to state, that so far as I am myself personally concerned, I have not the slightest hostility to western interests, and that I am in favor of the completion of these custom-houses. I wish mainly, however, to reply to the remark of the gentleman from Michigan, [Mr. STUART,] as to the amount of money which Georgia has received from the public Treasury, in the way of extinguishing her Indian titles to land. My colleague [Mr. JOHNSON] was right when he stated that Georgia never received a dollar from the Treasury, except what was paid her in pursuance of her deed of cession for her western territory, now forming the States of Alabama and Mississippi. For this surrender she was to receive one million and a quarter of dollars in money, and to have the Indian title extinguished to all the other lands then occupied by the Indian tribes within her limits. By that session, Georgia sold to the General Government fifty-eight million eight hundred and forty-six thousand five hundred and ninety-five acres of land, for the small consideration just stated. I have documents before me from which this will appear. It is a report from the Land Office, made in 1844—House Doc. No. 457, page 48, 1st sess. 28th Congress. And here we see that the General Government had at that time (1844) realized in money from these lands, $30,218,824 93, and had still on hand unsold, twenty-five million two hundred and seventeen thousand nine hundred and forty-nine acres of land:

	Entire amount.	Am't purchase money received.	Acres unsold.
Alabama, N. 31°.	31,240,725	$17,178,995 56	15,811,243
Mississippi, do..	27,605,870	13,039,829 37	9,406,706
Total.....	58,846,595	$30,218,824 93	25,217,949

The extinguishment of the Indian titles to all these, lands, by the same document, cost $11,828,130 41; but of this only $3,398,940 58 was for the extinguishment of the Indian title to the remaining lands in Georgia. So that the General Government made at least $18,000,000 by this transaction with Georgia, and twenty-five millions of acres besides; a large portion of these she has given to Alabama and to Mississippi; but not an acre of land, or a dollar in money to Georgia. I have no hostility to Alabama or Mississippi, on this or any other account, nor have I any to the West. I am in favor of the amendment of the gentleman from Kentucky, [Mr. PRESTON,] and will withdraw my amendment.

Mr. LETCHER. I move to strike out the whole amendment of the gentleman from Kentucky, [Mr. PRESTON.] I do it because I do not admire the system of legislation which is resorted to for the purpose of having constructed——

Mr. FREEMAN. I call the gentleman to order. It is not competent for the gentleman to strike out the whole amendment.

Mr. LETCHER. Very well; then I will strike out one dollar, so that my friend will be accommodated. I say I am opposed to this whole system of legislation, because it seems to me that it is calculated to secure a very improper advantage of the House of Representatives in the disposition of the people's money. I recollect distinctly the scene which occurred here at the last session of Congress when this Louisville *projet* was under discussion, when money was asked for to aid in the purchase of a site upon which to locate this custom-house. The gentleman who then had the honor of representing the district, [Mr. MARSHALL,] now represented by my friend upon my right, [Mr. PRESTON,] came into this House with all the plans fully and fairly drawn out, and with minute estimates showing the precise amounts needed to complete the building. And he told us then, that if the House would appropriate $16,000 for the purchase of a lot, the $75,000 heretofore appropriated would be found entirely sufficient to erect the building which it was proposed to put up. Well, sir, we made an appropriation of $16,000 for that specific purpose, and now the representative from that district comes forward with various estimates, plans, and detailed bids, and informs the House that the building cannot be put up for $75,000 as was then represented to us, but that more than double that sum will be required, to wit, $87,700 in addition to what we have already voted. Now, I ask, if the House is to tolerate a species of legislation like this, how long it will be before the public Treasury of the country will be exhausted? Sir, it seems to me that the commencement and prosecution of improvements on such a principle as this, is calculated to take a very unfair advantage of the House.

THE CONGRESSIONAL GLOBE.

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Mr. Chairman, a good deal has been said in this connection, about the spirit of illiberal hostility manifested by the Representatives of that portion of the Union from which I come, towards every proposition for the benefit of the West. The gentleman from Mississippi, [Mr. FREEMAN,] for the purpose of sustaining himself in that position, says that all that the western States have ever received has been a few alternate sections of the public lands along their lines of railway, for which they are to compensate the Government by the carriage of the mails. Now, sir, is it not notorious, that in all these schemes for donating the public lands to aid in the construction of railways, it is provided that contracts shall be made with the companies for the transportation of the mails, and that they shall receive such *compensation* as may be agreed upon between the Post Office Department and the railroad companies?

Mr. FREEMAN. The railroads will increase the value of the alternate sections reserved to the Government.

Mr. LETCHER. I have heard that song over and over again.

Mr. GOODENOW. I rise to a question of order. The gentleman from Virginia is out of order, in replying to the argument of the gentleman from Mississippi, instead of applying his remarks to his own amendment.

Mr. LETCHER. Well, sir, as my remarks have provoked my venerable friend over the way to call me to order, I will relieve him from all further trouble, by saying nothing more.

Mr. GORMAN. I am opposed to the amendment of the gentleman from Virginia, and I hope I shall not be called to order for saying to the gentlemen from the Old Thirteen States, that they got every foot of land within their borders. The State of Virginia, it is true, gave the northwestern territory to the General Government, if she had any title to it.

Mr. BOCOCK. Which you do not deny, I suppose.

Mr. GORMAN. I do not intend to deny it. I give the old mother credit for it. I would kneel and worship at her shrine for the kindness she has always manifested towards this Government, in war and in peace. I am not going to commence warring with my friend from Virginia, nor shall I complain of my friend from Georgia [Mr. JOHNSON] for the remarks which he has made.

Mr. JOHNSON. The remarks which I made were provoked by the remarks of gentlemen from the West—the gentleman from Ohio [Mr. SWEETSER] and others.

Mr. GORMAN. Gentlemen must remember also that the State of Georgia, by compact or contract——

Mr. GOODENOW. I call the gentleman to order.

The CHAIRMAN. The Chair is of opinion that the remarks of the gentleman from Indiana are not strictly in order.

Mr. GORMAN. I am aware that my remarks are not strictly in order. But I am replying to remarks which have been made by other gentlemen.

The CHAIRMAN. The gentleman will allow the Chair to state, that the rule provides that the gentleman proposing an amendment may be allowed five minutes to explain it, and then five minutes are allowed to another member to oppose it.

Mr. GORMAN. I am opposing the arguments used by the gentleman who offered this amendment. But I hope the House will bear with me in saying that the State of Georgia received, under contract with the Government, a certain amount of public land——

The CHAIRMAN. The gentleman cannot pursue his course of remark, as it is objected to. The Chair did not feel authorized to call gentlemen to order unless the point was insisted on. As it is insisted on now, the Chair feels that it is his duty to enforce the rule.

Mr. GORMAN. Is it in order for me to say that the State of Georgia——

The CHAIRMAN. The Chair thinks it is not in order.

Mr. STEVENS, of Pennsylvania. I want to ask the gentleman a question that is in order. Where did the new States get their land from?

Mr. GORMAN. They got it by the hardy and daring pioneers of the country——

The CHAIRMAN. The Chair hopes this course of remark will not be pursued. It is not in order, and it is objected to.

Mr. GORMAN. Well, sir, I do not wish to proceed out of order. I will only say further that this appropriation for the custom-house at Louisville is estimated for by the proper officer of the Government—the Secretary of the Treasury—who states in his report that the amount heretofore appropriated is not sufficient, and that this additional appropriation is necessary to complete the work.

The question was then taken on Mr. LETCHER's amendment, and it was not agreed to.

The question recurred upon Mr. PRESTON's amendment.

Mr. SKELTON. I move to reduce the appropriation to five dollars. I have been listening with a great deal of attention to this discussion, with the expectation of getting some information which would have a bearing upon the main question before us. I do not wish to be told whether the West has been justly or unjustly dealt by, or whether the East has had too much or too little. The only question which will guide my vote upon this question is whether or not this appropriation is necessary to promote the public interests of the country. If an appropriation for the custom-house at Louisville is necessary, I will cheerfully vote for it without regard to its locality. If it is not necessary, it cannot receive my vote. Sir, I have asked the gentlemen who demand this appropriation what amount of revenue is collected at Louisville, and they have refused to answer the question.

Mr. PRESTON. I will state to the gentleman that the amount of revenue collected there last year was sixty-odd thousand dollars.

Mr. SKELTON. Well, sir, if that is all the revenue collected there, the amount asked for the construction of a custom-house appears to me to be extremely large. We have in my State a number of ports of entry where that amount of revenue is collected, and no custom-houses are thought necessary, and no such appropriations as these are asked for. Offices for the transaction of the local business in these small ports of entry, may be rented much more cheaply and with more advantage to the Government than these large custom-houses can be erected. These great buildings not only cost large sums of money in their construction, but it is very expensive to keep them warm and clean and in proper repair. Before I can vote for these extravagant appropriations, I must be satisfied that the interests of the country imperatively demand them. Now, in the eastern ports, where a very small amount of revenue is collected, no custom-houses are constructed. I am free to admit that money has been extravagantly expended in the construction of the custom-houses at Philadelphia and New York. Even for the largest ports of entry in the United States, the expenditures have been extravagantly and unnecessarily large.

Sir, I think the time has arrived when the people of this country have a right to demand from their representatives a judicious and careful investigation of all the appropriations of their money that may be made. Sir, one gentleman who advocated this appropriation, adverted to the fact that we have a full and overflowing Treasury. But that is no reason why we should vote extravagant and unnecessary appropriations, to flatter the pride, or pamper the interests of certain localities in our country. I trust that we shall enter upon the investigation of these various propositions in a spirit of liberality, but that we shall exercise that discrimination and prudence which we owe to ourselves and to the country, and see that no appropriations are made which are not indispensably necessary to promote the public welfare and the public interests. As the gentlemen who propose this large appropriation have failed, in my opinion, to show that the interests of the country demand it, I feel called upon to oppose it as far as lies in my power, as I shall oppose all such wasteful and extravagant expenditures of the public money.

[Here the hammer fell.]

Mr. HOUSTON. I am opposed to the amendment to the amendment, and ask for a vote upon it.

The question was then taken on the amendment to the amendment, and it was not agreed to.

The question recurred upon Mr. PRESTON's amendment, and being put, it was decided in the affirmative—ayes 70, noes not counted.

So the amendment was agreed to.

Mr. DISNEY. I move to amend by adding an appropriation of $100,000 for the completion of the custom-house at Cincinnati.

A MEMBER. You had better make it the same as that of Louisville.

Mr. DISNEY. Very well; at the suggestion of a friend on my right, I will make it the same as that of Louisville.

The amendment was then reported, as follows:

For the completion of the custom-house at Cincinnati, $87,745.

Mr. DISNEY. Mr. Chairman, I take it for granted that after the votes the committee have given for the custom-houses at St. Louis and Louisville, that it will be unnecessary for me to add one word in defense of the amendment which I have now the honor to submit. It will be sufficient for me to say, in general terms, that the condition of the three cases is precisely the same. Allow me, however, to say a few words in reply to some remarks which have been made upon these general appropriations for these buildings and in defense of these appropriations. I make these general statements as to the amount of the revenue collected at the port of Cincinnati. Under the existing laws, the revenue collected at the custom-house in that city amounts to about $140,000 per annum, according to my recollection; while the population of that city, as shown by a recent census, is one hundred and sixty thousand souls, and the exports and imports amount to between sixty and seventy millions of dollars annually. But this, sir, is not the time nor the occasion to go into an argument to show the propriety or necessity of erecting a custom-house at this place. That question has been decided heretofore, and if the occasion required it, it could be easily shown why the necessities of the commerce of that city required it.

Mr. DUNHAM. If the gentleman will allow me for a moment, I want to ask him if he has any estimate from the Department showing that this amount will be required to complete this building?

Mr. DISNEY. In reply to the question of the gentleman, I will make these general statements: The Department has been unable to make their estimates for this work, because they have not received their bids; but the bids from Louisville have been recently received, and the building in Cincinnati being so nearly in the same condition, we know enough to say that it will require at least this amount. We cannot tell the precise sum which will be required to complete the custom-house at Cincinnati; but upon consultation with the bidder for the Louisville edifice, he expressed the opinion that it would require at least $100,000 to complete the building, so that we are at least safe in putting the amount at $87,000. Estimates are important because they are official guarantees of the fact. But if the fact is absolutely *known*—estimates are of no account. It is the verity of the fact which is desired, not the form or means by which it is announced. In this case we *know* that the money is needed,—that it must be given or a suitable house cannot be built. And upon this fact the committee must rest its action.

As I have before remarked, I take it for granted that after the decision which has been given by this committee in relation to the custom-houses at Louisville and St. Louis, settles that with regard to the one at Cincinnati, which is upon precisely the same footing, and it will not be necessary for

me to say anything with regard to this as a specific appropriation.

I desire, however, to say a word in reply to the remarks of the gentleman from New Jersey, [Mr. SKELTON,] which certainly demand some notice. That gentleman, as others upon this floor, seems to have overlooked the fact that in making these appropriations for what we term custom-houses, they are for something more than merely to accommodate the officers for the collection of custom-house duties. These buildings, although they go under the general name of custom-houses, are also for the accommodation of the post offices in the respective cities; they are for the courts of the United States, and for all the offices appertaining to these establishments. They are for the surveyor of the port; in short, they are designed to answer all the purposes for all the Government officers within the respective localities where they may be situated.

I conclude, then, sir, as I begun—and I will not trouble the committee any further upon this amendment—that the appropriation for which I ask to complete the custom-house at Cincinnati, is justified upon precisely the same grounds which have justified this committee in voting similar appropriations for the buildings now in progress of construction at Louisville and St. Louis, and I presume this consideration will be sufficient to insure it favor with the committee. A sound regard for its own dignity, its own consistency, will compel the committee to give the same decision.

Mr. LETCHER. Mr. Chairman, at the last session of Congress, under the date of 11th February, the Secretary of the Treasury made a report to this House in regard to custom-houses, and among the number reported upon is this custom-house in Cincinnati. Now, sir, I ask the attention of the committee for a moment, to the facts contained in this report. With respect to those at St. Louis and Cincinnati, the Secretary says:

"*Cincinnati and St. Louis.*—The present appropriation for the purchase of each of the above sites, and the erection of the buildings is $75,000, with a proviso that the cost of the buildings, respectively, shall not exceed $75,000. The sites have been purchased; the one at Cincinnati has cost $50,000, and that at St. Louis $37,000. The Department, under the present law, feels itself authorized to enter into contracts for buildings at these places, at a cost not exceeding $75,000, and is making arrangements accordingly; and it is therefore respectfully recommended that the needful additional appropriation should be made to cover the costs of the respective sites, which have been paid from the present appropriations. The full amount will be required during the ensuing fiscal year."

Now, sir, at the time this appropriation was made for the erection of a custom-house in Cincinnati, the amount of $75,000 was represented as amply sufficient for the purpose. After that appropriation was made, however, the site was purchased, and it was ascertained that the site alone cost $50,000. It was then represented by the Secretary of the Treasury to Congress, that after paying $50,000 for the purchase of a site, another appropriation of $75,000 would be necessary to complete the building, and we were assured that this sum would be sufficient for its completion. That appropriation was made, as I understand, during the last session of Congress to the full amount asked for by the Secretary of the Treasury. Yet now, in the absence of all estimates from that officer, in the absence of all evidence from any Department of this Government that a single dollar is required, the gentleman from Ohio [Mr. DISNEY] comes forward and asks this House to appropriate the further sum of $87,500 to the erection of the custom-house in Cincinnati, although we have no official information whatever that this amount is necessary, or that even a single dollar is required, and without knowing whether a contract has been made according to the report of the Secretary of the Treasury, for the sum of $75,000, or whether that sum of money has been expended in whole, or even in part.

Mr. DISNEY, (interrupting.) The gentleman says I come here to ask for an appropriation without knowing what is required.

Mr. LETCHER. No, sir, the gentleman misunderstands me. I beg that he will confine himself to the issue. I say he comes here without any estimate from the Secretary of the Treasury to show that it is required.

Mr. DISNEY. And I will show you the reason why.

Mr. LETCHER. Well, then, I ask, has this contract ever been made? Does the report of the Secretary of the Treasury show that it has ever been made? And has this House the proper evidence to satisfy members that they should vote this money? Sir, the majority of this House will be held accountable for these expenditures of the public money without even the authority of an estimate from the Department, or any other reliable source.

Mr. DISNEY. Will the gentleman permit me to call his attention to a single fact? We are proceeding in voting this appropriation upon precisely the same authority as we have had for voting them for Louisville and St. Louis.

Mr. LETCHER. Let me get the gentleman back to the issue again. I understand the gentleman from Ohio represented the city of Cincinnati at the time it was first proposed to erect a custom-house at that point, and I understand the gentleman went for limiting the expenditure to $75,000.

Mr. DISNEY. One word more, if the gentleman will allow me. If the gentleman will examine the act in regard to this custom-house in Cincinnati, he will find that the limitation of which he speaks is not applied there at all.

Mr. LETCHER. Well, did not the gentleman represent at that time, and did not the Treasury Department represent at that time, that $75,000 was all that would be required, and that no more would be asked for that purpose? The gentleman did—and if the Treasury Department did the same thing, how is it that the gentleman, in the absence of any estimate whatever from the Treasury Department, comes forward and asks for an appropriation of $87,500 to be applied to the same purpose? He said $75,000 dollars was enough, and we gave him $75,000. He received all he asked, and all that the Secretary of the Treasury thought necessary.

It seems to me the majority of this House ought to look to the situation they occupy. Here are the Treasury Department and the other Departments of the Government, now complaining that money was appropriated last year which was never asked for. The Democratic majority of the House are responsible, in the estimation of the Whigs, and I ask them if they intend to go on accumulating these extraordinary expenditures? Are they going to appropriate year after year——

[Here the hammer fell.]

Mr. FULLER, of Maine. Is it in order to offer an amendment?

The CHAIRMAN. It is in order now to amend the amendment of the gentleman from Ohio, [Mr. DISNEY.]

Mr. FULLER. I move to reduce the amount to $80,000.

Mr. Chairman, I recollect very distinctly about these several appropriations, and I believe I voted for them all, under the express understanding that when these appropriations were made, we should not be called upon again. I have here before me the record that such was the understanding expressed at the time in debate by the honorable gentleman [Mr. MARSHALL] who preceded the present gentleman from Louisville, [Mr. PRESTON,] and by the honorable gentleman who now represents the Cincinnati district, [Mr. DISNEY,] during the last session.

Mr. DISNEY. That was not my understanding.

Mr. FULLER. Well, I will read what the gentleman did say, and gentlemen can judge for themselves:

"Mr. DISNEY. The present appropriation for the erection of the Cincinnati and St. Louis custom-houses is $75,000 each, with the proviso that 'the cost of the buildings, respectively, shall not exceed $75,000.' The sites have been purchased. The site at Cincinnati has cost $50,000, and that at St. Louis $37,000. The Department, under the present law, feels itself authorized to progress with the building. That is what the Secretary says. The appropriation, then, was not for the purchase of the site, but the construction of the building. The Department feels itself authorized to erect upon these sites buildings not to exceed in cost $75,000 each. He has bought the site, and is now going on to erect the edifices. He asks for enough to pay the debt you have authorized him to contract. That is the whole case."

Now, I ask, in good faith, if we have not made the appropriations the gentleman from Ohio asked for at that time? When the subject of erecting a custom-house at St. Louis was under consideration, the friends of that measure came forward and very modestly asked for an appropriation of $75,000, and said that was sufficient. They placed a limitation in the act that it should not exceed that amount. Afterwards we gave them $75,000 or $80,000 and they said that would certainly be sufficient to complete the building; but now they come forward and ask for an additional appropriation of $100,000, and next year I suppose they will want $200,000, and so on. There is no end to it.

Mr. LETCHER. We have already given Cincinnati $15,000.

Mr. FULLER. But I understand the first appropriation was only for the purchase of the site. The next was for the completion of the building, but it was to be the last appropriation to be asked for. Yet they come forward now and ask for a still larger appropriation.

Mr. DISNEY. It is remarkable that this question should have to be argued again before it will be understood. The precise argument the gentleman now adduces has already been presented three or four times, and has as often been met. Why, sir, this is the argument which was used in opposition to the appropriations for the custom-house at St. Louis and the one at Louisville, and now it is presented over again for the third time. The condition of this custom-house at Cincinnati is precisely the same as the condition of the custom-houses at Louisville and St. Louis. The same in the one case as in the others. The amount of appropriation is identically the same, except at Louisville, which is of less amount.

Mr. FULLER. The gentleman need not address his arguments to me, for I voted against all of them.

Mr. DISNEY. But the gentleman took especial care, at the last session, to vote for two custom-houses for the State of Maine, for Bath and Bangor. They do not bring in one half or one quarter the revenue that is derived either at the custom-house of St. Louis, or Cincinnati, or Louisville; but then they are in the State of Maine. The gentleman's liberality began at home, and it ends exactly where it begins—at home—in Maine. I have told the House that the annual revenue raised at Cincinnati, is from one hundred and forty to one hundred and sixty thousand dollars. The population of that city is one hundred and sixty thousand, and the imports and exports amount to $60,000,000 annually. Compare these facts with the business of Bangor and Bath.

The arguments in opposition to these custom-houses have been presented over and over again, and the House have passed upon them, and here we are now to have the same thing all over again. I hope there will be an end to it, and that the House, with a just regard to its own consistency and dignity, will maintain the decision it has heretofore made; a sense of decency in relation to its own character requires it.

The question was then taken on the amendment offered by Mr. FULLER, and it was not agreed to.

Mr. TAYLOR. I move to increase the amount proposed by my colleague to $90,000.

I wish to say a very few words which seem to me to be necessary, in defense of the Secretary of the Treasury, from some remarks made by gentlemen who have addressed the committee. The gentleman from Indiana [Mr. DUNHAM] a short time since made a statement to the committee, and if I understood him, he alleged that the Secretary of the Treasury had originally sent an estimate here for the custom-houses at Louisville, St. Louis, Cincinnati, and Pittsburg. Now, I was a member of the Thirtieth Congress when these appropriations were originally made, and if my memory serves me, the Secretary of the Treasury sent no estimates at all. The appropriations were all made at the instance of the representatives upon this floor from those districts respectively, and without any recommendation by the Secretary of the Treasury. If I am wrong in this, my colleague from the Cincinnati district will correct me. He sent no estimates here, but it was the pleasure of Congress, in consideration of the vast commerce growing up in these beautiful cities of the West, to provide for that commerce at the expense of the General Government. Congress made the appropriation of $50,000 and increased it to $75,000, without an estimate, I believe, under the belief that it was necessary, and upon the representations of members on this floor. Now, sir, it turns out that the sum was not sufficient. The gentleman from Virginia [Mr. LETCHER] argues as though an appropriation made by the Thirtieth Congress could not be revised, and increased, if necessary,

for the public interest of those great cities. I might say with regard to Cincinnati, a city containing one hundred and sixty thousand inhabitants, and who trade with five millions of the people of the United States, that she is now without a custom-house, though she has a collector and surveyor of the port, and upwards of a hundred thousand dollars is collected annually at that point. We should have a custom-house there; we should have a building with the necessary accommodations for the circuit court of the United States, if it be removed there, and for the preservation of the public records. The expenditures you make for these western accommodations are exceedingly small when compared to those you make for the accommodation of the eastern sea-board.

Now, I wish to disclaim any intention of imputing to gentlemen of the East any disposition to withhold any proper appropriation for the western country. I acknowledge that they are liberally disposed. I never knew of an appropriation proposed for any of our western interests, that the representatives from the New England States, New York, Pennsylvania, Maryland, and other eastern States, did not generally agree to. And while we are liberal in making appropriations for the protection of our commerce, for building custom-houses, court-houses, and in fact for the protection of every public general interest on the great Atlantic border, I trust that this committee will not oppose the small appropriation asked for by the great city of the State I in part represent.

Mr. Chairman, I wish, before this bill is disposed of, to call the attention of this committee to another important fact. We should have fire-proof buildings for the preservation of the original records of the land titles in that State; and I desire that provision will be made for their preservation in the town in which I reside. They are now very unsafe. It is not unfrequently the case in our western country, that the land offices are burnt up with all the original land patents, surveys, plats, and other papers, and Congress should make provision at once for their safe-keeping.

[Here the hammer fell.]

Mr. SACKETT. I am opposed to the amendment of my friend from Ohio, and in favor of the original amendment.

I rise more particularly for the purpose of ascertaining, from those immediately interested, some facts in regard to this matter. As I understand it, there was an original appropriation, to a certain amount, for the construction of public buildings, and especially a custom-house, in the city of Cincinnati; but it turns out, in the process of construction of the building, that the appropriation is not sufficient for its completion. The building is now in an unfinished state, and the appropriation asked for is such a one as those who are acquainted with the subject believe will be only sufficient to complete the building. If that be the state of facts, I ask what is the ground of opposition to this appropriation? Do you intend to leave the building unfinished? Do you intend to expend $75,000 on those buildings, and then leave them in the condition they are now in?

Mr. LETCHER. They are not begun.

Mr. SACKETT. An appropriation has been made, and a site purchased, as I understand.

Mr. STANTON, of Ohio. The work has commenced.

Mr. SACKETT. I am told that the work is actually begun, so that it results in a question whether we shall appropriate money enough to complete the building we have already purchased a site for, and begun upon the plan adopted by the Government. The opposition is an opposition to the completion of buildings that are in process of construction. Shall we leave them in the condition in which they now are, rather than go on with the completion of them? I see no propriety in an opposition to an appropriation of this sort. We should finish them as they ought to be finished, or we had better have none at all. If this is a proper sum to be appropriated—of that I know nothing, and of that, those immediately interested are better qualified to judge—if it is a proper sum, I say it ought to be appropriated. If it is too much, we ought to appropriate less. I hope the appropriation asked for will be voted, as I hear no objection to the amount named.

The CHAIRMAN. The question is upon the proposition of the gentleman from Ohio.

Mr. TAYLOR. I withdraw the amendment, if there is no objection.

No objection was made, and the amendment was withdrawn.

Mr. CLARK. I move to reduce the appropriation to $20,000. I feel it incumbent upon me, in justification of the vote I have given, and which I may be called upon hereafter to give, to make a few remarks upon this subject. It is probable that when we go into the House, we may be called upon to vote upon these amendments separately, and it may be to record our names under a call for the yeas and nays. Were it not for that consideration, I should not trouble the House now with any remarks.

Perhaps it may be supposed that a western man might be induced to go for improvements for western appropriations without scrutinizing them very closely; but in the discharge of a great public duty here, I know no geographical distinction; I must vote upon appropriations which are designed for the West within the same limitation of reason and conscience that I would for appropriations for the East.

Well, sir, I have then this objection to the appropriation which is now asked for. What evidence have we that it is necessary? There is no recommendation from the proper Department touching these appropriations for the custom-house at Cincinnati, or others for which they have been asked. They are not recommended by the committee which reported this bill, although the subject has not escaped their attention, inasmuch as they have asked for an appropriation for a custom-house in Louisiana. It might be supposed that appropriations for other custom-houses might be thought by some to be necessary, and the committee would investigate the subject and ask for appropriations for custom-houses located at other points besides New Orleans. But they have made no such request. Here is a large and important appropriation asked for, and I maintain that there is no sufficient evidence upon the subject to warrant my affirmative response and action in reference to it.

It is no small matter for a gentleman representing a district to get up and ask for an appropriation measured by fifties and by hundreds of thousands of dollars. I wish to know that I am acting advisedly, and that I am acting properly in voting for such disbursements of money before I can act.

Mr. DISNEY. The gentleman objects that there is no sufficient testimony to show him that this amount of money is needed. I ask the gentleman if he is satisfied that there is testimony here sufficient to satisfy him that the amount asked for Louisville and St. Louis was needed?

Mr. CLARK. I am not. If we had any evidence that these appropriations were necessary, no man here would vote for them more readily than I would; but I want a proper basis of action; I want to know that I am acting right.

Mr. DISNEY. I will state one fact to the gentleman. I am advised that the Assistant Secretary has sent in a recommendation for this appropriation.

Mr. CLARK. But it is not before us; we know nothing about it. It has been stated, moreover—I do not precisely know with what correctness—that no appropriations were asked for these institutions, if I may call them such, that were not asked for with the understanding that a given amount should be sufficient to build them. My impression is, that it was expressly stated when the original appropriations were asked for the custom-houses named in the several amendments, that those appropriations should be sufficient, and that no more should be demanded. It has become nearly a settled policy, in asking appropriations for a particular purpose, to ask for limited appropriations, for the mere purpose of committing the Government to the project, which is little less than fraud.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I must oppose the amendment of the gentleman from Iowa for two or three reasons. In the first place, on account of the consistency of the House, and not my own, [laughter;] and in the next place, on account of progress, which is the favorite idea now. I remember that when these custom-house appropriations were first asked for, we were assured that the original amount would be all that would be required. I remember when all such appropriations were asked for at the last Congress, that every gentleman representing those districts, not only assured the House, but they went further, they pledged their honors that they would not ask for any additional appropriations. But, sir, unfortunately the gentleman from Cincinnati is the only one of those gentlemen who then represented those districts now in this House. The rest have gone.

Mr. DISNEY. I must correct the gentleman. I did not say then that I would not ask for any more. After the House had voted the amendment, some gentleman in my vicinity said, "Now, I presume, next year you will ask for more?" I told him that I would.

Mr. STEVENS. That was said in a low tone. [Laughter.]

Mr. DISNEY. No, sir, in a very loud tone.

Mr. STEVENS. I remember perfectly those assurances. The other gentlemen who represented those districts are not here. One was from Missouri, but not the gentleman from St. Louis, [Mr. DARBY.] They have, therefore, no necessity to have their honor vindicated; for other gentlemen have asked for them. No, if we were to object to the gentleman's appropriation, it would be a reproach on his honor. Therefore, and to put him on the ground of equality with the rest of us, I will go for his appropriation. But I go for it because it is progress. We began with a little, which we were assured would be enough, and we have progressed to more. We are doubling the original sum. I have not the least doubt that at the next Congress we will double this. For the sake of progress and consistency, and the honor, therefore, of all alike—and I hope the gentleman from Pittsburg [Mr. HOWE] will ask for something, for if he does not his honor is gone, [laughter]—I shall vote for all now, though I have voted against all.

The question was taken, and the amendment of Mr. CLARK was disagreed to.

Mr. BROWN, of Mississippi. I move to amend by adding, "and the further sum of $10,000 to build a custom-house at Shieldsborough, in the State of Mississippi."

Mr. STEVENS. Put it Pascagoula, and I will vote for it. [Laughter.]

Mr. SWEETSER. I raise the point of order that there is no existing law for the construction of a custom-house at Shieldsborough.

Mr. BROWN. There is a custom-house there, established by law, and if there is no sufficient building, there ought to be one.

The CHAIRMAN. The Chair knows of no existing law, and therefore rules the amendment to be out of order.

Mr. BROWN. Exactly; whenever anything is moved for the benefit of my section, it is ruled out on a point of order, or voted down by a majority. Gentlemen think it is our business to fill the Treasury and theirs to empty it. Well, sir, I will accommodate myself to the point of order, and move to reduce the sum in the original amendment to $5,000.

I am opposed to this whole batch of custom-houses on the western waters above New Orleans. I will not vote a single dollar to any one of them. They are wholly useless for any national purpose. As for the amount of the revenue collected at St. Louis, Louisville, or Cincinnati, it amounts to very little. The whole of it could be collected and disposed of in a merchant's counting-room. I do not question that there are merchants in either city who transact an annual business amounting to more than five times the revenue collected in all of them together. There is not a dollar's worth of foreign goods imported at Cincinnati, Louisville, or St. Louis, that does not of necessity pass by New Orleans. The goods are all entered there, and for every useful or national purpose, the duties may be better collected there than at any other point.

There is a custom-house at New Orleans, and you have another in course of construction which will cost you millions of dollars before it is completed. Let your duties be collected there, and put into the sub-treasury, where it belongs, and thereby save the cost of building and keeping up these useless and extravagantly-expensive houses two thousand miles up the river. This thing of building palaces at Cincinnati, St. Louis, and Louisville, is meant only to adorn those cities, and not for any useful purpose connected with the collection of the revenue, and I therefore denounce

the whole proceeding as an unauthorized, extravagant, and wasteful squandering of the public money. We are called upon to adorn these cities at enormous expense, and when money is asked for a really useful, proper, and necessary purpose, we have points of order first, and if these fail, then we are voted down on a complaint that money is scarce. Three quarters of a million of dollars are squandered in building custom-houses where they can be of no more use in collecting the revenue than a light-house on the Alleghany mountains would be in navigating the Atlantic, and small sums for useful purposes are then denied. You have custom-houses on the sea-coast, and here they are useful. You have one at Shieldsborough, and it is useful, not for the revenue collected there, but as a means of preventing smuggling along the coast between New Orleans and Mobile. You ought to have a custom-house agency at all the villages between those two important points, otherwise smuggling will be carried on. We do not ask a palace for the accommodation of your collector at Shieldsborough; we only say that he is a useful, necessary, and proper officer, and that inasmuch as you are compelled to keep him there, you ought to provide him a decent and proper house to live in. If you can vote three quarters of a million for custom-houses, where we all know they are not needed, is it too much to ask you to vote ten thousand for a custom-house where it is needed, and where you are compelled to keep it?

I am not opposed to the West—I have no hostility to that interesting and patriotic portion of our common country. All my sympathies and all my attachments are strongly with her. My strongest hopes for the future growth, progress, and prosperity of the nation, rest upon the energy, intelligence, and enlarged patriotism of the great West. But I will not deceive myself, nor shall others deceive me, in a matter like this. It is no favor to the West to waste $750,000 in building splendid palaces in Louisville, Cincinnati, and St. Louis. They will stand there as monuments of your folly and extravagance, while hundreds of really useful objects in that great and growing country pine and perish beneath your cold neglect. Show me a useful object in the West—one in which the people there are interested, one that can promote their prosperity, and I will vote for it. But when I am asked to adorn certain western cities at the expense of the National Treasury, without hope of benefiting the country at large, and with a certain knowledge that the money thus wasted could be better expended for other objects of western interest, I will not do it. I am for the useful, and opposed to the extravagant and merely ornamental.

[Here the hammer fell.]

Mr. WALSH. To my mind, Mr. Chairman, one of the best illustrations of the genius of the Government, and to use a phrase employed the other day, of the genius of this House, is that legislation which has made ports in the interior, on the inland seas, ports of entry. Goods, to be sure, are imported at the cities on the sea-board; but for the convenience of men who have their capital in the interior, and whose place of business is in the great West, they are allowed to execute bonds for the payment of duties at their own homes. This illustrates the great principle of equal laws and equal rights, which is the basis of our Government. The great cities of the West, which have sprung up as if by magic, are put on an equality with those possessing natural advantages on the sea-board. And why, sir, should it be said that individuals who have accumulated capital by their own energies, and who are engaged in the commerce of the country, shall go and make their importations at the sea-board and not have the privilege of paying duties at the location of their homes? It seems to me that we should not look on this legislation in any narrow spirit. As has been well said, that has neither been the course of Congress nor the judicial tribunals. They have regarded all these great rivers and lakes as inland seas, and they have extended over them the broad mantle of the admiralty jurisdiction. Under it, as every gentleman is aware, burdens are imposed on western commerce. There is not a man engaged in the navigation of one of the steamboats on those waters who is not compelled to pay into the Treasury of the United States what is known as the hospital money. All boats plying on those waters are under the operation of the admiralty laws. And why is it, when your commerce has expanded, and the laws of admiralty are extended over all of these great channels of trade, that western ports should not have the same accommodation as those on the sea-board?

Something has been said in the course of the debate about what the West had acquired in the way of the public domain. This is not a proposition for set-off. There is no such doctrine here. It will not be pretended by anybody, I presume, that, because Ohio or any of the western States may have got a large amount of the public land, the Government of the United States is relieved from its constitutional duty to establish custom-houses wherever commerce demands them. There is no transfer of duty; and the constitutional obligation exists in all its force.

A word or two, in conclusion, in regard to what is said about estimates. Has not every individual, here or elsewhere, who ever attempted to build a house found the cost contemplated at the commencement greatly enhanced before its completion? The uncertainty of estimates depends on a variety of contingencies, but principally on the imperfection of human judgment in not having the means of knowledge before starting out on such undertaking. If that be true in regard to individuals, who have their own interest to guide them, it is especially true in regard to the agents of the Government, who have no more means of information than individuals would have in similar cases.

There is another thing: So far from erecting these buildings at an undue expense, these additional estimates are required actually by the meanness of the Government. It seeks, when it establishes a custom-house at a particular point, to crowd into it every department of the public business—the land office, the office for Indian affairs, and the office for the preservation of the public papers. Every description of business is crowded into an establishment originally intended for the accommodation of the trade of the vicinity. A suitable building ought to be erected for each separate department of the business of the Government. So much are these various departments crowded in one building, that they remind me of the condition of things in some of the large cities on the sea-board, where the poor are clustered in great numbers in the same rooms—sometimes two and three families together. We take nothing from the public Treasury. The improvements now developing the rich resources of the West, were made in the main part by the expenditure of private capital. The great railroad stretching from the sea-board to the heart of the West, has been constructed by private capitalists of my own city. The Government having done nothing, is now guilty of the meanness of refusing buildings for the accommodation of these means of revenue and glory.

[Here the hammer fell.]

The question was then taken, and the amendment of Mr. BROWN to the amendment was disagreed to.

The question recurring upon the amendment of Mr. DISNEY, on a division there were—ayes 64, noes 54.

Mr. STUART called for tellers; which were refused.

So the amendment was agreed to.

The following clause of the bill was read, viz:

"For continuing the construction of the custom-house at New Orleans, Louisiana, $100,000."

Mr. LANDRY. After the word "Louisiana," I move to strike out $100,000 and insert $324,000. I will be very brief in my remarks upon this question. I think this is the first occasion upon which I have ever occupied a single moment of time of the House, and I will not, certainly, at this late hour, consume its time unnecessarily. I see that every amendment which is offered here must be sustained by very powerful arguments, and those arguments are the estimates from the Departments. Although this seems to be required in all cases, still, on this very day, my honorable friend from Missouri offered an amendment, which has passed the committee, making an appropriation for a custom-house at St. Louis, without the estimates. My friend from Kentucky [Mr. PRESTON] has offered one of a like character, which has also passed, and the gentleman from Ohio [Mr. DISNEY] has also offered an amendment, which met with like success. All these have been voted upon and passed by the committee. I now come forward and offer an amendment asking an appropriation for the construction of a custom-house in the city of New Orleans; but I do not ask the committee to adopt it without any grounds, for I come here with estimates from the Departments: I hope, therefore, that there will be no objection to the amendment I offer. I will not trouble the House with any further remarks, but ask the Clerk to read the following letters:

TREASURY DEPARTMENT, *February* 17, 1853.

SIR: I have the honor to inclose herewith copies of a letter and estimate from the commissioners to superintend the erection of the new custom-house at New Orleans, from which you will perceive that the appropriation of $100,000 for continuing the construction of said building for the fiscal year ending the 30th of June, 1854, recommended in the general estimates from this Department prepared before the receipt of said letter and estimate, will be entirely inadequate, and that the sum of $324,000 will be required during that year, which I respectfully recommend may be appropriated for that purpose.

Very respectfully, your obedient servant,

THO. CORWIN,
Secretary of the Treasury.

HON. GEORGE S. HOUSTON, *Chairman Committee on Ways and Means, House of Representatives.*

ARCHITECT'S OFFICE, NEW CUSTOM-HOUSE, NEW ORLEANS, *February* 4, 1853.

GENTLEMEN: The probable amount required for iron for the new custom-house, New Orleans, from June 30, 1853, to June 30, 1854, will be sixty thousand dollars, and for all other expenses in the construction of the building say twenty-two thousand dollars per month, making an aggregate of three hundred and twenty-four thousand dollars ($324,000) required for continuing the erection of the new custom-house, New Orleans, during the fiscal year ending June 30, 1854.

I remain, gentlemen, respectfully yours,

S. K. WHARTON,
General Superintendent.

To the Commissioners for the erection of a new custom-house in New Orleans.

Mr. LETCHER. I should like to have some idea of what this custom-house will cost. Some gentlemen around me say that it has cost about $2,000,000.

Mr. LANDRY. I cannot answer directly what it has cost. Every member of the committee will see the necessity of this appropriation, and even my honorable friend from Mississippi, [Mr. BROWN,] who has made a general assault against custom-houses, did not deny the necessity of a custom-house in New Orleans. Whatever it has cost is not the question before the committee. It is in process of construction now; appropriations have been made for the building, and the work must go on or be stopped.

Mr. LETCHER. Then it appears the gentleman does not know how much money has been expended. I understand from a gentleman near me, that $2,000,000 have been already expended, and here is a recommendation from the Secretary of the Treasury to appropriate $324,000 more to continue the work on that custom-house. What amount will be required to complete the building in addition to the sum of $324,000 now asked for? What sort of a building are they going to put up? Are they trying to see, as in other cases, how much money they can expend? I ask the gentleman how much money will be required to finish it?

Mr. PENN. I will answer the gentleman. The estimates are for about $3,000,000. They include the custom-house, United States courts, post office, and land office.

Mr. LETCHER. Then I have gotten the information I desire. The *estimate* is $3,000,000. We have had very conclusive evidence this morning, that *estimates* are not to be relied upon. We had an *estimate* of $75,000 for a custom-house at Louisville; and although $91,000 was appropriated at previous sessions, we were called upon this morning to appropriate $87,000 more, exceeding the estimate upwards of $100,000. Upon this principle, the custom-house at New Orleans is going to cost some six or eight millions of dollars before it is completed. That will certainly be the result. It does seem to me that there ought to be some stopping-place. These appropriations ought to be checked, for if the Government is going on at this rate, there is no telling what is to be the annual expenditure of the people's money in the erection of public buildings of this sort. We are also told, by way of argument, in favor of this appropriation, that the building will accommodate the post office. It would be infinitely better to pay rent for a post office, as is now done, than to go on and put up a post office in every city; and it would cost far less money. The public money is wasted

in the erection of these custom-houses along our rivers. Such expenditures are recklessly extravagant. Then, sir, I think it is full time to stop such appropriations, to change the policy which Congress has hitherto pursued in the erection of custom-houses.

I shall vote for this appropriation, believing that it is the only meritorious application that has been made here. I do it under the full belief, however, that there is no telling how much more we are to expend before this building shall be completed. In all probability, when we come to add up the amounts, we will find that there will have been expended some seven or eight millions of dollars.

[Here the hammer fell.]

Mr. STANTON, of Tennessee. I propose to amend the amendment by increasing the amount $1,000. It is not my wish to prolong the discussion, but I desire to say a single word upon the propriety of making these appropriations, such as are estimated for by the Department. The building at New Orleans is, I suppose, two thirds finished. It has been estimated, as I understand, to cost $3,000,000. If you appropriate only $100,000, the probability is that you will lose one half of that for want of the funds to carry on the work during the balance of the year. I know that last fall the appropriation had given out. It had been all expended, and it was currently reported through the city that the scaffolding, which cost $200,000 or $300,000 would rot down before the appropriations were made to finish the building. I say that by appropriating these small sums—one fourth or one half of what is necessary—you create three times the expenditure you otherwise would, if you were to do the work at once.

Mr. LETCHER. Do I understand my friend from Tennessee to say that this scaffolding cost $200,000 or $300,000? because if it does, I think it is time that we should quit.

Mr. STANTON. I do not know that it cost that amount exactly, but if the gentleman will go to New Orleans, and see what scaffolding is necessary to raise a building of that kind to support the immense arches, it will not be as ridiculous a proposition as he supposes.

Mr. HOUSTON. I wish to state another fact. The original estimates for this building submitted to the Committee on Ways and Means, were for $100,000. The estimates now submitted were sent to me this morning, after we had passed the item for the New Orleans custom-house. That is one reason why there is this conflict in the estimates of the Departments and the estimates now before the House. The estimates now sent in were never before the Committee on Ways and Means at all, and they have just reached the House.

We have discussed this question very fully upon all sides. The propositions are fairly before the committee, and I hope that, as we have so little time left, the Chair will compel gentlemen to confine their remarks within the rule, and that we shall be allowed to progress with the bill.

Mr. BEALE. What was the estimate sent to you from the Department?

Mr. HOUSTON. The estimate sent to the Committee on Ways and Means was $100,000, and that is the amount inserted in the bill. But the Secretary of the Treasury this morning sent in the estimate presented by the gentleman from New Orleans for $324,000 instead of $100,000.

Mr. STANTON, of Tennessee, by unanimous consent, then withdrew his amendment to the amendment.

The question recurred on Mr. LANDRY's amendment.

Mr. LANDRY. I call for tellers.

Tellers were ordered; and Messrs. CHASTAIN and HENDRICKS were appointed.

The question was then taken, and the tellers reported 81 in the affirmative. A further count not being insisted on by the opponents of the amendment, it was adopted.

Mr. WASHBURN. I offer the following amendment:

For preparing the site and laying the foundation for the custom-house at Bangor, Maine, and for providing the necessary connection between the same and the public streets in said city, $15,000.

The appropriation asked for in this amendment is so very modest, that I have really some doubts in reference to its fate.

Mr. STEVENS, of Pennsylvania. Make the sum large, and it will pass.

Mr. STANTON, of Ohio. I would inquire of the gentleman from Maine if there is any law authorizing the erection of a custom-house at this point?

Mr. WASHBURN. There is. I will state very briefly to the committee the grounds upon which I offer this amendment. During the Thirty-first Congress an appropriation of $50,000 was made for a custom-house at Bangor, and by its terms that sum might be expended for the building, independent of the site. At the last session of Congress an appropriation of $15,000 was made for the purchase of a site. Three places in Bangor were looked at by the Commissioner of Customs for the location—one costing from $25,000 to $30,000; another over $20,000, as I believe; and the third $15,000. The site costing $15,000 was owned by the city. It was in the Kenduskeag, a stream which divides the city nearly in the middle. It was selected because it was more central than either of the other locations, and more convenient to the people for a post office, which is to be in the building. In addition to that it costs $10,000 less than either of the other locations. Fifty thousand dollars will be necessary for the building, and $15,000 has been paid for the site, and this additional appropriation is asked for for the purpose of removing the rubbish, preparing for the foundations, and connecting the building with the streets of the city.

Mr. BAYLY, of Virginia. I know of nothing in our legislation in respect to which there has been more abuse than in these appropriations for custom-houses. Sir, a good many of these appropriations were made at the time when I had the honor of presiding over the Committee on Ways and Means, and in every one of those appropriations we put in an express condition that such a plan of the building should be adopted as that in no event should its erection cost more than the appropriation then made.

Mr. WASHBURN. Will the gentleman from Virginia allow me to say a word with reference to this case?

Mr. BAYLY. Sir, I know the case perfectly well, and I undertake to say, that when the original appropriation was asked for, we gave every cent that was asked, and they told us that it was enough.

Mr. WASHBURN. Will the gentleman from Virginia allow me to state——

Mr. BAYLY. I cannot; I have only got five minutes.

Mr. WASHBURN. I only want to say one word.

The CHAIRMAN. The gentleman from Maine is out of order. The gentleman from Virginia declines to yield the floor.

Mr. BAYLY. I find in the course of this debate, that there is a great misunderstanding as to the uses of a custom-house. It is not a warehouse. It is not a place in which to stow goods. We have public, and also when they are full, private warehouses. The Senate lately passed a very proper bill for modifying our warehouse system, providing for a more extensive use of private warehouses. A custom-house is merely a place in which to transact the business of the custom-house. It need not bear a much larger relation to the business of the port than the counting-room of a merchant does to his warehouse. At a port where the collections do not amount to more than fifty or a hundred thousand dollars a year, two or three small rooms, which may be rented for a small sum per annum, are enough for the custom-house. The object of these extravagant expenditures upon custom-houses is to beautify the cities in which they are placed by putting up handsome public buildings. I undertake to say here now, and I feel it my duty to say, as many of these appropriations commenced at the time I had charge of the appropriation bills, that it was the understanding on all hands, that the appropriations then made were to be final and entire.

Mr. WASHBURN. I believe the gentleman from Virginia has not quite consumed his five minutes, and I desire to occupy what remains of his time.

Mr. HOUSTON. Further debate is not in order, and I object to it.

Mr. WASHBURN. Well, sir, we only ask for $15,000——

[Cries of "Order!"]

Mr. STEVENS, of Pennsylvania. The gentleman should have made it millions, and then it would have been sure to pass.

Mr. WASHBURN. I call for tellers on my amendment.

Tellers were ordered; and Messrs. BOCOCK, and HARRIS of Alabama, were appointed.

The question was then put, and the tellers reported—ayes 44, noes 81.

So the amendment was rejected.

Mr. CASKIE. I offer the following amendment:

For the purchase of a site and the erection of a custom-house in Richmond, Virginia, $75,000, in addition to the former appropriation.

Mr. Chairman, this is a proposition which must be decided according to its own pure merits, for it is certainly not amenable to any one of the special objections which have been urged against other similar amendments submitted here to-day. It stands on high ground, and is clear of all reproach. There has been no besieging the Department in this case; certainly none by me. The very first communication between the Treasury Department and myself on this subject was a letter addressed me by the Secretary, suggesting the propriety of asking from Congress an additional appropriation. At our last session, $150,000—I tell the House the amount plainly and at once—was virtually appropriated for the erection of a building to accommodate the custom-house, post office, and Federal courts at the city of Richmond. At that time that sum was believed amply sufficient. It has since been discovered, however, by the Department, that it will not suffice. The strictest propriety has marked the management of the whole matter. Not one dollar of the money appropriated has yet been expended. This Congress stands perfectly and entirely unfettered. The limitations and restrictions imposed by the law making the appropriation have been emphatically observed.

The Secretary of the Treasury, in his annual report, submitted to this House on the 20th of January, 1853, uses this language in reference to the custom-house at Richmond, and it is the only custom-house of which he so speaks:

"A site has been selected for the building authorized at Richmond, Virginia. So much of the appropriation, however, will be absorbed by its purchase, it has been deemed advisable to delay, for the present, any steps towards the erection of the building, with the view of requesting from Congress an additional appropriation and the removal of the restriction as to the amount of expenditure."

Now, I do not ask for the removal of the restriction imposed by the bill of last session, for I think the principle of that restriction eminently sound and valuable. But I do ask of this House—particularly after the votes which have been given to-day—that they will grant the further sum which is needed, and needed in part, as you see from the report of the Secretary, in consequence of the cost of the site. Now, how was that site, which I admit to be costly, chosen? Commissioners were appointed for the purpose by the Secretary of the Treasury—gentlemen who command the confidence of the city of Richmond, as of all who know them. They have most diligently discharged their duties, and selected the site according to their best judgment, and with the entire approval of the Department. That site will cost much more than it was supposed, when the appropriation was made, would be required. I must hasten forward, for my time is so short that I shall be able to say very little of what I desire. In this state of the case, the Secretary of the Treasury comes, and through his report, submits to the House that the amount appropriated is not sufficient for the end to be accomplished. We desire to abide strictly by the law. I hold that to be a most wholesome policy which requires that, before the Treasury Department spends money appropriated for objects of this sort, it shall ascertain, and ascertain beyond question or doubt, that the expenditure will not exceed the appropriation.

Sir, I do claim that under the circumstances here presented, the House shall not look upon the fact that in our case the law has been strictly complied with and obeyed, as a reason why we should not have what others have obtained. Unless it does, after its own decisions, there can be no difficulty. Here in this volume is the recommendation of the Secretary of the Treasury. Since I received the letter from the Secretary, to which I have already alluded, I have been to the Treasury

Department, and there conferred with the officers having charge of the matter, and who are presumed to understand their business, and I undertake to declare that what my amendment asks meets with the full approbation of that Department. We have no bids for the works in detail yet; and why?

[Here the hammer fell.]

Mr. HUNTER. I am opposed to this amendment, and I am opposed to it because of the great confidence I repose in the gentleman from Virginia, who represents the Accomac district, [Mr. BAYLY.] He has told us, and no doubt truly, that all that is necessary for a custom-house is "two small rooms." [Laughter.] Now, he no doubt understands the interests of the people of Virginia, and what is needed in this case. We have already appropriated enough money to make "two small rooms" for the custom-house at Richmond, and two other very comfortable-sized rooms besides. I think, therefore, that we should make no additional appropriation.

Mr. STANLY. I move to amend the amendment, so as to make the amount of the appropriation $72,000, instead of $75,000.

I do no not know whether this estimate comes from the Treasury Department, for I could not hear very distinctly everything that was said by the gentleman who represents the Richmond district. But I think that before we vote on an amendment proposing to appropriate such a large sum for the purchase of a site, we ought to have some assurance that the State authorities of Virginia will consent to allow this money to be expended.

Mr. CASKIE. The consent has been given.

Mr. STANLY. I cannot yield to the gentleman. My time is too short. At the last session of Congress, we made an appropriation for the improvement of the James river and other rivers in Virginia. I understand that a large portion of the party in that State to which the gentleman belongs, and, I believe, some of those who are politically opposed to him, have raised the question of State-Rights—so often started and discussed here when there is nothing else to discuss—and by some (I do not mean, of course, the inhabitants of Richmond) who can discuss nothing else. They raised the question whether the General Government had any authority to appropriate money to clear out their rivers or not, and I am told that it was seriously contemplated by very respectable residents of that State to remonstrate, and resist the expenditure of that money within the borders of the "Old Dominion." [Much laughter.] Now, I hope that before we appropriate this money, we shall have some assurance that the authorities of Richmond, or the Legislature of the State of Virginia, will not resist the expenditure of this appropriation, or regard it as a violation of State-Rights and an insult on the part of the Federal Government. [Renewed laughter.]

Mr. CASKIE. I do not know whether the gentleman will take my assurance, but if he will, I will give it, and I think he will find in the fact that I go for this appropriation—if I may be permitted to speak of myself—a pretty good assurance that the State-Rights men of Virginia will not object to it.

Mr. STANLY. I have no doubt that the gentleman may be regarded as good an index of the State-Rights feeling as any other gentleman in the State, although indexes of the State-Rights feeling are not by any means scarce in the "Old Dominion." [Laughter.] I believe that both parties stand up for the resolutions of '98 and '99; but it does not follow as a matter of course that the gentleman from Richmond *will* support this proposition. Last year when the appropriation was made for the James river, all the respectable Democrats from Virginia—and I mean the whole delegation, for they are all respectable—voted against the river and harbor bill, although they got what they wanted themselves. Now that is not exactly fair. I hope, nevertheless, that this appropriation will be made. I shall vote for it on the assurance which the gentleman from Virginia has given me that the expenditure of this money will not be resisted, that State-Rights will not be overthrown in the State of Virginia, and that the General Government will not be considered as forcing the money upon her. [Laughter.] And I congratulate the House and the country that the Old Dominion is at last getting back to the old standard, where she ought always to have been.

Mr. CASKIE. As the gentleman has concluded his remarks, I ask him to allow me the balance of his five minutes.

Mr. STANLY. Certainly. I yield to the gentleman.

Mr. CASKIE. I am presenting here a serious proposition, and I am not going to turn aside to talk about "indexes to State-Rights," or anything of that kind. I do not undertake to speak for the Old Dominion. She will stand, I trust, where she has always stood upon the State-Rights question. But I am not now considering what her course will be. She will take care of that. My point is, that the proposition which I submit to the House is *right*, and the question I ask the House to decide is, whether it is right or wrong. I expect every gentleman to vote according to his own sense of justice, and upon his own responsibility. That is all I ask. I shall take great pleasure, however, permit me to say, in answering any inquiries that may be made. When the gentleman from North Carolina first rose, I supposed that he wished to know whether the Legislature of Virginia had passed the act provided for in the clause of the bill making the appropriation of last year.

[Here the hammer fell.]

Mr. DUNCAN obtained the floor.

Mr. CASKIE. I claim five minutes to speak in opposition to the amendment of the gentleman from North Carolina.

Mr. HOUSTON. I object to the gentleman speaking upon both sides of the question.

Mr. DUNCAN. I believe I have the floor for the purpose of speaking in opposition to the amendment of the gentleman from North Carolina.

The CHAIRMAN. If the gentleman from Massachusetts [Mr. DUNCAN] insists upon his right to the floor, the Chair will be bound to award it to him. The Chair supposed the gentleman from Virginia [Mr. CASKIE] would conclude what he had to say in the time of the gentleman from North Carolina, and when the hammer fell he awarded the floor to the gentleman from Massachusetts.

Mr. DUNCAN. I rise to oppose the amendment of the gentleman from North Carolina.

Mr. STANLY. Oh, I withdraw that.

Mr. DUNCAN. I am opposed to the amendment of the gentleman from North Carolina, and also to the original amendment offered by the gentleman frem Virginia, for the reason that it does not come before us in the manner which should entitle it to the sanction of the committee. Without determining the question whether the appropriation asked for is proper, or questioning the accuracy of the statements of the gentleman from Virginia, I protest against this mode of voting large appropriations from the public Treasury, upon the mere motion of a member rising in his place, and in the absence of recommendations and estimates from the proper sources. I have been unable to vote for any of these appropriations, because they have been presented in this irregular and improper manner, and have not received the examination of any committee of the House.

If these appropriations were necessary, why were they not submitted to the examination of a committee? Where are the estimates necessary to guide our action?

Mr. CASKIE. Does the gentleman wish an answer?

Mr. DUNCAN. I do not now—I cannot lose my time.

Mr. Chairman, there can be no more dangerous mode of expending the public money than that of voting appropriations upon the mere motion of a member, and without that previous examination necessary to guide the action of the House. Where, I again ask, are the estimates for these appropriations? Upon what reliable data can we give our votes? I am surprised when I see gentlemen who profess to be watchful guardians of the public Treasury voting for these large appropriations one after another, on such insufficient evidence of their necessity. And while doing this, we are turning a deaf ear to the public creditors, and denying justice to the numerous claimants who have just claims upon the Government. We neither consider or act upon their claims, but send them away, Congress after Congress, with disappointed and crushed hopes. Sir, it is the highest duty of the Government to be *just* before it is *generous*. I agree with the gentleman from Mississippi, [Mr. BROWN,] when he says that we are building magnificent edifices in our cities, the chief cost of which is for ornament rather than utility, and which he deems an unnecessary and wasteful expenditure. And it is true, as the gentleman from Virginia [Mr. BAYLY] has remarked this morning, that large and costly buildings are not required for the collection of the revenue. Such expensive erections can be justified, if at all, only at a few of the great ports of the country, and surely Congress ought to hesitate before appropriating the public money to build costly edifices in minor ports where the amount of revenue collected will scarce pay the interest on their cost.

We should pause in making these hasty and careless appropriations from the Treasury. Let the several cases be examined; let us have estimates of the sums necessary to complete these custom-houses. Then we could know for what we are called to vote. In this case we have no information but the statement of the gentleman from Virginia that he had a conversation with the Secretary of the Treasury, and that the Secretary told him that still further appropriations would be needed to complete the building; but the gentleman has not presented to the committee any written information from the Department. For one I do not choose to give my vote for the amendment upon such an opinion of the Secretary, presented to the committee.

[Here the hammer fell.]

Mr. STANLY. With the consent of the committee I will withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. HENDRICKS. To enable the gentleman from Virginia to reply, I move to add $1,000 to the appropriation. I now yield the gentleman my time.

Mr. CASKIE. The House shall find that I will not abuse the privilege given me by my friend from Indiana, [Mr. HENDRICKS.] Under the circumstances I shall feel it my duty to confine myself to a statement of some facts relative to my amendment. I will not even make any reply to any attempted argument which has been offered.

One fact to which I desire to call attention is, that, as I understand, the judgment of the Committee on Ways and Means was not and could not be had on this case. I was anxious to present it for the consideration and decision of that committee. So far from anything like shrinking from investigation, I have courted it. But the committee reported the civil and diplomatic bill, which we are now considering, without anything from the Department in reference to this Richmond building before it, and some time sooner than the annual report of the Secretary from which I have quoted to-day was made to the House. Of the promptness with which the committee acted in reporting the bill, I certainly make no complaint. Its bearing, however, on the necessity for the presentation of the amendment I have had the honor to offer by myself is obvious.

Further: just about the time, perhaps the very day, this civil and diplomatic bill on which we are now acting was reported to the House, I received from the Secretary of the Treasury the letter to which I alluded in my first remarks, inclosing a letter addressed to him by the superintending architect employed by the Treasury Department in reference to this matter. That letter, which I regret I have not now with me, fully sustains his suggestion to me and my application to this House.

Another fact to which I would call attention: We have no estimates in detail for the building, because we cannot yet under the law properly have bids for it. The law providing for the purchase of the site and the erection of the building, in effect declares that nothing shall be begun until it is ascertained that the appropriation is sufficient to finish. The first thing ascertained after the selection of the site is its insufficiency. Then the right course was to stop short and make this application to Congress, our true policy being that the expenditures shall conform to the appropriations, and not the appropriations to the expenditures.

Now, rather than say more myself, I shall prefer to answer any question that any member may desire to ask, for my object is to give all the information I can.

A MEMBER. What does the site cost?

Mr. CASKIE. It will cost about $61,000.

In an elaborate report made by five commissioners appointed by the Secretary of the Treasury, they unanimously recommend a certain lot, and the Secretary has approved their recommendation. Here, Mr. Chairman, I must be permitted to say—and it must strike every member upon this floor at once—that the high price to be paid for a site may well be a consequence of the fact that Richmond has been neglected in the matter of the structure now sought, until a time when property has risen so high that it is impossible to obtain a lot suitable for such a building as is contemplated, for the sum which would have sufficed some years ago. Moreover, the high price of real estate is an indication of the growth and prosperity of the city, and shows the necessity which exists for these accommodations. Now, I trust I have not departed at all from the declaration I made to the House when I set out, viz: that I would do nothing but state facts in the case, under the courtesy extended to me by the gentleman from Indiana.

[Here the hammer fell.]

Mr. SKELTON. Will the gentleman inform me how many clerks are employed at the custom-house in Richmond?

Mr. CASKIE. I will answer the gentleman's question. My recollection is that the custom-house establishment at that point consists of a collector, and four subordinate officers. What their precise titles are I am not able now to state; but the gentleman can obtain full information in reference to this matter by consulting the Blue Book. If the gentleman would like to know what is the amount of revenue collected at the port of Richmond, I can give him that information. The last returns I have seen in our book of receipts and expenditures, show the amount to be some $70,000. But the building to be erected is not for custom-house purposes alone. It is for the post office and Federal courts as well. I can also give the gentleman the amount of post office revenue collected at Richmond, if he desires to have it.

Mr. SKELTON. The gentleman's answer is sufficient. We at the last session appropriated $150,000 for the erection of a custom-house in Richmond. Now, the gentleman informs me that the employees of that custom-house are a collector and four subordinate officers. Now, I submit to this committee whether or not a building, sufficient to accommodate one collector and four subordinates, could not be erected for $150,000? I would like the gentleman from Virginia to tell me why we should erect splendid palaces for the purpose of accommodating one collector and four subordinate officers? Is there any necessity for he erection of such a building? I think, sir, the ime has arrived—and the proposition of the gentleman from Virginia presents a very good point at which to begin—when we should have an eye to the interests of the country, and its true interests; not with that spirit which was manifested by the gentleman from Maryland [Mr. WALSH] a few minutes ago, when he was upon the floor, telling us that we should not appear before the people of the country in an attitude of meanness. Sir, I have no fear of being considered mean because I refuse to vote the money to erect splendid palaces for a few clerks and employees of the Government. I wish to ask the gentleman from Maryland if it is a spirit of meanness to guard the public Treasury? Or is it not rather a spirit of meanness to voluntarily vote away unnecessarily the funds of the country? Sir, do the interests of the country require that our inferior subordinate officers, appointed by the Government, should be lodged in splendid palaces? Does the interest of the country demand this? Where is the necessity of expending $10,000,000 for the construction of a custom-house in New Orleans?

[Here the hammer fell.]

Mr. MEACHAM. I move that the committee do now rise. We have been sitting here for the last three hours, and have not moved a line in the bill. I desire that we should go home, and think of the subject.

The question now being upon the motion that the committee rise—

Mr. EASTMAN called for tellers; but they were not ordered.

So the motion was not agreed to.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Indiana.

Mr. HENDRICKS. With the consent of the House I will withdraw my amendment.

Mr. JOHNSON, of Arkansas. I object to the withdrawal of the amendment.

The question was then taken on the amendment, and it was disagreed to.

Mr. GOODRICH. I offer the following amendment to the amendment of the gentleman from Virginia:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to such persons as have been, or are, employed as United States weighers, gaugers, or measurers, out of any money in the Treasury not otherwise appropriated, such portion as has not yet been paid, of the fees earned by them for their services, according to the provisions of the act entitled "An 'act to establish the compensations of the officers employed 'in the collection of the duties on imports and tonnage, and 'for other puposes," approved the 2d of March, 1799, and the act entitled "An act to increase the compensation 'now allowed by law to inspectors, measurers, weighers, 'and gaugers employed in the collection of the customs," approved the 26th day of April, 1816: *Provided*, That before any such payment, it shall be established by a decision of the Supreme Court of the United States, that United States weighers, gaugers, and measurers have been, or are, legally entitled to all the fees accruing to them, as prescribed by the said acts of the 2d of March, 1799, and the 26th of April, 1816; and it is hereby made competent for any person who has been, or is, employed as United States weigher, gauger, or measurer, to maintain any action at law against any collector or other officer under whom he has served, in order to bring the question before the Supreme Court of the United States.

Mr. BOCOCK. I rise to a question of order. I submit to the Chair that the amendment is not relevant to the subject-matter under consideration.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. GOODENOW. I propose to add to the amendment of the gentleman from Virginia, the words:

For the completion of the custom-house at Bangor, Maine, twenty-five thousand dollars.

The necessity for that appropriation was clearly set forth by my colleague [Mr. WASHBURN] from that district; and it seems to me that if the House is disposed to give credence to his statements, they will be as well satisfied that the appropriation is as necessary as any of the appropriations for the custom-houses which have already been made. I am inclined to think, from the course which has been pursued, that perhaps one reason why his amendment was rejected, was his modesty in only asking for $15,000. The first amendment proposed to this bill in reference to custom-houses, was proposed by my friend from Missouri, [Mr. DARBY.] His statement of his case convinced me that it was right and proper that that appropriation should be made. That amendment was followed by other appropriations, which have been passed by this committee upon the statement of gentlemen that the appropriations were necessary and proper. But I respectfully ask why the amendment of my colleague should have been voted down, and why this amendment which I have offered to the amendment of the gentleman from Virginia, should not be adopted? I undertake to say, that the reasons assigned by my colleague, show that there is as much necessity for this appropriation of $25,000, in order to complete the custom-house at Bangor, as there has been shown to exist for an appropriation in any other place. I trust it is not because the appropriation is small, that it has been voted down. I am not disposed to vote for any appropriation of this character, unless I am satisfied that it is necessary. I have no sectional feeling, and I say, as has been said by other gentlemen in different parts of the House, show me that an appropriation is necessary in any part of this country, and I will go for it. That is all I ask. I care not whether it is for the North or South, the East or the West. If it is necessary to carry on the Government properly, and for the accommodation of its many officers, I am in favor of it. If that necessity is not shown, I am against it.

Mr. HIBBARD. With the gentleman's permission, I wish to ask him how much has been appropriated to the custom-house at Bangor?

Mr. GOODENOW Sixty-five thousand dollars.

Mr. LETCHER. If $15,000 would complete it half an hour ago, how does it happen that it requires $25,000 now?

Mr. GOODENOW. I supposed there were some persons who voted against it because the amount was too small, and therefore I increased it to $25,000 to meet some of the objections. [Laughter.] I will, with the permission of the committee, modify the amendment by substituting $15,500 for $25,000.

Mr. HIBBARD. I hope that this amendment will not be adopted; and I think I may say at the outset that I cannot be accused of any sectional feeling in this matter, for I have voted against all the amendments making new appropriations for custom-houses that have been under consideration to-day. So far as I remember, I voted against the original establishment of all of them, for reasons to which I will advert before I sit down.

I wish to call the attention of the committee, in the first place, to the fact admitted by the gentleman from Maine, that there has already been appropriated to this custom-house at Bangor $65,000—$50,000 at one time, and $15,000 at another; and, sir, I well remember, as one of the Committee on Ways and Means, that it was confidently asserted, though I do not remember whether the members' "honors" were pledged in terms—that the first appropriation of $50,000 should cover the whole expense of the construction of the custom-house. Still this additional sum is asked. Sixty-five thousand dollars have already been appropriated, $15,000 more is asked—in all $80,000. Now, by referring to the tables of the receipts into the Treasury from the different custom-houses in the Union for the year ending the 31st of June, 1851, it appears that the receipts at Bangor are $8,374 62. Now, sir, I dare say that is a fair statement of the average receipts from customs at Bangor; if not, the gentleman will correct me. To collect this sum of $8,374 62, it is proposed to expend the sum of $80,000 in the erection of a custom-house!

Mr. GOODENOW. What are the receipts at Richmond, Virginia?

Mr. HIBBARD. That is immaterial to this question. If we have done any wrong in our expenditures in Virginia, it is no reason for making them in Maine, but it is a reason why we should stop short and sin no more. Sir, this whole system of establishing custom-houses and other Government works, where they are not actually needed, as matters of favor to places where they are situated, is wrong. We have gone far enough in this kind of legislation. If we cannot recover the steed that has been stolen, let us shut the stable door. If one collector and four subordinates were sufficient at Richmond, where they collect $70,000 yearly—and it does not appear whether they were all clerks, and one or more may have been fire-tenders and door-keepers—less than that number of officers must be sufficient to collect this sum of $8,374 62 at Bangor. But I do not justify the expenditure that has been made, and the greater sum that is still asked for at Richmond. With all respect for the Old Dominion, I do not think it ought to have been authorized. I opposed the original appropriation; I am against the addition contemplated by the amendment of the gentleman from Virginia [Mr. CASKIE] now.

Now, sir, the whole system is wrong. We multiply without end needless custom-houses, marine hospitals, and navy-yard establishments, at places where there is no real or substantial occasion for them. I care not whether they are asked for in Maine or New Hampshire, Virginia or Missouri, I am against them all. We have no right to lavish the funds of the nation in benefactions to localities for local purposes. Some gentlemen talk about generous legislation, applaud liberality, and denounce what they call meanness, by which, I suppose, they mean to deride economy. Others say, be just before you are generous. I say, be just always in appropriating money from the Treasury—generous never. I have no desire for the reputation of liberality in the use of other people's money. We should remember that we are trustees, not owners of the public funds, and have no business to devote them to other than the nation's uses. Generosity, Mr. Chairman, is a commendable virtue; I admire the quality in its proper place; but let it be out of our own pockets, and not out of the Treasury of the country. We have been in the wrong; we have gone too far in this system. We ought never to have begun it. Let us stop where we are. I am opposed to this amendment, and all others like it. I hope the committee and the House will vote down these and all of a similar character that have been or may be offered.

The question was then taken upon the amendment of Mr. GOODENOW, and it was disagreed to.

Mr. WASHBURN. I move to amend the amendment of the gentleman from Virginia, by adding to it an appropriation of $16,000 for the custom-house at Bangor, Maine. I would not ask for this appropriation at this time, if I did not believe that it was absolutely necessary. I do not ask for it because it is towards the erection of a custom-house in my district, but because I know of my own knowledge that the appropriations heretofore made will be nearly useless without it. I do believe that if the gentleman understood the matter, all opposition would be withdrawn.

The gentleman from New Hampshire stated that there was no necessity for a custom-house at Bangor, and he has stated the amount of duties collected at that port for the last year. Whether he is or is not correct in his statement, I am not now prepared to say; but I do know that there is a very large trade at Bangor, though not a very large foreign commerce. There are not unfrequently two hundred vessels at the wharves of that place, loading for the ports of the United States and other countries, and they necessarily have business with the custom-house, and there is a very considerable commerce with the West Indies. I know that the exports of that city are large—I think more than $3,000,000 annually. There is not the necessity for a custom-house in any of those ports of the West, for which appropriations have been voted to-day, that there is for one in the city of Bangor. There are not so many vessels loading and unloading, there is not so much business transacted by the customs officers in any of them as at that port; and it is more reasonable to ask for $200,000 for that port than for Cincinnatti.

In addition, Mr. Chairman, the building in process of erection at Bangor for a custom-house, is to contain rooms for the accommodation of the post office in that city. The General Government is now obliged to hire accommodations for that office at a large rent. There is also provision made that the district court of the United States for the Maine district shall be held in this building.

Congress appropriated, two or three years ago, $50,000 for a building, independent of the site. There was a question as to what site should be selected. One was selected on account of its central location, at a less expense than was asked for others, situated in the Kenduskeag river—the selection of which, by the officers of the United States, involved the necessity of the removal of an old market-house from the center of the stream, and the constructing of a foundation. It also involved the necessity of building a bridge from the custom-house, when erected, to the main street; for when the custom-house is built, you cannot get at it unless this appropriation be made. The contracts for the building have been made, and we have kept ourselves within the limits of the original appropriation of $50,000. By the terms of this appropriation, neither the site nor its preparation were provided for by this sum. We now simply ask for enough to prepare the foundation, and provide a connection between the custom-house and the principal and nearest street. In no case which has been acted upon to-day have the parties kept so nearly to the terms of the first appropriations, and it would be more than strange if for this reason, for there is no other, Bangor is to be denied what she asks in this behalf.

[Here the hammer fell.]

Mr. BAYLY, of Virginia. When I had the honor of submitting some remarks just now about these custom-houses, I stated that their use was very much misunderstood; and the truth of that remark could not be better illustrated than by the remarks of the gentleman from Maine, [Mr. WASHBURN.] He comes from the district in which this custom-house is situated, and to show the necessity for the expenditure of $80,000 for erecting the building, he informs us that there are some two hundred coasting vessels belonging to the port. Now, how often does a coasting-vessel have any business with a custom-house? Their business is to go once a year to the custom-house to get a license, which the clerk will make out in two minutes. The officers have printed forms which they fill up; and even if the licenses of the two hundred vessels expired in one day, I would say that a clerk would be able to fill them all up within twenty-four hours. And that is everything on the face of the earth that a coasting vessel has to do with the custom-house from one year's end to the other. In such cities as Boston, New York, and Philadelphia, where it is necessary to have a great many officers connected with the foreign trade, we must have suitable rooms for the transaction of the custom-house business; but at these ports, where there is but little foreign trade, these large expenditures are not required.

On the eastern shore, where there is a vast deal of coasting, but no foreign trade, the collector is not probably called on, on an average, once a week to transact official business. Where there is a foreign trade a commodious building is required. But take Philadelphia, for instance. The custom-house at that city is the old United States bank, for which we gave $175,000. For the second city in the Union we appropriated for a custom-house only $175,000. The gentleman is now here asking for an appropriation for a custom-house in Bangor of nearly one half the amount we appropriated for a custom-house in Philadelphia. And the custom-house at Philadelphia, which was occupied until we bought a few years ago the house of the Bank of the United States, was not worth $20,000.

The question was taken on the amendment of Mr. WASHBURN to the amendment, and it was disagreed to.

The question was then taken on the amendment of Mr. CASKIE, and it was disagreed to.

Mr. HART. I move that the committee do now rise.

Mr. HOUSTON. I trust that the gentleman will withdraw his motion until we have passed the custom-house appropriations.

Mr. HART. I would willingly withdraw the motion, but there are a number of gentlemen around me who have similar amendments to the one under consideration, which they intend submitting.

The question was then taken, and it was decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole had had under consideration House bill No. 337, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854, and that they had come to no conclusion thereon.

Mr. BAYLY. There is an Executive communication on your table, Mr. Speaker, in respect to the condition of our affairs in Central America, which the Secretary of State informs me should be laid before Congress. I ask that it may be presented by the unanimous consent of the House.

There was no objection, and the Speaker laid before the House the following message:

To the Senate and House of Representatives:

I transmit a report from the Secretary of State, embodying the substance of recent communications made by the Minister of her Britannic Majesty to the Department of State on the subject of the interoceanic canal by the Nicaragua route, which formed the chief object of the treaty between the United States and Great Britain, of 19th April, 1850; and the relations of Great Britain to the protectorate of Mosquito, which she expresses herself desirous of relinquishing on terms consistent with her honorable engagements to the Indians of that name.

In consequence of these communications, and other considerations stated in the report, it is deemed advisable by the Department that our diplomatic relations with the States of Central America should be placed on a higher and more efficient footing; and this measure meets my approbation. The whole subject is one of so much delicacy and importance, that I should have preferred, so near the close of my administration, not to make it the subject of an Executive communication. But inasmuch as the measure proposed cannot, even if deemed expedient by my successor, take effect for near a twelvemonth, unless an appropriation is made by this Congress, I have thought it my duty to submit the report of the Department to the two Houses. The importance of the measure seemed to require an exposition somewhat in detail of the grounds on which it is recommended. MILLARD FILLMORE.

WASHINGTON, *February* 18, 1853.

Mr. BAYLY. I move that the communication be referred to the Committee on Foreign Relations, and that it be printed.

The SPEAKER also laid before the House, a communication from the Clerk of the House, showing the cost and number of the books furnished to members, and whence obtained; which was, on motion by Mr. DEAN, ordered to be referred to the Committee on Ways and Means, and printed.

Mr. HOUSTON. In the present state of the business, I wish to bring to the consideration of the House whether it would not be better to have an evening session? I wish to say to the House, if they will but reflect upon what we have yet to do, and the little time left in which to do it, they must see the necessity there is for disposing of the business.

Mr. JOHNSON, of Arkansas. Will the gentleman allow me to say a word? There are many matters to come up which will require attention, and consume much time; and as I am anxious to get through with this bill and send it to the Senate, I therefore will support most cordially his proposition.

Mr. JONES, of Tennessee. If the House will agree to suspend the five-minutes rule upon this debate, we can get through with this bill very soon.

Mr. DEAN. I move that the House adjourn.

The question was then taken, and it was decided in the affirmative.

So the House adjourned till to-morrow at eleven o'clock, a. m.

IN SENATE.

SATURDAY, *February* 19, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, embodying the substance of recent communications made by the British Minister to the Department of State on the subject of the interoceanic canal by the Nicaragua route, which formed the chief object of the treaty between the United States and Great Britain of 19th April, 1850, and the relations of Great Britain to the protectorate of Mosquito, which she expresses herself desirous of relinquishing on terms consistent with her honorable engagements to the Indians of that name; which was referred to the Committee on Foreign Relations, and ordered to be printed.

PETITIONS, ETC.

Mr. HUNTER presented a petition of the corporate authorities of Georgetown, praying an appropriation for the reconstruction of the bridge at the Little Falls of the Potomac; which was referred to the Committee on the District of Columbia.

Mr. FISH presented a memorial of citizens of Buffalo, New York, praying an appropriation of land for the construction of a ship canal around the Falls of Niagara; which was referred to the Committee on Commerce.

Also, a petition of citizens of Albany, New York, praying that measures may be taken to secure religious liberty to American citizens abroad; which was referred to the Committee on Foreign Relations.

Also, a petition of survivors and heirs of persons who served in the last war with Great Britain, now residing in King's county, New York, praying a modification of the bounty land law; which was referred to the Committee on Public Lands.

Mr. SEWARD presented a memorial of citizens of Wayne county, New York, praying an appropriation of land for the construction of a ship canal around the Falls of Niagara; which was referred to the Committee on Commerce.

Also, two petitions of citizens of New York and Brooklyn, praying that a contract may be entered into with Christian Hansen for the transportation of the mails between Brooklyn and Gluckstadt, and between Kiel and St. Petersburgh; which were referred to the Committee on the Post Office and Post Roads.

Also, a petition of survivors and heirs of persons who served in the last war with Great Britain, now residing in Albany, New York, praying a modification of the bounty land law; which was referred to the Committee on Military Affairs.

Mr. MALLORY presented the petition of Joshua R. Sands, of the Navy, praying to be allowed compensation for expenses of entertaining the authorities of Southampton, in England, while in command of the frigate St. Lawrence; which was referred to the Committee on Naval Affairs.

Also, a resolution of the Legislature of Florida, in favor of the establishment of a tri-weekly mail between Appalachicola, Florida, and Bainbridge, Georgia; which was referred to the Committee on

the Post Office and Post Roads, and ordered to be printed.

Also, a resolution of the Legislature of Florida, in favor of the establishment of a mail route across the Isthmus of Tehuantepec to the States bordering on the Pacific; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Also, a resolution of the Legislature of Florida, in favor of an appropriation for the removal of obstructions to the navigation of Yellow river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. MILLER presented a petition of citizens of Bloomfield, New Jersey, praying that measures may be taken to secure religious liberty to American citizens abroad; which was referred to the Committee on Foreign Relations.

WITHDRAWAL OF PAPERS.

On motion by Mr. JONES, of Iowa, it was

Ordered, That Helen Mackay, widow of Lieutenant Colonel Mackay, have leave to withdraw her petition and papers.

On motion by Mr. FISH, it was

Ordered, That Mary W. Ketchum, widow of Thomas Ketchum, deceased, have leave to withdraw her petition and papers.

On motion by Mr. SEWARD, it was

Ordered, That leave be granted to withdraw the several petitions and documents presented at the first session Thirtieth Congress, relating to the removal of the port of entry from Plattsburg to Rouse's Point.

REPORTS FROM STANDING COMMITTEES.

Mr. HUNTER, from the Committee on Finance, to which was referred the bill from the House of Representatives making appropriations for the support of the Army for the year ending the 30th of June, 1854, reported it with amendments, and gave notice that he should call it up on Monday morning.

Mr. WALKER, from the Select Committee to which were referred the several memorials and documents relating to the subject of the discovery of the application of ether as an anæsthetic agent in surgical operations, submitted a report; which was ordered to be printed.

Mr. MALLORY, from the Committee on Naval Affairs, to which was referred the petition of Robert Joyner, praying compensation for certain articles under his charge, stolen from the Pensacola navy-yard, submitted a report, accompanied by a bill for his relief; which was read, and passed to a second reading.

The report was ordered to be printed.

EMPLOYEES OF THE CAPITOL.

Mr. HUNTER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Retrenchment be instructed to inquire into the expediency of so regulating the emoluments of persons employed by the Senate, as to provide such a regular compensation for them as may be sufficient, without the extra allowances which it has been usual to give them.

SUPPLY OF WATER TO WASHINGTON.

Mr. SHIELDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate the report of Lieutenant Meigs, of the Engineer Corps, of the surveys, projects, and estimates for supplying the cities of Washington and Georgetown with an unfailing and abundant supply of water.

INDIAN INCURSIONS ON MEXICO.

The Senate proceeded to consider the resolution submitted by Mr. HALE on the 14th instant, and it was agreed to, as follows:

"*Resolved*, That the President of the United States be requested to inform the Senate if any complaints have been made by the Mexican Government to this Government of a violation of the provisions of the eleventh article of the treaty of Guadalupe Hidalgo, or of any neglect on the part of this Government to perform the stipulations of that article of the treaty relative to the suppression of savage incursions into the territory of Mexico from the territory of the United States."

BETSEY NORTON.

Mr. WALKER. I appeal to the Senate to take up this morning a bill for the relief of Betsey Norton. She is the widow of a revolutionary soldier; she is blind and poor, and upwards of ninety years of age. I hope the bill will be taken up.

The motion was agreed to, and the Senate proceeded, as in Committee of the Whole, to consider the bill. It proposes to direct the Secretary of the Interior to place upon the list of revolutionary pensioners the name of Betsey Norton, widow of Freeman Norton, and to pay her during her widowhood the sum of eight dollars per month, commencing on January 1, 1853.

Mr. BORLAND. I move to strike out the words "during her widowhood." If she is an old woman, over ninety years of age, I do not think there is any necessity for the provision.

The amendment was agreed to; the bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was then ordered to a third reading, read a third time, and passed.

RAILROAD TO THE POINT OF ROCKS.

Mr. PRATT. There was under consideration a few days ago a bill giving the right of way for a railroad in the District of Columbia, which was objected to in some particulars. An amendment has been drawn up so as to meet with the concurrence of those who opposed the bill. I would ask the indulgence of the Senate to take up the bill, and pass it at this time. It can lead to no discussion.

The motion was agreed to; and the Senate proceeded, as in Committee of the Whole, to consider the bill, the question being on the following amendment offered by Mr. BRIGHT, when it was last before the Senate:

Strike out all after the enacting clause, and insert:

"That, whenever the State of Maryland shall, by law, incorporate a company to lay out and construct a railroad from any point, in connection with the Baltimore and Ohio railroad, at or near the Point of Rocks, to Georgetown, in the District of Columbia, the right of way, not exceeding sixty six feet wide, be, and is hereby, granted to such company: *Provided*, That before any such road, depôts, and its necessary fixtures shall be located in Georgetown, the assent of said city shall first be obtained."

Mr. PRATT. In order to obviate the objections formerly made to the bill, I move to amend the amendment by adding to it the following:

And provided also, That the same provisions for the condemnation of, and payment for, land or other private property, for the use of the said railroad as may be made by any act for the incorporation of such company, by the State of Maryland, shall be, and hereby are, extended to the condemnation of, and payment for, land or other private property for the use of the said road within the District of Columbia.

The amendment to the amendment was adopted, and the amendment as amended was agreed to. The bill was reported to the Senate as amended, and the amendments were concurred in, and the bill was ordered to be engrossed for a third reading, read a third time, and passed.

DAVID MYERLE.

Mr. BADGER. I throw myself upon the indulgence of the Senate to ask them to take up for consideration the bill for the relief of David Myerle.

Mr. UNDERWOOD. I wish to state that whenever that bill comes up, I have a great many facts to lay before the Senate to show that it has not a particle of foundation in justice to rest upon.

Mr. BADGER. If my friend from Kentucky is resolved to defeat the bill by consuming time, of course I cannot help it; but I would suggest to him that this is a bill which has, at previous sessions, passed both Houses, but it has never passed both Houses at the same session, and therefore, it never became a law.

Mr. UNDERWOOD. If the bill be taken up, I will not defeat it in such a way. If the facts do not defeat it, I will let it go. But I desire to be heard.

Mr. BADGER. There is no resisting an appeal of that kind from a Senator who has a bundle of papers in his hand that it would take a fortnight to read. Therefore I shall not insist on the motion this morning to the prejudice of the Pacific railroad bill.

LOUISIANA OVERFLOWED LANDS.

Mr. DOWNS. Mr. President, I gave notice several days ago, that I should ask the Senate to-day, during the morning hour, to take up the bill making a grant of public lands to the State of Louisiana to aid her in reclaiming the overflowed lands therein. It is a bill which was made an order of the day a long time ago. When I gave notice that I should call it up this morning, I supposed that the Pacific railroad bill would be disposed of by this time; but as it has not been disposed of, and its friends are anxious to proceed with it to-day, I shall not make the motion that I intended to make; but I wish to say that on Monday I hope the Senate will indulge me in taking up that bill.

FRAUDS ON THE TREASURY.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it insisted on its disagreement to the first and fourth amendments of the Senate to the bill of the House to prevent frauds upon the Treasury of the United States; that it had agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses, and had appointed Mr. PRESTON KING, of New York, Mr. ANDREW JOHNSON, of Tennessee, and Mr. CHARLES CHAPMAN, of Connecticut, the Committee of Conference on its part.

Mr. BADGER subsequently, from the Committee of Conference, made the following report:

The managers of the conference on the part of the two Houses of Congress on the disagreeing votes of the two Houses on the bill entitled "An act to prevent frauds on the Treasury of the United States," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the amendment of the Senate to the second section, and agree to insert, after the word "claims," in the sixth line of the second page, these words: "or shall receive any gratuity, or any share of, or interest in, any claim from any claimant against the United States with intent to aid, or assist, or in consideration of having aided or assisted in the prosecution of such claim."

That the House also recede from their disagreement to the amendment proposed by the Senate to the third section of the bill, and agree to the said section, with the following amendment, to wit: insert at the end of line fourteen, page three, the words: "or shall receive any gratuity, or any share of, or interest in, any claim from any claimant against the United States with intent to aid, or assist, or in consideration of having aided or assisted in the prosecution of such claim."

And that the bill be further amended by striking out of the seventh section these words at the end thereof: "and every offense against the provisions of this act shall be a misdemeanor."

The report was agreed to.

RAILROAD TO THE PACIFIC.

On the motion of Mr. RUSK, the Senate, as in Committee of the Whole, resumed the consideration of the bill "for the protection of the emigrant route, and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon;" the pending question being on the amendment of Mr. WELLER, to strike out of the substitute reported by the Select Committee, the thirteenth section as amended:

"SEC. 13. *And be it further enacted*, That, for the purposes of this act, the contractors, their associates and successors, are hereby created and constituted a body-politic and corporate by the name of 'The Pacific Railroad and Telegraph Company,' by which name they may sue and be sued, plead and be impleaded, and have and enjoy all proper remedies at law and in equity, may organize and elect such officers as they may deem necessary, and have and use a common seal; they may also open books and issue certificates of stock, and perform all other acts necessary to carry into effect the provisions herein contained: *Provided, however*, That the provisions of this act shall have no force nor effect whatever within the limits of any State without the consent of the Legislature of said State previously had and obtained: *Provided*, That nothing in this section contained shall be construed to grant to the corporation hereby created, any banking powers or privileges: *And provided further*, That said corporation may be hereafter regulated and restricted by any act which may be passed by Congress at any time hereafter."

Mr. TOUCEY. Mr. President, when the Senate adjourned yesterday, I was stating my objections to certain provisions of this bill principally embodied in the thirteenth section, which it is now proposed, by the motion pending, to strike out. I wish to present one consideration further in reference to the objection which I then made, that the bill proposes to construct a railroad within the limits of a State; and I would not detain the Senate for a moment at this late period of the session, when so much business of great importance is pressing for consideration, were it not that I deem this precedent one of a very dangerous character.

Mr. DOUGLAS. Will the Senator allow me to suggest that I understand the Select Committee have agreed to an amendment which obviates that objection? If so, perhaps it would be well for the Senator to allow that amendment to be offered and adopted, and then he could see whether or not his objections existed.

Mr. TOUCEY. I understand that the Senator from Illinois is mistaken in that respect. The objection which I am now considering is a feature of this bill which I regard as unconstitutional—a proposition by the power of the General Govern-

ment, with funds from the public Treasury, to construct a railroad within the limits of a State.

Mr. DOUGLAS. That is the very point which I understand it is agreed shall be obviated, for the reason that it is objectionable.

Mr. TOUCEY. I understand otherwise from the chairman of the committee.

Mr. DOUGLAS. It has been doubtful whether that point now exists in the bill; and in order to obviate the objection entirely, I understood an amendment was to be offered with the sanction of the committee.

Mr. TOUCEY. I am somewhat embarrassed, receiving one statement on that point from the chairman of the committee which reported the bill, and quite another from the distinguished Senator from Illinois.

Mr. DOUGLAS. I do not intend to speak by authority.

Mr. TOUCEY. I do not intend to engage in unprofitable debate. It has not been my custom to do so. If I have erred, it has been on the other side, and in failing to perform my whole duty in that respect.

Several SENATORS. Debate the bill as it stands.

Mr. TOUCEY. I take the bill as it stands. I know there are Senators on the other side of the Chamber who advocate the bill in its present form, and I shall very briefly consider it as it is.

Now, Mr. President, the bill assumes upon its face that Congress has no power to construct this road within the States unless with their assent; and it assumes, therefore, as a principle, that the assent of a State will confer upon Congress a power which the Constitution has not conferred upon it. I advanced yesterday the proposition of the total incapacity of any State Legislature to divest itself of its legislative powers, and grant them to Congress, and an equal incapacity on the part of Congress to exercise any legislative power by a grant from a State, even if it had the power to make the grant. There is an incapacity to grant on the one side, and an incapacity to receive or to exercise on the other. But I shall not repeat what I said yesterday. I will go a step further.

This bill contains the unconstitutional assumption that, with the assent of a State, the people of the whole Union may be taxed for the construction of a road within the State thus benefited, by granting that assent. It proposes to construct a railroad in the State of California, with its consent, and to do it by money from the public Treasury; and if it can do it by money from the public Treasury, that money must be levied by taxes upon the people of the whole Union. The principle, therefore, involved in this bill is no other than this: Whether Congress can tax the people of the United States to raise money to construct a road within the limits of a State, provided that State will consent to receive the benefit. Now, sir, that feature of this bill is the most extraordinary of any that I have ever known or heard of. A law proposing to give the President of the United States the power to go into a sovereign State and remove an alien resident there at his pleasure is, compared with this, a very mild measure. A proposition to assume jurisdiction over the press in the several States, and subject it to criminal prosecution for publications against the officers of the Government, would be a very moderate unconstitutional law, compared with the proposition now under discussion.

The proposition to establish a bank of the United States, and to transfer to it the contents of the public Treasury for bankers to trade upon, would be a very moderate violation of the Constitution compared with this; because, by this bill you go into a State and take jurisdiction there; you take possession of the soil of the State, and you undertake to control and to manage the road within its limits. You assert a power existing in this Government by the mere assent of a State, to levy a tax upon the people of the United States to defray the expenses of the construction and maintenance of that road. If you can do it in regard to one road, you can do it in regard to every other road in the country. And this is to depend upon the assent of a State! That is to say, one State by consenting to it, if Congress also consents, can have its road built by a tax upon the people of the whole Union. If one State can do it, another can do it. When the people of the Union find themselves taxed to build a road in California, or in Louisiana, if they find that such is the policy of the Government, will other States hesitate to adopt the same measure? Sir, there are too many States which would consent to take money from the public Treasury to construct their own roads without looking to the ultimate consequences. It would not, perhaps, generally be difficult to obtain the assent of a State, because by giving its assent it would derive great apparent benefit from the public Treasury at the expense of the other States. And thus, by the promise of immediate advantage on the one side by the pressure of taxation on the other, every State in the Union might be strongly tempted to augment by legislative grant the powers of the Federal Government.

Why, sir, a more extraordinary perversion, a broader, a looser, a more latitudinarian, and a more dangerous construction of the Constitution than that which is involved in this bill, I cannot well imagine. With this power, what would be the condition of this Government? Instead of being a Government of uniform powers pervading the whole Union, they would vary in every State. In one State they might extend to roads; in another State to all internal improvements; in another to a Federal bank. You would have the powers of this Government as various as the States themselves, and different at different times in each, as its interests or its caprice might dictate.

I say that this bill assumes as a principle, the power in the States to authorize Congress to exercise powers which do not belong to Congress independently of the assent of the States. It is to this principle of the bill that I most strenuously object. If that, and the other objectionable proposition creating a corporation, can be removed from this bill, the general measure will meet my most hearty support; because, as I said yesterday, I am in favor of the general measure of exerting the powers of this Government according to the settled practice of the Government to construct a railroad through the Territories. I find power to do it in that clause of the Constitution which gives Congress power to dispose of, and make all needful rules and regulations concerning, the territory or other property of the United States.

Now, for the *bona fide* purpose of improving the public domain, I am entirely in favor of making a proper grant. Where that is the legitimate purpose, I think this Government has power to do it. But when you come to the States, the question is a very different one with regard to the construction of a road within their limits. There is no necessity for such a provision in this bill. I am willing there to grant alternate sections, upon the same principle of improving the public domain. But there is no necessity for the provisions of this bill in regard to the construction of the road through the States. The Legislatures of the States have power to incorporate companies; they have power to build roads; they have power to receive from Congress a grant of alternate sections of land, for the purpose of constructing this road within their limits; but this Government has no such power to construct it, because it would be a direct interference with State sovereignty. And that objection is not removed, by the assent of the State to-day, even if it could be binding for all time to come. Nor is the provision necessary in another view; because, if this road is to be built from the western border of the Mississippi States, to the eastern border of California, the remaining sections will take care of themselves, as the investment would be profitable. The difficulty is in constructing a road through the Territories; and when that shall be constructed by a grant of public lands, or in any other constitutional way, the great object is accomplished. But I am not willing to accomplish an object of this kind, or of any other kind, by trampling under foot the plain provisions of the Constitution, or by adopting a loose construction which would, in my judgment, be fatal to its permanence.

There is a provision in the bill creating a corporation. I know that it is advocated on the other side of the Chamber, but I trust that those who are accustomed to act with Senators on this side, will be ready promptly to abandon the clause for the creation of a corporation to construct a railroad from any point on the Mississippi to any point on the Pacific coast, through the instrumentality of a corporation of this description. That proposition is one which I trust will not receive the sanction or support of any of those who are accustomed to act with this side of the Chamber. What is this corporation? Sir, it is one with almost unlimited powers. It is authorized by the bill to issue stock to an unlimited extent. It has power to hold estate, real and personal, to any extent; and if this bill should go into operation and the road be constructed, the amount of its effects would be hundreds of millions, and its income would be millions of dollars. It has the power to create directors and officers of the corporation to an unlimited extent. It has the power to issue promissory notes in payment of its own debts, to an unlimited extent. It has power to draw bills from the Pacific coast on New York, and from the Atlantic coast on San Francisco, to an unlimited extent, and these notes and bills, by the law-merchant, are negotiable. With a road extending from the Mississippi to the Pacific, there would be no power in this Government to prevent these notes and bills passing by delivery from hand to hand; and although you introduce into the section a clause that it is not intended to grant banking powers, this Government cannot pass a law which, within the States, would prevent the delivery of these bills from hand to hand, in payment of debts, or for purposes of commerce.

The principal object of this corporation is the transportation of passengers and merchandise from one side of the continent to the other for a compensation, and that compensation constitutes the income of this great company. It is true, that the troops of the United States may pass upon this road, according to the provisions of this bill; and so may the military stores, and the public mails of the United States; but there is no compensation to be paid for that. The whole income of this road, or of the company who construct it, will arise from the transportation of persons and property upon it, which is strictly a commercial business.

How long will this corporation continue to exist? There is a provision in this bill, that after the expiration of thirty years, Congress may resume the grant upon certain terms. That is a contract between the corporation and the Government. Although there has been inserted a clause giving Congress power over that charter, that clause would not and could not operate to rescind this express contract contained upon the face of the bill; namely, that after the expiration of thirty years, Congress may resume the grant upon making certain payments. So that unless forfeited, upon the face of this bill, by express provisions embodied in the form of a contract, this corporation must exist for at least a period of thirty years, and until Congress shall refund to the corporators their expenditures on the road, with ten per cent. interest per annum, deducting the bonds and the proceeds of the public lands thus granted to them. It would be claimed by the corporation, that the only deduction to be made, was that expressly provided for; so that at the end of thirty years, the whole outlay, with that deduction, and the addition of ten per cent. per annum, would be paid; running until the period when you refund to them the amount. Why, sir, at the end of thirty years, it would swell up to hundreds of millions of dollars; and at the end of forty, or fifty, or sixty years, it would go on still increasing, until ultimately it would reach the amount perhaps of the national debt of Great Britain.

When would Congress interfere to pay the amount of money due by the charter, and thus break up this corporation? Never. But suppose it should be done, what would be the condition of Congress? Here would be a road across the continent with an immense commercial business, and an immense income. Suppose that this road should be resumed by Congress, could Congress carry it on? Could the business of the transportation of passengers and property be engaged in by this Government? And if not, what is to be done with the road? Sir, I say it is impracticable for Congress to resume this grant and carry on the business of this road. This Government never could enter into a commercial business of this kind—the transportation of goods and of passengers, and receiving compensation for it, having its agents carry on that business, stretching from one side of the continent to the other. Thus it will be seen, that it would be impracticable to break up this corporation, unless in one event, and that would be if it should prove disastrous; and then Congress would find itself in the same condition

with regard to resuming the grant and carrying on the road which I have already indicated. So that in the first place, Congress would be forced to indemnify the contractors; and in the next place, would be under the necessity of abandoning the road.

But let us look a little further. At the end of thirty, or forty, or fifty years, what would be the condition of this country? With a population verging to a hundred millions, with a line of States across the continent embracing the very locality of this road, what would be your condition? You could not avoid receiving those States into the Union; they must come in unconditionally, or at least with but one condition, that of a republican form of government. No terms can be dictated to a State upon its admission into the Union. I know there was an attempt once made to dictate terms to introduce a State upon a footing of inequality, and to deprive it of its sovereign powers, and the attempt shook this Union to its center, and I trust that a similar one will never be made. Then, I ask, what will be the condition of this country, with a dense population, with a line of States across the continent, with this colossal corporation, with its hundreds of millions, with this immense commercial business, vast beyond any present conception? The contest is now going on, and it will soon terminate in the triumph of this country in taking into its hands the commerce of the world; and the time is near at hand when the United States will be the leading commercial Power; when the commerce of Asia, of Europe, and of America will pass across and through this continent, and this will be one of the great channels of that commerce. Now, are we not to look into futurity? Are we not to look at what will be the condition of the next generation of men who are to come upon the stage at the end of thirty, or forty, or fifty years? Sir, I tell you that the States which will exist in the vicinity of this road, which will embrace the line of the road, will make war upon it. They will not consent to have this colossal corporation overriding them in the hands of the money power of this country, transporting for their own profit the great commerce that will find its way through that channel to and from the different continents of the world. The States will make war upon this corporation. It will be a war whether the corporation can exist. It will be a war whether you can exercise the power that you have reserved in this bill of regulating mechandise and passengers in crossing this road. It will be a war whether this act of Congress can override the sovereignty of those States. It will be a war with this Government; ay, sir, with its own Government, whether the men now upon the stage of action, by assenting to the exercise of a jurisdiction of this kind, can debar the generation that will then be conducting the affairs of the country from exerting the usual legislative powers of their Government for the management of their own internal affairs.

Sir, I see difficulties on every side, insurmountable difficulties; and in entering into a great, magnificent work of this kind, is it to be hurried through in a rash and reckless manner, and in the last moments of an expiring Congress, when it is admitted that the bill is defective—when you are obliged to amend it after it has come from the committee in one of the most essential points? Is it important that we should advance with such rapidity that we are not to regard not only the interests of the present, but the interests of the future? Sir, I am an advocate for this road, but I cannot abandon the exercise of my own judgment, or forbear to look into the future to see what will be the condition of those who are to come after us. I am not willing to rush into the measure, and to present to the Chief Executive Magistrate, who is to take his seat, the question how far it is his duty to execute an unconstitutional law. You cannot enter into a contract until a survey has been made. The provisions of this bill cannot be complied with until a survey has been made. The corporation does not come into existence until after contracts have been entered into, and the contractors have become identified. Then the contractors will assume the form of a corporation. When can that be done? Between this and the next session of Congress? Does any one suppose that the route can be so surveyed that the President of the United States, if he should regard the bill as valid, could enter into a contract? Are we unwilling to trust the representatives of the States and of the people, who are to come here in a few days, with the exercise of the powers of this Government, or must we press forward now?

Sir, if this bill should be so modified as to exclude the principle of constructing a road within the limits of a State, and the odious feature of creating a monstrous corporation, worse than any bank of the United States, worse than any fiscality that was ever proposed in the District of Columbia, I should be unwilling to cast my vote against the bill. Nothing but a constitutional objection, nothing but setting a dangerous precedent, would induce me to go against a measure of this kind. I stand ready to exert the constitutional powers of this Government to carry out, in a safe and proper manner, the great object in view.

Mr. President, I intend to say but a word with regard to one other consideration which has been suggested, the transfer of legislative power to the Executive. There are no termini of this road fixed in this bill unless you call the Pacific ocean a terminus, and unless you call the Mississippi river, from one end of it to the other, a terminus. There is no intermediate route described by the bill; it is simply a transfer from Congress—because we ourselves cannot agree upon proper legislation—to the Executive of the United States of power to say from what point on the Pacific coast to what point on the Mississippi river this great railroad and telegraph line shall be established, and referring it to his discretion. I do not like that feature in the bill; but if, as I trust, the two objections which I have made—the one to the construction of the road within the States by the authority of Congress at the expense of this Government, and the other the creation of a great corporation to do what this Government cannot do, construct a road, and enter into a business upon it with which this Government has no concern, equivalent to incorporating a company to carry on a commercial business, or equivalent to opening a railroad with the assent of the States from Boston to New Orleans—if these features of the bill shall be expunged, it will be necessary for the Senate to reëxamine the whole measure, and to put it in a new form which may obviate every objection. But, sir, I have detained the Senate longer than I intended.

Mr. GEYER. I presume the section is susceptible of amendment before the vote is taken on striking it out. I move, therefore, to insert after the word "corporate," where it first occurs in the section, the words "within the Territories of the United States," so that it shall read: "this company shall be constituted a body-politic and corporate within the Territories of the United States," and to add between the words "and," and "perform," "within the Territories aforesaid," so that it shall read:

"They may also open books, and issue certificates of stock, and within the Territories aforesaid, perform all other acts necessary to carry into effect the provisions herein contained."

Mr. DOUGLAS. I wish to make a few remarks in reply to the Senator from Connecticut, without following him through his argument. He first states that it is proposed to create a mammoth corporation, more odious than the Bank of the United States, with power to emit bills of credit, draw bills of exchange, from the Mississippi river to the Pacific ocean, within the limits of the States of this Union. He repeats half a dozen times that there is no other terminus to this road but the Mississippi river and the Pacific ocean. It was necessary to repeat that statement in order to found his argument upon it. It was necessary for him to make it out that the road was to start from the Mississippi river in order to show that it started within a State of the Union; for if he did not prove that it started within a State, his argument fell to the ground. But while it was necessary for his argument to assume that it did start at the Mississippi river, the bill itself, in so many words, expressly contradicts, denies, and refutes the statement. According to the bill it does not necessarily commence at a point on the Mississippi river at all. According to the bill it does not necessarily begin or run within any State of the Union. According to the bill it is not necessary that one inch of the road should be in a State of the Union. According to the bill, therefore, it does not erect any such unconstitutional corporation, even according to his own principles, as he has erected in his speech for the purpose of operating against the bill in the country. What is the provision of the bill?

"It shall be the duty of the President of the United States to cause to be constructed, so soon as it may be practicable after the passage of this act, a railroad and telegraphic line connecting the valley of the Mississippi with the Pacific ocean, at such points as he may designate, and upon the terms and conditions hereinafter prescribed."

The points are to be selected by the President, and the two points are to be one in the Mississippi valley, and the other on the Pacific coast. Cannot those two points be selected without ever entering the limits of any State of the Union? May you not start at a point in the Mississippi valley, on the western border of Missouri, Iowa, or Arkansas, and run to a point on the Pacific ocean, in the Territory of Oregon, without entering the limits of any State of the Union? It is consistent with the bill that such should be the case, and if the Senator admits that it would be unconstitutional to enter the limits of a State, does he not, as a lawyer, know well that he has no right to put a construction upon the bill which would make it unconstitutional, whereas a different construction equally consistent with its terms, may be put upon it, which would render it constitutional?

Again, he objects to the bill, because he is unwilling to make it the duty of the incoming President of the United States, in the beginning of his administration, to execute an unconstitutional act. Sir, under the terms of the bill, the railroad to be constructed can never enter the limits of a State, unless General Pierce shall say so.

Mr. MASON. Will the Senator yield me the floor a moment?

Mr. DOUGLAS. I would rather not be interrupted on this point. The road can never enter the limits of a State of the Union, unless General Pierce shall say so; because General Pierce is to select the terminus in the Mississippi valley, and he may select it outside of a State; he is to select the terminus on the Pacific ocean, and he may select it outside of a State. He is also to select the pass through the mountains; and he may select the South Pass, or either one of several other passes, which does not touch a State. He is also to indicate the general points in the line, and the residue are to be selected, subject to his approval. Hence, sir, if under the bill one dollar is expended, or one acre selected, or one mile of the road made within the limits of a State, it must be done so by the free discretion of General Pierce, and not by the necessary terms of the bill. That being the case, how does it become a Democratic Senator to say that he is unwilling to pass the act to create a mammoth corporation within the limits of a State, when it makes it necessary that the President should violate the Constitution, or come in conflict with Congress at the very outset of his administration? If he has confidence in the fidelity of General Pierce to Democratic principles and the Constitution, if he has faith that General Pierce would regard such an act as unconstitutional within the limits of a State, he has no right to assume that he will locate the road within the limits of a State. The assumption is a declaration of a total want of confidence in the President elect. The assumption is a declaration that he will not trust the fidelity of General Pierce's principles in respect to the Constitution. The assumption, sir, is one which I, as a Democrat, am not willing to entertain, much less to sanction. I have faith that General Pierce would give such an exposition to, and such an execution of the act, as would be consistent with the Constitution of the United States.

Mr. President, I know that the remarks which have been made on this occasion are not intended for the Senate as much as for the country. I am sorry at this stage of the session to be compelled to reply to them; but I do not intend to allow them to go to the country to put others in a false position, without showing that they are not only unwarranted by the terms of the bill, but in direct defiance of its provisions.

The Senator has assumed that this is to be a more odious corporation than the Bank of the United States. Why so? Because, he says, it has power to draw drafts and bills of exchange, and make them negotiable from every part of the Pacific ocean to the Atlantic States. In what section of the bill does he find that power conferred? Will the Senator inform me? I have read the bill, and find no such provision in it. If there is one,

I would be glad to be informed where it is. I know of no right, in this bill conferred, to exercise banking privileges, no right to emit bills that are negotiable as a circulating medium, no right to do any one act except that which shall be necessary to carry into effect the provisions of the law of Congress.

I do not intend to go into a defense of the provisions of the bill in its details. I remarked at the opening of the debate upon the question, that the bill was not in all respects in accordance with my wishes. I remarked, also, that I might desire to offer some amendments to it. It has been my intention, if others do not avoid my objections, to offer those amendments; and, sir, the Senator from Connecticut cannot be unaware that they must, by necessary implication, exclude the construction of the railroad by this Government within the limits of States. I say he must, because he has heard me, upon this very floor, making the very point that Congress has no power to make internal improvements within the limits of a State. He has not forgotten, for I remember well what he said, when I was compelled last session to object to the project of my friend from Michigan [Mr. CASS] to make a canal within the State of Michigan as violative of that doctrine. Therefore my opinions are well known, and I deny his right to put a construction upon this bill, against its terms, which would put its advocates in a false position in reference to their own expressed and avowed opinions.

I am aware that there is a clause in the bill which contemplates the possibility of the road running into a State at some point. For instance, if General Pierce should make the terminus in the Mississippi valley, down near the Red river, and then should select a pass in the mountains in New Mexico, it might be necessary for the road to run across a barren waste in a corner of Texas—not such a barren waste as my friend from Georgia [Mr. DAWSON] talks about, but a small one, in one corner of Texas. If it becomes necessary, in the location of that line, to run across that corner of Texas, the provision is that the road may be thus located, provided that the State of Texas should consent. In other words, it provides with reference to that, precisely what the charter of the New York and Erie railroad did with reference to that road. They found that they could not get along with the road well without running for a few miles within the State of Pennsylvania; and hence the New York Legislature provided that the road might go into Pennsylvania in the event that the Legislature of Pennsylvania should consent to it. Did that provision in New York legislation imply the right, or assert the power to create railroads in Pennsylvania? Certainly not; it only provided that in the event that Pennsylvania should deem it necessary that the road should be continued, they might pass it through the State of Pennsylvania, so far as the Legislature of Pennsylvania deemed it proper and wise. It is also true that if the President of the United States should choose to locate the western terminus of the road at the Bay of San Francisco, in California, then the road must run into California. If, on the contrary, he should choose to select the mouth of the Columbia river or Puget's Sound, as the western terminus, the road will never touch California. The bill has provided that in the event General Pierce shall compel the road to run into California, it still shall not be done unless California consents to it. If, on the contrary, General Pierce shall select a point in Oregon, and not in California, for the western terminus, and a point on the western border of Missouri or Iowa, and not on the Mississippi river, for the eastern terminus, the road will never touch a State in the Union, and no one of the terrible consequences predicted and set forth by the Senator from Connecticut will exist.

Now, with this view as to the provisions of the bill, and with the purpose avowed in the Senate here of modifying it, that there should not be any possibility of entering a State of the Union, but be confined to the Territories, I took the liberty, in a kind suggestion, as I supposed, to intimate to the Senator that he had perhaps better wait and see whether these verbal amendments would obviate all his objections. If he had waited until the amendments were made, I presume that there would not have been one line or one word in the whole bill upon which any of his terrible denunciations about the abandonment of Democratic principles, and the violation of the Constitution, would have been predicated.

My amendment would have spoiled his speech; and because it would have inflicted so great injury upon him and his constituents and the country, I do not blame him for not having taken my advice; but I am unwilling that the publication of that speech, attributing to those who have thus far supported the bill the monstrous outrages set forth in the speech, shall go to the country without showing that the speech itself was contradicted by the bill against which it was made.

Mr. TOUCEY. Mr. President, I am very sorry that the distinguised Senator from Illinois should suppose that I have placed him in a false position with regard to this bill. There is no person in the country whom I should be less willing to place in a false position than that distinguished Senator himself. And when he avowed a readiness and a determination to go for expunging from the bill the very grounds to which I took objection, I thought he was not in a position to fall within the range of my remarks. But, sir, when the bill itself, upon its face, provides for this road passing through the limits of a State, and when the committee that reported it insist upon this provision, am I to take it for granted that that is not the meaning and object of the bill? I know it to be the meaning and object of the committee who presented this bill to this body. Why, sir, in the very first section, there is a provision "that 'before the said road shall be located or constructed 'through any State, the consent of the Legislature 'thereof to the provisions contained in this act 'shall be first had and obtained."

Does not the bill there contemplate and provide for the passage of this road through a State? Again, in the third section, we have this language:

"That for the purpose of aiding in the construction of the said railroad and line of telegraph, there shall be, and are hereby, appropriated and set apart alternate sections of the public lands, designated by odd numbers, for six miles on each side of the said road, where the same shall be constructed through any State or States."

Does the honorable Senator from Illinois mean to say that that provision is not in this bill, and does not contemplate that if the bill passes, the road is to pass through States, with the assent of the States?

Well, again in the thirteenth section we find this provision:

"*Provided, however*, That the provisions of this act shall have no force nor effect whatever within the limits of any State, without the consent of the Legislature of said State previously had and obtained."

Does not that proviso contemplate the same thing? And does not every Senator know that the plans for this road which have been presented to us, carry the road through the State of California, and through States to the Mississippi river to Memphis, on that river? Again, the Senator says there is nothing in the bill that carries the road to the Mississippi river. Why, sir, the first section of the bill provides—

"That it shall be the duty of the President of the United States to cause to be constructed, so soon as it may be practicable after the passage of this act, a railroad and telegraph line connecting the valley of the Mississippi with the Pacific ocean at such points as he may designate, and upon the terms and conditions hereinafter prescribed."

Now, how do you connect it with the valley of the Mississippi river, unless you get into that valley, and connect it with the Mississippi river itself, which forms the great connecting link with that valley? But the principle is the same, whether it goes through one State or another. So that, as I said, if the Senator from Illinois and those acting with him will consent to expunge that provision from the bill, the objection will be obviated.

Again: the Senator asks where there is a provision in this bill by which this railroad company can give a promissory note, or draw an order, or bill of exchange? Sir, any corporate body has that power, any corporate body can draw a promissory note for a debt due, or for work done, or for money that may have been advanced to the corporation. Any corporation can draw an order or bill of exchange, and the only protection against its becoming a currency is the power of Congress to prohibit its being issued as currency. That power, within the limit of a State, I am not prepared to admit.

I am very sorry, sir, that the honorable Senator from Illinois should have intimated that I had addressed my remarks to the Senate for the purpose of the public at home merely. It is not my habit to do so. I have never, since I have been a member of this body, done what the honorable Senator himself has very often and very properly done—published a speech. I have not had it in my mind to do what is often done here—and by no one more frequently than the honorable Senator himself—prepared one's own remarks and speeches, delivered in this body, to go to the country. I have thought of doing no such thing. Had I thought of such a thing I should certainly have been justified by high precedent. But I think I am entitled to take it as a little unkind that any such intimation should come from that quarter.

Mr. DOUGLAS. The Senator's remarks seem to be made in a kind spirit, and I withdraw the remark to which he alludes, with great cheerfulness.

Mr. TOUCEY. I say what I have said, Mr. President, having no other feeling than that of kindness towards every member of this body. But my object in addressing the Senate on this occasion, was to show that in the bill as it stands, and as I suppose the committee design to have it remain, I see a manifest violation of the Constitution of the United States. And I had reason to hope that the honorable Senator from Illinois himself concurred in the view that I have taken, and would coöperate with me in endeavoring to transform the bill.

Mr. UNDERWOOD. Mr. President——

Mr. RUSK. Will the Senator just allow me ten minutes? I do not wish to make a speech—I simply wish to read something.

Mr. UNDERWOOD. I have just yielded to the Senator from Connecticut, and he has taken double that time.

Mr. President, I thought I would sit here and give a silent vote on this bill. I have listened to speech after speech, and I have heard many things which my judgment condemns, and which I think are susceptible of a positive, direct, and satisfactory refutation before the country; but I am not going into a protracted reply to them. Yet there are some things which are of such a character that, since gentlemen have announced a wish to have the remarks they have made go before their constituents, I desire to answer them, so that my remarks may likewise go before my constituents and the country. Before I advert to those things to which I wish to call public attention, I will say a word in regard to the constitutional objection. I believe I can present the argument in such a point of view that no one can resist the conclusion that the bill is constitutional. The honorable Senator from Illinois has already shown, by calling the attention of the Senate to the different parts of the bill, that the corporation provided for is a corporation for the Territories, and not for the States; that the bill does not necessarily purport that the corporation provided for, should act and discharge its functions within the limits of a State in virtue of the power conferred by Congress, irrespective of the will of the State. On the contrary, the bill expressly declares that the corporation shall not act within a State without first obtaining the consent of the State.

Now, although I am of opinion that Congress has the power and right under the Constitution, to construct a railroad to the Pacific, either with or without the consent of the States, and by such agencies as Congress may deem necessary and proper; yet those who do not concede a power so extensive in Congress, will find no violation of the Constitution in this bill, if they admit, as I presume every one does, that Congress may, in virtue of its paramount legislative authority over the Territories, incorporate a company to build a road within the Territories. To make this matter perfectly plain, it becomes important to inquire and examine, for a moment, the fundamental laws with regard to corporations. A corporation is an artificial being, created by law, and therefore, its first and ruling principle is, that it has no power to go beyond that which is communicated by its charter. Hence it is laid down in every treatise on the subject, that corporations have no power to do anything unless the provisions of their charter authorize them to do it. Now, if you have a right to incorporate a company to do anything in the Territories, may you not—according to the principle which limits the corporation to the exercise of functions expressly conferred upon it—may you not say to that corporation, you may perform

functions extra territorial, provided you can get the assent of those who govern outside the Territory for which we legislate?

To illustrate: this Government has a right to create corporations within the District of Columbia; it has unlimited legislative power here. Its power is as broad within the District of Columbia as the power of any State within its own borders. We have here, sovereignty as perfect and entire as that of any State over the territory which belongs to it. Suppose a corporation is chartered to build a railroad from the city of Washington to Georgetown, and thence on beyond Georgetown, in the direction towards Harper's Ferry, to the line of the District of Columbia. Suppose you give that power, and then add, if Maryland will give consent, the corporation may extend the road to Harper's Ferry. Let it be conceded, if you please, that you have no power to force Maryland to give the right of way. You have undoubted authority to incorporate a company to build a road within this District. The only remaining question then is, Can you confer a function or power upon a corporation which you create and charge with the performance of a particular thing within your own territory, to do a similar thing outside your territory, if others, having the right to control, will permit it? No lawyer, I care not what his legal attainments may be, I care not how astute he may be, will venture to rise here and say that if such a corporation as I have supposed is organized in the District of Columbia, under a charter from Congress to build a road to the District line, that it would be unconstitutional to confer the power on such corporation to build it to Harper's Ferry, if the consent of Maryland is obtained. If you did not confer the power, the corporation would have no right to build the road in Maryland, and all its acts in extending the road beyond the District line would be illegal and void, because of the general principle I have stated, limiting corporations to the exercise of the authority expressly conferred by their charters. It therefore becomes necessary that you should give this power in the charter if you intend that the corporation may exercise functions outside of the territorial limits in which the corporation is created.

Now, sir, this bill creates a corporation to build and construct a railroad to the Pacific, but declares that it shall have no authority and shall exercise no power whatever within any State, unless the State consents. It is, therefore, nothing more than a corporation created for our Territories, over which and for which we may legislate, with an additional function conferred to extend the road through the States, if they consent and permit. Artificial bodies or corporations are known to the codes of all the civilized world. When created for any business, they may follow it and pursue it everywhere, provided the authority of the charter is broad enough to allow it, and they are not restricted in their action by those who possess the power to prescribe restrictions. Kentucky has chartered a railroad company from Louisville to Nashville, and Tennessee has given her consent that the Kentucky company might extend the road to Nashville. But without such consent on the part of Tennessee, the Kentucky company could not enter the territory of Tennessee. Neither could the Kentucky company build the road in Tennessee, unless the charter granted by Kentucky gave authority to do the work in Tennessee. Thus, States for their chartered companies may confer power to extend their operations into other States with their consent; and so may Congress do the same thing in chartering a company for this District or any of its Territories.

Take another illustration. Suppose you create a corporation in the District of Columbia for mercantile purposes; you can confer upon that corporation, thus created, power to trade in India, and around the world; you can vest it with functions that shall be respected by every civilized Government on earth. I felt it to be my duty to state this general position of law, and call the attention of the Senate to it. Every one will see the direct application to the provisions of this bill. Here we create a corporation. It is to act within the Territories of the United States. Then a provision is put in the bill, that if the States will give their consent, the corporation may act within their borders. It is not the United States forcing a road through the States, but it is the United States giving power to a corporation created to act within our Territories, which gentlemen concede we have a right to create, by conferring upon the corporation the function to act without the limits of the Territories; just as a mercantile corporation may exercise its functions in all countries with their assent.

Now, does it become us—does it become the United States to be over squeamish on the subject of these corporations, when we regard what has transpired heretofore? I hold in my hand the Hise treaty, spoken of by the Senator from Illinois [Mr. DOUGLAS] the other day—a treaty made by a Democrat, indorsed by a Democrat—indeed, sir, it is a genuine Democratic treaty.

Now, sir, let me read to you what this treaty contains with regard to the creation of corporations:

"ART. 3. It is agreed that if the Government of the United States shall decide not to undertake and construct said works—"

The preceding provisions of the treaty allowed the Government of the United States to construct the interoceanic communication through Lake Nicaragua by its own means and by its own authority alone. But the third article of the treaty provides that if our Government did not choose to do it—

"—then either the President or the Congress thereof shall have the power and authority to frame, enact, and issue a charter or act of incorporation, containing such liberal provisions, and such grants of rights and privileges (not inconsistent with the rights of the contracting parties herein secured) as may be necessary, convenient, and proper to effect the great objects in view, which charter and act of incorporation shall provide as follows."

Then it goes on with article after article, showing the fundamental principles that enter into an act of incorporation. So far as this act of a Democrat and a foreign Minister can give us a precedent by which we are to be governed, we find that in Democratic days corporations were provided for in foreign territories under the treaty-making power of the country, by which individuals or bodies of men combined were to execute one of the greatest projects of the age and about which so much has been recently said in this Senate.

It may be said that the treaty made by Mr. Hise would not have been ratified by the Senate, even if it had not been rejected by Nicaragua, and therefore, as a precedent in favor of corporations, it is of little worth. I produce it, so that Democrats may give it such weight as they please. For myself, I ask no aid from it if my opinions cannot be sustained by reason. Where corporations are the best means to execute the powers of this Government, I have never doubted the constitutionality of their creation.

Suppose you reject the provisions of Mr. Hise's treaty as an authority. What else do we find in the history of the past? If you cannot create a corporation, you have undertaken to protect them in foreign countries, when created by others. You did that in the treaty with New Granada, to which I directed attention the other day. You did the same thing by the Clayton-Bulwer treaty. I want the people of the United States to consider these *democratic* ideas advanced here. Government, according to the Democratic creed, has no power to establish a corporation by which we may execute a great national object, and fulfill our constitutional powers and duties. But if other nations will form one by which we can derive benefit, we can go into treaty guarantees to defend that corporation, on foreign ground, in the execution of its work. The interest which we have in, and the benefits which we derive from the action of foreign corporations, may be such that we can pledge the whole force of the country, the Army and the Navy, to defend these corporations and protect them against all dangers; but we cannot find the power to do for ourselves, at home and upon our own territory, the same things which we can go to war to protect foreign corporations in doing for us abroad! Such is the practical democratic construction of the Constitution! Why, sir, my Democratic friend, the chairman of the Committee on Foreign Relations, gave us almost a war speech, a few days ago, against Mexico, in order to compel her to ratify a grant or charter in behalf of an American company desiring to build a railroad across the Isthmus of Tehuantepec. Sir, such inconsistency cannot stand. I ask the people if we can pledge the whole force of the country and go to war in order to protect a foreign corporation in which we may have an incidental advantage, in order to secure a right of way and a free passage across the Isthmus of Darien, may we not make a corporation and build a road for ourselves in our own country? If, under the Constitution, we may rightfully go to war and fight, to protect the railroad from Chagres to Panama, or a ship-canal from Lake Nicaragua to the Pacific ocean, so that we may travel these routes in going to California and Oregon, why may we not, under the same Constitution, shorten our line of travel thousands of miles by building a railroad all the way within our own country? If you can do the one, by virtue of the post office, commercial and military powers of the Constitution, why will not these powers enable you to do the other also? I cannot perceive a reason for the difference, and if I had the power of the people, I would cast overboard all politicians who pretend that there is a difference.

Mr. President, I want the country to understand another thing which I see here whenever gentlemen from the sea-board get up to offer an argument or make a speech on subjects of this kind. Sir, in 1789, when our Constitution went into operation, we had a little settlement—it deserves no other name than that when compared with things as they exist at this time—a little strip of settlements along the salt water, and the Constitution at that time seems to have been puffed up by a sort of salt-water impregnation. It has certainly brought forth a spawn of all kind of improvements for the sea-board and little or nothing for the interior. One of the salt-water constructions of the Constitution is, that the interior States of the Union—although the Constitution expressly gives to Congress the right to regulate commerce between the several States, and of course through the several States—are to be entirely dependent upon the sea-board States for a channel of commercial communication through their borders. They assume the sole right of making railroads, and of taxing travel and transportation, just as they please and as much as they please. They can neglect to keep common highways in repair, in order to force the citizens of other States to use and pay tolls upon artificial works. They may refuse to grant facilities in constructing direct lines of railroad or canal between important commercial points in order to force the citizens of other States to travel circuitous routes to promote local interests and the sectional schemes of particular States. This has already been done by Pennsylvania, if I am correctly informed, in refusing the Baltimore and Ohio railroad a direct route across her territory to Wheeling. Sir, if the doctrine be conceded, that this Government can, under no circumstances, make a road or canal in or through a State, then may the sea-board States prescribe what terms they please to the people of the interior States as to the manner in which they shall reach the ocean, that common highway of all nations. They may block up all dirt roads and turnpikes, and compel all travelers and merchants to seek transportation for themselves and property on such railroads or canals and under such tolls as shall be prescribed by a local and sectional policy. Sir, I protest against any such doctrine. It is no answer to tell me that the States will never do these things. That is not the question. If they should do so, have I any remedy? If they cut me off from the ocean, have I a right to appeal to Congress to give me a right of way and a commercial road, so that I may enjoy the privilege of getting to the ocean? That is the question.

Mr. BUTLER. I wish to understand distinctly what the proposition of the Senator is, because I may make some remarks. Do I understand the Senator from Kentucky to lay down the broad principle, that if Kentucky, or if a corporation created by Congress, should design having a road, by way of regulating commerce, that it could be done as against the consent of the State of Tennessee, Georgia, or South Carolina, through those States?

Mr. UNDERWOOD. I shall lay down this proposition: that if Tennessee shall undertake to say that the people of Kentucky shall not, with their wagons and produce, pass through her territory to get to Georgia, Alabama, or Mississippi, then the people of Kentucky have a right to appeal to Congress to open a way for them, and to guarantee a safe passage through it, so that they may freely trade with the people of the South.

Mr. BUTLER. That is not the proposition. But have you a right to go through by a road to be created by Congress?

Mr. UNDERWOOD. If the object cannot be accomplished in any other way, I have.

Mr. BUTLER. I wanted to make the proposition pretty broad.

Mr. UNDERWOOD. Just as broad as you choose to have it. I maintain, if the State of Tennessee should declare to the people whom I represent, "You shall not go to Georgia, to Alabama, or even to South Carolina, through my territory; you may go around by the way of Virginia and North Carolina, if you please, or you may cross the Father of Waters and go around by Arkansas and Mississippi, but you shall not pass through Tennessee," and undertake to enforce the declaration, that I have a remedy for the evil in the legislation of the Congress of the United States, and in the judiciary of the United States, to abrogate and annul all State laws which obstruct free intercommunication and commerce between the several States. Sir, there is no danger that Tennessee will ever deny Kentuckians the right to pass through her borders as freely as her own citizens; but if she should be so unmindful of good-neighborship, and attempt to do it, I believe her legislation, to accomplish such an object, would be void, as an infraction of the Constitution of the United States, upon two grounds: first, it would be directly in conflict with that provision of the Federal Constitution which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States;" second, it would conflict with the rights of intercommunication and commerce among the several States, which can alone be regulated by Congress, and which are clearly guarantied to the people of every State by the Federal Constitution. The power to regulate "commerce among the several States" is part of the same clause which grants to Congress power "to regulate commerce with foreign nations." The powers are identical, and a State can no more interfere with the internal trade and intercourse among the several States than it can interfere with the same thing with foreign nations. We have, from the origin of the Government, improved and preserved harbors for the benefit of foreign commerce. We have passed law after law, under Democratic administrations as well as Whig, to improve the Mississippi and other rivers for the benefit of internal commerce. Now, if we can improve upon nature, and make rivers and harbors for commercial purposes better than they were, will not the same reasons justify us in building a road? Sir, we have the power, and we ought to exercise it whenever any State shall undertake to cripple and regulate the travel and commerce of another State upon local motives and sectional considerations.

Sir, if that power is not already in the Constitution it ought to be there. I think it is there. If it is not there what is the consequence? You allow the sea-board States of the Union to regulate the business of the interior States at their pleasure; you allow a sea-board State to cut off an interior State from access to the ocean, except upon terms which that sea-board State may prescribe. If this Government is nothing but a confederation—though I deny that—but if it is nothing but a confederation, and each State can make its own transit laws, just as it pleases, governing persons and property in passing through its territory, imposing onerous taxes in the shape of railroad tolls, and setting slaves free, as has recently been done, my word for it, such a confederation will not last. Sir, the people of my State will never consent that the State of Louisiana shall block up the mouth of the Mississippi and prevent their access to the ocean, or allow Louisiana to tax their commerce and navigation upon that stream. That is a good illustration. Will the gentleman from South Carolina, [Mr. BUTLER,] when he comes to make his speech, say that Louisiana has a right to block up the mouth of the Mississippi, and prevent Kentuckians from going down to the Gulf and thence across the ocean to any country of the world? The Senator from Virginia, [Mr. MASON,] though I think he carried his doctrine a little too far, contended for a right of way across the Isthmus of Tehuantepec upon legal principles. If we may insist upon a right of way over foreign territory, much more may we insist upon a similar right across a State of this Union. If Tennessee will not give or allow that right to the people of Kentucky, how are we to get it?

Mr. BUTLER. Tennessee will allow you to use her roads as she uses them, but will not build one because you want it built.

Mr. UNDERWOOD. Suppose she will not. I have no right to ask her to build a road for my use. But suppose she makes a law against my using the roads she builds for herself, or imposes such conditions on me that I cannot comply, and consequently cannot use her roads, then what is my remedy? I cannot go to war with her, because the Constitution ties my hands in that respect. What remedy have I? There is none on earth, unless it is found in the powers of the Federal Constitution. Sir, I want the people to think about these things. I said on a former occasion that it seemed to me some gentlemen construe the Constitution of the United States in such a way as to confine us in executing its provisions to the use of those means, and to those alone, which were known to the world at the time of the adoption of the Constitution in 1787. But, sir, having said that some time ago, the lesson has probably been lost, or forgotten; I trust the Senate will not consider me arrogant if, like a teacher, I shall endeavor to impress it by repetition. I say that it seems to me some gentlemen, when they come to construe the Constitution of the United States, construe it as if all the means for executing the powers of Government, except those known in 1787, are illegitimate, and cannot be resorted to. I think that if Wise, the aeronaut, should ever teach us to navigate the atmosphere successfully, we may use balloons, and just as many of them as we please. And I also think when it comes to that, no State, under the ideas of "State-Rights," and "State sovereignty," and the old common-law notion of owning from the center "*usque ad cælum*," could rightfully prevent the passage of the balloons of Congress over her territory. I believe that Congress may make roads over and through the territories of the States, whenever they are "necessary and proper" auxiliaries in executing constitutional powers. I believe that Congress may properly execute the powers of the Constitution by using the most appropriate means furnished by the inventions of the age in which we live, and that it is both "necessary and proper" to avail ourselves of all means to accomplish constitutional ends which science and "*progress*" have made since the Government commenced its operations.

Here, sir, is a fitting occasion to illustrate these positions, and I think it can be done most effectually and truthfully. The Constitution of the United States says the President shall be the Commander-in-Chief of the Army and Navy. The power thus conferred upon the President necessarily implies that in commanding the Army or Navy he shall give orders to the subordinate military and naval officers. The old way of doing that, in 1789, was to send the orders by a courier, mounted on a pony; or it was done by the old system of telegraphing, about which I have read as practiced in Europe. But a genius of our own country, Mr. Morse——

Mr. CASS. Progress.

Mr. UNDERWOOD. Yes, sir. Progress up the ascending grade of which I told you some few weeks since. A genius of our country has invented a method by which the pony-mounted courier, and the old telegraphs erected on the hills, and displaying their tardy signals, have been repudiated, and now we can use means of sending information by the lightning itself, and which even outruns time; for you may start a message from this city at twelve o'clock, and it will reach New Orleans before the sun reaches the meridian of that place. Now, the question is, have we a right to use the telegraph to enable the President to communicate with and to command the Army or the Navy? May the President transmit his orders by its means to the Army or the Navy? If Congress shall erect its own lines of telegraph, and allow the President to appoint sworn officers to transmit his orders, (and that might be necessary to prevent publicity,) what reason can be assigned against doing it, unless it be that such a thing was not known at the origin of the Government in 1789, or even as late as the enlightened age of the Virginia resolutions of '98? I insist that Morse's telegraph may be adopted as legitimate and constitutional means by which the President may transmit his orders. I do not know that this argument has been presented before to the country, and I want the people to see it. Here is a clear power given the Commander-in-Chief to issue orders to the military and naval forces of the country. These orders must be sent by some means. Science has discovered a new mode of communicating intelligence. Can we use it? And if so, can a State prevent our using it, and arrest the erection of the posts and wires in her territory, any more than she could prevent our courier from passing under whip and spur through her borders? Like the gentleman from Michigan, I hold that the powers of Congress do not at all depend upon the consent of the States.

I shall never agree, even by an amendment of the Constitution, to give this Government one additional power, unless I shall be convinced it is of the most harmless and beneficial character. I think it has power enough already. But this bill, in my judgment, presents no question of constitutional power. We, the present Congress, have found power in the Constitution, by adopting the Wheeling bridge as a post road, to save it from abatement as a nuisance, under the decision of the Supreme Court. If we have power to prevent pulling a bridge down, we can build it. If we can protect a bridge, or build a bridge over a river within a State, under our post office powers, we can make a road and preserve it. This body, in the Wheeling bridge case, has settled the constitutionality of this bill. It should therefore be regarded as not an open, but an adjudged and decided question. But if it must be argued over and over again, then I say, that speed and facility of concentrating supplies and soldiers is military strength and power. The capacity of concentrating forces instantaneously, is everything in military operations. To defend our possessions on the Pacific, the railroad would be invaluable. You have an army or navy which you desire to remove from one post or station to another; for instance, you may know that danger is threatening San Francisco, and you want to bring troops from Oregon and concentrate them there; or you want to take them from San Francisco to the mouth of the Columbia; or you know that a navy of your enemy is sailing around Cape Horn to attack your ships on the coasts of the Pacific, and you wish to order your weaker fleet to escape by passing around the Cape of Good Hope and come home, let us have a national telegraph, and orders can be given with the rapidity of thought; troops can be marched and countermarched, and concentrated as circumstances require, your country defended, your ships and your armies saved. But start your courier—give him relays of the fleetest race-horses, keep him mounted on the back of Henry or Eclipse, Boston or Fashion, and let him distance the wild Camanche on the open plains, and beat the antelope in the mountains; and yet, sir, before he can deliver an order or a warning, your Pacific possessions may be invaded, your army captured in detail, your ships sunk, and your commerce ruined.

Why, sir, destruction of life by thousands, and loss of property by millions in value, may be saved, and the Union preserved from dismemberment, by the proposed railroad and telegraph; and yet we are told gravely, at this day, that there is no constitutional power to construct them. In other words, we are gravely told that the organic functions of the Government are so imbecile that it lacks the capacity of self-preservation. If this be true, its rickety existence will soon perish, and but few mourners will weep at the grave. Let the people look into these things, and hold to accountability, as I shall do when I retire from this body, all those who virtually deny to this Government the necessary powers of self-defense. Instead of having our own railroads and telegraphs, constituting a system of national defense infinitely superior to all the fortifications we have ever built, or can build, we are to depend upon the States for these things; thus reversing and destroying the whole framework of policy which erected an efficient and beautiful structure out of the wreck and disorder of an obsolete confederation. If the States will not or cannot build railroads and telegraphs where they are wanted for national purposes, then we are to go without them. Sir, we might just as well call upon the States to build for us our steamships, manufacture our cannon, or furnish any other means of national defense.

I recollect that upon one occasion last summer, the gentleman from Michigan [Mr. CASS] and my-

self were passing up the Hudson river, and every few miles on the way I saw a light-house. I think I saw light-houses all the way up to Albany, occasionally.

Mr. SEWARD. It is a hundred and fifty miles from New York to Albany.

Mr. UNDERWOOD. The Senator from New York says the distance is one hundred and fifty miles; will he tell me how many light-houses there are in that distance?

Mr. SEWARD. There are five. [Laughter.]

Mr. UNDERWOOD. I saw a great many more, according to my recollection. I paid some attention, and thought about it at the time, I know.

Mr. SEWARD. They are double reflectors. [Laughter.]

Mr. UNDERWOOD. The gentleman says they are *double reflectors*, and if so, I should suppose a fewer number might answer the purpose of inducing us to *reflect twice* upon what I am about to state. I saw some other things as I passed up the river. I saw buoys to point out the channel. I saw these internal improvements made by Congress, with national funds, in the State, without the consent of the State, and without ever having asked its consent. That is the idea which I wish to bring to your mind. When and how did the idea originate, that Congress might erect light-houses and plant buoys without the consent of a State? It originated with the birth of the General Government, and it has been put in practice from that day to this. The idea sprung from the Constitution, correctly interpreted by its makers and the founders of the Government. The idea suited and promoted *salt-water* regions and *salt water* interests. Then we had no interior. The State which I now represent had nothing in it at that time but a few stockade forts and settlements of white men, and multitudes of yelling savages and wild beasts. Kentucky was the first of the great interior western States settled by white men. At that early period, a construction of the Constitution obtained in respect to internal improvements upon tide-water, which sanctioned the application of national funds to the erection of light-houses and planting buoys in aid of commerce. For these and similar objects on the seaboard, millions after millions have been appropriated from the beginning down to the present time. Millions have been spent for sea-walls and breakwaters, and to make or improve harbors. At length the fertile and great interior had opened her dense forests, and her agriculture sought means to reach foreign markets with her rich products. The great interior then wanted internal improvements of the same kind to benefit her commerce. But when she applied to the General Government for them, she was met by a new generation of politicians—not statesmen—with the objection: "There is no constitutional power to gratify your wishes." To protect and aid commerce, is the foundation on which the doctrine and practice originally stood. Now, I appeal to the common sense of mankind and ask, if our ancestors had constitutional power sixty years ago to aid commerce, by building light-houses and planting buoys along the seaboard, may not their posterity aid commerce by building a railroad from the sea-board into the interior, without violating the Constitution? Is it unconstitutional for Congress to improve the great rivers of the West?

Mr. SEWARD. You have fresh water there?

Mr. UNDERWOOD. Yes, sir, it is fresh, and not sluggish and putrid. And when I navigate the great streams of the West, I contrast what is done for the people of the West upon those streams, with the light-houses and buoys, harbors and breakwaters, which you people of the East induce Congress to build out of the public Treasury, for the benefit of your trade and navigation. The contrast rather indicates that you care not if our steamboats do go to the bottom, provided your ships float. We may sink, provided you swim, and there is no cause for complaint. Sir, I sometimes fear that there is not that deep sympathy for the interests of all parts of the country which ought to prevail in every section, and which genuine patriotism would cordially yield. Sir, "there is a good time coming."

Mr. HALE. On the fourth of March next. [Laughter.]

Mr. UNDERWOOD. When the robes of office will fall from your shoulders and mine, and we shall retire to the tranquil enjoyments of private life. But I did not mean that; it will be some two or three censuses hence, before that "good time" will come which I anticipate. Perhaps I shall not see it; but I have some little fellows at home who will. I shall endeavor to give them some useful lessons, and prepare them for proper action when it arrives. "There is a good time coming," when the interior States will teach the sea-board that we have something more than a salt-water Constitution.

Mr. HALE. You will be in the Atlantic States then.

Mr. UNDERWOOD. Place us where you please. We will then have the power to get equal rights, and I trust we shall have the courage to demand them upon the principles of strict justice and lofty patriotism.

Now, sir, what do we ask in this bill? I have demonstrated, I think, that there is nothing unconstitutional in it. We have the right to make the road and telegraph, without the consent of the States, but we show them the utmost deference, and treat them with the greatest courtesy. We say to them, if you object, we will not interfere with your territory. Is there anything improper in that? It is the very essence of courtesy; such as should characterize the intercourse of gentlemen, and which cannot be improper when applied to political intercourse between States. A gentleman's tract of land is so situated that I wish a road through it; and I may even have a right to enforce my claim to a road. It is much better that I should come and say to him respectfully, I request that you will allow me the privilege of a road through your land. Such an appeal wakes up all his kind feelings. He sees at once that I respect him, and that I am unwilling to do anything which may wound him. He knows that I think I have a right to demand a way over his land, but he sees, out of respect to him, I prefer accepting as a favor what I might enforce by law as a right. Under such circumstances, he loves me as a neighbor, and cheerfully acquiesces in my wish and plan. We both act upon the golden rule of doing as we would be done by; peace and satisfaction are the result.

Now, sir, we carry out these principles by this bill. We say to a company, you may build the road, provided you obtain the assent of the States. Will the States refuse their assent? No, sir; on the contrary, they will freely give it, because the power we propose to exercise, and the work we propose to accomplish, will produce nothing but good, and that continually. Everybody wants the road, and is anxious to get it. Why, then, make objection? It is urged, that we are about to build up a corporation that will be so wealthy and powerful that it will not only rule us, but almost govern the world. Are we so weak and corrupt that we cannot resist the temptations which wealth and power may offer? This argument, addressed to our fears, based upon human corruptibility and destitution of intelligence, would close all the avenues to wealth and improvement, whether through corporations or otherwise, because of the possibility of future abuses and corruptions.

Mr. HALE. That is a very sensible idea.

Mr. UNDERWOOD. The gentleman says that is a very sensible idea. Perhaps I have no right to gainsay the doctrine of the total depravity of human nature. I do not want to enter into anything like a theological controversy on the subject; but if it be true that the world cannot be governed by principles of virtue and intelligence, owing to man's corruptibility, the sooner it is known the better. Unless virtue and intelligence prevail among the people and their legislators, this Government will be destroyed. Its destruction cannot be hastened by a corporation such as is proposed in this bill. If the Government is to go down, it is of little consequence when it sinks. In that event we must endeavor upon its ruins to make a wiser and better system. But I have no faith in these prophecies; I have no confidence at all that those who make them are inspired by that spirit which comes from above. I have heard of some corporations besides those chartered for road building. I have heard of the South Sea bubble in England, and the Mississippi scheme in France; these tumbled to pieces, and I do not know but that England and France were as wisely and as well governed afterwards as before. I admit that the East India Company seems to hold its own pretty well, and exercises great influence in human affairs. But when you recur to the history of the past, with regard to companies invested with great power, they have not been able to govern the world. The war against the Bank of the United States proved successful, and there is encouragement for the Democrats to hope that a war against the corporation created by this bill will also be successful, in case it should abuse its privileges and powers. The bill contains a provision which allows the Government, whenever the company becomes dangerous, to take the work off their hands. What danger can there be, then, when the bill contains a porvision of that sort? None whatever.

Mr. President, I have thought these remarks would not be misplaced; and not wishing to detain the Senate, and desiring that a vote may be taken, I intend to take my seat after saying that I hope the friends of the bill will offer no more amendments. If we strike out the provision with regard to a corporation, the bill will not be worth a picayune. I hope that provision will be retained.

Mr. HOUSTON. Mr. President, the resolutions submitted by the Senator from Michigan on the subject of European colonization on the American continent, and respecting Cuba, were made the special order for this day, and upon them I am entitled to the floor. I desire to make a few remarks upon the questions which those resolutions present, but I am laboring under a hoarseness which makes it inconvenient for me to address the Senate to-day. I will therefore not claim the floor before Monday.

Mr. HUNTER. Mr. President, I have been so much engaged in other matters, that I have not been able to bestow as much attention on this bill as it deserves. I have not done it, because I have been engrossed by subjects which belong to the committee of which I am a member. I did not suppose, until yesterday, that the friends of the bill expected to push this measure to a vote. I imagined that they would have been willing to present their scheme, and to give their views to the country, and to await public sentiment until the next session of Congress. I perceived, however, yesterday, that they were determined to have a vote on the question; and as I regard it as a most important measure—as one of the most momentous questions of domestic policy which could be presented—I took up the bill last night for the first time, and gave it an attentive and serious examination. And, sir, I must say, with all respect to the distinguished committee which reported it, that it seemed to me to be one of the most extraordinary bills which I have ever known to emanate from a committee of this body.

First in the order of analysis, let me examine the power which it proposes to vest in the President. It provides, with regard to this railroad—which the friends of the bill affirm is to determine the commerce of the world, and upon which they say there is such a difference of sectional interest as must occasion bitter disputes—that the President shall exercise a power which more legitimately belongs to Congress, the determining of the route of the road and its respective termini. Not only does it provide that, but it is so indefinite as not even to define distinctly the geographical regions which are to limit and determine his discretion in making out its boundaries somewhere between the valley of the Mississippi and the Pacific ocean. What is meant by the valley of the Mississippi? May the President go as far eastward for the terminus as waters can be found which flow into the Mississippi, or is he to be limited by the river itself. The President is allowed to use all the troops and officers he may think necessary to execute the survey, and whilst the work is under process of construction, he may send forth such a military expedition as he may think necessary or proper to guard it. There is no limit whatever imposed upon the military expeditions he may organize, or upon the number of troops which he may send out. Yes, sir, there is one limit—as if by way of showing that the committee thought Congress had a power to impose some limit—the bill declares that he shall not appoint more than ten civil engineers; and thus, while it bestows upon him unlimited discretion in everything else, it guards an immaterial point in relation to the civil engineers.

The bill provides that the President of the United States, as was said by the Senator from Indiana, [Mr. BRIGHT,] shall be in fact the president of

this road. It is he who lets out the contracts; he who determines the route; he who determines the gauge; he who determines when the contractors shall be entitled to the compensation allowed by law; in short, he is to have not only the power which Congress ought to exercise, but the power of the President of the United States and the president of a railroad company besides. There was much in the view presented yesterday by my colleague [Mr. MASON] of the danger to be apprehended, if the legislative branch of this Government should thus abdicate its powers, and throw them into the hands of the Executive. Why, sir, whenever we have a difficulty or sectional differences here, in relation to any matter, Congress, finding it cannot settle it, has to refer it to the hands of the Executive. Thus we are fast accumulating into his hands all powers, as well legislative as executive. This is not the first instance; it is not the first important instance in which Congress has done this.

Now, I ask what party is it that is prepared to abdicate the legislative power and to transfer it to the Executive? Is it the Whig party, which was organized upon the one idea of resisting Executive patronage? Is it the Democratic party? Why, sir, it is a fundamental maxim in its creed to preserve all the power that it can, compatible with the purposes of good government, in the hands of the States and of the people; and by way of providing a conservative check against the abuse of the power which they thus part with so zealously for the ends of good government, they have ever been scrupulous in insisting upon its proper distribution between the executive, judicial, and legislative departments. That, sir, appears as a prominent feature in most of the bills of rights of the States of this Confederacy; and it is an important and necessary feature in all the organizations of representative governments. Sir, centralized France might hesitate to bestow such powers as these even upon its Emperor. Even there we might expect to see some sort of check, either of individual interest or in the shape of legislative enactments, in order to secure that the roads should take the direction which the true interests of the country might require.

Can anything be more important to be determined by the legislative branch of our Government than such a measure as this? If we are to assume to this Government a jurisdiction over the railroad commerce of the Union, is it not eminently proper that this jurisdiction should be exercised not by its executive but by its legislative department? In what direction are these streams to pour their riches? Whose lap shall these golden showers fructify? If these great results are not to be left to the natural laws of trade and the free competition of the States, but to be determined here, surely the legislative branch, composed of the immediate representatives of the people and the States, should have a voice in the matter. I know that something like a precedent has been found for this course in the law of 1806, establishing the Cumberland road. But the analogy is more apparent than real; and even if it were perfect, it would only show, as remarked by General Jackson, in reference to that very precedent, how dangerous it is to depart in the beginning from the safe ground of the Constitution. That act itself established one of the termini of the road, leaving it to commissioners to be appointed by the President to report as to the other, and in regard to the route which it should pursue; the report to be subject to the approval, in whole or in part, by the President. In point of force, then, the precedent is not analogous to this case; and in substance how different are the two measures!

The Cumberland road was established not for commercial, but military purposes. Congress assumed no jurisdiction over the soil or the commerce upon the road. It created no corporation within the States, and acquired none of their jurisdiction either by compact, treaty, or otherwise. If it had been established even for commercial purposes, it could have been construed into a claim of no other power than that of appropriating money for general purposes, when it could be done without invading the jurisdiction of the States. In truth, however, it was to be vindicated, if it could be justified at all, upon the ground of its being necessary to military purposes.

This bill, Mr. President, proposes to transfer a jurisdiction over the soil and internal commerce of a State from the State to the General Government. There, then, is an important distinction, and when compared with this, the Cumberland road dwindles into insignificance. That was a mere trifling matter as compared with such a scheme as this, which proposes to vest such tremendous power in the hands of one man. Now, let us see what this bill effects as between the General Government and the States. And I will say here, that I choose to consider the bill as it came from the hands of the committee, its responsible fathers. I know not what measures may exist in the imaginations of other gentlemen. I know not what it may be their secret purpose to do, or what the mental reservations with which they make speeches in support of the bill, but I take it as reported, and upon that I propose to comment. I wish now to analyze it in reference to its distribution of power between the States and the Federal Government. First, there is a provision in this bill, contained in the tenth section, regulating the mode in which the transportation shall be carried on, and what lien the company shall have upon the baggage and other matters of that kind, thus transferring that whole subject from the States to the Federal Legislature, and from the States to the Federal judiciary. We thus, at one fell swoop, transfer the regulation of that important subject from the State Government to the General Government, and from the State to the Federal judiciary. But is that all? No, sir. The eleventh section of this bill provides:

"That Congress may, at any time hereafter, authorize individuals, companies, or States, to form a connection between said railroad, and any railroad or railroads under their control, respectively: *Provided*, That the locomotives, engines, cars, and other vehicles on said road or roads shall be so constructed as to conform to the gauge of the said proposed railroad: *And provided also*, That the passengers and merchandise or commodities conveyed on such road or roads shall be subjected to the charges for transportation which shall be established on said proposed railroad, and *such other regulations as may be made by Congress upon this subject.*"

Thus the bill provides that where the States connect with this road—and it is to be supposed that they will connect, east as well as west, and north as well as south—they shall do it upon the condition of putting their roads under the regulation of Congress. What is this but giving Congress the regulation of the whole subject of railroad transportation and commerce? What is it but to accomplish that very idea which the Senator from Kentucky [Mr. UNDERWOOD] advanced as one which was the true principle by which we were to be guided in our legislation? And is the Senate willing—are the American people willing—to submit this whole subject, which has been so well managed by the States, into the hands of the Federal Government?

I know, sir, it may be said that this can only be done by the assent of the State governments; but what immense pecuniary inducements are you holding out to them to assent! You are holding out, if the friends of this bill are right, all the inducements that can be derived from a participation in the benefits of the principal portion of the immense railroad commerce of the Union, to induce the States to surrender their power and their jurisdiction. It is saying to them in effect—if you will surrender your power and your jurisdiction, you may participate in these benefits; but if you do not, you cannot share in them. And the means proposed in this section are precisely those which are well calculated to tempt the States to transfer this vast subject of power and jurisdiction from themselves to this Government. To adopt this provision will be saying to the States—if you do not take it, the other States, which will surrender their power on that condition, will derive those benefits, and you will be shut out; and in order to protect your own citizens, you must come in and surrender your powers. Sir, let me inquire here, by what right—under what clause of the Constitution is it, that the General Government and a State have any power to make such a compact, and thus virtually to change the Constitution of the United States? The Constitution provides the mode in which it is to be changed. It provides the number of the States which shall assent in order to change it. It never did intend that Congress, by a compact with one State, should be enabled to assume the exercise of powers which the Constitution did not give. Besides, the Constitution especially provides that no State shall enter into any treaty, alliance, or confederation, a prohibition which extends to all Governments, Congress included. I know that there is an exception that one State may enter into a compact or agreement with another State, with the assent of Congress, but that is the only exception; and in the dealing between Congress and the States, the Constitution especially provides for the instances where these compacts are permitted between a State and the Federal Government, and how it is to be done. For instance, it provides for the cessions of sites for the needful public buildings. You must procure them with the assent of the States. I repeat it, sir, the Constitution provides for the instances in which the States shall give their assent; and for Congress to attempt to obtain powers by the assent of a State, under any other circumstances, is a violation of the Constitution. In that, I am sustained by Mr. Madison, by General Jackson, and by Mr. Monroe. The last, in his veto of the Cumberland road act, says of this bill:

"It is a complete right of jurisdiction and sovereignty for all the purposes of internal improvement, and not merely the right of applying money under the power vested in Congress to make appropriations, under which power, with the consent of the States through which this road passes, the work was originally commenced and has been so far executed. I am of opinion that Congress do not possess this power—that the States individually cannot grant it; for although they may assent to the appropriation of money within their limits for such purposes, they can grant no power of jurisdiction or sovereignty by special compacts with the United States. This power can be granted only by an amendment of the Constitution, and in the mode prescribed by it."

General Jackson, too, seems to refer to this as the extreme view of the power of Congress on this subject, in his veto of the Maysville road. In that message, he says:

"Independently of the sanction given to appropriations for the Cumberland and other roads and objects, under this power, the administration of Mr. Madison was characterized by an act which furnishes the strongest evidence of his opinion of its extent. A bill was passed through both Houses of Congress, and presented for his approval, 'setting apart and pledging certain funds for construct-'ing roads and canals, and improving the navigation of 'water-courses, in order to facilitate, promote, and give se-'curity to internal commerce among the several States, 'and to render more easy, and less expensive, the means 'and provisions for the common defense.' Regarding the bill as asserting a power in the Federal Government to construct roads and canals within the limits of the States in which they were made, he objected to its passage, on the ground of its unconstitutionality, declaring that the assent of the respective States, in the mode provided by the bill, could not confer the power in question; that the only cases in which the consent and cession of particular States can extend the power of Congress, are those specified and provided for in the Constitution; and superadding to these avowals his opinion, that 'a restriction of the power to 'provide for the common defense and general welfare to 'cases which are to be provided for by the expenditure 'of money, would still leave within the legislative power 'of Congress all the great and most important measures of 'Government, money being the ordinary and necessary 'means of carrying them into execution.' I have not been able to consider these declarations in any other point of view than as a concession that the right of appropriation is not limited by the power to carry into effect the measure for which the money is asked, as was formerly contended."

The views of Mr. Monroe upon this subject were not left to inference. During his administration a bill was passed through both Houses of Congress, conferring the jurisdiction, and prescribing the mode by which the Federal Government should exercise it, in the case of the Cumberland road. He returned it with objections to its passage, and, in assigning them, took occasion to say, that, in the early stages of the Government, he had inclined to the construction that it had no right to expend money except in the performance of acts authorized by the other specific grants of power, according to a strict construction of them, but that, on further reflection and observation, his mind had undergone a change; that his opinion then was, "that Congress have an unlimited 'power to raise money, and that, in its appropria-'tion, they have a discretionary power, restricted 'only by the duty to appropriate it to purposes 'of common defense, and of general, not local—'national, not State benefit;" and this was avowed to be the governing principle through the residue of his administration. The views of the last Administration are of such recent date as to render a particular reference to them unnecessary. It is well known that the appropriating power, to the utmost extent which had been claimed for it in relation to internal improvements, was fully recognized and exercised by it:

"This brief reference to known facts will be sufficient to show the difficulty, if not the impracticability of bringing back the operations of the Government to the construction of the Constitution set up in 1798, assuming that to be its

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true reading, in relation to the power under consideration; thus giving an admonitory proof of the force of implication, and the necessity of guarding the Constitution with sleepless vigilance against the authority of precedents which have not the sanction of its most plainly-defined powers. For, although it is the duty of all to look to that sacred instrument, instead of the statute-book; to repudiate at all times encroachments upon its spirit, which are too apt to be effected by the conjuncture of peculiar and facilitating circumstances; it is not less true, that the public good and the nature of our political institutions require that individual differences should yield to a well-settled acquaintance of the people and confederated authorities, in particular constructions of the Constitution on doubtful points. Not to concede this much to the spirit of our institutions, would impair their stability, and defeat the objects of the Constitution itself."

It will be perceived from this extract that Mr. Madison distinctly denied the right of this Government to derive power by the assent of any State, and he said, as I was just remarking, that all the instances in which this Government may derive power by the assent of the States, are those enumerated in the Constitution itself. It will be seen, too, that General Jackson concurred in that opinion, and that Mr. Madison and Mr. Monroe, when they carried this doctrine of internal improvement to the extreme limits of what they conceived to be proper, went only to this extent: that you might, under the power of appropriating money, appropriate it for an object for the general welfare, if it was one of national and general interest, but that you could not go further; that Congress could not assume jurisdistion over the road, or over the commerce upon it, as that whole matter was left to the States.* Their doctrine was, that Congress, under the appropriating power, might vote money for the purpose of aiding in the construction of a road, the jurisdiction remaining not in them, but in the States which permitted it; and General Jackson said that it may be doubtful whether precedents had not established it so far, but at the same time he expressed his regret, in that memorable passage in which he says that these things show the danger of ever departing from a strict reading of the Constitution.

Such, then, were the opinions of Madison, Monroe, and perhaps of Jackson, upon this subject. Jefferson was known to have entertained stricter views in regard to these questions. I know that the case of the Cumberland road has always been cited as an exception, and it was an exception. It was a road for military purposes. It was a road designed for other things than commerce. And when it was manifest that it was no longer necessary for military purposes, and when Congress attempted to claim just such jurisdiction as this bill proposes to wrest from the States, we find that Mr. Monroe interposed his veto. He arrested the passage of that bill for some of the very reasons which we urge against this. But, Mr. President, the power of the Federal Government over internal improvements was not the subject which I proposed to argue. I have not time now, nor do I mean to go into it. I merely referred to the general doctrines incidentally, because in showing the authorities in regard to the position I had taken as to what could be done by the assent of the States in giving power to the General Government, I found authority upon the general subject also, and I was tempted for a moment to enter into it. But I shall proceed no further in that inquiry, however inviting it may be, nor shall I pause to say how far I myself concur in the views of those eminent statesmen. My purpose is to analyze this bill, and to show what it is that the committee has given us; what it is that gentlemen have been censured as narrow-minded and exclusive for not supporting with all their might, and with all imaginable zeal; what it is for our opposition to which we have been threatened by the Senator from Kentucky with what the West is to do when it grows up into strength and importance. That West will, I hope, grow up into still greater strength and importance than now, and when it has done so, I am not afraid that any fair-minded or true son of the West will reproach me or my friends for having voted against this bill, and endeavored to preserve intact the Constitution for their future use and government. Let us see, then, what it is that the bill proposes to do in regard to the corporation. It proposes in the second section:

"That a right of way not exceeding three hundred feet in width, be, and the same is hereby, granted along the entire length of the proposed railroad and telegraphic line, through the public lands in the United States, to be held and set apart for the uses and purposes of the said road and telegraphic line forever; and that all stone, timber, and other materials of whatsoever character and description on the public lands, in the vicinity of said road and line, be, and the same are hereby, made subject to the uses and purposes of said road and line, as well in the construction thereof as in supplying the same with necessary furniture and machinery."

They are entitled to the timber, to the coal, and to the stone, and to all the materials which may be found on the public lands adjacent to the road, which may be necessary either for the construction or the working of the road *ad infinitum*. There is no limit to their charter, no period to the duration of the company. They may work a coal or an iron mine if they discover one for the purpose of providing materials and means for running the road. What else do they propose? To give the corporation alternate sections for six miles in width on each side of the road so far as it passes through States, and twelve miles wide within the Territories. If there are no such lands adjacent to the road, they may go to the nearest point where the United States have lands, and take them. It proposes to give them that amount of land, and in addition $20,000,000. No exception is made of mineral lands; and the corporation may run through the mineral region of California, and claim whatever rights the United States have to those lands, and hold them. Not only are they to have these, but they are to have the road itself, and they are allowed to issue stock to make that road. Suppose that instead of selling the land they hold it, or at least a large part of it, and issue stock upon the faith of their property: if the forfeiture should be exacted, the Government can only take the railroad from them. It cannot take the lands which have been appreciated in value by the construction of the railroad—the mineral lands which may fall to them might be quite valuable enough to induce them to reserve them.

In such a case, there is no clause of forfeiture in this bill which could reach their lands. Nor is there any limit as to the amount of lands which the corporation may hold, or the time for which they may possess them. They may use the lands for mining purposes, or for any purpose that they choose. I know that there is a provision that after thirty years, the United States may take the road upon certain terms. That is to say, "upon 'the payment to the said company of the cost of 'the construction of the same, allowing ten per 'cent. profit upon their investments, deducting 'from the whole cost of said road the amount of 'the bonds paid to the said company, and the pro-'ceeds of the lands granted to them." Now, if the lands were mostly reserved, and the road made by the issue of stock, nothing would be deducted but the money advanced in the shape of United States stock, and that received from the actual sale of lands. For the United States then to obtain the road, it must give the greater part of the sum invested in the road in the shape of principal, and three times that amount for interest; so that, if the road should cost one hundred or one hundred and fifty millions of their own money, the United States must pay four times that amount to obtain possesssion of it, leaving to the company all the lands which they may hold, and all the profits upon the use of the road for thirty years, which the friends of this measure maintain will be so large. Upon these terms, it is manifest that the United States would never take upon themselves the burden of the purchase of the road. The United States Treasury would not bear such a charge, and the people would never be willing to a measure which heaped such inordinate profits upon the corporators.

Mr. RUSK. If the Senator will read the bill he will see that it is ten per cent., not on the stock, but on the actual investment of these individuals.

Mr. HUNTER. I have read the bill, and I think if the gentleman will read it over again——

Mr. RUSK. I take occasion here to say that I wrote the bill; that I read it over and over again, and I stand upon every line of it.

Mr. HUNTER. Very well, sir; let us see what it is. I come then to that provision, which is as follows:

"And Congress may at all times regulate the tolls to be charged upon passengers and freights, so as, with an economical management of said road, not to reduce the profits of said company below eight per cent. upon the investment, deducting therefrom the advances made by the Government towards the construction of the same."

In order to do that, Congress has to take the initiative; Congress has to make itself acquainted with the receipts and expenditures of the corporation; Congress has to determine what is the amount which, by this clause, it is to allow to the company, and to make out a clear case against it under the contiguous grants of this bill. In the first place, what are "*the advances*" to be deducted, so as to ascertain the residue upon which they are to have a clear profit of eight per cent.? Are they to be reckoned by the amount of money advanced in stock, and that derived from the actual sale of lands? If so, they will not only derive eight per cent. profit upon their own money for the road, but they will enjoy these unsold lands without making a corresponding reduction from their investments. It must be so. If these lands are unsold, how are you to estimate them so as to make the deduction? Will you value them at the time of the passage of the bill, or value them after they shall have been appreciated by the construction of the road? Sir, it is impossible. There is but one sensible construction to be put upon it, and that is to deduct from it the advances in money.

Under this charter the company will have every temptation of interest to hold on to their lands, and they will do it as far as they can. Eight per cent. upon their investment! Now, will you measure this investment by the stock which they issue or the money that they obtain for it? With the means which such a company would have of concealing their operations and mystifying Congress; with the immense influence which it would wield over the country and the Government, it is idle to expect that anything could be done towards reducing their profits if they opposed it. And what sort of reduction would it be? Eight per cent. clear profit, and that forever—this charter being perpetual—is vastly more than was ever granted to a corporation before. What is the United States to have in exchange for these vast privileges and immense grants of money and land? Nothing but the transportation of the mails and of troops, and even in that case the President is allowed to pay the company in time of war for extraordinary transportation, and if he does not, Congress must determine it.

So that, in point of fact, this corporation is one whose parallel is not to be found in the annals of civilized legislation. In the first place it is perpet-

* Mr. Monroe says, in his special message on internal improvements, sent in on May 4th, 1822: "The right of appropriation is nothing more than a right to apply the public money to this or that purpose. It has no incidental power, nor does it draw after it any consequences of that kind. All that Congress could do under it in the case of internal improvements would be to appropriate the money necessary to make them. For every act requiring legislative sanction or support the State authority must be relied on. The condemnation of the land, if the proprietors should refuse to sell it; the establishment of turnpikes and tolls, and the protection of the work when finished, must be done by the State. To these purposes the powers of the General Government are believed to be utterly incompetent." This power he declares in the same message to be limited in its application to works of general interest or a national character. And in the same document he argues at great length to show that Congress have no specific power to construct roads and canals under the following sources: "1. The right to establish post offices and post roads. 2. To declare war. 3. To regulate commerce among the several States. 4. From the power to pay the debts and provide for the common defense and general welfare of the United States. 5. From the power to make all laws necessary and proper for carrying into execution all the powers vested by the Constitution in the Government of the United States, or in any Department or office thereof. 6, and lastly. From the power to dispose of, and make all needful rules and regulations respecting, the territory or other property of the United States."

ual; in the next, there is no limitation as to the real estate which it may hold, the property which it may accumulate, or the kind of business in which it may engage. And whilst it will be more capable of mischief, and better able to concentrate inordinate powers than any other corporation ever known in this country, it wants those limitations which our State governments think it necessary to impose upon the most insignificant corporations of their creation; for there is no efficient restraint upon it on the part of Congress, even in theory. Congress can do nothing towards destroying it, except to purchase it out upon terms which I have shown to be impracticable; and every year which elapses after the thirty makes it more and more impossible to do it, for the price, under this bill, increases at the rate of ten per cent. per annum. The threat of reducing their net profits to eight per cent. per annum upon their investments would have but few terrors for a company like this, with a perpetual charter. I know, Mr. President, that it is considered quite ridiculous in this day of progress to express an apprehension for free government or popular rights; but if we were to set ourselves to work to try experiments upon the vitality of both, I can conceive of no machinery better calculated for such purposes than that created by this bill.

In whatever point I view this bill, I feel that I am authorized to characterize it as an extraordinary—as an enormous measure. It is enormous in the power which it transfers from the Legislature to the Executive. It is enormous in giving to the General Government jurisdiction over the great subject of railroad commerce and transportation within and throughout the States; for the means are here for purchasing the control of this subject from the States, as I have endeavored to show before. The bill is enormous, too, in regard to the powers which it proposes to vest in this corporation, and I believe in that respect it is altogether without precedent, whether you consult the legislation of the States of our Confederacy, or of foreign Governments. It is the most indefinite grant of power, taken in all respects, that I have ever seen.

The President is to determine the route of commerce; the President is to raise what troops and to organize what military expeditions he may choose to guard it. The whole thing is to be done under Executive management, and that, too, upon a question which gentlemen say is to determine not merely the commerce of this country, but of the world; and this is to be done how, and under what circumstances? Do we know that there is a practicable route for a railroad? How do we know it? Gentlemen have assured us that they have heard these accounts from travelers, from hunters, from pioneers, from military men, who have been making expeditions through those regions for the purposes of war or of pleasure; but have they carried the surveyor's instruments upon the road? Do we know the distance to which it is to run? Do we know the amount which it appropriates? Can any gentleman tell me how much land is appropriated, and where the lands are that we appropriate? Can any gentleman approximate towards the length of the proposed road, or say how it is to run? Can he tell us whether it is to run in a direction where water may be found, where fuel may be obtained, where food may be had, except at an enormous cost? Nobody pretends to give us any information which even approaches accuracy upon these subjects, so important to be understood. They give us no estimates; they have had no surveys, and they refuse all preliminary inquiry or investigation into the subject.

Now, suppose the road shall be made, what is to be the cost of running it after it shall be made? Is it altogether certain that the road can be operated at all except at a cost too great to be tolerated even by the friends of the measure? The road is to run through a country, much of which is a desert, where no fuel can be found, where man and horse experience difficulties in getting water to sustain life; an uninhabited, deserted region, and one which, according to all the descriptions we have had of it, is likely to remain uninhabited and deserted for a long time to come; observe too, it is not a road which pays as you make it link by link. It pays nothing until you conclude it. You may make the links through the Pacific States on the west, and through the Mississippi States on the east on each side up to the desert, but these links will be worth but little until you finish the road through the desert, and to take it there at what an immense cost must it be done! You have to transport your provisions, your materials, your laborers, at an immense cost. You find it difficult to obtain, then, even the necessaries of life. So deep is the sense of all these difficulties on the part of the friends of the measure, that the bill provides for the use of the Army to guard the road whilst under construction. But when it is made, how are you to preserve it, how are you to operate it, in the present condition of things, unless you establish military posts all along the line? An Indian may come along, and, actuated by wantonness or malice, take off a rail and wreck a whole train of cars; by accident or design he may fire the prairies, and the burning grass may consume, who knows how much of the superstructure of your railroad? I have heard that during the last year there was a difficulty even on some of the New York roads to find water to keep the locomotives in motion. Do we fear no difficulties of that sort in such a region? How do we know at what cost in that country, so denuded of timber, we are to obtain the fuel?—and that I observe, is a very considerable item in the expense of running these roads. The original price of the coal which they use in Pennsylvania for this purpose, is estimated at four dollars per ton. When you come to transport this coal from any attainable points towards the heart of that desert, to what amount will the price rise from the mere charges of transportation?

These are difficulties which we are required to face; yet no time is given for examination, no time is given for consideration, for explorations, or surveys, but we are at once to embark the United States Government in this business, and pledge ourselves to this immense amount, upon the mere imagination that we may conclude such a road. And, sir, what is there, until this country shall become settled, that is to pay for it? We hear a great deal of the immense freights and of the commerce for which this road is to be the avenue. We are to get the commerce of the East, it is said, and thus establish amongst ourselves the depôts of trade between the European and the Asiatic continents. Mr. President, this commerce will never take that line, unless there are some discoveries yet to be made in the mode of constructing railroads and in the cost and speed of railroad transportation of which we know nothing now. Why, I find, upon looking into the reports upon the railroads in the old States—in New York, in Connecticut, and in Pennsylvania—that the charge for railroad transportation is rather more than three cents per ton per mile, reckoning only two thousand pounds to the ton.

A gentleman from New York, who is well informed upon these matters, tells me that the average charge for transportation on the railroads of that State, is a little more than four cents per ton per mile.* If, then, this road is to bear the commerce between Asia and Europe, as is affirmed by its friends, it must carry its freight, from sea to sea, over a distance certainly not less than three thousand miles. At the rate of charge for the ton per mile which is now made in the old States, it is manifest that the cost will rise so high, as to make the road an impracticable route for this commerce; for we are to add to these charges the cost of transportation from Asia to San Francisco, on shipboard. But is it possible that goods could be transported over this route as cheaply as upon those to which I have referred? Not only must the actual cost of transportation be greater upon such a route as this, but the charges necessary to make up the eight per cent. net profit upon the immense investment of the company, must be greater than the corresponding item in the charges upon the roads of the old States. When we come to compare this with the charges made by ships, even by clipper-ships, it must be obvious that they must continue to be the vehicles of the trade between this country and those distant regions; especially, if a ship canal should be made through Nicaragua.

The clipper-ships bring freight now, as I am informed, from China to Boston and New York, for from twenty to twenty-five dollars per ton. Is it to be supposed that merchants are going to abandon that mode of transportation, and bring their goods across this immense line, at such a cost, to get them from the Pacific to the Atlantic ocean? I am informed that old-fashioned ships carry freight to Boston much cheaper than twenty or twenty-five dollars per ton. I know it is said, that there is a great difference in point of speed, but I have observed that the average working time for the freight trains, on the New York and Erie railroad, is about nine miles and a fraction per hour. I am told that some of these clipper-ships have made that rate for days together, when within the regions of the trade winds, in their voyages from China to New York. They are nearly as fleet, and who can say how much cheaper? How, then, is it to be supposed that we can bring the commerce of the East over such a route as this? And what is that commerce, so far as we ourselves are concerned? It is possible that this might be the cheapest route by which to supply some points in the interior with the commodities of the East Indies.

But what is the amount of the goods from the East which it has heretofore taken us to furnish our country? From China our imports amount to $7,000,000; from the British Indies, $3,333,333; from the South Seas and the Pacific ocean, $2,298; from the Sandwich Islands, $16,852; making in all $10,420,000, according to the report on commerce and navigation for the year ending the 30th of June, 1851, which is the latest that is printed. Is that the commerce which is to sustain such a route as this, which is to pay any profit for the transportation of it?

Mr. President, what is to be the cost of this road? Why, I find that the cost of the New York and Erie railroad is over $60,000 per mile. If you take the cost not only of constructing this road, but of occupying it with cars and all the necessary machinery, I believe it will amount very nearly to $70,000 a mile. Who supposes that a road through that desert, or through California, can be made for much less than twice that sum? If it costs $60,000 a mile to build a railroad in New York, will it not cost more than $100,000 a mile in that desert and in California, where labor is four or five times as high as in the old States? When you come to take a railroad two thousand or two thousand five hundred miles in extent, as some have computed, and if you calculate it at the rate of $100,000 or even $70,000 a mile, you find it is an enterprise at which this Government might well pause, even if it promised to be ultimately profitable.

Mr. President, I have no doubt but that some day will come when a communication by land with the Pacific will be profitable, and when that day comes that communication will be made by the demands of trade. It will be made as this beautiful internal improvement system which we see around us was made, by the States and by individuals, without clash or warfare between the different sections of the country; without unjust or unworthy preferences given by superior power to either. In that way it will be made, and by that time it will be profitable and beneficial. If, however, we commence it before there is a trade, or a population to support it, we shall fail, and thus unnecessarily postpone the execution of the work which, if we had been patient, would have been accomplished by the demands of trade. Whenever that time comes, State and individual enterprise will be found fully adequate to the execution of the work.

I know that it is said that this road is for military purposes, and we hear of its being finished in five years. Why, how much of that New York and Erie railroad was made during a year? Did it average a hundred miles a year, or seventy miles a year? I am told not. Upon this point, however, I will not speak with certainty, for I have not been able to obtain any precise information in regard to it; but I am informed the average was not quite seventy miles a year. Is

* Cost of transportation of freight per ton per mile on several railroads in the State of New York, as shown by the report of the State engineer and surveyor of January 7, 1851:

Troy and Greenbush railroad	9.272 cents.
Tonawanda railroad	7.871 "
Utica and Schnectady railroad	4.972 "
New York and New Haven railroad	4.291 "
Schnectady and Troy railroad	4.275 "
Rochester and Syracuse railroad	2.915 "
New York and Erie railroad	2.982 "

According to the last annual report of that officer, the average cost of transportation of freight per ton per mile on railroads is, for

Coal	6 to 10 cents.
Other than coal, on favorable grades	12½ "
Other than coal, on steep grades	15 to 20 "

it to be supposed that through such a country as that between the Mississippi and the Pacific, we can construct a road at a more rapid rate? Two thousand miles in five years, four hundred miles a year, at an expense it may be of $100,000, or even $70,000 a mile! Why, that would be twenty-eight or forty millions a year! Could we expend that much money for such a purpose in a year? Could we raise it? Could we find the labor and the men, and the means for executing it? Sir, the thing is impossible. If we accomplish a hundred miles a year—if we accomplish the work in twenty years, it would straiten our Treasury, it would strain every nerve to do it, and by that time, and long before it, California and Oregon will be so filled up as to put at naught any threat of invasion by any Power which is strong enough to injure us. Before that railroad is finished, there will be people enough on the Pacific side to defend themselves against any threat of invasion. In ten years, ay, sir, in five years, it will be as absurd on the part of any foreign Power, which has strength enough to injure them, to talk of invading them, as it would be to invade us on this side of the Mississippi. So far as military purposes are concerned, the road, in my opinion, is not necessary. It might be convenient, but nothing more. Why, before it could be accomplished, there would be people enough, and means enough, and wealth enough on that side of our Union to defend it against any assault which might be threatened. If we make this road, I venture to predict, so far as military purposes are concerned, we shall have much more trouble in defending it than in defending California. We should have to employ troops and money, and to use much exertion to defend that road, I have no doubt, from the marauding tribes that roam upon the wastes through which it will pass. We should add to our duties of defense by constructing it thus prematurely, instead of diminishing them, and I believe that in doing that, we should accomplish really no useful purpose for California, because we should fail if we were to attempt it before the wants of trade required it.

Under these circumstances, then, can it be expected that we should be willing, in order to execute this work, to vest such powers in the President of the United States; that we should be willing thus to afford the temptation and the means for the transfer of such powers from the State Governments to the General Government; and above all, that we should be willing to establish a corporation with such tremendous powers as this bill proposes to give? For one, I never can consent to it; and the only regret I feel in voting against it, is because I know I am disappointing gentlemen who take so deep and so patriotic an interest in it. My consolation is, however, that I believe I am serving them and their own States better by voting against this bill, than I should if I were to aid them in commencing this work prematurely and at such immense hazards to the cause of constitutional Government.

Mr. BUTLER. Mr. President, I promise my friends on the other side that I am not going to speak with a view of defeating this bill by the lapse of time. I have, however, a few remarks to make in reply to my honorable friend from Kentucky, [Mr. UNDERWOOD,] for I think we are approximating very nearly to the principle which he has laid down; and I doubt very much whether the system of policy upon which we are now about to embark can very well be vindicated, except upon the omnipotence, the parliamentary omnipotence, which he has chosen to attribute to Congress. I shall, as far as I can, illustrate what I intend to say upon this subject by a proposition somewhat in the concrete.

About 1835 or 1836, South Carolina commenced the great enterprise of having a communication between her Atlantic border and Cincinnati, upon the Ohio. She never dreamed that she could effect that great object without the concurrence of North Carolina, Tennessee, and Kentucky, and perhaps Ohio. But according to the views expressed to-day by the honorable Senator from Kentucky, in what attitude would he have Tennessee, Kentucky, and North Carolina exhibited? Why, according to his doctrine, if North Carolina or Tennessee or Kentucky had refused South Carolina the liberty of passing through their borders, he would have appealed to Congress to compel those sovereign States to yield the right of way by virtue of this implied necessity, or a still stronger ground upon the assumption that the wisdom of Congress should supersede the sovereignty of those sovereign States over which South Carolina wished to pass. Sir, he cannot disguise the operation of his principle. If I understand him, it was that when one sovereign State refused to another the privilege to go over its borders, Congress, by the sword, if need be, should open a channel and a highway. Am I not astonished at hearing such doctrines on this floor? And has it come to this, that the dignity and sovereignty of the separate States of this Union are to be absorbed by Congressional omnipotency; and is the Federal standard to be raised in any sovereign State, when another may think proper to pass through it? Why, according to that doctrine, a combination of five or six States, under the influence of a measure of Congress, could take from any other State, against its consent, what they wanted.

Why, sir, it would be against the very principles of the common-law which the honorable gentleman has been learning all his life, to carry out such a doctrine. The common-law is, that no man shall be deprived of his life, liberty, or property, except by his own consent, or on due process of law. But the gentleman's due process of law is the Federal sword or the Federal money. Sir, whenever he finds any difficulty in reaching a highway through any State, he is for resorting to the Federal Treasury, or the Federal sword and purse combined. I heard the proposition with surprise. No, sir, I recall the word; not with surprise, because I have heard it intimated before, and this bill is but an illustration of the principle, and I intend to dwell upon that. If gentlemen here do not choose to feel its influence, I want the country, I want the public opinion of this country upon it; and I say to the States of this Union, especially to those who occupy a condition of minority in comparison with this swelling, preponderating majority, which is assuming a character on this floor, their only security, and the only security for the liberties and the institutions of this country, is the purity and integrity of the State governments. If upon any occasion I would invoke that Divine principle of the Lord's prayer "lead us not into temptation," it would be that the States of this Union should not allow the Federal power to usurp a jurisdiction within them by which they are to be overshadowed, their dignity absorbed, and their vital organic existence endangered.

According to the doctrine advanced here to-day, Congress is to open highways wherever its discretion chooses to lead it. Sir, discretion is the law of a tyrant. The discretion of Congress! Why, sir, the discretion of Congress is but the dictate of interest; and when majorities combine here to effect any purpose, I have no other security against it, than I suppose an abstract love of justice and morality. I know that has its influence in the days of purity, and I hope our days of purity have not passed. I hope we have not passed into that condition where we may not rely upon these great principles with some degree of security. The gentleman must remember that the precedent of to-day is prescription to-morrow; and I again repeat, and I repeat it to my friend with sorrow, he has asserted a principle, he has undisguisedly come out to-day for the omnipotence of Congress, to make channels of commerce through sovereign States whenever any one of the States may think proper to refuse to allow another to run roads through its borders.

The gentleman illustrated his proposition by referring to the mouth of the Mississippi. I reply to him by the old maxim of the law: *Aqua currit et debet currere.* The compact with Louisiana itself would forbid the stopping up of that passage. God has forbidden it. The Mississippi is a great highway, running from one part of the continent to the other. Man cannot stop it. That is an illustration without meaning. The compacts of the States, nature, and everything else, forbid any such interposition to stop up the Mississippi. But it is not impossible for the gentleman, with his Federal sword and latitudinarian powers, to cut a road through my State without my consent; and if he wanted it for commerce, he said he would do it. When we were about to construct the great road to which I have referred, we never supposed that we could do it without the assent of Tennessee, North Carolina, and Kentucky. We always thought it necessary to have concurrent charters from those States. South Carolina, in its simplicity, went to the Legislatures of Tennessee, North Carolina, and Kentucky. It was never dreamed that we could dispense with that; and I believe the Senator's own State, Kentucky, refused to grant our request. According to the gentleman's doctrine, she could have been dragooned into it. She could have been ordered by Congress peremptorily to give a right of way. I am shocked at such doctrines, but they are those which we see illustrated in this bill.

Mr. UNDERWOOD. I do not intend to detain the Senate from a vote by making a speech, but I rise to say to my friend from South Carolina that it is very easy for him to attribute to me, and then to answer successfully, doctrines which I have not broached. I have not contended, nor do I intend to contend, that if a State asks the privilege of extending her system of internal improvements through the territory of another State and shall be refused, the State can then appeal to Congress and ask Congress to enforce the request on the refusing State to allow the other State to carry its improvements through it. I have not asserted any such doctrine. I do not believe any such doctrine. The position for which I contend is this—and I wish to state it without any further illustrations—that if any State in the Union shall undertake to prohibit the free passage of the citizens of another State through her territories for commercial purposes, the citizens of the State thus prohibited have a right to appeal to Congress for a right of way across the territory refusing to grant the privilege of going over it. That is what I contended for; and I will say to the gentleman that there is a clause in the Constitution which guarantees to the citizens of one State the rights and privileges of citizens of each State, and therefore what I contend for but carries out that provision of the Constitution. That clause would entitle us to demand that right of way. That very clause of the Constitution would, if a State should refuse in that way, require the interposition of Congress in behalf of the citizens of the State refused this right of way. I did not contend for the proposition that Congress had a right to require one State to allow another State to push within its limits any system of internal improvements.

Mr. BUTLER. I understood the gentleman very differently, and I think others understood him differently; for he gave us an illustration, that if one section of the Union wanted to reach this salt-water region, as he called it—rather reducing it, I thought, by his rhetoric—beyond the mouth of the Mississippi, Congress would have the power to force it. I understood him to say that Congress would have a right to force ingress and egress there.

Mr. UNDERWOOD. I say so now.

Mr. BUTLER. If he places himself on the simple proposition that every man has a right to travel with his horse and wagon over the highways of Tennessee and Kentucky, such highways as they have made, and not such as Congress may make, of course no one denies that.

Mr. UNDERWOOD. I would ask the gentleman, if a State should forbid the citizen of another State passing over its borders, what remedy would there be then?

Mr. BUTLER. A State could not prevent the citizens of another State passing over the roads it had already made; but I understood the proposition of the honorable gentleman to be, that Congress had a right, in such case, to make a highway.

Mr. BORLAND. I have but a few words to say upon one point made by the Senator from South Carolina. The obvious effect, if not the intention, of the arguments which have been made by several gentlemen who have recently addressed us on the subject, will be to place, as far as the authority of their position and their arguments will go to the country, those who vote for this bill in its present form in a false position. I say such must be the effect of the extent and authority of their opinions and their positions. I do not wish to stand in a false position on this subject. It seems to me that gentlemen who have made these arguments have made them upon a bill not before the Senate, or at least they have certainly assumed positions for this bill which are not contained in it, if I am capable of understand-

ing its plain words, as written down. Now, the Senator from South Carolina—and this is the point to which I wish to call his attention—in the conclusion of his argument assumed for this bill a position which it seems to me, so far from being in it, is directly controverted and contradicted by it. He made his argument to show that one State could not carry its internal improvements through another without its consent, and he said that the monstrous doctrine that a State could do so was asserted by this bill.

Mr. BUTLER. Not in this bill, but I said I thought this bill was approaching to the doctrine.

Mr. BORLAND. The Senator said this bill was an illustration of the doctrine laid down by the Senator from Kentucky.

Mr. BUTLER. Yes, sir.

Mr. BORLAND. And for that reason, because it is an illustration of the doctrines laid down by the Senator from Kentucky, he objected to carrying out the principle of the bill; and therefore he assumed that the bill took that position. He took that position, and he said that when a State refused to permit another State to carry its roads or canals within its limits, that it might, under this principle, come and apply to Congress to get the aid of the Federal Treasury, or the Federal sword, to enforce the power to carry its internal improvements through the territory of the other State. What is the plain provision of the bill? So far from giving such a power to a State, it grants not one single power within the limits of a State for the making of this road without the consent of that State first had and obtained. That shows the truth of that objection made against the bill; and I think the Senate will bear witness that that has been about the character of the arguments which have been urged against it. Gentlemen have been arguing against provisions which are not contained in it. We know that yesterday a bill was taken up by an honorable Senator and examined and argued against, as being this bill, and yet it turned out that the section against which the gentleman was contending, and upon which he was arguing with so much force, was not in this bill at all, and was never contemplated by it. I wish this to go out to the country as showing the character and tendency of the arguments which have been made against this bill, which have been calculated to place its advocates in a false position.

Mr. BUTLER. I did not say that the doctrine of the Senator from Kentucky, as I understood it, was incorporated expressly in this bill; but there may be an illustration under this system of internal improvements of giving the Government of the United States increased Federal jurisdiction in the States. I say this bill is an illustration of the principle, and there is a very great difference between an illustration and a principle itself. I said it was an illustration, and I said we were fast approximating to the very doctrines which I ascribed to the Senator from Kentucky. Those were the words I used, if I remember them correctly.

Mr. BORLAND. Does not the honorable Senator recollect that he took the example of his own State proposing to make a railroad connection with the city of Cincinnati? He referred to the fact that South Carolina sent a delegation to the States of Tennessee and Kentucky for the purpose of obtaining their permission, concurrence, and coöperation in carrying on that road, and they deemed it necessary to get their assent. He said his State had acted on the doctrine that it was necessary to get the assent of those States, and that Kentucky refused on that occasion to give her assent. She did refuse when first applied to. I do not know whether she afterwards persisted in her refusal or not. He mentioned that to show the view which the State of South Carolina took of the question; that the assent of the State, through which the road was to run, should first be obtained, and he said that the doctrine laid down by the Senator from Kentucky, which was illustrated in the bill, controverted the doctrine which South Carolina held on this subject, and would put every State at the mercy of any other State which might choose to come forward and be successful in getting the aid of the Federal Treasury or the Federal sword to enforce their right to go through the territory of another State without its consent. Now, I say that the provisions of the bill expressly require that assent.

Mr. BUTLER. I said this bill was the first step towards that; it was an illustration of the doctrine; and I again say it is an illustration of the system shadowed out by the Senator from Kentucky. I said that we were approximating to his doctrine; I used those very words. It is an illustration in some respects, but not in all.

Mr. PHELPS. The question now is, I suppose, upon the proposition of the Senator from Missouri, [Mr. GEYER,] to amend the thirteenth section of the bill, which section the Senator from California proposes to strike out.

The PRESIDENT. The first question is on the motion of the Senator from Missouri, to amend the section proposed to be stricken out.

Mr. PHELPS. Mr. President, it appears to me that the friends of this bill have stumbled upon an obstacle which they will find it very difficult to remove. If the proposition of the Senator from Missouri prevails, the measure itself is imperfect. You will then have in your bill a proposition to create a railroad in the Territories of the United States, without any power on the part of those employed to construct it to act within the States. Therefore, if this proposition carries, the measure must be regarded as an imperfect one. On the other hand, if the proposition fails, and the thirteenth section is retained in its present form, you encounter the insuperable difficulty of intruding upon the sovereignty of the States in a matter, in my judgment, not within your jurisdiction.

Sir, I have always been an advocate for the power of Congress to create a corporation, but only as a means of carrying out the powers vested in them by the Constitution; and if that corporation has other and further objects, intruding upon matters within the exclusive jurisdiction of the States, you have no power to create it, because the purpose of that corporation is to go beyond the powers conferred upon you by the Constitution.

Now, what does the bill before us, in its present shape, propose? It proposes the creation of a corporation to act within the States. In order to act effectually, that corporation must take private property. You ought, if you confer this power, to go further and to regulate the manner in which that property shall be taken. You ought to impose the proper limits and the proper guards. The bill proposes no such thing. It leaves the matter at loose ends. But you go further. You not only regulate the transportation of your mails, and of your troops and military stores, but you regulate the ordinary intercourse of the people of the States in their ordinary modes of communication. Now, sir, is not this a very different matter from the creation of a Bank of the United States, whose main object, and whose only object, I may say, or at least whose principal object, was to regulate your currency and your finances? Here you go further. And how can the argument of the Senator from Connecticut [Mr. TOUCEY] be resisted? If by reason of this incidental advantage in the transportation of the mail, and the troops and military stores of the United States, you can assume the construction and regulation of roads in the States, does not the whole power fall within your reach? Where are you to stop? If you can construct one road, you can construct another; and if you please, conceiving it necessary for your convenience in those particulars, you can exclude the State altogether from the exercise of power which has hitherto been considered a mere matter of State regulation.

There is another difficulty in this matter. You require the assent of the States. What is that assent worth? It is an assent to the exercise of a political power which does not belong to you. You are, therefore, no better off with that assent than without it, for the very next Legislature that convenes in the State may revoke it.

Now, sir, without detaining the Senate, it appears to me, that there is a radical difficulty in this matter, which is not to be avoided unless by some device with which I am not acquainted. Situated as I am, differing as I do from personal and political friends, I might, with very great propriety, express at length my views of the policy of this measure; but instead of detaining the Senate, I will content myself with a single remark. I regard it, and I shall regard it, if the bill passes, as a gigantic project prematurely undertaken.

Mr. PETTIT. Mr. President, there are four reasons why I shall vote against this bill.

1. Because it commits Congress to the power of incorporation—a dangerous and anti-Democratic doctrine.

2. Because it commits us to a wild system of internal improvement, denied by our creed, and dangerous to the wholesome action of the State and Federal Governments.

3. Because it burdens and clogs the incoming Administration with a load that it ought not, against its will, to carry. If this bill passes, Mr. Pierce may well ask to be saved *from* his friends.

4. Because the Whigs are for it, with the evident design, as I think, of fastening upon us these odious principles and this dangerous policy. [Laughter.]

The amendments of Mr. GEYER to the thirteenth section were agreed to.

The PRESIDENT. The question now is on the motion of the Senator from California [Mr. WELLER] to strike out the thirteenth section as amended.

Mr. WELLER. I will modify that motion so as to strike out the whole of the section except the following proviso originally reported by the committee:

"*Provided, however*, That the provisions of this act shall have no force nor effect whatever within the limits of any State, without the consent of the Legislature of such State previously had and obtained."

Mr. BAYARD. The proposition I understand to be, in effect, to destroy the corporation proposed to be created by this bill.

Mr. WELLER. That is it.

Mr. MASON. It will be competent hereafter, I presume, to move to strike out that proviso also?

The PRESIDENT. Certainly.

Mr. BELL. I rise to a question of order. If the Senate refuse to strike out the entire portion of the thirteenth section which the Senator from California moves to strike out, will it then be in order still further to amend the section, or will the vote of the Senate not to strike out, if that should be their determination, be equivalent to retaining the section as it is?

The PRESIDENT. It is proposed to amend the section by striking out all except the proviso which has been read. The proviso will be subject to amendment afterwards of course.

Mr. BELL. Then I will ask the Senator from California if he objects to the power of Congress to create a corporation, or to construct this road by contract with a corporation within the Territories exclusively? I do not want to discuss the subject, but I wish to know whether he is opposed to the incorporation of a company for this purpose; the powers of which are to be exercised exclusively in the Territories, and not in any State.

Mr. WELLER. My object, undoubtedly, is to get rid of this corporation altogether, that this work shall be done by the contractors. If it shall become necessary for them to be incorporated, in my judgment they could get an act of incorporation from the respective States through which the road may be constructed. I do not propose that Congress shall incorporate them at all. I wish to leave that question for the States to determine hereafter upon the application of the contractors.

Mr. HALE. I wish to ask a question similar to that proposed by the honorable Senator from Tennessee. I suppose if the Senate vote not to strike out these words, they cannot afterwards be amended by striking out a part of them; because a vote not to strike out is, in parliamentary law, equivalent to a vote to retain as it stands.

The PRESIDENT. If the Senate should decide not to strike out, of course the portion which it is now proposed to strike out, would not then be subject to amendment without reconsidering this vote.

The question being taken by yeas and nays on the motion of Mr. WELLER to strike out that portion of the thirteenth section, resulted—yeas 36, nays 14; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Borland, Bradbury, Brodhead, Brooke, Butler, Cass, Charlton, Chase, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Gwin, Hale, Hamlin, Houston, Hunter, Jones of Iowa, Mason, Norris, Pearce, Pettit, Phelps, Sebastian, Soulé, Sumner, Toucey, Walker, and Weller—36.

NAYS—Messrs. Badger, Bell, Davis, Fish, Foot, Geyer, Jones of Tennessee, Miller, Rusk, Seward, Smith, Spruance, Underwood, and Wade—14.

So the motion was agreed to.

Mr. COOPER, when his name was called, an-

nounced that he had paired off with the Senator from Maryland, [Mr. PRATT.]

Mr. WELLER. I was under the impression at the time I modified the motion to strike out the thirteenth section, that it was necessary to retain the proviso which I propose to retain, in order to give efficacy to the bill; but I find, that by the first section, provision is already made for requiring the assent of the States, and thus it would be a work of supererogation to retain the proviso in the thirteenth section. The first section already provides that "before said road shall be located 'or constructed through any State, the consent of 'the Legislature thereof to the provisions con-'tained in this act, shall be first had and ob-'tained." Therefore it is wholly unnecessary to retain the proviso in the thirteenth section, and I now move to strike it out.

The motion was agreed to.

Mr. SMITH. In consequence of the amendment which has been made by the Senate on the motion of the Senator from California, striking out the thirteenth section, I apprehend it will be expedient to amend the fifth section, in the provision providing that the President may receive proposals, by inserting after the words "which proposals," these words: "may be made by in-'dividuals, or by any body-politic or corporate, 'created for that purpose by the Legislature of 'any State, and the same"—

It is suggested to me, since the reading of the amendment by some honorable Senators, that it would be well to add, after the word "State," the words "or Territory."

Mr. RUSK. I do not think the Territories have power to grant such an act of incorporation.

Mr. SMITH. I will not make any alteration, then.

The amendment was agreed to.

Mr. SMITH. The Senate, at my instance, printed an amendment which I gave notice I should offer to the third section,—to strike out the words which I conceive to be vague and uncertain, and to insert a more explicit provision. I now offer that amendment. It is to strike out in the third section these words:

"In cases where the public domain adjacent to the said road may not be sufficient to enable the Government to carry into effect the above provisions, then, and in that event, any deficiency that may exist shall be supplied from the public domain nearest to the point at which such deficiency shall exist, and be selected in alternate sections as aforesaid;"

and insert in lieu of these words the following:

In cases where the public domain adjacent to said road has been secured to any Indian tribe or tribes by treaty or treaties, so that the same cannot be surveyed or granted, and also where any of the territory through which said road may pass, or any of the alternate sections herein appropriated and set apart, are not the property of the United States, or are in the possession and occupancy of *bona fide* settlers, then equivalent lands may be taken from the public domain nearest to the point or points at which any deficiency may exist by the means aforesaid, and be selected, under the direction of the President of the United States, in alternate sections as aforesaid."

The amendment was agreed to.

Mr. GEYER. I submitted informally, some days since, some amendments, which I gave notice I should submit at the proper time. I now offer the first of those amendments, which is in the third section, to strike out the words—

"There shall be, and are hereby, appropriated and set apart alternate sections of the public lands, designated by odd numbers for six miles on each side of the said road where the same shall be constructed through any State or States, and for twelve miles on each side of the said road where the same shall be constructed through the Territories of the United States;"

and insert in lieu of these words the following:

"Through the Territories of the United States there shall be, and are hereby, appropriated and set apart alternate sections of the public lands, designated by odd numbers, for twelve miles on each side of said road."

I will state in a few words the object of the amendment. It is to enable the road to be made within the States by persons or corporations authorized by the State to construct it. The subsequent sections which I have informally submitted as amendments, are designed to provide the means by which the road shall be constructed within the States. This amendment only proposes to strike out that portion of the third section which provides that alternate sections six miles in width shall be granted to the States, and limits the grant to the Territories as that section stands. The subsequent sections which I intend to propose, provide for an appropriation of alternate sections for ten miles on each side of the road within the States, deducting the grant which any State may have received for a road or roads, the route of which may be taken for this road. They then provide that the President of the United States may contract with any person or company authorized by the States, to construct the road within any of their limits; and to have it constructed upon the terms which are here provided. My sole object is to keep the operation in the States and in the Territories distinct from each other.

Mr. RUSK. I hope the honorable Senator will not press that amendment. I feel confident that the vote upon it will be decisive of the fate of the bill, and its adoption will destroy the bill. I believe the honorable Senator is a friend of the bill, and therefore it is that I make this appeal to him. I will not enter into a speech, because I am much more anxious to see a vote taken, and the bill passed, as I hope it will be, or at any rate to see a final vote upon it, than I am to hear myself talk. I wish to say, however, in regard to this amendment, that the difficulty in procuring capital for the construction of the road will be increased as you give half a dozen different bodies the power of controlling it. Who is going to furnish money for the purpose of building that portion of the road within the Territories of the United States, where it will not be productive, and particularly when it is to depend upon the whim and caprice of other companies that are to connect along the line? The result of the adoption of this amendment will be destruction to the entire measure. I hope it will not be adopted.

Mr. GEYER. It is not my intention to make a speech upon the amendment. I intend to submit it without any remarks, and to abide by the decision of the Senate.

The amendment was rejected, there being on a division—ayes 16, noes 21.

Mr. GEYER. The other amendments which I intended to submit, fall of course with this, and I will not offer them.

Mr. BAYARD. I have two amendments which I wish to offer, which are distinct in their character. I do not mean to detain the Senate from a vote on the bill by making any lengthened remarks on the first amendment, though I shall have a few remarks to make in reference to the second. The first amendment I propose to offer is with a view to see whether the Senate of the United States have since the last session of Congress changed their determination as to the propriety of expending money out of the National Treasury for the purpose of making roads and canals within the States. My amendment is to strike out in the third section, which grants a certain quantity of land and a certain amount of money to these contractors, these words:

"And a sum not to exceed $20,000,000 in bonds of the United States, bearing an interest of five per cent. per annum, and redeemable in fifty years."

I base this amendment upon the vote of the Senate at the last session of Congress in reference to the Sault Ste. Marie canal. On an amendment then offered by the honorable Senator from Michigan, [Mr. FELCH,] directing the Secretary of War to contract with the lowest bidder or bidders for the construction of that work, which is eminently a national work, the vote of the Senate was 21 in the affirmative and 32 in the negative. That amendment was thus rejected by a decisive vote, and then the Senate, under a principle which has obtained for some years past, recognizing a distinction between the appropriation of public lands and money for the purpose of making roads and canals in the States, passed without any division a bill granting seven hundred and fifty thousand acres of land for the purpose of making that canal.

Therefore, as I think this bill seems to come within the distinction which that vote during the present Congress established as the will of the Senate, I have moved to strike out that portion of this bill which I have mentioned which embodies an appropriation in money, for certainly no one will contend that an appropriation of five per cent. bonds is not an appropriation of money; and upon this amendment I call for the yeas and nays.

The yeas and nays were ordered and taken, with the following result—yeas 16, nays 30:

YEAS—Messrs. Adams, Bayard, Bradbury, Brodhead, Butler, Charlton, Dawson, Fitzpatrick, Hamlin, Hunter, Mason, Norris, Pearce, Phelps, Spruance, and Toucey—16.

NAYS—Messrs. Atchison, Bell, Borland, Brooke, Cass, Chase, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fish, Foot, Geyer, Gwin, Houston, Jones of Iowa, Jones of Tennessee, Miller, Rusk, Sebastian, Seward, Shields, Smith, Sumner, Underwood, Wade, Walker, and Weller—30.

So the amendment was rejected.

Mr. BAYARD. I move further to amend the bill by adding at the close of the first section, the following proviso:

Provided further, That if in the opinion of the President it is more advisable that the location of the said road and the selection of its points of termination, should be made by Congress, then the whole matter may be referred by him to Congress at its next session, without further action, except in causing a survey of the said road to be made in order to obtain the most accurate information on the subject as authorized by this section.

The object of this amendment is to do what I consider to be simple justice to the President elect of the United States. You have thrown upon him, by the first section of the bill of the committee, a responsibility and a duty which certainly has never before been conferred upon any President of the United States. The honorable Senator from Iowa, [Mr. DODGE,] in his remarks yesterday, assigned as one reason why it was necessary that this responsibility should be thrown upon the President, that such were the conflicting local interests connected with the different routes proposed to unite the valley of the Mississippi with the Pacific ocean, you never could anticipate, no matter how national the work, no matter how much such a connection might be needed by the general interests of the country, no matter though you might have the most accurate surveys and the most perfect delineations of the routes, the local interests of the different contending States and parties could not be so far overcome as to enable you to pass a bill through Congress authorizing the construction of the road over any particular route. Well, sir, is it just, is it generous to the President of the United States, at the commencement of his Administration, to place him in position where he will have to encounter the odium and the obloquy and the opposition arising from having to decide between these rival interests? Yet that is the position in which the bill places him.

If the reason given by the Senator from Iowa be correct, and probably it is—if these difficulties are so formidable—if the local divisions upon the subject are so great—and if the excitement in relation to the matter is so great that you cannot pass a bill through Congress on that account—surely if you require the President of the United States, as a single individual, going beyond the line of his Executive duties, to decide between these conflicting interests, and to determine that which so exasperates human passion and so enlists human interests, you will necessarily give him a heavy responsibility at the very commencement of his administration. I do not say that the President elect of the United States may not, under your bill, assume this responsibility if he chooses to meet it; but at any rate you are giving him a high discretion—a discretion which involves a most serious responsibility. I do not believe he would fear to encounter it, but at least he should have the option—and that is all my amendment provides—of saying whether, under the circumstances, he thinks it advisable that he should make that decision, or whether he should refer the question back to Congress, which is the appropriate tribunal, for the purpose of deciding it. You should give him that discretion at least, and that would show something like confidence in him. But as the section now is, you give him a discretion which, in the hands of a corrupt man, would be very dangerous. I have no such fears in this case; but as the section now stands you impose the duty upon him, and you limit his discretion so that you compel him to perform it, unless he should take the stand, which it is possible he may take, that the law is unconstitutional in its provisions, and therefore that it is not incumbent on him to carry it out.

I do not want to place the incoming President in a position where he will be subjected to feelings of hostility and enmity on the part of any of those who have aided in bringing him into power. Leave him, then, the discretion of saying whether he will determine on the points of termination of this road—whether he will select the route of the road, and encounter all the local prejudice, and all the opposition arising from that selection, or whether,

after he has investigated it, he will refer that matter back to you. Why not allow him, after finding what these rival routes are, and what is the extent of that opposition to which I have alluded, to say whether he will go on or not? If he should find, as he must find before he could decide, that there was any one route so decidedly superior to all the rest that he ought not to hesitate, but decide without reference to Congress, he would do so. But if he should find such conflict of opinion in the reports of the engineers—such doubt and uncertainty as to the proper route to be taken, that he should not be willing to assume the responsibility of deciding, he ought to have power to send the question back where it rightfully belongs, and where, in my judgment, it ought to be exercised in the first instance—that is, to the Congress of the United States. If, however, he should think differently, his acts would be binding. Surely, sir, those gentlemen who have supported that party to which he is attached, and who have aided in bringing him into power, cannot wish to place him in a position of such responsibility without giving him the option of declining that responsibility, if in his judgment it should be better that he should do so. My amendment goes to that extent; no further.

Mr. GWIN. Sir, General Pierce belongs to the Old Hickory stock. He is not afraid of responsibility.

Mr. HAMLIN. I concur very generally in what has fallen from the Senator from Delaware. I certainly will vote for no bill that imposes duties upon the President such as are designated in the first section of this bill. They do not, in my judgment, appropriately belong to the chief Executive officer of this Government. They are wholly of another class and character of duties. You have your War Department and your Navy Department, your Ordnance Bureau, your Bureau of Yards and Docks, and in all the contracts into which this Government enters, in all the details of these branches of the public service, you have proper officers to make those contracts and to discharge those duties. When I voted as a citizen to make Franklin Pierce President of these United States, I did not certainly suppose that I should be called upon here as a Senator to vote to make him the president of a railroad company or a railroad corporation. But before the question is put upon the amendment of the Senator from Delaware, I ask him to listen to a suggestion which I have to make. I desire to put this bill in such a shape as to enable me to vote for it, because I am in favor of the general proposition. I propose to insert after the words "President of the United States," in the first section, "to nominate to the Senate three commissioners, whose duty it shall be;" so that the section shall read "that it shall be the 'duty of the President of the United States to 'nominate to the Senate three commissioners, 'whose duty it shall be to cause to be construct-'ed," &c. My object is, to impose upon these commissioners, to be nominated by him and confirmed by the Senate, the very duties which the bill imposes upon him. I would suggest to my friend from Delaware to allow the vote to be taken first upon my proposition, and then, if it be rejected, he can offer his.

Mr. BAYARD. The proposition of the honorable Senator from Maine is, I understand, to delegate to three commissioners the power of Congress to determine a question which the honorable Senator from Iowa said Congress never could agree upon. I am unwilling to delegate such a power at all; but if it must be delegated, let it be to the President. All I ask is, that if you give to the President, to whom you are willing to delegate so extensive a power, who stands elected by an unparalleled majority of the people of this country, and therefore doubtless entitled to great confidence, also the option, the discretion, to say whether he is willing to assume the responsibility you throw upon him. I am so entirely opposed to the adoption of the amendment of the honorable Senator from Maine, that I shall press my own in the first place.

A word now as to the remark of the honorable Senator from California, [Mr. GWIN.] I agree with him that the President elect of the United States, in my opinion, belongs to the Old Hickory stock, and I cannot help thinking that it is because he belongs to the Old Hickory stock that this bill is pressed now for the fear that if hereafter it should come under his supervision, it might require a greater vote to force it through with its present provisions than it possibly can hope to obtain. I have no fears of the firmness of the President elect. It is not on that ground that I object to the provision; but I think that when you intrust discretion and impose an onerous and extraordinary duty, it would be but common courtesy to give him the option of determining whether he will exercise that discretion, or refer it back to you after he has had the surveys made. I ask for the yeas and nays on my amendment.

Ths yeas and nays were ordered.

Mr. DAVIS. I wish merely to say to the gentleman from Delaware that his amendment is not necessary. It is not possible that any part of this road can be located before Congress meet again at the next session. There will be abundant opportunity for the President at all times to refer the subject to Congress if he finds it in any way embarrassing to him to execute any of the duties proposed to be conferred upon him in regard to the location of the road. The amendment, therefore, cannot better his condition in the least.

The question being taken upon the amendment, resulted—yeas 18, nays 32; as follows:

YEAS—Messrs. Adams, Bayard, Bradbury, Brodhead, Butler, Charlton, Dawson, De Saussure, Fitzpatrick, Hamlin, Hunter, Mason, Norris, Pearce, Pettit, Phelps, Soulé, and Toucey—18.

NAYS—Messrs. Atchison, Badger, Bell, Borland, Brooke, Cass, Chase, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Foot, Geyer, Gwin, Houston, Jones of Iowa, Jones of Tennessee, Miller, Rusk, Sebastian, Seward, Shields, Smith, Sumner, Underwood, Wade, Walker, and Weller—32.

So the amendment was rejected.

Mr. BELL. I have an amendment which I believe the committee intended to report, and which may be necessary to perfect the bill. It is to add the following as an additional section:

SEC. —. *And be it further enacted*, That when the President shall have designated the termini and general route of said railroad and telegraph line according to the provisions of this act, and the said road, the general route of which shall be thus designated, shall pass through any territories the possession of which is guarantied to any Indian tribe or tribes by treaty or patent issued under any treaty, he shall be authorized to treat with such Indian tribe or tribes for a right of way for said road over such territory.

The amendment was agreed to.

Mr. HAMLIN. I now desire to have a vote of the Senate upon the amendment which I indicated a few minutes ago. I have no doubt it will share the fate of all the other amendments, but still I should like to have a vote of the Senate upon the question whether we shall impose upon the President the powers imposed upon him by this bill, or shall transfer them to commissioners to be nominated by him and confirmed by the Senate. I therefore move to amend the first section of the substitute of the committee, by inserting after the words "President of the United States," where they first occur, the words "whose duty it shall be to nominate to the Senate three commissioners whose duty it shall be."

The amendment was rejected.

Mr. DE SAUSSURE. I move to amend the amendment of the committee in the first section, so that one terminus of the road at all events shall be designated. I propose to add after the word "prescribed," the words "provided, nevertheless, that Memphis, in the State of Tennessee, shall constitute the eastern terminus of said road;" and on that amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOWNS. I would suggest to the honorable Senator from South Carolina, whether it would not be better to modify somewhat the phraseology of his amendment. Memphis, in all probability, is a very suitable terminus on the Mississippi, but there may be reasons in favor of other places, and I would therefore suggest to the honorable Senator to alter his amendment, so as to make it read that the eastern terminus of the road shall not be north of Memphis. I move that as an amendment to the amendment of the Senator from South Carolina.

Mr. BADGER. Would it be in order to move to add to that amendment, "nor south of the southern line of Tennessee?" [Laughter.]

Mr. BELL. I should like to know what gentlemen mean by alluding to Tennessee in the manner in which they do.

Several SENATORS. They want to give you the terminus of the road.

Mr. PETTIT. They want to give you a bridge across the Mississippi.

The PRESIDENT. The Chair would suggest to the Senator from Louisiana, that the amendment of the Senator from South Carolina is an amendment to an amendment, and it therefore is not susceptible of an amendment.

Mr. DOWNS. I hope the Senator from South Carolina will accept my amendent as a modification of his.

Mr. CHARLTON. I have foreborne saying anything about this bill, but I wish to say a few words now, inasmuch as I hear honorable gentlemen object to the amendment of the gentleman from South Carolina, that it is making this a sectional question. Why, sir, without that, it is a sectional question already. I understood my friend from Illinois to say that you may avoid all constitutional scruples in reference to running this road through a State, because you can locate it through the South Pass, which would steer clear of all States.

Mr. DOUGLAS. Or half a dozen other passes.

Mr. CHARLTON. I should like to know what other pass besides the South Pass will do that.

Mr. DOUGLAS. The pass by way of Albuquerque.

Mr. CHARLTON. If you run the road by Albuquerque, will you steer clear of any State?

Mr. DOUGLAS. If you bend a little.

Mr. CHARLTON. If you once begin to bend a little, you may as well go down altogether. The idea is, that this is to be a northern road. We cannot shut our eyes to it. It is to run through the South Pass. My honorable friend from Illinois knows that General Pierce, the President elect, is a strict constructionist, and a good State-Rights man, and therefore, never will consent to locate this road through a State. Then I understand he will be compelled to locate the road through the South Pass. That will bring it in the forty-second degree of north latitude, and bring it through the Nebraska Territory to the Missouri river, at the point which the Senator from Ohio [Mr. CHASE] first designated. I believe I am right in that; but if my friend from Illinois, who knows the topography and geography of that country better than I do, will say that this road can go through any other pass for available purposes without striking a State line, I will confess that I am mistaken. I do not think, however, that he can say so. Therefore I say it is useless to talk about not making this a sectional question, when by the bill it is a sectional question already. I think, after we have all been admonished by the Senator from Kentucky that we are to expect no favors as soon as the West has the power to put us under anything that they may call justice, I am not disposed now, to concede anything which the just rights of my section of the country, or which the true construction of the Constitution of the land at the present time, gives to us. But I do not desire to inflict a speech upon the Senate.

Mr. DOUGLAS. When I used the expression "South Pass" in an illustration, I had not the slightest idea that there was any implication, directly or indirectly, in the bill, that would indicate that as the location of the road. I will go further and say, as I can say, I do not believe, under this bill that General Pierce would locate it through that pass. And I will go further and say that I believe there are half a dozen passes through the mountains practicable for a railroad south of the South Pass, where it could be located, and that on a tolerably direct line, without touching any one of the States. I do not believe that the bill gives the slightest advantage either way in the location of the road. I believe that a central position will be selected under it, if it passes, not because I have any information, but simply because it is being left to the Executive to do justice to the North and to the South, and he will have a due regard to both sections. I disclaim any idea that the North is getting the slighest advantage under the terms here used.

Mr. DAWSON. I do not desire to make a speech; I only want to announce this fact: I am friendly to this road when it can, in my judgment, be constructed properly, and, as I before observed, constitutionally. I am not influenced by section. I want the road to go upon the most direct and practicable route, and at the smallest expense, and before that can be done, there should be a survey, and that survey should be submitted to us, and we should, as representatives of the people, take the responsibility of declaring which route is for

their interest. I wish to say that I received this morning from California the proceedings of a public meeting upon this subject, which come up precisely to the course which I have taken from the beginning. I beg leave to read a few lines of the last part of it:

"Your committee feel that it is unnecessary to suggest more reasons in behalf of the contemplated route which they thus so strongly favor, satisfied as they are, that the General Government only desire in the execution of this work to do justice to the whole country, and to establish the road where they believe the route to be most practicable, and where it will best enhance the interests of our whole people; and with this view your committee would respectfully recommend that a copy of this report be forwarded to every friend of the cause in Congress, requesting that an appropriation may be made by the present Congress providing for the payment of the expenses of a preliminary survey of both the northern route, so called, and the southern or Gila route; that the board of survey be composed of gentlemen of high scientific attainments, whose report would necessarily carry greater conviction to the judgments of our people than the mere *ex parte* reports of officers not specially detailed for that duty. This commission might start by the northern route during the summer season, as it would be impossible to travel thither in the winter months. This route carefully examined, the corps of survey could return to the Atlantic States from San Diego by the southern route at any season of the year, it being along the whole line of the road but a continuation of a never-ending spring."

If these things be true, and all this can be done in twelve months, and that survey can be presented to us and an estimate founded upon it, and as the Senator from Massachusetts says it is needless to amend this bill now, that nothing will be done before the meeting of the next Congress, why not make an appropriation to have a survey and estimate returned to us at the next meeting of Congress, and then decide according to the representation made by the surveys and estimates which is proper and right to take? Why this hasty arrangement? It is said by the Senator from California that such a proposition has been voted down once. That is no reason why we cannot get at it again. In my judgment, Mr. President, we are destroying this great national enterprise by attempting to fix upon it a position which the judgment of the country will not sanction.

Mr. DE SAUSSURE. I accept the suggestion which was made by my friend from Louisiana, and will modify the amendment which I proposed, so that it shall read:

"*Provided nevertheless*, That the eastern terminus of the road shall not be north of Memphis, in Tennessee."

The PRESIDENT. If there be no objection that modification will be made.

There was no objection.

Mr. BUTLER. I will say to my colleague I believe there is a concurrent opinion that the Gila route is best; but I will say to the Senate and the country that it will not be adopted. I will make the prediction. The road will go to the lakes.

Mr. BELL. There is considerable temptation for me to give my vote on this amendment with the opponents of the bill, because it seems to look to the interests of Tennessee, and that section of the country. Its adoption might defeat the bill. But independently of that, it is irreconcilable with the whole reasoning and principles on which I agreed to give my vote heretofore; and, therefore, although the amendment proposes to give the terminus to Memphis, in my own State, I shall be compelled to give my vote against it.

Mr. BORLAND. I desire to say in substance what the Senator from Tennessee has said. I desire as much as any one can desire that Memphis should be the eastern terminus of the road on the Mississippi, and I believe that it will be, among other reasons, for those which I stated yesterday in some remarks which I addressed to the Senate on another subject. But, Mr. President, I am sure that the adoption of the amendment would defeat the accomplishment of the object which I have in view. It would give it a sectional character, which is calculated to defeat it, and no doubt would. I believe the natural character of the country will carry it through. I do not believe that if we fix it by legislative enactment now, we can get the bill passed; but I do believe that leaving it open to be determined by actual surveys to be made, it will be carried to the very point that I desire. The Senator from Georgia [Mr. CHARLTON] called attention to the fact that if it went further south it could not pass through any territory without going through a State. If the Senator will look at the map which has been prepared, he will find that if it leaves the western border of Missouri or Arkansas, it passes through a very small portion of any State until it reaches the borders of California. It cuts across the projecting point of Texas only a small portion. It will follow the line of the Canadian, which has already been explored extensively and successfully; it will have to turn a little to the right to avoid the mountains to get down to Albuquerque, and it will hardly touch the northern portion of Texas. It cuts over a very small angle, and before it reaches that point of Texas, it will have to pass over the western border of Arkansas, over four degrees of longitude. I think the objection which he urges falls entirely short of the true state of the facts in regard to this bill.

Mr. DOWNS. I am very sorry to hear the remarks of the two Senators who last addressed the Chair. So strong are my convictions, for reasons which I have urged heretofore, and shall not repeat now, that this terminus ought to be not north of Memphis, that, anxious as I am that the bill should pass, I shall vote for the amendment. It should be put in the bill. By fixing that terminus the distance is shorter, and the road can be better made. I do not exactly understand the Senators who have spoken on the subject. When they say that this amendment is to defeat the bill, do they mean that the terminus is never to be fixed as designated by the amendment? If so I cannot understand it. I neither want to cheat nor to be cheated in this matter; but if it is the fact that those who support the bill will oppose it with the route south in it, I do not know any better time than now to settle the question. I shall not debate the question now. I have already given my reasons why I think the route greatly preferable, but I shall not certainly vote for the bill if it excludes the southern route. I do not see why we should not do what we think right whatever may be the consequence. If the amendment should be rejected, it will be decided to be a position taken by the Senate that this shall not be the route; and I regret very much to see the Senator from Tennessee giving his sanction to that.

Mr. RUSK. The object of this bill is to get a road to the Pacific. This amendment comes from an avowed enemy of the bill. The friends of the bill are anxious to get a road. They believe, what will be found to be so, that Congress never can settle the termini of the road, because it would wake up a most furious opposition in the immediate neighborhood of the points selected. Take Memphis, Vicksburg will be in the way; take Vicksburg and there is the mouth of Red river. You cannot succeed in it. There has been a great deal of expression of confidence in the honesty of the incoming Administration. I do not intend to add to it. I have shown what confidence I have. I do not intend to make any statement of that here. This bill is drawn on the supposition that the incoming President is an honest man; and, sir, its provisions form the highest compliment which the opposing party can pay to the personal integrity of the incoming President. Here is a subject which agitates the whole country. It is known that we cannot agree upon the termini. They have therefore agreed in this bill to say that we leave it to the President to determine which is the shortest, cheapest, and best route which will protect the commerce, and interests, and general defense of the whole country. We leave it to him; and if he has the means of finding out, and if he is an honest man, when he finds out which is the shortest, cheapest, and best route for the whole country, that route he will select—that route ought to be selected.

Mr. BELL. I must say one word in reply to the Senator from Louisiana, who has expressed his astonishment that I would give my assent to a proposition which, he says, if voted down must be regarded by the President and the country as the decision of this body against the location of the terminus at Memphis, or south of it. After the examination and surveys that have been made of the route on the Canadian river, or on the Red river, I regard either or both of them as practicable, and if I had it in my power, no gentleman, I suppose, would doubt that I would select the one nearest to my State. But I appeal to my remarks upon this subject heretofore to show that I placed my assent to this bill upon the clear conviction which I had, after some observation of the sentiment and feeling not only of the Senate, but of the House of Representatives, with regard to the subject, that no bill could possibly pass either body which designated or defined the termini of the road, either east or west, or its general direction. I was perfectly willing that the interests of my State should take the general hazard with the northwestern and southwestern regions, and that provided the President should have delegated to him the power of designating the road, we would trust to the integrity, the intelligence, the patriotism of a northern President to do equal justice, as far as should lie in his power, to the whole western border. I at least—and I suppose I may rely upon my honorable colleague to concur with me—am ready to look to the enlightened patriotism and sound judgment of my constituents of Memphis, and of the west of Tennessee generally, for an approval of my course upon such a subject as this, under the circumstances.

Mr. JONES, of Tennessee. I desire to say a word in reply to what I suppose to be a remark of my colleague. If I understand him, he supposed I would concur with him in voting against the amendment offered by the Senator from South Carolina. I am sorry that I cannot do it. I shall be constrained to vote for it. I should not have offered it myself, because I feared the very construction which the Senator from Louisiana has placed upon its rejection, might be placed upon it by the President of the United States, in the event that the bill should pass. I therefore regret its introduction; but it being introduced, I cannot vote against it.

Mr. DE SAUSSURE. It requires no great degree of frankness on my part to admit that I am an avowed opponent of the bill. I have been so from the beginning. It is a monstrous bill. It is a premature bill. I believe it involves consequences that will be disastrous to the country. I am therefore opposed to it. But, sir, the amendment was offered in good faith. It was offered not with a view to defeat the bill, but to amend it, to make it available, at all events, to my section of the country, if it is to pass, and to provide that the road shall pass, where, if it is constructed, it ought to pass alone. And now I warn the Senators from the South, I warn the Senator from Texas, that if ever he expects his road to pass through that country, "now is the accepted time" to provide for it. If you desire to effect that, you must do it now while the power is in your hands. Pass the bill, and that power is gone. You have no means afterwards to control the selection. You talk about leaving this power in the hands of the President of the United States. He never will have it. That bill, in its present form, will never go to the President of the United States, to be signed. Nobody but Senators who are so blindly misled by their project, would permit a bill of this kind to pass. What are the words? "It shall be the duty of the President of the United States to cause to be constructed a railroad." What clause of the Constitution gives you authority to pass any such act? How can you make it the duty of the President of the United States to construct a railroad, to become the president of a railroad company? I ask you where you find the power? You have no such authority. If you cannot find it in the Constitution, you cannot find it anywhere else. The bill, therefore, will never go to the President of the United States, to be signed in that form; and the President, I apprehend, would never assume the responsibility which you have attempted to impose upon him. I have nothing further to say.

Mr. WALKER. In regard to the remark of the Senator from Louisiana, that a mere negative vote upon this proposition may be considered as meaning a disapprobation by Congress of the route which the Senator from South Carolina proposes, I cannot think that it could be so construed; and if it should be, it will be but a balance of the account between the North and the South. I think the Senator from Ohio [Mr. CHASE] proposed a point between Independence, in Missouri, and Kainesville, in Iowa, and that was voted down. Consequently, according to the rule of construction adopted by the Senator from Louisiana, that location was disapproved of by the Senate.

Mr. CHASE. It was not voted upon at all.

Mr. WALKER. The Senator from Ohio says it was not voted upon. Well, sir, there can scarcely be any one so visionary, within the walls of this Capitol, whether inside of the Senate Chamber or not, as to suppose that it would have succeeded if the vote had been taken; and not only so,

whether it was voted upon or not, whether it was rejected or not, it is certain that it has not been adopted. Now, I am sorry to see that the Senators from Tennessee disagree in regard to this amendment. One of them says he will not vote for it. It can be upon no other ground—without implying any censure in the remark—than selfishness. He supposes it is patriotism.

Mr. BELL. I would go for my own section, if I had the power to fix the route.

Mr. WALKER. He may, and doubtless does, think he is actuated by principles of patriotism; and I believe he is to a great extent. He may believe that that will be the better and cheaper route. I have no doubt he does believe so; but now that Senator, in the candor of his nature, I presume would not deny that he would go for this proposition because it is Memphis, Tennessee. If the road should point in the direction of the State which I have the honor partly to represent, I might vote for it. I might desire very much to see the termination upon the line of the territory of the United States, in a direction which would secure to my section of the country the eastern terminus of the road. But, sir, as long as I desire, as a friend of this measure, that the road shall be made, and as long as the friends of the bill seem to show a disposition to stand by it, with its present general features, I should vote against a proposition of that kind, and would be willing to acknowledge that I would do it almost solely upon the score of selfishness—local interest. I mean by that, that I must be guided as much by patriotism, as I conceive my honorable friend from Tennessee [Mr. JONES] is in this matter, and that it would be a better route; but what of that? That would be my opinion. He has his opinion. He may be right; I may be right. We may both be wrong. St. Louis may be the best point. New Orleans or Vicksburg may be. Omniscience can only tell at present, for I admit that there is, and will be, a good deal of darkness about us, until we shall learn more by an actual survey. But while we do know no more than we do, it seems to me the bill now stands upon as good a basis as we can put it.

Mr. DAWSON. I desire to say to my friend from South Carolina that I shall be constrained to vote against his amendment. The position I occupy is that the railroad should go on the route that is practicable, and where it will do the greatest public good. The ground that I am acting upon is, that we can determine that only by a proper estimate and survey, and I am waiting for that result. I shall therefore vote against the bill invariably until these things are presented.

The question being taken by yeas and nays, resulted—yeas 11, nays 28; as follows:

YEAS—Messrs. Brodhead, Brooke, Butler, Charlton, De Saussure, Downs, Fitzpatrick, Hunter, Jones of Tennessee, Mason, and Soulé—11.

NAYS—Messrs. Atchison, Bell, Borland, Bradbury, Cass, Chase, Davis, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Foot, Geyer, Gwin, Houston, Jones of Iowa, Miller, Rusk, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, and Walker—28.

So the amendment was rejected.

Mr. SEBASTIAN stated that he had paired off with Mr. BAYARD.

Mr. UNDERWOOD. There is a matter of importance which I must bring to the attention of the Senate, in consequence of striking out the act of incorporation. I think it requires amendment. I wish particularly to call the attention of the friends of the bill to it. In the seventh section it is provided that if the company shall fail to comply with the terms of the contract, the whole work which they may have done shall be forfeited to the United States. But then the section goes on directly and provides that "in case of any such failure, the President of the United States shall readvertise and relet to other contractors," &c. The difficulty is this: the other contractors go on and finish the work. Suppose the Government wishes to take it and make it free. That is the object I have in view. I do not intend, if I can help it, to let the company have the work forever. Then the ninth section provides that the company is to be required "to surrender to the United States 'the said road and line of telegraph, with their 'equipment, appurtenances, and furniture, upon 'the payment to the said company of the cost of 'construction of the same, allowing ten per cent.," &c. I conceive that there will be a difficulty in regard to the construction of these provisions. What is to become of the expenditures of the first company which have been forfeited?

Mr. RUSK. There is not the least difficulty in the world. They are forfeited; and under another provision of the bill the new company which would make the contract must keep an account of their expenditures.

Mr. UNDERWOOD. I beg the friends of the bill to hear me a little while. I labor under the apprehension that there is a difficulty; and if I can see that there is not, I shall most cheerfully sustain the bill as it is. Now, the language of the section which I have read is, that the company surrendering the road is to receive the whole cost of construction, "allowing ten per cent. profit 'upon their investments, deducting from the whole 'cost of said road the amount of the bonds paid 'to the said company, and the proceeds of the 'lands granted to them." Now, you perceive that the bonds granted to the company that finishes the road will only be a small portion of the bonds which have been granted from the beginning. My object is to get clear of these difficulties. The first company may have received bonds to the amount of ten millions. The company which ultimately constructs the road may have received to the amount of ten millions. The difficulty grows out of the construction of the clause. The language is, that the company that is compelled to give up the road is to receive the whole cost of construction. What I want to suggest to the friends of the bill is, that they should insert in some appropriate place the following:

The cost of that part of the road which may have been forfeited to the Government, if any, and the amount of the bonds paid to the company completing the road, and the proceeds of the lands sold or disposed of, and the value of those retained by the company completing the road, shall be deducted from the amount of the total cost of the road, and the remainder paid to the company surrendering the road to the Government.

That will place it in such a condition that there can be no difficulty about it. That, I am sure, is what we all mean and wish; but I apprehend that in consequence of changing the character of the bill, by striking out the corporation clause, the difficulty may arise. If they had all been corporators coming in, I apprehend they would have been entitled to the stock in the company in proportion to their contributions, and they would not have lost the stock by others coming in and completing the road. That would have been just, and could have been secured by regulation. But there is now a difficulty, as I think, which I have conceived it my duty to bring to the attention of the Senate. If the first contract is forfeited, a subsequent contract is to be made. When you come to take the road away from the second contractors, the bill provides that the whole cost of construction is to be returned to them. That provision of the bill is not sufficiently explicit.

Mr. GWIN. I think I can satisfy the Senator. They do not get one cent for the construction of the road until they complete fifty miles. If a contractor fails, he fails at a risk—and that is the cost of the road. If he has contracted for a thousand miles, and builds five hundred and completes it, he gets paid for it; and that is the cost of the road. Then if another takes the other five hundred miles and completes it, that is the cost of the road. They are required to keep books with the most minute detail. I think there is no difficulty in it.

Mr. UNDERWOOD. I really apprehend that my objection is not understood.

Mr. DAVIS. The clause alludes to the cost to those individuals.

Mr. UNDERWOOD. If it means that, I am content with it; but it does not so read.

The PRESIDENT. If there be no further amendments to offer, the bill will be reported to the Senate.

Mr. CASS. Mr. President, I am very anxious for the construction of this road, as I have more than once stated to the Senate; and I have resisted every effort to impede this bill, and shall continue to do so, excepting upon vital points, involving questions of constitutional power. I believe this measure is one of the most important—I had nearly said the most important—which can engage the attention of Congress, embracing interests bearing equally upon the present and the future of our country. The Senator from Virginia [Mr. HUNTER] has presented the objection with great force, and it has been repeated by others, that this bill transfers legislative powers to the President, by the control it gives to him over the route and direction of the road. I do not so consider it. I consider these matters as questions of administration rather than of legislation. I have no doubt of the right of Congress to enter into every detail connected with this work, should it be disposed, as it would have the right to prescribe how many windows there shall be in the proposed addition to the Capitol. But I think it is better for the Legislature to make general provisions for the construction of such works, leaving the Executive Department to carry them into effect. Besides, I yet remain firmly of opinion, notwithstanding the contrary opinions we have heard advanced, that no bill fixing the route and termini of this road could pass Congress. There are so many local interests to operate, that a majority could not be found to unite upon these exciting subjects. And I think we have had sufficient proofs of this difficulty, or rather impossibility, in the short but strongly-marked debate we have just heard, touching these matters.

I am persuaded that the fate of the measure depends upon leaving the question of location to be determined, independent of Congress, under the direction of the President, and by information to be obtained by a proper examination and survey of the country. I see no force in the objection that this is a duty not proper to be imposed upon the President, committing to him the execution of such a work. Why, sir, in conferring such a power upon the President, we thereby confer upon him the proper means of executing it. We have committed to him the construction of the new Capitol; we commit to him every day the construction of other works, forts, arsenals, mints, ships-of-war, and a thousand others; and in a similar manner the first Cumberland road act, which is on the desk before me, committed to Mr. Jefferson the execution of the duty and its continuation westward, till it was stopped, was regulated in the same manner; and though the sphere of location was much more restricted in that case than in this, still the same principle was involved, for neither of the termini of the road was established by law.

It is easy to see what general principle will govern the President in the performance of this duty. He will appoint competent, intelligent persons, engineers or others, to make the necessary plans and surveys and estimates, and these will be returned to the proper Department, and after the subject has been fully investigated by the President, he will authorize the location of the road, in part or in whole, as he thinks fit, and then commit the general control to the Department, under regulations approved by him. I confess, sir, I would rather the bill contained a provision for the appointment of commissioners by the President and Senate, for the purposes of location; and if any gentleman will move such a provision, without any other clause to impede the object, I will cheerfully vote for it, though I do not wish to interfere myself with those having charge of the bill. Such an arrangement should give to the President full power to approve or disapprove the location; still, with or without such a provision, I believe the necessary information for the location of the road will be procured by means of a commission.

The Senator from Virginia seemed to object to this road, that there would be very little profit from it. The question of pecuniary profit is one which has no weight with me in the consideration of this subject. My own expectations upon that point are perhaps not higher than those of the gentleman from Virginia. I have no great faith in the prediction that the commerce of Asia with America and Europe is to find its passage across this route. I believe that there are serious obstacles which will prevent such a change in the intercommunication between the East and the West. But I have learned not to speak too confidently upon the developments of the future, though I will say that this consideration will have no bearing upon the vote which I shall give; that will be influenced by what I consider more important views.

One of the Senators—I do not recollect which—but one of them has said during this discussion, that the road is not needed for the purpose of defense, because before it can be constructed Oregon and California will be in a condition to defend themselves against the world. In my opinion, they are in that condition now. I believe it is

beyond the power of Europe to send an army which could overcome that portion of our Republic. The distance, the difficulty and danger of transportation, and the impossibility almost of finding the means of subsistence for such a gigantic enterprise on the other side of the earth, furnish insurmountable obstacles against its accomplishment.

Gentlemen talk seriously about the tremendous effect of a ship-of-the-line and a frigate upon our Pacific coast. That marauding parties might land, or that a buccaneering ship might do some injury there as well as here, no man can doubt; but as to conquest—you might as well attempt to blow up the rock of Gibraltar with a pop-gun as to conquer the sturdy and patriotic population that is to be found in those regions. From their hills and their valleys they would mock to scorn any army that Europe could send there. I have not the least fear of such an attempt. My fear is from within and not from without. I have a settled conviction that our tenure of that part of the Confederation depends in a great degree upon the facilities we may provide for reaching it. If you desire to unite the Atlantic and Pacific citizens by indestructible bonds, you must unite the Atlantic and Pacific regions by a bond of communication, which, in fact, will make them one people. A Government like ours, depending upon opinion and not upon force, cannot expect to preserve its organization where it is separated by a world of wilderness and by months of time. In such a state of things there will be a want of sympathy of feeling and of mutual dependence. Distance in these days is resolved into time, and by the measure proposed you can bring the extremes of our country closer together than were Philadelphia and Savannah when the Government was organized. This means of prompt and easy communication we must have; and when we have it, and not till then, we shall have one country, one people, one destiny. It is, therefore, in a political and social point of view that I deem this road so important, whatever may be its effects as a commercial route, or as a means of communication connected with the defense of any portion of the country in time of war. I do not mean, by anything I have said, to question the expediency of fortifying proper points upon the Pacific coast. I think such a measure very necessary to prevent sudden incursions or marauding expeditions. But I totally deny the necessity of such measures with a view to prevent the conquest of the country.

I have already stated to the Senate that I have insuperable objections to the establishment by the General Government of a corporation within the limits of a State.

Mr. RUSK. That is stricken out from the bill.

Mr. CASS. I know it, and I am glad of it. I allude to the subject to state that I had two serious objections, insurmountable, indeed, to this bill; one, the section providing for the incorporation, and which has been struck out, and another which still remains, and which, if retained, will prevent me from voting for the bill. I have in vain sought in the Constitution the power of the General Government to make a road within any State; that is, to make a communication which shall have the legal attributes of a road, with a right to condemn property for its formation, and to provide penalties for its protection and preservation, taking full jurisdiction over it. What it might be necessary to do in time of war to facilitate military operations, I do not now undertake to consider. The power of the Government to construct a way through its own land, I do not dispute. It has been exercised more or less since the foundation, and is conferred by that clause of the Constitution which gives to Congress the right to regulate and dispose of the public property. But in such a case, the legal attributes of a road cannot attach to such communication. No Senator can point to a clause in the Constitution which authorizes us to enter a State, and to assume jurisdiction over roads within it.

Mr. RUSK. With the consent of the State?

Mr. CASS. With the consent of a State or without it, it is all the same. Let me say to the honorable Senator that there are thirty-one States in this Union, and upon his construction, instead of one Constitution for the General Government, we shall have thirty-one. If we say to the State of New Hampshire, let us build and endow a college within your limits, she may say very well; if you are disposed to appropriate a round sum of money for that purpose, you have our consent. And then the General Government will possess the right to establish a magnificent university in that State. Coming to Massachusetts the temptation may be to support all her common schools, and it would not be wonderful if the offer should be accepted, and a new and most important prerogative thus conferred upon the United States within the limits of one member of the Confederation. New York, being a large State, might require a larger consideration, and that might be found in a proposition to defray all the expenses of the State government, and to be allowed to pass all laws which Congress might think proper, within the State. It cannot be necessary to pursue these illustrations. There is not a single object in the vast concerns of life which might not thus be brought or be bought within the jurisdiction and control of the Federal authority,—roads, canals, bridges, banks, corporations, and whatever else, indeed, the wants of society require. I do not deny, sir, that many of these supposed cases are little likely to happen; impossible, indeed, in the present state of public opinion. But they test the principle, as they all come within the same category, of giving jurisdiction to the General Government, by this new process of assent; and no man can tell, when an abuse begins, where it is to end. Better repel it at the threshold than to allow it to get possession of the hearth-stone. Establish such a doctrine, and instead of one Constitution we shall have thirty-one; and how permanent or how transitory they may be who can tell? Is the Legislature of the State thus giving its assent to a new proposition, to be forever bound by the act, or is it repealable whenever a majority of the Legislature feel the error, and endeavor to correct it? What a strange exercise of power would such a state of things entail upon the country!

It must be recollected, sir, that this is not a Government possessed of any residuary powers. When a political community organizes its institutions, it gives to its Government all the power which is not withheld. Such Government is the representative body of the community holding in trust the powers of its constituents. This is the theory of all governments derived immediately from the people. But when sovereign States associate together for certain specific purposes connected with their internal and external prosperity and defense, the Government thus instituted possesses only the power that is expressly granted to it. The people and the States composing the Confederation are the residuary holders of the powers not granted. This general view is fortified by the express provisions of our Constitution, which reserves to the States and to the people all the rights not ceded by them to the General Government. It is to the Constitution, therefore, that we must look in order to ascertain what we can do in any given case. If the power is granted, we can exercise it without or against the consent of any particular State, and if it is not, the assent of even all the States cannot give it, unless that assent takes the form of a change of the Constitution in the mode itself points out. Without that, you cannot touch a single comma even of our great charter; and yet if this new doctrine is established, it becomes a mere face of wax, which any one State may mould at its pleasure. So far as I recollect, the Senator from Virginia [Mr. HUNTER] is correct when he says that there is but one provision in the Constitution which requires the assent of a State to the action of Congress, and that is where exclusive jurisdiction is sought to be obtained over sites for the construction of forts, arsenals, and other needful buildings.

If the Senator from Texas, [Mr. RUSK,] who has charge of the bill, and is no more anxious for the accomplishment of the object than I am, will change the terms so that the road, where it passes through any State, shall be made under the authority of the Legislature upon principles now familiar to our Legislature upon this subject, I, for one, will cheerfully agree to grant any reasonable amount of public land which may be necessary. And with respect to that portion of the road between whatever State bordering on the Mississippi it may traverse, and California, being the domain of the United States, I will vote for land and money to such an amount of both as will insure the work. The difficulty that meets me is not one of cost, but of constitutionality. By this means we avoid all objections, leaving to the State governments to act within the legitimate sphere of their operations, while our own action is confined to the public domain, which, by the Constitution, we have full right to regulate and dispose of. As a practical question, I have not the slightest doubt that this arrangement would give us the road, and it seems to me that those in favor of the measure take upon themselves great responsibility when they reject this proposition. Why, sir, it is more favorable than the bills we have before had reported upon this subject, for they provided nothing but land, while this makes a similar provision in the States; and in the immense desert country through which the road must pass, and where its construction would be most difficult and expensive, a vast amount of money is granted in addition to the land; and I am perfectly willing to increase the quantity of land lying in either of the States through which the road may pass, to any reasonable amount, if it can be shown that the quantity herein granted will be found insufficient for the purpose; and besides, in any view, the grant of land and money, within the Territories, will insure the construction of the road over the most difficult and extensive portion of the route; and who can doubt, that if made there, it would soon work its way east and west to the proper termini? That result is sure. This partial execution of the work would inevitably and speedily lead to the execution of the whole. Better, far better, take this than nothing.

I trust, sir, that this common-sense view of the subject will be taken by the friends of the bill, and that this great measure will not be rejected because all its details cannot conform to the wishes of every individual Senator.

The effort to procure a grant of money for the construction of a canal at the Sault Ste. Marie has been referred to, and I must confess that I do not comprehend how any member who voted against that proposition on the ground of its unconstitutionality, can vote for this road in a State. The difference between that case and this is a very obvious one, and very obviously in favor of the grant there and against it here. A canal at the Sault Ste. Marie will open a communication with Lake Superior, almost every foot of whose southern coast is owned by the United States. Of course such a work, by facilitating intercommunication, would greatly enhance the value of a vast amount of public property. The canal must run through the land of the United States. There is not an inch on the route which does not belong to the General Government. The bill for its construction assumed no jurisdiction whatever. It claimed no legal attribute for the canal, no right to condemn property, no penalties for its protection, nothing, indeed, looking even to jurisdiction. It was to be a cut of about three quarters of a mile in extent, which the United States was just as competent to make, as to dig a mill-race or a ditch upon the site of an arsenal, or upon any portion of the public property. It was a measure looking to the increase of the value of the property, and especially desirable as a means of defense for a distant and exposed frontier, by opening a ship communication between our great inland seas, which would enable our naval forces to pass from one to the other without interruption, thus avoiding the necessity of having two fleets instead of one. But what is this proposition? It assumes the right to lay out and establish a road through a State, not over the land of the General Government, but over all land, condemning it, if necessary, and giving to such road all the legal attributes of a highway, to be enforced in the courts of the United States. And yet, gentlemen who saw no power to grant money for the Sault Ste. Marie canal, find in the Constitution the right to enter a State, and exercise powers there never conferred upon Congress.

A few words more and I leave the subject. We have heard it said in this discussion that this road may not run through a State at either its eastern or western termination. I suppose it is the object of every member who supports this measure, to make a useful and practicable road from the Mississippi, or from some accessible point near it, through California, to the Pacific ocean. I suppose if this route is not followed, that we shall fail in the great object we are seeking to obtain. No man acquainted with the country, or who will look at the map, can doubt this. And a road we must have by such a route and such termini as a proper investigation may point out. We have heard

many expressions of confidence in the President elect. I am not going to follow that example. I voted for him, and that is the best proof I could give of my confidence in his qualifications. The rest I leave to time, and with an unshaken trust in the ability and patriotism of his administration. But the question involved in this claim of jurisdiction is not one of confidence, but of the Constitution. It is conceded that by the existing provisions of the bill, if the President should believe that Congress has the power to authorize the construction of this road in a State, he may locate it there, and that if he does not so believe, he will not so locate it. That is no ground for my action. Believing that Congress has no such power, I will not transfer the right of decision to any Chief Magistrate whatever. I must act upon my own construction of the charter of our Government. How, then, am I to vote for a bill which may become constitutional or unconstitutional agreeably to the opinion, not of the legislator, but of the officer charged with its execution? That is no ground for just legislation. It is our duty to pass such laws only as are clearly constitutional, and for which we ourselves are responsible.

I do not desire longer to detain the Senate, but I will merely repeat that I am anxious for the construction of this road, and that I am prepared to grant any reasonable amount of land and money for that purpose within the limitations I have mentioned.

Mr. JONES, of Tennessee. I desire to ask the Senator from Michigan a question. I am very much inclined to follow him in a good many things; in others I am not. If I understood him, he would vote any quantity of the public lands to construct a road, but he will not vote any money.

Several SENATORS. In a State.

Mr. JONES. Then he will vote no money in a State. Now, I desire to ask the Senator whether he voted to appropriate money to construct a canal around the Falls of the St. Mary, in the State of Michigan? I do not know whether he did or not.

Mr. CASS. The honorable Senator could not have heard me when I adverted to this topic a few minutes since, but if he wishes it I will repeat the difference between the two cases.

Mr. JONES. Certainly.

Mr. CASS. It is simply this: The canal at the Sault Ste. Marie was, every foot of it, to pass through the public lands. There was not one word in the bill conferring upon the United States any jurisdiction whatever. The power to make the canal was derived from that provision in the Constitution which gives to Congress the right to regulate and dispose of the public lands. It was as clearly competent for them to do this as to authorize a ditch to be dug in any part of the property of the United States. There was no assumption of power, no peculiar attribute granted to the canal.

Mr. JONES. The Senator says it had none of the attributes attached to this road. It was a ditch or canal. I do not know but that this road is a ditch, and the only question I want to settle is, whether it is constitutional to appropriate money out of the Federal Treasury to dig a ditch in one State when you cannot do it in another. That is the only point.

Mr. CASS. I will ask the Senator another question. It is simply this: Does he see no difference between the power of Congress to cut a canal, or make a road, or throw up a bank upon its own lands, works with no peculiar legal attributes, and which give no jurisdiction to the General Government, just as any other landholder might do, and the power to go into Tennessee and there to establish roads at pleasure, through every part of the State, condemning the property of individuals, and assuming jurisdiction over such roads, and protecting them by penalties to be enforced by their own courts? If he does not, I do.

Mr. GWIN. I desire to ask the Senator from Michigan a question. Suppose the terminus of the road should be at Memphis, or the other side of the State of Arkansas, and from there, until it reached the Territories of the United States, if the whole was public lands of the United States, would he vote for the bill?

Mr. CASS. The honorable Senator means to ask if the United States can appropriate money to improve their own land?

Mr. GWIN. Within a State.

Mr. CASS. Within a State. I understand the proposition, and I have not a shadow of doubt that they have full authority to make such appropriations, just as any other land-owner might do. They do it every day, for the purpose of surveying the land, and for many other objects, with which our statute-books are filled. The honorable Senator will recollect that *the power to regulate and dispose of the public lands* is not terminated by the admission of a Territory into the Union. It continues as long as the United States holds the property; and all the laws relating to its protection and disposition are in as full force at this moment in Ohio as they are in Minnesota. This right of regulation and disposition gives no political power, and therefore, when the United States make a road, or way rather, through their own land in a State, such road is just in the same condition, so far as regards its legal attributes, as it would be if made by an individual; and thus full political jurisdiction is preserved to the States, while the regulation and disposition of the public lands continues in Congress.

Mr. DODGE, of Iowa. Mr. President, I send an amendment which I have to offer.

The PRESIDENT. To what part of the bill does the Senator propose his amendment?

Mr. DODGE. I will just ask that it may be read for the information of the Senate. It makes but little difference as to which place it should come in, and for myself, I do not want it to come in at all. [Laughter.] It may come in anywhere, but my wish is, nowhere.

Provided, That the eastern terminus shall not be south of St. Louis, Missouri.

St. Louis and Memphis are two almighty great cities situated on the Father of Waters, over in the valley of the Mississippi, and each with numerous other cities and growing towns expecting to be made the terminus of this Atlantic and Pacific railroad; and the Senator from South Carolina, by way of feeling the pulse of Senators, dividing the friends of this bill and arousing sectional feeling, I fear, has offered an amendment to fix Memphis in the law as the eastern terminus of this road. I saw with the deepest regret, that he succeeded in winning the junior Senator from Tennessee [Mr. JONES] to the support of his amendment, which, if it had been adopted, must inevitably have brought defeat to the bill—thus closing the door to all hope of Memphis, or any other point, ever being its eastern terminus. The Senator from Tennessee [Mr. JONES] gave as a reason why he should support the amendment of the Senator from South Carolina, that if it were voted down, it would be regarded by the President as a Senatorial or Congressional condemnation of Memphis. I differ from him in that opinion; and offer my amendment for the purpose of placing St. Louis in the same category as Memphis. I am equally friendly to both of these growing cities, but do not intend that either of them should kill the Pacific railroad, if I can help it. I will add, that if an amendment were to come from an enemy of the bill fixing the terminus of the road at the city of my own residence, or at that of my colleague, I would stamp it with the verdict of my condemnation.

Mr. JONES, of Iowa. So would I.

Mr. SEWARD. That is the right talk.

Mr. DODGE, of Iowa. No amendment that comes from an avowed enemy of the bill shall receive my approbation. I seize the occasion to volunteer my testimony to the strong feelings of friendship and favor so repeatedly expressed by the senior Senator from Tennessee [Mr. BELL] in the room in which the Special Committee held its meetings.

The Senator from Ohio [Mr. CHASE] has the honor of having first introduced an amendment which raised the sectional question. If I may be allowed the expression—I make use of it respectfully to both—a *Free-Soiler* raised the first question of that sort, and a *fire-eater* soon comes to join him in the work of further exciting it. I was prepared, if it had come to that point, to vote against the amendment of the Senator from Ohio, although it proposed to bring the road either to Independence, in Missouri, or to Kanesville, in Iowa. I want this amendment voted down, that St. Louis, Independence, Missouri, Kanesville, Iowa, Matagorda, Texas, southwest corner of Arkansas, Vicksburg, in Mississippi, and all other points named or thought of may stand alike. So far as the action of this Senate or Congress is concerned, I want them all to stand alike and upon equal grounds for presidential favor—none condemned, none recommended. If my humble voice could reach the President, I would say to him, in considering and deciding this matter, should it be left to him, disregard all little, miserable, humbug amendments having their origin in local animosity or sectional discord. Such I know, too, will be his course, and that he will act upon it as a great question which affects the destinies of millions of freemen, and of generations yet unborn. The character of the man and the place which he fills are all the guarantees I want.

Mr. DE SAUSSURE. I beg to repudiate the compliment which is attributed to me. I really do not live upon fire. [Laughter.] But I have something more serious to say. It is this: that the amendment which I offered was not offered in the spirit which the honorable Senator supposes. I did not suppose, at first, that this bill would be carried; but if it is to succeed, I desire, at all events, that the road should be carried through that country where it will be most practicable, and do the most good. I have not been an inattentive observer of events recently. I have read the accounts of many of the travelers who have gone from here to the West. I have observed that by what is called the South Pass, away down to a very considerable southern latitude, for a great many months the mountain passes are gorged with snow, and filled, to the extent of from fifteen to twenty feet in depth, with snow. When the Senator from Illinois [Mr. DOUGLAS] the other day pointed out the beauties of that country, where there were no "barrens," and when he was describing to us the hardships of the emigrants, whose bones were whitening the soil, I referred back to my reading, and found that this was the fact, that they were traveling in a country—I take it from Frémont's account—where the ground was covered with snow, and they were unable to procure the means of subsistence, and where they were passing through sands, and could procure no water. I am satisfied that if a road is to be established from here to California, it ought to be through the country which has been designated upon the map—that is, through Albuquerque, and leading to Memphis. I have become entirely satisfied that that is the true route. I became satisfied of it, because there are obstructions further north, which they will not be liable to on the south of that line.

It was, therefore, in no factious spirit at all, in no improper spirit of opposition to the bill, that I made the proposition. To be sure I did suppose that if the route was designated, and it was ascertained that it would be as far south as Memphis, I might safely count upon the votes of the Senators from Tennessee. I did suppose that other southern Senators might be found also to vote for it, and to vote against the bill, unless the amendment were adopted; but that it was intended mainly to influence them is not exactly what entered into my contemplation. Sir, I do not boast of being more national than other gentlemen, or quite as national, perhaps, as some of my friends upon this floor; but when a vast enterprise like this is about to be undertaken, when the resources of this country, not for one year or two, but ten or twenty, involving the interests of such a very large proportion of our people are at stake, I desire that that enterprise shall be carried out in a way which conduces best to the interests of all the parties concerned. And I did apprehend that if without designating this route the bill is passed, the power passes out of the hands of the South to give the direction to it. There is no chance hereafter to locate it so far as the South, so far as Memphis is concerned.

Mr. CHASE. The amendment submitted by me, some days since, was offered in good faith. It was not voted on, for the bill of the Select Committee, now before us, was substituted for that of the Senator from California, then under discussion. I certainly did not anticipate the necessity of saying a word upon that amendment at this time, but the remarks which have been made by the honorable Senator from Iowa, [Mr. DODGE,] however, seem to require a few words from me.

The difference between that Senator and myself is precisely this: I believe that it is the duty of Congress to determine upon the location and termini of this road. He does not. I do not believe that it ought to be referred to the President of the United States. He does. The amendment offered

by me was designed mainly for this purpose: to call the attention of the Senate to the impossibility at this time, and with the degree of information which we possess, to determine upon the proper termini and the proper route. The debate which followed answered that purpose. It was my opinion that we had not sufficient information to enable us to determine those important questions, and in that opinion I found myself sustained by the concurrent judgment of the Senate. We all agree as to this. The simple question then remaining was this: Shall we obtain the information necessary to form an intelligent opinion, or shall we concede to the President the power of determining as to these important questions, and contracting, also, for the construction upon such terms, and with such company as he may see fit? That question was presented by the amendment of the Senator from Pennsylvania, which I sustained.

I have disclaimed from the beginning, and I disclaim now, everything like a sectional consideration.

The Senator from Arkansas who sits before me, [Mr. BORLAND,] made an able and elaborate speech the other day, in support of what is known as the New Mexican route for this road. Had he not a right to do so? Was it not his duty to do so, if he believed that route entitled to the preference? Have I not the right, and is it not my duty to indicate and defend another route, if I believe it the best? Is it not obvious that the natural result of debate, of the comparison of opinions, and of facts, will be the selection of the best and cheapest route? Ascertaining that we have not the information necessary to an intelligent determination, is it not our duty, without bandying the epithets "free-soiler," "fire-eater," "compromiser," or the like, to possess ourselves of the requisite knowledge, and then as Senators—as American Senators, with a broad and comprehensive regard to the interests of the whole country—determine the important questions connected with this subject? I believe we ought. I believe we can.

I do not propose to say anything further at this time. I trust that the bill may be reported to the Senate without further delay. I then desire a vote by yeas and nays upon one proposition—the amendment moved by the Senator from Connecticut authorizing contracts with corporations created by the States.

Mr. BORLAND. The Senator from Ohio has alluded to the remarks which I made yesterday on the subject of the route of this road. He said I had a right to make those remarks, and to show that that was the proper route; and he claims the same right to speak of the route which he thinks is the best. But there is this simple difference between the position assumed by myself, and that assumed by the Senator from Ohio: I did express an opinion that the route which I indicated was the proper one, and I gave my reasons for it; but I certainly made no proposition to give that opinion the force of legislative enactment, and to decide by the voice of the Senate that such should be the route in preference to all others. On the other hand, the Senator from Ohio has sought by legislative enactment to give his opinion the force of law, and to make it binding upon the country. I sought no such thing. I do honestly believe, and such study as I have been able to give the geography of the country as developed before us, satisfies me that the route along the valley of the Canadian, by the village of Albuquerque, and on through those valleys of the mountains, and through Walker's Pass, is the proper route, and will be the route selected when the country comes to be actually surveyed and measured for the purpose. I am sure no one can suppose that I am less favorable, less anxious that the road should take that route than any Senator on this floor, whether he comes from the extreme South, or further North than I live; but believing that that is the best route, and desiring it as I do, that is the very reason why I go for the bill in its present form, leaving the route to be fixed by actual survey. We do not, as some Senators seem to suppose, place it at the discretion of the President to say where this road shall go; but we put it in his power, and we make it his duty to avail himself of competent persons to survey and ascertain all the facts in relation to the various routes, and then I, with others, have sufficient confidence in his candor, fairness, and judgment, to say which route the road shall take. On that ground I vote for the bill as it is, not fixing any particular route or terminus.

Mr. BADGER. As there seems not to be any idea of coming to a conclusion upon the amendments, and a vote upon the bill to-day, and as, following the illustrious examples which have been set, I have made up my mind, though reluctantly, to say a word or two on the bill, conforming to the general pleasure of the Senate, I move that the Senate do now adjourn.

Mr. RUSK. I hope not.

Mr. BUTLER. I understand that the honorable Senator from North Carolina, who has not spoken on the subject, wishes an opportunity——

Mr. BADGER. I do not care anything about the opportunity of speaking. I am very willing to vote, if we can do it; but I do not want to sit here and hear speeches made when there is no necessity for them, and when their only effect is to consume time.

Mr. SMITH called for the yeas and nays on the motion to adjourn; and they were ordered; and being taken, resulted—yeas 18, nays 27; as follows:

YEAS—Messrs. Badger, Bright, Brooke, Butler, Charlton, Cooper, Dawson, De Saussure, Fitzpatrick, Foot, Hamlin, Hunter, Mason, Norris, Pearce, Pettit, Soulé, and Toucey—18.

NAYS—Messrs. Adams, Atchison, Bell, Borland, Brodhead, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Fish, Geyer, Gwin, Houston, Jones of Iowa, Jones of Tennessee, Miller, Rusk, Sebastian, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, Walker, and Weller—27.

So the motion to adjourn was not agreed to.

The PRESIDING OFFICER, (Mr. MILLER in the chair.) The question now is on the amendment of the Senator from Iowa, [Mr. DODGE.]

Mr. BADGER. On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BRODHEAD. I understood that the honorable Senator from Iowa withdrew his amendment.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the amendment cannot now be withdrawn.

The question being taken by yeas and nays on the amendment, resulted—yea 1, nays 40; as follows:

YEA—Mr. Pettit—1.

NAYS—Messrs. Adams, Atchison, Badger, Bell, Borland, Bradbury, Bright, Brodhead, Brooke, Cass, Charlton, Chase, Davis, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Fitzpatrick, Foot, Geyer, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Miller, Rusk, Seward, Shields, Smith, Sumner, Toucey, Underwood, Wade, Walker, and Weller—40.

So the amendment was rejected.

The substitute reported by Mr. RUSK, from the Select Committee as amended, was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole. The question will be taken on them altogether, unless some Senator desires a division.

Mr. CHASE. I desire to except the amendment which was made in the fifth section, on the motion of the Senator from Connecticut, [Mr. SMITH.]

The PRESIDING OFFICER. That amendment will be reserved.

Mr. SOULE. I think the bill should now be printed with the amendments made to it, in order that we may have an opportunity of seeing it on Monday morning in its present shape.

Several SENATORS. No! No!

Mr. SOULE. Do honorable Senators mean to force a vote on it to-night?

Several SENATORS. We do.

Mr. SOULE. If they do, they will find themselves mistaken.

Mr. GWIN. We do not wish to force, but we desire to have a vote.

Mr. SOULE. The minority have exhibited no willingness to throw unnecessary obstacles in the way of its passage; but if an attempt is made to exert an undue pressure upon its course, the majority must be prepared to miss its object to-night. I wish merely to see the bill printed in its present form, that I, as well as those who feel inclined towards it like myself, may know how it stands as amended. No great delay can result from such a course, and I would suggest to its friends that it is the best which they can pursue, if they be anxious to see the end of this debate.

Mr. BADGER. I think that now, at all events, the friends of the bill ought not willingly to yield when the application is enforced by the honorable Senator with a threat, that the time will be consumed and the bill lost. To ask a thing, and to threaten, are very different things.

Mr. RUSK. I have not the slightest disposition to press any measure improperly upon a minority; but one thing is very evident, that if this bill, with these amendments, goes over, it will be just as much a defeat of the bill as though every vote were against it. That, in my opinion, is unquestionable.

Mr. SOULE. I have a word to say in answer to the honorable Senator from North Carolina. If I understood him aright, he thought he saw a threat in the words I have just used.

Mr. BADGER. I think so.

Mr. SOULE. And he intimated that on that account the friends of the bill should not yield to my application. No, sir; I am not of those who indulge in threats; and for a very obvious reason, that I ever mean to carry out the design which a threat would but idly imply. I am a man of action, and but very little a man of words, as my course here must have shown. If there were any threats here, they were in the fact of the majority pressing this bill upon the minority, at so late an hour, and after we have been in session six entire hours. There may be a threat in the attempt at driving us by exhaustion to a hasty conclusion of the debate, and to that threat I am by no means disposed to yield.

I repeat again that I had no intention to impede the progress of this bill. On the contrary, I think I have exhibited every inclination to let it have its proper course, and be brought to a fair test; yet it is known that I had in mind to propose a substitute to it before the debate was closed, and that substitute was no other than the Whitney scheme, which I presumed might meet with a favorable reception at the hands of those who have sincerely at heart the success of the great measure through which is to be effected the connection of the two oceans; and notwithstanding my decided preference for that scheme, which I am sure would relieve the undertaking from the constitutional difficulties, which, in the shape it assumes in this bill, it so obviously presents, seeing the temper of the Senate and the eagerness with which the majority seems determined to compel us to a vote, I had resolved to abstain from pressing its consideration. So little was I inclined to squander away precious time in trying what, from all appearances, I was bound to consider as an idle attempt, yet not even this could induce indulgence on the part of the majority. Now, sir, we ask of the sober sense of honorable Senators whether it be proper, whether it be right, to exact of us compliance with their impatience and hurry, in a matter of so vast a moment as that now in debate, involving questions of portentous import, and suggesting scruples like those which have been so eloquently delineated by the distinguished Senator from Michigan, [Mr. CASS.] I hope, sir, the ultimate vote, so eagerly sought after by the friends of the bill, will not be insisted upon, and the bill will be permitted to go to the printer. Let that be done, and I shall be satisfied with registering my sense of the disasters which it betokens for the future, in a manner which will, at least, protect my responsibility, and give ease to my conscience.

Mr. BADGER. Mr. President the honorable Senator from Louisiana when he was up before, said with a significance that could not be misunderstood, that the friends of this bill would find, if they refused what was asked, that they were not adopting the most favorable mode of getting this bill through. His language was, they could not see the end of debate. I understood, as I suppose every member of this body understood by that expression, that the honorable Senator meant to say that if what he asked was not granted, the debate would be protracted for the purpose of defeating the bill. Now, it is a mere question about terms to say whether that was a threat or not. The honorable Senator may call it by what name he pleases. It was an intimation that we should do what he asked, or sustain an inconvenience to be inflicted upon us if we did not. That, I think, involves what people in the ordinary use of the English language, under-

stand to be a threat. The honorable Senator says he is not a man of words, but is a man of action. Well, all of us here who have served with him, know that he is not a man of words, and nobody, I believe, has called in question the fact that he is a man of action. I think, therefore, it was unnecessary, and I do not see how it was germane to the occasion or at all provoked by what had been said, for the honorable Senator to exhibit an appearance of excitement and anger. With these observations, I leave the subject.

Mr. ATCHISON, (Mr. MILLER temporarily occupying the chair.) I would inquire of the Senator from Louisiana whether it is his object to propose an amendment to this bill?

Mr. SOULE. From the view which I have taken of the state of the debate, and of the disposition of the majority of the Senate, it would be useless to do so, and therefore I have intimated my intention to abstain from offering any amendment; the bill may take its course. I had merely expressed a wish to see the bill printed with the amendments made on it. This seems too much for the majority to concede. I have no power, nor do I feel any inclination to resist its determination. But this night will not see the bill at its third reading. I had intended no factious opposition to its passage; but I doubt much, if instead of shortening the delays which it must necessarily undergo, this will not rather prolong them.

Mr. GWIN. If the Senator will permit me, I will state to him that I understood it as a mere suggestion on his part. The printing of the bill was not material to him, but it was a mere suggestion of his own for his and other gentlemen's accommodation. He must not suppose that we mean any discourtesy to him by insisting on the vote now. We do it simply because we wish to decide the question. I am sure there is not a Senator here whose vote will be changed by the printing of the bill. I can assure him that when he made the suggestion to print the bill, and we exhibited a desire to have a vote, it should not be construed by him as an intention on our part to force the bill on him. I know there was no such intention on my part, and I am sure there was not on the part of others.

Mr. DOUGLAS. Then again it must be remembered that scarcely any amendments have been made. One section has been stricken out, but the rest of the bill has been left almost in the same language as it came from the committee.

Mr. BUTLER. I wish this to be noticed, however, that when a Senator from one of the States of this Union says to a deliberative body of his equals that he has an amendment which he wishes an opportunity to submit, and upon which perhaps he wishes to make a few remarks, the Senate, by the temper of a majority, virtually prohibits him from submitting that amendment which the country might think much better than the bill itself.

Mr. BRADBURY. I regret that the honorable Senator from Louisiana [Mr. SOULE] does not feel warranted in proposing as a substitute for the amendment under consideration the bill to which he has referred. That bill, generally known as the "Whitney bill," has the sanction of his judgment. It was reported by the honorable Senator from Texas, [Mr. RUSK,] from the Committee on the Post Office and Post Roads, at the last session. As reported by him, it provided for two roads, a northern and a southern one, and proposed to set apart alternate sections of the public lands through which the road should pass for thirty miles on each side for their construction. The lands were to be held by the Government, and sold only as they should be needed to carry on the work; and when the roads should be completed, the tolls for freight were to be placed at the lowest rate necessary to keep the roads in repair.

I think this bill of Mr. Whitney, matured by the Senator from Texas, proposes the most feasible and the best plan for carrying out the great enterprise of connecting the Atlantic and Pacific by new channels of communication and commerce. I believe it is the plan most likely to command success, and that when completed the roads could be placed on such footing, and the cost of freight be made so low, that we should be enabled to command a large amount of the commerce of Asia across this continent, in addition to the other great object of forming a connection with our possessions on the Pacific. I believe these roads can be built by the aid of the public lands, and I am willing to devote these lands to the extent it may be necessary to this object. It is perhaps the best use in our power now to make of them; better far than to have them absorbed in mere local schemes. I am not prepared, in the haste of a closing session, to vote a grant of $20,000,000 in money, in addition to the lands proposed in the amendment now under consideration, and I think this is a feeling that will be likely to influence many others, and to defeat the measure in the House, even if it should command a majority in the Senate. We are not without data that may furnish some guide in estimating the strength of the different plans that have been proposed. The Legislatures of twenty-one States have instructed their Senators in Congress to vote for Mr. Whitney's bill, and——

Mr. DOUGLAS, (interposing.) How many States have rescinded those instructions?

Mr. BRADBURY. Mine has not, and none, to my knowledge, in the portion of the Union from which I come.

Mr. DOUGLAS. Illinois has.

Mr. BRADBURY. Then the Senator is able to find one State that has receded from its first position. This shows that the plan has been discussed, and after the discussion, the instructions of twenty States remain as an expression of the sense of those States in favor of the plan proposed by Mr. Whitney; and we are bound to believe that this fact will have its influence on the decision of the members who will be called to act on the question. None of the other schemes have ever had such multiplied expressions of the favor of the people upon their merits.

Sir, the world is indebted to Mr. Whitney more than to any other man, for the great idea of a railroad across the American continent. He embodied and reduced the indefinite schemes on this subject into something like system. He gave them form and substance. He familiarized the American mind with the subject, and taught it to be regarded as a practicable measure. He has devoted some ten or twelve years of an active life to the attempt to arouse the people of the United States to the importance and feasibility of this vast enterprise, and it is due to him, as well as to the twenty States who have declared themselves in favor of the plan proposed by him, that it should receive our favorable consideration.

The amendments made as in Committee of the Whole, except the one reserved at the request of Mr. CHASE, were concurred in.

The PRESIDING OFFICER. The question now is on the amendment reserved at the request of the Senator from Ohio, which is to insert in the fifth section, after the words "which proposals," the words "may be made by individuals or by any body politic or corporate created for that purpose by the Legislature of any State, and the same."

Mr. CHASE. The Senate, by a decided vote, determined that the construction of this work should not be committed to a corporation created by Congress. The question now is, whether it shall be committed to a corporation created by a State? On that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSK. I once heard of an Indian who said he had found a tree which was so straight that it leaned over. [Laughter.] I think the honorable Senator from Ohio has got into just the same position now. [Renewed laughter.] Can you prevent a corporation created by a State coming in and bidding for this work? If you want to build a ship or a dock, can you prevent a company of individuals chartered by State laws, coming in and bidding for it? I hope the amendment made by the Senate, as in Committee of the Whole, will be concurred in.

The question being taken by yeas and nays, on concurring in that amendment, resulted—yeas 27, nays 10; as follows:

YEAS—Messrs. Bell, Borland, Bradbury, Brooke, Cass, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Fish, Foot, Geyer, Gwin, Hamlin, Houston, Jones of Iowa, Jones of Tennessee, Miller, Rusk, Seward, Shields, Smith, Spruance, Underwood, Wade, and Weller—27.

NAYS—Messrs. Bright, Brodhead, Charlton, Chase, Dawson, Fitzpatrick, Pearce, Pettit, Soule, and Walker—10.

So the amendment was concurred in.

Mr. SHIELDS. I have an amendment to offer, to come in at the end of the third section, as follows:

Provided, That no portion of the $20,000,000 to be advanced by the United States, shall be expended in, or deemed to apply to, a road within the limits of any existing State of the Union; and so much of said road, if any, as shall be located within any State of this Union shall be made under the authority thereof, to be derived from the State Legislature, and not otherwise.

I will not detain the Senate by a speech, but I wish to say this: I was in hopes that some of the friends of this bill would move to amend it before it reached this stage, so as to confine the action of the General Government on this subject to the Territories, and leave the States to act with regard to the road within their limits. Every member of the Senate understands the amendment; and I will not therefore consume time in debating it. I simply ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr RUSK. All I have to say is, that the adoption of this amendment will disjoint the whole bill.

Mr. SHIELDS. I am as friendly to the bill as the honorable Senator from Texas; but it has been my impression that this bill would never have received half the opposition which it has met with if it were confined to the Territories, leaving the States free to act upon the subject within their own jurisdictions. The matter has been so ably and so plainly placed before the Senate by the honorable Senator from Michigan [Mr. CASS] that I will not make a speech upon it.

Mr. BRIGHT. Absence from my seat during the day has prevented me from participating actively in the management of this bill; but, fortunately, I am here in time to vote for this amendment, and to tender to the honorable Senator from Illinois [Mr. SHIELDS] my thanks for having offered it. The effect of it is to bring us back to the point I raised at an early period in the discussion of this project. I further tender my thanks to the Senator who called for the yeas and nays upon the amendment. I wish to see the vote recorded upon it. I should like to see what gentlemen, professing Democratic principles, who have heretofore drawn a line between themselves and a party in this country known as the Whig party, who have stood opposed to a general system of internal improvements by the General Government, who have subscribed to the theory laid down by Andrew Jackson in his celebrated veto message, now come forward and vote against this amendment. The effect of the bill, as it now stands, without some such limitation as is now proposed, will be to launch the General Government upon a general system of internal improvements, and to land her, where many of the States have been, under a similar system of legislation, in a position of ruin and bankruptcy. The Senator from California [Mr. GWIN] says we are rich. We are rich, it is true, and to remain so we must look to the Constitution as our guide on all such dangerous questions of power as this. As a legislator, I desire to make that instrument the polar star to guide me in my deliberations and acts here, even though I subject myself to the imputation of being considered behind the times in so doing.

I am as anxious to see a line of communication opened between the Mississippi valley and the Pacific ocean as any Senator present, and I announced at an early stage of this discussion that I held myself at all times ready and willing to vote land without limit along the line of the route, but that I would not vote money out of the National Treasury for any such object. As a question of power, I think it very clear that Congress cannot apply money within the States for objects of internal improvements. When it comes to appropriating money in the Territories, I admit there is more room for doubt as to that power.

This bill not only raises a corporation within a State through which the road passes, but goes into detail so far as to prescribe on what terms and conditions roads of a similar character, the property of the States, shall connect with it, or pass over it. Grant this power to Congress, and what becomes of those reserved powers of sovereignty belonging to every member of this Confederacy? Sanction this doctrine, and the States possess no power, legislatively speaking, that may not be rendered inoperative by the power of Congress.

But, Mr. President, this bill is premature. It has come here out of time and season. Wisdom, prudence, every consideration, seems, to my mind,

to require that before any such Herculean task as this be undertaken—before this Government is committed to any great "job" like this, the preliminary inquiry, at least, should be gone through with of, Where is it to stop? Where is it to end? How much is it to cost per mile? What is to be the aggregate cost? &c. These are questions asked by any prudent man in the management of his own, or the affairs of the public; and until they are answered, as contemplated by the amendment of the Senator from Pennsylvania, which has been voted down, my vote will not be given for the measure.

This thing of turning a corporation, commanding as much of the Army of the United States as they call for, loose, to run when and where they please, committing the General Government to foot all the bills they may create, will not meet with my sanction. I have seen similar experiments made on the credit of some of the States of this Union, and the result points out my duty in this case. I am sorry that I cannot agree with many here, who look upon this bill, and the questions it raises, in a different light from myself; and I am equally sorry to find that those who differ with me are likely to command strength to pass the bill; but my hope is, if pass here it must, that the other branch of Congress will be found against it, but if not, that the President will, as I believe he ought, regard the measure as fraught with dangerous results, and as imposing upon him duties and responsibilities unauthorized and improper for him to discharge.

Mr. HOUSTON. Mr. President, it was not my intention to open my mouth upon this bill, nor do I design to make any extended remarks at this time. I have listened on several occasions to political lectures, or doctrinal lectures, as to Democracy and Whiggery, and the schisms that may exist in those respective political churches. I am disposed, as much as any individual, to listen to them; but when I exercise my best judgment, in voting for any measure, in conformity with what I believe to be the constitutional powers of this Government, I do not think it is perfectly decoreus that I should be reproached with having departed from the strict line of Democratic faith.

Mr. President, I have not seen a more clear and conclusive conformity to the doctrines laid down in General Jackson's Maysville road veto message, than this bill lays down. General Jackson laid down the principle, that the General Government had power to make a work of this kind, where it was necessary to carry out the provisions of the Constitution, and where it was of a national, and not of a local character. That doctrine was recognized by Mr. Monroe, upon the occasion of the correction of his former impressions; and Mr. Monroe, during his administration, acted upon that principle. Now, if gentlemen can find in the Maysville veto message anything but the most conclusive approval of this bill, I must acknowledge that I am stultified. To my mind, it appears to be in strict conformity with the doctrines there announced by Gen. Jackson. Is this a local road? Is it confined in its operation to a State? Is it not national, and for public and general use? Is it not forming a connection between California and the Atlantic, important to the general well-being of this Union; and without some connection can those parts exist as one and the same country? They are now detached from each other, and the object of this bill is to bring those sections of the Union together.

Sir, I was sorry to hear the Senator from Michigan [Mr. CASS] say that California could not be detached by any convulsion which might arise in the event of a war. That was his idea; that no inconvenience could arise from that source; that California could not be disturbed or invaded or injured, or her commerce destroyed, if we had no intermediate connection with her by land. The idea was, that she could not be blockaded by a portion of the English, or any other foreign navy, sufficient to destroy her commerce, and starve out her people. If it could be done, would they not make peace the best way they could?

Mr. CASS. The honorable Senator will allow me to say that that was not my idea at all. I did not say a word about commerce; but I said that all Europe could not conquer California.

Mr. HOUSTON. Let me say to the honorable gentleman that necessity, growing out of starvation, has a most potent influence, and that very few human sympathies or feelings can withstand its invasive force; so that I do not care whether or not he relies on the loyalty of the people of California. I grant he has a right to rely on their loyalty, and they deserve the countenance and the support of the Federal Government the more on that account. But I do insist that when gentlemen in this body, in relation to a point of doctrine, political or constitutional, differ, they have a right to do so. Their regard for their former consistency of character, if they have it, and their accountability to their constituents, are sufficient responsibilities and sufficient rods to hold over them, without rebukes in this Chamber, and I shall have none of them. When I can take a retrospection of thirty years, and challenge a strict scrutiny into my Democratic votes and principles, I will not allow myself to be arraigned on this floor as schismatic on this particular bill, especially when General Jackson, the champion of Democratic principles, as pure as Jefferson, has laid down the doctrine by which I am guided, if my understanding can comprehend his language. I shall vote for the bill.

Mr. SEWARD. I find myself under the necessity of making a speech, which is to inform the Senate that my respected colleague has paired off with the Senator from Maine.

Mr. ADAMS. I beg leave to say, that I have paired off with the Senator from North Carolina, [Mr. BADGER.]

Mr. SEBASTIAN. I beg leave again to remind the Senate that I have paired off with the Senator from Delaware, [Mr. BAYARD.] And I beg leave to state, furthermore, that but for that engagement I should vote in the negative on this amendment.

Mr. BRADBURY. I shall not vote for this amendment, because I have paired off with the Senator from New York, [Mr. FISH.]

The question being then taken by yeas and nays on the amendment, resulted—yeas 22, nays 20; as follows:

YEAS—Messrs. Atchison, Bright, Brodhead, Cass, Charlton, Dawson, De Saussure, Douglas, Felch, Fitzpatrick, Geyer, Hamlin, Hunter, Mason, Norris, Pearce, Pettit, Shields, Soulé, Toucey, Walker, and Weller—22.

NAYS—Messrs. Bell, Borland, Brooke, Chase, Davis, Dodge of Wisconsin, Dodge of Iowa, Foot, Gwin, Houston, Jones of Iowa, Jones of Tennessee, Miller, Rusk, Seward, Smith, Spruance, Sumner, Underwood, and Wade—20.

So the amendment was agreed to.

Mr. RUSK. Mr. President, I have labored very much to bring into proper shape a bill to authorize the building of a railroad from the Mississippi river to the Pacific ocean. I thought the special committee had agreed upon one which would accomplish that object. I think so yet. I have been charged with violating the principles of Democracy in the provisions of this bill. I have been charged with making an assault upon the Constitution of the United States. I have been here ready to show that I was as clearly within the pale of Democracy as Mr. Jefferson, Mr. Madison, and General Jackson; but my anxiety for the passage of the bill has prevented me from wasting time in debate. Sir, there are new lights growing up in Democracy. New apostles have taken up and arranged the creed, and they would read me out of the party. Sir, they would do more. If Madison, Jefferson, and Jackson were here, they would read those distinguished men out of the party. They have asserted doctrines here which would make the Constitution an impracticable instrument for purposes of national defense and general prosperity, and convert this Government into a great corporation to collect money and divide spoils.

Sir, I have heard a great many professions of friendship for the objects of this bill. I have made none, preferring to vote rather than speak. I have attempted to render its provisions efficient, fair, and just to the whole country. I am much obliged to the friends who have stood around me, especially to the committee. I am sorry that some professed friends of the bill have not stood by it long enough to pass it. I regret that the lateness of the hour does not authorize me now to trespass upon the patience of the Senate, so far at least as to answer some of the denunciations which have been made against this bill, and which I could answer without much trouble. Sir, in place of assaulting the Constitution of the United States, I have sworn to support it; and let me say, that he as much violates it who fails to afford its protection to every State of this Union, and every individual in the community, though he may be thousands of miles off, as he that asserts powers that are not within it. The bill, however, by the adoption of this amendment, is disjointed.

Mr. GWIN. Destroyed.

Mr. RUSK. Yes, sir; destroyed.

Mr. UNDERWOOD. Dead.

Mr. RUSK. Yes, sir, dead. It will now build no road to the Pacific, and, therefore, it is a useless piece of paper. Under such circumstances, as it is now late, and all are fatigued, I am not disposed to trespass further on the Senate.

Mr. BRODHEAD. It is now evident that the measure which I had the honor to introduce to the notice of the Senate is the only practicable one. I therefore now renew the amendment which I offered some days ago, and which was voted down by a small majority yesterday; and I will ask for the yeas and nays upon it.

Several SENATORS. Let us adjourn.

Mr. GWIN. I am going to move an adjournment as soon as I get through. Mr. President, I indorse every word the Senator from Texas has stated. I look upon the last vote as having destroyed the bill, or any prospect of a bill establishing a railroad to the Pacific during this session; and, sir, entertaining that opinion, I cannot sit here longer and discuss the question on this day. I believe there is some gentleman who voted in the majority, who, if we wait till Monday morning, may see the propriety of moving a reconsideration of that vote, and I therefore now move that the Senate adjourn.

Mr. WELLER. Before the Senate adjourns, I desire to give notice that I shall on Monday morning move to reconsider the vote on the amendment of the Senator from Illinois, [Mr. SHIELDS.]

Mr. DOUGLAS called for the yeas and nays on the motion to adjourn, and they were ordered; and being taken, resulted—yeas 22, nays 17; as follows:

YEAS—Messrs. Atchison, Bell, Borland, Brooke, Dodge of Wisconsin, Dodge of Iowa, Felch, Foot, Gwin, Hamlin, Jones of Iowa, Miller, Pettit, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, Underwood, Wade, and Weller—22.

NAYS—Messrs. Adams, Bright, Brodhead, Charlton, Chase, De Saussure, Douglas, Fitzpatrick, Geyer, Hunter, Mason, Norris, Pearce, Shields, Soulé, Toucey, and Walker—17.

The motion was agreed to; and the Senate, at a quarter to six o'clock, adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 19, 1853.

The House met pursuant to adjournment. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

Mr. KING, of New York. I move that the House insist upon its disagreement to the amendments of the Senate to the bill to prevent frauds upon the Treasury of the United States, and ask for the appointment of a committee of conference.

The question was then taken, and the motion was agreed to; and Messrs. KING, of New York, CHAPMAN, of Connecticut, and JOHNSON, of Tennessee, were appointed by the Speaker the conferees on the part of the House.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of finishing the civil and diplomatic bill. It is of the utmost importance that we should finish the bill to-day.

Mr. STUART. I ask the gentleman from Alabama to waive his motion, and allow me to move to take up and have passed a bill which will occupy but a few moments, and which every one will agree to. It is bill No. 465, to extend the provisions of an act to amend an act entitled "An act to authorize the sale of certain military sites," approved March 3, 1819.

Mr. BROWN, of Mississippi. I object to this irregular way of getting at the business.

Mr. EDGERTON. As this is the last day, in all probability, this session, that there will be an opportunity of going into Committee of the Whole House on the Private Calendar, I submit that motion.

The question was put, and the House refused to go into Committee on the Private Calendar.

The question was then taken upon Mr. HOUS-

TON's motion, and it was decided in the affirmative.

CIVIL AND DIPLOMATIC BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of House bill No. 337, making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854.

The following section was then read:

"For annual repairs and office fixtures of the custom-houses of the United States, $25,000."

Mr. FULLER, of Maine. I have an amendment which I desire to bring in prior to the close of that section.

[Cries of "Too late!" "Too late!"]

Mr. HOUSTON. I object to it. We have passed by the section and it is too late. It is impossible to get along if we recur to sections and receive amendments out of order.

Mr. FULLER. I addressed the Chair before that section was read. It is a trivial amendment, and no one can have any objection to it. It is simply to allow the Secretary of the Treasury to pay a balance of $200 due to the collector at Passamaquoddy, which has been carried to the surplus fund.

The CHAIRMAN. The Chair did not hear the gentleman from Maine, if he did address the Chair. The Clerk passed beyond that section, and has read the next paragraph, and the Chair thinks it will not be in order to recur to the previous section, unless by the unanimous consent of the House.

Several MEMBERS. I object.

The following section was then read:

"For salaries of ministers of the United States to Great Britain, France, Russia, Prussia, Spain, Brazil, Mexico, and Chili, $72,000."

Mr. BAYLY, of Virginia. I move to insert after the word "salaries," the words, "and outfits." I beg leave to state that I am authorized, in pursuance of the uniform practice of Congress, by the Committee on Foreign Affairs, to introduce several amendments. They are to enable the incoming Administration to change our present ministers abroad, if they shall see fit to do so. If they do not, these outfits will not be drawn upon.

The question was then taken upon the amendment and it was agreed to.

Mr. BAYLY. I am instructed by the Committee on Foreign Affairs to insert after "Mexico" the word "Peru."

I beg leave to say that the raising of these men from a chargéship to a full mission, is made upon the earnest recommendation of the President. In a very interesting letter which Mr. Everett wrote to me as chairman of the Committee on Foreign Affairs, he states that our intercourse with Peru is becoming exceedingly interesting. Among other questions is the condition of the guano trade, which is becoming one of vast importance to the agricultural interests. Since the settlement of California all these Governments on the western coast of America have become of increased interest to us.

Mr. SKELTON. I rise to a question of order, that it is not competent in the appropriation bills, to change the organic law of the country constituting a full mission where we have a chargéship.

The CHAIRMAN. The Chair overrules the question of order.

Mr. HALL. All of our business has been properly managed by the chargés heretofore, and I hope the committee will reject this amendment.

The question was then taken upon the amendment, and on a count, there were—ayes 67, noes not counted.

Tellers were demanded and ordered; and Messrs. HART, and PARKER of Pennsylvania, were appointed.

The question was then taken, and the tellers reported that there were—ayes 72, noes 51.

So the amendment was agreed to.

Mr. BAYLY. I move to strike out $72,000 and insert $162,000.

The question was then taken on the amendment, and it was agreed to.

Mr. BAYLY. I have an amendment here which has not been formally submitted to the Committee on Foreign Affairs, because I did not get them together to-day. It comes in as a separate paragraph after the clause which is under consideration, and I know that a majority of the committee are in favor of it:

For salary and outfit of a minister to Central America, to be accredited to such one or more of the Governments included under that designation as the President of the United States may designate, $18,000.

In presenting that amendment, I would also, if I had the authority to do it, provide for his traveling expenses from one Court to another, because the traveling in that country is very expensive, and they have to go under escort always.

Mr. HOUSTON. I would ask the gentleman from Virginia if his amendment dispenses with the chargéships to Central America?

Mr. BAYLY. I will say that my own idea is, that we do not dispense with the chargéships, for the reason that the incoming Administration may not agree with the present Administration in thinking that it is best to send one full minister. The President may think it best to retain the chargéship. If he prefer the full minister, of course he will not send out a chargé d'affaires. We can let him have the money, and if he does not choose to send a chargé, the money will not be expended. If he chooses to send a full mission, he will do it. I prefer to leave it in a condition in which the incoming Administration may make its own election as to the best form of intercourse with these South American Republics.

Mr. CLINGMAN. I wish merely to suggest to the gentleman that I think his amendment ought to be adopted, with a proviso, however, that in the event that this full mission shall be sent, the appropriation for chargéships shall be retained in the Treasury.

Mr. BAYLY. That is what I was about to suggest. That will be the effect of the amendment, because the President will not send a chargé and a full minister to the same Court.

Mr. STEPHENS, of Georgia. The gentleman can provide for it in that part of the bill which provides for a chargéship.

Mr. BAYLY. I prefer to put it in the proviso after the clause under consideration.

The question was then taken on the amendment, and it was agreed to.

The next clause was then read, as follows:

"For salaries of secretaries of legation to the same places, $16,000."

Mr. BAYLY. I move to strike out "16," and insert "20," because we have instituted two new missions.

The question was then taken, and the amendment was agreed to.

The following section was then read:

"For salaries of chargés d'affaires to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, Peru, New Granada, Venezuela, Buenos Ayres, Bolivia, Guatemala, Ecuador, and Nicaragua, $76,500."

Mr. BAYLY. I am instructed by the Committee on Foreign Affairs to insert after the word "salaries" the words "and outfits." I have already explained the necessity of such an amendment.

The question was then taken on the amendment, and it was agreed to.

Mr. BAYLY. I move to strike out the word "Peru."

The question was then taken, and the amendment was agreed to.

Mr. BAYLY. I am instructed by the Committee on Foreign Affairs to insert "Switzerland and Greece" in that clause, and I shall move them one at a time. I see that there is an indisposition on the part of the committee to accord to its suggestions, and I must have time to explain.

The CHAIRMAN. The amendment had better come in after the word "Ecuador."

Mr. BAYLY. That makes no difference, but I move it to come in at that point. The Administration—and they are acting disinterestedly in this matter, for it will bring no patronage to them—have very recently recommended that we should be represented at Switzerland by a chargé d'affaires. Switzerland is the only important Republic on the continent of Europe, and we, the great Republic of the world, are the only nation, it is believed, that is not represented at that Government. It is a country of great interest. More than a thousand American citizens annually travel through the territory of Switzerland, and there is no diplomatic agent there to whom they can appeal in the event they should get into difficulties of any sort.

Now, sir, my opinion is, that there is no money spent by this Government which is better spent than that which is devoted to the payment of our foreign agents. The protection which they give to our citizens, and the information which they gather, is all of the most valuable character.

Mr. STANTON, of Tennessee. I rise to oppose the amendment, because I think, that instead of sending a chargé d'affaires to Switzerland, we ought to send a full minister. It is, as the gentleman has said, the only important Republic on the continent of Europe, and we ought to show ourselves there in our full power and with all that respect which is due to a sister Republic. I think the chairman of the Committee on Foreign Affairs ought to make the change.

Mr. BAYLY. I have not done it because it is not recommended by the Executive, and I think, that with respect to foreign missions, great deference ought to be paid to the recommendations of the Executive, who is charged with the management of our foreign relations. I am therefore officially opposed to the amendment suggested by the gentleman from Tennessee, although personally I am in favor of it.

Mr. STANTON. Very well, sir; then I move to amend the amendment so as to provide for a full mission instead of for a chargéship.

The CHAIRMAN. Will the gentleman reduce his amendment to writing?

Mr. STANTON. I shall have to put in a new paragraph, so I will withdraw my motion for the present.

Mr. HUNTER. I rise to inquire of the Chair if it will be in order to move to strike out a portion of the original paragraph after the amendment of the gentleman from Virginia shall have been passed upon?

The CHAIRMAN. Of the preceding paragraph?

Mr. HUNTER. No, sir; of the paragraph now under consideration.

The CHAIRMAN. The Chair thinks it will be in order.

The question was then taken on Mr. BAYLY's amendment, and it was adopted.

Mr. BAYLY. I am instructed by the Committee on Foreign Affairs to move to amend that paragraph by inserting the word "Greece." So far as Greece is concerned, it is not only a country of great classic interest, but it is also one of a great deal of present commercial and utilitarian interest. With the single exception of the Anglo-Saxon race, the Greeks are the best sailors in the world, and at this hour, their navigation on the Mediterranean is more important than that of any other Power situated upon it. We have interesting relations with that country, and the Committee on Foreign Affairs are of opinion that we ought to be represented, at least by a chargé d'affaires, at a kingdom where Russia, Prussia, and Great Britain have embassadors.

Mr. STANLY. I am opposed to the amendment. I voted for the ministers at Peru, Switzerland, and Central America, because the incoming Administration desire it and are entitled to it, and the outgoing Administration recommend it. But I do not understand the chairman of the Committee on Ways and Means to say that the Administration recommends that we should send a chargé d'affaires to Greece, because of its classic associations or its good sailors. Now, if this may be considered necessary hereafter, let us wait until the incoming Administration say it is necessary. I do not think that the House ought to take the responsibility of doing it on the mere motion of the chairman of the Committee on Foreign Affairs, if the Administration does not recommend it. I hope we shall have some further evidence before we do it. That is all I wish to say.

Mr. SUTHERLAND. I move to amend the amendment of the honorable chairman of the Committee on Foreign Affairs, [Mr. BAYLY,] by adding to the word "Greece," the words, "and the Ionian Islands." Mr. Chairman, I offer this amendment merely to give me an opportunity to say a word in favor of the amendment just offered by the honorable gentleman from Virginia, [Mr. BAYLY.]

Greece is, I believe, the only independent kingdom in Europe with whose Government our own does not hold diplomatic intercourse. We are rep-

resented by full missions at the Courts of England, France, Spain, Russia, Prussia, and Turkey, and by chargés in Austria, Sweden, Portugal, Denmark, the Hague, Brussels, Turin, Naples, and Rome. The latter mission was created within a few years, and in a commercial and political view, is certainly inferior to that of Greece. Our country is increasing its commercial relations with every quarter of the civilized world. Diplomacy, if it does not precede, must necessarily follow the steps of commerce.

England has for years carried on a profitable commerce with the Ionian Islands and Greece, and her policy is to monopolize the trade of those countries. The commerce of Greece now employs about three thousand vessels; her agricultural exports amount to about $13,000,000; her imports about the same. The statistics of commerce and navigation published by order of Congress for 1851, show that if these ports are not absolutely shut to American merchants, yet that our trade is much limited and restricted. At the same time we do carry on a considerable commerce with the Western Mediterranean. Sixteen vessels during that year arrived from Turkey and the Levant, of an aggregate of 4,268 tons burden; and during the same year twenty-five vessels cleared for Turkey, Greece, and the Ionian Islands, (all American vessels,) of an aggregate of 7,700 tons burden. Of this number, however, only four were for the Ionian Islands and Greece. The extent of this trade with Turkey and the Western Mediterranean, indicates something of the facilities which Greece might afford for commerce under a favorable commercial treaty. That country is a large consumer of *cotton goods*, and also of the raw material of cotton as well as wool, and has many manufactories now in successful operation. I believe all her *cotton* manufactured, as well as the raw material, comes *from England*. The exports of Greece are similar to those of Turkey—indigenous to her own soil and climate, valuable, marketable articles here, and which do not come in competition with our own products. Many other reasons of a commercial nature will readily suggest themselves.

There are political reasons why we should be represented there. The late difficulty in regard to the case of Dr. King is one of that kind. The rights and liberty of an American citizen were said to be involved, and Mr. Marsh was ordered *to leave his mission in Turkey* to investigate the case. The report is now on file with the Secretary of State, and Mr. Marsh is awaiting in Italy dispatches from this Government in relation to the matter. Marsh has already been several months absent from Turkey on this matter, though in the pay of the American Government as Minister Resident at Constantinople; and I am not sure but the custom is in such cases to allow him *in addition* the ordinary pay of a chargé.

There are other political reasons growing out of the circumstances connected with the independence and nationality of Greece. Here is the example of a country, the mother of civilization, of letters, and of art, whose ancient language and literature is taught in all our colleges and academies, after ages of bondage, *asserting* and *regaining* its nationality by *revolution*, vindicating its rights, in some degree, at least, by asserting the republican principle of the right of armed resistance. Considerations of a similar nature during the popular movements in Italy, suggested the sending of a chargé to Rome.

Greece is now a separate nationality, and though not a powerful, is certainly, in a comparative degree, a prosperous nation. The sympathy of the American people has always been strongly with the Greeks, and it is but appropriate and just that the American Government should express that good feeling and sympathy in this way.

There are reasons growing out of the duty which the Government owes in the protection of its citizens abroad, and in extending its protection and countenance over the American traveler and tourist. This is really one of the main benefits arising from our diplomatic system, and it will be readily perceived that Greece is one of those countries most sought after by the tourist, the scholar, and the antiquarian; and besides, it is one of those countries where a representative of the Government is most desirable and beneficial. In England, in France, and the more highly civilized countries of Europe, one can get along much better without these conveniences and facilities. John L. Stephens, the traveler, complained of the inconvenience to the American citizen arising from the want of an American representative in Greece nearly twenty years ago, and all travelers have complained of it since. Among the last of these were the son and daughter of one of my constituents, (Colonel Zadock Pratt,) late a distinguished member of this House, who were prevented from being introduced to the Queen, she refusing to receive them through the consul, with whom she had had a quarrel, and they declined to go alone.

The Americans are great travelers. History, poetry, sympathy, takes the American traveler to Greece. She is filled with the ruins of works of art and of genius: her plains, her hills, her temples, and arches are consecrated by history. She is on the road to the sublime antiquities and mysteries of Egypt, and the land consecrated by our religion—by the Bible. American enterprise takes and will take the American merchant there.

In conclusion, Mr. Chairman, let me say that there is one kind of intervention that we are all in favor of: it is the intervention of mind operating on mind. The Greek mind is surrounded by despotism and darkness. May not the American mind and institutions, operating on Greek genius, be made to light up *with their own light*, Greece and her ancient temples of religion and of liberty, and thus dispel the surrounding darkness? Sir, if we are to intervene in the affairs of Europe, let it be done through our *civil, social*, and diplomatic intercourse with Europe—by *extending* our commerce and travel, and by affording additional facility to *them*.

[Here the hammer fell.]

Mr. BAYLY. I presume the gentleman from New York does not mean to insist on his amendment?

Mr. SUTHERLAND. Oh, no; I withdraw it.

Mr. BAYLY. I ask for tellers on my amendment.

Tellers were ordered; and Messrs. CHASTAIN and HENDRICKS were appointed.

The question was then taken, and the tellers reported only 33 in the affirmative.

So the amendment was rejected.

Mr. BAYLY. I now move further to amend the clause by striking out "$76,500," and inserting "$153,000" in lieu thereof.

The amendment was agreed to.

Mr. HUNTER. The committee have decided in favor of a full mission to Central America. I therefore move to amend this paragraph by adding thereto the following proviso:

Provided, That if a full minister is sent by the President to the Central American States, the chargéships in said States shall become vacant.

Mr. BAYLY. The gentleman from Ohio can offer his amendment if he chooses, but I shall not do it myself, because it would put me in a very curious position to move to abolish a chargéship at a place where we should send a full minister. Why the appointment of the minister, *ipso facto*, supersedes the chargéship. Who ever heard of a country being permanently represented at a Court by a minister and a chargé. I should dislike very much to see such a provision as that inserted in the civil and diplomatic bill.

Mr. BROOKS. I move to amend by striking from the paragraph of the bill providing for the salaries of the chargés d'affaires, "the State of Nicaragua."

Mr. Chairman, we have provided in this bill for a full mission to Central America, which consists of five States, viz: Costa Rica, Nicaragua, Honduras, Guatemala, and San Salvador. Now, Central America has at times been a confederated Republic like that of the United States of America; but it is now proposed to leave in the bill, as it stands, two of these States, Guatemala and Nicaragua, so that if the section passes in its present shape, we shall have provided for a full mission to Central America, and for chargés d'affaires to these two States besides. That will be the effect of the provision. It will then be in the power of the incoming Administration, if they desire—and it will be legitimate action under this bill—to send a full mission to the Confederation known as Central America, and then send chargés to Guatemala and Nicaragua. Now, if there be any sense in having a full mission in Central America, we should no more recognize these separate States of Guatemala and Nicaragua as separate States, than we should recognize South Carolina and Alabama, if missions were to be sent from foreign nations to them as parts of this Confederacy. I do not object to giving Central America a full mission; I think it may be desirable; I think a minister plenipotentiary may travel to advantage all over Central America among the different States resident at the different seats of Government; but when a full mission is established, I do object to providing chargés d'affaires to Guatemala and Nicaragua. Both are comparatively insignificant States, and a full mission being made to Central America, we ought not to subject ourselves to the expense of sending chargés there.

Mr. BAYLY. I am surprised that the gentleman from New York, [Mr. BROOKS,] considering his usual accurate knowledge upon such subjects, should undertake here in the House of Representatives of the United States to say that there is a central government in Central America. Why, sir, if that is true, how is it that we are represented at Guatemala as an independent nation, and also represented at Nicaragua as another independent State?

Mr. BROOKS. I say at times there is a central government there. These States are revolutionary.

Mr. BAYLY. That is true; but it is not so now. There is no central government there now; but if the Administration should send a minister plenipotentiary under this appropriation, he would be accredited as such to Nicaragua, and at the same time to Costa Rica, and the other three States. These States are separate and distinct, and our minister must be accredited to each of the governments of these States, and he will travel from one to the other as the occasion may require. If he is accredited to Central America, of course the chargé d'affaires to Nicaragua and Guatemala will be superseded.

I have no objection to this provision being made, if made by others; but I am unwilling to put myself in the position of moving to strike out these States, or to put in a proviso that if a minister is sent there, a chargé shall not be sent to the same place. If the minister is sent there, the office of chargé will be superseded, as a matter of course. It must be so, as a matter of course.

Mr. BROOKS. With the consent of the committee, I will withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. HUNTER. I now ask for a vote upon my amendment.

It was read, as follows:

"*Provided*, That if the President of the United States shall send a full minister to Central America, the chargé d'affaires to the said States shall be abolished."

Mr. STANLY. I ask my friend from Ohio to withdraw that amendment for a moment, to allow me to move to strike out Guatemala and Nicaragua, in this section, which I think will accomplish the object he has in view better than the amendment he offers.

Mr. HUNTER. I think the better plan is to accomplish it by a proviso. I disagree with the gentleman from North Carolina entirely.

Mr. STANLY. Very well. Let the vote be taken upon the gentleman's amendment.

The question was taken, and the amendment was disagreed to—ayes 32, noes not counted.

Mr. STANLY. I now move to strike out of this paragraph, the words "Guatemala and Nicaragua."

It seems to me we will have no difficulty about this amendment. We have, in a previous section in this bill, inserted the words "Central America," and provided for a full mission there with a salary of $9,000, in accordance with the recommendations made by the President in his communication to this House on yesterday, and that of the Secretary of State, which were published in the city papers of this morning—the Republic and Intelligencer. It has been said that if this minister is sent there, these chargés will not be continued. That may be so; but the President certainly has the right to continue them. The Secretary of State contends that the chargé to Guatemala is not to be sent, for reasons which it is not now necessary to go into. He is at home. Well, then, what is the condition of the chargé at Nicaragua? He is still there; and if this section remains in its present form, the incoming Administration can, if it chooses, either continue him there or recall him

and send another in his place, and send another to Guatemala, and the two will receive a salary equal to that paid for a full mission. There is nothing to prevent it. But, sir, we have provided for a full mission to Central America upon the recommendation of the outgoing Administration, and upon what ground do they recommend it? Upon the ground that these two chargés will not be needed if a full mission is established. But you propose to make provisions for the other officers also. Now, it will not surely do for us to have a full mission to Central America, and two chargés besides. I hope, therefore, the House will strike them out. I will, however, so modify my amendment as to strike out Nicaragua alone.

Mr. BAYLY, of Virginia. I am opposed to the amendment of the gentleman from North Carolina for reasons which I have, in part, already stated. The Secretary of State, in his report to the President, in recommending this full mission to Central America, puts it upon the ground that the incoming Administration may deem it expedient to do it. If they should, the amendment which the committee have adopted will enable them to accomplish that object; but if the incoming Administration should think it best not to have a full minister to these States, but should prefer to retain the chargés d'affaires at Guatemala and Nicaragua, I desire that it should have the means. All I want is to retain both provisions in this bill, and allow the incoming Administration to make the election between them. I take it for granted that the present Administration, with the usual courtesy which it has observed, with one or two exceptions, towards the incoming Administration, would not undertake to advise this House to tie its hands in respect to these missions. I want to give them an election. I do not want them to be forced to adopt the recommendation of those now in power if their judgment is to retain the present arrangement.

The question was then taken upon the adoption of Mr. STANLY's amendment, and it was disagreed to—ayes 58, noes 61.

Mr. STANTON, of Tennessee. I now offer the amendment which I indicated a few minutes ago as an independent section. I move the following:

For salary and outfit of a minister plenipotentiary to Switzerland, $18,000: *Provided*, That the President may, in his discretion, send a chargé d'affaires, in which event this provision shall not be enforced.

Mr. HOUSTON. The committee have already provided for a chargé d'affaires in Switzerland. I submit that this amendment is not in order.

The CHAIRMAN. The Chair is of the opinion that the amendment is not in order, for the reason that we have passed from the consideration of the section of the bill providing for full missions; and the effect of the gentleman's amendment, if entertained, would be to recur to that section, which would not be in order.

Mr. STANTON. If this amendment proposes an alternative, to leave it to the discretion of the President to send a chargé d'affaires or a full minister, as he may think proper, it is, therefore, in my opinion, directly in connection with the section now under consideration.

The CHAIRMAN. The Chair thinks the amendment is not in order, and so decides. Does the gentleman appeal?

Mr. STANTON. No, sir; I will submit to the decision of the Chair.

Mr. BROOKS. I move to strike out from this section "Guatemala."

Mr. Chairman, I do not wish to embarrass the incoming Administration in any form. The majority of this House and the other House will provide for whatever missions they choose to take the responsibility of, and I shall throw no obstacle in their way; but as we go along, I wish the House to understand exactly where we are, and what we are about to do, and are doing.

In the first place, we have to-day provided for a full mission to Peru, instead of a chargé; then for a new chargé to Switzerland, (with quite a large vote for a new chargé to Greece,) and a new full mission to the States of Central America. This is a very decided and a very emphatic increase of our diplomatic staff. The argument for the Central America increase was, that it was necessary to have some minister plenipotentiary in Central America, and that there would be no increased expense, because we could dispense with the chargés for Guatemala and Nicaragua and the $9,000 additional expense for their salaries. Now, if the majority of the House determine to keep up, in addition to the full mission to Central America, two chargés d'affaires, one at Guatemala, and another at Nicaragua, they have it in their power to assume that responsibility, and I do not mean to embarrass them in the exercise of it, further than to say, that I deem such increased expense altogether uncalled for and unnecessary. It is also necessary to understand that under this provision as it now stands, it is clearly within the power of the incoming Administration to establish both this Central American mission and to continue these two chargés to the States of Central America I have named. If the incoming Executive thus exercises his authority, it will be no stretch of authority, and he will not subject himself to any censure from the House for an abuse of power.

The amendment of the gentleman from Virginia [Mr. BAYLY] provides for the Central American salary of full mission, but this section of the bill, as it stands, provides for the full salaries of chargés d'affaires to Guatemala and Nicaragua. The appropriations thus amount almost to a direction upon the part of this House, that the President shall continue these offices even when he creates another. A large majority upon this side of the House, however, voted for this full mission to Central America, with the express understanding that these two Republics of Guatemala and Nicaragua should be stricken from the list of chargés d'affaires, but now it is inserted. I see that they are to be kept in, and thus Central America is to have a full mission and two chargés d'affaires. Another word in reply to the remarks of the gentleman from Virginia, [Mr. BAYLY,] and that is upon the confederation of Central America. Central America has a political existence well known in Geography, and well known in history; at times, it has had a regular Federal Government, and at times a sort of revolutionary Federal Government. I understand, even at the present moment, an effort is being made in Central America to reorganize this Central American Confederacy, in order to have a similar form of government established as that existing in Mexico and in the United States. Whether they will succeed or not, I do not know. I cannot undertake to say. I presume, however, that in all probability they will meet with no success in any of their efforts, because the people who are attempting to establish a republican form of government are not sufficiently trained in the restraints of self-government, to govern their interests or impulses themselves. Mr. Chairman, I have sufficiently explained myself. I have now made it clear that the bill, as it now stands, provides for a new full mission to Central America; for a new full mission to Peru; for a new chargé d'affaires at Switzerland; while it also keeps up the chargés at Guatemala and at Nicaragua. I think this is going faster and further than the public necessities require.

[Here the hammer fell.]

Mr. BAYLY. I am surprised at the remark of my friend from New York, that it was the understanding that if a full mission be provided for Central America, Nicaragua and Guatemala should be stricken out. I stated expressly that I did not mean to strike them out, because I wish to leave it to the incoming Administration to elect whether he will have one full mission or two chargés d'affaires. Now, the gentleman says that these chargés can be sent to Guatemala and Nicaragua even if a full minister is sent. I wish to know if there is a case in the history of diplomacy where one nation has been permanently represented at the same Court by a chargé and a minister? I know there are cases, such as the negotiation of the Ashburton treaty, where the regular minister was retained, and not dispensed with, but left to assist the ambassador, sent for a special purpose. But is there a case in the history of the diplomacy of the United States where there has been a full minister and a chargé at the same time?

Now, sir, so far as this case is concerned, I shall not take the responsibility of moving it. But considering the nature of our relations with Nicaragua, more interesting at this time than with any part of the habitable globe, I would, if I could have my own desire, and if it could be done, send a chargé to every one of these five Republics; and I would have a minister resident, a man of the highest order of ability, to go around with them, and confer with them in their negotiations. If I could have my own way, I should be glad, in view of our interesting relations in Central America, to have a chargé at every one of them, and a resident minister—a full minister of the highest capacity—to confer with them.

The question was then taken on the amendment of Mr. BROOKS, and it was not agreed to.

Mr. STANTON, of Tennessee, offered the following amendment to the clause under consideration:

Provided, That the President at his discretion may commission and send to Switzerland a minister plenipotentiary instead of the chargé herein provided for.

Mr. LETCHER. I make the point that the amendment is not in order.

Mr. STANTON. It is offered as a proviso to the section under consideration.

The CHAIRMAN. The Chair has some doubt, but will rule it in order.

Mr. STANTON. The appropriation is sufficient if these two chargés, now under discussion, should not be sent to Central America, in addition to a full minister, to send a full minister to Switzerland.

Now, sir, I think, with the gentleman from Virginia, [Mr. BAYLY,] that we ought to have a full minister to the only important Republic upon the continent of Europe; that we ought to pay this much respect to republican feeling in that country. I think that is due to our republican sympathies, due to our institutions, and due to our own character. I agree entirely with the gentleman from Virginia when he says that, privately, he is in favor of a full minister, though officially he is in favor of a chargé—a distinction of character, however, that I do not very well understand.

Mr. BAYLY. What I meant was, that, personally, I was in favor, but under instructions of the Committee on Foreign Relations, as a member of that committee, opposed.

Mr. STANTON. The gentleman says that the committee has authorized him to go for a chargé, though individually he is in favor of a full minister. I think that the republican feeling of members of this House, if fairly expressed, would exhibit itself in the adoption of that amendment.

Mr. HOUSTON. I am opposed to the amendment, and desire to have the vote taken. I am anxious to get through with the bill.

The question was then taken on the amendment of Mr. STANTON, and it was not agreed to.

Mr. HOUSTON. I propose to amend the clause under consideration by adding the following:

And for the salary of a clerk to the United States legation at London, $800.

If the committee desires explanation on the subject, I will have read a letter from the Secretary of State, in which he urges this appropriation, and informs us that from his experience, it is impossible to get along without such a clerk.

The question was then taken, and the amendment was agreed to.

Mr. BAYLY. I am instructed by the Committee on Foreign Affairs to offer an amendment for the payment of Theodore S. Fay, the difference between the salary of secretary of legation and that of chargé d'affaires, for the time during several different occasions, when he discharged the duties of the latter office.

The amendment was read, as follows:

"For the payment of Theodore S. Fay the difference between the salary of secretary of legation and chargé d'affaires, during the time, on several different occasions, he discharged the duties of the latter office, $4,034 73; the same to be in lieu of all former appropriations, and also, if received, in full for all diplomatic services rendered in that capacity."

Mr. LETCHER. I rise to a question of order. I ask if this is not a private claim, and if it is not, whether it ought not to be in the deficiency bill, instead of in this one?

Mr. BAYLY. It is not a private claim. It has been the practice of our Government, whenever the minister was away, and the secretary of legation has discharged his duty, to pay him as chargé, and appropriations have been uniformly made in the civil and diplomatic bill for that purpose. It is an appropriation to carry on our foreign intercourse, and it has uniformly been included in this bill.

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Mr. HOUSTON. The question of order is not debatable, and I call the gentleman to order.

The CHAIRMAN. The Chair desired to hear the facts from the gentleman, and he is inclined to think that the amendment is in order, under the latter clause of the 81st rule, as one of the contingencies for carrying on a Department of Government.

Mr. LETCHER. I take an appeal from the decision of the Chair.

Mr. CLARK. I desire to ask the gentleman from Virginia one or two questions.

The CHAIRMAN. That is not in order. The Chair decides that the amendment is in order. From that decision the gentleman from Virginia takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was put, and decided in the affirmative.

So the decision of the Chair was sustained.

Mr. BAYLY. I will in a few words explain that amendment. As I stated before the point of order was raised, it has been the uniform practice—I could cite more than a hundred instances—that where the secretary of legation is left in charge of the legation, does the duties of chargé, he received the difference between his pay as secretary and that of chargé. When he has to perform the duties of chargé he has to incur additional expenses. He is not, for instance, permitted to go to see the officers of Government in a hack, but he must go in his own coach, and he cannot represent the Government without additional expense. We have allowed it in the case of Mr. Rush, and in hundreds of cases since, which I could enumerate if my five minutes would allow. This amendment only provides to pay Mr. Fay the difference between the salary of chargé and that of secretary of legation, when he performed the duties of chargé.

At the last session of Congress there was an appropriation made in the civil and diplomatic bill of $600 to pay this gentleman, with the proviso that if he received it from the Treasury, it should be in full of his claim. That proviso was put in by the Committee on Ways and Means under a misapprehension of the state of the facts.

Mr. SKELTON. How long has this claim been standing, and how many of the same kind have we standing back to be thrust upon us?

Mr. BAYLY. But a short time; I think since 1848. The Secretary of State has recommended this appropriation, and we, at the last session of Congress, restricted the appropriation, under the supposition that he was charging for acting as chargé d'affaires while the minister was absent on visits of pleasure, and when one of the ministers (Mr. Hannegan) was absent, and could not do duty. But such was not the fact. It provides for paying him only for the time when he actually acted as chargé d'affaires.

I am the more anxious to pass this appropriation, because it was from my own misapprehension of the facts that the injustice was done last session.

Mr. McMULLIN. I regret to differ with my colleague, but if it be true, as is stated by him, that it has been the policy of the Government heretofore to pay those claims, it is time now that the abuse was corrected. Sir, if my recollection serves me correctly, this same claim was before the last Congress. If the Government is to establish the policy that when the chargé is absent, full pay of chargé is to be given to the secretary, you will make it a matter of interest to the chargé to go off on trips of pleasure, and make it the interest of the secretary to act as chargé. Sir, I ask this committee if the secretary, when he accepts his situation as such, did not do it with the understanding, and with the knowledge of the fact that in the absence of the chargé he will discharge his duties? There can be no doubt about it; and if it is true, as stated by the gentleman from Virginia, that we are in the habit of making appropriations for this purpose, we should put a stop to the abuse now.

The House was then divided upon the amendment of Mr. BAYLY; and there were—ayes 51; when

Mr. BAYLY called for tellers; which were ordered; and Messrs. PARKER of Indiana, and GAYLORD appointed.

The question was then taken, and the tellers reported—ayes 72, noes 53.

So the amendment was adopted.

Mr. SACKETT offered the following amendment:

Provided, In case the President of the United States shall elect to send a full minister to Central America, as is provided herein, no chargé d'affaires shall be sent to any of the States of Central America, and that office shall from such time cease to exist.

Mr. HOUSTON. I rise to a question of order. We have already passed from the paragraph to which this amendment is properly applicable. I therefore object to it, as out of order.

The CHAIRMAN. The Chair thinks the amendment out of order upon a different ground. The committee has already voted upon an amendment of exactly the same description.

Mr. SACKETT. I think the Chair, upon reference to the bill, will see that he is mistaken.

The CHAIRMAN. Debate is out of order.

Mr. SACKETT. The previous amendment is not of the same character as the one offered by me.

The CHAIRMAN. The Chair rules the amendment out of order.

The following item was read by the Clerk:

"For contingent expenses of all the missions abroad, $40,000."

Mr. SKELTON. I move to strike out that paragraph of the bill. I am unwilling to vote away this large sum of money for contingent expenses without knowing what they are for. I find that there is a number of similar items in the bill, and I would be glad to hear from any gentleman an explanation of them.

Mr. BAYLY. I will explain to the gentleman.

Mr. HOUSTON. This item is all right. It has been in every bill for the last forty years.

Mr. BAYLY. This item, as has been said by the gentleman from Alabama, has been in every civil and diplomatic appropriation bill for the last forty years. The gentleman from New Jersey wants to know for what purpose the appropriation is made. There are a hundred contingent expenses attending our missions abroad which cannot be foreseen, but for which regular vouchers have to be presented at the Department before paid. Suppose a minister has to employ an express to carry a dispatch, which it is important his Government ought to receive, should there not be money at his command to do so? Gentlemen on reflection can conjecture the many contingencies that may arise requiring funds on the part of the minister.

Mr. SKELTON. I withdraw the amendment.

Mr. STANLY. After the item:

"For contingent expenses of all the missions abroad, $40,000,"

I move to add the following proviso:

Provided, That chargés d'affaires shall not be sent to Guatemala or Nicaragua, should the chargés at Nicaragua return to the United States, in the contingency referred to by the Secretary of State in his letter of February 16, 1853."

Mr. HOUSTON. Is not the reception of that amendment equivalent to returning to a section we have passed? I have voted with the gentleman on all of these appropriations.

The CHAIRMAN. The Chair is of the opinion that the amendment would be in order at the end of the previous section.

Mr. STANLY. The remarks of the honorable chairman of the Committee on Foreign Affairs has satisfied me that this proviso is exceedingly necessary. The gentleman says, if I understand him, that the incoming Administration ought to have the privilege of sending either a chargé d'affaires or a full minister, which we have authorized in another section; and then that he thinks it would be a very good thing to send a chargé d'affaires to each one of the five States of Central America, and a full minister to superintend the whole of them, or to travel about, and so forth, as he mentioned. [Laughter.] Why have we made a full mission? We have made a full mission on the recommendation of the President and Secretary of State. And what does the Secretary of State say in the communication received last evening, and which I have before me? The following is the last paragraph but one of his letter:

"Nothing would be added to the expense of our diplomatic relations with Central America, beyond the outfit, by substituting a full minister for two of the lower rank. It may be stated that our chargé d'affaires to Nicaragua has already been directed, on a contingency of not improbable occurrence, to return to the United States, and that the appointment of a chargé d'affaires to Guatemala has been revoked."

This Administration has already revoked the chargé d'affaireship to Guatemala, for reasons referred to in that communication; and it has conditionally recalled the chargé d'affaires at Nicaragua. Suppose that contingency occurs, then the present chargé d'affaires at Nicaragua will be recalled; but yet you leave the power in the next Administration to send one to Guatemala and one to Nicaragua, and after they have been there twelve or eighteen months, to call them home and send out a full minister, against the sense of Congress. What possible objection can there be to the addition of this proviso in order to express the sense of this House, and the sense of the Administration making the recommendation? I shall make no factious opposition. I have voted for full ministers to Peru and Switzerland, and I have voted for a full minister here, for the benefit of some of the friends of the incoming Administration. Let them have it. I dare say that they are entitled to it, but I hope that proper men will be selected. I take it for granted that will be the case. I only desire that the country shall know what the House intends, and I hope that the proviso will be adopted.

The CHAIRMAN. On reading the amendment of the gentleman from North Carolina, the Chair is of the opinion that it is not in order.

Mr. STANLY. On what ground?

The CHAIRMAN. On the ground that the committee have passed from the consideration of the branch of the subject to which it relates.

Mr. STANLY. We are now acting on appropriations with reference to foreign ministers.

Mr. BAYLY, of Virginia. I wish the Chair would withhold his decision until I can reply to the gentleman from North Carolina. I am very anxious to answer what he has said.

[Cries of "Order!"]

The CHAIRMAN. In the first instance the Chair was of the impression that the amendment was in order; he is now of the opinion that it is not in order.

Mr. STANLY. From the decision of the Chair I take an appeal, for my amendment certainly relates to the foreign affairs of the country.

The CHAIRMAN. At the time the Chair decided that the amendment was in order he supposed the committee was still considering the section ending with line 776. The Chair now understands that when the amendment was submitted the committee had passed from that section, and was considering the one ending with line 778, which is a separate and distinct paragraph.

Mr. STANLY. My amendment relates to foreign missions.

The question was then put, "Shall the decision of the Chair stand as the judgment of the committee?" and it was agreed to, there being on a division—ayes 62, noes 56.

The following paragraph was then read by the Clerk:

"For salary of the commissioner to the Sandwich Islands, $3,000."

Mr. BAYLY. I move to strike out of that paragraph "$3,000," and to insert instead "$5,000."

It will be recollected, Mr. Chairman, that at the last session of Congress the appropriation for the commissioner at the Sandwich Islands was raised from $3,000 to $5,000 at the earnest recom-

mendation of the State Department. It was represented by the Department that in consequence of the great importance of our interests in the Pacific ocean, and the expenses of living on those islands, the commissioner ought to receive $5,000 salary. Well, sir, since the discovery of gold in Australia, the importance of our commerce with the Sandwich Islands has increased, and I take it for granted that the expenses of living have certainly not decreased, if they have not augmented. And I do not know how it was, when the Department earnestly recommended this salary should be raised to $5,000 per annum, and when it was raised by the House, that in sending their estimates to the Committee on Ways and Means they only estimated for $3,000.

Mr. HOUSTON. The salaries of foreign ministers depend altogether on the appropriations. At the last session this salary was raised to $5,000, and I then considered Congress as establishing the amount intended to be paid; but the estimates sent to the Committee on Ways and Means were only for $3,000, and, as a matter of course, the committee did not report any more.

The question was taken, and the amendment was adopted.

Mr. GAYLORD. I move to amend the section just read by adding to it the following:

And that the further sum of $20,000 be, and the same is hereby, appropriated for the purpose of enabling the President of the United States to send a commissioner to the Sandwich Islands, to inquire into the expediency of instituting negotiations for the acquisition of said islands by the United States.

I desire a test of the sense of the committee on that amendment.

Mr. GOODENOW. I submit that the amendment is not in order, on the ground of irrelevancy to the clause under consideration. There is no law authorizing such an appropriation.

The CHAIRMAN. As the Chair understands there is no law for the regulation of our foreign intercourse, the Chair rules the amendment to be out of order.

The following item was next read by the Clerk:

"For interpreters, guards, and other expenses of the consulates at Constantinople, Smyrna, and Alexandria, $1,500."

Mr. HOUSTON. I move after the word "Smyrna," to insert the word "Candia," and after the word "Alexandria," to strike out the sum of "$1,500," and in lieu thereof insert "$2,000."

I have before me letters from Mr. Webster and Mr. Everett recommending this amendment, which may be read if desired.

The question was taken on the amendment, and it was agreed to.

Mr. STANLY. I move to amend the clause appropriating for the salary of the consul general at Alexandria, by striking out "$3,000" and inserting "$5,000."

Mr. Chairman, I know that this sum is inadequate, and I offer this amendment, although it may benefit some Democratic gentleman who may come in hereafter and hold that place. I think that the honor and interests of this country require that the salary should be increased. At present it is not large enough. I hope the committee will increase it to $5,000.

Mr. STEPHENS, of Georgia. We have no other representative of the Government in Egypt than the consul at Alexandria. The great line of communication now across the continent, or from Europe to Asia, passes through Egypt. Many of our citizens annually travel that route, and I am inclined to think that the salary of the consul there should be raised, there being no other representative of our Government in that quarter of the world.

The question was then taken upon Mr. STANLY's amendment, and there were—ayes 71, noes 46.

Mr. BAYLY. In the confusion which prevailed here, it escaped my attention that we had passed by the provision for the commissioner residing at China. There is no outfit provided.

Mr. STANLY. There is no objection to his going back.

Mr. HOUSTON. I object.

The following clause was then read:

"For salaries and commissions of registers of land offices and receivers of public moneys, $141,700"

Mr. HALL. I offer the following amendment, to come in at the end of the section:

Provided, That whenever the amount received at any United States land office, under the third section of an act entitled "An act to make land warrants assignable and for other purposes," approved March 22, 1852, has exceeded or shall exceed the amount which the registers and receivers at any such office are entitled to receive under said third section, the surplus which shall remain after paying the amount so due as aforesaid to said registers and receivers, shall be paid into the Treasury of the United States, as other public moneys.

The third section of the act of 22d of March provides that the receivers and registers of the land offices shall, for locating military land warrants, receive the same fees which were allowed for cash entries. There was no provision made, however, to dispose of the excess of fees over the $3,000—the maximum allowed to be retained by those officers. The land officers asked that it be paid to them. I propose that it shall be paid into the Treasury of the United States.

The question was then taken on the amendment, and it was agreed to.

The following clause was then read:

"For surveying the public lands, including incidental expenses and special surveys, demanding augmented rates, to be applied and apportioned to the several districts according to the exigencies of the public service, (the part to be applied to the resurveys required by the location and survey of private claims in Florida to be disbursed at a rate not exceeding five dollars per mile,) in addition to the unexpended balances of former appropriations, $115,000."

Mr. SUTHERLAND. I move to strike out the whole of that clause. Had it been in order to have done so on one motion, I would have moved to strike out all the appropriations in this bill for future surveys and other expenses connected with the public lands, amounting to about eight hundred thousand dollars, exclusive of the appropriations for the government of the Territories. I make this motion now for the purpose of saying a word or two in relation to this question of the public lands, which I may not have an opportunity to do hereafter. It is evident—indeed, it has been taken for granted, and claimed by every one who has taken the floor to advocate any of the measures of this Congress for getting rid of the public lands, that they must soon cease to be a source of revenue. I question whether, even now, in these days of speculation, when the receipts from the sales of public lands, considering the immense number of acres heretofore thrown into market by the bounty land acts and by grants to the land States, railroad companies, and individuals, as gratuities, must be mostly the result of speculation, whether the annual receipts from the sales are equivalent to all the annual expenses connected with, and growing out of, their management and disposition. There have been already granted away, without pecuniary consideration, a great portion of it within the last five years, over one hundred millions of acres.

There are now pending in this House and in the Senate various measures, railroad bills, and other bills, *exclusive* of the homestead bill and Bennett's bill, (so called,) to dispose of and force at once into the market at least sixty millions of acres more. Bennett's bill, which has passed this House, and is now in the Senate, disposes of about sixty millions of acres more. The homestead bill, which passed this House with a rush, and is now hanging in the Senate between conservatism and the Constitution on the one side, and certain principles and interests unnecessary to be specified on the other, may be said, if it becomes a law, to dispose of the whole remainder of the public domain as a charity to the landless, for their benefit and the benefit of the land States, erected and to be erected. In addition to these measures, Mr. Chairman, passed and pending, the Senate a few days since passed a bill extending preëmption rights to all the public lands unsurveyed as well as surveyed, and to all the reserved land in the land States, and even to the reserved sections reserved or retained by the Government in the railroad grants. Now, it must be borne in mind, Mr. Chairman, and I mention it now merely as evincing the strong determination to get the whole of the public domain out of the hands of the General Government, and deprive it of all revenue therefrom, that although some of these land measures are wholly inconsistent with each other, yet they receive the support and votes of the same honorable members. As for instance, the railroad bills which require the roads to be built and the lands granted to be sold within ten years, and the homestead bill, which will take away the very settlers wanted for the railroad lands, are advocated and voted for by the same honorable gentlemen. Indeed, such was the anxiety and determination exhibited here a few days since by the friends of some of the railroad bills granting lands for particular roads to press them through the House, that they were willing to have appended to them, and pass as an amendment, even Bennett's land bill in substance and effect, although that measure, as I have stated, had long before passed this House, and was then and is yet awaiting action in the Senate, and although it would be difficult to devise a measure more directly opposed to the interest of the States in which the railroads were to be constructed, or to all the grounds upon which these railroad grants have been asked for and advocated. And my colleague, [Mr. DEAN,] and other honorable members, brought down upon them the wrath and repeated denunciations of the Republic by defeating legitimately, and according to the rules and practice of the House, this extraordinary combination of opposing interests.

Mr. JONES, of Tennessee. I rise to a question of order. The rule allowing five minutes debate must be confined to an explanation of the amendment, and not to discussion of subjects outside of railroad bills.

The CHAIRMAN. The Chair is inclined to the opinion that the remarks of the gentleman from New York are in order, for he may apply them to show that the surveys should not be made.

Mr. SUTHERLAND. Precisely so. I am not discussing, I did not rise to discuss, the land question or the right or wrong of these land measures. It is true that I am opposed to all of them, even to the bill of my honorable friend and colleague, [Mr. BENNETT,] for reasons which it would not be in order to state now. But it is in order for me, in view of the facts to which I have called the attention of the committee, to ask them—to ask the country—whether this wholesale, inconsistent system of disposing of the public domain is to be continued; and if so, whether they will not cost more than they will come to; whether, if the *old land system* is wholly to be abandoned, and the Government is no longer to look to the public domain as a source of revenue, we ought to go on expending millions upon millions in making surveys and extinguishing Indian titles, principally at the expense of the old States, long before the lands are required for settlement; whether, in fact, the appropriations in this bill for the continuance of these surveys ought not to be striken out.

[Here the hammer fell.]

Mr. CLINGMAN. I object to the amendment, because it is the means of getting up another Buncombe debate in the House. We were entertained yesterday during the whole day by Buncombe speeches upon a subject which every member understood perfectly; and I wish to say to the gentleman from New York, as I am the only proper representative of Buncombe here, that the citizens of that district understand this whole land question thoroughly, and the rights of the East and the West, and they do not want to hear anything more upon the subject. If the gentleman will allow us to go on and get through with the bill today, next week we can get up some fresh subjects, which my constituents in Buncombe would like to hear something about. I do hope that gentlemen will not press upon us any more amendments of this kind.

The question was then taken on Mr. SUTHERLAND's amendment, and it was rejected.

Mr. HOUSTON. I propose the following amendment, to come in at the end of the clause. It explains itself, as the committee will see when it is read.

The amendment was then read, as follows:

For resurveys and examinations of the surveys of the public lands in those States where the offices of the surveyor general have or shall be closed, under the acts of 12th of June, 1840, and 23d of January, 1853, including $2,000 for the salary of the clerk detailed on this special service in the General Land Office, the sum of $15,000.

That amendment is intended to provide for this case. In 1840 a law was passed authorizing, under certain circumstances, a survey of districts of land, and providing that the land offices in certain States be abolished and discontinued. We have amended that law at this session of Congress. In January we passed a law requiring, under certain circumstances, that offices in the States should be abolished. The Department now want a small

appropriation for the purpose of enabling the General Land Office here to have lines retraced whenever it may be necessary in those States where there is no land office. Every gentleman who lives in a new State, and who has made himself acquainted with such matters, will remember that there are resurveys to be made, and there being no offices in the State, a simple fund is necessary to enable the Department here to have it done.

Mr. TAYLOR made an inquiry, which was entirely inaudible to the Reporters.

Mr. HOUSTON. The measure I propose does not change the law of ten years ago and the law of last January. They require that the books and papers of every description shall be turned over to some other office, and they are there preserved.

The question was then taken on Mr. HOUSTON's amendment, and it was agreed to.

Mr. TAYLOR. I offer the following amendment:

For the purpose of providing, in such mode as the Secretary of the Interior may direct, a fire proof building at Chillicothe, Ohio, in which the public records of the land offices now kept at that place, may be safely preserved, $——.

I wish this to succeed the amendment of the gentleman from Alabama. [Mr. HOUSTON.] I desire only to make a few remarks.

Mr. HOUSTON. My amendment is adopted. I understand that is to complete a fire-proof building for the purposes of Government. Now, if that is so, I will make the point of order.

Mr. TAYLOR. I only want to make a suggestion before the Chair decides the point of order. The act of 1840, to which the gentleman refers, discontinues offices in Ohio without making any provision for preserving the records.

Mr. HOUSTON. The books and papers are turned over to another office.

Mr. TAYLOR. I make the suggestion to the Chair that it is not to build fire-proof offices there, but to make provisions for preserving the books and records.

The CHAIRMAN. The Chair is of the opinion that the amendment is not in order.

Mr. SUTHERLAND. I move to strike out the following clause of the bill, viz:

"To defray the expenses of examining and correcting old, imperfect, and defect surveys in the northern part of the lower peninsula of Michigan, $3,000."

Mr. Chairman, the gentleman from North Carolina, [Mr. CLINGMAN,] if he intended to charge me with having made a speech for Buncombe, has done me injustice. Mr. Chairman, I have made this motion to enable me to add a word or two to what I said a few moments since in relation to the land measures of this Congress, and to the expediency and injustice of making further appropriations for surveys of the public lands, if these land measures are to be carried out, and to be followed up by other like measures as a system.

Mr. CLINGMAN. I desire to say one word of explanation. The gentleman from New York misunderstood me. I did not say that he had made a Buncombe speech. I objected to his amendment. I said that it would be mischievous, because it had a tendency to get up a Buncombe debate.

Mr. SUTHERLAND. Mr. Chairman, it is evident that the extension of our territory, the erection and admission of new Territories and States, their wants, interests, claims, and influence, have a tendency to lead, and have in fact led, to a practical extension of the powers of the Government in the disposition of the public lands, and making internal improvements in the States, to a degree never dreamed of by the framers of the Constitution. It is very evident that it is for the interest of the new States to get all the public lands; and it is equally evident that it is for their interest to have their rivers and harbors improved at the expense of the United States. The doctrines of strict construction, and of State-Rights, cannot flourish much in new States. If the *nationality* of a proposed internal improvement is to be determined by the number of votes it can get in Congress, it is very evident that the constitutional power of the Government to make internal improvements can be stretched out to any extent to meet the wants and interest of every new accession of territory, and that it will be so stretched out. Now, Mr. Chairman, I am in favor of legitimate progress, but not of progress at the expense of the Constitution. If it is necessary, let amendments to the Constitution be a part of our progress.

I have made these general remarks for the purpose of concluding with this suggestion: whether, rather than to continue these enormous appropriations for surveys and other annual expenses of the public lands, mainly at the expense of the old States, rather than to continue the system of legislation of this Congress, and for a few years past, in relation to the public lands, at the expense of the Constitution and the rights of States, it would not be better at once to release to the several land States all the lands belonging to the United States within them, on condition that they should not ever thereafter call upon the General Government for any appropriations for internal improvements. The suggestion may possibly serve as a hint to some one who may feel disposed to bring forward hereafter some measure for disposing of this difficult land question, which has consumed so much of the time of this Congress, and is likely to give so much trouble in the future.

[Here the hammer fell.]

Mr. HOUSTON. I would not object, if we had time enough, to any discussion which the gentleman from New York might see fit to bring up, upon this or any other bill. But we have not got time to appropriate to the discussion of the subject which the gentleman is presenting to the consideration of the committee.

A MEMBER. Then stop speaking yourself, and let us vote.

Mr. HOUSTON. The minds of the members of this House, I have no doubt, are entirely made up upon the subject of this amendment. They know whether they intend to prosecute the public surveys or not. As I desire to progress with the bill, I am perfectly willing to leave the question to the committee, without replying to the remarks of the gentleman from New York. I only ask them to vote down his amendment.

The question was then taken upon Mr. SUTHERLAND's amendment, and it was rejected.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer the following amendment:

To defray the expenses incurred of a geological reconnoissance in Oregon, undertaken in the year 1851, under instructions from the Department of the Interior, and intrusted to Doctor I. Evans, $11,984 25.

I will only say that the amount embraced in that amendment is for a deficiency—a debt absolutely due now to the gentleman who prosecuted that geological survey.

Mr. LANE. I move to amend the amendment of the chairman of the Committee on Ways and Means, by adding thereto the following:

For completing the geological reconnoissances in Oregon, $5,000.

Mr. Chairman, I am very much in hopes that there will be no opposition to this amendment, and as I have no wish to consume time, I am content to leave it to the committee to vote upon it, without making any remarks. I will only say that this amount of money will complete the survey, and that it is necessary for the whole country that it should be made, and particularly for Oregon Territory. I hope the committee will adopt my amendment.

The question was then taken upon the amendment to the amendment, and it was agreed to.

The question recurred upon the amendment as amended, and being put, it was decided in the affirmative.

So the amendment as amended was agreed to.

The following clause being under consideration, viz:

"For the extension of the United States Capitol, $600,000,"

Mr. CLINGMAN said: I desire to offer the following amendment, to come in at the end of that clause:

For the purchase of the statue of America, to be executed by Hiram Powers, in whatever manner he shall think preferable, the sum of $20,000, to be expended under the direction of the President of the United States.

Mr. HOUSTON. I ask if that amendment is in order?

Mr. CLINGMAN. It is but continuing the appropriation.

Mr. HOUSTON. It has no connection with continuing an appropriation for work already commenced. I believe it was ruled out of order in the Senate.

Mr. CLINGMAN. The gentleman has no right to refer to what takes place in the Senate.

Mr. STANTON, of Kentucky. Besides, that was to the deficiency bill.

Mr. CLINGMAN. It may have been ruled out of order in the Senate as an amendment to the deficiency bill. But we are now appropriating a very large sum of money for the extension of the Capitol——

The CHAIRMAN. Does the gentleman from Alabama insist on his question of order?

Mr. HOUSTON. I do.

The CHAIRMAN. Then the Chair feels constrained to rule the amendment out of order.

Mr. CLINGMAN. I appeal from that decision, and though I have no right to argue it, I have a right to state the grounds of my appeal. We are appropriating a large sum of money for the extension of the Capitol——

The CHAIRMAN. That is debating it. The gentleman can state the grounds of his appeal, but he has no right to debate it.

Mr. CLINGMAN. I appeal from the decision of the Chair, upon the ground that what my amendment provides for is a part of the Capitol, a permanent fixture.

The CHAIRMAN. The gentleman from North Carolina offers an amendment which has been read in the hearing of the committee. A question of order is raised on it by the gentleman from Alabama, [Mr. HOUSTON.] The Chair decides the amendment to be out of order, as it is not embraced within either of the three classes provided for in the 81st rule. From that decision the gentleman from North Carolina appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affirmative.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. STANTON, of Kentucky. I offer the following as an amendment to the clause now under consideration:

And that $20,000 of the foregoing sum be applied to the purpose of employing Hiram Powers to execute an emblematic statue of America, to be placed under the direction of the President in some part of the wings of the Capitol.

The CHAIRMAN. The Chair thinks that that amendment is out of order.

Mr. STANTON. Allow me to say a word with reference to this matter. I appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from Kentucky appeals from the decision of the Chair ruling his amendment out of order.

Mr. STANTON. I desire to state the grounds of my appeal. The $600,000 proposed to be appropriated by this clause for the extension of the Capitol, is designed not only for the substantial parts of the work, but also for the ornamental part. This amendment proposes to divert $20,000 of the appropriation to the execution of a piece of statuary by an American artist. Of course, if you can appropriate money for the substantial parts of the work, you can appropriate money for the ornamental parts.

The CHAIRMAN. The appeal is not debatable. Statuary is no part of the public works.

Mr. STANTON. Then I think we had better take down the statues about this Hall.

The CHAIRMAN. The gentleman from Kentucky offers an amendment which has been read in the hearing of the committee. The Chair rules the amendment out of order. From that decision the gentleman from Kentucky appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affirmative.

So the decision of the Chair was sustained, and the amendment ruled to be out of order.

Mr. FITCH obtained the floor.

Mr. CLINGMAN. I will modify my amendment so as to make it in order.

The CHAIRMAN. The gentleman from Indiana is entitled to the floor.

Mr. CLINGMAN. Well, I desire to have an opportunity of offering the amendment before this clause is passed.

Mr. FITCH. I move the following amendment as a proviso to the same clause of the bill providing for the extension of the Capitol:

Provided, That none of the money hereby appropriated,

or remaining unexpended of former appropriations, shall be expended, or its expenditure anticipated by the contraction of debts to be paid from it before the first of April next.

Mr. HOUSTON. I would suggest to my friend from Indiana to withdraw that amendment, and provide for this matter somewhere else. This money cannot, any of it, be expended until the first of July next.

A MEMBER. That proviso is attached to the deficiency bill.

Mr. FITCH. If that proviso is attached to the deficiency bill, I will withdraw my amendment, with the consent of the committee.

There was no objection, and the amendment was withdrawn.

Mr. CLINGMAN. The amendment of the gentleman from Indiana being withdrawn, I now move to amend that section by adding to the end thereof the following, viz:

Twenty thousand dollars, to be expended in removing the statue of the Indian squaw in the eastern portico of the Capitol, and substituting therefor a statue of America, to be executed by Hiram Powers, under the direction of the President of the United States.

Mr. HOUSTON. I rise to a question of order. I ask whether that amendment is in order?

The CHAIRMAN. The Chair cannot determine whether it is in order or not until the gentleman reduces his amendment to writing.

Mr. CLINGMAN. Very well; I will reduce it to writing.

The CHAIRMAN. The Chair, however, will save the gentleman that trouble by deciding his amendment to be out of order. It is substantially the same thing which has already been ruled out of order.

Mr. CLINGMAN. I will take an appeal from the decision of the Chair. I draw this distinction——

The CHAIRMAN. The gentleman must recollect that the appeal is not debatable. The amendment must, however, be reduced to writing before an appeal can be taken.

Mr. CLINGMAN. To save the time of the committee, I will withdraw the appeal and the amendment, with the consent of the committee.

There was no objection, and the amendment was withdrawn.

The following clause of the bill having been read:

"For compensation of the public gardener, $1,200;"

Mr. STANTON, of Kentucky, said: I have the authority of the Committee on Public Buildings to offer several amendments to this portion of the bill. Before I reach them, I will, however, offer one upon my own responsibility. It is not recommended by the Committee on Public Buildings. I move to add the following at the end of the clause:

And the exclusive management of the grounds attached to the Capitol and surrounding the Executive mansion, shall be under his control.

I understand that originally, when the public gardener was appointed, he was intrusted with the exclusive control and management of these grounds; that is, in all which relates to their cultivation, improvement, and embellishment.

Mr. JOHNSON, of Arkansas. I have no question that this amendment is right. It ought to be adopted.

Mr. STANTON, of Kentucky. Very well. I will say nothing further if the committee are satisfied.

The question was then taken, and the amendment was adopted.

The following clause of the bill now being under consideration:

"For compensation of the doorkeeper at the President's House, at $500, and of an assistant doorkeeper at the same, at $365 per annum, $865;"

Mr. STANTON, of Kentucky, moved the following amendment:

For salary of a house steward, to be appointed by the President, to have charge of the plate, furniture, and equipage belonging to the presidential mansion, $1,200.

Mr. S. said: Mr. Chairman, this amendment has been recommended by the Commissioner of Public Buildings, who assures me, in a communication which I now have upon my desk——

Mr. DUNHAM. I rise to a point of order. I ask whether that amendment is in order?

The CHAIRMAN. The Chair is of the opinion that the amendment is in order.

Mr. STANTON. The Commissioner assures me that there is property in the President's House amounting in value to $100,000, over which there is no person about the establishment who has the exclusive charge or management. There is an immense amount of personal property liable to be carried away. It consists of plate, furniture of various kinds, and various other articles, the care and management of which should be under the control of some one whose particular duty it is to preserve and protect it. The Commissioner of Public Buildings thinks this appointment is necessary, and the Committee on Public Buildings have concurred with me in the same opinion, and have instructed me to report this amendment.

Mr. HOUSTON. If I understand that amendment, it is to create another steward or officer at the President's House. Now, I think it is creating the office a little too soon. These officers have been gradually increasing. We created an additional one during the last session. I do think this is going a little too fast. We ought at least to wait until the President elect, for whom it is designed, comes into office and asks for it himself. We have already granted two or three officers of this sort, and if this thing is to go on I want to know where it is to stop.

Mr. STANTON. The salary of the President is but $25,000 per annum.

Mr. HOUSTON. Oh, I have heard of that before.

Mr. STANTON. He requires twice as much now as when the salary was fixed, and we have given him a mere pitiful doorkeeper and two watchmen outside of the building. In addition to the immense duties of his position, increased by the recent extension of our domain, will you, for the sake of saving $1,200, burden him with the menial duties of taking care of and protecting the plate, bedding, and other furniture of the Executive mansion?

Mr. HOUSTON. If we are to increase the salary of the President of the United States, let us do it like men, directly, and not attempt to do it in this manner. I am tired of that sort of argument. Let us come up and meet the question. If we do not give the President a sufficient salary, let that fact be made to appear, and I will vote for an increase.

Mr. TUCK. I move to increase the amount $300. I do this for the purpose of saying that I am in favor of the policy of adding to the salary of the President of the United States, and if this addition of $1,500 for the employment of a steward is to be any assistance to the President, I am in favor of it.

But I will not detain the committee for the five minutes which are allotted to me under the rule. I take occasion to make these remarks, because, being politically opposed to the President elect, my motives will not be misunderstood. I move this amendment in addition to that reported by the Committee on Public Buildings, and I hope the amendment will be adopted.

Mr. SWEETSER. I am opposed to the amendment of the gentleman from New Hampshire, as I am to the whole proposition. I hope the Democratic party in this House will not force upon the President elect, in the arrangement of the presidential mansion, offices which are not in consonance with the republican simplicity of our Government—a retinue of placemen are elements which characterize the royal palaces of Kings and Emperors. Although I have not the honor of a personal acquaintance with the President elect, yet I have no hesitation, from what I know of the character of the man, in saying to the House and country, that he desires to follow the precedents of the illustrious Democrats who have filled the office of President in the palmiest days of the Republic. He is a simple Democrat, and I hope the Democrats of this House will learn from him what he wants before they undertake to make these appropriations. In advance of his wishes being known, do not involve him in arrangements which will *militate* against his known distate to all parade and show. I ask his friends to stand by, and not permit gentlemen who are politically opposed to him to insert in this appropriation bill a proposition that will raise a *hue and cry* throughout the land and embarrass him.

Mr. TUCK. Will the gentleman answer me one question?

Mr. SWEETSER. No, sir; I cannot permit a political adversary to intermeddle with the arrangement of the *household* of a Democrat. Such a man is presumed to be unacquainted with the wishes and wants of a *plain* Republican. The policy of the honorable gentleman I can appreciate, and will cite a case in point. The Whig party in 1840 broke down the Democratic administration upon a cry of extravagance, and entered the presidential mansion for *materials* to sustain their slanders against the party. As soon as they got into power they made a large appropriation to make the presidential mansion *comfortable* for General Harrison. Let us practice what we preach: economy in all the Departments of the Government. We have charged the Whig party with extravagance and fraud upon the Treasury. We must avoid their example.

Mr. POLK. I rise to a question of order. I submit that it is not in order to discuss either one of the parties so far back as 1840.

The CHAIRMAN. The Chair thinks the gentleman has taken a little too much latitude in his remarks. [Laughter.]

Mr. SWEETSER. Now, sir, I have said all I desire to say upon this subject. I hope the Democratic party in the House will not stand by and permit this attempt to embarrass the President elect by the creation of offices hitherto unknown, and by extravagant appropriations for the presidential mansion. Let us appropriate what may be necessary, and trust the President to make known his wishes in the premises in due time.

Mr. CLARK. If the gentleman from Ohio will allow me to ask him a question, I desire to know from the gentleman whether he is disposed to hang the future policy of the Administration upon the appointment of a servant to the President? [Laughter.]

Mr. SWEETSER. I am a western man, and I must say that I thought the gentleman from Iowa the other day abandoned the western policy. I desired to get the floor to reply to him, but could not. He abandoned the great interests of the West, as I conceive.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The gentleman must confine himself to the subject of the amendment.

Mr. SWEETSER. I will make my application to the amendment. I would have stated that I was fearful the West had forgotten to recognize him as a western man.

Mr. CLARK. One word, with the gentleman's permission——

[Here the hammer fell.]

The question was then put, and the amendment to the amendment was disagreed to.

The question then recurred upon Mr. STANTON's amendment, and being taken, it was disagreed to.

The following clause of the bill being under consideration:

"For compensation of two draw keepers and a watchman at the Potomac Bridge, and for fuel and oil for lamps, $1,377 50;"

Mr. STANTON, of Ohio, said: I want to know of the chairman of the Committee on Ways and Means, what he wants of two draw-keepers at that bridge?

The CHAIRMAN. Does the gentleman move an amendment?

Mr. STANTON. I do, for the purpose of eliciting information. I move to strike out that clause of the bill. I notice that there is an appropriation for two draw-keepers for the Potomac Bridge. I want to know what is wanted of draw-keepers at this bridge?

Mr. HOUSTON. I can answer this question satisfactorily. There were two draws in this bridge. One of them was washed away, but the other is still there and in operation. A communication is kept up by means of a ferry-boat across the gap where that portion of the bridge was washed away. But the other draw is still in operation, and two draw-keepers must be there whenever a vessel is to pass through. When both draws were in operation, four draw-keepers were required; but two of them have been dispensed with in consequence of the washing away of the other draw.

Mr. STANTON, of Ohio. With this explanation I am satisfied. I now ask leave to withdraw my amendment.

There was no objection and the amendment was withdrawn.

Mr. STROTHER. I desire to offer an amend-

ment in addition to that clause of the bill. I move the following:

For repairing Long Bridge across the Potomac river $20,000.

Mr. Chairman, the gentlemen of this committee are aware that a portion of this bridge has been washed away, and, as the gentleman from Alabama [Mr. HOUSTON] has stated, the gap is filled by a ferry-boat entirely inadequate to meet the wants of the case. Now, sir, that bridge is the property of the Government. When the Government obtained possession of that property, it did it with the purpose and pledge of making it a free bridge. It had before that time been a toll bridge. The uses of that structure are well known to every man upon this floor who casts his eye in that direction. It is valuable as a link of connection between this city and the southern portions of the country. But this point is familiar to all. The whole community, including thousands in its scope, are in the daily use of this communication, and the necessity of this repair is very pressing.

Objection was made at the last session to the repair of this bridge, because it had been said that it affected the health of the upper end of Washington city, and injured the navigation of the river to Georgetown. Now, I am sure a moment's reflection will convince any one that there is no force in this objection as applied to this amendment, because the repairs of the bridge will involve no more filling up of the river than will take place with the bridge remaining in its present condition. It will not cause the filling up of the river at Georgetown more than it does in its present condition, and unless the Government goes to the expensive outlays of taking away the whole structure, there can be no reason based upon these objections for opposing this amendment.

Whenever this river is frozen, as was the case during the last winter, this bridge affords the only means of communication between this city and the southern portion of the Union. The Government of the United States require its existence, and private uses require its existence.

Now, sir, $20,000 will put that bridge in a condition for use. It in nowise conflicts with the project which has been mentioned for constructing a permanent structure in another point. The fact that neither of the committees, to which numerous petitions have been long since referred, has had an opportunity to report upon the subject, has prevented this subject from being pressed before Congress. But, sir, the duty which this Government owes to the city of Washington, which is a creature of its will, and the index of national growth and prosperity, is another reason which I hope will aid to induce this House to make the appropriation which is necessary for its uses.

[Here the hammer fell.]

Mr. SACKETT. I move to increase the amendment $5,000. I move this amendment for the purpose of enabling the Commissioner of Public Buildings—who I believe is the proper officer to do this thing—to open such water-ways as are necessary to secure, in the first place, the bridge itself, and in the next place, to prevent the ill-health which arises from the partial damming up of the stream by the bridge. Experience has shown that the dam formed by the bridge, in the first place, perils the bridge itself, and in the next place, forms a marsh around the bridge which causes much sickness, and which ought to be provided against. I hope, if the appropriation is made, it will be made to such an amount as will enable the proper officer to open such water-ways through that bridge, as are necessary for the free flow of the water; but not to change the course of the stream, and to prevent the formation of that marsh, which we all know is forming, greatly to the prejudice of the health of this city. I therefore move to increase the amount $5,000, with that view.

Mr. AVERETT. I rise, sir, to oppose this amendment, not because I am decided, in my opinion, in regard to the propriety or impropriety of repairing this bridge, but because there is a conflict of opinion between the people of Georgetown and the people of Washington, in regard to it. Georgetown contends that her navigation is obstructed, her commerce injured, and the health of her people endangered by it. Washington contends that it is not so—that the nuisance of which Georgetown complains results not from the bridge, but from other causes in operation before it was constructed. Now, sir, while this conflict of opinion, petition, and remonstrance exists, I do not think it wise to appropriate one cent to this object. If it be a nuisance, as Georgetown contends, we ought to abate it. But before we move a peg, or appropriate a cent, we ought to inform ourselves as to the facts of the case. We are not so informed. Both sides have been heard before the Committee on the District of Columbia, and that committee have not yet come to any decision in the matter. Whether the alluvial accumulations and marshy state of the shores near Georgetown are produced by the bridge or not, is an important question, which ought to control our action. We have not the information to enable us to decide it understandingly.

Mr. HOUSTON. I wish to ask the gentleman a question, and it is this: Whether it is not true that the whole subject-matter is before a committee of the Senate for them to investigate? They are investigating the proper position for a bridge, and the manner in which it shall be built.

Mr. AVERETT. That is so, I believe. Let that investigation go on. I will not vote a dollar to this bridge until we can have the lights of a thorough investigation. I am not prepared to say which side is right, and which wrong.

The question was then taken on the amendment of Mr. SACKETT, and it was not agreed to.

Mr. GORMAN. I move to reduce the appropriation one dollar. I do not propose to debate it, but the gentleman from Virginia [Mr. STROTHER] doubts whether he has a right to move to amend his own proposition, and I make the motion to give him an opportunity to oppose it, and present his views to the House.

Mr. STROTHER. I desire, in opposing the amendment of my friend from Indiana, to detain the House but a moment with a statement of a fact or two, in answer to the objections of my colleague, [Mr. AVERETT,] and to the inquiries of the chairman of the Committee on Ways and Means.

My colleague said that the city of Georgetown is materially injured by the flats created by this bridge.

Mr. AVERETT. I beg leave to correct my colleague. I did not assert that. I said that there was a conflict of opinion between Georgetown and Washington, as to the fact whether it is a nuisance or not. I do not adopt one opinion or the other. My point is, that as there is a doubt about it, Congress ought not to make an appropriation until the doubt is solved. I do not know, neither does this House, whether this bridge is a nuisance or not.

Mr. STROTHER. I do not desire to misunderstand the gentleman; and the effect of his objection as stated by him, if successful, would be the same as that of the most determined opposition. Now, sir, whether this bridge is or is not a nuisance, does this House intend to eradicate it? Not one member here entertains such a purpose. That being the case, it will be no more a nuisance when repaired, than now, because the repairs necessary will be of open work, which cannot cause the flats or obstructions existing or apprehended. So that the objection of Georgetown, as represented by my colleague, has no pertinence upon this question.

The chairman of the Committee on Ways and Means inquired if a Senate committee have not in charge this question. Grant it, sir; but so have two of the committees of this House, upon petitions sent by me to each; yet is there a member here who expects or hopes that the action of a committee of the Senate, or of a committee of this House, will assume any form other than that of an amendment to an appropriation bill? Any attempt to obtain legislation on this question in the form of a bill cannot be available. The question resolves itself into one simply whether the House will repair the bridge or not? Sir, it is the duty of this House to provide for the fulfillment of the obligations which the Government owes to those persons from whom they purchased this property, with the declaration and pledge that they would maintain it. They have repaired the bridge upon the Eastern Branch, and when they did that, they covered the whole question of duty and obligation, and are stopped from objecting to this amendment, for the uses of this bridge are more extensive, and its connection with the surrounding country infinitely more important, than those across the Eastern Branch. It reaches to, and grapples with a territory larger in population, and larger in the amount of production. Besides that, this bridge is a post road of the Government. Mails reaching into important districts pass along it. Why shall it not be repaired? The objections urged against it are shown to be unavailing, its necessity and value manifest; the obligation upon the Government to make it, was fully recognized by the action of this Congress at the last session in repairing the less important bridges on the Eastern Branch, and opposition to it must find its support only in prejudice.

[Here the hammer fell.]

Mr. GORMAN. I withdraw my amendment, if there is no objection.

No objection was made, and the amendment was withdrawn.

Mr. HEBARD. I propose to amend the amendment, by adding the words—

As far as the northern line of the State of Virginia, whenever the State of Virginia shall raise and appropriate a sum sufficient to complete the same from the south line of this District to the south bank of the river.

Mr. STROTHER. With the gentleman's permission, I will state a fact to him, which will take away all point to his amendment. That bridge is the property of the United States. They have already the right of user to that shore of Virginia for the continuance of this bridge for a mail route, and for the purpose, under a pledge, of making it a free bridge. The purchase was acquired under those terms. Now, the damage caused by this bridge is in the bed of the river, and not on the shore of Virginia.

Mr. HEBARD. That was a point I had in my mind. I supposed that when this bridge was built, the southern shore of this river belonged to the District. That part of the District lying south of the river has been ceded back to the State of Virginia. Now, I suppose, from the arguments gentlemen have used here, that it becomes a matter of importance to the State of Virginia to have this bridge built for the benefit of the people of that State. I do not suppose that the State of Virginia would claim any privilege from this Government by way of building their bridges, any more on this than on any other river, because this river happens to be contiguous to this District. I am willing to vote appropriations for building a bridge in that or in any other place, or for repairing that bridge so far as it is within the jurisdictional limits of this District, but I believe it is a matter of fairness and propriety, that so much of the bridge as lies beyond the jurisdiction of this District, should be built by the State in which it lies.

This, sir, is all I desire to state in relation to this matter. I believe it will address itself to the propriety and consideration of this House. I understand the State of Virginia to claim jurisdiction of the river to the center of the stream, according to the laws of jurisdiction and boundaries. If the State of Virginia relinquishes her claim of jurisdiction to any part of the river, which I understand she does not, then I would not insist on my amendment——

Mr. SACKETT, (interrupting.) If the gentleman will allow me, I wish to ask him whether, under the jurisdiction of Virginia, according to the law existing between Maryland and Virginia, the right of this District extends to the center of the river, or whether it goes to the south line of the river? I understand the latter is the law of the case.

Mr. HEBARD. I so stated what I supposed to be true, from my understanding of the matter. I do not know, however, with certainty, how the fact may be. I understand the river to be the boundary line between Maryland and Virginia. In that case no one will doubt that the center, or deepest current of the stream, will be the line of the State. Then why should not Virginia bridge her own part of the river? If it is done by this Government, it must be as a matter of favor and a mere gratuity to that State; and there would be as much propriety in building a bridge across any other river within the boundary of the State of Virginia, as this.

Mr. STEPHENS, of Georgia. The gentleman admits that the Government ought to build a bridge to the extent of the jurisdiction. I will state to him that the extent of the jurisdiction of the General Government over this bridge is to the other side, including the abutment there. Virginia has no jurisdiction over it or the abutment on its shore,

and therefore the gentleman ought to support the amendment.

The question was taken on the amendment of Mr. HERARD, and it was disagreed to.

Mr. BROWN, of Mississippi. I move to strike out all after the word "for," and in lieu thereof to insert the following:

For removing the wreck of the Long Bridge in the District of Columbia, $20,000, or so much thereof as may be necessary, to be expended under the authority of the Secretary of War.

Mr. Chairman, I am utterly opposed to expending any more money on that old bridge. It is in the wrong place, and obstructs the navigation of the river. It ought never to have been placed there, and now that only a part of it is left, that part ought to be removed. The people residing above that bridge have very many reasons for complaint against Congress for having put it there originally, and you will increase the causes of complaint if you repair and maintain it in its present position. The $20,000 proposed to be expended by the gentleman from Virginia, will be used towards a very unworthy object, if his amendment prevails. I am ready at any moment to vote to construct a bridge at Georgetown—one that shall benefit the country at large—such a one as this Government ought to construct. Let us build a bridge which will not be an impediment to navigation, and one that will not, by damming up the current of the river, create disease and death above it. I will never consent to repair the old bridge, but I am willing to remove the wreck, and thus repair the damage you have done the people living above it by putting it where it is. It was a bad act of ours in putting it there. Let us atone for it by blotting out all that remains of it.

I will go with the gentleman from Virginia, [Mr. STROTHER,] as I have stated before, for the construction of a bridge that will be worthy of this country, and worthy of this District in which the National Council assembles for legislation. And I will go for the removal of the present bridge, because it is disgraceful to the country and injurious to the people living above it, and of little or no use to those living below it. Give to this city all that is her due, but give her nothing at the expense of Georgetown; that is my advice. If you must cross the river at the point where the old bridge now stands, why not cross in boats? You will not then interfere with the navigation of the river nor the health and property of the citizens residing above the bridge. If you cannot get across the river at that point in boats, go a little further up or a little lower down. I am opposed to the bridge, and will not vote a dollar except towards its removal. It dams up the current of the river, and thus induces deposits of vegetable and other matter, which experience has shown to be extremely detrimental to the health of Georgetown and the western part of this city. It obstructs navigation, and thus deprives Georgetown of a great natural advantage. Her commerce languishes, and in the midst of surrounding prosperity she is going to decay. It costs five times as much to keep up this bridge as it would to maintain one properly constructed and at the right place. And, finally, the old bridge is, in every respect in which it may be viewed, a public nuisance. This is my indictment against it, and on this indictment I demand its abatement. In lieu of this unsightly, disreputable, health-destroying, and commerce-hindering structure, I would build a bridge at or above Georgetown that should be worthy of the national capital, convenient to every one, and useful to all classes, and of no injury to anybody.

[Here the hammer fell.]

Mr. STANTON, of Kentucky. I am opposed to the amendment appropriating $20,000 to the removal of the wreck of the old Long Bridge, when it can be taken away without incurring a single cent of expense. As chairman of a committee having jurisdiction over the bridges, I have been applied to by gentlemen of character and wealth, to present certain propositions to Congress in relation to the keeping up the connection between Virginia and the District at this point. I have not done so, for the reason that there is no time left now to present them fairly before the House for consideration. But one part of these propositions I may allude to, in showing the want of necessity for this appropriation. These gentlemen propose, that if Congress will allow them the material of the old bridge, they will remove it entirely, draw out the piles, take away the lumber, and remove all the obstructions in the way of a free navigation of the river. The materials are valuable, or at least might be made so in the hands of private citizens; they would be useless to the Government. It would, therefore, be idle waste to pay $20,000 to remove the remnant of the bridge when we can have it done, if it is necessary to remove it, for the old materials.

There is now pending in the Senate a bill appropriating $200,000 for the construction of a substantial and permanent bridge at some other point above the present site, to be selected by certain engineers, and approved by the President. Connected with this proposition, there is also another, providing an appropriation of $20,000 for the temporary repair of the present bridge. Whether a new structure is provided for, or not, the repair of the present bridge, or some other adequate means of intercommunication between Virginia and the District, is needed. Should a new bridge be provided for, the old one will greatly facilitate its construction, by affording the means of transportation for materials from one side of the river to the other. It will also remedy the serious evil now existing from the interruption of communication from one shore to the other.

I shall vote for the appropriation of $20,000 for the repair of the bridge, but I am sure it can be only repaired temporarily for that amount. I have no idea that Congress will ever agree to erect a new bridge on the same site; nor do I believe it will ever authorize the construction of another of so frail and insecure a character. The present bridge, including original amount expended, and repairs, has cost the Government $249,000. It will be recollected, however, that it has been washed away once or twice before. The same amount expended in the construction of a solid and substantial work, would have given to the public a structure to last for ages, which no flood could sweep away or destroy. I hope, then, for the public interest, when a bridge shall be authorized by Congress, that it will be made substantial and of solid and enduring material.

The question was taken on the amendment of Mr. BROWN, and it was disagreed to.

Mr. BOWIE. I offer the following substitute:

For building a bridge across the Potomac river, at some point in the District of Columbia, to be designated by engineers, under the direction of the President of the United States, $200,000.

The committee is aware that both of the bridges across the Potomac were swept away by the great freshet of last spring, and since then, the citizens of the District of Columbia, and those of the United States who have any connection with the capital, have been much incommoded. Several plans have been agitated as to the best mode of repairing this injury. It is obvious to all that there is great objection to the rebuilding of the old bridge, and no other mode can be adopted adequate to the present emergency except that which has been suggested, that a bridge should be built at some other intermediate point, to be selected by engineers appointed by the President of the United States, with a due regard to the interests of all concerned. I hope, Mr. Chairman, that this committee will not longer postpone provision for the accommodation of so large a population as that of this Distrtct.

Mr. LETCHER. I raise the point of order that the amendment is not predicated on any law authorizing the construction of a bridge at any point, except the one of the Long Bridge.

The CHAIRMAN. The Chair thinks that the amendment is not in order.

Mr. STANLY. I should like to know the grounds of the Chair's decision.

The CHAIRMAN. The Chair decides the substitute to be out of order, because if adopted, it would induce the committee to do that which could not be done in the original proposition; in other words, there is no law authorizing the construction proposed, and it is not such an amendment as could be offered under the 81st rule.

Mr. BOWIE. I will state that it is within the range of probability that the President might direct the rebuilding of the present bridge. The amendment only provides for a bridge already recognized by law. It is a public mail route, which has been destroyed by the means I have adverted to, and the amendment would be restoring the channel of communication between North and South.

The CHAIRMAN. The amendment is not in order.

Mr. APPLETON, of Maine. I move to reduce the appropriation one dollar. I make this motion to enable me to say that it must be evident to all of the members of the committee that there is a very great division of opinion on this whole subject of bridge connection between Virginia and the District of Columbia. It is clear, moreover, that in the little time to which we are now confined, there is no opportunity adequately to discuss that subject, and therefore, in my judgment, no amendment ought to be adopted in this way unless it comes proposed by the proper committee having the subject in charge. I understand that this matter has been before the Committee on the District of Columbia, but I do not understand that they, with all the time and means they have had at their disposal, have been enabled to come to such a conclusion as to be willing to report it to the House. If we go on in this hasty manner making amendments for permanent works in the civil and diplomatic appropriation bill, we shall be taking steps in the dark, and so shall be likely to take wrong steps.

I am therefore opposed to all such amendments. If I were to vote, with the little light I have, for any of them, it would be for the amendment of the gentleman from Mississippi [Mr. BROWN] to remove the Long Bridge entirely. I think that it never ought to have been built. It is, in my opinion, a nuisance, and ought to be abated. Those who have business above it have a right to complain. It is an obstruction to navigation, and blocks up unnecessarily one of the great highways made by nature. I think that it is disgraceful in its whole character to this District, and I should be glad to see it removed. But I protest against any action on the subject at the present time.

Mr. PRESTON. I have listened to the remarks in relation to the propriety of adopting the amendment of the gentleman from Virginia, [Mr. STROTHER,] with the view of securing the repair of the Long Bridge. As I am one of the committee to whom the subject appropriately belongs, my attention has been attracted to the expediency of the measure. The Long Bridge connects Washington with the Virginia shore, and some time since a freshet carried away one of the draws, so as to leave a gap which is at present supplied by a ferry-boat. The citizens of Georgetown desire a new suspension bridge on the Potomac, some three miles above, and quite a struggle exists as to whether the travel from Virginia shall pass, as heretofore, over the Long Bridge to Washington, or be attracted to the upper part of the city, through Georgetown. The old bridge was constructed about forty years since, and the question which was very much vexed at that time was settled by the course of Mr. Clay, who delivered his maiden speech in Congress in its behalf. It has been alleged that the Long Bridge, by obstructing the current, produces unhealthiness, but my mind has not been satisfied that such is the case. It is an unsightly structure, and, in my opinion, some better communication should exist with the Virginia shore. The commerce of Georgetown has long passed through the draw-bridges existing in the old bridge, and if the travel should hereafter pass up the Potomac and cross a suspension bridge at Georgetown, it will be necessary to connect the present road that communicates with the old bridge by a turnpike of some three miles to reach the new one. The new bridge will cost some $300,000, and it must take some time to construct it. Without deciding which site is the most eligible, yet I am in favor of this appropriation, even to secure the temporary connection. No act can be passed at this session for the new bridge, and we should not neglect to provide in the interval the means of transit for the trade, mails, and travel from Virginia to the city. This should be done, even if the old bridge should be hereafter deemed a nuisance and ordered to be removed.

Mr. APPLETON. I would inquire of the gentleman, as well for my own information as that of the committee, whether the subject of this bridge has been acted on by the Committee on the District of Columbia?

Mr. PRESTON. No definite action has been had; and had it been otherwise, the committee have had no opportunity to report. I have in my

drawer now a very necessary bill which cannot be reported. This $20,000 is needed, and I trust the committee will adopt the amendment.

Mr. APPLETON withdrew his amendment.

The question was then taken on Mr. STROTHER's amendment, and there were—ayes 67, noes 58.

Mr. RICHARDSON demanded tellers: which were ordered; and Messrs. JONES of Tennessee, and PARKER were appointed.

The question was then taken, and there were—ayes 79, noes not counted.

So the amendment was agreed to.

The Clerk then read the next clause, as follows:

"For the purchase of manure for the public grounds, $1,000."

Mr. McMULLIN. I desire to amend the preceding clause.

The CHAIRMAN. The Chair regrets that the gentleman did not rise soon enough, as the committee have passed by that section, and the gentleman cannot now move an amendment.

Mr. McMULLIN. I take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair will state the facts. The Clerk finished the reading of the section to which the gentleman refers, and then proceeded to read the next section, and had finished the reading of it before the attention of the gentleman from Virginia [Mr. McMULLIN] was called to it. The gentleman from Virginia proposes to recur to that section, but the Chair decides that it is out of order to do so, unless by the unanimous consent of the House. The gentleman from Virginia takes an appeal; and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affirmative.

So the decision of the Chair was sustained.

The clause making appropriation for the annual repair of the Capitol, &c., was read.

Mr. CLINGMAN. I move to add at the end of that clause the following amendment:

And that twenty thousand dollars be appropriated, to be expended in removing the statue of the Indian in the east portico, and in supplying its place with a statue of America, to be executed by Hiram Powers, under the direction of the President of the United States.

Mr. DUNHAM. I rise to a point of order. I submit that the amendment is not in order.

The CHAIRMAN. The Chair is of the same opinion, and rules the amendment out of order.

Mr. CLINGMAN. If you can take up trees and plant others, why not remove a statue?

The CHAIRMAN. The Chair cannot go into an argument with the gentleman.

Mr. CLINGMAN. I take an appeal from the decision of the Chair.

The CHAIRMAN. The gentleman from North Carolina [Mr. CLINGMAN] proposes an amendment, which was read in the hearing of the committee. The Chair decides the amendment to be out of order. From that decision the gentleman from North Carolina appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. POLK. I wish to ask the gentleman from North Carolina a question. Does he intend to remove the woman and leave the man standing?

Mr. JOHN W. HOWE. Is that to be the statue of "Young America?" [Laughter.]

The question was then taken on sustaining the decision of the Chair, and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. STANLY. I wish to offer an amendment to that clause, by directing that no more trees called the alanthus tree shall be planted upon the public grounds. They are unhealthy and the odor is very offensive. I will send up the following amendment:

Provided, That no more alanthus trees be purchased or planted.

The question was then taken on the amendment, and it was agreed to.

Mr. STANTON, of Kentucky. I offer the following amendment, to come in at the end of that clause:

Provided, That nothing in this or any other act of Congress shall authorize the Commissioner of Public Buildings and Grounds, or any officer of Government, or the authorities of Washington city, to close up any part of Sixth street, running through the public grounds; and any obstructions which may have been placed in said street where it runs through said grounds, shall be removed by said Commissioner of Public Buildings and Grounds.

It is important, perhaps, that I should say, in explanation of that amendment, that it has been under consideration by the Committee on Public Buildings, and fully examined. The object to be accomplished is simply to afford convenient access from one part of the city to the other, over the street referred to. When this city was originally laid out, the proprietors of the land, in their deeds of conveyance, conferred upon the President of the United States the power to lay out and dedicate to the public use the necessary streets. I have lying before me upon my desk, the original map, approved by General Washington, in which, with many others, Sixth street is laid out, and is, perhaps, the longest street in the city of Washington; beginning at the extreme northern, and terminating at the extreme southern boundary. It connects the thickly populated portion of the city north of the public grounds, with the rapidly growing section lying south of Maryland avenue. Along the whole length of that street, except where it runs through the public grounds, squares were laid off, and lots sold to private purchasers. These purchasers bought, no doubt, with reference to the advantages of the street, and thus acquired the right to use it unobstructed. No doubt the location upon the street, and the right of way over it, formed a consideration and inducement in the purchase, and these, to a considerable extent, controlled the price.

Subsequently, in 1822, Congress formally set apart, by the enactment of a law, that portion of the public grounds now lying between the Capitol and Sixth street, with a view to its improvement. The act of Congress referred to, and which I now have before me, besides laying off these grounds for public purposes, proposes that certain squares of ground belonging also to Government, should be laid off into lots, and the lots thus formed sold to purchasers. The lots were accordingly sold, and two of the squares containing them front upon Sixth street, and adjoin the public reservation. I have here the map which was before the committee which reported the bill, and has upon it distinctly laid off, this same Sixth street, with the squares ordered by Congress to be sold. It will be seen that the street runs through the public grounds, and by these squares. The map is approved by President Monroe, and certified by the Hon. J. Kent, who was then chairman of the committee of this House for the District of Columbia, to be the same one.

It will not be contended that the property holders who bought lots at the time the city was laid off, or subsequently when the Government directed a part of its property fronting upon Sixth street to be sold, have not a clear legal right to the unobstructed use of the street. It was originally dedicated by the act of General Washington to the public use, and has been recognized by Congress since, in the act of 1822, and other acts, as an existing street, subject to use, as all other known and well-defined streets in the city.

The street was opened for many years through the public grounds; but recently, by some one of the several Commissioners of Public Buildings and Grounds, has been closed up. Now, I maintain that this obstruction is without authority of law, and ought to be removed. I have looked in vain for some act of Congress authorizing such a procedure. There is no such act. If there were it would be of no effect, for Congress, in my humble opinion, has no right to interfere with the rights and advantages which it has once conveyed to citizens. The corporate authorities of Washington, with singular unanimity, and the citizens whose rights are thus interfered with, ask that the obstruction may be removed and the street opened. This is the object of the amendment, and I trust there will be no objection to it.

Mr. JONES, of Tennessee. The committee will recollect that on yesterday there appeared in the Republic of this city, a correspondence between the Mayor of the city of Washington and the President of the United States, in which the President refused the request of the corporation to open this Sixth street through the public grounds. Sixth street is one which passes between the National Hotel and Brown's Hotel, crossing the avenue and striking the canal. The public grounds which this amendment proposes to open, as a public square, are immediately south of the canal, bounded on the east by Four-and-a-half street, and on the west by Seventh street. If you direct this street to be opened through those grounds, you destroy that large public square there, and cut it up into two portions. There is, I conceive, no necessity for this amendment. It is but a little way to cross the canal, either upon Four-and-a-half street or upon Seventh street. There is a bridge across Four-and-a-half street, and a good iron bridge also across Seventh street. There is none upon Sixth street, and you will destroy that square if you adopt this amendment. As to the charge that the Commissioner of Public Buildings has closed up this street without authority of law, I think it will be found, upon examination of the law, that an appropriation was made to inclose this square, and that, in pursuance of that direction and appropriation, it was closed. The Government own both sides of Sixth street, and the President, in my opinion, has very correctly, and for the reasons given in his letter published yesterday morning, refused the request to open that street. I do not know the real cause of this movement. It may be that some private individual has lots upon this street somewhere, or on the island south of the square, which will be greatly enhanced in value if you open this street. I cannot conceive what good will result to any person unless it is in that way; and I think that the President has the right to say that it shall not be opened. He has said so, and I think that we had better let it alone.

Mr. SACKETT. I wish to ask a question touching the influence the question ought to have upon the rights of those who own private property beyond this inclosed part. Has that street ever been opened? Was it ever a street?

Mr. JONES. When I came here it was an open, waste field, and no street ran through it.

Mr. SACKETT. Was there ever a bridge across the canal at this point?

Mr. JONES. There was never a bridge across the canal at Sixth street, and no one ever crossed it.

Mr. DEAN. I move to strike out the words "the authorities of the city of Washington."

If the statement of the gentleman from Kentucky [Mr. STANTON] is correct, that Sixth street runs through those grounds, no legislation is needed. If it is a public street, we have nothing to do with the subject here. We may pass as many acts as we choose, and Sixth street remains as it is, unless we directly and in terms close it, because we cannot otherwise interfere with vested rights.

If it is not a public street, then I am opposed entirely to making it one by any legislation here. That square is one which is in front of the Smithsonian Institution——

Several VOICES. No, no, no.

Mr. DEAN. Not the square in which the building stands, but it is directly in front of the Smithsonian Institution, and it is the only place, of a great many which have been suggested, that remains, which is large enough for the statue of Washington. There is no room around the Capitol for it. The grounds are unsuitable or preoccupied; and I think, independently of this consideration, that that public square ought to be preserved. At any rate, legislation upon the subject is not necessary now, and the proviso offered by the gentleman from Kentucky ought not to be adopted. If the parties he refers to have rights, let them establish them in the courts.

Mr. HOUSTON. I hope the gentleman from Kentucky will not press an amendment that is so well calculated to occupy so much time.

Mr. STANTON. I think I can explain it in a few moments.

Mr. HOUSTON. There is a great contrariety of opinion upon the subject.

Mr. STANTON. I have the law here to show what is right.

Mr. HOUSTON. The gentleman may have the law, but members have their own opinions, and it is utterly impossible that this amendment can pass. It will give rise to a great deal of discussion, if it is pressed now, and there is but little time between this and the next session, when the gentleman, if he chooses to bring it up, can do so. I hope the gentleman will listen to this appeal, and that we will cut loose from these entangling amendments. I am opposed to the amendment.

Mr DEAN I withdraw my amendment.

Mr. STANTON, of Kentucky. I renew it.

The CHAIRMAN. It would not be in order for the gentleman to renew it.

Mr. STANTON. I have a right to modify my own amendment. I move to strike out that part of the section which provides that the pavements——

The CHAIRMAN. What does the gentleman propose to do with his original amendment?

Mr. STANTON. Cannot the original amendment be perfected first?

The CHAIRMAN. If the gentleman from Kentucky will withdraw his original amendment, it will be in order for him to strike out the word "pavements."

Mr. STANTON. I withdraw my amendment.

Mr. TOOMBS. He cannot withdraw the amendment. I object to it.

Mr. WEIGHTMAN. I move to amend the amendment by striking out the words "the authorities of the city of Washington." I offer that amendment for the purpose of enabling the gentleman from Kentucky to submit the remarks which he desires to submit, and yield the floor without saying anything further.

Mr. STANTON, of Kentucky. I have here, as I said before, the original map of the city, approved by General Washington, and on that map is laid down distinctly this street. I have also before me the opinion of John Breckinridge, then Attorney General of the United States, in which he discusses the legal question as to the power of the President to set apart and dedicate the streets of the city to public use. The power of the President to do so under the authority conferred by the original proprietors is fully conceded; and the President having acted, the learned officer of the law decides that the streets must remain for public use. I wish I could read for the information of the House, the very lucid opinion of this gentleman, but my time will not allow me to do so. It is clear from all he says, that the lots located along the line of the street, and binding upon it, having been sold with reference to the facilities and advantages thereof, no power belonging to the Government can take away from them, against their consent, the rights acquired by that dedication. Now, sir, the street having been marked out and laid down upon the map at the time the lots were sold, it is very probable that higher prices were paid for them than would have been paid if the advantages of the street had not been held out.

Mr. SACKETT. I wish to ask the gentleman from Kentucky whether the same thing that has occurred to Sixth street has not also taken place with regard to Tenth street, and whether the Smithsonian Institution does not stand directly across the street?

Mr. STANTON. I have not examined the original map of the city in reference to that street, and therefore cannot answer with any certainty of being correct. But this I will say, that if the Government has authorized a wrong to be committed against the public in that case, it is no reason why a similar wrong should be perpetrated now. The interference with the vested rights of the citizens in that instance, will by no means justify it in this.

I said when I was up before, that in 1822, Congress laid off a portion of the public grounds commencing at the Capitol, and extending to Sixth street, which is named and recognized in the act as one of the boundaries of that reservation—the act I have here in my hand. These grounds were laid off and set apart for public use. By the same act the grounds west of Sixth street, extending to the Potomac, were given to the city of Washington, upon certain conditions and for certain purposes. They were, however, in 1833, reconveyed to, or resumed by the Government. Here again Sixth street, running through the public grounds, was recognized and called for as an actual existing street, constituting the boundary of the public property. By the act of 1822, in addition to the reservation of a part of the land belonging to the Government for public use, which is specifically described, several squares lying upon either side of the public reservation are directed to be laid off in lots, and sold to private purchasers. Two of these squares bound upon and front Sixth street. The purchasers derive their titles from the Government. They bought with reference to the location upon the street. They acquired rights by that purchase, which the Government has no power to deprive them of. Neither the President of the United States, the Commissioner of Public Buildings and Grounds, nor any other officer of the Government, I care not how exalted or how inconsiderable, can, without authority of law and in defiance of their wishes, wrest from them their rights. What are they? The privileges of the street, the right to use the highway set apart and dedicated to public use by the high authority of the President, conferred by the original proprietors of the soil, and recognized by repeated acts of Congress.

Sir, it is a high-handed outrage to deny to a large body of citizens, who are the vendees of the Government itself, rights and privileges which they have bought and paid for. The city authorities of Washington, who understand the necessity of removing the obstructions in this street better than any member of this House, ask that it may be opened. It will not interfere with the improvement of the public grounds. It is a gross mistake to suppose that it can in the slightest degree affect the beautiful arrangement for their embellishment and improvement. On the other hand, it will greatly add to the convenience of the population on both sides of the city. That population is growing with great rapidity, and it is useless to resist a measure which public necessity must very soon force a compliance with.

The question was then taken on Mr. WEIGHTMAN's amendment to the amendment, and it was not adopted.

The question recurred upon Mr. STANTON's amendment, and being put, it was decided in the negative.

So the amendment was not agreed to.

Mr. STANTON, of Kentucky. I am instructed by the Committee on Public Buildings and Grounds to move to strike out the following clause of the bill:

"For annual repairs of the President's House, furniture, improvement of grounds, painting and repairing roof, cleaning, painting, and whitewashing inside of the house, extending east wing of offices for carriage-house, blinds for the west front of the house, flooring large room in basement, purchasing trees and plants for garden and for making hot beds therein, wire fence, &c., $6,250."

And to insert in lieu thereof the following:

For the construction of hot-water furnaces, the ventilation of, and repairs for the Executive Mansion, according to the plan of the Architect, submitted to the Committee on Public Buildings and Grounds of the House, on the 4th February, 1853, and approved by said committee, $30,000.

The attention of the Committee on Public Buildings and Grounds has been drawn to the present condition of the Executive Mansion by the present Commissioner of Public Buildings, whose communication and estimates are now before me. In order that they might be fully informed as to the real condition of that edifice, and the improvements necessary to be made, they requested the Architect having charge of the extension of the Capitol, to make a thorough survey of the Executive Building, and report to the committee the result of his examination. With great cheerfulness he did so, and furnished the committee with a very satisfactory account of its condition, the repairs and improvements needed, and the necessary amount of money to accomplish them. From his report we learn, what has been obvious to all who have visited the President's House, that it is imperfectly heated and ventilated; no adequate provisions having ever been made for these indispensable objects. The rooms are only heated by the ordinary fire-places, and these are insufficient for the expulsion of dampness, and the thorough warming of a massive stone structure of its character and size. The Architect is of opinion that the unhealthiness of the building, so much complained of by all who have ever occupied it, arises chiefly, if not exclusively, from the dampness of the lower stories, and the imperfect ventilation of the building.

It is principally to remedy these defects, and make the Executive Mansion healthful and comfortable, that this expenditure is required. Indeed the proposed improvements ought to have been made years ago, and Congress has been negligent and remiss in not authorizing them. The design is to construct hot-water furnaces in the basement, for the warming of the halls and rooms of the house. This description of furnace is said to be the best, and is recommended by the Architect as superior to all others, it being better adapted to the production of a soft and pleasant condition of the atmosphere. It has been tried in some of our public buildings and found to be infinitely better than *hot-air* furnaces. I wish, instead of the dry and suffocating heat of this Hall, we could substitute the pleasant and agreeable atmosphere which might be diffused through every part of it, by means of heated water. Four of these furnaces, located in the basement, are required for the President's House.

Proper means of ventilating the House are required, and the Architect has recommended a plan for this purpose which meets the approval of the committee. In addition to these, which are the most material improvements proposed, there are a variety of other repairs needed, which this appropriation is intended to cover. They are all substantial improvements, made necessary by the actual condition of the property, and intended to make it comfortable for the use of the President and his family. These items are all carefully estimated for, and enumerated in the report of the Architect, whose plan of improvement it is intended shall be followed.

I feel assured, that in view of the condition of the Executive Mansion, and the many complaints of unhealthfulness which we have heard from its occupants, frequently compelling them to evacuate it and seek other quarters, that the committee will not hesitate a moment to adopt the amendment. If I did not believe that there was an imperious necessity for the expenditure, I would not ask it of the House.

Mr. SACKETT. I ask for tellers on the amendment.

Tellers were ordered; and Messrs. BRECKINRIDGE, and HARRIS of Alabama, were appointed.

The question was then put, and the tellers reported—ayes 71, noes 61.

So the amendment was adopted.

Mr. TOOMBS. If it is in order, I would like to move to add "soap." [Laughter.]

Mr. STANTON, of Kentucky. I am instructed by the Committee on Public Buildings and Grounds to offer the following amendment:

For refurnishing the President's House, to be expended under the direction of the President, in addition to the proceeds of the sale of such of the furniture and equipage of said house as may be decayed, out of repair, or unfit for use, the sum of $25,000.

Mr. Chairman, an appropriation of this character, to refurnish the President's House, has been usual every four years, at the incoming of a new Administration. The Commissioner of Public Buildings, who is familiar with the condition of the furniture, has made a full estimate of the articles needed, and furnished the committee with the cost of each. He deems the amount asked for necessary to place the house in anything like comfortable condition for the reception of the new President and his family. It is usual and ordinary to make such appropriation every four years.

Mr. HOUSTON. Is this the usual amount?

Mr. STANTON. It is a little larger than has generally been appropriated, but not so large as an appropriation once made.

Mr. HOUSTON. Yes, sir.

Mr. STANTON. Since the house was originally furnished, the average amount for renewing the furniture and equipments, has been about $18,000. But the gentleman will recollect that a greater portion of the property now in that house has been in use more than forty years, and may be supposed to have greatly deteriorated in that time. Originally the property cost not less than $100,000. We have renewed it to a small extent only every four years, and the necessity of increasing the appropriation increases with the use and age of the furniture.*

Mr. SKELTON. I am opposed to making any appropriation of this kind. The Democratic party have recently returned from an election with economy inscribed upon their banner. We have been elected here as a party in favor of economy. Now,

* Since the above remarks were made in the House, I have examined the various appropriations for furniture made for the Executive Mansion since 1797, and the following is the result:

In addition to the proceeds of the old furniture ordered to be sold—

1797	$14,000	1826	$25,000
1800	15,000	1829	14,000
1805	14,000	1833	20,000
1809	14,000	1834	6,000
1813	14,000	1841	6,000
1817	20,000	1845	14,000
1818	30,000	1849	14,000
1825	14,000		

I contend, without multiplying words, that any furniture which is good enough for a Whig President is good enough for a Democratic President.

Mr. POLK. I move to amend the amendment by adding one dollar to the appropriation. The gentleman from New Jersey says that if a Whig President can live in the White House as it is at present furnished, a Democratic President can do so. I will admit that. But has the Whig President lived there comfortably? I appeal to the party to which he belongs, who have had better opportunities of ascertaining the condition of that house, to say whether it is a proper residence for the President of the United States? Sir, any man who has been at all familiar with that house, must know that there are private residences in the city of Washington, and, indeed, in nearly all the cities of the Union, that are better furnished. The furniture has been there for a number of years, and we have been patching it up at the rate of $14,000 at the end of each Administration, which amount cannot effect a proper equipment of the house. Sir, I am willing to meet the responsibility of this appropriation. The Democratic party ought to be willing to meet it. It is the people's house, and the people are willing to furnish it in a manner befitting the occupancy of the man of their choice. The objection to it is nothing but humbuggery; it is one of those low-fling objections sometimes resorted to for popular effect, by gentlemen who expect to gain favor with the people by such means. I mean nothing disrespectful to the gentleman from New Jersey, but I must say it is a noble humbug. [Laughter.]

Mr. LETCHER. I should like to hear the items read that this $25,000 is intended to provide for.

[Shouts of "No!" "No!"]

Mr. LETCHER. I do not want to vote in the dark.

Mr. POLK. I withdraw my amendment to the amendment.

Mr. DEAN. I move to amend the amendment of the gentleman from Kentucky by inserting the words "wife of" before the word "President." This amendment is of course *pro forma*, to allow me to say what I desire in relation to the appropriation, though I think it would be well to have the money expended under the direction of the wife of the President; for every lady knows that no man can furnish a House in good taste, or with any economy——

[Loud cries of "No!" "No!" and great laughter.]

Mr. LETCHER. Before I am called upon to vote on this amendment, have I not a right to know what the items are which make up this appropriation? I cannot vote in the dark.

[Cries of "Order!" "Read the items!" and great laughter and confusion.]

Mr. LETCHER. Am I to be compelled to vote in the dark?

The CHAIRMAN. The Chair cannot help that. The Chair supposes it would take half an hour to read the items.

[Cries of "Vote!" "Vote!"]

Mr. DEAN. Am I not entitled to the floor, notwithstanding the "noise and confusion?" [Laughter.]

The CHAIRMAN. Yes, sir.

Mr. DEAN. Mr. Chairman, my only object in offering this amendment is to say that I am in favor of a reasonable appropriation for the purpose of furnishing the President's House in a manner suited to the dignity of this great nation. If $25,000 is needed we ought to vote it without the slightest hesitation. I for one shall do it, and should do injustice to my constituents if I did not.

The Committee on Public Buildings ought to know whether it is needed, and ought to be willing to inform the House how they made up the amount. The gentleman from Virginia [Mr. LETCHER] is right in calling upon them to state, on their responsibility as one of the committees of Congress, whether this sum is necessary, and I, for one, if they give it to us as the result of their examination, am ready to go with them, and vote every dollar of it.

Mr. JOHNSON, of Tennessee. Let us have the items.

Several MEMBERS. Read the items.

Mr. DEAN. I repeat, sir, let the committee inform us on this subject, and, if it is necessary, let us vote the amount, whether it be $20,000, $25,000, or $50,000, and not yield to a spirit of niggardly parsimony. Of one thing I am quite certain, and I hesitate not to say it here, and that is, that the White House is not now respectably furnished for the residence of the President of the United States. Go where you will through that house, and you will discover a want of those articles which adorn and beautify the residence of almost every private citizen of means and taste.

A MEMBER. Have you been there?

Mr. DEAN. Yes, sir; I have been all over it, except in the kitchen, for be it understood I have no connection with the kitchen cabinet. [Great laughter.]

A MEMBER. Are you sure you have never been in the kitchen? [Renewed laughter.]

Mr. DEAN. I am quite sure upon that subject; but I have repeatedly been through the other parts of the house—those portions visited by the public, by our constituents, and persons from abroad—and beheld only the naked walls, instead of a properly-furnished house.

Mr. STUART. I hope the gentleman from Alabama will allow his five minutes to be consumed in reading these items.

Mr. STANTON. I do not like to consume the time of this committee with reading these items; besides, some of them ought not to be named in the presence of the fair auditors now in the gallery.

[Cries of "Read!" "Read!"]

Mr. STANTON. Well, there is one item for six bed curtains.

Several MEMBERS. That is right; go on.

Mr. STANTON. There is another item for twenty dozen window curtains.

Mr. STANLY. I object to the reading of these items.

The CHAIRMAN. The Chair will arrest the reading with the expiration of the five minutes allowed the gentleman from Alabama. He has the right to have them read in his time.

[Cries of "Go on!"]

Mr. HOUSTON. I am opposed to the amendment. I give up my time, and now ask that the committee shall take a vote upon the amendment.

Mr. LETCHER. Then I move an amendment to the amendment, and ask to have my five minutes' time devoted to the reading of these items.

The CHAIRMAN. No amendment is now in order. The question is upon the amendment of the gentleman from New York.

Mr. DEAN. With the consent of the Committee I will withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. LETCHER. I move to reduce the appropriation five dollars. Now let these items be read through my five minutes.

Mr. CLINGMAN. I make the point of order that the reading of those items is not germane to the gentleman's amendment, [laughter,] and therefore cannot be allowed.

The CHAIRMAN. The Chair thinks if the gentleman from Virginia chooses to have the items read in his five minutes, he has that right. The Chair thinks they are pertinent to his amendment.

Mr. DAWSON. I appeal from that decision. I think they are not in order.

The question and the decision of the Chair was sustained by the committee.

Mr. STANTON, of Kentucky. I hope I shall be allowed to say that there may possibly be some items in the memoranda which it may not be proper to have read in the presence of some, at least, of those who are now witnessing our deliberations. I hope the gentleman will appreciate the delicacy which prompts this suggestion.

Mr. JOHNSON. That document ought not to be read. I hope the reading will not be insisted on.

Mr. BAYLY, of Virginia. I insist the whole list shall be read, if any. Now, the gentleman from Kentucky can take his choice.

Mr. LETCHER. If it is in order, I withdraw my amendment, and offer that list of articles as an amendment. Now, Mr. Clerk, read on.

Mr. POLK. I object to the withdrawal of the gentleman's amendment.

The CHAIRMAN. If there be objection the amendment cannot be withdrawn.

The question was then taken upon Mr. LETCHER's amendment, and it was disagreed to.

Mr. SKELTON. I move to reduce the appropriation one dollar.

The CHAIRMAN. That amendment is not in order, the same amendment having once been voted down.

Mr. SKELTON. Then I move to reduce it five dollars.

Mr. Chairman, I rise at this time with a great deal of reluctance to discuss this proposition, when the time of the House is so precious. But, sir, it is not the first time that men have risen upon this floor to assail the motives of honorable members here. Now, I wish to say to any man who assails my motives here upon this floor, that I consider him beneath my notice.

Mr. POLK. Will the gentleman allow me for a moment?

Mr. SKELTON. For what purpose?

Mr. POLK. I made some remarks, but I qualified them by saying that I intended nothing personal to the gentleman; and I desire to know whether, with that statement, these remarks are intended for me?

Mr. SKELTON. If the gentleman intended no personal disrespect, I certainly——

Mr. POLK. I so stated, and now I wish to be satisfied upon that question.

Mr. SKELTON. I will answer the gentleman.

The CHAIRMAN. Gentlemen must remember that it is not in order to indulge in personalities.

Mr. SKELTON. I only desire to reply to the charges made against me.

The CHAIRMAN. The gentleman will proceed in order.

Mr. SKELTON. I propose, with what I have already said, to pass that subject by, and direct the attention of the committee for a few minutes to the merits of the proposition, and to show that I have been actuated by some other motive than meanness or dishonesty. Sir, if I desired to influence the President of the United States, would it be my policy to withhold from him any public funds, or any convenience or accomodations for his House? On the contrary, would it not be my policy to favor all these measures? I do not say that any member upon this floor has been actuated by any such motives, but is this appropriation necessary? Is $20,000 necessary for furnishing the President's House every four years? How is it possible that the amount can be expended every four years for furniture, in a house of that sort? I consider it a wasteful extravagance of the public funds. I maintain that this appropriation is not necessary. I have visited the President's House; and the voice of the American people, as well as my voice, demands that we shall not make these extravagant appropriations. Sir, I proclaim to this House that I desire more the reputation of an honest, upright man, than I do that of an extravagant spendthrift. Sir, I am conscientious in my action upon these measures. I oppose these expenditures as extravagant, wasteful, and contrary to the public sentiment of the people of the country. But I will not further consume the time of the House with reference to this matter.

[Here the hammer fell.]

Mr. BAYLY, of Virginia. I beg to say to this House, that in the times when our Government was poor, some forty years ago, we built this House at a cost of nearly a million of dollars, I believe. Now, how much will it require to furnish a House which cost a million of dollars? If there has been any folly in this matter, that folly was in those who lived in the better days of the Republic.

But, gentlemen say, is this renovation necessary every four years? Why, sir, nearly every Congress has made an appropriation for refurnishing this House. Look at the condition of the furniture there now. The President's House is almost as much a public thoroughfare as this Capitol. Multitudes of persons are there every day. Almost every person in the United States who has visited this city, has also visited the President's House, and all the foreigners who come here go there. Is it possible, then, for the furniture of such a House to last for more than four consecutive years, without needing extensive repairs? Every man who keeps House knows it must be so, and that it is so.

Mr. LETCHER. I desire to ask the gentleman a question. Was not $6,800 the amount appropriated in Mr. Polk's time to refit the house?

Mr. BAYLY. I recollect that perfectly.

Mr. STANTON, of Kentucky. I will reply

to the gentlemen from Virginia, [Mr. LETCHER,] that there was an appropriation of $14,000, during Mr. Polk's Administration for that purpose.

Mr. BAYLY. I understand all that matter perfectly. When Mr. Tyler's Administration was going out, there was a proposition to make the usual appropriation for refurnishing and refitting the President's House. The Democrats then, under the idea that a Democratic President was not entitled to be as well provided for as a Whig President, cut down the appropriation, [laughter;] and until the next Congress made an appropriation of $14,000 for that purpose, the President's House was absolutely in a niggardly condition, as I know from personal observation. It was a source of some annoyance to Mr. Polk, but he would not complain about it; but I know, because I was here at the time, that he regarded it, and that others regarded as a piece of niggardliness, the cutting down the appropriation to some five or ten thousand dollars.

The question was then taken upon the adoption of Mr. SKELTON's amendment, and it was disagreed to.

The question then recurred upon the original amendment offered by Mr. STANTON, and being taken, the amendment was adopted.

The following section being under consideration:

"For lighting the Capitol and President's House, the public grounds around them and around the Executive offices, and Pennsylvania avenue, $22,000."

Mr. STANTON, of Kentucky, offered the following amendment:

For the erection of lamp posts and lamps on each side of Pennsylvania avenue, from seventeenth street to Georgetown, and from the Capitol to the Navy-Yard, $3,700.

Mr. STANTON. This is an amendment which has been recommended by the Secretary of the Interior. The avenue leading from the Capitol to the Navy Yard has no lights, and the avenue from the President's House to Georgetown has none. The Secretary of the Interior has in his estimates provided for that amount, and I am instructed by the Committee on Public Buildings and Grounds to offer it as an amendment.

The question was taken, and the amendment was adopted.

Mr. STANTON. One more amendment, and I have done. I am instructed by the Committee on Public Buildings to offer the following:

For inclosing with iron fence and other improvements of the triangular space on the north side of Pennsylvania avenue, opposite the market-house, and between Seventh and Eighth streets, $4,500.

This is for the improvement of the triangular space opposite the market-house. Members know it is an unsightly and uncleanly place, and I ask that provision may be made for its improvement.

The question was taken, and the amendment was adopted.

The following clause of the bill being under consideration—

"For completing the repairs of the two bridges across the Eastern Branch, $4,000;"

Mr. BOWIE moved the following amendment:

For replacing the bridge across the Potomac river, at the Little Falls of the said river, $50,000.

Mr. BOWIE. It is well known that this bridge is necessary to a great public thoroughfare.

Mr. JONES, of Tennessee. I ask if that bridge is within the limits of the District of Columbia?

Mr. BOWIE. It is within the limits of the District of Columbia. It was carried away by a freshet.

Mr. DEAN. I rise to a question of order upon that amendment. That bridge has been ceded by Congress to Georgetown, upon the condition that Georgetown was to keep it perpetually in repair; and therefore we have nothing to do with it. There is no law authorizing Congress to make the appropriation.

The CHAIRMAN. If that be the state of facts, the Chair will be bound to rule the amendment out of order.

Mr. WALSH. There was an act of Congress passed, but there is no evidence that Georgetown ever accepted the grant—not a particle.

The CHAIRMAN. The Chair thinks the amendment is not in order, and so decides.

The following clause of the bill being under consideration—

"For salaries and incidental expenses of the Commission appointed under the act of March 3d, 1851, for settling land claims in California, $50,000;"

Mr. JONES, of Tennessee, under instructions of the Committee on Ways and Means, moved the following amendment:

And that the proviso to the appropriation for this object, contained in the act approved 31st August, 1852, shall not be so construed as to render the salary of secretary of said Commission as fixed by the second section of the above recited act to reduce the salary.

Mr. SWEETSER. Is that amendment in order? It is to alter an existing law.

The CHAIRMAN. The Chair thinks it is in order.

The question was then taken, and the amendment was adopted.

Mr. CASKIE. Mr. Chairman, I have taken up but little of the time of the House since I have been here——

The CHAIRMAN. Does the gentleman offer an amendment?

Mr. CASKIE. Yes, sir; I move the following:

For the purchase of a site and the erection of a building for custom-house, post office, and Federal courts in Richmond, Virginia, $86,000, in addition to the former appropriation.

Mr. HOUSTON. I rise to a question of order. That amendment is not in order.

The CHAIRMAN. The Chair decides the amendment to be out of order.

Mr. CASKIE. We are now considering the bill under the head of "miscellaneous items," and I submit that it is in order.

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. CASKIE. Yes, sir, I do appeal; and I claim the privilege of stating the grounds of my appeal.

The CHAIRMAN. The gentleman has the right to state the ground of his appeal, but not to discuss it.

Mr. CASKIE. We are now considering the civil and diplomatic bill. That my proposition as an amendment to that bill is in order cannot be denied, except on the ground that we have passed the part of it headed "custom-houses." That, however, as I understand it, is a mere arbitrary division for convenience sake, made perhaps in printing the bill. But, I submit, that division cannot rule out an amendment clearly in order to the bill, particularly when we have reached the head of "miscellaneous items."

The CHAIRMAN. The Chair will state, in reply to the suggestion of the gentleman, that the effect of this amendment, if entertained, would be, in effect, to recur to a clause of the bill which we have passed. It would be violating a rule which prevents a recurrence to a section of the bill already passed. The Chair decides the amendment to be out of order. From this decision the gentleman from Virginia appeals.

The question was taken, and the decision of the Chair was sustained by the committee.

The following clause being under consideration—

"For the discharge of such miscellaneous claims, not otherwise provided for, as shall be admitted in due course of settlement at the Treasury, $5,000: *Provided*, That no part of the appropriation shall be drawn from the Treasury, except in pursuance of some law or resolution of Congress authorizing the expenditure;"

Mr. SIBLEY offered the following amendment:

To enable the Clerk of the House of Representatives to furnish, pay for, and deliver the same books to the Delegates from Oregon, New Mexico, and Utah, for the Thirty-second Congress, as per resolution of said House passed 26th July, 1852, $2,700.

Mr. S. I presume there will be no objection to the resolution. Its object is only to carry out a resolution which passed the House at the last session of Congress, and provides to give the Delegates named in it the same books that are furnished to other members of the House.

Mr. JONES, of Tennessee. I wish to inquire if they were not included in the original resolution?

Mr. SIBLEY. There was a clerical error in that resolution.

The question was then taken on the amendment, and it was agreed to.

Mr. BOWIE. I desire at this point to offer an amendment, which I will send to the Clerk's table.

The amendment was as follows:

To pay to J. Mudd, for services in the office of the Commissioner of Public Buildings, from the day of the death of the late Commissioner to the appointment of the present incumbent, $65.

The question was taken, and the amendment was agreed to.

Mr. MOLONY. I move to amend the clause under consideration by adding the following:

Six thousand dollars for the marine hospital at Chicago, Illinois.

Mr. DEAN. I submit that the amendment is not in order, as there is, I think, no law authorizing it.

Mr. MOLONY. It has been estimated for by the Secretary of the Treasury, under the head of "miscellaneous." There have been appropriations made for it for a series of years.

Mr. HOUSTON. I hope the gentleman will allow that matter to remain until we get through the bill, and not bring it up now.

A MEMBER. It will take no more time to consider it now than it will then.

Mr. MOLONY. I will not take up the time of the committee, Mr. Chairman, in making any remarks upon this amendment further than to say that the amendment submitted proposes to appropriate $6,000 for the marine hospital at Chicago, the amount being the same as the estimate made by the Secretary of the Treasury, and which, in his annual report to Congress, he says is indispensably necessary for the protection of the hospital and grounds, for which $50,000 has already been appropriated by the American Congress.

Mr. BROWN, of Mississippi. If the gentleman will allow me, I propose to amend his proposition so as to include all the hospitals, so far as they have been estimated for by the Secretary of the Treasury, as they stand upon precisely the same footing.

The amendment was as follows:

Cleveland, Ohio, $15,000; Pittsburg, Pennsylvania, $5,000; St. Louis, Missouri, $20,000; Louisville, Kentucky, $3,000; Paducah, Kentucky, $3,000; Napoleon, Arkansas, $4,000; Natchez, Mississippi, $4,000; to be expended for finishing, repairing, heating, and fencing the buildings.

Mr. BROWN said: I will add one word in relation to that amendment. Those all stand, in the estimate of the Secretary, upon precisely the same footing, and they are recommended for the same reasons. I will say, further, that the object for which these items of appropriations are recommended have been voted for by Congress, and appropriations made for them, at several periods, to not less than $400,000, and it is represented by the Department that this annual appropriation is necessary for the protection of the property and for the completion of the buildings, which are now in an unfinished state.

Mr. MOLONY. I accept the amendment.

Mr. HOUSTON. I am opposed to this amendment. My views were submitted on yesterday, and I do not wish to occupy the time of the committee now. The amendment, as presented, embraces the estimates of the Secretary of the Treasury, and my opinion is, that as they are all placed upon the same footing in the estimate, you may as well take the question upon them all in one amendment. If the committee are determined to put the amendment in, let them all be included.

Mr. BROWN. I desire to read one sentence from the report of the Secretary of the Treasury. He says:

"That those estimates are based upon a careful calculation of the amount and quality of work to be done, and are deemed indispensably necessary for the buildings and grounds referred to."

Mr. THOMAS M. HOWE. I propose, Mr. Chairman, to add five dollars to the appropriation for the hospital at Pittsburg. The marine hospital at Pittsburg is completed, with the single exception of some adequate provision for heating it, and has been occupied for the purposes for which it was designed, for about two years. The present mode of heating is by the old-fashioned grate for the burning of bituminous coal in the several rooms and wards, no adequate arrangement having been made for heating the halls of the building. The consequence is, that in addition to the discomfort resulting to the inmates of the hospital, the water-works of the establishment, constructed at a large expense to the Government, are, in very cold weather, rendered entirely useless. Plans and estimates have been submitted to the Secretary of the Treasury, and approved by him, for remedying this difficulty, and this appropriation has been recommended by that officer, and in his own language declared to be "*indispensably necessary.*"

Mr. HOUSTON. I am opposed to this amendment, and hope that the question will be taken.

Mr. DARBY. Can I be permitted to say a word upon the amendment?

[Cries of "No!" "No!"]

The CHAIRMAN. It will not be in order, unless the gentleman submits an amendment.

Mr. DARBY. Has the gentleman from Pennsylvania withdrawn his amendment?

The CHAIRMAN. The gentleman from Alabama [Mr. HOUSTON] opposed the amendment.

Mr. DARBY. I submit an amendment to increase the amount of appropriation four dollars, for the purpose of saying a few words. I promise not to detain the committee but for a moment. The House will bear me witness that I have not consumed much of their time. The appropriation at St. Louis has been recommended by the Secretary of the Treasury as indispensably necessary, and more than that, the Government of the United States are paying from three to five thousand dollars to charity hospitals, when they have a hospital now almost ready for the reception of patients. I hope the House will vote the appropriation. I withdraw my amendment.

Mr. GORMAN. I object to the withdrawal of the amendment until I have been heard. There has been an estimate sent to the Chair by the gentleman from Mississippi, in which is included several of these hospitals. In looking over the number, I find one for Evansville, Indiana, $20,000, of which the Secretary says:

"A site has been purchased at Evansville, and the balance of the appropriation is not sufficient to erect a suitable building; and an additional appropriation of $20,000 is respectfully requested."

This hospital must come in the list, or the gentleman cannot get my support, and I hope not the support of others who feel themselves interested.

Mr. DARBY. I have no objection

Mr. GORMAN. This hospital is the only one in Indiana, and it is situated at the terminus of a canal four or five hundred miles long, the longest perhaps in the world, and it is at a point where congregate a great many persons who are engaged in carrying on the commerce of the country. It is upon the Ohio river, which connects it with all the waters of the South, and if there is any one hospital of the Government which should be included, this is the one. If the estimates of the Secretary of the Treasury are to be taken for one, three, five, or ten of them, I insist that this should not be left out, because this one comes within the purview of the estimates, the same as the others.

Mr. BROWN, of Mississippi, (interrupting.) I am not going to oppose the hospital of the gentleman from Indiana. I only wish to explain, in one minute of his time. He reads from the report of the Secretary of the Treasury. My amendment is based upon the estimate which I hold in my hand. These estimates do not contain the gentleman's hospital. I do not know why the Secretary has left Evansville hospital out. He mentions it in his report, but when he comes to make up his budget of estimates, he has not included it. I have no objection to including it.

Mr. GORMAN. I can explain that. These estimates are for hospitals which have been commenced and partly completed. That is the reason that no estimates have been included in that book; but when the Secretary speaks of the hospitals which have been ordered to be erected he speaks of it in this way: A site has been purchased at Evansville, and the balance of this appropriation is not sufficient to erect a suitable building; an additional appropriation is respectfully requested. That is the reason why the estimate is not there. As a matter of course, it is the same thing as an estimate.

I want the gentleman who offered the amendment to incorporate Evansville hospital in his amendment.

The question was then taken on the amendment offered by Mr. DARBY to the amendment, and it was not agreed to.

Mr. MOREHEAD. I move that the committee do now rise.

The question was taken, and the motion was not agreed to.

So the committee refused to rise.

Mr. LOCKHART. I move to amend the amendment of the gentleman from Illinois, [Mr. MOLONY,] by adding "for building the marine hospital at Evansville, $20,000."

Mr. MOLONY. I will accept the amendment of the gentleman, so as to include Evansville in the list.

The amendment as modified was then read, as follows;

"And for the marine hospital at Chicago, Illinois, $6,000; Cleveland, Ohio, $15,000; Pittsburg, Pennsylvania, $5,000; St. Louis, Missouri, $20,000; Louisville, Kentucky, $3,000; Paducah, Kentucky, $3,000; Napoleon, Arkansas, $4,000; Natchez, Mississippi, $4,000; Evansville, Indiana, $20,000; to be expended for finishing, repairing, heating and fencing the buildings."

The question recurring on the amendment as modified—

Mr. BROWN demanded tellers; which were ordered; and Messrs. HENDRICKS, and HARRIS of Tennessee, were appointed.

The question was taken, and the tellers reported —ayes 53, noes 70.

So the amendment was rejected.

Mr. MOLONY. I submit the following amendment:

For the marine hospital at Chicago, $6,050.

Mr. MEADE. Is the amendment in order?

The CHAIRMAN. The Chair is of the opinion that the amendment is in order.

Mr. MOLONY. I would ask the attention of the committee only for one moment. I am aware that its time is precious. The Secretary of the Treasury in his report says that this hospital has been completed, and for its protection and that of the ground you have purchased, $6,000 is indispensably necessary. He uses the word indispensable after a careful examination of the necessities of the building. Now, I hope the committee will not refuse to appropriate, after such a recommendation from such a source, $6,000 for the protection of a structure that has cost $50,000. I shall content myself with saying thus much.

Mr. HOUSTON. I am opposed to the amendment, and I trust that gentlemen will not renew these propositions when the committee has shown its determination to vote them down. Let us get through with the bill this evening, report it to the House, and then call the previous question on it and the amendments of this committee.

Mr. JOHNSON, of Georgia. I move that the committee do now rise.

The question was put, and the committee refused to rise.

Mr. MOLONY. I demand tellers on the amendment I have offered.

Tellers were not ordered.

The question was taken, and the amendment was disagreed to.

Mr. BROWN, of Mississippi. I move the following amendment:

For the marine hospital at Natchez, $5,500.

I do not expect, after the demonstration the committee has made, that the amendment will be adopted; but it is due to the committee and the country that I should state this simple fact: You have erected a building there, at a cost of some $80,000; it needs repair, and the Secretary of the Treasury has estimated $4,000 for that purpose, and you refuse to appropriate it. The loss is the loss of the Government, and not mine nor my constituents. I care but little about it.

Mr. JOHNSON, of Arkansas. I shall occupy the remainder of the gentleman's time only to state that the marine hospital at Napoleon, in Arkansas, is precisely in the same situation as the one at Natchez. Four thousand dollars is all that is asked for there; and while we are voting here in this way there are collected around that building oils, paints, brushes, and all the materials for its completion. It has cost already about seventy or eighty thousand dollars, and unless this appropriation be made it will sustain serious injury. The Senate will put it in if we do not. [Laughter.] It is not reasonable that we should treat our works in the manner intended, as it would seem from the votes of the committee.

Mr. TUCK. I wish simply to say that the failure to appropriate the money to finish these hospitals which have been begun, has taken place in consequence of the attempt of the gentleman from Indiana to provide for the building of a new one.

The question was taken, and the amendment was disagreed to.

Mr. GORMAN. I move to amend by the insertion of the following:

For the completion of the marine hospital at Evansville, Indiana, $19,000.

I perceive, Mr. Chairman, that the committee is not in the humor to hear a statement of the ground on which these marine hospitals were started. The feeling is to vote down all these amendments, and for what reason? Is it because this money goes out of the Treasury of the United States? Why, sir, are you not aware that you tax every seaman and boatman engaged in the navigation of the western rivers and canals twenty cents per month, which amount is retained out of his wages for these very asylums? That tax is designated for that purpose by law. After the hospitals are erected you refuse to give these boatmen and seamen permission when sick to enter them and be treated as patients. You refuse them a place in which to die after you have taxed them during life. Does the money thus proposed to be appropriated come from your Treasury? It may for the present, but every dollar in the course of time will be paid back by these hardy boatmen, who are engaged in the great commerce of the West. The committee have voted down these appropriations, in my humble judgment, without understanding them. I see that my friend from Georgia desires to speak on this subject, and I trust, when he does, that he will state the facts in the case. He knows that, although this appropriation is not sufficient to build this hospital, it is the object of the Government to provide for it as far as it can. He knows also that the money will all be reimbursed to the Government eventually, out of the hospital fund collected from the seamen and boatmen.

Mr. TOOMBS. I desire to state a fact in behalf of these very men whose cause the gentleman seems so eloquently to advocate. You have been in the habit of levying on the seamen and boatmen of the western waters what is called the hospital fund, and, so long as you voted it towards buildings at the right places, these men did have provision in case of sickness. But you have taken their money and squandered every dollar of it on buildings from New Orleans to the highest point of navigation on the Mississippi river. You have erected hospitals along the Ohio and Mississippi rivers at Louisville, Paducah, and various other places where they were not needed. In order to have public funds at particular places, you have taken their small pittance and squandered it without adequate benefit to them. Let the houses rot down or be pulled down, but let us preserve the fund and take care of the sailors at proper places. That is the way to do justice to them, and not, as the gentleman proposes, to squander their money contrary to the principle of the Government; and for that reason I am opposed to the amendment.

Mr. BROWN, of Mississippi. I move to reduce the appropriation $50.

Mr. Chairman, every now and then we get into one of these revolutionary moods when the House will not listen to reason or to common sense. [Laughter.] Yesterday you went to work and appropriated about $300,000; and for what? To erect palaces for the collectors of customs where you have no customs to collect. To-day you are asked to appropriate a few hundred dollars to protect the sailors, and you refuse to do it.

Yesterday we voted $300,000 to build houses for which we have no use, and never will have; and to-day you atone for this folly by refusing a few hundred to repair and keep in order houses already built, for which you have and will continue to have very great use. Your economy allows you to vote more than a quarter of a million for a useless custom-house at Cincinnati, and it prevents you from voting $4,000 to repair a marine hospital at Natchez.

The gentleman from Georgia [Mr. TOOMBS] has got into one of his economical moods to-day. He frequently has these fits, and generally I think at the wrong time. I recollect an occasion before, when one of these fits was on him. He advised the cutting down of the appropriations for the Quartermaster's Department of the Army. We got into such a condition as we are to-day. We followed the counsel of the gentleman, and next year the consequence was that we had the most extravagant and extraordinary deficiency to make up that we have ever known. The reason was obvious: You followed the gentleman's advice, and refused the appropriations. The Army had to be subsisted, supplies were bought on a credit at ruinous sacrifices, and at last you had to foot the bills. And now the gentleman advises us again. He advises us not to repair these buildings. Next year they will be half rotted down, and instead of $4,000, $25,000 will have to be appropriated for

their repairs. I ask the committee to pause and consider what they are doing. You will have to repair these buildings sooner or later, and you will do it. About that there is no dispute, and the longer you neglect to do it the more money it will require in the end. I do not say this because one of them is in my district. I only ask members to take a common-sense view of the matter. Are you going to put up buildings like these, and then let them rot down rather than appropriate a few dollars for repairs? No, you will not. The advice of the gentleman from Georgia, if taken by this Congress, will not be followed by subsequent Congresses. The buildings will be repaired so sure as they are built. I trust that the committee will pause long enough to consider what they are doing. This is no idle matter. Refuse these appropriations of a few thousand dollars, and it will take four or five times as much next year to repair the damage which your refusal will have occasioned. The furor of this moment will pass away by to-morrow, and members will wonder how they ever could have voted against repairing a sixty thousand dollar building at a cost of a few hundred. The Secretary recommends these appropriations, and says they are indispensably necessary. If the buildings are damaged to the amount of many thousands in consequence of what you are now doing, let those who come after us, and see the ruin and have to repair it, remember that there was one present to-day who warned you "that a stitch in time saves nine."

Mr. HALL. I am not sure but the gentleman from Mississippi is entirely mistaken about this matter, instead of the opponents of the proposition. It is very certain, if we tax the sailors and boatmen for the erection of asylums, that we ought to apply it to that purpose. But, sir, it is notorious that we have far exceeded that sum, and these appropriations are for the taking care of sick people at the expense of the Treasury of the United States. In my opinion, there is no more justice in taking care of seamen and boatmen than wagoners and travelers generally. If we are to support sailors out of the public Treasury when they are sick, I want travelers through my country to be supported in the same way—wagoners, railroad men, and men of this stamp.

The question being upon the adoption of the amendment,

Mr. BROWN withdrew it.

Mr. JOHN W. HOWE. I move that the committee rise.

Mr. BROWN demanded tellers; and they were ordered; and Messrs. JOHNSON of Tennessee, and VENABLE were appointed.

The question being put, the tellers reported that there were—ayes 66, noes 71.

So the committee refused to rise.

The question then recurring on Mr. GORMAN's amendment,

Mr. GORMAN demanded tellers; which were ordered; and Messrs. SMITH and GAYLORD were appointed.

The question was then taken, and the tellers reported that there were—ayes 22, noes 98.

So the amendment was not agreed to.

The following clauses were then read:

"For compensation of the warden, clerk, physician, chaplain, two assistant keepers, four guards, and porter of the Penitentiary of the District of Columbia, $7,350.

"For compensation of three inspectors of said Penitentiary, $300.

"For the support and maintenance of said Penitentiary, $1,240."

Mr. DARBY. I feel it due to myself to offer this amendment:

For continuing the construction of the marine hospital at St. Louis, $20,000.

Mr. LETCHER. This was submitted once before, and voted down.

The CHAIRMAN. The proposition is in order.

Mr. DARBY. I have not troubled the House much; but it is due to the very large constituency which I have the honor to represent on this floor, that I should say something on a subject of so much local interest to them. And the hurried manner with which this bill is pressed prompts me to ask, whether it has come to this, on the floor of the American Congress, in this enlightened day, that an unmatured bill shall be forced through with such rapid haste as not to allow the representative to make known, in the very few minutes allowed by the rules, the wants of his constituents? The unmistakable opposition to any and every amendment manifested by the committee is apparent to all. But I ask gentlemen to pause and ponder for one moment, and to consider whether the principle of representative Government can be carried out in this way. I represent a district extending some three hundred miles on the Mississippi river, embracing twenty counties. The city and county of St. Louis alone have a population of one hundred and twenty thousand, and the other nineteen counties a larger population, perhaps; the whole amounting almost to two hundred and fifty thousand souls. The rapidly-increasing commerce of the city of St. Louis requires the completion of the marine hospital at that point. The number of arrivals of steamboats at the port of St. Louis during the last year was 3,184. I speak from the Review of the Commerce of St. Louis, for the year 1852, which is an increase on the number for the year preceding. The total amount of the tonnage of St. Louis for the year 1851 was 683,140. In 1852, it amounted to 735,244—paying into the Treasury from the customs collected at that port for the past year the sum of $293,298 74. The amount paid out for the relief of sick and distressed seamen for the year 1852, at that port, was $3,162 01. These are official statements furnished by the surveyor of the port. This extensive and increasing commerce is evidence itself of the large number of hands engaged on the steamboats in that trade, and the necessity of finishing the marine hospital at St. Louis. We find in the report of the estimates of appropriations furnished by the Department, that this amount is specially required, and was before the Committee on Ways and Means. It is demanded by the Secretary of the Treasury in his report as being indispensably necessary to finish the hospital. The building is now nearly completed, but it will require the further appropriation of $20,000 to finish it and prepare it for the reception of patients. This requisition is made to us in official form from the proper Department and authority of the Government. Are you willing to see this building, on which the Government has already expended so much money, rot down and go to destruction before the scaffolding is torn from around it? At the same time you have official statements of the expenditure of thousands of dollars for the relief of sick and disabled seamen to the charity hospitals for the want of this building. I ask gentlemen if this is sound policy or economy, to say nothing of the justice of the measure?

The gentleman from Georgia [Mr. TOOMBS] is opposed to the whole system of these river hospitals, and intimates that it would be better to abandon them altogether, and to fall back on the former practice of the Government. Are you prepared to do this, and throw away all that has been expended, even before a fair trial has been made with them—before the buildings are finished? I trust not. I hope gentlemen will vote for the amendment, being the amount demanded by the Secretary of the Treasury. It is true the chairman of the Committee on Ways and Means says he is opposed to the appropriation, and the committee have left it out of the bill. Is that any reason why the appropriation should not be made, without some good argument and reasons assigned for omitting it, as it has been specially required by the Department? The amount expended by the surveyor of the port for the relief of sick and distressed seamen for the year 1851, was $5,441 44; which, added to the sum paid out to charity hospitals for the last year, makes the amount $8,603 45, expended for the last two years—nearly half the sum asked for by this appropriation, so strongly urged by the Department. St. Louis is a terminating point in our commercial intercourse and navigation, where a larger number of boatmen congregate than at any other place on the Mississippi river. Being in a high latitude, the sick and afflicted men engaged on our steamboats seek it in the hot summer months, and prefer it to staying or stopping at any other place upon the lower Mississippi. Your maritime jurisdiction is extended over and enforced upon us, and the citizens engaged in commerce there are as rightfully entitled to the fostering protection of the Government as any other portion of the Republic—those actively engaged, and hazarding life and property in extending and building up your commerce. I hope the appropriation will be voted. This matter so deeply concerns my constituents that I have felt it due to them to make this appeal.

Mr. STUART. I beg leave to say a single word to the gentleman from Missouri in the best feeling indeed. I have been in favor of these appropriations, and I have voted for them when they were brought to a decisive vote in the committee. My judgment is that they ought to have been adopted; but I say to him and other gentlemen who feel as I do upon that subject, that after we have had a clear vote of this committee, and they have given a decided majority against this appropriation, let us yield. Do not let us delay this bill here. We can do more to pass it now than we can in four hours when we come in here fresh for discussion hereafter. I ask, in perfect kindness, that the vote may be permitted to be taken to test the matter, and then yield the point.

Mr. DARBY demanded tellers upon his amendment; which were ordered; and Messrs. MASON and JACKSON were appointed.

The question was then taken, and the tellers reported that there were—ayes 38, noes 87.

So the amendment was disagreed to.

Mr. CAMPBELL, of Ohio. I move that the committee rise.

Mr. LETCHER demanded tellers; which were ordered; and Messrs. POLK and DEAN were appointed.

The question was then taken, and the tellers reported that there were—ayes 57, noes 78.

So the motion was disagreed to.

Mr. MOLONY. I move an amendment for appropriating $6,010 for the marine hospital at Chicago.

Mr. STANLY. I rise to a question of order, that we have passed the section where this would appropriately come in. A little while ago I offered an amendment in regard to Guatemala and Nicaragua, as I considered it related to foreign missions, but the Chair ruled it was out of order, as we had passed from the consideration of that subject. I yielded, because I wanted to get through with this bill as soon as possible. Upon what principle is the amendment of the gentleman from Illinois connected with the subject we are now discussing?

The CHAIRMAN. The committee are now engaged upon the miscellaneous sections of the bill. There has been no preceding section relating to hospitals.

Mr. MOLONY. It is not my intention to consume the time of the committee. It is well known to the committee that I have not done that this session, and I would not be factious in my opposition to what has been the decision of the committee upon this question once and again. I do regard the decision of the committee, however, with all due respect, as very extraordinary.

Mr. LETCHER. I call the gentleman to order. The gentleman is lecturing the committee instead of speaking upon his amendment.

Mr. MOLONY. I intend to confine my remarks to my amendment. So extraordinary was the decision of the committee upon this matter, that I feel constrained to make a few remarks. It has been objected that these appropriations should not be made, for the reason that it was no part of the business of Congress to build these marine hospitals; and secondly, when built, that the money should not be appropriated for protecting and preserving them. In the initiative of this matter—the building of marine hospitals—that argument might be *apropos*, and have its weight; but I am at a loss to see the force of the argument when addressed to the Thirty-second Congress, who, in their first session, not only considered the construction of marine hospitals by the Government as desirable for giving shelter and comfort to sick seamen, but they considered it as an object of national importance to protect and preserve them when built. At the last session Congress made an appropriation of the public money for the construction of these hospitals, and now, in refusing an appropriation to protect and preserve them when built, they are not acting the part of good economists, certainly. One other remark and I am done. Economy is a fine thing, and I appeal to my votes upon the record that I have advocated it in my practice as well as in my preaching.

Mr. LETCHER. I call the gentleman to order.

The CHAIRMAN. The gentleman must confine himself to an explanation of his amendment.

Mr. MOLONY. I will do so. Where is the

consistency of this committee refusing this appropriation of $6,000 to protect property which cost this Government $50,000, when the Secretary of the Treasury tells you that it is indispensable to the protection of the property of the Government? Where is the consistency in refusing this appropriation which is so much needed, and which is based upon official reports and upon careful examination of the facts in the case.

Mr. STUART. I do not design to reply to the gentleman. I only wish to say to the friends of the measure, that you might as well attempt to advise the ocean not to lash the shore with its waves, as to expect to reverse the decisions which the committee has given upon this question.

The question was taken, and the amendment was rejected.

Mr. MOLONY. I offer the same amendment, only increasing the appropriation $15.

Sir, I was going to say when the hammer fell, and it will take me but half a minute to say it, that it will appear most extraordinary upon the record, that the committee should have rejected such economical appropriations as this, when only twenty-four hours ago they voted $300,000 for custom-houses into this same civil and diplomatic appropriation bill. Why did you do it? Because the Secretary of the Treasury, or any other officer of the Government, recommended it? No, sir; there was no such recommendation. I defy any gentleman to rise up here and give a reason why this committee, after appropriating that $300,000, should refuse to vote this small appropriation of $6,000, the object of which is to protect $50,000 worth of public property.

Mr. TAYLOR. I am opposed to the amendment. I have heretofore voted for this appropriation, but I think these continual applications to the committee to vote it improper, and I shall therefore vote against it.

The question was then taken on Mr. MOLONEY's amendment, and it was rejected.

Mr. FLORENCE. I offer the following amendment:

For facilitating the business of the post office, and more effectually provide for the holding of the courts of the United States in the city of Philadelphia, $200,000.

Mr. JONES, of Tennessee. That is not in order.

Mr. FLORENCE. Yes, sir. We are under the head of "miscellaneous" now.

The CHAIRMAN. The Chair decides that the amendment is out of order.

Mr. FLORENCE. I appeal from that decision, and I desire to state the grounds of my appeal.

The CHAIRMAN. The gentleman has a right to do that.

Mr. FLORENCE. We are now under the miscellaneous head of the bill, and the Chair decided a moment ago that an amendment was in order providing for an addition to a hospital——

[Loud cries of "Order!" and "Question!" and great confusion all over the Hall.]

The CHAIRMAN. The Chair will put the question.

Mr. FLORENCE. I wish to state my reasons——

[Cries of "Order!" and "Question!"]

The CHAIRMAN. The gentleman cannot assign reasons for offering the amendment. The Chair decides that it is not admissible under the rules.

Mr. FLORENCE. The Chair decided a moment ago that an amendment was in order for repairing a hospital on one of the western rivers. My constituents have intimated to me that this appropriation is necessary——

The CHAIRMAN. It is not in order to make an argument. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. FLORENCE. I withdraw the appeal.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer the following amendment:

For the purchase of two hundred and fifty copies of the Statutes at Large of the United States, and of the Synoptical Index thereto, at the contract price paid by Congress, to be distributed under the direction of the Department of State among the several consulates and commercial agents, $8,750.

The amendment was agreed to.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer the following amendment, which is in pursuance of existing contracts:

To enable the Clerk of the House of Representatives to pay John C. Rives and Peter Force for one hundred and two copies of the third volume of the Fifth Series of the "American Archives," or Documentary History of the United States, for the new members of the House of the Twenty sixth Congress; one hundred and seventeen copies of the same volume for the new members of the Twenty seventh Congress; one hundred copies of the same volume for the new members of the Twenty-eighth Congress; one hundred and one copies of the same volume for the new members of the Twenty-ninth Congress; one hundred and sixteen copies of the same volume for the new members of the Thirtieth Congress; one hundred and thirty-four copies of the same volume for the new members of the Thirty-first Congress; one hundred and thirty copies of the same volume for the new members of the Thirty-second Congress; in all eight hundred volumes, at sixteen dollars forty five cents and six mills per copy, $13,164 80.

To enable the Clerk of the House of Representatives to pay for reporting and publishing eight hundred and fifty columns of the proceedings of the House, of the second session of the Thirty-second Congress, in the Daily Globe, at seven dollars and fifty cents per column, $6,375.

To enable the Clerk of the House of Representatives to pay a balance due for reporting and publishing the proceedings of the House for the first session of the Thirty second Congress, being sixty five columns and one line, at the rate of seven dollars and fifty cents per column, in the Daily Globe, $487 54.

To enable the Clerk of the House of Representatives to pay for twenty-four copies of the Congressional Globe and Appendix of the second session of the Thirty-second Congress, for each member and Delegate of the House, $17,064; and for binding the same, being five thousand six hundred and eighty-eight volumes, in strong and substantial half binding, with Russia leather back and corners, at a rate not exceeding sixty cents per volume, $3,412 80.

Mr. SCHERMERHORN. I move to amend the amendment by adding thereto the following:

For the purchase by the Clerk of the House of Representatives, for distribution among its members, ten thousand copies of the report of Captain H. Stansbury, including the maps and plates of the survey of the valley of the great Salt Lake, $26,800.

For the purchase and distribution as aforesaid of ten thousand copies of the second part of the report of Messrs. Foster and Whitney, including the maps and plates, upon the mineral regions of Lake Superior, $16,500.

For the purchase and distribution as aforesaid of twenty thousand copies of the letters of Lieutenant Maury upon the river Amazon and its sources, $4,500.

Mr. JONES, of Tennessee. I call for tellers.

Tellers were ordered; and Messrs. McNAIR and SUTHERLAND were appointed.

The question was then taken, and the tellers reported—ayes 72, noes 54.

So the amendment to the amendment was agreed to.

Mr. WOODWARD. I move to amend the original amendment offered by the gentleman from Alabama, [Mr. HOUSTON,] by adding the following:

Provided, That from the commencement of the present session of Congress, and thereafter, there shall be paid, out of any money in the Treasury not otherwise appropriated, to the chief reporter for the Congressional Globe, eighteen hundred dollars per annum, and to each of his associate reporters, not to exceed six in number, sixteen hundred dollars per annum: *And provided also*, That the sum of seven dollars and fifty cents a column, now paid to John C. Rives for reporting and publishing the debates, shall be, and is hereby, reduced to four dollars a column.

Mr. JONES, of Tennessee. This amendment is not in order. There is no law appointing these reporters—no Government officer appointing them. They are appointed by a man who is paid $7 50 per column for reporting these proceedings.

The CHAIRMAN. The Chair desires to inquire of the gentleman from Tennessee if there is any law providing for the payment of this $7 50 per column? Is it not annually provided for?

Mr. JONES. Yes, sir. It is an annual appropriation.

The CHAIRMAN. Then the Chair decides this amendment to be in order.

Mr. HOUSTON. There is no law appointing the reporters, but there is a law providing for the payment of $7 50 a column. The amendment is clearly not in order.

The CHAIRMAN. The Chair thinks the amendment is in order.

Mr. HALL. I rise to a question of order. I understand this is a proposition offered as an amendment to the proposition of the gentleman from Alabama. Now, I say this proposition has no connection with that amendment. It may be in order as an independent proposition, but it certainly is not in order as an amendment to that proposition.

The CHAIRMAN. If the Chair understood the reading of the amendment, it provided for reporting the proceedings of the House. He thinks the amendment as offered to that is in order.

Mr. HOUSTON. My amendment was to carry out an existing contract under the law.

The CHAIRMAN. The Chair is not aware of any such law in existence. The appropriation, so far as he recollects, has been made from year to year, not in accordance with any standing law upon the subject. The Chair decides the amendment to be in order.

Mr. WOODWARD. Mr. Chairman, I take great interest in the matter submitted; not, however, on my own account, as I shall be here but a little while longer. I have, for a long time, taken an interest in the reporting of Congress. We have, of late, reformed it very much. Until within a few years this House was at the mercy of two sets of partisan reporters, each placed here by political organs for the purpose, it would seem, of caricaturing the opposite party, and suppressing the impolitic remarks of its own friends. The country could not get the truth as to what was really said. I appeal to every member of long standing and experience, if the reports, during the period to which I refer, were not of a character to render the debates perfectly ridiculous? They gave no true information to the country. But you have reformed, in a great measure, this evil. How? By making your reporters semi-official; by making them responsible to this House; by putting them upon their good conduct, like your Postmaster, your Sergeant-at-Arms, your Doorkeepers, and your messengers. You see what attention to duty their dependency upon the House, as their constituency, secures from those officers. Now, the same fidelity may be secured from the reporters. It is of great importance that the reports which go from this House should be correct and true, and useful; and, to that end, they should be subject to the revision of members.

Now, sir, I would perfect the improvement which has been commenced, by making these reporters, in a more strict sense, official. You have seen that a reporter, bearing that relation to the House, will discharge his duties well. In this very thing consists the improvement made. He cannot safely practice partiality. Indeed, he will be more apt to endeavor to please the adverse party than his own. Why it should be so all will see. But my amendment does not propose to make them officers of the House, expedient as it would be to do so, but to pay them a round sum instead of so much a column.

Another question, Mr. Chairman, is, whether the compensation proposed in the amendment is excessive. It is not excessive, but moderate. The qualifications of a reporter are rare. A million of men can be found capable of filling other offices, but reporting is a peculiar vocation. Few are able to fill the post, and few are willing to perform the requisite labor. Those gentlemen sit here during your entire session, and after you have adjourned, labor till midnight, almost every day of their lives. They exercise a rare talent, and perform a most extraordinary amount of labor, besides.

Mr. Chairman, we have already given some thousands of dollars—I might almost say, some tens of thousands of dollars—for the planting of trees and flowers, for getting furniture for the President's House, for ornamenting the public grounds, for the removal of obnoxious trees, &c., &c. I say nothing against all this. It is a matter of taste and propriety, and not of usurpation of power; but I trust we shall not object to voting $3,000 —for that is all I ask—to plant true ideas in the heads of the community; to set things right in the people's brains, as well as in the President's Mansion.

It is not for our own sakes that I ask this. It is for the sake of the people of the country. They are entitled to know the truth, and if we provide for reporting, at all, we are responsible for having the truth told. But the House is bound, in justice to itself, to see that the country have correct information of what occurs here. We should not sit here at the mercy of caricaturists who occupy desks to amuse the public, and select only striking points—incidents, perhaps, discreditable to the House, and selected for their personal bearing purely. It is due to the country, and due to ourselves, that we should spare no pains, and no reasonable expense, to see that what is said here go to the country in its true light, and in its most instructive form that members may choose to give it.

Your bargain with Mr. Rives is, that the more there is reported, and the more there is printed, the more money the reporter and the printer get. The greatest amount of words seems to be the thing aimed at. The inadvertencies, the thoughtless tautologies, and repetitions of unprepared debate, on questions momentarily made, must all be carefully noted down, or reporter and printer forfeit a portion of their pay. They are made to have a chief interest in the quantity, and only a secondary interest in the quality.

A salary would make it the interest of your reporters to condense their reports by excluding, according to their sound judgment, what the Speaker would himself exclude, as useless. He only is a reporter, in the true sense, who is competent to exercise such a discretion; especially in a running debate. Mr. Rives is interested to have the reports extended, and his power of dismissing your reporters will be a sufficient guarantee against unreasonable and negligent condensation. It would be well to have the reporters' interest opposed to Mr. Rives's, and thus have a guarantee for quality as well as quantity. But Mr. Rives is honest enough to approve of my proposition.

Mr. HALL. I am as anxious as the gentleman from South Carolina [Mr. WOODWARD] to have the proceedings of this House correctly reported. But my experience has satisfied me that the proposition of the gentleman from South Carolina is not the best to accomplish that object. We have reporters now employed, and appointed by Mr. Rives. If those are not paid sufficiently by Mr. Rives, what is the reason? It is because we do not pay him enough. If we think the reporters are not sufficiently well paid, let us increase the price which we now pay to Mr. Rives for reporting the proceedings of this House, and then he will be able to pay his reporters sufficient compensation. The amendment proposed by the gentleman from South Carolina will result in this: It will result in indifferent reporters getting just as much as competent ones. They are now paid per column; they are piece-workers, and consequently a good reporter gets good wages, while an indifferent one gets indifferent wages. The proposition of the gentleman from South Carolina will place all upon an equality. The good and bad will be paid alike. I wish to provide against such a contingency as that. But, in addition to that, do we not know that the number of officers employed in this department of the Government, is continually increasing? A few years ago we had only five or six clerks in this House. Now we have, I believe, forty or fifty. A few years ago we had only seven or eight pages, and now we have fourteen or sixteen; and so it is in every Department of the Government. If we undertake to appoint reporters upon the plan of the gentleman from South Carolina, in less than six years we shall have twenty or thirty reporters, many of whom will be utterly incompetent to discharge their duties, and will receive just as much pay as the ablest reporters of the country. If we are to increase the compensation of these reporters, I insist that they shall be paid for their work by the column. When the House comes to employ its reporters, and give them salaries, you will not have good reports. Let us have piece-workers. I believe they are the best for the Government.

[Here the hammer fell.]

Mr. STANLY. Is it in order to amend the amendment?

The CHAIRMAN. It is not. This is an amendment to an amendment.

The question being now upon the adoption of Mr. WOODWARD's amendment, upon a division—63 rose in the affirmative.

Mr. BAYLY, of Virginia. I call for tellers.

Tellers were ordered; and Messrs. CURTIS and MEACHAM were appointed.

The question was again put, and the tellers reported—ayes 74, noes not counted.

So the amendment to the amendment was agreed to.

Mr. STANLY. Is there anything now before the committee?

The CHAIRMAN. The original amendment of the gentleman from Alabama is before the committee.

Mr. JONES, of Tennessee. I move to add, at the end of the amendment just adopted, the following:

And that the said reporters be appointed by the Speaker of the House.

Mr. Chairman, these reporters are now made officers of this House. The Constitution provides that each House of Congress may appoint its own officers, but they cannot delegate that power to an outsider, or to any other Department of the Government.

Mr. WOODWARD. I rise simply to correct a mistake. These reporters are not by this amendment made officers of the House.

Mr. LETCHER. Will the gentleman from South Carolina allow me to ask him a question?

Mr. WOODWARD. Certainly.

Mr. LETCHER. If these reporters are not officers of the House, what right have we to vote them salaries?

Mr. WOODWARD. The House already pay them. The House has instituted reporting, and recognized reporters. Now, I propose to place them in a position where they will receive a little better compensation. That is all.

The question was then taken, and the amendment to the amendment was disagreed to—ayes 43, noes not counted.

Mr. STANLY. I move to amend the amendment last offered by the gentleman from South Carolina, by adding these words:

It shall not go into effect until the first day of December, 1853.

Mr. Chairman, I am opposed to the amendment offered by the gentleman from South Carolina, for the very excellent reason offered by my honest friend from Tennessee, [Mr. JONES.] I say honest, because I feel that he is so uniformly, when there is an attempt to get money out of the Treasury; it is a deserved compliment due him to say, that no matter how strong may be his party feelings, he resists improper attempts to get money from the Treasury, as a man of integrity and a patriot should. I oppose the whole business. The Globe appoints its reporters, and no matter who Mr. Rives puts in there, we have no control over them. It is for his interest to put in proper ones; but Mr. Rives is a party man, and he will prefer party men. But if you have some amendment placing them under the control of this House, or of the Speaker, we should have them responsible to the House for the proper discharge of their duty. The Speaker ought to have control over their appointment at least. How many reporters are provided for in this amendment?

A MEMBER. Five.

Another MEMBER. No, sir, six.

Mr. STANLY. One says five, and another says six. There it is. One of these reporters is to receive $1,800, and the rest $1,600; and Mr. Rives's friends are going to receive their salary from the fourth of March until the first day of December, next, out of the public Treasury without rendering any services during that time.

It is a small business, to be sure, in the estimation of some gentlemen; but many drops make a shower. Rivers are made of drops, and so is the ocean itself. We are constantly increasing the number of the officers of this House. We are constantly voting ourselves books which members of Congress do not use, and often do not get, and which are enriching the officers of the House at a waste of the public money. It is time to put a stop to these things.

The gentleman from South Carolina says, these men labor hard. I dare say they do; but they work no harder than many members of Congress. These stations are sought by them. They come here voluntarily, and if they are not well paid, they should go to some other place where they will be better paid. Why make them officers of the House? They "scatter ideas" about among the people, do they? What sort of ideas? The ideas of you, and all of us here. Are scattered ideas worth anything to scatter about? [Laughter.]

Mr. VENABLE. Certainly they are.

Mr. STANLY. My colleague says they are. The gentleman from Mississippi [Mr. NABERS] and he differ about that matter. I think his ideas are good. But the *unneighborly* gentleman from Mississippi did not think so the other day. [Laughter.] It is a mistake to suppose that we are scattering good ideas here, or that the public mind is enlightened by reporting our speeches. I am not finding fault with Mr. Rives or the reporters. I am opposing the attempt to make them salaried officers.

But here is another thing worth examining: Are we to pay for this reporting in the Globe without any investigation by the Committee on Accounts, or any other committee? Are we to pay for speeches and circulars in the Appendix written by ourselves at the rate of $7 50 per column, in order to allow Mr. Rives to sell them and make money by the transaction? Why go into this matter pell-mell? Why not examine into these questions? Here we are day after day making officers of the House, one by one. Look at the report sent in here by your Clerk, showing the number of officers employed by this House. Look at the (I don't know how many) men employed in indexing claims, which the gentleman from Alabama [Mr. HOUSTON] said was an "imposition." You made it the business of the Doorkeeper last year, very properly for aught I know, to do—what? To appoint an additional door-keeper to help another one to keep the door open and to keep it shut. [Laughter.] The gentleman from Pennsylvania [Mr. CHANDLER] said he was cold—a gentleman who has a clear head and a warm heart—and the Speaker submitted to the House, because he did not know what else to do, a proposition to appoint another door-keeper. I wanted to object, but it occurred to me that though the poor fellow whom the Speaker would appoint, though he would be a Democrat, I did not know that he might not have a wife and children. I rose in my seat, but sat down again from reluctance to oppose such a thing. But it is coming it a little too strong to foist six or eight reporters on the House, to be paid when not working for us.

[Here the hammer fell.]

The question was then taken on Mr. STANLY's amendment, and it was agreed to.

Mr. CLINGMAN. I propose to add to the amendment the words: "and said reporters shall be elected by the House *viva voce*."

The House has adopted the system of electing its own Sergeant-at-Arms, Clerk, and other officers, and I think this House is more competent to elect its officers than John C. Rives, or any one else—meaning no disrespect to Mr. Rives. I say at the outset, that gentlemen may understand my position, that I intend to vote against the pending proposition in any shape. I gave a good deal of attention to this matter at the last session. I am satisfied with the existing reports. I know they are the best reports we have ever had, either here or in the other wing of the Capitol. Mr. Rives is responsible to us, and unless he gets good reporters, and unless they attend to their business, of course he will discharge them, or be a loser himself. But if you appoint these men, the business of reporting will eventually be done like all the other business in our public offices. You put men into the executive offices upon the principle of favor, as a great many of the clerks are, and you do not get any work out of them at all. Sometimes we have been deprived of useful clerks in this Hall, because the members from some large State chose to insist that some favorite of theirs should be appointed to the exclusion of old and experienced ones, who are supplanted. Upon the same principle you will find a body of men going to Mr. Rives, and insisting upon his appointing some special favorite, and say to him, that "unless you will do so we will object to your reports, and will establish some other system of publication." The result will be that you will have no good reports.

I am willing that the House shall select, if we are to have official ones at all, their own reporters. I think they would do pretty well for a time, but they will grow more and more slack in their business, and therefore I prefer the present system.

Mr. CABLE, of Ohio. Have we the right to select reporters, and send them into a printing office belonging to a private individual?

Mr. CLINGMAN. We have the right to have reports made if we choose, and employ Mr. Rives to print them. I say, however, that I am so well satisfied with the present system that I am not willing to change it. As the present reporters have been doing well, I am willing, as we did at the last session, to vote them a handsome allowance at the close of the present term. I am quite willing in this way to make their emolument as large as it would be under the system of the gentleman from South Carolina, [Mr. WOODWARD.]

Mr. HOUSTON. I am opposed to the amend-

ment, and to the whole system of reporting. I believe if we pursue any course, and retain the reporters, we had better retain them as they are. I desire to have a vote upon the amendment.

Mr. POLK. I move that the committee do now rise.

The question was taken, and there were, upon a division—ayes 55, noes not counted.

So the committee refused to rise.

Mr. BAYLY. Is the amendment of the gentleman from North Carolina [Mr. CLINGMAN] pending?

The CHAIRMAN. The gentleman from Alabama [Mr. HOUSTON] has spoken in opposition to it, and the question is upon that amendment.

The question was taken upon Mr. CLINGMAN's amendment, and it was not agreed to.

Mr. BAYLY. Is the original amendment of my friend from South Carolina [Mr. WOODWARD] still open to amendment?

The CHAIRMAN. It is.

Mr. BAYLY. I move to strike out the word "hereafter." My object, if I can attain it, is to apply this payment to the present Congress, and let future Congresses provide for themselves.

The CHAIRMAN. The amendment of the gentleman from North Carolina [Mr. STANLY] has been adopted, and it provides expressly that the law shall go into effect in December, 1853. It has therefore decided the question.

The question was then taken upon the adoption of the amendment offered by Mr. HOUSTON, as amended, and it was disagreed to.

Mr. GENTRY. I am happy to coöperate with the chairman of the Committee on Ways and Means in forwarding the passage of our appropriation bills, but from my experience in this Hall, I am not able to see that we can get through this bill to-night, and I therefore move that the committee do now rise.

Mr. HOUSTON. If this bill is not passed to-night it will be the middle or last of next week before we shall finish it.

The question was taken on Mr. GENTRY's motion, and it was disagreed to.

So the committee refused to rise.

The following clause being under consideration:

"For the collection of agricultural statistics and purchase of seeds, to be paid out of the patent fund, $5,000;"

Mr. NEWTON. Mr. Chairman, I offer the following amendment, to come in after the word "statistics," in line 999:

The analysis of soils and fertilizers, and the purchase of seeds and agricultural books rendered necessary in making the annual report, to be expended under the direction of the Commissioner of Patents, and paid out of the patent fund, $7,500.

It has been my object while here, and long before, to do something to benefit the agriculturist. Here, I have been unable to reach the subject directly, and all that remains is to offer this little five minutes amendment. From 1839 up to 1852, the nation has been in the habit of appropriating from one thousand to five thousand five hundred dollars annually, (with the exception of the years 1840, '41 and 1846, and nothing during those years,) for the purpose of collecting agricultural statistics, and purchase of seeds, to be taken from the patent fund, without designating any agent, scientific or financial, to direct or disburse the fund. By implication, the Commissioner of Patents has performed the duty. There being no specification of objects in the appropriations, except the purchase of seeds, a large amount of the fund has been expended in that way, and not to much purpose.

The purchase of seeds abroad or at home, in the manner they must have been, from the general expression used in the law, could be nothing but mechanical. A large proportion have been entirely worthless and never germinated at all. Very many of those bought abroad, and I think the larger part, are unacclimated and inappropriate to our soil and climate.

Foreign seeds are brought here by our agents abroad as fast as science directs their applicability and utility. Purchasing a lot of seeds abroad, as you would a lot of goods, is worth but little more than to go into the barn-yard of a farmer in the fall of the year and gather them indiscriminately and distribute over the country. The object of this amendment is to designate what we wish done with the money, and appoint the agent, and increase the fund. Analyzing soils and fertilizers may be made highly serviceable and beneficial to the farming community. If we adopt the amendment, it will be at least saying we wish the fund scientifically expended, and not alone mechanically, and it will be some little advancement on our part. If you analyze the soil in one locality, and thereby make discoveries, and have them put into practice, and the practical benefits far exceed the outlay, it will be repeated elsewhere and extended. I wish I had time to extend the practical thoughts that appear to be connected with this subject; but I have not. Discovering fertilizers, and their adaptation to artificial manures, may be made highly useful.

Mr. Johnson, of New York, took with him to England, in 1851, a deposit of phosphate of lime, found in Crown Point, on Lake Champlain, and presented it to the Royal Agricultural Society, and they had it analyzed by their Professor Way, who reported that it contained highly fertilizing properties; and a house in England has since proposed to buy the whole deposit. The fertilizing qualities, and mode of applying our muck and peat that are found in large quantities in our swamps and waste grounds, as manure to our improved lands, is a highly-important branch of agricultural science, that may have an influence and application to almost every farmer in our land. These articles, if valuable as manures, as they undoubtedly are, may be obtained cheaper and more readily than any other; yet their principal utility and mode of use are very little understood by the great mass of farmers. The means of preserving fruit trees from blight and insects, and the mode of applying the means, is also a highly-important subject, and but little understood. If we, by our direction, can turn the attention of our disbursing agent of this small sum to these and kindred subjects, much additional information and benefit can be acquired and communicated to the mass of farmers and fruitists.

Since the nation first commenced this work it has been gradually increasing the amount to be expended until the present Congress, and it has been productive of great good, in a variety of ways. From these examples subordinate tribunals have followed the same policy, and society and individual influence have been awakened and extended; and now, when there is the greatest necessity to increase our means, we propose to go backward instead of forward. This is in keeping with our policy. We begin to build, and while the work is in successful progress, abandon it. The Secretary of the Interior, in his annual message, recommends an increase of $2,200 for a librarian, and $1,000 for agricultural books. My amendment provides for the purchase of books necessary in making the annual report. The Patent Office, until within the last two years, has made the entire report, agricultural and mechanical, in one book. As our country has been increasing, and the science of agriculture advancing, he has divided the mechanical from the agricultural, and made two books; the matter in the last, and the style of the book, are altogether better than any former one; and with the people the desire to receive the book is increasing in all parts of the country. In fact, this small fund reaches more people, conveys more information, and gives more satisfaction than any other of double the amount in our Government.

The Secretary, fully aware of these facts, and well acquainted with the whole subject, has made the recommendation, and is it not wise for us to adopt it? There is no place for agriculture. You have now shut it out of the Patent Office. There is no one to take charge of it. There are no books belonging to it. There is no direction of the fund, except for some one—and nobody knows who—to gather facts and buy a lot of seeds, and there it is left. The object is not, or should not be, to accumulate and compile facts together, but to discover new ones, and illustrate and explain their qualities and properties for the general purposes of life. Here are facilities to acquire and convey information that nowhere else exists in the nation; and the fact that we are disposed to furnish increased means, would stimulate to more energetic action, all the various machinery now in operation in all parts of the Union. We are making bureaus for everything beside agriculture, and this we are afraid of, and dare not give it a clerkship, a name, or a place. I do not know how long this subject will drag and be neglected; but it does appear as if the time will come when it will be understood, regarded, and assisted. Products are increasing in price; land is increasing in value; farmers are more needed; science in farming becomes more and more necessary each year, as the land becomes more impoverished by use and abuse. A national society convened at the metropolis from all parts of the nation, are urging us to aid them in their exertions to acquire and diffuse intelligence and science; and yet so little are they regarded, that they cannot obtain a hearing. The inevitable consequence of our neglect is discouragement in all the various means now employed and prosecuted.

Mr. HIBBARD. I am opposed to this amendment, and hope it will not be adopted, and that this and all others will be voted down.

The question was then taken on the amendment of Mr. NEWTON, and it was disagreed to.

Mr. HAVEN. I offer the following amendment:

For printing and distributing the charts of the lake surveys, $1,500.

Mr. GORMAN. I am opposed to that amendment. I want a vote, and I say to the friends of this bill, who want to get through with it, and not to consume the next week, let them rise in their places and ask for a vote.

The question was taken on the amendment of Mr. HAVEN, and it was not agreed to.

Mr. SEYMOUR, of New York. I submit the following amendment under instructions from the Committee on Commerce:

For salaries of nine supervising and fifty local inspectors appointed under an act approved August 30, 1852, for the better protection of the lives of passengers on steamboats, with traveling and other expenses incurred by them, $70,000.

The estimates were not sent in season to the committee, or that appropriation would have been embraced in the printed bill. At present there is no appropriation out of which to pay the salaries of those officers. The amendment ought to be adopted.

Mr. CHURCHWELL. Mr. Chairman, I propose the following amendment to the amendment offered by the honorable gentleman from New York, [Mr. SEYMOUR:]

For compensation to inspectors of hulls and boilers for the port of Knoxville, Tennessee, $800, to be appointed in conformity to the provisions of the ninth section of the act approved 30th of August, 1852, "to amend an act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or in part by steam, and for other purposes;'" the salaries of each of said officers to be $400.

High up in the rich and fertile valley of the Tennessee, on a gentle eminence overlooking the loveliest natural panorama the eye ever scanned, with a beautiful river washing its base, and bearing upon its bosom the products of its soil, may be seen tall churches, a towering university, female institutes, a splendid deaf and dumb asylum, flourishing manufactories, and an hundred springs of the purest water, amid a valley of salt, cliffs of marble, and mountains of iron, with a soft and healthy climate, equal to any known to man, with a rapidly-increasing population, and a commerce doubling itself every year. Sir, this point is the center of five extensive railroads, proposed and being constructed; only twenty-four hours *distant* from the southern sea-board at Charleston and Savannah, and will soon be connected by the great Central railroad from New York, through Virginia and Tennessee, to New Orleans, with the Chesapeake, the Ohio and Mississippi rivers, and the Gulf of Mexico. Here on this point is situated the city of Knoxville; look at your map, and you will see that it is the present center of the States. My amendment is a modest one. It proposes two inspectors for the port, and a small appropriation to pay them. I am not asking for three or four hundred thousand dollars to erect a magnificent custom-house to decorate, adorn, and beautify the already beautiful city which I have the honor to represent. For the present, I shall be content with the very small favor which I ask of this honorable body, and which the wants of the Government and that district require to carry out the provisions of the late steamboat law, without which it cannot be executed. Our imports of railroad iron to this port will be enormous; our shipments abroad are daily increasing, and all we want is the necessary facilities to expedite our commercial arrangements and carry out the laws. I hope there will be no opposition to the amendment; it is proper, and has the recommendation of the honorable chairman of

the Committee on Commerce, [Mr. SEYMOUR,] and also of the supervisor of that district. I will not longer occupy the time of the committee. I trust it will be adopted.

Mr. PHELPS. I rise to a question of order. That amendment is not authorized by any existing law.

The CHAIRMAN. The Chair sustains the point of order, and rules that the amendment is not in order.

Mr. JONES, of Tennessee. I offer the following amendment to the amendment of the gentleman from New York. It is in accordance with the estimate of the Superintendent of the Public Printing:

For the paper required for the printing of Congress for the first session of the Thirty third Congress, $104,064.

For paper required for the printing of the Executive Departments, $10,300.

For the printing of the Senate for the first session of the Thirty-third Congress, $37,463.

For the printing of the House of Representatives for the first session of the Thirty-third Congress, $56,194.

For the printing of the Executive Departments, $22,289 04.

For compensation to the Superintendent of Public Printing, and the two clerks and messenger in his office, $6,595.

For blank books, advertising for proposals for paper, &c., $1,102.

Mr. SEYMOUR. I accept the gentleman's amendment as a modification of my own.

Mr. SCHERMERHORN. I submit the following amendment to that of the gentleman from New York:

For the purchase, by the Clerk of the House of Representatives, for destribution among its members, of eleven thousand copies of the report of Captain H. Stansbury, including the maps and plates of the survey of the valley of the Great Salt Lake, $25,800. Also, for the purchase and distribution as aforesaid, of eleven thousand copies of the second part of the report of Messrs. Foster & Whitney, including the maps and plates upon the mineral regions of Lake Superior, $16,500. Also, for the purchase and distribution, as aforesaid, of twenty-one thousand copies of the letters of Lieutenant Maury, upon the river Amazon and its sources, $4,500.

Mr DUNHAM. I rise to a question of order. That is the same amendment which was voted down a short time ago.

Mr STANTON, of Kentucky. It is not the same amendment. The gentleman is mistaken.

The CHAIRMAN. It is a portion of the amendment which was offered by the gentleman some time ago, but it is a different proposition from the one which was voted down.

Mr. HALL. I make the point of order, that the amendment is not in order, because it is not germane to the pending amendment of the gentleman from New York, [Mr. SEYMOUR.]

The CHAIRMAN. The Chair sustains the question of order, and decides that the amendment is not in order, in consequence of irrelevancy to the pending proposition.

Mr. STANTON, of Kentucky. The proposition of the gentleman from New York [Mr. SEYMOUR] makes appropriations for the payment of the public printing, and this amendment is to authorize the purchase of books for the use of members.

Mr. HOUSTON. I call the gentleman to order.

Mr. STANTON. I appeal from the decision of the Chair.

The question was put, "Shall the decision of the Chair stand as the judgment of the commitee?" and it was decided in the affirmative; there being on a division—ayes 75, noes not counted.

Mr. POLK. Most of the members cannot hear the explanations of amendments which are submitted, and, as it is half past five o'clock, I move that the committee do now rise.

The question was put, and, on a division, there were—ayes 45.

Mr. POLK. I withdraw the motion to rise.

The question was taken on the amendment of Mr. SEYMOUR, as modified; and it was agreed to.

Mr. WASHBURN. I submit the following amendment, to come in as an additional section:

For the purchase by the Clerk of the House of Representatives for distribution among its members, of five thousand copies of the report of Captain H. Stansbury, including the maps and plates of the survey of the valley of the Great Salt Lake, $13,490.

For the purchase and distribution as aforesaid, of five thousand copies of the second part of the report of Messrs. Foster and Whitney, including the maps and plates, upon the mineral regions of Lake Superior, $8,250.

For the purchase and distribution as aforesaid, of ten thousand copies of the letters of Lieutenant Maury, upon the river Amazon and its sources, $2,750.

Mr. JONES, of Tennessee. I rise to a question of order. There is no law authorizing the purchase of these books, and the amendment is not necessary for the carrying on of any of the Departments of the Government.

Mr. STANTON, of Kentucky. It is a work which was ordered by one branch of Congress and paid for by this House, with the concurrence of the Senate. The law has already authorized the purchase of the work.

Mr. JONES. The gentleman says it was authorized by the resolution of the Senate and not of this House.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. GORMAN. I have an amendment with reference to the public printing, which I submit at this point. It is as follows:

Provided, That the act fixing the price for the public printing shall be so construed as to commence the reduction of forty per cent. on the number of copies above twenty thousand.

The forty per cent. reduction has been construed to commence on the very first number. The law was understood by you, Mr. Chairman, and the House, that it was to commence after the twenty thousand copies. If there be any general objection, I will not press the amendment.

Mr. STANLY. I object to the amendment, for it relates to a matter too important to be acted upon at this late period of the session.

Mr. HAVEN. I will simply add to what the gentleman from North Carolina has said, that the amendment proposes to change a deliberate law passed last year, and I do not think that we ought to do it hastily.

Mr. GENTRY. These facts show that the committee ought to rise.

The question was put, and there were on a division ayes 46.

Mr. GORMAN. I withdraw the amendment.

Mr. CAMPBELL, of Ohio. I move that the committee do now rise.

The question was taken and the committee refused to rise.

Mr. PHELPS. I am instructed by the Committee on Ways and Means to offer the following amendment:

That the salary of the Superintendent of the Coast Survey shall be $4,500 per annum; and it shall be the duty of the Secretary of the Treasury annually to report to Congress during the first month of each regular session, the number and names of the persons employed during the last preceding fiscal year on the Coast Survey, and the business connected therewith, the amount of compensation of every kind respectively paid to them; for what purpose, and the length of time employed; and further, to report a full statement of all other expenditure made through the direction of the Superintendent of the Coast Survey.

Mr. FLORENCE. I raise a question of order. There is no law authorizing that amendment.

The CHAIRMAN. The Chair would inquire of the gentleman from Missouri whether there is any existing law fixing the salary of the Superintendent of the Coast Survey?

Mr. PHELPS. There is none. It is fixed by the Secretary of the Treasury.

Mr. GENTRY. Does the Chair intend to rule that it is not within the competency of the committee to increase the compensation of any officer whose compensation is not fixed by law? I hold that is not a proper interpretation of the rule of the House. If that ruling be correct, every appropriation bill would have to be the same for fifty or a hundred years. It is an utter misinterpretation of the rules.

The CHAIRMAN. The Chair has made no decision as yet, and if he had it would not be debatable.

Mr. PHELPS. If the committee would give me their attention for one minute——

Mr. FLORENCE. I insist that the Chair shall decide my point of order.

Mr. PHELPS. If there be no objection, I will withdraw my amendment to strike out that portion with reference to the salary of the Superintendent of the Coast Survey.

Mr. HOWARD. I rise to a question of order. In the first place, we have passed the subject of the coast survey, and we cannot return to legislate on it any more than any other subject in the bill. In the second place, the salary of this officer is fixed by law.

Mr. STANLY. No, it is not.

Mr. HOWARD. I will state the whole point. In 1807, 1832, and 1843, this subject was legislated upon, and it was left to the President to fix the salary of this officer under these laws. The salary was fixed by the President, and it has been the same under all Administrations from 1807 to the present time. I submit, therefore, we cannot now change it.

The CHAIRMAN. The Chair sustains the point of order raised by the gentleman from Pennsylvania, and rules the amendment to be out of order.

Mr. ASHE. I move that the committee do now rise.

The question was taken and the committee refused to rise.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed bills of the following titles, viz:

S. No. 607. An act for the relief of Betsey Norton.

S. No. 612. An act to incorporate the Georgetown and Catoctin Railroad Company.]

Mr. GENTRY. Will the gentleman permit me to call his attention to what I believe will be a most disastrous result from the ruling of the Chair? It is absolutely in effect——

Mr. DUNCAN. I call the gentleman to order. There is no question before the committee.

The CHAIRMAN. The gentleman from Tennessee [Mr. GENTRY] is not in order.

Mr. BAYLY, of Virginia. I offer the following amendment:

To enable the Clerk of the House of Representatives to pay for reporting and publishing eight hundred and fifty columns of the proceedings of the House, of the second session of the Thirty second Congress, in the Daily Globe, at $7 50 per column, $6,375.

Mr. LETCHER. I move that the committee rise.

The question was taken, and it was decided in the negative.

So the committee refused to rise.

Mr. WOODWARD. I offer the following amendment to the amendment of the gentleman from Virginia, [Mr. BAYLY:]

Provided, That from the commencement of the present session of Congress there shall be allowed and paid out of any money in the Treasury not otherwise appropriated, to the chief reporter in the House of Representatives for the Congressional Globe, the sum of eighteen hundred dollars ($1,800) per annum; and to each of his associate reporters, not to exceed six in number, the sum of sixteen hundred dollars (1,600) per annum: *Provided further*, That the sum of seven dollars and fifty cents per column, now paid to John C. Rives, for reporting and publishing the debates of said House, be, and the same is hereby, reduced to four dollars per column.

Mr. DUNHAM. I rise to a question of order. That is the same proposition that was voted down before.

Mr. LETCHER. I rise to another point of order. There is no law authorizing the employment of reporters, and that amendment is out of order.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from Indiana, [Mr. DUNHAM,] as also the question of order raised by the gentleman from Virginia, [Mr. LETCHER.] This amendment, as a separate proposition, has not been voted upon.

Mr. JONES, of Tennessee. I wish to submit a question of order. That amendment proposes to fix the salary of a chief reporter and assistants. No such officers or persons are designated in any resolution or any law which has ever passed this House or the other.

The CHAIRMAN. The Chair will sustain the point of order upon the grounds suggested by the gentleman from Tennessee, [Mr. JONES,] and rule the amendment out of order.

Mr. BAYLY. I withdraw the amendment I offered.

Mr. STROTHER. I desire to offer the following amendment:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, directed to pay to the Orange and Alexandria Railroad Company, assignees of the Commonwealth of Virginia, $129,000, in full of money advanced by the said Commonwealth to the use of the United States, in erecting public buildings in the District of Columbia, in pursuance of an act of the General Assembly of said Commonwealth, approved December 27, 1790.

Mr. JONES, of Tennessee. I submit that the amendment is not in order. It is a question of a private claim, and it is a private bill pending here.

The CHAIRMAN. The Chair sustains the question of order made by the gentleman from Tennessee, and rules the amendment out of order.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. MONDAY, FEBRUARY 21, 1853. NEW SERIES....No. 47.

Mr. STANTON, of Kentucky. I appeal from the decision of the Chair, on the ground that there was a law authorizing the State of Virginia to make the advance of money, for the return of which this amendment is intended to provide.

Mr. MEADE. There was a law accepting of an advance from Virginia of $120,000.

The CHAIRMAN. The Chair perhaps could give various reasons for his decision, if he was called upon; but the committee seem impatient, and prefer to have a vote taken. [Laughter.]

The question was then taken on sustaining the decision of the Chair, and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. STANTON, of Ohio. I offer the following amendment:

SEC.—. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury, in the settlement of the accounts of all custom house officers for services rendered since the passage of the tariff law of 1842, to be governed by the third section of the act entitled "An act for the support of the Military Academy of the United States for the year 1838, and for other purposes," approved July 7, 1838, as the same was revived and continued in force by the seventh section of the act entitled "An act for the relief of Chastellain & Ponvert, and for other purposes," approved July 21, 1840; and the compensation of all custom-house officers for services hereafter rendered shall be governed by the act regulating the fees of officers of the customs, passed March 2, 1799, and the act amendatory thereof passed April 26, 1816: *Provided*, That no collector shall receive more than $4,000, no naval officer more than $3,000, and no surveyor shall receive more than $2,500 per annum, nor shall any officer other than collectors, naval officers, and surveyors, receive a compensation exceeding $1,500 per annum, nor shall the union of two or more of those offices in one person entitle him to receive more than that sum per annum.

Mr. STUART. There are several points of order involved in this amendment, but I will only state one: It is not in order to offer an additional section until we have read the bill through.

Mr. STANTON. I desire to state the facts in the case.

Mr. STUART. I object, and insist upon the decision of the Chair.

The CHAIRMAN. The Chair is of the opinion that the gentleman from Ohio [Mr. STANTON] is not in order, as it proposes to change an existing law with reference to appropriations.

Mr. STANTON. I take an appeal from the decision of the Chair. My amendment will save a quarter of a million of dollars at least.

The CHAIRMAN. The Chair decides the amendment of the gentleman from Ohio [Mr. STANTON] to be out of order. The gentleman appeals from the decision of the Chair, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. CAMPBELL, of Ohio. I move that the committee rise.

The question was taken, and it was decided in the negative.

Mr. CAMPBELL demanded tellers; which were ordered; and Messrs. POLK, and STANTON of Kentucky, were appointed.

The question was then taken, and the tellers reported that there were—ayes 33, noes 78.

The CHAIRMAN. No quorum voting.

[Cries of "Call the roll!" "Call the roll!"]

Mr. STANTON. Is a quorum necessary upon a motion that the committee rise?

Mr. STUART. It is not necessary to have a quorum upon a motion that the committee rise.

The CHAIRMAN. The Chair understands the rule differently. The Chair ascertains the fact, by the vote which has just been taken, that there is no quorum in the committee, and it is his duty, when that fact is ascertained, to have the roll called.

Mr. STUART. Upon a motion that the committee rise a quorum is not necessary.

The CHAIRMAN. If it is decided in the affirmative it is not necessary.

Mr. STANTON. There is evidently a quorum present. A great deal of excitement prevailed during the count, and I have no doubt that there was a miscount.

The CHAIRMAN. By the unanimous consent of the committee there can be a recount.

Several MEMBERS objected.

Mr. STANTON, of Kentucky. I suggest that it is in the discretion of the Chair to order a recount. I believe there is a quorum present.

The CHAIRMAN. The Chair is informed that the tellers do not agree in their count. If there is any difference between the report of the tellers, of course a recount will be ordered, and the tellers will again resume their places.

The tellers resumed their places; the question was again taken, and there were—ayes 16, noes 93. No quorum voting.

The CHAIRMAN. The Clerk will call the roll.

The roll was accordingly called, and 126 members answered to their names.

The committee then rose, and the Speaker having resumed the chair, the chairman (Mr. ORR) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly bill of the House No. 337, "making appropri-'ations for the civil and diplomatic expenses of 'Government for the year ending the 30th of June, '1854," and finding itself without a quorum, had caused the roll to be called, and had directed him to report the absentees to the House.

A quorum being now present, the committee resumed its session.

The CHAIRMAN. The question is upon the motion that the committee do now rise.

Mr. STUART. I desire to make the question of order, that it is not at all necessary that there should be a quorum voting upon a motion to rise, and that when a majority of the votes given are against the motion to rise, it is the duty of the Chair to decide that the motion is lost.

The CHAIRMAN. There is an appeal already pending, and the Chair thinks it would not be proper to entertain another question of order until that is disposed of.

The question was then taken, and the committee refused to rise.

The question recurred upon the appeal from the decision of the Chair, ruling out of order the amendment offered by Mr. STANTON, of Ohio.

Mr. STANTON. With the permission of the committee, I will withdraw the amendment.

The CHAIRMAN. It can only be withdrawn by unanimous consent.

No objection being made, the amendment was withdrawn.

Mr. HUNTER. I move to strike out the second section of the bill, which is as follows:

"SEC. 2. *And be it further enacted*, That the following sum be, and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase and payment of the building at the corner of F street north, and Seventeenth street west, in the city of Washington, held by William H. Winder, and now in the occupancy of the United States, $200,000: *Provided*, Said William H. Winder shall make to the United States a good and sufficient title in fee-simple, with general warranty, free from all liens and incumbrances to said building and premises on which the same is situated; such title to be approved and accepted by the Attorney General and the Secretary of the Treasury, before payment."

Mr. JONES, of Tennessee. With the permission of the gentleman from Ohio, I will say that I hope the committee will agree to his motion to strike out the second section of the bill, so that we may have a vote upon it in the House by yeas and nays. Everybody understands it, and it is not necessary to consume time by debating it. Let us strike out the section in committee, and have a vote upon it by yeas and nays in the House.

Mr. POLK. With the permission of the gentleman from Ohio, I will say that I have no desire to debate this question. But it is very evident that the House is not full, and I hope, therefore, the gentleman will permit the section to remain in the bill, and then he can have a vote upon his amendment in the House.

Several MEMBERS. Strike out the section.

A VOICE. You will have no opportunity to discuss the question in the House.

Mr. HUNTER. If there is to be no discussion, I will simply ask for a vote upon my amendment.

Mr. MEADE. I rise to oppose the amendment. The section which it is proposed to strike out appropriates $200,000 for the purchase of a building which, I understand, cost that amount of money under the management of its proprietor. I think our past experience here, in reference to the buildings now going up, ought to teach this committee that if we stand in need of a building, and can find one already built——

Mr. HUNTER. I must claim my five minutes.

Mr. MEADE. You had yielded the floor and taken your seat when I rose to oppose the amendment.

Mr. HUNTER. No, sir; I had not.

The CHAIRMAN. The Chair understood that the gentleman from Ohio had concluded his remarks, and therefore he assigned the floor to the gentleman from Virginia to oppose the amendment.

Mr. HUNTER. I said I would yield the floor if the vote upon my amendment could be taken at once.

The CHAIRMAN. The gentleman could not yield the floor with any such condition annexed.

Mr. MEADE. Am I entitled to the floor?

The CHAIRMAN. The Chair so decides.

Mr. MEADE. I was remarking to the committee, that in view of the vast frauds that are committed upon the Treasury of the country whenever any moneys have to be expended by the Government, I conceive that we are happy in having an opportunity of buying houses already built to our hands when they are convenient and sufficient for the purposes for which we require them. Sir, such a house as this one of Winder's, if built by the Government, would cost twice the money that we propose to appropriate now. This country is in need of the building. We have been renting it for years, and we find it well adapted to our purposes. We can buy it now for a moderate sum of money, and at a very cheap rate compared with what it would cost the Government to put up a precisely similar building. The house is a new one; it is in repair and perfectly fire-proof, and I doubt if its foundations are not safer now than the foundations of the wings of this Capitol which are in process of erection. If this committee are desirous of saving the money of the country, and avoiding the peculations that are always practiced when buildings of this sort are put up by the Government under contract, they will sustain the Committee on Ways and Means, who have put this section in the bill, and refuse to adopt the amendment of the gentleman from Ohio.

Mr. HIBBARD. I move to amend the section proposed to be stricken out, by striking therefrom the proviso. I wish to make one suggestion, which, if I am not mistaken, will obviate in the minds of gentlemen all necessity for debating this question. The gentlemen from Ohio [Mr. HUNTER] moves to strike out the whole of this section. That motion must be acceptable to the enemies of the appropriation, for they are seeking to strike it out. At the same time I would remind the friends of the appropriation, that if the motion of the gentleman from Ohio prevails, the effect will be simply to bring the question up in the House when the bill gets there.

Mr. POLK. We will assent to that.

Mr. HIBBARD. We shall then have a full House, and a fair vote can be had upon the question. I hope, therefore, that the amendment of the gentleman from Ohio will be assented to by both sides, and without further debate.

Mr. POLK. For one, I withdraw all objection to the amendment.

Mr. HIBBARD. If there be no objection, I will now withdraw my amendment to the amendment.

Mr. CABLE, of Ohio. I propose to amend the section by striking out "$200,000."

The CHAIRMAN. That motion is, in effect, the same as the motion of the gentleman's col-

league, [Mr. HUNTER,] to strike out the entire section. The gentleman from Ohio can have an opportunity of making a five-minutes speech by objecting to the withdrawal of the amendment to the amendment, submitted by the gentleman from New Hampshire.

Mr. CABLE. Well, sir, then I object to the withdrawal of the amendment to the amendment, although I do not intend to occupy five minutes in the discussion of this subject. I regard the proposition contained in this section as outrageous in the extreme. This house of Winder's is an old, rickety building, which will be of no service or utility to the Government. The whole proposition seems to me to be to throw upon the Government a building that will be of no use to the individual who now owns it, when the new wings to the Capitol and Patent Office Building are completed. When those wings are completed, the Government will have two thirds more office-room than it now occupies. This proposition, it seems to me, is only to put $200,000 into the pockets of the owner of this house and those interested in it with him, and to leave a useless building upon the hands of the Government. That is the whole amount of it. But, sir, I will add no more, for I have come to the conclusion, that to talk about political, or any other kind of economy, to this House, would have the same effect as "whistling jigs to a milestone." [Laughter.]

Mr. STUART. With the permission of the gentleman from Ohio, as he has not quite occupied his five minutes, I will say a word or two. I appeal to the friends and to the opponents of this amendment, without expressing any opinion about it, to allow this section to be stricken out. It will then be reported as an amendment to the House, where the yeas and nays can and will be called, and the House can settle the question in twenty minutes whether they will buy this building or not.

Mr. CAMPBELL, of Illinois. There will be no opportunity to discuss the question in the House, for the previous question will be moved.

Mr. HIBBARD. I withdraw the amendment to the amendment.

The question was then taken on Mr. HUNTER's amendment, and it was agreed to.

So the second section of the bill was stricken out.

Mr. STANLY. I offer the following as an additional section to the bill:

Be it further enacted, That the salary of the Superintendent of the Coast Survey shall be $6,000 per annum; and it shall be the duty of the Secretary of the Treasury annually to report to Congress, during the first month of each regular session, the number and names of the persons employed during the last preceding fiscal year upon the Coast Survey, and the business connected therewith; the amount of compensation of every kind respectively paid to them, for what purpose, and the length of time employed; and further, to report a full statement of all other expenditures made under direction of the Superintendent of the Coast Survey.

Mr. JONES, of Tennessee. I am in favor of the amendment of the gentleman from North Carolina, but I must insist upon this question of order, that there is nothing of the bill remaining upon which to hang amendments, and that it is not further amendable at all.

Mr. STANLY. The amendment can be adopted in five minutes, if the gentleman from Tennessee will not raise that question of order.

Mr. JONES. I would not do it but for the fact that if we let in this amendment, others will be offered, and we shall never get through the bill.

Mr. STANLY. There will be no objection, I think, to this amendment.

Mr. JONES. If it can be received by unanimous consent, I have no objection.

Mr. VENABLE. I rise to a question of order upon that amendment.

Mr. STANLY. Well, sir, I will not detain the committee and obstruct the public business. I withdraw the amendment.

Mr. BOWIE. I offer the following, as an additional section to the bill:

And be it further enacted, That in continuation of the appropriation for that purpose, and for carrying on the several Departments of the Government, all persons employed as clerks, messengers, watchmen, and laborers, or otherwise, in the civil service of the United States, in the District of Columbia, at an annual salary, or in temporary positions, shall receive the same additional per cent. compensation allowed by the second section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1853," and for other purposes; that is to say, all whose compensation does not exceed $1,200 shall receive, in addition thereto, an increased compensation of twenty per cent.; all whose compensation shall exceed $1,200, and shall be less than $1,600, shall receive an additional ten per cent. upon the amount of their salaries: *Provided*, That no salary shall be increased to more than $1,600 by the per cent. or additional compensation herein provided for, and that the same shall be paid out of any unappropriated money in the Treasury: *And provided further*, That this additional compensation shall not continue longer than the end of the fiscal year, ending the 30th of June, 1854, unless otherwise authorized by law.

Mr. JONES, of Tennessee. I now raise the question that no amendment of any character is in order; that the bill is disposed of, and that there is nothing now upon which to hang amendments.

Mr. HIBBARD. I rise to a question of order.

The CHAIRMAN. The Chair must first decide the question of order raised by the gentleman from Tennessee.

Mr. JONES. I submit that we have passed the first section of the bill, and have stricken the second section out. There is, therefore, nothing left for us to amend.

The CHAIRMAN. The Chair, according to his understanding of the rules, will be compelled to overrule the point of order, though he would be very happy if the committee would overrule his decision. [Laughter.]

Mr. JONES. I ask the Chair, what there is left to amend?

The CHAIRMAN. Well, the Chair will confess that he does not perceive anything.

Mr. JONES. Then I ask that the committee rise, and report the bill.

The CHAIRMAN. The Chair decides that motion cannot be put so long as any gentleman desires to offer an amendment.

Mr. JONES. I submit that no further amendment can be offered. I appeal from the decision of the Chair.

Mr. HALL. I want to object to the amendment upon another ground.

The CHAIRMAN. The question raised by the gentleman from Tennessee is a distinct one from that raised by the gentleman from New Hampshire, [Mr. HIBBARD,] or that which the gentleman from Missouri [Mr. HALL] has indicated his purpose to offer. The gentleman from Tennessee submits that inasmuch as the committee have passed the first section of the bill, and stricken out the second, there is nothing left to amend, and that therefore no amendment whatever is in order. The Chair decides, that according to the uniform practice in the committee, so far as he recollects, and according to his understanding of the rules, amendments are in order at the end of the bill. From this decision the gentleman from Tennessee takes an appeal. The question therefore is, "Shall the decision of the Chair remain as the judgment of the committee?"

Mr. BOWIE. I ask the Chair to understand that I offer this as an independent section, and not as attached to any part of the bill.

The question was taken, and the decision of the Chair was sustained—ayes 65, noes not counted.

Mr. HIBBARD. I rise to a question of order. The salaries of these officers are now fixed by law, and this amendment proposes to increase their salaries, and thereby change that law.

The CHAIRMAN. The Chair sustains the point raised by the gentleman from New Hampshire, and decides the amendment to be out of order.

Mr. BOWIE. I appeal from that decision.

Mr. MEADE. Would the Chair be very happy now to have the committee overrule his decision? [Laughter.]

The question was taken, and the decision of the Chair was sustained as the judgment of the committee.

Mr. HOUSTON. I move that the committee rise and report the bill to the House.

Mr. STANTON, of Ohio. I move the following amendment:

SEC. —. *Be it further enacted*, That it shall be the duty of the Secretary of the Treasury, in the settlement of the accounts of all officers of the customs for services rendered since the passage of the tariff of 1842, and for such services as they may render hereafter, to be governed by the third section of the act entitled "An act for the support of the Military Academy of the United States for the year 1838, and for other purposes," approved July 7, 1838, as the same was revived and continued in force by the seventh section of the act entitled "An act for the relief of Chastellain & Ponvert, and for other purposes," approved July 21, 1840, until some law expressly prescribing a different rate of compensation shall be passed.

Mr. BAYLY, of Virginia. I rise to a question of order. The amendment is out of order; in the first place, because it is argumentative, and in the second place, because it proposes to change an existing law.

Mr. STANTON. I have one word to say. It is merely dealing with former appropriation bills. It does nothing more than to act upon them, and there is a question involving $200,000 connected with it.

[Cries of "Order!" "Order!"]

The CHAIRMAN. It is not in order for the gentleman to discuss the question of order. The Chair sustains the question of order, and decides the amendment to be out of order.

Mr. HIBBARD. I move that the committee do now rise and report the bill.

Mr. DUNCAN. I appeal from the decision of the Chair in ruling the amendment of the gentleman from Ohio [Mr. STANTON] out of order.

Mr. Chairman, I just want to say that this amendment, if passed, will save the country half a million of dollars' expense.

The question now being, "Shall the decision of the Chair stand as the judgment of the committee?"—

Mr. STANTON, of Ohio, demanded tellers; but they were not ordered.

The question was then taken, and the decision of the Chair was sustained as the judgment of the committee.

Mr. HIBBARD. I now renew my motion that the committee rise and report the bill.

Mr. GOODRICH. I have an amendment to offer. I move the following as an additional section of the bill:

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury be, and is hereby, authorized and directed to pay to such persons as have been or are employed as United States weighers, gaugers, or measurers, out of any money in the Treasury not otherwise appropriated, such portion as has not yet been paid, of the fees earned by them for their services, according to the provisions of the act entitled "An act to establish the compensations of the officers employed in the collection of the duties on imports and tonnage, and for other purposes," approved March 2, 1799, and the act entitled "An act to increase the compensation now allowed by law to inspectors, measurers, weighers, and gaugers, employed in the collection of the customs," approved April 26, 1816: *Provided*, That before any such payment, it shall be established by a decision of the Supreme Court of the United States, that United States weighers, gaugers, and measurers have been or are legally entitled to all the fees accruing to them, as prescribed by the said acts of March 2, 1799, and April 26, 1816; and it is hereby made competent for any person who has been or is employed as United States weigher, gauger, or measurer to maintain any action at law against any collector or other officer under whom he has served, in order to bring the question before the Supreme Court of the United States.

Mr. PHELPS. That proposes to appropriate money not authorized by existing laws. I submit that it is not in order.

Mr. GOODRICH. On that subject I beg to say a word.

Mr. LETCHER. I object to any discussion upon the point of order.

Mr. PHELPS. This is all provided for by existing laws, and there can be no need of the amendment if it were in order.

[Cries of "Order!" "Order!"]

Mr. GOODRICH. Mr. Chairman, I have not before opened my mouth in this House during the present session; and I hope the House will allow me to say one word. The effect of this amendment is simply this: it proposes to appropriate money to pay the officers of the custom-houses precisely what the law allows them.

Mr. HIBBARD. Has not the Attorney General decided that they could not be paid under that law?

Mr. LETCHER. I rise to a question of order. I want to know if this debate is in order?

Mr. GOODRICH. I want to state just one fact further. It is this——

Mr. LETCHER. I call the gentleman to order.

The CHAIRMAN. The gentleman cannot proceed if objected to.

Mr. MEADE. I was about to state one fact which the Chair is not aware of.

[Shouts of "Order!"]

The CHAIRMAN. The Chair will decide the question. The gentleman from Missouri [Mr. PHELPS] raises the question that the amendment changes the existing laws, and provides for salaries not heretofore provided for.

Mr. GOODRICH. If the Chair will allow me, I will show that such is not the case.

[Cries of "Order!"]

The CHAIRMAN. The Chair sustains the point of order, and decides the amendment to be out of order.

Mr. GOODRICH. No, sir. That is not the fact. If the committee will allow me but a moment, by unanimous consent, to state a fact in connection with this matter, I could show that it is in order.

The CHAIRMAN. The gentleman cannot proceed if objected to.

Mr. GOODRICH. The Attorney General has decided——

[Loud cries of "Order!" "Order!"]

The CHAIRMAN. Does the gentleman appeal from the decision of the Chair?

Mr. GOODRICH. Yes, sir; I must appeal; and I desire to state the grounds upon which I appeal.

The CHAIRMAN. The gentleman can state the grounds of his appeal, but he must confine himself to that.

Mr. GOODRICH. The objection which is raised against this amendment is, that it makes an appropriation not authorized by law, whereas such is not the fact. It has been stated that it makes a construction against a high law officer, whereas it is in exact conformity to his opinion. I can show that it is in exact conformity to that opinion, and I will do it if the Chair will allow me.

The CHAIRMAN. The Chair thinks the gentleman is debating, and not stating the grounds of his appeal.

The question was then taken, and the decision of the Chair was sustained by the committee.

Mr. FAY. I have an amendment which I desire to offer.

Mr. CAMPBELL, of Illinois. I desire to know what has become of the motion that the committee rise and report the bill to the House? I ask that that motion be put.

The CHAIRMAN. That motion cannot be put so long as any gentleman addresses the Chair, and indicates that he has an amendment to offer.

Mr. FAY. I offer the following amendment as an additional section to the bill:

SEC. 3. *Be it further enacted*, That the Selectmen of the town of Chelsea, in the State of Massachusetts, be, and they are hereby, authorized and empowered to lay out and make a way or street not exceeding fifty feet in width over lands of the United States, situated in Chelsea, in said Commonwealth, north of the marine hospital. Said way or street to connect the east end of Third street with the west end of Middlesex street, in the village of Chelsea: *Provided*, That said right of way can, in the opinion of the Secretary of the Treasury, be granted without prejudice to the public interest; and if said way shall be discontinued, the right hereby granted shall revert to the United States.

Mr. SEYMOUR, of New York. I will state a fact, if the committee will give me leave. The gentleman from Massachusetts presented this subject to the Committee on Commerce, and we could see no objection to it. It proposes only to give the right of way for the construction of a street through a village. It makes no appropriation. It only permits them to lay out a street.

Mr. JONES, of Tennessee. Yes; and then we will have to fence the street on both sides. [Laughter.] I submit that the amendment is out of order.

The CHAIRMAN. The Chair rules the amendment out of order.

Mr. FAY. I appeal from the decision of the Chair, and I wish to state the grounds of my appeal.

Mr. STANLY. This is the only amendment our friend from Massachusetts has offered this session; and as he has just come here, let it pass.

Mr. FAY. Am I not at liberty to state the grounds of my appeal?

The CHAIRMAN. The gentleman has.

Mr. FAY. This is an appropriation bill, and the amendment which I propose is for the appropriation of a few roods of the public domain for the convenience of the inhabitants of Chelsea to pass over. It is no sale. It is no grant, and therefore it is an appropriation. And another reason is, that you have appropriated the public lands in this city to the charge of the public gardener, which is a deviation from the appropriation of money. This is also offered under the head of miscellaneous items, where I think the amendment is in order. If I had three or four minutes I believe I could convince every member of this House that the request is reasonable and proper.

Mr. DUNHAM. I submit that the gentleman is not in order.

The CHAIRMAN. The Chair will state that this appropriation bill appropriates money and not land. [Laughter.] The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. SEYMOUR, of New York. I wish to say, with great respect to the Chair, that this amendment does not propose to appropriate land, but merely permits a street to run across it.

The CHAIRMAN. It gives the right of way.

The question was taken and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. GOODENOW offered the following as an additional section to the bill:

SEC. —. *And be it further enacted*, That no clerk in any of the judicial courts of the United States, who shall act as attorney or counsel in any of said courts, shall receive any part of the money appropriated in this bill.

Mr. STUART. I submit that the amendment is not in order.

The CHAIRMAN. The Chair rules it out of order.

Mr. GOODENOW. I beg leave to say——

[Cries of "Order!" "Order!"]

The CHAIRMAN. Does the gentleman appeal?

Mr. GOODENOW. I do, most respectfully.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put and decided in the affirmative.

So the decision of the Chair was sustained.

Mr. BOWIE. At the instance of the Committee on Public Buildings and Grounds, I offer the following amendment:

And be it enacted, That the circuit court of the District of Columbia be, and it is hereby, authorized and required, on the application of the proprietor or proprietors of the lots lying on North Capitol street, by petition in writing, to issue a writ in the nature of a writ of *ad quod damnum*, directed to the Marshal of the District, to inquire by a jury, duly empanneled and sworn, the amount of damages sustained by said proprietors, or any of them, by reason of the excavations made on said street by the late Commissioner Mudd, and the present Commissioner of Public Buildings, for obtaining earth, gravel, and sand, to improve Maryland and New Jersey avenues, and Twelfth street west; and the amount ascertained by said inquisitions, when the same shall be duly ratified and approved by the court, shall be paid by the Secretary of the Treasury out of any unappropriated money in the Treasury, upon presentation of a copy of the inquisition duly certified under seal of said court.

Mr. STUART. I raise a point of order upon that amendment.

The CHAIRMAN. The Chair decides the amendment out of order.

Mr. STUART. I move that the committee do now rise, and report the bill to the House.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. ORR) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly House bill No. 337, making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854, and had directed him to report the same with sundry amendments.

Mr. STANLY. I offer the following amendment to the bill, and then move to recommit the bill to the Committee on Ways and Means, and upon that, call the previous question.

The amendment offered by Mr. STANLY was as follows:

And be it further enacted, That the salary of the Superintendent of the Coast Survey shall be $6,000 per annum, and it shall be the duty of the Secretary of the Interior to report to Congress during the first month of each regular session, the number and names of the persons employed during the last preceding fiscal year upon the Coast Survey and business connected therewith; the amount of compensation of every kind respectively paid to them, for what purpose, and the length of time employed, and further to report a full statement of all other expenditures made under the direction of the Superintendent of the Coast Survey.

The previous question was then seconded, and the main question ordered to be put.

Mr. JONES moved to reconsider the vote by which the main question was ordered to be put, and also to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. HOUSTON. As the House may wish to see the action of the Committee on Ways and Means upon Senate amendments to the deficiency bill, I will, with their consent, report the bill, and ask that the amendments may be printed.

It was reported, and the amendments ordered to be printed.

On motion by Mr. LETCHER, the House adjourned, to meet on Monday next, at eleven o'clock, a. m.

IN SENATE.

MONDAY, *February* 21, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in answer to a resolution of the Senate of the 14th instant, certain information relative to the fisheries on the coast of Florida; which was ordered to lie on the table and be printed.

Also, a communication from the Secretary of the Navy, communicating, in compliance with a resolution of the 17th instant, a copy of the report made to that Department by the commissioner appointed to examine the quantities and qualities of the several coal fields and coal mines on the western waters; which was ordered to lie on the table and be printed.

THE HOMESTEAD BILL.

Mr. HUNTER. I move to postpone all the prior orders for the purpose of taking up the bill from the House of Representatives making appropriations for the support of the Army for the year ending June 30, 1854. I wish to remind gentlemen that after Friday week we shall have no more time for legislative action.

Several SENATORS. Let us have the morning business.

Mr. HUNTER. If it is the desire of the Senate to proceed with the morning business, I will not make my motion until twelve o'clock.

Mr. WALKER. I move to dispense with all the prior orders, with a view to take up the bill from the House of Representatives commonly known as the homestead bill.

Several SENATORS. Let us have the morning business.

Mr. WALKER. That morning business will postpone the bill without a vote until after the end of the present session, and I make the motion that we may see whether we are to have the vote upon it during this Congress or not; and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DODGE, of Iowa. I do hope and trust that the motion of the Senator from Wisconsin will prevail. The friends of the homestead bill have sat by patiently in order to give other measures a chance; but the end of the session is close upon us, and unless the homestead bill be acted upon now we must lose it. There are several Senators who are ready to proceed upon it, and I trust that it will be taken up, and that we may be enabled to vote on it to-day.

Mr. DOWNS. I am in favor of the homestead bill, and I wish to take it up at the earliest possible day; but I do not wish to have it taken up this morning. I have a bill which was made the special order of the day for about a month ago. On that day it was passed by, and I gave notice that I should ask the Senate to take it up last Saturday, but then I gave way to other measures, and gave notice that I would call it up this morning. I hope the Senate will allow me to take it up to-day and dispose of it. It is a bill to grant lands to the State of Louisiana to aid that State in preventing inundations from the Mississippi. I think it will not take half an hour to dispose of it, and unless it be disposed of this morning, there may not be another opportunity during my term in the Senate. It is a matter in which my constituents feel great interest, and I hope, therefore, that the Senator from Wisconsin will withdraw his motion until that bill is disposed of. I shall then concur most cordially with him in taking up the homestead bill.

Mr. WALKER. If I had not so often yielded, or if not yielded been so often voted down, upon this question, I certainly should accommodate the Senator from Louisiana. But during the whole of the last session, after this bill reached us, the same objection was made to taking it up as is now made. It was made several times, I recollect, by an honorable Senator from Illinois, a friend of the

bill. I intend to join the Senator from Louisiana, if I understand his bill, cordially in its support; but I do want an opportunity at least to vote on the homestead bill before the Senate adjourns. I must consequently decline to withdraw the motion.

Mr. DODGE, of Iowa. The Senator from Louisiana knows that I am a friend to his bill, and will assist him upon any suitable occasion in getting it up; but I hope he will not now press it in opposition to the homestead bill, but will act with the friends of that bill upon this question.

Mr. HUNTER. It seems to me that we should probably be able to divide the time more equitably amongst all the great measures pressing for consideration, if we should devote at least the morning hour to the appropriation bills. They must be acted upon. It is necessary to pass them; and it is important that we should pass them as early as possible, so as to be able to consider the amendments between the two Houses, and not be forced to leave everything to committees of conference. If we could be allowed to take up the appropriation bills in the morning hour, I think we should probably dispose of them soon by giving them that time; or at least with a very little addition of the remaining time of the Senate. It that way, the residue of our days could be devoted to these other measures, many of which are great measures, and all of them pressing for consideration. If we do not adopt this course, the result will be that the appropriation bills will be postponed to so late a day, that we shall be forced to take them as the House sends them to us.

Mr. GWIN. I intend to vote for taking up the homestead bill this morning. It is the most important measure now before the Senate for the benefit of my constituents, upon which I have any hope of obtaining action. I not only intend to vote for taking up that bill, but I intend to give it pref erence to every other measure until it shall be disposed of, if I can do so by my vote. The homestead bill is not in the form in which I wish to vote for it, but I intend to vote against all amendments, in order to have something that will be of benefit to my constituents, giving them the right to the soil upon which they live. Therefore, as this is a House bill, and as I know that we can, by taking it up and acting upon it, secure its benefits to my constituents, I intend to vote to take it up, and to give it the preference over all other questions; hoping at the same time that it will not be necessary to do so after to-day, but that it will be disposed of immediately.

Mr. BORLAND. I agree fully with the honorable Senator from California. I think, in the present attitude of affairs, that the homestead bill is the one to which we ought now to give our attention. I agree with him that it is not in the form in which I should like to vote for it. I should like to see it amended in several important particulars, but for the reason he stated, that if it be amended it will be inevitably lost, I shall go for passing it in its present form, and I will join its friends in all measures necessary to keep it before the Senate, when it is taken up, until it shall be disposed of.

Mr. DOWNS. As appeals are made to me from so many friendly sources to withdraw my opposition to this motion, I withdraw it, and shall not insist on taking up my bill this morning; but I hope that at some convenient time, as soon as possible after to-day, I may have half an hour to take up that bill and dispose of it. I wish to state, however, that there is no member of the Senate more warmly and decidedly an advocate of the homestead bill than myself. I concur entirely with the Senator from California and the Senator from Arkansas, that it is now so late that if we do take it up, it is best to pass it without amendment or even without debate, if possible.

Mr. RUSK. This homestead bill has been regarded as an important measure by its friends. It is so regarded by the community. We have had numerous petitions urging us to pass it. It came here during the last session of Congress, and slept for a long time upon our tables. It has been crowded out by other measures at this session. I think that during this session we have consumed one half or two thirds of our time with discussions on abstract questions which led to no practical action. This bill has during that whole time slept upon the table, and the honorable Senator from Iowa, [Mr. DODGE,] who has it in charge has, with a modesty which I think should be rewarded and appreciated by the Senate, not thrust it upon us. He has not been at all times claiming the floor, and driving out all other measures. He did, however, some time ago give notice that he would call it up on a particular day. That was early in the session; yet he has yielded to abstract questions of mere doctrine, which are not to carry out any practical measure at all, but to place prominent politicians in imposing attitudes before the world. This is a practical measure. It is generally understood, I believe, by the Senate; it will provoke very little debate, and I think it should be acted upon. It is due to the interests involved; it is due to the Senator who has had charge of it, and who makes the motion, that it should be acted upon; and therefore I shall vote to take it up.

Mr. BELL. I am a little surprised to hear the Senator from Texas in favor of giving precedence to any other bill than the Pacific railroad bill.

Mr. RUSK. There is no Pacific railroad bill. There was one, but it is dead.

Mr. BELL. I hope the Senator will give us some explanation of the manner of its death, and that we may understand who killed it.

Mr. RUSK. There was a good deal of "noise and confusion" at the time, but as far as I could hear and see, I think it was effectually killed and destroyed by the amendment offered by the honorable Senator from Illinois, [Mr. SHIELDS,] which was voted in by a majority of two. That amendment disjointed and destroyed it, and made it a grand scheme without any practical effect.

Several SENATORS. That did not kill it.

Mr. BELL. Mr. President——

Mr. SHIELDS. I hope my honorable friend will permit me to reply to that terrible charge.

Mr. BELL. Certainly, sir.

Mr. SHIELDS. I did not hear all that the honorable Senator from Texas said, but he has certainly made a most terrible charge upon me this morning. It is, if I understand it, that I have destroyed, disjointed, defeated, and totally ruined the gentleman's project. I believe I have, to a certain extent; but I have not destroyed the road. My amendment will contribute to make that road. I may, however, have destroyed the Senator's project; and I venture to say that if the bill was left as he first had it, that road would never be made through the Territories. I am a friend of the road, and I want to see it made, and I want it completed. I do not want to see the $20,000,000 appropriated by the bill expended in Texas and in California. I want the road made through the Territories. I want the money expended in the Territories, where it is most difficult to make the road, where the lands are worthless, and where it will require money for the purpose. I do not wish to commence the road at both ends, and spend $20,000,000 before you have got into the Territories. That was my object, and it was to defeat that project that I offered my amendment. I know the gentleman is dissatisfied, and the honorable Senator from California [Mr. GWIN] is dissatisfied.

Mr. RUSK. The bill did not propose any such spending until the road was built throughout.

Mr. UNDERWOOD. The expenditure was to be *pro rata* as the road went on.

Mr. SHIELDS. Independently of that, I am not going to re-argue the question that has been so ably argued in this body, that the States should be permitted to manage their own affairs, and that the General Government should confine its jurisdiction to its own territory. I am not going to repeat the arguments on that point.

Mr. ADAMS. I beg leave to rise to a question of order. I do not like to interfere with my honorable friend, but I do think——

Several SENATORS. It is a personal explanation.

Mr. BADGER. It is a vindication from a charge of murder. [Laughter.]

The PRESIDENT. The question before the Senate is on taking up the homestead bill.

Mr. SHIELDS. On Saturday evening, when I offered my amendment, and when it was adopted, the gentleman from Texas got up and charged that I had ruined his bill, that it was disjointed and destroyed. I am not going to say much about the bill in the way it was reported from the Select Committee. My impression, however, is, that in its origin it was rather a misshapen concern. Every kind of effort was made at first to get a company established to superintend and manage the road through the States. The gentlemen gave that up, and now they have got agents to do it. The object of my amendment was to confine and limit the road, so far as the General Government was concerned, to the Territories, and let the States make the road through their own limits. But I repeat, if you left the bill as it was, with the $20,000,000 to be expended upon the road anywhere, that amount would be expended upon the road before it ever left the States, and the company would come forward again for $50,000,000 to make the road through the Territories. Where ought the $20,000,000 to be expended? Cannot the States make the road within their own limits? Where is the road most difficult to be made? Is it not within the Territories? Where should you expend your money? On each side of the Rocky mountains, where the lands are worthless, and where money is needed, and apply your lands within the States where the proceeds of those lands can make the road. Sir, the adoption of my amendment will save the bill. It is the only amendment which will enable that road to be made; for I repeat, that if you were to leave the bill as it stood, the $20,000,000 would be expended before the road left California and Texas.

Mr. RUSK. Mr. President, I should have a right to complain of the course of argument of the honorable Senator on the subject of the Pacific railroad bill, if this was the first time that course of argument had been pursued. The honorable Senator either has not carefully read or does not remember the provisions of the bill. He has chosen to raise a man of straw, and has proceeded to demolish the creature of his own fancy. Sir, he has chosen to represent a bill which is not the bill at all. But it is not the first time that denunciations of this description have been made against the bill, and charges of a want of sense in its projectors. Sir, if the projectors of this bill had so little intellect, there were other intellects in the Senate that might have aided them. The honorable Senator himself has said he was in favor of the road.

Mr. SHIELDS. I am.

Mr. RUSK. He has stated that he wanted the roa . Why, then, did he not bring his bright intellect to operate upon this measure, and furnish a bill which would construct a road? Here we have been for six years without any such road. During the whole of that period there has not been any want of petitions. There has been no want of bills. Why, then, did he not give us the benefit of his superior intellect in constructing a bill that would build a road?

Mr. SHIELDS. I have endeavored to aid in framing a bill that would build the road.

Mr. RUSK. Why not do it before? Why come in at the eleventh hour, in the midst of "noise and confusion?" Why come in with an amendment that knocked the whole thing into a cocked hat—that disjointed and destroyed the bill?

The honorable Senator said that if the bill was left as it was reported, the $20,000,000 would be spent in the States; that California and Texas would get the $20,000,000, and no money would be left to build the road through the Territories. That is the version given to the bill by the honorable Senator. Now, let us see what the bill is; and I pray God, and I beg my friends—the apostles of the Democratic party, who have got up here to prescribe the rules of the Constitution, and the terms on which a man may hold a seat in the Democratic party—I pray them especially, that in those furious Democratic speeches they have made defining the Constitution and drawing a distinction between giving all the land in a State and a dollar of money out of the Treasury, just to append, as a little note, to the bottom of their speeches, a copy of this terrible bill which is to violate the Constitution, play the very mischief, and disorganize the Democratic party. If they would do that, they would save me the trouble hereafter of coming up to the bar of Democracy and pleading in justification of myself for having brought forward this enormous bill; because, to all men except those who understand metaphysics, who talk metaphysics, to all such plain and unsophisticated men as I am, the bill will be an answer to all those denunciatory speeches, as it is an effectual answer to the charge that it proposes to pay $20,000,000 to Texas and California, and leave none to build the road in the Territories. Now let us see what the bill is. It provides—

"That whenever fifty miles of said road shall have been completed in a manner satisfactory to the President of the

United States, he shall cause a *pro rata* payment to be made, according to the terms of the contract, for the work so completed, in the bonds of the Government, issued under the provisions of this act, and by a grant of four fifths of the public lands to which the completion of the said fifty miles may entitle said contractors, and so on for each successive fifty miles, until the road shall have been completed and the terms of their contracts complied with, when they shall be entitled to receive the remaining fifth of said public lands; and, in the event of a failure on the part of the contractors to comply with the provisions of this act, the road, together with the appurtenances, including the running machinery and means of transportation, shall be forfeited, and become the property of the United States."

That provision of the bill is a perfect answer to the harangue of the honorable Senator from Illinois, with regard to the expenditure of this money within the States before the road could be built in the Territories.

I do not wish to protract the debate on the provisions of the Pacific railroad bill. In my humble judgment, that bill has been killed by the adoption of the amendment of the Senator from Illinois, because that amendment makes no provision for the connection of the road through the Territories with other roads in the States. It will require a great deal more capital to build the road than will be advanced by the Government under this bill. All that the Government advances is $20,000,000 in bonds, and at the outside, twelve million dollars' worth of lands. That amount will not construct a road to the Pacific. It will take $100,000,000 or upwards, to construct the road. Then those who might contract for its construction would have to invest three fourths of their capital in order to enable them to get any portion of the money of the Government. Now, in order to induce capitalists to build this road, you must put the bill in such a condition that there shall be insured to them, if I may use that term, their capital and reasonable profit on it. This bill, as it was originally reported, did that, because it proposed to make one continuous work of it from beginning to end. The amendment of the Senator from Illinois has disjointed the bill in this particular. The parties must go forward to build the road in the Territories, leaving the connections to be made with it subject to the pleasure of the States. How are they to begin in the Territories? They will have to use the roads of companies in the States in order to get their iron and materials there. They can get nothing there in order to commence, unless it be by the use of the roads of companies in the States. Those companies may not permit them to use their roads for the purpose of getting their materials there, or may charge what freight they choose, and after this road shall have been constructed, these companies might or might not make it profitable, according as their pleasure or interest might dictate in reference to the connections to be made.

Mr. SHIELDS. Will the honorable Senator answer me two questions?

Mr. RUSK. A thousand, if the Senator chooses.

Mr. SHIELDS. First, is there any one of the frontier States that cannot make this road with the lands alone?

Mr. GWIN. Yes, sir. California cannot do it.

Mr. SHIELDS. Second, can this road be made with the lands alone through the Territories?

Mr. RUSK. The original bill proposes no such thing. I do not know things in the future. I cannot see into the future like some gentlemen. It is as much as I can do to see and to remember what has passed. I cannot fortell what may happen, but I would say to him, that my opinion is that the road cannot be made with the lands alone; and therefore it was that I provided in the bill for the advance of a certain amount of money.

The amendment of the Senator from Illinois has disjointed the bill, and made it incongruous and unjust in another particular, and that is this: the bill provided, that in consideration of the advance of the bonds of the Government and the grant of the lands, the company should carry the mails, the troops, munitions of war, and supplies belonging to the Government, free of charge, along the whole line of the road. Now, does the Senator suppose that we can ask Arkansas, or Missouri, or any State through which roads may go to connect with this, to grant us that privilege? The Senator has chosen to throw Texas into that list. Well, sir, I represent Texas, and I am proud of the honor, much abused as she has been. And I will inform the gentleman before this session closes, of some of the treatment of this Government towards Texas. I shall ask him before the close of the session, whether he is willing to cast a vote to violate the provisions of a treaty, for the purpose of inflicting serious injury on Texas? But, sir, "sufficient unto the day is the evil thereof." When that question comes up, I shall be ready to meet it. Let me ask him, would it be right or proper to require California, Texas, Iowa, or any other State, to build a portion of this road without any help from us, and then to carry, free of charge, the arms and munitions of war of the United States? Would that be just? Would it be fair? Would it be liberal to California? But, says the honorable Senator, California can build the road herself, with the land given her, without a dollar from the Treasury. What, sir, California build several hundred miles of road for a few miserable acres of land! I suppose there is means enough in California to build the road. California is deeply interested in it; but it is a great national road, and the Atlantic States are as deeply interested in its construction as California. The construction of this road will double their markets. It will double the markets for every article of industrial production throughout the whole country, and furnish us what we so much need, a steady home market; and in this the Atlantic States are as deeply interested, nay more deeply than California and Oregon. What sort of justice is it to require her to contend with all the difficulties of the present circuitous route? Flour there is from $20 to $30 a barrel, in consequence of the tax which this Government imposes upon her by a circuitous, dangerous, and sickly route? Where is the justice of requiring California to contribute the largest share of the cost to a great national work, in which the whole of these United States are interested? You are to give large sums of money to build it over sterile territories. You have given alternate sections for six miles on each side to make roads, which are to a great extent local in their character. Now, sir, I do not complain of Illinois getting such grants. I voted for all of those grants which have come forward since I have been here. I give her Senators great credit for their ingenuity; but I say, serve all alike. Treat California just as you have treated Illinois.

Mr. SHIELDS. That is just what I intended to do.

Mr. RUSK. That is not the honorable Senator's amendment, and I do not place my hopes on what is going to happen, particularly after what I have already seen.

Mr. SHIELDS. The honorable Senator will permit me to tell him this: Let the Government first make the road through its own territory; then, when the road is done through the territory, when it reaches Texas, give her lands to join the road that runs through the Territories; Arkansas the same——

Mr. ADAMS. I rise to a question of order.

Mr. SHIELDS. Iowa the same.

The PRESIDENT. The Senator from Mississippi is entitled to the floor on a question of order.

Mr. RUSK. I yield. I know I am out of order; but I did not begin the debate.

Mr. WALKER. I hope the vote will be taken on the motion to take up the homestead bill.

Mr. DOUGLAS. I feel that it is due to myself and my colleague that I should make a few remarks. It has been repeated over and over again, that the amendment of my colleague killed the Pacific railroad bill. I do not understand upon what ground that charge is made. Sir, the bill with the amendment of my colleague appropriates precisely the same amount of land for the whole road that it did without the amendment. Under the bill, as amended upon the motion of my colleague, there is precisely the same amount of money appropriated for the road that there was by the bill without the amendment. Then the amendment has not diminished the amount of means provided for the construction of the road, either in money or in land. The road under the original bill, was one work from the valley of the Mississippi to the Pacific. Under the amendment it is one work. If a company take the road under the bill as amended, they get precisely the same amount of means to aid in its construction, that they would have had if the amendment had not been made, both in land and money. What difference, then, does it make to the company who shall construct this road, whether the amendment prevailed or not? It makes no difference so far as the means provided are concerned. It makes no difference so far as their powers and facilities for the construction of the road are concerned.

Mr. RUSK. Will the Senator permit me to ask a question?

Mr. DOUGLAS. With great pleasure.

Mr. RUSK. Suppose California should build five hundred miles, how much money in bonds would she get.

Mr. DOUGLAS. That is not a supposable case under the bill as it stood before, or now stands with the amendment. Under the bill as it stands, the President of the United States is to indicate the route for one road from the eastern to the western terminus; but if he locates it within the States, there are lands given for that portion of it; and in the Territories, land and money for the portion of it that runs through those Territories.

Mr. GWIN. The Senator will permit me to ask him how much land per mile will be given to the State of California under the amendment of his colleague?

Mr. DOUGLAS. I will answer the question: Precisely the same amount as was given by the bill before the amendment.

Mr. GWIN. Will that make the road?

Mr. DOUGLAS. If the Senator will only listen to me, he will find that both himself and the Senator from Texas have been laboring under a mistake as to the provisions of their own bill.

Mr. GWIN. I hope so.

Mr. DOUGLAS. By their bill, no land was given to California; none to any other State; but land was given to the company to construct the road through the States, if it should be located within the States; and there was, in addition, an appropriation of twenty millions of money given to the company. The only effect of the amendment of my colleague is, that those twenty millions thus appropriated shall be applied by the company to the construction of that part of the road which may be within the Territories and not within the States. But as the company have but one road to make, as it is all one concern, they are provided by the bill with the same amount of lands and the same amount of money to construct the whole that they would have had if the amendment had not been made. That amendment provides that in the application of the money they shall only apply it to that part of the road located in the Territories. In other words, as the bill stood before, they would have got a less amount of money per mile than they now get; but as the bill now stands, with the amendment of my colleague, as the length of the road upon which the money is to be applied is shortened, the amount of money granted per mile is increased. Now, sir, what difference does it make to the company, if they have twenty millions of dollars to enable them to construct that road, whether they shall apply it in the Territories or in the States? They have the same means for the construction of the whole road. There is no gentleman here, therefore, who can demonstrate that that amendment has diminished the means, the aid, and the facilities for the construction of the road one iota.

Mr. HUNTER. I am constrained to rise to a question of order.

The PRESIDENT. The Chair must announce to the Senator that the question before the body is on proceeding to the consideration of the homestead bill.

Mr. DOUGLAS. I know that that is the question, but I trust my friend from Virginia will not call me to order now, because points have been made against my colleague and myself for our votes, and I wish an opportunity of replying to them.

Mr. HUNTER. I withdraw the point of order.

Mr. DOUGLAS. If the gentlemen who made these charges against us had been called to order, and not been allowed to proceed, that would have been right; but as one side has been heard, the other should have a chance to reply. The Senator from Texas said that this amendment disjointed his bill. How has it disjointed it? Before the amendment was adopted, the bill provided for one road from the Mississippi valley to the Pacific; but it also provided, in the event the road should be located in a State that it should not be made except by the authority of that State given through

its Legislature. Then whether the road was to be one continuous work or not, depended upon State legislation. The amendment of my colleague is, that this road shall not be made through the States by the authority of the Federal Government, and in no other manner than by the authority of the State derived from the Legislature thereof. Therefore, the legal effect of the amendment is precisely the same on that point as was the provision of the original bill. If the road is disjointed and divided into several parts by the amendment, it was also disjointed and divided by the original bill, for the legal effect of each is precisely the same. The Senator, therefore, either does not understand the legal effect of his original bill, or he is mistaken in urging this objection to the amendment. The amendment of my colleague does not disjoint the bill; it does not divide the road; it does not separate it into different parts; it does not involve that incongruity of which the honorable Senator from Texas spoke. The same provision in substance, and almost in terms, was in the original bill in two different places. It was provided in the commencement of the bill that the road should not be made through any State except by the consent of that State. Again, in the latter part of the bill—in the thirteenth section—it was provided that the road should not be made except by the express consent of the State, given by its Legislature. The amendment of my colleague, therefore, only asserts and makes more specific that which was twice provided for in other parts of the bill.

Then, since that amendment does not disjoint the bill; does not change its legal effect as to being one road from one end to the other; does not involve any of the incongruities of which the Senator spoke; does not produce any one of the consequences which he dreads; I again ask, by what authority does he say that the amendment has killed the bill? The bill is as perfect now as before. The means supplied in lands are as great, and the means furnished in money precisely the same. The facilities granted for making it are all the same. Then what is the effect of my colleague's amendment? It is simply this: Certain friends of the measure could not vote for it if this money was to be expended in the States, but every man who could vote for the bill as it was, can vote for it now, without any violation of principle. The effect of the amendment is to relieve constitutional objections on the part of those who desired to vote for the measure, without interposing any obstacle which should drive any original friend of the bill from its support.

Mr. RUSK. It has made some who could vote for it not able now to vote for it.

Mr DOUGLAS. It may make some man who was for it before mad, and, from passion and disappointment, drive him against it, but not for any reason which he can assign for his vote.

Mr. RUSK. No, sir.

Mr. DOUGLAS. There is no principle that can be stated, upon which a man who was the advocate of the bill before, can now justify himself in opposing it. The amendment does not violate any man's constitutional scruples, while it obviates the scruples of many who were anxious to support the measure.

Mr. PRATT. The honorable Senator will allow me to say, that with this amendment, I, who was as warm a friend of the bill as any gentleman on the floor, shall certainly vote against the bill.

Mr DOUGLAS. That may be.

Mr PRATT. I will state the reason why, if his amendment be finally adopted, I shall vote against the bill. It will then confine the selection of the route by the President necessarily to a northern route. There are no public lands in Texas. The amendment excludes the expenditure of any money in making the road through Texas, so that the bill neither gives land nor money to run the road through that State. It therefore necessarily follows that it cannot be run there along that route, which I had hoped would be the route adopted, and the President is excluded from selecting that route.

Mr. DOUGLAS. The Senator again shows that he does not understand the original bill. The original bill provides that where there are no lands adjacent to the road, equivalent alternate sections six miles wide may be taken for that purpose elsewhere. If the Government has sold the land or disposed of it, or made any arrangement by which it is incompetent to convey the lands, other lands are to be selected in lieu thereof to make up such deficiency.

Mr. PRATT. But the lands so taken must be within the same State, and there are no public lands of the United States in Texas at all.

Mr. DOUGLAS. I doubt whether there is any limitation which is to have the effect apprehended by the Senator. If so, a verbal amendment would obviate the difficulty, which can be made at any moment. Texas has already granted a still larger amount of lands, in the event the road shall be located through that State, and thus held out stronger inducements for its location through that State, than are provided in this bill if the road shall run on a line further north. But I have already shown that the gentleman is mistaken when he says that no money is provided in the event the road runs through Texas. The bill appropriates $20,000,000 to the company, whether the road shall be located in Texas or not. The company is to get that amount; no more and no less, no matter where or upon what line the road shall be located, whether through the States or entirely within the Territories. Hence, the Senator will observe that there is no foundation for his apprehensions in respect to the rights of Texas. By the terms of this bill, and with the aid of her local legislation, she will possess undue advantages in controlling the location of the road. But the Senator from Maryland says that he will not vote for the bill with that amendment. Then he votes against it on grounds of policy. This amendment does not raise any insuperable barrier on the score of principle, and hence its effect is to avoid constitutional scruples, and allow gentleman to vote for the bill who could not otherwise do so. It does not erect an insuperable barrier which ought to drive any man from it who was before its supporter. I therefore say that if the bill is killed, it has been done by the abandonment of its friends without sufficient cause, and not by virtue of the amendment of my colleague, which has given it immense strength in point of votes, without diminishing one iota the resources provided for the construction of the road.

Mr. WALKER. I hope the question will be put on my motion.

Mr. BELL. I am afraid I have lost the floor.

The PRESIDENT. The Senator from Tennessee yielded it a long while ago.

Mr. ADAMS. I must insist on my point of order.

The PRESIDENT. The Senator from Mississippi again raises a point of order. The Chair is of the opinion, as he has announced several times, that this discussion is out of order. The question before the Senate is on taking up the homestead bill; but the Senate can control its own action.

Mr. WELLER. I believe I am entitled to the floor.

Mr. BADGER. The Senator from Tennessee is entitled to the floor. He gave way for explanation.

The PRESIDENT. The Senator from Tennessee yielded the floor.

Mr. WELLER. And thereby lost his right to it.

The PRESIDENT. The Senator from California is now entitled to the floor.

Mr. WALKER. On what question?

The PRESIDENT. On the motion to proceed to the consideration of the homestead bill. That is the motion before the Senate.

Mr. WELLER. As I do not propose to discuss the important question that is now presented for the consideration of the Senate, it may be well enough for me at the outset, to make a motion which will make this discussion in order. I believe a motion to reconsider, under the rules of the Senate, is a privileged motion, and I desire now, during the pendency of the motion of the Senator from Wisconsin, to move to reconsider the vote by which the amendment of the honorable Senator from Illinois was adopted on Saturday evening—not because I have changed my mind on the subject, but for the purpose of incorporating the principle contained in the amendment in the bill in such a shape as to make it practicable.

Mr. CHASE. I rise to a question of order.

Mr. WELLER. I wish to know whether it is in order now for me to make that motion?

Mr. CHASE. That is the point which I was about to raise.

The PRESIDENT. The Chair is of the opinion that the bill must be before the Senate before the motion can be made; and if the motion to reconsider can be made, it can only be entered upon the Journal for action hereafter.

Mr. BADGER. I hope by common consent that course will be pursued.

Mr. WELLER. There is a difference of opinion between the President and myself as to the construction of the rule. I have always understood that a motion to reconsider was a privileged motion, and could be made at any time. But I desire to say a word or two in reply to what has already been said upon this subject, and what I have to say may be considered, if you please, as reasons why the motion of the Senator from Wisconsin should not now be adopted.

The adoption of that motion must necessarily supersede the Pacific railroad bill, which was the unfinished business of last Saturday. My object is to get up that bill, in order to satisfy, if I can, the committee who originally reported it, that they have become unnecessarily alarmed in regard to its position. They have taken it upon themselves to say that those of us who the other day voted for the amendment of the honorable Senator from Illinois, have disjointed the bill. Now what was the proposition of the Senator from Illinois? It was, that the $20,000,000 appropriated under the bill should be expended exclusively for the construction of that portion of the road which runs through the Territories. Now, the Senator from Texas has asked, will the lands on each side of the road in the States through which it may pass, be sufficient to construct it? Let me ask my friend from Texas if he ever proposed that the Government of the United States should pay for the construction of this road? I never supposed that such was his intention. I am sure the bill conveys no such idea. I had supposed that the work was to be undertaken by contractors, and that in order to induce those contractors to execute it, the Government undertook to give $20,000,000 in money, and a certain quantity of land, six miles on each side of the road in the States, and twelve miles on each side in the Territories.

The Senator has asked whether a grant of alternate sections for six miles on each side would be sufficient to complete the road in California? Let me ask, did he expect that the six miles would do so in the other States, or did he intend that this Government should pay for the whole of the road? Certainly I never so understood the bill; but the object was that the General Government should appropriate a certain quantity of land and a certain amount of money in order to induce contractors to complete the road. It certainly does not propose to give any lands to California or any other State. What difference does it make to the contractors whether they expend $20,000,000 in the Territories or in the States of the Union? The President of the United States is authorized under the bill to make a contract. The Government, regarding this a great national work of immense importance, and one which is to advance the interests of the whole country, makes an appropriation of land and money towards its completion. This, sir, is all. But now the Senator says the bill is emasculated and disjointed, because there is offered to be incorporated within it a principle which requires the money to be expended within the Territories of the United States! If the vote on the adoption of that amendment shall be reconsidered as I propose, it seems to me that it would be a very easy matter to put this bill again in a proper shape. Its joints can be readily put together—it requires but two amendments to do it; and if the Senator from Texas had not already made up his mind that the bill was dead, I should undertake to call his attention to the two amendments which I intend to propose to the third and sixth sections of the bill. It will not require, I think, much time to demonstrate that two amendments will make this bill far more practicable than it was when it came from the hands of the Select Committee. We are sometimes unable to perceive the defects which exist in the work of our own hands. Gentlemen are apt to think that a bill on which they have spent so much time and labor, is necessarily so perfect that no improvements whatever can be made. In this, I think they are mistaken. Man after all is a fallible being.

Mr. CHASE. Mr. President, I wish to make a question of order whether this discussion shall proceed. It is perfectly clear that if it does pro-

ceed, we cannot take up the homestead bill to-day. I therefore desire to present to the Chair, for its decision, the question, whether a discussion upon the merits of a bill which was pending on Saturday is in order upon a motion to-day to take up another bill?

The PRESIDENT. The Chair has decided several times that it is not in order.

Mr. CHASE. Then I trust Senators will be confined within the limits of order.

The PRESIDENT. The Senator from California has moved a reconsideration, and he proceeds upon the ground that that is a privileged motion.

Mr. CHASE. The question then was made whether that was a privileged motion or not, and I understood the Chair to hold that it was not a privileged motion, there being already pending a motion to postpone all the prior orders for the purpose of taking the homestead bill into consideration.

The PRESIDENT. The Chair is of the opinion, that the motion is privileged thus far at least: that it may be entered upon the Journal, but that it is not subject to discussion until the bill shall be before the Senate. That is the practice which has been adopted for the purpose of saving time, that a motion may be entered; because after two days elapse no motion to reconsider can be entered or entertained.

Mr. BORLAND. I would suggest that the Senator from California on Saturday moved a reconsideration, or gave notice that he would move it, which, it seems to me, amounted to the same thing.

Mr. BADGER. Let the motion be entered.

The PRESIDENT. If there be no objection, the motion will be entered on the Journal.

There being no objection, it was so ordered.

Mr. WELLER. I do not know that I attain the object which I have in view by simply having the motion entered. I desire the question to come up before the Senate, and if the Pacific railroad bill be actually dead, I desire that it shall be decently buried. We owe, at least, a decent respect to its "disjointed" remains. I wish it to be understood by everybody, that I think there is yet vitality enough in it to run a locomotive. I am sure there is plenty of life in it yet if the doctors who have had charge of it do not now abandon it. There is such a thing as being scared before you are hurt. Do not Senators think that giving six miles on each side of the road is enough to justify the contractors in going on with the road? If not, let more land be voted. It shall receive my support. But I am against the principle which was incorporated in this bill of expending public money in the construction of a road through a State. I will not say that it is unconstitutional; but at any rate it is a principle which, if carried out by the Government, must lead to the most disastrous results, and must ultimately involve the National Treasury in bankruptcy. I desire, therefore, to avoid that question by requiring that the $20,000,000 appropriated by the bill shall be exclusively expended in the construction of that portion of the road which runs through the Territories of the United States; and if Senators do not think that the land granted within the States is enough, let them propose to appropriate more, and, as I have already said, I shall vote for it. However much I may desire the construction of this road, I am not willing to sacrifice principles long cherished in order to obtain it. The locality of the road cannot change my principles, nor induce me to abandon opinions long entertained.

Mr. RUSK. I hope these arguments will not be entered upon unless there is a chance of reply. I dislike to interrupt the Senator from California, but I wish to make a suggestion to the Senate. I said that the Pacific railroad bill was dead. That is my opinion. I have been charged here with not understanding my own bill, and all that sort of thing. That amounts to nothing. My understanding is, that the amendment of the Senator from Illinois killed it dead as a hammer; and if this discussion is to go on, I want to have an opportunity of showing that there is no such bugbear as gentlemen seem to suppose. Why, sir, if you are violating the Constitution by giving money for the purpose of building railroads, are you not violating it every day by giving money to those railroads for carrying the mails: for is not that exactly the same thing to them as to build their roads? I do not want to interrupt the honorable Senator from California, but I wish it to be understood that if he goes on and discusses the principle of that bill, I am to have a chance of replying.

Mr. WELLER. I have not said that the original bill, as reported by the Senator from Texas, violated the Constitution of the United States. I have said that it contains a principle, which, if carried out by the Government, must lead to disastrous results, and to the bankruptcy of the Treasury. An extended system of internal improvements within the States by the Federal Government, must produce this result. It is, therefore, a system which I do not desire to encourage, especially when it can be so easily avoided. The right of the General Government to construct a road, which may run through the States, connecting the Atlantic with the Pacific, I have never doubted. This would be a great *national* work, to which the funds of the General Government might be applied. Sir, if I understand the principles incorporated in the veto message of General Jackson, to which reference was made the other day——

Mr. CHASE. It is with great reluctance, indeed, that I interfere with the Senator from California.

Mr. WELLER. So I perceive, sir.

Mr. CHASE. But I really think that we owe a duty to the homestead bill. The motion now pending before the Senate is to take that up. Senators have said that if this debate is to continue, there will be replies, and everybody sees that they must consume the whole time of the Senate with this discussion.

Mr. BELL. I call the Senator from Ohio to order.

Mr. CHASE. I think it is my duty to insist on my point of order.

Mr. WELLER. I have attempted to show that the homestead bill ought not to be taken up, by satisfying Senators, if I could, that there was other important business which ought to be acted upon, and in order to show the importance of that other business, I have been speaking in regard to it, so that it seems to me I am perfectly in order, and my remarks are not liable to the objections of the Senator from Ohio.

Mr. WALKER. Let us have that question decided.

The PRESIDENT. The Chair will put the question whether the Senate will permit the Senator to proceed. The Chair has decided the point several times.

Mr. WELLER. I do not ask any vote of the Senate to allow me to go on, but if Senators think I am out of order, I will yield. My intention was to show that the message of General Jackson vetoing the Maysville road bill, did not apply to a bill of this character—that that road was held to be unconstitutional, because it was exclusively *local* in its character—this road is *national*, and calculated in its nature to advance the interests of every section of the Union. But I will not proceed out of order.

Mr. BELL. I beg leave to say, begging the pardon of the Chair, that nothing is more clear to my mind than that this debate is in order, although a considerable portion of it may have wandered from the point. I have been trying, from the beginning of the morning, to get the floor on the question, but Senators begged me to give way for a few moments for some personal explanations in regard to their course; and thus I have been very near losing all chance of saying a word on the subject. Now, I understand the original proposition was to take up the homestead bill, and then a debate arose upon the proposition to proceed to the consideration of the Pacific railroad bill the last unfinished business, upon which we adjourned late on Saturday evening, under circumstances that induced many of its friends to suppose that it was not worth while to prosecute that subject any further. An amendment was ingrafted on it, which many of its friends supposed destroyed the practicability of the plan proposed.

The motion this morning is to take up the homestead bill. What does that bill propose? I say that bill, if adopted by Congress, cuts off all prospect of constructing this road in any of the States by appropriations of public land. That may be the motive of the honorable Senator from Ohio for making or seconding the motion to give the priority to the homestead bill, for anything that I know. And my friend who sits before me from Missouri [Mr. GEYER] may very well acquiesce in such a movement as this; and you, Mr. President, if upon the floor, might acquiesce in it, because lands have already been appropriated to make the line of the western railroad through your State. I am not at all surprised at the patience and equanimity displayed by the Senator from Missouri before me; nor am I at all surprised at the perfect satisfaction of the honorable Senator from Illinois [Mr. SHIELDS] with regard to the result of his movement the other evening; I will not call it adroit—I have too high an opinion of that gentleman's candor and integrity to call it that. So my friend from Illinois, [Mr. DOUGLAS,] if he will permit me to call him so, may rest perfectly content, so far as regards any local attachments or partialities he may have; and so may the honorable Senator over the way, [Mr. CASS,] who led this defection among the friends of the bill, for they all may feel a reasonable assurance that as the railroad bill now stands, and if the homestead bill passes also, St. Louis will necessarily be the eastern terminus of the road. Now, I consider this argument perfectly legitimate and in order. If the homestead bill pass—and I say nothing now as to whether it ought to pass or not—how is a road ever to be run through any of the States except those which have already received grants of public lands to make them, so as to connect with the projected railroad over the territory of the United States connecting the valley of the Mississippi with the Pacific ocean? It is true that the homestead bill, so far as I perceive, by its present provisions, does not embrace those unsettled territories which have not been surveyed by the authority of Government through the agents of the Land Office; but in every State of the Union—I mean in every State through which this road might run—through Arkansas——

Mr. BRIGHT. I rise to a point of order. I dislike very much to interrupt the honorable Senator——

Mr. BELL. I am arguing a question of order.

Mr. BRIGHT. I submit this point to the consideration of the Senate. Under our rules, one hour is set apart for morning business; and upon the change of the hour of meeting, two hours are devoted to that business. The honorable Senator from Wisconsin has moved to dispense with the morning business in order to take up the homestead bill. Now, I ask whether it is in order on that motion to discuss the merits of a bill not under consideration, or the merits of a bill proposed to be taken up.

Mr. BELL. I call the Senator from Indiana to order. I am arguing a question of order.

Mr. BRIGHT. I ask for a decision on the point which I have raised.

The PRESIDENT. The Chair is of opinion that the Senator from Tennessee is in order.

Mr. BELL. I am certainly in order, if any gentleman ever was. I say that if the homestead bill is taken up and passed, it will interfere with the proposition to construct the Pacific railroad, even according to the modification of the bill which was made on Saturday evening, and which has been alluded to by the honorable Senators from Illinois. Both of those honorable Senators, I believe, asked significantly, whether there are not lands enough within the limits usually prescribed to grants of land for the purpose of aiding in the construction of railroads, to build that portion of the road which lies or may lie within any of the States? There may be to-day; but suppose this homestead bill should pass, would there be sufficient to-morrow or next year? It is, then, a most pertinent and important question, whether the homestead or the Pacific railroad bill should have precedence. And I call the attention of the honorable Senator from Arkansas to this question: What prospect will there be of getting an appropriation of the public lands within the usual limits in the State of Arkansas, of sufficient value to build this railroad from the Mississippi to the western border of this State, so as to connect with the great road across the Territories of the United States to the Pacific?

Mr. BORLAND. As the Senator has appealed to me, I will answer him very promptly, that, in my opinion—and I am willing to rest upon that opinion—if the homestead bill be passed, it will give to Arkansas fourfold the ability to make the road through her limits than she now has without it. That is my answer.

Mr. BELL. I want to ask the honorable Senator from Arkansas further: Whether he means that it will have more ability, by an increase of population and wealth, or by an increased appropriation or appreciation of public lands?

Mr. BORLAND. I believe the appropriation of the public lands for railroads through Arkansas, and the increase of the population and the ability of the citizens to purchase land, enhance the value of the lands so granted. I believe that will be the effect of the homestead bill, and that is the very reason why I am so earnest an advocate for it.

Mr. BELL. Well, sir, I am mistaken in the source from whence I expected to get correct information. I understand that the effect of the homestead bill will be to appropriate the public lands on the line of this railroad—to appropriate it to the use of settlers. If I am mistaken in its provisions, then I am wrong in my conclusions, and the honorable Senator from Arkansas is right. But if I am not mistaken, it is not possible that he can be right; because the moment this bill shall have passed, (the homestead bill,) and the lands shall have been secured to settlers, it will become private property, and Congress will no longer have any authority to appropriate that for railroad purposes.

Mr. BORLAND. Mr. President, the Senator knows the provisions of the homestead bill without my telling them to him; but does he suppose that all the land in Arkansas will be taken up under that bill? Does any one suppose it? Does he suppose that more than half of it will be taken? Does he not know that in the bill which has passed, granting lands to Arkansas—taking that for what it may be worth, and I do not consider it worth much, as I said the other day—the lands along the routes of those roads are already secured against occupancy by any one? Does he not know that this homestead bill exempts those lands which have been so secured here entirely?

Mr. BELL. To what railroad bill does the Senator allude?

Mr. BORLAND. To the one which passed this body on the 5th of February.

Mr. BELL. Does the Senator mean the bill for the construction of a railroad from Cairo to Fulton?

Mr. BORLAND. That bill also provides for other railroads. I do not think it will be worth very much to Arkansas; but still, so far as it does affect the Pacific railroad, if the lands along the routes of the roads have been taken by settlers, equivalent lands are permitted to be taken in the whole range of the State, provided there be not enough within the limits assigned. My opinion, then, based upon these facts, is this: that the passage of the homestead bill will so enhance the value of all lands not taken up in the State as to increase them more than fourfold, and therefore it will confer on the State, no matter where she may select her lands, fourfold her present ability to make the railroad from any grants which may be given.

Mr. BELL. I base my observations and conclusions on the ground that the bill is yet to pass, which would secure those lands for the building of a railroad from the Mississippi to the western boundary of the State of Arkansas, so as to connect with a route which may be designated for this road, over the Territories of the United States; and that it could not have that if the lands should have been before that time granted by the homestead bill for another purpose. My argument was, that the passage of the homestead bill would defeat the operation of any bill which we might pass in relation to the construction of this great national road, under the expectation that such a road could be built by an appropriation of public lands alone. If it be true that Arkansas stands upon an equal footing with Missouri, I was not well informed upon the subject. I understand that Missouri had not only her grants made, but the road located, and the construction of it rapidly advancing.

I do not understand that the road in Arkansas has yet been located, much less in the process of construction; and I understand, that unless Congress shall do something more than grant the lands on the line of the road, no company or association of private capitalists will undertake to build a railroad from the Mississippi to the western frontier of Arkansas; and if the honorable Senator [Mr. BORLAND] surrenders the provisions of the bill which secure the means of building the road within his own State, he will never have an equal chance of getting the decision of the President in favor of some medium, some middle route, connecting the valley of the Mississippi with the Pacific; and the prospect of all routes is lost forever, so far as this road is concerned. If you allow the homestead bill to pass antecedently to a bill for the construction of that railroad, the prospect is gone—the prospect for his section and for mine; and you might just as well succumb at once, and say that the road should be built from San Francisco to St. Louis, or further north than St. Louis.

I have said that I want a road, and I do not care to waste time in contention here as to where it shall run. On Saturday evening, gentlemen interested in a particular section of the Union, whether with or without concert, with or without reference to sectional interests, or a determination to secure an eastern terminus of that road at a particular point on the western borders, had an amendment adopted, under which I do not choose to submit to quietly. If the honorable Senators who have argued to-day that the amendment does not mutilate the bill, that it does not weaken or destroy it—as both the honorable Senators from Illinois have argued—why do they not come forward and try to pass the bill which they allege has gained strength by the adoption of the amendment? They have said that the amendment adopted on Saturday gave increased strength to the bill. If so, why will they not give us now a few hours to perfect and carry it forward? If the bill has been strengthened by the amendment, let us see manifestations of it. Let us see whether these gentlemen and the honorable gentleman from Michigan [Mr. CASS] are really friends to the bill or not. If they are, I call upon them to move for taking it up this morning in preference to the homestead bill or any other bill. I wish my friends from the extreme Northwest, as well as in the Southwest, to know that this is the only opportunity they will ever have of securing an equal chance for their interests in the decision of this great question—where this road is to run, or where the eastern terminus is to be established. For the reasons I have suggested, I consider this discussion perfectly in order; and I hope the railroad bill will be taken up and disposed of, whatever may be its fate.

Mr. BORLAND. I hope I may be permitted to say a word or two in response to the Senator from Tennessee. I agree with him in regard to the amendment which was adopted on Saturday. With him I voted against it, and when the bill comes up I intend to give my reasons why I voted against it. I shall not go into them now. But, sir, with regard to the operation of the homestead bill, and its taking the amount which would be needed for the making of the road, I desire to call the attention of the Senator again, and more pointedly, to the operation of it.

The homestead bill proposes to give to landless persons of the United States, who will actually settle upon the land, the right to settle, not upon any land, but upon land which, when they go to make the settlement, shall be subject to entry at private sale. That is the operation of the bill. It does not hold every acre of the land subject to be so settled, no matter what laws we pass this session or the next prior to the settlement. If they be not actually taken up under a law, at the time when the individual seeks to settle them, they may be taken by him; but if there be any law passed subsequent to the homestead bill, and prior to the actual settlement, the land is removed from the operation of the homestead bill. But with regard to the bill which passed on the 5th of the month, of which I spoke on Friday morning, to which I stated so many objections, and which I stated I did not consider worth much to my State, all the land donated by it to the State will be exempted from the operation of the homestead bill.

The Commissioner of the General Land Office is now engaged in laying off, upon conjectural lines, the land which will probably be required under the operation of that law; and those lands will be set apart by that Department for it, and the road, should it ever be built, will not be under the operation of the homestead bill at all, because the lands will not be subject to entry at private sale. With regard to the Pacific railroad bill, so far as it may relate to the operation of the homestead bill, I repeat the general reason that I stated just now, that it provides that the State, in selecting the lands for that road, shall not be restricted to six, thirteen, or thirty miles, but shall go throughout the State, if they do not find the lands along the road; and the homestead bill, in any range of possibility, cannot subject all the lands to actual settlement—could not subject more than half. As I said, the settlements that will be made will leave more than enough, especially where its value is enhanced by the homestead bill, to satisfy the grants which may be made to the States for the Pacific railroad. This is no matter of conjecture. The homestead bill cannot take all the lands, for if the Senator will look at its terms, he will see that it only subjects alternate sections to its operation—it only subjects half of the lands. There are in my State twenty millions of acres of public lands now. The homestead bill cannot, by possibility, by the operation of it under its own terms, take more than ten millions.

Mr. BELL. If the honorable Senator means to say there is land enough in his State, I agree with him.

Mr. BORLAND. I say, I believe there is enough now. But under the operation of the homestead bill, the value of the land will be enhanced fourfold; and there will be more than sufficient to give the State, under the operation of the proposed Pacific railroad bill, the selection of the land anywhere within the limits of the State.

Mr. GEYER. I did not intend to say a word on this subject; but the Senator from Tennessee having made special allusion to the equanimity with which I bear this discussion, I will say to him that I bear it as I am accustomed to bear discussions in the Senate, and leave my votes to vindicate themselves. I shall not now enter into any defense of the vote I gave on Saturday on the amendment of the Senator from Illinois. When the question is fairly before the Senate, I will endeavor to explain my views on the subject. I rise now merely to say, that I shall vote against taking up the homestead bill—not from any opposition to it, but from a desire that the bill which was pending when we adjourned on Saturday may be taken up and disposed of. When it is disposed of, I shall concur in any effort that may be made to take up any other important bill which may be presented; but I am, and always have been, opposed to a partial discussion of questions, dropping them and taking up some other subject which is to divert the mind of the Senate from the question pending, and when it is renewed again have the whole debate to go over. I shall vote, therefore, against the postponement of the railroad bill, and against taking up any other bill, until we have disposed of it.

Mr. GWIN. Mr. President, I wish it to be borne in mind that we have but ten days of the session left, and none of the appropriation bills yet acted upon. The chairman of the Committee on Finance [Mr. HUNTER] is now pressing them forward, and when they get upon the *tapis*, we can get up nothing else. Therefore, I call upon the friends of the homestead bill to stand by it. It is a practical and eminently important measure, and we can pass it if a majority are in favor of it. It will then be a law, as it has passed the House of Representatives already. Therefore, I say to its friends, stand to your arms and pass this great measure, from which we rightfully expect the most important benefits to the actual settlers and cultivators of the soil. I am not going to consume our precious time in replying to the remarks made by honorable Senators about the scene that occurred here on Saturday evening last; but I must say, that if the honorable Senator from Illinois [Mr. SHIELDS] had offered his amendment a week ago, and had prepared a bill strictly in accordance with it, so that there might have been a conformity in the provisions of the bill, I never would have had a word to say; but I do complain, and ever shall complain, of the side-blow by which this bill was destroyed.

Mr. SHIELDS. I wish to be permitted to say, that when the bill was brought in I conferred with my colleague on the propriety of introducing some such amendment. We thought it was right that it should be introduced. Next, I conferred with the Senator from Missouri, [Mr. GEYER,] on the propriety of bringing in such an amendment, and he brought in one similar in principle, and it was voted down. I then brought in mine.

Mr. GWIN. It is not the amendment itself of which I complain. It is, that it destroyed the bill,

because we had no time to conform the bill to it. We cannot stultify ourselves in regard to its effect. There are various sections of the bill which are affected by this amendment; and in order to have conformity, it was necessary to have the bill prepared throughout to correspond with it. I think the bill as it stood on Saturday, is destroyed by the introduction and adoption of the amendment of the Senator from Illinois, [Mr. SHIELDS;] because time is everything now. So far as the amendment affects the provisions of the bill which relate to the construction of the road in my own or any other State, I look upon it as equivalent to saying to the contractors, who propose to build the roads in those States, that they shall carry the mails of the United States, the Army and Navy supplies, &c., without charge, for which service they shall receive but three thousand eight hundred and forty acres of land per mile, or, at the price of $1 25 per acre, $4,800 per mile; when it has been shown in this debate that the iron alone for the road will cost $9,000 per mile. Now, when a bill proposes to give land alone to construct the road in California, I want the grant to be an equivalent for the service to be rendered the Government. Therefore, in my bill, I took the responsibility of asking for alternate sections for forty miles on each side of the road in California. I am not afraid to ask enough to complete a great measure. I have none of that flinching about me. I do complain that we did not have notice of the movement made on Saturday, so that we might have conformed ourselves to it. I am for the bill as reported from the Committee of the Whole, and most earnestly desire its passage during this session. I have never been in favor of this particular bill in all its details. It has never satisfied my judgment, but I have, notwithstanding, sustained it earnestly from the beginning of the discussion, because I wanted a road.

The only point in controversy now is, whether the adoption of the amendment of the Senator from Illinois [Mr. SHIELDS] has destroyed the bill this session? In my opinion it has, if from no other cause, for the want of time to mature another measure. If he had not offered his amendment, the bill would have been engrossed in ten minutes, and to-day we would have passed it and sent it to the House, where this day the rules might have been suspended by a simple majority, and put the bill on its passage, and it would have passed. If I thought we could mature and agree upon another measure, I would sit here day and night until we could pass a bill that would pass the House of Representatives. But believing in the hopelessness of this controversy, from the defection in our own ranks, and the fierce opposition waged against the measure, which requires an unbroken front to put it down, I am in despair; I have lost all hope of a railroad bill this session, and shall go for taking up the homestead bill. It is an important measure to my constituents, and one which they have a right to expect me to advocate and have passed if I can, and therefore, I am in favor of taking it up.

Mr. SEWARD. There is one question which I desire to ask of the chairman of the Select Committee which reported the railroad bill, in order to determine my vote; which is, whether, if the homestead bill is not taken up, he intends to move to take up the railroad bill?

Mr. RUSK. I will say frankly, that I shall not. I shall regard it as a useless consumption of the time of the Senate.

Mr. BROOKE. I will state to the Senator from New York, that I shall move at a proper time to take up the Pacific railroad bill. I do not agree with some of the friends of the bill that it is dead. I think the Senator from Texas, and some of the other friends of the bill, seem to consider it in the condition of the little animal whose mournful fate is celebrated in Mother Goose's melodies,

"Which, while it lived,
It lived in clover;
And when it died,
It died all over."

[Laughter.]

I do not think the bill is dead, but that there is as much vitality in it as ever. For that reason, I shall vote against taking up the homestead bill. I hope we may have an opportunity of taking up the railroad bill, and endeavoring to have it perfected.

Mr. WELLER. I regret very much that I am placed in a position where I shall be obliged to vote against the motion of the Senator from Wisconsin. No one can be more anxious that the principles of the homestead bill should meet with favor upon this floor than I am. There may be some things in it which I would desire to see modified; yet no one will go further than I will to sustain its general principles. It is a measure which shall have my cordial support. But I desire to make another motion, which is, to reconsider the vote of last Saturday, by which the amendment of the honorable Senator from Illinois was adopted, with a view to facilitate the passage of the railroad bill. There has been, in my judgment, an unnecessary clamor made by some Senators on this subject. The honorable Senator from Texas and others have been unnecessarily alarmed. In other words, they have become so exceedingly nervous that I am afraid their judgments have become affected. I think it is the easiest thing in the world to incorporate the principle contained in the amendment in such a way as to make the bill much better in many respects than the one we had before. I think we can make the bill conform to the principle contained in that amendment by one or two slight alterations. It only needs a slight modification of two sections, in order to carry out fully the principles for which we have been contending here. We are as entirely devoted to the construction of that road, I trust, as any gentlemen on this floor. I am sure we are quite as anxious to have it passed as those who profess to be its especial friends. I have no objection to their saying it is dead, either here or elsewhere. It will be for the country to determine who has been right. If it be dead, the people must decide who inflicted the mortal blow. I never can consent to be placed in a position upon a local improvement, no matter how much my constituents may be interested in it, which violates any principle which I hold sacred, or any clause of the Constitution which I have sworn to support. I say that no clamor, here or elsewhere, can ever induce me to give my support to a measure which I consider wrong, simply because the immediate interests of my constituents are involved. It is important, in every view of the case, that we should have this railroad; but it is equally important, I trust, that the bill we pass should be passed in the right way, without violating any principle, or trenching upon the Constitution. That can be done. No sensible man can doubt it.

I undertake to say that I can demonstrate that the principle advocated by my friend from Illinois can be incorporated in this bill, and make it much more practical than it was when it came from the hands of the committee. I am sorry that some gentlemen here are so sensitive that they are unwilling that other humble members of this Senate should make any amendment to this magnificent bill. They have labored zealously, I grant, and have used their best efforts to secure a proper bill. If I have not participated freely in the debate on this question, it has been because I was laboring under a disease of the throat, which prevented me from speaking in the Senate with any degree of satisfaction, either to myself or the Senate. This must have been obvious to all. It is on that account that I have been a mere looker-on (although an anxious one) during the progress of this debate; but my desire has been as sincere as that of any one for its final passage. At the same time I would not vote for the bill if it violated any provision of the Constitution, or any great principle for which I have heretofore contended. Fortunately there is no necessity for this, as the bill can be quite easily modified so as to avoid all difficulty. If Senators will only concede that the bill is not perfect as it came from the hands of the committee, we can soon place this measure upon the safest and surest footing—upon ground which will secure the certain construction of the road. This above all things I desire. It is therefore unjust to denounce those who desire to see this money expended exclusively upon that portion of the road which passes through the Territories, as unfriendly to the measure. No one, I am sure, is more anxious than I am to see this great work, which is to open up the vast and inexhaustible resources of the far and distant West, and bind the Union more closely together, prosecuted to completion. It is a work which should commend itself to every section of the Confederacy. It will do more to break down the prejudices which the frontier often feels when far distant from the home Government than any other measure which can be devised. It will bind the States of this Confederacy so closely together that fanaticism, whether it comes from the North or South, shall not be able to disturb it. Give us this road, and I undertake to say the Union will be perpetual. But I have no disposition to enter into a general discussion of this measure. This portion of the work has already been satisfactorily executed, and I desire to see the more important part, the grading and laying of the rails, commenced.

Mr. RUSK. I regard the homestead bill as a practical measure. It has passed the House of Representatives, and it only needs our vote in its favor to make it become a law. I regard the other bill now as impracticable. There may be a great deal of political capital made out of speeches upon the Pacific railroad bill, and if it is taken up, there certainly will be speeches made on it. I have choked myself down for the last two weeks, trying to get it passed; but I hope now we may have the other bill before us.

Mr. BADGER. If it be in order, I wish to say a few words directly upon the question as to taking up the homestead bill. It ought not to be taken up, in my opinion, for the very reason which has been alluded to by my friend from Texas. It is a House bill. It requires but the action of the Senate, if it thinks proper to pass it, to make it a law, so far as Congress is concerned; whereas the railroad bill, if it meets the approbation of the Senate, has still to go to the House. I do not believe that the bill is dead, unless deserted by its friends. I do not believe it is dying. If it has received any injury by the amendment which has been adopted, I sincerely believe that a little careful attention will put it in a condition to accomplish, in the main, all the great objects we have in view. If the friends of the bill, therefore, are for passing it, they ought to take it up now. The homestead bill can be passed to-day, or to-morrow, or the day after, if the Senate pleases, and it then becomes a law. The railroad bill must go to the House, and therefore if it is to be passed at all, we ought to pass it now.

Mr. RUSK. I desire to ask the Senator a question before he takes his seat. The rules of the House prevent the taking up of a bill except by a two-thirds vote. Does he believe that two thirds of the House can be obtained to vote to take up the railroad bill?

Mr. BADGER. That depends upon another question, which I will ask my friend, whether he believes that two thirds of the House is composed of reasonable men? If two thirds of the House are reasonable men, they will, of course, agree with me about this bill. If they agree with me about the bill, they will take it up and pass it. Now, sir, I am obliged by all the rules of charity, to presume, until some evidence to the contrary is shown, that all the House of Representatives are reasonable men, and, therefore, I am bound by the rules of charity to presume that they will suspend the rules to take the bill up and pass it. [Laughter.]

Mr. RUSK. I will ask another question. Does the Senator believe it is fair to require the House of Representatives, with all the business they have before them at the close of the session, to vote upon so important a bill as this, without having time to discuss it?

Mr. BADGER. I am going to answer that question with the distinct notice that I will not answer any more. [Laughter.] In answer to my friend from Texas, on that subject, I beg to say that so far as any consideration is due to the House of Representatives in regard to calling upon them to pass an important bill without debate and examination, my opinion is, that the less they debate, the more likely they will be to do right; and it is very unnecessary for them, if they understood their true position, to debate anything which the Senate passes; for if we pass it, it is a sufficient guarantee to them that it is right, and they ought to act upon it. [Laughter.]

Mr. BUTLER. I rather concur with my friend from North Carolina, that it seems to be regarded that the wisest thing we can do is to guess upon an important measure. It seems to be the understanding—guess rather than deliberate. I object to taking up the homestead bill, because, frankly, I am opposed to it, and we have not time to consider

it now. And there is another reason why I am opposed to taking it up: the measure for the adjustment of the claims of the Texas creditors, whose money is now lying in the Treasury, ought to be considered. There are widows and orphans that want their money. The five millions of dollars are now lying in the Treasury, and there are persons who are willing to take it and sign off. I understood the honorable Senator from Indiana was to call that bill up. The homestead bill will require discussion which cannot be bestowed upon it within the short time that we have left this session. The other matter requires little discussion. And it seems to me if we give to the homestead persons all the land that they may claim, and give to the road all that may be appropriated to it, we leave none to the poor Indians over whom we have heard such strains of eloquence poured out in the Senate.

Mr. BRIGHT. The Senator from South Carolina says I was to have moved the Texas debt bill at an early day. I did so, and it was made the special order for last Friday, at one o'clock. At that hour, the honorable Senator from Tennessee [Mr. BELL] had the floor, addressing the Senate upon the railroad bill, and I have had no opportunity since to call it up. This was the first special order made this session. It has been overridden day after day by various other measures, which I regret as much as the Senator from South Carolina. It is due to the Committee on Finance, who has had this subject in charge for the last eighteen months, that it should be disposed of in some way, and with the promise, on the part of the friends of the Pacific railroad bill, that their bill should be disposed of last week, I did not press the Texas debt bill on Friday at one o'clock, as I ought to have done and should have done, had it not been for interrupting the honorable Senator from Tennessee in the middle of his speech.

On Saturday I was appealed to by the friends of the railroad bill to offer no opposition to taking up that measure, for that a final vote would and should be taken that day. Well, we did take a vote on an amendment, which the honorable Senator from Texas pronounced decisive. He declared the bill dead; yet when I tried to obtain the floor this morning to move the Texas debt bill, it was awarded to one of the friends of this dead, but it appears resuscitated measure; and along with this motion comes one made by the honorable Senator from Iowa to take up the homestead bill, a measure, it is well known here and elsewhere, that I am friendly to, and that I shall vote for. But by voting against the motion of the honorable Senator from Iowa now, without an explanation, I would be thrown into a false position; therefore I desire to explain. I vote against taking up the railroad bill because I am opposed to further legislation on that subject during this session. I vote against taking up the homestead bill this morning, because the Texas debt bill has priority in the order of business upon our calendar, and because I wish to rid myself of further censure in consequence of not pressing this measure, according to the requirements of the committee that I in part represent in the matter. Let the friends of the homestead join me in taking up this prior order, and so soon as disposed of, which I hope will be before we adjourn to-day, I will gladly, willingly lend my aid in considering that bill.

Mr. DODGE, of Iowa. I trust that after the remarks of the honorable Senator from South Carolina no real friend of the homestead bill will flinch on this occasion. Sir, the advocates of that measure have submitted to every sort of delay and putting back that the friends of any measure could submit to. My friend from South Carolina is a bold man. He is opposed to the measure, and he does not want it taken up. He wishes to give it the go-by. When I profess friendship for a measure I shall show it by my acts. I am a friend to the homestead bill. It is one of those bills which have no agents sitting on the seats at the back of us here, to urge its claims. It is a measure for the houseless and homeless emigrants who have no one here to urge their claims upon us. It is for the toiling millions, who cannot come here as the advocates of the Texas debt and other claims can. I trust now, after the declaration by the Senator, we will have a fair and square vote on the motion to take up the homestead bill.

Mr. BRIGHT. I do not know whether my friend from Iowa intended by his remark to create the impression that I am opposed to the homestead bill.

Mr. DODGE. The Senator's declaration is enough for me. His word that he is for it is sufficient.

Mr. BRIGHT. I have already said that I was a friend to the homestead bill and desired its passage, and I now add that I believe its prospects will be promoted by taking up business in its order; and the first order, by every parliamentary rule or usage, is the bill reported by the Committee on Finance, twelve months ago, which provides for paying the debt of Texas. It was made a special order for the first week in January, and before any other bill of the session. As one of the committee who reported it, I have, as the Senate will bear me witness, sought on all proper occasions to bring about its consideration; and I do not feel that I have been the least remiss in my duties so far as this measure is concerned. Therefore, when the honorable Senators from South Carolina and Virginia express their surprise at the delay in this matter, and indirectly blame me for it, I say to them it is not my fault, but the fault of a majority of this body.

Mr. GWIN. Allow me to say, Mr. President, to the Senator from Indiana, that I do not think he will accomplish his object by voting against the motion to take up the homestead bill. If he is in favor of the Texas debt bill, and also of the homestead bill, why should he reject the motion which is now made? If he had obtained the floor in the first place and made the motion to take up the Texas debt bill, I would have voted for it; but now, since the Senator from Wisconsin [Mr. WALKER] has made the motion to take up the homestead bill, and that is the question now before us, it seems to me that we should have an opportunity to act upon it. If he had obtained the floor first, and made the motion to take up the Texas debt bill, I would have voted with him, although I look upon the homestead bill as the most important. All the friends of the homestead bill want is, that it shall have an opportunity to be considered.

Mr. MASON. Mr. President, the measure in relation to the Texas debt was brought before the Senate at the last session in the form of a bill reported by the Committee on Finance. It was brought in, however, at a very late period in the last session. Finding that it could not be acted upon, Senators will remember that I offered as an amendment to an appropriation bill, that which I shall offer as an amendment to the bill reported by the Committee on Finance—a measure simply to authorize the payment of this fund to the State of Texas as fast as the releases come in. That is the measure; and I have waited day after day for an opportunity of presenting it to the Senate as an amendment to the bill which was reported from the Committee on Finance. Now, sir, that is a dependent measure, and I shall have the option of presenting that measure as an amendment to an appropriation bill, or as an amendment to the bill reported by the Committee on Finance when it comes under consideration. What do Senators now propose? It is that we shall lay by all these measures upon which the Senate has deliberated, for the purpose of taking up one which has not been before the Senate—the homestead bill.

Mr. DODGE, of Iowa. The homestead bill has been before this body since May last. It has been made the special order two or three different times during this session, and when Senators have besought me to allow other bills to be considered, I have given way.

Mr. MASON. What I mean to say is this: It has been before the Senate because it has been reported from a committee, and it has been made a special order, but it has never been taken up. It has never been deliberated upon. It is not now in progress before the Senate. But the Texas debt bill has been taken up and deliberated upon, and in some way, I do not know how, it has been superseded by other measures, which have taken the precedence. I submit to the Senate, if they are to do any business in order, is it not better to finish the subjects which have been under deliberation, before we proceed to take up those which are entirely new? I regret that I felt constrained to take the floor from my friend from Indiana; but I wish to say that I feel some responsibility in relation to the bill relating to the Texas debt.

Mr. BRIGHT. I merely wish to say, in reply to the remark of the Senator from California, who said that if I had made the motion to take up the Texas bill first, he would have sustained it, that I supposed the morning hour would be devoted to morning business, and that, as a general rule, except in an extreme case, I never asked to change the regular orders of the Senate. It is to this class of motions we are indebted for the waste of time that follows our legislation here day after day.

Mr. BUTLER. I would merely reply to the honorable Senator from Iowa, [Mr. DODGE,] that I said I was opposed to the homestead bill, but it is not my mode of meeting a question by postponing it, or anything of that sort. I expect to meet it. I know it will come up. I take it for granted the bill is to be discussed, but whenever it is discussed, I think the Pacific railroad bill should be discussed at the same time, because they are antagonistic. There is no disguising the fact, that if the homestead bill is passed, and persons go on and settle the lands, the means left for the building of the road will be the more limited. It must be so, and I think that point was well presented to the Senate by the Senator from Tennessee, [Mr. BELL.] These are important measures, which whenever they are considered, should be considered together. I shall have to meet the homestead bill. If the land is sufficient for these homestead persons, and for the railroad and the Indians, be it so; but I doubt very much whether our surveys for homestead persons, for the Indians, and for railroads, are not greater than all the lands themselves. The homestead tenants will not desire to take the poor lands; and if you give them an opportunity to select the best lands, 1,400,000,000 acres will not be enough for them and for railroads and the Indians. I shall not oppose taking up the homestead bill, at a proper time. I will meet it and discuss it fairly, when it comes up. It will be a question whether the corporation of the Federal Government ought to have a preference over the homestead tenants or not, and I do not know which I would prefer—giving individuals the right to take the lands, or a Federal corporation the right of holding for the States. I think the questions should be considered at the same time. I should doubt long before I would decide.

Mr. CHASE. The Senator from Indiana states that he prefers the homestead bill to any other general bill now before the Senate. He has also said that he is for taking up the business in its order according to the rules of the Senate. I desire that my friend will abide by that declaration. According to his own showing, the homestead bill is entitled to the preference upon its merits; and I now say that it is entitled to the preference according to the rules of the Senate. According to the statement of the Secretary—and if I am wrong, I desire to be corrected by the Chair—the homestead bill has preference over the Texas debt bill. The Texas debt bill lost its precedence by being postponed to a day subsequent to that assigned for the homestead bill as a special order, and having thus lost its precedence, according to the rules of the Senate the homestead bill is now the first special order. It is, therefore, the first bill for the consideration of the Senate. I trust that, as it is the first, no friend of it will be willing to set it aside for the purpose of taking up any other bill whatsoever.

Mr. BRIGHT. In reply to the Senator from Ohio, I will state that I was not mistaken in saying that the Texas debt bill was the first special order made at the present session. In that I am correct; but its friends gave way from day to day for the purpose of giving the Pacific railroad bill consideration. It was the special order for Friday last, at one o'clock; and I inquired of the Chair, while the Senator from Tennessee was on the floor, whether he would call the special order at one o'clock. The Chair answered in the negative. I then gave notice that I should call it up myself, and intended doing so; but was assured by the friends of the Pacific railroad bill that that bill would be disposed of last week—that before the Senate adjourned on Saturday night, it would be disposed of. Under that assurance I made no call for the special order. Therefore, if any special order that has been heretofore named has the priority, I contend it is the Texas debt bill.

Mr. BRADBURY. More than two hours have already been consumed in discussing what order of business has the precedence. I rise to express the hope that we may now have a vote, and that

some little time may be afforded to that large number of bills upon our tables which will not involve the necessity of set speeches.

Mr. BADGER. I desire to make one remark which I am reluctantly called upon to make, in consequence of an observation which has fallen from the Senator from Ohio, [Mr. CHASE.] He seems to think that we ought to go in the exact order of business, and that no bill ought to be taken up preferable to another, which, according to the rule of the Senate, is entitled to priority of consideration. Now, if we adhere to the rule of the Senate, it is beyond all dispute, that the Pacific railroad bill has precedence over every other order, general and special. It was the unfinished business at the adjournment on Saturday; therefore, in order to get at any other bill, the railroad bill must be displaced from the position which it holds as being the first in order for the consideration of the Senate. Now, I am like the Senator. I am for going according to the order of business, and following that order truly. I am for taking up number one before number two; but if you displace number one arbitrarily from its position, what claim has the homestead bill——

Mr. CHASE. That is the argument of the Senator from Indiana.

Mr. BADGER. I know it, and I am going to show that it is a very good one. What claim has the homestead bill, in preference to other bills? Here we have from the House the homestead bill, Bennett's land bill, the bill commonly called Miss Dix's bill giving land for lunatic asylums, which all came up to this body at the last session. They are all bills of importance. They are all bills which commend themselves to the speedy consideration of the Senate. If, therefore, we are not to go on with the business which has precedence according to the rule of the Senate, why not take up Bennett's land bill? Why not take up the bill to give lands for the support of lunatic asylums? Why not take up one of those which afford the only opportunity, the only chance, the only possible hope, that any portion of the public domain will ever be applied to the benefit and advantage of the old States? Sir, if we go upon the order of merit, the homestead bill has no claim; if we go upon the order of preference, it has still less.

Mr. HALE. Mr. President——

Several SENATORS. Question.

Mr. HALE. If the Senate is ready for the question, I will sit down.

The question being taken by yeas and nays, resulted—yeas 23, nays 33; as follows:

YEAS—Messrs. Adams, Borland, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Gwin, Hale, Houston, James, Jones of Iowa, Jones of Tennessee, Mallory, Pettit, Rusk, Sebastian, Seyard, Shields, Sumner, Wade, and Walker—23.

NAYS—Messrs. Atchison, Badger, Bayard, Bell, Bradbury, Bright, Brodhead, Brooke, Butler, Charlton, Clarke, Cooper, Davis, Dawson, De Saussure, Fitzpatrick, Foot, Geyer, Hamlin, Hunter, Mangum, Mason, Miller, Morton, Norris, Pearce, Pratt, Smith, Soulé, Spruance, Toucey, Underwood, and Weller—33.

So the motion to take up the homestead bill was rejected.

AMENDMENT OF THE RULES.

Mr. HAMLIN. I desire to give notice that I will, to-morrow morning, move to amend the rules of the Senate, by adding a new rule, that on a motion to postpone the prior orders of the Senate, or for priority of business, the question shall be taken without debate.

CIVIL AND DIPLOMATIC BILL.

A message was received from the House of Representatives, by Mr. FORNEY, its Clerk, announcing that it had passed a bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854; which was read the first and second time, and referred to the Committee on Finance.

RAILROAD TO THE PACIFIC.

The Senate resumed the consideration of the bill "for the protection of the emigrant route and a telegraphic line, and for an overland mail between the Missouri river and the settlements in California and Oregon."

Mr. WELLER. I call up the notice which I gave of a motion to reconsider the vote by which the amendment of the Senator from Illinois was agreed to.

The motion to reconsider was agreed to.

The PRESIDENT. The amendment is now before the Senate. It is to add to the third section the following:

"*Provided*, That no portion of the $20,000,000 to be advanced by the United States shall be expended in, or deemed to apply to, the road within the limits of any State of the Union; and so much of said road, if any, as shall be located within any State of this Union, shall be made under the authority thereof, to be derived from the State Legislature, and not otherwise."

Mr. WELLER. I shall now vote against that amendment, with the view of offering amendments to two other sections which I think require modification. In order that the Senate may understand precisely the manner in which I propose to amend the bill, I will read that portion of it which, in my judgment, will be necessary in order to enable the Senate to understand the amendments. The third section of the bill provides for the donation of the lands to the contractors to whom the contract may be awarded by the President of the United States; and in the latter part of that section it is provided that there shall be appropriated

"A sum not to exceed $20,000,000, in bonds of the United States, bearing an interest of five per cent. per annum, and redeemable in fifty years."

After those words, I propose to insert—

"Which said sum shall be expended exclusively in the construction of that portion of the road which runs within the territory of the United States."

It will then become necessary, in order to make the bill consistent, to amend the sixth section. I propose to amend it by making it read as follows:

That whenever fifty miles of said road shall have been completed in a manner satisfactory to the President of the United States, he shall cause a *pro rata* payment to be made, according to the terms of the contract for the work so completed, in the bonds of the Government, issued under the provisions of this act, and by a grant of four fifths of the public lands to which the completion of the said fifty miles may entitle said contractors, and so on for each successive fifty miles, until the road shall have been completed within the limits of the territory aforesaid, and the terms of their contracts complied with, when they shall be entitled to receive the remaining fifth of said public lands.

And then to add after that the following:

And whenever fifty miles of the said road shall have been completed within the limits of any State, as now organized, in a manner satisfactory to the President of the United States, said contractors shall be entitled to four fifths of the public lands to which the completion of the said fifty miles may entitle them under the provisions of this act, and so on through each successive fifty miles until the road shall be completed within the limits of the State, and the terms of the contract fully complied with, and they shall then be entitled to receive the remaining one fifth of the public lands.

In my judgment, and I have looked at this bill with considerable care, these are two amendments which are necessary in order to make the bill an entirely practicable one. They simply recognize this principle, that the $20,000,000 which are appropriated by the bill shall be exclusively expended in the construction of that portion of the road which runs through the territory of the United States.

The PRESIDING OFFICER, (Mr. MANGUM in the chair.) The Chair will suggest to the Senator, that the motion to reconsider the amendment of the Senator from Illinois having been agreed to, the question is upon that amendment, and it must be decided before any other amendment will be in order.

Mr. WELLER. I hope that question will be decided, and I have given notice of the amendments which I design to offer at the proper time.

Mr. HALE. The effect of the amendment of the Senator from Illinois is to prevent the expenditure in a State of the money appropriated by the bill. I have occupied very little of the time of the Senate upon the bill, and I shall not now occupy more than three minutes; but I shall vote against the amendment, and every proposition of a similar character, and I shall state the reason briefly. It is this: If the Congress of the United States have power to make a railroad, it arises from the necessity of carrying out their conceded powers, their granted powers. The express power to make a railroad is not granted by the Constitution, because railroads were not known when the Constitution was formed. If, then, the power exists, it exists from the necessity to carry out their powers; and if the necessity exists, it may exist just exactly as much in relation to territory lying within a State as that lying within a Territory. It is utterly impossible for me to see any difference between the two, and therefore I shall always vote, when I do vote, against any amendment which makes any distinction between the power of the General Government to build a road in a State and in a Territory. For that reason I am opposed to the amendment, and to all amendments of its character

Mr. GEYER. I voted for this amendment on Saturday, because from the beginning I have thought that if this road was located within a State it should be subject to the power of the State to grant the right of way, and that all that we ought to do is to make a sufficient appropriation of land as an inducement for the construction of the road. I had the objection to the original bill that it proposed to erect a corporation under the authority of the United States to construct the road for its whole distance, and by its very terms would have imposed upon the States through which the road may pass the necessity of granting the right of way to that company or not have it made within the State. There are States that have already authorized the construction of roads west of the Mississippi to their western boundaries. The right of way has been granted to existing companies, and in one of the States—Missouri—three roads are now in process of construction, one running into the southwestern portion of the State, terminating on its western boundary near the southwestern corner; another starting from a point about forty miles distant from St. Louis and having its terminus at the mouth of the Kansas river; and another from Hannibal to St. Joseph, on the Missouri river. The right of way there has been granted; and if you create a corporation, or authorize a corporation created by the State of Maine, or any other State, to construct a road within Missouri, you impose upon it the necessity of granting to that company the right of way; nay, sir, more: you impose upon that State the necessity of granting the right of way upon a charter that may be given by any other State in the Union. As the bill now stands, the contract for the whole road from the Mississippi—if it shall be located with its terminus on the Mississippi—to the Pacific will be under the control of a company to be incorporated by some State of the Union without reference to the States through which the road is to pass.

Now, Mr. President, it will be readily seen that if the road shall be extended to the Mississippi, through the State of Missouri or Arkansas, or it may be of Iowa, it will require of them to grant the right of way upon just such terms, and under such regulations, as may be incorporated in the act of incorporation creating the company. It is to that I object, not on any constitutional grounds, but because it presents a difficulty and imposes a necessity upon the State through which the road is to pass, which I do not think Congress ought to impose.

But I voted for a reconsideration of the amendment also, because there is one clause in it which I did not advert to on Saturday evening, when at a late hour it was proposed; that is, that the road, without any adequate provision on the part of Congress, is committed alone to the State through which it passes. I had prepared an amendment. It was printed some two weeks ago and laid on the tables of Senators. On Saturday I proposed it. The first clause was rejected, and with it the others fell. I acquiesced, because I deemed it a matter of the first importance that the work should be commenced, and I would have voted for the bill without any such restriction in it. But now, when the subject is again before the Senate, I desire to say, that in my opinion, adequate provision can be made for the construction of the road upon the plan of this bill, which will not interfere with the power and control of the States in reference to the right of way over the private lands, and the regulations for the condemnation of those private lands in the State. I shall propose, therefore, if an opportunity is afforded again, the amendment, with some modifications, which I had the honor to submit before. If the road is located in a State—and I hope it will not be, except, perhaps, in California—I hope the President will limit the eastern terminus at the western boundary of the States on the Mississippi. But if the road is to be extended to the Mississippi river, it becomes important, in my judgment, that other provisions be made for the construction of the road within the States. I shall therefore propose, that if the road shall be located in any State, there shall be appropriated, in aid of its construction in the State, the alternate sections of land for ten miles on each side of the road.

I then propose that that road shall conform in gauge and general construction to the road which shall be adopted in the Territories that connects with it; that it shall be subject to the eighth section of the act, which requires that the transportation of the troops and property of the United States shall be free; that the President shall let the construction of the road, within the States, to the company or persons authorized by the State within which it lies, to construct the road. This provision will leave it to the State to grant the right of way, to impose the terms upon which it shall be granted, and the mode in which private property shall be taken, and not leave it, as the bill now leaves it, to be put upon the States to accept just such terms as Maine, Massachusetts, or Delaware, or any other State that shall incorporate the company, shall prescribe.

The Senator from Tennessee reminds me that the States are to give their consent in advance. Why, sir, they are to give their consent before the act of incorporation is passed by the Legislature of another State; they are to give it before the location is made. The Senator says he does not so understand it. Then, sir, I inquire how can the President locate the road unless he has the previous consent of the State? How can the President know whether the road can be constructed in that State and its consent can be obtained, unless it is obtained in advance? The first section of the act is made upon the condition that the States shall accede, and the whole bill proceeds upon the idea that the assent is to be obtained. As the bill originally stood, with the thirteenth section in it as amended on my motion, they would have understood that the corporation was only created with certain powers within the Territories, and they then might have prescribed their own terms. But now they do not know. The contract is to be let to any corporation that may be created by any State; and it is against that that I wish to guard. I have no objection to that provision, if it is provided also that within the States through which the road shall be made, the power of the States shall be left free, and that they shall not have imposed upon them the necessity of acquiescing in any act of incorporation that may be made by any other State. I wish it also for another reason, and that is, that the President shall not be embarrassed in the selection of the route; that he may understand with whom he is to contract; and there can be no obstacle to grant the power by a State, if the road shall be located through it.

These are my objections to the bill as it now stands. Had the thirteenth section remained, with the limitation that the act of incorporation should extend only to the Territories, when it would be a company incorporated by Congress, with its known limitations, so as to afford the States an opportunity of judging what those powers were, I should have been ready to vote for the bill without the amendment of the Senator from Illinois, or without any further amendment on the subject, although it was my opinion from the beginning that we ought to provide separately for the construction of the road in the States; and if there be any difficulty about Texas, if the road is located there, I should have no hesitation whatever in making a provision for that also. But it will be observed that the whole amount of money which remains for the construction of the road through the Territories, will remain under the control of this company, when they shall have constructed the road for the distance which allows any payment to be made. Now, Mr. President, it makes no earthly difference whether that money is expended in the State through which the road goes, or whether it is expended in the Territories, except this: that for the distance that the road may run through any State, there will be no apportionment, and the company that undertakes the road will construct it through the State upon its own means, and means which are furnished by the public lands, where there are such.

The bill, if amended as I proposed, would be this: It would leave the whole amount of twenty millions of dollars, and the alternate sections, for twelve miles in width on each side of the road, to make the road through the Territories from point to point, under the contract; and if it will run through Texas, Texas has only to give her consent, and still the lands will be appropriated to the object; she has only then to grant the right of way through the State upon her own terms, and to regulate the manner in which private property, if there be any, shall be appropriated to the road. If the amendment should prevail, it may have another effect: by making a distinct appropriation for the Territories, of the whole amount of money—the maximum twenty millions—and twelve sections of land for each mile of the road, it being the maximum—if there be competition, it may be reduced below that amount. And in the States, according to the amendment which I intend to submit, the United States will be indemnified for at least three fifths of the land which is proposed to be appropriated for the object of the road within the States, by adopting the clause which has been adopted in all railroad acts, requiring the lands to be held at a price double the minimum price at which they are now held. At the same time, so far from making a *sine qua non*—so far from being disposed to indulge in invectives, because the particular plan of a road which may have been suggested to my mind is not adopted—against gentlemen who vote against that proposition, if my amendment shall be rejected I shall not feel myself at liberty to give up the road in despair; I will still hope that some modification may be made which will render it acceptable, and insure the construction of the road.

Mr. BORLAND. I have a few words to say upon the proposition now before us, with regard to its general character. I understand it is upon the amendment proposed on Saturday by the Senator from Illinois. I understand there is a modification proposed by the Senator from California, [Mr. WELLER.] I voted against that amendment on Saturday, and I did so because I was satisfied with the bill as it stood before. I have been a little surprised when I have found Senators who avowed their intention to vote for the bill without such an amendment, voting to insist upon the amendment. Sir, if it be true that that amendment was necessary to save the constitutional power of Congress to make the road through the States, I cannot see how any Senator, who entertained that view, could vote for the bill without it; for to admit the propriety, or insist on making the amendment, was to condemn the bill as it stood before, upon constitutional grounds, and to preclude those from giving a vote in favor of it. The objection to the bill, to remove which the amendment was offered, was, that it was carrying the exercise of the Federal power within the limits of the State, and expending the public money from the Federal Treasury for improvements within the limits of a State. Did that objection exist to the bill? I thought not, for two reasons: first, upon the general ground that this was not a local object—that it was a great national work, more national than anything proposed since I have known anything of the Senate, and therefore came clearly within the constitutional power of the Federal Government to make the road. Admitting the power of the Government to make the road, as a national work, it would involve, of necessity, the exercise of the means and the power of the General Government, which are deemed necessary for its construction. It appears to me it is constitutional also, upon another ground, which is, that the assent of a State before commencing the work was a condition required by the provisions of the bill. Such I consider the character of the bill as it stood before the amendment was offered to it. For that reason, I conceive there was no necessity for any amendment, even to save the political prejudices of gentlemen.

It has been said by those who have had this bill specially in charge, that the amendment has disjointed it. I think that such will be the effect. Sir, there is one fact which it seems to me must strike the mind of every Senator at once; that it introduces various agencies in the construction of the work which might not act harmoniously. There are three States at least through which this road will pass. The company is forbidden to make the road within the limits of a State. It reserves to each State the power of making the road within its own limits. What, then, is the effect? Why, that you have a company operating in the Territories, under the authority of the Federal Government. If it so pleased the several States through which the road will pass, you will have three other companies operating within the States, and constructing the roads there. There are four agencies thus provided for. What harmony can there be in such a case, or what concert of action? None. Senators may say that they would, from a sense of their own interest, act together. That may be a possibility. It may be a probability. But I hold, that in a measure so important as this, we should leave nothing to possibilities or probabilities, but fix upon the terms of the bill as we have in all other cases, so that there shall not be any uncertainty, nor anything left to what may be considered peculiar local self-interest, or that of any party or State.

The honorable Senator from Illinois, [Mr. DOUGLAS,] in sustaining the amendment which his colleague had offered, and which was carried on Saturday, made what might be called a specious argument, and to my mind, one that proved entirely too much. He reminded the Senate that this amendment did not withdraw any of the means which the bill provided for the construction of the road. He said the amount of land provided in the Territories and in the States, remained the same, and the amount of the money—$20,000,000—remained the same; that there was no reduction in the means, either in money or in land. He argued that therefore there could be no objection to the amendment, because the same means were allowed, and the company who might undertake the work would have all the means which the bill provided before; and that the only limitation was, that they should expend it in the Territories, and not in the States. It only limited the application of the means to a narrower space, so that the company would have more means to expend on the Territories. They were not, therefore, limited in the means, but in the power of spreading it over the whole extent of the road—in the States, as well as the Territories. I say that argument proved too much. If the argument had any force in it, it meant that they would have more money than would be necessary to build the road in the Territories. What, then, I ask, is to be done with the surplus, after building the road in the Territories? The Senator had no objections to giving all this land, and these $20,000,000 besides, to make the road, although, according to his argument, the $20,000,000 in addition to the land was more than sufficient to build the road in the Territories. What was to be done with the surplus? Should they take the money raised upon these twenty millions of bonds, and apply it to their own private purposes? or, to show the practical operation of it, could they put that money in one pocket, and take money from the other, for the purpose of building the road? It is an objection that the money shall not be expended within the limits of a State, even with the consent of the State, to build a great national work, which all admit to be national and necessary for the public interest. And none have contended for its nationality more than the Senators from Illinois. But though you may give money to the company for purposes of private profit, you cannot, under the Constitution, as I understand this argument, give money to a company to build the road within the States, with the consent of the States. But you may give them money to build a road in the Territories, and if there be a surplus, for their private purposes. If not, what is to become of the surplus, I ask?

I confess I am somewhat inclined to think as the Senator from Texas said this morning that he did, with regard to these arguments, that there is altogether too much metaphysics in them. I think there was a little too much refinement upon the Constitution in them. My friends consider me as sufficiently narrow in my construction of that instrument, but it seems to me that this construction is a little too narrow for my comprehension.

The distinctions are a little too nice and metaphysical. The proposition is, if I understand the argument, that this is a great national work. All admit that. It comes within the power of the General Government to make such a work, or to authorize the construction, and appropriate land and money for it. It is competent for the Government, in the exercise of that power, to appropriate land, and to appropriate $20,000,000 for the purpose of making the road. They make it within certain limits, and if there be a surplus over and above the amount which may be necessary for the road, they may apply it for their own private uses; but when they attempt to carry a road within the limits of a State, even with the consent of the State, they are debarred by the Constitution. Why? I cannot answer the question. It seems to me there is no answer to it, and for that reason,

I conclude there is no foundation for the proposition at all. I am unable to see how you can grant money to a company to build a road, and permit them to take the surplus for private use, and not permit them to apply it to the construction of a road in a State, with the consent of the State first had and obtained.

Mr. President, I did intend to go further into the consideration of this subject, and examine the operation of this bill, and argue the proposed amendment as it will directly affect the interest of my own State; but as I prefer voting something practical and to the point now, rather than speech-making, and in order that this bill may, if we can pass it, go to the other House, and become a law at this session, I will abstain from saying anything more.

Mr. SMITH. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. GWIN. The question, I believe, is on the adoption of the amendment offered by the Senator from Illinois, and adopted on Saturday evening, which has been reconsidered. I hope that the Senate will vote down that amendment. I hope the friends of this measure will rally to its support, inasmuch as the bill was matured in Committee of the Whole and reported to the Senate, because I believe it may open the door to amendments, so that you will lose the bill as it came to the Senate. I believe, if we can get the bill even into the same shape that it was in late on Saturday evening, before the amendment of the Senator from Illinois was offered, there may be still some hope of its passage. And inasmuch as we have spent a great deal of time in maturing this bill and bringing it out of the Committee of the Whole into the Senate, I hope that we may bring it back to the shape in which it was on Saturday evening, and that, in that form, it may be passed. I am not going into this argument about the constitutionality of voting money out of the Treasury of the United States to build a military or postal road through the States of this Confederacy with the consent of the States. It is not necessary to argue that question before my constituents; nor do I believe it is necessary to talk about it in order to convince the country. I believe the bill will stand fire in every section of the country except, perhaps, South Carolina.

Mr. MASON. I will except Virginia, too.

Mr. GWIN. I will not. I know the Senator is of that opinion; but I differ with him. I believe that this measure will meet with the approbation of the whole country. All the people of the United States will indorse its necessity. They have already indicated it, if anything can be indicated; and I have no doubt, if we pass the measure, it will be received with congratulation throughout the whole nation.

Inasmuch as we have matured the measure, and it is an important measure, a gigantic measure, such a measure that no one can sit down and write an amendment for it on his knee which will come in appropriately in the bill; and inasmuch as we have got the bill once ready for an engrossment, I hope we may not undertake to change it now, or vary it one hundredth part of a hair. We have met with very great opposition; but I have sat here and pulled my hair, hearing myself denounced, and while others have talked a whole week, I have said nothing, though I knew they were speaking to kill time; availing themselves of the legitimate privilege of a minority. I thought, however, it was my duty to sit still. But now, when there is danger that this measure may be lost, and when the time has come that we must rally to sustain the bill, I have thought it my duty to say to the Senate that we ought to take it in the form in which it came matured from the Committee of the Whole, and put it through.

Mr. BUTLER. South Carolina may very probably be the very last State in the Union that will cease to contend for the securities of the Constitution. I hope it will be the last that will embark upon a system of policy described by the fable, by leaping before she has looked. I was one of the first that made opposition to this bill; but I did not speak against it to kill time, nor do I believe that any gentleman who has spoken upon the subject, has spoken with any intention to defeat it by the lapse of time. I was in good faith opposed to it on the ground of a want of a survey. I wish to say this much: Why are gentlemen afraid of a survey? And, why am I in favor of a survey? If my information is correct, it is a subject capable of demonstration, that the Gila route, or the route running to the south, as it is termed, is the preferable one. And if it shall be established by surveys that that is the preferable route, ought I not to have a choice? It may be that as the road is to be built, all constitutional prescriptions and usages are to be disregarded. It may be my duty to vote for a particular route in preference to another; but I will never vote for a route to be designated in the dark, and with the almost perfect certainty that it is to be a route from California to the Lakes. No survey would give the road that direction. The subject is capable of perfect demonstration, that the southern route is the proper one. But gentlemen dare not meet on a broad ground; they are willing to spread their nets so wide that they can take in all things, and get some road without leaving some hopes to us where the route shall be.

I know the Senator from Texas is confident the road will go through Texas. I think it ought to go through Texas; but no gentleman, talk with whom you may, will get up and say where the road shall be; and yet I am to go through the dark and appropriate fifty millions, perhaps, in land and money, because a road is called for between the valley of the Mississippi and the Pacific ocean. That railroad, I think, will be built in time; and I think it ought to be built. If the Constitution is to be overcome, and my constitutional objections are to be put aside, I think it ought to commence at one point on the Mississippi river and go to a point on the Pacific ocean. I appeal to the Senator from Texas on that subject. How are we to get iron and other materials in that desert country? The cost of transportation would destroy the project. If you are to have a road, I say that, on principles of common sense, you ought to begin one point on the Mississippi and the other on the Pacific ocean. If gentlemen can overcome their scruples against such a road, be it so. I cannot vote for it, on this simple ground which I have designated. It will take me some time to be disciplined in this school of casuistry before I can give up my constitutional scruples to expediency, or as the Senator from California says, necessity. I think this road should be a work of time, and I think the only sure way to have the road made would be to begin at the points designated. I understand gentlemen have no scruples on constitutional grounds.

If I were to propose now to alter the Constitution so that no money should be appropriated for making a railroad, or cutting a canal, or erecting any important work of internal improvement, or to regulate commerce except by a two-thirds vote, I will answer for it, I should be told that any alteration was unnecessary. Why is there no necessity for such an alteration? When gentlemen can resort to all these various modes of construing the Constitution, necessity being one ground, convenience another, and State policy a third, is there any need of changing the Constitution? I know that I may be "the last of the Mohegans." It may be that South Carolina will stand alone by the ramparts of the Constitution. I feel complimented by the remark. If the bulwarks are to be broken down, I will stand by to the last to maintain the position which Virginia, Louisiana, North Carolina, and Maryland, and I believe pretty nearly all the old-fashioned States of the Union, have maintained; and if they are to be swept off by this declamation—I will not say declamation in a sense that may be regarded as at all offensive—but I say if these bursts of patriotic demands upon the Treasury—of course they are patriotic, for patriotism is regulated very much by the quantity of money which can be drawn from the Treasury, and perhaps as this may not go to South Carolina, I may not feel exactly the force of the application—but I say that if others are influenced by such reasonings, I am not. I do not say that we shall give up our harbors on the sea-board. This is the first time I am to learn that the Atlantic ocean is the subject of internal improvement.

The Senator from Kentucky [Mr. UNDERWOOD] said the other day that the construction of the Constitution had a salt-water sprinkling or baptism. Why, sir, that was the meaning of the Constitution originally. It looked to the salt water as the highway of nations. However, I did not intend to rise to make any remarks; but when I was alluded to, I felt called on to say that I am not going to give up my constitutional scruples—I will not even say constitutional—I am not going to give up my common sense to take a road at random.

Mr. RUSK. I do not intend to give up the Constitution either. I have read it with my limited capacity. I have taken an oath to support it and carry it out, and I mean honestly and fairly, so far as may depend upon my votes here, to carry it out. As I understand the Constitution of the United States, its very first clause makes it an obligation to afford a general protection to the States against foreign nations. It was necessary to form a Union as to all external matters; and one of the strongest obligations which I feel resting upon me by the Constitution of the country, and by the oath which I have taken to support it, is to regard the safety of those American citizens who may be unprotected. Sir, here, where no enemy threatens—where the war-whoop, the tomahawk and the scalping-knife are strangers—there is no particular necessity for any extraordinary exertion of power to afford protection; but in your far-off possessions upon the Pacific, which are as much a part and parcel of the United States as the inhabitants of this District are, there is danger, and there is an exposure, and the Constitution requires you to extend the protection of the Government over that section of country.

But, say gentlemen, it is unconstitutional to expend money within the States for the construction of a road. The honorable Senator from Connecticut [Mr. TOUCEY] especially, has dwelt upon the obligation of the Constitution, and pointed out the danger to which he supposes the bill will lead. The honorable Senator from Michigan [Mr. CASS] talked of our changing the Constitution and spending money within the limits of the States for internal improvements, and that we were utterly destroying the Constitution and making thirty-one constitutions out of one. He was good enough to say that no precedent operated upon him. Perhaps he intends to repudiate a precedent set by himself.

I recollect, during the last session of Congress, the introduction of a bill into this Chamber, if I mistake not, in terms for taking out of the Treasury four or five hundred thousand dollars, in money, to construct a canal at St. Mary's, beginning in the State of Michigan and ending in the State of Michigan. It was warmly supported by the Senator from Michigan, [Mr. CASS.] If I do not fail in my recollection further, the Senator from Connecticut, [Mr. TOUCEY,] after great preparation, delivered a constitutional argument in this Chamber in favor of the appropriation. If I recollect rightly—for I have not turned to examine it lately—the distinction drawn there was that it was connecting two great seas, Lake Superior and some other great lake, and that that might be necessary for defense.

Now, sir, I do not know of what sort of materials this Constitution is formed. It may be that it is made of that kind of stuff that when it gets into the genial atmosphere of the lakes it expands and covers everything; and when it comes down to a central position on the Mississippi, it contracts and drives the States out of all benefits from it. But I have not so understood it. I regard it in its length and breadth just as much in force in California as in Washington city; just as much in force in my State as in Michigan; just as much in force in Missouri and Arkansas, although they are interior, and just as liable to stretch and contract there as anywhere else. That is the Constitution I have sworn to support. I have seen in my travels an article which the Mexicans cut out of a raw hide, which, on a sunny day, contracts and draws up, and you cannot manage it; but in a wet, damp day it expands. But I have never regarded the Constitution as constructed of such material. I cannot understand the arguments as to the distinctions which have been made here. I will not call them metaphysical, because there are certain distinctions here which it may be that it is the obtuseness of intellect on my part which I cannot understand; certain legal constitutional arguments delivered by the apostles of the Democracy, among whom I have unfortunately fallen into suspicion. I cannot understand if, upon our northern frontier you can spend $500,000 to construct a canal in Michigan, that you cannot defend your possessions on the Pacific, and spend $20,000,000 for that purpose, if need be. I cannot

see the distinction between the two cases, nor did the earlier apostles of the Democracy.

It is unnecessary for me to refer to the law on your statute-book, sanctioned by Jefferson and every President down to Jackson, making improvements of that sort. Then, where they took money for a certain object, they understood it. Now, we whip the devil round the stump. But they were plain men. Mr. Madison was a plain and a tolerably learned man, too. He had considerable to do with the Constitution. I happened to come across an act introduced into the House of Representatives by Mr. Madison, entitled "An act concerning the post roads from Portland, in Maine, to Savannah, in Georgia." If I had given notice of introducing such a bill here as this, I should have been turned out of the Democratic party in fifteen minutes, and would never have had time to make an explanation. This was done in 1796, soon after the Constitution was formed, and before it had received these learned comments; before it was found out that things were conveyed there of which its framers never dreamed. Here is the act which Mr. Madison introduced:

"*Be it enacted, &c.*, That the President of the United States be, and he hereby is, authorized to cause to be examined, and where necessary, to be surveyed, the routes most proper for the transportation of the mail between the following places, to wit:"—

Mr. BUTLER. A survey.

Mr. RUSK. Oh, yes, a survey. I shall come to that subject shortly.

—"Portland, in Maine, Boston, New York, Philadelphia, Wilmington, Baltimore, city of Washington, Alexandria, Fredericksburg, Richmond, Raleigh, Louisville, and Savannah, in Georgia; and that he cause a report of such examination and survey to be laid before Congress, together with an estimate of the expense necessary for rendering the said routes the established routes for the transportation of the mail.

"SEC. 3. *And be it further enacted*, That a sum not exceeding $5,000, to be paid out of the surplus revenues of the Post Office, be, and hereby is appropriated for defraying the expense of the examination and survey aforesaid."

Mr. BUTLER. Five thousand dollars!

Mr. RUSK. They had not so much money as we have now. This bill, as the Journal shows, was reported by Mr. Madison to the House of Representatives, where it passed on the 20th of May, 1796. The report of the committee in the Senate was, "The committee on the bill concerning the post road from Portland, in Maine, to Savannah, in Georgia, report that it ought to pass without amendment." There were no constitutional difficulties here then. The committee of the Senate reported the bill to the Senate on the 23d of May, 1796; and on the 24th of May it was rejected.

Mr. BUTLER. Does my friend understand Mr. Madison to have recommended the construction of a road?

Mr. RUSK. Mr. Madison meant, perhaps my friend may say, only to make a grandiloquent flourish simply, for popularity! Then, here I find are some laws signed by Mr. Madison relating to the building of the Cumberland road. As the gentleman from South Carolina is so anxious to get to the "survey," I will come to that. Nobody proposes to build a road without a survey. The bill provides ample means for that. It authorizes the President of the United States to use the whole Topographical Corps, and to appoint ten additional civil engineers, for the very purpose of making this survey in order to ascertain the practicability of the route, and to ascertain which will be the best to answer all the purposes of transportation, and for the defenses of the country. After this is done, he is to make a selection of the best route. All of us want the road to go in our own section of the country. That kind of feeling is natural. It is to be expected that there should be some anxiety to take it near the section of country where we live.

I cannot, upon that subject, pass by a notice of the dignified and noble and bold conduct of the honorable Senator from Iowa, [Mr. DODGE,] in expressing the sentiments and opinions which he has expressed upon this subject. Sir, it is worthy of the man. It commends itself to my admiration; and I trust in God, that while I may feel a proper attachment to my own section, my bosom, as long as I am a representative in the National Legislature, may always be prompted by such noble sentiments. He said he was anxious that the road should go through Iowa, but he said that he would not prefer the interest of Iowa to the interest of the country. He was on the committee, and was in favor of throwing the responsibility upon the President of the United States to select, after a full and thorough examination, the best route. Sir, there were opposing politicians to the President on that committee, and they agreed to this. The Chief Magistrate, the highest officer in the world, as I regard it, has the confidence reposed in him to make this selection. We thought that in no place could we place the trust and power to make the selection, better than in the President. He is the President of the whole country, and I trust, as long as he holds office, he may be so—neither the President of a clique or section or particular interest. He is the President of the whole country, and we thought it better to refer this question to him.

If there is a partial attempt in that bill to force the location at any particular place, point it out, and I will acknowledge a want of capacity in my own mind to see anything if it exists there at all. No, sir, it is drawn up upon the ground that the President will act fairly and honestly in the matter, and select the points and the route which to him may appear best. Under such circumstances, if he is an honest man—and I would not have voted for him if I did believe him to be so—he will select the proper route, the best route, having reference to all the requirements of a road of this description; one which will be condusive to the general benefit of the country.

I have said so much with regard to the bill generally. Now, with regard to the amendment. The bill has been matured with as much consideration as we could give it in the Senate. Now, when it is ready to be reported, an amendment is proposed to be attached to it. The amendment proposes that the money shall only be applied to the construction of the road through the Territories.

Now do you not see at once, that if the route shall be settled with a great length of the road within the Territories, more money will be required for building that road than would be needed if the length within the Territories was less? The money is to be paid to the contractors, not because the United States has an interest in the road, but it is paid for the service to be performed by the company in transporting the troops and munitions of war, and the mails of the United States. The company are required to construct the road for the aid given them. It would, in my opinion, be as much a violation of the Constitution of the United States to grant a mail contract, and require the mail to be carried on a railroad in a State, and pay more for the service than it would cost to carry it on horseback, as it is to grant money as it is proposed to do by this bill. Then you could not make a difference in price between carrying the mail on horseback and in four-horse coaches, without a direct violation of the Constitution.

Sir, in my opinion, the bill was understood by the committee. In my opinion, it is a bill which will construct the road. In my humble judgment, it violates no principle of the Constitution. It fills up a necessity for our mail facilities, and for our means of national defense. I hope the Senate will either adopt it or reject it, without at this moment encumbering it with the amendment, which will evidently throw it into confusion. If you appropriate all the money for the Territories, there is the only place where you can pay for the carrying of the mail; and how then will you pay for carrying the mail in the States?

Mr. WELLER. By the railroad.

Mr. RUSK. There is no other railroad. If the Senator is willing to propose that for his own State, I am not.

Mr. WELLER. I am.

Mr. RUSK. I am not willing to require the State of California to carry the mail free, when other States get paid for it.

Mr. WELLER. I do not understand that this bill gives any land to the State of California at all. I understand that it gives alternate sections in California to contractors to make the road. Wherefore, then, does the honorable Senator undertake to say that California is to take the sections? The State of California has nothing to do with the construction of the road. It is to be made by contractors to whom the President of the United States may award the contract.

Mr. RUSK. With her consent; and allow me to say, according to my humble judgment, for her benefit. Rely upon it, if you adopt the amendment you destroy the bill. With the amendment in, it will not build the road. In my opinion, there is no violation of the Constitution in the bill. I see no discrepancy in any of the provisions of the bill as a whole. If you defeat it, the loss of the benefit of carrying the mail is not the only thing. After making this advance for the purpose of aiding in the construction of the road, Congress reserves the power to regulate the passage money to be charged, the amount of freight to be charged. If you divide it out, and give the construction of the road in California to one company, in Missouri, Arkansas, or Texas, to another, and in the Territories to another, you have no control over the freight charges at all. If you adopt the amendment, you may strike out the balance of the bill, for it does not correspond at all.

Mr. MASON. I feel under some obligations to the Senator from Texas for the extent of his researches in the archives of the Senate, resulting in the production which he has just read—a bill which was introduced by Mr. Madison. I understand the Senator to bring that forward as a precedent to show that Mr. Madison, an admittedly great expounder of the Constitution, considered the proposition contained in that bill—introduced by him in 1796—consistent with the Constitution; and therefore the honorable Senator would have us to infer that what is contained in his bill is equally consistent. Now, sir, I make this proposition to the honorable Senator: The bill introduced by Mr. Madison was to establish a post route between a point in the North and a point in the South, and in a manner which he considered the Constitution admitted. Let the Senator from Texas take that bill and substitute it for his. Will he vote for it as a substitute?

Mr. RUSK. Certainly not.

Mr. MASON. And why? Because he has declared that his bill, in his impression, will construct the road; but Mr. Madison's bill will not construct a road, and was never intended for the purpose. Yet it is adduced here as authority.

Mr. RUSK. What, then, did he mean?

Mr. MASON. I will show you what he meant. If he meant to construct a road, why will not the Senator take his bill as a substitute?

Mr. RUSK. Because he does not provide the means of doing it; mine does.

Mr. MASON. Mr. Madison's bill provided for a survey; but the honorable Senator introduces it as authority for this bill to construct a road. Now, I am happy to make a few remarks upon it before the Senate and before the country. It was introduced in 1796, and is presented here now as the constitutional exposition of Mr. Madison upon the road-making power. I shall ask of the reporters to print this bill along with the remarks which I have to make upon it, that it may go before the country as that which Mr. Madison believed was the constitutional power of Congress to act upon this subject.* Sir, the provision in the Constitution is simply this: "Congress shall have power to establish post offices and post roads." That is the whole constitutional provision; and this bill, introdued in 1796, appears to have been the earliest attempt of one of the framers of the Constitution to expound that clause. What does that bill provide? Its title is, "An act concerning *a post road* from Portland, in Maine, to Savannah, in Georgia." The title gives the key to the meaning of the bill in its subsequent sections. The Constitution gives power to establish post roads. What are post roads? Roads for the transmission of the mail. To be transmitted where? Why, where roads are preëxisting. You find roads where there are people, and where there are people you want

*An Act concerning the post road from Portland, in Maine, to Savannah, in Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That the President of the United States be, and he hereby is, authorized to cause to be examined, and where necessary, to be surveyed, the routes most proper for the transportation of the mail between the following places, to wit: Portland, in Maine, Boston, New York, Philadelphia, Wilmington, Baltimore, City of Washington, Alexandria, Fredericksburg, Richmond, Raleigh, Louisville, and Savannah, in Georgia; and that he cause a report of such examination and survey to be laid before Congress, together with an estimate of the expense necessary for rendering the said routes the established routes for the transportation of the mail.

SEC. 2. *And be it further enacted*, That a sum not exceeding $5,000, to be paid out of the surplus revenues of the Post Office, be, and hereby is, appropriated for defraying the expense of the examination and survey aforesaid.

mails; and the Constitution said that Congress should have power to designate the roads—nothing more—amongst existing roads between two points, to designate one, and thereby establish it as a post road.

The provisions of Mr. Madison's bill are simply these: "That the President of the United 'States be, and he hereby is, authorized to cause 'to be examined, and where necessary, to be sur-'veyed, the routes most proper for the transport-'ation of the mail between the following places: 'Portland, in Maine, Boston, New York, Philadel-'phia, Wilmington, Baltimore, City of Washing-'ton, Alexandria, Fredericksburg, Richmond, Ra-'leigh, Louisville, and Savannah, in Georgia; and 'that he cause a report of such examination and 'survey to be laid before Congress, together with 'the expense necessary for"—doing what? For building these roads? Not one word like it; but that "he cause a report of such examination and survey to be laid before Congress"—for what purpose? For the purpose of enabling Congress to decide which routes should be established as post routes. The language of the bill is: "For rendering the said routes the established routes for the transportation of the mail."

Does the honorable Senator mean to say that the framer of that bill intended that Congress was to construct these roads, should go into the States, should condemn the land, should assume jurisdiction over it, should give power to take material and put up toll-gates, and do all that should be necessary to give efficiency to an artificial road? If Mr. Madison meant that, why did he not say so? Why did he confine himself to the language of the Constitution, and confine his bill to the purpose of enabling Congress to determine which of the existing routes should be established as post routes? Sir, I presume—for I am not well informed upon this subject—that it was amongst the earliest efforts of the statesmen of that day to give effect, in the infancy of the country, to the clause of the Constitution which authorizes Congress to establish post roads. The meaning of the bill, then, would simply be this: There are various routes between Portland, in Maine, and Savannah, in Georgia, passing through the cities designated in the bill. Some of them are practicable. Some of them can be traveled by mail coaches; others only on horseback. On some, the streams are bridged; on others, not; and it is a matter of moment to the United States to determine which is the most eligible for transporting the mail. Now, said he, send a surveyor there; send an engineer who may make a reconnoissance of these routes, and when surveys are necessary, let them be surveyed; and when the work is done, report it to Congress, with an estimate of the expense necessary to render them post roads.

I say that if the intention had been to construct a road, the bill would have said so; but the intention simply was to enable Congress to inform the States through which this road went, that if certain work reported on survey be done upon such and such roads, we shall then be enabled to establish them as post routes. If it meant anything more, what did it mean? It certainly did not mean to construct them. Congress had the power of choosing only the power of election as to which should be established as post routes. That was a preliminary step to enable Congress to say which of the routes should be post routes; which were fit to carry the mail. The bill went to that extent—no further.

It went on to provide "that a sum not exceed-'ing five thousand dollars, to be paid *out of the sur-'plus revenues of the Post Office*, be, and hereby is, 'appropriated for defraying the expense of the ex-'amination and survey aforesaid." The money was not to come out of the Treasury at all, but out of the surplus income of the Post Office. Yet the Senator from Texas presents this bill as authority derived from so high a source as that of Mr. Madison, for the constitutionality of the provisions of his bill. Sir, I do not put it at all as a challenge to the Senator, but I would say this to him: if his argument be worth anything at all, it should lead him to substitute this for his bill. Let him have a law passed by Congress for the survey of the post routes between the Mississippi and the Pacific, and a report of the expenditure necessary to have those routes, when they pass through States or Territories, fit to be established as mail routes. I desire that this bill of Mr. Madison may be printed, that it may go before the country, that the people may see what was projected by one of the framers of the Constitution, as the extent of power to establish post roads, and what is projected now.

Mr. UNDERWOOD. I want a little more printed, to go out to the country with that bill of Mr. Madison, read by the Senator from Texas. I have before me the whole debate on which that bill was founded. I wish the whole of that debate printed, and when it is printed it will show that the gentleman from Virginia is wrong from beginning to end. Here it is:

"Mr. MADISON moved that the resolution, laid upon the table some days ago, be taken up, relative to the survey of the post-roads between the provinces of Maine and Georgia; which, being read, he observed that two good effects would arise from carrying this resolution into effect; the shortest route from one place to another would be determined upon, and persons, having a certainty of the stability of the roads, would not hesitate to make improvements upon them."

Mr. MASON. Every one agrees to that.

Mr. UNDERWOOD. I admit that looks as if the object was to have the improvements made by private persons and not by the United States; but the gentleman must not whistle till he gets out of the woods. Let me read further:

"Mr. BALDWIN"——

Mr. PRATT. Of Georgia?

Mr. UNDERWOOD. The book does not mention the State, but I believe he was from Georgia. This debate, be it remembered, took place in 1796, two years before the Virginia resolutions of '98:

"Mr. BALDWIN was glad to see this business brought forward; the sooner it could be carried into effect the better. In many parts of the country, he said, there were no improved roads, nothing better than the original Indian track. Bridges and other improvements are always made with reluctance whilst roads remain in this state, because it is known, as the country increases in population and wealth, better and shorter roads will be made. All expense of this sort, indeed, is lost. It was properly the business of the General Government, he said, to undertake the improvement of the roads, for the different States are incompetent to the business, their different designs clashing with each other. It is enough for them to make good roads to the different sea-ports; the cross roads should be left to the government of the whole. The expense, he thought, would not be very great. Let a surveyor point out the shortest and best track, and the money will soon be raised. There was nothing in this country, he said, of which we ought to be more ashamed than our public roads."

"Mr. BOURNE"——

I do not know from what State he was——

Mr. CLARKE. Rhode Island.

Mr. UNDERWOOD. Then, sir, we have all quarters of the country speaking at the beginning of this Government, on this subject.

"Mr. BOURNE thought very valuable effects would arise from the carrying of this resolution into effect. The present roads may be much shortened. The eastern States had made great improvements in their roads, and he trusted the best effects would arise from having regular mails from one end of the Union to the other."

"Mr. WILLIAMS" [I believe he was from North Carolina] "did not think it right for the revenues of the Post Office to be applied to this end. He acknowledged the propriety of extending the post roads to every part of the Union; he thought the House had better wait for the report of the committee to which business relative to the Post Office had been referred, which was preparing to be laid before the House."

"Mr. MADISON" [I call the attention of my friend from Virginia to this,] "explained the nature and object of the resolution. He said it was the commencement of an extensive work. He wished not to extend it at present. The expense of the survey would be great. The Post Officer, he believed, would have no objection to the intended regulation."

Thus, you see, it was the commencement of a great work, and of an expensive work.

Mr. MASON. An expensive survey.

Mr. UNDERWOOD. The expense of the survey would be great, and he wished not to extend the expense at present:

"After some observations from Mr. THATCHER, on the obtaining of the shortest distance from one place to another, and the comparing old with new roads, so as to come at the shortest and best, the resolution was agreed to, as follows:"

Now here is the substance of the whole matter. Mr. Madison voted with the other gentlemen, whose short speeches on the subject I have read, and the result was the following resolution:

"*Resolved*, That a committee be appointed to report a bill authorizing the President of the United States to cause to be examined, and where necessary, to be surveyed, the general route most proper for the transportation of the mail between ——, in Maine, and ——, in the State of Georgia, and to cause to be laid before Congress the result of such examination and survey, with an estimate of the expense of rendering such route fit, in all its parts, to be the established route of the post; the expense of such examination and survey to be defrayed out of the surplus revenues of the Post Office."

Thus it will be seen that the result of the discussion which I have read, was, that a bill was to be reported providing for an estimate of the expense of making the road surveyed fit for the purposes of post roads. Where was that money to come from? It could only come out of the Federal Treasury; but Congress provided that the expense of the survey should be defrayed out of the surplus revenue of the Post Office Department.

"*Ordered*, That Mr. Madison, Mr. Thatcher, Mr. Baldwin, Mr. Henderson, and Mr. Sherburne, be appointed a committee pursuant to the said resolution."

The bill which the gentleman from Texas has read, contained in it the very provision of this resolution, that an estimate should be made of the expense necessary to make these roads, which were to be surveyed, fit for the purpose for which they were intended.

Mr. BADGER. Not the expense of the survey, but of making the roads.

Mr. UNDERWOOD. Certainly; the expense of making the roads was the very thing contemplated. Here was Mr. Baldwin's speech, which I have read, speaking of the objects which they had in view. He said they wanted to shorten those roads, and the expense upon the people along the roads would be enormous and oppressive, and that the Government of the United States had no right to lay those expenses upon the people along the route; that it was enough for those people to make roads leading to their sea-port towns. Did anybody then get up—did Mr. Madison get up and say to him, "Mr. Baldwin, you are advancing the most unconstitutional doctrine ever heard of?" No, sir; nothing of the sort. Here was Mr. Baldwin, declaring publicly the objects which he had in view in the construction of these roads. Mr. Madison, the father of the Constitution, then being present, did not rise—nobody rose—to say, "Mr. Baldwin, the doctrine you are advancing astounds us; we are confounded at the ideas you advance." But instead of taking any objection to Mr. Baldwin's speech, they actually all agreed to a resolution directing a bill to be brought in, which is to provide for making a road fit for meeting the purposes designed.

Mr. BUTLER. Surveys.

Mr. UNDERWOOD. No, sir, not a survey. The resolution is, "to cause to be laid before Congress the result of such examination and survey." It does not stop there. You must read to the end of the sentence. "With"—something in addition to the survey—"an estimate of the expense of rendering such route fit, in all its parts, to be the established route of the post." Such is the precise language of the resolution. Why, it is impossible to say with truth, that they only contemplated a survey. They provided for a survey, and then added, After you have made the survey, when you report, you are required to furnish an estimate of the expense that may be necessary to make the route surveyed, which might be an Indian track, according to the speeches that were made—to make an Indian track "fit in all respects" for a post road, along which the United States could carry its mails. No one can read the resolution without seeing clearly that such is its true sense and meaning. Sir, I want all that printed, and my word for it, the common sense of the people of this country will see that the Fathers of the Republic, without starting any of these constitutional difficulties, before the resolutions of 1798 were thought of, adopted resolutions and reported bills to execute those constitutional provisions for which I have ever contended. I recollect that it was at the last session, or the session before that, we actually paid a claim for opening one of these post roads. At the time the bill was called up, I think by the gentleman from Louisiana, [Mr. SOULE,] it pleased me so much, that I ventured the exclamation, that it was about the best claim against Congress I ever knew, and that I should vote for its payment with the utmost cheerfulness.

Now, I have given you the first movements in Congress on the subject of making roads, and when it is all printed, I think the country will have no difficulty in seeing that it was the opinion of Mr. Madison, the father of the Constitution, and his cotemporaries, that this Government had constitutional power to open post roads through the States, and to pay for all things necessary to fit them for use in the transportation of the mail.

When the military, and the commercial, and the other constitutional powers of the General Government are properly considered, in connection with the power to establish post roads, I believe that nothing but party prejudice prevents a sane mind from perceiving that the Constitution has conferred the power to make a railroad and telegraph from the Mississippi to California.

A few words more: If this amendment, or anything like it, prevails, I am done, so far as my vote is concerned, with this bill. I do not know that my vote is wanted. I have no influence, I admit; but my vote counts like that of any other Senator. If you adopt anything like that amendment you take away from the contractors the power of beginning the work at a proper point upon the Mississippi, or of beginning upon the Bay of San Francisco.

Mr. BUTLER. Why not say San Diego?

Mr. UNDERWOOD. Well, San Diego. They are both in the State of California. That is the idea which I wish to present to the Senate. San Diego and San Francisco are in a State. The Mississippi and the Missouri are now located in States until you get up to a high latitude; and you must begin at points within States to construct the road. You must begin at points accessible by navigation, because economy requires that you should thus begin, and then use the road to carry men, provisions, and implements, to do the work as the road progresses. If you cut off facilities for obtaining supplies from navigable waters, and conveying them along the road as it advances, you take away the means of facile construction, and double or treble the expenses. Now, adopt this amendment in any of its shapes, and you cannot begin the work in a State.

The object of the amendment is to prevent beginning the work in a State, so far as it depends upon the use of Government funds. The work cannot be begun unless the Government will furnish a large portion of the funds. If, then, you prohibit the expenditure of Government funds in a State, you thereby exclude the Mississippi river, San Francisco and San Diego, as points of beginning, because they are within States. In this way the amendment prevents bringing the road in contact with navigation and thus deprives contractors of the advantages of cheap supplies. Do that, and what good will the bill accomplish? Just as soon as it is done, I say what my friend from Texas said the other day, it is dead; and I wash my hands of it. To construct this road, you must begin at termini upon navigable waters which will enable you to carry thence, upon the road, your men, your provisions, your tools, and everything. Unless you allow it to be begun in that way, it is not worth while to begin at all. Talk about beginning one hundred or two hundred miles in the interior of a wilderness, where steamboats cannot reach the points of commencement! A practical mind cannot tolerate the idea for a moment. If you will not allow us to use the funds of the Government and begin at proper points, to and from which supplies can be cheaply transported, we can do nothing. Therefore, the success of the project is involved in this amendment, and if it prevails all is lost.

Mr. WELLER. Really, it seems very strange that the Senator from Kentucky is not able to comprehend the true intent and meaning of the amendment proposed by my friend from Illinois. He has on more than one occasion, during this debate, said that if this amendment be adopted, it will be utterly impossible for the contractors to begin the road within the limits of a State. Sir, that is not the case at all, and although I claim to be a good-natured man, I confess I have been a little fretted. If the contractors begin a road within the State, they will have nothing to rely upon for its construction except the alternate sections of land, six miles on each side. If this is not enough, let us increase the quantity. I apprehend that will be amply sufficient to enable the contractors to obtain money for the prosecution of the road, until they reach the territorial limits of the United States. These contractors will have the whole of the money, and the whole of the land, under this amendment, precisely as they would have had under the original bill. For instance, if the road commences in the State of Texas, they will have lands donated to them for six miles on each side for its construction, until they reach the limits of a Territory, when they will have the $20,000,000 which are appropriated, and alternate sections of land twelve miles on each side. It was never designed or intended by this bill that the Government should construct this road, and there, it seems to me, is the great objection to the argument upon the other side, for they assume that the Government of the United States, in donating this land and money, undertakes to complete it! Such is not the case. The Government of the United States, regarding this as a great national work, important not only in a commercial, but in a military point of view, undertakes to donate certain quantities of land, in the States and Territories, to the contractors, and in addition to that, $20,000,000, in Government bonds. This is to be given to the contractors, by way of inducing them to construct this road; in other words, the Government proposes to pay for nearly one half of the cost of the construction of the road; the contractors to pay the other half, estimating the cost at $80,000,000. The road is to be the property of the contractors; they are to derive the profits resulting from the use of it. Pass the bill in the shape which I propose, and I undertake to say there will be plenty of capitalists who will seek investments in this work. It will, I think I could demonstrate, be the most profitable stock of this character in the Union.

It does seem to me that this is so plain that every Senator upon this floor is able to comprehend it at once. The contractors, I repeat again, will have just as much money and just as much land for the construction of the road under the amendment proposed by my friend from Illinois, as they would have received under the original bill. Wherefore then the objection? No one of the States will be interested in it directly as contractors, because it is proposed that a company shall construct this road. If they had intended or expected that the States through which the road passed should enter into competition with private individuals for its construction, why did they propose incorporations? Did they intend to incorporate the State of Texas or the State of California? If so, why was the original bill so framed as to allow private corporations to come in? Surely they did not intend to *incorporate* a State! They expected that this road was to be constructed by private individuals, and by way of inducing them to engage in that work it was proposed to give a certain quantity of land and of money. That was certainly my understanding—that is the plain language of the bill; the whole act is based upon the idea that the work is to be done by contractors and not by the States—that when completed it is to be the property of the contractors, and not of the States or Federal Government.

Now, how would this impede the prosecution of the work? If the company constructed a road within a State, as a matter of course they would have sufficient lands to hypothecate, in order to obtain money for the construction of the road. In the end, they obtain, as I have already said, all the lands and all the money that they would have obtained under the original bill. What, then, can be the disastrous effect of the amendment? I said before, in order to make this bill consistent with itself, it is only necessary to change two of its sections. If the amendment be adopted without any further modification of the bill, I grant you that it would be an impracticable one; but if you incorporate the two amendments to the two sections which I intend to propose, the congruity of the bill will be preserved, and yet at the same time it will be practicable, and will establish the principle contained in the amendment of the Senator from Illinois. That which in his amendment is abstract I propose to make practical. The latter part of his amendment, is in my judgment, wholly unnecessary, as the bill already requires the consent of the States through which the road passes.

The Government of the United States is to transport its troops, its mails, and its munitions of war, &c., over this road. In consideration of that, it denotes $20,000,000 and a certain quantity of land. Is not that the whole of it? Is not this donation amply sufficient? Whether they are to spend the money in the Territories or in the States, is a matter of no importance to them, for this reason—it will take more than $20,000,000 to make the road through the Territories of the United States. It will take double that sum. They would have to expend more than $20,000,000 within the Territories at all events. Why not, therefore, incorporate this amendment? If the Senator from Texas had presented any good reasons why the principle should be abandoned, I would accede to his amendment; but to my mind, there is no difficulty whatever. You can adopt this amendment. You can modify the sections of the bill as required, and prosecute the work with much more vigor and more certainty of success than you could under the original bill. That there will be much difficulty in constructing that part of the road which runs through the Territories, is undeniable; the lands which will be found adjacent to it, select whatever route you may, are not of the best quality. Much of it will turn out to be entirely worthless—a barren waste. If the extreme northern route be selected, I have no doubt after the road enters California, it will give the contractors some of the richest mineral lands in that State. If I were a speculator, and desired to accumulate wealth, I would not hesitate to invest every dollar I have in the world in a contract made under this bill. I do not desire, nor do I intend now to discuss the constitutionality of the question which is presented. There are doubts in the minds of many Senators on the subject, and I was desirous to obviate, as far as possible, those doubts, which I believe are conscientiously entertained. The whole of them will be obviated by requiring the money appropriated to be expended within the Territories. Now, if any Senator can show me that this is impracticable—that it is impossible to construct a road in this way, by requiring the money to be expended in the Territories, my ardent anxiety for its prosecution may induce me to fall in with them; but until that is demonstrated I must adhere to the principle which is asserted in the amendment. I cannot abandon it upon the mere declaration of Senators that it will endanger the bill. I am always willing to make my opinions conform to the views of friends when no sacrifice is required.

Mr. DAVIS. Mr. President, this vote having been reconsidered, the bill is restored to the position which it occupied before that amendment was adopted; and I wish to address a few words to the Senate in regard to its present posture. The change proposed by the amendment is about this: it is to take the twenty millions of dollars which the bill proposes to grant, in the scrip of the United States, and limit the expenditure of that sum of money to the Territories, excluding it, in other words, from the States. Now, sir, there would seem to be some obvious advantages in that as well as some disadvantages. I think it is worthy of the consideration of the chairman of the committee, to reflect, for a moment, that if you take off perhaps one third or more of the distance which may be said to be within the States, and then apply the money to the distance through the Territories, why the twenty millions will come very near to, if they will not, build the road in the Territories. They will secure you a road through the Territories of the United States, because it transfers all the appropriation designed for the two thousand miles, to that limited portion of it which lies within the Territories of the United States.

But there is a difficulty thrown out with regard to this matter, which may merit some consideration. Is there a point within the Territories where this road ought to terminate, which connects itself with water navigation, or with railroad communication, or with any other facility, which would enable the parties making this road to prosecute it with success? That is a question which I cannot decide here. I am not quite prepared to say where the best commercial route is.

My honorable friend from South Carolina [Mr. BUTLER] says that we are walking in the dark, that antecedent surveys are indispensable, in order to enable us to comprehend where we should put down our feet. All that is provided for, as the honorable Chairman [Mr. RUSK] has shown. All the surveys that are necessary must precede all action. Nothing can be done without them. There is, therefore, no insecurity. There will be no want of light. But I cannot decide by anticipation where the President, who is vested with the power, will put down the terminus of this road at the Mississippi river. If I could, I could understand pretty well where it would pass through the Territories.

Well, sir, this is about the posture of the mat-

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ter, there being no insurmountable obstacle to commencing in the Territory. Some gentlemen object to the whole scheme. Some object to the details; and among other things it is said to be repugnant to the provisions of the Constitution. Sir, this is no time to argue a grave constitutional question; but I suppose that the gentlemen who have argued these questions, will admit that there are certain provisions in the Constitution, and among others, a power in Congress "to establish post offices and post roads." I suppose they will admit, also, that there is a power vested in Congress to defend the country, and to employ all the means which are necessary to defend and prosecute in case of a war. Congress has power "to establish post offices and post roads." That is pretty plain language. In other words, it has the control of the means by which information is transmitted through the Post Office Department, from one end of the country to the other, and the power granted is not only that Congress shall establish post offices, but that it shall establish the roads upon which the mail matter is to run. You must then—and it seems to me that this is a logical proposition—have a road upon which to transmit your mail matter, a road provided by the United States. I suppose every gentleman will admit that it cannot be carried over private property or private ways.

I know that gentlemen put a construction on this part of the Constitution, the justice and propriety of which is not very visible. It is said that when the Constitution speaks of establishing post roads, it means that we shall establish the roads of the States as post routes. This presupposes that the States may possess roads under their jurisdiction and authority; roads of their own, established by their own authority, which they can keep open or discontinue at pleasure; which they may keep in repair and passable or not, as they please. Suppose the States, with this ample authority over their own, should control all those roads, or any one of them should pass a law that your mails should not go over its roads, would your power and your authority under the Constitution be exhausted? Does it depend on such a contingency? If the State of Delaware should say, "We have chosen to pass a law by which we prohibit your passing your mail through Delaware into Pennsylvania," would that stop the mail? Would the power of the United States be defeated and the mail arrested?—or would the Constitution override this barrier?

I take very much the view that has been taken in the debate of 1796, read by the Senator from Kentucky, [Mr. UNDERWOOD,] that it is a positive power given to this Government. It is a power given to execute a function confided to the Government, and there is authority enough in Congress, not only to establish post offices, but to establish, if it be necessary, post roads also; and if Congress can establish them, it can make them, and it is not in the power of any State to prevent the transmission of the mail on a post road thus established. The Constitution overrides the powers of the States in this particular, and it was designed to override it.

How then is it with regard to the defense of the country? Why, sir, I take it that no gentleman will deny that if a military road is necessary for the safety and defense of the country, there is power on the part of this Government to make such a road. I believe that nobody has undertaken seriously to question that there is a power residing in the Government, if it deems a road necessary for its defense, to make such road within any State. This power not only resides in the Government by the force of the Constitution, but Congress has exercised it again and again, on the ground that it is as indispensable to defense as the right to build a fortification. Under what authority was the Cumberland or National road made, that road which has been fostered and cherished through a series of years, and for which appropriations have been made session after session by Congress until there was spent upon it some seven or eight millions of dollars? Was it not founded upon these powers contained in the Constitution, the power of providing for the defense of the country, and the power of establishing post offices and post roads? The power is found there if it is found anywhere. If it is not found there, the making of that road by the Government was a violation of the Constitution.

But, sir, I will not trouble the Senate on this question. I rather regret that the question of power is started here at all. It hardly belongs to the case. If any gentleman can see that the defenses of the country require such a road as this, or that the transmission of the mail of the country requires it—that is a matter of judgment, I agree—but if he can see that, he can then easily find the power to do it. I know not how soon the exigency may arise in which this may become necessary in the defense of the country. The very last steamer from Europe brings us news of some interest. We see that there is an advance in the price of money, an advance in the rate of interest; and not only the newspapers, but private letters brought by that steamer, contain intelligence that there is an unsettled state of things in Europe. I read this very morning an article in a newspaper, of some consideration and some influence, speculating upon this news, and endeavoring to prove the truth of the supposition that there was a restless and disturbed state of things in Europe, and that nothing was more probable than a war with this country.

I do not greatly heed these rumors; nor do I know exactly that it is entirely wise not to heed them at all. There is an old adage, that it is wise in time of peace to prepare for war; and it might have been added, that we are never so little likely to be insulted, and aggressive acts are never so little likely to happen to us, as when you have provided means of defense. Now, I can see that this road, which we have under consideration, is one of the most material matters, in its connection with the defense of this country, that has ever been before Congress. I took occasion, in some few remarks which I submitted here a few days ago, to say, that in a contingency of that kind, the safety of our possessions upon the Pacific must in a great measure depend upon the facility of intercourse with the Atlantic States—the Atlantic States must be relied upon to furnish material and to resist aggression. We ought not, therefore, to be driven to find our way from one extremity of the country to the other, when so indispensable an occasion arises, through the dominions of a foreign country. We ought not to be placed in a contingency of that description in such a position. We ought not to be subject to the mercy of a foreign Power, under circumstances like those; but we ought to have the means of intercommunication independently of all such considerations; and nothing else can give firmness and solidity to the country itself.

Mr. President, I look upon my friend, the chairman of the Select Committee, as a man of undoubted courage, of resolution, of fortitude; and I was a little surprised to see him yield so readily to defeat. That it was a defeat on Saturday I admit, but I was not prepared to see my friend reconciled to it so readily as he seemed to be. I expected to see him stand up here to-day with his usual courage, and face this thing until he saw the end of it. I do not doubt that he will do so still. I do not despair even if the amendment of my honorable friend from Illinois should prevail. Although it eviscerates the bill, I think it is not more prejudicial to it than the striking out of the provision for a corporation. That, sir, is the heaviest blow that has been struck at this bill. If the fatal blow is from any source, it is from that; and it grows out of the fact that you have disqualified those who are to undertake this work by taking from them the means of executing the power with which you intrust them.

I see infinite difficulty when you come to raise from the means of individuals funds to carry forward an enterprise of this magnitude, unless you can have a joint stock company. Well, sir, we have taken the Baltimore platform for the Constitution. We have taken to some of the plank of peculiar stripe instead of the national compact. My friends on the Democratic side of the House have assembled together in all their strength, and have been frightened out of this great public measure by that bugaboo, a corporation. Gentlemen mistake the public mind altogether. The public have no sort of objection to this; and we have proof of it from one end of the country to the other. How do the States provide for works of this kind? I dare say that even my friend from South Carolina would say to you that even in his State they have corporation after corporation of a character precisely similar, in their general powers, to that originally contained in this bill. There are scattered through every State in this Union, corporations vested with similar power, and clothed with authority to execute bills similar to this. How is it that the name corporation can change into a monster that which would otherwise be harmless? Sir, these are mere words of terror, and nothing else. It is idle talk, a suggestion, a fancy of the brain, when we talk of a corporation clothed with the simple power of carrying into effect the provisions of this bill, towering above the height of this Government, and overshadowing it with its poisonous influence. A deadly blow was struck when that provision authorizing a joint stock company was stricken out of the bill, but still that did not lead me to despair of it. I was willing to let the word "company" be substituted; and if it is more agreeable to gentlemen to have persons associated as copartners instead of a corporation, if that is all the difference, let them be an association, for an association they must be, and an association by agreement, and by an agreement which cannot be dissimilar to the power conferred by the bill originally upon the corporation. That is, if you mean they shall act at all.

Now, my honorable friend from Texas supposes that if this amendment shall carry, and if the expenditure of the money is to be limited to the Territories, that is a fatal objection. I ask his attention, in the first place, to the fact to which I have already invited it; and in the next place, I ask him whether this bill, if it be not so now, may not be so amended as to create a motive in the States, when it strikes their limits, to carry the road forward, and thus secure the execution of it? Suppose it strikes the frontiers of Arkansas; has not Arkansas every motive to carry it through to the Mississippi river? and will she not reach out and strain every nerve to accomplish so great a purpose? Or suppose it strikes the western boundary of Missouri, will not the same feeling be at work, and the same motive to secure the great benefits which will result from it to that State? Sir, I can see very distinctly, that with the help of the land, and with the encouragements and the hopes which the intercourse will create in the minds of the States, there will be a very great and powerful influence over their feelings and their disposition, that it may be made one of the means of carrying forward the road, and carrying it forward with success. I hope, therefore, my friend from Texas will not despair upon that ground.

But it may be said, as I have already intimated, that it is necessary to begin somewhere in connection with navigation. I am aware that it gives great facility to a measure of this sort, to have the transportation in connection with it greatly cheapened; and that it is very difficult to get over a long distance with the ordinary means of transportation to carry on such a work successfully. But I do not yet know that it is not to strike a point of navigation. If it strikes anywhere on the route navigable water, you may begin from that point and work each way. That is a matter which can be settled the moment the surveys are made, and the moment it is determined where the location shall be. If you can find anywhere on the Arkansas, or any other river, a point of navigation which is accessible, you may start from that point and carry on your work with success. But, suppose you fail in that. The President locates the road under the provisions of the bill. Then arises the strug-

gle between Arkansas, Texas, Missouri, and Iowa. Then will come the efforts of each of those States on the Mississippi to carry the road through their limits to the Mississippi; and they will be encouraged by the lands granted for that purpose. And they will put forth their own exertions. I should not be at all surprised if we should find a State making a road suitable for a connection with this road from the Mississippi river to its western boundary. The proposition can be made. You can ascertain whether a company will undertake it; and if a company will undertake it, they will ascertain whether you can go through a State or not. They will ascertain that fact; and the same company will undertake this work, knowing that they must go to the Mississippi river, and they will see what provision they can make to accomplish that end. But my word for it, they will find no difficulty at all. All those States will be delighted to have the road through their domain. Instead of finding obstacles through any one, they would rather find encouragement given by legislative enactment, to carry them forward beyond the State. This will be the case with Arkansas, or any other State on the western side of the Mississippi. I submit, therefore, to my honorable friend from Texas, whether there is not something remaining still in this bill that makes it worthy of his support, even if the amendment should be adopted?

Now, sir, I have no personal feeling in this matter at all. I have nothing in my mind to sway it one way or the other, and I desire nothing but the best route for the commerce of the country, for the intercourse of the country; and so far as I am concerned, it is perfectly immaterial to me whether you go north or go south with the road, so be that you get the best site for it. That is all I desire. I do not feel that there is anything to sway us who live in the East, one way or the other. We want it brought into connection with the great commercial avenues of the country; nothing else. I suppose if you get connections at all, you can scarcely fail to cross the avenues which lead to all the southern States and to all the northern States. If it be brought to the Mississippi river, it cannot fail eventually to come in connection with the roads south, the roads north, the roads east, and in all directions. You will see at once what an effort will be made to form a union with it; only make something certain, only adopt a beginning, and when you have done that, you will see how much of good feeling it will wake up in the community, how much of zeal, how much of activity there will be to meet such a great proposition as this, and to come into a participation of the enjoyments of the benefits which belong to it.

Why, sir, I apprehend it to be one of the greatest questions which has been presented to the country for a long time, connecting with itself considerations of more importance to this Government than any which are usually considered in this Chamber. One hardly knows how to embrace, even in the imagination, its benefits in the future, which seems to be beginning, as it were, to dawn upon the country. One hardly can shadow forth the events which seem to be coming upon us—the magnitude of the commerce, the vast increase of which is to grow up between this and the Pacific, which is to extend eventually across that great ocean to the shores of Asia. I wish, so far as I can, to be prepared for these great events. I wish to see our country consolidated by fraternal feeling, and in all the States I wish to have it avail itself of the good things which Providence has provided for it; and, sir, I do not despair after all, of making something out of this bill, which, in the future, is to be useful, even if it should not be perfect now.

Mr. RUSK. When I said the bill was dead, I believed it, and I believe it yet; but I believe if the bill had passed on Saturday, and been then sent to the House of Representatives, there might have been a possibility of taking it up in that House to-day. It did not pass then, and when it will pass God only knows. I do not believe it will pass at all, for we are turned loose here on a sea of debate, and no one can tell when it will terminate.

I regret very much that my honorable friend from Massachusetts [Mr. DAVIS] understands that matter differently from what I do. When I proposed to vote for the bill in the shape in which it came from the committee, I had several objects in view. One was the establishment of the road; another was to place it in such a condition that it should not become a monopoly, dangerous to the public, and with unlimited powers to tax those who might travel over the road. Then it was connected from one end to the other. It gave Congress power to regulate the tolls, the passage money, and all the matters of that sort; and the regulation under the original bill would have been entirely within the control of Congress. It limited the profits to be made by the company to eight per cent. on their actual investments. This amendment disjoints the bill, and leaves the road under the control of the United States, only so far as it goes through the Territories. That will be the only portion under the control of the Government, because the amendment declares, that so far as it goes through the States it shall be made entirely under their authority and direction. Therefore, so far as it goes within the States, there is no money to be paid for it, and the United States is to use it without having paid anything for it, except in the proceeds of the land.

The honorable Senator says another thing: The States will be very anxious for it to go through them; there will be a rivalship existing between them, and they will make it to the interest of the company carrying the road through the Territories to come through the States. The States, however, as a matter of course, will be very apt to give the road within their limits to some company. That company will not go to the extent of having a continuous road subject to the same rules and regulations. The probability is that the same company which builds the road in the Territories would get the grant from the States; and then the same men would go on in another name to do what they pleased within the States, whereas they could not do it within the Territories. I can see a thousand objections to the amendment, but these are fatal. These men will go on under the name of another company, and will make propositions to the States. Everything will be thrown into their hands. The anxiety of the Legislatures to connect with the road will induce them to give unlimited authority. The effect then will be, that one portion of the road will become an odious monopoly. You will have a right to control the freight and charges of the road so far as it goes through the Territories, but so far as it goes through the States, it will be subject only to the terms which may be imposed in a scramble between the States to see which shall obtain the most advantage. It will therefore be subject to whatever monoply those States may choose to grant. In the Territories, under the bill, you can regulate the charges, make the road a benefit to the community, and confine the company to eight per cent. profit on passengers and freight. You can make the carriage of freight and passengers at such a rate as to be a benefit to the whole community. But the moment you come to run into one of the States, the anxiety for the particular benefit of the State will induce it to yield contracts, putting no restraints, no restrictions upon them. As soon, then, as you get to the States, the road will be a monopoly, and the company can charge just as much for freight and for passengers as they choose to do. You have no control whatever over them. In getting grants from the State Legislatures, they will take especial care to avoid another thing: they will want to drive off all capital and all competition. Under the provisions of the bill as it now stands, the company may be forced to allow any branch of any other road to join with them; but the States may, and probably would give exclusive monopolies, the object being to exclude other States adjoining them from making branch roads. As the bill was reported, its principles and details are so plain that he who runs may read.

As to the Senator from California, [Mr. WELLER,] I do not understand him. The bill proposes to pay a part of the cost of constructing the road in the State in money, in consideration that the owners of the road shall carry the mails, troops, &c. The amendment proposes that no such payment shall be made. How that amounts to the same thing I cannot see. I think we had better reject the amendment. But even if the bill were to pass unanimously, my opinion is, it will never pass the House at this late day of the session, because we have gone beyond the day when it was possible that they could take it up. Sir, how can gentlemen say that the amendment of the Senator from Illinois, adopted on Saturday last, did not kill the bill? Then I saw the time that was taken for the purpose. I saw the congratulations of the honorable Senator from Indiana, [Mr. BRIGHT,] who had been absent all day enjoying himself, but was in to witness, and to rejoice at the death of the bill; and I felt that when that amendment, under those circumstances, was adopted, it was a death-blow to the bill—it knocked out its brains. It has made a few spasmodic efforts to-day, under a sort of galvanic process, but that will soon be over, and it will fall quietly back into the sleep of death.

Mr. GWIN. I shall vote to reject the amendment, because I do not think it is possible to make this bill a working machine unless the amendment is rejected. Referring to my own State, I find that there are seven hundred miles of this railroad within that State, if it takes the direction which I think it ought to. Then, if its terminus on the Pacific should be the city of San Francisco, the road has to pass through two ranges of mountains, the Coast Range and the Sierra Nevada. Six hundred of these seven hundred miles are in an uninhabited country, of which one hundred miles is through a desert. Now, do you suppose that there is any company that will, for alternate sections of six miles on each side of the road, undertake to build a railroad from San Francisco to the Colorado, or from San Francisco over the Sierra Nevada mountain in a northeastern direction, or in any direction striking the eastern border of the State? If such contractors can be found, will they, in consideration of getting three thousand eight hundred and forty acres of land per mile, worth, at $1 25 per acre, about $4,800, obligate themselves to carry the mails and the officers of the Army and Navy of the United States, supplies, &c., free of charge? These are the vast advantages under this bill which the Government of the United States is to receive for this insignificant grant of land; and can it be supposed that any company will contract to build this road on such conditions? Certainly not. It is an absurdity to suppose such a thing possible.

In addition to that, I do not want to put California in the power of any one set of contractors, who have the more profitable portions of the road through the Territories, where they get alternate sections twelve miles on each side, and all the money granted in this bill. I should like an opportunity for competition in California; that an inducement should be held out for bidders to put in proposals to begin the road at San Francisco, or on the Pacific. I do not wish to see that portion of the road forced into the hands of one great mammoth company which may get the contract in the Territories. I should like very much to have various companies engaged on various sections of the road. This was my great objection to the bill of the Select Committee. The members of that committee will do me the justice to say that I opposed, from the beginning, the limited appropriation of land and money that was made in the bill. I plead with them for a larger fund, both of land and money, on the ground that I wanted this to be a practicable working bill that would build the road, and that the Government, in consideration of the great advantages which it was to receive from its construction, should make an ample appropriation to enable the parties to complete the work.

Now I am anxious, deficient as I consider this fund to be, not to make it less available than it was under the original bill. I undertake to say that if this amendment be adopted, if all the money is to be expended in the Territories, and none in the States, it will be impossible, so far as my own State is concerned, to execute the law. If this principle is incorporated in the bill, we shall have no hope of a road being contracted for there unless there is an immensely great increase in the grant of lands in that State. My object is to get this bill, defective as it is said to be, into a practicable working shape, and on the statute-book, and this can only be done by passing it as it was reported from the Committee of the Whole. We cannot arrange the details of a new bill. Every Senator knows that, and the attempt is a mockery. I wish this bill, as perfected by its friends in the Committee of the Whole, to pass the Senate as soon as possible, that we may have some hopes of getting action upon it in the House.

I cannot be blind to the fact that the enemies to

any road are ardent supporters of this amendment. I entirely acquit gentlemen of any improper motives in being enemies of the road, but if this amendment has any prospect of success, where does it come from? Why, sir, from those gentlemen who have boldly said in their places that they intended to defeat any road. They vote for this amendment; and why will they do so? Because they will make the bill odious to its friends, odious to a majority of the Senate, and thus defeat it. They want to destroy the measure. The friends of a railroad should consider this before they vote for this amendment. Mr. President, I cannot be mistaken in this: that if we do not take the result of our labors as they were matured and brought out of Committee of the Whole, we not only risk the passage of the bill in this body, but we jeopardize it in the other House; and I look upon it as one of the greatest misfortunes that could happen to the country that we should not have some bill passed during this session.

I make this statement for the purpose of getting a road. I will vote for any kind of a bill that does not, in my opinion, violate the Constitution. I will vote for this bill as it came from the Committee of the Whole, or if it is amended as proposed by the Senator from Illinois. I will vote for it in every form which it may assume: but I must say that I do not think we can pass any bill through either House of Congress this session but the one we matured and reported to the Senate from the Committee of the Whole.

Mr. ADAMS. It is not my purpose to throw difficulties in the way of getting a vote on the question. I made a few remarks in the commencement of the discussion against the bill. Since that, though I have been against the bill in its present shape, I have voted with its friends for the purpose of getting through with it. I do not now intend to state my objections to the bill. I reserve that to myself until the next session. I differ, however, with the Senator from Texas, who says that when, on Saturday, the amendment of the Senator from Illinois was adopted, it was a defeat of the bill. I consider that bill was killed two weeks ago. Time, the destroyer of all things, had fixed its fate inevitably two weeks ago. If it had been passed during the first month of the session, it would have been possible—barely possible—that there would be sufficient time to get it through the House. I think, therefore, that its friends have had a great deal of crimination and recrimination to-day, which was altogether unnecessary.

My object in rising, however, was to call attention to the opinion of Mr. Madison, as he has been quoted on this particular subject. The Senator from Kentucky thought proper to introduce some remarks of Mr. Madison, but he admitted, however, that those remarks seemed to imply a different meaning from that for which he contended. Then he read the remarks of others, in 1796, to show Mr. Madison's views. Now, as I am not going to address the Senate on the question, I beg leave to read to the Senate Mr. Madison's opinion on this very subject, without any comment. In 1817, when the question was differently presented to him in a bill for his sanction, he gave the following as his views, in the veto message, on that bill:

"Having considered the bill this day presented to me, entitled 'An act to set apart and pledge certain funds for internal improvements,' and which sets apart and pledges funds 'for constructing roads and canals, and improving the 'navigation of water-courses in order to facilitate, promote, 'and give security to internal commerce among the several 'States, and to render more easy and less expensive the 'means and provisions for the common defense,' I am constrained, by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States, to return it with that objection to the House of Representatives, in which it originated.

"The legislative powers vested in Congress are specified and enumerated in the eighth section of the first article of the Constitution, and it does not appear that the power proposed to be exercised by the bill is among the enumerated powers, or that it falls, by any just interpretation, within the power to make laws necessary and proper for carrying into execution those or other powers vested by the Constitution in the Government of the United States.

"'The power to regulate commerce among the several States' cannot include a power to construct roads and canals, and to improve the navigation of water-courses in order to facilitate, promote, and secure such a commerce without a latitude of construction departing from the ordinary import of the terms, strengthening by the known inconveniences which doubtless led to the grant of this remedial power to Congress.

"To refer the power in question to the clause 'to provide for the common defense and general welfare,' would be contrary to the established and consistent rules of interpretation; as rendering the special and careful enumeration of powers which follow the clause nugatory and improper. Such a view of the Constitution would have the effect of giving to Congress a general power of legislation, instead of the defined and limited one hitherto understood to belong to them: the terms 'common defense and general welfare,' embracing every object and act within the purview of a legislative trust. It would have the effect of subjecting both the constitution and laws of the several States, in all cases not specifically exempted, to be superseded by laws of Congress; it being expressly declared, 'that the Constitution of 'the United States, and laws made in pursuance thereof, 'shall be the supreme law of the land, and the judges of 'every State shall be bound thereby, anything in the con-'stitution or laws of any State to the contrary notwithstanding.' Such a view of the Constitution, finally, would have the effect of excluding the judicial authority of the United States from its participation in guarding the boundary between the legislative powers of the General and the State Governments; inasmuch as questions relating to the general welfare being questions of policy and expediency, are unsusceptible of judicial cognizance and decision.

"A restriction of the power 'to provide for the common defense and general welfare,' to cases which are to be provided for by the expenditure of money, would still leave within the legislative power of Congress all the great and most important measures of Government; money being the ordinary and necessary means of carrying them into execution.

"If a general power to construct roads and canals, and to improve the navigation of water-courses, with the train of powers incident thereto, be not possessed by Congress, the assent of the States in the mode provided in the bill cannot confer the power. The only cases in which the consent and cession of particular States can extend the power of Congress, are those specified and provided for in the Constitution.

"I am not unaware of the great importance of roads and canals, and the improved navigation of water-courses, and that a power in the National Legislature to provide for them might be exercised with signal advantage to the general prosperity. But seeing that such a power is not expressly given by the Constitution, and believing that it cannot be deduced from any part of it without an inadmissible latitude of construction, and a reliance on insufficient precedents; believing, also, that the permanent success of the Constitution depends on a definite partition of powers between the General and the State Governments, and that no adequate landmarks would be left by the constructive extension of the powers of Congress, as proposed in the bill, I have no option but to withhold my signature from it, and to cherishing the hope that its beneficial objects may be attained by a resort for the necessary powers to the same wisdom and virtue in the nation which established the Constitution in its actual form, and providently marked out, in the instrument itself, a safe and practicable mode of improving it, as experience might suggest."

There has been no change in the Constitution since that time, and therefore I think Mr. Madison's objections apply now as well as then. My object merely was, inasmuch as Mr. Madison's opinions had been quoted, to bring them before the Senate as they were then expressed.

Mr. WELLER. I rise to express the hope that the Senate will now proceed to dispose of this bill. It is important in many points of view that it should be disposed of. The termination of the session is rapidly approaching, and there are many bills of importance which ought not to be overlooked.

Mr. SHIELDS. The honorable Senator from California has an amendment prepared, and I am perfectly willing to accede to it, and to withdraw my own, in order that he may offer his. I believe also that the honorable Senator from Missouri [Mr. GEYER] has one which will be satisfactory to me.

The PRESIDING OFFICER, (Mr. BRADBURY in the chair.) As the yeas and nays have been ordered upon the amendment, it cannot be withdrawn unless by unanimous consent.

Mr. HUNTER. I object.

Mr. SHIELDS. I would ask whether it would be in order for me to accept the amendment of the honorable Senator from California in lieu of my own?

The PRESIDING OFFICER. The Chair does not understand that the amendment can be modified after the yeas and nays have been ordered, unless by unanimous consent.

Mr. DE SAUSSURE announced that his colleague [Mr. BUTLER] has paired off with the Senator from North Carolina.

The question being taken by yeas and nays on the amendment of Mr. SHIELDS, resulted—yeas 24, nays 28; as follows:

YEAS—Messrs. Adams, Bayard, Bradbury, Bright, Brodhead, Cass, Charlton, Cooper, Dawson, De Saussure, Douglas, Downs, Fitzpatrick, Hamlin, Hunter, Mallory, Mason, Morton, Pearce, Phelps, Shields, Soulé, Toucey, and Walker—24.

NAYS—Messrs. Atchison, Bell, Borland, Brooke, Chase, Clarke, Davis, Dodge of Wisconsin, Dodge of Iowa, Foot, Geyer, Gwin, Hale, Houston, Jones of Iowa, Jones of Tennessee, Mangum, Miller, Pratt, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, Underwood, Wade, and Weller—28.

So the amendment was rejected.

Mr. GWIN. Now I appeal to the friends of the bill to let us have the test question on its engrossment, without amendment. Then, if we cannot pass this bill, we can amend it, and get one that can be passed. Let us have a test question whether this bill, after its being matured, can pass the Senate; and let us have that test question on the engrossment of the bill. I hope the friends of the bill will agree to that.

Mr. WELLER. So far as I am concerned, I prefer that the test question shall be taken on the bill after it shall have been perfected, according to what my notions of perfection are. I think the bill can be made much better than it is; and for the purpose of accomplishing that object, I have some amendments to propose. A portion of the amendment which has just been voted down is, in my opinion, wholly unnecessary; I mean that portion which required the express authority of the States to construct this road. I can readily see that that might lead to some of the difficulties adverted to by my friend from Texas. There is already a provision in the first section "that be-'fore the said road shall be located or constructed 'through any State, the consent of the Legisla-'ture thereof to the provisions contained in this 'act shall be first had and obtained."

The legal effect of that proviso is to require the consent of a State Legislature to the construction of the road through its own limits. That is all on that point, in my judgment, that was necessary. My first amendment is to insert after the provision giving $20,000,000 in bonds of the Government redeemable in twenty years, the words "which 'said sum shall be expended exclusively in the 'construction of that portion of the road which 'runs within the Territories of the United States." The only object of that amendment is simply to confine the expenditure of the money which is appropriated by this bill to the construction of the road within the Territories of the United States. That is the first amendment which I now propose to this bill.

Mr. GWIN called for the yeas and nays on the amendment, and they were ordered.

Mr. WELLER. The subsequent amendment I have to offer to the sixth section is designed of course to carry out that principle, and I submit to the Senate whether it would not be well enough to take the vote upon both propositions at the same time, as they are substantially but one amendment.

Several SENATORS. One at a time.

Mr. WELLER. Very well.

Mr. HALE. I see that there is a difference between the friends of this bill which looks rather discouraging, and I therefore submit a motion that the Senate do now adjourn.

The motion was not agreed to, there being, on a division—ayes 17, noes 24.

Mr. BORLAND. I shall vote against this amendment, for the reason that it is, in substance, the same as the one which has just been voted upon.

Mr. SEWARD. That is speech enough for us all.

Mr. CASS. If I understand this amendment, it is not the same as the other, and if I understand it correctly, I shall have to vote against it. I believe it does not save the jurisdiction of the States. I believe it proposes to make the work by the control and under the authority of the General Government, requiring what I think is a fundamental error, the consent of the States in order to get jurisdiction. If I understand the amendment rightly, I shall vote against it.

Mr. WELLER. That question has nothing to do with the amendment at all. The first section of the bill may be amended so as to conform to the views of the Senator; but this amendment does not touch that question. It does not allude to it in the remotest manner.

Mr. CASS. I thought the honorable Senator, from the remarks he made, intended to attach to his amendment the provision of the first section.

Mr. WELLER. I said that I did not consider a portion of the amendment of the Senator from Illinois as necessary; that I was opposed to a portion of it, because I thought the first section of the bill was already guarded sufficiently in relation to the rights of the States; but this amendment has

nothing to do with the declaration which I made in regard to that amendment. It is an independent proposition, simply requiring that the money shall be expended in the Territories.

Mr. CASS. I have no objection to that. Then I was right in my view of the objection of the Senator from California, which is, that the original section remains, and that this Government is to get jurisdiction over the subject-matter by consent of the States. If that provision is retained, I shall vote against the bill.

Mr. BELL. I want to inquire of any Senator who can answer, whether this is anything more or less, in reference to these questions of constitutional power that have been started by various Senators, than simply the question whether this Government has the power to appropriate money for the construction of a national object, a national road, within a State; and it does not affect the jurisdiction otherwise in any respect whatever. It is simply the power to appropriate money, which I understand that Madison, and Monroe, and Jackson, and Calhoun, and McDuffie have sanctioned, again and again.

The question being taken by yeas and nays on the amendment, resulted—yeas 27, nays 25; as follow:

YEAS—Messrs. Adams, Atchison, Bayard, Bradbury, Bright, Brodhead, Cass, Charlton, Chase, Cooper, Dawson, De Saussure, Douglas, Downs, Fitzpatrick, Hamlin, Hunter, Mallory, Mason, Morton, Pearce, Phelps, Shields, Soulé, Toucey, Walker, and Weller—27.

NAYS—Messrs. Bell, Borland, Brooke, Clarke, Davis, Dodge of Wisconsin, Dodge of Iowa, Foot, Geyer, Gwin, Hale, Houston, Jones of Iowa, Jones of Tennessee, Mangum, Miller, Pratt, Rusk, Sebastian, Seward, Smith, Spruance, Sumner, Underwood, and Wade—25.

So the amendment was agreed to.

Mr. WELLER. I have another amendment to offer in the sixth section, in order to carry out the principle which has been incorporated in the bill by the amendment just adopted. It is to insert after the word "road," where it first occurs, the words "within the Territories," and to insert before the provision in relation to forfeiture the following:

"That whenever fifty miles of said road shall have been completed within the limits of any State, as now organized, in a manner satisfactory to the President of the United States, said contractors shall be entitled to four fifths of the public lands to which the completion of said fifty miles may entitle them under the provisions of this act; and so on for each successive fifty miles until the road shall be completed within the limits of such State; and when all the terms of the contract have been fully complied with, they shall be entitled to receive the remaining one fifth of the public lands."

Mr. BORLAND. I was in hopes, when this bill was introduced, and in the various stages of its progress, that it would not be made to assume a sectional character; that we should not assume, by legislation here, and by the provisions of the bill, to fix the location of this road, or do anything which would give it a sectional character, either North or South. In that spirit, on Saturday, when a proposition was made here to declare that it should not go beyond a certain point, Memphis, on the Mississippi, which, so far as the bill could have provided, would have procured its passage through my State, I voted against it. I voted against the amendment, because I was opposed to giving the bill any sectional character whatever. But the amendment which we adopted just now, and of which this that follows is put a part and parcel, does, in my opinion, give it a sectional character, and by express legislation in this bill excludes the whole range of southern States, from any participation in the benefits of this road. Look at the country through which this road is to go, and you will find that by the terms of the bill, you have made provision that it shall not pass through that southern range to which I refer. You have made it necessary, in order to enable the company to avail itself of the means given, to make the road at a point north of the country to which I allude. Sir, you have given $20,000,000 to a company to make the road through the Territories; and what have you given for making the road through the States? Land. You have given lands in the Territories also, but you give no money for the States. I ask, if you have authority to make this road at all, are not the States as much entitled to have that portion of the road which runs through their limits aided by an appropriation of money, as that portion which runs through the Territories? Why not, sir? But you give a large portion of land in the Territories, more in the Territories than in the States, and you give $20,000,000 besides for the road in the Territories.

Why should you give this preference to that portion of the road within the Territories, over that portion within the States? If you pass the bill, you recognize the right of the Government to make a road, and to appropriate the means of making it; and then you make a distinction as to the kind of means you make use of in one case and in the other. What means do you give to Texas to build this road?

Mr. RUSK. And to Arkansas?

Mr. BORLAND. Yes, sir, of course, because if the road is not run through Texas, you cannot get it through Arkansas without taking a very great bend, and leaving the straight line. I cannot see the fairness of this provision. I would not, if an amendment were offered to make Arkansas the thoroughfare of this road, vote for it. I should vote against it; and I should go for a simple, and even for a stronger reason, against all provisions which will make it certain that the road must go north of us, and leave us out of the question altogether. Sir, there is no soundness as the bill now stands in the provision which you make in the beginning of it, that a survey and exploration shall be made, and that the President shall locate the route in accordance with the survey and exploration, because, by the provision which you have just voted in, you render the whole action nugatory; and if it should be demonstrated by this survey that the route through Texas, and through Arkansas was the better, and in fact the only practicable route, it would be entirely out of the power of the President to give the work on the road to a company who could build it on that route. Therefore it is that I say the adoption of the amendment has imparted a sectional character to the bill.

Sir, the Senator from Texas was right when he said, on Saturday last, that the provision then adopted, and now adopted, emasculated the bill so far as all fairness in it is concerned, so far as all absence of sectionalism in it is concerned. It has emasculated and rendered the bill entirely worthless for the purposes for which it was proposed. It gives money for building the road—where? In the deserts where every foot will have to be made to the right and to the left before you can avail yourself of the benefits of the road for any practical purposes whatever, either to carry the materials with which it is to be constructed, or to make it pay tolls in any manner to help to defray its expenses.

When the Senator from Kentucky was speaking a little while ago on this subject, he seemed to think that there was no precedent for such a proceeding as this. Sir, I had it in my mind to suggest to him and to show him that there was a precedent for just such a proposition as this amendment.

Mr. UNDERWOOD. What is it?

Mr. BORLAND. Why, sir, in that noble work, the product of the genius of Dean Swift, I mean Gulliver's Travels, he makes his traveler go into a country where he found that speculations of all kinds had been carried to the highest degree of refinement; to the metaphysics of metaphysics, if I may so call it, and there he found various projectors. Some of them are not mentioned, but one he found, to whom I had occasion to allude the other day, who discovered that all preceding architects had been wrong in the principles upon which they had built houses; that they began at the wrong end, because they had begun at the foundation and built upwards, and he conceived the sublime idea of beginning up in the air and building down. It seems to me that the proposed construction of this railroad, with this amendment, would be something like that. You propose to begin out in the desert, in a country where it is not yet needed, and where it will not be of any value whatever, and cannot be used until you have carried it right and left to the Pacific ocean and to the Mississippi river.

Now, I am for beginning the construction of this road, but I wish to make it to and from some point where you can begin to carry out your laborers and your materials, and where, from the time you have made five miles of it, profit can be derived to be aiding in its construction. Do not talk to me about the value of the appropriation of land to the States as anything like equivalent to the appropriation of land and twenty millions of money in the Territories. Sir, it may satisfy some gentlemen, but it does not answer the purposes for which my constituents desire and need the road. For these reasons I must vote against the amendment, and I consider the bill, in its present shape, is not good for any useful purpose.

Mr. MANGUM. Mr. President, I have regarded this great work as one essentially of national importance, and one which, according to all the authority laid down by the leaders of Democratic gentlemen, came within the constitutional powers of this Government. I have been disposed, at all events, to lend it a hearty and cordial cooperation; but if amendments be continued, such as those which have just been adopted, I shall wash my hands of it, and shall not vote for it. I think the amendment which has just been adopted emasculates, debilitates, and destroys it; and I think the friends of the measure ought to wait for better times, if better times are coming, and with a view of giving an opportunity for consideration, and as I want to look to the effect of this matter, I move that the Senate do now adjourn.

Mr. BROOKE. I would ask the gentleman from North Carolina to withdraw that motion or a moment, simply for the purpose of allowing me to submit an amendment, in order that it may be printed, so that Senators may see it in the morning.

Mr. MANGUM. I withdraw it for that purpose.

Mr. BROOKE. I had the honor, when the bill was introduced by the Senator from California, to offer an amendment similar to the one which I now hold in my hand. That bill and my amendment have both been overslaughed by the bill of the Select Committee; and I am now convinced that neither of those bills can pass. I have modified my amendment in a manner which I think will meet with the views of members of the Senate. I wish to offer it informally now, and to have it printed.

There being no objection, the amendment was ordered to be printed.

Mr. BRODHEAD. Before the close of the session on Saturday, I renewed the amendment which I offered in Committee of the Whole, providing for a reconnoissance and survey. I think this debate and the vote recently taken have shown that that is the only practicable measure. I think that has the preference over the amendment of the Senator from Mississippi.

On motion by Mr. MANGUM,

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 21, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. JAMES GALLAHER.

The Journal of Saturday was read and approved.

The SPEAKER. The first business in order is the consideration of the civil and diplomatic bill, reported on Saturday from the Committee of the Whole on the state of the Union, and upon which the previous question was ordered.

Mr. FITCH. I ask the unanimous consent of the House to withdraw from the files the petition and papers of Mrs. Eaton, in reference to a pension.

The SPEAKER. If there be no objection the order will be entered.

Mr. BOCOCK. I rise to a question of order. I wish to know if the motion I submitted on Monday last, to suspend the rules, does not take precedence of the civil and diplomatic bill?

The SPEAKER. The Chair thinks not.

Mr. BOCOCK. The previous question has been moved upon the civil and diplomatic bill, and that bill comes up under the rules of the House and according to the rules of the House. But I have first made a motion to suspend the rules.

The SPEAKER. There is this distinction: the gentleman's motion is to suspend the rules, but the rules have not yet been suspended. In the other case the House has taken action, and ordered the main question to be put, and it must be put, before the House can take action on the motion to suspend the rules. In the one case the House has taken action, and in the other it has not.

Mr. HOUSTON. I call up for consideration the civil and diplomatic bill.

The SPEAKER. The Clerk will read the amendments.

Mr. HOUSTON. It has been usual in cases of this kind, to have a vote taken upon all the amendments at once, with the exception of those upon which a separate vote may be requested. I suggest that course be pursued in this case.

The SPEAKER. If there is no objection that course will be adopted, and as the Clerk reads the amendments, any member can call for a separate vote upon any of the amendments.

The Clerk then read the amendments through, and the question was taken upon agreeing to all those upon which a separate vote was not requested, and they were adopted.

The following amendment, upon which a separate vote was asked, was then read:

"*Provided*, That whenever the cost of collecting the revenue from the sales of the public lands in any United States land district shall be as much as one third of the whole amount of revenue collected in such district, it shall and may be lawful for the President of the United States, if, in his opinion, not incompatible with the public interests, to discontinue the land office in such district, and to annex the said district to some other adjoining land district or districts of the United States."

The question was then taken upon the amendment, and it was agreed to.

The next amendment in order was then read, as follows:

"*Provided*, That neither the office of the Secretary of the Interior, nor any bureaut hereof other than the Patent Office, shall be located in the Patent Office Building, until directed by law."

Mr. JONES, of Tennessee. I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 104, nays 69; as follows:

YEAS—Messrs. Charles Allen, Allison, John Appleton, Ashe, David J. Bailey, Bartlett, Beale, Bell, Bibighaus, Bowne, Bragg, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Caskie, Chandler, Churchwell, Cleveland, Clingman, Daniel, Darby, George T. Davis, Dawson, Dimmick, Dockery, Duncan, Eastman, Edgerton, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Gentry, Giddings, Gilmore, Goodrich, Grow, Harper, Sampson W. Harris, Hart, Hascall, Henn, Horsford, John W. Howe, Thomas M. Howe, Thomas Y. How, Jenkins, Daniel T. Jones, Kuhns, Kurtz, Landry, Little, Lockhart, Mann, McCorkle, McDonald, McLanahan, McNair, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morrison, Murray, Olds, Andrew Parker, Samuel W. Parker, Penniman, Porter, Reed, Riddle, Robbins, Ross, Russell, Sabine, Savage, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Thaddeus Stevens, St. Martin, Sutherland, Thurston, Toombs, Townshend, Tuck, Venable, Walsh, Watkins, Wells, and Wildrick—104.

NAYS—Messrs. Averett, Bennett, John H. Boyd, Breckinridge, Burrows, Caldwell, Clark, Cobb, Colcock, Dean, Disney, Doty, Dunham, Edmundson, Faulkner, Fay, Floyd, Goodenow, Hall, Hamilton, Isham G. Harris, Haven, Hibbard, Hillyer, Houston, Howard, Ingersoll, Ives, Jackson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Preston King, Letcher, Martin, Mason, McQueen, Meade, Millson, Morehead, Murphy, Nabers, Outlaw, Peaslee, Penn, Perkins, Phelps, Powell, Preston, Richardson, Robie, Robinson, Sackett, Scurry, Origen S. Seymour, Skelton, Smith, Stone, Stratton, Strother, Sweetser, Taylor, Wallace, Washburn, Welch, Wilcox, Woodward, and Yates—69.

So the amendment was agreed to.

The next amendment was then read, as follows:

"To aid the directors of the Washington Infirmary to enlarge their accommodations for the benefit of sick transient paupers, $20,000."

Mr. JONES, of Tennessee. I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 105, nays 75; as follows:

YEAS—Messrs. Abercrombie, Allison, John Appleton, William Appleton, Ashe, Thomas H. Bayly, Bartlett, Bell, Bibighaus, Bowne, Breckinridge, Briggs, George H. Brown, Burrows, Caldwell, Lewis D. Campbell, Cartter, Chapman, Chastain, Cleveland, Clingman, Colcock, Conger, Curtis, Darby, George T. Davis, Dawson, Dimmick, Dockery, Doty, Duncan, Durkee, Fay, Fitch, Florence, Floyd, Gentry, Gilmore, Goodenow, Goodrich, Gorman, Grow, Harper, Haws, Hascall, Haven, Howard, John W. Howe, Thomas M. Howe, Hunter, Ives, Jackson, Jenkins, Robert W. Johnson, Daniel T. Jones, George G. King, Preston King, Kuhns, Little, Lockhart, McLanahan, McQueen, Meacham, Miller, Molony, Henry D. Moore, John Moore, Morrison, Murray, Nabers, Newton, Olds, Outlaw, Andrew Parker, Peaslee, Perkins, Polk, Porter, Preston, Reed, Richardson, Robie, Robinson, Sabine, Sackett, Schermerhorn, Schoolcraft, David L. Seymour, Origen S. Seymour, Smith, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Thaddeus Stevens, Stone, Strother, Taylor, Thurston, Toombs, Venable, Walsh, Welch, and Yates—105.

NAYS—Messrs. Charles Allen, Averett, David J. Bailey, Bennett, Bocock, John H. Boyd, Bragg, Brenton, Busby, Joseph Cable, Churchwell, Clark, Cobb, Daniel, Dean, Dunham, Eastman, Edgerton, Edmundson, Freeman, Thomas J. D. Fuller, Giddings, Green, Hall, Hamilton, Isham G. Harris, Hart, Hebard, Hendricks, Henn, Hibbard, Hillyer, Holladay, Horsford, Houston, Thomas Y. How, Ingersoll, Andrew Johnson, James Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Mann, Mason, McDonald, McMullin, McNair, Meade, Millson, Morehead, Murphy, Samuel W. Parker, Penn, Penniman, Phelps, Powell, Robbins, Ross, Russell, Schoonmaker, Scurry, Skelton, Snow, St. Martin, Stratton, Sweetser, Townshend, Wallace, Watkins, Wells, Wildrick, and Woodward—75.

So the amendment was agreed to.

The next amendment was read, as follows:

"For continuing the construction of the custom-house at St. Louis, $150,000."

Mr. LETCHER. I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 91, nays 73; as follows:

YEAS—Messrs. Abercrombie, Charles Allen, Bartlett, Beale, Bell, Bibighaus, Bowne, Breckinridge, Brenton, Briggs, George H. Brown, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Cleveland, Conger, Daniel, Darby, George T. Davis, Disney, Doty, Durkee, Eastman, Edmundson, Fay, Fitch, Florence, Freeman, Gaylord, Gentry, Goodenow, Goodrich, Gorman, Green, Grey, Hall, Harper, Hart, Haws, Haven, Henn, Hillyer, Holladay, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ives, Jackson, Robert W. Johnson, George W. Jones, Kuhns, Little, Meacham, Miller, Henry D. Moore, John Moore, Nabers, Newton, Olds, Andrew Parker, Samuel W. Parker, Penn, Phelps, Polk, Porter, Preston, Riddle, Robinson, Sabine, Sackett, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, St. Martin, Strother, Sweetser, Taylor, Toombs, Townshend, Tuck, Walsh, Washburn, Welch, and Yates—91.

NAYS—Messrs. Allison, Averett, David J. Bailey, Thomas H. Bayly, Bocock, Bragg, Albert G. Brown, Chapman, Clingman, Cobb, Colcock, Cullom, Curtis, Dawson, Dean, Dimmick, Dunham, Edgerton, Floyd, Thomas J. D. Fuller, Gamble, Giddings, Gilmore, Grow, Hamilton, Isham G. Harris, Sampson W. Harris, Hascall, Hendricks, Hibbard, Horsford, Houston, Jenkins, James Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Mann, Martin, Mason, McDonald, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Morehead, Morrison, Murphy, Murray, Peaslee, Penniman, Perkins, Reed, Robbins, Robie, Ross, Skelton, Abraham P. Stephens, Stratton, Thurston, Venable, Wallace, Watkins, Wildrick, and Woodward—73.

So the amendment was agreed to.

The following amendment was then read:

"For proceeding with the construction of the custom-house at Louisville, Kentucky, $87,745."

Mr. PRESTON. I ask for tellers on that amendment.

Tellers were ordered; and Messrs. VENABLE and CLEMENS were appointed.

The House was divided, and the tellers reported—ayes 76, noes 76; whereupon

Mr. HAMILTON demanded the yeas and nays; which were ordered.

The question was then taken, and there were—yeas 92, nays 88; as follows:

YEAS—Messrs. Chas. Allen, Ashe, Barrere, Bell, Bowie, Bowne, John H. Boyd, Breckinridge, Brenton, Briggs, Brooks, George H. Brown, Burrows, Busby, Lewis D. Campbell, Caskie, Chandler, Clemens, Cleveland, Conger, Cullom, Darby, George T. Davis, Disney, Doty, Durkee, Edmundson, Ewing, Fay, Florence, Freeman, Gentry, Goodrich, Grey, Hall, Harper, Hart, Haws, Haven, Henn, Thomas M. Howe, Thomas Y. How, Hunter, Jackson, George W. Jones, Kuhns, Landry, Little, Lockhart, Mace, Mann, Miller, Henry D. Moore, John Moore, Newton, Olds, Andrew Parker, Samuel W. Parker, Phelps, Polk, Porter, Preston, Riddle, Robbins, Robinson, Sabine, Sackett, Schermerhorn, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Alexander H. Stephens, Stone, St. Martin, Strother, Sutherland, Sweetser, Taylor, Walsh, Ward, Watkins, Welch, Addison White, Alexander White, and Yates—92.

NAYS—Messrs. Allison, John Appleton, William Appleton, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Bartlett, Bibighaus, Bocock, Bragg, Albert G. Brown, Joseph Cable, Thompson Campbell, Chapman, Churchwell, Clark, Clingman, Cobb, Colcock, Curtis, Daniel, Dawson, Dean, Dimmick, Dunham, Edgerton, Ficklin, Fitch, Floyd, Thomas J. D. Fuller, Gamble, Giddings, Goodenow, Grow, Hamilton, Isham G. Harris, Sampson W. Harris, Hascall, Hebard, Hibbard, Hillyer, Holladay, Houston, Howard, John W. Howe, Ives, Jenkins, James Johnson, John Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Preston King, Kurtz, Letcher, Martin, Mason, McDonald, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Morehead, Morrison, Murphy, Murray, Peaslee, Penniman, Perkins, Powell, Reed, Robie, Ross, Skelton, Abraham P. Stephens, Thaddeus Stevens, Stratton, Thurston, Townshend, Wallace, Washburn, Wells, Wildrick, and Woodward—88.

So the amendment was agreed to.

The following amendment was then read:

"For the completion of the custom-house at Cincinnati, $87,745."

Mr. GOODENOW. Upon that I ask the yeas and nays.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 94, nays 84; as follows:

YEAS—Messrs. Chas. Allen, Ashe, Barrere, Bell, Bowie, Bowne, John H. Boyd, Breckinridge, Brenton, George H. Brown, Burt, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Clemens, Cleveland, Conger, Cullom, Darby, Disney, Doty, Duncan, Durkee, Edmundson, Ewing, Fitch, Florence, Freeman, Gaylord, Gentry, Goodrich, Gorman, Green, Grey, Hall, Harper, Hart, Haws, Haven, Hendricks, Henn, Thomas M. Howe, Thomas Y. How, Hunter, Jackson, Kuhns, Landry, Little, Mace, Mann, McCorkle, Miller, Henry D. Moore, John Moore, Newton, Olds, Andrew Parker, Samuel W. Parker, Penn, Penniman, Polk, Porter, Preston, Riddle, Robbins, Robinson, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Scurry, David L. Seymour, Origen S. Seymour, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Stone, St. Martin, Stuart, Sweetser, Taylor, Thurston, Townshend, Walsh, Ward, Welch, Addison White, and Yates—94.

NAYS—Messrs. Abercrombie, Allison, John Appleton, William Appleton, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Bartlett, Beale, Bibighaus, Bocock, Bragg, Brooks, Albert G. Brown, Burrows, Chapman, Chastain, Churchwell, Clark, Clingman, Cobb, Colcock, Daniel, Dawson, Dean, Dimmick, Dockery, Dunham, Fay, Ficklin, Floyd, Thomas J. D. Fuller, Gamble, Goodenow, Grow, Hamilton, Isham G. Harris, Sampson W. Harris, Hascall, Hebard, Hibbard, Hillyer, Holladay, Horsford, Houston, John W. Howe, Ives, Jenkins, James Johnson, Daniel T. Jones, J. Glancy Jones, Preston King, Letcher, Martin, Mason, McDonald, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Molony, Morehead, Morrison, Murphy, Murray, Peaslee, Perkins, Powell, Reed, Robie, Ross, Russell, Skelton, Abraham P. Stephens, Stratton, Tuck, Venable, Wallace, Washburn, Watkins, Wildrick, and Woodward—84.

So the amendment was agreed to.

The question next recurred upon agreeing to the amendment of the committee in reference to the New Orleans custom-house, which was to strike out "$100,000," and insert "$324,000," so that the clause should read:

"For the completion of the custom-house at New Orleans, $324,000."

The question was taken, and the amendment was concurred in.

The next amendment was read, as follows:

"For salary and outfit of a minister to Central America, to be accredited to such one or more of the Governments included in that name as the President of the United States may designate, $18,000."

Mr. HUNTER. I ask for the yeas and nays upon that amendment.

Mr. SACKETT. I call for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. GAYLORD and HALL were appointed.

The House was divided, and the tellers reported—ayes 28, noes not counted.

So the yeas and nays were ordered.

The question was then taken, and there were—yeas 94, nays 86; as follows:

YEAS—Messrs. Charles Allen, John Appleton, William Appleton, David J. Bailey, Thomas H. Bayly, Bell, Bowie, Bowne, Breckinridge, Briggs, Albert G. Brown, George H. Brown, Burt, Busby, E. Carrington Cabell, Cartter, Caskie, Chandler, Chastain, Clark, Clemens, Cleveland, Clingman, Colcock, Curtis, Darby, Dawson, Dean, Disney, Doty, Duncan, Dunham, Fay, Ficklin, Florence, Thomas J. D. Fuller, Gamble, Gentry, Gilmore, Goodrich, Gorman, Green, Grey, Hart, Henn, Houston, Howard, Thomas Y. How, Ingersoll, Jackson, Landry, Little, Lockhart, McDonald, McLanahan, Meade, Henry D. Moore, Morehead, Morrison, Murray, Nabers, Newton, Olds, Orr, Outlaw, Samuel W. Parker, Penn, Phelps, Polk, Porter, Powell, Richardson, Robbins, Robinson, Sabine, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Snow, Stanly, Frederick P. Stanton, Stuart, Sutherland, Sweetser, Taylor, Thurston, Townshend, Tuck, Walsh, Ward, Wilcox, and Woodward—94.

NAYS—Messrs. Abercrombie, Allison, Averett, Babcock, Barrere, Beale, Bennett, Bibighaus, Bocock, Bragg, Brenton, Brooks, Burrows, Caldwell, Lewis D. Campbell, Thompson Campbell, Cobb, Cullom, Daniel, George T. Davis, Dockery, Durkee, Edmundson, Floyd, Gaylord, Giddings, Goodenow, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Haws, Hascall, Hebard, Hendricks, Hibbard, Hillyer, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Mann, Martin, Mason, McMullin, McQueen, Meacham, Miller, John Moore, Murphy, Andrew Parker, Penniman, Perkins, Preston, Reed, Robie, Ross, Sackett, Schoolcraft, Schoonmaker, Skelton, Benjamin Stanton, Abraham P. Stephens, Thaddeus Stevens, Stratton, Venable, Wallace, Washburn, Watkins, Welch, Wells, Addison White, Alexander White, Wildrick, and Yates—86.

So the amendment was agreed to.

The next amendment was to strike out "$16,000" and insert "$20,000" in the following clause:

"For salaries of secretaries of legation for the same places, $16,000."

The question was put, and the amendment was agreed to.

The question next recurred on the amendment of the committee in reference to salaries and outfits of charges d'affaires, which was to strike out "$76,500" and to insert "$153,000," so as to make the sentence read:

"For salaries and outfits of charges d'affaires to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, New Granada, Venezuela, Buenos Ayres, Bolivia, Guatemala, Ecuador, Switzerland, and Nicaragua, $75,600."

The question was taken, and the amendment was agreed to.

The next amendment was read as follows:

"For the payment to Theodore S. Fay of the difference between the salary of a secretary of legation and a charge d'affaires, during the time on several different occasions he discharged the duties of the latter office at Prussia, $4,034 73, the same to be in lieu of all former appropriations, and also if received in full for all diplomatic services rendered in that capacity."

The question was put, and the amendment agreed to.

The next amendment was to add to the following clause:

"For compensation of the public gardener, $1,200,"

the following words:

"And the exclusive management of the grounds attached to the Capitol and surrounding the Executive mansion shall be under his control."

The question was put, and the amendment was agreed to.

The next amendment proposed by the committee was, to strike out the following:

"For annual repairs of the President's House, furniture, improvement of grounds, painting and repairing roof, cleaning, painting, and whitewashing inside of the house, extending east wing of offices for carriage-house, blinds for the west front of the house, flooring large room in basement, purchasing trees and plants for garden and for making hot-beds therein, wire fences, &c., $6,250;"

And insert:

"For the construction of hot-water furnaces, the ventilation of, and repairs for the Executive mansion, according to the plan of the architect, submitted to the Committee on Public Buildings and Grounds of the House, on the 4th February, 1853, and approved by said committee, $30,000."

Mr. AVERETT. I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

Mr. STANLY. I would inquire of the Chair what the question is before the House? There is so much noise in the Hall that it is difficult for us to hear in this part of the House.

The SPEAKER. The Clerk will again report the amendment:

The amendment was accordingly read as above.

Mr. STANLY. That is right. I tried to keep the President elect out of the House, but now that he has got there, I want to make him comfortable.

The question was then taken, and there were—yeas 63, nays 105; as follows:

YEAS—Messrs. John Appleton, William Appleton, Ashe, Babcock, Bowne, Breckinridge, Briggs, George H. Brown, Burt, Chandler, Clark, Cleveland, Colcock, Darby, George T. Davis, Dimmick, Duncan, Eastman, Fay, Florence, Gamble, Gilmore, Goodrich, Grey, Grow, Hall, Haws, Hibbard, Thomas Y. How, Robert W. Johnson, J. Glancy Jones, George G. King, Kuhns, Kurtz, Landry, Little, Lockhart, Mace, McCorkle, McQueen, Meade, Henry D. Moore, Morrison, Murray, Andrew Parker, Peaslee, Penn, Porter, Riddle, Sackett, David L. Seymour, Origen S. Seymour, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Stone, Stuart, Sutherland, Taylor, Thurston, Walsh, and Ward—63.

NAYS—Messrs. Abercrombie, Allison, Averett, David J. Bailey, Barrere, Beale, Bell, Bibighaus, Bocock, Bragg, Brenton, Brooks, Burrows, Bushy, Jos. Cable, Caldwell, L. D. Campbell, Thompson Campbell, Caskie, Chastain, Churchwell, Clemens, Clingman, Cobb, Cullom, Daniel, Dawson, Dockery, Dunham, Durkee, Edmundson, Ewing, Ficklin, Fitch, Floyd, Thomas J. D. Fuller, Gaylord, Gorman, Hamilton, Harper, Isham G. Harris, Hebard, Hendricks, Henn, Holladay, Horsford, Houston, Howard, John W. Howe, Thomas M. Howe, Hunter, Ingersoll, Jackson, Andrew Johnson, George W. Jones, Letcher, Mann, Martin, Mason, McLanahan, McMullin, McNair, Meacham, Miller, Millson, John Moore, Morehead, Murphy, Nabers, Olds, Orr, Outlaw, Samuel W. Parker, Penniman, Perkins, Phelps, Polk, Powell, Preston, Reed, Robbins, Robie, Ross, Savage, Schoolcraft, Schoonmaker, Scurry, Skelton, Benjamin Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stratton, Strother, Sweetser, Toombs, Townshend, Wallace, Watkins, Welch, Wells, Addison White, Wilcox, Wildrick, and Woodward—105.

So the amendment was disagreed to.

The next amendment was read as follows:

"For refurnishing the President's House, to be expended under the direction of the President, in addition to the proceeds of the sale of such of the furniture and equipage of said house as may be decayed, out of repair or unfit for use, the sum of $25,000."

The question was put, and the amendment concurred in.

The next amendment in order was the following:

"For inclosing with an iron fence and otherwise improving the triangular space on the north side of Pennsylvania avenue, opposite the market-house and between Seventh and Eighth streets, $5,500."

The question was put, and the amendment was agreed to, on a division—ayes 74, noes 56.

The next amendment proposed by the committee was to strike out the following section of the bill:

"SEC. 2. *And be it further enacted*, That the following sum be, and is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purchase and payment of the building at the corner of F street north, and Seventeenth street west, in the city of Washington, held by William H. Winder, and now in the occupancy of the United States, $200,000: *Provided*, Said William H. Winder shall make to the United States a good and sufficient title in fee-simple, with general warranty, free from all liens and incumbrances to said building and premises on which the same is situated; such title to be approved and accepted by the Attorney General and the Secretary of the Treasury, before payment."

Mr. HUNTER. I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

The question was then taken, and there were—yeas 99, nays 92; as follows:

YEAS—Messrs. Aiken, Charles Allen, Allison, Averett, Babcock, Bartlett, Beale, Bell, Bennett, Bibighaus, Bocock, Bragg, Brenton, Albert G. Brown, Burrows, Burt, Busby, Joseph Cable, Caldwell, Thompson Campbell, Caskie, Chastain, Clark, Clemens, Cobb, Colcock, Conger, Darby, Durkee, Eastman, Edgerton, Fay, Ficklin, Fitch, Floyd, Thomas J. D. Fuller, Gaylord, Giddings, Goodrich, Green, Grey, Grow, Hamilton, Haws, Haven, Hebard, Hendricks, Henn, Holladay, Horsford, Howard, John W. Howe, Hunter, Ingersoll, Ives, Jackson, Andrew Johnson, John Johnson, Daniel T. Jones, George G. King, Letcher, Mace, Martin, McCorkle, McQueen, Meacham, Miller, John Moore, Morehead, Murphy, Murray, Nabers, Outlaw, Samuel W. Parker, Peaslee, Penniman, Perkins, Powell, Robie, Ross, Skelton, Benjamin Stanton, Stone, St. Martin, Stratton, Strother, Sweetser, Thurston, Toombs, Townshend, Wallace, Ward, Watkins, Welch, Wells, Wilcox, Wildrick, Woodward, and Yates—99.

NAYS—Messrs. Abercrombie, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bowie, Bowne, Breckinridge, Briggs, Brooks, George H. Brown, E. Carrington Cabell, Lewis D. Campbell, Cartter, Chandler, Churchwell, Clingman, Cullom, Curtis, George T. Davis, Dawson, Dean, Dimmick, Disney, Dockery, Doty, Dunham, Edmundson, Florence, Freeman, Gamble, Gentry, Gilmore, Gorman, Hall, Harper, Isham G. Harris, Sampson W. Harris, Hart, Hibbard, Houston, Thomas M. Howe, Thomas Y. How, James Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Kuhns, Kurtz, Landry, Little, Lockhart, Mason, McLanahan, McMullin, McNair, Meade, Millson, Molony, Henry D. Moore, Morrison, Newton, Olds, Orr, Andrew Parker, Penn, Phelps, Polk, Porter, Preston, Reed, Riddle, Robbins, Robinson, Sabine, Sackett, Savage, Schermerhorn, Schoolcraft, Scurry, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stuart, Taylor, Tuck, Venable, and Walsh—92.

So the amendment was concurred in, and the section was stricken out.

The next and final amendment was then read, as follows:

"*And be it further enacted*, That the salary of the Superintendent of the Coast Survey shall be $6,000 per annum, and it shall be the duty of the Secretary of the Interior to report to Congress during the first month of each regular session, the number and names of the persons employed during the last preceding fiscal year upon the coast survey and business connected therewith, the amount of compensation of every kind respectively paid to them, for what purpose, and the length of time employed; and further, to report a full statement of all other expenditures made, under the direction of the Superintendent of the Coast Survey."

The question was taken on the amendment, and it was concurred in.

The bill was then ordered to be engrossed and read a third time, and having been engrossed, it was, according to order, read the third time and passed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

REORGANIZATION OF THE NAVY.

The SPEAKER. The question next in order for consideration, is a motion by the gentleman from Tennessee, [Mr. STANTON,] holding over from last Monday, to suspend the rules for the purpose of taking from the Speaker's table Senate bill No. 574, entitled an "An act to reorganize the Navy of the United States."

Mr. BROWN, of Mississippi. I demand tellers.

Tellers were ordered; and Messrs. HALL and WILCOX were appointed.

The question was put and there were, on a division—ayes 71——

Mr. STANTON, of Tennessee. As this is a very important bill, I demand the yeas and nays on the motion for the suspension of the rules.

Mr. STANLY. In order that the House may vote understandingly, I would ask of the chairman of the Committee on Naval Affairs, whether it is his intention, if the rules be suspended, to take the bill up and put it on its passage, or move its reference to the Naval Committee?

Mr. STANTON. If I had succeeded in getting the floor on a former occasion, I should have asked the reference of the bill to the Committee on Naval Affairs; but it is now too late, and I desire to fix a certain day for its consideration, if it be taken up by the House.

The question was taken and the rules were not suspended, two thirds not voting in the affimative, —yeas 98, nays 84; as follows:

YEAS—Messrs. Aiken, William Appleton, Ashe, Thos. H. Bayly, Bartlett, Bell, Bocock, Bowie, Bragg, Brooks, Albert G. Brown, George H. Brown, Burrows, Burt, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Caskie, Chandler, Chapman, Clemens, Cleveland, Clingman, Cullom, Curtis, Darby, George T. Davis, Dean, Dimmick, Disney, Doty, Duncan, Durkee, Edmundson, Fay, Ficklin, Florence, Thomas J. D. Fuller, Gentry, Goodrich, Gorman, Green, Grey, Harper, Sampson W. Harris, Hart, Haws, Holladay, Howard, Thomas Y. How, Ingersoll, Jackson, Robert W. Johnson, George G. King, Kuhns, Landry, Martin, McCorkle, McLanahan, Meade, Henry D. Moore, John Moore, Murray, Newton, Olds, Peaslee, Penn, Penniman, Perkins, Powell, Riddle, Robie, Robinson, Sabine, Schermerhorn, Schoonmaker, Origen S. Seymour, Skelton, Snow, Stanly, Fred. P. Stanton, Abraham P. Stephens, Thaddeus Stevens, Stone, St. Martin, Stratton, Strother, Stuart, Sutherland, Taylor, Thurston, Venable, Walsh, Ward, Washburn, Watkins, Wells, Addison White, and Wildrick—98.

NAYS—Messrs. Charles Allen, Allison, Averett, Barrere, Beale, Bennett, Bowne, John H. Boyd, Brenton, Briggs, Joseph Cable, Thompson Campbell, Cartter, Chastain, Clark, Cobb, Colcock, Daniel, Dawson, Dockery, Dunham, Eastman, Edgerton, Fitch, Floyd, Freeman, Gamble, Gaylord, Giddings, Gilmore, Grow, Hall, Hamilton, Isham G. Harris, Haven, Hebard, Hendricks, Henn, Hibbard, Horsford, Houston, John W. Howe, Thomas M. Howe, Ives, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Little, Lockhart, Mace, Mann, Mason, McNair, McQueen, Miller, Millson, Molony, Morrison, Murphy, Nabers, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Phelps, Porter, Robbins, Ross, Russell, Sackett, Schoolcraft, Scurry, David L. Seymour, Benjamin Stanton, Alexander H. Stephens, Toombs, Townshend, Tuck, Welch, Woodward, and Yates—84.

So the House refused to suspend the rules.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

[Cries of "It is too late!"]

Mr. HOUSTON. I desire only that the House shall go into the Committee of the Whole to take up the Indian appropriation bill, and dispense with its first reading.

Mr. McMULLIN. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. MILLSON. I wish to ask for the unanimous consent of the House, before the question is taken on the motion to go into committee, for leave to introduce a bill providing a pension for an elderly lady whose husband was killed in battle. Its consideration will not occupy three minutes.

Mr. HOUSTON. If I withdraw my motion for one I will have to for all.

The question was taken, and the motion of Mr. HOUSTON was agreed to—ayes 108, noes not counted.

INDIAN APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCOCK in the chair.)

Mr. HOUSTON. I move to take up the Indian appropriation bill.

The question was taken, and the motion was agreed to.

Mr. HOUSTON. I move to dispense with the first reading of the bill.

The question was taken, and the motion was agreed to.

Mr. BROWN, of Mississippi. The purpose which the gentleman from Alabama had in view is now accomplished; I therefore move that the committee do now rise,

Mr. JONES, of Tennessee. I hope that the

gentleman will withdraw his motion until I make an amendment, so that we may have a question before the committee.

Mr. BROWN. I withdraw my motion for that purpose.

Mr. JONES. I move to strike out the first section of the bill, which is in the following words:

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums be, and they are hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with the various Indian tribes."

Mr. BROWN obtained the floor, but yielded to

Mr. JOHNSON, of Arkansas. I want to obtain the floor for the purpose of being enabled to address the committee before any motion is made to close debate. I move, then, as I presume the bill will not be considered this evening, that the committee do now rise. I hope that the committee will rise, and that debate on this bill will be closed to-morrow.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman [Mr. BOCOCK] reported that the committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly bill of the House, No. 33, entitled "A bill making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1854," and had come to no resolution thereon.

MARY W. THOMPSON.

Mr. MILLSON. I ask the unanimous consent of the House for leave to report back from the Committee on Revolutionary Pensions, Senate bill No. 125, entitled "An act for the relief of Mary W. Thompson."

There was no objection, and the bill was reported to the House, read a first and second time, and then read through.

Mr. MILLSON. I need hardly say anything in support of the bill which has just been read.

[Cries of "We will vote it through!"]

Mr. MILLSON. I propose to move an amendment to that bill, which has also received the approbation of the Committee on Revolutionary Pensions, the nature of which I will state to the House. At the last session of Congress, the Senate passed a bill for the relief of Mrs. Elizabeth V. Lomax, widow of Major Mann P. Lomax, which was referred to the Committee of the Whole House. These two bills were among the very first that were acted upon by the Senate. The one for the relief of Mrs. Lomax allowed her a pension during widowhood. It came up for consideration in the House at the present session on objection day, and the House having before that time adopted an amendment to Mrs. Worth's bill, restricting her pension to five years, a similar amendment was moved by the gentleman from Tennessee [Mr. HARRIS] to the bill for the relief of Mrs. Lomax. As any discussion of this amendment would have carried the bill over, it was adopted *sub silentio*, its friends fearing that it might not be again reached during the session.

After that time, however, several other bills which had passed the Senate at a later period, granting pensions during life or widowhood, to the widows of officers of the Army, were taken from the Speaker's table, under a suspension of the rules, and passed without being referred to any standing committee, or to the Committee of the Whole, and in the precise shape in which they had passed the Senate. The House having afterwards receded from its amendment in the case of Mrs. Worth, the case of Mrs. Lomax was the solitary exception to the course of legislation adopted in these instances, and the object of the amendment I now propose, is to restore Mrs. Lomax to the position in which the Senate bill placed her. Her claim was probably the strongest of the whole of them, and the House will not, I am sure, make a discrimination against this lady, whose husband had faithfully served his country for thirty-five years, without ever having received a furlough, or disobeyed an order, and who came to his death from exposure in the swamps of Florida, where he volunteered to go, immediately on receiving intelligence of Dade's massacre.

The amendment is as follows:

"And the pension heretofore allowed to Mrs. Elizabeth V. Lomax, widow of Mann P. Lomax, late Major of the Ordnance Corps, shall commence on the 27th day of March, 1842, and continue for and during her widowhood."

Mr. JONES, of Tennessee. I submit that the amendment is not in order to a private bill. I do not raise this question for the purpose of keeping out the amendment, but merely to prevent hereafter this thing of moving one private bill as amendment to another becoming a precedent. If this amendment is in order, every private bill on the Speaker's table might be offered as amendments to this bill.

The SPEAKER. According to the practice the amendment is not in order.

Mr. MILLSON. It is strictly in order, and there have been numerous precedents to which I will call the attention of the House.

Mr. STUART. The gentleman from Tennessee, as I understand, does not object to the passage of the amendment in this instance.

[Cries of "There is no objection to the amendment!"]

The amendment being admitted by unanimous consent, the question was taken, and it was adopted.

The bill was then ordered to be read a third time, and being, according to order, read a third time, it was passed.

JOHN BUFFINGTON.

Mr. HENDRICKS. Mr. Speaker, I ask the unanimous consent of the House, that my colleague [Mr. MACE] from the Committee on Claims, may report a bill for the relief of John Huffington. I will only say to the House, that Mr. Huffington is very old, so feeble as scarcely to be able to walk, and nearly blind. He is here without means, and is a great burden to me personally. If the bill should not pass at this session it is not likely the old man will live to enjoy the benefits of its provisions. The claim is so well sustained, and so free from objection, that it has, as I understand, received the unanimous approval of the Committee on Claims. I ask, then, as an act of right and justice to the claimant, and as a personal favor towards myself, that the bill be reported and acted upon.

Mr. MACE then, from the Committee on Claims, reported the following bill:

"A bill for the relief of John Huffington;"

Which was read a first and second time by its title, and then read through.

The SPEAKER. The bill contains an appropriation, and must be committed under the rules.

The rule requiring bills containing appropriations, to be first considered in the Committee of the Whole, was, by unanimous consent, suspended. The bill was then ordered to be engrossed and read a third time, and having been engrossed, was, according to order, read the third time, and passed.

ELI DARLING.

Mr. BOWNE. I ask the unanimous consent of the House for leave to introduce "A bill for the relief of Eli Darling," of which previous notice has been given.

Mr. LETCHER. Is it the object of the gentleman to put it on its passage or move its reference to a committee?

Mr. BOWNE. It has passed this House once, and I desire to put it on its passage.

Mr. LETCHER. I object; and I move that the House do now adjourn.

Mr. CLINGMAN. I demand tellers.

Tellers were not ordered.

The question was taken, and the House refused to adjourn.

Mr. BOWNE. I move to suspend the rules for the purpose I have already indicated.

The question was taken, and the House refused to suspend the rules.

MARY WOODWARD.

Mr. VENABLE. I ask the unanimous consent of the House for leave to take up and put on its passage, Senate bill No. 463, for the relief of Mrs. Mary Woodward, whose husband was drowned at the mouth of the Clamath river, in California, whilst in the naval service of the United States.

Mr. LETCHER. I rise to a question of order. We had the question presented the other day, and I understood the Speaker to decide that it was not right for any gentleman to borrow a proposition from another member to present to the House, and it is perfectly manifest that my friend went half way across the Hall to borrow a bill in order to carry out his purpose.

The SPEAKER. The Chair must overrule the point of order.

Mr. VENABLE. My friend is mistaken about the facts.

Mr. CAMPBELL, of Illinois. I ask the gentleman what was the rank of this officer?

Mr. VENABLE. Lieutenant; and the bill provides $30 a month.

Mr. HARRIS, of Tennessee. I suggest to the gentleman from North Carolina, instead of moving to put this bill upon its passage, that the Committee on Invalid Pensions be permitted to report the bill they have had before them. I know that the question was before them, and that they instructed their chairman to report the bill. I do not recollect the amount they gave the applicant.

The question was then taken, and the House refused to suspend the rules.

COMMODORE DECATUR'S WIDOW.

Mr. DAWSON. I ask the unanimous consent of the House to take up Senate bill No. 265, for the relief of the widow of Commodore Decatur. It will take but a moment.

Mr. HAMILTON. I object to the consideration of that bill.

Mr. DAWSON. I move to suspend the rules.

The question was then taken upon suspending the rules, and it was decided in the negative.

Mr. BROWN, of Mississippi. I move to take up Senate bill No. 586, to extend preëmption rights to unsurveyed lands, and for other purposes. It is a bill to grant preëmptions to settlers on the lands along the line of railroads to which grants have been made by Congress.

Mr. STUART. Before the gentleman submits his motion, I ask him to yield me the floor a moment, that I may ask the House to take up the bill which was objected to the other day. It is Senate bill No. 465, to amend an act entitled "An act authorizing the sale of certain military sites," approved March 3, 1819.

Mr. BROWN. I cannot object.

A MEMBER. I object.

Mr. BROWN. I move to take up the bill which I have already indicated.

Several MEMBERS. I object.

Mr. BROWN. I move a suspension of the rules for that purpose.

The question was then taken on suspending the rules, and it was decided in the negative.

Mr. LETCHER. I move that the House adjourn.

Mr. STUART. I want the attention of the gentleman from Virginia one moment. I wish to take up Senate bill No. 465, to amend an act "authorizing the sale of military sites."

Mr. WHITE, of Kentucky. I move that when this House adjourns, it adjourn to meet on Wednesday next, as to-morrow, the 22d, is Washington's birth-day.

Mr. STUART. I wish the gentleman from Virginia, and the House to hear me one moment.

The SPEAKER. That can be done only by unanimous consent.

Mr. STUART. I have a right to appeal to the gentleman from Virginia.

The SPEAKER. The gentleman from Michigan—the Chair would be glad if the House indulged him—wants to make a speech. He has a right to appeal to the gentleman from Virginia to withdraw his motion, but not a right to discuss the proposition.

Mr. HART. Is the gentleman from Michigan entitled to the floor?

The SPEAKER. He is entitled to the floor to ask the gentleman from Virginia to withdraw his motion.

Mr. STUART. I ask the gentleman from Virginia to withdraw the motion to adjourn, and allow me to introduce a bill from the Senate, and ask the House to pass it.

Mr. STANTON, of Ohio. I wished to explain some things at several times, and the gentleman from Michigan objected.

The question was then taken on Mr. WHITE'S motion, and it was decided in the negative.

So the House refused to adjourn over till Wednesday.

The question was then taken on Mr. LETCHER'S motion, and it was decided in the affirmative.

So the House adjourned till to-morrow at eleven o'clock, a. m.

PETITIONS, &c.

The following petitions and memorials were presented under the rule, and referred to the appropriate committees:

By Mr. EASTMAN: The petition of citizens of Wisconsin for a mail route from Prairie du Chien, via Boydstown, Richland Creek, and Richmond, to Muscoda.

By Mr. BELL: The memorial of 44 old soldiers from Knox county, Ohio, who served in the wars of the United States under General Wayne, or the war of 1812, stating the respective ages of the memorialists, and asking Congress to amend the bounty land laws so as to give to each officer and soldier who served in any of our wars one hundred and sixty acres of land, deducting therefrom whatever may have been received under former laws.

Also, the petition of 36 citizens of Greene county, Ohio, praying for the passage of Stanly's bill to aid in colonization, and also asking the recognition of the independence of the Republic of Liberia.

Also, the petition of 53 citizens of the same county, praying for the entire prohibition of carrying the mail on the Sabbath.

IN SENATE.

TUESDAY, *February* 22, 1853.

Prayer by the Rev. JAMES GALLAHER.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate, a report of Lieutenant Meigs, with surveys, plans, and estimates for supplying the cities of Washington and Georgetown with water; which was ordered to be printed.

Also, a report of the Secretary of the Navy, in answer to a resolution of the Senate, respecting the establishment of a line of mail and war steamers between the western coast of the United States and the free ports of China; which was referred to the Committee on Naval Affairs.

Also, a report of the Secretary of War, in answer to a resolution of the Senate, relative to the establishment of permanent arsenals and depôts of arms on the Pacific, the Gulf, the southern Atlantic, and the northern Atlantic coasts; which was referred to the Committee on Military Affairs, and ordered to be printed.

THE INDIGENT INSANE BILL.

Mr. HAMLIN moved that the Senate proceed to the consideration of the bill making a grant of lands to the several States of the Union, for the relief and support of indigent insane persons; but, at the request of several Senators, he permitted the morning business to be proceeded with by unanimous consent.

PETITIONS, ETC.

Mr. FITZPATRICK presented the memorial of the agent of the State of Alabama, praying that provision may be made for the settlement of the claims of that State for the services of her militia in the suppression of Indian hostilities in the years 1836 and 1837, still remaining unpaid; which was referred to the Committee on Military Affairs.

Mr. RUSK presented the petition of Martha Brennan, praying indemnity for a crop of cotton destroyed by the American troops during the late war with Mexico; which was referred to the Committee on Military Affairs.

Mr. SEWARD presented the memorial of A. W. Bowman, an officer of the Army, praying to be allowed compensation for services out of the line of his regular duties; which was referred to the Committee on Military Affairs.

Also, three petitions of citizens of Monroe county, New York, praying that the bill making grants of land for railroads and for other purposes, may become a law; which was ordered to lie on the table.

Also, a petition of citizens of Brooklyn and New York, praying that a contract may be entered into with Christian Hansen for the transportation of the mails between Brooklyn and Gluckstadt, and between Kiel and St. Petersburgh; which was referred to the Committee on the Post Office and Post Roads.

Mr. COOPER presented a memorial of the Board of Trade of Philadelphia, praying that the law requiring letters addressed to the owners, consignees, and charterers of ships arriving from all foreign ports, to be deposited in the post office, may be repealed; which was referred to the Committee on the Post Office and Post Roads.

Mr. CASS presented a petition of clergymen of Albany, New York, praying that measures may be taken to secure religious liberty to American citizens abroad; which was ordered to lie on the table.

Mr. FELCH presented a petition of E. C. Seamen, asking the patronage of the Senate to a volume of essays on the progress of nations in civilization, productive industry, wealth, and population, published by Charles Scribner; which was referred to the Committee on the Library.

Mr. DOWNS presented the petition of the President of the Vicksburg, Shreveport, and Texas Railroad Company, praying a grant of land to aid in the construction of that road, and inasmuch as the Senate had acted upon the subject, he moved that it lie on the table and be printed, as it contained some valuable information.

The motion was agreed to.

Mr. CHASE presented two petitions of citizens of Tuscarora and Jefferson counties in Ohio, praying that the homestead bill may become a law; which were ordered to lie on the table.

Mr. GEYER presented the petition of Elias P. West, praying compensation for his services as late United States district attorney for the Territory of New Mexico; which was referred to the Committee on the Judiciary.

Mr. HAMLIN presented a petition of captains and pilots of steamboats and others, praying the erection of a beacon light on Lune Rock, in Newport harbor, Rhode Island; which was referred to the Committee on Commerce.

He also submitted additional documents in support of the claims of the owners of the fishing schooner Union; which were referred to the Committee on Commerce.

Mr. BRIGHT presented a petition of citizens of Indiana, of German origin, praying that further aid may be extended to the line of mail steamers between New York and Bremen; which was referred to the Committee on the Post Office and Post Roads.

Mr. DAVIS presented a petition of citizens of Springfield, Massachusetts, praying that the armories of the United States may be placed under the superintendence of civil, instead of military officers; which was ordered to lie on the table.

ARMY APPROPRIATION BILL.

Mr. HUNTER. I move to postpone all prior orders, for the purpose of taking up the bill making appropriations for the support of the Army for the fiscal year ending the 30th of June, 1854.

Mr. WELLER. I hope that motion will not prevail. I desire that the Senate should proceed to-day, to the unfinished business of yesterday—the Pacific railroad bill. We made considerable progress, and I think healthy progress, yesterday, towards the completion of the bill for the construction of that road. I think it is due to the importance of the work that we should decide the question to-day. If it be, as some Senators suppose, dead, it is necessary at all events to get its carcass out of the way, that we may proceed with other legislative business. I said yesterday, that I thought there was vitality enough in it yet. I shall therefore vote against the motion of the Senator from Virginia, with the view to proceed to the consideration of the bill which was under consideration yesterday.

Mr. HUNTER. I hope we shall have the sense of the Senate upon the motion.

Mr. HAMLIN. I suppose I am entitled to have the motion which I submitted to the Senate put. I had not yielded the floor to any one. I understood the Chair to suggest that memorials and reports could be received if nobody objected. I assented, and I did what the Senator from Texas did the other day: suspend the motion by unanimous consent. I did not suppose that I had yielded the floor in any sense. I have not taken my seat. I have not withdrawn my motion, and I desire to have the sense of the Senate upon it.

Mr. HUNTER. I suppose it is not in the power of one member to keep the control of the business of the Senate in that way. It cannot make much difference which question is put first. If the majority of the Senate are in favor of taking up the bill mentioned by the Senator, they will vote down my motion. If they are in favor of taking up the Army bill, they will vote down his motion.

Mr. HAMLIN. I do not suppose it is in the power of one member to control the business of the Senate, but I submitted the motion clearly and distinctly, and I understood the Chair to suggest that other matters could come in by unanimous consent, and I have stood here consenting, but I have not withdrawn my motion. I have not yielded the floor in any other way than I understood the Chair, that other matters could be received by unanimous consent; myself or any other Senator having the right to interpose an objection at any time.

Mr. HUNTER. I hope the question will be put, and that we shall have the sense of the Senate upon it. I am pledged to press the question in relation to the appropriation bills. When one o'clock comes, we shall have a special order, and unless we take up the Army bill in the morning hour it will not be considered at all. The morning business is not important now because the session is nearly closed.

Mr. UNDERWOOD. I hope that the Senator from Virginia will not be indulged in his motion, until we get through with reports; and then I hope we will take up the motion of the Senator from Maine to amend the rules, and adopt a rule which shall say that we shall decide all questions in relation to the priority of business without debate; for, as it is now, we lose half of every morning in the struggle and debate as to what measure we shall take up.

Mr. HUNTER's motion was rejected.

Mr. GWIN. I give notice that when the Army bill comes up, I shall move an amendment to it in the way of an additional section, being the amendment offered by the Senator from Pennsylvania [Mr. BRODHEAD] to the celebrated Pacific railroad bill. Inasmuch as he aided in killing that bill, I hope he will not object to my stealing his thunder.

INDIGENT INSANE.

Mr. HAMLIN. I now submit the motion to postpone all prior orders, for the purpose of taking up for consideration the bill for the relief of the indigent insane.

Mr. UNDERWOOD. I hope that bill will not be taken up now. We want an opportunity this morning to do the regular morning business.

Mr. HAMLIN. I hope the Senator from Kentucky will not object. This is an important bill. When it is acted on, I will go with the Senator from Kentucky for amending the rule, as he suggested. I hope my motion will be put.

Mr. SUMNER and Mr. BRADBURY called for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. BRIGHT. I am in favor of the bill at the proper time, but I shall vote against taking it up, because the morning business has not been disposed of yet. I agree with the Senator from Kentucky, that we ought to have an opportunity to attend to that first, as we have not had one for a week. For that reason I shall vote against the motion of the Senator from Maine.

Mr. WELLER. I am constantly placed in a false position, some how or other. I am compelled to vote against the motion to take up the bill. I am anxious that the bill should pass, but I must vote against taking it up now, for the reason that I desire to proceed to the unfinished business of yesterday.

Mr. BRADBURY. I believe this is the only opportunity there will be to take up that bill. I am in favor of it, and I shall vote to take it up at this time.

Mr. DOWNS. I am in favor of this bill, but I do not want to take up any bill at this time, when it is necessary that we should have an opportunity to do the regular morning business. How it is that gentlemen cannot wait for half an hour for the morning business, I cannot understand. I must, therefore, vote against taking up the bill proposed, and everything else.

The question was then taken, with the following result—yeas 15, nays 26:

YEAS—Messrs. Badger, Bell, Bradbury, Cooper, Davis, Fitzpatrick, Foot, Hamlin, Miller, Pearce, Seward, Smith, Spruance, Sumner, and Wade—15.

NAYS—Messrs. Adams, Atchison, Bayard, Borland, Bright, Brodhead, Cass, Charlton, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Geyer, Gwin, Hunter, Mallory, Mangum, Mason, Morton, Pettit, Pratt, Rusk, Sebastian, Walker, and Weller—26.

So the motion was not agreed to.

PACIFIC RAILROAD.

Mr. WELLER moved that the Pacific railroad bill be taken up; but at the suggestion of several

Senators, who wished to make reports, he did not press the motion.

REPORTS FROM STANDING COMMITTEES.

Mr. BRIGHT, from the Committee on Roads and Canals, to which was referred the petition of Edward G. Fitch, asked to be discharged from the further consideration thereof; which was agreed to.

Mr. BRODHEAD, from the Committee on Claims, to which was referred the joint resolution explanatory of an act entitled "An act for the relief of Abigail Stafford," reported it without amendment.

Mr. BORLAND, from the Committee on Public Lands, to which were referred sundry petitions of registers and receivers of land offices, reported a bill for the relief of the present and late land officers in the States of Alabama, Mississippi, Louisiana, and Arkansas; which was read and passed to a second reading.

Mr. DAWSON, from the Committee on Military Affairs, to which was referred the memorial of Harriet O. Read, submitted a report, accompanied by a bill for the relief of the executrix of the late Lieutenant Colonel A. C. W. Fanning, of the United States Army; which was read and passed to the second reading.

The report was ordered to be printed.

Mr. MORTON, from the Committee on the Post Office and Post Roads, to which was referred the bill from the House of Representatives for the relief of James H. Jenkins, reported it without amendment.

Mr. GWIN, from the Committee on Naval Affairs, to which was referred the bill from the House of Representatives for the relief of Captain Lewis E. Simonds, reported it without amendment.

Mr. DOWNS, from the Committee on Private Land Claims, to which was referred the petition of John Gusman, of Louisiana, submitted a report, accompanied by a bill for his relief; which was read and passed to the second reading.

The report was ordered to be printed.

He also, from the same committee, to which was referred the bill from the House of Representatives for the relief of Ira Baldwin, reported it without amendment.

Mr. FOOT, from the Select Committee to which was referred the petition of James S. French, reported a bill to test the practicability and value of Colonel James S. French's invention for improvement in railroads and locomotive engines; which was read and passed to a second reading.

Mr. BRADBURY, from the Committee on the Judiciary, reported a bill to assist the heads of the Executive Departments in ascertaining the proper persons who are entitled to receive payments of accounts against the United States, when audited and adjusted; which was read and passed to the second reading.

BILLS, ETC., INTRODUCED.

Mr. WELLER, by unanimous consent, asked and obtained leave to introduce a bill to facilitate the settlement of the accounts of the late collector of the district of Upper California; which was read a first and second time by its title, and, together with the accompanying papers, referred to the Committee on Finance.

Mr. SUMNER, by unanimous consent, asked and obtained leave to introduce a bill to provide for the reciprocal execution of letters rogatory by the courts of the United States in behalf of the courts of justice of friendly nations; which was read a first and second time by its title, and referred to the Committee on the Judicary.

Mr. CHASE, agreeably to previous notice, asked and obtained leave to bring in a joint resolution authorizing the President of the United States to purchase of Hiram Powers his statue of "America;" which was read and passed to a second reading.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. FORNEY, its Clerk, announcing that it had passed the bill from the Senate for the relief of Mary W. Thompson, with an amendment.

Also, that it had passed a bill for the relief of John Huffington.

Also, that it had agreed to the amendment of the Senate to the bill for the relief of Josiah P. Pilcher, late a private in Company F, second Kentucky regiment of volunteers in the war with Mexico; and to the amendments of the Senate to the bill to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the circuit and district courts of the United States, and for other purposes.

INTERNATIONAL ARBITRATION.

Mr. UNDERWOOD. I desire to submit a report from the Committee on Foreign Relations upon the subject of substituting arbitration for war. I am permitted to make it in virtue of what I will read to the Senate:

"Being informed that the members of the Committee on Foreign Relations are equally divided on the subject of your resolution in relation to international arbitration as a substitute for war, I therefore hereby authorize you to report the resolution and your argument, and to ask for the printing thereof, but deem it proper, at the same time, to say that my object is to get your resolution and report before the Senate for the purpose of consideration, not having been in the committee when the subject was disposed of, and not intending to commit myself in favor of your resolution. "S. A. DOUGLAS."

We all know that Mr. DOUGLAS is a member of the committee, but was not permitted to be present, owing to circumstances to which I need not refer. I now ask leave to present the resolution and report, and ask that they may be printed.

They were ordered to be printed.

The resolution is as follows:

Resolved, That the Senate doth advise the President to secure, whenever it may be practicable, a stipulation in all treaties hereafter entered into with other nations, providing for the adjustment of any misunderstanding or controversy which may arise between the contracting parties by referring the same to the decision of disinterested and impartial arbitrators, to be mutually chosen.

Mr. MASON. I understand from what fell from the honorable Senator that that report is made from the Committee on Foreign Relations by the permission of one member of that committee, as stated in writing. I wish to say that the minority of the committee, of which I was one, utterly dissented from the conclusion as well as the reasoning.

EXTENSION OF THE STEAMBOAT LAW.

Mr. DAVIS. I am instructed by the Committee on Commerce to report a joint resolution in amendment to the joint resolution relating to the tests by inspectors of steamers, approved the 7th day of January, 1853. As it relates to a subject of very considerable interest, which ought to be acted on immediately, I am instructed further to ask for its consideration at this time.

The joint resolution was read a first and second time by its title, and considered as in Committee of the Whole, and the Secretary was proceeding to read it——

Mr. WELLER. I suppose the resolution is to be printed, and therefore there is no necessity for reading it. Does the Senator propose action upon it now?

Mr. DAVIS. I would state to the gentleman, what very many Senators know, that numerous petitions have been presented, praying an extension of the time for certain preparations to enable them to comply with the steamboat law. They also ask for some modification as to the requirements in reference to life-boats.

Mr. WELLER. I have no objection.

The joint resolution proposes to allow the inspectors of steamers to exercise the powers conferred upon them by the joint resolution approved January 7, 1853; but that in no case shall the time granted extend beyond the 1st of June, and that they may approve of boilers and steam-pipes made subsequent to the passage of the act of August 30, 1852, if they be not made with stamped iron, if it shall appear that stamped iron could not be seasonably procured. It also proposes to authorize the inspectors, upon satisfactory proof that the owners of a steamer are not enabled to procure seasonably, or upon reasonable terms, a metallic life-boat as required by that act, or that such a boat is unsuited to the navigation in which that steamer is employed, to accept a substitute or substitutes for such metallic life-boat. It also provides that the inspectors may, if they deem it safe, permit boats to run on occasional excursions not exceeding thirty miles, with a less number of life-preservers than is required by the provisions of the act of August 30, 1852, and may also in such case dispense with the registering of passengers. It further proposes to resolve that no person interested as a patentee, manufacturer, or otherwise, directly or indirectly, in life-preservers, life-boats, or any other article required by steamers under the law of August 30, 1852, shall be deemed competent to hold the office of inspector, or to discharge its duties.

Mr. CASS. I desire to ask the honorable Senator from Massachusetts, for I did not understand him distinctly, what portion of the law of the last session is postponed until the 1st of June? I have received letters from persons interested in lake navigation, who represent that there are details in that bill, which if immediately carried into effect must destroy steam navigation. I do not profess to understand the subject, but I believe the honorable Senator does understand it; and therefore I would ask him for some information.

Mr. DAVIS. This resolution gives the inspectors power, in case the parties shall not be prepared in any particular as required by the law to execute its provisions, to extend the period of time to the 1st of June, upon application for that purpose being made.

Mr. CASS. I would ask the honorable Senator if that, under the circumstances, is long enough? I very much doubt it.

Mr. DAVIS. I am advised by the inspectors that it is long enough.

Mr. CASS. I should prefer a longer time.

Mr. DAVIS. I cannot conceive a case in which ample preparation might not be made by that time, even if nothing had been, so far, done.

Mr. CASS. There is a tremendous interest involved in this subject. A large amount of capital has been expended in the construction of steamers under existing laws. We change the whole of those laws. We require the parties to make radical changes in their boats, subjecting them to very great expense. It is an important subject, therefore, and I have serious doubts whether the time proposed by the honorable Senator is long enough. But, I repeat, I do not understand the details of the subject well enough to speak positively; but the representations made to me are such as to excite my serious apprehension that this time is not long enough.

Mr. RUSK. Mr. President, the practical effects of this salutary measure have already shown themselves. Up to this time of the last session of Congress I think we had information of five hundred souls which had been hurried into eternity by accidents on steamboats. Sir, the fact is a striking one, and I repeat it—up to this time from the beginning of the last session of Congress we had received information of five hundred individuals who had been destroyed by accidents on steamboats. Now, sir, mark the significant difference. If there has been a single case of loss of life by steamboat accident during the present session I have not heard of it. If there has been one, it has escaped my notice. This, sir, has been the result of the caution observed, and the preparations made to comply with the law. I know that there is a large capital invested in steamboats; and I also know that capital desires to prescribe the rule by which it is to increase itself. We have had petitions laid upon our tables for the extension of the time prescribed for the operation of the law of the last session, which represent that it is impossible for them to procure the necessary life-boats which are required by its provisions. Why, sir, I have seen that there are various manufacturers of life-boats advertising that they are ready to comply with all orders at the cheapest rates. This, sir, is not confined to one manufacturer of life-boats. Several manufacturers have circulated their advertisements far and wide. A New York manufacturer of life-boats, I am informed, has established a manufactory at Louisville, in Kentucky; and he has shown me the orders which he has received, and I assure the Senate they are meager, remarkably meager, in comparison with the whole. Sir, it is the duty of these men, and I think it is their interest too, to come forward and comply with this law; and I think the extension proposed by the honorable Senator from Massachusetts is amply sufficient. I have no objection to those individuals who have capital invested in steamboats making money; I do not object to their making ample profits to divide among the stock-holders; but I do object to their making such profits by the sacrifice of human life. This bill checks it. It is a measure which is creditable to the head and to the heart of the Senator from Massachusetts. I think he may look upon the course he pursued in the passage of this law

as the proudest action of his life; for it throws around helpless women and children protection from destruction, arising from the recklessness of captains of these boats, or the drunkenness of those who manage these dangerous instruments of transit and of commerce.

Mr. HAMLIN. Every Senator will recollect that, for the last four or five years, Congress has been literally flooded with memorials from every section of this Union, asking for the passage of some such law as that which we did pass at the last session, for the protection of life on our steamers. I think the Senator from Michigan, [Mr. CASS,] in his able and eloquent manner, often called the attention of the Senate to the necessity of such a law. Accidents that were appalling in their character, and which seemed to startle us even here in our places, were presented as inducements to prompt, efficient, and faithful action. The Committee on Commerce did act, and reported a bill calculated to provide for the safety of human life, which received the sanction of a majority of both Houses of Congress. Now, sir, comes the very period of time when we are to say whether, as legislators, we will carry out the provisions of that or some other good law, or whether those who are directly interested, as owners of these boats, are to come here and drive us from our propriety. That is the true issue; and it is the issue which is to be met and settled here. Why, sir, read the memorials that have been presented here at this session. They go to the destruction of this law, and not to its postponement. I concur in every word that has fallen from the Senator from Texas; and if we are to have a law which is to be effective, we should hold on to the main features of this until it shall be fairly tried. Within the period which will elapse between this and the first of June, I have no doubt, if the owners shall be as desirous to comply with this law as the community have a just right to demand, there will not be the least trouble in the world in complying with it.

Mr. PEARCE. Mr. President, the proposition submitted by the Senator from Massachusetts is undoubtedly very much calculated to soften what may be called the harsher features of this law. I should myself have been disposed to acquiesce entirely in this measure of his, as a sufficient relief to the parties interested; but I have been solicited by many of them, who urged it very strongly, to ask that the extension of time which he has agreed to grant, shall be made still longer. They represent a variety of difficulties; difficulties, they say, in changing the equipments and construction of their boats, as required by law; difficulties in procuring these metallic lifeboats, though that seems to be obviated by the proposition contained in this joint resolution. Another difficulty they mention is, in regard to the fusible alloy which they were required by the law to procure. They say no such alloy has ever been perfected, and they cannot get any alloy which will melt only at a certain heat. It is necessary to have mercury, and the mercury easily oxidates, and the alloy will sometimes melt at a heat thirty-eight degrees less than at other times under equal circumstances, so far as can be ascertained. They suggest a variety of circumstances of this sort why the operation of the bill should be postponed for a longer time. I do not profess to be competent to judge of all these subjects, but the representations are made to me from sources so strong, that I am inclined to move an extension of the time; but, before I do so, I would ask the honorable Senator from Massachusetts to extend the period somewhat longer.

Mr. DAVIS. Mr. President, I did not intend to say a word about the subject, and I do not intend to say many words now. I am bound, however, to say this much: After having read with some attention the memorials which have been presented, I think this subject has not been fairly treated by the memorialists. I think they raise very many captious and unfounded objections to the law—objections evincing a spirit of hypercriticism. They have spent whole pages in showing that a better provision might be made in regard to life-preservers, and they have spent like force in regard to fusible alloy, and a great deal of reasoning about points of that sort which are not very material, after all, since these are by no means the important features of the law.

Now, sir, as regards preparation: when you come to look at the character of the law, and see what is required, you will perceive at once that three months is ample time for the preparation required. In the first place, they are to put in the pumps required. That is a very small job, because the pumps are ready made at their hands; and suppose a vessel should be taken up for that purpose, still it would be but a short job. They are to furnish life-preservers and axes, and they are to put their vessels in other respects in the condition required by law, which ordinarily will require no material derangement of the present state of things. The inspection of boilers, their power and their capacity; the measure of steam that is to be carried—these are all considerations quite independent of the preparation. There are, I am informed, vessels which have not got ready. I am very much inclined to think that it is their fault; but, on the other hand, I am not disposed to make this a harsh measure. I wish for the concurrence and the aid of the owners themselves, for these are the owners wno come here, and not the people who make these representations. I am disposed to think that it is the best policy to give this discretional power to the inspectors, that they may extend the time not beyond the 1st of June. That is the proposition contained in the joint resolution under consideration. That will, it seems to me, impose no hardship whatever upon them.

A number of these owners have come here and asked to have the operation of the law postponed until December next. What is the object of that? Is it not to come here and agitate that question at the next session of Congress? It is perfectly evident on the face of it that they wish to stop the action of the law. They wish to stop its going into effect until Congress assembles again that they may again agitate the subject. I will agree to no such proposition as that; but if my friend from Maryland thinks in sober seriousness that three months is not enough, let him propose an extension to the 1st of July; and that is the ultimate limit to which I am willing to go.

Now in regard to this alloy, allow me to ask my friend from Maryland not to stir that subject. In justice to myself, I will say that I never had any confidence in this fusible alloy. I stated to the Senate, upon a former occasion, that the French, after experimenting upon it a great many years, had abandoned the fusible alloy; that the English had condemned it; but there were gentlemen on the western waters who had great confidence, after great experience in it, and who insisted, or whose representatives insisted upon it, that it should be put in as security. That was yielded, and the provision went into the bill. I understand that the Government has now employed suitable persons to manufacture the fusible alloy at the navy-yards, and that it will be furnished in sufficient quantities for the purposes of this law. I wish all this postponed until there has been some experience on the subject. If it shall turn out after all that the alloy has any value in it, we can hold on to it; but if it turns out otherwise, we can abandon it. The manufacture of it is now going on, and I think it is very well to allow a little time to enable them to get it. They have, I believe, resorted to every objection which ingenuity could raise in regard to the law to obtain a postponement of it. I thought I could not pursue a better policy than to yield to it as far as this resolution goes. I hope that that will be done.

Mr. BORLAND. I agree fully in all the views expressed by the Senator from Texas just now, and in those of the Senator from Massachusetts, and if I have any doubt at all, it is as to the propriety of allowing any extension. My difficulty is not that which the Senator from Michigan and the Senator from Maryland seem to suppose, that there is not time enough, but that there is too much time allowed. I was a little surprised to hear the Senator from Maryland speak of this resolution as softening the harshness of the original bill. Sir, I contend that there is no harshness in the original bill. I suppose that there is a barrier erected by it between the narrow selfish interest of capitalists engaged in steamboating and the security of the lives of the men, women, and children who are compelled to travel on steamboats. If that be harshness, the bill is harsh—not otherwise. If I had my own choice I would not grant one hour's extension; but I defer more to the judgment of the Senator from Massachusetts than to any one else upon this subject, because I know that for the last year or two he has devoted himself to it with a fidelity, an earnestness, and an energy which I have never seen equaled in the legislation of this body; and which, as the Senator from Texas well said, reflects the highest credit upon his head and upon his heart, and for which I, as one of the representatives of the valley of the Mississippi, tender him the gratitude of the people of the whole of that vast region of the country.

I repeat, that if I had followed my own opinions on the subject, I should be against any extension whatever, but the respect which I have for the opinions and the judgment of the honorable Senator from Massachusetts in this matter, induce me to go for this extension to the 1st of June, as I understand that he recommends it; and for no other reason. I have had doubts about the policy of extending it at all, but I yield those doubts to his better judgment.

Mr. DAVIS. I wish to state one thing in justice to myself, and it is this: It was necessary, in order to carry this law into effect, that the Government should provide the instruments necessary to test the boilers, and it undertook also to make the fusible alloy. The Government has omitted to do that seasonably, so as to enable them to test these boilers as soon as the law went into effect—on the 1st of January. It is enough to say this omission occurred; as I do not know exactly the reason for it, but as far as that goes, it is a justification of this application, and sustains the allegation that they could not get ready. Putting these things together, my opinion is that it is best to extend the time until the 1st of June.

Mr. BORLAND. I could not, in the noise which was in the Chamber at the time of the reading of the resolution, understand it distinctly in all its parts; but I understand that it suspends the operation of the law in the particulars which he has mentioned, but it does not exempt the owners of steamboats from the operation of the law in all those points in regard to which they have been able to make preparation.

Mr. DAVIS. The effect of the joint resolution is this, and I will state it distinctly to the honorable gentleman and to the Senate: Early in January we passed a joint resolution authorizing inspectors, when boats were not prepared without fault on the part of their owners, to extend the time of preparation not beyond sixty days. Now it is proposed to give the same power to each inspector in case the owner of a boat is not prepared to conform to this law; and if the inspector thinks that want of preparation is without fault on the part of the owners of the boat, he will allow them time until the first of June, or so much as is necessary, to prepare.

There is another difficulty which has arisen. The law which we passed required that boiler iron should be stamped by the manufacturers, and that none other should be used in the manufacture of boilers after the passage of the act. I believe it is only a few days since the Secretary of the Treasury issued his order directing how these stamps should be made. There is, then, in the resolution a provision which authorizes the inspectors to accept boilers made of iron not stamped, provided it appears that stamped iron could not be obtained. I suppose there will be many boilers in that situation, and there ought to be relief in that particular.

Then there is this additional clause. It has been discovered that there is a difficulty in obtaining metallic life-boats. It seems that they are not so plentiful in the market as to be obtained readily. There is, then, this provision in regard to the lifeboats required to be made of metal: that when such a boat cannot be obtained seasonably, or when it cannot be obtained on reasonable terms to the owners, or where the navigation is such as to make such a boat unsuitable, a power is given to the inspectors to dispense with it, and substitute another in lieu of it.

Then there is a further provision, that when excursions are made, what are called excursion parties, which are common, I believe, in every part of the country, if the excursion does not extend beyond thirty miles, the inspector may, if he thinks it safe and discreet so to do, dispense with the number of the life-preservers required for each passenger, to such an extent as he thinks fit, and also to dispense with the registering of the passengers in such case.

Mr. BORLAND. At this point the Senator will permit me to call his attention to one fact: that in these very excursions of which he speaks, I think the records of steamboat accidents will show a far greater proportion of lives lost than in any other service performed by steamboats. These pleasure excursions are comparatively few; but the number of accidents occurring upon them has been startling. Nothing is more common than that one of those excursions should terminate disastrously, and an immense amount of human life is sacrificed in that way. I repeat that in proportion to their number they are the most dangerous of all trips that steamboats make.

Mr. DAVIS. There is one provision more in the resolution; and when I have stated that, I shall have given an account of the whole of it. It is said that some of the inspectors are, or intend to be, interested in patents for life-preservers, life-boats, and things of that sort. There is in the resolution a provision that such an interest, direct or indirect, in a patented article required by this law to be used in steamers, shall be a disqualification for the office. That is the whole of the resolution, and if that provision in regard to excursions be deemed objectionable, I shall not insist upon it.

Mr. BORLAND. I should like to see it stricken out.

Mr. PEARCE. It was very far from my purpose, as the Senate might suppose from the remarks which fell from the Senator from Arkansas, to throw any censure on the committee which reported the law of the last session. When I spoke of what I considered its harsher features, I certainly did no more than express the opinion of those interested in steamboats. Certainly some of the provisions of that law are more stringent than others, and are more inconvenient upon steamboat owners; and these I characterized as the harsher features of the measure, and said that they were softened very much by the resolution now introduced by the honorable Senator from Massachusetts.

The loss of life on some parts of our western waters I know has been very great, but there are other parts of the country where such a thing as a steamboat accident is hardly ever heard of. An explosion of steam-boilers has never been known on the Chesapeake bay from the earliest period, except in two instances, one of which occurred more than thirty years ago, and the other upon the trial trip of a steamer, when, for the purpose of obtaining extraordinary speed, the steam was got up to an improper height, and the boiler burst, I believe, on the second revolution of the wheels.

Mr. PRATT. Before she started?

Mr. PEARCE. Yes, sir. With these exceptions no explosion has ever happened in Chesapeake bay; and except these two instances of burning the boats, which this law cannot remedy, probably no accident ever occurred in those waters.

Now, sir, the Senator from Massachusetts thinks that the object of the proprietors of steamboats, who have been memorializing Congress, is to defer the operation of the law until the next session of Congress, that they may have an opportunity of agitating the subject and preventing it ever going into operation. I am very free to admit that unless Congress intend to repudiate their own legislation, it is not desirable to extend the period at which the law should go into operation as far as the next session of Congress. I confess that I doubt the propriety of doing that; but if we were to extend the period within which the law should go into operation, until such time as to leave two or three months before the next meeting of Congress, during which we could see its operation, it seems to me that we should, at all events, avoid that objection which the Senator from Massachusetts makes.

It cannot be denied that this is a very delicate and a very difficult subject. Whoever glances at the law of the last session—a bill of fourteen pages, as closely printed upon our statute-books—whoever looks at it will see that its provisions are extremely numerous. They are very complicated, and the minuteness of their details will satisfy any one who examines it, that it is a very difficult subject to legislate upon; and it is extremely doubtful whether that law, in all its particulars—well considered as it has been, and by a gentleman of great ability and especial information on this subject—will work as perfectly and as easily as it ought to work. I am therefore inclined to make the motion, which I shall make before I sit down, that we strike out "June," and insert "October." That will leave two months for the operation of the bill before the next meeting of Congress. It will disappoint the hope of the proprietors, if they really entertain it, of defeating the bill altogether; and will enable Congress, at the next session, if there be faults in the practical working of the law, to know what they are, and apply the proper remedies. I therefore move to amend the joint resolution by striking out "June," and inserting "October."

Mr. WALKER. For one, I hope the amendment will not be adopted. It will be perceived by the Senate that it will leave the next season of navigation, and in the North particularly, subject to the old regulations on the subject; and besides, it will leave the system to be tested, as spoken of by the Senator from Maryland, for that remaining portion of the navigable season only during which a fair test of it cannot be made. I think it would be much better to test that law through the prior portions of the season for navigation, particularly upon the lakes. The navigation upon the lakes closes, to a great extent, by the first of November; and therefore there will be, under this amendment, but four weeks after the commencement of the operation of the law, to test its practical effect. It cannot be tested, even in the estimation of the owners or the navigators of boats in this time. I hope, therefore, that the amendment will not be agreed to.

I sympathize greatly with the Senator from Arkansas, and I think, with him, that if there be any objection to the proposition of the Senator from Massachusetts at all, it is that it postpones the operation of the act of the last session. I believe the proprietors of steamboats might have put themselves in a fit state of preparation to comply with its provisions. It seems to me that they might have employed this winter in doing so. If they were restricted to purchasing life-boats or life-preservers of particular monopolists, that is a misfortune; and how it was imposed upon the Senate and the country I do not know, but I should like to know. But this resolution relieves them from that burden. It throws the matter open, if I understand it, to the owners of boats to purchase their life-preservers and their life-boats wherever they may be able to get them of a proper and safe kind. With this laxity given to the former law, it seems to me that it is sufficient; but while I agree in the proposition of the Senator from Massachusetts, I must emphatically reject any postponement of it to the time mentioned by the Senator from Maryland.

Mr. PRATT. Mr President, the great difficulty, as it seems to me, in proper legislation upon this subject, is the extent of water or territory over which our law is to operate, and the extent of the interest upon which it is proposed to have effect. The facts detailed by my colleague, manifestly show to the Senate that the law is of no consequence to the people who are interested in the steamboat navigation of the Chesapeake Bay and its tributaries. They do not feel the necessity which is felt by those interested in that description of navigation upon the western waters, for this legislation. In thirty years, as my colleague has said, there have been but two accidents of this kind occurring there. There has been, in fact, less loss of human life by this mode of travel than by any other mode, as far as the State which my colleague and myself represent on this floor is concerned. Why, then, should the people among us, owning this vast interest, be incommoded, injured, and restricted by a bill which is of no use to our own people, and when they do not desire it? It is necessary, I conceive, to those who are interested in this description of navigation upon the western waters, and I am willing that you shall pass any bill which the representatives from that quarter desire; but such bill is not asked for by the people of Maryland. So far as I am aware, it is not asked for by the people of Pennsylvania. Why, therefore, are you to impose unnecessary restrictions upon the business of steam navigation within the limits of the States whose people are not interested in it—whose people do not desire it, when the results existing from the time of its commencement to the present period show that no necessity of the kind exists? I hope, at any rate, it will be conceded to us to have an amendment placed upon the bill allowing the 1st of October, instead of the 1st of June, as the time for allowing the law to go into operation. I would prefer that the State which my colleague and myself represent should be exempted from the operation of this bill; but as that will not be accorded to us, I ask, at any rate, that you will allow this great interest to have until the 1st of October, for the purpose of making the preparations which the law requires.

Mr. BADGER. I shall be very reluctant to see the amendment moved by my friend from Maryland made to this bill. I am not disposed to vote for any resolution extending the time at all. But with the deference that I think is due on such a subject to the recommendation of the honorable Senator from Massachusetts, I am disposed to yield to his suggestion; but beyond that, in my judgment, we ought not to go one day nor one hour. I think my friend from Massachusetts has been exceedingly liberal in allowing three months more of unlimited power for the destruction of human life; and I think it is as fair a division as could be made for us to say, Whereas we have heretofore left the waters of the United States subject entirely to the proceedings of the directors and managers and owners of steamboats, who are obliged to consider nothing but their own interests; from and after the 1st day of June next, the lives and the happiness of passengers shall be subject to be considered also as worthy of protection on the part of the Government. Now, sir, if it were possible to do it without surrendering the whole system; if it would not be odious to have one system prevailing in one part of the United States, and a different system in another part, I would freely yield to the suggestion of my friend from Maryland to strike out that State from the operation of the bill. But there are strong and overwhelming objections, as I think, to having one system upon the subject in one part of the United States, and a different system in another part. Consequently, if there be, as my friend says, no need of the provisions of this law in Maryland, nevertheless the steamboat owners should subject themselves to the inconvenience of doing what, if not necessary there, is necessary on the western waters and upon the lakes. I hope we shall not extend the time one hour beyond that mentioned in the resolution of the Senator from Massachusetts.

Mr. BORLAND. The Senator from Maryland [Mr. PEARCE] proposes to extend this time till the 1st of October, and he seems to make as the basis of his proposition, the fact that no accident of this kind has happened within the limits of his State.

Mr. PEARCE. The Senator will allow me to say that he is entirely mistaken. I did not make that fact the basis of my argument. I mentioned it incidentally, in reply to what had been said by the Senator from Texas and the Senator from Arkansas, in reference to the great waste of life on the western steamboats.

Mr. BORLAND. Then the Senator seemed to apprehend that no dangerous consequences would result from the extension of this time, and that seemed to be the basis of his proposition, for I could see no other application which it could have to the case. He said that his State had been exempt from those accidents, and from that he inferred that accidents were not liable to happen. If that be the fact—and the two Senators from Maryland seem to be sure that it is so, and that there is perfect safety in this matter so far as their State is concerned—I would suggest, that in connection with the motion to substitute "October" for "June," they restrict it so as to apply to the State of Maryland. If those Senators and their constituents feel safe, no one else ought to object; but I do protest, in the name of my constituents and the people of the great valley of the Mississippi, where those accidents do occur, and where we believe the provisions of the law are necessary to prevent them, that there shall be no further extension than that proposed by the Senator from Massachusetts.

Mr. President, the owners of steamboats seem to complain of this bill as operating harshly upon them. I received an answer to that from a most intelligent and worthy steamboat captain in my country, this fall, as I was coming from my home to this city, which struck me with great force. I met him at the mouth of the Arkansas river, where he was fitting his boat for trade. Having great confidence in his judgment and his moral worth, I appealed to him to know what his opinion was,

and what were the sentiments of steamboat men in relation to the law and its operation, for I told him it was probable, from the representations which I had seen, that an attempt would be made at this session of Congress to modify, or do something to lessen what I considered its good provisions. His answer was, "I have inquired extensively; I have examined it as well as I could; and my opinion is, that there is not a good man in the whole steamboat interest that is not in favor of it." To my mind that answer was satisfactory, so far as the operation of the bill in that region of country was concerned.

Mr. BRIGHT. I do not know that I should have said a word if it had not been for the last remark of the honorable Senator from Arkansas, relating a conversation which he had with a steamboat captain in his neighborhood. I reside at a point where some seven or eight steamboat captains live, and where there are perhaps one hundred officers of steamboats, and I have yet to converse with the first gentleman connected with the steamboat interest who is not opposed to the general provisions of this law, and every one of them is opposed to carrying it into operation at as early a period as is proposed by this bill. I have sent to my room for, and I am sorry that I have not been able to find it to lay before the Senate, the proceedings of a public meeting, which has been held, denouncing the law, but at the same time expressing a determination to adhere to its provisions, but asking an extension of the time. They ask for twelve months. I am glad that the honorable Senator from Massachusetts has moved to give steamboat owners three months, but I still hope that the amendment of the Senator from Maryland will prevail, and that we shall extend the time further than is proposed by the Senator from Massachusetts.

Gentlemen seem to argue this question as though there was something criminal in being the owner of a steamboat. There are, sir, emphatically two sides to this question. The law of the last session is, in its nature, an *ex post facto* law; it is retroactive. It requires gentlemen who have invested all their capital in a certain species of property in a certain way, to go to work and undo, in part, what they have done. It is not entirely convenient to many of them to command the means necessary to make the additional equipments to their boats, and to make the change provided for by the law. It operates as an extreme hardship upon many. It is so considered by men who intend, in good faith, to carry out it provisions; but they ask that time be given to enable them to do so. They ask nothing more, in my judgment, than what is reasonable and just and proper, and which should be granted. The time asked for by the honorable Senator from Maryland is not too much.

An embarrassing feature connected with this law, is the immense interest upon which it operates. It operates alike over the sea, on the rivers, and on the lakes, and therein consists its chief defect. The same law which is useful in a practical point of view, as applied to steamboats on the sea, is not at all applicable to our rivers and our lakes; and this law operates upon every steam-vessel plying within the limits of the United States, upon the remote rivers, and upon the remote parts of our western States, where, as I remarked before, it is not quite convenient for many persons interested in this species of property to command the capital necessary to make this change.

Another thing: a part of the equipments provided for by the law are a patent right; and I understand they have to be bought of certain persons, and can be purchased of none other. It is quite convenient, where people live in the vicinity of the patentees, to make arrangements to get the necessary life-boats, but it is not quite so convenient for many others, who live remote from the patentees, to obtain them. These are questions proper to be considered; and when the honorable Senator from Arkansas undertakes to speak of the feeling among western steamboat officers in reference to this bill, I tell him that he is mistaken. He has no right to speak for those in the vicinity where I live. I speak what I know when I say that nine tenths of them are opposed to it; but while they express their opposition openly, they also avow their determination to carry out its provisions as good citizens ought to do. They ask, however, that an extension of time be given to them, in order that the law may operate less prejudicially upon their interests than it would if carried into immediate operation. I think there is nothing unreasonable or unjust in the request; and I think the amendment of the honorable Senator from Maryland should prevail. If it does not, I shall vote for the resolution of the honorable Senator from Massachusetts.

Mr. BORLAND. I did not assume the right to speak for the constituents or the neighbors of the Senator from Indiana. I expressly spoke for my own. I stated my authority, and I gave the character of the individual upon whom I relied as authority; and I venture to say he is as reliable upon the subject as any other man. He is not only the commander, but the owner of his boat, and his interest is as much affected, to the amount of his capital, the whole of which is invested in that river, as any one else. His whole life, from boyhood to the present day—and now he is well advanced in years—has been engaged in this business. So far as authority may go, I have his opinion; I have the opinion of those men in the valley of the Mississippi who have been longest engaged in this business, whose reputation, I venture to say, is highest, for saying that this is a good law, and will accomplish the object for which it was intended. I speak particularly of John Shallcross, of Louisville, Kentucky, who, for upwards of thirty years—for nearly thirty-five years of his life—has been upon the Ohio and Mississippi rivers, in the command and ownership of steamboats, and during that whole time he has never had the first accident to life and property upon his boats. He is now one of the inspectors appointed by the President to carry this law into execution. He is of the opinion that it is beneficial in its provisions; that it will be effective in its operation to cure the evils to which it was intended to apply. When I have the opinion of such men, I feel disposed to rely upon it, and so far as my vote is concerned, I shall rely upon it. I repeat, sir, that if there is any objection to this resolution at all, it is that it extends the time too far.

Mr. MALLORY. Mr. President, the bill which the honorable Senator from Massachusetts brought forward at the last session I regarded at that time, and I so regard it now, as one of the most important that was ever brought before this body. I said then that the details of the bill would require amendment in many respects; that they were impracticable both upon fresh and salt water. The bill, however, was passed here without scarcely any investigation, the utmost confidence being placed in the judgment of the honorable Senator who had devoted his time to it. I have taken the opportunity of conversing with a great many steamboat owners and captains, and I have yet to find the man who does not say that the bill is impracticable in some of its details, if confined to the time which the law contemplates for its going into effect. If my recollection serves me, the Secretary of the Treasury only recently, but a few weeks ago, issued one of his orders describing the manner in which boiler plate iron should be stamped; and the owners of steamboats previous to that publication had no means of knowing any regulation of the Treasury Department upon the subject. I suppose it is not an extravagant estimate to say that we have $20,000,000 of capital embarked in this species of enterprise, which certainly demands the consideration of this body; and it is nothing but reasonable and right, that as citizens of the United States have embarked this amount of capital under existing laws, when you change the whole routine by which the property is managed, a reasonable time should be given to this vast interest to conform itself to the rules prescribed. I think that the amendment of the honorable Senator from Maryland gives too short a time, and if there is any fault in that it is on that account, and it requires extension.

Mr. HAMLIN. I rise to correct a misapprehension on the part of the honorable Senator from Indiana. He says that the bill of the last session provides some specific kind of patented article that must be purchased by owners of steamboats. I say to the Senator from Indiana that he is entirely mistaken in that particular. There is not from the beginning to the end of that bill a single patented article required to be purchased, but the whole field was left open. The owners of steamboats were left at liberty to purchase any articles which, within the judgment of the inspectors, should be deemed adequate for the purpose.

Mr. BRIGHT. I am not mistaken in the fact that this bill by its provisions required metallic life-boats. They were originally a patented article. Whether they are so or not now I cannot say, but I do undertake to say that no such article is manufactured west of the Allegany mountains. Every officer that navigates a boat in the western waters, is, under the provisions of the bill, bound to come east of those mountains to get his life-boats, because there are none such as are required by the provisions of the law, made in any of the western States.

Mr. RUSK. The honorable Senator will allow me to correct him. There is an establishment now in Louisville, Kentucky, I am informed, set up by Mr. Francis.

Mr. BRIGHT. When was it established?

Mr. RUSK. I do not know, but I believe it is in operation now. I have seen an advertisement to that effect.

Mr. BRIGHT. I cannot be mistaken, or at least those from whom I derive my information cannot be mistaken. I am sorry that I did not know the subject was to come up to-day. If I had known it, I should have been prepared to satisfy Senators that the delay asked for was not unreasonable. I have letters from the commanders and owners of boats saying that they cannot purchase life-boats west of the mountains. They have to come east, and cannot make the changes required by the provisions of the law.

Mr. SEWARD. One of the articles which is required by the law, is a metallic life-boat, and there is no adequate and sufficient metallic life-boat, except Francis's life-boat. He is the only manufacturer of them in the United States. The manufacturer sent a letter to me, and I suppose to all the other Senators, saying that the operation of the bill need not be postponed because he could not supply life-boats. To-day I have received a letter from Mr. Newton, the great steamboat proprietor on the Hudson river, dated yesterday, in which he says:

"I sent two men to the office of Francis's life-boat with a request for six life-boats. The answer was, 'You can leave your order, but we cannot deliver them in any certain time; so many orders on hand that it is impossible to name time; it will certainly be over a month.'"

This meets the question which the honorable Senator from Indiana has been discussing. But I wish to say a few words in regard to the general subject. Coming as I do from the State of New York, in which is the Hudson river, upon which there is engaged a very large steamboat interest, I am satisfied of two things: In the first place, this general law is necessary; and in the next place, it would be a better law than human wit ever devised, if it were in all respects perfect. The few defects which have been found in it have been considered by the Committee on Commerce, and the result of our discussions has been presented to the Senate by the honorable gentleman from Massachusets in this resolution. Though I was inclined to wish that a longer time and a greater relaxation of the rigors of the law should be allowed, I have nevertheless become satisfied that the best compromise we could make at this stage of the session, was to adopt the amendatory joint resolution proposed by the honorable Senator from Massachusetts. It is necessary, in order that the law should have its full operation, that it should have a fair trial; that it should be accommodated in the circumstance of its going into effect, and it is necessary for the benefit of the steamboat proprietors who are willing to comply with it.

Mr. BRIGHT. I desire to ask the honorable Senator from New York the date of that letter?

Mr. SEWARD. It is dated yesterday, February 21.

Mr. PEARCE. I have been informed by numerous persons, that very soon after the passage of this act, I believe in September last, one concern ordered of Mr. Francis four of his life-boats, and they have received but one of them up to this day, after an interval of nearly six months.

Mr. BRIGHT. The letter read by the honorable Senator from New York supports the position which I took. I am right, and the honorable Senator from Maine, who undertook to correct me, is wrong. One of the chief objections which I had to that bill of the honorable Senator from Massachusetts, when he originally presented it, was that

it gave an entire monopoly of one of the most important pieces of furniture to be attached to a steam vessel. Every life-boat, I believe, costs from fifty to three hundred dollars; none less than fifty dollars

Mr. PEARCE. None less than one hundred and fifty dollars, I think.

Mr. BRIGHT. I may be too low in my estimates, but for fear that I may be corrected again, I will be low enough. I say, then, that these life-boats cost not less than fifty dollars, and generally three hundred dollars; and I repeat, there is not an establishment west of the Allegany mountains which can make a boat of that kind. Every steam vessel running upon the Mississippi and the Ohio, and their tributaries, must be furnished with one of these metallic life-boats, and in order to furnish them they must be carried across the mountains, or carried around by a circuitous water route; unless by possibility Mr. Francis sees fit to establish a manufactury in Louisville or Cincinnati, or some other point in the West. The owners of vessels must wait his convenience, until he can manufacture them; and if he cannot manufacture or deliver them in due time, vessel owners are to be put under all the pains and penalties of the existing law

Now, I submit whether there are not two sides to this question; whether it is right thus to put in jeopardy the interests of gentlemen who have invested, perhaps, their all in steamboats before they knew that any such law as this was to be framed and put in operation. These were my reasons for saying that the time asked by the honorable Senator from Maryland was not too long. These were in part my reasons for saying that life-boats on many steamboats are entirely unnecessary, for in the majority of the western rivers, they are not at all needed, for the reason that generally it is not more than fifty yards from one shore to the other, in many of the waters there navigated by steam-vessels.

Mr. HAMLIN. I think I am correct in the position which I assumed a short time since, and to make myself understood by the Senate, I will state precisely what I understand to be the facts of the case. Mr. Francis filed his specifications at the Patent Office, describing a certain boat of a certain description, made of corrugated iron in a certain way, upon which letters-patent were granted, and that was denominated Francis's life-boat. In the bill as it was originally drafted by the committee, Francis's life-boat being then in practical use, it did provide that the steamers should be furnished with that boat; but when other gentlemen came before the committee—whose names I do not now recollect, but whose residence was in the western country, and who, I think, are personally acquainted with the Senator from Indiana—and described to the committee other life-boats made with other materials than those described by Mr. Francis in his specification, upon which letters-patent had been granted, the committee readily and immediately erased the provision as it then stood in the bill requiring the owners of steamboats to purchase Francis's life-boat, and provided only that they should purchase a metallic life-boat. Now, what is the metallic substance of which that boat is to be constructed? Corrugated iron? No, sir, the bill says no such thing. It may be copper, zinc, or any other metallic substance. It may be that in the progress of events, when better boats shall be patented, or manufactured without a patent, Francis's life-boat will not be necessary, and then it will be proper to allow other boats to be used. It is true that Francis's life-boat is the one in common use. It is the superior boat; it is the better one; but it is not the boat to which these inspectors are to be limited; nor is it the only one which may be used. I believe these are the facts as they appeared before the Committee on Commerce, and therefore I am correct in the assertion which I made.

Mr. CHARLTON. Mr. President, I have, fortunately or unfortunately, no theoretical or practical knowledge on this subject, never having gone through the process of being "blown up;" but as it seems to be necessary for all the States of this Union to be represented in this debate, I beg leave to state that I shall go for the furthest extension of time named. I have noticed in the Savannah papers, which I received this morning, that all the steamboat companies navigating that river and carrying passengers on it, have determined that, in consequence of their inability to comply with the regulations of the law, they will henceforth not carry passengers at all. They have made no remonstrance, and have given me no authority to present their application here; but knowing, as I do well, the industry, energy, and capital of those companies, I think there must be some stringent reasons operating on them to take this course. I think the least we can do under the circumstances is to extend the time for the bill to go into effect until the period named by the Senator from Maryland.

Mr. DAVIS. Mr. President, the Senator from Indiana seems to proceed on the supposition that the bill was intended to require the purchase of Francis's life-boats. The committee at all times intended to steer clear of patents, and thought the bill originally clear on this point. Nevertheless, on the suggestion of the honorable Senator from Pennsylvania, in which I acquiesced, a proviso was introduced expressly relieving owners from the necessity of purchasing any patented article. It now, however, turns out that metallic life-boats cannot be as easily obtained as was supposed, and the resolution I offer is designed to relieve that difficulty. It provides that in case metallic life-boats cannot be obtained, or in case they cannot be obtained on reasonable terms, the inspectors are authorized to receive a substitute for them. That places the whole bill free from the objections which have been suggested by gentlemen. There is ample provision in the resolution which will relieve the bill from anything like favoring a monopoly.

The yeas and nays were ordered on the amendment, and being taken, resulted—yeas 14, nays 35; as follows:

YEAS—Messrs. Bayard, Bright, Brodhead, Cass, Charlton, Chase, Dawson, Hunter, James, Mallory, Pearce, Pratt, Soulé, and Toucey—14.

NAYS—Messrs. Adams, Atchison, Badger, Bell, Borland, Bradbury, Brooke, Clarke, Cooper, Davis, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fitzpatrick, Foot, Gwin, Hale, Hamlin, Houston, Jones of Iowa, Jones of Tennessee, Mangum, Miller, Morton, Rusk, Seward, Smith, Spruance, Sumner, Underwood, Wade, Walker, and Weller—35.

So the amendment was rejected.

Mr. BORLAND. I move to amend the bill by striking out the last section but one, which is as follows:

"*And be it further enacted*, That the said inspectors may, if they deem it safe, permit boats to run upon occasional excursions, not exceeding in distance thirty miles, with a less number of life-preservers than is required by said act, if they deem it safe and prudent so to do, and may also, in such cases, dispense with registering the passengers."

The amendment was agreed to; there being, on a division—ayes 27, noes noes not counted.

Mr. JAMES. I move to amend the bill by striking out all of the third section, and inserting the following:

That said inspectors shall be, and they hereby are, empowered and required to adopt and prescribe for use, in all cases, the best life-boats, and best life-preservers, upon the most modern approved principles, according to their best judgment and understanding.

Mr. DAVIS. Beyond all question, that will bring it back to Francis's life-boat.

The amendment was rejected.

The joint resolution was reported to the Senate as amended, the amendments were concurred in, and the joint resolution was ordered to be engrossed for a third reading. It was read a third time and passed.

CEMETERY IN THE DISTRICT OF COLUMBIA

Mr. BRADBURY. I desire to ask the indulgence of the Senate to take up a bill which was reported from the Committee on the District of Columbia early last session. I have had no opportunity to get it up heretofore. It is a bill merely to organize the proprietors of a cemetery exterior to the limits of this city. Individuals have purchased at an expense of some $10,000 a lot of land. They have expended some $20,000 more, and it cannot now be used. The government of the city has recently passed an ordinance prohibiting any more cemeteries within the limits of the city. As the ground cannot be used until it can be so dedicated that it shall not be used for any other purpose, an act of incorporation is necessary, and I therefore ask the indulgence of the Senate to take up the bill "to incorporate the proprietors of the Washington Cemetery."

Mr. WELLER. I made the motion to take up the Pacific railroad bill, but yielded the floor for the purpose of enabling Senators to make reports. I hope now that the motion of the Senator from Maine will not be passed. The hour of one having arrived, I presume it is in order to move to proceed to the consideration of the unfinished business of yesterday.

The PRESIDENT. The motion of the Senator from Maine is first in order.

Mr. BRADBURY. I have felt it my duty, as a member of the Committee on the District of Columbia, to make the motion. I have had no opportunity whatever of making it earlier. It will take but a moment to consider the bill, and I feel that it is a duty which devolves as much upon other Senators as upon myself.

Mr. WELLER. I have seen some of those bills, which originally were to take up but five minutes, consume a day. I yielded the floor to allow reports to be made, and now when the floor has thus been obtained, the Senator from Maine undertakes to move the consideration of another bill. To say the least of it, that is not very fair, and not a proper return for the courtesy which I extended to that Senator and others.

Mr. BRADBURY. If the Senator from California regards my motion as an unfair use of the courtesy given, I certainly shall not persist in it.

Mr. WELLER. I will go with the Senator at any other time.

Mr. BRADBURY. Then I withdraw my motion.

RAILROAD TO THE PACIFIC.

The Senate resumed the consideration of the bill "for the protection of the emigrant route and 'a telegraphic line, and for an overland mail be-'tween the Missouri river, and the settlements in 'California and Oregon," the pending question being on the amendment submitted yesterday by Mr. WELLER, which would make the sixth section of the amendment of the committee read as follows:

"SEC. 6. *And be it further enacted*, That whenever fifty miles of said road lying within the Territories of the United States, shall have been completed, in a manner satisfactory to the President of the United States, he shall cause a *pro rata* payment to be made, according to the terms of the contract for the work so completed, in the bonds of the Government, issued under the provisions of this act, and by a grant of four fifths of the public lands to which the completion of the said fifty miles may entitle said contractors, and so on for each successive fifty miles, until the road shall have been completed within the limits of the Territories aforesaid, and the terms of their contracts complied with, when they shall be entitled to receive the remaining fifth of said public lands; that whenever fifty miles of the said road shall have been completed within the limits of any State as now organized, in a manner satisfactory to the President of the United States, said contractors shall be entitled to four fifths of the public lands, to which the completion of the said fifty miles may entitle them under the provisions of this act, and so on for each successive fifty miles until the road shall be completed within the limits of such State, and when the terms of the contract have been fully complied with, they shall be entitled to receive the remaining one fifth of the public lands; and, in the event of a failure on the part of the contractors to comply with the terms of their contracts and the provisions of this act, the road, together with the appurtenances, including the running machinery and means of transportation, shall be forfeited and become the property of the United States; and, for the purpose of enabling the President of the United States, at all times, to know whether the provisions of this act, and the terms of the contracts are being complied with, he is authorized, from time to time, to appoint a suitable number of engineers, as supervisors of the work, who shall, under his direction, make thorough and minute examinations of the work as it advances, and report to him, as often as required, upon all matters and things submitted to their charge."

The amendment was agreed to.

Mr. SEWARD. I offer the following amendment, to come in at the close of the section which has just been adopted:

That so far as the said railroad, or any portion of it, shall be constructed by any State west of the Mississippi river, or by any party, corporate or otherwise, under the authority of said State, the Postmaster General shall be required to enter into a contract with said State or party, securing to such State or party the sum of six hundred dollars per mile per annum for carrying the mail on said road, for the term of fifty years.

I shall not detain the Senate with a long explanation of this amendment. I am desirous to secure the construction of a railroad which I regard as a continental enterprise across this continent, wholly in our own country. I have heard with regret and with pain the speculations which have been indulged here with regard to the rivalry of routes for that road. While I have my own opinion about what would be the best route, that is an opinion which I have been satisfied would not wisely be advanced and brought into discussion now. It has seemed to me that the only way in which we

could arrive at a selection of any route, was by the plan adopted by the committee, especially after they had reported on referring this question to the President of the United States. To me, independent of that opinion, a northern or a southern route are as nearly equal as may be. You may make a route across this continent wherever you please, there will be but two termini of that road—one in the east, at New York, and the other on the west, at San Francisco. And whether it goes across the continent, by the way of Whitney's route, or the Texas route, or even the Tehuantepec route, the two terminations will be at San Francisco and New York. It is for this reason that I have been satisfied not to raise the question about the location of the road.

I am satisfied of another thing, that when the road is made——

Mr. BUTLER. Will the Senator allow me to ask him a question?

Mr. SEWARD. Certainly.

Mr. BUTLER. The Senator says he knows the road will go to New York. I suppose he means indirectly; or does he mean that it will go there directly, by any route?

Mr. SEWARD. I say it will go there because commerce will fix that termination.

Mr. BUTLER. Can the Senator tell me what is the amount of capital subscribed in New York already?

Mr. SEWARD. I do not know. But one thing I do know, the capital is in New York which must make all the roads, and the capital will not be expended on a route which is not practicable or profitable or useful.

I have one word more. If the road is laid in the right place, that road will stand as the road; but if it is laid in the wrong place, new parties and new corporators will begin another, and will construct it upon a better and shorter route, before this road is completed. It is idle to suppose that one road across this continent is to answer the purposes of trade and communication perpetually, or for any long time. The Erie canal does the work of fourteen double-track railroads. And if the Erie canal does the work of fourteen double-track railroads, any man can see that one double-track railroad across this continent will not accomplish the business of this continent and of Asia. I have these remarks to make with regard to the route.

The amendment which I have submitted I have submitted in a spirit and with a disposition to bring about a compromise between parties having different constitutional opinions in this Chamber. For myself, I need not say that I have no doubt about the constitutional power of Congress to make this road through the States, with land or without land, with money or without money, or with land and money both. And I have no fears for State rights with regard to it. I remember that New York applied to Congress to make the Erie canal, and that Congress refused to do so. Now, there are upon this floor, gentlemen of two classes of opinion; one who say that Congress cannot make the road within a State by appropriating money to be expended in a State for that purpose; another, who maintain the contrary. But, I believe there is no difference of opinion upon the proposition that Congress can contract with parties to carry the mails through a State, and can make contracts for that purpose which will serve to bring into use postal roads. The amendment which I have submitted, proposes as an encouragement for making the road in the States, that the Postmaster General shall be authorized to contract for the transportation of the mails upon the railroad to be constructed, for a term of fifty years, which is the term contemplated in the bill for the use of the road and its branches, for the sum of $600 a year per mile. That is something more than is now paid. We now pay an average of $300 per mile, per annum, for carrying the mail, and every one can see, that within a period of fifty years the postal business will be increased to such an extent, that double the sum now paid will not be at all disproportionate to the service to be rendered. I am one of those who will support this bill out and out, and through and through, and in whatever form it may come from the hands of a majority of the Senate. But, at the same time, I am of the same opinion with the chairman of the committee, that this road will not be constructed under this bill in the condition in which it now stands before the Senate without amendment, for this simple reason: that you will devolve upon the company the necessity of constructing the road through deserts and mountains uninhabited, and will confer upon the States, or other parties, the making of the road through the civilized and inhabited portions of the country which are able to support the road. I agree with those who say, that if we are to make the road, the way to do it is to begin at the extremity nearest the Atlantic border and make it from the civilized and inhabited portion of the country, through the desert.

Mr. HUNTER. I wish to test the question, whether it can be necessary to debate this question any further. It has been said that the bill as it now stands cannot receive the assent of a majority of the Senate. If so, it is manifestly a waste of time to discuss it any further. For the purpose of making it a test question, I will now move to lay the bill on the table, and I call for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 24, nays 30; as follows:

YEAS—Messrs. Adams, Bayard, Bradbury, Bright, Brodhead, Brooke, Butler, Charlton, Chase, Cooper, Dawson, De Saussure, Fitzpatrick, Hamlin, Hunter, Mallory, Mason, Morton, Pearce, Pettit, Phelps, Pratt, Soulé, and Walker—24.

NAYS—Messrs. Badger, Bell, Borland, Cass, Clarke, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Foot, Geyer, Gwin, Houston, James, Jones of Iowa, Jones of Tennessee, Mangum, Miller, Rusk, Sebastian, Seward, Shields, Smith, Spruance, Sumner, Toucey, Wade, and Weller—30.

So the motion was not agreed to.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The question now recurs on the amendment proposed by the Senator from New York.

Mr. RUSK. I desire to say a word upon that amendment. It is this: As the bill now stands, you pay nothing but the land for the construction of the road so far as it goes in the States, and there is a requirement in the bill that the mails and the troops and munitions of war, &c., shall be carried free of charge. I think that is inconsistent myself; but what the friends of this peculiar amendment may desire, I do not know. The proposition is eminently just and proper in itself. You pay now $300 per mile annually for the transportation of the mails upon the first class railroads within the settlements, where they are built much cheaper. You pay also a million of dollars now for the transportation of a semi-monthly mail from this side of the continent to California. The amendment of the Senator from New York contemplates a daily mail, and proposes $600 per mile per annum as the compensation. This sum—as the whole length of the road is said to be two thousand miles—will make the amount for the whole distance $1,200,000, or only $200,000 more than is now paid for carrying a semi-monthly mail; and you will have a daily mail in the latter case.

Mr. GWIN. I hope this amendment will pass. This is the only ray of hope now resting upon this bill which gives any chance for us to get persons to contract for making the road in the States. This compensation, in addition to the lands granted, will be an inducement—such an inducement that I believe contractors will be ready to build the road for it. I want the road to be made; and I want it to commence in California as well as on the Mississippi river. As the bill now stands, you can get no contractors who will build the road, unless they build it through the Territories to California; and we shall have to wait in California until the road is completed through the Territories. We want them to begin at San Francisco on the west, and build from that point also. This proposition, I think, will enable us to build the road, and therefore I hope it may be adopted.

Mr. WALKER. My mind has not come to the same conclusion with the Senator from California. I have not, it is true, had much time since this proposition was submitted, to reflect upon it; but it occurs to me that it would be eminently unjust. What does the bill propose to do, suppose the amendment shall be ingrafted upon it? It proposes to give all that the Government ever has assumed to give to either of the other States in lands, in the first instance; and then to form a connection between the States, across the Territories, it proposes to give double that quantity of land; and then in addition, it is proposed to give $20,000,000 in money. Thus, to enable the company to make the road across the Territories, connecting with the States, and in the States, it proposes to give, what has been heretofore given to other States, alternate sections, for making roads. And now it is proposed to add an amount for carrying the mails, by imposing the necessity of a contract for that purpose, which in fifty years at the very least calculation, cannot be less than $30,000,000 more. Now, upon what ground is this asked? It is contended that the amendment which was adopted yesterday, confining the expenditure under the appropriation of money, to the Territories, will render it an enterprise of a character in which no company will engage. In other words, that the character and provisions of the bill, as it will stand with the present provision, is such that no company will take the contract. Now, why is it so? This is said to be the greatest railroad project ever contemplated; and I believe it is. It is claimed that it will be immensely profitable. I believe it will. Why, then, the necessity of doing so much more for it than was ever done by the Government for any other railroad? I can see no reason.

But how can it possibly be claimed that the amendment of the Senator from California [Mr. WELLER] can have the effect which is attributed to it? It is said that, as this money which is appropriated cannot be expended in the States, a company cannot be found who will contract to construct the road. Why? If I understand the matter, this bonus is proposed by the Government as an entire thing, to be appropriated upon the entire road. Now, if the company contracts with the design of making the entire road, does it make any difference when they are required to expend the money, provided they can have the same amount, and are only restricted in its application to a particular portion of the route? For instance—if, when they have made the road to the frontier of Arkansas and come to the Territory, they can reap the benefit of the bonus given, what difference will it make with the contractors? It is only when they have reached the Territory that they can reap any benefit, but when they have reached the Territory they receive it. There will then be a great motive to work up to the line of the Territory in order that they may commence reaping the benefit of the bonus. Ought not the States to feel themselves interested in this provision of the bill? They might say to these contractors, "For aught we know, you will never complete the Pacific railroad. You may make it, on the one hand, from the Mississippi to the frontier of Arkansas on the eastern extremity, or through the State of California on the western extremity, and then say you will go no further with it." What will the other States say? "We wanted the link through the Territories completed." What inducement is there to effect that, except that given by the amendment of the Senator from California? How, otherwise, will you induce them to persevere through the Territories? By the effect of this amendment, you see they will have an inducement to get the road through to the Pacific.

There is no reason to believe that without the amendment adopted yesterday, this road would ever be made one inch beyond the line of Arkansas on the eastern extremity, or that of California on the western; and then the great object for which we are now laboring, and in which the country is so much interested, and with regard to which the Senate has exerted itself so much, would be defeated—the connecting of the Pacific ocean and the Mississippi river; for, in my humble judgment, I confidently anticipate that when the road is carried to the frontier lines of Arkansas and California, unless there is something to draw them on to complete it, there they will leave the work. Where, then, is the national character of the road? You are seduced into this matter because it is called a national work; but when the company have reached the lines of Arkansas and California, and in doing it have exhausted the $20,000,000, there they will stop, and the entire national character of the work will be gone. The work will be for the benefit of the States and not the benefit of the nation. I look upon the amendment of the Senator from California as eminently patriotic in its character, and as being based upon the true principle; I look upon it as being eminently Democratic. We have had some lec-

tures here upon the subject of Democracy. They were not palatable, and I am not going to deliver another. But I will say that we had a Convention in Baltimore last year, which laid down some doctrines. We had one in 1848, we had one in 1844, and we have had numerous conventions all speaking the same language. But here is a proposition now to abandon the Democratic doctrine, that which the Democratic party has said was its creed. We are now proposing to give these States this enormous bonus of $20,000,000 in Government bonds in the first place, and then an additional sum of $30,000,000 or more, for carrying the mails.

But it is said that the amendment of the Senator from California sends the road north, and that it cannot be made south. Can any gentleman, after hearing the facts, tell me why that is so? By a reference to the map I find this to be the fact: computing by degrees upon a straight line, from the west line of Arkansas to the east of Texas, by the valley of the Canadian river, is one hundred and eighty miles; through Texas this route is about ninety miles; from the western line of Texas to the eastern line of California is three hundred and sixty miles. This makes the aggregate on the route from Memphis of five hundred and forty miles. That is in a straight line. We may reasonably suppose that the distance in point of fact will be at least six hundred miles of road in the Territories. Upon that you have to transport everything for the purpose of building the road—the iron, the tools, and materials, the workmen and their food. And will any gentleman tell me that is not a sufficient extent of country upon which to expend these $20,000,000? Will any gentleman say that it is too little? It cannot be so said. Then if it cannot be so said, if it is admitted there is territory enough there to exhaust this appropriation, tell me why that route is not as likely to be selected as any other? I cannot see any reason why. This $20,000,000 is not given to build a road in Arkansas and California, but to build the road to the Pacific ocean; and I think it was wise that a provision should be made so that the money should be expended outside of those States, and within the limits of the Territories; for that is the only thing which seems to give a national character to the bill.

But we heard it said yesterday that this bill was dead. And why? The honorable Senator from Texas [Mr. RUSK] said it was, because this provision was incorporated in it. Now, we learn by that statement what the life of the bill was deemed to be. We now have it indicated, so that we may see what was thought to be the vitality of the bill. If the exclusion of the expenditure of this money in the States was the death of the bill, its life was the provision which authorized the expenditure of the money in the States. If that was the life, hidden in that provision of the bill, by which money was given to be appropriated in a State for the purpose of internal improvement, we find that that principle was its life, and that its death is the result of the application of the Democratic principle which has been at the foundation of the creed of the Democratic party since its formation with regard to internal improvements. The declaration that the bill is dead, and the revelation of the principle which caused its death, has opened my eyes to the provisions of the bill. I had hoped that the bill was about to be brought to a shape in which I could vote for it. I intended to do so, if possible. I hope yet to see it live, so that I can do it. The amendment adopted on the motion of the Senator from California yesterday brought it to a great extent within the principle which would enable me to give it my support. But if we are to whip the Old Harry round the stump to get an appropriation of $20,000,000 out of the Federal Treasury, and then get out $30,000,000 more in the next fifty years, it makes the bill far worse than it was before. It cannot be sustained on any principle whatever, in my opinion. If this bill can pass making a direct appropriation of $20,000,000 in money, besides the same amount in land, and also providing for an expenditure of at least $30,000,000 indirectly, by compelling Government to contract for the transportation of the mails, and receive the sanction of the Constitution, then I will abandon all claims which have been set up for the Constitution. And if it is determined on that Congress has the power to do it, directly or indirectly, then I am forced to concede that the Constitution gives full power to make appropriations for internal improvements within the States.

Mr. RUSK. The argument of the Senator from Wisconsin [Mr. WALKER] would be conclusive if it had a bill to fit it. But, unfortunately, if he reads the bill over carefully, he will find that he has been attacking a man of straw; he will find the bill does not correspond with the argument. If it fitted it would be conclusive; but it is an imaginary one which he has assaulted. I am living and learning: I am young yet, comparatively, younger than many of my Democratic friends, and I am yet learning Democratic principles, and constitutional law. The Senator says, if I understand him, that the amendment of the Senator from New York puts the bill back pretty much in the shape that it was in before—that it settles the question with regard to internal improvements in the States, and therefore, in his opinion, is unconstitutional. The amendment of the Senator from New York is nothing upon the face of the earth but to authorize contracting for carrying the mails, for which service you will give $600 per mile per annum. You now give, everywhere, just such authority by law.

Mr. SEWARD. And by contract.

Mr. RUSK. Yes, sir; and by contract. Precisely so; by law and by contract, which the Postmaster General is forced to make every year, to carry the mail. And it now costs $300 per mile to carry the mail on the first-class railroads; and I venture to say that the roads have not cost one fourth as much by the mile as this one which we propose to construct. But it is a violation of the Constitution, according to the gentleman's argument, to make a contract to carry the mail.

Mr. WALKER. If the gentleman will allow me, I will take the benefit of what I do say. I say that if the amendment of the Senator from New York is designed to do indirectly what it was first proposed to do directly—that is, to give a great appropriation for the purpose of constructing a railroad through or in a State, then it is a violation of the Constitution. The Senator may have the full benefit of that declaration. If I understand the proposition of the Senator from New York, it is designed to take the place of the amendment which excluded the appropriation of money to be expended in the States, and to make it up by a contract to carry the mails, and thus do indirectly what was not to be done directly.

Mr. RUSK. The Senator from New York, I take it for granted, designed what he says. He has put it down in writing, so that nobody can misunderstand it. He designs that the Postmaster General shall make a contract to carry the mail on this road for $600 per mile per annum. Whatever he may design besides, I do not know. It may be he designs to hasten the millennium. There is the language as plain as the nose on a man's face.

There is another design in it which may possibly be unconstitutional and possibly uneconomical and perhaps undemocratic. That design is as plainly expressed in the instrument as possible; which is, to get the mail carried to California daily for $1,200,000 a year; so that, supposing it runs through the whole road, we get it carried to California for only $200,000 a year more than is now expended to carry it semi-monthly. Now, whether it is designed or not, it will have another operation; and that is, if the road shall be built with this encouragement, it will perhaps enable the States to connect their roads with the road through the Territories. Probably it will have another effect; whether it is designed or not, it will have an effect to repeal the tax which now exists by the action of this Government upon every individual, poor or rich, that goes to California, to the amount of about $300; for I suppose that if the road is built, a person can get to California for about $75. It will have the effect, if it succeed, as I have no doubt the Senator from New York intended, to secure the construction of the road at an early day, if the contract is made.

But while I am on it, I mean to explain myself with regard to the point on which there seems to be some misunderstanding between the Senator from California and myself. I expressed the opinion that the amendment of the Senator from California killed the bill—knocked its brains out. But I am told that it is alive now, and kicking.

"The times have been,
That, when the brains were out, the man would die."

But now we do not know when a man is dead, in these days of "spiritual rappings;" and though I have seen none of the performance myself, it is said that when the brains are out, the man is not dead. He comes back, and knocks around tables and chairs and plays the very mischief. So this bill, which was dead yesterday, has come back and cut awful capers about the Senate Chamber, and caused great bursts of patriotism, which are seen in the speeches all around the Senate; and it has even had considerable effect on me. The spasmodic effort of yesterday keeps up a galvanic action today, and perhaps it may play its pranks here for a day or two; but I think it will at last fall quietly back again to the sleep of death. It will do it for several reasons. In the first place, whatever bill we may pass here now it will be impossible to get through the House of Representatives. If this galvanizing process had taken place yesterday in the House of Representatives instead of the Senate, perhaps we might have got the brains back into it again. It is too late now.

But there is another objection to this patriotic amendment. It is this: I have read a great deal about monopolies in my Democratic reading. I have been taught to go against monopolies. In the bill which the committee, in their judgment, however poor it may be regarded by some Senators, the principles of a monopoly were carefully guarded against, because the road is made a continuous one from one end to the other. The bill gave Congress the power to establish the rates to be charged upon passengers and freight, with a limitation that they should not go beyond a mark which would leave to the contractors for the road eight per cent. on the investment—two or three per cent. lower than is allowed to contractors for similar roads in the best regulated States in the Union. Congress was to have the control over it from the beginning to the end. Now, it is disjointed. It gives Congress the control over the road in the Territories, but it must strike some States somewhere. Now, let us reason together for a moment. How will it strike those States? I apprehend that Arkansas will bid for it. I apprehend Missouri will put in her claim for it. Iowa, too, I presume, will make a claim, and perhaps Texas also may come in on this end of the route. California necessarily must be on the other side; and Congress will have no control over it in the States. Charters will be given to the companies in the States by the State Legislatures, because when a States undertakes to make an appropriation out of her treasury for the purpose of doing the work, the treasury will break down, and the road will not be built. But a charter will likely be granted to a company. The State will be under a sort of duress in granting these privileges to companies. Their anxiety for the benefit of the road will make the State yield to any demand which the company may make for excluding a monopoly. Money will not be wanting to construct the road, and individuals will not be wanting to urge the necessity of large powers to companies in order to secure so great a boon to the State as the road would be, so there will be likely to be a monopoly at each end of the road. You throw off all jurisdiction over it. You cannot regulate the charges that shall be made on either end of the road after it is completed. They will charge whatever amount of freight they choose. Congress have no control over it, and cannot manage it at all. They will charge for every man who wants to go to California just as much as they please, until he reaches the Territories. Sir, we have just got emancipated from capital in one shape. We have just got emancipated from capital which has cost the sacrifice of thousands of lives in steam vessels. We are not yet emancipated from railroads. Every time you get on a car it is at the risk of having your brains dashed out. We should have the control of this road; but by the adoption of the amendment which has been agreed to, you put the most odious monopoly at each end of it.

Another idea has been suggested, and that is, that it does not diminish the appropriation; that there will be just as much money paid for the road in the Territories as would have been in the States and Territories. That seems to be the general burden of the argument of the Senator from California, [Mr. WELLER,] and the Senator from Illinois, and the Senator from Wisconsin. Let us see how it will work. The work is to be let out to the lowest bidder. Contracts are to be

made; the road is to be finished; and if the contracts are to be made by the mile, will as much money be paid to run the road five hundred miles as one thousand five hundred? Will there be as much paid for a road of five hundred miles through the Territories as for one of one thousand five hundred miles? Certainly not. The road should be made by the mile, and a *pro rata* payment is to be made as each fifty miles is finished, according to the provision of the bill. I have been asked, and I am now asked again, suppose going through the States exhausts it? Read the bill, and you will see it cannot be done.

Mr. WALKER. What portion of it?

Mr. RUSK. Must I read it again? It is:

"That whenever fifty miles of said road shall have been completed, in a manner satisfactory to the President of the United States, he shall cause a *pro rata* payment to be made"——

Is he to pay all the money at once? No, it is to be *pro rata*. What does *pro rata* mean? Certainly so much a mile, rating the amount finished by the whole length of the road.

——"according to the terms of the contract for the work so completed, in the bonds of the Government issued under the provisions of this act, and by a grant of four fifths of the public lands to which the completion of the said fifty miles may entitle said contractors," &c.

A *pro rata* allowance on each fifty miles is to be allowed on each fifty miles until the road is completed. One fifth of the land is reserved all the way through as a sort of guarantee that they shall go on, and when the road is completed, the reserved one fifth is to be paid. If that is not plain, I have not the command of language to make it plain. If from the reading of the bill, gentlemen come to the conclusion, by metaphysical arguments, that the whole of the money could be spent before reaching the Territories, I cannot understand it.

Mr. BELL. I shall not follow the line of remark of the Senator from Texas, but before the question is taken upon the proposition which is now before the Senate, I wish to submit a few observations, and to direct the attention of the Senate to some results to which I do not think they have turned their attention. At all events, if the Senate do not care to direct their attention in that way, so far as anything I can say upon the subject will have effect, I trust the country will be made to understand the circumstances and the causes which are likely to defeat this bill.

The proposition of the Senator from New York, if adopted, may save the bill, and it may become a law. By the amendment which was adopted on Saturday evening, and persisted in yesterday, the bill is left in a position that though it may pass, the road cannot be constructed. No company, no capitalists, no association of individuals, will undertake to construct the road over the territory of the United States, commencing on the western boundary of any one of the States on the Mississippi and terminating on the eastern border of the State of California. And, sir, I undertake to state that no such thing is possible or practicable within the limits of any means that exist within the control of any company, or any association of individuals that will be found in the United States.

Mr. SHIELDS. Will my honorable friend permit me to submit a question to him? He is always fair and candid, and I depend upon him to give his conviction, whatever it is. Suppose a company undertakes this work, and that it is, as he says, necessary to go through a State, and that company applies to the State, and obtains from the State Legislature a right of way through that State, would not that enable them to go on and complete the road to the Pacific? And is there any reason to suppose that the State would not grant such a right of way?

Mr. BELL. I will say to my honorable friend, that if he has conceded to him all that belongs to that proposition, and sufficent means were also given to enable them to build the road within the States, together with the usual privileges of the right of way, &c., it would be practicable; and the very idea upon which the bill—which it does not seem to me that the Senator from Wisconsin has read with attention—was framed, was, that whatever company did undertake to build the road, would have first, as a preliminary to their undertaking, and before they could propose terms to the President, to apply to the States, and get an ample charter of privileges and rights *in extenso*, as great as it is proposed by the bill to give to them in the Territories, before they could move one foot in the execution of the work. It was upon this ground that the framers of the bill supposed they were violating none of the principles—nay, sir, not even the prejudices—of the liberal or moderate portion of what is called the Democracy of this country. Whatever was proposed by the bill to be done within the States; whatever control or management of the road within the States was intended by the bill, it was to be by and with the assent and express authority of the Legislatures of the States. My proposition is, that until the road is first constructed in California, in which the western terminus must be located, and either in Iowa or Wisconsin, or Missouri, or Arkansas, or upper Louisiana, whichever of those States may have within its limits the eastern terminus, or the means shall be provided for the construction of it, there is no man in his senses who would undertake to build the road in the Territories. I say it is a perfect absurdity; it is preposterous to suppose that the road can be built in any other way than commencing on the Mississippi river, or some navigable stream running into it on the east, and on the Pacific; for it is not practicable within any reasonable amount of means, to build a road over the great expanse of the intermediate territory, without having the use of roads leading through the States, and nobody will choose to employ his means with such utter wastefulness, and with so little prospect of profit, as to undertake to build this road by commencing it on the western boundary of any of the States on the right bank of the Mississippi, and on the eastern boundary of California.

I understand the proposition of my friend from Illinois is, that the company that may undertake to construct the road over the territory of the United States, will go to the States in which the termini are located and get a charter.

Mr. SHIELDS. According to the original bill, the company must go to the State first, anyhow. Is not that so?

Mr. BELL. That is true.

Mr. SHIELDS. The company must get the consent of the State from the Legislature of the State. Now, according to my amendment the same thing must occur, only that it gives absolute power to the State.

Mr. BELL. It was intended and supposed to be absolute in the original bill.

Mr. SHIELDS. Now, I want to know how any fair man can say that that amendment killed the bill so far as the States are concerned, because in either case the company must go to the State and first get its consent, before it can touch one inch of the land in the State.

Mr. BELL. I am perfectly willing to reply to that proposition. The answer to the argument is, that the contractors will not be able to make the road through the States after they have got the charter, without the grant of additional means. The honorable Senator from Arkansas [Mr. BORLAND] said the other day that there was land enough in his State to build the road without any money. There is land enough if you will give the whole of the public lands within the State of Arkansas. Would the honorable Senator agree to do that?

Mr. SHIELDS. As much as they need.

Mr. BELL. He would give as much as they need. Why not then propose so to amend the bill? But what I contend for is, that within the States bordering on the west bank of the Mississippi—I do not say how it would be in other States, old or new—within the limits ordinarily granted in aid of the construction of railroads, the good lands are already sold or taken up and appropriated to private uses, and have become private property; nor within fifteen miles adjoining the line of the road would there be found lands enough to build the road.

The amendment of the Senator from Illinois is to this effect: that any company of individuals or contractors who propose to build the road, if it should run through Missouri, Iowa, Wisconsin, or Arkansas, would have to construct it between three hundred and four hundred miles, with their own means, with the aid only of the alternate sections of the public lands within the ordinary limits of six miles on each side of the road. Now, if the Senator from Illinois means to be as candid as he does me the credit to say I am, let him and other honorable Senators who have contributed to defeat the bill, say that they are willing to give lands enough, no matter where they lie, or within what bounds they may be; for unless they do that, I say they will have to build the road through whatever States it may run with their own means, except the refuse lands provided in the bill. They are not, as the bill now stands, to receive one cent from the Treasury until the road is completed within the State or States through which it may run, and it shall be advanced fifty miles into the territory beyond the State limits.

The proposition of the Senator from New York is but a just equivalent for the money that would be required as an inducement and proper temptation to capitalists or private associations to come forward and construct the road; and hence I maintain it is a reasonable proposition. I have made a calculation, and it amounts about to the annual interest upon such sum as was proposed to be given to the contractors by the original bill, and without it I do not see that there is any probability that the work can go on. If honorable Senators could demonstrate that there is land enough within six miles on either side of the road to construct it, well. But there is another feature of the amendment of the Senator from Illinois that makes it unfair; I do not think it is entirely just, and I appeal to the generous feelings and sense of justice of my friend, upon that subject. The competition will not be fair in regard to the location of the eastern terminus of the road. Arkansas will not be able to make the road in her limits. There is a road in process of construction in Missouri already. It is advanced over one hundred miles, and it is said that private capital already subscribed, with the aid of the land given by Congress, will construct it to the western border of the State. Here, then is a road inviting and imploring the location of the general route to California, so as to connect with this road in Missouri. Well, I know my friend from Missouri [Mr. GEYER] might reply, "What would be the objection to tying it on to the Missouri road?" None in the world, if that be the proper and most suitable route—the route which the great interests of the country demand. If that should be the route on which the defenses of the country require the construction of the road—if the commerce of the country, the emigration, the social intercourse between the two sides of the continent point it out as the proper route, I should have no objection to it. But suppose that, on further examination, it shall not prove to be so—suppose it shall be the opinion of the most eminent engineers who have explored that country that it is not the most proper route, taking into view the great interests of the whole country, but that the proper route lies further south—then, I say, the competition becomes unequal and unjust. Here is a temptation to go further north than, under other circumstances, expediency and a due regard to public interests would dictate to the President or Congress. That is not a fair or a proper temptation. It is calculated to turn the balance very improperly, it may be, against the route which the great interests of the country would require, and the route which would give the quickest and cheapest and safest passage from the valley of the Mississippi to California. The most practicable route may lie south, and the terminus should be south, to consult the general interests of the country and provide for the public defenses in the wisest and best manner. We cannot make our road through Louisiana or Arkansas; nor do I suppose they would be able to make one through Wisconsin or Iowa, though it is possible they might; because it would connect the railroad and communication on the line with the lakes with New York. But I will not go into that. I am appealing to the sense of justice and liberality of the honorable Senator from Illinois and other gentlemen associated with him, who have attached an amendment to the bill which is likely to kill it.

I said I would call the attention of the Senate, and if I could not get their attention drawn to the important results of the movements made here the other day, I would try to reach the country, and let the people understand the mode and the object of the defeat of this bill.

We all witnessed the hard pounding upon the drum Democratic, continued from day to day by certain Democratic Senators: the two distinguished Senators from Virginia following up the vigorous, effective, and powerful onslaught of the

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Senator from South Carolina, [Mr. Butler,] and the rear brought up by the Senator from Indiana, [Mr. Bright,] and some other Senators. I do not mean to disparage any gentleman who has been beating upon that drum. For a whole week past they kept up such a din in the ears of the Senator from Michigan, that he became confounded——

Mr. CASS. Oh, no!

Mr. BELL. And dropped away from the friends of the measure, very much to their mortification and surprise.

Mr. CASS. The honorable Senator is entirely mistaken. I never had the remotest conception of voting for the bill with the provision in it that assumed jurisdiction over the States. It is no new ground with me. I am in favor of the general measure, but I am pledged to no such details.

Mr. BELL. I understand the honorable Senator; but we did not know these mental reservations. He voted with us upon every preliminary question, and although we had some apprehension when, during the progress of the bill, he dealt it a left-handed blow time after time, yet we did not expect a total defection on his part, until, at last, he gave it the fatal stab.

Mr. CASS. I hoped you would make it constitutional.

Mr. BELL. But I must say that the honorable Senator from Michigan did not so much surprise me, or the Senate, or the country, as the Senator from Illinois, [Mr. Douglas,] and other Senators, who were looked upon as the most reputable and unflinching advocates of the bill. Even the Senator from Illinois [Mr. Douglas] became terrified when the Senator from Virginia [Mr. Mason] said that if this bill passed there would be no longer a Democratic party. It was not the passage of the bill he was lamenting, but it was the dissolution of the Democratic party; from that time forth there would be no Democratic party in the country. When that announcement was made, I looked around to see where I could fix my eye on a pale face, and I did see several gentlemen shivering in the wind obviously, by the nervous twitching of the muscles of their faces, that was palpable. The announcement filled them with terror—"there will be no longer a Democratic party in this country;" and from that moment the fate of the bill was sealed.

A word or two about the question of jurisdiction. What is the jurisdiction claimed by the original bill, to which the Senator from Michigan has alluded, that could not have been amended? What objection was there that could not have been removed by slight amendment—alteration of the phraseology of the bill? I am sure the honorable Senator is too candid not to admit that the original bill, in its spirit, did contemplate that nothing should be done in a State but with the free and full consent of the Legislature of the State. I know that honorable Senators have said that there would be a forced acceptance of the propositions of the bill by the States. Not at all. There was only such acceptance—the granting of such privileges—such rights, as were necessary to make the road practicable for general and national uses; and that is, that it should be, in its whole extent, under some general regulation, and not one section in Missouri or Arkansas under one directory, another section going through Nebraska—for it is said we will have a State of Nebraska if the road goes off from St. Louis—under another and different directory, another through the Territories under yet another and distinct directory; not such a road as when it should reach the Mormon State, (as we soon shall have,) there to encounter still another board of control, and another in California—and every different section under separate jurisdictions and control. What the bill contemplated was just that the road should be under a general directory; not that the Federal Government or her contractors should claim the right to dispose of one acre of the soil within a State, without its consent, for the use of this road, or to exercise a single privilege or act of jurisdiction, except with her free consent, given by a legislative act; and yet gentlemen say here was an assumption of jurisdiction within the State. I say, a fair construction of the bill does not create any such objection as that relied upon by the Senator from Michigan to justify his failure to give his support to it. And if the bill did not, by its words, bear the construction for which I contend, it could easily have been amended, and made to conform to the wishes of honorable Senators in that respect.

I do not mean to trespass on the Senate, but I want to make an appeal to the judgment of members on the circumstances in the progress of the bill to which I have alluded. I want the country to understand on what principle it is the bill is rejected, if it is to be rejected. The two honorable Senators from Virginia and South Carolina made no scruple in avowing eternal hostility to the measure. Some of them say, We have got California; we had to pay dearly for it; that is enough for this generation; we will let another generation build the road to go to California. The Senator from Virginia [Mr. Mason] announced his decided opposition to the measure, and it was he who proclaimed that there would be no Democracy in this country if the bill should pass.

Mr. MASON. My objection was on constitutional grounds to an appropriation by Congress of lands or money for such objects in a State.

Mr. BELL. That is what I wish to say. It is not the jurisdiction in the States only that is objected to by the Senator from Virginia. It is to the appropriation of money to any national object within a State; and the honorable Senator from Michigan makes the same objection. He claims to be a friend of the measure; but when a vote was taken yesterday on the single proposition, "Will you vote money to be expended on this road *pro rata*, in the States," I called the attention of the Senate, supposing he would hear me, to the fact that it was a simple, pure, and uncompromitted question of the power of the Government to appropriate money to a great national road in a State. The honorable Senator from Michigan, when his name was called upon a motion to amend the bill so as to conform to this power, anwered "No." That is the ground on which the Senator now stands—not on the objection as to the jurisdiction, for he could have amended the bill and got clear of that. We could require a charter from the State, as the Senator from Illinois suggested, but that would not content him, or secure his support; he will vote no money.

I am alluding to the Senator from Michigan, not because I mean to point him out personally, or with any offensive object, as leading the opposition to the bill; but I point to him because I consider him as the chief, the principal of the great Democratic party in this country. From his high standing and experience in the public service, he is eminently so; and allow me to say, in my opinion, he is entitled to be so from his eminent ability.

Mr. CASS. I am afraid the Senator is raising me up only to pull me down again.

Mr. BELL. No, sir; if the honorable Senator is pulled down, he pulls himself down. [Laughter.] No, sir; no man can injure the honorable Senator's standing in this country, or his prospects either, but the honorable Senator himself. But I was intending to announce to the Senate, and through it to the country, if the bill is defeated, the principles on which it is defeated. First: the opponents of the bill will have no company, no corporation to construct the road; they will not only allow no jurisdiction or control to a company or private contractors over the road in a State, but they will allow no such jurisdiction or control to the Federal Government; they will not give the authority of the Government of the United States to the making of a road in a State, in any shape or form. Whence do you derive such an article in the creed of the Democratic party? From the Constitution, or from the Baltimore platform? But the new Democratic creed, now for the first time acceded to by the distinguished members of that party, the Senator from Michigan, [Mr. Cass,] and the Senator from Illinois, [Mr. Douglas,] under the terrible announcement of the Senators from Virginia and South Carolina, go still further.

The new creed now promulged announces, for the information of all true Democrats, not only that the Government of the United States has no power to authorize or build a road in any State of the Union, but that it cannot encourage or aid in the construction of a road in a State by the appropriation of money. No, sir; you shall give no such aid or countenance to any object, however great or national in its character. And I appeal to Senators and to the country to say, if there has been a great and truly national object, belonging to the whole category of internal improvements, whether it is not this very road? There never has been, and never can be a question so high as this in the whole range of objects connected with the improvement of our internal communications—with our internal connection—with the public defense or with the general prosperity. It is, then, a national object. Where do honorable Senators find the principle that no money can be appropriated to a great national road within a State, no matter how important and necessary it may be for the military defenses of the country, or for carrying the mails? I appeal to them to point to me where they find it admitted in the Democratic creed as established by the venerated fathers of Democracy? Do you find it in the platform of the Baltimore Convention that no money shall be taken from the Treasury to aid in the construction of any great national work in a State, either for the public defense or for carrying the mails? I say it is not. I find no such principle avowed in that platform. But if no such principle is to be found either in the Constitution or the Baltimore platform, what other sources remain from which it can be derived, except the most distinguished and eminent men, who, from time to time, have laid down the principles of the Democratic party? If, then, we appeal to their authority, from which of them do you derive this new doctrine? I need not go back to Jefferson. Sir, I need go no further back than to Andrew Jackson, the true founder of Democracy as it exists in this country at this time, unless some new principle is to be ingrafted upon it from this time forward—Andrew Jackson—whom every Democrat delights to refer to as the great exemplar and champion of his creed—what did he say? Why, sir, he held that Congress could constitutionally appropriate moneys from the public Treasury to the construction of roads of a national character within a State; and so did Monroe, and so did Madison, and so did Calhoun, and other eminent men of the South, as well as of the North, who have ever been considered the lights of Democracy. Do you desire a higher authority than such names as these furnish? Do honorable Senators intend to repudiate the doctrines of Jackson, of Madison, Monroe, and Calhoun? This principle that the Federal Government may appropriate moneys to aid in the construction of a national road in a State, was one of the powers considered at the time as established by the celebrated message of General Jackson, by which he vetoed the Maysville road. That veto was distinctly placed upon the ground that the road was local in its character It was a mere road to connect Lexington, a village in Kentucky, with the Ohio river, with nothing national in it, except that it might become a connecting link in other great routes. I ask honorable Senators again, in view of the great importance of this question, where do they find the authority for the principle that you cannot appropriate money from the public Treasury for the construction of a national road in a State? For, if such a principle is so well established, and so important to be mentioned, that it is henceforth to be regarded as a settled and permanent article in the Democratic creed—so much so that a member of the party may rise in his place in the Senate and proclaim that if the principle is abandoned in this case, there is no longer a Democratic party in the country—surely honorable Senators will be at no loss to point to the authority for such a doctrine.

Again: I would ask, what is the difference in principle, between appropriating money for this

road and appropriations for river and harbor improvements in a State? Is there to be a general reform or change in the doctrines and practice of the Democratic party? Is that the idea? There is something, sir, in all this, so mysterious, so strange to me, that I cannot avoid coming to the conclusion that there is more understood between honorable Senators—for they have more opportunities of understanding or arriving at a knowledge of some points, than I have—than was expressed on the floor. And the inferences which I draw, which I think I am enabled to draw, and which I think the country will draw, or ought to draw, from the course of honorable Senators on the other side of the Chamber upon this question, are not only that this bill cannot pass, not only that we will not get any road to the Pacific authorized by law now, but that we cannot get one even commenced during the next Administration. It is not only an end of this great enterprise for the present session, which might be imputed to many causes, to a want of time, to a want of coöperation on the part of the House of Representatives, but the principle avowed by some honorable Senators, and so vehemently insisted upon, and the change of ground so unexpected, of other Senators, lead me to suppose that no such road can be commenced or prosecuted in the next four years.

The new position assumed by some honorable Senators, has not only defeated the measure for the present session, but my friend from Missouri [Mr. GEYER] may console himself in the best way he can with the idea that there will be no connection between any great Pacific railroad and his favorite Missouri road under a Democratic Administration, unless a majority shall be returned here by the people who will not be found quite so deferential to the exactions of those members of the party who seek to exalt their individual ends into essential articles of party faith—a majority who will renounce and repudiate the doctrine that this Government has no power to give its countenance to the construction of a great national highway through a State by appropriating money from the Treasury, no matter how important, no matter how essential to the public defense, to the public, and the public prosperity. But as things stand now, I must repeat that it seems to me there is not only no hope of this bill now, but none for the road under the incoming Administration.

Mr. WALKER. The drift of the argument of the honorable Senator, if I understand it, is this: That this road will not and cannot be made through the States by the aid which it is proposed by the bill, as amended on the motion of the Senator from California [Mr. WELLER] yesterday, to give. Why can it not be made through the States with the aid proposed? Look, sir, at other States which have proposed to make railroads. Take the State of Illinois, the State of Missouri, the State of Iowa, or the State of Wisconsin. They have projected, and are in process of constructing railroads. Which of them has got any aid from the General Government? For one road in Illinois the State of Illinois has got aid. The State of Missouri has got aid for two. But what kind of aid? Is it $20,000,000 in the aggregate of national bonds, drawing an interest of five per cent. per annum? Was it a clear out and out donation of alternate sections for six miles on each side of the road? No, sir; not at all. But when you made a grant of land to those States to aid them in the construction of their roads, you increased the price of the reserved alternate sections to $2 50 an acre, leaving the Government in the receipt of just as much money as it would have got for the whole. And, besides that, you imposed upon the settlers in the country the payment of one hundred per cent. more for the sections reserved by the Government than they would otherwise have been obliged to pay. Under these embarrassments, the people of those States have felt not only able, but willing to go on and construct roads. What kind of roads were those which they proposed to construct? Mere State works—local to the State—in a great many instances, to accommodate the internal commercial interests of the State.

Why has it been that those States can construct roads with this kind of aid? It was because the roads would pay; and yet they were local and State works. Here, however, is a great and magnificent work to command the transit of the commerce of two continents, and the internal commerce of our own; yet it is claimed by the Senator from Tennessee that the State of Arkansas, or Missouri, or Texas, or Louisiana, or Iowa, cannot and will not construct this road there by their State authority, or by a company to be created by them. Sir, what are gentlemen doing by this argument? They are declaring in trumpet tones to the people of the United States and the world, that this road is not of sufficient importance to pay.

Mr. BELL. Will the honorable Senator allow me to ask him a question? How would it be in regard to California? Where would be the capital invested in the road from Memphis, for example, three hundred miles to the western boundary of Arkansas? Until ten or twenty years, not one cent profit could be realized. The road would not be available until the connections westward should be completed. Then let me ask him in regard to California, where there are seven hundred miles of this road to be constructed within the State line, one hundred of which are completely desert region; and the minerals cannot be taken; and where the probability is that the lands along the route would be taken up by old Mexican or Spanish grants.

Mr. WALKER. The Senator asks me how is California to get along with the donation of land, with seven hundred miles of road to make, and one hundred miles of it through a desert region? I answer him that if the railroad in California costs more than anywhere else, it will pay a higher rate, and when it is done the increased charges that commerce will have to pay will equalize the matter. If a railroad there costs $100,000, which in another State could be made for $25,000, the result will be that the freights and passage on this road will be just four times as much as in the State where it only costs $25,000. Thus the thing is equalized by the operations of commerce and travel upon the road.

Mr. GWIN. I should like to ask the Senator a question. There are three hundred thousand or four hundred thousand inhabitants in California. This road runs through an uninhabited country. There are millions of people on this side of the mountains, and only three hundred thousand or four hundred thousand in California. How can there be enough of travel and commerce from these people to support the road in the manner he supposes?

Mr. WALKER. There are by this time half a million of people in Wisconsin. The Senate at the last session passed a bill granting to that humble State—humble, sir, it would seem, only in the estimation of members of Congress, but proud in her own consciousness and in the estimation of the world and in real native resources—granting to her alternate sections of land, and on what conditions? That her settlers and citizens should pay one hundred per cent. more for the sections reserved to the Government; and that bill, besides, imposed on her the task of transporting on the roads, for the construction of which these lands were granted, the military stores and the soldiers of the United States, and the transportation of the mails upon such terms as might be forced upon her. That bill imposed all these burdens upon Wisconsin, or her company which was to construct the road. But even that poor and meager favor could not be extended to her. It was crushed in the House of Representatives, and, sir, I must confess that it was crushed by the action of one of her own Representatives, unfaithfully representing that State. It was crushed by an attempt to do—what? Not to discharge his duty to the State, but to ingraft upon that bill an amendment which required the construction, besides these roads, of thirty thousand miles of other roads in the United States. He did fail in that, but there was an evident indisposition on the part of Congress to grant even that poor favor to Wisconsin.

But here the youngest and one of the most brilliant sisters of the family of States comes in and is not satisfied with this poor pittance with which the other States were contented. She is of golden opinions. She says the construction of roads within her limits is immensely costly, and that she must have superior favors for the purpose. She must have not only alternate sections, but she must have them without the price of the reserved alternates being increased one hundred per cent. She must, besides that, have from the Government a bonus of $10,000 per mile, in five per cent. bonds, to build roads within her limits; and if that cannot be done, she is for requiring the Postmaster General, when he contracts with a company to construct the road, to pay from thirty to fifty millions in the course of fifty years. Is this equality? Is this what is meant by that provision of the Constitution which says that new States may be admitted upon an equal footing with the original States? Why, sir, it is a mockery. It is a mockery in the face of Wisconsin and of the other States which have been treated in the manner which I have described, when they cannot even receive the poor pittance which I have mentioned. It is asking too much from those who have been thus crushingly dealt by, to do this. I cannot do it. I cannot go for it.

But to come back to the point from whence I was diverted by the questions which have been asked. I repeat, if the argument of the Senator from Tennessee be worth anything, it is proof that the road through these States will not pay. In our States, as I before remarked, we make roads without any of these aids from the Government. We make them because the commerce on them pays; and we do it with little if any cost to the Government. Yet here, the greatest railroad in the world, which it is claimed is to receive upon it the transit of the commerce of two continents and the internal commerce of our own, is not of sufficient importance to warrant capitalists in undertaking it; but that this enormous bonus must be given, which no other State can get. That, sir, is the best argument which could be made against the road. I do not believe the argument. I believe the road can be made, and I believe it will be made, and all I ask is that the bill shall assume and maintain throughout such a shape as will secure the construction of that portion of it which connects the two extremities of the Union, upon the Pacific and upon the Atlantic.

As sure as you permit this company to expend the money in California, in Arkansas, in Missouri, in Iowa, in Louisiana, or in Texas, so sure will you stop the road there. It will then result in being an Iowa, a Missouri, an Arkansas, a Louisiana, a Texas road, and a California road. Now, if these gentlemen are honest—and I believe they are, I claim for them this attribute—they ought, with the rest of us, to claim that this bill should be so framed as to secure the construction of the intermediate link between the western boundary of the Mississippi States and the eastern boundary of California. The amendment of the Senator from California [Mr. WELLER] secures that, and nothing else than that can secure it. Give the company, I repeat, the power to spend the money in the States, and as sure as we live and move and have our being, when the road reaches the frontier of those States, you will be left without the construction of any road across the Territories, what is claimed to be a desert. Where, then, I ask, is the national character of this road? It is nowhere. It cannot be found.

But you have by the means proposed in the bill given that to California which you refused to every other State of the Union. You give them a clear gift of one half the lands and a proportion of $20,000,000, or what is equivalent, an arbitrary contract for carrying the mails, which amounts to that or as much more. This is asking us to go a little too far. I cannot, and I will not do it.

Mr. SHIELDS. I wish to make a few observations, and I shall try to make them as calmly as possible, in reply to my friend from Texas. We are charged with killing this bill. Now, I doubt whether there is a member of the Senate who is more desirous to see the road constructed than I am. My colleague has shown the same disposition. But I should like to see the honorable Senator attend to me in one particular. Here are $20,000,000 proposed to be given for the construction of the whole road. The probable distance is about three thousand miles.

Mr. BELL. Not so much as that; but the distance depends upon where you run it.

Mr. SHIELDS. Suppose it runs from the Mississippi river to San Francisco.

Mr. COOPER. Then it will be about three thousand miles.

Mr. BELL. Two thousand five hundred.

Mr. SHIELDS. It will be nearly three thousand miles, taking the detours. The company that commences that road, we will say at St. Louis, or at some other point on the Mississippi, gets an equal ratio of the $20,000,000 for every

fifty miles completed. Is not that so? It gets four fifths of the land for every fifty miles. The company goes on till it gets into the Territories. It will already have been paid a full proportion of the money; four fifths of the land, and by the time the company reaches the Territories, where it requires five times the amount of money to complete the road that it requires in the States, the road will be abandoned. I am not willing to charge anything on the gentlemen who prepared this bill. I do not charge any improper motives on them, although I and others have been charged with improper motives; but I will say that there was never a project devised with more ingenuity to enable the contractors to take about half of this money for constructing the road in the States, and then abandon the enterprise at the very place where it requires an immense amount of money to construct the road.

Mr. RUSK. I deny that there is any such provision in the bill.

Mr. SHIELDS. Does any man deny that the company get a ratable proportion of the money from the time it commences the road until it ends it?

Mr. RUSK. No one denies that.

Mr. BELL. I do not wish to reply to the honorable Senator from Illinois, and therefore I would ask the privilege of saying a few words now. The bill, I admit, did provide that the company should have a ratable amount of the $20,000,000 for every mile made within the States and four fifths of the land. I want to know if that would build the road?

Mr. SHIELDS. In the States.

Mr. BELL. That is the point. Would that build the road? Presuming that it would not, what would be the motive of the company to stop at the termination of the States? The bill provides that if they do stop there, every dollar's worth invested in the road which they have built, not only the road, but the apparatus, the furniture, and the running gear will be forfeited to the United States. Every dollar they have invested, not only in the road, but in the running gear, locomotives, cars, stations, and all the improvements they have made upon it, will be forfeited, and the company will abandon it.

Mr. SHIELDS. The gentleman is right in one thing; but he forgets that in the mean time the money and the lands will have been given to the company.

Mr. BELL. But I say that what is given will not build the road.

Mr. SHIELDS. The Senator assumes that it will not build the road within the States; I deny that assertion. Why, you give upwards of $7,000 per mile in money; and you give a larger grant of land than has ever been given to any State to build roads through it.

Mr. BELL. Alternate sections six miles wide, the same as other States have got.

Mr. SHIELDS. But you accompany that grant with no conditions, no embarrassments. We know that in Missouri, Iowa, Illinois, and the frontier States generally, lands are sufficient to build roads. This bill not only gives land, but it gives in addition what is nearly sufficient to build the road without the land. It gives upwards of $7,000 a mile through the States to this company, and that absolutely. But the gentleman says that may be forfeited. The land is given to them; the money is given to them; and when they reach that portion of country where it will require ten times the amount of money to build the road that it will require elsewhere, that is, around the base of the Rocky Mountains, will they continue it? Will any man say that it is as easy to build roads around the base of the Rocky Mountains as through Missouri or Arkansas? When they reach there will they not have the lands and the money, and can they not abandon the whole enterprise, and would they not do it?

Mr. RUSK. Then the road would belong to the United States.

Mr. SHIELDS. I do not believe that such will be the real effect of it; and if I would charge improper motives, I would say that the bill was not intended for any such purpose.

Mr. RUSK. Very well, sir; the bill will speak for itself. Its language is express, direct, and unequivocal. It cannot be mistaken by anybody. It provides, that as soon as the company fail to comply with their contracts, by not completing the number of miles for which they contracted, all the road, with the running machinery, everything that has been done, together with the telegraph line, shall be forfeited, and become the property of the Government.

Mr. SEWARD called for the yeas and nays on his amendment, and they were ordered.

Mr. BUTLER. Mr. President, I do not intend to take up the time of the Senate by entering into this argument further, but to make this simple proposition: Here is an amendment coming from New York, where capital has accumulated, and where it is coming like an avalanche upon this country. Perhaps the gentleman knows more of that capital than I do. The effect of this amendment is to give to the company $50,000,000, in addition to the $20,000,000 already provided for. And for what? The gentleman does not confine his views of this subject within the ordinary limits of ten or fifteen or twenty years, but he is to look into the State of California as history will disclose its condition in 1903. What will be the condition of California then? I believe, if the estimate has been properly made, this amendment will for fifty years give very nearly $50,000,000, and I think if that be the case, it will give every temptation to stop the road within the limits of the States, and not carry it through the Territories. Sir, I am not surprised at anything brought forward here; but if money is to be appropriated, I much prefer that it should be appropriated fairly, openly, and honorably, and none of your cloaks of $600 a mile for fifty years for so many miles.

Mr. BELL. The way the bill now stands, we give these lands for the road, and for the road over the Territories, we require the company not only to carry the mails daily, but our troops and munitions of war. Now, how are we to give an adequate compensation for carrying these supplies through the States? Can you stop them at the western boundaries of the States and there reship them on some other line? or you will have to pay whatever the charter of the State company may require? Now, is it not perfectly fair that this encouragement should be given? It puts the whole road on a par in regard to carrying the troops and munitions of war and the mails.

Mr. BUTLER. I have mentioned the facts; let the country gaze at them; let the country see this wholesale species of legislation, which is, in fact, leaping in the dark. We are asked to give more money. If the gentleman was to ask for more he would be more likely to carry it. I am surprised that the honorable Senator from New York did not say $2,000 instead of $600 a mile, and if he had done that—except that perhaps it would have shocked some men—he would have stood a better chance (if capital is to carry through this bill) to carry it, than in its present form.

Mr. UNDERWOOD. I do not intend to vote, as at present advised, for the amendment of the Senator from New York, [Mr. SEWARD,] and I will assign my reasons. Suppose the State of Missouri or Arkansas should build a road from the Mississippi to its western boundary, say three hundred miles long. This amendment would require the payment to the State doing that of $180,000 a year, from the Treasury, for transporting the mail upon it, although there might be no connection from its terminus on the western line of the State to the Pacific. That would be the result, in a certain state of things, of the adoption of the amendment. I am not willing that we should be placed in such a position. I believe that if you were to give such a bonus, securing to Arkansas or Missouri $180,000 a year for making three hundred miles of railroad, it would be a most advantageous speculation for either of them, and that one of them would soon begin to build the road. We should probably be required to pay annually that amount for carrying the mail on a line along which there would not, perhaps, be a single saddlebag full of mail matter. The value of the road for mail purposes consists in having a continuous line to the Pacific. The amendment provides that the money shall be paid when either of these States shall have made the road to its western boundary, without regard to a connection with that part of the road to be constructed through the Territories and through California, and which may not be finished for an age after the State has completed the road to its western boundary. I cannot vote for such an amendment.

Sir, it is useless for the friends of the bill to consume any more time about it. I did not vote against laying it on the table, because I am convinced the bill has been rendered inefficient by the amendments already adopted. I did not vote for laying it on the table, because I was willing yet further to indulge my friends in their efforts to make something out of it. I think that those of us who have in good faith endeavored to make it a practicable measure may now give it up, and throw the responsibility upon those who have destroyed it. I perceive that my friend from Tennessee [Mr. BELL] has already thrown out considerations which are to enter into subsequent elections in reference to this matter, and other gentlemen begin to see it in the same light. I think that an appeal to the people is our only remedy.

Mr. BUTLER. Then move to lay it on the table.

Mr. UNDERWOOD. No, sir; I will not take that course at this time, because from the vote just taken, I perceive many of the friends of the bill as it originally stood seem desirous to consider and act upon it, as if something valuable might yet be done.

Now, sir, I want to present some considerations which are, I think, worthy of examination. Take the road at only two thousand miles in length—it will be more than that—but take it at two thousand miles, which is the most favorable estimate of distance which you can put upon it to sustain those arguments which I design to answer. Suppose its length to be two thousand miles, how much did the bill of my friend from Texas propose to give in Government stock to aid in its construction? Twenty millions, divided by two thousand, gives you only $10,000 a mile. His bill, therefore, proposed to pay $10,000 a mile, according to that estimate of the distance; and it also proposed that these $10,000 per mile should be paid *pari passu* with the construction of the road, so that when fifty miles are finished, $500,000 shall be paid, and so on. What did the land clause in my friend's bill propose to give? I have made a calculation most favorable for the opponents of the bill. It gives twelve sections in the Territories, and six sections in depth, in the States. I have, in my calculation, taken it at twelve sections all the way through, without regard to the fact that in the States it is only half that quantity. If you take twelve sections deep on one side, that will be equal to alternate sections of twelve miles on each side, which is proposed by the bill. That makes only fifteen million three hundred and sixty thousand acres of land. Suppose it is worth $1 25 an acre—and according to the arguments we have heard here, it is not worth half that; it is worth hardly anything, according to some arguments which we have had; but I will take it to be worth $1 25 an acre, for I wish to show gentlemen how these matters stand, by making the most favorable presentation of the case on their side;—if you allow $1 25 per acre, it gives you only $19,200,000 as the value of the land granted. Divide that by your two thousand miles, and it does not come quite up to $10,000 per mile. Add your land value and your money value together, and it gives you less than $20,000 per mile, according to the most favorable calculation for the enemies of the bill. Nobody can deny that I have put down the road lower in distance than it will actually be. I have put the land higher than anybody can reasonably estimate. By making this calculation, it is impossible for you to get it up to $20,000 a mile as the contribution of the Government.

Now, how much must individuals contribute, together with this national contribution, before the road can be made? I believe every gentleman will say that they must contribute at least $20,000 per mile. I see that a gentleman on the other side shakes his head. I can tell him that I have looked into the subject, so far as our various railroads have been completed and furnished up to this day; and I find, from examination, that the average cost of construction and furnishing thirteen thousand eight hundred and forty-seven miles of railroad, now in operation, has been $29,588 per mile.

Mr. PETTIT. That is in rough countries, and not in a level country.

Mr. UNDERWOOD. That is the average cost of all the railroads in all the States of the Union. My estimate is but a little upwards of $10,000 in addition for this road. When you come to consider that this road is to be made hun-

dreds, if not thousands, of miles through a wilderness; that it is to be built in California, where prices, we all know, are from five hundred to a thousand per cent. higher than in this part of the country, in consequence of the gold which exists there, the addition of one fourth is but a very small addition. Nor do we know that the country through which the road must pass affords any superior advantages in consequence of being more level than the country east of the Mississippi. I would compromise to-day for $40,000 a mile, if I could secure the completion of the road for that sum. Railroad iron has recently taken a great rise in price. So has labor. I have given you the data upon which the calculation is made, and when the data and the facts are considered, I think nobody can reasonably dispute the conclusion. How much have individuals, I repeat again, to contribute, before this road can be made? Why, sir, a little more than the Government has to contribute; they must pay $20,000 a mile in order to insure the completion of the road.

Now, sir, let me tell you how this bill has been effectually destroyed. When you require $20,000 a mile to be contributed by individuals, and when you consider the length of the road to be not less than two thousand miles, you make the capital that must come from individuals amount to $40,000,000. Without a corporation that capital of $40,000,000 cannot be wielded. The idea of doing it by a private association or copartnership is, I think, altogether impracticable. That sum can be raised only by a corporation, and it should be managed by a corporation in which everybody can throw in his mite; in which A can subscribe his $50,000, his $10,000, his $5,000, or his $1,000. If you will form a company of that sort and give it corporate privileges, the work can be done; but unless you can embody and give the machinery for operating upon these $40,000,000, which individuals must furnish, I believe it to be altogether impracticable. It is because that provision has been stricken from the bill that I think it is hardly worth while to consume more time with it.

But with regard to throwing out electioneering matter—for it will have to go before the people—I wish I had time to lay before the public a good deal of past history touching the subject of internal improvements by this Government. I have Mr. Calhoun's report made in 1819 before me. Politicians of the present day seem to pay but little attention to things which occurred more than thirty years ago

Mr. BADGER. Read it.

Mr. UNDERWOOD. It is too long. But perhaps it will be well enough to give a few extracts from it. If I had time to read it, its reading would show what a very good southern Democrat and State-Rights man thought at one period in this country. That report was made in 1819, more than thirty years ago; and when the people begin to discuss and consider and reflect on these matters, it will be well enough to let them reflect on what was done by very distinguished and eminent men in times past. I will read a few extracts from that report. Mr. Calhoun says:

"There is no country to which a good system of military roads and canals is more indispensable than to the United States. As great as our military capacity is, when compared with the number of our people, yet, when considered in relation to the vast extent of our country, it is very small; and if so great an extent of territory renders it very difficult to conquer us, as has frequently been observed, it ought not to be forgotten that it renders it no less difficult for the Government to afford protection to every portion of the community. In the very nature of things, the difficulty of protecting every part, so long as our population bears so small a proportion to the extent of the country, cannot be entirely overcome, but it may be very greatly diminished by a good system of military roads and canals. The necessity of such a system is still more apparent, if we take into consideration the character of our political maxims and institutions. Opposed in principle to a large standing army, our main reliance for defense must be on the militia, to be called out frequently from a great distance, and under the pressure of an actual invasion."

Mr. BUTLER. Is that his report as Secretary of War, in 1819?

Mr. UNDERWOOD. Yes, sir.

Mr. BUTLER. That's a long time ago.

Mr. BADGER. That is since the resolutions of '98.

Mr. UNDERWOOD. Did Mr. Calhoun afterwards repudiate the doctrines of this report? If he did, I am not aware of it. I read the report because of the excellent remarks which it contains, and not merely because it is the production of Mr. Calhoun.

Mr. BUTLER. I do not undertake to answer for Mr. Calhoun that he repudiated it, but I know that he voted against measures looking to the same system of internal improvements.

Mr. UNDERWOOD. Well, sir, I will read a part of the report for the purpose of appropriating it to myself, and for the benefit of the country, for I think it is really very valuable. He goes on to say:

"The experience of the late war amply proves, in the present state of our internal improvements, the delay, the uncertainty, the anxiety, and exhausting effect of such calls. The facts are too recent to require details, and the impression too deep to be soon forgotten."

Then he alludes to the difficulties under which the country labors, and continues:

"Much undoubtedly remains to be done to perfect the roads and improve the navigation of the rivers; but this, for the most part, may be safely left to the States and the commercial cities particularly interested as the appropriate objects of their care and exertions."

There he concedes that the States are to do a great deal; but he says that this Government must likewise do its part; for he continues, after stating that the States and cities will probably do much to facilitate the intercourse between the coast and the interior of the Atlantic States, to say:

"Very different is the case with the great and important line of communication extending along the coast through the Atlantic States. No object of the kind is more important, and there is none to which State or individual capacity is more inadequate. It must be perfected by the General Government or not be perfected at all—at least for many years. No one or two States have a sufficient interest. It is at all times a most important object to the nation, and in a war with a naval Power, is almost indispensable to our military, commercial, and financial operations."

All this reasoning is directly applicable in favor of the Pacific railroad; as much so as if Mr. Calhoun had foreseen the acquisition of California, and was advocating a railroad to connect the mouth of the Ohio with San Francisco.

"I proceed next to consider the roads and canals connected with the defense of our northern frontier."

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"It remains, in relation to the defense of the Atlantic frontier, to consider the means of communicating between it and the western States which require the aid of the Government."

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"It only remains to consider the system of roads and canals connected with the defense of our southern frontier, or that on the Gulf of Mexico."

I read these extracts to show that Mr. Calhoun in this report comprehended a very general system. He turned his attention to the North, as I have read, and then to the West, and then to the South, and had no doubt of the constitutional power anywhere. I will not go into all the suggestions which he advanced, but I will read a little more from the report:

"Many of the roads and canals which have been suggested are, no doubt, of the first importance to the commerce, the manufacture, the agriculture, and the political prosperity of the country, but are not for that reason less useful or necessary for military purposes."

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"I would therefore respectfully suggest, as the *basis* of the system, and the first measure in the 'plan for the application of such means as are in the power of Congress,' that Congress should direct such a survey and estimate to be made, and the result to be laid before them as soon as practicable."

Thus it will be seen that he was in favor of obtaining all the information necessary; and he suggested the use of means for the construction of the roads, to which I wish to call the particular attention of the Senate:

"For the construction of the roads and canals, which Congress may choose to direct, the Army, to a certain extent, may be brought in aid of the moneyed resources of the country. The propriety of employing the Army on works of public utility cannot be doubted. Labor adds to its usefulness and health. A mere garrison life is equally hostile to its vigor and discipline."

Thus, it seems, Mr. Calhoun thought we could not only take money out of the Treasury to build roads and canals, but that we might set the Army to manual labor in their construction.

Sir, I will read no more extracts from that report. It speaks for itself. It was made at a time when we did not quibble upon the powers of the Government as we do now; but I have some votes before me to which I would like to call attention for a few minutes.

In the days of Mr. Monroe, a Select Committee was raised, composed of Mr. Tucker, of Virginia, Mr. Tallmadge, of New York, Mr. Ingham, of Pennsylvania, Mr. Stores, of New York, Mr. Claggett, of New Hampshire, Mr. Robinson, of Kentucky, and Mr. Lewis, from what State I do not know. That committee reported resolutions, one of which was adopted by the House of Representatives, in these words:

"That Congress has power, under the Constitution, to appropriate money for the construction of post routes, military and other roads, and for the improvement of water-courses."

We have acted upon that broad resolution ever since its adoption, in reference to water-courses. We have, under all Administrations, and perhaps more under the Jackson Administration than any other, voted money to improve rivers. I showed yesterday how we had voted money to improve rivers, by putting upon them light-houses and buoys to indicate the channels. You have done that from the foundation of the Government, and during the Jackson Administration you appropriated more money, I believe, than during any other Administration, if not more than during all other Administrations put together, for the improvement of rivers and harbors, and things of that kind. Now, what is the difference between a river and a road? One is a highway and so is the other.

At the last session, you made a highway across the Ohio river, at Wheeling, upon the bridge there erected, in order to prevent its abatement, under the decision of the Supreme Court, as a nuisance. We passed the bill to make a highway of the Wheeling Bridge, believing it was sanctioned by the Post Office power of the Constitution. Now, if you can make a post road upon a bridge across a river, if you can transport your mails upon a river as upon the ocean, and pay thousands and hundreds of thousands of dollars for such transportation, if you can appropriate money for improving rivers, why can you not make a road, in order to cheapen transportation? How is it that you can make rivers navigable, and have no power to make roads? No answer can be given, unless it be that nature made the rivers navigable in part, and man has only to complete what nature left unfinished, whereas, in making a road, man has to do all the work, without any assistance from nature. Such a distinction is about as wise and tenable as the objection to the constitutionality of making the road out of the National Treasury. Ingenuity cannot discriminate, and show the least difference in principle, between improving a river and making a road through a State out of the National Treasury. We have time and again appropriated money to improve rivers lying in States, without their consent.

In Mr. Calhoun's report, and in the resolutions adopted by the House, which I have read, roads and rivers were put upon the same footing. The main ground of General Jackson's veto of the Maysville road bill was not that you could not in any instance make a road, but that the road in that particular case began and ended in one State, and was local in its character. President Jackson said under such circumstances, that you had no right to improve a river. Rivers might be local as well as roads. He said, I believe, that if a river passed through many States, if it led from a port of entry or delivery down to the ocean, and from the ocean up to a port of entry or delivery, then it was national; then it was an object for which you could appropriate. That was Jackson doctrine; that was Democratic doctrine in reference to rivers and in reference to roads also. The Maysville road bill was vetoed upon the ground that that road was entirely local in its character.

Sir, if I had time I would read the list of the yeas and nays to be found on the Journal of the Fifteenth Congress, beginning in December, 1817, page 334. There were many distinguished men here then. I see Mr. Lowndes's name at the head of one of the columns. He was a southern gentleman, of some distinction in the country at that day. He voted for the resolution, affirming the power of Congress to make roads and canals, and to improve rivers. So did Colonel Richard M. Johnson, of Kentucky, a Democrat of some distinction in his party and throughout the Republic.

Sir, I call attention to these things, not in the expectation that it will do any good here, but I wish to bring these matters to the attention of the people, by addressing them through the Senate.

Sir, our bill is dead; the eagles and vultures have consumed its flesh and its sinews—nothing is left but gory locks and a grinning skeleton. The spectacle is painful and disgusting, and I wish to hasten the burial to get it out of sight.

Mr. WELLER. I have abstained from en-

gaging in this debate during the day, simply for the reason that I had hoped that we should be able to obtain a vote. I am as anxious as any other Senator here that the question shall be decided whether this bill is to pass or not. We have had presented here to-day the very remarkable spectacle of those who had heretofore been claiming to be the especial friends of the bill denouncing it as already dead. The fathers of the measure, those who were intrusted by the Senate with its particular charge, have, because of a single amendment which had been made to it, denounced it as already dead. Such declarations from these Senators may defeat it. They probably will. If Senators were sincere in their declarations, allow me to ask why they did not suffer the "mangled remains" of this bill to be laid upon the table this morning? It was due to the country, if it has already been killed, that my distinguished friend from Texas [Mr. RUSK] should have suffered it to have been decently and quietly buried, when the motion was made by my friend from Virginia [Mr. HUNTER] to inter it. But, sir, these gentlemen have not seen proper to do it; and two great questions for the Senate now to decide is, first, whether the bill be dead; and, secondly, if dead, who inflicted the mortal wound? These are the two questions to be decided—grave and important, unquestionably. The first one can only be determined by a vote of the Senate. If a majority now record their votes against the bill, it is dead, emphatically dead. There will then be but one question remaining to be decided, and that is, by what means did it come to its death? Sir, it came into the Senate lame, halting, impotent, and scarcely half made up. Notwithstanding the paternal care that was exercised over it by my friend from Texas, it came in here impotent for all practical purposes, impotent to carry out the objects he had in view—most potent so far as it violated principles heretofore considered sacred. He will therefore allow me to say this much in answer to the remarks of my friend from Texas, in derision of the amendment which I had the honor to propose to this bill. I was glad that he did see wisdom in that amendment. I am sorry, however, that he is now laboring to defeat the bill. But, sir, the Senator from Kentucky, who has taken his seat, thinks the mortal wound was inflicted when the corporation was stricken out.

Mr. UNDERWOOD. I do.

Mr. WELLER. Sir, that Senator belongs to a class of politicians who believe that nothing good can be accomplished except through the medium of a corporation. He would have a corporation to transact the most ordinary business of life!

Mr. UNDERWOOD. No, sir.

Mr. WELLER. If he desires the construction of a railroad, or that any labor shall be performed, or any public improvement made, he thinks it can be accomplished in no other way so well as through the aid of a corporation. I differ from him in regard to that point, and I therefore moved the other day, to strike from this bill the section which incorporated these contractors into a great corporation, an overshadowing one, which, in my judgment, would, under the patronage of the General Government, have exercised a more disastrous influence than that which was exercised by the late Bank of the United States. With such a provision in it, I could not sustain the bill. The Senate, by a vote of nearly two thirds, concurred with me in that opinion, and upon my motion this unconstitutional and dangerous provision was stricken from the bill. By that decisive vote, the favored corporation put in here by my friend from Texas, who claims to represent Democratic principles, was striken out. That was an improvement; and I then began to think that there might be virtue enough in the bill to effect the object which so many of us had near to our hearts—the completion of a road to the Pacific. This amendment gave offense to the fathers of the bill, and hints were then thrown out that it was ruined. Wedded to the scheme which they reported, they could not be expected to look with a favorable eye upon any change which might be made. That corporation, as proposed by the committee, could have exercised all the privileges of bankers, and flooded the country with irredeemable paper money. The destruction of this feature of the bill alarmed the committee, and they began to show symptoms of abandonment.

But it is said that the next blow which was inflicted upon it was the proposition to confine the appropriation of $20,000,000 to the Territories of the United States. Was there anything mortal in that blow? My friend from Texas thinks there was, and he demonstrated it in this way: He claimed that the incorporation of that amendment into this bill was calculated to create an odious monopoly at each end of the line, taking it for granted that each end would terminate in a State! The Senator knew very well that I belonged to that class of politicians who have no especial fondness for monopolies, and if he could show to the country that there was anything in the character of my amendment which was calculated to foster monopolies, he would have succeeded in drawing down upon my head a share of public indignation; but is such the effect of the amendment? There is no Senator on this floor whose declaration will go further with the country than that of the Senator from Texas; but he will allow me to say that his declaration, going out with that amendment alone, will signify nothing—they will regard it as a declaration wholly unsustained by the facts. There is sagacity enough in this country to require that Senator to show that an odious monopoly springs out of that amendment. They will demand to know how such a proposition creates a monopoly. In order to establish this fact, he is compelled to assume that it was originally intended that the States through which this road passes should incorporate companies and control it. If that be so, can the amendment change it? Will the Senator be kind enough to show me how an amendment confirming a portion of the donation which we make to the contractors to a certain part of the work creates an "odious monopoly?" The mere declaration of Senators, unsustained by proof, will not amount to much.

The bill originally, however, proposed a corporation, one of the most magnificent monopolies that the ingenuity of the Senator could devise—a monopoly of the public lands; a monopoly of $20,000,000; a monopoly for the transportation of passengers and the mails; a monopoly which could have wielded more power than any corporation ever created in America. Now, I ask my friend from Texas if the simple amendment adopted on my motion contained within it anything which human ingenuity can torture into a monopoly? I think I comprehend the amendment; but I regret to say that I am afraid there are other Senators who do not. If the original bill did not create a monopoly, how could a simple provision directing that the $20,000,000 be donated to the contractors in the Territories create one? For the life of me, I cannot perceive the force of the Senator's reasoning. Did he intend to expend all the money in making that portion of the road which may pass through his State, and leave the Government hereafter to construct it through the Territories?

According to the bill originally, you proposed to give to certain contractors, to private individuals, $20,000,000 in money, and $20,000,000 worth of lands, by way of inducing them to make a contract with you for the construction of the road. Is not that it? It "hath this extent; no more." Now, what was the amendment? The amendment provides that a certain portion of this donation (the $20,000,000 in money) shall be expended exclusively upon a certain part of the road—that portion of it which runs through the Territories. Now, it takes "optics sharp, I ween," to see an odious monopoly in this. Have I attempted to change the general character of the bill? I have only effected this one object: to require that the money shall be expended where the General Government has the power under the Constitution to expend the public money. This is all; I repeat, this is all the amendment proposes. Sir, there is a large portion of the Democratic party, a very large majority of that party to which I belong, who have denied the power of the General Government to go within the limits of a State and appropriate the Federal Treasury which belongs to all the States of this Union, in the construction of a local improvement. In order, therefore, to obviate the difficulty which existed in the minds of many Senators, I simply proposed in my amendment, that the $20,000,000 appropriated should be used where Congress had the right of exclusive legislation. Can any one but the Senator from Texas see anything like a dangerous monopoly which is to grow up at each end of this road under this amendment?—a monopoly which will be enabled to impose taxes to an unlimited extent upon the people? The whole bill is based upon the assumption that this work is to be constructed by contractors, and the President of the United States, by the second section, is authorized to enter into a contract for the construction of the road; and these contractors are the owners of the road. It is their property, and will it be said that my amendment divests them of it? In what way does the amendment change it, except to require a part of the donation to be expended on a particular portion of the work which they undertake to perform? Does it give the States either more or less control over it than was given by the original bill? Certainly not.

Now the Senator from New York comes in with an amendment which proposes to give about a million of dollars more per year to aid the contractors in the construction of the work. To that amendment I am utterly opposed. In the first place, you give $20,000,000 in money, and $20,000,000 worth of lands as an inducement to the contractors to make the road, the profits of which are to result exclusively to them. Now, it is proposed that you pay about $1,000,000 per annum for carrying the mails over that road, and that payment is to continue fifty years, making in the whole, $50,000,000. I undertake to say that if that amendment pass, the bill will be one of the most magnificent speculations in which the capitalists of this country can engage. Why, sir, the Government, under the bill as it now stands, pays nearly one half of the cost of the construction of this road. If you estimate the cost at $80,000,000, the Government pays one half, while it remains the property of these private contractors. Is not that sufficient to induce capitalists to invest in it? Have you not already given enough? When you come to construct the road through the Territories you will have, in all probability, a line which will carry you fifteen hundred miles within those Territories, and over a large section of country barren and desolate. To the construction of those fifteen hundred miles of road, the $20,000,000 are to be appropriated, giving you some $14,000 per mile, together with twelve miles of land on each side of it, which the Government is to contribute towards making the road, and which the contractors are to use for their own benefit. Is not that enough? I ask Senators whether we have not already gone as far as a due respect to the public interest will allow us to go? However much I desired the road, I would not have it by doing gross injustice to other sections of the Union.

But, says the Senator, the road cannot be constructed in Texas or Arkansas or California, for the six miles of land on each side, given by this bill in its present shape. Nobody ever supposed it would be sufficient. It was certainly never designed or intended that the appropriation of land which the bill makes within the States should be sufficient to construct the road. If that was the design, it was one of the most absurd propositions ever submitted, to make the road at Government expense, and then give it to individuals for their benefit, and let them tax the people who travel over it. That would really be a splendid idea! It would be a magnificent proposition that you should give to the contractors enough of land in the State of Texas to make a road through that State, and then allow these individuals, who own that land and that road, to tax American citizens who travel over it! That is the shape in which gentlemen, by their arguments, would seem to wish to place it. No, sir; the bill does not propose that the Government shall make the road. It is to be made by contractors—it is to belong to them—they are to derive the profits which may result from its use. The Government simply contributes liberally towards its construction.

I apprehend that if the bill passes in the shape in which it is now presented, there will be capitalists enough in the country who will associate themselves together for the construction of the road from the eastern to the western terminus. It will be in the hands of one company. That company will get all the land and all the money that the original bill proposed to give them. I ask, therefore, why it is said the bill is dead? What difference does it make to the contractors whether they expend the twenty millions of money in the Territories or in the States, provided it is expended in the construction of that road which they have undertaken to construct? They make the road, and

get all the land and all the money. It will require more than twenty millions to construct it through the Territories, and why not expend it there? Can any good reason be assigned why it should not?

Sir, Senators upon the other side have argued this question as if the bill had been eviscerated by a proposition requiring the express authority of a State, before the road could be constructed within its limits. Why, that question is left by the amendment precisely where it was left by my friend from Texas in the original bill. The bill as introduced by him required, "that before the said road 'shall be located or constructed through any State, 'the consent of the Legislature thereof to the pro-'visions contained in this act shall be first had and 'obtained." That is exactly where it stands now. I have not changed it in that particular in the slightest degree. There is no further authority required from the State Legislature, under the amendment, than there was under the original bill. It is left where the committee placed it. The State Legislatures have now no more control over it than they had under the original bill.

Why is it, therefore, that Senators say the bill has been killed, and that all that remains for us is to pay a decent respect to its memory, by burying its mangled remains? Why is it that after this bill has, in my judgment, been much improved, after it has been made more practical for the construction of the road and the accomplishment of the object than it was before, should those who have the bill in charge announce that it is already dead? Why do they labor now to produce this result? If Senators can sustain that charge before the country; if they can demonstrate by any act of mine the bill has been killed, I will not shrink from the responsibility. I am not afraid, as the Senator from Tennessee seemed to intimate, to take the full responsibility which is imposed upon me by my position here, and by the amendment which I submitted. As I said yesterday, no proposition, although it may be one vitally important to that section of the Union whence I come, can receive my sanction if it violates what I have always regarded as sacred in principle. Sir, my opinions of the Constitution and the principles which govern me do not depend upon the latitude and longitude of the locality into which I may be thrown.

Senators cannot expect me to recognize a principle which I believe would lead to a system of internal improvements of a local character within the States calculated to bankrupt the Treasury, and disturb the peace and tranquillity of the Union. I am sure that my constituents will not ask me to do violence to any principles which have always been regarded by those with whom I am politically associated as essential to the perpetuity of the Union.

Now, is the bill dead? My friend from Texas, who "is an honorable man," says that it is. An attempt was made to bury it this morning. Some of those who have claimed to be the especial friends of the bill joined in the effort. They failed. Now, I ask my friend from Texas to stand by me and sustain this bill, and I pledge what little reputation I may have in this country, that there are plenty of contractors who would be glad to take contracts under it, not only for the construction of the road in his State, if that should be selected as the most desirable route, but for its construction from the Mississippi valley to the Pacific ocean. If I were a speculator, if I had any taste for engaging in that sort of business, I should invest every dollar I had in the world in a company organized under this bill as it now stands. Why not, therefore, try it? You get, at all events, a survey—you get the estimates and bids; and if the bill be found to be an impracticable one, you can, at the next session of Congress, with all the information before you, pass one that will be practicable. Is it not the part of wisdom, therefore, even admitting what the Senator says, (which I by no means admit,) to adopt the bill as it now stands? He thinks it is impracticable to carry on the work with this amendment; but even admitting that, will you not accomplish a vast deal of good by its passage? Whatever amendment may be necessary hereafter, the wisdom and experience of the legislative power can put in.

Sir, the Senator from Tennessee [Mr. BELL] need not have troubled himself about the differences of opinion which may exist on this side of the Chamber as to the construction of the Constitution. We can take care of our own matters. We can settle any differences of opinion that may exist among ourselves as to the Democratic creed; and if we cannot, the Senator from Tennessee would be one of the last gentlemen in the country to whom we would appeal to determine it. I say, therefore, that my friends on the Whig side of this Chamber need not distress themselves on this subject. Whatever differences of opinion may exist here we can heal without their friendly interposition.

But allow me to say, that all I desired was that the country should see that the amendment adopted yesterday, which was represented as fatal to the bill, was simply a proposition confining a portion of the donation within a particular locality. That is all. In other respects, the bill stands just as it did yesterday. If I have succeeded in showing that gentlemen who have been placed in charge of this bill have abandoned it, and thus killed it without sufficient cause, I have accomplished my object. The country will ultimately determine who were the real friends of the measure.

I know, and I admit that the Senator from Texas has labored more assiduously than any Senator on this floor in the preparation of this bill; I know that all his energies—and great they are—have been devoted to accomplish this great national work; and that section of the Union from which I come owes him a deep debt of gratitude for the friendly interest he has exhibited in it. But I was sorry, that at the very moment when his power and influence was particularly required, he saw proper to denounce the measure as dead—thus deserting us in the very hour of trial—at a time when the adoption of a simple amendment, which was designed to give life and vigor to the bill by avoiding a constitutional difficulty, he should have abandoned it, and declared that it was mortally wounded, and that it remained for the Senate but to inter it. I am sorry that he has been turning the cold shoulder during the day, and has not given me that support which was necessary to secure the passage of the bill. If he denounces it as impracticable, and therefore withholds his support, it can scarcely be expected that it will pass. If they have made up their minds to defeat it, they certainly can accomplish it. On their heads the responsibility must rest.

Mr. RUSK. Mr. President, the honorable Senator from California has mistaken my course to-day, if he supposes that I am supporting this bill as *amended* with a cold shoulder. I shall vote, on the yeas and nays, against the bill in its present shape; I shall vote for getting rid of his amendment, if I can see any opportunity. When I voted this morning against laying the bill on the table, I did it for the purpose of giving the honorable Senator and others who said it would build a road an opportunity of demonstrating to the Senate and to me, if possible, that the bill in its present shape was efficient. My vote evinced my kindness to him, and not any attachment to the bill in its present shape. I know that the bill is dead. If the original bill, which I believe was a vital instrument, had been passed over from Saturday evening and taken up to-day, I believe it would have been dead. But I have stated that over and over again, and it is not necessary for me now to repeat it.

There have been two lines of argument pursued with regard to this amendment and with regard to the committee. I want to tender my compliments to the opponents of the committee on both sides. The out-and-out opponents of the bill, who took the bill by the horns at the beginning, said that it was a very ingeniously-contrived bill; that it showed matured reflection for the purpose of introducing a general system of internal improvements, and violating the Democratic creed. The amenders of the bill, those who have come in and put it in such a position that I must vote against it, have paid the members of the committee the high compliment of saying that they themselves did not understand their own bill. The honorable Senator from California says the bill came in lame, halting, deformed, and unfinished, until his master hand got hold of it, and then it became perfect. I am sorry to differ from my honorable friend in this particular; but I cannot vote for the bill as it now stands. I do not believe it will build the road. I am sure that in its present "perfected" form it will split up the road into three different pieces, and perhaps four; and I cannot vote for such a disjointed bill.

The honorable Senator from California proposes to pledge me his reputation that if I will vote for the bill and it passes, capitalists will come up and build the road. I will not take the pledge. I cannot believe, notwithstanding that strong pledge, that it will turn out so. I have a kind of reasoning of my own upon the subject. It is plain and blunt, but it satisfies me. It takes me a good while to think. I cannot go off in a hurry. I cannot see clear through a thing immediately. I must hammer over it, and think of it for some time; but when I do come to a conclusion, I generally believe that I am right. I do not want to take the Senator's reputation, though he offers to pledge it. He has a great deal of well-earned reputation, and I trust in God he may have much more.

There has been appeals on both sides of the Chamber to the country about the subject. Sir, I am not talking to the country. I have not been working for applause. I have been working for this railroad bill. I have no disposition to put the honor of killing Cock Robin upon anybody. Those who did it may divide the honor among them.

When I first reported the bill, the clause in relation to a corporation was the "rawhead and bloody bones" that troubled the conscience of some of my Democratic friends. I did not care six snaps of my finger for the corporation, and in fact I rather agreed to put it in, because I saw that it would draw the enemy's fire; that it would bring forward a great deal of patriotic thunder in opposition to that feature of the bill. Well, sir, in that I was right. We went on; thundering licks were struck; the artillery roared, and the small-arms crashed against the terrible corporation; and I should have voted to strike it out myself, but I thought that if I did so some of these gentlemen would think they had frightened me off the track, [laughter,] and so I voted in a very small minority to keep it in, not, however, that I cared a sixpence about it. That was about five or six o'clock on Saturday evening, the last day on which, as I repeatedly announced, the bill could have any chance. We have now gone two days beyond that time, and I do not think we can make anything out of the bill. I am much obliged for the compliment which some gentlemen pay to the shallowness of my intellect, but that is not my fault. I have as much as God gave me, no more; and if I use that in the best way I can, I hope they will excuse me, and not constantly remind me of what I regret as much they do.

After the corporation was stricken out, late on Saturday evening, just before night, the first constitutional scruples that I heard of were brought forward against appropriating any money in the States. The idea started, and it rolled on with the fury of a hurricane, and out went that provision of the bill by a majority of two votes. The honorable Senator from California thinks that it made the bill a perfect instrument; made it an instrument by which the road could be built. There is a difference of opinion between us on this point. If I thought so, I should vote for it. It will be tolerably hard work for me to do it even then; but I would trust to Providence. As the bill now is, however, the road is divided up, and we have no means of controlling the ends of it. It is to be given by the States to railroad companies, who are to do as they please. We have no means of saying that passengers and freights shall pay only so much; the power has gone out of our hands, and we shall have no control over the subject in the States, because the very ground on which the amendment goes is that you have no constitutional power to control the road in the States.

Under such circumstances, believing that we have no further use for the bill, and as the Senator from California does not appreciate my courtesy in keeping the bill up, I now announce to him distinctly, that I want a favorable opportunity of putting my name on the record against the bill in its present shape, and that may go to the country also. Cock Robin is killed! As to who killed him I do not care six straws. He is dead. I expected to get a road, but I know that under the provisions of the bill as it now stands, I cannot get one, and I do not care about the credit or discredit of it. I shall have the proud satisfaction of reflecting that I have performed my duty faithfully upon this important subject, and with that I must be content.

Mr. BADGER. Mr. President, I am a very

earnest and decided advocate for the establishment of this road, and in that I present no exception to the Senate generally. Everybody is in favor of the road.

Mr. MASON. No!

Mr. BADGER. The Senator from Virginia not in favor of it?

Mr. MASON. Decidedly not.

Mr. BADGER. I am glad to hear there is one man not in favor of it. Now, I am sure that I am right, since the Senator is against me in the main project. [Laughter.] I was about saying that everybody in the Senate was in favor of the road, but there were so many conflicting opinions as to the mode in which, conveniently, constitutionally, and consistently with the principles of the Democratic party, it could be accomplished, that it seemed as if the general wish for a railroad was an abstraction, and the general difficulties in the way of its construction, a reality, which made the abstraction of no value. Well, sir, I have been in favor of any measure that is a practical one, that would accomplish the object which is of so great importance to the country. But I find that there are insuperable obstacles in what are called the principles of the Democratic party. I never hear of them without alarm; for I have generally observed that they are brought forward and operate precisely to the extent, and precisely for the purpose of preventing the accomplishment of some great good to the country. We have had, on this occasion, the abstractions of the Democratic principles as embodied in the resolutions of 1798, and that substantial and *boardy* excrescence upon which the Democratic principles were constructed last year, on what was called the Baltimore platform; and it is found now, that those are in utter and absolute opposition to any measure which the wit of man can devise, which is practicable and capable of being executed for connecting the two sides of this great continent together.

It is now ascertained, that although we have had power to acquire, and have acquired this Territory of California on the Pacific, and though the Constitution gives us full power for that purpose, it has placed us in such a deplorable situation that we can devise no means to make that acquisition profitable, and can resort to no projects to enable us to defend it. And the Constitution has been so carefully constructed—that is, as expounded by the resolutions of 1798, and the Baltimore platform, together with the running commentary upon them, which we have heard in this Chamber—that this Government has perfect power to acquire a Territory, but no power to defend it or to make it available to the general interests of the country.

Now, Mr. President, it has been said over and over again, that this bill is dead. Gentlemen on all sides agree as to that, except the Senator from California, [Mr. WELLER,] who has a manifest State interest in keeping it alive, and who I think mistakes certain galvanic motions in the dead body for the evidence of life, and conjures up for it future exertion and usefulness.

It is agreed on all hands, that whether by what has been done or not, it is the general sentiment in the Senate, and the deleterious effect of the administration of Democratic principles upon the measure, that it is dead, and the only inquiry on all sides has been how it should be decently and respectably disposed of by an honest burial.

Now, instead of moving that this bill lie on the table, as a test question, having very great respect for the bill as it was originally reported, and the greatest respect and kindness for my honorable friend from Texas, who reported it, and who has pressed it with so much anxiety, I think the best course we can adopt with this distinguished member of the once practical measures, but now abstractions and humbugs, of the age, would be to treat it exactly as we treat a member of Congress when he is dead. And by way of taking final leave of it, and testifying our respect for its memory, I move that the Senate do now adjourn, [laughter,] with the understanding that that makes an end of the Atlantic and Pacific railroad, at least for this session.

Mr. DOUGLAS. I should like to have the yeas and nays on the motion. I desire to see gentlemen put to the test in regard to the speeches which they have been making.

["Crder!" "Order!"]

Mr. MASON. A motion to adjourn is not subject to debate.

Mr. DOUGLAS. I know that; but I have a right to call for the yeas and nays; and I take it for granted that all those Senators who have been making speeches will not be afraid——

Several SENATORS. "Order!" "Order!"

Mr. MASON. I call the Senator to order.

Mr. DOUGLAS. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BELL. Afraid of what?

Mr. DOUGLAS. Afraid to have their misrepresentations exposed.

The question being taken by yeas and nays on the motion to adjourn, resulted—yeas 30, nays 15; as follows:

YEAS—Messrs. Badger, Bayard, Brodhead, Butler, Cass, Charlton, Chase, Clark, Cooper, Dawson, De Saussure, Downs, Fitzpatrick, Foot, Hamlin, Hunter, Mallory, Mason, Miller, Morton, Pearce, Pettit, Phelps, Rusk, Sebastian, Smith, Spruance, Sumner, Toucey, and Underwood—30.

NAYS—Messrs. Bell, Borland, Davis, Dodge of Wisconsin, Douglas, Geyer, Gwin, Houston, James, Seward, Soulé, Wade, Walker, and Weller—15.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 22, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. The question first in order is the following resolution, reported from the Committee on Printing, upon which the gentleman from North Carolina [Mr. STANLY] is entitled to the floor:

"*Resolved*, That the House Committee on Printing cause the maps accompanying the report of the Superintendent of the Coast Survey to be bound in quarto form, provided the cost shall not exceed eighteen cents per volume; and that they also cause to be bound the maps accompanying the report of the Secretary of the Treasury, on the trade of the British North American Colonies, in a separate volume, and style similar to the maps accompanying the reports of Foster and Whitney, as published by the Senate, provided the cost shall not exceed twelve-and-a-half cents per volume."

Mr. STANLY. I will not detain the House ten minutes by the clock; and if I exceed that time, I will yield the floor. The House having adopted the amendment yesterday relative to the Coast Survey, makes it unnecessary that I should make remarks to the extent I had intended. My purpose was to call the attention of the House and country to some things which I thought needed remedying in the Coast Survey Office. I desire to see this survey carried on, as it is exceedingly useful to the whole country. It is very useful to that part of the country which I represent. I want to put no impediment in the way to its successful continuance. The adoption, by the House, on yesterday, of the last clause of the civil and diplomatic bill, will bring about that remedy.

There are some things connected with that Coast Survey to which I object, and, I think, in a proper spirit. I object to them because they will lead to abuses—if abuses do not already exist. I have no intention to cast any reflection upon the Superintendent of the Coast Survey. From all I can hear from gentlemen who are much better qualified to judge than myself, he is a man of science, and as such has discharged his duty remarkably well. My honorable friend from Maryland, [Mr. EVANS,] not now in his seat, a man of "science," has informed me to that effect himself, and he is a better judge than I, and much attached to this Coast Survey. There is a great deal generally said, in reference to the Coast Survey, about triangulations, parallaxes, and a hundred other things which pass my comprehension, and that of a large majority of this House. I do not intend to go into that, but I take it for granted that those men of science who have examined this subject, ought to be relied upon in the statement they make.

But there are other things connected with the Coast Survey to which I must call the attention of the House. I think the public interest demands that this matter should be in charge of the Navy Department, and not in charge of the Treasury. I object to naval officers and officers of the Army being selected as they are now, for duty on the Coast Survey. They may be selected—whether they have or have not been so, I do not say—by favoritism exercised by members of Congress or by persons residing in the city of Washington. I object to special privileges and monopolies by officers of the Engineer, of the Topographical, and Ordnance Corps. As a specimen of that, I refer to a bill from the Senate now pending here, to which, in the course of the debate the other day, I intimated that I would give my support. I was inclined to do so until subsequent and careful examination has shown me that I was wrong. It is to give the Ordnance, Engineer, and Topographical Corps promotion at the end of fourteen years. It makes their promotion fixed and certain, while the men were not included who are out upon the frontier—the artillery, infantry, and dragoons; they not being here by themselves or by their friends to play the part of lobby members day after day, electioneering with members and making appeals to their acquaintances and friends in and out of Congress. I feel it my duty as a Representative of this Congress to protect the interests of those who are not here lobbying. Men who have graduated in the Engineer and Topographical Corps, have not been promoted as rapidly as some of those in the infantry, artillery, and dragoons; and why? Because so many were killed in the Mexican war. Many gallant fellows in the infantry and artillery were killed, and that has caused the promotion of their comrades who survived.

Mr. FULLER, of Maine. I wish to ask the gentleman a question. Was there any corps that suffered more in the Mexican war than the Corps of Engineers?

Mr. STANLY. I think there was. I do not impute anything improper to these men in that respect. They behaved well in war on all occasions. No doubt the Engineer, Topographical, and Ordnance Corps will fight, seeking the "bauble reputation at the cannon's mouth," with as true spirit as any other corps. I am not impeaching them, but contending for the rights of others as meritorious as they, not here to take care of themselves. The lieutenants of the Engineer, Topographical, and Ordnance Corps, come here upon what I may call the professions of having graduated highest among the classes at West Point; they graduate with distinction at West Point, not only because they are men of superior endowments, but because, by strict attention to regulations, they get fewer black-marks. My experience in life has taught me that more than one half of the boys who graduate at colleges, with the highest honors, turn out to be men of less influence and capacity in the world than those who graduated with none. They behave themselves well, attend prayers, put the musket in the right place, tie their shoe-strings, and attend to all the minute details of the West Point system, all right in the soldier, and then they are put into the Ordnance, Topographical, and Engineer Corps. Generally, they have pleasant duties assigned them. They are generally in the discharge of bureau duties; they have charge of military posts, and forts. This affords no reason why their promotion should be certain in fourteen years, when these artillery men, and dragoons, and infantry, are sent out among the Indians, and are compelled often to lie upon the ground, with nothing but the canopy of heaven to protect them. It is unjust in spirit. It is special legislation which I know this House will not adopt, when they have examined the subject.

Mr. GORMAN. I must insist on making a point of order upon my friend from North Carolina, which I do with great reluctance. He is discussing the expediency of a bill lying upon your table in regard to the promotion of the Engineer Corps. This proposition is to bind the maps of the Coast Survey. I should be gratified to hear the gentleman, but I cannot permit his argument to go on without being permitted to reply to it, and I could not be permitted to do so because the Speaker would certainly decide it to be out of order.

The SPEAKER. Whether the gentleman is in order depends much upon what is to be printed. He has a right to talk about whatever is in the book.

Mr. GORMAN. The proposition is to bind the maps separately.

The SPEAKER. Is it not to print?

Mr. GORMAN. I understand that it is for the binding of the maps separately.

The SPEAKER. If it is to bind alone, the gentleman would not be in order.

Mr. STANLY. When there is anything said

in regard to the printing of this House, there is a great deal of sensitiveness exhibited on the part of the gentleman from Indiana.

Mr. GORMAN. I hope that I may be permitted to reply to the gentleman.

Mr. STANLY. I hope he may be, to the fullest extent. My friend from Indiana will appear in a new character if he undertakes to advocate what I have been arguing against to-day, and if he stands up for the rights of a special chosen few, and not for the rights of all. He will appear in a new character, and I hope, for his own sake, that he will not indulge in the argument he said he would. I have finished that part of my argument, and having called the attention of the House to that bill, I must recur to the former statement with which I set out. I should have finished in my ten minutes, but the House must indulge me three or four minutes more on account of the interruption in my remarks. I say I object to lobby members electioneering for the Coast Survey, whether it is for printing, binding, or anything else. It is well known that we have been subjected to improper influence, inducing us to do what, as members of this House, we ought not to do. When appeals are made to our feelings, and we hear but one side, we are not competent to decide fairly. I warn the House against such unfair influences. The report of the Coast Survey we have already printed and bound. Then came the charts of some lieutenant out on the western Pacific coast, which our friends from California want Congress to purchase. And so we go on printing and binding volumes after volumes, very often encouraging a private speculation at the public expense. I have been afraid of this Coast Survey extending its arm too much. I will say, to be in order, I find fault with the binding of some of these charts. I come to another reason to which I wish to call the attention of persons connected with the Coast Survey.

Instead of going on and surveying the American coast, the Superintendent, with all his science and attainments, influenced by a desire to oblige members of Congress, has been engaged in surveying too many little inlets and creeks. They have a little chart in a frame in some of the committee rooms of the Pasquotank river in my State. I do not think it of so much importance as my colleague [Mr. OUTLAW] does; but that is surveyed. I do not think it is so great a national work that it ought to be surveyed before important points on the coast.

Mr. OUTLAW. Is the gentleman aware that there is more valuable produce carried on Pasquotank river than on any other river in North Carolina?

Mr. STANLY. Not quite.

Mr. OUTLAW. Certainly all the rivers in my colleague's district.

Mr. RIDDLE. Will the gentleman allow me to say a word? I wish merely to state to him a fact which perhaps he is not acquainted with. In order to produce lines along the coast it is necessary that the officers making a survey should extend their triangulations into the interior.

Mr. STANLY. Suppose they did extend "their triangulations into the interior," they can do that without making maps of little rivers and creeks. But I do not intend to get into a scientific discussion of triangulations and parallaxes. The House might be reminded of Mrs. Malaprop's "nice derangement of epitaphs."

Mr. STANTON, of Tennessee. With reference to the Pasquotank, the gentleman will recollect, I presume, that during the administration of General Jackson there was an appropriation made for the debouches of the Dismal Swamp canal; and if I am correctly informed as to the geography of that part of the country, the canal debouches in the Pasquotank river. Now, if the Government of the United States, by a bill signed by General Jackson, could appropriate money for that purpose, I should suppose that these triangulations might extend there without any great violation of constitutional rights.

Mr. STANLY. I have made no reference to constitutional rights. My colleague thinks his "rivers of Damascus" are better than other rivers, and that the Pasquotank has more produce than all the rivers in my district. Well, sir, I might, perhaps, controvert that if I should go into statistics of turpentine and lumber. But I dare say that the Superintendent of the Coast Survey would have obliged me by surveying my rivers, if I had asked it. I am blaming Congress and not the Superintendent. I want to call the attention of Congress to the fact, that they survey too many inlets and creeks, called rivers, and neglect a great many important works of a national character. My purpose has now been answered. I did not want to reduce the salary of the Superintendent of the Coast Survey, and I voted against it in committee, and should oppose it here. But I wanted that it should be settled and regulated by law. I do not think any Secretary ought to have authority to pay just what he pleases. I do not like this increasing of the powers of bureaus, giving them the franking privilege, and making Departments of them. I am afraid that before the end of this session, we shall have an attempt made to establish the Department of the Exterior, as we had, four years ago, a Department of the Interior. I see, sir, that I have only occupied ten minutes, no more than I said I would occupy, notwithstanding the interruptions, and I will not longer detain the House. I hope this binding will be ordered. I have examined the maps, and think they ought to be preserved. I think the committee are right about the binding, and I withdraw all objection to it.

Mr. GORMAN. I shall not detain the House very long, but I have never in my life listened to a more extraordinary speech in this House than that made this moment by the honorable gentleman from North Carolina, [Mr. STANLY.] He has traveled out of the record, as I conceive, from the question of binding these maps, to state here before this House, that these engineers were not upon the fields of battle—that they were not upon the frontier—that their bones did not bleach upon the plains of Buena Vista and Monterey——

Mr. STANLY. I said nothing like that.

Mr. GORMAN. The gentleman said that in effect, and drew a parallel unfavorable to the Engineer Corps. He says that they were not upon the field or the frontier, but that they are here to act as "lobby members" around this Hall. Let me enumerate who these "lobby members" are. I begin with the Engineer Corps. Who were the officers of that corps, against whom this invidious comparison is made, who were killed and wounded in the battles of the war with Mexico?

Captain Swift, died from exposure at the siege of Vera Cruz.

Colonel Mansfield, severely wounded at the storming of Monterey.

Colonel Lee, wounded at the attack on Chapultepec.

Colonel Mason, severely wounded at Molino del Rey.

Captain Benham, wounded at Buena Vista.

Major Beaungard, wounded at the Belin gate, City of Mexico.

Major Towers, wounded in the battle of Chapultepec.

Captain Foster, severely wounded at Molino del Rey.

Major Stevens, wounded near San Cosma, City of Mexico. I suppose he is one to whom the gentleman alludes as being here in the lobbies.

Topographical Engineers.

Captain Williams, killed in the advance upon Monterey.

Lieutenant Blake, killed with his own pistol the day after the battle of Palo Alto.

Lieutenant-Colonel Johnson, severely wounded twice at Cerro Gordo, and again at the attack on the City of Mexico.

Lieutenant Bryan, wounded at Buena Vista.

Lieutenant Durby, severely wounded at Cerro Cordo.

Ordnance.

Major George Talcott, wounded at Molino del Rey.

Captain Callender, severely wounded at the battle of Contreras.

Captain Reno, wounded at the battle of Chapultepec.

These men compose the Corps of Engineers, and several of them are now upon the Coast Survey, crippled in such a manner as to be disabled from very active field service; some of them have been wounded once and some twice. These are the "lobby members" to whom the gentleman from North Carolina alludes, and against whom he draws an unfavorable contrast with the line of the Army.

Mr. STANLY. I alluded to no individuals by name, and it is unfair, unkind, and improper to say that I meant my remarks for particular individuals, when I did not. I was arguing against unfavorable contrasts drawn by others against the infantry, artillery, and dragoons.

Mr. GORMAN. I do not know that the gentleman did, and of course if he says he did not, that is enough. But Major Stevens is within this Hall.

Mr. STANLY. That may be. He ought not now to be if he is.

Mr. GORMAN. He is here every day. He is a gentleman who graduated at the very head of his class for scientific attainments, for superior learning, and for his distinguished industry and talent. He has been placed, by his peculiar attainments, high in position upon this Coast Survey, and to him we are largely indebted for many valuable portions of this work. He, sir, is in the lobby around this Hall every day, when his business will permit him to be here. Another gentleman, who is here occasionally, bears upon his person wounds of the most agonizing character, which he received in the front rank, where the danger was greatest and where the bullets of the enemy flew thickest and hottest. Sir, these men were compelled by their duties to be in the most dangerous and critical positions, and they deserve laurels entwined around their brows equal to any corps of the Army. Our Commander-in-Chief was indebted to that corps for his reconnoissances in advance of him, and laying down the topography of the country through which the army had to march; and if there is any body of men in the Army to whom the Government is indebted in gratitude and praise, it is the Engineer Corps. And yet, sir, the gentleman from North Carolina, in discussing the question of printing and binding a few copies of the report of the Coast Survey in a particular manner, has stepped aside to draw invidious comparisons between this gallant corps and the line of the Army.

Mr. STANLY. I said they were not on the frontier as much as the other corps; that their duties were less laborious in time of peace; that few of them were killed in war, and that accounted for the promotion of the other corps, against whom invidious comparisons had been drawn.

Mr. GORMAN. Well, sir, a part of them are upon the frontier. There are engineers now upon the frontier making topographical surveys, and for the location of your posts and roads. The engineers are now engaged in making surveys for the erection and completion of fortifications. They are scattered over the country superintending the improvement of your rivers and harbors, under the river and harbor improvement bills. They are on the various railroad lines. They are scattered from one end of the Union to the other, in the service of the Government. Allow me to say that this Engineer Corps, although they graduate at the head of their class, and are put into this service because they do so graduate, are from sixteen to eighteen years before they are promoted from lieutenants to captains.

Mr. WEIGHTMAN. Allow me to call attention to a single case. Mr. James H. Simpson, who graduated in 1832, is still a lieutenant, although men who graduated eight or ten years later, but who belonged to the line corps, have been for some time captains.

Mr. GORMAN. It is notorious that under the rules and regulations at West Point, the young men who graduate with the highest honors are put into the Engineer Corps, and have to remain from four to six years longer in the Army without promotion than officers of the regular line. Sir, I regret most deeply that the honorable gentleman from North Carolina has seen proper to make an assault on that corps of the Army, which, as highly as any other, deserves the praise and gratitude of the country. In peace as well as in war they are at work, unlike the officers of the regular Army, who are stationary in command of our fortifications and frontier garrisons. All they have to do is to eat, drink, and sleep, and then eat, drink, and sleep again. To be sure they drill their men, they keep a vigilant eye upon the welfare of the Government and the people, they do their duty nobly; but that duty is light, in many cases, compared to the scientific labors and research of the Engineer Corps. But the Engineer Corps are engaged from one year's end to the other.

They are engaged upon your harbor improvements, upon your fortification improvements, and upon your coast survey. And not only that, but on the battle-field their place is often at the most perilous points, where the danger is greatest, and the fight hottest and thickest. Sir, I have said this much in defense of a corps whose gallantry I am proud to speak of here or elsewhere, and whose bravery will be found recorded on the brightest and proudest pages of this country's history.

Mr. HOUSTON. I move the previous question.

The previous question was seconded, and the main question ordered.

Mr. STANTON, of Kentucky. I desire to know whether I have not a right to make a few remarks, as I reported this resolution?

The SPEAKER. The gentleman has that right.

Mr. STANTON. I have only a word to say. I hold in my hand the Coast Survey Report up to the month of November, 1851, which was ordered to be printed at the last session of Congress. The report itself has been printed and bound. The maps are too large to be bound with the book, and it is therefore designed to bind them in the same style, but in a larger form. This resolution is a mere transcript of one which has passed the Senate, ordering their committee to have the maps bound in this form.

The question was then taken upon the resolution, and it was agreed to.

RECIPROCAL TRADE—BRITISH PROVINCES.

The SPEAKER stated that the next business in order was the consideration of the bill "establishing reciprocal trade with the British North American colonies upon certain conditions," upon which the gentleman from Maine [Mr. FULLER] was entitled to the floor.

Mr. FULLER. How much of the morning hour is there left?

The SPEAKER. The morning hour begins now.

Mr. FULLER, of Maine, concluded his argument in opposition to the bill. He said that it was to operate upon the trade between the United States and the British North American colonies, which amounted in the last year, by the official reports, to $18,000,000. He did not deny that this free-trade project would operate favorably upon the manufacturing interest, the cities, and railroads; but, on the other hand, he thought it was self-evident that it would operate as injuriously upon the interests which he more immediately represented. Its effect upon his constituents would be most unjust and injurious. He contended that the substitute which he had offered, similar to the bill introduced into the Senate by Mr. DAVIS, of Massachusetts, would be a fair equivalent, and opposed the amendment which had been offered by Mr. CLINGMAN. [His speech will be found in the Appendix.]

Mr. TUCK replied, and urged the adoption of the bill, which, he said, had been fortified by the authority of preceding Congresses, and by men not only high in the confidence of their party, but high in the estimation of the people of the country. He desired to put this question upon the broadest national grounds, and denied that the bill was framed for the benefit of the manufacturing and railroad interests, which, he declared, had been charged for the purpose of exciting prejudice against it. He urged the necessity of passing the bill, for he did not believe that our people could go through another summer without involving themselves in serious difficulties with the people of the Provinces. Before he concluded the morning hour expired.

Mr. SABINE offered the following substitute for the bill, for which purpose Mr. TUCK yielded the floor in the midst of his remarks—

Mr. SABINE, in introducing the following substitute for the bill reported by the Committee on Commerce, remarked in substance, that there could be no measure of reciprocity matured during the few days that remain of the present Congress, and that he was desirous at least of *patching* up the fishery difficulty, until the new Administration could have time to act upon the whole subject:

A BILL to regulate the taking, curing, and selling of fish, and oils obtained therefrom, between the inhabitants of the United States and the inhabitants of the British possessions of Canada, New Brunswick, and Nova Scotia, including Cape Breton, Newfoundland, Prince Edward's Island, and the islands and dependencies of said possessions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States shall issue his proclamation authorizing the inhabitants of said possessions and the islands and dependencies thereof to bring in and make sale of, in the ports of entry of the United States, fish of every kind, both fresh and cured, and oils obtained therefrom, the produce of the fisheries of said inhabitants, subject only to the same duty and other charges of Government as are now or may be imposed on the same articles of the produce of the fisheries of the inhabitants of the United States, but on the condition that he shall first receive satisfactory evidence that the inhabitants of the United States shall be permitted to enjoy in the said possessions and the islands and dependencies thereof the four following privileges, viz:

First. The privilege, in common with British subjects, to take in salt or sea-water fish of every kind, on all the coasts or shores, without restrictions as to distance.

Second. The privilege of freely using the Crown or ungranted lands and shores for the purpose of curing, packing, and otherwise preparing for market the fish and oils obtained therefrom and so taken.

Third. The privilege of freely contracting, by lease or otherwise, with individual owners or occupants of lands and fishing privileges, for rights of taking, curing, and otherwise preparing for market fish of every kind, and oils obtained therefrom.

Fourth. The privilege of carrying to, and selling in, the free port or ports of entry, fish of every kind, both fresh and cured, and oils obtained therefrom, the produce of the fisheries of the inhabitants of the United States, on the same terms as to duty and other charges of Government, as are provided in this act for the admission of the same articles into the ports of the United States.

SEC. 2. *Be it further enacted*, That all the acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

On motion by Mr. STUART, the House proceeded to consider business on the Speaker's table.

JOSEPH P. PILCHER.

The bill for the relief of Joseph P. Pilcher, late a private in company F, second Kentucky regiment of volunteers in the war with Mexico, returned from the Senate with an amendment, was taken up and the amendment concurred in.

The SPEAKER laid before the House a communication from the Treasury Department, transmitting, in compliance with the act of 20th April, 1836, a statement of the condition of the funds of the Chickasaw Indians; which was, on motion by Mr. JONES, of Tennessee, ordered to lie on the table, and be printed.

CHARGES AGAINST COMMODORE JONES.

The SPEAKER also laid before the House a communication from Commodore T. Ap Catesby Jones, in which he states that he has "accidentally learned that a ponderous budget of vituperative insinuations and false allegations, impugning not only his official conduct, but charging him with being concerned in fraudulent combinations against the Government of the United States," has been introduced into the Committee on Naval Affairs of the House, "to his prejudice and irreparable injury," should Congress adjourn without affording him an opportunity "to confront his accusers, prove his own innocence, and their malice." He states further, that from what he understands to be the allegations against him, he is satisfied that even a brief examination of a few witnesses from California, now in and about Washington, would "not only fully prove the falsehood of all the charges made against him, but would expose a malicious combination to injure his reputation by garbled statements and most insidious misrepresentations." In conclusion, he "earnestly prays that the House will stop all *ex parte* proceedings of a criminating character against him, and that the accompanying papers and letter may be referred to the Committee on Naval Affairs, who may be authorized to summon witnesses and take testimony under oath, and before whom he may have the privilege of appearing, to defend his unjustly-assailed reputation."

Mr. BOCOCK. I move that that communication be referred to the Committee on Naval Affairs, and that the letter and accompanying documents be printed.

Mr. JONES, of Tennessee. It is not usual to print private petitions and communications.

Mr. STANLY. I desire to say a word about this printing. The letter of Commodore Jones, if I understand it, from hearing it imperfectly read at the Clerk's desk, refers to what he calls "a ponderous budget" of criminating matter which has been sent to the Committee on Naval Affairs. The proposition now made is an unfair one, as I will show, unless the gentleman from Virginia embraces in his motion to print, some other matter. I am acquainted with the history of this "criminating matter," and I ask the attention of members while I lay it before the House. There was a report made at the last session of Congress, if I mistake not, by the gentleman from Virginia who has made this motion, upon the subject of the claim of Mr. McCormick. The Committee on Naval Affairs reported a bill to pay Mr. McCormick something like $25,000. My attention was called to it the early part of the session by persons outside of this House, who are interested in the case. I was understood to oppose the bill at the last session, and I believe I did oppose it. I was requested by those interested in the claim to examine the report of the gentleman from Virginia [Mr. BOCOCK] on the claim, and I did so. While examining that report, I observed that it did not give all the documents to which reference was made. I saw, a few days before that, the Committee on Printing, in the Senate, had asked to be discharged from the consideration of certain papers referred to them, it being unnecessary to print those papers, because Lieutenant Meade—at whose request the papers had been called for—had been restored to the Navy. They related to the transaction out of which Mr. McCormick's claim grew. In order to have an opportunity of examining those papers, the gentleman from New Jersey, [Mr. PRICE,] who had been spoken to about this matter by some of his friends, joined me in a letter to Mr. HAMLIN, a member of the Senate Committee on Printing, requesting that we might be allowed to see them. I took the papers, and after examining them, I was satisfied that the claim was an improper one. On Mr. HAMLIN's motion, in the Senate, the papers were withdrawn, for the purpose of reference to the Committee on Naval Affairs of this House. I therefore brought the papers to this House, and moved that they be referred to the Committee on Naval Affairs, which then had the claim under consideration. Mr. McCormick was a lieutenant in the Navy. A steam saw-mill had been sent out to California in John Y. Mason's time, under the command of Commodore Jones.

Mr. BOCOCK. I do not wish to interrupt the gentleman from North Carolina, if the same privilege is to be extended to the other side. But I do not know whether it is in order or not to go into the consideration of the McCormick claim in this discussion. If the gentleman is allowed to make representations against the claim, some gentleman ought certainly to be allowed to make representations upon the other side.

The SPEAKER. The Chair understands that the gentleman from North Carolina is attempting to show that it would be unfair to print these papers without printing others connected with the same transaction.

Mr. STANLY. Precisely.

The SPEAKER. The remarks of the gentleman would be more strictly in order if he was to submit a motion, by way of amendment, to print the papers to which he is referring.

Mr. STANLY. Well, sir, I will do that. The "budget" is a very large one. I have examined all the papers, and I do not want the whole of what Commodore Jones calls the criminating matter against him printed. Some of it, I think, ought to be thrown out. But some parts of it which refer especially to this McCormick claim, ought to be printed. Now, if the gentleman from Virginia will allow those parts to be printed which throw light on the McCormick claim, I will not say a word more.

Mr. BOCOCK. I have no objection.

Mr. STANLY. Then I move to amend the motion of the gentleman from Virginia, so as to have the portions of these papers which have been marked by the chairman of the Committee on Naval Affairs, printed with the communication of Commodore Jones.

Mr. STANTON, of Tennessee. I think those parts of the papers ought to be printed, and I hope there will be no objection to it.

Mr. BOCOCK. I have no objection. I think I ought to be allowed five minutes to make a statement in relation to this matter. I shall not occupy more than five minutes. I do not know that it would have been necessary for me to have said one word, but for the fact that the gentleman from North Carolina has alluded to the circumstance that the report in behalf of the McCormick claim,

which he says is an unjust claim, was made by me, and that I have charge of this subject. When the McCormick claim came up before the Committee on Naval Affairs it was referred to me to report upon.

The papers to which the gentleman from North Carolina alluded in the latter part of his remarks, were not then before the committee, and I knew knothing about them. I examined those papers that were before the committee and made that report, in which the committee unanimously concurred. It came to this House, and in my absence on one occasion, some gentleman suggested——

Mr. GOODENOW, (interrupting.) I think the gentleman is mistaken. The committee did not unanimously concur in that report.

Mr. BOCOCK. I do not remember that any objection was made to it.

Mr. GOODENOW. I recollect myself that I did not concur in it.

Mr. BOCOCK. The gentleman said nothing about it. But let that be as it may, a suggestion was made in the House that there was something wrong in regard to the matter, and the bill was recommitted to the Committee on Naval Affairs that the claim might be reëxamined. When the bill came back to the Naval Committee, I positively refused to have anything more to do with it, and I asked that the chairman of the committee should examine into the matter and investigate the charges which had been made. The chairman of the committee did examine into it, and was for several months in readiness to report the bill back, with a declaration that there was nothing in the charges which had been made, but he never got an opportunity of doing so.

Mr. STANTON, of Tennessee. It is necessary for me to say one word in explanation. It is true, as the gentleman says, that I was instructed by the committee to report the bill back again. The bill remained in the committee for several months, but the parties who had interested themselves in arresting the passage of the bill filed no additional testimony to show that the claim was an unfair one; they presented no papers, so far as I knew, that contradicted the first papers presented, which were certainly all fair and correct, and therefore the committee instructed me to report the bill back, and ask its passage.

I will say now that I have looked over these additional papers, not very carefully, it is true, and so far as I can judge, I am not altogether satisfied that the gentleman from North Carolina is right. I do not think this claim is an unfair or improper one, although I have not examined the additional papers in such a manner as would enable me to speak confidently upon that point.

Mr. BOCOCK. All that I wish to say further in regard to this claim is, that it stands upon an award made by two gentlemen; one appointed on behalf of the Government, and the other on behalf of the claimant, whose characters are entirely unimpeached, and, as far as I know, unimpeachable. I will say, further, that my connection with this case naturally brought me into communication with Commodore Jones. Commodore Jones, when he heard that the letters and papers alluded to by the gentleman from North Carolina had been referred to the committee, came to see me on the subject. He stated that the charges made against him were charges involving his personal integrity, which he desired an opportunity of refuting; and that that letter would be sent to the Speaker. The papers, therefore, accompanying that letter, stand upon different ground from those referred to by the gentleman from North Carolina. They are not papers bearing so much upon the saw-mill case. They are papers brought in here to vindicate Commodore Jones against attacks on his personal reputation, and I thought it only fair and just that that vindication should be printed. As, however, the gentleman from North Carolina desires that so much of the other papers as relate to McCormick's case should also be published, I have no objection to it, and I accept his amendment.

Mr. STANLY. I only wish to say that I did not arraign the conduct of the gentleman from Virginia. Nor do I desire that the portion of the papers reflecting on Commodore Jones shall be printed, unless his friends wish it. I only ask for the printing of those portions which relate to the transaction out of which this McCormick claim grew.

The SPEAKER. The motion as modified will now be read.

It was read by the Clerk, as follows:

"To refer to the Committee on Naval Affairs, and print with certain papers relating to the McCormick claim."

Mr. STUART. I wish only to say a single word. These papers relate principally to matters of a personal character. There are other important bills immediately following this which I desire to have taken up and acted upon. I allude especially to the bill for regulating the fees in the United States courts. I hope, therefore, the House will not consume any more time with this matter, but proceed to take the vote at once.

Mr. STANLY. I do not desire to consume more time. I move the previous question.

The previous question was seconded, and the main question was ordered to be put; and under the operations thereof, the motion to refer the papers indicated and to print was agreed to.

JOSIAH P. PILCHER.

The next bill in order was a bill for the relief of Josiah P. Pilcher, late a private of company F, second regiment of Kentucky volunteers, which had been returned from the Senate with amendments.

The question being upon concurring in the said amendments, it was taken, and the amendments concurred in.

FEES IN THE UNITED STATES COURTS.

The bill for the regulation of the fees of marshals, clerks, and attorneys of the district and circuit courts of the United States, and for other purposes, was next taken from the Speaker's table, the question being upon concurring in the amendments of the Senate thereto.

The amendments were severally read by the Clerk.

Mr. McLANAHAN. Mr. Speaker, I will merely state that these amendments have been carefully considered by the Committee on the Judiciary, and they have unanimously instructed me, as their chairman, to recommend the concurrence of the House in said amendments.

Mr. HARRIS, of Tennessee. I move the previous question upon concurring with these Senate amendments.

The previous question was seconded and the main question ordered to be put; and having been put, the amendments were concurred in *en masse*.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. Before that motion is put, I desire to move the usual resolution for closing debate upon the Indian appropriation bill, in Committee of the Whole. I understand that two members of the Committee on Indian Affairs desire to speak upon it. In order to accommodate them, I move to close debate in two hours after the committee shall next resume its consideration.

Mr. STANLY. If the Chairman in committee would agree to give the floor to those two gentlemen to the exclusion of all others, I should have no objection, but I think it is hardly fair not to allow them an hour each. However, I make no objection to the resolution.

The resolution was then adopted.

Mr. STUART. I move that the vote last taken by which the resolution was adopted be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

Mr. HOUSTON. I now call for a vote upon my motion to go into the Committee of the Whole on the state of the Union.

Mr. FICKLIN. With the permission of the gentleman from Alabama, I desire to take from the Speaker's table a Senate bill for the purpose of having it referred to the Committee on the District of Columbia. It is a bill with regard to the right of way to a certain railroad.

The SPEAKER. It can be taken up only by unanimous consent.

A MEMBER. I object.

Mr. HOUSTON. If it is objected to, I refuse to yield any further.

Mr. McLANAHAN. I rise to a privileged question. I move to reconsider the vote by which the House concurred in the amendments of the Senate to the fee bill, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

The question was then taken upon Mr. HOUSTON's motion, and it was agreed to.

So the rules were suspended.

INDIAN APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCOCK in the chair,) and resumed the consideration of the bill making appropriations for the service of the Indian Department of the Government during the fiscal year ending June 30, 1854; the pending question being upon the motion of the gentleman from Tennessee [Mr. JONES] to strike out the first section, upon which the gentleman from Arkansas [Mr. JOHNSON] was entitled to the floor.

Mr. JOHNSON. I designed to have sent up to the Chair an amendment which I am instructed by the Committee on Indian Affairs to offer to this bill, for the purpose of having it read. I have, however, mislaid it; and I will state to the committee, in my own language, its substance. It is this: We propose to pay to the Creek nation of Indians at the rate of twenty cents per acre for land, to the amount of eight millions eight hundred and forty-nine thousand acres taken from them; but for which no compensation was ever rendered; amounting to the sum of $1,769,000. This is the substance of the amendment in my own language. The amendment is very carefully worded, and has been considered carefully both by the Committee on Indian Affairs and by the Department. That, sir, is the amount of the appropriation which would be asked for to settle all these Creek difficulties. This, under the recommendation of the Secretary of the Interior, through whom this estimate comes, is presented to the House after full consideration by the agency of the Committee on Indian Affairs.

There is also annexed to that amendment several other provisions, which I beg the House to bear in mind. One is, that the money shall be paid *per capita* by the United States Government, through its agent, into the hands of each Indian, vouchers to be taken, in accordance with the law we passed during the last session of the present Congress.

Another provision annexed to the amendment is this: that it shall be received as payment in full for all unliquidated demands of any nature or description whatever, which the Creek Indians may have against the United States. This last provision is one which suggested itself to me, by reason of the knowledge which I have—and which I have ascertained is well founded—that there are other and heavy claims existing upon the part of that tribe of Indians against the Government of the United States. This is, therefore, taken as a settlement of all claims upon their part. Of the justice of this provision, I have not a word to say, if we regard it as a dealing between man and man. But we of the Committee on Indian Affairs, have assented to this proposition, believing that it is justifiable, though only upon this ground, to wit: This tribe, (which could bring into the field, and which did bring into the field in the war of 1813, out of which this claim arises, at different times, as many as ten thousand warriors,) now, including women and children as well as warriors, does not amount to over twenty thousand. I make no comment upon this fact. I do not desire to go into the history of a nation which I can now authoritatively and knowingly state, have been, in this short period of time, reduced so wretchedly as that.

The question, then, is, whether this will be a just settlement of all demands against the Government which they may have, or whether they have any other demands beyond this; and if they have, whether we shall make this a final settlement? Our committee have decided it is just to make this final, in view of their reduced numbers.

The question, then, is, whether or not we owe these Indians anything upon this claim which they have presented by their own memorial to Congress. Sir, if I shall be able to show that we have acted upon policy which we cannot justify before the civilized world, against this people, whose country we have completely monopolized; if I shall be able to show that it is not only not right but that it is an outrage, and that the provisions in this bill are just and proper, then I expect that this amendment which I shall report, will receive

the vote of every American Representative within this Hall. But if it shall be shown that the injustice of which I have spoken does not exist, then this proposition will be voted down.

Now, sir, it would be utterly impossible, from the multiplicity of facts connected with this subject, to debate it at large before the committee in the brief space of time to which I am limited. I shall, therefore, endeavor to condense what I have to say as much as possible; and, even then, I shall not be able in an hour to give you anything like a full explanation of the facts bearing upon the subject. I shall, then, go right to the middle of the subject, strike, if I can, at its root and heart, and give such explanation as I am able. I feel that I am intimate with the subject, having investigated it in every form and to the last degree. I feel that I am prepared to answer any and every objection which may be brought, as clearly and conclusively as any problem that is demonstrable. But I may mistake my own powers. I know the subject is capable of it, however, when put into the hands of a man competent to perform his part.

The matter which I ask you to consider, and in relation to which an amendment will be offered when we come to the proper point, originated in the last war.

While Great Britain assailed us in 1812, the northwestern Indians had their emissaries among the Creeks to incite them to war. Those familiar with American history will recognize the truth of the facts I state. The result of the efforts of the Indians of the Northwest was, that the Upper Creeks—for the Creeks were nominally divided into two settlements, the upper embracing some thirty towns, the lower embracing sixteen—were incited to this war, and they demanded that the Lower Creeks should also go into it against the people of the United States. The Lower Creeks refused to join the hostile party. They had treaty stipulations and friendly relations with the white people, and they would not embark in any war against them. The consequence was, that they united with us, and under the directions and demands of the agent of the Government of the United States to arrest and catch the depredators of their own tribes, they did repeatedly pursue and catch them, and deliver them over to the whites, to be dealt with according to justice, or executed them themselves, according to their own treaty stipulations and pledges to the people of the United States that they would punish the wrongs done by their own people upon the whites.

This was the position occupied by the Lower Creeks, who resided on the Chattahoochee river. The Upper Creeks lived around the Coosa, and between the Coosa and Tallapoosa rivers. These determined to go into the war, and demanded that the Lower Creeks should unite with them. They solicited and implored them to join in the war. They sent emissaries among them from the northern tribes. Those emissaries were repudiated. Repeated councils were held, and as often were all solicitations withstood, until the Upper Creeks announced that they would make war upon them as well as against the whites. Still, sir, the friendly Creeks refused to join in the crusade against us.

The war then broke out in 1813 by the massacre of Fort Mimms, in Tennessee, a massacre which excited at that day the deepest and most thrilling indignation throughout the nation. That was quickly followed by assaults upon the friendly Indians. The friendly Indians implored aid in every direction, and the United States at length marched her troops to their relief. The war was thus begun, and it continued. All who are familiar with its history know that throughout the progress of that war, those friendly allies had their troops in the field with us all the while battling by our sides. They were the scouts of our armies; they were our spies, our outside skirmishers; they were the men who gave to Jackson the information necessary to enable him to reach the hostile settlements, and so hastily that they were compelled to embody their whole forces to meet the whole forces of the United States. And so it was until as many as six distinct great pitched battles were fought. It was a war so celebrated that it constitutes to this day—and no man will deny it—the basis of the fame of perhaps the greatest military man we have yet had in the United States—I mean General Jackson. His reputation was made there, though the battle at New Orleans capped the climax of his fame. And these things, at a subsequent day, placed him at the head of this Government.

This was a war in which every species of gallant daring and reckless deed of bravery was found exhibited on the part of the savages, meeting us gloriously, unaided by the arms of any civilized or cultivated nation. Not a track was made by a white soldier throughout that war but an Indian track was made by its side; and that, too, of a friend skilled in the ways of an enemy, and ready to detect and elude the stratagems to which he constantly resorted. The instances of heroism, should I attempt to relate them, which occurred during that war, would consume the brief hour allotted me to advocate the rights of the unfortunate friendly portion of that tribe, who performed so noble and so faithful a part towards us. I shall not attempt to recite them at all.

The claim now is this: That after the fighting of all the battles at Emuckfaw, Taladega, Talahassee, the Horse Shoe, &c., six in all, besides various lesser skirmishes, by which the hostile tribes were so destroyed as to be compelled to disperse in despair, the Government of the United States deemed it proper to offer peace to them, the outlines of which were sent in the shape of instructions to Major General Pinckney, who was then the commander-in-chief in that region of country. Those terms were issued and given to the Indians. I will not attempt here to repeat the provisions of that offer. I may state, however, that we promised that we would take indemnity for the war from the hostiles, and that the claims of the friendly Indians to their own lands should be respected, and that while we indemnified ourselves, they, our allies, should be also indemnified out of the lands of the enemy, or in such other manner as the Government of the United States should think proper and correct. Major General Pinckney had informed the Indians of the course which would be pursued by the Government in making peace, and that *their fidelity should never be forgotten by the United States*, but should be remembered.

Afterwards General Pinckney was superseded in command by General Jackson, who was under instructions to go on and conclude a peace with the Indians upon the terms issued to General Pinckney. Through Colonel Hawkins, who every member from Georgia, I believe, will testify was one of the best, most honest, and most worthy of men, these terms were communicated to the friendly Indians, and through them to the hostile portion of the tribe. The Indians were assembled together at Fort Jackson; but when General Jackson came to consider all the instructions to General Pinckney, his predecessor, and all his pledges to the Indians, he disclaimed having the power to fulfill the greater part of those pledges, and, as authorized, he turned the treaty into a capitulation, to save the necessity of commissioners; and assembling the hostile and friendly Indians together, and having procured only one hostile, who stood more in the light of a captive, or of a refugee, from his own people, because they were still at war, and still refused peace, than in any other capacity, he seized, by a forced capitulation, not only every foot of land they (the hostiles) possessed, amounting to upwards of fifteen millions of acres, as a full indemnity for the expenses of the war, but he took from the friendly Indians, against their solemn protest, eight millions eight hundred and forty-nine thousand acres, for which, as our records show—and I defy any man to show the contrary—they never received a single particle of compensation; and when the compensation between the Coosa and Tallapoosa was spoken of, they repudiated it, and protested against the right of General Jackson to take their land on such terms. They filed their protest here at the seat of Government. They protested at the time, and said they would not sign a treaty by which they should be compelled to yield up some eight millions of acres of their land. Whilst they were friends and faithful allies, and had fought so gallantly by our sides, they insisted, and would insist, that such a course should not be pursued towards them. But General Jackson said that it was necessary from political motives, and that they should do it. The records show that they protested against his taking it, and would not receive what he offered as a compensation. It turns out, as we afterwards hear and see, that compensation never was made to them, and that the compensation *proposed* amounted to *only* two millions of acres, while he took nearly nine millions of acres from those who were our allies, and who fought by our sides throughout that whole war.

According to the ordinary rules which govern nations in settling their difficulties, where two have formed an alliance for war, and have fought it through to a successful termination, if the one derives any benefit in the shape of indemnity for the expenses of the war, the other is always entitled to a share.

The facts of this case also show that they not only lost upwards of eight millions of acres of their own territory, after fighting through the war for our own benefit, which was taken by us for political reasons, but that they never received one particle of the conquered lands taken by us, as an indemnity from the hostile Indians. They were justly entitled to their share of the fruits of victories in common.

Now, sir, with this brief explanation, I will take you to the documents which will prove these things. I would much prefer that gentlemen would convince themselves from the records of the country that it is imperative upon the honor of the nation to do justice to these Indians, than that they should rely upon anything I may say.

I will read from a correspondence which took place in one year after the treaty of Fort Jackson, in which correspondence the Government of the United States called upon Colonel Hawkins, the agent of the Indians at the time the treaty was made, for information, and in reply to which he gives a full statement of the circumstances under which the treaty was made, and which is the only minute account in existence of the circumstances under which that treaty was made, and of the duty of the Government towards that tribe, arising out of that treaty.

The first letter I shall read is an extract of a letter from George Graham, chief clerk of the Department of War, to Colonel Hawkins, agent to the Creek Nation, dated July, 12, 1815. He says:

"I am directed by the President to request that you will report to this Department, as soon as practicable, your opinions as to the following points:

"1st. As to the nature and extent of the indemnity which the friendly chiefs claim, in consequence of the letter addressed by General Pinckney, on the 23d of April, 1814.

"2d. How far the Government ought, from motives of justice or policy, to yield to their claims.

"3d. Whether indemnity ought to be made to them, by restoring a part of the ceded land, or by an additional annuity, or by giving them a certain fixed sum in money and goods.

"4th. Whether these compensations, of whatever nature they may be, should be confined entirely to the friendly chiefs."

An extract of a letter from Colonel Hawkins to George Graham, chief clerk of the War Department, dated Creek Agency, August 1, 1815, one year after the making of the treaty, is to the following effect:

"I have received your letters of the 12th and 15th July, with a copy of the agreement and capitulation between General Jackson and the Creek Nation, as ratified, and sundry documents accompanying."

There we have one fact developed in the very language itself—*agreement and capitulation*. Now, who ever heard before, in the whole history of mankind, of one nation, in making peace with another, on the termination of a glorious war compelling not only the enemy, *but her own ally to capitulate*. Yet the fact is, that we in this case forced our own friends to capitulate, and took from them eight million eight hundred and forty-nine thousand acres of their lands, without any compensation whatever. We may hold out to the world as long as we please the humanity and generosity of this Government towards these Indian tribes; but while we refuse to make the amendments I propose, by the instruction of the Committee on Indian Affairs, it will be to no purpose. Let us make amends, in accordance with the true policy of the Government, as set forth by us to all civilized nations, and let the fund now paid over as compensation be devoted to the improvement, civilization, and regeneration of the remnants of a tribe which has been wasting, ay, perishing, beneath us, in our onward march. A cruel march it has been for them. The extract goes on:

"I regret the necessity of reporting on the points suggested for the elucidation of the terms of peace offered by General Pinckney, and the understanding between General Jackson and the chiefs, as I expected, from what passed in the conference between the parties, the General would have sent on such a statement as would have placed the subject (aided by his Secretary, sent on partly for the purpose) in

a just point of view before the Government. However, I am to suppose it has from some cause been omitted; and, as I am required, it is my duty to do it. That the first interrogatory may be clearly explained, I must go into detail as to the manner of negotiating with the chiefs.

"1st. As to the nature and extent of the indemnity which the friendly chiefs claim, in consequence of the letter addressed by General Pinckney, of the 23d of April, 1842."

I beg gentlemen will bear in mind that there was a claim of personal indemnity for individual losses presented at the time these inquiries were made and answered. Colonel Hawkins continues as follows—and you will perceive how he shows the rights and wrongs of these Indians in regard to the matters connected with the treaty which are now under consideration before the committee:

"As soon as the terms of peace were offered, as expressed in the letter referred to, I took measures to explain them literally to the friendly Indians, and through them and the prisoners in our possession, to the hostiles who had fled, or were flying, to Pensacola.

"When General Jackson arrived as sole commissioner, he addressed a speech to the chiefs, among whom there was but a single hostile one; marked his line, which he said should not be altered. He altered it, notwithstanding, to accommodate Toohaubatche. The chiefs replied to him, which the General's secretary and the agent took in writing for him. They, in conference, repeatedly urged the justness of their claims to losses, as promised in the terms of peace offered.

"That was with reference to their personal losses which have been paid heretofore; and the General as often denied having powers to act on it."

Now, I would request the attention of the committee to what follows, and to remember it:

"Upon being asked, among other things, as his powers extended only to retaining as much land conquered from the hostiles as would indemnify the United States for the expenses of the war, upon what principles he took the lands eastwardly to Georgia, belonging obviously to the friendly Indians, the General answered, he did it from political motives—to prevent an intercourse between the Indians and the Spaniards and English in the Floridas; to have a border to know and separate his enemies from his friends, which was as beneficial to the friendly Indians as to the United States; and also gave the friendly Indians the lands in the fork of Tallapoosa and Coosa."

I will state, now, that those lands amount to about two millions of acres. The map before me, prepared by a member of the Topographical Corps from the authorities in the possession of the Executive Departments, shows the boundaries of all the Territories alluded to. Now, I do not want to hear any one question, when it is admitted by Jackson, who took it, and by Hawkins, who speaks of it as obviously theirs, and controls not his astonishment at Jackson's acts, the distinct right of property, and full title of the Indians, in the lands described as seized without cause or right from allies, and estimated to be in area eight million eight hundred and forty-nine thousand acres.

As I understand, this admission has nowhere been disputed. And it is to be hoped that we will recognize a further fact, at the very bottom of all these matters, that when we made a treaty of peace with our enemies, we also forced to capitulation our own allies, who had fought by us through every battle, and took from them the amount of land I have specified. Now, at length, they come forward and ask remuneration from us. If, then, we have that spirit of justice and humanity it is contended we have, we should feel bound to appropriate the proceeds of the sale of their own land, which we had no right to rob. The capitulation of an ally is, to a mind endowed even in the first principles of justice, outrageous to the last degree, and unless satisfaction and compensation be made, *infamous*.

Colonel Hawkins, in his letter, continues as follows:

"The Speaker asked where the hostiles were to be placed, if we took all their land?"

He took, as the map will show, exclusive of the two millions, fifteen million two hundred and seventy-one thousand and forty acres from the hostiles. His answer was, "You have room enough to take them among you." After taking eight million eight hundred and forty-nine thousand acres, that was in effect saying we will take more; and what more? Enough more to support the enemy after peace, theirs being confiscated to the use of the United States. And that was another robbery. Now, let it be called by what language you please, thrusting the hostiles upon the lands of our allies was an appropriation of their lands to our uses, and as such it has been recognized by past action in the legislative halls of the country; for the Cherokees have been paid a consideration of over $2,000,000 for a wrong done in giving a common occupancy to certain lands to the whole tribe, when but a small portion of it made the original purchase from the United States. The friendly Indians, Mr. Chairman, protested that it was no consideration, as the documents will show as we proceed. The hostiles being driven from every other place by the whites, and having no place in which to live, were compelled and did continue to live on it; and they were treated by the friendly Indians, our allies, although they had suffered so egregiously by them, with far more mercy and justice than the friendly ones were by us. The friendly Indians protested that it was land belonging to the conquered nation and would not take it. You will find in the history of that tribe that, ultimately, the Upper and Lower Creeks became friendly and forgot their old feuds. And you will find that the friendly Indians, in the sale of fifteen millions of acres belonging to them, allowed the hostiles an equal share, they having nothing to contribute to the common fund but the two millions of acres left to them by Jackson, and they did come in and share with them the proceeds. And you will find that in selling out lands east of the Chattahoochee, and lying in the State of Georgia, (obviously lands of the friendly Indians,) the hostiles were permitted to share equally the proceeds with the entire tribe; and they have since shared in the lands bought by the friendly Indians, and lying west of the State of Arkansas. The lands west of the State of Arkansas, on which the whole tribe are now residing, were acquired about the year 1826, and the consequence is, that the hostiles have been permitted to share with the friendly Indians throughout. They shared in the proceeds of the sale of the two millions of acres between the Coosa and Tallapoosa, it is true, but returned the interest tenfold by allowing their three million acres which lay by it to be sold in common with it, besides admitting them as brethren to share in the anterior sales of about fifteen million acres. Such compensation was no compensation at all for the near nine million acres we seized, and I will waste no more breath in its discussion. I have made this statement to show that they got land west, but that the friendly Indians never received more than the two million acres, which they regarded as left to the hostiles, and which was made the basis of the hostiles being allowed to come in and share with the friendly Indians the proceeds of the sale of some fifteen million acres they held in their own right.

Colonel Hawkins continues as follows:

"His answer was, You have room enough to take them among you. The Speaker said the war was not yet settled, and they were called on for lands to pay the expenses of it; and before it was settled he supposed there would be another call."

This is a quotation from their language as taken down by Colonel Hawkins at the time, and furnished from his notes. It explains itself to a calm and reflecting man, looking at the excitable character of the Indians, and the natural indignation with which he flies off from a subject when he sees a wrong is done him. He says:

"You have commenced to take, and I suppose before you have done, you will take all we have got; and if he had said so, it would have been a prophecy at this hour fulfilled, for the proof has been that we have taken and now hold *all their* lands."

The truth is, there is the land we have obtained south of the Tennessee river, and which we have never paid the Creeks one cent for, and it must amount to some millions of acres—how many we cannot tell. As the basis of a claim against the Government, it is perfectly irresistible, unless we settle the whole matter now by doing such justice in this case as they will be willing to accept for all.

Mr. Hawkins goes on to say:

"It struck me forcibly at the time that the General, who was authorized only to retain lands conquered from the hostiles to indemnify the United States for the expense of the war, should take nearly eight millions of acres from the friendly Indians"——

They could not tell the amount, but Hawkins estimated it at eight millions; but it turns out to be eight million eight hundred and forty-nine thousand acres.

——"over and above all the hunting grounds of the friendly Upper Creeks, giving, without regarding them, what he called an equivalent, which they did not deem such, and did not feel himself authorized to adjust this equitable claim of theirs. I suggested to the General, upon extending the line eastwardly for the motives assigned by him, if he could, for a reasonable equivalent, where that line touched Flint river, go up the same, it would be a great accommodation to Georgia. Upon which, after some reflection on the subject, and making inquiries as to how far up the line it should go, and at what creek it should leave the river, he said his powers did not justify it, and he would adhere to his first line."

While all this was being done, General Jackson did not feel himself authorized to settle or make any provision in that treaty about settling with them in regard to indemnity for personal losses sustained in that war. In regard to taking this land from the friendly Indians, he knew, as he stated in some of his communications which I could turn to, but to which I have not the time, that they would assent to almost anything as well as the hostile Indians. The power of the nation was broken. We had been engaged in war from April, in 1813, until the middle of 1814, in which many battles had been fought; in which the friendly Indians as well as the hostiles had suffered terribly; in which their tribe was dispersed and their power broken, and in which the friendly Indians had aided to crush the larger part of the nation. When they were assembled to treat, and when the one hostile and the friendly chiefs were present, thirty or upwards, they found themselves in the face of the American army then present under the command of Jackson, and which left there not until after the treaty was concluded. They found that they had to sign the treaty, and there was no alternative but to sign it with a protest. They called it "the treaty of the sword." They were ordered and commanded to sign it, and there was nothing left them but to do this, as they were powerless and must obey. Jackson's course was the course of a statesman, and one that looked to the best interests of his country; and his action is justifiable alone upon that ground. Knowing the unstable character of the Indian race, and knowing the inducements which might be held out to them by the enemy—the Spanish nation, or by the English through the Spanish—he deemed it proper, as he said, to take this course for political motives, and he did so that he might separate his enemies from his friends, and prevent their connection. That is the way, while feeling the necessity of it, that he exercised the power in his hands which secured the whole of this southwestern boundary. He took this responsibility; and I wish that those who come after him, who shall have the power of making terms of indemnity and giving compensation, would be as true to the honor of the country as he was to her interests, in taking what was requisite to be taken. This is the true view of the subject. I do not, and would not condemn his taking this land; but I would condemn any Government, having done that for their own security, which would not make most full and ample compensation. Placed in the same position, I would, and I believe any other man would, have gone on to take that land and demanded that it should be given up to the United States, under the circumstances of the war which was then going on, and under the probability that war might still continue. I would say, take the responsibility and do it; I would say that such a course was due to the interests of the country. And it is but this which can help us to reconcile these things with anything like a sentiment of justice, or a principle of humanity, or a principle of good faith between the parties involved in the most serious difficulties of that war. General Jackson was justified in taking the lands in the southern part of Georgia by no considerations whatever but the simple necessity of the country, and the duty of a public servant, when he sees that he must assume the responsibility of performing the act which shall be required. The performance of that act calls from us here, who have lauded him to the skies, for the performance of another duty, and that is, that as he stepped forward and took the responsibility of a harsh act for the safety of the nation, so we will step forward and make the compensation for the honor of the nation. Thus alone can we rob the act of its oppression and faithless character. I will now read on:

"The Speaker, after conferring with the chiefs about him, told the General there were no hostile chiefs there, but the heads of the nation, masters of the land, were there: they were friends met to settle matters, and not to quarrel; they were talking for information. He would be ready in a day or two to do what was demanded of them; but before he signed any papers with him, as he would not admit their claims in the treaty, he should make and sign a paper expressive of them, and who were masters of the land."

If we had before us the details and proceedings of the meetings of these friendly chiefs as they

occurred, and could hear their voice of indignation and protest at the irretrievable wrong which they then experienced, it would produce a deeper impression upon this House than anything that any one who has any love of justice or humanity could possibly conceive of. Let me still read further:

"On the 8th of August they sent for the agent and General Jackson, and expressed a determination, before they yielded up and signed away their lands, to grant, as a mark of national gratitude, a donation, for his distinguished services, to the General; and to Colonel Hawkins and his family, to whom they owed much, and whose children were natives of their land; to the two interpreters, one of whom had all his property destroyed, (Mr. Cornells;) and in the instrument which they would sign, to express their claims under the terms of peace offered. The General was very feelingly impressed with this unexpected mark of national gratitude, which he accepted, with the reserve, if approved of by the President, and that the President might, if he would, have it disposed of to clothe their poor naked women and children. Their motive for doing this being as expressed, they rejected this modification."

They had nothing but submission, and they were compelled to accept the terms offered them.

"On the 9th, the instrument of conveyance having been drawn under the interpretation of Mr. Cornells and Major McIntosh, and read, the Speaker said, their claims being mentioned, the letters should go as a part of it, as they contained what they demanded."

General Pinckney, in his letter, promised that their fidelity should not be forgotten by the Government of the United States at the end of the war; that their right to indemnity should be regarded, and that their own lands should be respected in all treaties.

"Whereupon the instrument was signed, in the usual form, in the square of the council. After being signed, the speaker urged that it should be sent on with the treaty which they were about to sign, to which he annexed the letters of the 23d and 25th of April, between General Pinckney and Colonel Hawkins; and that some good man should take them up to the Government, and after this, they would sign with the General.

"Having signed, the General said he would send up his secretary with the treaty and documents mentioned; and such of the Indians there present who had claims, might make them, and lodge them with him, and his secretary should take them with him; which was done accordingly. The document of the 9th is what the chiefs, in fact, call their part of the treaty."

Now, sir, I will go on to consider an objection which may be urged, and which has been urged in private circles, to this claim. But I will read further:

"As to the extent of the claims, I have no data to calculate from. Part of the vouchers were taken on by Mr. Cassedy, the General's secretary, and the remainder given in since to the assistant agent at Coweta, which I have ordered on here; whatever they may be, I will forward them as soon as received."

Is it not clear and palpable that all that he there says relates to indemnity for personal losses? He says:

"I believe at the time of drawing the lines for the treaty, $60,000 would have been received as an equivalent."

No one can suppose that that $60,000 would have been considered an equivalent for eight million eight hundred and forty-nine thousand acres of land. He goes on to say:

"The Indians of Tookabatchie were the most faithful, and the greatest sufferers."

How? By the destruction of land which is immovable—real estate, that is not capable of being removed or destroyed?

Mr. Chairman, before I proceed further, I will inquire of you how much time I have left?

The CHAIRMAN. Two minutes.

Mr. JOHNSON. Say twenty minutes rather, for I have really got on much slower than I expected. The first amount paid to these Indians was $85,000, and subsequently, at the last session of Congress, $110,000 was paid to them as indemnity for personal losses. Every committee that ever made a report upon this subject, either in the Senate or in the House, put that construction upon the $60,000 estimated for by Hawkins.

[Here the hammer fell.]

Mr. GIDDINGS obtained the floor.

Mr. JOHNSON. I ask the gentleman from Ohio if he will allow me a portion of his time?

Mr. GIDDINGS. I do not desire to occupy more than fifteen minutes, and, with the consent of the committee, the gentleman from Arkansas can occupy a portion of my time.

[Cries of "Agreed!"]

Mr. JOHNSON. I am much obliged to the gentleman for his courtesy.

If, sir, any gentleman thinks that the $110,000 paid last session was wrongfully paid, I would suggest to him that he can obviate the difficulty, by deducting that $110,000 from the sum which it is now proposed to pay to these Indians. For, sir, even if the $110,000 was wrongfully paid, it would be no compensation for the eight million eight hundred and forty-nine thousand acres of land which must have been worth at least $1,500,000, supposing it to be worth only twenty cents an acre, whereas we hold all our lands at $1 25 per acre.

But I will pass from this point without further consideration, remembering that I am trespassing upon the time of the gentleman from Ohio.

I will now read to the committee the letters of Pinckney and Hawkins, which show what promises were made to the Indians, and in what manner they were made. This is a certified copy of the letter which was written by General Pinckney, under instructions from the War Department, directing him to make peace with the hostile tribes after he had fought a great number of battles and had dispersed them:

"The complete success with which it has pleased the Almighty to bless the arms of the United States in the present war with the hostile Creek Indians, having amply retaliated on their infatuated people the loss of blood sustained by the citizens of the United States, and by that part of the natives who remained faithful to them, and their insolence, ingratitude, and perfidy having been severely chastised, the Government of the United States, willing to spare the dispersed remnant of the miserable people, who may be sincerely disposed to atone for their former misdeeds by their future good conduct, you will be pleased, sir, to communicate to them the following terms upon which peace will be granted to them:

"The United States will retain so much of the *conquered* territory as may appear to the Government thereof to be *just indemnity* for the *expenses of the war*, and as *a retribution for the injuries sustained by its citizens and by the friendly Creek Indians.*"

There is directly contemplated the matter of making compensation to the friendly Creek Indians for all their losses.

"You will please, sir, to communicate these terms to the friendly Indians, and to enjoin on them, in the prosecution of the war, against such as may continue hostile, to abstain carefully from injuring those who may be returning with the intention of making their submission. You may likewise inform them that the United States *will not forget their fidelity; but, in the arrangements which may be made of the lands to be retained as indemnity, their claims will be respected*, and such of their chiefs as have distinguished themselves, by their exertions and valor in the common cause, will also receive a remuneration in the ceded lands, and in such manner as the Government may direct."

That is the letter of Pinckney. It was addressed to Hawkins, to be communicated to the chiefs. The letter was written on the 23d of April, 1814. I will now read you Hawkins's letter, written on the 25th of April. The treaty was afterwards made on the 9th of August, and it was only four or five months after those letters were written that the pledges of the Government were violated and the fidelity of the Indians repudiated.

Yet we see this afterwards wholly denied them; we see the Government stepping in and taking possession of their lands for which there are now in the Treasury of the United States millions of dollars, which we have received for lands taken not only from the hostile, but the friendly Indians. We have discharged debts incurred under the convention of 1802 with Georgia, by which she ceded the Territory of Alabama to the United States.

[Mr. J. here read from a letter of Mr. Hawkins, a copy of which was not obtained by the Reporter.]

Thus you see what brave, courageous, and daring assistance was rendered to us by these tribes. We were dependent upon them more than upon the gallantry of our own soldiers for success. We never should have been able to meet our foes but for the assistance of these friendly tribes—never to trace and overtake them but for their knowledge and faithfulness.

Mr. GIDDINGS, (interrupting.) I now claim the floor to make what remarks I shall submit to the committee.

Mr. JOHNSON. I very much regret that the gentleman will not allow me to proceed for a little time longer. It is a matter so exceedingly difficult and intricate, that it will be impossible to understand it unless it is explained more fully.

Mr. GIDDINGS. I cannot yield further.

Mr. HOUSTON. Before we proceed further, I desire to state the position I occupy with reference to the hour which is allotted to me, under the rule to close the debate upon this bill. This amendment has not been before the Committee on Ways and Means at all. We have not, therefore, as a committee, examined it at all. I understand, however, there is a difference of opinion among the members of the Indian Committee themselves in relation to its propriety. Under these circumstances, I have told the gentleman from Texas, [Mr. HOWARD,] who I understand entertains a different view from the gentleman from Arkansas, that I would yield him my hour, and allow him to close the discussion upon this bill.

Mr. JOHNSON. I desire to know if the gentleman from Texas is in the House.

A MEMBER. He is here.

Mr. JOHNSON. Well, sir, I am cut out of half an hour which I desired to occupy still upon this subject. I had understood the gentleman from Texas was satisfied with this amendment, but I am now informed for the first time that such is not the case. The Committee on Indian Affairs were unanimous in recommending this amendment, with the exception of another member who, with the gentleman from Texas, were not present at the meeting of the committee when final action was taken with reference to it. That is the state of the case. Had I known that the gentleman from Texas intended to address the committee in opposition to myself, I should have insisted upon a more extended time for closing the debate, so that I could have had an opportunity of replying. I could have hoped that the gentleman from Texas would have been generous enough at least to inform me that he intended to speak in opposition to this measure. I protest, however, against being cut off in this manner, with the gentleman from Texas to speak during the hour allotted to the chairman of the Committee on Ways and Means, without permitting me an opportunity to say one word in reply.

Mr. HOUSTON. I suppose the gentleman does not intend his remarks for me.

Mr. JOHNSON. Certainly not.

Mr. HOWARD. I suppose the gentleman intends his remarks for me, and I desire to say a word in reply.

Mr. GIDDINGS. Let the gentleman publish his speech. I cannot yield further.

Mr. JOHNSON. Will the gentleman from Texas yield me a part of his hour?

Mr. HOWARD. I have no objection. I only desire to say that I attended the sittings of the committee in relation to this subject until the last, and I notified the committee that I dissented from this measure. The other members of the committee who were present at that sitting will bear me out in this assertion.

Mr. JOHNSON. The gentleman did dissent, but I will say that the gentleman never informed me that he intended to oppose the measure. I notified him specially that the committee would hold a sitting for the express purpose of acting upon this measure, and he declined to come.

Mr. HOWARD. I am not aware of any rules of this House which would require me to notify the gentleman or the committee that I intended to oppose this measure.

Mr. JOHNSON. But it places me in the position of allowing the gentleman to close the debate without being allowed any opportunity to reply.

Mr. GIDDINGS. I hope the gentlemen will set themselves right and allow me to proceed.

Mr. JOHNSON. I protest against this manner of proceeding. To allow a gentleman to raise any objections he chooses without the opportunity of saying a word in answer, would obfuscate the broadest and clearest intellect in this world.

Mr. HOWARD. I hope the time will be extended, by unanimous consent, to allow the gentleman all the time he desires.

Mr. GIDDINGS. Mr. Chairman, it is with great reluctance that I intrude upon the consideration of the House a matter not directly connected with the bill under consideration. Nothing short of duty to an insulted constituency would have induced me to ask the attention of the House at this time.

The occasion of my desire to occupy the floor a few moments is an attack made upon my humble self, and through me upon the people whom I have long represented, by the present Comptroller of the Treasury during the political canvass of last autumn. That gentleman, from his official bureau, charged me with peculation, with filching money from the Treasury. In his own language, he charged me with "*taking the public money for a series of years to which* HE [I] HAD NO LEGAL OR MORAL RIGHT." The charge is a grave one, and imputes to my constituents ignorance or corruption in sending to this body a man who, if these

charges be true, should long since have found lodgings in the penitentiary. This charge, grave as it is, comes from the head of one of our Executive bureaus, was published in the Executive organ of this city, and republished by the leading Administration journals throughout the country.

It is dated "*Treasury Department, Comptroller's Office, September* 27, 1852." It appeared some four days prior to the election, at an hour so late that it could not be effectually met until the election had passed. It was distributed by postmasters and employees of the Government to nearly every dwelling in the district. At that moment an excited contest was going on, and the weight of the Executive influence was thrown into the scale just at that moment when it had time to do its work, but at so late an hour that it could not be deliberately met.

In order that no effort should be left untried, copies were said to have been written, probably by the clerks under his control, signed by his own hand, and sent into various neighborhoods, to prevent the possibility of doubt as to its coming from such a high source.

The paper to which I allude was in the form of a letter addressed to D. C. Allen, of my county, and purported to be written in answer to one addressed to the Comptroller, but which has never been published to my knowledge, if it were, in fact, ever written. Of its contents I am ignorant, further than some sentences purporting to be extracted from it which were copied by the Comptroller and sent forth as a part of his letter, thereby giving them publicity and a *quasi*-official indorsement.

I had been charged by my political opponents with taking more mileage than I ought to have received. In conversation, explaining that matter, I had stated that our accounts for mileage all passed under the examination of the Comptroller of the Treasury; but in referring to that officer I mentioned the name of the present incumbent to designate the officer, and Mr. Allen would seem to have written the Comptroller inquiring as to his agency in examining the accounts for mileage and per diem of this body.

To this interrogatory it was his right and his duty to reply. In doing so, he explained that the accounts of this body for the second session of the Thirtieth Congress were examined and passed upon by his predecessor, before he entered the office, although those of the Senate were examined by him after he took upon himself the duties of his station. He thus corrected the error into which I had fallen, of supposing him to have passed upon our accounts as well as those of the Senate. It was an error most emphatically *nominal*, as our accounts had been examined by his predecessor, a man no less honest, capable, or independent than himself. For this correction I could have felt no other emotion than that of gratitude.

But he also quoted, or professed to quote, from Mr. Allen, a statement representing me to have said that "Mr. Whittlesey tendered me my mileage;" that "I had received my mileage at his hands." These statements, had they been made by me, would have been regarded no otherwise than false. I do not think one elector in ten of my district so ignorant as not to know that the Comptroller has no charge of the public money, and never pays it out. The representation that I had stated such stupid falsehoods was too gross an attack upon my intelligence to find credit with any one acquainted with me. Yet the Comptroller professed to copy them into his letter—published and sent them forth to the people of the United States with his indorsement.

Not content with giving the information asked of him, and with indorsing and publishing those attacks upon my intelligence, he commenced a most extraordinary assault upon my integrity; charging me, as stated, with "taking the public money for a series of years to which *I had no legal or moral right.*" His specification in support of this charge, represents me as obtaining more mileage than the law allowed me. I will not detain the House by reading the letter, which is very long, but intend to meet his charges and specifications fully. He goes on to state that when I came here, I charged four hundred and eighty miles travel, which he avers is nearly one hundred miles more than the law allowed me. Here I meet the gentleman by an express and unqualified denial of his statement.

The manner in which the Comptroller attempts to prove the accuracy of his charge, is by referring to his own mileage while representing this district; and with apparent gravity intimates that I was bound to travel through his village, and by the same road which he traveled.

The law allows mileage, not by the nearest stage route, nor by an air-line, but "*by the usually traveled road from the residence of the member to the seat of Government.*" And the question arises, which is the usually traveled road from my residence to this city? or which was the usually traveled road *at that time?* On this point there cannot, I apprehend, be two opinions. I resided near the great thoroughfare on which all men living upon or near those northern lakes traveled to Buffalo, then by canal and railroad to this city, except when the navigation was so obstructed as to render it difficult to get on board a steamboat. Between the residence of the Comptroller and that of my own, was about sixty miles of very bad road, over which I must have passed to travel the route which he traveled. He never traveled over that road to get on to the lake in order to reach this city, nor did I ever travel over it to come by his route, unless I found myself unable to get a boat, or was called that way on business.

By taking boat and coming to Buffalo and New York, we avoid this bad road and the mountains; we come much more comfortably and in shorter time than we could by Pittsburg. My neighbors never traveled his route except when constrained to do so by business, or the difficulties of navigation. Indeed, I have traveled the whole distance of the New York route by land, while drawing pay by way of Pittsburg only, rather than encounter the mud and the mountains of that southern route. At that time, I think not more than one other member beside myself, who represented districts bordering on the lakes, drew pay by the southern route; the others drew mileage by New York. These facts show that while the southern route was the usually traveled road for my predecessor and his neighbors, the northern route was that usually traveled by me and by my neighbors. Those, too, of the western country, in coming to Washington, passed down the lake, and by way of New York came here by railroad. In this way we avoided the mud and the mountains. We traveled to this place with far greater ease, and in much shorter time; and I will say, that unless the navigation was so far obstructed as to render it difficult to get a boat, no man from that region, since I have been a member of this House, came to Washington by any other route, unless business required it. On this subject I speak with perfect confidence; and might appeal to the present Executive and other gentlemen from the State of New York, with whom I traveled on my way here. And I will add, to the best of my recollection, I never traveled the southern route except when compelled by the difficulties mentioned. Often have I traveled the New York route through Buffalo, the residence of the now President of the United States, while he was a member of this House, and at times *with* him, while he drew pay for some two hundred miles more travel than myself, and I actually traveled one hundred and fifty miles more than he did. I traveled that way of choice, for the reason that it was far more comfortable and a quicker route. The law allowed me pay by that road. It would have been just and proper for me to have charged travel on that route. But when I came here I did not even look at the law, but estimated my mileage by the shortest connected stage route, which, according to my best information, was four hundred and eighty miles. I now think I took the distances from Mr. Allen, a Whig, who then represented the Cleveland district, and estimated my mileage the same as his, except the difference in the distance between my residence and Beaver, and that between his residence and Beaver.

But the Comptroller of the Treasury avers that this four hundred and eighty miles was nearly one hundred greater than the law allowed, while in the next paragraph he admits the Senator from my own village justly entitled to five hundred and four miles, being twenty-four miles more than I had estimated it. Such palpable contradictions should have been reconciled before he sent his letter to press. As remarked, I estimated the distance as nearly as I was able from the information I possessed. But the Committee on Mileage of this House differed from me in judgment. At the first session of the Twenty-sixth Congress, without my knowledge or procurement, with all the facts before them, they increased my mileage to five hundred and twenty-seven miles, being forty-seven miles greater than my own estimate, while the Comptroller says mine was nearly one hundred too large. I then understood the increase to have been made at the instance of the Hon. Thomas Henry, representing Beaver county, Pennsylvania—a man whose honor and integrity was not below that of any other member of this body. I will not say that the aggregate judgment, integrity, and knowledge of that committee was greater than that of the Comptroller of the Treasury; but I will hazard the opinion that not one of the five members possessed less integrity, honor, or judgment than the gentleman who thus charges me with "taking the public money." The public have the charge supported by the excited feelings, political hatred, and vindictive objects of the Comptroller, given in the manner I have stated, wantonly assailing me: while opposed to this charge they have the official judgment of five men acting under solemn oath, with all the facts before them, and with no other possible motive than to do justice. I will not bring my own judgment into consideration; without that, the proofs are *five* against the charge to one in favor of it, admitting the vindictive spirit, the excited feelings of the Comptroller to detract nothing from the weight to which his testimony would otherwise be entitled.

I will now ask attention to the next specification brought forward by the Comptroller of the Treasury to sustain his charge. He proceeds to say that "at the first session of the Twenty-sixth Congress *he* elongated the India-rubber road to five hundred and twenty-seven miles."

I have already shown that the change or increase of my mileage was without my knowledge. I had no intimation that such a motion would be made, or that it was thought of. It was made in direct opposition to my own charge. The act of increasing it was the act of the committee, not of myself; and the representation that through cupidity I had improperly increased my mileage, was unjust, abusive, and absolutely false. I cannot say that he made the assertion knowing it to be false; that he did it corruptly, intending to injure me. It is sufficient that he made it without knowing it to be *true*. He may have guessed it was true; his moral guilt may be modified by his ignorance; but the effect on me and upon the public morals, the offense against his fellow-man, against the law of kindness, of justice, cannot be obliterated by his stupidity.

But that his offense against the law of propriety may not lack any aggravating circumstance, he goes on, while speaking of my original charge of mileage, to remark: "*I think I hazard nothing in 'saying if it had been known at the next election that 'he'*" (meaning myself) "*had taken this excess of 'mileage, he would not have obtained five hundred 'votes in the district.*" Unfortunately for my accuser, history has brought down to us facts which most triumphantly refute this declaration, and which place him in no enviable position. On the 29th September, 1840, prior to the next election, the Hon. David Tod, late Minister to Brazil, made a charge against me of receiving more mileage than the law allowed me. His charge was published in the Trumbull Democrat, a newspaper of general circulation in the county where the Comptroller of the Treasury then resided. It was published some sixteen miles from his residence, and at the seat of justice for that county. In that article Mr. Tod detailed my original charge of four hundred and eighty miles, and the increase of it to five hundred and twenty-seven miles. To this charge I responded through the public press, explaining all the facts as I have now explained them. My defense was published in the papers and in pamphlet form, and was generally circulated through the district. I cannot say that my predecessor, the gentleman who now renews this stale charge, ever saw the article published by Mr. Tod, or my defense; but I will give it as my opinion, that if he did not read them, he must have been the only elector of the district who was ignorant of the facts. My answer then appeared perfectly satisfactory to Mr. Tod and to the Democratic party. Mr.

Whittlesey, I understood, was active in that canvass, used my explanation on the stump, advocated my election with all these facts before him, and voted for me at the election; yet now, after the lapse of twelve years, he appears suddenly to have awakened to a consciousness that he advocated the election and voted for a man who for a series of years had been filching the public money.

But, with all these facts known to the people, so far from being unable to obtain five hundred votes in the district, I am of opinion, speaking from recollection, that I received more than *twelve thousand*, and that my majority at that election was greater than that of any other member of Congress in the United States.

My accuser may say that he had forgotten these facts; that they had passed from his memory; but he can only avoid the conclusion that he is guilty of falsehood by stultifying himself. Here I leave this charge. I wish, that duty to myself and to the constituency whom I represent, would allow me to deal more tenderly with this officer. He was once my friend, and I was his. I trust I am yet his friend. I would not willingly add one pang to his remorse. I would not wantonly give him an unpleasant thought; but my duties to him are as stern and unyielding as they are to myself, ar to others.

At the commencement of the Twenty-eighth Congress, the railroad through the State of New York being completed, we were enabled to travel to this city in about one half the time occupied in coming by Pittsburg and over the mountains. At that time I think every member representing lake districts, from New York, Pennsylvania, Ohio, and all the western States, drew their mileage, with the most obvious propriety, by way of New York, except myself. I continued to charge the mileage established for me by the committee of the Twenty-sixth Congress. I was remonstrated with, and told that I was doing myself injustice; but I regarded it the official duty of the committee to look at facts and to deal out justice to all. I would neither change my estimate of mileage, nor would I even speak to the committee respecting it. In truth, I felt an indifference in regard to it. Pecuniary advantage constituted no portion of my objects in coming here.

But the unjust inequality of giving to every other member living upon those northern lakes mileage by way of New York, while mine was allowed by way of Pittsburg, attracted the attention of the committee. The Hon. Luther Severance, a member of that committee, a Whig, of whose high moral standing I need not speak, moved to place my mileage upon the same basis of other members on the lakes. The motion was unanimously sustained, there being two Whigs and three Democrats on the committee, according to my recollection. They determined to deal out to me the same justice which they measured to others. I felt conscious that they had done right; that it was the "*usually traveled road*," and that the law gave it to me, and I took it. To have done otherwise would have been to charge the committee with ignorance or corruption, and to violate my own judgment. I was conscious that they understood their duties; that they comprehended the law, and administered it in the spirit in which it was enacted. They could not say the law was wrong in allowing mileage by the usually traveled road. That constituted no part of their duty. They were bound to administer the law as it stood. In this case, I did just what my predecessor had done during the fifteen years which he held a seat here. He received every dollar and every cent to which he was entitled by a fair construction of the law and judgment of the committee. I did precisely the same thing, and no more. He made, perhaps, fifty or sixty dollars per day while traveling here, not because he earned it, but because the law allowed it. He measured his mileage by the law, and not by the common price of labor. The same rule has been followed by every member of Congress since the law was enacted in 1819. I have, in this respect, followed the example of all who have gone before me. I would not degrade myself and constituents by estimating my services at less value than others, nor do I believe there is an elector in my district, of any party, who desires me to do so.

Sir, when the present Comptroller of the Treasury strikes at me, his blows fall on himself—upon every member of Congress who has sat in this Hall since 1819. He more particularly charges the committee with neglect, with ignorance. But that officer has given me his own official action to contradict his charge.

It is well known that he passed upon and approved the mileage of Senators charged at the second session of the Thirtieth Congress. The Senators from Michigan, Illinois, Wisconsin, and perhaps others, came down the lakes, passing through my district, and almost past my door. They charged mileage, as they had for many years, by way of New York. Now, it is very obvious, that if New York was the usually traveled route for them, it was for me. If I were bound to come by Pittsburg, they were. Being at the same point, the same "usually traveled road" must have led them which led me. Yet the Comptroller who now condemns my mileage, acting upon oath in his official character, approves and sanctions the mileage of those Senators by way of New York. Now, sir, I appeal from the judgment of Elisha Whittlesey given under political excitement, actuated most evidently by a spirit of unusual personal hostility, to the official judgment of Elisha Whittlesey, acting under oath. He is most obviously guilty of official and moral perjury, or of inexcusable stupidity. In the exercise of common and of Christian charity, I am constrained to impute this attack to the latter.

But the Comptroller manifests a desire to make the public understand that this mileage, by way of New York, was not only illegal, but that I obtained it by my own efforts, prompted by feelings of cupidity. I have already quoted the following from his letter:

"At the next session—the first session of the Twenty-sixth Congress—he (meaning myself) elongated the India rubber road to five hundred and twenty-seven miles."

He then proceeds, as follows:

"It remained stationary until the close of the second session of the Twenty-eighth Congress, when it stretched again to eight hundred and fifty miles, where it remained until the second session of the Thirty first Congress."

He commenced by falsely representing me as enlarging my own mileage, when it was in fact the act of the committee; and he continues to repeat the falsehood by attributing this change of route also to my own action.

I have stated the facts in relation to this change, that it was done by the committee, on motion of a Whig member; but I suppose that here again the Comptroller will plead that he was ignorant of the facts—that he made the charge, supposing it true; yet, sir, had he read the papers—had he possessed the ordinary intelligence of the day—he must have been acquainted with them.

In the campaign of 1848, I was assailed with this same charge, now renewed by the Comptroller of the Treasury. I desire the country to understand that he has not the merit of originating these slanders. They were ready coined to his hand, and all he had to do was to revamp, to dress them up in his own language and send them forth as his own production. He has acted the plagiarist—stolen the calumnies of scurrilous editors, and sent them forth as emanations from the Treasury Department. But, sir, these charges were promptly met at the time.

The Hon. Luther Severance, then editor of the Kennebec Journal, noticing these attacks, and feeling the spirit of truth and justice, came out through the columns of that paper, and stated distinctly that he was a member of the Committee on Mileage at the time I was placed on the route by way of New York. That the change was made *on his motion, without my knowledge or procurement.*

The Hon. Thomas J. Henly, chairman of the committee, as worthy a man as ever acted in that capacity, seeing the assaults made upon me, addressed to me a letter, repeating substantially the statements of Mr. Severance, and adding that after the committee had decided the route on which my mileage should be computed, he called on me in person to learn the distance from my residence here by way of New York.

The statement of Mr. Severance, and the letter of Mr. Henly, were published by most of the papers in our part of the country; and it is most extraordinary that the Comptroller should now come out in direct contradiction to the statements of those gentlemen. I shall not compare the circumstances under which they wrote with those which surrounded the Comptroller when he penned his letter; nor the love of truth and justice which called forth their statements, with the vindictive hatred which so distinctly characterizes his attack.

However, he may, and probably will, say that he had not read the common news of the day; that he spoke from ignorance, and not from intelligence; that he was engaged in the duties of his office at the time, and could not keep up with the publications of the day. He will probably attempt again to escape a conviction of putting forth malicious falsehood at the expense of his intelligence. He must acknowledge himself a calumniator, or attribute his offense against truth and morality to his own stolidity.

But, sir, if members of this body are to be thus attacked by Executive officers; if ignorance is to justify or excuse them in such violations of truth and propriety, we had better at once make an appropriation for educating and informing the heads of our Executive bureaus. Let us provide agents whose duty it shall be to read the papers, and inform the officers.

But the Comptroller perseveres in his misrepresentations. He proceeds, in regard to my mileage, to say, "at the last session the road contracted and was reduced in Mr. GIDDINGS's account to eight hundred and four."

The only object of this appears to be a desire to represent me as fickle in my views and action; as uncertain in regard to the propriety of receiving this mileage. The facts were simply these: The railroad from Dunkirk to New York had been completed; it shortened the route nearly fifty miles. We no longer traveled by way of Buffalo and Albany. Dunkirk and New York became the "*usually traveled road*," and my mileage was reduced to that route; and I now inform my accuser that such a road exists, and that my mileage is computed upon it. Yet here again he will shelter himself behind the impenetrable walls of his intellectual inertness.

I will not comment upon the Senibe arrogance displayed in his attack upon Congress generally, charging this body and the Senate with corruption, saying that members had admitted *to him* that the charge was true. Nor will I remark upon that dictatorial vanity manifested, by saying what *he* would have done in regard to my mileage and *per diem*, had they come under his scrutiny. They may constitute the subject of remark in another place, but are unsuited to the dignity of this forum.

My sole object in rising was to protect my constituency from the charge of sending to this body "for a series of years," a man who takes "public money to which he *has no legal or moral claim.*" They were neither so ignorant nor so corrupt as to do that. It was my solemn duty to defend and vindicate them when thus assailed. Had he gone before them and met me face to face, and stated his charges like a man, a gentleman, a Christian, I should not have noticed his charges here; I should have confined my defense to the political arena. But his assaults were not intended to be confined to my district. They were apparently put forth to affect my political friends in all of the free States. To do that, his charges were first published in the Executive organ of this city, and through the partisan presses was sent to all parts of the nation. Thither, neither I nor my constituents could follow them. Our local papers could not overtake these falsehoods to correct them. We could not make ourselves heard by tens of thousands who read and gave credit to these fabrications. For reasons very apparent, I was unwilling to demand his removal from office; and the only course which propriety seemed to indicate, was that of placing on the records of this body the facts and explanations, here to remain, in coming time a perpetual refutation of these assaults. So far as I myself am concerned, I will only say that the vote of those whom I have so long represented has furnished the only vindication I desired.

In what I have said I have been actuated by no personal unkindness toward the officer who has assailed me. So far as I can judge my own heart, I would not wantonly add an unpleasant thought to his existence. Long since we were friends. My first political efforts were put forth in his behalf. Neither he nor his friends will hesitate to admit that he was elected to this Hall, more than thirty years since, through my exertions. I was honestly and sincerely devoted to him. I spoke in his praise; I labored for his elevation, and his service here did no discredit to those who

elected him. I became his successor. Here, sir, I have taken such positions as my judgment and my conscience dictated; and in our old age we found ourselves in political opposition to each other. But nothing has been further from my heart than the desire to detract from his personal or political merits; yet he volunteered to strike the fatal blow designed to prostrate me. This friend of my youth, now in the decline of life, aimed his envenomed arrow at the heart which long beat warmest in his praise, and the influence which he possessed was wielded to prostrate the individual who, of all others, had been most instrumental in conferring it upon him. But his shaft fell short of its intended victim. I still survive. *I forgive him*, and may God forgive him!

Mr. FITCH. I am doubtless the member of the Committee on Indian Affairs who has been referred to by its chairman as not present when the Creek matter he has been advocating was under consideration. My absence prevented me from giving any aid in arriving at a conclusion, negative or affirmative, relative to the matter when presented to the committee. My object in now obtaining the floor is to renew an amendment offered from the committee at the last session, and which was lost in the Senate. I shall make but few remarks on it, because it is probably very well understood by members from the previous discussion and allusions which have been made to it at this session. It is as follows:

"For payment in full of the claim, under that part of the treaty of 1831, which has relation to a grant of one hundred thousand acres of land in fee-simple to the then Ohio Shawnees, $66,246: *Provided*, That the receipt therefor shall specify that this is in full satisfaction for such claim."

This claim is not one which has lain dormant for forty years, and now, for the first time, brought to the attention of Congress; for it has been presented before and immediately after it accrued; been urged often by the Indians, and recognized by the Indian Department as valid. A very able speech was made in its advocacy, at the last session, by the chairman of the Committee on Indian Affairs, [Mr. JOHNSON of Arkansas.] It was then sustained by others, and as I understand, the gentleman from Illinois [Mr. RICHARDSON] recently alluded to it in favorable terms. In 1825, this Government made a treaty with the Shawnees of Missouri, who were in possession of land at Cape Girardeau, purchased that land, and located them on the Kansas river, on a reservation given them by the treaty, to be equal to fifty miles square. It was given to them for their own use and the use of such Ohio Shawnees as might subsequently choose to emigrate to it. It should be borne in mind, however, that the Ohio Shawnees were no parties to the treaty.

An item of history, not stated in the papers in the case, may as well be called up in connection with it: At the same time the treaty was being made with the Missouri Shawnees, by which they sold their Cape Giradeau possessions in exchange for the fifty miles square, an effort was making to treat with the Ohio Shawnees for the purchase of their land, with a view to their removal also. The Missouri Shawnees were advised of this, and hence the insertion of the clause in the treaty with them, relative to the Ohio Indians, as the former desired the latter among them. The Ohio Indians refused to treat, and, consequently, did not go upon the Missouri land at that time. The land was sold to the Missouri Shawnees alone, and the compensation obtained alone from them; but, with their consent, the Ohio Shawnees were privileged to go upon it; no right, however, to the soil, can be claimed by the latter. Subsequently, in 1831, another effort was made, and successfully made, to treat with the Ohio band, for they were then recognized as a distinct band, and we purchased their possessions. It was provided in the treaty that we should give them a blacksmith, and other facilities, in part consideration for their land; but seventy cents per acre of the amount for which their land should subsequently be sold by Government, was to be retained in the United States Treasury, and in consideration of such retention, we were to give them the *fee-simple* to one hundred thousand acres of land, either within the fifty miles square previously given to the Missouri Shawnees, or adjoining it. The Ohio Shawnees moved on the fifty miles square, and very shortly after the treaty asked Government for their one hundred thousand acres. It has not been given to them, and it cannot be, for the very good reason that it could not be given them within the fifty miles square, because that was the property of the Missouri Shawnees, and it could not be given them adjoining the fifty miles square because that had already been given to other Indians, or all that was capable of cultivation, or fit for the residence of even the red man. It cannot, furthermore, now be given to them, for an additional reason I shall allude to presently.

These Indians ask, then, for some equivalent for the land. We cannot plead their right of occupancy within the fifty miles square as a redemption of the promise to give them the land in fee-simple, because that is a right they do not enjoy from us, but from the Missouri Indians. We cannot plead their right of occupancy of a portion of this fifty miles square in redemption of our promise, because we had previously sold those lands—the fifty miles square—to the Missouri Shawnees, and we cannot sell the same property twice. If we attempt to plead their right of occupancy of these fifty miles square as a redemption of the promise in the treaty to give them in fee-simple one hundred thousand acres, we place ourselves in the attitude of selling the same property twice, and taking pay for it twice of two different parties. Then, being unable to give them the land promised, for the reasons I have stated, and for the reasons I will state, it is very natural and just that we should give them the seventy cents per acre, for which their land sold, and which is now in the Treasury of the United States, because I take it for granted that we do not desire to speculate upon these or any other Indians. The tenth article of the treaty with the Ohio Shawnees contemplates the sale by them of the one hundred thousand acres we were to give them. What have they now to sell? They agreed by that article of the treaty not to sell except to the United States. They have nothing to sell. They have not a foot of land by that or any other treaty which they can call their own, and of which they can effect a sale either to the United States or any other party. This article of the treaty clearly shows the intention on our part to give them a consideration for the seventy cents per acre—the just price for which their land should sell—a consideration which should be available to them, which they could sell and realize the proceeds of. But they have no consideration; we have given them none, and we cannot, except the money—the seventy cents per acre withheld. Shall we refuse that? There are additional reasons to those I have stated why the prayer of these Indians should be granted. One is to be found, I think, in the recent passage by this House of a bill to organize the Territory of Nebraska. They reside within that Territory.

The amendment which I have submitted proposes to make this fund a common one to the Missouri and Ohio Shawnees, and for this reason: The Missouri Shawnees have given those from Ohio the right of possession of this fifty miles square for several years. They have become incorporated as one band. The Ohio Shawnees are perfectly willing to relinquish a portion of the proceeds of their land to the Missouri Shawnees, in consideration of the right of occupancy which they have, and have had, in the land of the latter. Well, sir, the entire nation being interested in the proceeds of the sale of the Ohio lands—in the reception of an equivalent for the one hundred thousand acres which we promised but cannot give—if we do not redeem our promise so far as we can by giving the equivalent—the seventy cents per acre withheld—we cannot approach them with proposals for negotiating the purchase of their present possession. If we do not fulfill the stipulations of previous treaties, they will scarcely enter into a new one with us. Since the passage of the bill organizing Nebraska Territory, we would not if we could give them the one hundred thousand acres in or contiguous to the fifty miles square, or indeed anywhere in the Territory. We desire now not to sell but to purchase. Our object is to extinguish Indian titles within that Territory, not to make new ones. Of course, then, even if we had any contiguous land unoccupied, we would not bestow it on these people, even though in fulfillment of our treaty stipulation with them, if any honorable alternative was left; and that alternative we have, for we can pay them the money, as contemplated in the amendment. The money is in the Treasury, accumulated there from the sale of their Ohio lands. The money, or the one hundred thousand acres promised in lieu of it, must be given them unless we would deliberately violate a treaty. Justice and our promise demand one of them; necessity and policy both tell us to pay the money. The aggregate amount of the retained seventy cents per acre from the sale of their lands is the amount mentioned in the amendment.

So far as this Creek matter is concerned, I have not been able to give it the investigation which is desirable, my attention having been drawn to it only within a day or two past. I do not intend, therefore, to give my views in relation to it other than by voting, unless it may seem advisable so to do in the further progress of the debate.

[Here the hammer fell.]

The CHAIRMAN. The time limited for closing the debate having arrived, the Clerk will proceed to read the bill by sections for amendments.

Mr. HOWARD. I move that the committee rise, with a view of extending the time for closing debate.

Mr. FITCH. You cannot do that. There has been a motion made to reconsider, which was laid on the table.

The CHAIRMAN. It may be done in the House. The Chair is of the opinion that it may be done in the House by general consent, and in no other way.

Mr. HOWARD. I would suggest to the Chair that it can be done by unanimous consent in the committee as well as in the House.

The CHAIRMAN. The Chair is not of that opinion. The committee is acting in pursuance of an order of the House. The House has directed that at a certain hour we must close debate, and we have to report our action to the House when that order expires. I do not know that there is any power to extend the time for closing the debate except in the House.

Mr. HOWARD. I move that the committee rise, with a view of extending the time.

The question was then taken on Mr. HOWARD's motion; and there were—ayes 41, noes not counted.

Mr. BROWN, of Mississippi. I demand tellers.

Mr. HOUSTON. I suppose if the House would have the power to do this thing, the committee, by unanimous consent, can do it, if there is no one to object. We might as well do it here as to go into the House. My object is to get along as rapidly as we can with the business, and if no one will object in committee, then, I presume, the debate can be extended.

Mr. JOHNSON, of Arkansas. I differ with the chairman in the decision which he has given. It is objected that you have no power to extend debate, although unanimous consent be given. This committee is composed of the same members as the House, and I do not see why the time cannot be extended when unanimous consent is given for that purpose. I ask the Chair to reconsider his decision, look at the rationality of it, and see whether the unanimous consent of the committee being obtained, the time cannot be extended.

The CHAIRMAN. The Chair thinks proper to say that he should feel very great pleasure indeed in being able to agree with the gentleman from Arkansas, [Mr. JOHNSON,] for no one can have a greater desire than he has that the gentleman should be accommodated in this matter; but the present chairman of the committee not only acts in this matter in pursuance of previous decisions, but he acts according to his own deliberate judgment; for while this committee consists of the same members as the House of Representatives, it is a different body. We can do nothing here except in pursuance of the order of the House. The action taken by the House binds us. If the House determines to limit debate to a particular time, the committee, although it consists of the same members, and though the motion to limit debate had not been laid upon the table, could not reconsider and change the time for limiting the debate.

Mr. JOHNSON. The Chair will allow us to take an appeal from that decision. I ask whether this body is not at least the House——

The CHAIRMAN. The appeal is not debatable. It will be submitted to the committee.

Mr. BURT. I beg leave to suggest to the Chair that while I think the Chair is entirely right in the opinion he has expressed, yet to entertain

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the appeal would be to substitute the will of a majority of the committee for the unanimous consent of the committee. The question is not a matter of appeal. The Chair must perform his duty under the rule and order of the House. With great deference to the Chair, therefore, I would suggest that an appeal upon this point cannot be taken, for the effect would be, as I have stated, to substitute a majority of the committee for the unanimous consent of the committee, and allow that to be done by a majority, which, in the opinion of the Chair, cannot be done by unanimous consent.

The CHAIRMAN. Without undertaking to decide the question of order raised by the gentleman from South Carolina, [Mr. BURT,] the Chair would be glad if this matter could go to the committee, and that they would decide the point of order for themselves.

Mr. JOHNSON. I must take an appeal from the decision of the Chair.

The CHAIRMAN. The Chair has decided that it is not in the power of this committee, even by unanimous consent, to change the order made by the House, and under which they are acting. From that decision the gentleman from Arkansas [Mr. JOHNSON] has appealed. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was then taken, and it was decided in the affirmative.

So the decision of the Chair was sustained.

The CHAIRMAN. The time fixed by the House for the termination of debate having expired, the Clerk will proceed to read the bill by sections unless the gentleman from Alabama, [Mr. HOUSTON,] under the rules of the House, claims the privilege of speaking an hour.

Mr. HOUSTON. I am entitled to an hour, but as I have not examined this matter myself, I am willing to give up my time to the Committee on Indian Affairs.

Mr. SWEETSER. I rise to a point of order. I submit that it is not in order for a gentleman who is entitled to the floor to transfer it to another.

The CHAIRMAN. The Clerk will proceed to read the bill, no amendment being offered.

Mr. HOUSTON. It is not my wish to do anything wrong towards a member of this body. I stated distinctly that this matter, not having been before the body of which I am a member, nor having had the usual examination given by that committee to such matters, that I proposed to leave it to be discussed by the members of the Committee on Indian Affairs exclusively. In accordance with my determination to yield to the members of that committee, I am willing to yield to the gentleman from Texas such portion of my time as he may desire to occupy. I will do that, if he is disposed to divide the hour. I have no objection to this course. My object is to have discussion pertinent to the bill. But if the Chair decides that I have no right to do so, I am ready to progress with the bill.

The CHAIRMAN. The Chair is of the opinion that the gentleman from Alabama has the right to yield the floor only for explanation. He cannot transfer it to any other member of the committee, and in that belief, if the gentleman from Alabama does not choose to occupy the floor, the Chair will order the Clerk to proceed with the reading of the bill.

Mr. HOWARD I wish to make an explanation, if the gentleman from Alabama yields me the floor.

Mr. HOUSTON. I will yield the floor to the gentleman from Texas.

Mr. HOWARD. Mr. Chairman, I propose to trespass but little time upon the indulgence of the committee.

Mr. SWEETSER. The gentleman has gone far enough to show that he does not intend to make an explanation, but to discuss the bill. I make that point of order, and intend to insist upon it.

Mr. HOWARD. When the Committee on Indian Affairs had before it the claim which is now he subject of consideration, the committee will bear me witness that I was opposed to it.

It is true I did not indicate my purpose, to any member of that committee, of addressing the House against the allowance of this claim; but I conceived then, as I do now, that there was no rule of the House requiring me to announce that it was my purpose to debate any subject which is properly before us for legislative action. Neither do I believe that there is any rule of parliamentary law or of propriety that requires me to go and notify any member of the House or of a committee, after having stated my opposition to a claim, that it is my purpose to resist its passage.

Having said thus much upon this subject, I shall proceed to the consideration of the matter in hand, and confine myself to an argument on the claim.

Mr. SWEETSER. At this point, I raise the question of order.

The CHAIRMAN. If the gentleman from Ohio insists upon his point of order——

Mr. JOHNSON, of Arkansas. I hope the gentleman from Ohio will withdraw his objection, and that the gentleman from Texas will be permitted to proceed. I shall afterwards throw myself upon the indulgence of the House, and ask unanimous consent to be allowed to reply, considering that I have yielded to a motion to close debate at such a time as will preclude me from replying to this unexpected attack upon my amendment by a fellow committee-man.

Mr. HOWARD. I will yield a portion of my time to the gentleman from Arkansas, if he wishes it.

Mr. SWEETSER. With that understanding I will withdraw my question of order. I have no feeling about this matter. My sole object was to protect the gentleman from Arkansas from what I supposed to be an argument against the claim, to which he would have no opportunity of replying. But with the understanding that these two gentlemen shall arrange the time among themselves, I will withdraw my objection.

Mr. JOHNSON. Then I say to the gentleman from Texas that he may take his own time.

Mr. HOWARD. I ask the Chair to notify me when half an hour has expired.

Mr. SWEETSER. With the arrangement I am satisfied.

Mr. HOWARD. This claim, sir, arises out of the treaty of 1814, negotiated by General Jackson with the Creek Indians. The grounds of the claim have already been read to the committee by the gentleman from Arkansas. The history of the case is this: A civil war, as Major Hawkins, the then Indian agent reports, had broken out in the Creek nation, and the friendly Creeks invoked the aid of the United States to extinguish that war and to preserve the peace of the tribe. In the mean time, the hostile portion of the tribe—which constituted a large portion of it—had manifested a disposition to attack the United States and the State of Georgia in conjunction with our common enemies. Under these circumstances, the United States ordered troops to Georgia, under the command of General Pinckney, and the Secretary of War instructed General Pinckney that when the war was closed, it should be treated as a capitulation; that these Indians should be treated as public enemies, and that sufficient of their country should be taken from the hostile Creeks to defray the expenses of the war. This instruction was also communicated to the Indian agent, and the agent, under a letter from General Pinckney, which has been read, stated to the friendly Creeks that the country acquired would be treated as a conquest, and that in any settlement of the difficulty which should be made under the authority of the United States, their claims to land should be respected; that out of the conquered country they should be indemnified for losses of personal property, and also that they should be paid some consideration for the exertions which they had made and the services which they had rendered to the United States during the progress of the war. This letter was communicated by the agent to the friendly Creeks. After the war was closed, they assembled at Fort Jackson to conclude a treaty, and it was then that the difficulty arose out of which this claim has been presented.

There has been read to the committee the statement of General Jackson to these Indians, that it was necessary to draw a particular line, and that in drawing that line, a certain portion of country which had been recognized as belonging to the friendly Creeks, or at least occupied by them, would be taken, and that they should be given a compensation for it in lands between the Tallapoosa and Coosa. It is true, that when the Indians assembled, they told General Jackson that they did not consider the country thus given them in exchange a fair equivalent, but they signed the treaty, with the understanding that their claims for compensation for losses sustained were to be forwarded to the Federal Government by General Jackson.

Mr. JOHNSON. Of course. I shall allow the gentleman to interrupt me as often as he pleases, and I hope, therefore, that he will permit me to ask him a question. Did not the Indians, when they signed that treaty, do it under protest, and say, "We sign this treaty on these conditions, that the letters of Pinckney and Hawkins shall be forwarded to the Government, upon whom we place our faith and hope for justice and mercy?" That is the substance, if not the very words. I ask the gentleman if he does not recollect that?

Mr. HOWARD. Such is the fact. It appears from the evidence that they considered this letter and statement what they termed their part of the treaty. The question is, then, has the Government complied with its obligations in this respect? Upon that turns the whole case. It does not appear from the testimony, that the papers were forwarded in the first instance by General Jackson. There is some controversy about that on the part of Hawkins. But it does appear that they were ultimately forwarded, and were placed among the archives of the Government; and upon a call of this House, in 1817, they were communicated to this House as a part of the official transactions, and in some sort as a part of the treaty. They were so treated by Mr. Lowndes, in 1817, when he proceeded, as chairman of a committee, to consider this matter and report a bill. Now, what were the stipulations of Pinckney's letter to the Indians?

Mr. JOHNSON. I call the attention of the gentleman to one fact, for I am familiar with the record in this case. Does he not find that Mr. Lowndes, in his report made many years since, expressly says that the $60,000 specified by Hawkins as the amount of their losses, refers to indemnity for personal losses, and not for real estate?

Mr. HOWARD. The gentleman must perceive that if he interrupts me in this way there can be no compact between us as to the division of the hour.

Mr. JOHNSON. Let there be none at all. I will let the gentleman interrupt me at every point when he thinks I fall into error.

Mr. HOWARD. Mr. Lowndes reported in 1817, that the $85,000 was sufficient compensation.

Mr. JOHNSON. For indemnity for personal losses.

Mr. HOWARD. He says in his report:

"In the letter referred to in this instrument, General Pinckney tells Colonel Hawkins that 'he may inform the '(friendly) Indians that the United States will not forget 'their fidelity; but, in the arrangements which may be made 'of the lands to be retained as indemnity, their claims will 'be respected, and such of their chiefs as have distinguished 'themselves by their exertions and valor in the common 'cause will also receive a remuneration in the ceded lands, 'and in such manner as the Government shall direct.'"

Mr. STEPHENS, of Georgia. Will the gentleman from Texas give way for a motion that the committee rise?

Mr. HOWARD. I yield for that purpose.

Mr. HOUSTON. If the gentleman from Georgia will allow me, I will move that this bill be laid aside informally, that we may take up and act upon the Senate amendments to the Military Acad-

emy bill. It will not take fifteen minutes to dispose of them.

Mr. STEPHENS. I have no objection to that, if it is the will of the committee.

Mr. HOUSTON. Then I move that this bill be laid aside, and that the committee take up the Senate amendments to the Military Academy bill.

There was no objection, and the said amendments were taken up for consideration.

The following amendment was read, viz:

"For additional pay of fifty dollars each, to the soldier employed in the Adjutant's office as clerk, and to the two enlisted men employed in the philosophical and chemical departments, $150."

Mr. HOUSTON. The explanation to this is, that the duties of the soldier employed in the Adjutant's office as clerk, and of the two enlisted men employed in the philosophical and chemical departments have increased to such an extent that they are not disposed to reënlist unless their compensation is increased. This is, therefore, to provide them an increased compensation of fifty dollars each.

The question was taken and the amendment was concurred in.

The second amendment was read, as follows:

"For riding and exercise hall, $12,000."

Mr. HOUSTON. I have here the papers which explain that amendment, which I will have read if the committee desire it.

Mr. STEPHENS, of Georgia. I will not make a speech of one minute. I am opposed to that amendment, because I do not think it necessary to provide a riding-hall for those cadets. I hope the vote will now be taken, and that the amendment will be disagreed to.

Mr. HOUSTON. Very well; I am willing to have the vote taken without discussion.

Mr. STANLY. I will not make a longer speech than the gentleman from Georgia. I am in favor of this amendment. This amendment is important, unless you intend to dispense with a riding-school altogether, or compel the cadets to have out-door exercises in the most inclement weather. The present hall is so dilapidated that it is too dangerous to be used for the purpose designed. I was there last September, and I think there is a great want of a proper hall for riding and exercises. I have examined into the matter, and I feel it my duty, as a Representative upon this floor, to say that I think this appropriation is necessary.

Mr. STEPHENS. I move to disagree to the amendment.

Mr. McMULLIN. I do not think we can dispose of all these amendments to-day. I move that the committee do now rise.

The question was put, and the motion was not agreed to.

Mr. HOUSTON. I now send to the Clerk's desk some letters and papers, which will explain this amendment.

Mr. ORR. If the gentleman from Alabama will state whether the amendment is a proper one, it will save the time of reading.

Mr. HOUSTON. The Committee on Ways and Means did not concur in the amendment.

The question was then taken, and the committee refused to concur in the amendment.

The third amendment was then reported, as follows:

"For the construction of a wharf, $4,330."

Mr. McMULLIN. I move that the committee do now rise.

The question was put, and the motion was not agreed to.

Mr. HOUSTON. I have here the papers which explain that amendment.

Several MEMBERS. Explain it yourself.

Mr. HOUSTON. The Committee on Ways and Means did not agree to recommend a concurrence in this amendment. It is asked for to erect a wharf to supply one which used to be a mile and a half higher up the river. It was a private wharf; but there has been some difficulty between the proprietor and the authorities at West Point in relation to its use, and they now ask for an appropriation to construct one for themselves. As I said, the Committee on Ways and Means did not agree to recommend a concurrence in the amendment; but the original estimates are before me, and the House can hear them, if they choose.

A MEMBER. We do not want to hear.

The question was then taken, and the committee agreed to concur in the amendment.

The fourth amendment was then read, as follows:

"SEC. 2. *And be it further enacted*, That hereafter the professors of French and drawing shall receive the pay and emoluments allowed to other professors; and the sum of $1,000 is hereby appropriated for that purpose, out of any money in the Treasury not otherwise appropriated."

Mr. HOUSTON. This amendment proposes to increase the compensation of the professors of French and drawing to the same amount paid to the other professors of the institution.

Mr. TOOMBS. I hope the House will not concur in this amendment. The duties of these professors are of an entirely different character from those of mathematics and philosophy, and they should not be paid the same compensation.

Mr. JONES, of Tennessee. The salaries of these professors of French and drawing were increased to $1,500, if I mistake not, during the last Congress. Why, you can employ a French schoolmaster anywhere for $500 a year.

Mr. HOUSTON. I will state that the salaries of those officers are now as high as those of such professors in other similar institutions, for instance, those at Annapolis.

The question was then taken, and the amendment was not concurred in.

Mr. STEPHENS, of Georgia. I move that the committee do now rise, and report the bill to the House.

Mr. JONES, of Tennessee. I ask the gentleman to allow the committee to take up a bill which was reported back by the Committee on Ways and Means at the last session of Congress. It is a Senate bill for designating the depositories under the act of 1846. I presume it will elicit no discussion, and there will be no objection.

Mr. STEPHENS. It is too late in the evening to examine the bill, and I must therefore insist on my motion that the committee do now rise, and report the bill to the House.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, the chairman (Mr. BOCOCK) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 333, making appropriations for the service of the Indian Department during the fiscal year ending June 30, 1854, and had come to no resolution thereon; they had also had under consideration House bill No. 332, making appropriations for the support of the Military Academy during the fiscal year ending 30th of June, 1854, with sundry amendments of the Senate thereto; which they had instructed him to report to the House, with the recommendation to concur in some of the said amendments, and to non-concur in others.

Mr. HOUSTON. These amendments have all just been read in committee. I move that the report be adopted in gross.

The SPEAKER. That course will be adopted, by unanimous consent.

There was no objection; and the action of the Committee of the Whole on the state of the Union was concurred in by the House.

Mr. STANLY. I move to reconsider the vote taken this morning, by which certain papers designated by the gentleman from Virginia, which were referred to the Committee on Naval Affairs, were ordered to be printed. I understand that Commodore Jones in his communication has referred in harsh terms to certain officers. I think, therefore, in justice to him, the communication should be printed. With that view I make this motion to reconsider.

The question was taken and the vote was reconsidered.

The question then recurred upon the motion to print.

Mr. STANLY. I now move that all the papers in this case, with those in relation to the McCormick claim, be printed.

The motion was agreed to.

Mr. McMULLIN. I move that the House do now adjourn.

The motion was agreed to; and

The House adjourned till to-morrow at eleven o'clock, a. m.

IN SENATE.

WEDNESDAY, *February* 23, 1853.

Prayer by the Rev. JAMES GALLAHER.

Mr. HUNTER, from the committee appointed on the part of the Senate, jointly with the committee appointed on the part of the House of Representatives, to wait on Franklin Pierce, of New Hampshire, and notify him of his election as President of the United States, reported:

That the committee had performed the duty assigned them; and that the President elect, in signifying his acceptance of the office to which he had been chosen by the people, said:

"You will please to communicate to the respective Houses of Congress my acceptance of the trust confided to me, and at the same time express to them my grateful acknowledgments, and assure them of the deep sense of obligation with which I regard this manifestation of confidence on the part of my countrymen. It will be my earnest endeavor to prove that their confidence has not been misplaced."

THE INAUGURATION.

Mr. BRIGHT submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That there be appointed a committee of the Senate to make the necessary arrangements for the reception and inauguration of the President elect on the 4th of March, and to apprise him of the same.

On motion by Mr. BRIGHT, it was

Ordered, That the committee be appointed by the President *pro tempore*.

And Mr. BRIGHT, Mr. PEARCE, and Mr. HAMLIN were appointed.

PACIFIC LINE OF STEAMERS.

On motion by Mr. COOPER, it was

Ordered, That the report of the Secretary of the Navy, relative to the establishment of a line of steamers between the western coasts of the United States and the free ports of China, communicated yesterday, be printed.

PRIVATE BILLS.

The PRESIDENT. The Senate bill for the relief of Mary W. Thompson has been passed by the House with an amendment, which is, to add at the end of the bill the following:

"And the pension heretofore allowed to Mrs. Elizabeth V. Lomax, widow of Mann Page Lomax, late major in the Ordnance Corps, shall commence on the 27th day of March, 1842, and continue for and during her widowhood."

Also, to amend the title by adding "and Mrs. Elizabeth V. Lomax."

Mr. MASON. That amendment is in the language of a Senate bill which passed the Senate and went to the House. The House, instead of passing a separate bill for the relief of Mrs. Lomax, has put it as an amendment to this bill for the relief of Mrs. Thompson.

Mr. MORTON. I desire to offer an amendment to the amendment. It is a bill which has passed the Senate several times, for the relief of the widow of Major Dade.

Mr. MASON. I hope not. That will destroy the bill.

Mr. MORTON. I feel great reluctance to embarrass any bill which is brought to the consideration of the Senate; but the amendment which I propose now is to provide for the case of Mrs. Ann Dade. A bill for her relief has passed the Senate several times—three times, I believe; but it has been lost in the House of Representatives. It would have been attached as an amendment to the bill for the relief of Mrs. Thompson if it had not been lost in committee. I have the assurance of members of the House that if this amendment be attached, it will not embarrass the bill, but that the amendment will be agreed to in the House. This is a peculiar case. Mrs. Dade is the widow of Major Dade who commanded the American forces at Dade's massacre in Florida. Owing to the neglect of the House, or some unforeseen accident, the bill for her relief which has passed the Senate has been mislaid, while the bill for the relief of the widow of Captain Gardiner has been taken up and passed here without objection. This is perhaps the only chance that I have for providing for Mrs. Dade at this session.

The bill being lost in the House, it would be necessary to prepare another bill to pass this body, and then go to the House, and the consequence would be that it might be impossible to provide for the case of Mrs. Dade at this session. It is a strong case; and I assure Senators that I would not embarrass this bill, particularly that for the relief of Mrs. Lomax, in which I feel as deep an interest as any Senator; but, at the same time,

I feel a deep solicitude in the case of Mrs. Dade. There is no widow of any officer who belonged to the American Army more deserving of the favorable consideration of Congress than Mrs. Dade. She is now in a distressed pecuniary situation. If relief is not extended at this time, I shall despair of anything being done at the present session. I hope that without objection the Senate will suffer the amendment to be made. It is precisely the language—it is in fact the bill itself—which passed the Senate three several times without objection.

Mr. MASON. There would be no objection in the world to the Senator's proposition as a separate question; on the contrary, it would pass at once, I presume; but I submit whether it will be exactly right to put in jeopardy the bill providing for these two ladies, in the hope that the amendment may be thus passed in the House. Everybody who knows the state of the business in the House, knows that if the amendment be inserted in this bill, it will have to go back there, and it will thus greatly endanger the three, and probably destroy them all. The Senator has no right to say that he knows the bill will pass, as amended, in the House, because no man can control the action of that body; nor can any man say what the House will or will not do. I hope he will withdraw his motion, or if he does not that the Senate will not agree to it.

Mr. MORTON. I would accede to the proposition of the Senator from Virginia, if I did not think this was the only chance which I can obtain to have Mrs. Dade provided for at this Congress. I hope the Congress of the United States is disposed to deal equal and fair justice to all, and there is no case which presents a stronger claim than that of Mrs. Dade. While the widow of the second in command in that "massacre" has been provided for by a bill, I should consider myself wanting to a constituent of mine, if I did not press the amendment. I have conversed with many members of the House of Representatives who express the greatest regret that the bill for the relief of Mrs. Dade had not been attached to that for the relief of Mrs. Thompson, and I have very great confidence in the assertion that the amendment will be agreed to in the House before it passes to the Speaker's table. I hope the Senate will agree to it.

Mr. MASON. What is there in anything which has been advanced by the Senator from Florida which shows that we ought to put in jeopardy, and most probably destroy, the bill providing for the widows of two other officers? He has advanced nothing, in my opinion, which should induce us to do it.

Mr. MORTON. In reply to the Senator from Virginia, permit me to say that the bill for the relief of Mrs. Elizabeth V. Lomax put in jeopardy the bill for the relief of Mrs. Thompson. The bill for the relief of Mrs. Thompson is a Senate bill, and but for the amendment for the relief of Mrs. Lomax, it would have never been returned to the Senate; but so anxious was the House of Representatives to provide for the case of Mrs. Lomax, that they put in jeopardy, if jeopardy it be, the bill for the relief of Mrs. Thompson, by returning it to the Senate. That bill is now here, and all I ask is that the amendment providing for the relief of Mrs. Dade be attached to it, and that it may be returned to the House. The same feeling which influenced the House in suffering the amendment for the benefit of Mrs. Lomax to be attached to the bill for the relief of Mrs. Thompson, I have no doubt will influence it in agreeing to the amendment for the benefit of Mrs. Dade. But I am not disposed to consume the time of the Senate by saying anything further.

Mr. MASON. Nor am I; but the cases are not parallel. The Senate can do business, but the House cannot. There was no risk in the House attaching the amendment for the benefit of Mrs. Lomax to the bill for the relief of Mrs. Thompson, and sending it back to the Senate. There is risk in returning the bill to the House.

The question was then taken, and on a division, there were—ayes 18, noes 14. So the amendment was agreed to.

The amendment as amended was then concurred in.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing to the Senate that the House agree to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill to prevent frauds upon the Treasury of the United States.

Also, that the House of Representatives concur in the first and third, and disagree to the second and fourth amendments of the Senate to the bill making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854.

Subsequently, on motion by Mr. HUNTER, the Senate insisted on its amendments to the Military Academy bill disagreed to by the House of Representatives, and a Committee of Conference on the part of the Senate was appointed by the President *pro tem.*, consisting of Mr. PEARCE, Mr. SHIELDS, and Mr. BAYARD.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Postmaster General, communicating, in compliance with a resolution of the Senate of the 17th instant, a statement from the Auditor for that Department relative to the postage collected under the postal treaty with Great Britian; which was read; and, on motion by Mr. RUSK, it was referred to the Committee on the Post Office and Post Roads, and ordered to be printed for the use of the Senate.

BRIG GENERAL ARMSTRONG.

Mr. UNDERWOOD submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate, if in his opinion it be not incompatible with the public interest, the correspondence between our Minister in Portugal and the Government of that country in relation to the brig General Armstrong, and the liability of the Portuguese Government to pay for the same.

HOUSE BILL REFERRED.

The bill from the House for the relief of John Huffington was read the first and second time by unanimous consent, and referred to the Committee on Claims.

BILLS INTRODUCED.

Mr. BORLAND asked, and, by unanimous consent, obtained leave to introduce a bill for the relief of Sally T. B. Cochrane, widow of the late Lieutenant R. E. Cochrane, United States Army; which was read and passed to a second reading, and ordered to be printed.

Mr. BRIGHT, in pursuance of notice, asked and obtained leave to introduce a bill to indemnify the State of Indiana for the failure of title to a township of land granted to said State on her admission into the Union in 1816; which was read the first and second time by unanimous consent, and referred to the Committee on Public Lands.

THE FISHERIES.

Mr. DAVIS submitted an amendment, which he proposed to offer as a substitute for the bill to regulate the rights of fishing, and the rights of disposing of the proceeds of the fisheries in and between the British North American Provinces and the United States; which was received informally, and ordered to be printed for the use of the Senate.

VICE PRESIDENT ELECT.

Mr. BUTLER, with unanimous consent, asked and obtained leave to introduce a bill providing for administering the oath of office to William R. King, Vice President elect of the United States of America, without the limits of the United States. It was read a first and second time by unanimous consent, and considered as in Committee of the Whole. It proposes to authorize William L. Sharkey, Consul of the United States at Havana, to administer, at Havana, in the Island of Cuba, to William R. King, Vice President elect of the United States, the oath of office prescribed by the sixth article of the Constitution, on the 4th of March next, or on some subsequent day, in these words: "I, William R. King, do solemnly swear that I will support the Constitution of the United States;" which oath, thus administered, shall be certified by William L. Sharkey, under his hand, to the Congress of the United States. It also proposes to enact that any judge or magistrate of the United States may administer that oath on the 4th of March next, or some subsequent day, to the Vice President elect, if in the United States, and the officer before whom the oath is taken is to certify the administration of the oath as before provided.

Mr. MASON. I would suggest to the Senator from South Carolina that I have learned to-day, and I suppose it is true, that intelligence has arrived in New York, which came here by telegraph a few hours ago, stating that Colonel King had left Havana and had gone to the Island of St. Thomas. I know it was in the contemplation of himself and his physician that he might not remain at Havana. I would therefore suggest the propriety of so amending the bill as to make it competent for any consul or commercial agent of the United States in the West Indies to administer the oath.

Mr. BUTLER. I am perfectly willing to do that; but as soon as Mr. King is advised of this act I am sure he will immediately repair to Key West, where a district judge resides, or to Havana, and take the oath. I do not know that there is a consul at any of those other islands, and therefore I do not think it worth while to amend the bill.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed, and on motion by Mr. HALE, the title was amended by striking out the words "without the limits of the United States."

ARMY APPROPRIATION BILL.

Mr. HUNTER. I now move to postpone all prior orders, for the purpose of proceeding to the consideration of the bill making appropriations for the support of the Army for the year ending the 30th of June, 1854.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

The first amendment, reported by the Committee on Finance, was to increase the appropriation for repairs and improvements and new machinery at Harper's Ferry, from $28,950 to $43,500.

Mr. HUNTER. That is to restore the item to the estimate.

The amendment was agreed to.

The next amendment of the committee was to increase the appropriations for the arsenals from $41,071 to $58,144, and to insert the words "or transfer" after the word "abolish," so as to give the Secretary of War power to abolish or transfer such arsenals as in his judgment might be useless and unnecessary.

The amendment was agreed to.

The next amendment of the committee was to amend the appropriation for arrearages of pay, subsistence, and clothing to Captain McRae's company of Virginia volunteers, who served in the last war with Great Britain, by adding to it the following words:

"To be paid out to the officers and soldiers of said company, or their legal representatives, under the order of the Secretary of War, upon the production of such proof as satisfies him as to the identity of said officers and soldiers, and that they have not been paid."

The amendment was agreed to.

The next amendment was to insert:

"For fuel and quarters for officers of the Army serving on light house duty, the payment of which is no longer made by the Quartermaster's Department, $4,053 87."

The amendment was agreed to.

The next amendment was to insert:

"For fuel and quarters, and for mileage or transportation for officers and enlisted men in the Army, serving on the Coast Survey, in cases no longer provided for by the Quartermaster's Department, $10,000."

The amendment was agreed to.

The next amendment was to insert the following as an additional section:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and the same are hereby, extended to all military sites acquired since the passage of the said act."

Mr. HUNTER. It is obvious that the same policy should exist now as that which originally led to the passage of that act.

The amendment was agreed to.

The next amendment was to add the following as an additional section:

"SEC. 5. *And be it further enacted*, That such portion of the sum of $75,000, appropriated for the discharge of

claims for preventing and suppressing Indian hostilities in Florida by the act of 27th February, 1851, as shall remain unexpended on the 30th of June, 1853, is hereby reappropriated for that purpose."

Mr. HUNTER. This is the reappropriation of a balance which has gone to the surplus fund.

The amendment was agreed to.

The next amendment of the committee was to insert the following additional section:

"SEC. 6. *And be it further enacted*, That the accounting officers of the Treasury be authorized, in settling the accounts of Captain Leslie Chase, Captain S. M. Plummer, Captain Schuyler Hamilton, and Lieutenant J. H. Whipple, to pass to their credit all expenditures by them made for objects authorized by law, out of appropriations not applicable thereto: *Provided*, That such expenditures be approved by the Secretary of War."

Mr. HUNTER. This is an appropriation to settle the accounts of certain officers who had funds in their hands liable to be expended under several heads of appropriations. They expended too much under one head, and not enough under another; but they still had funds enough to arrange the whole account if allowed to do so by law. This is a mere provision to enable them to settle their accounts.

The amendment was agreed to.

The PRESIDENT. The amendments reported by the Committee on Finance, and printed with the bill, have now been gone through with.

Mr. HUNTER. There is another amendment of the committee, which is, to insert after the word "economical," in the third section, the words "proper and advisable," and I do not know whether it has been printed or not. The effect of that amendment is to make the provision read—

"That the Secretary of War be directed to report to Congress whether, in his opinion, it would not be more economical, proper, and advisable to cause all the arms of the United States to be made by contract."

The object of the committee was to extend the inquiry beyond the mere economy of the thing, and to inquire into the propriety of it.

The amendment was agreed to.

Mr. HUNTER. I offer another amendment, in accordance with the recommendation of the head of the War Department. It is to insert the following as an additional section:

"SEC. 7. *And be it further enacted*, That additional rations shall hereafter be allowed to the commissioned officers of engineers when in command of separate and fixed or permanent posts: *Provided*, That the commandant of no post shall be entitled to receive such additional rations unless the same be designated by the Secretary of War as a double-ration post."

The design of this amendment is to put the Engineer Corps on a footing with the other corps of the Army. Owing to some mistake, a clause in the act of 1850, by which they were put upon an equality, was construed to last only for a single year. It is designed by this amendment to place them on the same footing with the other corps of the Army.

The amendment was agreed to.

Mr. SHIELDS. I have several amendments to offer by the direction of the Committee on Military Affairs; but before I do so, I should like to inquire of the honorable Senator from Virginia whether he has got through with the amendments of the Committee on Finance?

Mr. HUNTER. I am through.

Mr. SHIELDS. There is in this bill a proviso to the appropriation for repairs and improvements at Springfield armory, as follows:

"*Provided*, That from and after the 1st day of July next so much of the act of Congress, approved August 23, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps be, and the same is hereby, repealed; and from that day the said armories shall be under that system of superintendence which existed prior to the passage of said act of Congress."

The effect of this provision is to take the armories from under military superintendence, as they are now, and to place them under the superintendence of civilians. I move to strike out that proviso. I wish to leave it as the law now stands, and to leave the armories under military superintendence. The object of the provision as it came from the House is to transfer the armories from the present military to a new system of superintendence, and that, too, in an appropriation bill without any previous consideration or investigation. I think that it is an improper mode of legislation.

Mr. DAVIS. I should like to hear the Senator from Illinois give some reason for that amendment.

Mr. HALE. I rise to express the same wish which has been expressed by the Senator from Massachusetts. This provision is one which has been before Congress for a good while in different shapes. It has been here for several years, and it has been based somewhat on charges brought against individuals who have had the supervision of these armories. Whether or not they have had any opportunity to meet the charges I do not know. I freely confess that my impressions and my prejudicies, if they may be so called, have all been in favor of the change proposed by the bill as it comes to us from the House. But at the same time I am free to confess that since the subject has been before Congress at this session, considerations have been addressed to me which have made me doubt somewhat the propriety of my former convictions on the subject; and I am unwilling to retain this clause as it comes from the House if it is an implied censure and condemnation of the officers who have been in charge of these armories under appointments from the Ordnance Bureau, unless they have had an opportunity of being heard. As a naked question, independent of any matter of reputation connected with the officers who have had the superintendence of the armories, I am free to confess my opinions, my convictions, and my prejudicies, are all in favor of putting the armories under civil superintendence. I cannot readily see the propriety of subjecting a machine-shop to military command. If this change be made as proposed by the House, I hope that the Naval Committee will go still further, and that they will take the workshops in the navy-yards from under the superintendence of naval officers and put them under civil superintendence. I do not see any reason why the mechanics who labor in the navy-yards and in machine-shops, turning wood and metal, and all that sort of thing, which belongs to handicraftsmen, should be subject to the rigorous and rigid discipline of military supervision.

If the change is made here, and if it is prudent and proper to make it here, why not, in regard to the navy-yards?

Independent of the fact that it is connected with an attack upon the reputation of gentlemen, which I should not wish to sanction without their having an opportunity to answer, I should be in favor of the measure, and I should be in favor of carrying it out. There are as many mechanics who work at the navy-yards, and I think a great deal more, than there are in these armories. If the mechanics who labor in armories under the Ordnance Bureau shall be freed from military superintendence, I certainly hope that the same measure of justice will be extended to those who work in the navy-yards, who are far more numerous than those who work in the armories.

I hope the honorable chairman of the Committee on Military Affairs will state to the Senate fully and freely his views on the subject, for I confess it is one of the very few subjects which have been before the Senate since I have been here, upon which I am desirous of having some remarks made. I am in doubt. I am in difficulty. I do not know how to vote, and I want light from the chairman of the committee who has investigated the matter, and who is prepared to shed light upon it.

Mr. SHIELDS. I really believe that I shall not be able to give the honorable Senator the information which he seeks; because, in my humble opinion, the information should come from the side which asks the change. There ought to be reasons shown for the necessity of the change before it is proposed. This is a radical change so far as this single branch of the service is concerned. So far as the parties who seek the change are concerned, they have never yet given me any reason for it. I have never heard any. I can state this, however, that of the whole public service, military or naval, so far as I am acquainted with it, no portion has been managed as intelligently, wisely, and frugally as this portion which is intended to be changed by the provision which has come to us from the House. There is but one feeling in the Army on that point, so far as I understand it. So much so, that no military officer, Secretary of War, or President, has ever yet made a recommendation to change the armories from military to civil superintendence. On the contrary, every application of the kind that has been made to the War Department has been resisted, on the ground that this branch of the service was most faithfully performed by the officers who were in charge of it. Consequently, for my life I cannot see any other object in this change than this, that there are some men who prefer getting these places for themselves: they want to get the charge of these armories, and to turn out the officers who now have charge of them.

That this change will be a disadvantage to the military service, I am as certain in my own mind, as I am of my own existence. It will be detrimental to the economy, and to the efficiency of this branch of the service. That it may be an advantage to speculators who intend to convert these armories into a matter of speculation, I am also satisfied. They have an interest in this proposition, and I think that is the interest which has pressed this matter.

I should like to know upon what ground the armories are to be taken out of the control of the Ordnance Bureau. Since they have been under the control of that bureau, they have been confessedly well managed. Why should they be taken from it, and placed under the control of men, we know not who? There is no charge, as I understand, against the fidelity, the honesty, the capability, or the efficiency, of the present officers. On the contrary, this is, of all other branches of the public service, that which is best managed, so far as I understand. It is confessed by everybody that it never was so well managed as it has been under the superintendence of the Ordnance Corps. It was under the superintendence of civilians formerly, but the Department was compelled to make a change. Since then it has been retained in the Ordnance Corps, under Whig and under Democratic administrations; and for the simple reasons that these men in the position which they occupy resist every attempt to introduce speculation and wild expenditures. I should regret very much to see any change made for the reason that I see no necessity in the world for it; but on the contrary, if the change is made, I, for one, will go in to abolish the armories altogether, and keep them out of this vortex into which I see they are about to be plunged. If we are to adopt the proposed change, let us have the matter open to competition all over the country. Let us purchase our arms wherever we can find them, purchase the best and the cheapest, for I see what is coming. If this change be made, there is not a new project for arms of any kind which will not be before us asking for appropriations at the next session.

Mr. MILLER. Mr. President, I am in favor of the amendment proposed by the Senator from Illinois. As the law now stands, the armories are under the superintendence of gentlemen of great skill and of high character. I speak particularly of the armory at Springfield. The armories are under the control and supervision of officers of the Ordnance Corps. It is proposed by the bill as it came from the House, to take the armories away from military superintendence and transfer them to civil superintendence. I have heard no reason assigned, in the Senate or out of the Senate, or in committee, except an objection to the superintendence of one of these armories. There has been no general principle of objection urged, and if we now depart from the policy heretofore adopted in regard to the armories, I do not see why we should not carry the change to the extent indicated by the Senator from New Hampshire. If the armories are to be managed by civilians, and not by persons who are presumed, by reason of their professional education, to have better knowledge for the purpose of constructing arms, I do not see why the principle should not be carried into the navy-yards, and all other matters connected either with the Army or Navy. The Senate will see at once, that if we proceed to establish this as a principle, it will be impossible to prevent us from carrying it on throughout the other departments.

I understand that the armories are now conducted with great skill; that the work is performed with much economy and with great satisfaction to the Department. I cannot, therefore, conceive of any reason why we should change the system, unless it be the one which I have heard assigned, that the workmen in the armories should be relieved from what they call military superintendence. That is the only reason that has been assigned, and that reason will apply to all matters connected with the Army and Navy. If it be adopted as a

principle, you at once throw open the navy-yard and all the armories to a contest of civilians for office and for patronage; and we are at once to try the experiment of putting the armories under the control of persons who have had no experience whatever, and will therefore expose the Government to great loss, and this branch of the Army to inexperienced persons, who are not acquainted at all with the work desired to be made.

Mr. DAVIS. Mr. President, I am, I confess, somewhat in the condition of the honorable Senator from New Hampshire. There is a conflict of opinion upon this subject which perhaps does not make it entirely easy to ascertain what is the truth in regard to it. I would, with as much reluctance as any gentleman here, do anything which should reflect upon the character of these officers. As far as I know them, they do their duty. I know very well the superintendent of the armory at Springfield, and I know him to be a gentleman held in honorable estimation. I would wish, therefore, to do nothing which should seem to cast, by implication, blame or reproach upon him.

While I say this, I see that there are disputes about points which it is difficult for me to settle; as, for example, there is a controversy about the expense of manufacturing arms. It is said, on the one hand, that there has been a reduction in the expense. On the other hand, this is denied; and it seems that you come to one result or the other according to the data which you assume. Then there is a dispute on another point—whether or not the quality of arms has depreciated. There is a disagreement about that, and a controversy between certain persons in regard to this topic.

My difficulty is, that I do not understand enough of this controversy to undertake to settle and decide upon its merits; and I am called upon, if I vote for this amendment, to decide that question; whichever way I vote I must decide it. It becomes, therefore, my duty to act according to the best judgment, if forced to this alternative, though there is an array of gentlemen of great respectability on both sides of this question, who have expressed decided opinions; gentlemen who are known here and in other places to be persons of great respectability, and who differ in regard to it. The difficulty, I apprehend, is that what they term a military government over men who are mechanics by profession and civilians, is not the kind of government that is adapted to their tastes and feelings. It is distasteful to them, since the stringent character of it frets the feelings and creates an uneasy spirit. Whether there is any injustice done or not is a matter which I shall not undertake to decide upon these conflicting statements. I conceive that that is the real difficulty.

I have turned this matter over in my mind, and I have some difficulty in disposing of it to my own satisfaction. I have thought that the President of the United States could settle this question a great deal better, and more to the satisfaction of all concerned, than I could, and I intend to propose an amendment which will declare that the President of the United States shall exercise his own judgment in this matter, by continuing the present state of things if he deems that the public interests require it, or if the public interests, on the other hand, demand a civil superintendence, he may establish that system.

The President has the power to order an investigation. He has the power to look into this subject, and to ascertain the truth of the allegations on each side. The Senate have not that power. It is impossible for us to do it. Let the President, then, take it and settle it upon his own responsibility. That it is a subject surrounded with difficulties I know. That it may degenerate into a mere political matter, I am aware. It is very likely that civil superintendents will take that direction; but it is alleged that that is even now to some extent true. I do not undertake to indorse the truth of these allegations, however. I leave these matters as they are; and without detaining the Senate, I propose to amend the proviso which the Senator from Illinois moves to strike out, so as to strike out all after the words "first day of July next," and insert,

"The act of Congress, approved August 23, 1842, be so modified that the President may, if in his opinion the public interest demands it, place over any of the armories a superintendent who does not belong to the Army."

Mr. PEARCE. I think it would be better that Congress should wait until they have an intimation from the Executive of the necessity of some change in this law, before we adopt even the amendment of the Senator from Massachusetts. In the infancy of our military system, I believe the superintendents of the armories were civilians, and they were so, because at that time we had no ordnance officers in the Army. Subsequently an Ordnance Corps was created, and to that corps, the law as it now stands, intrusts the management of the armories and the manufacture of arms and ammunition. That change was made by law, I believe, in 1842. It was not made without due consideration. A commission was organized in 1841, to examine into this subject. That commission made a very thorough examination, and presented the report which I have before me, and from which I beg leave to read a few passages to the Senate. They say:

"They deem it of primary importance to have the armory under the direction of the Ordnance Department. Such an arrangement will insure a permanent and capable superintendent, over whom the Department can exercise a military control, and who will be responsible in the penalty of his commission and his reputation as an officer for the faithful observance of all the regulations established by the Department. It will also place the establishment beyond the control of local and political influences, give permanence and uniformity to all its operations, and insure a just and impartial administration. It is of the first importance that the superintendent should be a man of science, well acquainted with the best models of the musket, versed in the construction and operation of machinery, educated in habits of punctuality and order, and accustomed to control and direct the labors of others. These qualities, the board suppose, are more likely to be found in an ordnance officer who has attained sufficient rank in his corps to be intrusted with such important duties, than among the various applicants from civil life. Should the Department decide that existing laws require the appointment of a superintendent not of the Army, the board would suggest whether the interest of the Government would not be best served by requiring him to perform all his duties under the direction of an officer of the Ordnance Corps? Had this corps been in existence at the time of the establishment of the armories, there seems no reason to doubt that their entire direction would have been confided to it, as they were immediately transferred to it on its creation. This would have given their management to a military superintendent, and obviated the anomaly which has existed of a military establishment under the direction of a military Department, and yet subject to the superintendence of a civil head."

I will not read further from this report. The Senate will observe that prior to this period the selection of superintendents of the armories was not made with reference to the probable qualifications and fitness of the incumbent. Sometimes it presented an amusing incongruity. Before the establishment of this system, by which a military supervision was provided for these armories, we had the singular spectacle of a minister of the gospel presiding over one of these establishments—a very respectable gentleman, I have no doubt.

Mr. HALE. Why is that singular?

Mr. PEARCE. I think it is singular, because the profession and duties of a minister of the gospel are not those in the exercise of which he could acquire skill in the invention or fabrication of instruments of death and destruction, and I know no affinity between the clerical order, whose mission is one of peace on earth and good will to men, and the military profession, unless we find it in the answer to a conundrum—they both deal in the *cannon law*.

Perhaps, however, the appointment may have been due to the reverend gentleman's name, which was Robb. Whether there be any connection between that word and the pursuits of war, I will not further suggest. [Laughter.]

Well, sir, Mr. John C. Spencer, when he was Secretary of War—and I think I may say, without fear of contradiction, that a more astute man, with higher administrative faculties, never presided over that Department—recommended that change in a report dated June 29, 1842, in consequence of which the law of August 23, of that year, was passed. I believe he had given it a thorough investigation, as had his predecessor. But the commission to which I have referred reported on the subject during his administration of the War Department. Subsequently, charges were made against the military superintendent of one of these armories. I have before me a copy of the proceedings of the court of inquiry convened to investigate the truth of those charges. I propose to read a few extracts from the testimony taken then, to show the character of the military management of the armory at Springfield. In the testimony of Mr. Pomeroy, of Pittsfield, I find the following:

"My contracts with the General Government have been since 1816. For twenty years past all my contracts have been predicated upon models sent me, by which I was to make my verifying instruments, and be otherwise guided. I had a right to a box of muskets from the armory, to which the inspectors might have reference for comparison with my manufacture. For very near half this twenty years, an inspector from the United States armory has been at my armory; and whenever, in the inspector's opinion, I had got behind ('behind in quality') the Springfield armory, I referred him to the muskets we had on hand. The inspectors would say that this box of muskets that I had were far behind those of Springfield; and by my contract, I was obliged to keep up with the improvements at Springfield. The next notice I had was from the War Department, that this box of muskets I had must be returned, and a new box sent to me. I found uniformly that they had been improving from year to year. The last box, I should think, was sent perhaps two and a half years since, which was a great improvement on the first box sent of the new model of 1839 and 1840."

That is when they were under civil superintendence.

"I have frequently had occasion to come to Springfield to examine the arms to see if I fell behind them, and have done so pretty faithfully for twenty years. In every examination I have so made, I have thought they have been improving up to this time in manufacture of material. I have examined muskets this morning, and I can say that there is a general improvement in them from 1840 to 1844; that it is difficult to specify from year to year, but several years would show a great improvement."

A variety of questions were put to him, in relation to the manner in which the work was done, the skill and fidelity with which it was conducted. All his answers were perfectly satisfactory, and showed that the work done at the Springfield armory, during the military superintendence, was much superior to that done when it was under civil superintendence. I will not exhaust the time of the Senate further by reading any extracts from this testimony.

It seems to me perfectly natural that this should be the result. These ordnance officers are educated specially to fit them for this service. They have that peculiar sort of knowledge which, without their being practical mechanics, fits them for the superintendence of a work of that sort. What guarantee will you have that a civil superintendent will have any such general knowledge, much less that accurate and valuable information which you may expect from an officer of the Ordnance Corps? We know, unfortunately, what considerations, entirely foreign from those which should prevail, often determine the selection of civilians for office; and as they have gone to a clergyman, whose vocation certainly would not lead us to suppose that he would be peculiarly qualified for the superintendence of an armory, may we not expect that they will select hereafter civil superintendents from a class of people utterly without qualifications, or if not entirely without qualifications, at all events without full and adequate qualifications?

What, then, shall we gain by this change? We shall only increase the expenditures of Government and enlarge Executive patronage. We shall only feed still more fully that lust of office which is getting to be an absolute disgrace to the country, which seems likely to become almost as general as the elective franchise itself, and which would convert and is converting members of Congress from statesmen which they ought to be, and by courtesy at all events are, into something for which they were never intended—mere *gratis* advocates and office brokers. That really seems to me to be the great business which the public now expect us to perform, and which, if we do perform, will not leave us a fragment of time for our legitimate duties. This proposed change will stimulate this vitiated appetite for office. I admit that it is but a small sop to Cerberus; but it is a sop nevertheless; and it is one which I think we ought not to throw to the triple-headed devourer.

Now, Mr. President, this military superintendence has continued for eleven years. I think it is incumbent upon those who ask us to change the system to show us, not on a sudden *ex parte* statement, but on an examination thoroughly and properly made by competent officers, persons of integrity and information, that the present system requires change. None such has been exhibited. Some complaints have been made, it is true, like those to which the Senator from Massachusetts has alluded, of the dissatisfaction of the laborers with the strictness of military employment. Sir, if there should be anything oppressive in the conduct of these military superintendents, what is easier than for those who are oppressed to make complaint to the head of the Department, who unquestionbly would interfere (unless he were

such a man as I trust will never go into that place) to protect them from such oppressions. But, sir, is it not the nature of man to endeavor to escape from the just requirements of labor? What else have we been doing, ever since our first parents were driven from the garden of Eden, except to cheat that decree of Providence that man must earn his bread by the sweat of his brow? Men have pretty generally been trying to get their bread without that sweat of the brow, or at least with as little of it as possible; and I think that is the reason here.

Mr. HALE. That is the explanation of slavery. [Laughter.]

Mr. PEARCE. I take it for granted that there is no such oppression as an industrious, honest, working-man, could reasonably complain of; or, if there is, it does not result from the nature of the system, but from the personal character and peculiar temper of the officer at the head of the armory; and that undoubtedly might be removed by the Executive, and would be, if it turned out to be true. I have quite confidence enough in the incoming President, and the gentleman who, I have been told, is to be Secretary of War, to believe that they will not tolerate any oppression of the workmen. Besides, the same peculiarities of temper are as likely to be found in a civilian.

I believe that there has been, according to the proof with which we have been furnished, greater efficiency, and certainly no departure from economy, in the manufacture of muskets and other arms, in the armories, under this system; and greater efficiency is a matter of much more importance than mere economy. Now, sir, I think, the system having been pretty well tried, and no good objection having been shown why we should depart from it, it is obvious that this body ought not to change it in this method, upon the spur of the occasion, upon a mere suggestion, as it were, almost unaccompanied by any argument or evidence, and on the passage of an appropriation bill. I trust the Senate will not act precipitately, but will throw this provision out of the bill; and if the system is to be changed at all, let it be done on full advisement, and after thorough investigation.

Mr. BORLAND. The proposition of the Senator from Massachusetts is, as I understand it, to confer upon the President by express enactment, power to put these armories under such supervision as he may think proper. I apprehend that he possesses that power already; and the only effect of that amendment, it seems to me, would be to reflect not only upon the head of the Executive Department, so far as I know without cause, but upon the officers of the Army who have been intrusted with the supervision of these armories. It is therefore not necessary to adopt it, and if adopted, its only effect will be indirectly to cast censure when we have no evidence that censure is due.

The Senator from Illinois, the chairman of the Committee on Military Affairs, very properly said, as I think, and with great force and propriety, that if this change is to be made, those who propose it should show some good reason for it. Now, to the Senate at any rate, no reason whatever has been shown that the change should be made. No one has attempted to give a reason; but very strong, very good, and, in my opinion, very conclusive reasons have been given why the change should not be made. The armories are now well conducted. The quality of arms manufactured at them has been improved every year, and it is now better than it has ever before been. There is evidence upon good authority here that not only has the quality of the arms been improved, but greater economy has been obtained. It seems to me that for these reasons alone we should oppose the change.

Mr. President, I have no prejudices in favor of the armory. If I have prejudices at all—and I trust I have none, or as few as any one else—they are in a very different direction. But I have seen enough of the operations of the armory, in the manufacture and preparation of arms at least, to satisfy me that the system, as it is now conducted, is a wise, practical, and useful one; as good, perhaps, as we can attain at the present time. That there are persons in civil life who desire profitable employment, and the certainty which the payment of salaries from the Federal Government would give them, who wish to get into these places as superintendents of the armories, is very natural. We see on all sides not only no unwillingness to serve the Government, but a desire for office, which I am compelled to say is anything but creditable to the character of the American citizen, not only in this instance, but in almost every department of the Government, from one end of the Union to the other. I think, therefore, it would be in good taste, and that it would be good policy, looking to the interests and the character of the Government, to discourage rather than encourage such a spirit as is overspreading our country, and, in my opinion, degrading the character of American citizens. We find them coming from all quarters, begging at the door of the Federal Treasury to become stipendiaries upon the Government, unwilling to throw themselves into the world, and into the general competition in which all citizens are protected alike, dependent upon their own individual exertions, and their own merit, to sustain them in the pursuit of any business which their talents or their tastes may lead them to engage in. For this general reason I should be opposed to any change.

The Senator from Illinois, I think very properly, suggested that if we make this change at all, and place the armories under civil superintendence, we should abolish the whole system, and let the Government, like the individual citizens, when it desires to purchase arms, go into the market and purchase where it can obtain the cheapest and best. But as long as we retain our system of manufacturing arms as a part of our military system, and under the general supervision of the War Department, I insist that we should be violating a very important principle of action if we refused to permit the head of the War Department, or the chief Executive of the nation, to employ such agencies as they may deem best to execute the laws which we pass for their government. I think we ought to permit the head of the War Department to be a judge of the agencies, to say where, and when, and by whom these arms shall be manufactured; and when we depart from that principle, and undertake by legislation, and especially by such legislation as this, to incorporate an important law, changing an important system of operations in the public service, upon an appropriation bill, as a mere amendment, we are running wild; we are going in a direction which will be injurious to the public service.

Complaint has been made—and the amendment seems to have grown out of that complaint—that the discipline required in the armory by the military superintendents is oppressive, tyrannical, and unjust. I know from my own observation that the operations in the armories and all the other branches of the public service where military rule prevails are conducted with great regularity and great system. There is an exactness of hours and of habits required on the part of the employees. I have never known oppression. It may exist, but it has not come under my observation. But I do know this, so far as my observation enables me to judge, that the persons employed in the military service or in our navy-yards do less work for the amount of money which they receive than persons under civil supervision. Wherever I have seen them, they labor fewer hours in the day, they are required to labor less actively during the time they are engaged, and they are better paid than persons in civil employment. I ask, even if the complaints are well founded, if oppression does exist, why should they continue in this employment when they can leave it whenever they think proper, and can get employment under civil supervision? They are not enlisted soldiers; they are soldiers and artisans who can be employed or get clear of employment at their will at any time when they think proper to leave it.

There is no reason why there should be oppression—why these men should be unjustly treated. The military superintendents have no inducement to be oppressive, or to require more work than the individuals can perform. They derive no individual profit from the operations of the armories. They get their regular salaries, and perform their regular duties, and whether the employees work five or ten hours in the twenty-four, whether they work hard or not, whether they get well paid or not, the superintendent of the armory derives no benefit. It is unnatural to suppose, unless we presume a monster in the shape of a military officer, who superintends an armory, that this oppression and tyranny, this exacting from workmen harder conditions than is proper for the performance of the work, should exist. I do not believe any such thing. I hope the amendment proposed by the Senator from Massachusetts will not be adopted, but that we shall adopt the proposed amendment of the Senator from Illinois, and strike out the provision entirely.

Mr. TOUCEY. Mr. President, I propose to give my vote, notwithstanding what has been said, in favor of the amendment submitted by the honorable Senator from Massachusetts [Mr. DAVIS] in the first place, and if that does not prevail, in favor of the bill as it came from the committee and from the House of Representatives. This subject has come up suddenly and unexpectedly. I shall not say anything with regard to the particular management in either of the armories. My vote will be controlled by two considerations. I shall vote for the amendment of the Senator from Massachusetts, on the ground that it leaves to the appointing power the whole field from which to select in making the appointment; and I am willing to intrust to him the power which the Constitution has conferred upon him, of appointing—and where it is necessary with the consent of this body—public officers. I am not willing to restrict him by law to the Army or the officers of the Army, or to any corps in the Army, in appointing the superintendent of an armory. The business to be superintended is strictly a mechanical one. Your arms must be made by mechanics. The officers in the Army and the soldiers in the Army can use them when they are made, and they can select the best arm after it has been made, upon trial. But they cannot manufacture an arm. It is out of their province. On the contrary, the arm is to be manufactured by the mechanics of the country, wherever they perform their work. Now, sir, I am not prepared to say here by my vote that the mechanics of this country cannot furnish the best superintendents of mechanical business. I think it is a matter of public notoriety, that the establishments which already exist for the manufacture of fire-arms under private control, are ahead of your armories. I think our public establishments find it difficult to keep up with private enterprise, with private skill—with the skill of the mechanics of the country. I am, therefore, entirely opposed—acting upon my own judgment—to the restriction of the appointing power to the Army, and excluding practical mechanics from the control of this mechanical business.

The considerations which I have suggested, present, also, the other view of the question, which I present in favor of the bill as it came from the House of Representatives. I am not willing to require that the mechanics engaged in this business, which is their own business, in which they have peculiar skill, shall be put under any officer of the Army, who may have no mechanical skill whatever, and probably has none. I think, that since they are engaged in what is properly mechanical business, it is very proper that they should not be put under the control of an officer of the Army. I think that private enterprise will carry the manufacture of fire-arms to a greater degree of perfection, and will supply the Government even better than the Government can supply itself. But if it is thought expedient to continue the armories for the manufacture of the arms instead of obtaining them as we do obtain many now, by private contract, I would place them upon the footing of mechanical establishments where private citizens are engaged in their own private business, their professional business, the business of their trade, and that they may be under the control of suitable superintendents, selected by the President with reference to their qualifications as superintendents. I would not confine the President to the mere fact that a person is an officer in the Army in making his selection of a superintendent. I shall, therefore, in the first place, vote for the amendment offered by the Senator from Massachusetts, with which I am content, and if that does not prevail, I shall vote for the provision as it passed the House and came from the committee.

Mr. SHIELDS. I would suggest to the honorable Senator from Massachusetts to so modify his amendment as to leave it to the War Department to investigate this matter, and to give to Congress the benefit of its investigation. If there is anything wrong, let us understand it properly

and officially, and not get our information from agents who may be prejudiced or interested. I am perfectly willing that the honorable Senator should introduce such a provision as I have suggested. Let the War Department or the President make a thorough investigation of the matter, and if there is anything wrong, let us understand it; but to jump at conclusions in this way, it seems to me, is wrong. The honorable Senator from Connecticut is quite mistaken in one thing. These gentlemen who superintend the armories are educated for the very business which they are called upon to oversee. He misunderstands the whole thing. True, mechanics, good mechanics, are necessary, but it requires a higher degree of scientific attainment than most mechanics possess, a higher department of skill than mere mechanism. The manufacture of shells, of cannon, and the science of projectiles, all have to be understood by the head of an institution like that. All this the superintendent of an armory ought to understand. More than that; in an army of twenty thousand men there cannot perhaps be found ten men capable of conducting that branch of business, which requires such an amount of skill. It is more difficult than to lead an army. Why, we have propositions every day for the adoption of some change in the muskets used. These projects may appear to some persons who are good mechanics as useful improvements, but bring them to the examination of experienced officers, and they will tell you that they will not operate well. Why? You must make them uniform, and must have the same kind of ammunition.

I repeat, that we have the best and simplest and most manageable arms in the world under our present system. And we have the very best ammunition in the world. All this is acknowledged, for it has been tested. If this system be abolished, the whole thing becomes a nuisance, and in two years the gentleman will find it such a nuisance that he will vote for abolishing the whole. I am for abolishing it the moment this is stricken out. I will state further, that I would prefer leaving the matter with civilians at once rather than adopt the proposition of the Senator from Massachusetts, which would throw upon the President the necessity of meeting the struggle between the officers of the Army and civilians. Does the Senator want that struggle thrown upon the President—one party striving to retain the position and the other trying to get in? Is that the scramble that ought to be thrown upon the President? Sir, the system is either right or wrong. If it is right, retain it as it is; at all events, continue it as it is until the men who are coming into power investigate the matter thoroughly and give us information on the subject. If it is wrong, abolish it at once. But let us not shift and shuffle off the responsibility of deciding this question upon the President for the purpose of getting clear of the difficulty. Will you say to the President, "Here, now, you settle the question between the Army and the civilians?" I do not believe there can be found a man who will go into that office, Whig or Democrat, if he investigates this subject, who will not say, that if the arms are to be manufactured at all, and you are to keep up your Army, the knowledge and science and skill of the officers of that Army ought to be brought to bear upon the manufacture of the arms which they are to use, and not leave it to Tom, Dick, and Harry, or anybody who may come here trying to get their inventions patronized by the Government when there is not a man who has had any experience in the Army who would risk an army with them in the field. The men who are now at the head of the armories have tested many so-called inventions, and saved the Army from having to use what would not have been efficient. A thousand projects have been proposed, not to make the Army more efficient, but to get money out of the Treasury of the United States. They cannot get them in deep enough now; the men at the head of these armories will not let them. But when they get more willing instruments appointed, you will see how it will be. I would rather abolish the armories altogether than to destroy the present system.

Mr. BUTLER. I understand that the proposition before the Senate is to strike out the clause in the bill which relates to the superintendency of the armories.

Mr. SHIELDS. I will state to the Senator that a motion was made by me to strike out the clause proposing to change the superintendency of the armories from a military to a civil. The Senator from Massachusetts has moved to amend that, by leaving it to the President to select the superintendents from civilians or military men.

Mr. BUTLER. I am satisfied of one thing, and that is, that I concur fully with the Senator from Illinois in saying that the superintendency of the armories should not be taken away from military men. How far I might consent to allow the military establishments to continue with additional ones under the control of civilians, I am not prepared to say; but to alter a system which has operated so admirably since it has been instituted, would be unjust, impolitic, and in my opinion, pandering to this mania for getting money out of the public Treasury, to which the Senators of the United States should not yield. Why, sir, does not the universal opinion, not only of our officers, but as I understand European judgment and criticism, authorize me to say that for excellency there are no arms in the world compared to those manufactured in America, and by these armories under the superintendency of military men? Who are interested in having the arms made well? Those who have to use them. But it may be said that the arms made under the direction of civilians will be subject to inspection. Do we not all know that no one can inspect the arms and detect their defects so well as those who are engaged in the manufacture of them? It is useless to tell me that he who is engaged in observing every day the process by which the arms are made, would not be the best judge of that arm, cannon, or musket, and that his examination would not be better than if it was subjected to any other examination or criticism whatever.

I am told that under the old system, when the armories were under the superintendency of civilians, frauds and abuses and evasions, and a state of things existed which rendered it almost unsafe to trust troops with the arms made. How has it been since, under the superintendency of military men? Sir, my friend and constituent, Colonel Huger, is a guarantee. He has made his cannon speak a voice, not in an obscure corner of the United States, but a voice which has given him a title to know something about the making of arms. And so of Colonel Ripley; and yet you are to throw such men aside—men who have won laurels in the field, and given a reputation to our military—and put the business into the hands of contractors; and upon what ground? Sir, it is for the benefit of the men who have their agents round the Capitol importuning as they are for money, for jobs. I do think it will be impolitic, as I have said, and certainly unjust to do it. I will agree to retain two of the armories under the superintendence of military men as guides and standards, leaving the armories in other parts of the United States to be given out to contract. That might be done.

Mr. CASS. We have but two.

Mr. BUTLER. We might have others if we choose. Sir, I know it is very difficult to resist these committees, who in the name of Democracy—or party, perhaps the Whig—press forward their candidates. It seems to me to be the opinion of some that just indorse a man as a Whig or Democrat, and it gives him science enough to supersede all the military men in the world. The advantage is in the name; the indorsement is better than the principle itself. I have been told by a Whig, when I asked him if such a man was fit for a certain position, "Why, sir, he is a Whig! —the term implies that he has intelligence enough for anything." [Laughter.] And about the same thing, with a change of the name, was said by a Democrat, "What does a Democrat want with science; the progressive tendency of the age is enough to sustain him." [Renewed laughter.] Science, military science, is to give way to all these temptations for office. I cannot vote for it. I think it unjust. I speak with a little more feeling on this, because of my friend and constituent, Colonel Huger, who is now in the superintendence of the armory at Harper's Ferry. He takes no special interest in the question; he wishes to give up his present position, and be transferred to another; and so does Colonel Ripley. So far as regards them, they do not wish the position. But in relation to their conduct, if any censure is implied in this proposed change, I rise to vindicate them against any imputation, either of using arbitrary favor, or deficiency in the performance of their duties.

Mr. BELL. I have listened to the representations of intelligent gentlemen out of the Senate, on both sides of the question—gentlemen who appear to be fair-minded—and although I concur with the sentiments of the Senator from Illinois—the chairman of the Committee on Military Affairs—and those delivered by the Senators from Maryland, South Carolina, and Arkansas, as to the efficiency of the superintendence by officers of the Ordnance Corps over the armories, and that it has been more efficient than was the civil superintendence, yet complaints have been made long ago, and have been repeated so often, and interested men have taken such pains to propagate their views of the character of this superintendence, particularly in reference to the unpopular and odious feature of what is called military rule, that a decided impression has been made upon the country, not only upon the immediate vicinity of the establishments, but more extensively; and I would suggest, as a means of giving the satisfaction which the country may want, and require, and to put an end to these complaints, and to prevent their becoming so extensive, and having so great a control over the general sentiment as to force an abandonment of the superintendence of the armories by the ordnance officers altogether, it would be better to take a middle course. Let the superintendence stand as it is at present, by law and the regulation of the Department, and provide, not that the President of the United States shall, at his election, say what shall be the character of the superintendence, but that he shall be required or authorized to appoint a joint commission of civilians and ordnance officers to examine into the grounds of the complaints against the superintendence of the military officers, and the character of the military rule which is complained of; see what are the defects of it, if any there be, and whether there has been any improvement on the old system of management under civil superintendence, and then let Congress at the next session decide the question.

The proposition, at present, is, by way of an amendment to an appropriation bill—a very unusual course, and one which the Senate has repeatedly said they would not abide by—to make a material alteration in the legal regulation by which the armories are conducted. I have some knowledge of the history of the change in the superintendence of the national armories. It is not altogether a party matter now. This application is not pressed upon Congress so much by partisans of one party or the other, as it is by an aggregation of the malcontents of both parties. Sir, in 1841, when the change was made, I remember very well that there were loud and earnest complaints from the armories, not only from the workmen and employees incidentally employed about the establishments, but from the whole population around them—Whigs and Democrats. It was not confined to one party; although the Democrats in 1841, when the change had taken place, were in power, and expected to go out of the superintendency with all the civil dependencies attached to the establishments, they were almost as loud as the Whigs themselves bringing their complaints to the Executive of the United States against the propriety and wisdom of making that change. As for the Whigs, I very well remember it was the opinion of many leading Whigs in the neighborhood of one of the establishments, which was decidedly a Whig district, that the prospects of the Whig party would be destroyed there if any such change should take place. A delegation of Whigs from a large meeting was sent to the Executive Government of the United States to remonstrate against the change, on the ground that the civil superintendency was doing very well; there was no complaint against it; neither Whigs nor Democrats had anything against it, and that if it was made it would operate to the detriment of the Whig party, without bringing any adequate advantage to the country or to the public service. Then again in 1842, I believe, the remonstrance was repeated against the change. In 1845 similar remonstrances were made; and it is repeated again at the commencement of a new Administration. When a Democratic Administration came in in 1845, the Democratic party perhaps took the lead in the movement; but I understand that the Secretary of

War at that time (Governor Marcy) was so much interested by the complaints which were made on one side against, and the high praises which he heard reiterated on the other in favor of the military management, that he paid a visit to the Springfield armory, so that he might judge from personal inspection.

Mr. HALE. He went there more than once.

Mr. BELL. He visited the armory more than once, the Senator from New Hampshire says, and his judgment confirmed the wisdom of the change which had taken place. I remember, also, the nature of many of the abuses which were said to have existed under the civil superintendence. I will not repeat them here. I am perfectly satisfied that the present arrangement is the proper one, and that it would not do so well to have the superintendent selected, as suggested by the Senator from Connecticut, from the corps of mechanics, manufacturers of arms themselves, because there is a very great difference between selecting a mechanic to superintend a public institution of this kind and a mechanic who superintends his own establishment; for, in the latter case, his own interest will be a sufficient guarantee that he will attend to the proper construction of the arms, and insure their passing the proper inspection. But, notwithstanding all this, I think it would be more satisfactory, and more apt to maintain the present practice of placing ordnance officers at the head of these institutions, if we would, in place of the provision put in the bill by the House, authorize a joint commission of civilians and ordnance officers to make a thorough examination into the complaints; and I believe I may say, that I have the authority of the officers of that corps for saying that such an arrangement would be satisfactory to them, and they desire it. They desire that their superintendence of these establishments shall be brought to the test, not of military officers belonging to their corps, or the Corps of Engineers, or of any other corps, but a commission of intelligent civilians, united with a sufficient number of ordnance officers, who would be able perhaps to add to the value of any investigation and report which might be made. For that reason, I wish the honorable Senator from Massachusetts would change his amendment, so as to authorize the President or Secretary of War to appoint such a commission, and that that should be adopted in lieu of the provision of the House. I think that would be more satisfactory to the country.

Mr. HUNTER. I hope we shall have a vote on the amendment. I believe it has been sufficiently discussed; and I am very anxious to conclude this appropriation bill to-day.

Mr. MASON. One of these armories is established in the State of Virginia, not far from my residence, and it has happened that in having some intercourse with that portion of the State, I have been made personally acquainted with the fact that there is existing at Harper's Ferry, where the armory is established, a great deal of disaffection, amounting almost to an odious feeling on the part of the citizens, as well as the mechanics employed there under the military rule, as it is called in the act of 1841. I agree with the honorable Senator from Massachusetts, that there is a great deal of difficulty in this subject. I am perfectly willing to admit, so far as my own judgment is concerned, that where the action of any Department of Government is odious to a portion of the community, that action should be changed, or so modified as to avoid that feeling, if it can be done consistently with the public interest. I see no reason why any part of our Governmental establishment should be retained in such a form as to be odious to any portion of the citizens of the country. It is very natural, and I know the fact to be, that the particular department of the army, the Ordnance Corps, which has charge of these establishments, feel a sort of *esprit de corps* in believing that they can have arms better manufactured under their superintendence than under a civil superintendence, and that they retain it. I have great respect for that corps, and great confidence in those who are now at the head of it; but, nevertheless, I know this fact—and it does not belong to that corps only—but it belongs to human nature: As long as these works, and works of a similar character, are carried on by governmental routine, where those who are engaged as mechanics are mere operatives, made to do a certain class of work and a certain quantity of work in a certain manner, it dampens the inventive faculty and discourages everything like enterprise. I apprehend the fact is known among the officers of the Army, that they discountenance and discourage everything like improvements, or as they call them, innovations, on the established order of things. I remember very well that some four or five years ago, a party of emigrants from the State of Virginia, who were going overland to California, came here, and at their instance, there was passed on my motion, a joint resolution authorizing the Secretary of War, at his discretion, to arm them with Colt's pistols, provided it could be done without injury to the public service, they repaying to the Government what had been paid for them. I went to the War Department and talked with the Secretary. He sent for the gentleman who was then at the head of the Ordnance Corps, who said at once, "by all manner of means let them 'have them; I should be very glad to get rid of 'them; the men will shoot themselves with them; 'they cannot shoot an enemy; they are constantly 'getting out of order; and they are the greatest 'humbug of the age;" and he earnestly advised the Secretary to let the emigrants have them. I knew nothing about the arm then; but I do know this: that the Government never bought one until Congress ordered it to be done, by a joint resolution, and I know that they are obtaining such a reputation in Europe that they are arming themselves with them there. I instance this only to show that it is a part of the practice of that corps to run down and discourage all improvements of that kind which do not come from themselves.

As to the gentlemen who have charge of the armories, I know personally the one to whom the honorable Senator from South Carolina has alluded. A more gallant officer does not exist, and I apprehend that this particular duty which he is called to discharge is one which is not perfectly agreeable to him, and that he would rather prefer some other duty. I am satisfied there is no personal imputation intended in this proposition. But this is a case in which we are to look first with an eye to the interest of the Government, and then to that of the citizens. My own mind is not yet satisfied with regard to the wisdom of making any change, though I believe it would be better to make it than to keep up the present feeling which exists, unless it can be shown that it will result injuriously to the country. If it shall be found after the change is made, if we should adopt the provision which came from the House, that the interests of the Government are prejudiced, it will be in the power of the Secretary to inform Congress and give the reasons. Then I apprehend one of two things would result. If it be found to be a fact that there is such an incompatibility between the civil pursuits of life and military rule that they cannot be blended, the Government must be separated from it, the armories discontinued, and the manufacture of the arms put out to private contract. It may come to that. I am not prepared to say. I know that one branch of arms—cannon—from the foundation of the Government to this day have been made altogether by private contract. How far it may be wise to put small arms in the same condition, I do not know. But as the question now stands, I shall vote for the provision as it came from the House.

Mr. BORLAND. I rise to correct a misapprehension I was under when I addressed the Senate before, with regard to the act of 1842. In making an objection to the amendment proposed by the honorable Senator from Massachusetts, I said that to accomplish the purpose which he sought, there was no necessity for the amendment, because the act already gave the power asked for. I find by a reference to the act itself, that the choice of the President is limited to the Ordnance Corps. My impression was that he had authority to select from any quarter. His amendment, therefore, to accomplish the object he seeks, is necessary; but there are other reasons, and very good ones, suggested by Senators, why we should not make the change asked for. It would throw upon the President a duty which would lead to a great deal of the most unpleasant of all embarrassments which any public officer could be exposed to, and subject him to the necessity of encountering all the outside pressure which results from persons coming here and besieging every department of the Government, legislative and executive, for jobs. I would not subject him to it. I would not change the law as it now stands, when its effect would be to subject him to that inconvenience. Let it stand as it is.

Mr. President, I will make only one remark more. It has been said, as I remarked before, that the basis of the proposed change is the misconduct of the officers superintending these armories. Well, sir, I learn, and I suppose there can be no doubt of the fact, that these complaints were made long ago against the superintendent of the armory at Springfield. So far from the Department here, or the President, seeking to shield the officer charged with improper conduct from punishment or censure, a court was ordered, and he was tried and honorably acquitted, after the whole matter had been fully and fairly investigated; and he was found to have discharged his duties in all respects—not only generally, but in the very items of economy, and in the improvement of the quality of the arms. He was sustained. The fact was shown that the arms which were made under his superintendence were not only better, but that they had been made at a less cost to the Government. So much for the complaints made then. The evidence now satisfies me that he has gone on from that time, and made the arms still better than before, and has made a great reduction in the cost.

Mr. PHELPS. I am not disposed to detain the Senate with a speech on this subject. I recollect very well the time when the superintendency was changed from civil to military rule, and I believe it was done at that time upon the recommendation or the concurrence of the Secretary of War. From that time, 1842, to the present time, these establishments have continued under the military superintendence. I now desire to ask whether we have before us any intimation from the War Department, or any other Department of this Government, that evils have grown out of this system which require our interference? If this system has met the approbation of the Department, and no evils are suggested, why consider the subject? But I may go further, and ask what intimation we have from any source which calls for our interference? It is said there is dissatisfaction. Suppose there be; shall we act upon that suggestion without first ascertaining whether that dissatisfaction is well founded? Shall we be led into any change of policy in this respect, simply upon surmises which are floating about this Capitol? Or is it our duty, before we enter upon this important change, to make an investigation of the sources of these surmises, and ascertain the facts? When we have ascertained those facts, we can act intelligently. If anything is done officially on this subject, I am altogether in favor of the suggestion of the Senator from Tennessee. The very first, and the only proper step, in my judgment, is, if these rumors deserve our consideration, to institute an inquiry to ascertain the facts, which, as I have said, will enable us to act intelligently. But it seems to me we are proceeding rashly, if we attempt to bring about this important change, and act upon no better data than mere surmises. Suppose the change is now made, on the ground that there is disaffection in the country, and the President appoints a civil superintendent, will there be less? In my judgment, if the change is made with no better grounds for it than those we have now, we shall have a perpetual fermentation, and a constant demand for changes. I repeat, if anything is done, let the suggestion of the Senator from Tennessee be adopted, and let a proper inquiry be instituted, so that we may have the facts; then we shall be enabled to act.

Mr. HUNTER. The chairman of the Committee on Military Affairs has informed me that he has a great many amendments to offer. I hope we may now have a vote on the question before us.

Mr. DAVIS. I presented yesterday a petition on this subject, which was represented to be signed by five hundred legal voters of the town of Springfield. That petition is couched in few words, but they represent as a fact that the persons in the armory are, in their judgment, oppressed by the military power—by the government over them. I do not pretend to vouch for the truth of the statements made in the petition; but it is signed by large numbers of the people living there, who daily witness what occurs. This is not the only testimony before Congress. I am not about to go into this

testimony at all, nor examine into its character or its object, if true. Several gentlemen, in the course of the remarks which they have made, have stated what is true, that from the time this change was made down to this day, there has been a dissatisfaction. All I desire is, not to undertake to settle this question upon the facts which exist before us, but that there shall be some competent commission of some sort or other to go there, and upon the spot examine and determine whether the evils exist or not. My honorable friend from Vermont [Mr. PHELPS] says there has been no complaint from the Department. Why should there be? The Department administers this business. It is the Department that places or continues the officer there who has the administration at the armory, and if the Department complains, it complains of its own administration, which is a very improbable thing. It is therefore very easy to understand why there has been no complaint from the Department.

The proposition which I have submitted, I thought opened the whole subject; that it placed the whole power in the hands of the President, where it ought to be, for such an investigation as he sees fit to make. When he has made that investigation, he can settle the question wisely, and keep the present superintendent, or go back to the old policy of having a civil superintendent. It seems to some that nothing is so proper as to have the administration of this business carried on by an officer of the Army. For fifty years, or nearly that period, the business was under a civil administration. For a portion of the time there had been some complaints, I believe, but for the most part the business had been well administered, and the arms well made. The arms made during that time were those which the gentleman from South Carolina has represented as being an honor to the country. They were arms with the use of which we went on so satisfactorily under that administration. I am not about to say that a military administration may not be better; but what I do say is, that dissatisfaction exists, and I wish to meet that in the spirit of fairness; and for that reason I wish the amendment I have proposed should be adopted. I do not wish to detain the Senate from a decision of this question; but I wish to have it fairly presented, so that these citizens shall be fairly dealt with; for I do not believe there would be such constant and continued complaints, unless something exists which deserves consideration. What it is I do not pretend to say.

Mr. BUTLER. I will make but one remark. The complaints are entirely local; but take any other part of the United States, and take any other men who will look at this subject fairly, and will not be influenced by the verdict of the vicinage, where the people of course want these contracts, and it will be a fair tribunal. Let public opinion in every other part of the United States pronounce its verdict, and it would be that this system of having the armories under military superintendency is the best; and we to some extent must be the organ of that public opinion. The Senate and House of Representatives ought to announce in favor of the intrinsic merits of the system, and not be governed by any local prejudices which may exist.

Mr. CASS. I shall vote for the amendment of the honorable Senator from Massachusetts, and I do it under the belief that it will be proper to vest the power which it proposes to vest in the Executive. I believe it is proper; and as the honorable Senator has well said, for many years these difficulties have existed. I am willing, therefore, to attempt to apply a remedy. I will say to the Senator from South Carolina [Mr. BUTLER] that he is under a misapprehension in one respect. The quality of the muskets does not depend entirely upon the superintendent. They are inspected by officers appointed for the purpose, and whether they be made by private contract, or in a public establishment—whether under a military superintendent or a civil agent—the inspection will be just as rigid, and the arms probably as good. I therefore repeat, I shall vote for the amendment of the Senator from Massachusetts. But I rose principally for another purpose, and I may as well say at this moment what I have to say, though it may not be strictly appropriate to that part of the bill before the Senate.

There is a predisposition in all Governments to run into magnificent and expensive establishments, and in nothing is that more evident than in the system of our armories. I called for a report from the Ordnance Bureau two years since. It was at the close of the session, and it did not come in time to be acted upon then. I have it now before me, and have ascertained some facts from it. In January, 1851, the amount of arms on hand possessed by this Government not including those in the hands of soldiers, and including the materials then on hand, being to the amount of thirty thousand, was six hundred and three thousand muskets and rifles. Since then, you have made an appropriation of $360,000 in 1851, and $250,000 in 1852, making altogether upwards of $600,000. At ten dollars apiece that product would give you sixty thousand muskets more, increasing your amount to something like six hundred and sixty thousand muskets on hand; and the pending appropriation asked for, $250,000, will make twenty-five thousand more, carrying your muskets up to near seven hundred thousand. Besides that, since 1808, we have had an annual standing appropriation of $200,000 for the construction of muskets to be distributed to the militia of the States. The number now remaining with the several States, I do not undertake to determine. It must, however, within every reasonable view of the subject, be more than two hundred thousand.

Then this Government with the State governments possess an amount at this time of probably more than nine hundred thousand muskets. I have before me a report made by the War Department in 1836, in which it is shown that the number owned by Great Britain in 1817 was about one million; and by France in 1811, in the midst of the convulsion of Europe, there were but six hundred thousand, excluding, however, the amount in use. It seems to me very improbable that this country can want a greater stock of arms on hand than is now in the public possession.

I shall not move to reduce or to strike out the appropriation, though I am willing to enter into that proposition; but my principal object is to draw the attention of the Senate and of the proper Department, to this subject, in order that, at the next session, this matter may be presented to us with a full view of all the facts necessary to a decision.

The evil of the thing is this: You go on and accumulate an immense amount of small-arms in store; improvements are made from time to time in the barrel, in the breech, in the lock, in every part of the musket; and then you either adapt the new improvement to the old musket—and that you cannot always do—or you sell off the stock on hand at an immense sacrifice, selling for a half dollar what cost you ten dollars. I should actually like to know, as a curiosity, the real number of muskets that have been sold by this Government in the last few years, and the loss the sales have entailed. I speak of no Administration, and Senators will so understand me. I allude to none in particular. I allude to the operation of the existing system, and I should like to know the number of muskets that have been actually sold off, in consequence of the changes which are continually taking place in the construction of arms. In a report from the War Department, in 1836, this branch of the subject is thus alluded to:

"Although the component materials of these arms are almost imperishable, still it is not expedient to keep a stock unnecessarily large on hand; because there is not only some risk and expense in their preservation, but because, like every other article manufactured by man, they are no doubt susceptible of great improvement. And it may be, that those now made may be superseded by an improved model, which, once introduced, must be adopted, at whatever expense or inconvenience, by all nations. And the ingenious invention lately exhibited in this city, by which a series of balls, in separate charges, are brought, by a rotatory motion, to a common place of discharge, suggests the possibility of a revolution in the form of our fire-arms."

Since then the great change of the percussion lock has been added to many of our muskets. There is, therefore, no necessity, no propriety, no economy in accumulating an immense quantity of muskets not required by the condition, present or probable, of the country, and liable to be perfectly useless to-morrow, and sold, as we are selling them almost every day, at half a dollar or some such price apiece. I have no objection to the accumulation of any quantity of material. That is another thing. It is imperishable. Let it go to the establishments and remain there; but let us check the system which is leading to such an unnecessary expense.

In anything which I have said I do not intend to cast the slightest reproach upon the superintendents of the armories. I hold them in high respect as able and faithful officers, and I agree fully with the Senator from South Carolina [Mr. BUTLER] in the testimonial he has borne to one of them, Colonel Huger, whom I know personally and esteem highly. But I am speaking of the operation of a system and not to the merits or demerits of persons. No doubt the superintendents have pursued the course which they judged best for the public interest; but we cannot shut our eyes to the difficulties that have arisen and are still going on, and I am willing to vest in the Executive the discretionary power to change the system if it should be judged best. As to the Ordnance Department, I am satisfied it is well administered, and that great improvements have been made in the manufacture of the public arms. Why, sir, one fact will show the looseness that formerly prevailed. During the war of 1812 muskets were distributed to the troops which had no touchholes, and this defect was not discovered until they had got into the hands of the soldiers. Such a thing could not happen now in the improved condition of the public service.

Mr. HUNTER. I have only a word or two to say in relation to this matter of the manufacture of arms. I think it probable there may have been some—I will not say abuses—but mistakes, and it would be very difficult to execute this branch of the public duties as to the furnishing of arms without being liable to abuses. It seems to me, however, that it would be wrong to agree to the suggestion of the Senator from Michigan, to strike out the appropriation for the manufacture of arms in the public armories, because the Government has a great amount invested in machinery there. It will be observed that the supply of arms comes from two sources; one is from the appropriation for the manufacture of arms in the public armories; the other is from an appropriation of $200,000 per annum for arming the militia. These $200,000 are expended, I believe, for the most part for arms made by private individuals, by contract. I find in the receipts and expenditures of 1851 an expenditure of $206,000 under that head, most of it to private manufacturers of arms. If we are to strike out anything in relation to this matter, it seems to me it would be better to diminish under that head, so long as we have these public armories in which the Government funds are invested. I will only suggest one other consideration, and that is, that we cannot compare the wants of this country in respect to the arms required with the wants of European countries. There the peace is preserved and the country protected by standing armies. The citizens at large do not need arms and do not know how to use them. We proceed on a different system. We depend on the militia and on volunteers. Every man knows how to use a gun, and although these arms have been distributed widely, they are not useless. Every man is in the possession of some sort of a gun, generally a public gun, and in that way he has the elementary instruction in the art of arms, and that is the use of the gun itself. So that perhaps we have not lost quite so much as the Senator from Michigan would seem to suppose in this regard. But I feel the force of much that he has said of the accumulation of arms, made before the improvement of the arts in this regard; and I suppose that if the subject was taken up in the proper time something useful might be done in that way; but I would be reluctant to do anything on this bill to change our policy with regard to the public armories.

Mr. CASS. The Senator from Virginia misunderstood me. I did not mean to say that these arms were thrown away, or that the expenditure was useless, or to draw any distinction between the public arms made by Government and those made by private contract. I merely went to the expediency of adding such an immense stock annually to our present stock. That is all. I would not touch the $200,000 now appropriated for arming the militia. That is sanctioned by the experience of almost fifty years, and I would continue it. There are twenty thousand muskets added every year. But now, while the subject is up, I will state that this subject does require examination. I rather intended, by what I said, to give a warning—as far as my feeble voice could do it—to those officers as to the necessity of looking more carefully to the expenditures. I see in the repairs

at Springfield, in 1852, $47,000 were spent; in 1853, $47,000—there is near $100,000 upon repairs in two years. The fact is, the subject should be examined.

Mr. SHIELDS. I desire to state to my honorable friend, that if such abuses exist, they ought to be corrected through the appropriation, but that does not affect the question before the Senate, so far as the superintendency is concerned. The question now is not as to the appropriation.

Mr. CASS. I stated in the beginning, that although it did not strictly bear upon the point, I did not want to trouble the Senate again, and would say all I had to say on the subject.

Mr. SUMNER. Mr. President, I do not desire to speak upon the general subject of the manufacture of arms under the authority of the United States, which has been opened in debate by honorable Senators. What I have to say will be on the precise question before the Senate, and nothing else. That question, as I understand it, is on the amendment proposed by my colleague, [Mr. DAVIS,] according to which the act of 1842 is to be so far modified that the President, in his discretion, may place over the armories persons not of the Army—leaving it therefore to his judgment to determine whether the Superintendent shall be a military man or a civilian. This is all.

The Senate has been exhorted not to act precipitately, but the character of this proposition excludes all idea of precipitation. We do not determine absolutely that the system shall be changed, but simply that it may be changed in the discretion of the President. This discretion, which naturally will be exercised only after ample inquiry, stands in the way of all precipitation; and this is my answer to the Senator from Illinois, [Mr. SHIELDS.]

Again: It is urged that under a military head, the armories are better administered than they would be under a civil head, and that the arms are better and cheaper made; and here my friend from South Carolina, who sits before me, [Mr. BUTLER,] dwelt with his accustomed glow upon the success with which this manufacture has been conducted at the national armories, and the extent to which it has been recognized in Europe. But, sir, on the precise proposition now before you, the merits of the armories are not involved. We do not undertake to judge the military superintendents or their works. The determination of this question is referred to the President; and this is my answer to the Senator from South Carolina.

The objections to the amendment of my colleague, then, seem to disappear. But there are two distinct arguments in its favor, which, at the present moment, do not seem to me susceptible of any answer.

In the first place, there are complaints against the existing system which ought to be heard. A memorial from five hundred legal voters of Springfield, now on your table, bears testimony to them. Letters addressed to myself and others, from persons whose opinions I am bound to regard, set them forth sometimes in very strong language. The administration of the arsenal at Springfield is commended by many, but there are others who judge it differently. As now conducted, it is represented by some to be the seat of oppressive conduct, and the occasion of heart-burnings and strife, often running into the local politics. In the eyes of some, this arsenal is now little better than a sore on the beautiful town in which it is placed. Now, on these complaints and allegations I express no opinion. I do not affirm their truth or their untruth. What I know of the Superintendent makes it difficult for me to believe that anything unjust, oppressive, or hard, could proceed from him. But the whole case justifies inquiry at least, and such will be secured by the proposition now before the Senate. This is the smallest thing we can do.

But this proposition is enforced by another consideration which seems to me entitled to peculiar weight. I have nothing to say now on the general question of reducing the Army or modifying the existing military system. But I do submit confidently that the genius of our institutions favors civil life rather than military life, and that, in harmony with this, it is our duty, whenever the public interests will permit, to limit and restrain the sphere of military influences. This is not a military monarchy, where the soldier is supreme, but a Republic, where the soldier yields to the civilian. But the law, as it now stands, gives to the soldier an absolute preference in a service which is not military, and which, from its nature, seems to belong to civil life. Now, the manufacture of arms is a mechanical pursuit, and, for myself, I can see no reason why it should not be placed in charge of one bred to the business. Among the intelligent mechanics of Massachusetts there are many amply fit to be at the head of the arsenal at Springfield; but all these are austerely excluded by the existing law from any such trust. The idea which has fallen from so many Senators, that the superintendent of an armory ought to be a military man, that a military man only is competent, or even that he is more competent than a civilian, seems to me as fallacious and illogical as the old saying that "he who drives fat oxen must himself be fat."

Mr. HALE. I move to amend the amendment of the Senator from Massachusetts, by striking out "President" and inserting "Secretary of War."

Several SENATORS. That is not in order.

Mr. HALE. The amendment of the Senator from Massachusetts, is not an amendment to an amendment, if I may be allowed to answer the assertion of gentlemen all around me. The honorable Senator from Illinois moves to amend by striking out a clause of the bill. The Senator from Massachusetts moves to amend that clause, before the motion to strike it out is put. Therefore it is not an amendment to an amendment. It is an amendment to the original bill.

Mr. SHIELDS. If that is in order and it meets the views of a majority of the Senate to make the change suggested by the Senator, I would suggest to him to modify his amendment to the amendment, so as to provide for the appointment of a commission composed of civilians and military men—taking the idea of the Senator from Tennessee—with a view to ascertain which of the two systems is the more economical, efficient, and safe for the management of the public service, to report to the next Congress. I think any reasonable man ought to be satisfied with that; and then we will have the information that may be necessary for our action. I suggest, therefore, to the Senator to modify his amendment to the amendment, by striking out the proviso, and inserting:

That the Secretary of War be directed to cause the necessary and proper inquiries to be instituted, through the medium of a commission of civilians and military men, with a view of ascertaining which of the two systems is the more economical, efficient, and safe, for the management of the public armories, that formerly existed under the superintendence of civil officers, or that now exist under the superintendence of officers of the Ordnance Department, and to make a report thereof to Congress at their next session.

Mr. HALE. For the purpose of allowing the Senator to offer that I will accept it as a modification of my amendment.

Mr. BORLAND. I shall vote against that, and against all propositions to change the present system, looking upon it as a matter of administration, not of legislation. A general law requiring that arms should be made, authorizing their fabrication, I think is all that Congress ought to do. As to the manner in which it should be done, or the agency selected to do it, I regard altogether as a matter of administration for the Executive.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Senator from Illinois moves to strike out the proviso in a clause of the bill. Pending that motion the Senator from Massachusetts moves to strike out all after the word "next" in that proviso, and insert as a substitute, and as an amendment to that proposed amendment the Senator from New Hampshire moves to strike out all except the initial word of the proviso, and insert what has been read.

Mr. DAVIS. If I understand the proposition as now presented, the motion of the Senator from Illinois is to strike out the whole of the proviso. Now the Senator from New Hampshire moves to insert what he sends to the Chair in place of that. My proposition is to amend that which is proposed to be stricken out, and I do not know how my friend's proposition will tie to that very well. It seems to me that his comes to occupy the place of that proposed by the Senator from Illinois, and that these are distinct propositions.

The PRESIDING OFFICER. For the purpose of this amendment the motion of the Senator from Illinois is not now pending. The Senator from Massachusetts moves to amend the original bill by striking out a certain portion and inserting a substitute. The Senator from New Hampshire proposes to amend the amendment of the Senator from Massachusetts, by inserting, as a substitute, what he proposes immediately after the initial word.

Mr. DAVIS. That would not be applicable for this reason: My proposition is to amend the law of 1842. The proposition of the Senator from New Hampshire does not propose to amend that law. It does something else.

The PRESIDING OFFICER. That is a question altogether for the Senate.

Mr. DAVIS. I wish that the question may be taken upon my proposition, if the Senate pleases.

The PRESIDING OFFICER. That is a question entirely with the Senator from New Hampshire, as his amendment to the amendment is in order.

Mr. HALE. If the Senator from Massachusetts is desirous to have the question taken on his proposition first, I will withdraw my amendment, and propose it afterwards.

Mr. DAVIS's amendment was then rejected.

Mr. HALE. I now renew my amendment.

The amendment was rejected, there being, on a division—ayes 18, noes 25.

The question then recurring on Mr. SHIELDS's amendment, it was agreed to.

Mr. SHIELDS. I have various amendments to offer. The first is to add the following as an additional section:

And be it further enacted, That the provisions of the seventh section of the act approved August 31, 1852, entitled "An act making appropriation for the support of the Army for the year ending the 30th of June, 1853," shall be construed to extend to all persons who were engaged as receivers of military contributions in Mexico or California during the war with Mexico.

Mr. HUNTER. There is no objection to that. It is putting the receivers on the same footing with the collectors.

The amendment was agreed to.

Mr. SHIELDS. I move to add the following:

And be it further enacted, That the provisions of the act making appropriation for the support of the Army, for the year ending 30th June, 1851, approved 28th September, 1850, granting extra pay to commissioned officers and enlisted men in the Army of the United States, serving in California and Oregon, from June 30, 1850, to March 1, 1852, be, and the same is hereby, extended to the commissioned officers and enlisted men serving during the same time in the ninth military department, embracing New Mexico, &c., and that so much of the moneys as may be necessary now remaining unapplied of said fund, be also applied to the payment of officers and enlisted men serving in the ninth military department as aforesaid: *Provided*, That the provisions of the first section of the act entitled "An act making appropriation for the support of the Army for the year ending the 30th June, 1851, approved September 28, 1850, granting extra pay to officers and enlisted men of the Army, serving in Oregon and California," be extended to the officers and men of the two companies of regiments of mounted riflemen that garrisoned the post at Fort Laramie, Oregon route, during the time they occupied such post, and the amount which may be found due shall be paid out of any moneys in the Treasury not otherwise appropriated.

Mr. HUNTER. This provision with regard to extra pay was made to the troops in California and Oregon on account of the extra prices of living there, and did not extend to any others. I do not see why it should be extended to the troops in New Mexico any more than to those in Texas. If we go on in this way, we shall have to extend the same principle to the whole Army.

Mr. GWIN. That is perfectly proper with regard to the two companies stationed at Fort Laramie. Their expenses were as great, perhaps, as those of the troops in California. As to the balance of that amendment, I think it should be acted upon separately, so that the question may be taken as to the two companies stationed at Fort Laramie separately from the companies in the ninth military department in New Mexico. I hope we shall have a vote on it in that form.

Mr. SHIELDS. I will state that I at first concurred in the view presented by the Senator from Virginia, [Mr. HUNTER;] but upon a further examination of the question, and after all the inquiries I made at the Department, I came to the conclusion that the expenses in New Mexico were quite as great as they were in Oregon and in California, except for a short time. The same principle applies in the one case as in the other, so that this only puts them on the same footing with the others.

Mr. RUSK. While justice is being done, I

hope it will be extended to all alike. I would like to hear from the chairman of the Committee on Military Affairs whether the troops stationed on the Rio Grande, in the neighborhood of El Paso, are included in this amendment.

Mr. SHIELDS. This amendment will not include all of the troops of Texas, but only includes a portion who were around El Paso.

Mr. HUNTER. I see nothing in this but an extension of the system of extra pay until we shall include the whole Army. There was a well-defined geographical limit, when we confined the provision to those in California and Oregon, and it was given to them on account of the extraordinary prices there. But the Senator from Illinois will find it difficult to discriminate between those who were in the ninth military department, and those cases not comprehended within the limits of that department; and if we commence it we shall be obliged to go on adding and giving this extra pay to all. I hope we shall stand where we now stand; I am unwilling to pay in this partial manner.

Mr. SHIELDS. I do not want to consume the time of the Senate. I am very sorry we ever commenced giving extra pay. I think we were wrong in commencing, but having commenced, I want to put the troops in New Mexico on the same footing as others, and then stop. I wish to extend the principle to such points as Fort Laramie and El Paso, for I am satisfied that the expenses there were as great as in Oregon and California at that time. I agree that when we have done that justice we should stop.

Mr. GWIN. I differ entirely from the Senator from Illinois when he says that we should not have commenced; but if we go one step further than we have heretofore gone, we ought to take the most meritorious class of officers and soldiers, and that is those who served in California before 1850. The expenses were much greater before 1850 than afterwards. Those who were there in 1847, 1848, and 1849, had much higher prices to pay than those in 1850; and here the chairman of the Military Committee proposes to extend to the officers in New Mexico the benefits of the act of 1850, without giving it to those who served in California and Oregon in 1847, 1848, 1849, and 1850, when everything was so extraordinarily high. I hope that that question with regard to the ninth military division, will not be brought up at this time, because I will be compelled, if it is, to ask an amendment extending the provision in California back to 1848, 1849, as well as 1850; for I know that the pay of the officers did not defray their expenses. They ought to have been provided for long since. I therefore hope the question will be divided. I am in favor of that portion of the amendment relating to Fort Laramie. The other I am not.

Mr. SHIELDS. I ask for a vote. I do not want to consume the time of the Senate.

The PRESIDING OFFICER. The Senator from California asks a division of the amendment. The question will, therefore, be first on that part preceding the proviso.

The question was taken, and it was rejected.

Mr. GWIN. Now, I hope that the proviso will be moved as a separate section; and I have to state that it proposes to pay two companies of the rifle regiment that were stationed at Fort Laramie. It is a limited payment—limited to the period within which the balance of the regiment was paid.

Mr. SHIELDS. I offer that proviso in the shape of an additional section, as follows:

"SEC. —. *And be it further enacted*, That the provisions of the first section of the act entitled 'An act making appropriations for the support of the Army for the year ending the 30th of June, 1851,' approved September 28, 1850, granting extra pay to the officers and enlisted men of the army serving in Oregon and California, be extended to the officers and men of two companies of the regiment of mounted riflemen which were garrisoned at the post of Fort Laramie on the route to Oregon, during the time they occupied said post, and the amount which may be found due them under this act shall be paid out of any moneys in the Treasury not otherwise appropriated."

Mr. HUNTER. My fear is, that this would be an entering wedge to granting a great deal more extra compensation to these officers and men. How can we discriminate between these men and those we have just excluded by our vote? I do not see how we can draw the line of distinction.

Mr. SHIELDS. This is a very extraordinary case. This post was an isolated post on the way to Oregon, and it happened to be outside the military department to which we granted extra compensation. But the officers of this post were subjected to much more inconvenience than those in any post in the department, and their case stands on higher grounds than any other, although the principle is the same. My impression is, that we ought to give the benefit of the principle to all; but, as I have already said, I am not going to contest that matter.

Mr. MASON. The addition of this amendment, it seems to me, would produce inequality. I submitted a few days since, to the chairman of the Committee on Military Affairs, a communication from a friend of an officer of the Army stationed at Fort Atkinson, which stated that the officers and soldiers there were subjected to extraordinary expenses, because of the position of that post, as much as if they were in New Mexico, and yet there is a great disparity between their pay and the pay of the officers in New Mexico. I suggested to the honorable chairman the propriety of including them, but I understand they have been excluded by a vote. Now, it is proposed to give that allowance to two companies only at Fort Laramie. I should be perfectly willing to extend it to them if it be right, but I should not be disposed to produce that disparity and inequality in the pay of officers similarly situated.

Mr. GWIN. I will state, for the information of the Senator from Virginia, that these two companies formed part of the rifle regiment ordered to Oregon. Subsequent instructions stopped these two companies at Fort Laramie; and their expenses were equally as great, and their sufferings as great, as those who were ordered to Oregon. They had to furnish emigrants on the route with provisions, and had to pay extra expenses for everything they obtained. I know the case is not a variation from the rule, but it comes strictly within that which we have laid down for our action. If these companies had gone on to Oregon, instead of stopping, as they were ordered to do, at Fort Laramie, they would have come within the law, and been entitled to receive increased compensation.

The amendment was agreed to.

Mr. SHIELDS. My next amendment is to add, after the provision for the payment of the Army, the following proviso:

Provided, That the military storekeepers of the Ordnance Department, in Oregon, California, and New Mexico, shall hereafter receive the same pay that is allowed by law to the military storekeepers and paymasters of that Department in the Atlantic States.

I would state that these officers now receive only $800 a year, and this amendment will give them $1,200—the same amount which similar officers have in the Atlantic States.

Mr. HUNTER. I should like to know what is the cause of the difference? Why do these officers not now receive the same amount as those in the Atlantic States?

Mr. SHIELDS. This amendment puts the assistants on the footing of principals in the Atlantic States, and it is done at the recommendation of the Department. Those officers say they cannot live in California, Oregon, and New Mexico, for less than $1,200 a year.

Mr. GWIN. I know they cannot.

The amendment was agreed to.

Mr. SHIELDS. I offer the following as an additional section:

SEC. —. *And be it further enacted*, That it shall be the duty of the Secretary of War, under such regulations as he may prescribe, to cause to be examined, and testimony to be taken in all claims against the United States for carrying on the Government in California in the years 1846 and 1847, under Commodore R. F. Stockton, Brigadier General S. W. Kearny, and Lieutenant Colonel John C. Frémont; also for spoliations, and for property furnished or taken for military purposes in California within that period which have not been favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved August 31, 1852, and to report thereupon to Congress at its next session.

Mr. HUNTER. I do not exactly understand that amendment, and I should like to have some explanation of it.

Mr. SHIELDS. I will state the facts. We appointed a Board of Commissioners at the last session to examine these California claims, and that Board proceeded with the examination; but for the want of testimony, and the want of means to ascertain the correct state of affairs, they had to leave it off. They made a partial examination, and then abandoned it. We have concluded to leave it to the Secretary of War, to take some means to ascertain the character and amount of these claims, and then report to Congress, leaving it to us hereafter to determine what is right in the case. After trying various plans, we came to the conclusion that this was the only safe mode. Of course no injury can result from it, because the matter after all will be in our own hands.

Mr. HUNTER. Of how many is this Board to consist?

Mr. SHIELDS. This amendment does not provide for any Board. It simply leaves it to the next Secretary of War to ascertain the character of the claims and the amount of the claims, and then to give his own opinion as to what he believes to be just, and report the whole matter to Congress.

Mr. WELLER. I do not exactly see what disposition is made by the amendment of the Board now in existence.

Mr. SHIELDS. There is no further necessity for it.

Mr. WELLER. I would also suggest that the amendment ought to require this Board to meet in the State of California, where all the testimony can be readily ascertained. It is impossible to obtain here the testimony necessary to enable the Board to determine upon the justice of these claims. That testimony can be very readily obtained in California, and it is a very great inconvenience to those who have claims of the character spoken of in that amendment, to require them to come here with the proof necessary to sustain their claims. I should, therefore, prefer that the amendment should be so modified as to require the Commissioners who are to pass upon these claims to assemble in California, where they can have an opportunity of obtaining the necessary information upon this subject—information which, in my judgment, cannot by any possibility be obtained here. That there will be many claims presented, fraudulent in their character, I have no doubt. That fraud can be more readily detected there than elsewhere; and it is for that reason that I desire that the Senator from Illinois should so modify his amendment as to require the Secretary of War to organize that Board, and then direct them to proceed to California.

Mr. SHIELDS. Perhaps my honorable friend is right, and perhaps I am wrong, in reference to that point. But this amendment does not authorize the Secretary of War to appoint any Board. A necessity arose to ascertain the condition of these California claims, and we propose to authorize the Secretary of War to take such steps as he may deem necessary to ascertain the nature of the claims and their character. Whatever agent he employs, he will of course send to California for that purpose, or he may employ an agent or an officer there. We leave it altogether to him to determine the best plan.

Mr. GWIN. Mr. President, this is a most inefficient amendment. It does nothing. It retrogrades from what we did last year. These claims have now been in existence for six or seven years; and there is no question that has created more irritation against this Government than the failure on its part to make some disposition of them. I was in hopes, from the intercourse which took place between the chairman of the Committee on Military Affairs and myself in regard to the subject, that he would be prepared to offer an amendment of a substantial character in reference to these claims. I was anxious that they should be disposed of, that they should not be trifled with and thrust upon Congress from year to year by mere reports which come here and die off without any action. The report of the late Board of Commissioners came in here, and it has received no consideration at all.

This Board of Commissioners ought to sit in California to investigate this question. If you ever intend to pay the claims, they ought to be paid immediately. They have now been six or seven years in existence. It seems to me that this amendment is giving the go-by to the claims altogether, because it makes no appropriation. How can this Board travel about in California without some money for the purpose? How can the Secretary of War carry out the object? There is no appropriation made to enable him to do so.

It seems to me that the amendment is nugatory, and can lead to no good result. I was in hopes that the Committee on Military Affairs would bring forward something like that which they proposed last year, and that was that the Secretary of War should appoint a board of officers. I hoped that the committee would have asked for an appropriation to pay the claims which that Board might deem just, subject of course to the revision of the Secretary of War. But the present amendment, it seems to me, is entirely nugatory and useless.

Mr. BORLAND. The remarks of the Senator from California, that this amendment is inefficient and nugatory in its character, can only be sustained upon the supposition that the Secretary of War will be inefficent and incompetent to perform the duties of his office.

Mr. GWIN. By no means.

Mr. BORLAND. The committee examined the matter thoroughly, and for the purpose of giving the greatest efficiency to this provision, and to meet the views of the Senator from California as far as possible, adopted the terms of this amendment. A Board was appointed by an act passed at the last session. The Board had been sitting and adjudicating the claims; and as is usual, when Congress undertakes to administer the laws, as well as to pass them, very little has been done. To obviate all difficulty, and to put it entirely at the discretion of the Secretary of War, in whom we are disposed in advance to place confidence, as well in his intelligence as in his fidelity, I think it will be sufficient for us to adopt this provision, conferring upon him the general power, and making it his general duty to adopt whatever measures, in his discretion and judgment, may be proper to accomplish that object; putting upon him the restriction that he shall not pay anything now, but shall wait until at the next session, after we have procured all this information, we make the appropriation. The object is to enable him, by the best means in his power, to obtain the necessary information and lay it before Congress at the next session, and then we can make such an appropriation as his investigation and ascertainment of the facts may show to be necessary. Now, if this amendment be inefficient and nugatory in its character, I repeat, it is only so because the individual who will be at the head of the War Department will be incompetent or unfaithful in the performance of his duty.

Mr. HUNTER. I hope we shall have a vote upon the amendment, and make progress with the bill.

Mr. SHIELDS. There is only one point that requires any consideration. The honorable Senator from California perhaps may be right in one particular; it may be necessary to make some appropriation to enable the Secretary of War to carry the object into effect. My intention was that he should employ the officers of the United States Army in California, and that it could be done without any additional expense. I thought an officer in California, now in the employ of the Government, could receive this testimony and act upon it, and send it to the War Department, have it examined there, and then referred to us. But if it is thought that an appropriation is necessary for that purpose, we can very easily make it.

Mr. GWIN. These officers ought certainly to have their traveling expenses paid. They ought to call witnesses, and swear those witnesses; and they ought to get something substantial as the result of the examination. If the Senator will ask for an appropriation of $10,000, or something of that sort, to meet the contingent expenses of the commission, I am willing that the matter should come back to Congress.

Mr. WALKER. If I remember when this case was first up, I then suggested the peculiarity presented by it; that in almost all other claims which had ever existed against the Government, we found that the claimants were here soon enough without an appropriation to hunt them up. I think so yet. I think these claims will reach us quite soon enough; and when they come, and are substantiated as other claims, it will then be the duty of Congress to pay them. I must say, however, that I agree with the Senator from California, that if we are to hunt up these claims, this provision seems to me entirely inefficient, and we had better adopt none at all. I think we had better adopt none, any how, rather than adopt any which have been suggested; for if these persons have claims against the Government, it appears to me they will be here soon enough; and it is most astonishing that they have not yet been here.

Mr. GWIN. They have been here for seven years.

Mr. WALKER. They have been here in this way: We have been asked to appoint commissions, to send out and travel over California, and adjudicate the claims; to hunt them up at the public expense. Nearly all other claimants, even the claimants for French spoliations, and claimants of various other descriptions of equal, if not of greater magnitude, are thrown upon their own private resources to make manifest the justice of their claims to Congress, to establish them here, and then if we think them just, we vote for their payment.

Mr. SHIELDS. The honorable Senator is wholly mistaken about one thing, and that is the fact of the case. These claims are all now here in Washington. They were sent here long ago. They have even been presented to this body by a call upon the Department, and I dare say have been laid upon the Senator's desk. The only object of this amendment is to ascertain how many of the claims are just and how many unjust. To ascertain that fact there must be some investigation in California, and this amendment authorizes the Secretary of War to make that investigation in the manner which he may deem most safe and most wise under the circumstances. We have been perplexed in regard to the matter. A Board was appointed for the purpose. The Board sat here in Washington, but could not obtain the necessary testimony—for that is in California—to show what claims this Government ought to pay. Therefore, for the safety of the Government, it is necessary that some agent should go to California for this purpose.

Mr. WELLER. I see no necessity for the appointment of military officers, in order to investigate these claims. I think it would have been much better, not only for the claimants, but for the Government, that this Board should be created of civilians; that some persons should be appointed whose duty it should be to inquire into all the facts connected with each of the claims, and hear the testimony which the claimant himself had to present in favor of its justice. As my colleague has remarked, this amendment amounts to nothing on account of the want of an appropriation. I prefer that this Board should be composed of civilians. The claims are for a large amount against the Government, in consequence of debts incurred by the Army of the United States. You sent your army to California, under the command of certain officers. In order to sustain that army, those officers were necessarily compelled to purchase provisions and supplies of various kinds. Now, it would be very unjust to compel these claimants to come here with the proof necessary to justify Congress in the passage of an act for their relief. I think the proper course is to send a commission into that country, where they can have an opportunity of sifting those claims, and determining what amount is equitable and what is unjust. I have no doubt that claims will be presented which will have no foundation whatever in equity; but that fact cannot be ascertained, except by the appointment of officers for the purpose of ascertaining them. For that reason, I ask the Senator from Illinois so to change his amendment as to direct the Secretary of War to send a commission into that country to investigate the matter.

I should be unwilling, for myself, to vote for an appropriation to pay the claims until they had been passed upon by some honest and reputable men, for I know there are some unjust claims which will be presented. The existence of the claims has affected, to a very considerable extent, the credit of the Government in California, especially among the natives of that country. I labored under an embarrassment myself when I was the Boundary Commissioner, growing out of a want of confidence, especially on the part of the natives of the country, in the Government. They have got the idea that it will not comply with its contracts, and I think this idea should be dispelled.

Mr. SHIELDS. I wish to repeat that the only object of this amendment is to have the question investigated by the Secretary of War, and some agent whom he may send to California for the purpose. I think the amendment will accomplish that object, and all that is necessary is to make an appropriation to carry it out. What appropriation will the honorable Senator from California think necessary?

Mr. GWIN. Ten thousand dollars.

Mr. SHIELDS. I modify the amendment, then, by adding to it the following:

And that, for the purpose of carrying this provision into effect, the sum of ten thousand dollars be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated.

The amendment, as modified, was agreed to.

Mr. SHIELDS. My next amendment is to insert an additional section:

SEC. —. *And be it further enacted*, That for the payment of claims against the United States for funds advanced, and subsistence and supplies of all kinds furnished or taken for the use of the command of Captain John C. Frémont, whilst he was engaged in the public service in California during the year 1846, as favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved August 31, 1852, the sum of $31,017 22½ is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

I would explain that this is the amount which has already been approved by the Board which was appointed under the act of the last session. They have definitively allowed that amount, and we have taken up their report, and accepted what they have done, and propose to make an appropriation to pay the amount.

Mr. GWIN. Last session we made an appropriation of $170,000 to pay for the men who served in California, and such claims as might be favorably adjudicated upon by this Board. What has become of that appropriation? I am sure that it has not been exhausted. Why should not these claims be paid out of that appropriation? We have appropriated $168,000 for the payment of the men on the muster-rolls, and $2,000 for the expenses of the Board. The amount due, according to the pay-rolls, was only $101,000. The balance of the appropriation is still outstanding, and why ought not the amount be paid out of that?

Mr. SHIELDS. That appropriation, I understand, was to pay the troops.

Mr. GWIN. And the claims. It was according to the estimate of the Department. One hundred and one thousand dollars was the estimate for the pay-roll, and $67,000 for claims then on file, making altogether $168,000, to which we added $2,000 for the expenses of the Board. That appropriation is now outstanding, with the exception of $101,000, which has been paid.

Mr. SHIELDS. Does the honorable Senator object to the appropriation?

Mr. GWIN. Not at all. Perhaps it may be necessary to reappropriate this sum. It may have gone to the surplus fund. I make no objection.

The amendment was agreed to.

Mr. SHIELDS. The next amendment which I have to offer is to add to that which has just been adopted these words:

And that the troops enlisted or enrolled in California under the direction of the military and naval officers, shall have all the benefits of all acts of Congress in favor of the troops engaged in the war with Mexico.

The amendment was agreed to.

Mr. SHIELDS. My next amendment is one which has been recommended by the Department, and which will speak for itself. It is to insert the following proviso:

Provided, That the assistants on duty in the Quartermaster General's Office, and the assistants on duty in the other bureaus in the War Department, shall receive a compensation not less than that of the assistant in the Ordnance Bureau of the War Department, under the first section of the act approved September 28, 1850, and from the same date.

Mr. HUNTER. I should like to understand the effect of this amendment. How much is it to increase their pay?

Mr. SHIELDS. It makes the salary of these officers about $1,450 per year. The salary of one has been increased, but the others who occupy similar positions, have not received the benefit of that increase. This amendment is offered on the recommendation of the Department in favor of making them all equal. It gives them all a salary of about $1,450.

The amendment was rejected.

Mr. SHIELDS. I offer the following as an additional section:

SEC. —. *And be it further enacted*, That the Secretary

of War cause to be paid, out of any money in the Treasury not otherwise appropriated, to Richard B. Lee, late commissary of the Pacific division of the Army, the sum of $1,175, with interest from the 9th day of June, 1850, being for money lost in being transported from Honolulu to San Francisco under his charge, and for which he has accounted to the Department, and which sum includes the expense incurred in efforts to recover the same.

If there is any objection to this amendment——

Mr. ADAMS. Nobody objects to it. It has been once investigated, and the bill passed the Senate with no objection.

The amendment was agreed to.

Mr. SHIELDS. The next amendment I have is to add after the appropriations for the Army, the following clause:

For the remounting of four companies of light artillery, authorized by the act of March 3, 1847, $18,500: *Provided*, That the same be expended at the discretion and by the direction of the President of the United States.

Mr. HUNTER. I would inquire whether there is any estimate or recommendation from the Department for that?

Mr. SHIELDS. There is no estimate and no recommendation for it, but there is a general law authorizing the President to remount these companies. Four of them are now mounted, and there are four more to be mounted, and the object of the amendment is to enable the President, if he thinks it necessary for the service, to remount these additional four companies. It leaves it altogether to the discretion of the President.

Mr. HUNTER. I do not understand that the Department asks for the discretion; and it seems to me that the effect of it will be that this will be taken as an indication of the wish of Congress that these companies should be remounted, and it will be done. They were dismounted, I presume, for some good reason, and until it appears that they were improperly dismounted, it seems to me that we ought not to be making provisions for increasing the expenditure in this way.

Mr. SHIELDS. I would rather lose these amendments than consume the time of the Senate with them; but I will state that the only reason for which these companies were dismounted was the want of this appropriation. These companies are companies of light artillery, which is perhaps the most serviceable arm we have in the service, and the most difficult to be kept up. The only thing I care about in reference to the Army is to keep up our artillery and our necessary fortifications; the rest we can easily accomplish. We need not take special care of our cavalry and infantry, for every man is a soldier in this country. But not so the artillery; that is an arm of the service which must be kept up, and kept up constantly, or it goes down forever. For want of this appropriation, the Department was compelled to dismount these men. The object is to give power to remount them if it should be thought proper to do so.

The amendment was agreed to.

Mr. SHIELDS. I wish now to offer an amendment to provide for the national defenses. I have come to the conclusion that the only way in which we can accomplish that great object is to attach it to this bill. If we do not amend this bill in that way, we may as well abandon the whole system. I will state that I have selected, on consultation with the Department of course, the important points, commencing at California, then the Florida Keys, then Georgia, then South Carolina, then Maryland, then Delaware, then Massachusetts, and finally Maine. The amendment which I wish to offer is to make the following appropriations:

For the defense of San Francisco, California, $500,000.
For continuing the defenses at the following places, viz:
Florida—Fort Jefferson, at Garden Keys, or Tortugas Island, $100,000;
Florida—Fort Taylor, Key West, $75,000;
Georgia—Fort Pulaski, including barracks and quarters, $20,000;
South Carolina—Fort Sumter, Charleston harbor, $111,000;
Maryland—Fort Carroll, Soller's Point, Baltimore harbor $50,000;
Delaware—Fort Delaware, Pea Patch Island, Delaware river, $150,000;
Massachusetts—Fort Warren, Boston harbor, $45,000;
Maine—Fort Knox, Penobscot river, $55,000;
Massachusetts—Fort Winthrop, Governor's Island, Boston, $29,573.

Mr. HUNTER. I understand that this is an effort to fasten a fortification bill upon the Army appropriations. I say here that for one I am no enemy to a system of fortifications. I shall vote for a system when a bill shall be brought up for that purpose; but I fear that if we commence this contested question—for it is contested—upon the Army appropriation bill, it will be a long time before we shall see an end of it. I believe something ought to be appropriated for the fortifications of the country. I am willing to do so. I am willing to vote for a general bill for that purpose; but if we attempt to proceed with this subject partially in this manner, we shall be engaged in a long debate, and it will result in nothing but embarrassment to the bill.

Mr. GWIN. Mr. President, I hope that that amendment will be adopted. I cannot see what use we have for an army, if it is not to defend the country; and I do not see what good the army can do in California, if you have no defenses there, in the harbor of San Francisco, to drive off an enemy who may come to attack it. We have no interior enemies that we are under any apprehension of, but in the harbor of San Francisco, which by this amendment it is proposed to fortify, there is not now a single mounted gun to defend us from hostile attacks. We are shipping a hundred millions of gold annually through it; and there are points on that harbor than which there cannot be found better sites in the world for fortifications. As it is now, a single ship of war can shut up that harbor, or enter it and levy contributions upon San Francisco and the whole country. The question is now presented whether you will fortify that coast and that harbor or not.

After what occurred here within the last two or three days, it becomes a very serious question whether this Government will defend the Pacific possessions of the United States. It has been very clearly decided here that, for the present at least, we are to have no internal communication between that section of the Union and this. If we are to have no internal communication, I should like to know whether it is the determination of this Government to give us any defense at all against a foreign enemy? I hope the whole amendment will be adopted, but I shall ask for a separate vote at least upon the proposition for fortifying the harbor of San Francisco.

Mr. SHIELDS. In this amendment we have selected the points where defense is indispensable. First, California; then the keys of Florida, which, next to the harbor of San Francisco, is the most important position on this continent, commanding the whole commerce of the Gulf stream, and, in fact, I might say the keys of the South; for with fortifications there, that portion of our coast will, I apprehend, be better protected than any other. Yet, sir, these works have been commenced, and nearly prosecuted to completion, but, in our usual way, when we found that the work was expensive, we abandoned it, so what has been so far done on Forts Jefferson and Taylor is good for nothing. Those are the two forts at the Florida keys. I will not argue this question. Every man who knows this country knows that these are necessary points for defense. Next is Fort Pulaski, in Georgia; next Charleston, in South Carolina; next Fort Carroll, in Maryland; next Fort Delaware, in Delaware. I need not explain that appropriation. The Senator from Delaware [Mr. BAYARD] at the last session made an effort to include this fort, but it failed. He showed then that Philadelphia was exposed to an attack from any little contemptible maritime power. It has no defense whatever now. Then comes Massachusetts, and then Maine. We have selected merely those points where every man knows there ought to be defenses, if we are to have any at all. The whole amount of the amendment is but little more than a million of dollars. It is too little. The only regret I have is that it is so small and so inadequate, and nothing would have induced me to bring it forward but the absolute necessity of defending these points in any case.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) Does the Chair understand the Senator from California to call for a separate vote on the first clause of the amendment?

Mr. GWIN. I am willing to take a vote on all together, if we can get them all in.

Mr. SHIELDS. I prefer that the vote shall be taken on the whole amendment together.

Mr. GWIN. If this amendment should be rejected, I wish to know if it will be in order for me to offer the first clause as a separate amendment?

The PRESIDING OFFICER. The Chair so understands it.

Mr. HUNTER. As I said before, I believe we ought to pass some fortification bill. I do not believe that after commencing such a system of fortifications as we have commenced, we ought to abandon it, except for some better reasons than have yet been given. What I suggested was, that there was a difficulty in meddling with the subject in this piece-meal manner.

Unless we have a general system, those portions of the country not included in the amendment might think they had good reason to complain of it. Perhaps there are special cases which will form an exception. I believe that, in relation to these islands in the sea, which command the commerce of the Union, they would constitute an exception. We have done nothing towards defending that coast, and I believe we ought to do something; but it seems to me that there is a difficulty in commencing without estimates, without plans, without knowing what we are doing. How can we tell now how long it will take to fortify the harbor of San Francisco?

Mr. SHIELDS. I wish to correct the honorable Senator. These sums are according to the estimates of the Department for these particular works. These works are not only estimated for, but they have been selected as those of the first necessity. A great many others ought also to be constructed, but these are of the first necessity, and the amounts in the amendment correspond precisely with the estimates recommended by the Department.

Mr. GWIN. I would state to the Senate, furthermore, that in regard to the harbor of San Francisco, the estimates have been prepared with extraordinary care. There has been a board of officers sitting for a great length of time preparing the estimates, and they have done the work very well.

Mr. MALLORY. I will say to the Senate, that we have, in answer to a call made on the War Department, all the information upon the subject of the two particular fortifications at the Tortugas, and the answer of the Department shows this extraordinary fact, that in consequence of the manner in which these appropriations have been dealt out, by a single storm $50,000 were lost upon Fort Taylor. No appropriation has been made for these works for the last two years. All the preparatory works, which are necessarily very expensive—for the fort stands at least one thousand yards in the sea, in eight feet water—will probably be rendered entirely useless, if this appropriation be longer delayed. These two works stand at least one hundred and fifty miles from any inhabited portion of the State of Florida; they are emphatically islands in the sea, and they are really the left bank of the Mississippi. In sight of these two points now pass some four hundred millions of dollars' worth of our property annually, and almost every day of the year there are from fifty to one hundred vessels in sight of these positions. These two points have been selected by the War Department as deserving especial and particular notice. No system of fortifications can pass through Congress at this moment. It is perfectly out of the question to suppose so. We are not prepared for it. The other branch of Congress is decidedly opposed to it, and has manifested that opposition in a most decided manner. But why should we refrain from voting for those forts, the non-completion of which every discerning mind in this country sees must, upon the very first rupture with any commercial nation, be to us the greatest loss we could possibly sustain?

Mr. GWIN. As this is a most important question, and as I do not think the Senate has yet fully understood it, I should like to have the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. HUNTER. I merely rise to say that, as I understand from the chairman of the Committee on Military Affairs, this is an estimate of the Department, and they have selected these as the important points, I am willing to vote for the amendment.

Mr. CHASE. The purpose and effect of this amendment will be to introduce a system of fortifications into the Army appropriation bill, as has been remarked by the Senator from Virginia. The arguments which have been urged by the Senator from California and the Senator from Florida, relate to two of the most important and probably most exposed points in the country, and

for these points I am quite willing to vote a liberal appropriation for defensive works. But, sir, I am constrained to vote against a general fortification system in the Army appropriation bill. I think the precedent is a bad one, and I think, moreover, that it will expose the bill to hazard between the two Houses. We know perfectly well that the House of Representatives, by successive votes, has condemned the existing system, and it will not be likely to concur in an amendment of the Senate to this bill which will introduce a new one.

Mr. UNDERWOOD. I wish to ask the gentleman from Illinois whether the fortifications to which the amendment alludes are to be new buildings, or whether the appropriation is for repairs to keep the old works in order?

Mr. SHIELDS. I will reply to the honorable gentlemen, and first to the honorable Senator from Ohio. I would prefer that we should have a general bill for this purpose; but there is no chance, no hope of that now. I think all we have to do is to perform our duty, as far as we understand it, to the country, and let the House take care of their own affairs. If they reject it, we cannot help that.

Now, in reply to my friend from Kentucky I would say, that one of these points is a new one, and that is San Francisco. No structure has yet been commenced there. All the other appropriations are for the continuation and the completion of works that have been commenced, and upon which a great deal of money has been expended, but which are now abandoned for the want of these appropriations. I will take the case of Boston harbor. There are two forts in that harbor. Boston is one of the richest cities on our continent, and yet from the fact that one of those forts is not in a condition of defense, the whole defense of that city, I may say, is good for nothing. I will then go to Maine, a State which connects with the British Provinces, and one which would be the first object of attack under certain circumstances, and where there is a net-work of railroads running into Canada. There is one of the most exposed points in the Republic. And then take the case of Fort Delaware. I need not urge that. The Senator from Delaware brought it forward, and made a speech upon the subject at the last session. That point protects Philadelphia, and without it there is no adequate protection for that city. The only reason I have brought the amendment forward is this: after consulting with the Department, we have selected the works which ought to be defended in any case and in any emergency, and we have selected the amounts which would make those forts sufficient.

The question being taken by yeas and nays upon the amendment, resulted—yeas 29, nays 14; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Borland, Brooke, Clarke, Cooper, Davis, Dawson, De Saussure, Downs, Foot, Geyer, Gwin, Hamlin, Houston, Hunter, Jones of Tennessee, Mallory, Mason, Miller, Morton, Pearce, Phelps, Sebastian, Shields, Smith, Spruance, Underwood, and Walker—29.

NAYS—Messrs. Adams, Atchison, Bright, Brodhead, Chase, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Hale, Jones of Iowa, Pettit, Rusk, Sumner, and Wade—14.

So the amendment was agreed to.

Mr. SHIELDS. My next amendment is to add the following as an additional section:

SEC. —. *And be it further enacted*, That for the settlement of the remaining unpaid claims of the States of Georgia and Alabama for advances made in suppressing Indian hostilities, the Secretary of the Treasury pay to the State of Georgia her claims now remaining unpaid, for moneys paid by the State for suppressing hostilities of the Cherokee, Creek, and Seminole Indians, in the year 1835 and since, upon proof that the same was paid by the State; and that the provisions of the act of Congress relative to the settlement of the claims of Georgia for military services, approved March 3d, 1851, be extended to the payment to be made under this act; and that the Secretary of the Treasury pay to the State of Alabama, under the provisions of the acts of Congress of 14th August, 1842, and 26th January, 1849, the balance due said State growing out of the Creek Indian hostilities of 1836 and 1837, provided proof is made that said State advanced in good faith the amount claimed.

Mr. HUNTER. Is there any estimate for these claims? Do we know what their amount will be?

Mr. SHIELDS. An appropriation was made at the last session which it was thought would cover them. But there was an omission in the law which prevented the Department from paying a certain item, and the object is to make up for that deficiency.

Mr. HUNTER. I do not understand this matter at all. There is an appropriation in this very bill to settle the claims of the State of Florida according to the provisions made in the last bill for the State of Georgia. That was taken as the model and type upon which we were to legislate; and now it turns out that that too is defective. I understand nothing about the matter. I am sure no estimates have been sent to my committee in regard to it.

Mr. DAWSON. I would say in reply to the Senator from Virginia, that at the last session of Congress all these cases were before us, and in the hasty legislation of the last night of the session, we left out one item so far as relates to Georgia and Alabama—the item for horses which were lost, which constituted the largest portion of the account. When the law went to the Department for construction, that word not being in it which was intended to be there, the account could not be allowed. In the case of the State of Maine we established the principle, and we provided for all in the same bill. The provision in regard to Maine was in these words:

"That in the adjustment of the accounts of the State of Maine, under the act of the 13th of June, 1842, the proper accounting officers of the Treasury be, and they are hereby, directed to include and allow all claims which have been heretofore presented under said act, provided it shall be satisfactorily shown that said claims were actually allowed and paid by that State."

This amendment does not contemplate the payment of a single dollar which has not long since been paid both by Georgia and Alabama, and which was intended to be covered by the bill of last year in favor of those States, but which was not so construed by the accounting officers on account of an unintentional omission of a few words. That is the whole matter.

Mr. HUNTER. The Senator from Georgia will be kind enough to inform me why it is that these claims have never been paid before? They seem to be of very old standing, dating from 1835.

Mr. DAWSON. I will tell the Senator why. Georgia advanced money to pay for horses lost in the service, to her troops, to the amount of over $15,000. The acts of 1837, 1842, and 1848 required that each individual who lost a horse should swear to the loss, and that it should be certified to the Government here. Georgia paid the money in advance, and the proof which she received did not come up to the requisitions of the Department at Washington, and she could not get a dollar.

Mr. HUNTER. Does this amendment give interest on the amount?

Mr. DAWSON. Not at all.

Mr. HUNTER. Then it only proposes to refund to the States of Georgia and Alabama what they actually advanced?

Mr. DAWSON. That is all. The only principle controlling the payment of interest was established long ago, that wherever a State advanced money for the Government, and she had to borrow it herself, and pay interest on it, in that case the Government should pay her interest.

Mr. HALE. I would like to know whether this amendment is in conformity with the rule? If I recollect aright, payments to the States of Maine, of Georgia, and New Hampshire were provided for in separate bills.

Mr. DAWSON. No, sir; the claim of New Hampshire passed in a separate bill, but the others passed together.

Mr. HALE. In a private bill?

Mr. DAWSON. I believe so.

Mr. HALE. Then I object to this amendment, that it is a private bill.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair considers the amendment entirely in order on two grounds——

Mr. HALE. I owe an apology to the Chair. If I knew who was occupying it, I would not have raised the question of order. [Laughter.]

Mr. FITZPATRICK. I can state to the chairman of the Committee on Finance——

Mr. HUNTER. I am content. The Senator had better let the question be taken.

The amendment was agreed to.

Mr. SHIELDS. I have an amendment to propose, which I hope will be adopted unanimously. A bill for the purpose passed the Senate at the last session by a unanimous vote, but it is now in the House of Representatives, and is likely never to be reached there, and I therefore move to insert in this bill the following:

That whenever any lieutenant of the Corps of Engineers, the Corps of Topographical Engineers, or Ordnance Corps, shall have served fourteen years continuous service as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of said corps shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps.

Mr. BORLAND. Apart from the fact that at the last session of Congress, that very provision was passed by the Senate in a separate bill, which it seems to me commends it very strongly to the favorable consideration of the Senate now, the merits of the proposition itself should induce the Senate to adopt it unanimously. Here, sir, are officers in our Army of the very highest attainments. They are placed in these particular corps after they have passed their examinations at West Point, on account of their ability and scientific attainments in this particular department of their profession. They are associated in the performance of their duties with the other officers of the Army. They are placed in positions and have to incur responsibilities, and perform the duty which belong to officers of the rank of captain, and it is found, notwithstanding that, that they are kept in the rank of lieutenants almost all their lives, and are deprived of the advantages of promotion. This is a simple provision, that after they shall have served fourteen years, which is beyond the average time when other officers are promoted, they having to perform the duties of captain and assume the responsibilities, and be associated with captains in the performance of their duties, shall have that rank. It seems to me that the proposition is so reasonable in itself that there can be no opposition to it.

The amendment was agreed to.

Mr. GWIN. I have an amendment to offer in the shape of additional sections, as follows:

SEC. —. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem advisable, to ascertain the most practicable and most economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $150,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of such explorations and surveys.

SEC. —. *And be it further enacted*, That the engineers and others employed in said explorations and surveys shall be organized in as many distinct corps as there are routes to be surveyed, and their several reports shall be laid before Congress on or before the first Monday in January, 1854.

SEC. —. *And be it further enacted*, That in making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers or other persons employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi to the Pacific ocean, and to lay the same before Congress at the next session.

Mr. President, it is well known that I voted against this proposition when we had the Pacific railroad bill under consideration, and I am not at all in favor of it now as the right measure; but inasmuch as the establishment of this great national highway has all to be gone over again at the next session, I have determined to bring the subject of a reconnoissance to the notice of the Senate now. I give the honorable Senator from Pennsylvania [Mr. BRODHEAD] the full credit of this proposition. It is his—at least two sections of it are. I have only added an additional section. I offer it with a great deal of doubt whether any good will result from it, because the very difficulty that met all propositions for establishing the terminus of this railroad on the Mississippi river may be brought so prominently before Congress by these explorations as to defeat any bill that will build this road. If any route is reported to this body as the best, those that may be rejected will always go against the one selected. Therefore I offer this amendment with a great deal of doubt and hesitancy whether it is proper to make any such exploration if we anticipate the getting of the road. I voted against the proposition before on this ground. I regret more than anything that has occurred during my lifetime that we could not pass at this session a bill to establish this great national highway without resorting to any exploration of this description, which is so likely to bring the various sections of the country in opposition in regard to the proper location of the road. But I conceive it to be my duty to do the best that I can towards the establishment of this road. And

inasmuch as a majority of the Senate, by disagreement as to details, have determined that we shall have no railroad bill during this session, I feel myself constrained to bring forward this proposition; and I do it with great distrust, under the belief that injury may result from it. I am not at all satisfied that we ever can get a national railroad on any particular route to be designated by Congress, because those sections of the country that are rejected in the report that may be made to Congress will, by combining, prevent the establishment of any road. But, sir, in the faint hope that some good may result, I have offered this amendment.

Mr. BRODHEAD. Mr. President, this is a proposition which I submitted the other day as a substitute for the Pacific railroad bill. I then stated that it was in my judgment the only practicable measure which could be adopted at the present session. I am very glad that the honorable Senator from California, who resisted it at that time with so much vehemence, has come pretty nearly to the same conclusion to which I came at the commencement of the debate.

Mr. GWIN. Not at all. I am against it as a substitute to a railroad bill.

Mr. BRODHEAD. If the honorable Senator is against it at this time, he should not have presented it to the Senate. I intended myself to offer it as an amendment.

Mr. GWIN. Mr. President, a drowning man will catch at straws. We need in my part of the country a connection by railroad with the Atlantic coast. I do not want to take the credit of this proposition. I shall never ask any of the credit for offering it; but I am required, coming from the section of the Union whence I do come, to resort to any expedient to establish this connection, although I do not think this is the proper plan.

Mr. BRODHEAD. I am not complaining of my honorable friend from California; I am only expressing the hope that now that the amendment has his support, it will be adopted. It is the only practicable mode—it is the only sensible mode, permit me to say, to commence the building and construction of a railroad from the Mississippi valley to the Pacific ocean, and I therefore hope it may be adopted. But I beg to suggest to my honorable friend from California a modification of it; to appropriate $200,000, instead of $150,000, for the explorations and surveys. I think that sum may be required.

Mr. GWIN. I agree to that.

Mr. HUNTER. I think I see in this the commencement of a system of legislation that will be calculated to swamp our appropriation bills. Why, sir, an appropriation bill is a bill for which everybody may vote—persons of all castes and shades of constitutional opinion. But if we insist upon adding to such bills controverted questions of this character, and put upon them these internal improvements, how long will it be before we shall have the river and harbor bill put upon an appropriation bill? How long will it be before we shall find a majority in one or the other of these Houses using the appropriation bills as a means of coercing their measures through both Houses? It seems to me that it would be much better to confine legislation of this character to separate and single bills; because, if we go on in this way, the result will be, upon some future occasion, that you will find members forced to vote against the necessary supplies for the Government, or else bound to take things which they believe to be contrary to the Constitution of the land. Everybody ought to be privileged to vote for an appropriation bill. How can that be the case if we put upon those bills measures in relation to which there are such serious differences of opinion? This was a very good amendment to the Pacific railroad bill, but I submit it to the Senate to say whether it be proper to an appropriation of this character.

Mr. GWIN. A similar appropriation was made in 1849, and went to the surplus fund, for I am sorry to say this Administration did not use it. It is an old system of appropriating for reconnoissances of this description in the Army appropriation bill. There is nothing new about it.

Mr. HUNTER. There is this new in it: Heretofore we may have provided in these bills for military reconnoissances, but this is the first instance I have known in which we have put upon an appropriation bill a proposition for a survey for a railroad. That is the object and that is the design of the measure of the Senator from California. Persons of all shades of political opinion believe in the power to make military reconnoissances and military roads—roads necessary for that purpose alone; but we do know that there is a difference of opinion in relation to this matter. Why, then, insist on ingrafting it upon this appropriation bill, especially when the Senator from California says he is doubtful whether it will accomplish the object or not? He doubts whether he may not be defeating his own purpose. If he is so doubtful whether it may do any good, why force other Senators, who wish to be disembarrassed on this question in voting on the appropriation bills, to consider it?

Mr. BORLAND. The project of getting a railroad to the Pacific seems to be one of the most unfortunate that was ever presented to the Senate. Objections of the most extraordinary character are made to it. The other day, when it was proposed to make a railroad, the Senator from Virginia raised a great many objections, and he then went cordially with the Senator from Pennsylvania for this other proposition. It was perfectly constitutional then.

Mr. HUNTER. The Senator will allow me to say that he is mistaken. I never did, and he cannot find that I ever did, say anything of the sort. I said, it seemed to me inexpedient to make a railroad without a survey; but I never did say that I would vote even for a survey.

Mr. BORLAND. I apprehend the Senator voted for that proposition.

Mr. HUNTER. I voted for it as an amendment to the other bill, but I never pledged myself to vote for it as a separate and specific measure.

Mr. BORLAND. I suppose it results from the argument of the Senator the other day, that he is opposed to making any railroad from the Mississippi to the Pacific. I inferred that from his argument; but I did think that he voted for this proposition then, for the purpose of defeating the Pacific railroad, and by so doing, he would be so far committed to it that if it should ever come up as a separate proposition, we should have his vote. It was met by one kind of objection yesterday, and by another kind to-day, and I begin to fear it is not within the power of any friend of the measure in this body, or elsewhere, to devise a scheme that will ever commend itself to the favorable consideration of some of the members of this body.

Sir, this is not a new proposition. It has been an unsuccessful one heretofore I admit, but it is not a new one. I have been in the habit a great deal, so far as constitutional power is concerned, to defer—I did it in his lifetime, and I am as much disposed now that he is dead—to defer to the late distinguished Senator from South Carolina, (Mr. Calhoun.) I never found him going further than I thought we might safely go in the exercise of the powers of this Government. It so happened that in 1848, when Whitney's railroad project was referred to the Committee on Public Lands, the subject was given to me as a sub-committee to report upon. After consultation, the committee came to the conclusion to reject the proposition; but we proposed to require a survey of the country. Being new here then, and more inexperienced than I am now—and I have now little experience enough—I made it my business to go to Mr. Calhoun, and consult him on the subject. With his assistance I drew up a series of resolutions embodying the substance of this amendment which is now offered. I reported them to the Senate from the Committee on Public Lands. They were never brought to a vote. The circumstances were unfavorable at the time; the session was drawing to a close, and we never had a vote upon the resolutions.

I wished to mention this to show that in going for this proposition now, I am going for nothing new, and that I am fully sustained by the authority of that distinguished man, who was quoted in his lifetime, and who is quoted now since his death, as authority for a strict construction of the Constitution.

Mr. HUNTER. I rise to a question of order. I wish to know whether this amendment is in order under the rule?

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair is of opinion, from an explanation given of it by the Senator from California, that the amendment is not in order. It proposes an additional appropriation to this bill, and under the rule of the Senate no such proposition can be received "unless it be made to carry 'out the provisions of some existing law, or some 'act or resolution previously passed by the Senate 'during that session, or moved by the direction of 'a standing committee of the Senate, or in pursu-'ance of an estimate from the head of some of the 'Departments."

I do not understand that this amendment comes under any of these heads, and therefore it does not seem to me to be in order.

Mr. UNDERWOOD. That takes the salt out of my fish. [Laughter.] I wanted very much to say that I was surprised that my friend from Virginia could not vote for an amendment of this sort, for I have a distinct recollection that he was for a proposition last year for an appropriation to explore the northern Pacific ocean.

The PRESIDING OFFICER. The Chair would inform the honorable Senator that there is no question before the Senate except on the bill generally.

Mr. UNDERWOOD. I was afraid that my speech would be cut off.

Mr. PHELPS. I have an amendment to offer, to come in at the end of the sixth section:

And that the Secretary of the Treasury be, and he is hereby, directed to pay to Benjamin S. Roberts, out of any money in the Treasury not otherwise appropriated, the full amount of his pay and subsistence as a second lieutenant in the first regiment of dragoons, from the 28th day of January, 1839, when he was coerced to resign his commission of second lieutenant in the first regiment of dragoons, without authority of law, until the 27th day of May, 1846, when he was restored to the Army, by being appointed senior first lieutenant in the regiment of mounted riflemen.

Mr. HUNTER. Is that amendment in order? Is it not a private claim?

Mr. PHELPS. I would explain to the Senator from Virginia that this amendment is in the very terms of a bill which has already passed the Senate, and which is now lying upon the Speaker's table in the House. I am not disposed to go into an explanation of the claim at all, as it has already received the sanction of the Senate.

Mr. HUNTER. Perhaps the Senator from Vermont is not aware that the rule prohibits any private claim to a general appropriation bill.

Mr. PHELPS. I understood that it did not apply where a bill for the object had previously passed the Senate at that session.

The PRESIDING OFFICER. The rule is, that "no amendment shall be received whose ob-'ject is to provide for a private claim, although 'the same may have been previously sanctioned 'by the Senate." Therefore, in the opinion of the Chair, the amendment is not in order.

Mr. PHELPS. Then I had mistaken the rule.

Mr. MALLORY. I offer the following amendment as an additional section:

SEC. —. *And be it further enacted*, That for removing the Indians from Florida, the President of the United States be authorized to call into service so much of the volunteer force raised by the last General Assembly of Florida, and under such conditions as he may deem necessary.

Mr. President, I will say to the Senate that there is now a remnant of Indians remaining in Florida, which remnant is bound by the treaty of Payne's Landing to go to the lands assigned the tribe in the West, and which remnant made a special agreement with the President of the United States, last September, to go there. Efforts have been made to remove them peaceably by buying them off, but the special agent of Government has entirely failed in his efforts to remove them. It is impossible that these Indians should longer continue in the State of Florida at peace with the border settlements, and the probability is that hostilities will commence in the coming spring. If so, the fear is that the Indians may be entirely annihilated.

I am not aware that the President has any power to call out the militia of the State to remove a body of Indians in conformity with their treaty stipulations. He has the power to call out the militia to suppress insurrections, and to repel invasions, but not to remove these Indians. This amendment simply provides that he may call out, if he pleases, any portion of the militia of the State under any conditions that he may think proper to accomplish that object. You will gain by this operation this advantage: if the militia shall be called out by the State authorities, as a matter of course the Federal Government will be looked to to foot the bill——

Mr. HUNTER. I would ask the Senator

from Florida if this is recommended by the head of any Department?

Mr. MALLORY. No, sir; it is not. There is no appropriation asked for in the amendment, and I am not aware that it has been recommended by any head of any Department. It is, however, recommended by the Executive of Florida, and by the entire Legislature of that State; and I have been especially instructed to call the attention of the Senate to the subject. I was going on to observe that by adopting this provision you will gain this advantage: If the State herself called out the militia to suppress Indian hostilities, the amount will come to the General Government through the State commissaries and State quartermasters, and the Federal Government will be the paymaster at last. If you authorize the President to call out the militia, you appoint your own regular quartermasters and commissaries, and have the matter under the control of your Departments. This amendment does not provide positively that they shall be called out. It is contingent. If Indian hostilities render it necessary, the State will call them out, as a matter of course; but it is wiser for us, I apprehend, to confer authority upon the President, and let the whole matter be under his control.

Mr. BORLAND. Mr. President, I am constrained to oppose this amendment, and I oppose it perhaps for a reason different from that which would be offered by most of those who would vote against it. It involves somewhat an examination of our Indian policy—that policy of the Government which, beginning many years ago, long before I had any part in public affairs, has gone on till the present time, the result of which has been to put to great disadvantage—unjust, oppressive, and cruel disadvantage, the States west of the Mississippi river. That policy has been to remove the Indians from the States lying east of the Mississippi, and to place them upon our western frontier, assigning to them a country perhaps among the most beautiful, fertile, and desirable regions in the whole of this Union, and doing what with it? Subjecting it forever to the occupancy and control of the Indian tribes. I say that it is an unjust, oppressive, and cruel disadvantage to impose upon the States west of the Mississippi. It builds up, as it were, a wall higher, and stronger, and more impassable than the Chinese wall against the countries bordering upon China. It makes a barrier beyond which civilization cannot go. It subjects to savage occupation and possession a large portion of the most beautiful country which we have west of the Mississippi river, or in any part of the Union.

Sir, I do not oppose the policy of putting the Indians upon our western frontier because we have any apprehension of danger from them. We do not fear them. They are peaceable enough. They give us no trouble in that way; but it is because they are peaceable, because they are quiet, because they hold the country and possess it, and exclude civilized man from it, that I object to the policy itself. I object to this measure in particular, because it is an extension of that policy, and the putting of more Indians west of us; taking steps which will tend to perpetuate more and more this savage occupancy of the country, and the exclusion of civilized man from it. What can my State do? What can the State of Missouri do? The Indian country extends along the whole western border of each State. What can Texas do along her border where these Indian tribes exist, occupying the country, and excluding white men? Sir, we are cut off from extension; not that we want to enlarge our State borders, but we want a civilized population west of us. We want civilized neighbors, who will possess and cultivate the country as civilized men, making our State, as we have a right to be made, the thoroughfare for trade and travel between the two extremes of the Union —the Atlantic and Pacific.

I know very well that in course of time we shall get clear of this evil, but how will we get clear of it? There is a process by which we shall probably get clear of it in a comparatively short time. What is that? The process that has been carried on in Florida, and which was carried on in Georgia and Alabama—of wars with the Indians and their extermination by the sword. That not taking place—and humanity bids us hope that it will not take place—we are subject to the slower process of these Indians dying out, gradually melting away in the neighborhood of civilized men, as they have been melting away since we first landed on this continent. And until they do melt away, until this savage barrier is broken down by this slow and natural process we are walled out on the west. Talk as you please about giving us railroads to the Pacific from our western border, you have by this policy cut us off from availing ourselves of those advantages of neighborhood and extended civilized settlements which have been accorded to other States in this Union. Sir, why do you propose to take these Indians out of Florida? Why did you take the Indians out of Georgia, Alabama, Mississippi, and Tennessee? To enable the country to be occupied and cultivated by white men. At the very same time that you did that, at the same time that the States east of the Mississippi received this kind favor and consideration at your hands, you imposed on the people west of the Mississippi the inconvenience of having these Indians on their western borders. You removed them at an expense of millions upon millions of the public money from those States east of the Mississippi, and you have imposed upon us west of that river in perpetuity, as far as your legislation could do so, this evil.

It has always seemed to me that the duty of western representatives in both Houses of Congress was to have arrested this policy from the first. Ordinary forecast, it seems to me, would have prompted them to do so. They ought to have risen up as one man, and to have resisted such a policy as long as they had, if not arguments to use, strength of lungs to talk, until by the expiration of time the policy could not have been consummated. Sir, such a policy tends more to retard the prosperity of the States west of the Mississippi than anything else that has been done, in my opinion, from the beginning of the Government.

I hold that so far as this case is concerned, Florida, like Arkansas and Missouri and Texas, should be left to take care of her own Indians. These Indians do not annoy Florida as much as the Indians upon our frontiers annoy us. They are dwindling away to nothing. They have got almost to a point. In the course of a very short time, by the operation of natural causes, Florida will be relieved from them altogether. Am I to be told that five hundred Indians, men woman and children—and I understand there are no more—require that the sovereign State of Florida should have the protection of the General Government in order to contend successfully with them? Can she not hold them in subjection and quiet? Can she not keep them within their bounds? Why Florida has been in the Union nearly as long as Arkansas, and she has not got on her borders one twentieth part of the Indians we have on the settlements along our western line. It is true these Indians do not come in upon us. They keep beyond our State line. As a matter of policy, if humanity would permit of such a wish, we could hope that they would come within our State limits instead of remaining beyond us. It would be better for the whole country, so far as policy is concerned, by opening a larger field for white settlers; and by their coming in among us, these natural causes which are now slowly removing that obstacle to the spread of civilization would be very much hastened in their operation.

So far from having any unkind feelings towards Florida, there is no Senator on this floor whose feelings are kindlier, and who would vote any appropriations necessary to promote her welfare and prosperity than I would; but this is asking a little too much. It is asking the representatives of those living west of the Mississippi to relieve her at their own expense, and to increase an evil which is weighing upon them so heavily that they are put to disadvantage, and are every day receiving a taunt that they are behind the other States of this Union. But why is it so? Because we have not been able to avail ourselves of those means of improving our condition which we should have had but for your Indian policy—I would say your barbarian policy—for it has been nothing more—your savage policy. I hope the amendment will not be agreed to.

Mr. MALLORY. I feel it due to the State which I have the honor in part to represent, to prolong this debate by saying a few words in reply to the honorable Senator from Arkansas. His argument is not addressed to the point, if I understand him, for he attempts to argue here against the policy which this Government has long established, of removing the Indians to homes in the West. I have nothing to say as to that, but it is the settled policy of the country, and it is too late in the day now to call it in question.

These Indians have made a treaty. They have agreed by a treaty, recognized by the Senate, to remove. Have we any right to set that treaty aside? Have we of Florida not a right to demand that the treaty shall be complied with? Have we not a right to ask that it shall not be violated? These men, for whom sympathy is expressed, are a common band of cut-throats, outlawed by their own people, common renegades and murderers, who conceal themselves in the frontiers of Florida, and desolate them at pleasure.

The Senator from Arkansas says, let Florida take care of her own Indians. We are doing it. At the last session of the Legislature of Florida, a bill was passed to provide for raising volunteers for the purpose. They are to be held in hand until the Executive shall see fit to remove the Indians by other means. We have tried the experiment of removing them by regular troops, and it has entirely failed. Recently a special agent was sent down by the Government there with a large amount of money to buy them up. He has come back, and reported that there is no means of getting them out of the country but by the people of the frontier themselves who know the haunts of the Indians.

Those who espouse the cause of humanity, those who are for protecting the Indians, may justly take this view of it. The State of Florida considers their presence in her limits an intolerable evil not to be endured; and depend upon it these Indians must go out of the State, or they will be exterminated. The idea of enduring them upon that large district of country, the most fertile and tropical region in the State, and one of the most interesting to the whole South, occupying one seventh of Florida, is totally out of the question. It is due to herself that she should remove these Indians. Now, will you trust the State of Florida herself to remove the Indians in her own way, and then pay the bill she sends you? Or will you take the matter in hand, and suffer the President to muster such forces as he may think proper, under such conditions as he may deem necessary and just, to remove them under his supervision? Sound policy dictates, with reference to money alone, that this course should be pursued. Sound policy dictates, with reference to the Indians alone, that this policy should be pursued. In every point of view it is the one which is absolutely necessary. This amendment asks for no money. These volunteers may not be called; but we shall not meet again until next December, and it is necessary to provide for any contingency which may occur in the mean time, and to give the President power to call out such force as he may deem necessary.

Mr. DAWSON. I would suggest to my friend from Florida to change his amendment so as to provide for calling out the militia instead of volunteers, by putting it in this form:

And be it further enacted, That for the purpose of removing the Indians from Florida, the President of the United States be, and he is hereby, authorized to call into the service such portion of the militia force of Florida as he may deem necessary.

Mr. MALLORY. I accept that.

Mr. DAWSON. There are about three hundred of these Indians in Florida. I have seen the Indian agent here, and I had an interview with him, and got my information from him. There are about a hundred of them who are warriors. Now, my view of the subject is this: Florida will drive these Indians out, and perhaps treat them roughly and inhumanly. For the purpose of avoiding that, as a southern man, and to prevent, if possible, any such inhumanity, I desire that the matter shall be put under the control of the General Government, which, under the treaty, is bound to remove these Indians. When this shall have been done, Sam Jones and Billy Bowlegs will understand that this is a matter in which the General Government is concerned, and that Florida has not the management of it. When they learn that the whole force of the nation is to take them in hand, it will have a moral impression on them, and will save the lives of the Indians and the money of the country, in my opinion.

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Mr. HALE. If I understand the object of this amendment, it is to produce a moral impression on Billy Bowlegs. [Laughter.] I am opposed to it. There are about one hundred of these warriors, all told. I suppose that in my country we would take out a warrant before a justice of the peace and send the constable after them, and he would take care of them. If it be necessary to call out any portion of the forces of Florida, I would call out that portion with which General Jackson said he could have ended the Florida war in six months, and I think the Senator from Florida knows what that was.

Mr. BUTLER. What was it?

Mr. HALE. He said that if you would give him an army of old women he would end that war in six months. [Laughter.] I think this is what they vulgarly call running the thing into the ground; and I would elucidate the matter if I did not see that the Senator from Virginia [Mr. HUNTER] was looking so distressingly at hearing so many speeches. I confess I have been illuminated by the speeches we have had here to-day. I have listened with a great deal of pleasure to the remarks of Senators, particularly those of the Senator from Arkansas. But I will not detain the Senate, and I hope that now, as we have said enough, we shall have a vote. I am decidedly opposed to the whole of this thing. I do not think you will produce any moral impression on Billy Bowlegs! The next thing will be that he will be carrying on hostilities, and then we shall have to declare that war exists by the act of Billy Bowlegs, when in fact it will have been done by our own act. [Laughter.] I hope the amendment will not be adopted.

Several SENATORS. Question! Question!

Mr. MORTON. Mr. President, I know that no Senator will be alarmed, by seeing me take the floor, that the precious time of the Senate will be consumed by a protracted speech. I wish this subject to be treated in a serious manner by the Senate.

By treaty stipulation, in 1832, the United States entered into a solemn obligation to remove these Indians from the State of Florida. All that we ask now, on the part of Florida, is, that they shall be removed. However contemptible they may be in number, they have defied all the armies and all the generals of the United States in their efforts to remove them, from 1836 to 1842. There is a small band now remaining. According to stipulations entered into by General Worth, there were arrangements made, by which a cordon of military posts was established to protect the settlements from the incursions and depredations of these Indians. Notwithstanding the fact that we had a large military force there in 1849, they passed the line and murdered many of our citizens. The people of Florida call upon the General Government to interfere and protect her citizens from the murderous tomahawk of the Indian. Our women and children have been slaughtered and murdered by them, and we call upon the parent Government to comply with its treaty stipulations and remove these Indians.

As to the point to which they are to be removed, I know not and care not. The established policy of this Government for many years has been to remove the Indians west of the Mississippi. I can appreciate very well the feelings and sentiments of my friend from Arkansas. I know it is a great annoyance and nuisance to any State to have an Indian tribe upon its borders. All that we ask is, that the Indians in our State shall be removed according to treaty stipulations west of the Mississippi, as those from the State of Alabama and other States east of the Mississippi have been removed. We ask the Government to comply with the stipulations of the treaty, and that a proper force shall be granted to enforce the removal of the Indians. The people of Florida are willing to do it themselves, provided the United States will foot the bill. We do not want your regular troops. We only want that you shall give authority to the President to call out the volunteers of the State. I hope my colleague's amendment will be adopted.

Mr. SHIELDS. I merely wish to inquire whether the President has not this power now, without this enactment? Does this give him any additional authority?

Mr. MALLORY. I should like to have the question answered myself. I am unable to say. By the Constitution, the President has a right to call out certain forces in certain contingencies. He is Commander-in-Chief of the Army and Navy of the United States, and the Constitution authorizes him to protect the States against invasions or insurrections; but I do not know whether or not the President has power to call out troops to enforce the removal of Indians under treaty stipulations. I have not found any such authority, and I do not think it exists.

Mr. RUSK. I move to amend the amendment, by adding to it these words:

"And that the President be authorized to call out, in the same manner, one regiment of Texas militia, for the defense of the frontiers of that State."

Mr. President, the Senator from Arkansas has justly complained of the policy of the United States in forcing all their Indians on the borders of Arkansas. It is oppressive and annoying to that State, beyond all question; but it has been the settled policy of the Government. If, however, the Senator from Arkansas has a right to complain, I have twice as much right to complain as he has. Indians have been sent out for sixteen or seventeen years past, and they have for that length of time made war upon Texas. I am prepared to show, from the documents, that the United States have permitted their Indians to go there in violation of the plain provisions of a treaty, requiring them to restrain the Indians. A portion of these Florida Indians were sent out a few years ago, to their lands west of the Mississippi, under the lead of the celebrated Wild Cat. The instant they came there, they commenced depredations on the State of Texas, and have continued them.

I have no objection to the removal of the Indians from the State of Florida, but while you provide for that removal by giving authority for calling out troops for that purpose, give us upon the same principles of justice, an opportunity of calling out a regiment of Texan volunteers to defend our frontiers, for they are not defended, and they have not been defended since the annexation of Texas.

Sir, the honorable Senator from New Hampshire seems to make himself witty over every subject, and he seems to think that with a regiment of old women he could soon drive Billy Bowlegs and his Indians from Florida. I should like to see that honorable Senator in command of such an army. I will thank him kindly for taking command of it. I will give him a gold medal if he succeeds. I will make him a better offer than that: He may parade a regiment of men, just as good looking as himself, and come in contact with Wild Cat and the Camanches, and if he remains face to face with them for two hours, and keeps his hair upon his head, I will engage that the State of Texas—yes, sir, the women and children exposed on the frontier of that State to be massacred and murdered by these very Indians—will give him a gold medal for his services.

Mr. WALKER. I do not understand the honorable Senator from New Hampshire to propose to whip the Indians depredating upon Texas with that army of old women, but to whip these one hundred Indians in Florida, about whom so much fuss is made. That was all that I understood him to throw out.

Mr. HALE. The idea was not original with me.

Mr. WELLER. Mark it as a quotation. [Laughter.]

Mr. WALKER. But the proposition made by the Senator was one which was really true. Now I think the proposition of the Senator from Texas is fair, and I believe, if any man in the Senate would succeed in such a command, it would be the Senator from New Hampshire, and that he, with such a force, would succeed in conquering this hundred Seminoles in Florida. But, Mr. President, I see in the original amendment, if I see anything at all, another Florida war; not that the troops of the United States are unable to conquer Billy Bowlegs and his troops, but that when the fight is commenced it is not desirable to conquer them. There is not speculation enough in the conquest, but it must be perpetuated—a war longer than the revolutionary war must be kept up, to do what? To conquer Billy Bowlegs and Tustanega, and a few others. Not that I attribute this motive to the Senators from Florida—by no means. Now, I will say what I think of this matter. If Florida will go on, and, by the exercise of her civil authority, take these Indians in charge and remove them beyond her limits, as she has a right to remove them, the Government of the United States will foot the bill, if it is a fair one; and that, too, without a provision of this kind. I believe Florida is ambly able to do it. Her Senators seem to hesitate about the matter, and to doubt whether the President has authority to order out these troops now, and therefore they want the authority of Congress for the purpose. I do not believe that is necessary. I believe the question put by the honorable chairman of the Committee on Military Affairs is pregnant with an affirmative. The President has now the power, if he is willing to exercise it; but I do not think the President has looked upon it as a matter of sufficient importance. I think that the gallant authorities of Florida should take the subject in hand as a matter of execution of their own internal policy, and try to rid themselves of an evil which must be an annoyance.

The amendment to the amendment was agreed to.

Mr. GWIN. We have some Indians in my State for which I should also like to provide, and therefore I have a very strong inclination to offer the following amendment to the amendment:

"And that the President be also authorized to call out, in the same manner, one regiment of California militia for the defense of the frontiers of that State."

Mr. DOUGLAS. I think the chairman of the Committee on Territories will have to come in and take care of his children, and therefore I shall have to move to insert "Utah, Minnesota, Oregon, and New Mexico."

Mr. CASS. It will be found, on referring to the law, that the President has full power to call out any regular forces or militia necessary to the defense of any part of the Union. With respect to Texas, therefore, it is wholly unnecessary in any point of view. He has full and general authority, under the Constitution and laws, if the state of things requires it, to call out the militia. With respect to the authority, it turns precisely on this point: If the Florida Indians are in a state of hostility, if the frontier is placed in a state of danger, the President has power at all times to call out the militia or regular troops. The question whether we are willing under existing circumstances to interfere to remove these Indians, I am not now prepared to decide. If they are mere wandering Indians, I am not now prepared to remove them. We have such Indians probably in almost every State of the Union. We have almost four times as many in Michigan, and I suppose there are some in all the western States. There are but three hundred of these Indians, I believe, and that would give but between fifty and seventy-five warriors, and I do not think that if they are wandering Indians it would be necessary to declare war upon them.

Mr. RUSK. As I understand from the honorable Senator from Michigan that the President has this authority already, I move to reconsider the vote by which the amendment to the amendment was agreed to.

Mr. MALLORY. I desire to say to the honorable Senator from Michigan, in reply to the remarks which he has made, that the Indians in Florida are not now in a state of hostility, but that they stand defying the authority of the United States, and preparing for hostilities. The special agent has returned and reported his proceedings to the President. A message of the President upon the subject now lies upon our table. He says that if Congress determines that the Indians may

remain, he will let them remain; but if Congress determines that the Indians shall remove in conformity to the treaty, then he wishes the action of Congress.

The motion to reconsider was agreed to, and the question recurred on the amendment of Mr. RUSK to the amendment of Mr. MALLORY.

Mr. MORTON. I ask my friend from Texas to withdraw it.

Mr. RUSK. I withdraw it.

Mr. GWIN. I withdraw my amendment to the amendment.

Mr. HALE. I have an amendment to the amendment. It is to add:

"And that he be further requested to order a sufficient military force on to the frontier, between the United States and Mexico, to carry out our treaty stipulations with that country."

Mr. MORTON. I hope this amendment will not be embarrassed by adding on these other propositions.

The amendment to the amendment was rejected.

Mr. HOUSTON. I was not present when this amendment was introduced, and I have not had much time to reflect upon it; but from the remarks just made by the Senator from Florida, I learn, for the first time, that the President has made a communication to this body upon the subject of the removal of these Indians. I am not in favor of calling out the militia for the purpose of removing them, for the reason that local animosities and a degree of prejudice may exist in their minds to such an extent as will disqualify the authorities of Florida from giving to the subject that consideration to which I think it is entitled. I am satisfied that the Indians would go to the West, and would unite with their brethren, provided suitable agents were sent for that purpose, by whom the wishes of the Government might be communicated to them, and if all irritation between the citizens of Florida and the Indians was allayed.

Since I came into the Senate of the United States, hardly a session has passed that claims from Florida have not come up to an enormous amount to defray the expenses of calling out the militia by that State to aid in the suppression of Indian hostilities. We have had claims for pay and for losses to an immense amount. Really I do not know that any State has ever received the same amount of appropriations for defensive purposes which Florida has received.

Mr. President, if you authorize the President of the United States to do that which is proposed by this amendment, he will have but little discretion left to him. Sir, a case can always be made out of sufficient strength and sufficiently imposing in its character to require the President to act in conformity with the requisition of the Governor of that State; for if he does not, clamors will be raised that he has permitted its citizens to be butchered. Now, sir, I will guarantee, that if these Indians are let alone, and not encroached upon until proper appliances can be made by the present Executive, they will be removed, and possibly without bloodshed, and we shall thereby be saved the expenditure of several hundred thousand dollars; for if you keep but one regiment of Florida militia in the field for one year, the expense would probably be $1,200,000; and this for the purpose of killing a hundred Indians. The militia, sir, never can conquer the Indians. The Indians have their hammocks and their places of retreat, which are inaccessible to the militia.

As I have said, a regiment of mounted men in Florida would probably cost $1,200,000 for one year's service; it would therefore be a great saving if you were to appropriate $10,000 or $15,000, and place it in the hands of some agent, who would expend it for the real advantage of the Indians, and in furnishing them the necessary supplies. Starvation often drives the Indians to war and to encroachments. Individuals go and kill their stock, or commit some outrage upon them, which incenses them, and that is generally the cause of hostilities on their part. I have lived nearly to the age of three score, and I never, during the whole course of my life, knew a treaty to be violated by the Indian community which was made with the United States in good faith. It never will be done. The Indians always regard their faith. They know that they are the weaker party, and that in the event of a collision, they would be the sufferers. They know that they have not the resources of the white man; and let me add, they are almost always the injured party. Why press upon this little handfull of Indians? Are the necessities of Florida so great that, extended over a vast area of country with a sparse population, her people cannot find employment within the settled limits of their country for the investment of their capital, without running in upon the hammocks of the Indians, interfering with their fisheries and their hunting grounds? There is no necessity for it. Let us use a little forbearance. Billy Bowlegs is not such a terrible scare-crow, or so anxious for war when he cannot be advantaged by it, that he is going to invade the formidable State of Florida.

I will not vote for the amendment. I am satisfied that any encouragement given to the Executive of the State will be succeeded by demands upon the Executive of the United States;—they will be so importunate; and newspapers will get up stories of combats; the most melancholy and terrible details will be narrated, but all will turn out to be fustian at last. Yet such tales will be circulated throughout the United States, and there will be a great cry raised of the cruelty of the Indians, and of their massacres of the people on the frontier. The country will be alive with the cry, and people will be ready to fly to the standard of Florida to defend her against a few hundred poor, miserable, half-starved Indians, whom humanity requires that you should feed rather than exterminate. The Indians want justice, and I wish there were an abler man than myself to stand up on this floor and demand, in their behalf, that justice shall be done to them. Sir, they are despoiled of everything. Their territory is taken from them. They are robbed of their annuities, and the purchase money for their lands is taken by felons. Is not this something that should be looked at and considered? They have no one here to appeal in their behalf, or to tell their griefs and wrongs to American ears; but it is nevertheless true that their history is a history of wrongs untold. If Senators, independent of their position, cannot stand forth and vindicate the wronged Indians, where is he to look but to the Great Spirit for redress? and that comes slowly when compared to the activity of the avarice of the wicked.

I cannot vote for the amendment. I am satisfied that it will lead to a breaking out of hostilities, as they have been called. I have seen hostilities produced before, and I have seen a clamor run through the community in regard to it, and every man capable of bearing arms would be eager to rush to the standard; but when the facts came to be inquired into, it was found that it arose from a white man shooting an Indian walking through his own corn-patch, carrying his head so high, the proud rascal! Yes, sir, I have seen that.

But, sir, we have the faith of the Government pledged to another frontier extending eight hundred miles. You do not hear resolutions or amendments introduced here for the protection of Texas. We have despaired of it.

We can point to slaughtered citizens, to numberless massacred women and children who have fallen within the last four years, yet we did not make such loud complaints. The raking up of these Indian matters is the legitimate business of the Committee on Indian Affairs, and if I live to resume a place on this floor at the next session, I shall claim the high privilege of being on that committee, so that if I am permitted to have my claim responded to, I may stand forth not to seek favors for the Indians, but to vindicate them against wrongs and oppressions. So long as I stand upon this floor, I will vindicate their rights and they shall have justice done them if there is integrity or truth in the stipulations made by American officers to the Indians.

Mr. MALLORY. Mr. President, I have listened with a great deal of pleasure to my honorable friend from Texas, and I have no doubt, if the debates here shall ever reach those Indians, that Billy Bowlegs, of whom you have heard so much, in common with others of his tribe, who are murderers and cut-throats, would feel indebted to the honorable Senator from Texas for standing here and upholding him. Sir, who are these Indians for whom all this sympathy is expressed, and who are spoken of here as heroes who have been driven from off their soil by a sovereign State? Who are they? The remnant of an Indian tribe which by treaty engaged to go west, which was paid for so doing, which received the pay, and then sped to the woods and refused to go.

Is it the fault of the State of Florida that money has been expended in the attempt to remove these Indians? The attempt has been made by almost every general of the United States Army, from the General-in-Chief down, and every one has failed—failed in the judgment of every man who understands anything of Indian character—by adopting the modes of civilized warfare among a parcel of savages, in forests almost impenetrable, when perhaps a thousandth part of the money expended, if spent legitimately and properly in the hands of the volunteers of the country, would have entirely removed them; because men familiar with the character and warfare of the Indians would be much more dangerous to them than those who did not understand them.

I concede that the Senator from Texas is *au fait* in all the matters relating to Indians; but I should like to appeal to him for information on the subject, and to consult him about Billy Bowlegs, and the chiefs and the Indians in Florida. There is scarcely a family in that State which has not lost a relative among those Indians. They must be supposed to know something of the character of these Indians. The Governor of the State must be supposed to know something of their character. The members of the Legislature, coming from all parts of the State, must be supposed to be acquainted with it. I defer very much to the judgment of the Senator from Texas on Indian matters; but I am sorry to see him on this floor to-day as the advocate of this broken-down band of Indians.

The Senator alluded to certain Florida claims. Now, I have not presented a claim since I have been on this floor for services in Florida; and though he says that that State has received as much or more for defensive purposes than any other, I absolutely deny it, and I call upon him to prove it. I call for the data on which he bases it. The United States have called upon the citizens of Florida occasionally for supplies, and those citizens have come here for their pay, but the larger portion of the expenditures of the Florida war went into the pockets of your quartermasters and commissaries from the different States of the Union, and not a single man in the State of Florida was ever enriched by it. I am sorry to see an endeavor made by the Senator from Wisconsin [Mr. WALKER] to get up the idea that the hostilities with these Indians will be protracted in order to enable Florida to get more money out of it. The very object of this amendment was to cut the matter short. If Congress feel disposed to remove the Indians at all—and having undertaken it, I suppose they should do it—this amendment is intended to accomplish it with the least expense, and with the greatest humanity to the Indians themselves.

The honorable Senator from Texas does not seem to understand that the President of the United States, by a special message, has referred the subject directly to us. He has said to us, "If you are disposed to let the Indians continue in Florida, very well; but if you are disposed to require them to go west, you must give me authority to carry out your determination." That is what the President says; and why should we not give him the power? The honorable Senator from Texas is mistaken in another point. He supposes this amendment devolves authority on the Executive of Florida. It is to avoid that; it is introduced to put the whole matter in the hands of the Executive, that the commissaries' and quartermasters' expenditures shall be revised at the Executive Departments of the Federal Government, and that claims may come here properly adjudicated upon, and that no more officers may be employed, and under such conditions as the Executive of the whole country may think proper to prescribe.

Mr. HOUSTON. I did not misapprehend the gentleman. I did not intend, and he should not suppose it, to imagine that the Governor of Florida would derive any authority from the notice which Congress proposed to give to this subject. I said that the representations of the Governor of Florida to the Executive of the United States, and the urgency of the applications made to him to carry out the provisions contained in this amendment would be irresistible. He would have to rely upon representations made to him, and he would probably yield to them; the consequence would be a protracted war; whereas by

postponing the matter until the new Executive comes in, the result may be different. The arrangement was entered into by a former Executive, and he has not had time to complete them. He can still go on with the experiment to the end of his Administration.

I doubt not that the Indians can be pacificated, and that they will go peaceably to the homes of their brethren across the Mississippi; that they will settle down in quiet and peace, and become husbandmen and agriculturists; that they will go to a healthier clime, to one where supplies are abundant—for the country of these Indians west of the Mississippi is surpassed by none on earth in its production of corn and all the necessaries of Indian comfort. I have no doubt that the Indians can be transported there without difficulty, and incorporated with their brethren; whereas, if you authorized or give to the daring and active spirit of Florida the least encouragement, as this amendment would do, for encroachment upon the Indians, that very moment the agitation would begin, appliances would be made for the purpose of removing the Indians, the inhabitants would urge it upon the Government, and they would consider the adoption of such a proposition as a warrant for any outrage they might commit. "The infernal Indians will not go; they are bound to go, and we will make them go." In that way a war might grow up in Florida. Why could not two hundred determined men expel this hundred warriors, if it was necessary to compel them to go west? I have no idea of voting more means for an enterprise of that kind than are physically and absolutely necessary, and I shall not vote for the amendment, because I see that it would lead to war, bloodshed, and massacre; it would lead to the destruction of the Indian warriors, and when the men are destroyed, of course the women and children will be reduced to starvation. I cannot see the justice of this, and I will never consent to do injustice or inhumanity if I can avoid it.

Mr. MORTON asked for the yeas and nays upon the amendment; and they were ordered.

Mr. WELLER moved that the Senate adjourn.

Mr. HUNTER. I hope the Senator from California will permit us to take the vote upon this question. If we adjourn now, the whole debate will have to be gone over again to-morrow.

The motion to adjourn was not agreed to, there being, on a division—ayes 19, noes 22.

The amendment of Mr. MALLORY was rejected; there being, on a division—ayes 19, noes 24.

Mr. CHASE. I ask leave to offer an amendment from the Committee on Roads and Canals.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, February 23, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER stated the business first in order to be the consideration of House bill No. 360, establishing reciprocal trade with the British North American Colonies upon certain conditions, upon which the gentleman from New Hampshire [Mr. TUCK] was entitled to the floor.

Mr. JONES, of Tennessee. I desire to make a report from the committee appointed to wait upon the President elect to inform him of his election.

The SPEAKER. The gentleman from New Hampshire [Mr. TUCK] is entitled to the floor.

Mr. CLINGMAN. I object to any proceeding which is not in the regular order of business.

Mr. TUCK. Then I decline to yield the floor.

Mr. JONES. I presume there will be no objection to making the report of the joint committee.

The SPEAKER. The gentleman from New Hampshire declines to yield the floor.

Mr. JONES. Have not the joint committee appointed to wait upon the President elect to inform him of his election the right to report?

The SPEAKER. They have not the right to deprive a member of the floor for that purpose.

Mr. TUCK. If no one objects, I will not.

REPORT.

Mr. JONES then, from the joint committee appointed to wait upon the President elect and inform him of his election, reported that the committee had performed the duty assigned them, and that the President, in signifying his acceptance of the office to which he had been chosen by the people, said:

"You will please communicate to the respective Houses of Congress my acceptance of the trust confided to me, and at the same time express to them my grateful acknowledgments, and assure them of the deep sense of obligation with which I regard this manifestation of confidence on the part of my countrymen. It will be my earnest endeavor to prove that their confidence has not been misplaced."

Mr. TUCK. I trust the House will understand that I at first declined to yield the floor to allow that committee to report, on account of the objection made by other gentlemen, and not on account of any personal unwillingness on my own part.

Mr. JONES. I move that the report be entered upon the Journal of the House.

The SPEAKER. That motion is not necessary. The report will be entered, as a matter of course.

RECIPROCAL TRADE.

Mr. TUCK then resumed and concluded his remarks commenced yesterday in favor of reciprocal trade with Canada. [See Appendix for his speech.]

Mr. CLINGMAN. I did not intend to embark in this debate at all.

Mr. WELCH. Will the gentleman allow me a moment, in order to offer an amendment?

Mr. CLINGMAN. I will, before I take my seat. I do not desire to make a speech upon this subject, and, in fact, it was not my intention to have said one word.

The gentleman upon my right [Mr. TUCK] to-day, and the gentleman from Maine [Mr. FULLER] on yesterday, have thought proper to refer to an amendment of mine, and to my position in reference to that amendment, which renders it proper, perhaps, that I should make a short explanation upon the subject. I say to the gentleman from Maine that I am disposed to support his proposition for the settlement of the fishing difficulties. I am willing to take up that question, and if Great Britain will allow our people to fish wherever her subjects do, I am willing that her people should sell fish in our country upon the same terms as our own citizens; and I trust that whatever we may do upon the other subjects, we may pass that, and I hope that the British Provinces will accede to it.

The gentleman from New York [Mr. SEYMOUR] and others, have not thought proper to settle this fishing question alone, but are desirous of attaching to it another measure of great importance, but not necessarily connected with this subject at all. I am opposed to the particular bill of the gentleman from New York, and while I am willing to do everything in our power to advance the fishing interest, yet those gentlemen, I must insist, have no right to complain of us, for we pay them such a bounty from the Treasury as no one else gets—viz: equal to some five or six dollars per month. But I do not agree at all with the gentleman from Maine, that if we repeal that bounty we shall cease to catch fish. The gentleman knows, perhaps better than I do, that the only fishing interest that has prospered above all others—I mean the whale fishery—never was protected at all. While Great Britain was protecting her men, and while France was giving large bounties, our people have gone on without any aid from our Government; and the result now is, that while I believe we have some six hundred and fifty whalemen, all the other nations of the earth have less than one hundred. We have nearly ten times as much capital invested in that branch of business as all the rest of the world together, and I have no doubt that if our people engaged in the other kinds of fisheries were left to their own energies, they would still go on to catch fish. I do not propose, however, to discuss the question now.

The gentleman from New York has made a very ingenious argument in favor of free trade with Canada, &c. I concur with his general principles; but the argument which he makes in favor of reciprocity with Canada will apply with tenfold force to free trade with England. Now, I beg gentlemen to take up his report, and insert for the word "colonies," wherever it occurs, the words "Great Britain," and you will find that the argument is vastly stronger. That idea which the gentleman has thrown out, and which my friend from New Hampshire [Mr. TUCK] makes use of to-day, is a singular one. These gentlemen say that because Canada and the United States are very much alike in their productions, therefore free trade between them is advantageous.

Mr. Speaker, the more alike countries are, the less the need of trade between them. If two countries were precisely alike in their productions and their wants, of course they never could advantageously trade. Trade is nothing more than this: Where the United States have more of certain productions than they want, they can afford to let some one else have them. If other people have a surplus of the same kind, of course there would be no commerce between them at all. The very reason that Canada is very much like the United States in its productions, is the strongest of all reasons why there is little necessity for trade at all. Great Britain, on the other hand, whose productions are entirely different from those of this country, may want to get our surplus, and in turn give off to us what she has in excess. As Canada and the United States are not exactly alike in their productions, they find some advantage in an interchange; but as Great Britain is still more unlike us, there is a much greater reason for an unrestricted commerce with her; and, in point of fact, it already, in spite of the present shackles, greatly exceeds that of the rest of the world. This argument is, therefore, utterly fallacious. I admit there would be an advantage in free commerce with the Provinces, but there would be a much greater benefit in trading with a country like Great Britain, the productions of which are very different from our own.

Mr. Speaker, my purpose is not to go into a general discussion of the question at this stage of the session. I have argued it heretofore. I wish the gentlemen on the other side to understand that I do not object to the general principles of that report, but its limitations. It proposes a very narrow policy. For illustration, it is stated, in the first place, that lumber is highly necessary to our manufacturers and builders generally. I admit all that. In it he says, too, that the coming in of lumber from Canada will injure the lumber business of this country; and he then refers to the State of Maine, and says, though that State will be injured in this respect, she may get an equivalent in the free navigation of the St. John and St. Lawrence rivers. Well, that may be good policy for Maine, but how is it with North Carolina? Here is the district of one of my colleagues, [Mr. ASHE,] referred to the other day, which exports lumber very largely. There sits another colleague on my left, and another here on my right, whose districts send out a very large amount of lumber, and what equivalent are they to get? It will not benefit us to know that the free navigation of the St. John and the St. Lawrence is open to us. We cannot avail ourselves of them, and the result will be that all the other sections of the country are to be injured. If you make the system a general one we may get advantages in other respects. We may send our productions to Jamaica and Great Britain, and possibly to the Canadas, if you make the trade absolutely free in all respects, so as to compensate us for our losses in the lumber business. But, as I have already stated, I do not care to go into a general argument on this question. Gentlemen who will examine that report will find that it is very partial in its provisions and reasoning. I do not charge that as the purpose of the gentleman. He represents certain interests on this floor; it is very natural that he should be desirous of advancing them, and his bill is admirably adopted to that purpose. He, at the same time, has endeavored to impose such restrictions and limitations as render it improper and unjust for us to adopt it. If he will carry out his argument fairly to its legitimate results, I am willing to go with him. He is anxious to get certain Canadian productions needed in New York. He says that they are necessary to enable our manufacturers to do their work cheaply; and that these things are necessaries. Suppose I should say that salt was necessary to my constituents and the whole country, and propose to include it in the free list, his constituents, if those living around Syracuse be his constituents, would at once object; and if iron and coal should be put in, which are equally necessary, and which the whole country consumes to a great extent, you would find the gentlemen from Pennsylvania objecting to it; and if you embrace cot-

ton and woolen goods, and other manufactured articles which are consumed to a great extent in the South and West, you will find certain New England interests objecting. If we are to have free trade let it be general. The gentleman on my right says that we cannot abolish all duties. I agree with him, and therefore do not propose to adopt the system of free trade fully at this time. I have, however, introduced an amendment which I think is a very important one. It throws open our ports to the free competition of Great Britain; and if that kingdom will give us the same privilege in her ports, I am for the change. I endeavored to make an argument on this question last winter, and I intend on some proper occasion to examine it in detail; at least I will endeavor, if I should happen ever to be on this floor again after the present session, to bring it to the consideration of Congress. I have no hope of seeing that system carried out at this session; nor do I believe that the gentleman's bill is likely to pass in its present shape. If, therefore, I have embarrassed the bill, as the gentleman contends, by the submission of my amendment, I want him to understand that I have offered it with a view of keeping the question before the country. I do not say that I am prepared to vote for the proposition of the gentleman from Georgia [Mr. TOOMBS] in its fullest acceptation just now. I would not entirely repeal our navigation laws for the present; but I am willing to throw open our ports to such a country as Great Britain, which can give us a fair equivalent. One of my friends said some time since, that you might as well abolish the Navy as the navigation laws. Nothing is in my judgment more erroneous than such an opinion. Last session I referred to the fact that in two years after the announcement of the reciprocity system in the foreign trade, our tonnage in the ports of Great Britain had increased twenty-five per cent., while that of Great Britain in the same ports had increased scarcely five per cent.; and that in the port of New York, while ours had increased seventy-eight per cent., hers had increased only fifteen per cent., so that our increase has been fivefold greater than hers. If, therefore, we can beat Great Britain five to one in a direct trade between the two countries, is there any danger that we would suffer on our own coast? The gentleman from New York, [Mr. BROOKS,] who made some remarks the other day, and I was amused at the ingenuity he exhibited, asked the gentleman from Georgia whether we were going to throw our western waters open to British navigation? Perhaps the gentleman wished to frighten us with the idea of having British vessels on the Mississippi river.

Mr. BROOKS. I do not know whether I confined my remarks to western rivers alone, but I meant the western rivers and lakes. I have no doubt that they would drive us out of Lake Ontario altogether.

Mr. CLINGMAN. I differ entirely from the gentleman; and I should like to know on what data he founds that opinion. Why is it that Great Britain can beat us on Lake Ontario and nowhere else? That rather reminds us of Æsop's fable of the man who made the famous jump in the Island of Rhodes, and who could not make it on any other ground. But the gentleman on the other side of the House [Mr. FULLER] stated that we could not build as cheap ships as those Provinces, though they could not equal us in building good ships for long voyages. I think that he underrates the ingenuity of his own countrymen. I have no doubt that in New England, if they shall find it to their interest to do so, they can build as cheap ships as Great Britain. I have no doubt that American enterprise and ingenuity will be equal to theirs in every sort of ship-building.

Mr. FULLER, of Maine. With the permission of the gentleman I will state, that whilst the Provinces pay no duty on iron and cordage, and all that enters into the formation of vessels, we have to pay enormous duties.

Mr. CLINGMAN. I anticipated that argument, for I have heard it before. I do not believe under the existing rates of duty—and in this opinion I am backed by some of the ship-builders of the country—that they can build ships as cheap in England as we can. I know that there is some difference of opinion on this point, but the experiment in the foreign trade sustains me fully in my view. If it shall be found, however, that we cannot compete with Great Britain in ship-building, owing to the duty on iron, cordage, &c., I am willing that those duties shall be taken off. We have taken the duty off of copper, and other things which are needed by ship-builders, but I am willing in like manner to remove it from iron and hemp altogether. I would much rather have that system; and if it will put our people on an equal footing with Great Britain, and enable them to underwork her, as they are now doing, I am for it. This system will cheapen freights throughout the whole country. It is known that there is an enormous trade between the mouth of the Mississippi river and the city of New York; and yet it is a singular fact that but a few years ago, and I expect the same thing is now true, the freights between New York and New Orleans were higher than they were between New York and China, on the opposite side of the globe. In going from New York to the East Indies or China, you have the competition of the world, which you have not on our own coast, and hence these enormously high freights. All western men are interested in this matter, for they send down the Mississippi river an immense amount of produce, and get their goods through the same channel. Under the existing law, if a British vessel should go to New York with a load of foreign goods, and leave them there, and should then desire to go to New Orleans or Charleston for a load of cotton, she is obliged to go down empty, though she might be willing to take a cargo for one of our merchants at half the price an American ship charges. Why is it when the farmer goes to the sea-side, where there are British and American vessels, he should not have the privilege of employing that one to carry his produce over the sea to market that will carry it cheapest?

Gentlemen are sensitive about these interests in the Northeast. The discussion heretofore has been confined to gentlemen representing one section of the country only, and that not a large one, though there is a little clashing in this matter among its friends. But there are four fifths of the whole country, embracing the great agricultural interest, as well as most of the mechanics and manufacturers, concerned in having cheap freights, and why should we not open our ports to competition? I have no doubt that the trade will still remain in the hands of our countrymen; but they will have to work for lower rates, and the result will be that by cheapening freights you will vastly increase the amount of produce to be sent abroad, and, as we see already under our partial system of free trade, our marine will be very rapidly increased.

The gentleman from New Hampshire [Mr. TUCK] asked me this morning whether I had any reason to suppose that Great Britain would adopt this system? I do: because it is her interest to do so, though she will not get as much advantage by it as we will, but it will be beneficial to both. I beg gentlemen, who represent the shipping interest, to remember, that in 1849, when the present system began, Great Britain did not possess such advantages as she now does. Since then the Australia gold mines have been discovered, and their value to her shipping interest is almost incalculable. It must also be borne in mind, that Great Britain now gives us something like our coasting trade. Our vessels may go from one British colony to another, or from any one of them to England. But they are not allowed to go from one port in England to another in England, nor from one port of Canada to another port of that same province, although they may go from Canada to New Brunswick, or Jamaica, or Great Britain, and *vice versa*. If Great Britain were to repeal that system, in consequence of this Government refusing her vessels free trade between our Atlantic and Pacific coast, we would be materially injured. An American ship can now leave New York for California and discharge her cargo there, then go to Australia, and from there to India, and thence to Liverpool, making the whole circuit of the globe, and shifting her cargo from time to time as her interest demands. A British vessel cannot go from New York to California with a cargo; and the result is, that she labors under a very great disadvantage. If Great Britain should recede from her present system, I think that we would be much more injured than she would, and this matter is worth thinking of. I have occupied more time in these rambling remarks than I intended. I will say further, however, that I am disposed to see this system carried out honestly and fairly now while Great Britain is willing to do so. I have offered the amendment in good faith, and if it be adopted, I shall vote for the bill. It cannot, of course, take effect immediately. This whole matter must be settled by the treaty-making power; but it would be the right and duty of the President to fix some future day on which any modification that might be found necessary, should take effect.

I have very little hope that this system will be adopted at this session of Congress. I doubt whether we ought to do anything more than pass such a bill as the gentleman from Maine [Mr. FULLER] has introduced, with a view of settling this fishing difficulty. I hope the whole subject may go over, and if a motion be made to refer it to the Committee of the Whole on the state of the Union, I will vote for it. If the gentleman from Maine [Mr. FULLER] shall introduce his bill as a separate provision, I do not think it will meet with any opposition in this House. It refers to nothing whatever but the fishing interest. Let us pass the best proposition we can upon the subject.

Mr. WELCH. With the leave of the gentleman, I propose to offer an amendment to his amendment, to come in as a second section.

The SPEAKER. There are two amendments already offered, by the unanimous consent of the House, which will be taken up and considered when the House comes to act upon the subject.

Mr. SEYMOUR, of New York. I am willing that the amendment of the gentleman from Ohio [Mr. WELCH] should be read, for the information of the House.

The amendment was then read, as follows:

"SEC. 3. That for the payment of duties upon iron imported, to be used in the construction of railroads in the United States, or any of the Territories thereof, a credit of five years from the time of importation shall be allowed to the owners or importers thereof, upon their giving bond according to such regulations as shall be prescribed by the Secretary of the Treasury, conditioned that the same shall, within three years from its importation, be laid down or used in the construction of such roads."

Mr. WELCH. Will it not be in order to offer that amendment as an additional section?

The SPEAKER. The Chair again suggests that there is a motion to commit pending, which cuts off any motion to amend. There is an original motion to amend proposed by the gentleman from Maine, [Mr. FULLER,] by way of substitute, which was printed with the bill. Since that time, by unanimous consent, two other amendments have been offered, which will be taken up and acted upon in their order.

Mr. CLINGMAN. I have no objection to that provision of the gentleman; and, indeed, I framed, the other day, an amendment to offer as my own, but as I came to the conclusion that this bill was not likely to get through the two Houses, I thought that it was useless to offer it. If it will gratify the gentleman, however, and it will be in order for me to do so, I suppose I might modify the amendment which I have pending to the first section, so as to embrace his proposition and let my own stand. In that event the two, I suppose, might stand together.

The SPEAKER. The gentleman from North Carolina [Mr. CLINGMAN] was indulged by the unanimous consent of the House, in offering his amendment. It is not within his power, without the unanimous consent of the House, to modify it, the amendment itself being not strictly in order, in the opinion of the Chair, and the Chair would have so ruled——

Mr. CLINGMAN. I prefer, then, not to do it. I say to him and the Speaker that I do not intend to adopt it as a part of my own amendment, because then we should have to vote upon it as a whole. I desire to have a vote upon mine as a separate proposition. I was willing, if I could do it, to have obliged the gentleman from Ohio, but I do not believe it would have been in order for me to offer two separate amendments. Your decision removes that difficulty. I hope, however, that my friend will get in his proposition one of these days. It provides for a sort of free trade, which I desire to see advanced very much. It will certainly benefit very much all sections of the country, and, I believe, in the end, that it will certainly benefit the shipping interest, because the making of railroads will increase vastly the amount of trade sent to the sea-board; indeed, I think it will benefit every interest, except those three or four iron establishments in Pennsylvania, which I spoke of at the last session. I have no doubt that

it will benefit the State of Pennsylvania greatly, for she has imported a large amount of foreign iron for the purpose of laying down her railroads. I trust that we will get this subject before the House at an early day. I promised the gentleman from Alabama [Mr. COBB] to allow him to offer an amendment.

Mr. COBB. It was to carry out the same object which the gentleman from North Carolina had in view, that I gave notice to the House a few days ago I should offer an amendment; and I requested the gentleman from North Carolina, before he concluded his remarks, to give me an opportunity of offering an amendment, supposing that it would be in order, to this bill. It was to extend the payment of duties upon railroad iron. I thought it might be in order, but upon reflection I am satisfied that it will not be so ruled; and as I am not disposed to hammer cold iron, but prefer always to hammer it hot, I will not offer it. [Laughter.]

Mr. CLINGMAN. I think that we may have an opportunity at an early day.

Mr. CAMPBELL, of Illinois. I understand that no amendments are in order unless by the unanimous consent of the House. I have an amendment which I very much desire to offer to this bill, and which is of great interest to the State in which I live. I will suggest the amendment, and ask the unanimous consent of the House, with the permission of the gentleman from North Carolina, [Mr. CLINGMAN,] to offer it. It is to insert in the fifty-ninth line of the first section the word "coal" after the word "State."

Mr. CLINGMAN. I have of course no objection to the proposition.

Mr. JOHN W. HOWE. I object to the amendment.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had agreed to an amendment of the House to the bill of the Senate (No. 125) entitled "An act for the relief of Mary W. Thompson," with an amendment, in which they ask the concurrence of the House.]

Mr. TOWNSHEND addressed the House for some time in favor of the bill, when his remarks were cut off by the expiration of the morning hour. [See Appendix.]

Mr. STUART. Has the morning hour expired?

The SPEAKER. It has.

Mr. STUART. Then I move that the House proceed to the consideration of the business on the Speaker's table.

Mr. JONES, of Tennessee. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

FRAUDS UPON THE TREASURY.

Mr. KING, of New York. I rise to a privileged question, to make a report from the Committee of Conference on the disagreeing vote of the two Houses on the bill entitled "An act to prevent frauds upon the Treasury of the United States."

The bill of the House, in reciting what was prohibited in the second and third sections, applying to Executive officers and to Senators and Representatives in Congress, prohibited the receipt by them of gifts from claimants, or any share or interest in claims, in these words:

"Shall receive any gratuity from any claimant against the United States, or agree to receive, or receive, except by inheritance, bequest, or marriage, any share or pecuniary interest in any claim against the Unired States, or."

The Senate struck out this clause from both sections. To these amendments the House disagreed.

The Committees of Conference agree to strike out the words struck out by the Senate, and insert the prohibition in both sections, in these words:

"Or shall receive any gratuity, or any share of, or interest in, any claim from any claimant against the United States with intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim."

I send up the report of the Committee of Conference to which the Senate has agreed, and move that the House agree to the report; and on that I move the previous question.

The previous question was then seconded, and the main question ordered to be put.

The report of the conferees was then read through by the Clerk, and under the operation of the previous question it was concurred in.

ORDER OF BUSINESS.

The SPEAKER. One motion has been submitted to suspend the rules and go into the Committee of the Whole on the state of the Union. Another motion was made to proceed to the business upon the Speaker's table. The question will be first upon the motion to go into the Committee of the Whole on the state of the Union.

Mr. STUART. Upon that motion I demand tellers.

Tellers were ordered; and Messrs. MCNAIR and PEASLEE were appointed.

The question was then put, and the tellers reported—ayes 50.

Mr. JONES, of Tennessee. I demand the yeas and nays upon the motion.

The yeas and nays were ordered.

Mr. BROOKS. I desire to know if it will be in order to move a call of the House?

The SPEAKER. It will be in order.

Mr. BROOKS. I have no object in making the motion, except that we might as well consume the time of the House in this way as any other, if that is what gentlemen want.

The SPEAKER. Does the gentleman submit that motion?

Mr. BROOKS. No, sir; I will not submit it.

The question was then taken upon the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and the result was—yeas 91, nays 84; as follows:

YEAS—Messrs. Abercrombie, Allison, Averett, Babcock, Bibighaus, Bocock, Bragg, Brenton, Albert G. Brown, Busby, Joseph Cable, Caldwell, Caskie, Chastain, Churchwell, Clark, Clemens, Clingman, Cobb, Colcock, Cullom, Daniel, Dawson, Dimmick, Dunham, Durkee, Ficklin, Floyd, Gorman, Green, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Holladay, Houston, Howard, John W. Howe, Hunter, Ives, Jackson, Andrew Johnson, James Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, Mason, McCorkle, McMullin, McNair, McQueen, Meade, Millson, John Moore, Morehead, Murphy, Murray, Nabers, Outlaw, Peaslee, Penniman, Phelps, Powell, Richardson, Robie, Robinson, Savage, Schoonmaker, Scurry, Skelton, Smith, Alexander H. Stephens, Stone, Stratton, Sweetser, Townshend, Venable, Wallace, Ward, Watkins, Addison White, Wildrick, and Woodward—91.

NAYS—Messrs. Aiken, Charles Allen, John Appleton, William Appleton, Thomas H. Bayly, Barrere, Bartlett, Bell, Bowie, Bowne, John H. Boyd, Briggs, Brooks, George H. Brown, Burrows, Lewis D. Campbell, Chapman, Cottman, Curtis, Darby, George T. Davis, Dean, Disney, Doty, Duncan, Eastman, Edgerton, Fay, Fitch, Florence, Thomas J. D. Fuller, Gamble, Gentry, Giddings, Gilmore, Goodenow, Goodrich, Grow, Harper, Hart, Haws, Henn, Thomas M. Howe, Thomas Y. How, Ingersoll, George G. King, Kuhns, Little, Lockhart, Mace, Mann, McDonald, McLanahan, Meacham, Molony, Henry D. Moore, Newton, Samuel W. Parker, Penn, Perkins, Porter, Preston, Price, Reed, Riddle, Robbins, Russell, Sackett, Schermerhorn, Origen S. Seymour, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stuart, Taylor, Toombs, Tuck, Walsh, Washburn, Welch, Wells, and Williams—84.

So the rules were suspended.

INDIAN APPROPRIATION BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCOCK in the chair.)

The CHAIRMAN. When the committee were in session on yesterday, it had under consideration House bill No. 333, making appropriations for the service of the Indian Department of the Government. It was temporarily laid aside for the purpose of taking up another bill, but with the understanding that as soon as the latter bill was disposed of, they should again resume the consideration of the Indian appropriation bill. That bill will therefore now be taken up for consideration, upon which the gentleman from Texas [Mr. HOWARD] is entitled to the floor.

Mr. HOWARD. I will ask the Chair what portion of my half hour is still remaining?

The CHAIRMAN. The gentleman has within one or two minutes of a quarter of an hour left.

Mr. HOWARD. Well, sir, as it will take all that time to present the subject before the committee in an intelligible form, I hope I shall be allowed to proceed without further interruption.

Mr. JOHNSON, of Arkansas. I will allow the gentleman to occupy more than fifteen minutes.

Mr. HOWARD. Mr. Chairman, I was proceeding to remark, when the committee rose on yesterday, that the Government considered and treated the letter of General Pinckney and the counter statement of the Indians, as a part of the treaty, and that it embraced a proper subject for consideration in the adjudication of these claims, and that after so treating it as I understood it, it proceeded to pass both upon the claims for the destruction of personal property belonging to the friendly Creeks and also upon the claim for land. But that the committee may judge how far this construction of mine is a correct one, I propose to read the language of the document to which I refer. The instructions of the War Department to Hawkins, the Indian agent, on the 12th July, 1815, direct him to inquire:

"1st. As to the nature and extent of the indemnity which the friendly chiefs claim, in consequence of the letter addressed by General Pinckney on the 23d April, 1814.

"2d. How far the Government ought, from motives of justice or policy, to yield to their claims.

"3d. Whether indemnity ought to be made to them by restoring a part of the ceded land, or by an additional annuity, or by giving them a certain fixed sum in money and goods.

"4th. Whether these compensations (of whatever nature they may be) should be confined entirely to the friendly chiefs."

Colonel Hawkins then proceeds to examine into the whole subject of the land, as I understand it, and as to the claim for remuneration for destruction of property; and that such is the proper construction is evident from the answers returned to the inquiries made by him to the War Department. He replies:

"*Question* 3d. 'Whether indemnity ought to be made to 'them by restoring a part of the ceded land, or by an ad-'ditional annuity, or by giving them a certain fixed sum in 'money or goods?'

"I believe the correct way would be to liquidate the claims of individuals, some of which, I am told, are too high; reduce them to a just value, and pay them. If it were a national claim, a cession of land might be desirable, but to individuals it is otherwise.

"*Question* 4th. 'Whether these compensations (of what-'ever nature they may be) should be confined entirely to 'the friendly chiefs?'

"This question is, in fact, already answered. It should be confined to the individual claimants, for none other are in contemplation of the terms of peace offered, nor have I ever heard any such mentioned by any chief. The national question put to me on compensation is, 'When is the annuity to arrive? or is it withdrawn from us without assigning a reason?'"

This report, as I understand it, shows that the Department covered the whole ground in these instructions. Hawkins, their friend, whose wife had been their schoolmistress for years, understood the whole subject. That they regarded him as their friend is evident from the memorial itself, in which they speak of him as a wise and good man. He inquired into the whole subject, both as to the amount of personal property destroyed and as to the amount due them for lands taken from them. He reported that the best plan would be to give them a certain sum to be divided among the friendly Indians. He further goes on to state that $100,000 would be a sum sufficient to cover the whole amount to which they were entitled. He thinks the amount would probably be less, but that would be the ultimatum. Mr. Lowndes, in 1817, took up the whole subject and considered it at length. He discussed the subject of lands and he discussed the subject of the destruction of personal property, and reported that $85,000 was a sufficient sum for the payment of all claims to which the friendly Creeks were entitled. Subsequently, in 1818, after the death of Hawkins, a new agent (Mr. Mitchell) was appointed, who went upon the ground and undertook to investigate these losses. He reported that a larger amount ought to be paid, and mentioned the sum which he thought justly due as $193,080. But I submit to the candor of the committee whether Hawkins, who resided among these Indians for years, who knew the number of the tribe and all the circumstances connected with their affairs certainly much better than a stranger, was not much better qualified to judge of this matter than Mitchell, who was only among them for a short time.

Well, sir, in 1824 these Indians came forward for a second compensation, based upon the additional report of Mitchell. The Committee on Ways and Means, of which Louis McLane was then chairman, took the matter up and considered the whole subject, both as to the destruction of personal property and the claim for land, and they reported, in April, 1824, that the Indians had received pay for all they were fairly and justly entitled to. The report thus states the case:

"The claim on the part of the friendly Creek Indians is to an indemnity for certain losses which they sustained from hostile Indians of their own tribe during the Creek war, and is founded upon an instrument delivered by them

to General Jackson on the 9th of August, 1814, by which they complain that, in running the line to retain lands conquered from the hostile Indians, he run it in such a manner as to take a quantity of the lands of the friendly Indians, for which no equivalent was afforded; and express their reliance on the justice of the United States to do them justice. The subject was brought before Congress in 1817, and a report was at that time made by the Committee on Ways and Means, to which the committee beg leave now to refer for a more satisfactory illustration of the foundation of the claim." * * * "It is the opinion of the committee that the sum of $85,000 appropriated by the law of 1817 was intended to be a full indemnity for the losses of the friendly Indians, and was equal to any reasonable expectation." * * * "The just and reasonable expectations of the Indians at the date of the treaty are the foundation of the claim of the friendly Creeks to indemnity; and there does not appear to be any obligation on the part of the United States to exceed those expectations further than they have done already."

It must be obvious to the most ordinary reflection, that if we go back thirty or forty years, and open up claims which were adjusted and settled by men then living, who were familiar with the facts and who understood the whole subject, it will be setting a precedent which we ought not to establish, and reopening claims already adjudicated, which should not be done except upon the clearest evidence that wrong has been suffered, and that the claim ought to be reëxamined and a further allowance made. I think the matter was fully investigated at that time by the Committee on Ways and Means in 1824; and this will be seen by the report made by them upon that occasion. They discussed the claim for lands as well as that for additional compensation for loss of personal property, and they rejected it for one as well as for the other, and came to the conclusion that ample indemnity had been allowed. The case remained in that situation after 1824, during the whole of the administration of General Jackson. During the entire eight years of that Administration, no application was made, so far as I can discover, upon the part of these Indians for any additional allowance. Sir, if these Indians had just or equitable claim for money or lands, why was it not presented during the administration of General Jackson? Why was it not presented to the man who made the treaty, and who negotiated the whole business; the man who understood it, and who proved himself the friend as well as the conqueror of the Indians, and who has upon all proper occasions, as history will show, stood by and defended their interests? Whatever may have been the faults in the character of that man, no one oppressed or persecuted ever told his story to that brave old man, and went away with his grievances unredressed, if it was in his power to afford protection or relief. But, sir, this claim remained in that situation until the last Congress, when these Indians came forward and made a further application to be paid the additional amount, which Commissioner Mitchell had reported due them, and a further appropriation was made to the amount of $110,000, which they have received. They have, then, received twice the amount reported by Major Hawkins as an ample indemnity—more than twice the amount which the Committee on Ways and Means in 1824 decided to be a reasonable compensation for all their losses of personal property, as well as the country taken from them in settling the boundary.

The claim for the land which these Indians allege was taken by General Jackson, in making the treaty, so far as I understand, was never presented to this Government until the present Congress. It never was relied upon, except as an argument when they asked for additional compensation for losses of personal property. I think, then, that the reason why it never was presented was this: The Indians well understood that the whole subject was adjudicated and passed upon, in settling for the losses of personal property, and therefore the claim on account of land was never urged as an original, distinct claim.

It is true that there is one portion of the report of Colonel Hawkins, which throws some obscurity over this subject. He says that, at the time of the running of this boundary line, the Indians would have been willing to have taken sixty thousand dollars, but the whole report taken together shows that he recommended a compensation in money, and included the amount of it in his estimate, which has already been twice paid. But if there be any claim at all for land thus taken from the friendly Indians, what is the measure of damages? Undoubtedly $60,000, the value of the lands at the time; but as they have never presented a claim until now, there is no principle which, with reference to the practical settlement of claims, would entitle them to any back interest, and still less is there any principle which would authorize them to come forward and claim for the present value of the land, as augmented by time and the progress of settlement. I am informed that this country is so poor, that even now the land could not be sold for twenty cents per acre, the compensation now proposed to them. What was the equity of the case at the time of making the treaty, touching the lands taken from the friendly Indians? The title, so far as we can judge, was in the tribe generally.

But passing over that, and admitting that the right to this portion of the land was exclusively in the friendly Creeks, what was the reason assigned by General Jackson for taking these lands? It was, that it was as necessary for the Indians as it was for this Government, that they should be separated from what was then British possessions, in order that they might be free from the interference and tampering of British agents, which had before led to insurrection, war, and collision, and which would produce the destruction of the tribe itself. It was, as he said, as much for the interest of the Indians as of this Government.

But General Jackson did not take the country upon that ground alone. He said to them, "I give you in exchange for the land I have thus taken from you the country between the rivers Coosa and Tallapoosa." It is true the friendly Indians asked, where shall the hostile Indians go? He answered them that there was room enough to take them among themselves.

Now, the extent of that country, as shown by the letter which I have in my hand, from the Commissioner of Indian Affairs, was about three millions of acres.

GENERAL LAND OFFICE, *January* 31, 1853.

SIR: In reply to your verbal inquiries of this date, relative to the lands situated between the Coosa and Tallapoosa rivers, I have the honor to state that it appears the portion situated between the limits of Georgia was ceded, with certain other lands, by the Creek treaty concluded November 15, 1827, and the portion in Alabama by the treaty of March 24, 1832, which ceded all their remaining lands in that State. The proportionate cost of the lands between the Coosa and Tallapoosa rivers is estimated as follows:

Part situated in Georgia 400,000 acres, at three and a half cents per acre	$14,000
Part situated in Alabama 2,600,000 acres at thirty-six cents per acre	936,000
Total	$950,000

It must be remarked that the above is only an approximation to the truth, from such data as are within reach of this office.

I am, very respectfully, your obedient servant,

JOHN WILSON, *Commissioner.*

Hon. VOLNEY E. HOWARD, *House of Representatives.*

The country which General Jackson gave them was infinitely better than that which he took from them, and from all the information I can gain, it was much more valuable. He gave them these three millions of acres taken from the hostile Creeks; it is true they were dissatisfied with it. But the Commissioner states that in the subsequent negotiations for this country, between the Coosa and Tallapoosa, thus given in exchange, the Government of the United States paid the tribes $950,000 for their cession. This shows that the lands could not have been so small a compensation, nor so improper an equivalent, as has been represented.

I think, therefore, that in any view of the case, that not only the whole claim was settled, but that it was intended to be embraced in the adjustment, and that ample compensation was received in exchange for the lands taken, and that therefore, for that reason, there is no just foundation for this claim in any sense, certainly not for the sum of $1,769,000 now proposed to be given them.

I cannot be mistaken in reference to the understanding of the Indians in this matter, for it appears distinctly from the legislative reports of 1817 and 1824, and particularly from that of 1824, that the Government then considered the whole subject, by making appropriations to pay off the losses of personal property.

Much has been said of the manner in which we have dealt with this tribe, and with the Indian tribes generally. It appears in the report of Mr. Schoolcraft, contained in the Indian Department, that this tribe has increased in numbers during the last fifty years. We know that but for the interference of our Government, the Creek Nation would have been utterly extinguished by its own internal dissensions, and that the policy pursued towards that tribe by the United States has been eminently just and wise. The only way for preserving them, was to remove them beyond the Mississippi, and the same may be said of the other tribes. There is not a people upon earth that is now receiving so large a bounty from Government as the various Indian tribes in this country. We have treaty stipulations with one hundred and twenty-five thousand Indians, exclusive of tribes in Texas, Oregon, California, and New Mexico, and we are appropriating to them annually about one million of dollars.

I have made the following statement, by which will be seen the amount of money we are paying them annually, the amount paid to each tribe, and the amount of land to which each individual of the tribe is entitled in his new home west of the Mississippi. We have not only secured them land in perpetuity, but we appropriate every year vast sums, which is divided among them in part, and the residue used in the purchase of provisions, medicine, iron and steel, clothing, agricultural and other implements, salt, and tobacco. There is for nearly every tribe not only a fund for education, but an annuity to furnish a blacksmith and wheelwright for the use of the tribes. The amount of these benefits will appear from the following statement from the official documents:

Christian Indians, number 132; permanent annuity, $400.

Chippewas, 1191; annuities and provision for education, $5,800.

Chippewas, Menomonees, Winnebagoes, and New York Indians, education during pleasure of Congress, $1,500.

Choctaws, 16,000; annuity, $10,520.

Chickasaws, 4,260; permanent annuity, $3,000.

These two last tribes have 15,000,000 acres of land, about 740 acres for each individual of all ages and both sexes.

Creeks, 20,000; annuity, $56,600; education annually, $9,319 05; lands, 13,800,000, or 690 for each individual.

Chippewas, of Mississippi, and Lake Superior, 7,000; annuities and other annual appropriations, $67,200.

Delawares, 903; annuities, education, &c., $60,612 38; land, 2,208,000 acres, or to each one 2,455 acres.

Iowas, 744; annual interest in lieu of investment, $7,875.

Kansas, 1,600, annual interest and education, $11,500; land for the tribe, 256,000 acres, for each one, 1,600.

Miamies, 500; annuities, &c., $42,580.

Florida Seminoles, 1,500; appropriation, $5,000.

Lands with the Creeks, Eel River Miamies, 16; annuities, $1,100.

Menomonees, 2,100; annuities, interest on investment, &c., $33,382.

Omahas, 1,349; annual appropriations, $1,440; lands, 4,990,720 acres, for each one, 3,690 acres.

Ottoes and Missourias, 903; annual appropriations, $2,040; land, 1,536,000 acres; 1,700 acres for each.

Ottowas, 236; annual appropriations, $4,300, 34,000 acres, 144 acres for each.

Ottowas and Chippewas, 3,100; annual appropriations, $60,140.

Osages, 4,941; annual appropriations, education, &c., $27,306 77; lands, 7,564,800 acres, or 1,530 acres for each individual.

Piankeshaws, 107, $800.

Pawnees, 17,000; appropriated $1,000; land, 16,000,000 acres, or about 941 acres to each individual.

Pottawatomies, 3,200; annuities, education, and interest on investment, $91,804; land, 576,000 acres, or about 180 acres to each individual.

Quapaws, 271; annual appropriations, $2,660; land, 96,000 acres; for every individual 357 acres.

Six Nations of New York, 3,683; annuities, $4,500.

Senecas of New York, 2,580; annuities, $9,750.

Stockbridges, 200; annual appropriation, $825.

Sacs and Foxes of Missouri, 147; appropriations $7,870; land, 128,000 acres, or about 870 acres to each individual.

Sacs and Foxes of Mississippi, 1,578; annual appropriations, $73,880; 435,200 acres, or 276 acres for each individual.

Shawnees, 886; appropriations $4,120; lands for the tribe, 1,600,000; for each individual, about 1,800 acres.

Senecas and Shawnees, 290; appropriation, $2,060; land 100,000 acres, or about 344 acres to each individual.

Senecas, 177; appropriations, $2,660; lands, 67,000 acres, or about 390 acres to each individual.

Sioux of Mississippi, 8,000; annual appropriations, $173,800.

Wyandotts, 687; annual appropriations, $19,210.

Weas, 154; appropriations, $3,000.

Winnebagoes, 2,511; annual appropriation, $97,485.

Kickapoos; land, 768,000 acres; about 500 souls, or about 1,500 acres to each individual.

Weas, Piankeshaws, Kaskaskias, and Peorias own about 259,840 acres; population about 516, or about 500 acres to each individual.

Now, I say that history can be searched in vain for a parallel to the bounties bestowed upon these people by this Government. I am for continuing the fulfillment of all our obligations to them, for preserving our treaties with them, and for carrying out the humane policy of Mr. Monroe and General Jackson, which, if honestly and fairly administered, will, I believe, result in the redemption of these tribes and in their civilization.

The Creek Indians receive an annuity, not including that for educational purposes, of $56,900; and at this time they receive for educational purposes $9,319 05, and the whole amount of land

secured to them where they now are, is thirteen million eight hundred thousand acres, which amounts to each individual, man, woman, and child, to six hundred and ninety acres. It thus appears from this statement what the Government is doing for this people who are said to be so badly treated.

I do not think that the accusation of ill treatment made against the Government of the United States is warranted by the history of the tribes. We know, that previous to taking possession of the country by the whites, there were wars between all the Indian tribes, which were daily and yearly exterminating them; and the truth is, that the possession of the country by the whites has been the only means of preserving them at all from those destructive wars, and from other calamities which would have resulted in their extermination. We know from historical remains occasionally discovered, that previously to the existence of these tribes, and before the discovery of this country by Columbus, there were tribes on portions of this continent more civilized and enlightened than those that have existed since, and who were probably overrun by those who were found here at the time of the discovery.

Those people on whom so much sympathy is wasted, owe their preservation to the white race. We have suppressed the wars among the tribes. We have given them the arts of civilization, and carried christianity to their lodges. We have secured to all of them, to each individual, a large amount of land which they cannot alienate without our consent. We have protected their property by laws against alienation, which does not exist to guaranty the white man against the consequences of his own improvidence. As communities, there were none in the world so rich as those tribes which we have removed west of the Mississippi. They are the only people in the world among whom the guarantees for property, as contemplated by the social system, exists by law. Their progress presents a curious problem, one most interesting to contemplate. Most of these tribes are making rapid progress in civilization. They have each a regular government, churches, schools, colleges, and some of them printing presses. They are advancing gradually in agriculture and the mechanic arts. I trust the Government will persevere in this wise and benevolent policy. But our treatment of the Indians is not liable to the charge of cruelty towards this people, which sentimental declaimers have preferred against it. The course of the Government, since the adoption of the present Constitution, has not only been just, but munificent almost to prodigality.

Mr. JOHNSON, of Arkansas. I shall devote the time allotted to me in answering the remarks and objections of the honorable gentleman from Texas, in as far as I may be able to, in the order in which he has presented them.

He set out with a reference to the instructions given by the War Department, under which the treaty of peace with these Indians was made. Those instructions were issued by the Government directly to the Commander-in-Chief in that quarter. That commander was Major General Pinckney, who then set down, with the good sense, the intelligence, and sense of justice which he possessed, and interpreted to the Indians what it was that the Government would do; and the Indians held their communications with him, and him alone, as the head of our army and as the representative of our Government, so far as those Indians were concerned. I will read a letter from General Pinckney to Colonel Hawkins, which was written in the very midst of that war, which letter contains the propositions of this Government to those Indians, and which was communicated to the friendly tribe, and through them to the hostiles. The letter is dated, "Head-Quarters, sixth and seventh districts, Camp Confluence of the Coosa and Tallapoosa, April 23, 1814," and is as follows:

"SIR: The complete success with which it has pleased the Almighty to bless the arms of the United States in the present war with the hostile Creek Indians, having amply retaliated upon these infatuated people the loss of blood sustained by the citizens of the United States, and by that part of the nation who remained faithful to them, and their insolence, perfidy, and ingratitude having been severely chastised, the Government of the United States, willing to spare the dispersed remnant of these miserable people who may be sincerely disposed to atone for their former misdeeds by their future good conduct, you will be pleased to communicate to them the following terms upon which peace will be granted to them:

"The United States will retain so much of the conquered territory as may appear to the Government thereof to be a just indemnity for the expenses of the war, and as a restitution for the injuries sustained by its citizens and the friendly Creek Indians. The United States will retain the right to establish military posts and trading houses, and to make and use such roads as they may think necessary, and freely to navigate all the rivers and water courses in the Creek territory. The enemy must, on their part, surrender their prophets, and such other instigators of the war as may be designated by the Government of the United States; and they must agree to such restrictions upon their trade with foreign nations as shall be established by the Government of the United States. You will be pleased, sir, to communicate these terms to the friendly Indians, and to enjoin them in the prosecution of the war against such as may continue hostile, to carefully to abstain from injuring those who may be returning with the intention of making their submission. You may likewise inform them that the United States will not forget their fidelity, but, in the arrangements which may be made of the lands to be retained as indemnity, their claims will be respected."

What claims? Their claims to their own native soil.

"And such of their chiefs as have distinguished themselves, by their exertion and valor in the common cause, will also receive a remuneration in the ceded lands, and in such manner as the Government may direct. You will please, sir, to take such measures as you may think expedient to communicate the above terms to the hostile party, and to point out the roads whereby they may approach the posts of the United States to surrender themselves, which roads you will also please to designate to the friendly party."

There, sir, is the authoritative declaration made to our ally through the only channel the Government could make it, through the Commander-in-Chief of the American forces, dignified with all the powers it is usual for such an officer in such a situation to possess. What could a credulous native of the forest otherwise do than give it his most undoubting faith? They believed that express promise would be fulfilled. The words are, "your fidelity shall not be forgotten," and they were used after those Indians had fought battle after battle, and shed their blood in every section of that country by the side of the white soldiers. In the conception of the gentleman from Texas [Mr. HOWARD] and others, we have treated the Indians with a vast deal of humanity; but, whether we have or not, I leave to the judgment of all American citizens. I would ask, however, as between man and man, and on the principle of right which God Almighty has implanted in every human breast, whether pledges like those to our allies, given, as they were, in the midst of difficulties which rendered the assistance of those allies essential to our success, can be honorably disregarded by this or any other nation making them? They can only be disregarded for the simple fact that we have the power in our hands to do so. If this House gives me the task to bring before it information on a particular matter, I will sink down before I will cease to make efforts to afford them the necessary lights that justice may be done. So much for that point. I shall touch on it no further. I have spent too much time on it already.

I will now direct the attention of the committee, Mr. Chairman, to another point, and that is in regard to the statute of limitations which the honorable gentleman from Texas, no doubt with entire satisfaction on his own part, puts forward here. It is true that this claim accrued about forty years since, but is it less just? Do Governments allow to be plead against them the statute of limitations? But admitting that is so, I would ask you to turn to what is within the knowledge of several members of this committee, Georgians especially—to turn to your treaty book, and it will show you the most remarkable condition of things with respect to the statute of limitations that has ever been seen. By the treaty of Indian Springs, made I think in the year 1821, we compelled these same Indians to pay all the old claims our citizens had against them, going back as far as the year 1773, though we had made five or six intervening treaties with them. Shall we say, who hold ourselves before the world as the guardians of these Indians, our wards, that we will withstand you on the statute of limitations, though we ourselves disregarded it, and coerced you, a weak and ignorant people, to settle on contrary principles? Who will declare that will be to the honor of the white man? I have done with that part of the subject. The following is the quotation of the gentleman from Texas:

"*Question 3d.* Whether indemnity ought to be made to them by restoring a part of the ceded land, or by an additional annuity, or by giving them a certain fixed sum in money or goods?"

In one of the letters, which I cannot now turn to, it was contemplated to give them indemnity out of the lands of the conquered Indians in such manner as the United States Government might direct; but, in no event was it in contemplation to indemnify them for their losses out of their own lands. The Indians themselves speak of this as the treaty of the sword. You can find only one parallel for this treaty in ancient times. Then a general of an army threw his sword into the scales and compelled an acquiescence in his requirements. These Indians were compelled to sign that treaty. This question relates to indemnity for their personal losses. I believe the correct way would be to liquidate the claims of individuals, some of which, I am told, are too high; reduce them to a just value and pay them. If it were a national claim, a cession of land might be desirable; but to individuals it is otherwise.

This is a sufficient answer. I will make no more, though I can conscientiously say to the committee and the gentleman, that having studied this thing most thoroughly, there is a full and complete additional answer if this were all blotted out.

Now as to the $110,000; we paid it because we thought it was due as the remainder for indemnity for individual losses. If gentlemen have compunctions of conscience with regard to the payment of that $110,000, that is no reason why they should have them in reference to the payment for lands we took from our allies against their protest; which protest has been on file for the last forty years. But the gentleman who feels his conscience affected, may come forward and offer an amendment, that that $110,000 be deducted from the sum due them for the wrong we inflicted in seizing and confiscating to our own use so great an amount of their land. I will answer that point no further. The $60,000 was considered to be due them. Hawkins makes his statement in regard to it. You will find that every committee of the House and Senate refused to pay any more of that indemnity on express grounds, until Orlando Brown became the head of the Indian Bureau. It was a mere supposition on the part of Hawkins that $60,000 would be sufficient to pay the entire personal losses sustained by the Indians during the war. That $60,000 was applied to the payment of personal losses, and not for the land which was wrested from them by the commanding general, on the part of the United States. But I shall touch that point no further.

He said that this land was poor and not worth twenty cents per acre. That is the case with regard to a part of it; but how much? I have not time to make estimates in detail; gentlemen can do that for themselves. There are eight million eight hundred and forty nine thousand acres of it. It was asserted by the gentleman from Texas, and I do not dispute it, that a portion was exceedingly poor. Let us say that there are in round numbers, nine million acres, and that one million acres was worth five dollars per acre, that would make a claim of $5,000,000 at once. The gentlemen who tell you that so much of that land is poor, will inform you at the same time that it is now divided off into counties inhabited by the happiest people, and having some of the richest lands in the world.

The records of the Land Office show that the lands wrested from the friendly and hostile Creeks within the limits of Alabama were seven million five hundred and thirty-one thousand acres, and that they have yielded to the Government a revenue, which is now in the Treasury, of $11,359,947. That is the actual cash which we have received, and which is now in the Treasury. The poor pittance is now asked that you will allow them twenty cents per acre on the lands which have been wrongfully taken from them. In the next place, there are remaining in Alabama six million seven hundred and thirteen thousand acres unsold, worth, at our own regular estimate, $1 25 per acre, $8,390,000.

The next tract is one of seven million five hundred thousand acres, which lie within the limits of Georgia, and which is worth, at $1 25 per acre, $8,750,000. By the convention of 1802 with Georgia, we were bound to extinguish the Indian title in that State. When we extinguished the Indian title there, by wresting it from them in the

unjustifiable manner we did, we turned it over and paid it to Georgia, discharging to her a debt which we owed her. Of the lands which were taken from the hostiles in the State of Mississippi, there were four hundred thousand acres, which, at $1 25, would amount to $500,000. These amounts taken together show a credit to the United States of $29,100,755 48. That is what we have actually forced from these people.

In regard to the lands between Coosa and Tallapoosa, the honorable gentleman from Texas says that there were three millions of acres. I have a map here with all the boundaries, and I have no doubt of its correctness. If there be three millions of acres of land between the Coosa and Tallapoosa, then we have cheated them again, and I suppose we will never cease to do it. Here is the plat of the lands, and I invite gentlemen to look at it, and if there are three millions of acres there, we must unquestionably have taken at least six if not seven millions of acres under the treaty of 1832, and we have paid for only five millions. Time will not permit me to give the particulars, but I will say that those Indians have against Government an additional claim in one case, amounting to $3,429,000, which I have investigated, and which would be adjudged to them before any court of equity. They have also against you another claim for the taking the lands lying south of the Tennessee river, taken from the Cherokees nominally, but proven, at the same time, by our own Government, to be the lands of these same Creeks. It amounts to millions; but time will not permit me to give to the House the particulars in relation to it, which I have obtained by thorough investigation of the whole subject.

[Here the hammer fell.]

The CHAIRMAN. The question first before the committee is upon the motion made by the gentleman from Tennessee, [Mr. JONES,] to strike out the first section of the bill.

The question was taken, and the amendment was not agreed to.

The CHAIRMAN. The bill will be now read by sections for amendments.

The following clause was then read:

"For the pay of clerk to superintendent in California, per act of 3d March, 1852, $2,500."

Mr. HOUSTON. I offer, under the instructions of the Committee on Ways and Means, the following amendment, to come in at the end of that clause:

For office rent, fuel, lights, and stationery for the Superintendent of Indian Affairs in Oregon, $2,400.

For traveling expenses of the Superintendent of Indian Affairs in Oregon and agents therein, $2,000.

For general incidental expenses of Indian surveys in the State of California, $30,000.

For general incidental expenses of the Indian surveys in the Territory of New Mexico, $10,000.

For general incidental expenses of the Indian surveys in the Territory of Utah, $10,000.

The question was then taken on the amendment, and it was agreed to.

The following clause was then read:

"For contingencies of the Indian Department, $36,500.

Mr. CLINGMAN. I desire to offer the following amendment, to come in at the end of that clause. It is to carry out the law of 1837, and to carry out the law of the last session, which has been imperfectly executed. I ask that it be read, and I can explain it in a moment.

The amendment was then read, as follows:

"That the Commissioner of Indian Affairs be authorized to ascertain whether any Cherokee Indians were improperly omitted in the census roll, as returned by David W. Tiler; and therefore that he be authorized to appoint an agent for that purpose, whose compensation shall not, in any event, exceed $200, provided he shall deem it necessary to do so, and that such Cherokees as he shall ascertain to have been omitted, shall be entitled to receive, and shall be paid from the Treasury, such sum under the *per capita* distribution as they would have received if included in the original census roll."

Mr. CLINGMAN. I beg leave to remind the committee that at the last session of Congress a law was passed, to send out an agent to ascertain what Indians there were in Georgia, Tennessee, and North Carolina, and make a distribution of money among them—a *per capita* allowance. The individual who was appointed under the act to take the census, told me that he had not gone into one of the counties, where he understood there were some Indians. They sent evidence to show that there were twenty-seven, who ought to have been included in that census roll. I have evidence to that effect furnished me by the Commissioner of Indian Affairs, and I also had a conversation with the agent himself, who said he thought it probable that they were entitled to the benefits of the act. But as the agent had been unable to get their names, and had not put them down upon the roll, the Commissioner informs me that he does not feel at liberty to put them down without some legislation. Instead of simply authorizing him to put down the twenty-seven Indians, each of whom is entitled to some ninety dollars, as I suppose there may possibly be other omissions in some of the adjoining States, I have offered this amendment to authorize him to put down such as ought to be included, and appoint an agent for that purpose, if it shall be deemed expedient, whose compensation shall not exceed two hundred dollars. It is a very small sum, but it is an act of justice which is due to these Indians. We are bound by the treaty to pay them money, and it is not their fault that the census-taker did not get their names. I hope there will be no objection to it. I have evidence from the Commissioner to show that some of these Indians I have mentioned ought to be included.

Mr. HOUSTON. I do not know whether this proposition has been before the Committee on Indian Affairs. If it has, I should like to hear from some member of the committee. It is entirely new to me.

Mr. CLINGMAN. The proposition has not been before the committee. I got this evidence after the bill was reported. I mentioned it to some of the members of the committee, and they suggested that I should present it in this way. It is a simple affair. If these Indians were entitled by law to be enrolled by the census-taker, there is no reason why the Commissioner of Indian Affairs should not have them placed on the roll, and paid what we have engaged to pay them.

Mr. HOUSTON. I do not know anything of the merits of the proposition, and from the manner in which it was offered, I do not understand the effect of the amendment. It is often the case that propositions which come in this way, commencing in a similar manner, establish principles that lead to important consequences; and it does seem to me that this proposition ought to have been before the Committee on Indian Affairs. If that committee had recommended it, of course—not having looked at it—I should have nothing more to say.

Mr. JOHNSON, of Arkansas. I would ask the gentleman whether there has not been made what is equivalent to a census, so far at least as the Cherokees are concerned? It was about twelve months ago.

Mr. CLINGMAN. That is the census to which I refer.

Mr. JOHNSON. It must have been the whole census.

Mr. CLINGMAN. It professed to be a full census, and payment was made; and the Commissioner, though he is satisfied, from the evidence on file, that these Indians ought to be included, does not feel at liberty to do it.

Mr. STANLY. I rise to a question of order, and it is this: that this amendment makes an appropriation for a private claim not authorized by law.

Mr. CLINGMAN. If the gentleman will recur to the action of the last session, he will find that there is a law directing the taking of the census, and the payment of this money to the Indians. If that law has not been executed, it is still competent for us to carry it out.

The CHAIRMAN. The Chair is disposed to decide that the amendment is in order, upon the ground that it is carrying out the law of the last session.

Mr. STANLY. I desire to say a word in regard to this matter. I move to reduce the item one dollar, in order that I may oppose the amendment. I agree with what the honorable chairman of the Committee on Ways and Means has said as to the propriety of bringing an item in this form. I understand that by that amendment we cast censure upon the individual who took the census. I think the amendment reads "improperly omitted" these Indians, or something like that. The chairman of the Committee on Ways and Means properly made the remark, that before the House votes such an appropriation the subject should come before the Committee on Ways and Means, Indians Affairs, or some other committee. There is a fight in my colleague's district between the gentleman who took the census and some person who has charge of the Indians. There has been a quarrel between them for some years. Before we cast censure upon this man we should know the facts; and as no committee has investigated the matter, I hope that the amendment will not be adopted. Mr. Tiler, so far as my knowledge of him extends, is a gentleman of high and unimpeached character.

Mr. CLINGMAN. I have a right to reply to my colleague's amendment. The agent told me himself that he ought to have included these Indians, but as he did not do so, the Commissioner of Indian Affairs did not feel at liberty to include them. My colleague can find a letter from this very individual, as I have been told by those who have seen it, recommending that these Indians should be put down in the census. The Commissioner did not feel at liberty to do it himself, but thinks that it ought to be done.

Mr. STANLY. My colleague proceeds upon the ground that somebody told him something that somebody did not know. It is improper for us to legislate upon such statements as that. I withdraw my amendment.

Mr. COBB. I move to increase the sum fifty dollars. I am prepared to say a word in behalf of the amendment, without casting any reflection upon Mr. Tiler. I believe him to be a man who has discharged his duties faithfully, so far as he is acquainted with them. I am satisfied that there was an omission in my district; many Indians were left out in consequence of his passing through the country without their knowing that he was in the country. There have been some ten or twelve cases submitted to me since I arrived here, of Indians who claimed that they were entitled to the benefits of that provision—cases in which I was personally acquainted with the parties, and where I know that they were entitled to it. I examined the rolls and found that they were not down. I had a conversation with the Indian agent or Commissioner, who told me that they ought to be put down. They did not meet him and give in their names, and consequently they are entirely deprived of the benefits of the act heretofore passed, providing for that class of individuals. If the Commissioner had funds he would pay one family of Indians in my district, as he is perfectly satisfied that they are strictly entitled to a certain amount.

Mr. HOUSTON. If I understand the original amendment, it is indefinite. Every gentleman who has paid any attention to these various Indian appropriations, and especially to those cases that assume the aspect of the present one, knows that great frauds are sometimes committed. Now, I should like to know what restriction there is in that amendment? The census has been taken. It is assumed to have been taken by this officer. He acted under the responsibility of his appointment, and, I presume, under oath. The presumption, at least, ought to be that it was correctly taken. But suppose it is defective, and we open the door for the retaking of it, as this amendment proposes to do, where will it stop? Here are twenty-seven persons in the district of my friend from North Carolina, and ten or fifteen in my colleague's district, and before you get clear of the provision that it is now proposed to put in the bill, there is at least a probability that the number may double or quadruple. There is no telling where that amendment will stop. Sir, I protest against incorporating a provision of that sort into an appropriation bill without any examination by some committee of this House.

The question was then taken on Mr. COBB's amendment to the amendment, and it was rejected.

The question recurred upon Mr. CLINGMAN's amendment, and being put, it was decided in the negative.

So the amendment was not agreed to.

The clause in relation to Choctaws being under consideration,

Mr. HOWARD offered the following amendment:

That the authority of the Secretary of the Treasury to examine the claims of Choctaws to reservations of lands under the treaty of 1830, shall extend to all cases recommended by either of the boards of commissioners appointed to examine said claims, and his award in scrip shall be received by them in full satisfaction of all their claims against the Government, arising under said treaty, and the scrip thus awarded shall be received as other warrants, and in payment for any public lands subject to sale and private entry.

Mr. HOWARD. That provision has been recommended by the Department, and the short letter which I send to the Clerk's desk, sufficiently explains it.

The Clerk read the letter, which is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, *February* 17, 1853.

SIR: I have the honor to acknowlege the receipt of your letter of this date, inclosing the form of an amendment proposed to be made to the Indian appropriation bill now before the House of Representatives, and in answer to your inquiries I have to state that it appears from the files of this office that there are a few claims not provided for by the act of 1852, which are doubtless equally as meritorious as those for which provision is made by that act. Impartial justice requires that these cases should be placed on the same footing with the others. The amendment proposed will, if adopted, accomplish this object, and enable the Department to make final disposition of a class of business that has given much trouble.

The paper inclosed in your letter is herewith returned.

Very respectfully, your obedient servant,

L. LEA, *Commissioner.*

Hon. R. W. JOHNSON, *Chairman Committee Indian Affairs, House of Representatives.*

The question was then taken on the amendment, and it was agreed to.

The clause with reference to the Creeks being under consideration,

Mr. JOHNSON, of Arkansas, said: I beg now to offer the amendment which has been debated here, that I may test the sense of the committee upon it. I ask that it may be read.

The Clerk read the amendment, as follows:

"For payment to the Creek Nation of Indians, as compensation for lands taken from the friendly portion of the nation by the treaty concluded at Fort Jackson, on the 9th of August, 1814, one million seven hundred and sixty-nine thousand eight hundred and eighty dollars, ($1,769,880:) *Provided, however*, That the same, under the direction of the President, shall be paid *per capita* to the Indians themselves, and that said amount shall be taken and received by the Creek Nation, in full and complete satisfaction of all unliquidated demands of whatsoever nature, both legal and equitable, which they may be supposed to have against the United States."

Mr. JOHNSON. I will state to the committee that I believe, and, if there can be such a thing as a person knowing what is a just conclusion from his premises, when they are laid down before him on the record, I will say I *know*, that I have demonstrated the title of the Creeks to the land that was taken. I know that I have also demonstrated the fact that they have not received compensation for it.

I have estimated the value of the land at twenty cents an acre, and upon that point alone will I say a word to the House. We shall find, sir, upon investigation, that far greater compensation has been given to other tribes for the lands acquired from them by treaty. The Chickasaws got the full value of their lands, and it has yielded them an average of $1 25 an acre for the whole of their country. The Choctaws received fifty cents an acre for their lands; the Winnebagoes thirty cents, and the Sioux twenty-three cents.

I now call the attention of the committee to this consideration, and that is, that the history of this Government furnishes but one parallel case to that now before us, and that is the case of the Sacs and Foxes. We had a war with the Sacs and Foxes in the Northwest, about which a distinguished Senator in the other wing of the Capitol [General DODGE, of Wisconsin] could tell us something.

In the prosecution of that war, there was one band of Indians called the Keokuk band, that refused to join with the tribe in making war upon the people of the United States. Sir, when that war was ended, we did not even take all the land that the hostile Indians held. We gave them twelve-and-a-half cents an acre for every acre of it. It was given from considerations of mercy, humanity, and justice. We did not take away from the band that refused to fight against us, millions of acres of their land. We set apart for them fifty miles square, that should be their own property. How different was the treatment of the Creeks! The friendly Creeks made themselves our allies and fought with us. The friendly band of the Sacs and Foxes, the Keokuks, although they refused to fight against us, sat still and took no part for us. Yet, sir, we have given to those Indians who would not fight for us, what was deemed to be their portion of the lands, while we have taken away from those who fought for us eight million eight hundred and forty-nine thousand acres of their land—for considerations connected with the safety and security of the country, in the language of Jackson. It remains for us to carry out the intention of Jackson, which was, that compensation should be made to these Indians; otherwise the whole transaction will be tinctured with meanness.

[Here the hammer fell.]

Mr. TOOMBS. I have an amendment which I desire to offer to the amendment of the gentleman from Arkansas.

The CHAIRMAN. Does the gentleman from Georgia desire to speak in opposition to the amendment of the gentleman from Arkansas?

Mr. TOOMBS. No, sir. I shall occupy my time in explaining my own amendment.

The CHAIRMAN. As no other gentleman claims the floor to speak in opposition to the amendment of the gentleman from Arkansas, the gentleman from Georgia will proceed.

Mr. TOOMBS. I should have liked to have had an opportunity to review the facts connected with this claim. But I have not more than time enough to explain my own amendment. I suppose that there will not be a gentleman in this House who will not agree with me that if this claim is paid, my amendment ought to be adopted. It is in these words:

"*And provided further*, That the sum of $335,167 92 shall be set apart out of said compensation, and applied to the payment of damages committed by said Creek nation of Indians upon the whites, as adjudicated and allowed by the Commission appointed under the second section of the act approved March 3, 1837, entitled 'An act making appropriations for the current expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes in the year 1837.'"

In 1836, during the hostilities with these Creek Indians, they destroyed much property belonging to citizens of the United States residing within the limits of that nation. They also came over to the Georgia side and destroyed the property of citizens out of the nation. Congress passed a law appointing a commission to adjudicate these claims. There was a large class of claims presented before that commission, amounting, in all, to more than $1,200,000, for property destroyed by the Indians during these hostilities. The commissioners allowed these claims to the amount of three hundred and fifty-odd thousand dollars. Now, if these Indians are allowed this indemnity which is proposed by the gentleman from Arkansas, the amount of these claims allowed by this board of commissioners should be deducted. They are bound, by our laws of intercourse with them, to pay for all the damages perpetrated upon the property of the citizens of the United States. A portion of this money has been actually paid by the United States Government for these claims against this nation of Indians, and we are bound to pay the others; and, therefore, I say, it is eminently proper that this provision should be made to the amendment offered by the gentleman from Arkansas.

By your treaties and intercourse laws with these Indians, when they commit depredations along your frontiers upon the whites, they are bound to pay for them. Well, sir, they have committed these depredations, and the amount ought properly to come out of their fund. These are not only claims for which these citizens are entitled to remuneration from the Indians, but for many of them the Government is bound. Some of them have been paid already, and others are pending before Congress. Some of them, in the shape of private bills, have passed the other House, and are here now. My object is to provide that whatever is due upon this class of claims shall be deducted from what the United States are to allow these Indians. That is the whole object of the amendment. These claims have been passed upon to the amount of more than $350,000, and they should be taken out of the amount provided in the amendment of the gentleman from Arkansas in order to reimburse the United States for what she has already paid, and what she is bound to pay in order to settle them. Without, therefore, intending to express any opinion as to the justice or propriety of the original amendment, I think the gentleman from Arkansas will concur with me in the propriety of this amendment which I offer.

It is true, as the gentleman from Arkansas states, that these Indians were never paid for these lands. They were taken by General Jackson and General Pinckney, in pursuance of orders from this Government, but they were taken to indemnify the Government for losses sustained on account of the hostilities of these Indians, so that the claim against this Government is not *ex justitia* but *ex gratia*. But the amendment which I have moved to the bill is one which ought to be passed with the bill, whether that of the gentleman from Arkansas be passed or not. It is to indemnify the United States for what she paid, and is bound to pay, for claims which have been adjudicated by the board of commissioners appointed for that purpose.

PERSONAL.

Mr. WILCOX. In debate on yesterday a misunderstanding arose between the honorable gentleman from Arkansas, [Mr. JOHNSON,] and the honorable gentleman from Texas, [Mr. HOWARD.] I feel happy now, to be able to announce to the House that the misunderstanding has been settled honorably and amicably; that their personal and official integrity stands unimpeached and unimpaired, and that their friendly relations have been restored.

INDIAN AFFAIRS AGAIN.

Mr. JOHNSON, of Arkansas. I desire to move an additional amendment.

The CHAIRMAN. It is not in order to amend further. The gentleman can, however, speak for five minutes in opposition to the amendment of the gentleman from Georgia, [Mr. TOOMBS,] if he desires.

Mr. JOHNSON. I desire to state the facts in this case, and the committee can put what construction upon them they choose. It is true, as the gentleman from Georgia [Mr. TOOMBS] states, that by our intercourse laws with these Indians, it is prescribed that whatever depredations are committed upon the whites by any tribe of Indians or any portion of them, indemnity therefor shall be taken from any moneys which may be due them by the Government. Now, it is to repair injuries under the spirit of that law that the gentleman from Georgia has offered this amendment. If this amendment should be adopted, therefore, under the spirit of this law, the indemnity which is there specified will come out of this appropriation which is to pay these Creek Indians for that land. That is the state of the case. This matter has not been before the Committee on Indian Affairs, but having had my attention called to it, and having been told that it would be offered here, I went to the pains myself to investigate the matter, and I find that there are just claims against the Government. I do not recollect the precise sum, but I have no doubt that it is correctly stated in that amendment. I ask what is the sum there named?

Mr. TOOMBS. Three hundred and thirty-five thousand one hundred and sixty-seven dollars and ninety-two cents. That is the precise sum.

Mr. JOHNSON. Well, sir, if that is the sum which turns out to be due for the depredations committed upon the people of the States of Georgia and Alabama, during the hostilities in 1836, I can say for myself, though I cannot speak for the Committee on Indian Affairs—because it has never been before them—that the amendment is correct and ought to be adopted.

The question was then taken upon Mr. TOOMBS's amendment, and it was agreed to.

Mr. JOHNSON. There is a provision which ought to have been inserted in the original amendment, according to the wish of the Committee on Indian Affairs. I will, however, now repeat it, and ask the Clerk to take it down:

"*Provided further*, That $200,000 herein appropriated, shall be set apart and invested under the direction of the President of the United States in safe stocks, the annual proceeds thereof to be appropriated for the purposes of education among the Creek tribe of Indians."

Mr. HOUSTON. I wish to make a statement in regard to that amendment. I somewhat doubt the competency of Congress to make this sort of legislation. If we owe this amount to these Indians we shall, without doubt, have the debt to pay if we make a treaty with the tribe.

Mr. JOHNSON. Then I think the criticism of the gentleman is quite unnecessary. I will state one fact in regard to this section. Their school fund now consists of a sum which yields about $12,000 annually. Now, if the sum of $200,000 more were invested in stocks to be applied for that purpose, yielding an amount of some $10,000 or $12,000 in addition, it would be amply enough for all purposes of education for the tribe. This amount, properly applied, would rapidly raise the condition of their schools.

Mr. JONES, of Tennessee. I think the gen-

tleman had better provide that the United States shall pay them the interest upon $200,000, instead of investing the amount in stocks.

Mr. HOUSTON. Oh, no; that will never do.

Mr. JONES. If you invest it in stocks you will have to pay it again.

Mr. HOUSTON. I have no objection to the amendment. But the gentleman from Arkansas well knows that an entire change of policy with regard to these Indians is seriously contemplated; and in my opinion the probability of that change is too great to make it wise for us to incur any additional liabilities to any of these Indian tribes.

Mr. JOHNSON. I will not propose the amendment suggested by the gentleman from Tennessee. I desire that the amendment I have submitted to the committee shall remain in its present form, and let the vote be taken upon it.

The question was then taken, and the amendment to the amendment was not agreed to.

Mr. SACKETT. I desire to inquire of the gentleman from Arkansas whether the effect of this amendment, if adopted, will be to provide for the payment of the entire $1,700,000 in one payment?

Mr. JOHNSON. That is the effect of it, with this exception: The amendment offered by the gentleman from Georgia, [Mr. TOOMBS,] which sets apart $335,000 as indemnity to citizens of Georgia and Alabama for depredations by these Indians, was adopted by the committee; hence the amount to be appropriated to the Indians will be less than $1,400,000. The residue is to be paid by the Government in the liquidation of claims growing out of depredations committed by the Indians during the hostilities in 1836 in Georgia and Alabama. These claims have been presented here for years, and pressed at the Treasury of the United States. Under the law which regulates our intercourse with the different tribes of Indians, they are to pay for depredations committed upon the citizens of the United States. Under the spirit of that law, therefore, and under our treaties with these Indians, in consequence of their depredations, the appropriation has been cut down from $1,700,000 to $1,400,000.

Mr. SACKETT. In order to enable me to make a remark, I move, *pro forma*, that this appropriation shall be paid in three annual installments.

Mr. Chairman, the amount which this amendment proposes to appropriate is an unusual one to be paid to any tribe of Indians in one payment. I think if the amendment is to pass, and this amount is to be appropriated to these Indians in one payment, you will defeat the object for which it is designed. I think it would better meet the ends of justice, it would be of greater service to these Indians, to make it in two or three annual installments. I merely make this suggestion to the gentleman from Arkansas, who has this matter in charge, that he may consider it and decide as he may think proper. If it were to be made in two or three payments it could be easier managed, and the Indians would be less liable to be cheated and robbed of a very considerable portion of the amount. I think the committee would do well to make the payment in three annual installments.

Mr. JOHNSON, of Georgia. I am opposed to the amendment suggested by the gentleman from New York, [Mr. SACKETT,] and especially if it is made applicable to that portion of the fund to be retained and applied by the Government for the purpose of indemnifying the citizens of Alabama and Georgia for losses sustained by them during the Creek hostilities in 1836. It is said that these claims presented by the citizens of Georgia and Alabama for depredations committed during the period referred to, have been rejected by the Government time and again when so presented for liquidation. Sir, it is true they have been rejected, and they have been rejected at different periods, upon the ground mainly that this Government would not recognize and pay for damages sustained by citizens of the country in a war with an independent nation. That is a sound principle of international law. But that argument does not apply to this case because this Government has never considered these tribes of Indians as separate sovereignties or independent nations. In fact we have taken charge of and the control over them, and have regulated our intercourse with them by rules established by ourselves.

But in addition to this, by virtue of the stipulations of the treaty, or compact of 1802, between this Government and Georgia, by which Georgia ceded to the General Government the States of Alabama and Mississippi, there is an implied obligation upon the part of this Government, growing out of certain express provisions of that compact, that it shall maintain and keep our people and the people of the State of Alabama harmless from the hostilities and depredations of these Indians. The Government was bound by that compact to extinguish the Indian title in Georgia, and not only that, but they were also bound to extinguish the Indian title in Mississippi and Alabama, and to do it in such a maner as not to jeopardize or destroy, or subject to loss by depredations or hostilities, the property of our people. The State of Georgia, by this compact, surrendered to a certain extent, their right to control those Indians, and this Government agreed and undertook, on its part, to remove them from within our limits, and that it should be done in such a manner that we should be protected from loss. The Government failed to do it, and in failing to do it, she has not indemnified our citizens, and has not dischared, in spirit, the obligations imposed upon her by that compact. By that contract we surrendered to the United States our right, as a State, to take from them contributions for damages incurred in war, and we surrendered it to the Government upon the belief that the power thus granted was to be exercised for our benefit. This Government has not exercised it, as by virtue of the compact she was bound to exercise it.

Then the principle upon which these claims have been rejected is not applicable to these Indian tribes in their relations to the United States, but it is alone applicable to independent sovereignties. The Indian tribes have never been recognized as sovereignties, but the United States has treated them as wards, exercising guardianship over them.

I therefore oppose the amendment of the gentleman from New York, [Mr. SACKETT.] We are entitled to the whole of this money, and it should be paid now.

The question was then taken upon the amendment offered by Mr. SACKETT, and it was not agreed to.

The question then recurring upon the amendment of Mr. JOHNSON, as amended on the motion of Mr. TOOMBS, and being taken, it was not agreed to.

The Clerk then resumed the reading of the bill, and the following clause in reference to the Creek Indians being under consideration—

"For twenty-third of thirty-three installments for education, stipulated in the thirteenth article of the treaty of the 4th January, 1845, $3,000;"

Mr. HOUSTON moved to amend the same by inserting after the words "treaty of the" the words "twenty-fourth of March, one thousand eight hundred and thirty-two, and fourth article of the treaty of the," so that it will read—

"For twenty third of thirty three installments for education, stipulated in the thirteenth article of the treaty of the 24th of March, 1832, and fourth article of the treaty of the 4th January, 1845, $3,000."

The question was taken, and the amendment was agreed to.

The following clause in relation to the Miamies being under consideration—

"For permanent provision for the purchase of one thousand pounds of tobacco, ten thousand pounds of iron, and one thousand pounds of steel, stipulated in the fourth article of the treaty of the 23d of October, 1826, $770;"

Mr. HOUSTON moved to strike out the word "ten," and insert "two."

The question was taken, and the amendment was agreed to.

The following clause in reference to the Eel Rivers (Miamies) being under consideration—

"For permanent annuity, stipulated in the fourth article of the treaty of the 3d of August, 1795, $500;"

Mr. HOUSTON said: I wish to propound to the chairman of the Committee on Indian Affairs, or to any other member of that committee, a question in reference to these Eel River Miamies. There was a suggestion made at the last session of Congress that some steps should be taken by which this annuity should be terminated. The tribe is reduced to a mere handful, not now numbering more than twelve or fifteen. I wish to inquire of the Committee on Indian Affairs whether any steps have been taken upon that suggestion, or whether they propose an amendment to effect that object now?

Mr. FITCH. The tribe is reduced to a few individuals, but still I do not see but that we must respect our treaty stipulations with them. I do not think we are authorized to stop the annuities. If the chairman of the Committee on Ways and Means, or any other person, moves to strike it out, I cannot help it; but I do not see anything in the treaty which authorizes us, notwithstanding the reduction of the tribe, to discontinue the annuities which we have promised them.

Mr. BRIGGS. I desire to offer an amendment, upon the recommendation of the Committee on Indian Affairs, to come in at the end of the clauses in reference to the Pottawatomies.

The amendment was as follows:

"To supply a deficiency in the appropriation of September 30, 1850, for the payment of the balance of an award to General William B. Mitchell, commissioner under the treaty of Chicago of the 26th of September, 1833, with the Pottawatomies, reported by him to the Secretary of War, on the 28th of January, 1841, as adjudicated and approved by the said Secretary in his decision of March 3, 1841, the sum of $4,200."

Mr. HOUSTON. I do not understand that matter as having been investigated by the Committee on Indian Affairs.

Mr. DUNHAM. It is the balance of a claim already adjudicated, and found to be due.

Mr. BRIGGS. I was authorized by the Committee on Indian Affairs to offer it.

The question was then taken on the amendment, and it was agreed to.

Mr. HOUSTON. I send to the Clerk's desk an amendment, which, I understand, was ordered by the Committee on Indian Affairs to be reported; but the gentleman of that committee who had it in charge is not in, and it has been furnished me by another gentleman.

The amendment was as follows, to come in after the clause just read in reference to the Stockbridge Indians:

"For the reappropriation of this amount, being a part of the sum carried to the surplus fund, per warrant No. 13, dated June 30, 1846, for the payment of claims of that portion of the Stockbridge and Munsee tribe of Indians that emigrated west, under the sixth article of the treaty of September 3, 1839, $702."

The question was taken, and the amendment was agreed to.

Mr. FITCH. I offer the following amendment, to come in at the end of the clauses in relation to the Shawnees.

The amendment was read as follows:

"For payment in full of all claims under that part of the treaty of 1831, which has relation to the grant of one hundred thousand acres of land, in fee-simple, to the then Ohio Shawnees, $66,246 23: *Provided*, That the receipt shall specify that it is in full satisfaction of all such claim."

Mr. FITCH said: Little need be said in relation to that amendment. I presume it is fully understood from the full discussion had upon the subject at the last session. It was adopted then by the Committee on Indian Affairs, by the Committee of the Whole on the state of the Union, and by the House, but unfortunately it was stricken out in the Senate. The appropriation is rendered necessary by treaty stipulations, by justice, and as we cannot give them the land which we received from them, we should give them the money which we received into the Treasury by the sale of their lands.

Mr. HOUSTON. I am opposed to the amendment, and I rely upon the argument made by the gentleman from Texas [Mr. HOWARD] to show that it should not be adopted.

The House was then divided upon the amendment, and there were—ayes 46, when

Mr. TAYLOR demanded tellers; which were ordered; and Messrs. INGERSOLL and JONES were appointed.

Mr. TAYLOR. I desire to ask the gentleman from Indiana [Mr. FITCH] whether this appropriation was recommended by the Department?

Mr. FITCH. It has been recommended by the Indian Department, by the Secretary of the Interior, and even by the President himself.

The question was then taken, and the tellers reported—ayes 65, noes 56.

So the amendment was adopted.

Mr. HOWARD. Is it in order to move an amendment to the amendment as adopted?

The CHAIRMAN. It is.

Mr. HOWARD. I move the following proviso:

Provided, That this appropriation shall not be held to affect the title of the Ohio Shawnees to the land under the treaties of 1825 and 1831.

The object of moving the amendment is this: We do not injure the Indians by giving them money, but if we give a construction to this treaty which will divest them of land already vested in them, we do them a serious injury by taking the land and giving them this amount of money. It is a perfectly-clear legal proposition that the title of this land was vested in the Indians by the treaty of 1825, which reads thus:

"It is further agreed by the contracting parties, that in consideration of the cession aforesaid, the United States do hereby agree to give to the Shawnee tribe of Indians within the State of Missouri, for themselves, and for those of the same nation now residing in Ohio, who may hereafter emigrate to the west of the Mississippi river, a tract of land equal to fifty miles square, situated west of the State of Missouri, and within the purchase lately made from the Osages by treaty bearing date the second day of June, 1825, and within the following boundaries," &c.

There is no doubt at all, that under that treaty the title vested in the Indians; the Supreme Court of the United States have decided in a variety of cases that title may vest as well by law as by patent, and indeed that a title by law is of a higher nature than that by patent. This was in 1825. In 1831, the Government made a treaty with the Ohio Shawnees, by which they were to move within this tract, recited in the treaty of 1825, and the Government stipulated that they should have one hundred thousand acres of land. The history of it, no doubt, was this: The Indians in Ohio had one hundred thousand acres of land, and the Government found it necessary to stipulate that they should have one hundred thousand acres of land of this territory, or in some other territory to be selected by the Government of the United States. When they arrived in that territory they blended themselves with the Missouri Shawnees as one tribe, and did not claim a division or separation of the hundred thousand acres given to them, for the reason, no doubt, that under the treaty of 1825, instead of one hundred thousand acres, they were entitled to eight hundred thousand, the Ohio tribe being about one half of the whole tribe; and there are now, according to the report of the Department, about eight hundred Indians within that territory, the whole amount of the fifty miles square being, according to the report of the surveyor, one million six hundred thousand.

It is not, therefore, in the power of the Government to divest that title. They ought not to seek to divest it, and we should not, by any action which we take here, pass such a law as may be held to divest the title of those Indians. To do so would be a gross impropriety, as well as a violation of compact, and therefore, I hope that if we give them money to pay for lands they already have, we will not put a construction upon it which will give the whole land to one half of the tribe, and deprive the other half of it. This would be contrary to the manifest conditions of the treaty of 1825. The object of the treaty of 1831 was merely to guaranty that the Ohio Shawnees should have at least one hundred thousand acres of land. It contains no provision divesting any larger amount granted by the previous treaty.

I wish, further, to state that the treaty of 1831 recites the treaty of 1825, and the patent of 1844, which was issued to these Indians, was issued to the whole tribe, and made them tenants in common; and the patent recites both treaties, and the rights of both parties.

Mr. FITCH. The amendment introduced is harmless, because this amendment of mine cannot affect the right of the Ohio Shawnees to any land promised under the treaty of 1831, for the promise not having been fulfilled, they have no right. Their right accrues only under the treaty of 1825, and that is the right of occupancy only. They were residing at that time hundreds of miles from the Missouri Shawnees, with whom we made the treaty, and at the same time that our commissioner made a treaty with the Missouri Shawnees, another commissioner, as I stated on yesterday, attempted to treat with the Ohio Shawnees. The Missouri Shawnees were aware of this, and expecting the attempt to be successful, they desired to invite the Ohio Shawnees, or a portion of them, among themselves. Hence the insertion into the treaty of 1825 of the permission of the Ohio Shawnees to reside on the fifty miles square, if they chose to do so. The Ohio Shawnees were no party to that treaty. It was a treaty between the United States and the Missouri Shawnees, by which the right of occupancy was given by the Missouri Shawnees to their Ohio brethren, if they chose to avail themselves of it. The Ohio Indians then refused to treat, but subsequently, in 1831, they did treat, and sold their lands—some ninety thousand acres—and a part of the proceeds of that land, it was stipulated, should be paid to them, and the sum of seventy cents per acre of the proceeds was to be retained, and is retained in the Treasury of the United States. In consideration of that seventy cents, they were to have, by the language of the treaty of 1831, a grant by patent in fee-simple, to them and their heirs forever, one hundred thousand acres of land. They asked for their patent. They did not esteem the right of occupancy which the Missouri Shawnees had given them in fulfillment of the promise of one hundred thousand acres, because that would place us in the attitude of twice selling the same piece of property, and twice receiving pay for it; once from the Missouri Shawnees and once from the Ohio Shawnees. They asked for the one hundred thousand acres, and not for money. They were told that the one hundred thousand acres could not be given them in fee-simple within the fifty miles square, because that was the land of the Missouri Shawnees, and that it could not be given out of the contiguous lands, because those were already given away to other tribes. It cannot be given now, for the additional reason that we design to organize a Territory there. The House has a bill for that purpose, and our policy is now to extinguish the Indian titles, and not to make new ones. The money is in the Treasury, and the question is, whether you will give them the land or the money. You cannot give them the land, and hence they ask for the money.

Mr. HOWARD. Let the patent be read.

Mr. FITCH. I have no objection to its being read.

Mr. HOWARD. These fifty miles square were patented to the Missouri Shawnees, subject to the right of occupancy of the Ohio Shawnees.

Mr. HALL. I move to strike out 1831, and I do so for the purpose of asking my friend from Texas a question. I understand the claim of the Ohio Shawnees is based on the fact that they have not received the one hundred thousand acres which they say they were entitled to under the treaty of 1831, and that this money is appropriated in lieu of that land. Now, if the gentleman's amendment be adopted, will the Ohio Shawnees still have the right to this one hundred thousand acres of land? If they would, I think that the amendment is wrong.

Mr. JONES, of Tennessee. I understand the claim to which this proviso is offered to be this: In 1825 the United States made a treaty with the Shawnees of Missouri, under which the land they now occupy was set apart and given to them, not, as the gentleman from Indiana contends, with an invitation to the Ohio Shawnees to come among them and settle there, but with a reservation on the part of the United States Government that it should assign them land within it whenever they could induce the Ohio Shawnees to sell their land in that State and move west. The United States did, subsequently, in 1831, treat with the Shawnees of Ohio. We were to give them for their land in Ohio one hundred thousand acres within or contiguous to the fifty miles square assigned to the Shawnees of Missouri under the treaty of 1825. The United States clearly having the right, under that treaty, to assign the Ohio Shawnees the one hundred thousand acres within the fifty miles square, they have gone there and occupied that country from then till now, and if we pass this appropriation and pay them the money, we thereby say to the Missouri Shawnees that this people had no right to be moved on their land; that they have now no interest in it; that they have not one foot of land which the United States have assigned them, and that they are to be homeless and houseless and dependent alone on them. This money, as I understand, is to pay them for the land which they say we cannot give them. We have given them one hundred thousand acres within the fifty miles square, and issued a patent to them for it.

Mr. HOWARD. Instead of taking the one hundred thousand acres under the patent, they took as tenants in common, which would give them, instead of one hundred thousand acres, eight hundred thousand acres, that being half the tract.

Mr. DUNHAM. Have they not refused to take it?

Mr. HOWARD. So far from it, they had the right to claim as tenants in common, knowing they were to get eight hundred thousand acres, instead of one hundred thousand acres.

Mr. FITCH. I should like to know on what the gentleman founds that presumption. They knew they were to receive one hundred thousand acres. They asked for it after they went there, and they continued to ask for it.

Mr. HOWARD. The gentleman is altogether mistaken. The Indian agent told them that it would be better for them to take as tenants in common, and they pursued that course; for they had sense enough to see that they got more land by it.

Mr. MEADE. I would ask the gentlsman from Texas whether it was with the consent of the Missouri Shawnees that this land was let in common?

Mr. HOWARD. It appears that it was not only by the consent of the Missouri Shawnees, but that they came here with what I may term a cross-petition, that they paid for the land in 1825; that these Ohio Shawnees were not entitled to this money, but that they were, if it were appropriated at all.

Mr. FITCH. I am sorry the gentleman has fallen into another error. That cross-petition was disavowed by the Missouri Shawnees.

Mr. HOWARD. The gentleman has fallen into an error himself. So far from disavowing it, they have now come to a compromise, as I understand, and agree, if they can get the money, for which there is no consideration, paid, they will divide it equally. [Laughter.]

Mr. FITCH. That petition was informally presented, and subsequently withdrawn.

Mr. HOWARD. It is among the papers, and that is all I know. I hope that the patent will be read, because that explains the whole matter.

Mr. HALL, then, by unanimous consent, withdrew his amendment.

The patent was then read by the Clerk, as follows:

The United States of America:

To all to whom these presents shall come, greeting:

Whereas certain "articles of a convention" were "made between William Clark, Superintendent of Indian Affairs, and" certain "chiefs and headmen of the Shawnee nation 'of Indians, residing within the State of Missouri, duly 'authorized and empowered by said nation, at the city of 'St. Louis, on the 7th day of November, in the year of our 'Lord 1825," which articles, by and with the advice and consent of the Senate of the United States, were ratified by the President on the 30th day of December, 1825, by the second article of which it was "agreed by the contracting parties that in consideration of the cession," by the first article, "the United States should give to the Shawnee 'tribe of Indians, within the State of Missouri, for them-'selves and for those of the same nation" then "residing 'in Ohio, who may hereafter emigrate to the west of the 'Mississippi, a tract of land equal to fifty (50) miles square, 'situated west of the State of Missouri and within the pur-'chase lately made from the Osages by treaty bearing date 'the 2d day of June, 1825, and within certain boundaries 'specified in the aforesaid second article;" and by the third article of the said convention it is "further stipu-'lated that a deputation of the said parties of the second 'part may be sent to explore the lands assigned to them 'in the preceding article; and if the same be not accept-'able to them, upon an examination of the same, which 'shall be had, and made known to the Superintendent of 'Indian Affairs at St. Louis, on or before April next," (1826,) "who shall, in lieu thereof, assign to them an equal 'quantity of land, to be selected on the Kansas river, and 'laid off, either south or north of that river, and west of the 'boundary of Missouri, not reserved or ceded to any other 'tribe;" and whereas, pursuant to the aforesaid second and third articles of the said convention, certain lands have been designated and set apart for the Shawnees, the metes and bounds of the survey of which are as follows, to wit: Beginning at a point in the western boundary of the State of Missouri, three miles south of where said boundary crosses the mouth of Kansas river; thence continuing south and coinciding with said boundary for twenty five miles; thence due west one hundred and twenty (120) miles; thence due north until said line shall intersect the southern boundary of the Kansas reservation; thence due east, coinciding with the southern boundary of said reservation, to the termination thereof; thence due north, coinciding with the eastern boundary of said reservation, to the southern shore of the Kansas river; thence along said southern shore of said river to where a line from the place of beginning drawn due west shall intersect the same. Now, know ye that the United States of America, in consideration of the premises, and in execution of the agreements and stipulations in the aforesaid articles of convention, have given, and by these presents do give, unto the said Shawnee tribe of Indians who were within the State of Missouri, and who are designated in the aforesaid second article of the convention, for themselves, and for those of the same nation who were residing in Ohio, and who are also referred to in said second article, *subject to the right secured to the Ohio band of the Shawnees by the second article of the "agreement and convention made and concluded 'at Wapagh Kanetta, in the county of Allen, and State of 'Ohio, on the 8th day of August, in the year of our Lord* '1831, by and between the special commissioner on the 'part of the United States, and the Indian agent on the one

'part, and certain chiefs, headmen, and warriors of the 'tribe of Shawnee Indians residing at Wapagh Kanetta 'and Hog Creek, within the territorial limits of the organ 'ized county of Allen, in the State of Ohio," to have and to hold the same, with all the rights, privileges, immunities, and appurtenances of whatsoever nature thereunto belonging, as intended to be given by the second and third articles of the aforesaid convention, concluded on the 7th day of November, 1825, subject to the right secured as aforesaid by the said second article of agreement and convention concluded on the 8th day of August, 1831, and liable to no alienation or transfer except to the United States.

In testimony whereof, I, John Tyler, President of the United States of America, have caused these letters to be made patent, and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington, the eleventh day of May, in the year of our Lord one [L. s.] thousand eight hundred and forty four, and of the Independence of the United States the sixty eighth.

By the President: JOHN TYLER.

J. WILLIAMSON, *Recorder of General Land Office.*
J. C. CALHOUN, *Secretary of State.*
WM. WILKINS, *Secretary of War.*
T. HARTLEY CRAWFORD, *Com of Ind. Affairs.*
THOS. H. BLAKE, *Com. of General Land Office.*

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BUREAU CORPS TOPOGRAPHICAL ENGINEERS, *May* 10, 1844.

This is to certify that the title herein engrossed in this bureau has been carefully compared with the original furnished from the Land Office, and has been found to be correct.

JOHN J. ABERT, *Col. Corps Top. Engineers.*

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GENERAL LAND OFFICE.

I, John Wilson, Acting Commissioner of the General Land Office, *ad interim*, do hereby certify that the foregoing on pages 1 and 2 is a true copy from the record in this office. Volume 9, pages 356, 357, 350.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of said office to be affixed, at the City of Washington, the seventh day of October, one thousand eight hundred and fifty.

JOHN WILSON, *Acting Com. ad int.*

Mr. DUNHAM. I move, Mr. Chairman, to strike out "1825." It seems to me that this case can be presented in a few words, so that every member will understand it. In 1825, a treaty was made with the Shawnees of Missouri, by which they made certain cessions of their territory to this Government, in return for which the United States, among other things, agreed to convey to them, in fee-simple, a tract of land fifty miles square, lying west of the Mississippi, to be occupied by themselves and such of the Ohio Shawnees, a different and distinct band, as chose to emigrate there and occupy it in common with them. That whole fifty miles square was to be conveyed by patent to the Missouri Shawnees. The considerations for it moved from them, the Shawnees of the Ohio not having anything in the world to do with it. By this treaty the Shawnees of Ohio had the right conceded, without paying any consideration therefor, to go into that territory and occupy it in common with the Shawnees of Missouri, by whom, and not by the United States, the right was conceded to them. Some years afterwards, namely, in 1831, a treaty was made by the United States with the Shawnees of Ohio, by which the latter ceded their valuable lands in that State to the Government.

The amount of the net proceeds of the sales of those lands which came into the Treasury, is the amount proposed to be given to those Indians by the amendment which was adopted a few minutes ago. The Government retained that amount on condition that it was to convey to them one hundred thousand acres of land in fee-simple for their own exclusive occupancy and use within the fifty miles square, which had been previously sold to and paid for by the Missouri Shawnees, "but if there should not be a sufficiency of *good lands unoccupied* by the Shawnee Indians, (that is, the Shawnees of Missouri,) who had already settled on the tract;" then said one hundred thousand acres was to be laid off on land contiguous thereto. Well, then, if the one hundred thousand acres have been conveyed to them out of that tract, every lawyer in this committee must see that the money retained from the Ohio Shawnees out of the proceeds of the sale of their lands in Ohio was improperly retained, because the Shawnees of Missouri had paid for the whole of that fifty miles square in 1825; therefore the Government took that money from the Ohio Shawnees without any consideration whatever. It was a privilege granted to them not by this Government, but by their brethren of Missouri long before. But one hundred thousand acres have not been and cannot be conveyed to them within said fifty miles square, according to the terms of the treaty. The patent which has been read is not a patent for one hundred thousand acres in fee-simple to them for their sole use and occupancy, but it is a patent to them and the Shawnees of Missouri jointly, for the whole fifty miles square, and only gives a right of coöccupancy which was theirs before. No man can for a moment suppose that this fulfills the treaty stipulation to give them one hundred thousand acres in fee-simple for their sole use and occupancy, nor could the Government comply with it by any attempt at a conveyance of land within that fifty miles, for it had nothing left within it to convey. It had long before parted with its whole right and title therein by the treaty with the Missouri band. It has, therefore, retained this money without any consideration, as it retained it under pretense of giving what did not at the time belong to it to give, and which already belonged to the Indians by a previous treaty. True, the Government might have given the one hundred thousand acres out of contiguous lands, but it has never done so, and as it has since conveyed to other tribes the best if not all the good lands contiguous, and as the Indians have, by its own act, become settled where they had a right to settle, with their brethren of Missouri, it is but just that it should now leave them there and pay to them this money, and I think this course much better for the Indians.

Mr. HOWARD. The gentleman from Indiana has a singular idea of the law of real property, and I am at a loss to know where he has derived his learning. In the first place, the treaty of 1825 vests in the Missouri Shawnees and those of Ohio a certain tract of country. The gentleman says that the patent was to be issued to the Missouri Shawnees exclusively. That is a mistake.

Mr. DUNHAM. The gentleman misunderstood me, if he so understood me. I did not say that the patent was to be issued to the Shawnees of Missouri exclusively; I said that the consideration for that whole land moved entirely from the Shawnees of Missouri, and the other patent was to the Ohio Shawnees.

Mr. HOWARD. The gentleman is at fault all around. The title vested by force of treaty has been tested in similar cases in the Supreme Court of the United States in at least twenty cases, and it has been decided in the supreme court of Ohio, that a patent was not necessary where the land was granted by law. What is the legal effect of the treaty of 1831? In order to have divested any right which accrued to these Indians under the treaty of 1825, it would have been necessary for the treaty of 1831 to have stated expressly their title to all except one hundred thousand acres is hereby relinquished and divested. It does not contain any such provision. When these Indians went there they had a right to demand a division, and if there had not been one hundred thousand acres left to them within the grant, then the Government ought to have made it up. When they arrived there, instead of that they saw that the treaty of 1825 gave them eight hundred thousand acres, and therefore they did not call for a division, settled as one tribe, and elected to take as tenants in common under the treaty of 1825. Any lawyer who reads the patent will see that it is issued in entire conformity with the treaty stipulations of 1825. What is the ground of all this claim? They have not only got one hundred thousand acres, but they have received nearly eight times that quantity, and you now attempt to give a construction to the treaty under the pretense of giving them $66,000, which, if it had any effect upon the title, would divest them of their property. To make this appropriation without some explanation in the act, is to cast a cloud over the title of the Ohio Shawnees, and will in all probability lead to a conflict, if not to a civil war in the tribe, as to who are the owners of the land, when both branches of the tribe are tenants in common.

[Here the hammer fell.]

Mr. DUNHAM. I will withdraw my amendment by unanimous consent.

Mr. JONES, of Tennessee. I object.

The question was then taken on Mr. DUNHAM's amendment, and it was not agreed to.

Mr. HALL. I move a *pro forma* amendment. It is not my purpose to discuss the merits of the amendment offered by the gentleman from Indiana, [Mr. FITCH.] Whether it is proper to appropriate $66,000 to these Shawnees, or not, is not the question now before the committee. The gentleman from Texas [Mr. HOWARD] proposed to add to the amendment already adopted by this committee, that nothing in that amendment shall be construed to affect the rights secured to the Indians under the treaty of 1825 and 1831. Let us see how that amendment, if adopted, will operate under the treaty of 1825. The Indians acquired the right to a certain tract of land west of the State of Missouri, for the benefit of both the Missouri and Ohio Shawnees. There is no doubt about that. But in 1831 we stipulated that these Ohio Shawnees should receive one hundred thousand acres of land to themselves. Now they come here and say this: that, by the act of 1825, they acquired a joint interest with the Missouri Shawnees in this tract of country west of the State of Missouri. They say, therefore, that by the treaty of 1831, they were entitled to something more than that, and that they cannot have without taking land outside of these limits; and hence the committee, recognizing the claim of the Shawnees, have agreed to give them $66,000. If you adopt the amendment of the gentleman from Texas, why, these Indians may come up next year and say that they have still precisely the same rights to one hundred thousand acres of land that they now have, although you paid them $66,000, because the proviso says that this shall not impair their rights to any land secured to them by the act of 1831. Now they say that the lands secured to them by the treaty of 1831, are not within the fifty miles square granted to the Missouri Indians in 1825, but outside of that. I am willing to accord to the Indians every right which they acquired by the treaty of 1825; but it does appear to me, that if you adopt the proviso so as to secure them the right under the treaty of 1831, you give them $66,000 for nothing in the world.

The object of giving this $66,000 is to buy out the right of the Indians to what they claim under the treaty of 1831, and if you do not extinguish the right granted by that act, this appropriation is a mere gratuity for which this Government receives no consideration whatever. I am not willing to appropriate this money in this way. If the Indians have received really all they were entitled to by the treaties of 1825 and 1831, you ought not to appropriate a dollar. If they have not received one hundred thousand acres of land under the treaty of 1831, then they are entitled to pay for it. This $66,000 is given to pay them for those rights secured to them in the treaty of 1831, and yet the gentleman proposes in the very next breath in which this money is appropriated for that purpose that we are to provide it shall not go to extinguish the rights under the treaty of 1831.

Mr. HOWARD. It is not my fault if the appropriation is made to a wrong state of facts. There is no evidence yet produced in the case that these Indians have not been able to get their one hundred thousand acres. On the contrary, the whole tract comprises one million six hundred thousand acres, of which, being about half of the whole tribe, they are entitled to a moiety. The evidence is conclusive that if they had called for a division, they could have obtained the one hundred thousand acres. It was not their interest to pursue that course. It is perfectly conclusive, from the papers in the case, that when they get there, their friends recommended them to mingle with the Missouri Shawnees, and not to call for a division. That was the advice of the surveyor. So far, therefore, from saying that they did not get the one hundred thousand acres, the reverse is true. Under the treaty of 1825, they are to have the land in fee-simple, so long as they continue to reside on and occupy it. Every lawyer will see at once that the tenantcy in both cases is precisely the same, and in no respect different. The title under the treaty of 1831, is one hundred thousand acres in fee-simple so long as they occupy it. In each case the tenure is the same. There is, therefore, no foundation for the claim, in my estimation, and it seems to me to be wrong. If you give them the money, give it to them as a donation, and not under the pretense that they have no title to the land. It is not true as a legal proposition, and the practical effect of such a construction by us can be only to produce dissensions and difficulties in the tribes as to the title and ownership of the land.

Mr. HALL. I withdraw my amendment.

Mr. MEADE. I move to strike out the sum named, and insert $50,000.

The CHAIRMAN. Nothing can be stricken

out from the original amendment. The gentleman can move to strike out something from the proviso.

Mr. MEADE. I move to amend the proviso, by inserting "within the fifty miles square granted to the Shawnee tribe."

If I understand the explanations which have been given by gentlemen who have spoken upon this subject, the matter may be stated thus: In 1825, the Government of the United States treated with the Shawnees in Missouri, and in anticipation of a subsequent treaty to be made with the Shawnees in Ohio, they granted to the Shawnees of Missouri much more land than they otherwise would have granted for the same consideration. In 1831, in consideration of this extravagant grant, a certain proportion of the proceeds of the sale of lands belonging to the Shawnees of Ohio were reserved. This was reserved to pay for the excess of land granted to the Shawnees of Missouri, for the express purpose of accommodating their brethren. If, then, the Shawnees of Ohio have received the lands within fifty miles square, in part consideration of their cession of lands in Ohio, then I should like to know what it is we owe them.

It seems that this reservation of a part of their money, under the treaty of 1831, was made by the United States Government to pay for the excess granted to the Shawnees of Missouri, in whose territory it was stipulated that the Shawnees of Ohio should settle. If, then, we have secured to the Shawnees of Ohio a participation in the grant of fifty miles square, we owe them nothing, unless we stipulated at the same time to give them one hundred thousand acres in addition. That is a question which depends entirely upon the construction of the treaty. If that treaty simply intended to grant to the Shawnees of Ohio one hundred thousand acres, to be taken by virtue of a previous treaty out of the fifty miles square granted to their brethren in 1825, and that they had enjoyed it, though not by metes and bounds, but as tenants in common with their brethren, then there is nothing due to them, either in land or money.

[Here the hammer fell.]

Mr. DUNHAM. The gentleman has fallen into an error with reference to the phraseology of the treaty under which this claim arises. That is what I was endeavoring to explain when I spoke before. By the last treaty, the stipulation with the Ohio Shawnees was that they should either have one hundred thousand acres within the fifty miles square which was formerly sold to the Missouri Shawnees, and paid for by them under a previous treaty, or else that they should have one hundred thousand acres adjoining thereto. The Government sold that land, in fee-simple, to the Missouri Shawnees, with the simple stipulation that the Ohio Shawnees should have a right to occupy it in common with them if they chose. Now, every gentleman must see that it was out of the power of the Government of the United States afterwards to convey the exclusive right in fee-simple to one hundred thousand acres of that land to the Ohio Shawnees, and thereby to exclude from it the Missouri Shawnees. There is another thing which shows that I am right in my construction of the treaty. The Government of the United States seemed to understand, at the time they made the second treaty, that they had not a right, without the consent of the Missouri Shawnees, to set aside one hundred thousand acres of that land for the exclusive occupancy of the Ohio Shawnees, and, therefore, the provision of the treaty was, that they should have one hundred thousand acres, either within the fifty miles square or adjoining thereto.

Mr. LETCHER. I desire to propound a question to the gentleman from Indiana. I understand him to say that by the terms of this arrangement, the Ohio Shawnees have no sort of title to any part of the land.

Mr. DUNHAM. Oh, no. I did not say that.

Mr. LETCHER. Well, no title in fee-simple.

Mr. DUNHAM. I say that by the first treaty, they have a right to occupy the land in common with the Missouri Shawnees. But the second treaty stipulated not that they were to occupy the land in common with the Missouri Shawnees, but were to have one hundred thousand acres for their sole use.

Mr. LETCHER. Then, according to the gentleman's own showing, they cannot have exclusive use of this land; they cannot have absolute title in fee-simple to it——

Mr. DUNHAM. Precisely.

Mr. LETCHER. Then, have the other Shawnees had the fee-simple to that land conveyed to them?

Mr. DUNHAM. Certainly; but subject to the right of the Ohio Shawnees to occupy it, if they chose, jointly with them. The Missouri Shawnees paid for all the land, and the United States had no further interest in it, except as the guardian of all the Indians, to see that the Missouri Shawnees executed the trust in favor of their brethren of Ohio. The Missouri Shawnees paid the United States for all the land, and the Government of the United States has undertaken to sell a portion of it over again to the Ohio Shawnees.

[Here the hammer fell.]

Mr. DUNHAM. I presume there will be no objection to the amendment of the gentleman from Virginia, [Mr. MEADE.]

Mr. HOWARD. I will accept it as a part of my amendment.

A MEMBER. Report the amendment as it now stands.

The Clerk read the amendment as modified, as follows:

"*Provided*, That this appropriation shall not be held to affect the title of the Ohio Shawnees to land under the treaties of 1825 and 1831, within the territory ceded to the Shawnees of Missouri by the treaty of 1825."

Mr. HALL. Say "within the fifty miles square."

Mr. MEADE. I have no objection to that.

Mr. LETCHER. Would it be in order to move to strike out "fifty miles square?"

The CHAIRMAN. Nothing which has been inserted by the action of the committee can be again stricken out. The Chair is under the impression that that is precisely the amendment offered by the gentleman from Virginia, [Mr. MEADE,] which has just been adopted.

Mr. MEADE. I would remind the Chair that the gentleman from Texas [Mr. HOWARD] accepted that as a part of his amendment.

The CHAIRMAN. Then the gentleman's motion is in order.

Mr. LETCHER. My object is to obtain some information upon this subject. I want to submit an amendment to add a further proviso to reserve one hundred thousand acres out of the fifty miles square, if they take this sixty-odd thousand dollars. If they receive the money, require them to relinquish all claim to the one hundred thousand acres of land.

Now, sir, I understand the gentleman from Indiana to state most distinctly that the Missouri Shawnees, when they acquired this land, paid a full consideration for it.

Mr. DUNHAM. So they did.

Mr. LETCHER. Then the gentleman involves himself in this extraordinary difficulty: while he admits that they had an absolute title to this land under the treaty, he comes here and claims that they paid a full and fair consideration for what they ought to have had a good title to! Now, that is a most extraordinary development on the part of the friends of this claim.

Mr. DUNHAM. The gentleman is entirely mistaken. I did not say that the Ohio Shawnees had an absolute title to it, if by absolute the gentleman means an exclusive title. I said that a title had been conveyed to the Missouri Shawnees with the simple reservation or stipulation that the Ohio should occupy it in common.

Mr. LETCHER. This, then, is the state of the case: the land was conveyed to these Missouri Shawnees, according to the gentleman's showing, with a distinct *reservation* that the Ohio Shawnees should occupy it in common with them. Well, sir, if that reservation was put upon it, how does the gentleman account for the fact that they paid a full consideration for what they were entitled to without any reservation of any sort? The whole matter, then, resolves itself into this: that this land was conveyed to the Missouri Shawnees with the understanding that the Ohio Shawnees should occupy it in common with them; and yet, this being distinctly understood and admitted, these gentlemen come forward now and ask the House to vote sixty-odd thousand dollars to the Ohio Shawnees because they did not get their land according to the treaty! Sir, it is nothing more nor less than a gratuity of so much money out of the Treasury to those who have no proper or legal demand against the Government—no demand which they could enforce. Now, if the public money is so plentiful—if there is such a superabundance in the Treasury that we are anxious to get rid of it by throwing it away, it is right enough to adopt this amendment. But, if we are here as guardians of the public Treasury, bound to protect and defend it, then it becomes us to practice for the Government on the same rule that we would observe for ourselves.

Mr. JOHNSON, of Arkansas. I studied this case very maturely at the last session of this Congress, and I would be glad to make a statement to the House in regard to it.

In the first place, I do not think that the House comprehends one fact, and that is, that the Shawnee amendment has already been adopted; that there are mere provisoes to be annexed to it, and that we are debating the whole matter over on its merits, after we have already passed it. If there are those here who do not know the fact, let them be assured that it is a hard matter in any debate to arrive at the truth, when there is no faith put in the declarations of those who have made it their express business to examine the subjects which are to come up for consideration.

Now, sir, I have stated this case, and I wish merely to state the facts succinctly and in a few words. The Shawnees were divided into two bands, one in Missouri, and the other in Ohio. The Missouri Shawnees sold out their country, and were to receive in consideration therefor, lands west of the Missouri. But it was provided that whilst they were to receive those lands, they were to receive them subject to the joint occupancy of the Ohio Shawnees, when they might arrive there. The Ohio Shawnees were to go there and unite with the Missouri Shawnees. But the Ohio Shawnees still owned lands of their own. Well, sir, the United States made a treaty with the Ohio Shawnees—saying nothing at that time about the Missouri Shawnees, by which they agreed to furnish them with the fee-simple to one hundred thousand acres of land west of the Missouri, and to carry them there and put them on it. This was the consideration for which the Ohio Shawnees sold their lands in Ohio. When, therefore, the United States put them on the lands of the Missouri Shawnees, they did nothing less than sell the same lands twice, and received compensation for them twice. And this is the history throughout of the kind of dealings we have had with the Indian tribes. The simple question for this House is, whether they will do a simple act of justice and redeem the obligations of the Government—obligations which a man in private life would be dishonored if he did not fulfill.

Mr. JOHNSON, of Tennessee. I move that the committee do now rise.

The question was put, and it was decided in the negative.

So the committee refused to rise.

Mr. JOHNSON, of Arkansas. I ask the Chair to state that the amendment to pay the Shawnees, passed some time since on a vote by tellers. It merely proposed what the House sanctioned last session. The question now is upon a mere proviso to the amendment and upon an amendment to that proviso. I hope the committee will vote down the proviso.

The CHAIRMAN. The gentleman states correctly that the amendment offered by the gentleman from Indiana, [Mr. FITCH,] providing for the payment of a certain sum of money to the Shawnees, has been adopted. The gentleman from Texas [Mr. HOWARD] has submitted a proviso to come in at the end of that amendment.

Mr. HOUSTON. The Shawnee amendment is now in the bill, and there is no way to reach it except by a vote in the House. I hope, therefore, that the committee will finish the bill, and then we can have a vote on the amendment in the House to-morrow.

Mr. LETCHER. I withdraw my amendment to the proviso.

The question then recurred upon the adoption of the proviso of Mr. HOWARD, and being taken, 43 rose in the affirmative.

Mr. JOHNSON, of Arkansas. I demand tellers. It is very evident that we shall not have a quorum without.

Tellers were ordered.

Mr. ORR. It is very evident that there is no

quorum in the House. I move that the committee do now rise.

The question was put, and the motion agreed to—ayes 51, noes 47.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. Bocock) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 333) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1854, and had come to no conclusion thereon.

Mr. CLARK. I ask the unanimous consent of the House that I be permitted to take up House bill No. 442. It provides for regulating the district court of the United States for the district of Iowa. It is very necessary that the bill should pass during the present session.

Mr. JONES. I object; there is no quorum present.

Mr. JENKINS. I move that the House do now adjourn.

Mr. CLARK. I do not yield the floor for that purpose. Have I not the right to move to suspend the rules for the purpose of taking up the bill I have indicated?

Mr. JONES. That motion cannot be made when there is no quorum present.

The SPEAKER. The Chair is of the opinion that the motion can be made but not acted upon.

Mr. CLARK. I submit the motion, and desire to have it entered.

Mr. JENKINS. I move that the House do now adjourn.

Mr. DANIEL. I ask the gentleman to withdraw the motion for a single moment, to allow me to withdraw some papers from the files of the House.

Mr. JONES. I object.

The question was then taken, and the motion was agreed to; and

The House adjourned till to-morrow at eleven o'clock, a. m.

PETITIONS, &c.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. FAY: The petition of Augustus Towne and others, of the town of Danvers, State of Massachusetts, praying for the passage of a bill now before Congress for the protection of inventors and their assignees.

By Mr. CHANDLER: The memorial of the Board of Trade of Philadelphia, asking a repeal of the law of August, 1852, relative to the delivery of certain ship letters.

By Mr. ROBBINS: The petition of A. B. Hamilton, praying for relief on certain portions of his contracts as late public printer.

By Mr. DAVIS, of Indiana: The petition of William J. Scarce and 53 other citizens of Indiana, for a grant of public lands to aid in the construction of a railroad from Springfield, Illinois, to Indianapolis, Indiana.

By Mr. EASTMAN: The petition of 80 citizens of Lafayette county, Wisconsin, for reduction of ocean postage to two cents on all letters of one half ounce and under.

By Mr. HENN: Joint resolution of the Legislative Assembly of the State of Iowa, asking Congress to remove certain restrictions contained in the act granting lands to aid in the improvement of the Des Moines river.

Also, a joint resolution of the Legislative Assembly of the State of Iowa, asking that the northern boundary of the "Half-Breed Tract," in Lee county, in said State, may be surveyed and established.

IN SENATE.

THURSDAY, *February* 24, 1853.

Prayer by the Rev. C. M. BUTLER.

Mr. TOUCEY presented a petition of citizens of New London, Connecticut, praying an appropriation for a fog-whistle at Pine Island, in Fisher's Island Sound; which was referred to the Committee on Commerce.

Also, the petition of H. A. Kloffer, messenger in the office of the Attorney General, praying compensation for services performed as a laborer in that office; which was referred to the Committee on Finance.

Mr. SUMNER presented a petition of citizens of Springfield, Massachusetts, praying that the armories of the United States may be placed under the superintendence of civil instead of military officers; which was ordered to lie on the table.

Mr. DOUGLAS presented thirteen memorials of residents of the Danville land district, Illinois, praying that the land office for that district may be removed from Danville to Urbana; which were referred to the Committee on Public Lands.

Mr. CHARLTON presented the petition of Levi L. Hill, praying that provision may be made by special enactment to secure to him that protection in his method of Hillotyping objects in their natural colors, which the patent laws do not afford; which was referred to the Committee on Patents and the Patent Office.

Mr. FELCH presented a petition of citizens of Michigan, praying the establishment of a daily mail between Manchester and Grass Lake; which was referred to the Committee on the Post Office and Post Roads.

Mr. FITZPATRICK presented the petition of Hugh Wallace Wormley, praying a pension on account of a disability incurred in the Naval service; which was referred to the Committee on Pensions.

REPORTS FROM STANDING COMMITTEES.

Mr. SHIELDS, from the Committee on Military Affairs, to which were referred the following reports, petitions, &c., asked to be discharged from the further consideration thereof; which was agreed to:

Report of the Secretary of War, showing the expenditures for contingencies of that Department, its offices and bureaus, communicated January 27, 1853;

Report of the Secretary of War, showing the names and compensation of clerks and other persons employed in that Department in 1852, communicated January 27, 1853;

Message of the President of the United States in relation to California claims, communicated January 26, 1852;

Petition of Enoch Steen;

Memorial of A. R. Woolley;

Petition of Dempsey Pittman;

Petition of Rufus L. Baker;

Memorial of Alexander B. Hasson;

Petition of officers of the Army at Fort Adams, Newport, Rhode Island;

Petition of Lieutenant Colonel Ewing and other officers of the Army respecting sutlers in the Army;

Petition of survivors and heirs of persons who served in the last war with Great Britain, presented the 19th instant;

Petition of P. A. Brown and others;

Document relating to Indian incursions in the Territory of New Mexico;

Joint resolution in honor of Brigadier General Nicholas Herkimer;

And from the further consideration of all subjects referred to the Committee on Military Affairs and not reported on.

Mr. UNDERWOOD, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the memorial of J. Thomas, proprietor of the Irving Hotel, praying compensation for losses sustained in consequence of the illness and death of Hon. WILLIAM UPHAM in his establishment, submitted an adverse report thereon; which was ordered to be printed.

Mr. HUNTER, from the Committee on Finance, to which was referred the bill from the House of Representatives making appropriations for the service of the Post Office Department for the fiscal year ending the 30th of June, 1854, reported it with an amendment.

Mr. DAVIS, from the Committee on Commerce, to which the subject was referred, reported a joint resolution to amend an act entitled "An act to authorize the Secretary of the Treasury to license yachts and for other purposes," so that said Secretary be authorized to grant registers as well as licenses; which was read twice and considered as in Committee of the Whole. No amendment being proposed, it was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

Mr. BUTLER, from the Committee on the Judiciary, to which was referred the petition of Elias P. West, asking compensation for his services as district attorney in New Mexico, submitted a report, accompanied by a bill for his relief; which was read and passed to a second reading.

COMMITTEE ON ENGROSSED BILLS.

On motion by Mr. MALLORY, it was

Ordered, That an additional member be appointed on the Committee on Engrossed Bills, and that the appointment be made by the President *pro tempore*.

And Mr. FITZPATRICK was appointed.

FALLS OF THE OHIO.

A motion by Mr. BRIGHT, that there be printed, for the use of the Senate, two thousand additional copies of the report of the Secretary of War respecting a canal around the Falls of the Ohio, was referred to the Committee on Printing.

WESTERN COAL FIELDS.

A motion by Mr. BRIGHT, that there be printed, for the use of the Senate, two thousand additional copies of the report of the Secretary of the Navy respecting the coal fields and coal mines on the western waters, was referred to the Committee on Printing.

LIEUTENANT MEIGS'S REPORT.

Mr. BORLAND submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That two thousand extra copies of Senate Executive document No. 48, being the report of Lieutenant Meigs on the subject of supplying Washington and Georgetown with water, be printed; five hundred copies thereof for Lieutenant Meigs, one thousand for the city of Washington, and five hundred for the city of Georgetown.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it insisted on its disagreement to the second and fourth amendments of the Senate to the bill from the House of Representatives making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854; that it had agreed to the conference asked by the Senate, and had appointed Mr. HIBBARD, of New Hampshire, Mr. OUTLAW, of North Carolina, and Mr. MCMULLIN, of Virginia, a committee of conference on its part.

Also, that it had agreed to the amendment of the Senate to the amendment of the House of Representatives to the bill for the relief of Mary W. Thompson..

Also, that it had passed the bill from the Senate to regulate the terms of the district court of the United States for the district of Iowa, with an amendment.

LAND DISTRIBUTION BILL.

Mr. UNDERWOOD gave notice that he should, after the Army appropriation bill was disposed of, ask the Senate to take up and dispose of the bill of the House of Representatives commonly known as Bennett's land bill.

ARMY APPROPRIATION BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives making appropriations for the support of the Army for the year ending June 30, 1854.

Mr. FITZPATRICK. In the amendment adopted yesterday, providing for the payment of the claims of the States of Georgia and Alabama, there was a mistake of a date in regard to the passage of an act. The 14th of August was put in instead of the 16th. I ask unanimous consent to make the correction.

The PRESIDENT. If there be no objection that correction will be made.

There was no objection.

The PRESIDENT. The question pending is on the amendment offered yesterday by the Senator from Ohio, from the Committee on Roads and Canals, to add the following additional sections:

SEC. —. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and surveys as he may deem advisable, to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $150,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of such explorations and surveys.

SEC. —. *And be it further enacted*, That the engineers and other persons employed in such explorations and surveys, shall be organized in as many distinct corps as there are routes to be surveyed, and their several reports shall be laid before Congress on or before the first Monday in February, 1854.

SEC. —. *And be it further enacted*, That in making such explorations and surveys the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is also author-

rized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and to lay the same before Congress at the next session.

Mr. CHASE. Mr. President, this is the amendment originally offered by the Senator from Pennsylvania [Mr. BRODHEAD] to the Pacific railroad bill, and modified upon my suggestion. As originally offered by that Senator, it provided for the examination of a single route for a railroad. It was modified upon my suggestion so as to require the examination of as many routes as the President might think proper. It was further modified so as to provide that in the examination of those routes the engineers of the Government might be directed, if the President should think fit, to act in concert with the engineers of private companies, who might wish to examine the same routes, and requires the Secretary of War to receive proposals for construction. A section is now added which simply directs that the officers of the Government shall be divided into as many corps as the President shall select routes for examination, and it provides further that their reports shall be made and laid before Congress as early as the first Monday in February next, so that it will be in the power of Congress to act definitely upon the subject at the next session.

These are the general objects contemplated by the amendment which I have the honor to submit from the Committee on Roads and Canals. I do not desire to detain the Senate by any extended remarks on the character of the amendment, but I do wish to say that this amendment, in its present shape, will accomplish all that I think it is possible for Congress to accomplish at this session. I thought so at the outset; and although I was perfectly willing to give to the bill reported from the Select Committee that degree of support which was necessary to keep it before the body until it should receive a shape satisfactory to its friends, it was, nevertheless, my judgment from the beginning that no measure of that sort could pass at the present Congress; and it is my judgment now that if we had adopted this amendment at an early stage of the discussion, we should have saved a great deal of time, and expedited the construction of the road. I think it is the wise, the judicious, and the expedient course to be pursued. In that matter I have the misfortune to differ from a gentleman for whose opinions I always entertain a very great respect, and with whom it always gives me pleasure to act, when I can, in consistency with my principles,—I refer to the Senator from California, [Mr. GWIN.] He thinks that this is a doubtful measure. I do not so regard it. I regard it as a measure which if adopted at this session, will certainly secure the commencement of this road at the next session. It is emphatically free from all objections of a sectional or constitutional character. We impose on the President those duties which former laws have imposed upon to him—the exploration and survey of routes, the collection of information, and the submission of that information to Congress for its action. This, in my judgment, is the proper function of the Executive Department of this Government. What remains will be for the action of Congress; and if it shall be found—as I trust it will not be found—that the anticipation of some Senators on this floor is realized, and that Congress is unable to select one of these routes, then, with the whole information before Congress, and before the country, the question which Congress may find itself unable to decide, can be referred to the President, who will doubtless act under a proper sense of his responsibility.

In offering this amendment the Committee on Roads and Canals has followed the course of former legislation. It will be found on reference to the Army appropriation bill of 1849, that an amendment was made appropriating $50,000 for the same general objects contemplated by this amendment. I do not know precisely the circumstances (though my friend from Texas, [Mr. RUSK,] I believe, understands them perfectly well, for it was on his motion that that appropriation was incorporated in the bill) under which this appropriation passed into the general fund, and was never employed for the object designated. Now, four years afterwards, we propose to revive this appropriation, to increase it to a sufficient sum to secure efficient action, and intrust the execution of the contemplated explorations, under the best auspices, to the incoming Administration. I have no doubt that the duties which we devolve by this amendment upon the President will be faithfully performed; and that if it meets, as I trust it will meet, the sanction of the Senate and the House of Representatives, we shall have information before us at the next session which will secure the earliest, speediest, and cheapest completion of this great national work upon the best possible route.

Mr. RUSK. The amendment, as I heard it read, provides for explorations and surveys. I would suggest to the honorable Senator that "surveys" is too comprehensive a term. A survey, in the technical sense, would require perhaps a great deal more labor than is anticipated by the Senator. "Reconnoissance" would be the proper word.

Mr. CASS. I think the word "survey," which is a generic term, and allows the Department a wide discretion, may as well be retained. "Reconnoissance" is rather a French term, and is correct; but I think, according to the amendment proposed by the Senator from Ohio, we had better leave the word "surveys." That will give the Department full power to make the survey more or less accurate, to make it a strict survey, or only a general reconnoissance, in order to ascertain the character of the country. I think there is full discretion given by the amendment.

Mr. RUSK. I think that the objects which we have in view ought to be accomplished at a very early day; otherwise this may stand here as an objection in the way of any future action of Congress. But I have observed, that when you begin a job by the Government, it never is circumscribed, or if so, it is barely circumscribed. You commenced to build the extension of the Capitol. Estimates were made, but it was found as you went on that the expense increased. So it is always, and the time taken to execute a job of the Government is always longer than that taken to execute a private work. This survey will require a great deal of time, and a great deal of accuracy; for, according to the amendment, I suppose it must be what is absolutely and strictly a survey. The survey of the Mexican boundary has gone on for three or four years and is not yet completed. Everybody supposed that the original appropriation of $150,000 would accomplish the whole work; but it has now gone on for about four years. More than half a million of dollars have been appropriated and it is still not finished. Under such circumstances, I think the better plan would be to provide simply for a reconnoissance. All that is necessary, in the first place, is to ascertain the topography of the country. An actual survey for a railroad would take a very long while. If this amendment is to amount to anything, all you can ask is a general reconnoissance. There is but a short time allowed to accomplish the work, and within that time it will be impossible to make a perfect survey; and even if we did make a survey, those who are to invest capital for the construction of the road would afterwards resurvey it. I do not, however, care a fig about the matter.

Mr. HUNTER. I do not rise to argue the merits of the proposition. There is no time for that. But I merely wish to call the attention of the Senate to the mode in which it is now proposed that we shall legislate. If we put all these matters of controverted legislation upon the general appropriation bills towards the close of the session, when there is no time to debate them, is it not manifest that we are coercing the minority, and forcing them either to adopt all the measures of legislation the majority may choose, or else to stop the wheels of Government—one or the other? I ask if this is a fair course for one House to take towards the other? Is it a fair course for the majority to take in relation to the minority? It would be well to consider where this habit will lead us, for we cannot conceal from our notice the fact that it is constantly increasing. The end of it will be that the whole legislation of the country will be done upon the appropriation bills. I know of schemes behind this—matters in controversy which have been bitterly disputed—that will probably be brought up and put upon this Army appropriation bill. The consequence will be, that when they go down to the House of Representatives, if the Senate insist upon the amendments, that body will either be coerced to take the will of the Senate in relation to these matters, without any time to debate or consider the amendments, or else to defeat the general appropriation bills. It seems to me that this is a dangerous system of legislation. For myself, I will vote for none of these propositions by which it is sought to add matters of general legislation to the appropriation bills. I will vote for no proposition except those which legitimately belong to the appropriation bills, which in this case is for the support of the Army.

Mr. BUTLER. I agree with my friend from Virginia, and I say now that this mode of legislation is making the Congress of the United States an irresponsible despotism of a naked majority. Sir, what guards have a minority, if you legislate in this way by attaching favorite projects to appropriation bills, by making those bills the vehicles of the projects and plans of a majority on every subject? The next thing will be, probably, that we shall have a proposition to incorporate the homestead bill upon an appropriation bill. And suppose it were offered, and a majority were to insist upon it, where would it lead us? What security have we under the Constitution of the United States, if an arbitrary majority can use an appropriation bill to carry out their favorite projects? I am willing to meet this as a separate measure; and I say with my friend from Virginia, that I do not know but that I might vote for it with a slight modification. I might vote for it, but I will not vote for it in this unusual, and, in my opinion, according to the spirit of the Constitution, unconstitutional mode of procedure. I find that I am here with my hands tied in regard to the forms of legislation, if this mode be adopted.

I have, however, other objections to the amendment. Why should we associate our engineers with the engineers of private companies, making a joint-stock concern of it in the beginning? Why, it looks like anticipating what is to be done; throwing ourselves into the arms of corporations, opening the mouth of this immense gulf, into which everything is to flow. I know, sir, if a majority choose, they can go on with this form of legislation. It may be very agreeable to them to-day, but the guillotine which was invented by one man, was used to make him a victim, and in turn they may become the victims of this species of legislation.

Mr. BELL. I hope that objection, at all events, will not be persisted in, because I think there is a manifest propriety, in this case, in departing from the general rules of legislation in regard to tacking important measures of legislation upon appropriation bills, growing out of the late defeated Pacific railroad bill, which bill its friends earnestly hoped would have become a law during this session. But it seems that so large a number of the members of this body will insist on some further reconnoissances and surveys of the different passes in the mountains, that it is not likely that anything can be done at this or even at the next session of Congress, though no great principle should be standing in the way of the construction of the road. I hope, therefore, that the honorable Senators from Virginia and South Carolina will not persist in their objection, unless they discover, on close examination, that there is a very vital principle covered up in the amendment offered by the Senator from Ohio, from the Committee on Roads and Canals.

I do not, however, see on what principle the Senator from Ohio can offer this amendment, because he was one of those gentlemen who, the other day, were constrained, on the ground of high principle, to exclude the appropriation of one dollar of money out of the public Treasury for the construction of a road within a State. Now, he offers an amendment appropriating $150,000 for reconnoissances and surveys, not only in one State where the road may be located, but in as many different States as there may be different routes proposed, and as the President may think proper to designate. Now, if the honorable Senators from Virginia and South Carolina have not thought of it, I wish to warn them that this is the first insidious step in the progress that was once made towards the establishment of a permanent system of internal improvements, by the construction of roads and canals through the States. It was the old practice to appropriate $25,000 annually for surveys over the States, for works of internal improvement, roads, and canals. I warn them of this, for the purpose of saying that

if they do allow it to pass now, the principle will be established that you can appropriate money in the States, and it will be done with their assent. If you can appropriate money for the purpose of discovering the best route by critical and scientific surveys and explorations in the States, you can appropriate money for the purpose of making a road on the route which shall be ascertained to be suitable. At least the difference is very slight. It is not necessary, when you appropriate money from the Treasury to construct a road within a State, that you shall assume jurisdiction, because you can always find corporations authorized by the State to take charge of the work, and to apply your money to the purpose, whenever you vote it; and you need have nothing more to do with it. The principle is the same in both cases, when you come to look at it. I am in favor of the amendment of the honorable Senator from Ohio, and I want to find out this morning whether we have a prospect at the next session of Congress, or at the present session, by the adoption of this amendment, of having the principle which was established the other day reversed; or whether we may hereafter expect any opposition to the appropriation of money from the Treasury for the purpose of aiding in the construction of this great national railroad in the States.

I do not make these remarks invidiously, but to call the attention of honorable Senators to the fact, that there is no distinction in principle between the power to appropriate for surveys in a State, and for the construction of a work of internal improvement there. I hope that the amendment will be ingrafted upon the bill; not because, as a general rule, it is regular or convenient, or even a safe mode of legislation, but because I think this is an exigency. And as a friend of this great measure, I am rejoiced to see that there is some prospect of an initiatory step being taken, which will control the ultimate decision of Congress upon this subject, and will lead to the construction of the road within some reasonable time.

Mr. BUTLER. I understand very distinctly that the honorable Senator from Tennessee is perfectly willing to become an indorser of any paper which looks towards the completion of this great railroad. He would take it blindfold. I have no doubt, if you would put it to him in any form, he would indorse it. He would indorse anything looking to it. I know that with him this is an entering wedge to this great scheme; it is an insidious mode of establishing it; and I say here, that sooner than submit to this irregular, dangerous, and irresponsible mode of legislation, I will bring this Government to a stand, and vote against the appropriation bills. I will not hesitate; I will let the wheels of Government stand still, rather than submit to this species of legislation. I am not so much interested in the appropriations of the Government as to suffer minorities to be buried under this form of legislation whenever gentlemen may think proper to adopt it.

Mr. BELL. I beg the honorable Senator's pardon. I understood him distinctly to say that, under other circumstances, he did not know that he would not be willing to vote for the amendment.

Mr. BUTLER. I said, that if modified to satisfy my notions, I might vote for it; but I do not intend that anybody shall mould notions for me by their speeches or motions.

Mr. BELL. I do not know what modifications the honorable Senator may require in order to suit his notions.

Mr. BUTLER. I do not choose to tell you. Perhaps they are different from what some might conjecture.

Mr. WALKER. As I intend to propose an amendment to this amendment, I think that, while the discussion is going on, it might as well be before the Senate. I will therefore read the amendment, as a part of my remarks, and ask the attention of the Senate to it. It is to amend the amendment of the Senator from Ohio, by striking out all after the word "That," where it first occurs, and inserting:

With a view to the ultimate construction of a railroad from some suitable point west of the Mississippi river, to some practicable point on the coast of the Pacific ocean, or the eastern line of California, within the jurisdiction of the United States, there shall be detailed from the Corps of Topographical Engineers a sufficient force, whose duty it shall be to proceed, as soon as practicable, to select, survey, locate, and mark on the most proper and eligible ground, a route not more than three hundred feet wide for said railroad, and to make and report to the Secretary of War, a map of such survey and location, together with an approximate estimate of the cost of constructing such railroad.

SEC. —. *And be it further enacted*, That, as soon as practicable after said route shall have been surveyed and located, there shall be surveyed, as the other lands of the United States have been heretofore surveyed, six townships wide on either side of said route, through the whole extent of the public lands along such route; and the even-numbered sections of the lands so to be surveyed, except the sections sixteen and thirty-six, shall be granted and patented by the United States, free of cost, in quantities not exceeding one hundred and sixty acres, to each person who shall settle upon, occupy, and cultivate the same for one year: *Provided*, That such occupant shall be the head of a family, or, if single, of the age of twenty-one years and upwards, a citizen of the United States, or having declared his or her intention to become such, according to the naturalization laws of the United States; and the odd-numbered sections of said lands shall be sacredly held and disposed of for the ultimate construction of said railroad, and the furnishing and equipment of the same.

SEC. —. *And be it further enacted*, That the sum of $—— be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, for the purpose of carrying this act into effect.

Mr. President, my views of this proposition I will give as briefly as I can, premising, however, in the first instance, that it has appeared to me to be a very great adventure on the part of the United States to construct this road for what is estimated to be a distance of two thousand miles if it takes one route, and upwards of one thousand miles if it takes another, through a country that is uninhabited. I think that the plan which I have proposed will settle that country, and settle it immediately. I believe that whenever it shall be certainly known that this railroad route is surveyed and permanently located, and that a portion of the land is to be granted free of cost to actual settlers, they will hurry to it, and will settle along the route. This will constitute a settlement on each side of the road thirty-six miles deep. If so settled, there will be distributed along the route of road, labor for its construction. There will be distributed along the route the means for the production of provisions necessary for the laborers on the road; and there will be distributed along it the implements and the tools, and the means of manufacturing those implements necessary in the construction of the road. This proposition will do more: It will create, if the road is constructed, a way freight and travel; and without this, I am very confident that the constructors of the road will be greatly embarrassed, and they must remain without this way freight and travel, unless there are people to travel and constitute a commerce upon it.

These are my views of the benefits that would result from this proposition. I may over-estimate them, but I cannot believe that I have done so. When I advert to my own observation and experience in regard to the settlement of the two States of which I have been a resident, where there were no such inducements as the prospect of the construction of this great railroad holds out, and when I reflect upon the rapidity with which this country, as an entirety, has been settled and become occupied, I cannot believe that I over-estimate the advantages which will result from this proposition. Its adoption will lead to the appreciation of the land, and for two main, prominent reasons: one is, the fact that the road is there located; the second is, that the sections appropriated to settlement being cultivated and improved will enhance the value of those sections reserved for the construction of the road. This proposition will give thirty-six sections of land to every mile of railroad, thirty sections to be appropriated by the Government to the construction of the road. I believe they will construct it. And there is this further advantage that will result from this proposition: if the settlement goes on upon the land as I anticipate, these settlements will begin to require territorial governments. Under the legislative power which we have always granted these territorial governments, they can create corporations for the purpose of operating in the construction of this work, and hence we avoid those constitutional difficulties which have arisen here about the power of the Government to act in regard to this matter at all. That is all I have to say at present. I offer this as an amendment to the amendment of the Senator from Ohio, with the hope that it may be adopted.

Mr. CHASE. Mr. President, the amendment offered by the Senator from Wisconsin will introduce a new element into this discussion, and will probably, if adopted, defeat all action upon this subject at this Congress. I would very cheerfully vote for several of the principles incorporated in that amendment, properly embodied and guarded, upon any other occasion. It embraces, to a certain extent, the principles of the homestead bill, but it also proposes action upon certain other matters which the Senate is hardly prepared to act upon immediately. I hope, therefore, that the Senator will not press his amendnent as an amendment to the one which I had the honor to submit to the Senate.

While I am up, I will give very briefly what seems to me to be sufficient answers to the objections which have been urged against the amendment offered by me.

It is said by the Senator from Virginia [Mr. HUNTER] that this amendment is out of place upon this bill. If it is out of place, it is very certain that a great deal of our former legislation has been out of place. Ever since I have been in this body, it has been usual to offer amendments of almost every description to any of the appropriation bills. Yesterday, under the name of an amendment from the Committee on Military Affairs, we revived the system of fortifications. If there is anything which will operate as a defense to this country, is it not a railroad connecting the Pacific with the Atlantic? It seems to me the amendment is in place, exactly in place, in the very place, and the only proper place for it.

Mr. HUNTER. Will the Senator allow me to ask him if it would be in place to move as an amendment to this bill a bill establishing a railroad from the Atlantic to the Pacific?

Mr. CHASE. If I had proposed such an amendment, I would answer the inquiry. I now propose only such preliminary surveys as are essential to the first step towards the establishment of this great route of communication. I stated before that there was an amendment precisely in point for this—an amendment offered to the Army bill in 1849, by the Senator from Texas. There is no difference in principle between that amendment and this. That amendment received the sanction of both Houses, and became a part of the Army bill of that year. Thus, as it seems to me, precedent and reason equally support this amendment.

It is also suggested, as an objection, that the amendment allows the engineers of the Government to act in concert with the engineers of private companies. It proposes, in this respect, nothing more than is common in the action of the Government. It does not require the President to direct any concert. It does not necessitate any concert, but simply authorizes the President to employ Government engineers, and direct them to act in concert with engineers of a private company, so as to obtain the greatest amount of the most reliable information with the least expense. In my judgment that is a wise and economical provision.

As to the phantom of a corporation, which so frights some Senators from their propriety, this amendment does not touch that subject. It carefully excludes the word and the idea of a corporation. There is nothing in the amendment which relates to a corporation at all; that objection, therefore, is of no force. But I may be allowed to say, in passing, that I cannot clearly perceive that distinction so apparent to some Senators between authorizing a contract for this continental road with a corporation created by a State, and authorizing such a contract with a corporation created and controlled by Congress; and yet there were not a few Senators whose constitutional opinions would not allow the former, who very readily acquiesced in the latter. If there is a difference between the two, the difference is in favor of the creation of a corporation by Congress, and controlling it by the legislation of Congress. But upon that subject I do not propose to enter, because it is not germane to the question now before the Senate; and I prefer, in whatever remarks I make in this body, to confine myself to the exact question in issue.

There was a personal reference made to me by my friend, the honorable Senator from Tennessee, [Mr. BELL.] I do not propose to say a word in reference to that. The Senator from Tennessee has said he is a friend to this amendment; and if so, I will have no controversy with him. I reserve whatever defense I may deem necessary of the

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course I have thought it my duty to pursue, for other places and other occasions. I shall not enter upon any topic of controversy with my friend, on any question which may prejudice this measure. Among friends of the measure there should be no controversy. Let us go on together in support of this amendment, and accomplish the best thing that we can towards obtaining the railroad. If this amendment shall be adopted, and it shall result, as I believe it will, in the general good and advantage of the whole country, we shall all rejoice.

Mr. WALKER. The Senator from Ohio seems to object to the amendment which I have proposed, because, he says, it will introduce a new subject of discussion here, and mentions that that subject is the principle of the homestead bill. Now, sir, I was not aware that that was a new subject. I thought that if any subject had been discussed in the United States, it was that to which the Senator refers. The papers have talked about it; and, sir, if the Senator will look to the petitions on file in the office of the Secretary of this body, he will find that there are more petitioners for that principle than perhaps for any other that has been petitioned for from the foundation of this Government to the present moment. It is not a new subject. It is an old one, and it is a dear one to the people, and they cherish it highly. I wish Senators could only see the extent, the depth, the length, and the breadth to which it is cherished.

But, Mr. President, I offered this amendment because I think it better than the one submitted by the Senator from Ohio. In point of fact I must say that I cannot support his. It is a good deal like the first enactment that we passed for the extension of the Capitol. We gave the President authority to contract, and $100,000 was appropriated to enable him to do so. The appropriations have already gone up to $1,000,000, and I believe there is asked for in the civil and diplomatic appropriation bill half a million more. Here is a proposition to make a kind of survey, a general reconnoissance of the country, to determine upon some general route for the road, and then that the President is to contract for it; and this is all to be done between now and the next session of Congress.

Mr. CHASE. He is only to receive proposals.

Mr. WALKER. He is to receive proposals for the contract. This is utterly impracticable, and I would be unwilling to receive proposals under such circumstances. Such proposals would constitute somewhat of a criterion in the matter, and they would be prejudicial. But the proposition which I have submitted, in my opinion, lays the best basis which can be laid for the construction of a railroad from the Mississippi valley to the Pacific ocean. It lays a certain basis which will constitute the foundation upon which any amount of capital can be obtained necessary for the construction of the road. It has a beneficent object in view, so far as the settlement of the country is concerned, and so far as the people who are unable to get homes in any other manner are also concerned. I think it far preferable to the proposition of the Senator from Ohio. I can go for the one which I offer. I cannot go for the one which has been submitted by that Senator.

Mr. MASON. I rise to a point of order. I understood, yesterday, that the Chair ruled the amendment of the Senator from Ohio out of order; and I do not know how it has entitled itself to favor to-day. I make the point of order that both the amendment and the amendment to the amendment are out of order.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The amendment now offered by the Senator from Ohio was out of order yesterday, because it was not moved by the direction of a standing committee. The Chair understands that it is now moved by the direction of the Committee on Roads and Canals. That being the case, the rule expressly provides that it is in order.

Mr. MASON. Very well; I wanted the opinion of the Chair on the point. Then I understand that the amendment of the Senator from Wisconsin to the amendment is out of order, because it is not moved by direction of a standing committee. I should like to have the decision of the Chair on that question.

Mr. WALKER. I wish simply to make this observation on that point: The amendment is a proposition brought in from a committee. Now, to decide that the amendment to the amendment is out of order, is to decide nothing more nor less than that you must take and swallow what a committee proposes, without having the power to perfect it.

Mr. MASON. I want to call the attention of the Senate and the Chair to the fact: The Senator from Ohio moves to amend the appropriation bill, by introducing a new and a most important measure of policy on the part of this Government, and he is allowed to do it, under the rule, because it comes from one of the standing committees of the body. Then the Senator from Wisconsin offers, as an amendment to that, a distinct proposition, embracing a totally new question, which involves the giving away of the public lands to actual settlers—another mode of getting legislation by means of the appropriation bills. Now, although I doubt not that it would be in order to amend the amendment submitted under the direction of the committee, by offering to amend it only in its details, in its organization, without introducing a new principle, I would respectfully suggest to the Chair that the same reason which would exclude the proposition of the Senator from Wisconsin, as a separate amendment, would exclude it as an amendment to an amendment. But I wish to say a few words upon the original proposition, while the Chair prepares to decide the point of order.

Mr. BUTLER. If the Senator will allow me, I will make another point of order. I want to put a question to the Senator from Ohio, and that is: Has this subject been referred to the committee by any memorial, resolution, or any other mode of reference usually known and recognized by parliamentary law? How has he cognizance of the subject? I desire to know that; and if the subject has not gone to the committee, according to our rules, I would make a question of order.

Mr. CHASE. I will answer the question of the Senator. The whole subject of the Pacific railroad is before the Committee on Roads and Canals upon several memorials and sundry bills.

Mr. MASON. I understand that the Committee on Roads and Canals reported the Pacific railroad bill, which we had under consideration, and it is here pending, which discharged the committee from its consideration.

Mr. CHASE. No, sir.

Mr. BRIGHT. I will explain the matter. The Committee on Roads and Canals claimed the bill which was offererd here originally, proposing a railroad to the Pacific, as properly belonging to them, and insisted that under the rules of the body they were entitled to consider it; but it appears that the peculiar friends of the measure thought that the bill would be unsafe in the hands of that committee, and sent it to a select committee. The committee had the subject before them in the shape of petitions, and desired to report a bill, but never did so, for the reason that the Senate took it out of their hands and referred it to a select committee. The Committee on Roads and Canals agreed to the amendment of the Senator from Ohio, and instructed him to offer it as an amendment to the bill.

Mr. RUSK. I would like to ask a question of the Senator. Has a bill on the subject been reported from that committee during the present session?

Mr. BRIGHT. Clearly not. We might have made a report; but while another committee had the subject in charge, we had plenty of other business to attend to without seeking to take it out of the hands of the select committee. We have not reported any bill; that is very true. If the subject introduced to the consideration of the Senate by the Senator from Texas had been referred to the Committee on Roads and Canals, they would, I feel authorized to say, have reported a bill; not one without any starting or ending point, nor without making the necessary and proper preliminary surveys. They would have reported a bill for a survey—just such a measure as is proposed in the amendment of the Senator from Ohio.

Mr. MASON. I appeal to Senators, if this project can be fairly and legitimately destroyed, to destroy it for the present session; and I know of no way of doing it, inasmuch as there is a fixed majority here in favor of making a railroad from some point on the Mississippi river to some point on the Pacific ocean, but by getting up an internecine war among the friends of the measure. That is the way in which we fortunately succeeded in defeating the friends of the measure upon the bill itself. Sir, I trust that during the long vacation which we are to have, when this question comes before the American people, and they see a tendency in Congress to this sort of legislation, that we shall hear from them. This is a new, a great, a most important question, which is in this manner sprung before the people to place the Treasury of the United States and the property of the Government in the hands of an irresponsible corporation of capitalists, to make the road, the route of which is not known, but which is to start from a point not designated on the Mississippi river, and to end at a point not designated on the Pacific ocean. I want that question to come before the people, that they may discuss it in the local newspapers, and that they may see the tendency of the legislation of Congress.

But I know of no way to destroy the measure now proposed, except to get the friends of the measure to disagree among themselves. That is the way in which we succeeded, very fortunately, with reference to the bill itself. I hope there is a process now going on with reference to the amendment which will produce such a result that the friends of the measure will not be able to agree upon it, and we shall gain a delay of one year at least for public discussion and consideration.

Now, I do not mean to say, as the honorable Senator from South Carolina was understood to say, that I can vote for an amendment of this kind while it retains its present form and purpose. I agree with the Senator from Tennessee, that any measure authorizing on the part of the Government a survey, preliminary to the making of the road, is a concession of the right of the Government to make the road—a right that I never will concede. There is but one form in which I will accede to any survey or reconnoissance whatever, and to that I will accede. If gentlemen who have charge of this subject will reduce their amendment to the provisions of the bill offered by Mr. Madison in 1796, which was quoted on this floor as authority, by the honorable Senator from Texas, I will vote for it cheerfully. But what is that? Why it is to give an authority to make reconnoissances and surveys of the established routes between this and California, in order that Congress may determine which shall be established as a post-route. That was the original construction given to the clause of the Constitution under which they seek to derive power now. I am disposed to believe it was the correct construction. To that extent the public money can be used for the purpose of designating or establishing post-routes, and no further. If gentlemen will put their amendment in that shape I will cheerfully vote for it, but I will not go further, because I deny the power of Government to expend a dollar, or to use any portion of the public property for the purpose of constructing any of these artificial ways.

Mr. BORLAND. The Senator from Virginia has now avowed what I supposed was the intention of the enemies of the railroad bill from the beginning; and he has also called attention to the fact, of which we are too well aware, that the tactics adopted by the enemies of the bill have been successful for its destruction. I have nothing more to say on that subject. I suppose it is a legitimate mode of warfare.

But, Mr. President, I rise simply to remark upon one point. The Senator is unwilling to legislate in the dark about this matter. He is unwil-

ling to adopt a measure for building the road, because he does not know what is to be the result of such legislation; he does not know whether the road is practicable or not; he does not know how far the powers of the Government will have been exercised in the execution of the measure; and when another proposition is presented, as we had yesterday, and have in substance to-day, to get information necessary to legislate, he is against that also. Not only is he unwilling to legislate in the dark, but he is against obtaining the information which will make our legislation intelligible and practicable; and when we come here at the next session, after this long vacation of which he speaks, during which the matter is to be discussed before the people, and propose then to do anything, we will be met by the Senator, and those who agree with him, with the declaration that we are in the dark; that we have not got the information necessary to legislate. And why? Because he and those who act with him have denied it to us, and will not let us have it; and then, forsooth, we are to be refused the legislation again, because we have not the information. He has opposed our measure now, because we have not got the information; and when we ask the means of getting information, which we have been using always in regard to surveys for making roads and canals and harbors and everything else—when we simply ask for the means of making a survey to ascertain whether the work is practicable or not, the Senator refuses even that.

Mr. MASON. Will the Senator allow me one moment? I do not profess to speak for others, but the mode of objection which I present is this: I deny the right of Congress to appropriate either money or property to make roads or canals in the States; but I say if those who differ with me, and who are determined to make an appropriation are in the majority, it is wise and prudent and right that you should make a preliminary inquiry, to know if it can be done, and at what cost. I refuse the preliminary inquiry, because I say you have no power to execute the work after the inquiry is made; but if those who differ with me have a majority, it is wise first to make the examination, to see if it can be done, and at what cost.

Mr. BUTLER. I do not care about defining my position on this subject more particularly than I have done. I am opposed to the amendment, because it is irregular, unusual, unparliamentary, and, according to the spirit of the Constitution, unconstitutional. I oppose it because it proposes to commit ourselves to the construction of a railroad, and that our engineers shall coöperate with engineers of private associations or corporations.

Mr. CHASE. There is not one word in the amendment about corporations.

Mr. BUTLER. It is the same thing. It is but the preliminary step for a corporation. But I would not say, and ought not to say, that I would not go for some reconnoissance, because if a majority of this body, and a majority of the other House, are in favor of the road, I at least have the privilege reserved to myself to say where the road shall be. I might very well vote for a reconnoissance to ascertain the different routes, and I then might choose between them; but if I had to qualify the proposition, I would vote for a reconnoissance without saying what kind of a road it should be—whether a railroad, or any other. As a military road, a railroad may be the best; but I think if a railroad ultimately is to be made, it ought not to be within twenty years, and that any other road of a cheaper construction, might be very well used for military purposes until that time. I could reconcile myself to that. I could reconcile myself to a reconnoissance generally for a road. But gentlemen are not satisfied with that. They say it must be a railroad; a commercial railroad; neither a post road nor a military railroad; but give as much money as they please, it must be a railroad, and the survey must be made by engineers of private companies or corporations. The Senator from Ohio says it is not a corporation. I do not know what it will come to. *Crescit eundo.* I will vouch for it, if we ever start this, you will have a railroad, and you will have a corporation; and if we violate the Constitution in any respect, I believe a corporation is the most convenient, if we are to use any instrumentality. But expediency has succeeded everything else in the administration of this Government. I know the Constitution ought to have been long ago amended, if we are to legislate in the broad way which is proposed. We have no security. The minorities have been stripped of the ægis of the Constitution and parliamentary usages. We are just set at the mercy of a majority, who can carry any measure here, particularly if it is a strong one, and is urged by local companies.

Mr. HALE. I have refrained from joining in this debate, and have contented myself with giving a vote. I now simply rise to express my thanks to the Senator from Virginia for the suggestion which he has thrown out; and I think if the friends of the Pacific railroad bill are not a little duller and a little more obtuse in their perceptions and thicker skulled than I think they are, they will learn something by it; for he has said you are a majority here, you have the numerical strength; in other words, you have the brute force; but there is a minority here among you who have sagacity enough, instead of contending with you, to set you to contending among yourselves, and by this contention among yourselves, defeat your measure. And, sir, he demonstrates the fact that it can be done by telling you that it has already been done; that is, on the bill itself. That is true. There never was a truer thing uttered in this Senate; and it has been true a great deal longer than the railroad bill was under discussion. That game has been played a good while longer than that; and I confess, for one, that if some minority of this majority will have assumption enough to put themselves up as leaders to control this majority and keep them from fighting among themselves, I will follow them. I am not more than men generally in the habit of going after leaders blindfold, but I want to do so now. I want one of those who have this railroad bill at heart to put himself forward as a leader, and he shall have my vote to the measure, and I will not scan very minutely the details of it. I hope what has been said will teach this numerical majority something of their rights and something of their necessities, and that they will not let this game be played over their heads, when the man that plays it sets the chess men on this and on that side of the board, and uses them to suit his pleasure, and at the same time tells them what he is doing, and tells them that he is not going to contend with them himself, but is going to set them to pull each other's ears, and that he will gain the victory in consequence of the contest that he has stirred up among them. It is a most humiliating fact if it is so; and I call upon some of the friends of this measure to come to the rescue. I wish the Senator from Califoruia [Mr. GWIN] would get through with that newspaper and attend to the matter of this survey, and at least listen to what is said. [Laughter.] He has not heard it. He has got beaten, but he does not know how it was done. Why, sir, the Senator from Virginia plainly told him that he has been beaten, and how he will be beaten in all time to come. Why does not that honorable Senator come forward and set himself up as a leader, and direct how it shall be prevented. If he would infuse one half that spirit of enterprise which led him from Mississippi to the shores of the Pacific and brought him back as a Senator in this body—if he would infuse a little of that spirit and gallantry into the measure, he would triumph. He would not have to go back to California and tell the people there was a large majority with us; we had votes enough, but we lacked brains. A Senator from the forces of the minority that had beaten us, told us how they had done it, and said they beat us because we had the numbers, the votes, and they had the sense and brains; and brains will always beat brute force. Sir, I say the gentleman would not have to go home and tell that story if he would just infuse a little enterprise of his own character into this measure, and let us who desire to be followers instead of leaders have the course indicated as to the manner in which we can make our numerical force effective. I call on every friend of the measure to take hold and secure its passage.

Mr. ADAMS. Mr. President, I have the honor to be a member of the Committee on Roads and Canals, under whose direction the amendment was offered. Perhaps it may not be improper for me to make some few remarks in reference to my own course of proceeding. I will say that there has been no formal meeting of that committee upon that subject; but the sense of the committee has been obtained, in a manner not unusual, by consulting the members around this Chamber. I could not, however, give my assent to the proposition, for the reasons suggested this morning by the Senator from Virginia, [Mr. HUNTER.] It was intended by the framers of the Constitution, when they established two separate Houses for legislation, that those Houses should concur in their judgment upon every proposition before it should become a law. If, upon an appropriation bill, which is deemed indispensable to the carrying on of the Government, you may introduce general legislation, a majority of one House, by adhering to that general legislation, may force upon a majority of the other House the acceptance of the law contrary to its judgment. If Senators would reflect upon that, they would see at once the evil to which it would lead. This proposition may be harmless in itself. I am not going to discuss its merits now; but if we introduce it in violation of the spirit of the rule which was intended to carry out the spirit and intention of the Constitution, Senators can see at once what it may lead to. It may force the majority of the other branch of Congress, as I have remarked, to yield to the necessity of the case, and pass laws contrary to their judgment, or defeat the appropriation bills. It was for this reason that, as a member of the committee, I could not agree to the amendment, and it is the reason why I shall vote against it now.

The PRESIDING OFFICER. Two points of order have been raised, which it is necessary that the Chair should decide. The first relates to the amendment proposed by the Senator from Ohio. Whether that amendment is in order or not, depends upon the construction given to the 30th rule. It will be recollected by the Senate, that previous to the adoption of that rule, it was in the power of any Senator to move any amendment to any appropriation bill for any purpose he deemed proper, and to have the sense of the Senate upon it. By that rule, amendments proposing additional appropriations, and no other amendments, are made out of order unless they are moved under one or other of the circumstances specified in the rule. One of those circumstances is, when they are moved by direction of a standing committee of the Senate. It seems, therefore, to the Presiding Officer, that this amendment being moved by direction of a standing committee of the Senate, is clearly within the provision of the 30th rule, allowing the amendment to be made. This view is strengthened by the consideration, that, as the Chair has just mentioned, previous to the adoption of the rule, any member could move any amendment for making any appropriation. The Senate restricted it thereafter to amendments moved by a standing committee of the Senate. The rule does not require, nor does it import, that the amendment shall be moved in furtherance of some subject referred to that committee. That is obvious, because although a subject may be referred to a select committee, and although that select committee may be prepared to report, and may have matured a bill, it could not direct the bill to be moved, if it contained an appropriation, as an amendment to a general appropriation bill. The rule is restrictive upon the right formerly possessed by every member of the body. It is therefore to be constantly interpreted with reference to the previous right restricted by it. But if it were otherwise, the Chair understands that this subject has, by a reference of various memorials, been put before the Committee on Roads and Canals; and as that committee has, by a general rule of the Senate, a right to report by bill or otherwise, and as an amendment making an appropriation may be moved to a general appropriation bill by that committee, as well as every other standing committee, the Chair sees no reason to doubt that the original amendment offered by the Senator from Ohio is in order.

With regard to the amendment offered by the Senator from Wisconsin to that amendment, the Chair is of opinion that it is not in order. It is an amendment proposing an additional appropriation to an appropriation bill; and the Chair is of opinion, that as the rule excludes such an amendment being moved except by the direction of a standing committee of the Senate, it cannot be moved by a Senator without such direction, although it be offered as an amendment to a pending amendment regularly before the body, because it is obvious if that could be done, the whole rule

might be entirely evaded. Inasmuch, therefore, as the amendment proposed by the Senator from Wisconsin to the amendment offered by direction of the Committee on Roads and Canals proposes an additional appropriation, the Chair is of opinion that it is excluded by the rule. It does not at all follow, because this amendment is excluded, that the Senate are therefore obliged to take the amendment proposed by direction of the Committee on Roads and Canals just as it is, or to vote it down. The Senate may, undoubtedly, if that amendment be regularly before the body, enlarge, reduce, or strike out all the appropriation which it contains. Under the rule, the Chair is clearly of opinion that the amendment to the amendment is not in order. Unless, therefore, there be an appeal from that decision, the question before the Senate is on the amendment offered by the Senator from Ohio.

Mr. WALKER. In order to bring the question of my amendment before the Senate, I will take an appeal from the decision of the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin takes an appeal from the decision of the Chair that the amendment proposed by him to the amendment offered by the Senator from Ohio by direction of the Committee on Roads and Canals is not in order. The question, then, will be, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. HUNTER. It seems to me that the Chair has reasoned so well in relation to his decision, it would be useless to add anything to it. I concur entirely in the opinion of the Chair. To adopt any other construction would be, as he has said, to nullify the rule.

Mr. RUSK. I regret extremely that I shall be compelled to vote to sustain the decision of the Chair, [laughter;] not because it would not afford me very great pleasure always to sustain the Chair, especially the present occupant of it, but because I regard the amendment offered by the Senator from Wisconsin as being one of great merit. I should not be prepared to vote for it if it were in order in its present shape; but with an alteration of a very few words I should be prepared to vote for it, and would regard it as a proposition of great importance.

Mr. HUNTER. As the question is one of importance, I call for the yeas and nays upon it.

Mr. WALKER. The question now before us is, whether the decision of the Chair shall stand as the judgment of the Senate. It would be well for the Senate to reflect a little before they decide to sustain the Chair. I am inclined to think that upon a little more mature consideration the Chair would not make the decision. The decision amounts to this in its operation: that when a committee has submitted an amendment to a general appropriation, it is entirely within the breast of the Presiding Officer to say what shall be the character of the amendment which shall be proposed to that amendment of the committee. Now, by what rule shall the Chair be governed? By what criterion can he be governed? It is always parliamentary and in order to move to amend a proposition, and it is always in order to move a proposition which will change entirely the character of the original one, so long as the object is the same. Now, here is one proposition made as the basis, or as an incipient step, for the construction of a railroad to the Pacific. I think that is the amendment. I propose an amendment to it.

The Chair decides my amendment to be out of order, because the 30th rule declares that an amendment proposing additional appropriations shall not be made to any general appropriation bill, unless it is recommended by a standing committee. You cannot be guided by any rule in this matter. To say that my amendment proposed an additional appropriation, is nothing more than is proposed by the committee itself. It only changes the amount. When Senators upon a committee propose an amendment to a bill by saying we will give $100,000, will you say I cannot propose to substitute $200,000? Must we take the $100,000 when it is clearly the sense of the Senate that that would not be enough? It seems to me that the Senate cannot sustain the decision of the Chair. There is danger in it, and I regret exceedingly that the point was somewhat hurried upon the Chair.

Mr. BORLAND. I do not rise to argue the question before the Senate, but to call the attention of the Chair to a precedent in point, which, so far as the action of the Senate at the last session is concerned, settles the point. In the appropriation bill, called the river and harbor bill, as it came from the House of Representatives, there was a proposition for an appropriation of $50,000 for the removal of the Red river raft. That bill was referred to the appropriate committee and reported back with the amount of the appropriation unchanged. When it was under consideration here, upon my motion that amount was increased to $100,000. An appropriation had already been made in the bill. The amendment I offered was simply the change of the amount. Now, if the appropriation had not been in the bill, it would not have been in order, under the 30th rule, for me, on my own authority, to move the amendment; I should have to get the authority of a committee. But the committee reported an appropriation of $50,000, and upon my simple motion to increase it to $100,000, the amendment was received and adopted, and thus amended, the bill was passed.

Mr. BUTLER. I concur entirely in the decision of the Chair, and for the reasons given. Now, I understand the rule to be founded upon this ground: that nothing in the form of an amendment proposing an additional appropriation to an appropriation bill shall come here which has not the sanction of the judgment of some standing committee. Now, sir, to make the decision of the Chair palpable, suppose that upon any amendment offered by a standing committee, making an appropriation of $100,000 for any national object, I should rise and offer an amendment for an appropriation of a private nature entirely; it will be seen at once that the two propositions would be incongruous, and not compatible with each other.

Mr. BORLAND. The rule expressly excludes that.

Mr. BUTLER. I am only using that as an analogy, because the Senator from Wisconsin has introduced what is not germane to the bill. It is foreign to the bill; and it is offered, not to carry out the objects of the honorable Senator from Ohio, but to introduce the homestead bill, upon a proposition for a railroad from the Mississippi to the Pacific.

Mr. WALKER. It is not the homestead bill.

Mr. BUTLER. It is the principle of the homestead bill to all intents and purposes. You are introducing, to some extent, the elements of the homestead bill, and therefore the amendment looks to a different object, and also increases the amount.

Mr. BRIGHT. I admit that some embarrassment might result from the supposed case put by the honorable Senator from Wisconsin; but if it should be so, it is the fault of the 30th rule, and not attributable to the decision of the Chair. As the 30th rule now reads, it is manifest that no member of this body can introduce on a general appropriation bill an amendment, unless it comes within the provision of that rule—unless it be estimated for by the head of some Department, unless it be to carry out an existing law, or unless it be by order of some standing committee. Now, the honorable Senator from Ohio moves an amendment from a standing committee. The Chair decides that to be in order. The Senator from Wisconsin moves an amendment to the amendment. That motion would be in order were it not for the 30th rule; but in order to bring his amendment to the amendment within the rule, it must come from a standing committee. If it did come from a standing committee, I suppose the Chair would entertain it, but as it does not, clearly it cannot be entertained, until the 30th rule be stricken out.

Mr. WALKER. I will propose to fill the blank which is alleged to be an additional appropriation. I propose to move to fill the blank with the amount which is in the amendment of the Senator from Ohio.

The PRESIDING OFFICER. The decision made by the Chair has been rather misunderstood. The Chair has not decided that when the amendment comes properly before the Senate, as in this case, by the direction of a standing committee, proposing an additional appropriation to a bill, that it is not in the power of any member to move to increase or to diminish or strike out. That is clearly in order; but the Chair has decided this, and he adheres to his decision: that if an additional appropriation be moved by the direction of a standing committee, it is not in the power of a member of the Senate, on his own motion without such direction, to move an amendment which contains an additional appropriation to that, for the obvious reason that if that can be done, the 30th rule is rescinded. For example, a member of the Senate moves an amendment to a general appropriation bill, which amendment proposes no appropriation. Then, according to the proposition now advanced, a member of the Senate can move to amend that amendment by making an appropriation, and then you would have the case, in defiance of the rule, of an additional appropriation moved without the direction of any standing committee. One member moves an amendment which is in order because it proposes no appropriation, and then another member moves to amend that amendment by making an appropriation.

Now it is perfectly obvious, if that can be done that the rule of the Senate is abolished; but if what is proposed here can be done, then undoubtedly that can also be done. Here is an amendment offered under the direction of a standing committee; and here is a member who moves an amendment to that amendment proposing an additional appropriation. The Chair therefore considers it simply as a question whether the 30th rule of the Senate is in force or not. If it is in force, certainly, to the Chair, the amendment of the Senator from Wisconsin is not in order; and if it is not in force, every amendment proposing an additional appropriation is in order. Upon this question the yeas and nays have been demanded.

The yeas and nays were ordered.

Mr. GWIN. I do not intend to dispute as to whether the decision of the Chair is right or not. But we are in revolutionary times. We are turning round and round here every day, in regard to these important measures, and I am exceedingly anxious to have some chance to vote for any bill in the shape of a Pacific railroad bill. I shall be, therefore, compelled to vote against sustaining the decision of the Chair. Not that I have examined the matter, but with the hope that we may get in some amendment looking towards the accomplishment of the object.

The question "Shall the decision of the Chair stand as the judgment of the Senate?" being taken by yeas and nays, resulted—yeas 40, nays 5; as follows:

YEAS—Messrs. Adams, Atchison, Bradbury, Bright, Brodhead, Brooke, Butler, Cass, Charlton, Chase, Clarke, Cooper, Davis, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fitzpatrick, Foot, Geyer, Hale, Houston, Hunter, Jones of Tennessee, Mallory, Mangum, Mason, Miller, Morton, Phelps, Rusk, Shields, Smith, Spruance, Sumner, Toucey, Underwood, and Weller—40.

NAYS—Messrs. Borland, Gwin, Seward, Wade, and Walker—5.

So the decision of the Chair was sustained.

Mr. WALKER. I took an appeal from the decision of the Chair because I desired that the Senate should fix the matter. I now propose my amendment in a different shape, striking out the third section. I now propose to strike out all of the amendment of the Senator from Ohio, and to insert my other two sections immediately before that clause of his amendment which makes an appropriation. My amendment is to make the appropriation proposed by the amendment of the Senator from Ohio a separate section, and to insert in lieu of the rest of the amendment of the Senator from Ohio, the following:

That with a view to the ultimate construction of a railroad from some suitable point west of the Mississippi river to some suitable point on the coast of the Pacific ocean, or the eastern line of California, within the jurisdiction of the United States, there shall be detailed from the Corps of Topographical Engineers a sufficient force, whose duty it shall be to proceed as soon as practicable to select, survey, locate, and mark, on the most proper and eligible ground, a route not more than three hundred feet wide for said railroad, and to make and report to the Secretary of War a map of such survey and location, together with an approximate estimate of the cost of construction of such railroad.

SEC. —. *And be it further enacted*, That as soon as practicable after said route shall have been surveyed and located, there shall be surveyed, as the other lands of the United States have been heretofore surveyed, six townships wide on either side of said route, through the whole extent of the public lands along such route, the even-numbered sections of the lands so to be surveyed, except sections thirty six and sixteen, shall be granted and patented by the United States, free of cost, in quantities not exceeding one hundred and sixty acres, to each person who shall settle upon, occupy, and cultivate the same for one year: *Provided*, That such occupant shall be the head of a family, or if single, of the age of twenty-one years or upwards, a citizen of the United States, or having declared his or her intention to become such according to the naturalization laws of the United States; and the odd numbered sections of said lands shall be sacredly held and disposed of for the ultimate construction of said railroad, and the furnishing and equipment of the same.

Then comes in the clause of the amendment of the Senator from Ohio, which makes an appropriation.

The PRESIDING OFFICER. The question is upon the amendment of the Senator from Wisconsin to the amendment of the Senator from Ohio.

Mr. ADAMS. Do I understand that that amendment is in order?

The PRESIDING OFFICER. What objection does the Senator make to it?

Mr. ADAMS. It seems to me that it is precisely the same amendment as that which was offered before. I have no objection, however. I merely wish to know whether it is in order, because if it is, it involves the principles of the homestead bill, upon which I have some remarks to make.

The PRESIDING OFFICER. The Chair has no doubt that this amendment is in order under the rule. The 30th rule simply applies to amendments proposing additional appropriations. A member may move to strike out anything he pleases and insert anything he pleases, except it be an additional appropriation.

Mr. ADAMS. The amendment under consideration I understand to involve the principle of the homestead bill. I have prepared some remarks upon that subject, and as it will be in order to discuss that question upon this amendment, as it involves the disposition of the public lands, I shall take the liberty of commenting, to some extent, upon the various plans connected with the disposition of the public domain.

Mr CHASE. Do I understand that the Chair decides the amendment of the Senator from Wisconsin, in its present shape, to be in order?

The PRESIDING OFFICER. The Chair thinks it is in order.

Mr. CHASE. Then, with very great respect to the Chair, I must take an appeal from that decision, and I wish to state the ground on which I appeal. The Senator from Wisconsin introduced an amendment setting apart a certain portion of land for the construction of a railroad, and appropriating certain sections of land to actual settlers, connected with an appropriation of money. The Chair ruled that amendment out of order under the 30th rule, and the Senate sustained the Chair in that decision. The Senator from Wisconsin now introduces the same identical amendment, but coupling it with the appropriation already in the amendment submitted from the Committee on Roads and Canals, and the Chair decides this amendment to be in order. The result will be, that if this amendment be in order, there can be no objection to the introduction of any amendment, provided the original appropriation contemplated by the committee be retained. The practical result will be that every species of new propositions may be introduced without the sanction of any committee, by simply retaining the appropriation which was sanctioned by the committee, and diverting it from its original object and applying it to a new one. If that decision is right, the first decision is nugatory.

Mr. HALE. I would be obliged to the Chair if it would state the grounds of its decision. I have no doubt it can satisfy me and the Senate.

Mr. RUSK. I think I can see very clearly the distinction between the two propositions. The amendment of the Senator from Wisconsin, as first presented, provided for an additional appropriation, and that was excluded by the rule. His amendment as now offered, takes the appropriation proposed by the committee, and proposes to divert it to a different object.

Mr. WALKER. Not a different object, but to employ different means for the same object.

Mr. BUTLER. I must be permitted to say that I differ from the Chair in regard to this point. I think the Senator from Ohio has placed it in the true point of view. When an amendment to an appropriation bill comes from a standing committee, and has had the advantage of their deliberation, it comes here under the sanction of an official judgment; but when that is diverted or used for the purpose of having ingrafted upon it an amendment looking entirely to different objects, but using the mere sum appropriated as the means of carrying out those objects, they are essentially different. Now, analyze these propositions. I am not in favor of the amendment of the Senator from Ohio; but he introduced an amendment to appropriate a certain sum, $150,000, to accomplish a particular object. The honorable Senator from Wisconsin introduces an amendment to appropriate the same sum to effect a different object, and in a very different way, and perhaps in a way that might be very objectionable to some persons; for, as I understand, he introduces an amendment not only to give public lands for the purpose of making a railroad, but to give the alternate sections, and to give the remaining alternate sections to actual settlers, and to foreigners at that. So that the object of the amendment is entirely different from that indicated by the committee. The propositions are entirely different in their nature, and it seems to me must be so regarded.

Mr. CHASE. In order that the sense of the Senate may be clearly ascertained on these two propositions, I will ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HALE. I wish to repeat my desire that the Chair would state its reasons for its decision.

The PRESIDING OFFICER, [Mr. BADGER.] The Chair will state to the Senate the reasons upon which this decision is founded. It will be observed, in the first place, that there is no rule of the Senate by which amendments to any proposition before this body can be excluded on the ground of irrelevancy. That is clear. According to the general parliamentary law, it is not a question of order to be decided by the Presiding Officer, whether an amendment is relevant or not, whether it be an amendment to an original bill or an amendment to a proposed amendment. Any Senator may move any matter, however foreign or inconsistent with the provisions of the bill or subject before the Senate, as an amendment, if he pleases. If its irrelevancy be an objection, it is for the Senate to decide by voting it down. It is not a question of order.

That being so, it is clear that the amendment which is now moved by the honorable Senator from Wisconsin to the amendment of the Senator from Ohio, could have been moved by him as an amendment to the bill itself. It is an amendment which it is in the competency of any member of this body to move to this bill, because no other objection could be taken to it than that it is not relevant to the subject before the body. It has already been shown that that is not an objection that can be decided by the Chair as a point of order. If it can be moved as an amendment to the bill, no possible reason can be assigned why it cannot be moved as an amendment to another amendment to the bill, since the only objection to it as an amendment to the bill is its irrelevancy, which is found to be entirely unavailing; and there is no greater reason why an irrelevant amendment to an amendment may not be made than an irrelevant amendment to a bill. Therefore the difficulties or inconveniences supposed by Senators to exist in considering this amendment in order, are no more than the inconveniences or difficulties which exist in regard to every irrelevant amendment proposed to any measure before the Senate.

The rule of the Senate applies to nothing but appropriations. An amendment proposing an additional appropriation cannot be moved to a general appropriation bill, unless in one of the five cases mentioned in the 30th rule; but if an amendment proposes no appropriation, any member can move it. Now, the Senator from Ohio proposed an amendment for causing certain explorations to be made, and appropriating a certain sum of money to execute the purpose directed by that amendment. That amendment would not have been in order if offered by the honorable Senator from Ohio on his own motion, but it is in order, although it makes an appropriation, because it is moved by direction of a standing committee. What is there in that amendment which required the sanction of a standing committee? Nothing but the clause making an appropriation. Every other part of it the honorable Senator had a right to offer without the sanction of a committee. Therefore it is just as competent for a member of this body to move to strike out everything from that amendment but the appropriation, as it would be to move to strike out any other part of the amendment. He can move to strike out the appropriation. He can move to reduce it. He can move to increase it. The rule prevents him from doing nothing in the world but from moving an additional appropriation.

The Chair sees, and of course everybody sees, the inconvenience and difficulties that may be involved in thus changing the purpose of the amendment; but it is no greater than the inconvenience that may arise from changing the purpose of a bill. As there is no parliamentary law which excludes an amendment on the ground of irrelevancy, and as the proposed amendment makes no appropriation, the Chair cannot see—however inconvenient it might be, however mischievous it might be, for the Senate to adopt an amendment of this kind upon this amendment and incorporate it upon the bill—how it can be ruled out on a question of order.

Mr. HUNTER. I concur in all that the Chair has said, up to a certain point. There is one difficulty, however, which I have to which the Chair has not referred, and it is this: The amendment does propose an additional appropriation of public lands. I should like to hear the Chair on that question; for if he can remove my doubts on that point I will go with him.

The PRESIDING OFFICER. Upon that subject the Chair has never supposed that the rule of the Senate applies to the disposition of the public lands at all. It is a rule restrictive of the right of making amendments to the general appropriation bills. The meaning of the rule, therefore, must be ascertained by reference to the subject-matter to which it relates. The general appropriation bills are bills appropriating money to carry on the operations of the Government, and "additional appropriations"—that is the term used in the rule—must be understood to mean additional appropriations of the same kind, to wit: of money. I may be wrong about it, but I entertain a very clear opinion on the subject.

Mr. CHASE. I regret very much that the question was not taken upon the amendment of the Senator from Wisconsin without any points of order being raised; but, since points of order have been made, it is quite desirable that the Senate should be consistent with itself. I have the misfortune of differing from the Chair as to the true import of this 30th rule, and I wish to state to the Senate, in a very few words, my understanding of it. The rule provides that "no amendment proposing additional appropriations shall be received to any general appropriation bill," except under certain circumstances. The Senator from Wisconsin proposed an amendment which did contain within it a proposition for an appropriation. That the Chair ruled out of order, and the Senate, by a vote very nearly unanimous, sustained the Chair in that decision. The Senator from Wisconsin now offers the very same amendment, without changing a sentence, a word, or a letter, but connects it with the appropriation contained in the original amendment. Now, the question is, whether this amendment is in order, the former amendment not being in order. That is the simple question.

What is the intent of this rule? To guard the Senate against legislation upon appropriations merely without objects? Clearly not. The object of the rule is to guard the Senate against the consideration of propositions containing appropriations which have not been examined by one of the standing committees, and, of course, have not received their sanction. The words of the rule, it is true, are, "No amendment proposing additional appropriations." Upon a very strict and technical consideration, it might be held that no amendment which does not in itself propose an appropriation, can be objected to under the rule. But when we look at the obvious sense of the language, when we look at the plain intent of the rule, is it not perfectly clear that the object of the Senate was to guard itself against propositions which require appropriations, and which will be necessarily incomplete and valueless without them? Now, suppose the Senate should agree to the proposition of the Senator from Wisconsin: what would be the effect? The moment it is agreed to, it will contain within itself an appropriation, precisely the identical appropriation of the original amendment; and thus, at the very moment of agreement, it becomes an amendment within the exact prohibition of the rule. I do not wish to consume time. I have stated succinctly the views which decide my judgment.

Mr. BUTLER. I have said that I concur very much in the views taken by the Senator from Ohio, and I am confirmed in them. I cannot see

how we can separate an appropriation from its object. A mere vague appropriation, without an object, would be an anomaly in any legislation, I presume. Take this case: An amendment was moved on the recommendation of a standing committee to appropriate hundreds of thousands of dollars for fortifications. Suppose some member should move to adopt that appropriation for the purpose of making a donation to the Bremen line or the Collins line of steamers, would it not be an entirely different appropriation? Suppose there was a proposition to appropriate $200,000 to build fortifications at Charleston, or Philadelphia, or any other place, and a gentleman moved to strike out the proposition for a fortification at Charleston or Philadelphia, and substitute in lieu of it $200,000 as a bounty to steam lines, or as a means of carrying out some favorite enterprise, or to endow a corporation. You cannot separate the object from the appropriation. The mere money is not the appropriation. The object and the money must be connected together, and they are indissolubly connected. If an amendment proposing $150,000 is moved for one purpose, and a proposition is made to retain the amount, but fixing a different object and a different purpose, it is a different appropriation, according to my view.

The PRESIDING OFFICER. The Chair will make a single additional statement, which, in its opinion, must put the question free from every sort of doubt. If the amendment of the Senator from Ohio was part of the original bill now before the Senate, it is beyond all dispute that any member might move to strike out the purpose of the appropriation and put in another. If that can be done with regard to the original bill, human ingenuity cannot contrive a reason why it cannot be done upon an amendment. It is a mistake of the Senator from Ohio to suppose that the rule of the Senate excludes amendments which may produce a charge upon the Treasury. It does not. Amendments may be moved here to enlarge the salaries of officers. They may be moved here for any and every purpose which may ultimately bring a charge upon the Treasury, if the amendment does not propose an actual appropriation. It is true, mischiefs may arise; but it seems to the Chair that if the view of the Senate were kept solely and simply upon the point of order, entirely unconnected with other matters, there could be no difficulty about the question. If we come to our individual preferences for measures, the Chair will take occasion to say that there is no member of this body more totally opposed to the homestead bill now proposed to be incorporated.

But the question for the Chair to decide is not whether he is in favor of that measure, but whether it is in order to move it as an amendment to the amendment. The Chair is of opinion that it is in order. An appeal is taken from the decision of the Chair, and the question therefore is, "Shall the decision of the Chair stand as the judgment of the Senate?" and on that question the yeas and nays have been ordered.

The question being taken, resulted—yeas 25, nays 10; as follows:

YEAS—Messrs. Adams, Atchison, Bell, Borland, Bradbury, Cass, Davis, Fitzpatrick, Foot, Geyer, Gwin, Hale, Houston, Jones of Iowa, Miller, Morton, Phelps, Rusk, Seward, Shields, Smith, Underwood, Wade, Walker, and Weller—25.

NAYS—Messrs. Brooke, Butler, Charlton, Chase, Dawson, De Saussure, Jones of Tennessee, Mallory, Spruance, and Sumner—10.

So the decision of the Chair was sustained.

Mr. ADAMS then addressed the Senate at length, contending that the amendment contained all the principles of the homestead bill, and denounced that measure as improper and irreconcilable with the Constitution.

Mr. CHARLTON followed, and was very severe on the homestead bill, and ridiculed the idea of its title, which was to encourage agriculture, &c.

Mr. DODGE, of Iowa, next addressed the Senate in defense of the homestead bill, declaring its principles to be in harmony with republican institutions.

[The speeches of Mr. ADAMS, Mr. CHARLTON, and Mr. DODGE will be found in the Appendix.]

Mr. BUTLER. I have something to say on this subject, but I shall not say it on this occasion. I shall reserve it to the time when the homestead bill comes up regularly. I think fairness requires that.

Mr. PETTIT. I do not rise to discuss this question now, but simply to say that on some appropriate occasion I shall give my views upon the homestead bill. Strange and arrogant as it may appear, I desire to say that when I speak, I desire to address the Senate of the United States, and not the people of the United States elsewhere. When I desire to address them, I will take the proper steps to do so. The day is now too far advanced, and the Senate is too thin. When, however, the homestead bill shall come up, I shall desire to address the Senate upon it.

Mr. WALKER. I have some regret that a discussion upon the homestead bill has come up upon the amendment which I offered. For one, when that subject is properly before the Senate, I propose, if no one can be found to do it better, to cross lances with those gentlemen who object so strongly to it, to see which shall have the better of it; but this is not the occasion for doing that. The proposition now before the Senate partakes scarcely of a feature of the homestead bill. What is this? So far as the donation-principle in it is concerned, even that does not partake of the feature of the homestead bill. The homestead bill proposes to give to the landless a certain quantity of land without any reference to where it is selected, whether in one section or another. But, in point of fact, this proposition is nothing more nor less than a plan by which the Government appreciates one half of its lands so that the remainder will sell for more than the whole, and reserving to itself the half to constitute the basis for the construction of a great public highway. That is all that there is about it. There is nothing in it about the landless. There is nothing in it about giving away the land without an object to be accomplished on the part of the Government under it. I have said that it would be a great advantage to those who may settle the land. I say so yet. But they may own thousands and tens of thousands of acres of land elsewhere if they please, and still may go there and take advantage of the privilege of settling the land, and have all the advantage they will obtain by it. The Government takes care, however, to reserve to itself the principal benefits that are to result from their settlement. It reserves to itself the extra value which will be given to its own land, and that land is to aid in the construction of the railroad.

Take the whole of that land now, and suppose you offer it at public sale. Take a strip of thirty-six miles wide, and sell the whole of it, what would it sell for? I will venture to say that you could not sell it for eighteen cents an acre. Now, fence in one half of it as an improved farm, and then offer the residue, and out of it you will raise money to construct a railroad. That is the proposition. There is scarcely a feature in it similar to that contained in the homestead bill; and it is astonishing that gentlemen have so elaborated the subject of the homestead bill. The amendment proposes, in place of appropriating money out of the Treasury, to derive a benefit to the Government through its public lands, making them the capital and the basis for the construction of the road. It has an end and an aim. If you please, it has a speculative aim and end in view. That is what my proposition is.

Now, sir, what is the other proposition? The other is not to take measures to improve the public domain and increase its value to make a road, but to authorize a survey, and to receive bids for the construction of the road, evidently anticipating this result: that the Government would appropriate out of its Treasury its dollars, to make the road. If we can settle the country and increase the value of the lands, so that they will constitute a fund, is it not a better plan? It seems to me that it is, and I cannot for my life see, if the homestead bill be the bugbear which some gentlemen seem to think it is, that it should be raised up here to frighten Senators from their propriety and their support of my proposition. Suppose you discard this proposition, what will be the result? I will tell you what I think you will do: you may discard it now, and discard it the next session, and the next session after that, and you will at last come to it; for, mark my words, the people are never going to justify the appropriation of one hundred or two hundred millions of dollars, directly out of the Treasury, to make a railroad to an unguarded and unprotected territory. By my proposition you will distribute your labor; you will distribute your supply; you will distribute your manufactures; and you can get the means all through the settlements of making bridges, establishing mails, and building villages. In all these various and multiplied forms, you increase the value of the lands reserved, and obtain a princely fund for the construction of the road; and yet, sir, the proposition is sneered at. You may do so, gentlemen, but I shall stand by it. I shall say nothing upon it. I shall vote for it most cheerfully. It is nothing more nor less, with a slight modification, than the bill which I introduced three years ago for the construction of the Pacific railroad—I believe the first that ever was introduced into Congress for that object. I think I can claim to be one of the earliest, if not the very first, friends of the object; and this was the basis upon which I then proposed to construct the road. If that had been done then, we should now have been three years ahead, and before this the road would have been surveyed and located, the lands surveyed, and a great portion of them settled: and the alternates reserved to ourselves, by this time, would have been worth from three dollars to five dollars per acre, making a fund sufficient to complete the road. But if these good effects were not produced, as suggested by the Senator from Arkansas, we do not lose the land. We have the land if we never make the road, and at a greater value. You could sell the reserved alternates for more than you can now sell the whole. If you should even hereafter abandon the proposition, you will have a larger sum reserved than you now have for the whole. And what have you been doing in regard to railroads? It is not new. You have heretofore granted alternate sections of land for the construction of railroads; and we have had it proclaimed here, on the first authority, that upon the practice of granting one half and reserving the other, you have sold the reserved half at an average of seven cents per acre more than you would have got for the whole of it under the present arbitrary plan of selling at $1 25 per acre. And let me make another remark: If the purchases that were made along the line of the Illinois Central railroad had been carried out in full, you would have got upwards of two hundred per cent. more than otherwise. Why is that so? When the lands were offered, the purchasers came forward and the average sale was $6 30 per acre, but when they did this, they all got together, combined, and resolved that they would give but $2 50 per acre. They united into a combination; the bids were thrown up, and finally they came forward and bid them all off, with the exception of a few tracts, at $2 50 per acre. Now, gentlemen, discard this proposition; but when you have done it, you have discarded the only plan, and allow me to say to my friend from Virginia, the only constitutional plan, that ever has been, and probably ever will be, proposed for the construction of a railroad to the Pacific.

Mr. HALE. If this is not a very long amendment, I should like to have it read; but if it is very long I will not insist upon it.

The PRESIDING OFFICER. It is not very long.

Mr. HALE. I remember once being in the Secretary's office endeavoring to find a remark of a distinguished Senator, not now a member of this body, on a given subject. You, sir, happened to be there, and suggested to me that it would be a fruitless search, for the subject upon which the speech was made, or the name of the man who made it, would give no sort of clue, for the remark might have been made upon an entirely foreign subject, or inserted as an episode in somebody else's speech. I thought that might be owing to the eccentricity of the orator; but I confess my experience to-day confirms me in the opinion that it was not so. I was not in the Senate Chamber when the amendment was read; but I have listened attentively to the speech made by the distinguished Senator from Georgia, [Mr. CHARLTON,] and that of the zealous advocate of the homestead bill from Iowa, [Mr. DODGE,] and I confess that I was astonished beyond measure when the Senator from Wisconsin got up and told us that the homestead bill was not before the Senate, or anything like it. I thought from the discussion which had taken place by these gentlemen, who are not in the habit of throwing themselves recklessly and carelessly before the Senate, and who speak in measured words with great propriety and pertinency, that the subject was before the

Senate. I thought in listening to them that I had some proof of what was before the Senate, but if what the Senator from Wisconsin says is true, I was altogether mistaken. The homestead bill, and nothing like it, is before the Senate for its consideration. I had intended to answer one or two questions which the Senator from Georgia proposed; but I really do not wish to trespass upon the time of the Senate, nor upon my own time either. [Laughter.] My time here is very short; and so is that of the Senator from Georgia. [Laughter.] I therefore do not feel much disposition to put off to a later day the opportunity of addressing the Senate, for fear that it would be at so late a day that I should not be in a condition to address them when the opportunity comes. If the project of giving lands to landless men is involved in the measure which is before the Senate, I have a word or two to say upon it, and I will assume for the present that there is something of that sort before the Senate, or else I know that my very proper friend from Georgia would not have indulged in the remarks which he did.

The PRESIDING OFFICER. The Chair will inform the Senator that there is not one word in the amendment about giving lands to the landless. [Laughter.]

Mr. HALE. I think there must be something hidden of that sort if it is not expressed, because I know that those gentlemen would not have alluded to it unless there was good reason for it. I confess I am staggered in this conviction by the suggestion of the Chair. If I thought that suggestion was an intimation that a speech from me would not be opportune at this time, I should certainly submit.

The PRESIDING OFFICER. Does the Senator appeal from the decision of the Chair?

Mr. HALE. I did not know that there was any decision made.

The PRESIDING OFFICER. It was that there is nothing in the amendment in relation to giving land to the landless. [Laughter.]

Mr. HALE. As that is an immaterial issue upon which no judgment follows, I do not wish to take an appeal; but, sir, this project of giving land to those who are to cultivate it is an old one, and the wisdom and policy of it has been advocated by a man who has been styled the wisest if he was the meanest of mankind—that is Lord Bacon. I suppose that I could not make a better speech than Lord Bacon would if he were here, and I beg the indulgence of the Senate to read an extract from one of his works upon this very policy of giving land to those who cultivate it. Speaking of the good laws that were made in the reign of the good Henry VII., he remarks as follows upon one of them:

"The ordinance was: 'that all houses of husbandry 'that were used, with twenty acres of ground and upwards, 'should be maintained and kept up forever, together with 'a competent proportion of land to be used and occupied 'with them;' and in nowise to be severed from them, as by another statute, made afterwards in his successor's time, was more fully declared. This upon forfeiture to be taken, not by way of popular action, but by seizure of the land itself by the King and lords of the fee, as to half the profits, till the houses and lands were restored. By this means the houses being kept up, did of necessity enforce a dweller; and the proportion of land for occupation being kept up, did of necessity enforce that dweller not to be a beggar or cottager, but a man of some substance, that might keep hinds and servants, and set the plow on going. This did wonderfully concern the might and manner hood of the kingdom, to have farms as it were of a standard, sufficient to maintain an able body out of penury, and did in effect amortize a great part of the lands of the kingdom unto the hold and occupation of the yeomanry or middle people, of a condition between gentlemen and cottagers or peasants.

"Now, how much this did advance the military power of the kingdom is apparent by the true principles of war and the examples of other kingdoms. For it hath been held by the general opinion of men of best judgment in the wars, howsoever some few have varied, and that it may receive some distinction of case, that the principal strength of an army consisteth in the infantry or foot. And to make good infantry, it requireth men bred, not in a servile or indigent fashion, but in some free and plentiful manner. Therefore, if a State run most to noblemen and gentlemen, and that the husbandmen and plowmen be but as their workfolks and laborers, or else mere cottagers, which are but housed beggars, you may have a good cavalry, but never good stable bands of foot; like to coppice woods, that if you leave in them staddles too thick, they will run to bushes and briars, and have little clean underwood. And this is to be seen in France and Italy, and some other parts abroad, where in effect all is noblesse or peasantry. I speak of people out of towns, and no middle people, and therefore no good forces of foot; insomuch as they are enforced to employ mercenary bands of Switzers, and the like, for their battalions of foot. Whereby, also, it comes to pass, that those nations have much people and few soldiers. Whereas, the king saw, that contrariwise it would follow, that England, though much less in territory, yet would have infinitely more soldiers of their native forces than those other nations have. Thus did the king secretly sow hydra's teeth; whereupon, according to the poet's fiction, should rise up armed men for the service of this kingdom."

It was wise in Lord Bacon's time, and it has been wise ever since. There is no other way by which you can make a nation so strong, so formidable, as to give the great body of the people an interest in the soil; so that when an American army approaches their enemies, they may be pointed out, as they have been on a former occasion by the leader of the opposing host, who turns to his soldiers and says: "The owners of the land have come." When your armies are composed of owners of the land—and that will be when you give the land to them—you will raise up the most invincible force with which it is possible a nation can be defended. Therefore, as a means of strength, and as a means of great power, by which the liberty and fortunes of the country are to be defended, there is no possible way by which you can do so much as by giving the lands to those who are willing to go on to them, for they will feel then that they are fighting for the common stock and the common lot.

Let me address myself to another idea, which I look upon as a very erroneous one. People talk about the Government giving land to the people. It will do very well to talk about that in England. It will do to talk thus under a monarchy. But what is the Government of this country? Where does it live? Have any of you ever seen the Government? The Government of the country is the people. Those are the people upon whom it is proposed to bestow the largess. That is the real Government here; and those gentleman who call themselves the Government, and talk about giving—why, sir, they talk about giving, as Colonel Barré told the British Parliament, when they undertook to assess taxes upon these American colonies without their consent—"You undertake to give a grant to his Majesty of that which you do not possess." That was very much the way I remember to have heard a distinguished clergyman speak while discoursing upon the story in the New Testament of the temptation, when the devil took the Savior up into an exceeding high mountain, and showed him all the kingdoms of the world, and the glory of them, and said unto him: "All these things will I give thee, if thou wilt fall down and worship me." "Why," says he, "the poor devil promised what he had not got to give." So it is here with this Government. They talk about giving to the people—what? Their own lands. We own it, do we not? How much is your share, Mr. President? You talk of giving it to the people. Why, the people own it, and they simply come in and ask that they may have it.

I will now answer one or two questions which the honorable Senator from Georgia asks. He asked how this is to encourage agriculture, commerce, and manufactures? How is it to encourage agriculture? It is by giving agriculturists something to practice agriculture upon; and, by the way, my honorable friend made a profession of ignorance upon the subject of agriculture which I think was rather Pickwickian. I think he is not so entirely ignorant upon this subject as he would have us to believe from the remarks which he made. If he is, I can tell him he is an exception to the general rule. It is to benefit agriculture by giving to a great and vast number of practical agriculturists something to practice upon. In that way it is to benefit agriculture. How is it to benefit commerce? It is to benefit commerce by giving to those who have not the means of purchasing the articles of commerce, the means by which they can buy them. It is to multiply the consumers; to increase the national wealth. How is it to benefit manufactures? It is to benefit manufactures by increasing the number of consumers, and giving to them something with which they can pay the manufacturers for the articles of their manufacture. This is the way in which it is to benefit agriculture, commerce, and manufactures.

And how is it to benefit all other branches of industry? By increasing the means by which the products of industry may be bought and paid for and enjoyed. It is to benefit all branches of industry—commerce, manufactures, and agriculture, by spreading abroad, wide-cast over the land, the means of happiness, the means of comfort, the means of progress, the means of wealth. It is to increase them by taking the poor man, the houseless man, and converting him into a householder, a landholder, and a man of substance, comfort, and wealth. It is to benefit manufactures, commerce, and agriculture, by going into the abodes of poverty, of want, and of wretchedness, and extending the hand of sympathy and kindness to the downtrodden and oppressed—provided they are of the right complexion—and taking them up and placing them in situations where they may achieve for themselves, and those who are to succeed them, comfort, and progress, and wealth, and in this way it is to benefit all the branches of industry that pertain to civilized and social life. It is to spread abroad everywhere, all through the land, the means of acquiring, possessing, enjoying, and transmitting to those who are to come after us the blessings which flow from the feeling of independence imparted to those individuals by giving them a place upon which they may stand and say that it is theirs. How is it now?

Sir, a great many of the individuals proposed to be benefited, look upon this fair earth upon which they have been born, and on which they live, with a feeling that they have no other right and no other title except to that narrow place which they shall occupy when they are in their graves. It is taking them and raising them up to a feeling of independence which they will feel and will enjoy when they have acquired what we propose to let them have; and when you have done that, you will have made this nation as impregnable in strength, as it is possible to conceive a society and Government to be. You will have bound every citizen in the land, every resident—no matter whether he be born upon the soil or driven to your shores by the oppression of the Government from which he has fled—you will bind him by the affections of his heart as by hooks of steel to the Government of his adoption and his choice. And more than that, sir: by doing this you will diffuse the light of civilization. It takes refinement and progress to those whose only light to-day is misery, degradation, indigence, penury, and ignorance. You do this; and, sir, the fables of eastern fiction and romance never have attributed to the magician's wand so potent a change as will be effected when you unlock the coffers which hold your immense treasures from the possession of the people, who have a right to them, and say to them, go and fulfill in your day and generation that which by some has been called a curse, but which, under the good providence of God, turns out to be a great blessing, and that is, to cultivate the land, and in the sweat of your brow eat your bread. Sir, it is not a curse—it is a blessing; and it has been so turned by the good providence of God. Why do you keep those lands from them? and what benefit are they to you? Do you want them for the miserable pittance which is to be acquired by doling them out in the manner in which you have done, taking, as the Senator from Iowa said, forty-eight years to dispose of the balance which you have in Missouri? Or do you want to keep them and make them mere bonuses to large soulless corporations? Is that what you want with them? Do you want to take them from the many that you may give them to the few? Do you want to keep the landless, landless—the homeless, homeless—the poor, poor—and the wretched, more wretched still, that you may bestow in immense largesses on a corporation, this poor boon of land which belongs of right to the children that God has planted upon it?

Sir, for these reasons I am for the land bill. I am for it as an original measure, or as an amendment here, now and forever; and if, sir, I leave the Senate of the United States with one single regret, it is that this measure, called for by humanity, by christianity, by civilization, and by justice, may not be matured into your statute-book and become a law that I may be permitted to record my name in favor of it. For these reasons, and for hundreds of others which I might give, and which I would give if I was not already trespassing upon the patience of the honorable Senator from South Carolina, who is anxious to address the Senate, I am for the measure.

Mr. BUTLER. I am satisfied, from the aspects of the discussion in connection with this question, that it is the duty of Congress, to save itself from temptations, to give the lands to the States themselves. I believe that the temptations held out to politicians and statesmen, and aspirants for national honors, have been such as to pervert their

judgments, and I give notice that I would much prefer, and I believe it is my purpose to vote for a bill to cede the lands to the States in which they lie, sooner than have these topics in connection with the land system discussed here.

The Senator from New Hampshire has said that the lands belonged to the people. Am I not one of the people? Is not my friend from Georgia, who discussed this subject with such admirable eloquence, one of the people? I turn around me, and I see on every side Senators who I know have sons, and, sir, a virtuous man who has mingled the sweat of his brow with the soil upon which he has raised children, is forbidden to participate as a partner in these lands. I can imagine the case of a revolutionary soldier who has reared up his family, married his sons and daughters, and settled them on small farms all around him in a virtuous community, thus giving assurance that he is worth something. His son is upon the soil upon which he was born. It is, perhaps, the wish of some one of the sons to go and settle upon the public lands of the country. Who does he meet there upon the common soil won by the common blood and the common treasure? He meets a foreigner—sometimes, if not always, reeking with crime, one who has escaped from prison in England, Ireland, or Germany; and the foreigner tells him, You dare not occupy this soil; it belongs to me because I am landless. Yes, sir, the public lands will be occupied by foreigners driven from their homes perhaps by crime, or from a corrupt city which pours out its population upon these lands, and a virtuous son of a virtuous father dare not enter upon them; he is forbidden to do so, on the ground that he is not one of the people contemplated by the bill.

They say it is to the people. When they speak of the people, I would like to know who are the people? The man who marries and has children, who, at the age of thirty years, has not had the industry to earn any public land, is to be preferred to one who by the sweat of his brow has bought himself a homestead, has earned his right, and has the highest tenure to any land by the highest of all services, his own industry. I do not say that an honorable tenantry may not, as contemplated by the bill, to some extent be found for the lands; but this discrimination is utterly abhorrent to my sense of justice. I do not say that the bill is intended to pander to the extreme Democratic feeling which is now pervading the land; but Mr. Webster uttered the truth, and I heard him say it, when he introduced his proposition something of the same kind as this: "Sir, 'it is necessary to have such a proposition as that 'kind, to absolutely save us from the overwhelm-'ing inundations of the emigration coming into 'our cities—to get them off upon our public 'lands." That is the class of population that will take your lands. You may paint your peasantry, your yeomanry! the gentleman's rhetoric may plant colonies! I do not say that there may not be very many virtuous settlers upon these lands; but why make the discrimination that every man shall swear that he owns no land before he shall take any; and the very fact that he has any title to lands by his industry, is to exclude him from them?

I did not rise, however, to go at length into this discussion; but when these topics are poured out in this way, it is impossible to sit quietly here and hear them. I say I will move, if nobody else does, to cede the lands to the different States; and I believe that the State of California would not take them. She would much rather let the United States have the management of them. I do not intend to trespass further upon the Senate. I am willing to take a vote upon the question. I give notice, however, that I intend to discuss this subject when it comes up, and I intend to discuss it freely and fairly.

Mr. RUSK. The Senator from South Carolina has lost his speech, because there is no proposition of that sort before the Senate.

Mr. BUTLER. Allow me to say I was not talking of the bill, but of some of the abominable doctrines advanced in connection with it.

Mr. RUSK. I understand that the Senator was taking a crack at the world in general, but not at the measure before us; because this amendment is to give land to all the world and the balance of mankind—those that own land and those that do not. But I rose, not for the purpose of referring to the remarks of the Senator from South Carolina, but for the purpose of suggesting to the honorable Senator from Wisconsin, where he has named one railroad, to insert one or more railroads, and to add—

"Said route or routes, road or roads herein provided for, to be selected by the President of the United States from among those surveyed, having due regard to expense of grades, intercourse, commerce, military defense, and the protection of the whole country."

I am not authorized to offer that amendment, but I hope the Senator from Wisconsin will accept it.

Mr. WALKER. I will do it cheerfully.

Mr. CHASE. I desire to say a few words upon the subject of that amendment before the vote is taken. The amendment reported from the Committee on Roads and Canals provides for a survey in the mode known in the operations of the Government, and to which there is no constitutional or sectional objection of any kind. It is free, then, from all reasonable objection in itself. It is the very thing for which Senators, friendly to the road, on all sides of the Chamber, have professed their readiness to vote, if they could not get the railroad bill itself. Well, sir, to this amendment, entirely unobjectionable, and reported under the sanction of a committee of the Senate, an amendment is now proposed by the Senator from Wisconsin. There is not an object secured by the amendment which it is now proposed to adopt, which is not secured as well, and, in my judgment, much better, by the amendment reported from the committee, except the grant of the public lands along the line of the road.

Before coming to that point, however, let me point out a difference in respect to the survey itself. The amendment of the committee provides that a competent force shall be detailed from the Corps of Topographical Engineers, and that, in addition, there shall be employed such civil engineers as will insure the completion of the entire work certain. The amendment proposed by the Senator from Wisconsin confides the whole work to the Corps of Topographical Engineers. That is one objection to it. In other respects relating to the surveys of the route, I think the amendment proposed by the Senator from Wisconsin is by no means as good as that reported from the Committee on Roads and Canals. That being the case, what is there which should recommend that amendment? Nothing in the world unless the provision that seventy-two miles width of land shall be appropriated along the whole line of this road, one half to be given to settlers and the other half for the construction of the road.

My friend from Wisconsin has very well said that this bill has very few of the features of the homestead bill in it. There is not a single guard upon the grant of these lands. Why, sir, the feature of the homestead bill which most recommends it to the acceptance of the community, is that it grants lands to the landless; that it provides lands to those who have no lands. But this bill opens a strip of land thirty-six miles wide from the valley of the Mississippi to the Pacific ocean, and invites all who shall see fit, to come and take possession; and after an occupancy of one year patents are to issue, and the patentees may sell to such persons as they see fit, and go on to another and another portion of land as long as they please. Capitalists will hire settlers, and the man who has the most capital will be the most successful in the operation. The most valuable element of the homestead bill is therefore altogether wanting. On the contrary, it has precisely those which the friends of the homestead bill have most uniformly condemned. It is not, therefore, at all acceptable to me, as a friend of the homestead, as it is thus defective in its most important features, and has not in any other respect any superiority over that reported by the Committee on Roads and Canals, and in my judgment, not so much value as that. I trust the Senate will not give it their sanction.

Mr. UNDERWOOD. If we attach the amendment of the Senator from Wisconsin to this bill, and it produces as much discussion in the other branch, in proportion to numbers, as it has produced here, we shall get no appropriation for the military service. Now, I submit whether it would not be better policy to take the matter out, and just give us a provision for making the survey, without anything else. It is usual, and that is all we ask. You are merely embarrassing this project, which many of us have greatly at heart, by throwing in extrinsic matters that will lead to debate and discussion, and there will be no prospect of doing anything. I would be very glad therefore to get clear of these amendments, and just take the vote on the amendment of the Senator from Ohio. I think the first two sections will accomplish everything. Give us the appropriation for a survey, and let us stop there. I think it can be done. When the reports come in, there will be time enough to make the amendments which the Senator from Wisconsin proposes, and we thereby get clear of all this discussion.

Mr. MASON. It is a matter of some moment that the Senate should have an Executive session to-day. I take it for granted that we shall not get a decision on this question to-day. I therefore move to postpone the further consideration of the bill, for the purpose of going into Executive session.

Mr. HUNTER. I would say to my colleague that the only hope we have of acting on this measure will be to sit it out to-day. At any rate I would like to try the experiment. If after half an hour we cannot get a vote upon it, then I will agree to the proposition to go into Executive session.

Mr. WALKER. I wish to say to the Senator from Virginia that this amendment has been very much misrepresented.

Mr. MASON. If the Senate will have an Executive session, it is perfectly immaterial to me whether we have it now or four hours hence.

Several SENATORS. Insist on your motion.

Mr. MASON. I must insist on my motion, adding to it that the amendments be printed.

Mr. CHASE. I hope that both anendments will be printed.

The amendments were ordered to be printed.

Mr. BORLAND. I hope we may not postpone the consideration of the question before the Senate. I would prefer to sit it out to-day. I believe we can finish it. As to an Executive session, there may be a necessity for it, but I confess I am unable to see it.

The motion to postpone the further consideration of the bill till to-morrow was agreed to; there being, on a division—ayes 26, noes not counted.

SENATOR ELECT.

Mr. CHARLTON presented the credentials of the Hon. ROBERT TOOMBS, chosen by the Legislature of Georgia a Senator from that State for the term of six years from the 4th of March next; which were read.

MAIL STEAMER BILL.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had passed a bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise for the year ending June 30, 1854.

The bill was read a first and second time, and referred to the Committee on Finance.

COURTS IN IOWA.

On motion by Mr. JONES, of Iowa, the Senate concurred in the amendment of the House to the bill to regulate the terms of the United States district courts in Iowa; which amendment was to strike out the third section of the bill.

WITHDRAWAL OF PAPERS.

On motion by Mr. SHIELDS,

Ordered, That John A. Rogers have leave to withdraw his petition and papers.

On motion by Mr. SEWARD,

Ordered, That Dinah Mount have leave to withdraw her petition and papers.

On motion by Mr. JONES, of Iowa,

Ordered, That the petition of Campus Porter, on the files of the Senate, be referred to the Committee on Pensions.

EXECUTIVE BUSINESS.

On motion by Mr. MASON, the Senate proceeded to the consideration of Executive business, and after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *February* 24, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

UNITED STATES COURTS IN IOWA.

The SPEAKER announced that the business

first in order was the motion of the gentleman from Iowa [Mr. CLARK] to suspend the rules, to enable him to move to take up from the Speaker's table the bill of the Senate to regulate the terms of the district court of the United States for the district of Iowa.

Mr. HOUSTON. I was going to appeal to the House to go into the Committee of the Whole on the state of the Union, for the purpose of taking up the Indian appropriation bill. It is utterly impossible to pass these appropriation bills, unless we devote the time of the House almost exclusively to them.

Mr. CLARK. I merely wish to remark that this bill is for the purpose of regulating the terms of the district court in Iowa. I presume there will be no objection to the bill.

Mr. CLINGMAN. I object to debate.

Mr. CLARK. I trust that the rules will be suspended and the bill passed.

The question was then taken, and (two thirds voting in the affirmative) the motion to suspend the rules was agreed to.

Mr. CLARK. I now move to take up the bill of which I have alluded.

The motion was agreed to, and the bill of the Senate, entitled "An act to regulate the terms of the district court of the United States for the district of Iowa," was accordingly taken up, and read a first and second time by its title.

The bill was then read through by the Clerk.

The question now being upon ordering the bill to a third reading—

Mr. JONES, of Tennessee. I call for a division. I desire to know whether there are enough members here to pass a bill.

Mr. HOUSTON. I desire to know if that is a Senate bill?

Mr. CLARK. It is.

The question was then taken, and upon a division, 50 rose in the affirmative.

Mr. CLARK. I demand tellers.

Mr. HAVEN. I desire to know if it is in order to move to strike out the first section of that bill?

The SPEAKER. The bill is amendable.

Mr. HAVEN. I move to strike out the first section of the bill. That section provides for regulating the fees of marshals within that district. We have just passed a bill regulating the fees of the marshals and other officers of the United States courts, which only wants the signature of the President. No exception has been made in that bill in favor of New York, and I do not see why any provision of that sort should be made in this bill. I move to strike out that section, and call the previous question.

The previous question was seconded, and the main question ordered to be put.

The question then recurred upon Mr HAVEN's amendment, and being taken, was decided in the affirmative.

So the first section of the bill was stricken out.

The question again recurring upon ordering the bill to a third reading, upon a division, 61 rose in the affirmative.

Mr. JONES, of Tennessee. I demand tellers; we shall be unable to have a quorum without.

Tellers were ordered; and Messrs. McNAIR and HENN were appointed.

The question was again put, and the tellers reported—ayes 83, noes 10; no quorum voting.

Mr. STUART. I demand the yeas and nays, in order that we may have a quorum.

The SPEAKER. It is not competent for less than a quorum to order the yeas and nays upon ordering the bill to a third reading.

Mr. STUART. Then I move a call of the House, and demand the yeas and nays upon that.

The SPEAKER. It is not competent for the gentleman to move a call of the House, the main question having been ordered.

Mr. STUART. Well, sir, I move that the House do now adjourn, and demand the yeas and nays upon that. I think that motion is in order.

The SPEAKER. That is in order.

The yeas and nays were ordered.

The question was then taken, and the result was—yeas 4, nays 121.

So the House refused to adjourn.

The bill was then ordered to a third reading, and was subsequently read a third time and passed.

The SPEAKER. The business next in order the consideration of the reciprocity bill, upon which the gentleman from Ohio [Mr. TOWNSHEND] is entitled to the floor.

MRS. ANN M. DADE.

Mr. CABELL, of Florida. I rise to a question of privilege. Some time in the month of January last the Senate passed a bill for the relief of Mrs. A. M. Dade, widow of the late Major Dade. As I remarked, the bill passed the Senate some time in January last, and it was sent to this House, but by some inadvertence it has been lost. It contains provisions precisely similar to those in several others for the relief of several other persons similarly situated. It is the first bill which should have been reported to the House. I ask that the Clerk be directed to request a certified copy from the Senate, and I send a resolution to the Clerk's desk for that purpose.

Mr. JONES, of Tennessee. That is no question of privilege.

Mr. MILLSON. I will suggest to the gentleman from Florida an easier and more direct mode of accomplishing his object. The Senate yesterday amended the bill of the House for the relief of Mrs. Mary W. Thompson, by adding this bill to which the gentleman refers. This was done in consequence of the fact, which was made known there, that this bill had been lost in the House. I would suggest, therefore, to the gentleman that the House take up this bill and pass the Senate amendments, and that will supersede the necessity of passing the bill to which the gentleman refers.

Mr. CABELL. I have no objection to that if the House will agree to take up that bill and pass it.

There was no objection, and the House proceeded to take up the bill for the relief of Mary W. Thompson, Elizabeth V. Lomax, and Mrs. Ann M. Dade, with Senate amendments.

The question was then taken, and the House concurred in the Senate amendments to the bill.

A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed bills of the following titles:

An act providing for administering the oath of office to William R. King, Vice President elect of the United States of America.

Also, that the Senate had insisted upon the amendments disagreed to by the House to the bill making appropriations for the support of the Military Academy for the year ending June 30, 1853, and asked for a committee of conference on the said disagreeing votes of the two Houses, and that the Senate had appointed Messrs. PEARCE, SHIELDS, and BAYARD the said committee on their part.

DR. AVERY DOWNER.

Mr. CLEVELAND. I wish to ask a favor of the House, which I have not done before during the present session. I desire to take up from the Speaker's table Senate bill No. 453, granting a pension to Dr. Avery Downer. It will take but a minute. The bill passed the House unanimously during the last Congress, and has passed the Senate this session. He is an old man, over ninety years of age; and it is only proposed to grant him a pension from this time during the remainder of his life. I shall esteem it a personal favor if the House will allow it to be taken up and passed.

Mr. LETCHER. I insist upon the regular order of business.

Mr. CLEVELAND. I hope the gentleman will allow the bill for the relief of this old man to pass. It will take but a moment.

Mr. LETCHER. I do not know that I would object to the passage of the bill to which the gentleman alludes, but gentlemen upon all sides have bills which they desire to take up, and if we indulge one we must another. I insist upon the regular order of business.

Mr. HIBBARD. I ask the gentleman from Virginia to allow me to make a motion to which I presume there will be no objection.

Mr. LETCHER. I object to anything other than the regular order of business.

MILITARY ACADEMY BILL.

Mr. HIBBARD. If the gentleman will allow me to state what I desire, I presume he will not object. The Senate have insisted upon the amendments to which the House have disagreed, to the Military Academy bill, and ask for a committee of conference. I move that we concur in their request and appoint a committee of conference.

Mr. LETCHER. I have no objection to that.

The motion was agreed to; and thereupon the Speaker appointed Messrs. HIBBARD, OUTLAW, and MCMULLIN, as the committee on the part of the House.

Mr. FLORENCE. There is on the Speaker's table a bill for the relief of Thomas Flannegan, an old man, ninety-seven years of age. The bill provides for a pension of $8 per month during the remainder of his life. I ask the unanimous consent of the House to take it up and pass it.

Mr. LETCHER. I object, and call for the regular order of business.

Mr. FLORENCE. I move to suspend the rules, for the purpose of taking up the bill and passing it.

RECIPROCAL TRADE.

The SPEAKER. The regular order of business is the consideration of the reciprocity bill, upon which the gentleman from Ohio [Mr. TOWNSHEND] is entitled to the floor, and is on the floor. That motion cannot, therefore, be made except by unanimous consent.

Mr. TOWNSHEND then concluded his remarks on the reciprocity bill. [His remarks will be found in the Appendix.]

Mr. FULLER. As a member of the Committee on Commerce, I have no objection to the amendment proposed by the gentleman from Ohio being made to the bill. I wish to state another fact, and I state it mainly to call to one view of this bill the attention of that portion of the members of this House whose principles are inclined to a general system of free trade. It is this: that this is a bill providing for free trade in particular items with a particular nation. It is a bill of detail, and in order to determine the correctness of all of them, the House will not look at the general principle of free trade, but to the details of the bill. It is, therefore, a bill clearly of dollars and cents.

The amendment proposed by Mr. TOWNSHEND yesterday, was then adopted by unanimous consent.

Mr. STUART. I desire the attention of the House for a very few moments, and I wish to say, in the first place, that the chairman of the Committee on Commerce [Mr. SEYMOUR, of New York] having been called home unexpectedly, on account of the serious and perhaps fatal indisposition of one of his children, has requested me to take the charge of this bill for him.

I do not intend to do as I would like to, and review to some extent the provisions of the bill, its effects, and the arguments made for and against it, and particularly the effect of the amendments which have been proposed.

I intend to forego chiefly all of this, and I will state to the House the reason. If this bill is to be passed by this Congress in any form whatever, so as to be effective, I regard it as exceedingly important that the House should take the question upon it to-day. If we do not do it to-day, we cannot under the rules until next Tuesday, which, I think, every gentleman will see will be a day quite too late to secure any definite action upon it by the Senate. I shall therefore, before I sit down, demand the previous question, which will, as I think, test the sense of the House as to whether they will pass the bill or not.

I shall therefore only say, in a few words, that this bill seems to me generally to embrace, in the first instance, the settlement of the fishery question, the most delicate cause of difference now existing between the Government of the United States and that of Great Britain, and the settlement of which is, in my judgment, vastly important to the best interests of both countries.

The bill also provides for the free navigation of the St. Lawrence, and of the canals connected with it. That I also regard as a very important measure for this country. It adjusts also the terms upon which trade between the British colonies and this Government shall hereafter be transacted; and, sir, those who have read the report and the bill will see, at once, the terms upon which it is to be done.

Now, sir, that a bill of this sort should be so framed as to suit everybody, and to suit all interests, diversified as they are, in this nation could hardly be expected.

Some gentlemen desire to add to this bill an amendment by which the coasting trade shall be

open to the world. Now, it is not to be denied that such an arrangement would be very beneficial to one section of this country, and very prejudicial to another. It would prejudice the interest represented by my colleague on the committee from Maine, [Mr. FULLER,] and yet that gentleman is not pleased with the bill, even without the amendment. He fears that the terms of this bill will detract somewhat from the lumber interests in his State.

I see no other way than for the House to say whether they are willing to compromise something in regard to all of these interests for the sake of securing a great and universal benefit. If we were each to stand by our own peculiar interests in our own neighborhood, we should never be able to adjust any national question. It never has yet been done, and, in my judgment, never can be. I know that it is insisted that a portion of the country I represent, would, in some degree, be prejudiced on account of the influx of wheat and flour from Canada. That may be true; but as an offset to that, we secure the free navigation of the St. Lawrence and its canals, which, I undertake to say, is an equivalent, and, in the end, will turn out to be more than an equivalent. So I think it is with the interest represented by the gentleman from Maine, and so I think this bill provides sufficiently for the interest of those who now desire that the coasting trade shall be opened to Great Britain.

Hoping that the amendments proposed to this bill will not be sustained by the House, that we shall be brought to-day to a direct vote upon the bill itself, and shall agree to it, first voting down the amendments, I demand the previous question.

Mr. CLINGMAN. With the view of ascertaining what is the opinion of the House—because I do not think that this bill ought to be acted upon now—I will move to lay the bill on the table, and upon that motion, I ask the yeas and nays.

Mr. DEAN. I hope the gentleman from North Carolina will first allow the House to act upon the demand for the previous question, before he insists upon his motion.

The SPEAKER. These propositions are not debatable, and the gentleman is not in order.

Mr. CLINGMAN. I understand there is a motion pending to refer this bill, and I withdraw my motion until I see the action of the House upon that.

Mr. ORR. I renew the motion to lay the bill upon the table.

Mr. ROBBINS. Upon that, I ask the yeas and nays.

The House was divided upon ordering the yeas and nays, and there were, in the affirmative, 30, when

Mr. ASHE asked for tellers upon the yeas and nays; which were ordered; and Messrs. BROOKS and ASHE appointed.

The House was then divided, and the tellers reported—34 in the affirmative, noes not counted.

So the yeas and nays were ordered.

The question was then taken, and there were—yeas 63, nays 111; as follows:

YEAS—Messrs. Aiken, Allison, Ashe, Averett, David J. Bailey, Barrere, Bell, Bibighaus, Bowie, George H. Brown, Caldwell, Clemens, Clingman, Cobb, Colcock, Curtis, Dimmick, Dockery, Ewing, Ficklin, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Harper, Houston, John W. Howe, Thomas M. Howe, Hunter, Jackson, George W. Jones, J. Glancy Jones, Kuhns, Kurtz, Landry, Letcher, Martin, McDonald, McMullin, McQueen, Meacham, John Moore, Morehead, Newton, Orr, Outlaw, Perkins, Phelps, Reed, Riddle, Scurry, Skelton, Smith, Frederick P. Stanton, Alexander H. Stephens, Stratton, Strother, Wallace, Washburn, Watkins, Welch, Addison White, Williams, and Woodward—63.

NAYS—Messrs. William Appleton, Babcock, Beale, Bennett, Bocock, Bowne, John H. Boyd, Breckinridge, Brenton, Briggs, Brooks, Busby, E. Carrington Cabell, Joseph Cable, Thompson Campbell, Carter, Chapman, Churchwell, Clark, Cleveland, Cottman, Darby, George T. Davis, John G. Davis, Dawson, Dean, Disney, Doty, Duncan, Dunham, Eastman, Edgerton, Edmundson, Fay, Fitch, Florence, Floyd, Gaylord, Giddings, Gilmore, Goodrich, Gorman, Green, Grey, Grow, Hall, Hamilton, Isham G. Harris, Hart, Haws, Hascall, Haven, Hendricks, Henn, Hibbard, Holladay, Horsford, Howard, Thomas Y. How, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George G. King, Preston King, Little, Lockhart, Mann, Mason, McLanahan, Meade, Miller, Millson, Molony, Murphy, Murray, Nabers, Samuel W. Parker, Peaslee, Penn, Polk, Porter, Powell, Preston, Price, Richardson, Robbins, Robie, Robinson, Ross, Russell, Sackett, Schermerhorn, Schoonmaker, Origen S. Seymour, Stanly, Abraham P. Stephens, St. Martin, Stuart, Sutherland, Sweetser, Taylor, Toombs, Townshend, Venable, Walsh, Wilcox, Wildrick, and Yates—111.

So the House refused to lay the bill upon the table.

The question then recurring on the demand for the previous question—

Mr. CLINGMAN called for tellers; which were ordered; and Messrs. JONES of New York, and HENDRICKS were appointed.

The House was then divided, and the tellers reported—ayes 83, noes 54.

So the previous question was seconded.

Mr. HOUSTON. I move now that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union. We have but seven more working days remaining of the session, and eight appropriation bills yet to be acted upon.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BOCOCK in the chair.)

INDIAN APPROPRIATION BILL.

The CHAIRMAN. When the committee rose on yesterday it had under consideration House bill No. 383, making appropriations for the contingent expenses of the Indian Department, and the question pending was a proviso offered by the gentleman from TEXAS [Mr. HOWARD] to an amendment of the gentleman from Indiana, [Mr. FITCH,] which had previously been adopted.

The Clerk read the proviso, as follows:

"*Provided*, That this appropriation shall not be held to affect the title of the Ohio Shawnees to land under the treaties of 1825 and 1831, within the fifty miles square ceded to the Shawnees of Missouri by the treaty of 1825."

Tellers having been ordered, Messrs. CAMPBELL of Illinois, and VENABLE were appointed.

The demand for tellers was then, by unanimous consent, withdrawn.

The question was then taken on the amendment, and it was decided in the negative.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to submit the following amendment, which is in accordance with the estimates sent in since the bill was reported:

After line 805 insert the following:

For payment of the third of ten installments in provisions, merchandise, etc., and the transportation of the same to certain tribes of Indians, per seventh article of the treaty of Fort Laramie, of 17th September, 1851, $60,000: *Provided*, That the same shall not be paid until the said tribes of Indians shall have assented to the amendments of the Senate of the United States to the above recited treaty.

The question was taken, and the amendment was adopted.

Mr. PHELPS. I move to add the following as an additional section at the end of the bill:

SEC. —. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, immediately after the passage of this act, to enter into negotiations with the Indian tribes west of the States of Missouri and Iowa for the purpose of securing the assent of said tribes to the settlement of the citizens of the United States upon the lands claimed by said Indians, and for the purpose of extinguishing the title of said Indian tribes, in whole or in part, to said lands; and that, for the purpose of carrying into effect the provisions of this section, the sum of $50,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

A provision similar to this was embraced in the bill which passed this House to organize the territorial government of Nebraska. For fear that bill may not become a law at this session of Congress, and being well aware that the Indians on the borders of the States of Missouri and Iowa are desirous of disposing of a portion of the land they now inhabit, I wish that the President of the United States may be authorized to open negotiations with those Indians for the extinguishment of their title to that portion. It is needed for the settlement of the whites, and the amendment is designed to secure the possession of the routes over which the great travel to Oregon, California, and New Mexico is now passing. I do not presume that objection will be interposed to it at this time.

Mr. SWEETSER. I have the same objection to this amendment that I had to a similar provision in the bill which passed this House to organize the Territory of Nebraska. It must be obvious to every member of this committee, that the time has arrived when the policy of this Government towards the Indians on our western borders should be changed; and I must protest against the appropriation of money which looks to the continuance of the policy hitherto pursued in relation to the possessory rights of the Indian tribes on this continent. Sir, to what portion of this continent are these Indians to go in case they sell their lands on the borders of the western States?

Mr. PHELPS. Will the gentleman permit me to interrupt him?

Mr. SWEETSER. I cannot in a five-minutes speech. The gentleman can reply when I have finished my remarks. I ask emphatically, to what portion of the continent are these Indians to go? Does the Government of the United States propose to purchase their present reservations, and to transfer them to territory still further west? Certainly not; for the rapid settlement of the Pacific coast is driving them back towards the Atlantic. And if this people are to have a resting-place on the continent of America, it is to be by a change of our present policy. We should so legislate as to enable them to come under our laws, induce them to abandon savage life, and yield to *manifest destiny*. The march of civilization is every day decimating their numbers and limiting their *hunting grounds*. If we wish to preserve even a remnant of the race, we must offer them inducements to yield to a necessity that will exterminate them as a people, or incorporate them as citizens of the Republic. It will not avail or meet the objection to say that our policy has been uniform since the organization of the Government. We must now pause and bow in submission to the condition of things now developed, and adopt a policy that shall be marked with that sympathy, which, at this time, pervades so generally the *American* heart for that unfortunate race. It is vain, if we intend to protect and preserve them as a people, to pursue our present policy, because every step we now take only drives them from one point to another, and superadds to our national delinquencies. Let the broad ægis of our Constitution and laws be extended over them. Let them become citizens in truth and in fact; and let this Government protect them in that small pittance of God's footstool they now possess, and permit them to hold their present possessions in fee-simple, and do not let us crush them through the instrumentality of treaties, which I have hitherto charged to be miserable mockeries, unworthy of the age in which we live. As an American legislator, I am in favor of adopting a course of policy towards the Indians that will recognize such rights as are consistent with their prosperity and well-being. The most intelligent of the Indian tribes are well aware of their impending fate, under the present state of things. They desire a change of policy. Let a voice go out from this Hall that an American Congress have declared that, instead of treating for their reservations, the Government proposes to incorporate them as citizens. Let us carry out the change of policy by the enactment of laws, which in detail will permit the Indians to accede to the change, and the work is done. I hope, Mr. Chairman, this House of Representatives, in the middle of the nineteenth century, will declare to the world that the time has come when we will treat this people in a spirit of justice, and relieve the nation from all further participation in despoiling them of their present reservations. Let us afford them the opportunity, I will repeat, to come under the protection of the laws of the country, and enjoy the blessings of the Government under which we live—a Government that is regarded by the civilized world as the only resting-place for the oppressed among the nations of the earth. Will not such a Government protect the original people of this continent? I think it will.

Mr. HALL. Mr. Chairman, I move to amend the amendment, by increasing the appropriation $5,000. I told the gentleman from Ohio the other day, that I did not think there was any serious difference between him and myself with reference to the true policy to be pursued by this Government towards the Indians. I think with him that our existing policy, in regard to the Indian tribes, must be changed. In my judgment, the time has come when we must take steps towards making those Indians, who show a disposition to become civilized, citizens of the United States. But we cannot do this unless we change our existing treaties with them. We must pass an appropriation similar to that proposed by my colleague, because the Indians, as at present situated, occupy a country without the limits of any State or Territory, and, of course, are in no condition to become citizens of the United States. Now, sir, if the

gentleman from Ohio be sincere, and I have no doubt that he is, in expressing himself as he has, with regard to the true policy of this Government towards the Indians, he ought to vote for this very proposition. It is not contemplated to remove these Indians from their present location. They would not remove. They have more than enough of territory to make two large States of this Union; and they are anxious to sell a portion of it, and to have the Government secure to them another portion in *fee-simple*, so that they may become citizens of the United States. And it is to carry into effect the wishes of these very Indian tribes, and to prepare the way for their civilization and their ultimate amalgamation with us as citizens, that my colleague has proposed the amendment now before the committee.

Mr. PHELPS. I rise to oppose the amendment of my colleague, merely for the purpose of answering an objection raised by the gentleman from Ohio, [Mr. SWEETSER.] The existing treaties between us and those Indians on the borders of the States of Missouri and Iowa, secure to them the use of that territory until further treaty be entered into with them for its purchase. We are bound to observe our treaty stipulations; but the gentleman from Ohio said, that he desired to see the present policy of the Government with regard to the Indians changed. So do I; but how does he propose to change it? Does he propose to change it by legislation to coerce these Indians without their assent, and intrude on the lands which we have given them by treaty stipulations? Would it not be better to change the existing regulations by negotiating additional treaties with them? That is the only way in which you can do it. These Indians are occupying millions of acres of land secured to them by treaty stipulations, to which the whites cannot emigrate and settle under existing laws. They desire to dispose of a portion of their land. And here let me say, that the Indians on the borders of Missouri and Iowa do not subsist by the chase. If they desired to do so, they would have to go to the prairies, which are some three hundred or four hundred miles beyond their country. There are no deer, nor buffalo, nor elk, within their territory, and hence they have turned their attention to agriculture. Many of them subsist themselves entirely by farming. They are desirious of selling a portion of their territory. They are willing that the white man shall live and settle among them, provided that their rights are respected. You can give the President of the United States the authority to negotiate these treaties, and unless he has that authority, it will be some time before a change is effected in the present policy.

Mr. HALL, then, by unanimous consent, withdrew his amendment.

Mr. SWEETSER. I move to reduce the proposed appropriation $1,000, to enable me to reply to the honorable gentlemen from Missouri, [Mr. PHELPS and Mr. HALL.]

Those gentlemen seem to agree with me in relation to the propriety of a change of our policy, and say to the House that this appropriation is for the purpose of treating with the Indians, with a view to such a change. The gentlemen are mistaken; if treaties are made, they will be made under the proposed appropriation, in conformity with the old policy. Their territory is coveted. Their proximity is an impediment in the way of the march of improvement and civilization. The western States want their lands, and in pursuance to the settled policy, the Indians must be removed further back. The tide of emigration which sets towards the Pacific, in its onward march has reached the hunting grounds of the poor Indian, who was, a few years since, compelled to abandon his native hills and valleys, in what is now the eastern portion of the Republic, and take up his abode beyond the confines of organized States and Territories. He is hardly become acclimated before he is again in the way of the onward march of the white man, and as emigration rolls west like the billows of the ocean, *wave* on *wave*, he must yield again and again.

The question now presents itself, and must be met by American statesmen, to what part of this mighty continent can the Indian go and remain in peace in savage life? The footsteps of the white man have traversed the vast plains and deserts of the West; they have made their imprint upon the top of the *Rocky Mountains*, and traversed every part of the *Sierra Nevada*. The land of the *Cherokee*, *Shawnee*, and other tribes who have been removed, intervene between the Atlantic and Pacific States. The wild Indian of the prairies is familiar with the faces, wishes, and habits of the white man. Again I ask, where is the red man to go—for what purpose do you propose to treat?

A few days since, it was argued with great force and plausibility, by the honorable gentleman from Texas, [Mr. HOWARD,] as an objection to the organization of a territorial government over Nebraska, that we could not include Indian reservations and territory within the limits of a Territory or State, and he cited treaty stipulations in support of his position. Such a doctrine may have alarmed gentlemen, and it may be that the proposition to again treat with those tribes who have such stipulations incorporated in their treaties has induced gentlemen to continue the old policy in order to preserve the faith of the Government, and absolve ourselves from such embarrassing undertakings. Make those people citizens, permit them to hold their reservations in severalty and in fee-simple, and the supposed difficulty is at an end.

I am not embarrassed with that question. It was not the intention of the Government, nor the expectation of the Indians, that the Government had surrendered to them the sovereignty of the country. The Indians obtained the same title to their new territory which they had to the old—a mere possessory right. The Government has manifested a guardian care over them, which, in many instances, has much the appearance of the protection which the wolf gives to the lamb.

Sir, it is useless to magnify the rights of the Indians, or deceive them with our ulterior designs. We must have their hunting-grounds; they must become civilized, and assume their place among civilized men, and turn their attention from the chase to the pursuits that will render them comfortable in their circumstances. Many of them are doing so now, and it only remains for the Government to offer the proper stimulants and inducements, and a large portion of the Indians will most willingly acquiesce. It must be obvious, that it is a question of time only; and I am glad my honorable and intelligent friends from Missouri agree with me in sentiment, and that we differ only in relation to the instrumentalities to be used, and the manner of using them.

Mr. HOUSTON. I appeal to my friend from Ohio to let us have a vote upon this amendment. It was discussed in the committee a few days ago, and I hope the House will vote upon it, so that we may get through the bill.

Mr. SWEETSER. I withdraw my amendment

Mr. PRESTON. I would ask the gentleman from Missouri [Mr. PHELPS] if this amendment is not covered by a clause in the Nebraska bill?

Mr. PHELPS. The Nebraska bill may not cover all the objections which were taken to it. Because of some of the provisions in the bill some gentlemen desired this as a substitute for the Nebraska bill.

The question being upon Mr. PHELPS's amendment—

Mr. HENN demanded tellers; which were ordered; and Messrs. BRECKINRIDGE and JACKSON were appointed.

The question was then taken, and the tellers reported that there were—ayes 81, noes 50.

So the amendment was agreed to.

Mr. ORR. I propose the following amendment:

Be it further enacted, That no appropriations hereafter made, or that may be hereafter made for the benefit of any Indian, or tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such Indian, or tribe, or part of a tribe, but shall in every case be paid directly to the Indian or Indians themselves, to whom it shall be due, or to the tribe, or part of a tribe, *per capita*, unless the imperious necessities of the Indian or Indians, or some treaty stipulation, shall require the payment to be made otherwise, under the special direction of the President. Nor shall the Executive branch of the Government, now or hereafter, recognize any contract between any Indian, or tribe, or part of a tribe, and any attorney or agent for the prosecution of any claim against any of the Departments of the Government.

That amendment is almost in the exact language of the amendment which I offered at the last session of Congress, and which was adopted by the House, almost unanimously. The object of the amendment is to require that the sums appropriated to the Indians in this bill shall be paid directly to them, unless there be treaty stipulations forbidding such payment. I intended to make the law a permanent one, and supposed that I had drawn the section accordingly; but on recurring to the section of the bill, I find that the last three words in the section may perhaps induce some of the Executive officers so to construe the amendment as to make it temporary, that is, that the section shall expire with the appropriation bill in which it was incorporated. The object of this amendment is to make a permanent law, which I suppose is understood by the House. It was adopted at the last session, and I hope it will be agreed to now by the committee.

Mr. SWEETSER. Mr. Chairman, I regret the necessity of again addressing the committee in relation to the policy of the Government towards the Indians. The honorable gentleman, by his amendment, proposes to exclude them from the aid and benefit of agents and attorneys of their own selection, in urging upon the Government a fulfillment of their various contracts and undertakings with them. That the Government has been delinquent, if not faithless, no one will deny.

Now, sir, the proposition is seriously made to place the rights of the Indians entirely at the mercy of the Government, and to silence the voice of all such agents and attorneys as have their confidence. I might pursue and attempt to find a reason. Is it because the Government and members on this floor desire to denounce agents and attorneys who have been engaged in advocating the rights of the Indians, as unworthy of confidence? With such a wholesale denunciation I have no sympathy. Sir, I cannot permit this occasion to pass without bearing testimony to the high character of the legal profession, to which I have the honor to belong. It is my deliberate opinion, that the lawyers, as a class, are the most intelligent, patriotic, and magnanimous men known in this or any other age of the world, and I cannot sit by and see a proposition of this character again incorporated into an Indian appropriation bill, without denouncing it as a *libel* upon the profession. I assume that it is pointed at the legal profession, for the reason that, by common consent, whenever justice is withheld, or injury inflicted, the injured party at once looks to the legal profession as the only hope of remedy.

What kind of a spectacle does this proposition present? Last year it was ingrafted upon the Indian appropriation bill, and the Government took possession of the money appropriated to carry into effect our treaties with the Sioux of Minnesota. A Government officer, Superintendent of Indian affairs in that Territory—Alexander Ramsey—is charged with confederating with others, and cheating the Indians out of half a million of money. The truth of this charge is generally believed. Sir, I am glad a day of retribution is at hand, and that the participants in that fraud will soon be called to an account.

This policy will not do. This Government must suffer itself to be importuned even by agents and attorneys, and it will not be permitted to throw over itself a transcendent shield of purity that will not be inquired into. No, sir, no.

If there be unworthy agents in Washington, there are many highly honorable men, and it may not be extravagant to say, that in the profession to which I have alluded, the public have quite as much confidence as they have in high *officials*.

Sir, I do not like the proposition. It has been productive of no good, but of much evil in the case to which I have alluded.

I repeat what I have said on a former occasion: I am in favor of a change of the law in relation to seeking redress against the Government. Instead of coming to Congress for relief, I would throw open the courts to the prosecution of all claims against the Government, in the locality where the indebtedness accrued. Such a change would remedy all the complaints against Congress for their tardiness in the adjudication of claims against the Government.

I appeal to my honorable friend to go with me for substantial reforms, such as I have indicated, and there will be no necessity for this provision.

The question was then taken on Mr. ORR's amendment, and it was agreed to.

Mr. CLINGMAN. In compliance with the recommendation of the Secretary of the Interior, I offer the following amendment:

"That the sum of $682 be appropriated, out of any moneys in the Treasury not otherwise appropriated, to enable the Commissioner of Indian Affairs to pay the amount due the

legal representatives of Annee, a Cherokee, in accordance with the recommendation of the Commissioner on Indian Affairs."

I ask the Clerk to read the following letter from the Secretary of the Interior. This recommendation was sent to the chairman of the Committee on Indian Affairs, in the Senate, and it was subsequently sent to me, with a request to have it read.

The letter was then read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *August* 12, 1852.

SIR: I have the honor to communicate herewith, for the information of the Committee on Indian Affairs, a letter from the Commissioner of Indian Affairs, dated yesterday, in which he recommends that an appropriation of $682 be made for the legal representatives of Annee, being the amount of the valuation of a Cherokee improvement, under the 9th article of the treaty of 1835–'36.

I am, sir, very respectfully, your obedient servant,
ALEX. H. H. STUART, *Secretary.*

Hon. D. R. ATCHISON, *Chairman Committee Indian Affairs, Senate of United States*

The question was then taken on Mr. CLINGMAN's amendment, and it was agreed to.

Mr. LANE. I desire to offer the following amendment:

For the payment of the accounts of Governor John P. Gaines and Courtney M. Walker, for expenses incurred by them in quelling the difficulties with the Rogue River Indians of Oregon, in the year 1851, $4,979.

I offer it as an additional section. I have a letter from the Commissioner of Indian Affairs, which I will ask to have read.

The Clerk read the letters, which are as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, *January* 29, 1853.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday, requesting me to inform you whether, by any existing law, I am authorized to settle and pay the accounts of Governor John P. Gaines and Courtney M. Walker, for expenses incurred by them in quelling the difficulties with the Rogue River Indians of Oregon, in 1851; and in reply I have to state, that, in my opinion, there are no funds at the disposal of this Department properly applicable to the payment of said accounts. I am satisfied, however, that provision for their payment should be made by Congress, and have, agreeably to your request, addressed a letter to the chairman of the House Committee on Indian Affairs, expressive of my opinion on the subject.

A copy of that letter is herewith inclosed.

Very respectfully, your obedient servant,
L. LEA, *Commissioner.*

Hon. JOSEPH LANE, *House of Representatives.*

DEPARTMENT OF THE INTERIOR,
OFFICE INDIAN AFFAIRS, *January* 29, 1853.

SIR: In compliance with the request of the Hon. Joseph Lane, I have the honor to inform you, that, in my opinion, there are no funds at the disposal of this Department properly applicable to the payment of the accounts of Governor John P. Gaines and Courtney M. Walker, for expenses incurred by them in quelling the difficulties with the Rogue River Indians of Oregon, in 1851. Neither Governor Gaines or Mr. Walker acted under the orders of this Department, or had any official connection with it at the time the expenses for which they claim indemnity were incurred; consequently I do not think the contingent fund of the Department should be chargeable therewith, and there is certainly no other fund out of which they can be paid. These expenses necessarily resulted from an expedition voluntarily but very properly undertaken by Governor Gaines to meet a sudden emergency growing out of serious disturbances between the whites and the Rogue River Indians; and as the accounts are unavoidably informal and irregular, I recommend that a law be passed authorizing their settlement on principles of justice and equity, and making an appropriation for their payment.

For full information in regard to this subject I would refer the committee to General Lane, who is acquainted with all the circumstances.

Very respectfully, your obedient servant,
L. LEA, *Commissioner.*

Hon. R. W. JOHNSON, *Chairman Committee Indian Affairs, House of Representatives.*

Mr. LETCHER. I rise to a question of order. Is not this a private claim?

Mr. LANE. If the gentleman will allow me, I will explain the amendment.

Mr. LETCHER. I have no doubt Governor Gaines is entitled to the money, but I do not think this is the proper place to put the amendment.

Several MEMBERS. "Oh, let it pass."

The CHAIRMAN. Does the gentleman from Virginia insist upon his point of order?

Mr. LETCHER. I do.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order, on the ground that it is a private claim. Perhaps the gentleman from Oregon can suggest that these services were rendered under some law. The Chair will be very willing to hear any suggestion the gentleman may make.

Mr. LANE. I have no disposition to take an appeal from the decision of the Chair.

Mr. HOWARD. I would suggest to the Chair that the amendment proposes to pay expenses incurred in negotiating an Indian treaty.

The CHAIRMAN. If that be the case, the Chair holds that the amendment is in order.

Mr. LETCHER. On what ground does the Chair hold that the amendment is in order? I could not hear the remarks of the gentleman from Texas.

The CHAIRMAN. The gentleman from Texas states that these expenses were incurred in negotiating a treaty.

Mr. LETCHER. The amendment itself does not say so.

Mr. HOWARD. I will merely say, that when this matter was before the Committee on Indian Affairs, it was in my hands. We agreed that the claim ought to be paid, but we thought that there was a sufficient fund at the Department to pay it. It appears, however, from the statement of the Commissioner, that the fund is not sufficient, or that he has none at his disposal, out of which to pay these expenses. I think that this ought not to be regarded as a private claim, growing, as it does, out of the negotiation of a treaty.

Mr. LANE. I suppose that there will be no objection to the amendment, and I will not, therefore, consume the time of the committee.

The question was then taken, and the amendment was adopted.

Mr. ASHE. I offer the following as an additional section to the bill:

Be it further resolved, That the Secretary of the Interior furnish to the next Congress of the United States the amount of land obtained from the different Indian tribes since the commencement of the Government, and how much in each State and Territory; the probable cost of the different Indian wars, the total of the Indian annuities, and interest on claims allowed and paid to them; as also the aggregate of appropriations for service of the Indian Department up to this time; the total of sales or other specific disposition of the public lands, and the expenses of surveys, land offices, and bureaus connected with the management of the public lands.

Mr. MOORE, of Louisiana. A great portion of that information can now be obtained in the Library.

Mr. HOUSTON. Nineteen twentieths of it.

Mr. MOORE. At least four fifths of it can be obtained in the Library. I have seen it myself, again and again.

Mr. ASHE. I will merely remark that I do not wish to encumber this bill with unnecessary amendments, but I have sought for this information in different places, and except, for eight or ten years——

Mr. LETCHER. I rise to a question of order. I ask if that resolution of inquiry is in order as an amendment to an appropriation bill?

The CHAIRMAN. The Chair understands that the gentleman from North Carolina proposes to withdraw his amendment.

Mr. ASHE. No, sir; I do not.

The CHAIRMAN. The Chair holds that the amendment is not in order.

Mr. JONES, of Tennessee. I move that this bill be laid aside, to be reported to the House; and I ask the House to take up Senate bill No. 59, which was sent here last session, referred to the Committee on Ways and Means, reported back with an amendment and with a recommendation that it do pass, and referred to the Committee of the Whole on the state of the Union. It is a bill providing for the payment of designated depositories of public moneys. There can be no objection to it, and it cannot take more than ten or fifteen minutes to dispose of it.

Mr. GENTRY. I hope my colleague will not press his motion at this moment. I have an amendment which I desire to offer to this bill—one which I deem to be of the highest importance to the interests of the country. It proposes no appropriation.

Mr. JONES. If it is an amendment to the Indian appropriation bill, the gentleman has a right to offer it, I suppose.

Mr. GENTRY. Well, I think I have a right. I know I have a right. It is perfectly proper. It is absolutely indispensable.

The CHAIRMAN. The right of the gentleman from Tennessee has not been disputed.

The Clerk then reported Mr. GENTRY's amendment, which is as follows:

And be it further resolved, That if any officer who is, or may hereafter be, charged with the payment of any of the appropriations made by this or any other act of Congress, shall pay to any clerk or other employee of the United States any sum less than that provided by law, and require such employee to receipt or give vouchers for an amount greater than that actually paid to and received by him, such officer thus acting shall be deemed guilty of embezzlement, shall be fined in a sum double the amount so withheld from any employee of the Government, and shall be imprisoned for a term of two years, and may be prosecuted and punished in any court of the United States having jurisdiction for the trial of such offenses in the district where such offense shall have been committed.

Mr. GENTRY. Now, sir, I want to make a statement of facts, which, being known to this committee, will, I presume, produce a unanimous vote in favor of this amendment as an additional section to the bill. I do not desire to go into particulars, or to be personal; but I shall state facts which nobody will controvert. I know a clerk in one of the Departments of the Government here, who was appointed to his office under circumstances like these: His father, who had been a merchant of good fortune and high character, obtained a little clerkship here of $1,000, after being broken and becoming insolvent, as the only means of supporting his family. He died very indigent, and the sympathy in the Department for his family was so strong that the head of the Department was compelled, almost, by the force of that sympathy, to appoint the son—a boy of sixteen years old, a fine looking boy, who writes a good hand, and is a very competent clerk—to fill the place made vacant by the death of the father, that he might have the means of supporting the mother and younger brothers and sisters thrown upon him utterly indigent and dependent. Well, the salary was $1,000 per annum. Now, how does that work? They put the boy in with the understanding, which they require him to consent to, that he shall receipt monthly, as if he was receiving $1,000 per annum, while $300 is transferred to some favorite in the Department! I made a protest against this outrageous enormity—this most iniquitous political crime. I called the attention of the head of the Department to it, and in reply, he says that there are a number of precedents for it, and I suppose it is common in all the Departments of the Government.

[Cries of "Name him!"]

Mr. GENTRY. Now, if they can take from one clerk a portion of the salary you have given him, they can take it from all; and if they can transfer it from one to another, they can transfer it to their own pockets. It is precisely one of those political crimes for which impeachment is the only proper remedy. This, I am informed, is common in all the Executive Departments of the Government here, and certainly, in this case it is true, because the head of the Department wrote me a long letter explaining, defending, and justifying it.

Many MEMBERS. "Who is he?"

Mr. HIBBARD. I ask the gentleman to state who the officer is.

Mr. GENTRY. It is the Secretary of the Interior. Now, I say that in making appropriations, it is the duty of this House to prevent such executive abuses as these. Sir, it will forever be a source of regret to me, about to retire from public life, as I am, that I shall not have an opportunity, before doing so, of coöperating in impeaching some head of Department; for during the whole period of time that I have been a member of Congress, I believe the majority of them have been proper subjects for impeachment. Sir, if this House comprehended its duty, it would perform that highest of all the duties that rest upon it now, and hold to a proper accountability and responsibility these executive officers who, sworn to execute the law, construe it so as to make it nothing or anything to suit their own caprices. I desire to express the opinion here to-day, as my deliberate conviction, that this House of Representatives is called upon now, or at some early day, to meet the contemplations of the Constitution of the country, and to teach these executive officers of the Government that they are responsible to this, the popular branch of the Government. The greatest service that it can perform to the country is to impeach one or more of them. Such an example as that would do more good to this country than anything else that Congress could do.

[Here the hammer fell.]

Mr. BAYLY, of Virginia. I know nothing of the circumstances of the case to which my friend from Tennessee [Mr. GENTRY] has referred, and of course I cannot speak with reference to it. But as he refers to the Secretary of the Interior, I beg leave to say, that although he is no political friend of mine, but quite the reverse, yet he has

always been a personal friend. Although he is several years my senior, yet we were at the university together, and without consulting him, I undertake to say here that if there is anything in his official conduct which is a fair subject of investigation, he is ready to submit to that investigation at any time.

Mr. GENTRY. I do not intend to make the charge against the Secretary of the Interior exclusively. My attention was brought particularly to a case in that Department; and although I brought the attention of the Secretary to the existence of this abuse, yet he has not reformed it. I made the communication to him through his chief clerk, that I considered this an executive abuse, for which impeachment was the only proper punishment. I had previously called his attention to the abuse, and expected he would correct it; but finding that it was not corrected, and that no improvement was made, I communicated to him through his chief clerk—for he was at this time in Virginia—that I considered it an abuse for which impeachment was the only proper remedy, and that if it was not corrected, I should call the attention of Congress to it. After I left the city, at the close of the last session of Congress, I received a letter from him, which I now have in my possession—I regret that I have it not here—informing me that precedents existed for this practice, and I have learned from various other sources, that it is common in the other Departments of the Government. I am not, therefore, making an onslaught upon the Secretary of the Interior particularly, but upon all who indulge in such abuses. I believe it is the habit in most of the Departments, from what I have heard.

Mr. BAYLY. As to the other Departments, I have not a word to say, because the heads of those Departments do not come from Virginia. [Laughter.] I beg that gentlemen will allow me to finish my sentence before they laugh, for this is not a subject for mirth. Sir, I do say that because the Secretary of the Interior is a Virginian. I demand, if there be any cause for his impeachment, that he shall be impeached.

Mr. GENTRY. By permission of my friend from Virginia, I want to say, for his gratification, that I am a Virginian in the second degree myself, [laughter;] and I am for Old Virginia whenever Old Virginia is right, and against her when she is wrong; but, if I am not mistaken, the man to whom $300 of this poor boy's salary has been transferred, is also a Virginian; and I am afraid the Pension Office is rather a Virginia concern.

Mr. BAYLY. If the Secretary of the Interior has been guilty of anything for which he deserves impeachment—if the gentleman from Tennessee knows of any fact which would justify such a proceeding, I insist that he shall move for an impeachment.

Mr. GENTRY. I give it as my opinion that he deserves impeachment, and so far as I am myself concerned, I would vote it, though I do not think I could carry such a motion in this House.

Mr. STANLY. I move to strike out the word "two" and insert the word "three."

Mr. Chairman, I move this amendment for the purpose of saying a word or two upon this subject. I am not a Virginian by birth, nor am I a Virginian in the first or "second degree," as the gentleman from Tennessee says he is. I had rather be in the third than in the second—the further the better just now, if this is a specimen of Virginia conduct. But this will not prevent me from saying that the Secretary of the Interior is a gentleman of whose character any man from any part of the country may well be proud. I understand the gentleman from Tennessee [Mr. GENTRY] to say, that what he calls this abuse has existed, as he is informed, in the Departments for years, through different Administrations. If this be so, we have somebody else to impeach besides the present Secretary of the Interior. Now, I think that, as it seems the gentleman from Tennessee has been in possession of these facts for a long time, and as he has been moved by a sense of public duty to call the attention of the House to them, he should have done it before within ten days of an expiring session of Congress. Sir, it was due to the Secretary of the Interior and to the gentleman from Tennessee that this matter should have been investigated.

Mr. GENTRY. I have no idea of attempting impossibilities, and therefore I have no purpose of making a formal effort to impeach the Secretary of the Interior; but there can be no controversy about the fact that this practice does exist. It was admitted by the Secretary of the Interior in the letter which he addressed to me, to which I have before alluded.

Mr. STANLY. That letter should have been produced.

Mr. GENTRY. The gentleman can see the letter to-morrow. I regret that I have it not here now.

Mr. STANLY. The letter ought to have been produced to-day, in justice to the Secretary of the Interior.

Mr. GENTRY. I say that what I have stated is true, literally, and the Secretary of the Interior cannot deny it.

Mr. STANLY. Mr. Chairman, shall I be allowed to go on without interruption? It was due to Mr. Stuart, a gentleman known through life by Whig and Democrat as a man of irreproachable integrity, that the letter should have been brought forward and made the basis of a distinct and positive charge, if there is evidence sufficient to sustain such a charge. I do not dispute that the gentleman states the facts as he understands them. I only ask what is fair and proper towards the Secretary of the Interior himself.

Mr. GENTRY. I will send the letter to the newspapers and have it published, if the gentleman desires.

Mr. STANLY. It seems the gentleman has had that letter in his possession ever since the meeting of the present session of Congress; but he has not brought it forward before the House until at this late period of the session, when we are pushing forward our business with the speed of a locomotive going down an inclined plane, to prevent the necessity for calling an extra session, we have a charge thrown against the private character of a man never before assailed by the breath of calumny.

Mr. GENTRY. I do not question his personal honor or his integrity; but I say this is an executive abuse, which, in my judgment, constitutes that grade of political crime for which the Constitution authorizes impeachment as the proper penalty.

Mr. STANLY. I am glad, then, that the gentleman does not believe the Secretary sanctions that abuse.

Mr. GENTRY. I know he sanctions it; excuses, justifies, defends, and refuses to correct it.

Mr. STANLY. How, then, can the gentleman say he does not question the honor and integrity of Mr. Stuart?

Mr. GENTRY. I say it is an executive abuse, but I do not think either private honor or honesty is involved in it. It is a matter of political propriety or impropriety, of proper or improper administration. I discuss the official conduct of a Government functionary; I am not discussing private character or personal honor.

Mr. STANLY. Then the gentleman and myself differ widely in our opinions; very widely, indeed. Mr. Speaker, I have only this to say: if this abuse exists, it is an abuse perpetrated by the Secretary of the Interior——

Mr. GENTRY. In my judgment it is a political crime.

Mr. STANLY. It is a "*crime*" then! The Secretary of the Interior has been guilty of that "crime," and yet he is an honorable man, according to the gentleman from Tennessee. His opinions of honorable conduct differ widely from mine.

Mr. GENTRY. I do not think the Secretary regarded it as such. If every political error shall be construed to involve personal dishonor, many public men will be disgraced when that principle is settled as the law of public morals.

Mr. STANLY. Then the Secretary is a fool, according to the gentleman's argument. That is the amount of it.

Mr. GENTRY. I have not said it; but if the gentleman from North Carolina chooses so to decide, be it so.

Mr. STANLY. That is the logic of the thing, examine it as you will, and there is no other interpretation of it. Now, Mr. Chairman, Mr. Stuart is no more than any other Whig here. I was in Congress with him, and know him well. I know him to be the honorable man which the gentleman from Virginia [Mr. BAYLY]—who is opposed to him in political life—has asserted him to be. There is not a more honorable man breathing this side of heaven. He may have made mistakes. He has offended Whigs by appointing Democrats to office, and has made a greater outcry—whether for just cause or not, I will not say—in this way than any man who has been at the head of any Department for several years.

Mr. GENTRY. Were they not Virginians?

Mr. STANLY. No, sir, they were not all Virginians. Mr. Chairman, I like to hear the gentleman from Tennessee talk when he is in order; but I object to his continual talk, even when in his seat. I have but five minutes allotted me now, and I hope he will give me a little chance. I mean to do justice even to a Virginian, of one of the first families, and especially if he has so much good sense as Mr. Stuart has, not to be eternally bragging of it. I like a Virginian who has a true Virginia feeling in his heart, especially if he has worked his own way in the world without resting under the shadow of an illustrious name as many of them are apt to do at home.

Mr. GENTRY. I do not want to be understood as seeking to invoke any prejudice against Virginia. I glory in her name; and I disclaim now and always any intention of making any such invocations of a vulgar prejudice against that glorious old Commonwealth. I disdain to do so. I am a Virginian myself in the second degree, and would feel in attempting to disparage her, that I was seeking to dishonor my own ancestor.

Mr. STANLY. I do not say the gentleman has intended to invoke that prejudice; but in reply to the gentleman's remark, I may be allowed to say, that if he would not descend to invoke a feeling of prejudice against that illustrious Commonwealth, which has given birth to George Washington and a long line of the purest statesmen the country has ever produced, he has by the remarks made here this morning, made a stab at the reputation of one of Virginia's most distinguished sons. His reputation is valuable to all who glory in the honor of the Old Dominion.

Mr. GENTRY. I stab no man's reputation. If the truth stabs, let it stab.

Mr. STANLY. If the gentleman says these charges are true, he states——

Mr. GENTRY. I say they are true, no matter where it stabs; and I will maintain their truth everywhere.

Mr. STANLY. Then the gentleman ought to come forward with regular articles of impeachment. Let the trial come; my life on it the Secretary will come out brighter after passing the ordeal.

[Here the hammer fell.]

Mr. GENTRY. There is no manner of doubt about the truth of what I state in relation to this practice. I have expressed no opinion that the Secretary of the Interior has been governed by corrupt *motives*. I have discussed his acts only. He states that he has precedents for such a practice, and upon that ground justifies the practice itself. Now, I say it is due to this House to let the heads of the Departments know whether such precedents are to be followed.

Mr. STANLY. Will the gentleman allow me one moment? As I understand the statement now made, this practice has been in existence for years and no fault found with it. But in the case like that cited by the gentleman this morning, I understand a clerk found himself unable to perform the requisite amount of labor, and was compelled to employ help from another source.

Mr. GENTRY. There were no such facts in the case. As I understand it, there was a distinct understanding that the boy was to be docked this amount of his pay, and with the intimation that if he did not allow himself to be docked, not the sword of Democles, but the sword of Removal hung over his head.

Mr. LETCHER. As Mr. Stuart comes from my district, I deem it a duty, both to him and myself, to state such facts as I have learned from him, in conversations, respecting the appointment of individuals to office. Of the particular case referred to by the gentleman from Tennessee [Mr. GENTRY] I know nothing.

Mr. CLEVELAND. I rise to a question of order.

(Cries of "Go on! Go on!")

Mr. CLEVELAND. Very well, I will not insist upon my point.

Mr. LETCHER. I am perfectly in order. If gentlemen will keep quiet, we shall get along more speedily and quite as satisfactorily. The other

day a case came to my knowledge implicating the Superintendent of the Census Bureau. A clerk was appointed by Mr. Kennedy with the understanding that he was to pay five hundred dollars out of his salary to a lady in Pennsylvania, the sister-in-law of the Superintendent of the Census.

Mr. GENTRY. Good God Almighty! Why, that is worse than my case.

Mr. LETCHER. A copy of the correspondence in relation to this matter came to my hand, and was furnished by me to the Secretary of the Interior, with the request that the matter should be fully investigated. He gave me his assurance that he would do so, and requested to see me personally in connection with the subject. I went there the next morning, and in the course of conversation told him, that such a practice, in my opinion, was wrong, and that it ought to be stopped; and in this opinion he concurred with me. He told me at the same time, that his own action in making appointments had been in accordance with precedents established by those who had preceded him, not only in his own but in the other departments of the Government. Those precedents are not such as the gentleman from Tennessee [Mr. GENTRY] has asserted, but were to this effect: that where an individual, had a mother or a sister, or some near relation dependent upon him for support or assistance, he had been appointed in his department with the understanding and voluntary arrangement that a portion of the salary should go to that mother or sister, or near relative, as the case might be. That had been done in some instanees, and so far as he knew, that was all that had been done in connection with appointments where a portion of the salary was to go to third persons. The case I have mentioned he had personal knowledge of, and when I brought it to his attention, he said promptly, that nothing of the kind should again occur in his department. Such are the facts.

Now, sir, if such charges as we have heard here to-day are to be made against the Secretary of the Interior, to whom I am now, and ever have been, politically opposed, but for whom I have a very high personal regard, growing out of long social and professional intercourse, I ask that he shall have the common privilege accorded to every man in like circumstances. Furnish him with the charges, and allow him an opportunity to respond to them. If he shall fail to respond in a manner satisfactory, it will be time enough then to condemn him.

That is all I ask; and if the gentleman from Tennessee thinks that Mr. Stuart can be impeached for misconduct in office, growing out of this or any other matter, I insist that he shall make his charges distinctly—present them in a tangible shape, so that they can be met; and if they can be sustained, I shall manifest as little disposition to excuse him as any gentleman upon this floor. That is all I ask. I ask for Mr. Stuart precisely what I would ask for any other man in the country against whom charges of misconduct (either personal or official) had been preferred. I ask that he shall have justice, and strict, stern justice. He desires nothing more.

If the committee desire it, I will read the correspondence between Mr. Kennedy and his clerk, to which I have alluded. Here is the correspondence; I will send it to the Clerk's table that it may be read.

The CHAIRMAN. That can be done only by unanimous consent.

No objection being made, the correspondence and affidavits were then read, as follows:

Letter 1st.

CENSUS OFFICE, *January* 12, 1853.

Mr. Kennedy wishes to see Mr. J. D. B. Little immediately.

Letter 2d.

January 24, 1853.

As you may prefer it, I will not present your order to Mr. Clark, but you can draw your salary and pay the amount of the order to me, and lift the order yourself. This mode will doubtless be most agreeable to you. Yours, truly,

J. C. G. KENNEDY.

Letter 3d.

Mr. Kennedy wishes to see Mr. Little at three, p. m.

Letter 4th.

WASHINGTON, *February* 2, 1853.

SIR: After mature reflection, I have concluded that your requirement in regard to my salary is totally unjust, and unlawful; and had I been acquainted with the nature of things, I would never have listened to such a proposition from any person. If you desire a public investigation of the affair, I am satisfied such would be the decision. But in consideration of the whole transaction, I most respectfully decline paying any portion of my salary for such a purpose. Most respectfully, yours,

J. D. B. LITTLE.

JOSEPH C. G. KENNEDY, Esq., *8th street office.*

Letter 5th.

CENSUS OFFICE, *February* 2, 1853.

Mr. Kennedy finds difficulty in understanding the communication of Mr. Little, of whom Mr. K. never made any "requirement;" but if Mr. L. should think proper to violate voluntarily-assumed obligations, and which there has been manifested no disposition to exact, when it could easily be done, Mr. Little should not have accompanied his refusal to call with a note, a note at once insulting and untrue. The call upon Mr. Little was simply to inform him that it would not be necessary to give himself further trouble respecting the matter, as the *individual had been reinstated,* whose salary was cut down for the benefit of Mr. L., who voluntarily agreed to give a portion to the mother of the other, who was dependent upon it for support. It is to Mr. Kennedy a source of regret that Mr. Little should have considered the simple order, or request to call, in a light to make it the pretext for placing himself in a very awkward and unenviable position, and to have permitted such a blemish to occur on his honor and integrity, when it was so unnecessary and uncalled for; and it is with regret *I* must realize that there exists any clerk in my office who places a light estimate on the importance of a regard for truth.

Mr. Little will please call at my room to morrow morning, at nine, a. m., Thursday. J. C. G. KENNEDY.

Mr. J. C. B. LITTLE.

Letter 6th.

SIR: As this matter has become personal, I desire to have it investigated in the presence of friends. If you will assent to this, I will call to see you. With the highest respect, yours, &c., J. D. B. LITTLE.

With reference to a charge made respecting the appointment of clerks in the Census Office, and the receiving compensation therefor by the head of that office, the following are all the facts having any relation thereto, in any manner or form: Two clerks died at different times, one from Vermont and one from Virginia. Both left widows and families in dependent circumstances. Young men, well qualified to perform clerical duties, voluntarily proposed to assume the official relations which these individuals sustained, and from the resources of their pay contribute a portion to the support of these destitute families. While their official duties were properly performed, the head of the office was not inclined to interfere with the benevolent actions of the clerks. It was not deemed either novel in principle or then thought objectionable in feature. Very lately a clerk under the protection of and sustaining a confidential and near relation to the head of the office, who was and had been for two years receiving a salary of $1,000—latterly $1,200—against whom no charge of *official* delinquency existed, failed, as Mr. Kennedy was informed, to remit to his mother, and only remaining parent, that portion of his salary he had stipulated monthly to send, and upon which calamity and bereavement had made her entirely dependent, and upon which he knew she solely relied. Under these circumstances Mr. Kennedy determined upon doing something to bring him to a sense of his parental obligations, and visit him with some evidence of displeasure. A young man had applied for a clerkship—one who had been working as a substitute for another clerk at the rate of one dollar per day. This young man was promised a clerkship at $500. This was to be his salary—no more. With this he expressed himself contented and happy. With his consent and approbation, after Mr. Kennedy had fully explained the responsibilities assumed by the other, Mr. Kennedy raised his salary, *and reduced* that of the other $500, with the express understanding that he should pay over the excess to or for the benefit of the mother of him whose pay was thus reduced.

The clerk whose salary was thus increased, drew the entire amount for two months, and applied the whole sum to his own purposes. He has acknowledged and does acknowledge the act, and is equally explicit in the declaration that no coercion or persuasion was used to prevent him so doing. After giving an order for the benefit of the person to whom and for whom he became responsible, *he again lifted the money and applied it to his own purposes.* Mr Kennedy refused to present the order, and made the whole matter optional with him and dependent upon his sense of honor and propriety. When he subsequently acknowledged his indebtedness and willingness to liquidate the amount, Mr. Kennedy peremptorily refused to take his promises or money. Mr. Kennedy stated to a clerk in his office, the nature of the obligations assumed by the individual in his employ, expressed suspicion of his integrity, that he wished to know his real character, which however, while testing, he was determined to allow no portion of his salary to be received for the use of any one, but that he had sent for him solely to test his sense of moral perception.

When the clerk referred to assumed the position he did, Mr. Kennedy was not personally responsible for a dollar to, or for any of the parties interested or involved, and the araangement could not in any way affect him personally, except in so far as he desired to show his displeasure of filial disobedience, and secure for a widow, in a distant State, a proper portion of the earnings of her son, upon which he knew she was entirely dependent, and upon which she had a moral, legal, and admitted claim. He has never asked or received, directly or indirectly, any money or valuable from any clerk or other individual who is, was, or wished to be connected with the office. JOS. C. G. KENNEDY.

Personally appeared before me, a justice of the peace in and for the city of Washington, District of Columbia, Joseph C. G. Kennedy, who, being duly sworn, deposes and saith that the foregoing statement is correct and true, and embraces all the facts having any bearing or relation to the case stated.

Sworn and subscribed this 16th February, 1853.

THOMAS C. DONN, *J. P.*

Note by Mr. Kennedy.—It is deemed unnecessary to mention the names of young men, with reference to both of whom it is presumed they would regret any public mention of their names, as I have reason to believe they regret their conduct in this matter. J. C. G. K.

The undersigned, clerks in the Census Office, were personally familiar with the facts stated in the foregoing deposition, so far as they relate to the clerk whose compensation was increased. From his statements made to us and in our presence, that clerk voluntarily and without compulsion made himself a party to the arrangement as stated above. He detailed in our hearing that he voluntarily assumed the obligations alluded to, and said he was induced to act in the matter as he had done subsequently on the advice of others. He said that Mr. Kennedy had treated him kindly, and that the matter of his living up to his obligations had not been enforced by promises or threats, and was not exacted. He furthermore expressed a wish that the matter might be "hushed up." L. J. WHITE.

JNO. R. ASHBY.

Sixth line, "all the facts as set forth" erased; "that he voluntarily assumed the obligations alluded to" inserted; ninth line and part of tenth erased; eleventh line, "and was not exacted" inserted.

T. C. DONN, *Justice of the Peace.*

Personally appeared before me, a justice of the peace in and for the county of Washington, District of Columbia, L. J. White and Jno. R. Ashby, who testified on oath that the above statement is true according to their belief.

Sworn and subscribed this 16th day of February, 1853.

THOMAS C. DONN, *Justice of the Peace.*

Personally appeared before me, C. J. Canfield, a clerk in the Census Office, who deposes and saith on his solemn oath that that portion of the above statement marked A, continuing to that portion marked B, relates to himself, and is correct and true according to the best of his belief.

C. J. CANFIELD.

Sworn and subscribed this 16th day of February, 1853.

THOMAS C. DONN, *Justice of the Peace.*

The circumstances certified to by Mr. Canfield were by Mr. Canfield related to me previous to the interview had between the clerk alluded to and Mr. Kennedy.

JNO. R. ASHBY.

WASHINGTON, *February* 16, 1853.

Mr. LETCHER. Mr. Little has since been dismissed from office, and is now out.

A MEMBER. He ought to be.

Mr. LETCHER. He ought to be, and the Superintendent, too.

Mr. GENTRY. I ask the general consent of the committee to make a disclaimer. It has been said that I had made charges against the Secretary of the Interior. I disclaim having any such intention. I have no personal or political malignity against him. On the contrary, my relations with him have been quite as friendly as those of my honorable friend from Virginia, [Mr. LETCHER,] or the gentleman from North Carolina, [Mr. STANLY.] I was very glad when he went into Mr. Fillmore's Cabinet, and believed that he would make himself a useful member of it. No such motive as has been imputed has influenced me. My object was to call the attention of the House of Representatives to the great abuses which have grown up in the Executive branch of the Government. The public interest, the purity of politics, and the administration of the Government, require this House to correct whosoever may have been involved in these abuses. Although I do not know the fact as absolutely in regard to any other Department as I do in regard to the particular case stated, yet I learn that the abuse is common in most of the Departments of the Government. If so it only creates a greater necessity for legislative action here. It was from no personal hostility to the Secretary of the Interior that I called his attention to it. I did it in such a way that if he had had the generous emotions and principles I supposed him to possess, he would have corrected it. When I called his attention to the case of this poor boy, whose father had died, leaving a mother, brothers, and sisters, dependent upon him for support, he called the attention of the Commissioner of Pensions to it, and he gave partial relief. What was it? He docked him $200 instead of $300; reduced the amount, and wrote me a letter defending the whole system.

Now, sir, what does the correspondence read by my friend from Virginia amount to? It discloses this fact: that while the duty rests upon Congress to determine the number of employees of the Government, and what shall be their compensation under the law, and which each employee of the Government has a right to in his particular office, we here see a little picayune subordinate officer of the Government assuming to reduce and enlarge the salaries of the clerks in his office according to his ideas of benevolence, his whims, and his caprices. He has no right to make law, nor to nullify the law by construction, and he ought

to be turned out of office for assuming to do so. I repeat that such flagrant abuses as these, in my judgment, constitute *political crimes*, for which impeachment is the proper remedy; but knowing that that remedy cannot be applied, I have offered the amendment now under consideration, intended to prevent such abuses hereafter.

Mr. ASHE. I feel constrained, in connection with this subject, to make a few remarks.

The CHAIRMAN. Discussion cannot proceed, unless by unanimous consent.

Mr. TOOMBS. I want to vote upon the amendment of the gentleman from North Carolina, so that the discussion may be regular and in order.

Mr. STANLY. I withdraw the amendment if there is no objection.

No objection was made, and the amendment was withdrawn.

Mr. ASHE. I feel that I am an unwilling participant in this debate; but inasmuch as the gentleman from Virginia [Mr. LETCHER] has brought before the committee the conduct of the Superintendent of the Census, (Mr. Kennedy,) I am constrained, as an act of justice to him, to state that some week or ten days ago, when charges of a similar character were made against him, I received from him the following letter:

CENSUS OFFICE, *February* 18, 1853.

SIR: You are requested to ask for the appointment of a select committee to investigate the charges which members of the Senate and House of Representatives have in debate made against me: and you are furthermore authorized to say, that if the House will appoint such a committee, I will be prepared without delay to answer the charges; and if the committee, in reporting, do not exempt me from any charge of fraud, peculation, or intentional official impropriety, or misdemeanor of any sort, public or private, I will refund to the Government every dollar of salary which I have received, from the day I entered upon the duties of my office up to the day upon which such report shall be made.

Very respectfully, your obedient servant,

JOSEPH C. G. KENNEDY.

Hon. W. L. ASHE, M. C.

It will be perceived that he feels perfectly conscious of having acted uprightly in the matter, and courts an investigation at the hands of the House. I think it is right and proper I should make this explanation to the House, in order to show that he is not disposed to screen himself, if he has been guilty of misconduct. I do not pretend to say whether he has or has not been guilty; but I do say that he desires the truth of the charges preferred against him inquired into.

Mr. TOOMBS. I am opposed to this amendment, but regret to see the direction which the gentlemen from Tennessee and North Carolina seem willing to give the question. If those charges be true, a crime has been committed, inconsistent with honor or honesty, and which ought to be inquired into and punished. I do not care what has been the practice, nor when the precedent was first established, for those questions are wholly immaterial. It ought to be properly dealt with by this House.

But there is another question directly connected with this matter, to which I wish to call the attention of members. Congress, at the last session, under the fallacious plea that it was necessary, in consequence of the rise of provisions, backed by other untenable pretexts, increased the salaries of employees of the Government in this city twenty per cent. You find now, from the facts, that this increase was unwise and unnecessary—that just the same character of services are obtained for one half as for the whole of the compensation. The object, it appears, is not to appoint officers with reference to aptitude for the discharge of the public business, but to give jobs to incompetent and worthless persons. So valuable, it seems, are these offices, that the holders of them can hire others to perform the duties for half the pay. The conclusion is, that you now give twice as much as you ought to. If the basis of your system was to employ competent persons to do your work, at fair wages, you would have nothing of this sort; and so long as the officers of the Government are on the existing basis, there will be corruption. I verily believe that the House have not the energy to enforce what is right in respect to public employees. If my friend from Tennessee be correct, a committee should be appointed; and, so far as I am concerned, I can tell him that he will not find me backward in maintaining an investigation to every extent. I will express no opinion as to the culpability of the parties, for I know nothing of the truth of the facts of the case; but I will say that the institution of a thorough inquiry is not only due to the parties interested, but to truth and justice, and the purity of the public service.

Mr. STROTHER. I rise, Mr. Chairman, to urge on the gentleman from Tennessee, and the gentleman from Georgia, who regard this matter as one requiring the gravest investigation, to make their point by resolution in the House, and not in the Committee of the Whole. I agree with them that it is due to the country, and the gentleman at the head of the Department, that this investigation should be had. To scatter abroad ambiguous views, assertions which contain intimations of improper conduct, has always the effect of staining with ignominious suspicion those at whom they are aimed, and should therefore be avoided. Gentlemen I know desire to do justice to the parties concerned. If this debate be not followed by an investigation, the effect will be injurious to those parties, and I feel it to be a duty which my friend from Tennessee owes to himself, when the committee resolves itself into the House, that he should move a resolution for the appointment of a committee of inquiry on the subject.

Mr. GENTRY. I have not got the letter I alluded to with me, but the charges are not controverted at all. They are admitted and justified by the Department. That is the whole of it. There is no controversy and there can be none about it.

Mr. STROTHER. It will not take two days for an active committee to make an investigation as to how far the head of this Department and the heads of bureaus are implicated in improper conduct. It is due to them that it should be made; and I undertake to say, in behalf of the Secretary of the Interior, that investigation into his official conduct in regard to that matter, will have no other consequence than to add to the respect in which he is held by those who know him.

Mr. BROWN, of Mississippi. I do not intend to participate in this discussion; but I wish to say to my friend from Tennessee, that while I have the greatest possible respect for his judgment, I do not think I can vote for his amendment. This thing seems to me to be a sort of tempest in a tea-pot. The persons charged with these great improprieties are going out of office next Friday week, and I want to notify my friend from Tennessee that we are going to have a new order of things, and men who will not be guilty of these improprieties; and that, therefore, such legislation is wholly unnecessary. [Laughter.]

Mr. GENTRY. I am told that these abuses have existed for many Administrations.

Mr. BROWN. We are told a great many things which are not exactly correct. I think that legislating in advance against people we know to be honest, and who are going to administer the Government properly, is throwing them open to unjust suspicion. [Laughter.] All these Galphins will be out in eight or ten more days, and there is not the slightest necessity for legislation.

Mr. TOOMBS. Will the gentleman tell me who those are who are going to come in?

Mr. BROWN. Democrats, to be sure. [Laughter.]

Mr. STROTHER then, by unanimous consent, withdrew his amendment.

Mr. STANTON, of Ohio. I move, for the purpose of making a brief statement of facts, to strike out the last portion of the amendment.

Mr. HOUSTON. I submit to the Chair whether the amendment of the gentleman from Tennessee is in order or not? I am willing to vote on it, but I want to get along with the public business.

Mr. GENTRY. You will not facilitate business by excluding, on questions of order, legitimate propositions.

The CHAIRMAN. When the amendment was first sent to the Clerk's desk, the Chair had no doubt in the world that it was out of order, because it proposed in the Indian bill to regulate the manner in which money appropriated under other bills should be paid out. The amendment was received without objection from any member of the committee. Other amendments have been offered to it, and votes have been taken, and the Chair is of the opinion that it is now too late to raise a question of order.

Mr. STANTON. I understand the amendment of the gentleman from Ohio applies to a particular class of abuses. It is rumored that a different character of abuses exists in the same bureau. At the last session, an addition of twenty per cent. was given to all officers receiving a salary not exceeding $1,000. My information is, that in the Census Bureau the salaries of the clerks receiving $1,000 was reduced, and the fund arising from that twenty per cent. increase was used in the employment of additional clerks. That is another source of corruption, which, it seems to me, it would be well to examine.

Mr. STANTON, then, by unanimous consent, withdrew his amendment.

Mr. FLORENCE. I move to add the word "but" to the amendment.

While we were examining into the clerkships in Washington, it has occurred to my mind that it would be well enough to inquire by what rule of reasoning, principle of equity, or legal right, the Comptroller of the Treasury has refused the payment of the ten per cent. increase of salary which was given at the last session to the various persons employed in and around the Legislative and Executive Departments of the Government; to the mechanics, watchmen, and others engaged in subordinate stations about the Capitol, after giving it to the clerks? It strikes me, although strained decisions have been made to the contrary, that there are only three Departments of the Government—the Legislative, the Executive, and the Judicial; and that being the case, in my judgment, the watchmen and laborers, the engravers and everybody else engaged in either of them, without any exception or distinction, are quite as much entitled to the ten per cent. additional compensation as the clerks in any branch of the public service. I had the honor, a few days ago, of presenting, on behalf of a number of mechanics of this District, and others in the employment of the Government, a petition to the House under the rules. That petition was referred to the Committee on Ways and Means, and I hope that the intelligent gentlemen constituting it, will take into consideration the fact that they (the mechanics, &c.) receive a very inadequate compensation for the labor they are compelled to perform; and that, if the argument with reference to the clerks, that the markets are very high, and the cost of living has been largely increased, be reasonable, it should have its effect with regard to the compensation of the mechanics and all others from whom it has been, in my opinion, most unjustly withheld. I am sure that the mechanics who receive only one dollar, or but little more than that sum per day, are entitled to quite as much consideration and sympathy from Congress, if not more, than the clerks. I have felt it to be my duty to call the attention of the committee, the House, and the country, to this fact, and I earnestly hope the appeal will entitle itself to the consideration due to the important principle of justice which I sincerely conceive is involved in it.

The question was taken on Mr. GENTRY's amendment, and it was agreed to.

Mr. JONES, of Tennessee. I now move that the bill be laid aside, and reported to the House, with a recommendation that it pass.

The question was taken, and it was decided in the affirmative.

GOVERNMENT DEPOSITARIES.

Mr. JONES. I now move to take up Senate bill No. 59, which is an act to provide compensation to such persons as may be designated by the Secretary of the Treasury to receive and keep the public money under the fifteenth section of the act of the 6th August, 1846, for the additional services required under that act.

The first section was then read, as follows:

"*Be it enacted by the Senate and House of Representatives of the United States in Congress assembled*, That the depositaries which have been or may be designated by the Secretary of the Treasury, under the fifteenth section of the act of the 6th of August, 1846, to receive payments and give receipts or certificates of deposit for public money from miscellaneous sources, other than the transactions of the respective offices for which they are or may be commissioned, may be paid in full compensation for receiving, safely keeping, and paying out such public money after the first day of March, 1849, at the rate of one half of one per cent. for the first $100,000, one fourth of one per cent for the second $100,000, and one eighth of one per cent. for all sums over $200,000; any sum which may have been allowed to such depositary for rent, or any other contingent expense, in respect to the custody of such public money being deducted from such compensation before any payment shall be made therefor: *Provided*, That the whole allowance to any designated depositary for such service shall not exceed $1,500 per annum."

Mr. JONES. The Committee on Ways and Means propose the following amendment:

After the word "that," at the close of the section, to insert the following:

"No compensation shall be allowed for the above service when the emoluments of the office of which said designated depositary is in commission amounts to the minimum compensation paid by law; nor shall the amount allowed by law to any designated depositary for such service, when added to the emoluments of the office of which he is in commission, be more than sufficient to make the minimum compensation fixed by law: *And provided further*, That."

The bill of August 6th, 1846, providing for the collection, safe-keeping, and disbursement of the public moneys, also provided for the Treasurer of the United States and the assistant treasurers, at certain points, and fixed their compensation. By the 15th section of that act, the Secretary of the Treasury was authorized to appoint or designate certain other officers as depositaries of the public money—the collectors of customs, and receivers of public moneys at the land offices. The act did not fix or prescribe any compensation to these designated depositaries. Subsequently an act was passed providing for their compensation up to the 4th of March, 1849. This act proposes to provide for their compensation from the then 4th March, and to make it permanent. It provides that for the first $100,000 they shall receive a compensation not exceeding one half of one per cent. on the amount deposited, that upon the second $100,000 a compensation not exceeding one fourth of one per cent., and that upon the amount which they shall receive exceeding $200,000, one eighth of one per cent.; and that in no event shall they receive for such services under the provisions of this act more than $1,500. The laws of the country limit the compensation of collectors of customs at $6,000, and the compensation of receivers of public moneys, at $3,000. The amendment of the Committee on Ways and Means, which has been read, provides that in no case shall the compensation of a collector or receiver of public moneys, who shall have been designated as a depositary, be more than the maximum of his compensation for the office of which he is in commission at the time he was designated as such depositary.

Mr. FICKLIN. I wish to ask whether the postmasters in large cities are not designated as depositaries of public money, and whether this bill is intended to embrace them? and if the amendment which cuts off depositaries of public moneys where the salary is fixed, does not exclude postmasters?

Mr. JONES. Postmasters, as I understand it, are not designated as depositaries under the act of August, 1846. They are sometimes, some of them, directed by the Post Office Department to receive moneys from surrounding postmasters, and through them thus disburse it. That is a matter under the control of the Post Office Department, and has nothing to do with the designation of the depositaries under the act of 1846. The designated depositaries intended to be provided for by this bill, are those of the custom-houses, where there is no assistant treasurer, and where the Secretary of the Treasury designates one, if such, as a depositary, with whom the smaller offices deposit, as in the land districts. There is one, I believe, at St. Louis, one somewhere in Illinois, and others in other places. These officers receive the money collected by other officers in the land districts, and it is disbursed through them upon drafts from the Treasury Department. The bill has passed the Senate, and I hope that it may pass this House as proposed to be amended.

Mr. STUART. I wish to see whether I understand this bill as the gentleman from Tennessee [Mr. JONES] does. If I do, I think there is another amendment necessary. It will be recollected by those who heard the bill read, that after providing the terms of compensation, there is a proviso attached that the whole amount received shall not exceed $1,500. If I understand the duties of these officers properly, and the responsibilities attached to them, that sum is little enough for any man to receive for his whole compensation, whether the amount received and disbursed be $100,000 or greater.

Mr. JONES. I can explain it to the gentleman in a moment.

Mr. STUART. If the gentleman will give a moment longer, I will then be glad to hear his explanation. By the graduation principle, which is adopted for the payment of these officers, they may incur this entire responsibility, and not receive a compensation, for instance, of over $700. I shall propose, to meet my idea of propriety, to strike out all after the word "dollars," where it first occurs, so that the bill would then read, that they should receive one half of one per cent. on all amounts received on deposit by them, retaining the proviso that the whole amount should not exceed $1,500 per annum. By retaining the further restriction, that exceeding a certain sum the depositary shall receive one fourth of one per cent., and then exceeding another sum one eighth of one per cent., you fix upon him all this responsibility, yet not pay him more than $750. If the gentleman from Tennessee is so conversant with this matter as to show me that I am mistaken in this respect, I should be willing to let the bill stand as it is. If I am not, when the committee comes to consider the amount of the bail you require, the amount of security, and the liabilities and responsibilities which are fixed upon him, I think it will not be said by any one that his pay should not be the whole amount of $1,500. If you retain the general proviso restricting him in all cases to the amount of $1,500, there is no necessity for retaining this graduation principle.

Mr. JONES. None are designated depositaries except collectors of customs and receivers of moneys at the land offices. The maximum compensation of the collector is $6,000, and the maximum compensation of the receiver is $3,000. This bill provides that the compensation of the depositary for receiving the money to be deposited with him, which was collected by other and minor officers, shall be as follows: That he shall receive one half of one per cent. upon the first $100,000 so deposited, one fourth of one per cent. on the second $100,000, and one eighth of one per cent. upon the balance, with the proviso that the amount of compensation shall not exceed $1,500 in the aggregate for the moneys thus deposited with him. Then the amendment proposed by the Committee on Ways and Means is, that his compensation as collector of customs, or as receiver of the public moneys added to the compensation under this bill, shall not exceed the maximum of the compensation of the office which he holds at the time he is designated as depositary—$6,000 if he is collector, and $3,000 if he is receiver of the public moneys. You have an assistant treasurer at the city of New York, who will have, perhaps, in his custody ten times as much money as any one of these designated depositaries, and yet, if I mistake not, his entire compensation is $4,500. You have one at Boston, and the money which will come into his hands far exceeds all that which comes into the hands of all these designated depositaries, and he has his $3,500 or $4,000. I think this bill as it came from the Senate, with the amendment of the Committeee on Ways and Means attached to it, will provide as ample compensation as that provided for the assistant treasurers, or collectors of customs, or receivers of public moneys who are not designated as depositaries.

Mr. STUART. I desire to submit my amendment now to the committee. It is to strike out all after the word "dollars," where it first occurs, down to the word "provided," so as to omit all except that part of the bill which provides for the payment of the one half per cent. upon the amount received, restricting the whole pay to $1,500.

The gentleman from Tennessee has not explained the matter satisfactorily to me at all. The bill as I would amend it, would give a man one half of one per cent. for the reception on deposit of $100,000, but would restrict him to $1,500 on the whole, no matter what amount be received. Now I submit that that ought to be the provision of the bill, and that the additional restrictions, by way of graduating it, are wrong. I can see no justice or propriety in the graduation. I submit that the man who receives on deposit, keeps safely, and accounts for $100,000, should have one half of one per cent., and the same amount for every additional $100,000, only limiting his whole compensation to $1,500.

Mr. JONES. The compensation provided for in this bill is the same as was provided in the act paying the depositaries up to the 4th of March, 1849, with which, I believe, they were entirely satisfied. This bill was prepared by the Committee on Finance in the Senate, and I supposed it would be entirely satisfactory to the present officers, for whose benefit it is intended.

Mr. BROOKS. I wish to inquire when this bill is to go into operation?

Mr. JONES. It is to pay the depositaries from the 4th of March, 1849.

Mr. BROOKS. Well, then, Mr. Chairman, I have to remark that this bill was prepared in the Senate nearly two years ago, and passed the Senate, I think, now nearly two years ago——

Mr. JONES. Oh, no. It passed last session—only a year ago.

Mr. BROOKS. It passed in the early part of the session.

Mr. JONES. In January, I believe.

Mr. BROOKS. Well, at any rate, it passed more than a year ago. The object then was to provide for the existing officers; and the action which was had upon the bill by the other branch of Congress and by the Committee on Ways and Means was to provide for the payment of the existing officers. The principle of the bill was right. There was no objection, I believe, to it from any parties in the Senate, or from any member of the Committee on Ways and Means. But the bill has slumbered until this late period of the session, and now, at a time when the existing officers are about losing their places, in all probability, the bill is revived and immediate action is demanded upon it. If the principle is right, it should be extended to all past officers, as well as to the existing officers; and all who have been doing these duties should receive the compensation that a just principle entitles them to. It is on that account that I wish to offer the following as an amendment to the last section of the bill:

And that the accounts of said officers since 1846 shall be settled according to the principles of this act.

The CHAIRMAN. The question is first on the amendment of the gentleman from Michigan, [Mr. STUART,] which precedes that of the gentleman from New York, [Mr. BROOKS.]

The question was then taken on Mr. STUART's amendment, and it was rejected.

The question recurred upon Mr. BROOKS's amendment.

Mr. JONES, of Tennessee. I desire to read the act which provided for the payment of those officers from 1846 to 1849. The sixth section of the act of 3d of March, 1849, provides:

"That the sum of $20,000 be, and is hereby, appropriated for the payment of a compensation of one half per centum to each designated depositary [provided to be appointed, but not provided to be paid, under the act of August 6, 1846] on all moneys received by him, as such depositary, from the date of his appointment to the first day of March, 1849: *Provided*, That no compensation shall be allowed for the above services, where the emoluments of the office, of which said designated depositary is in commission, amounts to over $2,000 per annum; nor shall the amount allowed to any one of said designated depositaries for such service be at the rate of over $1,500 per annum."

This bill provides:

"That the depositaries who have been, or may be, designated by the Secretary of the Treasury, under the fifteenth section of the act of the 6th of August, 1846, to receive payments and give receipts or certificates of deposit for public money from miscellaneous sources other than the transactions of the respective offices for which they are, or may be commissioned, may be paid in full compensation for receiving, safely keeping, and paying out such public money," &c.

Under the first act which I have read, these officers were paid from the date of their appointment up to the 3d of March, 1849. This bill provides for paying those who have been appointed since 1849, or who may be appointed, and it appropriates $50,000 for that purpose.

Mr. BROOKS. Then, as I understand the bill, it reaches the case I have in view, and I therefore withdraw my amendment.

Mr. STANTON, of Ohio. I offer the following amendment:

SEC. —. *Be it further enacted*, That it shall be the duty of the Secretary of the Treasury, in the settlement of the accounts of all officers of the customs for services rendered since the passage of the tariff of 1842, and for such services as they may render hereafter, to be governed by the third section of the act entitled "An act for the support of the Military Academy of the United States for the year 1838, and for other purposes," approved July 7, 1838, as the same was revived and continued in force by the seventh section of the act entitled "An act for the relief of Chastellain & Ponvert, and for other purposes," approved July 21, 1840, until some law expressly prescribing a different rate of compensation shall be passed.

I know of no place where this amendment can be offered——

Mr. JONES, of Tennessee. I submit to the Chair whether that is in order as an amendment to this bill. It relates to an entirely different sub-

ject. I am in favor of the proposition, but I do not want to incumber this bill with it.

Mr. STANTON. I confess that I cannot see why the amendment is inappropriate. This is a bill regulating the compensation of certain officers of the Government, and I certainly can see no reason why a provision regulating the compensation of another class of officers is not appropriate and germane as another section of the bill.

The CHAIRMAN. The Chair decides that the amendment is not in order, on the ground that it is irrelevant to the particular subject-matter of this bill. It relates to a different class of officers altogether.

Mr. STANLY. Does not the bill fix the compensation of public officers?

The CHAIRMAN. The Chair understands this to be a bill to fix the compensation of a particular class of officers under the Government. But the amendment of the gentleman from Ohio proposes to regulate the compensation of another and different class of officers, and the Chair therefore holds the amendment to be out of order.

Mr. WALSH. I ask if the bill does not regulate the fees and compensation of officers as far back as 1844?

Several MEMBERS. Oh, no!

Mr. STANTON. If I understand the bill correctly, it proposes to regulate the compensation of depositaries of public moneys; and if the collectors——

The CHAIRMAN. The title of the bill will be read.

The Clerk read the title of the bill, as follows:

"An act to provide compensation to such persons as may be designated by the Secretary of the Treasury to receive and keep the public money, under the fifteenth section of the act of 6th of August, 1846, for the additional services required under that act."

The CHAIRMAN. Now, the amendment of the gentleman from Ohio fixes the compensation of other persons not designated by the Secretary of the Treasury to keep the public money.

Mr. STANTON. My amendment contemplates the regulation of the fees and compensation of the officers collecting the revenue; and so far as they are depositaries of the public money, it relates to the same class of officers as the bill does. I cannot myself see how the amendment is inappropriate. If the committee will devote only ten minutes to this subject, they may save certainly $200,000 per annum to the public Treasury. I am satisfied that the amendment is in order, and I should regret exceedingly to be compelled to abandon it.

The CHAIRMAN. Does the gentleman from Tennessee insist on his point of order?

Mr. JONES. I do.

The CHAIRMAN. Then the Chair decides that the amendment is out of order.

Mr. PHELPS. I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

MAIL-STEAMER SERVICE.

Mr. PHELPS. I now move that the committee proceed to the consideration of House bill No. 349, "making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1854."

The motion was agreed to.

Mr. PHELPS. I move to dispense with the first reading of the bill.

The motion was agreed to.

Mr. MOORE, of Louisiana. I had intended, if I could have obtained the floor earlier in the session, to have made a speech in defence of the sugar planters of Louisiana, from the attack made upon them by the gentleman from Virginia, [Mr. MEADE.] But not having been able to get the floor until this late period of the session, I ask leave of this committee to publish that speech in the Appendix to the Congressional Globe.

The CHAIRMAN. If there be no objection leave will be granted.

No objection was made.

Mr. PHELPS. I desire to say but a word of explanation with regard to the bill now under consideration. It contains no appropriation that is not authorized by existing law. I hope, therefore, that there will be no discussion upon it, but that we shall be able to report it to the House, and dispose of it this evening.

Mr. DEAN. I desire to ask the gentleman from Missouri whether this bill appropriates the additional compensation for the Collins line?

Mr. PHELPS. Yes, sir; that is embraced in it.

The bill was then read through by sections for amendment, but no amendment was offered to it.

Mr. PHELPS. I move that the bill be laid aside, to be reported to the House with a recommendation that it do pass.

The motion was agreed to.

Mr. HOUSTON. I propose now to take up the Navy appropriation bill.

Mr. HALL. Oh, no! That is out of order, and I object to it. We have acted upon three bills, and that is enough for to-day.

Mr. HOUSTON. Then I move that the committee do now rise, and report the bills to the House.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. BOCOCK) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the state of the Union generally, and particularly the following bills, viz: House bill No. 333, "making appropriations for 'the expenses of the Indian Department, and for 'fulfilling treaty stipulations with the various In-'dian tribes, for the year ending June 30, 1854;" Senate bill No. 59, "to provide compensation to 'such persons as may be designated by the Secre-'tary of the Treasury to receive and keep the public 'money under the fifteenth section of the act of the '6th of August, 1846, for the additional services re-'quired under that act;" and House bill No. 349, "making appropriations for the transportation of 'the United States mail by ocean steamers and 'otherwise, during the fiscal year ending the 30th 'of June, 1854," and had directed him to report the same back to the House, the two former with amendments, and the latter without amendment, and with a recommendation that they do pass.

The SPEAKER. The question is on the amendments reported from the Committee of the Whole on the state of the Union to the Indian appropriation bill.

ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported back as correctly enrolled the following joint resolution and bills; which thereupon severally received the signature of the Speaker:

A joint resolution for the relief of John P. Converse, of Ohio;

An act to prevent frauds upon the Treasury of the United States;

An act for the relief of Josiah P. Pilcher, late a private in company F, second Kentucky regiment of volunteers in the war with Mexico, and for other purposes; and

An act to regulate the fees and costs to be allowed clerks, marshals, and attorneys of the district courts of the United States, and for other purposes.

COMPENSATION TO DEPOSITARIES.

Mr. JONES, of Tennessee. I propose that the House shall first take up and dispose of Senate bill No. 59. There is one amendment to it reported from the Committee of the Whole on the state of the Union. I presume there will be no objection.

The SPEAKER. If there be no objection, that course will be pursued.

No objection was made, and the House accordingly proceeded to consider the following bill:

"An act to provide compensation to such persons as may be designated by the Secretary of the Treasury to receive and keep the public money under the 15th section of the act of the 6th of August, 1846, for the additional services required under that act."

The SPEAKER. The question is on the amendment reported from the Committee of the Whole on the state of the Union.

Mr. JONES, of Tennessee. I move the previous question.

The previous question received a second, and the main question was ordered to be now put.

The amendment was then read by the Clerk; and the question being taken, it was concurred in by the House.

The bill was then ordered to a third reading, and having been read a third time, it was passed.

Mr. JONES. I move that the vote last taken, by which the bill was passed, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

STEAM MAIL SERVICE.

Mr. PHELPS. I move to take up House bill No. 349, making appropriations for the transportation of the mail by ocean steamers for the fiscal year ending June 30, 1854. It has been reported from the committee.

There was no objection, and the bill was accordingly taken up.

Mr. PHELPS. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, it was read the third time and passed.

Mr. PHELPS. I move to reconsider the vote last taken by which the bill passed, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

INDIAN APPROPRIATION BILL.

Mr. HOUSTON. I now move to take up the Indian appropriation bill, and ask the previous question.

There was no objection, and the bill was taken up.

The previous question was seconded, and the main question ordered to be put.

Mr. HOUSTON. Is it necessary for me to move that the amendments be adopted *en masse?*

The SPEAKER. The usual course will be adopted. The amendments will be read through, and if any gentleman desires a separate vote upon any amendment he will rise in his place and indicate it as it is read.

The amendments were then read through by the Clerk.

Mr. WILDRICK. I ask for a separate vote upon the ninth amendment.

Mr. JONES, of Tennessee. I will state that the eighth and ninth as reported are one amendment. One is a proviso to the other, and they cannot be reported separately.

The SPEAKER. The Chair understands they were reported separately.

Mr. HALL. To obviate any difficulty, I call for a separate vote upon the eighth amendment.

Mr. SWEETSER. I ask for a separate vote upon the twelfth amendment.

The question was then taken, and the amendments upon which a separate vote had not been asked, were adopted.

The amendments reported as the eighth and ninth were read as one amendment, as follows:

"For payment in full of all claim under that part of the treaty of 1831 which has relation to the grant of one hundred thousand acres of land in *fee-simple* to the Ohio Shawnees, $66,246 23: *Provided*, That the receipt therefor shall specify that it is in full satisfaction of such claim: *Provided further*, That this appropriation shall not be held to affect the title of the Ohio Shawnees to lands under the treaties of 1825 and 1831, within the fifty miles square ceded to the Missouri Shawnees by the treaty of 1825."

Mr. JONES, of Tennessee. I ask for the yeas and nays upon that amendment.

The yeas and nays were ordered.

The question was then taken, and the result was—yeas 82, nays 78; as follows:

YEAS—Messrs. Charles Allen, Ashe, Barrere, Bell, Bibighaus, Bocock, Bowie, Bowne, Brenton, Briggs, George H. Brown, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Chapman, Cleveland, Cottman, Cullom, Darby, John G. Davis, Disney, Doty, Duncan, Dunham, Durkee, Edgerton, Fay, Fitch, Florence, Freeman, Gaylord, Giddings, Goodrich, Gorman, Green, Hall, Harper, Hendricks, Holladay, Landry, Little, Lockhart, Mace, Mann, McCorkle, McMullin, Meade, Miller, Nabers, Olds, Samuel W. Parker, Penn, Phelps, Porter, Powell, Price, Reed, Robbins, Robinson, Sackett, Savage, Schermerhorn, Schoolcraft, Schoonmaker, Origen S. Seymour, Stanly, Benjamin Stanton, Frederick P. Stanton, Stone, St. Martin, Strother, Sweetser, Taylor, Townshend, Walbridge, Walsh, Washburn, Watkins, Welch, Addison White, Williams, and Yates—82.

NAYS—Messrs. Aiken, Allison, William Appleton, Babcock, Brooks, Busby, Thompson Campbell, Chastain, Churchwell, Clark, Clemens, Clingman, Cobb, Colcock, Daniel, Dawson, Dean, Dimmick, Eastman, Edmundson, Floyd, Thomas J. D. Fuller, Gamble, Gilmore, Grow, Hamilton, Isham G. Harris, Hart, Haws, Hascall, Haven, Hebard, Hibbard, Houston, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How, Hunter, Ingersoll, Ives, Jackson, Jenkins, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Kuhns, Kurtz, Letcher, Mason, McDonald, McLanahan, McNair, McQueen, Millson, Molony, John Moore, Morehead, Murphy, Murray, Orr, Outlaw, Perkins, Preston,

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Robie, Ross, Scurry, Skelton, Alexander H. Stephens, Stratton, Sutherland, Venable, Wallace, Wilcox, Wildrick, and Woodward—78.

So the amendment was adopted.

Pending the call of the roll, Mr. JOHNSON, of Arkansas, stated that he was not certain that he was within the bar when his name was called, but that if he had been, he should have voted in the affirmative.

The 12th amendment was then read by the Clerk, as follows:

And be it further enacted, That no part of the appropriation herein made, or that may hereafter be made for the benefit of any Indian, or tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such Indian, or tribe, or part of a tribe; but shall in every case be paid directly to the Indian or Indians themselves, to whom it shall be due, or to the tribe or part of a tribe, *per capita*, unless the imperious interests of the Indian or Indians, or some treaty stipulation shall require the payment to be made otherwise, under the special direction of the President. Nor shall the Executive branch of the Government, now or hereafter, recognize any contract between any Indians or tribe, or part of a tribe, and any attorney or agent for the prosecution of any claim against any Department of the Government."

Mr. SWEETSER. Upon the adoption of that amendment, I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken, and the amendment was adopted.

The bill was then ordered to be engrossed, and read a third time; and having been engrossed, it was read a third time, and passed.

Mr. HOUSTON. I move that the vote last taken, by which the bill passed, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

NAVAL HOSPITAL.

Mr. STANTON, of Tennessee. I have a little Senate bill or resolution, providing for the eastern boundary line for the naval hospital grounds at New York, which I desire to take up and pass. It will not take two minutes. It is very important, because it involves the conveyance of a certain portion of lands by the United States and a certain portion by private proprietors. Some of these proprietors, I understand, are likely to die soon, and it is therefore very desirable that this should be done. I ask that the resolution may be taken up and be put upon its passage.

There was no objection, and the joint resolution to provide for straightening the eastern boundary line of the naval hospital lands at New York was taken up from the Speaker's table, and read through by the Clerk.

It was then ordered to a third reading, and was subsequently read a third time and passed.

POST ROUTE BILL.

Mr. OLDS. I ask the unanimous consent of the House to report the post route bill. It contains nothing but post routes.

There was no objection; and

Mr. OLDS, from the Committee on the Post Office and Post Roads, reported "A bill to establish certain post routes;" which was read a first and second time by its title.

Mr. OLDS. This bill makes no appropriation, and does nothing but establish post routes. I move that it be put upon its passage.

Mr. JONES, of Tennessee. I ask to have the bill read.

Mr. OLDS. The bill is very long, and I would suggest that there is no need of having it read.

Mr. JONES. I do not want any bill to pass this House without having it read.

The Clerk then proceeded to read.

Mr. LETCHER. I move to suspend the reading of that bill.

There was no objection, and the reading of the bill for the present was dispensed with.

Mr. OLDS. I now call the previous question upon the passage of the bill.

The previous question was seconded, and the main question was ordered to be put.

Mr. GIDDINGS. I ask the gentleman to withdraw his demand for the previous question until I can offer an amendment to the bill. I desire to offer an amendment which the gentleman from Michigan [Mr. STUART] would have offered, but he is not now present.

The SPEAKER. The previous question has been seconded, but the amendment can be offered by unanimous consent.

Mr. JONES, of Tennessee: Now read the bill.

The Clerk again proceeded to read.

Mr. GENTRY. Mr. Speaker, I want to know if the reading of that bill cannot be dispensed with?

The SPEAKER. The gentleman may move to suspend the rules for that purpose.

Mr. GENTRY. Well, sir, I move to suspend the rules. It is useless to consume the time of the House in reading a bill to establish post routes.

Mr. JONES. I ask the Chair if this motion is to suspend the rules to dispense with the reading of that bill?

The SPEAKER. It is.

Mr. JONES. And pass it without ever being read?

The SPEAKER. That will be the effect.

Mr. JONES. Will that fact appear upon the Journal?

The SPEAKER. The motion for that purpose will appear upon the Journal.

Mr. JONES. I move to lay the bill upon the table.

The question was put, and the motion was not agreed to.

The question then recurred upon the motion to suspend the rules; which question being put, (two thirds voting in the affirmative,) the motion was agreed to, and the rules were suspended.

Mr. GENTRY. I now move to dispense with the reading of the bill.

The question was put, and the motion was agreed to.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, was read the third time.

Mr. JONES. I demand the yeas and nays upon the passage of the bill.

The yeas and nays were not ordered.

Mr. GIDDINGS. Will it be in order now to offer an amendment?

The SPEAKER. It can be done only by unanimous consent, the bill having passed to a third reading.

Mr. GIDDINGS. I then ask the unanimous consent of the House to enable me to offer an amendment, which the gentleman from Michigan, [Mr. STUART,] who is not now in his seat, intended to offer. It proposes nothing more nor less than to construct a road from the Missouri river to California and Oregon.

Mr. LETCHER. I object to that.

Mr. STANTON, of Ohio. I ask the unanimous consent of the House to make a verbal correction in the bill. The word "Hickory" should be "Victory."

There was no objection, and the correction was accordingly made.

Mr. STEPHENS, of Georgia. I move that the House do now adjourn.

Mr. LETCHER. I ask the gentleman to withdraw the motion, to allow me to offer a resolution.

Mr. STEPHENS. I cannot withdraw it.

Mr. MASON. I have a resolution here which is customary, and to which I presume there will be no objection. I ask the gentleman from Georgia to allow me to offer it before he insists upon his motion to adjourn.

Mr. STEPHENS. I would inquire of the Chair if the Indian appropriation bill will not come up the first thing in the morning if the House now adjourns?

The SPEAKER. Unless a motion to recommit be made, it will go to the Speaker's table.

Mr. STEPHENS. Will not the previous question keep it before the House?

The SPEAKER. The previous question was ordered upon ordering the bill to a third reading, but has now exhausted itself.

Mr. STEPHENS. Then I withdraw my motion to adjourn, and demand the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

Mr. STEPHENS. I now move that the House adjourn.

The question was taken, and the House refused to adjourn—ayes 60, noes 79.

Mr. DEAN. I ask that the unanimous consent of the House be given to the gentleman from Virginia, [Mr. LETCHER,] to allow him to offer his resolution, which is to investigate the matter relative to the Secretary of the Interior, which was brought before the House to-day.

The SPEAKER. No question is in order, the main question having been ordered to be now put upon the post route bill.

The question was then taken, and the bill was passed.

Mr. OLDS. I move to reconsider the vote last taken, by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

EDWARD BOX.

Mr. HARRIS, of Tennessee. I ask the unanimous consent of the House to allow the Committee on Revolutionary Pensions to report a bill for the relief of Edward Box. If the House will allow me two minutes to explain it, I am sure there will be no objection. Box was placed upon the pension-roll, under the act of 1832. Some time after, he had an execution against a neighbor of his by the name of Henson. Henson told Box that if he did not suppress the execution he would make an affidavit which would stop his (Box's) pension. Box insisted upon his execution, and Henson made an affidavit and sent it to the Department, in which he states that Box was a Tory in the Revolution, and upon that affidavit he was stricken from the pension-roll. Now, this Henson was but about twenty-one years of age when he made this affidavit, and of course could know nothing of the facts of which he speaks; and I have the testimony of a dozen of the most respectable men in the county in which he lives, showing that Henson is a man of notoriously bad character, and that he could not be believed upon his oath; also that Box is a man of patriotism, truth, honesty, and everything else which constitutes a gentleman. I ask that the Committee on Revolutionary Pensions may be allowed to report.

There being no objection, Mr. HARRIS, of Tennessee, reported, from the Committee on Invalid Pensions, a "bill for the relief of Edward Box;" which was read a first and second time by its title.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, it was subsequently read the third time, and passed.

COLONEL BENJAMIN S. ROBERTS.

Mr. GENTRY. I ask the consent of the House to take up a Senate bill on the Speaker's table, the object of which is to do justice to a gallant officer of our country—I refer to Colonel Roberts—who did glorious service in the Mexican war, and distinguished himself at every point where he was engaged, but upon whom there rests a shade of—— I do not like to use the word in connection with the name of so gallant an officer, because of an accident and misunderstanding that took place many years ago, in 1836, when he was in charge of the disbursement of the public fund, as assistant commissary of subsistence, and assistant quartermaster, at Fort Des Moines, on the Upper Mississippi. When the banks suspended specie payment, in 1837, he had in his possession some three or four thousand dollars of public moneys, in notes of the Commercial Bank of Cincinnati, one of the Government deposit banks, which had been placed in his hands for disbursement at that military post.

The provisions of the specie circular of 1836 forbade all disbursing officers of the Army to disburse, or use for any public debt, any bank notes

not redeemable in specie. Then, as a disbursing officer, the funds in his hands were perfectly useless. Such being the case, he sold those notes for an accepted draft on the Des Moines Land Company, which was then of undoubted credit, and indorsed the same to Colonel Mason, with a request that the proceeds should be deposited to his credit at St. Louis, the place where he had to pay over the balance which his accounts, when settled, should exhibit to be due to the Treasury.

In consequence of a disagreement between the members of the land company at New York, and their agents at the West, the acceptance of the draft was disavowed, and the draft was protested, and he was thus deprived of the means of refunding to the Treasury the amount of the notes which had become unavailable in his hands. After considerable labor and expense, he succeeded in having those accounts adjusted to the satisfaction of the Treasury, but not until after his resignation.

He never was a defaulter in the injurious sense or interpretation of that term. He held an amount of public money which became unavailable in his hands, and which he sought to convert into available funds. While on the books of the Treasury he appeared as a defaulter, although in fact he was not so, certain proceedings were had by the Commanding General of the Army, which coerced him to surrender his commission.

The act of 1825 required the disbursing officer to make quarterly returns, and that, in the event of his failure to do so, the head of the Department to which he was responsible, should report him to the President, to be by him dismissed from service; but it also provided for his continuance in office if he could account for his default to the satisfaction of the President.

The act of 1828 authorized the proper officer to withhold the compensation due to a defaulting officer, until he should have accounted for, or paid into the Treasury, all sums for which he was liable, and upon the balance being reported to the Treasury Department, a suit was to be commenced against the delinquent and his sureties.

His emoluments and allowances were withheld, and a suit instituted.

In this state of things, the Commanding General of the Army, under the alleged authority of the Secretary of War, addressed to him the following communication:

HEAD QUARTERS OF THE ARMY,
WASHINGTON, 2d *January*, 1839.

SIR: I am sorry to be obliged to communicate to you that you have been reported by the accounting officer a defaulter, and that your name has been submitted to the Secretary of War as such. I have in consequence to say to you, by authority of the War Department, that you will be permitted to resign your commission in the Army; but if you do not do so, you will be dropped from the rolls of the Army.

I am not at all personally acquainted with the state of your accounts, and the permission to resign is offered to you rather as a matter of regard to your future prosperity, than any other consideration.

I am, sir, very respectfully, your obedient servant,
ALEX. MACOMB,
Major General Commanding in Chief.

To Lieutenant B. S. ROBERTS,
Second Dragoons, Carlisle Barracks.

Under the pressure of the menace contained in this letter, under this duress, by requiring his resignation, on pain of dismissal from service, without affording him an opportunity of being heard in his defense, or accounting for his default to the President, as he had a right to do, under the act of 1823, to avoid the disgrace of that dismissal, a young and inexperienced, and, as subsequent events abundantly prove, a gallant and highly-meritorious officer, was driven to surrender his commission. He labored for years, and had to travel to hunt up proof and collect facts to show the exact circumstances of the transaction, and finally the matter was settled to the satisfaction of the Government, and he was restored to the service by an appointment to the command of a regiment on the occurrence of the war with Mexico, and he fought his way up to a colonelcy, doing gallant service.

The report upon his case, made in the Senate by Mr. Berrien, a man whose character as a jurist, and whose competency to investigate questions of this nature, is well known here, shows that he was never a defaulter, but only seemingly so. He lost his commission in the Army because he seemed to be a defaulter, when he was not. His appearance as a defaulter resulted from his position as an officer, upon the suspension of specie payment by the very deposit banks of the Government.

Again, they instituted double process against him—which the law did not authorize—one of which was to suspend his pay and emoluments under the act of 1828, without the privilege of contesting the rightfulness of that suspension; and the other, a contemporaneous proceeding under the act of 1823, to take from him forever all right to pay and emolument, by dismissing him from the service. All that was done; but subsequent investigation shows that there was nothing of wrong or of infidelity as an officer in this seeming default, which occurred upon the books of the Government, and he has, with his blood and his sword, since that time, shown that he has every claim to the consideration of Congress, by fighting his way up to a high position in the Army. Every principle of justice requires that, independent of the dollars involved, we should redeem his character from this stigma which has been thrown upon it by an abuse of power upon the part of his commanding officer at that time, resulting, perhaps, from a misconception of duty, perhaps from a defect in the law, which compelled him to do injustice to this young officer.

The bill I propose to take up is Senate bill No. 429, and it proposes to give to Colonel Roberts the pay that he would have been entitled to had he remained in the Army during the time he was out of office, under this coercion and duress. I hope I may have the unanimous consent of the House to take up the bill. It is not for the dollars involved, but it is that his character may be relieved from the stigma resting upon it, that this bill should be passed.

Mr. JONES, of Tennessee. I understand that this bill proposes to pay to Colonel Roberts the pay of his rank, from the time he resigned until he was reappointed to a command in the Army.

Mr. GENTRY. The pay of his then rank, which was that of lieutenant.

Mr. JONES. I object to taking up any such bill.

Mr. GENTRY. Why, sir, upon every principle he was legally and properly an officer of the Government during the whole time.

Mr. JONES. He was not in the service of the United States.

Mr. GENTRY. Then I move to suspend the rules for the purpose of taking up and passing the bill.

The question was taken, and there were 80 in the affirmative and 39 in the negative.

So the rules were suspended—two thirds voting in the affirmative.

The bill was then taken up, and read a first and second time by its title.

Mr. CLARK. I move the previous question on the third reading of the bill.

The previous question was seconded.

Mr. HUNTER. I move that the House do now adjourn.

The question was taken, and the motion was not agreed to.

The main question was then ordered to be put.

The bill was then ordered to be read a third time; and it was subsequently, according to order, read a third time.

Mr. JONES, of Tennessee. I ask for the yeas and nays upon the passage of the bill.

The yeas and nays were not ordered.

Mr. JONES. I move to lay the bill upon the table.

The question was taken, and it was decided in the negative.

The question then recurred upon the passage of the bill, and being put, there were—ayes 79, noes 41.

So the bill was passed.

Mr. GENTRY moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

WILLIAM HAZARD WIGG,

Mr. COLCOCK. I ask the unanimous consent of the House to take up Senate bill No. 547, for the relief of William Hazard Wigg.

Mr. JENKINS. I move that the House adjourn.

The question was put, and the motion was not agreed to.

The bill was then read for the information of the House by its title, as follows:

"An act authorizing the adjustment and payment of the claims of William Hazard Wigg, deceased, for losses sustained by him during the war of the Revolution."

Mr. ALLISON. As that bill involves some important principles, I object to taking it up in this way.

Mr. COLCOCK. I move to suspend the rules.

Mr. HART. I move that the House do now adjourn.

The motion was agreed to, and the House accordingly adjourned, to meet to-morrow at eleven o'clock a. m.

IN SENATE.

FRIDAY, *February* 25, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. WADE presented two petitions of citizens of Ohio, praying the adoption of such measures as will secure religious liberty to American citizens abroad; which were referred to the Committee on Foreign Relations.

SALLY T. B. COCHRANE.

Mr. BORLAND, from the Committee on Military Affairs, reported a bill for the relief of Mrs. Sally T. B. Cochrane, widow of the late Lieutenant Colonel R. E. Cochrane, United States Army; which was read a first and second time, and considered as in Committee of the Whole. It directs the payment to Mrs. Sally T. B. Cochrane of the sum of $150, being the value of a horse belonging to her late husband, which was used for an express rider in the public service, by the order of Lieutenant Colonel Garland, in command of the troops at Fort Smith, and which died in consequence of such service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

REGISTER OF THE BARK MAY.

Mr. HAMLIN. I am instructed by the Committee on Commerce to report a bill to authorize the Secretary of the Treasury to issue a register to the bark May, of Baltimore, which I ask the unanimous consent of the Senate to consider at this time. In the early part of the last session, the memorial of William Alexander, asking for authority to the Secretary of the Treasury to issue a register to the bark May, was presented to the Committee on Commerce. On an examination of the memorial, the committee believed the case was included in the general law which has been passed, and therefore they asked to be discharged from its further consideration, and they were discharged. We have since, on a more careful examination, found that the case does not come within the general law; and unless this bill shall pass both branches of Congress at this session, this gentleman, who is a citizen of Baltimore, will be compelled to remain with his vessel at Baltimore until next December.

The bill was read three times and passed.

Mr. HAMLIN. In connection with the same case, I move that William Alexander have leave to withdraw his memorial, now on the files of the Senate, in order that it may go with the bill to the House.

The motion was agreed to.

HON. DAVID L. YULEE.

Mr. MORTON. Near the termination of the last session of Congress, I introduced a resolution directing *per diem* and mileage to be paid to the Hon. David L. Yulee for the time he was detained here contesting the seat of my present colleague. There not being time then for its consideration, it went over. My impression was that it would come up under the rules as unfinished business at this session; but I am informed that no resolutions except joint resolutions lie over as unfinished business from session to session. I therefore beg leave to submit the resolution now. I do not ask for its consideration at this time, but I wish to give notice that I will, to-morrow, or on some early day, ask the Senate to consider and dispose of it. I now submit the following resolution:

Resolved, That there be paid out of the contingent fund of the Senate, to the Hon. David L. Yulee, a sum equal to the amount of mileage and *per diem* compensation of a Senator, from the commencement of the first session of the

Thirty-second Congress to the 27th of August, 1852, the day on which the Senate decided that the Hon. STEPHEN R. MALLORY, whose seat in the Senate was claimed by him, was duly elected a member of the Senate from the State of Florida.

MILITARY ACADEMY BILL.

Mr. PEARCE, from the Committee of Conference on the disagreeing votes of the two Houses on the bill from the House of Representatives making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854, reported:

That the Committee of Conference on the disagreeing votes of the two Houses on the bill from the House of Representatives making appropriations for the support of the Military Academy for the year ending the 30th of June, 1854, have met, and after full and free conference, have agreed to recommend, and do recommend, as follows:

That the Senate recede from their second and fourth amendments to the said bill.

The Senate proceeded to consider the said report, and concurred therein.

BILL INTRODUCED.

Mr. BRADBURY, in pursuance of previous notice, asked and obtained leave to introduce a bill to establish a court for the investigation of claims against the United States; which was read a first and second time by its title, and referred to the Committee on the Judiciary.

MOORE AND HASCALL.

Mr. FELCH. I desire to ask of the Senate this morning to take up for consideration the bill which was under consideration the other day, and which was then laid on the table on motion of the Senator from New Hampshire, who desires that it shall be taken up. I refer to the bill from the House of Representatives for the relief of Moore & Hascall—a bill which I feel very anxious to have passed before I leave the Senate. There were some points made in opposition to the bill the other day which I do not propose to argue. I shall not consume time by answering them. I simply ask the Senate to do me the favor of taking up the bill and voting upon it.

Mr. HUNTER. I hope the motion will not be agreed to. That bill will give rise to debate. It interferes with the interests of another patentee, and will be discussed. I hope the Senate will not take it up. It is my wish that we should dispose of the Army appropriation bill to-day. I forebore to move that it be taken up for fifteen minutes, in order that we might get through with uncontested morning business; but I did not give way to business of this character.

Mr. FELCH. I am not very fortunate in getting the floor here for any purpose, and it is very seldom that I ask any favor of the kind. I am quite certain that this will be the last opportunity I shall have of throwing myself upon the indulgence of the Senate for taking up this or any other bill. I hope the Senator from Virginia will withdraw his objection, and allow the bill to be taken up and a vote to be had upon it. Its friends will not discuss it.

Mr. HUNTER. There is no Senator whom I would more gladly oblige than the Senator from Michigan; but I know this is a matter which is very much contested. The Senator from Rhode Island [Mr. JAMES] will oppose the bill, and I submit whether we should take up these individual claims, which are contested, at the expense of the appropriation bills. I hope the bill will not be taken up; and if the Senate shall vote down the motion, I intend to move to take up the Army appropriation bill.

Mr. CASS. The friends of the bill are willing that the vote shall be taken upon it without any answer to the arguments against it. What objection can there be, then, to taking it up? The argument in opposition to it has been fully heard, and but little has been said in its favor; but still the friends of the bill are perfectly willing to take the vote. There are strong reasons why the vote should be taken immediately.

Mr. JAMES. I hope that the bill will not be taken up at this moment. I feel obliged, as the organ of the Committee on Patents, to speak against the bill. I have not my minutes here this morning, and I am not prepared to go on. If the gentleman will call it up to-morrow, or any other day after this morning, I will be prepared to go on. I feel compelled to speak against the bill.

Mr. HUNTER. I hope the motion will not be persisted in, but that we shall go on with the Army appropriation bill.

The motion of Mr. FELCH was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill for the relief of Moore & Hascall, the pending question being upon the amendment of Mr. JAMES to strike out these words:

"Together with the improvements invented by them, or either of them, in perfecting said machine, or any part thereof, from the date of their original patent to the day from which the same is hereby renewed and extended."

And to insert in lieu of it these words:

"That any additional claim to said letters-patent of 1836, so made and presented to the Patent Office for letters-patent under the provisions of this act, shall be for a patentable improvement or addition, and shall by this act, in the same manner, be open to be contested on the ground of priority of invention, or other legal ground."

Mr. HUNTER. Before the debate on this bill is commenced, I should like to be allowed to try the sense of the Senate once more. It is obvious that this bill is going to take up a great deal of time. The House has passed all the appropriation bills except the Navy bill, and unless we send them the Army bill to-day, they will have no more business of that sort to occupy them. For the purpose of ascertaining the sense of the Senate whether or not we shall go on with the Army bill, I move to lay this bill on the table; and on that question I ask for the yeas and nays.

Mr. CASS I have no objection to the motion being made, but I think it is a most extraordinary course to ask the Senate to reverse its own decision.

The yeas and nays were ordered, and being taken, resulted—yeas 17, nays 24; as follows:

YEAS—Messrs. Badger, Brooke, Charlton, Clarke, Cooper, Dawson, Douglas, Hunter, James, Jones of Tennessee, Mangum, Morton, Pettit, Seward, Smith, Spruance, and Wade—17.

NAYS—Messrs. Atchison, Bell, Borland, Bradbury, Bright, Brodhead, Cass, Chase, Davis, Dodge of Wisconsin, Downs, Felch, Fitzpatrick, Foot, Hamlin, Mallory, Norris, Phelps, Rusk, Sebastian, Sumner, Toucey, Underwood, and Weller—24.

So the motion to lie on the table was rejected.

Mr. JAMES. Mr. President, the policy of the patent law is to reward inventors properly and sufficiently for the benefits they have conferred on the community, without at the same time depriving the community of any vested rights. This principle forms the dividing line between monopolies before, and patent rights since, the English statute of James, known as the Statute of Monopolies. Before the passage of that act, the king, sometimes with and sometimes without the concurrence of the coördinate department of Government, was in the habit of conferring on a particular subject some privileges which, practically right, were withdrawn for that purpose from the public. Since that act no such grant can be made; but, at the same time, citizens who add something to the stock of useful improvements are permitted to enjoy for a limited time the exclusive possession of what they have thus added. Natural reason serves to indicate that the inventor should have a perpetual right in what he himself has created, just as the owner of other incorporeal rights may hold them in perpetuity.

It is not thought oppressive that a right of way across my land, or a right of fishery in my waters, should be the subject of perpetual ownership, and there is no reason in the nature of the case why the right to make, use, and sell what one invents, should not also be placed in the same position. But the wisdom of the framers of the Constitution has suggested a more restricted tenure for this species of property, and Congress has narrowed the period of enjoyment to very contracted limits. Hence it is that there is a very general sympathy with inventors felt by almost every enlightened mind, and a disposition to favor them to the utmost of the constitutional power of Congress. With this sympathy I heartily concur, and ever have done, and ever shall do what I can to make it valuable and useful to this class of persons, whom I have found to be the greatest benefactors of mankind in a physical point of view. Entertaining these views of the law, its policy, and the proper feelings of sympathy with inventors, I find myself compelled to resist the passage of the act now before us, in the shape in which it is presented. I shall not assume that there is any improper use intended to be made of this act, or that the persons who apply here have any design to defeat the general policy of the law; but if I should show that, on the face of the bill itself, there is the trait of a power which might, and probably would, in this particular case, subvert the great principle of depriving the community of vested rights in order to reward an inventor, I shall have shown that the bill is exactly like the grant of a monopoly before the statute of James, and is therefore odious in the law.

The facts appear to be these: Moore & Hascall, before the 27th of June, 1836, made an invention of a reaping machine, which they patented on that day. On the 27th of June, 1850, that patent expired; and no attempt, so far as we have any evidence, was made to procure its extension by the properly-authorized court. Subsequently, the bill before us was introduced into the House of Representatives, and passed there. The very first objection which strikes the mind is, that these parties have slept on their rights. They have permitted the public to have the use of their invention by permitting their patent to expire without renewal; and there is no provision in this bill to respect the rights of those who, in good faith, have used this improvement, and laid out their money in it, under the impression that the title had become public. If this improvement has gone into general use for the two and a half years since the expiration of the patent, are those who use it to be compelled to lose their money invested in machines constructed according to this patent? The property in the invention has become public property—may have been very largely used—and all the rights accruing under such use are now to be sacrificed. This is an objection which seems to me to be fatal to the bill. It is like an ancient monopoly; and as much as I desire to encourage inventors, I do not think the public ought to be wronged for their benefit. Indeed, the true interest of inventors, as a class, is, to deal fairly with the public, in order that they may receive liberal treatment in return. One such act as this, provided their machine has gone into general use, (and if it has not the patent is not worth extending,) would do more to destroy the foundation on which patents stand, than twenty such inventions could repair. The maxim of the law is, that the laws give their aid to the vigilant and not to the negligent; and I do not see why patentees are not as much affected by this principle as any other persons. Even real estate, which is the peculiar favorite of the law of England, is lost by long delay in claiming it. Yet there may be cases in which, from some peculiar circumstances, Congress ought to extend a patent after it has expired; always guarding, however, the rights of those who have acquired them after the expiration. The other objections to the bill are equally cogent.

The bill provides that the patent shall be extended, and that, in addition to what is contained in the patent itself, the inventors may incorporate "the improvements invented by them, or either 'of them, in perfecting said machine, in any part 'thereof, from the date of their original patent to the 'day from which the same is hereby renewed and 'extended." This provision is monstrous. Who is to say what those improvements are? The inventors are not even required to swear to them; and no one is authorized to examine, and allow or reject them, as is the case of an original grant of a patent. The inventor himself simply draws a sort of appendix to his patent, and that is incorporated into his grant for fourteen years to come. But what is the object of this provision? Examine its operation and see. Suppose these persons to have invented improvements within the time mentioned, and what is the condition of such improvements, in respect to the inventors and the public? They must be in one of four conditions: either they were invented less than two years ago, or they were invented more than two years ago; and if invented more than two years ago, they have either been abandoned to the public, by allowing them to be used and sold, or they are still in the breasts of the inventors, and unknown to the public.

Now, the act of 1837 allows an inventor to use his invention two years before patenting it, in order to enable him to test its value and perfect its operation; but that use must be for such purpose, and must not amount to a dedication to the public. This is a very liberal provision of the law, and is a great improvement on the English system in this respect. If, therefore, the improvements spoken of in this act were invented within two years, these claimants can have

a patent for them by applying at the Patent Office, and paying $30, without calling into action the extraordinary power of Congress to aid them. If, however, they go to the Patent Office, they must swear to their inventions, and then they must subject it to the critical examination of the office, before they can have a patent. Not so if they can pass this bill; and I can see no reason why these claimants should have any greater exemption in this respect than others equally meritorious. But if the improvements spoken of were invented more than two years ago, they are either dedicated to the public or they are not. If they are dedicated to the public, by allowing them to be used and sold for a long time without any attempt to take a patent, nothing can be plainer than that Congress cannot take such rights back again without violating the principle before spoken of, and enacting an odious monopoly. Under such circumstances, their improvements have become private property in each person who has bought them from Moore & Hascall, or from others, and cannot be taken back again by those who chose to make them so. There is no precedent for such legislation as this in the statute-book; and I cannot consent to make a precedent which would at once bring patents into odium again, and go very far to destroy that enlightened system, under the fostering influence of which so much good has been already done to the whole country. How would any gentleman within the sound of my voice feel, if called upon to desist from the use of a machine which he had purchased years ago, not patented, but which, after five or ten years, was brought under the operation of an act like this, and declared to be special property? All of us would say, if this be the patent law, let us have no more of it.

This leaves but one other view of the case, and that is, if the improvements were made more than two years ago, and not dedicated to the public. The law does not require any one to patent his invention when he makes it, or to declare the manner of its use. This he may keep secret as long as he pleases, without losing his right to have a patent when he does disclose it. A patent is only the contract between the public and the inventor; the consideration on the one side being the improvement, and on the other side the exclusive use for a limited time; and the public are always ready to make such a contract whenever the improvement is given to them; and it matters not how long the patentee may have had it himself. Therefore, if these improvements are in the contract, they may be patented at the Patent Office for $30, and all trouble saved. So far as patenting these improvements is concerned, this bill makes Congress to act in the place of the Patent Office. We are called on to grant a patent for a new invention not yet patented. All that Congress ought to do, is to make general laws, under which all persons may apply for a patent, and that has been done; and it does not become us, having thus established the Patent Office court, to assume its functions. The Patent Office is the place to patent these improvements in, and we have no jurisdiction on the question. It seems to me to be just the case of a private suitor, coming into Congress, and asking for the passage of an act to enable him to collect a debt which he asserts is due him from certain persons, when the courts are open to him, and an ample remedy provided there by general laws. Of course Congress would send such a claimant to the courts; and I can see no difference between the cases. There is no precedent that I know of, for granting an original patent by Congress since the establishment of the Patent Office. If we make such a one, I doubt not we shall have abundance of business, and every one whose claim is too weak to endure the scrutiny of the Patent Office, will have a bill introduced for granting him a patent by Congress.

I have thus clearly established that the provision must operate to deprive the public of rights which are absolutely vested in them, or that the claimants are entitled to have a patent granted to them by the Patent Office for the improvements invented by them. In either case, this provision ought not to be enacted. I presume there is no one who desires to establish the monopolies of the seventeenth century, or to convert the Senate into a Patent Office, to hear and decide original applications for letters-patent; and we must do one or the other, if we pass this bill as it is now drawn.

There is another objectionable provision of the bill. It is proposed to extend this patent for the improvements "embraced in the *model*, drawings, and specifications," connected with letters-patent, &c. Now, there is no *model* connected with letters-patent. A model is deposited when the patent issues, not as a part of the patent, but as an exemplication of the thing patented. In almost all cases, the model contains much more than the invention, and nothing appears on the model to distinguish the patented features from the others. A steam-engine model is deposited, to show a valve; a wagon, to show an axle, &c. The drawings and specifications are the legal evidence of what the patent claims; and what is not in them, is not in the patent. In this case, the model was burned up in the fire of 1836; and the word here, is undoubtedly to introduce another model made since, to help out the patent which was issued, in some particular in which it is insufficient to give the patentees what they want. If the patent does not describe the invention, and it should be extended, it may be surrendered under the thirteenth section of the act of 1836, and corrected. The Commissioner of Patents will then hear what the patentees can say on the subject, and if the model can throw light on the question, it can be used as evidence. This is not the place to decide whether an extended patent ought to contain more or less than the original. A competent tribunal is instituted to make such decision, to which the patentee must appeal.

To meet these views of the law, I proposed the amendment which has already been before the Senate. Its object is simply to require that no patent shall be issued by virtue of this bill, unless its object be *patentable*—the contrary of which might, and probably would be done, without this proviso. The Senator from North Carolina objects to this proviso, because, he says, the bill speaks the same thing without it as with it. In this construction of the bill, I am compelled to differ with the Senator; and it cannot have escaped the most casual observation, that if the applicants were now seeking a grant of *patentable* improvements, they would have gone to the Patent Office, where *patentable* improvements are patented by due course of law; and where, for the cost of thirty dollars, they might have all that the Senator from North Carolina supposes that this law gives them. Why is it not done to-day? This patent could be extended without a contest, or a difficulty, if the clause incorporating new improvements, and granting a new patent therefor, were left out.

Are these applicants seeking merely for the compliment of having Congress give them a patent, when they might patent at the Patent Office? No, sir. The truth is, that these improvements, whatever they may be, (and the patentees have not deigned to inform us what they are, or what they wish,) are not *patentable;* either because they are not the invention of these claimants, or because they have been abandoned to the public. The bill makes it the duty of the Commissioner to grant a patent for all the improvements made by these parties, and it does not except such as have been abandoned, or such as others may have patented. Can the Commissioner, under the bill, exercise any distinction? Can he scrutinize, and refuse the patent, because he finds that certain improvements have been public for years? I do not so read the bill. Read the twentieth to the twenty-fourth line. The Commissioner is required to certify "*such*" renewal. What renewal? The renewal of the old patent and the incorporation of the improvements! Can the Commissioner accept one improvement, and reject another, proposed by the claimants? To them is delegated the power to determine what are their improvements, and the Commissioner has no authority to settle that for them. Or, if he has, then what power? How far may he exercise that discretion? If he may exercise it so far as to refuse a patent for whatever is not *patentable*, (and this seems to be the ground of the Senator from North Carolina,) then it all comes back to the starting point, and these parties can have a patent for their *patentable* improvements without this bill. If, however, the Commissioner is limited within a narrower compass by this bill than that, who shall pass these limits? The bill does not—it says nothing about it. The Commissioner is simply directed to grant a patent for whatever these parties invented, and he must say, very naturally, and for aught I can see, logically, that of course Congress meant something by the act; that they did not intend to pass a bill (particularly when the best talents in the Senate have been exerted in its discussion) the very effect of which is, to direct him to do what he has full power to do without this bill; and therefore the intention of the bill must be to direct him to patent these improvements, whether they are or are not *patentable* in his judgment. And why must not the court say the same when the patent comes to them? If it be true that Congress has power to grant such a monopoly as this would be, the courts cannot refuse to give it effect; and when this question comes up, they must decide that no defense of abandonment, or of another man's patent, can be set up; and, as Congress has exercised an arbitrary power within the Constitution, the public must submit. It would present a beautiful state of things now, if these parties should obtain a patent under this bill for something for which some other man may have a patent. Which must give way? Who can stop the other? The consequence is simply absurd; and yet quite probable when these men come to show their claims.

Indeed, the Senator from Michigan says that these parties are the inventors of the *sickles*. Now that is certainly included in McCormick's patent, and if these parties should include it in their extended patent, how shall it be decided? But if, on the other hand, these persons are the inventors, the law gives them lawful remedy against McCormick, or any other person who may have patented the same thing. An application being made at the office for a patent, the Commissioner will examine the case, and declare an interference, and then a bill may be filed in court by the party aggrieved, (sec. 16, act of '36,) and if they are the inventors the court will so decide, and order the patent to be awarded to them. This is the law, and its general provisions are sufficient for every case that can be supposed.

With these views of the law and of the bill, I cannot consent to vote for the bill, unless so amended as to bring it within those just principles which govern the general act on this subject. If so amended, I shall be disposed to vote for the extension of the original patent.

Mr. WALKER. This case having been once before the Senate and been somewhat discussed, I do not feel it necessary to go over the entire ground then occupied in the discussion; but I wish to say, repeating what I then said, that this is a matter upon which I have bestowed a good deal of attention. Since the subject was formerly before the Senate, I have had a conversation with one of the parties particularly interested, (Mr. Moore.) I had that conversation, with the hope that I might induce him to be content with that kind of legislation which has heretofore been awarded to persons in the extension of patents. I regret to say I found him what I am pleased to think unreasonable in his demands. I must again characterize the legislation here proposed as being unprecedented. I do not think that in any country on the face of the earth, where institutions to grant patents have been established, such legislation was ever asked at any period of the world. Now I wish to contrast this measure with another one which is within the line of ordinary legislation, and which I hold in my hand. This bill for the relief of Moore & Hascall provides:

"That there be, and hereby is, granted to Hiram Moore & John Hascall, citizens of the United States, and to their heirs and assigns and legal representatives, for the term of fourteen years, from the 27th day of June, 1850,"——

What is granted? A renewal of a patent of a particular date? Not at all; but this: "The full 'and exclusive right and liberty of making, con-'structing, and using, and vending to others to 'be made or used, the improvements for cutting, 'threshing, or cleaning grain, which were in-'vented by the said Moore & Hascall, or either 'of them, and embraced in the model, drawings, 'or specifications connected with letters-patent 'granted to them on the 28th day of June, 1836, 'for a machine commonly known as Moore & 'Hascall's harvesting machine." Not only this; they are not only to have the full and exclusive right of making, constructing, and vending to others to be made and used, all that is embraced in their patent, but something more—"together 'with the improvements invented by them, or 'either of them, in perfecting said machine, or any 'part thereof, from the date of their original pat-

'ent to the day from which the same is hereby 'renewed and extended; and the Commissioner of 'Patents is hereby directed and required to make 'a certificate of such renewal and extension, and 'append an authenticated copy thereof to the ori-'ginal patent, with the proper specifications and 'claims." All this is proposed to be granted, singular to say, without even the solemnity of an oath being required from these persons who are to have this enormous benefit extended to them. It is not proposed that the Commissioner of Patents shall take into consideration the claims and specifications made by these parties under oath, and allow them a renewal of a patent for what they have invented; but it is proposed to give them, in the language of this bill, these exclusive rights to what they may have either secretly or publicly discovered and invented from the time of the original patent down to the time at which the extension commences.

This, then, in point of fact, is not the extension of a patent, but it is the grant of a new patent; and it not only grants a new patent for what has long since vested in the public; it proposes not only to take from the public what has long since been vested in them, but to take it under circumstances of the most peculiar kind. Why, sir, some things that are claimed to have been invented by these persons have long since been patented by others. Patents for some things that are claimed by these gentlemen, and of which they wish to avail themselves, have even expired. Fourteen years have run in favor of other patentees, and upon some of the very items for which it is now sought by legislation to obtain a new and original patent.

Mr. NORRIS. The Senator from Wisconsin will be kind enough to tell us what these things are?

Mr. WALKER. If the Senator will tell me what is included in any other reaping or harvesting machine in the country, I will tell him what it is they claim. What is proposed to be done by this bill? It is said by its friends that it is a mere extension of a patent. Is it so? No, sir; it is to go behind the original patent, for it includes anything which they invented, which was included in their model, drawings, or specifications. The model has been burnt and the drawings and specifications do not contain some of the very things, for which I understand these gentlemen seek to get a patent. Then, those things are in the burnt model, and it is to rest, if the Senate please, upon the oral testimony, upon the failing memory of persons, who seventeen years ago may have seen something in that model which is now burnt, and which they can come forward and swear to, dependent upon their memories. Even the parties themselves are not required to swear to their inventions; but the failing memory of man, without anything of an authentic character being found in the Patent Office, is to be relied upon to show what was in that model which has so long since been burnt.

But the bill goes further. It gives them not only an exclusive right to make and use, and to vend to others to be made or used, whatever may be included in the model, drawings, or specifications, but it includes everything which these parties may say they have invented from that day down to the day at which the extension takes effect. How are you to find this out? Are you to go to the model? That is burnt. Are you to go to the drawings and specifications? They do not show these alleged improvements. How, then, are they to be shown? As I remarked upon another occasion, when this subject was before us, they are to resort to the vast multitude, and find out from the dim recollections laid away in the memories of men what these gentlemen have invented from a period seventeen years back down to the present day. Other persons, when they claim a patent, have to go to the Patent Office to submit their claims, models, drawings, and specifications, to be examined by the proper officers; and if they be found to conflict with other patents or other claims, notice is given to other parties, and an issue of priority is made up. The parties are required to swear, and there is a trial on that issue of priority, and a patent is issued as the result of that trial as a matter of right. But here we are asked to steer clear of the Patent Office, to avoid all the laws which regulate the issue of patents, and blindly, by legislation, to give an exclusive right to these gentlemen not only to what they may prove was in their burnt model, and which does not appear in the drawings or specifications, but also to give to them the benefit of everything which they may be able to show by any kind of testimony that they invented from a period seventeen years back down to the present day. I think this is going a little too far.

I promised, when I rose, to contrast this bill with another one which I hold in my hand. The commencement of the bill is this: "That there be, and 'hereby is, granted to Hiram Moore and John 'Hascall, and to their heirs, assignees, and legal 'representatives, for the term of fourteen years 'from the 27th day of June, 1850, the full and ex-'clusive right and liberty of making, constructing, 'and vending to others to be made and used," &c.

I hold in my hand a bill for the extension of a patent, which is in the usual form, and how does that read? "That the letters-patent granted to 'Cyrus McCormick, a citizen of the United States, 'dated the 21st day of June, in the year of our 'Lord 1834, for new and useful improvements in 'the machine for reaping all kinds of small grain," and also other patents taken out at subsequent dates, which are given, "shall be extended" to a certain period. The provision there is, that his patents shall be renewed and extended. Therefore, every person else can come in and contest the patent upon the score of priority. But here Moore & Hascall will not take a simple extension of their patent, but they ask you to legislate to them the exclusive right at once, and there is no hope left for anybody else.

Mr. President, this bill sweeps away the rights of McCormick, and the rights of Hussey, and Casey, and every other person who has made inventions and improved machinery in this respect. It steers clear of the regulations of the Patent Office; it sweeps from the books of the Patent Office every remaining vestige of right which those parties have. And this, too, by a legislative adjudication contrary to any precedent that can be shown, or in fact that ever did exist. It is enormous.

I have begged and prayed of Mr. Moore to take a simple extension of his patent; but he will be contented with nothing short of having, by a legislative adjudication, this exclusive right and privilege given to him. Who here, that represents an agricultural constituency, can go home and tell them we have given to Moore & Hascall, by legislation, the exclusive right to all these things? When our constituents go to buy a harvesting machine of Hussey, or McCormick, or Casey, or anybody else, they will have to inquire, not only Is this a good machine? but, Is there anything in the claims of Moore & Hascall which conflicts with it? The vender may inquire, What is that to you if it conflicts? The answer will be: "This is what it is to me: In the midst of my harvest I may be enjoined from using the machine;" and why? Because Congress, not referring it to the Judiciary or the Patent Office, have positively legislated that Moore & Hascall shall have the exclusive right and privilege of manufacturing and vending, and selling to others to be used and vended, anything in their model, drawings, or specifiations, or anything which can be proved by the mere memory of man that they have used for seventeen years back. "I must go to Moore & Hascall to buy a machine, because I cannot have the privilege of enjoying my machine, but I may be enjoined in the middle of the harvesting season from using another machine, and my harvest will be destroyed."

I appeal to the Senate not to step forward in this manner and take out of the hands of the Judiciary, and out of the hands of the Patent Office, this important question—important to the greatest interests of the country—and place it by judicial legislation in the hands of a company, to constitute a monopoly against which there can be no hope of resistance. I hope the Senate will not do it. Let us amend the bill so as to make it provide for a simple extension of the patent, and then I will support it. Nobody complains that there is no merit on their part. I do not, for one. I am anxious to give them an extension of their patent. I begged them to take it, and I think that if the bill be restricted, we shall pass it with unanimity. I have made myself to a considerable extent, an interested party in this matter, because I represent an agricultural country, and I do not want the farmers of that region to be placed in this predicament. I have begged the parties to take a simple extension of the patent. They will not do it. And now, since they have come to us and asked for legislation, my advice is, that we take this bill and amend it, and make it a simple bill extending the patent of these gentlemen, and then let them have it. In order that this may be done, I move to recommit the bill to the Committee on Patents and the Patent Office.

The motion was agreed to; there being on a division—ayes 22, noes 18.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it had passed the following bill and joint resolution of the Senate:

A bill for the relief of Benjamin S. Roberts;

A resolution to provide for the straightening the eastern boundary line of the naval hospital lands at New York.

Also, that it had passed the following bills:

An act to establish certain post roads; and

An act for the relief of Edward Box.

POST ROUTE BILL.

The bill from the House of Representatives to establish certain post roads, was read twice and referred to the Committee on the Post Office and Post Roads.

INDIAN APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had passed a bill "making appriation for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th of June, 1854;" which was read a first and second time by its title, and referred to the Committee on Finance.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, resumed the consideration of the bill from the House of Representatives making appropriations for the support of the Army for the year ending the 30th of June, 1854; the pending question being on the amendment, as modified, of Mr. WALKER to the amendment of Mr. CHASE, from the Committee on Roads and Canals, to strike out all except the appropriation clause, and insert a substitute, which reads as follows:

That, with a view to the ultimate construction of one or more railroads from some suitable point west of the Mississippi river to some suitable point on the coast of the Pacific ocean, or the eastern line of California, within the jurisdiction of the United States, there shall be detailed from the Corps of Topographical Engineers a sufficient force, whose duty it shall be to proceed, as soon as practicable, to select, survey, locate, and mark, on the most proper and eligible ground, a route, not more than three hundred feet wide, for said railroad; and to make and report to the Secretary of War a map of such survey and location, together with an approximate estimate of the cost of constructing such railroad; and that the sum of one hundred and fifty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expense of such explorations and survey.

SEC. 2. *And be it further enacted*, That, as soon as practicable after said route shall have been surveyed and located, there shall be surveyed, as the other lands of the United States have been heretofore surveyed, six townships wide on either side of said route, through the whole extent of the public lands along such route, the even-numbered sections of which lands so to be surveyed, except sections thirty six and sixteen, shall be granted and patented by the United States, free of cost, in quantities not exceeding one hundred and sixty acres to each person who shall settle upon, occupy, and cultivate the same for one year: *Provided*, That such occupant shall be the head of a family, or, if single, of the age of twenty-one years or upwards—a citizen of the United States, or having declared his or her intention to become such, according to the naturalization laws of the United States; and the odd-numbered sections of said land shall be sacredly held and disposed of for the ultimate construction of said railroad, and the furnishing and equipment of the same. That said route or routes, for the road or roads herein provided for, to be selected by the President of the United States from among those surveyed, he having due regard to the expense, grades, intercourse, commerce, and military defenses and protection of the whole country.

Mr. WELLER called for the yeas and nays; and they were ordered.

Mr. GWIN. I suggest to the Senator from Wisconsin to make an amendment to his amendment, to reserve from these donations the mineral lands in California. We cannot submit to their being disposed of in the manner proposed in the amendment.

Mr. WALKER. I will modify my amendment, and state, in justification of myself, that the proposition, as originally drawn up, did contain

this clause, and it will be seen to have been erased from it. The erasure was made at the suggestion of some gentlemen—I do not now remember who—to accommodate them. I shall now accommodate myself better by putting it back, and also accommodate the Senators who are locally interested in the matter.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair will inform the Senator that the yeas and nays have been ordered upon his amendment as it is, and it can therefore be modified only by unanimous consent.

Mr. WALKER. The modification is to insert in the second section, after "sixteen," the words "and such as are known to contain precious metals."

Mr. CHASE. I object to the modification. I hope the question will be taken on the amendment as it is.

Mr. RUSK. The object of the Senator from Wisconsin can be obtained by offering that as a proviso, after the amendment is agreed to.

Mr. BRADBURY. I have not had an opportunity of reading the proposed amendment, and I would like to inquire where it is proposed that the road shall commence, whether in a State or in the Territories?

Mr. WALKER. It is to commence at some suitable point west of the Mississippi river.

Mr. BRADBURY. It has been urged that the effect of the building of railroads has been to enhance the value of the alternate sections, so that those left will be equal in value to the whole without the road. We propose the preliminary measures of building a road by the aid of land and money. Then, by the aid of land and money, we are to construct a road that is to double the value of the alternate sections; and having thus increased the value by taxation to raise the necessary money, then we give them away. I would submit that it would seem to be enough to give them away without this enhanced value.

Another idea presents itself, and that is, whether we may not ultimately need all the lands along this line to build the road.

Mr. GWIN. Has the modification of the amendment to the amendment been made?

Mr. WALKER. It has not, because it has been objected to.

Mr. WELLER. I understand the proposition made by my colleague has not been acceded to by the Senator from Wisconsin——

Mr. WALKER. Yes, it was.

Mr. WELLER. For the reason that objection was made by the Senator from Ohio.

The PRESIDING OFFICER. The state of the case is this: The yeas and nays having been ordered, it was not in the power of the Senator to modify his amendment without the consent of the Senate; and it being an amendment to an amendment, the modification proposed could not be moved to it.

Mr. WELLER. I desire to say that I shall vote for the amendment of the Senator from Wisconsin, with the distinct understanding that unless there shall be a proviso subsequently added to it, excepting those mineral lands, I shall vote against the whole of it, because it would be unreasonable to give one hundred and sixty acres of mineral lands in California to any individual.

Mr. GWIN. I understand that if the amendment to the amendment is agreed to, it can be amended afterwards.

The PRESIDING OFFICER. Certainly.

Mr. CASS. Mr. President, I desire to say a few words on the question immediately before the Senate. The subject of the homestead bill, that bill equally politic and just, which proposes to grant land to those who are destitute, has been brought into discussion, though connected rather incidently than directly with the matter now pending. I have more than once expressed in the Senate my sentiments in favor of that great measure. I have voted for it upon all occasions when the question was raised for taking it into consideration, and I shall continue to do so until the object is accomplished. I do not, however, propose now to repeat what I have before said. I shall content myself with remarking, that the measure is called for by the very highest consideration which can influence the action of the National Legislature. I know of no step we can take better suited to the nature of our institutions, to the condition of our country, and to the wants of society, than the granting of moderate portions of our remote immense domain, much of which must remain unocupied for ages, to persons unable to purchase, but who are willing to emigrate there and settle upon and improve the lands. It will relieve from want and depression, and stimulate to increased activity and exertion, a large portion of our population, by holding out to them the prospect, the certainty indeed, of an honorable competence for themselves and their families. The measure will add to the strength of the country, to the resources of the country, to the productiveness of the country, and to all the other elements of national power and prosperity. It would not be less important by its example abroad than by its effects at home. It would offer to the other nations of the world a glorious example, which would do more for the cause of rational liberty than any other event in our history. It would exhibit a care and a consideration for struggling millions rarely found in the progress of human governments. Instead of wringing from industry its hard-earned reward, it would be giving to industry the means of advancement and an incentive to greater exertions. And it would accomplish its great work at a very small sacrifice, for ages must pass away before those immense regions will yield to human enterprise, unless this mode of disposing of them is adopted, and in the mean time they must remain a desert waste, useless and valueless.

With respect to the amendment of the Senator from Wisconsin, [Mr. WALKER,] I cannot vote for it, for reasons which to me are entirely satisfactory. It does not propose to grant land to those who have none, but to all, rich or destitute, landlords or landless, who choose to go there. Not only so, but there is no restriction; for a man may make a location this year, and another next year, and so on till the end of his life. The term of settlement is too short. One year is not enough, nor will it insure improvement enough, to secure the residence of the settler, which is an important object sought to be obtained. Better for his family that the term should be longer; for they will be thus placed for some years beyond the chances of improvidence. But, sir, there is a still stronger objection to this measure. The moment the road is located the right of selection commences, and every Senator knows that along the route there will be many valuable positions, which will be first sought; and who will obtain them? Not the poor man; for he must take time, and travel slowly to get there, and especially if he has a family. Not so with the speculators. They will explore the country as the road goes on, and find out the sites for towns, the good land for farms, and, indeed, all the valuable tracts along the route; and they will employ men to occupy these, and, at the end of the year, they will procure conveyances for them; for it will be observed, that there is no guard thrown around this matter at all, no oath of settlement, as in many of the preëmption laws. And I have known a great deal of fraud practiced even in cases of that nature, much better protected than this is by the provisions in this bill. There is a great want of detail in the provision, and it strikes me as very loose. And besides, if I understand the proposition, it holds out a pledge on the part of the Government for the construction of this road. The settler is induced to go into that region in consequence of the prospect offered to him of his tract becoming valuable by means of this great improvement; and there cannot be a doubt that we should be required, by good faith, to fulfill this obligation. Now, sir, though I want the road, I want to know all the terms and conditions connected with it before I commit the Government to the work. I want to know how much of it is to run through various States, and how much will be within the Territories. And I want to be sure that the former will be constructed agreeably to my views of our constitutional power, by the authority of the States themselves, and by grants of public lands, and not by money from the Treasury. It will be observed that the western terminus of the road is the eastern boundary of California, or San Francisco, seven hundred miles beyond, and the eastern terminus is equally indefinite; for it may be anywhere in the valley of the Mississippi, upon the bank of that river, or hundreds of miles west of it. Now, I am not disposed to grant such latitude of discretion to any officer whatever. It is not necessary, and should not be done.

Mr. DOUGLAS. I do not see the force of the objections urged by the Senator from Michigan. The amendment simply proposes that these alternate sections of land shall be reserved for the construction of the road, and authorizes the President of the United States to make a survey, to ascertain the best line for its location. It leaves to future legislation to devise the mode in which that road is to be made. It does not involve the question now whether any money is to be appropriated or not. The presumptions are rather against the appropriation of money, because there is land enough set apart to make the work. And if it goes within the limits of a State, it does not involve any one of the objections which the Senator from Michigan entertains, for it is only the appropriation of land for the purpose; and he has always been, and is now, an advocate of the system of appropriation of lands in aid of public works in States where the land is situated. Hence it involves not one of the objections urged. It leaves us free to devise the plan, the mode, and means by which the road shall be built. It only guaranties the application of the alternate sections, in a manner hereafter to be provided for, to the making of the road.

Then, again, the Senator objects that the amendment is not specific enough as to the limitations to be made upon the settlers on the alternate sections; and he apprehends that speculators will send on young men who will settle for them the most eligible sites. I did not suppose that any man, who had ever lived in the West, would believe that speculators would ever employ men to go and settle on the lands, and make the requisite improvements, in order to secure to themselves the right, when they could buy the land for one fourth the sum that it would cost to hire a man to make the requisite occupation and improvements upon it. Every man who should send a tenant or agent to go and take possession of land and hold it for him, would find that he had made a bad bargain. The fact is, these alternate sections will be taken only by those who wish to live upon the land, who wish to raise the supplies for emigrants and laborers employed in making the road.

Mr. CASS. I wish to ask one question, and that is, how any man can buy one foot of land until the law provides for its sale long after these settlers are there?

Mr. DOUGLAS. I do not suppose any man can buy one foot until it is surveyed and brought into market. But the Senator from Michigan understands very well that land can be appropriated and occupied, and become valuable by settlement without buying it. He knows—and if not, I can inform him—that the whole northern portion of Illinois, across from Chicago to Galena, was settled and occupied, and that large towns were erected, and immense manufacturing establishments built up upon the public lands, before any man had a title to an inch of it.

Mr. CASS. I understood the Senator to say, in order to obviate the objection that persons would be sent there with a view to get possession of the land, that persons would buy it. Now, they cannot buy it because it is land appropriated to settlers.

Mr. DOUGLAS. I will try to make myself understood. Here are these alternate sections open to settlers. Any actual settler who chooses may go and live upon them, and anybody can go on to the land and settle outside of the reservations before the lands are surveyed, under the general usage in the settlement of the whole country. Then the whole country is open to settlement, on the outside, and the idea that a speculator will send young men into that region where all the lands are vacant, to hold a tract of land for him, is a difficulty which never suggested itself to my mind. I have not the slightest difficulty on that point. The question is, will we set apart land for a railroad or not? A certain portion of the Senate are willing to give lands, but not to give money. We have tried land and money, and we have failed, and now we are trying the isolated proposition of land; and the simple question presented is, is this Senate willing to give land for the road, and leave the plan of the road open, to be determined hereafter? I ask every man, therefore, who is willing to give land for the purpose, to stand by this amendment. I believe the proposition to be clear and explicit, and that it presents only the

simple question, whether we are willing to appropriate land for the road or not.

Mr. GWIN. I desire to make a suggestion to the Senator from Wisconsin. I think he had better withdraw his amendment. The constitutional doubts of the Senator from Michigan [Mr. CASS] destroyed the Pacific railroad bill last Saturday. When he expressed doubts, the bill was destroyed, and this amendment will be defeated in the same way; and therefore, I think, instead of wasting time in its discussion, it had better be withdrawn. The suggestions made by the Senator will have the same effect upon it as they had on the railroad bill last Saturday. It is a very doubtful question whether this railroad bill ought to be put on the Army bill or not. It is a difficulty this amendment has to contend with, and with the suggestion of the Senator from Michigan, it is evidently destroyed. I think, therefore, the Senator from Wisconsin had better withdraw the amendment, and waste no more time with it.

Mr. CASS. Mr. President, I consider the remarks of the Senator from California [Mr. GWIN] in bad taste, and entirely uncalled for. He gives to me factitious importance by intimating that I raised doubts which destroyed it.

Mr. GWIN. Not my bill.

Mr. CASS. Well, the Pacific railroad bill. Now, sir, I prefer the integrity of the Constitution to the favor of the honorable Senator, much as he knows I regard him. But, sir, the Senator is wrong when he speaks about my doubts. I had no doubts at all. I had a settled conviction that two provisions of the bill were palpable violations of the Constitution. Now, how stands this matter, and what just cause of complaint has the Senator from California? He presented a project of a great work, which I am as desirous to see accomplished as he is. But the bill contained two provisions which in my opinion violated the Constitution. I suppose it will hardly be contended, that with this difficulty staring me in the face I ought to have voted for the bill. What these objections were the honorable Senator knows full well, as does every other member of this body. One was, the assumption of the power on the part of the United States to establish a corporation within the limits of the States; and the other was the power on the part of this Government to lay out and establish roads, and to exercise jurisdiction over them, in every State in the Union and in every part of such States. For that is the necessary extent of the principle, if once assumed to exist. I hoped sincerely that these difficulties could be removed, and one of them, the incorporation, was removed by being struck from the bill; the other was retained; and to have voted for the bill in such a case would have been to sacrifice my convictions of constitutional duty. The fact is, there was no real difficulty, in my opinion, in the way of passing a practicable bill upon this subject. A grant of land in the States, and the construction of the road there under the authority of the State governments, in the mode sanctioned by repeated experience, and its construction in the Territories under the authority of the United States, by a grant of any reasonable amount of land and money, would have insured the accomplishment of the work. For all this I was anxious to vote, and for its failure I am not responsible. Let those assume the responsibility who asked too much, and to whom, therefore, the responsibility justly belongs.

Mr. GWIN. The bill which I brought forward appropriated land for the construction of the road. The Senator objected to that because it was too large. He wanted a road, but no branches; that was his objection to my bill. When the bill which was reported from the Select Committee, providing for a road without branches, was under consideration, I had not a doubt but the Senator would vote for it. I never heard that the Senator had any constitutional objection to it until four o'clock on Saturday, except in regard to the incorporation section, which it was known that the chairman of the committee which reported the bill intended to have stricken out. At four or five o'clock on Saturday evening, when we were momentarily expecting the vote on the engrossment of the bill, the Senator sprung the constitutional question on us. The relation existing between that Senator and myself, and my honest conviction that he was in favor of the bill, would have justified my being notified that he had a constitutional objection to that portion of the bill. But he never spoke to me; he may have gone to others. That is the objection I have to his course. When the Senator stated that unless the incorporation section was stricken out he could not vote for the bill, we naturally thought that he would vote for it when that difficulty was removed. His language is capable of no other construction. That section was voted out of that bill to accommodate the scruples of the Senator and others. Still, at five o'clock on Saturday, just as we were expecting the final vote, the Senator brought forward his constitutional difficulties on another principle contained in the bill, and made a speech on it at that late hour, after a six hours' sitting, and after the bill had been so long before us. The attempt to amend the bill to accommodate his views on this subject, defeated it, and that defeat has inflicted a deep and lasting injury upon my State, and I therefore feel fully justified in the remarks I have made.

Mr. CASS. Mr. President, the remarks which have just fallen from the gentleman from California [Mr. GWIN] are still more extraordinary than those upon which I have just commented. Time and again in my place in the Senate, I have expressed my views upon this subject, and stated my conviction that this Government possesses no power to establish and exercise jurisdiction over the roads within the States, and I did not suppose there was a member of the Senate who had the remotest idea that I would vote for such a proposition. If he had it was his fault, not mine. This view will be found in every speech I have made on the general subject of internal improvements, and especially in the remarks I made at the last session, on the question of the construction of a canal at the Sault Ste. Marie. With respect to what the Senator says about my not urging this objection until late in the discussion, I have but a brief reply to make, for a brief reply can only be necessary. I do not understand what the question of time in the presentation of this objection has to do with the fate of the measure. Its effect, whatever that was, would have been the same, whether urged at the commencement or the termination of the discussion. But the fact is, sir, I stated my views upon this point the first time I had the opportunity, after the measure was brought into discussion. When the question of the power of incorporation was presented, I gave my opinion upon it, and when the question of jurisdiction was presented, I gave my opinion upon that also. I do not understand that I am under any obligation at an early point of time in a discussion, to present my views, and it is certainly not a little strange to hear it contended that because a member is not among the first to urge his objection, therefore he is committed to the details of the bill. I subscribe to no such doctrine. I took my own time to express my own convictions, as I had a right to do, and no one was justified in drawing any conclusions favorable or unfavorable to my action upon the bill, because I took part after others in the discussion.

Mr. WALKER. I shall advert to one of the objections raised by the Senator from Michigan to this proposition. It is, that under my amendment speculators by hundreds and thousands will employ persons to go upon and occupy the lands. Now, bear in mind what I stated yesterday, that this is a provision to enable the Government to avail itself of the enhanced price of its land, in order to build the road, and then put that together with what the Senator has said, and does it not make out my case completely? Suppose these hundreds and thousands of speculators do send men to the land to occupy, cultivate, and improve for one year, will it not accomplish everything? The settlement of that portion of the land which is to go to the settlers, will appreciate or enhance in value that which the Government is holding for the ultimate construction of the road. The objection that I had heard made before this proposition was offered, was, that the country would not settle under the provision of the bill. Now, we have the great and weighty opinion of the Senator from Michigan, that it will not only be settled by those who are willing to go there of their own accord, but that hundreds and thousands will employ others to go there and settle. Good! The road is made certain if that is the case.

I said yesterday that this was not what properly fell under the provision for a homestead bill. We are struggling for that. It is a separate, independent measure. Let it come on its own strength, and if the people's voice be heard it will be adopted. But this is a different scheme. It is a plan to build a railroad; and I rejoice exceedingly that the great and weighty opinion of the Senator from Michigan is in favor of the fact that the land will be settled. I hope he will employ a thousand himself to go there. Let them all settle upon the alternate sections which are to be granted to settlers; let them fence in and improve farms; and when that is done, the Government's reserved sections will not sell for less than five or ten dollars an acre; and that will be sufficient, without a dollar from the Treasury, to build the road; and, besides all the advantages which I enumerated yesterday—the distribution of laborers and provisions and tools, and an armed troop of militia, guarding their own firesides—that is what it will do. I hope the prophecy of the Senator from Michigan will be correct, and that not only hundreds of thousands will go there of their own accord, but that others will be sent to improve the value of that land which the Government holds for the construction of the road, for they will be doing a public and national benefit, and will be contributing to the construction of the road, which will be a national work, for it will, in fact, connect the extremes of the Union.

Mr. BORLAND. Mr. President, the objection which is raised by the Senator from Michigan to this amendment struck me as the most extraordinary—I say it with all deference—that I could have conceived of, following as it did his remarks in regard to the homestead bill, and following his remarks made the other day upon the railroad bill which we had before the Senate. The other day, we found the Senator expressing, not only a willingness, but an anxious desire to appropriate large bodies of public land along the road, and $20,000,000 besides, for the purpose of making the road. We hear him to-day expressing his desire that the homestead bill shall pass, where, without any direct, but only for a contingent and general return to the Government, he is willing to give any man, who chooses to go and settle them, one hundred and sixty acres; and now, when a proposition is before us, not to give money, but simply to lay the foundation for this great road by granting the right of settling and ownership to the alternate sections along the course of the road, by which, as every one must see, its construction will be insured, he objects to the very principle involved in the homestead bill—the very principle involved in the bill advocated the other day—that the land perchance may, after it has got into the possession of the settler, fall into the hands of speculators. I may be dull, I may be unable to see the demerit of this question, but the Senator's argument strikes my humble comprehension as most extraordinary under the circumstances. He is willing to give land and money to build the road; he is willing to give every man who settles one hundred and sixty acres, whether he returns any equivalent or not; and yet when we propose to give only a portion of the public lands to actual settlers when this great good is to be accomplished, he objects. I say nothing of the motives or purpose of gentlemen, but the effect of such objection must inevitably follow to destroy any proposition whatever for the construction of a road.

Mr. RUSK. This proposition commends itself to me in various ways. I apprehend that nobody will say that it is unconstitutional to go to California over our own territory, although the reasoning would seem to lead to such a conclusion. I apprehend no man will come forward and say that it will be unconstitutional to find a means of traveling for those of our fellow-citizens who desire to emigrate to the shores of the Pacific over our own soil. It is a matter desirable in every sense of the word. Our citizens have gone there, since the time when we acquired the territory in California, with all the dangers incident to traveling through the Indian country; and for a distance of about fifteen hundred miles there has been no resting-place, no place to obtain supplies. No one could settle there, because the United States owned the land, and there was no means of obtaining a title to it, and hence it continues to remain a desert through the laches of this Government. You expend millions every year for the defense of the frontier and the protection of a portion of the routes to California. This proposition is an inducement offered, an inducement which the Senator from Michigan himself says he is in favor of

holding out with respect to the whole territory of the United States. It is an inducement offered to the most hardy, most intelligent and enterprising of our citizens to go and settle upon the lands. It is saying to them, If you will go and settle down and protect the road, and raise provisions for the emigrants along the route over our own territory, from one extremity of the Republic to the other, we will give you—what? The enormous boon of one hundred and sixty acres of land! You propose to give that enormous boon; and the Treasury is to be guarded against such extravagance in behalf of the citizens! If constitutional notions do not come in, notions of economy do, and you are to guard the Treasury against the allowance, the prodigious allowance, of one hundred and sixty acres of land to every head of a family who will go and settle down for one year, and protect the emigrants, and provide food for them! What sort of economy is this? I venture to say that you have not a soldier in that territory that does not cost you, every year, $300. Your land that you propose to give, at the outside, would not be worth more than one dollar and twenty-five cents per acre, so that, in fact, you give less than $200 to each settler, while every soldier costs the Government $300. One of these men will be worth a dozen soldiers. They will be hardy men, trappers, and men that will labor for a living—men that will fight for their country—who will go and settle there, and each of whom will do more than half a dozen soldiers. Soldiers will effect nothing in such warfare, except when you place them at posts, where they afford a sort of security, while they furnish a market for the products of the honest and industrious men who settle near them. Inhabitants of this description will go and settle around them, and defend the country. But the Treasury is to be guarded against such men!

The amendment does not propose to construct a railroad. It only reserves a certain portion of the land which may be selected by the President of the United States, as a fund for the construction of a road hereafter. No preparations whatever are made for a road; no appropriations are made for a road; no committals whatever are made, unless that be a committal which establishes a line of settlers from the frontiers of the Atlantic slope to the frontiers of the Pacific slope, giving security, comfort, and sustenance to thousands of our fellow-citizens who travel across the territory with their families. Unless such a proposition be a pledge, there is no pledge given for the construction of the road.

Sir, we can pay a million of dollars for the transportation of the mail to California, across the Isthmus, and nothing is said about economy. We can go into a contract for a million of dollars for transportation on another route, and nothing is said about economy. Nay, we can go to war with Mexico, for another route, over a country where we have no jurisdiction, and the phantom of economy does not haunt the gentleman's imagination. We must have all the balance of the world, except that which belongs to us; we must have roads everywhere, and lay out millions for transportation through a country that does not belong to us, but we must not give the boon of one hundred and sixty acres of land to the hardy pioneer who will go and defend the emigrants and himself against our enemies. That is a speculation! Sir, if so, it is a sort of speculation that few members of Congress would enter into. There are but few of the men here who are ready to go to war with all the world and the rest of mankind, and prescribe rules and regulations for governing the nations of the earth, who would go and settle upon that route, and risk for twelve months the chance of having their scalps taken off by the Indians.

Mr. CHASE. I wish to say a word or two further in respect to this amendment. My friend from Texas is extremely anxious for the construction of this road. He objected to my amendment yesterday, that it did not provide for reconnoissances instead of surveys, and would therefore, he feared, delay the construction of the road. Now, what have we in this amendment? I ask the attention of the friends of the road to what I now say. This amendment of the Senator from Wisconsin provides for detailing a sufficient force from the Corps of Topographical Engineers, for the survey of the route. It confines the survey to that corps. It does not authorize, as the former bill and my amendment authorize, the employment of other engineers. Then what is required? "That they 'shall proceed, as soon as practicable, to select, 'survey, locate, and mark, on the most proper 'and eligible ground, a route not more than three 'hundred feet wide for a railroad." When will that work be finished, under the direction of the Secretary of War, by the employment of the Corps of Topographical Engineers alone? In my judgment, not in the next five years, and I say to the friends of this road, that the effect of this amendment, although not so designed, will be to postpone indefinitely its construction.

Well, sir, then after we have got the map of this road, thus surveyed and marked over all this distance, a report is to be made to the Secretary of War. For what purpose? Either for his approval or disapproval. But without respect to his approval or disapproval, the second section of the Senator's amendment proceeds to devote to the construction of the road thirty-six miles in width throughout its whole extent; so that whether the Secretary of War approves or disapproves, this vast appropriation must stand. The practical effect of it, it is true, may be to enforce the sanction of the Secretary of War to the marked-out road. Practically it will transfer the selection of the route from the President to the Corps of Topographical Engineers. I see nothing here which commends this amendment to me as a friend of this road, and I repeat there is no Senator upon this floor who is a more earnest friend to it than I am. There is nothing which should commend it to any friend of the road.

There is another class of Senators who have manifested some disposition to vote for this amendment, because they conceive that it embodies the principle of the homestead bill. Now, my friend from Wisconsin [Mr. WALKER] candidly tells the Senate that it does not embody the principles of that bill at all. It authorizes the selection of alternate sections by actual settlers along this route, it is true, but these grants are not restricted to those who have no other lands. The selecters may be employed for the purpose by the company constructing the road, or by individual capitalists. The Senator frankly admits this, but says the settlement of the lands will be promoted. Now, in my judgment, it will not secure the settlement even, but it will secure this: it will secure the appropriation of every valuable point along the whole line of the road by the company employed in its construction, or by speculators. That is what it will secure, and nothing else. You cannot settle the lands faster than you can find settlers. The people will not turn out *en masse* and settle this strip of land from the Mississippi valley to the Pacific. Enough will be ready to go out under the auspices of a company or wealthy capitalists, and select and appropriate the valuable points. Very few indeed will be the sections which the landless man will get. Such, in my judgment, will be the effect of this amendment, so far as the grant of the alternate sections is concerned. Besides, Mr. President, the provisions of this amendment are unprecedented in our legislation. It appropriates six townships on either side of the road. How wide is that? Seventy-two miles. Of this enormous tract, thirty-six miles in width are to be appropriated in this way, for settlement. The other thirty-six miles are pledged to the construction of the road, we do not know how. It may be that these tens of thousands of square miles will be granted to a company; it may be that the work will be done, and the lands appropriated under the immediate direction of the Government; it may be in some other way, we cannot tell how. Everything is left indefinite and uncertain. Nothing is certain but that you pledge the lands for fifteen hundred or two thousand miles in length, seventy-two miles wide; thirty-six miles for settlement, the other thirty-six for construction. Now, I desire to submit, whether it is best to go into a scheme of this sort in preference to having a simple survey of as many routes as may deserve examination, in the opinion of the President, and combine as far as possible private enterprise with public resources?

Mr. WALKER. If we take the argument of the Senator from Ohio, and keep in view the fact that this is a proposition to construct the road, does not his argument prove the propriety of the amendment? Suppose the fact that these lands should be taken by a corporation, it must be done on the provisions of the amendment, and that is on cultivation for one year. Suppose it should be done by the veriest speculators in the whole land, would not the effect of the settlement of the lands be to enhance the value of those which the Government pledges for the road? Who can deny, then, that this will construct the road? Does not the Senator bear in mind, when he speaks of this extent of country, that the effect of my amendment will be to settle it? When settled to the extent supposed, it will beget of necessity territorial, and ultimately State governments, and that, too, in a very short period of time, and as soon as they are organized, we can have this road constructed under the authority of the local Legislatures, and hence obviate the objection which I and others raised here to the General Government entering into this matter. But, while this is the land of the Government, it is an incipient step to procure that state of things to secure the road, and every argument made here in reference to the settlement of the land, is an argument to support the assumption that it will make the road.

Now, take another view of this case, as borne upon the argument of the Senator from Ohio. He says that at first those in favor of the homestead bill were expected to vote for this amendment, because it embodied its principles, but that I have now disavowed it. Because I have said this is not the homestead bill, does it necessarily follow that those who are in favor of the homestead bill must go against this amendment? Is every homestead man so wedded to that proposition that he can vote for nothing else? Cannot a homestead man look to the great interests of the country in view of this railroad, and vote for no proposition that does not cover the principles of the homestead bill, while it is perfectly demonstrable that this proposition will make the road? I hope the gentleman does not take that ground. He is a homestead man, and yet the other day he voted with those who proposed another plan to construct this road through a great extent of territory, and I believe he held on longer than I did. The proposition which he supported embodied none of the principles of the homestead bill, and yet he was for it. This measure does not necessarily drive from its support those who are in favor of the homestead bill when it comes up. It is, as I have avowed, not the homestead, but it is a proposition to secure the completion of this road; and I have not heard an argument from its opponents which does not go to prove that it will be successful, and if successful for the consummation of this great work which is conceded to be necessary, why should it not be adopted? I do not believe any argument can be used which will show that it is not adequate to the end.

Mr. GWIN. I hope that we shall have a vote upon the question. It is perfectly evident, Mr. President, that we must press forward the appropriation bills or we shall be swamped even in the Senate in considering them. We have but five more days of the session remaining, and all the important appropriation bills are yet to be acted upon. I know perfectly well that the debate which has been going on for two days on this bill has killed off the homestead bill, and we cannot get that up at this session. It has also killed off Bennett's land bill, and every other measure in my opinion, except the appropriation bills. My friend, the chairman of the Committee on Finance, has not been crowding this bill upon the Senate, because he wants the bills I have named postponed to another session, and he does not care how long we debate this question here, because he knows, after the constitutional doubt this morning from the Senator from Michigan, [Mr. CASS,] this amendment will be defeated, and then nothing but an appropriation bill can have any chance for consideration in this body. This is his object; and he has played his game very successfully, and he is playing it now with great skill. He sits here perfectly quiet, and lets those of us who want the homestead bill and other measures passed this session, fight among ourselves, and consume the precious time of the session which we could so much better employ in considering the homestead bill. He therefore will accomplish his object by allowing this debate to go on. I want to vote; I want to dispose of the bill, so that we may act upon something besides an appropriation bill; if this discussion continues we never shall.

Mr. PRATT. I hope the expression of the desire on the part of my honorable friend from Cali-

fornia, that we shall have a vote, is not intended to cut me off.

Mr. GWIN. Not at all.

Mr. PRATT. I do not intend to detain the Senate from voting on this and other subjects by taking up their time unnecessarily; nor do I rise to engage in the strife, amicable as it is, which exists between my honorable friends from California and Texas on the one side, and my honorable friend from Michigan on the other. I recollect a line of Virgil that is applicable to it:

"Non mihi tantas componere lites;"

which, put into plain English, means that it does not become me to interfere with the strife between those Senators. But I rose for the purpose of stating, in a very few words, the reason why I shall be compelled to vote against this amendment, though I have evinced as much friendship for the road contemplated to be made as either of those Senators.

The Senate will perceive that the amendment before us makes a gift of seventy-two miles of alternate sections to settlers, and seventy-two miles, not for that route on which the road is to be made, but that route which is surveyed. The amendment of my honorable friend from Texas, which has been adopted, as I understand, is, that the President is not only to survey, according to the original plan of the Senator from Wisconsin, one route, but to survey one or more railroad routes. If, therefore, he should find it necessary, for the purpose of ascertaining which might be the most practicable route, to have four or five routes surveyed, this appropriation would give to settlers alternate sections for seventy-two miles on each of those routes. If half a dozen routes should be surveyed, this amendment would appropriate seventy-two miles of alternate sections for each, though one road only would be made. I rose merely for the purpose of making that objection to the amendment, and of saying, as a friend of the Pacific railroad, that I believe the true plan on the part of those who are in favor of its construction, will be to make an appropriation for the purpose of having all the routes surveyed, and for no other purpose; so that when we meet here again at the next session, we shall have all the routes before us, and be enabled to select that which is best. I believe that that now is the only practicable measure which we can adopt.

The question being taken by yeas and nays, on the amendment of Mr. WALKER to the amendment of Mr. CHASE, resulted—yeas 17, nays 32; as follows:

YEAS—Messrs. Atchison, Bell, Borland, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Gwin, Houston, Jones of Iowa, Jones of Tennessee, Rusk, Seward, Shields, Wade, Walker, and Weller—17.

NAYS—Messrs. Adams, Badger, Bayard, Bradbury, Bright, Brodhead, Brooke, Butler, Cass, Charlton, Chase, Davis, Dawson, De Saussure, Fish, Fitzpatrick, Foot, Hale, Hamlin, Hunter, Mangum, Mason, Miller, Morton, Pettit, Phelps, Pratt, Smith, Spruance, Sumner, Toucey, and Underwood—32.

So the amendment to the amendment was not agreed to.

The question recurred upon the amendment of Mr. CHASE, upon which he called for the yeas and nays.

Mr. BORLAND called for the reading of the amendment; which was read, as follows:

Add the following as additional sections:

SEC. —. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and surveys as he may deem advisable, to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean, and that the sum of $150,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of such explorations and surveys.

SEC. —. *And be it further enacted*, That the engineers and other persons employed in said explorations and surveys shall be organized in as many distinct corps as there are routes to be surveyed, and their several reports shall be laid before Congress on or before the first Monday in February, 1854.

SEC. —. *And be it further enacted*, That, in making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session.

The question being taken by yeas and nays on the amendment, resulted—yeas 31, nays 16; as follows:

YEAS—Messrs. Atchison, Badger, Bayard, Borland, Bright, Brodhead, Cass, Charlton, Chase, Clarke, Dodge of Wisconsin, Dodge of Iowa, Downs, Fish, Foot, Gwin, Hale, Houston, Jones of Iowa, Jones of Tennessee, Miller, Pratt, Rusk, Seward, Shields, Smith, Spruance, Sumner, Underwood, Wade, and Weller—31.

NAYS—Messrs. Adams, Bradbury, Brooke, Davis, Dawson, De Saussure, Fitzpatrick, Hamlin, Hunter, Mangum, Mason, Morton, Pettit, Phelps, Toucey, and Walker—16.

So the amendment was agreed to.

Mr. MASON. I offer the following amendment as an additional section:

SEC. —. *And be it further enacted*, That in the adjustment of the accounts of the State of Virginia, under the twelfth section of the act approved August 31, 1852, the Secretary of War be, and he is hereby, directed to follow the provisions of the act of the 2d of June, 1848, providing for refunding to the several States the amounts expended by them in raising regiments of volunteers for the Mexican war.

The amendment was agreed to

Mr. MASON. I have another amendment to offer. It is to insert after the appropriation for the armory at Harper's Ferry the following:

And the amount received from the late and future sales of Government land belonging to Harper's Ferry armory, may be carried to the same appropriation, and applied to similar objects under the direction of the Secretary of War, including the streets and highways in use for armory purposes.

Under the existing law, the Department of War is authorized to carry to the armory appropriations the moneys that are realized from the sale of refuse materials belonging to the United States. Recently, Government sold a portion of its property at Harper's Ferry which was no longer in use, consisting altogether of lots of land, without buildings upon them. The Secretary has decided that, under the law, he has no authority to carry that amount to the uses of the appropriation for repairs and improvements at Harper's Ferry, and this is to authorize him to do it. The propriety of it will be evinced by the fact that the Government would thus be using the money from the sale of the property to improve the residue. It is recommended by the Department.

The amendment was agreed to.

Mr. BORLAND. I am directed by the Committee on Military Affairs to offer the following amendment as an additional section:

And whereas a discovery has been made, and is now in practice, whereby the human body can be rendered safely insensible to pain in dental, surgical, and obstetrical operations, by the use of what are commonly called anæsthetic agents, and the Government of the United States has been and is in the enjoyment of said discovery in the military and naval service; and whereas it is established that the discovery was made by some one of the persons following, to wit: William T. G. Morton, Charles T. Jackson, each of Boston, and Horace Wells, of Hartford, deceased; but it does not appear to the satisfaction of Congress which of those parties was the original, true, and first discoverer thereof; and whereas Congress is willing to provide a recompense for such discovery when ascertained: Therefore,

SEC. —. *Be it further enacted*, That the sum of $100,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be paid by the Secretary of the Treasury, as hereinafter provided, as a recompense for said discovery and the use and benefit thereof by the Government and people of the United States.

SEC. —. *And be it further enacted*, That it shall be the duty of the district attorney of the United States for the northern district of New York, within a reasonable time after the passage of this act, to file in the circuit court of the United States for said district, sitting in equity, a bill of interpleader, wherein, reciting this act, or the substance thereof, the Secretary of the Treasury, as trustee of the sum herein appropriated, shall be complainant, and the said William T. G. Morton, Charles T. Jackson, and the personal representative or representatives of said Horace Wells, shall be defendants; of which bill they, the said parties, shall take notice, and may appear and answer and make proofs; and the said circuit court shall have jurisdiction of said case, and the same shall be tried in the manner and according to the practice of such court in equity cases, and the issue therein shall be which one of the said parties first named was, according to the principles of the law of patents in the United States, the original, true, and first discoverer of the discovery hereinbefore recited; and, by final decree in such case, the court shall decide that issue, and shall direct that the said sum of $100,000, without any costs, shall be paid over to the party who shall be found to have been such discoverer, or to his personal representative or representatives, or assignee: *Provided*, That if one or more of said defendants shall conceive himself or themselves to be aggrieved by said decree, he or they may, within twenty days after the making of the decree, appeal to the Supreme Court of the United States, and thereupon the payment of said sum shall be suspended until final disposition be made of said case by the said Supreme Court: *And provided further*, That if it shall appear that either of said defendants holds a patent for said discovery, or the means of applying the same, which, in the judgment of said circuit court, is valid, then it shall be the duty of said court to certify such fact to the said Secretary, who shall thereupon withhold from such defendant said sum, should the same be decreed to him by the said final decree, until he shall have executed, under his hand and seal, an instrument in writing surrendering such patent, and granting the free use of said discovery, and the means of using or applying the same, to the Government and people of the United States; which instrument shall be lodged in the Patent Office, and entered on the records thereof.

Mr. HUNTER. Is that amendment in order?

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair understands that it is moved by direction of a standing committee, and therefore is in order.

Mr. HUNTER. What standing committee?

The PRESIDING OFFICER. The Committee on Military Affairs.

Mr. BORLAND. I will explain to the Senate the circumstances under which this amendment is presented. This subject must be somewhat familiar to the Senate, and a discussion which took place in regard to it last session will be recollected. A provision was then reported from the Committee on Military Affairs, the same, so far as the amount of the appropriation is concerned, as this. At this session a select committee was appointed to take the subject into consideration, and they have reported the proposition which has been read to the Senate. Under the rule it was found that a select committee was not authorized to offer to an appropriation bill an amendment proposing an additional appropriation. For the purpose of complying with the rule, the Committee on Military Affairs have taken the subject into consideration, and directed me to offer it as an amendment on the part of that committee, to this bill. That, I apprehend, brings it within the rule.

I do not wish to occupy the time of the Senate hereafter on the subject, and therefore, while up, I will state the grounds on which I advocate the adoption of the amendment. The discovery or application of the use of sulphuric ether for the purpose of rendering the human body insensible to pain, and thereby increasing the safety and comfort of persons who have to undergo surgical operations, is admitted, on all hands, to be very valuable. In addition to this general admission of its great and incalculable value to the human family at large, we find that in the Army and Navy of the United States, the medical officers in the service of the United States are daily and hourly, and have been for several years, using this agent for this purpose. We have the testimony of medical officers of the Army and Navy of the great and incalculable value of this agent in such applications as a means of practicing their profession successfully, and enabling them to perform their public duties. They consider the value of this agent to the Government in that way as beyond calculation. From this I infer that the Government is daily deriving very great benefit from the use of this remedial agent.

There is, Mr. President, a provision in the Constitution of the United States which confers the power, and makes it the duty of this Government, to secure to the inventors and discoverers of means and processes which are of value to the public, the exclusive right to use those discoveries and inventions for their own benefit. In pursuance of that provision of the Constitution, we have at various times passed laws for securing the rights of inventors and discoverers. We have established the Patent Office for the purpose of carrying these laws into execution. In pursuance of these laws, an individual has come forward and established his right to the exclusive use of this remedial agent. The Government has no more right than any individual in the community to violate the law under which he holds and claims this right; but we find that the Government is in daily and hourly use of it, in violation of the rights of the patentee. The Constitution also provides that we shall not take the private property of any individual for public use without making compensation therefor.

This proposition, therefore, is, in view of the great value of this discovery, and the daily benefits which the Government and its employees are deriving from it, to make some compensation to the individual to whom the right belongs. Upon that ground, the Committee on Military Affairs, at the last session, moved an amendment to an appropriation bill, giving $100,000 to the individual who holds the patent for this discovery. Disputes have arisen between him and other individuals who also claim to be the original discoverers,

and they have contested his right to receive the money, and the propriety of any action of Congress which would give him this compensation. To obviate all difficulty, and to have this dispute settled by the judicial tribunals of the country, a modification of the original proposition is now made. First, to recognize, as we proposed to do before, the right of some one to this discovery, and to fix the compensation to be paid for it; and in addition, to prescribe a mode by which the judicial tribunal shall finally settle the question, as to who is the discoverer, and the rightful recipient of this compensation. Upon these grounds, I think this proposition is commended to the reason and judgment of the Senate.

It may be said, and I think it was said at the last session, that there is no precedent for such a proceeding as this. To those who think so, I would take occasion to remark, that the precedents are almost numberless. I was about to say that at every session, but certainly at a great many sessions of Congress, we have made appropriations to pay for useful inventions and discoveries, and new applications of means to the public service, and the promotion of the public good. We have not only paid discoverers and inventors, for the use of their discoveries and inventions, but we have made appropriations to aid inventors and discoverers in perfecting processes by which they proposed to promote the public good. I need mention no other case than one which will be in the recollection of every Senator. A few years ago, we appropriated $20,000 to enable Professor Page to experiment with his electro-magnetic machine. We have bought a great many things from inventors. One I will mention in particular: A gentleman connected with the Navy of the United States (I think he is a chaplain in the service) made a new application of what is commonly known as the jack-screw, and applied it to cannon as a means of obtaining greater accuracy in directing and sighting cannon; and for that we paid him $15,000 or $20,000—I do not remember which. In that case we paid a large amount of money for the mere application of the old familiar jack-screw, for the purpose of directing and sighting cannon at sea—for the purpose of destroying human life, and inflicting pain with greater certainty and precision, and more deadly effect. Here we propose to appropriate a sum of money to pay the discoverer, or inventor, if you may choose to call him so, of the greatest discovery—it is so admitted on all hands—that has ever been made for the alleviation of human suffering and the saving of human life. I have no more to say.

Mr. WALKER. As chairman of the Select Committee, it may be due to the Senate that I should make a very brief explanation in regard to the manner in which this amendment is brought before the Senate. It may be remembered that this subject was committed to a Select Committee, of which I was made chairman, and for two members of that committee I will say that there was a very great amount of labor assumed. The other members of the committee kindly lent us their attention, and, as far as was in their power, advised with us. After undergoing the labor of investigating the testimony, amounting to hundreds if not thousands of pages, it was finally discovered that under the Senate's 30th rule, the Select Committee was not one of those favored institutions in the Senate which could be permitted to offer an amendment to an appropriation bill. The committee had agreed upon this proposition, but could not offer it. They then had to appeal to a standing committee of the Senate, and they did appeal to the Committee on Military Affairs, who had once reported at the last session an amendment in reference to this matter. That committee kindly consented to present the amendment to obviate the difficulty under the rule, and hence it comes from that committee before the Senate at this time.

A few words in reference to the proposition itself. As soon as the committee entered upon the investigation of the testimony, it was found that the members could not be unanimous in their recommendation in favor of either of the three parties named; in fact, it was deemed improper for Congress to assume to settle this matter as a judicial question. But the committee had no doubt, as far as I have understood the different members, that this was a matter of very great importance, and that to the person, whoever he might be, that made the discovery, high honors and recompense were due. They therefore agreed upon this submission of the question to the circuit court of the northern district of the State of New York, a State in which neither of the parties live, and that that court should decide the issue between the parties as to which was the discoverer, and that when decided, the sum appropriated should be paid to that person.

It is known that at the last session, when these parties were not all before the Senate, I expressed myself with great warmth in favor of one of them. Another Senator, who was upon the committee, expressed himself with equal warmth in favor of another. There were members of the committee whose ideas tended towards a third. It was then a fair understanding and compromise among the members of the committee, that they would not only decline to recommend either of these gentlemen as the recipient of the recompense proposed to be paid, but that they would relieve Congress from deciding it as a judicial question. It is now for the Senate to say whether it is willing to make this appropriation, to be paid according to the terms of the proposition, to the person who shall be determined by a court of justice to have made the discovery.

Accompanying the amendment is a report which has been printed, and which contains as an appendix to it, a large list of those cases constituting precedents in this matter, and the committee, in their report, refer to a class of cases where Congress has gone far beyond the limits proposed in this amendment. That class is that in which Congress has stepped forth and appropriated money in advance to aid discoverers and inventors in perfecting their discoveries and inventions. Three cases are particularly alluded to in the report—those of Professors Morse, Page, and Espy. One of these has perfected his invention; another, I believe, is yet in progress; and one, I think, has abandoned it. Congress in these cases showed its disposition to promote the welfare of the country, by lending its aid to those engaged in these great enterprises.

If I could allude to what brought me immediately to know the value of this discovery, I might express myself with more direct feeling than any other member of the Senate, for I know not whether any other member has had the misfortune of having had this great alleviation introduced into his family circle. I have; I have seen a member of my family, now dead, suffering under the surgeon's knife, lying in a calm and peaceful sleep, and yet undergoing one of the most torturing surgical operations in the world. I felt at that day, rising in my heart, the feeling that if God should ever give me the opportunity of manifesting my gratitude to the person who has made this great discovery, I should do so. The opportunity is now offered. It is entirely immaterial to me who the discoverer is. Whoever may be decreed by a court of justice to have been the discoverer is the person to whom I wish my gratitude to go. Whether the Senate will sympathize with me of not, I know not; but it is now for them to speak, and to decide by their vote.

Mr. HUNTER. Mr. President, it is time that we should fix some limit to the character and nature of the amendments which are to go upon the general appropriation bills. It seems to me that gentlemen are bringing up all subjects for discussion in connection with them. Here is a plan by which we are to settle what is in its nature (if not technically within the construction of the rule) a private claim. The Congress of the United States are to undertake to decide between discoverers in regard to a principle of this sort. Not only that, but they are to provide for them a reward other than that which the Constitution itself contemplates—I mean whatever they can make out a patent. That is the reward which was contemplated by the Constitution. To that extent the power of Congress goes. I will not say that this is beginning this system, for I acknowledge there are precedents to that effect. But it seems to me that the rule, *malus usus abolendus est*, applies. It is time that we were quitting the practice into which we have run. Where is it to carry us? Every inventor who cannot derive his reward from the public demand for whatever article is his invention, will come to Congress, and ask that we—under some fiction of using it in this or that branch of the public service—shall reward him for his invention.

I do not mean to enter into the question. I do not know who is the discoverer of this remedial agent. It is not our business to determine. There could not be a worse tribunal to ascertain such facts than the Congress of the United States, and if we were to do it, the proper place would be in a separate bill, and not here upon one of the general appropriation bills. If we put this upon this appropriation bill, in connection with many other measures, the result will be that in order to obtain means for carrying on the Government, we have to vote for a whole *omnibus* of propositions, differing in character, many of them distasteful to us, some of them, probably, pernicious.

What sort of legislation are we to expect if we extend this system further than we have already carried it? It seems to me that it is a sufficient reason to vote against this amendment, that there is no proper place for it upon the appropriation bill now under consideration. We have but a few legislative days left, and all the important appropriation bills are yet to come up. The civil and diplomatic bill is a book of itself, and whenever we come to report it, it will take all the time, and more than all the time we have left, to consider it properly. Unless we make some speed in relation to this bill, we shall not be able to send it to the House to-night, and I understand that by to-night the House of Representatives will have passed upon all the appropriation bills which are before it. We have disposed of none of the important appropriation bills except the deficiency bill. Is it not time, then, that we should be voting down some of these amendments on account of irrelevancy, and if so, to which can we apply the rule with more propriety than to this?

Mr. BORLAND. I am as little disposed as any one to burden the appropriation bills, or to hazard their passage. If the Senator from Virginia had listened to the reading of the proposition, his main objection would have been answered by its very terms. He says that this is not a proper tribunal to determine the question as to who is the discoverer. The proposition is not to determine it, but the reverse. It is to submit the question to the tribunals of the country for decision on the very ground which he assumes, that this is not a proper tribunal.

Mr. HUNTER. I would ask the Senator if this is not taking jurisdiction over the subject? Are we not assuming to say how these questions are to be determined, and thus assuming jurisdiction?

Mr. BORLAND. It is not assuming jurisdiction. It is simply making an appropriation of money, the payment of which is to be contingent on the decree of a court, under the laws as they now exist, and not to prescribe any new law on the subject. It is to submit the question to the tribunals of the country under the existing laws, and to make an appropriation of money to be paid on the award of a court; that is all.

As to the objection that an individual has a patent and he should enforce his patent right, I need hardly remind the Senate, for it is a matter which has attracted general attention, that this is one of those cases where, from the very nature of the circumstances, the rights of the patentee cannot be enforced. You cannot go into the sick chamber and arrest the surgeon in the performance of his professional duty, and deprive a patient, who is on the verge of the grave, of a benefit from the application of a remedy because it may infringe the right of a patentee. And if you could, it is one of those cases at which the feelings of every man would revolt. It is one of those cases where you cannot enforce a patentee's rights. You would have to go to the bedside of almost every sick man in the country. You would have to follow your Army and Navy surgeons throughout their whole course upon the land and upon the sea, and examine into every case where they have occasion, in the alleviation of human suffering and the saving of human life, to use this remedial agent.

Suppose, sir, this patentee could enforce his rights against individuals, how can he enforce them against the Government? We are in the hourly violation of the law. If I may use such an expression, with regard to the action of this Government, I would say we were the great pirate upon the rights of this discoverer, whoever he may be. By a general law we have carried out that provision of the Constitution to secure to inventors the exclusive use of their property for a

certain time. We have, under that law, issued to an individual a patent right, giving him a right of action against everybody who shall invade his patent; and, in the very face of it, we have been for years, and with an arm whose strength he cannot resist, taking his property and converting it to the public use. This is a simple proposition to make his patent under the laws available to him, and to protect him against the strong arm of the Government, which is constantly invading his rights and taking them from him.

Will any one say that the amount of money proposed to be appropriated is too large? Go ask your medical men of the Navy and of the Army, to say nothing of the private physicians and surgeons throughout the world. Ask them what such an agent is worth, even if you could estimate it in dollars and cents, and they would tell you millions, instead of a paltry hundred thousand dollars. They would tell you that they ought not to be deprived of its use in their profession, and would not be deprived of it if the Government had to pay $10,000,000 instead of $100,000 for it. You cannot estimate its value in money. The enlightened surgeons of the Army and Navy will tell you that it is of more value, not only than one, or any ten, or perhaps nine tenths, of all the remedies they are called upon to use in the daily practice of their profession; and that money could not buy from them the privilege of using it on all occasions, whenever it might be necessary in their daily practice.

Mr. BUTLER. Mr. President, I know that my friend from Virginia has a heavy responsibility upon him in reference to these appropriation bills. I think it is not fair that we should take up much time in their discussion. I was on the Select Committee which investigated the subject, and I have had my difficulties in connection with the matter. I do not know that I am entirely relieved from them now; but the view I take of the subject is this: This anæsthesia, as it is termed, the process by which the human system can be rendered insensible to pain, cannot, in my opinion, be made the subject of a patent. It is not tangible enough to be the subject of a grant to secure an individual such a right as he could protect by a law-suit, or such a right as might not be invaded with impunity. I regard the invention, from its very sublimity, as one which cannot be subjected to a patent. It comes clearly within the spirit of the patent laws; and if a man can have a security for his rights for what is tangible, this discoverer ought to have some protection for that which is more sublime, and above the tangible mode and subject of patents. I have thus in a few words given my view upon this subject. This is too sublime an invention for a patent. I think if anything should be protected, it should be. I have come to that conclusion; but I agree with the Senator from Virginia that this is a private claim, and therefore I cannot vote for it as an amendment to this bill, and particularly for the reason I urged the other day. This is an irresponsible mode of legislation, seizing upon a favorite and strong measure to ingraft it upon the appropriation bills, and thus carry it through. I sympathize with the honorable chairman of the Select Committee, the gentleman from Wisconsin, who has manifested so much sensibility upon this subject, and whose care, and diligence, and attention, I think entitles him at least to the gratitude of those who are enjoying the benefits of this sublime discovery.

Mr. NORRIS. I am not going to discuss the amendment, or to detain the Senate more than a few moments; but I wish to say to the Senator from South Carolina that he has mistaken a single point in this case, when he says that this is a discovery which is not patentable. It is patentable, and a patent has been issued for it under the law.

Mr. BUTLER. I do not undertake to decide that it is not patentable; but I said a patent for it could not be enforced in a suit.

Mr. NORRIS. I agree with the Senators from Virginia and South Carolina, that this is not a matter that should be regulated upon this bill. Doctor Morton has a patent. Let him enforce his patent as other patentees do. I understand another thing in regard to this matter. This amendment appropriates $100,000 to one of three individuals. I have looked into this case somewhat, and I understand that it is a contest between these individuals, and between others who claim to have done something toward the development of this remedial agent. I understand that the origin of it was, that in administering this gas to an individual in Hartford, he injured himself by it, and he did not perceive that he was injured till sometime afterwards. After the gas had disappeared, he found he was seriously injured. My information is, that then, so soon as he discovered that, he declared that any operation might be performed under the influence of that gas, and he is not named in the amendment. From that, Doctor Wells and Doctor Morton, and others, have been experimenting. For myself, I do not think that if these $100,000 are to be paid, any one of them should have it. I think it should go, not to one of these individuals, but to such persons to whom the court might judge proper to give it, if it thought proper to give it at all. I am opposed to the amendment.

Mr. HAMLIN. I was a member of the Select Committee to which this subject was referred; and I have risen only to express my concurrence in what another member of the committee, the Senator from South Carolina, has said. I concur with the idea which he expressed, that this is not the appropriate place for this amendment. This is not an appropriate bill to which to attach this proposition. I agreed to the report of that committee in general terms. The proposition itself, however, does not meet my approbation in all its details. I think there is an amendment which should be made to it, if it be adopted. I had no understanding, however, as a member of that committee, that it was to be offered as an amendment to this bill; and I do not understand that it was reported as an amendment to this bill from that committee.

Mr. BORLAND. It comes from the Committee on Military Affairs.

Mr. HAMLIN. I thought it did not come from the Select Committee. I think that it is what it proposes to be—a proposition to test the validity of the various rights of these persons, as to who was the first discoverer; and then it provides the manner in which the distribution shall be made; but still the terms of the amendment, if adopted, are so restricted and limited, I think, as to exclude one of the parties, who claims to be the earliest discoverer.

Mr. BRODHEAD. I rise for the purpose of making an inquiry. I understand from my friend from Arkansas that there are three parties who claim this money. Now, is there anything in this amendment to prevent these three parties having a mutual understanding in this proceeding in the court, by which one may get $50,000, another $25,000, and the other $25,000? I think we ought to put in a provision guarding against anything of that kind. If I could be satisfied that this matter would be conducted properly—that parties would so understand it—that the bill would be so restricted, I am not sure that I would be very strenuous in my opposition to it, because this is certainly a great improvement. I do not think, however, that this bill is the proper place on which to attach this provision.

Mr. BORLAND. I have a word to say in answer to my friend from Pennsylvania. I do not know, nor can I know what private understanding these individuals may have with each other, or what course they may take in regard to the distribution of the money; and I should not suppose that it was possible by the provisions of the amendment, to guard against it. The matter is submitted to the judgment of the court, on the presumption that the court will decide it fairly and equitably, and there is a provision for an appeal to the Supreme Court of the United States. As to what arrangements the parties may make among themselves, after the judgment of the court, and the money be paid over, of course I do not understand. No provision exists in the amendment, nor do I suppose any could be made to guard against that.

Mr. HALE. Whether this is a matter for a patent or not, one thing is very certain: According to the testimony of officers of the Army and Navy, you are using it. The Government of the United States is in the actual and positive enjoyment of it; therefore, if it is a great benefit, if it is too sublime for the operation of such a sublunary affair as the patent laws, then let us take a sublime position, and compensate the man whose invention and discovery we are using. If it is not too sublime for that, and if it does pertain to the earth, and is earthly, let us deal with it in that way, and recognize the established fact that there is a patent right, and that we are infringing it today in the Army and in the Navy. What is the use of saying to the patentee, "Enforce your patent rights," when we hold ourselves aloof from any investigation in the courts? Can Dr. Morton or any one else sue the United States? Here are your surgeons in the Army and in the Navy using this discovery every day. When Dr. Morton complains, and asks compensation, can he sue the United States?

Mr. NORRIS. I would ask my colleague if he cannot bring suit against those officers who violate the patent?

Mr. HALE. I do not know how that may be. Whether it be so or not, I take the fact. That does not answer the allegation that the United States are receiving the benefits of this discovery. Why, sir, your soldiers who are wounded, your sailors who are suffering, your sick and distressed in the Army and in the Navy, are receiving the benefits of this discovery; and if you are actually receiving and enjoying those benefits, it seems to me it would not become the dignity, the honor, and the honesty of the Government, to tell Dr. Morton "You cannot sue me." Last and least of all would it be becoming that magnanimity which I know my honorable colleague exercises in all the concerns of life for us to turn round and say, "Sue the humble servants; sue our officers!" No, sir. The United States have received the benefit of this discovery. Everybody admits that it is a great discovery; everybody admits that it is one of the greatest contributions to the cause of humanity which this age or any other has witnessed, and the world accords to this country the honor of the discovery. It seems to me that if it be such a great benefit, and we are using it, we ought to make compensation for it.

The objection is made that this appropriation bill is not the proper place for the amendment. Sir, that is not the fault of the discoverer, be he who he may. It is your fault, Mr. President, and mine, and the fault of the Senate, and the fault of Congress, who have so much time to devote to windy speeches and so little time to practical business, that it has got to be understood that there is to be a general rush at the end of the session to put everything on the appropriation bills, or there will be no chance for practical legislation. These are the facts *per se*. Everybody knows that a practical measure cannot be got through. It has to be postponed to hear speeches on everything else on the face of the earth except something that we have anything to do with; and the general understanding is, that when anything is to be done on practical subjects, it must be upon an appropriation bill. That is our fault, and do not let us turn away anybody that comes here asking justice because it is put in this place. Does anybody believe that this proposition can get through at this session, or could be got through at any time during the session, unless upon an appropriation bill? I think not.

With all deference to the older and wiser men in the Senate than I am, I wish to say that I consider that this is a most eminently appropriate bill to which to attach this amendment. Why? Because this bill, as I understand, makes appropriations for the support of the Army. If you owe anything to anybody equitably for a service which has been rendered to the Army, the Army appropriation bill is the proper place to put it in, and it seems to me that there can be no bill to which it would be more appropriate to have an amendment of this sort attached than to the bill making appropriations for the Army.

Now, a word in regard to the details of the measure. I have not investigated them. I knew that this matter was submitted to gentlemen of such clear heads and strong minds and benevolent hearts as the Senator from Wisconsin and the Senator from South Carolina, and I rested in undoubting faith on any bill which they might report. I understand that the details of this proposition are such as receive the approbation of their judgment upon such deliberation as they have given it. Upon every consideration of order and of propriety, (without considering whether the proposition is germane to the bill,) of equity, and of honesty, it seems to me that something of this sort ought to be done, and done exactly in the way in which it

is proposed to be done. Then if Dr. Wells or his heirs be entitled, or Dr. Morton, or Dr. Jackson, let them come in and have it, and let us do this simple act of justice, because if we do not do it now, the danger is that we never will do it.

Mr. BORLAND. A few words will answer the suggestion of the Senator from New Hampshire, [Mr. NORRIS,] that Dr. Morton, or whoever may be the patentee, should enforce his patent through the courts. Has it occurred to the Senator that a practical difficulty arises in the way? I said when I was up before, that in the very nature of things the patent cannot be enforced, and I stated the general considerations. But there is a higher one as a matter of fact which it seems to me is conclusive. The use of ether, as a remedial agent, as one of the means which the medical man has to practice his profession, has been in use from time immemorial, long before these persons or their fathers were born. It was one of the established remedial agents known to the medical profession, and used by them in various ways in practice, which I need not enumerate. Suppose the patentee were to sue a surgeon, either in the Army or Navy, or a private surgeon for the infringement of his patent, how could he establish it? Suppose he proved that the surgeon did use sulphuric ether in his practice.

Mr. NORRIS. The Senator will allow me to ask him if the court upon investigation should find that neither of the gentlemen named in this amendment was the original discoverer of this application of ether, what would then be done?

Mr. BORLAND. If the Senator will look at the amendment, he will see that it provides that the United States shall be complainant, and that these individuals shall be the defendants. If neither of them establishes a claim, I take it that no money will be paid to anybody. That will be the result. We do not propose to pay the money to any one who does not establish a claim.

Mr. NORRIS. The amendment presupposes that one of these persons is the discoverer.

Mr. BORLAND. Neither of them can receive anything unless he establishes his claim. I was going on to say, however, that there was a practical difficulty in the enforcement of the patent. Any one who knows anything of the practice of medicine, or any one who has observed it, whether a member of the medical profession or not, must know that it is exceedingly difficult, if not impossible, to prove in a court of justice what particular remedy a surgeon or physician used in his practice. You cannot prove it. The very individual against whom the action would be brought, is, in nine cases out of ten, the only individual who would be able to tell what he had used, and by him of course, in a suit you could not prove it. You cannot prove it by anybody else, for no one is competent to say what a physician or surgeon on a particular occasion did use. Suppose, however, that it should be established as a fact that a physician or surgeon did use sulphuric ether in his practice, he could plead that he was but pursuing his profession legitimately, that he was using a remedy which had been in use in the profession from time immemorial; but yet, notwithstanding that, notwithstanding this defense could be set up, and successfully set up, we know the fact beyond all controversy, that this particular application of this remedial agent has been made by some one of these individuals, or somebody else within the last few years. Hence, I think the suggestion made by the Senator from South Carolina is a very proper one, that this is a case which rises above the patent laws, and there is something sublime in it which the mere enactments of our patent laws cannot reach, and certainly cannot enforce a remedy for the protection of the individual.

Mr. BUTLER. I cannot vote for the amendment, because I do not think that it is appropriate to this bill.

Mr. DAVIS. I move to amend the amendment by striking out the words "according to the principles of the law of patents in the United States," so that it shall read:

"And the issue therein shall be, which one of the said parties first named was the original, true, and first discoverer," &c.

I would state in a few words the explanation of the object of my amendment. The original amendment proposes to allow a bill in equity to settle upon principles of equity who is the discoverer of this principle which has been so much commented upon here. I want free and ample scope given to the inquiry. I desire that it may not be limited by any technical rule or any technical regulation, but that the court shall establish its own regulations applying the law to the case; and if it is its pleasure to adopt the rules and regulations which are applicable to patent cases, I have no objection to that. I do not wish to instruct the court to be governed by these rules, but to leave it open, it being an inquiry in equity, to the court to establish its own regulations in regard to that inquiry.

Mr. SEWARD. Mr. President, I have no doubt myself that the effect of the amendment of the Senator from Arkansas, with the amendment of the Senator from Massachusetts, would be precisely what it would be called without it. I think that would be so, because the issue which is to be made up and to be tried is an issue as to who is the discoverer of what is technically called in the amendment a "discovery," and that is to be ascertained by a court of equity, which proceeds, in ascertaining it, so far as principle is concerned, upon the principles of right and justice. Principles of right and justice are ascertained by courts of equity as well as by courts of law, by existing laws, or settled precedents or principles. Now, then, the courts of law and equity, on the subject of patents or inventions, or priority in inventions, have settled this one thing—that no man is the discoverer of a discovery except he who has not only made the discovery of the principle, but has brought it into practical application. No court can have any other mode, or find any other principle upon which to determine who is the discoverer, than to trace the thought from its first conception, until you reach the embodiment of it in practice. I think, therefore, that the original amendment would have the same effect either with or without the amendment proposed to it by the Senator from Massachusetts. But it is because that it is an action aside altogether from the ordinary course of action—an issue directed by the Government—that it seems to me to be better to leave the purpose of the honorable Senator from Massachusetts to be effectually carried out by the original amendment as it stands, as it amounts to precisely the same thing. There never was, and never will be, a court that will give a reward to a man for imagining or conceiving a benefit or a principle by which a benefit can be conferred upon mankind, unless he actually reduced it to practice, and showed that to the court. That constitutes this case.

Mr. BUTLER. I think the amendment to the amendment is eminently right. That was my opinion in the committee, and it is my opinion now. We had better leave the matter to be settled by the court, and not put in any restriction which might be regarded as hampering them.

The amendment to the amendment was agreed to, and the question recurred on the amendment as amended.

Mr. BRODHEAD. I have an amendment to offer in the shape of a proviso, which I presume will not be objected to by the friends of the original amendment. It is to add:

"*Provided*, That before the said sum of $100,000, or any part thereof, shall be paid to either of the parties named in this act, he shall make oath in due form of law that he has not been guilty of collusion with either of the parties above named in this act in any way whatever."

The amendment to the amendment was agreed to.

Mr. HUNTER called for the yeas and nays on the amendment, and they were ordered.

Mr. NORRIS. I move to amend the amendment by inserting after the words "Horace Wells," the words "or any other person or persons claiming an interest in said discovery," so that it shall read:

"And the said William T. G. Morton, Charles T. Jackson, and the personal representative or representatives of the said Horace Wells, or any other person or persons claiming an interest in said discovery, shall be defendants."

Mr. BRADBURY. I hope that amendment will not be adopted. It is known that great progress had been made by scientific gentlemen in other countries towards this discovery. The original amendment is based upon the idea that enough has been done in this country to entitle the discoverer here to a national reward, and the sum is fixed at $100,000. There are no other persons than those named in the original amendment, in this country, who have made known that they have any claims of the kind. The contest in the scientific world has been confined to the three gentlemen. If the amendment of the Senator from New Hampshire be adopted, it will open the question to individuals from other countries to come in here and contest for this prize. We go upon the ground that what has been done here is sufficient to entitle the individuals named in the amendment, or one of them, to that reward. I should have wished that the phraseology had been somewhat different. I should have preferred that, instead of compelling the court to decide in favor of one individual, it should have been authorized to proceed according to the principles of equity, and to allow either the whole $100,000 to one of the individuals, or such part of it to each, as the respective merits of the claimants, in the opinion of the court, should entitle them. But the amendment which has been adopted on the motion of the honorable Senator from Massachusetts relieves the original amendment, in some degree, from the objections which existed to it before. When the subject was under consideration at the last session, I suggested that the Senate seemed to be an inappropriate tribunal to settle a question of fact of the kind presented, and that some other tribunal should be resorted to. I think that a proper one is proposed; and I trust that we shall not adopt a provision so broad as to render the original proposition nugatory.

Mr. DAVIS. I hope the amendment of the honorable Senator from New Hampshire will not be adopted. I think there is no question at all about this matter. It is admitted not only by all medical men here, but we have abundant testimony from the other side of the Atlantic that it is considered a discovery of very great merit and great importance, and is entirely new to the medical associations and societies which exist there. As the Senator from Maine has very justly observed, the merit of the discovery is awarded to persons in this country; and as far as my knowledge extends, no persons set up any pretensions, except the three named. If there be any other pretension I have never heard of it. And now to open the matter in the way proposed by the Senator from New Hampshire, and to enable people to set up pretensions to this discovery, to come up, vex the courts, and disturb the proceedings, seems to me to be wholly unnecessary. I hope therefore the amendment to the amendment will not be agreed to.

Mr. NORRIS. The Senator from Maine says that my amendment opens the whole subject of this controversy not only to American citizens but to foreigners. Now, when the Senator sets that plea in opposition to my amendment, he tacitly admits that the three gentlemen named in the original amendment are not entitled to the credit of the discovery at all. If they are entitled to the discovery they will be able to manifest it, and prove it, notwithstanding foreigners may claim it.

Now, a word to the Senator from Massachusetts. He thinks that there is no person but these three gentlemen, who have any claim to this matter. I do not know that there is. My own belief, from what investigation I have given the subject, is, that neither of them was the discoverer of this principle. The operation or the effect of either was known long before either of these gentlemen pretend to have made any discoveries in regard to it. That point is very clear to my mind. But, sir, to avoid anything that the two Senators have stated, I will modify my amendment by adding to it the words, "and being an American citizen." I am sure that neither the Senator from Maine nor the Senator from Massachusetts would restrict this investigation to the three individuals who are named in the amendment, if anybody else can show a better claim than they. Why not admit others to come in and be made parties to this case? Can they assign any reason on earth, I ask, why no other individual than these three should be permitted to come in and be made parties to this suit? What reason can be given why any persons should not have any opportunity of establishing that they are the original discoverers? I can see none.

I do not wish to embarress the proposition. I shall vote against it because I do not believe that this is the appropriate place for it; but still, if it is to be submitted to a court to decide the question,

let every person who has any claims to the discovery, have a right to come in and contest the matter. That is all that I propose.

Mr. BUTLER. The committee which was appointed to investigate this subject, was somewhat a tribunal of inquiry; and they have discharged the office which devolved upon them by inquiring into the parties. They have indicated these three persons; and if neither of them is entitled, I am willing that the Senator from New Hampshire shall have an amendment inserted that if, in the opinion of the court, neither of the parties is entitled to any portion of the money, the bill shall be dismissed; but if you throw out $100,000, and invite all the world to come in and be parties, I do not believe that any court could decide upon it. We have been a grand jury, and we have found this bill in this specific form, and if the court should not be satisfied that either of the parties was entitled, I think that, as a matter of course, the bill would be dismissed. If any person else is entitled, let him come forward to Congress, or come to the court, and enter his protest in such a way as to bring it before the public.

Mr. BRADBURY. The remarks of the Senator from New Hampshire render it necessary that I should say a few words in reply. He says that I assume, by the remarks which I have submitted, that neither of the parties in this case is entitled to the merit of the discovery. If the honorable Senator had investigated this subject, he would have known that previous to the experiments of either of the persons named in the amendment, it was known that insensibility to pain could be produced, but the idea had not been conceived and carried out that this discovery could be used for surgical and medicinal operations. The merit of the discovery consists in the application of the knowledge to practical purposes.

Now, it is obvious that if we invite the whole world to come in, no good can be attained. If we confine ourselves to this country, as is now proposed by the Senator from New Hampshire, we are very certain that the scientific world would have heard something of this, if there were any other competitors; and I venture to say, there is not an individual in the Senate who has ever heard that any other persons than those named in the amendment have seriously put forth any claim to the discovery. Therefore I think the amendment of the Senator from New Hampshire would rather tend to embarrass the original measure than otherwise, and cannot be productive of any good result.

The amendment to the amendment was rejected, and the question recurred upon the amendment as amended; which question being taken by yeas and nays, resulted—yeas 26, nays 23; as follows:

YEAS—Messrs. Adams, Badger, Bell, Borland, Bradbury, Charlton, Clarke, Cooper, Davis, Dodge of Iowa, Downs, Hale, Houston, James, Jones of Iowa, Mallory, Miller, Morton, Rusk, Seward, Smith, Soulé, Sumner, Wade, Walker, and Weller—26.

NAYS—Messrs. Bayard, Bright, Brodhead, Butler, Cass, Chase, Dawson, De Saussure, Douglas, Fitzpatrick, Foot, Hamlin, Hunter, Jones of Tennessee, Mangum, Mason, Norris, Pearce, Pettit, Phelps, Pratt, Spruance, and Underwood—23.

So the amendment was agreed to.

Mr. HUNTER. I have two amendments to offer which are merely for the purpose of restoring the estimates, and which I overlooked before. The first one is to increase the appropriation for "cannon gun-carriages and projectiles for sea-coast defense" from $100,000 to $200,000.

The amendment was agreed to.

Mr. HUNTER. The other amendment is to increase the appropriation for ordnance, ordnance stores, and supplies, from $65,000 to $100,000.

The amendment was agreed to.

Mr. DOUGLAS. I have an amendment to offer for the protection of the emigrant route to Oregon and California, which requires no money, and which I hope will be adopted. It is to add the following as an additional section:

SEC. —. *And be it further enacted*, That the President of the United States is hereby authorized to enter into contracts with such person or persons as shall make the most favorable proposals, and give the most satisfactory assurance and security for defending and protecting the emigrant route and improving and keeping in good condition the roads through the Territories of the United States, from the western border of the States in the Mississippi valley to the eastern border of California and to the Pacific ocean in the Territory of Oregon, on the following terms, to wit:

First. The contractors are to establish posts or station-houses along the route at such points and distances as the President shall designate, and shall keep at least twenty well-armed men at each of said posts to protect and defend all emigrants, travelers, and settlers on and along said route.

Second. That the contractors shall make and keep in repair a good wagon road along each of said routes with bridges or ferries across all the streams, and shall charge no higher rates for crossing said streams than shall be prescribed by the President.

Third. In consideration of the services required by this section, the President is hereby authorized to grant to such contractors four sections of land at and in the vicinity of each of said posts, which said grant of land shall be in full of all services rendered or expenses incurred under this section.

Mr. HUNTER. It seems to me that we are putting important propositions upon this bill with very little consideration. This as a measure of great importance which it is now proposed to attach. If I were in favor of it, I should be unwilling to tack such measures as these to the Army appropriation bill, but I know there is no time to debate them. I shall say nothing about them, except to call the attention of the Senate again to the course which we are pursuing in regard to the legislation of the country.

Mr. DOUGLAS. It is purely a matter of defense, costs no money, and carries no consequence hereafter that can bring money out of the Treasury.

Mr. BELL. I do not see any objection to the amendment, except that it will retard a greater improvement—a railroad to the Pacific.

Mr. DOUGLAS. Not at all. It will hasten it.

Mr. DODGE, of Iowa. I cannot view the proposition in the light in which the Senator from Tennessee speaks of it. It seems to me the amendment of the Senator from Illinois would have precisely the opposite effect. I think the Senator from Tennessee will do me the justice to say that there is no more sincere friend of that great project which has occupied so much time, than myself; but I know the importance of the amendment offered by the Senator from Illinois. It is important to enable our people to reach the Pacific border. It is important to protect them from the merciless Indian tomahawks—important to give them some resting-place. After the deep and bitter opposition manifested here to the other proposition, I trust this little amendment, at least, will be adopted for the benefit of those who are crossing over our territories to the Pacific.

Mr. WELLER called for the yeas and nays on the amendment, and they were ordered.

Mr. PRATT. The distance of this route, as has been estimated, is two thousand five hundred miles. If at every ten miles there is to be a station, and four sections of land to be granted to each station, there will be granted one thousand sections of land. But the effect of the amendment is to authorize the President to contract, without specifying the period for which he may contract, whether for one year, or six months, or one month; but we are obliged to grant these one thousand sections of land to the most favorable contractor, on the condition that the parties protect the route. It may be only for one month. No matter how long they may propose, the President is required to contract and to give the one thousand sections of land. I do not think the amendment is a judicious one. If it is to pass at all it should certainly be amended.

Mr. DOUGLAS. The Senator is mistaken as to the number of the posts. The President is to designate how many are necessary. The four sections of land are only to be taken in the vicinity of those posts which the President may designate.

Mr. PRATT. Then there may be still more land granted.

The question being taken, by yeas and nays, on the amendment, resulted—yeas 25, nays 23; as follows:

YEAS—Messrs. Borland, Bright, Brodhead, Cass, Chase, Clarke, Cooper, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Gwin, Hale, Hamlin, James, Jones of Iowa, Shields, Soulé, Sumner, Toucey, Wade, Walker, and Weller—25.

NAYS—Messrs. Adams, Badger, Bell, Bradbury, Charlton, Dawson, Fitzpatrick, Foot, Hunter, Jones of Tennessee, Mallory, Mangum, Mason, Miller, Morton, Norris, Pettit, Phelps, Pratt, Rusk, Seward, Spruance, and Underwood—23.

So the amendment was agreed to.

Mr. WELLER. I have an amendment to offer as an additional section:

SEC. —. *And be it further enacted*, That the first proviso of the thirteenth section of the act approved the 3d of March, 1847, entitled "An act making provision for an additional number of general officers, and for other purposes," be, and the same is hereby, repealed, so as to place the officers of the disbursing department upon the same footing with respect to rank as other staff officers.

Mr. CASS. I do not understand that amendment.

Mr. WELLER. The thirteenth section of the act of 1847, to which the amendment refers, is in these words:

"That the officers of the Pay Department shall have rank corresponding with the rank with which their pay and allowances assimilate: *Provided*, That paymasters shall not, in virtue of such rank, be entitled to command in the line of the Army."

The only effect of my amendment is to repeal the proviso which I have just read. I see no good reason why disbursing officers should be excluded from commanding, if, in the judgment of the President, they should be competent officers to command, as is oftentimes the case. They are the only persons of the staff Department in the Army who are excluded from commanding, and it often occurs that the paymaster is the most competent person on the frontier to take the command. The whole matter is left to the discretion of the President, and he is to give command only if the officer be competent. I desire, in such case, that he shall have the power, if he chooses, of selecting a paymaster as the proper officer. The only effect of the amendment is, to put the paymasters of the Army on an equal footing with the other staff officers.

Mr. CASS. Allow me to ask the honorable Senator, will not physicians come within the same category?

Mr. WELLER. Not under this amendment.

Mr. CASS. But should they not? That is what I mean.

Mr. WELLER. I do not know.

Mr. CASS. It seems to me that we have carried this thing far enough. A year or two ago, we gave to paymasters and other officers rank, and now we are called upon to give them commands. There is this to be observed: A paymaster may be taken in mature age and put into the Army. He has not to go through such a school of training and practice as other officers. I do not see the necessity of these perpetual changes. To-day we are asked to give paymasters commands, to-morrow it will be physicians, and what next I do not know. I think we had better let the Army remain as it is.

Mr. WELLER. The only staff officers now excluded from commands are paymasters. I suppose that those who belong to the surgeon's staff could be, at the discretion of the President, put under orders. The proviso that I seek to repeal excludes the paymasters alone. If the paymaster is a mere civilian, if he is an incompetent person, the President of the United States of course would never direct him to take command. But if he be qualified—and I know there are many of them better qualified than officers of the line—the President of the United States should have power to direct them to take command. That is all I propose.

Mr. SHIELDS. This question was before the Committee on Military Affairs, and they declined to act upon it. Although there are cases such as the honorable Senator states where pay officers are qualified to command, yet, as a body, I think it might be dangerous to give them this rank and command. This amendment, in the first place, gives them rank, and that rank will be followed of course by command, and when they come in competition with an officer of the line inferior to them in rank, they will assume the command over him.

Mr. WELLER. If that be so I do not understand the effect of my own amendment. I think a paymaster could assume no command under it without the order of the President. The law now is that no staff officer shall take command without direction of the President.

Mr. SHIELDS. Staff officers ought not to have any right whatsoever to interfere with officers of the line. That has been carried too far already, as suggested by the honorable Senator from Michigan. One of the great evils now in the Army is the conflict between staff officers, whose duties are not those of command, and officers of the line, whose duty it is to command. I would prefer that this matter should not be acted on now. I trust there will be some general regulations adopted which will make the subject somewhat more systematic than it is now. There is certainly great

confusion in our Army, and this only tends to increase that confusion.

Mr. HALE. I understood the chairman of the Committee on Military Affairs to say that this matter had been submitted to his committee and acted upon.

Mr. SHIELDS. We declined to make any change.

Mr. HALE. That is all I want to know.

The amendment was rejected.

Mr. HUNTER. The Senator from Delaware, [Mr. BAYARD,] who is necessarily absent, has requested me to offer an amendment to which I can see no objection. He tells me that it has passed the Senate twice as a separate bill. It is to add the following additional section:

SEC. —. *And be it further enacted*, That the lot of land in the town of New Castle, in the State of Delaware, upon which an arsenal has been erected, and the site of the arsenal, be, and the same are hereby, reconveyed and granted to the trustees of said town and their successors.

The amendment was agreed to.

Mr. DAWSON. I am directed by the Committee on Military Affairs to offer the following amendment:

SEC. —. *And be it further enacted*, That for the purpose of enabling the Commissioner of the Military Asylum to purchase the Blue Lick Springs, with a view to the establishment thereat of the Western Military Asylum, as authorized by the eighteenth section of the Army appropriation bill, approved August 31, 1852, the sum of $10,000, in addition to the sum in the hands of the commissioners, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. SHIELDS. I would state that this amendment is reported by a majority of the Committee on Military Affairs. I did not concur in the report, and I shall not vote for the proposition. I think it is not the part of legislation to make this selection. It is an Executive matter The board have power to do it already, and I do not want to interfere by this legislation.

Mr. DOWNS. I do not see any necessity for this amendment. At any rate I should like to hear some explanation of it before I vote for it. If I understand the matter, the board of officers whose duty it was to select the site, visited the West and examined different points, but did not select this as the proper site. I should like to hear some explanation of the amendment. The matter has been intrusted to a board of commissioners, and why should the Senate now, without any information on the subject, take it out of their hands and establish the Western Asylum at this point, which, I understand, has been declined by the proper board of officers, whose duty it was to select a site? I should like to hear the object explained.

Mr. JONES, of Tennessee. I promise not to expose myself to the imputation of the Senator from New Hampshire, by inflicting a long speech upon the Senate. I rise for the purpose of answering the question propounded by the honorable Senator from Louisiana. The Board of Commissioners appointed for the purpose of locating three asylums have gone forward to discharge that duty. They have selected a site near this city for one of them, and have established an asylum here. They selected another site, either in the State of Louisiana or Mississippi, at the Pass Christian, I believe. And the third one remains to be located. The question arises, Why should we interpose in this matter? I would refer the honorable Senator who asked that question to the report of the commissioners themselves. They state the reasons why they have not located the Western Asylum, and in their report, the reason assigned is this: They have declined to do so because they were not satisfied of the sufficiency of their means to accomplish it. I understand that they felt they had not means enough to justify the location anywhere. You will remember, Mr. President, that, at the last session of Congress, an act was passed directing the commissioners to examine the Blue Lick Springs. In pursuance of that act, Generals Scott and Wool, and Surgeon General Lawson, proceeded to Kentucky and examined that location, together with others. At this session of Congress, the Senate called upon the Secretary of War to furnish the Senate with a report of that examination. That report is before us. The document contains the report of Generals Scott and Wool and Surgeon General Lawson. General Scott, in his report, states that the commissioners did not make the purchase of a location because of the want of means. General Wool recommends strongly the purchase of the Blue Lick Springs, and Surgeon General Lawson, in a very able report, recommends in the strongest terms the purchase of that site. Then, the question arises, Why did they not purchase? The answer is to be found in the fact that they had not money enough to do it. But gentlemen ask, Why shall we take it out of their hands? I suppose I am one of the last men in the Senate who would be disposed, or who would subject himself to the imputation of being disposed to take any power from the hands of General Scott or the Commission. But, sir, the information is all before us, as fully as it is before the Board; and when we possess that information, I ask, are we not as competent to decide that question as General Scott or any other man?

Two out of the three commissioners who have examined the Blue Lick Springs report decidedly and strongly in favor of this purchase. What is the ground assumed by Surgeon General Lawson? He tells you that we ought to purchase the Blue Lick Springs, if it can be done on favorable terms; and this amendment proposes nothing else. It does not make it obligatory on the commissioners to purchase that site. It simply makes an appropriation of $10,000, which, it is believed, added to the fund in the hands of the Board, will enable them to purchase that or any other suitable site. Surgeon General Lawson makes this statement: I hope every Senator will listen to it, and that it will reach every Senator's heart. He tells you that if you intend in good faith to carry out the purposes and objects contemplated by the establishment of the Board, now is the time to do it. He says that the buildings at the Blue Lick Springs are in a condition to receive and entertain comfortably three or four hundred persons. All of us who reside in the West and Southwest know that there are hundreds, yea, thousands of our soldiers who have returned from Mexico, who are now disabled, lingering and dying constantly by scores and by hundreds. If we are to continue in this condition for ten, fifteen, or twenty years, until a site can be selected, and new buildings erected, Surgeon General Lawson says that many of them will have paid the last debt of nature, and have been consigned to premature graves, which might be avoided by the timely interposition of this Government. Why shall we delay longer to select a site where it will be unnecessary to build new houses? Surgeon General Lawson tells us that the houses at the Blue Lick Springs are good and sufficient, and that it would take fifteen or twenty years to finish the necessary buildings at another site. During those fifteen or twenty years, a large number of those for whom this generous, kind, and beneficent provision of the Government was intended, will have died, and been denied all participation in the benefits intended to be conferred upon them. It cannot be expected that the soldiers in that vast region of country can come to Washington city to find an asylum, or can go down to Pass Christian to find it there. But if there was one near them, they would go there and enjoy its benefits, and thus this Government would carry out its beneficent purpose. I do not ask that the commissioners shall be divested of any power which they have. This amendment will simply give them the power to do this if they want to do it, and then their action is to be subject to the ratification of the President, and is to be of no effect unless ratified by him.

In addition to the other advantages of the location, we are told by the commissioners that while it is a healthy location, and enjoys benefits preeminently above the others that have been named, the sale of water alone will constitute a large revenue to the country, and the expense of that institution might be and would be defrayed by the sale of that water alone. I ask if there is any other location in all that region of country which possesses advantages equal to this? If there is, I am for that; but I do protest in the name of humanity—I protest in the name of the dying soldier of that region, against that delay which denies to him that asylum which is accorded to others, and which is enjoyed by those in the extreme South, and all the middle portion of our country. Are our soldiers who have returned from Mexico disabled, sick with diseases contracted in the Army, poor, penniless, and defenseless, to linger while this criminal delay on the part of the Government is continued? In the name of God and humanity; in the name of justice, I ask the Congress of the United States to make the poor appropriation of $10,000, which will save these poor soldiers from an untimely grave. If it does not do that, it will at least accord to them the poor boon, as they linger on the brink of their graves, of knowing that in their dying hours they will not be unheeded by a wise, just, and generous Government, in whose cause and in whose behalf they had sacrificed their lives.

Mr. MASON. I want to learn from the honorable Senator from Tennessee, whether that Board of officers, who, as we know, paid a visit to that country during the last summer for the purpose of selecting a site for this military asylum or hospital, have selected the Blue Lick Springs?

Mr. JONES. I will answer the gentleman with a great deal of pleasure. I have before me the report of the three gentlemen who visited it—General Scott, General Wool, and Surgeon General Lawson. General Wool and Surgeon General Lawson recommended the selection of the Blue Lick Springs. General Scott's report is equivocal, and says the Board declined to purchase because they had no money for that purpose.

Mr. MASON. Then I understand that so far as General Scott's report goes, whether he is in favor of the selection or not, he presumed the proprietors asked more than the site is worth. Is that the fact?

Mr. JONES. No, sir; it is not so stated. The question of price is one that is open, and I can only say that the proprietors of that establishment are willing to leave it to any arbitrament you choose. This amendment is not obligatory upon the Board to purchase it at any price. It simply gives them the means of doing so if they please. I understand, from a personal interview with the Board, that they supposed they had something like $100,000 at their command after the endowment of the two asylums which they had established, but they had not as much money as they supposed; and for want of sufficient means, in the opinion of the Board, they declined to make any purchase. General Lawson and General Wool also visited a region of country in the vicinity of Cincinnati, and with the permission of the Senate, I will read an extract from General Wool's report:

"Agreeably to the General-in-Chief's instructions, I examined, in company with General Lawson, the country for twelve miles in the rear of the city of Cincinnati, where I observed several sites equally eligible, and in some instances, as I thought, superior to the Blue Licks for a military asylum; but the price appeared to me entirely too high, and so far beyond the means at command of the commissioners as not to justify a purchase within the range and distance examined; the price per acre varying, according to position, from $200 to $500."

The question I submit to the Senate is simply, whether we shall put it in the power of these commissioners, if they desire it, to purchase the springs, in order that our sick and dying soldiers may enjoy the beneficence of this Government as was intended?

Mr. MASON. I do not mean to say a word about this military hospital. I dare say it ought to be established. But I think we ought to have some certainty in our information with regard to the eligibility of the site, as well as to the price demanded for it. That is a matter which the commissioners were to look into. If the commissioners do not recommend it to Congress as being eligible and worth the sum demanded, I cannot vote for the amendment.

Mr. DAWSON. I will say to the Senator from Virginia, that the money to purchase this asylum is not to be appropriated from the general fund of the Government. It is a military fund, a fund that has accumulated from the foundation of the Government, for the benefit of diseased soldiers. The appropriation which we ask for now, and it is the first appropriation of public money for the object, is only $10,000. It has been asked, why have not these commissioners made the purchase? They have replied that they did not think they had the means to do it. What the Blue Lick Springs would cost, I cannot say. Ten thousand dollars, I understood, when I presented the amendment, with the sum already on hand, would be sufficient to give the commissioners the discretion to purchase them, if they saw fit. If you pass this amendment, there is no obligation on that Board to purchase the Blue Lick Springs. If they refuse to purchase, the money will lie in the Treasury

But it is asked why they did not do it? The only reply I can make is, that they did not think they had sufficient means. They said they ought to do so, because the springs are exceedingly suitable as a location. Now, we give them $10,000, and say, "Gentlemen, if you think proper, under your former instructions, to purchase the site, do so. If the proprietor asks too much, do not give it; and if, in your opinion, they can be bought for a proper price, take the Springs." Ten thousand dollars, which is all we ask, will be appropriated by this Government for the purchase. Now, the speech of the Senator from Tennessee brings the subject before the sensibility of every Senator. There are four hundred and odd acres of land around these springs. It is for soldiers that seek an asylum. They want a healthful spot; they want the mineral waters, and above all that, being old and decrepit and infirm, they can have an opportunity of corking up the water in bottles, and send it off for sale, and thus secure a valuable income, which might amount to $5,000 per annum. With the proceeds arising out of the water furnished by nature herself, with little labor, which would serve only to give them light employment, and make their lives pass pleasantly, they would, at the same time, secure something of profit to the establishment. Why not do it? If you place them in Georgetown, on worn-out lands, you give them a salubrious climate, but they cannot till or cultivate the land. They would not be able to do it for the want of physical ability. But if they were placed at the Springs, they could do something themselves to aid the country in sustaining them. I have looked into the subject, and I think if we do not purchase the Springs, great injustice may be done to this class of citizens.

Mr. BRIGHT. I am opposed to the amendment, for the reason that I think it makes a partial discrimination in favor of a point that has already been condemned for the object contemplated. Under the provision adopted at the last session, it would have been entirely within the range of the duties assigned to the Board of officers to have reported in favor of this site, and if they had so reported, I apprehend that Congress would have ratified the report, by an appropriation sufficient to make the purchase. Blue Lick Springs was examined with several others in the western valley; and as the honorable Senator from Tennessee places great confidence in the report made by General Scott, not more, perhaps, than I do myself upon a subject of this kind, I will read what he says:

"The report and vote of the undersigned were founded on these considerations: 1. That the locality was not 'eligible' in the sense of a 'preferable' site. 2. That although the site was quite healthy, and surrounded by abundant means of subsistence, at reasonable rates, it was not, comparatively, as accessible as was desired. 3. That it was not clear that Congress, by the provision of law quoted above, would pay for the property out of the Treasury of the United States, should the Board contract for its purchase; and 4. Because the Board decided, at the same meeting, that it was not assured of the sufficiency of its own means to proceed with the establishment of a western asylum."

But the first two points made by the General in his report, I think quite conclusive, and prove that the locality is not "eligible," and that it is not easy of access—certainly two very important points in making a purchase for a site of this kind. But it is manifest that General Scott himself did not consider Blue Lick Springs as an eligible site, for the reason that, after having made a thorough examination of it, he extended his examination beyond that. He visited other points in Kentucky, and even honored my own State with a visit, and left the population of the city in which I now reside under the impression that that was the very point, and none other, that would answer for the military asylum. The city of Madison will be greatly disappointed, grievously disappointed, when they read his report, and find that Madison is not even noticed in it by that distinguished general. I speak what I know when I say that he left them under the impression, that above all other sites examined in the Mississippi valley, that was the most desirable and best adapted to this service; and I regret, deeply regret, in common with my constituency, that he has not noticed us in his official report. I say this, however, not in any spirit of complaint, for I feel sure that he did not intentionally overlook Indiana. I have referred to this fact because I have been charged with neglecting my duty in not urging Madison (not *Madisonville*, as called by General Lawson, in his report) as the very site the Government ought and would purchase, if a proper effort was made by the Indiana delegation. My wish is to have that point, combining the greatest advantages, selected as the abode of this meritorious class of our citizens; every consideration prompts this feeling, and no sectional view of this subject governs me.

I do not wish to be understood as saying anything against the Blue Lick Springs as the proper point, from any personal knowledge I possess. I know but little about it. The knowledge I have is derived mainly from the report before us. That report proves that the Board which was organized under the law of last session do not believe the public interest would be promoted by making this purchase, and that is enough to determine me against the amendment. I think it would be illiberal and unfair in Congress to designate any particular point. It should be left open to competition; and as the Board which we have already created cannot agree, let the matter rest; at any rate, if we legislate further, let it be upon general principles. Give the authority to another Board to select a suitable site, and report to us, and not make an appropriation for a point already condemned and rejected.

Mr. UNDERWOOD. I hope it will not be considered as obtrusive on my part, considering the quarter of the country whence I come, if I interfere with a few words upon a matter pertaining more properly to the Committee on Military Affairs. It is not my wish to interfere with a matter that does not properly belong to me. I desire though to make a brief answer to the Senator from Indiana, who seems to place his objection to the proposition, respecting the purchase of the Blue Lick Springs, upon General Scott's statement respecting the eligibility of the position and accessibility in reaching it. Now, I wish to inform the Senate that a railroad is being constructed from Maysville to Lexington, which passes just in the neighborhood of these springs. So far as accessibility is concerned that railroad gives every facility for reaching the Springs from the Ohio river at Maysville. A road already extends from Lexington down to Louisville; and our railroad connection from Lexington to Danville, in the interior of the State, will give a direct communication to the Blue Lick Springs. It has been found very accessible as a watering place, from every part of that country; and when you look at the progress of the improvements which are going on, there can be no objection on the ground of a want of accessibility.

As to the eligibility of the site itself, I have been there so frequently, that it seems to me I can place that question beyond all controversy by a word or two of description. I admit that the buildings and the springs are not greatly elevated above the Licking river. It is rather in the bottom lands of the stream. But just in the neighborhood, there are elevated grounds ascending directly from the spring, and the improvements which are going on. There can be no objection, I think, on the score of eligibility. Sir, according to the report of General Lawson, it presents a very desirable consideration in point of health. The place could not have been patronized as it has been, as a great watering place in Kentucky, but for its healthful position. The mere fact, then, that it is under the hills, when it is so close by the hills that you can easily roam over them, cannot constitute any very considerable objection. Besides, there are grounds enough under the hills to constitute a very considerable farm; and if the old soldiers can cultivate any lands at all, they will have an opportunity of doing it at that place; and if they cannot cultivate the soil, they can bottle up the water, as it has been done heretofore, and send it all over the country; and it will constitute a considerable source of revenue to them, as it now does to the proprietor.

Mr. President, the associations connected with the place are to me, as they would be to an old soldier, an object of some value. It is the ground of a battle with the aborigines that roamed the western wilds, which took place in the early settlement of Kentucky, and upon which occasion Todd and Trigg, and a great many more of the settlers of Kentucky, lost their lives. On that account I would like to see the old soldiers placed upon that battle ground.

With regard to the commendations that General Scott made in behalf of Madison, I think upon this occasion it was unnecessary to have brought them forth. My friend from Indiana ought to have recollected the peculiar position of affairs at that particular time, and it was not worth while to go into by-gones of that sort.

Mr. BRIGHT. If the Senator will allow me, I will state that I only spoke of that in connection with the fact that I had been charged with neglect of duty in not urging upon the War Department the advantages which Madison presents as a proper site for the location of the asylum. I presented that as a justification.

Mr. UNDERWOOD. I will further remark upon this subject, that I believe General Scott has not stated in the report the advantages which Madison possesses, and therefore it is a matter dependent entirely upon the communications which the people of Madison may have made to the representatives from that State; and when things of the kind are collected from everybody who may have had this conference and that conference, and collected this scrap and that scrap, and then communicated it to a representative of a State, there must be some little allowance made, particularly as the gentleman from Indiana says there was some little self-interest connected with them. Now, I do not understand the Senator from Indiana as having derived this from General Scott himself, but that it was collected in the manner that I have stated; and when that fact is considered, you must make many allowances.

Mr. BRIGHT. I only spoke of the impression that General Scott created upon my constituency before the election.

Mr. UNDERWOOD. I regret that the subject was introduced. I think it irrelevant. It has nothing to do with the case; but having been introduced, I say it ought to be received with many grains of allowance, because it does not proceed from conversations which the Senator has had with General Scott, but because he collects it from those who have a direct interest in representing General Scott as having recommended that point in preference to all others.

One other point, and I am done. The State that I represent has had very little of the public money expended within its borders; it has had few public establishments of any kind. We are an interior people, and we do not claim much; but if a little crumb of that sort falls within the borders of our State, I hope and trust you will not begrudge it to us, but let us have it.

Mr. CHASE. It so happens that the State of Ohio has a special interest in this matter, and I trust I shall be pardoned, therefore, for asking the attention of the Senate to a brief statement.

When the Military Asylum Board was constituted, it proceeded to the examination of several sites. They selected two, as has been stated, and in July, 1851, they passed the order, which I will read:

"*Ordered*, That a third branch-asylum be established in the neighborhood of Cincinnati, Ohio, so soon as the Board shall be satisfied of the sufficiency of its funds."

That order remains to this day unrescinded by the Board, and is embodied in the report of General Scott which has been referred to in this discussion.

At the last session of Congress the Board was directed to make an examination of the Blue Lick Springs, and if that situation was found eligible for the purpose, and could be secured with a proper quantity of land, including buildings, at a reasonable price, to effect the purchase. Under the authority of this law they directed their examination to this particular point, instead of making a general examination. The Board made a report, which is now brought to the attention of the Senate, and we find that instead of two of the Board concurring in recommending the purchase of these Springs, two expressed opinions against the purchase, and one only recommended it. The Senator from Indiana has read the opinion of General Scott:

"1. That the locality was not 'eligible' in the sense of a 'preferable' site. 2. That although the site was quite healthy, and surrounded by abundant means of subsistence, at reasonable rates, it was not, comparatively, as accessible as was desired."

Such is the opinion of General Scott. The opinion of General Wool was, that this position was an eligible one, but that the price demanded for it was not reasonable. He further says:

"Agreeably to the General-in-Chief's instructions, I examined, in company with General Lawson, the country for twelve miles in the rear of Cincinnati, where I observed several sites equally eligible, and in some instances, as I thought, superior to the Blue Licks for a military asylum. But the price appeared to me entirely too high," &c.

General Wool says he found sites in the vicinity where the Board originally determined the asylum should be erected, superior to the Blue Licks, and objectionable only on the score of price. Then, in the opinion of two members of the Board, there are more eligible positions, and the only objection which applies to the site which was originally selected and ordered to be purchased as soon as there was a sufficiency of funds, was that the price was too high. That is the objection which lies against the Blue Lick site. It seems to me I need say no more. This matter has been committed to a Board of officers entirely competent to make the selection. I propose to leave it there. I object to any legislation intended to control their discretion. Aside from these considerations, I will say that it seems to me the very worst policy to buy a watering-place with buildings erected for ordinary uses of a watering-place, for a military asylum. The worst possible policy, I mean, in point of economy. I know, and everybody knows, who is acquainted with the lands on the Ohio river—I have some experience in this matter, and very recent experience, too—that you can buy hundreds of acres within a mile of the river for one, two, or three dollars an acre. A sale has been recently made within sight of the river, of several thousand acres, at that rate. I would have the land bought where land can be bought cheapest, in a desirable and accessible position, and I would have the various proposed sites examined. The Board should not be confined, by any implication, to a single site. The error—the first, the greatest error in respect to the whole matter—was the direction of the act of 1852, requiring the examination of a particular site. The Senate would now commit a greater error by requiring the selection of that site. I prefer to leave the door open for the Board to examine and decide upon the proper site for themselves.

Mr. BORLAND. I was opposed to this proposition before the committee, and desire to say a word as to the reason of my opposition. The difficulty in this case about the Blue Lick Springs, and a military asylum, originated when this special legislation began in regard to it. There would have been no difficulty if we had left the act alone which we passed, raising this Board, and making it their duty to examine the country and select a site for the military asylum They went on under the general authority which they had, and made selections of two places, located the asylum, and have expended the money necessary to their establishment so far. But, sir, this did not satisfy the views and interests of certain property owners in Kentucky A gentleman there—I have nothing to say against him for respectability; I apprehend he is an eminently respectable gentleman; I have understood so—had conceived some few years ago the project of establishing a great watering-place in Kentucky, at Blue Lick Springs, and he had gone to work and expended a great deal of money in the improvement of the springs, and made a large establishment and a fashionable watering-place, and, like a great many others who enter into speculations of that sort, made an establishment, the patronage of which has not paid any profit upon his investment. In other words, his speculation has failed. Finding himself in this condition, with a large amount of property on his hands that did not pay—I do not know how far he is embarrassed—he conceived the idea of coming to Congress and getting them to take it off his hands at a large price to save his place. That is the origin of this whole matter.

Mr. UNDERWOOD. Upon what data does the gentleman make his statement? I am not apprised of that being the fact.

Mr. BORLAND. The data are these: That this state of things actually existed in Kentucky is notorious, and this gentleman got his project brought forward to select, by express legislation, the Blue Lick Springs for the military asylum. That is the ground. What other inference am I to draw? This gentleman had gone on to improve property with a view, no doubt, of making it profitable—certainly, for nothing else—and then, through friends, the measure was brought before Congress, and special legislation was adopted in order to enable him to sell that property to the Government. I apprehend there is no question about these facts.

Well, sir, the effort was successful to a certain extent. Not willing to let the selection for a site for an asylum in Kentucky rest upon the same ground that we did all the rest, when we gave a general authority to examine the whole country, we fixed upon Blue Lick Springs, and made it the special duty of the Board to go and examine it. The Board did examine it. What is the result? The point examined, not like those which the Commissioners had discretion about, was not left at the price for which they had money to pay for it; but the very moment the act was passed, selecting that above all others, the proprietor put his property up at a price which exceeded the means of the Board to purchase. And such would have been the case if we had designated by a special act any other point. The proprietor, knowing that, by the act of Congress, that was to be the point selected, would put his own price upon it. But it does not stop there. This Board, for reasons set forth, not in a regular report, but in several opinions expressed by the members, refuse to select. The Senator from Tennessee [Mr. JONES] says General Scott wrote an equivocal letter. I do not know what the Senator considers an equivocal letter. He did not read, I think, what General Scott said, but the Senator from Indiana did, and I consider that very unequivocal. And he expressly tells you that he did not select it because he did not think it eligible; he thought other sites were more so. In the next place, the proprietor asked more money than ought to be paid for it. General Wool tells you—and on his opinion a great deal of reliance should be placed—that he found other places which he preferred, as being more eligible. Doctor Lawson, it seems, approved of it. Then out of the three members of the Commission, two decide against it, and one of them is the General-in-Chief of the Army of the United States. And yet, in the face of that, the proposition is now made that we, without knowing anything about it ourselves, take it upon us to decide that the Blue Licks is the place. The resolution made it the duty of the Board to examine the Blue Licks, and they did examine, but did not purchase. Now, I ask how, upon such grounds, we can adopt the amendment as to the military asylum, and say that the Blue Licks is the place for it? What would be the basis of the action of the Senate? Only one out of the three Commissioners approved of the selection of that site. The others gave the best of reasons why it should not be selected: that there are other places more eligible, and which can be bought cheaper. We have heard a great deal about the good qualities of the Blue Lick water. I do not know by actual experiment whether it is good or not. It has been considered so in certain diseases. But are we to take all invalid soldiers, no matter what may be their complaint, and compel them to use this water as a remedy, whether adapted to their cases or not? Shall they be forced to drink Blue Lick water, whether their diseases require it or not?

Mr. UNDERWOOD. There is plenty of fresh water there which they can drink.

Mr. BORLAND. I apprehend that the diseases under which they labor will generally require no Blue Lick water at all. Most of them being feeble, broken down with diseases and wounds, I apprehend that this water is about the last thing they would want. That is so, if I am correctly informed as to its effect upon the human system. They need tonics, sir, rather than such a remedy as the Blue Lick water. For these general reasons I cannot consent to the adoption of the amendment.

Mr. JONES, of Tennessee. I will detain the Senate but a few moments, but I hope they will bear with me, for it will be remembered by the Senate that I have occupied as little time in speaking as any Senator on the floor; I have exposed myself to the same imputation to which the Senator from Indiana says he has exposed himself at home, from my constituents, by not speaking. I desire to correct a few misapprehensions, and I have done.

The Senator from Arkansas says that I stated that General Scott's letter is equivocal, and he does not think so. Now General Scott, in his report, says, "that the locality was not 'eligible' in the sense of a 'preferable' site." I ask the honorable Senator if that is not equivocal? But again he labors under this great misapprehension: he seems to think that the owners of the Blue Lick Springs have got into an unfortunate speculation, and come here for relief. Even if that were true, it is no objection to the proposition. The question submitted to us is, whether it is our interest and duty, as the representatives of this Government, in this department, at least, to make the purchase or not; and as to whether the owners of the Blue Lick Springs have made an unfortunate speculation or not, it has nothing to do with the question. But I take it for granted that my friend from Arkansas does not speak from the record. If it has been an unfortunate speculation, we have no evidence of the fact.

Mr. BORLAND. It was an inference of mine, because when an individual has invested his money in an enterprise of that sort, it is not natural to suppose that if his expectations are realized and his enterprise successful, he would be seeking to get it off his hands.

Mr. JONES, of Tennessee. If I thought it at all necessary or instructive to the Senate, I could give all the facts, from personal knowledge, of the motives which induce the proprietors to wish to sell—not such as the Senator supposes. But here is a very important fact. My friend from Arkansas supposes that the owners of the Springs have come here for the purpose of getting out of a bad speculation. Do you not remember that the Legislature of Kentucky memorialized Congress upon this very subject, and that is the way in which the question comes here? I believe it was a unanimous memorial from the Legislature of Kentucky, asking that Congress would select that as the site for the western asylum. That is the way it came here—by the high authority and sanction of the State of Kentucky.

But my friend says he does not know that this is a very desirable location for sick soldiers. I certainly will not have the vanity to set up my judgment in opposition to his on such a question. But I beg leave to state a fact as notorious in my region of country as any fact known there, viz: that those waters are considered eminently and preëminently adapted to that very class of diseases under which a large portion of our soldiers who were in Mexico are laboring; and hundreds and thousands of persons laboring under maladies of that kind go to those springs as a last resort. The fact is notorious.

But my friend from Ohio, as well as my friend from Arkansas, seems to come to the conclusion, that a majority of the Board which inspected the Springs, reported against the site. The fact is just the other way. Two out of the three reported in favor of it, and two out of the three were anxious to make the purchase. Let us see. General Wool says:

"In consideration of these advantages, of climate, buildings, and surrounding country, affording an abundance of cheap supplies, together with the revenue which might be derived from the sale of the Blue Lick water, which was represented to have amounted hitherto to about $5,000 per annum, clear profit, I came to the conclusion that it was an 'eligible' position for a western military asylum."

Let us see what General Lawson says:

"One great inducement for the selection of the Blue Licks is the fact that the asylum establishment can be immediately put into operation. Many of the soldiers of the Mexican and other wars, now residing in the western country, and who are entitled to the benefits of this institution, will not come to Washington city, nor go to New Orleans, while they would, perhaps, very readily take up their residence in an asylum located within their own climate and section of country. To buy a naked piece of land"——

That is the suggestion of the Senator from Ohio:

"To buy a naked piece of land, near the Ohio river or elsewhere, and go through the process of erecting extensive permanent buildings, involving a period of two years and more in their construction, would be virtually to proscribe from the benefits of the institution many of those men whom Congress had specially in view when the law was passed, authorizing the establishment of a military asylum. Many of the men embraced within the provisions of the law are now, perhaps, on the verge of the grave, and should they not, within two or three years, enjoy the comforts of the soldiers' retreat, they will not require the benefits of the institution afterwards."

That is the ground upon which he goes.

"Inasmuch, then, as the framers of the law authorizing the establishment of one or more branches of a military asylum, manifestly intended that the benefits of the institution should be extended as early as practicable, and as widely as possible, to all coming within the provisions of the act, I have no hesitation in expressing the opinion that the Blue Lick Springs, or some such like place immediately

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available to us, should be purchased for the location of the western asylum."

Then we have the testimony of two of the Board in favor of the location and purchase, and I can tell my honorable friend why it was not made. There were six members of that Board, three of whom saw the Springs; the others never did, and they were the men that defeated the purchase. The simple question is, whether we take it out of the hands of the Board or not? We do not; we take no power out of their hands. We simply increase their power, and give them ability to purchase it if they think proper to do so, and accord to the soldiers the benefits which the law intended they should enjoy. It is taking from them nothing; it is requiring them to do nothing. It is simply giving them the ability to purchase the site if they think proper, and then it has to pass the supervision of the President of the United States; and surely my friends ought to be willing to trust that Board and that President to determine this question. Let us give them the means to do it, if they think it right and proper.

Mr. BORLAND. I do not wish to be misunderstood. I did not say that the Blue Lick Springs was not an eligible situation, and the most eligible for the military asylum. I did say, however, that we had no evidence before us to satisfy the Senate, at least to satisfy me. I did not charge that this gentleman had made this speculation, and was seeking to get a bad bargain off his hands. I drew that as an inference from the facts that I did know; and I do not see that any other can be drawn. I did not say that the Blue Lick water was not a good remedy for many diseases under which the soldiers are laboring; but I did say that, in my opinion—and I apprehend that but few members of the medical profession would differ from me—it was not applicable to every disease, or to a majority of diseases; and then, even if it were, we know it is scattered all over the country, and can be bought anywhere, in the drug-stores, like any other medicine for a sick man. I have never been in any considerable town where I could not get it. I did not say it was no remedy; but I said it did not seem to be a proper proceeding to prescribe it for everybody and everything. It would not be a very enlightened mode of practicing medicine.

Mr. WELLER called for the yeas and nays on the amendment; and they were ordered.

Mr. BELL. I will not make a speech, because I think we must sit out this bill to-night. I appeal to my honorable friends on the other side, that they all know we want a military asylum in the West, and we are likely to have none, because we cannot agree among ourselves. We would have had a national armory in the West but for our own disagreement, and also a national foundery. The Atlantic States have always been willing to give some of these public establishments to us, but we never can agree among ourselves, on account of our jealousy.

Several SENATORS. We will now.

Mr. BELL. I only desire to make this appeal to Senators. Although there might be some other site that could be got cheaper, and might suit the views of other gentlemen, yet here we have an opportunity to get one which certainly answers all the purposes; and shall we be defeated, and have no asylum, because we cannot agree among ourselves as to the proposed location of it?

Mr. BRIGHT. One remark in reply to the Senator from Tennessee. I am quite as anxious for an institution of this kind in the West as any gentleman on this floor; but, as I remarked when up before, I do not believe it is right to designate the point, particularly a point that has already been condemned by our own Board. There is a system of favoritism in it, which I will not tolerate by my vote.

The question being taken by yeas and nays, resulted—yeas 25, nays 20; as follows:

YEAS—Messrs. Badger, Bell, Charlton, Clarke, Cooper, Davis, Dawson, Dodge of Wisconsin, Dodge of Iowa, Fitzpatrick, Foot, Gwin, James, Jones of Tennessee, Miller, Morton, Pearce, Pratt, Rusk, Sebastian, Seward, Smith, Spruance, Underwood, and Weller—25.

NAYS—Messrs. Borland, Bradbury, Bright, Brodhead, Cass, Chase, De Saussure, Douglas, Downs, Felch, Hamlin, Hunter, Mallory, Mason, Norris, Pettit, Soulé, Sumner, Wade, and Walker—20.

So the amendment was agreed to.

Mr. HAMLIN. I have three amendments which I am directed to offer by the Committee on Commerce. I will explain in a word what they are. The Army officers attached to the Topographical Corps, who are engaged in constructing harbor and lake improvements, are not estimated for from the War Department proper. Consequently, if we have no river and harbor bill, as I presume we will not have, there will be no appropriation for their payment. I have a letter from the Secretary of War on the subject. I am instructed, therefore, by the Committee on Commerce, to offer the amendments, to come in at the end of the first section. The first is as follows:

"For preservation of public property and contingencies on the western river improvements, and for commutation of transportation of the baggage, and of quarters and fuel of officers, payment of which is no longer made by the Quartermaster's Department, and for allowance to meet the extra expenses, under the special direction of the Secretary of War, $10,000."

The amendment was agreed to.

Mr. HAMLIN. The next is:

"For repairs and preservation of public property and contingencies on lake harbors, and for commutation of transportation of baggage, and of quarters and fuel of officers, the payment of which is no longer made by the Quartermaster's Department, and for allowance to meet extra expenses, under the special direction of the Secretary of War, $20,000."

The amendment was agreed to.

Mr. HAMLIN. The last is:

"For repairs and preservation of contingencies of river and harbor improvements on the Atlantic and Gulf coasts in charge of the Engineer Department, and to meet charges for transportation of the officers, and for fuel and quarters, the payment of which is no longer made by the Quartermaster's Department, and for allowances to meet extra expenses under the special direction of the Secretary of War, $15,000."

Mr. HUNTER. I am willing to vote for that in relation to the officers if the Senate will not put rivers and harbors on the Army bill.

Mr. HAMLIN. It applies to those works that are in possession of the Engineer Department. If there is a boat there it is in charge of the Government officers, and they have to keep it in repairs. This is to pay the officers who have the charge of them. That is what I understand by it.

The amendment was agreed to.

The bill was then reported to the Senate as amended.

The PRESIDING OFFICER. The question will now be on concurring in the amendments made as in Committee of the Whole. Unless Senators desire to except some of them, the question will be taken on all together.

Mr. WELLER. I desire a separate vote on the amendment in relation to the superintendency of the armories.

Mr. RUSK. I desire a separate vote on the one in relation to the military posts.

Mr. CHASE. I desire a separate vote on the one in regard to the purchase of the Blue Lick Springs.

The question was taken on all the amendments which were not excepted, and they were concurred in.

The question then recurred on the amendment to strike out the clause in the bill repealing the existing law in reference to the superintendency of the national armories.

Mr. WELLER and Mr. SUMNER called for the yeas and nays; and they were ordered.

Mr. DODGE, of Iowa. Believing the military superintendency to be contrary to the spirit and genius of our institutions, I shall vote against it and in favor of the civil.

Mr. BUTLER. Believing that the military superintendency is the only true system, I shall vote to adhere to the amendment.

Mr. WELLER. I shall vote to put the armories under civilians, and am perfectly satisfied that the military law is a despotism, necessarily so, and ought never to be introduced in any form, unless it be absolutely necessary.

Mr. PEARCE. I believe that the regulations are the same under both systems; the difference being that they are enforced under one system and not under the other. In one case, the men work four or six hours, in the other they work full time.

The question being taken by yeas and nays, resulted—yeas 22, nays 25; as follows:

YEAS—Messrs. Badger, Bell, Borland, Butler, Charlton, Clarke, Dawson, De Saussure, Fitzpatrick, Foot, Hamlin, Jones of Tennessee, Mallory, Miller, Morton, Pearce, Pratt, Sebastian, Shields, Smith, Underwood, and Walker—22.

NAYS—Messrs. Bayard, Bright, Brodhead, Cass, Chase, Davis, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Houston, Hunter, James, Jones of Iowa, Mason, Norris, Pettit, Rusk, Seward, Soulé, Spruance, Sumner, Wade, and Weller—25.

So the amendment was not concurred in.

Mr. HOUSTON. I give notice that I shall, to-morow, at one o'clock, call up the joint resolution introduced by the Senator from Michigan, in relation to Cuba and colonization on the North American continent.

The next question was on concurring in the amendment in relation to the establishment of military posts to California and Oregon.

Mr. BRIGHT called for the yeas and nays upon it; and they were ordered.

Mr. SEWARD. As the yeas and nays were taken in Committee of the Whole on the amendment, and I voted against it, and as they are to be taken again, and I am going to vote in favor of it, I desire, if the Senate will indulge me, to state the reason why. The reason is, that I have reconsidered it, and changed my mind.

Mr. WELLER. That is a capital reason.

The question being taken by yeas and nays, resulted—yeas 25, nays 23; as follows:

YEAS—Messrs. Borland, Bradbury, Bright, Brodhead, Cass, Chase, Clarke, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Gwin, Hamlin, James, Jones of Iowa, Mallory, Sebastian, Seward, Shields, Soulé, Sumner, Wade, and Weller—25.

NAYS—Messrs. Badger, Bayard, Bell, Butler, Charlton, Davis, Dawson, Fitzpatrick, Foot, Houston, Hunter, Jones of Tennessee, Mason, Miller, Morton, Norris, Pearce, Pettit, Pratt, Rusk, Smith, Spruance, and Underwood—23.

So the amendment was concurred in.

The last amendment made as in Committee of the Whole, was the following:

And be it further enacted, That for the purpose of enabling the Commissioners of the Military Asylum to purchase Blue Lick Springs, with the view of establishing thereat a Western Military Asylum, as authorized by the 18th section of the Army appropriation act, approved August 31, 1852, the sum of $10,000 in addition to the sum in the hands of the Commissioners, is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. CHASE. I move to strike out the words "Blue Lick Springs," and insert in lieu thereof the words "a suitable site;" so that the selection may be left to the discretion of the Board, while we appropriate the additional sum.

Mr. HUNTER. I am very reluctant to say anything at this state of the question, but I must oppose that on account of the appropriation of the money. We have no account of this branch of the service at all. I do not know how much has been expended. Before we expend more, we should know that. It does not obviate my objection to strike out the place.

Mr. CHASE. I ask for the yeas and nays on the motion.

The yeas and nays were ordered.

Mr. CHASE. I simply wish to say that this puts the question directly to the Senate, whether they are willing to give a preference to a particular establishment, and take it away from the Board constituted by law—that Board voting against it also.

Mr. RUSK. I am in favor of that amendment as it stands, because we have the testimony of two general officers in its favor, Generals Lawson and Wool, in whom I have the utmost confidence.

Mr. CHASE. In reply to that, I have to say that of these two officers, one did not regard this as the proper site, and the other, though admitting the site to be eligible, says other sites may be

obtained which are preferable, but possibly would require a greater price.

Mr. PRATT. I wish to inquire of the friends of this measure, if the amendment of the Senator from Ohio is adopted, and whether or not, the commissioners who were originally empowered to make the selection of the site would not be still empowered to act upon that subject, and select, if they thought best, the Blue Lick Springs? I desire the opinion of the friends of the measure.

Mr. JONES, of Tennessee. I hope the amendment of the Senator from Ohio will not prevail. If I understand the sense of the Senate, it voted understandingly on the question in Committee of the Whole, and upon the very ground as laid down in the report of Dr. Lawson, that there are houses already at the Blue Licks to receive these old soldiers who are constantly dying. That is the ground upon which I predicate the argument, and upon which I hope the Senate will act. If you strike it out, you lose sight of the great feature which seemed to have attracted the attention of the gentlemen who went there and examined it. This is taking no power from the Board. It is not obligatory. The selection will still have to go through the ordeal of the Board and the President, and I do hope that the Senators who sustained it on the yeas and nays before will sustain it now.

Mr. PRATT. I desire the gentleman to answer the question which I put, whether, if the amendment of the Senator from Ohio is adopted, the commissioners may not still select the Blue Lick Springs?

Mr. JONES. Undoubtedly. They can do it now. It is not obligatory, one way or the other.

Mr. PRATT. I want the Blue Lick Springs selected, provided that is the best point. I have no doubt those officers will take into view what has been said by the Senator from Tennessee, and they will select this point if it be advantageous, because of the houses or anything else on it.

Mr. BRIGHT. That is my position. I have no objection to the Blue Lick Springs, provided it is the best place to be selected. But I am unwilling that the Blue Licks should be singled out and designated by us as the point, thus giving it the preference over all other places.

Mr. JONES, of Tennessee. The friends of the measure are willing to yield that point.

Mr. DAWSON. I accept the amendment.

Mr. BRADBURY. I wish to inquire whether the amendment, with the words Blue Lick Springs stricken out, refers to the former act, and whether that act does not designate the Blue Lick Springs?

Mr. DAWSON. Not at all. This is an amendment appropriating money.

Mr. CHASE. I desire to have the question taken on the amendment as modified. I will withdraw the call for the yeas and nays, if there is no objection.

Unanimous consent being given, the call was withdrawn.

The question being then taken on the amendment to the amendment, it was agreed to.

Mr. CHASE. For the purpose of carrying out the same object, I move to strike out the words "as authorized by the eighteenth section of the Army appropriation act, approved August 31, 1852." That section of the act directs the purchase of this particular site, provided it is an eligible location.

Mr. JONES. The Senator is wholly mistaken. There is no such thing in the act at all. The act referred to was one authorizing the establishment of the military asylum.

Mr. CHASE. Then the amendment to the amendment can do no harm.

Mr. PRATT. I wish to understand this.

Mr. CHASE. I will read the 18th section of the act to which I refer. It enacted that the Board of Commissioners of the Military Asylum, "be, 'and they, or a part of them, are hereby, authorized to examine the Blue Lick Springs, and the 'land attached thereto, and if the same be found 'eligible for the purpose, and can be secured of the 'proprietors, or any suitable quantity of the land, 'including the buildings, at a reasonable price, to 'purchase the same for the Government of the 'United States, and to locate thereon the Western Military Asylum."

Now, if we increase the military appropriation, and direct it to be applied in conformity with the act of Congress, of course that site will be selected.

The amendment to the amendment was agreed to.

Mr. DAWSON called for the reading of the amendment as amended; and it was read, as follows:

"SEC. —. *And be it further enacted*, That for the purpose of enabling the Commissioners of the Military Asylum to purchase a suitable site, with a view of establishing thereat the Western Military Asylum, the sum of $10,000, in addition to the sum in the hands of the commissioners, be and the same is hereby, appropriated."

Mr. JONES, of Tennessee. The Senator from Ohio referred to the section of the law which was referred to in the original amendment. I understood from my friend from Georgia, who drew it up, that the 18th section referred to the act. I did not suppose that it related to the act of last session, but it seems that I was mistaken.

Mr. BORLAND. I would suggest that there is no necessity now for this appropriation. These commissioners have money enough in their hands, and the only object of the sum proposed to be appropriated, $10,000, is to add enough to the sum already in their hands to enable them to buy the Blue Lick Springs, for which a large price is demanded.

Mr. PRATT. I hope the amendment will now be adopted. There is a compromise between the friends of the Blue Lick and those opposed to that site, and that compromise is to appropriate $10,000, which will enable those commissioners, if they think it as the best point, to select the Blue Lick Springs. Without an appropriation they cannot select it, and the refusal of the appropriation will be to say that this site shall not be taken. We want the whole thing open.

Mr. BRIGHT. I hope that nothing which has fallen from the Senator from Maryland, will leave the impression that by this amendment we intend to give a preference for the Blue Lick Springs over every other point in the West.

Mr. PRATT. Not at all.

Mr. BRIGHT. If the amendment bore that construction, I should certainly vote against it.

Mr. BORLAND. My reason for saying that there was no necessity for the appropriation, is because the 18th section of the act, passed August 31, 1852, provides that this Board of Commissioners, or any part of them, "are hereby authorized to examine the Blue Lick Springs, and 'the land attached thereto, and if the same be found 'eligible for the purpose, and can be secured of the 'proprietors, or any suitable quantity of land, including the buildings, at a reasonable price, to 'purchase the same for the Government of the 'United States, and to locate thereon the Western 'Military Asylum." The proper manner, it seems to me, would be to amend that section by striking out the Blue Licks, and not make this appropriation, thereby leaving money enough in the hands of the commissioners to select a site under the general authority.

The amendment as amended was agreed to.

Mr. DAVIS. I wish now to renew the amendment which I offered as in Committee of the Whole in relation to the armories. I moved, when we were in Committee of the Whole, an amendment by which discretion was given to the President to employ a military officer or a civilian as superintendent, as he might deem the public interests required. I now wish to renew that proposition.

Mr. BUTLER. If the Senator from Massachusetts will give way, I will move to strike out altogether the appropriations for the armories, and let the arms be made by contract, because I know the armories are besieged by stock-jobbers ready to go and take possession of this money. I wish, therefore, to move, before the question is put on the motion of the Senator from Massachusetts, to strike out the appropriation for the armories, and leave the Government to get its arms made by contract.

Mr. HUNTER. The effect of striking out the appropriation would not be to leave the Government to make contracts, but to diminish the appropriation for the manufacture of arms to that amount.

Mr. BUTLER. According to what was said the other day by the honorable Senator from Michigan, there is no necessity for it now, and let us suspend operations for a year. I know that persons are ready to go in and seize upon this appropriation immediately. I do not know but that there are some of them in my committee-room now. I cannot go there that I do not find some one ready to advise the Government what to do on the subject of the armories. I have positively to be repulsive to some of these people.

Mr. DAVIS. I presume the question will first be on my amendment, which is, to strike out all the proviso in the bill as it came from the House, in relation to superintendents of the armories, after the word "next," and insert:

That the act of Congress approved August 23, 1842, be so modified that the President may, if in his opinion the public interest demands it, place over any of the armories a superintendent who does not belong to the Army.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Senator from Massachusetts moves to strike out a portion of the bill which the Senate has just resolved to retain in that form; therefore his amendment is not in order.

Mr. DAVIS. I think the amendment is in order, or else it is impossible to make it. It could not be moved, it seems to me, before the vote was taken, on concurrence; and now it is not a proposition to strike out the whole of that which we have agreed to retain, but to strike out a part of it.

Mr. SHIELDS. The Senate has refused to strike out the proviso, but it seems to me that it would still be subject to modification.

The PRESIDING OFFICER. The Senate have refused to strike out the whole of the proviso, and that, according to parliamentary law, is equivalent to a vote to retain it; and therefore another motion to strike out any part of it is not in order.

Mr. BAYARD. I voted in the negative on the question of concurrence in that amendment, and I move to reconsider the vote, so as to allow the Senator from Massachusetts an opportunity of offering his amendment.

Mr. RUSK. I move an adjournment.

Mr. HUNTER. I hope we shall not now adjourn. Let us finish the bill. I must call for the yeas and nays on that motion.

The yeas and nays were not ordered.

The motion to adjourn was lost, there being, on a division, ayes 15, noes 29.

Mr. PRATT. Now let the motion of the honorable Senator from Delaware be considered a test question, and it will at once decide the proposition of the Senator from Massachusetts.

Mr. JAMES called for the yeas and nays on the motion to reconsider, and they were ordered; and being taken, resulted—yeas 23, nays 22; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Borland, Butler, Charlton, Clarke, Davis, Dawson, De Saussure, Fitzpatrick, Foot, Gwin, Jones of Tennessee, Miller, Morton, Pearce, Sebastian, Shields, Smith, Spruance, Underwood, and Walker—23.

NAYS—Messrs. Brodhead, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Houston, Hunter, James, Jones of Iowa, Mallory, Mason, Norris, Pettit, Pratt, Rusk, Seward, Soulé, Sumner, Wade, and Weller—22.

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on concurring in the amendment made as in Committee of the Whole.

Mr. WELLER. I move that the Senate do now adjourn.

Mr. HUNTER. I hope not. I hope we shall go on and get through with this bill.

Mr. WELLER. We shall never get through with it if we are constantly reconsidering.

Mr. HUNTER. We are nearly through now. I think we are in sight of land.

The motion to adjourn was not agreed to, there being, on a division, ayes 17, noes 24.

Mr. DAVIS. I now move to amend the amendment made as in Committee of the Whole, by striking out all of the proviso after the word "next," and inserting:

That the act of Congress approved August 23, 1842, be so modified that the President of the United States may, if in his opinion the public interest demands it, place over the armories a superintendent who does not belong to the Army.

Mr. SHIELDS. I shall not object to the honorable Senator's amendment, but I move as an addition to it—and I presume he will have no objection to accept it—the following:

And provided further, That the Secretary of War be directed to cause the necessary and proper inquiries to be instituted through the medium of a commission of civilians and military men, with the view of ascertaining which of the two systems is the more economical, efficient, and safe for the management of the public armories,—that formerly existing under the superintendence of civil officers, or that now existing under the superintendence of officers of the Ordnance Department; and to make report thereof to Congress at their next session.

I want to see if any one here can object to an investigation.

Mr. WELLER called for the yeas and nays; and they were ordered.

Mr. HOUSTON. I really can see no good that is to grow out of the proposed amendment of the Senator from Illinois. Had the provision remained as the Senate determined, and as it came from the House, there would have been an end to the matter without further expense and trouble. From the experience of years past in relation to the civil, as well as the military administration of the armories, the fact is pretty well ascertained that the armories were in quite as prosperous a condition under civil, as they have been under military rule. I do not wish to disparage either; but from the very nature of the work, and the character of the mechanics and artisans who are employed in it, it is clear that harmony never can exist between a military ruler and civil employees. One has ideas of discipline and obedience for man, and the others have pride to prompt them. If they are not constrained by military authority, harmony may exist between the superintending authority and the employees, because then it will depend, not on the caprice of individuals, but on their superior qualifications and industry; and civilians will judge more impartially of these things than military gentlemen, accustomed to command, can ever do. So long as military gentlemen remain in command of civilians, not subject to the rules and regulations of war expressly, you will never have harmony and never have a successful operation of the business of the armories.

Mr. SHIELDS. The honorable Senator seems to think that the armories are under military rule. They are no such thing. They are under a regular system, it is true; but it is a peculiar thing, that here are two institutions intended for the nation, and the localities in which they exist want to get possession of them. That is the whole struggle.

Mr. HOUSTON. We all know the duties of regular soldiers, and I like to see etiquette, discipline, subordination, and respect from them to their officers. I like to see it in the employees of the Government, and fidelity to their engagements; but I would ask the honorable chairman of the Committee on Military Affairs, if it is not true that the civilians never approach the commandant of the armory without saluting him as a regular soldier would do? I understand that that is required of them, and it is looked upon by them as an act of humiliation to which they do not wish to submit. I am for subordination in the Army—I am for courtesy in civil life. Men are willing to accord it when it is not exacted as a duty. But if you exact it of any citizens, mechanics, or otherwise, they never will perform it with a good grace; for all men who are free have pride. They may do it with great deference if dependent upon their own choice, but if you make it a duty and exact it of them, they never will render willing and quiescent obedience.

Mr. BAYARD. The effect of the amendment of the Senator from Massachusetts, as I understand, is so far to modify the existing law as to authorize the President, in his discretion, to resort either to the Army or civil life for the purpose of appointing these superintendents. I, for one, am willing to trust him with that discretion. It seems to me to be an administrative duty, and I should not be afraid of its being abused. It seems to me further, that it affords a wider scope for his selection, than if you confine him to one or the other—either to military or civil life.

The amendment to the amendment, of which I am also in favor, comes from the honorable Senator from Illinois, chairman of the Committee on Military Affairs. It proposes to make an inquiry into the fact, which of these two modes of superintendence is better for the general interests of the country. Now, with great deference to the honorable Senator from Texas, I must say that it seems to me, that the facts are not pretty well ascertained with reference to this point.

There is about nearly an equal division of opinion in the Senate in reference to the propriety of the different systems, that opinion being founded of course on experience, and the facts in connection with the two modes of superintendence. Surely there can be nothing unreasonable in trusting, in the *interim*, the President of the United States to appoint either a civilian, or an officer of the Army, and then going on to ascertain the facts fairly, by a mixed commission of civilians and military officers. That I understand to be the proposition of the Senator from Illinois; and I think, if the amendment be amended in that way it will reach the true merits of the case. If it be true that this attempt is nothing more than a political speculation, with the view to the advancement of personal intrigues or the personal interests of the local residents, in the places where the armories are situated, that commission will be able to ascertain the facts. If, on the contrary, it be true,—and it may be true—and I have some reason to think that it may be,—that a military officer, in dealing with that class of men who have to manufacture our arms, introduces too rigid a system, which the generality of American mechanics would be unwilling to bear, which is different from their habits and customs, the commission will also ascertain that fact; and having the facts before us, we can ultimately determine which is the proper system of superintendence. I do not think the country will be in danger if, in the meantime, we leave it to the discretion of the President to make a choice.

Mr. HOUSTON. I think the amendment of the gentleman from Illinois is defective in one particular, and I think when his attention is called to it, he will perceive it himself. It does not state what number of civilians shall be selected for the purpose of investigating this subject, or what number of Army officers. I think it would be necessary to insert something as to the number.

Mr. SHIELDS. I would state to my honorable friend from Texas, that that is left to the discretion of the Secretary of War. I take it for granted that he will appoint an equal number of civilians and of Army officers. Now, I put it to him as a high-minded and honorable gentleman, and a Senator, if it is not due to these two distinguished officers, against whose reputation some charges have been made, that an investigation should be had? We are acting, as everybody knows, without sufficient information. Is it not due to these officers to have some investigation? We sometimes do great injustice without intending it. I have not a word to say against those gentlemen who are making an effort to change the system. They have an interest in doing so. They want to get the management of it. That is a fair thing on their parts. But here are two officers, Colonel Huger and Colonel Ripley, as gallant, as brave, and as honorable men as any in the Army of the United States. Charges have been made quietly against these men. This action seems to give judgment against them. Is it not just, is it not fair to them that we should have this investigation even for that purpose?

Mr. HOUSTON. I will answer the gentleman as he has presented his proposition. I think that the gentlemen in command of the armories are all that he represents them to be. The armories were originally carried on under the direction of the Secretary of War, and they were headed by civilians. They prospered in that condition. A change was made. That change did not increase the number of officers, but it called gentlemen from their appropriate duties in the line of the Army, thus devolving an undue amount of duty upon those who remained at their stations. These gentlemen now in command of these armories have been selected for that purpose. It will not be an inconvenience to them to return to their duty in the line of the Army. It is no reflection upon them, because they only go back where they were intended by law, and by their rank to remain. If insinuations have been made, the action of the Senate would not change public opinion in relation to the matter, if that opinion is detrimental to the officers. An investigation I think has already taken place, and that has only been a source of additional clamor to that which previously existed, because it was a military investigation. Civilians complained that they were not heard or treated with courtesy on that occasion.

The only way, in my opinion, is for the Senate to settle this question as has been done by the House of Representatives, where the immediate Representatives of these districts of country were upon the floor and were heard; where their views were considered by their peers in the House. That House came to the conclusion that it was necessary to make this change, and to go back to the original plan of conducting these armories. That is all the House has done, and I am willing to sustain it in that.

Mr. BUTLER. I want to know whether gentlemen are afraid to submit to an investigation of the comparative merits of the civil and military superintendency? Do they shrink from an investigation?

Mr. HOUSTON. Not at all.

Mr. BUTLER. Sir, the military men who have the superintendence of these armories have no representatives upon this floor, as voters. The armorers, or the workmen, are not the persons who are complaining. Whence this complaint? Is it because Colonel Huger or Colonel Ripley have been guilty of acts of oppression? Let the investigation be instituted whenever it will, and such a charge will be refuted. It is not because the military have exercised acts of oppression, but it is that stock-jobbers want to come in and take the public money, and because they have raised a clamor in those local neighborhoods that military dictation is inconsistent with the liberties of the citizen. The gentleman from Texas says that the two systems have been tried, and that the civil superintendence has worked well. Now, I believe there is not a single person who has investigated the subject who is not bound to admit that the military superintendence has operated best. The arms have been manufactured better and cheaper, the inspection has been more certain, and gentlemen have not brought forward a single fact to prove that the civil superintendence is the better system. When gentlemen speak of military dictation and military arrogance, what do they mean? It is but just to give the officers a hearing. "Doth our law judge any man before it hear him and know what he doeth?" Are Huger and Ripley, by this implication, by this vote, by this declamatory style of having justice measured out, to be subject to the proscription of the Senate, indirectly, without examination? Sir, it is not just, it is not wise, and we are yielding it when we do it to the importunity of men at that door who have an interest upon this floor as voters.

Mr. HOUSTON. I have talked neither of military dictation or nomination, or anything of the kind.

Mr. BUTLER. I did not say that you did. I say that language has been used in reference to the subject——

Mr. HOUSTON. Not by me.

Mr. BUTLER. I do not care who uses it—it is not just.

Mr. HOUSTON. I wish these matters looked at in their true light. I made no reflections, and I want none made. I have not the pleasure to know Colonel Huger personally. I only know him from character as a gallant gentleman and as a capable officer. I know Colonel Ripley, and I know him to be a gentleman of intelligence and respectability. I imply no reflection on either of those gentlemen when I vote for the proposition as it comes from the House, giving the control of the armories to civilians. I am willing to retain these officers in the Army unscathed, in their appropriate spheres, for which they were intended. I cannot think it a compliment to detail any gentleman who belongs to the United States Army, and wears its insignia upon his shoulders, or bears its sword upon his thigh, to say that he shall go and overlook a plantation or a parcel of hands or workmen either North or South. I intend no reflection on the gentlemen who command these armories when I vote to change the system.

Let me tell the Senator from South Carolina that importunity at these doors never influenced me. I am warring against it. It has had too much influence, and I want to separate it from the legislation of Congress.

I will vote for the proposition as it comes to us from the House, without intending to cast any reflection upon the gentlemen commanding the armories. If I intended any I would avow it. As I disclaim all such intention I make no reflection. I wish these gentlemen to be assigned to their proper business in the Army. I do not see the necessity of this court of investigation. It will cost the price of an armory before it is done with. There are no charges against these gentlemen that I have heard of. I have not heard the first charge that either of them have been delinquent, or unjust to the workmen. I go upon the principle of human nature, that let who will command the armory he must understand mankind; adapt him-

self to its prejudices and caprices. I have no disposition whatever to arraign any gentleman, or to cast the slightest reflection on any one; but I do say, that from an exhibit that happened to fall in my way, I have learned that the arms were, considering labor-saving, the cheapness of material, and everything of that kind, manufactured as cheap, if not cheaper, under the civil superintendence and the general direction of the Secretary of War, than they are now done under military superintendence.

Mr. BUTLER I have not said that the honorable Senator from Texas used this language, but I do say that language has been used, and very freely used, by persons who wish this change made. Will the honorable Senator say that there are not persons here from Boston, or the neighborhood of Boston, and from Harper's Ferry, who have been anxious for this change?

Mr. HOUSTON. I have never seen one from Springfield, and I believe but one from Harper's Ferry.

Mr. BUTLER. I know they are here. The charge has been made that military rule is obnoxious; and against one of the gentlemen, perhaps, a more distinct charge is made than against the other. All that I now ask is, that the amendment of the Senator from Illinois, chairman of the Committee on Military Affairs, be adopted, so that there may be some investigation. I will say, in reference to these two gentlemen, that I believe neither of them sought the command of these armories, but they were placed there because of their qualifications for the post.

Mr. RUSK. Mr. President——

Mr. SHIELDS. Will the honorable Senator give way to enable me to make a statement?

Mr. RUSK. I wish to give a reason for the change, as the honorable Senator from South Carolina has asked it.

Mr. SHIELDS. Perhaps what I have to say will save the necessity of the honorable Senator's remarks.

Mr. RUSK. I intend to give some reasons why I shall vote against the amendment of the Senator from Illinois, and I shall not occupy five minutes.

Mr. WELLER. I hope the honorable Senator will give way for a motion to adjourn.

Mr. RUSK. That motion has been made twice and rejected. I can get through in five minutes.

Several SENATORS. Give way! Give way!

Mr. RUSK. I give way.

Mr. PRATT. I move that the Senate adjourn.

Mr. DOUGLAS. I rise to a question of order.

Several SENATORS. There is a motion to adjourn pending.

Mr. DOUGLAS. I presume that motion will be withdrawn when I make a statement, which affects the whole question. I refer to the reconsideration which was not carried, but which was so announced by a mistake of the Clerk in adding up.

Mr. JAMES. That is the fact.

Mr. HUNTER. I hope the motion will be withdrawn.

Mr. PRATT. I withdraw it.

Mr. DOUGLAS. I wish to call attention to the fact that the Senator from Indiana, [Mr. BRIGHT,] in my hearing, voted against the motion to reconsider, and his vote is not recorded. If that vote be recorded, the motion will be lost.

Mr. BRIGHT. I voted against the reconsideration.

Mr. BELL. It is too late now.

Mr. DOUGLAS. It is never too late to correct the record.

Mr. BAYARD. There is no mistake in the record,

The PRESIDING OFFICER, (Mr. BADGER.) The Chair would suggest to the Senator from Illinois, that as his object is not to correct a vote erroneously recorded, but to enter one that does not appear on the record, in order to do it the roll must be called again.

Mr. CHASE. I move, under the circumstances, that the Senate adjourn.

Mr. HUNTER. I hope not. Let us get through the Army bill to-night.

Mr. CHASE. I insist upon my motion.

The motion was agreed to; and the Senate adourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *February* 25, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

The SPEAKER. The first question before the House is upon the suspension of the rules, upon the motion made for that purpose by the gentleman from South Carolina, [Mr. COLCOCK,] on yesterday, to enable him to take up a Senate bill for the relief of William Hazard Wigg.

LETTER FROM MR. STANLY.

The Chair has received a communication from Mr. STANLY, of North Carolina, with a request that it be laid before the House. If it be not objected to, I should be pleased to do so at this time.

No objection being made, the communication was about being read by the Clerk; when

Mr. GORMAN said: I suppose it is hardly worth while to read the communication now, as I presume the object of the gentleman from North Carolina [Mr. STANLY] will be attained by having it printed. I therefore move that the communication be laid upon the table and printed, in connection with the papers of Thomas Ap Catesby Jones, to which this communication refers.

Several MEMBERS. Let the communication be read.

It was then read, as follows:

HOUSE OF REPRESENTATIVES, *Feb.* 23, 1853.

SIR: The Speaker will remember, that on Tuesday last he presented to the House of Representatives a letter from T. Ap Catesby Jones, Captain United States Navy, which was referred to the Committee on Naval Affairs, and ordered to be printed, on motion of a gentleman from Virginia, [Mr. BOCOCK.]

From what I could hear of the letter, as indistinctly read at the Clerk's table, I supposed it had reference to the bill for the relief of James McCormick, "or his properly authorized agent," and I moved to amend the motion of the gentleman from Virginia by ordering the printing also of certain papers now before the Committee on Naval Affairs, relating to that claim. The propriety of my amendment was at once seen by the gentleman from Virginia. He assented to it, as he did subsequently to another motion to print all the papers as an act of justice to Lieutenant Meade, who I ascertained was assailed grossly in Commodore Jones's letter.

On examining the papers accompanying Commodore Jones's letter, but not read at the Clerk's table, for they were presented to the House under a sealed envelope, I find he uses language reflecting on me. He states that Lieutenant R. W. Meade had renewed his libelous attacks on him, (Commodore Jones,) "aided now by a member of the House of Representatives, the Hon. EDWARD STANLY, known to be extremely inimical to me," (Commodore Jones.)

I do not propose now to speak of Commodore Jones's letter as it deserves, or as I might be justified in doing, nor on the impropriety of his reflecting on the official conduct of a member of this House, and that, too, without informing himself of the truth.

If I were "extremely inimical" to him—if I had been malicious enough to desire the ruin of his character—my object would have been accomplished by the judgment of his peers who tried him. I refer to "the proceedings of a court-martial on Commodore Thomas Ap Catesby Jones," &c., &c.—*Ex. Doc., Sen., No.* 45, 31*st Cong.*, 2*d ses.*

I will not refer to the judgment in detail. I am, as a member of Congress, rather inclined to throw a veil over the terrible exposure made of Commodore Jones. My purpose is not now to repel the charge made on me, since, independently of the proceedings of the court-martial, I am above its reach; but to do justice to Lieutenant Meade. As I understand the facts, Lieutenant Meade resigned his commission on a point of honor. He had solicited investigation, which was denied him, and thought he had been unjustly dealt with by Commodore Jones. His friends, who examined the case, concurred in this opinion. Being unwilling the Navy should lose so gallant an officer, they applied to the Executive for his restoration. The Committee on Naval Affairs of the Senate, I heard, unanimously recommended his restoration.

The illustrious Henry Clay, having known Mr. Meade from his childhood, and having understood all the facts, earnestly solicited he should be restored, as I heard from his own lips. This was enough, apart from other considerations, to command my sympathy. Before Mr. Meade's restoration, he had, as I understood, addressed the Committee on Naval Affairs in this House, or in the Senate, making complaint of Commodore Jones, and asking an investigation in vindication of his own character. When I heard of Mr. Meade's restoration, (though "extremely inimical,") I was guilty of the presumption of asking him, on his own account, to forget all cause of quarrel he might have against the Commodore; that his (Meade's) restoration was tantamount to an acquittal, and I thought it would injure him to carry on his warfare, especially after the publication of the proceedings of the court-martial before referred to.

If Lieutenant Meade is attacking Commodore Jones I am not aware of it; if he intends or desires to do it I have no knowledge of it. He has never made known any such purpose to me. I hope he entertains none such. I do not believe he even thought of renewing any attack on Commodore Jones. If he were to consult me, I should advise him to forbear, not because he has no justification, but because Commodore Jones is not able to injure him. As I mentioned in the House on Tuesday, my attention was called more than once to the McCormick claim, by *those who were interested in it*, outside of this Hall. I examined the report and found the facts not all stated, and thought the claim unjust. Having accidentally seen in a newspaper that the Committee on Printing in the Senate had asked to be discharged from the consideration of the papers relating to the subjects referred to in the McCormick case, I examined them, and the gentleman from New Jersey, [Mr. PRICE,] who thought the claim a just one, united in a letter with me, asking Mr. HAMLIN of the Senate, to allow us to have access to the papers. On Mr. HAMLIN's motion, the papers were ordered to be sent to the House, and on my motion referred to the Committee on Naval Affairs, before whom the McCormick case was pending. That is the head and front of my offense. I do not know that Lieutenant Meade is informed of my action, even through the newspapers. I acted on my own responsibility, without any intimation from him of what he wished, and without any consultation with him, and without knowing that what I had done would be agreeable to him.

So far from being driven to aid any one to attack Commodore Jones, when the papers were referred to the Committee on Naval Affairs, I took them, in presence of the chairman of that committee, (Hon. Mr. STANTON, of Tennessee,) and marked those parcels which referred to the McCormick case, and asked him to mark them. He did so. I told him those not marked contained allusions to Commodore Jones, which I did not wish should be published, referring to other charges against him, and though he was entitled to no consideration from me, I had no wish to annoy him by any revelation of what was contained in the parcels not marked. So far from being "extremely inimical" to him, I desired to suppress the publication of what he calls "libelous attacks."

Commodore Jones is greatly mistaken in supposing I am "extremely inimical" to him. He cannot blame me for not being warmly attached to him, inasmuch as he was not only tried and convicted of high offenses, but also of "oppression" of Lieutenant Fabius Stanly, who is my brother. I am not more inimical to Commodore Jones than any other gentleman would be, under the same circumstances.

Of Lieutenant Stanly's character as a gentleman and an officer, it does not become me to speak. I am willing to abide by the opinion of those who have known him in peace and served with him in war, and by the published records of the country.

Commodore Jones does not know me, or he would not accuse me of aiding any man to attack him. I have made no efforts to revive old quarrels, the existence of which I always deeply regretted.

Commodore Jones will now be heard, in the paper sent to the House by him on Tuesday. I have no objection, but inasmuch as he referred, in his usual style, to Lieutenant Stanly, without provocation and disregarded the truth in his reference, I shall ask the favor of the House to allow me to introduce a resolution calling for a copy of the proceedings of the trial of that officer, to which Commodore Jones has referred.

There are other persons assailed by Commodore Jones in his letter to the House, but they require no defense at my hands. They need only refer to the trial of Commodore T. Ap Catesby Jones, Thirty-first Congress, second session, Senate Executive document No. 45, to satisfy every honest man that his vituperation can injure no man of good character.

EDWARD STANLY.

To Hon. LINN BOYD, *Speaker House of Representatives.*

Mr. WEIGHTMAN. I rose before the gentleman from Indiana, and I would inquire whether I was not recognized by the Speaker?

The SPEAKER. The Chair did not recognize anybody except the gentleman from Indiana, who submitted the motion that the communication be laid on the table and ordered to be printed.

Mr. TOOMBS. I hope that communication will not be printed. It does not concern the legitimate business of Congress. These are private quarrels, and ought to be settled somewhere else.

Mr. JOHNSON, of Arkansas. I would ask that the letter in which the reflections are made be also ordered to be printed.

The SPEAKER. It has already been referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. JOHNSON. Well, then, it is but an act of sheer justice to a member on this floor that the reply should also be printed.

[Cries of "Certainly!"]

Mr. RICHARDSON. I agree with the gentleman from Georgia that this communication ought not to be printed. The difficulty is a private one between a member of this House and another gentleman; and I apprehend, that if it had been ascertained there were reflections on any member in the documents referred to the Committee on Naval Affairs and ordered to be printed, such action would not have been had.

A MEMBER. It was not known at the time that they contained those reflections.

Mr. RICHARDSON. If there be any way in which we can retrace the step we have taken, it would be better to avail ourselves of it, rather than proceed further in this matter.

Mr. GORMAN. I call for the previous question.

Mr. STUART. I suggest that the communication be printed in connection with the documents to which it relates.

Mr. GORMAN. That is what I design.

The call for the previous question was seconded, and the main question was then ordered to be put.

The question was then taken, and the letter of Mr. STANLY was ordered to be laid on the table and be printed.

On motion by Mr. BRENTON, by unanimous consent, it was

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Samuel Brenton, for the purpose of reference to one of the Executive Departments.

On motion by Mr. ALLISON, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Franklin Chase, for the purpose of reference to one of the Executive Departments.

Mr. CLARK. I ask the unanimous consent of the House for leave to report, from the Committee on the Post Office and Post Roads, a joint resolution of the following title, viz:

"Joint resolution for the relief of John D. Colmesnil, of Louisville, Kentucky."

Mr. STANTON, of Ohio. I call for the consideration of the regular order of business.

The SPEAKER. The question first in order is the consideration of a motion to suspend the rules for the purpose of taking from the table "An 'act authorizing the adjustment and payment of 'the claims of William Hazard Wigg, deceased, 'for losses sustained by him during the war of the 'Revolution," submitted on yesterday.

Mr. STANTON. On that motion I call for the yeas and nays. The bill ought not to be taken up for action now, as it involves very important principles.

The question was put on the call for the yeas and nays, and there were, on a division, ayes 26.

Mr. HART. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. JONES of Tennessee, and HALL were appointed.

The members then passed between the tellers, who reported that there were ayes 30; so the yeas and nays were ordered.

The question was then taken on the motion for the suspension of the rules, and there were—yeas 93, nays 63; as follows:

YEAS—Messrs. Aiken, Averett, David J. Bailey, Bibighaus, Bowie, Bowne, John H. Boyd, Bragg, Briggs, Brooks, Albert G. Brown, Burt, Busby, E. Carrington Cabell, Caldwell, Thompson Campell, Caskie, Chastain, Clark, Clemens, Clingman, Colcock, Daniel, Darby, John G. Davis, Dawson, Dean, Disney, Dockery, Doty, Edgerton, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Gentry, Gilmore, Gorman, Green, Gray, Hart, Henn, Houston, Howard, Thomas Y. How, Jackson, Robert W. Johnson, J. Glancy Jones, Kuhns, Kurtz, Letcher, Lockhart, Mason, McNair, McQueen, Meade, Miller, Henry D. Moore, John Moore, Morehead, Nabers, Orr, Peaslee, Penn, Porter, Preston, Price, Richardson, Riddle, Robbins, Robinson, Ross, Savage, Schermerhorn, Scurry, Origen S. Seymour, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, St. Martin, Strother, Stuart, Taylor, Wallace, Walsh, Watkins, Wilcox, Williams, Woodward, and Yates—93.

NAYS—Messrs. Charles Allen, Allison, Babcock, Brenton, Burrows, Chandler, Chapman, Cleveland, Cobb, Conger, George T. Davis, Dimmick, Duncan, Durkee, Eastman, Floyd, Gamble, Giddings, Goodenow, Goodrich, Grow, Hall, Hamilton, Harper, Isham G. Harris, Haven, Hebard, Horsford, John W. Howe, Thomas M. Howe, Hunter, Ives, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Little, Mace, Mann, Millson, Molony, Murray, Newton, Samuel W. Parker, Penniman, Perkins, Reed, Robie, Schoonmaker, Skelton, Benjamin Stanton, Alexander H. Stephens, Stratton, Sutherland, Sweetser, Townshend, Washburn, Welch, Wells, and Wildrick—63.

So the rules were not suspended—two thirds not voting in the affirmative.

Mr. HOUSTON. I intend to submit the motion that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union, but before doing so, I will move that debate on the Navy appropriation bill shall be closed in an hour and a half after it is taken up for consideration in the committee.

Mr. CLINGMAN. Has that bill yet been taken up by the committee?

Mr. HOUSTON. It has not.

Mr. CLINGMAN. The gentleman's motion is not in order then, without unanimous consent, and I object.

The SPEAKER. According to the decision of the House, the motion is not in order if the Chair be properly informed as to what the committee has done. The Chair knows nothing officially of what occurred in the Committee of the Whole, and would say that, as an original proposition, it is in order.

Mr. GORMAN. This is Friday, and being the last day on which we can consider private business, I move that the rules be suspended and the House resolve itself into a Committee of the Whole on the Private Calendar.

Mr. HOUSTON. The naval appropriation bill will not consume two hours in its consideration, and, after it has been acted on, we can devote the remainder of the day to the private bills.

Mr. GORMAN. There are but few bills on the Private Calendar, and this is the last day of the session on which we can consider them.

Mr. EDGERTON. I demand tellers.

Tellers were ordered; and Messrs. MACE and AVERETT were appointed.

The question was taken, and the motion was disagreed to; the tellers having reported—ayes 43, noes not counted.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

S. No. 242. An act to regulate the terms of the district court of the United States for the district of Iowa.

S. No. 125. An act for the relief of Mary W. Thompson, and Mrs. Elizabeth V. Lomax, and Mrs. A. M. Dade.

Mr. HOUSTON. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. KING, of New York, in the chair.)

NAVAL APPROPRIATION BILL.

Mr. HOUSTON. I move to take up House bill No. 342, making appropriations for the naval service for the year ending the 30th of June, 1854.

The question was taken, and the motion was agreed to.

Mr. HOUSTON. I now move, by the unanimous consent, that the first reading of the bill be dispensed with, and that it be read a second time for amendment.

The question was taken, and the motion was agreed to.

Mr. STANTON, of Tennessee, obtained the floor, but yielded to

Mr. STUART. I submit to the committee that it is very important some time should be fixed for the termination of debate on this bill. There are other appropriation bills yet to be acted on, but I do not desire to name the time. I will only ask that the committee will rise, and that a time shall be fixed when debate shall close. I trust that the gentleman will yield for that motion.

Mr. STANTON. I have no objection, provided I shall have an opportunity to make my remarks.

Mr. STUART. I then move that the committee do now rise.

Mr. BOWIE. I hope three hours will be allowed.

Mr. STUART. I shall vote for a reasonable time. I only desire the time shall be fixed.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. KING, of New York) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration and particularly House bill No. 342, making appropriations for the naval service, and had come to no resolution thereon.

Mr. STUART. I made the motion that the committee rise for the purpose of offering the usual resolution for closing the debate. I am willing to consult, so far as I am concerned, the wishes of the House as to the time. I would suggest, however, two hours.

[Cries of "One hour!" "One hour!"]

I understand there is another member of the committee who desires to speak upon the subject.

Mr. STANTON. I know of none.

Mr. FLORENCE. I move to make it three hours. I hope that, in consideration of the important measures involved in the bill, this time at least will be allowed for debate.

Mr. STUART. I demand the previous question upon my motion, that we may come to a vote.

Mr. CABELL, of Florida. The Speaker not having recognized me previous to the demand for the previous question, I cannot introduce the amendment which I desired to offer.

The SPEAKER. There is an amendment already pending.

Mr. CABELL. There are several members of the committee who desire to speak upon this bill, and I am satisfied that two hours will not enable them to do it.

The SPEAKER. The gentleman from Pennsylvania [Mr. FLORENCE] proposes to make the time for closing debate three hours, instead of two.

Mr. STUART. I accept that modification if the House will agree to it.

Mr. HOUSTON. I am desirous that the House should have an opportunity of deciding whether it shall be two hours or three hours.

Mr. STUART. I withdraw the demand for the previous question.

Mr. HOUSTON. I understand that the resolution as now modified reads three hours. I propose to strike out "three," and insert "two;" and upon that motion I call the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then taken on the motion of Mr. HOUSTON, to strike out "three," and insert "two," and it was decided in the affirmative.

The question was then taken on the resolution as amended, and it was adopted.

Mr. STUART moved to reconsider the vote by which the resolution was agreed to, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. HOUSTON. I now move that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and it was decided in the affirmative.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. KING, of New York, in the chair,) and resumed the consideration of bill No. 342, making appropriations for the naval service.

IMPROVEMENTS IN THE NAVY.

Mr. STANTON, of Tennessee. I propose an amendment to this clause of the bill:

"For pay of commission, warrant, and petty officers, and seamen, including the Engineer Corps of the Navy, $2,771,448."

It is to strike out the latter part of the clause commencing with the words "two million," and insert the following, viz:

Three million one hundred and twenty-six thousand nine hundred and forty-eight dollars: *Provided*, The number of seamen, ordinary seamen, landsmen, and boys hereafter to be employed, may be increased to nine thousand, and the Secretary of the Navy is authorized to pay them at his discretion, in the form of bounties, ten per cent. in addition to their present rate of pay.

Mr. STANTON, of Tennessee. I propose an amendment to this clause of the bill:

"For pay of commission, warrant, and petty officers, and seamen, including the engineer corps of the Navy, two million seven hundred and seventy one thousand four hundred and forty-eight dollars."

It is to strike out the latter part of the clause, commencing with the words "two million," and insert the following:

Three million one hundred and twenty-six thousand nine hundred and forty-eight dollars: *Provided*, The number of seamen, ordinary seamen, landsmen, and boys, hereafter to be employed may be increased to nine thousand; and the Secretary of the Navy is authorized to pay them at his discretion, in the form of bounties, ten per cent. in addition to their present rate of pay.

Before explaining this particular measure, I must ask attention to another which I consider of much greater importance. It is well known, Mr. Chairman, that for something like twelve months the committees have had no opportunity of reporting anything to the House, though doubtless all of them, including that over which I have the honor to preside, have had many important measures prepared for presentation and action. I see no alternative but to bring forward such of them as are of most importance, and which have been matured by the Naval Committee, as amendments to the bill now under consideration. My ambition is to do nothing more than make a plain and simple statement of what I propose to append to this bill, with such explanations and such reasons for adopting the propositions as I may be

able to present within the limited time allotted for speeches on this floor.

In the early days of this session I was instructed by the committee to report the bill which I send to the Clerk, with the request that it be read.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President be, and he is hereby, authorized to cause to be built, equipped, and armed with the most effective ordnance for the Navy, three frigates and three sloops-of-war, all to be propelled by steam, or by heated air, as recently applied by Ericsson, if that should prove to be superior to steam; and for this purpose $2,500,000 are hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. JONES, of Tennessee. I ask my colleague if he offers that as an amendment now?

Mr. STANTON. I do not offer it now.

Mr. JONES. When it is offered, I wish to make a question of order.

Mr. STANTON. I expected as much from my colleague. Some gentlemen on this floor have resorted to various maneuvers to prevent the action of committees, and to smother the most important and necessary measures; and now it is attempted to fill the cup of outrage by ruling this plain proposition out of order. If the measure I propose be for the defense of the country, for the security of our commerce, and the vindication of our honor, why shall it not be met boldly, and fairly voted upon, instead of being insidiously and indirectly defeated by interposing what I believe to be a false construction of our complicated rules? Such measures as this have been repeatedly adopted in the annual appropriation bills. It is the usual and ordinary mode of increasing the Navy. Indeed, up to a late period, the clause under consideration has usually provided not only "for the repair," but for "*increase* and repair of vessels." Now, we have grown exceedingly squeamish, and we interpose an arbitrary construction of the rules in order to defeat a great measure of reform.

I was about to state that something more than a month ago I was instructed by the Committee on Naval Affairs to report that bill to the House. I have had no opportunity of doing so, and I propose now to present it in a form somewhat modified as an amendment to this bill. At the time this bill was prepared, the principle of the caloric engine had been just developed. It could scarcely have been said to be successful, or at least to have been proved so to the public satisfaction. I think something more may be claimed for it at the present time, and I therefore propose to insert the following clause in this bill:

For building, equipping, and arming, as screw propellers, three frigates and three sloops-of-war, $2,500,000: *Provided*, At least two of said frigates shall be built by contract with Captain John Ericsson, to be fitted with his caloric engine, upon such terms and conditions as the President may prescribe or accept.

I have been authoritatively informed that Captain Ericsson, having entire confidence in the success of his invention, has recently proposed to the Government to build two ships of two thousand tons, and to stipulate and give security that they will acquire a speed of ten miles an hour, and burn only eight tons of coal per day. If my amendment should be adopted, the President of the United States will, of course, provide all the necessary guarantees and securities for protecting the interest of the Government and the success of the undertaking, which I have little doubt, will revolutionize the whole system of ocean navigation. But I desire to submit some brief remarks, in order to show that, whether we adopt steam or the caloric engine, it is indispensable to the public security that we build the vessels as speedily as possible. I wish to show, and I think I can demonstrate to my worthy colleague who intends to raise the question of order, that the adoption of my proposition will secure economy in the expenditures of the Navy Department. The object of my amendment is not so much to increase the number of vessels in the Navy as it is to substitute for old and inefficient ships, built upon ancient and imperfect models, others of a more efficient and useful character. The general sentiment of our people, and the nature of our institutions, alike require that our Navy, in time of peace, should be comparatively small. The proposition which I present, though it may seem to be of great magnitude, is not in contravention of this general principle. The very fact that with our immense commerce, we feel secure in the maintenance of a mere nucleus for a powerful Navy, renders it so much the more appropriate and important that our small force should at least keep up with the advancement of the times, and present examples of the highest efficiency in models, in motive power, and in ordnance. If we keep few vessels afloat, the comparative cheapness of our establishment enables us easily to adopt every improvement of the day, so as to avail ourselves of all the lights of science and experience, whenever it may become necessary to exert our strength upon the sea.

A few sections further on in this bill, to which my colleague has given his consent, I observe there is an appropriation of near two millions of dollars "for the repair of vessels in ordinary, for the wear and tear of vessels in commission," &c. It would be well for my colleague, who is so astute upon questions of order, to inquire in what manner the large sums of money annually voted under this head are expended, and how far the expenditure is calculated to promote the public good. I have not time to go fully into the subject, but I tell the House here to-day—and a full investigation will bear me out in the statement—that you are expending annually more than a million and a half of dollars for the repair of vessels—fifteen millions every ten years—when these large sums of money might almost as well be thrown into the sea. But a short time ago you heard a Senator declare that the British Government had a single ship which, upon a fair field on the open sea, would be able to whip the whole American Navy. That was undoubtedly an extravagant assertion; but it approaches the truth near enough to remind us that while England, France, Russia, and indeed all the great maritime Powers of the earth, have been making great efforts to place their navies upon the most efficient footing, we have been lagging far behind, having accomplished almost nothing in this direction since the war of 1812. We have no steamers of the largest class, and some of those recently built have been absolute failures in all the requisites of war-steamers. While our commercial marine equals, or even surpasses, that of all other nations in every point of efficiency—in speed, capacity, economy, and security—our Navy is notoriously behind that of England and France, for the simple reason that we have not availed ourselves of all the modern improvements in the art of ocean navigation. In our attempts to apply steam we have been comparatively unsuccessful, while in our sailing vessels we have merely patched up the old ships, perpetuating the worst models which could possibly be adopted.

Now, sir, I assume the broad proposition, that it would be far better to sell these old ships, or even to suffer many of them to rot down, than to spend so many millions upon them from year to year. Gentlemen here will probably recollect that I have urged this view upon the House of Representatives for some years past. I have endeavored to awaken the attention of the country to the great fact, that it is better, in every point of view, to build new vessels than to repair the old ones when they have reached a certain point of decay. Practical men in the great valley of the Mississippi construct expensive boats, place valuable machinery upon them, and after running them for five or six years, lay them aside, build new hulls, and transfer the machinery to them. When will the Government learn to imitate the wisdom and the prudence of this policy? A white-oak hull, with cedar, pine, or cypress coverings, would last from ten to fifteen years without decay. In that time the repairs of a live-oak ship will double her cost.

At the last session of Congress I proposed that the old vessels, when the cost of repairs should be estimated to amount to two thirds of the original cost, instead of being repaired, should be sold. Prior to that time, I believe more than three years ago, in a long and elaborate report, I had presented the facts upon which my action was based. The proposition, however, received but little attention. It was opposed by the Navy itself. But now, by repeatedly hammering at this subject, I have brought the Navy Department itself virtually to acknowledge the truth of what I have said for years past; and, although they do not go to the full extent of adopting my entire views, I think they admit sufficient to sustain me in all essential particulars. I shall read from the report of the Bureau of Construction, to be found on page 351 of the second volume of the President's message and accompanying documents of this session:

"The number of petty officers and seamen to be employed being the same as for the present year, the estimate under that head is the same. The same rule, however, cannot be observed in the estimate for 'the wear and tear and repairs of vessels in commission,' and 'for fuel for steamers,' although it may be contemplated to have only the same number of vessels in service. It has been necessary to increase the estimate for these purposes (Table C) from $1,365,000, the appropriation for the present year, to $1,940,950."

The Committee on Ways and Means have given this large amount of near two millions of dollars. Now let us hear the reasoning upon which the Bureau of Construction demands this large appropriation for repairs. Commodore Shubrick says:

"This increase is due in part to the increased expense, owing to their age, of repairing some of the vessels returning from long cruises, and which will soon be required again.

"As a general rule, the repairs required to a vessel of war increase with her age—every successive thorough repair being more expensive than the last, until a thorough repair becomes almost equal in cost to the expense of a new ship. It would therefore be sound economy, even if it should be deemed that we have a sufficient number of ships in the water for the current service of the Navy, to discontinue the use of some of the oldest, and introduce others in their stead, by launching the two frigates, Sabine and Santee, that have been on the stocks since 1823, and by building some sloops-of-war."

In my judgment, sir, the conclusion arrived at by the reasoning of the Bureau is "most lame and impotent." Discontinue the use of old ships and introduce others in their stead, by taking two vessels built thirty years ago! This will be advancing at a rapid rate indeed. But the whole force of the proposition will not be felt, until you read the sentence which follows:

"The frigates above-named were, when laid down, of the largest class, but are inferior to the frigates of the present day of the first class; and the changes which the introduction of new applications of power and arrangements of armament are making in the composition of other navies as well as of our own, may soon make them of little value.

Such, in full, is the expedient adopted by the Bureau of Construction and recommended to us for our sanction. It is to abandon old ships and take two which were not only built thirty years ago, and now probably half destroyed by dry-rot, but which will soon be rendered worthless "by the introduction of new applications of power, and new arrangements of armament!"

Now let me tell the honorable chairman of the Committee on Ways and Means, and my honorable colleague, [Mr. JONES,] so learned in the quibbles of parliamentary law, that in appropriating nearly $2,000,000 for the repair of vessels, they are virtually appropriating money for the building of them. The records of the Navy Department will show numerous instances in which the repair of vessels has cost more than the original construction. It is no uncommon thing for a ship to be torn down to the very keel, and rebuilt again upon the pretext of repairing. The Bureau says repairs cost more and more year after year. In one decade you will appropriate $15,000,000, and every old vessel in the Navy may be reconstructed upon antiquated and obsolete models, while you refuse to appropriate money sufficient to build half a dozen good and efficient ships. And you will do this upon a question of order! It is not in order now, here to appropriate money to build ships, but it is in order for the Bureau to use the money appropriated for repairs, in tearing down old ones and rebuilding them upon the same models! We are wise legislators, truly, when we tie our own hands by the fetters of parliamentary subtlety, in order to squander the public money in the most absurd and extravagant manner.

Mr. SWEETSER. With the permission of the gentleman from Tennessee, I desire to propound an inquiry to him, and I hope he will respond to it, because I have no doubt he has informed himself upon the subject. Under this system of repairing old vessels in the Navy, which has become a great evil in that Department of the Government, is it not the fact that the Navy Department assumes the right to repair vessels, even to the whole original cost of those vessels, in order to avoid the objection that there is no law authorizing them to build new ships?

Mr. STANTON. In reply to my honorable friend, I have this to say: What he complains of has been a matter of necessity under our legislation. There is a great indisposition in Congress to vote money to build ships, but there seems to be no indisposition to appropriate millions upon

millions to repair them, without any inquiry into the specific manner in which the money is applied. To keep up the old ships, at any cost, and at every loss and disadvantage, has, therefore, been made a matter of necessity. We are obliged to maintain a navy of a certain size, and if you will not build new vessels of a suitable character, there is no alternative but to patch and repatch, build and rebuild, the old ones over and over again, until you will have squandered money enough to have constructed three navies, which would have been new, vigorous, and efficient in their respective epochs. We ought to meet the emergency boldly, and provide the means necessary for the service of this branch of national defense; not by indirection, slipping in large appropriations for repairs, but by appropriating the money, directly and at once, for the gradual regeneration and renewal of our obsolete armaments.

But when interrupted by the gentleman from Ohio, I had intended to read one more sentence from the report of the Bureau of Construction. Still speaking of these two frigates, Commodore Shubrick, with strange inconsistency and contradiction, says:

"By putting them in the water now, for which a small appropriation would be needed, and using them, heavy expenses in the repair of old ships would be avoided, and room would be made to take advantage of the improvements in architecture and armament, by which alone we may hope to keep pace with the navies in comparison with which we must so frequently be placed."

This is a sort of reasoning which I confess I cannot understand. The Commodore first says that these frigates, when launched, will probably be very soon rendered useless, and yet by launching them, "room will be made to take advantage of improvements in architecture and armament," and "we may hope to keep pace" with the progress of other navies. I suppose, however, he must intend to be understood that these frigates will be of so little value, so far behind the progress of the day, that they will be easily set aside and thrown away when we get ready to do something for the real improvement and advancement of our naval appliances.

But with all the strange inconsistencies of this report, I hail it as of the utmost importance—as being a valuable document in more than one particular. It has, too, very valuable admissions. It admits, first, that our system of repairing is bad and expensive; and, secondly, that there are improvements—yes, that there really are improvements to be made in architecture and armament, in order to put us upon an equality with other navies. To get these two admissions is a great step, and I heartily thank the head of the Bureau for making them, even when he expects to make room for these improvements by launching the Sabine and the Santee.

Mr. Chairman, I am admonished by the flight of time to be brief. I must compress what I have to say, and omit many points to which more than a mere reference ought to be made. I hope I have sufficiently indicated the policy I propose, which is, I repeat again, not so much to increase the navy, as to substitute efficient ships in the place of those which are now acknowledged to be utterly inefficient in comparison of those put afloat in recent times by other maritime Powers. I claim for my proposition the high merit of securing economy in that particular part of the public service where the greatest abuses now prevail. The truth of what I say will be made manifest whenever the secrets of those vast expenditures for repair shall be fully revealed.

Now, sir, I propose to inquire what peculiar necessity there is at the present time for endeavoring to make our navy more efficient. If it were possible to go into details upon this subject, and to pursue it in all its branches, I think I could show, that without increasing either the number of ships or men, but by a different arrangement of our squadrons, by keeping one division of our forces in the Pacific with its headquarters at San Francisco, and the other on the Atlantic with its headquarters at Norfolk or New York, and by adopting short cruises of one year instead of three, our navy could be made to render much more efficient service in all ordinary times than it possibly can under its present organization. But look for a single moment at the present disposition of our forces. The Secretary of the Navy, in his report at the beginning of this session, informs us that we have not a single armed steamer in the whole Pacific ocean. Think of that! Think of the utterly defenseless condition of our rich possessions on that shore! Remember that we have seventy millions of property afloat on that ocean, and not a single armed steamer! Sir, it is disreputable to our legislation. Things ought not to be permitted to remain in this condition a moment longer than may be necessary to provide for the proper change.

In the mean time, what are other nations doing? In the United Service Journal of London, for the 4th of December, 1852, I find this statement:

"The French Fleet numbers 40 vessels of the line, 50 frigates, 40 corvettes, 50 brigs, and 18 transports—all sailing vessels. Add to this the steam navy, viz: 10 frigates and 20 corvettes of from 320 to 400-horse power, and 70 small steamers. There are altogether 328 vessels, viz: 226 sailing vessels and 102 steamers—commanded by two Admirals, 10 Vice Admirals, 20 Contre Admirals, 110 Captains of vessels of the line, 230 Captains of frigates, 650 First and Second Lieutenants, and 300 Cadets, and manned by 27,000 gunners, marines, and sailors."

The French Government having afloat this immense armament of one hundred and two steamers, is said recently to have applied to an English company of ship-builders to furnish a very large additional number. The British Government forbid the company to build for the French, upon the ground that England herself requires all the ships they can build. France adds ten, fifteen, or twenty steamers of the first class to her navy; England immediately doubles the number; and so these two great Powers go on arming and preparing for events which seem almost certain to occur; while we are resting quietly upon our old and inefficient navy, which the very first encounter with any vigorous foreign Power would blow completely out of the water.

France has not only added largely and directly to her navy, but she has recently made arrangements for putting into operation several important lines of mail steamers. To run where? To the coast of the United States, to Porto Rico, Cuba, and Mexico. Twenty-one steamers, representing an aggregate of one thousand four hundred horse power, and these to hover on our coast and in the Gulf of Mexico! But we are still silent, patient, and inactive.

I do not propose now to enter upon any discussion of the condition of Europe and the probabilities of war between the Governments of that continent, or between any one of them and ourselves. I will content myself with saying, in general terms that there seems to be a universal apprehension of European wars. Wise men do not believe that immense armies are to be organized, and immense fleets put upon the ocean to be kept idle and unemployed. And I ask if, in that contingency, without reference to the possibility of being ourselves at war, we are to play the part of neutrals as we did from 1800 up to 1812? I ask if we are to be insulted, injured, and trampled upon by the belligerents of that continent, as we were during the period referred to, without the power of successful resistance? Certainly we have now no such navy as would enable us to protect our commerce and assert our rights as neutrals. Even, therefore, if there were no probability or no possibility of our being at war ourselves, the necessities of our condition, in the presence of other contending Powers, make it our bounden duty to strengthen our Navy, with some slight reference to the immense preparations of other Powers.

But, sir, the present is a momentous crisis in the history of our own country. In the other end of the Capitol you hear gentlemen of distinction and influence every day proclaiming and earnestly insisting that it is our duty and our interest to assert the celebrated "Monroe doctrine"—to assert and maintain it vigorously and efficiently. You hear loud complaints from all quarters—I think in many instances just complaints—that our Government has not protected its citizens, or vindicated its own honor in cases where both have been assailed. Sir, I am in favor of the full maintenance of the Monroe doctrine with regard to past events that have occurred in our vicinity, as well as with reference to the future. But I am forced to admit that we are in no condition for making these loud boasts, or even for asserting our own unquestionable rights upon the ocean. How often do you hear of our ships being fired into, and the rights of our citizens trampled upon? Our ships driven, upon trivial pretexts, from the harbors of neighboring Powers, and the laws of friendly intercourse wholly disregarded? I have heard of well-authenticated instances of citizens of the United States, upon our own continent, being obliged to pass for Englishmen, in order to command respect and to obtain security of property and life. Why is this? Plainly, because we do not protect our citizens with that spirit and energy which becomes a powerful Government, such as we ought to feel ourselves to be. England never fails to protect her citizens, and to punish any outrage upon them wherever it may occur. She therefore commands the respect of the world. I have believed that the present Administration has not exhibited the true American spirit in its intercourse with foreign Powers—has not been disposed to resent injuries as I think they ought to have been resented. But, sir, while I say this, and say it frankly, as becomes a Representative on this floor, I must admit, at the same time, that the President has not had at his command efficient means for the vindication of our honor. If anything could palliate what I must characterize as the tameness of this Administration, it is the fact of our utter want of preparation, either for assault or defense.

In that admirable letter of the present Secretary of State, which almost redeems the errors of Mr. Fillmore's foreign policy, you hear proclaimed the great truth, that "territorial development" is "the law of our political existence." The acquisition of Texas, of Oregon, and California, gives us an immensely-increased line of sea-coast, both on the Gulf of Mexico and on the Pacific ocean. It is obvious that this must render necessary a corresponding increase in the efficiency of our naval armament. The vast trade and intercourse which have sprung up between the Atlantic and Pacific coasts of our country, have given incalculable importance to the navigation of the Gulf of Mexico and the Caribbean sea, and to the harbors, stations, and islands of that region. We must construct the great Pacific railroad. I regret deeply that the work has not been commenced. I would have voted for almost any plan, rather than suffer this Congress to pass without accomplishing anything. But even the completion of that important thoroughfare will not diminish the importance of the Isthmus routes. Such is destined to be the amazing expansion of our Pacific commerce, that nothing will ever diminish the importance to us of a complete command of the Gulf and the Caribbean sea.

I shall not discuss the mooted question of Cuban acquisition. But it will not be out of place, or inconsistent with the main object of my remarks, to say that in my opinion—I hope maturely and deliberately formed—the possession of that island is indispensable to our national security. There is no question of right involved. Whenever it shall be convenient for us to do so, it will become our duty to take it. There is no Power on the face of the globe—England, France, Russia, or Spain, or any other Power of the least importance—which, if placed in our condition towards Cuba, would hesitate an hour about appropriating it for its own security. We are loudly protesting that we will not suffer any European nation to occupy or colonize any portion of this continent. Every one who has spoken on the subject concurs in the declaration that Cuba shall not pass from the hands of Spain into those of any foreign Power. Now, in my judgment, Cuba is at this moment virtually in the hands of France and England. In the event of a war with either of those Powers, Cuba, instead of being neutral ground, as usually said, would fall at once into the hands of our enemy. England and France send their armed cruisers to guard that island, and even, as they have the insolence to tell you, to see to the due execution of your own laws of neutrality! What American does not become indignant at this condition of things? The fact is palpable, beyond a doubt, that Cuba is, at this moment, within the very jaws of these two voracious Powers. It needs but the very slightest pretext, the most inconsiderable provocation, to induce France to fall upon St. Domingo, while England appropriates Cuba. And what are we doing? In what condition are we to maintain our great interests in this important part of the American world?

I have before me a communication from the Secretary of the Navy, in which he states, that during the next fiscal year he proposes to employ in the Pacific ocean, four thousand two hundred and ninety-nine seamen—almost two thirds of the

whole number of our naval force, as now allowed by law. Then, sir, we have the Brazil, the African, and the Mediterranean squadrons to supply; and these, according to the Secretary's programme, will increase the number to seven thousand six hundred and twenty-four—more than the whole number now authorized to be employed in the Navy. Why, sir, if we do not adopt some measure at the present moment, we ought really to thank England and France for their generous proffer to send their navies into the Gulf—upon our very shores—to execute our own laws. Let us invite them to perform the duties which we refuse to perform for our own citizens!

It is by no means my intention to condemn the policy of increasing our force in the Pacific, provided the Atlantic is at the same time remembered. I have already pointed you to the neglected condition of the service on the other side of the continent. A large additional force is needed there, and we ought not to hesitate to prepare, at whatever cost, all the appliances necessary for the maintenance of an adequate naval force in the great Pacific ocean. Our rich possessions on that coast are utterly defenseless. There is not a single gun mounted, so far as I know, upon the whole line of that coast from San Diego to Puget's Sound. A single frigate, or a single steamer, can at any moment enter the bay of San Francisco, and lay the rich and magnificent emporium of that region under contribution, or even lay it in ashes. What would be the consequences of such a hostile demonstration? To stop the commerce of the Sacramento and the San Joaquin rivers, and to starve out the population of the whole country, dependent as it is upon supplies from South America and the United States. Capitulation would immediately follow. Oregon and California would be lost. Sonora and the whole western coast of Mexico, with all its wealth of mines, would fall into the hands of the aggressive Power. The splendid trade with the East, now quite within our grasp, would vanish like a dream, and the scepter would fall from our trembling hands. To leave our valuable possessions in such a condition, without a single gun mounted, or a single armed steamer to perform efficient naval service, you are actually inviting aggression. You are holding out a bribe of hundreds of millions of dollars to induce even an inferior Power to risk the consequences of ultimate defeat, for the sake of realizing the splendid results of one successful blow in that quarter. Whatever we might eventually be able to do, the immediate consequences would be starvation and capitulation on the Pacific coast, and bankruptcy on the whole Atlantic. Stop for a single year that stream of $50,000,000 or $60,000,000 of gold, upon which our commercial and banking operations are so largely founded. There could be but one result, and it requires no prophet to say what that would be.

It is said that England cannot make war upon us; we have bond and security for her keeping the peace. That may be. But I am not sure that England will not suffer less from a war with us in our present condition, than from our inevitable progress and extension during a long period of quiet. Without much trouble, she could inflict a heavy wound, and stop our progress for a quarter of a century. Gentleman say she must have our cotton. So indeed she must; but she would get it through the hands of neutral nations—France or Holland. To prevent that, you would be obliged to lay an embargo upon the shipment of the article. Would the southern States submit to it?—or, what is a more pertinent question in considering the possibility of war, has England reason to believe that the southern States would submit to an embargo upon the shipment of their great staple? The truth is, it is a gross delusion for us to imagine that we are entirely beyond the danger of war with England.

The designs of Louis Napoleon have excited much attention and no little apprehension even in our own country. I do not profess to have much sagacity or foresight in matters of this kind, but I will merely mention a few facts which seem to me to indicate that the ambition of the French Government is not confined to its operations on the continent or in Africa. It is well known that in 1840 the minister of France in Texas applied to that Republic for grants of land for the establishment of extensive colonies on its border. The object undoubtedly was to interpose those colonies as barriers to the progress of the United States, and as the means of establishing French power in Mexico. Splendid maps and plans were executed by French engineers, and presented to the Texan Congress. The bill actually passed in one House, and failed in the other, I believe, by only one vote.

A few months ago we had a rumor that the French Government had taken possession of the bay and peninsula of Samaná, in St. Domingo. Subsequent information renders it certain that this rumor was not true, that France has not taken possession of that magnificent harbor. Yet, sir, it is to me a great mystery how that rumor could have got into circulation, and I cannot help believing that it was thrown out by the instruments of French power to test the feelings of the people and Government of the United States. In the *Courrier des Etats-Unis* of the 29th January last, I find a very singular paragraph, reproduced from the Government organs of the French capital. It is nothing less than a magnificent description of the bay and peninsula of Samaná which the French Government *has not taken*, and *by no means intends to take*. I give the article as published by the French Government itself in the "Documents upon the foreign commerce."

"LA BAIE DE SAMANA.—Le Gouvernement Français vient de publier la note suivante sur la presqu'île de Samaná dans les *Documents sur le commerce extérieur:*

"'La baie de Samaná pourrait contenir des escadres; son port parait excellent; il est très sûr, et de grands navires de guerre y pourraient pénétrer. On y créerait un bel établissement maritime.

"'Samaná n'est pas moins bien situé que la côte belge de Saint-Thomas, et il a sur elle l'avantage de pouvoir fournir lui-même aux bâtiments venant d'Europe les cargaisons qu'ils viennent chercher, sans qu'ils soient soumis aux pertes de temps et aux difficultés qu'entraînent les affrétements à distance et aux frais qu'occasionne toujours une opération d'escale.

"'Mais c'est principalement au point de vue de la navigation à la vapeur que Samaná a une grande valeur. Il faut pour les steamers venant d'Europe, à l'entrée de la mer des Antilles et du Golfe du Mexique ainsi qu'à la première étape du chemin de Panama, une vaste rade où ils puissent se mouvoir, un territoire où ils puissent, s'approvisionner, un point propre à établir de grands chantiers et des ateliers de construction et de réparation. Samaná leur offre tout cela, et en outre une abondante mine de houille.

"'Quant au sol de la presqu'île, on croit qu'il n'y en a pas d'aussi fertile, même dans l'île Saint-Domingue; c'est là qu'on trouve les cannes à sucre et les pieds de café de la plus grande dimension. Pour ce qui est de la culture des *vivres*, c'est-à-dire des bananes, des ignames, des patates, du manioc, nulle part on ne l'a vue plus belle ni plus variée; les fruits eux-mêmes y sont d'une abondance telle, que les habitants échangeaient contre une ration de biscuit de matelot des *mangos* formant la charge entière d'un cheval, et l'on y a vu un ananas dépassant en volume les plus gros pains de sucre qui sortent de nos raffineries."

If the French Government has no actual designs upon Samaná, it is evidently not because it does not fully appreciate the importance of that harbor as a great naval position. Louis Napoleon seems to look with a longing eye upon it; he seems to covet its possession, though he may not actually propose at this time to acquire it. He may have a still better opportunity when we shall have continued our present naval system a few years longer, until it shall arrive at the very lowest point of inefficiency.

But again: we have all noticed the celebrated expedition of Count Boulbon to the Mexican province of Sonora. I am informed by the late collector of San Francisco, that when he learned of the sailing of this expedition, supposing it to be of a hostile character, from the fact that it was composed of French soldiers, armed and starting from our territory, he felt it to be his duty to prevent its sailing. A revenue cutter was furnished with a thirty-two pounder, and the vessel was stopped. Count Boulbon came to the custom house and exhibited all his papers. The collector of the port was satisfied of his mistake, and was obliged to let the expedition sail. The papers exhibited proved the consent of the Mexican Government, given through the French minister accredited to that Court. Mr. King thinks there is good reason to believe that the whole affair was conducted under the auspices of the French Government. These few simple facts satisfy me that there is really something in the apprehension recently so widely felt and expressed, as to the designs of the French Emperor upon this continent.

Upon looking at the whole question in all its bearings, while we may not have reason to fear any immediate difficulty, we have every possible motive for placing our naval force in the most efficient condition. The affairs of all Mexico and of Central America are of the deepest possible interest to us. These countries are our immediate neighbors. We cannot hold ourselves entirely aloof from their proceedings; indeed, we are already involved on their account, in some "alliances" not a little "entangling." It is impossible to avoid this, unless we are prepared to surrender our most vital interests, and neglect our most important duties; or unless we are disposed vainly and blindly to struggle against "the law of our political existence," which is plainly that of "territorial development." This is no place to discuss the general question of the acquisition of territory. I will only say briefly and summarily, that in our intricate relations with Mexico and Central America, annexation will soon become a necessity. It will be far better than those entangling alliances which will entail all the difficulties of annexation, without its benefits. We must act prudently, cautiously, wisely: but the inevitable result will eventually force itself upon us. Our policy is to accept what we cannot avoid, and make timely preparation for meeting all the responsibilities of our position.

What is the condition of Mexico, our immediate neighbor? The late President of that Republic, in his last annual message to Congress, presents this sad and melancholy picture.

"Among us social evils are organic. Everything appears to be as contradictory and heterogeneous as the races which now people our territory; and in the obstinate struggle now going on between progress and reaction, it seems as though no power could be firmly seated, and as though our only normal situation were a state of perpetual anarchy."

In view of this state of things in that unhappy country, I consider it unfortunate, Mr. Chairman, that we did not continue our military occupation of Mexico until the present hour. It would have been an act of humanity, and would have conferred a great blessing upon that suffering people. It was unfortunate that General Scott so peremptorily and disdainfully rejected the proposition for annexing that country to ours without even submitting it to his Government. I would not wish it to be understood that I desire to enter into a crusade for the purpose of taking Mexico or Cuba. Such is by no means my desire. I intend only to express my conviction that events are tending in that direction, and that the obligation rests heavily upon us to perform the high duties which Providence will soon impose upon us.

We ought to set ourselves seriously and earnestly at work to perform these duties. We must fortify San Francisco, and guard our great commercial interests in the Pacific by a powerful and efficient fleet. We must protect our citizens in the enjoyment of their full rights, whether in the Gulf, in the Atlantic, or in the Pacific. We must place ourselves in a position of security, such that we may not fear to resent the insolence of a Spanish Captain General, when he insults our flag, expels our vessels, or inhumanly butchers our citizens without a fair, legal trial. If we must go three thousand miles across the ocean to adjust differences with the Spanish Government, let us at least be prepared in the mean time to protect our citizens from outrage, and our commerce from being proscribed and fettered by the most arbitrary regulations, and the most unfounded assumptions of power, exhibited haughtily in sight of our very shores. Let us not talk of asserting the Monroe doctrine, without preparing to make our declarations felt and respected, whether those declarations refer to the Bay Islands, the Balize, or the French and English interference with Cuba or St. Domingo.

There is yet another matter which ought not to be neglected by this Congress, if it be not too late to give it the requisite consideration. I refer to the long-projected line of mail-steamers between the Bay of San Francisco and the free ports of China. These vessels may be made to perform an important part in the naval service necessary to protect our growing commerce in that quarter. It is proposed to build them as vessels-of-war, actually pierced for a battery, and each carrying four heavy guns. Our great interests demand some such measure as this, both for the extension and for the protection of that vast intercourse and commerce which is destined to exist between our continent and the five or eight hundred millions of industrious and ingenious inhabitants of Asia.

I shall conclude my remarks, Mr. Chairman, with a few words in reference to the amendment which I first presented, in relation to an increase in the number of seamen. If the amendment I

had the honor to propose some years ago for a change in the management of our squadrons and in the length of cruises, had been received with favor, we might now be able to secure the necessary defenses of the country in time of peace by the number of men at present employed, if not by a smaller number—keeping as many ships in commission as you now propose with nine thousand men. But, under existing circumstances, I feel it to be my duty, and the Naval Committee have instructed me to offer the recommendation of the Secretary of the Navy for an increase of seamen to the number mentioned. I present the Secretary's statement in the following letter, which I ask may be read:

NAVY DEPARTMENT, *January* 3, 1853.

SIR: I have the honor to submit herewith a list of the vessels of the Navy that will probably be in commission during the year 1853, showing an aggregate of men to man them, of nine thousand. The law, as it now stands, limits the number of men, including petty officers, seamen, ordinary seamen, landsmen, and boys, to seven thousand five hundred. There will, therefore, be required an addition to the present number of fifteen hundred. For the pay of this additional number of persons I also submit an estimate including a bounty to be paid to each person, amounting in all to $355,500.

And for the consideration of the Naval Committee, I respectfully place before you the form of a bill to establish a corps of permanent seamen in the Navy of the United States, for all of which I ask the deliberation of Congress.

I have the honor to be, very respectfully, your obedient servant, JOHN P. KENNEDY.

Hon. F. P. STANTON, *Chairman of the Committee on Naval Affairs, House of Representatives.*

Vessels of the Navy which will probably be in commission during the year 1853.

Stations and names of Vessels.	*No. of men.*
East Indies.	
Vermont ship-of-the-line	900
Susquehanna, steamer	230
Mississippi, do	300
Princeton, do	200
Alleghany, do	120
Macedonian, corvette	300
Plymouth, sloop	162
Saratoga, do	162
Vandalia, do	162
Supply, store-ship	49
Southampton, do	45
Pacific.	
Independence, razee	500
St. Lawrence, frigate	400
Raritan, do	400
Portsmouth, sloop	162
———, do	162
Fredonia, store-ship	45
Coast of Africa.	
Constitution, frigate	400
Germantown, sloop	162
John Adams, do	162
Marion, do	105
Dale, do	105
Bainbridge, brig	70
Perry, do	70
Vixen, steamer	45
Brazil.	
Savannah, frigate	400
Congress, do	400
Jamestown, sloop	162
Supply, store-ship	45
Waterwitch, steamer	45
Mediterranean.	
Cumberland, frigate	400
Levant, sloop	162
St. Louis, do	162
San Jacinto, steamer	200
Powhatan, do	230
West Indies, (Home.)	
Cumberland, frigate	400
Cyane, sloop	162
Albany, do	162
Decatur, do	105
Saranac, steamer	190
Fulton, do	80
On the Lakes.	
Michigan, steamer	70
Surveying.	
Vincennes, sloop	162
Porpoise, brig	70
John Hancock, steamer	50
Special Service.	
Dolphin, brig	70
Coast Survey	300
Receiving Ships.	
Boston—Ohio, seventy-four	84
New York—North Carolina, seventy-four	84
Philadelphia—Union, steamer	50
Baltimore—Ontario, sloop	50
Norfolk—Pennsylvania, seventy-four	84
	9,797
Deduct for ships repairing and refitting for reliefs	797
	9,000

NAVY DEPARTMENT, *December* 31, 1852.

Estimate for the pay of one thousand five hundred petty officers, seamen, ordinary seamen, landsmen, and boys, in addition to the seven thousand five hundred allowed for the Navy by existing laws, and for a bounty to each individual of ten per cent. upon his annual pay.

One thousand five hundred persons at an average annual pay of $150	$225,000
Add ten per cent. for bounty	22,500
Add ten per cent. for bounty on estimated amount for the pay of seven thousand five hundred petty officers, seamen, ordinary seamen, landsmen, and boys, say $1,080,000	108,000
Total	$355,500

NAVY DEPARTMENT, *December* 31, 1852.

These letters explain themselves, and therefore require no comment. I will only say that seamen cannot be obtained, even the number now allowed by law, without an increase of pay. This at least must be done, whether you increase the number of men or not. The rate of pay for seamen is now fixed by the Department, not being regulated by law. I do not propose to change the law in this respect, for I think the present mode better to enable the Government to meet the change of wages constantly occurring in the merchant service. The Department has nothing to do but to estimate for whatever may be necessary to man our vessels. Congress will not hesitate to vote the amount, and I hope it will go so far as to give the increase of men asked for by the Secretary.

Mr. BOWIE. The foreign and domestic policy of the country are so intimately blended with the annual appropriations for military purposes, that I hope I may be indulged in a brief reference to them, before I speak to the specific objects of the bill now under consideration.

When an honorable member from New York city, [Mr. BROOKS,] on the second day of this session, startled the House by his proposition to revise and reduce the imposts to a revenue standard, I was one of the few of my political party who voted against it. There was not, in my judgment, any such imminent danger of a financial crisis, as to render it necessary for a Whig to renounce a cardinal principle of policy. On the contrary, I remembered there were then pending before Congress many unsatisfied claims of a public and private character, resulting from sacrifices made by citizens in behalf of their country, before and during the second war of independence, from foreign aggression and maritime invasion; many exposed cities and harbors, tempting the cupidity of an enemy, to be fortified; a system of internal communication and external defenses to be perfected, which would deplete the surcharged Treasury, if we fulfilled the obligations of justice, prudence, and patriotism. It was premature at least, before surveying the foreign relations of the country, before its actual financial condition was ascertained, before receiving the annual authentic official report of the Secretary of the Treasury, to attempt to remodel the revenue system. Since the actual condition of the Treasury has been ascertained, I apprehend the proposition which was deemed plausible at the time of its introduction would now be considered quixotic.

It would be financial folly for a Government to contemplate reducing its revenues, (already decreasing,) because of a casual surplus of $10,000,000 or $15,000,000, which has a public debt of $72,000,000; which owes to private claimants perhaps $20,000,000 yet to be liquidated; which requires from $4,000,000 to $7,000,000 to carry on the Mint, and $5,000,000 as a basis for the sub-Treasury; which has unfinished fortifications requiring $15,000,000, and a steam navy to build, independently of large territorial improvements, rivers, roads, and harbors to open, construct, and preserve.

We are informed by the Secretary of the Treasury the duties on imports have declined nearly a million and a half. What may be the cause or extent of that tendency—whether it is permanent or temporary—is yet to be developed; but other and more grave considerations make the idea of reducing the revenue impolitic and wholly unsafe.

A recent election has transferred the power of the people from the Whig to the Democratic party. The prominent features of the incoming Administration will be a bold progressive foreign policy, sympathy with the downtrodden people of Europe, defiance to all European colonization on the American continent, annexation of all adjacent territory longing to be free and fraternize with the United States.

We have reason to believe, if all that transpires around us is not mere sound, that our foreign relations are of a most delicate character. Distinguished and eloquent gentlemen of the triumphant party, in their places, and upon their responsibility as Senators, have avowed that the most momentous questions (which may from hour to hour require practical solution) are pending. Senators are now deliberating in grave debate in the other end of this Capitol whether two of the leading and most formidable Powers of Europe have not violated the established and proclaimed integrity of the American Continent, and thereby endangered republican institutions; solemn inquiry is being made, in that most puissant Chamber of Congress, what steps it behooves the United States to adopt to protect its principles and honor.

The learned, grave, and impassive chairman of the Committee on Foreign Affairs in the Senate, is reported to have said, whether the British Colony of the Bay of Islands be a violation of the Monroe doctrine or not, it must be removed.

The sententious, venerable, and eloquent Nestor of the Senate has labored incessantly, for weeks past, to convince his associates the contingency has arisen to require its practical assertion.

Dialogue between Senators CASS and DOUGLAS, February 14, 1853:

"But the Senator insists that his resolution will have and ought to have a retrospective effect. If so, let him so amend his resolution as to make it declare distinctly that all European colonies established in America since Mr. Monroe's memorable declaration, and in violation of it, together with all which shall hereafter be established, are to be resisted by this Government at all hazards. Is he prepared to do that?

"Mr. CASS. Perfectly.

"Mr. DOUGLAS. Then I understand that the honorable Senator is willing to say in his resolution: '*Resolved*, That all colonies which have been established upon the American continent by Great Britain, or any other European Power, since 1823, in violation of the Monroe declaration, and all that may be hereafter established, are to be deemed hostile to our interests and safety, and to be resisted by the full power, if necessary, of this Government.'

"Mr. CASS. I will vote for it to-day.

"Mr. DOUGLAS. Why did he not make his purpose apparent on the face of his resolution?

"Mr. CASS. Certainly; that is my idea; that is my construction. It is plain talk, and I like it.

"Mr. DOUGLAS. That is plain talk. Then, let us see where we are according to the explanations that have been made. Does the Balize come within this restriction, and is Great Britain to be required to draw in her boundaries to what they were in 1823?

"Mr. CASS. She must draw it in just as far as she has extended it illegally, or in contravention of our rights.

"Mr. DOUGLAS. The seizure of the Bay Islands is to be disavowed, and those islands are to be restored?

"Mr. CASS. Precisely.

"Mr. DOUGLAS. The seizure of the town of San Juan, at the mouth of the San Juan river, on the 8th of February, 1848, is at once to be disavowed, and it is to be restored to Nicaragua?

"Mr. CASS. Certainly.

"Mr. DOUGLAS. The British protectorate over the Mosquito coast is to be abandoned, and treated as if it had not existed?

"Mr. CASS. It is abandoned by the treaty.

"Mr. DOUGLAS. I do not think it has yet been abandoned. I shall wait patiently for the Senator to bring forward his modified resolution in such terms as to embrace all the objects to which I have referred, for I looked in vain through his speeches for something to show that he ever dreamed of carrying his resolution back to the past.

"Mr. CASS. I never thought of anything to the contrary."

Another late prominent candidate for the Presidency (Senator DOUGLAS) has said:

"Sir, what right has Great Britain to call upon the United States, as she did in a late application, to enter into a negotiation to guaranty Cuba to Spain? Such a step might have been necessary on the part of England in order to satisfy Spain that she has abandoned the policy which for centuries has marked her colonial history with plunder and rapine. Why does not England first restore to Spain the Island of Jamaica, by the seizure and possession of which she is enabled to overlook Cuba, while it gives her the command of the entrance of the proposed Nicaragua canal? Why does she not restore to old Spain Gibraltar, which from proximity and geographical position naturally belongs to her, and is essential to her safety? Why does she not restore the colonial possessions which she has stretched all over the world, commanding every important military and naval station, both upon land and water? Why does she not restore them to their original owners, from whom she obtained them by fraud and violence? Why does she not do these things before she calls upon us to enter into stipulations that we will not rob Spain of the Island of Cuba?

"The whole system of European colonization rests upon seizure, violence, and fraud. European Powers hold nearly all their colonies by the one or the other of these tenures. They can show no other evidence, no other muniment of title. What is there in the history of the United States that requires us to make any such disclaimer? We have never acquired one inch of territory, except by honest purchase, and full payment of the consideration. We have never seized any Spanish or other European colony. We have never invaded the rights of other nations. We do not hold

in our hand the results of rapine, violence, war, and fraud, for centuries, and then prate about honesty, and propose to honest people to enter into guarantees that they will not rob their neighbors."

The Press, the great generator of public sentiment, through its thousand channels, is reechoing the same sentiments.

Nor are these the only evidences of portentous presage. An honorable and distinguished member of this House, in concurrence with accredited organs of the Democratic party, has deemed it his duty to propose an extraordinary deposit of $10,000,000, to be placed at the discretion of the President, to be used as public exigencies may demand. It is true that proposition failed in this House, yet its mere suggestion, with the indorsement it has received from high sources of public sentiment, is significant of change.

I read from the Union of Wednesday, the 29th of December, 1852:

"THE CONFIDENTIAL FUND.—A newspaper rumor, that Senator Soule entertains the design of proposing to intrust $10,000,000 to the incoming Administration, for the purpose of enabling it to meet any extraordinary exigencies that might arise in the foreign relations of the country during the recess of Congress, has been the occasion of some malicious criticism with the Whig press. A newspaper rumor is a very frail basis for an assault upon an Administration before it exists. But though the rumor were true—and we do not wish to be understood as meaning to discredit it—we imagine there is nothing in the proposed measure to justify the censure of the Whig press. The measure is not without repeated precedent; and surely if at any period it was necessary and proper, it is demanded by the present crisis of doubt and difficulty in the foreign relations of the country. It is impossible to foresee what momentous national exigency may arise within the next twelvemonth, so unsettled and threatening is the aspect of the political world. It cannot be contended that the country is unwilling to intrust the disposition of such a sum to the direction of General Pierce, after the extraordinary *vote of confidence* given him by the people on the second of last November."

The great motive power of this country is public opinion. Whether right or wrong, it sways the Government as a pendulum; swift and terrible as the tornado, it forms in obscure and invisible sources, rises in its might, and sweeps mountain, valley, and plain. Thus the public mind of this country is being prepared for some great national struggle; public men delight to feed the public appetite with the memory of wrongs perpetrated nearly half a century ago. National antipathies are cherished, and the people of the United States are offered the alternative of being *the victims or victors* of all anti-republican Governments.

Foreign Powers are roused by these lofty pretensions and this exasperating language to cavil on the ninth part of a hair. Whatever might be yielded to amicable overtures and negotiations, will be scornfully rejected under menace or intimidation. They are already arming—nay, they are armed for any emergency. Our information is, that never have the great naval Powers of Europe been so panoplied in all that tends to make war successfully destructive. Human ingenuity has been taxed to devise gigantic implements of death. Ships of extraordinary tonnage, guns of immense and unheard-of caliber, projectiles of the most fatal character, are daily announced as being introduced and prepared for some anticipated death-struggle between nations.

"ORGANIZATION OF THE NAVY.—We yield to the request of a friend, who has a practical acquaintance with naval matters, to insert the annexed portions of a communication which appeared lately in the New York Mirror. In things professional we must necessarily be guided by faith more than knowledge; but there is one reflection prompted by the subject, which common sense will warrant without any professional knowledge; and that is, that a nation should not invite or threaten war without making all prudent preparations for it." * * * * "During the past ten years, the English, French, and Dutch Governments have made very extraordinary efforts to resuscitate, strengthen, and extend the force and discipline of their respective navies. It is a notorious circumstance that the officers and seamen are daily employed in exercising their *great guns*, afloat and ashore; and that John Bull now prides himself very much in his superiority in gunnery.

"The French Government has added very largely to its Navy during the last five years, especially in steamers. France now has in commission forty ships-of the line, fifty frigates, (old,) forty corvettes, eighteen armed transports; to which add fifty new frigates, and twenty corvettes of three hundred and twenty to four hundred-horse power, and seventy small steamers.

"She has also made a great and important change in her navy. She has removed all the old and inefficient officers, and placed on the decks of her ships, young, vigorous, ambitious men, in their prime of life, capable and ambitious of attempting the most daring achievement for the honor of the navy, and the glory of *La Belle France*.

"The English navy, too, has been vastly increased in the number and quality of its ships of-war and steamers. At this moment, there are more ships-of war on the stocks in the royal navy yards than at any other period in twenty years. Having very recently visited the dock-yards at Plymouth, and other naval depôts in Great Britain, also in France, I offer the foregoing observations, with confidence in their accuracy. I have only to add I was astonished at the extraordinary exertions making in Europe to increase their naval power and efficiency. The English Navy now far exceeds in force that of the French, as much as the Dutch marine exceeds the Navy of the United States."

Foreign fleets have floated in the Caribbean seas to protect Cuba from invasion from our shores. We have been formally notified that these attacks have engaged the serious attention of the two most formidable naval Powers of the world; that the friendly relations now existing between them and the United States might be endangered by their repetition.*

These considerations are certainly suggestive of the inquiry, whether we are prepared for the conflict, which the high aspirations of the triumphant party and the progress of events seem to invite. Are we invulnerable at home, invincible on the seas? Have we fortifications adequate to the protection of the great commercial emporiums of the country, and the navy-yards, arsenals and docks, on the sea-board? Have we well-appointed fleets, able to cope with our adversaries? Have we considered "whether with an army of ten thousand men we can meet an enemy with twenty thousand?"

A transient contrast of our naval power with those of Europe, and a rapid review of the relative effect of the introduction of steam upon our system of maritime defenses, will be sufficient to satisfy us we are far from being invulnerable or invincible. The report from the Secretary of the Navy shows we have but 37 vessels-of-war of all kinds in commission, carrying 746 guns; 15 in ordinary, carrying 772 guns; 5 store-ships, 24 guns, and 7 building. Of these we have 8 steamers, carrying from 1 to 10 guns; 2 carrying 10; 2 carrying 9; 2 carrying 6.—*Vide Rept. of Secretary of the Navy.*

Naval Forces of the Chief States, by Banfield & Wells.

STATES.	*Afloat.*		*In Ordinary or Building.*		*Total.*	
	Ships.	*Guns.*	*Ships.*	*Guns.*	*Ships.*	*Guns.*
G. Britain.	332	4,588	304	13,098	636	17,681
France...	215	4,293	181	4,635	346	8,928
Russia....	179	5,896	-	-	-	-
Turkey...	62	2,636	4	24	66	2,660
U. States.	47	1,155	30	1,190	77	2,345
Egypt....	35	1,448	3	312	38	1,760
Holland ..	48	302	85	1,344	134	1,646

The English Navy in 1848 consisted of 671 ships—243 in commission, including 98 steamers, besides mail steamers, fit for purposes of war—the Cunard line, the Peninsula and Oriental Company, the West India packets, and the General Steam Navigation Company.

"The naval power of England is greater than ever before, and the disparity between us is yearly increasing, particularly in her steam navy. In the admiralty navy list for April, we find one hundred and fifty steamers of war; in addition to these she has sixty or seventy mercantile steamers capable of being armed with thirty-two pounders, for which the guns, carriages, and ammunition, are actually prepared. She has two hundred and forty more capable of carrying a lighter armament, and some six hundred besides which might be of service in resisting invasion.

"Exclusive of her squadrons abroad, she had in commission at home, in January, 1851, 14 sail of the line, 3 screw-steamers, 10 frigates, 4 steamers, besides several steam-sloops, all ready for sea. She has also ready for commission, 20 other powerful steamers.—*Dupont's Report*, p. 155, Doc. No. 5, 1851. France has 1 line of battleship, 90 guns, with screw propellers; 14 steam frigates, 1st class, mounting from 8 to 16 guns, heavy ordnance; 15 steam corvetts, 40 dispatch steamers.—*Report of Com. Dupont*, Doc. 5, p. 155. 'Our great battle upon the ocean is yet to be fought, and we shall gain nothing by shutting our eyes to the struggle.'—*General Cass, cited by Dupont*, p. 154. 'Whosoever commands the sea, commands the trade, and whoever commands the trade, commands the riches of the world.'—*Sir Walter Raleigh*—ibid."

The effect of the application of steam to vessels-of-war has been to annihilate the distance which separated us from our rivals on the sea, and make our ports more accessible to fleets drawing comparatively light draughts, and carrying the heaviest armament:

"The application of steam to vessels-of-war acts upon the question of sea-coast defense both beneficially and injuriously. It acts injuriously in several ways; but chiefly, first, by the suddenness and surprise with which vessels may fall upon their object, and pass from one object to another, in spite of distance, climate, and season; and secondly, by their ability to navigate shallow waters," p. 54.

The first quality affords no chance for impromptu preparations; accordingly, whatever our preparations are to be, they should precede the war.

"Yet there are those who insist we should leave defensive measures to a state of war. Let the day supply the need. Inadequate as all such measures must prove, there would be no time to arrange even these.

"By the second quality, due to their light draught of water, these vessels will oblige the defenses to be extended in some form to passages, or channels, or shoals, that before were adequately guarded by their shallowness. The bars of the Mississippi formerly excluded all but small vessels-of-war. Now, all the armed steamers of England and France might be formed in array before the city of New Orleans, before a rumor of their approach had been heard."

The great naval depôts of Great Britain, Halifax, Jamaica, and Bermuda, are within thirty-six or forty-eight hours of our coasts. Every city on its border is exposed to bombardment without an hour's notice, in the contingency of war.

"Among other causes and changes the most important appears to be the discovery of a channel leading from the ocean into the Bay of New York, which could not be commanded by any of the fortifications proposed by the Board."—*Report of Commodore Morris*, p. 132, *Doc. No. 5. Also, Colonel Totten, Doc. 5, p. 103. Necessity of Defenses at Sandy Hook.*

"HARBOR OF BALTIMORE.—The proximity of the city to the Chesapeake Bay, greatly endangers the city of Baltimore. In the present state of things, an enemy, in a few hours' march, after an easy landing, and without having his communication with his fleet endangered, can make himself master of that great emporium of commerce. There are required for its security, two forts on the Patapsco, one at Hawkins's Point, and the other opposite that point."—*Brig. Gen. Totten's Report, Doc. No. 5, p. 105, 1851.*

Ten steamers, in ten days, might blockade every port from Boston to Mobile. Fifteen would carry an army of ten thousand men. The result is "a greater necessity than ever for defending our cities, harbors, and dock-yards by some efficient means."

Besides the greater capacity of steamships, the celerity and certainty of their movements against wind and tide make them most formidable instruments of invasion. The French expedition against Rome, is an example.

In 1814, we had from six to eight months' notice of the contemplated invasion—now the blow will be struck without warning.

The Secretary of the Navy admonishes us of our great disparity, of the necessity of providing steamers in the Pacific, (where we have only two frigates and two sloops-of-war,) and the propriety of increasing the number of screw-propellers.

Our little navy is scattered over the waters of the world; scarce a sea in which our flag does not float in protecting commerce or the pursuit of science. The Mediterranean, the coast of Africa, Brazil, and South America, the Isles of Japan, and the seas of China, are or will soon be the theater of its explorations. Can we over-estimate the necessity of cherishing, strengthening, and sustaining this great arm of national defense?

From the capture of the Serapis to the siege of Vera Cruz, the Navy has sustained the honor and augmented the glory of our country. Neither treason or cowardice has ever sullied the fame of its officers, or tarnished the folds of their flag. The victories of Paul Jones, Nicholson, Hopkins, Cunningham, and others of revolutionary fame, secured the alliance of France, furnished our Army with clothes, arms, and ammunition, and contributed largely to our national existence and independence. The victories of Hull, Morris, Perry, Porter, Decatur, and Steward, with their immortal compeers in the war of 1812, redeemed us from inglorious vassalage on the ocean, and gave the prestige of success to our forces on land.

The accomplished and energetic Secretary of the Navy, in view of our extended commerce and territory, the new avenues of trade, the immense increase of population and national resources, our comparative naval disparity, and the preservation of our national honor, as well as the inviolability of our territory, urges the strengthening of this arm of the service. Are we content to live on the naval renown of our ancestry? Will the exploits of half a century gone, redeem us from indelible disgrace if, after all the admonitions of the past, we neglect the necessary provisions for self-defense, and security for the future?

The State of Maryland, and the district I represent particularly, are deeply interested in all that tends to preserve us from maritime invasion. The ravages of the war of 1812 are not yet repaired; the private property sacrificed and destroyed in the public defense has not yet been paid for; they have neither indemnity for the past nor security for the future. Many estimable families, reduced by sacrifices in the public defense

* See notes of the English and French Ambassadors to Mr. Webster, proposing the tripartite treaty.

from affluence to penury, have for thirty years stretched their supplicating hands to the Congress of the United States, imploring that justice which

"Would deign to save,
From vengeful fate, the scions of a race
That flourished once, and once were beautiful."

If we turn to our defenses on the sea-board, the prospect is little more flattering, if any. Works essential for the protection of the great emporiums of commerce are left unfinished; fortifications which have been completed are unarmed; but little more than half of all the ordnance necessary for the forts which are completed, is cast, and the repairing of the whole is suspended for want of appropriations.

Notwithstanding we are officially informed of these facts by the Secretary of War in answer to a resolution adopted in March, 1851, and have been informed of them for sixteen months past; yet the most apathetic indifference exists. All appropriations for fortifications have been suspended for two years past. Gallant officers of the Army and Navy have pointed out to us the extreme vulnerability of the country from the improvements in the arts of navigation and gunnery. They show our condition to be infinitely more critical than when we encountered Great Britain in 1812. Should an enemy invade us and find us unprepared, what a tremendous responsibility must rest on this Congress!

The military defenses of the country have been the subject of particular consideration, at four several periods, with long intervals. In 1816, when the sea-board was bleeding from wounds then recently inflicted by maritime invasion, a Board of Engineers, with a distinguished member of Napoleon's staff (General Bernard) at their head, was organized under an act of Congress, and charged with the duty of planning and recommending a system of coast defense suited to the prospective wants of the country. The aggregate cost of this system, when completed, was estimated at $44,958,626.

In 1836, General Cass, being Secretary of War, reviewed the *projet* of the Board of Engineers, and while condemning the plan as unnecessarily grand and expensive, laid down these general propositions, which were communicated to Congress with the indorsement of President Jackson:

"I think every town large enough to tempt the cupidity of an enemy should be defended by works, fixed or floating, suited to its local position, and sufficiently extensive to resist such attempts as would be made against it."

Again:

"All the harbors and inlets upon the coasts where there are cities or towns, whose situation and importance create just apprehension, and particularly where we have public naval establishments, should be defended by works proportioned to any emergency that may probably occur."

In 1840, the House of Representatives, by resolution, called on the War Department for a report of a full and connected system of national defense. The subject was referred to a Board of Engineers, who presented their views in a masterly manner, and sustained the system of 1816.

At the close of the Thirty-first Congress, the usual appropriations for fortifications having been withheld, a resolution was adopted requiring the Secretary of War to report, on the second Monday of December then next, on the subject of the land defenses of the country, in which he should review the general system adopted after the war with Great Britain, and since pursued in regard to the permanent fortifications then deemed necessary for national defense, and report whether the same may not be essentially modified by reducing the number of works proposed to be erected, and abandoning some now in progress.

That sagacious and energetic officer, to enable him to discharge the important duty committed to him, with all the aids of experience and science, addressed a series of questions to ten distinguished officers of the Army and Navy, involving the modifications of the system of fortifications necessary or expedient in consequence of the application of steam to vessels-of-war, and the invention or improvement of projectiles, or other changes that have occurred since 1816.

All these, (with one or two exceptions,) however varying in detail, concur in the propositions of General Cass, above cited, viz: that every town large enough to tempt the cupidity of the enemy, should be defended by means adequate to its protection.

This important official document, communicated to this House at the December session, 1851, the combined result of the most tried, experienced, and skillful minds in both arms of the service, conveying the opinions of Brigadier General Totten, Lieutenant Colonel De Russey, Majors Chase and Delafield, of the Army, and of Commodores Morris and Perry, Commanders Cunningham and Dupont, Lieutenants Lanham, Maury, and Dalgreen of the Navy, names which illustrate our history, by their exploits in the fields of war and science, has been buried in the oblivion of the folding-room, and made no impression on the legislative mind. Well would it be for us, if the undefended and exposed condition of our great commercial emporiums disclosed in that document, could be as effectually concealed from the knowledge of our enemies.

Yet, notwithstanding the information furnished this Congress at its own command, showing that all our great cities, in consequence of the introduction of steam as the motive power of vessels-of-war and the improvement of projectiles, are more exposed than in 1814; that Boston, New York, Baltimore, and New Orleans, may be laid under contribution at the pleasure of any great naval Power; we have no appropriation worth naming, for continuing or preserving the fortifications recommended by all the military minds of the country. The Chief of the Board of Engineers estimates that nearly a million of dollars are necessary to preserve fortifications already built, and continue those long since commenced. Yet the Committee on Ways and Means have reported no bill for fortifications at this session, and none at last session, except a few paltry items amounting to one hundred and thirty-four thousand dollars. Are the fortifications to be permitted to rot down, or be swept away by the winds and the waves? Are the millions already expended on them to be thrown away for the want of a few more to complete them? On whose judgment shall we rely on the subject of national defenses? Shall the men who have bared their bosoms, on land and sea, in asserting the national honor and defending the national flag, be deemed unworthy of reliance in questions appertaining to their own science and duty? If so, we had better disband both arms of the service, profess the principles of non-combatants, and send delegates to the Congress of the Universal Peace Society.

We are not only contemptuously rejecting the suggestions of our own most enlightened, experienced, and distinguished officers, but despising the lessons of experience, and the example of all nations, ancient and modern. "*Fas est ab hoste doceri.*" If the great naval and military Powers of Europe are not our enemies, they are our competitors and rivals. Great Britain, besides her immense naval marine, has her coasts bristling with batteries. France, with all her military renown, with every adult educated to arms, her territory converted into a standing camp, has every assailable point made impregnable by arms. Yet the United States, the champion of the right of self-government, the asylum of the oppressed flying from the despotism of Europe, the antagonist of absolutism and privileged classes, is to meet the world in arms without Navy or fortifications! "The chief stationary works which we 'now want along the Atlantic sea-board, are those 'that will protect our cities and towns from the '*great guns of big ships.* Steam and electro-mag-'netism on the land can do but little against the 'tremendous power of armed ships on the water; 'and if these can bring any one of our large cities 'within the reach of their guns, '*its destruction is* '*inevitable,*' despite all that the telegraph and loco-'motive can do. *It is chiefly to keep such ships from* '*burning our cities and harbors within reach of their* '*broadsides that we want forts and castles.*"—*Lieut. Maury.*

Exposed as we are at home, Mr. Chairman, this is not the most vulnerable point by far. By cultivating the arts of peace, agriculture, manufactures, and commerce, our citizens have now afloat the largest commercial tonnage in the world. The total imports of this country are $212,000,000; total exports, $209,000,000—making an aggregate of $421,000,000, exclusive of the value of the ships, and lives of those who man them, dependent on the efficiency of the American Navy to defend them from foreign aggression. There are, perhaps, $70,000,000 of this commerce in the Pacific, (where we are told we have but two sloops and two frigates, and not a single steamer,) roving over an expanse of twenty thousand miles. The commerce of the United States is estimated as follows:

	Ships.	*Tons.*	*Value.*	*Men.*
Whale Fisheries	634	223,000	$30,000,000	18,000
Trading vessels	650	200,000	40,000,000	16,000
Total	1,284	423,000	$70,000,000	34,000

Thus the aggregate value of our tonnage and freights is little, if any, short of $500,000,000.

With such an exhibit of the immense interests at stake, depending on the invincibility of our naval marine, can anything short of the most extreme necessity justify us in withholding the appropriations estimated by the proper bureaus as necessary for its efficiency? Still we find, with a superabundant Treasury, with a plethora so great that some gentlemen are afraid of a financial crisis, the Committee on Ways and Means have omitted or reduced items of estimates amounting to nearly two millions. The country will not approve this reduction. The coldest calculations of interest, without a throb of national pride, would suggest the most liberal appropriations for national defense. The American Congress which would peril the great interests of the country through considerations of mere economy, will be found to have bartered national honor and commercial prosperity for the greed of gold.

A most calamitous, incomprehensible self-sufficiency and security have resulted from the triumphs of the Mexican war. We imagine ourselves masters of the world; that no nation, nor all the nations of the earth combined, can inflict an incurable wound upon us. If all the suggestions of science, the rules of reason, the lessons of experience, and principles of strategy are not at fault, we are infinitely less prepared for conflict with the naval Powers of the world, than we were in 1812.

Mr. CABELL. Do I understand that the debate upon the bill is to close at two o'clock?

The CHAIRMAN. That is the time fixed upon by the House

Mr. CABELL. It will be utterly impossible for me to speak upon the question for which I obtained the floor within that limit, and therefore I will not occupy the floor. It was my intention to have addressed the House upon a subject to which I have paid great attention, both during the last Congress and the present one, and which I think involves a very important question of national policy, viz: that of establishing a line of communication between this country and China. I believe the Government has it in its power to open this communication—a measure that would result in incalculable benefits to the country without any expenditure of money, and without being liable to the objection of involving heavy charges upon the Government, such as have been alleged against other similar lines. There are gentlemen who are willing—and responsible men—to undertake the establishment of this line, upon condition that the Government will agree to pay them for a certain time the amount of postage which may be received through that line, and grant to them the privilege of purchasing a certain quantity of land for its own purposes.

There is another proposition which, in my opinion, is also feasible, coming from a highly-respectable party, through whom the object may be accomplished. They ask for no compensation, except that the Government will advance to them the money with which to build the ships, for which they will give good and proper security for the faithful expenditure of it. But it would be utterly impossible for me to explain my views in the five minutes which I have still remaining, and I will therefore avail myself of some other occasion, if any should occur.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, announcing that the Senate had passed bills of the following titles, viz:

An act for the relief of Mrs. Sally T. B. Cochrane, widow of the late Lieutenant R. E. Cochrane, United States Army; and

An act to authorize the Secretary of the Treasury to issue a register to the bark May.

That the Senate had agreed to the amendment of the House to the bill of the Senate (No. 242) to regulate the terms of the district court of the United States for the district of Iowa.

And had also agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill of the House (No. 332) making appropriations for the support of the Military Academy for the year ending 30 June, 1854.

That the President of the United States had notified the Senate that he did, on the 21st instant, approve and sign a bill of the following title, viz:

Senate bill (No. 271) amendatory of the existing laws relative to the half dollar, quarter dollar, dime, and half dime.]

Mr. TOOMBS. Mr. Chairman, I intended to have presented some views in connection with the subject of the Navy and of the fortifications of the country, but I think the action of the House to-day, in limiting this debate, furnishes a conclusive reason why they should not adopt either the proposition presented by the gentleman from Tennessee [Mr. STANTON] or that of the gentleman from Maryland, [Mr. BOWIE,] because we have not time to consider them. I take it for granted, that if the House supposed they had time to consider these questions they would not have limited the debate to two hours, and given one speech to a gentleman of the Naval Committee to urge an increase of the Navy, and the other to a gentleman from Maryland to defend the fortification system—thus giving no opportunity of presenting views upon the other side of either of those subjects. We should take time to deliberate and consider fully before we act upon matters of such grave importance and of so great consequence to the country as these, and therefore it is, I say that because we have no time to consider maturely these propositions—for no time has been allowed by the House—we ought to reject them. I should be glad of the opportunity of presenting in detail the manner in which the money appropriated by this Government for the service of the Navy has been expended during the last twenty years.

There has been no increase of our naval armament for the last twenty-five years, in proportion to the increase of expenditure. Sir, in this bill there is an amount of over $8,000,000 appropriated, of which $1,700,000 is for the repair of the Navy, and the balance is for what? The details are both curious and instructive. I regret I have not time to analyze them, but a much greater sum is squandered about bureaus, docks, and navy-yards, and jobs to favorites, than is applied to the legitimate purposes of strengthening this arm of the service. You may increase your appropriations two millions more, five millions more; yes, sir, ten millions more, and unless a reform is brought about in this department of the Government, it will all go in the same way. Scarcely an additional gun has been put afloat for the last twenty years, when the annual appropriation was under $3,000,000. These are the facts upon record.

The gentleman speaks of the necessity of a steam navy. Why, sir, we have expended millions for the construction and support of steamships used for carrying the mail. They are now stricken out of your naval estimates; but when we adopted that system, these steamships were to be built in such a manner as to be made serviceable in time of war. Naval authorities were bound not to accept them unless they could be used for that purpose, yet they have now reached fifteen or twenty in number, and these very naval men now tell us they will not answer at all. I desire to go into all these facts in detail when a proper opportunity presents itself, and show for what these largely-increased appropriations have been expended. But we have no time now to consider these matters, and for one, I will not consent to vote these largely-increased appropriations until there is an opportunity to consider them in detail, and provide that they shall be expended fairly and honestly. I repeat that these steamships, which are now shown to be fit only for mail purposes, were well contracted for, to be superintended by your naval architects, fit for purposes of war, and they were not to be accepted or paid for, unless they would answer that description.

Mr. STANTON, of Tennessee. Will the gentleman allow me to make a suggestion? I will state that the proprietors of one of these lines of steamships propose to take one of them and subject it to any test the Secretary of the Navy may choose, and if it does not answer every purpose of a ship-of-war, it shall be thrown back upon their hands.

Mr. TOOMBS. I have not pretended to say they will not answer. I only say such is the declared opinion of your naval men. We have now fifteen or twenty of these war-steamers, and if it be correct that they are suitable for the purposes, then you have in your steam navy fifteen or twenty large war steamers of the first class; and what do you want with any more? If you are to carry out the idea advanced by the gentleman from Maryland, and build up and set afloat a navy equal to that of France, or equal to that of England or of Russia, you will perpetrate the most gigantic folly in the annals of the human race. You have no colonies to defend or keep in subjection, no close, formidable, and turbulent neighbors to guard against, no entangling alliances to maintain. You need a navy sufficient to protect your commerce from spoliation, your citizens from outrage. The present establishment has proved sufficient for these purposes. To that extent I will support it. But when you expect a navy which shall equal those supported in Europe for the purpose of maintaining a balance of power, or for the purpose of maintaining "holy alliances," then you open the doors of your Treasury to an expenditure, boundless, irresistible, and illimitable. You then make the Government too great a burden to be borne, and the end thereof will not be distant.

[Here the hammer fell.]

The CHAIRMAN. The time fixed by the House for closing debate upon the bill under consideration having arrived, the bill will be considered by sections for amendment.

Mr. HOUSTON. I have no desire to occupy the hour to which I am entitled under the rules. I will yield it to the gentleman from Georgia, if he desires to continue his remarks.

Mr. TOOMBS. No, sir; I will reserve what I have to say until some future occasion.

Mr. STANTON, of Tennessee, proposed an amendment increasing the wages of the seamen in the United States Navy ten per cent., and advocated its adoption.

Mr. MILLSON. I will suggest to the gentleman from Georgia [Mr. TOOMBS] one cause of the increase of expenditure which he has overlooked. He will find that the large increase has arisen from what Commodore Stockton calls the *personnel* of the Navy. Within the last twenty or thirty years, the number of captains has more than doubled.

Mr. TOOMBS. And the gentleman from Tennessee wants to increase them more by his bill.

Mr. MILLSON. The number of commanders has increased more than threefold.

Mr. TOOMBS. And this proposition will create captains by the hundreds.

Mr. MILLSON. Lieutenants have been increased more than double. The pay of the Navy was formerly $800,000; now the expense is more than twice that amount.

Mr. CABELL, of Florida. I rise to a question of order. I understand there is a proposition in the bill which it is absolutely necessary to be adopted in order to obtain seamen, and the question which gentlemen are discussing, will come in when we reach that provision of the bill. I think the present discussion should be confined to the amendment under consideration.

Mr. MILLSON. I am speaking in the time of the gentleman from Tennessee, [Mr. STANTON.]

Mr. CABELL. The gentleman is diverting the attention of the Committee from the amendment now before it, and I beg him to wait for a little while, until the discussion of that subject will be more in order.

The CHAIRMAN. Does the gentleman from Virginia speak in opposition to the amendment?

Mr. MILLSON. I am not opposed to the amendment.

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Tennessee, [Mr. STANTON.]

Mr. STANTON, of Ohio. I should like to give my support to one part of the amendment, if it could be divided. I will vote for giving the existing seamen an increased rate of pay, but I will not favor an increase in the number of seamen. This is the difficulty in the amendment. Is the amendment divisible?

Mr. STANTON, of Tennessee. The proposed increase of pay amounts to $108,000. The gentleman can propose to strike out one portion of the amendment, if he desires.

Mr. STANTON, of Ohio. I move to strike out that portion of the amendment which provides for an increase of the number of seamen, so that I may vote for an increase of pay of those now in the service. Now that flogging in the Navy is abolished, we want to hold out an inducement in order to get a different class of men in the Navy, and in order to do that it may be necessary to give them an increased amount of pay, and I am willing to do it.

Mr. FLORENCE. There seems to be a desire on the part of the House and of the committee to bring about a proper reform in the Navy. Now, the first great step in reform, it strikes me, is to have the *materiel* proper of the Navy well paid. Now, sir, the larger part of the Navy proper is composed of the seamen. It is known and admitted everywhere that they are not adequately paid for the labor they perform. It is known that there is a marked distinction between the compensation paid to seamen in the mercantile marine and that paid in the naval marine of the country.

Now, it strikes me—and I think it must appeal to the sound sense and judgment of every member of this Committee—that the first great step in reform is to give to them a fair and adequate compensation for the services performed, and to increase that portion of the arm of the naval service of the country which fights the battles of the country; for after all, governed, as the Navy is, by competent and intelligent officers, the materiel that fight the battles, and defend the country, and our country's flag and honor, in times of danger and war, are the seamen upon the decks of the vessels. Now, sir, let us increase their compensation, pay them adequately, and pursue that course which will bring about a moral reform in that materiel, and we shall have accomplished a very great good. I agree generally with the remarks of the gentleman from Georgia, [Mr. TOOMBS.] I think that perhaps there is not sufficient time to consider properly all the reforms that are necessary, but let us, nevertheless, begin at one reform, and with such a reform as the country has taken into consideration for a considerable length of time.

There is but one voice all over the country in reference to the necessity of a reform in the Navy; and I agree with the gentleman from Georgia that there should be less shore duty, that some of the palaces in our navy-yards should be torn down, and that the men who now occupy them should be made to perform duty. There are too many officers awaiting orders. There is too much—to use a phrase that has become familiar—too much fogyism in the Navy, and I want to introduce the spirit of Young America there, so that the men who hold commissions shall perform as much service as the seamen.

Let us pay the seamen, let us increase the material arm of the service, and we will have accomplished one of the first steps in a good and proper reform.

[Here the hammer fell.]

Mr. HOUSTON. I suppose that the gentleman from Ohio [Mr. STANTON] proposed by his amendment, not only to strike out the part which provides for an increase in the number of seamen, but also a corresponding part of the appropriation. If I understand it, the original amendment proposes an increase of one thousand five hundred men, and that carries with it a portion of the appropriation. If that is stricken out, a proportionate part of the appropriation should also be stricken out.

Mr. STANTON, of Ohio. That follows, as a matter of course.

Mr. STANTON, of Tennessee. The amount can be altered afterwards.

Mr. STUART. I ask for tellers upon the amendment.

Tellers were ordered; and Messrs. STANTON of Ohio, and HART were appointed.

The question was then taken, and the tellers reported—ayes 54, noes 57; no quorum voting.

[Cries of "Call the roll!" and "Recount!"]

Mr. STANTON, of Ohio. I would suggest to the gentleman from Tennessee, [Mr. STANTON,] to modify his amendment so as to separate the increase of pay from the increase of the number of men.

Mr. TOOMBS. I move to reduce the appropriation one dollar.

The CHAIRMAN. No amendment is in order until the question has been taken on the pending amendment.

By unanimous consent a recount was ordered; and the tellers having resumed their places, the House was again divided, and the tellers reported—ayes 73, noes not counted.

So the amendment was agreed to.

The question then recurring on the amendment as amended,

Mr. TAYLOR called for the reading of the amendment as modified by the amendment just adopted.

Mr. STANTON, of Tennessee. By the amendment already adopted, the sum of $3,126,948 will be reduced to $2,879,448, allowing ten per cent. bounty to each seaman now in the Navy.

The amendment as amended was then read, as follows:

"Two million eight hundred and seventy-nine thousand four hundred and forty-eight dollars, provided the seamen, ordinary seamen, landsmen, and boys, hereafter to be employed, be paid, and the Secretary of the Navy is hereby authorized to pay, at his discretion, in the form of bounty, ten per cent. in addition to the present rate of pay."

Mr. MEADE. I move to amend the amendment, by increasing the amount one hundred dollars, and I do it simply for the purpose of submitting a few remarks to the committee. If I understood the tenor of the remarks of the gentleman from Tennessee [Mr. STANTON] when he first addressed the committee, he intends to offer a series of propositions for the purpose of strengthening the naval service of the United States. I am in favor of that object; and for the purpose of informing myself, I have had before me for the last few days, a statement showing the comparative strength of the British and other navies of the world with that of the United States; and I am clearly of opinion that it is our duty, and that it is sound policy on our part, in the present critical condition of our foreign affairs, to increase our naval strength; not with the view stated by the gentleman from Georgia, to create a balance of power between this country and Europe, but for the necessary purpose of protecting our own marine, and of carrying out our own legitimate objects.

Here is a late publication by the British authorities, containing a list of their Navy; and by comparing it with our Navy Register, as lately made up, you will find a difference to exist of seven hundred per cent. between the naval strength of Great Britain and that of the United States; and the same may be said of the naval strength of France, less twenty per cent. from that of Great Britain.

Great Britain has at this time, of sailing vessels, 394; the United States 59; making a difference of 355. Her guns are 13,067; those of the United States 2,067; making a difference of 11,000. The steam navy of Great Britain, at the time of the publication of this pamphlet, 1852, was 151 steamers; that of the United States 16; making a difference of 134. The guns of the British steam navy are 1,273; ours 63; making a difference of 1,210. The total ships of Great Britain, including her steam and sailing vessels, are 545, with 14,340 guns; those of the United States 75, with 2,047 guns; making a difference of 470 vessels, and 12,293 guns.

Now, sir, our largest steam-vessel carries but 10 guns. Great Britain has 33 steam vessels carrying from 10 to 100 guns each; 14 of these carry from 30 to 100 guns each. Of 151 steamships belonging to Great Britain, 41 are screw-propellers, carrying from 12 to 100 guns each. To these may be added some 50 or 60 mail steamers, convertible into war steamers whenever she thinks proper.

[Here the hammer fell.]

Mr. VENABLE. I am opposed to the amendment of the gentleman from Virginia.

Mr. MEADE. I withdraw my amendment.

Mr. VENABLE. If the gentleman withdraws his amendment, I have nothing to say.

No objection was made, and the amendment was withdrawn.

Mr. PRICE. I offer to amend the amendment by striking out "ten per cent." and inserting "twenty-five per cent."

Sir, it is very manifest that we cannot obtain a sufficient number of seamen to man our naval vessels, in consequence of the inadequacy of the compensation they are now receiving. The object which the Committee on Naval Affairs has in recommending an increase of pay, is to furnish our ships with the men who now refuse to enter our naval service on account of the insufficiency of the compensation given them by naval regulation. The increase which is proposed in the amendment is not enough to accomplish that purpose, as is readily shown by the fact, that the seamen in our Navy receive only twelve dollars a month. The ten per cent. which this amendment contemplates, would only add a dollar and twenty cents a month to his pay. That is not a sufficient inducement to offer seamen to enlist in our Navy, as it is far below what sailors receive in the merchant service at this time. To landsmen, who form a large portion of the crews of our vessels, and receive only nine dollars a month, you increase the pay only ninety cents per month—an increase which, in my judgment, is totally ineffectual for the object for which it is intended.

I have, therefore, moved to increase the pay from ten to twenty-five per cent. It is a matter of the highest importance to this country that our seamen should receive an adequate compensation for their service; it is the best way of promoting the character and efficiency of your vessels-of-war. In my opinion, they never have received a just reward for their hard and exposed service; and, as an evidence of it, a frigate went to sea from Norfolk, a few days since, with only one half of the complement of men fixed by the regulation of the Navy Department.

Now, when we attempt to deal with these subjects, we should deal in such a way as to reach the object contemplated. I believe, therefore, that the amendment which I propose is only a just and fair compensation, and will accomplish the object of inducing seamen to enlist in our naval service, and give to our ships a better class of men, and allow our vessels to go to sea, which the want of seamen now prevents, because the seamen in the Navy are not as well paid as in the merchant service.

Mr. HOUSTON. I would inquire of the gentleman whether the compensation of our seamen is not exclusively regulated by the President of the United States?

Mr. PRICE. He may have that authority, but I believe that by this very amendment he will be deprived of it.

Mr. HOUSTON. Then the President in his discretion can give eight, ten, or twenty dollars per month?

Mr. PRICE. He has it in his power to regulate the pay of the seamen, but he has not seen fit to exercise that power, and the pay of our seamen is now what it was in the war of 1812.

Mr. CABELL, of Florida. I would ask of the chairman of Ways and Means whether it is possible the President can exercise his discretion with regard to the pay of the seamen without the appropriation of money? We only ask that this appropriation shall be now made.

Mr. HOUSTON. That may be true; I do not oppose the amount of the appropriation. I oppose, however, a change in the law until the Committee on Naval Affairs bring forward a proposition to regulate the whole subject. I am not sure but that I should oppose the amendment, for I believe that there is a balance in the Treasury under that head as yet unexpended.

Mr. PRICE. The Senate, at this very session, passed a law now lying on your table, increasing the pay of seamen fifty per cent. I do not believe that is any more than it ought to be increased by this committee, and I propose the increase of twenty-five per cent. as a compromise between the two Houses.

[Here the hammer fell.]

The question was then taken on the amendment to the amendment, and it was disagreed to.

Mr. STANTON, of Tennessee. I move to strike out the proviso. It is now wholly unnecessary, and ought to be stricken out.

Mr. CABELL. The increase of the appropriation $108,000 will afford only a bounty of ten per cent. to the seamen. I desire to increase the amount, so that the President may have it within his power to increase it to twenty-five per cent.

The CHAIRMAN. Further amendment is not at this time in order.

The question was then taken, and the amendment of Mr. STANTON, striking out the proviso, was agreed to.

Mr. CABELL. I move to amend by adding to the amount $172,000.

The CHAIRMAN. The last amendment adopted was in the nature of a substitute, and the Chair is inclined to the opinion that it is not amendable.

The question was then taken on the amendment of Mr. STANTON, of Tennessee, as amended, and it was agreed to.

Mr. CABELL. Is it now in order for me to offer an amendment?

The CHAIRMAN. It is not in order to strike out words already inserted, but amendments may be made by way of addition.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer the following amendment, to come in after the seventeenth line:

For the completion of scientific investigation and experiments on the character of alimentary substances used as subsistence in the Navy, and means to prevent their deterioration, $5,000, to be expended under the direction of the Secretary of the Navy.

The question was taken, and the amendment was adopted.

Mr. STANTON, of Tennessee. I now propose the amendment indicated in my remarks this morning:

For building, equipping, and arming, as screw propellers, three frigates and three sloops of war, $2,500,000: *Provided*, At least two of said frigates shall be built by contract with Captain John Ericsson, to be fitted with his caloric engine, upon such terms and conditions as the President may prescribe or accept.

Mr. JONES, of Tennessee. I now raise the point that an amendment authorizing the construction of new vessels is not in order to this bill.

Mr. TOOMBS. And you are right about that.

Mr. JONES. In reply to a remark made by my colleague this morning, I will say that the prevention of committees from reporting does not stand to my charge. I have always endeavored to have committees called on for reports, and the business of the House regularly conducted under the rules.

A MEMBER. You would not come to the night sessions!

Mr. JONES. No, I would not.

The CHAIRMAN. On the ground that there is no existing law authorizing the construction of these ships, the Chair decides the amendment to be out of order.

Mr. STANTON, of Tennessee. Is there not a law for the establishment of a Navy? Does not the amendment provide for the construction of a portion of the ships of the Navy, and is there any one here who will pretend to say that it is not authorized by law?

The CHAIRMAN. As the Chair understands it, an amendment is not in order to bills of this character in the Committee of the Whole on the state of the Union, unless it be to carry out the purpose of some existing law——

Mr. STANTON. Or to carry on some Department of the Government, or some work already in prosecution.

The CHAIRMAN. The Chair also understands that the law in relation to the Navy, authorizes the Department to repair, but not to construct ships.

Mr. STANTON. There is no law authorizing repairs, except the annual appropriation bills.

The CHAIRMAN. The Chair has made his decision.

Mr. STANTON. I am under the necessity of taking an appeal.

The CHAIRMAN. The Chair will state the question. An amendment has been presented by the gentleman from Tennessee [Mr. STANTON] for construction of certain ships. The Chair decides the amendment to be out of order, on the ground that there is no existing law authorizing the construction of those ships. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. STANTON. I demand tellers.

Tellers were ordered; and Messrs. ROBBINS and GAYLORD were appointed.

The question was taken, and the decision of the Chair was sustained, the tellers having reported—ayes 61, noes 60.

The following clause of the bill was then read:

"For repair of vessels in ordinary, and for wear and tear of vessels in commission, including fuel and purchase of hemp, $1,700,000."

Mr. STANTON. I move to amend the above by striking out "$1,700,000," and inserting

"$2,500,000," and to add to the end thereof the following:

Provided, That the President, instead of repairing old ships, may in his discretion apply any portion of the sum aforesaid towards the building of propellers of an efficient character.

Mr. JENKINS. I rise to a question of order. The objections to the previous amendment apply with all their force to this one.

The CHAIRMAN. The Chair is constrained to decide that the amendment is out of order, proposing as it does the change of existing laws with reference to the keeping up of the Navy.

Mr. STANTON. The amendment proposes that, instead of repairing old ships, we shall build new ones.

The CHAIRMAN. It changes existing laws, and is out of order.

Mr. STANTON. I must again appeal from the decision of the Chair, and I trust that those who are disposed to do anything for the Navy will sustain me.

The CHAIRMAN. The decision of the Chair is in exact accordance with the express rule of the House, which is as follows:

81. "No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for an expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

There is also a principle of parliamentary law that you shall not change the existing law with regard to any subject not embraced in the bill under consideration. There is nothing in the bill in relation to these matters.

Mr. WALSH. Is it in order to move that the committee rise, so that we may have a call of the House, and a full vote on this question?

The CHAIRMAN. It is in order at any time to move that the committee rise.

Mr. WALSH. I move that the committee do now rise, as I have said I wish a full vote on the question, for there has been no Navy appropriation bill passed for the last ten years that did not provide for the construction of vessels.

The question was taken, and the committee refused to rise.

The CHAIRMAN. The question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. WASHBURN. I demand tellers.

Tellers were ordered; and Messrs. McNAIR and JACKSON were appointed.

The question was taken, and the decision of the Chair was sustained; the tellers having reported—ayes 70, noes 55.

Mr. STANTON, of Tennessee. I move to strike out from that appropriation "$700,000." I say to the House, that so far as this money shall be expended for the purpose of repairing ships, looking at the way in which money has been heretofore expended, you ought not to appropriate under this clause more than enough to furnish the necessary supplies, and make the necessary repairs in the rigging of the ships. I move, therefore, to strike out "$700,000" out of the appropriation so as to leave a million of dollars.

Mr. STANTON, of Kentucky. I rise to a point of order. It was decided by the Chair, and sustained by the House, a few minutes ago, that an amendment to increase the appropriation was out of order, there being no existing laws to authorize such increase. I say, upon the same principle, that an amendment to reduce the appropriation is out of order. The proposition was to increase the appropriation before, and the Chair ruled it out of order because there was no law authorizing that increase. Now a proposition is made to reduce it, and standing precisely upon the same footing, it is therefore out of order.

The CHAIRMAN. The Chair overrules the point of order, and will state that it was in regard to the application of the amount that the Chair ruled the amendment out of order.

Mr. STANTON. The law expressly authorizes the appropriation to be made.

Mr. SWEETSER. I am opposed to the amendment of the gentleman from Tennessee, [Mr. STANTON.] I intend at the proper time to move to strike out the whole of the appropriation. I do not intend to touch this question so carefully as the chairman of the Committee on Naval Affairs. And here I take issue directly with what seems to be admitted as the law in relation to making these repairs, complained of. There is no existing law which authorizes the President or Secretary of the Navy to make these repairs. All the legal authority upon which the abuse is predicated has been obtained in our appropriation bills, similar to the one that is now under consideration; but it seems to be conceded on all hands that an abuse has grown up under this class of appropriations, which needs now to be corrected. These old HULKS in the Navy, with some of the old commodores, should be abandoned. I would strike out from the naval list, if I had the power, at least one half of those waiting orders for the last twenty years. We are here appropriating $5,000,000 per annum to pay old commodores and subordinate officers, who have not smelt gunpowder for twenty years. Why spend $100,000 or $150,000 in repairing these old hulks that are not worth half the money that it costs to repair them? These facts have been understood by the country for a long series of years, yet this House of Representatives hesitate to authorize the building of new vessels, which the public service demands, and spend large sums in repairs which ought not to be made. Let us change our policy—let us authorize the building of efficient, new vessels; let us refuse to make appropriations which are squandered upon these old hulks. I am opposed to touching this matter as carefully as my friend from Tennessee. I shall at the proper time move to strike out the whole appropriation.

Sir, it is time the attention of the country was directed to the condition of our Navy It is the most expensive and yet the most inefficient branch of the public service. There is fault somewhere; it may be in the legislation in regard to it; if so, let us meet the responsibility, and correct the errors of former legislation. The chairman of Naval Affairs proposes certain changes which are reasonable; let us adopt them. We must make some change; the old system is manifestly wrong; any change must be for the better. Ten millions per annum is quite too much to throw away upon a Navy that is acknowledged to be unworthy of this great nation. If an efficient navy is wanted, let us make ours so, and not make an exhibition of our power upon the ocean. That is a *burlesque*.

Sir, I have no doubt that a most thorough reform is necessary, both in our naval vessels and in the *personnel* of the Navy. Our Navy Register shows quite too many naval officers waiting orders. If we need more ships, let us build them. It is quite certain that we have too many officers now for the ships in commission. In my judgment, we have too many worn-out officers, who are neither useful or ornamental, that are dawing a large amount from the Treasury without rendering any service. I am opposed to the whole system of pensions. Officers that have large salaries whilst they are in a condition to render efficient service, should provide for a rainy day; and when they can no longer serve the public, they should not consent to become *public paupers*. There is no more propriety in supporting a broken-down naval officer than there is a broken-down politician. I am in favor of lopping off the *dead branches*, and of preserving all branches of the public service, in order to give it vigor and activity.

Mr. TOOMBS. I propose to amend the amendment of the gentleman from Tennessee, [Mr. STANTON,] by striking out the sum all but one dollar.

The committee will perceive the very obvious impropriety of legislating in this way upon so grave a question. The chairman of the Naval Committee moves that a large amount usually expended for repairing the Navy, shall be stricken out, accompanying it with the declaration that the Navy ought to be permitted to rot down. It is not worth while to legislate in a passion, and mere passion is a very unsafe guide for this House to follow. 'You are compelled to have money every year for the repairs of your Navy under the present or any other system. If you keep a Navy at all, you must repair it. I know no reason to suppose that this $1,700,000 will not be as well spent under the next Administration as it has been heretofore; and I can see no reason why, if it be true, as alleged by the chairman of the Naval Committee, that this money will be sunk, the same would not be true of the vast additional sums he asks—both sums would be expended in the same manner. We have ships afloat on every sea throughout the whole world, and we must keep them afloat. If the chairman of the Naval Committee wishes to reorganize the Navy, let him bring in the bill, and give the House and country an opportunity of deliberating upon it. Let us pass our judgments upon it as rational legislators, and let us not abandon our real duties of deliberation and consideration by accepting these great and radical changes under circumstances rendering it impossible either to discuss or consider them.

Mr. STANTON, of Tennessee. My proposition was not to strike out the whole of this appropriation, because a large portion of it is necessary for the purchase of fuel, hemp, and other necessary objects, in order to keep any vessels afloat. I have heretofore said that in voting these large sums for the repair of vessels, you are actually voting money, indirectly, for building ships; but it is in the most wasteful, extravagant, and inefficient manner. I appeal to the records of the Department to show the fact already asserted, that, in many instances, the repairs of these old ships have cost more than their original construction. This general fact is virtually acknowledged in the extract which I read this morning from the report of the Bureau of Construction. I do not mean to say literally, that this money is thrown away; but I used a strong expression to indicate the deep conviction I entertain that it will be injudiciously and wastefully expended. The Department has no power to do anything but repair the old ships, retaining the old and antiquated models. You give them no authority to do otherwise. You paralyze their hands, and force them to rebuild, again and again, ships which, in the commercial world, have long since been superseded by improvements of the most important character. The Navy must be kept afloat, and under this restricted authority, and this false, mistaken view of economy, you squander in ten years a sufficient sum to build a better Navy than you now possess, or will possess, under this system, for years to come. It is for this reason I say this appropriation is most wasteful and injudicious. The same sum differently applied would do infinite good.

The gentleman from Georgia [Mr. TOOMBS] says we ought to lay before the House a bill, and let the House act upon it understandingly. I have been trying to do this for twelve months past; indeed, for several years past. In speeches and reports on this subject, I have insisted upon the same policy. But in this Congress, every member knows I have had no opportunity to make any reports. It could only have been done by unanimous consent, or by a suspension of the rules, and very likely the gentleman himself would have been the very first to object to any such movement.

But this is a very simple question; one upon which every gentleman ought now to be prepared to vote understandingly; it is whether we shall patch up our old ships, perpetuating models which private enterprise has long since abandoned, or whether we shall construct new ones upon better models, so as to place the Navy upon something like an equality with the commercial marine, and with the character, though not with the numbers of the navies of other nations. It is not a question of details upon which this House is required to vote; for I presume every gentleman will agree that the details of form and construction are not for our determination, but for that of the Executive. What I insist upon is, that we shall give the Department power and means to escape from those fixed forms which are compressing the Navy into almost utter uselessness and inefficiency. If there is any gentleman on this floor who is not ready to decide upon the question, whether it is advisable to substitute new ships for many of the old ones now in the service, I most respectfully submit that that gentleman has been inattentive to those great and important movements which have recently been going on before the eyes of the world among all maritime nations, and which have recently formed a prominent subject of discussion in all the leading journals of the world. I insist, Mr. Chairman, that the considerations in support of my views are so plain and obvious, that there is hardly an excuse for hesitating to adopt them; and I repeat again, that my purpose is not so much to increase the number of our vessels as it is to substitute others of a more efficient and economical character. This is the whole question.

Mr. TOOMBS. I withdraw my amendment.

Mr. BROWN, of Mississippi. I move to strike out one dollar from the amendment. I am opposed to the amendment of the honorable chairman of the Naval Committee, [Mr. STANTON.] As was well said by the honorable gentleman from Georgia, [Mr. TOOMBS,] so long as we have a Navy, these appropriations are absolutely necessary. It is not because I am apprehensive the amendment is going to prevail that I have taken the floor. It is not possible that this House can commit any such folly. I rise to repel wholesale denunciations, such as we have just heard. These attacks upon the Navy, such as were made by the gentleman from Ohio, [Mr. SWEETSER,] are becoming quite two common. There was a day when the Navy was regarded as the right arm of your public service, and it was rightfully so regarded. Its efficiency was the fruitful theme of universal eulogy. It was pointed to as one of the chief glories of the Republic.

Mr. TOOMBS. And it was.

Mr. BROWN. It has always done its duty. When did that arm of the Government fail to perform its whole duty? Was it in the war of 1812, when upon every sea your sailors covered themselves with imperishable glory and undying honors? Was it before Tripoli, or in the Mediterranean, or was it during the late war with Mexico? Are gentlemen ready to maintain that the Navy did not maintain itself in that war? Was there anything for the Navy to do? Will you demand great deeds of the Navy when there is nothing for the Navy to do—no opposing force? Mexico had no navy afloat, and how could the Navy aid in a war conducted wholly on dry land? The gentleman from Ohio [Mr. SWEETSER] speaks sneeringly of these old commodores, and taunts them with a want of efficiency. The reproach is gratuitous and unjust. I listen to such declarations with no degree of pleasure. These old men have performed gallant service, when the country needed their services; and when I am present there shall never be wanting a voice to defend them against insult and reproach. There is not a man among them all who has not done honor to the Navy, and to the glorious flag under which it floats. If you shall again have war with Great Britain, or any other powerful nation, a nation that sets a navy upon the water worthy the steel of our gallant tars, I am not afraid to say that these "old commodores" will do honorable service for their country, and again shed glory upon the Navy. The honorable gentleman from Ohio, like myself, is a land-lubber—a backwoodsman—and it ill becomes either he or I to criticise a service about which we know as little as these old commodores do of legislation. Let every man to his trade.

Mr. STANTON, of Tennessee. I was speaking of ships.

Mr. BROWN. I know the gentleman was speaking of ships. But the gentleman from Tennessee says let this old Navy rot down. I hope not. I hope the Navy will be maintained, and that it will be regenerated. Reform abuses and improve its efficiency, but do not let it rot down. It comes with a bad grace from the honorable chairman of the Committee on Naval Affairs to make such declarations. It is not for him to strike the first blow towards paralyzing this good right arm of our national defense.

The gentleman has been charged, in days gone by, with being somewhat extravagant in making appropriations for the Navy. I suppose he means to escape that charge in future, as he now comes forward with the proposition to let the Navy rot down. I repeat, that I hope it may never rot, but that it may stand a perpetual bulwark to our commerce on every sea; the terror of our enemies and the pride and glory of the Republic.

[Here the hammer fell.]

Mr. HOUSTON. I desire, if I can, to speak to the precise point involved. I desire to read a paragraph or two from the report of Commodore Shubrick, which I think escaped the attention of the gentleman from Tennessee, [Mr. STANTON,] or he would not have made the motion, even after the defeat of the amendment which he proposed in the earlier part of the day. After giving the reasons why this item was increased for the current year, Commodore Shubrick says:

"It would therefore be sound economy, even if it should be deemed that we have a sufficient number of ships in the water for the current service of the Navy, to discontinue the use of some of the oldest, and introduce others in their stead by launching the two frigates Saline and Santee, that have been on the stocks since 1823, and by building some sloops-of-war."

Further down the Commodore says:

"Provision has been made in the estimate for repairing the Franklin seventy four, reducing her to a razee of fifty guns, and the Constellation frigate of thirty six guns, reducing her to a first-class sloop-of-war, by which two valuable cruising vessels would be made available.

"It has also been necessary to increase the estimate for 'fuel for steamers,' in consequence of the employment of several steamers on very distant service, the purchase of coal at high prices, at places where the supply is not abundant, being sometimes unavoidable."

The gentleman from Tennessee [Mr. STANTON] will see that the appropriation contained in this item is not alone confined to the usual items and purposes heretofore embraced, but it is for the purpose of launching the two frigates spoken of, and for the repairs done upon the Franklin and the Constellation. I do not know the precise amount which should be stricken from this item for the vessels about which I have just been reading. As these vessels are, in the estimation of the officers having charge of that Department of the Government, considered essential to that service, and as the gentlemen from Tennessee seems to predicate his remarks upon the idea that the House would not increase the number of ships of the Navy as he had estimated for, I think that we should not agree to his amendment.

The question was taken, and the amendment was disagreed to.

Mr. SWEETSER. I move to strike out the whole of the appropriation, and I do it in order that I may not be misunderstood upon this subject. I did not design, in the remarks which I submitted to the committee, to detract from the honor of the American Navy. I have attempted to call the attention of the committee and of the country to the fact that there have been grave abuses tolerated in the Navy and in the administration of the Navy Department, for the purpose of regulating and reforming the practice in relation to it. My honorable friend from Mississippi [Mr. BROWN] has misunderstood me. I glory as much as any man in the achievements of our Navy in times long past. Yet I must say, that in our recent war with Mexico, our Navy did not particularly distinguish itself,—it may be for the reason to which I alluded, a want of efficiency in our naval vessels; possibly, in some instances, a want of energy in a commanding officer.

Sir, I cannot be driven from my position that our naval vessels are most of them antiquated, and should be laid up or sunk, and new vessels built upon the present improved models, with efficient armaments, and commanded by active and ambitious officers, who will vie with men engaged in other branches of the public service. Provide for the superannuated officers in some way consistent with national honor, and relieve the service from their inactivity, encourage a spirit of emulation, and it may be wise to create additional rank, but limit the pay to actual service, and continue no more officers upon the list than the public service requires. To this point the navy and its officers must come. Sir, the country will not submit to the payment of near five millions per annum to men who are waiting orders. That class of men, like all other public servants, will have orders to quit the public Treasury.

It is said by my honorable friend that these old commodores have performed gallant services; which I do not deny. They were well paid for it, and have done no more than their duty, and the country is under no obligation to continue their salaries.

Sir, there is but one rule upon the subject of salaries, which should pervade all branches of the public service, which is, pay for all services *liberally* and *promptly*; when the service ceases, stop the pay. That is republican doctrine, and should have universal application.

My friend seems to think that a man from the interior is incapable of appreciating this subject of the Navy. I impute no such want of information to him, and do not admit its application to myself. The abuses of which I complain would never be brought to the attention of the country by Representatives whose friends and relatives upon the *sea-board* are the recipients of the public bounty.

I have ventured to give my views frankly and honestly. The House and the country can take them for what they are worth. I shall be content with the issue.

I hope that the House will indicate this disposition to correct existing abuses, and draw the distinction between what is acknowledged to be *abuse* and the real wants of the Navy, in order to make it what it should be.

The details of a system of reform I have not pretended to intimate; at the proper time, when the subject comes fairly before the House for action, I have no doubt there will be those here who will take care that existing *abuses* be rectified, and a radical reform in the whole system perfected.

[Here the hammer fell.]

The CHAIRMAN. The Chair has perhaps fallen into a slight error in permitting the amendment of the gentleman from Ohio, [Mr. SWEETSER,] which is to strike out the entire appropriation, to be discussed. It is in order to perfect the phraseology before the question is taken on striking out the whole.

Mr. MILLSON. I move to amend the amendment of the gentleman from Tennessee, [Mr. STANTON,] by substituting, as the amount to be appropriated, $2,700,000.

Mr. Chairman, I trust the committee will come to the consideration of this matter with the calmness and composure which its great importance certainly demands. I regret the feeling that has been displayed in the course of this discussion. I regret, too, that the chairman of the Committee on Naval Affairs has offered an amendment proposing to reduce the appropriation $700,000. The sum is already below the estimate of the Department, and I desire to ask the chairman of the Committee on Ways and Means why the amount estimated by the Secretary of the Navy has been reduced from $2,768,450, as I find it in the printed estimates, to $1,700,000?

Mr. HOUSTON. If the gentleman from Virginia had only looked at the estimates, he would have seen why it was reduced. It was reduced because the special estimates for the building of new vessels were referred to another committee.

Mr. MILLSON. Well, I am glad to hear that explanation, because I supposed the amount intended for equipment and repair had been reduced by the Committee on Ways and Means. Now, as I have great confidence in the distinguished gentleman who presides over the Navy Department, I feel no hesitation in sustaining his recommendations on this subject. Sir, the appropriation is not too large, and, perhaps, considering the increase of our Navy, it is hardly large enough. We have now some seventy-five vessels in all, and will any one say that $1,700,000 is too large an appropriation for the equipment and repair of seventy-five vessels? The House will remember that several of these, and among them three or four steam-frigates of the first class, have been recently built. Do we not, then, require a greater expenditure for these objects than we did some years ago? And yet the amount now proposed to be expended for repair and equipment is less than was appropriated seven or eight years ago. In 1847 we appropriated $2,500,000, and in 1848 $2,531,000; and now, with an increased necessity for expenditure, it is only proposed to appropriate $1,700,000. If gentlemen are not willing to place confidence in the present administration of the Navy Department, do they believe that this money will be improvidently expended by the gentleman, whoever he may be, who will in a few days succeed to that office?

The disbursement of this money is an administrative duty. It is not for Congress to determine what vessels are worthy of repair and what ought to be allowed to decay. I take for granted that if any vessel in the Navy is so much decayed as to be incapable of being repaired with advantage, the Administration will not direct it to be repaired. Let us trust them. They certainly must know better what ought to be done in such case than we possibly can. It is, I repeat, an administrative duty, and I believe that neither the present nor the future Secretary of the Navy will squander or misapply the funds that we may appropriate. Let us not be afraid to trust them with the management and disposition of the old hulks of which gentlemen have spoken.

Sir, as to the officers of the Navy, against whom we hear so much complaint, and who, by-the-by, expose themselves to it very often by joining in this cry against the present inefficiency of the Navy, I take this opportunity to say, that I do

not believe the Navy was ever more efficient than it is now. I know many of these officers, of every rank, and they do themselves injustice; and let me tell them, they do themselves injury, too, by these complaints. I know there are some discontents among them, with which I cannot say that I myself sympathize; but I do not believe there ever was a time when there was more of valor, of skill, or of science, in that branch of the public service than is to be found in it at the present time.

[Here the hammer fell.]

Mr. CARTTER. Mr. Chairman, the character of this debate seems to involve the present efficiency of the Navy both as it regards the crafts and the craftsmen. As I understand it, the issue is made on the one side, that the Navy ought to be reformed, regenerated, vitalized; and on the other, that it is as valiant as it ever was. That is the issue made by my friend from the Norfolk district of Virginia, [Mr. MILLSON,] the navy-yard district. [A laugh.] The history of the war of 1812, and of the war with Mexico, is referred to by the gentleman from Mississippi, [Mr. BROWN,] in vindication of that branch of the service. We are told, as another proposition, to place implicit confidence in the administrative intelligence and integrity of the Navy Department. Will my friend from Norfolk inform me why a resolution, introduced into this House more than six weeks ago, calling upon that branch of the Government to inform us how and with what efficiency the enormous and unreturned expenditure of this Government from year to year is met, has not been answered? Will he till me why we were not put in possession of the facts before we entered upon the consideration of this naval bill?

The resolution was introduced for the purpose of obtaining information upon which we might found intelligent action in relation to these Navy reforms.

Mr. MILLSON. Does the gentleman desire an answer?

Mr. CARTTER. Yes, sir, I would like an answer.

Mr. MILLSON. Having a great desire to see that report myself, on yesterday I went to the Department and inquired in relation to it. The Chief of the Bureau of Construction and Repairs told me that they were engaged in preparing it, and that it would be submitted to the House in the course of a few days.

Mr. CARTTER. The information is very satisfactory, as far as my friend from Virginia is able to give it. It requires the administrative officers of the Navy six weeks to report to the House the balance-sheets from their books in reference to the expenditure of this Department; now then, in the rule of proportion, how long would it take for them to prepare for war, to protect the glory and honor of the country?

Mr. BOWNE. If they had to wait for this Congress to make appropriations, it would take a long time.

Mr. CARTTER. It is said that the Navy is efficient. My friend from Mississippi [Mr. BROWN] referred to their achievements in the late war with Mexico. Why, the only achievements I heard of in connection with that war were these: There were ten thousand soldiers lying land-bound at New Orleans, waiting to be transported across the Gulf. But two American frigates, manned by these valiant gentlemen, refused to transport them because it was beneath their dignity, and they were obliged to be shipped on board of third-class merchantmen, and thus to encounter the winds and waves of a stormy Gulf. That is one instance of their efficiency. Another is this, and it is the only Navy achievement I have heard of: They took Alvarado with a sloop and one gun [laughter] by Lieutenant Hunter. And what did they do with him when they found it out? They took him and cashiered him for it. [Much laughter.] That is the only valiant achievement I heard of by this right arm of the service.

[Here the hammer fell.]

Mr. CARTTER. I will deliver the balance the next time I get the floor. [Laughter.]

Mr. MILLSON. I offered my amendment for the purpose of enabling me to obtain some information, and if there be no objection, I will now withdraw it.

There was no objection, and the amendment was accordingly withdrawn.

The question was then taken, and Mr. STANTON's amendment was disagreed to.

Mr. BROOKS. I wish to offer the following amendment, to come in after the twenty-third line:

Provided, That in case the repairs of vessels would cost more than to build new ones, the Secretary of the Navy may use this appropriation for the construction of such new vessels as he may deem advisable.

Mr. ORR. That amendment is the same in substance as one which has just been ruled out of order.

The CHAIRMAN. The Chair is of opinion that upon the same principle which the committee have decided, this amendment is not in order.

Mr. BROOKS. I will then withdraw that amendment and submit one in the twenty-first line. I move to strike out the word "ordinary."

Mr. STEPHENS, of Georgia. There was a motion to strike out the whole clause, which was voted down; and after a motion has been made and lost to strike out the whole of a section, a motion to strike out any part of that section cannot be made.

Mr. BROOKS. Mr. Chairman, my object in offering this amendment is to explain what I think the House do not understand.

Mr. ORR. I rise to a question of order. I submit that we have passed the section to which the gentleman has offered this amendment, and that it is not in order.

The CHAIRMAN. The Chair sustains the point, and decides the amendment to be out of order.

Mr. BROOKS. Then I move to insert at the end of the twenty-third line, the following:

Provided, That no sums of money shall be expended to repair vessels when the repairs would cost more than to build new ones.

Mr. CHAIRMAN. That is in order.

Mr. BROOKS. In stating my proposition, I state the argument I wish to offer, which is to show where it costs more to repair a vessel than to build one, the repairing should not be attempted. Take for an illustration of my meaning, such a ship as the Macedonia,—although that is not an exactly parallel case;—and therefore take the case of the Princeton, which it cost more to repair than would have been the cost of an entirely new Princeton.

In the case of the Princeton there was a great deal of money and labor of the mechanics expended to break down the hulk of the old Princeton; and secondly, there was money enough expended to build a new Princeton, after the old one had been broken down and destroyed. Such is now the absurdity of the existing law, and such is the necessity of keeping up the Navy, that the Navy Department is obliged to incur the expenditure of destroying an old vessel, which perhaps might be worth $30,000 or $40,000, if sold at auction, in order to make a new vessel to be built out of the old one, with exactly the same name. Now, my idea and my proposition is, that in cases like the one I have mentioned, where the repairs of an old vessel will cost more than to build a new one, that the Secretary of the Navy may be authorized to build the new one. But such is the construction which the committee have given to the rules of the House, that I do not know just now how to get at what I want. The chairman of the Committee on Naval Affairs [Mr. STANTON] was ruled out of order in presenting estimates that the Committee on Ways and Means had turned over to his committee to act upon, and hence, he cannot now, in order, get before the House the usual estimates of this Department of the Government. What is the use of a Committee on Naval Affairs, Mr. Chairman, which can never report in order, or amend a bill in order, when reported by the Committee on Ways and Means? Indeed, what is the use of any other committee, except that committee to which I have the honor to belong—the Committee on Ways and Means—which is the only committee always in order to bring a bill before the House.

I submit my amendment, and will let it stand as I have offered it, because I cannot get in the one I want, although I think even this may do injury to the Navy, in not enabling it to keep itself up, though at far greater expense than would be the building of new ships. It will be better, even, if Congress will build no new ships, to repair the old ones when they are wanted, though at an additional cost of $50,000 or $100,000 more than would be necessary to construct new ones. The Navy cannot be permitted to go down, and if we cannot build new ships, we must keep in repair the old ones.

Mr. HOUSTON. I think a conclusive answer to the gentleman's argument can be made in a few words. The gentleman says they would have to be at the expense of tearing down the hulk of an old vessel when it would be worth $50,000 or $60,000 to the Government, and then build a new one upon it, and that therefore it would cost more to repair the old one than it would to build a new one. Why, Mr. Chairman, if the hulk of that old vessel is worth $60,000, then it is worth something to build upon. If it is worth $60,000 to anybody else, it is worth that to the Government. Is it not absurd, then, to present an argument that when the hulk of a vessel is worth $60,000, it would cost more to construct a new one upon it than it would to construct a new one altogether?

Mr. STANTON, of Tennessee. If the gentleman will allow me; there have been instances where vessels have been torn down to a single stick of timber, and then new vessels built upon that. A vessel that may not be useful for this purpose to the Government, may be useful for other purposes.

Mr. HOUSTON. A single stick of timber could not be worth $60,000, so that does not bring my friend out of his difficulty.

Mr. BROOKS. I will take the case of a ship-of-war whose hulk could be sold out at auction for $50,000 or $60,000. But by the provisions of your law it cannot be sold. It is not of any use to construct a new one upon, and therefore you must be at the expense of tearing it down, and destroying it almost entirely, leaving in one case which is known, only a single stick of timber. Then, after you have torn it down, you must incur the expense of rebuilding it.

Mr. HOUSTON. If the purchaser of that hulk should obtain it to build upon, he would have to do precisely what the gentleman says, and it seems to me a singular argument, that an individual would pay $60,000 for a single stick of timber. Why, sir, the hulk is worth as much to the Government to build upon as it would be to an individual. The argument will not do. If gentlemen desire to get clear of the ships now in the Navy, let them bring forward a proposition in the legitimate manner, by a separate bill. Let them, as the gentleman from Georgia [Mr. TOOMBS] very properly observed, bring forward a proposition to reform the Navy, to dispense with the old ships, and to build new ones, where the subject may be examined and properly discussed.

Mr. BOCOCK. I ask the gentleman from Alabama, if every proposition for the reform of the Navy which has been brought forward, has not been voted down by this House, and I ask the gentleman if it has not been done by his assistance?

Mr. HOUSTON. I may differ with my friend from Virginia as to what is reform in the Navy. I take it for granted that the propositions which have been voted down in this committee to-day, were propositions which were determined by this committee not to be reforms; and I may be considered properly in the line of my duty when I so consider them, and vote with a large majority of the House.

Mr. MILLSON. I move to amend by adding at the end of the amendment offered by the gentleman from New York, the following:

Except in the case of the frigate Constitution.

I desire to make a single suggestion. I am opposed to this whole amendment, but as it may be adopted, I desire to except from its provisions the frigate Constitution.

Mr. STEPHENS, of Georgia. Will the gentleman give way for a motion that the committee do now rise?

Mr. MILLSON. Not yet.

Mr. HOUSTON. I think my friend from Virginia has fallen into the same error which the gentleman from Tennessee did a few moments ago, while addressing the committee. The report to which he refers does not say that these ships are entirely useless. I have read that report, and I will state what he does say. The Commodore says that a number of these ships may, in a few years, be rendered useless, because of the improvements which are being made in the construction

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of vessels in the Navy. That is what he says, and that is the reason he gives. It is not because of the condition of the hulks now.

The gentleman from Virginia is mistaken, I think, in this. Even the amendment of the gentleman from New York would not, under any circumstances, apply to the Constitution, or the Franklin, for the reason—and I rely upon the statement of Commodore Shubrick—that they may, by repair, be made valuable vessels.

Mr. STEPHENS. I move that the committee do now rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. King, of New York) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 342, making appropriations for the naval service for the year ending the 30th of June, 1854, and had come to no resolution thereon.

PERSONAL—SECRETARY OF THE INTERIOR.

Mr. LETCHER. I rise to a privileged question. It will be recollected that on yesterday an allusion was made to the Secretary of the Interior—who is a friend and constituent of mine—in regard to what was then represented to be a particular abuse in the instance then specified by my friend from Tennessee, [Mr. Gentry.] I have received from the Secretary of the Interior this morning a detailed statement of the facts of——

Mr. CLINGMAN. I rise to a question of order. I am perfectly willing that by general consent, the gentleman should make his statement, but I object to it as a question of privilege. By general consent, I hope the gentleman will be permitted to make the statement.

Mr. GAYLORD. I object.

Mr. LETCHER. It strikes me that it should be a question of privilege, that where an official is arraigned on this floor, he should have the privilege to be heard upon the same theater on which he was arraigned.

Mr. CLINGMAN. He has no more right to be heard than any other person in the nation. I do not object to it.

Mr. LETCHER. If there is any objection, I move to suspend the rules to enable me to make the statement, and to present these papers.

Mr. ORR. Can the rules be suspended for any such purpose?

The SPEAKER. There is no doubt about that.

Mr. HART. I would ask the gentleman from Virginia, [Mr. Letcher,] if the Secretary cannot accomplish his purpose by having the papers printed, and sent to each member of Congress?

Mr. LETCHER. If the gentleman will be patient, I will tell him what I want.

The question was then taken on the motion of Mr. Letcher to suspend the rules, and there were, on a division—ayes 86, noes 28; no quorum voting.

Mr. STUART. I ask for tellers on the motion.

Mr. GAYLORD. I move that the House do now adjourn.

The question was taken, and there were, on a division—ayes 43, noes 85.

So the House refused to adjourn.

The SPEAKER. The question recurs upon the motion to suspend the rules.

Mr. STUART. Upon that question, I demand tellers. I hope the House will not suspend them.

Mr. LETCHER. I ask justice for a man who has been assailed. That is what I want, and I hope the House will suspend the rules.

The SPEAKER. The gentleman from Virginia will be kind enough to send the papers to the Clerk's table.

Mr. LETCHER. Unless the House desires to have the papers read, I do not care about doing that. All I want is, to have the papers go upon the same record which contains these charges against the Secretary of the Interior.

The SPEAKER. The Chair only intended to get before the House the distinct motion, so that the Journal could be made up correctly.

Mr. LETCHER. My proposition was to suspend the rules, so as to enable me to present these papers to the House, which I have been requested to do by a constituent of mine, who was arraigned here on yesterday, upon a charge then stated upon this floor. I ask no more for him than ought to be accorded to any man in this House, when he is arrainged here for misconduct, and when those charges go upon the record. I ask that he shall be permitted to respond to them.

Mr. ORR. I suppose that by unanimous consent the papers can appear in the Globe, and in the morning every member can read them.

Mr. LETCHER. There is nothing in the papers disrespectful to the House.

Mr. ORR. I did not suppose there was.

[Cries of "Read!" "Read!"]

Mr. CABLE, of Ohio. I object to the reading.

The SPEAKER. There is a motion pending to suspend the rules.

Mr. LETCHER. If it is understood that these papers go into the Congressional Globe as a part of the proceedings of the House, I will withdraw my motion to suspend the rules.

Mr. ORR. That will be satisfactory.

Mr. LETCHER. The papers contain nothing personal, but only a mere statement of facts. I withdraw my motion with that understanding.

Mr. WILLIAMS. I cannot consent to that until I hear the papers read. I understood the Chair to announce that, by general consent, the papers would be published. I have not given any such consent.

The SPEAKER. The Chair has issued no such order. He has no control whatever over the Globe in regard to it.

Mr. BRAGG. I ask the unanimous consent of the House to take up Senate bill No. 586, to extend preëmption rights to unsurveyed sections granted to railroads.

Mr. GOODENOW. I object.

Mr. BRAGG. Then I move to suspend the rules for that purpose.

Mr. STANLY. I rise to a question of order. We had a proposition to have certain papers read with a view of having them printed. That question is not yet disposed of.

The SPEAKER. The gentleman from Virginia [Mr. Letcher] withdrew his motion to suspend the rules.

Mr. STANLY. But the question still is, "Shall they be printed?"

The SPEAKER. The gentleman from Tennessee [Mr. Williams] says he objects to any motion.

Mr. WILLIAMS. I object to their being printed unless we know what they are.

Mr. LETCHER. I think I can obviate any difficulty by moving to suspend the rules for the purpose of having the papers read.

The SPEAKER. The gentleman from Alabama [Mr. Bragg] has been recognized by the Chair. That subject has passed from before the House by the withdrawal of the motion to suspend the rules for the purpose of introducing the papers.

Mr. BRAGG. I ask unanimous consent to take up Senate bill No. 586.

Mr. EVANS. I rise to a question of order. I want to understand the facts clearly before I go further. I understood the gentleman from Virginia [Mr. Letcher] to withdraw his motion to suspend the rules, on condition that the papers should be printed in the Congressional Globe.

Mr. LETCHER. That was so.

Mr. EVANS. But the gentleman from Tennessee objected to their being printed in the Globe, and you neither retain one subject or the other. My point of order is, that the subject is still before the House, and I move that the papers be read.

The SPEAKER. The Chair decides that the subject passed from before the body upon the withdrawal, by the gentleman from Virginia, of his motion to suspend the rules. It is not for the Speaker to issue an order as to what shall become of them. The gentleman from Alabama [Mr. Bragg] is upon the floor, and has a right to be heard.

Mr. WILLIAMS. At the suggestion of friends, I withdraw my opposition to printing the papers in the Globe.

Mr. BAYLY, of Virginia. I object, and I rise to a question of privilege. I say that when a member of this House makes a charge against a public officer liable to impeachment, which charge renders an impeachment proper and necessary, and that officer has sent into this House a statement in respect to that matter, which statement, if I may speak technically, is a plea to the charge, it is emphatically a question of privilege—not a privileged question—a question of privilege, and it is due to the party accused that he should be heard.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Virginia.

Mr. BAYLY. Very well; then I appeal from the decision of the Chair.

Mr. ORR. I move to lay the appeal upon the table.

Mr. CLINGMAN. I think the gentleman from Virginia will withdraw his appeal when he remembers that when an attack is made upon a member of this House, it is not a privileged question for him to defend himself, and he can only do it by the general consent of the House. There is no rule or order which makes it a privileged question. I desire to have the papers come in, but it is not necessary that we should sit here and hear them read. Gentlemen want to go on with other matters.

The SPEAKER. In regard to printing the papers in the Globe, will gentlemen inquire what power they have to print the papers in that form? If unanimous consent was given, could you coerce the order upon the Globe?

Mr. STANLY. Yes, sir.

The SPEAKER. How?

Mr. STANLY. By dismissing the whole concern if they did not do it.

Mr. BAYLY. I wish the indulgence of the House for a moment.

Mr. HART. I dislike to disoblige my friend, but I must object.

Mr. BAYLY. As the Chair indulged the gentleman from North Carolina, [Mr. Clingman,] I have the right to say a word.

The SPEAKER. The Chair hopes that the gentleman from Virginia will be heard for a moment in defense of his position, at least until he can state what his position is.

Mr. BAYLY. The gentleman from North Carolina says, that if a member of this House is assailed, it does not follow that he has a right to reply. That does not meet the case at all. Here is an officer of the Government liable to impeachment. He is a man who was pronounced on yesterday to be worthy of impeachment. The two cases do not stand on the same footing.

Mr. HART. I call the gentleman to order.

The SPEAKER. If the gentleman rises in his place, and presents articles of impeachment against a public officer, the Chair's decision might be a different one. Does the gentleman state that such is his object?

Mr. BAYLY. That is not my object; but I beg leave to say, that inquiry is necessary before impeachment. Understanding is necessary before action. That is what I undertake to say.

The SPEAKER. The Chair will not detain the body by giving reasons for his decision. He will decide merely that it is not a question of privilege.

Mr. PHELPS. I move that the appeal be laid on the table.

Mr. STANLY. The question now is on laying on the table the appeal from a decision of the Chair on a point of order raised with reference to certain papers brought before the House. I demand that those papers shall be read. We cannot vote unless we know what they are.

[Cries of "Read them!"]

Mr. GAYLORD. I object.

The SPEAKER. The papers are not before the body. The gentleman from Virginia [Mr. LETCHER] rose in his place, and stated that charges had been made against a certain officer of the Government; and claimed, because those charges were made, that it becomes a privileged question on this floor. The Chair decides that it is not a privileged question.

Mr. STANLY. He claims the reading of those papers brought before the House as a question of privilege previous to voting.

The SPEAKER. Those papers are not before the House, and the Chair must overrule the point raised by the gentleman from North Carolina.

Mr. STANLY. I claim that the papers are before the House.

Mr. LETCHER. If the Chair will reflect a moment, he will recollect that I stated I would not withdraw the motion to suspend the rules unless the understanding was those papers that should be published in the Globe.

Mr. CABLE, of Ohio. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. STANLY. We have the right, Mr. Speaker, to have these papers read.

The SPEAKER. The gentleman from North Carolina insists, before voting on a question of order, that he has the right of having read certain papers not now before the House, which the gentleman from Virginia proposed to introduce to the body some time since. The Chair decides, these papers not being before the body, that it is not the right of the gentleman from North Carolina to demand their reading before he votes on the appeal taken by the gentleman from Virginia.

Mr. STANLY. The gentleman from Virginia sent the papers up to the Clerk's desk at the suggestion of the Chair, and I think that they are before the House.

The SPEAKER. By no rule that the Chair is aware of can the House order the Globe to print these papers. The gentleman from Virginia asked the unanimous consent of the House to introduce them. It was not given, and he then moved the suspension of the rules, but before the question was taken on the motion, he stated that he would withdraw it, provided it was the general understanding these papers should appear in the Globe. That understanding must be with the Globe, as well as gentlemen, and is a matter that is not within, but out of this body.

Mr. LETCHER. The Speaker will recollect that the papers were called for, and were in the possession of the Clerk at the time I made the request that they should be read.

The SPEAKER. As a matter of custom, the Chair has no doubt of the fact that they will appear in the Globe; but the papers not being here, he decides that the gentleman from North Carolina cannot, of right, have them read before voting on the appeal.

Mr. STANLY. I do not argue in any spirit of controversy with the Speaker; but the gentleman from Virginia [Mr. BAYLY] claims that it is a question of privilege to have those papers before us. Now, I would ask, can we determine whether it is or is not a question of privilege unless they are read?

The SPEAKER. The gentleman from Virginia [Mr. BAYLY] did not offer to introduce those papers.

Mr. STANLY. His colleague did.

The SPEAKER. His colleague did, and withdrew them.

Mr. LETCHER. I did not withdraw them.

The SPEAKER. They were withdrawn when the gentleman withdrew his motion for the suspension of the rules. The Chair would ask whether it would be competent for the House to order that certain papers should go into the Globe, or any other paper of this city? A motion to print may be made, for that is a legitimate question.

Mr. HART. I rise to a question of order.

The SPEAKER. There are two questions of order already pending, and the Chair will decide them before entertaining another.

Mr. BAYLY. I withdraw my appeal from the decision of the Chair.

The SPEAKER. The gentleman from Alabama asks the unanimous consent of the House for leave to take up "An act to extend preëmption rights to unsurveyed lands, and for other purposes."

Mr. STANLY. I rise to a question of privilege. I say that the papers proposed to be introduced by the gentleman from Virginia, and which I now present *pro forma*, relate to a privileged question, and I demand that they shall be read.

The SPEAKER. The gentleman from North Carolina presents certain papers containing, as he says, a question of privilege, and they must be read.

Mr. JONES, of Tennessee. Those papers, as I understand, are in answer to a charge which my colleague [Mr. GENTRY] is said to have made against a certain officer of the Government. He is now absent, and I think that it would be but courtesy to him to have the reading postponed until he is present.

A MEMBER. The Secretary of the Interior was not present on yesterday when he assailed him.

Mr. JONES. I move that the House do now adjourn.

Mr. BAYLY. I demand tellers.

Tellers were not ordered.

The question was taken, and the motion was agreed to; there being, on a division—ayes 70, noes 56.

And the House thereupon adjourned till to-morrow at eleven o'clock, a. m.

IN SENATE.

SATURDAY, *February* 26, 1853.

The Journal having been partially read—

Mr. HUNTER said: Mr. President, it is now so important to save time, that I move that the further reading of the Journal be dispensed with. It is not important that the whole should be read.

Objection being made, the Journal was read.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, made in compliance with a resolution of the Senate, relative to the defense of Portland, the entrance of the Kennebec river, and the entrance of the Penobscot river; which was ordered to lie on the table and be printed.

Also, a report of the Secretary of State, communicating abstracts of the diplomatic and consular correspondence in that Department, respecting the commercial regulations of foreign nations; which was ordered to be referred to the Committee on Foreign Relations and printed.

Also, a letter from the Secretary of the Navy, accompanied by eight copies of the Navy Register for the year 1853; which was read.

SUPERINTENDENT OF THE CENSUS.

The PRESIDENT *pro tempore* laid before the Senate a letter from J. C. G. Kennedy, Superintendent of the Census; which was read as follows:

CENSUS OFFICE, WASHINGTON, *February* 17, 1853.

Having noticed in the debates of the Senate, charges against me, which, if credited, must affect my character and standing, not only as an officer of this Government, but as a man, I deem it my duty to ask, and I respectfully beg the Senate to appoint a select committee fully to investigate my official conduct, and the charges made against me on the floor of the Senate.

JOS. C. G. KENNEDY.

To the PRESIDENT OF THE SENATE.

On motion by Mr. WALKER, the communication was referred to the Select Committee appointed on the subject of frauds on the Government.

PETITION.

Mr. DODGE, of Iowa, presented the petition of Don Juan Virgil, of New Mexico, praying indemnity for a large number of sheep taken by a detachment of the United States troops during the war with Mexico: which was referred to the Committee on Military Affairs.

EDWARD BOX.

The bill from the House of Representatives for the relief of Edward Box, was read a first and second time by its title, and referred to the Committee on Revolutionary Claims.

CORRECTION OF THE JOURNAL.

Mr. BRIGHT. I rise to a privileged question. The Journal of yesterday is incorrect, so far as regards my vote, by not recording it against the reconsideration moved by the honorable Senator from Delaware, [Mr. BAYARD.] His motion was to reconsider the vote by which the Senate refused to concur in the amendment made as in Committee of the Whole, striking out the provision for civil superintendents of the armories. I voted against the reconsideration, and I desire that my vote shall be recorded as I gave it.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair was of the opinion yesterday, when that question suddenly sprung up, that as the proposition was to record a vote that did not appear on the record, and not to correct an error in addition, as was suggested, it could only be done by again calling the roll. But as it was an error in fact, and as the statement of the Senator is that he answered in the negative on that proposition, but that from the noise and confusion which we all know prevailed at the moment, the response was not heard, the correction must be made accordingly, and the vote will be so entered.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

Mr. HUNTER. I am instructed by the Committee on Finance to report back the bill from the House of Representatives making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1854, with amendments.

In making this report, I wish to state to the Senate what I propose to do in relation to this bill. It is obvious that, unless we take some short cut, we shall lose all our amendments to it. I think, however, there is a way before us by which we may secure them, and that is, after the military bill shall be disposed of, for the Senate to take up the civil and diplomatic appropriation bill, as in Committee of the Whole, and to pass, in gross, all the amendments of the Committee on Finance. Then we can have the bill printed as amended, so that when it is taken up on Monday morning in the Senate, any Senator may reserve any particular amendment, and have a separate vote upon it if he chooses. If this be done, a portion of to-day can be secured for other committees and for individual Senators to offer their amendments. All will be printed on Monday, and we can dispose of the bill understandingly. Unless we do that, we cannot save our amendments, and for this reason: it takes one day for a committee of conference to arrange the bill, and the hardest day's work I ever had in my life was in a committee of conference on the civil and diplomatic appropriation bill; and we should not have got through with it in one day but for the fact, that in the House committee, there was the chairman of the Committee on Ways and Means, and another member of that committee, who were familiar with all the details of the bill, so that they were ready to explain everything. Notwithstanding that, it took us a day. Now, when we come to reflect upon the fact that it will take that length of time for a committee of conference to act upon the bill, it is obvious that the course I suggest will be the only means of saving the amendments. I now report the bill, with sundry amendments.

The PRESIDING OFFICER. The Chair would suggest to the Senator from Virginia, that although it is the custom of the Senate to consider every bill as in Committee of the Whole immediately after its second reading, the rule expressly declares "unless otherwise ordered by the Senate;" and it is therefore in the power of the Senate to suspend the rule in this particular case, and let the amendments be proposed in the Senate, and not as in Committee of the Whole.

Mr. HUNTER. I shall ask the Senate to take up the civil and diplomatic appropriation bill after we have disposed of the military appropriation bill, so as to allow individual Senators an opportunity to offer their amendments. I now move to postpone the prior orders, for the purpose of taking up the Army appropriation bill. Unless we do that, we cannot dispose of the civil and diplomatic appropriation bill to-day.

ARMY APPROPRIATION BILL.

Mr. HUNTER. I move to postpone the prior orders, for the purpose of taking up the bill making appropriations for the support of the Army for the year ending June 30, 1854.

Mr. DOWNS. I hope the honorable chairman of the Committee on Finance will not press the motion at this moment. There is a measure in which I feel great interest, which was made the order of the day for a period more than a month ago, and which I have given notice two or three

times that I intended to call up on particular days. Unless it be disposed of this morning, there will be no chance for it this session, while I remain in the Senate. I refer to the bill granting lands to Louisiana to aid in preventing the inundations of the Mississippi. It was reported by the Committee on Public Lands early at the last session, and I shall make but a very few remarks upon it. The Senator from Ohio has an amendment to offer to the bill, which I shall not object to. I hope the Senator from Virginia will give me till twelve o'clock to dispose of that bill.

Mr. HUNTER. I hope the Senator from Louisiana will excuse me for not yielding to his request. I would give way to him as soon as to any one in the Senate, but minutes are now worth thousands, yea, sir, hundreds of thousands to the country, for it is important that we should dispose of our business in tolerable order, and with some reasonable accuracy and dispatch.

Mr. RUSK. I would vote cheerfully with the Senator from Virginia to take up the military appropriation bill, if anything could be accomplished by so doing.

Mr. HUNTER. We can pass it in a short time.

Mr. RUSK. I think not. Gentlemen are moving amendments to the bill, and it will share exactly the fate of all the appropriation bills for the last two or three years. All the amendments will go to a committtee of conference, and they will decide at last. I therefore regard the time to-day as thrown away to a very great extent which we shall devote to the consideration of that bill. I do not think its passage will be facilitated by taking it up this morning. The honorable Senator from Louisiana has given notice at various times that he would call up his bill. He has yielded very frequently, and I am satisfied that his bill will consume very little, if any, time at all; and I sincerely hope that he will have an opportunity of bringing it up. Therefore, anxious as I am to dispose of the Army appropriation bill, I must vote against taking it up now, because I think the result, any how, will be, that a committee of conference will regulate the whole matter.

Mr. HUNTER. There will be no time for a committee of conference even to examine the amendments and compare opinions, unless we act with dispatch to-day. The argument of the Senator would apply against taking up the bill at any time, for there will be debate. I cannot stop it. I wish I could.

Mr. DOWNS. I really think that I should have this favor extended to me, considering the manner in which I have abstained from debate on this and other bills. I have saved as much of the time of the Senate by abstaining from debate, as would allow my bill to be disposed of. This is one of the last days that I shall be in the Senate, and the bill to which I refer, and which I wish to have disposed of, is the only measure in which I now feel any great interest, and I really hope that under the circumstances, the Senator from Virginia will have the magnanimity not to insist upon his motion until twelve o'clock. At that hour I will yield to him.

Mr. HUNTER. I cannot withdraw my motion. I wish I could accommodate the Senator from Louisiana, but I have a higher duty here to discharge than that of personal courtesy.

Mr. HUNTER's motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the Army appropriation bill.

The PRESIDING OFFICER. When the Senate adjourned yesterday, the question before the Senate was on an amendment moved by the Senator from Massachusetts, [Mr. DAVIS,] to strike out a part of the proviso in relation to the superintendent of the public armories, and insert another provision. The immediate question, however, was on the amendment proposed by the Senator from Illinois [Mr. SHIELDS] to that amendment.

Mr. WALKER. If I understand it, the correction that has been made this morning in the Journal changes the entire position of the question. That correction affects the motion to reconsider.

The PRESIDING OFFICER. The effect of that correction is that the motion to reconsider failed.

Mr. WALKER. Consequently all the subsequent amendments predicated upon that motion fell with it.

The PRESIDING OFFICER. The Chair was of that opinion yesterday when the question was suddenly stopped. He thought that the Senate, refusing to strike out the proviso, had thereby agreed to retain the whole of it, and that hence the amendment of the Senator from Massachusetts is out of order; but having examined the question, he is now of the opinion that the amendment is in order. The amendment of the Senator from Massachusetts is only to strike out a part of that the whole of which the Senate refused to strike out. It is therefore in order, and the first question is on the amendment proposed by the Senator from Illinois to that amendment.

Mr. SHIELDS. I believe my honorable friend from Massachusetts is willing to accept it, as it does not interfere in any way with his amendment.

Mr. DAVIS. I accept it.

The PRESIDING OFFICER. Then the question is on the amendment of the Senator from Massachusetts, as modified, to strike out all of the proviso after the word "next," and insert the following:

"That the act of Congress approved August 23, 1842, be so modified that the President may, if in his opinion the public interest demands it, place over any of the armories a superintendent who does not belong to the Army: *And provided further*, That the Secretary of War be directed to cause the necessary and proper inquiries to be instituted, through the medium of a commission of civilians and military men, with a view of ascertaining which of the two systems is the more economical, efficient, and safe, for the management of the public armories, that formerly existing under the superintendence of civil officers, or that now existing under the superintendence of officers of the Ordnance Department, and to make report thereof to Congress at their next session."

Mr. RUSK. I desire to say a very few words upon that amendment. In the first place, it is contradictory in its terms. The first part of it proposes that the President may, if he chooses to do so, appoint a civil superintendent or superintendents of the armories of the United States. The remainder of it is totally inconsistent with that part, because it proposes an inquiry upon which this action is to be taken, not to be returned to the President, but to be submitted to the next Congress.

Mr. SHIELDS. The honorable Senator will permit me to say, as I do not want to make a speech, and as he himself is opposed to delay, that it is not inconsistent. It leaves it to the President to place the armories now under military or civil superintendence, but it also requires him to report as to the propriety of regulating this system for the future by the action of Congress; so that at the next session we can settle it finally one way or the other upon correct and ascertained information, which we have not now.

Mr. RUSK. The honorable Senator and I differ. I think the amendment is inconsistent, because, in the first part, it proposes to leave to the President the discretion of saying whether he will have military or civil superintendence.

Mr. SHIELDS. For one year.

Mr. RUSK. And in the same amendment you require a Board, to be composed of military officers and civilians, to make an inquiry, and to report to you at the next session of Congress.

Mr. DAVIS. I would suggest to the honorable Senator from Texas, and also to the honorable Senator from Illinois, that the amendment may be so amended as easily to make the meaning itself harmonious. I propose that the President of the United States may at his discretion appoint a civilian, or an officer of the Army, and then suppose that the amendment of the Senator from Illinois, which I have accepted, should read:

"And in order to enable him to do it to his own satisfaction, he be hereby authorized to appoint a commission consisting of civilians and military men," &c.

Mr. RUSK. That would make the amendment consistent with itself, but yet not agreeable to me.

Mr. SHIELDS. As I want to get rid of this question in any way that is fair, I agree to the suggestion of the Senator from Massachusetts, and I presume that no one can then object to the amendment.

Mr. RUSK. I shall still object to it.

Mr. SHIELDS. I suppose you will.

Mr. HUNTER. I hope we shall have a vote.

Mr. RUSK. As I have the floor, I hope I shall be allowed to express my reasons for my vote.

Mr. SHIELDS. As I cannot satisfy the honorable Senator in any way, I will just leave the amendment as it stood originally, without adopting the proposed modification of the Senator from Massachusetts.

Mr. RUSK. Then I have more objection to the amendment than if it were modified as suggested by the Senator from Massachusetts. Here it is proposed to establish new officers, and it is not said how many. It is a Board. It may consist of three, or four, or twenty. It is a commission. This is the establishment at the last days of the session of new officers. Sir, I have been here long enough to see the result of such experiments. I have seen new officers and new Departments created here at the last days of the session, when a man has not an opportunity of getting up and expressing his views in opposition to them, and they have introduced more expenditures than almost any other system. I remember that at the close of one session, we created a Department called the Department of the Interior. It was not a year old until it had become like Aaron's rod, and swallowed up everything that came in its way; and, sir, when it takes a sweep, and strikes the Treasury, the Treasury of the United States stands no more chance than the crumbling banks of the Mississippi do against a flood. You cannot count up the costs and expenses of it. This is something of the same thing, on a small scale. It is a commission; of how many it is to consist God only knows! It is discretionary with the President as to the number. It is to be composed of whom? Civilians and military officers. What will be the result? A scientific report on arms, laborers, and everything of that sort, which will be printed here at the expense of the Government, and not three Senators will read it, and not half a dozen other gentlemen, except the officers engaged in its production. What information will there be in that? I am against the proposition on that ground.

I am against it on another ground. I am opposed to devolving upon the President the responsibility of determining this quarrel between civil and military rule in your armories, because it is a scramble for place; and while my honorable friend from South Carolina [Mr. BUTLER] yesterday rebuked the citizens for asking for these places, he should also have rebuked the officials of the Government who are quartered on the public for life. It is a scramble for place between the two; and one is just about as energetic and zealous as the other. Hence, I say that while he was rebuking the citizen in just and fair terms, he should also have rebuked the official who is provided for out of your Treasury; for the military officers, as I understand it, ask to be retained in the superintendence of the armories.

Mr. BUTLER. They do not ask it; but they wish justice done to them.

Mr. RUSK. I say that is the struggle. Citizens have troubled me, but not much, because I would not let them. The Army officers have troubled me more. It is a place; it is a comfortable place for them; and, therefore, they want it.

A word with regard to the inquiry which is sought to be instituted. The honorable Senator from Illinois, who proposes it, comes from a country which some of my folks hail from, and a favorite maxim with them is, "Fair play." His amendment does not give fair play, because it proposes to inquire how the armories were conducted eleven years ago, under a civil superintendence, and to make that a test to be compared with their superintendence now, under the management of Army officers. I do not think that this is a proper position for Army officers; and I mean no disrespect to them when I say so. They were selected for their fighting qualities. They were selected to command in the field. They were not chosen as mechanics, and I venture to say they are not mechanics. If you place the armories under civil superintendence, you give the President, if he is disposed to discharge his duty, the power of selecting mechanics, practical men, one of whom is worth ten thousand of your theoretical gentlemen. These theoretical gentlemen can get appropriations increased. The history of the appropriation bills has shown that. They can carry on a great deal of work, but whether there is improvement in that work is another question. I will venture to say that if the President shall do his duty in this matter, and select for the head of each of these armories a civilian, a mechanic, one who under-

stands mechanical operations, there will be more improvement in the arms in five years than there has been in forty years past. As a general thing, the Army is averse to improvements in arms, upon the same principle that we plow with the same instruments that our fathers used. They prefer the old arms, the old straight-breeched gun.

Under the circumstances, if you retain the armories under military superintendence, you will, in my opinion, have none of the benefits of the improvements of the age. You may go on and manufacture arms better, perhaps, every year, but still it is according to the old pattern which you have been following for years past. You will have no new inventions, and no new improvements. Under such circumstances I am for putting the officers of the Army in those positions for which they were intended. They were never instituted to make mechanics and gun-smiths. Their business is to take the gun when made and fight with it. I have no disposition to make mechanics of them.

Mr. BUTLER. A word of explanation; and I wish the honorable Senator from Texas, as well as others, to hear it. From nothing that I have said can any inference be drawn that I have insisted upon either Colonel Ripley or Colonel Huger retaining these places.

Mr. RUSK. I did not say so.

Mr. BUTLER. I understood the gentleman to say that these officers wished to retain their places.

Mr. RUSK. Not exactly that.

Mr. BUTLER. What, then, does the gentleman mean when he speaks about officials? All I have said is, that the military superintendency has operated better than the civil superintendency; and when things are brought to a trial it is the best test. The honorable Senator from Texas may well speak of the duty of a soldier, for he is a military man. I believe, however, that a very great military man has said that perhaps the very last use that should be made of men, is to fight; that you should substitute science, and let war be conducted in such a way as to save life instead of periling it in the battle-field. I say that science is going far to mitigate the horrors of war; and perhaps the style of the arms will have a great influence upon that. I say that science as well as courage and skill are to be consulted. Indeed science is a quality which inspires courage. However, these are general topics, and I shall not go into them. I only wish to say that I am willing to go for the amendment of the Senator from Illinois, because it is fair. It is to appoint a commission to institute inquiry. Now, I would like to know, since officials have been indicated by the finger in some measure, because some military man must be the one indicated, who at Springfield, or who at Harper's Ferry, want these armories? I venture to say that somebody wants them. If anybody can tell me who wants them, I would perhaps strip them of some of their pretensions. Certain it is that somebody wants these places. You need not tell me that it is one of those vague generalities in which patriotism comes forward here to supersede the military. Somebody has his eyes upon these $200,000 to be appropriated for the manufacture of arms in the armories, and the people who want it can very easily allege that they can make better arms than anybody else. If they can get the money they will make the arms, but whether they will be better or not is another question. I should like to known who it is that want to handle these $200,000; and who, to prove their capacity, say that they are more patriotic than the Army, and can make better arms? If gentlemen will indicate the persons who are anxious for taking jurisdiction of the armories, perhaps I could inquire a little into their charncter, and show their pretensions.

Mr. DOWNS. If the honorable Senator from South Carolina could devise some way of carrying on armories and manufacturing arms without the $200,000 proposed to be appropriated going into anybody's hands, there might be something in his suggestion. But as it is necessary that the money shall be expended by some one, I cannot see any great enormity in the fact that that somebody should be a civilian. For my own part I would just as leave see a civilian as a military man have the management of it.

Mr. BUTLER. A military man does not get a dollar of it. The workmen get the money.

Mr. DOWNS. I am opposed to the amendment for several reasons. In the first place, I have no doubt in my own mind as to what the decision ought to be. I should think from the indications that both Houses of Congress have no doubt, because they have both agreed to a provision putting the armories under civil superintendence. For one, I am not willing, after both Houses have agreed to do that, to institute a commission of inquiry to know whether we have acted foolishly or not. I think that is a matter into which we ought to have inquired at first. I have felt it my duty to inquire into the subject, and I have inquired into it, and I have made up an opinion, and I have expressed that opinion by my votes here. I can see no necessity for any further investigation.

Besides, it seems to be a question which is continually to be coming up. We have had it before the Senate several times and decided it. Are not gentlemen satisfied with the decision? Do they want the question to be continually coming up? It seems to me that after the question has been settled in a formal manner—as it has been by both Houses—it should be suffered at this late period of the short session to rest. Then, where is the necessity of this inquiry, this formal, official commission composed of civilians and military men?

Mr. SHIELDS. The honorable Senator will permit me to tell him—as I do not wish to make a speech—that in the first place we want to ascertain which is the best system of superintendence. About that question we have not the necessary information. We want the facts, to see how the matter is; and we want the facts for another reason, which the honorable Senator does not seem to perceive: and that is as to the propriety of abolishing these armories. I mean to bring forward such a proposition at the next session, so that we western men, as well as those at Springfield and Harper's Ferry, may have a chance at this matter. My belief is, that the best way is to throw the construction of arms open to the public, and let the best mechanic have the best chance. As soon as I can mature a bill, I will bring it in for that purpose.

Mr. DOWNS. Then I am very much astonished that the gentleman should be dissatisfied with the action of Congress.

Mr. SHIELDS. I want information.

Mr. DOWNS. As to the abolition of the armories, that is another question; and if the gentleman, from his position as chairman of the Committee on Military Affairs, chooses to bring it forward at any time, very well; but that is not the proposition now pending.

Mr. SHIELDS. I want information. I want the examination made for the purpose of getting information.

Mr. DOWNS. I think it can be got without the expense of such a formal commission. I was going on to remark, where is the necessity of this commission? The amendment authorizes the President to appoint a commission composed of civilians and military men, and I suppose they will be just as likely to differ as military officers and civilians do now on the question. If it be necessary to have an inquiry, why shall we have this formal commission? Is it not the duty of the President and the executive officers to have the necessary inquiries made? If well-founded allegations are made that the system works badly, is it not the duty of the President and executive officers to have the facts ascertained and brought before Congress in order to enable them to give a correct judgment upon the question? Is it customary or proper for Congress to travel out of their way and impose upon the President or other public officers duties other than those which the law assigns them? These officers have their appropriate duties in the Army, and if the public service requires an investigation, the President or the Secretary of War can order it without this extraordinary proceeding of Congress authorizing a commission composed of civilians and military men. I think, then, that there is no necessity for the proposition. I have as much confidence in the incoming Administration as any man, and I have no doubt that a suitable and proper commission will be appointed. But I can see no necessity for any commission at all. This system has been tried. There is great dissatisfaction with it. Let us at least have time to try the other system and see if it does not operate better. I think it is a great mistake, and it will be found to be a great mistake in this and other matters, that we should depend for the construction of our public works, the building of ships and other things, on military or naval architects and engineers. I have not examined the subject very thoroughly, but unless I am very much mistaken, the construction of steam-vessels now by the Navy Department is much inferior to the construction of those made by private individuals. I doubt very much whether in case of war there would not be shown to be a very great disparity between the steam-vessels constructed by the Government and those constructed by individuals. It seems to me so; and probably the same rule would apply in this case. There is a strong feeling in the public mind for such a change as the House has proposed. There is no necessity for continuing the old system. Let us try the new. We have so decided once, and certainly it is now too late in the session to set aside what we have done, or to do anything implying a doubt of the opinion of Congress as to the course which should be pursued.

Mr. BELL. I do not mean to make any reply to the various suggestions thrown out by gentlemen who oppose this amendment, but I want to state a few facts. The effect of the provision in this bill, as it came to us from the House, is to change the system of management at the public armories from the superintendence of military officers to the superintendence of persons taken from civil life. One specific ground alleged by an honorable Senator yesterday for that change, in addition to the general ground alleged, was that there was now great dissatisfaction and complaint on the part of the community in which these armories are located; and another reason given was, that the military superintendence is not believed to work any better than the former system of civil superintendence. Sir, I have made it my business, not now, but several years since, to inform myself carefully upon this subject. The civil superintendence obtained for fifteen or twenty years preceding 1841 and 1842. There were complaints, and many alleged abuses at that time in the management of these armories; and upon that ground the Executive Government changed the system from civil to military superintendence, and Congress, in 1842, approved the change and regulated the subject by law, after a full investigation by a commission, and after a report by a committee of the House of Representatives. That report stated that the change which they proposed to make, giving the superintendence of the armories to officers of the Ordnance Corps, was founded on an investigation of the facts on both sides of the question. Thus a commission was instituted, and a committee of the House, upon the report of that commission, reported in favor of the change, and Congress solemnly enacted that the military superintendence was to be preferred, on the ground that the public interests would be promoted by the change.

The Senator from Texas [Mr. HOUSTON] yesterday stated, that he had picked up a statement, or representation, or some document or other, which satisfied him that there was no improvement, no advantage to the public service, in the military superintendence over the former system of civil superintendence. That I deny. I say that, although there are contradictory statements upon the subject, any gentleman who will take the trouble to look into the public documents of Congress which have been heretofore published, stating the grounds on which the change of superintendence was made, and persevered in, he will find the preponderance of testimony is largely in favor of the military system of superintendence. I stated, however, the other day, that I had seen gentlemen of high character and respectability who alleged the contrary, and I believed they made their statement sincerely. I think, however, their convictions on the subject are founded in error, upon a want of information as to the true facts of the case, or upon prejudice. I said then that I regarded it as highly politic, if we are to uphold these public armories at all, and not to abolish them, that we should institute an inquiry into the present condition and management of the armories, for the satisfaction of the intelligent public mind upon the subject, and that no change should take place here suddenly upon an ebullition of popular sentiment in the neighborhood of the armories, by outsiders, or those not in place, and who may be fairly subject to the imputation of wanting the places of these officers, though I do not say that they do. I say that, under the circumstances, it is but fair, both

to those who complain and those whose conduct is called in question, that we should have an investigation. To satisfy even the local communities concerned, we should have an examination and report in detail, by a mixed commission.

If it be objected to the proposed commission that it may be composed of a majority of military officers, let the majority be of civilians, if gentlemen please. I have no objection to that, because, as I understand, the report which we require from such a commission is not the opinion of scientific gentlemen, or of civilians, or of the sound common-sense opinions of mechanics. We want the facts to be reported in detail; the testimony of witnesses—evidence that cannot be refuted. I care little whether the persons appointed on the commission have a bias on either side or not; I care little for the opinions of scientific, or any other class of men, upon the subject. All I want is the facts; and that is necessary to satisfy the public mind in the neighborhood of the armories. I said the other day that I thought an investigation necessary, because the idea of the odium of military rule—which I understand does not in fact exist at all—is diffusing itself through the country. Why, sir, we see the great State of Virginia infected through all its borders by these representations of a military rule, emanating from a little spot on the Potomac—Harper's Ferry—and the two Senators from Virginia, although the most strenuous advocates for economy and reform in the administration of the General Government, are chiming in with the honorable Senator from Texas [Mr. RUSK] in his effort to effect a change in the superintendence of these armories. That Senator, in one part of the argument presented by him this morning, spoke of the great expense of a commission to be constituted, as he said, of "God knows how many." He was for an economical expenditure of the public moneys by the Government; he would go for no expenditure but what is necessary to the public service; and yet he is advocating a proposition to introduce two new officers, two unnecessary superintendents of the public armories.

Mr. RUSK. I do not regard them as unnecessary.

Mr. BELL. But they are additional officers, and there can be no doubt that ordnance officers are competent for the post—it is not even alleged that they are not competent—officers who receive their pay any how, whether they be employed at the armories or not. Now, upon the honorable Senator's own argument of economy, which I believe, by-the-by, is one of the articles in the creed of the Democratic platform, are you not here violating a sound principle, by creating two offices which are unnecessary, when you already have ordnance officers competent to fill them, and who get their pay any how? I say this from no personal ill-feeling towards the honorable Senator, as he well knows, but because I think his argument is suicidal. He was against the commission, because it would bleed the Treasury. He says that this is an irresistible current of affairs; whenever you attack the Treasury, or attempt to tap it in Congress, the walls of the Treasury fall away like the banks of the Mississippi under the roll of the impetuous torrent of that river. So it seems to me; and that is just the way things are inclined to go at this moment. Persons want these offices, and they are earnestly employed in sweeping away the walls that fence up the moneys in the Treasury; and I am not satisfied that there is any other reason for the change which is proposed in the management of the armories.

I appeal to the honorable Senator from Virginia [Mr. HUNTER] to stand by his principles. He is always urging the Senate to the practice of economy. There is no necessity for this change that I can see; or, at any rate, I ask him first to ascertain whether there is a necessity for it before the change be made, and this additional expenditure authorized. Shall we tax the Government with the expense of two unnecessary officers, when we have ordnance officers who are doing quite as well, to say the least, as others can do? That is the question. Some of us say that these ordnance officers are doing better than any civil superintendent ever did. Because of the difference of opinion I say let us have a commission to inquire into the truth of the matter.

Now, I wish to state some facts, and if the majority of the Senate is determined to carry out its views, as expressed yesterday by their vote, I want some material facts and circumstances of the case to go forth to the country accompanying that vote. I am not as well acquainted with the details of the business at Harper's Ferry as at Springfield, and therefore I will not speak of both in the same connection; but comparatively and approximately I do. I say that at the Springfield armory, when the civil system of superintendency was changed for the military system, the civil superintendent had so little control of the business—so little power in his hands to regulate the wages or the time of the work of the workmen, and so little power to control the number employed, that the cost of a musket at that armory was as high as $17 or $17 50.

Mr. RUSK. When was that?

Mr. BELL. Prior to 1841. Then the cost of the musket, including wages and materials, was $17 or $17 50.

Mr. DE SAUSSURE. What is it now?

Mr. BELL. The cost of the musket now at Springfield is from $9 50 to $10. Honorable Senators may say that this difference may be owing to the great cheapening of materials, but they should remember that labor has not cheapened. The fact is that there has thus been a reduction of between $7 and $8 on the cost of the musket. If any gentleman denies this fact, I should like to hear his authority; and if he does not deny it, let us have a commission to inquire. The labor on the musket, independent of the materials, formerly cost upon an average, $8 30. Now it costs the Government about $4 40, making a difference of $3 80, or nearly $4 on each musket manufactured, in the cost of labor alone. Then what is the further fact? There is now between twenty-five and thirty per cent. more labor required on the musket, made according to the new model adopted at the armories, than was required upon the old model. This difference of labor is chiefly owing to the higher finish of the work; yet there has been a reduction of nearly $4 upon the mere cost of the labor upon the musket of the new model. Another material fact is, that the wages of labor has in the mean time been slightly increased instead of being reduced; the great saving appearing to have grown out of the greater regularity with which the business has been conducted.

I state these to be facts, and I ask what is the cause of them? The reason is, that the civil superintendent was under the control of the workmen, and not they under his control. They controlled him both as to the hours of working and of their wages in a good degree, and I predict that if a change takes place and that system be resorted to again, it will happen now as it happened then. They will control the superintendent, and not he them. I do not mean as to wages altogether, but as to the times they will work; the number of hours in the day; the number of days in the week, and in the month. They will come and go when they please. How can that be helped under a civil system of superintendence? The employees about the establishment, and their friends in the locality, will in fact appoint the superintendent. Can any gentleman deny it? These very persons who are petitioning for this change, or those of them who are workmen at the armories, can go and apply to the President, and say they want such a man appointed superintendent; that it is the workmen's wish, and will he not be appointed? Is he not then their nominee, their appointee?

I know that a great deal of what I have stated is denied. It is said that there is not this great difference in favor of the military system. Then let us investigate the facts. The Ordnance officers say these are the facts, and that they will turn out to be so upon investigation. I want investigation to see whether they are true or false, and I think it is our true policy to institute a commission to inquire, for the satisfaction of all, how the facts are. What I have stated has been upon sufficient authority, I think. I state the facts in regard to the Springfield armory, upon the authority of those who are responsible to the public and to their own character for the truth of what I have said in relation to it.

Mr. DOUGLAS. I am in favor of the provision as it came from the House. I have listened to the debates here, and I find that the objection to it consists in this: that there is a clamor on the part of the outsiders to have a change. Most of the arguments, it seems, are addressed to that point, and we are given to understand that we ought not to make the change, because the outsiders want it. Did you ever know the insiders to desire a change? [Laughter.] I never did. They are generally content with the existing state of things, no matter how gross the abuse may be, or how stern the necessity for a reform. The insiders are never clamorous for a change, and if we are not allowed to listen to the outsiders, I do not know whom we are to hear in favor of any reform. I therefore dismiss that point. If it is true that the outsiders want a change, it is only evidence that the people are not content with the existing state of things. I say, if there be such a clamor at our doors, and thundered in our ears upon all sides, it is only evidence that there is dissatisfaction and discontent which demand our attention.

A great deal has been said about lobby members; and that we are surrounded by extraneous influences, pressing on this measure. That there are citizens here desiring the proposed reform is not denied. That there are lobby members here, on both sides, cannot be denied. That they are now in our Chamber, visiting Senator after Senator, in his seat, and lobbying all the time on the military side, while those on the floor are charging lobbying on the other side, cannot, with truth, be denied. Every Senator knows it to be so. We see them passing from desk to desk, electioneering on the military side of the question, while Senators are denouncing the lobby members on the other side.

Mr. BUTLER. Has any military man been here to-day?

Mr. DOUGLAS. I do not know about a military man, but persons acting for the military men have been here, and are now here; and their relatives, the personal friends of military men have been and are now here electioneering; and I do not blame them for it. They are honorable men, accomplished gentlemen, some of them personal friends of mine. I like them, and listen to them with respect. But I do not like this system of lobbying on the floor, while their friends in concert with them are denouncing lobbying influences as evidences of corruption. I do not like it. I think it ought to be stopped. You may begin and count out the lobby members on the part of the citizens, and I will count an equal number on the other side, and show them face to face within the range of my eye now. I could begin and call a very long roll by name within the reach of my vision now. Hence I think we had better say nothing more about lobbying, and look at this question upon its merits.

I have listened to both sides of this question. I have not quarreled with any man who wished to enlighten me. I have listened patiently to him. I have nothing to say against citizens and officers of the Army who have called upon us to give their explanations of this question. It is due to them as gentlemen, men of intelligence, feeling an interest in the question, that we should hear them, and see what they can urge in favor of their respective systems.

Then, sir, I wish to say a word or two upon the great objection which is brought forward with much emphasis by the Senator from Tennessee. He says, that if you have a civil superintendent, he will be appointed and controlled by the laborers, and that if we have a military superintendent, he is appointed by the Government. The question, then, he says, which arises, is, whether you will allow the laborers to employ their own superintendent, or the Government employ one for them? Sir, I do not understand that to be a fair statement of the case. Is that the case with every civil superintendent all over the country? Are they in the hands of the laborers? Is it so in the erection of your custom-houses, your public buildings, your additions to the Capitol, in all of the river and harbor works of the Government where civil superintendents have charge? Is it true that the laborers say how long they shall work in the day, and fix their price, and choose the men who are to take charge over them? If that be so, and if the proper remedy for it be what the Senator says, it shows that this is only the beginning of a system in which we are to supersede civilians everywhere, and put every work under the charge of military men. The argument will compel the system to go into every branch of the Government, and apply to every work now under civil superintendence. It will apply to your public

buildings here as well as to the armories. It will apply to every custom-house you are erecting, every post-office building you are putting up, every public work you are constructing, without exception, if the argument be true. But, sir, I do not think it is true. If you have a suitable man for superintendent, there is no such danger. Your superintendent prescribes the number of hours of work to be performed in the day; he prescribes the hour at which the workmen are to be there; the hour at which they are called off for refreshment, and at which they return. He dismisses them at night, he checks the roll, and any man who is deficient in time is checked, and the time is deducted. Any man that does not conform to the rules is paid off and dismissed. That is what I understand is done under the civil rule; and wherever you have an honest and competent officer, either military or civil, he does it; and, sir, is it to be argued that you cannot get a civilian that has either the intelligence or the integrity to perform his duty and enforce the instructions of the Government? I think not. I think we can employ a civilian there as well as anywhere else.

Then, sir, why should we have an Army officer to take charge of these armories? Certainly the work to be performed in the armories is not professional. Will it be said that the construction of arms requires professional skill? Sir, the profession of the military officer is to use arms rather than to make them. Besides, your Ordnance Corps prescribes the kind and description of arms to be made at your armories. After the kind, the amount, and the description of arms to be manufactured are prescribed, the manufacture is purely a mechanical operation. It is mechanical, purely and strictly, and not military or professional. It is the work of the mechanic; and I undertake to say that the mechanic who has devoted his life to his occupation, understands better how to carry on that mechanical operation than your military man does whose life, profession, occupation, and habits, disqualify him from understanding it. I think, therefore, you have the opportunity of getting more mechanical knowledge and skill in the civil service in regard to the mechanical operations of these armories than you have in the Army.

But, sir, there is another consideration which operates upon my mind. I know that the American mechanic does not like, in time of peace, in a workshop, to be subjected to military rule, to the sword, to the epaulette, and to the button. In time of war, he is willing to enlist in your Army, to enroll among the volunteers, to come under the rules and articles of war, and be as subject to strict and rigid obedience as any regular soldier. Every American citizen is willing to do that in time of war, when it is necessary and proper to enforce the military discipline. But in times of profound peace, while carrying on the ordinary avocations of life, while pursuing their art in the workshop, in the performance of their regular trade, to be subject to military discipline and regulations by an officer who does not understand the trade, whose education and habits of life prevent him from sympathizing, as he ought to do, with the craft, is not congenial to the feelings and habits of a high-minded mechanic. I know that your mechanic feels restive under this system, and the tendency is to degrade him in his own estimation. I submit that it does not become Americans to humble and degrade our mechanics. We owe them too much. If we owe to any one class of citizens more than another the rapid progress we are making in all that gives us superiority over other nations, it is to the American mechanic, whose skill, whose ingenuity has done it. And why is it that the American mechanic excels all others? It is because he has, under our institutions, a right to think freely and boldly. He is not confined within certain prescribed limits, that exist under different forms of government, that make it a crime to think in opposition to the consecrated errors of olden times. Free thinking, bold thinking, enables him to make inventions that surprise and startle the world, while their success commands universal admiration.

Sir, I do not wish to put restraints upon the mind, upon the actions, upon the feelings of our mechanics. I think, therefore, that this military system is at war with the spirit of our institutions, and that it should be carried no further than is necessary for military purposes. To the extent that it is necessary for military operations I am willing to carry it, and I am willing to sustain you in the most rigid and exact system of discipline applicable to the Army, to all under its control in time of war; but I am not willing unnecessarily to carry the military system into the mechanics' shops in times of peace.

Mr. BUTLER. Allusion has been very distinctly made that there has been military influence brought to bear, either directly or indirectly, upon me and those who act with me in this matter. Sir, I say that during the time I have spoken yesterday or to-day, I have not seen a military man, or a friend of a military man here, pressing this matter on us. I may not be as well informed as the Senator from Illinois of any influence brought to bear upon the Senate, but I could very distinctly point to the influence of others. The Senator has spoken with a good deal of emphasis about outsiders and insiders. I am neither an outsider, seeking for office, nor an insider enjoying one. I am, therefore, an impartial judge upon the subject. But, sir, I always thought that there was some wisdom in the fox, to say the least of it, when he told the swallow he would not drive off the flies which had gorged themselves, to give way to the hungry flies that wanted to come in. Besides, I say emphatically, that I know of no officers, insiders, who have such a great personal interest in pressing this upon us. They do not get one dollar more pay in the armory than they would anywhere else in the line of their duty. Who is the insider in connection with this subject? Do the officers gorge themselves with the public money beyond the pay which is allowed them by law?

Sir, I am not aware that the mechanics have been dissatisfied. The dissatisfaction exists among the outsiders who want the places, and if the outsiders wish to gorge themselves because others are in their way, I can very well understand the principle upon which they act. They want the money. The officer gets none of this money; the insiders are not benefited by it, not a whit. They get no more pay than they would get in their other official positions.

As to what has been said about the mechanics, every one who knows me knows that justice, and courtesy, and every tribute that can be paid to honest industry, are always awarded by me, as much as by those who preach these doctrines of Democracy in favor of civil authority in the armories in preference to the military. I have consulted the interest of the public service, when I maintain that the present system is better than the system of civil superintendence, and that if you change it now, you do it in the dark, merely to give way to the outsiders who want the money. I have no interest in this question; but as it has assumed a character altogether different from that which it ought to have done, and insinuations have been made upon insiders, when they are refuted by the fact that the insiders cannot get anything, and that the only persons who want the money are the outsiders, who are to make something, provided we have civil officers to supersede the military officers who get nothing in addition to what they get by their regular pay, and as it is desired to substitute civil superintendents for the military, and pay them for what they cannot perform as well as it is performed now, I wish these remarks to go out to the country. I do not know that it is the mechanics that object to the military rule. I do not believe it is. As far as I can ascertain, and there is not a branch of the military service, from the humblest soldier up, that will not tell you that this is the better system; that this is a much better system than the one which it is proposed to substitute for it.

I am perfectly willing that a comparison of the two should be made. But gentlemen are shrinking from the ordeal of a comparison. The proposition is to sift the merits of the systems; and as certainly as you let them enter into contrast—the one contended for by the gentlemen who appeal to popular feeling in favor of mechanics, and the military one—the latter will throw the other into the shade. If gentlemen are afraid of the comparison, it is because it will have that influence on the public mind; and I now say that I believe no part of the United States, interested in this matter, except the local communities around Springfield and Harper's Ferry, have any objection to the present system. I have heard of none. The two military officers in charge of the armories are occupying places which they do not want. I have repeated that before, and it is so, as far as I can learn. They do not wish to occupy the places; but when every military man in the United States will tell you that this system has operated well and it would be dangerous to change it, they but agree with it.

My friend from Texas has alluded to me in this question. I am willing to compare votes with him and see whose hands have gone deepest into the Treasury. I did not vote for the twenty millions for the railroad, or for the Collins line. I have not voted for any such propositions. I believe I am less touched with the appropriation of the public money than almost any man on this floor. And as to the avalanche which is to sweep away the banks of the Mississippi, why, sir, the little tributaries that I vote for are not like the great currents which are undermining the banks of the Mississippi. You may talk about extravagance; the honorable Senator from Tennessee has put the question in a way which cannot be disguised. I regard this system as more economical than the other; but if it is a foregone conclusion that the armories are to be put under civil superintendence, and the military are to be excluded without trial and examination, be it so.

Mr. SHIELDS. I desire to say but a very few words. I have abstained from arguing the question for a single reason. I have abstained even to the detriment of what I believe to be a great interest—and why? Sir, we have only four working days of the session before us, and we have all the appropriation bills yet to act upon; and here we commence with as much fervor and as much zeal to debate this question as if we were in the first week of the session. The question now is taken to be whether this is to be given to the mechanics or to the Army, and that is to be debated on both sides of the Chamber. Sir, no mechanic will ever be put at the head of the armories. That is out of the question. The mechanics have nothing to do with this, nor has the Army. These officers do not care one cent whether they are in or not. They get their pay independent of that. It imposes new duties upon them. But I know my colleague did not want to do any injustice to any one, and certainly not to the officers or to their friends, or to us who conscientiously believe that there ought to be some little investigation before we act. We may be wrong in that. I believe we are, for as far as I can judge, we act more rapidly without investigation than we do with investigation. But, Mr. President, I am chairman of the Military Committee, and I presume that they would come to me if they would come to any one; and I can say that not one single man, either officer or friend of officer, ever called on me on the subject until I sent for them to come and give me information on the subject. So that, so far as I am concerned, I can exonerate these gentlemen from anything of that sort. But I know my colleague would not wish to do these gentlemen injustice.

Mr. DOUGLAS. I do not mean to do any man injustice; but is my colleague ignorant of the fact that there are within the range of his eye now, in this Chamber, men electioneering for this very measure on his side of the question? I know them. I see them. They are respectable gentlemen. They have a right to be here; and we know it is so, and Senators can see them all around. There is no use, therefore, in making an issue upon any such question.

Mr. SHIELDS. I see a good many gentlemen in the range of my eye, but I cannot see any whom I know to be such as my honorable colleague alludes to.

Mr. DOUGLAS. Then I know more about it than my colleague does.

Mr. SHIELDS. I have not risen to reopen this argument. I repeat that as the question now stands, it is only whether we shall have an investigation and examination or not. I do not wish to enter at length into the question. All that I would do now is to call for the yeas and nays, and hope that the vote will be taken.

Mr. RUSK. There has been an investigation. The Senate will bear me witness that I have been forced into this debate, spurred on by the Senator from South Carolina, and others, who have said it is the outside pressure of persons who want these places, that is made to have an effect on the vote of the Senate. That has been the burden of two or three speeches. There is no influence at

work on me. I have seen about as many army officers here as others, but I have not conversed with them, nor have I seen or heard anything to justify imputations on any officer or citizen. The Senator says there are a great many men here. There are many men, and many ladies about here too. The ladies have not attempted to influence me. They could have influenced me considerably if they had tried. [Laughter.] I have made an investigation of this matter, so far as to satisfy my mind that it is right to put the armories under the direction of civil superintendence. I am not astonished at the course of the honorable Senator from Tennessee, for he is to some extent responsible for the introduction of the military system. This subject has been before the Committee on Military Affairs in the House of Representatives, and a report was made upon it on the 13th of August, 1852, by the chairman of that committee, [Mr. GORMAN,] a gentleman of high intelligence. This is what the report says:

"A short time subsequent to the transfer of Colonel Talcott, four officers of the Board of Ordnance were designated by the Secretary of War to proceed to Europe, and visit the most important arsenals, cannon founderies, and manufactories of small arms; and having spent a few months in the discharge of the duties assigned to them, they returned and made their report in November, 1840. From the period of the return of this commission from Europe, the purpose seems to have been systematically and pertinaciously pursued by the head of that Department to place the national armories of the United States under the same administrative system which was found to prevail in somewhat similar establishments in some of the most despotic monarchies of Europe. If any effort was made, as doubtless it was, to influence the then Secretary of War, the Hon. Joel R. Poinsett, to favor this change, that effort proved wholly unsuccessful.

"On the 4th of March, 1841, a new Administration came into power, when Mr. Bell, yielding too ready an ear to the suggestions and recommendation of the ordance officers"——

As the committee say, I do not say so—

—"on the 1st of April, 1841, within a few weeks after his appointment as Secretary of War, dismissed the civil superintendents from office, and appointed military officers to take the charge of these establishments. How far this step was in accordance with, or in violation of law, the committee will not stop here to inquire. * * *

"In the session of 1841-'42, the attention of Congress was invited to the subject, and it is much to be regretted that it was not brought forward as an independent measure of policy, instead of being blended as it was with the provisions of a bill for the general reorganization of the Army. And yet, even in that form, when first submitted to the Senate, that body, by a vote of near two to one, after debate, struck out the section legalizing the military superintendencies. A change of opinion was subsequently produced in that body by a manuscript statement of important facts, prepared and signed by the head of the Ordnance Department, and placed upon the desk of each Senator on the morning of the day upon which the bill was acted upon, and which statement it is confidently believed and asserted could not then and cannot now be sustained by impartial evidence. In the House of Representatives the opposition to the introduction of the military system into our national armories was decided, firm, and unyielding, until the differences between the two Houses reached that point that it became necessary to yield to this feature of the Senate's bill, or lose altogether an important measure of general policy.

"It was under these circumstances that this system, of which precedents can only be found among the most despotic monarchies of Europe, was carried—a measure which resulted in driving from employment hundreds of the most intelligent and valuable mechanies which this Government ever had in its employment, and which now operates with a crushing and deadening influence upon the spirits and enterprise of those whose necessities still force them into the service of this branch of the Government.

"The committee, after the most careful examination, have not been able to perceive one beneficial result which has been derived to the Government from the substitution of the military for the civil superintendency.

"It has not reduced the price of the musket"——

The committee say it has not reduced the price of the musket—

—"but, on the contrary, when the large outlay for new machinery is estimated; when the price of labor and materials under the two systems—the substitution of the percussion for the flint lock—are considered, the price must be regarded under the present system as greater than it was under the former.

"It has not promoted economy in the general expenditure of these establishments."

I hope the honorable Senator from South Carolina [Mr. BUTLER] will listen to the reading of this report. The Collins line of steamers furnishes him a knock-down argument to anything that I can say on the subject of economy, and he even proposes to institute a comparison of votes with me in that respect. Well, I will submit to it. It will be remembered that a day or two since more than a million of dollars were appropriated for fortifications, which are a dead expense to the country——

Mr. BUTLER. I did not vote for that, so that the gentleman has not got me there. [Laughter.]

Mr. RUSK. I saw a good many of the gentleman's associates who did vote for these amendments. I voted against them. That was a dead weight and dead expense, in my opinion. However, I will go on with the report of the committee relating to the economy of the course pursued at the armories. Perhaps the Senator will take that, as he does not seem disposed to believe in my economy. The committee say:

"It has not promoted economy in the general expenditure of these establishments; but, on the contrary, a tendency to waste and extravagance, has been manifested in tearing down buildings before deemed ample and commodious, and in the erection of dwellings of unnecessary size and magnificence, and other expenditures made there, all of which will appear in the large appropriation asked from Congress and made for such purposes."

Sir, the history of our legislation shows the continual increase in this item of expense, in the appropriation bill. It has been continually increasing.

"The principal argument relied upon for the change of system was, that it was an item of a plan for a general reduction of expenses. It was said that the Ordnance officers were already in the employment of the Government at fixed pay without sufficient duties to perform; that they could be conveniently spared as substitutes for the civil superintendents, and that thus the Government could be saved the salary of two useless officers. 'The expense,' argued the chairman of the Committee on Military Affairs in the Senate, 'saved by the transfer of military men to these places, it was true, would not be much, yet the change would effect the abolition of two useless offices.' The utter futility of this ground of economy for the proposed change is manifest not only in the fact that the Ordnance Corps has been since that time largely increased, but in the increased outlay of money upon those establishments since the introduction of the military system."

That is shown by every appropriation bill.

"Not only has the existing system been without any beneficial results to the Government, but its operation has been injurious in the adoption and extension of a principle hostile to the character and genius of our institutions, and in the spirit of deep-seated discontent which it has produced among the operatives wherever it has been enforced."

That is what the Committee on Military Affairs of the House say. That is the result of their investigation, and let it stand for what it is worth. I would ask any gentleman who is so pertinaciously attacking what has been placed on this bill by the House of Representatives—who come to it with such renewed vigor after every defeat, and I believe they have been defeated two or three times upon the yeas and nays—I would ask them to point out any improvement in arms made under the present superintendence.

Mr. BELL. If the Senator will allow me, there was a vote of two thirds of the Senate the day before yesterday for striking out this provision of the House, but after the lapse of twenty-four hours, when the bill was reported to the Senate, and the question was on concurring in the amendment made in Committee of the Whole—when, behold, without any further argument or debate, the vote of the committee was reversed. This great change in the sentiment of the Senate was effected in one night. Therefore, when the Senator says that we have had this question decided over and over again, in favor of a civil superintendence, I say that my recollection is the other way, and that about two thirds of the members of the Senate were against the proposed change, only so late as the day before yesterday.

I do not desire to reply at length to the Senator from Texas, and therefore I shall make but one other remark. I shall not attempt to reply to what he has read from the report of the House committee, nor to what he has said of any responsibility of mine. I want to say though, as a matter of personal justice to myself, that I have seen more of these gentlemen from Harper's Ferry and from Springfield, who want the changes, than I have seen of Army officers.

Mr. RUSK. I do not know of one.

Mr. BELL. I treated them very civilly, and they stated some facts that surprised me, and I said to them frankly, that if those facts were true, I should be in favor of the change myself; but when I came to inquire of others who were friendly to the military superintendency, I found that those facts were disputed, and so I could not feel well assured of the truth of the matters complained of. It was upon the representations of several gentlemen from Springfield and Harper's Ferry, suggesting that I was led into a mistake when I made the change originally, that I came to the conclusion that it was best to have a joint commission of civilians and ordnance officers; and if the facts alleged were true, I made up my mind that I would vote in favor of the change myself; but I told those gentlemen that I thought they were probably laboring under some bias.

In regard to the report made by the committee of the House, I say—without meaning any disrespect to that committee, or to the House, or to any gentleman—that the statement that no advantage has been obtained in cheapness from quality of the arms manufactured now, over those manufactured under the civil superintendency, is totally unfounded in fact. Such is my judgment, from the best lights I could get, and I have taken some pains to inquire into the facts.

Mr. RUSK. Mr. President, I know that this matter has been sustained by two or three votes of the Senate. With regard to the Army officers, or those individuals living around Harper's Ferry and Springfield, I have had but little conversation with either. My vote has been given from my own convictions, formed after a considerable length of experience in the matter. In the first place, I take it that these officers are not mechanics. If they are good mechanics they are not good military men, and ought to give up their commissions. I take it they are not mechanics; and to manufacture arms, of all things, they should be mechanics, and good mechanics.

Sir, I desire the friends of a military superintendence for these armories to point out one important improvement in our arms that has been the result of their management. I want one named. There have been recently several striking improvements. I want the friends of military superintendence to name one striking improvement in the manufacture of fire-arms that has come from that superintendence. They have claimed all that have been made. In some instances I have known about the facts. I know that some years ago, there was a gentleman here by the name of Fisher, a poor man, a mechanic, with a large family. He was employed at the arsenal in this city. He was an ingenious mechanic, and invented a machine for charging percussion caps. It was for a time driven out, and he was not permitted to use it inside of the public works. It was after a time perfected, and he made application for a patent for it. In that, to my certain knowledge, he was resisted by some of the ordnance officers, and it lay a long time without his being able to procure a patent. The Government used the invention, however. I went and examined it. There it was, and they who opposed the patent could not deny the improvement. By this invention, three boys perform the labor which it required twenty-eight men to do before. This was the invention of a poor mechanic in the employ of the United States. His patent was resisted for a long time; but Government used the machine during the Mexican war, and they could not have got along without it. They would have had to purchase, at an expense perhaps of $100,000, caps manufactured in other places than their own arsenals. There was an actual saving of expense to the Government by that single invention of $50,000 or $60,000. Fisher is dead. His widow and children are poor, and I believe they have never received a single dollar from the Government from that day to this.

Mr. PEARCE. I would like to ask the Senator whether either the military or civil superintendent has authority to direct changes in the manufacture of arms by their own motion? Must not either of them receive an order from the head of the Department?

Mr. RUSK. As to that I do not know.

Mr. PEARCE. Then if they have not authority they are not to blame.

Mr. RUSK. Then the whole thing ought to be abolished, if we cannot keep up with the improvements of the age. I have not investigated the law on the subject, and do not know whether they can make improvements or not.

Mr. SHIELDS. That is so. They cannot adopt any improvements in the regulation of the Army.

Mr. RUSK. Then we ought to abolish them altogether.

Mr. SHIELDS. I have said already, and I will not go over this point, that when changes are adopted, there is a necessity for a uniformity throughout the whole Army, so that the arms may be all alike. Otherwise, one man will have

one kind of gun, and another with different sized barrels, &c.

Mr. RUSK. That is an easy thing to remedy. They can make the bore of any size either for a pistol, or a musket, or rifle. That is the easiest thing in the world.

Mr. SHIELDS. I merely state what the Department believes—that it is necessary to have a uniformity.

Mr. RUSK. Now, I know there have been improvements which have been resisted by the head of the Ordnance Bureau.

Mr. SHIELDS. Yes, a great many.

Mr. RUSK. There were improvements which he refused to use until Congress forced him to do it. He then refused to put them in use on the frontier—improvements that had been tested.

Mr. SHIELDS. The honorable Senator knows as well as I do that one half of these improvements are not worth one pinch of snuff.

Mr. RUSK. So I do.

Mr. SHIELDS. And that no man who has any knowledge of arms would risk a platoon with these fanciful, quixotic improvements, but would take the good old-fashioned arms.

Mr. RUSK. Sir, one hundred men, with Colt's and Sharp's rifles, will drive off five hundred with muskets; they can form on less ground, will cost less, and do as much execution as five hundred with the musket. Sharp's rifle was another great improvement which was resisted in the same way. The man who invented it was poor, and his invention was firmly resisted, and has not gone into use to any extent in the Army. All improvements have been resisted. There is an improvement which is being resisted now. It is a primer, by the use of which there is no necessity for expending time to place a percussion cap upon the gun, but the gun primes itself. The United States, I believe, have the authority from the patentee, a gentleman by the name of Maynard, to use it; and yet they do not use it. Its use would save all the time required to put a cap on the gun, and that time, in an Indian fight, is worth considerable; for in the time taken to put a cap on a man's gun, while the Indian is whizzing his arrows at him, may sometimes cost him his scalp. If it be true that these men have made no improvements, and can make no improvements, abolish the whole concern, and buy the arms.

Mr. JAMES. Mr. President, the other day, when this subject was before the Senate, I took no part in the debate, as the Senate well knows, and I do not rise for the purpose of taking any part in the debate now, further than simply to state a few matters of fact. I listened with great pleasure to the speech of the honorable Senator from Texas, [Mr. RUSK,] and also to that of the honorable Senator from Illinois, [Mr. DOUGLAS.] The speech of the honorable Senator from Illinois does him much credit, and is one which will meet a ready response in the hearts of more than five hundred thousand mechanics in this country. But for the speech of the honorable Senator referred to, I should deem it my duty to go fully into the subject. The speech of that Senator I indorse in full, as embodying my own sentiments.

Sir, it has been said here that influences have been brought to bear upon us; but no influence has been brought to bear on me, except the influences of my own heart. Sir, I claim no higher title than that of a mechanic. I have worked with the mechanic at the forge; I have worked with him at the anvil, at the lathe, at the engine, and the work-bench, and in all the departments of his profession, and while I may have a seat on this floor I shall be the advocate for the mechanic. As a class, we owe more to them than to any other class of citizens in our country. Should our country be invaded, they would rally to a man under our flag, and cheerfully submit to all the hardships and dangers incident to military life and rule; but as citizens in private life, in the legitimate occupations and pursuits incident to their mechanical professions, they will not submit to military dictation.

In regard to the cost of the musket, as it is urged in the report, it is well known to the mechanics of this country that the improvements made within the last thirteen years in the tools necessary to make guns, or machinery of any kind, are such as to save one half the manual labor; and therefore all the facts that have been brought here, which I have seen, in regard to the cost of arms previous to 1840, and subsequent to 1840, prove nothing. The question with me is, with all the improvements of the day, up to the present moment, who is best qualified to superintend mechanical operations—the practical mechanic or the military officer? In relation to improvements made at the armories, I have seen none; and in the efficiency of the musket, there has been no improvement for the last half century, excepting the introduction of the percussion lock. But in the American rifle it has been far otherwise. That arm has been left in the hands of individual enterprise, and such has been the improvement in it that it is, to say the least, five times more effective now than it was twenty-five years ago.

Sir, you may select any musket out of the three or four hundred thousand now standing in the Springfield armory, and I say here, that, with my own hands, I will make an improvement on it, that will enable it to discharge more balls in one hour than can now be done with five such by any five soldiers in our service; that I will fire those balls twice as far, or that they will penetrate to twice the depth. These are facts which I know, and which almost every mechanic in New England knows. But I will not detain the Senate longer, for the reasons which I have stated.

Mr. HALE. I would inquire if the motion of the honorable Senator from Massachusetts to amend is divisible—whether we can have a vote upon that part of it which puts the armories under the same superintendence as before?

The PRESIDING OFFICER. As it is a motion to strike out and insert, it is not divisible.

Mr. HALE. Let it not be divisible then. But I desire to claim the ear of the Senate for a moment. I want to suggest to the Senator from Massachusetts that the part of his amendment which relates to the repeal of the law putting the armories under military superintendence, is entirely nugatory, for this reason: Prior to the passage of the act of 1842, the President had the power of appointing a military or civil superintendent of the armories, and had exercised it. There was a civil superintendent appointed prior to the act of 1841; and in April, 1841, the Senator from Tennessee, [Mr. BELL,] then being Secretary of War, appointed a military superintendent over it, who continued until 1842, when the act passed. Now, if you pass this amendment in this way, to repeal it, and provide that the armories shall be under the same superintendence that they were prior to the passage of the act of 1842, what will you do? Why, you destroy both of them. The superintendence immediately preceding that was a military superintendence, and it had been for eighteen months previously to the passage of the act. So, if you require that the superintendence shall be the same as it was before you passed that act, what have you got, then, but a military superintendence; or to make the most favorable statements of it, a right to put either a military man or a civilian there? That is the best that can be claimed for it. But, then, if you repeal the law as it is now, you just put it back exactly to where the Senator from Massachusetts proposes to put it by the amendment; because, prior to the passage of the law of 1842, we had a military superintendent, who had been appointed by General Harrison's Secretary of War, who held office for eighteen months under that law which you propose to restore.

Mr. HOUSTON. Will the Senator give way for a moment, to allow me to give a notice? I gave notice yesterday that at one o'clock to-day I would move to take up the resolutions submitted by the honorable Senator from Michigan in relation to Cuba and colonization; but in consequence of the anxiety expressed by gentlemen, the chairmen of several committees who are anxious and urgent to bring on the public business to-day and try to dispose of it, I will not call them up now, but give notice that at twelve o'clock on Monday I will move to take up those resolutions.

Mr. HALE. Having made that explanation, I do not mean to make a speech; but I want to say that I shall vote for the civil superintendence. It has always been my feeling, my conviction, my expression; and the only hesitancy which I had was this, that it was connected with personal charges against these officers. I understand that to be disclaimed entirely. The thing is put upon its merits, and when it is put upon its merits I am for the civil superintendence. And now I want to give notice—as I find notices are in the fashion—that when the Navy appropriation bill comes up, I shall endeavor to have an amendment framed to put the workshops in our naval yards under civil superintendence. I do not want your blacksmiths there to have epaulettes over them more than at Springfield. I want to be consistent. I want to carry everything out as it ought to be. I do not mean to run it into the ground, but I mean to carry it out, and have a general emancipation of mechanics from military and naval despotism; and I want to abolish white slavery that far, and have the principle operating through all our departments. For these reasons I go for a civil superintendency. But as I said I would not make a speech, I will sit down.

The yeas and nays were ordered; and being taken, resulted—yeas 29, nays 24; as follows:

YEAS—Messrs. Atchison, Badger, Bayard, Bell, Borland, Butler, Charlton, Clarke, Cooper, Davis, Dawson, De Saussure, Fish, Fitzpatrick, Foot, Geyer, Gwin, Jones of Tennessee, Mangum, Miller, Morton, Pearce, Phelps, Sebastian, Shields, Smith, Spruance, Underwood, and Walker—29.

NAYS—Messrs. Adams, Bright, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Hale, Hamlin, Houston, Hunter, James, Jones of Iowa, Mason, Norris, Rusk, Seward, Soulé, Sumner, Toucey, Wade, and Weller—24.

So the amendment was agreed to.

Mr. BRIGHT. I desire to submit an amendment explanatory of one which was adopted yesterday. I presume there will be no objection to it. It is to insert at the end of the provision in regard to the purchase of a site for the western military asylum, the following:

But nothing in the eighteenth section of the act approved August 31, 1852, making appropriations for the support of the Army, shall be construed as directing the purchase of the Blue Lick Springs, or the lands attached thereto, in preference to any other site.

That is merely carrying out what was agreed to yesterday. When I raised the point as to whether any Senator understood the amendment which was made yesterday to direct the purchase of the Blue Lick Springs as a site in preference to any other, every Senator who responded, said, "Certainly not." The amendment merely puts on paper the fact that we do not direct the selection of that in preference to any other.

Mr. JONES, of Tennessee. I hope the Senate will not agree to that amendment. I will not consume time by speaking, but I hope it will be voted down.

Mr. BRIGHT called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 22, nays 30; as follows:

YEAS—Messrs. Bayard, Borland, Bright, Brodhead, Cass, Chase, Dodge of Wisconsin, Douglas, Felch, Hale, Hamlin, Houston, Hunter, Jones of Iowa, Mallory, Mason, Norris, Pettit, Sumner, Toucey, Wade, and Walker—22.

NAYS—Messrs. Adams, Atchison, Badger, Bell, Brooke, Butler, Charlton, Clarke, Cooper, Davis, Dawson, De Saussure, Dodge of Iowa, Fish, Foot, Geyer, Gwin, Jones of Tennessee, Mangum, Miller, Morton, Pearce, Phelps, Rusk, Sebastian, Seward, Smith, Spruance, Underwood, and Weller—30.

So the amendment was rejected.

The amendments to the bill were then ordered to be engrossed, and the bill to be read a third time. It was read a third time and passed.

CIVIL AND DIPLOMATIC BILL.

Mr. HUNTER. I move that the Senate proceed to the consideration of the civil and diplomatic appropriation bill.

Mr. UNDERWOOD. I hope not. I desire to take up Bennett's land bill to-day. If it is not taken up to-day, I am afraid it will not be taken up at all. I do not propose to discuss it. I believe arrangements have been made, after a great deal of consideration, that will be satisfactory perhaps to the Senate and the members of the House; and I propose to offer a substitute for the bill. If the Senate will take it up and let it be voted on, I will not say one word upon it, unless forced into it. I hope it may have precedence, and that the motion of the Senator from Virginia will not prevail.

Mr. HUNTER. I explained to the Senate this morning why it was necessary to take up the civil and diplomatic appropriation bill.

Mr. WALKER. I do not know what the view of the Senator from Kentucky may be about discussing this land bill, but the proposition never can pass the Senate without discussion, and that, too, of the most full and serious character.

Mr. HUNTER. I hope we will not discuss

the question of taking it up. I hope we will be allowed to have the sense of the Senate upon the question.

Mr. UNDERWOOD. If gentlemen are disposed to consume time, the responsibility will be with them. I hope the bill may be taken up and disposed of.

Mr. HUNTER's motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill from the House making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th June, 1854.

Mr. HUNTER. I now make the motion of which I gave notice this morning. I ask that the amendments reported from the Committee on Finance may be taken up and acted upon in gross, and then when they are printed, each Senator will be able on Monday to designate any particular amendment upon which he may desire a separate vote.

Mr. WALKER. If we adopt that course, and let the bill be in that manner amended, what time shall we have to examine the amendments, and determine for ourselves whether we will concur in the action done as in Committee of the Whole? It seems to me we had better take this day on the civil and diplomatic bill, hear the amendments of the Committee on Finance, pass upon them, and let the bill be printed for Monday, in the condition which we leave it, or if there be no serious objection, act upon it.

The PRESIDING OFFICER. The Chair would suggest to the Senator from Virginia, that the best mode of avoiding the consumption of time would be that by common consent the bill should be reported to the Senate immediately. It will then be open to amendments and the amendments can be submitted and ordered to be printed. By that means the Senate will get rid of going through the amendments twice.

Mr. GWIN. The amendments reported from the Committee on Finance were agreed upon unanimously. Every disputed question has been reserved, in order that it should be brought forward hereafter. The object is to have the amendments which have been reported acted upon today as in Committee of the Whole, and then have the bill reported to the Senate, when it will still be open to amendment. Those amendments could be printed, and they would be brought up again on Monday in the Senate, when those which are likely to be disputed would also come up.

Mr. HUNTER. The plan proposed by the Chair will suit me—to let the bill be reported to the Senate at once, if Senators are willing.

Mr. BRODHEAD. Before we agree to that, I desire to propound an inquiry to the honorable chairman of the Committee on Finance. I want to know whether the Committee on Finance have reported an amendment to this bill changing the tariff of 1846, and giving certain privileges to railroad companies, and taking the duty off railroad iron?

Mr. GWIN. No; but we will. I notify the Senator that he will get it.

The PRESIDING OFFICER. The Chair will then report the bill to the Senate, if there be no amendment proposed.

Mr. BUTLER. I object to that mode of acting. The only securities against dangerous legislation are these vetoes of form.

No amendment being proposed, the bill was reported to the Senate, and amendments were then offered from the Committee on Finance.

The first amendment reported from the Committee on Finance was in the clause "for miscellaneous items," in the expenses of the Senate, "$10,000," to strike out "$10,000," and insert "$20,000."

Mr. HUNTER. That is to restore it to the estimate which was cut down in the House.

The amendment was agreed to.

The next amendment of the committee was in the clause for the compensation of the Secretary of the Treasury and Assistant Secretary of the Treasury, clerks, messenger, and assistant messenger, in his office, $32,050," to strike out "$32,050," and insert "$33,750."

Mr. HUNTER. That is to make the item correspond with the estimate. It was cut down in the House without any reason that the Committee on Finance could see.

The amendment was agreed to.

The next amendment of the committee was in the clause "For compensation of the Fifth Auditor," (of the Treasury,) "and the clerks and messenger in his office, $11,400," to strike out "$11,400," and insert "13,550," to restore the estimate.

The amendment was agreed to.

The next amendment of the committee was to insert after the foregoing clause the following:

For an additional clerk in the office of the Fifth Auditor, $1,000.

The amendment was agreed to.

The next amendment of the committee was to strike out of the bill:

"For compensation of the clerks of the Light-House Board, $5,900;"

And insert in lieu thereof:

For compensation of the clerks and messenger of the Light-House Board, $6,400.

Mr. HUNTER. That restores the estimate for the messenger, which was cut off by the House.

The amendment was agreed to.

The next amendment of the committee was in the clause "For labor, blank-books, sealing ships' registers, translating foreign languages, advertising and extra clerk hire," &c., under the head of contingent expenses of the Treasury Department, by inserting after the word "languages" the words "transmission of Mediterranean passports and sea letters, carrying the Department mails," and raising the appropriation from $8,550 to $8,950.

The amendment was agreed to.

The next amendment of the committee was in the clause "For labor and other miscellaneous 'items, and for additional cases for filing the ac-'counts of the First and Fifth Auditors, and the 'Commissioner of the General Land Office, '$1,000," to strike out "$1,000," and insert '$2,000."

The amendment was agreed to.

The next amendment of the committee was to strike out of the bill the following:

"*Provided*, That neither the office of the Secretary of the Interior, nor any bureau thereof other than the Patent Office, shall be located in the Patent Office Building until directed by law."

Mr. HUNTER. That is a proposition to strike out the proviso that prevents the Secretary of the Interior from using the Patent Office Building.

Mr. WALKER. It is precisely such a proposition as I hope will not be adopted. It will be recollected that for two or three sessions back, I have remonstrated against the use of the Patent Office fund in the construction of buildings for other Departments of the Government. This use has been the subject of complaint upon the part of the largest class in the country; but a class, while it outnumbers all others, which cannot make as much noise and complaint as others, for it has not the public press at command, or the ability to employ agents to wait upon Congress to enlighten them in regard to their duties. That fund was created out of the fees and emoluments arising to the Patent Office, in the granting of patents, &c. Now, it has been appropriated to the extension of the Patent Office Building, and after it has been thus used, and the Patent Office has been extended, it is proposed to locate therein another Department of the Government. I think it is wrong. The old Patent Office has never been used for the purpose for which it was constructed. A great number of models, particularly rejected ones, are lying thrown together in heaps, broken, and cannot be seen, in the basement story, while a museum, or national cabinet of curiosities, occupies the only exhibition room in the old Patent Office. That is the room in which it was designed that the models should be exhibited; it has never been used for that purpose, but it has been used more for the purpose of amusement to the public. I made an effort to get the cabinet of curiosities removed to the Smithsonian Institution, where it seems they properly belong, according to law; but the proposition was defeated, and they are to be continued in the old Patent Office, while the patent fund has been expended to create more room for the purposes of the Patent Office; and it is now even proposed that it shall not have that room, but that the Department of the Interior shall occupy it. It is useless to go on in this way. You are not diminishing your rents a particle. You are paying, year after year, rent upon twice as much capital as it would take to erect a proper building for the Department of the Interior; but you will not erect one, and you are going on now to locate the Department of the Interior in the Patent Office, and leave all the difficulties heretofore existing in regard to the Patent Office still to exist. When will you have an exhibition room in the Patent Office for models? Go and try to get a model there now, and you will find the half of them—and nearly all of the rejected ones—broken. They are thrown together in a promiscuous heap and piled in the basement; and so it must continue, unless you adopt the provision incorporated in the bill by the House. That provision is of this character:

"That neither the office of the Secretary of the Interior, nor any bureau thereof, other than the Patent Office, shall be located in the Patent Office Building until directed by law."

That, in my opinion, is what ought to be done. No other bureau than the Patent Office should be located there. The fund has gone to construct it for that purpose. The country is interested in it; the inventors, mechanics, and all persons who wish to examine the models, are interested in it; they want to see them; they cannot do it now. I hope the provision will be retained, and that the Senate will vote down the proposition of the Committee on Finance.

Mr. HUNTER. If the Senate votes down the proposition of the Committee on Finance, the result will be, that the Government will be forced to rent rooms for public offices when they have rooms of their own vacant. These wings have been erected under contributions from the Treasury of the United States. They have cost far more than anything which was contributed from the Patent Office; and one of the arguments used—and upon which we voted to have them built—was that it was politic to put up buildings of our own, rather than to hire imperfect, unsuitable buildings from private individuals. It seems to me, therefore, eminently proper that we should strike out this clause, for unless we do, we shall have to buy buildings or rent them from private individuals.

Mr. WALKER. It is claimed by the chairman of the Committee on Finance, that unless we strike out this provision, and give the Government the room for the purpose which is named, we shall have vacant room, not used for any purpose. Now, let me ask that Senator if he has ever entered into a computation of the extent of room which would be required to exhibit each individual model as it ought to be exhibited, and as its design demands that it should be exhibited? If he has not, I have. I wish I had the tables here, which I have in my possession, which were made out by a gentleman who was most competent to investigate the matter, and make the computation. Those tables show that in the whole eastern wing of the Patent Office Building, there will not be room enough to exhibit the models which there are in the building now, and that even when the west wing is completed, there will be scarcely room enough for the whole of the models, together with the rooms now used for exhibition. This is a fact. It is a demonstrable fact. The whole number of models was taken into the estimate, and the amount of room which each would require, to be appropriately exhibited, and the result of the calculation showed that the east wing, together with the exhibition room in the old part of the Patent Office, in which the cabinet of curiosities is now placed, would be insufficient. But we are not to have the cabinet room. That is excluded from the estimate, because it is devoted to the cabinet of curiosities, and the computation shows that if the curiosities remain where they are, we shall require all the room in the east wing and in the west wing also, in order to exhibit the modals which have been already projected.

There is no danger that there will be any excess of room. It is all wanted now. I wish some gentleman here would go to the Patent Office and try to find a particular model. I undertook to find one, at the request of one of my constituents, and I learned that it would take at least four days' work of a man diligently employed to handle over the models in the room where it was to be looked for, and that very likely even then it would not be seen. I abandoned the search, and had to give up the idea of getting the information which I wanted to send to my constituent, who had written to me

for it. There are hundreds of men who think they have made good and useful inventions, and they are falling back into despair when they cannot find the models already out. I repeat that the east wing will not only not furnish too much room, but when the west wing is completed, there will be none too much, if the cabinet of curiosities is to remain in the exhibition room of the old building.

Mr. HUNTER. I apprehend there will be no difficulty in exhibiting the models. They may take up as much room as they please. But there is ample space in the exhibition room, I apprehend.

Mr. WALKER. There is not.

Mr. HUNTER. Is there not one hall in the Patent Office for exhibition, and is there not a corresponding one in the wing? And there are a great many rooms in the building besides the exhibition room. I hope the question will be taken.

Mr. DAVIS. I would ask the chairman of the committee whether it is proposed to make any other use of this building than is appropriate for the purposes of the Patent Office?

Mr. HUNTER. It is proposed that until the Patent Office requires the rooms, as there is more room than is needed now, it may be used for other Government purposes. The Secretary of the Interior desires it for a portion of his clerks, and if there is room there for the purpose, it will save the money of the Government to do it, and it seems to me it would be eminently proper.

Mr. DAVIS. I am opposed to any such use as that, for reasons which I will express in a very few words. This building is erected for the purpose of a Patent Office. Its model and construction is adapted to the particular uses of that office. In the first place, you will have to mar the building in order to introduce a parcel of clerks from another Department. These rooms are designed to be open halls. They are fitted and adapted to the purpose for which the building was made, and I would regret more than I can express to see a building so beautiful as that marred and cut to pieces, in order to be divided into rooms for the accommodation of clerks. I am opposed to it altogether. I quite agree with the Senator from Wisconsin——

Mr. HUNTER. Does the gentleman suppose this proposition would interfere with the plan of the Patent Office? The original plan is continued. They have a large exhibition room in each of the wings. It is not proposed to cut that up. But there are other rooms.

Mr. DAVIS. There may be other rooms. I am not possessed of all the facts with regard to that. But as this establishment is one of itself, disconnected in a great measure with other matters, and as it is an establishment of a peculiar character, and of very great interest to the public, I prefer to keep it by itself. And I doubt very much whether you can introduce any considerable number of clerks without interfering with the general arrangement of the building. But, without detaining the Senate, I will express the hope that this amendment will not be adopted, and that the bill will remain as it is in that portion of it.

Mr. JAMES. If the honorable Senator from Virginia will so amend his amendment as to give first to the Commissioner of Patents all the room that he may require, I say that the balance, if any, may go the use of the Interior Department. To this I have no objection. But unless that is done, I shall oppose it; because there are now in the basement of the Patent Office Building some nine thousand models, made by the mechanics of this country, who have paid their thirty dollars each, besides other expenses for examination, with a view to obtaining patents, and these models now lie there rotting, and being crushed by their own weight. If the honorable Senator will change his amendment in the manner I have proposed, I will not oppose it.

Mr. DAVIS. I will suggest that if these clerks once get in there, the Senator will not get them out during his residence here.

Mr. JAMES. If the Commissioner has a right to take all the room he wants, they will not get in there, for he wants all the room, and more too.

Mr. CLARKE. I feel that it is necessary for me to state somewhat my recollections in regard to the discussions that have taken place here, and the action of the Senate in relation to this Patent Office Building. I think it was three years ago when a proposition was made to build the wings of the Patent Office. A gentleman who is well remembered by you, sir, by me, and by every gentleman in the Chamber, who has been as long here as you and I, took a great deal of pains to ascertain whether an extension of the Patent Office was really necessary. He came to the conclusion that no addition was necessary; that there was sufficient room in the Patent Office Building as it was then, for all the models and all the curiosities of natural science that had been collected there. But it was thought proper to make an appropriation for building the east wing, and at that time it was urged that whatever room might not be necessary for the Patent Office would be advantageous to other branches of the Government, particularly to the office of the Secretary of the Interior. There was then said to be about $225,000 that had been collected and gathered from patent rights. It was appropriated towards the building of the eastern wing. It has gone on. The Congress of the United States has from time to time made appropriations amounting to at least $600,000 over and above the $225,000.

But it proves that the east wing is necessary to a certain extent for the uses of the Patent Office. At the last session an appropriation of $150,000 was made for continuing the erection of the west wing, and that was done with the distinct understanding that that wing was wanted for the Department of the Interior. If the western wing is to be erected at an expense of probably $800,000 or perhaps $1,000,000, in addition to the eastern wing, and all is to be appropriated to the uses of the Patent Office, when three or four years ago the Patent Office wanted no addition, what are we doing? It appears to me we are absolutely piling up marble upon marble, rooms upon rooms, for a Department of the Government that requires no extension whatever. The proposition now is, as I understand, to permit a certain portion of it to be used for other purposes of the Government. Then, again, you are going on to provide for the western wing, and what are you to do with it? Something is said about the large collection of models. We know that there is a large collection of models everywhere. When human ingenuity begins its attempts to embody its suggestions, it will produce a large number of models, but much the larger proportion of them are of no use, and are as well put away in the basement of the building as anywhere else. For myself, I believe that the old building is sufficient for all that is valuable in the present Patent Office. The new building may be used for other, perhaps similar purposes, if it is necessary it should be. It has been built. The western wing is now to be built. What are you to do with it? The present exhibition room is two hundred and seventy feet long and seventy wide. That will hold all that has been collected there for the last ten years, which it is desirable to have exhibited to the public. In addition to that, in order to carry out the original plan of the Patent Office, you have to build on the northern side precisely such a building as there is on the southern. That is the original plan, as the Senate will recollect. The four sides are to be constructed. Is all that to be used by the Patent Office? Will any gentleman say that, in your day or mine, or that of the youngest child there is here, the Patent Office will require all the four sides of that square? No, sir. It is never to be thought of.

You are now paying $20,000 a year for the rent of a building for the public offices, when they might all be accommodated in that western wing when it is built, and at this moment one half of those who occupy a hired building in this city might be accommodated in the eastern wing. I have felt bound to state these circumstances, because they are within my knowledge, and they were a matter of discussion, particularly between a former Senator from New York (Mr. Dickinson) and myself. I feel it necessary to state them to show that the amendment should be agreed to.

Mr. WALKER. The Senator will see, by looking at the entire proposition, that his remarks are inapplicable. He asks what objection there is to some other Department or bureau occupying the west wing of the Patent Office when it shall be completed? That is not the proposition before us. The whole provision is this:

"Contingent expenses of east wing of the Patent Office Building, viz: For labor, fuel, lights, and incidental expenses, $2,200."

It is in that provision, in regard to the east wing, that this inhibition is contained, which comes from the House of Representatives:

"*Provided*, That neither the office of the Secretary of the Interior, nor any bureau thereof, other than the Patent Office, shall be located in the Patent Office Building until directed by law."

We know that no part of the west wing has been built so that it can be occupied, according to that provision. There will be plenty of time to speak of the west wing when that is completed. One other remark. At the time the appropriation was made at the last session, for the west wing, it was argued that it was necessary to put it up to a certain height so that it would be out of danger, and if I remember right, a clause in the civil and diplomatic appropriation bill of the last session contains a provision in these terms, that it shall be built to a certain height, so as to be out of danger.

Then we have the plan of completing the west wing; and I repeat what I said before, that the present front building, together with the east wing, is not more than sufficient for Patent Office purposes; and when the west wing shall be constructed, and much more when the north front shall be constructed, it will be time enough to take into consideration whether there will be any more room than is necessary. But for the present I hope Congress will refuse to let any Departments of the Government locate themselves in the building. They can only do so by adopting the measure as it comes from the House of Representatives.

Mr. CLARKE. The honorable Senator from Wisconsin is mistaken. I am not so much in fault as he. I was not speaking of the application of this provision to the western wing, because the western wing is not erected. And it is my opinion that one half the western wing will not be necessary for any purpose required by the Patent Office. I understand that the proposition is to allow the Secretary of the Interior to use any portion of the Patent Office which is not wanted for the purposes of the Patent Office. The Department of the Interior propose to remove there. The western wing is being built; and, not being desired for the use of the Patent Office, it is to be built for the location of the Department of the Interior, if it is necessary. The northern front is to be added to it. Now, if there are any vacant rooms which are left, they are destined for the use of the Department of the Interior. I do not see the necessity for all the room there will be in the building for the uses of the Patent Office. That is all the difference that there is between the Senator and myself. I am for allowing the present rooms, which are not wanted for the Patent Office, to be used by the Department of the Interior; and if I were here when the western wing should be completed, I would be in favor of using it entirely for that purpose.

Mr. HUNTER. Since this debate has commenced, I have been informed by one who knows the facts in the case, that there are twenty-eight rooms in the east wing of the Patent Office. There is one large exhibition room besides, as I said, two hundred and seventy feet long and seventy feet wide, which will, when it is finished, contain all the useful models now in the Patent Office. The room is now occupied by the Metropolitan Mechanics' Institute, and will be vacant and finished by the first of June. There is room enough in that large hall for the exhibition of the models, and the other twenty-eight rooms we might leave at the disposition of the Secretary of the Interior. By this restriction, the House of Representatives seems to suppose that the Secretary of the Interior will not do justice. It interposes between him and one of the bureaus of his own Department. Unless, indeed, it be contemplated, as I almost suspect, to erect this Patent Office Bureau into a separate department of the Government, I cannot conceive why they are not willing to leave it under the Department of the Interior, where it now belongs.

Mr. CASS. I cannot possibly see any objection to putting this building at the disposition of the head of the Department. He must be the best judge of what is wanting. We do not know. If there is more room wanted, the head of the De-

partment is the proper person to judge of that, and will doubtless do what ought to be done.

Mr. WALKER. That comes with a good deal of force. I expressed no opinion about what the incoming Secretary of the Interior will do. I believe whoever he may be, he will do right. I am justified in presuming that, for to presume the contrary would be to accuse him, whoever he may be, and not knowing who he is, with doing wrong before it is shown. But this much I will say: that what is said by the Senator from Michigan is disproved by the facts as they have appeared to the American public. The Secretary of the Interior has not done justice to the class of whom I was speaking. He has tumbled, or suffered to be kept tumbled, in the basement story of the building, mouldering and rotting, broken and trampled under foot, the models. He has done it culpably, if at the same time there was any room into which he could have put them for the benefit of the public. I am not going to presume against facts that the Secretary of the Interior knows better than we do what ought to be done. I say if he knows it, and refuses to do right, it demands the coercive power of Congress over him. It is folly to tell me that the Secretary of the Interior knows what is right, when I know that whether he knows it or not, he will not do it. We know that it has been argued in Congress that he is determined to thrust the Department of the Interior into that building. Then does he know better than I do? Have I not gone there to look for models, and have I not found them broken, and have I not been compelled to trample on them? Are the models to be left in that way? If he does not know more than that, he does not know his duty. A class of people are appealing to us, not through the press, but in strong and pathetic terms, to take care of their interest. It is the laboring class—the mechanics, the inventors. We have heard a great deal of sympathy expressed here this morning for them in a matter in which they were not interested, but when we touch their real interest, they have to give way to the Department of the Interior, and its clerks. Its hirelings must be turned upon them, and their interest must be kept back. The Secretary of the Interior, I repeat, has either not known his duty, or knowing it he would not execute it; or if knowing it, he was willing to execute it, he has not had the power, because he has not had the room, and now when he is about to have the room, we are to take it from the purpose for which it was designed. I am not going to yield to this appeal to us to give up everything to the Secretary of the Interior when I have this example before me.

Mr. CASS. I have no feeling about this matter. I know nothing about it. All I want is, that a great public principle should not be forsaken. The Commissioner of Patents is just as likely to do wrong as the Secretary of the Interior. But the Secretary of the Interior acts under the direction of the President: and with respect to whether there is any improper conduct in this or not, I say I know nothing about it. I reckon that the Secretary is a gentleman who acts honorably. But it will not do for the Senator to take that ground. If he has done wrong, impeach him; but that is no reason why we should not trust this matter to the Executive Department. I will not dispute the point for which the Senator contends; he has greatly the advantage of me, for I know nothing about it. I do not think I have been in the building once this year, and not more than three times last year. Therefore it is that I want to refer this matter to a disinterested man, who, from his position, his character, his responsibility to the public, will have to act, and to act justly. If he does not, impeach him; that is all. It is not the way to say that we will not give any power because it may be abused.

Mr. JAMES. I only desire that the mechanics shall have what room they absolutely require. Perhaps Senators do not know that inventors are now paying into the Patent Office something like $85,000 per annum. The inventors pay for all expenses of the Government, as other citizens do, and when they come to this city to perform certain duties, instead of going to a certain Department or Bureau, like that of the War or the Navy, and having clerks to copy what they want and having all they ask free of charge, they are called upon to pay a fee of $30 to commence with, and certain contingent expenses afterwards. And, as I observed, they pay $85,000 per annum into that Department. All I ask of the Senate is, that you will give to these men the room that is absolutely and indispensably necessary.

Mr. DAWSON. I desire to say one word merely to my friend from Wisconsin. It has become very habitual with him, for the last two or three days, to become excited in speaking, and we might be led to believe, from his manner, that he was in anger with some public officer. He has announced to the country, and it will go out, and it will generally be believed, that the Secretary of the Interior has failed to discharge his duty in relation to the Patent Office. I do not believe that he meant to say that. He said he had not known his duty, or had wilfully failed to do it. Now, I know something about the manner in which the Patent Office is managed, and I do not believe any remark of that sort is justified. I never have heard of any charge being made against the Secretary from the Patent Office. Everything in that building has been as well taken care of as it could be, considering the state and condition of the building. The building is not yet completed. Neither the Secretary of the Interior nor the Commissioner of Patents has failed to discharge his duty; and yet the impression made this morning is, that there is something wonderfully wrong there—that the interests of the country are suffering because the officers have failed to do their duty.

Mr. WALKER. Will the Senator permit me to interrupt him? I was replying to the honorable Senator from Michigan, [Mr. CASS.] As to making any charge, I was not doing anything of the kind. I was saying, that if he had room, and failed to use it, he did wrong; and I said it was useless for the Senator from Michigan to tell me that such was not the fact. In conclusion, I said he was wrong, if there was room in the building for the models to be preserved, and he had neglected to use it; but that if he had not had the room, he could not do it. I made no charge whatever against the Secretary of the Interior, for I know as well as the Senator from Georgia that he has not had the room he needed, and now it is proposed he shall not have it; that is, it is proposed that the Department of the Interior shall go into the Patent Office, and the Commissioner of Patents shall not have it. One word more: We know this, that the Department of the Interior, or somebody else, has done what seemed to be wrong to the patentees of the country and their building. We have kept a cabinet of curiosities in what was designed to be a place where the models of inventions could be safely deposited, and easily found and examined, while their models are turned into the basement to be trampled upon.

Mr. DAWSON. I am much gratified at the explanation of the Senator. Hence, it is not necessary to say one word since there was no charge made against the Commissioner or the Secretary of the Interior, and none was intended.

Mr. JAMES. I did not mean to reflect upon the Secretary of the Interior at all; for I am perfectly well aware that neither the Commissioner of Patents nor the Secretary of the Interior could go to the extent of the duty which we owe to the patentees without further room.

Mr. WALKER called for the yeas and nays on the amendment; and they were ordered.

Mr. BORLAND. I cannot say that I understand very clearly what is the point in dispute.

The PRESIDING OFFICER. The Chair would state to the honorable Senator, that there is a proviso in the bill, as sent from the House, that, until directed by law, the Secretary of the Interior shall not use the Patent Office for any other purpose than the accommodation of the Patent Bureau. The pending amendment of the Committee on Finance is to strike out that proviso.

Mr. BORLAND. Then, if I understand it, the proposition, as it came to us from the House of Representatives, is to direct in what manner the Secretary of the Interior shall occupy the buildings with the officers at his disposal. The Patent Office, as well as the various bureaus of the Department of the Interior, are under his direction; and the Patent Office Buildings, as well as the other buildings repted or owned by the Government under his Department, should be within his direction. Then, if we are to have a Secretary of the Interior who knows his duty, and will do it, I cannot see why we should restrict him by law in the use of the room which may be found in the Patent Office Building, any more than any other building which may be occupied by any of the officers connected with his Department. It is a matter which should be left to his discretion. The Patent Bureau is under his direction, and the Patent Office should be subject to his care and direction. It seems to me that he is as much bound to take proper care of that, as of any other bureau in the Department; I cannot, therefore, see the necessity for imposing this restriction upon him.

I agree fully with the Senator from Wisconsin in all he has said in regard to the Patent Office. I think it has been somewhat neglected heretofore, and I have had occasion to complain of the occupation of what seems to be much the largest portion of that office with a cabinet of curiosities, as bugs, reptiles, etc., in which no one takes any interest, but which were placed there to gratify the curiosity of visitors to the city, who might choose to go there and spend an idle hour. That cabinet may all be very well in itself, but it was not sufficiently valuable for the Smithsonian Institution—an institution which exists here for the increase and diffusion of knowledge among men—to which it was given, to give it house-room. When it was offered to them, they absolutely refused to take it; and yet we find that the largest portion of the Patent Office is occupied with it, and in consequence of that occupation, the models which illustrate the mechanical genius of our country are thrust down into the basement—the damp and mouldering vaults of the building occupied by the Patent Office, for vaults they are, dark and damp, and ruinous to whatever may be put in them. The upper portion of the building, which is light and airy, and well adapted for the display of the models, is filled with bugs and lizards for the gratification of the visitors to Washington city, and those who have nothing else to do but to lounge in a handsome room and look at something of bright and beautiful colors. Now, I think that a Secretary of the Interior who understands his duty, and will faithfully execute it, as I have no doubt the incoming Secretary will, should have full discretion. I am unwilling in any way to restrict his authority over the whole Department, and I expect that he will make such use of the bureaus as will do justice to all.

Mr. HALE. I want to know one fact before I vote. A number of gentlemen have expressed a great deal of confidence that the incoming Secretary of the Interior will be a very good man to do the business. I want to know who he will be. [Laughter.]

The question being taken by yeas and nays upon the amendment, resulted—yeas 24, nays 22; as follows:

YEAS—Messrs. Adams, Bell, Borland, Brooke, Butler, Cass, Clarke, Dawson, De Saussure, Fish, Fitzpatrick, Geyer, Gwin, Hale, Houston, Hunter, Mangum, Mason, Miller, Pettit, Rusk, Soulé, Spruance, Toucey, and Weller—24.

NAYS—Messrs. Badger, Bradbury, Brodhead, Charlton, Chase, Davis, Dodge of Iowa, Douglas, Felch, Foot, James, Morton, Norris, Phelps, Pratt, Sebastian, Seward, Smith, Sumner, Underwood, Wade, and Walker—22.

The amendment was agreed to.

The next amendment of the committee was to increase the appropriation for "blank books, binding, stationery, and labor," from $750 to $1,250.

Mr. HUNTER. That is to restore the item to the estimate.

The amendment was agreed to.

The next amendment, which was to reduce the appropriation for miscellaneous items of contingent expenses of the Northwest Executive Building from $1,000 to $600, was agreed to.

The next amendment was to amend the clause making an appropriation for salaries of the officers of the Mint at Philadelphia, by authorizing the employment of six instead of three clerks, and to increase the appropriation from $21,000 to $22,220.

The amendment was agreed to.

The next amendment was to increase the appropriation for wages of workmen at the Mint at Philadelphia from $24,000 to $72,000.

Mr. HUNTER. We have proposed to increase these items of appropriation for the Mint because, since the passage of the silver coinage bill, the system has been changed. The profits of the coinage are now required to be paid directly into the Treasury; and we have to estimate what was formerly paid out for these items.

The amendment was agreed to.

The next amendment was to increase the appropriation for "incidental and contingent expenses" of the Mint from $1,500 to $41,500, and to add:

"And it shall be the duty of the Superintendent of the Mint to cause to be paid annually into the Treasury of the United States the profits of the Mint, and to present a quarterly account of the expenditures of the Mint to the Secretary of the Treasury."

The amendment was agreed to.

The next amendment was to insert at the end of the appropriations for "government in the Territories," the following:

"To enable the President to cause a site to be purchased, and a suitable building to be erected, for a penitentiary, in each of the Territories of Utah and New Mexico, $20,000: *Provided*, That the entire cost of the site and the completion of said buildings shall not exceed the sum hereby appropriated."

The amendment was agreed to.

The next amendment was to strike out the following clause:

"For additions to the territorial libraries of Oregon, Minnesota, New Mexico, and Utah, $500 each; said sums to be expended under the direction of the Governors of said Territories."

Mr. HUNTER. There was an appropriation of $5,000 for each Territory for this object last year, and the committee thought that enough.

The amendment was agreed to.

The next amendment was to reduce the appropriation for the salaries of judges in the District of Columbia from $11,700 to $11,200.

Mr. HUNTER. The estimate was for $11,200. We did not see why the House added $500. We supposed that the intention was to increase the salary of one of the judges; we did not know which. It does not appropriate it to him, and therefore he would not get it.

The PRESIDING OFFICER. A bill has been passed by both Houses at this session, increasing the salary of one of the judges in this District $500.

Mr. HUNTER. Then the amendment of the committee ought to be voted down.

The amendment was rejected.

Mr. HUNTER. I understand that there are two verbal mistakes in that clause. It speaks of "the chief justice" and "associate judges" of this District. It should be "chief judge and assistant judges."

The PRESIDING OFFICER. That correction will be made.

The next amendment was to increase the appropriation for clerks in the offices of the surveyors general, from $33,000 to $40,000.

Mr. HUNTER. That is according to estimate.

The amendment was agreed to.

The next amendment was to increase the appropriation for supplies and materials, and incidental expenses of the light-house establishment on the coasts of California and Oregon, from $25,085 to $29,035.

The amendment was agreed to.

The next amendment was to amend the provision for the payment of the salaries of keepers and assistant keepers, so as to allow them an average salary of $800 instead of $600; and to increase the appropriation from $14,400 to $19,200.

The amendment was agreed to.

The next amendment was to insert the following:

"For the compensation of an additional appraiser general, to be employed on the Pacific coast, $6,000."

Mr. HUNTER. The appointment of an additional appraiser general was very strongly urged upon the committee by the Secretary of the Treasury, in order to detect and correct frauds upon the revenue in California. It is important that there should be one such officer on the Pacific coast. There are now but four; and it takes all their time on the Atlantic side. The proposition, therefore, is to establish an additional appraiser general for the Pacific coast.

The amendment was agreed to.

The next amendment was to insert under the head "Survey of the Coast," the following:

"For publishing observations made in the progress of the survey of the coast of the United States, per act of March 3, 1843, $20,000."

The amendment was agreed to.

The next amendment was to insert under the head of "Custom-houses," the following:

"For the purchase of a site and the erection of a custom-house at Galveston, Texas, $50,000: *Provided*, That the plan of the building shall be such that the whole cost both of the building and the site shall in no event exceed the appropriation hereby made."

Mr. HUNTER. There is an estimate from the Secretary of the Treasury for this custom-house. He says there is none in Texas, and that there ought to be one at Galveston.

The amendment was agreed to.

The next amendment was to insert:

"For purchase of land additional to the present custom-house at Providence, Rhode Island, $16,000. And for the erection of a new custom-house at said port, which shall be so constructed and arranged as to furnish a suitable room for the United States circuit and district courts, with the necessary offices for district judge, clerk, marshal, &c., $34,000: *Provided*, That the entire cost of such additional site and building shall in no event exceed the sum hereby appropriated."

The amendment was agreed to.

The next amendment was to strike out the following items:

"For continuing the construction of the custom-house at St. Louis, $115,000.

"For proceeding with the construction of the custom-house at Louisville, Kentucky, $87,745.

"For the completion of the custom-house at Cincinnati, $87,745."

Mr. HUNTER. These custom-houses were originally authorized by law with a limit on the appropriation. A similar limit was imposed upon many other custom-houses in the United States, and persons are coming forward now with petitions to have that limit removed. In the House, exceptions were made with regard to these three custom-houses; but the Committee on Finance determined that they would strike out these items, so as to adhere to the limit. If, however, the Senate should not concur with the committee in that view of the subject, we shall have to present appropriations for other custom-houses which ought to be put on the same footing.

Mr. GEYER. It is very true that in all the western custom-houses, a limitation was put on their cost, but none was imposed on the custom-houses on the Atlantic coast. My information with respect to one of these custom-houses—that at St. Louis—is this: A lot has been purchased, and an appropriation was made last year, in addition to the original appropriation, to pay for that lot. The Secretary of the Treasury authorized proposals to be received for the construction of the building. He adopted a plan which contemplated that the structure should be fire-proof. Proposals were made for the different portions of the building, and the lowest of them, taken in the aggregate, was something like $200,000. The question that is now presented is, whether the building shall be stopped entirely, or whether there shall be a structure there adapted to the purposes for which it was intended. The building must be fire-proof. It is designed to accommodate all the offices of the United States in that city; among them is the post office, the recorder's office, the surveyor general's office, which is the depository of the title papers transferred from the Spanish Government, and the official surveys and returns made under the authority of the United States. Besides these offices, the courts of the United States are to be accommodated in this building, as well as the custom-house. A lot of very considerable dimensions has been purchased, plans have been submitted, and proposals have come in. It is ascertained that the appropriation is not half enough to erect the building. I repeat, that the question which the Senate has now to decide is, whether they will have a structure erected at all or not, or whether they will compel the Secretary of the Treasury to erect a building which would be less secure than the private buildings in which those offices are now situated. At the great fire in 1849, the public records in the land office, in the surveyor general's office, and the post office, at St. Louis, were exposed to imminent peril; and but for an accidental lulling in the wind, and a slight change in its course, all that portion of the city would have been destroyed. While the private fire-proof buildings stood the fire, and arrested its progress in one part of the city, there were in that direction many combustible buildings, and these papers would have been entirely destroyed, but for the accidental lulling of the wind to which I have alluded.

Now, I submit to the Senate whether it is becoming in this Government to depend upon private individuals and upon the States to furnish buildings for the accommodation of its officers? I have thought for many years that Congress was neglecting its duty in not providing buildings wherever there were public offices and buildings of the United States in which were records, which should be protected against destruction. I do not know what is the condition of the custom-houses elsewhere, but I do know that a building, such as is contemplated by the plans, is necessary for the protection and security of the public archives in the city of St. Louis.

Mr. HUNTER. Mr. President, the Senate will perceive the reasons which governed the Committee on Finance. Unless we adhere to these limitations on which the appropriations for the custom-houses are originally obtained, it is useless to put them in at all. We see that there is a very bad practice growing up under the Government. We commence with small appropriations, and finally they result in magnificent and expensive structures. The result will be that if we go on building these costly custom-houses, not only at all the sea-ports, but in all the interior towns, we shall soon have such an amount invested in public buildings that the interest upon it would be revenue enough for an ordinary government. If the people at these places would be content with plain and substantial structures for the accommodation of the officers of the United States, there would be no difficulty in granting some of the applications made; but as we are now going on, this item of custom-houses is destined to be a source of extravagant expenditure. It is, however, for the Senate to determine the question. If they should determine to remove the limitation, I give notice that I shall feel bound to bring up two similar applications from my own State, where they desire to have this limitation removed; and there were other places before the committee in which the same thing would be as appropriate as here.

Mr. BRODHEAD. I would like to inquire how much of the original appropriation remains unexpended?

Mr. HUNTER. I do not know how much remains unexpended; but in the appropriation bill of 1852, we made the following provision:

"For the completion of the custom-house at Louisville, Kentucky, the additional sum of $16,000.

"For the completion of the custom-house at Cincinnati, $50,000.

"For the completion of the custom-house and other public offices connected therewith, at Pittsburg, $35,000.

"For the completion of the fire proof building in the city of St. Louis, Missouri, for a custom-house and independent treasury building, and other offices of the United States, $37,000."

We commenced with the restrictions that the appropriations were to cover all the expenses of the sites and buildings. It was then proposed by the Secretary of the Treasury, in answer to petitions to that effect, that we should set aside the limitation, so far as the sites were concerned, and appropriate an additional sum sufficient to cover the cost of the sites. We did that; and it was designed to close up these appropriations; that was going beyond the original limitation for the building, and adding the price of the site. We supposed that that was to end it; but the proposition now is, to increase these appropriations, and to abandon the limitation.

Mr. GEYER called for the yeas and nays on the amendment, and they were ordered.

Mr. GEYER. It is true, as I remarked before, that a limitation was imposed on the construction of these custom-houses in the West. I think it ought not to have been imposed. The building at St. Louis, and I believe the buildings in some of the other cities named, were to accommodate a number of officers. I will mention now what I omitted to mention before, that the assistant treasurer's office, the sub-treasury, as it is called, is to be in this building. I would call the attention of the honorable Senator from Virginia to a fact which occurred here a few years ago. It was almost impossible to obtain a person willing to accept the office of assistant treasurer in the city of St. Louis, because there was no place where the money could be kept, and the officer would have to depend on private buildings, and he would have to construct a vault, and have it protected against fire. In consequence of the difficulties which existed, very few persons were willing to become security for any man, whatever might be their confidence in him personally, on account of the insecurity of the building, and the necessity there was of keeping a guard over the money.

Now, I agree that it is useless to impose these limitations, and they are unjust. It has been a discrimination against the cities of the West. If you look over the appropriation bills from year to year, you will find that the limitation has been always imposed upon the cities of the West, and never, within my recollection, in any case of a custom-house on the Atlantic. I am told, however, by a Senator near me, that there have been limitations imposed sometimes on the Atlantic, but they have never been regarded. These limitations were disregarded at the last session, for then additional appropriations were made for every one of these custom-houses; for it was found that after lots on which to erect the buildings were purchased, the walls of an ordinary edifice could not be constructed of the dimensions required, for the remainder of the appropriation. It was on that account that an additional appropriation was made last year for the custom-houses at Cincinnati, Pittsburg, Louisville, and St. Louis. At that time it was not ascertained what the buildings would cost; but the Secretary of the Treasury directed the superintendent to issue proposals, and after having advertised for a considerable length of time, proposals came in for the construction of the building at St. Louis. It was found that if built fire-proof, as the law itself required that it should be, an additional appropriation of $115,000 would be required; and that sum the Secretary has recommended to be appropriated. My opinion is, that no part, or a very small sum of the $75,000 heretofore appropriated for the building, has yet been expended; but the Department have purchased a lot, obtained the title, and the old buildings which were erected on it have been torn down preparatory to the construction of the custom-house. And now the Secretary of the Treasury, finding that the money appropriated will not erect the building, asks for this additional appropriation. I submit again that the question is whether we shall have any custom-houses or any public buildings whatever in the western cities. Is the limitation to be adhered to there, and disregarded everywhere else?

Mr. DODGE, of Iowa. Mr. President, if I understand the question, the Committee on Finance have reported in favor of striking out an appropriation, which the House has made, of $115,000, to complete the custom-house at St. Louis, in the State of Missouri. I have looked into this question; I have examined the report of the Committee on Commerce, and the other documents relating to it, and I have observed that the amount of duties collected at that port during the past year was upwards of $300,000. The commerce of that port is very greatly on the increase. This building has been commenced, and I think it should be finished. It is to accommodate various other public offices besides the custom-house. It is to accommodate the offices of the sub-treasury and of the Superintendent of Indian Affairs. But the foreign commerce and the growth of St. Louis alone demand that this appropriation should be made. The best evidence of its necessity is the fact that the custom-house duties which have been paid there during the last year amount to the large sum which I have mentioned. I shall vote to retain the appropriation with great pleasure, and with the hope that the Senate will not concur in the recommendation of the committee.

Mr. UNDERWOOD. This is a proposition, as I understand, to strike out the appropriations for the custom-houses on the western waters. I believe that those custom-houses have been commenced. I cannot speak certainly in regard to any except that at Louisville. I know that has been commenced; and the Senator from Missouri says that at St. Louis has been commenced. You have an overflowing Treasury; you have plenty of money; the work has been commenced, and all that you have heretofore expended will be thrown away unless you go on and finish it. Do you intend to cut off the work after having begun it? I hope not. I will not take up the time of the Senate by showing that these establishments for commercial purposes operate to lessen the prices of merchandise brought to our country for consumption. I insist that the people of the interior have the same right to these commercial advantages which redound to their benefit, as those who live upon the sea-board have. You erect custom-houses in your cities, and why should we not have them?

The question being taken by yeas and nays upon the adoption of the amendment, resulted—yeas 15, nays 30; as follows:

YEAS—Messrs. Adams, Badger, Bradbury, Brodhead, Dawson, De Saussure, Gwin, Hale, Hamlin, Houston, Hunter, Mason, Miller, Phelps, and Pratt—15.

NAYS—Messrs. Atchison, Bell, Borland, Bright, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Foot, Geyer, James, Jones of Iowa, Mallory, Mangum, Morton, Rusk, Seward, Shields, Smith, Soulé, Spruance, Sumner, Underwood, Wade, Walker, and Weller—30.

So the amendment was rejected.

Mr. HUNTER. After this vote, I shall feel it to be my duty on Monday to bring in a proposition to remove restrictions in regard to other custom-houses.

Mr. GWIN. I never was in favor of these restrictions from the beginning. I believe the first one was imposed upon the custom-house in San Francisco; but I thought that inasmuch as we had commenced there, the system ought to be adhered to, for all ought to be on the same footing. It strikes me, that if the suggestion of the Senator from Virginia shall be carried out, the restriction will be removed from every custom-house in the United States except that at San Francisco. I think it is not just to remove it from every one except that city. I contended against it at the time, because I thought the sum was too small.

The next amendment was to insert, under the head of "intercourse with foreign nations," the following:

"For compensation of Edward Kent, for one quarter's salary as chargé d'affaires at the legation at Rio Janeiro, during the absence of the minister, and under the instructions of the Department of State, $1,125."

The amendment was agreed to.

The next amendment was to insert $9,000 for outfit for Commissioner to China.

The amendment was agreed to.

Mr. MORTON. I beg leave to call the attention of the Committee on Finance to page 36, line 850 of the bill, where I see a provison is made in the bill as it came from the House for paying a chargé d'affaires, while acting as minister in the absence of the regular minister. During the last Congress, the chairman of the Committee on Foreign Relations proposed an amendment to the civil and diplomatic appropriation bill, to pay additional compensation to the late secretary of legation to Mexico for similar services, and it was rejected. I expected that, as the chairman of the Committee on Finance has suffered this provision to remain in the bill, he would have proposed an amendment extending the same provision to the late secretary of legation to Mexico.

Mr. HUNTER. We are not yet through with the amendments of the Committee on Finance. After they are disposed of, the Senator from Florida, if he desires to offer an amendment, can do so; but if I understand him, he refers to a case for which there was no estimate. I have no doubt, however, that the Committee on Foreign Relations will be ready to propose all that is proper in that respect.

Mr. MORTON. Then I should like to have an explanation from the chairman of the Committee on Foreign Relations on that subject.

Mr. MASON. The Committee on Foreign Relations have instructed me to move an amendment asking for such an appropriation.

Mr. MORTON. I am satisfied.

The next amendment of the committee was to insert:

"For defraying the expenses attending the expected visit of a war steamer from the Sultan of Turkey, with contributions to the Industrial Exhibition to be held in New York, in May next, $10,000; the said sum to be expended under the direction of the President of the United States."

Mr. HUNTER. That is in pursuance of an estimate made by the Secretary of State. The sum we propose is not as large as he desires. He informed the committee that it was expected that there would be a war steamer from the Ottoman Porte to bring contributions to the exhibition in New York, and he said it would be expected and would be proper that we should extend the hospitalities of the nation to them, and perhaps repair the vessel at public expense. He estimated that $20,000 would be necessary, but the committee put it at $10,000.

Mr. ADAMS. I wish to inquire of the chairman of the Committee on Finance whether he himself approves of Congress appropriating money in this way to defray the expenses of foreigners visiting the United States?

Mr. HUNTER. I suppose the Senator from Mississippi would have no scruples in reference to an appropriation to pay Indian chiefs who come on to this city. We are in the habit of paying the expenses of Indian delegations who come here, and it is thought very proper. When we are dealing with nations of peculiar customs, perhaps we could not expend a little money more profitably than by soothing their feelings this way, and extending such courtesies as they esteem.

Mr. MASON. I understand from my colleague, the chairman of the Committee on Finance, that the estimate of the Department was $20,000, and that that committee have reduced it to $10,000. The Secretary of State addressed a letter to the Committee on Foreign Relations calling their attention to this appropriation, saying that it was usual and customary, and indispensable, in order to get along with those Eastern potentates, that we should depart from our usual rule in the way of magnanimity and hospitality, and that the estimate for the purpose had been sent to the Committee on Finance. Learning that that committee had reduced the amount to $10,000, I addressed a note to the Secretary of State informing him of that fact, and asking him if there were any reasons why the amount should not be reduced to $10,000, he would be kind enough to state them. He replied that it was presumed the largest portion of the expenditure would remain, if left, for repairs to that frigate; that it was impossible to know what amount of repairs might be required, but that if she were to break her main shaft, or other accident of that kind were to occur, $10,000 would not be sufficient. He stated, further, that on a former occasion, when Congress, at the suggestion of the Department of State, appropriated $10,000 for the reception of Amin Bey, who came on a mission from his country to this, it was used in such a manner by this functionary as that a large portion of it now remains unexpended in the Treasury. I submit to the Senate, that if it is intended to preserve or to cultivate those relations which the Executive desires to cultivate with the Grand Sultan, we should not stint this appropriation. It will not be expended unless it is necessary. Therefore, I move to amend the amendment by increasing the amount to $20,000, according to the original estimate.

Mr. CASS. I hope the amendment will prevail. I need not say a word to the Senate about the custom of presents among the great nations and men of the East in olden times. The Scriptures are full of them, and down to this day the same practice exists among them. I merely rose, however, to mention to the Senate one fact which has come to my knowledge; and that is, that the impression produced on the mind of the reigning Sultan by the manner in which an officer of his Navy, who was sent here some time ago, was received and treated by our Government and people, has been productive of the happiest results. There is an economical council instituted in the Ottoman empire to reduce expenses, because they are feeling the influence of public opinion there as well as in other parts of the world. That council opposed the sending of this vessel to this country, simply on the ground of expense; but by the personal interposition of the Sultan himself, in consequence of the friendship towards his nation exhibited by our Government and people in their conduct to Amin Bey, it was determined to send it. It cannot fail to produce a very happy effect on our relations with those countries; not only to our commerce, but to the large number of our countrymen who are traveling there.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

The next amendment was to strike out all after the word "dollars," in the following item:

"For compensation of the public gardener, twelve hundred dollars, and the exclusive management of the grounds attached to the Capitol and surrounding the Executive Mansion shall be under his control."

Mr. HUNTER. The proposition, as it came from the House, was to put these grounds under the exclusive control of the head gardener, which never has been contemplated by the present law, and it seems to me that things are very well as they are.

Mr. WALKER. I was of opinion that these grounds had always been under the control of the public gardener until the new system which was introduced by Mr. Downing. I understand that

these grounds have been brought to their present state of beauty and improvement under the superintendence of the public gardener, and when I say "public gardener," I mean one particular man—James Maher. I recollect since I have been a member of the Senate, that this was claimed for him by a no less distinguished individual than the deceased Senator from Kentucky, Mr. Clay; and I believe it was always his habit, whenever anything was said in regard to the management of the public grounds, to take the floor and bear testimony in favor of this man. It has been alleged, if I remember aright, by that great man, that there had been dilapidation and a failure to keep up the state of his improvements since the public gardener's administration had been interfered with. I think I remember that the late Senator from Kentucky made such a statement; and I intended to propose an amendment to obviate this interference, which seems to have been introduced, and to insert expressly, if he is to be continued as public gardener, that this shall be under his control by name.

Mr. HUNTER. This question is no stranger to me, because I have been for some time a member of the Committee on Public Buildings. The head gardener has somehow taken it into his head that he is the person entitled to be the head of the concerns, to manage the laborers, and make his estimates, and so on, for the expense of the public grounds. Now, so far as there is any law on the subject, it contemplates that these grounds shall be under the charge of the Commissioner of Public Buildings. The exception to that law was when Mr. Downing was appointed; and since that a successor has been appointed to him, a landscape gardener, who directs these things. It is true that the state of the law is imperfect and crude. In looking into the matter some time since, I found that there were a great many enactments in appropriation bills, some of them conflicting, and none of them very accurate and precise; but still my interpretation of the law was, that the Commissioner of Public Buildings was designed to attend to this particular department of our affairs.

Now, sir, Maher is a very good head-gardener, but it would be almost absurd to give him the exclusive management of the public grounds. I am sure that he is not fit for the business. I do not think he can manage the expenditure of the money in a proper way. He is a capital gardener, and I have no idea that any man who may be at the head of the grounds would interfere with him in his own branch. He will be left to cultivate the trees and the shrubs as he thinks best, but he will be controlled in regard to the expenditure. It is true that in relation to the grounds, other than the Capitol grounds and those about the President's House, plans were submitted—plans of improvements not suggested by him, but by Mr. Downing—plans which have been very much admired by all persons of taste and knowledge on this subject. Now, if we depart from the old practice, which has been that the Commissioner of Public Buildings should be at the head of the public grounds, we shall fall into difficulty.

Mr. DAVIS. I recollect that Mr. Downing stated to me that he was forbidden by some one of these officers to take trees and light shrubbery away from here, where they were too thick, in his judgment, and remove them to the mall below. An authority was interposed, and I am rather inclined to think it was this very gardener who did it. He set up his authority above that of the Commissioner of Public Buildings. When Mr. Downing went to take suitable trees and shrubs from where they were not needed to where they were necessary, his hand was stopped in the matter. I think there is no proposition plainer and clearer than that there ought to be a responsible head, and I think no more suitable head can be found than he who has charge of the grounds and buildings.

Mr. MANGUM. Mr. President, I differ entirely from both of the gentlemen who have just addressed the Senate. I do not think that the Commissioner of Public Buildings ought to have the charge of the grounds at all. He is generally a political officer, coming in with one Administration and going out with it. This man, whatever may be said of him, has been the most tasteful manager of the public grounds that we have had in Washington, with possibly the exception of Mr. Downing. I think that is the universal sentiment. I remember when I first came to Washington, that the eastern portion of the public grounds around the Capitol was a continuous brickyard, with no ornaments of any sort. Those grounds have since been successfully cultivated, and with very little resources indeed. Congress from year to year has refused to grant a sufficient amount, in my opinion, and I think a very inadequate salary is given to the public gardener. He came here in the days of General Jackson, and I believe General Jackson sent for him and brought him here. At that time he had unlimited and perfect control; but since that day his rights have been trenched upon until, in truth, he has been made quite a subordinate to almost everybody. I feel a sympathy for his situation. I have a strong impression of his merits as a public officer, and I propose now to move, if it be in order, to increase his salary to $1,500 a year.

Sir, the man who did more than any other man living or dead to beautify the walks and grounds about this Capitol—I allude to the late illustrious Clay—who projected all the improvements here, and under whose influence they have been carried out, always insisted, as I learn from information upon which I rely, that this officer ought to have a salary of $1,500 a year. I think he is much more entitled to it than many of your clerks at higher salaries who do not perform half the labor; and I think we ought to give him full control of the grounds around the Capitol. If it is in order, I move to fix his salary at $1,500 a year.

The PRESIDING OFFICER. That amendment is not now in order, because a previous amendment is pending, and the amendments of the committee have not been gone through with.

Mr. MANGUM. In the mean time I hope he will have the charge of the grounds about the Capitol and the President's House, and that we shall not place them under an individual who is in some sense irresponsible, and who may be supposed to be incapable—I mean the Commissioner of Public Buildings—who comes here, stays a year or two, goes out, and another comes in with no more knowledge of his duties than his predecessor.

Mr. DODGE, of Iowa. I rise to indorse every word which has been uttered by the honorable Senator from North Carolina with regard to this matter, and to repel the most unjust and unjustifiable assault made by my worthy friend from Virginia upon the public gardener. I think my friend has forgotten himself upon this occasion, and done injustice to a most valuable and efficient officer. I recollect that one of the last things done by the late Senator from Kentucky in reference to this matter was to move to increase the salary of the public gardener, bearing evidence at the same time to the general fidelity and the tastefulness with which he performed his duty here as gardener. I hope we shall concur in the proposition of the House, and make the increase of salary suggested by the Senator from North Carolina.

Mr. HALE. I would suggest to the Senator from Virginia that the clause as it comes from the House places the whole matter entirely with the public gardener, without any control or supervision. Therefore, before the question be taken on the motion to strike out, I want a qualification to be added at the end of the section immediately succeeding the words to be stricken out, in these words:

Subject only to the direction of the President of the United States.

I offer this amendment because it has been suggested that without something of that sort the public gardener would have the control of the grounds around the President's House without regard to the wishes of the President. To avoid anything of that kind, I hope the amendment will be inserted, and that then we shall retain the section, and that the gardener will stay. He is an old and valuable friend here. He has been here a great many years, and, as was said by the Senators from Iowa and North Carolina, he was the particular favorite of Mr. Clay; so much so that I can hardly think of him now except as a part of the compromise measures. [Laughter.] I can hardly separate them in my mind, and I hope he will be permitted to stand as a part of the compromise.

Mr. HUNTER. The public grounds are put, by law, under the direction of the Secretary of the Interior, and he surely ought to have the control of these matters; because, if this provision be retained, there will be a conflict of jurisdiction between the public gardener and the Commissioner of Public Buildings, and the landscape gardener, who has been employed. We have had it already, and I think this will increase the difficulty. It seems to me that something ought to be done to save the authority of the Secretary of the Interior; and therefore I would suggest to the Senator from New Hampshire to strike out "President of the United States" and insert "Secretary of the Interior."

Mr. HALE. I agree to that.

Mr. JAMES. I hope that change will not be made, but that the matter will be left under the control of the President. Allow me to state one fact: A short time since the lady of the President of the United States, accompanied by the President, went through the green-houses attached to the public grounds. She asked the gardener for a flower, and she was refused.

Several SENATORS. It cannot be so.

Mr. JAMES. I had it from her own lips.

Mr. BUTLER. He did not know her, I presume.

Mr. JAMES. He knew it was the President of the United States and his lady.

Mr. HALE. I modify my amendment as suggested by the Senator from Virginia.

Mr. MANGUM. I would suggest that it would be better to strike out the word "exclusive," so as to let the clause read "that the management of the grounds," instead of the exclusive management.

The PRESIDING OFFICER. There is an amendment now pending, and this amendment will not be in order until that is disposed of.

Mr. WALKER. I would like to know from the Senator from New Hampshire if it is the understanding that his amendment would authorize the Secretary of the Interior to interpose any person between himself and the gardener?

Mr. HALE. I do not so understand it.

Mr. WALKER. If it excludes any such interposition, I will vote for the amendment of the Senator from New Hampshire. A mere florist—for I understand he is not a landscape gardener, but a florist—has interposed, and we can see the effects of it around us. Go and look at the once beautiful walks about the Capitol, and you find they are going to decay and neglect. Look at the trees, and you see that they are undergoing change from being neglected.

The facts which have brought about this delay and neglect have all been remonstrated against by the public gardener. He has come to me frequently, and annoyed me sometimes, with his complaints about his remonstrances being disregarded. He would tell me beforehand what would be the effect, and it has turned out just as he told me. A case has been mentioned here of somebody interposing against the removal of trees from the eastern grounds. The gardener told me about that. He said that he found a person there endeavoring to take away some of his trees. This was his expression to me: "Mr. Walker, you know I love them as I do my children. I have nursed them since they were planted, and I do not want to see them removed. When it was about to be done I remonstrated. My remonstrance did no good. I then went and got a Senator—I believe it was Mr. HAMLIN, of Maine—and he interposed objections to the removal of the trees." It was the removal of the trees from those clumps on the eastern front of the Capitol—a thing that "Old Jemmy," as he is called, would not see done for his life. The beauty of the grounds has been destroyed, in a great measure, since he has been interfered with. He has remonstrated, but his remonstrances have not availed, and we see what has been the result. I hope that we shall not allow any scope for anybody to interpose between him and the Secretary of the Interior, but that he will be permitted to go on and restore the grounds to the condition in which they were four or five years ago, but from which they have since fallen to a considerable extent.

Mr. MANGUM. I hope the Senator from New Hampshire will modify his amendment by including in it the striking out the word "exclusive," so that it shall read:

"All the grounds attached to the Capitol and surrounding the Executive Mansion, shall be under his control, subject only to the direction of the Secretary of the Interior."

Mr. HALE. The suggestion of the Senator from North Carolina does not touch my amendment at all. After my amendment is adopted, it

will be in order for him to move to strike out the word "exclusive," because it does not come within the scope of my amendment. At the suggestion of Senators, I modify my amendment by saying "supervision" instead of "direction."

The amendment of Mr. HALE was agreed to.

Mr. MANGUM. I now move to strike out the word "exclusive."

The motion was agreed to.

The question recurred on the amendment of the committee to strike out the clause as amended; and it was not agreed to.

The next amendment was to strike out $1,377 50, and insert $1,800 in the following clause:

"For compensation of two draw-keepers and a watchman at the Potomac Bridge, and for fuel and oil for lamps, $1,377 50; and for repairing the Long Bridge across the Potomac river, $20,000."

Mr. HUNTER. That is according to estimate, to pay the salary of a keeper, which was left out by the House.

Mr. HALE. I hope that amendment will not be adopted. I understand that it is for the repair of the Long Bridge.

Mr. HUNTER. No, sir. There is a provision in the bill for repairing the Long Bridge, and this is to amend the provision in which that occurs.

Mr. HALE. Then I wish to inquire whether it is in order now to move to strike out the whole clause.

The PRESIDING OFFICER. Not until this amendment is disposed of.

Mr. HALE. If the Senate adopt the amendment, I shall ask them to hear me in a few words on a motion to strike out the whole clause, and I shall confine myself to a statement of the facts.

The amendment was agreed to.

Mr. HALE. Now I move to strike out the whole of that clause.

The PRESIDING OFFICER. It is not in order for individual Senators to move amendments until the amendments proposed by the Committee on Finance shall have been gone through with. They have priority.

Mr. HALE. I differ most essentially with the Chair in that particular. This is an amendment to an amendment. The committee propose to amend in a particular manner, and I move to strike out the whole clause which has thus been amended. I submit to the Chair that this mode of going through the bill is a mere matter of convenience. There is no rule of parliamentary law, and there is no rule of the Senate which gives the committees any priority in offering amendments. It is a matter which is submitted to by unanimous consent as a convenience.

The PRESIDING OFFICER. The Chair differs entirely from the Senator from New Hampshire on that point. This bill was referred to the Committee on Finance for the purpose of reporting it with such amendments as they might deem proper, and the established usage of the Senate is that when a bill is reported with such amendments, those amendments are first to be considered.

Mr. BELL. That is the parliamentary law.

Mr. RUSK. Let me give an additional reason. The chairman of the Committee on Finance was anxious to have the vote taken on all these amendments together. They are the work of the Committee on Finance, and as a matter of course have preference, because they are first reported. The proposition made this morning by the chairman of the committee, to take the vote on all the amendments together, was objected to, and their separate consideration was called for. We are not through with them. They have been first offered, and must first be decided.

Mr. HALE. These amendments were all adopted substantially in Committee of the Whole, and the bill is now in the Senate.

Several SENATORS. In the Committee of the Whole.

The PRESIDING OFFICE. At the suggestion of the Chair, the amendments were not submitted in committee, but the bill was reported to the Senate without amendment, and the amendments have been submitted in the Senate. They have not been passed upon before.

Mr. HALE. Does the Chair rule that my amendment is not in order?

The PRESIDING OFFICER. Not until the amendments of the committee have been disposed of.

Mr. HALE. Very well.

The next amendment was to increase the appropriation for the compensation of two draw-keepers at the two bridges across the eastern branch of the Potomac, and for fuel and oil for lamps, from $900 to $1,000.

The amendment was agreed to.

The next amendment was to insert the following:

"For surveying, leveling, and measuring the triangular square on the north side of Pennsylvania avenue, between Thirteenth and Fourteenth streets, $42.

"For supplying a deficiency in the appropriation made March 3, 1849, for completing the room under the Senate Post Office, $451 31."

The amendment was agreed to.

The next amendment was to increase the appropriation for salaries and incidental expenses of the commission for settling land claims in California, from $50,000 to $75,000.

The amendment was agreed to.

The next amendment was to add, at the end of the clause making appropriations for that purpose, the following:

"And the office of assistant law agent is hereby abolished; but from and after the 30th day of June, 1853, each of the commissioners for settling said land claims shall receive a salary of $8,000 per annum, instead of the salary which he now receives."

Mr. WELLER. I desire to have some explanation of this amendment from the chairman of the committee. This office of assistant law agent was created under the act of August 30, 1852. The twelfth section of that act provided "that the 'President of the United States may appoint an 'associate law agent in California, learned in the 'law, and skilled in the English and Spanish lan-'guages, whose duties and compensation shall be 'the same as those of the law agent."

That office was created at the last session of Congress on the representations, not only of the Secretary of the Interior, but of the Board of Commissioners and the law agent. As to the necessity of its continuance, I undertake to say that it is impossible for the law agent to discharge all the duties imposed upon him by law, and the continuance of the office, therefore, is indispensable. It is exceedingly desirable, not only for the Government, but the claimants to land in California, that their rights should be passed upon at as early a day as possible. In order to dispatch the business which is before that Board of Land Commissioners, it is absolutely necessary that there should be an assistant law agent. As I said before, from my knowledge of the business before that Board, I know that it is utterly impossible for one man to perform all the duties of law agent. Therefore I ask that the chairman, or some member of the Committee on Finance, should tell me why it is that that which was so indispensable at the last session of Congress should now be abolished? I am sure I never would have voted for the creation of the office if I had not been satisfied that it was absolutely necessary.

Mr. GWIN. This amendment was introduced by the Committee on Finance at my suggestion, and I will give my reasons for proposing it. This office was created originally on the statement of my colleague [Mr. WELLER] that the law agent was not competent, when appointed, to discharge the duties of the office. There was great complaint of his want of competency. In order that no cause for delay should exist, and to exonerate the Board of Commissioners, who had done nothing up to the close of the last session of Congress, from neglect of duty if they did not act, I agreed that an assistant law agent should be appointed, because we had no control over the appointing power, and could not displace the law agent who was charged here and in California with incompetency. Since the assistant law agent has been appointed, there has been no intercourse between him and the law agent, for the latter has been here during nearly the whole of this session of Congress. He has not been in California for months past. I undertake to say that if the assistant law agent can discharge the duties of both offices, as he has ever since he was appointed, we do not require these two officers at a salary of $5,000 each. If I thought it was necessary to have two law agents, I should not hesitate to ask for the double salary; but as the assistant has done all the labor since he was appointed, and I have never heard any complaint that he does not meet all the requirements of the law, one of the offices ought to be abolished. Since the assistant agent has been appointed, he has been with the Board of Commissioners, and they have not been delayed an hour, so far as my knowledge extends, and I was in California after the assistant agent was appointed. At the time I agreed that this office should be created, it was asserted that the agent could not perform all the duties required of him. I thought otherwise, but acquiesced for fear I was mistaken. I am sure now I was not, and that one efficient agent is all that is necessary. Since the appointment of the assistant, the law agent has not been with the Board, and it seems to me that inasmuch as the appointing power is passing into other hands, if the gentleman who was appointed assistant is equal, as he seems to be, to the discharge of the duties now imposed upon both officers, he can be appointed to the office of law agent, and thus fully secure and protect the interests of the Government.

Mr. WELLER. I understood that the only complaints against the law agent were that he did not come up to the requisitions of the law. The law required him to be skilled in the English and Spanish languages. I made complaint myself on this floor that a law agent had been selected who was not sufficiently acquainted with the Spanish language to be able to examine in a proper manner those titles in the original. An assistant law agent was then appointed who did understand the Spanish language; a gentleman of ability, of character, and integrity. Now, so far as a knowledge of his profession is concerned, I have no doubt that the law agent was amply competent; and I undertake to say, from the information of legal gentlemen in whom I have confidence, that there has been no professional man in that country for the last twelve months who has performed more labor than that law agent. It requires a great deal of care and attention in the preparation of these cases. A great deal of labor, mental and physical, is necessary to prepare them for argument. He has from fifty to sixty lawyers opposed to him. The whole bar is on the other side. The ablest counsel in the country are enlisted in behalf of the claimants; gentlemen who are stimulated by large contingent fees. He has not only to attend to the preparation of cases, but he is required to take depositions—to attend before the Land Commissioners and take testimony whenever any of the claimants see proper. I hold, therefore, that it is the business of one man, and would occupy the whole of his time, to attend to the taking of depositions, and that it will be utterly impossible for a lawyer to prepare himself to argue cases involving from $200,000 to $500,000—as most of those cases involve—unless he is allowed to be in his office, so as to have an opportunity of examining the authorities, and preparing his briefs for argument. His time should not be employed, nor his mind distracted, by out-door business. Justice to the Government demands that he should give each case, with all its features, a close and critical investigation.

So far as regards the absence of the law agent adverted to by my colleague, I understand that about the middle of last November, he left California, in consequence of his impaired health. His physician had informed him that it was utterly impossible for him to continue his labors there. His health was broken down, and, as I am advised, by the weight of the labors imposed upon him by his position, and by the pride of character which induced him to exert himself so as to be able to meet the opposing counsel. He came here in the middle of December with the intention of returning on the 20th January. He has been detained here from that time, under the orders of the Secretary of the Interior, as I learn, and been engaged in the investigation of cases of vast importance in reference to California—important not only to the public, but to private individuals. Wherefore, then, should he be reproached for having remained here, when it has been under the orders of the Secretary of the Interior, and when he has been engaged in the prosecution of his professional duties in the investigation of land titles in California? I am informed that he has been examining questions here deeply affecting the interests of California. Of this I have no personal knowledge.

I am opposed to the abolition of this office, be-

cause I believe it is utterly impossible, as I said before, for one lawyer to discharge the duties imposed upon the two officers. Besides that, I am anxious that there shall be some termination to this land commission; and the best way to effect this is to have sufficient legal ability representing the Government to decide cases at once; and I undertake to say, that the lawyers there who are against him, prosecuting private land claims in California, do complain that the counsel of the United States has not been able to dispose of the cases as rapidly as they are presented. It is important to the Government, as well as to individual claimants, that these cases should be rapidly decided. Upon many of these claims our people have settled, and they will not make permanent improvements until the titles are settled. The prosperity of the country has already been much retarded by the delay of the land commission. The interest of all parties require that the public lands should be separated at once from that which is owned by individuals. To accomplish this speedily an assistant law agent is indispensable. I would rather vote to increase than to diminish the force representing the Government.

Mr. GWIN. I have not reproached the law agent, but I undertake to say that the Government can dispense with his services in California. He has not been there for some time, and there has been no complaint that his services were wanted. He may have been employed on important business here; but he is not acting as law agent of the Government in California, the office to which he was appointed. He has not been acting in that capacity since the assistant law agent entered upon the duties of his office, who has ever since done all that is necessary to protect the interests of the Government and promote the dispatch of business before the Board.

I have never made an attack upon the law agent. That attack, if any has been made, never came from me. He may be an able lawyer and an honest man, and perform his duty faithfully. I do not say otherwise; but I do not think it is necessary to have two law agents there to discharge the duties, particularly now since the great majority of cases have been presented to the Board, and prepared for argument. The agent may have labored assiduously, and no doubt thought he needed assistance. His health may have been broken down by the labor of his office, but the fact that he has been here so long, and there is no complaint from California, shows that the assistant can get along without the law agent to protect the interests of the Government, without his aid. Therefore, it seems to me that we could dispense with one of these officers. This is my opinion, and acting upon it, I proposed in the Committee on Finance that one office should be abolished.

I am as anxious for the dispatch of business before this Board as anybody. I do not think it has done much good since it was organized, though I hope we shall have a great deal of good from a reorganization of the Board hereafter. The law creating it will expire in a year, and we want working men in the Board to insure the dispatch of business. But I have not another word to say on the subject. We can get along very well with one law agent, but if the Senate think otherwise I am content.

Mr. BUTLER. The Senator from California has often said that I do not vote for California. I will take this opportunity of voting as well as I can for California, by retaining these two officers.

Mr. GWIN. I find that the Senator generally votes against me.

Mr. BUTLER. No, sir.

Mr. GWIN. Always.

Mr. BUTLER. If this gentleman, the law agent, is a good lawyer, and can retain the control of the principles involved while the assistant law agent goes through the records and hunts up the facts for him, I think it will be a very good conjunction.

The amendment was not agreed to.

Mr. HUNTER. Did we reject the whole of the amendment?

The PRESIDING OFFICER. Yes, sir.

Mr. WELLER. I have no objection to the latter branch of it which increases the compensation of the commissioners; but would it not now be in order to move to insert it?

The PRESIDING OFFICER. The Senator can attain his object by moving a reconsideration.

Mr. WELLER. Then I move to reconsider the vote by which that amendment was rejected. I think the salaries of the commissioners ought to be increased.

The motion to reconsider was not agreed to.

The next amendment was to insert:

"For the purpose of purchasing or building a revenue cutter to be propelled by steam, and employed on the Pacific coast, $75,000: *Provided*, That there shall be not more than one steam and one sail vessel employed for such purposes on that coast."

Mr. HUNTER. This is according to estimate. It was represented that in some states of the wind it would be impossible for the present cutter there to overtake the vessels which it may desire to overhaul, and for that purpose a steam-cutter is indispensable.

The amendment was agreed to.

The next amendment was to insert at the end of the appropriations for the Library of Congress, the following:

"For the completion of the publication of the works of the Exploring Expedition, $25,000."

Mr. BORLAND. I simply wish to call the attention of the Senate to this appropriation for the publication of that interminable work, the Exploring Expedition. I think that at the last session, it was understood that the appropriation then made was to be the last, and I thought that was the express understanding with which we made that appropriation.

Mr. HUNTER. The chairman of the Committee on the Library can explain this matter.

Mr. PEARCE. The Senator from Arkansas is mistaken in his recollection of what took place at the last session of Congress. I then stated distinctly that it would require two years, and $50,000 to finish the publication. We then appropriated $25,000, and it is now proposed to appropriate $25,000 more. In order that the Senate may be satisfied that the object is in good faith for the completion of the work, we have said not in the usual form "for the continuation," but "for the completion" of the work. When it is recollected that the committee was charged by law with this duty, I suppose no gentleman can object to giving them the means to do what it is their duty to do.

Mr. BRODHEAD. I know very well that my friend from Maryland states that this is for the completion of the publication; but if he will look back in the appropriation bills for five or six years past, I think he will find the same clause "for the completion of the publication of the works of the Exploring Expedition."

Mr. PEARCE. I will be obliged to the Senator from Pennsylvania to show me any such clause. I have always drawn them up myself, and I have never before put such a word in.

Mr. BRODHEAD. I can show it; but perhaps it may have been inserted before the Senator had a place in the Senate. In 1842, the Exploring Expedition returned; it was four years out, and it has taken nearly ten years in the publication of the results of the expedition, at the rate of some $25,000 a year. I thought that, at the last session of Congress, we served a notice on them to quit. I presume it will be remembered that I brought to the notice of the Senate at the last session, the amount appropriated from year to year, from 1842 to that time, and I have a strong impression on my mind that the same clause was formerly put in our appropriation bills, as is now, namely: that the appropriation shall be "for the completion of the publication."

Mr. PEARCE. The Senator from Pennsylvania is undoubtedly mistaken in that; and let me remind him that it takes much less time to make a large collection of objects of natural history than it does to describe them. Field-naturalists, with very little acquirements, comparatively, can make collections, but it requires the very highest science to describe those collections; and even those who have the highest scientific acquirements are required to consult rare and *recherche* books. There is nothing remarkable in the progress of this work taking ten years, because it is very well known to those who have any acquaintance at all with the subject, that in the publication of the works of other exploring expeditions by other nations, a much longer time than ten years has been required. Some of the great works put out by the English, have taken twelve or fourteen years. All that was explained by me very fully some years ago, and I will not go over the ground again.

Mr. HALE. I have expressed my views upon this subject so frequently that it is hardly necessary for me now to repeat them, but I think I must be under the necessity of taking back something that I have heretofore said. When I was at home, during the last recess, I went, by invitation of a school committee, into one of the primary schools of the town in which I live. A class in geography was called up, and I there learned for the first time, and I will take my oath of it, if required, that this Exploring Expedition had discovered a new continent. Yes, sir; it was down in the geographies that another continent had been discovered by Commodore Wilkes, of the United States Exploring Expedition. It actually went into the school books, and found its way into New England; and I think it will be news to the Senate when they learn that this new continent was actually discovered more than ten years ago. I hope these books will be completed in a short time, so that this information may be distributed.

I want to say, in regard to this matter, that I do not believe there is anything, except the high character of the Senator from Maryland, that redeems the whole concern from universal contempt. I believe it is one of the greatest humbugs of the age, not excepting the saving of the Union that took place in 1850. It is even a greater humbug than that. And, sir, if this actually be the end of it; if it is to be the completion, the final completion of it, I shall rejoice, and I shall be reconciled to going out of public life if this concern dies with me. I am willing to be sacrified to have this concern stopped. [Laughter.]

But I think there ought to be a provision put in the bill now, that the new exploring expedition which we have going out shall not take twenty years to publish the result of their researches. We have an exploring expedition now out, and one going out, to say nothing about the Japan expedition. Put these expeditions all together, and the imagination falters when it attempts to grasp the time which it will take to give the benefit of their researches to the world.

What, sir, do you suppose that these exploring expeditions do? These explorers take a great oyster-rake; they rake the bottom of the ocean, and bring home bugs, shells, plants, and creeping things of all sorts, and then enlist the literary and scientific *recherche* all over the country to pore them over, and explain and analyze them to the public, and make picture-books. [Laughter.] That is your exploring expedition. I do not wish to say a word disrespectful to the Senator from Maryland, and I beg him not to jump at me. [Laughter.] I do hope, however, that this is to be an end of this matter; and, sir, saving and excepting this new continent that has been discovered, and which is in the school books, if nowhere else, I think this expedition has been an entire failure.

Mr. PEARCE. I beg leave to say, that high as the character of the Senator from New Hampshire is—and it is very high—it is not high enough to throw contempt upon this work. It is a work that does honor to the science of the country. It is recognized as such by scientific men everywhere. The scientific reports which have been made have elicited the very highest encomiums from people of that description. I shall not repeat them here, as I have done in times past. The Senate, I think, understand the Senator from New Hampshire too well to be affected by the droll remarks which he has just now made.

Mr. CLARKE. I would ask the Senator where copies of these works are to be found?

Mr. PEARCE. There were some in the Library of Congress, but I believe they were burned. If a large number have not been distributed, it is our own fault. By our own act we limited the number of the publication to a hundred copies. I know that was a very improper thing, and I remonstrated against it at the time. Those that are distributed are to be found in the places to which they were assigned. The State of Rhode Island has one copy. Every State in the Union has one copy.

Mr. CLARKE. One is enough for little Rhody. [Laughter.]

Mr. PEARCE. All the State capitols are supplied with them.

Mr. BRADBURY. I should be very willing to vote for the appropriation if there were some penalty annexed to a future application for more money.

THE CONGRESSIONAL GLOBE.

THE OFFICIAL PROCEEDINGS OF CONGRESS, PUBLISHED BY JOHN C. RIVES, WASHINGTON, D. C.

32D CONGRESS, 2D SESSION. MONDAY, FEBRUARY 28, 1853. NEW SERIES.....No. 56.

Mr. PEARCE. I would ask the Senator upon whom he would impose the penalty?

Mr. BRADBURY. Upon the recipient of the fund. I think we have been paying for this work for some ten years past, at the rate of $25,000 a year.

Mr. PEARCE. If the Senator can contrive to draw up such an amendment as that, I think I can promise him that I will vote for it.

Mr. BRADBURY. If the Senate will pass by this amendment for the present, I will engage to draw up such a provision.

Mr. HALE. I would ask the honorable chairman, whether there have been any contracts made with regard to this matter?

Mr. PEARCE. The Committee on the Library were authorized by law to contract, and they have contracted.

The amendment was agreed to; there being, on a division—ayes 29, noes 10.

The next amendment was to insert:

"For the preparation and publication of a general catalogue of the Library of Congress, to be made in such manner as the Joint Committee on the Library of Congress may direct, $3,000."

The amendment was agreed to.

The next amendment was to add at the end of the first section, the following:

"*Mexican Boundary Commission.*—For completing the survey of the Rio Grande, and for office work for one year, $23,512.

"For arrears due to Major William H. Emory's party, $20,000.

"For expenses attending Lieutenant Whipple's party from the Gila, $6,000.

"For pay of commissioner and secretary, and for personal and traveling expenses of the commissioner, $9,500.

"Said sums to be disbursed upon warrants approved by the commissioner and surveyor and chief astronomer; and in lieu of a clerk and assistant secretary, as heretofore allowed by regulation of the Department, there shall be a disbursing agent, who shall give bond for the faithful performance of his duty, and his annual compensation shall not exceed $1,500.

"SEC. 2. *And be it further enacted*, That the period limited for the appointment of commissioner, surveyor, and chief astronomer by the act of May 15, 1850, shall be, and the same is hereby, extended to the 1st of April, 1854."

Mr. WELLER. This difficulty strikes me in regard to that amendment. The Select Committee on the subject, of which I am the chairman, made a report some four or five weeks ago that the office of commissioner and surveyor had expired by limitation of law. The act of 1850 expressly provided that the Surveyor and Commissioner should hold their offices for three years from the 1st of January, 1850, and no longer. The Select Committee to whom the subject was referred have made a report, which has been printed, and has been upon the table of every Senator, in which they have expressed the opinion that these gentlemen went out of office upon the 1st day of January last.

Mr. HUNTER. If the Senator had noticed the second part of the amendment, he would have seen that it expressly extends the act of 1850, because it provides "that the period limited for the appointment of commissioner, surveyor, and chief astronomer, by the act of May 15, 1850, shall be, and the same is hereby, extended to the 1st of April, 1854." It was thought proper to extend the period for a year.

Mr. WELLER. I move to amend the amendment, by striking out the words "by the commissioner and surveyor and chief astronomer; and in lieu of a clerk and assistant secretary, as heretofore allowed by regulation of the Department, there shall be a disbursing agent, who shall give bond for the faithful performance of his duty, and whose annual compensation shall not exceed $1,500," and to insert the words "the Secretary of the Interior," so that it shall read "said sums to be disbursed upon warrant, approved by the Secretary of the Interior." My object is to have the amount supervised by him.

The amendment to the amendment was agreed to, and the amendment as amended, was adopted.

Mr. BUTLER. There are other committees which have amendments to offer, and important amendments. For the purpose of giving them an opportunity of preparing them, I move that the Senate do now adjourn.

Mr. HAMLIN. The Committee on Finance has not got through.

Mr. UNDERWOOD. I appeal to the Senator from South Carolina to withdraw the motion for a moment, so that I may move to postpone the bill till Monday, and ask a favor of the Senate, the last favor I am likely to ask, and that is to pass a little bill.

Mr. BUTLER. I withdraw the motion.

Mr. UNDERWOOD. I move to postpone the further consideration of the bill until Monday; and I beg the Senate to take up a bill for the relief of B. B. Bennett, of Kentucky. It is the case of an old soldier, whose claim for a pension was rejected by the committee of the Senate because of some defect of testimony. I wrote to Kentucky, and evidence has been sent back here doing away with that defect, and the committee has now reported favorably on the case, and there is no objection to the bill. As I asked this morning for a large favor, I am in the condition of the man who surrendered everything, and finally asked for some old clothes. [Laughter.]

Mr. BUTLER. Let him have it. It is his last chance.

Mr. BRODHEAD. I beg to make a suggestion. Can we not have the amendments of the various committees printed?

The PRESIDING OFFICER. By common consent all the amendments intended to be proposed by standing committees, or by members of the Senate, can be laid upon the table informally, and ordered to be printed.

It was so ordered; and the motion to postpone was agreed to.

B. B. BENNETT.

On motion by Mr. UNDERWOOD, the Senate, as in Committee of the Whole, proceeded to consider the bill for the relief of B. B. Bennett. It proposes to place his name upon the roll of invalid pensioners at the rate of eight dollars per month for and during his life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

EDWARD BOX.

Mr. BELL. I have now an appeal to make to the Senate which I have never made before. I have a Democratic colleague in the House of Representatives, who has a case of this kind: A Mr. Box, who is over ninety years of age, had a pension granted to him under the act of 1832, which he enjoyed until 1842, when he had some quarrel with one of his neighbors, which excited his feelings somewhat. That neighbor threatened him that if he did not yield his pretensions in that contest, he would deprive him of his pension. The old gentleman, not supposing such a thing possible, made no concession, and the first thing he knew the pension was suspended upon the affidavit of a young man of twenty-one years of age, that he was a Tory in the Revolution. The Department now refuses, unless he goes back and gets new affidavits reëstablishing those upon which his original claim was founded, to give him a pension. I understand that the bill was referred this morning to the Committee on Revolutionary Claims. I move to discharge that committee from the further consideration of the bill, that we may bring it before the Senate.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill.

It proposes to direct the Secretary of the Interior to place the name of Edward Box, of Tennessee, on the revolutionary pension roll, at the rate of $6 66⅔ per month, to commence on the 4th of March, 1842, and continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

NAVAL DEPÔT AT NEW ORLEANS.

Mr. SOULE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Naval Affairs be instructed to inquire into the expediency of providing an appropriation for the purchase of a suitable place at or near New Orleans, with a view to establish there a naval depôt and navy workshops, agreeably to the suggestions contained in the report to Congress of the Secretary of the Navy, and in the letter of the same officer accompanying this resolution.

IRA BALDWIN.

On motion by Mr. HAMLIN, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill from the House of Representatives for the relief of Ira Baldwin. It proposes to direct the Secretary of War to issue to Ira Baldwin, a Canadian volunteer in the war of 1812, a land warrant for three hundred and twenty acres of land, and that the Secretary of the Treasury pay to Ira Baldwin $180 for three months' extra pay, and in full compensation for his services in the last war with Great Britain.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

HARLOW SPAULDING.

On motion by Mr. BRADBURY, the Senate, as in Committee of the Whole, proceeded to the consideration of the bill from the House of Representatives for the relief of Harlow Spaulding.

Mr. COOPER moved that the Senate adjourn; but the motion was not agreed to, there being, on a division—ayes 15, noes 20.

The bill directs the Secretary of the Treasury to pay to Harlow Spaulding the usual compensation allowed naval store-keepers, in foreign places, for the time he acted in that capacity at Port Mahon and Spezzia, after deducting the amount received by him as compensation for his services as clerk.

Mr. HALE. I have uniformly opposed bills of this character, and I cannot consent to the passage of this bill now. They are all wrong.

Mr. BRADBURY. I will state that this allowance is recommended by the Department, and the case is one peculiar in its nature. There being no person who could be employed in the capacity of naval store-keeper, this individual was sent there and requested to stay. There was a full examination of the matter by the committees of the Senate and of the House. The sum is very small and is recommended by both. The individual would not have remained but for the instructions which he received.

Mr. BORLAND. When did he act in that capacity?

Mr. BRADBURY. In 1848, for a very short time, under peculiar circumstances.

Mr. HALE. I want to be consistent, and I do not want to have this bill passed. Since these applications have been made, while I have been here, I have uniformly voted against them. It very often happens persons in subordinate positions, when at sea, perform duties of a higher office than that which they hold, and I have uniformly voted against allowing increased compensation for such accidental service, and I am constrained to do so now; but I shall not kill time by making a speech. I shall content myself with voting against it.

Mr. MORTON. I am opposed to this hasty mode of legislation. There is such a confusion in the Hall that it is utterly impossible to vote understandingly on any bill. I therefore move that the Senate adjourn.

The motion was agreed to; and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

SATURDAY, *February* 26, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. JAMES GALLAHER.

The Journal of yesterday was read and approved.

The SPEAKER. When the House adjourned on yesterday, the Clerk was in the act of reading certain papers involving, as the gentleman from North Carolina [Mr. STANLY] contends, a question of privilege.

Mr. STANLY. They will be read as a matter of courtesy. No one will object, I presume.

Mr. VENABLE. They ought to be read.

Mr. JONES, of Tennessee. I hope there will be no objection this morning to the reading of these papers. Let us dispose of them, and go on with the regular business of the House.

The papers were then read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *February* 25, 1853.

MY DEAR SIR: I was surprised to learn last evening that I had been assailed in the House of Representatives yesterday, for a wrong alleged to have been committed by me in regard to a youth named Collins, who is a clerk in the Pension Office. As you were kind enough to contribute your aid in my defense, and as you are my immediate representative, I beg leave to furnish you with a statement of the facts of the case, in the hope that you may be able to find a suitable opportunity to present them to the House and the country.

In the month of April, 1852, Mr. Collins, a clerk in the Pension Office, died suddenly, leaving a widow and a number of children, as I was informed, in a state of great destitution. On the day of his death, and while his corpse still lay in his house, the Rev. F. S. Evans, who had been ministering to his wants during his illness, came to the Department, and with great feeling represented the distressed condition of the family, and begged me to appoint a son of the deceased clerk to fill his father's place. He represented him to be a boy about fifteen years of age, and candidly admitted that he was not competent to fill the position without assistance. But he informed me that to obviate the difficulty he, with the consent of the family of Mr. Collins, had spoken to Mr. Kane, an able and experienced clerk, who was a friend of the late Mr. Collins, and that he had consented to exercise a fatherly supervision over the boy—to instruct him in his duties, and to perform such parts of them as the boy could not discharge, and that it was understood that Mr. Kane, in consideration of these services, was to receive a suitable compensation out of the salary of the boy. Being thus assured that the public interests would not suffer by the arrangement, I agreed to appoint the boy to his father's office. In regard to the further details, I knew nothing, as the parties were all strangers to me, and up to the present hour I do not know that I have ever seen one of them. I heard no complaint from any quarter, and had flattered myself that I had done a commendable act in saving a family from want, and putting a meritorious boy in the path to promotion. But in the month of September last, Colonel Gentry called at the Department and made some complaint on the subject to the Chief Clerk, who addressed a letter to the Commissioner of Pensions asking an explanation of the facts.

On the 1st day of October last, I inclosed a copy of the report of the Commissioner of Pensions to Colonel Gentry, with a letter of my own explanatory of the facts of the case, which I regret that Colonel Gentry did not think proper to read to the House. I now send you a copy of it.

Mr. Gentry has fallen into several errors of fact. The boy was not represented to me as sixteen years of age, but about fifteen, and so far from being a *competent clerk*, he could not perform the most simple duties of the station without aid. I had nothing to do with the negotiation of the arrangement, and certainly did nothing to require that it should be entered into. It was a family arrangement—voluntarily agreed upon by the parties interested, before I was consulted. I presume I should have known nothing about it, but for the fact that it was necessary to give me some satisfactory reason for appointing a boy of such tender years, and who was acknowledged not to be competent, without aid, to discharge the duties of the office. Without some such satisfactory assurance as was afforded by the engagement of Mr. Kane, I certainly would not have appointed young Collins, for I would not have felt justified in following the dictates of humanity at the expense of the public service. When Colonel Gentry called on me officially to annul this private contract between these parties, I declined to do so. The family had procured the appointment of young Collins in consequence of the arrangement of Mr. Kane, and I thought that they had no right to call on me to aid them in repudiating their contract. Kane had been their benefactor. Through his aid the family had obtained the means of support, and if they begrudged the compensation which they had themselves agreed to allow him for his assistance and instruction to the boy, I did not feel that it was proper for me to unite in carrying out such a purpose.

I herewith submit also a statement from Rev. F. S. Evans on the subject.

In conclusion, I take the liberty of saying, that I challenge the most rigid scrutiny into this and every other official act. All I desire is, that the facts shall be fully and fairly investigated before a judgment is pronounced.

I have the honor to be, very respectfully, your friend and obedient servant,

ALEX. H. H. STUART.

Hon. JOHN LETCHER, *House of Representatives.*

DEPARTMENT OF THE INTERIOR,
WASHINGTON, *October* 1, 1852.

SIR: During my absence from the city, you called at the Department, as I learn, in relation to the case of young Collins, of the Pension Office. Inclosed is a copy of the Commissioner's reply to a note of inquiry addressed to him on the subject by the Chief Clerk of the Department. I may add thereto, that when Mr. Collins's father died, it was well known that the son was not fully qualified to discharge the duties required of a clerk in that office, but in consideration of the dependent condition of his mother's family, I consented to place him there at the rate of $1,000 per annum, with the express understanding, fully acquiesced in by all the parties concerned, that in consideration of the aid and instruction which it was agreed Mr. Kane, his roommate, was to afford him, he was to pay him $200 out of his compensation. It was with this express understanding that the appointment was conferred upon Mr. Collins, and without it, I should not have felt justified in making it, nor should I feel authorized, in view of the public interest, in retaining him in office, without some such arrangement, however much I may feel disposed to extend assistance to the family of Mr. Collins.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART.

Hon. M. P. GENTRY.

PENSION OFFICE, *February* 25, 1853.

DEAR SIR: I have received, and hasten to reply to your communication of yesterday, in relation to some remarks made in the House of Representatives, about the appointment of a clerk in the Pension Office, "with the understanding that he was to contribute a portion of his salary to some other person."

I presume the case alluded to is that of young Collins. Shortly after I took charge of this office, Mr. Collins, of Tennessee, one of the clerks, died, leaving, as was understood, a helpless widow and son. It occurred to me that the young man, although a mere boy, might be useful, but that it was not necessary or just to place him on an equal footing with the old and experienced clerks, in regard to compensation. I suggested, therefore, in a communication which I addressed to you at the time, that young Collins should be appointed, at the rate of $800 per annum, and that the residue of $200 should be added to the salary of Doctor Kane, one of the best clerks in the office, and whose compensation was only $1,000. I understood on inquiry that such arrangement had been frequently made in the various Departments, and in the particular case referred to, it was dictated solely by considerations of humanity and justice. You had no other agency in the matter than to give sanction to the arrangement, and it never occurred to me that it involved any violation of law. If there be any blame in the transaction, I should at least take my full share of it, as it was upon my representations that you sanctioned it.

I will add, moreover, that it was distinctly understood at the time that the family were perfectly satisfied with the appointment on the terms proposed. It was made at the earnest solicitation of both mother and son.

Very respectfully, your obedient servant,

J. E. HEATH, *Commissioner of Pensions.*

Hon. ALEX. H. H. STUART, *Secretary of the Interior.*

PENSION OFFICE, *September* 30, 1852.

DEAR SIR: The case of young Collins is simply this: His father was a clerk in the Pension Office, and died suddenly, in April, 1852, leaving a widow and children said to be very dependent. The case was represented to the Secretary, who authorized the appointment of her son to the clerkship held by the father. But young Collins being but little more than a boy, and Dr. Kane being an *experienced* and *valuable* clerk, having a salary of $1,000 only, and a large family to support, I thought it just that he should be placed on a footing with the $1,200 clerks, and that young Collins could well bear the corresponding reduction of $200. This arrangement was communicated to the Secretary, and unless I am mistaken, was sanctioned by him. There was some complaint made by one or more of the Tennessee delegation, and I made a report on the subject, which I was under the impression had been generally acquiesced in. Arrangements of the kind are frequently made, I am informed, in other bureaus, and the importance and necessity of something of the kind must be obvious to all.

Yours very truly, J. E. HEATH.

GEORGE C. WHITING, Esq.

WASHINGTON, *February* 25, 1853.

DEAR SIR: Agreeably to your request I have to state, that when I was Chief Clerk of the Pension Office, Mr. Collins, a very worthy man and a good clerk, sickened and died. I was much attached to him, and felt deeply for the family. He left a widow and a son, a youth, with probably one or two more children. In order to afford means of support to the family, I proposed to the Secretary of the Interior to appoint young Collins to the vacant place, at $700 per annum, and to transfer the remaining $300 to other clerks. This, I understood, not only met the views of the family, but was gratefully received. Indeed, I regarded it as an act of kindness on the part of the Secretary. I would moreover state that I have understood this division of salaries has been frequently done in the public offices. I regarded it as an act of pure charity. Very respectfully,

F. S. EVANS.

Hon. A. H. H. STUART, *Secretary of Interior.*

Mr. STANLY. I rise to withdraw the motion I made yesterday raising the question of privilege. Being satisfied that the House would do, as they have done, an act of justice to the Secretary, in having those papers read, I have no occasion to insist upon it.

The SPEAKER. If not objected to, the fact that the papers were read by unanimous consent, will go upon the Journal, and the Journal of yesterday in that immediate connection will be made to correspond with the fact.

Mr. STANLY. I only desire to say that no charge had been made, as I understand, by the gentleman from Tennessee, [Mr. GENTRY,] who I am sorry to see is not in his seat. The whole case is before the public, and there let it rest. My purpose is answered, and I do not want to found any proceedings upon it.

Mr. CABLE, of Ohio. I object to this matter going upon the Journal.

The SPEAKER. The papers do not go upon the Journal, but the fact merely that the papers were read by unanimous consent.

Mr. CABLE. Will there be anything upon the Journal preceding this to which this refers? When this matter was up before, if I recollect, it was in the Committee of the Whole on the state of the Union, where there is no record made. I mean when Mr. GENTRY presented this question.

The SPEAKER. The gentleman perhaps was not in the Hall yesterday when this subject was brought up on a privileged question. The Chair overruled the question of privilege.

Mr. CABLE. This is the point of inquiry. This matter was brought before the Committee of the Whole on the state of the Union by Mr. GENTRY, and I wish to inquire if anything in relation to that matter will appear upon the Journal to which this day's Journal will recur?

The SPEAKER. This paper will not appear upon the Journal. The simple fact that the paper was read by unanimous consent this morning must appear upon the Journal. The question now pending is upon the suspension of the rules upon the motion made by the gentleman from Alabama, [Mr. BRAGG.]

Mr. WILLIAMS. I ask permission of the gentleman from Alabama, to say a few words.

Mr. BRAGG. I will yield the floor to the gentleman for that purpose.

The SPEAKER. The gentleman from Tennessee [Mr. WILLIAMS] can be heard only by unanimous consent.

Mr. WILLIAMS. I ask permission to say only a few words. I desire to state, after having heard the letter of the Secretary of the Interior, and the other gentlemen, read, as an act of simple justice to young Collins, that the fact was doubtless true at the juncture of time at which he was appointed, that he was incompetent to perform the duties of a clerk.

Mr. STUART. Is this debate in order?

The SPEAKER. It is in order. The question was put distinctly to the House, whether the gentleman should by unanimous consent be permitted to make his remarks, and no objection was made.

Mr. WILLIAMS. Mr. Collins died some months before the assembling of this Congress, and Mr. STUART appointed his son to fill his place. When I arrived here some months afterwards, young Collins came to me, as he had formerly lived in my district, and stated that he was receiving $700 a year, and that he was performing full duty in the office. Not relying entirely upon young Collins's statement, I requested a friend, a clerk in that Department, with whom I was well acquainted, to inquire into the facts, and ascertain whether it was true that he discharged full duty at his desk. I received information, that he had discharged his whole duty. I then went in person to the Secretary of the Interior and informed him of the fact. He thought that I must be mistaken, and he stated that he would look into the matter. As to the fact stated by Mr. GENTRY, there was no mistake in fact, because at the time Mr. Stuart appointed young Collins, he was perhaps only fifteen years of age, and at the time Colonel GENTRY made the application in regard to his salary he was sixteen years of age; it was a year afterwards. I have never looked at this question in the light that many have done. I do not desire to go further at this time, than to do an act of justice to a boy, who, as I believe, has discharged his whole duty at his desk.

PRE-EMPTION RIGHTS.

The SPEAKER. The question is upon the suspension of the rules upon the motion made by the gentleman from Alabama, [Mr. BRAGG,] to take up Senate bill No. 586, to extend preëmption rights to unsurveyed lands, and for other purposes.

The bill was then read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That so much of the provisions of the act approved the 4th of September, 1841, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preëmption rights, as prevents a right of preëmption from accruing to a person who shall have settled, or who shall settle, on land reserved to the United States alternate to other sections granted to any of the States, for the construction of any canal, railroad, or other public improvement," be, and the same is hereby, repealed. And the right of preëmption is hereby granted to the person who, at the passage of this law, is an actual settler, on either of the aforesaid classes of land, and who made the first settlement thereon, and to the first set-

tler who shall hereafter settle on any tract of said lands not rightfully claimed by any existing settler, at the date of this act, as if the disabilities removed by this repeal thereof had never existed: *Provided*, That the settler on unsurveyed land shall give the "notice" provided by law, to the register of the proper land office, within three months after the filing of the plat of survey in said register's office; and the settler, at the date of this law, on any of the alternate sections referred to, shall file such "notice" within three months from the date of this act; and when he comes forward to consummate his claim by filing the necessary proof, shall make payment therefor at the increased minimum attached to the land claimed: *Provided further*, That any settler who has settled, or may hereafter settle, on lands heretofore reserved on account of claims under French or Spanish grants which have been, or shall be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of preëmption granted by this act and the said act of 4th of September, 1851, after the land shall have been released from re-ervation, in the same manner as if no reservation had, at the time of the settlement, existed.

The question was then taken upon the suspension of the rules, and there were—ayes 91, noes not counted.

Mr. SEYMOUR, of Connecticut, demanded the yeas and nays, and tellers upon the yeas and nays.

Tellers were ordered; and Messrs. GRAY and CLINGMAN were appointed.

The House was divided, and the tellers reported that there were—ayes 34, noes not counted.

So the yeas and nays were ordered.

[Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly engrossed the following bills:

S. R. No. 23. A resolution for straightening the eastern boundary of the naval hospital lands at New York.

S. No. 429. An act for the relief of Benjamin S. Roberts.

S. No. 59. An act to provide compensation to such persons as may be designated by the Secretary of the Treasury to receive and keep the public money under the 15th section of the act of the 6th of August, 1846, for the additional services required under that act.]

Mr. BRAGG. In order that the House may vote understandingly, I take the liberty of saying, that if the rules are suspended, I shall move to strike out all of the bill after the enacting clause, and to insert, in lieu thereof, the following amendment as a substitute, viz:

That the preëmption laws of the United States, as they now exist, be, and they are hereby, extended over the alternate reserved sections of public lands along the lines of all the railroads in the United States, wherever alternate sections of public lands have been granted by acts of Congress; and that it shall be the privilege of the persons residing on any of said reserved lands, to pay for the same in soldiers' bounty land warrants, or in gold and silver, or both, in preference to any other person, and at any time before they shall be offered for sale at public auction: *Provided*, The price to be paid shall, in all cases, be $2 50 per acre, or such other *minimum* price as is now fixed by law upon said lands, and no one person shall have the right of preëmption to more than one hundred and sixty acres of said land.

Mr. SEYMOUR, of Connecticut. I would suggest to the gentleman that he should offer that as a separate bill.

Mr. STEPHENS, of Georgia. I wish to ask the gentleman from Alabama if he will accept this as a modification?

And provided further, That this act shall not extend to any case where such residence commenced at a period subsequent to the reservation of such alternate sections as aforesaid.

[Cries of "That's right!" "That's right!"]

Mr. BRAGG accepted the amendment as a modification of his amendment.

The question was then taken on the motion to suspend the rules, and there were—yeas 104, nays 59; as follows:

YEAS—Messrs. Aiken, Ashe, Averett, David J. Bailey, Thomas H. Bayly, Barrere, Bartlett, Bell, Bowie, John H. Boyd, Bragg, Brenton, Briggs, Albert G. Brown, George H. Brown, Busby, Joseph Cable, Thompson Campbell, Carter, Caskie, Chandler, Chastain, Clark, Clemens, Cobb, Conger, Cottman, Daniel, Darby, John G. Davis, Dawson, Disney, Doty, Duncan, Durkee, Eastman, Edgerton, Edmundson, Ficklin, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gilmore, Green, Gray, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Henn, Hibbard, Holladay, Houston, Hunter, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Kurtz, Landry, Letcher, Mace, McCorkle, McDonald, McNair, McQueen, Meade, Miller, Molony, Henry D. Moore, John Moore, Morehead, Murphy, Nabers, Orr, Samuel W. Parker, Peaslee, Penn, Phelps, Porter, Richardson, Riddle, Robbins, Robinson, Skelton, Smith, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, St. Martin, Taylor, Townshend, Walsh, Watkins, Welch, Addison White, Williams, and Yates—104.

NAYS—Messrs. Charles Allen, Allison, John Appleton, William Appleton, Babcock, Bowne, Brooks, Burrows, Caldwell, Chapman, Cleveland, Clingman, Colcock, Dean, Dockery, Evans, Fay, Gamble, Giddings, Goodenow, Hart, Hascall, Haven, Hebard, Horsford, Howard, John W. Howe, Thomas M. Howe, Thomas Y. How, Ives, Jenkins, Daniel T. Jones, George G. King, Preston King, Kuhns, Little, Mann, Martin, McMullin, Millson, Murray, Newton, Penniman, Robie, Sackett, Schoonmaker, Scurry, Origen S. Seymour, Stanly, Alexander H. Stephens, Stratton, Sutherland, Sweetser, Toombs, Walbridge, Washburn, Wells, Wildrick, and Woodward—59.

So, two thirds not voting in the affirmative, the rules were not suspended.

MILITARY ACADEMY BILL.

Mr. HIBBARD. I rise to a privileged question. The Committee of Conference upon the disagreeing votes of the two Houses on House bill No. 332 have directed me to make a report, which I now send to the Clerk's desk.

The Clerk read the report, which is as follows:

The Committee of Conference on the disagreeing votes of the two Houses on House bill No. 332, "making appropriations for the support of the Military Academy for the year ending 30th June, 1854," have met, and after full and free conference have agreed to recommend, and do recommend, as follows: That the Senate recede from its second and fourth amendments to said bill.

The following are the amendments above referred to:

Second amendment:

"For riding and exercise-hall, $12,000."

Fourth amendment:

"SEC. 2. *And be it further enacted*, That hereafter the professors of French and drawing shall receive the pay and emoluments allowed to other professors; and the sum of $1,000 is hereby appropriated for that purpose, out of any money in the Treasury not otherwise appropriated."

Mr. HIBBARD. I will simply state that the Senate have adopted the report of their committee, and have receded from their amendments, and no further action of the House will be necessary if this report is agreed to.

The question was then taken, and the report of the Committee of Conference was agreed to.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. EDGERTON. I move that the House resolve itself into a Committee of the Whole House on the Private Calendar.

The SPEAKER. This being private bill day, the question will first be put on the motion of the gentleman from Ohio, [Mr. EDGERTON.]

Mr. EDGERTON. I call for tellers.

Tellers were not ordered.

The question was then taken on Mr. EDGERTON's motion, and it was disagreed to.

The question recurred upon the motion submitted by Mr. HOUSTON.

Mr. STUART. I appeal to the gentleman from Alabama [Mr. HOUSTON] to withdraw his motion for a moment, to allow me to take up the bill to extend the law in regard to the protection of the lives of passengers in steamboats. We can pass it in five minutes.

[Cries of "Oh, no!" and "Object!"]

Mr. STANLY. I rise to a question of order. I desire to ask if reports from committees are not in order this morning?

The SPEAKER. They are not. This is private bill day.

Mr. STUART. I hope the gentleman from Alabama will withdraw his motion.

Many MEMBERS. "No, no!" and "Object!"

Mr. CLINGMAN. I shall object to your motion, if he does.

Mr. HOUSTON. A dozen gentlemen say they would object to the bill which the gentleman from Michigan [Mr. STUART] proposes to take up. I cannot, therefore, withdraw my motion.

The question was then taken on Mr. HOUSTON's motion, and it was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. KING, of New York, in the chair,) and resumed the consideration of the bill "making appropriations for the support of the Navy for the year ending June 30, 1854."

NAVAL APPROPRIATION BILL.

The CHAIRMAN. When the committee last rose, the following clause of the bill was under consideration:

"For repair of vessels in ordinary, and for wear and tear of vessels in commission, including fuel and purchase of hemp, $1,700,000."

The gentleman from New York [Mr. BROOKS] moved to amend the clause by adding thereto the following:

"*Provided*, That no part of the aforesaid sum shall be expended to repair an old vessel when a new one can be built for the same sum."

The gentleman from Virginia [Mr. MILLSON] moved to amend the amendment, by adding:

"Except in the case of the frigate Constitution."

The question is upon the amendment to the amendment.

Mr. MILLSON. I had misunderstood the character of the amendment of the gentleman from New York, [Mr. BROOKS.] I find that mine is not necessary, and I withdraw it.

Mr. HOUSTON. Upon examination of that item, I find that there is a mistake in the amount as set forth in the printed bill. The committee intended to give the whole of the estimate, after a deduction of $427,000, the amount necessary for building new vessels. That would leave $1,941,450, but instead of that, $1,700,000 has been inserted. It is a mistake, and I desire the general consent of the committee to correct it.

The CHAIRMAN. It can be done by a motion. The question must first be taken on the amendment of the gentleman from New York, [Mr. BROOKS,] which has been debated.

The question was then taken on Mr. BROOKS's amendment, and it was rejected.

Mr. HOUSTON. I now ask for the correction of the clerical error which I have pointed out.

The CHAIRMAN. If there be no objection, the correction will be made.

No objection was made, and the amount was accordingly changed to $1,941,450.

Mr. STANTON, of Tennessee. I offer the following amendment:

Provided, That the Secretary of the Navy be directed to accept the proposition of the United States Mail Steamship Company, to furnish one of their mail steamships, built under their contract with the Government, upon the following terms, to wit: The said company shall, at their own risk and expense, and under the direction of the Secretary of the Navy, make all the alterations and improvements necessary to prepare said ship for her armament; will place such armament on board, and subject the said ship to such test as the Secretary of the Navy shall direct, to determine her adaptation to naval purposes; and if such test shall prove satisfactory to the said Secretary, the Government shall take the ship at her appraised valuation, to be ascertained by appraisers chosen, one by the Secretary of the Navy, one by the Company, and in case of disagreement, these two to choose a third.

Mr. HIBBARD. I rise to a question of order. I submit that that amendment is not in order. It is not in accordance with the provisions of any existing law, as I understand it. If it be, it is certainly unnecessary to reënact that law.

Mr. STANTON. I will state, what I presume is known to every member of the committee, that that amendment is in precise conformity with the law and with the recommendation of the Secretary of the Navy, upon whose suggestion this proposition was directed by the Committee on Naval Affairs to be reported.

Mr. HIBBARD. If such are the provisions of the existing law we cannot change them and make new ones, and why should we reënact them?

The CHAIRMAN. The Chair is of opinion that the amendment is in conflict with the 81st rule, and an evasion of it, and is therefore compelled to sustain the point of order. It is an appropriation for purposes not authorized by law.

Mr. PENN. The amendment makes no appropriation.

Mr. STANTON. I shall be under the necessity of appealing from the decision of the Chair.

Mr. PENN. The amendment makes no appropriation. The work is to be done at the expense of the company.

Mr. FLORENCE. It is clearly giving direction to an existing law and must be in order.

Several MEMBERS. Read the amendment.

The Clerk again reported the amendment.

The CHAIRMAN. The Chair decides that the amendment is in direct conflict with the rule, and is, therefore, out of order. From this decision the gentleman from Tennessee appeals, and the question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was put; and, on a division, there were 57 in the affirmative.

Mr. ORR. I demand tellers.

Tellers were ordered; and Messrs. JACKSON and PRICE were appointed.

The question was then taken, and the tellers reported—ayes 64, noes 42; no quorum voting.

[Loud cries of "Call the roll!"]

Mr. STEPHENS, of Georgia. Oh, no! Let there be a recount.

Mr. ORR. I object. There is a quorum in the Hall, but gentlemen will not take the trouble to rise from their seats and vote.

[Loud cries of "Recount!"]

Mr. ORR. Well, sir, I will withdraw my objection.

Mr. STUART. Before we are again called upon to vote, I ask that the question of order may be stated and the amendment read.

The Clerk again reported the amendment.

Mr. JENKINS. I understand the proposition to be, in two words, to purchase ships instead of building them.

[Loud cries of "Order!" and great confusion all over the Hall.]

The CHAIRMAN. Debate is not in order. The Chair will read the rule with reference to appropriation bills. It is as follows:

"81. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several Departments of the Government."

That is the whole rule. The law does not authorize the construction or purchase of ships for the Navy of the United States, and upon that ground no appropriation for that purpose is in order. The Chair so ruled yesterday, and his decision was sustained by the committee. The Chair regards this as a proposition to purchase a ship and direct it to be equipped, and in conflict with that rule. The amendment, moreover, is not pertinent to this bill. It relates to the service of the Post Office Department.

Mr. STANTON, of Tennessee. I ask if it is not competent for me to state that the law authorizing this line of steamers——

[Loud cries of "Order!"]

The CHAIRMAN. The Chair will be happy to hear the gentleman from Tennessee, unless objection is made.

Mr. STEPHENS. I object.

Mr. RICHARDSON. The gentleman from Tennessee has an undoubted right, under our rules, to state the ground of his appeal.

The CHAIRMAN. He has stated it once.

Mr. STANTON. I take the appeal on the ground that the law authorizing this line of steamers provides that the Government may, at any time, take one of the steamers on the conditions specified in that amendment. It does not propose to build new ships, but only to carry out——

[Loud cries of "Order!" and "Question!"]

The tellers then resumed their places, and the question having been again put, "Shall the decision of the Chair stand as the judgment of the committee?" the tellers reported—ayes 82.

A further count was not insisted on.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. BROOKS. I send up an amendment to the Chair, and before the Chair decides upon the question of its being in order, I desire to call his attention to an existing law providing for the construction of these ships, and which will make this amendment in order. I move the following:

And that the frigates Sabine and Santee, now on the stocks, shall be launched and made ready for service.

Mr. HOUSTON. Why, a part of this appropriation is for that express purpose.

The CHAIRMAN. The Chair then decides the amendment to be in order.

Mr. BROOKS. There is a great necessity for the launching of these ships. But I wish first to call the attention of the committee to the effect of the existing laws in relation to the repair of old ships, under the laws as they now stand. Having no law to build a new steamer, the old Princeton steamer was torn down, and then rebuilt, preserving the machinery and the name, and that was about all; to do which cost about as much, if not more, than it would have cost to build the hull of a new steamer outright. The Government are thus every year at thousands of dollars unnecessary expense, because, in order to keep up the Navy, it becomes necessary thus tear down and build up, there being no authority to build up anew. The steamer Vixen was torn down and rebuilt in like manner; and in this case about the whole hull, I believe, was taken away. Indeed, in many of these cases of repair, the whole ships are torn down and taken away, with the exception of mere fragments left for the purpose of avoiding the law. The Princeton had nothing left but a few knees.

Now, sir, these frigates Sabine and Santee are upon the stocks, and have been there for many years. I understand they are in danger of suffering from the dry-rot; and their launching and equipment have been recommended over and over again in the public documents which I have before me accompanying the reports of the Secretaries of the Navy, both by the Secretaries themselves, and by the Bureau of Construction.

From Commodore Skinner's Report.

"The Bureau would respectfully recommend that the frigate Sabine, on the stocks at New York, and Santee, at Portsmouth, New Hampshire, be completed and launched to supply the places of the Constitution and the United States. The Sabine and Santee have been on the stocks in an unfinished state for many years. They are of larger dimensions than those it is proposed to relieve from sea service, and may, it is believed, be launched and equipped at a cost not far, if at all, exceeding the amount required to repair and equip old frigates. The economy of the measure is evident, as the new ships will run a number of years without repairs."—*Bureau of Construction, November* 1, 1850.

"The Bureau last year also offered for consideration the propriety of launching the frigates Santee and Sabine, and to furnish one or both with the necessary machinery to drive them by steam."—*Bureau of Construction, November* 1, 1851.

From Commodore Shubrick's Report.

"As a general rule, the repairs required to a vessel-of-war increase with her age, every successive thorough repair being more expensive than the last, until a thorough repair becomes almost equal in cost to the expense of a new ship. It would therefore be sound economy, even if it should be deemed that we have a sufficient number of ships in the water for the current service of the Navy, to discontinue the use of some of the oldest, and introduce others in their stead by launching the two frigates Sabine and Santee, that have been on the stocks since 1823, and by building some sloops-of-war."—*Bureau of Construction, &c.*, 1852.

But, in reply to the suggestion of the gentleman from Alabama, that the Navy Department now have the authority to launch these ships, I have to say that that Department have not heretofore felt at liberty, under the laws, to launch them, without especial direction. They have not considered it a proper exercise of the power extended to them, and for this reason these ships have remained on the stocks for many years, and there will continue to remain, unless an express provision is made for the purpose of having them launched, or unless Congress gives some intimation to that effect. The Navy Department has heretofore so construed their powers as not to be able to do it, and they will go on rebuilding "Princetons" and tearing down and rebuilding "Vixens." That is precisely what they are now doing with the old frigate Constellation at Norfolk, a ship not worth repairing. The Constellation is a second-class frigate of thirty-two guns, and was launched at Baltimore in the year 1797, more than half a century ago. Her timbers are very rotten, and for the most part will have to be replaced with new, and her model will no doubt require some alteration to conform somewhat with ships of more recent construction. The vessel has been allowed for years to retain her position in that portion of the Norfolk navy-yard technically known as "*Rotten Row*,"—where she might have remained, had not the present exigencies of the service compelled the Department to have her repaired.

To keep up the Navy, the Department is thus obliged to razee the Constellation, and to convert her, at great expense, into a sloop-of-war. Such is the folly, such the inconsistency of our laws. I must say, then, that unless the House is mad—stark mad—it will alter these laws with reference to the construction and repairs of vessels of the Navy, and will go on building as the public exigencies require. Otherwise it will be utterly impossible to improve the models of our Navy. We are obliged to follow models of vessels which have been in existence for fifty years; and so long as we are compelled to follow the models of such vessels, we shall be behind the age in the construction of our naval vessels, and behind all the navies in the world. The House, however, seems to have decided it will do nothing more for the Navy; nothing towards keeping up with the spirit of the age; but it cannot deprive us, who protest against its conclusion and its acts, from thus publicly making our protest against its folly.

Mr. HOUSTON. I understand, from the reading of this report, that the Secretary of the Navy intends to do just what the gentleman from New York proposes to accomplish by his amendment. It was precisely for that purpose that a part of this estimate for $1,941,000 was made. I will again read the portion of the report of Commodore Shubrick which refers to this matter. He says:

"It would therefore be sound economy, even if it should be deemed that we have a sufficient number of ships in the water for the current service of the Navy, to discontinue the use of the oldest, and introduce others in their stead, by launching the two frigates Sabine and Santee, that have been on the stocks since 1823, and by building some sloops-of-war.

"The frigates above named were, when laid down, of the largest class, but are inferior to the frigates of the present day of the first class; and the changes which the introduction of new applications of power and new arrangements of armament are making in the composition of other navies as well as of our own, may soon make them of little value. By putting them in the water now, for which a small appropriation would be needed, and using them, heavy expenses in the repair of old ships would be avoided, and room would be made to take advantage of the improvements in architecture and armament, by which alone we may hope to keep pace with the navies in comparison with which we must so frequently be placed.

"Provision has been made in the estimate for repairing the Franklin, seventy-four, reducing her to a razee of fifty guns, and the Constellation frigate, of thirty-six guns, reducing her to a first-class sloop-of war, by which two valuable cruising vessels would be made available."

Now, it occurs to me that this covers the whole ground. I am voting for this appropriation with the express understanding, on my part, that we are giving this money in part, for the purpose of completing and launching the Sabine and the Santee, and in part for the repair of the Franklin and the Constellation.

Mr. BROOKS. If it does, then why not say so in the bill?

Mr. HOUSTON. I am voting for the appropriation with that express understanding, and I do not think the amendment is at all necessary. I hope it will not be adopted.

Mr. FLORENCE. If this amendment is to pass, then I move further to amend, by adding the following, viz:

"For repairing the Franklin seventy-four, reducing her to a razee of fifty guns, and the Constellation frigate, of thirty-six guns, reducing her to a first class sloop-of-war."

Mr. Chairman, if the amendment offered by the gentleman from New York [Mr. BROOKS] is necessary to provide how one portion of this appropriation is to be expended, this provision is just as necessary to provide how the other portion shall be expended.

Mr. HOUSTON. Let us vote against it all.

Mr. FLORENCE. Very well; I am willing to take the vote without any further remarks.

The question was then taken upon Mr. FLORENCE's amendment to the amendment, and it was not agreed to.

The question then recurred upon Mr. BROOKS's amendment, and being taken, the amendment was also disagreed to.

Mr. STANLY. Is there now any amendment pending?

The CHAIRMAN. No amendment is now pending.

Mr. STANLY. I move the following amendment:

Page two, after line twenty-three, insert:

For the equipment, maintenance, and support of an expedition for the exploration of the interior of Africa, eastward of Liberia, and the ascertainment of the resources of that region for the colonization of the free blacks of the United States, $125,000.

Mr. PHELPS. I rise to a question of order. The appropriation proposed in that amendment is not authorized by any existing law. I submit that the amendment is not in order.

The CHAIRMAN. Upon that principle the Chair thinks the amendment is not in order.

Mr. STANLY. Before the Chair makes his final decision upon that point, I ask permission to correct the gentleman from Missouri as to a matter of fact. An expedition has been already fitted out upon that coast, and they are now making a survey. The matter was referred to in the report of the Secretary of the Navy; and not only this, but both those who are going out of power and those who are coming into power, and who are entitled to the confidence of my friend from Missouri, are in favor of this noble enterprise.

A MEMBER. That is not in order.

The CHAIRMAN. Specific appropriations are made for specific purposes, and a specific ap-

propriation may have been made for this purpose; but the Chair is of the opinion that there is no law existing authorizing further appropriations to be made in this direction, and therefore decides the amendment to be out of order.

The following clause of the bill being under consideration—

"For ordnance and ordnance stores and small arms, including incidental expenses, two hundred thousand dollars"—

Mr. FLORENCE moved to insert after the word "hundred" the words "and one," so as to make the amount $201,000, and to add at the end of the paragraph the following:

After line twenty-five, insert:

Provided, That the sum of $1,000 be, and is hereby, appropriated from the appropriation of ordnance and ordnance stores, for the purpose of testing the invention of Mr. John Prentis giving the rotary or rifle-motion to elongated shot and shells from smooth-bored cannon of small or large caliber.

Mr. HOUSTON. I wish to ask if that amendment is asked for by the Committee on Naval Affairs?

Mr. FLORENCE. It is not.

Mr. HOUSTON. Then I shall vote against it.

Mr. FLORENCE. This amendment is to make an appropriation of $1,000 for the purpose of testing the invention there alluded to. I will merely state, that by a rule which has been established, it requires an appropriation upon the part of Congress before the Navy Department will be authorized to make the experiment. It is a matter of great national importance if it turns out to be what the inventor claims for it. There is a great deal of interest felt in relation to the matter among the officers of the Navy, and I have felt it my duty to present the amendment for the consideration of the committee. I present the following memoranda of the inventor, which I send to the Clerk's desk, and ask to have read in the five minutes to which I am allowed.

The memoranda was read, as follows:

Memoranda concerning Mr. Prentis's Invention.

1st. *What the invention is.*

It is a secret method for giving the rotary or rifle-motion to elongated shot and shells from smooth-bored cannon—an invention of great national importance, and one vainly sought for by the Government for many years.

2d. *Prentis's proposition to the Government.*

This was made by his letter of April 27, 1849, to the President of the United States, and to the Secretaries of War and Navy, and renewed by letter of the 16th of May following. He makes known the fact of his discovery, proposes to disclose it to any officers to be appointed by the Government, and to demonstrate in their presence, by experiment, that he has discovered a method for giving the rotary, rifle-motion, &c. &c. Said officers to make report of the facts.

If such shot and shells have the motion as rifle balls have, and will preserve their front ends forward to the extent of the explosive power applied, then for his disclosure he claims at least $150,000, and will convey to the Government of the United States the sole use and control of the invention. If the proposition be rejected, then he asks a certificate of his having made the same, that he might offer it to any foreign Government without being subject to the charge of violating his duty to his own.

Let it be observed, that Mr. Prentis asked no compensation, nor does he now, without a full demonstration of the success of his claimed invention.

3d. *Prentis's proposition accepted.*

The Secretary of the Navy, by letter of the 17th of May, 1849, says: "If you will present yourself and your invention, on the terms indicated in your letter of the 16th instant, at the navy-yard in Washington, an officer will be detailed to superintend the experiments and report results."

The Secretary of War joined in the acceptance, and requested that an officer of the Army should also witness the experiments; and by letter of June 23, 1849, wrote to the Secretary of the Navy, that he should "write immediately to Mr. Prentis and accept his propositions."

4th. *Experiments and report thereon.*

Experiments were made at the United States Arsenal at West Troy, New York, on the 10th and 12th days of August, 1850, with a small gun of about one and a half inch caliber—the size proposed by Mr. Prentis, and agreed to.

Colonel Baker, of the Army, August 23, 1850, reported the results to General Talcott. From this report it appears:

1st. That eleven rounds were fired.

2d. That five shots hit the target. (From those which missed it no opinion could be drawn.)

3d. That in each of the shots that hit the target, the experiment was successful, as the shell entered the target point foremost; and therefore, from necessity, with the rotary, rifle-motion.

4th. In the important language of Colonel Baker, "The opinion I have formed after witnessing the experiments of Mr. Prentis is, that there was given to the shot fired from the gun the 'rifle-motion,' and that the shot evidently retains that motion until it hits the target."

A supplemental report was afterwards made by Colonel Baker, in the form of answers to certain interrogatories presented to him by Mr. Prentis, through the War Department. From this it further appears:

1st. That the gun was a common smooth-bore, and loaded at the muzzle.

2d. That the projectiles fired were hollow.

3d. That they were "elongated, or conical, or pear-shaped."

4th. To the question, "Did these projectiles, when discharged from the gun, receive the rifle-motion?" was given the following answer:

"All the projectiles that fairly hit the target gave evidence of having had the rifle-motion."

5th. To the following important question: "Was it not a self evident fact, and plainly demonstrated to you, that the principle of the improvement could be so graduated as to compel projectiles discharged from the gun to rotate more or less times in any given distance?" was given the following answer:

"The principle is undoubtedly capable of graduating the distance of the motion of rotation."

Thus it appears the experiments were successful, and Mr. Prentis did accomplish that which has been so much sought for, but had hitherto baffled all the efforts of human ingenuity. He performed what he undertook, which was to give the rotary or rifle-motion to elongated shot or shells from smooth-bore cannon. In doing which the Government has come into possession of the secrets of his invention through its officers.

6th. *What is now wanted.*

Colonel Baker, in his report, suggested a "doubt" as to the applicability of the invention to "heavy ordnance"—merely a "doubt."

Such applicability is precisely what Mr. Prentis wants now to show. He claims that his invention is just as applicable to heavy as to light artillery, as the principle is the same whatever the size of the gun. No experiments have ever been made with heavy guns. The experiments thus far have been at Mr. Prentis's own expense.

But Mr. Prentis cannot well supply himself with a heavy piece of ordnance; and after the success of the experiments thus far and to the extent claimed and proposed by him, the Government can well afford to give him the facilities for experimenting with a heavy gun.

The object now sought is to provide for experimenting with *large* shot and shells.

The expense of the experiments to the Government will be trifling in amount, while to Mr. Prentis it would be great. The alleged discovery is of immense importance; and Mr. Prentis seeks from the Government no personal gain—asks none—expects none—unless his invention be what he claims, and the Government wish control of it.

7th. After bringing it fairly to the attention of the Government, and after demonstrating as he has its power to accomplish the end so long desired, he now asks that the Government may experiment on a larger scale to remove simply a "*doubt*" suggested not by himself, but by another.

He conceives that he has now done what his duty to his country, as an American citizen, required.

If he finds himself at last repulsed with harassing delays and inaction, which are sometimes (often) worse than rejection, then he will feel himself at liberty to make known his invention, and offer the same to any foreign Government.

Mr. HOUSTON here obtained the floor.

Mr. FLORENCE. I ask the gentlrman from Alabama to yield me a moment of his time for an explanation of this matter.

Mr. HOUSTON. I yield to the gentleman for a moment.

Mr. FLORENCE. The gentleman from Alabama asked whether this matter had received the approval of the Committee on Naval Affairs, and whether it has been offered by the direction of that committee. Though it has not been offered by the direction of the committee, I may state that so far as I have conversed with the members of the Committee on Naval Affairs—and I have conversed with a majority of them—it has received their approval, and I intended to have presented it to the committee, but not having had an oportunity to do so, I submit it with the consent and approbation, and by the advice of the members of the Committee on Naval Affairs.

Mr. HOUSTON. There has been a great deal of difficulty growing out of the various inventions used in connection with the Navy, and as there may be some contest as to who may be the true inventor, I think it is as little as we can do to let the matter alone, until we can be certain that we shall do no individual harm.

I am given to understand by the gentleman from New York on my right, [Mr. HAVEN,] that there is a petition before the House, in which this very invention is claimed by some other individual. If there were no dispute about it, it does seem to me that the matter, being in the charge of so efficient and distinguished a member of the Naval Committee as the gentleman from Pennsylvania, and not having been by him presented to that committee for investigation, it ought to be voted down.

The question was then taken upon the amendment of Mr. FLORENCE, and it was disagreed to.

Mr. FLOYD. I offer the following amendment, to come in after the clause relating to the Naval Academy at Annapolis, Maryland:

For providing surf-boats and boat-houses, one to be placed on No-Mans-Land, two on the south side of Long Island, between Montauk Point and Fire Island, and one on Oyster Pond Point, $10,000, to be expended under the direction of the Secretary of the Treasury.

Mr. HOUSTON. I ask whether that amendment is in order to this bill? It may be in order as an amendment to the light-house bill, which will be before the House directly, but certainly, as it seems to me, it cannot be in order to the Navy bill.

Mr. FLOYD. This matter has no connection with light-houses or with the light-house system. The phraseology of the amendment follows, word for word, an appropriation made by this House, not to the light-house bill, but to the general appropriation bill of 1850.

The CHAIRMAN. The Chair thinks the subject is not connected with this bill, and cannot be offered as an amendment to it.

Mr. GOODENOW. I offer the following amendment, to come in at this point:

For supplying the United States naval vessels with Phillips's fire annihilator, under the direction of the Secretary of the Navy, and at his direction, $6,000.

I have offered this amendment in consequence of a suggestion made by the Secretary of the Navy to me. He informed me that he had addressed a note to the chairman of the Committee on Naval Affairs, in which he called the attention of that gentleman to this subject. I understand from the chairman that he has not received that note. I was informed by the Secretary of the Navy——

Mr. SWEETSER, (interrupting.) I rise to a question of order. I submit that this amendment is not in order.

The CHAIRMAN. The point of order is made rather late, but the Chair is of opinion, that, as the amendment proposes a direct appropriation to extend the supplies for the Navy, it is in order.

Mr. GOODENOW. I was about to say that the Secretary of the Navy informed me that these fire annihilators have been introduced with great success in the British Navy, and that he deemed it a matter of great consequence and value to our Navy armament that our vessels should be supplied with these machines. As the appropriation is only $6,000, and it is to be expended under the direction and at the discretion of the Secretary of the Navy, I hope the committee will agree to it.

The question was then taken upon the amendment offered by Mr. GOODENOW, and it was not agreed to.

Mr. STEPHENS, of Georgia. I offer the following amendment, to come in at the same place:

For meteorological observations, to be conducted under the direction of the Secretary of the Navy, $2,000.

Mr. HOUSTON. The recommendation of this item of appropriation, which is the usual one, was sent in after the bill was reported from the committee.

The question was taken on the amendment, and it was agreed to.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer an amendment, to come in at the end of the appropriation for the navy-yard at Boston.

The amendment was as follows:

For building engine-house, $30,000.

Mr. HOUSTON. This appropriation is for work which has already been performed.

The question was then taken on the amendment, and it was adopted.

Mr. STANTON, of Tennessee, offered the following amendment to the clause making appropriations for the navy-yard at Brooklyn:

And the Secretary of the Navy is hereby empowered and directed to sell and convey to any purchaser, that portion of the Government property in Brooklyn which lies between the western side of Vanderbilt avenue and the hospital grounds: *Provided*, The same shall not be sold for less than $80,000, being the cost thereof; and the sum for which said property shall be sold, is hereby appropriated for the improvement of the navy-yard, according to the estimates of the Department.

Mr. LETCHER. I object to the amendment, as it is out of order.

Mr. STANTON. I desire to make a single statement.

The CHAIRMAN. The Chair is of opinion that, as the amendment refers to a work which is itself in the bill, it is in order.

Mr. STANTON. The property referred to in the amendment is situated in front of the city of Brooklyn. The city has run two avenues through that land, and there is a difficulty between the city of Brooklyn and the Government of the United States as to some taxes and other charges upon the property. The State of New York refuses to

surrender the jurisdiction, and the city of Brooklyn insists that it is necessary for the convenience of the people that these avenues shall continue through these lands to the river. I have a letter from the Navy Department, in which they say that it would be well to dispose of that property, unless the jurisdiction of the United States can be extended over it. Now, sir, independent of this mud-flat, the Government has nearly two hundred acres of ground there, a very large portion of which is entirely unnecessary, and which will require probably some two or three hundred thousand dollars to fill up.

If this amendment could be adopted, and this property can be sold for that sum, it will save the Government, not only $80,000, for which it will be sold, but the sum which it will cost to fill it up.

I will read a passage from the letter to which I have referred:

"But if it should be found impracticable to obtain jurisdiction over all these grounds without relinquishing a portion for streets and easements, that part between the west side of Vanderbilt avenue and the Hospital grounds, could be disposed of with least injury to the Government. This part contains about twenty-six and a half acres, including Vanderbilt and Clinton avenues, in which there are about six acres.

"*Question.*—First, what was the whole cost of such unimproved part as may be dispensed with? and second, what, in the opinion of the Department, it would bring at public sale?

"*Answer.*—First, the whole cost of the lands recently purchased was $285,000. The whole quantity about seventy-three acres; and at a *pro rata* cost, the value of the twenty-six and a half acres would be $103,458. Second, the amount which these twenty-six and a half acres, which may be dispensed with, would bring at auction, would probably not be more than $50,000, these premises being encumbered by the two avenues before mentioned."

Now, sir, I propose to make the property bring its cost, and that it shall not be sold for less than $80,000.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. I wish to propose an amendment to the amendment of the gentleman from Tennessee, by striking out "$80,000, being the cost thereof," and inserting in lieu thereof the words, "the cost and interest thereon." I suppose that this real estate in Brooklyn has increased in value since this purchase by the Government.

Mr. PRICE. It is worth less than the original cost.

Mr. STUART. I desire to have the amendment read as it will read if that amendment is adopted.

The amendment was accordingly read, as follows:

"And the Secretary of the Navy is hereby empowered and directed to sell and convey to any purchaser that portion of the Government property in Brooklyn which lies between the western side of Vanderbilt avenue and the hospital grounds, provided the same shall not be sold for less than the cost and interest thereon; and the sum for which said property shall be sold is hereby appropriated for the improvement of the navy-yard, according to the estimates of the Department."

Mr. STANTON. I accept the amendment offered by the gentleman from Georgia.

Mr. BOWNE. I simply desire to say that I should like to see that property sold, in order that the people of the city of Brooklyn may have access to the water on that side of the city. For that reason I object to the language of the amendment which has been accepted by the mover of the original amendment, because the property was sold to the Government in 1848, at a price which no individual would have paid for it. It is not worth as much to-day as the Government paid for it, and the amendment of the gentleman from Georgia defeats the whole object of the proposition. The Government does not want the land, not having the least use for it. They have about two hundred and twenty-five acres in the navy-yard and hospital grounds, running a mile and better directly in front of the city, and the whole city desire to have it sold, in order that the inhabitants may reach the water of the East river without being compelled to go a mile to cart a load of brick.

I am well assured, from observations just made to me, that the interest clause will defeat the whole matter. I do not think that the property will bring $80,000 if advertised for thirty months instead of thirty days. I am tolerably well advised of the value of property in the city of Brooklyn. I know the amendment will defeat the object designed to be accomplished. This is a very plain proposition. There is no foolery about it. No injury will result to the Government, and it will be of benefit to the people of Brooklyn in enabling them conveniently to reach the water. The land proposed to be sold consists almost entirely of deep mud; and if the Government fill it up, and that it must do before it will be of any use, it will cost $200,000, for the reason that the Government, as all the world knows, has always to pay an extortionate price for such services.

Mr. STEVENS, of Pennsylvania. Does not that land go to the State, under the swamp land act? [Laughter.]

Mr. BOWNE. I do not know as to the character of land in Pennsylvania, but I would reply to the gentleman that we have no swamp land in my State subject to such reversion. The poorest of it is too good to be given to the Government.

[Here the hammer fell.]

Mr. CARTTER. I would inquire whether it is now in order to speak against the amendment? Three speeches have already been made in its favor.

The CHAIRMAN. The gentleman from New York rose in opposition to the amendment after its modification. Debate is not in order unless some other amendment be offered.

Mr. EVANS. I do not intend to oppose the gentleman from New York. It may be right that this land should be sold; but, unless I am greatly mistaken, when authority is given any officer by law, he is bound to execute it. He has no right to take discretion to himself. There ought to be, in my judgment, further words of limitation in the amendment. It should be provided that the sale should be made if, in the opinion of the Secretary, it is not incompatible with the public interest. I would now inquire of the chairman of the Committee on Naval Affairs whether the Secretary has sent in any communication with reference to the object?

Mr. STANTON. He did; and I read an extract from his letter to the committee.

Mr. EVANS. Then I understand that there is a recommendation from the Department for the purpose designed by the amendment. I wish to leave it to the option of the incoming Secretary of the Navy to say whether or not, in his opinion, the sale of the land is compatible with the public interest. It may not be proper that we should sell it. How do we know where this avenue is? I do not know where the ground is the gentleman talks about.

[Cries of "Offer an amendment!"]

Mr. EVANS. In accordance with the suggestion I have made, I move the insertion of the following words after the word "directed:"

If in his opinion it be compatible with the public interest.

Mr. STANTON. I accept the gentleman's amendment, as a modification of my own.

Mr. HOUSTON. I move to amend by the insertion in the amendment, after the word "sell," the following:

In lots of such form and size as he may direct;

so that it would then read as follows:

And the Secretary of the Navy is hereby empowered and directed, if in his opinion it be compatible with the public interest, to sell in lots of such form and size as he may direct, and convey to any purchaser, that portion of the Government property in Brooklyn which lies between the western side of Vanderbilt avenue and the hospital grounds: *Provided*, The same shall not be sold for less than its cost, with interest thereon; and the sum for which said property shall be sold is hereby appropriated for the improvement of the navy-yard, according to the estimates of the Department: *Provided*, The same shall be sold at public sale, after having given thirty days notice of the time and place of sale by advertisement published in at least three daily newspapers in the city on New York, on the terms aforesaid.

My object is a very plain one. I desire to provide that there shall not be thirty or forty acres of ground put up for sale at once, so that capitalists may purchase it and lay it off into lots. I propose that we shall sell it to individuals, in lots of such size and form as the Secretary of the Navy may direct.

Mr. CARTTER. I am opposed to this half a dozen of provisoes, and also the subject to which they are provisoes. It is now about four years, as I am informed, since the Congress of the United States was compelled, in behalf of the public necessity of the navy-yard at Brooklyn, to purchase this very property. So strong then was the argument of necessity, that it resulted in drawing out of the Treasury about $285,000. Now, at the expiration of these four years, when the value of property in the United States is increasing in a greater ratio than was ever known before in the history of the Government, and when the value of real estate in Brooklyn has increased in value about twenty-five per cent., a proposition is made to us to sell out again. And it is said, as a reason why we should do so, that the public interest requires we should sell out. Now, all that I have to say is this: either those who commended the purchase four years ago must have falsified the truth, or those who speak now in favor of the sale must falsify the truth—unintentionally, of course. This ground is right in the heart of the city, and is increasing in value daily. But it is said that New York will not surrender jurisdiction over this property. There is a way to take care of that. Stop the supplies for the navy-yard; it is not worth anything anyhow, and New York will let down her jurisdiction as quickly as Pennsylvania did in the matter of taxation. That is the remedy for that kind of threat. I propose, sir, if the people will force on the Federal Government property for speculative purposes, which, in the turn of the wheel of fortune, does happen to come up to the measure of anticipation, that it shall take the chance of profit. Now, there can be no reason at this hour of the increasing value of real estate in the city of Brooklyn, for the Federal Government parting with this property. The fact that it has got a little more territory than it requires being established, is no argument in favor of it. Let it remain in the hands of the Government, in anticipation of the period when, perchance, we may want to occupy it, instead of surrendering it to the city. I am opposed to the whole proposition.

[Here the hammer fell.]

The question was taken on Mr. HOUSTON's amendment, and it was agreed to.

Mr. BOWNE. I move, *pro forma*, to amend by striking out the last three words. I want to correct the gentleman from Ohio in one or two statements that he has made. He should understand that the reason why the Government desires the sale of this land, is because it has become a bone of contention between the Government and the city of Brooklyn. There are but two points on this property where streets can reach the water, and on those points streets have been laid out, cutting the navy-yard into three distinct parts. It is proposed now by the Secretary of the Navy to get rid of the difficulty by placing it on the shoulders of individuals. Twelve thousand dollars of taxes have accumulated on the property, and it is proposed to sell this part of it, subject to its proportion of this lien of taxation, and to let individuals fight it out with the corporation. And you must remember, that when the Government sells this land at a *pro rata* cost, it retains the greater portion of what it purchased in the first instance. It will retain all the valuable and sell the miserable mud land. I do not believe that the ground proposed to be sold will bring $80,000, but I want to have a trial of it. I am anxious on the part of the Government to get rid of the controversy between it and the city of Brooklyn, and on the part of the city of Brooklyn to obtain for its inhabitants the right of way to the water. There has never been a plainer proposition presented to the body. It is an honorable one, or I would have nothing to do with it. I hope it will not lead to cavil, and that we will have no bitter feeling created against the Navy. Let the amendment, as it now stands, be adopted, and let us attempt the sale at all events.

Mr. TOOMBS. I happened to be a member of a committee in this House before which this whole matter came up, and I desire to give some information to the committee in regard to it. After we had expended a large sum of money upon the Brooklyn dry-dock, some millions of dollars, there was a contest about the title to the land upon which it was erected. We were then called upon to get rid of that difficulty by buying out a large quantity of land between the dock and hospital; we paid a large and extravagant price for property we did not need, by way of buying the place.

Mr. BOWNE. Not one dollar has been spent upon it.

Mr. TOOMBS. As soon as we buy out one difficulty we find we have bought into another. What is this new difficulty?

Mr. BOWNE. You get rid of the question about running the streets down to the water.

Mr. TOOMBS. Yes. That is the present dispute, got up, I have no doubt, for the very same

purpose the other was. They had offered it to the Government for about $50,000. Speculators then put in, buy up the property, raise a difficulty, and sell for between $250,000 and $300,000.

Mr. PHELPS. Two hundred and eighty-five thousand dollars.

Mr. TOOMBS. We were then told we must submit to this extortion in order to quiet the title, and the district attorney of New York was instructed to look into the fact and see that the title was good. I suppose it was reported good, or the money would not have been paid. Now it is said we bought what the sellers did not own. Let us abandon the hope of acquiring title by legislative largesses, and maintain our title to what we have bought until there is a judicial decision. If they have got rights, let them go to the courts. They come here and pretend to get up difficulties and ask you to legislate in the dark. It is time to arrest such reckless legislation.

Mr. BOWNE. I withdraw the amendment.

Mr. STUART. I propose to strike out all that part of the amendment which refers to the disposition of the money arising from this sale.

I consider that is the worst part of this scheme, so far as regards selling any part of the land belonging to the navy-yard. I am perfectly willing that it shall be sold. We have been importuned from time to time to buy land; and we were told at the last session if the commandant at the naval station recommended the purchase of the land that we ought to abide by it. I repudiated the doctrine then, and I repudiate it again now. When anybody comes forward and proposes to sell some land, I will hold up both hands to do it, but I will not sanction the doctrine that we shall sell a part of the land to improve the balance. If it be done, there will be a recurrence of this or some other nefarious principle, under the sanction of which the naval officer will commence a system of improvements by which he will deplete and bankrupt the Treasury. If this land is to be sold, let the proceeds go into the Treasury, where they belong, and let them be reappropriated by a future Congress upon some more responsible recommendation than that of the commandant of a naval station. I hope the attention of the House will be called to this question, and that gentlemen will consider it, and lay their hands upon it now, and not sell this land, and turn the proceeds over to the Secretary of Treasury, who will be controlled by the local officers in the expenditure of money, putting it beyond our control.

Mr. TOOMBS. You are right.

Mr. STUART. It never ought to be done; and whether this amendment is to be adopted or not, I hope that the committee will not hesitate to strike out that provision.

Mr. BOWNE. I am opposed to the amendment, and for this reason: the Committee on Ways and Means have not reported by $200,000 the amount of money estimated for that yard by the Secretary of the Navy, upon the ground that a quarrel exists between the Government and the city of Brooklyn. The Secretary of the Navy brings forward a proposition——

Mr. HOUSTON. Will the gentleman allow me to correct him in one thing? The Committee on Ways and Means declined to report the amount estimated, mainly for the reason the gentleman has stated, but in part for another reason, and that is, under some authority, either in the city of Brooklyn or New York, there is some one who is running a pier across the stream, so as to prevent successful approach to the navy-yard.

Mr. BOWNE. If the gentleman will examine the map, he will find that he can put all that in his eye.

Mr. HOUSTON. That is the report of the Commodore, and he has charge of the subject.

Mr. BOWNE. Then I must believe that the Commodore is deceived.

Mr. PHELPS. Has he not authority to extend his pier six hundred feet into the channel?

Mr. BOWNE. He has not, and if he does extend it, it will not do any harm. I wish to say that the Secretary of the Navy comes forward with a proposition which he thinks will be a settlement of the whole question. And therefore when this matter is settled in making an appropriation for the yard, there can be no occasion for this humbugging about a pier that runs somewhere—nobody knows where. I ask this House at this time, when gentlemen at the other end of the Capitol are vaporing and blustering about war, not to attempt to shut up the most effective navy-yard in the country—at all events as good a one as any other. I ask not what the Secretary estimates for, but that the proceeds of this land may be given to that yard for its current expenses, so that the thousand men employed there may not be discharged from the Government employ, men many of whom have been there a long time, and thoroughly learned the business required of them, some parts of which require peculiar care and experience. I hope that we may not present the ridiculous farce of blustering about war at one end of the Capitol, and at the other end taking away the very means to carry it on, in the event of such a necessity.

Mr. LETCHER. Is it in order to move to strike out the whole clause?

The CHAIRMAN. The question must be first taken upon the pending amendment.

The question was then taken upon Mr. STUART's amendment, and it was agreed to.

Mr. LETCHER. I move to strike out the entire original proposition and all connected with it.

The CHAIRMAN. The gentleman from Virginia will observe that this is an amendment. He can move to strike out all after the first word. The proposition to strike out everything, is tantamount to taking the question upon its adoption. This is not a provision in the bill, but an amendment to the bill.

The question was then taken upon Mr. STANTON's amendment, as modified by Mr. STUART's amendment, and it was rejected.

The following clause was then read:

"*Memphis, Tennessee.*—For completing hemp house, completing blacksmith-shop and office building, cisterns for rope-walk, culvert from rope-walk to river, and for repairs of all kinds, $43,976."

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer the following amendment, to come in at the end of that clause:

For the completion of the railway for vertical wall, $800.

The question was taken on the amendment, and it was agreed to.

Mr. STANTON, of Tennessee. I offer the following amendment, to come in at the end of the clause:

For the purchase of iron railway for rope-laying, and machinery for the rope-walk, $4,000.

I desire to have read the following letter from the Secretary of the Navy:

NAVY DEPARTMENT, *February* 18, 1853.

SIR: The superintendent of the rope-walk at the navy-yard, Memphis, has reported to this Department that the railway for laying up cordage at that walk, being constructed of unseasoned wood, is so warped that rope cannot now be laid up with it; and it is *indispensable* to the demands of the Navy that it should be put in proper condition to produce the cordage required without delay. I beg leave to ask of the Naval Committee that an appropriation of $4,000 be inserted in the Navy bill, for the purpose of providing a new railway of iron for the rope-walk of the navy yard at Memphis. This is essential, that the work required from that yard be not retarded.

Will you oblige me by submitting this subject to the early consideration of the committee? Very respectfully, your obedient servant, JOHN P. KENNEDY.

Hon. F. P. STANTON, *Chairman Committee Naval Affairs, House of Representatives.*

I suppose the letter will satisfy the committee that the amendment is indispensable, and ought to be adopted.

The question was then taken on the amendment, and it was agreed to.

The following clause was then read:

"*San Francisco, California.*—For a foundery, machine-shop, blacksmith-shop, boiler-shop, engine-house, and pattern-shop, carpenters' shop, store-house, wharf, and for a steam-engine and machinery, including transportation, $974,851."

Mr. STANTON, of Ohio. I move to strike out that appropriation of $974,851. Nearly a million of dollars is appropriated in one section for founderies, machine-shop, blacksmith-shop, &c. I want to know something about the necessity for this expenditure of nearly a million of dollars.

Mr. TOOMBS. I move to amend the amendment by striking out "nine hundred." I think that it is very bad policy to establish a navy-yard for the repair of vessels at the most expensive point upon the whole American continent. Is it possible that any one will consider it a part of wisdom to build a navy-yard at a part of the continent where labor costs five times as much as at any other place in North or South America? I have understood that the very point where you propose to put this navy-yard is disputed territory. It is necessary to have a clear title. You see the difficulties at Brooklyn. I believe it is true that in a country conquered by American arms, we cannot get a place where there is less security of title, whether it is the custom-house or any other public building, than in San Francisco. We do not wish to build ships in San Francisco. You will need everything on the face of the earth to do it with. Will you take that point where you can get nothing cheap, neither labor or material, or anything of the sort, but you must carry them all round the world? It is nothing else but squandering money from the public Treasury.

Mr. STANTON, of Tennessee. I think if the gentleman will consider the subject a little more, he will change his opinion. Whatever may be the cost of the works, or the repairs of vessels at a point upon the Pacific ocean, I think it would be economy to provide for their repair there rather than bring them around to ports on the Altantic, a voyage of ten or fifteen thousand miles, requiring six months. In many instances it is impossible for the ship needing so much repair, to be brought around here. If the existing system is to be continued, and these vessels are to be repaired continually, it is indispensable for you to have a navy-yard at San Francisco.

Mr. TOOMBS. I would ask the gentleman if the difference between the price of labor at San Francisco and the price of labor on the Atlantic sea-board, is not so great that it would be economy to bring the vessels round to this side of the continent when they need repairs?

Mr. STANTON. Sir, it would be better to repair the ships on the Pacific coast than to bring them round Cape Horn.

Mr. TOOMBS. I withdraw the amendment.

Mr. HOUSTON. I move to strike out the entire clause, and insert the following from the letter of Commodore Smith:

"To prepare the ground on the site selected for a navy-yard and depôt, and to erect accommodations for the officers and workmen, $50,000."

Mr. Chairman, by reference to the naval appropriation bill of last session, it will be discovered that, in the hurry and confusion at the close of the session, a provision was introduced in the Senate and became a law, requiring estimates to be submitted for the works that are now in the bill before us. The Committee on Ways and Means did not feel themselves authorized to decline to report those estimates to the House. I, however, as a member of that committee—not speaking for others—am opposed to the appropriation. I believe it is unnecessary at this time, if it will ever be necessary. I believe—as we all know—that California is the most extravagant part of the country in which we can get labor done. It would be perfect madness in us to get anything done at San Francisco that we could get done anywhere else. If the repairs necessary to be made upon a vessel are of any consequence at all, it would be cheaper to bring that vessel to New York, Boston, or almost any other point in the United States, than to have it repaired there. If you take workmen there, how long will you keep them? The great complaint is that we cannot keep our soldiers in the line. We have to double their pay. We have to double the compensation of all our officers there. If you take workmen there, you will not only have to pay the expenses of their transportation, but you will have to pay them higher compensation than is paid elsewhere. I am, therefore, in favor of striking out this entire appropriation, or of reducing it down to $50,000. Your title is good to the land on which the location has been made. Let it remain there, and let us erect a store-house for the purpose of receiving the supplies.

[Here the hammer fell.]

Mr. TOOMBS. I hope the House will not agree to the amendment of the gentleman from Alabama, although I would just as soon give $50,000 as any other sum, because it will settle the policy of building a navy-yard for the western coast of America, which I believe to be wholly unnecessary.

The argument of the chairman of the Naval Committee [Mr. STANTON] is altogether erroneous. You do not get your seamen in California. You enlist them here for a three years' cruise; you

take them round there and bring them home again before they are discharged. You cannot enlist seamen there. If you are going to build a navy-yard on the western coast, it ought not to be at San Francisco, but in Oregon, at the mouth of the Columbia river, for that is an agricultural country where you can get timber. But there is no necessity for a navy-yard anywhere on the coast.

The inconsiderable repairs required by a vessel on a three years' cruise can be done anywhere along the shore without any such establishment. I look upon this as a mere scheme to spend the public money at the most expensive point on the continent.

Mr. GOODENOW. I desire to offer an amendment.

The CHAIRMAN. There is an amendment to the amendment already pending.

Mr. TOOMBS. I ask for a division of the question on the motion of the gentleman from Alabama, [Mr. HOUSTON.]

The CHAIRMAN. A motion to strike out and insert is not divisible.

Mr. HOUSTON. As I do not desire to interfere with the disposition of the committee, I will withdraw my amendment for the present, until the question has been taken on the motion to strike out the entire clause.

Mr. GOODENOW. This Government has had some experience of the expense of making erections at San Francisco.

The CHAIRMAN. Debate is not in order unless the gentleman proposes an amendment.

Mr. GOODENOW. Well, sir, I move, *pro forma*, to strike out $74,000. I say that this Government have had some experience as to the expense of making erections at San Francisco. A few years since, a steam saw-mill, costing here some $6,000, was ordered by the Secretary of the Navy, at the request of the commanding officer of the United States squadron at San Francisco. An engineer was appointed to go out there and superintend its erection. A carpenter was also appointed to assist. Well, sir, the saw-mill was taken out there, and it was found that the expense of erecting it was so enormous that the only alternative the commanding officer had, was to place it in the hands of an individual, under a contract that he should erect it and put it in operation upon certain terms specified in that contract. Subsequently a difficulty arose between the contracting party and the Government—the Government not recognizing that contract. The party who had received the contract now claims a large amount of damages. The erection of that steam saw-mill, which originally cost the Government $6,000, cost $47,000; the whole amount received from it while it was in operation was $20,000; and the contractor now claims $25,000 damages. This is the way in which money has been expended at San Francisco by the Government undertaking to send out materials and put machinery in operation for the purpose of repairing the Navy. The conviction of my own mind is, that we ought to make no appropriations for erections there that are not absolutely and indispensably necessary. I hope, therefore, the whole section will be stricken out.

Mr. DUNHAM. Mr. Chairman, if I understand the amendment, the object of it is to strike out entirely the appropriation for continuing the navy-yard at San Francisco. There has been some appropriation made heretofore for a navy-yard upon the Pacific coast, and it does seem to me that there can be no doubt in the world as to the necessity of erecting such an establishment there. Every man who has paid any attention whatever to the direction which the commerce of this country is taking, must be satisfied that the commerce of the Atlantic, to a very great extent, is to be transferred to the Pacific, and we have to meet the emergency which that state of things must necessarily produce. The commerce of the country is tending from the western coast of the United States to Asia, and as that commerce goes on continually increasing, we must have a Navy on the Pacific coast to protect it. The time must come when we shall have not only to build our ships there, but when we must repair them there and man them there.

Mr. STEPHENS, of Georgia. Do I understand the gentleman to say that the commerce of the Atlantic is some day to be transferred to the Pacific?

Mr. DUNHAM. Some portion of the commerce which now crosses the Atlantic to Asia, or rather which goes round this continent, must be transferred to the western coast of America.

Mr. STEPHENS. I do not think that commerce is more than four millions.

Mr. DUNHAM. That may be very true, but certainly a gentleman of my friend's intelligence must see that as population increases upon the Pacific sea-board, that commerce must necessarily increase.

Mr. STEPHENS. The gentleman spoke of the commerce upon the Atlantic. The increase of population upon the western coast cannot affect the commerce upon the Atlantic.

Mr. DUNHAM. It is the commerce of the Atlantic for the time being, because it comes to our country upon the bosom of the Atlantic. It is not the commerce of the Atlantic truly, but it is Pacific commerce which now comes to us upon the Atlantic sea-board.

We may not need a navy-yard on the Pacific at this identical time, but certainly every gentleman must admit the necessity of such an establishment at no very distant day. San Francisco may not, perhaps, be precisely the proper point. Of that I am not prepared to judge. But we have commenced there, and as we must go on somewhere, the question is, where are we to go if we abandon San Francisco?

[Here the hammer fell.]

The question was then taken on Mr. GOODENOW's amendment, and it was rejected.

Mr. STEPHENS. I move now to strike out the whole clause.

The CHAIRMAN. The Chair is not certain what the amendment of the gentleman from Ohio [Mr. STANTON] was.

Mr. STANTON, of Ohio. I moved to strike out the entire clause.

Mr. GORMAN. Before the question is put on that motion, it is in order, I presume, to perfect the clause.

The CHAIRMAN. It is in order.

Mr. GORMAN. Then I move to strike out the words "San Francisco, California," and to insert in lieu thereof, "Puget's Sound, Oregon."

Mr. Chairman, I hope we shall have a vote upon this amendment, and test the questions, first, whether we will establish a navy-yard, or an establishment for repairing our national vessels, on the Pacific coast; and second, where we will establish it. It is very clear to my mind——

Mr. MARSHALL. I believe that in accordance with the ruling frequently made by the chairman of this committee, the amendment proposed by the gentleman is out of order. I think that if any principle has been settled by the decisions of the Chair, it is that no such amendment as that is in order.

The CHAIRMAN. The Chair thinks it is in order to move to change the place.

Mr. BOCOCK. Anything for the benefit of the Navy is not in order in this House.

Mr. STANTON, of Tennessee. There is a law authorizing the commencement of naval works at San Francisco, but there is no such law in relation to Puget's Sound, in Oregon. I think the amendment is clearly out of order, according to the position assumed by the Chair.

The CHAIRMAN. The Chair is of the opinion that the amendment is in order notwithstanding.

Mr. FLORENCE. I must respectfully appeal from the decision of the Chair. I think the amendment is clearly out of order.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was then taken, and the decision of the Chair was sustained.

Mr. GORMAN. I make that proposition because I think it will obviate some of the objections which have been raised against the amendment as applied to San Francisco. If gentlemen will look at the map and at the published history of Oregon, they will discover that at Puget's Sound there is a great abundance of timber; and they will also discover that the very best materials that can be found any where in the United States for building, are at that point; and they will find further, that not more than one half of the price is paid for labor there which is paid in San Francisco.

In addition to that, gentlemen will bear in mind that your steamers could run from Puget's Sound to San Francisco in three days, and that your sailing vessels could, with a fair wind, make the passage in six or eight days, and when the winds are adverse, a little longer. If there is to be an establishment of this sort anywhere upon the coast of the Pacific, it should be at Puget's Sound, where timber is plenty, and where it is all of good quality and of precisely that character which is required for this kind of service. I say that if we are to have a navy-yard established at any point upon our Pacific border, it should be at a point where timber is to be procured, and not where, on account of the want of timber, the cost of the construction of vessels will be ten times what is necessary.

[Here the hammer fell.]

Mr. CARTTER. Mr. Chairman, I am opposed to making an appropriation for a navy-yard anywhere upon the Pacific coast except at San Francisco, or somewhere on the bay near that place. I have no doubt that a navy-yard may be constructed at the mouth of the Columbia river, in Oregon, very conveniently; but the expense attending its construction, and attending the construction of vessels there, must be under the sympathies of the price of labor at San Francisco. They are so connected with each other that there can be no very great distinguishment in the price of land, or the cost of construction in any way. San Francisco is in a central position, so far as our ports upon the Pacific are concerned; and whether it is or not, circumstances over which this House can have no control have made that a point to which the amount of transportation upon the Pacific ocean is now directed, and will be for at least the next twenty-five years.

Now, a word in relation to the amount of money which is to be expended in the construction of that navy-yard. I expect to see very great extravagance in whatever expenditure of the public money is authorized upon the part of this Government. But it is not to be disguised that the representatives of this Republic are unfaithful to the military defenses and the commercial interests of the country, in turning their backs upon the commercial necessities exhibited upon that coast. It has truly been said by the honorable gentleman from Indiana, [Mr. DUNHAM,] that we are, in regard to the opening of a commerce there, in a state of infancy, yet the development is so rapid that it will soon rival that upon the Atlantic side of the continent; and I assume to say, in reply to a remark made by the gentleman from Georgia, [Mr. TOOMBS,] that whether it is cheaper or not to bring your vessels round by the Cape to the ports upon the Atlantic for repairs, it cannot be done. Your vessels are crippled upon the Pacific coast; they are crippled in the harbor of San Francisco, if you please; and when you are to bring them round the Cape for repairs it is too late. The emergency is such that if the economy of the thing were ever so great in bringing them to your Atlantic coast, it could not be done.

Now, what are we to do? When we have an appropriation in view, looking to the necessities and development of a commerce which is ultimately to span the continent, in connection with our possessions upon this side of the Rocky Mountains, shall we say that it shall not be made? Refuse this and San Francisco will no longer be considered the home for whalers. It must be done or we must discard what is absolutely and unavoidably vital to our interests upon the Pacific. While I would not vote for an extreme appropriation of this kind, I regard it as a duty to provide for a place of repair and refitment at some point upon the Pacific.

[Here the hammer fell.]

The question was then taken upon Mr. GORMAN's amendment, and it was disagreed to.

Mr. STANLY. I wish to offer an amendment which will obviate the difficulty suggested by the gentleman from Georgia, [Mr. TOOMBS,] a few minutes ago. I move the following, viz:

Provided, That before this sum shall be expended, the Attorney General of the United States shall decide that the United States have a good title to the lands upon which the buildings are to be erected.

I presume there will be no objection to this. It is to obviate the difficulty raised by the gentleman from Georgia a few moments ago, and to prevent the possibility of having valuable buildings erected upon grounds to which there may be a disputed title.

Mr. FLORENCE. I would suggest to the committee that, by the adoption of an amendment

striking out the words "seventy-four thousand," it leaves the appropriation to read "nine hundred and —— eight hundred and fifty-one."

The CHAIRMAN. The sum of $74,000 has been stricken from the bill, leaving the appropriation $900,851, as the Chair understands it.

Mr. FLORENCE. Well, sir, I desire to call the attention of the committee to the facts as they exist. The appropriation, as it was reported in the bill, stood "nine hundred and seventy-four thousand eight hundred and fifty-one dollars." We adopted an amendment striking out the words "seventy-four thousand," leaving it "nine hundred and —— eight hundred and fifty-one dollars," which makes, as I calculate it, about $1,751.

The CHAIRMAN. Does the gentleman offer an amendment?

Mr. FLORENCE. Yes, sir, I move to insert the words "seventy-four thousand."

The CHAIRMAN. That has already been stricken out, and therefore cannot again be inserted.

Mr. FLORENCE. I will make no amendment if there is no need of any. I merely called the attention of the committee to the fact.

Mr. CLEVELAND. I move to insert $100,000 where $74,000 was stricken out. I offer that amendment, because I believe it was improper to strike the original $74,000 out of the bill.

Mr. CLINGMAN. Is that amendment in order?

The CHAIRMAN. The Chair thinks it is in order to move to increase the appropriation.

Mr. CLEVELAND. Mr. Chairman, it surprises me that there should be such a disposition manifested on the part of this committee, or any portion of it, to strike out the appropriation embraced in this bill for the construction of a navy-yard in California. Very recently half a million was voted for the erection and completion of custom-houses upon the Mississippi river, without the recommendation of the Committee on Ways and Means, and despite their remonstrances.

Here is a proposition made by that committee to give to California, and to the vessels-of-war upon that coast, the advantages which this bill secures. There is an opposition to this; and why? Does California, or the people who have gone there at the peril of their lives, deserve this treatment at the hands of this committee?

Gentlemen say we have done more for California, and spent more money upon her, than we have received from her. The fact is, however, that the rise of property in other States of the Union, occasioned by the yield of the California mines, amounts to hundreds of millions of dollars. And still we are here spending our time in caviling about an appropriation of a million of dollars, which is necessary to secure to us the treasure now and to be won from the earth by the hardy and brave men who have emigrated to that distant shore, and built up a nation amidst its wild wastes. Upon what principle do we do so? Are we not satisfied that the Committee on Ways and Means have investigated the subject? Is it safe for us to take from the hands of a committee as proverbially prudent as that, such an important subject as this? Have the Committee on Ways and Means ever recommended a dollar unnecessarily? In the four years of my experience here I have never known them to err on that side. I believe they very frequently have the other way.

I may be mistaken in this matter, but it seems to me, from all I can learn, that we owe this appropriation to California; we owe it to ourselves, and to the men who go there, and even as a matter of economy it will prove a very profitable outlay.

I am serious in making my motion to have this sum increased $100,000, thereby showing that we will not reduce to the amount of one dollar the appropriation contained in the bill.

[Here the hammer fell.]

Mr. VENABLE. The question seems to have assumed a new aspect. I understood, in my simplicity, that the navy-yard was to be built for the purpose of repairing our naval marine—our ships-of-war. I supposed that California had no interest in it, so far as the commercial marine was concerned, but that the object was to save the expense to this Government of bringing ships-of-war needing repair from the Pacific around to the Atlantic coast. But now the gentleman from Connecticut [Mr. CLEVELAND] takes a view of the subject entirely new. He claims that California has an interest for the repair and building of ships belonging to private individuals on the Pacific coast, and in keeping up her commercial marine there. Surely no one can be serious in asserting that such an object belongs to a naval appropriation bill at all.

A great variety of reasons have been urged why the amendment should be adopted. One tells us that we must have a navy-yard there; that unless we establish one, our naval marine must be destroyed; that repairs must be made on that coast, for the expense and delay of ordering ships round must lead to their final destruction. This difficulty has been solved by the gentleman from Georgia, [Mr. TOOMBS,] satisfactorily to the House, I presume. We have for a long time maintained a naval force in the Pacific—long before we possessed California—and the evil suggested was never seriously felt. Our ships performed their voyages both there and back, and we heard no greater complaint than we now hear from the coast of Africa, or any other remote station, of the distance home, or the expense of repairs.

We are told that the commercial marine is to be repaired there, and that we must have a navy-yard for the purpose of protecting and repairing that commercial marine on the coast of California. Then it seems that private interests in California demand the navy-yard that we are called upon to establish. Sir, suppose the proposition was made that we should establish a navy-yard upon the Atlantic coast for the purpose of building up a commercial marine; the proposition would not secure a grave consideration. Private enterprise and private ship-yards meet and satisfy all such demands. The gentleman from Georgia remarked most truly, that before we acquired California, and when our naval armament upon the Pacific coast was brought around to the Atlantic coast for repair, we never heard of any such difficulty. But now we are assured, that at the most expensive place on the Pacific coast, at San Francisco, it is indispensable that we have a navy-yard for the purpose of building up a commercial marine.

But private ships could not be repaired there. You could not allow them to enter the Government docks. It would be a misappropriation of money. An officer in command would not allow a private vessel to be brought into them. And yet we are told that this bill is to appropriate $1,000,000 to establish a navy-yard, having for one of its objects the repairing of commercial ships and building up a commercial marine.

Mr. FLORENCE. The gentleman will permit me to make a short statement. It is not an unusual circumstance on the Atlantic coast for the yards and docks of the Government to be used for the repair of vessels belonging to the commercial marine. An instance occurred a few years ago in Philadelphia, where the City of Pittsburg was taken upon the Government docks, with the consent of the Government, and that was the first vessel which was taken upon it.

Mr. VENABLE. A dock is a different thing. This is a navy-yard for the purpose of building and repairing United States vessels-of-war. It is entirely a different business, and I ask again, shall we commence a policy by which navy-yards are to be established for the purpose of building up a commercial marine, and for the purpose of repairing vessels which are the property of individual citizens of the United States?

I hope the committee will gravely consider this subject. The appropriation is an enormous one. While I am willing to vote to California anything which should be voted, I am not willing to make appropriations unknown to our former policy, and both extravagant and uncalled for.

[Here the hammer fell.]

The question was then taken on the amendment of Mr. CLEVELAND, and it was not agreed to.

Mr. MARSHALL. I move to increase the appropriation proposed by the Committee on Ways and Means one dollar.

If I wanted any evidence, Mr. Chairman, absolute and conclusive of the proposition, which every Californian believes and fully understands, that California, though a State of this Union, is the least understood and the worst governed colony of which history has ever taken any notice, or which civilization has ever embraced, I would simply point to the discussion of this very morning, attacking the appropriations of this bill. The proposition could not be disputed.

The gentleman last upon the floor argues as if the friends of this measure had taken different and inconsistent positions in defense of the appropriation. One single moment's consideration, one single hour of intelligent reflection on the subject, would show gentlemen that if both the propositions were laid down by the friends of the measure, they are not inconsistent, but necessarily connected and dependent upon each other.

It is asked by the gentleman whether we want a navy-yard in California for the repair and preservation of that portion of our Navy which is upon our Pacific coast and in the Pacific ocean, or whether we want it for the repair and reconstruction of our commercial marine in the port of San Francisco. I answer the gentleman at once and distinctly, as everybody, it seems to me, would be ready to answer, we want it for both purposes, because the two agree perfectly with each other, and are in no possible respect inconsistent. The same navy-yard that would refit an American man-of-war for the protection of a coast which is now utterly defenseless, would answer just as well the purpose of repairing a ship which had been disabled by a six months' voyage around Cape Horn. Is there anything inconsistent in our wanting both? And if this appropriation fortunately would answer two wise and beneficent purposes at the same time, is that to be made a ground of objection, or is it to be considered as a legitimate argument against the appropriation? That it will result in wider benefits than most of the appropriations voted by this House, is made an argument against the whole of it. Leaving out of view, as I propose to do, the commercial interests of San Francisco, so far as the rebuilding of ships engaged in commerce is concerned, I take the simple ground of the necessity of a navy-yard for the repair of the Navy. Why, sir—and I state a fact which I know, and which I witnessed with shame and fear—that the whole state of California is exposed, through the Golden Gate, through the mouth of the harbor of San Francisco, and she is utterly unable to resist the piratical incursions of a Chinese junk. We are utterly and hopelessly defenseless, not only in case of war, but a single piratical schooner could enter the port of San Francisco, and in two hours wrap in flames the vast shipping that crowds our harbor, and the beautiful city which we have built upon its shores. Upon the shores of that bay, which is itself almost an inland sea, are great and flourishing and comparatively rich cities, utterly defenseless. There is not a mounted gun on shipboard in a condition to do service on that whole coast.

[Here the hammer fell.]

Mr. BROWN, of Mississippi. I oppose the amendment of the gentleman from California, and I do it for the purpose of saying that I shall, at all times and under all circumstances, vote for whatever sum may be necessary to defend the Pacific coast, and to defend our commerce and other interests in that quarter. Whether the sum be large or small, if it be necessary, I am ready to vote it, and I will pursue that policy not only in regard to California, but in regard to every other section of the Confederacy.

But I ask, as a representative of one of the southern States of this Union, to be met by gentlemen from other quarters in the same spirit. I want especially to reply to the remarks of the honorable gentleman from Connecticut, [Mr. CLEVELAND,] who has admonished us this morning that we have been parsimonious in our appropriations for the Pacific coast, and he tells us what the benefits of the acquisition of that country have been to the Confederacy, to all of which I agree. But the honorable gentleman seems to forget that I too come from a State that has rendered some service to this great country. If California has her gold mines, Mississippi has her cotton-fields. While California pours a stream of gold into your lap, Mississippi gives you nearly six hundred thousand bags of cotton annually; but the other day this House refused the paltry sum of $4,000 to my State to repair a marine hospital. This morning this House refused a right to my constituents which is enjoyed by the constituents of every man upon this floor from a *land* State—the right of preëmption. The gentleman from Connecticut voted to deny them that right; now, he comes to tell us what we owe to California. I know that we are indebted to

California, and I will pay it like a man; but, sir, when I pay others, I demand payment in return: "That justice I to others show, that justice show to me."

The gentleman from Connecticut refuses to the poor squatter upon the public soil the right of preemption, because he chances to live upon Mississippi soil, and then gives to California $900,000, and I suppose he would give $9,000,000, if she asks it, just as freely. Is this justice? is it fairness? is it honesty? My constituents are no beggars for your bounty. If the gold of California entitles her to nine hundred thousand dollars for a dry-dock, the cotton of Mississippi entitles her to four thousand dollars for a marine hospital. If the commerce of California is to be protected at a cost of millions from the National Treasury, then protect my squatter constituents at the less cost of a few acres of wild land. Give California navy-yards and dry-docks, and all else that she asks, if you please, but give my constituents the right of preëmption on the public lands; the right to pay for their humble homes in preference to the more active and more greedy speculator. I will be liberal to California; I will be liberal to Connecticut, notwithstanding the injustice of her representative. I will be liberal to New York, though her voice was against my squatter constituency this morning. I never have refused to vote a benefit to New York, yet I sat here this morning and saw her representatives come up in almost solid phalanx against my squatter constituency. When the gentlemen from that State wanted a Mint I stood by them, and I stood by them amidst the reproaches of my Pennsylvania friends, and they have paid me with black ingratitude.

Mr. BOWNE. I am the last one in the world to oppose anything for the city of San Francisco. I have no feeling about the matter in consequence of the defeat of the amendment with reference to the navy-yard at Brooklyn. I should cheerfully vote for this appropriation, but I am informed by a very distinguished officer of the Navy, now on this floor, and who lately returned from California, where he was sent by the orders of the Goverument to locate this very navy-yard, that it would be impossible, under the present circumstances, for the officers who have charge of the work, were they ever so extravagant, to expend much more than $100,000 during the next year.

[Cries of "Let us know his name!"]

Mr. BOWNE. Everybody knows who was sent there by the Government to locate that navy-yard.

Mr. POLK. I would be glad if the gentleman would inform the committee of the name of that officer.

Mr. BOWNE. His name is Commodore Sloat. I should not oppose the appropriation if I believed it necessary now; but I am satisfied that it cannot be judiciously spent during the coming year. I understand, moreover, that the estimate would not have been so large but for the fact that a law of the last session compelled the Secretary so to make it. I wish the committee to look into this thing, and not to appropriate the money if it cannot be well spent.

Mr. CLEVELAND. The gentleman from Mississippi [Mr. BROWN] seems to forget, in his zeal for his constituents, that the question presented this morning was whether his particular measure should have preference, on this, the fifth day from the termination of the session, over the regular appropriation bills. The House was not called upon to vote upon its *merits*.

Mr. BROWN. Did the gentleman vote against it on the ground that it would postpone the appropriation bills?

Mr. CLEVELAND. I voted against the motion to suspend the rules, and I felt that it was my duty to give that vote without assigning reasons therefor. Now, I would inquire of the gentleman whether he did not vote against the bill of the gentleman from New York [Mr. BENNETT,] proposing a distribution of the public lands among the several States?

Mr. BROWN. I did vote against it, and on constitutional grounds.

Mr. CLEVELAND. The gentleman had a right to vote as he pleased, and I claim the same right.

Mr. BELL. I would inquire whether it is in order on a particular amendment to canvass votes for other bills?

Mr. CLEVELAND. I will keep in order. I will now reply to the gentleman from New York. Above all things, I dislike to see a man come on this floor and whisper in the ear of a member, for the purpose of controlling the action of the committee, particularly if that man be an officer supported by the Government A more improper mode of communicating information could not well be conceived. Commodore Sloat comes in and whispers in the ear of a member, and the member rises and informs the committee that the appropriation is unnecessary. If that gentleman had a communication to make why did he not do it in the proper way?

Mr. BOWNE. I did not say that the appropriation was unnecessary. I merely stated a fact.

Mr. CLEVELAND. The gentleman stated a fact which showed that the appropriation was not necessary.

Mr. BOWNE. Let me state another fact.

Mr. CLEVELAND. I have only five minutes, and I cannot. I think that it is a very dangerous practice for the committee, in considering an appropriation bill recommended, after careful consideration, by one of the standing committees of the House, to be influenced in its action by side-bar remarks. Commodore Sloat, if he had any communication to make, ought to have presented it to the committee, or if he had not an opportunity to do so, he ought to have made it to the chairman. His statements should not have the least influence upon the committee, and I trust that there is not a member present who will be governed by these improper and unfair communications.

[Here the hammer fell.]

The question was then taken on the amendment, and it was disagreed to.

Mr. STEPHENS, of Georgia. I desire to offer an amendment.

The CHAIRMAN. An amendment to an amendment is now pending. The gentleman from New York is preparing his amendment.

Mr. POLK. I rise to a privileged question. I understand the proposition to be, on the suggestion of the gentleman from New York, to strike out all of the appropriation save $100,000. Not understanding it, I would prefer the gentleman from New York would procure the service of Commodore Sloat, and have it reduced to writing.

Mr. BOWNE. Have I the right to reduce that amendment to writing?

The CHAIRMAN. The gentleman is required to do it.

Mr. POLK. I require that it be reduced to writing.

Mr. CAMPBELL, of Illinois. I do not know that the committee has to wait here until it is reduced to writing.

Mr. FLORENCE. I should like to move to add to the amendment the words, "by the advice of Commodore Sloat." [Laughter.]

The amendment was reported, as follows:

Strike out of the following $900,000, and in lieu thereof insert $100,000:

"*San Francisco, California.*—For a foundery, machine shop, blacksmith-shop, boiler shop, engine house and pattern shop, carpenter's shop, store house, wharf, and for a steam-engine and machinery, including transportation, $900,000."

Mr. STEPHENS, of Georgia. I demand tellers.

Tellers were ordered; and Messrs. PARKER of Indiana, and HART were appointed.

The question was taken, and the amendment was agreed to—the tellers having reported—ayes 71, noes 65.

The question then recurred on striking out the entire clause.

Mr. TOOMBS. I demand tellers.

Tellers were ordered; and Messrs. HARRIS, of Alabama, and FULLER, of Pennsylvania, were appointed.

Mr. TAYLOR. I move to increase the amount to $150,000.

Mr. STEPHENS. It is not in order to change the amount.

Mr. TAYLOR. I move *pro forma* to strike out the word "transportation." I have but very few words to say with reference to this amendment, and I would be glad to conform to the rules of the House as I understand them, and confine myself to the amendment, did I not know that they are broken by every gentleman who has participated in this debate, even the most experienced. I will say a few words upon the proposed appropriation. I have endeavored to get some information to enable me to form a proper judgment in regard to the pending appropriation. The chairman of the Committee on Ways and Means of this House, from information received from the Secretary of the Navy in the usual estimates, asked for an appropriation of upwards of $900,000 to carry on the establishment of a navy-yard at San Francisco, which we authorized by law at the last session; and now, sir, while we are considering that appropriation, a gentleman, high in the estimation of the country as a naval officer, (Commodore Sloat,) communicates through a member that $100,000 is sufficient. What is to be done? I desire to see the navy-yard established there for great national purposes; but from the information I have, I am unwilling to vote more than $100,000 or $150,000 for that purpose at present.

We are informed by the naval officers beforementioned, that it is impossible to expend more than that amount during the current year. I think that there ought to be a navy-yard on the Pacific coast of the United States. We have vast interests on the Pacific coast. Our naval vessels in that quarter need repairs; and those repairs should be promptly made, to give protection to the vast commerce of the United States on the Pacific ocean. We cannot now turn back. Let us continue the necessary appropriations; and I trust always to be ready to vote such in every part of our country, only requiring to know, if I can, that such appropriations are indispensable to protect our naval and commercial marine. California is daily sending us her vast amounts of gold, and we must protect all her interests if we can. They are the interests of our whole people. I withdraw my amendment.

Mr. ORR. I object. I desire to oppose it. If I understand the condition of the proposition it is this: The committee have stricken out the $958,000 and inserted in lieu of it $100,000, and the next proposition will be to strike out the entire section. If that question be decided in the affirmative, when the bill goes into the House, the question will then have to be taken on the original proposition; so that those who are in favor of retaining the $100,000, as adopted by the committee, will vote against striking out the entire section. I now withdraw my objection to the gentleman's withdrawing his amendment.

Mr. TAYLOR then, by unanimous consent, withdrew his amendment.

Mr. PHELPS. I desire to submit an amendment that the whole amount proposed by this bill shall not be appropriated. It appears evident that the whole amount proposed by this bill will not be appropriated. As the bill now stands, $100,000 is proposed to be appropriated towards the construction of a navy-yard at San Francisco, and it is to be expended upon buildings to be erected there. I desire to submit a proposition, which I hope may be received. It is to reduce the amount of the appropriation and to propose that it shall be expended upon those buildings and of works which must be of more importance than the others. I propose, therefore, to leave in the appropriation bill an amount for a blacksmith shop, a carpenter shop, a store-house, and the amount to be expended upon these buildings to be $357,000. If you leave the amendment as it now stands, there will be a small appropriation expended upon every one of these buildings mentioned in this amendment, and you will be forced at the next session of Congress to make further appropriations for building machine shops, blacksmith shops, and carpenter shops.

Mr. TOOMBS. What is the gentleman's amendment? He is speaking at large.

Mr. PHELPS. I have indicated my amendment.

Mr. TOOMBS. It is out of order.

Mr. PHELPS. No, it is not.

Mr. TOOMBS. I submit that the proposition is to change the amount, which is out of order.

Mr. PHELPS. I propose to strike out every thing but the blacksmith shop, carpenter shop, &c.

Mr. TOOMBS. You have indicated nothing but intentions. I want to know what your amendment is?

Mr. PHELPS. I propose to strike out every thing except the words which I have mentioned—blacksmith shop, carpenter shop, store house, &c. I was indicating, in my remarks, that a larger sum of money ought to be appropriated than $100,000.

Mr. STEPHENS, of Georgia. I am opposed

to the amendment, and I do not concur entirely with the views expressed by the gentleman from South Carolina [Mr. ORR] as to the best way of acting on the part of the opponents of the measure. He intimated that those who were opposed to the $900,000 appropriation should vote for this $100,000 appropriation, and carry it into the House. Otherwise, if the whole section be stricken out in committee, the question in the House then will be between the whole $900,000 appropriation or none at all. Now, I think that those who are opposed to commencing these public works at all, should vote to strike out the whole of the appropriation when we get into the House; and when the direct vote is taken upon agreeing to the action of this committee, let the House then meet the direct question and decide it. I am myself prepared to vote against every dollar of this appropriation. I do not want to vote for $100,000 or $50,000; for if we once begin with an amount ever so small, it will be the entering wedge—it will be followed by other and larger appropriations. I desire, then, that all of us who are opposed to beginning this work at this time, to stand together and vote to strike out the entire section in the committe and also in the House. I have not heard a word of argument that has influenced my mind, or led me to the belief that it is proper at this time to establish this navy-yard at San Francisco. The document is not at hand from which I could show you that the whole cost of these buildings, if they were put up in Washington, would be only a little over $400,000. The difference in the cost, from location, is put down at more than $500,000—more than half a million of dollars. These same difficulties will arise in the work necessary to complete these buildings, and this but the beginning. Suppose you begin with an appropriation of $100,000. In a few years you will have to expend $3,000,000 before you are done. I trust that we will have a direct vote upon this matter, and without further debate.

[Here the hammer fell.]

Mr. PHELPS. I wish to indicate that I will leave in the printed bill, blacksmith-shop, carpenter-shop, store-house, and wharf, and strike out the balance.

Mr. EWING. I move to strike out "engine-house." I regret very much to see the course of the debate upon the part of objectors to this appropriation, and I think they have taken very narrow views of the matter. We have seen gentlemen getting up here from certain States, and complaining that millions have been poured into the lap of California, and that the States which they represent have received nothing. No one upon this floor might make, with more justice, such a complaint, than a representative of Kentucky. We had no mounted riflemen to protect Daniel Boone, and his hardy comrades in that State, against the Indians. We have had no Atlantic or Pacific harbors—no immense custom-houses, with their long list of patronage; but we have never, in that State, been guided by a sectional, but always by a national policy. Let them who wish to institute a comparison between one portion of the Confederacy and the other, compare the Pacific trade in the future, as well as in the present, with the Atlantic trade, and the appropriations which have been made to line the whole Atlantic coast with harbors, light-houses, and beacons, to protect the Atlantic commerce, with the six or seven millions a year for a navy, to dry-nurse little fishing-smacks, which are everlastingly getting the national flag insulted, and want twenty-five millions of people to go to war to vindicate their honor.

That is the comparison to be instituted. It requires no great stretch of foresight to look into the future and form at least some conception of what is to be the value of the Pacific trade. A few years ago we used to look to China as the far East, and Kentucky was to you in those times the far West. We look for China now in the opposite direction—it is the far West—and Kentucky, we are beginning to boast, is a civilized country, not far from the East. These are the revolutions of the day, and we are about to enjoy the advantage of that commerce which has enriched every nation, which has enjoyed its harvest, upon the face of the earth, from the beginning of the history of man down to the present time. Yet gentlemen begin to cipher, and talk about $500,000 as being too much for that seacoast. I would not vote a dollar to San Francisco as a city, or California as a State; but in a great national point of view, you cannot ask too much for the protection of the Pacific commerce. He who lives in the Mississippi valley will yet live to see the day when the great trade with Asia will cross its bosom.

[Here the hammer fell.]

Mr. POLK. I am at liberty to oppose the amendment of the gentleman from Kentucky, [Mr. EWING.] I do it *pro forma*. An extraordinary state of things, Mr. Chairman, has been presented here to-day; one that I thought could not have been created by any military or naval man, or any other man having a proper regard for himself, or a proper appreciation of the position he occupies as an officer or a citizen, prowling about this House during our debates, and making side-bar remarks calculated to control or influence our legislation. It is never my purpose to drag any man before this House and the country; yet when I see a captain of the Navy come here and intermeddle with matters with which he has no concern, attempt to defeat a proposition intended for the protection of our whole Pacific coast, I surely have the right, and I will exercise it, to examine the power and force a suggestion coming from him should have. This is not the first time such influences have hovered about these Halls. Touch an old abuse at the Navy Department, and uniformed antiquity awakes to its defense. Attempt to reorganize its bureaus by vindicating the law of 1842, which has up to this very day been a dead letter upon our statute-books, and we hear immediately the hum and buzz of those interested in continuing to violate that law.

Now, Commodore Sloat says that $100,000 are only necessary for this work at present. One hundred thousand dollars sufficient for all naval purposes for the harbor of San Francisco! Let me ask some questions of this naval gentleman: "Commodore, when did you enter the service?" "Sir," he would say, "I am of youthful appearance; I am no Fogy, [laughter;] young blood is coursing through my veins." "Commodore, how much sea service have you seen these fifty-two years past?" Let me reply through the Navy Register: "I have seen seventeen years and five months, and for more than thirty-five years I have been either on shore duty, or enjoying the ease and quiet of domestic felicity." "When were you made a captain?" "Why in 1837, full sixteen years ago; since which period, either from the effects of age, the mercy of Government, or the generosity of the head of the Department, I have performed but three years and eight months' sea service." [Laughter.] I state from the official record, and if I am in error, the fault lies in the Blue Book. Now, this gentleman—this naval antique, who mayhap has forgotten the sensation of the plunging ship, and might require life-lines to steady him on deck, comes here to volunteer information to this House as to its duties, and give us his sage advice on the progress and requirements of this age? And will this House tolerate this outside military influence? Will you yield to this dictation? Where is Commodore Sloat now? The Register says on "special duty;" a kind of service no doubt created for post captains, who do no duty and get full pay. A friend suggests that he is looking at the completion of Stevens's war-ship, at the rate of $3,500 a year, while the men who are building her are getting their two dollars per day. A part of this "special duty" is, I suppose, to leave his post and come here to interfere with the business of this Congress.

[Here the hammer fell.]

Mr. EWING. I withdraw my amendment.

Mr. BOWNE. I move to amend the clause by striking out the words "engine-houses."

Mr. Chairman, I am sorry that the discussion has taken this turn, especially as it was entirely unnecessary. I am not aware that Commodore Sloat has committed any fault. A few days ago we heard charges here against the officers of the Navy for being extravagant, and wanting to build palaces and spend money.

Mr. CARTTER. I call the gentleman to order. What is the question before the committee?

[Loud and general cries of "Let him go on!"]

Mr. BOWNE. And now, because an officer of the Navy happens in a casual conversation to mention to a Representative upon this floor a fact which was calculated to save and has already saved to the Government $800,000 at least, so far as this committee is concerned, I want to know if he is to be arraigned here? Sir, if blame attaches to any one, I take it all. Commodore Sloat was not interfering with the business of this House; and I mentioned his name at the call of many members for the reason that I knew him to be innocent of any attempt at such interference, and felt that to present the name of my informant was to give the *best guarantee* of this. Commodore Sloat is not the man to shrink from responsibility, and I am not afraid to repeat anything he says. He is a constituent of mine. I know him well, and he is competent to sustain himself here or elsewhere. I know that to-day, by a little suggestion, he has saved the Government $800,000. I know, too, that he did right and that I did right, and I am not afraid to face the whole country upon it.

Mr. CARTTER. I call the gentleman to order.

Mr. BOWNE. With this explanation, exonerating Commodore Sloat from any attempt to interfere in the business of the House, and taking all the odium, such as it is, that it is attempted to heap upon him, on myself, I have done.

The CHAIRMAN. The Chair will state, before putting the question, that it has been customary, in the discussions here, to depart from the amendments pending. He will feel authorized hereafter, without reference to the past, to require gentlemen proposing amendments to confine their remarks to the discussion of those amendments, under the rule.

Mr. TOOMBS. I have no objection to the enforcement of the rule, but it is very important, when a gentleman has been attacked for the best service he ever rendered his country, that he should be defended.

The question was then taken on Mr. BOWNE's amendment, and it was rejected.

The question recurring on Mr. PHELPS's amendment, it was put, and on a division there were—ayes 68, noes 53.

So the amendment was adopted.

The question then recurred on the motion to strike out the whole clause, on which tellers had been ordered.

The question was taken; and the tellers (Messrs. HARRIS of Alabama, and FULLER of Pennsylvania,) reported only 47 in the affirmative.

A further count not being insisted on, the motion was disagreed to.

Mr. STANTON, of Tennessee. I offer the following amendment:

Towards the continuance, protection, and preservation of the dry-dock at the navy-yard in California, and a basin and railway connected therewith for that purpose, the sum of two hundred and fifty thousand dollars, ($250,000.) And the Secretary of the Navy is hereby authorized and directed to enter into a contract with the patentee for the construction of the basin and railways, as built by them at the Philadelphia, Kittery, and Pensacola navy-yards, to complete and protect from damage the floating dock at the navy-yard in California: *Provided*, It can be done at such price, that the cost of the basin and railway shall not exceed the estimates to be made by the Navy Department of the probable cost thereof if built by the Government; and the said basin and railways to be constructed according to the plans and specifications approved of by the Department: *And provided further*, That the remuneration to the said contractors for the use of their patent, their superintendence, and responsibility, shall not exceed fifteen per cent. (15 per cent.) upon said estimates of the Department for the construction of the basin and railways.

Mr. TOOMBS. I rise to a question of order. A clause in the appropriation bill of last Congress, provided that there should not be a basin and railway. Congress three sessions ago authorized the construction of a dock, basin, and railway, but at the next session, Congress struck out the basin and railway. So that there is not only no law authorizing this amendment, but it is exactly contrary to law.

Mr. STANTON, of Tennessee. The Secretary of the Navy, in his report, says that the dock cannot be safely or usefully employed without this basin.

The CHAIRMAN. If this expenditure is not authorized by existing law, the Chair must rule the amendment out of order.

Mr. TOOMBS. It is against law.

Mr. STANTON, of Tennessee. It is an appropriation to continue a work which has already been commenced, and is therefore in order.

The CHAIRMAN. It is then a question of fact.

Mr. TOOMBS. Here is the provision in the act of 1851:

"For the floating dry-dock in California $150,000; and

the Secretary of the Navy is hereby required so to modify the contract alleged to have been made on the 17th of January last, as to confine the same to the construction of the floating-dock alone, without the basin and railway."

The CHAIRMAN. The question of order is not debatable.

Mr. McCORKLE. I want to make a plain statement with reference to the point of order.

The CHAIRMAN. The Chair will hear the gentleman, although debate is not strictly in order.

Mr. McCORKLE. The point of order is not properly taken. The gentleman has quoted the law correctly, but under the authority given to the Secretary of the Navy to make a contract for the construction of a dry-dock, basin, and railway, the Secretary of the Navy made such a contract. After that contract was made and completed the Congress of the United States repealed that portion of the law. Now, I submit to the Chair, if that law of 1851 is not null and void, and of no effect, and if that contract, made under the authority of the previous law, is not sufficient to found the amendment upon?

Mr. TOOMBS. Congress rescinded that contract.

Mr. McCORKLE. They had no power to do it.

Mr. TOOMBS. Oh, yes they had; and it was one of the most flagitious contracts ever made with this Government.

The CHAIRMAN. The Chair is disposed to sustain the point of order raised by the gentleman from Georgia, upon the assumption that there is no law authorizing this appropriation.

Mr. STANTON, of Tennessee. I appeal from the decision of the Chair.

Mr. CARTTER. I call for the reading of the amendment, that we may be able to understand the question.

The Clerk reported the amendment.

Mr. DEAN. I understand that there has been an appeal taken from the decision of the Chair.

The CHAIRMAN. There has.

Mr. HOUSTON. The Chair has decided that the amendment is out of order, as I understand it.

The CHAIRMAN. That is the decision of the Chair.

Mr. DEAN. I think the Chair labors under a misapprehension in relation to the facts of the case. I will state those facts.

The CHAIRMAN. The Chair is informed, and it is upon that ground that he bases his decision, that there is no law authorizing this appropriation. It is stated that there was such a law, but that it has been repealed.

Mr. DEAN. That is not the fact, as I understand it.

Mr. LETCHER. I call the gentleman from New York to order.

The CHAIRMAN. The appeal is not debatable.

Mr. DEAN. We have a right to state the grounds of the appeal.

Mr. STUART. It is no more in order to state the facts on this appeal than anything else.

The CHAIRMAN. Debate is not in order.

Mr. HART. I call for tellers on the appeal.

Tellers were ordered; and Messrs. HART and HEBARD were appointed.

The question was then put, "Shall the decision of the Chair stand as the judgment of the committee?" and the tellers reported—ayes 74, noes 64.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. PHELPS. I offer the following amendment:

And the Secretary of the Navy shall from time to time regulate the wages of all persons not specially provided for in this bill, at navy-yards, and shall publish the hours of labor constituting a day's work by the rates and rules which govern in private yards and work-shops in the principal cities nearest to the respective navy-yards where similar classes of workmen are employed and similar work performed.

That amendment is intended for the protection of laborers in navy-yards and for the protection of the Government. There is a contest every year going on between the Secretary of the Navy and the workmen in the yards, as to the number of hours which shall constitute a day's work, and the amount of wages which shall be paid for the same. This amendment provides that a day's work shall be the same in the navy-yards and work-shops of the United States as it is in the ship-yards of our merchants; and it provides, also, that the same compensation shall be paid. I ask if that is not right? I ask if the Secretary of the Navy has a right to require the laborers employed by the Government of the United States to work more hours a day and receive lower wages than the laborers employed by private individuals?

Mr. STANTON, of Kentucky. Almost every important amendment which has been offered to this bill has been ruled out of order on the ground that there is no law authorizing it. Now, here is an amendment offered by one of the members of the Committee on Ways and Means, to which I make the same objection. There is no law authorizing this amendment.

The CHAIRMAN. The amendment does not propose to make an appropriation.

Mr. STANTON. It proposes to change the existing law.

The CHAIRMAN. The Chair decides that the amendment is in order.

Mr. EVANS. I move to amend the amendment of the gentleman from Missouri by inserting the words "by the piece."

Mr. Chairman, it is not at all fair that you should undertake to regulate the pay of workmen in your navy-yards by the day, at any regular standard. In this manner you will pay an indifferent workman just as you do the most superior workman in the country. There is no extensive establishment in the country where the thing is done. They all work by the piece. By that mode the best workmen get their deserts. If you establish a system such as the amendment of the gentleman from Missouri contemplates, the effect will be that you will employ the poorest workmen in your service; idle, worthless fellows will be drawn in there. The prices paid to the workmen in the different private establishments differ so much, that you could not establish any general price for labor at all; and if you could, to establish an arbitrary rule to apply to all, without regard to the industry or the ability of the workmen, would be too great an assumption of power for Democrats to assume, and which, although I profess myself a Democrat, I could not sanction.

Mr. HOUSTON. I am opposed to the amendment of the gentleman from Maryland, but I am not disposed to discuss it. I hope the committee will proceed to vote.

Mr. EVANS. With the consent of the committee I will withdraw my amendment.

There was no objection, and the amendment was accordingly withdrawn.

Mr. DEAN. I move to add to the amendment of the gentleman from Missouri, the following:

Provided, That not more than ten hours shall be required.

Mr. PHELPS. I will accept that amendment if the gentleman will not make a speech.

Mr. DEAN. Very well, if the gentleman accepts the amendment I am satisfied.

Mr. GOODENOW. I rise to oppose the amendment of the gentleman from Missouri.

The CHAIRMAN. That has been spoken against already.

Mr. GOODENOW. Then I move to amend by striking out the words "privates work-shops."

Mr. Chairman, I am satisfied the amendment of the gentleman from Missouri is not a proper one to be adopted. I know that there is a great variety of rules regulating the compensation of men employed in the various private ship-yards about the country, and that a much greater amount of work is performed by them than is performed by those employed in your Government navy-yards.

Mr. Chairman, I am not disposed now to make a speech in behalf of the laboring class of people, although I know it has become very fashionable for gentlemen to get up here and talk about the rights of the working classes, of their sympathy with them, and of protecting their interests. I will simply say that I desire to show my estimate for labor by my works and not by my words.

Mr. FLORENCE. I did not distinctly hear the proposition of the gentleman from Maine. I desire to say something upon that subject.

Mr. GOODENOW. I will withdraw the amendment.

Mr. FLORENCE. I object to the withdrawal of the amendment.

[Cries of "Too late!"]

The CHAIRMAN. The Chair thinks it is too late to object to the withdrawal.

Mr. EVANS. I desire to oppose the adoption of the amendment of the gentleman from New York [Mr. DEAN] in relation to the ten-hour system.

The CHAIRMAN. The gentleman from Missouri [Mr. PHELPS] accepted that amendment, and the gentleman cannot therefore speak upon it.

[Cries of "Question!" "Question!"]

The question was then taken, and Mr. PHELPS's amendment was disagreed to.

Mr. FLORENCE. I desire to ask a single question as a matter of duty to my constituents.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The gentleman must recollect that there is no question before the committee.

Mr. FLORENCE. I move to make the appropriation for the clause under consideration $4,100, so that it will then read:

At Philadelphia Naval Asylum.—For tinning roof of asylum, laying water-pipes, furnaces, grates, and ranges, pavements, and gutters, &c., $4,100.

My reason for moving this amendment was that the estimates for this asylum asked for $4,100, of which $2,100 were for paving a street, and the rest for constructing a quay-wall which is necessarily required to protect the property there, if the street is opened through. I desire to ask the chairman of the Committee on Ways and Means a single question. I want to know if that street is already opened, or if it is not, if it is contemplated to open it within any reasonable time?

Mr. HOUSTON. My impression is that it is intended to open the street; but I am not certain in relation to the matter.

Mr. FLORENCE. I desired to make the inquiry as a matter of justice to my constituents. I will now withdraw my amendment.

Mr. MARSHALL. I move that the committee do now rise.

The question was put, and the motion was not agreed to.

The following clause of the bill being under consideration:

"*At Norfolk.*—For wall to inclose a grave-yard, including excavation, $6,168 93;"

Mr. STANTON, of Tennessee. I move the following amendment:

For the purchase of land to be used as a yard connecting with the naval hospital, $2,500.

I presume this item has been examined by the Committee on Ways and Means.

Mr. HOUSTON No, sir; it has not. An officer having that hospital in charge, however, assures me that it is necessary, and I presume no one will object to it.

The question was then taken, and the amendment was agreed to.

The Clerk then proceeded to read the remaining clauses of that bill.

Mr. CLARK. I move the following as an additional section of the bill:

To provide for a temporary hospital for sick and disabled boatmen at Dubuque, Iowa, $5,000, to be expended under the direction of the Secretary of the Navy.

Mr. EVANS. I desire to offer an amendment to the bill itself before an additional section is offered.

Mr. ORR. I rise to a question of order. I think the amendment of the gentleman is not in pursuance of any existing law.

Mr. CLARK. I did not offer it as an amendment to the clause of the bill providing for naval hospitals, because I feared that gentlemen, astute in matters of order, might object, and rule me out. I thought it would certainly be in order as an additional section to the bill.

The CHAIRMAN. The Chair thinks, as there is no existing law authorizing the construction of such an hospital, that the amendment is not in order to any portion of the bill.

Mr. CLARK. With great respect to the Chair, I must appeal from that decision.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was then taken, and the decision of the Chair was sustained.

Mr. LANE. I offer the following as an additional section to the bill——

Mr. EVANS. I have an amendment which I wish to offer to the bill itself, before an additional section is added. The committee may think it a small matter, but I desire to call their attention to it nevertheless. I move to strike out the words "&c." wherever they occur—as they do

about a hundred times—in the bill. For instance, the clause providing for Philadelphia, reads:

"For extending wharf No. 4, and dredging, completing, paving, &c."

Mr. HOUSTON. It is not in order to go back to a portion of the bill which we have passed.

Mr. EVANS. There is no going back about it. There is but one section to the bill, and we are considering that.

The CHAIRMAN. The Chair is disposed to rule the amendment in order.

The question was then taken, and the amendment was agreed to.

Mr. HALL. I have an amendment, which I desire to offer to the first section of the bill, and if the committee will allow me for a moment, I can show that it is in order. I move the following:

For the balance of the prize-money appropriated under the act of the 27th day of April, 1816, to the captors of the Algerine vessels taken by the American squadron under the command of Commodore Decatur, and afterwards restored to the Dey of Algiers, $123 73, to be paid to Sarah Morris, only heir of Robert Morris, late a midshipman on board the United States ship Guerriere.

I now desire to have the papers read which I send to the Clerk's desk. They will explain the amendment, and I am sure no one will object to it.

Mr. ORR. I submit that that is a private claim, and therefore not in order as an amendment to an appropriation bill.

Mr. PRICE. I move that the committee do now rise.

The question was put, and the motion was not agreed to.

Mr. HALL. I now hope the committee will hear read the papers I have sent to the Clerk's desk.

The CHAIRMAN. The papers will be read, unless objected to.

Mr. CARTTER. I object; and I move that the committee do now rise.

Mr. HALL. I am upon the floor, and do not yield it for any such purpose. I hope the committee will hear me state the merits of this case.

[Cries of "Question!" "Question!"]

The question was then put upon the adoption of the amendment, and the Chair decided it in the negative.

Mr. HALL. I call for tellers.

Mr. DEAN. I submit that it is too late to call for tellers.

Mr. HALL. It certainly is not too late.

Mr. SKELTON. I rise to a question of order. I submit that the amendment is not in order, upon the ground that it is a private claim.

Mr. HALL. I have asked half a dozen times to have the papers accompanying the case read. They will show that it is not a private claim.

The CHAIRMAN. Upon examining the amendment, the Chair is inclined to sustain the point raised by the gentleman from New Jersey.

Mr. HALL. The amendment has been received, and it is now to late to raise a question of order.

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. LANE. I now offer the following as an additional section to the bill:

Be it further enacted, That the Secretary of the Treasury be authorized and directed to adjust and settle the claims of Acting Master Pierce Crosby and Passed Midshipman W. P. Buckner, for a share of the proceeds of the schooner Oregon and cargo, seized and confiscated in the month of April, 1848, under the President's regulations of the 1st of March, 1847, at the port of Tampico, during the war with Mexico, and to pay the amount of their claims out of any moneys in the Treasury arising from military contributions collected in Mexico, in pursuance of the regulations of the President before referred to, and upon the principles settled in the case of Lieutenant Robert Browning: *Provided*, That before any money is paid in this case, any claim submitted by the owners of the vessel before mentioned for remission of the penalty and payment of the proceeds under the confiscation, or any other person, shall first be duly examined and decided by the Secretary of the Treasury, under the direction of the President of the United States.

The question was taken, and the amendment was not agreed to.

Mr. BENNETT. I now offer the following amendment:

SEC. —. *Be it further enacted*, That for the purpose of establishing a line of mail steam or caloric ships, either side-wheel or screw-propellers, as the Secretary of the Navy may determine, between San Francisco and China, touching in going or returning at the Sandwich Islands, it shall be the duty of the Secretary of the Navy to contract with Ambrose W. Thompson, immediately after the passage of this act, for the establishment of the said line of ships; which said line shall consist of six ships of not less than three thousand tons register each. Each of said ships shall be constructed as if for war purposes, and properly pierced for the mounting of a heavy battery—and the said ships shall, if required by the Secretary of the Navy, carry four heavy guns each, during their voyages, which guns shall be officered and manned and provided by the Department. The ships shall be built under the supervision of such naval constructor or officer as the Secretary of the Navy may appoint. They shall carry the United States mail, and perform the naval service of the Government, as it may be allotted by the Secretary of the Navy, in the courses of their voyages, and upon the coast of China and Japan. For the said services, the said Thompson shall receive from the Post Office Department a sum equal to the amount of postages which may be received upon mailable matters transmitted in said ships; which sum shall be paid monthly, provided the rates of said postage shall conform to such regulations as may be established by the Postmaster General according to law.

It shall be the duty of the Secretary of the Treasury to issue to said Thompson United States six per cent. coupon bonds, payable at the expiration of the term of ten years, to an amount equal to one half the amount of postage which the Postmaster General may estimate will arise from the service of said line for said ten years: *Provided*, That the Postmaster General shall be, and he hereby is, directed to estimate the service for purpose of said issue at the same rate as is paid by England for the East India and Chinese mails: *And provided further*, That no money is hereby appropriated for this purpose, or for any purpose connected therewith.

SEC. —. *Be it further enacted*, That the amount of said bonds, as they are issued from time to time, shall be charged by the Postmaster General to the postal service of said ship, and shall not exceed one half the amount of postage as above provided for, unless said advance is paid off by said contractor, or by the mail service of his ships. The said bonds shall be issued, from time to time, by the Secretary of the Treasury, upon the requisition of the Postmaster General, in such amounts as may be required by the said Thompson, during the progress of building said ships; and the amount of said bonds shall be secured to the United States by a lien upon the ships, in such form as the Secretary of the Navy may require; and the said Thompson shall give to the Secretary of the Navy satisfactory security that the amount of the bonds so issued shall be faithfully and economically applied towards the construction and equipment of said ships.

SEC. —. *Be it further enacted*, That the said contract for mail and naval service shall be for the period of ten years.

Mr. HIBBARD. I rise to a question of order. I submit that the amendment is not in order.

The CHAIRMAN. It is the opinion of the Chair, upon the principles already decided, and sustained by the committee, that the amendment is not in order.

Mr. McCORKLE. As no appropriation is proposed in the amendment, I appeal from the decision of the Chair.

The CHAIRMAN. An amendment has been offered, and the Chair decides, upon principles already stated, that it is not in order; from that decision the gentleman from California appeals.

The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was put, and it was decided in the affirmative.

So the decision of the Chair was sustained.

Mr. CABLE, of Ohio. I offer the following amendment.

Provided, That nothing in this act shall be so construed as to authorize the purchase or the use of wine, brandy, or any other intoxicating drinks for the use of the Navy or those employed therein; but the use and purchase thereof are hereby prohibited; and a violation of this prohibition shall be just cause of dismission from the Navy."

Several MEMBERS. "Not in order."

Mr. CABLE. I offer it as a proviso to the last clause of the bill.

The CHAIRMAN. The Chair is of opinion that the amendment is not in order, and so rules.

Mr. STUART. I move that the committee rise and report the bill to the House.

The CHAIRMAN. As long as amendments are offered such a motion is not in order.

Mr. CABLE. I wish to inquire of the Chair if my amendment cannot come in in order?

The CHAIRMAN. The Chair decides that it cannot as a proviso.

Mr. FAULKNER. I offer the following amendment as an additional section to the bill:

Be it further enacted, That the Secretary of the Treasury be authorized and directed to adjust and settle the claim of Acting Master Pierce Crosby and Passed Midshipman W. P. Buckner, for a share of the proceeds of the sale of the schooner Oregon and cargo, seized and confiscated in the month of April, 1848, under the President's regulations of the 1st of March, 1847, at the port of Tampico, during the war with Mexico, and to pay the amount of said claim out of any moneys in the Treasury arising from military contributions collected in Mexico, in pursuance of the regulations of the President before referred to, upon the principles already settled and adjudicated in the case of W. P. Buckner's legal representatives: *Provided*, Before any money is paid in this case, any claim submitted by the owners of the vessel before mentioned for remission of the penalty and payment of the proceeds under the confiscation, or of any other claimant of said fund, shall first be duly examined and decided by the Secretary of the Treasury, under the direction of the President of the United States.

Mr. CAMPBELL, of Illinois. I rise to a point of order. I submit that as it is a private claim it is not in order.

The CHAIRMAN. The Chair thinks it is not in order.

Mr. ORR. I offer the following amendment:

For the balance of the prize money appropriated under the act of the 27th of April, 1816, to the captors of the Algerine vessels taken by the American squadron under the command of Commodore Decatur, and afterwards restored to the Dey of Algiers, one hundred and twenty-three dollars and seventy three cents, to be paid to Sarah Morris, only heir of Robert Morris, late a midshipman on board the United States ship Guerriere.

It was, perhaps, a suggestion of mine that induced the question of order to be raised on this amendment, when offered a few minutes since. The one hundred and twenty-three dollars provided for in this amendment I understand was appropriated some years ago, and not being claimed within two years, it went back into the Treasury, according to law.

This amendment is simply a proposition to reappropriate it, now that the claimant has come forward, or his heir, and desires the money.

Mr. DEAN. I rise to a point of order. This is the same amendment which was ruled out of order a short time ago.

Mr. BOCOCK. Let the gentleman state why it is out of order.

The CHAIRMAN. The Chair is of opinion that a reappropriation is the same as an original appropriation, and rules the amendment out of order.

Mr. POLK. I appeal from the decision of the Chair.

The CHAIRMAN. The question is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. STEPHENS, of Georgia. If the Chair will allow me to say a word, I wish to suggest to the gentleman from South Carolina, [Mr. ORR,] that the proper place to reappropriate money which has gone to the surplus fund, is in the deficiency bill, which will come up in a day or two.

Mr. ORR. If this amendment is likely to cause any embarrassment, I withdraw it for the present. It is a just claim, and ought to pass.

Mr. CAMPBELL, of Illinois. I move that the committee rise and report the bill.

Mr. BOCOCK. What becomes of the appeal taken from the decision of the Chair?

The CHAIRMAN. That is true; but the gentleman from South Carolina withdrew the amendment, and of course, the appeal falls with it.

Mr. CABLE, of Ohio. I now offer the following amendment as an additional section:

Be it further enacted, That nothing in this act shall be so construed as to authorize the purchase or the use of wine, brandy, or any other intoxicating drinks for the use of the Navy, or those employed therein; but the use and purchase thereof are hereby prohibited; and a violation of this prohibition shall be just cause of dismission from the Navy.

Mr. CAMPBELL, of Illinois. I rise to a question of order. I submit that the amendment is not in order.

The CHAIRMAN. In the opinion of the Chair it is in order as an additional section, and it is for the committee to pass upon it and determine its propriety or not. The question, therefore, is upon the adoption of the amendment.

Mr. CAMPBELL, of Illinois. I make the point of order that it is not germane to this bill.

The CHAIRMAN. The Chair thinks, as it relates to rations in the Navy, that it is in order.

Mr. DEAN. I hope the gentleman from Ohio will accept of an amendment that this provision shall only apply to the States of Maine, Massachusetts, and Vermont.

A MEMBER. Include Rhode Island.

Mr. DEAN. And Rhode Island.

Mr. CAMPBELL. I appeal from the decision of the Chair that the amendment is in order.

The CHAIRMAN. The Chair has decided that the amendment is in order, and it is too late to take an appeal. The question is upon the adoption of the amendment.

The question was then taken on the amendment of Mr. CABLE, and it was not agreed to.

Mr. HOUSTON. I now move that the committee rise and report the bill to the House.

The question was taken, and the motion was agreed to.

While the Chair was putting the question, Mr. EVANS rose and addressed the Chair, great confusion prevailing at the time in the Hall.

The committee accordingly rose, and the Speaker resumed the chair.

Mr. EVANS. I rise to a question of privilege. Previous to the abandonment of the chair by the chairman of the committee, and before the motion to rise was put, I arose for the purpose of offering an amendment to the bill then under consideration, which amendment the chairman did not entertain. On the contrary, the chairman left the chair.

A MEMBER. He did not hear you.

Mr. EVANS. The Chair is bound to hear. I do not accuse him of hearing, for I do not know whether he heard or not.

Mr. SEYMOUR, of Connecticut. I rise to a question of order.

The SPEAKER. The gentleman from Maryland is upon the floor to a question of privilege.

Mr. SEYMOUR. My point of order relates to the question of privilege. It is not in order to hear the report of the committee except from the chairman of the committee.

Mr. EVANS. I have no report to make, nor, unless the chairman heard me, have I any complaint to make against him. I never complain of any one who occupies the chair. I know the difficulties of the position which you, Mr. Speaker, occupy, and of the unjust and unreasonable complaints which have been made against you, and I know, too, the difficulties of a chairman; but if the chairman heard me he was bound to wait, under the rules of the House, before he put the motion, for the purpose of enabling me to present my proposition.

My question is, that if the chairman heard me, the Speaker vacate that chair for the purpose of putting my proposition; and if he did not hear, the Speaker vacate the chair for the purpose of allowing me to be heard.

The SPEAKER. The Speaker will hear the report of the chairman.

Mr. KING, (chairman of the committee.) The chairman feels compelled to modify his report so far from the usual course as to state, that when the motion was made that the committee rise and report the bill to the House, there was considerable confusion in the Hall, and he states frankly that he did not hear or know of any particular person making a call. There was a call of "Mr. Chairman," but he heard no such sound come from any particular quarter, as he is aware of.

The chairman reports that the Committee of the Whole on the state of the Union have, according to order, had the state of the Union generally under consideration, and particularly House bill No. 342, making appropriations for the naval service for the year ending the 30th of June, 1854, have gone through with the same, and have directed me to report the same to the House, with sundry amendments thereto.

Mr. EVANS. In connection with the question of privilege, though I had the right to offer my amendment, and the committee ought to have listened to me, yet in order to avoid all further difficulty, I withdraw the question of privilege.

Mr. HOUSTON. I move the previous question upon the bill and amendments.

The previous question was seconded.

Mr. STANLY. Is it too late to raise the question of privilege again?

The SPEAKER. The Chair thinks it is too late.

Mr. STANLY. I think it a great outrage. The chairman reported to the House that there was no particular gentleman that he could designate, but that there were several——

[Cries of "Order!" "Order!"]

The SPEAKER. The Chair must decide that it is too late to raise the question.

The main question was then ordered to be put.

Mr. CARTTER. I move that the House do now adjourn.

Many MEMBERS. No! no!

Mr. PRICE. I renew the motion.

The question was then taken, and there were, on a division—ayes 62, noes 67.

So the House refused to adjourn.

Mr. JONES, of Tennessee. I move that all the amendments of the Committee of the Whole, to which there was no objections, be voted on *en masse*.

There was no objection, and the motion was agreed to.

The Clerk proceeded to read the amendments.

Mr. McMULLIN. I move that the House do adjourn.

A MEMBER I demand tellers.

Tellers were not ordered.

The question was taken, and the House refused to adjourn.

The amendments were then read through.

Mr. CLEVELAND. The House is now very thin, and I think that we ought to have a full one to vote on these amendments, and I therefore move that we do now adjourn.

The question was taken, and the House refused to adjourn.

The question was then taken on all of the amendments of the Committee of the Whole on which separate votes were not demanded, and they were agreed to.

The question then recurred on the following amendment of the committee, on which Mr. PRICE demanded a separate vote:

"For blacksmith-shop, storehouse, and wharf, $100,000: *Provided*, That before this sum shall be expended, the Attorney General of the United States shall decide that the United States have a good title to the land on which the buildings are to be erected."

Mr. WALSH. I move that the House do now adjourn, and on that question I call for the yeas and nays.

The yeas and nays were not ordered.

The question was taken, and the House refused to adjourn.

The question was then taken on the amendment, and it was adopted.

The bill was then ordered to be engrossed and read a third time, and being engrossed, it was accordingly read a third time, and passed.

Mr. HOUSTON. I move to reconsider the vote by which the bill was passed, and that that motion be laid on the table.

Mr. FAY. It will be recollected by all that I have occupied but one or two minutes since I took my seat on this floor. I now rise to ask the unanimous consent of the House for leave to the Committee on Commerce to report an act authorizing a street to be constructed over some twenty rods of the public land in Chelsea.

Mr. JONES, of Tennessee. I would ask the gentleman whether that street would not divide the public land there?

Mr. FAY. I will state in a few minutes the reasons why this act ought to be passed. If then the House vote against me, I shall cheerfully submit.

[Cries of "Hear him!"]

Mr. FAY. I have no capital to make here, and shall confine my remarks to the facts of the case. The hospital at Chelsea was erected on a long, narrow strip of land of some ten acres, running between two estates. About twenty years since, those estates were purchased and laid out. There were then only thirty inhabitants there—now there are about seven thousand; and in consequence of this narrow strip of land, the business people are daily obliged to pass around one hundred or one hundred and fifty rods to get forty or sixty rods. The land over which it is proposed to run the street is not wanted for the hospital. It is now used as a carriage way, but they get a crop of grass off of it once a year. These are the facts with regard to the convenience of having a street. I will not say a word as to the justice of the matter. The United States own one eighth of the whole territory of the town. The inhabitants of Chelsea pay annually $20,000 to answer the requests of the law of the Commonwealth, and the one eighth part pays nothing, nor do those who reside upon it.

Mr. ORR. I wish to ask the gentleman a question. Is there a provision in the bill giving the President the discretion of opening the street or not, as he may think the public interest may require?

Mr. STUART. The Committee on Commerce have examined the bill thoroughly, and the provision to which the gentleman refers was inserted in the bill on my suggestion. It leaves the discretion with the Department.

There was no objection; and

Mr. STUART, from the Committee on Commerce, reported the following bill:

H. R. No. —. An act authorizing the Selectmen of the town of Chelsea, in the State of Massachusetts, to lay out and make a way on lands of the United States in said town.

The bill was read through.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read a third time, and passed.

Mr. WALSH. I ask the unanimous consent of the House for leave to the Committee on Invalid Pensions to report a bill granting a pension to an old woman who is totally blind.

A MEMBER. I object.

Mr. WALSH. I move to suspend the rules for the purpose I have indicated.

Mr. STUART. I move that the House do now adjourn.

The motion was agreed to; and thereupon the House adjourned till Monday, at eleven o'clock a. m.

IN SENATE.

MONDAY, *February* 28, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

Mr. WALKER. I wish to bring to the notice of the Senate a matter which it is of some importance should be acted upon now. I refer to the letter which was addressed to the Presiding Officer of this body by Mr. Kennedy, the Superintendent of the Census. That letter was by mistake referred for investigation to the Select Committee on Frauds. I made that motion because I thought it was Mr. Kennedy's request that it should be referred to that committee; but I find that it was not; on the contrary he requests, in point of fact, that the charges which have been made by some of the members of the select committee may be investigated. I am therefore directed by the committee to report it back to the Senate and ask that the committee be discharged from its consideration. For one, I wish to say, that if the Senate shall refer this letter to a committee, I will substantiate by sworn testimony and documents in my possession all that has been charged by the committee, and vastly more.

The motion was agreed to, and the committee was discharged.

COMMITTEE ON CLAIMS.

Mr. BRODHEAD submitted the following resolution:

Resolved, That the clerk to the Committee on Claims be continued as heretofore, until otherwise ordered by the Senate, to be employed in completing and keeping up the index and digest of the reports of the committee, authorized by the resolution of March, 1851, and in such other duties as the committee may require.

EXTRA COMPENSATION.

Mr. CASS submitted the following resolution for consideration:

Resolved, That there be allowed and paid, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, to the officers, clerks, messengers, pages, and laborers in the service of the Senate, the regular police of the Capitol, the officers of the Library, the laborer, and the fireman in the center building, the sums respectively, which were allowed them at the last session.

REPORTS FROM STANDING COMMITTEES.

Mr. BORLAND, from the Comittee on Printing, to which was referred the motion of Mr. BRIGHT to print two thousand additional copies of the report of the Secretary of War, respecting a canal around the Falls of the Ohio, reported in favor of printing the same; which was concurred in.

He also, from the same committee, to which was referred the motion of Mr. BRIGHT to print two thousand additional copies of the report of the Secretary of the Navy respecting the coal-fields and coal-mines in the western States, reported in favor of printing the same; which was agreed to.

ORDER OF BUSINESS.

Mr. HUNTER. I now move to postpone the prior orders, for the purpose of resuming the consideration of the civil and diplomatic appropriation bill.

Mr. UNDERWOOD. I must oppose that motion, and I will assign my reason for it. If the members of the Senate intend to give the old States any portion of the public lands for their uses, and the new States any portion of the public lands to build railroads, they must act upon the bill

for that purpose this morning. For the purpose of ascertaining the sense of the Senate, whether they will give the preference to the civil and diplomatic appropriation bill over that of Bennett's land bill, I ask for the yeas and nays on the question. The civil and diplomatic appropriation bill will pass at any rate, if you take it up after the land bill has been acted upon. I hope we may take up the land bill first, and dispose of it.

Mr. SHIELDS. If the Senator from Kentucky supposes the land bill will pass without debate he is very much mistaken. There is not time to consider that bill now.

Mr. CASS. We shall not do anything with that bill this session, if we take it up.

Mr. HUNTER. It is obvious to the Senate that there is no time to take up that controverted question. If we can save amendments to the civil and diplomatic appropriation bill by diligent work, it will be as much as we can do.

Mr. UNDERWOOD. I wish to say one word. I have tried at various times in the session to get up Bennett's land bill, but I have not been able to succeed. Give us a test. If the Senate indicate by a vote of yeas and nays that they will not consider that bill during the residue of the session, I am content with it. I want a test vote.

Mr. DOUGLAS. As there seems to be a contest between the Senators from Virginia and Kentucky as to the bill which we shall proceed to consider, I hope I may be able to effect a compromise. Last year, the Senate refused to consider territorial bills. I have been trying for a week to get them up, and I think that both these gentlemen had better give way, so that we may take up the territorial bills. I assure the Senate that there is a great necessity for taking up those bills, and I hope Senators will give way.

Mr. HUNTER. I cannot give way for anything. I hope the vote will be taken. I am willing to leave the question to the Senate, without debate, whether they will go on with the civil and diplomatic appropriation bill or not.

Mr. BRIGHT. I hope the Senators from Kentucky and Illinois and Virginia, will give way to permit me to make a motion to take up the homestead bill. I shall vote, however, to keep before the Senate the civil and diplomatic appropriation bill, that I may have an opportunity with his assistance to take up the homestead bill as soon as that is disposed of.

Mr. BORLAND. I feel a good deal like the Senator from Illinois about this bill. There is a joint resolution before the Senate, of which I have charge, and which I have tried for some time to get before the Senate. It is indispensable to the public interest that it should be taken up, if Congress intend to do anything about printing the census returns at all. Some two weeks ago, I reported from the Committee on Printing the joint resolution of the House of Representatives for publishing the returns of the Seventh Census, with an amendment. Now, it is for the Senate to say whether they will print the returns or not. If we intend to do so, it seems to me that we must take up the resolution and pass it to-day or to-morrow.

Mr. MANGUM. I suppose there are not less than twenty Senators who have some favorite measure, which they think entitled to consideration. The civil and diplomatic appropriation bill is one of immense public importance, and I hope we will not postpone it as we did a year ago, and have to sit here night and day to consider it while men are worn out. I hope we will go on with it. It is of too much importance to be passed by as a courtesy to any gentleman.

Mr. HUNTER. I will make a statement which I think will have weight. The honorable Senator from Texas [Mr. HOUSTON] has generally agreed to give way, as he was entitled to the floor this morning on the resolutions respecting colonization and Cuba, for the purpose of allowing the civil and diplomatic appropriation bill to come up. I hope other Senators will not be outdone by him in courtesy.

Mr. BADGER. I will suggest a compromise better than that of the Senator from Illinois. Let us pass the civil and diplomatic appropriation bill, and then, by common consent, let us take up and make one bill of Bennett's land bill, the territorial bill, Miss Dix's bill, and the homestead bill, and pass them all together unanimously without debate. [Laughter.]

Mr. WELLER. By way of compromise.

Mr. BADGER. Then we will accomplish everything at once.

Mr. WALKER. I most unqualifiedly withhold my consent to the taking up of Bennett's land bill, and voting upon it without debate. It is a measure which I must oppose. The people of Wisconsin are opposed to it, and as I represent that State in part, I shall have to oppose that bill in defense of what I consider her rights, and in my own justification, and to satisfy the reasonable demands of that State upon myself. I shall therefore feel it to be my duty, and I shall not forego that duty, to discuss that measure to the full extent of its operation in all particulars.

Mr. UNDERWOOD. I only want it as a test question. I want to vote, and not to consume time. If the Senate proceed to consider the civil and diplomatic appropriation bill this morning, I shall take it as an indication that it does not intend to act on Bennett's land bill. I hope, therefore, we may have the yeas and nays on the vote, which I regard as a test. If the Senate votes to take up the civil and diplomatic appropriation bill, I do not know that I shall trouble it with another motion. Give us the yeas and nays, and let us vote.

Mr. BORLAND. I desire to correct a misapprehension under which my honorable friend from North Carolina [Mr. MANGUM] seems to labor, with regard to favorite bills of Senators. I desire to say in regard to the census resolution, of which I spoke, that it is not a favorite measure of mine. For myself, I care very little about it, but as chairman of the Printing Committee, it has become my duty to present it to the Senate and urge its consideration. That is the cause of my doing so—not because of any personal interest which I have in it.

The yeas and nays were ordered, and being taken, resulted—yeas 39, nays 7; as follows:

YEAS—Messrs. Adams, Atchison, Badger, Bell, Borland, Bradbury, Bright, Brodhead, Brooke, Charlton, Chase, Cooper, Dawson, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Geyer, Hamlin, Houston, Hunter, James, Mallory, Mangum, Miller, Morton, Pearce, Pettit, Phelps, Pratt, Rusk, Sebastian, Shields, Sumner, Toucey, Walker, and Weller—39.

NAYS—Messrs. Fish, Foot, Jones of Tennessee, Seward, Spruance, Underwood, and Wade—7.

So the motion was agreed to.

CIVIL AND DIPLOMATIC BILL.

The Senate accordingly resumed the consideration of the bill from the House of Representatives making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th of June, 1854.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question before the Senate is on the amendment reported from the Committee on Finance to add the following:

"SEC. —. *And be it further enacted*, That the Secretary of the Treasury be authorized to refund to the legal claimants for duties that have been paid on goods, wares, and merchandise that were consumed by fire in the district and port of New York in July, 1845, $300,000, and in the district and port of San Francisco, in the years 1850 and 1851, $100,000, subject to the restrictions and limitations of the act of July 7, 1838, passed for the relief of the sufferers by the fire of December, 1835, in New York; and the amount of goods destroyed and duties to be refunded, shall be ascertained at said ports respectively, and be adjusted and repaid thereat, in a manner similar to that which is provided for in the act above referred to, in relation to losses at New York."

Mr. FISH. I desire to ask the chairman of the Committee on Finance whether there has been any estimate upon which the sum of $300,000 is founded? My impression is, that under the phraseology of that amendment, it will avail nothing to the claimants in the city of New York. It will probably avail five or six thousand dollars. The limitation put upon it will render it useless.

Mr. HUNTER. If that is the case, I hope it will be voted down. I thought it was an amendment agreed upon between New York and San Francisco. I desire to have a limitation with regard to the Treasury. I doubt myself whether the amendment would be of any value to either of the parties.

Mr. GWIN. I am perfectly willing that that portion of it that has reference to New York should be voted down, if the Senator from New York is not satisfied with it. But I want the portion connected with California voted in, because I believe it will be of some benefit. There is no doubt about the fact that goods have been burnt and destroyed, and duties paid on goods in the custom-house, while the bonds of the merchants are outstanding against them, upon which they are liable to be sued. I hope the $100,000 appropriated for California will remain in the bill. I am perfectly satisfied it will do my constituents some good. It is not all that I should desire to get, but it is getting something for them.

Mr. FISH. I did not rise to object to the amendment. I wanted to know whether there was any estimate for it. I make no objection to it. Let it pass as it is. It will, perhaps, avail some five or six thousand dollars.

Mr. HUNTER. The point to which I looked was, whether the Treasury of the United States is guarded. It is guarded with the limitation of the act of 1838, which is well drawn. I am contented with any provision which is guarded by that act.

Mr. SEWARD. So am I.

The amendment was agreed to.

The next amendment reported from the Committee on Finance was the following:

"SEC. —. *And be it further enacted*, That the Secretary of the Treasury be authorized to remit the duties upon any machinery imported into the United States for spinning and weaving flax, or to refund duties heretofore paid within five years past on such machinery, out of any money in the Treasury not otherwise appropriated: *Provided*, That it shall be proved to his satisfaction that such machinery is not an article of manufacture in the United States, and has been used by the persons or companies importing it for manufacturing purposes: *And provided further*, That they bind themselves to permit inspections and models of such machinery to be made in such manner as may not interfere with their usual occupations."

Mr. HUNTER. This provision is to suffer a species of machinery for a new manufacture growing up, to come in without payment of duty. It has been suggested to me by the Senator from Rhode Island, that it perhaps wanted one additional restriction, and that is, that this privilege shall not be extended for a period of more than two years. I therefore move to add at the end the words—

"Nor shall this privilege be extended for a period of more than two years."

The amendment to the amendment was agreed to.

Mr. DAVIS. I would suggest another modification. It has a proviso that this machinery is not manufactured in the United States. I think it ought to state, "machinery not manufactured at the time of the importation." It may have been manufactured from these very models. I suggest, therefore, to the Senator, to insert "not manufactured at the time of the importation."

Mr. HUNTER. I agree to that. I think that is right. By general consent it may be inserted.

There was no objection, and it was so modified.

The amendment as amended was then agreed to.

The next amendment reported from the Committee on Finance was the following:

"SEC. —. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and required to cancel any outstanding debenture bonds given previously to the first day of July, 1850, upon the importation of foreign coals: *Provided*, That the said coals have been exported to a foreign port or consumed upon the outward voyage, and shall not have been consumed in the United States."

The amendment was agreed to.

The next amendment of the committee was to insert the following section:

"SEC. —. *And be it further enacted*, That the third section of the act entitled 'An act making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1847, and for other purposes,' approved August 10, 1846, be, and the same is hereby, revived and continued in force for the fiscal year ending the 30th of June, 1854."

Mr. HUNTER. That is a provision by which certain clerks are continued from year to year.

The amendment was agreed to.

The next amendment of the committee was to add the following section:

"SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to purchase, at the current market price, any of the outstanding stocks of the United States as he may think most advisable from any surplus funds in the Treasury: *Provided*, That the balance in the Treasury shall not at any time be reduced below $6,000,000."

The amendment was agreed to.

Mr. HUNTER. The Committee on Finance have instructed me to offer the following amendment, which is based upon an estimate to carry out an act passed at this session:

For pensions to widows and orphans, under an act entitled "An act to continue half pay to certain widows and orphans," approved February 3, 1853, $174,000.

The amendment was agreed to.

Mr. HUNTER. The Committee on Finance have also instructed me to report the following amendment:

SEC. —. *And be it further enacted*, That when private establishments shall be made to refine gold bullion, the Secretary of the Treasury, if he shall deem them capable of executing such work, is hereby authorized and required to limit the amount thereof which shall be refined in the Mint at Philadelphia, from quarter to quarter, and to reduce the same progressively as such establishments shall be extended, so as eventually, and as soon as may be, to exclude refining from the Mint, and to require that every deposit of gold bullion made therein for coinage, shall be adapted to said purpose, without the act of refining: *Provided*, That no advances in coin shall be made upon bullion after these regulations shall be carried into effect, except upon bullion refined as herein prescribed.

The design of this amendment is to do what Alexander Hamilton said, in his first report on the Mint, ought to be done as soon as the state of the arts should justify it. It is to enable the Secretary of the Treasury, whenever it can be done by private enterprise, to leave the business of refining to private enterprise, and get rid of that portion of the manufacturing which has been done heretofore at the Mint. It is a matter which is desired in the Mint, and I believe it would relieve the Mint a great deal, and enable it to operate more efficiently, and save a great deal of expense to the holders of gold.

Mr. BRODHEAD. I confess I do not very well understand this, and I desire to inquire of the chairman of the Finance Committee, whether he understands distinctly from the officers of the Mint at Philadelphia that they desire such a thing as this, or whether they have been consulted at all?

Mr. HUNTER. I consulted Mr. Patterson, who was here a short time ago—a gentleman known to the Senator from Pennsylvania—and he is very anxious for it. I received a letter from him the other day urging it.

The amendment was agreed to.

Mr. HUNTER. The Committee on Finance has directed me to offer an amendment in relation to custom-houses. I will state that this is an amendment which was reserved until after the action of the Senate on similar amendments which were disposed of on Saturday. The Senate having overruled the committee and taken off the limitation in regard to the custom-houses, the committee have now instructed me to report the following:

For the erection of a custom-house, to include other public offices, at Richmond, Virginia, $75,000: *Provided*, That this sum, in addition to the $150,000 heretofore prescribed as the whole amount directed to be expended for this purpose, shall constitute the entire cost of the purchase of the site and the completion of the building.

For the construction of a custom-house at Norfolk, Virginia, $35,000; which, in addition to the sum heretofore prescribed as the whole amount to be expended for that purpose, shall constitute the entire cost of the purchase of the site and completion of the building.

Mr. BRODHEAD. I cannot understand the reason why we should adopt this amendment, except it is that one wrong justifies another. I understood the Senator from Virginia the other day to say, that these limitations ought to stand, and that the Senate heretofore did right in placing the limitation. Now, sir, in such a case why should we take off the limitation in regard to these two custom-houses? I understand the contractors undertook to build them for a certain sum, but because the sum has been enlarged in other places you must enlarge them in this. I say that does not follow as a matter of course. I understood the Senator from Virginia to say the other day, that the limitation should not be taken off in regard to the custom-houses in the West. The Senate, it is true, decided otherwise; perhaps for very good reasons—reasons that do not exist, probably, in this case.

Mr. HUNTER. My opinion at that time was that this was a much stronger case than any of them which were presented in the West; but still, as I was anxious that the principle of limitation should be observed, I did not like the appearance of departing from it in the case of my own State; and it will be observed that I am not even for it now, for I am for holding them to some limitation. I will explain to the Senator from Pennsylvania why this sum is proposed. It is in pursuance of an estimate from the Treasury Department. Not a dollar has been expended beyond the amount. It was found, however, that the site cost so much that enough has not been left for the buildings, unless we put up brick buildings. There is in the neighborhood of Richmond—very near it—some of the finest granite in the world. It was proposed to put up granite buildings there, as they are doing in the cases of other custom-houses; and there is some reason for it, because it is in the neighborhood. We still preserve the limitation—a limitation which is much more than in some of the western custom-houses—for it will reduce the whole cost to $225,000, and less than that we ought not to reduce it.

Mr. HAMLIN. I move to amend the amendment by adding:

To complete the foundation of the custom-house in Bangor, and to connect the same with the shore, $15,000.

I desire to say that I have here the estimate and recommendation of the Department for that appropriation, and it is within the limitation contained in the original appropriation. That limited the cost of the building to $50,000. They have laid the foundation in the bed of the stream, and they must connect it with the main shore. A contract has been made to erect the building within the original limitation.

The amendment to the amendment was agreed to.

Mr. HAMLIN. I move further to amend the amendment, by adding the following:

To complete the custom-house at Bath, Maine, $12,000.

That is also made in pursuance of an estimate from the Treasury Department. The original appropriation for that place was $25,000, but on purchasing the site, they were compelled to expend a larger sum than was supposed at first to be necessary, which limited the sum for the custom-house and post office to $21,000. The Department has recommended the additional sum of $12,000.

The amendment to the amendment was agreed to.

Mr. HAMLIN. I have another amendment to the amendment:

For the purchase of a site, and the erection of a custom-house at Belfast, Maine, $20,000: *Provided*, That the plan of the building shall be such that the whole cost, both of the building and site, shall in no event exceed the appropriation hereby made.

The amendment to the amendment was agreed to, and the amendment as amended was adopted.

Mr. HUNTER. I desire now to offer an amendment which has been unanimously adopted by the Committee on Finance, in regard to the classification and organization of clerks. If the Senate will allow me, it will save time and some trouble to explain it instead of reading the amendment. I can explain it in a very few words. It proposes to organize the clerks of the Departments of the Treasury, Interior, War, Navy, and Post Office—leaving out the State Department, because at the time this scheme originated, Mr. Webster requested me to leave it out—in four classes; class one, to receive $900 per annum; class two, $1,200; class three, $1,500, and class four, $1,800. It allows, besides this, a chief clerk in those bureaus where a chief clerk is now allowed, at $2,000, and a chief clerk to each of the Departments proper, where they are now allowed, $2,200. It also provides that there may be a disbursing clerk, one for each Department of the Navy, War, and Post Office, not more than three for the Treasury, and not more than three for the Department of the Interior, so as to get rid of the numerous disbursing clerks which they now have, and put them under the regulation of the independent treasury act. In addition to this, it is provided that no new clerk shall be appointed until he shall have been examined and qualified by a Board to consist of three persons, one of them to be the head of the bureau into which he is to be appointed, and the others to be appointed by the head of the Department who appoints the clerks.

These are the provisions of the section. It arranges the clerks amongst the heads of the bureaus according to the reports which came in, in answer to a resolution which I introduced not more than a year ago. We have reports from the head of each of the bureaus in regard to the arrangement upon the classification which I then proposed, and a report from the head of each Department. We have arranged the clerks according to these reports into four classes. We have provided, however, in order that it may work well, and that there may be no inconvenience in case we should have made some trifling omission, that the head of the Department may distribute the clerks amongst the different bureaus as he thinks best, thus leaving the whole control with him. The result of the scheme is, that we equalize the salary in each class; we classify all the clerks in each Department, so that we get rid of the eternal applications to increase a clerk's salary in order to bring it up to a sum equal to that of another. We also get rid of the principle of extra allowance and extra emoluments; and I believe we shall thus lay the foundation of what is essential to the safe administration of this Government—I mean a civil corps, who shall have the experience, the efficiency, and the ability to enable the heads of the Departments to administer their respective Departments safely and efficiently, without which I believe that no matter who is President, no matter who is the head of the department, we cannot expect that the affairs of the Government will be administered safely and efficiently; because, after all, it depends upon the honesty, the skill, and the efficiency of the men that do the work of the Departments, to administer them properly. I hope the amendment will pass. I regard it as most important.

Mr. SHIELDS. I would ask the honorable Senator from Virginia if the amendment attempts to change the tenure of office?

Mr. HUNTER. It does not touch that at all. It does not meddle with the appointing power. It leaves that as it is.

Mr. SHIELDS. The highest salary of an ordinary regular clerk is $1,800.

Mr. HUNTER. Yes, sir.

Mr. SHIELDS. I fully agree with the honorable Senator that this measure will be very beneficial to the Departments.

Mr. PRATT. I desire to make one inquiry of the chairman of the Committee on Finance. I desire to know how the present incumbents are to be classified under this arrangement—whether they are all to go out of office on some particular day when the classification is to be made, or whether they are to be considered as in office and are to be classified?

Mr. HUNTER. The amendment considers them in office. It provides that the existing clerks shall be classified and distributed. It legislates no one out of office or into office. It leaves that as it is now.

Mr. DOUGLAS. I shall be under the necessity of asking to have the amendment read. By reading a part of it, I find that it not only divides the clerks into four classes and fixes the salaries at $900, $1,200, $1,500, and $1,800 each, but it then goes on and prescribes the number that there shall be in each Department—the number in each bureau in every branch of the Government. It is necessary to inquire whether the existing number is increased or diminished, whether the effect is to dismiss all the existing clerks from office and have new appointments made, or whether it is to take effect at a future time. I desire to have the amendment read.

The Secretary proceeded with reading the amendment, but was interrupted by—

Mr. DOUGLAS, who said: I will not insist on the reading of the whole of the amendment. I find it is so much a matter of detail that we shall have to trust to the committee.

Mr. PRATT. I desire to make an inquiry of the chairman of the Commitee on Finance. I see that in one of the Auditor's offices there are twenty-six clerks of class one, which have only a salary of $900. I desire to inquire what is the change which is made in this respect? During the last session we increased the salary of the clerks, on the hypothesis that they could not live on the salaries which they received. I am inclined to think that this must increase the lower grade of salaries to a greater extent.

Mr. HUNTER. This is in pursuance of an estimate from the Auditor himself. He estimated for this number at the lower grade of salary. The original plan which I proposed was, salaries at the rate of $800, $1,200, $1,600, and $2,000; but in the committee we made it $900, $1,200, $1,500, and $1,800. The idea of that classification is this: In the lower classes you can employ young men; you might get many for $700. It reduces the salaries, therefore, in the lower

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classes, and raises them in the upper, so that you increase the pay for skilled and efficient men, while for the new recruits you pay less. That to which the Senator alludes is according to the estimate of the Auditor himself.

Mr. PETTIT. I desire to have the reading of the amendment concluded.

The amendment was then read through. It is as follows:

"SEC. —. *And be it further enacted*, That from and after the 30th of June, 1853, the clerks in the Departments of the Treasury, War, Navy, the Interior, and the Post Office, shall be arranged into four classes, of which, class No. 1 shall receive an annual salary of $900 each; class No. 2, an annual salary of $1,200 each; class No. 3, an annual salary of $1,500 each; and class No. 4, an annual salary of $1,800 each.

"In the office of the Secretary of the Treasury, four of class 1; six of class 2; six of class 3; and five of class 4. In the office of the Solicitor, one of class 1; two of class 2; three of class 3; and one of class 4. In the office of the First Comptroller, two of class 1; five of class 2; and seven of class 3. In the office of the Second Comptroller, three of class 1; four of class 2; and seven of class 3. In the office of the First Auditor, three of class 1; six of class 2; and nine of class 3. In the office of the Second Auditor, two of class 1; six of class 2; and eleven of class 3. In the office of the Third Auditor, three of class 1; forty-one of class 2; and eight of class 3. In the office of the Fourth Auditor, one of class 1; four of class 2; and nine of class 3. In the office of the Fifth Auditor, two of class 1; three of class 2; and two of class 3. In the office of the Sixth Auditor, twenty of class 1; fifty of class 2; twenty-six of class 3; and five of class 4. In the office of the Register, five of class 1; eighteen of class 2; and four of class 3. In the office of the Commissioner of Customs, three of class 1; four of class 2; and three of class 3. In the office of the Treasurer, two of class 1; five of class 2; and five of class 3; and in the office of the Light-House Board, one of class 1; one of class 2; and two of class 3.

"In the office of the Secretary of War, one of class 1; two of class 2; two of class 3; and one of class 4. In the office of the General-in-Chief, one of class 2. In the office of the Adjutant-General two of class 1; five of class 2; one of class 3; and one of class 4. In the office of the Quartermaster-General, three of class 1; five of class 2; two of class 3; and one of class 4. In the office of the Paymaster-General, two of class 1; three of class 2; two of class 3; and one of class 4. In the office of the Commissary-General, two of class 1; two of class 2; one of class 3; and one of class 4. In the office of the Surgeon-General, one of class 1; one of class 2; and one of class 4. In the office of the Colonel of Engineers, one of class 1; two of class 2; one of class 3; and one of class 4. In the office of the Colonel of Topographical Engineers, one of class 1; two of class 2; one of class 3; and one of class 4; and in the office of the Colonel of Ordnance, two of class 1; four of class 2; one of class 3; and one of class 4.

"In the office of the Secretary of the Navy, four of class 2; six of class 3; and one of class 4. In the office of Construction, Equipment, and Repairs, one of class 1; seven, including the draughtsmen, of class 2; and one of class 4. In the Bureau of Yards and Docks, one of class 1; four, including the draughtsman, of class 2; and one of class 4. In the Bureau of Provisions and Clothing, four of class 2; and one of class 4. In the Bureau of Ordnance and Hydrography, four, including the draughtsman, of class 2; and one of class 4; and in the Bureau of Medicine and Surgery, two of class 2; and one, the assistant, of class 4.

"In the office of the Secretary of the Interior, four of class 2; three of class 3; and three of class 4. In the office of the Commissioner of Pensions, ten of class 1; thirty of class 2; five of class 3; and four of class 4. In the office of the Commissioner of the General Land Office, forty of class 1; forty of class 2; twenty-three of class 3; and three of class 4. In the office of the Commissioner of Indian Affairs, six of class 2; six of class 3; and three of class 4; and in the office of the Commissioner of Patents, eight of class 2; twelve, including the six assistant examiners, of class 3; and one of class 4.

"In the office of the Postmaster General, ten of class 1, thirty-three of class 2, twenty-nine of class 3, and six, including the topographer, of class 4.

"And there shall be a chief clerk for each of the offices of the Solicitor, First Comptroller, Second Comptroller, First Auditor, Second Auditor, Third Auditor, Fourth Auditor, Fifth Auditor, Sixth Auditor, Register, Commissioner of Customs, Treasurer, Light-House Board, Commissioner of Pensions, Commissioner of the General Land office, Commissioner of Indian Affairs, and Commissioner of Patents, who shall be allowed an annual compensation of $2,000. And there shall be a chief clerk for each of the Departments of the Treasury, War, Navy, Interior, and General Post Office, who shall be allowed an annual compensation of $2,200.

"No clerk shall be appointed in either of the four classes until after he has been examined and found qualified by a Board, to consist of three examiners, one of them to be the chief of the bureau or office into which he is to be appointed, and the two others to be selected by the head of the Department to which the said clerk will be assigned. Nor shall any clerk in the Departments herein named receive any other salary or money for extra services than the sum or sums specified in this section, at any time after this section has been executed, by a classification of the clerks, as it prescribes. There shall be a disbursing clerk for each of the Departments of War, Navy, and the Post Office; not more than three for the Treasury Department, at the discretion of the Secretary thereof, and not more than three for the Department of the Interior, at the discretion of the Secretary thereof, the said clerks to be appointed out of class 4, by the heads of the respective Departments, and to receive such sum in addition to their regular salaries as may amount in all to $2,000 per annum. But it shall be their further duty, when designated by the head of the Department for that service, to superintend the buildings, and they shall give bonds as required by the Independent Treasury act: *Provided*, That the clerks, when distributed and arranged as required in this section, shall be paid according to its provisions, out of any money in the Treasury not otherwise appropriated, and shall constitute the whole of the permanent clerical force of the Departments of the Treasury, War, Navy, the Interior, and the Post Office, with the exception of the Census Bureau, which is not included in this arrangement, and the clerks temporarily employed in the office of the Third Auditor, on bounty land service, and on arrearages of pay: *And provided further*, That each head of the said Departments may order the distribution herein made of the clerks amongst the various bureaus and offices in his Department, if he should find it necessary and proper to do so."

Mr. PETTIT. I have found at last the objectionable part, which will prevent my voting for the amendment, unless the mover consents to strike it out, and that is that part raising a board of examination. It seems to me that great abuses must necessarily grow out of that—great partialities, indeed. A body of three men is to be appointed by the head of the bureau, to examine men who apply for clerkships.

Mr. HUNTER. The Secretary is to appoint them.

Mr. PETTIT. Well, the Secretary is to appoint them. What is the result? It vests in the hands of three men already in the office the power to say who shall be of their number—who shall come in and who shall stay out. Necessarily it will produce a system of favoritism. If it is in I cannot vote for the proposed amendment. I therefore move that that part of the amendment relating to the appointment of a Board to examine clerks be stricken out.

Mr. HUNTER. I will say, in regard to that, that I think the Senator from Indiana is mistaken as to the effect which would arise from the adoption of the provision. It is not to be a standing board of examiners. The head of the Department is to appoint two men to act in connection with the head of the bureau, which head of the bureau has an especial interest in having qualified persons in his office. That is to be the consitution of the Board to examine an applicant for a clerkship. If they find him unqualified, they report him. If he is properly qualified, he is appointed; therefore the only limitation upon the appointment is that he should be a qualified person. I have been assured by the heads of the several bureaus that this will work a greater change towards the appointment of qualified officers than anything that could be done. A gentleman who was at the head of one of the bureaus, but is not now, told me on one occasion that a young man came to him who had been appointed. He said he told him to sit down and write him a letter informing him of the fact of his appointment. He sat down, made three attempts, tore up the sheet of paper, walked out of the office, and was never heard of afterwards.

Mr. PETTIT. That may all be, but the very thing that I object to is, that the man who is at the head of a bureau shall have the power to make a selection of the clerks—not only to control them after they are appointed, but to select them before. The result will be that he will appoint his uncles, his nephews, his brothers, his cousins, and if he could, his aunts, and no one will be found competent but those for whom he has a direct interest to secure the appointment.

Mr. BRODHEAD. Has he not that power now?

Mr. JONES, of Tennessee. I desire to make an inquiry of the chairman of the Committee on Finance. If I understand this proposition, it is intended to increase the salaries of the clerks in the various Departments. I am perfectly satisfied myself that they ought to be increased; and I am ready to vote the increase, provided it begins at the heads of the Departments. I want to know of the chairman of the committee whether there is any provision here for the increase of the salaries of the several heads of Departments?

Mr. HUNTER. The Committee on Finance have instructed me to report an amendment, which I shall presently propose, for purchasing and building houses for the Vice President and the heads of the several Departments.

Mr. JONES, of Tennessee. Then I suggest to the chairman to incorporate it with this. I am ready to vote for this, provided the other is included; but I am not willing to increase the pay of the subordinates, while we leave that of the heads of the Departments not increased. I think the dignity and honor of our Government require that they should be increased. If the Senator will put them together, I am ready to vote for them all, but I cannot vote to increase the pay of the subordinates, while the heads are not increased.

Mr. HUNTER. I think it will be better to keep them separate. I regard this as much more important than the other. I hope, however, we shall have a vote.

Mr. BRADBURY. I would like to inquire of the Senator from Indiana, in what mode he would propose to have the clerks classified?

Mr. PETTIT. My amendment does not touch the classification. It relates only to the mode of appointment. As the amendment of the committee now stands, you get a man at the head of the bureau to determine who shall be his clerks. It is idle to say that you will have two others to act with him, for the head of the bureau will control the Board. If he says to the others who are associated with him, "Gentlemen, I want this man for clerk, or I do not want any," he necessarily controls the whole matter. For that reason I want it stricken out.

Mr. BORLAND. I would inquire of the Senator, if the head of the bureau does not possess that power now?

Mr. PETTIT. At any rate there will be a saving in time; you will not have a Board convening every day to try clerks and investigate their qualifications. You will consume the time of the three men when they ought to be at work.

The amendment to the amendment was rejected; there being, on a division—ayes 13, noes 24.

The question then recurred on the amendment of the committee, and it was agreed to; there being on a division—ayes 27, noes not counted.

Mr. HUNTER. The Committee on Finance have instructed me to offer the following amendment:

For the purchase of the ground and the erection of suitable residences for the Vice President, the Secretaries of State, Treasury, War, Navy, and Interior, and the Postmaster and Attorney General, $240,000: *Provided*, The whole cost thereof shall not exceed that amount; to be expended under the direction of the President of the United States.

Mr. CHASE called for the yeas and nays on the amendment; and they were ordered.

Mr. BORLAND. I understand that this proposition, which is in accordance with the recommendation of the Secretary of the Interior in his report, is, that a large amount of money shall be expended for the purpose of erecting residences for the heads of Departments. I would inquire of the Senator from Virginia, the chairman of the Committee on Finance, if this appropriation is to cover the whole expense of ground, building, and furnishing?

Mr. HUNTER. The amendment so provides.

Mr. BORLAND. I would suggest to the Senator from Virginia that if he approves it, it ought to be still further amended, so as to provide houses for the accommodation of Senators and members of the House of Representatives. [Laughter.] Sir, the members of Congress come to Washington city under circumstances, and are detained here at an expense, it would seem to me, very nearly as great, taking the average, as those of the heads of Departments, and they do not receive on an average half as much pay. They have fully as much labor to perform. They are here under circumstances which in a great many instances prevent their bringing their families with them.

Many of them are here by uncertain tenures, not knowing whether they are to remain for two, four, six, or eight years. The heads of the Departments, on the contrary, have a fixed period. They can calculate the time when they come and and when they go away. I cannot see, therefore, why there should be this expenditure of money for their accommodation when their salaries are double those of the members of Congress, and no such provision is made for members of Congress.

I think the better plan would be to increase the salaries of these officers if they are not enough. If it can be shown that they are not sufficient—and I am not disposed to say they are now high enough—I would prefer giving an increase of compensation, leaving the officers to expend the money as they may think proper. I view it as on objection to this proposition in its present form that you fix almost beyond his power of control the mode and the style in which the head of a department shall live. You build a palace for him, and you necessarily require him to accommodate his style of living to the house you give him. It seems to me that it is wrong. I do not say that I should vote for building houses or increasing expenses for the accommodation of members of Congress in the way I have suggested; but I think if one is to be adopted, the other ought to be. I shall vote against them both.

Mr. HUNTER. Mr. President, the Senator from Arkansas I believe admits that the present salaries of the heads of Departments are too low.

Mr. BORLAND. I do not. I am not prepared to say whether they are too high or too low. I am not disposed to say that they are too high, because I do not know what expense those gentlemen have to incur; but there is no evidence before the Senate, that I am aware of, which shows that they are too low.

Mr. HUNTER. I believe the general opinion is that these salaries are far too low, and I believe everybody here knows something of the expense of living. We know that these gentlemen are expected to spend more than private individuals, and it is really expended for public purposes. I had supposed that it was admitted everywhere, as I had heard it generally admitted in conversation, that the salaries of these officers are too low. That being assumed, the question was, what is the best mode of adding to these salaries? It struck me that the best mode of doing that would be to make an investment in houses, because as the city grows, house rent is becoming a more expensive item. Therefore if we invest money in houses, and build those houses, the interest on that sum would be a less amount than we should hereafter be forced to add to their salaries in order to enable them to live. Let me give an example to illustrate that. I understand from Colonel King that the United States originally owned a house in Paris for their ministers. He said that for some reason, he did not know for what, it had been sold, but if that house had been reserved at the price which it originally cost, the addition which it would substantially have made to the salary of the minister would have been far more than any reasonable interest upon its cost, and would have turned out to be a most profitable investment to the United States, and so I believe now. If this city grows, as there is a prospect that it will grow, the money invested in these houses will turn out, in some thirty or in twenty or even in ten years, to be a far larger addition to the salaries of the officers than anything like the interest upon it would amount to. But I do not care in what shape the addition is made. If gentlemen prefer to make it in money, let them do it. Let them designate the sum; but it seems to me that this is, perhaps, the cheapest arrangement for the Government, and the most comfortable for the heads of Departments.

Mr. BRADBURY. I think that the present compensation of heads of Departments is inadequate, and I am willing to increase it; but I have been inclined to think that the mode proposed by the amendment of the gentleman from Virginia is not the best. I think experience will prove that it will cost us annually to keep these buildings in repair very nearly one half the present salaries. All experience shows that that must be an expensive item. Again: when we shall have erected houses, it would seem that we ought to do something towards furnishing them; and thus we shall be drawn step by step into a system of housekeeping for officers of the Government. I should prefer, instead of this amendment, one that would increase the compensation of these officers. With that view I intended to offer an amendment to the amendment, but I find that the amendment is in such language that my proposition cannot be moved as an amendment to it, and therefore I give notice that if this amendment be voted down, I shall offer the following:

That the annual salaries of the heads of the several Departments, the Vice President, and the Attorney General, be, and the same are hereby, established at $8,000, payable quarterly.

Mr. BUTLER. I am willing to take my share of responsibility in raising the salaries of these officers, for it is very obvious that the present salaries are not adequate; and paradoxical as it may appear, I say that the system of high salaries is the most republican form in which we can administer this Government. If you give no salary at all, of course you commit the administration of the Government to wealth, and if you give moderate salaries, you drive off men of intellect to look for employment elsewhere. The salaries of these public officers ought to be such as will fairly compensate the intellect of the country for giving up private interests to embark in the public service. I know that it is said men will be found to go into these offices; but it will turn out in the end that offices of this kind, and particularly foreign missions, will be exclusively given to men of wealth: none others can have them unless we give adequate salaries.

I understand that the chairman of the Committee on Finance is in favor of the amendment now pending. I am opposed to it, but I am opposed to it for a different reason than any which I have heard given. If it would really give a higher salary, I should go for it; but having houses erected at public expense for officers during the time they are in office, gives their residences, in my opinion, too much the character of hotels. It would be unkind to the officers themselves to do so. I know there are many persons who believe they now have a right to go into the President's House as a public house; and the moment we erect houses for the heads of Departments, you will hear the Democracy and the Whigs and all saying: "It is my house just as much as his, and I have a right to go there." Sir, that feeling prevails now to an extent almost shocking to me. I want every one, when he has his house, to claim it as his own. Let it be his own castle, and not be of a *quasi* character. That is my opinion. I would give a Cabinet officer $8,000 a year, and let him live as he pleases. If he is a gentleman, he will know how to use it. If he is not, we cannot regulate it by law in this way.

Mr. RUSK. I am decidedly in favor of increasing the salaries of Cabinet officers. I believe a Cabinet office is the most unthankful and the poorest paid office we have in our Government, and probably an incumbent there discharges more labor than any other officer. I am opposed to the proposition to build houses for them. I have numerous objections to it. In the first place, the remarks of the Senator from South Carolina are very just and proper. There is a public edifice erected at public expense in which the Secretaries do their business, and into which all the world have a right to go; but after their official duties are through, there should certainly be some place where they might retire, and be free from annoyance. Under such circumstances, I think it is better to permit them to make their own selections.

But that is not my only objection to building houses for the heads of Departments. It is getting another system of public contracts. Our experience and the experience of the world shows that these systems of public contracts are always to the disadvantage of the Government and to the advantage of the contractors. I will venture the assertion that the Government may attempt to build a house, and it will cost twice or three times as much as it would cost an enterprising individual to build as good, or a better house by the side of it. I think it is a seeming raising of the salaries of these officers, when, in fact, it does not do so. Therefore I shall vote for the amendment of the honorable Senator from Maine, proposing to give the heads of Departments the sum of $8,000 a year. I should be willing to go further. They have to bring their families here. It is an expensive place to live. They have to abandon their business; and if we expect men of talent and capacity to do these things, we should pay them well. The laborer is certainly worthy of his hire. I should be willing to give salaries of $10,000, but I shall certainly vote for $8,000.

Mr. DOWNS. I hope the amendment recommended by the committee will be adopted. Certainly there is no part of the Executive message which I thought more just, and the reasons for which were more forcible than those assigned by the Secretary of the Interior for this alteration. All admit that the salary of these officers ought to be increased in some way, and I do not see any better mode than this.

In the first place, as was observed by the Secretary of the Interior in his report, these officers are very often suddenly called to their duties; and instead of devoting their attention to public business, they are called upon to hunt round for houses, and fix up their establishments. This requires a great deal of time and attention, and an outlay of a large portion of their salaries.

I see no reason why this amendment should not be adopted. It is carrying out the principle adopted in many of the States. It is carrying out the principle we have adopted as to the Executive Mansion. My friend from South Carolina will pardon me if I say that I think there is nothing at all in the argument that if we build these houses we shall make them public houses. Who now makes the President's House a public house? I have never heard such a complaint. I have never known an instance, and I presume the gentleman has never known one, of a person intruding himself upon the Executive mansion unless when it was open for all. I do not suppose that any one would intrude upon the residence of Cabinet officers if built at Government expense, any more than they do now. I think, therefore, there is nothing in the argument of the Senator from South Carolina, which seems to be approved by the Senator from Texas. We know, too, that Washington is not like a large city. We cannot here always get such houses as are proper. It is exceedingly difficult to find convenient houses, and persons are very frequently compelled to take those not at all suitable for their wants. I think the amendment ought to be adopted.

Mr. BUTLER. I did not say that the President's House was regarded entirely as a public house; but I know that General Taylor complained very much of persons going on his grounds against his consent. He was very much annoyed in that way; and I do say that individuals go upon those grounds, and into that house, in a very different way than they would if it were a private establishment.

Mr. MASON. It seems to me that the appropriate way to increase the salaries or emoluments of the members of the Cabinet, is that proposed by the amendment of the Committee. The practical working of this Government demonstrates more and more, in every successive presidential term, that these Cabinet appointments are appointments for four years, and for four years only. It may have been expected, and I dare say it was expected by some in the beginning, that the practical working of the Government would be otherwise, and that Cabinet officers would remain in their places, notwithstanding a change of Administration. But we find that they amount in fact to appointments but for four years. There is a great propriety, when gentlemen are called from their residences, remote from the capital, and required to build up a new establishment, to be occupied for four years only, that we should either give them the means of doing so, or they should have an establishment prepared for them. The President is elected for four years, and a residence is given to him—and why? Because it is not expected that he should be enabled to build up an establishment for so short a time as four years. It is the practice of all the States, certainly of most of them, to give a mansion to their Governor, who is elected for a short period. We do the same thing with our ministers abroad. We send them to a foreign country to stay for a short time, and because of the expense of fitting up an establishment, we allow them an outfit for that purpose.

It has become the practice of the Government, and it will remain so, that Cabinet appointments are to be for four years. It is proper, therefore,

that you should give these officers an outfit to enable them to commence an establishment, or give them one all ready. I do not agree with my friend from South Carolina, that, because those houses will be built at the public expense, they will be treated by the world as public houses. If it should turn out that there are any individuals in society who are so lost to all the proprieties of life, as to consider themselves entitled to go into a gentleman's house because it was built by the public, I apprehend that if it was occupied by a man of proper spirit, he would soon teach them the contrary. Persons have no more business to go into that house than into my house, or into the house of any gentleman. I think this is an appropriate mode of increasing the emoluments of those officers, and I shall cheerfully vote for it.

Mr. BORLAND. When I made a suggestion a few moments ago as to residences for members of Congress, of course I did not intend it to be construed seriously; but I made the suggestion for the purpose of calling attention to what I considered an objectionable feature in the proposed amendment. If, as is said by those who have experience, the salaries of the Cabinet officers are not sufficient, I have no objection to increasing them; and I think the proposition of the Senator from Maine is an appropriate mode of doing it. It gives to the individual a sufficient amount, and leaves to him the manner in which he will expend it. I cannot see the propriety of subjecting each head of a Department—no matter what may be his tastes and inclinations; no matter what may be his ideas of house-keeping and the comfort of his family—to a particular form of living; imposing upon him the necessity of living according to a style which he has not established for himself. These heads of Departments come from various portions of our country, where different habits and different tastes prevail. Some have large families—some small ones. Some will have a desire for display—others for privacy and a plain mode of living. I think it is therefore wrong to impose the same rule of living upon every one—no matter what his ideas are. Our policy should be to legislate in such a way as to give to each head of a Department a full compensation for his services, and let him expend it in the way most accordant with his own feelings, and so as to promote his own comfort. The amendment proposed by the Senator from Maine I think comes very nearly to what is just, and what seems to be assumed, for it is about six per cent. upon the amount of the proposed investment for building the houses. It gives a member of the Cabinet $8,000 instead of $6,000 per annum.

Besides, the amendment of the committee would operate unequally. A new Administration is coming in; it is coming in, too, at a time when living is very high in Washington, and when the hardship of low salaries is complained of. The provision cannot be executed for several years; and those who now come get none of the benefits of it. They will go out before those houses are built, or before this increase of salary is given to them. If we are to begin this system of reform, of increased compensation to heads of Departments, let it begin now. Let us give them an adequate amount of money, and let them expend it as they may think proper.

Mr. DOWNS. If the gentleman wants to begin now, he can very easily do that by making an addition to the amendment, instead of destroying the whole proposition, so as to add an outfit for the present year; for I suppose it will take a year, or perhaps a little more, to finish the building. I shall willingly vote for such a proposition.

Mr. DODGE, of Iowa. I intend to vote against the amendment of the committee, and the proposed substitute of the Senator from Maine. I am willing to take the responsibility of voting against both of them. I regarded the proposition when suggested by the Secretary of the Interior, in his annual report, as a most extraordinary one. It has been so regarded by every expression of public sentiment from the section from whence I come.

But, Mr. President, I was astonished that so excellent and thorough-going a State-rights man as the Senator from South Carolina, should advocate a system of high salaries for the heads of Departments, and other Federal officers. Already we see the offices of the States contemned and spurned, and individuals are rushing here to the Federal Government for office, at every change of Executive Administration. There is now a decided preference for the offices of the Federal Government at the present salaries.

If I could be satisfied that the salaries were inadequate, I should vote for a proposition to increase them; but I believe the reverse to be the fact, and I judge so from the avidity with which these offices are sought. We have not yet reached that period when it is difficult to fill cabinet or other offices. On the contrary, the difficulty is in determining who shall fill them.

Let this commencement be made—let this appropriation of $250,000 now be made, and it will continue from year to year, like the Capitol and other appropriations; and at the next session of Congress, or soon thereafter, we shall be met by another appeal for $500,000 more, and so it will go on. I oppose it now, for the reason that if we go on in this way, the buildings of the Government at the capital will absorb the entire revenues of the country. I am opposed to this magnificent mode of increasing salaries and erecting buildings at the capital; but I will not consume the time of the Senate on the subject.

Mr. BUTLER. The Senator from Iowa has made a very just remark, in one point of view. I think there are now too many attractions for Federal offices, or at least we find too many aspirants for them. But for myself, I believe the best way to have an honest Federal officer, is to pay him well, and not let him cheat. [Laughter.]

Mr. DODGE, of Iowa. I would suggest another remedy. If these offices are at all oppressive upon these gentlemen, I believe they are not like Bunyan's sins; they can get rid of them very easily.

The question being taken by yeas and nays on the adoption of the amendment reported by the committee, resulted—yeas 23, nays 24; as follows:

YEAS—Messrs. Badger, Brodhead, Brooke, Cooper, Dawson, De Saussure, Dodge of Wisconsin, Downs, Foot, Gwin, Hale, Hunter, Jones of Iowa, Jones of Tennessee, Mason, Morton, Phelps, Pratt, Shields, Soulé, Spruance, Sumner, and Walker—23.

NAYS—Messrs. Adams, Atchison, Bayard, Borland, Bradbury, Butler, Charlton, Chase, Davis, Dodge of Iowa, Douglas, Felch, Fitzpatrick, Geyer, Mallory, Miller, Norris, Pettit, Rusk, Sebastian, Seward, Toucey, Wade, and Weller—24.

So the amendment was rejected.

Mr. BRADBURY. I now offer, as a separate section, the amendment which I before suggested.

Mr. HUNTER. I agree that that may be offered before we pass away from the subject.

Mr. ADAMS. I rise to the question of order, that an amendment offered by an individual Senator is not in order until the amendments of the committee have been gone through with.

Mr. HUNTER. I will go on with the amendments of the committee rather than have any questions of order raised. I am instructed to offer the following amendment:

For a bridge across the Potomac, at the Little Falls, to be expended under the direction of the President of the United States, $50,000.

That is on the recommendation of a bill reported from the Committee on the District of Columbia, which was adopted by the Committee on Finance. I do not see the chairman of that committee now in his place, and therefore, if there be any objection to it, it can be laid over until he returns.

Several SENATORS. There is no objection.

The amendment was agreed to.

Mr. HUNTER. The next amendment which I am instructed to offer is to insert the following:

To be expended under the direction of the President of the United States, for the purpose of bringing water into the city of Washington, upon such plans and from such places as he may approve, $150,000.

The Senate is aware that there has been a report made by a member of the Engineer Corps in relation to the plans for furnishing water to the city of Washington. Three plans are suggested in that report: one to obtain water from Rock Creek, another from the Little Falls, and another from the Great Falls. One plan, that of getting the water from Rock Creek, it is estimated would cost about a million and a quarter; another plan a million and a half; and a third, one million nine hundred thousand dollars. Various reasons were urged for and against the various plans, but the committee propose to leave it to the President to determine which is best.

Mr. SEWARD. I quite concur in every word said by the honorable chairman in support of this amendment. I think that the proper way to dispose of the question of the manner and plan of supplying this city with pure and wholesome water, is to refer it to Executive authority. I think that there is no more important object than this connected with the capital of the Government. The public safety, the public property, the health of all parties concerned in the administration of the Government, the embellishment and prosperity of the capital, require that water should be supplied to this city. The security of the capital requires it, and if we are ever to do it, there is no time so well to do it as now, when the enterprise can be undertaken under the most favorable circumstances, and a plan can be adopted to meet the utmost wants of the city at a future period. The experience of all cities which have deferred such enterprises, has been to show that it is much cheaper and more profitable to adopt the system early, than to postpone it by long delay. I hope the amendment will be adopted.

Mr. BRODHEAD. I think that this is the commencement of an expenditure upon the part of the General Government of about $3,000,000 for the benefit of this city. I am one of those who entertain the opinion that a company incorporated to supply this city with water, as all other cities are supplied, and have the people pay for the water, as they do in other cities, would be the proper mode. This, in my opinion, is the commencement of an expenditure which will ultimately cost $3,000,000.

Mr. DODGE, of Iowa. I am convinced the Senator from Pennsylvania is perfectly right. Look at the enormous cost of the water-works in the city of New York; take into view what is to be the ultimate growth and extent of this city; and I undertake to say that if the work is undertaken with that degree of magnitude with which it should be, with a view to the ultimate supply of a city of the size and probable growth of this, it will absorb even a larger amount than that which the Senator from Pennsylvania has stated. I am astonished that so excellent a strict-constructionist as my worthy friend from Virginia, who was so awfully alarmed at the powers we were about to confer upon the President of the United States, when we proposed that he should say that a railroad should run here or run there with all the lights of surveyors and engineers before him, should now propose to confer upon the Executive the power of giving or withholding water from the citizens of this city and District. Why, sir, it is a most alarming power to confer upon the President. I beg also to call attention to the fact, that between the District and the ancient dominion we are building bridges; bridges, too, within the borders of sovereign States. I think that the people of the District ought to furnish themselves with water. I think that they have very great advantages because of the heavy expenditure of money which is made here from time to time. I am utterly unwilling to vote a dollar for this object, believing that if we do commence it, we shall be led into an expenditure of three or four millions of dollars.

Mr. HUNTER. My friend from Iowa has twitted me with applying one rule to the District of Columbia and another rule to the States. I believe they are very different places. I never took the exception that it was improper to leave anything to the discretion of the President. But it is a very different thing to leave it to the President to say into which channel the commerce of the East—as the friends of that road said—should flow, and leaving it to him to say from which of the three springs water shall be supplied to this city. So I apprehend the question of power is very different in regard to what we may do within the States and what within the District. But, sir, if the Senator from Iowa must know my opinion, I would take this occasion to inform him that I was in favor of restricting the President, for I am in favor of getting water from Rock Creek. I represent, however, the committee. They thought it best to leave the whole subject to the President to determine; and I am quite willing to do it.

I believe water is a matter of the first necessity here. It is necessary not only for the people of the District, but for ourselves. It is necessary for the Departments of the Government. I know that there has been an insufficient supply hereto-

fore, and I regard this as one of the most important things, and one of the most legitimate subjects of appropriation that can be presented for our consideration. So far as the bridge question is concerned, I would say to the Senator, that it is very proper to connect this District, over which we have power of exclusive legislation, with the source from which it derives its trade and means of subsistence. Yet, sir, if the Senator from Iowa bases upon that the establishment of a system of internal improvements, I am willing to sweep away every bridge from the Potomac, if upon that condition he and his friends will give up their demands in reference to that dangerous question. But I conceive that those questions are not now up, and I am unwilling to drag them into the debate, for it is indispensable to dispose of this bill to-day.

Mr. HALE. This is an amendment in which I feel some interest, and I want to correct a mistake into which the Senator from Pennsylvania has fallen. He said that the large cities of this country were supplied with water by private companies. That I believe has not been done, certainly not in Boston or New York; but water has been introduced by the municipal authorities of those cities, and I say it to their credit. I think that if there is one thing for which this city has a right to call upon Congress it is for water. We supply them with rum; hundreds of shops are open every day and night, and on Sundays, too, for the sale of rum by virtue of our authority, or the want of any authority which we have given to suppress them. We supply the people here with lottery tickets. It is the greatest depôt of gambling that there is in the United States. After we have given them rum and lottery tickets, when they now ask for pure and wholesome water, we have not got the constitutional power to give it! Mr. President, it is said to be one of the peculiar proofs of the goodness of God, that he gives water from heaven to the just and the unjust. And, sir, He has made us in his providence the almoners of his bounty for this city. While we have given the people here rum and lottery tickets, I think it is incumbent on us to give them a little pure and wholesome water. It is one of the first necessities of life, and I do hope that if there is nothing else put into the civil and diplomatic appropriation bill we shall put the water in. Water entitles it to be called a civil bill, eminently. I hope we shall adopt the amendment. I shall have something to say on the question of the Potomac bridges which has been adverted to, when it comes up, but at any rate, I hope we shall give the people here water.

Mr. DAWSON. I think every one here knows that I am not at all prodigal in appropriations. In fact I belong rather to the radical party on that point; but this appropriation is one in which the whole country is interested. Now, to-day, perhaps every State in this Union has a large number of persons in Washington city, every one of whom is interested in having good water, and we all know that we are denied the privilege. Besides, Congress sits nine months in each year.

Mr. HALE. Every other year.

Mr. DAWSON. Well, every other year; and they would sit here that long every year, if the Constitution did not prevent it. If we pass this appropriation, we shall extend the benefits of it to the entire Union. And then, again, we shall need water to secure the immense property which the Government of the United States has in this city. I saw this Capitol, and so did you, sir, on fire. We saw the condition in which things were placed at that time. You have often seen parts of the city on fire. We have had many of our public buildings burnt, when if we had had water and the means to use it which is necessary, we perhaps should have preserved them. I think that this is one of the most legitimate and constitutional appropriations which we can make, and one which is beneficial in every way. There can be no objection to it, except that it takes money. I think the money cannot be better disposed of, or in a manner more useful to the entire country and promotive of the interests of the Government.

Mr. BRADBURY. A memorial was put into my hands, some two or three days since, by some respectable citizens of this place, stating the reasons why they were in favor of having a supply of water from Rock creek and not from the Potomac river; and from the statement of facts in this memorial, and other information, I have been led to suppose that the completion of a work to supply water from the Potomac river will involve an expenditure as large as that named by the Senator from Pennsylvania, perhaps some $3,000,000. I believe a supply can be furnished from Rock creek at very much less than $1,000,000. I know I have been repeatedly informed that good and responsible persons will be prepared at any time, under an act of incorporation, to supply the city of Washington with water at such reasonable compensation as is usual in such cases, and to furnish a full supply for the Executive Mansion, the Departments, the Capitol, and the navy-yard at an expense of not exceeding $30,000 a year. Now, sir, it is proposed in this amendment that the President shall determine the plan on which the supply of water shall be made. If the President had no other duties to perform, and could perform these in person, I know the gentleman who is to fill the Executive chair so well as to know that no person could be found possessing better judgment than himself; but it will be necessary that he shall devolve that duty upon some of the officers in some of the Departments, the Corps of Engineers, perhaps. We know, too, that wherever any duty of that kind is devolved it has not been unfrequent that the most expensive plan has been adopted.

I do not know that the fact that it would be their interest to have the largest expenditure would bias their judgments; but such has been the result usually. Now, if there can be a limitation on the expenditure so far as the Government is concerned, I am willing to vote something for the supply of water to this city. If the honorable Senator from Virginia will fix any reasonable limit, I should be willing to agree to the proposition; but we are left to commence a work which will cost we know not how much. The appropriation now proposed is analagous to that of the $100,000 which was proposed to construct two wings of the Capitol. When we were voting that $100,000, there was hardly a Senator here who supposed that two such structures as have grown out of it would be erected. We supposed that half a million of dollars would make an adequate addition. Now, we find that we are involved in an expenditure—for we have commenced and must go forward—that may reach five or six millions of dollars. So, too, in this case; this appropriation will ultimately lead to an appropriation large enough to dam the Potomac, and place works there and bring the water from that river. I think it unnecessary. I think that at Rock creek we can have an abundant supply of water, with what is now in the city, to furnish a population of one hundred and fifty thousand. I believe, further, that it is the duty of the citizens and of the corporation of the city to do something toward supplying the city with water.

I am unwilling to vote for this appropriation as it now stands. If, however, the Senator from Virginia will propose an addition by which no expenditure under this appropriation shall be made unless upon a plan that shall not involve an expenditure on the part of the Government exceeding some reasonable amount—and I would be tolerably liberal—I, for one, should withdraw all objection; but depend upon it, as the proposition now stands, it must involve an expenditure of a very large amount.

Mr. MANGUM. Mr. President, appropriations for twenty, thirty, and even fifty millions of dollars are suffered to pass with so little objection that I had hardly supposed, upon a question of this kind, we should have the difficulties started which are presented by the honorable Senator from Maine. I understand, from authority upon which I can rely, that though Rock creek, during the winter season, can furnish an abundant supply of water to the city, with its present population and dimensions, yet in the summer season it cannot. If we should all come back here again in a century to come we shall see, perhaps, the most magnificent city on this continent, with an investment made in the public buildings and the public property. I think we ought not to quibble about this. We ought to have no difficulty in bringing water from the Potomac, where it will always be in the greatest abundance. I have no idea that it is going to cost as much as gentlemen suppose. At all events, whatever it may cost, with the skill and science of the day applied to the work, I, as far as I have any responsibility to incur, am perfectly willing to encounter it. Sir, I hope that the water will be conducted from the Potomac at the Great Falls. I understand that nature has there made facilities which will greatly abridge the difficulty of bringing water such a great distance. There the supply will always be abundant for a city of five hundred thousand people. I shall vote for the amendment with great pleasure, and I feel no difficulty about taking the responsibility. I have been voting for appropriations of thirty, forty, and fifty millions of dollars; and I hope, upon a question of such magnitude as this, the importance of which to every part of the Union has been so well stated by the Senator from Georgia, [Mr. DAWSON,] in whose remarks I entirely concur, we shall have no difficulty in getting it.

Mr. BORLAND. Mr. President, I estimate as highly as any one can the importance of having this city supplied with good water. I feel a very deep personal interest in it. I have had bad health ever since I have been coming to Washington, and I believe one of the main causes for it has been the bad water which I have been compelled to drink here. I feel the necessity of some change in that respect; but I object to the plan proposed now that the Government shall go directly into the business of making water-works for Washington. If we are to adopt the plan now proposed, the whole matter should be left to the President of the United States to select the plan. I am satisfied he could select a better one than Congress could; but I do not think the mode proposed a good one. I do not think it will be likely to accomplish the object so speedily, so well, or so economically, as is desirable. I believe the better plan would be for private enterprise to do it; and I understand that propositions have been made, and that there are responsible individuals ready to go into an enterprise of the sort under an act of incorporation and establish water-works to supply the city, and then have the Government pay a fair compensation in the form of a water-rate, which I believe it is called in the cities where water is supplied in this way, for the use of it. I think we ought to adopt some such plan as that. I believe the work would be accomplished sooner, I believe it would be done better, and I am very sure it would be much more economical to the Government than the present plan.

I think, sir, that we have seen enough of the manner in which money is expended when we undertake to do public work here by the Government directly. Look at the two wings of the Capitol. We were told, when the original appropriation was made, that the work would cost, altogether, about $1,500,000. We have already expended $1,000,000 in laying the foundations. I do not know how much is proposed in this bill for going on with the work, and I would inquire of the Senator from Virginia what amount is proposed in this bill to continue the extension of the Capitol?

Mr. HUNTER. I believe it is $600,000.

Mr. BORLAND. We have already expended $1,000,000, and it is proposed now to expend $600,000 more. That, altogether, makes more than the original amount estimated; and we have hardly begun the work. I mention this to show how little we can rely upon estimates which are made when the Government itself takes the place of individuals, and goes into the construction of such works. It was estimated that we should have to pay $1,500,000 for the extension of the Capitol, and we have paid $1,000,000, and it is proposed to give $600,000 more; and yet the work has been barely begun.

Mr. HUNTER. The estimate was more than $2,000,000, according to my recollection.

Mr. BORLAND. One plan, and the one which I supposed was adopted, was only a million and a half.

Mr. HUNTER. Walter's plan was over two millions.

Mr. BORLAND. The work will cost eight millions before it is done according to the plan. I learn that the estimate made by the Committee on Public Buildings originally for the extension of the Capitol, was a million and a half of dollars. What the amount estimated for by Mr. Walter was, I do not know; but we have seen enough to be satisfied that taking what has been done—taking the foundations that have been laid as the basis of an estimate, that $8,000,000 is as little as anybody can suppose will be required. I say this,

without reference to the manner in which the money has been expended. My remark applies to the system, to the Government undertaking to take the place of private individuals, and doing work by itself. It is always subjected to imposition, and always pays a greatly increased cost over private individuals. Wherever we can employ private individuals with a prospect of accomplishing as much good, it is certainly the dictate of economy at least to adopt such a plan. While, therefore, no one is more anxious to see good water-works established in Washington than I am, and while no one will go more zealously for any plan likely to accomplish it, I think we should be doing wrong; I think we should be retarding the work and putting it off to a remote day if the Government engages in it; and we should incur expenses which we are now incapable of estimating.

Taking as a basis the Capitol extension and other works, if a million and a half of dollars is the estimate for these water-works, we may fairly assume that the cost to the Government before they are completed, will not be less than six or seven millions. I am satisfied that for one half, or perhaps one fourth the annual expense which this will involve, we can be supplied by the private enterprise of a company which may be organized, and as I understand is organized, and ready to undertake the work.

Mr. PRATT. Mr. President, I am entirely in favor of the appropriation, and the object of that appropriation; but it occurs to me, and I make the suggestion to the Senator from Virginia, whether it would not be proper to amend the amendment in one particular. Under the report of the engineers who were directed to make a survey of the practicability of bringing water here, I believe you have to go out of the District of Columbia for the purpose of making your dams and getting the water. You are obliged to go to the waters of the State of Maryland for the purpose of supplying the District of Columbia. If water is to be taken from the Potomac river for the purpose of supplying this work here, the State of Maryland is deeply interested; and I do not think that the work ought to be prosecuted except under some law and some officer recognized by that State; for the reason that the whole Potomac river belongs to the State of Maryland up to low-water mark on the Virginia shore; and for the further reason that she has expended some ten or twelve millions of dollars in a work requiring at certain periods of the year nearly all the water in the Potomac river—I refer to the Chesapeake and Ohio canal. If the amendment proposed now is to authorize the construction of this work as a work of internal improvement upon the part of the Federal Government, without the assent, without the concurrence of the State of Maryland, I must object to it, though I am entirely in favor of the object and for an appropriation for it, if it can be legitimately carried out. It is clear that you cannot get a supply of water for the District of Columbia, without going beyond the District for that purpose. The State of Maryland would have no possible objection to your using in any way the waters of the Rock Creek for that purpose; but I believe it is ascertained that they are inadequate. You will have therefore to resort to the Potomac river. I have no doubt that upon proper plans you can get a sufficient quantity of water from the Potomac without doing injury to any of the works now established there which are using that water. I hope, therefore, that some amendment will be made so as to make it dependent upon the assent of Maryland, at any rate as to the mode in which the work shall be constructed in Maryland.

Mr. HUNTER. This subject was referred to the Committee on the District of Columbia, but the Committee on Finance believing it to be a good object, voted in the amendment at the request of the chairman of the Committee on the District of Columbia, who is not now present. It is for that committee to suggest the details, if they have any. It was supposed, however, that it would not be necessary to go forward with the entire plan, when this preliminary appropriation was made, because, if the Government is in possession of the water-works, in possession of the main conduit, and of the reservoir, it could impose what terms it pleased on the city of Washington for using it. It may hand them over to the city of Washington, as some propose, on condition of keeping the works in repair, or it may charge some slight sum for the use of the water. The whole subject will be in charge of the Government hereafter, so that nothing can be risked in that regard.

It was also to be presumed, that the President, in looking to the plans, would have an eye to the assent of Maryland, if the work should go into the State of Maryland. That will be a matter for him to arrange, and we thought it much better to leave the subject to him, rather than to undertake to arrange here all these details upon which there was a difference of opinion. All I have to say in relation to the matter is, that every Senator here is as competent as I am to judge of the necessity of the appropriation; and, if gentlemen should think the matter is not arranged with sufficient accuracy and sufficient precision of detail, I hope, at least, they will give us a vote. I believe, however, that they would risk nothing in trusting the plan, as it is proposed to trust it, to the President.

As to what this is to cost hereafter I know not. The only means I have of guessing is upon the estimates furnished. The Senator from Arkansas discredits them. If they are to be discredited, I acknowledge that I have no means of judging, and we shall be just as much at sea a year hence in relation to commencing it as now, because the same reason would discredit the estimates a year hence as now. But if we are to go into the matter, we ought to commence at once. It is desirable that something should be done towards furnishing the city with water as soon as possible; for it is a great necessity now, and the want of it is felt very sensibly.

Mr. BORLAND. The Senator from Virginia is certainly mistaken in supposing that I discredited the estimates. I did not discredit them. I have no doubt, from the character of the engineer making them, that he was very accurate, and that his estimates are very much to be relied upon. It is not discrediting his estimates to say that the amount which will be expended will greatly exceed those estimates. If he, or some one whom he could rely upon, could be employed in the details of the work, in its execution, it is very probable that his estimates would be found to be exactly correct; but we know very well that we always exceed the estimates, and very largely. It is no fault of the individual making them. He estimates from data which he has in his possession, no doubt faithfully, honestly, and skillfully as an engineer; but when the execution comes, and it is intrusted to other hands, and intrusted to such hands as it must necessarily be when the Government is the architect, we know, from the experience of every branch of the public service, that the estimates are always exceeded very greatly. I gave the case of the Capitol extension as the case in point. The Committee on Public Buildings originally, on the best information they could get by consulting engineers, estimated the cost at a $1,500,000, and there was at that time a member on the committee very skillful in such matters. I allude to the late Senator from Mississippi, Mr. Jefferson Davis, who was at that time a member of that committee—a gentleman of scientific attainments, and whose education and training had peculiarly fitted him for such investigations and such estimates. Although $1,500,000 was the estimate in that case, what has been the result? As I have said, $1,000,000 has already been expended, and $600,000 more are proposed to be appropriated in this bill. Yet the foundations have been hardly laid, or certainly not completed.

I say—taking that as a case from which we are to make an inference—that when this engineer estimates for a million and a half, if the same general plan of carrying out the work be adopted and the Government shall act as architect with its subordinates, four times as much as has been estimated for will be consumed. I want to get clear of that uncertainty. I want to put it in private hands, to make it dependent upon private individuals, dependent upon private enterprise, private intelligence and interest, to make the work on the most economical and practicable plan, and in the shortest time. I am willing, then, when the works shall be established, that the Government shall pay a liberal compensation, a liberal allowance, a high water-rate, if you choose, for the use of the water.

Mr. PRATT. In order to carry out my views, I move to amend the amendment by adding to it the following:

Provided, however, That any plan which may be adopted by the President, in so far as water is to be brought from the State of Maryland, shall first receive the sanction of the Legislature of that State.

Mr. HUNTER. That amendment requires that the State of Maryland shall judge of the plan by which water is to be brought into the District of Columbia. You are associating that State government with the President, in fixing upon the plan by which it is to be brought here. I suppose all that the Senator from Maryland can claim would be, that the right to make works through Maryland should not be exercised until the State assents. Surely he does not desire to give that State a control over the plan by which the work is to be executed.

Mr. PRATT. I think that the Senator from Virginia is manifestly mistaken. The proviso I desire to have added to his amendment only requires that the Legislature of the State of Maryland shall sanction, not the plan of bringing the water here, but the plan by which it is to be brought through that State. It is not that your water-works here, or anything of that sort, shall be subjected to their supervision, but that the plan by which water is to be taken from the Potomac, and to be carried through the State of Maryland, shall receive the sanction of the Legislature of that State. That will prevent it from conflicting with the rights of the Chesapeake and Ohio Canal Company, and the water rights of the citizens of that State heretofore granted by the acts of the Legislature.

The Senator thinks that the Federal Government has no power to pass a law by which you can do any work within the limits of a State, at any rate without the assent of that State. Whether we have the power or not is a disputed question. If he is correct in his estimate of the powers of the Federal Government, the amendment only places the subject where it would be without the proviso which I have proposed to put in. If he is right in the opinion that the President of the United States cannot go into the State of Maryland without the sanction of that State, for the purpose of doing anything in regard to these works, the proviso I desire to place there is only to declare what the Senator himself understands to be the law without the proviso. I hope my amendment will be adopted. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. HUNTER. I regret to be constrained to interpose; but if we are to have this proviso tacked to the amendment, by which the Legislature of Maryland is to control the plan, I hope it will be voted down, for the purpose of putting a restriction on the original amendment that the water shall be brought from Rock creek. We can do that within the District without touching Maryland.

Mr. MANGUM. I only concur in half what has been said by the chairman of the Committee on Finance. I am opposed to putting on this restriction, believing that it is wholly unnecessary, and that the President will not proceed to any action that would be in conflict either with the interests or the feelings of the State of Maryland; and therefore it will only tend to postpone action. As to bringing water from Rock creek, I am perfectly satisfied, from the information I have had, that water, in a sufficiency, cannot be had there during the hot months of the year. One half the inhabitants of this city during the last two summers have had to go a vast distance to get common drinking water for family uses, on account of the wells drying up, and water failing in a very large portion of the city. The public and private interests involved are so obvious and so manifest to every gentleman who will give the subject a moment's reflection, that I will not detain the Senate by arguing that we ought to have an abundant supply of water. I think that can only be had from the Potomac river. I should be one of the last to do anything likely to come in conflict with the feelings or interests of Maryland; but I am perfectly satisfied that the question may be left open, without any restrictions, and that none of her rights will be trenched upon. I shall vote against the amendment to the amendment.

Mr. DODGE, of Iowa. I shall vote for the amendment of the Senator from Maryland with a great deal of pleasure. I think it is eminently proper, and we have a precedent for it in other cases. I must again express my astonishment at the disregard of State rights manifested by my friend

from Virginia, in opposing an amendment of this sort. Why, it was never proposed at any time, that we should run a railroad, even when we gave alternate sections of land in a State, without requiring in advance the special assent of the Legislature of the State to any and every bill of that sort. I think it is right that the consent of the State should be given. The only thing that troubles me is the want of power on the part of Maryland to give it. [Laughter.] I doubt very much, from the opinion expresssed by the Senator from Michigan, the other day, whether or not we ought not to propose an amendment to provide for a constitutional convention in the State of Maryland to give this assent. [Renewed laughter.] If my friend is willing to risk the Legislature, I am.

As to the battle between Rock creek and the Potomac, I do not enter into that at all; but as a friend of the President of the United States, I wish that those gentlemen who fought the Pacific railroad bill so hard, lest he should have to decide a little scramble between contractors and others, will not now impose upon him the trouble of examining these counter reports, and deciding on the rival interests of the Potomac and Rock creek.

Mr. HUNTER. I am glad that my friend from Iowa is turning his attention to the subject of State rights. I think it is a subject to which he might well devote a little more consideration than he has heretofore given it; but I am afraid that he neglects weightier matters, and his scruples seem to be about small things when they can avail little. I do not say that the Senator from Maryland is not right in asking that the assent of that State should be had in regard to bringing water from Maryland, but I did object that the Legislature should have anything to do in regard to the plan which might be adopted. That is our own matter. If she chooses to say that we shall not go into her territory to bring it, well and good. That is her right, and that is all she has anything to say about—whether we shall go there or not. If she once admits us, it is for us to say upon what particular plan we shall bring the water here.

Mr. PEARCE. My colleague is certainly right in supposing that the assent of the State of Maryland is necessary, if the plan adopted by the President should require water to be drawn from a source within the limits of Maryland. I suppose that the objection to his amendment might be removed by changing its phraseology somewhat. I propose therefore to submit, in lieu of the amendment which he has proposed, the following:

Provided, That if the plan adopted by the President of the United States shall require water to be drawn from any source within the limits of Maryland, the assent of the Legislature of that State shall first be obtained.

Mr. SEWARD. The honorable Senator will allow me to suggest that it is scarcely necessary to have any such amendment. It is very doubtful whether the Legislature of Maryland can give the full consent to take the water, because there will be individuals interested. We cannot suppose that the President of the United States will adopt a plan which will take water that is the property of either the State of Maryland or any other State, or of the citizens of the States, without bringing the Government of the United States under an obligation to compensate them. That, of course, will be looked into. The amendment ought also to provide for indemnifying private owners, if there are such interested in the streams.

Mr. PEARCE. Of course, without such an amendment, it would be necessary to obtain the assent of the State of Maryland before drawing water from her limits, and it might also possibly be necessary to obtain the consent of the Chesapeake and Ohio Canal Company, which has certain water-rights vested in it by the Legislature of Maryland. I have no doubt that a proper application would be made by the Executive for such authority without this amendment, and it would be just as readily given, whether you draw water from the Great Falls or the Little Falls of the Potomac, and there is an ample supply at either. If it should interfere with the rights of the Chesapeake and Ohio Canal Company, no doubt an arrangement could be made.

Mr. HUNTER. If I understand the amendment of the Senator from Maryland, [Mr. PEARCE,] I do not object to that.

Mr. PEARCE. I supposed the phraseology would not be objectionable to the honorable Senator, and I hope, as it is not objectionable to the Senator from Virginia, that my colleague will accept it.

Mr. PRATT. With pleasure.

Mr. BUTLER. I think the whole subject ought to be postponed, because if we are to get the assent of Maryland before the work is undertaken, we may not get it for a year or two.

Mr. PEARCE. The Legislature of Maryland is now in session, and is likely to be for some time.

Mr. BORLAND. I think there is a great deal of force and pertinency in the remarks of the Senator from Iowa. It is true the Senator from Virginia attempted to get clear of the objection by saying it was about a small matter. That is true, but I apprehend that so far as constitutional principle is concerned, it may be involved in a small as well as a large matter. We know how earnestly it was insisted the other day, when the Pacific railroad bill was up for consideration, that we could not expend money within the limits of the States at all, with or without their assent, but that the expenditure must be limited to the Territories of the United States. The same principle would limit the expenditure of this money within the District of Columbia, and although you might obtain the assent of Maryland, you would have no right, according to the doctrine laid down the other day, to expend one dollar in making a dam, reservoir, or anything else necessary to obtain water, within the limits of Maryland. I did not admit the soundness of that proposition the other day; but it does seem to me that gentlemen who did insist upon it, to the extent of defeating a bill of such importance as the Pacific railroad bill, should at least be consistent now, and adhere to it even in so small a matter as water for the District of Columbia.

Mr. HUNTER. It is very strange to me that the Senator from Arkansas can see no difference between claiming power to furnish the District of Columbia, which is under the exclusive control of the Congress of the United States, with water from an adjoining State, and the claim of a power to regulate the railroad commerce of that State. If the statement of the proposition does not show the difference, it will be impossible for me to do it by any course of reasoning. But I rose to protest, at this state of the session, against this attempt to revive that old debate upon the Pacific railroad question. We have probably about one day to devote to this bill. I am willing and ready to go into that debate, if the Senator and myself shall both be here at the next session, and that measure be revived, but I am not willing to bring it up on this question here. I believe we have barely time enough to get this bill through. If the Senate believe the proposition is not sufficiently well guarded, let them vote it down. If, on the other hand, they are willing to trust this preliminary appropriation to the discretion of the President of the United States, let them say so. Let us have some decision, for many other important subjects are to be considered on this bill.

Mr. BORLAND. The opponents of this proposition are not responsible for its introduction. The Senator from Virginia introduced it. If it gives rise to discussion, those who oppose it are not responsible for the discussion. Those who introduced it are responsible. If it involves, as I think, a principle condemned by the Senate the other day, I cannot help it. The Senator says there is no similarity in the cases. I may be dull of comprehension—perhaps I am—but I cannot see the difference. The point made was the expenditure of public money within a State for purposes of improvement, with or without its consent. That was the point. Whether it applies to making a railroad or bringing water into the District of Columbia, it seems to me it is the same thing. Then, the proposition was to run a railroad from the Mississippi river to the Pacific ocean, through several States and through territory belonging to the United States. Several gentlemen said, "We are willing to give money to make a road within the Territories, but when you come to the States we cannot, even with their consent, exercise the power, under the Constitution, to expend money there, but must restrict the expenditure to the Territories." Now, it seems to me that the principle is the same. Here is a proposition to do what? To make a conduit of water from some point on the Potomac river, within the State of Maryland, to the District of Columbia, which is the territory of the United States, through the sovereign State of Maryland. According to the doctrine laid down the other day, you can expend money within the territory of the United States—in this case the District of Columbia—but the moment you get into the State of Maryland you cannot expend a dollar of it. It seems to me that the principle is entirely the same. There may be a difference, but I cannot see it.

Mr. BRIGHT. The Senator from Virginia introduced the amendment because he was directed to do so by the Committee on Finance. In doing so, he is but performing his duty. The amendment offered by the Senator from Virginia was recommended I believe unanimously, by the Committee on Finance. I do not propose making any remarks on the subject. I know the Senate are anxious for a vote; but the reason why the Committee on Finance recommended this measure must be obvious to every Senator. The public property here is entirely unprotected from fire, so far as regards the use of water. There is not a sufficient quantity of water to protect the public buildings from fire. Water is needed in every point of the city; and the object of the committee was to make it free; not to place the power of selling water in the hands of a corporation. Whether the President will conclude to take water from Maryland or Virginia, or any other State, is not the question for us. If we believe he will not apply the money proposed to be appropriated properly, we ought not to give it; but if we believe he will, we may start out with the hypothesis that he will not violate any law of Maryland or Virginia. Hence I think it unnecessary to discuss that point.

Mr. RUSK. I shall vote for the amendment of the Senator from Maryland, because I think it proper. I think that if the President of the United States is allowed to go and take water from the State of Maryland, it may interfere very much with the internal improvements of that State. Although I am remarkably anxious to supply this city with water, it seems to me that the effect of the amendment as originally proposed, without that of the Senator from Maryland, will be to circumscribe the President, and compel him to take water from a place where gentlemen say there is not a sufficient supply, for I apprehend that no one will pretend that the President of the United States could go, without the consent of Maryland, and take a supply of water from that State.

It is unnecessary to continue, nor do I mean to continue, the discussion of the principle in reference to the Pacific railroad bill which was up the other day. There is, however, a distinction between that appropriation and this, which the Senators from Iowa and Arkansas did not draw. That was an appropriation for a national and general object in which the whole United States was concerned; this is an appropriation for a special, local object, in which but a small locality is concerned. If the principle was so good as to exclude a great national object, it certainly ought to be good enough to exclude a small one. But I had no difficulty on that subject, and therefore I have no difficulty on this. I shall vote for the amendment.

Mr. TOUCEY. There is a proposition here that has reference only to the District of Columbia. There is nothing in the appropriation that refers to the State of Maryland, or to the State of Virginia. There is, therefore, no occasion for the proviso that the President of the United States shall not do what he has no power to do. There is no legislation here proposing to go into the State of Maryland to interfere with the jurisdiction of that State. You might as well introduce a clause here that the President should not do any other wrong act which the bill does not contemplate. I think the proviso, therefore, is entirely uncalled for.

Gentlemen have alluded to what took place the other day upon the Pacific railroad bill. Sir, that was a proposition to build a road within a State, and appropriate money for that purpose, a direct interference with the sovereignty of the State upon the face of the bill itself. It was very appropriate, therefore, and such was the judgment of the Senate, that that part of the bill should be striken out; but there is nothing of that kind in the proposition now under consideration. The proviso is just as appropriate as any other that might be imagined.

Mr. BORLAND. I would ask the Senator from Connecticut one question. Does not the original amendment necessarily propose that these water-works shall be constructed in part in the State of Maryland? No one believes that the work can be done in the District of Columbia. All admit that a part of the money must be expended in the State of Maryland; because, whether the water be drawn from Rock creek or the Potomac, it must come from that State. The provision of the amendment to the amendment is, that if in the execution of this law, a necessity shall arise for doing the work in Maryland, it shall not be done without the authority of the Legislature of that State. So far as principle is concerned it is precisely the same in this one case, as in that of the Pacific railroad. There was an express provision that the road should be made in a particular State. In this case, from its very nature, a necessity arises that the work shall be done in Maryland.

Mr. TOUCEY. I should like to know, Mr. President, whether any one imagines that this authorizes the taking of private property in the District or out of the District? I would ask how you can obtain water from the State of Maryland without interfering with private property? Does anybody suppose that this appropriation authorizes the President to interfere with private property or with the jurisdiction of any State? No such thing. You might as well introduce a proviso here that private property should not be taken, as to introduce a provision of this kind. It is entirely unnecessary. Neither the one nor the other can be done.

Mr. PRATT. The remarks of the Senator from Connecticut render it necessary that I should say a few words. He supposes that the amendment which I had the honor of offering would be entirely irrelevant to the amendment of the Committee on Finance. The amendment of the committee authorizes, or in other words directs the President, because it would become his duty, to bring water to the District of Columbia. During the last session of Congress an appropriation was made directing the Engineer Department to report from what sources that water could be brought. They have reported that it cannot be brought here without going to the State of Maryland. Acting upon that report, the committee have proposed an amendment directing the President to bring water here, and a certain sum of money is appropriated for that purpose, to be expended upon some plan to be approved by the President. If you have power, as some contend, to construct a work of internal improvement within the limits of a State, then you confer upon the President by the original amendment full power, with the appropriation you have made, to bring water here from the State of Maryland, with or without the assent of that State. The object of my amendment is simply to provide that the Legislature of Maryland, which is now in session, and which will remain in session for several months to come, shall assent to the plan, provided the water is to be taken from the State of Maryland. It is known to everybody except the honorable Senator, that the water is to be taken from that State.

Now, one word to the Senator from Virginia. He has done my colleague the honor of accepting his amendment. Excepting phraseology, it is identical with the one offered by me, to which the Senator so strenuously objected. His objection to my amendment was, that he did not wish the plan, which the original amendment authorized the President to select, to be subject to the control of the Legislature of Maryland. By the amendment offered by my colleague, which I have accepted in lieu of my own, the assent of the Legislature is required to that plan; so that, except that the one proceeds from one source and the other from another source, the two amendments are identical. The Legislature of Maryland is to assent to the plan of the President for bringing water from the State of Maryland before the provision shall go into effect.

Mr. HUNTER. I understood the amendment of the Senator from Maryland [Mr. PRATT] to be that the assent of the Legislature shall be required to the plan; and I understood the amendment of the other Senator [Mr. PEARCE] to require the assent of the Legislature before water shall be taken from the waters of Maryland.

Mr. PRATT. They are identically the same.

Mr. HUNTER. The Senator from Maryland has accepted the amendment of his colleague, and I have no objection to it now.

The question being taken by yeas and nays upon the adoption of the amendment of Mr. PRATT as modified, resulted—yeas 30, nays 20; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Bradbury, Butler, Chase, Clarke, Cooper, Dawson, Dodge of Iowa, Douglas, Downs, Foot, Hamlin, Houston, Jones of Tennessee, Mallory, Mason, Morton, Pearce, Phelps, Pratt, Rusk, Sebastian, Shields, Soulé, Spruance, Sumner, Walker, and Weller—30.

NAYS—Messrs. Badger, Bell, Borland, Brodhead, Brooke, Charlton, De Saussure, Fish, Fitzpatrick, Geyer, Gwin, Hale, Jones of Iowa, Mangum, Miller, Seward, Smith, Toucey, Underwood, and Wade—20.

So the amendment to the amendment was agreed to.

The question recurred upon the adoption of the amendment as amended; upon which

Mr. BORLAND called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 36, nays 12; as follows:

YEAS—Messrs. Bayard, Bell, Brooke, Charlton, Clarke, Cooper, Dawson, De Saussure, Downs, Fish, Foot, Geyer, Gwin, Hale, Houston, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Mangum, Mason, Miller, Morton, Pearce, Phelps, Pratt, Rusk, Sebastian, Seward, Shields, Soulé, Spruance, Sumner, Underwood, and Weller—36.

NAYS—Messrs. Adams, Badger, Borland, Brodhead, Chase, Davis, Dodge of Iowa, Fitzpatrick, Pettit, Smith, Wade, and Walker—12.

So the amendment was agreed to.

Mr. RUSK. I now move to reconsider the vote by which the Senate rejected the amendment of the Committee on Finance providing for furnishing houses for the members of the Cabinet and the Vice President. My object is to adopt, not that provision, but the one suggested by the Senator from Maine.

Mr. BRADBURY. I apprehend that the reconsideration will hardly be necessary, for the Senator from Virginia, I believe, intends to propose it as a separate amendment.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) If the vote be reconsidered, the amendment of the Senator from Maine cannot be offered as an amendment to that amendment, because the amendment as reported is of such a nature as that no word of the original one can be retained.

Mr. BRADBURY. I supposed that it could be offered as a substitute.

The PRESIDING OFFICER. There is no such thing as a substitute. Every amendment must retain some part of the original proposition.

Mr. RUSK. If the vote be reconsidered, I think I can find some word of the original amendment to which to attach that of the Senator from Maine.

The motion to reconsider was agreed to, and the question recurred on the adoption of the amendment; which was in the following words:

"For the purchase of the ground and the erection of suitable residences for the Vice President, the Secretaries of State, Treasury, War, Navy, and Interior, and the Postmaster, and Attorney General, $240,000: *Provided*, That the whole cost thereof shall not exceed that amount, to be expended under the direction of the President of the United States."

Mr. BRADBURY. I now offer, if it is in order, my amendment as a substitute for that.

Mr. HUNTER. It has been suggested to me that the best mode of relieving the Senate from the difficulty will be to vote down the amendment of the committee, and then the proposition of the Senator from Maine can afterwards be voted in. He can offer it as a separate proposition, because it makes no appropriation.

Mr. RUSK. I shall vote against this amendment in the present state of affairs; but if I can get in the amendment of the Senator from Maine, I will vote for it. It seems to me that there is no difficulty, and I think I can suggest a mode of getting at the question. I propose to retain in the original amendment the words, "the Vice President, the Secretaries of State, Treasury, War, Navy, and Interior, and the Postmaster and Attorney General," and then to insert before those words, the first part of the amendment of the Senator from Maine, "That hereafter the annual compensation of;" and then to strike out all after the words, Attorney General, and insert, "shall be $8,000." The effect of that will be to leave the amendment if so amended, to read:

"*And be it further enated*, That hereafter the annual compensation of the Vice President, the Secretaries of State, Treasury, War, Navy, and Interior, and the Postmaster and Attorney General, shall be $8,000."

Mr. BELL. I wish to ask the chairman of the Committee on Finance if the original amendment was reported from that committee?

Mr. HUNTER. Yes, sir; I have offered no amendment which was not reported from the committee.

Mr. BELL. I was not aware of that.

Mr. WALKER. The Senate the other day, with a great deal of unanimity, overruled a proposition of mine which was offered as an amendment to the Army appropriation bill. I wish to see whether it is disposed to stand by that decision, and I therefore raise a question of order on this amendment, thinking it is important in view of the decision of the Chair then.

The PRESIDING OFFICER. What point of order does the Senator make?

Mr. WALKER. It is that this is an amendment moved by an individual Senator to an amendment of the Committee on Finance, which amendment to the amendment proposes an additional appropriation.

The PRESIDING OFFICER. The Senator from Wisconsin is mistaken in point of fact. The amendment of the Committee on Finance does propose an additional appropriation, but the amendment to the amendment proposes to strike out that appropriation, and not to make any at all.

Mr. SEWARD called for the yeas and nays upon the amendment to the amendment; and they were ordered; and being taken, resulted—yeas 36, nays 17; as follows:

YEAS—Messrs. Atchison, Badger, Bayard, Borland, Bradbury, Bright, Brodhead, Brooke, Butler, Cass, Charlton, Clarke, Dawson, De Saussure, Downs, Fish, Fitzpatrick, Foot, Geyer, Gwin, Hamlin, Hunter, James, Jones of Tennessee, Mallory, Pettit, Pratt, Rusk, Shields, Smith, Soulé, Spruance, Sumner, Toucey, Walker, and Weller—36.

NAYS—Messrs. Adams, Bell, Chase, Davis, Dodge of Iowa, Douglas, Jones of Iowa, Mangum, Mason, Miller, Morton, Norris, Phelps, Sebastian, Seward, Underwood, and Wade.—17.

So the amendment to the amendment was agreed to.

The question recurred upon the amendment as amended, upon which Mr. WADE called for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 40, nays 15; as follows:

YEAS—Messrs. Atchison, Badger, Bayard, Borland, Bradbury, Bright, Brodhead, Brooke, Butler, Cass, Charlton, Clarke, Dawson, De Saussure, Downs, Felch, Fish, Fitzpatrick, Foot, Geyer, Gwin, Hale, Hamlin, Houston, Hunter, James, Jones of Tennessee, Mallory, Mason, Morton, Pettit, Pratt, Rusk, Shields, Smith, Soulé, Sumner, Toucey, Walker, and Weller—40.

NAYS—Messrs. Adams, Bell, Chase, Davis, Dodge of Iowa, Douglas, Jones of Iowa, Mangum, Miller, Norris, Sebastian, Seward, Spruance, Underwood, and Wade—15.

So the amendment as amended was agreed to.

Mr. HUNTER. I am instructed to offer another amendment, in pursuance of an estimate from the Secretary of War. It is to insert "55" instead of "35," so as to make one of the items for expenses of the Senate read—

For clerks to committees and President *pro tempore*, draughtsman, messengers, pages, laborers, police, horses, and carry-alls, $55,000.

The amendment was agreed to.

Mr. HUNTER. The next amendment of the Committee on Finance is to insert among the appropriations for contingent expenses of the Senate the following:

To supply a deficiency in the appropriations heretofore made for lithographing and engraving for the year ending June 30, 1853, $24,000.

The amendment was agreed to.

Mr. HUNTER. I am further instructed by the Committee on Finance to offer the following amendment:

SEC. —. *And be it further enacted*, That upon all iron imported for rails to be laid upon railroads in the United States, or the Territories thereof, a credit of five years shall be allowed upon the duties upon such iron: *Provided*, That the importer shall give such security as may be satisfactory to the Secretary of the Treasury for the payment of said duties, at the rate of six per centum per annum, and for the forfeiture of double the amount of said duties in the event that said iron is not satisfactorily proved to have been laid down within five years upon some railroad within the United States or the Territories thereof.

Mr. MASON. I move to amend the amendment in such a way as to make it read—

That all existing duties upon iron to be imported for rails to be laid upon railroads in the United States, or the Territories thereof, shall be, and the same are hereby, repealed.

Mr. BRODHEAD. This is a very important subject, and it deserves full discussion. The amendment involves the question of the modification of the tariff act of 1846. I think that both the amendment and the amendment to the amendment are out of time and out of place, and deserve the defeat which justly awaits them.

I have heretofore stood steadily by my friend from Virginia, the chairman of the Committee on Finance. I think there is no member of this body who has given him a more zealous support in his position as chairman of that committee than I have. I must therefore be permitted to express my surprise that he proposes to legislate upon so important a question as this in the civil and diplomatic bill. I understand that the civil and diplomatic bill is for the purpose of carrying on the Government, not the modification or change of laws, and that upon that bill we are not to have debatable questions. If we adopt a different course, we place the legislation of this Government in the hands of five gentlemen who compose the Committee on Finance. No other member of the Senate except a member of that committee could offer this amendment. No one could offer it without the sanction of a majority of that committee. If any other member should have moved this, I rather think my friend from Virginia would have said this was a debatable question, and ought not to go upon the civil and diplomatic bill. He would say that it would lead to debate, and, sir, I think it will lead to a considerable amount of debate, not only here, but in the House of Representatives.

Mr. President, I cannot well see, nor can I understand why we should here, upon the civil and diplomatic bill, in the last days of this Congress, undertake to modify the tariff act of 1846, and that too for the benefit of corporations. If we are to have the civil and diplomatic bill made to carry everything, we had better go on and consider the Cuba question; we had better put upon it the proposition for a railroad to the Pacific, the French spoliation bill, and everything else, and let it swallow up all subjects of legislation, including the Monroe doctrine.

I do not know why we should take the duty off railroad iron, and not off iron used by the farmer. I do not know why we should, by partial and by class legislation here, promote a particular interest. Ought not our laws to be general? But if we are to go into the consideration of the modification and review of the tariff act of 1846, I am ready for it; but let us take it up in the right way. Let us all have a chance. Let us consider it deliberately.

I therefore think this amendment is out of time and out of place; but if either of the amendments is, to be adopted, it seems to me that the amendment of the honorable Senator from Virginia [Mr. MASON] is the most preferable, and we ought to accompany it with another proposition, and that is, that the expenses of the Government are to be reduced also. That looks to free trade and direct taxation, and those who vote for it, ought not to vote for large expenditures of the public money.

Mr. BROOKE. The Senator from Pennsylvania spoke just now about legislation for the benefit of corporations. I wish to ask him if the interests of the iron corporations of Pennsylvania have nothing to do with his opposition to this amendment?

Mr. BRODHEAD. I know nothing about iron corporations in Pennsylvania. Private enterprise carries on business there. I do not believe that in that State there are three companies incorporated for the purpose of manufacturing iron. There may be more than that, but I think not. The business there is generally carried on by private individuals and by private funds.

I do not know, sir, whether it is the intention of the Senate to go into a general debate upon the subject of the tariff of 1846, or upon this question. If it is I have many facts and some documents to submit. If the honorable chairman of the Committee on Finance designs to have all these questions discussed upon the civil and diplomatic bill, I for one shall be willing, but he must not ask me to stand by him on other questions of a similar importance. If, according to the proposition of one Senator from Virginia, we are to take off the duties on railroad iron entirely, why not take them off sugar, and woolen goods, and cotton goods? These articles enter into general consumption, much more so than iron. When we get the duties off these articles, which are quite as necessary as railroad iron, where are you to get the revenues necessary to carry on the Government? Direct taxation and free trade may answer, but when you want large expenditures of public money, the tax-payers will be very apt to call you to an account; and a very considerable portion of them live in the State which I have the honor to represent. They do the work of the country, they raise the bread for the country, they pay taxes for the country; and, sir, they do the praying for the country, and help to save it. If we are to have the duties taken off railroad iron entirely, I want it taken off all species of iron, off cotton goods, and woolen goods, and off sugar. We can then come to direct taxation and free trade. That will have one good result. The lobby-gang will be dispersed and driven out of Washington. So far as that is concerned, it will be one good result. But let us have some understanding on the subject. This is all I have to say at present; but if we are to go into a discussion of the subject, I am quite willing and ready for it.

Mr. HUNTER. In regard to this matter, I have to say to the Senator from Pennsylvania, that I agree with him as to the propriety of keeping the appropriation bills clear of all debatable matter, except those things which must go upon those bills; but, sir, the Senate has not adhered to that principle. The Senator himself, if I recollect aright, offered upon the Army appropriation bill an amendment providing for a survey for a railroad to the Pacific. We have put upon that bill appropriations for the discoverer of ether, and many other things.

Mr. BRODHEAD. I beg to correct the gentleman. I did not offer the proposition to which he alludes as an amendment to the Army appropriation bill. I offered it as an amendment to the bill providing for the construction of a railroad to the Pacific, and my honorable friend from Virginia voted for it.

Mr. CHASE. I offered the proposition as an amendment to the Army appropriation bill.

Mr. HUNTER. I beg the Senator's pardon. I thought he had offered it as an amendment to the Army bill. I voted for it as an amendment to the Pacific railroad bill, and not to the Army bill. But I wish to explain, that in regard to this matter, I received yesterday instructions from my own Legislature, instructing me to vote for the repeal of the duty on railroad iron. Now, we propose nothing of that sort. We only propose that for which there is a precedent in the case of the Wilmington and Raleigh railroad, I think, in North Carolina, in which a credit was given to the company for duties on railroad iron; and it was supposed that the same principle would apply to other railroads in the country, on account of the rise in the price of iron.

Mr. BRODHEAD. I desire to inquire of the Senator from Virginia whether the instructions to which he refers go to this extent; Is the Senator instructed to vote for this amendment to the civil and diplomatic appropriation bill? In other words, does his Legislature instruct him to violate the rule upon which the Senate has heretofore acted in reference to appropriation bills?

Mr. HUNTER. My instructions go to this extent: I am bound to obtain the repeal of that duty if I can by any legislative means. What I have to say in regard to the matter is this: I do not propose to wreck the appropriation bills upon it. I do not think it necessary to have much debate upon the question. I do not propose to speak upon it. If the sense of the Senate should be against it, they will vote it down; but I cannot do otherwise than vote for it, when once offered, under the instructions which I have received. I confess that if it had not been for those instructions I should not have proposed it as an amendment to the civil and diplomatic appropriation bill, though I should have voted for it as a separate proposition. I believe that if there were time to discuss it, much reason could be shown for a discrimination in this regard, for a tariff for revenue should be laid like any other tax in reference to principles of revenue. And it has always been supposed to be proper, in laying such taxes, that they should bear as lightly as possible upon production, and rest as far as practicable on the consumption of the country. I believe, so far as the iron interests themselves are concerned, taking a large view of the question, that they would not be injured by such a measure. However, as I have said before, my purpose is not to discuss this question. We have but this day to devote to the bill; and after having made an effort to carry out my instructions, I shall not feel myself bound to wreck the bill upon it.

Mr. MILLER. Mr. President, I sincerely regret that a majority of the Committee on Finance thought proper, at so late a day of the session, and upon this bill, to introduce this amendment before the Senate. It is not my fault that it is here. But as the amendment embraces a question which I consider of deep interest both to the revenue and the labor of the country, I feel compelled not to permit it to pass without a few observations.

The amendment reported from the Committee on Finance proposes to give a credit for five years for duties on all the railroad iron which may, during that time, be imported into this country. I do not think that the Senate are fully aware of the extent of this proposition—of the amount upon which credit will be given, and of the large sum which it will finally take from the Treasury of the United States. I desire, therefore, on this occasion, to present a few statistics to the Senate and to the country, showing the amount of aid, by means of credit or loan, which it is proposed that this Government shall give to railroad companies. To get at the amount, it is necessary to ascertain, if possible, the quantity of railroad iron which is likely to be imported if this measure goes into operation; and to do that we must look back a year or two for the purpose of ascertaining the amount of railroad iron which has been imported, subject to the duty. In the accounts kept at the Treasury Department, I find that all rolled iron is put under one head; so that it is difficult to ascertain the exact amount of railroad iron imported during the years 1852 and 1853. I find, however, that upon a call made in 1851, upon the Treasury Department, for the amount of railroad iron imported during that year, subject to duty, it was ascertained that there were one hundred and ninety thousand one hundred nnd ninety-nine tons imported, at the average price of $25 22 per ton; and which, at thirty per cent. duty, yielded a revenue of $1,438,820. That was in 1851. Since then, during the years 1852 and 1853, the importation of railroad iron has largely increased; we have no tables showing the exact amount of the increase, yet we may approximate to it by looking at the general importations of iron. The value of iron imported into this country in 1852 was $18,843,000, while, in the previous year (1851) the value of the imports of iron was but $10,782,000; showing an increase in that year of $8,000,000 on all kinds of iron imported into the country.

Taking as data the 190,000 tons of railroad iron ascertained to have been imported in 1851, when we consider the large increase of importations in 1852, and the still increasing demand, owing to the great number of railroads now about to go into operation, it may be fairly estimated, and such is the opinion of the Assistant Secretary of the Treasury, that there will be, during the year 1853, from 200,000 to 250,000 tons of railroad iron imported into this country. This is a low estimate under the existing laws; but if this amendment prevails, the importation for the next five years will be greatly extended beyond that amount. If you pass this amendment and give credit to all the railroad companies in the United States who want railroad iron, they will give their orders immediately for the iron, in order that they may get it in, and lay it down within five years. That will increase the demand and stimulate the importation. I may, therefore, take it as a safe estimate, that 250,000 tons per year will be imported under the operation of this act. Now, taking as the average value, which is a very low one, in 1853, $50 per ton, though in England it has advanced beyond that amount, the duty of thirty per cent. upon it will be $15 a ton. That upon the $250,000 tons of iron imported each year during the five years, will make $15,000,000 of duties. My impression is that it will exceed this, because iron, I understand, is now up to $60 per ton in England.

Mr. FISH. It is over £10.

Mr. MILLER. I am informed it is £10, say $50 per ton. Thirty per cent. upon that will give $15 per ton duty, and will swell the amount of credit which we propose to give to railroad com-

panies, during the five years, to about fifteen millions of dollars.

Sir, when was it ever proposed to extend the credit of the Government to any other branch of industry in the country to that amount? But that is not all. This is not to be the end of this system. We have had experience upon the subject already. Congress, from 1832 to 1839, passed various laws, by which they gave credit to railroad companies—credits which amounted to about three millions of dollars; and what was the result? I have a report here made by Mr. Woodbury, in 1839, showing that we had remitted all those duties, and given up the bonds, and, in the language of Secretary Woodbury, the United States had given a donation to railroad companies of upwards of three millions of dollars. The plea at that time was that the railroad enterprise was in its infancy, that it needed encouragement, and that men ran great risks in investing their capital in such enterprise. But is that so now? Why, sir, the most profitable—the most active interest in the United States is the railroad interest; and compared with the iron interest, it has greatly the advantage in the percentage of profit which railroad stock yields to the persons who invest their money in it. So that, if this proposition prevails, you will not only give a credit of ten or fifteen millions of dollars to railroad companies, but at the end of the time they will apply to Congress, and ask you to give up their bonds. This is to be the effect upon the Treasury.

Now, I beg to call the attention, especially of the Democratic portion of the Senate, to the effect—to the injurious, unjust effect, which this measure is to have on the operation of the tariff of 1846. Sir, the great and leading feature of that tariff, that which commended it to a large portion of the people of the United States, was what was denominated its equality; that is, it imposed duties without discrimination in favor of any one interest over another. I think the bill was wrong in that particular. I think it ought to have discriminated in favor of domestic labor, and especially in favor of those great national interests, such as the manufacture of iron, glass, and other products which have a foreign competition, and also in favor of raw materials. But, sir, the leading feature of that bill was its want of discrimination in favor of these interests. The northern portions of the country, and especially the middle States, asked you to make some difference between iron, which we have the means of manufacturing, and certain articles which could not be manufactured in this country. You denied them, and declared that there should be no discrimination in favor of any one interest however national. What does this amendment now propose? It is to discriminate in favor of railroad companies—to give them a credit upon an article which they wish to use in their business; and to what amount? To about one third of its value of the article imported. One third, therefore, of the principal portion of their capital they are to have a credit for from the Government of the United States. No protectionists in this country ever asked for a protection like this for any other interest; no manufacturer of iron, contending against the capital of England year after year, with an almost hopeless struggle, ever came here and asked the Government thus to distinguish him, and protect him against other interests. Yet these railroad companies ask the Government to give them a credit upon foreign iron which they buy abroad, to the extent of about one third of its value.

The home manufacturer of iron cannot give this credit. He cannot lay out his money for five years upon one third of the article which he sells to the railroad companies. Yet this Government says to the railroad corporations, "If you buy your iron in England, one third of the value of that iron, when it gets here, you shall have a credit for from the Treasury of the United States, provided you pay the United States six per cent." Is this fair? I say it is both unfair and unjust.

Sir, the manufacturers of iron in this country have long since given up in despair all hope of particular protection. They know the time has gone by for that, under ruling powers of the day. Submitting to their fate, they are preparing, under the prosperous position of this country, to compete manfully and individually with the manufacturers of England. Will this Government, just at the very moment when circumstances beyond your control—beyond the control of your hard policy—have presented a fair field for that competition, interfere and say to the railroad companies, "Buy your iron in England, and you shall have a credit for one third of the amount of it for five years, with a chance of having it all thrown off at the end of that time?" I say this is unfair; and I am perfectly astonished that such a proposition should come from the honorable chairman of the Committee on Finance, acting under instructions from the Legislature of Virginia. What, sir! Virginia instruct Congress to take off all duties upon railroad iron and admit it free of duty! Virginia, the mother of free trade, instructing her Senators to discriminate in favor of one particular branch of business in this country, and that, too, a most odious kind of discrimination in favor of associated capitalists! Sir, I am no enemy of corporations. I am no opponent to railroads. I wish to see them flourish; but I do not intend, if I can help it, to give them advantages in this day of free trade by inserting in this bill of ours to-day a protection such as no other branch of industry ever had.

Mr. HUNTER. Mr. President, I would say to the Senator from New Jersey at this point, that I am not disposed to peril the bill of which I have the management, by pressing a proposition which is to lead to such a debate as I see this will. I am therefore authorized by every member of the committee except himself, and as he was speaking, I could not consult him—to withdraw the amendment.

Mr. MILLER. You certainly have my consent, sir, to withdraw the amendment. I have much more to say upon this subject, but if the Senator will withraw this odious proposition, I will cheerfully take my seat.

Mr. MASON. I am instructed by the Committee on Foreign Relations to offer several amendments.

Mr. HALE. I rise to a question of order. I wish to know if the amendment which has just been discussed has been withdrawn.

The PRESIDING OFFICER, (Mr. BRADBURY in the chair.) It has been withdrawn.

Mr. HALE. Does it not require unanimous consent to withdraw the amendment?

The PRESIDING OFFICER. No, sir.

Mr. HALE. It was an amendment offered by a committee, then there was an amendment offered to that amendment, which was entertained, and upon which debate has been had. I wish to know whether that can properly be withdrawn.

Mr. DOUGLAS. Can the report of a committee be withdrawn?

Mr. HUNTER. I presume that the committee could withdraw its own amendment. An individual member could not withdraw it unless before the yeas and nays were ordered, and in this case the yeas and nays have not been ordered, and I have got the unanimous direction of the committee to ask leave to withdraw it.

Mr. DOUGLAS. I expect that the reverse will be more likely to be true, and that after a committee make a report the committee cannot withdraw the report except by unanimous consent.

The PRESIDING OFFICER. The Chair is of the opinion that the amendment can be withdrawn.

Mr. HALE. I appeal from that decision. I understand that the Chair decides that a report after it is made by a committee, and after an amendment is offered to it, may be withdrawn by that committee. I wish the question to be settled. It seems to me that the report of a committee after it has been entertained by the Senate, and after an amendment has been entertained, cannot be withdrawn. I appeal from the decision of the Chair.

The PRESIDING OFFICER. The question is, "Shall the opinion of the Chair stand as the judgment of the Senate?"

Mr. BUTLER. I hope the honorable Senator from New Hampshire will withdraw the appeal. I must say in good faith, that I think the honorable Senator from Pennsylvania was right in objecting to this amendment. I said the other day, that I did not think a majority ought to use the appropriation bills for carrying out any favorite project. I think it is an unfair mode of legislation, and I think the Senator from Pennsylvania is perfectly right in regard to it. The probability is, that I should favor the amendment; but this is not a mode of legislation which is safe to a minority. I hope the Senator from New Hampshire will withdraw his appeal.

Mr. HALE. I do not want this precedent set. The reason for my appeal is this: The effect of sustaining the decision will be to throw all power into the hands of the Presiding Officer, because if he can give a committee power to withdraw their amendment at any time after their report has been made and entertained, the same privilege belongs to a member; and in that the Presiding Officer has the whole control of the business of the Senate at any time.

Mr. HUNTER. I would suggest to the Senator from New Hampshire, that he can renew the amendment if he chooses. Any one can offer it. It contains no appropriation.

Mr. HAMLIN. I believe it has always been the well-settled rule that any member can withdraw an amendment of his own, if the Senate has taken no action on it by ordering the yeas and nays or by a vote. Now, a committee can stand just as well as an individual. Besides the committee has unanimously directed this amendment to be withdrawn.

Mr. HALE. I withdraw the appeal.

Mr. MASON. I am instructed by the Committee on Foreign Relations to offer a number of amendments. The first is to insert, after the provision for salaries of our ministers abroad, the following:

Provided, That there shall be allowed and paid to the ministers to Great Britain, France, Russia, and Spain, the sum of $6,000 each, for house and office rent, salary to a private secretary and other expenses incident to their respective missions; and to the minister resident in Turkey $4,000 for like expenses. The foregoing to be in addition to outfit and salary.

Mr. PHELPS. I desire to inquire of the chairman of the Committee on Foreign Relations whether this provision is to be regarded as prospective or retrospective?

Mr. MASON. Prospective.

Mr. PHELPS. It should be so expressed; and I would therefore suggest to the Senator to insert the word "hereafter" after the word "that."

Mr. MASON. I have no objection to that amendment, but I think it is prospective on its face. The bill speaks from its passage as a matter of course, but I accept the amendment. This proposition speaks for itself. It is to increase the emoluments of these four ministers by the sum of $6,000 each, which they are, by the terms of the amendment, required to expend in the manner indicated; and it allows $4,000 to the minister resident in Turkey, for the same purpose. I will not discuss it.

The amendment was agreed to.

Mr. MASON. The next amendment of the committee is to insert, after the words "chargés d'affaires," in the provision for the salaries and outfits of the various chargés d'affaires, the words "or ministers resident." The effect of the amendment will be to give to the President the discretion of sending a minister resident or a chargé to those countries where we are now represented by a chargé, leaving the salary untouched. It has been recommended by the Department of State, and meets the approbation of the committee.

The amendment was agreed to.

Mr. MASON. The next amendment of the Committee on Foreign Relations is to insert:

"To reimburse David Tod, late minister of the United States at Brazil, a sum of money advanced by him to William E. Anderson, who was sent by the minister from Rio de Janeiro to the United States in the spring of 1851, as a witness against two persons engaged in the slave trade, $75."

The amendment was agreed to.

Mr. MASON. The next amendment of the committee is to insert:

"For the payment of Buckingham Smith, late secretary of legation to Mexico, the difference between his salary as secretary of legation and that of chargé d'affaires from the 26th July, 1851, to the 8th October following, during which period he discharged the duties of chargé d'affaires in Mexico in the absence of the minister of the United States, who had returned home on leave, $1,756 95; the same, if received, to be in full for all charges during the period aforesaid."

The amendment was agreed to.

Mr. MASON. The next amendment of the Committee on Foreign Relations is to insert the following additional section:

"SEC. —. *And be it further enacted*, That an officer shall be appointed in the Department of State, to be called the Assistant Secretary of State, whose salary shall be

$3,000 per annum, payable in the same manner as that of the Secretary of State, who shall perform all such duties in the office of the Secretary of State belonging to that Department as shall be prescribed by the Secretary of State, or as may be required by law."

That is a proposition to appoint an Assistant Secretary of State, and it is done upon the recommendation of that Department, which met the approbation of the Committee on Foreign Relations. It was formerly recommended by Mr. Buchanan in 1846, and it was recommended by the immediate predecessor of the present Secretary of State. If the Senate desire it, I will submit a letter from the present Secretary giving his reasons——

Several SENATORS. It is not necessary.

The amendment was agreed to.

Mr. MASON. I now offer of my own accord an amendment, which I offered before as an amendment to that reported from the Committee on Finance, in relation to railroad iron. It is to insert the following additional section:

SEC. —. *And be it further enacted*, That all existing duties on iron imported for rails to be laid upon railroads in the United States, or the Territories thereof, shall be, and the same are, hereby repealed.

Mr. HALE. I simply ask the yeas and nays on that, in order to nail it at once.

The yeas and nays were ordered.

Mr. MASON. I offer this amendment under instructions received from the Legislature of Virginia, by which their Senators are instructed to get the repeal of duties on railroad iron at as early a period as practicable; and if not practicable to do that, to ask that the duties shall be suspended for a limited time. I offer the amendment, therefore, in pursuance of those instructions from the State of Virginia. That State, along with most of the other States of the Union, has embarked very largely in the construction of railroads through her territory. It becomes, therefore, a matter of State interest as independent of the private interest also connected with it. It has become a very important interest; for the construction of those artificial ways is now, I believe, more in progress than at any former time. I do not desire to debate the matter, but I hope the amendment will be adopted.

Mr. DOUGLAS. I desire to ask my friend from Virginia to modify his amendment, or rather I would suggest to him the propriety of so doing. We have a surplus revenue now. The railroad interest is a very great and a very important one, particularly to the great agricultural interest of the country, in order to facilitate and expedite as much as possible the interchange of commodities between the producer and consumer. Many of the old States have had their roads made, under provisions allowing railroad iron to come in free of duty. We in the interior have not had that advantage. I would therefore suggest, that instead of repealing the duty *in toto*, we simply suspend it for a limited time, say two or three years. A commercial revulsion may come, which would render it necessary for us to have these duties for the purpose of revenue. I have prepared an amendment for that purpose, and I offer it as an amendment to the amendment; but if it is not adopted, I shall go with the Senator from Virginia for the total repeal of the duty. I move to amend the amendment, by striking out all after its enacting clause, and inserting the following:

That from and after this date, until the end of two years, no duties or revenue shall be collected on railroad iron imported from foreign countries: *Provided, however*, That at the time of such importation, the importer shall execute to the United States a bond with sureties, in such penalty as the Secretary of the Treasury shall direct, to be approved of by the said Secretary, conditioned that said iron is *bona fide* imported for the purpose of being used as and for rails for railroads, and for no other purpose; and to be laid down and actually used by the person or persons, or company, so importing the same, within two years from the time of importation; and upon due proof furnished to said Secretary, that such iron has been so laid down and used, the said bonds shall be given up and cancelled.

Mr. HALE. I wish the Senator would say three years instead of two years.

Mr. DOUGLAS. I have no objection to that, and I modify my amendment so as to put it in that form.

Mr. CLARKE. I understand that the amendment of the Senator from Illinois is not amendable; but I give notice that at the proper time I have an amendment to propose, that the same extension of the repeal of duties shall be given to iron in bars, blooms, bolts, hoops, pigs, rods, slabs, and all other forms. I wish to put all on the same footing.

Mr. COOPER. I have never since I have been a member of the Senate occupied its time unless when some duty to my constituents or myself forbade me to remain silent. And, sir, permit me to say that if I did not resist this amendment, I should regard myself as recreant to the duties which I owe to the industrial interests of my own State. For years past, those engaged in the manufacture of iron in Pennsylvania, as well as other States, have been struggling with difficulties which to many of them were overwhelming. The price of iron abroad for the last three or four years has been so low that it was altogether impracticable for the manufacturer of iron in this country to compete successfully with foreign manufacturers; and the consequence has been that those who did not possess large capital and extensive means have been compelled to cease operations. Within the period to which I have referred one half of the whole number of furnaces in Pennsylvania have ceased operations; and I have no doubt, although I have no specific data to show it, that the product has decreased in as great a proportion. But a change has lately taken place abroad which promises to relieve them, provided the legislation of Congress on this subject shall be permitted to remain undisturbed. During the period our iron manufacturers were struggling with difficulties, and asking Congress for relief by the imposition of higher duties, their prayer was disregarded; but now, when in the course of things they are in a condition to retrieve in a measure their losses, it is proposed to deprive them by legislation of the opportunity which chance has afforded them.

For four or five years past iron has been sent into this country at a rate lower than the foreign manufacturers could produce it; and the reason of this was that during the years 1845, '46, and '47, Europe was in a fever upon the subject of internal improvements. All portions of the continent were engaged in the construction of railroads. Large contracts were made with the manufacturers of iron in England to supply rails and other kinds of iron for the construction of these roads. In 1848 the revolutions came, and these contracts, which had been partly fulfilled, were rescinded or broken through the inability of those who had made them to pay for the iron which they had purchased, and which would have been necessary if they had gone on with the construction of their roads. The manufacturers of England having made large preparations for meeting the demand upon the continent, could not at once curtail their operations, but were obliged to go on and work up the stock of material on hand; and the consequence of this was, that a very large quantity of railroad iron had been manufactured and remained on hand in England at the beginning of the year 1849; and as there was no other market in which to sell it than the market of the United States, it was sent here and sold at the reduced prices which have proved so disastrous to the manufacturers of this country. I have stated already that in my own State one half of those engaged in 1848 in the manufacture of iron, have been forced to abandon it. But now, when in the existing state of things, prices having risen abroad, they are preparing to resume operations, and retrieve, if possible, their ruined fortunes, what, sir, do we see? Why this: that Congress, who would not listen to their prayers when they were crushed under low prices and foreign competition, is now ready, the moment the state of things is reversed and prices abroad are high, to prostrate them anew for the benefit of a special interest by repealing the existing duties on railroad iron, or suspending them for a period of years! Is this judicious legislation? Is it just, or even tolerable?

Sir, I can understand the principle upon which the advocates of free trade act; but I cannot understand the principle of the amendment which is pressed upon the Senate. Nothing is proposed by it for the common benefit; nothing for the advantage of the farmer, the mechanic, or the laboring classes of the community. It is not free trade upon any general principle; but legislation designed to benefit a particular interest—for companies who have been (many of them at least) the recipients of other favors at the hands of the Government, and who are asking of Congress new bounties of more objectionable character. I should like to know how my Democratic friends in this Chamber are to reconcile a vote in favor of this proposition with their principles on the subject of corporations? Corporations, of all kinds, have more privileges and immunities than the mass of citizens. I am not, Mr. President, one of those who have a quarrel with corporations, and who denounce all of them as monsters, or as things without souls; but, sir, I am opposed to granting them privileges which are not necessary for the purpose of carrying into operation the particular objects for which they were created. I have no objection to individuals being associated for the purposes of internal improvement, or even of banking; but when you come to single them out as special objects of bounty, and confer upon them pecuniary advantages, at the expense of the community generally, I feel that it is transcending the limits both of justice and prudence.

Why is it that these railroad companies are to be made special objects of Government bounty? Almost all of them, from one end of the country to the other, are in a prosperous condition. If you will turn to several works upon the subject, one of which I hold in my hand, you will find, that with few exceptions, the railroads of the country are in a prosperous condition, yielding a very large per cent. upon the capital stock originally invested. In my own State, although the original outlay was regarded as prodigal, nearly all the enterprises of this kind have been fortunate, and are now yielding large returns to the stockholders. But these classes of the community, the manufacturing and laboring classes, are not only not permitted to share in the bounties which are poured out so profusely upon corporations, but on the contrary are made to bear their expense.

I have already stated, that through the mischievous legislation of Congress, and the state of things abroad, a very large portion of the capital invested in the manufacture of iron a few years ago, has become entirely barren and unproductive; and that it was only persons who were possessed of large means that were enabled to stem the tide of disaster which swept down all the rest. This will not be denied. Well, sir, what is it you propose to do? To legislate to aid that class of manufacturers who possess small means, and upon whom the foreign competition and low prices operated so ruinously? No, sir. The effect of the amendment of the Senator from Virginia, [Mr. MASON,] if adopted, will be to perpetuate this state of things—to help the strong, and crush the weak.

But, sir, this amendment will not accomplish the object of the mover. Far from it. Instead of reducing the price of iron and securing it to these corporations cheaply, it will, in my judgment, increase the price. This I venture to prophesy. But I may be asked why it is that I resist it? I resist it because, while it will build up a few great and powerful establishments, and enable them to make fortunes, it will prevent men of moderate means from embarking in an uncertain and precarious enterprise—in an enterprise which will be rendered precarious and uncertain by the proposed legislation.

If the existing rate of duties be continued, and prices abroad should remain anything near what they are at present, hundreds of furnaces now out of blast will recommence operations. The fires upon their hearths will be rekindled; forges and rolling-mills will be established, and a domestic competition be created, which will avail more to reduce the price of iron than any foreign competition which the larger, richer, and more powerful establishments will have to encounter. But if you repeal the existing duties, these furnaces will remain idle, for fear that prices may fall in Europe, and, in the absence of all protection, subject them to new disasters. My word for it, sir, this will be the case; and I am equally certain that domestic competition, which will spring up if you let things remain as they are, will do more to reduce the price of iron than any competition which, for the next three years, you may expect from abroad.

Why is this likely to be so? Because revolutions having ceased in Europe, prosperity having been in a great measure restored, those works which were abandoned in 1848 having been recommenced, the demands upon England for iron will be greater than she will be able to supply, with her means reduced in consequence of the scarcity of labor. You do not open a foreign paper in which you do not read of some lines of improvement which have been either commenced or which are in contemplation. This is the case

all over the continent; and even in Turkey there is now in contemplation a railroad of some six hundred miles in length, one of the termini of which I believe is Adrianople, the other I do not recollect. This railroad is to be built by an English company, and will undoubtedly be supplied by English iron. Here will be a market for a large portion of the British surplus, after supplying her own demand. At any rate the continent of Europe will absorb the rest, and we shall not be overwhelmed with such a vast amount of imported iron for the next two or three years to come as we have been for years past. Let us then go on at the present rate of duties, without interfering with it by legislation on the subject; and you will find the more moderate establishments starting into life and vigor, and affording a competition which will reduce prices at least to some moderate standard—more moderate, I verily believe, than will be the case if only a few great establishments continue to exist, and you have to look for the rest of your supply to England.

I know, Mr. President, that many persons who have not given attention to this subject, will not be prepared to admit this proposition; but if I had time, and were to turn back to the history of the iron manufacture for the last thirty-three or thirty-four years, I should be able to show that home competition has done more than foreign to reduce the prices. If you reduce the duties, I repeat, you will break down your own more moderate establishments, destroy home competition, and give to English manufactures the power to impose their own prices. That is one of the laws of trade, as necessary as any other law of trade which has been established by the experience of mankind. When you turn back to the history of this branch of manufactures, you will find that the period when the domestic manufacture ceased, by having been broken down, the prices of the foreign fabric always advanced; and not only is this so, but you will likewise find that the highest prices prevailed in times when there was no domestic competition, in consequence of low duties, or no duties. That it would be better for the consumer to have a duty all the time, such as would create domestic competition, can hardly be doubted by any one who will take the trouble to examine the subject. It is, therefore, the duty of every one, it seems to me, who understands this subject, to resist this amendment. A single class is to be the only recipient of the bounty which it proposes; whilst all other classes are to be taxed for its benefit. If no other class was to be injured by the contemplated legislation, I should not be at all envious or jealous of the privileges that are to be conferred upon it; but when the wages of labor, the prices of agricultural products are to be reduced, and the interests of a large portion of the citizens of my own State prostrated, I feel bound to resist it with all the energy which I possess.

Mr. President, it is not only the iron manufacture, and those engaged in that branch of industry, who are to suffer. The great agricultural community, spread all over my own State and over all the agricultural States of the West and Northwest, are to suffer likewise. I could show you, too, if I had time, that its mischievous effects extend to the cotton-planter and sugar-grower of the South, as well as to the manufacturers, farmers, and laborers of the North and West, but I will not go into that at this period of the session.

For the purpose of showing how this kind of legislation affects the interests to which I have just referred, let me recur to facts. In 1840, by the returns made by the marshals, it appeared that there were four hundred and ten furnaces and forges in operation in the State of Pennsylvania. During the pendency of the bill, afterwards known as the tariff act of 1842, pains were taken to ascertain the number of furnaces which had gone out of blast between 1840 and 1842, and it was found that there were but two hundred and seventy of the four hundred and ten then in blast, one hundred and forty in the mean time having ceased operations; and it was admitted by all who were acquainted with the subject, that if something had not been done to relieve that branch of industry, a large proportion of the remaining two hundred and seventy would soon have been compelled to cease operations. It was ascertained by the same returns that those employed in and immediately dependent upon these four hundred and ten furnaces, forges, &c., consumed upwards of four millions of bushels of grain per annum, and more than a corresponding amount in value of beef, pork, hay, potatoes, and other vegetables. So that it will be seen that there was not less than eight millions of dollars' worth of agricultural products consumed by the persons engaged in the furnaces and forges in operation in Pennsylvania in 1840.

Now what would be the necessary effect of the ceasing of operations on the part of one half of that number?—and I take this proportion for the sake of easy illustration. Why, sir, a market in which two millions of bushels of grain had formerly been sold would be destroyed; and in addition to this, a market in which $2,000,000 worth of beef, pork, and vegetables found sale, would likewise be destroyed. But that does not tell the whole tale. The people engaged formerly in the manufacture of iron, ceasing to pursue that branch of industry, must do something for a livelihood. What would they do? To what would they betake themselves? To the manufacture of woolens and cottons? No, sir. The same policy which prostrated the iron manufacturer had striken down these other branches of industry along with it. They could not, then, even if they understood the business of weaving and fulling, or other industrial pursuits, get employment in them. They must then turn to that which, in the absence of mechanical industry, is the common employment of all the children of Adam; they must betake themselves to the cultivation of the soil. Then what is the state of things? In addition to having a market diminished to the extent of $4,000,000 per annum, you have the consumers converted into producers; perhaps producing an amount equal to that which they previously consumed. What effect, I repeat, would that have upon the agriculturist? Would it not be disastrous to them, and to those who look to them for employment and good wages?

But I have been told occasionally, and I have heard it remarked here in the Senate, that while it may be that the farmer in the vicinity of these furnaces and forges might be benefited, the great grain-growing regions of the West and Northwest would not derive any advantage from the prosperous existence of this branch of industry. Sir, this is a very great mistake. Every bushel of grain that is consumed diminishes the amount to be sold, and leaves a better market for what remains for sale. If the farmers of Pennsylvania can no longer find a market at their own doors, they will resort to New York, Philadelphia, and Boston, and to other great sea-port towns, to sell their produce, and there they will come into competition with the grain-grower of the great West, and of course a glut of the market, which will thus be produced, diminishes the price. That is always the case.

Now, Mr. President, are all these interests to be stricken by this amendment? Are these moderate establishments which, under the present prices, would revive, make money, and retrieve their late disasters, to be prevented from doing so? Are the farmers and mechanics of Pennsylvania, and all the other States in which this branch of industry is carried on, to be prevented from enjoying the market which these furnaces and forges afford to them?

While I was a member of the other branch of Congress, I once had occasion to advert to the consequences of domestic competition. In 1842, when we were asking for a duty of thirty dollars per ton upon rolled iron, and twenty dollars per ton upon hammered iron, I ventured to predict—and I do not often refer to my predictions—that by giving us the advantage of the duties which we asked, the price of iron, instead of being increased would be very soon diminished. Sir, if you go back to that period, and inquire what was the price of railroad iron in 1[illegible], you will find that it was then something like eighty dollars per ton. A duty of twenty-five dollars per ton was imposed by the act of 1842, yet, in 1845, railroad iron had fallen to sixty dollars per ton, and in 1849 to forty-five dollars per ton; and contracts were made even at the reduced price of forty dollars per ton. I am aware that many contracts were made lower than that for foreign iron; but I am referring to rates at home; rates ruinous to be sure, but which, if the act of 1842 had not been repealed, would have soon, by the influence of domestic competition and increased skill, become not only established, but remunerative. But by the act of '46, home competition was destroyed; and now, when low prices have done their work by breaking down most of the furnaces, forges, and rolling mills of the country, foreign nations send us their iron, demand their own price, and compel us to pay it. Yes, Mr. President, I repeat it, that if a proper degree of protection had been afforded to our infant establishments, home competition would have done for those who are the consumers of this article all that foreign competition did; and at this day they would not have to pay the high prices which they are seeking to reduce by partial legislation. Sir, if we had gone on under the influence of the act of 1842, we should now, in all probability, have been manufacturing iron at forty dollars per ton.

Gentlemen may talk to me about the duty imposed on articles increasing the price *pro tanto*. They say it must be so. It may seem so, but it has never been so. Perhaps I am going too far when I say never, but I say generally it is not so. I remember, and you, sir, remember, that there was at one time a duty of four cents per pound imposed upon nails, and yet during the existence of that duty nails fell to three and a half cents per pound. Under such a state of facts, what becomes of this doctrine? The duty on iron in 1828, 1829, and 1830, &c., was $36 per ton on railroad and bar iron; but it built up furnaces and forges and produced domestic competition, which increased the skill and brought about a reduction in price. And the whole history of the manufacture of iron in this country will show that the reduction of prices took place when the duties were high enough to produce domestic competition, and not when they were so low as to drive from it a large portion of those engaged in its manufacture.

In conclusion, I will only ask the Senate to pause before it confers this bounty upon corporations at the expense of individuals who have been struggling through so many years of adversity in the hope that a brighter day would dawn upon them. We used to hear the cry, "Do not disturb this question; leave it as it was settled in 1846; let it alone." That was the cry on the other side of the Chamber. We were told that the act of 1846 was the settlement of a vexed question, and that we ought not to disturb it, but wait until increased skill and a change abroad should enable us to compete with the foreign manufacturer. But now, prices having risen from circumstances accidentally beneficial to our own manufacturers and laborers, you disregard your own advice, and propose to counteract the circumstances by legislation. Sir, it is a false, it is a pernicious system of legislation under which the prosperity of the country can never be safe. There will be no steady advance of improvement and skill in the arts if there be not more of stability and wisdom in the legislation of Congress. It is this constant change which is ruinous to those who are engaged in industrial pursuits and occupations. They do not know what to look to; they are afraid to embark in enterprises requiring capital, lest by some unlooked-for change of legislation, the earnings of a lifetime may be swept away. I hope, therefore, the amendments proposing a change so disastrous, will not be adopted.

Mr. SEWARD. Mr. President, I regard the propositions submitted by the Senators from Illinois and Virginia [Messrs. DOUGLAS and MASON] as synonymous. I think it requires no prophet to foresee that to suspend the duty on railroad iron for three years will be virtually to suspend it indefinitely—that is, to repeal it altogether.

When I consider the magnitude of this subject, I am struck with surprise at the circumstances under which it is presented. It amounts to no less than this: to a derangement of the entire fiscal system of the Government of the United States, and a disturbance of the industry of the country, shaking the credit, and bringing into confusion the very resources of the Government. And under what circumstances does this grave question come before the Senate? Has it been recommended by the Executive Administration? No! Has there been a complaint brought before Congress by any portion of the people, that the present system is erroneous and requires to be revoked or modified? Not at all. Has any committee of this Senate recommended such a change? Not one. On the other hand, the Finance Committee which had recommended it has retracted and abandoned the ground. Who is it that brings this proposition here? And

under what circumstances, and in what manner is it done? It is brought before the Senate by a member from Virginia, on the sole ground that the State of Virginia has instructed him. Virginia alone, one of the thirty-one States—Virginia not seconded anywhere. And at what time? Why, in the very last week, and in the very last hours of the session of Congress, when the health, patience, and the capacity of members have been taxed to extreme endurance, we are brought to the consideration of a question which cannot be disposed of safely, not to say wisely, without carefully examining the whole fiscal system of the Government.

The measure before us proceeds upon the ground that we have gold to send to England and to Russia for iron; that we are rich, and can afford to ship gold to buy railroad iron, leaving our own iron and coal, inexhaustible as they are, to rest in our own mines. Sir, there was a King once who was as rich in proportion, and as independent, and as proud as we are. Crœsus was that King; and when a barbarian chief came to see him in his court, he displayed his treasures before the amazed savage, glittering heaps of bright yellow gold. The barbarian looked upon the treasure and said: "It is all very well, but whoever comes upon you with better iron than you have, will be master of all this gold." We shall find it so in the end.

Sir, I think my votes have shown that I have a correct appreciation of the great advantage to the United States, which have resulted from the acquisition of the gold of California. But, if I were required to choose to-day between the wealth that slumbers in the Sierra Nevada, and colors the sands in the bottoms of the streams of California, and the iron that lies in the unopened mines of Maryland, Pennsylvania, New York, and New Jersey, I should decide promptly at once to renounce the gold and save the iron. But when I have enumerated these States, I am conscious that I am only on the verge of the iron region of this broad continent. It extends through Virginia, Ohio, Kentucky, Tennessee, Missouri, and Nebraska. Sir, we are making iron roads across this continent. And what is now proposed? It is to bring the iron from England to make roads over the iron and coal-beds of these Alleganies, and of Missouri and our western Territories. There must be an urgent necessity for this, or the Senate would not, under such circumstances as these, listen to a proposition so novel and extraordinary, so contrary to all our settled principles of political economy. What, then, is the need for such a measure? Is it that your revenues are already too great, and must be diminished? It cannot be that, because you have never before either appropriated so liberally, or had occasion to appropriate so liberally, for the great objects of the Government. You have an unpaid debt of $100,000,000. You have got a new and vast territory to fortify, to secure, to make fast. It is the whole Pacific shore, as yet not fortified—not even connected with the middle and Atlantic regions of our country. You have not only to build custom-houses and mints there, but you want also docks, fortifications, and increase of your naval forces, harbor defenses, and everything that belongs to national power in California and Oregon. And you want not only these, but also an increase of the strength of the military arm to fulfill your treaty stipulations with Mexico, and protect that unfortunate country from the depredations of savages within our own unexplored wilderness.

And while you want all these things exterior to the defenses of the old States, what are you doing elsewhere? You are exploring the rivers of South America and the shoals of the Pacific ocean and opening the ports of China and Japan. And together with these mighty enterprises, what are you doing here? You are enlarging to twice their present capacity the dimensions of the Capitol and the Patent Office—laying out streets and squares, and building statues and monuments. You are supplying the capital, as you ought to do, with pure and wholesome water, and with light, and are embellishing it, to render it worthy a great nation and a refined people. No one has proposed, indeed it is the furthest possible from the idea of any gentleman in this Chamber, to propose to reduce the appropriations. You even multiply and increase salaries and pensions. The appropriations ought not to be reduced and cannot be reduced. But, strange to say, while you are increasing appropriations largely, profusely, many will think wantonly, you are at the same moment diminishing the revenue which supplies them. Well, have you ascertained whether this diminution will bear a just and proper proportion to your expenses, so that you will be able to carry on the great and munificent enterprises of the Government? If you have, I pray you to enlighten me. Who will tell me how much this remission of the duties on railroad iron will diminish the revenues of the Government? No man can answer whether it will reduce them one, or two, or three, or five millions a year. According to the best judgment I can form, and according to the experience we have had heretofore, we are to have a reduction of the revenue of the Government by an amount of three millions a year, for so long a period as this remission of duties shall continue. If you can dispense with three millions of revenue, come up to the actual relief of the people, and surrender the public domain, from which you exclude actual settlers, except they pay a dollar and a quarter an acre; and yet which, even with this tax, yields less than the three millions which you are striking off by this measure.

Now, unless you are going to diminish the amount of appropriations also—and I have shown that you are not going to do it—you cannot wisely adopt this measure, unless you have some other source of revenue to replace what is to be dispensed with. And what will you tax in the place of foreign iron? What else can you tax, if you cannot tax the manufacture? What mineral production of a foreign country which is most abundant and most necessary in your own?

I agree with the Senator from Pennsylvania. I can understand the proposition of *free trade*. It is an intelligible theory, and at some future period down the vista of years, it is probable that the world will come to understand that universal free trade is the wisest and most beneficent system of fiscal administration for any Government, and for all Governments, and so far as that forms the principle upon which this measure proceeds, I hail the introduction of it here. But free trade involves not one only, but two principles, not any absence of imposts, but direct taxation to support the Government. I call, then, upon those who introduced this measure of free trade to defend it upon that principle, to carry it out on that principle, by bringing in a bill for direct taxation to an extent which will replace the revenues surrendered. They will do no such thing. I say, then, that it is a spurious measure of free trade to relinquish the duties upon the introduction of iron, and yet supply no equivalent by either retrenchment or direct taxation. It must result in one of two things: in the creation of a national debt, or the impairing of the strength and vigor of the Government.

This is a proposition to remit the duty on railroad iron. It seems to me objectionable, on the principle to which I have alluded, that it disturbs the general adjustment of the revenues upon all the business interests of the country. In other words, it is unequal, and therefore partial and unjust. The burden of the measure must fall upon a few States, and upon a few citizens in those States—upon a single class of laborers, and upon capital invested in a single enterprise. What! are you going to strike off $3,000,000 of the $60,000,000 of revenue at the cost of two or three States, and at the cost of one class of laborers, and at the cost of capital invested in a single enterprise? Who will justify that? To me this question is as indifferent as to any other Senator here; for whatever you do to favor railroad capital and enterprise will benefit my constituents on Manhattan Island, and throughout all the connected towns and cities and rural districts in New York. Whatever you do to stifle manufacture, and quicken commerce at its expense, that will inure more directly to the benefit of the State which I represent than to the benefit of the States of other Senators who may vote for it. The city of New York will bring in all your iron, and will have all the profit upon the purchase and the shipping of it; and not one of the hundred dealings and transactions in foreign iron which will intervene before it is fastened down on the railroad will fail to pay a profit to the New York capitalist, broker, carman, or merchant. We, therefore, with but little capital invested in iron production and manufacture, and with our capital chiefly invested in commerce, will have the first and greatest benefit of this measure.

But although this consideration occurs to me to reconcile me as readily as any one to what is proposed, I cannot conceive it possible that any man would ask me to vote to strike off $3,000,000 of revenue at the cost of the manufacturer of railroad iron without expecting that I would, in reply, ask him, Why not strike it off from other iron—from iron imported in some other form or for other useful purposes—from iron used in the manufacture of spades, hoes, plows, nails, ship-building, cotton, woolen, and sugar manufactures, bridges, and public as well as private architecture?

Sir, no one will propose to strike off the duty which is imposed upon the iron that is imported for such purposes as I have mentioned, as well as for making those articles with which the ingenious mechanic and the plain country smith supplies the family and farming wants of society. Every one here would be ashamed to propose that, for the same reason that I am ashamed and mortified when a foreigner comes to my table and I am obliged to own that the shovel and tongs and the andirons at my fire-place, and the knives and forks on my table, and everything else he sees and touches, whether for use or ornament, is made by the foreign mechanic and artisan, to the prejudice of labor, industry, and art in my own country.

But I think it is a far deeper reproach against our national pride, spirit, and patriotism, that we should bring iron from abroad to make roads over our own iron ore beds, and thus, with plenty of labor, plenty of money, plenty of iron, and plenty of coal, yield ourselves up to dependence not only upon foreign money, but foreign enterprise and foreign genius and skill. I am shocked by such a want of nationality. What is the reason for it? We want cheaper iron. Well, what is the reason that iron is dear? Because the demand is great and the supply small. Why is the supply small? Because you have suspended the manufacture here for several years. Now the manufacture is reviving in spite of you. Leave it alone—it will regulate itself. Capital and labor and genius are erecting the forges and kindling the fires, the ore and coal-beds are giving up their treasures—you will soon enough have railroad iron abundant and cheap. It is only a question whether capital shall build the workshops and employ laborers and artisans in Pennsylvania, in Maryland, in New Jersey, in Tennessee, in New York, or whether the workshop shall be erected and employ artisans on the other side of the ocean. All your legislation is entirely unnecessary, for where there is an incessant demand there will be repletion, and repletion will be followed by exhaustion, which again results in an increase of the manufacture, until the supply is adequate to the consumption.

I have adverted to the circumstance that you discriminate against the capitalist and laborer, who are engaged in producing and manufacturing railroad iron, while you leave untouched the capital and the labor which are employed in the production and manufacture of iron for other articles of consumption. But can any man tell me what reason there is why Pennsylvania and Maryland and New Jersey and New York and Tennessee, should bear the cost of this great reduction of $3,000,000 in your revenue, while Louisiana shall remain protected in her sugar production and manufacture? But I will not be invidious towards a production of agriculture in southern climes. Can you tell me the reason why you still keep up your duty upon the manufacture of wool and of cotton, and single out this one iron interest, and this one partial department of the iron interest and iron labor? The reason is, that just now the Railroad King wants iron; the iron-mongers have rights indeed, but their rights must give way. They are the weaker power.

Mr. DAVIS. If the Senator will give way, I will move that the Senate adjourn.

Mr. SEWARD. I give way.

Mr. DAVIS. I move that the Senate adjourn.

Mr. HUNTER. I hope the Senate will not adjourn. Let us have a vote on this amendment.

Mr. BRODHEAD. I desire to suggest to the Senator from Virginia, the propriety of withdrawing the amendment, and let us go on with the civil and diplomatic appropriation bill in the proper way.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The motion to adjourn is not debatable.

Mr. BORLAND called for the yeas and nays

on the motion; and they were ordered, and being taken, resulted—yeas 16, nays 32, as follows:

YEAS—Messrs. Bell, Butler, Chase, Clarke, Cooper, Davis, Dawson, Fish, Geyer, Jones of Tennessee, Miller, Pettit, Pratt, Seward, Soulé, and Wade—16.

NAYS—Messrs. Badger, Borland, Bradbury, Bright, Brodhead, Cass, Charlton, De Saussure, Dodge of Wisconsin, Downs, Fitzpatrick, Foot, Gwin, Hale, Hamlin, Houston, Hunter, James, Jones of Iowa, Mallory, Mason, Morton, Norris, Phelps, Rusk, Sebastian, Shields, Smith, Spruance, Sumner, Underwood, and Walker—32.

So the motion to adjourn was not agreed to.

Mr. SEWARD. I was exposing the injustice of this proposition in regard to that class of laborers, and of capitalists. The manufacture of railroad iron is exceedingly expensive. Large investments are necessarily made. Vast establishments, but nevertheless such as were necessary, were built some years ago, and were just put into successful operation, when the plethora in the iron market in Europe made such a reduction in the price, as to deprive the American capitalist and the American laborer of fair rewards. That has continued until just now. During all this period, the capitalists and the laborers who have been engaged in this business, have been appealing to Congress at every session, and at every day of every session, to give them protection against the foreign manufacturer. A deaf ear has been constantly turned to them by Congress, and they have been left to struggle with the foreign manufacturer as they could, until now, when, without the interposition of Congress, a favorable change of prices has come, and they have just now begun to repair their forges, to open anew their mines, to begin anew the process of mining industry. It is at this juncture, just as the cup, which by their own effort they have grasped and borne upwards, has reached their lips, that Congress is invoked to interpose and dash it to the ground. What is there in the character of these miners, and these capitalists, and these laborers, that they, of all others, should be singled out for such peculiar, such severe, such discriminating injustice? I see nothing. Look at what their branch of industry contributes to the public wealth. It is, next after agriculture, the most essential element of wealth. Sir, there have been many countries which have been impoverished by mining in gold and silver, because they ran a rapid career of commerce, passing through improvidence and luxury into national decline; but from the beginning of the world to this day, there never was a nation that was not strong, energetic, prosperous, and long-lived that drew the resources of its wealth from its iron mines.

I wish now to address a word of caution to those who think they have no particular interest in this question, but who have an interest in other departments of the national industry. We all know the history of the tariffs of 1842 and of 1846—the history of the system of revenue upon imports in this country. We know that it requires the coöperation, the concerted action of all the industrial classes, and of capitalists of every description, to adjust and render equal, and to procure the establishment of a system of imposts with any view whatever, direct or indirect, to the protection and encouragement of American industry. We have heretofore stood together. We who were for protecting iron have stood by the Vermont farmer in protecting wool, and the Massachusetts manufacturer in protecting the manufacture of both cotton and of wool. We have stood by the cotton-planter in protecting the manufacture of cotton, and we have stood by the sugar-producer in protecting him against the competition of the other sugar-growing regions.

Mr. DAWSON. Will the Senator tell me how they have stood by the cotton-planter?

Mr. SEWARD. My honorable friend from Georgia is an exceedingly astute legislator and political philosopher, and I have no doubt, that if left alone, he will work out that problem by himself to his entire satisfaction. It is too late in the day and too late in the session for me to be diverted to collateral points in the argument.

Mr. President, the whole manufacturing interest of the country is in danger, and it is in danger because we who are its friends are demoralized and divided. Your railroad men have come and whispered in the ear of the cotton-producer and the cotton and woolen manufacturer, "We will just make a small sacrifice of the iron of the miners in Pennsylvania and New Jersey, and it will not affect you in the least; but on the other hand, you will be all the better and all the stronger. Duties on other imports must continue." Mr. President, if this is what they do in "the green tree," under the auspices of the specious doctrines of free trade just coming in with the next Administration, I will tell you what they do in "the dry." In the very next session of Congress they will come with arguments equally strong and equally forcible; and then the manufacturers of Lowell may look to the safety of their spindles, and the sugar and cotton growers of the South may look to the safety of their sugar-fields. And the wheat growers of Maryland, and the corn growers of Ohio and Illinois, may look to the safety of their respective cultures. We have no monopoly for iron, therefore gentlemen may think we can import iron. Why, sir, we have no monopoly of gold, and it is yet to be seen whether gold will not be produced more abundantly and more cheaply in Australia than in California; and then I ask, as there are indications that this is to be so, and labor is cheaper there, and society is organized there upon principles of greater economy, and there is access from Australia more directly to India and China than there is from the shores of California, who there is here that would be willing to let the gold remain undisturbed in California because gold will be procured cheaper in Australia? The principle is precisely the same. The sacrifice of golden *revenues* is less ruinous than that of our wealth in iron.

Mr. President, it is hard at best for the capitalist and the laborer to pay for the support of this great and expensive Government—a Government which extends itself broader and broader, and at an ever increasing expense, across this continent, and grasps, if not dominion, influence and power throughout both hemispheres. It is only just to them that they should be consulted, and have notice that you are going to adopt any measure which may seriously affect their interests; and what do we say here? Has any notice been given? Has any alarm been sounded from this Capitol, during the three months we have been in session here, to the miner in Pennsylvania, and Maryland, and New Jersey, and Tennessee, giving him notice that the Government was going by one speedy, direct act, to suppress the branch of industry in which he is engaged?

Mr. JONES, of Tennessee. Will the Senator permit me to interrupt him? He asks if any notice has been given to the country on this subject? I will inform him that notice was given, so far as an intimation could give it, at the very beginning of the session, by the introduction of a resolution and its reference to the Committee on Finance, instructing them to report in favor of this very measure.

Mr. SEWARD. I suppose the country heard that notice, and has governed itself accordingly. A resolution was introduced by somebody in this manner, and referred, of course, to a committee, which committee has never reported upon the subject at all. I apprehend the country has never understood that this proposition would be brought forward at all. Certainly in no part of the country has it been understood, except in the capital at Richmond, in Virginia. But my honorable friend's reply, if it is good in this case, will have a very extensive application. The country has had notice of a great many things at this session—a great many terrible things. It has had notice of our taking Cuba. It has had notice, too, that we were going to arrest all communication with Mexico, to open the Isthmus of Tehuantepec; but we have not done any such thing. The country and all nations besides—"all the world and the rest of mankind," I think the phrase is—have had notice that we were going to arrest colonization in the Bay Islands; and the country has learned to understand the Senate and Congress of the United States, and they understand that when a very great noise is made, it is apt to be followed by a concussion not at all adequate to the commotion of the air which preceded it. So I say that the country is taken by surprise by this measure; all the persons engaged in this branch of industry are to be taken by surprise.

But again: Do we suppose that we can disturb so great an interest as this, and leave other interests unaffected? I am sure that I am as liberal to the new States as any one, but I warn gentlemen of the old States that this is the beginning of a system which is, if pursued, to result relatively in depopulating the old States, to deprive them of their capital and industry, and build up the intermediate and western communities at their expense. It will discharge I do not know how many thousands of the manufacturers of Pennsylvania and Maryland, and what will they do? Where will they go? Will they stay in Pennsylvania to till the rugged surface of the mountain, when they are excluded from the mines which lie beneath that surface? No, sir. They must go west to make railroads, and to dig for gold in California; and when they are gone their places will not be supplied. The foreign laborer comes here, and he only touches at the gate, and then marches on to make railroads and to dig gold on the shore of the Pacific; and when the foreign and domestic laborer and their capital have been put in motion, making railroads and digging gold in California, the farmers follow them, and the prices of agricultural productions diminish. You build up the West to an unnatural growth. Every vote which I have given here upon western interests has shown that it has been given upon the principle of encouraging the speediest possible settlement of the great western domain at every hazard and cost, common to the whole country, not prejudicial to any one part; but that growth, desirable as it is, must be one that is regulated in harmony with the interests of the Atlantic States. It is certain that just so sure as you stimulate it to an excessive and more rapid growth by affecting the vigor of the old States, just so sure that growth becomes sickly, and will result not only in decline in the East, but also in decline in the West and throughout the nation. The Atlantic States are the base upon which we must erect this great superstructure of empire in the West. We must make the base firm, solid, broad, perpetual, if we would have a structure which shall be endurable.

I ask, now, what is the apology for this extraordinary measure? It is that it will encourage the making of railroads. Sir, I have spent my life—what there has been of it spent in public action—in encouraging the making of canals and railroads. I am a friend to canals and railroads; but I show my fidelity to them in adhering to them when they are *unpopular*, and *need help* and *support* and *patronage*, and not when they have patronage so great as to be alarming for its effect, not only upon enterprises of that class itself, but upon the country itself. Do you know how many railroads you are making? You are making twelve thousand miles of railroad in the United States already. You are making them so fast that you do not rely upon your own resources for making them at all, but you are selling the credit of individuals, towns, counties, and States throughout the Union in untold amounts, and constituting an aggregate debt greater than any amount which any man ever presumed it would be safe for this country to owe in foreign countries. Your railroads are not now made chiefly by subscriptions to their stock. There are small substratum subscriptions; then mortages on the road, then second mortages, then third mortages, until the credit of whole communities is pledged and pledged to the English capitalist.

We are pledged in London for the cost of nearly all our railroads; our capital is being diverted so that there is no place in the United States where there is not a railroad being made. There are already half a dozen railroads from the point of Lake Erie to the city of New York, all converging there, because railroads have become popular and profitable. So it is throughout New England, and throughout the West. Now, it is not possible that the railroad enterprise in this country can absorb capital in an excessive degree without producing an injury, not only to that enterprise and those subservient to it, but also injurious to other enterprises which increase the vigor and promote the progress of the country. Does any man doubt it? What did we do ten years ago when we embarked in building canals and railroads so deeply, and pledged our credit so far that the construction of every canal and railroad had to be suspended? What happened in England on a like occasion, but that a great railroad king projected railroads all over the island, and so much capital was invested in them that all at once the bubble was pricked, and the whole railroad enterprise collapsed, bringing on general stagnation and bankruptcy. That is the tendency of things here now. I am not by habit a croaker, but I can see that unless the National Govern-

ment shall act so as to restrain rather than encourage and stimulate this excessive spirit of speculation in railroad investments, just such a collapse will happen here. Railroads do not need protection. Iron manufacture does need it. There is scarcely a town in the State of Ohio containing five hundred souls but what is pledged, mortgaged for ten, twenty, thirty, or forty thousand dollars, for money to make railroads. Through the town in which I live, and the towns adjacent, the people, carried away by a railroad enthusiasm, have applied to the Legislature for permission to mortgage their whole property, and for the making of railroads; and yet there is not one railroad which they are thus making in which foreign capitalists will invest a dollar except he has collateral personal or public security.

But, you will tell me that Congress has not encouraged railroads. Congress has already encouraged railroads by donations of duties on foreign railroad iron exceeding the sum of $3,000,000. Congress has already, with almost our unanimous vote in this Chamber, given to every western State land enough from the public domain—as much as they said was necessary—to construct a web of railroads now in progress and advancing to its completion, covering over the whole of the Territories of the United States, from the shores of the Atlantic to the Mississippi river, and crossing even from that point, and advancing precisely upon the same system and same policy towards the base of the Rocky Mountains. We have done enough, unless we have some other resources, some other revenue which we can apply to this great and beneficent enterprise of the age; and we have no other, if the only other one is the sacrifice of the mining interest of the iron in the old Atlantic States.

Sir, I have voted land by the square league across the continent and twenty millions of dollars out of the public Treasury for railroads. I will not vote one dollar out of the iron mines of my country at the cost of its owner and of the miner who is engaged in drawing its wealth to the surface.

Mr. HALE. I desire to say a few words on this subject, and I can say them as well now as at any time. Unless, therefore, the Senate desires to adjourn, I will go on.

Mr. DAVIS. I move that the Senate adjourn.

Mr. HALE. I am not desirous to adjourn. I can go on as well now as to-morrow, but I desire to submit to the wish of the Senate.

Mr. BORLAND called for the yeas and nays; but they were not ordered.

The question being taken, the motion to adjourn was not agreed to; there being, on a division—ayes 18, noes 24.

Mr. HALE. I am glad that the Senate refused to adjourn. I did not want it to adjourn on my account. When I speak, I desire to address the understanding of the Senate, and not a crowd, and I should prefer the Senate to hear it. I want to say a word or two in regard to this subject; and in the first place allow me to say, that the State which I have the honor in part to represent for a very little time, has no particular interest in this question. We make no railroad iron. The most we do is to pay taxes. The honorable Senator from New York made a complaint, to which I wish to call attention. He complained that no notice was given to the country that this was about to be moved; and then, when the honorable Senator from Tennessee reminded him that notice had been given, he seemed to intimate that the notice did not amount to anything. In the first place he complained that the notice was not given, and then when it was given it did not amount to anything. But let that go.

Mr. President, this is the most favorable time the country has ever had or ever can have, from now to the end of time, to consider this proposition, and if they ever mean to listen to it, now is the time. Why? Because, I think by the admission of the Senator from Pennsylvania, there are not more than two furnaces in Pennsylvania in operation making railroad iron.

Mr. BRODHEAD. Seven or eight.

Mr. HALE. I got my information from the other Senator from Pennsylvania, [Mr. COOPER.] But take the largest number. I will take the data given by the honorable Senator from New Jersey, [Mr. MILLER.] He says there will be used next year about two hundred and fifty thousand tons of railroad iron. I take it that the amount manufactured in this country will not exceed one tenth of that. Then nine tenths of the railroad iron to be used next year, as things now are, will be imported; and the duties upon two hundred and fifty thousand tons to be imported, according to the estimate of the Senator from New Jersey, at fifteen dollars a ton, will amount to nearly four millions of dollars.

Mr. CHASE. Twelve millions.

Mr. HALE. No, sir; I am getting it for one year. If I am right, the duties on two hundred and fifty thousand tons, at fifteen dollars a ton, which is about the ad valorem duty, will make in one year $3,700,000.

Mr. WALKER. Say four millions.

Mr. HALE. I think I am right, just exactly as I am—$3,700,000; and if I am not right, I wish the Senator from Kentucky would go to work and figure it out, and correct me when he comes to the result. [Laughter.] One tenth of that will be very little over $300,000, which amount will go to the American manufacturers, and the rest of the country must be taxed with the other nine-tenths of the $3,700,000. It is very easy to figure that out. It does not require much ciphering. We can do it by a simple rule. We do not have to extract any root to get at the result.

Mr. COOPER. Into whose pockets will the balance of the $3,700,000 a year go?

Mr. HALE. I will come to that in a moment. According to the argument put forth by those who sustain the duty, then, the rest of the country has to be taxed nine tenths of the $3,700,000, in order that the manufacturers of this article may put the other tenth in their pocket. That is the way the thing stands.

In delivering the very short address which I mean to make to the Senate, I had in my mind the question which the Senator from Pennsylvania proposes. He asks into whose pockets will the balance—the other nine tenths—go, if this duty is taken off? It will go to the benefit of the consumers of railroad iron—those interested in this sum directly or indirectly. Who are they? It is very fashionable to say they are corporations. Well, sir, the State that I have the honor in part to represent here is made up of corporations. There is not a man, woman, or child, in the State of New Hampshire that is not part of a corporation. All our townships are municipal corporations, and when you attack corporations, you attack every man, woman, and child in the State. We are a community of corporations, and when you fling at corporations, you hit us all over. These railroad corporations are not quite so general as that. They do not embrace every man, woman, and child in the States, but are they not nearly as general? The Senator from New York says, that every town of five hundred souls in Ohio is so deeply interested in railroads that it is mortgaged for them.

Mr. CHASE. That is not so.

Mr. HALE. I did not suppose it was literally true. It was a sort of Pickwickian enlargement of an idea. [Laughter.] But there is a truth that lies behind the rhetoric, and that is, that there is a very general interest in this subject all over the country. The railroad interest has got to be, to a great extent, a general interest, and it is managed by corporations, because it is impossible for those that would avail themselves of its privileges to do it without the advantages of a corporation to a greater or less degree. It is another answer to the argument which has been raised from the general interest to say that that general interest is of such a character that it cannot be successfully managed without corporate privileges conferred upon those who manage it; and therefore, when it is said that this is for the benefit of corporations, the corporations for whose benefit it is to be made comprise a very large majority of the people of the United States.

Then, sir, this is a plain, simple proposition: Are you willing to-day to tax the people of the whole country nine tenths of the three or four millions of dollars, and make us pay it, that a very small and insignificant fraction of the people—speaking of numbers—may put a sum equal to one tenth of that into their own pockets? There is the argument in a nut-shell—plain and palpable.

The honorable Senator from New York, who has a very enlarged philanthropic heart, made one suggestion which it seemed to me was not exactly in accordance with the general tenor of his life, and he seemed to feel it, for he uttered an apology so close in connection with it that I do not know which he thought most of, the idea or the apology. [Laughter.] It was that this is to build up the West. I am no demagogue for the West. I believe I could adopt the Baltimore platform in that—making no distinction between the North, South, East, and West, but looking upon myself as a citizen of the common country, and rejoicing in whatever advances the prosperity of any portion of it. And, sir, it is no argument to my mind against a measure that it is going to advance the interests of one section of the country beyond what it does another, unless it advances those interests at the expense of the interests of another.

Mr. SEWARD. Does the honorable Senator mean to imply that I maintain such a proposition?

Mr. HALE. I think I have done the Senator justice. I gave the idea and the apology. I think one neutralizes the other, and that there is not much to be gathered from them. The honorable Senator feels that now. [Laughter.] Allow me to say another thing. The country is constantly changing, and what was once the West is "down East" now. I can remember when a man who talked about going to "the Ohio," as our fathers called that State, was thought to be going to the "far West." I remember that President Monroe once recommended a plan for carrying the Indians west of Lake Michigan, and he thought that if they got them so far west nothing but sunset would ever find them. [Laughter.] That proposition was in one of the messages of President Monroe. You draw a central line through the Union, dividing it into equal sections east and west, and it will be found that New Hampshire, which had the honor of raising the honorable Senator from Michigan, [Mr. CASS,] has not lost him by his going west, for he will be found in an eastern State still.

Now what part of the country is to be interested in the great Pacific railroad? I mean when it can be done constitutionally—for the honorable Senator from South Carolina [Mr. BUTLER] does not go for it unless it can be done constitutionally. When it can be done constitutionally, what State will not be interested in it? What State is not sending out her sons to people that "far West?" What heart is there here that does not rejoice to know that the means of communication between us and that far-distant part of our land to which our kinsfolks and friends have gone, shall bring it nearer to us, and that the interchange of thought may be more easy and more rapid? Not one. I live almost at the extreme east. There is but one State east of mine, and there will not be more until we begin the annexing process on that end, which we may do by and by. But although I do live far east, I feel a deep interest in this great railroad, and I hope and trust that it will be built and that very soon. An immense capital is to be invested in purchasing the rails to build it; and I ask the Senator from Pennsylvania [Mr. COOPER] if he loves his own State so well that he is willing to have the rest of the Union taxed as they must be taxed if this duty is continued, for the purpose of putting the paltry pittance that Pennsylvania can make from her manufacturers for this great work into the pockets of companies there?

Mr. COOPER. Does the Senator want an answer?

Mr. HALE. Yes, sir; but I will not occupy the attention of the Senate long. These ideas I have thrown out, because I have thought there was something in them. I do not mean to say that other speeches that have been made on the subject have not had something in them. [Laughter.] But I think these are matters that ought to be considered. I wish to call the attention of the Senate to the peculiarities of the times. Take the most extravagant estimate, made by the honorable Senator from Pennsylvania, [Mr. BRODHEAD.] I honor that Senator's zeal, sir. I believe he is Pennsylvania all over, and I believe he would almost step off from the platform rather than that Pennsylvania should be injured in her iron interest. But there has not been for many years a time when so little capital has been invested in the iron manufacture as there is at this moment.

Mr. COOPER. That is not so. The Senator is mistaken in that statement.

Mr. HALE. I hope the Senator will enlighten the Senate. By the operation of the tariff act of 1846, the capital which was invested in making

railroad iron has been diverted. The forges are standing still. What will you do? The country will not pay this duty long. When the general want requires a duty taken off from an article, the people will have it so. They had it taken off tea and coffee, and it could not be got back again. Platforms will have to break, and organizations dissolve, before the imperious demands of the people and the popular want. There never will be a time so favorable as the present, for the very reason that the moment you consent to delay, the state of things which is anticipated will commence; that is, a new stimulus will be given to the manufacture of railroad iron, new manufactories will spring up, and old ones which have been discontinued, will commence again, and then, when you come here twelve months hence, these works, which are now so insignificant that they scarcely manufacture twenty thousand tons in a year, will have got up to fifty or even a hundred thousand tons, and an immense amount of capital will be invested in them, and there will be much more difficulty in accomplishing the removal of the duty. I therefore say, that if you are ever to meet this thing, you must look it distinctly in the face, and satisfy the demands of the people. "Now," to-day, is the very "accepted time." Having thrown out these suggestions, I will not trespass any longer upon the time of the Senate.

Mr. MILLER. Mr. President, when I was up before, my remarks were abruptly brought to a close by the withdrawal of the amendment of the Committee on Finance——

Mr. HUNTER. I do not wish to prevent the Senator speaking, but I desire to make a suggestion to my colleague. If it does not succeed, the Senator can go on. It is so obvious that we cannot go on with the appropriation bill, that I rise for the purpose of appealing to my colleague to withdraw his amendment.

Several SENATORS. The yeas and nays have been ordered, and it cannot be withdrawn except by unanimous consent.

Mr. MASON. I would yield to the request of my colleague, who I know, as chairman of the Finance Committee, feels that the discharge of his duty with regard to the civil and diplomatic appropriation bill requires him to use his best exertions to get it forward as fast as possible. But as I feel bound to carry out the instructions of my State, I must decline to withdraw the amendment.

Mr. BRODHEAD. Then I move that the Senate adjourn.

Mr. BORLAND called for the yeas and nays; and they were ordered.

MESSAGE FROM THE HOUSE.

Pending the motion to adjourn, by unanimous consent a message from the House of Representatives was received, by Mr. HAYES, Chief Clerk, announcing that it had passed the bill from the Senate to extend the preëmption rights to unsurveyed lands, and for other purposes, with an amendment.

On motion by Mr. DOWNS the Senate refused to concur in the amendment, and asked for a Committee of Conference.

Also, that it had passed the following bills from the Senate:

An act for the relief of Francis E. Baden;

An act to authorize the Secretary of the Treasury to issue a register to the bark May, of Baltimore.

Also, that it had passed the following bills:

An act making appropriations for the naval service for the year ending the 30th of June, 1854; which was read a first and second time, and referred to the Committee on Finance;

An act authorizing the Selectmen of the town of Chelsea, in the State of Massachusetts, to lay out and make a way on lands of the United States in said town;

An act authorizing the issuing of a register to the brig Boundary, and to change the names of the steamers Roger Williams and propeller Ontario; which was read a first and second time, and referred to the Committee on Commerce.

TOWN OF CHELSEA.

The bill from the House of Representatives authorizing the Selectmen of the town of Chelsea, in the State of Massachusetts, to lay out and make a way on lands of the United States, in said town, was read a first and second times and considered as in Committee of the Whole.

It proposes to confer on the Selectmen of the town the power to lay out a street not exceeding fifty feet wide, over lands of the United States north of the marine hospital, provided it can be done without detriment to the public interest.

No amendment being proposed, the bill was reported to the Senate, ordered to be read a third time, and was read a third time, and passed.

COMMITTEE ON NAVAL AFFAIRS.

On motion by Mr. GWIN, it was

Ordered, That the President of the Senate be directed to appoint an additional member of the Committee on Naval Affairs.

Mr. CHARLTON was appointed.

The question being taken by yeas and nays on the motion to adjourn, resulted—yeas 28, nays 26; as follows:

YEAS—Messrs. Bayard, Bell, Bradbury, Bright, Brodhead, Butler, Cass, Chase, Clarke, Cooper, Davis, Dawson, De Suassure, Felsh, Fish, Geyer, Hamlin, James, Jones of Tennessee, Miller, Pearce, Pratt, Seward, Smith, Soulé, Spruance, Underwood, and Wade—28.

NAYS—Messrs. Adams, Badger, Borland, Charlton, Dodge of Wisconsin, Dodge of Iowa, Downs, Fitzpatrick, Foot, Gwin, Hale, Houston, Hunter, Mallory, Mason, Morton, Norris, Pettit, Phelps, Rusk, Sebastian, Shields, Sumner, Toucey, Walker, and Weller—26.

So the motion was agreed to; and

The Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *February* 28, 1853.

The House met at eleven o'clock, a. m. Prayer by Rev. C. M. BUTLER.

The SPEAKER. The question first in order is the consideration of the motion made by the gentleman from Maryland [Mr. WALSH] to suspend the rules, so as to enable the Committee on Invalid Pensions to report the bill of the Senate, No. 227, entited "An act for the relief of Frances E. Baden."

REGISTERS.

Mr. HAMILTON. I would beg my colleague to allow me to ask the unanimous consent of the House for leave to take from the Speaker's table the bill of the Senate No. 642, entitled "An act to authorize the Secretary of the Treasury to issue a register to the bark May, of Baltimore." That bark is now ready to start on a voyage to Brazil, and only waits for the passage of this bill. Unless it be passed at this time, she will have to lay over at Baltimore until the next session.

There being no objection, the bill was taken up for consideration, and read a first and second time by its title.

Mr. BROOKS. I desire to submit an amendment of a character similar to the bill.

The SPEAKER. The amendment can only be entertained by unanimous consent.

Mr. HAMILTON. I demand the previous question on the bill.

Mr. HAVEN. I will state to the gentleman from Maryland that we passed a general law at this session covering all such cases.

Mr. HAMILTON. This bill came to the House from the Senate the other day, and I trust that it may be passed.

Mr. DUNCAN. I would ask, Mr. Speaker——

The SPEAKER. The previous question having been demanded, debate is not in order.

Mr. BROOKS. I shall not, as I intended, present an amendment to the gentleman's bill.

The previous question was seconded, and the main question ordered to be put.

The bill having been read through, it was ordered to be read a third time, and having been, according to order, read a third time, it was passed.

Mr. HAMILTON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., notifying the House that that body had passed the bill of the House entitled "An act making appropriations for the support of the Army for the year ending the 30th of June, 1854," with sundry amendments, in which they asked the concurrence of the House.]

Mr. DUNCAN. I would ask the unanimous consent of the House for leave to report from the Committee on Commerce a bill entitled "An act to authorize the issuing of a register to the brig Boundary." The bill has received the unanimous approval of the Committee on Commerce.

There was no objection, and the bill was reported to the House, and read a first and second time by its title.

Mr. BROOKS. I move to amend the bill by adding the following as an additional section:

SEC. 2. *And be it further enacted*, That the owners of the steamboat Roger Williams be, and they are hereby, authorized to change the name of the said boat to that of El Paraguay; and that the owners of the propeller Ontario be, and they are hereby, authorized to change the name of the said propeller to the Carrier Pigeon.

The question was taken, and the amendment was agreed to.

The bill was then ordered to be engrossed and read a third time, and being engrossed, it was, according to order, read a third time and passed.

Then, on motion by Mr. DUNCAN, the title of the bill was amended by adding thereto the following: "And to change the names of the steamer Roger Williams and the propeller Ontario."

Mr. DOCKERY. I wish the unanimous consent of the House for leave to introduce the following resolution:

Resolved, That the President communicate to this House, if not incompatible with the public interest, copies of all the correspondence which has taken place between this Government and our Minister at Madrid, and between the latter and the Spanish Government, on the subject of the several expeditions by adventurers from the shores of the United States against the Island of Cuba, and the capture, punishment, and release of all prisoners in any way connected therewith.

There was no objection, and the question was then put, and the resolution adopted.

Mr. WALSH. I now demand the consideration of the regular order of business.

The SPEAKER. The question first in order is the consideration of a motion to suspend the rules so as to enable the Committee on Invalid Pensions to report Senate bill No. 227.

FRANCES E. BADEN.

Mr. WALSH. The bill is for the relief of a woman who is old, feeble, and blind, and I trust that it will meet with the favorable action of the House.

The question was taken, and the rules were suspended.

Mr. MARTIN, from the Committee on Invalid Pensions, reported to the House Senate bill No. 227, entitled "An act for the relief of Frances E. Baden."

The Clerk read the bill through.

The bill was then ordered to be read a third time, and having been, according to order, read a third time, it was passed.

PRE-EMPTION RIGHTS.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to take from the Speaker's table Senate bill No. 586, entitled "A bill to extend preëmption rights to unsurveyed lands, and for other purposes."

There was no objection, and the bill was taken up, and read as follows:

"*Be it enacted, &c.*, That so much of the provisions of the act, approved on the 4th of September, 1841, entitled 'An act to appropriate the proceeds of the sales of the public lands and to grant preëmption rights,' as prevents a right of preëmption from accruing to a person who shall have settled, or who shall settle, on land not surveyed, or on 'sections of land reserved to the United States, alternate 'to other sections granted to any of the States for the con-'struction of any canal, railroad, or other public improve-'ment,' be, and the same is hereby, repealed, and the right of preëmption is hereby granted to the person who, at the passage of this law, is an actual settler on either of the aforesaid classes of land, and who made the first settlement thereon, and to the first settler who shall hereafter settle on any tract of said lands not rightfully claimed by any existing settler at the date of this act, as if the disabilities removed by this repeal thereof had never existed: *Provided*, That the settler on unsurveyed land shall give the 'notice' provided by law, to the register of the proper land office, within three months after the filing of the plat of survey in said register's office; and the settler at the date of this law, on any of the alternate sections above referred to, shall file such 'notice' within three months from the date of this act; and when he comes forward to consummate his claim by filing the necessary proof, shall make payment therefor at the increased minimum attached to the land claimed: *Provided further*, That any settler who has settled, or may hereafter settle, on reserved lands, shall be entitled to all the rights of preëmption granted by this act and the said act of 4th of September, 1851, after the land shall have been released from reservation in the same manner as if no reservation had at the time of settlement existed."

Mr. BROWN. I move to strike out the whole of the bill from the enacting clause, and insert the following substitute, which I understand meets with the approbation of the friends and opponents of the bill:

That the preëmption laws of the United States, as they now exist, be, and they are hereby, extended over the alternate reserved sections of public lands along all the lines of all the railroads in the United States wherever public lands have been, or may be granted, by acts of Congress; and that it shall be the privilege of the persons residing on any of said reserved lands, to pay for the same in soldiers' bounty land warrants, estimated at $1 25 per acre, or in gold and silver, or both together, in preference to any other person, and at any time before the same shall be offered for sale at auction: *Provided*, That no person shall be entitled to the benefit of this act who has not settled and improved, or shall not settle and improve such lands, prior to the final allotment of the alternate sections to such railroads by the General Land Office: *And provided further*, That the price to be paid shall in all cases be $2 50 per acre, or such other *minimum* price as is now fixed by law, or may be fixed upon lands hereafter granted, and no one person shall have the right of preëmption to more than one hundred and sixty acres.

The SPEAKER. The question will be upon the amendment.

Mr. STEPHENS, of Georgia. I understand, from the reading of the amendment, that it covers the objection I made on last Saturday, and confines the operation of the bill to settlements made anterior to the location of the road.

Mr. BROWN. Yes, sir.

Mr. STEPHENS. I am in favor of it, and think that it ought to be passed.

Mr. MOORE, of Louisiana. I ask the gentleman from Mississippi to permit me to offer a proviso to that bill.

Mr. BROWN, of Mississippi. I cannot do it. I demand the previous question upon the passage of the bill.

Mr. McMULLIN. Do I understand that the House has taken up the bill?

The SPEAKER. By unanimous consent.

Mr. McMULLIN. I thought the amendment was read to ascertain the sense of the House.

The SPEAKER. No objection being made, the Chair distinctly stated that the question would be upon the amendment.

Mr. HENDRICKS. But there was no objection made.

Mr. McMULLIN. I thought the time to object was after the amendment was read for the information of the House.

The SPEAKER. That is true; but the Chair paused and stated if there be no objection made, the question will be upon the amendment, but no objection was made for a minute or two.

Mr. McMULLIN. I rise to make objection now.

The SPEAKER. It is too late. The previous question is demanded.

Mr. MOORE, of Louisiana. I would ask the gentleman from Mississippi to permit me to introduce as an amendment to his amendment the proviso which exists in the original bill.

Mr. BROWN. I will consent to have it read.

The SPEAKER. It can be read only by unanimous consent of the House.

Mr. KING, of New York. I have no objection to its being read for the information of the House.

The proviso was then read as follows:

Provided, That any settler who has settled, or may hereafter settle on lands heretofore reserved on account of claims under French, Spanish, or other grants which have been or shall be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of preëmption granted by this act and the act of 4th of September, 1841, entitled "An act to appropriate the proceeds of the public lands, and to grant preëmption rights" after the land shall have been released from reservation, in the same manner as if no reservation had, at the time of settlement, existed.

Mr. BROWN. Very well. I have no objection to the proviso.

Mr. KING, of New York. I object.

The previous question was then seconded, and the main question was ordered to be put.

The question was then taken upon Mr. BROWN's amendment; and it was decided in the affirmative

The bill was then read a first and second time, and ordered to a third reading; and, according to order, was read the third time, and passed.

Mr. BROWN, of Mississippi, moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. HOUSTON. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. EWING. I hope the gentleman from Alabama will yield me the floor.

Mr. HOUSTON. I cannot. My conviction is that the appropriation bills will be lost unless we proceed to their consideration.

The question was then taken, and it was decided in the affirmative.

DEFICIENCY BILL.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HALL in the chair.)

Mr. HOUSTON. I move to take up House bill No. 335 as amended by the Senate. It is the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th June, 1853.

The question was then taken, and it was decided in the affirmative.

Mr. HOUSTON. The first amendment (which the committee will find in the clause providing for outfit of a chargé d'affaires to Austria, $4,500) is to strike out "Austria," and insert "Denmark," so that the clause will read:

"For outfit of a chargé d'affaires to Denmark, $4,500."

It is recommended by the Secretary of State.

The question was then taken upon concurring in the amendment, and it was decided in the affirmative.

The second amendment of the Senate, to insert the following as an additional clause, was read:

"For salary to the commissioner at the Sandwich Islands from the 7th of June, 1850, to July 1st, 1852, and to make the same equal to the sum now provided for by law, $4,414."

The object of this amendment is to make the compensation of the present commissioner there conform to what was appropriated at the last session, and which was appropriated to his predecessor.

The question was then taken upon concurring in the Senate amendment, and it was decided in the affirmative.

So the amendment was agreed to.

The next amendment of the Senate was to come in after the following clause, viz:

"For the extension of the United States Capitol, $400,000."

The amendment was read, as follows:

"*Provided*, That so much of former appropriations for the extension of the Capitol as remains unexpended, and the appropriation now made, or which may hereafter be made, for that object, shall be disbursed by the Commissioner of Public Buildings, under such regulations as the President of the United States may prescribe; said Commissioner's accounts for such disbursement to be audited and paid at the Treasury, in the same manner as the accounts of other civil officers charged with the disbursement of public money. And said Commissioner shall report to the President his disbursements and proceedings in time to be presented to Congress at the commencement of each annual session, and at any other time when required: *Provided further*, That no part of this appropriation shall be expended for any purpose during the present quarter of the fiscal year."

Mr. HOUSTON. The Committee on Ways and Means propose to amend the above amendment as follows:

Strike out the words "by the Commissioner of Public Buildings," so that the clause will read:

"*Provided*, That so much of former appropriations for the extension of the Capitol as remains unexpended, and the appropriations now made, or which may hereafter be made for that object, shall be disbursed under such regulations as the President of the United States may prescribe."

Also, strike out after the word "prescribe," the words "said commissioner's," and insert "the," so that it will read:

"The accounts for such disbursement to be audited and paid at the Treasury in the same manner as the accounts of other civil officers charged with the disbursement of the public money."

Also, in line thirty-six, the committee recommend to strike out the word "commissioner" and insert "disbursing officer, so that it will read "and said disbursing officer shall report to the President," &c.

Also, the committee recommend to strike out the proviso entirely.

The question was then taken upon the amendments of the Committee on Ways and Means, and they were agreed to.

The question was then taken upon the Senate amendment as amended; and it was concurred in.

The following clause was then read:

"For completing the work of the Seventh Census, and to prepare the same for publication, $25,000; [out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceased."]

The Senate amendment proposed to strike out the part inclosed in brackets.

Mr. HOUSTON. The committee recommend a non-concurrence in the amendment of the Senate.

The question being upon concurring in the amendment of the Senate, tellers were demanded and ordered; and Messrs. HARRIS, of Alabama, and DEAN were appointed.

The question was taken, and the tellers reported—ayes 64, noes 63.

So the amendment was agreed to.

The following clause was then read:

["To pay for the Congressional Globe and Appendix, and the Annals of Congress, ordered for the use of the Congressional Library.] *To enable the Clerk of the House of Representatives to pay for certain books ordered for its library*, under the resolution of the House of September 28, 1850, $4,500."

The Senate amendment was to strike out the part inclosed in brackets, and to insert the part indicated by *italics*.

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in the amendment of the Senate, and that the word "Congressional" shall be stricken out, and that the words "for the use of the Library of the House of Representatives" shall be inserted. The amendment which the committee proposes makes it conform to the resolution, as the Senate desire.

The question was then taken upon the amendment proposed by the Committee on Ways and Means, and it was agreed to.

The question was then taken upon concurring with the Senate amendment as amended, and it was decided in the affirmative.

The following clause was then read:

"To enable the Clerk of [this House] to furnish, pay for, and deliver the same books to five new members of the present Congress, as per resolution of [this] House passed 26th July, 1852, $4,500."

The amendments of the Senate to this clause were to strike out "this House," and insert "the House of Representatives," and strike out "this" and insert "said."

Mr. HOUSTON. These amendments are only intended to correct the phraseology.

The question was then taken, and the amendments were agreed to.

The following amendment of the Senate was then read, viz:

"For compensation to an assistant day watchman of the General Post Office, from the 15th of September, 1852, until the 30th June, 1853, $475."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was then taken, and the amendment of the Senate was not agreed to.

The following clause was then read:

"For expenses of the Board of Visitors at the Military Academy, $557 83; [and that hereafter the salary of the master of the sword at the Military Academy (West Point) shall be at the rate of $1,200 per annum.]"

The amendment of the Senate is to insert the part inclosed by brackets.

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in this amendment.

The question was then taken, and the Senate amendment was not agreed to.

The following amendment, proposed by the Senate, was then read, viz:

"For the compensation of Senators for the year ending 30th June, 1853, in addition to appropriations heretofore made, and including that for the special session commencing 4th March, 1853, $25,000.

"For contingent expenses of the Senate, viz:

"For binding, $20,000;

"For lithographing and engraving, $20,000;

"For books, $2,300;

"For Congressional Globe, and binding same, $1,843;

"For messengers, pages, laborers, police, horses and carry-alls, $10,000;

"For clerks of President of the Senate and committees, draughtsman, fireman in crypt, and other miscellaneous items, $36,600."

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to move an amendment to provide for a deficiency for the printing of the present year. It simply proposes to make an appropriation, estimated for by the Superintendent of Public Printing, to supply deficiencies in the printing for the present year:

And be it further enacted, That the following sums be, and the same are hereby, appropriated, to be paid out of any moneys not otherwise appropriated:

For the printing of the Senate for the first session of the Thirty-second Congress, $14,533.

For the printing of the House of Representatives for the first session of the Thirty-second Congress, $25,570.

For the printing of the Senate for the second session of the Thirty-second Congress, $37,463.

For the printing of the House of Representatives for the

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second session of the Thirty-second Congress, $56,194, the same having been executed and to be executed by the Public Printer under the provisions of an act entitled "An act for executing the public printing and establishing the price thereof and other purposes."

The CHAIRMAN. The Chair calls the attention of the gentleman from Alabama, to the fact, that if he has an amendment from the Committee on Ways and Means to the last clause of the Senate's amendment, now is the time to offer it.

Mr. HOUSTON. Yes, sir. I wish to call the attention of the committee to an amendment recommended by the Committee on Ways and Means to the following clause of the Senate's amendment:

"For clerks of President of the Senate and committees, daughtsman, fireman in crypt, and other miscellaneous items, $36,600."

The estimate of the Secretary of the Senate for that item was $20,000. He was called on, however, by a resolution of the Senate, or in some other way, to make an estimate of an amount which would cover the extra compensation usually voted at the end of each session of Congress to the clerks, messengers, &c., employed by the Senate. He then estimated $16,600, making the item $36,600 instead of $20,000—$16,600 being intended to pay the extra compensation. The Committee on Ways and Means recommend an amendment in that clause, to strike out "$36,600," and insert "$20,000," so as to bring the question up for the House to decide whether this practice of extra compensation shall continue or not. If we leave the clause as it now stands, the officers of the Senate will get extra compensation, and the officers of the House will get none.

Mr. STANTON, of Kentucky. Before the question is put on the motion to strike out, will it be in order to move an amendment to the section?

The CHAIRMAN. The Chair thinks not. The motion is to strike out and insert, and that is not divisible.

Mr. STANTON. Well, sir, before the question is put on the motion to strike out and insert, I desire to know whether it is in order to move to add something to the clause?

The CHAIRMAN. The Chair thinks not.

Mr. STANTON. Well, if the motion of the gentleman from Alabama prevails, will it then be in order to move to add to the clause?

The CHAIRMAN. It will not be in order to add anything that conflicts with the amendment of the gentleman from Alabama.

The question was then taken on Mr. HOUSTON's amendment, and it was agreed to.

Mr. HOUSTON. I now offer the amendment which was read just now.

The amendment will be found above.

Mr. HAVEN. I do not quite understand that amendment, and perhaps the chairman of the Committee on Ways and Means can explain it in a very few words. The law as it now stands makes a perpetual appropriation for the public printing to the amount of the drafts of the superintendent.

Mr. HOUSTON. I have but a word to say in reply to the question of the gentleman from New York. It is true that the head of one of the Departments has given a construction to the law of last session, in relation to the public printing, by which he determines that it made a perpetual appropriation. The Committee on Ways and Means, however, upon an examination of that law, with a disposition not to give it that construction unless they were forced to do so, have determined that it is the safest, wisest, and best policy for Congress to make an appropriation of the amount necessary for the printing, every year, so that the appropriations for that purpose shall come before Congress for action and revision every session.

Mr. HAVEN. Then I would inquire of the chairman of the Committee on Ways and Means if these appropriations cover the whole amount that has been drawn for up to this time?

Mr. HOUSTON. These appropriations, I understand, are in pursuance of the estimates of the Superintendent of Public Printing. The Committee on Ways and Means, preferring that the law should be so construed as to keep these appropriations under the control of Congress, asked the Superintendent to estimate for all that would be necessary for the next year.

Mr. HAVEN. I am satisfied with the gentleman's explanation, and think myself that the amendment had better be adopted, so as to keep the matter under the control of Congress.

The question was then taken on the amendment, and it was agreed to.

The question recurring on agreeing to the amendment of the Senate as amended, it was put, and decided in the affirmative.

So the amendment of the Senate, as amended, was concurred in.

The tenth amendment of the Senate was then read, as follows:

"For clerk hire at the legation of the United States at London for one year, $800; and that there be allowed and paid to Captain Hiram B. Bangs, master of the American bark Rienza, or to his assignee, the sum of $508, being the amount contracted to be paid to him by the American consul at Gibraltar, for transporting to the United States nineteen prisoners, captured in Cuba and carried to Spain, who were not American citizens, subject to any deduction that may be proper for any advances on account of such transportation that may have been made to him by said consul; and that there be allowed and paid to Horatio I. Sprague, consul as aforesaid, the sum of $533 34, with interest thereon from the 19th April, 1852, being for expenses incurred by him in taking care of and providing for said prisoners, under the direction of the American Minister at Madrid. The foregoing respective sums to be paid out of the appropriations formerly made for bringing American citizens, prisoners in Spain, to the United States; and if there be not a sufficiency thereof unexpended, then any additional amount necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated."

Mr. BROOKS. I move *pro forma*, to strike out all after "$800," in the second line of that amendment.

The Committee on Ways and Means have prepared an amendment to that amendment, but the chairman has not got it at hand at this moment. I am unwilling to sanction the principle involved in that portion of the amendment which I have moved to strike out. We have already provided for bringing back the Americans who were engaged in that expedition to Cuba, and this is to provide for bringing back to this country foreigners who were also engaged in that expedition. I do not think that we should sanction the principle of bringing back to this country foreigners who violated our laws, and after violating those laws, were incarcerated in a foreign country and then surrendered up into the hands of our consul. The Committee on Ways and Means agreed with me in that opinion, and provided an amendment precisely suited to this case.

Mr. DUNHAM. I think it is too late to raise the question which the gentleman from New York is now presenting to the committee. The expenses have already been incurred. It seems that these men were provided for and sent home before the law making that appropriation reached the proper officers who had control of the business, and they supposed that its provisions extended to all the prisoners who had been connected with the expedition from this country. I shall propose, however, after the amendment of the gentleman from New York shall have been disposed of, to strike out these words:

"And if there be not a sufficiency thereof unexpended, then any additional amount necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated."

That makes an unlimited appropriation, which I think is wrong. But the expenses already incurred, and honestly incurred, by your officers in Spain, and by the captain who was authorized to bring these men to this country in his vessel, ought to be paid.

Mr. BAYLY, of Virginia. There is a good deal of force in the remarks made by the gentleman from Indiana if the fact be, as he states it to be, that the men were brought to this country, and that these expenses have been incurred. But I desire to say, in justice to myself—for I introduced the bill providing for the return of the prisoners from Spain—that I drew it carefully and considered it well, and it never was the design of this House to provide for bringing home any other persons than American citizens. If I had understood that any other persons were included, I should have more than doubted the propriety of the appropriation, and I should certainly have doubted the authority of Congress to make it. But the provision was carefully worded. It was not the accidental use of language—it was the careful and premeditated use of it. It was confined to American citizens; and unless there be quite as much in the considerations presented by the gentleman from Indiana, as he supposes, it occurs to me that this amendment of the Senate ought not to be agreed to. If these expenses have been incurred through accident or mistake, it may be proper enough for us to provide for them; but I should be glad to hear further from the gentleman upon that subject to guide my own vote. It certainly never was the design of the Congress of the United States to provide for bringing back to this country any other persons engaged in that expedition except American citizens.

Mr. HOUSTON. I have here the amendment which the Committee on Ways and Means instructed me to offer, but which I had mislaid.

The CHAIRMAN. The amendment is not in order until the amendment of the gentleman from New York [Mr. BROOKS] is disposed of.

Mr. BROOKS. I withdraw my amendment.

Mr. HOUSTON. I then offer the following amendment: Strike out the portion of the clause indicated by the gentleman from New York, [Mr BROOKS,] and insert in lieu thereof the following:

For the relief of such of the Cuban prisoners, not citizens of the United States, as were pardoned by the Queen of Spain and sent out of her dominions by the United States Minister at Madrid, and the American Consul at Gibraltar, $713 34.

The gentleman from Virginia [Mr. BAYLY] is correct in saying that the law of the last session confined the appropriation to American citizens.

These fifteen or nineteen persons for whom this expense was incurred went on the Lopez expedition. It is true they were not naturalized citizens, but some of them had taken steps to become naturalized, and I believe all had declared their intention to become citizens of the United States. The correspondence shows that they all went on the expedition together; that they were all taken and kept together, and under the instructions of our minister at Madrid, Mr. Sprague, our consul at Madrid, took the responsibility of sending them all. The American minister, (Mr. Barringer,) without looking carefully to the law, supposed it was designed to apply to the whole of the Cuban prisoners. The provisions made by Congress for bringing home these prisoners was only designed to apply to the American citizens, but the prisoners were all sent home, and the money paid by the consul was paid for them all so far as it went, and under the express instruction of our American minister at Madrid.

Mr. STUART. I desire to ask the gentleman from Alabama [Mr. HOUSTON] why the original amount asked for has been reduced?

Mr. HOUSTON. The reason is this—and the correspondence which I hold in my hand between a committee of the Senate and the Secretary of State during the last Congress, and between the Committee on Ways and Means and the Secretary of State during the present session, explains the whole matter—the amount originally asked for included pay for bringing to this country two, three, or four persons, who were not brought to this country at all. The owner of the vessel states that he made an agreement with the consul to bring nineteen persons here, and that he was to receive pay for nineteen, but that he had been only paid for fifteen. Our amendment only provides for fifteen, which is the precise number brought over.

The question was then taken, and the amendment of the Committee on Ways and Means to strike out and insert was agreed to.

The question was then taken, and the amendment as amended was concurred

The next amendment was as follows:

"For arrearages of expenses of Indian service in Texas, $1,015 68."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment.

The question was then taken, and the amendment was concurred in.

The Clerk then proceeded to read the amendments which were made by the Senate as additional clauses to the bill.

Mr. HOUSTON. The Committee on Ways and Means recommend that these clauses be considered separately. They recommend a concurrence in some of them and a non-concurrence in others.

The CHAIRMAN. The Chair understands they are all reported to the House as one single amendment.

Mr. JONES. They were offered in the Senate as separate amendments, and I submit that they should be considered separately.

The CHAIRMAN. The Chair thinks they were reported to the House as one single amendment, but if the committee choose to consider them separately, he sees no objection.

The first additional clause was then reported, as follows, viz:

"For payment of arrearages due to the chief clerk of the Bureau of Yards and Docks, on account of salary, as provided by the act of 3d March, 1851, restoring the same to that paid the chief clerk of the late Navy Board, $1,766."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in this amendment.

The question was taken, and the amendment was non-concurred in.

The next amendment was the following, viz:

"For arrearages due to the chief clerk of the Bureau of Construction, Equipment, and Repairs, on account of salary, commencing with the fiscal year 1851, the sum of $600; and that the salary of the chief clerk of that Bureau shall hereafter be $1,700 per annum."

Mr. HOUSTON. The Committee on Ways and Means also recommend a non-concurrence in this amendment.

The question was taken, and the amendment was non-concurred in by the committee.

The next amendment was as follows, viz:

"For payment of arrearages due to David Finch, as superintendent of the painting the exterior walls of the Patent Office and Treasury Buildings, $117 50."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in this amendment.

The question was taken, and the amendment was concurred in by the committee.

The next amendment was as follows, viz:

"For repairs of vessels employed in the coast survey, $10,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in this amendment.

The question was taken, and the amendment was non-concurred in by the committee.

The next amendment was as follows, viz:

"For services rendered by the clerk in the General Land Office charged with the superintendence of the Chickasaw Indian business, from the 23d of May, 1837, to the 28th of February, 1851, at $250 per annum, $3,437 50."

Mr. BAYLY. I would like to inquire why this claim has not been brought forward before?

Mr. HOUSTON. It was proposed by a member of this body when this bill was before under consideration in this House, but was voted down. It was put in, however, by the Senate, and a majority of the Committee on Ways and Means have agreed to recommend a concurrence by the House.

Mr. JONES, of Tennessee. I hope the amendment will be voted down. I think it is not a proper amendment, and that there is something wrong about it. Has that amount not been paid before out of the Chickasaw fund?

The question was taken, and the amendment was non-concurred in by the committee.

The next amendment was as follows, viz:

"To supply a deficiency in the contingent expenses of the office of the Secretary of the Treasury for the fiscal year ending 30th June, 1853, $5,000."

Mr. HOUSTON. The Committee on Ways and Means agreed to recommend a concurrence in that amendment. Since the action of that committee, however, I have examined into the papers relating to the subject, and I desire to bring the attention of this committee to one or two very small matters connected with it, and which are included in, and make a part of the amendment.

This amendment embraces two items which I will state. One is for the transportation of Mediterranean passports and sea letters, and the other is for carrying the Department mails, both items amounting to $450. They are small items, to be sure, but I feel it my duty to state to the committee that from information I have derived as a member of the Committee on Ways and Means, about which there can be no doubt, there is no such service known as the transmission of Mediterranean passports and sea letters. In reference to the other item, by which one of the clerks in the Treasury Department is to receive $150 or $200 for carrying the Department mail, I have to say that there is no such separate service performed. It is used here merely for the purpose of giving an additional compensation to the messenger who performs that duty. It is now the duty of one of the messengers of the Treasury Department, who receives $700 per annum, to carry the mails of the Department, and for this he gets his regular salary. The only effect of this item, therefore, will be to increase his compensation $200. I think both these items should not be put in, and I therefore move to reduce the appropriation $450.

The question was taken, and Mr. HOUSTON's amendment was agreed to.

The question was taken upon concurring in the Senate amendment as amended, and it was agreed to.

The next amendment was the following:

"For repair of damages to, and improvement of Lafayette square, $1,278."

The question was taken, and the amendment was concured in by the committee.

The next amendment was as follows:

"For the erection of the necessary building for making and providing gas, and fitting the pipes for distributing it at the Naval Academy at Annapolis, $2,500."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in this amendment.

The question was taken, and the amendment was concurred in.

The next amendment of the Senate was the following:

"For compensation of the United States assayer at San Francisco, California, from the 1st of January, 1852, to the 30th of June, 1853, $7,500."

Mr. HOUSTON. That amendment is necessary to carry out the provisions of an existing law, and the Committee on Ways and Means recommend a concurrence.

The question was taken, and the amendment was concurred in.

The next amendment in order was the following:

"For temporary clerk hire in the office of the Auditor of the Post Office Department, $1,000."

The question was taken, and the amendment was concurred in.

The next amendment in order was the following:

"For arrears of compensation due A. J. Downing for services as rural architect at the time of his death, $625."

Mr. HOUSTON. The committee understand that the amount contained in the amendment was due at the time of Mr. Downing's death, and they recommend that the amendment be concurred in.

The question was taken, and the amendment was concurred in.

The next amendment in order was the following:

"For laying out and graveling the roads and walks, purchasing manure and trees, and seeding down in grass, the square south of the President's house, $12,000."

Mr. JONES, of Tennessee. The Committee on Ways and Means recommend a concurrence in that amendment, and I desire to offer an amendment to it before it is disposed of. I move to insert after the word "grass," the words "and for paying any balance which may be due for work heretofore done on."

The question was then taken on the amendment of Mr. JONES to the amendment, and it was agreed to.

The question then recurring on the amendment of the Senate as amended, it was put, and decided in the affirmative.

So the amendment was concurred in.

The next Senate amendment in order was the following:

"For providing proper foundations for the custom-house at San Francisco, authorized by the sixth section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1852,' and in addition to the sum of $40,000 heretofore appropriated, $25,000."

The question was taken on the amendment, and it was non-concurred in.

The next amendment was then read, as follows:

"For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is no longer made by the Quartermaster Department, $2,341 27."

Mr. HOUSTON. The committee recommend a concurrence in that amendment.

Mr. BROOKS. I propose to amend that amendment by inserting, after the words "light-house duty," the words "under the authority of the Light-House Board."

I like to make a record as I go along. I said last year that the expenses for this service would be increased by the Light-House Board. The officers of the Army are brought into this service under their authority. I move the amendment, because I believe it important, and I make it to verify what I said last year, that the Light-House Board would increase the expenses of the light-house system.

The question was taken on the amendment offered by Mr. BROOKS, and it was agreed to.

The question then recurred upon the amendment of the Senate as amended; and, being put, it was decided in the affirmative.

So the amendment was concurred in.

The next amendment in order was the following:

"For deficiency in the fund for purchasing light-house supplies, $6,200."

The question was taken, and the amendment was concurred in.

The next Senate amendment was as follows:

"For the reappropriation of $754 40, being a portion of the amount heretofore appropriated for the erection of a custom-house at Eastport, Maine, and carried to the surplus fund on the 30th of June, 1852."

Mr. STEPHENS, of Georgia. I move to amend that amendment by adding the following:

And the unexpended balance of the appropriation by the act of June 19, 1834, for the payment of George Marsh, which has passed, by subsequent acts, into the surplus fund, be, and the same is hereby, reappropriated.

The CHAIRMAN. The question is upon the amendment of the gentleman from Georgia.

Mr. BROOKS. I wish the gentleman would explain that amendment.

Mr. STEPHENS. The amount was specified in the original appropriation, and this amendment does not propose an additional dollar. It only reappropriates the unexpended balance, which is not more than three or four hundred dollars; the exact amount I do not recollect.

The question was then taken on the amendment of Mr. STEPHENS, and it was agreed to.

Mr. BOCOCK offered the following amendment to the amendment:

For the reappropriation of a balance of an appropriation made by the act of the 27th of April, 1816, as prize money due to the captors of the Algerine vessels taken by the American squadron under the command of Commodore Decatur, and afterwards restored to the Dey of Algiers, $123 73, to be paid to Sarah Morris, only heir of Robert Mitchell, deceased, late midshipman on board of the United States ship Guerriere, as the share of the said Robert Mitchell in the prize money aforesaid.

Mr. BOCOCK. A word of explanation of this amendment, and I am sure no one will object to it.

Many MEMBERS. All right.

Mr. BOCOCK. Then I will not detain the House with explanations.

The question was taken upon Mr. BOCOCK's amendment, and it was agreed to.

The CHAIRMAN. The question is upon the amendment of the Senate as amended.

Mr. BROWN, of Mississippi. Before the question is taken, I offer the following amendment:

And that so much of the appropriation made in 1852 for the survey of the Pascagoula river, in Mississippi, as may not be necessary for that purpose be applied to the removal of the bar at the mouth of said river.

I desire to say a single word in explanation.

Mr. TOOMBS. I rise to a question of order. I submit that the amendment is out of order. It proposes to take the money appropriated to one

object and apply it to another and entirely new purpose.

The CHAIRMAN. The Chair entertains the opinion that the amendment proposed has no connection whatever with the subject of the amendment before the committee, and therefore rules it out of order.

Mr. BROWN. I do not believe that I shall ever get the Pascagoula provided for.

The question then recurring on the amendment of the Senate as amended, it was put, and the amendment was concurred in.

The next amendment in order was the following:

"For balance due Levi Johnson, for the site for marine hospital at Cleveland, Ohio, $3,396."

The question was taken, and the amendment was concurred in.

The next amendment was as follows:

"For payment of salaries of deputy surveyors at Boston, New York, Philadelphia, Baltimore, and New Orleans, $2,500, and the salary of said officers shall be $2,000 per annum, commencing on the 1st day of July, 1852."

Mr. STANTON, of Ohio. Will it not now be in order, Mr. Chairman, to offer, as an amendment to this amendment, the proposition offered by me some days ago, to regulate the fees of officers?

The CHAIRMAN. It is impossible for the Chair to decide that question unless the gentleman sends up his amendment, so that the Chair may see what it is.

The question was then taken upon the Senate amendment, and it was concurred in.

The next Senate amendment which came up in order was the following:

"To pay Walter S. Burges (late district attorney of the State of Rhode Island,) the sum of $534 80, being in full for his services and money paid out in defending Captain Simonds, of the brig Casket, by order of John Y. Mason, late Secretary of the Navy."

Mr. HOUSTON. This is money due under an arrangement made by Mr. Mason, while Secretary of the Navy. It is recommended by the Department, and is for the pay of services rendered. The Committee on Ways and Means recommend a concurrence in the amendment.

The question was taken, and the amendment was concurred in.

The next amendment in order was the following:

"For additional allowance to E. S. Norris, the sum of $2,260 34, and to George R. Stuntz the sum of $1,958 50, additional allowance made to them as deputy surveyors under the surveyor general of Wisconsin and Iowa, and in accordance with the recommendations and estimates of the Commissioner of the General Land Office, and the Secretary of the Interior, dated respectively on the 11th and 14th of February, 1853."

Mr. HOUSTON. The Committee on Ways and Means have recommended a non-concurrence in that amendment for the reason that the two individuals mentioned in the amendment were surveyors, and made their survey contract with the surveyor general, and after they had performed the work, they reported to him that their contract was an unprofitable one, and he proposed to give them the amounts stated in the amendment in addition to that stipulated in the contract.

The question was taken, and the amendment was non-concurred in.

The Clerk then read the following amendment of the Senate:

"For payment of the amount due Thomas W. Lane, upon three several drafts drawn in his favor by G. W. Barbour, Indian agent in California, upon R. McKee, disbursing agent, for transportation, supplies, and labor furnished said agent upon special contract, while treating with the Indians in said State, $3,825."

Mr. PHELPS. The Committee on Ways and Means recommend a concurrence in this amendment of the Senate. I will state that these supplies were furnished by Mr. Lane for the subsistence of the Indians in California whilst the agent of the Government was negotiating treaties with them. It does not relate to the enormous expenditures paid by the commissioner for the purpose of fulfilling the treaty stipulations with these Indians.

Mr. HAVEN. Is this not an entering-wedge to larger appropriations?

Mr. PHELPS. No, sir; nothing of the kind.

The question was taken, and the amendment of the Senate was concurred in.

The following amendment of the Senate was read:

"For the services of a striker in the shop of the Delaware Indians, from August 1, 1823, to August 31, 1826; and for the services of a smith and striker in the shop of the Senecas and Shawnees, of Lewistown, from 17th November, 1833, to 15th February, 1838, deducting all amounts paid for such service during said period; and for balance due for services on Seneca milldam, as estimated for by the proper Department, $2,229."

Mr. PHELPS. That is in accordance with the estimates furnished by the Department of the Interior, as being an amount due an employee of the Government. The Committee on Ways and Means recommend a concurrence in it.

Mr. LETCHER. I should like to know how this matter has been delayed from 1823 up to this time—a period of nearly thirty years?

Mr. PHELPS. In reply to the gentleman, I have only to say that the Department of the Interior, in making out the accounts of the blacksmith who was employed by these Indians, states that it appears from the books of the Department this amount is due to this person. The reason he was not paid was from the fact that during a portion of the time these Indians were without an agent at all, and there were also changes in the office of the Superintendent of Indian Affairs.

Mr. LETCHER. It seems to me that the gentleman's explanation does not help the matter at all. There have been various superintendents between 1823 and this time, and it appears that none of them have called the attention of the Government to this amount. It is now brought to the attention of the House by overhauling old accounts, and by the report of the Department of the Interior. It does not appear that this man ever claimed this compensation at all.

Mr. TOOMBS. I desire to state a fact. If the committee are going to grant this on the idea that it is on the books, they may, on the same ground, vote away millions of dollars. Oftentimes interest was not discharged on debts, and Congress for more than twenty years has refused to pay interest. The balances on old exhibit books are not always correct. There is a large balance against Benjamin Franklin for his account in Europe, and you may find them against many individuals, because they were not posted up.

Mr. LETCHER. This whole clause seems to be made up of items of this sort. After the striker for the Delaware Indians from 1823 to 1826, we have next an item for the smith and striker of the Senecas and Shawnees from 1833 to 1838. These old claims run far back, and there is no evidence, it seems to me, to satisfy the committee that they ought to be paid. I hope, therefore, that the amendment will not be agreed to, for the reason stated by my honorable friend from Georgia. If we commence in this matter there is no telling what sum of money we will have to pay before we are done.

Mr. PHELPS. The claimant is a resident of New Mexico, but he is now in this city. The claim was presented at the last session of Congress to the office of the Commissioner of Indian Affairs. On an examination of the accounts, it appeared that this amount stated in the amendment of the Senate, was actually due him for his services. A committee of the Senate also investigated the case, and they reported that this amount was due him. We were bound by treaty stipulations to furnish those tribes with strikers for their blacksmiths, and if the money had been paid, the books would have shown that fact. If the books of the Department do not show the disbursement of the moneys which we are obliged to pay by treaty stipulations, all I have to say is that they are not properly kept. The Government, as I have stated, was to furnish a striker to these Indians. The agent certifies that the services were discharged by this man. The correspondence of the Department shows the same fact. Hence it would appear that the claim is a just one. The reason it has not been allowed before, has been in consequence of an irregularity in some of the papers.

Mr. MARTIN. The books of the Department may show it, but how are the facts of the case? Is it supposable that a laboring man would wait for his pay for a quarter of a century, and he be peaceable about it? To me it is not reasonable, and unless some better reason than has yet been given be advanced, I cannot support the amendment.

Mr. LETCHER. The other item is about the Seneca mill-dam, and I should like to know when that was completed?

The question was then taken on the amendment, and it was nonconcurred in.

The Clerk next read the following amendment of the Senate:

"For compensation of members of the House of Representatives, for the year ending June 30, 1853, in addition to appropriations heretofore made, $3,840."

Mr. HOUSTON. The Committee on Ways and Means recommend the adoption of the following as an amendment to the Senate's amendment:

After the word "of," strike out the words "members of the House of Representatives for the year ending June 30, 1853, in addition to appropriations heretofore made," and insert in lieu thereof the words "five members of the House of Representatives appointed a committee of investigation upon all facts touching the connection of Thomas Corwin, Secretary of the Treasury, with the Gardiner claim, and authorized to sit during the recess between the first and second sessions of the present Congress, the sum of", and after "3,840," insert the words, "or so much thereof as may be necessary."

The amendment is a very simple one. It specifies those who are to receive the money, and the services for which they are to be paid.

I have received the following estimate from the Sergeant-at-Arms of the House:

For compensation of members of the House of Representatives for the year ending 30th June, 1853, in addition to appropriations heretofore made, $3,840.

The foregoing is necessary on account of the payment of five members of a committee of the House, authorized to sit during the recess, $768 each.

A. J. GLOSSBRENNER,
February 15, 1853. *Sergeant-at-Arms, H. R., U. S.*

I understand that the members of that committee have claimed their per diem during the time they were here, and in the discharge of its duties.

A MEMBER. How many days did they sit?

Mr. HOUSTON. I do not know, but by dividing seven hundred and sixty-eight by eight, the gentleman might find out.

Mr. STEPHENS, of Georgia. I move to amend the amendment, as follows:

Or so much therefor as may be necessary to pay said members, respectively, eight dollars per day for the period they were detained at Washington in the discharge of the duties of their appointment.

Mr. HOUSTON. I will say to my friend from Georgia [Mr. STEPHENS] upon that subject, that the members of that committee are not entitled to any more under existing laws than this amendment proposes. I take it for granted that no member of the committee will charge for any day the committee was not in session and were not detained here. When he charges by the day he charges $8, and he cannot get any more if he is honest.

Mr. STEPHENS. The estimate is, for the whole amount, $768 for each member. If you pass this appropriation, you sanction this charge for the whole interval between the expiration of the last and the commencement of the present session of Congress. I wish to limit it.

Mr. HOUSTON. The time is ninety-six days.

Mr. STEPHENS. We adjourned on the 31st of August, and we met again on the 6th of December, making an interval of ninety-six days.

Mr. HOUSTON. This estimate is furnished the Senate by the Sergeant-at-Arms, who is presumed to know about it. I should like some member of the committee to state the facts in regard to this matter. I do not know anything in regard to the matter except what I get from the officer of the House whose business it is to furnish the estimate. I take it for granted that no member of that committee will charge for any period of time other than that while he was here in the discharge of his duty. If he does charge for the time, he will be entitled to eight dollars a day and no more.

Mr. JONES, of Tennessee. I have not conversed with any members of that committee, but there is one of the members of that committee, the gentleman from Georgia [Mr. STEPHENS] will recollect, from Texas, [Mr. HOWARD,] who, being detained here from the adjournment for some time after, could not by possibility go home and return in time for the next session. I suppose the gentleman from Georgia does not intend that they shall be limited to the time the committee actually met, and not allow them for the days when they adjourned over at an interval of two or three days.

Mr. STEPHENS. I meant only to confine them to the time in which they completed the work.

Mr. JONES. That is what the committee would admit.

Mr. STEPHENS. Then there can be no objection to my amendment.

Mr. HOUSTON. I am informed that some of the members have already received the $768. Therefore I do not object to the amendment of the gentleman from Georgia, [Mr. STEPHENS.] If they were not in session, they ought not to be paid.

Mr. STEPHENS. It appears that my amendment is very necessary, for it seems that the Committee on Frauds themselves are disposed to commit a great fraud upon the Treasury, and I should like to have an inquiry into it. It seems to be absolutely necessary that we should watch our own men whom we have set to watching other people. I want to see the men who will rise in this House and oppose the amendment.

Mr. TAYLOR. I hope the amendment of the gentleman from Georgia [Mr. STEPHENS] will be adopted.

Mr. JONES, of Tennessee. No one objects to the amendment, and it will be received by unanimous consent.

The CHAIRMAN. The Chair understands that the gentleman from Georgia receives the unanimous consent of the committee to offer his amendment, and it is now a part of the amendment proposed by the gentleman from Alabama, [Mr. HOUSTON.]

The question was then taken on the amendment as modified, and it was agreed to.

Mr. JONES, of Tennessee. Before the question is taken upon the Senate amendment as amended, I propose the following amendment from the Committee on Ways and Means:

To enable the Clerk of the House of Representatives to pay Peter Force and John C. Rives, for one hundred and two copies of the third volume of the fifth series of the American Archives or Documentary History of the United States, for the new members of the House of the Twenty-sixth Congress, one hundred and seventeen copies of the same volume for the new members of the Twenty-seventh Congress, one hundred copies of the same volume for the new members of the Twenty-eighth Congress, one hundred and one copies of the same volume for the new members of the Twenty-ninth Congress, one hundred and sixteen copies of the same volume for the new members of the Thirtieth Congress, one hundred and thirty-four copies of the same volume for the new members of the Thirty-first Congress, and one hundred and thirty copies of the same volume for the new members of the Thirty-second Congress, in all eight hundred volumes, at sixteen dollars forty-five cents and six mills per volume, $13,162 40.

That is under a contract with Force & Rives for the publication of the American Archives. I am in hopes that this will be the last of the appropriation asked for.

The question was taken upon the amendment, and it was agreed to.

Mr. JONES, of Tennessee. I now offer this amendment, to come in at the end:

To enable the Clerk of the House of Representatives to pay for reporting and publishing eight hundred and fifty columns of the proceedings of the House of Representatives of the second session of the Thirty-second Congress, in the Daily Globe, at $7 50 per column, $6,375.

This is reported from the Committee on Ways and Means, and is to pay for the reporting in the Daily Globe of the present session.

The question was then taken upon the amendment, and it was agreed to.

Mr. STEPHENS, of Georgia. I move this additional section:

To enable the said John C. Rives to pay the reporters of this House for this session the sum of $7 per column instead of $4 for the reports of the Congressional Globe, the sum of $3,000, or so much as may be necessary for that purpose, and the Clerk of this House be authorized to pay the same to said Rives for that purpose.

Mr. STANLY. We cannot well hear what is going on in this part of the Hall, and we should like to have some explanation from some source what this means.

Mr. STEPHENS. The committee can perfectly understand what it means from the reading of it. I will state that the object of the amendment is to increase the compensation of the reporters of the Congressional Globe in this House, $300, or $400, may be $500 for the session. We pay them under the arrangement with Mr. Rives for reporting in the Globe, at the rate of four dollars per column. The object of the amendment is to make it seven dollars per column, and simply to increase their compensation for this session. I would state to the committee, that I believe these reporters do more work than any persons in Washington city connected with the Government. So long as we keep up the reporting I am for paying them more liberally than we now do, and the increase of compensation now asked for is but a small addition to their present compensation.

Mr. CLINGMAN. I intend to support the amendment offered by the gentleman from Georgia, [Mr. STEPHENS.] I objected the other day to the proposition voting an increase of compensation to the reporters, entirely upon the ground that it was a change of the system. I wish the present system kept up. I believe these reporters are not paid as well as they ought to be, and as I then intimated, I was willing to vote them an additional compensation. I think this is fair and right. Our reports are very good and these reporters do a great deal of hard work. They will still be responsible to Mr. Rives and to us for their work. I only object to making them officers of the House.

Mr. STEPHENS, of Georgia. It does not change their relations toward us. It only enables Mr. Rives to give them an additional compensation.

Mr. JONES, of Tennessee. My understanding of it is, that Mr. Rives gets $7 50 per column and he gives the reporters in his employ perhaps $4. That will leave him $3 50. The amendment of the gentleman from Georgia [Mr. STEPHENS] will reduce the pay of Mr. Rives and increase that of the reporters. It provides for $7 per column.

Mr. STEPHENS. This is an additional amount of so much as will enable the Clerk to pay the addition.

Mr. JONES. My amendment was to pay Mr. Rives.

Mr. STEPHENS. This also is to pay Mr. Rives.

Mr. JONES. You specify that he is to pay seven dollars to the reporters. That would leave him but three dollars.

Mr. MARSHALL. Is the effect of this amendment to pay the reporters more?

Mr. STEPHENS. Yes, sir.

Mr. STANLY. That will be in lieu of extra compensation, and I shall not object to it.

Mr. TAYLOR. I must say to the committee that I have voted for these things for six years totally in the dark. I have listened attentively to gentlemen who have offered these amendments, hoping that they would state how much we pay for printing, how it is done, and whether it is economically done. I doubt very much the propriety of furnishing twenty-four copies of the Congressional Globe to each member of Congress. Half the number would be plenty. I am opposed to it. I believe we pay twice the amount necessary for Congressional printing. I should be glad to see it abolished altogether, and if the gentleman from Tennessee will state how much in the aggregate is paid for Congressional printing and official reporting, I would be much obliged to him.

Mr. JONES. It is impossible for me to do it. I have never voted for any of these appropriations. I cannot go back five or ten years and state what has been paid during that time. But these amendments will show what is asked for at this session, and the laws will show what amount has been appropriated. If gentlemen will look back to these laws, they will see the enormous amount the printing and reporting has cost them.

Mr. McMULLIN. Is that amendment amendable now?

The CHAIRMAN. It is not—being an amendment to the amendment.

Mr. McMULLIN. Mr. Chairman, I dislike very much to make opposition to this amendment, but really it does seem to me that if this committee design to deal out even-handed justice to all portions of this Government, and unless they mean to interfere with private contracts, they ought not to pass this amendment. I understand that these gentlemen have been employed by Mr. Rives by contract, and here is an amendment proposing to pay them more than Mr. Rives has contracted to pay them. If I am misinformed as to the facts of the case, I desire to be corrected. If it is the policy of Congress to pay these gentlemen more than they have heretofore received, why do so. But when these gentlemen have come forward voluntarily, and made a contract with Mr. Rives——

Mr. TOOMBS. This amendment gives Mr. Rives an additional amount to enable him to pay his reporters a larger sum. It does not interfere with his contract at all.

Mr. McMULLIN. I desire information. Is it contemplated that this provision shall have a retrospective effect?

Mr. TOOMBS. It provides for this session only.

Mr. McMULLIN. Well, for this session.

Mr. STEPHENS. It is to enable Mr. Rives to pay the reporters seven dollars a column instead of four dollars a column, which he now pays them. It does not violate the contract at all. It only enables him to pay them a larger amount than he now does.

Mr. McMULLIN. Then I am not misinformed. I understand the effect will be to enable Mr. Rives to pay these gentlemen a proposed amount, having a retrospective bearing. Now I am opposed to that. If it is the policy of this House to pay these gentlemen more than you have heretofore paid them, do it. But when you take these reporters and pay them as you pay the other officers of the House, you will divide the responsibility; you will have Mr. Rives responsible for the printing of the debates, and half-a-dozen reporters responsible for the manner in which the reporting is done.

Sir, my opinion is that we had better hold on to the old policy. But this being an extraordinary year for experimenting and progress, I am prepared to expect this committee to do almost anything. I shall vote against the amendment, believing, as I do, that these gentlemen ought to be perfectly satisfied with the compensation which they are now receiving. Reporting is their occupation. It is a business which they undertake in preference to any other. If they are not satisfied to work for Mr. Rives for the prices which they agreed upon, let them quit reporting and go to some other business. I hope the committee will vote down the amendment.

The question was then taken on Mr. STEPHENS's amendment, and it was agreed to.

Mr. JONES, of Tennessee. I offer the following as an amendment to the Senate amendment:

To enable the Clerk of the House of Representatives to pay a balance due for reporting and publishing the proceedings of the House during the first session of the Thirty-second Congress, being sixty-five columns and one line, at the rate of $7 50 per column, $487 54.

That amendment is reported by the direction of the Committee on Ways and Means. It is to supply a deficiency in the appropriation to pay for publishing and reporting the proceedings of the last session, in the Daily Globe, at $7 50 per column.

The question was taken upon the amendment, and it was agreed to.

Mr. JONES, of Tennessee. I offer the following amendment to the Senate amendment:

To enable the Clerk of the House of Representatives to pay for twenty-four copies of the Congressional Globe and Appendix of the second session of the Thirty-second Congress for each member and Delegate in the House, $17,064; and for binding the same, being five thousand six hundred and eighty-eight volumes, in strong and substantial half-binding, with Russia backs and corners, at a rate not exceeding sixty cents per volume, $3,412 80.

That amendment is also from the Committee on Ways and Means, and is to pay for the Congressional Globe and Appendix for the present session for the members of this House, and the Delegates from the Territories.

The question was taken upon the amendment, and it was agreed to.

Mr. GORMAN. I offer the following as an amendment to the Senate amendment:

"For paying the expenses of David Dale Owen's Geological Report from Philadelphia to Washington, for one hundred and seventeen boxes and porterage, $99 45; for insurance $90; for freight on one hundred and seventeen boxes, $146."

Mr. JONES, of Tennessee. That cannot be in order as an amendment to this amendment.

The CHAIRMAN. Does the gentleman from Tennessee raise a point of order?

Mr. JONES. I do.

The CHAIRMAN. The Chair rules the amendment out of order. It has no connection with the Senate amendment.

Mr. GORMAN. I understand that the amendment is about printing.

Mr. JONES. It is to pay for reporting and printing the debates.

Mr. GORMAN. This is one of the incidents of bringing printing from Philadelphia. If the amendment is not in order here, it is not in order anywhere.

The question was then taken on concurring in

the Senate's amendment as amended, and it was decided in the affirmative.

So the Senate's amendment as amended was concurred in.

The Clerk then reported the twenty-fourth amendment of the Senate, as follows:

"For this amount of money appropriated, and goods purchased under treaty stipulations, for the Lake Chippewa Indians, lately destroyed by fire, at the agency of said Indians, $15,000: *Provided*, That the Commissioner on Indian Affairs is hereby authorized to purchase said goods in open market, without the usual notice in such cases required by law."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment. It is to supply the place of goods which the Government was bound to furnish to the Indians, but which were lost by fire.

Mr. TOOMBS. I should like to know the reason for that proviso.

Mr. HOUSTON. The object of it is to enable the Commissioner of Indian Affairs to procure the goods at an early period so as to comply with the treaty. If the usual notice has to be given, the goods cannot be obtained and got to the spot in time to comply with the requirements of the treaty.

The question was then taken, and the amendment of the Senate was concurred in.

The Clerk then reported the twenty-fifth amendment of the Senate, as follows:

"To section three, which is as follows:

"'SEC. 3. *And be it further enacted*, That hereafter no 'books shall be distributed to members of Congress except 'such as are ordered to be printed, as public documents, by 'the Congress of which they are members;'

add the following proviso:

"*Provided*, That this section shall not prohibit or interfere with the distribution to members who have heretofore received books under an order of either House, of the remaining volumes or parts, so as to complete the sets of which they have received part."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

Mr. SCHERMERHORN. I offer the following as an amendment to the Senate amendment, to come in at the end thereof:

After the word "part," in eighth line, page twenty, section three, add:

That to enable the Clerk of the House of Representatives to procure the printing and binding of ten thousand copies of the report of Captain H. Stansbury, including the maps and plates of the survey of the valley of the Great Salt Lake, for distribution to the members of this House, $26,800.

Also, to enable the Clerk of the House of Representatives to procure ten thousand copies of the second part of the report of Messrs. Foster and Whitney, including the maps and plates, upon the mineral regions of Lake Superior, $16,500.

Also, to purchase two hundred and fifty copies (in four volumes) of Edwin Williams's Statesman's Manual, $1,750.

Also, to enable the Secretary of State to purchase one thousand copies of the Synoptical Index of the Statutes at Large, to be distributed in the same manner as the first eight volumes were distributed under the act of August, 1846, $3,500.

Also, to enable the Clerk of the House of Representatives to purchase twenty thousand copies of the letters of Lieutenant Maury, upon the river Amazon and its sources, $4,500.

Also, to enable the Clerk of the House of Representatives to purchase three hundred copies of Lossing's Field Book of the Revolution, half-bound, $21,000.

Mr. JONES, of Tennessee. I raise the question of order upon that amendment, that it is not to supply a deficiency, and that it is not germane to any part of this bill.

The CHAIRMAN. Nothing is now in order to this bill except amendments to the Senate's amendment. This amendment does not relate to the same subject as the Senate amendment, and is therefore out of order.

Mr. SCHERMERHORN. Does the Chair determine that the amendment is not germane?

The CHAIRMAN. The Chair decides that it relates to a different subject from that to which the Senate's amendment refers.

Mr. SCHERMERHORN. I appeal from that decision. I hold that it is perfectly germane.

Mr. SACKETT. I ask that the provision to which this is proposed as an amendment may be read, that the committee may vote understandingly.

The Clerk again reported the Senate's amendment.

Mr. SACKETT. I perceive that is a Senate amendment to a section of the bill providing for the distribution of books among the members. Now, it seems to me this amendment is clearly in order to that provision.

Mr. LETCHER. I desire to inquire of the Chair whether there is any law authorizing the publication of these books?

The CHAIRMAN. Not that the Chair is aware of.

Mr. LETCHER. Then the amendment is certainly not in order.

The question now being, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. SCHERMERHORN demanded tellers; which were ordered; and Messrs. CABELL of Florida, and JONES of Tennessee, were appointed.

The question was then put, and the tellers reported—ayes 70, noes 47—the Chair voting in the affirmative to make a quorum.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. GORMAN. I move the following amendment to the Senate amendment:

For paying the expenses of David Dale Owen's geological report, from Philadelphia to Washington, for one hundred and seventeen boxes, and porterage.....	$99 45
For freight on one hundred and seventeen boxes...	146 00
For insurance.....	90 00
	$335 45

Mr. Chairman, this would have been offered to the deficiency bill originally, by the Committee on Ways and Means, or some other committee of this House, but for the fact that these boxes have just been received. It is necessary that the insurance, the cost of the boxes, and the cost of transportation should be paid; it is properly a deficiency. It should come in at some point, and I do not know of any point where it can come in unless it is here.

Mr. SACKETT. Is an amendment to the amendment in order?

The CHAIRMAN. It is not.

The question was then taken, and Mr. GORMAN's amendment was adopted.

The question was then taken, and the Senate's amendment as amended was agreed to.

The next amendment was as follows, viz:

"SEC. 4. *And be it further enacted*, That so much of the section of the act making appropriations for the support of the Army for the year ending 30th of June, 1853, approved 31st August, 1852, as provides that "no portions of the moneys appropriated by this act shall be applied to the payment of any expenses incurred prior to the 1st day of July, 1852," be, and the same is hereby, repealed, so far as it relates to the appropriation for light-houses contained in said act, except as to the light houses which have been contracted for to be erected upon the Pacific coast."

Mr. STUART. I move the following amendment to this amendment:

And that the Secretary of the Treasury be, and he is hereby, authorized to pay to John McReynolds $1,000 for expenses incurred by him in removing the materials for the construction of a light-house in the State of Michigan, the Department having changed the site after the said materials were delivered at the site first selected.

I suppose there is no objection to that. The amendment explains itself.

The question was taken, and Mr. STUART's amendment to the amendment was adopted.

The question was then taken, and the Senate amendment as amended was concurred in by the committee.

The next amendment was as follows, viz:

"SEC. 5. *And be it further enacted*, That the officers appointed to assist the superintendent of the naval astronomical expedition in Chili, directed by the act of the 3d of August, 1848, shall be allowed an increased compensation in a ratable proportion, according to pay and rank, at the time of departure from the United States, to the allowance made to the said superintendent by the act of March 3, 1851, to be paid out of any moneys in the Treasury not otherwise appropriated."

The question was taken, and the amendment was concurred in by the committee.

The next amendment was as follows, viz:

"SEC. 6. *And be it further enacted*, That nothing in the provisions of the act entitled 'An act to establish a branch of the Mint of the United States in California,' shall be construed so as to prohibit the appointment of the assayer therein authorized before the execution of the contract for, and the completion of, the branch Mint buildings therein authorized; but that the President is hereby empowered to appoint, in the manner prescribed by that act, an assayer for said branch Mint in anticipation of the completion and establishment thereof; that the Secretary of the Treasury is hereby authorized to procure, by rent or lease, a building or apartments, and to lease, purchase, or rent machinery in the city of San Francisco, suitable for the receipt, melting, and assay of deposits of gold, in dust or otherwise, and for the custody of gold coin; and that thereupon the office of the treasurer of the branch Mint aforesaid, *ex officio* Assistant Treasurer of the United States, as well as the office of the assayer thereof, shall be established in such building or apartments until such time as the said branch Mint shall be completed. That the owners of gold bullion, in dust or otherwise, shall be entitled to deposit the same with the treasurer aforesaid, who shall give a receipt, stating the weight and description thereof; and the said treasurer shall, from time to time, deliver such bullion to the assayer herein authorized, whose duty it shall be to melt the same, cast it into a bar or bars, or disks, of suitable and convenient size and form, to assay the same, and to stamp thereon the proportions in thousandths, of the precious metal contained. And thereupon, the said assayer shall return to the said treasurer the bars or disks so melted and assayed, who shall deliver the same to the depositor thereof, or his order. That the said treasurer is hereby empowered to appoint, with the approval of the Secretary of the Treasury, one clerk to aid him in the receipt and delivery of bullion, the preparation of accounts, and in such other duties as he may designate; also, one weigher, to weigh such bullion, and such watchmen and servants as may be necessary in carrying on the business devolved upon him. And the said assayer shall have authority, with the approval of the Secretary of the Treasury, to appoint an assistant, and also such subordinate workmen as may be necessary for melting and assaying such bullion: *Provided*, That the annual salary of said assayer shall be $4,500, and that to the said clerk and assistant there shall be allowed such annual salary, not to exceed $3,000 each, as the Secretary of the Treasury may approve; to the weigher there shall be allowed, on like approval, a salary not to exceed $3,000; and to the subordinate workmen and servants such wages as are customary and reasonable in their respective stations and occupations: *And provided further*, That the said treasurer and assayer, as well as the assistant assayer, clerk, and weigher, herein authorized, shall, before entering on their respective duties, take oath before some judge of the United States, or of the State of California, for the faithful performance of their respective duties, and shall also give bond, with one or more sureties, to the satisfaction of the Secretary of the Treasury, and in such sums as he shall prescribe, conditioned for the faithful performance thereof. That the general direction of the operations herein authorized shall be devolved upon the Director of the Mint, in subordination to the Secretary of the Treasury; and it shall be the duty of the said Director to prescribe such regulations and order such tests as shall be requisite to insure the faithfulness and accuracy of the aforesaid officers in the performance of their respective duties. And that there is hereby appropriated, out of the money heretofore appropriated for the establishment of a Mint in California, so much as may be necessary for the purposes of this act: *Provided*, That no contract be made for the erection and establishment of the said Mint until further order of Congress: *And provided further*, That the lease of buildings herein authorized shall not be for a period of more than three years.

Mr. HIBBARD. Mr. Chairman, the Committee on Ways and Means recommend a non-concurrence in this amendment, and I trust the recommendation of that committee will be concurred in by this committee, unless they shall agree to adopt an amendment which I shall offer to this section as an additional proviso. I propose to offer the following at the end of the Senate amendment:

And provided further, That the act entitled "An act to establish a branch of the Mint of the United States in California," be and the same is hereby repealed.

Now a word as to the history of the branch Mint and assay office in California. By the last Congress an assay office was established in California, which was then believed to be sufficient for all the purposes requiring legislation at that time. At the last session, however, a proposition was brought forward to establish a branch Mint, and to abolish the assay office in California. Well, sir, the assay office was abolished and the Mint was established, and $300,000 appropriated for the purpose of its erection. That is now the law of the land. But, as I understand from information which I have received from the Treasury Department, no contract has yet been entered into for the erection of that California Mint, and I am not aware what preliminary proceedings, if any, have been had. No contract has been entered into, and we stand virtually in the condition in which we were before the act establishing a Mint there.

Mr. MARSHALL. Will the gentleman allow me to correct him?

Mr. HIBBARD. If the gentleman wishes to correct what he supposes to be any error in statement, I will yield to him with pleasure.

Mr. MARSHALL. I merely wish to correct what seems to me to be a very essential error which the gentleman has fallen into, in point of fact, in regard to this assay office in California. The gentleman speaks of that assay office being abolished. Now, sir, that assay office is in active and constant operation, as much so as it ever has been. Although I know, as the gentleman says, that it was the intention of Congress to repeal that institution, and relieve the people of California from one of the grossest and most oppressive frauds ever

perpetrated upon any people; yet in consequence of the construction given by the Secretary of the Treasury to that law, the assay office in California is in as constant and injurious operation as ever. These are the facts in reference to this matter, and they ought to be known.

Mr. HIBBARD. That assay office was prospectively abolished. It was not proposed to continue the Mint and assay office together. That all the proceedings in regard to this assay office have now been discontinued, I did not assume to say, and do not understand. But, sir, to resume: it is now proposed—and the proposition has passed the Senate and is brought before this House—to establish this assay office, and to continue it in operation, and to provide that so much of the appropriation for the erection of the Mint there as may be necessary shall be applied for that purpose.

To show that I was correct in saying that no contract had been entered into for the erection of a Mint there, I need but to read the last clause but one of the provision itself which the Senate have adopted to this bill. It is provided "that no contract shall be made for the establishment of the said Mint until the further order of Congress." The Secretary of the Treasury says no contract has as yet been made; no steps have yet been taken for the erection of a Mint there; and all operations in that direction under this provision are to be suspended until the assay office there is fully established; and for a period of years thereafter. But it will be seen by the prior provisions of this section that is not proposed to discontinue the Mint altogether. It is only to divert the appropriation which has been already made—for I think it will take all of it and more to complete the assay office there—and then to go on and establish a Mint there. By the Senate amendment the Mint is recognized as something that is still to be. The faith of the Government is virtually pledged for its future completion. It is provided at the commencement of this amendment that the "President is hereby empowered to ap-'point an assayer for said branch Mint in antici-'pation of the completion and establishment there-'of." That is, it proposes to make this appropriation for the completion of the assay office; but it does not stop here. It will commit us to go on and construct the still more expensive establishment of a Mint hereafter. It is on account of this feature, and some other objectionable provisions, to which it is not necessary now to allude, that I oppose the Senate's amendment in its present form.

I am against having them both. If California is content with the assay office, let her have it. In my judgment, it is all that is really needed. With all friendliness of feeling towards that State, with every disposition to be just, wholly so, in our legislation toward them—and to be just is all we have the right to do—I must say that I am of opinion that that is all that is essentially necessary, and all we can be warranted in doing. I am against this whole policy of expending the Government moneys in California or elsewhere, as a matter of favor to particular localities. We should legislate for the wants and uses of the Government, and for those alone. If benefit to any State or city is the incidental effect of such legislation, no one will be more gratified than I. But this is as far as I can go in the way of protection or favor. I repeat that this expenditure is not required by the wants of the Government. There is nothing to justify it—no necessity which can warrant the heavy expense attendant upon the erection of this Mint, especially at the present time.

Why, sir, I understand—and it is admitted out of this House, if not in it—that your appropriation of $300,000 is by no means sufficient for the completion of the work proposed. I do not know that it will even buy a site for it. I understand that the title of the land upon which it has been proposed to build the Mint is still in dispute. We may have a litigation about the land, after expending millions upon it, and have to give it up or move off. It is far more probable that one, or two, or three millions will be swallowed up—judging from past experience—before that work will be completed.

And now, Mr. Chairman, in my humble judgment, if ever, *now* is not the proper time for the Government to enter upon that expensive work in the present unsettled state of affairs there. The enormous price of articles of every kind in California is more than double that of the same in other portions of the country. If ever, now is not the time for the performance of this work.

The effect of my amendment is to provide for the discontinuance of the erection of that Mint, and that we shall rely upon the assay office. I think, sir, that is all that is necessary. I trust if my amendment is adopted, that the committee will concur in the amendment of the Senate as amended; but if my amendment is not adopted, I hope that the recommendation of the Committee on Ways and Means will be adopted, and the amendment of the Senate be disagreed to. I care little which course the House will take.

Mr. MARSHALL. Has the amendment of the gentleman from New Hampshire been offered?

The CHAIRMAN. It has not yet been offered.

Mr. MARSHALL. As it is to be offered by the gentleman, I desire to have it read.

The amendment was then again read, as above inserted.

Mr. MARSHALL. It is my intention, as soon as it can be done in order, to move to strike out the entire section, including the proposed amendment. The amendment itself appears to me to be entirely unnecessary, because this section of the bill, as it now stands, amounts in effect to the repeal of the bill for the establishment of a branch Mint in California. And it goes on further to enact a very easy possibility for the squandering of the already too limited fund, which was appropriated by the bill establishing the branch Mint for the purpose of its establishment.

But before I say anything at all to this section of the bill, or to the proposed amendment, I would be glad to correct an error prevalent in this House and in the country, as to the position which the members from California and the State of California itself occupy in the legislation of this Union. It seems to me that if this House constantly receives each application of, and treats every law relating to, California, as if that State was something foreign to the Union, something dissociated from the great political system of which it forms an integral and most important part, and that we are considered either in the light of beggars and mendicants, asking for charity at the hands of the National Legislature, or as robbers and swindlers who seek to defraud the Treasury of the Union, in which we have so immediate and vital interests—this is a total mistake—a total misapprehension. In the progress of this country, it has acquired the territory of California—a more valuable territory, in proportion to its extent, than any other which belongs to the Union. We are in the position of a purchaser of a great and magnificent estate. The question which rises here, then, is, whether we shall improve this estate, which we have acquired at such immense cost.

Every California question is not a question between the citizens of that country and the Union, in which they are arrayed in hostility against each other, representing incompatible and conflicting interests. This and all other questions which have been broached in this House by the Representatives of the State of California, interest the whole Union, and each and every part of it are equally involved in them. A wise administration of the affairs of that State is of vital consequence to the whole Union, and ought to be contemplated in that light. Every improvement of that State, every measure for its safety and protection, is for the safety and protection and for the dignity and honor of the whole Union. Although so far removed in space, we are and feel ourselves a part of the great American people, though we are an advanced guard, not only of American, but of the whole wide world's civilization. It is alike the duty, then, and the interest of the National Legislature to protect this territory which they have acquired, or else abandon it. That is the alternative which gentlemen will be obliged at some day, and ought now to prepare themselves to meet.

Why, sir, that State has already submitted—quietly, without repining, almost without remonstrance—submitted to oppression in comparison to which those which drove these States from the British Empire were as nothing. Money has flowed out of the pockets of our people into the National Treasury without representation upon this floor, and when we come to seek its restoration, we are absolutely met with a smile of derision, even by the Democrats of this House.

Producing $100,000,000 annually of the crude material from which the currency of the world is formed, we are without a measure of value. The United States retain in their own hands that sovereign power of coining metal which is essential to the daily payment of our daily wages, and refuse to exercise it in our behalf. We produce nothing but gold, and unless we are empowered by the National Legislature to give that gold the stamp and measure of its true value, it is impossible for the workmen in our mines to get their fair day's wages for the hardest day's work.

I have neither time nor physical strength, nor is this the proper occasion, to recapitulate the gross and glaring neglects and oppressions under which that State has suffered; whilst not one impatient demonstration has yet attested her consciousness of these injuries—not a groan has escaped from her. I do not wish to speak threateningly. I do not think I can frighten anybody. I do not wish to scare anybody, and I hate to think of disunion; but I do say to gentlemen, if the United States has neither the energy nor the intelligence to supply one of its own members, one of its own sovereign independent States, with laws securing the common rights of all freemen everywhere, that we shall be obliged, in vindication of our Saxon descent, to show that we spring from the same revolutionary stock; we will be obliged to provide for ourselves, for our own defense, to coin our own money, and to make such treaties with this Union as will promote our interests and secure our own safety.

Now, sir, I am here more especially as the representative of the mining interest. There was nothing in all the many objects which I had in coming here so especially interesting to me; nothing looked forward to with so much interest by the people whom I represent, in part, upon this floor; nothing of so great actual moment in our every-day's actual business, as the establishment of a Mint for the coinage of our gold.

We did succeed, after California had applied to Congress for more than two years for the establishment of a Mint, in getting through the House a mutilated and insufficient provision, but which was yet better than nothing—a bill which satisfied a people so accustomed to injustice—a people so easily satisfied, as the people of this Government have thought California to be—a bill which provided that a certain work, expensive in California, expensive everywhere, should be contracted for, and contracted to be completed entire, for a sum wholly inadequate for its completion.

Still there are now pending, under the law passed by Congress at the last session, offers in the Treasury Department for building a Mint in compliance with the law, and for the amount provided for under that law. What sort of a Mint it will be, I cannot pretend to prophesy. It will be some kind of a blacksmith shop, which will prevent us from being swindled out of two and three quarters per cent. upon all the gold dug in the State, as now happens under the operation of this assay office. It will be better than that, at least. It will be rough in its exterior. We expect that. We do not want any display of architectural magnificence. We do not ask millions to be expended, as here around this center of the national interest, in the gratification of State pride. We do not ask for forests of columns and mountains of polished marble, which are here voted for no purpose but to violate republican simplicity, and indulge the same vanity which exhausted a people to pile up the "*saxum immobile*" of Roman pomp. We do not want anything of that sort. Any log-cabin, in which we can stamp upon the product of our labor its true value and give it currency, will answer our purpose. And that we can get under the offers now filed in the Treasury Department.

By the wisdom of somebody or the other—I do not know who, but I should suppose the whole House and Senate, from the amount of wisdom exhibited, have been concerned—a section is now offered which, in effect, repeals the Mint bill, and undoes all that was done at the last session; and goes on further to provide that the then appropriation shall be squandered for objects wholly useless and not at all desired by the country. This section gives to the Secretary of the Treasury the unlimited and irresponsible power of making contracts; it puts into his hands, without any sort of guard or protection whatever, the right to rent, to purchase, or to lease an assay office, the very thing

we have been wanting to get rid of, the very strongest agent of all for perpetrating against us the wrongs of which we have been complaining all the time. He is to lease or purchase an assay office; and it is to be done out of so much of the $300,000 originally given for a Mint as may be necessary for that purpose. I do not want to reflect on anybody; I do not want to say anything I do not know; and God knows I have never said here all I did know on any question yet, and I will not do it now, because I hope that this amendment will be stricken out. But I will make a bet against all the odds that a gambler's conscience would permit him to take, that there will not be one cent of this $300,000 left after this renting, leasing, or purchasing is completed.

I have examined these subjects tolerably closely, and I happen to find out a good many things that you, gentlemen, cannot, in the nature of things, find out; and I hope, then, when I do make significant hints, like the one I now deliberately mean to make, you will give me credit for knowing more than I say, or perhaps more than it would be prudent to say. I will be responsible before my people for what I say and what I do, and if you will vote this thing down, and say that I said so, I have political reputation and political hopes enough at home to make it a pledge of some moment which I give to this House, that, if you will do that, you will do what is right.

Mr. CARTTER. We will do it. Make your motion.

[Cries all over the Hall—"Make your motion!" "You are right!"]

Mr. MARSHALL. I read from the Senate amendments part of the objectionable provision: "That no contract be made for the erection and establishment of said Mint until the further order of Congress." Now, we were two years in getting the concern through that we did. In the course of human events, and in the development of the efficiency of the House, I would like to know when Congress is going to take any further action on the subject? Why, our grandchildren will not live to see a Mint in California! Four years would be the shortest time in which it would be possible, in the nature of things, and the rules of the House. Four years will be the very shortest time. But are we all of this time to have that assay office, which has been cursed by every man not a professing Christian in California for the last three years? [Laughter.] Are we to have that assay office, taking two and three-quarters per cent. out of every miner's pocket, for putting his gold into a shape so that he will not lose the whole of it in carrying it in a buckskin bag all over the country?

I will give you, Mr. Chairman, one week's operations of a miner. He gets two or three hundred dollars; comes down to San Francisco with it in the shape of gold dust. He cannot sell it without a sacrifice of about twelve per cent.; the assay office will only charge him two and three-quarters per cent. for running it into bars, but they cannot do it, they tell him, for a month or six weeks. Now, if a miner undertakes to stay in San Francisco a month or six weeks, he will get nothing from the assay office or anywhere else; by that time the expense will have consumed the whole capital. He then goes to a banking house—some such institution as Palmer, Cook & Company. He tells them, "I have got this gold dust and it is almost of no account to me; I do not know what to do with it. The assay office will not work it up into any shape for six weeks, and I cannot stay here all that time, for it is more than my gold is worth." The banking house, very kindly and generously—for you must know that it is very intimate with the assay office—they are awfully intimate! and of course kind offices are done between business men—the banking house, I say, pays him the value of his gold, taking off five per cent., which is the rate of interest the miner has to pay per month—the banker pays him in slugs, the same shape into which the assay office runs the gold.

Now, the miner's gold does not lay at the assay office six weeks—there is nothing of the kind—it is assayed at once, and five per cent. is made off of him in the first instance, and the banker has the use of the gold for the six weeks, which is equal to five per cent. additional. These things are true. They are hard, and make people angry. Mining is a hard trade. The miner has enough to bear from the nature of his avocation, and this thing will not answer. This National Legislature ought to understand and act on the subject. They ought to stop this connecting and sustained series of frauds which have been perpetrated, in one form or the other, ever since gold was first discovered there. Well, this section settles the question and makes it hopeless for four or five years, and the assay office will be a fixed fact in the history of California, and a robbery of its people a part of the history of the action of Congress.

The amendment of the gentleman from New Hampshire will be worse than the Senate amendment, a more efficient provision for the destruction of the prosperity of that State, and a plainer violation of the rights of its people. I will not stop, however, to speak on that amendment, because if this section be stricken out, how much more clearly will the House see the necessity for rejecting the amendment of the gentleman, which is like the Senate amendment in its character, but infinitely worse? The Mint bill is inefficient and bad, but it is better than none. It will satisfy us. We will not be so plundered as we have been. We shall feel grateful if Congress will but let alone the little that it has done heretofore. I enter against the section, and its spirit and intention, and against the amendment of the gentleman, the most solemn protest it is within my power to offer.

Mr. TOOMBS. I agree with the gentleman from California in his opposition to this section. He is, I think, entirely right, and I trust that the committee will strike it out. I do not, however, concur with the gentleman in his ideas in regard to the treatment of California by the Federal Government—very far from it, because I think that no new, no old country, no portion of this Union has been treated as well as California. I admit the section is altogether bad. There are several provisions in it which, if it is to pass, ought to be amended; but relying on the committee being willing, at least, as the gentleman says, that the bill which was passed last year for the establishment of a Mint in California will be carried out, I shall make no such motion. I am told from good authority that bids are now before the Secretary of the Treasury for the building of that Mint. The committee ought not to hesitate, for the amendment would be throwing away the $300,000 on an assay office. I hope that the recommendation of the Committee on Ways and Means will be agreed to, and that the section will be stricken out and the matter left where it is now. It is unnecessary to offer further argument on it. Let San Francisco have the Mint. I see a good many things covered up which I had risen to lay bare to the committee; but as a general disposition seems to prevail in favor of striking the section out, I shall not do so.

Mr. MARSHALL. I hope the gentleman will expose them. I would do it myself were it not for peculiar circumstances.

Mr. TOOMBS. I would do it if time permitted.

Mr. EVANS. I am not going to make a political speech.

Mr. HOUSTON. I had hoped that we would get through with this bill without general debate. I will state to the committee that it is utterly impossible, unless by the closest vigilance, to pass the appropriation bills in the time that is left us.

Mr. EVANS. While I was out to-day, the gentleman from New York [Mr. BROOKS] repeated the remarks he made last week when I was sick, with reference to the light-house system. He showed, as I believe, hostility to it in advance, and an indisposition to give it a fair trial.

Mr. BROOKS. I rise to a point of order, and I do so because if the gentleman goes on and makes a speech, I desire the privilege of reply, but if there be no speech made I desire to make no reply. Under the rules of the House, a member must confine himself particularly to the subject under debate, and at this period of the session I do not think that we should deviate from that essential rule. I do not wish to be under the necessity of replying to the gentleman, but if he goes on and makes a long speech and opens the subject, the whole day may be consumed to the delay of the pressing public business.

The CHAIRMAN. The Chair holds, although it has been the practice of the committee to permit general debate on appropriation bills, according to the rules, that when a bill with Senate amendments is before the committee that remarks ought to be strickly confined to the amendment under consideration, and therefore decides the gentleman is out of order.

Mr. EVANS. The objection comes with a good grace from the gentleman from New York. His argument would bear any sort of an answer.

Mr. HIBBARD, by unanimous consent, withdrew his amendment.

The amendment of the Senate was then nonconcurred in.

The following amendment was then read:

"SEC. 7. *And be it further enacted*, That when the gold or silver shall be cast or formed into bars or ingots or disks, no pieces as aforesaid shall be cast or formed of a less weight than five ounces, unless they be of standard fineness, and the charge for casting, or forming, or refining said bars, ingots, or disks, shall not exceed the expense of executing; the operation to be regulated, from time to time, by the Secretary of the Treasury. And the Secretary of the Treasury is hereby authorized to regulate the size and devices of the new silver coin authorized by an act entitled 'An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime.'"

Mr. DUNHAM. I move the following amendment: To strike out from the commencement of the section down to the words "of the Treasury," where they first occur, and insert the following:

"That when gold or silver shall be cast in bars, ingots, or formed in disks at the Mint of the United States, or any of the branches thereof, the charge for refining, casting, and forming said bars, ingots, or disks, shall be equal to but not exceed the actual cost of the operation, including labor, wastage, use of machinery, materials, &c., to be regulated from time to time by the Secretary of the Treasury: *Provided*, Said charges shall not exceed one half of one per cent."

Mr. DUNHAM. The object of the amendment of the Senate, I suppose, was to accomplish what was recommended by the Committee on Ways and Means in the coinage bill upon the same subject; but the language of the amendment does not accomplish that object entirely. The first part of this section is entirely unnecessary; and changes a portion of the coinage bill, which provides "that when gold and silver shall be cast 'or formed into bars or ingots or disks, no pieces 'as aforesaid shall be cast or formed of less weight 'than five ounces." This is all provided for in the coinage bill, and it is unnecessary to put this provision again in this bill. The object of the amendment is to make the seigniorage, when the gold is cast into bars or ingots, equal to the expenses of manufacture, and not to exceed or be less than that, and to be regulated under the direction of the Secretary of the Treasury.

Mr. BROOKS. The gentleman will find the necessity of modifying the amendment as "hereinbefore provided."

Mr. DUNHAM. Those words must be stricken out, as the section before it has been stricken out.

Mr. BROOKS. I am in favor of a portion of the Senate amendment as it now stands, because it repeals, or proposes to repeal, in substance, the seigniorage act which we passed the other day, under the pressure of the previous question—that very extraordinary act which in February of this year in this first section, provided that a very large portion of the act should go into operation the past year, that is June 1st, 1852, though we passed it in February, 1853. Now, as the proposition of the gentleman from Indiana, [Mr. DUNHAM,] or rather the proposition from the Senate, is to repeal a larger portion of the whole act, I think it a wise amendment, for the act was a bad one, and that we ought therefore to amend it as soon as possible.

The bill as it stands before us amended exempts the holders of gold who form it into bars, ingots, or disks from what is called seigniorage; that is, from all charges of that character or kind, except the actual cost of the work, which is now being paid by the holder or depositor. So far, then, as the House retraces the hasty steps it took the other day, the retraction is wise; but I think that it should go further yet, and repeal all charges of seigniorage on gold whatsoever. The act, as it is now proposed to have it stand, must have this tendency: it will induce the holders to order their deposits to be returned to them solely in ingots, bars, or disks, because the expense of coinage there will be only what is the actual expense, while if they coined it into dollar pieces, quarter eagles, or half eagles, the currency which the people most desire, and which is the most necessary for the country at this time, it will subject them to the greater cost of coining; that is, to one half of one per cent. It would be a very unwise provision, it seems to me;

thus to tempt the large holders of gold dust or bullion who make their deposits to require returns to be made to them in ingots, bars, and disks, subject only to the actual expenses of *casting*, and freed from the additional expense of *coining*, when the great body of the people of the country desire *coinage*, not *castings;* that is, dollar pieces, quarter eagles, and half eagles, that the act as it stands here subjects to the full seigniorage of one half of one per cent. Notwithstanding all this, I am in favor of the provision as it now stands, because it frees my people from an enormous tax which the House the other day imposed upon them; for it enables the holders of gold in the city which I represent to make their deposits and to require the return of bars, ingots, or disks, and not in the costly coinage of the smaller pieces of gold. My constituents who can under the law make foreign coinage a legal tender, will never subject themselves to one half of one per cent. to have small American coins, more especially when they can export bars and ingots, assayed, refined, and parted at a small cost. The whole thing is wrong; and I would get rid of all of it if I could; but I am rejoiced to be relieved from the part which immediately oppresses my constituents.

At the proper time, when the amendment of the gentleman from Indiana [Mr. DUNHAM] is disposed of, I will propose to exempt from this seigniorage tax, the dollar pieces, quarter eagles, and half eagles, in order to enable the people of the country to have a circulation of small gold coins among them, the better to take the place of bank paper and bank notes, which are used now more freely than they would be if the people were supplied with small gold coins. The Mint has been spending all its energies upon the double eagles, ($20 pieces,) and what the bill does in effect, is to stop the coining of them for the casting of bars and ingots. But it provides no popular currency; it gives the people no substitute for small bank notes, but, on the contrary, directly favors them by giving a premium on the seigniorage on gold bars against small coins.

I do not, from the hasty reading, quite comprehend the amendment of the gentleman from Indiana, and I am glad to see that he is about to rise to make some further explanation of it. It is dangerous to legislate on the currency by passing amendments only read at the desk in the noise and confusion of the House, and I should be happy to hear the gentleman's explanation.

Mr. DUNHAM. The proposition contained in the amendment I propose is a very simple one. It provides that the actual cost only to the Government of manufacturing disks, bars, or ingots, shall be charged to the person for whose benefit the manufacturing is done, so that the charge does not exceed one half of one per cent. This is the object of it. The law of last session establishing the California Mint, authorized such a charge to the full amount of such expense, without limitation, to be imposed, as the gentleman has stated. Whether that cost was one half of one per cent. or two per cent., it would be charged under that law. That is the reason why, during the last year, there have been no bars or ingots manufactured under that clause of the law, but the coinage has been rather of the twenty dollar pieces, because the holders of the gold having it coined into twenty dollar pieces can use them for their convenience as merchandise as well as the bars and ingots, and they had to pay no charge whatever upon the coins, but would have had to pay the full actual cost of the making the bars and ingots. That is one reason why there has been such an extensive coinage of double eagles during the last year.

I certainly do not agree with the gentleman from New York in reference to taking off entirely the seigniorage on the smaller coins, and for this reason: If you amend this clause in the bill as I propose, you will then leave the manufacture of small coin and bars and ingots and disks upon precisely the same footing; for as every gentleman who has given attention to the subject knows the average cost of coining the coins for general circulation is fully one half of one per cent., and as by the bill passed the other day the charge cannot exceed one half of one per cent., therefore the charge for coinage of these coins is what I propose to make it upon the bars and ingots the actual cost by this amendment. The man who has his gold coined into small coins must pay the cost of the manufacture, and the man who has it coined into bars or ingots should pay not more than the cost, because if he does, you see at once you take away the very object which we had in view in imposing this seigniorage—that is, to induce the holder to have his gold and silver intended for exportation made into ingots and disks. If the same charge is imposed for manufacturing bars and ingots that is imposed for manufacturing the small coin, or if you manufacture the small coins for nothing while you charge a percentage on the making into bars or ingots instead of having the gold intended for exportation carried into bars and ingots, they will have it at once coined into the smaller coins, because they will have to pay for it if carried into bars and ingots, but will not if made into such coins.

Mr. BROOKS. The point I wish the gentleman to understand is, that if you cast gold into bars, ingots, or disks, it will be done very cheap, and if you cast it into dollar pieces, quarter eagles, or half eagles, the coinage will be dear. Therefore you hold out a premium to the depositor of gold, in making his deposit, to demand a return of bars or ingots, and you tempt him to resist the coinage of the smaller coin—the gold pieces, the quarter and the half eagles—the consequence of which is, that you will have, in the main, bars or ingots coined, and you will not have the dollar pieces, the quarter and the half eagles, which the people desire, because that is the dear coinage and the other is the cheap.

Mr. DUNHAM. That objection amounts to nothing, for this reason: if gold is intended for exportation it will go to the place where it is needed.

Mr. BROOKS. What right has this Government, in regulating coinage, to make gold into bars or ingots? Any man can bar iron or sheet copper.

Mr. DUNHAM. In that remark I agree with the gentleman precisely. I think the Government ought to have nothing to do with coinage, except what is absolutely necessary for its circulation. I think that all but that should be left, as other manufactures are left, to individuals. But we have not adopted that principle. If the gentleman will bring forward a proposition to place our Government, in this respect, upon the same footing as all the other Governments of the world, I will go for it most heartily. I believe ours is the only country in the world where gold is refined and made into bullion by the Government.

Mr. BROOKS. The act which was passed the other day is of so outrageous a character, that if it stands as it is, there will never be any bars or ingots cast at the Mint. It will be done by individuals, as bar iron and sheet copper are now manufactured.

Mr. DUNHAM. If I was certain that that would be the case, I should be perfectly satisfied, because I think the Government ought to wash its hands of gold refining and gold barring. As I remarked before, the United States is the only country where the Government as a Government carries on this kind of manufacture. Gentlemen tell me the Government is paid for it. That is very true. By the law as it now stands, they are paid for it, and the only object of the amendment which I propose, is to control the amount that is to be charged to the depositors.

Mr. SKELTON. I have but a few words to say in regard to this amendment of the Senate; and I believe it is of sufficient importance to warrant us in examining it for a few moments. The reasons which the gentleman from New York [Mr. BROOKS] has given the committee why we should pass this amendment, are the very reasons which should induce every man in this House, who is not a representative of the great commercial emporiums of the United States, to vote against the amendment. He says that in coining bars and ingots, we charge only the cost, whereas in coining gold for circulation, we charge half of one per cent., and he says that if we charge so much more for coining gold for circulation than for coining gold for export, the result will be that all the gold brought into the country, will be sent to the Mint and turned into bars and ingots, for the special accommodation of the large shipping-merchants of New York. Now, the question I ask this committee is, whether we should legislate for the benefit of the shipping-merchants of New York, or for the benefit of the currency of the country? I hope the amendment will be rejected for the very reason urged by the gentleman from New York. It is satisfactory to him because it suits the commercial men of New York; it is unsatisfactory to the rest of the country, because it fails to furnish a currency, which is the great object of the Mint.

Now, if there is a uniform charge of one half of one per cent., it makes no difference what is the size of the coin. You will have such coins struck as are demanded by the interests of the country, and the laws of trade and currency. But if we charge less per cent. on large pieces than on small ones, all the gold will be struck in large pieces, and we shall be deficient in small ones.

I agree with the gentleman from New York, that this Government has no right to manufacture gold into bars for the purpose of exportation. The object for which the Mint of the United States was established was to furnish to the country a circulating medium useful to all the citizens of the country, and for that reason its operations have been heretofore confined entirely to the coinage of gold and silver for circulation.

Sir, I hope this amendment will be voted down, for the reason that it is unequal—charging an unequal percentage upon equal quantities of gold. In addition to this, I hope it will be voted down because the gentleman from New York has expressly declared that it is for the special accommodation of the shipping merchants of New York, and in opposition to the interests of the great masses of the people of the United States. I shall vote against the amendment, and I hope every other gentleman will do so who thinks that a Mint should be carried on for the benefit of the masses of the people, and not for the benefit of a few merchants.

Mr. BAYLY, of Virginia. I differ from a good many of the gentlemen who have addressed the committee, with respect to the expediency of casting gold into bars and ingots. I do not read the clause in the Constitution as some gentlemen seem to read it. It declares that Congress shall have authority to coin money.

Mr. BROOKS. Not to cast bars.

Mr. BAYLY. Yes, sir; if Congress sees fit to cast its coin in that shape. The first metallic money in the world was in bars, and iron bars, at that. The meaning of the word "coin," is to put a Government stamp on it denoting its value.

Mr. TOOMBS. Without reference to the shape?

Mr. BAYLY. The shape in which it may be, whether round or square, has nothing to do with the question whether it is coin or not. Whether it is coin or not depends upon the fact whether its value has been attested by a Government stamp. The very derivation of the word "coin" defines what is meant by the word. Gentlemen have frequently referred to the necessity of adding to our currency double eagles, eagles, and quarter eagles, and so forth. Now, if you wish to increase the quantity of those coins, for the purpose of circulation—and they have urged the establishment of Mints to accomplish the object—you cannot accomplish that object so effectually in any other way as by casting the great mass of this California gold into bars and ingots. When it is thrown into bars and ingots, it will be more convenient as a basis for the banks of the country, than it is in the smaller coins. It will be more convenient, too, for the purpose of exportation. It will take the place, in the vaults of the banks, and in the export of gold, of the smaller coins which will thus be thrown into circulation, and retained in the country. In the shape of bars, it is more convenient for banks and for export, than in the shape of eagles. It is easier counted, and there is less danger of counterfeiting than in any other. For instance, take a bar of gold, and any one can ascertain, with a pair of scales and a rule, its exact value. If the dimensions are right, and the weight is right, all is right. It is chemically impossible, with a large bar of gold, to commit a counterfeit. With any other metal, of less value, it is impossible to make the size and weight correspond with gold. If it have the size, it will be deficient in weight, and if it have the weight, it will be too large.

Sir, I utterly deny that under the clause of the Constitution in respect to coinage, you are compelled to cast the metal in a round shape or in any other particular shape.

Mr. BROOKS. I wish to understand the point made by the gentleman from Virginia. Do I understand him to say that it is not within the power of a State to cast bars or ingots, and to impress

upon those bars or ingots their value? Is it not in the power of an individual holder of bullion, of a large banking house, or of a bullion broker, to impress upon a bar or ingot its weight and value? Is there anything in the Federal Constitution which forbids this exercise of power?

Mr. BAYLY. That depends entirely upon our legislation upon this subject. Congress has the power to coin money and to punish the counterfeiting of the current coin of the United States. If Congress should authorize the coinage of bars and ingots, and should prohibit the counterfeit of them, no State or individual would have the right to imitate that coin. I have no difficulty whatever upon that point. Congress may direct what sort of coin it will have cast at the Mint, and if it leaves out the casting of gold into bars and ingots, why, anybody may do it, as in the case of other metals. Nobody can make a copper cent for currency without violating the laws of the United States, but the coinage of the United States is confined, so far as copper is concerned, to cents, and therefore, nobody is prohibited from making copper bars, or of putting any stamp upon it he pleases, or using copper in any other way. It depends entirely upon the legislation of Congress whether individuals or States can go into the business of casting bars and ingots of gold in any particular form. They may cast them in any other form than that adopted by the Government, but they cannot counterfeit a form thus adopted.

Mr. HOUSTON. I do not rise for the purpose of entering into this discussion, but to appeal to the committee to take the vote. We have not as much time to devote to the remaining bills as we are giving to this. We have got along so satisfactorily with this bill, discussing every proposition, that I do hope we shall be permitted to pursue the same course with all the appropriation bills. But if we consume much more time upon this amendment, which I have no doubt every member of the committee understands by this time, we shall be under the necessity of acting on the other appropriation bills in a way that none of us like to do. I hope, therefore, that we shall be allowed to take the vote and go on with the amendments.

Mr. SACKETT. I desire to say a few words upon this amendment before the question is taken, but I do not intend to detain the committee long. I am opposed to the amendment of the gentleman from Indiana [Mr. DUNHAM] as it now stands, and I wish to state one or two reasons why I am opposed to it. I am opposed to it, in the first place, because, if it passes there will be a difference in the value of gold in coin and gold cast into bars and ingots, and all the gold brought from California, or imported from elsewhere, will be cast into bars and ingots.

What the gentleman from Virginia [Mr. BAYLY] says is undoubtedly true, that it will be more convenient for the banks; it will be more convenient for the brokers; it will be more convenient for exportation; and it can be procured at a cheaper rate. The consequence will be, as certain as effect follows cause, that there will be no coinage for circulation among the people. None of this fifty or sixty millions of gold which comes into the country every year will be converted into coin.

But another consequence will follow: This gold which is cast into bars and ingots will bear a different value in the market from the coin, from the fact that it costs a different price to reduce the original article of the same value and form into the forms to which they are respectively to be brought. The consequence will be that these bars and ingots will be at a premium in the market above the coin of the country, because it will cost less to produce them. What will then follow? Why, sir, every dollar of the gold and silver of the country will be in the hands of the brokers, bankers, and exporters, and none of this immense amount which is now brought into the country every year will be coined and go into the circulation of the country among the people. If this amendment is to prevail in any form—and I do not know but it should prevail in some form—there should be inserted in it the word "coin," so that the same principle may apply to all. There is no propriety in the Government making a profit out of the coinage of the gold of the country; and if there is any propriety in this provision attaching to ingots, bars, and disks, why the same rule should apply to the coin.

Mr. DUNHAM. I simply wish to state to the House that the seigniorage provided for in the other bill does not equal the actual expense of making the coin.

A MEMBER. It does more than that in California.

Mr. DUNHAM. But take them all together, it does not.

Mr. SACKETT. All I wish to say is, that the same rule should be made to apply to all; whether it does or not, I am not able to say. If there is to be a difference made, then plainly the original amendment should not prevail. If there is to be no difference, then I have no objection to it. But I repeat, if there is to be a difference made, the Senate amendment should not prevail.

Mr. JONES, of Tennessee. I move that this committee do now rise, with a view of terminating this debate.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the Chairman (Mr. HALL) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill of the House (No. 335) "to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853," and had come to no resolution thereon.

Mr. HOUSTON. I submit the following resolution, and upon its adoption I call the previous question:

Resolved, That all debate in the Committee of the Whole House on the state of the Union on the bill of the House (No. 335) to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, shall cease in five minutes after its consideration shall again be resumed, (if the committee shall not sooner come to a conclusion upon the same,) and the committee shall then proceed to vote on such amendments as may be pending, or offered to the same, and shall then report it to the House, with such amendments as may have been agreed to by the committee.

The previous question was seconded, and the main question was ordered to be put.

The question was then taken, and the resolution was adopted.

Mr. HOUSTON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

So the rules were suspended.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HALL in the chair,) and resumed the consideration of the deficiency bill, the pending question being upon the adoption of Mr. DUNHAM's amendment to the Senate amendment.

The question was then taken upon Mr. DUNHAM's amendment to the Senate amendment; and it was agreed to.

Mr. THOMAS M. HOWE. I move to amend further, by adding the following:

And the said silver coins shall be a lawful tender in payment of all debts; and shall be convertible into gold coin, at the option of the holder, whenever presented at the Mint of the United States in sums of not less than five dollars: *And provided further*, That said silver coins shall not be alloyed by any other metal below the standard of the present silver coinage of the United States.

Mr. Chairman, I do not propose, at this late period of the session, to detain the committee even to occupy the five minutes to which, under the rules, I am entitled. In the bill which you have lately passed—a bill regulating the silver coinage of the United States, which, as I understand it, is to supply the deficiency in the circulating medium of the country for the fractions of the dollar—you have provided that it shall only be made a legal tender in payment of debts of less than five dollars. Now, sir, if this is intended to accommodate the trade of the country, this small coin should be made a legal tender for all sums of whatever amount, and not limited to debts of less than five dollars. I propose, therefore, by this amendment, to carry out this idea, and make the silver coin of the country, of whatever denomination, a legal tender in payment of debts of whatever amount. I have proposed it in order to prevent any hardship.

But, sir, I promised not to detain the House more than to briefly explain the object of my amendment. I will therefore simply say that the section which is now under consideration confers upon the Secretary of the Treasury the power to regulate the size of the silver coin, and I propose to provide that this coin shall be received as a legal tender in payment of all debts, and also to provide that he shall not have authority to alloy the silver coin below the present standard. I think it is perfectly competent for us to attain the object in this manner; for if we give him the authority to regulate the size, I think we may as well provide what I propose. I hope the committee will adopt the amendment.

Mr. DUNHAM. I think the amendment of the gentleman is entirely unnecessary. The Secretary of the Treasury cannot change the alloy of this coin, for that is fixed by law.

Mr. HOUSTON. We will vote the amendment down, if you will allow it to go without further discussion.

The question was then taken, and Mr. HOWE's amendment was not agreed to.

Mr. BROOKS. I move another amendment to this section, and I desire a vote upon it, in order that it may go upon record. I move to insert in the sixth line, after the word "disks," the words "eagles, half eagles, quarter eagles and dollar pieces;" so that that portion of the section would then read:

"SEC. 7. *And be it further enacted*, That when the gold or silver shall be cast or formed into bars or ingots or disks, no pieces as aforesaid shall be cast or formed of a less weight than five ounces, unless they be of standard fineness, and the charge for casting, or forming, or refining said bars, ingots, or disks, eagles, half eagles, quarter eagles and dollar pieces shall not exceed the expense of executing."

I will not detain the committee by any remarks.

The question was taken, and the amendment was not agreed to.

Mr. HOUSTON. I am instructed by the Committee on Ways and Means to offer an amendment to this section. I move, after the word "dime," in the following clause, viz:

"And the Secretary of the Treasury is hereby authorized to regulate the size and devices of the new silver coin authorized by an act entitled 'An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime;'

to insert as follows, viz:

—passed at the present session; and that to procure such devices, as also the models, moulds, and matrices or original dies for the coins, disks, or ingots authorized by said act, the Director of the Mint is empowered, with the approval of the Secretary of the Treasury, to engage temporarily for that purpose the services of one or more artists, distinguished in these respective departments, who shall be paid for such services from the contingent appropriation for the Mint; and that hereafter the three cent coin now authorized by law shall be made of the weight of three fiftieths of the weight of the half dollar, as provided in said act, and of the same standard of fineness.

Mr. BROOKS. I wish the House to have an explanation of that.

[Cries of "Oh, no!"]

Mr. BROOKS. Well, sir, I will only say that this is another instance of tinkering with the currency of the country. I do not pretend to say that it is not necessary. I presume it is. We have begun, and it will be necessary to tinker again and again. Now, the proposition is to tinker the three-cent pieces. The present three-cent pieces are worth a little more than two-and-a-half cents, or seven hundred and fifty parts of pure metal in the thousand. Now, it is proposed to change it, and make it nine hundred parts in a thousand. I think perhaps it ought to be done, in connection with what you have already done in this matter of coinage. But I protest against this hasty, inconsiderate action here, when the debate has been stopped, and in the House under the press of the previous question. I should like to have it understood. It will be investigated hereafter, and it is well enough to comprehend things as we go along. This is an important amendment, but after what has been done in reference to this matter, it becomes necessary to do something more, and it will be necessary to do something hereafter.

Mr. TOOMBS. I desire to say a word in reply to the gentleman from New York, [Mr. BROOKS,] who is complaining here and in the newspapers as if you had done something monstrous to the currency of the country. Now, sir, I say that in reference to what the House has done in this matter, the gentleman has shown himself profoundly ignorant upon the subject. The bill will answer the purpose of the country well, although it may not answer the brokers in Wall street. It has

put the silver currency of the country upon a basis where you will see it in general circulation in less than twelve months. I know that gentlemen who do not understand this business have represented in the newspapers that we have, under the pressure of the previous question, run away with everything they do not happen to agree with. That is the whole amount of the story.

Mr. SKELTON. I simply desire to say that I hope the committee will vote down all these amendments. They are entirely unnecessary, and will do more harm than good.

Mr. HOUSTON. This amendment is very essential.

Mr. SKELTON. I regard them all as entirely unessential and unnecessary. I hope the House will vote them all down.

The question was then taken, and the amendment was agreed to.

Mr. BROOKS. I propose, *pro forma*, an additional item, "that no change shall hereafter be made in any silver coin except the three-cent pieces."

Mr. Chairman, if I have manifested the profound ignorance which the gentleman from Georgia [Mr. TOOMBS] has manifested, I should be quite ashamed of myself; for he is undoing to-day the work he did on the seigniorage act the other day, and thus correcting his own ignorance by his own action. The Senate of the United States hastened to correct a rash and bad law his vote aided to pass, and here he is to-day amending his own act and confessing his own ignorance. The coinage and seigniorage act which this House passed a few days ago under the previous question, and which the gentleman from Georgia voted for, imposed a seigniorage of one half of one per cent. on bars, ingots, and disks of gold cast at the Mint; but this amendment here repeals that part of the act—a most important part of it—nay, the very principal of it—and here the gentleman from Georgia is concurring in that repeal. Whatever may have been my opinions upon this subject, ignorant or otherwise, the Senate of the United States has agreed with me in my action, and the gentleman from Georgia is agreeing with me himself. Worse, however, was the action of gentlemen who voted for that bill. To show that I was right in my resistance, and the gentleman from Georgia did not even know what was in the bill for which he was voting, I call attention again to the fact, that the first section provides that the act shall go into operation June 1st, 1852, an *ex post facto* act. The bill was passed by the Senate in March, 1852, and by the House in February, 1853, but the House, in its haste, under the previous question, passed the same act, providing in the first section that it should go into operation June 1st, 1852, and the gentleman from Georgia voted for it. I leave the House to judge now of the share of intelligence between us.

It is necessary to make these remarks, Mr Chairman, in order to show that I have not been ignorant of the legislation of the House, though others have, who charge ignorance upon us who know what we are about. The House itself have agreed with me, and is repealing its own action; and I am glad to see it—for it puts the sanction of its authority upon my own foresight the other day. I do not know what object the gentleman from Georgia has in making this assault upon me, for I have investigated and studied this subject probably as much as he has, if not more, as I think time will show. At any rate, I am willing to go to the future upon all I have said here upon this subject, and upon all that I have written elsewhere. The record which I have made I shall stand by. I will not be ashamed of it when we may hereafter meet. Let the future judge of our action. I will at any time compare notes with him when all these excitements on the currency get into full play, and when in the future time develops what has been done. This is a subject to which I have given a good deal of attention, a good deal of study, and which I have laboriously investigated by consulting the authorities of books and the wisdom of practical experience. My aim has been to induce the House to give the whole abstract and complicated subject a full and fair investigation, but the mode and manner of doing business here has forbidden anything like discussion—anything like investigation. A whole currency bill was passed in the morning hour, under the high pressure of the previous question. I made no factious opposition to such rash legislation, and if I have resorted to the newspapers, it is because, under the operation of that previous question, I could not get before the House at all. When I address the public audience through the newspapers, I address ten thousand times as large an audience as ever assembled here, and an audience—with all due deference I say it—far better able, by its business experience, to judge of currency and coinage than this House. If I desire to speak to the country, I should seldom waste breath here, for I can speak ten times more effectually through the newspapers than through the organization of this House; and, with all due deference again, I prefer the newspaper voice without to most of the debate within. The gentleman from Georgia, then, if he means this charge of writing for a taunt, may improve upon it; for, in my opinion, the newspapers without have quite as much intelligence, to say the least, as there is here within. When the previous question was moved the other day, I resorted to no factious opposition, I acquiesced in the hasty action of the House, as is well known, bad as it was. I solicited a recall of the previous question, and I begged gentlemen to give me an opportunity to show to the House the errors which it had fallen into; and when it was not in my power, owing to the operation of the previous question, to address the House, I resorted to the public newspapers of the country, in order to bring my opinions before the public. There those opinions are; and in some future years the gentleman from Georgia may, if he pleases, challenge me before the bar of public opinion, to decide whether his tinkering of the currency has been right, or whether I have been wrong. I am willing to meet him there; and to that future opinion I fearlessly commit what I have said and written on this subject of coinage, currency, and seigniorage. Already I have that verdict in part, from the sudden retreat of this House on the very measure now before it.

[Here the hammer fell.]

Mr. DUNHAM. The remarks which the gentleman has made render it necessary that I should make some explanation in reference to this amendment. The gentleman who has just taken his seat has said that the object in trying to have the previous question voted down the other day was that he might press the striking out of this very provision, which we have this day repealed, in reference to seigniorage.

Now, the gentleman from New York very well knows that the Committee on Ways and Means, of which we are both members, had reported to this House, and recommended an amendment to change that clause in reference to seigniorage upon bars and ingots, and to insert the very provision which I have this day offered to the committee. This very amendment, and every amendment which has been offered here, was then recommended by the Committee on Ways and Means, and the House voted them down, under the previous question; and if anybody is responsible, they are not those who have had this matter especially in charge, but the House itself, which sustained the call for the previous question, and under the operation of it voted down all the amendments then offered, and prevented others from being offered.

But I think the gentleman falls into an error, a great error, when he says that his object in seeking to get the floor at that time, to speak against the bill as it was passed, was to oppose the seigniorage, which we have this day modified and changed, because I believe that every single member of the Committee on Ways and Means was in favor of the change, and no one anticipated any opposition to it. The gentleman certainly could not have desired to come into the House and make an argument against a measure when every one of the friends of the bill was as much opposed to the provision as himself.

The CHAIRMAN. The question is upon the amendment of the gentleman from New York.

Mr. BROOKS. If there is no objection, I will withdraw the amendment.

No objection was made, and the amendment was withdrawn.

Mr. KING, of New York. I ask the unanimous consent of the House to go back and offer an amendment to the clause relating to the committee on the investigation of the Gardiner claim.

Mr. JONES, of Tennessee. I object!

Several MEMBERS. I object! I object!

The next Senate amendment in order was the following:

"SEC. 8. *And be it further enacted*, That the sum of $300,000 be paid to the State of California, out of any moneys in the Treasury not otherwise appropriated, to be applied to the expenses of the State government prior to the admission of California into the Union as a State."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

Mr. McCORKLE. I move to amend that Senate amendment by striking out $300,000 and inserting in lieu thereof $470,000. If it is proposed to pay any part of the expenses of the State of California prior to her admission as a State into the Union, and if it is right to pay any part, it is right to pay all.

It is a matter of history, I suppose well known to the honorable chairman of the Committee on Ways and Means, and to every other member of this House, that the Government of the United States refused to extend the protection of the laws of the United States over California, save and excepting her revenue laws. It is a fact well known, that without government, without protection from the General Government, the people of California were compelled, from the necessity of the case, to establish a government for themselves.

[Here a message was received from the President of the United States, by the hands of M. P. FILLMORE, his Private Secretary, informing the House that he had signed certain bills of the House.]

Mr. McCORKLE, (resuming.) Though Mr. Polk, the then President of the United States, recommended and strongly urged in his annual message to Congress, to establish a territorial government in California, yet it was not done, and while we were organizing our own government, and supporting our own officers connected with the State government, you were at the same time collecting taxes of us to the amount of $1,500,000. We were compelled, I say, to pay all of our own expenses; and if it is right and proper that you should pay back to us a portion of the expenses thus incurred in supporting a government which you ought to have given us, and which you have always given to every other Territory, it is right and proper that you should pay all.

We claim—and the people of California have instructed us upon that subject—that all of this money collected prior to the extension of your revenue laws over us, and prior to our admission as a State into the Union, should be refunded, because it was collected without authority of law. We were taxed without a representation upon this floor, and that money properly and justly belongs to the people of California.

The people of California instructed us upon this subject as follows:

"*Resolved by the Senate and Assembly*, That we deeply regret that Congress has so long delayed in refunding to the State of California moneys collected in her ports, and from the honest industry of her citizens, previous to her admission into the Federal Union.

"*Resolved*, That we consider the fund heretofore known as the 'civil fund of California,' to be the property of this State, and that any other application of it by the General Government we hold to be unjust and ungenerous. Taxation without representation is a principle always repudiated by the American people.

"*Resolved*, That our Senators be instructed and our Representatives requested to continue all honorable exertions to procure from Congress the recognition of our rights to the moneys taken from us by the General Government, and an appropriation to that effect: and that we call upon our sister States to see that this act of justice is performed towards the youngest of the Republic.

"*Resolved*, That the Governor be requested to present to our Senators and Representatives each a copy of the foregoing resolutions."

California, sir, claims all of this civil fund. We claim it upon principle and right, and I would introduce an amendment to that effect here, but that I do not think it properly in order, and therefore I confine myself to this simple amendment.

Mr. MEADE. I would ask the gentleman if California does not owe us a little rent for her lands?

Mr. McCORKLE. We paid you last year $80,000,000—a pretty fair rent.

Mr. CARTTER. I am opposed to this amendment, Mr. Chairman, not in a spirit to deprive California of what is legitimately due to her. I am willing to go with him who goes furthest in the expenditure of the public money for the legitimate protection and trade of that region, and my

votes testify to that fact. But I am opposed to this amendment, for the reason that the rule of relief proposed by the gentleman from California, if there was any justice in his position, is not a correct rule. If we are bound to maintain the civil government, let us do it upon an estimate of the expense of it. It is not true, whatever may have been the relations of her Legislature to us, that California is entitled to the customs fund. That inures to the benefit of no State or Territory, and never has since the organization of the Federal Constitution; and the pretense that the money belongs to them is without the authority of law, and has no foundation in equity.

But, sir, I deny the proposition that the Federal Government left them without protection. We expended millions in furnishing the only protection of a political character that the nature of the circumstances would permit. We gave them officers, and an army to protect them at an infinite cost, as the balance-sheets of the Treasury will show. Now, by what kind of mathematics is it that California sets up a title to the revenue there? They paid it as the Federal citizen pays his taxes everywhere. It was in no sense distinguishable from the performance of the duty due by the citizens remaining at home. It was to support the Federal Government, and if it was entitled to this fund, what kind of measure of relief is it to claim the whole of it? They make no exhibit of their expenses as distinguishable from the Federal expenses. It constitutes no criterion of judgment whatever, and it would amount to a naked donation if it were rendered up to them. I cannot see any view of the subject that will justify the amendment.

The question was taken, and the amendment was disagreed to.

Mr. McCORKLE. I rise to increase the appropriation to $470,000. That is the actual amount of money which was expended for expenses of the Government prior to the admission of California as a State into this Union, as shown by the estimates of the State officers. The gentleman states that the revenue collected in California prior to the extension of the revenue laws, belongs to the National Treasury. Has that money ever passed into the National Treasury? No, sir; not one dollar of it. The Secretary of the Treasury properly refused to receive it. It was collected without the sanction or authority of Congress, and there was no law authorizing the Secretary of the Treasury to receive it. You commenced in California when four hundred native born American citizens were fighting there under your flag to levy military contributions alike upon them and the enemy. You continued those contributions during the war and after it had closed, and in this way the money known as the "civil fund" was raised. You had no collector there by authority of law. Your officers imposd this military contribution on American citizens when they had no benefits of your Government, and this money has never been paid into your Treasury. It was expended to support your army and navy, which were there, out of funds, while the four hundred men constituting the California battalion did good service during the war, and, in fact, before your flag was unfurled, conquered the whole northern portion of the State, and had driven every Mexican out of it, and before your own soldiers had touched the shores of the Pacific, and have not, as yet, received one dollar of compensation for their services.

When your army and navy did arrive, and news of the war with Mexico was received, they enlisted under your banner, and it never trailed in the dust where they fought. No, sir; the people of California insist on this as a matter of right, that this "civil fund," collected in violation of law and of all principle, shall be paid back to the State treasury. I do not, by this amendment, seek to get any part of this fund now. The proposition that I now make and submit, is, that this Government having entirely failed, refused, and neglected to give the people of California a territorial government, are bound to pay the expenses of the government which necessity compelled us to form for ourselves. You have always paid the expenses of the government of Territories prior to their admission into the Union as States. You, therefore, in justice, by honor and precedent, are bound to pay the expenses of the government of California prior to her recognition by you as a State, and her admission into the Union. The claim of California for the "civil fund" is a separate and distinct one, and has no connection whatever with the amendment which I have offered.

Mr. HIBBARD. The gentleman from California claims that this money is due, because the Government of the United States, as he says, illegally collected some $400,000 of revenue in that State before the organization of the State government, while she was under military rule. Now, sir, it strikes me, on the statement of the facts presented here by the claimants themselves, it is plain in any view of the question that this money is not due to California. Remember that this is a claim for the State, and not for the individuals who paid the money. This revenue was collected rightfully or wrongfully. If collected according to law—and I believe that it was legally collected—it belongs to us. It is all right as it is. If it were illegally collected, it belongs to those men from whom it was wrongfully exacted. That I hold to be a clear and plain proposition. If it has been imposed without right, we ought to refund it to the importers who have paid it, let them reside where they will. Their names are all upon your Government books, and they can institute suits and recover back these moneys from your revenue officers, as in other cases where duties are illegally collected. Comparatively few of them lived in California. They are upon the Atlantic coast and in the interior. They are scattered in the various portions of the Union. It makes no difference where they are, whether in California or out of it, the money belongs to them as individuals, upon the hypothesis of gentlemen who advocate this claim. There is no pretense that it was taken from the State of California, or that one cent of it ever belonged to her. Should we go on in this absurd, I would say this insane course, of paying this money to the State of California, you will have to pay it over again. By this act you would admit that it was illegally collected, and then these individuals would come upon you for it, and they would get it, too, with interest added.

Mr. MARSHALL. I rise to a point of order to stop irrelevant discussion. Nobody is attempting to have the money we say was improperly collected from California restored. Nobody has offered an amendment having that in view. The amendment of my colleague is, that $470,000, which was the amount of the actual expense of the territorial government, should be given us, instead of $300,000 proposed in the bill. We are asking this on a different principle, and not out of any special fund, but out of any money in the Treasury not otherwise appropriated. This whole question, as to what we technically call the civil fund in California, is not in order. No such question is at all raised.

Mr. HIBBARD. I must call the gentleman to order. He has no right to argue his question of order.

Mr. MARSHALL. I am not arguing the question, but stating it, as I have a right to do.

The CHAIRMAN. The Chair overrules the question of order raised by the gentleman from California.

Mr. HIBBARD. The gentleman from California [Mr. McCORKLE] himself assigned as a foundation for his argument, that the civil fund, as he is pleased to call it, was illegally collected in California. Because this revenue has been collected illegally, it is argued as a reason why we should pay it back.

We have had this same proposition before us in another form long before. It is an old acquaintance. It has heretofore been urged by the gentleman, [Mr. MARSHALL,] eloquently and ably, as he urges everything. No man has a better faculty of making the wrong appear the better side than my friend from California who last spoke. We have been urged to repay this sum to California heretofore in a separate bill. But now, instead of coming forward and asking that in terms, they ask us to repay that money out of the Treasury, because, it is said by the gentleman from California, [Mr. McCORKLE,] this sum was illegally collected. I submit that this, if true, is no reason for its repayment. But I do not admit the gentleman's assumption that this proceeding was illegal. The money was properly and legally collected in the outset. We have done no wrong to California or her citizens in this matter. They went upon our territory of our own account. The United States protected them by a military government until another could be formed. We sent an army and a navy there at great expense. We did all we were called upon to do—all that we ought to have done. As a necessary incident of the government established there, we collected those duties from the traders at her ports. But the gentleman [Mr. MARSHALL] says we are bound to pay this amount to defray the expense of the territorial government. I am aware of no precedent that calls on us to defray the expenses of this incipient political organization in the State of California. It was voluntarily formed by her people, at their own instance, for their own benefit, and should be at their own risk and cost. I think, sir, we have not been unjust to California. Far from it. It has been just the reverse. We have been liberal to her—profusely so. But the cry is still, "Give!" "Give!" It seems to me, at times, that nothing would satisfy this call for appropriations but a course of measures which would divert the whole revenue of the nation to the use of this favored State—literally overturning the Treasury, and pouring its contents into her overflowing lap.

[Here the hammer fell.]

Mr. MARSHALL. I move to amend by inserting $450,000 instead of $300,000. Gentlemen fall very universally and naturally into a mistake to which, before I discuss this question at all, I will call their attention. The distinction between what California wants, what California asks, and what California gets from the Government, is wide and obvious, yet gentlemen do not take it. It may be that we have tried to turn the Treasury bottom upwards, but we have not succeeded in shaking out a dollar. We asked for a dry-dock but we did not get it, though we are treated as if we had got it. [Laughter.] Navy-yard the same thing, custom-house the same thing, the Mint the same thing, everything just alike. Whenever we ask anything, it is charged against us though we do not get it. [Laughter.]

Now, about this money we have been led off by an utterly false issue, and I would call back the attention of the committee to the true question, which can be stated in as little time as I have left. We do not want $300,000 paid out of any particular fund. We do not claim it because $1,200,000 has been extorted from us, when we were not represented in this House, or anywhere else. We do not ask "*the civil fund.*" We are not talking about it, and, looking to the temper that at present prevails in the committee, I would not be the man to speak about it. "*The civil fund*" has nothing to do with the question at all. I will tell you what we ask. The United States were bound, according to every principle and every precedent, to furnish California, while it was a Territory, with some form of government or other—something that would obviate the necessity of vigilance committees, and expedients of that sort. The United States, notwithstanding this obligation, consumed all of its time in fire-eating discussions here, and they did not give us a government of any kind. Well, we had to have some sort of government. We did frame some sort of government, which cost us $470,000, and it answered our purpose very well.

The United States have always paid the expenses of the territorial governments in every State; and the argument is simply this, and the conclusion is irresistible, that, if we were by the neglect of the country driven to institute a government in place of the territorial government the United States gives every one else, she is bound to pay the expenses of the substitute. That is the proposition, and it is, I think, a very intelligible one. The United States was bound to have done what we did at our own cost. She has paid for the same thing in every other State of the Union, and therefore we ask that she will pay for it in our State. No proposition can be capable of being made more perfectly clear than this by its very statement. If we had never paid without law a single cent, as in fact we have paid $1,200,000, called the "*civil fund,*" we would have been none the less entitled to this. I challenge gentlemen to turn to any State in the Union which has not had its territorial expenses paid by the United States, except California. The fact is not disputed by anybody that California erected her State government at an immense cost. She did have to constitute this government at an expense

of $470,000, and she ought, therefore, to have that amount now refunded to her.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. I want to know what items make up this amendment?

Mr. MARSHALL. The expenses of the Legislature and the Judiciary. I have the items, but I did not bring them here to-day. The items comprise the entire expenses of the territorial and State organization.

Mr. STEPHENS. Did not General Riley, the agent of the United States, pay the expenses?

Mr. MARSHALL. No; nothing but the expenses of the constitutional convention, which sat at Monterey.

Mr. STEPHENS. When? There was no meeting of the Legislature.

Mr. MARSHALL. It was not the expenses which accrued before the adoption of the State constitution, which we ask you to pay. It was for the expense of the State after the constitution was adopted—after the convention sat at Monterey and adopted the constitution under which the State now exists, and before she was admitted into the Union as a State.

Mr. STEPHENS. I should like, then, to know the items. The Legislature could have had but one session, and this convention, whose expenses General Riley paid, sat in November, 1849, I believe, and California was admitted in July, 1850.

Mr. MARSHALL. The government was in operation for more than a year before that.

Mr. STEPHENS. All expenses, as I understand it, were paid by General Riley up to the adjournment of the convention that framed the State constitution——

Mr. McCORKLE. None were paid after the adjournment of the constitutional convention.

Mr. MARSHALL. I will explain to the gentleman from Georgia. The time between which the convention closed and the time the State was admitted into the Union was about nine months. During that time there was a Legislature in session, and the judiciary, and the whole machinery of State government was in operation.

Mr. STEPHENS. I will state to the gentleman that I am willing to vote for all the legitimate expenses of that State after the adoption of her constitution, and before she was admitted into the Union as a State, for I think it is right that it should be done. All I want is correct information as to the amount of the actual expenses incurred—what for the Legislature, what for the Judiciary, and so forth. Whatever is right I am willing to allow, but I dislike to vote a round sum without knowing what it is specifically for.

Mr. MARSHALL. I had no idea that the discussion of this subject would have taken the turn it has, or I should have been prepared with an exact statement of each of the items upon which the Senate committee have based this section. They have cut off $100,000 already. The official records show that the expenses were $470,000 exactly, but the Senate, for some reason, have cut them down to $300,000. I am ready to produce the estimates, and satisfy anybody how the thing stands.

Mr. STEPHENS. I think that these expenses must have been very extravagant to run up to $470,000 in nine months. The expenses of the State of Georgia are only about $250,000 per annum. I should be unwilling to make an extravagant allowance, but I am willing to vote what is a fair allowance for the expenses during that time.

The question was then taken upon the amendment, and it was not agreed to.

Mr. MEADE. I move to strike out all except one dollar. This claim of California is one that is addressed to our sense of equity; and let us look at it in that point of view. We are not obliged to pay it, but we should pay it, if there be equity in it. Those expenses were incurred in consequence of the immense emigration to California after its purchase, and before there was any government established there under our system. Why did these men go there without the government, of the absence of which they now complain, and which forms the ground-work of this application? They voluntarily put themselves in that situation. We had not established a territorial government. We had not invited them to settle there. Everything was voluntarily done by the emigrants to California, and by no invitation upon the part of our Government. And why did they go? After the discovery of the gold mines, which induced the emigration to California, notwithstanding all the disadvantages, hardships, and perils which might naturally be expected, the settlers considered the question whether those disadvantages were greater than the advantages; if they found that they overbalanced the former, and remained in the country, they had no right to complain, or to demand of this Government to pay their expenses. California cost the United States $15,000,000. They were uninvited occupants, and enjoyed the usufruct of that country and the property there. We yearly lost the interest upon $15,000,000, and the question is, whether they or the Government of the United States have a claim the one upon the other. The use of our mines was more than enough to compensate them for their government expenses. The gentleman from California said that they had sent $80,000,000 here. To whom did that $80,000,000 belong? Did it not belong to them? Did they not dig it out of our mines, which cost us $15,000,000? Can they charge us with the $80,000,000 unless they hand it over to the Treasury? It is their money, not ours. They have realized immense fortunes, and now appeal to us to pay them $300,000 for going to a country to which we did not invite them, and which was not prepared for their reception until a government had been established. They chose to go and encounter all the risks for the prospect of wealth which the free use of our property opened to them. They now come here and demand repayment of the expenses of their government between the formation of their constitution and their admission into the Union. Who told them to form a constitution? They had a military government, the only sort that they could have until our system was introduced. It was a government imposed by necessity.

[Here the hammer fell.]

Mr. MARSHALL. I merely wish to state what are the current annual expenses of the government of California. In order to satisfy gentlemen that the estimates which are presented here are not extravagant—I have not the particular items—the expenses of the government this present fiscal year are estimated, exclusive of the census which we are taking, to be $500,000; and including the expenses of the census they will be something over $900,000. We think that this sum of $300,000, for which we ask you to make an appropriation, is not an extravagant estimate, when we consider that the period of time was more than nine months, and taking into account the difference of expenses between that time and the present. I want to congratulate myself and the country generally that there has been found in this House one gentleman who does take the real true ground upon this question. I am glad to state to the House and country that there is one man who talks out to California at last. The honorable gentleman from Virginia [Mr. MEADE] states the proposition that we went out to California the sons of beggars, cut-throats, vagabonds, adventurers, to get gold, or go to the Devil, as the case might be. If we made anything, it was very well; and if we did not make anything, we might get back to the places from which we started, or stay there and be buried. The gentleman seems utterly to forget that they are American citizens out there; that they were a part of the most valuable part of the nation; that during the twenty-nine months the people of California, the adventurers of whom he thinks this Government could not properly take any sort of cognizance, were standing between the whole commercial public here and bankruptcy. Wall street, even at that day, felt every fluctuation in the production of gold in California with the sensibility which a barometer exhibits to the changes in the atmosphere. These outlaws, ragamuffins, adventurers, and vagabonds; these fellows whose very existence the National Legislature has no right to remember or to acknowledge at all; these men who have no claims at all; these men in whose bosoms human hearts are hardly allowed to beat with human feelings and sympathies; these men who have no right to the protection of ordinary legislation at all, were the very men who saved the commercial public from bankruptcy. I am glad that the proposition has been fairly stated by the gentleman from Virginia, [Mr. MEADE.]

[Here the hammer fell.]

Mr. FREEMAN. I offer the following amendment:

Be it further enacted, That it is hereby made the duty of the President of the United States to cause to be paid into the treasury of the State of California, the amount of the expenses of said State subsequent to the adjournment of the constitutional convention, and up to the date of the admission of said State into the Union.

I agree heartily with the remarks made by the gentleman from Georgia, [Mr. STEPHENS,] and I desire to express my disagreement and surprise at the remarks of the gentleman from Virginia, [Mr. MEADE.] He seems entirely to have forgotten the judicial history of California. I am not at all surprised at the remarks made by the gentleman from California in reply to the gentleman from Virginia. If he will refer to the treaty whereby we acquired California, he will see that we agreed, in that treaty, that the people of California should be incorporated into the United States, and that they should be protected in their lives, persons, and property. How did Congress execute the decree? Did they repudiate the decree? They refused to give the people of the United States, within that territory, the common protection due to citizens of the United States. Independent of that, we are bound to pay the expenses of the government from the time of the constitutional convention until they were admitted into the Union as a State. Did not the Executive Departments here send out a mission to California, and cause that constitutional convention to be held? Did not the Government of the United States, the Executive Department of this Government, call into existence, not the territorial government of California, but the constitutional government? Sir, the history of the transaction shows that they did. We were responsible for the constitution of California. The Government of the United States established a constitution there. It was formed under their patronage and under their authority, and Congress sanctioned it by admitting the State into the Union. Now, between the time when the constitutional convention rose, and the time when the State was admitted into the Union, there was a lapse, the expenses of which this Government is bound to pay. I appeal to the judicial judgment of the gentleman from Virginia, and ask him if he does not at once see the force of this proposition? We are doing injustice to California. The only question, as was well stated by the gentleman from Georgia, [Mr. STEPHENS,] is, what were the expenses of California from the time when the constitutional convention rose till she was admitted into the Union? We paid the expenses of that convention, and nobody grumbled at it. You commenced by paying the expenses incurred in forming the constitution, and now you turn round and say, "We did not ask you to go there. You went out on your own hooks." Why, I am utterly amazed at the argument of the gentleman from Virginia. He certainly did not speak with his ordinary prudence and discretion on a subject of this character. I ask him, in all kindness, to take up the treaty we made with Mexico, and then consider the obligations which we owe to the American citizens under the constitution of California, which was framed under the authority of the Federal Government.

[Here the hammer fell.]

Mr. STANTON, of Ohio. I desire to obtain some information, upon which will depend my vote. If I rightly understand the facts of the case, in November, 1849, California framed a State constitution, and formed a State government, and there has been no organization of a State government since her admission into the Union. Now, I suppose myself that the State government of California dates its existence from the adoption of that constitution.

I do not know what the precedents are, but there must be precedents upon this question. If my recollection is correct, the State of Michigan formed a constitution and organized a State government some months before she was admitted into the Union. Now, I want to know if the expenses of the government of Michigan during that interval were paid by the Federal Government? If it has been the practice of the Government to pay such expenses, those of California ought to be paid.

Mr. TOOMBS. I can answer the gentleman's question. The territorial government continued in that case until the admission into the Union.

But the case of California is not analogous. There, there was no regular government.

Mr. STANTON. Michigan organized a State government before she was admitted into the Union.

Mr. TOOMBS. It did not go into operation, however, until after her admission. She had a territorial government.

Mr. STANTON. If in the past history of the admission of new States, it has been the practice of the Federal Government to pay the expenses of the State or territorial government up to the date of admission, California ought to be paid this sum. But if we have only paid the expenses of the territorial government, and not of the period intervening between the formation of a State government and the admission into the Union, then it ought not to be paid.

Mr. FREEMAN. I modify my amendment, by inserting the words—

To be paid out of any money in the Treasury not otherwise appropriated.

Mr. STEPHENS, of Georgia. I desire to suggest a modification to the gentleman's amendment.

Mr. MEADE. I rise to a question of order, and it is this, that the gentleman from Georgia has no right to the floor to suggest a modification of the amendment.

The CHAIRMAN. The Chair sustains the point of order.

Mr. MEADE. I would not object to the gentleman's suggesting modifications if after they were accepted I might make a speech against them.

The question was then taken on Mr. FREEMAN's amendment, and it was rejected.

Mr. MEADE. I move to strike out the whole appropriation except two dollars. I would not detain the committee by any speech upon this subject, if I did not think that an important principle was involved. If I understand the history of California in connection with this subject, it is this: On the very day that her citizens adopted the constitution which made her a sovereign and independent State, she appointed also delegates to Congress, with instructions to apply for admission into the Union; and those delegates were subsequently admitted. Now, sir, there is no precedent for that, and we should consider well before we undertake to make one that will compel us hereafter to refund the expenses of State governments which may be irregularly formed out of the immense tracts of territory that are yet to be constituted into States.

Now, Mr. Chairman, there is but one case at all in point to the present, and that is the case of the State of Texas. Texas was admitted into the Union after she had formed her State constitution and become a sovereign State. There was no application from Texas to pay the expenses of her government from 1836 to 1845, when she was admitted into this Union.

Mr. MARSHALL. Texas was not a part of the territory of the United States prior to her admission into the Union, but an independent, sovereign State.

Mr. MEADE. California, when she was refused a territorial government by the United States, had a right to establish a government for her own protection, and she asserted that right when she framed her constitution. The very refusal on the part of this Government to give her a territorial government conceded to her people the natural right—the privilege of protecting themselves by a voluntary association—to frame a constitution. When that constitution was framed and adopted by her people, they were as independent and sovereign as were the Colonies when they framed the Constitution in 1787. She was then a sovereign and independent State. While she belonged to us as a Territory, it was our duty to pay her expenses. We did even more than that. We gave her a better government than the insecure, unstable government which she had lost. We gave her, it is true, a military government; but it was one which protected her people. She became a sovereign and independent State as soon as she adopted her constitution; and as a sovereign State she came here, like Texas, asking for admission into this Union, and we admitted her. What right, then, has she to say that we are bound to pay those expenses which she incurred during the twelve months previous to her admission, after she had emerged from her territorial condition?

But I am not for dealing hard with the people of California. I do not call them robbers or outlaws, or say they are not entitled to the sympathy of the world. I consider them the most enterprising of our population. There was a boldness and daring in the act of emigration, evincing a spirit for adventure and enterprise which proved them to be men of the very best mould. But, at the same time, I say that they have been repaid a hundredfold. They have possessed and enjoyed property. It has made them millionaires.

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. I conceive that there is no analogy whatever between the case of Texas and that of California, as the gentleman from Virginia has argued. Texas held all her public domain. The people who settled that country went there and established their independence, and came into this Union as a distinct, independent State, with large possessions of public lands, all of which she continued to hold.

Now, sir, I do not argue with the gentleman as to the extent of the irregularities he mentions, touching the admission of California into the Union. I believe that the people of this country who went over to California had a right, when no government was given them, to establish one for themselves. They, however, when they came into this Union, were stripped of the public domain; Texas reserved all that. Here, then, is a wide distinction between the State of California and the State of Texas. Sir, I do not hold the idea advanced by the gentleman, that the people on the territory of the United States must come and get permission of this Government before they can frame a constitution for their own government. I do not believe, if you look to the principle in this matter, that you have got any constitutional right to clothe the people on the territory of the United States with power to frame a constitution. I believe that it is at war with the whole genius of our Federal Constitution. I know the precedents have been the other way. But the people of California did what I believe they had a right to do, and it was a question for the Representatives in Congress here whether they should admit the State or reject her.

Mr. MEADE. Have the people of Oregon or Nebraska a right now to frame a constitution and establish themselves independent of the United States?

Mr. STEPHENS. If they were to do it, it would be for us to say whether we would admit them into the Union or not. They may, and it is their right to establish a constitution any day; but it is a question addressed to the discretion of Congress whether we shall admit such a people as a State of the Union or not.

Mr. MEADE. I ask the gentleman from Georgia if it has not been our habit heretofore to withdraw our jurisdiction from the Territories, and thus give them opportunities of becoming States, with the permission that they shall become States when they frame constitutions? But before they have become States, our jurisdiction has been withdrawn altogether

Mr. STEPHENS. Of course, I know what the precedents have been; but I say that if you go down to the foundation and the correct principles, which as an original question should govern the case, the people of California acted according to these correct principles of our Constitution. It was, in my opinion, never the intention of the framers of our Constitution that the Federal Government should establish territorial governments.

Mr. CLINGMAN. I desire to ask the gentleman from Georgia a question. If the people had a right to make a State government, and did make a valid State government, and we have sanctioned it by our legislation, on what principle have we a right to pay the expenses of that State government?

Mr. STEPHENS. I will say to the gentleman that I do not put it upon any right of California to demand, or any obligation on us to pay. I propose to be liberal to the people. I do not say that I would give it to them *ex debito justitiæ*, but I would grant it *ex gratia*. I am willing to be liberal to California, and that is the ground upon which I put it. I do not say that California has the right to demand this of us, but I say I will be as liberal to her as I have been to the other new States of this Union, where we have control of the public domain. I will be as liberal to her as I have been to others; and I now give notice to the committee, that if this amendment is voted down, I will offer the amendment which I hold in my hand, and which I now send up to the Clerk's desk, and ask to have read in my five minutes.

The amendment was read as follows:

Be it further enacted, That the Secretary of the Treasury audit and pay the actual expenses incurred and paid by the government of California after the adjournment of the convention which framed her constitution, and up to the time of her admission into the Union, out of any money in the Treasury not otherwise appropriated: *Provided*, The same have not been heretofore paid.

[Here the hammer fell.]

The question was then put, and the amendment to the amendment was not agreed to.

Mr. MILLSON. Mr. Chairman, I desire to offer an amendment, for the purpose of saying a few words upon this subject.

Mr. POLK. I thought the gentleman from Georgia offered an amendment.

Mr. STEPHENS. I could not offer my amendment when I had the floor, because another was already pending. I will suggest, however, to the gentleman from Virginia, that if he will permit me to offer an amendment now, he can make his remarks in opposition to it.

Mr. MILLSON. I have no objection to that. I will yield the gentleman the floor for that purpose.

Mr. STEPHENS. I now submit the amendment which has just been read.

Mr. MILLSON. I am as ready as the gentleman from Georgia to display liberality towards California, but I protest against the ground upon which gentlemen have placed this claim. I would infinitely prefer granting to California the whole civil fund rather than adopt the amendment just proposed by the gentleman from Georgia, [Mr. STEPHENS,] because I conceive it to be setting a precedent wholly at war with the genius of our Confederacy. Sir, I agree with the gentleman from Georgia that it is not by the act of the General Government that the people of a Territory become a State of this Union.

Mr. STEPHENS. I did not say that.

Mr. MILLSON. What did the gentleman say?

Mr. STEPHENS. I said they might form a constitution.

Mr. MILLSON. Well, sir, when they form a constitution and become a State, it is by their own sovereign volition. When they become a people and power of the earth, it is not in virtue of any grant or delegation of sovereignty from Congress. Congress may refuse to recognize the people of a Territory as a sovereign State. It may refuse to receive them into the Union as a State. But when their sovereignty is recognized—when they are received into the Union, they come in as a people deriving their sovereignty from their own act and will, and not from any other source.

It is for that very reason that I protest against the idea that when a people have once determined to become a State, as the people of California did, and when their sovereignty was afterwards recognized, as it was, by Congress, that they are to be regarded as still under the pupilage of the Government of the United States, and subject to the control of the Congress of the United States. I say that when California was admitted into the Union, she was admitted as a State that had become a State at the time of the adoption of her constitution. The State of California was not manufactured by Congress—she was a State before she was admitted into the Union, or she could never have been admitted at all; for it was only as a sovereign State that she was competent to enter into the Federal compact with the other States.

I just now suggested a precedent which occurred at an early period in the history of our country. I allude to the State of Missouri, which, in consequence of some objection to her constitution, as in the case of California, did not come into the Federal Union for some twelve months after the formation of her Constitution. What, then, was the condition of Missouri? Were her State expenses paid by the Federal Government? Did Congress ever make any appropriation for the expenses of her State or territorial government during the time? Without having any positive knowledge upon the subject, I undertake to say that no such appropriation was ever made.

Mr. MARSHALL. Will the gentleman state

some positive information upon the subject, and not leave us with a shadow? My opinion is otherwise.

Mr. MILLSON. I cannot state from any positive knowledge, but from the case itself I am sure it was not so; and without any positive information, I undertake to say that the expenses of the State government of Missouri were not and could not have been paid by the General Government.

Mr. BROWN, of Mississippi. Well, if her expenses were not paid, if this bill passes then they ought to be.

Mr. MILLSON. Certainly. I recollect very well a conversation I had with a gentleman many years ago, who had been a judge in Missouri, and the construction he gave to the Constitution of the United States in this respect, in a case decided by himself, involving the peculiar position of Missouri in the interval between the adoption of her constitution and her entrance into the Union.

[Here the hammer fell.]

Mr. FREEMAN. I desire to speak in favor of the amendment of the gentleman from Georgia, [Mr. STEPHENS.]

The CHAIRMAN. No further discussion is in order.

Mr. FREEMAN. No one has spoken in favor of this amendment.

The CHAIRMAN. The gentleman from Virginia has opposed it, and the Chair decides that no further debate is in order.

Mr. FREEMAN. Our rules provide that one speech may be made in explanation and in favor of an amendment, and another in opposition.

The CHAIRMAN. Does the gentleman from Mississippi take an appeal from the decision of the Chair?

Mr. FREEMAN. No, sir; I will not appeal, but I think the decision is incorrect.

Mr. JONES, of Tennessee. I move that the committee do now rise, for the purpose of going into the House and terminating this five-minutes debate.

Mr. HOUSTON. I ask the gentleman to allow the vote to be taken upon this amendment first.

Mr. JONES. I should not be able to get the floor then. I insist upon my motion.

The question was taken, and Mr. JONES's motion was not agreed to.

Mr. SACKETT. I have an amendment which I desire to offer as a substitute for the amendment now pending. I ask the Chair whether it is not in order?

The CHAIRMAN. No other amendment is in order, in the opinion of the Chair.

The question now being upon the adoption of Mr. STEPHENS's amendment—

Mr. POLK demanded tellers; and Messrs. BRIGGS and GAYLORD were appointed.

The question was then put, and the tellers reported—ayes 41, noes 83.

So the amendment was disagreed to.

Mr. SACKETT. I now propose the following amendment:

That the Secretary of the Treasury audit and pay to the government of California, the expenses of the civil administration of her government from the adjournment of her constitutional convention to the time of her admission into the Union.

Mr. DEAN. Will my colleague give way for a motion that the committee do now rise?

Mr. SACKETT. Not now.

Mr. LETCHER. I rise to a question of order. I submit that this is in substance the same as the amendment we have just voted down.

The CHAIRMAN. The Chair thinks there is a sufficient distinction to make the amendment in order.

Mr. LETCHER. I can see no difference.

Mr. SACKETT. There is a very great difference. This is a limitation upon the pending amendment which prevents the State expenses of California from being paid for any purpose, except for the civil administration of the government. I have heard remarks that there are included in this estimate the expenses of the Indian depredations, and various other expenses. The effect of this amendment is to limit the appropriation strictly to the civil administration of her government. Now, I am in favor of such an appropriation, for the reason that I shall state; but previous to stating that reason, I desire to say, that, in my opinion, this debate has taken a wider range than the circumstances of the case would require. We all of us recollect the time when, from the neglect upon our part to make any provision for the organization of California, the people of that country found it necessary to establish a provisional government for themselves. Do any of us doubt that when some fifty or a hundred thousand of our own citizens had emigrated to the Territory of California, some four or five thousand miles from the inhabited portion of this country, that a contingency had arisen when it was necessary for that people to provide themselves with some sort of a government? There was no time for them to wait then for Congress to establish a territorial government there. A contingency arose, when, from circumstances to which I need not here recur, it was impossible for the original confederacy to provide for them. It was therefore such a contingency as never before had arisen perhaps in the settlement of the country, and may never again arise. But it did arise, and now are we going to establish such a precedent as the gentleman from Virginia [Mr. MILLSON] contended for? I ask if it is proper, if it is just, when such a contingency did fairly arise, for this Government to refuse to pay the legitimate and proper expenses of a portion of our own citizens in providing themselves against the calamities of which many people have fallen victims? That is the whole question.

Mr. BAYLY, of Virginia. Mr. Chairman, it occurs to me that there is some confusion of ideas in the minds of members in respect to what constitutes a State. I agree that California, after the formation of her constitution and before her admission into the Union, was in one sense a State. That is, they were a community with an organized government, the authority of which they recognized. She was a State precisely as our Territories are States. They are frequently included in our laws under the designation of States. They are spoken of in the ordinance of '87 as *new States*. But until their admission into the Union they are not one of the United States. So it was with California. I am not going into the question of the regularity of the formation of the constitution of California; my own opinion has been that it was instigated by Executive dictation, but I do not mean to go into that question. Although after her constitution was formed and adopted, as I have said, she was in one sense a State; she certainly was not one of the United States, nor yet, as to them, a foreign State. California did not become one of the United States until she was admitted, through her representatives, into the Union. Her admission was necessary to make her one of the United States. She was before that an inchoate State, as far as our Confederacy was concerned, remaining to be brought into full life, in that respect, by the action of the General Government in her admission into the Union; and until they were admitted by the act of Congress into the Union they were not one of the United States, and up to the moment that they were admitted into the United States as a member of this Confederacy, and thus became one of the independent members of our constitutional compact, it was no more a State than one of our territorial governments is a State.

It is true that California met in convention and framed her constitution, while the constitutions of the Territories are sent to them from this place. But my own opinion has always been, that it was the tacit consent of the people of those Territories which has given validity to those governments, by taking and conferring offices under those governments. They have acquiesced in what we have done, and thus adopt it; and it is the action of their people, and not of this Government, that makes them a State; for the only legitimate foundation of a government, according to our theory, is the consent of the governed. I have no hesitation, therefore, in saying, upon every principle, that until this people were admitted into the Union, every legitimate and proper expense which they incurred in governing themselves, is as properly a charge upon the Federal Treasury as the expenses of any of the rest of our Territories. I am surprised to hear the opinions of some gentlemen expressed here to-day, who resisted the admission of California into the Union. If she was a State regularly formed; if she was a full-grown State, rising from the ground like Minerva, full armed, upon what principle was it that her admission into the Union was resisted? It was because she was, in my opinion, even after the formation of her constitution, still a Territory of the United States that I resisted her admission into the Union. I believed her constitution had been irregularly framed, and that the convention was got up, and after it had been convened, controlled by improper influences. And so believing, I could not by my vote do anything to sanction it as her admission with that constitution would have implied.

[Here the hammer fell.]

The CHAIRMAN. The question is upon the amendment of the gentleman from New York.

Mr. SACKETT. I call for tellers on the amendment.

Tellers were ordered; and Messrs. GAYLORD and HIBBARD were appointed.

The question was taken, and the tellers reported—ayes 41, noes not counted.

So the amendment was rejected.

Mr. STANLY. I move that the committee rise, in order to enable me to close debate upon this bill.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. HALL) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 335, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, and had come to no resolution thereon.

Mr. STANLY. I move the usual resolution to close all debate.

Mr. JONES, of Tennessee. I suggest to the gentleman from North Carolina that it will be necessary to move to suspend the rule which allows five minutes' debate.

Mr. STANLY. I make that motion.

Mr. FREEMAN. I move that the House do now adjourn.

The question was taken, and the motion was not agreed to.

The question recurring upon Mr. STANLY's motion, the House was divided, and the Chair announced 96 in the affirmative.

Mr. SWEETSER. I demand the yeas and nays upon that proposition. We have been gagged long enough.

The House was divided on the demand for the yeas and nays, and there were only 19 in the affirmative, when—

Mr. SWEETSER demanded tellers upon the yeas and nays.

Tellers were ordered; and Messrs. HART and ASHE were appointed.

The House was divided, and the tellers reported—ayes 27, noes 110.

So the yeas and nays were refused.

Mr. KING, of New York. I move that the House do now adjourn.

Several MEMBERS. Let us get through with the bill.

Mr. ORR. Will it be in order to move that the House take a recess?

[Cries of "No, no!"]

The question was taken on the motion to adjourn, and it was decided in the negative.

So the House refused to adjourn.

The SPEAKER. The question is upon the motion made by the gentleman from North Carolina to suspend the rules.

Mr. DEAN. I ask for tellers upon that motion.

The SPEAKER. Tellers have already been refused. There were 98 in the affirmative upon the motion to suspend the rules, allowing five minutes' debate. Those opposed to the motion will rise.

The House was divided, and there were in the negative 29.

So the rules were suspended, two thirds voting in the affirmative.

Mr. STANLY. Now, I move to suspend all further debate upon this bill.

The question was put, and the motion was agreed to.

Mr. JONES, of Tennessee, moved to reconsider the vote just taken, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. JONES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HALL in the chair,) and resumed the consideration of the deficiency bill.

Mr. MEADE. Was the amendment last offered to the eighth section adopted?

The CHAIRMAN. It was not.

Mr. MEADE. Has a motion been made to strike out the eighth section?

The CHAIRMAN. No such motion has been made. The question is upon a concurrence in the Senate amendment. The committee recommended a non-concurrence.

Mr. MARSHALL. I ask for tellers upon that question.

Tellers were ordered; and Messrs. HENDRICKS and WATKINS were appointed.

The question was then taken, and the tellers reported—ayes 51, noes 79.

So the Senate amendment was non-concurred in.

The next Senate amendment in order was then read, as follows:

"SEC. 9. *And be it further enacted*, That, in the settlement of his accounts, the late collector of the port of San Francisco, in the State of California, be allowed credit for $5,000 advanced to J. Neely Johnson for taking the Seventh Census."

Mr. KING, of New York, offered the following amendment:

And be it further enacted, That nothing in this act contained shall be so construed as to authorize the payment to any member of the committee of this House in the Corwin and Gardiner investigation any compensation for services on said committee, except the per diem for each day's actual attendance on said committee.

Mr. KING. I desire to state the object I have in offering the amendment, and I trust the House will hear me.

Mr. SWEETSER. I call the gentleman to order. No debate is in order.

Mr. JONES, of Tennessee. I submit to the Chair, that the amendment offered by the gentleman from New York is not germane to the amendment under consideration.

The CHAIRMAN. The Chair thinks the amendment is out of order.

Mr. KING. My object in offering it was to speak in reply to the remarks which I am informed were made by the gentleman from Georgia [Mr. STEPHENS] this morning, when I was not in my seat.

The question was then taken on the amendment of the Senate, and it was concurred in.

Mr. HOUSTON. I move that the committee rise, and report the bill to the House.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. HALL) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the Senate amendments to House bill No. 335, to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, and had instructed him to recommend certain amendments to the House to concur therein, certain other amendments to amendments, with a recommendation that they be concurred in, and certain other amendments with a recommendation that they be rejected.

Mr. HOUSTON. I move the previous question upon the amendments, and I wish to suggest to the House, for the purpose of saving time, that as we have just passed through these amendments with a great deal of care, that the House will take one vote upon a concurrence in the action of the committee.

[Cries of "Agreed!" "Agreed!"]

Mr. KING. Before the question is taken, I ask my friend from Alabama to withdraw his call for the previous question, to enable me to offer an amendment. My object in desiring to offer it is, in a very few words, to repel an imputation which I am informed the gentleman from Georgia, [Mr. STEPHENS,] when I was absent, made upon the committee for the investigation of the Corwin and Gardiner fraud. I am informed the gentleman stated that compensation had been charged for services not actually performed. I say to him, that so far as I am concerned, his imputation is entirely gratuitous and unfounded.

Mr. HOUSTON. I will say to the gentleman that the amendment pending is substantially the same as the one he desires to offer.

The previous question was then seconded, and the main question ordered to be put.

Mr. MEADE. I would be willing to agree to the suggestion of the gentleman from Alabama, with one exception. I desire a separate vote upon the amendment appropriating $10,000 for the repair of the Coast Survey vessels.

The SPEAKER. Is it the pleasure of the House that gentlemen rise in their places and designate the amendments upon which they desire separate votes?

[Cries of "Agreed!" "Agreed!"]

Mr. MEADE. I ask for a separate vote upon the amendment already indicated by me.

Mr. EVANS. I desire a separate vote upon the amendment offered by the gentleman from New York to the Senate amendment relating to the payment for fuel and quarters for officers of the Army serving on light-house duty.

Mr. SCHERMERHORN. I ask for a separate vote upon agreeing to the Senate amendment to strike out the part of the clause which relates to the Superintendent of the Census.

The question first recurred upon agreeing to the following Senate amendment, which was to strike out of the following paragraph the parts in brackets:

"For completing the work of the Seventh Census, and to prepare the same for publication, $25,000; [out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceased.]

The question was then taken on concurring in the action of the Committee of the Whole on the state of the Union on the amendments of the Senate upon which a separate vote had not been called, and there was a concurrence in said action.

The question now being on concurring in the amendment of the Senate in regard to the salary of the Superintendent of the Census,

Mr. SWEETSER demanded the yeas and nays; which were not ordered.

Mr. FLORENCE. I demand tellers on the amendment.

Tellers were ordered; and Messrs. ASHE and PRICE were appointed.

The question was then taken and the amendment was disagreed to, the tellers having reported—ayes 64, noes 67.

The question was then stated to be on the following amendment:

"For repairs of vessels employed on the coast survey, $10,000."

The question was taken and the amendment was agreed to.

The Clerk next read the following amendment, on which a separate vote had been demanded by Mr. EVANS:

"Add in the following paragraph after the words 'light-house duty,' the words 'under the superintendence of the Light House Board:'

"For fuel and quarters for officers of the Army serving on light house duty, the payment of which is no longer made by the Quartermaster's Department, $2,341 27."

The question was taken, and the amendment to the amendment was disagreed to; there being, on a division—ayes 44, noes not counted.

The amendment of the Senate was then concurred in.

Mr. HOUSTON. I move to reconsider the vote by which the amendments were adopted; and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which thereupon received the signature of the Speaker:

S. No 227. An act for the relief of Frances E. Baden; and

S. No. 642. An act to authorize the Secretary of the Treasury to issue a register to the bark May, of Baltimore.

Mr. COBB obtained the floor.

Mr. HOUSTON. I would appeal to my colleague to yield me the floor that I may move that the House take a recess until half past seven o'clock. In my opinion we ought to do so. If we do not proceed rapidly in the consideration of the appropriation bills, there may be danger of having an extra session of Congress.

PRE-EMPTION RIGHTS.

Mr. COBB. I do not know that I will again get the floor if I now yield it. I have been endeavoring for the last three or four weeks to get an opportunity to ask the unanimous consent of the House to take from the Speaker's table the bill of the House No. 74, which proposes to graduate and reduce the price of the public lands.

Objection was made.

Mr. COBB. I move that the rules of the House be suspended for the purpose I have indicated.

The question was taken, and the House refused to suspend the rules.

JOHN RUSSELL AND CO.

Mr. PHELPS. I ask the unanimous consent of the House to take up Senate bill No. 593, entitled "An act for the relief of John Russell & Co.," that it may be put on its passage. It provides for the settlement of the accounts of a Government contractor who was engaged in the transportation of military stores in New Mexico.

Mr. ORR. I object.

Mr. PHELPS. I move to suspend the rules of the House for that purpose.

The question was taken, and the House refused to suspend the rules.

Mr. JONES, of Tennessee. I move that the House take a recess until seven o'clock this evening.

Objection was made.

Mr. JONES. I move to suspend the rules that I may be enabled to submit that motion.

Mr. BAYLY, of Virginia. I would suggest to the gentleman from Tennessee that if we take a recess nobody will come back here this evening.

The question was taken, and the House refused to suspend the rules.

Mr. EWING. I wish to ask a favor of the House, as it is approaching the close of the session, and I do not know that I shall ever be here again. If the bill I hold in my hand is not passed, I know I shall not be. [Laughter.] I ask the unanimous consent to take up Senate bill No. 544, entitled "An act for the relief of James Jefferies and Jeremiah M. Smith," to which there cannot be the slightest objection, and put it on its passage.

Mr. SWEETSER objected.

Mr. KING, of New York. I move that the House do now adjourn.

Mr. CLEVELAND. I move to amend the gentleman's motion, that when the House adjourns today it be to meet to-morrow at ten o'clock, a. m.

The SPEAKER. The hour of meeting cannot be changed except by unanimous consent.

The question was taken, and the House refused to adjourn.

Mr. EWING. I move to suspend the rules for the purpose I have indicated. There would be no objection to the bill, I am sure, could I be allowed a few moments of explanation.

The bill was read through.

Mr. CLARK. I have asked the gentleman what was the amount of the penalties?

Mr. EWING. A few hundred dollars for contracts about which there was wrong information, and which were bound to be enforced by a strict construction of the law.

Mr. CLARK. What is the precise amount?

Mr. EWING. One thousand six hundred dollars, or thereabouts.

The question was taken, and the rules were not suspended, there being, on a division—ayes 66; not two thirds.

JUDGE WATROUS.

Mr. VENABLE. I ask leave to make a report from the Committee on the Judiciary in the case of Judge Watrous. He desires to go home to Texas to resume his judicial functions, but he is not willing to go with censure.

Mr. HOWARD. When that report is read it will give rise to debate. There are two or three gentlemen who wish to be heard on it.

Mr. VENABLE. I only ask that it may be laid on the table and ordered to be printed.

There was no objection; and

Mr. VENABLE then submitted the following report:

The Committee on the Judiciary, to which was referred the memorial containing charges against John C. Watrous,

judge of the district court of the United States for the district of Texas, report, that after the examination of much documentary evidence, as well as many witnesses summoned from Texas, the committee do not recommend that articles of impeachment be directed by the House against the said John C. Watrous.

The report was laid on the table, and ordered to be printed.

Mr. HOUSTON. It is very evident that the House is determined to have no evening session, and I would ask that we now resolve ourselves into the Committee of the Whole, and take up the Army bill.

Mr. HALL. I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS, of Tennessee, in the chair.)

ARMY APPROPRIATION BILL.

Mr. HOUSTON. I move to take up the amendments of the Senate to the Army appropriation bill.

The question was taken, and the motion was agreed to.

The Clerk read the first amendment of the Senate, as follows:

"Add after the paragraph, 'For pay of the Army, $1,814,759,' the following proviso: '*Provided*, That the military store-keepers of the Ordnance Department in Oregon, California, and New Mexico, shall hereafter receive the same pay that is allowed by law to the military store-keepers and paymasters of that department in the Atlantic States.'"

Mr. PHELPS. The Committee on Ways and Means recommend a concurrence in that amendment, with the following amendment:

"Substitute for the proviso, the following: *Provided*, That the salary of the military store-keepers of the Ordnance Department in Oregon, California, and New Mexico, shall hereafter be $1,250 per annum."

Mr. PHELPS. The amendment as adopted by the Senate would give them $1,250 per annum. At the arsenals of construction, they receive $1,250; at arsenals not of construction, but merely of deposit, they receive $850. In consequence of high prices of living there, the Committee on Ways and Means recommend the adoption of the amendment in lieu of the Senate's amendment.

Mr. EVANS. I do not know that I understood the gentleman from Missouri, [Mr. PHELPS.] I think nothing can be plainer than the fact that the salaries ought to be higher there than here. I do not know how much higher they are rated, or whether they are fixed properly. I think that we should give these officers a little more pay than we have been giving them, for they stand in need of it.

Mr. DUNHAM. This is precisely what the committee have done. We do not change the amount of compensation, but we use a different phraseology.

Mr. EVANS. I am glad the committee have done so, and they are entitled to great credit.

The question was then taken upon the amendment proposed by the Committee on Ways and Means, and it was agreed to.

Mr. SWEETSER. I want to know whether the amendments made by the Senate to this bill have been printed, so that we may know what we are acting upon.

The CHAIRMAN. They have not been printed.

Mr. SWEETSER. I move that the committee rise. There is no quorum here.

Mr. DUNCAN. I move to take up the light-house bill. It is a bill which we can pass in a few hours.

Mr. SWEETSER. I will agree to it if the chairman of the Committee on Ways and Means desires it.

Mr. JONES, of Tennessee. I object.

Mr. SWEETSER. I will withdraw my motion for the present.

The question was then taken upon the Senate amendment as amended, and it was agreed to.

The second amendment was then read, as follows:

"For the remaining four companies of light artillery authorized by the act of March 3d, 1847, $18,500: *Provided*, That the same be expended at the discretion, and by the direction of the President of the United States."

Mr. SWEETSER. I move that the committee rise, and upon that motion I demand tellers.

Tellers were not ordered.

The question was then taken, and the committee refused to rise.

Mr. HOUSTON. I propose to make a very short explanation of that amendment. It proposes to authorize the President of the United States to mount four companies of artillery, should he deem it necessary to do so in any contingency which might arise. It is carrying out the provision of the law of 1847, which has not been executed heretofore, and which it is now proposed to execute. The committee propose to agree in the Senate amendment.

Mr. EVANS. It so happens that the Committee on Ways and Means and myself are again on the same side, and therefore I have nothing more to say.

Mr. STANLY. Then I am afraid we are wrong. [Laughter.]

Mr. EVANS. Everybody sees that is left to the discretion of the next President. I do not want to go into a long argument, but I think I can give a good reason why it should be so. I will say no more than that, having looked into this matter, I believe it is right.

Mr. STANLY. I thought it was wrong because he approved our conduct. [Laughter.]

Mr. STANTON, of Ohio. I want to know something more about this amendment, and whether there is some contingency upon which they are to be called out.

Mr. PHELPS. We have eight companies of flying artillery and four regiments of artillery. There are forty-eight companies, eight of which are flying artillery. They have to be mounted. They were mounted not long since, but were subsequently dismounted, and we propose to remount them for the purpose of defending the frontier, if the President thinks necessary.

The question was then taken upon the Senate amendment, and it was agreed to.

The third amendment of the Senate was then read, as follows:

"For the defense of San Francisco, California, $500,000.

"For continuing the defenses at the following forts, viz:

"*Florida*.—Fort Jefferson, at Gardon Keys or Tortugas Island, $100,000.

"Fort Taylor, Key West, $75,000.

"*Georgia*.—Fort Pulaski, including barracks and quarters, $20,000.

"*South Carolina*.—Fort Sumter, Charleston harbor, $110,000.

"*Maryland*.—Fort Carroll, Sollers's Point, Baltimore harbor, $50,000.

"*Delaware*.—Fort Delaware, Pea Patch Island, Delaware river, $150,000.

"*Maine*.—Fort Knox, Penobscot river, $55,000.

"*Massachusetts*.—Fort Warren, Boston harbor, $45,000.

"Fort Winthrop, Governor's Island, Boston, $29,573."

Mr. BAYLY, of Virginia. I have an amendment to propose in connection with that appropriation for fortifications. It is known to this committee that I have been uniformly in favor of finishing our fortifications, upon which we had expended a large amount of money and which only required a little more to finish them. The fortification at Old Point, which is a fortification of the first class, is the key to the whole Chesapeake Bay, and the rivers emptying into it. It is one upon which $2,300,000 have been expended. It is in one sense completed, but the magazines there, so necessary to the efficiency of a fortification, are utterly unfit for use. They are in such bad condition that they have been abandoned. In addition to that, the wharf upon which every military store is landed that is carried to Old Point, is, as I am informed by the engineer in charge, a perfect honey-comb, eaten out by the sea worm. In addition to these items, there is a small part of the fortification itself not yet completed, which under a former appropriation has been commenced. The foundation has been dug out. If there is no appropriation for carrying on that work, what has been done will have to be done over again. I wish to say emphatically this in reference to that fortification which has cost $2,300,000: The magazines are in bad condition; the wharf is in a state of decay, and the whole amount which has been expended upon the works which are going on will be lost unless something is done. I beg leave to say to the House that I am speaking from information of the most reliable character. I speak in part from my own personal knowledge of this subject. I move to insert less than has been the estimate of the engineer there for the objects indicated. I move to insert $75,000 for continuing works at Fortress Monroe.

[Here the hammer fell.]

Mr. ORR. I propose to strike out the entire amendment. Do the Committee on Ways and Means recommend a non-concurrence?

Mr. HOUSTON. They do recommend a non-concurrence.

Mr. ORR. I am very much gratified to hear such is the recommendation of the Committee on Ways and Means. There is now incorporated in that *amendment* alone a regular fortification bill. It is said by some voice that I hear that this bill is the proper place for a provision to erect and maintain fortifications. I suppose it came from the Whig side of the House. It has been the policy of Congress heretofore, in the passage of the general appropriation bills of this country, to separate them. Why has that policy been departed from? It has been simply for the reason that it was notorious that this House, upon a clean vote, would refuse to pass any fortification bill, and now there is incorporated in that amendment a proposition to expend nearly $1,200,000 upon these works, and it is proposed that the House shall dispose of them in that shape, under the rule limiting debate to five minutes. I think that the bill without this appropriation is large enough, in all conscience. If this policy is to be pursued, there is no telling to what point it will be carried. Your money bills—your general appropriation bills, should be kept clear of these things. There should be nothing appended to them except in conformity to, and to carry out the existing laws of the country. When you incorporate into a bill of this description appropriations for fortifications amounting to over a million of dollars, it is done with the hope that under the pressure of circumstances, and the little time that is left, they will be forced upon this House, when it has determined at the last session and at preceding sessions that they would pass no more fortification bills.

If I understood correctly, the position taken was that fortifications commenced thirty, forty, or fifty years ago, were not now properly adapted to the wants of the country; that the introduction of steam had rendered them almost useless, and that they might just as well be dismantled and abandoned. In former times a port and harbor was a matter of great consequence, because sailing vessels could only reach those points dependent on wind and tide. Now you can run steamers up within two or three miles of the coast, just as our troops were landed near Vera Cruz, and a steamer, by lashing lighters on her sides, can pass any of your fortifications in a few minutes, and go beyond the reach of your guns. The circumstances which surround the country are totally different from what they were when this system of fortifications was originated. I think if this question was referred to a board of scientific engineers—to those men who do not expect to benefit themselves by the report which they have submitted to the House, I have no hesitation in expressing the opinion that nine tenths of them would say that these fortifications were utterly useless for purposes of national defense, and ought to be abandoned.

[Here the hammer fell.]

Mr. CABELL, of Florida. I wish to inquire whether this is one amendment, or whether it is not competent for the committee to take a separate vote upon each clause?

The CHAIRMAN. The Chair understands that it is one amendment, but it will be competent to test any item by moving to strike it out.

Mr. CABELL. I ask if it is not competent to take a separate vote upon each clause?

The CHAIRMAN. It is no doubt competent to do it in the way indicated by the Chair, by motions to strike out each item. But it is one amendment from the Senate, and must be voted upon as one amendment.

Mr. CABELL. I shall appeal from that decision of the Chair when the point properly arises.

Mr. HOWARD. I do not intend to detain the committee more than a few minutes with anything I have to say in relation to this subject. I will say first, in answer to the objection of the gentleman from South Carolina, [Mr. ORR,] that there is no method of acting upon this subject at this

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time but the one which has been adopted in the Senate, that is, by amendments to the Army bill: there is not time to pass a separate bill.

Mr. CLEVELAND. Will the gentleman from Texas give way for a motion that the committee do now rise?

[Cries of "No!" "No!" and "Let us rise!"]

Mr. HOWARD. I will yield the floor, that the sense of the committee may be tested.

Mr. CLEVELAND. I move that the committee rise.

The question was put, and it was decided in the negative.

So the committee refused to rise.

Mr. HOWARD. Now, sir, are these appropriations necessary? We hear a great deal upon this floor, as well as in the other wing of the Capitol, about the present condition of affairs in Europe, and about our own affairs in relation to the affairs of Europe. We know that this country is in a totally unprepared state for a war with any considerable maritime Power. Now, I am opposed to the general system of fortifications. I never would go to the extent recommended by the Secretary of War. But you must protect your great naval depôts, and your harbors of refuge, where your ships take shelter in time of war when pursued by the enemy, unless you intend to be at the entire mercy of that enemy.

Now, my own State is not provided for in this amendment; but I am opposed to the amendment of the gentleman from Virginia, [Mr. BAYLY,] for the simple reason that I do not wish to open up the subject. I prefer to adhere to what the Senate has done, because it is better to do a little than to do nothing, and this bill provides only for those points which would be most important in case you had a war either with England, France, or Spain. Without these two or three fortifications on the Gulf of Mexico, our whole commerce might be driven off by any considerable fleet. Do you intend that the country shall be left in this condition? Do you mean that the city of New York shall be left in a condition in which it may any day be bombarded and burnt to the ground by two or three considerable war-steamers? If you do, you commit, in my opinion, an act of consummate folly. I think that it is our own imperious duty to provide for places thus exposed. So far from steam having rendered fortifications unnecessary, every scientific man who has spoken upon the subject, with the exception of two or three persons in the Navy, says that it has rendered fortifications still more necessary than before, and for the simple reason, that previously, no considerable armed vessel could approach our coast and attack it with success, but now, a small vessel under steam may run into shoal water and destroy millions of property, and be gone before you can punish or pursue her.

Now, what do gentlemen propose here? What is the argument against these defenses? It is that our institutions can protect our coast from the assailment of a foreign enemy. Sir, I should like to know what Democracy, or monarchy, or any other form of government can do against a broadside by a skillful engineer, from on board either a sailing-vessel or a war-steamer? The idea is preposterous. Something may be said about railroads. Gentlemen may say that by means of railroads, you can precipitate millions of men on to a given point, at a particular time. So you may, in the course of a few days. But what is a railroad against a fleet which is battering down a town? Before you can telegraph for, and collect your men, the town is burnt down and destroyed, and the enemy gone. Consider for a moment what would be the disastrous result upon this country from the destruction of the property that is collected together in New York, Philadelphia, or any other large city. Sir, twenty years could not repair it, and yet its destruction may be the work of an hour. Do you intend to leave these great emporiums, which contain the life's blood of the commerce of our country, within the reach and power of every small naval force?

Mr. CARTTER. The argument that we have just listened to from the eloquent gentleman from Texas, in favor of reviving this antiquated system of fortifications, is a familiar one. I recollect listening to it three years ago in this body, when the House of Representatives first stretched forth its strong arm to arrest the consumption of the public treasure in a useless devotion to this species of appropriation. European alarms were then rung in our ears with the same emphasis and the same patriotic appeals as we have listened to from the gentleman who has just taken his seat. It would have been supposed, from the patriotic clamor made upon this floor, that Europe was about to make a descent upon this continent, and that we were to be laid in ruins by its bombs. Sir, it affected my then youthful nerves in legislation. The query arose in my mind, "Is it possible that this constitutes the great center of assailment on the part of European Powers?"

Are we really in this jeopardy? Is it true that the people and institutions of this country are in peril from the old fogy institutions of Europe? Now, sir, there is a total misconception of our attitude towards the European Powers. We hear of wars and rumors of wars. I tell you now, and I seek this occasion to proclaim it, that our only danger to-day, upon land or upon water, is not from any assaults from European Powers. The danger is from assaults from this continent. My word for it, that so long as republican institutions and the instrumentalities of this country will compromise with the terms of peace, to restrain their hands from an interference with the antiquated laws, and heartless and arbitrary institutions of Europe, they will not attempt to molest us. But our towns are to be burnt down, our coast is to be pillaged, and all that sort of stuff. What are they going to do with us? How are they going to do it? Why, we have a militia lying along our coast that is more formidable than any fleet that will be built within the next century. Who and what are they? They are the men who man our coasters. They are the men who only want to mount a long gun on a two masted schooner to interrupt the travel of hostile vessels to our coast. We have a militia engirdling that Atlantic center that constitutes a better fortification against the broadsides of transatlantic enemies, than any fortification you can erect. Who that has seen the experience of the battles fought in 1812, can be unmindful of this state of things? And yet we gather ourselves up and talk about a European descent upon us. Sir, it is a very convenient argument for the purpose of shielding speculative and local and interested motives—to gather around the granite that is to be transported and piled up in useless monuments, at the people's expense.

Sir, a word now about the usefulness of these fortifications—the service they are to render, harbors of refuge, protection to our ships in an emergency, and so forth. Why, sir, you have got a fort below this town—Fort Washington. The same kind of argument was made use of for the erection of that fort. It was asked, "Are you going to leave your capital without the protection of a fort?" Well, sir, that fort has to be protected by bayonets or not at all.

Mr. BAYLY, of Virginia. Will the gentleman allow me to suggest that bayonets did not defend this capital?

Mr. CARTTER. Did the fort?

Mr. BAYLY. The fort was not there. It was placed there subsequently, on account of the experience of the Government upon this occasion.

Mr. CARTTER. Well, sir, I have no apology for the bayonets. If they did not defend this capital upon that occasion, they ought to have done it.

Mr. BAYLY. If the fort had been there, Admiral Gordon would never have invaded Washington.

Mr. CARTTER. Sir, did you ever travel down the Potomac? Is there a man in this Hall who does not know that it is just as convenient to land an army a mile below the fort as to pass it? What do they want to come up to the fort at all for? To be shot at? [Laughter.] That is the whole argument in the matter. The whole ground upon which the system is based is, that a fleet coming for the purpose of taking this capital, would run under the guns of a fort, for the purpose of having the fun of being shot at.

Mr. BAYLY. Will the gentleman allow me to ask him a question? I desire to know if it would not be a great deal better to compel them to land a mile below Fort Washington and march up than it would be to allow them to run up opposite the city itself?

Mr. CARTTER. I would not consider it a matter of any consideration at all whether they landed half a mile or a mile off. A force that could take the city could take it upon a march of five miles as well as one. It makes no difference. Any force that could take the city at all, could take it in spite of your fort.

Mr. Chairman, the honorable gentleman from Texas, [Mr. HOWARD,] in the whole of this argument, leaves entirely out of view the fact that we have all along our coast as chivalrous and patriotic and fearless a body of men upon the decks of our merchant marine as exists upon the face of God Almighty's earth, and which, in point of magnitude and numerical force, are equal to any force that can ever be brought against us. Gentlemen talk about breaking down the barriers of approach to our cities. Why, sir, do you suppose that when an enemy has traversed three thousand miles of ocean navigation to reach our shores, we shall be able to keep them off by fortifications? Look at the history of your own achievements in the late war with Mexico. The fortress which stood guard to the city of Vera Cruz, and which had been considered for many long years as an impregnable defense, fell before your American Navy like a bauble. All they had to do was to get a few miles beyond it and land their forces, and attack the city in its rear; and having thus brought it between the fire of the fort and their own fire, it was an easy matter to destroy it. A fortification never stood upon a more impregnable position than did that fort. The difficulty is in the very essential character of the work. The system itself originated in a time when the seas constituted the bone of contention between nations. It was a security to the stores and ammunition which were within it. That is all. It was before the invention of steam. It was before the invention of those destructive missiles of warfare which have become the order of the day.

Sir, this old system is now sought to be perpetuated, not for purposes of protection, but for purposes of plunder—without imputing any such motives to any gentleman upon this floor. Of course gentlemen who defend this system of fortifications upon this floor do not do it through such motives. Every mile of railroad which is built in the United States enables you to center upon any given point, the physical, muscular force of the nation; and this of itself obviates the necessity of these works. You talk about burning down New York! I tell you, sir, you would have to catch them asleep to do it. They would scuttle any fleet that you could send, before it could get within three miles of New York. They would scuttle them in their row-boats. [Laughter.]

New York has two fortifications, for the reason that she constitutes the commercial metropolis of the Republic. That is the reason why New York has them. But, sir, Norfolk stands perfectly secure, for nobody under the light of Heaven would undertake to touch her. [Laughter.] What would a British fleet go there for?

Mr. BAYLY. To burn down the city.

Mr. CARTTER. No, sir, she is fenced in by a barrier that no British fleet would ever undertake to pass. She has come to be regarded with as much veneration as a monument of antiquity, as much so as the tomb of Washington. But still we have spent millions of money for Norfolk. We have built splendid fortifications there for the protection of a grave yard; and now I would ask my distinguished friend from Virginia [Mr. BAYLY] if he would, in all conscience, ask for any further appropriations for Old Point Comfort?

Mr. BAYLY. The gentleman from Ohio has placed himself precisely in a position where he must hear a word from me, because he has appealed directly to me. Now, sir, so far as I am informed, no part of any appropriation which has ever been made for the fortification at Old Point, was made exclusively for Norfolk. It will be borne in mind, however, by everybody here, that I do not represent Norfolk. That city is much more ably represented in this body by a colleague of mine, [Mr. MILLSON] But I tell the gentleman from Ohio, and this House, that Old Point Comfort is the key to the Chesapeake Bay. It affords a shelter to all the shipping in that whole Mediterranean of the American continent. It is a road attached to the Chesapeake. It constitutes the defense of the cities of Petersburg, Richmond, Norfolk, and of your navy-yard at Hampton. Gentlemen talk about the militia. Why, Mr. Chairman, the militia of the country could not protect your Capitol from one of the most disgraceful violations upon record. Sir, that fortification is a shelter for your Navy, itself—for that right arm of your defense, of which the gentleman from Ohio speaks. It affords a shelter and protection to your Navy, under which it may run in when pursued by a superior power, and may again pounce upon the ships of the enemy, when it can capture them.

Mr. CARTTER. Then the point is made that you want your fortifications for sheltering your Navy.

Mr. BAYLY. We want them to shelter the commercial marine.

Mr. CARTTER. The commercial marine will take care of itself. The point of the honorable gentleman's argument is that you need your fortifications to shelter your Navy. What, sir! is it true that this branch of your service has become such an old fogy concern that she needs a fortification to take care of her? Do you need the protection of permanent guns and ten feet walls to save your gallant Navy? [Laughter.] Sir, it is all nonsense. There you have it. One useless, unproductive expenditure is made the excuse for another; and I hope that the action of this House for three successive years will serve to confirm the truth then stated, that this enormous expenditure of the Government for the erection of fortifications is nothing but an extravagant waste of money. Sir, has your Navy become so crippled, so inert, so ineffective, that instead of being able to defend the commercial marine of the country, it is not able to defend itself? It is true there is a navy-yard at Norfolk, and you want a fortification to defend it. That is an interesting fact in the history of this country. A fortification to defend a navy-yard! Why, what is going to become of this extensive commerce of Norfolk in oysters? —for that is the chief article of commerce there. [Laughter.] What is going to become of her? Sir, with such men as Paul Jones upon her decks your Navy will take care of itself, and it has got to take care of itself, or not be taken care of at all. It is just as idle to talk about protecting your commerce by statutory provisions, by regulations for the Navy, or by rules and regulations for your commerce, as it is to protect the human system in its full strength and vigor without action. It is a law of your physical constitution that you must keep these functions in active operation, or die; and whether you lay up in ordinary in due form, these old commodores and captains to rust out, cross-leggedly, [laughter,] or lay them out at three score years and ten, with the wave for their winding sheet, is totally immaterial. You produce the same effect in both cases; and it is precisely upon the same principle that these fortifications are to be supported.

Now, sir, I propose—although I know it is unmerciful—to abandon this Navy to the winds and the waves. I should be glad to see them safe behind the walls of a fortification, but I do not think it ought to be done by appropriations out of the Federal Treasury. I should like to see those rusty old commodores in their ease and indolence, smoking and drinking at a foggy and quiet feast—a sort of inertia of the body and mind. There is a pleasing something in that kind of doling out of life as it passes along.

Mr. DUNCAN. I call the gentleman to order. The subject under consideration is fortifications, and he seems to be discussing the character of the Navy and its officers. If there were time to reply to the gentleman, the subject would admit of discussion, but it seems to me that this is an inappropriate time for such remarks.

Mr. CARTTER. There is a navy-yard and a light-house at Boston, and my friend is a great protectionist, and all that sort of thing; and the only difference between his theory of fortification and mine is, that he believes in protection in the shape of protection to manufacturing establishments.

Mr. DUNCAN. What has that to do with the subject under consideration?

Mr. CARTTER. We are talking about the defenses of this Government. My respected and honorable friend from Virginia [Mr. BAYLY] threw into the discussion the necessity of protecting the Navy by fortifications. I was reviewing the argument when my friend from Massachusetts, [Mr. DUNCAN,] without any definite idea before him, called me to order. [Laughter.]

Mr. Chairman, I want to state what I verily believe to constitute the fortifications of this country, and that the support of everything else is money thrown away. The true fortification of this country is in the hearts and the arms of its citizens. In aid of that, the true economy of protecting our Atlantic border, and our Pacific border, which temporarily is exposed, is to increase the facilities of access to your maritime borders. Outside of that you must create a force upon the decks of your mercantile marine. The impression is—the truth is—that in our day of trial, the men that man the decks of your merchant marine have got to fight your battles upon the ocean, and the circumstance of improvements in the missiles of death enable him to do so. This idea of putting seventy guns upon one boat, is an exploded idea, when you can have the power of destruction involved in the throat of a single piece; and, sir, our life must be brief if we do not see the period in the ocean's navigation, when every ship will carry the passport of its own defense. This is the only protection of a physical character that I rely upon.

There is a moral protection which rises higher, and will operate to the safety of this country to a far greater degree, and that is, that this Republic has embarked in the experiment of personal and national liberty. But when the minions of Europe invade our shores for the purposes of subjugation, they come here simply as emigrants to liberty. They dare not trust their minions in a voyage of attack upon this continent, and there is no danger of it. Why, look at the instance in Canada, during our little filibustering up there. They sent over their regiments, their companies, full epauleted, well dressed, well fed, with all their national pride and national bigotry upon them, and, sir, the adjacent States were almost famished by feeding deserters. And they had to draw from the fields of the West to keep up an account current with stock. Sir, that is the case whenever you are opposed from abroad by the multitude tnat serve arbitrary power. That centripetal power that brings everything to us, and causes every thing to circulate around, is a better protection and better guarantee than all your puppet-show fortifications that the American Treasury can ever build.

Now, sir, these are my views, hastily, distractedly expressed, under the surprise that the fortification bill should be attempted to be renewed in this Chamber, after the signal and salutary defeat of it by this body. These are the spontaneous suggestions which occurred to me under the influence of that surprise, and all this cry about foreign alliances.

They talk about the designs of France, and of Spain—poor Spain is talked of as being about to assail the Empire Republic of this continent. What! that old, effeminated, vitiated, degraded, wasted pauper, of all others on the face of nature among the nations of the earth, going to assail this young, and vigorous, and vaulting Republic! Why, it is a caricature. It approaches about as near the truth as does the vapory character of that people approach the plain, normal cast of our own character.

And this man who has recently been made an Emperor in France, is to come down with all the crushing power of his might upon us! Why, sir, a man has studied the signs of the times to no purpose who does not read and know that it will keep him busy to take care of the city of Paris alone.

Sir, it is worse than childish to contemplate—to imagine such an event. The adhesive nature of the elements of his own Republic is so weak and feeble that he could not pass through a single revolution without being utterly torn to pieces.

And there is Great Britain, that we hear so much about. If there ever was a nation on God's footstool put upon her good behavior, it is Great Britain. There is no possibility of her becoming our antagonist. Why, sir, she has coquetted with us, and courted us, and she is lavishing her praises upon us. That is all I am afraid of. As long as she manifested antagonism, I felt secure, for I knew that it would put the American people upon their guard; but now, such has become her interest, that she is compelled to play the coquette and flatter us.

Still, in the midst of this supreme security, this triumphant strength upon this continent, peerless and invincible, you hear a clamor raised about taking care of a few docks, placed around the Atlantic borders, and the taking care of her commerce. I recollect very well, when this question was first mooted, I was the only man west of the mountains to make an attack upon the only fort west of the mountains. I recollect how they attempted to skin me outside of the House for doing it. Why, this theory of protection to commerce, and western gentlemen will appreciate what I say, had run to such an insane extent that they got an appropriation for a fortification on the Detroit river to protect the commerce of the lakes. That is a narrow river, rarely averaging a mile in width, and they put a fortification near the middle of it, as though the sail of the lake would make their retreat there if they could; for when they got there, they would have been within the reach of the long guns on the Canadian shore.

Why, sir, if the fortification had extended far enough to have decoyed the commerce of your lakes into that river, it would have been their total destruction, in any emergency. The vessels could have extended anywhere else. They would have been safe anywhere else except there, and the same argument would hold good with regard to the fortifications on the Atlantic coast. Your cities have the institutions and the power of the country to throw around them. You have the force of weather-beaten seamen to throw around them. You have the guard of a free and populous people, who are ready to stand in defense of the Republic in any section, thrown around them. You have all the guard that your old rickety Navy furnishes under the shelter of these fortifications. Now, what more can we want in a profound and triumphant time of peace?

I venerate Old Point Comfort. We have sunk a great amount of stone in her. She has got a deep bosom, and when a five dollar piece of money went out of sight, it was the last of it. You felt as though you were mourning the loss of an old friend, and when its neighbor went down it was the last you saw of that; and so on until millions have been sunk, and now millions more are to be wasted; for like old Norfolk with its *quays*—I believe that is what they call them—it never will be completed.

The appropriation of $70,000 for the completion of the quays there is an old friend of mine. I have seen it stick out in the appropriation bills as regularly as they came up. It will continue. It may furnish a few men with labor, but let me give those men a little advice: Instead of coming here to draw your support out of the Treasury at a poor dragging pace, just go to the West, whose resources are boundless. Apply your strength and your muscles to her generous bosom, and she will not only return you pay, but she will return you health and vigor, and the pulsations of freemen. You will not feel as though you were hanging on to a power above you. The only power you see between the fertile fields of the West and your destiny, is the Power that has the right to direct it. There is there no gathering around the Capitol and the Executive bureaus, jobbing and sub-jobbing, calculating precisely the per centum you can cheat the Government out of in every stage of the work. [Laughter.] I feel a sympathy for this labor, but let it be directed in the paths that develop manhood, and let it reap the rewards of manhood.

Mr. EVANS obtained the floor, but yielded to

Mr. BAYLY. With the consent of the committee, I will at present withdraw my amendment.

[Cries of "Let us rise!"]

Mr. EVANS. I will do whatever the committee pleases. I am now ready to stop. I assure the committee that I do not intend to detain them long. I know the weariness everybody must experience at this late hour in the session.

Mr. TAYLOR. It is a very late hour, and with the gentleman's consent, I will move that the committee now rise.

[Cries of "No!" "Go on, EVANS!"]

Mr. EVANS yielded to

Mr. MILLSON. I had no purpose of taking part in this debate, and I would not have done so but for the extraordinary course of remark indulged in by the gentleman from Ohio.

Mr. TAYLOR. I suggest to the gentleman from Virginia, with his permission, that we do not hear a single word he says. We have been sitting here eight hours, and I think we had better rise.

Mr. EVANS. It is plain enough that I had better proceed with my remarks, and I trust that the gentleman from Virginia [Mr. MILLSON] will pardon me for claiming the floor. I assure you, Mr. Chairman, that I fear my information is too limited in regard to this subject to afford the committee much light on it. I do not expect to amuse them, as the gentleman from Ohio did, nor to display anything at all of the wit or sarcasm that gentleman developed in his speech; but I design rather to deal with questions of fact, and to tell what I believe to be truth. I perfectly concur in all that fell from the honorable gentleman from Virginia, [Mr. BAYLY.] His remarks did him credit. They did credit to his knowledge, which is what is generally most needed in this House.

A MEMBER. That is pretty plain.

Mr. EVANS. But it is nevertheless true. He showed that he had examined and understood the subject. But I am sorry to say that the gentleman from Ohio, [Mr. CARTTER,] though he has made a speech, as he always does, marked with a great deal of talent, did not comprehend the question properly, nor did he show that he had very carefully examined it. Let me appeal to every one in this House on the most patriotic considerations—to the gentlemen from the West, those who represent the inland cities, who never will be subject to attack, but who, if they were, would repel it with as much gallantry as the people of any other section of the country, and who have come forward and battled in defense of the Republic, whenever it was in peril, with a distinction, an alacrity, and bravery unsurpassed—let me, I say, appeal to them to at least afford us reasonable means of protection. Are they not aware that, at each session of Congress, we vote them a fortification bill? Will they remember how much we annually expend in the defense of the frontier against the incursions of the Indians? How much by way of annuities, how much by way of purchase of lands, how much by way of support of troops, and the building of new quarters for soldiers in that country, do we annually pay out of the Treasury? Of the nine thousand troops in the country, are not eight thousand of them on our borders, among the Camanches, the Apaches, and three other warlike tribes? And for whom is all this defense? Why do we not hear the eloquence poured forth on that subject that has to-day been expended on this? Why do we not hear of the vigorous arms of the citizens being ready to repel those Indians? They are always ready, but something else is required of the Government. It is not only expected that the citizen shall be ready to repel the enemy, but it is also required that you shall give him protection against attack, and supply him in addition with the necessary arms and other means of defense.

Let us take, for example, the city of Philadelphia, and see what the condition of things will be there. I have gone from that city to the ocean in eight hours, and everybody will agree that it is quite as easy to come to the city from the ocean in the same time. There is scarcely any fortification there—there are few guns mounted, nor is there anything to prevent an enemy going to that city of four hundred thousand inhabitants in eight hours, and laying it under contribution or enveloping it in flames, thereby destroying an amount of property more than sufficient to fortify the approaches to it more than one hundred times over. There is a little mud fort there, called Fort Mifflin, which has next to no guns mounted, and which could make but feeble resistance. The reason offered by the gentleman from South Carolina why we ought to do nothing, is the very reason why we ought to do everything. He put forward an argument against himself. New means of invasion have been invented. Are we therefore to adopt no means of defense? Have defenses not become more than ever necessary? Nothing can be plainer. You have seen what steamers in place of sail vessels can do. They can appear on our coast at almost any time without notice. Now everybody knows that the practice of modern warfare is not to give a formal declaration of war. It is required no longer. That belonged to the chivalrous system of the middle ages. The war against you may be now existing, and you not aware of it. To-morrow a fleet may be off the Capes of Delaware, and in eight hours afterwards before the city of Philadelphia, which may be laid under contribution, and your navy-yard, on which you have expended millions of dollars, would be burned, and you could make no defense.

Now, let us look at these fortifications, and everybody will see into the matter at once. Suppose you had a fortification on Pea-Patch Island, that would keep the enemy at a distance from his point of attack; the gentleman from Ohio seems to think that it makes no difference where the enemy lands. He is certainly mistaken, and if he commanded troops he would know it. If the enemy have to land below Pea-Patch Island, which is some fifty miles below the city of Philadelphia, they would have to cross many streams and rivers, which are difficult of passage, before reaching that city.

A MEMBER. Look at the battle of North Point.

Mr. EVANS. I thank the gentleman. I shall come to that presently. And while the enemy are crossing those rivers, there will be time gained to collect troops to meet them.

History is full of instances of the failure of military operations by the obstacles opposed by rivers and even small streams, without adequate means for crossing them, such as pontoon-bridges, which an enemy, landing from ships, could not if he had them, carry with him without ample means of transportation, which it would require precious time to collect. Such a delay of Napoleon crossing the Po at Placentia, in 1796, saved the Austrian army. "If I had had," says he, "a 'good pontoon equipage the fate of the enemy had 'been sealed; but the necessity of passing the river 'by successive embarkations saved it." In the campaign of 1799, the Archduke Charles attempted to pass the Aar and attack the French on the opposite side; but for want of suitable equipage his operation was delayed till the enemy had collected sufficient forces to intercept the passage; he was now obliged to enter into a stipulation for a suspension of hostilities, and to withdraw his bridges. In the Russian campaign the obstacle opposed by the passage of the Beresina, cost Napoleon the loss of thousands of his brave troops, and but for the devotion of his pontoniers would have cost him his army. In 1814, the barriers opposed by the small rivers of the Seine and the Marne prevented Napoleon, whose pontoon equipage was unfortunately shut up in his pontoon magazines, from destroying in detail the armies of the allies under Blucher and Schwartzenburg.

The gentleman from Ohio, as well as myself, would trust everything to the American Army, if it had *time* for preparation; but in modern warfare, time is a great element. A few hours consumed in preparations for defense are often sufficient for the success of an attack, and even for the destruction of a great city. Fortifications, so far from being abandoned, are this day recommended by every competent military authority, and I would defy anybody to prove the contrary. This assertion I openly make in this House. This city is replete in military books, and gentlemen may examine as to its truthfulness. In the War Department is a good military library, and if gentlemen will go there to-morrow and find an authority opposed to fortifications, I will abandon the bill, and cast my vote against it. Napoleon himself, before he died, and when there was a feeble idea of steam navigation, said that fortifications were indispensable. So said Wellington and Marshal Soult, and so has said everybody who was acquainted with war on a grand scale.

Now let us look at the expense of all the fortifications which have been projected in this country. I will take the grand system which has been so denounced in this House. It is divided into six classes: A, B, C, D, E, and F. Take the whole six classes, and they come to $44,000,000—a sum about equal to what *one* of the many forts which defend the single harbor of Havana, in Cuba, has cost. The Spanish Government have expended over $40,000,000 upon the *Cabanas* fort alone. The classes D, E, F, G, have never been commenced, which include more than half the expense. They have never been begun, and, in truth, in order to complete your first-class fortifications you do not require as much money as you do every year to defend youselves against the Indians.

A MEMBER. State how much.

Mr. EVANS. The *total cost* of completing our first-class fortifications, including repairs of old works, amounts to but $6,152,090. The appropriations *annually* made for our military establishment, exclusive of fortifications, amount to about $12,000,000, three fourths of which, say $9,000,000, are expended in defending yourselves against those Indians. The cost of our naval establishment during the war of 1812–'15, was, for 1813, $6,446,000; for 1814, $7,311,291; and for 1815, $8,660.000; or an average for the three years of $7,472,430; and for a few years past the Navy appropriations have averaged about $9,000,000. The annual average cost of the British Navy during the war, from 1799 to 1815, was $79,779,341, and since the war it has been $28,981,106. From these interesting statistics we see that the *annual* cost of our little Navy during the war of 1812–'15, or now, in a state of peace, exceeds from twenty to fifty per cent. the entire cost of completing our first-class fortifications, including repairs of old works, and that the British Navy now yearly costs *five* times, and during a state of war exceeded *thirteen* times that sum. The British Navy now costs in a *single* year more than is required yet to be expended to adequately defend every town, city, navy-yard, and arsenal along our vast Atlantic and Pacific coasts; and its cost during a *single* year of war was nearly double what *has been*, and *is contemplated* to expend upon the whole six classes of our fortifications.

Now, sir, I think our services in the past merit some requital and defense in the present. Is it possible that the troops of Virginia and Maryland were of no account on the battle-field? Did they not fight in the war of the Revolution? Did you not hold them in grateful memory once, and did not Washington command them, and are we to have nothing in return? Are our fields to be ravaged and plundered, and our women subjected to insult, as they have been in times past? If the gentleman from Ohio had lived in the State of Maryland in the war of 1812, he never would have opposed this system of fortifications. What the gentleman from Virginia [Mr. BAYLY] said about Hampton Roads being the key to the Chesapeake Bay, is true. The fort gives the means to our vessels to retire behind it, so that they have a chance to recruit themselves.

Mr. CARTTER. The gentleman from Virginia [Mr. BAYLY] says that the Hampton Roads is the key to the Chesapeake Bay. I wish to know whether you cannot pass from the capes up the bay without going in reach of any of the fortifications?

Mr. EVANS. It is plain to everybody, and will be plain to the gentleman, if he will only exercise a little of his good sense, and not run wild, that vessels, of whatever description, can retire behind these fortifications where they can augment their force and undergo repairs. There they can finally drive every enemy from the bay. Nobody would go into the upper bay when there is a fleet behind the fortification. Had Hampton Roads been sufficiently fortified in the war of 1812–'15, to protect a fleet, no battle of North Point or capture of Washington would have taken place. This is perfectly plain to every military man. Look at the case of the Tortugas and Key West, for which appropriations are made in this bill, which are the keys to the Gulf of Mexico and the mouth of the Mississippi. They afford protection to the extensive commerce which passes through the Gulf, as everybody knows, and are as essential to the States of Ohio, Indiana, Illinois, Wisconsin, Iowa, Missouri, Kentucky, Tennessee, Arkansas, Louisiana, Texas, Mississippi, Alabama, Georgia, and Florida, as are the sea-board fortifications to the Atlantic and Pacific States. I have no special interest in the Hampton Roads or the Tortugas beyond that of every

good citizen, for nobody in my district is concerned in either, nearly or remotely.

In the case of the Tortugas or Key West, your ships can retire behind the forts and be placed in security, where they will be in a position to go out and assail any enemy's ships that may come to attack us. The expense is but small for keeping up these necessary fortifications, when compared with the great benefits resulting to the protection of our commerce; and our western friends should look at it in the right point of view. These fortifications are intended for their protection, as well as for the defense of the greater portion of our commerce. A great part of the commerce which goes into the ports is for the West; and whatever promotes the security of commerce is their security, and every cent expended upon these fortifications tends to the security of goods owned or to be owned by them, and thus diminishes the prices they will eventually have to pay. Your internal trade will be always secure; and if our Atlantic frontier be well protected, your citizens need no longer go down from Ohio, Illinois, and Indiana to defend the frontiers. Otherwise, after foreigners have been ravaging and laying waste the country, after our cities have been consumed, you will find that citizens will have to leave their homes for the purpose of repelling the enemy.

This system is little more for our advantage than it is for that of the frontier settlements, and if it were, we are entitled to protection. Gentlemen mistake when they suppose that it is for the purpose of spending money among our people that we ask for these appropriations. It is from long and tried experience that we know what the advantages of such a system of fortifications would be; for the enemy has in times past landed upon our shores, insulted us in every possible manner, and we were not able to resist and repel them. They landed where they pleased· they devastated, burned, and robbed. They plundered the State of Maryland of immense sums of money, in the shape of property destroyed, for which we might have a fair demand upon the Government. Yet the gentleman from Ohio [Mr. CARTTER] says that fortifications are absurd. Where is the gentleman's authority for saying that they are not needed? Where is the military man—I will not say connected with the Government, because the gentleman might say that a military man was interested and desired the system to be perpetuated—who will hold that fortifications are not essential to defense? Take that man who has exhibited more military talent than any other man since the days of Hannibal—I speak of Napoleon.

Mr. CARTTER. I will quote Andrew Jackson in reference to fortifications along the northern frontier. He pronounced them, during his administration, to be a humbug.

Mr. BAYLY, of Virginia. General Jackson, during his administration, by Mr. Benton, his mouth-piece, proposed to devote the whole of our surplus revenue to the fortifications, instead of distributing it among the States.

Mr. EVANS. That is true. So far from denouncing fortifications, he made the recommendation of which the gentleman from Virginia speaks. He is good military authority if he is any authority. If he has any fame, it is on account of the military affairs in which he distinguished himself. The gentleman from Ohio [Mr. CARTTER] thinks that the system was an expensive one, but General Jackson never dissented from anything that is in this bill. On the contrary, he was, I believe, for every item in it. How important the system of fortifications is, we have abundant evidence in the history of the country. When your vessels are attacked by a superior force they can retire behind the forts, and as soon as a convenient opportunity offers, they can go forth to do mischief upon the enemy. We have had numerous examples of this kind in our history, and so far from there being anything objectionable in it, it is of very great importance that you should select such advantageous points as those behind which your fleets can retire. Now, I repeat, and I assert beyond fear of contradiction, that they are needed, and I intend now to refer to two or three points where shipping has been partially successful against fortifications. The fort of San Juan d'Ulloa was captured by the French fleet under Prince de Joinville. It was also captured by General Scott, aided by the fleet.

Mr. CARTTER. Was it captured by the fleet?

Mr. EVANS. It is no matter how it was captured; it was captured. Copenhagen was taken. San Juan d'Acre was captured, and the forts at Algiers were silenced. I must examine into this matter as cursorily as possible.

The battle of Copenhagen was in no such a contest between ships and fortifications. It was the attack of a fleet of sailing ships upon an anchored line of *block-ships* and *praams*, which masked the fire of the fortifications of Copenhagen, except the "three-crown battery," (at the close of the action,) which had little or no participation in the battle. San Juan d'Ulloa was a contest between a fleet mounting 188 guns, exposed, says the reporter of the action, "to the fire of one 24-pounder, five 16-pounders, seven 12-pounders, one 8-pounder, and five 18-pounder carronades; in all 19 pieces *only*." At the distance the French ships lay, about seven eighths of a mile, all but the one 24-pounder and the five 16-pounders might, for all the injury they could do, have as well have been fired in the contrary direction. Even the 16-pounders could have but little efficiency, so that the defense was reduced to *one* 24-pounder. The secret of the French success was the blowing up of the Mexican magazines, which were injudiciously placed, and were not bomb-proof. San Juan d'Acre fell by a similar accident of the explosion of their great magazine, which made a great breach, through which the panic-struck Egyptians escaped and the English entered the work.

I wish I had here the "Memoirs of Napoleon," dictated to Gourgaud and Montholon. In referring to the capture of Algiers, Napoleon said, that in his opinion, it was one of the most absurd attempts. He declares that Lord Exmouth should not have undertaken to fight the forts at all. The success was casual only. There are many instances where a couple of guns have been successful against a much more considerable force of artillery mounted on shipboard. The gentleman talks about new inventions as dispensing with the necessity of forts. Every one knows that whatever new invention can be put in a ship can be put also in a fort. Can you not get guns mounted as well in the fort as in the ship? and can you not aim them a good deal better in the stable fort than on board the rolling ship? In the one case, there is danger of the shots penetrating the magazine or sinking the ship; in the other case, you fire against massive stone walls, which are impenetrable.

Mr. CARTTER. I would inquire whether these guns are stationary in the fort or not?

Mr. EVANS. They are put in such a place as will prevent the enemy from passing the fort. They are not strictly stationary, as they can be traversed upon their platforms to give a field of fire from sixty to one hundred and twenty degrees. The forts at New York and Baltimore would force the enemy to land far off from them, and so it is with every fort of defense on this continent. They all compel you to land at considerable distances from the point of attack. That is a great advantage gained. That is not the case with the fort of San Juan d'Ulloa. There the landing could be made in the immediate vicinity, and the town invested from the land side; yet, certainly all will admit the town much more secure with the fort than without; besides, the Mexicans were, in the instance of the French attack, unprepared; the enemy therefore met with unexpected success, and the circumstances have been nearly the same at every attack above referred to.

But I will say nothing more about this branch of the argument. This House and the country know it is important for the interests of the interior of the country that we should have established along our line of sea-coast these fortifications, and they will prevent the enemy from laying the great commercial cities under contribution. They give us the advantage of time, all-important in military operations, and we can telegraph to the most distant points of the country, if necessary, for the aid and assistance of volunteers, and by means of railroads bring them in a short time to any point desired, before any serious disaster can happen. I know very well what the gentleman from Ohio would do. After the city of Baltimore had been laid in ashes, after its people had been placed under contribution and robbed of millions, he would come down and shed his life-blood in defense of what remained. But he desires to wait for that. He does not desire that the city shall be put in such a position that it cannot be attacked. He desires when it is attacked to have the honor of coming forward and defending it. I desire something more than that.

Gentlemen are mistaken when they suppose that we advocate these appropriations for the sake of any advantage or profit to ourselves. We have other means of profit than these. It is for the common defense of the whole country that we desire it. Sir, at this time you are defying a world in arms. You attack all European nations. You denounce them. At this very time a large portion of the people of this country is desirous of entering into their policy. The formidable party to which the honorable gentleman from Ohio belongs is more or less desirous to meddle in European affairs; to dictate to foreign nations their and our common policy, and how far it ought to be pursued; to say where they shall colonize, and how far they shall interfere with the concerns of other nations. I do not pretend to say, in this debate, how far I should be disposed to enter into these views. But the gentleman from Ohio is warlike. He seems to look to war, and to be ready for it. He, I suppose, would not flinch from it, whether it were to be with Russia, Austria, or any other formidable power. He is always ready for a contest. How necessary, then, that he, before others, should make preparation and establish the means of defense. Sir, I am as much opposed as any gentleman upon this floor to lavish expenditures for these branches of the public service. I would appropriate nothing for these purposes if it could be done with safety. I would not have a single soldier if we could dispense with soldiers. I would not man a single ship and send it abroad if I thought that the honor and dignity of the nation permitted us to dispense with it.

The gentleman from Ohio, if ready for a conflict with other nations, ought not to refuse to make appropriations for the defense of the country. I tell him that it is bad policy. You should put your cities on the coast, your main commercial centers, into such a state of preparation that no enemy will dare to attack them. Sir, ours is now almost the only country in the world where true liberty exists. Even in England, I blush to say, they have prostituted the public offices by opening the letters of the friends of liberty, who have sought an asylum there from the despotisms of Europe. Where does true liberty exist? Scarce anywhere but here, and the despots of the world hate us with a bitterness that we ourselves do not conceive of. There is not a crowned head that does not feel insecure on his throne so long as true freedom exists here; let us, then, expect nothing from their affection and repose in no false security. Sooner or later, I fear—though I pray God the time may never come—we shall have to meet a concentrated world in arms. We shall be attacked by the despots of the world. Their fleets are greater than ours, and who does not know that their armies are vastly superior in numbers to ours. All we have to do, then, is to secure our principal places on the coast.

But if you were to pursue the policy of the gentleman from Ohio, and rely for protection merely upon the operations of your troops, you would have to divide your forces into small bodies, and scatter them about to defend insolated points. Without fortifications, a single English war-steamer could keep our whole coast in a state of alarm, rendering it necessary to maintain a vast force to watch our numerous points of attack. With fortifications comparatively few troops would be necessary, leaving our remaining forces disposable for the conquest of the Canadas. To maintain two armies—one for the coast and another an invading force—would soon exhaust our Treasury. One hundred thousand volunteers would not be more than sufficient to guard the vulnerable points of our maritime frontier, if not covered by fortifications, which would cost the nation $50,000,000 annually. Add to this the cost of an invasion of the Canadas by an adequate force, and then say how long we could maintain a war? And let me ask what would be the loss of the nation, independent of the cost of troops, in abstracting such an amount of labor from the productive industry of the country, and the fearful waste of life likely to result from such a costly, hazardous, and harassing system of defense?

The gentleman is mistaken in his views. He

cannot bring military authorities to back him. We have had great military men in this age, and they are all upon the other side. That ships have captured forts in isolated instances, and under very peculiar and favorable circumstances, is true, but that they can do so in a majority of instances, is not true, and cannot be true. Not a *single* instance is to be found on the page of history where ships have encountered the batteries of forts of *civilized* nations, gun for gun, where the former have been successful. Sir, I will not longer trespass upon the time of the committee.

Mr. HIBBARD. I do not rise for the purpose of continuing this debate. I think it has been sufficiently prolonged already. Both sides of this question have been discussed ably and at length. I hope, therefore, that the debate will terminate, and that we shall now proceed to action upon the bill.

Before I close, as we are in Committee of the Whole on the state of the Union, I beg to call the attention of the committee to the state of business. We have now before us the Army bill and the amendments to it sent in from the Senate. I think we ought to, and I hope we shall dispose of it before we adjourn to-night. We have the civil and diplomatic bill, which has been sent to us from the Senate—and is now before the Committee on Ways and Means—with a very great number of amendments of much importance. Then there is the Navy bill and also the Indian bill, both of which are before the Senate and have not yet been returned to us, but which, we may be assured, will come to us with a great number of amendments making additional appropriations. There is, besides, the deficiency bill which we have just sent to the Senate with a number of amendments and disagreements to their amendments for their consideration, and which will doubtless be again returned to us.

In addition to these important bills, essential to the very continuance of the operations of the Government, is the vast mass of other business which has been accumulating before Congress during the present session, and gentlemen will remember that for the consideration of this great amount of business—almost the whole business of the session—we have got three and a half working days. Now, I beg leave to submit to the committee, whether it is not our duty to terminate this debate, and proceed to vote on the amendments. We must do that, or adopt one of two alternatives—a ruinous neglect of public business, which may involve even the stoppage of the wheels of our Government, or the responsibility of an extra session of Congress. Are gentlemen upon this side of the House, or upon the other side, prepared to take that responsibility? For one I cannot. A record will be made upon this question, and I invoke gentlemen to join me in an effort to complete the public business. I move that the committee rise, with a view to terminate debate.

Mr. BAYLY, of Virginia. I ask the gentleman to yield me the floor for a few minutes only.

Mr. HIBBARD. I would yield to my friend from Virginia if I would to any man; but if I yield to one I must yield to others, and I therefore most respectfully decline to withdraw my motion.

Mr. RIDDLE. I ask the gentleman from New Hampshire to allow me but a moment.

Mr. HIBBARD. I cannot. I must insist upon my motion.

The question was then taken on Mr. HIBBARD's motion; and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HARRIS of Tennessee) reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the Senate's amendments to the Army appropriation bill, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. HOUSTON. I offer the usual resolution to terminate the debate, in Committee of the Whole on the state of the Union, on the Senate's amendments to the Army appropriation bill, in five minutes after the committee shall resume the consideration of the same; and upon that I move the previous question.

The previous question received a second, and the main question was ordered to be now put.

The question was then taken on Mr. HOUSTON's resolution; and it was adopted.

Mr. HOUSTON. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

Mr. BRIGGS. I have a resolution which I desire to ask the unanimous consent of the House to offer. It is not an unusual resolution, and I hope there will be no objection. I desire to offer the following resolution:

Resolved, That the usual extra compensation be paid by the Clerk out of the contingent fund, to the employees in and about the Capitol, embracing that description of persons only who received it at the close of the last session of Congress.

Mr. LETCHER. I object.

Mr. BRIGGS. I move to suspend the rules to admit it.

Mr. HIBBARD. I rise to a privileged question. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The SPEAKER. Another privileged question is pending to suspend the rules, which must take precedence.

Mr. LETCHER. I move to adjourn. That motion is in order.

The question being upon the motion to adjourn,

Mr. CLEMENS demanded tellers; which were ordered; and Messrs. JOHNSON of Tennessee, and CABELL of Florida, were appointed.

The question was then taken, and the tellers reported—ayes 41, noes 57; no quorum voting.

So the House refused to adjourn.

Mr. CLEMENS. Is it in order to move a call of the House?

The SPEAKER. That motion is in order.

Mr. CLEMENS. I make that motion.

Mr. LETCHER. Upon that motion I demand the yeas and nays.

Mr. ORR. I move that the House do now adjourn.

The question was put, and upon a division there were—ayes 65, noes 44.

Mr. HIBBARD. I demand the yeas and nays.

Mr. EVANS. I ask for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. CHASTAIN and DIMMICK were appointed.

Mr. EWING. I rise to a privileged question. I move that when this House adjourns, it adjourn to meet at ten o'clock to-morrow morning.

The SPEAKER. That is not a privileged motion, nor is it in order except under a suspension of the rules.

Mr. HIBBARD. I withdraw my call for the yeas and nays.

Mr. HOUSTON. Before the House adjourns, I desire to appeal to the House to meet to-morrow at ten o'clock. If the gentleman from South Carolina will withdraw the motion to adjourn, I will make that motion.

Mr. ORR. I will withdraw the motion for that purpose.

Mr. SWEETSER. I object to that motion being withdrawn.

The SPEAKER. The Chair decides that the gentleman has the right to withdraw the motion.

Mr. HOUSTON. I now ask the unanimous consent of the House to move, that when this House adjourns, it adjourn to meet to-morrow morning, at ten o'clock.

Mr. SWEETSER. I object.

Mr. HOUSTON. I move to suspend the rules to enable me to submit that motion.

Mr. CLEMENS. Upon that motion I demand the yeas and nays.

Mr. SWEETSER. I rise to a question of order. A motion was made a few minutes since to enable the gentleman from New York [Mr. BRIGGS] to submit a resolution. I insist upon that motion being taken.

The SPEAKER. The gentleman from New York submitted the motion to suspend the rules to introduce a resolution which was then indicated by him, but the Chair was under the impression that the motion had been withdrawn by the gentleman. The Chair inquires of the gentleman whether he withdrew his motion?

Mr. BRIGGS. I submitted the motion to suspend the rules, but I thought there was no quorum present, and therefore I did not press it. I cannot, however, withdraw the motion.

The SPEAKER. Then the question will be upon the motion made by the gentleman from New York to suspend the rules.

Mr. HOUSTON. I want to know what has become of my motion to suspend the rules?

The SPEAKER. It has been cut off by the prior motion of the gentleman from New York to suspend the rules for another purpose.

Mr. CAMPBELL, of Ohio. I move that this House do now adjourn.

Mr. HOUSTON. I ask for the vote upon my motion to suspend the rules, to enable me to move that the House meet at ten o'clock to-morrow morning.

The SPEAKER. There is a motion pending to adjourn, but if that motion were voted down, the question would still be upon the motion of the gentleman from New York.

Mr. CAMPBELL. I insist upon my motion that the House do now adjourn.

Mr. CLEMENS. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and, being taken, the result was—yeas 50, nays 50.

So the House refused to adjourn—no quorum voting.

Mr. OUTLAW. I move a call of the House. I believe no other motion is in order without a quorum.

Mr. HALL. I move that the House do now adjourn.

The SPEAKER. A motion was pending, made by the gentleman from Virginia, [Mr. CLEMENS,] that there be a call of the House; so that neither the motion of the gentleman from North Carolina [Mr. OUTLAW] nor that of the gentleman from Missouri [Mr. HALL] is in order.

Mr. CLEMENS. I withdraw my motion.

Mr. OUTLAW. I now move that there be a call of the House.

Mr. HALL. I move that the House do now adjourn.

Mr. POLK. Is it in order to amend that motion so as to provide that the House adjourn to meet to-morrow morning at ten o'clock?

The SPEAKER. That amendment is not in order.

The question was then taken, and Mr. HALL's motion was agreed to; and

The House adjourned till to-morrow morning at eleven o'clock.

IN SENATE.

TUESDAY, *March* 1, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Treasury, communicating a report of the Superintendent of the Coast Survey, showing the progress of that work during the year 1852; which was read, and a motion to print the report was referred to the Committee on Printing.

Also the seventh annual report of the Board of Regents of the Smithsonian Institution, showing the operations, expenditures, and condition of the institution during the year 1852; which was ordered to be printed.

NATIONAL INTELLIGENCER.

Mr. MANGUM submitted the following resolution for consideration:

Resolved, That the Secretary of the Senate have published in the Daily National Intelligencer the full debates and proceedings of the Senate for the present session, and pay the same compensation therefor as is allowed to the Union and Globe, and *pro rata* for what has been reported and published in the Intelligencer during the present Congress.

EXTRA COMPENSATION.

The resolution submitted yesterday by Mr. CASS, making certain allowances from the contingent fund to the officers and employees of the Senate, was read a second time, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

THE DEFICIENCY BILL.

A message from the House of Representatives was received, by Mr. FORNEY, its clerk, announcing that it had agreed to the first, second, sixth, seventh, and twelfth amendments of the Senate to the bill from the House of Representatives to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853; that it had disagreed to their fourth, eighth,

and ninth amendments, and had agreed to the third, fifth, tenth, eleventh, thirteenth, fourteenth, and fifteenth amendments of the Senate, with amendments.

The Senate proceeded to consider their amendments amended and disagreed to by the House of Representatives; and on motion by Mr. HUNTER, it was

Resolved, That the Senate insist on their amendments amended and disagreed to by the House of Representatives, to said bill, and ask a conference on the disagreeing votes of the two Houses.

On motion by Mr. HUNTER, it was

Ordered, That the committee of conference on the part of the Senate be appointed by the President *pro tempore*.

Mr. HUNTER, Mr. PEARCE, and Mr. WALKER were appointed.

J. C. G. KENNEDY.

Mr. HOUSTON offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to communicate to the Senate:

1st. Settlements of the accounts of R. H. Williamson, disbursing agent of the Department of the Interior, containing charges for payments made to Joseph C. G. Kennedy, Secretary of the Census Board.

2d. Settlements of the accounts of George A. D. Clarke, present disbursing agent of the Department of the Interior, containing payments made to said Kennedy as Secretary of the Census Board and Superintending Clerk of the Seventh Census.

3d. Settlements of the accounts of said Williamson, and also the accounts rendered by him for money advanced to the said Kennedy from the contingent fund of the Department of the Interior; said settlements to be accompanied by copies of all decisions and papers connected with said settlements, respectively.

PATENT OFFICE REPORTS.

Mr. JAMES submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That seventeen thousand extra copies of the arts and manufactures and thirty two thousand five hundred copies of the agricultural reports of the Commissioner of Patents be printed for the use of the Senate.

CAPTAIN SITGREAVES'S REPORT.

Mr. BORLAND, from the Committee on Military Affairs, to which was referred a communication from the Secretary of War transmitting to the Senate a copy of a report by Captain Sitgreaves of his expedition down the Zuñi and Colorado rivers, asked to be discharged from the further consideration of the same, and that it be referred to the Committee on Printing; which was agreed to.

ORDER OF BUSINESS.

Mr. HUNTER. I move to postpone the prior orders, for the purpose of taking up the civil and diplomatic appropriation bill.

Mr. DAVIS. I desire to have an opportunity to make a report. I have not had any opportunity for a week to get rid of some reports which I have had in my hands. This business is pressed in the front rank in the morning, and there is no escape from it. I wish that the Senator would allow me some time to clear my hands of some reports.

Mr. HUNTER. The chairman of the Committee on Ways and Means of the House of Representatives came to see me this morning, and said that the House was very nearly through all the appropriation bills, and unless they could get this bill to-day, it would be very difficult to get action upon our amendments at all. I am compelled for that reason to endeavor to push the bill through to-day. If we get it through to-day, I will give way to-morrow for reports.

Mr. MORTON. I am very anxious to have acted upon a resolution which I introduced a few mornings since in regard to the pay and mileage of my late colleague, the Hon. David L. Yulee. I shall make no motion for its consideration at this time, but I give notice that I shall, at some time during this evening or to-morrow morning, ask the Senate to act upon it.

Mr. BRADBURY. I would ask the Senator from Virginia if he would not feel authorized to give way for fifteen minutes for reports merely?

Mr. HUNTER. The Senator sees my position. He knows the situation of this appropriation bill, and the necessity of early action. I cannot give way; I wish I could.

The motion of Mr. HUNTER was agreed to.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The bill is before the Senate, and the question pending is upon the amendment proposed by the Senator from Illinois [Mr. DOUGLAS] to the amendment offered by the Senator from Virginia, [Mr. MASON.]

POST ROUTE BILL.

Mr. RUSK. I do not intend to embarrass the Senator from Virginia in the progress of the civil and diplomatic appropriation bill, but I ask the unanimous consent of the Senate to allow me to report the post route bill. There are many amendments to it to which there will be no objection at all, I apprehend. If it is postponed beyond the time of action on the appropriation bills, it will be utterly impossible for us, in the crowded state of business pressing upon our clerks, to have the bill and the amendments engrossed, which are absolutely necessary to carry on the Post Office Department. I am sure it will not take fifteen minutes. I therefore ask the unanimous consent of the Senate to enable me to report from the Committee on the Post Office and Post Roads the post route bill.

Mr. HUNTER. I would suggest to the Senator from Texas, that after this bill is disposed of, he can take up that bill and dispose of it immediately. He might do as the Committee on Finance do: We send our amendments to the Committee on Ways and Means, who are considering them as they are offered here. Suppose he were to have his amendments printed, and then by to-morrow, when they may be taken up here, the Post Office Committee of the House may be considering them, and they will be ready to act upon the amendments as soon as they are sent to that House. I am afraid to do anything that will disturb the progress of the civil and diplomatic appropriation bill, though I would give way with a great deal of pleasure if I could.

Mr. RUSK. Hours of debate will be occupied by the pending amendment to the civil and diplomatic appropriation bill. I only ask fifteen minutes for the consideration of the post route bill. At that time I will give way.

Mr. BORLAND. Then I would suggest to the honorable Senator from Virginia, since the whole tariff question is to be introduced, and to be under discussion in the civil and diplomatic appropriation bill, that it is not likely that it will be disposed of to-day. If the post route bill is to be acted upon at all, it should be done to-day.

The PRESIDING OFFICER. By unanimous consent the amendments can be laid on the table and ordered to be printed.

Mr. HUNTER. I will agree to that, if it will suit the Senator from Texas.

Mr. RUSK. I am satisfied that we can dispose of the bill in fifteen minutes.

Mr. HUNTER. I have no objection, if we can have the understanding that in fifteen minutes we are to go on with the civil and diplomatic appropriation bill.

Mr. DOUGLAS. I cannot give unanimous consent. I am compelled to ask for the consideration of the territorial bills. I have given way now for two sessions, and the Senate has not touched a territorial bill of any importance during this Congress.

Mr. RUSK. I apprehend the honorable Senator from Illinois did not understand the motion I made. The bill which I want to take up is not the Post Office appropriation bill, but the post route bill. There are various amendments to the bill which will not be contested.

Mr. DOUGLAS. I have no objection to concurrence in that course; but I am not willing to give unanimous consent in future for making any bill the next one to be considered. I want to have a chance for the floor when the civil and diplomatic bill is through with.

Mr. RUSK. Then I understand that unanimous consent is given for me to report the post route bill.

Mr. HUNTER. I understand that the Senator from Illinois objects.

Mr. RUSK. I understand the Senator from Illinois only to object to further unanimous consents. I believe there is no objection to the post route bill.

Mr. DOUGLAS. I have no objection now, so that there be an understanding as to the future.

Mr. HUNTER. I cannot give way, for I understand the honorable Senator from Illinois to object.

Mr. RUSK. He merely gives notice that he will be a party to no more unanimous consents—that is all.

The PRESIDING OFFICER. The Chair understands the application made by the Senator from Texas to be, that the unanimous consent be given to consider the amendments to the bill which he mentions. If that unanimous consent be given, it will be with the bill which has been taken up at the instance of the Senator from Virginia, still remaining before the Senate.

Mr. HUNTER. Then I do not object.

Mr. RUSK. I am instructed by the Committee on the Post Office and Post Roads, to which was referred a bill from the House of Representatives to establish certain post roads, to report it back, with certain amendments. All the amendments which are now offered are merely for post routes. There is no objection to them, and I hope the question will be taken upon all of them together. There are other amendments, which I shall afterwards offer, which may be perhaps contested.

The amendments were agreed to.

Mr. RUSK. I have another amendment, to insert the following additional section:

SEC. —. *And be it further enacted*, That all railroads and parts of railroads which are now, or hereafter may be in operation, be, and the same are hereby, declared to be post roads, and the Postmaster General may contract for carrying the mails thereon, according to existing laws.

Mr. DAVIS. What is the occasion for that declaration?

Mr. RUSK. The law as it stands, declares that all railroads, when they are completed, shall be post roads. The mail is now carried on some roads which are not completed, but portions of which are completed and connected with other roads. Some difficulty has been raised as to whether or not the mails might not be stopped on those roads. I think there is a controversy in one or two places, and an injunction has been threatened. The object of the amendment is simply to make parts of railroads which are finished, post roads, the same as the whole.

The amendment was agreed to.

Mr. RUSK. I have another amendment to offer by way of additional section, and in order to save the trouble of reading it, I will state what it is. In the law which we passed in relation to post office stamps, we make a provision for the punishment of counterfeiting them. At the last session of Congress an amendment was made to the Post Office appropriation bill; I believe it was to authorize the Postmaster General to issue stamped envelopes for certain purposes, to which there was a provision attached to punish their counterfeiting. That was adopted. There were a great many amendments to that bill, and they were all referred to a committee of conference. There, through some mistake of the committee, or by the clerks in a great hurry—no blame, I think, is to be attached to any one—that portion of the bill punishing the counterfeiting of these Post Office envelopes, was lost. This amendment simply supplies that provision. I have drawn it up upon consultation with the Auditor and Postmaster General.

The amendment was agreed to.

Mr. RUSK. I have another amendment, which it is not necessary to read, but the effect of which I will state. In the law reducing postage, we put in a section that the smaller postmasters should not have their emoluments reduced. By the operation of that law, much duty, and a vast deal of time and trouble, were devolved upon the Auditor, to see that they were not reduced below a certain amount for the year 1851. It has also created much confusion in the Department. This amendment has been drawn up by the Auditor to supply that defect, by giving, as the law formerly did, certain commissions. The effect is, to increase the emoluments of the smaller postmasters. It has been drawn up, and sanctioned by the Postmaster General and the Post Office Committees of both Houses.

The amendment was agreed to.

Mr. RUSK. I have another amendment:

SEC. —. *And be it further enacted*, That hereafter, as the offices of the Assistant Postmasters General, or either of them, shall be vacated, the appointment of his successor shall be made by the President of the United States, by and with the advice and consent of the Senate, at the same salary as that of the Auditor for the Post Office Department; that an Assistant Postmaster General shall be appointed as aforesaid, and at the compensation aforesaid, to be employed in the inspection of the mail service, or such other

duties as the Postmaster General shall assign him; and that $500 per annum be allowed and paid to the Assistant Postmaster General upon whom the law devolves the duties and powers of Postmaster General, in case of his absence, death, or resignation.

Mr. WALKER. I should like to know the change that will be effected by this amendment.

Mr. RUSK. The explanation of it is this: The salaries of the Assistant Postmasters General will be raised as high as the heads of bureaus. Those officers are now receiving a salary of $2,500. The amendment increases it to $3,000. Sometimes the Postmaster General is absent, and one of the Assistant Postmasters General is assigned to the duties of Postmaster General during his absence. Sometimes the person so acting has received the full pay of the Postmaster General. The amendment provides that when any one of the Assistants shall be assigned to the duties of the head of the Department, he shall receive an addition for the time at the rate of $500 per annum for the time. The amendment also requires that the Assistant Postmasters General shall be appointed by the President, by and with the advice and consent of the Senate.

The amendment was agreed to.

Mr. RUSK. I have another amendment to offer:

That the Postmaster General be authorized and required to establish a tri weekly mail between Bainbridge, Georgia, and Appalachicola, Florida.

Mr. HAMLIN. I desire to know of the chairman if he wants to make it mandatory?

Mr. RUSK. The reason for the amendment is, that various petitions have been presented asking for it. I will state to the honorable Senator from Maine that this is a very important mail route, and it is now used only a portion of the year. The Department has attempted to get contracts upon it. Persons have bid and thrown up their bids. It is very important that some arrangements should be made to secure a regular mail between those places.

Mr. MORTON. I will answer the question propounded by the honorable Senator from Maine. This is intended to be mandatory.

The amendment was agreed to.

Mr. RUSK. I have another amendment which need not be read. Under the law reducing postage, certain allowances were made to the post masters at distributing offices. It made no provision, however, for such distributing offices as might afterwards be created. There have been but two such since created—one at Richmond, Virginia, I believe, and another at Cleveland, Ohio. This amendment puts them upon the same footing with other distributing offices throughout the United States.

The amendment was agreed to.

Mr. COOPER. I move to amend the bill by adding at the end of the post routes for Pennsylvania the following:

That the Safe Harbor route, in the county of Lancaster, and State of Pennsylvania, be, and the same is hereby, extended, by way of Liberty Square post office, to Buck post office, in said county.

The amendment was agreed to.

The bill was then reported to the Senate as amended; the amendments were concurred in and ordered to be engrossed; and the bill was ordered to a third reading. It was read a third time and passed; and its title was amended on motion by Mr. RUSK, by the addition of the words "and for other purposes."

APPROPRIATION BILL.

Mr. HUNTER. I hope the Senate will now go on with the civil and diplomatic appropriation bill.

The PRESIDING OFFICER. The bill is now before the Senate, and the question pending is on the amendment moved by the Senator from Illinois [Mr. DOUGLAS] to the amendment of the Senator from Virginia, [Mr. MASON.]

Mr. HUNTER. I ask that by unanimous consent the amendment may be laid aside for a few minutes so as to allow me to offer some amendments from the Committee on Finance.

There being no objection, the amendment was passed by informally.

Mr. HUNTER. I move to insert, under the miscellaneous head, the following:

For heating and ventilating the Executive Mansion, painting the exterior thereof, painting the walls, ceilings, &c., in the rooms on the first floor, and making other improvements and repairs recommended by the Architect in his report of February 4, 1853, and for the purchase of books for the President's library, $29,500."

This amendment was sent to the Committee on Finance from the Committee on Public Buildings, and adopted by the former committee.

The amendment was agreed to.

Mr. HUNTER. I am further instructed by the Committee on Finance to offer the following amendment:

"For the payment of the expenses attendant upon the funeral obsequies of the late Secretary of State, $1,229 37."

The amendment was agreed to.

Mr. HUNTER. I move, in the appropriation for the expenses of the Senate, to insert the word "contingent" before the word "expenses," so as to make it read in the usual way.

The amendment was agreed to.

Mr. HUNTER. I have another amendment to offer, which does not add to the appropriations, but merely guards one. It is to insert, after the word "Departments," in the appropriation for the printing of the Departments, the words, "including for paper and printing the annual estimates, and for paper, printing, and binding the Biennial Register, and annual report of the Secretary of the Treasury on Commerce and Navigation."

The amendment was agreed to.

Mr. BORLAND. I have an amendment to offer.

The PRESIDING OFFICER. The Chair will apprise the Senator from Arkansas that the Senator from Virginia was allowed to introduce his amendment by unanimous consent, without displacing the pending amendment. The Chair will understand that consent to be continued, unless some one objects.

There was no objection.

Mr. BORLAND. I move to amend the bill by inserting:

For completing and furnishing the marine hospital at Napoleon, Arkansas, $4,000.

I will state in explanation, Mr. President, that this is in pursuance of the estimate from the Department. It was not put in in the House of Representatives, and I have offered it now in the Senate. To satisfy myself of the truth of the grounds upon which the estimate was made, I addressed a letter to the Secretary of the Treasury. I have received from him a statement of the estimate, accompanied by an extract from his annual report, and an extract from a report of Colonel Long, the superintendent of those works in the West. The hospital has been built; $54,000 have been expended upon it, and $4,000 are now needed to paint it and complete those little works about it which are necessary in order to put it in operation.

Mr. ADAMS. I move to amend the amendment by adding to it—

And that the further term of one year be allowed for the expenditure of the money heretofore appropriated for the marine hospital at Vicksburg, Mississippi.

Mr. BORLAND. I accept that.

The amendment as modified was agreed to.

Mr. BORLAND. I have two or three amendments to offer by direction of the Committee on Printing. The first is to insert the following proviso:

Provided, That of all the documents, the printing of additional copies of which may be ordered by either House of Congress, and the size of which shall not be less than two hundred and fifty pages, such additional copies shall be bound in such manner as may be directed by the respective Committees on Printing of each House, the cost of which shall not exceed twelve-and-a-half cents per volume; that it shall be the duty of the Superintendent of Public Printing to supervise the binding of the public documents, to receive such binding when executed, to see that the same is done in a neat and workmanlike manner, according to such sample as may be preserved in his office, and in proper time; and before the binder shall receive pay for the same, he shall produce the certificate of the said Superintendent that his work has been executed as above required, and has been accepted by him. And it shall also be the duty of the said Superintendent to receive and preserve in his office samples of the paper upon which maps, charts, diagrams, plats, or other engravings may be contracted to be furnished, and to receive from the contractors said maps, charts, diagrams, plats, or other engravings, and compare the paper on which they may be printed with the samples so preserved; and he shall not receive any map, chart, diagram, plat, or other engraving which may not be printed on paper equal to the sample so preserved, or which may not be executed in a proper manner, and within the time specified in the contract, unless for special reasons the Superintendent may extend the time, or which may not be in the quantity called for thereby; and the said contractor shall not receive pay for the same, except upon the certificate of the Superintendent that all the foregoing requisites have been complied with.

We have been for several years binding public documents. The effect of this is to put the binding under the supervision of the Superintendent of Printing; so that the binding and printing may be under the same supervision, to secure conformity in the execution of the work.

The amendment was agreed to.

Mr. BORLAND. I have another amendment to offer, by the direction of the Committee on Printing:

For compensation to Thomas Ritchie, assignee of William M. Belt, for printing, paper, and binding the Obituary Addresses on the death of President Taylor, $5,112, being the cost thereof, and twenty per cent. in addition.

Mr. President, at the last session of Congress, in an act which we passed changing the system of executing the public printing, there was a provision made to make compensation to Mr. Ritchie, as assignee of Mr. Belt, who was contractor for the printing during the preceding Congress. There was a clause in that bill which was intended to give Mr. Ritchie compensation for the obituary notices of the late President Taylor, in addition to the other allowance made. But the First Comptroller of the Treasury gave to that provision an interpretation different from that of the Committee on Printing, with whom it originated, and different from the understanding with which it was passed. The Committee on Printing have had the matter under consideration, and finding that this difference of construction prevented the execution of the law, as it was intended at the time of its passage, they have directed me to report this amendment, or rather, they directed me to report a joint resolution making this compensation; but in order to facilitate its passage, as it is impossible to get it through as a separate measure, I have been directed to offer it as an amendment to the bill. It meets the concurrence of the Committee on Finance, as I understand.

Mr. BRODHEAD. I have a great many private bills which I have reported, and which may be very appropriately put upon this bill, if this proposition prevails. This is a private claim, and therefore it is out of order under the rule. Mr. Ritchie, under the law which we passed at the last session, received $50,000 over and above his contract, if I understand it; and now it is proposed to give him $5,000 more. Have we any security that we shall not be called upon to give something more at the next session of Congress? When are we to be done with the paying of money over and above the contract for printing done for a former Congress?

Mr. BORLAND. This is not the origination of a private claim. At the last session we passed an act by which we intended to make compensation for this work; but an officer at the Treasury interprets the law differently from the manner in which it was understood when it was passed.

Mr. BRODHEAD. This is still a private claim, and a joint resolution has been reported, I understand, for the relief of the party from the Committee on Printing.

Mr. BORLAND. This may be in one sense viewed as a private claim; but the effect of the amendment is simply to explain an act which was passed at the last session of Congress.

The PRESIDING OFFICER. Does the Senator from Pennsylvania raise an objection to this amendment as being out of order?

Mr. BRODHEAD. I do.

Mr. BORLAND. I will state, in explanation, that the act of the last session fixed no precise amount. It authorized the payment to him of the actual cost, and twenty per cent. in addition.

Mr. BRODHEAD. How much did he receive?

Mr. BORLAND. He received nothing at all for this work. I have caused an estimate to be made by the Superintendent of Public Printing, and that estimate is the precise amount named in the amendment. It is the amount which the act of last session intended that he should have.

Mr. HUNTER. The Senator from Arkansas was mistaken in saying that this amendment had the sanction of the Committee on Finance. I said to him that I would vote for it, and for this reason: the amendment, if it were properly shaped, in my opinion, would be nothing but a declaratory act. It is an amendment declaring what was the meaning of the provision made in the appropriation bill of last year; and I believe there is no Senator here who would say that it was not proper, if he examined that act. It was owing to a curious con-

struction of Mr. Whittlesey that Mr. Ritchie was not paid what the Senate designed to pay him for that Taylor pamphlet. That will be found, I think, to be the state of the case.

The PRESIDING OFFICER. If the objection raised by the Senator from Pennsylvania to offering the amendment be persisted in, the Chair is obliged to hold that, on the face of this amendment, it is to provide for a private claim, and is therefore not in order. If it be, as has been suggested, merely to explain an act formerly passed, it ought to be so shaped as to provide for that.

Mr. BORLAND. Then I will withdraw the amendment, and offer it hereafter in another form.

Mr. HALE. I wish to move an amendment to this bill.

Mr. MILLER. I rise to a question of order. There is an amendment already pending.

The PRESIDING OFFICER. The Chair will state that the unanimous consent of the Senate was given to the reception of the amendments offered by the Senator from Virginia, without interfering with the pending amendment. Unanimous consent was likewise given to the Senator from Arkansas to offer his amendments. If the like unanimous consent be now given, the Senator from New Hampshire can offer his amendment.

Mr. MILLER. I object.

Mr. HAMLIN. I desire to submit to the honorable Senator from New Jersey to withdraw his objection so as to let the various committees who have prepared amendments report them, and have them acted upon before this interminable debate on the tariff question shall come up. I have some amendments to offer by the direction of the Committee on Commerce in which I feel a deep interest, as the organ of that committee. I want to get them off my hands. I hope unanimous consent may be granted to let amendments be reported from committees. I ask that that question be submitted to the Senate.

Mr. MILLER. I would gladly oblige my friend from Maine, but the pending amendment was brought in in the first place by the Committee on Finance, and is now properly under consideration. I have the floor upon it, and if I give way to one amendment I must give way to all.

The PRESIDING OFFICER. Objection being interposed, of course other amendments cannot be received until the pending one be disposed of. The question before the Senate is on the amendment proposed by the Senator from Illinois to the amendment of the Senator from Virginia in regard to railroad iron, upon which question the Senator from New Jersey [Mr. MILLER] is entitled to the floor.

Mr. BRODHEAD. With the consent of my friend from New Jersey, I beg to suggest to the chairman of the Committee on Finance, and to Senators generally, that we ought to come to some understanding in relation to the tariff debate. Is it to proceed or not? Let us come to some general understanding on the subject It is improperly introduced to this bill—out of time and out of place. I understand the chairman of the Committee on Finance to urge the bill forward. It cannot go forward if such amendments be offered to it. We, who are opposed to the amendment of the Senator from Virginia, feel it our duty to resist it at this time, and although the session may be about to expire, we must have, and we will have, a full hearing. There are large interests involved in this question, which are represented by various Senators. I am one of them. I feel bound to have a full hearing if this debate goes on now. If by common consent, the amendment of the Senator from Virginia, and that of the Senator from Illinois can be withdrawn, on the ground that they are out of time and out of place to this bill, I would be very much rejoiced, and so would all the opponents of them. The friends of the proposition have given it a fair trial, and they must be satisfied that it is too late in the session to mature a measure of this kind. I hope, therefore, we shall come to some understanding about it.

Mr. MASON. I do not see that the amendment which I have offered to the bill has had any trial at all, fair or unfair. If those who are desirous, as I have no doubt they are, of preserving this bill, should come to a vote; that is the only mode of testing the question. I have offered the amendment under a sense of duty to my constituents, and I ask for the vote. I have not debated it, and I shall not debate it.

Mr. ADAMS. I beg leave to suggest to honorable Senators who are opposed to the principle of the amendment, that I, as an individual, think, and many other Senators think with me, that it is improper to introduce this subject at this time upon this bill. There are many of us who will vote against the amendment on that account, no matter what may be our course hereafter as to the general principle. If Senators will allow us to take a vote, I for one will vote against the amendment of the Senator from Illinois and that of the Senator from Virginia. I think many others who might vote for them as separate measures will vote against them as amendments to this bill.

Mr. COOPER. I think the opponents of the measure will have no hesitation at all in coming to a vote, if gentlemen on the other side will assure us that the proposition will be voted down. I do not want to discuss it, and I shall not, so far as I am concerned, discuss it, if I am assured that it will be voted down.

Mr. BAYARD. I hope the course suggested by the honorable Senator from Mississippi will be adopted by the Senate. It is very evident that if the amendment be insisted upon, you hazard this appropriation bill. I will say, for one, that, lost or not lost, I can never agree to enter upon a revision of the tariff policy of this country, upon an amendment to an appropriation bill at this stage of the session, without such information as I think desirable, and the fullest discussion. Without committing myself for one moment to what policy ought to be pursued, and admitting freely that I think the tariff requires revision, when properly brought up, in a variety of modes, I am unwilling to enter into that or any other subject of general legislation for the country, as an amendment to be tacked to an appropriation bill. If you enter upon the discussion of an amendment like this, with just as much propriety may those Senators who are in favor of the homestead bill ask that you shall introduce that question, and attach it to the appropriation bill; and so may Senators in favor of what is known as Bennett's land bill take the same course with just as much propriety as the friends of the present amendment. They all enter into general questions affecting the policy of the country. If we keep on in this course, it is very evident that this appropriation bill must be lost. For my own part, I have not had the scruples which I have heard some gentlemen assert on the floor of the Senate in reference to appropriation bills. Whenever I believe myself to be right, and the advocates of any measure choose to press it upon the Senate, with a view to force that measure through in defiance of what I think is the proper course, I believe the responsibility rests with them, and my vote will be recorded against the bill, without reference to whether it stands or falls.

Mr. MANGUM. Mr. President, I think it is perfectly apparent that this motion cannot be adopted at this session of Congress. You and I, sir, (Mr. BADGER occupying the chair,) have to act under a very high responsibility—both of us being instructed by the Legislature of our State to vote to take off all duties on railroad iron. I am perfectly satisfied that if a vote could be had here, and the amendment of the Senator from Virginia could be passed in ten minutes, it never could pass the other House. I regard it as a matter of great importance to the country to pass this appropriation bill, which contains all the material appropriations for the support of the Government; therefore as I see the Senator from Virginia does not feel himself at liberty to withdraw his amendment, I shall take the responsibility, (and it is a very high one,) to expedite the passage of the civil and diplomatic appropriation bill, by voting against this amendment.

Mr. CLARKE. Is the question upon the amendment moved by the honorable Senator from Virginia?

The PRESIDING OFFICER. The question immediately before the Senate is on the amendment moved by the Senator from Illinois to the amendment of the Senator from Virginia. The amendment of the Senator from Virginia proposes to repeal altogether the duties on railroad iron; and that of the Senator from Illinois proposes to suspend them for three years.

Mr. CLARKE. I will not detain the Senate on this question at this time, but it is my purpose to address the Senate at some length upon the general question involved in the amendment of the honorable Senator from Virginia. I consider the amendment offered by him as preferable to that of the Senator from Illinois, and as bringing the question more directly to the sense of the Senate, and to the country. If you extend the duties for three or five years, on bonds being given by the companies, the transaction never will be brought to a close in the Treasury. Such a thing has once been done by the Government, and the bonds were finally relinquished. Such will be the case here. I much prefer that the question should come up directly on the amendment offered by the Senator from Virginia, rather than upon that offered by the Senator from Illinois. I would rather that railroad iron should be admitted free, without duty, than that the whole transaction of the importations of iron for railroads should be involved in the intricacies that will necessarily follow from undertaking to give bonds for those duties, those bonds to be canceled at some future day, when it is proved that the iron has been laid upon the track.

I do not propose to go into the general question. I have to say that in any event, whether the amendment proposed by the Senator from Illinois is to pass or not, I have an amendment to offer after that question is decided, that all other iron, whether in bars, blooms, pigs, slabs, rolls, or in any form in which it may be used for farming or mechanical purposes, shall also come in free of duty. I think all should be put upon the same footing. I hold that amendment in my hand, but I leave the question to be decided by the Senate, and I shall offer that amendment at the proper moment, and I shall address the Senate upon it.

Mr. BUTLER. I know that the Senator from New Jersey is entitled to the floor, but I wish to propound one or two interrogatories which may have some influence on the propriety of taking the vote without debate. Do I understand from the Senator from Virginia that he intends to persevere in this amendment?

Mr. MASON. Yes, sir.

Mr. BUTLER. That being the case, I think the gentleman from New Jersey ought to have an opportunity to discuss the subject. I do not commit myself one way or the other. I am under no instructions from South Carolina in regard to this question, though she is as much interested as North Carolina; but I do say that I should not care what my instructions were, I should violate none of the securities of a minority in any form of legislation. If we are to discuss the tariff on this question as we discussed the homestead bill and the Pacific railroad bill, making the appropriation bills omnibuses for all sorts of measures, it is an irregular proceeding, and upon that ground I shall be compelled to vote, perhaps against my judgment, on this proposition. As far as regards the appropriation bills, allow me to say that I think the attention of this country never will be directed to the tendencies and the irregularities of legislation until the appropriation bills do fail. Let them fail.

Mr. MASON. I wish to say, in reply to what has fallen from the Senator from South Carolina, that I agree with him upon the impropriety of this mode of legislation—the making the appropriation bills the vehicle for carrying measures not legitimately connected with them; but his experience here, and my experience, have demonstrated that other Senators do not agree with us. They do place upon the appropriation bills measures which we have protested against, because they were incongruous, as we thought. What, then, is our position? There is no rule of the Senate forbidding it; there is no law of the land forbidding it; and we must either do as others do, and endeavor to attain the measures which we consider proper by making the appropriation bills the vehicle of them, or we must make our constituents the victims of our forbearance. There is no alternative before us. I would unite cheerfully with the majority to exclude everything from the appropriation bills except that which is strictly appropriate to them; but when I see that the Senate does not do that, I have no alternative but to conform my course to that of the Senate, there being no law or rule against me; and for that reason I must persist in my amendment.

Mr. BUTLER. I do not blame my friend from Virginia. The precedent has been set by a majority when they could carry a measure, and if

he avails himself of the same weapons I do not know that I blame him; but this practice has not commenced to-day, nor even in the last year. I say the whole system of this Government is crumbling under the weight of an irresponsible majority whenever they want to carry anything.

Mr. DAVIS. I suppose every gentleman in this Chamber is entirely satisfied that this amendment opens the whole question of the revenue laws of the country—that it disturbs the settlement that was made in 1846, and disturbs it upon one of the points where the greatest difficulty was felt. This measure cannot go through; and gentlemen feel that they would not discharge their duty as they ought to do to their constituents without discussion. I intended to discuss it for one, and I have felt it to be my duty so to do; but as I am assured by many gentlemen here, that under the circumstances which exist, the opinion of the Senate is not in favor of the adoption of this measure, I shall forbear the right of discussion so far as I am concerned.

Mr. BRIGHT. It is very manifest that if this measure is pressed, it will lead to a debate which will endanger not only this, but all the appropriation bills which are to follow it. I am sorry to find that the worthy chairman of the Committee on Finance feels embarrassed by the presentation of this amendment. He is laboring under instructions from his Legislature which prevent his resisting the amendment. Now, I apprehend that if Senators here opposed to this measure could be satisfied that it would be voted down, they would not insist on discussing it.

Mr. ADAMS. Suppose we lay the amendment on the table.

Mr. BRIGHT. There is no rule authorizing the motion to lay an amendment on the table, or I should certainly make it, and it is manifest that no measure covering such extensive grounds, embracing as great and varied interests, and affecting such capital as this amendment affects, can pass here without discussion; and if discussion be persisted in it will not only last hours but days. We have but two days and a half left for legislation. It is very clear to my mind that the amendments will all be voted down. I favored the original proposition presented by the honorable chairman of the Committee on Finance, extending the time for the collection of railroad duties for five years; but when I found it led to a discussion which is likely to consume a great deal of time, I assented, with other members of the committee, to the withdrawal of the amendment, and it was withdrawn. The honorable Senator from Virginia [Mr. MASON] then felt bound to renew the question. I shall vote against the amendment of the Senator from Illinois, and also against the amendment of the Senator from Virginia, not that I am opposed to either of them in principle, but for the reason given by the Senator from Pennsylvania, [Mr. BRODHEAD,] that they are out of place, and they are illtimed, if I may be allowed that expression. We cannot consider them; we cannot discuss them. That is impossible. I think if gentlemen who feel bound to discuss them, and who feel that it is their duty to discuss them, will sit still and permit us to vote, we shall vote on the amendments without debate.

Mr. DAVIS. We will agree to that.

Mr. BRIGHT. If the Senators on that side will agree to that course, I will take my seat, hoping the vote will be taken.

Mr. MILLER. Mr. President, I have the floor on this question, but I have no disposition to trespass on the time of the Senate in regard to it, if I can be assured that this measure will not be put upon this bill at this time.

Mr. TOUCEY. The Senator from New Jersey will allow me a word of explanation. I shall vote against the amendment without regard to the merits of the proposition itself, because I think it is objectionable, fatally objectionable in the legislation of Congress, that measures of this kind should be put upon an appropriation bill, and, therefore, without discussion, without going beyond this explanation, I for one, shall vote against any measure of the kind.

Mr. WELLER. The Senator from New Jersey will allow me to state that I indorse what has just been said by the Senator from Connecticut, and shall vote with him for the same reason. It will be utterly impossible to have this bill passed through Congress if this amendment be made.

Mr. MILLER. If there is to be no further debate on this subject, under the assurance that I have had, if the vote be now taken I will yield the floor.

Mr. DOUGLAS. I wish to state distinctly to the Senate, that I cannot become a party to any such arrangement. This thing of a measure being defeated simply because Senators rise and say we are going to talk out the session, is not right, and I do not think it ought to be yielded to.

Mr. WELLER. No one has said that. If it had been said I should not have yielded to a threat.

Mr. DOUGLAS. If we compromise it upon any such principle, any amendment which may hereafter be brought forward to any of these bills can be killed; any bill which may be offered can be defeated. I think we all understand this question well enough to vote, and I shall vote according to my sense of duty, and not in conformity with any compromise which may be made.

Mr. MANGUM. Under the course which gentlemen have taken, I feel bound to retract the declaration which I made a short time since, and if gentlemen are to proceed with the discussion, I shall vote under the instructions of my own Legislature. Let gentlemen who have the power take the responsibility of defeating the civil and diplomatic appropriation bill if they choose.

Mr. BORLAND. Since it seems to be the custom to state the reasons for votes, I desire to state that I shall vote against the amendment for three reasons. In the first place, I cannot see the propriety of discriminating between the different kinds of iron that are introduced into the United States. In the second place, I cannot see any propriety in the proposed amendment of the Senator from Illinois to suspend the operation of the duty for three years——

Mr. DOUGLAS. I can inform my friend from Arkansas that I intend to withdraw the amendment in order to let a fair issue be made on the amendment of the Senator from Virginia—not with a view of stopping the debate, but in order to get a fair issue upon his proposition.

Mr. BORLAND. The third reason why I shall vote against the amendment is, that I think this bill is an improper place in which to undertake to alter, amend, or revise the tariff system of the country.

Mr. SHIELDS. I appeal to my honorable friend from Virginia to withdraw the amendment. Evidently it is going to be defeated, and its defeat may prejudice the principle hereafter. It cannot now have a fair decision upon its merits.

Mr. MASON. I submit the question to the Senate. Let us have a vote upon the amendment. If it be defeated, let it be. I shall have done my duty by offering it and persisting in it.

Mr. UNDERWOOD. I am bound to make a statement, in justice to myself. I shall vote against this amendment, because there is not time enough now to consider it. In the section of country that I represent, there are eight furnaces in Kentucky and sixteen in Tennessee upon the Cumberland river. There is one forge in Kentucky and four in Tennessee upon that river, and there are ten furnaces upon the Tennessee river in the same neighborhood. These are important interests. The labor which is annually required to work and conduct the business of these furnaces and forges, together with three rolling-mills in the same neighborhood, costs about $660,000 a year. That amount is expended annually merely in the payment of the hands at work in those establishments. The annual product of those furnaces, forges, and rolling-mills amounts to about $2,500,000. All these interests are deeply concerned in this matter. I have not time just at the close of the session to investigate the bearing of this amendment upon all these great interests in that section of country. In the eastern part of my State there are similar investments perhaps equal if not greater than those in the western part. I believe my State is just as much interested in the purchase of railroad iron at present as any other State. But so far as contracts have already been made for railroad iron, or may be made previous to a knowledge of the provision contained in the amendment, the benefit of the amendment will be not to the railroad company but to the foreign contractor who has engaged to furnish the rails. In view of all these facts, I am for postponing until the next session of Congress the legislation on this subject. Then we shall have more time to consider it, both in reference to its bearing upon the production of iron and railroad interests.

Mr. MILLER. After what has passed in the Senate, I am willing to yield the floor for the purpose of taking the question now, but not for the purpose of continuing any further debate.

The PRESIDING OFFICER. Does the Chair understand that the Senator from Illinois withdraws his amendment?

Mr. DOUGLAS. I withdraw it; and I merely wish to be permitted to remark that the Senator from New Jersey must either yield the floor or not yield it. He cannot hold the rod over us all.

Mr. BELL. I shall vote against the proposition of the Senator from Virginia, because I think it would be highly impolitic in reference to the great railroad interest in the future—the very interest it professes to promote; and it would be detrimental to this interest even now, to some extent, by depressing the manufacture of railroad iron at home. But such is the condition of my section of country, which has just commenced the business of making railroads, that it does call for some relief, if it can possibly be afforded, consistent with the interests of the revenue of the United States without doing any manifest injustice to those who have invested their capital in the manufacture of railroad iron. Therefore I should have been in favor of some measure like that proposed by the Senator from Illinois, [Mr. DOUGLAS,] to give some relief until the next session of Congress, or until we shall see what, under all the circumstances, may be just and expedient. I would further state that which I think, to remit the duty on rails for a short time will not seriously injure the manufacture of rails in this country, on the ground that we are not prepared now to manufacture but a very small proportion of the supply necessary for the country; yet my opinion is, that if we were to suspend the law for three years, the relief to the railroad interest would not be very great, for I feel very sure that the price of rails in England will still continue to rise, and I feel the further conviction that in three years the mills of the United States will be able to compete with the mills in England in making railroad iron if they are not suddenly thrown back by the total and permanent repeal of the duty on this description of iron. I wanted to make this explanation because I represent an iron interest to some extent, and yet I represent an interest greater than that at this time.

The whole feeling, the almost universal interest in the Southwest is in favor of a construction of certain projected railroads. I am not certain that the fever is not too high, and that that country may not repent the length to which it is going in the construction of railroads. Nevertheless, that is not now for me to decide, and I am not well enough informed to decide that question at this time, if it were referred to my judgment. For these reasons, and because I think it would be impolitic to totally repeal the duty on rails, though I would be perfectly willing to grant relief for the present, I cannot vote for the amendment of the Senator from Virginia.

I think a suspension of the duty on railroad iron would be a precedent of great importance at this time, on another ground. I have some fears that if the railroad interests should be found strong enough at this time to effect a suspension, while so small a proportion of railroad iron is in demand in this country, the combination of that interest will be strong enough to effect a permanent repeal of the tariff on railroad iron at no distant day.

The question being taken on the amendment, resulted—yeas 19, nays 36; as follows:

YEAS—Messrs. Badger, Brooke, Charlton, Chase, Dawson, De Saussure, Dodge of Wisconsin, Douglas, Downs, Fitzpatrick, Hale, Hunter, Jones of Tennessee, Mangum, Mason, Rusk, Shields, Sumner, and Walker—19.

NAYS—Messrs. Adams, Atchison, Bayard, Bell, Borland, Bradbury, Bright, Brodhead, Butler, Cass, Clarke, Cooper, Davis, Dodge of Iowa, Felch, Fish, Foot, Geyer, Hamlin, Houston, James, Jones of Iowa, Mallory, Miller, Norris, Pearce, Pettit, Pratt, Sebastian, Seward, Smith, Spruance, Toucey, Underwood, Wade, and Weller—36.

So the amendment was rejected.

Mr. BRADBURY. I am instructed by the Committee on the Judiciary to offer two amendments. The first is to amend the bill at page twenty-four, line five hundred and seventy-five; after the word "seventy" insert "eight," so as to make the appropriation for salaries of the district judges $78,700, and then add the following:

And the salaries of the judges of the district courts here-

inafter named are hereby established as follows: The annual salary of the judge of the district court for the district of New Hampshire, $1,400; for the district of Massachusetts, $3,000; for the district of Connecticut, $1,800; for the district of Rhode Island, $1,800; for the district of Vermont, $1,400; for the northern district of New York, $3,000; for the district of South Carolina, $3,000; for the southern district of Florida, $3,000; for the district of Georgia, $3,000; for the district of Alabama, $3,000; for the district of Michigan, $2,000; for the district of Missouri, $2,000; for the district of Louisiana, $3,500; for the judge of the orphans' court in the District of Columbia, $2,000.

Mr. PRATT. I move to amend the amendment by adding the words "for the judge of the district court of Maryland, $3,000."

Mr. BRADBURY. The Committee on the Judiciary had the subject referred to them, and they examined such testimony as was submitted, upon which they made provision for the increase of the salaries of judges where the evidence before them, in their opinion, justified it. The attempt was made to have the salaries of the judges of the district courts correspond with the amount of labor devolving upon the judge. The Senator from Maryland has moved an amendment increasing the salary of the district judge of Maryland from $2,000 to $3,000. That increase would be greater than we have thought proper to make in other cases. If the Senator will consent to change the sum from $3,000 to $2,500, I should think that perhaps the evidence might justify that increase over the present salary. Will the Senator make that change?

Mr. PRATT. The labor performed by the district judge of Maryland is greater perhaps than that of any other in the Union. The court is almost continuously in session, and I do not think that the compensation proposed by the amendment is too large. I do hope that it may be adopted. I think that liberal salaries ought to be paid to our judges. We ought to set an example to our States, of paying the judiciary the most liberal salaries. We should make the salaries equal, at least, to those of the judges of the State courts, if not exceed them, so as to set a good example to the State of paying the judiciary; for upon that branch of the Government depends, at least in a great degree, the stability of our Government. I believe that the labor performed in this particular instance would not be compensated by the amount of salary I propose. I therefore do hope that Senators will consent to allow the salary of $3,000. The judge has a greater amount of labor than any other; but if gentlemen insist on giving only $2,500, I shall concur.

Mr. BUTLER. This is a very difficult subject. We have had it before the committee, and I am not satisfied precisely with the scale, although we tried to do the best we could, at this session. My friend from Maryland jumps rather too high, I think, to go up $1,000 at a time. We have generally gone up only $500 at a time. If there is any judge whose salary ought to be increased beyond any other, it is the one at Key West; but we could not do it without giving cause of complaint perhaps. The rule which is applied in the regulation of the salaries is a very unsatisfactory one in some cases, I confess.

Mr. SHIELDS. I presume it is not competent for me to move an amendment to the amendment now. But I see that the salary of the judge of the district court of Missouri is $2,000, and that of the judge of the district court of Illinois is only $1,500. The labor of the judge of the district court of Illinois is greater than that of the judge in Missouri. I shall, at a proper time, propose to put the salaries of the two judges on the same footing.

The question was then taken on the amendment offered to the amendment by the Senator from Maryland, [Mr. PRATT,] and it was agreed to.

Mr. MASON. I learn from the honorable Senator who has charge of this amendment that the salary of the judge of the western district of Virginia was not before the committee. I was not aware that the subject of the increase of these salaries was before them, or I should have presented the case to them. At the last session, a bill was reported from the Committee on the Judiciary, passed the Senate but did not pass the House, and cannot pass there now, fixing the salary of the judge of that district at $2,500. I move to amend the amendment by inserting a provision to that effect.

Mr. BUTLER. I thought that bill had passed both Houses. It was taken up out of its order here. I recollect that it was amended by increasing the salary of the district judge of New Hampshire also, and I thought it had become a law.

Mr. HALE. No, sir.

Mr. BUTLER. If it did not pass, in my opinion it ought to pass now.

Mr. BRADBURY. We have made the scale of compensation to correspond somewhat to the amount of duties performed. I am satisfied that the honorable Senator from Virginia fixes the compensation greater than is given by the scale to other judges throughout the country for the same amount of duties performed. It is perfectly obvious that if we try to adjust the salaries by each Senator prescribing for his own State, it will be a scramble here by each one to get the salary of the judge in his own State as high as possible. If there are errors in this bill, as doubtless there are, they can be corrected hereafter. But appeals are made by Senators from every State, to the committee, that the salaries of the judges in each State may be increased. The committee cannot, in all cases, be aware of the amount of labor devolved upon the judge. They were governed in their decision in part by a reference to the salary paid to the chief justice of the highest court in each State. In the eastern district of Virginia, the salary of the judge is $1,800, and in the western district it is $1,600. The duties are not arduous, the judges being obliged to sit but a very small portion of the year, and I venture to say that there are very few offices under the State government of that State that are as desirable as th se of these judges.

Mr. HUNTER. I am afraid these amendments are going to embarrass the bill. We cannot have up the whole subject of the judiciary of the country, and regulate salaries and fees upon it. We shall not have time to do that.

Mr. GWIN. Is this fixing the salaries of district attorneys?

The PRESIDING OFFICER. No, sir; but the salaries of judges.

Mr. GWIN. If it relates to attorneys, we have just passed a fee bill, and the ink of the signature of the President, making it a law, scarcely dry. I hope we are not now going to have additional legislation on the same subject. I do hope the Judiciary Committee at least, will let us have a few months to try the new law. If it does not work well, we can consider it at the next Congress and alter it.

Mr. BUTLER. This relates only to the salary of judges.

Mr. GWIN. But the attorneys follow.

Mr. MASON. In reply to the Senator from Maine, who has charge of the amendment, I will say that a bill to increase the salary of the judge of the western district of Virginia was reported by his committee at the last session. It was well matured then, and I think it is perfectly right that the amendment to the amendment should pass now.

Mr. WALKER. As I understood the amendment when it was read, I thought there was some lack of uniformity in the compensation to be given to judges. I therefore think the compensation must have been fixed by the committee by some very indefinite rule. What that rule was, I do not know.

Mr. BUTLER. The salaries of the State judges.

Mr. WALKER. The fact must be admitted by every one who will look at that provision, that there is a most extraordinary diversity in the compensation given to the judges. The chairman of the Committee on the Judiciary [Mr. BUTLER] says, in a kind of side-bar way, that the rule for fixing the compensation was taken from the States. I suppose he means that the highest salary which the States give their judges, is such a salary as we should be willing to allow. That would be a very unjust rule, it seems to me; for we know that the rate of compensation fixed in some States may be governed for the time being by some particular state of feeling in regard to men, and it will not be regulated by the amount of duties to be performed, or the importance of those duties. Read the amendment carefully, and then tell me if there is not the most marked difference in the rate of the salaries given to judges who reside north of a given line, and that given to those who reside south of that line. I cannot account for this. It may be that in the southern States the expenses of living are so much greater than in the northern States, that there is a necessity for giving the judges a higher compensation. If that be so, it would be a good reason for the increase of compensation. But for my own part, I can scarcely believe there is much difference. I can scarcely believe there is so much difference between Louisiana and Michigan as this amendment proposes to establish. It may be there is a greater amount of duty to be performed by the judge in the one place than in the other; but it would seem that there could scarcely be so great a difference as is proposed in the amendment now before the Senate. What has a judge to do? He has to give his time to the public, and he can do no more if his salary is increased. The character of the litigation, and the degree of its importance, must be about as great in one section of the country, where this jurisdiction attaches at all, as it is in another. The cases which fall within the jurisdiction of the courts have about the same character throughout the United States. Then, if a judge can but give his time, and can give no more, it is his duty to give the whole of it. I cannot see why there is such a difference in the rates of compensation as this proposition would create. Much less can I see any reason for establishing them upon this bill. We have just laid aside one amendment which was offered to the bill, because we had not time to discuss it, and because it was moved on an improper occasion, and to an appropriation bill.

Now, if I understand this, a distinct bill has been reported from the committee making provision for an increase of the salaries of the judges; but here the proposition is offered as an amendment to the civil and diplomatic appropriation bill, and it must be taken as an exception to the general principle, without discussion, and without looking into it to see the reason why the discrimination is made in the salaries of judges in the different States. We are to take it, and it must be put upon the bill, and it must go to the country. It will produce dissatisfaction. I am perfectly confident that if you will give the Senate an opportunity to deliberate and consider and bebate this matter, a more uniform system than that proposed by the Committee on the Judiciary can be adopted. I wish that the proposition before us might not be adopted, for I am perfectly confident that the result of it would be that the judges to whom it is proposed to give the smaller salaries would complain, and think that all ought to be leveled up to the highest rate. It would be doing the country a great injustice, for you never see those which are fixed too high leveled down.

A SENATOR. The salary of a judge cannot be decreased during the term of his appointment.

Mr. WALKER. Very true; the salaries cannot be brought down during the time for which the incumbents are appointed, for the Constitution protects them in that respect, but the leveling up will take place. If the judge lives in a portion of country where living is cheap he will have his salary leveled up to that of a judge where the living is more expensive, and the country will have to bear the burden. I hope the amendment will not pass.

Mr. CHARLTON. I will ask for the yeas and nays on this proposition, and I have a few words to say with reference to the remarks of the honorable Senator from Wisconsin, and in reference to this general question. I shall be exceedingly brief. I am perfectly conscious that we should not waste time in words. It is very true that, comparatively speaking, we have but a very few moments of the session left, but it is equally true that we should not be frightened out of our propriety, or out of doing justice, merely for fear of the result upon the bill. I do not think that the whole list of bills before the Senate shows one by which we can do more justice to the country than in passing the measure which is now before you. It is true that if all the other branches of the Government are wrong in the application of their rules, as long as the judiciary stands firm, as long as you have a firm, intelligent, and impartial judiciary, your country is safe. What avails the passage of good laws if your judiciary is corrupt? What avails the passage of sound and wholesome legislation, if the judiciary are fools or knaves? It is the bulwark of our freedom, and this Congress of the United States—this branch of our Government ought to set an example of liberality to this country. It is a miserable economy which cuts down a proper amount of com-

pensation to the judiciary department. One little slip in a judicial decision will produce a greater loss to your country in a single case, by establishing one wrong principle than all the money which you are saving by your false economy. It has been truly said by an eminent jurist, that the most piteous spectacle that can be exhibited is an imbecile judge surrounded by a brilliant bar. There can be nothing more humiliating. Why should we not extend the benefits which are proposed, to the district judges? Let me give one example to show the eminent propriety of the measure. I agree with my friend from Wisconsin in a great deal that he has said, and I will propose, before I sit down, a scale of rates of compensation.

Mr. BUTLER. You cannot carry it.

Mr. CHARLTON. Yes, we can carry it, if we are not so much afraid of what the people will say. I have great faith in the people of this country. I believe they are intelligent enough, and when the matter is explained to them, they will be liberal enough to sustain us in any wholesome legislation. I am willing, for one, to take the responsibility, and so, I hope, every Senator is willing to take the responsibility of acting in this matter.

But I was going to give you one instance to show the eminent propriety of raising these salaries. Take the case of Georgia. I do not believe it is singular; I have no doubt there are other States where the judges are entitled to an increased salary. Ten years ago, when provisions were low and living cheap, comparatively, you declared thatthe salary of the judge of the district court in Georgia should be $2,500 per annum. He had to hold but four courts, and had no travel to make at all. Now you have added another district to his jurisdiction; you have given him a district in the upper part of the State, and you require him to attend that court at the extreme point of the State from Savannah, and you pay none of the traveling expense, although the amount of travel is not less than thirteen hundred miles annually. You have not given him a single cent in addition to what he formerly received. You do not deal in that way with your shoemaker or your carpenter. If you contract with a man to build a house with four rooms in it for a certain price, and afterwards change your plan and make him build it with eight rooms, will you not, upon principles of justice, expect to increase his compensation?

We cut down the salary of judges by a miserable economy, and at last we shall have inclined tread-mills, and put the judges on the top, and make them administer justice and grind out the corn of the State at the same time. No doubt, you can get men to serve you for a small amount, but their service may be fruitful in disasters to the best interests of the country. Let us adopt a different system of economy, and give to the judges in all the States the salaries to which they are entitled. Let them be well paid, and you can have competent men. Let us try the experiment. There are some on the bench now probably, who do not deserve what they get. We have tried to starve them, and they will not die. It is said, that reverses of fortune sometimes kill people. Let us, then, try to fill and feed them properly, and perhaps they will die, and then we can supply their places. But there are a great many judges of the district courts who would be a credit to the supreme court, and I think the State of Georgia can furnish an instance. I think other States can do the same.

But this is what I was going to say to the Senate: I think we ought to commence now a general increase of compensation, and I suggest to the friends of this measure to propose an amendment, if it is in order to make it, to add $500 to the salary of each district judge in the United States. I believe there is not one who is not entitled to it. If that view can be sustained, I will propose that. But whether it can or cannot be sustained, I trust that we will not be alarmed because gentlemen may think that this will give rise to debate. There is no wholesome legislation that does not give rise to debate. You have not a question before you on this appropriation bill that will not give rise to debate. Let us stand firm. We cannot devote our hours better in legislating than by creating a sound, wholesome, and intelligent judiciary. I am willing to waste, if it may be called so, every moment of the session for the purpose of carrying through this amendment. I believe it to be an amendment which will be as wholesome, as proper, as correct as any that can be brought before you.

Mr. BUTLER. One word of explanation. I believe we ought to agree to this proposition, but it is proper now that, as one of the committee, I should reply to the Senator from Wisconsin. He has intimated in his remarks, that there is a marked discrimination with regard to the rate of the salaries. I will say to the Senator, that the judges who hold the courts at Boston, New York, Philadelphia, Baltimore, Charleston, Savannah, Key West, New Orleans and San Francisco, have five times the business of those in the interior. And if you will look at the matter, you will find that those on the sea-board have an entirely different jurisdiction, a different kind of business from the others. Therefore it would not be proper to give the addition of $500 in all cases, as my friend from Georgia proposes. I say, with regard to those judges, that they ought to have their salaries increased. I agree with him fully in that; but this is not the time nor the occasion to do it. I cannot enlarge on these general topics, but the amendment has been prepared so far as regards the different sections, without any reference to either North or South, East or West. It has looked to the amount of business which the judge has to do. We know that a judge in the interior of the country has not half as much to do as one upon the sea-board. We endeavored to regulate the salaries, so that the amount should depend upon the amount of business, and the nature of the business to be done, and the expense of living which the judges must necessarily incur.

Mr. BRADBURY. I will detain the Senate but a moment. There seems to be some misapprehension on the part of some Senators with regard to the amendment, as if the committee had undertaken to regulate the salaries of all the district judges throughout the United States. The committee took such evidence as they had before them. The subject had been referred to them. They examined as carefully as they could the amount of business which devolved upon the judges. They then considered the salaries paid to the highest judicial officers in the States themselves. They had regard to the expense of living, and they then endeavored to equalize and establish the salaries of these few pressing cases which seemed to demand it; and beyond that they did not undertake to go. One word is due in answer to the remarks of the Senator from Wisconsin, [Mr. WALKER,] who referred to the increase of the salary of the district judge in Louisiana. We had some reference to the salaries paid to the chief justice in the highest court in the State. In Louisiana the chief justice has a salary of $5,500, and that is regarded by the State as a fair equivalent for his services. The district judge of the United States court in that district, has an immense amount of business to perform. He is constantly employed, and he resides in a city where the price of living is very expensive. We did not put the salary of the judge of the district court up to that of the chief justice of the State court, but left it at $2,000 less —at $3,500.

Mr. BORLAND. I would inquire if we did not, a few years ago, in view of the increased business in Louisiana, give two judges to that court instead of one?

Mr. BRADBURY. A new district was established; but still, nearly all the business devolves upon the judge of the southern district. In the State of Wisconsin the salary of the chief justice of the State court is $1,500, and that of the judge of the district court of the United States is the same. There are no extraordinary duties devolving upon the judge of the district court in that State, and we did not disturb his salary. The Senator from Georgia intimates that it would be expedient to increase the salaries of all the judges by adding $500 to them. So far as the salary of the judge of the district of Maine is concerned, I will say, that he wrote a letter to the Senators in Congress, protesting against any increase of his salary. He says he receives a fair compensation, and is willing to devote himself—as he does most faithfully and ably—to the duties of his office, for the compensation which he receives. I think it is perfectly obvious, that if we go into these amendments, the amendment of the committee will have to be withdrawn. If there are inequalities, we can amend them afterwards. I was instructed by the Committee on the Judiciary to offer these rates of compensation. I certainly do not desire to embarrass the appropriation bill by it; but I hope the Senate will act on the amendment.

Mr. HUNTER. I believe the amendment will embarrass the appropriation bill. We have as much on it as it can carry. I hope the amendment will be voted down. I know nothing about its merits. I only know it will embarrass the bill.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Virginia [Mr. MASON] to the amendment.

Mr. MALLORY. I trust we shall have the vote on the question as it came from the committee. There is no question before the Senate in which the public interest is so much concerned. We intrusted this subject to a very able committee, and they have presented this amendment. I think we should receive their report precisely as they present it. It is due to them that we should do so. We have received already one amendment. I therefore shall feel bound, as the committee have provided for but one of the districts in the State of Florida, and as the other judge is fully entitled to the increase, if amendments are to be received, to offer an amendment giving $3,000 to him. But I have abstained from this on the ground that I desire to vote for the amendment as it came from the committee, and not attempt to regulate the salaries of the judges of the interior districts. If we can have a vote on the amendment of the committee, I shall not offer my amendment.

Mr. DOWNS. I believe that the Committee on the Judiciary approved of this amendment in committee, but I would not take the responsibility for the details of it. I am very much astonished that the Senator from Wisconsin has made a sectional matter of it. It was reported by a gentleman from the extreme North. I agree with the Senator from Florida, [Mr. MALLORY,] that if anything is to be done, we should take the report of the committee as it is. Otherwise I shall move to amend it; for I think that a great injustice in the report is, that it falls short in relation to the compensation which should be paid to the district judge in Louisiana. His business there is immense. Not only the business of a great commercial port, but a great portion of the business of the valley of the Mississippi is in that court. Our judges of the State district courts receive $4,000; the chief justice receives a salary of $5,500; and the judge of the supreme court receives $5,000. I shall not object to the amount given, because I know it is better to have half a loaf rather than no bread. I wish, however, to have a slight verbal amendment made in the clause which relates to the district of Louisiana. The salary of the district judge is named "for the district of Louisiana." It is indefinite, as there are two districts. I hope, therefore, it will be amended to make it the eastern district.

The PRESIDING OFFICER. That will be done if there is no objection.

There was no objection.

Mr. MASON. If the Senate will listen to me one moment, I will state that here is a bill which passed this body at the last session. It was reported from the Committee on the Judiciary, taking the western district of Virginia as an excepted case. It was matured in that committee, discussed in this body, and passed here, giving that judge a salary of $2,500. I submit to the Senate, when the purpose of the committee was to enlarge certain salaries, whether it will be right to make this omission? It was a bare omission of the committee in reporting the amendment.

Mr HALE. I would ask the Senator from Virginia what is the title of that bill? I happen to recollect how it passed.

Mr. MASON. It is "An act to change the time for holding the courts of the district and circuit courts in the western district of Virginia, and for other purposes."

Mr. HALE. Yes, sir.

Mr. WALKER. I was not aware that I based my objection to the amendment upon sectional grounds. I called the attention of the Senate to the fact that there seemed to be a preponderance in favor of high salaries in the southern States over those in the northern. But there may be, as I said before, reasons for it. It may be that the means of living are more expensive in the South, or that the judges have greater duties to perform there.

But I mentioned that it struck me as a peculiarity in the arrangement of the salaries. But in reply to the Senator from Georgia, [Mr. CHARLTON,] I will ask him if he expects really to increase the amount of talent in these judges by increasing the amount of pay? It may induce men, possessing a greater amount of talent than the present incumbents have, to present themselves for the station when the present incumbents are off the stage. But I do not believe great men are always superinduced by the amount of the pecuniary consideration which you offer. In point of fact, at the present rate of the salaries they do nothing more than their duty. And if they do in some instances neglect their duty and become inefficient in the public service, or if they are not well informed, there is a mode of getting rid of them. They can be impeached. I do not see that the argument is well taken that we must, in order to obtain greater efficiency in the occupants of the bench, give them a greater amount of pay. I cannot sympathize with that idea.

But to recur to another objection which I made: it is, that the amendment is offered upon this bill. I was one of those who were anxious to vote on the question of abolishing the duties on railroad iron. But the argument was used, that the amendment to that effect was introduced in an improper place, and it had to go down. There are various other propositions which I should be glad to see adopted; but the Senate seems to have decided that we are not to take up these incongruous subjects and have them acted upon on this bill. When we look at the lack of uniformity in the salaries proposed to be given by the amendment, and when we consider the scanty materials before the committee, which they could act upon, we cannot, it seems to me, act upon this amendment without a more mature consideration of the interests involved than we can now give it.

Mr. PETTIT. I shall vote for the highest rate of compensation which the amendment proposes. I have held that the greatest curse that ever befell a free people is an attempt to starve their salaried officers to death. There is nothing that renders men so inefficient, so dependent, and so worthless for their posts. The honorable Senator from Wisconsin may talk as much as he pleases about increasing or not increasing the talents or the minds of judges by increasing their salaries. Sir, perhaps talent or mind, or its activity or capacity to act, consists more in the examination of books, and the learning and studying of the principles contained in them, than it does in native or original organization. And if you give a judge a liberal salary, he will be at least able to expend a few dollars for new books to read, which may carry him on with the progress of the science that he is necessarily compelled to administer. Many of the judges, not only of the United States courts, but still more of the State courts, are compelled almost to hoe the ground, to plow and cultivate the soil, to obtain the means of living in comfort. Or they are compelled to do as I once heard of a Governor of Rhode Island being obliged to do: he had so small a salary that he was compelled to keep a few cows and peddle the milk in the city of Providence, in order to make a living.

Sir, pay your officers liberally. There are two reasons for it. In the first place, that you may get competent, well-qualified men; that the best men in the State may be induced to take the position. And in the next place, that they may feel disposed to give due activity and their entire time to the discharge of the duties of their office, or in the improvement of their minds in order to fit them for the discharge of them, and so that they may be above the necessity of pursuing any other employment, and to put them above the necessity of seeking, by any indirection, for other compensation. Of all the wrongs and all the miseries and all the frauds, nine out of ten, in my judgment, that have ever befallen any country which has sought to establish and maintain free institutions, have resulted from this beggarly penury in paying its public servants.

Allow me to notice a fact that occurred in my own State. In the State of Indiana, the district judge is paid a salary of $1,500 a year, and within my memory, a gentleman who was tendered the office refused to accept it. He was a man of the highest order of intellect and capacity.

Mr. RUSK. Name him.

Mr. PETTIT. I will name him. His name was Charles Dewey, a cousin of the Rev. Orville Dewey, known to all of you. He refused to accept the judgeship because the salary was inadequate. Senators here are conversant with the fact, and assisted in procuring the appointment for him, and he absolutely refused to accept it. That is the situation of the case. I am not acquainted with the difference in the salaries given to northern and southern judges. I am not quite clear in my mind that there is not an unreasonable discrimination. I believe that Tennessee is an interior State as well as Indiana, and that she has two districts, an eastern and a western, and that the judge of the one west of the mountains, which is an interior district entirely, where there can be scarcely any business, receives a greater salary than the district judge in Ohio, Indiana, or Illinois.

I am not quite satisfied because a judge lives in a maritime district, or on the sea-coast, that he will have more labor to perform. The district attorney may have much more to do, but the judge may not. It does not follow that the judges have more cases on the docket, or more labor to perform than the judges who reside in the interior, and preside over the interior courts. It is true that we have not business to the same extent in Ohio, Indiana, and Illinois, yet we have some of it. We have the business of the Government, and, in the next place, added to that, it is used almost exclusively, or to a great extent, as a collecting court for Boston, New York, Philadelphia, Baltimore, and all the maritime and commercial cities of the East. They send their claims against the western merchants, for collection, to the West, and that court is resorted to, and I doubt—though I am not prepared to say from my knowledge of the fact—whether the number of cases actually docketed and tried each year in the court in Indiana, is not equal to those tried in the courts of many of the commercial cities. From that fact, not that the legitimate business is larger—and I do not mean to say that any of it is illegitimate; for it is proper and right that parties out of the State should bring suits there—the business in that court is perhaps as great as that in many of the courts in the maritime districts. I do not see with what propriety the Senator from Virginia [Mr. MASON] can ask that the salary of the judge of the western district in Virginia shall be increased at a rate greater than other judges. That district in Virginia cannot be said to be a commercial district, and Virginia is not a commercial State. I believe it is rather an agricultural or producing State, and especially in the western portion.

Mr. MASON. It is on the Ohio border.

Mr. PETTIT. Yes, sir; and so is Indiana on the same Ohio border, and Ohio also, to a greater extent even than Indiana; yet we have but one judge, and with a less salary and more business than the judge of the western district of Virginia. The salary of the judge in Western Virginia is already $2,000, while the judges in Illinois, Indiana, and Ohio are paid only $1,500. An attempt is now made to raise the salary of the judge of the western district of Virginia to $2,500. I say to the Senator that I am willing to raise it. I believe that by raising it he will have a more efficient judge out of the present incumbent; for that judge will be able and will feel some inducement to send to New York, to Boston, or to Philadelphia, to procure for his use some new books. I think that may be very desirable, because, although he may be a very learned and a very able judge, he may still continue to learn more in the progressive science. I am in favor of the increase of the salary. I shall, at the proper time, move an amendment, providing that the district judge in Indiana shall hereafter be paid $2,000 a year. I want to put him in a comfortable condition. We are not very anxious about making money; our people care but little about the "filthy lucre," but I want the salary to be such that the best of our men and the ablest jurists will not refuse to accept the judgeship.

Mr. BELL. I do not want to interfere in this debate between the Senators from Virginia and Indiana, but I do not wish Tennessee to be understood to be so great a beneficiary of the Government as the Senator from Indiana represents it to be. We have three judicial districts in Tennessee.

Mr. PETTIT. That is worse and worse.

Mr. BELL. The State is about seven hundred miles long from the northeast to the southwest, and the judge has to travel over a range of mountains in going from one part of the State to another. He has to sit twice in the year.

Mr. PETTIT. Is there but one judge?

Mr. BELL. But one judge; and I think the Senator from Virginia is rather unreasonable in asking that the judge of the district court in the western district of Virginia should receive an increase in his salary to the amount of $1,000, when the judge of the district court in Tennessee, who has three districts to preside over, gets but $1,500.

Mr. MASON. I did not ask that it should be $2,500. The Senate passed a bill to that effect, which was reported from the committee, at the last session.

Mr. BELL. I did not understand that part of the case. I have not engaged in this debate, and I have offered no amendment; not, however, because I did not think that under all the circumstances, the amount of travel and the amount of labor of the judge in the three districts of Tennessee would authorize an increase in the salary of the judge. I think there should be an increase of the salary of judges in the interior districts. But, sir, I do not move it, and I do not mean to move it upon a distinct ground. I think that it is a matter of eminent national importance to have our judges well paid. I believe that the confederacy of the States will be strengthened by it, and that no detriment will come from a large extension of the judiciary, both of the circuit courts, and, to some extent, the district courts. I have heretofore on two occasions, and at two different sessions of Congress, moved that the State of Tennessee should have two district judges, one east of the Cumberland mountains. And I have not moved any increase in the salary of the present incumbent, trusting that Congress would accede to that proposition. The Judiciary Committee of the Senate at one time recommended that arrangement, but for some reason or other it has failed to be acted on, and that arrangement has not been made for Tennessee. If it is not done, upon every reason and every principle which has been urged here to-day, the salary of the district judge of Tennessee ought to be increased. But I look to the next Congress to do justice to the State, and give it two judicial districts.

Mr. HUNTER. If we can have a vote I shall not interpose; but unless we can have the vote, I shall feel constrained to appeal to the Senator from Maine to withdraw the amendment which he has proposed to the bill. There are numerous amendments to be proposed, and it will take us to a late period of the night to finish the bill.

Mr. BRADBURY. I will state to the Senator from Virginia, [Mr. MASON,] that I think there are numerous districts where the claims for an increase of salary are quite as strong as in the district alluded to by him, especially in Tennessee, where the judge has three districts, and in Pennsylvania. If, then, we depart from the report of the committee, I am satisfied that it will lead to so much debate that it will be better to withdraw the amendment. It is but fair to carry out the amendment as proposed by the committee. We do not desire to carry out the principle throughout, but to leave the few cases which are not embraced in the amendment to the future, to determine in what other cases an increase of salary may be demanded. The bill to which the Senator from Virginia [Mr. MASON] refers, was a bill which by its title would not suggest the idea that there was any increase in the salary of a judge included in it; and I can say, as one of the members of the Judiciary Committee, that the idea of an increase of salary did not present itself to my mind.

Mr. MASON. The bill was reported from the Judiciary Committee, of which the honorable Senator was a member. He was not in his place, I suppose, when the bill was considered.

Mr. BRADBURY. We had not the matter of salary before us then; but when the subject of salary was before us at this session, we did not know that there was anything in that bill relating to an increase of salary. Its title did not suggest anything of the sort.

Mr. BUTLER. I will explain that to the Senator from Virginia. When the bill came up in the Senate to change the time for holding the courts in that district, I moved to increase the salary of the judge to $2,500, because somebody suggested that it ought to be done. It was perhaps a large in-

crease, but I knew the amount could be very easily reduced when the bill went to the other House, or when it underwent discussion here. From all the information which I have, I think $2,000 is about right.

Mr. DOUGLAS. It is obvious that we have got to run through the whole list of the judges of the district courts of the United States if we keep on. I do not want to bring in my own State, but I think I can show you a case of as cruel hardship as any Senator can. I do not want to say anything about it, however, unless we go on to regulate these salaries in this way. I think we had better postpone the whole subject till the next session, and then have a uniform rate of compensation. I hope the amendment will be withdrawn.

Mr. HALE. I can produce the strongest case for an increase of salary that is to be found in the United States.

Mr. RUSK. Except——

Mr. HALE. No; not except. There is no exception. I will state it. A few years ago, the salaries of the district judges of the United States were raised, except the salary of the district judge of New Hampshire. The reason his salary was not raised was that he was a crazy man. His salary was $1,000; and Congress said that a salary of $1,000 was enough for a crazy man; but they did not remember that the crazy man would die, and a sane man be appointed in his place. But he did die, and a most excellent and worthy gentleman was appointed in his place, and from that day to the present he has been living on what Congress thought was enough to support a crazy man—$1,000. It is the lowest salary of a district judge in the country. It has not been raised, and the incumbent of the office is one of the most estimable, worthy, excellent gentlemen in the world. He is a personal friend of mine, to whom I feel under many obligations; but lest injustice may be done by acting on the question of increasing the salaries of judges, upon this amendment, I will not even urge his claim; and I hope that my forbearance may be an example to induce others to keep still and let us have a vote.

Mr. MANGUM. The objection which I have to this measure is precisely the fact which is stated by the Senator who reports the amendment—that only a portion of the salaries have been taken into consideration, and others have been neglected. I think the whole thing had better go over. I can make out a strong case, and I shall move, if the amendment be persisted in, that the salary of the district judge in North Carolina be increased. We have three courts in that State, which is upon the sea-board, and they are held twice in a year. The judge receives the paltry salary of $2,000 a year, less by a thousand dollars than that which the judges of the State courts receive.

Mr. HUNTER. I hope the amendment will be withdrawn, under these circumstances.

The PRESIDING OFFICER. Does the Senator from Maine withdraw it?

Mr. BRADBURY. I will confer with my colleagues for a moment.

Mr. DOUGLAS. I understand that for the time being the amendment is withdrawn.

The PRESIDING OFFICER. The amendment will be considered as withdrawn for the present.

Mr. DOUGLAS. I wish to make a motion which I trust will be deemed in order, although it is unusual. It is to strike out an appropriation, and not insert any other in its place. It reduces the expenditures which the bill proposes. It is to strike out these words:

"For salary and outfit of a minister to Central America, to be accredited to such one or more of the Governments included in that name, as the President of the United States may designate, $18,000."

And then the next clause—

"For salaries of secretaries of legation to the same places, $20,000,"

will have to be so modified as to correspond with the amendment.

The first reason I assign for striking that out, is this: By going a little further, you will find the salary of the chargé d'affaires at Nicaragua and Guatemala. Surely it cannot be the intention of the Government to send a full mission to the five Central American States, and then to send a chargé d'affaires to two of the same States individually. In looking at the letter of the Secretary of State recommending this full mission, I find he proposes it in lieu of the two chargés d'affaires, for he goes on to show that it will cost no more to the Government to send one full mission to the five States, than to send the two chargés d'affaires to the two States. I would be content to strike out the chargés d'affaires and leave the full mission, but for the fact that I am apprehensive that the creation of that full mission, on Mr. Everett's recommendation, would be deemed an approval of the reasons assigned by the Secretary and indorsed by the President, for creating the mission. I am unwilling to indorse the reasons assigned in Mr. Everett's letter for establishing this mission. If you will look into the message communicating the Clayton-Bulwer treaty to the Senate for ratification, you will find it stated that Great Britain was in possession of nearly half of Central America, under the Mosquito protectorate, which it was the object of the treaty to abolish. You will find that while the friends of that treaty here differ as to whether it did abolish the British settlements at the Balize, they all agree that it did expel the British protectorate over the Mosquito coast.

I assigned as a reason, the other day in my speech, why I objected to that clause respecting the British protectorate, that it was equivocal, whether it expelled the British or not.

Mr. BRADBURY. I did not understand that my amendment was regarded as being withdrawn.

The PRESIDING OFFICER. It was considered withdrawn for the time.

Mr. BRADBURY. I did not so understand it.

Mr. DOUGLAS. I understood that it was withdrawn with liberty to renew it. It does not affect your position, except that it interrupts the few remarks which I have to make.

Mr. BRADBURY. I did not understand it to be withdrawn. I want a vote upon it. My purpose was this——

The PRESIDING OFFICER. The Chair will suggest to the Senator from Illinois, that he can conveniently finish his speech on this amendment.

Mr. DOUGLAS. I was about to state that my difficulty, with regard to the clause in the Clayton-Bulwer treaty, was, that it was doubtful whether it abolished the protectorate, or recognized its existence and only restricted its exercise. I said then that I would take the American side of the question, in the event the treaty was ratified, and insist upon the construction which Mr. Clayton put upon it.

The Senator from Michigan [Mr. CASS] said that he understood it to be abolished. Four days subsequent to that debate, Mr. Everett sent to the Senate a report in relation to correspondence between the British Minister and the Department of State. The substance of the correspondence is, that the British Minister has communicated to the State Department, by authority of the British Government, the anxious desire of the British Government to enter into arrangements by which England shall abandon the British protectorate on the Mosquito coast. That England is willing to abolish it—she is anxious to give it up; she wishes an arrangement by which she may give it up, and proposes that we shall open negotiations between the Central American States and Great Britain and the United States, by which the British protectorate may be surrendered. Our Secretary of State entertains that proposition favorably, and the President of the United States, with a view of securing the surrender of the protectorate, recommends this full mission. The House of Representatives have passed the appropriation, and the Senate are called upon to concur in it. I ask if it will not be deemed an acknowledgment by this Government, first by the State Department, then by the President, and then by Congress, that by the true construction of the Clayton-Bulwer treaty, as it now stands, the British protectorate is not abolished, and we propose a new arrangement by which it shall be abolished? If you concur in this view, you acknowledge that it is not abolished, that it is still in existence, and that something is necessary by which they may be expelled hereafter. I am unwilling to make any such acknowledgment. I think I can show by this correspondence that it is clearly acknowledged that the protectorate is not abolished, and I am unwilling to acknowledge that by sending a full mission, for the reason which has been given. It would be a pretty piece of diplomacy where there was a doubtful clause in a treaty, we putting one construction upon it and Great Britain another, if we, by an oversight of this kind, abandon our own construction and put hers upon it. How is it to be done? She can propose negotiation by which she will surrender her protectorate. We accept the proposition, and then when, by our answers, we have acknowledged the right of Great Britain, she refuses to come to an understanding, and leaves the matter unadjusted, having obtained our admission that a new treaty was necessary to deprive her of her protectorate.

Mr. MASON. I hope the Senator will indulge me a moment. I would like him to answer me how it is that the appointment of a minister to Central America by the United States can affect, in any mode, the negotiations, if they are opened between Great Britain and the United States upon the subject of a treaty. Whether it is policy to open such negotiations, or whether it is proposed or not, I do not know. But when opened, they will be opened between the United States and Great Britain, and I want to know how the appointment of a minister by the United States to Central America can affect us with regard to any question involved.

Mr. DOUGLAS. I will answer the chairman of the Committee on Foreign Relations very briefly and directly. Under ordinary circumstances, the appointment of a minister to Central America would not affect that question; but when that mission is established on the recommendation of the President, and for a given purpose, and that recommendation of the President refers to the report of the Secretary, and the report of the Secretary urges it upon the sole ground that the British Minister has proposed negotiations by which she will give up her protectorate, if we make an appropriation in response to that proposition, will it not be said that we have thereby indorsed the reasons assigned for creating the mission? It is to avoid that very construction—the implied admission that by the terms of the Clayton-Bulwer treaty, England has not abandoned, or agreed to abandon, her protectorate over the Mosquito coast, that I propose to strike out this appropriation.

Mr. MASON. I understand that the Senator is making this debate upon an amendment offered by the Judiciary Committee. If that is the fact, it would be impossible for him to go on without doing great injustice to those who might wish to reply.

Mr. DOUGLAS. I am making it on my own motion to strike out. The Chair sustained me in it.

Mr. MASON. Will the Chair inform me what is the question before the Senate?

The PRESIDING OFFICER. The question is upon the amendment offered by the Senator from Maine under instructions from the Judiciary Committee. Pending that, the Chair understood the Senator from Maine to withdraw the amendment for the time being, and understanding that, he announced to the Senator from Illinois that the amendment proposed by him was in order. While he was discussing that amendment, the Senator from Maine informed the Chair that he was under a mistake, that he had not withdrawn the amendment. The Senator from Illinois remarked that the only effect of that would be to cut him off from his speech. The Chair observed that he might finish his speech conveniently upon the amendment of the Senator from Maine.

Mr. MASON. I cannot have an opportunity to reply on it. I believe the Senator is out of order.

Mr. DOUGLAS. I presume the Senate will be willing to let the Senator reply now, or I am willing to abandon the proposition until we get through the amendment which is pending.

Mr. MASON. Make your proposition.

Mr. DOUGLAS. The proposition is distinctly made now.

Mr. MASON. Not now.

Mr. DOUGLAS. It is distinctly made.

Mr. MANGUM. I think we had better return to the consideration of the amendment of the Senator from Maine. I think the Senator from Illinois is entirely mistaken as to the state of the business before us.

The PRESIDING OFFICER. The actual amendment pending is that proposed by the Senator from Maine, and to that there is an amendment, proposed by the Senator from Virginia, [Mr. MASON.]

Mr. BRADBURY. I desire to say one word. It is obvious that almost every Senator stands ready to propose amendments in reference to his own State. I will state with regard to the amendment already adopted as an amendment to the amendment offered by the committee, that it was an omission by the committee, so far as Maryland is concerned; and that I am instructed by a majority of the committee to state to the Senate that if any further amendment is made to the proposition submitted by the Judiciary Committee, we must withdraw the amendment. I hope the Senator from Virginia will withdraw his proposition and take what is awarded by the committee, and trust to the future. I therefore announce, that if any amendment is adopted, I shall feel constrained, by my instructions, to withdraw the amendment.

Mr. BRODHEAD. If we trust to the future, those States which have judges properly paid will not give that support to others where they are not. The Committee on the Judiciary has been led into a great mistake with reference to the compensation in Pennsylvania, in consequence of not knowing that the judges of the State courts receive a per diem. The judges of the supreme court and the chief justice of the State receive a per diem. I must therefore move an amendment increasing the salary of the judges of both the eastern and western districts of Pennsylvania, upon the rule which has been stated by the honorable Senator from Maine, as that by which the committee fixed the salaries of the judges, which was, the giving of them a salary somewhat corresponding to that of the judges of the highest State court. I think that great injustice will be done according to that rule as it has been applied in Pennsylvania. I must, therefore, move an amendment.

Mr. HUNTER. May I make one more appeal to the Committee on the Judiciary to withdraw the amendment?

Mr. BORLAND. If this is to be withdrawn I shall have nothing to say.

Mr. HUNTER. I ask the committee to withdraw it. It is obvious that amendments will come from almost every State in the Union, and we shall not dispose of this subject to-day, to say nothing of the bill.

Mr. BRADBURY. My instructions are, that if my amendment is adopted——

Mr. BUTLER. Withdraw it.

Mr. SHIELDS. I hope the Senator will withdraw it, because I can show him a case that will satisfy him that an amendment is needed. I do not want to go into it now.

Mr. RUSK. I wish to offer an amendment if it is not withdrawn.

Mr. BUTLER. I hope the gentleman who has charge of the amendment will withdraw it. I think it should be adopted to some extent. Others perhaps will suffer by it.

Mr. PRATT. I hope it will not be withdrawn. I do not see the objection to having amendments offered to it. We all agree that the judiciary are paid too little. Suppose amendments are offered here, no one wants to debate them. And suppose amendments are adopted. We all agree that they are right, that the whole judiciary ought to have their salaries raised. Suppose they are all agreed to; does the Senator from Virginia believe that this bill is going to be defeated by its going to the House of Representatives, with increased salaries for every one of the judicial officers of the Government? It will give it friends in the House of Representatives. It will be the means of passing it.

Mr. BRADBURY. I shall withdraw the amendment if any one is adopted.

Mr. PRATT. If we adopt an amendment because the salary is too small, I do not see any objection to it.

Mr. BORLAND. As I said before, if the amendment is withdrawn, I have nothing to say; but if it is pressed to a vote I have a word to say. I have an amendment to propose.

Mr. BUTLER. Let us take the vote on the amendment to the amendment.

Mr. BORLAND. I am not going to offer an amendment now. I am going to discuss the proposition before the Senate.

Mr. BUTLER. Very well. Go on.

Mr. BRADBURY. I have said that if any amendment is adopted, changing the amendment from its present shape, I shall withdraw it at once.

Mr. HALE. You cannot prevent amendments being offered.

Mr. BRADBURY. Then I withdraw the amendment.

Mr. PRATT. I object to it.

The PRESIDING OFFICER. As the amendment offered by the Senator from Maine has been amended already, by the incorporation of the amendment proposed by the Senator from Maryland, it can only be withdrawn by the consent of the Senate.

Mr. BRADBURY. I hope that consent will be given.

The question being taken, leave was given to withdraw the amendment.

So the amendment was withdrawn.

Mr. HAMLIN. I am instructed by the Committee on Commerce to offer the following amendment, as an additional section:

SEC. —. *And be it further enacted*, That for the purpose of obtaining the needful information, and for carrying into effect the object of the resolution of the Senate, passed January 19, 1853, a sum not exceeding $10,000 be, and the same is hereby, appropriated, to be expended under the direction of the Secretary of the Treasury, and paid from any money in the Treasury not otherwise appropriated.

The Senate has already passed the resolution authorizing and requiring a total revision of the collection laws throughout the United States. To do that, and to condense them, and put them into one volume—to take all the laws that have been passed from 1799 to the present time, and condense them, and furnish the forms for collectors—to equalize the salaries and make the commissions alike in all the districts—to do all this and other objects, the Senate have passed a resolution requiring the Secretary of the Treasury to codify the whole; and this appropriation is to provide for that object. This appropriation meets the unanimous approval of the Committee on Commerce, and it meets the approbation of the chairman of the Committee on Finance also.

The amendment was agreed to.

Mr. HAMLIN. I have another amendment, which I am instructed by the Committee on Commerce to offer:

To equalize the salary of the collector at Chicago, and to make it equal to that of the Collector at Detroit, $[illegible]250; and the salary of the collector at Chicago be, and the same is hereby, established at that sum annually.

When the salary was established for the collector at Chicago, the place was small, and the salary was fixed at $825. The place has more than quadrupled its business since that time, and the Department has recommended equalizing it to make it equal to that at Buffalo, New York. On examination, it is found that the commercial transactions at Chicago do not equal those at Buffalo, but do exceed those at Detroit; and the committee have unanimously instructed me to move the amendment to place the collector at Chicago on the same footing as the collector at Detroit.

The amendment was agreed to.

Mr. HAMLIN. I am instructed by the Committee on Printing to offer the following amendment:

To pay for the actual loss sustained by the public printers to the Thirtieth Congress, and which shall be in full, $18,940 38.

Mr. BRODHEAD. What is that?

Mr. HAMLIN. I will state in one word what it is. At the last session of Congress the Committee on Printing took up the accounts of the printers, and made an adjustment of them which was believed to be equitable, with the exception of the accounts of the printers to the Thirtieth Congress, Wendell & Van Benthuysen; and they show conclusively to the committee that they actually lost $18,940 38. That is only enough to cover their actual losses without paying one cent of profit, and the committee have instructed me to offer this amendment for that purpose. Taking the prices paid to our other printers, it seems to me it is equitable.

Mr. UNDERWOOD. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. HAMLIN. Several Senators have come into their seats since I offered the amendment, and I beg to repeat substantially what I stated before. Congress has by its action adjudicated its accounts with all those who have been public printers, except those provided for by the amendment. To Mr. Ritchie it gave $50,000, a great portion of which was really a profit, and to all the printers, except Wendell & Van Benthuysen, Congress has given a sum which remunerated them. Now, these are the only printers who have not been thus treated. The Committee on Printing has instructed me to report an amendment, to pay what they believe to be the actual loss, without giving a farthing of profit.

Mr. BRODHEAD. There are many mail and other contractors who have had losses, and if we adopt this principle we ought to include them.

Mr. UNDERWOOD. The speech of the gentleman from Maine acknowledges partiality; it acknowledges compensation, by way of donation, to the public printers who have violated their contract to make a profit. But in this case the Senator says the amount is confined to the mere compensation for materials, without any profit at all. It is therefore an acknowledgment that it is a partial amendment. I am against the whole of these things.

Mr. DAWSON. I desire to ask the chairman of the Committee on Printing whether that committee investigated the matter, and ascertained the facts which are stated, or whether the statements are received from others?

Mr. HAMLIN. We have the facts both from examination and from the statement of the Superintendent of the Public Printing, who is a political opponent of these men, and whose knowledge is equal to that of any printer in this District.

Mr. WALKER. In regard to this matter, I feel a good deal as the Senator from Kentucky says that he does. I recollect a little about this case. Before I advert to that, however, let me say, that it seems to me that this is the second, third, or fourth acknowledgment on the part of the Senate that it will give up, or come down, whenever there is a combination of the printing interest against it. If I recollect right, in the very commencement by these parties to execute their contract, there was not a very fair manifestation on their part. If I am wrong, I will be glad to be corrected. But I think these contractors are those who set out with a wrong basis in publishing the public works ordered by Congress, by using a particular kind of type for the purpose of distributing and scattering the letters over the page, and putting as little on as possible. They used the small pica type but on a large pica body. Thus the letters were spread over the page, and in this way, as I could show if I had time, there was manifested a disposition to treat the Senate unfairly. Now, if there had been a printer, who, with an honest effort to execute his contract, had sustained a loss, it might not be a partiality to relieve him. But that is a case with which this is not parallel.

As a member of the Committee to Audit and Control the Contingent Expenses of the Senate, I had some opportunity to hear this matter spoken of, and complaints in regard to it; and I venture to say, there are members who remember taking up the Patent Office Report, printed by these gentlemen, and that it presented a most singular appearance. It looked like a parcel of dots scattered over the page. I allude to that as but one instance. The printing was wretchedly done. I remember one instance of this was pointed out to me by the Secretary of the Senate, where one page did not range with the other in its margin by three-quarters of an inch. On one side there was a margin of three quarters of an inch, and on the other the letters were cut off. It is manifest that contractors should not be encouraged in their violation of a contract when the work was so imperfect. I do not see any good reason why we should go forward to relieve them.

Mr. HAMLIN. I acknowledge all that the Senator from Wisconsin has said in relation to the printing. It was not done according to the contract. Neither was the contract made with the successor of these men discharged in any better manner; yet the Senate saw fit to make an appropriation of $50,000 to the succeeding contractor, who did his work no better, and with no better materials.

I resisted them all, and voted against them all; but when it was the sense of the Senate that they would relieve that class of these printers, I believed it was just and equitable that all should stand upon the same footing. I would now, if it were a new question, resist it, and I would hold on to the contract system. The Senate saw fit to abandon it all and go into a different one, and in accordance with that decision of the Senate, I shall stand by

the present printing system until it is fairly and fully tried. But as the subsequent contractors did no better than these gentlemen, I think we do no more than justice by putting these persons on the same footing as those who followed them. Besides, between the time when this and the time when the subsequent contracts were made, there were additional securities, additional laws providing for preventing those defects in the printing afterwards which had been disregarded. It is true that the printing under the first contract was defective; but the printers were not restricted as to the kind of type. They used type with a small face upon a large body, making some difference in the price of composition: yet if there is any justice in departing from the law in either case, there is equal justice in it in this case.

Mr. BAYARD. I submit that this is out of order. It seems to me that this case, under the decision of the Senate with reference to the private claim of Mr. Ritchie, cannot be discriminated except in favor of that claim. I looked upon that as declaratory. This is clearly a private claim, and, without entering into the question of whether it is proper that it should be allowed or not—having formed no opinion upon it, though generally disposed to yield to the recommendation of the committee which reported it, as to the question of fact—I cannot vote for it as an amendment to this bill, because I look upon it as a private claim. I ask the decision of the Chair, whether it does not come within that class of cases excluded by the rules?

Mr. SEWARD. I wish to say a word upon that question of order. The same question was raised at the last session—on almost its last day—upon the claim of Thomas Ritchie, who had been one of the printers to Congress. The Senate decided that the claim of Thomas Ritchie of over $100,000, of which $50,000 was a gratuity, was a proper amendment to the civil and diplomatic appropriation bill. I suppose the Senate respects precedents. This principle would be established by this precedent, and what was in order, and just, and right a year ago, is equally so now. Therefore, I claim the decision of the Chair in favor of this amendment.

Mr. BAYARD. With regard to the precedent alluded to by the Senator from New York, there is this difference: At the last session, the amendment was one which simply authorized the settlement of the accounts of the public printer. There was no appropriation, but there was a limitation that the amount should not exceed a certain sum. Therefore, according to a decision of a majority of the Senate, it did not come within the rule. But at this session, and this very day, you have rejected, under the rule, an amendment merely explanatory of that law.

Mr. SEWARD. I wish to know whether Thomas Ritchie did not get a large sum of money under that very clause in that very civil and diplomatic appropriation bill? If he did, then it was an appropriation.

Mr. BAYARD. There was no appropriation.

Mr. SEWARD. He got the money, whether there was an appropriation or not. The ground on which the question of order is now raised, is that the amendment appropriates money. I think, therefore, that the Senate is committed on the question, unless there be some difference between the positions of the two parties.

Mr. COOPER. Do I understand, Mr. President, that the question of order has been made?

The PRESIDING OFFICER. The question of order has been raised.

Mr. COOPER. I do not propose to say anything on the question of order, but I shall on the claim, if the question of order shall not be decided in conformity with the views of the Senator from Delaware.

The PRESIDING OFFICER, (Mr. BADGER.) The Chair has no recollection of the particular case referred to by the Senator from New York. If the case was parallel to this, and has been decided by the Senate, of course I should feel bound to respect the precedent then established. But unless there is something in that decision which fixes a different construction upon the rule, the Chair cannot understand this amendment as being anything but a private claim. There are no accounts to be settled; there is nothing in it in which the public is interested. It relates to a past transaction in which certain employees of the Senate have been paid under a contract; and this is a proposition to pay them a certain additional sum. The judgment of the Chair is, that it is clearly a private claim, and therefore out of order.

Mr. HAMLIN. I then desire to offer another amendment:

"And it is hereby declared that the provision in these words: 'And for printing the obituary notices of the decease of President Taylor, said contractor shall be paid 'the actual cost, with a profit of twenty per centum, according to the second proviso of the first section of the act 'making appropriations for the civil and diplomatic expenses of the Government, for the year ending the 30th of 'June, 1853, and for other purposes, in relation to printing,' be, and the same is hereby, construed to mean that the compensation for printing the obituary notices of the decease of President Taylor shall be in addition to the sum of $50,000 allowed in the same section to Thomas Ritchie, assignee of William M. Belt."

I desire to say a word in relation to that amendment. The proviso in the law referred to, which authorized the payment to Mr. Ritchie of the cost of the work, with twenty per centum as profit, was offered, I believe, by myself in the Senate.

Mr. BORLAND. It was offered by the Senator from Maryland, [Mr. PEARCE.]

Mr. HAMLIN. By the Senator from Maryland. A discussion which then took place, and in which I participated, will show that, as a member of the Printing Committee at that time, I stated expressly that my view of it was—and I so understood the Senator who offered it to regard it—that Mr. Ritchie was to receive precisely what he had paid for printing that work, with twenty per centum as his profit. He had the printing of that work executed in Philadelphia. It was not work executed at his own office. The Comptroller, however, now mingles it with the sum of $50,000, which he was to have on the readjudicating and readjusting of his claim. It is to remedy that, that the Committee on Printing has reported this construction of the law.

Mr. PEARCE. I did not favor the appropriation, by which the large allowance to Mr. Ritchie was made at the last session. But I am bound to say, that when I introduced the construction which it is now proposed to declare, I entertained the same views which are now suggested by the Senator from Maine. I had supposed that we should pay over and above the $50,000, the actual cost of the printing of that particular work in Philadelphia. Certainly that was my understanding, and I can, therefore, have no objection to the pending amendment.

The PRESIDING OFFICER, (Mr. BADGER.) The Chair has now the precedent to which the Senator from New York alluded, and it certainly does not affect the question as to the amendment which was ruled out of order a few moments since. The amendment in that case was as follows:

"*Provided*, That in settling the accounts for the printing of the Thirty-first Congress, one half of the prices given by the joint resolution of 1819, be allowed, not exceeding the amounts that would be paid under the respective contracts, if settled by the prices named in the bill of the House of Representatives, passed on the 31st of July, in regard to the public printing, estimating the paper at the actual cost thereof, to be paid out of any money in the Treasury not otherwise appropriated."

That amendment was ruled to be in order by the Presiding Officer. An appeal was taken, and upon the question of the appeal, the Senate was equally divided, and the Presiding Officer held that that affirmed his decision.

Mr. SEWARD. What is the decision of the Chair in regard to the amendment just submitted?

The PRESIDING OFFICER. It is an amendment declaring the interpretation which is to be put upon a preëxisting law, and nothing more. The Chair sees nothing in it to rule it out of order.

Mr. SMITH. I wish to call the attention of the Senate to the fact that the documents of the last session of the last Congress, which every Senator is entitled to receive—that is, the bound documents—have not been received to this day. I have not received my documents, except one in two or three volumes. The great mass of the documents which Mr. Ritchie was bound to print and deliver have not been bound and delivered till this day. I am not willing to vote him another dollar, until these documents are put into the hands of Senators. I do not know how far this is to proceed. I suppose he has been paid out of the Treasury $50,000 of the public money, in addition to his contract, and yet the Senate have not received the proportion of the public documents to which they were entitled at the last session of last Congress. Whether they will be received, I do not know. I have wanted these documents. I have desired them on certain occasions for reference, and I presume others have also. I think Senators will concur with me in saying that they have not been delivered to this day. I desire, before we hand over $5,000 more to this gentleman, to have some security that these documents shall be bound and delivered to members. I will move a modification, that this appropriation shall not take effect until all the documents are printed, and bound, and delivered, according to the contract.

Mr. BRADBURY. I would inquire whether Mr. Ritchie was the printer at the last session of Congress?

Mr. BORLAND. Mr. Ritchie was the assignee of William M. Belt, the contractor for the printing for the last Congress. In answer to the Senator from Connecticut, with regard to his having failed to supply the documents, all I have to say is, that before Mr. Ritchie's accounts could be audited for these documents, the officers of the two Houses of Congress had to account for the documents which he was bound to supply under his contract; and they did so account. I will state further, that when objection was made to the character of the work, and the committee rejected some of the work on account of its quality, the Committee on Printing appointed a sub-committee, and the Senator from Connecticut was that sub-committee. He was assigned the duty and he assumed it, and I suppose performed it, and passed upon what documents were to be received, and after passing upon these documents they were received, and the amount due was paid. Now, whether the number is short, or not, I do not know. The accounts were presented in regular form, the officers of the two Houses of Congress furnishing the proper evidence that they had taken them under the supervision of the Senator from Connecticut, the sub-committee appointed for that purpose, and voluntarily undertaking to perform it.

Mr. HAMLIN. I think my friend from Connecticut labors under a mistake. All the documents printed by Mr. Ritchie were delivered long ago, and I suppose each Senator has received all of the documents which the public printer was to furnish. I can only say that my share was sent to my room, and by me carried home. The Senator from Connecticut labors under a mistake. The documents to which we were entitled at the last session, which were to be printed by Mr. Hamilton, have not been received. I think the Senator from Connecticut has attributed to Mr. Ritchie what belongs to Mr. Hamilton, and I am told that Mr. Hamilton has deposited with the individual who binds for the Senate all that we are entitled to, and that we will have them soon.

Mr. SMITH. I withdraw the motion that I submitted to the Senate. I shall vote for the amendment reported by the committee. But if I find that my honorable friend is mistaken on this subject, I will move its reconsideration.

Mr. UNDERWOOD. I rise for the purpose of getting some information, and I wish to state a fact. I recollect perfectly well that this subject has been talked about a good deal heretofore. It was said in former discussions which have taken place with regard to the compensation of Mr. Ritchie, that upon investigation, it was found that in printing a decision of the Supreme Court of the United States, $1 25 was allowed for each pamphlet, which was not worth twelve and a half cents. I think he got upwards of $12,000 for printing that decision, when the true amount, under the contract, was only $1,000 or $2,000. I want to ascertin whether the Committee on Printing, in their various estimates, touched the difference between the price that should have been paid and what was actually received for that document. Because, if that has not been done, we should not pay this $5,000. I would like to have some information with regard to the question whether there has been any account made of the difference which was paid between what that document actually cost the Government, and what it ought to have cost, and whether it has ever been deducted in any estimate compensating Mr. Ritchie.

Mr. HAMLIN. I will answer that inquiry. When this subject was under consideration in this body at the last session, some Senator—the Senator from Maryland [Mr. PEARCE] indicates that it was himself—did propose an amendment, that the sum which Mr. Ritchie had received above that which the committee believed he should be

paid for, should be deducted. That amendment was voted down, and the Senate, therefore, when making the appropriation of $50,000, so far as we can draw any opinion from it, did deliberately grant $50,000 in addition to that sum which Mr. Ritchie had already received. According to my recollection, he was entitled to something like $2,000 for the job, and he got about $12,000.

I want to make one other statement. Mr. Ritchie has been before the committee this year with a memorial, and has attempted to show that the sum of $50,000 was not what he was equitably entitled to. The committee have investigated the matter, and it is a part of this measure that we have reported against all that. The report is to carry out the law and what was the understanding of the Senate.

Mr. BRODHEAD. I want to know from the Committee on Printing how much they estimate Mr. Ritchie's profits to be? I understand they are twenty per cent. I want to know what is the gross amount of that profit—if it is twenty per cent. on $50,000?

Mr. HAMLIN. Mr. Ritchie sent to Philadelphia and procured this job to be done in an office there. He has paid out of his own pocket subsequently to the passage of the law about $5,000. Now, will we repay him, as we promised we would? If we repay him just what he paid out, he gets nothing for his trouble and expense. Therefore the committee provided that he shall receive twenty per cent., which is to pay him for his trouble and expense, and all his tranactions in relation to it.

Mr. BRODHEAD. That does not answer the question. I want to know how much profit he received in the $50,000.

Several SENATORS. It was all profit.

Mr. BRODHEAD. I understood it was twenty per cent. How much was the gross amount of profit?

Mr. SEWARD. The whole of it.

Mr. BRODHEAD. Something like $20,000 at any rate. Then he gets $20,000 for violating the contract.

Mr. HAMLIN. That is past now.

Mr. BRODHEAD. I know it is past, and our evil deeds rise up against us; and as soon as we do one wrong, it is followed by another. We give to one, and then another comes and says we must give to him because we gave to the other.

Mr. HAMLIN. I wish to make a definite reply, because the Senator asks it. He wants to know the amount of profit which Mr. Ritchie made on the $50,000. No man can answer. I stated last year, in my place, that a prudent, careful, practical printer, would have done the work in the way in which it was done, with no unnecessary expense about it, and no large and unnecessary outlays upon it, for the contract prices. I believe so now. Did Mr. Ritchie so do it? I do not believe he did; I have no idea that he did; indeed, I know he did not. Taking the necessary expense and the large amount of capital invested, it was my judgment then, and it is my judgment now, that he may have received $20,000 for his own time and wear and tear of type and the interest of money invested, which would not be ten per cent.

Mr. RUSK. Every time this subject comes up, it seems to me that the excitement is increased. Now, my own opinion is, that Mr. Ritchie has not received any profit, and I place that upon the statement of a man better qualified to judge of it than I am; that is, the present Superintendent of the Public Printing, John T. Towers. I will read what he says on this subject:

OFFICE SUPERINTENDENT PUBLIC PRINTING, *February* 2, 1853.

SIR: In reply to your note, in reference to the printing of the Thirty-first Congress, executed by Thomas Ritchie, assignee of William M. Belt, I have to state, that I have made a *general comparison* of the prices paid for the work done for that Congress with the *present* prices paid for the Congress printing, (under the law of 1852,) and find that, in addition to the prices paid Mr. Ritchie, *and* the $50,000 appropriated last session for his benefit, it would require about $25,800 to make them equal to the present prices. I have assumed the prices of 1852 as a basis upon which to answer your inquiry, because I believe them to be a fair compensation, and *no more*, for the printing of Congress, except the *deduction* of forty per cent. on extra copies of documents exceeding twenty thousand in number, which should be reduced.

I have the honor to be, very respectfully, sir, your obedient servant, JOHN T. TOWERS,
Superintendent of Public Printing.

Hon. R. M. T. HUNTER, *U. S. Senate.*

The latter part of the letter was thought not ot be very distinct, and he wrote this in addition:

WASHINGTON, *February* 15, 1853.

SIR: In reply to your inquiry, "What I mean when I 'say, in the note to Mr. Hunter, that I believe the present 'prices to be a fair compensation, and no more, for the 'printing of Congress, except the *deduction* of forty per 'cent. on extra copies of documents exceeding twenty thou-'sand in number, which should be reduced?" I have to say, that I mean the deduction of forty per cent. is *too much*, and that it should be reduced to twenty per cent.; and, in estimating the comparison between what you have received and the present prices, I based my calculation on the law *as it is*—not as I think it *should be*.

Very respectfully, your obedient servant,
JOHN T. TOWERS, *Superintendent.*

THOMAS RITCHIE, Esq.

Mr. PEARCE. It is really a matter of no sort of consequence at this time whether Mr. Ritchie, by the allowance made to him at the last session of Congress, received a large or a small profit, or none at all. I was as much opposed as the Senator from Pennsylvania was to the proposition to pay Mr. Ritchie. But that is past and gone, and the only question in controversy is, whether we shall declare a construction of a provision of the law of last year which the Comptroller, I believe, views differently from some of those who voted for it. Considering that the law passed was to give that allowance, I cannot refuse to declare, as I believe, that the construction proposed to be given to that proviso was the true and proper construction; and I think it ought to pass without further debate.

Mr. BORLAND. I desire to say that the Senator from Maryland has expressed in a few words precisely what the Committee on Printing meant by its proposed amendment. It is not as to whether Mr. Ritchie had received too much or too little, but what did the law of the last session mean; and this declares the meaning as we understand it.

Mr. SMITH. In justice to myself and to Mr. Ritchie, I wish to say that I have been misinformed in regard to the statement I made when I was up before. The documents to which I referred I find have been printed; and there was a misunderstanding by Mr. Anderson, the keeper of the document room, as to the documents for which I called. He understood me to inquire for the documents of the last session, and not those of the last session of the last Congress.

The question was then taken on the amendment, and it was agreed to.

Mr. FISH. I desire to offer the following as an additional section:

The Secretary of the Treasury is hereby authorized and required to establish in the city of New York an office for the receipt, and for the melting, refining, parting, and assaying of gold and silver bullion and foreign coin, and for casting the same into bars, ingots, or disks. The assistant treasurer of the United States in New York shall be treasurer of the said assay office, and the Secretary of the Treasury shall, with the approbation and consent of the President of the United States, appoint such other officers and clerks, and authorize the employment of such assistants, workmen, and servants, as shall be necessary for the proper conduct and arrangement of the said office, and of the business pertaining thereto, at such compensation as shall be approved by the President: *Provided*, That the same shall not exceed that allowed for corresponding services, under existing laws, relating to the Mint of the United States and its branches.

The owner or owners of any gold or silver bullion, in dust or otherwise, or of any foreign coin, shall be entitled to deposit the same in the said office, and the treasurer thereof shall give a receipt, stating the weight and description thereof, in the manner and under the regulations that are or may be provided in like cases of deposits at the Mint of the United States with the treasurer thereof. And such bullion shall without delay be melted, parted, refined, and assayed, and the net value thereof, and of all foreign coin deposited in said office shall be ascertained, and the treasurer shall thereupon forthwith issue his certificate of the net value thereof, payable in coins of the same metal as that deposited, either at the office of the assistant treasurer of the United States, in New York, or at the Mint of the United States, at the option of the depositor, to be expressed in the certificate. Which certificates shall be receivable at any time within thirty days from the date thereof, in payment of all debts due to the United States, for the full sum therein certified. All gold or silver bullion, and foreign coin deposited, melted, parted, refined, or assayed, as aforesaid, shall, at the option of the depositor, be cast in the said office into bars, ingots, or disks, either of pure metal or of standard fineness, (as the owner may prefer,) with a stamp thereon of such form and device as shall be prescribed by the Secretary of the Treasury, accurately designating its weight and fineness: *Provided*, That no ingot, bar, or disk shall be cast of less weight than ten ounces, unless the same be of standard fineness, and of either one, two, three, or five ounces in weight. And all gold or silver bullion, and foreign coin, intended by the depositor to be converted into the coins of the United States, shall, as soon as assayed and its net value certified as above provided, be transferred to the Mint of the United States under such directions as shall be made by the Secretary of the Treasury, and at the expense of the contingent fund of the Mint, and shall there be coined. And the Secretary of the Treasury is hereby authorized, with the approval of the President of the United States, to make the necessary regulations for the adjustment of the accounts between the respective officers, upon the transfer of any bullion or coin between the assay office, the Mint, and assistant treasurer in New York.

The operations of melting, parting, refining, and assaying in the said office, shall be under the general directions of the Director of the Mint in subordination to the Secretary of the Treasury; and it shall be the duty of the said Director to prescribe such regulation, and to order such tests as shall be requisite to insure faithfulness, accuracy, and uniformity in the operations of the said office.

The laws of the United States for the government of the Mint and its officers in relation to the receipt, payment, and custody of deposits, and settlement of accounts, the duties and responsibilities of officers and others employed therein, the oath to be taken, and the bond and sureties to be given by them, (as far as the same may be applicable,) shall extend to the assay office hereby established, and to its officers, assistants, clerks, workmen, and others employed therein.

The same charges shall be made and demanded at the said assay office for refining, parting, casting into bars, ingots, or disks, and for alloy, as are or shall be made and demanded at the Mint; and no other charges shall be made to depositors than by law are authorized to be made at the Mint; and the amount received from the charges hereby authorized, shall be accounted for and appropriated for defraying the contingent expenses of the said office.

For the purpose of carrying the foregoing provisions into effect, the sum of $100,000, in addition to the charges authorized to be received, is hereby appropriated out of any money in the Treasury not otherwise appropriated. And the Secretary of the Treasury is authorized to procure, by rent, lease, or otherwise, a building or apartments, in the city of New York, suitable for the operations of the said office, unless he shall be of opinion that suitable apartments in the custom-house in that city may be assigned for this purpose. And he is also hereby authorized and directed to procure the necessary machinery and implements for the proper carrying on of the operations and business of the said office.

The salary of the assistant treasurer of the United States in New York, from and after the time that the said office shall be opened and in operation, shall be $6,000 per annum instead of the sum now allowed.

Mr. FISH. As this amendment proposes an appropriation, I applied to the Department for an estimate, and the sum which I have named in the amendment is based upon the estimate of the Treasury Department. I am not disposed, at this late hour, to enter into a discussion of the merits of the proposition unless discussion be necessary.

Mr. BRODHEAD. This is a very important measure, and I had hoped that the chairman of the Committee on Finance would have raised a question of order in regard to it. I confess I have not had time to examine its provisions. It appropriates a large amount of money; it establishes new offices and creates new officers and enlarges the salaries of others. It authorizes certain buildings to be rented and certain other buildings to be purchased in the city of New York; and I confess it ought not to go upon this bill, in my judgment, even if it should be thought right by some members. I venture to say there are not five members in this body who have had time to examine it. They certainly have not had time to examine its details.

In view of the facts which I have stated, in view of the late period of the session, in view of the other amendments which are about to be offered to this bill, I suggest to the honorable Senator from New York the propriety of withdrawing the amendment at this session. At the next session I will promise to confer with him upon this subject. It may be that there are no well-grounded objections to the measure, but I confess that I should like to have time to confer with gentlemen in my own State and elsewhere, who are better informed upon the subject than I am.

Mr. CLARKE. My impression is that there has been no more reasonable and proper amendment offered than the one proposed by my friend from New York. Why, sir, recall to your own recollection that for the last six years, since you and I have been here, there has been hardly a session of Congress in which it has not been urged, and urged with great force and propriety, that there was a necessity for establising a Mint in the city of New York.

Mr. PEARCE. Will the honorable Senator at this point give way that I may raise a question of order? It might as well be raised at once.

Mr. CLARKE. I give way.

Mr. PEARCE. I understand that an estimate properly considered is not merely a statement of the cost of the thing proposed, but also a suggestion or recommendation of its propriety from the Department. Now, if I understand aright, there

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is in this case no such recommendation from a Department. I have not seen the letter, but I suppose it to be one in reply to one from the Senator from New York, in which the Secretary intimates that the expense of the plan proposed will be a given sum whatever that may be. If that be so, I think it is not such an estimate as is required by the rule. I very well recollect that when two or three years ago I introduced an amendment providing for an increase of the allowance to a certain steam-line in New York, I produced a letter from the Secretary of the Navy, in which he estimated the amount at so much, upon such a principle assumed, but did not recommend it; and the amendment was ruled out of order. If this is a case correspondent to that, it ought to be settled, and it will save time by deciding it at once.

Mr. HUNTER. I believe the Senator from Maryland is right in his construction of the rule. An estimate must be accompanied with a recommendation. I do not understand an estimate to mean a mere expression of opinion that a thing would cost so and so.

The PRESIDING OFFICER. The Senator from New York will be good enough to state the nature of the paper.

Mr. FISH. The Senator from Maryland is about right. I called on the Department for an estimate of the amount necessary for this appropriation. It will be remembered that in the earlier part of the last session, I introduced to the Senate a bill for the establishment of a branch Mint in the city of New York. I think it was within the first week or two of the session. At the same time a bill was introduced for a Mint in California, which was reported upon almost immediately and passed through the Senate with very little delay. Yet the bill for the New York Mint was delayed by the Finance Committee for some months. It was finally reported, but for reasons to which it is not necessary for me now to refer, it was not called up by myself or by the committee. The subject was considered in the House. Finding that there was to be discussion there, I deemed it unnecessary to consume the time of the Senate by bringing a subject before it which might possibly be debated in the House, for they had it under consideration; I therefore let the bill lie over. That discussion has recently been had in the House, and within a very few days past the House has rejected the proposition for the establishment of a branch Mint in New York. At the time I was confined to my room by sickness, but immediately on coming out, I prepared this proposition, and submitted it as soon as I could to the Senate. I laid it on the table here on Saturday last.

The Senator from Pennsylvania complains that he has not had time to consider the proposition. Sir, the Senator from Pennsylvania has had the same time that other Senators have had. We are not bound to consult him upon the propositions which we intend to submit. I laid the proposition on the table the very first day that the civil and diplomatic appropriation bill was brought before the Senate. The amendment was printed and distributed to some, at all events, on Sunday. It was laid on the table of every member on Monday, at any rate. I think, therefore, that there was ample notice. I called upon the Department the first opportunity I had after it was prepared for an estimate; and the paper which I have is, as the gentleman from Maryland states, a letter in answer to one from me asking the amount. Upon the question of order, I am not prepared to go into the merits of the proposition. I submitted the amendment to the chairman of the Committee on Finance, and I heard from him no objection to it. No point of order was suggested by him. It was upon his suggestion that I applied to the Department for this very estimate, and I submit that in candor if it had been intended to raise this question upon me by two members of the Committee on Finance, it would have been but liberal for them to have suggested at that time that a recommendation as well as estimate should be asked for.

Mr. HUNTER. I will explain to the Senator from New York that I raised no question of order upon him. When he suggested the amendment to me I never once thought about the question of appropriation. That never occured to me until a few minutes ago; but when it was raised, I felt bound to say that the point of order was as stated by the Senator from Maryland. I am in favor of the Senator's measure, if it is in order.

Mr. BRODHEAD. I do not complain of my worthy friend from New York. I presume that it did not occur to him to introduce this proposition at an earlier period. It was not printed until yesterday; and how can I or any other member of this body, have time, with the press of business now upon us, to look into so important a measure as this? There is no member of this body to whom I would extend a courtesy more readily than to the Senator from New York. But a word as to the question of order; there is no recommendation from the Department, as I understand, in the sense contemplated by the rule. The Department, if I understand it, makes a certain statement upon a supposed case, but does not recommend an appropriation.

Mr. SEWARD. Mr. President, it seems to me that the objection of want of sufficient time, is a technical one. This is the fourth year I have been here, and I am sure there is no subject and no question which has been more fully before the Senate of the United States, than the question of a branch Mint in the city of New York. So much in regard to the question of notice.

Mr. CLARKE. I believe I had the floor until the question of order was raised. I have something to say on this proposition. I am decidedly in favor of it.

Several SENATORS. Let the question of order be decided.

The PRESIDING OFFICER. The question now before the Senate is whether the amendment can be received under the 30th rule.

Mr. SEWARD. I am now about to discuss the question of order. The Secretary of the Treasury at the last session recommended the establishment of a branch Mint in the city of New York; and this year he has sent in the estimates for it, so that taking these statements together, the amendment is within the rule.

Mr. BRODHEAD. I want to hear the recommendation read.

Mr. PEARCE. I understand that the recommendation of the Secretary is for a branch Mint. A branch Mint is not an assay office.

Mr. SEWARD. The greater includes the less.

Mr. PEARCE. A Mint is a very different thing from an assay office merely.

Mr. FISH. The proposition for a branch Mint included all that is now proposed by this amendment, and a great deal more. The recommendation of the Secretary of the Treasury, to which my colleague referred, is in these words:

"The distance from San Francisco, by way of the Isthmus of Panama and New York to the Mint at Philadelphia, is about six thousand two hundred and fifty miles. The precious metals there found, have, therefore, to be transported that distance and back, at great risk and expense, before the owner can receive its equivalent in the legal coin of the United States. Such a burdensome tax upon the interests of California should be removed by the establishment of a branch Mint at the most eligible point in that State.

"Nearly all the importations of specie and bullion concentrate at the port of New York; two thirds of all the customs duties collected in the country are there paid in specie."

There is the recommendation, and in the same report an estimate is given for the work.

The PRESIDING OFFICER, (Mr. BADGER.) The recollection of the Chair is, and in that he is confirmed by the officers of the Senate, that the practice under the 30th rule has not been uniform; and it is not known to the Chair that the effect of the rule has heretofore been maturely considered by the Presiding Officer, or decided by the Senate. An inspection of the rule satisfies the Chair that this amendment proposing an appropriation is not in order. The part of the rule material here, is: "or moved by *direction* of a standing committee of the Senate, or *in pursuance* of an estimate from the head of some one of the Departments."

These two clauses must be construed in connection with one another. The first requires the *direction* of a standing committee. The word "direction" could not be inserted in regard to the head of a Department, because he has no power to direct any member of this body, and therefore, I presume, the meaning must have been that in the first case an amendment might be moved by direction of a committee having authority to direct, and, in the second place, "in pursuance of an estimate;" that is, in accordance with the desire of the head of a Department upon a subject falling within his jurisdiction, and for which he had estimated the amount required. It requires, therefore, an official opinion of the head of a Department in relation to a matter subject to his superintendence and under his jurisdiction, that the object is proper, as well as that the amount moved is necessary for its accomplishment.

Mr. FISH. Then I understand that the Chair rules that the amendment which I have offered is out of order so far as the appropriation is concerned?

The PRESIDING OFFICER. Yes, sir.

Mr. FISH. I will therefore modify my amendment by striking out the words—

For the purpose of carrying the foregoing provisions into effect, the sum of $100,000, in addition to the charges authorized to be received, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

I renew the amendment without that clause.

Mr. BRODHEAD. The question of order still comes up, and I make it. It is, that the amendment of the Senator from New York makes an appropriation. Though the Senator from New York may omit what he has read, still the amendment makes an appropriation for the officers created by it.

The PRESIDING OFFICER. Will the Senator be good enough to read the part of the amendment to which he refers?

Mr. BRODHEAD. I will find it presently.

Mr. FISH. If the Senator will find it I will withdraw it.

Mr. BRODHEAD. I know very well that the amendment creates new offices and provides for the payment of the officers. Is not that making an appropriation?

Mr. SEWARD. If the Senator will find any appropriation we will strike it out.

Mr. BRODHEAD. I can find it, but it will take some time to read the amendment over.

The PRESIDING OFFICER. The Chair will state that nothing is clearer, in the practice of the Senate and the other House of Congress, than that a bill which creates a charge upon the Treasury is not a bill making an appropriation. The office of an appropriation is to take a certain amount from the gross sum in the Treasury, and to authorize its application to a particular object.

Mr. BRODHEAD. Here is the part of the amendment to which I refer:

"The Assistant Treasurer of the United States in New York shall be treasurer of the said assay office, and the Secretary of the Treasury shall, with the approbation and consent of the President of the United States, appoint such other officers and clerks, and authorize the employment of such assistants, workmen, and servants, as shall be necessary for the proper conduct and arrangement of the said office and of the business pertaining thereto, at such compensation as shall be approved by the President."

Mr. FISH. The Chair has already decided that question.

The PRESIDING OFFICER. The Chair is clearly of opinion that that provision makes no appropriation.

Mr. BRODHEAD. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and being taken, resulted—yeas 38, nays 11; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Bradbury, Bright, Cass, Charlton, Chase, Clarke, Davis, De Saussure, Dodge of Wisconsin, Douglas, Downs, Felch, Fish, Foot, Gwin, Hale, Houston, Hunter, James, Jones of Iowa, Jones of Tennessee, Mallory, Miller, Norris, Rusk, Sebastian, Seward, Shields, Smith, Soulé, Sumner, Toucey, Wade, Walker, and Weller—38.

NAYS—Messrs. Borland, Brodhead, Butler, Cooper,

Dawson, Fitzpatrick, Mason, Morton, Pratt, Spruance, and Underwood—11.

So the amendment was adopted.

Mr. CLARKE. I have an amendment to offer as an additional section, in the following words:

And be it further enacted, That the Secretary of the Treasury be authorized to refund to Edward Dexter, of Seekonk, Massachusetts, the duties paid by him on certain teas destroyed by fire at Alexandria, in the State of Virginia, in 1810, which teas were in the store of John G. Ladd, and in the charge of the collector of customs for said port: the same to be done under the same restrictions as are herein provided for refunding duties on goods destroyed by fire in New York and San Francisco.

There has already been incorporated into the bill a provision for paying $300,000 for the return of duties on goods destroyed by fire in New York, I think in 1845; and also $150,000 to refund duties on certain goods destroyed by fire in San Francisco. For the last four years there has been a memorial from this gentleman, who lives on the edge of Massachusetts, near my State, asking for the return of duties upon teas destroyed by fire in the city of Alexandria in the year 1810. This memorial has been referred to the Committee on Finance, and at all times that committee has expressed a willingness to act on that memorial, deeming its prayer to be just and proper. But it always said that the provision should come in in a general clause to relieve others who are memoralizing for a return of duties on goods destroyed by fire. This memorial seems to have escaped the attention of the Committee on Finance in reporting the provision which has already been incorporated into the bill. Yesterday, when the amendment of the committee for returning duties on goods destroyed by fire in New York and San Francisco was under consideration, I happened to be out of the Senate Chamber, or I should have brought this case to the notice of the Senate. I introduce this amendment now for the purpose of restoring to this individual the duties which he paid in 1810 upon teas destroyed by fire in the city of Alexandria.

Mr. Dexter is a gentleman well known to me. He has been known to me for fifty years. He is now eighty-five years of age. He lost by the spoliations or depredations of the French upon the commerce of the citizens of the United States prior to 1800, more than $30,000. That involved him in difficulties. He finally recovered himself, and has since, as he states, paid into the Treasury of the United States more than $100,000 for duties. In 1809 he imported these teas into the United States, and sent them to Alexandria. They were there put under the lock and key of the Government of the United States, in the store of John G. Ladd. That store took fire and the teas were consumed in the fire. The copies of the invoices of the teas, all the certificates, together with all the evidence, are in the hands of the Committee on Finance. The amount of duties proposed to be refunded will probably amount to some $1,500. I have introduced this amendment, and have made it apply precisely to the provisions provided for the return of duties upon goods destroyed by fire in New York and San Francisco. I ask the Senate, in consideration of the age, and I may say the destitute condition of this individual, who asks to have these duties refunded, that the sum of $1,500 may now be added to the bill, and that he may be placed in the same situation for the return of those duties upon goods destroyed by fire in 1810, which has been provided for in this bill for those who lost goods in 1845 and 1851.

Mr. HUNTER. This seems to me to be a private claim. The Senator from Rhode Island I think is mistaken in supposing that it stands on the same footing as the provision for the return of duties on goods destroyed by fire in New York and San Francisco. I am not aware that the Committee on Finance have made a special examination of this claim, but they reported a general fire bill which they supposed would cover the cases which ought to be relieved. The provision which has been adopted in relation to goods consumed by fire in New York and San Francisco, places them under the restrictions of the law of 1838. They apply the general law to those cases. I apprehend it will do Mr. Dexter no good to have that law applied to him. The provision in relation to San Francisco and New York was as to a fire which occurred at some recent period, in regard to which testimony could be collected. This goes back some forty years. But it seems to be a private claim.

Mr. CLARKE. This is no more a private claim than are those claims provided for in the amendment of the Committee on Finance which has already been adopted, providing for the return of duties on goods destroyed by fire in New York and San Francisco. This is simply to include Mr. Dexter in the same provision. If I had been here yesterday, when the provision for the return of duties to the people of New York and San Francisco was up, I should have asked them to have this claim included. It is no more a private claim than those. This amendment provides that this payment shall be under the same restrictions as are already provided in relation to the refunding of duties on goods destroyed by fire in New York and San Francisco. If the provisions of that law will not reach his case, the Secretary of the Treasury will make no payment; but, if he lives, he must again come to Congress and ask this pittance to smooth the downward passage of his life. It is plain and clear that he must produce evidence to the Treasury Department. The evidence is in fact in possession of the committee, and, in my opinion, it is conclusive. I have seen it to-day. The question simply is, will you do to this aged individual the justice that has been done to others by the provision already inserted in the bill? I hope the amendment will be agreed to.

The PRESIDING OFFICER. Is the question of order insisted upon?

Mr. HUNTER. Yes, sir.

The PRESIDING OFFICER. If that question be insisted upon, it is absolutely necessary that the Chair should rule this amendment out of order. It may be true that the other amendments were liable to the same objection. The difference is, the objection was not taken in those cases, and the Chair of course does not take objection to amendments if the Senate choose to entertain them. This is clearly a private claim, because it is a provision authorizing the payment of money to an individual for losses which he has sustained.

Mr. CLARKE. Then the Chair decides that this amendment is out of order?

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. CLARKE. And that the others, having been passed without any such objection, were in order.

The PRESIDING OFFICER. That question was never raised.

Mr. CLARKE. I am sorry that any such objection should be raised now.

Mr. HALE. I have an amendment to offer as an additional section:

SEC. —. *And be it further enacted*, That under the act for the benefit of Amos Proctor, approved the 17th of June, 1844, the legal representatives of the said Proctor are entitled to one half of one moiety, being one quarter of the appraised value of the goods therein mentioned, as having been seized and libeled on his information.

After I shall have explained this amendment, I think the Senate will adopt it without objection. Under a bill passed in 1844, Congress ordered the accounting officers of the Treasury to pay Mr. Proctor half of a moiety of certain goods. The Comptroller said it did not mean that, but it meant a half of a moiety of the duties which would have been paid upon the goods. The party then petitioned the Senate, and a bill was introduced to remedy that decision, and it was referred to the Committee on Commerce. They unanimously reported that the decision was wrong, and that Mr. Proctor was entitled to what the bill gave him, and that no further legislation was necessary. The subject then went to the House, was referred to a committee there, and that committee unanimously thought he was entitled to this relief under the existing law, and that no further legislation was necessary. The Comptroller still refused to pay the amount. The question then came to the Senate again; a resolution was introduced in the very words of this amendment, and referred to the Committee on Commerce at this session, which again unanimously reported that Mr. Proctor was entitled to the money, and the Senate unanimously affirmed that report of the committee; but still the Comptroller will not pay. This amendment simply declares that Mr. Proctor shall have what the law already gives him; which the Senate and House have already declared that he ought to have, but which the Comptroller says he shall not have. It does not make an appropriation of a dollar, for the appropriation has already been made.

The amendment was agreed to.

Mr. JAMES. I am instructed by the Committee on Public Buildings to offer the following amendment:

That there be placed at the disposal of the President of the United States the sum of $20,000, to enable him to compensate Clark Mills for the execution of the equestrian statue of Andrew Jackson, recently placed upon the public square in the city of Washington north of the Executive mansion, and to make the same the property of the United States; and that said sum be paid, under the direction of the President, out of any money in the Treasury not otherwise appropriated, when a clear and satisfactory title to said statue shall be vested in the United States.

Mr. CHASE. With the consent of the Senator from Rhode Island, I desire to offer an amendment to the amendment. It is to add to it these words:

And the further sum of $30,000, to enable him to contract with Hiram Powers for the statue of America, or other work or works of art designed by him.

The PRESIDING OFFICER. Does the Senator from Ohio offer this amendment from a committee?

Mr. CHASE. Yes, sir; by direction of the Committee on Public Buildings.

Mr. HUNTER. I raise the point of order, that the Committee on Public Buildings has no right to instruct any person but a member of that committee to offer amendments.

Mr. JAMES. I gave permission, as chairman of the Committee on Public Buildings, to the gentleman from Ohio to offer the amendment.

Mr. CHASE. I would like to have the question of order settled.

The PRESIDING OFFICER. The opinion of the Chair is, that what is meant by an appropriation being reported "by direction of a standing committee," means that it must come from a committee through a member of that committee. That has always been the custom of the Senate.

Mr. JAMES. Then I offer the first amendment. The amendment was agreed to.

Mr. JAMES. I now offer, from the Committee on Public Buildings, the amendment proposed by the Senator from Ohio, to add to the one just adopted the words:

And the further sum of $30,000, to enable him to contract with Hiram Powers for the purchase of the statue of America, or other work or works of art designed by him.

Mr. WALKER. We have never seen the statue of America, and I understand that is merely a composition. We have seen the statue for which an appropriation has just been made, and the difference can readily be estimated by those whose minds have reflected upon the subject. I hope, for one, that this appropriation will not be made. Whenever the statue of America shall be brought here and exhibited, and satisfies the judgment of Congress that it is a work of merit, then it seems to me it will be time enough to provide for its purchase. It is not probable that it will be purchased by any other country. If I understand the matter, it is not yet in the United States, and no one has given us any information upon the subject. We are to infer merely from the character of the artist that it is a work of merit. For one, I should like to see it before the appropriation is made, or I should like that some committee of the Senate should see and pass a judgment upon it.

Mr. CHASE. It will be remembered, Mr. President, that I moved this proposition as an amendment to the deficiency bill, but upon the appeal of the Senators from Virginia and California, [Messrs. HUNTER and GWIN,] deeply interested in that bill, I withdrew it with the understanding that no objection would be made to it when offered to the civil and diplomatic bill. Under what seems to be a misapprehension as to the rule of order, I obtained the direction of the Committee on Public Buildings to offer this at this time. It had previously received the sanction of every member of the Committee on the Library. It has, therefore, as high a sanction as can possibly be given to any proposition before this body. The technical objection to it, when offered by myself, is overcome by the motion of the chairman of the Committee on Public Buildings, just submitted under the direction of that committee. I did not suppose it would give rise to a word of debate, but inasmuch as objections have been made, I feel bound to vindicate the propriety of the amendment, and I hope and believe that after a few words of explanation, the Senate will agree to it.

It is said that this work has received no sanction from any competent judge. Well, sir, I have in my hand, at this moment, a memorial in favor of this work, signed by some of the first names in literature and in taste in this country. In that memorial the work is thus described:

"Mr. Powers's design has been to produce in marble an embodiment of the idea of a free and popular constitutional government in the person of America, represented as a youthful female of faultless beauty, in whose attitude and expression, as well as in the accessories of the work, that idea should be indicated according to the rules of the highest art. The eminent talent of Mr. Powers as a sculptor, is acknowledged throughout Europe and America. It is believed no name stands higher among living artists. He is himself under the impression, and competent judges concur in the opinion, that this work is his most successful effort."

If this work be the most successful effort of Hiram Powers, what higher eulogy can be pronounced upon any work? And who are the eulogists? First is Edward Everett, soon to become a member of this body and now presiding, with distinguished ability, over the foreign relations of this Government. The next is William H. Prescott, known to all the world by his literary abilities and by his historical works. Then follow the names of George Ticknor, and Rufus Choate, and Jared Sparks, and, worthy to close so bright a list, that of Henry W. Longfellow. Now, sir, if such testimony from such witnesses is not enough to warrant this appropriation, I should like to know what would be?

But I have, besides, a report from the Committee on Public Buildings of the House describing this work more at length, and giving the sanction of a most decided recommendation in favor of the purchase.

But, sir, it is still further urged—and to meet this last objection, I framed this amendment—by some gentlemen, that no works of statuary, allegorical in character, ought to be purchased by the Government. I do not agree with these gentlemen. Some of the very highest achievements of art have been accomplished in such works. But, sir, to meet this objection, and to induce the Senate by a unanimous vote, if possible, to award some commission to an artist who has conferred such honor on his country, I introduced an alternative clause into the amendment, leaving it optional with the President to purchase the statue already designed or some other work or works of this artist.

I will not detain the Senate. I know how precious time is. I only ask that the amendment may be voted upon without any further debate.

Mr. COOPER. On more than one occasion, Mr. President, I have done justice to the talents of the artist whose work it is proposed to purchase. Sir, I accord to Mr. Powers genius of a particular kind, and of its kind very high in character; but I am not at all convinced, from anything that I have ever seen, that he is equal to the production of a great work of art ideal in its character. In point of mechanical genius, if I may so express it—that is, in his ability to finish a work in the most perfect manner—perhaps there is no living artist who excels Mr. Powers. But I am not willing that we should purchase a work, and more especially a group, which may discredit American talent as much as some others that we have heretofore purchased. I should like to see this work before a purchase is made. Although there are great names recommending Mr. Powers, and perhaps this particular production of his chisel, it does not follow, because those gentlemen possess high political and literary character, that they are competent to judge of works of art of this kind; and I know it is very easy to procure such recommendations even from eminent men, even when they are undeserved.

More than two years ago, on the petition of artists well acquainted with the gentleman in whose behalf the appropriation was asked, Congress refused to grant it. I refer to the application to employ Mr. Crawford, an artist whose genius, in the judgment of the best sculptors both of Europe and America, far surpasses that of Mr. Powers. Yet we refused to make an appropriation to employ him; and I think until we see this work, and are assured from an inspection of it that it is what it is stated to be, we ought not to expend money in the purchase of it. I make these remarks because when it was proposed to employ another whose claim was quite as good, it was rejected; and because I wish to see this group before I consent to buy it.

Mr. SOULE. I have only a word to say, Mr. President. I mean to vote for this appropriation. I am willing to take the works of genius upon trust, for I cannot be persuaded that Powers can be willing to degrade himself by tendering to America a composition unworthy of his fame. I shall vote for the appropriation.

Mr. WALKER. I have heard more of the character of this statue from what was read by the Senator from Ohio than I ever did before. I find, however, that I was correct. It is a piece of composition. It is a female figure, of a very beautiful character, representing, as I understood the Senator from Ohio to say, a free and populous Government. I do not know how that idea could be delineated in a female alone. The beauty and grandeur of allegory, it appears to me, might be very fairly represented in the form of a female; but how could you represent this free, and at the same time, populous Government, without surrounding her with a numerous offspring, all of them making mouths at their mother [Laughter.] But it seems that Powers has done it. We are to take it on trust, and the Senator from Louisiana cannot believe that we ought for a moment to question the words or the works of genius, and that Mr. Powers would not tender to America anything unworthy of her. Sir, we have taken some female figures on trust. There is a beautiful specimen on the east portico of this Capitol, and if that does not represent freedom as much as any female figure could, I am mistaken. There is not a Senator, and scarcely a decent person who comes about the Capitol, who would not wish to see that figure blown away with gunpowder, or taken out of sight in some other way. Even the distinguished Senator from South Carolina [Mr. BUTLER] at one time offered a resolution, in which I most sincerely sympathized, to have the statue removed. It is a disgrace to the country. I believe that I have heard that Persico was a man of genius, but yet we see one of his ideas in the specimen to which I have alluded on our eastern portico—one that has almost driven the decent people of the United States from walking or promenading upon that portico. I do not believe in buying any more female figures on trust.

Mr. CHASE. I would ask my friend from Wisconsin if he ever saw a work of Powers which he could not look upon with admiration?

Mr. WALKER. I have never seen many of his works. I have seen the Greek Slave, and admired it very much; but I should not like to see that or anything like it placed on the portico of the Capitol. I could not, and would not if I could, detract from the great merit of Mr. Powers. That is not my object. I believe him to be capable of the highest achievements in art; but are we to take him on trust? Are we to have a figure, a group, an ideality, an allegory brought to the United States, and placed in the Capitol or the Capitol Grounds, when we may not, after it shall have been put there, approve of it? I hope not. I only say to Mr. Powers and to his friends, Let us see your work; let us decide upon it; let a committee decide upon it, and then, perhaps, we shall purchase it. But while two committees have recommended this appropriation, can any member of either of those committees say that he has ever seen the statue? It was not said by the Senator from Ohio that the distinguished gentlemen whose names he read ever claimed to have seen it. They doubtless did see it, or they would not have spoken of it so positively; but he did not communicate to us the fact whether they had seen it or not. It may be that they have taken the works of genius on trust. I am not disposed to doubt them, though I do not fully agree with the honorable Senator from Louisiana on that point. But really, while such are the ideas of the honorable Senator from Louisiana, we cannot all be unanimous in those views. For one, I should like to see my taste consulted in regard to these female figures representing America as a free and populous Government! I cannot agree with the honorable Senator from Louisiana, and I hope we shall not make this purchase until we see the statue.

Mr. COOPER. I do not rise for the purpose of continuing this debate at length, but to say that there is a spurious as well as genuine genius; and that works of this kind ought not to be taken on trust any more than others. I remember, a few years ago, to have heard that Mr. Greenough possessed a most towering genius, and under this belief Congress was induced to take a work of his on trust, and you have the result of the purchase of the statue which stands in the grounds east of the Capitol. I have admitted that Mr. Powers possesses very high talent as a sculptor, in one direction. In point of mechanical execution of his statues, he has no superior, perhaps, in the world; but I have yet to learn that he has executed any great work, or that he is the author of any great conception, calculated to give him that kind of fame which entitles his talents to be designated by the higher title of genius. Sir, I know that we are all in the habit of speaking of the Greek Slave as a great work of genius, but it is not so regarded in the world of art. Strike from it the chain which binds the limbs, and it will stand forth a Venus, as perfect, in the estimation of those connoisseurs who have denominated it a great production of genius, as it did before a weeping Grecian slave.

Sir, I do not wish to do injustice to any American artist. In the execution of busts, in the execution of single statues, I have no doubt Mr. Powers has no superior; but, sir, before a group of the purely ideal kind is put upon Congress at the expense of a large outlay, we ought to see it. I should not care for the outlay if it were calculated to elevate the standard of American genius; but I am afraid it will degrade it, as the specimens which we now have about the Capitol do. I am not confident that this artist has talents to execute, creditably, such a conception as the one it is proposed we shall purchase. If we do intend to purchase, and purchase on trust, we had better go to those who have already shown by what they have done, what they are capable of doing. I refer to such men as Crawford and Ives, and others now abroad, who have given earnest of genius so decided as to elevate their country in the estimation of the world.

Mr. MALLORY. Mr. President, the proposition to purchase this beautiful work of genius and of art involves considerations which appeal to our hearts so earnestly, considerations apart from its intrinsic value, that the expenditure contemplated by the resolution seems indeed to be pitiful. An American—an ardent, enthusiastic American, awakened by the magic whispering of genius to a consciousness of merit, sought to tread the thorny paths to fame which the time-honored names of others had pointed out. Finding not only an absence of all encouragement, but the chilling blight of cold indifference in his own country, he sought a foreign land; and there established a reputation of which his country may well be proud, though it has reached her through the medium of foreign critics alone.

Of this particular statue we have numerous criticisms from very reliable authorities, and to such authorities as we may ever defer, upon such subjects, our own judgments.

My honorable friend from Pennsylvania says, very correctly, that, to form a correct judgment upon such subjects, we must refer to the world of art and the opinions of artists; and I do not suppose there is a statue in the United States of any merit, our views of which have not been formed from the critiques of artists. There are but few men in public life in our country, who have the leisure and the opportunity, if they have the taste, to study or address their minds to the merits and value of such productions of genius; and I hardly think there are many Senators here competent to decide upon their merits.

I have seen and heard many and highly-flattering critiques upon Powers's statue; and the testimony of some of the most gifted sons of genius of our own land, the Everetts, Longfellows and Irvings of America, has been produced here to-night in its favor. I want no better guide for my vote; and if I did, I might appeal to his beautiful Eve and his Greek Slave, so correctly criticised by my honorable from Pennsylvania, as a guarantee that his great work, which he so ardently desires his country to possess, cannot be unworthy our admiration. Obedient to the dictates of his unerring genius and the impulses of a heart which has never wavered from his native land, he sought to produce a work which that land might value. Are there any here who would in consideration of this paltry sum of money, hesitate about adopting his beautiful America as our own? The appeal has been made to us; and for one I am free to say that I am unwilling, by a dissenting vote, to announce to the world from this high place,

that we not only refused to encourage an American genius, that we permitted him to carve his road to fame unaided in a foreign land, but refused to receive a work upon which his art has been eminently displayed, even though that work is typical of the progress and destiny of our country.

An objection has been raised here that it is allegorical. All similar works must necessarily be so, and they demand the very highest order of genius. Let us unhesitatingly appropriate this sum of money. It is a work of which we shall all be proud; a work which is to last for ages, and the value of which, depend upon it, will increase with every succeeding year. The sum proposed is insignificant; and if it were greater I would vote for it unhesitatingly, for it is a point upon which liberality is not only policy, but the sound dictate of wisdom.

Mr. CASS. Mr. President, I am a great friend to the encouragement of American artists, and especially of young men who come forward in spite of early obstacles, and place themselves at the head of their profession, and obtain almost a world-wide reputation. That is the condition of Mr. Powers. I estimate his genius very highly. I am myself no great judge of these matters, but, as the honorable Senator from Florida has well said, we must rely very much upon the opinion of those who do understand them. The works of Mr. Powers which I have seen seem to me most admirable specimens of art, and such is the opinion of Europe generally, and even of that portion of Europe which is apt to be unfavorable in their estimate of artists of the United States.

But a few words on another point. I am not in favor of allegorical statues. I do not like them at all. We have historical subjects enough. We have got Hancock and Jefferson and Madison and Franklin and other men, who have done honor to themselves, to their country, and to human nature, and I should like to see their statues surrounding the Capitol. These are the works I desire, and not allegorical figures having no relation to our country. They are not suited to our feeling or taste.

Mr. President, there is a departed artist whom I held in the highest regard, and whose death I deeply deplore; a man of genius, taste, and skill in his profession, who made the statue of Washington on the eastern grounds of the Capitol. Was there ever an American who passed by and who did not feel that the form of the costume, or rather the want of costume, ruins its effect? There is an entire difference on these subjects between our feelings and those of Europeans who have been accustomed to a different style. They have been much accustomed to what they call an invariable costume, which is about no costume at all. Our ideas of Washington are associated with a far different appearance from that of a naked man, or almost naked, as that statue represents the Father of his Country. I must say that it shocks all my feelings of reverence when I pass by that statue and look at it. It is a work of genius and art; but still it is a failure in that respect, and I do not want to see another like it.

The amendment of the honorable Senator from Ohio leaves the nature of the work discretionary with the President, and in that point I concur with him. I would rather that the amendment were entirely unlimited, and that it contained no allusion to any work, but authorized the President to contract with Mr. Powers for a work proper to be placed near the Capitol. I do not want such things as are now on the eastern portico. They ought to be knocked down and put in a lime pit. I will not move an amendment, but if another gentleman does I will vote for it, to strike out the name of any statue. I should prefer giving naked authority to the President to make a contract with Mr. Powers for the construction of such a statue as the President might think proper, and I trust that he in his discretion will select one of those eminent men who have adorned their country.

Mr SEWARD. Mr. President, precisely what the honorable Senator from Michigan wants is what this amendment authorizes the President to do—to select this statue of America, or this group, or to select such others as in his judgment he may approve. So I think there remains only the one question, whether he shall select this group of old America or whether he shall select some new America. But I do not know that I should have risen on this occasion if it had not been that the name of Mr. Greenough, an American sculptor, has been spoken here, within a period of six weeks after his death, in language of disparagement of his works, by the honorable Senator from Michigan and the honorable Senator from Pennsylvania; and if no reply were made it might be inferred that there was a unanimity of opinion in the censure of the great work in which he has embodied the personification of the character of Washington. At the hazard of differing from those honorable Senators, and of being thought here and elsewhere singular, I wish to declare, that in my judgment, the highest work of art that adorns this capital is the statue of Washington, by Greenough, and that he only fails to appreciate it who fails to rise to the grand conception of a human being invested with more of perfection than has been possessed by any mortal uninspired.

But, sir, a word with regard to this proposition. I am in favor of liberal appropriations to our artists for purposes of this kind. This bill will contain millions of appropriations for very different purposes and objects. I am willing to appropriate the sum of $30,000 to purchase that which will last the longest and be admired and regarded the most widely throughout the world. Sir, if you go back to the ancient Republics of Greece and Rome, you will find that their cities and capitals have been lost while the statues produced by their sculptors remain. You find the whole civilized world visiting Greece and Egypt to bring away monuments of the taste, genius, and virtues of those who patronized the arts in those days. I believe, from what I have seen of the works of Powers, and especially from his figure of the Greek Slave, that he is capable of producing works which will survive not only those who now discuss and depreciate his merits, but survive the Capitol and the metropolis in which they will be placed, and survive the nation and the people that pay this homage to his genius.

Mr. COOPER. Mr. President, it is not often that I have troubled the Senate with three speeches on the same day, on a matter of very small importance, or indeed on any matter, great or small; but I do not choose to be put into a false position by any Senator upon this floor. I said nothing in disparagement of the character of Mr. Greenough as an artist. I spoke of a single work of his, and said that Congress had been greatly disappointed in taking it on trust. The Senator from New York has been modest enough to say that he who does not see in that work the highest indication of genius, does not see it because he cannot ascend to the level of the artist's genius; but indicating very plainly that the Senator himself possesses that power, if nobody else does. Sir, this, I repeat, was modest on the part of the Senator. I have no doubt that he possesses a degree of taste and elevation of conception that few other Senators aspire to. We have seen it in his course here; that he looks higher than most men; that his conceptions ascend to a law higher than the laws by which ordinary mortals are governed. [Laughter.] But, sir, in this matter I am governed by the testimony, not of Senators, not of men who perhaps have never seen the work in favor of which they testify, but by the opinion of the most eminent artists of this country and of other countries; and I venture to say that I can show by their testimony, in relation both to the Greek Slave and the statue of Washington, to which the Senator has referred, that neither have been creditable to American genius.

Now, sir, I have not said a word in derogation of the character or talents of either of these artists. I have differed, with other gentlemen, as to the merits of particular productions; but I think I have shown, by my previous course here, a disposition to accord to them all the merit to which they are so justly entitled, and have been willing to bestow upon them an amount of patronage which perhaps others have thought unwarranted and improper. I do not choose, therefore, to be put in a false position by anything that may be said, and have thought it necessary to make these remarks to put myself right

Mr. CASS. Mr. President, I need not say a word about the ascending powers claimed for himself by the Senator from New York, [Mr. SEWARD,] for the Senator from Pennsylvania [Mr. COOPER] has done full justice to them; but I rise for the purpose of correcting one error into which the Senator from New York has fallen. I did not say a word in disparagement of Mr. Greenough, his genius, or his works. I spoke of him in the highest terms as a man and as an artist. But I said he had fallen into an error in his conception for the statue of Washington, for it is not suited to the taste and habits of feeling of this country. He adopted the prevalent European idea of an invariable costume, or where that is wanting, of almost no costume at all. Every American who has been in Europe has seen statues in the most public places of crowded cities, which would not be borne in this country, and I trust never will be. The Senator from Wisconsin [Mr. WALKER] is right in what he said on that subject. These naked or half-naked statues are not suited to our meridian. I repeat, that while I bear the highest testimony to Mr. Greenough, whom I had the pleasure of knowing, and for whom I had great respect, he committed an error in his statue of Washington, and I do not believe there is another Senator in the Senate who does not coincide in that opinion. We want a statue of Washington as he was, and not a figure which mars all our associations.

Mr. GWIN. I desire, by general consent, to correct an amendment which has been passed upon, and the necessity for which was overlooked by the chairman of the Committee on Finance. It is in relation to the appointment of an additional appraiser general. I move to insert the words, "to be appointed by and with the advice and consent of the Senate."

Mr. HUNTER. There is no objection to that.

The modification was ordered to be made.

Mr. HUNTER. It seems to me that this is no place for this discussion upon the fine arts. We must finish this bill to-day, and I hope that these subjects either will not be introduced, or if they are introduced that the vote will be taken without debate.

Mr. BUTLER. That appeal knocked the speech entirely out of my mind which I had intended to make, and I give it up. I had a very good one ready, however. [Laughter.]

Mr. BORLAND. Mr. President, I know it is said that we ought not to discuss these subjects. Then they ought not to be introduced. Gentlemen cannot expect, if they choose to introduce subjects that do not belong to the bill, that they can be passed without discussion.

Mr. HUNTER. Let us vote them down.

Mr. BORLAND. We are not to be told that there is no time for discussion. If there is no time for discussion, there is no time for introducing the subject. I may have as little as any other man, and, I presume, less than any other to impart to the Senate on this subject, yet I feel it to be my duty to give my views upon this question which involves an expenditure of the public money of the country, and I shall do so. I am not responsible, no one who discusses the matter is responsible, for the time consumed by it. Those who introduce such matters are responsible, and let them take the consequences.

Mr. President, the bill before us is a practical bill. It is a bill appropriating to certain objects the public funds of the country, raised by taxation from the people of the country, and the people and their representatives ought to know for what the money raised by taxation from the labor and sweat of the common people, the masses of the people, is used. This is a practical bill, the most practical bill that comes before the Senate and the country. It deals with the practical affairs of the nation. It appeals directly to the pockets of every man in the country. Now, for what do we propose to expend this money? Why, sir, for the purchase of an ideal statue, about which no one in the Senate knows anything. I do not pretend to know anything about the fine arts. It has not fallen in my way; it has not been my fortune to be able to devote my time to that subject. I have ever had to deal with the hard, practical necessities of life, and my constituents have to do the same; and when their money is to be expended, they expect that I, as their representative, shall at least raise my voice and demand that it shall be expended for the practical purposes for which the Government was instituted, and not to gratify the fancies, the whims, the caprices, the tastes of those who have had leisure throughout their lives to devote their attention to the fine arts. When you appeal to the American people upon a subject which touches their patriotism, their national

pride, their gratitude for service conferred upon the country by the distinguished men of the country, whether in military or civil life, none of them refuses to respond to the appeal, and none respond more earnestly and more enthusiastically than the constituents whom I have the honor to represent. When you propose to make a statue of Washington, of Jefferson, or of Jackson, we will vote as much money as may be necessary; but when you propose to take the fancy of an artist, let him be ever so distinguished; when you propose to go into the ideal world, and employ a man, not to represent your idea of your country or of your country's benefactors, but his fancy, his ideal, then I hold that the practical people of the United States are not prepared to expend their money for such purpose, and I, as a representative of a portion of that people, deem it to be my duty to raise my voice against it.

I have voted, and I will vote again, any money which may be necessary to make a statue of Washington, or to perpetuate his services or his memory in as many forms as you please to the latest generation. I will put a statue, if you propose it, either of him or of Jackson, in every State of the Union. I will raise monuments that shall almost reach the skies in perpetuation of their services; but then those monuments must be something which are American in their character. If they be ideal, they must embody the conception of an American upon American soil, and not a conception derived from inspiration in a foreign land; not such a conception as we have embodied in marble out in the Capitol grounds; not an ancient conception; not a foreign conception; but an American conception of an American subject, agreeing with the American character, to be handed down to the latest generations, to perpetuate American deeds, to carry to the latest posterity the gratitude and appreciation of American citizens for those who have rendered distinguished services to, and conferred distinguished benefits upon the country. For these reasons I shall vote against this proposition.

Mr. SEWARD. I wish to say a word by way of apology to the honorable Senator from Michigan. I misunderstood that Senator. I thought in the remarks which he made, he disparaged the conception of the statue of Washington by Greenough. He has disclaimed that, and I therefore tender to him my apology, with the expression of my deep regret that I misunderstood him. I wish to say, in continuation, that I was moved to make the remarks that I uttered because of the respect which I feel, and the regard which I have, for the memory of a deceased artist.

Mr. HALE. I am not going to discuss this measure; I simply want to put myself in the way to receive a full share of the condemnation and censure that fall upon those who think that that statue was ill-conceived and badly constructed. I wish it was out of the Capitol grounds.

Mr. BORLAND called for the yeas and nays on the amendment; and they were ordered.

Mr. BUTLER. As the yeas and nays have been ordered, I desire to make one remark, though I shall not discuss the matter as I intended to do originally. It does seem to me that a statue of America is a novel conception. A statue to represent America requires all the imagination of the poet, the skill of the sculptor, and the taste and imagination of the painter. I can imagine the ideal representation of America to exist in painting; but, sir, an individuality of America is one of which I cannot conceive. I have no doubt that Mr. Powers has acquitted himself as well as any one could do who would undertake any such task; but until I see the object, I must be permitted to say that I cannot vote for the appropriation.

The yeas and nays being taken on the amendment, resulted—yeas 21, nays 29, as follows:

YEAS—Messrs. Badger, Bayard, Bright, Cass, Chase, Clarke, Dodge of Wisconsin, Downs, Felch, Fish, Foot, Gwin, Hale, James, Mallory, Miller, Pearce, Seward, Shields, Soulé, and Sumner—21.

NAYS—Messrs. Adams, Atchison, Borland, Bradbury, Brodhead, Butler, Charlton, Cooper, Davis, Dawson, De Saussure, Dodge of Iowa, Fitzpatrick, Geyer, Houston, Hunter, Mason, Morton, Norris, Pettit, Pratt, Rusk, Smith, Spruance, Toucey, Underwood, Wade, Walker, and Weller—29.

So the amendment was rejected.

Mr. SOULE. I move to amend the bill by inserting at the end of the clause "for continuing the construction of the custom-house at New Orleans, Louisiana, $324,000," the following:

Subject to the limitations and restrictions on the appropriation made for the same object, at the second session of the last session of Congress, as respects the plan under which the building is to be erected: *Provided*, That the superintendence of the building be confided to an officer detailed from the Corps of Engineers, and the work conducted under the supervision of said officer and the direction of the architect who originated the plan: *And provided*, That said superintendent or said architect, and such commissioner as may be appointed by the President to act as disbursing agent from the bureau, have the management or the control over all contracts to be entered into for the execution of the said plan, and the completion of the building: *And provided further*, That said superintendent, architect, and commissioner, shall not be allowed a compensation higher than eight dollars per day each for their services.

This places the appropriation made for the erection of the custom-house at New Orleans upon the footing on which it was placed last year. No material change is made, and therefore I cannot presume that it is necessary for me to go, to any extent, into the merits of the amendment. The Senate has acted already upon the principles which are embodied in it, and it comes to us recommended by the Committee on Commerce.

The amendment was agreed to.

Mr. CASS. I have an amendment which I desire to offer. There is an appropriation in the bill "for continuing the survey of the northern and northwestern lakes, including Lake Superior, $50,000." I desire to add a proviso to that. I find that the survey has now gone through Lake Erie and Lake St. Clair, and a portion of Lake Huron. It is a vastly important measure. It has now approached the northwestern extremity of Lake Huron. From there to the entrance of Lake Superior are two lakes, one of which is Lake St. George, where the water is very shallow. Unless it is deepened in some way it will be impossible to approach the Sault Ste. Marie canal, almost in process of construction, except by very small vessels. I therefore move to add the following proviso to that clause:

Provided, That the survey of so much of the communication between Lake Huron and the Sault Ste. Marie as may be necessary to ascertain what part thereof requires to be deepened, shall be made without delay, and the plans and estimates of the nature and expenses of the work shall be laid before Congress at its next session.

This proviso requires no appropriation. It only requires that the survey there may go on immediately, so as to have furnished to the next Congress, at its first session, the necessary information in regard to it.

I find, also, that there has been in this bill an estimate by accident omitted. The Senate will observe that the $50,000 for the survey was originally in the Army appropriation bill. The House transferred it to the civil and diplomatic appropriation bill, and in the act of transferring it, they left out an important estimate which any gentleman from the lakes will understand at once, the printing and distributing of the charts of the lake surveys, $1,500. By some accident, that which should have followed the other, has been omitted in transferring it from one bill to the other. I move its insertion.

Mr. HUNTER. Do I understand that the amendment in regard to the survey, is the application of an old appropriation?

Mr. CASS. It is the application of no appropriation. It is added to the appropriation of $50,000 already in the bill, and its object is, instead of having the survey go on regularly, to have that portion of it over those two little lakes go on now.

Mr. HUNTER. The appropriation in the bill is for the survey of the lake coast.

Mr. CASS. The survey will have to be made. This only requires the survey of that portion to which I allude to be made immediately.

Mr. HUNTER. But if we burden this bill with a survey for the lake coast, it will be putting on internal improvements.

Mr. CASS. Not at all. It only requires the survey to be made, and to be sent here, that Congress may have it before them. It requires the survey to be first made at the place designated.

Mr. SMITH. It is a part of the lake survey.

Mr. BELL. I desire to inquire of the Senator from Michigan, whether this proposition does not necessarily imply that when the survey shall be made, and the estimate for the deepening of the channel shall be furnished, we shall be pledged to the work?

Mr. CASS. Not in the least; only what Congress shall think proper to do.

Mr. BELL. That is what I mean. I want to know whether the seven hundred and fifty thousand acres of land which we granted was not intended to be applied to that object?

Mr. CASS. I have nothing to do with that. The amendment is in relation to the survey of a particular portion of the lake coast, which is provided for.

Mr. BELL. I rose to inquire whether this does not apply to the pass between Lake Huron and Lake Superior?

Mr. CASS. It is on the lake communication undoubtedly.

Mr. BELL. Is it not the pass for which we appropriated land at the last session?

Mr. CASS. Not at all.

Mr. SMITH. I do not want to occupy the attention of the Senate, but this is really a very important object.

The amendment was agreed to.

Mr. BRIGHT. I have several amendments which I have been instructed to offer by the Committee on Finance. The first is to insert the following in the bill:

For completing the grading and paving of the carriage way of Pennsylvania avenue from Seventeenth street to Rock creek, and for setting the curbstones, and for paving the footway six feet wide on the side of the avenue, in addition to the sum heretofore appropriated for that object, $14,700: *Provided*, That the sum required for paving said footway shall not be expended, unless the owners of the property opposite thereto are required, under the direction of the authorities of the city of Washington, to pave at least ten feet in width of the space allotted for a side walk, in continuation and adjoining the same.

Mr. WELLER. What is that for?

Mr. BRIGHT. If the Senator wishes an explanation, I will state that the portion of the avenue to which this applies, extends from the War Department to the western limits of the city. It completes a work which was estimated for at the last session, and has been estimated for again this year. I should think the distance is about half a mile. The amount is no more than is absolutely necessary to finish the work.

The amendment was agreed to, there being, on a division—ayes 30, noes not counted.

Mr. BRIGHT. The next amendment is the following:

For the completion of the marine hospital at Evansville, Indiana, $20,000; and for the marine hospital at Natchez, $4,000.

The amendment was agreed to.

Mr. BRIGHT. The next amendment is as follows:

And be it further enacted, That the President of the United States be authorized to select three discreet persons to appraise the building on the corner of F and Seventeenth streets, owned by William H. Winder, now occupied as a public office in this city, and that he be authorized to purchase the same at the appraised value, upon a valid title being made to the United States for the same, if in his opinion the public service would be promoted by so doing: *Provided*, The same does not cost more than $200,000; which sum is hereby appropriated for that purpose.

I do not appear as the advocate of the amendment. It is a subject which has been before Congress for the last three or four years. Appropriations of $200,000 have at various times passed the House of Representatives for the purchase of this building. I have uniformly opposed the paying of that sum for it. The Committee on Finance has had its attention directed to the subject again at this session, and has agreed that the President of the United States shall select three discreet persons to appraise the property, and, provided it is not valued at more than $200,000, that he may purchase it, if in his opinion the public interest will be promoted by so doing. I have thus stated the facts. I am not an advocate of the measure. The Senate can do as it pleases with it.

Mr. HALE. Would it be in order to move to strike out that part of the amendment which provides that the cost shall not be more than $200,000?

The PRESIDING OFFICER. Certainly.

Mr. HALE. If we do not strike that out, the cost will certainly come up to $200,000. By putting it in, it is a sort of feeler, by which the valuation will be made.

Mr. BRIGHT. That sum was inserted for the reason that I understood the owner of the building will not take less. If it is appraised at less, he is not of course bound to take the price. It is a matter of discretion with him after it is appraised.

Mr. CLARKE. I think that provision should

be stricken out of the bill. If we take it out, and let the appraisal be made by three discreet persons, you will then have their judgment, and the owner of the building can take it at their valuation, or not; but if you insert the $200,000, you are sure to pay that much.

Mr. HALE. I move to strike out that portion of the amendment.

Mr. BORLAND. I am opposed to this whole thing. This is an old case. It has been before us for the last four or five years. It has been one of the lobby cases, in which we have been annoyed and harassed by the appeals made by agents and all sorts of people, and I do think, if it was for nothing but to rebuke that system, we ought to reject this proposition. If we need public buildings to accommodate our bureaus and our clerks, build them. We have begun to do so, and let us go on with it, and have buildings after some uniform system. But here is a building, in regard to which there is great difference of opinion as to whether it is fitted for our purpose. I am opposed to any such operation. Let us build houses, if we want them for our Departments, and pay what is proper for them; but do not permit persons upon speculation to build houses, and then lobby them upon the two Houses of Congress.

Mr. BRIGHT. I stated when I first rose that I had uniformly opposed the purchasing of this building at $200,000, believing that it was not worth that sum. Lobbying influences to which the Senator has referred, have just as little influence upon me as upon any gentleman.

Mr. BORLAND. I did not allude to the Senator at all. He had said that he was not in favor of the proposition, and I cannot see why he should take my remark to himself.

Mr. BRIGHT. I did not understand the Senator as applying it to me. I stated that the Committee on Finance had the subject referred to it and it came to this agreement, and as its agent I present the amendment without being its advocate. I do not say that I believe the public service will be promoted by purchasing it. That is a matter which the amendment submits to the President of the United States. He is not bound to purchase the building. If it is appraised at $150,000, he may take it if he thinks the public interest will be promoted by it. If he thinks it will not be promoted by it, he may refuse to purchase it, nor will the individual who owns the building be bound by the appraisal to sell it.

Mr. PEARCE. The remarks of the Senator from Arkansas have done injustice to a gentleman in this city. If Mr. Winder has ever employed an agent to advocate his claim before the members of the two Houses of Congress, I would like any member of the Senate to point out the agent. I think it is probable that his success in this measure would have been greater if he had been willing to employ agents whose influence is felt here. I believe he never employed one. He has been his own lobby member. He has stated his case, and I think fairly, to gentlemen, and certainly very fully, and apparently without any desire to conceal anything which any gentleman has desired to know from him. I have no doubt that the influences to which the Senator from Arkansas has alluded have been arrayed against him, and his success would have been vastly promoted if he had entered into the system which we all deem so odious. I think it will be an advantage to the public service to purchase this building. I think it will be worth all that will be given for it. But it has been discussed over and over again, and I will not consume the time of the Senate by further remarking upon it.

Mr. WALKER. I have all along joined the Senator from Arkansas in making opposition to this purchase, but now let me call his attention to some facts. I believe there is an item in this appropriation bill of $21,000 rent for this building. That, in ten years will amount to $210,000—ten thousand more than it is now proposed to pay for the property. Has he, or has anybody else, the hope that we will within that time place ourselves in a situation to dispense with the use of the building? If he has, I have no such hope.

Mr. HALE. I would ask of the honorable Senator whether, for the rent of $21,000, the building is not also kept in repairs, &c.?

Mr. WALKER. Suppose it does. In that length of time the rent paid will amount to $10,000 more than it is proposed to pay for the building. At six per cent., the annual rent is the interest upon $350,000. At the end of ten years we will have paid more than is proposed to be given for the building, and the building will still be Mr. Winder's. Why he proposes to sell it at this rate is a mystery to me, unless he is involved, so that he is obliged to get money in a lump. There is no such property that I know of anywhere in the country. It is paying an enormous rent. The interest of $350,000 will be paid him for ten years to come if we continue to rent the building, and the property will still be his.

But there is another consideration changing my course in this matter. The other day I made an effort to secure to the patentees of the country the use of their Patent Office. Accessory in securing that I think will be the obtaining of this building. Without it, we will certainly have one Department of the Government turned into the Patent Office. With it, perhaps, we can save that as an exhibition room to the patentees of the country. Upon these grounds, I am disposed to do what I have never before done, vote to buy this building rather than to go on paying as rent more than the value of it, and not have it at last.

Mr. HALE's amendment to the amendment was rejected; there being on a division—ayes 14, noes not counted.

Mr. CLARKE. I would have been willing to let this amendment pass if the amount of $200,000 had been stricken out, but as it is left in I feel myself bound to say something upon it.

I think the building will not be of much use to the United States. In the first place, I believe it is a very slightly-constructed building, and that its location and accommodations are not such as to render it useful for public offices. The honorable Senator from Wisconsin has said that the Patent Office should be exclusively used for the exhibition of models. Sir, I agree with him that so much of the building as is wanted should be used for patentees and their models; but when you come to extend the western wing and get into the eastern wing, you will find that there is plenty of room for the patentees and their models, and for other offices of the Government that are now placed in this Winder building. I ask any gentleman whether it is proper that the office of the Secretary of the Interior should be in a hired building in this city, when you have an opportunity to build one, such as the honorable Senator from Arkansas says should be built—one suitable to the purpose and comporting with the dignity of the United States? I do object to this building on account of its unsuitableness and its unfitness for public offices. The gentleman gets up here and makes a statement in regard to the question of interest with the United States. Sir, we all know that repairs, &c., connected with the building render it necessary that the rent should be high. But I was willing to agree that the President of the United States might appoint persons to appraise the building, if Mr. Winder chose to sell it to the United States on their appraisal; but when you come to place the sum of $200,000, it is certain that that will be the sum for which it will be sold; and I am unwilling to vote for it.

Mr. BORLAND called for the yeas and nays on the amendment; and they were ordered; and being taken, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Badger, Bell, Bradbury, Bright, Butler, Charlton, Cooper, Dawson, Downs, Gwin, James, Jones of Iowa, Mason, Morton, Pearce, Phelps, Seward, Smith, Wade, Walker, and Weller—21.

NAYS—Messrs. Adams, Atchison, Bayard, Borland, Cass, Chase, Clarke, Davis, De Saussure, Douglas, Felch, Fish, Fitzpatrick, Foot, Geyer, Hale, Houston, Hunter, Mallory, Norris, Pettit, Pratt, Rusk, Sebastian, Shields, Spruance, Sumner, Toucey, and Underwood—29.

So the amendment was rejected.

Mr. DOWNS. The Committee on the Judiciary have instructed me to offer the following amendment:

And be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and required to purchase of Thomas Cowperthwaite & Company, of Philadelphia, or from any person or persons, if the same can be had on better terms, five hundred copies of the Decisions of the Supreme Court of the United States, as contained in six volumes of Peters's Condensed Reports, and sixteen volumes subsequent thereto, of the same reporter, at a price not exceeding $62 per copy, and likewise five hundred copies of the first thirteen volumes of Howard's Reports, being a continuation of the Reports of said reporter to the end of the last term; and also, until Congress shall otherwise direct, five hundred copies of each succeeding volume of the decisions of said court, at a price not exceeding $2 82 for Howard's Reports, and such subsequent reports, and pay for the same out of any money in the Treasury not otherwise appropriated. And it shall be the duty of the said Secretary, immediately after the reception of said reports, to forward to the Governor of each State and Territory, four copies; one copy for the State library; one for the use of the Executive; one for the use of the Legislature, and one for the use of the courts of the States and Territories respectively, unless the Legislatures thereof shall deem it necessary and proper to make a different distribution. And in addition to the copies aforesaid, there shall be forwarded to the Governor of each State and Territory a number of copies of said reports equal to the number of representatives of said States and Territories in both Houses of Congress, to be distributed as the Legislatures of said States and Territories shall respectively determine; and the remainder of the said five hundred copies shall be deposited in the Department of State for distribution in conformity with existing laws, or for such other purpose as may be deemed expedient by the Secretary of State, the residue, if any, after such distribution, to await the further action of Congress.

Mr. HUNTER. I am afraid that, by the time this bill reaches the House, two days will hardly suffice to read it. If we put on so many things it will be impossible that they can be attended to by the House. I am afraid we shall lose all our amendments.

Mr. DOWNS. I will make a very brief explanation of this amendment.

Mr. HUNTER. I am not now objecting as to the merit of the proposition, but to the risk of losing the amendments which we are under if we go on adding section after section.

Mr. DOWNS. The Secretary of State has written a letter to the Committee on the Judiciary requesting the additional copies of the reports, the purchase of a certain number of copies of which is already provided for. On considering the subject, the committee, under all the circumstances, thought it better to adopt the bill which was reported from the committee some time ago, and passed the Senate but did not pass the House, providing for the purchase of five hundred copies, to be distributed as mentioned. It is certainly very urgent. The expense is small, and it is certainly desirable to have these valuable reports.

Mr. BUTLER. It may not perhaps be very urgent, but it is desirable. It seems to me that it is but comity to yield to the request of the Secretary of State. He says there are not a sufficient number of copies in the Departments to answer the demands. Therefore I think it is reasonable that we should pass the amendment.

Mr. PETTIT called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 28, nays 17; as follows:

YEAS—Messrs. Badger, Bayard, Bradbury, Bright, Butler, Cass, Charlton, Clarke, Cooper, De Saussure, Downs, Felch, Fish, Foot, Geyer, Gwin, Mallory, Mason, Miller, Phelps, Pratt, Rusk, Seward, Smith, Spruance, Sumner, Underwood, and Weller—28.

NAYS—Messrs. Adams, Atchison, Borland, Brodhead, Chase, Davis, Douglas, Fitzpatrick, Houston, Hunter, Jones of Iowa, Morton, Pearce, Pettit, Toucey, Wade, and Walker—17.

So the amendment was agreed to.

Mr. DOWNS. I submit the following amendment:

And provided further, That in lieu of issuing patents to the several States for land granted in aid of internal improvements in all cases where the issuing of patents is not required by law, the certificates issued or to be issued by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, in pursuance of the several acts making such grants, shall, in all respects, have the same effect as though a patent were issued for said land.

Mr. WALKER. I should like to have some explanation of that.

Mr. DOWNS. In the various bills that have passed granting lands to the States for railroads and other purposes, there is no provision for issuing a patent merely by direction or order of the head of the Department. I am told in some of the States that it has been a matter of judicial investigation, and there is reason why this provision should be adopted. It is recommended by the Commissioner of the General Land Office, and the amendment proposes to make the selection tantamount to a patent.

Mr. BORLAND. I desire to inquire of the Senator whether this applies to swamp lands as well as lands granted for internal improvements?

Mr. DOWNS. It does. I have a provision inserted in it for that purpose.

Mr. BORLAND. Then I think it is proper. I do not think it is necessary for a State to wait for a patent, but that the selection under the grant ought to be sufficient.

The amendment was agreed to.

Mr. WELLER. I move to add at the end of the clause making provision for the salaries and incidental expenses of the commission for settling land claims in California the following:

Provided, further, That out of said sum herein appropriated there shall be paid to the commissioners appointed under the act March 3, 1851, the sum of $8,000 in lieu of the compensation heretofore allowed.

The amendment was agreed to.

Mr. WELLER. I move to amend the bill by adding the following:

That the Secretary of the Interior is hereby authorized to adjust the accounts and pay to the respective census agents in California, at the rate of compensation which, upon satisfactory proofs of their services, he may consider just and equitable, out of any moneys heretofore appropriated for the taking of the Seventh Census, and to pay for those returns which were accidentally destroyed before reaching the Census Office as if they had been regularly returned.

Mr. HUNTER. That should be more specific, and some limit put upon the allowance. We should not leave everything to the discretion of the Secretary—the compensation of the officers, and everything else.

Mr. WELLER. The limit is found in the appropriation heretofore made, and all the authority given by the amendment is to the Secretary of the Interior to adjust the accounts upon principles of equity. As a matter of course, the taking of the census was necessarily more expensive in California than elsewhere; and upon their producing satisfactory proof of this unusual expense—I speak of their being unusual, for they were not so elsewhere—he shall be authorized to allow these men accordingly. Some returns were consumed by fire, and therefore the agents in taking the census were precluded from making their returns to the office. I think justice requires that they should be paid, as they had used every means in their power to comply with the requisition of the law. So far as it goes, it is simply to give the authority to the Secretary of the Interior to settle with these men upon principles of equity.

Mr. DAVIS. I desire to ask the Senator if these men have not received the ordinary pay?

Mr. WELLER. It will exceed the ordinary pay to agents who have taken the census elsewhere.

Mr. DAVIS. That is not the question. Have they not received the pay allowed by law?

Mr. WELLER. They have not. The Secretary of the Interior is not authorized to allow them more than was fixed for the taking of the census elsewhere.

Mr. DAVIS. Has he allowed that?

Mr. WELLER. Yes, sir.

Mr. DAVIS. Now, I suppose there were hundreds of petitions presented here at the last session from marshals and assistant marshals, asking for an increase of compensation in all parts of the country, and it would seem to be reasonable if we increase the compensation in California, that it should be increased elsewhere. It seems to me we are not prepared to go into this matter. There were many hundreds of petitions presented here at the last session for increased compensation.

Mr. GWIN. I will make a single remark in regard to this matter. There is a misunderstanding between the Secretary of the Interior and those who drafted the law allowing additional compensation in California and New Mexico. The Secretary did not put the same construction upon the law that the Senator from Kentucky [Mr. UNDERWOOD] did; and it is owing to that cause that we got the census taken in California very imperfectly. The limitation was taken off because the Secretary placed a different construction upon the law from that intended by those who drafted it. When the provision of the law to which I allude went out—although no money was sent on to pay the agents—they went on and took the census. There is one gentleman, to my own knowledge, who has spent $700, and whose remuneration, according to the estimate of the Secretary of the Interior, is only $500. It is because of the interpretation which is placed upon the law by the Secretary of the Interior, that it is necessary to pass the amendment. The Senator from Kentucky informed me at the time when I complained of the census being taken there, owing to a defect in the law, that it was a defect in the interpretation of the law; that the law gave full authority to increase the compensation of those agents; and, under the belief that the authority was given them, they took the census, and have not been paid for it.

Mr. UNDERWOOD. A rule which was applied to all other parts, never did apply to California. If you will examine the act upon the subject it will be found, as far as the English language can make it,—and I so informed my friend from California when in conversation with him last session on the subject,—that the rule adjusted by the square root [laughter] in reference to other portions of the United States did not apply to California. Because of the currency, and because of the circumstances which existed in that portion of the United States, the Secretary of the Interior was authorized to give a reasonable compensation for taking the census in California. That is the law. I do not know that we can go into it now, because it would be necessary to see what the Secretary has done, and what contracts he made. He had a right to make contracts for the doing of this business in California, and I should like to know what contracts he did make, whom he employed, and what he agreed to pay. These things are necessary in order to enable us to act upon it, and it seems to me that it cannot be done well now.

Mr. HUNTER. I hope we will not bring any controverted questions up now. We must get through this bill to-night.

Mr. GWIN. This is brought forward on the express recommendation of the Secretary of the Interior. He sent the amendment to the Finance Committee, but that committee had not time to act upon it, and my colleague offers it on that account. The object is to authorize the Secretary of the Interior to do precisely what the Senator from Kentucky says he was authorized to do. The parties with whom the contracts were made went on under the belief that we would give them a reasonable compensation. They made their accounts out, and not one of them has got the money which he expended originally in taking the census, because the Secretary puts a limitation upon the law that those who drew the law never did.

The question being taken on the amendment, there were, on a division—ayes 18, noes 18.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair votes in the affirmative. The amendment is therefore agreed to.

Mr. HUNTER. I should like to have a recount.

Mr. CLARKE. I ask for the yeas and nays.

Mr. WELLER. It is too late; the result has been announced.

The PRESIDING OFFICER. The vote stood 18 ayes to 18 noes, not counting the vote of the Chair. The Chair voted "aye," which made the result 19 ayes, 18 noes. Of course the amendment is carried.

Mr. HUNTER. The Chair had no right to vote after announcing the count.

The PRESIDING OFFICER. The Chair did not announce the result. It announced 18 ayes and 18 noes; and that the Chair voted in the affirmative.

Mr. BORLAND. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. The result has been announced.

Mr. HALE. I rise to a question of order on this point. When our Presiding Officer is the Vice President of the United States, he, not being a member of the body, is empowered by the Constitution to reserve his vote to the last, and decide a question when it is a tie vote; but when the Presiding Officer is one of our own members, if he means to vote, he must vote with the other members when his name is called, and he cannot reserve his vote to decide a question. That is the point of order which I raise.

The PRESIDING OFFICER. The Chair overrules the point of order.

Mr. CLARKE. I ask, then, that the vote may be taken over again.

Mr. WELLER. That cannot be done.

The PRESIDING OFFICER. By common consent, the Chair will put the question again.

Mr. WELLER and Mr. GWIN objected.

Mr. CHASE. There was obviously a misunderstanding of the question. I voted in the affirmative, and I therefore move a reconsideration.

The motion to reconsider was agreed to, and the question recurred upon the amendment.

Mr. RUSK. The objection which I have to this amendment is, that if we grant the additional compensation to California, it will be setting a precedent for other States. There has been an application, I venture to say, for additional compensation from every State in the Union. Now, it will not be a fair proceeding to give to one and not to all.

Mr. GWIN. The restriction was taken off in those States.

Mr. WALKER. I differ from the Senator from Texas. I do not think the other States stand in the same category with the State of California. In the other States the census was taken in a way which was satisfactory, and the apportionment of their Representatives in the other branch of Congress was made upon it. I differ from the Senator from California in this, that I think the last State which ought to have an extra compensation is California, for it was claimed by her representatives upon this floor that the census was taken erroneously, so that the Senate was induced to give an extra member of Congress upon a guess. Now, if that great amount of erroneousness in taking the census actually obtained, I cannot see that there was as much merit on the part of its officers as in other States. I cannot see why we are asked to give extra compensation to them. It was claimed by her own representatives that her census had been most imperfectly taken, that the agents did not discharge their duty, and I can see no merit in the proposition; consequently other States merit the extra compensation if these agents do. If this is agreed to, I shall feel myself bound to offer an amendment in regard to the census-takers in Wisconsin.

Mr. WELLER. There is no doubt that the census was imperfectly taken in California by the agents of the Federal Government. It is also equally true that there were some gentlemen who were engaged in taking the census who performed their duties faithfully. Now, they are not asking anything in the shape of liberality from Congress. The utmost they are expecting from the Government, is to be reimbursed for the money that they have actually expended in taking the census. Every man who knows anything of California, knows that it took at least five dollars a day to hire a mule to ride over that country. There was an extraordinary expenditure of course, and it is that extraordinary expenditure which makes California an exception to the rule which should govern other States in taking the census. So far as I know these gentlemen who have been engaged in taking the census, the utmost that any one expects under this provision, is to get the money that he has actually expended in discharging the duties imposed upon him.

Mr. GWIN. That is all.

Mr. WELLER. I have no feeling about this matter at all, and if I were not satisfied in my conscience that these men were laboring now only to get what they have expended in their attempts to take the census, I would not ask for it.

Mr. UNDERWOOD. What documents have we to show what was expended, and how it was expended?

Mr. WELLER. They will no doubt be required, under the amendment, to produce their accounts to the Secretary of the Interior before they are audited. My colleague and myself can supervise these accounts, if necessary, and we will be enabled to inform the Secretary of the Interior what was the reasonable expense of taking the census.

Mr. BAYARD. I can see no reason for referring the adjustment of the accounts of the marshals and assistant marshals in California to a different tribunal from that which is to determine upon the accounts of other marshals and assistant marshals throughout the country. It is perfectly within the knowledge of the Senate that a vast variety of petitions from every State in the Union were presented to the Senate at the last session upon this subject. They were referred to the Committee on Claims. After a full investigation that committee reported against any additional allowance to the marshals, with a single exception. In a particular case, the party made out a specific case of positive loss and additional expenditure connected with the performance of his duties, which did not attach to the general performance of his duties. We further ascertained in reference to these allowances that they averaged in different States not less than from five to six dollars a day, and in some the allowance exceeded eight dollars

a day for the time the parties were occupied. As regards this proposition, my objection to it is, that it proposes a mode of allowance which has been rejected by the Committee on Claims and by the Senate in reference to other officers of the same class throughout the Union. I can see no reason for it myself, especially when we have the undoubted fact that a great number, at least, of the officers in California did not perform their duties at all. Who is to distinguish as to that, and why should not these persons who claim increased compensation come here as others have done, present their claims, ask for increased compensation, and give the reason why it should be allowed? I am not disposed to delegate the investigation of these accounts in favor of the marshals of California differently from the course pursued in reference to other assistant marshals throughout the country.

Mr. UNDERWOOD. I desire to state to the Senate, that the committee upon the subject of the census, in providing the compensation for assistant marshals regulated it in such a way, by mathematical principles, that they were allowed, according to their industry, from three to four dollars per day, and that they did make.

Mr. BAYARD. The sums which some of them made exceed that.

Mr. UNDERWOOD. They made more than that; but the committee is perfectly satisfied that that could be made, and we adopted a uniform rule with reference to the States on this side of the Territories. Here is the law in regard to California:

"*Be it enacted, &c.*, That the Secretary of the Interior be, and he is hereby, authorized to increase the compensation allowed to marshals or agents and their assistants for taking the Seventh Census in California, Oregon, and New Mexico, so as to secure the prompt and faithful execution of the work."

We adopted the same rule in reference to all except these Territories; but the committee, in consideration of the difficulties, and the currency there, which did not apply east of those Territories, allowed such additional compensation to be made as the Secretary of the Interior might think proper. It cannot be plainer than that. I do not see how we can settle the matter now unless we know what the Secretary of the Interior has allowed, and then let them present their claims for additional allowances like the claims of other persons.

Mr. BAYARD. If that argument be true this amendment is needless. If the law which the Senator from Kentucky has read, applied to the previous ascertainment of the sum which was to be paid to the marshals of California, it is unnecessary for them to come here to get rid of that by a special amendment. I do not know why they should not present the special petitions, and have them investigated in the ordinary course of proceeding of the Senate, instead of attaching an amendment to an appropriation bill to refer the adjustment of their claims to a different authority.

Mr. GWIN. There is one class of claims proposed to be provided for here against which not a word can be said. A large amount of the returns were burnt, and the agent who made them has not got a cent, and he cannot get anything because the returns were burnt. That is the reason we could not get the returns of the county of San Francisco.

Mr. BAYARD. Whenever the amendment relates to that alone, it will be time enough to discuss it. But I should presume that when the injury to a party arises from an accident of that kind, the proper course is to present a petition to the Senate, as in other cases, and have his claim adjudicated.

Mr. ADAMS. I desire to make one suggestion to the Senator from California. This amendment is only the repetition of the law under which they acted, with the exception of the case in which the returns were burnt.

Mr. BAYARD. Then it is useless.

Mr. WELLER. Not at all, because the law is overruled. This amendment prescribes a rule according to principles of equity upon their producing satisfactory proof; and the law provides no rule by which the Secretary of the Interior shall adjudicate them. The amendment does.

The amendment was rejected; there being on a division—ayes 13, noes 25.

Mr. WELLER. I offer the following amendment:

That the sum of $650 be appropriated, out of any money in the Treasury not otherwise appropriated, to be paid in proper proportion to the engravers in the United States Coast Survey Department, at Washington, as compensation, in lieu of the extra percentage granted at the last session of Congress to the clerks in that and the different Departments of the Government in Washington.

Mr. HUNTER. Is not that a private claim?

Mr. WELLER. No, sir. The only object is to put the engravers in the Coast Survey upon an equal footing with the clerks there. These men were all salaried officers. They use the graver instead of the pen. I know of no reason why there should be a discrimination against them. The only effect of the amendment is to put the engravers engaged in the Coast Survey upon an equal footing with the clerks.

The PRESIDING OFFICER. The Chair is of opinion that it is not in order.

Mr. HUNTER. I have some more amendments from the Committee on Finance. The first is to insert the following in the bill:

To supply the deficiency and defray the expenses of the select committees appointed by the Senate, $18,000.

Mr. BUTLER. What is that?

Mr. HUNTER. This is a deficiency in the contingent expenses of the Senate for various select committees of investigation.

Mr. CLARKE. I should like to know what that is for?

Mr. WELLER. I should like to have some explanation of it.

Mr. HUNTER. Five thousand dollars of it is for the committee of which the honorable Senator from California [Mr. WELLER] is chairman; $10,000 for the committee of which the Senator from Louisiana [Mr. SOULE] is chairman; and $1,000 of it is for the committee of which the Senator from Texas [Mr. HOUSTON] is chairman. It is founded on letters from those gentlemen. I should have thought that the Senator from California would not have needed an explanation of the amendment.

Mr. WELLER. I understood the amendment, but I was not sure that the Senator from Virginia himself understood it.

Mr. BAYARD. A part of that I have no doubt arises from the committee on Mexican claims. It become necessary, as they supposed, in the performance of their duty, that they should appoint a commission to go to Mexico to ascertain certain facts, the result of which will appear hereafter. That commission necessarily embodied large expenditures, because it required men of high character and standing, so as to carry conviction to the country of the true performance of duties. That is one item that enters largely into this increase of the expenses.

Mr. BUTLER. Do I understand that this is to appropriate money to indemnify the committees for their expenses?

Mr. SOULE. Not at all. The expense is incurred by the committees, with a view to carry out the object for which they were raised. It is not at all for any compensation to the members of the committees.

Mr. BUTLER. I did not speak of that.

Mr. SOULE. The expenditure is necessary to carry out the objects for which the committees were raised.

Mr. BUTLER. I suppose it is all right if my friend says so; but I do say it is a very curious mode of proceeding.

Mr. CLARKE. I cannot say that it is all right. A large portion of this arises, as the Senator from Delaware has said, from the commission to Mexico. What has been paid? How many have been sent? There have been four commissioners sent to Mexico.

Mr. SOULE. Five.

Mr. CLARKE. Well, five have been sent to ascertain whether Dr. Gardiner had or had not any mines in Mexico. I believe I have seen it in a paper somewhere, that it was proposed to pay the individual at the head of that commission $4,000 for three months' service, with all his expenses, and $2,000 to the other members of the commission, in addition to all their expenses. I beg the Senate to understand before they act blindly upon this. I think that pretty good pay. I would rather be in that position than on the committee, with such pay. We should understand the items which make it necessary to have the appropriation made.

Mr. BAYARD. If there is such a want of faith on the part of the Senate in the committees which it appoints, that it is necessary to go into the items, be it so. So far as I am a member of any committee, I am perfectly willing that a full investigation and publication shall be made of every payment to which I have been a party, every sum which I have ordered to be disbursed. And allow me to say to the Senator from Rhode Island, that I think, in the particular case to which he refers, he would rather have accepted the compensation than performed the duty. There was no little risk as well as no little responsibility incurred in the performance of that duty.

Mr. SOULE. I am somewhat surprised, Mr. President, that the objection which is interposed to the additional section upon your table should proceed from the quarter in which it has originated. The Senator from Rhode Island was one of the committee intrusted with the confidence and authority of the Senate, and had he been a regular attendant on its sittings, he would have known a great deal more than he seems to know of its labors and of the measures which have rendered necessary the expenses to which he objects. The committee, in the discharge of the high trust reposed in them, deemed advisable to organize a commission and to direct a thorough and full inquiry into matters connected with frauds charged against certain claimants before the late board organized under the treaty of Guadalupe Hidalgo. That commission proceeded to Mexico, and had to perform important and arduous duty, which will result in bringing to light a mass of information seldom if ever obtained in cases of so intricate a nature as those submitted to its investigation. What the bearing of that information may be, it is not for me to say. Considerations of public interest require that it should remain sealed in secrecy until a judicial investigation, now going on in the courts of this District, shall have been disposed of. I will, however, presume to assert, that whatever expenditure may have been incurred by the prosecution of the great objects which the committee had in view to attain, it will not be found misapplied when the result of their labor shall be made known to the public. The honorable Senator from Rhode Island should have been the last to question the prudence and reserve of the committee in whatever disbursements they may have had to make of the public moneys. The Senate, I feel assured, will find eventually that neither its confidence has been misplaced nor its authority abused.

Mr. CLARKE. The honorable Senator alludes to my not attending on the business of the committee. I know that he has been very active. My own engagements have prevented me from taking as much part in the labors of that committee as perhaps I was bound to do. I know that their investigations have extended to various subjects, but there has been no report made to the Senate, except it is a recommendation of the proposition that this amount of money be appropriated for the five commissioners who were appointed by the committee, who went out for the purpose of ascertaining what was the position of the mines which Dr. Gardiner had claimed. It struck me that that appropriation was large. It struck me that the amount allowed to these men, particularly to the gentleman at the head of the commission, was very large for the services required to be performed, not extending beyond three months—$4,000 for the gentleman at the head of the commission, and $2,000 for each of the others. I do not desire, by any means, to be understood as intimating that the investigation of that committee may not be of the utmost importance to the country. I do believe, from the evidence that I have seen, that there has been, if not a fraud, an attempted fraud, that requires the consideration of the country in regard to the men who have committed it, acting under the official character which they possessed, as officers of the United States. If the Senator from Louisiana supposes that the salaries that have been paid, or the amounts granted, are right, I am perfectly willing to put off any particular individual objection I may have to it, although at the same time no report has been made, and the Senate knows nothing about what that committee has done, and the appropriation is very large to defray the expenditure.

Mr. SOULE. I have already intimated that considerations of public interest would induce the committee to withhold their report, until a certain

indictment, now pending before the tribunal of the District, should be disposed of. The committee do not feel at liberty to let at present anything transpire of what has been elicited by the investigation they have gone into, and by the labors of the commission they sent to Mexico to elucidate what of truth or fiction there might be in the stupendous charges made against certain persons, whose claims were liquidated by the late commission on Mexican claims. But they hesitate not to say, that such light will be thrown on the matters submitted to their consideration, as will allow no doubt to hang over the mind of the most skeptical.

Mr. BORLAND. I merely wish to say that it would be an extraordinary proceeding indeed on the part of the Senate, to appoint a select committee to investigate matters of public interest, and then withhold the necessary appropriation to defray their expenses.

The amendment was agreed to.

Mr. HUNTER. The Committee on Finance has instructed me to report the following amendment:

And be it further enacted, That whenever the land office at Pontotoc, Mississippi, shall be discontinued, the records on file there shall be placed in the possession of the clerk of the United States district court for the northern district of Mississippi, who is hereby made keeper of the same, and authorized to perform any of the duties now conferred upon the register and receiver, and shall receive for his service therefor a sum not exceeding $500 per annum.

That is an amendment which the Senator from Mississippi can explain.

Several SENATORS. It is all right.

The amendment was agreed to.

Mr. HUNTER. I have two more amendments to offer from the committee, and that is all I shall offer:

To supply the deficiency for the purchase of trees and the compensation of laborers on the improvements of reservation number two, or public mall between Seventh and Twelth streets west, $5,276 52.

The amendment was agreed to.

Mr. HUNTER. The last amendment which I have is as follows:

For the erection, under the direction of the Secretary of the Treasury, at the port of New Haven, Connecticut, of a fire-proof custom-house, with suitable rooms therein for the accommodation of the United States courts, and also rooms in which shall be kept the post office of said city, the expense of said building and site therefor not to exceed the sum hereby appropriated, $75,000: *Provided*, That the Legislature of the State of Connecticut shall exempt the said building from taxation.

Mr. BAYARD. I move to amend the amendment by adding to it the following:

For the construction of the custom-house at Wilmington, Delaware, in addition to the sum appropriated by the act of the 31st August, 1852, $3,500.

That amendment is founded upon the estimate of the Department. An appropriation was made at the last session of Congress of $25,000, for the construction of a custom-house at Wilmington, which was to include in it the post office, and also the court-room. Since they have ascertained the cost of the site, which has been agreed upon, the Secretary found that the sum is not sufficient to complete the building, as a fire-proof building, by some $3,500, and he has recommended the appropriation of an additionul sum to that amount for the completion of the building. The recommendation, owing to an accident, did not go into the House of Representatives before this bill was reported by the committee there, and it came in subsequently to the amendments which the honorable chairman of the Committee on Finance has reported to that committee. I offer it now with his approval, and founded on the estimates.

The amendment to the amendment was agreed to.

The question then recurred on the amendment as amended, and it was agreed to.

Mr. PEARCE. The Committee on Finance have instructed me to move to amend the bill in the clause for compensation of the Auxiliary Guard, and for fuel, and oil for lamps, $14,800, by striking out "$14,800" and inserting "$16,400," and adding:

And each of the Auxiliary Guard shall hereafter receive the same annual compensation, to wit: $500 per annum.

Last year the salary of sixteen of the Auxiliary Guard was increased to $500; the salary of the others was left at $420. The object of the amendment is to put them all on the same footing.

The amendment was agreed to.

Mr. DAVIS. I move to amend the bill by adding the following:

And be it further enacted, That, whenever the President of the United States shall receive satisfactory evidence that the fishermen and fishing vessels of the United States are admitted to the common rights and privileges of British subjects resident in the British North American Provinces of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and New Foundland, to fish in the waters thereof, together with the right upon water and land, of curing and preparing for market, and selling there, the fish so taken and the oil made therefrom, then he shall issue his proclamation authorizing the fishermen resident in any of said Provinces, and the fishing vessels thereto belonging, to enjoy like privileges in the waters of the United States, together with the privilege to such vessels and fishermen to enter into the ports of entry of the United States, and to make sale of the fish taken in any of the waters aforesaid, or the oil made therefrom, upon payment of the same duties which are or shall be exacted by law of fishing vessels of the United States: *Provided*, That nothing herein contained shall authorize fishing vessels of one of the countries aforesaid to participate in the river fisheries of the other; nor shall anything herein contained authorize any interference with private rights of fishery, or private rights of property, without agreement.

I wish to say to the Senate that this embraces a proposition to Great Britain in regard to the fisheries. It is designed to settle that vexed and troublesome question which has been in negotiation, and has not been brought to an issue. It is a perfectly reciprocal proposition, authorizing the President of the United States, whenever he shall receive information that the fishermen and fishing vessels of the United States are admitted to the same privileges in the waters of those five North American Provinces as the vessels and fishermen resident there, then he may admit them to the same privileges in any of the waters of the United States, and that the markets of the two countries shall be open to each other the same as they are to their own citizens. And now I wish to say to gentlemen that this is a graver question than perhaps many suppose. I wish to say, and to say it in all sincerity, that if there is to be a reënactment of the events this coming season which occurred last year, I fear there is not patience sufficient to bear them. I think I know something of these fishermen, and I certainly believe they are men of resolution, of fortitude, who believe they understand their rights, and will if necessary vindicate them. And now, sir, I tell you there will be a collision there, unless there are some measures taken to adjust the controversy. The fishermen will go prepared for such an event; and I will venture to predict that the month of September will not pass without a conflict and collision, unless the question is in a train of adjustment, or the English forbear to exercise a petty, vexatious, and irritating supervision. This is simply a proposition of entire reciprocity upon this question alone.

Mr. HUNTER. Is this amendment in order?

The PRESIDING OFFICER. It contains no appropriation.

Mr. GWIN. I offer an amendment to that amendment by way of an additional section:

That upon satisfactory evidence being given to the President of the United States, that any of the Governments of the continent of North or South America has, by law or other proper effective public act, agreed to admit ships or vessels, the produce and manufactures of the United States, free of duty or charge, the President be, and he is hereby, authorized and directed to issue his proclamation thereon, and to give notice that so long as said privilege be continued to such ships or vessels, produce and manufactures, a like reciprocal privilege shall be allowed or given to the ships or vessels, produce and manufactures of said State or States, as to the ports of the United States, any law to the contrary notwithstanding; and such proclamation shall have the force and effect of suspending such laws so long as said privilege be extended to the ships or vessels, produce and manufactures of the United States, by such State aforesaid.

Mr. DAVIS. All I have to say is, that such an amendment, which I think designed to defeat my amendment, will not be adopted.

Mr. GWIN. I will explain my amendment presently; but the Senator from Florida wishes to offer another amendment which should come in before it. I therefore withdraw my amendment to give him that opportunity.

Mr. MALLORY. I move to amend the amendment by adding to it the following:

That nothing in this act shall be construed to authorize or allow any foreign vessel whatever, or any subject or citizen of any foreign Power, to fish within the waters appurtenant to and within the jurisdiction of any State, contrary to the laws of such State, or to authorize or allow the bringing within such waters and jurisdiction of any State, any person or persons, whether comprising the company or the crew of such vessel or others, contrary to the laws of such State

Mr. President, when the Senator from Massachusetts called up this bill on the fisheries a few days ago, and remarked that its consideration would occupy but a few moments of our time, he disclosed to me at once that its provisions were regarded by him in a light very different from that in which they presented themselves to my mind. Its consideration was deferred to enable me to offer an amendment, which was presented on the following day. I sincerely regret that any delay should have resulted, for I well understand the expediency of prompt action upon this subject, and appreciate all that he has so forcibly said. A proper regard not only for the pecuniary interest of the vast capital embarked in our northern fisheries, but for the safety of our fishermen and the maintenance of the friendly relations which exist between us and the British North American Provinces, demand prompt and prudent action; and I will vote cheerfully with that Senator for any measure which his superior wisdom and information may deem proper.

But in saying this I desire to remind him, and to remind the Senate, too, that there are other and higher considerations involved in this bill—considerations far above all pecuniary interest—which must control my action. I desire to call the attention of the Senate, and particularly of those honorable Senators to whose views upon the rights of the States I have listened with pleasure, to the political heresy which this bill involves.

It empowers the President of the United States to authorize by proclamation the vessels of the British northern provinces, with their crews, to fish in the waters and on the land, and to catch and cure fish on the waters and the land of the States of this Union, whenever he shall learn that such privileges are granted by said provinces to our fishermen.

This certainly is a most extraordinary stride in the political doctrines of the day. I have heard some strange propositions advanced in this Chamber, but none which I regard as more odious than this.

I ask the honorable Senator from Massachusetts from whence the General Government derives this right to cede to a foreign Power the property of the States in their own fisheries? By what authority does he pretend to admit foreign vessels and crews not only within the waters and jurisdiction of a State, to take fish which belong exclusively to the State, but to legislate them on the land, and within the body of the county of a State? Where is his authority for usurping the rights which the States have never surrendered, and conferring them upon a foreign Government?

Mr. DAVIS. I do not propose any such thing.

Mr. MALLORY. We shall see. This is the bill:

A BILL to regulate the rights of fishing and the rights of disposing of the proceeds of the fisheries in and between the British North American Provinces and the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the President of the United States shall receive satisfactory evidence that the fishermen and fishing vessels of the United States are admitted to the common rights and privileges of British subjects resident in the British North American provinces of Canada, New Brunswick, Nova Scotia, Prince Edward's Island, and Newfoundland, to fish in the waters thereof and adjacent thereto, together with the right of curing [and] *upon the water and the land*, preparing for the market, *and selling therein*, the proceeds of such fisheries, [both upon the water and the land,] then he shall issue his proclamation authorizing the fishermen resident in said North American provinces, *and fishing vessels of said provinces to enjoy like privileges in the waters of the United States*, together with the privilege of entering the ports of entry in the United States, and making sale of fish and the proceeds of [the fisheries] *fishing* upon the payment of the same duties which are required by law of the fishing vessels and their cargoes belonging to the United States: *Provided*, That nothing herein contained shall affect *private rights of fishing*, or give any right to occupy private property except upon agreement.

Sir, the States of this Union are sovereign, and possess and enjoy all the rights and prerogatives of sovereignties, except only such as they have expressly delegated to the General Government for the common benefit of all the States. As sovereign States anterior to the formation of the Constitution, their jurisdiction extended not only over their rivers, lakes, harbors, and bays, but over all the seas adjacent and appurtenant to their shores.

It is unnecessary to determine the precise extent of this jurisdiction; but I am unwilling, by any word of assent, to confine it to a marine

league. Independent States have ever claimed and exercised jurisdiction over the sea appurtenant and adjacent to their shores; and it is only since the invention of cannon that writers upon national law have confined it to a marine league. The philosophy of this modern rule is, that this is the extent of a cannon's reach upon the sea, and the limit, therefore, of the power of the States, from the shore over the sea.

But when the reason of the law no longer exists, the law must accommodate itself to the change; and now that the guns of our country tell from the shore six miles upon the sea, it would, in my judgment be unwise gratuitously to limit their power to three miles. I say thus much upon this point, sir, to show that in speaking of our territorial jurisdiction of a marine league, I do not admit the correctness of this modern doctrine; and to contend that the true and ancient rule upon the subject is, that it extends over the adjacent seas just as far as we can maintain it from the shore, whatever that distance may be. Improvements in the projectiles of warfare may enable us as completely to command the seas upon our coasts ten miles as three miles from our shores; and it is inexpedient to throw away such advantages by gratuitous legislation.

Possessing as independent States this jurisdiction over their bays, harbors, and adjacent seas, they possessed the absolute and exclusive right to all the fisheries therein.

This right was vested in the Crown of Great Britain until our Revolution; and in the language of Chief Justice Taney, (Martin *vs.* Waddell, 16 *Peters, S. C. R.*, 410:)

"*When the Revolution took place, the people of each State became themselves sovereign; and in that right hold* the absolute right to all their navigable waters and the soils under them for their own common use, subject only to the rights surrendered by the Constitution to the General Government."

The right of a State to the fisheries in its adjacent waters is clearly established by leading writers upon international law.

Vattel says, (*Book* 1, *ch.* 23, *p.* 187:)

"The various uses of the sea near its coast, render it very susceptible of property. People there fish and draw from thence shells, pearls, amber, &c. The nation to whom the coasts belong, may appropriate to itself an advantage which it is considered as having taken possession of, and made a profit of it, in the same manner as it may possess the domain of the land it inhabits. If a nation has fishing on its coast that is particularly advantageous, and of which it may become master, shall it not be permitted to appropriate this natural advantage to itself as a dependence on the country it possesses, and if there are a sufficient number of fish to furnish the neighboring nations, of reserving to itself the great advantage it may receive from them by commerce?

"A nation may appropriate things where the free and common use of them would be prejudicial or dangerous. This is a second reason why Powers extend their dominion over the sea, along the coast as far as they are able to protect their right.

"The banks of the sea belong incontestibly to the nations that possess the country of which it is a part, and these are the number of public things.

"All we have said of the parts of the sea, near the coast, may be said more particularly, and with much greater reason, of the roads, bays, and straits, as still more capable of being occupied, and of greater importance to the safety of the country."

Martin, upon the same point says: (*Martin on Laws of Nations, ed. by Cobbett, ch.* 4, *sec.* 10, *p.* 166:)

"The sea surrounding the coast, as well as those parts of it which are land-locked, such as the roads, little bays, gulfs, &c., as those that are situated within cannon shot of the shore, (that is within the distance of three leagues,) are so entirely the property, and subject to the dominion of the master of the coast, that he has the exclusive right to all the produce of it, whether ordinary or accidental, as far as relates to things unclaimed by any other lawful proprietor.

"The waters and fisheries over which we seek to extend our laws are peculiarly embraced in the description given by these authors, as being properly appurtenant to the adjacent shores, and subject to the exclusive enjoyment and entire control of its sovereign."

This principle of national law has been judicially examined and determined in our own courts, and it is no longer an open question.

Mr. Justice Washington, in an able opinion pronounced in 1823, (Corfield *vs.* Coryell, *Wash. Cir. C. Rep., pp.* 378, '79, 381–2–3,) says:

"The first question then is, whether this act, or either section of it, is repugnant to the power granted to Congress to regulate commerce? Commerce with foreign nations, and among the several States, can mean nothing more than intercourse with those nations, and among those States, for purposes of trade, be the object of the trade what it may; and this intercourse must include all the means by which it can be carried on, whether by the *free navigation* of the waters of the several States, or by a passage over land through the States, where such passage becomes necessary to the commercial intercourse between the States. It is this intercourse which Congress is invested with the power of regulating, and with which *no State* has a right to interfere. But this power, which comprehends the use of, and passage over the navigable waters of the several States, does by no means impair the right of the State governments to legislate upon all subjects of internal police within their territorial limits, which is not forbidden by the Constitution of the United States, even although such legislation may *indirectly* and *remotely* affect commerce, provided it does not interfere with the regulations of Congress upon the same subject. Such are inspection, quarantine, and health laws; laws regulating the internal commerce of the State; laws establishing and regulating turnpike roads, ferries, canals, and the like.

"In the case of Gibbons *vs.* Ogden, 9 Wheat. 1, which we consider as full authority for the principles above stated, it is said, 'that no direct power over these objects is granted 'to Congress, and consequently they remain subject to 'State legislation. If the legislative power of the Union 'can reach them, it must be for national purposes; it must 'be when the power is expressly given for a specified pur-'pose, or is clearly incident to some power which is ex-'pressly given.'

"But if the power which Congress possesses to regulate commerce does not interfere with that of the State to regulate its internal trade, although the latter may *remotely* affect external commerce, except where the laws of the State may conflict with those of the General Government; much less can that power impair the right of the State governments to legislate, in such manner as in their wisdom may seem best, over the public property of the State, and to regulate the use of the same, where such regulations do not interfere with the *free navigation* of the waters of the State, for purposes of commercial intercourse, nor with the trade within the State, which the laws of the United States permit to be carried on.

"The grant to Congress to regulate commerce on the navigable waters belonging to the several States, renders those waters the public property *of the United States*, for all the purposes of navigation and commercial intercourse; subject only to Congressional regulation. But this grant contains no cession, either express or implied, of territory, or of public or private property. The *jus privatum* which a State has in the soil covered by its waters, is totally distinct from the *jus publicum* with which it is clothed. The former, such as fisheries of all descriptions, remains common to all the citizens of the State to which it belongs, to be used by them according to their necessities, or according to the laws which regulate their use. 'Over these,' says Vattel, b. 1, c. 20, sect. 235, 246, 'sovereignty gives a right 'to the nation to make laws regulating the manner in which 'the common goods are to be used.' 'He may make such 'regulations respecting hunting and fishing, as to seasons, 'as he may think proper, prohibiting the use of certain nets 'and other destructive methods.' Vattel, b. 1, c. 20, sect. 248. The *jus publicum* consists in the right of all persons to use the navigable waters of the State for commerce, trade, and intercourse; subject, by the Constitution of the United States, to the exclusive regulation of Congress.

"If, then, fisheries and oyster beds within the territorial limits of a State are the common property of the citizens of that State, and were not ceded to the United States by the power granted to Congress to regulate commerce, it is difficult to perceive how a law of a State regulating the use of this common property, under such penalties and forfeitures as the State Legislature may think proper to prescribe, can be said to interfere with the power so granted. The act under consideration forbids the taking of oysters by any persons, whether citizens or not, at unseasonable times, and with destructive instruments; and for breaches of the law, prescribes penalties in some cases, and forfeitures in others. But the free use of the waters of the State for purposes of navigation and commercial intercourse, is interdicted to no person; nor is the slightest restraint imposed upon any to buy and sell, or in any manner to trade within the limits of the State."

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"This power in the Legislature of New Jersey to exclude the citizens of the other States from a participation in the right of taking oysters within the waters of that State, was denied by the plaintiff's counsel, upon principles of public law, independent of the provision of the Constitution which we are considering, upon the ground that they are incapable of being appropriated until they are caught. This argument is unsupported, we think, by authority. Rutherfoth, (b. 1, ch. 5, sect. 4 and 5, who quotes Grotius as his authority,) lays it down, that, although wild beasts, birds, and fishes, which have not been caught, have never in fact been appropriated, so as to separate them from the common stock to which all men are equally entitled, yet where the exclusive right in the water and soil which a person has occasion to use in taking them is vested in others, no other person can claim the liberty of hunting, fishing, or fowling, on lands or waters which are so appropriated. 'The 'sovereign,' says Grotius, (b. 2, ch. 2. sect. 5,) 'who has 'dominion over the land, or waters, in which the fish are, 'may prohibit foreigners [by which expression we under-'stand him to mean others than subjects or citizens of the 'State] from taking them.'"

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"There are doubtless acts which may be done upon the navigable waters of a State which the Government of the United States, and that of the State, have a concurrent power to prohibit, and to punish as offenses; such, for example, as throwing ballast into them, or in any other way impeding the free use and navigation of such rivers. But we hold that the power to regulate the fisheries belonging to the several States, and to punish those who should transgress those regulations, was exclusively vested in the States, respectively, at the time when the present Constitution was adopted, and that it was not surrendered to the United States, by the mere grant of admiralty and maritime jurisdiction to the judicial branch of the Government. Indeed, this power in the States to regulate the fisheries in their navigable rivers and waters, was not, in direct terms, questioned by the plaintiff's counsel; and yet their argument upon this point, when followed out to its necessary consequences, amounts to a denial of that power."

The Senator from New Jersey who sits furthest from me, will doubtless remember this case, which resulted in sustaining the jurisdiction of that State over the fisheries in a part of Delaware Bay, and in excluding the citizens of other States from taking fish within her jurisdiction without her consent.

But, sir, when the Senator from Massachusetts introduced this bill, he admitted the proposition that this right was exclusive in the States anterior to the formation of our Constitution; for he proposes to exercise a power which the General Government, if possessed of at all, could only have derived from the States; and it is incumbent upon him to show wherein and how they have parted with it.

If the General Government does possess the right over the fisheries, within the jurisdiction of the States, which is here claimed, it must be found in the Constitution; and where are we to look for it?

It is asserted that it is included in the terms of the first article of the eighth section of the Constitution, which gives to Congress the

"Power to regulate commerce with foreign nations, and among the several States."

But this is not an open question. It has been judicially determined by the courts of the country. The right to "*regulate commerce*" presupposes an *existing* commerce, and implies the power to provide for and regulate its conduct, or transit, over the water or the land; and, though Congress may rightfully confer upon foreign nations the right of way over the waters of a State, and regulate and control that right of way for the public interests, without the consent of the State, it can hardly be thence assumed that it can deprive the State of its property, its treasures within its waters, without its consent. In ceding to the General Government this right to "regulate commerce," the States parted with a prerogative, but not with their tangible property. They no more parted with the fisheries in their waters, over which commerce is regulated, than they did with the minerals in their soil, over which the land transit of the United States mails is regulated. The legislation of Congress, from the formation of our Government to the present moment, shows that no attempt has ever been made to deprive the States of their fisheries, under this constitutional provision.

Sir, these considerations are sufficiently weighty to cause me to withhold my approbation from this bill; but they become insurmountable when applied to the condition of my own State. Florida posseses upon her Gulf coast valuable fisheries. They were enjoyed by the Spaniards for thirty years before we acquired the territories in 1819, and have been chiefly relied upon for supplying the Cuban demand. Some twenty vessels have found profitable employment in them, chiefly owned and managed by citizens of the northern States, ever since the acquisition of the Floridas; and these fisheries must become daily more valuable as the population of Cuba and Porto Rico shall increase. These are Catholic colonies—dried and fresh fish compose a large item of their general consumption. The turtle fishery, though valuable also, on the south coast of Florida, is not carried on to much extent.

The British Government has twice attempted to obtain for its American colonies the privilege of the Florida fisheries.

Mr. DAVIS. If the Senator will allow me, I will suggest that I have not the least objection to adding a proviso to my amendment, that it is not designed nor intended to interfere with fisheries over which any State has exclusive jurisdiction.

Mr. MALLORY. I was proceeding to show, Mr. President, that the British Government had sought the privilege of participating in these fisheries. The last letter of the British Minister upon this subject, of August 9, 1831, to our Department of State, was referred to the then able and patriotic Governor of the Territory of Florida, William P. Duvall, who promptly addressed an earnest remonstrance against the right of the General Government to control or deprive Florida (though then a Territory) only of her fisheries; and the privilege sought for the Bahamians was not granted.

But, sir, though what I have thus far said furnishes ample reason for opposing the passage of this measure in its present form, there is still a view of it which must render it odious to every southern Senator.

The Bahama Islands of New Providence, Eleuthera, Green Turtle Key, Abaco, and others,

are peopled principally by the ignorant, idle, and vicious British emancipees, many of them native Africans, who have completely the control of the white inhabitants who are coming to South Florida in great numbers.

These islands are from one to two days' sail from the shores of Florida, and the slaves of the Florida planters, who are compelled to use boats for plantation purposes, have been frequently enticed away by the British free negroes who visited our ports as seamen of Bahama vessels, these vessels being generally manned by free negroes.

This evil became so intolerable that in 1848 the British Government was notified that the act of Congress of 28th of February, 1803, which prohibits the introduction of free negroes, whether composing the crews of vessels or not, into the ports of States contrary to the laws of such States, would be strictly enforced.

In 1846 seven negroes murdered the light-house keeper at Cape Florida, and fled to Nassau, New Providence, in an open boat. The Government of the United States sent specially a revenue cutter to Nassau, with the United States marshal of South Florida, to demand the murderers. A copy of the indictment found against them was presented to the British authorities, and witnesses accompanied the marshal, who identified them. But, of course, they were not surrendered; and the officers of the United States were publicly threatened and insulted by the free negro population.

This population is rapidly increasing, and will at no distant day become a burden upon the British Treasury; and hence the effort made by the British Government to obtain for them a participation in the Florida fisheries, and consequently in the trade which they sustain.

I am aware that my friend from Massachusetts will reply that the provisions of this bill extend only to the vessels of the British North American Provinces, and exclude those of the Bahamas. But, sir, every Senator at all familiar with the commercial laws and usages of our country—and ours are borrowed from Great Britain—must see at a glance that these provisions furnish not the slightest guard against the employment of Bahama vessels and Bahama free negroes, not only within the bays and harbors, but upon the shores of Florida.

The process by which a Bahama vessel and crew would become a New Brunswick or Nova Scotia vessel and crew is no mystery, for it is in daily operation around us.

Pass this bill, and this will be the result: A Bahama owner, a merchant perhaps of Nassau, desirous of engaging in the Florida fisheries for the Cuban market, would at once transfer the title of his vessel to a British resident of New Brunswick, by the ordinary bill of sale. The character of the vessel is governed by the residence of the owner, and without leaving the port of Nassau a register is sent out by the new owner, and the *Mary of Nassau* becomes the *Mary of St. John's*, and comes at once within the provisions of the bill. The Federal custom-house officers of Florida, however anxious they might be to prevent the presence of such a vessel with a crew of free blacks immediately in contact with our slaves, would be powerless. They could not go behind the British register declaratory of the vessel's character.

It is no answer to say that this could only be brought about by fraud, and that we should not permit the anticipations of fraudulent evasions to deter legislation.

I may say without the fear of contradiction, that twenty-five per centum of the registers of even our own vessels, do not contain the names of their real and *bona fide* owners; and this, too, though the registry act requires their names to be set forth on oath in the register, and punishes a failure or violation.

Our admiralty courts understand this matter very well, and have repeatedly ruled that the names in the register are but *prima facie* evidence of ownership, and that oral testimony may rebut it.

Nor must I be told that the British emancipees would have no desire to leave their own islands. Nine tenths of the crews of the Bahama vessels are composed of them; and their labor being worth about one tenth of what it would be on the Florida coast, a constant and feverish desire exists amongst them to come to our shores.

Need I remind the Senate of the policy which the southern States firmly pursue towards this class of persons, or of the laws which the dictates of self-preservation have placed upon their statute-books? Is it necessary for me to declare that no power on earth can constrain them, under any pretext whatever, to permit these British emancipees, the idle, vicious, mischievous, and degenerate results of the British emancipation policy, whether called "crews of vessels" or not, to touch their shores, or reside within their jurisdiction?

If every statute of the southern States upon this subject were swept away, that great principle of all legal systems, the immutable principle of self-preservation, would devise some ready means of preventing an evil which experience has shown cannot be too carefully controlled. Were the General Government unequivocally to recognize the right of the manumitted negroes of Britain to fish within the waters, and cure their fish upon the shores of a southern State, it would be clearly illegal; but whether illegal or not, such a right could never be enforced; and it is as well to say so at once.

Sir, if this bill is not designed to produce the state of things which I have anticipated—and I do not suppose for a moment that it was so designed—then this amendment of mine is manifestly proper; for we cannot too carefully avoid such an interpretation. Nor should we permit ourselves to use language which may mislead the British Government. I am unwilling to use any language which may be construed into an admission that the fisheries of the States—that is, the fisheries, if you please, within three miles of the coast of a State—can be possessed or enjoyed by any foreign Power without the consent of the State; and I am equally unwilling to use any language which may, even by implication, be construed into an admission that the General Government may legislate persons within the jurisdiction of a State, afloat or ashore, contrary to the laws of such State.

Relieve the bill from these objections, and I may vote for it; but, seeing as I do, that in its present shape, it is violative of rights dear to all the States, that its operation must prove highly offensive to a large portion of this Union—a portion, too, which, under all and every demand of our common country, has never faltered, never shrunk from maintaining, at every hazard, its dignity and honor—I cannot think of giving it my sanction; and I call upon Senators around me, in whose watchfulness over the rights of the States I so firmly confide, to examine it.

Mr. DAVIS. I shall make a very brief reply to the Senator from Florida. He has two objections to my amendment. The first is, that it is to interfere with the rights of the States—the jurisdiction, in other words, over the water of the United States. Now, sir, I believe the bill is exempt from that difficulty entirely. It limits the operation of the amendment to the waters of the United States, in other words, the waters over which the United States have sovereignty and jurisdiction. Therefore, if a State has the rights and privileges, such as the Senator from Florida supposes to be vested in them, that is not a common right. The expressions used in the bill is "common rights"—rights common to the whole conntry, open to everybody. If it is a State right, it is not a common right, it is a right exclusively in the States. If it is a private fishery, it is a right vested in private gentlemen, and they are not intended to be invaded or touched at all by the amendment. I do not undertake to settle where the sovereignty of the State goes, and where the sovereignty of the United States commences, though I have a decided opinion about that. I take the constitutional provision to be very clear. But the amendment itself is limited to the waters of the United States, and to common rights in those waters. It necessarily by its terms excludes private rights, and also State rights. The amendment does not claim on the part of the United States any authority or jurisdiction over any of the waters which the Constitution does not give.

Mr. BAYARD. The honorable Senator will allow me to make a suggestion here. The language of the amendment limits the jurisdiction to the waters of the United States, excepting from that jurisdiction river rights of fishing. The exception, therefore, necessarily implies that all the waters of the United States, over which they have any species of jurisdiction than river fisheries, are to come within the terms of the amendment. Now, I understand the amendment of the Senator from Florida simply is to make the amendment of the Senator from Massachusetts more definite, and define what the rights of the State is so far as her territorial jurisdiction is concerned. There can certainly no harm result from the adoption of that amendment. I think there might be a difficulty under the general language of the amendment of the Senator from Massachusetts when it declares that foreign nations shall have the right to fish in the waters of the United States with the exception of river fisheries. As I hold the question to be free from possibility of doubt that the States have an exclusive jurisdiction with reference to the right of fishing in its territorial limits, I think the amendment of the Senator from Florida is essentially necessary.

Mr. DAVIS. The gentleman interpolates an argument into mine, but at the same time it brings you back to the view I take of the subject. The original amendment itself *ex re termini* implies nothing but that it shall apply to those waters over which the United States have jurisdiction. If it implies more, I am willing that it shall be altered. It says "the waters of the United States," meaning thereby waters over which the United States have jurisdiction, and over which they have power to concede this right. It was not the purpose of my amendment to interfere in any way with the waters over which the States have jurisdiction. I will not trouble the Senate, however, with further remarks on that point. I think it is very clear that such is the meaning, and certainly it is the intent of the provision.

But the Senator from Florida makes another objection which I will answer with equal brevity. He supposes that some injustice may be done to the southern States by certain free negroes living in the Bahama Islands, as I understand; that they may come in upon the fisheries and do some sort of mischief themselves, or disturb the peculiar institution; I do not know precisely what it is. They are good fishermen, he says, but they may come in under color of right under this enactment if it should be so made. Now, let me say to the gentleman, that the amendment is limited to the five northern Provinces of Great Britain, which are named Canada, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland. It is limited to those Provinces, and to the waters of those Provinces, and it is limited not only to the vessels of those Provinces—to vessels belonging there, but to persons resident there. I have taken every pains to limit it to those people, and to those alone. Now, it is impossible that any such persons as the Senator from Florida supposes could come in and fish, and exercise any such authority. I cannot say that frauds may not be perpetrated. I cannot say that a black man may not be mistaken for a white man, but the people in the northern Provinces are generally white people. I cannot say that a fraud of that sort may not be perpetrated with success; but I do not see that it could be done without exciting suspicions, and suspicions dangerous in their character. Is it not enough that these pretended fishermen are black and speak a different language?

I do not know whether the transfer of vessels may be made with as much facility as the gentleman seems to suppose, but I do not see any motive for it. I do not see how it could be accomplished so practicably as he supposed. I do not see how a vessel, of the character which the Senator from Florida describes, could enter those waters, and successfully fish, without being exposed to seizure, unless she could make it appear that the vessel itself belonged to one of the northern provinces, and was manned by persons resident in those provinces. She must show all that before she can have the privilege of fishing there at all. If that is not sufficient security, I do not know what is. I only desire to place this on a footing of reciprocity and equality.

I wish now to add what I did not say before—that I have reason to believe, from looking over the correspondence which was sent in yesterday, that this question could have been settled, if it had been promptly pursued last summer till it reached a result; and that it was upon this basis that the British ministry was willing to settle and adjust it as a separate question, and I hope that disposition continues to this day, and that the matter may be disposed of by legislation. It is

better that it should be disposed of by legislation; because, if any of the inconveniences which are suggested by the Senator from Florida should arise, Congress, when they settle it by legislation, keep the whole matter in their power, and may come here at the very next session, and repeal the law itself; so that there is really no danger at all of suffering any particular inconvenience. The moment Congress should hear that any such inconvenience and fraud were inflicted upon the Government as the Senator from Florida suggests, it could modify or repeal the law; and that is the advantage of settling it by act of Congress, instead of doing it by negotiation and by treaty, which is binding generally for a limited period of time. I think the advantages are very great, inasmuch as it leaves the subject within our control. It leaves us with a power to correct those inconveniences at all times, if they should spring up unexpectedly. I hope, sir, that in the present attitude of things, it will be the pleasure of the Senate to reject the proposition of the Senator from Florida, and not bring the jurisdictions of the States and of the United States in conflict with each other, and to agree to my amendment, and if any evil grows out of it, that evil can be remedied at the next session.

Mr. HUNTER. We have two more legislative days, and all the appropriation bills are yet to be acted upon. I hope the Senate will come to a determination to put upon this bill no more controverted matter, but let us dispose of the bill.

Mr. MALLORY. I am unwilling, sir, to permit this question to beglossed over. I have called upon the honorable Senator from Massachusetts to show where he derives the power which this bill proposes to exercise.

My friend from Delaware [Mr. BAYARD] has met the question fairly and frankly, and if, as he suggests, the operation of the bill be confined to similar latitudes, it may obviate the objections raised. But I desire that we may be shown when and where the General Government derived the power which the Senator from Massachusetts claims for it before we attempt to exercise it.

Mr. DAVIS. I supposed I had answered the Senator fully, when I stated that there was no conflict of jurisdiction here at all; but if a State has exclusive jurisdiction to any waters whatever, this amendment of mine will not interfere with it. That is my answer. It only applies to the waters of the United States, and not to the waters of the States.

Mr. BUTLER. I am sure that the honorable Senator from Florida understands this subject better than I do; but I must award to the honorable Senator from Massachusetts this much: I think that in good faith his purpose was to confine the proposition to New Brunswick, Newfoundland, and the other provinces named, in the northern latitude. I believe that that was his purpose; but I am afraid, if the language of his amendment be allowed to pass without some explanation, it would certainly give an enlargement, so far as regards foreign nations, that is not allowable according to our law. I have not looked particularly to the amendment, but I suppose it allows foreigners to go within a marine league of the shore as waters of the United States. Now, if they are allowed to go within a league at the North, regarding the waters within that as waters of the United States, foreign nations would not understand the rights of the States, and would claim the same privilege in every State. Foreign nations would not undertake to make the interpretation or construction which my friend from Florida has given it. They would take a very broad view; and the same construction which would allow us to go on the shores, and within a marine league of the land in Newfoundland and New Brunswick, might be applied by them to Florida or South Carolina. There ought to be some explanation of that; though I do not think the honorable Senator from Massachusetts intends any such thing.

Mr. MALLORY. Nor do I think he ever had any such intention.

Mr. BAYARD. The honorable Senator from Maine [Mr. HAMLIN] has suggested to me an amendment which will obviate all the difficulties which I have, as the representative of my State. The representatives of the other States may determine for themselves. The amendment is, that the provisions of the proposition of the Senator from Massachusetts shall not extend south of the fortieth degree of north latitude. That excludes my State. I am not willing to sanction such a provision as applied to my State: that is, I am not willing impliedly to recognize the right of the General Government to negotiate away, or pass any law in relation to the common right of fishery within the limits of my State; yet if gentlemen representing other States wish to adopt that proviso as regards their States, I shall not object to it.

Mr. DAVIS. I wish to say that I am quite willing to insert the words, "nor to any fisheries to which any State has exclusive jurisdiction;" to come in immediately after the words, "nothing herein contained shall authorize fishing vessels of one of the countries aforesaid to participate in the river fisheries of the other."

Then, if the amendment of my friend from Maine shall be added, it will be all the protection that is wanted, I imagine.

Mr. HAMLIN. The amendment which has been offered by the Senator from Massachusetts has been prepared with great care, and I can assure the Senator from Florida that it was only designed to meet the exigencies of the case which existed in relation to the northern fisheries. I think the Senator from Florida is mistaken in regard to the application of the provision. I think, if it were to be passed, and become a law, and the reciprocity in our fisheries should take place under the provisions of the amendment of the Senator from Massachusetts, there never would go on to the Bahama banks, or the shore fisheries of the South, a solitary vessel from the northern colonial Provinces of Great Britain, because I doubt if you can find colored population enough in these whole Provinces to man out a single boat.

Mr. MALLORY. The honorable Senator will allow me to ask him if a vessel does not assume her character from the residence of the owner; and if the transfer of a vessel is not by the transfer of the register? and if that cannot be done by a scratch of the pen, as well at the Bahamas as at the northern Provinces?

Mr. HAMLIN. I say that the character of the population at the northern Provinces, with which fishing vessels must be manned, is such that there never could go to the South a crew composed of such persons, as would be injurious or dangerous to that section of the Union, as the Senator from Florida supposes. That is my opinion. I believe, too, the objection which was raised as to the jurisdiction, was one that was necessary, and it might have been with great propriety left to your courts to determine over what waters the States, and over what waters the United States, have jurisdiction. But, sir, the object of the amendment of the Senator from Massachusetts, and the true object of it, was, to meet the exigencies which now exist in relation to the northern fisheries. Let me say to gentlemen, that the documents which have been placed upon our tables within the last few days, contain facts which show that during the interruption of the fisheries in the past year, the very few who were engaged in them had suffered to the extent of more than two and a half millions of dollars. In the single article of mackerel, they sustained an injury of more than a million of dollars. Whereas, they took in the shore fisheries of the Provinces in 1851, one million four hundred thousand barrels, they took only about three hundred barrels during the last year. They were interrupted and driven from the ground. With this evil now existing, which has thus injured our fishermen, I concur fully in the sentiments expressed by the honorable Senator from Massachusetts, that unless we can devise some means which will be just and equitable, by which the question may be settled, there will be a collision upon the fishing grounds. The American fishermen, who have always been ready to fight your battles when you have been engaged in foreign wars, will maintain their own rights there, and will produce a collision I have no doubt, if their rights shall be trenched upon.

Sir, I know it is suggested here that this is a local question. My answer to that is, that it has no locality about it, because there are no fisheries really involved in this question south of the parallel of latitude which has been named by the Senator from Delaware, for which we, in our region, would give the snap of a single finger, or for which a fisherman there would turn a copper. Therefore, if we limit it to any latitude within which all the fisheries are preserved, and by which the reciprocal rights may be limited, we get all we want, and that will certainly do away with the objection which my friend from Florida has raised. I am, therefore, perfectly willing to vote for the proposition with that limitation.

Mr. TOUCEY. Mr. President, I wish to ask the Senator from Massachusetts a question. He says that he has a very distinct opinion upon this subject. Does he intend by this proposition, by an act of Congress to grant to British subjects the right to fish within a marine league of the shore?

Mr. DAVIS. Certainly.

Mr. TOUCEY. Certainly he does. That, I supposed, was the intention.

Mr. DAVIS. Will the Senator from Connecticut allow me a moment? One of the points of difficulty which exists is as to the right to fish within a marine league of the shore in the waters of those Provinces. Now, according to my amendment, the right is made reciprocal. It proposes that our fishermen shall be let into the same rights to fish in those waters, with the exception of rivers, as British subjects, resident within those Provinces; and it accords a like right to the waters of the United States, with this limitation, which I now propose to make, that it shall except not only private fisheries, but those fisheries to which any State has exclusive jurisdiction; and also that the right of fishing shall not extend south of the fortieth degree of north latitude.

Mr. TOUCEY. I supposed that that was the object of this provision, because the right which is sought to be obtained in the British Provinces, that is, the right to fish within a marine league, is that which is not granted by the treaty with Great Britain, under any construction of it. I supposed that the object of this provision was, by an act of Congress, to grant to British subjects a right to fish within the jurisdiction of the States where the laws of the States control, unless this Government has a right to regulate and control the fisheries within the jurisdiction of the States. This subject comes up very suddenly and very unexpectedly. My own impression is, that within the waters of the States, within a marine league, the power of the States, the laws of the States, must prevail with regard to fisheries. My impression is that Congress would not have the power by law to regulate the fisheries upon the coasts, or within the harbors of Massachusetts, or upon the coasts or within the harbors of any of the States which are embraced within this provision. I am not prepared to admit that Congress has that power. The laws of the States regulate the fisheries within their jurisdiction, and I am not aware that Congress has exerted any such power.

Mr. DAVIS. Waters within the jurisdiction of the States will be excepted by the amendment I propose to make.

Mr. TOUCEY. If they be excepted, then what is our proposition worth? You propose a reciprocal right. The only right that is granted is within a marine league, and the only right sought to be obtained in the British Provinces is within a marine league. The right we propose to grant is a right within a marine league of the shore. Then does not the provision become nugatory or deceptive?

Mr. DAVIS. That depends entirely upon what is excepted.

Mr. TOUCEY. But in any view, if the British Government undertakes to act upon it, it undertakes by law to grant us a privilege which the treaty does not grant—that of fishing within a marine league of the shore of the British Provinces; and as an equivalent, Congress undertakes to grant to British subjects a similar right to fish within the waters of the States. I do not feel myself ready to adopt legislation of that kind. I do not know but that the objection which I have might be removed; but as at present advised, I cannot vote for any provision of this kind, and least of all in an appropriation bill, where it does not properly belong.

Mr. DAVIS. I think I can, in a very few words, remove the difficulty of the honorable gentleman. He may be right, but I do not think he is, in regard to his construction of the provision. But if the ground which he assumes is to have any influence in a question of this sort, it is only saying that no reciprocal regulation can be made in any way; for he says that the United States has no rights to concede, and has nothing to give

which is an equivalent for a reciprocal right in a foreign country. That may be so; but what I want to bring to the attention of the honorable Senator is this: He has doubts—he hesitates. Well now, he is likely to have this matter before him in the form of a treaty, and then he will have to decide whether he will agree to that treaty. Is it not a great deal better that the subject should be a matter of legislation, and not of treaty regulation? If you regulate the matter by legislation, it will be under the control of Congress, and if your act works inharmoniously with our institutions, we can repeal it. Is it not better that the provision should be by legislation than by treaty? A great deal better, in my opinion. Now, I propose that the experiment shall be tried—that an offer shall be made; and if it is closed in with, and does not work congenially to the feelings of the country, or does any injustice to the States, the power will be here to control and repeal the provision. I apprehend that it will work perfectly well; that there will be found no inconvenience whatever practically, because I have not the remotest idea that vessels of any of these colonies would enter the waters here to fish. Our market is what they desire. I do not think that is a very probable thing under any case which could exist; but still I cannot say that it will not be done. I think the proximity of our people to our fisheries would secure those fisheries to them. It is impossible for our fishermen to go from the North and fish in the waters of Virginia. They do no such thing, and cannot do it, because those who reside near the waters will always have the control of all such fisheries.

I do not see what objection there can be to my proposition, if the fishermen are content with it. It excepts, in the first place, private fisheries. It then excepts those to which the States have exclusive jurisdiction, and limits the right to what is a common right of fishery. It is as well limited as it can be. It is limited to vessels in the five northern Provinces, and to persons resident in them as British subjects.

Mr. HUNTER. Mr. President, I think it is time that we should begin to vote down amendments, upon the ground that there is no time to consider them.

Mr. DAVIS. Let us vote this up.

Mr. HUNTER. I shall vote against this amendment on the ground that there is not time to consider these conflicting questions of jurisdiction between the State governments and the General Government. I suppose that if we were to pass this bill, all that could be done would be to save the appropriation bills which are behind it. There are but two legislative days left—but two days for this bill and for all the other appropriation bills—and we have not yet finally acted upon any of the appropriation bills. Senators bring up these propositions, involving grave and controverted questions of constitutional law, and argue them here as if they had all the time in the world before them for their consideration. The only way to prevent this is to begin and vote down amendments on the ground that we have no time to adopt any further amendments to this bill.

Mr. DAVIS. I think this amendment is not the proper one on which to begin to vote down.

Mr. NORRIS. I am not going to consume the time of the Senate, or to discuss questions which have been discussed here; but there is one objection in addition to those which have already been stated by other Senators, why I cannot vote for this amendment of the honorable member from Massachusetts, and it is this: It proposes to give to British subjects the right not only to catch fish within a marine league, but it attempts to give them the right to enter upon the land, and there cure their fish.

Mr. DAVIS. Not without agreement or contract.

Mr. NORRIS. What is that agreement? I should like to know.

Mr. DAVIS. My amendment expressly provides that no private rights shall be interfered with without agreement.

Mr. NORRIS On land or water?

Mr. DAVIS. Neither.

Mr. NORRIS. Then it amounts to nothing at all, but will lead to interminable controversy.

Mr. PETTIT. Mr. President, I shall vote against this proposition; and to be very brief, and not to assign all the reasons which I may have, I will give this one. To my mind, there cannot be any question but that the States control the waters within a marine league from their shores, for fishing purposes; that the territories of Great Britain do not control the waters as such, but Great Britain herself does. It would therefore be undoubtedly a deception, if we should say to Great Britain that her subjects shall have a right within a marine league—that this Government can give to her subjects the right to fish within a marine league. That right, in my judgment, is reserved to the States; and therefore this Government has not the power to give it. Great Britain, on the other hand, could stipulate for the privilege to us that our citizens should fish within a marine league of her coasts upon this continent, a right which she undoubtedly has, so long as she has the sovereignty of her territory, the power to give. We would, therefore, be holding out a deception and a delusion; and while I am unwilling to be deceived myself, I am just as unwilling to hold out deception to a foreign Government. In all our actions, fairness, openness, and frankness should characterize our action. I wish to be understood. I say that one reason, and it is reason enough, why I shall not vote for the amendment of the Senator from Massachusetts, is, that the subjects of Great Britain will be deceived, from its provisions, with the idea that they may fish within a marine league of our coasts; when that right belongs to the States, as I hold; and Great Britain gives us a right to fish within a marine league of her territories, a right which she can grant, and a corresponding right which we cannot grant. We should, therefore, be deceiving her, thus tending by no means to produce a friendly result.

Mr. NORRIS. I was observing, upon this amendment a few moments ago, when I was contradicted upon its provisions. Sir, I was right. It gives to British subjects a right to enter upon any lands belonging to the State of Maine, or any in New Hampshire, belonging to the State of New Hampshire, or any lands belonging to any other State north of the fortieth parallel of north latitude. It gives a right to enter upon the property of those States, without their agreement or consent.

Mr. DAVIS. Will the Senator point it out?

Mr. NORRIS. The general body of the amendment gives that right, but the particular matter depends upon the proviso:

"*Provided*, That nothing herein contained shall authorize fishing vessels of one of the countries aforesaid to participate in the river fisheries of the other, nor shall anything herein contained authorize any interference with private rights of fishery, or private rights of property, without agreement."

But all the public property is not excepted. That is the point to which I was referring. But there is another reason why I will not vote for this amendment. I shall never vote, here or elsewhere, for a bill of a sectional character. This amendment, as it now stands, is applied to the States north of the fortieth parallel of north latitude, and not to those south of it. It involves a great principle, and that principle I am not prepared to surrender. I will not vote for a bill which has not as much application to the States south as to the States north of this parallel of latitude.

Mr. DAVIS. I modify my amendment in the way which I before suggested, by inserting the words, "nor any fisheries to which any State has exclusive jurisdiction."

Mr. TOUCEY. I wish to say that the amendment which has just been introduced, excepting fisheries over which the States have exclusive jurisdiction, would seem to obviate the principal objection that weighed on my mind.

Mr. PRATT. I desire to ask the Senator from Massachusetts, upon what possible point of land or water, within the limits of the United States, this amendment will operate?

Mr. PETTIT. In Oregon and the other Territories.

Mr. PRATT. So far as the States of this Union are concerned, I imagine that all the waters adjacent to the land, within a marine league, belong to some individual—to some private citizen. The amendment of the Senator from Massachusetts, which is to go abroad to England and to other countries, with reference to this right of fishing, says to them, that they may come here, and have a reciprocal right of fishing within a marine league of the shore, and that they shall have a right to cure fish upon our land. Then there is an exception that they shall not do that, if it interferes with private rights. Now, there is not within the limits of the States, so far as I am aware, one single point of water or land to which the amendment of the honorable Senator will apply. Therefore I think it is useless to adopt it.

Mr. PETTIT. I will ask the Senator from Maryland, whether this provision may not permit the subjects of Great Britain to fish in the bay of Baltimore, and to haul up, cure, and dry their fish upon the public lands of the United States, the grounds occupied by fortifications?

Mr. PRATT. There are none there.

Mr. PETTIT. There is one just below the city—Fort McHenry.

Mr. PRATT. The amendment, as it now stands, excludes the waters of Maryland.

Mr. PETTIT. You are too far south for it—I beg your pardon. [Laughter.]

Mr. PRATT. I would ask the Senator from Massachusetts to point out any spot of land or water within the limits of the United States where the proposition will apply?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Florida to the amendment of the Senator from Massachusetts; which is to add to it the following:

And be it further provided, That nothing in the foregoing section shall be construed to authorize or allow any foreign vessel whatever, or any subject or citizen of any foreign Power, to fish within the waters appurtenant to and within the jurisdiction of any State contrary to the laws of such State, or to authorize or allow the bringing into or the introduction within such waters and jurisdiction of any States, any person or persons, composing the company and crew of such vessel, or others, contrary to the laws of such State.

Mr. DAVIS. I believe the Senator from Delaware proposes an amendment to take the place of that.

Mr. BAYARD. I suggested that the Senator from Maine had prepared an amendment which provided that the provision of the amendment proposed by the Senator from Massachusetts should not extend below the fortieth degree of north latitude. Then, as it does not apply to my own State, I should be perfectly willing that the gentlemen lying north of it, if they choose to vote for such a provision, may pass it; but I never can agree to vote for the proposition without such a proviso, unless the amendment of the Senator from Florida should be adopted.

Mr. DAVIS. All I can say is, that if the amendment proposed by the Senator from Florida be adopted, the whole provision will be good for nothing; but if the amendment be rejected by the Senate, it can then, if it pleases, adopt the amendment to which the Senator from Delaware refers.

Mr. MALLORY called for the yeas and nays on his amendment; and they were ordered; and being taken, resulted—yeas 27, nays 18; as follows:

YEAS—Messrs. Atchison, Bayard, Borland, Bright, Butler, Dawson, De Saussure, Douglas, Downs, Fitzpatrick, Geyer, Gwin, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Mallory, Mangum, Mason, Morton, Norris, Pettit, Pratt, Rusk, Sebastian, Toucey, and Weller—27.

NAYS—Messrs. Bell, Chase, Clarke, Cooper, Davis, Dodge of Iowa, Fish, Foot, Hamlin, Miller, Phelps, Seward, Shields, Smith, Spruance, Sumner, Underwood, and Wade—18.

So the amendment to the amendment was agreed to.

The PRESIDING OFFICER. The question now is on the amendment as amended.

Mr. DAVIS. It is of very little consequence now.

Mr. BORLAND. I wish now to offer the amendment which the Senator from California [Mr. GWIN] offered some time ago, but which he withdrew for the accommodation of the Senator from Florida. I move to amend the amendment by adding:

And be it further enacted, That upon satisfactory evidence being given to the President of the United States that any of the Governments of the continents of North or South America has, by law, or other proper and effective public act, agreed to admit the ships or vessels, produce or manufactures of the United States free of duty or charge, the President be, and he is hereby, authorized and directed to issue his proclamation thereof, and to give notice that hereafter, and so long as such privilege be continued to such ship or vessel, produce and manufactures, a like or reciprocal privilege shall be allowed and given to the ships or vessels, produce and manufactures, of such State or States, as to the ports of the United States, any law to the contrary notwithstanding; and such proclamation shall have the force and effect of suspending such law so long as the said privilege be extended to the ships or vessels, the produce or

manufactures, of the United States by such State as aforesaid.

Mr. President, I consider that the same principle is embodied in that amendment which we find in the amendment of the Senator from Massachusetts, as now amended on the motion of the Senator from Florida. I cannot for my life, so far as principle is concerned, see the difference; and I want to see that principle extended as far as possible. I confess that I am for free trade. I am for reciprocity, not only in fishing, but in everything else; and if we adopt the principle in one portion of our legislation, we ought to adopt it in all, in order to be consistent. For that reason I hope the amendment to the amendment will be adopted.

Mr. COOPER. I suppose it is hardly worth while to say that this amendment cannot be passed at this session. I am opposed to it; and if I supposed that there was a moment's danger of its passage, I should give at length my views in relation to it; but I presume there is no possibility of its passage. Therefore I will not trouble the Senate.

Mr. HAMLIN. Mr. President, I am myself in favor of free trade; but I am not for free trade in slices. I am for a graduated scale, which will be the lowest amount that will give you sufficient revenues with which to support the Government; but, sir, the most odious and obnoxious kind of protection that can be forced upon the Government, is that which makes free trade upon one article and protection upon another. The amendment of the Senator from Arkansas proposes to admit manufactured articles precisely upon the same principle as it does the raw material. It proposes to admit a ship built in the Provinces north of us and the States south of us without paying any duty whatever, while you make the man who builds the ships at home to pay his thirty per cent. duty upon iron, his thirty per cent. on cordage, his thirty per cent. duty on duck, and all the variety of articles that enter into the construction of ships. Sir, if that be free trade, I must go to Arkansas, or some place still further West, to find it out, or I must learn from others who are as wise or wiser than my friend from California. No, sir, it is not free trade; it is protection of the most odious kind, because it says to our manufacturers who make our ships, or any article that is manufactured here, whatever may be the component parts that enter into that article, if they be brought from a foreign country, and if they be of the same character which we grow or produce, upon which the importing merchant must pay his duty, you compel him to pay those duties; while, when they have been manufactured into articles in a foreign country, they are to come in free of duty.

The Senator from Arkansas says that this is similar to the amendment of the Senator from Massachusetts. If it be so—if the Senator can demonstrate that there is any affinity between the two—I shall vote against the one, as I shall now with the amendment which has now been placed upon it; and I doubt not the Senate will vote it down. But what was the amendment in its original shape? It proposed to apply to the hardy fishermen who go upon the coasts of Newfoundland and the other provinces of Great Britain, and there draw from the deep their treasures, which, when they are brought forward, are actually wealth. They go there, and by their labor produce and bring to their home what are articles of value. The British fishermen reciprocate upon our coast, and come and produce the same. The fisherman is like the man who goes into a forest and ells the oak, who clears it away, and makes it bud and blossom, and adds to it by the labor of his own hands. If the amendment of the Senator from Massachusetts be such a system as that which the amendment of the Senator from Arkansas proposes, I should most assuredly vote against it, even if it had been retained in the form in which it was reported by the Senator from Massachusetts. There is no connection, no similarity between the two propositions—none at all. While we are going on with this system of free trade in slices, and protection in slices, I would suggest to my friend from Arkansas, that he should add still another amendment, which should invite proposals for receiving vessels that are constructed in a foreign country for our own Navy. He had better go there and get them; and it is very possible that we may, if they are not quite as good, get them much cheaper.

Mr. JAMES. We shall get better than we have now.

Mr. HAMLIN. The Senator from Rhode Island says we shall get better vessels then than we have now. How that may be I do not undertake to say; but I think, if that course is to be pursued, it would be only carrying out the principle which the amendment of the Senator from Arkansas seems to adopt. Sir, I do not propose to discuss this question for the purpose of delaying the vote. I do not want to interpose any objection which shall take up the time of the Senate; but when such an amendment is offered, I think I am bound, in justice to the interests which I represent here, to state some of the objections which I have to it. Certainly, if it is to be pressed upon the serious consideration of the Senate, I will be among the number who will talk and talk on.

Mr. BORLAND. Mr. President, the amendment which I have proposed has produced precisely the effect which I expected. It has demonstrated what I think ought to have been obvious to the Senate. By the proposition of the Senator from Massachusetts, legislation was proposed for the benefit of one portion of this Union. I offer a proposition which will extend it a little further and embrace another portion of the Union; and the very moment I do so, because it trenches somewhat upon the interests of the constituents of my honorable friend from Maine, we have an explosion, and we hear about the making of ships and about manufactures. Sir, we do not make ships in my country. We do not want protection to the making of ships there. The Senator wants protection for the manufacture of ships in his country, and he has got it. He has got a protection stronger and higher than any other branch of American industry. He has an exclusive right, and that is the very best protection. I know the Senator does not want ships introduced from a foreign country. It would interfere very materially with an important branch of industry in his State. I know it, and I proposed the amendment for the purpose of bringing that demonstration before the Senate, and to show the character of the proposition before it. Whether I shall vote for the whole proposition, if my amendment be adopted, is another question; but I wanted to bring the question to the test, and show what was the effect and character of that which preceded it.

Mr. TOUCEY. I do not suppose that there is any serious design to adopt this amendment, because it is a virtual repeal of the whole tariff of duties, and leaves the Government without any revenue.

Mr. BORLAND called for the yeas and nays on the amendment to the amendment; and they were ordered.

Mr. BRADBURY. Mr. President, the proposition embraced in the amendment of the Senator from Arkansas is too important to be allowed to come here without being noticed, although there is no time for its full discussion. It is a proposition to admit into our ports, without restriction, the ships and manufactures of the States and Provinces of this continent, upon their admission of ours; or in other words, to give our immense market to their ships and goods, in exchange for the limited, contracted market which they offer in return. There is no equality in this offer. It would enable the British Provinces, which have an abundance of timber suited to the purpose, and cheap materials at command, to build ships and throw them into our market on such terms as to be oppressive, if not ruinous, to our ship-building interests. We should not stand on equal ground. Our ship timber is brought from a distance. It is collected from Maine to Georgia. Many hundreds of our mechanics are employed every winter in Maryland, Virginia, North Carolina, and Georgia, in cutting and preparing timber, which is transported to our ship-yards in Maine and other northern States, and there manufactured into ships. Heavy duties, too, are imposed upon the iron, the bolts, the cordage, the sails, and other articles which our ship-builders may wish to import, from which duties their rivals would be relieved. These duties alone amount to about $3,000 upon the materials for a single ship of seven hundred tons burden.

The time at which it is proposed to strike this blow at our navigation is peculiarly unfortunate. We are in the midst of the struggle with our great commercial rival for the commerce of the world. She has distanced every other competitor. Venice, Portugal, Holland, are no longer in the field. She is now making herculean efforts to overpower the new competitor that has entered the contest on this side of the Atlantic. Thus far we have held our way, and more than held it; and it is not from an *American* statesman, or an *American* Senate, that a blow should come to cripple our mercantile marine, while engaged in this great struggle.

I have heard the declaration from several Senators that they are in favor of *free trade*, and some who opposed the proposition before the Senate, on the ground that it is partial in its character, have taken the occasion to declare themselves for "free trade" whenever it can become general. If by *free trade* they mean the entire abolition of duties on imports, and the support of the Government by direct taxation, I must say, in all frankness, I am not in favor of that policy. In my judgment, it would be inexpedient and unwise, if not impracticable. That taxation which is least felt, is least irritating. Revenue raised by duties upon imports is more cheerfully paid, and is felt to be less harassing and oppressive than it could be made when collected by the tax-gatherer under any system of direct taxation.

Nor should we overlook, in the decision of a question like this, the benefits that fairly accrue to many branches of domestic industry from the incidental protection which they receive from a tariff upon imports necessary for the purposes of a revenue to support the Government. I believe that our true policy is to administer the Government upon principles of the most rigid economy; and to raise the means essential for this purpose by a tariff, so adjusted as to afford incidental protection to manufactures essential to national independence, and those in which our country is capacitated to succeed when fairly established, making also a proper discrimination in favor of the necessaries for the masses as compared with the luxuries which wealth may demand. This, it appears to me, is a far better policy than any which will be likely to result from absolute free trade. It is the proper mean between ultra protection on the one hand and direct taxation on the other. It is the free trade which the country wants, leaving commerce unfettered and free from any unnecessary or oppressive burdens, as it is left by the judicious tariff of 1846.

Mr. BORLAND. With the permission of the Senate, I will withdraw my amendment.

The PRESIDING OFFICER. As the yeas and nays have been ordered, the amendment cannot be withdrawn without leave of the Senate.

Leave was granted; and the amendment to the amendment was withdrawn.

The original amendment of Mr. DAVIS, as amended, was then rejected.

Mr. UNDERWOOD. I have been waiting very patiently to offer two amendments from standing committees of this body—one from the Committee on Foreign Relations, and the other from the Committee on Territories. The first one which I am directed to offer is from the Committee on Foreign Relations, to add the following as an additional section:

SEC. —. *And be it further enacted*, That in settling the accounts of Daniel S. McCaullay, late consul general at Alexandria, in Egypt, there shall be allowed for office rent, at the rate of $400 per annum, during the time he acted in that capacity, to be paid to his widow.

Mr. HUNTER. Is not that a private claim?

The PRESIDING OFFICER. It directs the mode of settling the accounts of a late officer of the Government, and is not, in the opinion of the Chair, a private claim.

Mr. DAWSON. I wish to ask whether it is usual to pay for the office rent of our consuls abroad. If it is not, this is of course a private claim.

Mr. UNDERWOOD. The consul general stationed at Alexandria, in Egypt, possesses all the diplomatic functions of a minister. The proof before the committee was, that the salary allowed him was altogether insufficient, and that his expenses left him in debt. This is but a pittance of $400 a year for office rent; when the Governments of England and of France allowed thousands, and when our Government allowed nothing for office rent. That is the circumstance under which the claim presents itself.

Mr. HAMLIN. I desire to inquire of the Senator from Kentucky if there has been any estimate made for this purpose by the Department?

Mr. UNDERWOOD. No, sir.

Mr. HAMLIN. Then I desire to inquire of the Chair whether the amendment is in order?

The PRESIDING OFFICER. It is in order, being reported by direction of a standing committee.

Mr. HAMLIN. If I remember aright, we had this application before the Committee on Commerce, and we unitedly agreed that it was not right to report in favor of it. Our consuls, almost all over the world, are regulated by fees. There are two or three points in Europe where it is actually necessary to have consuls who are paid salaries. In many places consuls are appointed without much necessity, and more to gratify individuals and to aid them in their private purposes than for anything else. If you begin and establish salaries for your consuls abroad in one case, you will be compelled to do it in a variety of others, and no man can tell where it will end. There are two or three points where salaries have been given.

Mr. UNDERWOOD. Is not Alexandria one of those points?

Mr. HAMLIN. No, sir; I believe not.

Mr. UNDERWOOD. I understand that it is.

Mr. MANGUM. The Senator from Maine is totally mistaken. This officer is not simply a consul, but a consul general. The French consul general at Alexandria received 25,000 francs, about $5,000, and the English consul £1,000 sterling; or about $5,000. We paid our consul some $3,000, and he was made consul general a few years ago, upon the strong recommendation of the Vice President elect, who had more knowledge upon that subject than any man in the Senate. Sir, this gentleman in that miserable climate had to live, as the evidence upon file shows, in the most humble condition. He was compelled in that hot climate, to remain during the whole summer months in the city of Alexandria, while other consuls representing other Governments, had their summer residences. He was obliged to remain in the city, and he sacrificed his life to the public service. His widow comes here with a large family of children, with little means, and I think no appeal could be made stronger, either to the justice or to the sympathy of Congress. It is a very small amount. I move to amend it by striking out $400, and inserting $500, so as to provide for $500 a year.

Mr. WELLER. How many years was this gentleman consul general?

Mr. MANGUM. About three years and a half.

The amendment to the amendment was rejected, and the original amendment was agreed to.

Mr. UNDERWOOD. I am directed by the Committee on Territories to offer the following amendment:

SEC. —. *And be it further enacted*, That it shall be lawful for the President of the United States to obtain from Indian tribes through whose territories the routes or lines of the travel from the valley of the Mississippi to California and Oregon may pass, the right to establish ferries across any river or stream intersecting any such route, and to grant ferry privileges over any such river or stream to any person or persons he may deem fit, and upon such terms as he may deem proper; and the sum of $10,000 be, and the same is hereby, appropriated for carrying into effect the provisions of this section, to be expended by the Secretary of the Interior, under the direction of the President of the United States.

It will be seen that the amendment provides that the President of the United States may regulate ferries upon the routes to California and Oregon, in the Indian territory, by the consent of the Indians, after he shall have procured the right from them. The emigrants who are going there, when they get to Green river and other rivers upon the route, if there are no ferries, have to wait days and weeks in order to get across, and if there be no regulation for the ferry-keepers, they charge what they please. Whites have gone into that country and got permission from the Indians to establish ferries, and they are there without any regulation, and the emigrants who go to that country get across the streams with the utmost difficulty, as I understand.

Mr. HUNTER. I hope the amendment will be voted down.

Mr. PETTIT. Mr. President, upon the Army appropriation bill we adopted a provision covering this ground, and I think authorizing the construction of a wagon road from the Mississippi to the Pacific, and providing for the construction of bridges and the regulation of ferries. I recollect that ferries were particularly mentioned; and it was provided that no greater rate of toll should be charged on them than should be prescribed by the President of the United States. There can therefore be no necessity for this amendment. But, Mr. President, while I am willing to commit the helm of State to the President of the United States, I am not willing to degrade him to the condition of a mere ferryman over rivers. I am opposed to the amendment.

Mr. UNDERWOOD. Allow me to say, that the remark of the gentleman is well calculated to degrade the mover of the amendment instead of the President of the United States. Sir, the President of the United States is the functionary to make arrangements with Indian tribes through the commissioners whom he may appoint to make contracts with them; and you cannot reach it in any other way. The President will not do it in person, but will do all this business, if it is committed to him, through an agent. Nobody dreams that he is to attend to matters of this sort in person. I have no recollection of a similar provision having been adopted in the Army bill.

Mr. PETTIT. It was adopted.

Mr. UNDERWOOD. I have no right to deny the statement of the gentleman, but it escaped my notice, and therefore I withdraw the amendment.

Mr. COOPER. I have an amendment to offer. It is to insert:

For the payment of final-settlement certificate, numbered 255, at the specie value thereof, and with interest, as computed by the Register of the Treasury, provided satisfactory evidence be produced to the Secretary of the Treasury that the persons who present the same for payment are the *bona fide* holders of the same. $21,750.

I will not detain the Senate with any remarks upon the amendment. I will merely state, that there was an estimate last year, but there is no report of a committee for it.

Mr. HUNTER. It seems to me that this is a private claim, and therefore out of order.

The PRESIDING OFFICER. That is the opinion of the Chair.

Mr. COOPER. I have done my duty by offering the amendment. If it is ruled out of order, I cannot help it.

Mr. MASON. I now offer the amendment of which I have given notice, and which has been printed informally:

SEC. —. *And be it further enacted*, That it shall be lawful for the Secretary of the Treasury, at any time after the first day of July next, to issue to the State of Texas such portion of the stock mentioned in the first proviso of the fifth article of the first section of the act entitled "An act 'proposing to the State of Texas the establishment of her 'northern and western boundaries, the relinquishment by 'the State of all territory claimed by her exterior to said 'boundaries, and of all her claims upon the United States, 'and to establish a territorial government for New Mexico," approved September 9, 1850, as shall be equivalent in amount to the releases of the claims of the creditors of Texas against the United States which shall be then filed at the Treasury, as in said article is provided; and in like manner from month to month to issue said stock, equivalent to such like releases as may be thereafter filed, until the whole amount of the five millions reserved by said article is exhausted.

There are five millions of five per cent. stock in the Treasury already printed and filled up, and ready to be issued. There is an existing contract made in 1850 with the State of Texas, by which it is provided that whenever that class of creditors of Texas, for whose payment the revenues of Texas from imports were specifically pledged, shall release the United States, that stock is to be issued to the State of Texas. That is the law. It is part of the compromise, as it is called, of 1850. It is an existing contract with Texas to issue that stock to the State of Texas whenever the creditors of that class shall release the United States. The Secretary of the Treasury has construed that law to forbid the issue of any portion of that stock until every creditor of that class has released the United States; and I believe he has construed it correctly upon its face; but I do not believe it was the intention of the law thus to embarrass the issue, although it is so upon its face. I am informed from sources in which I repose entire credit, that there are about one thousand six hundred persons of this class of creditors against Texas. There are about one thousand six hundred persons holding this class of debt in various sums, ranging probably from $500 to $50,000, or to $150,000. Until every one of them releases the United States, as the law now stands, none of them can be paid through Texas or otherwise. I am informed, too—I made no inquiry at the Treasury, but I am informed in general terms—that comparatively a small amount has been released; only a few hundred thousand dollars. The object of this amendment is simply to provide that instead of waiting for the relinquishment of all the creditors of the State, the Secretary of the Treasury shall be authorized to issue stock to the State of Texas, pursuant to the contract, as fast as the releases come in. That is the whole of the amendment. I do not mean to go into debate, and if the bill is delayed by debate, it will be from other sources; not by me.

Mr. GWIN. I do not know whether the Senator intends to delay it by debate or not, but look at the facts. We have now been here eight hours in session. We are about finishing up the civil and diplomatic appropriation bill. If this amendment be seriously persisted in, we shall probably spend the remainder of the night, and lose all the appropriation bills. Gentlemen may say there is to be no debate, but let them look at the desk of my friend from Texas [Mr. RUSK.] He has volumes there which it will take hours to read, and he has a speech two months old on the subject.

Mr. MASON. He is in favor of my amendment.

Mr. GWIN. But he is going to speak. I hope this Texas debt question will not be introduced at this late hour of the session and of the day, for I am certain that it will lead to a long and unprofitable debate. So far as action is concerned, it will be like the iron question; we shall have a long discussion, and finally the proposition will be withdrawn, or it will be voted down.

Mr. BUTLER. I ask nothing but a vote on this amendment. It is a proposition involving considerations of private justice. Here is a fund of $5,000,000, and there are persons entitled to take it. They are willing to take their share of it under the terms prescribed by Texas. They are willing and anxious to come in and sign their releases and take their money, as much as they are entitled to it according to the administration of Texas. Can it be possible that a confederation of a portion of these creditors will have it in their power to deny to those who are willing to accept and sign off, the right to do so? It is as palpable a case of injustice as I have ever seen presented. I cannot go into this subject to-night I know; but if you allow a few of those persons who are creditors to forbid others who are willing to take their share of this fund from coming in and taking it, it is nothing in the world but a dog in the manger, using his power to forbid others taking what he himself cannot enjoy. I could go into a long argument on the subject; but, like my friend from Virginia, I will not argue it, but present it as a naked proposition. There are $5,000,000 in the Treasury, and there are those who are willing to accept their share of it. Is it to be in the power of others to deny it? If others choose to say they will not take it, let them not forbid those who are willing to take it. That is all we ask on the part of those willing to accept. You may put it in either one point of view or the other. We made Texas our administrator to distribute assets and say what is due; or, you may view it as an assignment on the part of Texas; and she asks the creditors to come in and sign off, as we lawyers say. Now it would be a monstrous proposition, when a debtor had assigned so much for all his creditors, that it should be in the power of any portion of them to deny others from taking what they choose to accept.

Mr. PEARCE. The Senator from Virginia has truly stated the provisions of the act of 1850. I have no manner of question of the correctness of the construction placed upon that act by the Secretary of the Treasury. Though I cannot pretend to speak as to what was the sense of the Senate at the time of the passage of that act, I can speak as to what was the object and purpose of the member of the Senate who introduced the bill of 1850. I introduced that bill and drew up that provision myself; and it was my object, here avowed on the floor of the Senate, by that provision to compel Texas and the creditors of Texas, if possible, to come to some agreement. I hoped that it would result in action by that State very different from what has been adopted.

The object of the Senator from Virginia, if carried out, will give a very different result from that which the Senator from South Carolina seemed to suppose. I should have no objection to the proposition if the action of Texas towards her creditors was equal. If she allowed them to come in and share alike, there would have been no reason for objecting to the amendment of the Senator from Virginia. But it proposes a different thing. It is not to allow each one to have his share, as the Senator says, of this money, but to allow one set of creditors to have seven eighths of what is due them upon the face of the obligations which they hold, and another class but seven tenths of what is due them on the obligations which they hold.

Mr. MASON. The Senator will allow me to put this question to him: I ask him if the amendment which I offer does not leave the law of 1850 precisely where it stands, with the exception that instead of waiting until all the creditors release, you issue stock to Texas as fast as they release? Does not my amendment leave the law exactly as it stands with that modification?

Mr. PEARCE. It leaves it in this condition: It leaves the fund reduced by large payments to one class, and an insufficient fund for the payment of another class.

Mr. MASON. I am sure the Senator will give me an answer to my question. I ask him if the amendment which I propose does not leave the law of 1850 precisely as it is? Does it not leave all questions between Texas and her creditors where that law left them, with a single modification, that the stock shall be issued as fast as the releases come in, instead of requiring all to come in before any shall be issued?

Mr. PEARCE. I am pointing out the precise point in which I think it differs from the statement of the honorable Senator. I say that the operation of the amendment is to give one portion a larger share than others; to give one class eighty-seven and a half cents, and another but twenty cents on the dollar. My reason for withholding assent to the Senator's proposition is, because I am unwilling to give the sanction of Congress to any such inequality.

Mr. MASON. The Senator will allow me a moment. I ask him if that law of Texas by which the debt of Texas was regulated or scaled, was not passed in 1848, two years before we passed the law of 1850?

Mr. PEARCE. I am not sure of the precise date, but it is to be observed, at any rate, that there has been further legislation on the subject by Texas since. I do not know the precise time at which these different creditors were scaled, whether it was done before the passage of that act or not; I do not profess to be exactly informed on that. I have not now by me the papers on the subject. I know there has been legislation by Texas since; and I believe the report of the Auditor and Comptroller of Texas, classifying these dates, was made subsequent to the passage of the boundary act, and that it was confirmed and adopted by the Legislature subsequent to the passage of the boundary act. I am pretty sure of that now.

Well, sir, I do not intend to recapitulate all that I have had occasion to say to the Senate heretofore on this subject. I think it is unnecessary, and it would be improper. But this proposition, it seems to me, is to ask us to contribute to a procedure which places the different classes of the creditors of Texas upon unequal ground. Sir, I am not willing to measure out justice by one scale to one set of creditors, and by another scale to a different set of creditors. I want to do equal justice to all. I do not acknowledge the right of Texas to require of us to assent to an act of her Legislature, by which she declares one of her obligations, held by one creditor, good for $900 on the $1,000, and another obligation, held by another creditor, good for only $200 on the $1,000. I have no objection, indeed, to her marshaling the assets in the sense in which assets are usually said to be marshaled. I have no objection to her making any arrangement, with the consent of the creditors, which she can make; and that I hoped she would do. I wish that we shall not make flesh of one and flesh of another. While we provide for the payment of a portion of these creditors, we should provide for the payment of the rest of them on equal terms. I will not consume the time of the Senate, but I send to the Chair an amendment, as a substitute for that of the Senator from Virginia. It is the proposition which has been reported by me from the Committee on Finance.

Mr. HOUSTON. I wish to make this remark before the amendment is read. The amendment of the Senator from Virginia compels no man to receive one dollar, but gives the creditors the option, if they choose to receive their money at the scaled rate, to do so. That is the whole amount of it.

Mr. CLARKE. That is just precisely what we object to. According to the scale that has been made, as the honorable Senator from Maryland says, one class of creditors has been allowed eighty-seven and a half or ninety cents on the dollar, and another class has been allowed only twenty cents on the dollars. You have got in the Treasury of the United States five millions of dollars, which, with the interest, now amounts to five and a half millions, which is held in trust by the United States for the payment of these creditors. Why is it there? It is because the Government of the United States has indirectly recognized its obligation to pay those debts for which the revenues of Texas were specifically pledged. I say, sir, that the Government of the United States has indirectly recognized it. Such claims were made here and they were rejected; but upon the settlement of this boundary question, and upon the compromise bill, an appropriation of $10,000,000 was made to Texas for such and such lines of territory, $5,000,000 were granted, and $5,000,000 were held back. Why were they held back? It was that those creditors who supposed they had claims on the United States, predicated upon the hypothecation of the revenues of the Republic of Texas, had some equitable demand against the United States. Now what is the fact?

Mr. TOUCEY. May I interrupt the honorable Senator a moment, and ask for the reading of the amendment of the Senator from Maryland?

Mr. CLARKE. Certainly.

The amendment was then read, as follows:

Strike out all after the enacting clause of the amendment, and insert:

That the Secretary of the Treasury shall be authorized, under the direction of the President of the United States, to have prepared and issued for the purposes, and to the extent hereinafter specified, certificates of stock, redeemable at the pleasure of the United States after twenty years, bearing interest at the rate of three per cent. per annum from the 1st day of January, 1851, payable semi-annually on the 1st days of January and July of each year: *Provided*, That the whole amount of said stock so authorized to be issued shall not exceed $8,333,000: *And provided further*, That no certificate of said stock shall be issued for the fractional part of $100.

Sec. 2. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury to ascertain, in such mode and under such rules and regulations as may be prescribed by the President of the United States, which classes, and to what amount, of the debt of the late Republic of Texas, the payment of the interest or principal of which the duties on imports of said Republic were generally or specially pledged; and when the same is ascertained to the satisfaction of the said Secretary of the Treasury, he is hereby authorized to adjust and pay the same, by an issue and delivery to the parties owning or holding the same, or to their duly-constituted representatives, of an equal amount of said three per cent. stock at its par value, in the mode hereinafter stated, besides the interest which may have accrued on the same since the 1st of January, 1851, upon said parties giving and filing in the Treasury Department a full assignment of the said certificates or other evidences of said debt; and where any original certificates or other evidences of said debt have been surrendered up to the authorities of the State of Texas, and new certificates have been issued therefor by the said State, said new certificates shall be received as evidence of the original amount of the claim.

Sec. 3. *And be it further enacted*, That the classes of the public debt of the Republic of Texas mentioned in the foregoing section, are those for payment of the principal or interest of which the revenue from customs was specially pledged, or for which a pledge of the revenues generally was made, whether borne on the face of the obligations or given by the act of the Republic of Texas, of January 14, 1840, or which were made receivable for public dues—excluding such evidences of debt as were authorized by law subsequent to the said act of January 14, 1840, unless the act so authorizing them contained such pledge or made them receivable for public dues; and excluding also all other debts not evidenced by Treasury notes or interest-bearing bonds.

Sec. 4. *And be it further enacted*, That, in estimating the amount of such debt as may be held by any parties, simple interest shall be included up to the 1st of January, 1851, at the rate which may be specified on the respective certificates or other evidences of the debt which may have been issued by the late Republic of Texas.

Sec. 5. *And be it further enacted*, That, in case the whole amount of that portion of the debt of Texas authorized to be settled by this act should be found to exceed the sum of $8,333,000, then the stock authorized to be issued by this act shall be distributed among the holders of such portion of said debt; but the said holders, nevertheless, shall execute a full release to the United States for the full amount of their respective claims against Texas as hereinbefore provided for, and no claim of the said holders of certificates or evidences of debt shall be received and allowed at the Treasury after the first of July, 1853, at which time the payment and distribution aforesaid shall commence.

Sec. 6. *And be it further enacted*, That, for all sums under $100, not included in certificates of stock as herein provided for, payment shall be made at the Treasury of the United States in cash.

Sec. 7. *And be it further enacted*, That, whenever there shall be more than $10,000,000 in the Treasury of the United States, and in the opinion of the President it shall be expedient to do so, the Secretary of the Treasury be, and he is hereby, authorized to purchase the said stock at the current market rate.

Sec. 8. *And be it further enacted*, That the issue of said stock as hereinbefore provided, shall not be made until the assent of the Legislature of Texas shall be given thereto.

Mr. SEWARD. I wish to ask the Senator from Rhode Island whether it would not consist with his convenience for me to move an adjournment.

Mr. CLARKE. I have no objection.

Mr. SEWARD. Then I move that the Senate do now adjourn.

The motion was not agreed to.

Mr. CLARKE. Mr. President, I am very much indebted to the Senate for not having adjourned upon this question, as just at this moment I am very well prepared to speak upon the question, which appears to me to be of very deep interest to the country.

Mr. President, how comes this claim from the creditors of Texas upon the Treasury of the United States, from which emanated the provision in the compromise bill, as it was called, of 1850, by which $10,000,000 were appropriated to the State of Texas, $5,000,000 of which were to be issued in stock to the State, and $5,000,000 to be retained in the Treasury? It is well known that at the time when the compromise bill was under consideration in the Senate of the United States, a very great alarm was felt and expressed that the Union was in danger, and the country was about to be disrupted, and everything was to be thrown into confusion; the great Pacific, just then coming in, was to be an independent empire; the South was to be a southern confederacy; and the North to be a poor, abandoned, miserable country. At that time there was a proposition made here, as is well known, that certain provision should be made for quieting the claim of the State of Texas to certain lines of boundary to which she professed to have a title, comprehending a part of what was formerly the Mexican province of New Mexico, and reaching to the Rio Grande. That was contested, and at length to settle that conflicting claim a provision was introduced, and that provision was introduced by the honorable Senator from Maryland to my certain knowledge—after the compromise bill had been in a measure defeated, in order to quiet entirely the title of Texas to the lands lying between her actual boundaries and the Rio Grande, and to quiet the question of State rights, whether Texas was to be interfered with by the United States or whether the Government of the United States was to surrender its own jurisdiction over this territory to the claim made by the State of Texas.

Prior to that time, certain creditors of the State of Texas, who had on the very face of the bonds issued by that State a claim against the revenues of Texas, came here. The revenues of Texas were hypothecated for the payment of their claims, and those creditors came here, and by their memorial asked the United States, in consequence of having annexed Texas, to recognize and pay their claims. It was then provided in the bill of the honorable Senator from Maryland, in order to release the United States from these claims, that $5,000,000 of the indemnity proposed to be paid to Texas for assenting to such boundary lines as were there provided, should be issued to Texas, and that $5,000,000 should be retained in the Treasury. For what purpose were they retained? For the payment of the claims for which the revenues of Texas were hypothecated, and for which, incidentally, in consequence of annexation, the United States were, as the creditors said, bound to pay. That bill passed. The $5,000,000 were issued to Texas, and $5,000,000 more remained in the Treasury. Sir, in my opinion, the United States stand in the character of a trustee of those $5,000,000 in the Treasury for the creditors, whose claims are based on the revenues of Texas; and that no more should be paid than is absolutely due to the creditors.

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Why was $5,000,000 fixed as the sum to be retained? It was upon a statement made—which statement I have seen—in which this specific portion of the Texas debts was said not to amount to more than $4,500,000. That being supposed to be the fact, $5,000,000 were retained in the Treasury, not only for the purpose of paying these claims against the State of Texas, but for releasing the United States from all this hypothetical obligation which she was assumed to be under to pay those claims. Now, what is the proposition of the honorable Senator from Virginia? It is to pay to the claimants the amount that has been allowed to them by the State of Texas. What is that? Certain individuals have gone to Texas, presented their claims and had allowed, as the Senator from Maryland says, eighty-seven and a half cents on the dollar, and I think some more. Others have been scaled down to twenty cents on the dollar; the rates varying from eighty-seven and a half to twenty cents. According to this amendment of the Senator from Virginia, the Treasury of the United States is to pay those claims according to the scalage of the State of Texas.

There are, I understand, $8,333,000 of these claims. You have $5,000,000 to pay them with. Those creditors who have their scalage at the highest rate, will come into the Treasury of the United States, and take their issue of stock; but those who were scaled at twenty or thirty cents on the dollar, will not come in. They are unwilling to take that amount. Therefore the result of the amendment of the Senator from Virginia will be, that those who have had their claims scaled at sixty, seventy, or eighty cents on the dollar, will come in and take the $5,000,000, and leave nothing for those whose claims were scaled at thirty, twenty-five, or twenty cents. If the fund should be exhausted in this way, there will be $3,333,000 of claims unprovided for.

Mr. HOUSTON. The $8,000,000 is the sum requisite to pay all the demands, according to their face, before the scalage took place; but as they are now scaled, it is impossible for the amount, as it is scaled, to exhaust the fund. The intention of the amendment of the Senator from Virginia is merely that those who are willing to take their bonds at the scaled rates, shall have permission to do so, and not be prevented from realizing their rights by the contumacy of a few seditious would-be creditors.

Mr. CLARKE. I understand that, and I think I have stated it sufficiently. The proposition made by the honorable Senator from Maryland, is to issue $8,333,000 of stock. According to that, you can pay every man the face of his obligation. But if you take the proposition of the honorable Senator from Virginia, to issue the $5,000,000 of stock from the Treasury, according to the disposition of the creditors to come in and take, you have $5,000,000 with which to pay $8,333,000 of claims. How are you going to pay it? To each individual, A, B, C, or D, precisely as he chooses to come in and take it? Who will come in? A and B? Gentlemen within my eye will come in, who have got their scalage at eighty-seven and a half cents on the dollar. Perhaps the amount of the debt, as scaled by Texas, will be $6,000,000 or $6,500,000. Under the amendment of the Senator from Virginia, they will have absorbed your whole $5,000,000, and you will have no more money. What then becomes of the rest of the claims?

Mr. RUSK. If the Senator will look over the report of the Auditor and Comptroller, he will find that the fund cannot be exhausted according to the scaled routes, but a large amount will be left.

Mr. CLARKE. I allow that to be true; and if so, the scalage is lower than I thought it was. The Senator from Texas says that his State has so scaled the debt that the five millions cannot be exhausted. What then becomes of the obligation of the United States upon which this grant or this compensation to Texas for her surrender of claim to certain territory was predicated?

That compensation was made upon the ground that the United States were bound to pay these debts or obligations of Texas for which her revenues from customs were hypothecated, and for which the Government of the United States, in consequence of the annexation, was bound in honor and in equity to be responsible. Now suppose, Mr. President, that you are a creditor, and are allowed twenty per cent. upon your obligations: I ask you what becomes of the obligation of the United States? Is it not the duty of the United States as much to pay you, as to pay the man whose debts were scaled at eighty-seven and a half cents? Sir, if because the revenues of Texas were pledged for those debts, the Government of the United States, in consequence of the resolutions of annexation, was bound to pay them, it is bound to pay every one to the letter and full face of the obligation. That is the ground that I take.

Mr. MILLER. With the consent of the Senator from Rhode Island, I move that the Senate do now adjourn.

Mr. HUNTER. I hope not.

Mr. BUTLER. Let us have a vote.

Mr. MILLER. We cannot vote for some time.

Mr. HUNTER. I call for the yeas and nays upon the motion.

Mr. MILLER. I withdraw it.

Mr. ATCHISON. I renew it.

The yeas and nays were not ordered.

Mr. DODGE, of Iowa. I beg to make an appeal to the Senator from Virginia to withdraw this controverted amendment. Let us get through with other less important amendments, and have a vote if he pleases in the morning with a full Senate on this. It is an important question, involving seven or eight millions of dollars, and I think we ought to have it voted upon in a full Senate. Let us get through with the ordinary business, and then we can have a vote upon the merits of the proposition.

Mr. MASON. As far as courtesy is concerned, I would be very glad if I could yield to the proposition of the Senator from Iowa.

Mr. DODGE. I am sure of that.

Mr. MASON. But every one knows that we have now the whole night before us, and if it is the pleasure of Senators to sit here and debate the question, I will sit with them with a great deal of pleasure; but if I withdraw the amendment now, and offer it to-morrow, every one will say, and say justly, the bill will be destroyed; the rest of the day will be consumed, and there will be no chance of getting a vote. Sir, I will not take up the time of the Senate. I am willing to vote upon the proposition of the Senator from Maryland at once, without debate.

The PRESIDING OFFICER. The question is on the motion to adjourn.

Mr. BORLAND called for the yeas and nays on the motion; and they were ordered; and being taken, resulted—yeas 20, nays 28; as follows:

YEAS—Messrs. Atchison, Bell, Bright, Chase, Clarke, Davis, Dawson, Downs, Fish, Fitzpatrick, Jones of Tennessee, Mallory, Miller, Norris, Pettit, Phelps, Pratt, Seward, Sumner, and Underwood—20.

NAYS—Messrs. Badger, Borland, Bradbury, Brodhead, Butler, Cass, De Saussure, Dodge of Iowa, Felch, Foot, Geyer, Gwin, Hale, Hamlin, Houston, Hunter, Jones of Iowa, Mason, Morton, Pearce, Rusk, Sebastian, Shields, Smith, Spruance, Toucey, Walker, and Weller—28.

So the motion was not agreed to.

Mr. CLARKE. I am very much indebted to the Senate for not adjourning. It proves to me two things. In the first place that the Senate like to hear me speak, and in the next place that the Senate, upon the considerations that are involved in these amendments, feel that they are bound to sit here and adjudicate, not only upon the particular matter presented to them, but upon those great principles of equity which belong to the considerations between creditor and debtor.

Mr. President, I was about saying that the proposition of the honorable Senator from Virginia was to allow the five millions of dollars in the Treasury of the United States to be issued to those who shall come in, present their claims, and execute their releases, according to the scalage made by the State of Texas. It is irresistible to my mind that those who come in would be those who received the largest amount of the scalage, and those who stood out would be the persons whose obligations were scaled at low rates. I did suppose that the whole amount would be absorbed by the higher rates of scalage, but the honorable Senator from Texas says not, but that there is enough for the whole, according to the scalage adopted by Texas. So be it. The proposition, then, is to deliver to the State of Texas five millions of dollars, to let her dispose of it as she pleases. Now, I feel bound as one having participated in this transaction when it took place in this Chamber, to say that I feel the responsibility upon me as a trustee for the creditors, as well as a trustee for the State of Texas. These five millions were reserved to be held by the United States until the State of Texas should present and file in the Department of the Treasury releases from those creditors who claimed that the United States were bound in equity and honor, to protect their debts against the State of Texas. Now, sir, these creditors are absolutely placed in the position that there are five millions of dollars in the Treasury of the United States which cannot be taken therefrom, without the consent perhaps of the State of Texas. This amount of money is shut up from their possession, because it cannot be delivered according to the provisions of the act.

I was about saying, when I was interrupted, that the estimated amount of the debts for which the United States were inculpated, according to the doctrine held by the creditors of Texas, though I never believed it myself, amounted finally to $8,330,000. The amount at the time the boundary act was passed, was supposed not to exceed $4,500,000, or $5,000,000. That amount was then supposed to be sufficient to cover the whole debt, and representations to that effect were made here in this city. I appeal to the honorable Senator from Maryland, who knows more of the specific details of the matter than I do, to say whether $4,500,000 was not a sum then supposed to be ample to cover all the claims for which the United States were supposed to be responsible under this hypothecation of the duties of the State of Texas? It has been ascertained that there are $8,330,000 of those claims, and there are $5,000,000 in the Treasury with which to pay them.

I am opposed to the amendment of the Senator from Virginia, allowing those who have got the highest rate of scalage to come in and take out of the Treasury this money which is held there in trust for all the creditors, and so far as we know, they are all alike. I am also opposed to the proposition of my honorable friend from Maryland, to grant to these creditors an issue of $8,330,000 of three per cent. bonds instead of $5,000,000 of five per cent. bonds, which were to be issued under the act of 1850. How is that? Why, sir, we are told—and it is a most specious argument on the face of it—that the interest on $8,333,000, at three per cent. is no more than the interest upon $5,000,000 at five per cent. That is all very true; and if you intended never to pay the principal it would be precisely the same thing; the interest in either case would be $250,000 a year, and there would be no difference. If the United States never intend to pay the principal, it would make no difference to them whether they paid $250,000 interest upon bonds to the amount of $8,333,000, or upon bonds to the amount of $5,000,000, and each individual creditor would get precisely his proportion. But that is not the fact. At the expiration of a certain time you have got to pay the principal. You have to pay the interest year after year, and at the end of the time you stipulate, you have to pay the principal; and when you come to pay that, instead of paying $5,000,000, you have to pay $8,333,000. So that, in fact, instead of giving the State of Texas, under the compromise act, or rather the act which was passed after the compromise bill was defeated, instead of $10,000,000, you pay to the State of Texas $13,333,000. Was that the intention of the act? Is that equitable? is it right? Now, sir, there is an equity in this thing, and I yield the floor to my honorable friend from Indiana, to propose an amendment which I

think will meet precisely the equity of this case, and which accords pretty much with my views.

Mr. BRIGHT. I presume my amendment is not now in order; but it will be entirely proper for me to state the substance of it, in order that the honorable Senator who has the floor may have an opportunity of discussing it as he proceeds. I give notice that if the amendment now pending shall be voted down, I shall offer the following:

That the sum of $5,000,000, with interest thereon from the first day of January, 1851, is hereby appropriated to be divided *pro rata* among those creditors of the late Republic of Texas for whose claims the revenues of the said Republic were pledged, according to the decision of the Secretary of the Treasury, confirmed by the President of the United States, under date of September 13, 1851, to wit: The holders of the certificates, or other evidences of debt issued under the acts of June 7 and June 9, 1837, of November 18, 1836, May 16, 1838, January 22, 1839, and January 14, 1840, and one of the acts of February 5, 1840, as described in said report of said Secretary: *Provided*, That the said creditors shall, on or before the first day of July, 1853, make a full assignment to the United States of said certificates or other evidence of debt; and where the original certificates or other evidences of said debt have been surrendered up to the authorities of the State of Texas, and new certificates have been issued therefor by the said State, said new certificates shall be received as evidence of the original amount of said claim, and shall be assigned accordingly.

Mr. DE SAUSSURE. The Senator will allow me to ask him a question. I want an explanation of that amendment. I understand the mover to say that the $5,000,000 mentioned in the amendment are to be confined exclusively to that class of creditors who have a mortgage upon the customs.

Mr. BRIGHT. I will answer the question of the honorable Senator from South Carolina. The $5,000,000, together with the interest and premium, named in that amendment, are intended to be applied to the payment of the debt for which the revenues of Texas were understood to be pledged at the time of her annexation. The object of the amendment is to divide that amount, premium and interest, *pro rata* among the creditors according to the face of the debt.

Mr. DE SAUSSURE. That class of creditors?

Mr. BRIGHT. I understand that the reservation of five millions, made by the boundary act, was considered to be sufficient to cover the debts for which the customs revenues of Texas were pledged. That was the impression on the mind of the honorable Senator from Maryland at the time he prepared the boundary act. Subsequent examination proves, however, that the five millions are not sufficient to cover the amount. The object of this amendment is, I repeat, to retain the five millions of dollars for the benefit of the creditors who hold that class of debt for which the revenues of Texas were pledged.

Mr. BUTLER. I want an explanation before I can really understand the remarks of my honorable friend from Rhode Island. Do I understand from the honorable Senator who offers this amendment——

Mr. BRIGHT. I have not offered it. I have merely given notice that I intend to offer it.

Mr. BUTLER. It is an arrangement between the Senators, as I understand. One offers the amendment, and the other speaks to it.

Mr. BRIGHT. There was no arrangement at all, sir. I have merely stated, that if the pending amendments be voted down, I shall offer this.

Mr. BUTLER. Oh! I understand it perfectly.

Mr. CLARKE. It is an interpleader. [Laughter.]

Mr. BUTLER. I want to know distinctly from the gentlemen, who understand each other, I have no doubt, whether the man who paid but twenty, and the one who paid eighty cents on the dollar, shall *pro rata* receive their proportion of these five millions of dollars? In other words, are they to be perfectly equal so far as regards the receipt, without regard to the scaling? I suppose that is it.

Mr. RUSK. Yes, sir; that is it.

Mr. BRIGHT. I would state that I had no reference in my amendment to debts scaled or not scaled. I supposed that Texas intended to pay all the debts which upon their face she appeared entitled to pay, or in other words that she did not intend to repudiate any portion of her debt. I have as authority on that point the message of the honorable Senator from Texas, [Mr. HOUSTON,] when President of that Republic. He said that she never would repudiate any portion of her just debts. The object of my amendment, as stated before, is to pay the debt of Texas according to its face, and if the amount in the Treasury is not sufficient for that purpose, to divide it *pro rata*, without any reference to scaling.

Mr. BRADBURY. I should like to propound one question. I wish to know when the scaling took place? Was it previous to the time of the passage of the compromise measures or since? I understand that the scaling took place since.

Mr. BUTLER. No, sir.

Mr. BRADBURY. I would like to know how the fact is?

Mr. PEARCE. I can now state it precisely, I think. In March, 1848, the Legislature of Texas passed an act, entitled "An act to provide for the ascertainment of the public debt of the late Republic of Texas." The fourth section of that act directed the Auditor and Comptroller of Accounts to make a statement and classification of the debts, and to state what, in their opinion, was the amount received by the Republic upon each class of debts; and this scaling which the Auditor and Comptroller were thus called upon to make was subject to the revision and affirmation of the Legislature of Texas. The Legislature never passed any scaling act until 1852. The date of the act is January 31, 1852, by which she scaled the debts as they are. There was no other scaling act.

Mr. BRADBURY. Then the scaling took place since the passage of the boundary act?

Mr. PEARCE. Yes, sir.

Mr. RUSK. It was in 1848.

Mr. CLARKE. I have said that there was a misrepresentation and a misunderstanding, to say the least of it, not of mine or by any friend of the State of Texas, but a misrepresentation here of the amount of the debt for which the customs revenues of Texas were hypothecated, and for which the Government of the United States were incidentally and hypothetically bound. An estimate was made of these debts at the time, and it was understood that they did not exceed four and a half millions of dollars.

By the provision of the boundary act, acceded to by the Senators from Texas, and supposed to be satisfactory to every one, $5,000,000 were to remain in the Treasury of the United States for the benefit of these creditors. Now, what was the honest expectation in regard to that transaction? It was, that when the first $5,000,000 of the $10,000,000 granted were issued to the State of Texas, they themselves would take up those claims for which their revenues were hypothecated, and for which the United States had, in some measure, incidentally acknowledged themselves to be bound, and file releases for them in the Treasury of the United States, and then receive their second issue of five millions of stock; but what was the result? The result was, that the State of Texas, after having called in her debts, and having found out that the whole of the debts for which her customs revenues were hypothecated, and for which the credit of the United States seemed to be bound, amounted to about $8,330,000. Instead of appropriating $5,000,000, which was issued according to the act of 1850, to the State of Texas to redeem these obligations, that State appropriated the $5,000,000 to her own use, as she had a right to do. I complain not of that. But then she introduced this system of scalage upon the claims for which the revenues from customs were hypothecated, and according to the statements made by the honorable Senator from Maryland, the scalage was not perfected until 1852. Then what was the condition of things?

If you adopt the proposition of the honorable Senator from Virginia, you pay these debts according to the scalage of the State of Texas. Those who are satisfied with the scalage, or who have got the largest amount, will come in and take their portion. To that I am opposed. If you do not do that, what will you do? The next proposition is from the honorable Senator from Maryland, to increase your own obligations to the amount of $8,333,000. There is about this proposition a speciousness which I beg honorable Senators to look at. It is said that if you issue $8,333,000 of stock, bearing an interest of three per cent. per annum, the interest upon that will amount to precisely the same thing as it would at five per cent. upon $5,000,000 of stock; but it must be remembered that you have the principal to pay at some time, and whenever you pay the principal you pay $3,333,000 more than you are bound to pay by the act of 1850. That is the whole story.

The honorable Senator from Indiana has suggested an amendment, and it has been said on an understanding with me——

Mr. BUTLER. I do not know that there was an understanding, but you spoke of his amendment as though you knew something about it.

Mr. CLARKE. I was complimented by the honorable Senator from South Carolina even saying that I had an understanding about it, but it is no such thing. The Senator from Indiana suggested to me that he had an amendment which he thought would meet the case. It is precisely the thing that I have proposed for the last year to all persons who have entreated me in regard to these debts of Texas. I have told gentlemen out of doors and in doors, that that was the only proposition which the Government of the United States could be expected to offer. Outside influence is talked of. Sir, there has been as much of it brought to bear upon me by friends, and their solicitations, as on any one, but I would never yield to it. I have always told them, here are $5,000,000, with interest, in the Treasury of the United States, which is a trust fund for the creditors; and I have told them a proposition a little different from that of the honorable Senator from Indiana, and it was this: We have now got in the Treasury sixteen or seventeen millions; and when these creditors approached me—and small as my own State is, there are some persons there who have got these bonds, and took them in good faith in a shape bearing a resemblance to bank bills, but in a little corner the revenues of Texas were hypothecated for their payment—I have said to them, Your best expectation and hope is to get the Congress of the United States to apply these $5,000,000 with interest to the payment of your debts *pro rata*. I am satisfied with the amendment of the honorable Senator from Indiana, and I hope it will be adopted.

Mr. BUTLER. I want to make an apology to my friend from Rhode Island, for he says he did not understand the amendment before. I supposed from the manner in which it was done that he knew what the amendment of the honorable Senator from Indiana was.

Mr. CLARKE. I knew it when I heard it read.

Mr. BUTLER. Did you not know it before?

Mr. CLARKE. I never saw it or heard it before.

Mr. BUTLER. I thought that perhaps you had some understanding about it.

Mr. CLARKE. The Senator from Indiana asked me to yield to allow him to submit it, and I did so, and I would extend the same courtesy to the honorable Senator from South Carolina.

Mr. BUTLER. I have no doubt of it.

Mr. BRIGHT. I would state that I did ask the honorable Senator from Rhode Island to permit me to offer it.

Mr. CLARKE. I never saw it or heard it throughout until it was read; but while the vote was being taken the last time on the motion to adjourn, the honorable Senator from Indiana suggested to me that he had such an amendment, and asked me to give way.

Mr. BUTLER. I must do justice to myself in any matter which is personal. The honorable Senator from Rhode Island stated that the honorable Senator from Indiana had an amendment which might perhaps settle the question. I do not say that he knew what it was, but I presumed from that that he had great confidence at least, in what the Senator from Indiana said.

Mr. CLARKE. I say precisely. I beg the Senator from South Carolina to understand me, for he and I are not to misunderstand each other, that when the question was being taken on the adjournment, the Senator from Indiana suggested to me he had such an amendment, and stated in brief terms what it was, and I told him it was precisely according to my own ideas.

Mr. BRIGHT. That is so.

Mr. CLARKE. Then the honorable Senator asked me to give way and allow him to introduce it. I told him if he would allow me to go on with my remarks I would come to a point where it might be introduced. There is the whole story; the sum and substance of it, without prevarication, coloring, or dissimulation, in any manner.

Now, sir, the proposition of the Senator from

Indiana amounts to this: Five million and a half, or little more than that, remain in the Treasury of the United States, as a trust fund for the benefit of the creditors of Texas, or that specific class of creditors for whose claim the revenues from customs were hypothecated. Those claims on their face amount to $8,333,000: and there are about $5,500,000 to pay them. Let the creditors come in and take *pro rata* according to the face of their obligation. Let them all come in and fare alike. Let the creditors come in and take their sixty-five or sixty-six per cent., and release the Treasury of the United States. My idea, however, is, that the Government of the United States ought not to issue its bonds. You have now got in the Treasury fifteen or sixteen millions of dollars, and instead of issuing these bonds payable in twenty years at three per cent., according to the proposition of the Senator from Maryland, you ought to pay the money directly to each creditor of the State of Texas who holds these obligatious. Let them come in and release the Treasury, and let the Treasurer pay them their *pro rata* amount. That is my idea, and that is what I should propose. I think it infinitely better even than the proposition of the honorable Senator from Maryland, to issue the $8,333,000 of stock; and I think of all things the proposition of the Senator from Virginia, to allow those to come in first whose scalage is highest, is most unjust to those who hold obligations which were scaled low. I will take up no further time of the Senate now.

Mr. UNDERWOOD. I wish to make a few remarks, and I will not detain the Senate long. I was originally opposed to paying any portion of the debt of Texas. I thought the United States were not liable for it; and I therefore voted against the appropriation of $10,000,000. The thing, however, has been done. We have agreed to pay $5,000,000 upon a certain contingency, which contingency has not yet happened. The question is, under the past legislation of Congress, what ought we to do? Without going into the reasoning at length, I will tell you what I am for doing. I am for voting for the proposition of the gentleman from Indiana, [Mr. BRIGHT.] I am willing to vote to distribute the $5,000,000 which we have agreed to pay, although against my judgment, but not another cent except the interest on it, which the original act may convey. How ought that to be done? Shall it be done by the scaling process which Texas has adopted, or is it to be done upon the basis of a liability which we have incurred, and which we have acknowledged by the boundary act, as it seems, against the judgment of a good many of us? It is said that by that act this Government has acknowledged its liability to pay such debts of Texas as her revenue received from imposts had been pledged to discharge. It seems, from subsequent information which we have derived, that these debts amount now to about $8,500,000. Therefore, the $5,000,000 which we have appropriated for that purpose, would leave about $3,500,000 unpaid. Now, if the proposition be good that we were originally bound to pay the $5,000,000 proposed, it may be said that we are bound to pay the additional $3,500,000. That may be a question for those who voted for the $5,000,000; but it is not a question for me, who believes that we were never responsible for a cent. I am not willing, therefore, to enlarge the responsibility of the Government, leaving it to those who voted the $5,000,000, to vote $3,500,000, if they can do it. But as it is a part of the law of the land upon the statute-book, that we are to appropriate $5,000,000, I am willing to do that.

Mr. RUSK. I deny it.

Mr. UNDERWOOD. Does the gentleman deny that there is any statute law for that?

Mr. RUSK. I do. And I say that the reverse is the fact; and that if the Senator will read the law he will see it.

Mr. UNDERWOOD. I have not read the act more than once or twice since it was passed; but according to my recollection—and in that the gentleman can correct me if I am wrong—it makes this provision: that upon the filing of these debts or bonds or claims, for which her revenues from her customs were pledged, with a release in the Treasury of the United States, we should issue to Texas the stock for the $5,000,000. Now, sir, all these persons have never filed their claims and made their releases. Then, as I have already stated, the contingency upon which the $5,000,000 of stock were to be issued has never happened. It may be said, and no doubt will be said, by the gentleman from Texas, that the stipulation to issue the stock in behalf of Texas was to enable her to pay the debt; that it was to enable her to issue stock upon the contingency happening. That argument is very strong, based upon the statute. And perhaps, if we were to pay the debt directly, Texas might hereafter turn round and say to the Government of the United States, "You have not fulfilled your stipulations according to the act of Congress. You have not given to us the $5,000,000 of stock which you promised to give; but you have undertaken to distribute it yourselves." What answer is to be given to Texas, in case she should assume that position? It is this: We agreed to give you the $5,000,000 of stock upon the idea that we were responsible to pay those debts for which your customs had been pledged. Whether we were mistaken or not, it was the basis upon which that act was passed. We agreed to give you that amount upon the idea that we were to be released from those debts; but your subsequent legislation by scaling the debts, and providing only for a part of them, has left those creditors who were scaled at a low rate to come in and demand the fund of us. These creditors may say to us, Your legislation was based upon the idea that the whole amount of these claims was to be paid to us. Texas has only paid part, and you are bound to pay the residue. In that point of view, if Texas were to get the whole $5,000,000, and, by a scaling process, pay with $2,500,000 debts amounting on their face to $8,500,000, it would leave creditors to the amount of $6,000,000 in the attitude of coming to the Congress of the United States and asking us to pay the $6,000,000, on the ground that we had acknowledged our liability from the beginning.

Sir, we have got into these difficulties by improvident legislation. I shall not go into that; but I ask you to look at the statement which I have made, and to say what is to become of the six millions, if Texas pays upon the scaling process only two and a half millions. You will never hear the last of it until you have paid the whole amount of the claims. I am not willing to bring about that state of things.

A few words now in regard to the proposition of the gentleman from Virginia. I think that proposition is very unjust and very improper. I think it ought to be superseded, in the first place, by the amendment of the gentleman from Maryland, [Mr. PEARCE,] and then by the amendment of the gentleman from Indiana, [Mr. BRIGHT.] Let us examine the amendment of the Senator from Virginia, and see what it provides. It provides "that it shall be lawful for the Secretary of 'the Treasury, at any time after the first day of 'July next, to issue to the State of Texas such 'portion of the stock mentioned in the first pro-'viso," and so on, giving a description of the act, "as shall be equivalent in amount to release 'the claims of the creditors of Texas against the 'United States, which shall be then filed at the 'Treasury."

Now, I want to put this case: Suppose that, by the first of July, five millions of these debts should be filed in the Treasury—then, according to the proposition as it reads, you have to issue the whole five millions of stock, as I understand it. If that be done, what is to become of the three and a half millions which may afterwards be presented at the Treasury? They go unpaid entirely. If Texas shall use the whole five millions in paying the five millions filed, what is to become of the balance of the creditors? Is that right? It seems to me to be entirely wrong. But, sir, there is a class of cases not provided for at all, and it is a class which embraces a petition, which I presented to Congress at an early day from one of my constituents.

Mr. BUTLER. Leslie Coombs, I suppose.

Mr. UNDERWOOD. Yes, sir, that case is not embraced by the amendment of the Senator from Virginia, though it is embraced by the amendments of the Senators from Maryland and Indiana. I understand that by the legislation of Texas, all the claims not presented at a particular time to be scaled were barred by a limitation which she prescribed. The case of Coombs, to which I allude, falls within the provision of that statute, and is barred, because he had, if I am not mistaken, before the legislation of Texas filed his claims here to comply with your law before the act of limitation of Texas went into operation. If the whole $5,000,000 shall now be issued to Texas, and the stock be placed in her hands, no provision will be made by which the claims filed here in pursuance of your act, and which have not been returned to Texas, can be satisfied. It seems to me that that will be a process entirely unjust, and I cannot vote for any legislation upon the subject which will fall unjustly upon the head of any of my constituents.

Sir, I do not intend to go into any consideration of remarks which were made to which I know that Mr. Coombs took exception; but as it appears from a letter which has already been published, exception has been taken to certain remarks, I will say something in reference to that point. He and other creditors contend that they were not those speculators mentioned by my friend from Texas [Mr. HOUSTON] in his speech the other day, who bought up the claims of Texas at such a great sacrifice as he represented. How that matter stands, of course I have no knowledge. It is enough to know that there are differences of opinion on the subject. Some of these creditors insist that they were not speculators in the bonds and funds of Texas, but that they invested their money, relying upon the authorities of Texas, which were regarded as sufficient guarantees at the time, that they should be paid the whole amount. If that be the case, and the United States have passed a law providing for the payment of $5,000,000 to discharge these debts, it seems to me it was so far an acknowledgment of the justice of those claims that we ought to hold on to the $5,000,000 until all these liabilities can be properly disposed of. I have other constituents besides Mr. Coombs who have written to me upon this subject, about their claims against Texas, and they are all in the same condition of insisting upon the payment of every dollar for which they hold the bonds of Texas. Mr. Norton I can name as a gentleman in that situation. Now, although I have no personal knowledge of the particular manner in which Mr. Coombs, Mr. Norton, and others obtained their claims against Texas, yet, when they assert they were not speculators who bought in the market for a trifle, but really and substantially advanced their means, I feel it my duty to endeavor to take care of their interests in common with the interests of the other creditors. I am, therefore, wholly unwilling to allow claims to the extent of $5,000,000 to be filed in the Treasury, and then to issue the whole $5,000,000 to the State of Texas, as is proposed by the amendment of the gentleman from Virginia, for that leaves the other $3,500,000 altogether unprovided for. What is to be done with them when they shall come, no one can tell, unless you intend to pay the whole according to the amendment of the gentleman from Maryland, a proposition to which I am opposed. I shall, therefore, go for the amendment of the gentleman from Indiana, proposing to distribute the $5,000,000 among the creditors.

Mr. HOUSTON. Mr. President, I am very reluctant at this time to press myself upon the attention of the Senate. My friend the Senator from Kentucky [Mr. UNDERWOOD] alluded to the speech which I made, and also, a letter which has been published in reply to some remarks which I then used in debate. I am always responsible for anything I say here or elsewhere, and I am very glad that the honorable Senator has suggested it, for it may supersede the necessity of my catechising the gentleman who wrote that letter, in the newspapers or in private correspondence.

The gentleman to whom allusion has been made, says that he is not one of the speculators. Then I do not know how to characterize a speculator. If what I have heard were admissible and proper, I would give it as hearsay; but I will come down to facts, which are applicable to the transactions of that gentleman in Texas. He said in his letter that he had gone there, and had held a conversation with me; that I had entertained him about the prospects of the country, and that my representations had caused his investments in Texas. Now, sir, it is very remarkable how he should have come to any such conclusion, for I have never yet speculated to the amount of one dollar in Texas, though I saw when I could have done it to the amount of millions. That gentleman, according to his own statement, being impressed favorably from the glowing description which he

received of the country, made an investment, I think, to the amount of $59,000. That, mark you, is the amount which he claims of Texas—not that he actually invested $59,000 in good funds. If he invested $25,000, it is the most extraordinary piece of stupidity that ever was in the world. He might as well have thrown the money in the bayous of that neighborhood, for money had very much depreciated there. It may well be doubted whether he ever invested even $15,000. He stated, that from these circumstances, he had no hesitancy in leaving his money to be invested there. I understand this, and although I give this from hearsay, I think that the facts will bear me out. He did invest his money, or a friend did it for him. Up to this time he had no transaction with the government of Texas, but with the citizens of Texas, who had received this money in consideration of supplies furnished to the army, services rendered in the army, and service done generally to their country. In their hands the obligations had depreciated, and it was with these individuals, under a pressure of necessity, that this gentleman had these transactions. Whether this ought to be characterized as speculation I know not, nor do I care. But this I do know; he left his money to be invested, and it was invested in 1841, when Texas money had depreciated to sixteen cents on the dollar.

This is the gentleman who now comes forward with the most chivalrous complaints against the State of Texas for the manner in which he has been treated. I have given the facts of the case, and will leave it for others to decide whether the transaction partakes of the nature of speculation. As I have before stated, this gentleman had no transaction with the government of Texas to the amount of one dollar; nor did he get his certificates at their face value. If he was civilly treated it was because we received well all respectable strangers, whether they came as visitors to see our country, or on speculation, or whatever view they came with.

The gentleman to whom the Senator from Kentucky alluded, says that he gave money to sustain the war of Texas, and to uphold her cause. If he did, let him bring forward his vouchers. If he was so indifferent, or so superabundantly rich that it was unnecessary to husband his means, he ought not to bring it up as a charge against Texas. If he contributed anything to her aid, he ought to have taken vouchers for it, and to have come forward as he would have done in Tennessee or Kentucky. And if he had done so, he would have received dollar for dollar, and cent for cent.

But, sir, that gentleman says that was not all; but that he also sent his son equipped to aid Texas in her war; that in this way he contributed to her aid and to her cause. The young man was a gallant fellow. I accord to him all the respect that a father can demand of me. But he was engaged in that unfortunate and lawless expedition to Santa Fé, a bill to authorize which was met by almost instant rejection, when simultaneously introduced into both branches of the Texan Congress; it was literally kicked out of Congress. As soon, however, as the Congress adjourned, the then President ordered, upon his own responsibility, that expedition, which cost a million and a half of dollars; obligations for which were issued from the treasury, without warrant or appropriation by Congress, upon his individual responsibility. The arms of the Republic, and all its means of defense, were taken, and it was left without one keg of powder. Upon that unfortunate expedition, which was totally without authority of law, this young man went. He joined it from motives of chivalry and gallant bearing, which I commend. The expedition itself, however, was unprofitable to Texas. If he was incarcerated in the prisons of Mexico, it was not by the contrivance of the Texan authorities, but it was by a lawless usurpation of power, which would have incurred punishment, if the individual had been worthy of being punished; but as he was not, we excused him, and let his tears wash away his sins.

We are further told that this young man now fills a bloody grave, leaving it to be inferred that it is in Texas; and that the father, therefore, in his demand against Texas, claims the sympathy, the commiseration, and the kind feelings, of every one, and the gratitude of Texas. Sir, that young man unfortunately fell in a civil broil in Louisiana, on the banks of the Mississippi, hundreds of miles away from Texas. Yet this was brought up as one of the charges against Texas, that she had not only cheated the father, but had brought the son to a bloody grave, and thus aggravated the enormous offense of swindling him.

But let him go to the poor men from the hard earnings of whose hands his tempting funds were wrung. He obtained them at a depreciated price, and funded them at the Treasury, no doubt expecting to reap a handsome advance upon them. Sir, Texas has been just, and she will be just. You need exercise no supervision over her justice. "*Justice*" has been her motto; and, while she wears that motto she will always have "*right*" written beside it.

Mr. PHELPS. Mr. President——

Mr. NORRIS. If the Senator will allow me, I will move that the Senate now adjourn.

Mr. HUNTER. I hope we shall sit out the bill to-night.

Mr. HALE called for the yeas and nays upon the motion to adjourn; and they were ordered; and being taken, resulted—yeas 24, nays 24; as follows:

YEAS—Messrs. Atchison, Bradbury, Bright, Chase, Clarke, Cooper, Davis, Dawson, De Saussure, Fitzpatrick, Foot, James, Jones of Iowa, Jones of Tennessee, Miller, Norris, Phelps, Pratt, Seward, Smith, Soule, Spruance, Sumner, and Underwood—24.

NAYS—Messrs. Badger, Bayard, Borland, Brodhead, Butler, Cass, Dodge of Iowa, Felch, Geyer, Gwin, Hale, Hamlin, Houston, Hunter, Mallory, Mason, Morton, Pettit, Rusk, Sebastian, Shields, Toucey, Walker, and Weller—24.

So the motion was not agreed to.

Mr. PHELPS. I certainly am very reluctant to trouble the Senate, and I shall endeavor in what I have to say to be as concise as possible. I was one of those who sustained the boundary bill of 1850, when it was introduced by the Senator from Maryland, [Mr. PEARCE]——

Mr. SUMNER. If the Senator will allow me, I will move that the Senate do now adjourn.

Mr. PHELPS. I yield the floor.

Mr. GWIN called for the yeas and nays upon the motion to adjourn.

They were ordered; and being taken, resulted—yeas 19, nays 29; as follows:

YEAS—Messrs. Atchison, Bradbury, Chase, Clarke, Cooper, Davis, Dawson, De Saussure, Fitzpatrick, Foot, Jones of Iowa, Miller, Norris, Pratt, Seward, Smith, Spruance, Sumner, and Underwood—19.

NAYS—Messrs. Badger, Bayard, Borland, Bright, Brodhead, Brooke, Butler, Cass, Dodge of Iowa, Felch, Fish, Geyer, Gwin, Hale, Hamlin, Houston, Hunter, Jones of Tennessee, Mallory, Mason, Morton, Pettit, Rusk, Sebastian, Shields, Soule, Toucey, Walker, and Weller—29.

So the motion was not agreed to.

Mr. PHELPS. I was one of those who not only voted for the boundary law of 1850, which is the subject of our discussion, but I exerted myself to the utmost of my ability to procure its passage. I must say, however, that neither upon that occasion nor on this, have I had the least conception that in the enactment of that law we were committing ourselves to these debts of Texas.

The position of things at that time will be well understood by gentlemen who were then members of this body. The bill introduced by the honorable Senator from Maryland was the initiatory measure, the opening-wedge to a series of measures then contemplated to settle a very troublesome and a very complicated controversy. The question with respect to the boundary of Texas, was settled by proposing to give to her a sum of money to relinquish her claim to certain territory. But at the same time a claim had been advanced upon this floor against the United States, by certain creditors of Texas, upon the supposition that by the annexation of that Republic to this, the United States became responsible for her debts.

This claim being then in question, it was deemed expedient, if that series of measures should be passed, to put an end to the whole controversy, and to extinguish this claim among others. In that view of the case, after having provided, in the first section of the bill, for the payment of $10,000,000 to Texas, a subsequent proviso was introduced into the bill by which $5,000,000 of the $10,000,000, which was the money of Texas and not ours, according to the stipulation, was to be retained in our Treasury until the claim upon the United States was released. My understanding at the time—and it will be recollected that I had some little participation in these measures—was not that the claim of these creditors was recognized as a valid claim against the United States; but the purpose of this proviso was, as I have mentioned, to place the subject upon that footing that we should hear no more of it. And such is my understanding of the bill as it was finally passed. We provided by the bill for the payment of $10,000,000 to Texas, in consideration of Texas relinquishing her claim to certain territory. We then provided, not that the United States should be responsible for these debts, not that the United States should charge themselves with their payment; but that such measures should be taken on the part of Texas as would induce her creditors to file a release of their claim against the United States. This is my understanding of the law as it stands.

Now let me ask what there is in the provision of that act which recognizes the liability contended for? Is there anything more obvious than that the proposition to Texas was simply this: We will pay you $10,000,000; but you must take care that we hear no more of your creditors. That was my understanding of the bill, and it is certainly, according to my reading, the true interpretation of the act now.

This claim originated in a very different controversy. The idea that the United States would become liable for these debts, provided the measure of annexation took place, was thrown out on this side of the Chamber as a make-weight against annexation. It originated with some distinguished men in this body. It was seized upon, I will not say by all of us on this side of the Chamber—for I never used it—it was used as an argument by many of my political friends for what it was worth against the measure of annexation, which we were then resisting.

Now, sir, in the present stage of this controversy a debate has arisen with respect to what has been termed the scaling of this debt; and it has been argued that Texas has done injustice to her creditors. Whether she has or has not done so, is not my business to inquire, for I regard it a matter between her and her creditors, with which, in my humble judgment, we have no concern. By what authority, upon what ground, do we take it upon ourselves to settle this controversy between other parties? We are not made the guardians of Texas. We were not authorized, not called upon, by the act of 1850 to satisfy this debt; but we merely stipulated for our own security, that Texas herself should make such provision as would relieve us from all embarrassment upon the subject. Then, upon what principles can we go into the inquiry how much is justly and equitably due between Texas and her creditors? Why, sir, it has been said that we are trustees of this fund. That is by no means the case. We do not hold this money for the creditors of Texas. We hold it back as a sort of pledge to redeem ourselves from the claim. But when the money is paid it must be paid to Texas; and whenever she performs the condition, there is an obligation on this Government to pay her. How can we interpose between that State and her creditors, when upon the very face of the transaction the money is to be regarded as hers, to be paid to her upon a condition which she in the outset is to perform? This does not partake of the character of a trust. There is no stipulation in the boundary act which intimates that it is our duty to scale this debt, and to determine how much is justly due. So far, therefore, as the argument is concerned that it is the duty of this Government to interfere and settle this matter, I have only to say, that this is a matter between Texas and her creditors which concerns her honor, with respect to which we are neither implicated nor have any authority to intervene. So much for that.

Now the question is, what shall be done? Here are three several propositions before us. The first is the proposition of the Senator from Virginia, which in my judgment is the only one which we can with propriety adopt. This provision varies the original terms of the compact, simply so far as this: By the original terms, the condition was to be performed *in toto* before Texas could claim the five millions; but by the proposition of the Senator from Virginia, we are to pay Texas *pro rata* as far as she may proceed in the performance of that condition. This, if I understand the amendment of the Senator from Virginia, is the only difference which is made between the original contract and the amendment now before us.

What is the objection to this proposition? Why

it is said by the Senator from Kentucky, that the result of it will be to pay a portion of the creditors, and leave the rest unsatisfied. How so? If we were to pay the money out of the Treasury to the creditors, such might be the result; but the proposition of the Senator from Virginia is, to pay the State of Texas; and that proposition leaves the controversy in relation to the sealing of the debt where it was left by the act of 1850, and where, in my judgment, it ought to be left now. For these reasons I am prepared to favor the proposition of the gentleman from Virginia.

Mr. President, I might go further. This subject is not new to me. There may be those present who remember a discussion upon the subject some years since, in which I took a part. And I feel compelled to say that I have never discovered even a plausible ground for charging the debts of Texas upon the United States. Sir, I do not wish to detain the Senate at this late hour with a minute discussion upon this subject. I will, however, give briefly my views upon it.

The claim is put upon two grounds. The first is a supposed analogy to a hypothecation at common law, and the reasoning upon this point is technical reasoning. And the other ground is some supposed principle of the law of nations, by which, from the process of annexing Texas to this country, her accession to our Union is considered as having the effect of throwing the debt upon us, in analogy, perhaps, to the common law in relation to man and wife—the woman's existence, in the eye of the law, being then at an end, and her debts, of course, merged in the husband. In my judgment there is nothing in either of these arguments. The case bears no sort of analogy to a hypothecation at common law in any respect. There is nothing which can be the subject of a pledge in a technical sense. There is nothing which can be held as collateral security for the enforcement of the debt. The accuracy of the reasoning upon this subject depends upon the inquiry, What was this undertaking upon the part of Texas? It was this, that in making these loans, she pledged her honor, her integrity, and her faith as a State, to apply her revenues to the satisfaction of these debts. In one sense, it is a pledge; but is it in reality anything more than a mere executory contract on the part of the State, by which she undertook, in future, to make a faithful application of her revenue? Was any transfer of this revenue contemplated? Was there any idea of her creditors obtaining any control over the revenues? Could they withhold the revenues from Texas, as a means of enforcing the debt? No, sir; nothing of the kind.

But, Mr. President, there is another consideration which, with me, is decisive. This is not an ordinary transaction in a pawnbroker's shop. It is a matter of political and national arrangement; and when Texas pledged her revenues for these purposes, the pledge, if you may call it such, was subject to the great law of State necessity. These revenues were not to be withdrawn from Texas, to leave her helpless in the contest with Mexico. They were not to be diverted to other and different purposes. But the very loans upon which this sort of pledge was based were contributed in aid of her other resources, to sustain her in her struggle for existence. Now, it must be admitted on all hands, that it was just, right, proper, and necessary for Texas, in the first instance, to apply these revenues for the purposes I have mentioned—that is to say, to defend herself against Mexico, and to perpetuate her national existence. It was also just and right and proper that these revenues should be exhausted to the last copper if the interests and necessities of that Republic called for it. Now, what becomes of the idea that the pledge of these revenues can be compared with the hypothecation of an old coat in a pawnbroker's shop, to an ordinary business transaction between men, when it looks to great national purposes, and when that transaction was entered into with a view to perpetuate the existence of that Republic?

Let us look a little further. It is said that we have taken the thing pledged. What have we taken? We have not taken a cent of the revenues of Texas? What have we taken, then? The power to raise those revenues? No, sir. Texas has by her accession to the Union restricted herself from raising her revenue in a particular mode, and that is all. We raise a revenue from the people of Texas, not by virtue of her sovereignty transferred to us, but by virtue of the power conferred in the Constitution of the United States, to which she is a party. This revenue which we raise is both in its origin and in its purposes totally different from that which that Republic raised in the contest for her separate existence. The one was levied by Texas for the sole use of that Republic, and to provide for every purpose of State necessity; the other is levied for the benefit of the United States, and for certain special purposes confided to the General Government by the Constitution. This being the case, the revenues which we derive from imports, from the people of Texas, are neither identical with revenues surrendered by her on acceding to the Union, nor a substitute for them. In what sense, then, can it be said that we have taken the revenues of Texas?

But, sir, there is something further connected with this subject. The Secretary of the Treasury has come to the conclusion—I will not say strangely, but he has come to the conclusion—that a general pledge of all the revenues of Texas for the satisfaction of her debts is equivalent to a specific pledge of her revenues from imports. I have taken a totally different view of this subject. When Texas pledged her revenues generally, she reserved it to herself in her discretion to levy those revenues in any mode or manner which she might deem expedient. She was under no obligation to raise a revenue from imports. She might have adopted the suggestion of her neighbor from Arkansas, [Mr. BORLAND,] and resorted to direct taxation, if she pleased. She might have disposed of her public lands—might have abolished her imposts; and how could her creditors complain? Would it have been in violation of her contract with her creditors. Did she bind herself to raise a revenue in this manner? Not at all. When therefore by her accession to this Union she restricted herself in this particular, and abolished her imposts, she did no more than exercise the discretion reserved at the time of the pledge.

Then we come to the case of a specific pledge—and I use the word pledge in the sense in which it is used here—in a loose, and not technical sense. What is the character of that specific pledge? I have already described it as a pledge of the revenue from imposts, like that of her other revenues subject to the prior lien of State necessity. What was to be done with that revenue? It was to be consumed to the very last fraction if the necessities of the State called for it before her creditors could have any claim to an appropriation for their benefit. The power of raising a revenue from imposts by Texas has indeed been dried up, the power having been surrendered by her accession to the Union, the thing pledged no longer exists. That being the case, in what sense can it be said that because we exercise a similar authority under a different source of power—the Constitution of the United States—and for a totally different purpose, we have appropriated to ourselves the identical thing pledged? How can it be made out even as respects this specific pledge that Texas violated her contract by the application of this particular revenue to the great purposes of self-defense and self-existence? Sir, is not the surrender of the power under the circumstances a virtual appropriation to those purposes so essential to her, and to her creditors? Was not the act in perfect accordance with the implied condition of the pledge, and is it equally advantageous to her creditors as to herself? The technical rules of common-law, as applied to the ordinary transactions between individuals, have no application to this question—none at all.

There is another consideration: If these revenues were justly and properly applicable to the purposes which I have mentioned to the exclusion of her creditors, this great State necessity imposes a sort of lien which has precedence to the claim of her creditors. How came we by this transfer of power? for we can call it nothing more. Why, sir, we have assumed the duty of protecting that State. We have interposed between her and her enemies. Her security now rests not upon her army and navy, but in the American name. Now, sir, if there is anything like a transfer of power, if she has surrendered the revenue she has pledged to her creditors, is she not justified? Have we not paid an equivalent? And if I were to follow out the technical reasoning upon the subject, I might argue, are we not the prior incumbent? Have we not the prior lien? Sir, I have never been able to see anything like justice in the proposition that this nation, situated as it is to the State of Texas, has become liable for her debts.

What, then, is the ground upon which this claim is based? Why, sir, we have quotations from writers upon the subject of national law; but not one of them had any reference to a confederation of the character of the union of these States. We may extract from these writers general principles. But, this is not a question of principle; it is a question of application. Does the principle laid down by those writers apply? No, sir. I am willing to admit that if a country be conquered, and its sovereignty be extinguished, its debts are transferred to that sovereignty which absorbs it. But is there any authority or precedent for the proposition, that a State entering into a confederacy produces this result? A confederacy always qualifies the sovereignty of a nation, or at least, regulates or limits its exercise. If there is anything binding in the confederacy, it has this extent. But does it destroy the nation's identity? Does it produce the same effect as the conquest of a nation by which the sovereignty is actually taken? Why, sir, Texas is now sovereign and independent. She has a capacity to contract debts. She has power to levy a revenue. She has all the powers incident to a sovereignty, restricted only in those particulars wherein the exercise of those powers is limited by the compact of confederation. She has a right to raise a revenue; but in consequence of her coming into this Union, she has stipulated not to exercise the power in a particular manner. I am not disposed to elaborate this view of the subject; but I might comprise the whole argument in this simple position: that whatever might be the effect of extinguishing the sovereignty of a nation, a confederacy has no such effect. Now, what is this Union? For certain purposes a consolidated government, and for certain other purposes a confederacy merely. In those particulars in which the States retain the sovereign power it is a confederacy and nothing more. How is it with regard to the power of contracting debts? Do not the States exercise that power? Are they not recognized at home and abroad, in Europe, and the world over, as having this capacity? How is it to be made out, then, that the restrictions imposed by the terms of our Confederacy, bearing as they do in this particular upon her internal financial policy, are to be regarded as having obliterated the power of the State of Texas to contract debts, or her responsibilty for them when contracted? This is the whole argument. It may be said—and I have seen the idea thrown out in some of the newspapers—that Texas is not sovereign in the custom-house. What of that? The mode and manner of raising revenue is a matter concerning her internal policy, and does not affect the question of her sovereignty.

I have thus given the view which I entertain of this subject. I have regarded it—I will not say as a bugbear—but I have regarded the suggestion, that if Texas came into the Union, we should be liable for her debts, as a mere argument against the proposed measure of annexation. But inasmuch as the Senate is exhausted, I feel it to be my duty not to protract this debate further. I have submitted my views thus concisely, with the hope that if I have done no more I have at least made them intelligible.

Mr. SEWARD next addressed the Senate. His speech will be found in the Appendix.

Mr. RUSK. Mr. President, I submit to the Senate whether justice has been done either to the State of Texas or to her delegation in this matter. Without meaning to reflect upon anybody, or upon the committee, I desire to draw the attention of the Senate to this fact: In February of last year petitions of creditors of Texas were presented here, and upon the presentation, I believe of the first one of them, and its reference to the Committee on Finance, I rose in my place, and said that the question was not understood; that Texas had been misrepresented; that I hoped and trusted that committee would favor us with a report at an early day, when we should have time to investigate the matter; and that I would throw back upon the Government of the United States the imputation of repudiation, if there was any in this matter, which had been so liberally cast by newspaper

writers and book-makers upon the State of Texas. I have stood here from that day to this all the time anxious to redeem that pledge to the letter, and place the Government of the United States in a much more awkward predicament than Texas appears, even according to the representations of her bitterest enemies on this subject.

Now, what is the condition of things? Here is a proposition coming in at this late hour of the session; I am thrown off until nearly ten o'clock with about two days of the session left; some gentlemen are anxious to adjourn, some desire not to hear me, although I have thrown no obstructions in the way of an investigation, but, on the contrary, have courted it from the first moment when the assault upon the State of Texas began. I can proceed now, or I can yield. If gentlemen are anxious to adjourn, I certainly do not wish to impose upon them the necessity of sitting here against their wishes.

Mr. COOPER. If the Senator from Texas will give way for a motion to adjourn, I will make that motion.

Mr. UNDERWOOD. If the Senator will give way to me, I will move that we adjourn to meet at ten o'clock to-morrow.

Mr. HUNTER. I hope not. The Committee on Finance ought surely to be allowed some time to examine the appropriation bills. We have the Navy appropriation bill yet to examine.

Mr. BRIGHT. Under our rules that cannot be done, I presume, without one day's notice.

Mr. UNDERWOOD. I know that, and therefore I ask unanimous consent.

Objection was made.

Mr. DOUGLAS. It is very evident that unless the amendment be withdrawn, the result will be the defeat of the appropriation bills. It is evident there is going to be a great deal of debate on the subject. It must result in that way.

Mr. GWIN. I appeal to the Senator from Virginia to withdraw the amendment.

Mr. BRODHEAD. I cordially join in that appeal.

Mr. MASON. That appeal has been made before. I regret that I cannot comply with it. I wish to get a vote on this question. I deem that the present attitude of things is one of crying injustice; and I wish some corrective to be applied.

Mr. BRADBURY. I ask the Senator to allow me to make one suggestion, and that is, that the Senator from Maryland withdraw, as I believe he is ready to do, his amendment, and then some one may move as an amendment to the proposition of the Senator from Virginia something that shall negative it; as, for instance, to insert the word "not" before "authorized." This would give us a test question.

The PRESIDING OFFICER. The Senator from Texas is entitled to the floor.

Mr. RUSK. Mr President, I shall be as brief in my remarks as possible. I have waited with a great deal of patience, and it is now late, but I prefer to go on at present rather than give way for an adjournment.

Mr. President, on the 9th day of September, 1850, a law, called the boundary act, was passed, by which $10,000,000 in stock were to be given to the State of Texas. Five millions of that amount were to be reserved until the creditors, for whose debts the revenues of the Republic of Texas had been specially pledged before her annexation, should file their releases in the Treasury Department of the United States. The subject was submitted to the Secretary of the Treasury, that he might determine what claims were included in that proviso. The law will bear me out in stating that the revenues of Texas to be derived from impost duties were not specially pledged for more than $2,000,000; but a decision was made by the Secretary of the Treasury, and afterwards approved by the President of the United States, by which the words "special pledge" were construed to mean *general pledge*, and were applied to all the evidences of debt which were made receivable for Government dues as well as those for which a general pledge was given of the revenues. By this means the pledge was made to cover what is proposed by the amendment of the Senator from Maryland. I shall not stop now to investigate the grounds upon which this decision was made, nor shall I stop to draw the distinctions between a general and a special pledge, but will only mention one or two of them. When a special pledge is made upon impost duties, it carries with it an obligation on the part of the Government making it to collect revenue from impost duties. When a general pledge of all the revenues of a Government is made, it carries no such obligation upon its face, and it means just such revenues as the Government may have, and none other. It may repeal its revenue laws the next day, without bad faith. But, sir, the decision of the Secretary of the Treasury, approved by the President, was, that a special pledge covered a general pledge, and included all the revenue receivable for Government dues, amounting in all to $8,330,000. That decision went further. It was declared that not one dollar could be paid out to any creditor, or to Texas, under any arrangement, until the releases for all the debts thus situated were filed. This made it a physical impossibility ever to comply with that interpretation of the law, because the obligations are for various sums from five dollars upwards. Some portions of the claims against the Government of Texas have doubtless been lost, and it is likely that some will never be presented; but until a release for every single sixpence should be filed in the Treasury Department, there can be no payment according to the decision of the Secretary of the Treasury. Now, sir, allow me to refer to some remarks made by the honorable Senator from Maryland [Mr. PEARCE] on this subject, at the time when the boundary act was under consideration. He then said:

"There is another subject to which I must ask the attention of the Senate for a few moments, and that is, the proviso attached to the last clause of the bill. It has been proposed by some that the United States should reserve to itself the right of distributing the money we may vote to Texas among her creditors; but I have put no such provision as that into the bill, and for several reasons. In the first place, I do not wish the United States to become a commissioner in bankruptcy for Texas; and, in the second, I do not wish to place Texas in the condition of appearing to be obliged to be placed in the hands of a commissioner of bankruptcy. It seems to me that while it would have been impolitic in us to undertake that which we have not the means of doing properly, Texas can, with safety to her creditors and honor to herself, make this distribution. It would also be an indignity to the State of Texas. Sir, one of the highest affronts that could be offered to an honest man would be to say, when he has ample means to discharge his debts, that you suspect his honor, and will not trust him with the money devoted to this purpose. It is quite as offensive, undoubtedly, to a State, to suppose that she will be faithless and fraudulent in a settlement with her creditors. I am not willing to make such an imputation on Texas, to suspect in the least her honor, or the honor of her Legislature. I am willing to submit the matter to her decision, and to let her settle with her creditors with the means which we have provided her. But I admit, at the same time, that it is right to guard the Treasury of the United States from the contingencies which may flow from this measure, if Texas should not adopt this course, or if Texas were to settle with her creditors, not in full, but upon a reduction of their claims for principal and interest due them, even with their assent. It is possible that, at some future time, these creditors, even after having consented to take seventy-five cents in the dollar, if that can be supposed, may come back on the Government of the United States, and demand the full amount. I propose to guard against that, and for that purpose I have introduced the last proviso in the bill. It provides that of the ten millions of five per cent. stock to be issued after the State of Texas shall have assented to these terms, and signified her assent in proper form to the Government of the United States, we shall retain five millions until such a time as a full release shall be filed in the Treasury of the United States, by the creditors holding those bonds for which the duties on the customs are pledged. The arrangement rendered necessary by this proviso may easily be effected by these creditors and Texas. On the presentation of these claims, (and I believe they all have been presented under the act of the Legislature of 1848, which called upon the creditors to exhibit their claims,) the amount of which is furnished in the statement I referred to not long ago to the Treasury of Texas, it is perfectly competent for Texas to give them orders for stock on the Treasury of the United States, for the amount to which they may be entitled, by any arrangement which may be agreed upon between them. And these orders, being filed in the Treasury, will be ample security to the United States, and protect us from the possible demands to which I have referred. The necessary details can be prescribed by the authority of the Treasury Department."

The impression has generally gone abroad, that after the passage of this law Texas undertook to scale her debt, and fix a rate at which she would pay it. This is a mistake. In 1848, two years before the passage of the boundary act, she fixed the rate at which she would pay her debt. She passed a law requiring the Auditor and Comptroller to ascertain the outstanding indebtedness and classify it, and affix to it the rate at which it was made available to the State. That law was enacted upon the suggestion of a number of the creditors of Texas; it was published, according to its terms, in various public newspapers throughout the Union, and no objection was made to its terms, so far as I ever heard, until after the passage of the boundary act of 1850, appropriating the $10,000,000. Nearly all of the claimants submitted to its terms by filing their demands with the Auditor and Comptroller of the State of Texas.

The report of the Auditor and Comptroller, fixing the amounts which Texas received for these liabilities, were before the Senate, and were commented upon by several Senators, and known to all before the boundary law was passed. I showed it to the honorable Senator from Kentucky (Mr. CLAY) at the time, and he read and commented upon it. The Senator from Maryland alluded to it in the speech from which I have read an extract, as did many others.

When the Committee of Thirteen was raised for the purpose of settling this matter, I claimed that the amount to be put in as indemnity to Texas for the lands ceded by her should be the sum of twelve and a half millions, because the face of the amount of the debt, as reported by the Auditor and Comptroller, was twelve and a half millions. I placed the report of those officers before that committee, at the request of the honorable Senator at the head of that committee, (Mr. CLAY,) who is now no more. The whole of the papers were laid before them. I also claimed that we were entitled to this amount, not only on account of the land which we ceded in the settlement of the boundary question, but because the United States were liable to Texas in damages for a flagrant violation of a treaty stipulation to the amount of more than two thirds of that debt; and I now repeat that the United States are liable to the State of Texas in more than two thirds of the amount of this debt for a violation of a treaty stipulation for which, if they had been guilty of such a violation with the Government of England, or any other Government able to enforce the observance of treaties, they would have been glad to get clear by paying twenty millions of dollars. I desire to prove what I say as I go along, and therefore I will read the thirty-third article of the treaty between the United States and Mexico, to which I refer. It is in these words:

"ART. XXXIII. It is likewise agreed that the two contracting parties shall, by all the means in their power, maintain peace and harmony among the several Indian nations who inhabit the lands adjacent to the lines and rivers which form the boundaries of the two countries; and the better to attain this object, both parties bind themselves expressly to restrain, by force, all hostilities and incursions on the part of the Indian nations living within their respective boundaries; so that the United States of America will not suffer their Indians to attack the citizens of the United Mexican States, nor the Indians inhabiting their territory; nor will the United Mexican States permit the Indians residing within their territories to commit hostilities against the citizens of the United States of America, nor against the Indians residing within the limits of the United States, in any manner whatever."

Mr. President, this article of the treaty was shamefully violated by the United States before the revolution in Texas took place. The Creeks, the Shawnees, the Caddoes, and the Cherokees, with various other tribes, to the number of over two thousand warriors, went over and settled themselves upon the soil of Texas, against the provisions of the treaty to which I refer, and from that day to this have been committing depredations upon the people of Texas and Mexico.

Mr. BAYARD. That treaty was with Mexico, not with Texas.

Mr. RUSK. I know that the Senator from Delaware is a good lawyer, and imagines that he will get clear of the obligations incurred, because the treaty was made with Mexico, and not with Texas. Sir, there is a treaty of the same sort now with Mexico, and it is violated every day. There is not a soldier there to enforce it. Let me say to the honorable Senator that, with all his legal knowledge, I will show him before I get through, that it is not only in violation of law, but it is a violation of every principle of humanity and good neighborhood, upon the part of this Government, to have treated Texas in the manner she has done, with regard to these Indians. Sir, I may have some feeling on this subject. It may amuse the Senator from Delaware. It did not amuse me to know that women and children were massacred by these Indians, and that this Government was resorting to special pleading to avoid the responsibilities following upon the faith it had pledged. The attention of this Government was called to this infraction of the treaty, and, although the obligation was admitted, no steps were taken to comply with its provisions. Texas was revolutionized, and, sir, the Senator from Delaware

knows as well as I do, that that revolution gave us the legal right to enforce all of the obligations of this treaty against the United States, especially when the United States claimed the benefit of its provisions, as against Texas, as they afterwards did, as their negotiations show. Nobody, I take it, can dispute that the United States were bound by the obligations of the treaty if they claimed its benefits. When Texas was a part of Mexico, they were bound by its obligations towards Texas, as well as towards every other part of Mexico. When Texas took up arms, she had an overwhelming force to contend with, and in the darkest hour of her troubles, when she could not muster over a thousand efficient men, many of those men, to my certain knowledge, labored under more apprehensions for the safety of their families from United States Indians than they did for themselves under the certainty that they had to meet five times their number of the enemy in the field. These Indians were there, as I have said, in violation of the treaty. It was known to the officers of the United States that they were embodied under an agreement with Mexico to exterminate the Texans, and that they were to have the lands of Texas from Mexico if they succeeded. Our wives and children were exposed to their merciless warfare. They had to abandon the country. We could not abandon our posts before an invading enemy coming on our western borders. Our women and children could not fight the Indians of the United States whom you were bound to prevent from intruding upon our soil, but who were there under a promise from the Mexican Government that they should have the Texan lands if they exterminated us. The result was, robbery and devastation of the whole country. Our women and children fled, and everything they left behind them was taken by these Indians, and we were left nearly beggars at the close of the campaign of 1836.

After the close of that campaign our debt did not much exceed a million of dollars. A law was passed by Texas to issue promissory notes, and when they were first issued they went at seventy, eighty, and ninety cents on the dollar. We had a domain larger than France. We had nearly two hundred millions of acres of the finest public land upon the North American continent from which we had driven every hostile Mexican foot; and upon the faith of this public domain we issued our promissory notes. If it had not been for the Indians of the United States, who rendered our public domain perfectly useless, we could have raised a fund sufficient to have met the issues of those promissory notes. But they not only prevented us from using the domain for the purpose of meeting our debts, but they began a war upon our whole border under an agreement with Mexico, which was known to the officers of this Government, often and often repeated to them. These Indians began a war under the stipulation with Mexico that they were to exterminate us and take our lands. These facts I could make abundantly manifest, if I had time to refer in detail to the treaties and public documents bearing upon this subject; but time so presses that I can refer to but few of them, and I shall begin with a treaty made by this Government with the Caddo Indians, on the —— day of ———, 183—, which, in its terms, is a flagrant violation of the treaty between the United States and Mexico, the thirty-third article of which I have already read to the Senate; among other things this treaty with the Caddoes provides:

"ART. II. The said chiefs, headmen, and warriors of the said nation, do voluntarily relinquish their possession to the territory of land aforesaid, and promise to remove at their own expense out of the boundaries of the United States, and the territories belonging and appertaining thereto within the period of one year, from and after the signing of this treaty, and never more return to live, settle, or establish themselves as a nation, tribe, or community of people within the same.

"ART. III. In consideration of the aforesaid cession, relinquishment, and removal, it is agreed that the said United States shall pay to the said nation of Caddo Indians the sums in goods, horses, and money hereinafter mentioned, to wit:

"Thirty thousand dollars, to be paid in goods and horses, as agreed upon to be delivered on the signing of this treaty.

"Ten thousand dollars in money, to be paid within one year from the 1st day of September next.

"Ten thousand dollars per annum in money for the four years next following, so as to make the whole sum paid and payable, $60,000.

ART. IV. It is further agreed that the said Caddo nation of Indians shall have authority to appoint an agent or attorney in fact, resident within the United States, for the purpose of receiving for them from the said United States, all of the annuities stated in this treaty as the same shall become due, to be paid to their said agent or attorney in fact, at such place or places within the said United States as shall be agreed on between him and the proper officer of the Government of the United States.

"ART. V. This treaty, after the same shall have been ratified and confirmed by the President and Senate of the United States, shall be binding on the contracting parties."

This treaty caused bloodshed and serious injury to Texas. The Caddoes immediately went to Texas, and engaged in war upon us, and stirred up other tribes to hostilities. They received their annuities in arms and ammunition, which were used against us. Against this treatment Texas continually protested. I have only time to read a few extracts from this correspondence, which began before our revolution and continued up to the day of our annexation:

[Translation.]

MEXICAN LEGATION,
PHILADELPHIA, *October* 14, 1835.

The undersigned, chargé d'affaires of the United Mexican States, has the honor to acknowledge the receipt of a note from Mr. Dickins, dated the 12th instant, with the copy inclosed, and the official letter from the Political Chief of the department of Nacogdoches; for the transmission of which documents he expresses his thanks to Mr. Dickins.

The said Political Chief, in his letter, communicates that the tribe of Creeks, from Alabama, is now emigrating and establishing itself in lands belonging to Mexico, without any license or authority to that effect; he therefore requests me to state the fact to the Executive of the United States of America, in order that measures may be taken to restrain that tribe within its proper limits. As the representation made by the Political Chief of the department of Nacogdoches is founded on the thirty-third article of the existing treaty of friendship between the two Republics, the undersigned hopes that Mr. Dickins will submit the import of this note to the President of the United States, and that his Excellency will cause the requisite Executive measures to be taken, if the facts should be as stated by the Political Chief, in order to repress any incursions into the Mexican territory on the part of the Indians who inhabit that of the United States.

The undersigned avails himself of this opportunity to renew to Mr. Dickins the assurances of his distinguished consideration.

J. M. DE CASTILLO Y LANZAS.

A. DICKINS, Esq.

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TEXAN LEGATION,
WASHINGTON, *March* 14, 1837.

SIR: By yesterday's express mail we received dispatches from our Government, informing us of various robberies and murders committed within a few weeks since, within the limits of the Republic of Texas, by the Caddoes and other Indians inhabiting the territory of the United States. Our Government is in possession of information clearly proving that the Indians are excited to these acts of hostility by Mexican gold, and emboldened by the withdrawal of the United States troops from the west bank of the Sabine; and therefore instructs us to urge upon this Government the great importance of immediately reoccupying Nacogdoches, or some other point within the limits of Texas, in the neighborhood of these multiplied depredations. We would urge this matter more at length on your attention, but for the belief that the necessity of the course above suggested is too obvious to require argument.

Within the last two months we have received from our Government several dispatches, all giving detailed accounts of different Indian aggressions. We trust that this Government will feel itself bound, alike by humanity and by its treaty obligations, to prevent a recurrence of similar acts of rapine and bloodshed, by the only effectual means in its power, which is the reoccupation of Nacogdoches, or some other point west of the Sabine.

With high consideration, &c., &c.,

W. H. WHARTON,
M. HUNT.

Hon. JOHN FORSYTH, *Secretary of State.*

—

Mr. Forsyth to Messrs. Wharton and Hunt.

DEPARTMENT OF STATE,
WASHINGTON, *March* 21, 1837.

The undersigned, Secretary of State of the United States, has the honor to acquaint Messrs. Wharton and Hunt that he received and laid before the President their note of the 14th instant, communicating intelligence of recent robberies and murders by Indians within the limits of Texas, and suggesting the propriety of a reoccupation of Nacogdoches, or some other point west of the Sabine, by troops of the United States, with a view to prevent a recurrence of similar outrages. The President submitted the letter of Messrs. Wharton and Hunt to the Secretary of War, who, in his report on the subject, states, that after an attentive examination of the positions now occupied by the forces of the United States, it appeared to him that they were better calculated to effect the object of keeping the Indians in check than if the troops were concentrated at Nacogdoches, but that General Arbuckle would be directed to move some of his force to a position within the undisputed boundary of the United States, nearer the place where the aggressions complained of are represented to have been committed, and to use increased vigilance in observing any hostile movements of the Indians in that quarter.

The undersigned embraces this opportunity to renew to Messrs. Wharton and Hunt the assurance of his distinguished consideration, JOHN FORSYTH.

Messrs. WHARTON *and* HUNT, *&c., &c., &c.*

Mr. Hunt to Mr. Forsyth.

[Extract.]

TEXAN LEGATION,
WASHINGTON, *July* 18, 1837.

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I have also the honor to inform you that certain Indians from the United States are still committing their depredations upon the citizens of our eastern frontier, and again I would urge the terms of the existing treaties relative to the control of the Indian tribes in that quarter.

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I have the honor to renew, sir, the expressions of my high consideration and regard.

MEMUCAN HUNT.

Hon. JOHN FORSYTH, *Secretary of State.*

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Mr. Forsyth to Mr. Hunt.

DEPARTMENT OF STATE,
WASHINGTON, *July* 24, 1837.

SIR: I have the honor to inform you that that part of your note of the 18th instant which complains of depredations on the eastern frontier of Texas by Indians from the United States, and of a trading establishment on Red river, alleged to be in the practice of abetting them, has been referred to the Secretary of War, to whose Department the subject belongs. More specific information, however, will probably be deemed necessary to enable the officers of the United States to direct their operations with efficiency, for the purpose of restraining the Indians and their abettors.

I have the honor to renew to you the assurances of my distinguished consideration.

JOHN FORSYTH.

Hon. MEMUCAN HUNT, *&c., &c., &c.*

I might multiply these extracts, but it would be much to the same points. In 1838, an extensive plan adopted by the Mexican Government to enlist all the border Indians of the United States in a war upon Texas was discovered, and brought to the notice of this Government by some of its own officers, as well as by the representative of Texas. I will only trouble the Senate by reading one of these papers, which will speak for itself. It is the journal of a Mexican officer sent to excite the Indians to war upon Texas.

Private instructions for the captains of friendly Indians of Texas, by his Excellency the General-in-Chief Vicente Filisola.

As soon as you arrive you will invite them to a meeting, and propose to them that they and their friends should take up arms in defense of the integrity of the Mexican territory in Texas; this meeting being only composed of the principal chiefs who govern them. Afterwards you will invite eight or ten of each of the tribes to *smoke the pipe*, and, in the name of the Supreme Government of Mexico, distribute among them powder, lead, and tobacco, in the usual manner; this being done, you will keep an account of your operations, and inform me officially of the same. You will make them understand that as soon as they have agreed in taking up arms, they will be rewarded according to their merits; and that so soon as they have taken possession of the places that I have mentioned to you, you will advise me by an extraordinary courier, giving me a detailed account of the strength of the Mexican force, and of the Indian tribes, with the plan of attack, that I may be enabled to direct the forces that are to leave from this place to the assistance of those who are to operate in that quarter. Make them understand that as soon as the campaign is over, they will be able to proceed to Mexico, to pay their respects to the Supreme Government, who will send a commissioner to give to each possession of the land they are entitled to.

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COMPANIONS AND FRIENDS: Never was the country in more need of your services than at the present time. To preserve the national honor, I present myself in the field of battle to share your fate. Such are the orders of the General-in-Chief, who has desired me to notice particularly, in my official returns, the services that you may render, so that the nation may value your worth. You are not personally known to me, but I can assure you that often have I shed my blood in defense of the country; and in conclusion I may say, that, in the last struggle in Texas, I was present in the field, and exposed my life to the hazard of fate of war. I shall not be the first to present myself in the battle-field, neither shall I be the last.

Provided, * * * * * *

The President instructs me to take notice of your good behavior in the campaign, and not only to recommend you in my official reports, but also to make a list of the widows and of the mothers who have been deprived of their children, in order that they may enjoy the amount of land to which they were entitled.

There will be a place of deposit fixed upon to keep horses, mules, cattle, provisions, clothing, &c., and when the campaign terminates, all will be distributed among those who participate in it; those who may by some unexpected circumstance be prevented from joining in the war, will likewise be entitled to a share of the spoil.

As soon as the news of our operations are made known in Matamoros, his Excellency the General-in-Chief will make a forced march towards the point where our troops may be, so that in the event of any sudden reverse you will be aided, and a central position fixed upon for your reunion, to be headquarters during the remainder of the campaign.

Each division will have its own supplies of the munitions of war, which they will carry with them; and the commanding officer will see that nothing is wanting in this respect.

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The other papers are: 1st, a power of attorney to Pedro Julian Miracle, and a letter of citizenship to the same individual from the Governor of the State of Tamaulipas, Vital Fernandez.

Memorandum Book.

This book is written with a pencil, and many of the words are completely obliterated, and the language is also very imperfect, making it difficult to give anything like a connected or correct translation. The following is as near as I can come to the contents:

May 29.—Left Matamoros.

May 30.—Encamped at the Tresnos. No novelty occurred.

May 31.—Took a list of our force, amounting to seventy-two citizens, two Indians, thirty-four soldiers of La Bahia, and twenty Cherokee and Caddo Indians. Our horses were also accounted, and ten of them were unfit for service.

June 1.—Nothing particular occurred to-day.

June 2.—We are waiting for Juan de La Garza to commence our march, but still he does not appear. Don Rafael Cabasos presented himself with a passport from his Excellency the General-in-Chief, dated the 27th day of May; he is in search of his goods, and is accompanied by his servants, in all to the number of ten.

June 3.—Started from the Tresnos to the Anaquilas, where we tarried for the night. John de La Garza joined us with biscuit, sugar, coffee, and a supply of cartridges. We are four days in expectation of a drove of gentle horses, but we cannot obtain them. Started at midday, passing the Colorado creek, encamping on the other side at a place called the "Altos," where nothing of importance occurred.

June 5.—Made an encampment this day at the "Mulatos," where we remained to run wild horses.

June 6.—We were unable to catch any horses. A guard of twenty-four men were appointed to take charge of our encampment. Nothing of importance until

June 11.—When on the Hill of Purgatory, (Purgatorio,) a sentinel discovered several men on horseback. We advanced towards them. They were a party of smugglers. They fired upon us. Parties were dispatched in pursuit of them. They abandoned their cargoes of tobacco, &c., and fifteen horses. We encamped to night at the Borrego.

June 15.—Run wild horses.

June 17.—Encamped at the "Pastel," where were killed two Irishmen, one woman, and her children.

June 18.—Encamped on White creek.

June 19.—On to-day the Indians became dissatisfied and asked Savareigo to let them go to fight at La Bahia; the request was not granted. Advanced as far as San Antonio river, and put out spies, who returned on the 20th, bringing us news of twenty men (Americans) and thirty at Copano, and that Villareal was at La Bahia with horses.

June 20.—The Indians crossed the river; I overtook them shortly. Took leave of Savareigo. Flores joined me, intending to go as far as the Colorado river; but the Indians and guides refused, saying the road was too public. We stopped or encamped in a small island of trees.

June 21.—Crossed the Guadalupe.

June 24.—At one o'clock crossed the Colorado. Saw several Americans, but did them no injury, at which the Indians were much enraged.

June 27.—Crossed the Brazos; between that river and the Navasoto, in the timber, met the Kickapoos, who received us kindly and accompanied us on our journey.

June 30.—Cruz and Cordova went in search of buffalo, and returned on Sunday, the 1st, bringing abundance.

July 1.—Kickapoos left us.

July 2.—Encamped on Trinity.

July 4.—Started for "Plazeta creek." Soon after we discovered the farms of the Choctaw Indians; we directed our course towards the rancho of Buenavista.

July 5.—Don Vicente Cordova presented himself and read the communication of his Excellency the General-in-Chief, Don Vicente Filisola.

July 7.—We expect to meet the Indian chiefs or captains.

July 8.—About three o'clock in the afternoon Guimon, Boll, and their interpreters, made their appearance; but, on account of the rain, nothing was done.

July 9.—At seven o'clock we started to a rancho to hold a consultation with the Indians. We read the communication of his Excellency the General-in-Chief; the interpreters being inefficient, nothing was done. They left us without any understanding, but are to meet them in ten days, when they will determine. They left an Indian to conduct me to Boll's house; which was done, and we reached that place drenched with rain. I am to take the first opportunity to speak to Boll, to show him my private instructions; but I can do nothing as yet. He has sent me to another of his houses where I could conceal myself; for he said that some Americans were coming with a communication from Houston, the contents of which I have not learned. Nothing can be done without trouble.

July 11.—Belmont went to invite the tribes.

July 12.—Remained concealed, that no one might see me.

July 13.—Went to another farm (rancho) about eight miles distant, where there were only two boys living.

July 14.—Much rain, and no business done.

July 15.—I am in a great passion. We have nothing but milk to eat or drink, and small hopes of getting anything else; because these cursed Indians are as lazy as the devil, and I am so much enraged that I wish the devil would seize me, body and soul. About four o'clock in the afternoon an Indian came. I told him that the boys had gone out; that I was very hungry, not having had any [thing] to eat. He took me to another Cherokee house, where we obtained buttermilk, cheese, corn-bread, &c.; we then returned to the farm.

July 17 *and* 18.—In the afternoon of these days several Indians made their appearance for the meeting.

July 19.—Boll, Billmoor, and several other captains, came in; but the non-arrival of the Kickapoos delayed our meeting.

July 20.—The meeting took place. War was agreed upon as soon as circumstances would permit, and as speedily as possible; the amount of our force to be taken immediately; including Nacogdoches we have 540 men. At five o'clock p. m., Captain Saguano began to raise objections to the making of any movement until the arrival of the army in the country, when war could be carred on with energy; but finally it was resolved that our force should be in readiness at a moment's warning. At five o'clock Boll left us, and all went away, including Cordova and the people of Nacogdoches, about eight o'clock in the morning.

July 21.—I left the house to which Boll sent me, and where the meeting was held, and directed my steps to "Horel's." Arriving at Boll's house, he gave me a horse in exchange for a Lipan horse which I had. About ten o'clock we united in the house of Guhuile to commence our march.

July 22.—Marched, and slept at the house of a Cherokee.

July 23.—Crossed the Neches, and stopped at a Kickapoo village.

July 24.—Left very early.

July 25.—About twelve o'clock arrived at the Chickasaw village; they gave us plenty of beef, honey, &c.; the chief of the tribe went with us; we slept with the Caddoes, where we arrived about eight o'clock.

July 27.—We continued our journey without anything of importance occurring.

July 28.—I am waiting to meet the Kichis, Wacos, Tehuacanos, and other tribes.

July 29.—The captain of the Caddoes presented himself about three o'clock in the afternoon, saying that the "Coyate" did not send for either goods or money for the lands he had sold to the United States, but that he had sent a captain called Nehomeceno to take his place; it was observed he was a bad man and might betray his trust, and be the cause of some of our plans being frustrated, therefore he must indispensibly go himself, which he finally did.

July 31.—On this day we learned that Nehomeceno did not wish to go, preferring to remain with us and fight.

August 2.—On this day Manuel started for the Cherokee village.

August 3.—*Unintelligible*; something concerning a Caddo, and meeting Saguanos, who were coming to be informed as regards the contemplated campaign, or what was meant by the message requesting them to meet and smoke a pipe.

August 4.—A meeting of the Saguanos was held to inquire if the Caddoes had got some horses stolen from them.

August 5.—I spoke to them about the war with the colonists; they asked if the river Colorado was for them, and I answered yes, to induce them to join the campaign.

August 6.—The Saguanos and myself started for the Kichi village for the purpose of seeing Casemero, and to enable me to have a meeting with them, and to invite them for the present campaign. We encamped about half a league from their village; in the morning, early, went in. I slept at the house of the chief, Arejena, who treated me with much kindness. I invited all the chiefs, and was received well by all of them.

August 7.—I proposed a meeting to march against Bexar, but was unable to make them comprehend me for want of an interpreter.

August 8.—We are waiting an arrival from the Saguanos, to know when they will return to their village. Seeing that they did not come, I determined to go to the Caddo village the following day, and I made my arrangements accordingly.

Friday, August 9.—

Saturday, August 10.—

Sunday, August 11.—

Extract from the official communication of his Excellency the General-in-Chief.

Your communications, as well as those of the friendly Indians, have been received, conveying your wishes for the integrity of the Mexican territory in Texas, and your determination to make a stand against the pirates and adventurers of Texas.

The Supreme Government is well aware of the suffering you have been exposed to, occasioned by the rebels who still keep possession of the Mexican territory, against the will of every good citizen and friendly tribe of Indians.

The Supreme Government authorizes you to take command, for which purpose you will invite all the principal tribes that are willing to carry on the war at all hazards, and without loss of time. As soon as the war commences, you will inform me by an extraordinary courier, so that I may be enabled to send my troops to your aid, and to the most convenient and advantageous point, as soon as possible.

All horses, mules, and spoils, of whatever description, shall be divided equally among all.

The Supreme Government recommends that the families should not be killed or injured, but conducted to, and kept at the villages, where the General-in-Chief will himself dispose of them on the termination of the campaign.

Copy of letter of Colonel Holland Coffee, dated City of Houston, December 17, 1838.

DEAR SIR: At your request I inform you that while at Fort Gibson, in July last, I was in conversation with General Arbuckle, who informed me that Dutch, a Cherokee chief, had laid before him a letter from Bolls, the contents of which were to this amount: requesting the Cherokees to unite with him, and bring the Creeks and Seminoles, if they could, to assist in the conquest of Texas; that General Filisola, the Mexican commander, had offered to give them the country if they conquered it, and assist them in doing so. I saw the letter, but its contents were represented to me by General Arbuckle. The letter stated that a portion was to be given to each tribe according to the strength they brought.

This information I gave to General Rusk as I passed through Nacogdoches, and to President Houston on my arrival at Houston.

Your most obedient servant,

HOLLAND COFFEE.

General FELIX HUSTON.

Under these circumstances, what did the United States do? Did they restrain their Indians? No, sir. Did they rebuke Mexico? Not a word of it. But I will tell you what they did do. At the head of a Texan force I crossed the United States line, captured and disarmed a portion of these Indians; and this Government complained of that act, and demanded an apology from Texas:

DEPARTMENT OF STATE,
WASHINGTON, *January* 8, 1839.

SIR: The accompanying papers will acquaint you that an armed force, in the service of the Republic of Texas, under command of General Rusk, has crossed the acknowledged boundary between the United States and that country, and has encamped on our soil for the avowed purpose of punishing certain Indians of the Caddo tribe, for alleged depredations within the limits of Texas. Against this insult and outrage you will promptly and in strong terms remonstrate, demand satisfactory explanations on the subject, and inform the Texan Government that it is expected adequate measures will be adopted by it to prevent a recurrence of such acts, which, if repeated, would inevitably lead to collisions between the troops of the two countries, which there would be great reason to deplore.

Your dispatches to No. 14, inclusive, have been received.

I am, sir, your obedient servant,

JOHN FORSYTH.

ALCEE LA BRANCHE,
Chargé d'Affaires of the United States, Houston.

Nor was this all. Under the stipulations of the treaty to which I have referred, the United States had possession of what are now three counties of the finest lands in Texas, and claimed jurisdiction over them, because an article of that treaty provided that each party should retain possession of what it previously held until the boundary could be run and marked. Texas was unable to run and mark the boundary for several years after the revolution broke out. The United States not only permitted and suffered, knowingly, their Indians to go upon the land and render our public domain utterly valueless, and render our very existence as a nation problematical, but also insisted that, until the boundary was run, they would not give up the territory which now comprises three or four of the finest counties in Texas. Under such circumstances, being totally unable to use our public domain, the only means we had, which was rendered valueless by the United States, by a violation not only of good neighborhood but of a solemn treaty, our promissory notes went down. We had not the means of meeting them. It was then thought by the financiers of Texas that, inasmuch as the first promissory notes which were issued had been worth eighty and ninety cents in the dollar, if they could be withdrawn from circulation, a new issue would rise again, and accordingly they passed a law authorizing any man who held a promissory note to come forward and fund it, and receive a ten per cent. bond in lieu of it.

This is the way in which nine tenths of the bonds have been issued, and yet the question has been argued all over the United States, in books and speeches and newspapers, as if Texas had done just as Ohio, Indiana, and other States have done—issued her bonds, sold them in the market, obtained the money for them, and used it. Such was not the case, sir; but the bonds were issued to redeem the promissory notes which had depreciated in a very short time—some to twelve and a half cents on the dollar, and some even to five cents. As an inducement to withdraw them from circulation, the holders were allowed to fund them, and receive in return bonds at eight and ten per cent. interest. Notwithstanding this, the promissory notes still went down. This, in brief, is the history of the manner in which the debt of Texas originated. I have various authorities to support the position which I have taken, but I do not intend to consume the time of the Senate by reading them, for I am anxious to come to a vote.

I shall vote, in the first place, for the amendment of the honorable Senator from Virginia, and the effect of that amendment will be just this: to prevent the creditor who chooses to hold out from keeping others, who are willing to come forward and take the amount which is offered to them and be content with it, from doing so. Under the amendment no one will be compelled to accept the proposition offered by Texas. It will be a voluntary matter, and the fund upon which the others have a right to claim will not be exhausted.

Much has been said about Texas repudiating and scaling her debts. I do not mean to go into that question, but I mean to say here that there is not a half million of dollars which have not been estimated at fifty, and some at one hundred per cent. more than Texas ever realized from them. None of the scaling has been done lower than twenty cents on the dollar. Many of her promissory notes were sold at ten cents, and below that sum.

Mr. PRATT. I desire to understand this mat-

ter correctly, and therefore I wish to ask my friend from Texas a question. I understood him to say that no promissory notes were issued by the State of Texas subsequently to 1841. I understood him to state afterwards, that when Texas first issued promissory notes, she realized seventy, eighty, or ninety per cent. on them, and they were subsequently, I believe, by the law of 1845, exchanged for ten per cent. bonds.

Mr. RUSK. The honorable Senator from Maryland totally misunderstood me. In 1837, Texas issued her first promissory notes. They started at ninety per cent., soon went down to seventy, then to fifty, and finally three for one, and some lower. Very soon after they were down as low as twelve and a half per cent. I will not pretend to be very certain about the dates at which they went down, but if I had time to refer to the authorities before me, I could give the dates precisely. When the notes went down, Texas was so anxious to withdraw them from circulation, that she passed a law authorizing all holders of them to receive bonds bearing eight and ten per cent. interest. This law was passed as early as 1838, so that persons went into the market at New Orleans and other places, and bought promissory notes at rates varying from ten to fifty per cent., filed them in the stock commissioner's office, and obtained bonds for them, rating them at their face value.

According to the amendment of the honorable Senator from Virginia, [Mr. MASON,] those who are willing to take the proposition which Texas has made to them, can go forward and receive the amount due to them; those who are unwilling to do so, can still hold their claims against Texas and the United States, precisely as they do now. But if that proposition does not succeed, I shall vote for the amendment of the honorable Senator from Maryland, [Mr. PEARCE,] which proposes that the United States shall pay this debt in bonds. Everybody understands this proposition; and as it is now proposed to require the assent of Texas before it shall go into effect, as was the case with the boundary act, I will not object to it. For the amendment of the honorable Senator from Indiana, [Mr. BRIGHT,] I will not, and cannot vote; and I believe the reading of that amendment has defeated any action upon the other propositions. In the first place, your boundary act declares that when the releases are filed you are to pay this money, not to the creditors of the State of Texas, but to that State. The amendment of the Senator from Indiana proposes utterly to disregard this provision, and to treat Texas with indignity, as an inferior power, not upon an equality with you, not as a sovereign State of this Union, to be consulted in any arrangements which you propose to make. It does more than that. It proposes to do the very thing for which you blamed Texas, and scales a portion of the debt lower than Texas herself has done. Where she obtained eighty or ninety cents on the dollar, she has agreed to pay that amount, with ten per cent. interest. The amendment of the Senator from Indiana would reduce all the creditors to a sum less than sixty cents on the dollar, and would put on an equality the man who went and invested his money in Texas, dollar for dollar, with him who went into the market and bought her securities at five and ten cents on the dollar. For that amendment I cannot vote, and I protest against it as unjust. If you choose to disregard the rights of the State of Texas in this matter; if you choose to violate the obligations of your own law, and to make a greater scaling than that which you charge Texas with having made, then vote for that amendment; but it cannot receive my sanction.

Sir, the charge has been made from the very beginning that Texas is able to pay this debt, and has refused to do it. Gentlemen who make this charge must find out some rules of arithmetic by which ten millions of dollars can redeem twelve-and-a-half millions of obligations before this can be done, particularly when one half of the ten millions are in your Treasury, and you refuse to make any arrangement about it. But, say gentlemen, Texas has land. Yes, sir, she has land, and that land has been open to her creditors at fifty cents per acre at all times. They can go there now and take the land at that rate in payment of their claims.

Sir, I dislike to consume the time of the Senate, and I will not trespass on it any further than to say, that without fault of mine, I have been forced into this debate, when I have not time to do justice to the subject, myself, or the State I represent.

Mr. BAYARD. Mr. President, I have taken no part in this debate; and at this hour of the session perhaps I should not have done so, but for the very unnecessary remarks, in my judgment, of the honorable Senator from Texas in reply to what I said in my seat, when with no motive of interruption, I openly expressed my dissent to a proposition of his. When I could not assent in my own mind to a proposition which he enunciated, I expressed my dissent, for which I have been censured by him. I shall forbear, however, to enter into any discussion of this question, further than to say that it seems to me—not that I was amused at the matter at all—that the doctrine of the Senator from Texas was most extraordinary and novel, which could undertake to create obligations on the part of the United States to the State of Texas, before Texas had existence as a separate sovereignty, arising out of a treaty between the United States and the Government of Mexico. I could not understand the proposition either under the laws of nations, or, I may be allowed to say, under any principle of common sense that I am aware of. Nor can I understand how there could be on principles of good faith, any claim made by the State of Texas against the United States, after the period when by her own annexation with this Government she had determined the principles and the terms on which she assented to the annexation. If she had any claims behind that, then was the time to make them—not now. So much for the remarks of the honorable Senator from Texas, not called for by any remark of mine, but simply educed by this expression of dissent on my part in a very low tone, with no intention to interrupt, made to the honorable Senator from Connecticut [Mr. TOUCEY] sitting by my side. But I pass over that and come to the real merits of the proposition before the Senate.

I agree with the opinions so eloquently and so ably expressed by the honorable Senator from Vermont, [Mr. PHELPS,] and I shall not attempt to mar them by repetition. There is one point, however, in which I do not agree with him. In my judgment—I mean not to enter into an argument, but rather to state conclusions of law than to enter into any reasons on which those conclusions may be supposed to be founded—I agree that there was no obligation arising under the law of nations or the laws of morals, that I can see, by which it was incumbent on the Government of the United States at any time to provide for the debts of Texas, except to the extent which is embodied in what is called the boundary act, which I shall presently notice. Nor do I admit that the boundary act implies or creates an obligation on the part of the United States to pay any debt of Texas. I admit that the State of Texas is to settle her own debt, but I look to the provision of the boundary act as a contract between Texas and the United States, which has a stipulation entirely at war with the amendment of the honorable Senator from Virginia, [Mr. MASON,] and which prevents all possibility of my voting for that amendment. This is the view which I take of that stipulation: The Government of the United States had refused to admit by her agreement—and I say it is agreement alone which binds nations in their political contracts in reference to individuals of another State with whom they make a contract—any liability for the debts of Texas. When the United States passed the boundary act, containing proposals to Texas for settling the dispute in reference to her boundary line, and agreed to pay to her a certain sum of money, that money became, not, in the language of the honorable Senator for Vermont, the money of Texas absolutely, but it became the money of Texas in accordance with the conditions, and on the performance of the conditions, expressed in the law. Now, what are the conditions? What is the agreement of the United States?—for to that extent they are bound, and no further. One condition was, that the United States were to pay $5,000,000. They have paid it. A further condition was, that they should issue $5,000,000 of stock to the State of Texas, bearing an interest of five per cent., and redeemable in fourteen years, on the express condition that certain creditors of Texas were to file releases in the Treasury of the United States before that money was to be paid. What was the object of that stipulation on the part of the Federal Government? At that time, and before it, the creditors of Texas from the period of annexation had been making claims upon the United States; the United States, not deeming those claims to be just, meant, in the boundary act, containing their proposals to Texas, to provide that they should no longer be annoyed by these claims after they had paid the $5,000,000. In other words, they paid these $5,000,000 to Texas on the condition that those debts should be settled by Texas—for that is the intent and meaning of the stipulation—so that releases should be filed in the Treasury of the United States as Texas complied with the terms of that provision.

I am not going to enter into a discussion of the question of the action of Texas, and to ascertain whether she has been just or unjust in the settlement with her creditors; but I mean to say that she cannot call upon us—if she has called, and I am not aware that the Legislature of Texas has called upon us,—to pass the amendment of the honorable Senator from Virginia. But even if she had called, the answer would be, "You have no right under your contract to expose the United States, after paying out this fund of $5,000,000, to the claim of your creditors." The terms of the law were that Texas was not to receive the money until the United States should be released by her creditors. Then the Government of the United States might well say to the Government of Texas, "As you have not complied with that condition, you are not entitled to ask for the money. We will comply with our contract, and we cannot pay you until you comply with the obligation which the contract imposes upon you, which is, that you shall put us in such a condition that no further claim shall be made upon us." Who does not understand perfectly well that if this proposition of the Senator from Virginia be complied with, and you go on and pay a portion of the creditors out of the $5,000,000, and the fund becomes exhausted, other creditors holding a pledge of the revenues of Texas, made during her state of separate existence as a nation, will come back on the Government and make continuous claim until ultimately you will have that sum to pay?

My objection to the amendment of the Senator from Virginia is specifically this: that we have no obligation to part with one dollar of this money until these releases shall be filed. That obligation imposes upon the State of Texas, if she asks, or no matter who asks the money, the duty of having those releases filed before we pay the money. I am willing to concede, on the other hand, that we have no right to disburse the fund without the consent of Texas. I am willing to go to the obligations of that act, which are in the nature of treaty stipulations. Texas at the time of the passage of the boundary act was a sovereignty, though a qualified sovereignty. We made to her certain proposals, and she has accepted them. I am willing to hold to the terms of the agreement, and to pay the sum which we stipulated to pay. All I require is, that before we agree to issue any portion of that sum, Texas shall have settled with her creditors in such a manner as she sees fit. Therefore it is that I am opposed to the amendment of the honorable Senator from Virginia, because it asks us to violate our obligation, and leaves us open to the continuous claim of all these creditors, by the distribution of this sum on partial releases, and we know that the result will be that we shall have to pay the balance of the debt to Texas. I am unwilling to place the United States in that condition, because I do not recognize the obligation on our part to pay one cent beyond the extent of the obligation arising under that boundary act, either in public law or in good morals.

The argument of the honorable Senator from Vermont was conclusive on that question, in my opinion. The point in which I differ from him is, that he assumed that the United States might pay the State of Texas under the provisions of that law. So they may, if they choose to encounter the subsequent claims on the part of these creditors. Without admitting that the claims were just, we, for our protection, chose to guard ourselves against them. Now, what right has Texas, or any of the creditors of Texas, to come here and ask us to abdicate the condition on which these bonds were to be issued unless that condi-

tion has been complied with? It is, therefore, in reference to the interests of the General Government that I say that until she places herself in that condition—and she, and she alone, can do it—we are not bound to pay a dollar. I do not question the propriety of her conduct. I have nothing to do with it. But I say that there is an obligation upon her before one dollar of that stock can be demanded by any person, either by her authority or without it, of having those releases filed in the Treasury of the United States. If we do not exact that condition, we shall render ourselves liable to constant claim until, of course, ultimately, as in all other cases, the Government will be bound to recognize it. If I thought it was the right or the duty of the United States to pay these claims independent of the stipulations of that law, or to go one dollar beyond it, I might agree to go further, but as it is, I cannot.

So much for the proposition of the honorable Senator from Virginia; and next a few words as to the proposition of the honorable Senator from Maryland. I cannot vote for that proposition on two grounds. One is, that it in fact increases the amount of the sum to be paid by the United States to the creditors of Texas, by, I think, on a close calculation, something like $1,800,000. That would be the effect, as I calculate it. I know of no obligation on the part of the United States to do that. But a far greater objection arises in my mind to this proposition. With a view to a settlement of this question, considering that we have a redundant Treasury, I might be disposed to pass over much. Although we are not bound to pay, we have the power to pay, if we choose, beyond the $5,000,000, and considering the state of the Treasury, I might, for the sake of quiet, possibly agree to pay more than that amount. But I am unwilling to vote for a proposition which creates a debt for that amount to last for a period of twenty years when there is money in the Treasury sufficient to pay any such debt if it exists. Therefore, if any such proposition is to be made—and it must be made, I admit, with the assent of Texas, in order to get my vote—I am willing to vote a sum of money which will be sufficient to satisfy these creditors, if it does not go much beyond the amount which was stipulated in the contract. I could do it on the principle of quieting the whole matter, though I deny the obligation of the United States, in any mode whatever, for one dollar of that debt; and I say that their whole obligation, legal or moral, rests on an agreement to pay to the State of Texas $5,000,000 in bonds, whenever Texas complies with a certain condition. When she does comply with it she will have a right to ask it, but until she does comply, neither she nor the creditors who affect to represent her have a right to ask us to depart from that condition.

Mr. BUTLER. I know that this is not a time at which I can expect the attention of the Senate; but allow me to make two or three simple propositions, and I shall make them as distinctly as I can. The honorable Senator from Delaware says the United States were not liable primarily to the creditors of Texas, and that the United States are under no obligation to those creditors, unless they have assumed that liability by the boundary act. What a proposition! Have the United States become underwriters to pay liabilities after they were incurred, when they were not originally liable? Does anybody believe any such thing?

Mr. BAYARD. I did not state that the United States were bound under the boundary act. On the contrary, I said their only obligation in reference to the debt existed under the boundary act. I endeavored to define what that was, but I did not contend that it was an obligation to pay the debts.

Mr. BUTLER. I understood my friend from Delaware distinctly to have laid down the proposition I have attributed to him; but modified as it even is by his explanation, it does not mend essentially the erroneous postulate that the United States was originally, or are now liable for the public debt of Texas even under the boundary act. All that she is responsible for is to pay the amount to Texas of the purchase-money for the territory ceded to the United States under that act, on the condition of the creditors of Texas signing their releases; and this amount we are bound to pay to Texas, and not to her creditors.

Was the land, too, purchased to pay a debt for which the United States was originally liable? Was there ever a proposition involving the same amount of absurdity? No, the land was purchased in a crisis of great public excitement, to buy the peace of the country. In the opinion of many, and those of good opportunity of judging, the land was wholly worthless to us. Sir, the payment of the public debt of Texas had no more to do with it than christianizing the Hottentots. It was to avert a collision which might have led to a bloody civil war, as it was alleged and believed by others.

I deny positively and unequivocally that the Government of the United States is liable for the Texas debt. The sovereignty of the State of Texas was not merged into the sovereignty of the United States by the act of annexation. She was left in possession of all the attributes of a sovereign State, saving and excepting the exercise of some of its faculties she had delegated to the United States. She retained her public domain. She retained the power of direct or internal taxes abundantly and more than sufficient to pay her public debt. As a sovereign, she had a right to come into this Union on the terms of the compact, which made it necessary for her to cede the power of levying imposts or indirect taxes at her custom-house. She had a right to select one of the sources of her public revenue as the abiding and available source she had pledged for the payment of her public debt, to wit: her revenue arising from the sale of her public land. She confirmed this selection in the treaty of annexation, and entered into a solemn stipulation that this debt should be paid out of the proceeds of their sale, and that the United States should never be called on for the payment of her debt. The case cited by the gentleman from Maryland, [Mr. PEARCE,] of the assumption by Frederick of Prussia, of the public debt of Silesia, has not the remotest analogy to the issue before us. Silesia was a conquered province. By the act of her forcible incorporation into the Kingdom of Prussia, she was bereft of every attribute of sovereignty. She had no power to levy taxes, raise revenue, or to disburse. Independently of the pledge of her public faith, which covers every resource for paying her debt, Texas had all and every one of her revenues left, save one, and that she had to surrender in becoming a member of the Confederacy. Sir, the creditors of Texas must look to these sources of revenue which Texas has left for their payment. To enable her to do this, we have paid ten millions. Besides a portion of land, and the worse portion, too, they have, I learn, one hundred and twenty millions of acres left to pay the residue of the debt. In the face of these facts, a class of her public creditors, whom she happens to think are not entitled to the same measure of justice that the rest are, come forward here with clamorous and vociferous avarice, and ask us to pay three millions and a half of dollars more, on the exceedingly modest plea that by paying Texas ten millions of dollars for some millions of acres of worthless land, you have acknowledged your liability for her whole debt. Sir, I shall think the modest assurance of a speculator, or a confederation of brokers, is quite on a par with their known acuteness and power of combining when other people sleep. I assure you that there is nothing in the celebrated farce of "Raising the Wind" equal to this.

It must moreover be recollected, that this application, characterized by so much diffidence, was preferred the very year after these $10,000,000 were voted. Texas now has in her treasury, and in that of the United States, about $8,000,000 to pay her debts, and about one hundred and twenty millions of acres of land, said to be of the finest quality in the world—that, too, to pay a debt of $8,300,000! Might we not, with all becoming humility, ask these kind gentlemen before they make this terrible onslaught on our patience, to try that of Texas? No, sir, they are afraid of finding a tough customer *there*, and by a most luminous exegesis, of finding an easy one here. Besides, before preferring this most extraordinary application on the good nature of Congress, ought they not to have shown us that by the same compact and organized confederation, they had appeared before the Legislature of Texas? It is true that this application is made under the arithmetical alchemy, that $8,300,000 of principal to redeem at the expiration of fourteen years, are only equal to $5,000,000.

But there is one act of justice which Congress is bound to do the creditors of Texas, in accordance with the amendment of my friend from Virginia, [Mr. MASON,]—it cannot be withheld without an oppression the most flagrant and unfeeling—which is, to allow such of the creditors as are willing to take the settlement Texas offers them to release the United States and take their money.

Texas, in the exercise of her power as a sovereign, has thought proper, in fixing and defining her debt, that she would return to each class of the holders of her debt the amount she received on each certificate of stock, with the interest called for on the face of the obligation. Where she received par she pays par, and so down to ninety, fifty, thirty, and twenty cents on the dollar.

I do not defend either the morality or good faith of this standard; but what I contend is, that it is no part of the province of the Government of the United States to arbitrate, alter, or annul these rates, as little as it is in the competency of the United States to coerce a creditor of Texas to accept the settlement thus tendered to him by the act of the Legislature of Texas appropriating the $5,000,000 now suspended in the Treasury of the United States. The truth is, the United States has nothing to do with it. It is a duty which belongs to Texas. The $5,000,000 in the Treasury of the United States is suspended under a most extraordinary and unsound construction placed by the Secretary of the Treasury on the *proviso* in the boundary act. That act provides "that 'not more than $5,000,000 of the stock of the '$10,000,000 shall be issued to Texas until the 'creditors of Texas, whose certificates of stock are 'secured by a pledge of the revenues, shall file at 'the Treasury of the United States releases of all 'claims against the Government of the United 'States."

The proviso does not say *all* the creditors, but *all* the claims which a creditor might hold. The whole power of Congress is exhausted when a creditor signs his release, and when he does sign, he is entitled to the money Texas has appropriated for his payment.

There are, by a schedule returned to the Treasury, sixteen hundred creditors of the State of Texas to whose payment the $5,000,000 in the Treasury of the United States have been appropriated by the Legislature of Texas, not one of whom, however willing to release the United States, can receive his money until all release. Is it within the range of human possibility that all the creditors can agree to accept the settlement Texas tenders? But if this assent could be obtained, before it could be consummated death might intervene to prevent it. As has been well put, Congress has no other alternative but to modify the *proviso*, and allow such of the creditors as are willing to sign their releases to do so and receive their money.

This fund has already been hung up for two years and a half in the Treasury, and if the proviso is not modified now, may be hung up for two years and a half more, to the manifest injury and ruin of those who are willing to take the settlement which Texas accords to them.

But it seems that the creditors who have been rated in the low scales protest against those whom Texas has rated on the high classes signing their release and receiving their money, and they call on the United States, without a shadow of authority, to aid them in this scheme of despotism, by which this class of creditors may be coerced to enter into a confederation with them to compel the United States to pay them all at par. Yes, sir, this press-gang is to knock down and impound those who are not willing to hold out.

Let me cite a case: What would be thought in private life of a conspiracy among a band of creditors to prevent those who were willing to compound with their debtor at even twenty cents on the dollar in doing so? What court of justice would sustain an injustice so flagrant and oppressive?

If there is a poor man under this settlement, Texas tenders in his need and necessities, is willing to take even fifteen cents on the dollar, Congress has no right to aid a combination of individuals, for their own selfish purposes, to prevent his taking the sum Texas has appropriated for his payment.

What sort of despotism is that which enables one man to say to another, It is my *fiat* you shall not receive *your* money because I am not willing to take *mine*?

Besides, there are many creditors who have

assigned their certificates of the stock of Texas to their own creditors. Texas has, since the 1st of July, 1850, stopped the interest on her public debt, while on the debts of these creditors the interest is running. By certainly a most unpropitious sinking fund, the consequences will be that the fund of the poor debtor will be absorbed, and his debts not paid.

But the question may be asked, What injury can possibly inure to those creditors who refuse to sign their releases and receive the money in the Treasury of the United States? Texas has appropriated for their payment. The same amount will abide *pro rata* in the Treasury of the United States, with the accumulation of the accruing interest, and they will be as free then as they are now to prosecute their absurd claim against the United States for par, or their well-founded one against the State of Texas with the for fairer chance of success, as either Government would have a smaller deficit to provide for.

Much has been said of the injustice of allowing the large creditors who lent par receiving par. I ask where we derive our power to prevent Texas from paying *pro tanto* at least a just debt? But I throw these large creditors out of the question. I will take the case of a suffering and needy widow, who is willing to take what Texas has appropriated for her. But then comes an opulent broker from Philadelphia, Baltimore, or New York, who says to this poor woman, You shall not receive your money because Texas does not pay me seventy cents on the dollar. Sir, there is great hardship and no justice in all this.

If we deny this privilege, let us illustrate the national faith and justice by a new and grand national painting, emblematic of justice, in a niche in the rotunda, of one of Æsop's fables—The Dog in the Manger. Oh, for the genius of Hogarth, to represent a rich bull-dog, with a gold chain round his neck, growling off the hungry, destitute, and necessitous!

Sir, if Congress did enact in the proviso an absurdity so impracticable as to call on sixteen hundred men differently paid, to be of one mind, which I contend they did not do, then I say we are bound to declare, in the emphatic language of the amendment of the Senator from Virginia, we do not abide this blunder.

The hour (for it is past midnight) admonishes me no longer to trespass upon your patience; but I cannot take my seat without one remark, said rather in "sorrow than anger," at the rapid strides which are making towards an imperial consolidation of this Government by reducing the States into contemptible parish corporations.

By passing the bill of the gentleman from Maryland, we avow distinctly our power to fix, define, and pay her public debt in such proportions as we see fit, totally irrespective of her will. I consider this the most daring assault on the sovereignty of a State in this Union which the history of this Confederacy affords—so rich in the records of a progressive usurpation of the powers reserved to the States respectively. Nor is this invasion made more palatable by the contumely and insult combined with it. Does it say anything more or less than this to Texas: "We consider you as untrustworthy rogues; we must take out a commission of bankruptcy against you, and pay your creditors, which you have not the honesty to do. You shall not pay a creditor par from whom you received par, until you pay a creditor par who gave you sixteen cents in the dollar." Does the history of any Government afford an equivalent instance of audacity? But our pretensions do not end here. The gentleman from Indiana offers an amendment, by which we are made, not the apprentices, but the master workmen of repudiation, by a scaling process, far more comprehensive than that we reproach Texas for practicing; indeed, by the way, the United States have some fifteen tons of continental money unpaid, and it does not lie in our mouth to reproach other people with repudiation. The Senator from Indiana proposes scaling down the creditors; Texas proposes to pay par to fifty cents in the dollar, that those whom she has scaled at thirty cents may be placed on the same level. A very commendable depletion, certainly!

Sir, I will say but one word more: that when propositions of this kind are entertained in regard to a sovereign State in this Union, it is high time for us to get rid of the feeble and contemptible subordinate corporations called State governments, and take an imperial master who can castigate a State into paying a debt which she humbly says is not just. Burke somewhere says a State cannot be indicted, but I think we have reached a new truth in our confederate history, that she may have a commission of bankruptcy issued against her, and be held to bail.

Mr. BAYARD. The Senator from South Carolina still seems to misunderstand my view in this case altogether. I do not propose to restate it except very briefly. I did say that in my judgment there was no obligation on the part of the United States to pay any portion of the debts of Texas, unless it arose under the terms of the boundary act; but does that imply, in the ordinary meaning of language, that I am not to say such an obligation did arise under that boundary act? On the contrary, I followed that declaration with announcing what I supposed to be the true intent and meaning of that boundary act; and I attempted to show, whether successfully or not, that I considered the object of that act, as regards the United States, was to free by proviso from continuous claim on the part of these creditors of Texas; and that neither Texas nor her creditors had any right to ask for that sum until we were freed from that claim; and it was on that ground that I was opposed to the amendment of the Senator from Virginia. I will say further that I know something about these claims as well as the Senator from South Carolina. He has indulged a good deal in language about speculators. Allow me to say to him that there are as many speculators connected with the claim now pressed for preferred payment out of this fund as those who resist its partial disbursement.

Mr. PRATT. I wish to occupy but very little of the time of the Senate, but I desire to express one or two views which it seems to me have not been advanced by the gentlemen who have preceded me. I desire the attention of the honorable Senator from South Carolina for the purpose of saying that he starts, as it seems to me, not at the proper point in this argument. This debt was contracted, not by the sovereign State of Texas, as his argument presupposes, but it was contracted by the Republic or nation of Texas entirely independent of the United States, and with which at the time we had no concern. Now, I state here, in the presence of the representatives of the present *sovereign* State of Texas, that while she remained the Republic of Texas, to the very last of her public acts in reference to her debt, she said by her legislation, and by her Executive communications, that every cent of this debt should be paid.

Thus, therefore, the creditors of the Republic of Texas stood anterior to the annexation of that Republic to the United States. There was a legislative act in 1841—since which period no part of the debt was contracted—declaring the whole debt to be obligatory upon the Republic. There was an Executive message as late as 1843, expressly proclaiming to the creditors of the Republic of Texas, both foreign and domestic, that Texas intended to pay every cent of her debt; that those who had falsely alleged that she did not design to pay every part of it, were insulting the dignity and calumniating the fair fame of Texas. What then was the position of the creditors? They were not mere speculators; they were the recognized creditors of Texas, conceded by the legislative action of that Republic, after the contraction of the whole debt, to be its honest creditors, and in regard to whom the Republic had proclaimed to the world the fixed determination to pay every cent of its indebtedness. That was then their position. But, now, Mr. President, if I can get the attention of the Senate, I desire to press one view of this subject which has not been hitherto presented to your consideration, and I will not go over the ground occupied by those who have already addressed the Senate.

I predicate the obligation of the United States, and all I intend now to say, upon the articles of annexation of Texas to the United States; and I ask the attention of those Senators who have expressed the idea that they cannot conceive of the existence of this obligation, to the remarks which I intend to make. What were those articles of annexation? The Senator from Virginia, who spoke the other day upon this subject, said truly that they had all the force of treaty obligations as between the United States and Texas. What is then this stipulation? Why, the Republic of Texas and the United States stipulate, that after annexation—*the object of the treaty*—had been effected, "*the State of Texas* shall retain all the unappropriated lands *of the Republic of Texas*"—for what purpose?—"to pay all her debts." Now I have shown you that her debts, anterior to that period, and during the whole period of her national existence, were fully recognized by her. When, therefore, those articles of annexation were entered into, when this treaty stipulation was made that the State of Texas was to retain all these unappropriated lands and pay all the debts of Texas, what does the stipulation mean? It is a stipulation for the creditors of Texas, whose debts had been recognized to the full extent of their apparent obligation; and it is a stipulation that all the debts of Texas should be paid from the proceeds of these lands. What further do these articles of annexation say?—"That the rest and residue of those lands, after paying the debts of the *Republic of Texas*, should be subject to the disposal of the *State of Texas*." Here, therefore, I say that this treaty stipulation clearly appropriates all the public lands primarily to the payment of all the debts of the Republic of Texas, and that only the rest and residue of the lands were left to the control or disposal of the State of Texas. There can be no mistake about this, because it is plain and positive language about which no human mind can dispute. Then, Mr. President, I will assume that I have established the position that the Republic of Texas was admitted as one of the States of the Union upon the stipulation that all the unappropriated lands were to be applied primarily to the payment of the debts then recognized to exist to their fullest extent; and that the *State* of Texas should have the control only of the residue of the lands after all those debts were paid.

Now, allow me to bring to the notice of the Senate, in connection with this argument, the boundary act of 1850. Permit me to say, sir, that I voted for that act; that I voted for it, amongst other reasons, because I believed by it all the questions in reference to the debts of Texas would be settled and adjusted; and I will now vote for no measure which does not finally and completely settle the claim as a claim against the United States. Allow me to bring that act to the view of the Senate, in connection with the position which I have assumed to have established, and then I will ask any one to contradict, by any legal proposition or argument, the train of argument which I pursue. The boundary act bought of Texas ten millions of dollars' worth of the very land which under the articles of annexation, were pledged primarily to the payment of the debts, and which, under that treaty stipulation, Texas had no right to sell. We bought, we paid, or are to pay ten millions of dollars for public lands ceded to us by the *State* of Texas, which the *Republic* of Texas had antecedently pledged to these creditors for the payment of their debts, and which debts were by our express treaty obligation to be paid by the *State* of Texas before she was empowered to sell or alienate one acre of the land so purchased and ceded to us. If this were a proposition in a court of law, there is no judge of the United States courts who would hear an argument in support of so plain a proposition. My learned friends may talk about the plain argument of the Senator from Vermont; they may talk of the sophistry and weakness of the argument of Senators who take this side of the question, but there is no judge in the United States who would permit a proposition of that kind to be supported by an argument. We have stipulated by a treaty binding upon us, as they admit, that these lands shall go to the payment of the creditors of the Republic of Texas. We have stipulated that the State of Texas should have no control except over the residue of the lands. We have, subsequent to that stipulation, without the consent of the creditors, bought of the State of Texas ten millions of dollars' worth of that land.

Now, to say that we are liable to the extent of our purchase, to the extent of ten millions of property pledged by our own treaty to the payment of the creditors, is a legal proposition which would not be argued by any of my learned friends in a court of justice. They may argue it here; but they would not dare before the Supreme Court, or any court which they respected, to argue such a question. If any one doubts this, let them author-

ize a suit to be brought that the question may be decided by the Supreme Court of the United States. I should prefer this to any other course. Let the question of liability be submitted to that court. It would be a simple proposition which we would have before us. Let the five millions remain in the Treasury. If the United States are not bound to the creditors, then Texas will have the whole of it, and we are clear of the debt of Texas, and the perpetual annoyance of her creditors. I venture to say that there would not be a dissenting voice in the Supreme Court of the United States upon the question of liability. There could not be a doubt there. I do not intend to go over the argument which has been heretofore followed, which is conclusive, however, to my mind, although treated so lightly by others, that the United States have received from Texas by the surrender of her nationality, and her duties upon imposts, that which was originally pledged by the Republic of Texas for these debts. The argument of my learned friend from Vermont, which has been so highly eulogized by gentlemen here, is founded upon an assumption legally and morally incorrect. It proceeds upon this assumption, that the Republic of Texas, by making this pledge, incurred no liability which she could not throw off at pleasure, as a necessary incident of sovereignty. If we say so, if that be law, then the argument is a sound one; but it is predicated solely and exclusively upon that proposition, which is, according to my humble judgment, false; and therefore, the conclusion which is drawn from it, is also false. If Texas is released from the obligation contained in that clause of the resolution of annexation, then why is not the United States released from their obligation for the debts of the Federal Government, they having been annexed to Texas as much as Texas was annexed to them? Is not Texas made liable by annexation for the obligations of the United States antecedently contracted? If so, how can it be argued that the United States is relieved from the obligations of the Republic of Texas antecedently entered into? What is to release them? The proposition of international law that the union of two States makes the United States liable for the obligations of each State incurred prior to such union, is laid down by every author from Grotius down, and there is no writer upon that subject who disputes it; no authority for the opposite position has or can be referred to. Then, if the United States are not bound for the debt of Texas, it is manifestly clear that Texas is not bound for the obligations of the United States—a proposition for which no one will contend.

Mr. President, the error in the argument of my friend from Vermont, is occasioned by his confounding, or rather using as synonymous, the terms *power* and *right*. A nation may have the *power* to do many things which would be utterly wrong for it to do.

I concede that a nation because of its sovereignty has the *power* to repudiate its debts, but I cannot draw from this concession of *power* (as the Senator does) the right of the nation so to increase it.

I had intended, if an earlier opportunity had been afforded me, to enter at large into the argument of this question—an intention which the late period of the session and the state of the public business render it improper for me to carry out.

Mr. HOUSTON. Mr. President, that it has never been the intention or the desire of Texas to escape the payment of her true liability is true. It has not been through her agency that the application has been made for the amendment introduced by the honorable Senator from Virginia.

Mr. PRATT. I did not say it was.

Mr. HOUSTON. I have this remark to make to the honorable Senator; that the debts to the value of what Texas received which are now held by the owners will be paid. We eschew speculators. None of them were found in the day of Texas's need. They acquired the bonds after they were scaled to a large amount of what they now possess. I know it was supposed that I had money in Texas, which was as great a mistake as any man ever made. [Laughter.] But I was written to, to obtain money for the purpose of purchasing these scaled liabilities at fifty per cent. discount. I was written to by gentlemen, and told that they could be bought up at that rate, and that it was a fine speculation. I will say that I replied, that I did not speculate. I said that I would have nothing to do with it. Gentlemen had written to me from Philadelphia, and from other cities in the Union, saying what description of bonds they would advise me to make an investment in, if I wanted to speculate. These are some little items that are rather interesting to show why these gentlemen who received the bonds of Texas when they were depreciated, are not the sufferers. It is true, as my friend from Maryland has stated, that Texas, or rather the Executive of Texas, did say up to the year 1843, that she would pay rightly and justly every cent that she owed rightly and justly. She did not say that she would pay the rascally claims which are made against her. It was only that the just and righteous claims would be paid. She is able to take care of her own business. The Legislature can take care of her business. Give her the money and she has the means to pay her liabilities, and she will justly cancel every cent that she owes.

Mr. DOUGLAS. I did not suppose that this question was to be brought to a vote to-night, but if it is, I must be permitted to state briefly my position in reference to it. I do not now think, and I never did think, that the United States were at any time responsible for one dollar of the Texas debts. When persons chose to buy Texas bonds they trusted to the faith of Texas. If Texas had in addition to her faith, pledged any revenue, or any specific property, still those who took the bonds of Texas trusted only to the faith of Texas, because they must have known that Texas, being a sovereign State, had the right at any time to divert that revenue into a different channel if she saw proper. The pledge, therefore, of the revenues of Texas or her lands, or any specific fund, was simply a pledge of the faith of the State in another form. It may be said, that if Texas did divert that revenue afterwards, she violated her faith. You may say that; but still she had the power to divert it; hence whether Texas has acted in good faith towards her creditors in that point of view, is a matter between her and her creditors with which we have nothing to do.

As to the resolutions of annexation, there is nothing in them from which an argument can fairly, in my opinion, be drawn that the United States are responsible. I am willing that the Senator from Maryland should entertain the opinion that it is not a question upon which any one can argue. I am willing that he should repeat, over and over again, as he has done with so much emphasis, that there could be no doubt about it. Still I must be permitted to entertain my own opinion. The resolutions of annexation clearly show that it was not the understanding between the parties that the United States should assume the debts of Texas, though clearly it was the distinct understanding between Texas on the one part, and the United States on the other, that we were not assuming those debts. Why? Because the resolutions say so in so many words.

The Senator has spoken of the resolutions as a treaty with reciprocal guarantees. I care not whether we call it a treaty or not; it was a contract between the two Republics, by which the one was absorbed in the other—by which Texas became a member of this Confederacy—and in that contract it was stipulated that Texas should reserve her public lands to pay her debts, and dispose of the residue as she saw proper. We did not guaranty the lands to her; we did not cede them to her for that purpose; that is simply a reservation on the part of one of the contracting parties of that which was her own; which she had a right to dispose of. And she said in that contract that she reserved her lands to pay her debts, and apply the residue to such other purposes as she saw proper; and in the same clause it is distinctly stipulated, that the United States are not to be chargeable with any portion of the debts of Texas. Can there be anything more plain than that, by the articles of annexation Texas was only to become a State of the Union, remaining herself responsible for her own debts, and retaining her public lands with which to meet them? I do not, then, think it can be said that the United States incurred the slightest responsibility, directly or indirectly, legally or justly, to pay one farthing of those debts.

Then, sir, is there anything in the act establishing the boundary line that binds us to pay the debts? There, it is true, we bound ourselves to give $10,000,000 for a certain portion of territory claimed by Texas. Five millions were directed to be applied to that portion of the debts for which her revenues were pledged. I confess that the provision was not a favorite one with me at the time. But the question now with which we have to deal is, what is the effect of it? The effect of it is simply this: We pay Texas $10,000,000; $5,000,000 of which are to be paid immediately, and the other five in a certain contingency. We certainly thereby have not assumed any debt. There is no express or implied assumption; there is no legal undertaking to assume. Is there a moral one? Will it be said that by your annexation of Texas to this Union, the means of Texas to pay her debts were diminished? No man will pretend that they were. Did any one of the holders of Texas bonds claim that the annexation was a sacrifice of his interest? We all know that there was not a Texas creditor in America that was not an advocate of annexation, upon the grounds of promoting his pecuniary interest. Do we not all know it? Do we not know that the bonds went up in the market immediately when Texas was annexed? Do we not know that the bonds became enhanced in value? And why? Because it increased the confidence that the debt was to be paid. We all know this was the fact. Then were the bond-holders put in any worse pecuniary condition by the compromise act that settled the boundary of Texas? Did you find the Texas bond-holders against the boundary act—against the $10,000,000? We all know they were the most patriotic gentlemen in America for saving the Union, particularly if Texas got $10,000,000 for it. Sir, their patriotism oozed out, and burst forth from every avenue, when the glad tidings came that the boundary was settled, the Union saved, and especially that $10,000,000 went to Texas; because they were going to get the full value of their bonds from that act. The bonds were enhanced in price after that act, showing, therefore, that the Texas bond-holders lost nothing by our action. On the contrary, they have been benefited. Hence I come to the conclusion that there is no legal or moral obligation on our part, to assume one dollar of their debt. I am unwilling to do any act by which we shall recognize the remotest obligation on us, even to pay one dollar of those debts.

With regard to these $5,000,000, I am willing to pay it in any way that shall be agreeable to Texas and the bond-holders, provided you do not thereby assume any new liability, or increase the amount to be paid. I am not willing to augment the amount, or to extend our liability one dollar beyond the $10,000,000. If there is any other mode of paying the $5,000,000 more beneficial to the bond-holders, and it can be done by the consent of Texas, I am willing to do it, but I will do no act without her consent; because, if we pay a dollar without that consent, we are not entitled to any credit with Texas upon the account for the payment, and we will be bound to pay it over again. Every dollar which we may pay without the consent of Texas is a donation to the bond-holders. Call them speculators, operators, creditors, whatever you please, every cent that you pay without the consent of Texas, is a donation to them.

But we are told the money is in the Treasury, and cannot be paid out. Why? Simply because the Treasury Department have construed the law to mean that no part of the money can be paid unless all the creditors of Texas agree, and all of them will not agree. I can well suppose a case in which, among the large number of creditors, there might be some obstinate men who would refuse to give their consent to the payment. I do not know that that is the case here; but if it is, if there are obstinate men who are not to be governed by any principle of justice, I can imagine a mode by which the difficulty can be remedied. Let us pass an act that those who do bring forward and present their claims may draw their *pro rata* share, provided Texas agrees to it. I think Texas and the United States can agree to some little modification of the law, by which we can avoid the difficulty. If we cannot, there is a mode by which we can do it, and I am ready to adopt that mode, and pay the whole $5,000,000 to Texas, and send the creditors and bond-holders there, and let them knock at the doors of Texas as much and as long as they please. That is where they belong, and I am disposed to be in favor of that project; which is to send the whole $5,000,000 to

Texas, wash our hands of the whole matter, and have nothing to do with the Texas debts, Texas bond-holders, or Texas creditors. I am inclined to think that that is the best way.

But it is said they will come here. Sir, they will come here if we encourage them in the way that the amendment is encouraging them. We owe Texas five millions, which are going to these bond-holders. They modestly ask us now to convert five millions of five per cent. bonds into eight millions of three per cent. bonds; and they tell us we will lose nothing, because the interest on the one sum is precisely the same that it is upon the other. The interest may be the same, and it may be that we will lose nothing before the time comes to redeem the bonds; but when that time comes, it may be that we will find there is a slight difference between redeeming five millions and eight millions. When, therefore, you look at the project, it is simply the naked proposition of a donation of three millions of dollars to the bond-holders of Texas, in consideration of their sacrifices and sufferings by the annexation and the settlement of the boundary of Texas. I am not willing to make that donation. I can see no legal claim, no moral claim for it. I can see no equitable obligation upon us for it. I do not think this is a proposition which ought to receive our concurrence. Nor did I suppose that it would have received support enough here to suspend the operation of the Government, and hazard even the appropriation bills themselves, in order to force this proposition upon us. I was unwilling to take the time in discussing it. But, sir, if we have to meet it, for one I am prepared to meet it, and meet it boldly; and if it does defeat all the other legislation of the country, let us do our duty, and let the country determine who will be responsible for all the consequences that may follow.

Mr. PEARCE. Mr. President, I am not willing that the country should be mistaken as to whom the responsibility is justly chargeable. It might well be imagined, from the remark made by the honorable Senator from Illinois as he took his seat, that it was I who introduced this subject at this time. Sir, I deny it.

Mr. DOUGLAS. They could not have imagined that from anything that I said, because they know how it was introduced.

Mr. PEARCE. The Senator alluded to the introduction of the measure.

Mr. DOUGLAS. I alluded to the consumption of time.

Mr. PEARCE. Who has consumed the time? Who has made long speeches? Who rose just at eleven o'clock to refute what other gentlemen supposed they had already refuted? And who now charges those who advocate this measure with having thrown the proposition before the Senate, which was to defeat the appropriation bills and stop the wheels of Government? Sir, I did not introduce this measure, except as a matter of defense. The Senator from Virginia insisted upon the introduction of his proposition—a proposition which some gentlemen here had characterized as atrocious. I will not do so. I was perfectly willing to let the whole subject pass from the consideration of Congress. I did not wish to introduce my amendment. I told the honorable Senator from Virginia that if he introduced his amendment I felt bound to resist it, because I thought it violated a principle of justice. I do not charge him with impropriety, for he is incapable of doing that which he thinks wrong. When he introduced his proposition, then I submitted mine as an amendment to it; but I did not exhaust the time of the Senate with a speech. I believe I did not occupy five minutes. I stated in the briefest way possible the reasons which induced me to offer my proposition as an amendment to the amendment of the Senator from Virginia, and I would at any time have abandoned it if the honorable gentleman had abandoned his. I have been strongly tempted, as several Senators know, to withdraw the amendment during the course of this discussion, because I saw the evil to which discussion was leading by protracting the session of the Senate. I have myself refrained from speaking. Very few friends of the measure have spoken. They have scarcely consumed half an hour of the time of the Senate altogether. The delay and embarrassment with which the appropriation bills are threatened come from those who oppose the measure. But now, sir, since I have begun, I will ask the attention of the Senate for a few moments, while I say something further upon the question.

It seems to me that in the course of this discussion, Senators have confounded things which are entirely distinct and different. I think that they have forgotten the distinction between power and right. I admit the force and ingenuity of the argument urged by the Senator from Vermont. But it was not new to me, for I remember to have heard the same argument substantially from that Senator some years ago, in reply to a colleague of mine, (Mr. Reverdy Johnson,) not now a member of this body. He has told us that when a State pledges its revenues it in effect pledges nothing, and that a sovereign power has the right to modify its policy as it pleases.

I know very well that every State has the power to change its revenue laws. It may have a duty to-day of fifty per cent., and to-morrow its policy may require the reduction of such a duty to thirty per cent. This is the ordinary power of modifying a financial system. So, too, a pledge of revenues or of any particular source of revenue must be considered subordinate to those great necessities of a State which require all its means to be devoted to the defense of the country and the preservation of national existence, since, otherwise, the very frame of the Government may be broken up, and the national existence be destroyed. But I utterly deny the general proposition in the broad terms in which it is stated, that a sovereignty, by virtue of its sovereignty, has a right to change as it pleases the fund from which payment has been pledged by it. Such a doctrine is not consistent with law, and hardly with morality. Nay, more; I venture to say, that if a Power were to make a pledge of its revenues specifically by name, and were then causelessly, under the pretense of a sovereign right, to withdraw that pledge, and refuse to perform its solemn promise, it would be the right and duty of any other sovereign Power, whose citizens were thus deprived of the pledge, to coerce its performance. I believe that has been done. I am not sure, but I think that something of that sort produced the hostilities between France and Mexico which existed a few years ago. Suppose a pledge made that the bonds of a State, issued to certain of its creditors, should be liquidated by being receivable in payment of customs to the amount of one half of the duties in satisfaction of which they should be tendered, and that the Government thus bound to receive them, should refuse to allow their receipt at any amount at all—would the Government or country of which these creditors were subjects or citizens, be answered by saying that a sovereignty has a right to modify its financial system as it pleases?—that the pledge of a Government is in effect nothing at all? Would any nation with power to protect its citizens in their right, be satisfied with such a subterfuge? Would it not have a right to enforce the pledge by the *ultima ratio regum*? Would it be satisfied with the declaration that a pledge of revenues, general or special, is only a pledge of honor, and that, not having the character of a strictly legal transaction, it might be departed from at pleasure?

By the convention between the United States and Mexico, in 1843, the latter Government agreed to pay certain awards made in favor of citizens of the United States, and solemnly pledged "the 'proceeds of the direct taxes of the Mexican Re-'public for the payment of the installments and 'interest aforesaid."

Did the Government of the United States understand this to be a pledge of nothing? If so, how came they to provide as they did, "that 'whilst no other fund is specifically hypothecated, 'the Government of the United States, by accept-'ing this pledge, does not incur any obligation to 'look for payment of these installments and inter-'est to that fund alone."

It seems to me that a Government which has thus negotiated is estopped from saying that a national pledge of revenues is in effect nothing. What does such a doctrine amount to but to say that the most solemn pledge which a nation can give is only a cheat and a mockery? The power to violate honor and contract may exist; but who, upon any principle of morality, can defend the conduct of a nation who issues its bonds pledging for their payment not merely the public faith, but the public revenues; and not merely the revenues in general, but specific revenues, and then, in scorn of public faith and disregard of solemn pledges, replies to the cheated creditor, we pledged in effect nothing? Or is it less immoral to say we pledged indeed our revenue from customs, but we have seen fit to abolish all duties on imports, which we have a strict right to do, as all Governments must at all times reserve a right to modify their financial systems, and therefore, your pledge is in effect nothing? Could similar conduct be defended in the case of an individual, and if not, how can it be in the instance of a nation?

Sir, although the general power and right of a sovereignty to modify its policy is not to be denied, no one can fail to see how circumstances may restrain and limit that right.

And while the overruling necessities of a State may excuse its neglect of contract and violation of pledges, this does not destroy the right to the thing pledged any more than it annihilates the obligation to pay, and that the creditor is not justly answered by saying we have dried up or diverted the source of revenue pledged to you, and you must look to such other sources as remain to us. I conclude, therefore, that a pledge of revenue is something more than a pledge of mere integrity or honor, and gives value to the obligation of integrity. This goes to the root of the matter, and, I hope, answers the argument of the Senator from Vermont, [Mr. PHELPS.]

But I have heard a great deal about speculators. That is rung again and again in our ears. Does it make the slightest difference in a moral or legal point of view by whom the bonds of Texas are held? What was the obligation of Texas? It was to pay to the holder of a given bond a certain sum of money; and suppose that bond has passed through ten thousand hands, is the obligation of the State varied in the slightest degree? What gives the bond its value at any time? Who would take the bonds of any Government if he knew that he was to be told that he could not part with it to another, or if he did part with it to another, that that other was not to receive the full price of the obligation, but should receive just so much only as the State, in the exercise of its sovereign rights, chose to fix as the amount of its liability? I acknowledge no such right on the part of a State. No such right can be shown to exist in any book of authority, and if any such book could be found, it would only be fit to be thrown into the fire; for it would admit a principle of immorality such as would destroy the foundation of all compacts, because it would destroy all confidence. I care not whether the holders of the bonds are speculators or not; they have the bonds lawfully. They have them in the manner in which the compact with Texas authorized them to get them; and the responsibility for the payment is just as great as it would be for the payment to the original holders of the bonds. It is no answer to a claim to say that speculators have got hold of it. An individual never asks whether the indorsee of his promissory note gave one hundred cents on the dollar for it or less. He only looks to the tenor of the obligation, and no one has a right to do anything else.

I do not mean to throw any censure upon Texas by what I have said. I regret to have said thus much. I say it in answer to the remarks made by the gentleman in regard to the sovereign rights of a State. I think they have been misunderstood and misapplied; and I say it in defense of myself for introducing the proposition which I have introduced. I introduced it with the kindest feeling to Texas. I provide in it for the assent of Texas. I do not desire that the plan which I propose should go into operation without her assent. I supposed that by introducing the proposition which I brought forward—one by which she would be relieved from a heavy burden of debt—she would feel that her honor was unstained; she would feel that her creditors were satisfied, and that the world would have no right to complain of her. I do not think that I should be reproached, as I was in effect, for the introduction of the proposition, by being told that I proposed to give away $3,000,000 of public money. I did suppose as has been said, by a man whose name is much better known than my own, that the creditors of Texas had a moral claim upon the Government of the United States, because that Government, by the annexation of Texas, had taken into its own possession, and diverted from the treasury of Texas, those revenues which had been set apart by that Republic for the satisfaction of its debt. That was said by Mr. Clay.

I know that $10,000,000 were voted in the boundary act; but it never would have been granted by this Government, if it had not been believed that we were under some liability for the debt of Texas. I know that was the principle which induced me to offer so large a sum. As to the claim of Texas to all the territory to the Rio Grande, few considered it originally good. Some considered that it had acquired validity by the operation of the treaty of peace with Mexico, while others, and those not a few, thought it altogether bad. I was willing to give $10,000,000, partly in consideration of that claim, and in deference to the opinion of so many gentlemen, and partly for the purpose of getting rid of our liability for the debts of Texas. But, sir, it is midnight, and I will not consume the time of the Senate further.

Mr. MASON. I do not mean to make any charge. I have none to make. I have no information as to how the bonds have been obtained by the present holders. I have never inquired; I do not mean to inquire. I have nothing to do with it. I offered my amendment in order to comply with the compact of 1850, to pay this money to the State of Texas, to provide for it simply by authorizing the payment to be made as fast as the condition is complied with on which the compact was made The honorable Senator from Maryland says that upon the mover of that proposition is all the responsibility to which it leads. Sir, I assume that responsibility.

Mr. PEARCE. I have not said that. The Senator from Illinois [Mr. DOUGLAS] alluded to the consumption of time by the debate on the amendment, and the consequent hazarding of the appropriation bills. I replied that I had not introduced the proposition, and that the friends of my proposition had consumed very little time in debating it.

Mr. MASON. I take the whole responsibility of introducing that amendment. But, sir, I say there rests upon the Senator who offered the amendment to the amendment a responsibility. He says he offered his to frustrate mine. What is his? It is a proposition that the Government shall pay the creditors. It is a departure from the law of 1850.

I put this to that Senator: Suppose the proposition that I have made passes, and that one tenth, or one sixth, or one fourth of the creditors of Texas avail themselves of it, and release the United States: what prevents that honorable Senator then from offering his amendment as to the residue of the debt? While we have five millions in the Treasury, suppose one million is paid under the releases, and the other four millions are not paid in that manner; what prevents the Senator from offering his amendment then? Mine does not interfere with his in the least degree. He says he has offered his to frustrate mine. I say, then, the whole responsibility of the delay or of the defeat of the appropriation bills, or whatever else may ensue, is upon him, and not upon me. I have not gone into an examination of the question about the liability. I do not mean to do so. But if the amendment of the Senator from Maryland prevails, it will throw a liability upon the United States which I wish to avoid, and then I will have no hesitation whatever, so far as my action is concerned, in staking this appropriation bill upon it. I now merely ask for the yeas and nays on the amendment of the Senator from Maryland.

The yeas and nays were ordered.

Mr. UNDERWOOD. I desire to inquire of the Chair whether, if the amendment to the amendment prevails, by striking out all after the enacting clause of the original amendment, and inserting what the Senator offers, it will then be subject to amendment?

The PRESIDING OFFICER, (Mr. BADGER in the chair.) It will be in order to move any amendment which does not interfere with what the Senate has inserted.

Mr. UNDERWOOD. Will it be in the power of the Senate to strike out any part of it?

The PRESIDING OFFICER. No, sir,

Mr. UNDERWOOD. Then I cannot vote for the amendment to the amendment.

The question was then taken by yeas and nays, and resulted—yeas 8, nays 34; as follows:

YEAS—Messrs. Badger, Foot, Miller, Morton, Pearce, Pratt, Seward, and Smith—8.

NAYS—Messrs. Atchison, Bayard, Borland, Bright, Brodhead, Butler, Cass, Chase, Clarke, Davis, Dawson, De Saussure, Dodge of Iowa, Douglas, Felch, Fish, Fitzpatrick, Geyer, Hamlin, Houston, Hunter, Jones of Iowa, Jones of Tennessee, Mason, Norris, Phelps, Rusk, Sebastian, Spruance, Sumner, Toucey, Underwood, Walker, and Weller—34.

So the amendment to the amendment was rejected.

Mr. BRIGHT. I now move to amend the amendment by striking out all after the enacting clause, and inserting:

That the sum of $5,000,000, with interest thereon from the first day of January, 1851, is hereby appropriated, to be divided *pro rata* among those creditors of the late Republic of Texas for whose claims the revenues of said Republic were pledged according to the decision of the Secretary of the Treasury, and confirmed by the President of the United States, under date of September 13, 1851; to wit: "The holders of the certificates or other evidences of debt, 'issued under the acts of June 7 and June 9, 1827, of November, 1836, of May 16, 1838, of January 22, 1839, of 'January 14, 1840, and one of the acts of February 5, 1840, 'as described in said report of said Secretary: *Provided*, 'That said creditors shall, on or before the first day of July, '1853, make a full assignment to the United States of said 'certificates or other evidences of said debts; and when the 'original certificates of said debts have been surrendered 'to the authorities of the State of Texas, and new certificates have been issued therefor by said State, said new 'certificates shall be received as evidence of the original 'amount of said claim, and shall be assigned accordingly."

Mr. MASON. I call for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. UNDERWOOD. I desire to ask the Senator from Indiana whether he would amend his proposition in such a way as to allow the individual creditor to surrender and assign his claim, provided the others do not do it, and to take his *pro rata* proportion of the $5,000,000? I think his amendment requires the whole amount to be surrendered before any can be paid. Am I mistaken?

Mr. BRIGHT. The Senator is mistaken.

Mr. UNDERWOOD. Then I am satisfied with it as it is.

Mr. BRIGHT made some remarks, which will be found in the Appendix.

Mr. WALKER. I desire to ask the Senator from Indiana if there is any provision in his amendment for the assent of the State of Texas?

Mr. BRIGHT. There is not.

Mr. WALKER. Then I will ask this question: What is there to prevent Texas protesting either prior or subsequent to this act, or after we have paid the $5,000,000, saying to us that we have paid without her consent and against her compact with us, and demanding that we pay it over again?

Mr. BRIGHT. The answer to that will be found in this: When Texas has taken the $5,000,000—to which she alleges she is entitled under the act to which I have referred—if she should demand the payment of the other $5,000,000, we respond by producing the assignments of the debts which shall have been transferred to us by her creditors.

Mr. HOUSTON. In relation to the extract from the message of the President of Texas, to which the Senator has alluded, I must regret that the whole of the message is not here. Those were the sentiments which I entertained at the time; and in continuation of that extract I went on to show how and why it was that Texas ought to pay her debts; and it will be found that the suggestions there made were those on which the scaling took place subsequently, in 1848. But we have only a portion of the message brought before us; and the true meaning of it cannot very well be construed independent of and separate from the rest of the message. But I will state another fact to the Senate; that after that message was delivered, in December, 1841, I believe it was, a law was passed declaring that every public officer should receive his salary at par value. But on account of the new currency, the value of the bills was depreciated to twenty-five cents on the dollar. They received their salaries at what the bills passed currently. They were charged with the amount of one hundred cents on the dollar, when they only received twenty-five cents, and not one of them had ever brought forward a claim to receive compensation on that account. I know the Executive never did, and that he did not receive one eighth of his salary during the three years he was in power. When the message was issued, notwithstanding the suggestions contained in it in relation to the determination of Texas to pay her debts honestly and justly, only for all she had ever realized, the bonds went up in New Orleans from three to five cents, to eighteen and twenty cents, in one week. That was the impression which this message had upon the currency of Texas at that time. The repudiation had been spoken of, and believing that what I said was an act of justice, and that it would prevent speculation, I came out with the sentiments that have been read. I am satisfied, with the exception of the city of New Orleans, that the great valley of the Mississippi does not at this hour contain fifty dollars of Texas's liabilities, and not one dollar held in the hands of those to whom they were originally issued.

Mr. BRODHEAD. I desire to make a suggestion to my friend from Indiana which may induce him to modify his amendment. He desires to pay the five millions which have been reserved, and to pay them in cash. At the time the boundary act passed, the United States bonds were worth one hundred and ten cents on the dollar. He desires to pay the amount we reserved. He promises by his proposition to pay them in stock which was at that time worth one hundred and ten cents on the dollar. I suggest that he modify his amendment to make it conform to what he desires.

Mr. DAWSON. I desire to ask one question of the Senator from Texas. Did the Legislature of Texas, in 1851, pass any act authorizing the creditors of Texas to come to the city of Washington and release her debts under the act 1850, and receive payment for them according to the scale?

Mr. RUSK. The Legislature of Texas did this: They made an appropriation out of the money in the treasury of Texas to pay to the creditors the rates which were affixed to the claims by the act of 1848, when the United States should so modify the provision in the boundary act as to pay to the State the amount of the releases which should be filed.

While I am on the floor I desire to make another statement. The honorable Senator from Indiana chooses to designate Texas as scaling, and yet he performs the same operation by his amendment. There are amongst these claims various of them which have been put down at eighty and ninety cents on the dollar. Texas, through her officers—and I believe Texas officers are about as honest as men generally are—has reduced them that far. The Senator proposes to scale them below that, and go down to sixty cents, and put those who purchased the promissory notes of Texas at twelve-and-a-half cents or less on the dollar, exactly on the same footing as those who paid one hundred cents on the dollar. Is this fair?

The honorable Senator has spoken of his being on the Committee of Thirteen. I laid before that committee of thirteen a statement of the amount of Texas's liabilities, which upon their face amounted to twelve and a half millions of dollars. That committee never reported a sum at all. The honorable Senator from Maryland [Mr. PEARCE] introduced a bill in which he placed it at ten millions. It was utterly impossible for Texas to have paid twelve and a half millions with ten millions. That was out of the question. The Senator says she has a large amount of public domain. Sir, that domain has been open at all times to every creditor of Texas, and is now open to them to be taken in payment of their claims at fifty cents an acre; and if the United States will just take their own Indians off those lands, they will be as much sought after as any vacant lands on this continent.

Mr. BRIGHT here again addressed the Senate. [His remarks, not received from him in time for publication here, will be published in the Appendix.]

Mr. RUSK. If the honorable Senator had heeded my appeal, and, instead of holding this bill back until the last days of the session, had brought it forward, as I desired it should be done at an early day, we would have been relieved from the position in which we are placed. I have not time to-night to go into the investigation of the matter before the Senate. I have not been prepared to hear the appeals of ladies produced here in derogation of my State. When the petitions on the subject were first presented in January or February of last year, I begged the Committee on Finance to report, that I might have time fully to investigate the subject. I know that it would be imposing upon the Senate, but I could show that

the cries of women and children, who are now in their graves, have come up to this Government asking them to comply with treaty stipulations, and this Government has failed to do it. The Government is failing to do it now, and while I am speaking, the Indians which belong to the United States, who have no claim on the territory of Texas, are there, keeping the frontiers constantly in alarm and confusion. Yes, sir, rendering the very land of which the Senator speaks totally valueless for settlement, and this Government is throwing no protection over them.

I have made no assault upon the creditors of Texas, but some of them have extensively circulated a book, well printed, containing extracts here and there to make out a case; and I find in the very beginning of this book the following:

"It is no part of our plan to give a particular view of the considerations that induced the Texans to dissolve their connection with Mexico. Suffice it to say, that land speculations and antipathy of race appears to have been the main causes of the revolution, the incidents of which we propose to narrate so far only as connected with the debts thereby incurred."

This gentleman says that he writes at the instance of no creditor of Texas. That statement was very necessary. I undertake to say that the statement contained in that extract is in direct conflict with the facts of the case. Speculation had nothing to do with the revolution in Texas. The Government of Mexico passed a law changing that Government from a federal to a central Government. Against that the people of Texas took up no arms; but to enforce it, Mexico passed another law, to take from the people of the country, and surrender up to the Government, their arms. They sent an army to Texas for the purpose of enforcing that law. That army came to Gonzalas to take a piece of cannon that the citizens of Texas had purchased to defend themselves against the Indians. The Texans told them to take it if they desired, and when they made the attempt to take it a fight ensued, and the revolution followed. Talk about the antipathy of the races producing the revolution! Sir, many Mexicans, who resided among us, from one end of the country to the other, took up arms against us, and joined their countrymen when they came there. Their property was there; their all was there. They fought against us; and I ask the honorable Senator, or the writer of this book, or anybody else, to show that one dollar of their property was ever confiscated. No, sir; it was all left to them, and they were protected in its possession.

Many other Governments have been in the condition in which Texas has been placed. The Government of this country was in almost precisely the same condition. It issued its continental money, and passed laws to enforce it. They forced the citizens and soldiers to take it. They passed penal laws to force it into circulation. Texas never did any such thing. The Government of the United States has never paid for the face of those bills, or what they received for them. It made the plea of necessity to repudiate the whole concern. Texas has not done it. Let the honorable Senator point me to a single Government which in revolutionizing contracted a debt, and then offered to pay it to the extent that Texas has done, and at so early a day after the revolution. But I do not enter into a discussion of the rights of the creditors of Texas. I have entered into no defense or excuse in regard to the scaling matter. Texas is not responsible to you for her acts, and before this Government takes upon herself to decide, she must come with clean hands, and account for violated treaties. But, sir, do one of two things. If you have such anxiety for those creditors, either pay the debt yourselves or allow Texas to pay it. Sir, some of those creditors furnished Texas with money—so it is put down in the book; some performed services, and here stands back one creditor, and says the rest shall not receive one dollar unless he gets what he demands.

I think it was extremely bad taste, whatever may have been the object, for the Senator to introduce the letter which he produced before us. I know not why the name of General Dunlop has been introduced here; but it has been done. I was not prepared at this late hour of the night to hear such a letter read. I could read letters, but I do not choose to do so. I do not consider that they are legitimate arguments. I could read letters of orphans and widows whose interests have been sacrificed by your neglect, and whose rights are now withheld, because of the cupidity of some of the creditors. Texas has offered to pay the amount which she received, with ten per cent. interest; but here stands some creditor who will not agree to it; and not only will they not take their payment at the scaled rate, but they will permit nobody else to do it. And thus it is that by your own act this matter cannot be settled.

Mr. HOUSTON. I should like to know from the honorable Senator from Indiana the date of that letter?

Mr. BRIGHT. January the 15th. The honorable Senator from Texas said it was rather in bad taste to bring forward the letter. I desire simply to say that the amendment offered by the Senator from Maryland is based upon the claim of the lady, Mrs. Bonnycastle, and other such claims. The honorable Senator from Virginia presented a petition, and had it referred originally to the Committee on Finance; so if it was in bad taste for me to read a letter petitioning, it was just as much so for the Senator from Virginia to present it.

Mr. RUSK. He did not read it openly.

Mr. BRIGHT. I bring it as the appeal of a creditor, and as a reason why the claim should be acted on. One word further. I hope the honorable Senator from Texas does not refer to me when he alludes to the scalping of which he spoke. I can assure him that I had no agency in it.

Mr. HOUSTON. That lady is very careless about her debt. She says it is scaled in some way, but she does not know how it is; but who is the gentleman who has written the book to which my colleague has alluded? G-o-u-g-e—nothing less than *Gouge*. Mr. Gouge was employed in the Treasury Department of Texas as a clerk for a length of time. Some how or other we find him again in Texas. He does not know how it was, but he says when he got there he had such facilities for obtaining facts, and the people were so very kind to him, that he was tempted to write a book. He did not think of it when he went there! Now, Mr. President, it is a pity to spoil such a pretty story, but whoever heard of a man writing a book of this size (holding up a volume of respectable size) without intending to do it? [Laughter.] No man ever will persuade me that it was an accident. There was a design in it, you may rely upon it, and that design was to bring the claims against Texas so as to depreciate Texas in the consideration of this body. I have no time to do Mr. Gouge justice. [Laughter.] I could comment upon the accuracy of his style, the precision of his calculations, his statesmanlike reflections, and a great many good things could be said about him, but I will leave him to somebody else. My friend from South Carolina [Mr. BUTLER] can do him justice. But I assure him that I hope he will have no influence to "gouge" Texas. [Laughter.]

The yeas and nays being taken on the amendment to the amendment, resulted—yeas 17, nays 25; as follows:

YEAS—Messrs. Badger, Bright, Brodhead, Clarke, Fish, Foot, James, Jones of Iowa, Jones of Tennessee, Miller, Morton, Pratt, Seward, Smith, Spruance, Underwood, and Wade—17.

NAYS—Messrs. Atchison, Bayard, Borland, Butler, Cass, Chase, Davis, Dawson, De Saussure, Dodge of Iowa, Douglas, Felch, Fitzpatrick, Geyer, Hamlin, Houston, Hunter, Mason, Norris, Phelps, Rusk, Sebastian, Sumner, Toucey, Walker, and Weller—25.

So the amendment to the amendment was rejected.

The question then recurring on the amendment,

Mr. BAYARD called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 13, nays 31; as follows:

YEAS—Messrs. Atchison, Butler, De Saussure, Dodge of Iowa, Douglas, Fitzpatrick, Foot, Houston, Mason, Morton, Phelps, Rusk, and Sebastian—13.

NAYS—Messrs. Badger, Bayard, Borland, Bright, Brodhead, Cass, Chase, Clarke, Davis, Dawson, Felch, Fish, Geyer, Gwin, Hamlin, Hunter, James, Jones of Iowa, Jones of Tennessee, Miller, Norris, Pearce, Pratt, Seward, Smith, Spruance, Sumner, Toucey, Underwood, Walker, and Weller—31.

So it was rejected.

Mr. DODGE, of Iowa. I offer the following amendment:

That the Secretary of the Treasury be, and he is hereby, authorized to construct a marine hospital at Burlington, in the State of Iowa, and that there be, and hereby is, appropriated the sum of $15,000 for the said purpose, out of any moneys in the Treasury not otherwise appropriated.

That has received the unanimous consent of the Committee on Commerce.

Mr. HUNTER. Is there any estimate for it?

Mr. HAMLIN. There is an estimate from the Department.

The amendment was agreed to.

Mr. DODGE, of Iowa. I submit the following amendment:

That the Secretary of the Treasury be, and he hereby is, directed to examine the claim presented by the county of Lee, State of Iowa, for the expenses of the United States district court, which were paid by said county prior to the admission of said State into the Union; and if, upon examination, he is satisfied that prior to said time the county has paid the amount which, in accordance with the instructions of the First Comptroller of the Treasury, dated September 19, 1843, should have been paid by the marshal of the United States for said Territory, he is directed to audit and allow the same: *Provided*, The amount thus allowed shall not exceed the sum of $14,400, which is hereby appropriated to that purpose, out of any money in the Treasury not otherwise appropriated.

I would state that the provision contained in the amendment has been before agreed to by the Senate. It is precisely such a provision as was adopted in the last civil and diplomatic bill, in reference to another county in Iowa.

The amendment was agreed to.

Mr. PRATT. I move that the Senate adjourn.

Mr. HUNTER. I hope not. Let us get through with the bill.

Mr. MASON called for the yeas and nays upon the motion; but they were not ordered.

The motion to adjourn was not agreed to.

Mr. DODGE, of Iowa. I now desire to submit an amendment to do an act of justice to two individuals. It is to add the following:

That there be paid to James B. Smallwood and Martin Le Truite, boys attending upon the mail wagon of the Senate, the sum of $140 each, being twenty per cent. in addition to their pay for the year ending the 30th of June, 1853.

Mr. BRIGHT. That is all right. It was an omission that they did not get it before.

The amendment was agreed to.

Mr. FISH. I offer the following amendment:

For carrying into effect the provision of the act establishing an assay office in the city of New York, in addition to the charges herein authorized to be received, $100,000 is appropriated, out of any money in the Treasury not otherwise appropriated.

Mr. HUNTER. That is only an appropriation to carry out an amendment, which the Senate has already adopted to the bill.

The amendment was agreed to; there being, on a division—ayes 20, noes not counted.

Mr. FELCH. I move to amend the bill, by adding at the end of the clause making an appropriation for the salaries of registers of land offices, the following:

And provided further, That the President be, and he is hereby, authorized to change the location of the several land offices, and to establish the same from time to time at such other places in the district as he may deem expedient.

That is a matter which I explained the other day.

The amendment was agreed to.

Mr. FELCH. I offer the following, by the direction of the same committee, to be added at the end of line 1131:

Provided, That it shall be lawful for the President of the United States, if he deems it expedient, to divide California into three separate and distinct land districts, in such manner as circumstances shall determine to be necessary, and he shall appoint, by and with the advice and consent of the Senate, or during the recess of Congress when necessary, a register of the land office and receiver of the public moneys for each of such districts; and the land offices for the same, respectively, shall be located at, and be removed from time to time from such places as the President may deem most suitable for public convenience; and the land within said districts, with the exception of the mineral lands, and such other lands as shall be exempted from sale by competent authority, shall be subject to entry at the proper offices, in the same manner as other portions of the public domain; and the registers and receivers shall each receive a salary of $3,000, and the usual fees allowed in other cases; but the entire compensation shall in no instance exceed the sum of $4,000.

Mr. DAWSON. Is that in order?

The PRESIDING OFFICER. It is reported from a committee.

Mr. DAWSON. Then I desire to inquire if there has been any survey of the land in California?

Mr. GWIN. Five hundred thousand acres have been appropriated, and there is not a land district in the State. This bill has passed the Senate by a unanimous vote, and is lying on the table in the other House. We have no land district in the State.

The amendment was agreed to.

Mr. FELCH. I am directed by the Committee on Public Lands to offer the following amendment, to come in under the head of surveys of the public lands:

That within each of the several States containing the public domain of the United States where railroads are authorized by the laws of said States, respectively, to be constructed, which said railroads will run through any portion of the said domain remaining unsold, within six miles of the routes of the said several railroads before mentioned, there is hereby reserved from sale, entry, or location, until otherwise directed by Congress, said six miles, being six sections on each side of the several railroads throughout all the entire routes thereof, so far as authorized by the said laws of said several States respectively; which said lands so reserved shall be set apart by the Secretary of the Interior at the earliest practicable period, in conformity with the routes, and running from, through, and to, all the points designated in the laws of said States, respectively, and subject to correction upon plats of survey furnished by the parties authorized by the said several States, respectively, at any time before the first Monday of November next; said Secretary deviating in no respect from the routes and points designated in the laws of said States, respectively, or the provisions of this act of Congress: *Provided*, That nothing herein contained shall in any way affect or impair the rights of any actual settler who may have heretofore settled upon any of the said lands, and who would have acquired a title to the same under any existing law of Congress; and the Secretary of the Interior, so far as authorized by any existing law of Congress be, and he is hereby, directed to complete the surveys of the public lands as soon as practicable, to the extent reserved as aforesaid on each side of said railroads; the said Secretary reporting his proceedings to Congress at the commencement of the next session, for such action in their discretion as they may direct, in relation to all the said lands reserved as aforesaid; and this provision shall also apply to the routes described in the bills providing for grants of alternate sections for roads, which have passed either House of the present Congress.

Mr. HUNTER. I do not understand this amendment. We are ingrafting intricate systems at this hour of the night, or rather of the morning, upon this appropriation bill. There will not be time for a committee of conference to read the amendments which we are putting on.

Mr. WALKER. I move to amend the amendment, by adding:

Provided also, That the provisions of this section shall not be applicable to any person who shall desire to buy, enter, or locate any of said lands for the purpose of his or her personal settlement and occupation; such purpose to be ascertained by the oath of the person making such purchase or occupation.

Mr. FELCH. I have no objection to that, but I have not the power of accepting it, I presume, as my amendment was reported from a committee.

Mr. HUNTER. I hope we shall not put such things on the appropriation bills.

Mr. WALKER. In one proviso of the committee it is provided that persons who have heretofore settled shall not be excluded from buying their lands themselves, and the second proviso simply protects the immigrant or person who seeks to settle on the land, and who buys your land warrants, from the old States, and wants to locate them in the land States, to get a home.

Mr. UNDERWOOD. I believe the effect of the amendment will be, that all the land which I want reserved for the building of railroads, will be taken up for purposes of speculation.

Mr. FELCH. The amount of this provision is this: In five out of the twelve land sales, the present Congress have granted alternate sections along the lines of railroads. Though they have adopted in these cases this principle, they have neglected to provide for the other States in any respect; and those States have received nothing. There is not now time for the other House to act on those bills. We propose simply, that along the lines of railroads authorized by the laws of the States, there shall be reserved until the next session of Congress the alternate sections which would be granted now if those bills passed. That is the provision; but it does not prevent any settler who will go on and make actual settlement from purchasing or settling on the land. It only meets, and is only designed to meet, the case of a speculator desiring to purchase up a large amount of these warrants, to go into the States where the grants have not been made, and seize all the valuable lands lying along the line of the railroads for which grants were proposed; so that next year, if the same justice be done to those States which has been done to the others, there will not be an acre of land that can be taken for the purpose, unless some provision of this sort be adopted.

Mr. UNDERWOOD. I wish the Senate to understand this amendment, and I wish to understand it myself. I think the chairman of the Committee on Public Lands is wrong in his view of it. If you will just reserve the alternate sections and prohibit settlement on them for the benefit of the route, and then allow settlements to take up the remaining sections, there will be so much reserved. But then what becomes of the principle of reserving alternate sections for the Government at double price, in order that the Government shall lose nothing? It is gone.

Mr. HAMLIN. I know very well that many bills have passed the Senate and have gone to the House, which are now sleeping on the table of that House, making appropriations of lands for roads in various instances. We also know that the House has passed a bill and sent it here, making appropriations of land to the old States for the purpose of making an equality in this distribution of the public lands. There may be great regret on the part of my friend from Michigan, that the Senate bills have not passed the House, and I suppose that those who voted for Bennett's land bill in the House, may have very great regrets that it has not been acted upon in the Senate. Now, I propose when that of the Senator from Wisconsin shall be disposed of as an amendment, that an amount of land equal to that which he has proposed to reserve shall also be reserved for the old States of the Union.

Mr. FELCH. This amendment of mine does not grant a single acre. It is a simple reservation.

The question being taken on the amendment of Mr. WALKER to the amendment, there were, on a division—ayes 16, noes 13; not a quorum voting.

Mr. DAWSON. I move that the Senate do now adjourn.

Mr. HUNTER. I think there is a quorum here.

Mr. MASON. I ask for the yeas and nays on the motion to adjourn.

The yeas and nays were ordered, and being taken resulted—yeas 2, nays 24; as follows:

YEAS—Messrs. Rusk and Sumner—2.
NAYS—Messrs. Badger, Bayard, Borland, Bright, Brodhead, Chase, Dodge of Iowa, Douglas, Felch, Fish, Fitzpatrick, Foot, Geyer, Gwin, Hamlin, Houston, Hunter, James, Jones of Iowa, Mason, Morton, Norris, Walker, and Weller—24.

So the motion was not agreed to.

The PRESIDING OFFICER. There is no quorum voting.

Mr. BRIGHT. I move that the Sergeant-at-Arms be directed to request the attendance of absent members.

The motion was agreed to; and

The PRESIDING OFFICER directed the Sergeant-at-Arms to execute the order of the Senate.

After an interval of time—

Mr. RUSK. In place of progressing, it is my opinion that we are unfitting ourselves to do duty to-morrow. Some Senators have gone home and gone to sleep, and it is evident that we cannot get through to-night. I therefore move that the Senate do now adjourn.

Mr. CHASE. Is that motion in order?

The PRESIDING OFFICER. It is always in order.

Mr. BRIGHT. My motion was an extreme one, and I should not have submitted it except in an extreme case. Unless we dispose to-night of the civil and diplomatic appropriation bill, the chances are that we shall lose all the appropriation bills.

Mr. DAWSON. We have violated all the rules of the body by making the appropriation bills mere vehicles of carrying through the ordinary legislation of the country.

Mr. RUSK. I withdraw the motion to adjourn.

Mr. DAWSON. I am opposed to the plan which we are pursuing. I do not think we ought to embarrass gentlemen who have gone off honestly, under the impression that nothing would be put on the appropriation bills which was not pertinent to them. I think it is wrong to send and disturb them. I have never, since I have been a member of the Senate, known a call of the body to be made, or the Sergeant-at-Arms to be sent for absent members. It is contrary to all Senatorial precedent.

After a further interval—

Mr. CHASE. It is very obvious that we cannot get through the bill to-night, and I therefore renew the motion to adjourn.

Mr. BORLAND. If the Senator will withdraw the motion, I desire to report a bill from the Committee on Public Lands, not with any view of passing it at this session, but——

Mr. DAWSON. There is no quorum, and it cannot be received.

Mr. BORLAND. I suppose by unanimous consent I can make the report.

The PRESIDING OFFICER. Unanimous consent, when less than a quorum is present, can do nothing.

Mr. CHASE. I insist on the motion to adjourn.

The motion was not agreed to.

Mr BRODHEAD. Although there is not a quorum present, I presume it is in order for me to say that I have struggled two days to get the floor in order to offer an amendment to this bill, appropriating one hundred and sixty acres of land to the soldiers who served in the war of 1812. I have not been successful, and I make this statement for the purpose of satisfying those who are anxious to have it passed that I have been endeavoring to do my duty.

Mr. DAWSON. I hope it is not intended that we shall execute the order of sending the Sergeant-at-Arms to wake up gentlemen at this hour of the night, but I hope we shall adjourn.

Mr. HUNTER. I hope not. I think there is a quorum, or very nearly a quorum, in the Chamber.

The PRESIDING OFFICER. It requires six more Senators to make a quorum.

Mr. DAWSON. This is an odd scene in the Senate, and I hope it will not be persisted in.

Mr. WELLER. I really think it is utterly impossible to prosecute any further business to-night. We have this remarkable fact: Some, if not all of those gentlemen who have consumed so large a portion of time in speaking, and thus occupied us until one o'clock, have gone home, and are now, no doubt, comfortable in bed.

Mr. WALKER. And I want them waked up and brought here.

Mr. WELLER. It seems to me that it is utterly impossible to transact any further business to-night, and because of my unwillingness to remain here without accomplishing anything, I move that the Senate do now adjourn.

Mr. JONES, of Iowa. Will that be equivalent to rescinding the order to the Sergeant-at-Arms to bring absent members here, or will they be brought here in the dark, and left by themselves till morning when we meet again? [Laughter.]

The PRESIDING OFFICER. The vote of the Senate is, that absent members be requested to attend. There is no order to bring them here.

The motion to adjourn was not agreed to; there being, on a division—ayes 10, noes 13.

Mr. RUSK. I desire to ask the chairman of the Committee on Finance if he expects to get a quorum to-night?

Mr. HUNTER. If we do not get a quorum and finish the bill to-night, I do not expect to carry it through at all; that is to say, if it be carried it will only be done by the House rejecting all our amendments, and adhering to that rejection so as to force us to pass the bill as they sent it, or not at all. Under these circumstances, I think we had better make the effort to get a quorum here to-night, and pass the bill. It does seem to me that Senators might give up their remaining amendments, and let the bill be engrossed and sent to the House, and save the amendments already adopted. Is not that more important than to debate the time which remains with doubtful questions?

Mr. CHASE. I wish to say that I voted against the adjournment heretofore, because it appeared to be the disposition of the Senate to go on and act on further amendments to-night; and as I intended to offer some, I thought it better to go on and dispose of the bill; but as it is quite in vain to expect a vote to-night, and as I hope there will be a disposition shown in the morning to refrain from offering amendments, I renew the motion to adjourn.

Mr. HUNTER. Do we understand that it is the general wish that we are to refrain from offering amendments in the morning, so that the amendments can be engrossed in the mean time and sent down to the House?

Mr. RUSK. I have one amendment which I am bound to offer.

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Mr. HUNTER. That is what I feared; I think we had better go on now.

Mr. DAWSON. I am very willing to let the bill be lost, if gentlemen will persist in offering amendments which have no proper connection with the appropriation bills. It is a violation of the rules of parliamentary order to be putting on subjects of legislation in this bill.

Mr. CHASE. I will say that I really think the delay in introducing the appropriation bills till so late a period of the session that it has become almost impossible to act upon them would be well rewarded by the loss of one of them; and I doubt very much whether anything will waken the country to the delays of Congress until some appropriation bill be lost.

Mr. HUNTER. I should like to know to whom the honorable Senator from Ohio refers when he speaks of the delays in reporting the appropriation bills; for we have reported those bills promptly when they came to us.

Mr. CHASE. I did not refer to the honorable chairman of the Committee on Finance, most undoubtedly, because we all know the zeal, fidelity, and energy with which he discharges every duty devolved upon him; but the course of business, as we know, between the two Houses is such that all appropriation bills originate in the House and are not sent to us until a very late period of the session, when it is almost impossible to act upon them. The consequence has been that at every session since I have been here—and this is the fourth session that I have had the honor of occupying a seat on this floor—we have passed through precisely such scenes as we are now witnessing. We sit till late at night, and Senators become fatigued, and then, as was most justly remarked by one of the honorable Senators who spoke a moment since, those who have talked longer and loudest go away and leave those who are willing to work to sit here, and are forcing us to the actual necessity of an adjournment, which I believe is now pressed upon us.

Mr. BRIGHT. I would suggest that it seems to me the difficulty arises in part from the fact that we have no rule which permits a Senator to lay an amendment on the table without carrying the main subject with it. If we had a rule authorizing an amendment to be laid on the table, which motion, under every parliamentary usage, cannot be debated, it would quiet debate, and dispose of many amendments that are offered.

Mr. MASON. Then we should be in this condition: It has been very justly remarked by the Senator from Ohio that the true difficulty arises from the delay in reporting the appropriation bills, not by the Committee on Finance, but in bringing them to the Senate, so that we have but three or four days to act upon them; but if the idea of the Senator from Indiana were carried out, those who are in the minority would not have the opportunity of saying a word against the action of the majority.

Mr. GWIN. I wish, as we have nothing else to do at this time, to let this fact be recorded: I introduced a resolution at the beginning of the session requiring the Committee on Finance to report the appropriation bills, but I was frowned down. If that resolution had been passed, we would have gotten through with the appropriation bills long ago. I wish to call attention to where the true evil is.

Mr. DAWSON. I renew the motion to adjourn.

The motion was not agreed to.

Mr. HAMLIN. I wish to know whether there is not a quorum now in the Chamber? On the last vote on the yeas and nays there were twenty-six Senators present, and I have certainly seen three come in since, and I believe there have been more. I suppose that, taking those who then voted, together with those who have since come in, there is a quorum here. In order to ascertain that fact, I move an adjournment, and on that motion I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 21; as follows:

YEAS—Messrs. Chase, Dawson, Houston, Jones of Tennessee, Rusk, Spruance, and Sumner—7.

NAYS—Messrs. Badger, Bayard, Borland, Bright, Brodhead, Dodge of Iowa, Felch, Fish, Fitzpatrick, Foot, Geyer, Gwin, Hamlin, Hunter, James, Jones of Iowa, Mason, Morton, Norris, Walker, and Weller—21.

So the motion was not agreed to.

The PRESIDING OFFICER. There is no quorum yet voting.

Mr. WELLER. I think we had better now just lay down on our oars and sleep quietly in our chairs until the Sergeant-at-Arms returns.

Mr. CHASE. I would ask whether there is not any rule known to the proceedings of the Senate which will enable us to compel the attendance of absent members.

The PRESIDING OFFICER. The only rule which refers to the subject the Chair will read. It is the 8th rule, which is in these words:

"No member shall absent himself from the service of the Senate without leave of the Senate first obtained. And in case a less number than a quorum of the Senate shall convene, they are hereby authorized to send the Sergeant-at-Arms, or any other person or persons by them authorized, for any or all absent members, as the majority of such members present shall agree, at the expense of such absent members respectively, unless such excuse for non-attendance shall be made as the Senate, when a quorum is convened, shall judge sufficient, and in that case the expense shall be paid out of the contingent fund. And this rule shall apply as well to the first convention of the Senate at the legal time of meeting as to each day of the session after the hour has arrived to which the Senate stood adjourned."

It will be observed that the words of the rule do not apply to any other case than the want of a quorum at the meeting of the Senate; but in several instances, since I have been a member of the body, the Senate has acted upon it as it has been acted upon to-night, and absent members have been sent for.

Mr. CHASE. Do I understand the Chair as holding that the Senate has power to compel the attendance of absent members at this time?

The PRESIDING OFFICER. The Chair is of opinion that the Senate has the same right to proceed now as it would have had at the hour of meeting this morning if a quorum had not then been present.

Mr. HAMLIN. Have we not under the Constitution, independent of the rule, a right to compel the attendance of absent members?

The PRESIDING OFFICER. The provision of the Constitution is, that a majority of each House shall constitute a quorum to do business; "but a smaller number may be authorized to compel the attendance of absent members, in such 'manner and under such penalties as each House 'may provide." So that it requires some rule to be adopted in order to carry out that provision.

Mr. FITZPATRICK. It is now half-past one o'clock, and I should like to know what practical result can be obtained by sending to the lodgings of some members of the body who reside remote from the Capitol?

Mr. HAMLIN. I presume the Sergeant-at-Arms has gone up to the other end of the Avenue, where, I have no doubt, he will find a large number of Senators.

Mr. FITZPATRICK. It is a violent presumption to suppose that he has gone that distance, and an equally violent one to presume that he will find any Senators at this hour of the night or morning. I have listened as patiently as any man on this floor, and I think the Senate will do me the justice to say, that I have consumed as little time as any one here. I have sat patiently and learned from grave Senators, and those who seemed to know more of the deliberations of the body than myself. I find, however, that many distinguished gentlemen who have occupied the attention of the body to a considerable extent, have gone away and left those of us who are disposed to be quiet and working members to wait for their return, before we can proceed with business. It seems to me that we can accomplish nothing practical by remaining here. It is now half-past one o'clock, and I think in duty to ourselves, and in view of the business ahead of us to-morrow, and to-morrow night, and the next day, and the next night, we ought to adjourn and come here fresh to-morrow morning. I therefore move that the Senate do now adjourn.

Mr. WALKER. I shall vote for the adjournment because of the inefficiency of our rules to compel the attendance of absent members.

Mr. FITZPATRICK. There is no rule to compel their attendance, and it is useless to wait for them.

Mr. WELLER. I ask for the yeas and nays on the motion to adjourn in order that the Senate may see who are here at this hour of night.

The yeas and nays were ordered, and being taken, resulted—yeas 14, nays 12; as follows:

YEAS—Messrs. Badger, Bayard, Brodhead, Chase, Dawson, Fish, Fitzpatrick, Houston, Jones of Iowa, Rusk, Spruance, Sumner, Walker, and Weller—14.

NAYS—Messrs. Borland, Bright, Dodge of Iowa, Foot, Geyer, Gwin, Hamlin, Hunter, Jones of Tennessee, Mason, Morton, and Norris—12.

So, at twenty-five minutes to two o'clock, a. m., the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Tuesday, *March* 1, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. C. M. Butler.

The Journal of yesterday was read and approved.

The SPEAKER. The business first in order is the motion made by the gentleman from New York, [Mr. Briggs,] to suspend the rules for the purpose of introducing the following resolution:

"*Resolved*, That the usual extra compensation be paid by the Clerk, out of the contingent fund, to the employees in and about the Capitol, embracing that description of persons only who received it at the close of the last session of Congress."

Mr. STANLY. I ask the gentleman from New York to give way a moment to enable me to ask the unanimous consent of the House to introduce a resolution calling for some information, to which there will be no objection. It is a matter in which I feel some interest, and I hope the gentleman from New York will allow me.

Mr. BRIGGS. If no one else objects, I will not.

Mr. STUART. I object; and I insist upon the motion of the gentleman from New York being put, so that we may go to the consideration of the reciprocity bill, which is the regular order of business.

Mr. BRAGG. I ask the unanimous consent of the House to call up Senate bill No. 639, to provide for administering the oath of office to William R. King, the Vice President elect. It is a matter demanding immediate action, and I hope there will be no objection.

Mr. STUART. I object to it, and call for the regular order of business.

LIEUTENANT FABIAS STANLY.

Mr. STANLY. I understand the gentleman from Michigan [Mr. Stuart] now withdraws his objection to my resolution. I now ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Secretary of the Navy be directed to transmit to the House of Representatives a copy of the records and proceedings of the naval court-martial recently held at Washington for the trial of Fabias Stanly, a lieutenant in the Navy; together with a copy of any papers filed in the Navy Department by the said Stanly relating to said trial; and also a copy of any correspondence that may have passed between the Secretary of the Navy and Lieutenant Stanly, relating to his arrest and trial. If not transmitted before the close of the session, the same to be received by the Clerk of the House, and when received, that the usual number be printed for the use of the House.

Mr. SWEETSER. I rise to a point of order. There is a motion pending offered by the gentleman from New York, [Mr. Briggs.]

Mr. STANLY. I do not move to suspend the rules if objection is made, I merely ask the unanimous consent of the House.

Mr. SWEETSER. Well, sir, I will not object if no one else does.

There was no objection, and the resolution was received.

The question was then taken, and the resolution was adopted.

Mr. FLORENCE. I ask the gentleman from New York to allow me for a moment.

Mr. BRIGGS. I will yield to the gentleman, if there is no objection.

Mr. STUART. There is objection.

Mr. FLORENCE. I wish to appeal to the sympathy of the House.

A MEMBER. We have no sympathy.

[Loud cries of "Order!" and "Object!"]

EXTRA COMPENSATION.

Mr. BRIGGS. I now desire that a vote may be taken upon my motion to suspend the rules, to admit the resolution for extra compensation.

Mr. HALL. Upon that motion I demand the yeas and nays.

Mr. CLEVELAND. I desire to say one word. I hope the yeas and nays will be ordered upon this motion, and give us an opportunity to record our votes upon it.

[Cries of "Order!"]

The yeas and nays were ordered; and having been taken, the result was—yeas 110, nays 46; as follows:

YEAS—Messrs. Abercrombie, John Appleton, William Appleton, Ashe, Averett, Babcock, David J. Bailey, Thomas H. Bayly, Barrere, Bartlett, Bell, Bennett, Bibighaus, Bowie, Bowne, John H. Boyd, Breckinridge, Brenton, Briggs, George H. Brown, Burrows, Bushy, Joseph Cable, Caldwell, Thompson Campbell, Caskie, Chandler, Chapman, Chastain, Clark, Clemens, Cottman, Darby, George T. Davis, John G. Davis, Dawson, Dimmick, Edgerton, Ewing, Fay, Fitch, Florence, Freeman, Henry M. Fuller, Gaylord, Giddings, Goodenow, Goodrich, Gorman, Green, Grey, Harper, Sampson W. Harris, Hart, Hendricks, Horsford, Thomas M. Howe, Thomas Y. How, Ingersoll, John Johnson, Robert W. Johnson, Kurtz, Landry, Little, Lockhart, Mace, McCorkle, McDonald, McNair, Henry D. Moore, John Moore, Murphy, Murray, Nabers, Andrew Parker, Penn, Penniman, Porter, Powell, Price, Reed, Riddle, Robbins, Robie, Robinson, Russell, Sabine, Sackett, Schermerhorn, Schoonmaker, Scurry, Skelton, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, St. Martin, Stratton, Stuart, Sutherland, Sweetser, Taylor, Townshend, Walsh, Ward, Washburn, Watkins, Wells, Addison White, and Williams—110.

NAYS—Messrs. Allison, Beale, Bragg, Clingman, Cobb, Conger, Cullom, Daniel, Dean, Dockery, Duncan, Dunham, Eastman, Faulkner, Floyd, Thomas J. D. Fuller, Hall, Hamilton, Isham G. Harris, Henn, Hibbard, Houston, Hunter, Jackson, Andrew Johnson, George W. Jones, George G. King, Preston King, Letcher, Mann, Martin, Millson, Molony, Morehead, Orr, Outlaw, Samuel W. Parker, Peaslee, Perkins, Smith, Benjamin Stanton, Alexander H. Stephens, Toombs, Venable, Wallace, and Woodward—46.

So (two thirds having voted in the affirmative) the rules were suspended.

Mr. BRIGGS. I now offer the resolution, and will say but one word in relation to it. This resolution is in continuance of a time-honored custom. It makes a provision for paying the extra compensation to the employees about this House and Capitol, which has been given to them at the close of every session of Congress for many years. It relates to a matter that is well understood, and without consuming further time upon it, I call the previous question.

Mr. HOUSTON. I rise to a question of order. I understand it to be a law of this House, and a constitutional provision, that no money can be taken out of the Treasury except in pursuance of appropriations passed as a law by both Houses of Congress. Now, this subject was brought before the Committee of the Whole on the state of the Union, and by an express vote was stricken out of the appropriation. That bill has now passed this House, and there is not a dollar appropriated for the purpose of extra compensation; not a farthing either for this House or the Senate.

Mr. CAMPBELL, of Illinois. I rise to a question of order. The gentleman from Alabama is arguing his question of order—not stating it.

Mr. HOUSTON. No, sir. I am only stating it.

Mr. CAMPBELL. Well, all I have to say is, that it is a very labored statement.

Mr. HOUSTON. My point of order is, that while I acknowledge that there is a contingent fund out of which money may be paid for certain purposes, yet it is not in order to make appropriations out of that fund when Congress has expressly refused to provide for that purpose.

Mr. CAMPBELL. I demand that the gentleman shall state his point of order, and not argue it.

The SPEAKER. The Chair decides that the resolution is in order.

The previous question was then seconded, and the main question ordered to be put.

The question now being upon the adoption of the resolution,

Mr. CLEVELAND demanded the yeas and nays.

The yeas and nays were ordered; and having been taken, the result was—yeas 107, nays 57; as follows:

YEAS—Messrs. Abercrombie, Aiken, William Appleton, Ashe, Averett, Babcock, David J. Bailey, Barrere, Bartlett, Bell, Bibighaus, Bowie, John H. Boyd, Breckinridge, Brenton, Briggs, George H. Brown, Burrows, Busby, Joseph Cable, Caldwell, Thompson Campbell, Chandler, Chastain, Clark, Clemens, Cottman, Curtis, Darby, George T. Davis, Dawson, Dimmick, Disney, Doty, Edmundson, Ewing, Fay, Florence, Freeman, Henry M. Fuller, Giddings, Goodenow, Goodrich, Gorman, Green, Harper, Sampson W. Harris, Hart, Hendricks, Horsford, Thomas M. Howe, Thomas Y. How, John Johnson, Robert W. Johnson, J. Glancy Jones, Kuhns, Kurtz, Landry, Little, Lockhart, Mace, McCorkle, McDonald, McNair, Henry D. Moore, John Moore, Murray, Nabers, Newton, Andrew Parker, Penn, Penniman, Polk, Porter, Powell, Price, Reed, Riddle, Robbins, Robie, Robinson, Russell, Sabine, Schermerhorn, Schoolcraft, Schoonmaker, Scurry, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, St. Martin, Stratton, Strother, Stuart, Sutherland, Sweetser, Taylor, Townshend, Walsh, Ward, Watkins, Addison White, Williams, and Woodward—107.

NAYS—Messrs. Allison, Beale, Bragg, Cleveland, Clingman, Cobb, Cullom, Daniel, John G. Davis, Dean, Dockery, Duncan, Dunham, Eastman, Floyd, Thomas J. D. Fuller, Grey, Grow, Hall, Hamilton, Isham G. Harris, Haven, Henn, Hibbard, Houston, Hunter, Jackson, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Letcher, Mann, Martin, McMullin, McQueen, Millson, Molony, Morehead, Orr, Outlaw, Samuel W. Parker, Peaslee, Perkins, Phelps, Origen S. Seymour, Skelton, Smith, Benjamin Stanton, Alexander H. Stephens, Thurston, Toombs, Venable, Wallace, and Wildrick—57.

So the resolution was adopted.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had disagreed to the House amendment to Senate bill No. 586, to extend preëmption rights to unsurveyed lands, and for other purposes.

Also, that the Senate had passed House bill No. 366, to authorize the Selectmen of the town of Chelsea, in the State of Massachusetts, to lay out and make a way on land of the United States, in said town.

Also, that the President had signed the following Senate bills:

Senate bill, No. 125, An act for the relief of Mary W. Thompson, and Mrs. Elizabeth V. Lomax, and Mrs. A. M. Dade; and

Senate bill, No. 242, An act to regulate the terms of the district court of the United States for the district of Iowa.]

Mr. BRIGGS. I rise to a question of privilege.

Mr. HIBBARD. I move that the House now proceed to the business upon the Speaker's table.

Mr. JONES, of Tennessee. I object to that motion.

Mr. BRAGG. I rise to a question of privilege.

Mr. STUART. I rise to a question of order.

The SPEAKER. The gentleman from New York is recognized as rising to a question of privilege.

Mr. BRIGGS. I move that the vote just taken for the extra compensation be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken on the latter motion; and it was agreed to.

Mr. HALL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I rise to a question of order.

PRE-EMPTION RIGHTS.

Mr. BRAGG. I rise to a privileged question.

The SPEAKER. The gentleman from Alabama will state his question of privilege.

Mr. BRAGG. We have this morning received a message from the Senate, informing the House that that body has disagreed to the amendment adopted by the House on yesterday to the bill extending preëmption rights to unsurveyed lands and for other purposes. I move, sir, that this House insist upon its amendment, and ask for a committee of conference.

Mr. STEPHENS, of Georgia. I object to any committee of conference.

The SPEAKER. The Chair is of the opinion that the gentleman from Alabama is not in order in making his motion at this time.

Mr. HIBBARD. I now insist upon my motion.

The SPEAKER. The gentleman from Michigan rises to a question of order, a motion having been submitted that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I yielded to this motion the other day, as a matter of courtesy. The point of order I make is, that the House having seconded the previous question on the reciprocity bill, that now, at the commencement of the morning hour, that bill is the first question in order.

Mr. HIBBARD. Has the main question been ordered to be put?

Mr. STUART. I call the gentleman to order.

Mr. HIBBARD. I wish to make an inquiry of the Chair as to a matter of fact.

Mr. STUART. I call the gentleman to order.

Mr. HIBBARD. I claim the right to make the inquiry.

RECIPROCITY BILL.

The SPEAKER. The gentlemen will resume their seats. Neither of them have the right to address the Chair upon the point of order raised, and neither of them have a right to debate the proposition.

The pending amendment in reference to the reciprocity bill is, whether the main question shall be now put. By the rules of the House, it is in order, at any time, to move to suspend the rules to go into the Committee of the Whole on the state of the Union. The Chair would hold, if the main question had been ordered to be now put, that it would be inconsistent to move to go into the Committee of the Whole on the state of the Union; but the Chair decides that the motion is in order, the House having only seconded the motion for the previous question.

The Chair would suggest that each proposition could be determined quite as soon, perhaps, without questions of order as with them. The Chair does not, by any means, intend to rebuke gentlemen by the remarks.

Mr. BELL. Is it in order to send bills to committees, as it is under the rule to send petitions?

The SPEAKER. It is not.

Mr. BELL. Then I ask the unanimous consent of the House to report and refer a bill.

Mr. CLINGMAN. I object.

The SPEAKER. Objection is made. The question is upon the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STUART. I ask for tellers on that motion.

Tellers were ordered; and Messrs. BELL and BOCOCK appointed.

The House was divided; and the tellers reported 83 in the affirmative.

Mr. STUART. I demand the yeas and nays; and upon that demand I call for tellers.

Tellers were ordered; and Messrs. INGERSOLL and GAYLORD were appointed.

The House was divided, and the tellers reported—ayes 33, noes 104.

So the yeas and nays were ordered.

The question was then taken and there were—yeas 112, nays 63; as follows:

YEAS—Messrs. Abercrombie, Allison, Ashe, Averett, Barrere, Bartlett, Beale, Bell, Bennett, Bibighaus, Bocock, Bragg, Brenton, Albert G. Brown, George H. Brown, Burrows, Caldwell, Thompson Campbell, Caskie, Chastain, Churchwell, Clark, Clemens, Clingman, Cobb, Colcock, Cottman, Daniel, Darby, John G. Davis, Dawson, Dimmick, Dockery, Dunham, Eastman, Edmundson, Evans, Ewing, Faulkner, Ficklin, Gaylord, Goodenow, Grey, Grow, Hall, Hamilton, Isham G. Harris, Sampson W. Harris, Hascall, Haven, Hendricks, Henn, Hibbard, Holladay, Horsford, Houston, Thomas M. Howe, Hunter, Jackson, John Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Kuhns, Landry, Letcher, Mace, McCorkle, McNair, McQueen, Millson, Henry D. Moore, John Moore, Murphy, Nabers, Orr, Outlaw, Andrew Parker, Perkins, Phelps, Polk, Porter, Powell, Reed, Richardson, Robie, Robinson, Sabine, Sackett, Savage, Schoolcraft, Skelton, Smith, Stanly, Benjamin Stanton, Richard H. Stanton, Alexander H. Stephens, Thaddeus Stevens, St. Martin, Stratton, Sutherland, Sweetser, Toombs, Venable, Wallace, Ward, Washburn, Watkins, Wilcox, Wildrick, Williams, and Woodward—112.

NAYS—Messrs. Charles Allen, William Appleton, Babcock, Thomas H. Bayly, Bowie, Bowne, John H. Boyd, Breckinridge, Brooks, E. Carrington Cabell, Joseph Cable, Chandler, Cleveland, Conger, Curtis, George T. Davis, Dean, Doty, Duncan, Durkee, Edgerton, Fay, Fitch, Florence, Floyd, Henry M. Fuller, Giddings, Goodrich, Gorman, Green, Hart, Haws, Thomas Y. How, Ingersoll, Ives, Jenkins, Daniel T. Jones, George G. King, Preston King, Kurtz, Little, Lockhart, Mann, Molony, Murray, Newton, Olds, Samuel W. Parker, Penniman, Price, Riddle, Schermerhorn, Schoonmaker, Origen S. Seymour,

Snow, Abraham P. Stephens, Strother, Stuart, Taylor, Thurston, Townshend, Walsh, and Wells—63.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS of Tennessee in the chair.)

ARMY APPROPRIATION BILL.

The CHAIRMAN. At the last sitting the committee had under consideration the Senate amendments to the Army appropriation bill. The question pending is on the second amendment.

The Chair ruled on yesterday that the Senate amendments to the first clause of the bill constituted one entire amendment, and as such, was indivisible; but upon an examination of the 53d rule, the Chair entertains the opinion that it is divisible, and therefore directs the Clerk to read the first clause of the Senate amendment.

The following amendment was then read:

"For the defense of San Francisco, California, $500,000."

Mr. BAYLY, of Virginia. When I addressed the committee on yesterday upon the amendment which I then offered, I confined my remarks to the point involved in it. I did so in consequence of the impression I then had that the general debate was stopped and I was confined to a five minutes' speech, and I do not know that, at this late period of the session, when every moment is so valuable, I should have gone further than I did even if I had not been under that mistake. But in the course of debate, some remarks were afterwards made, to which I desire to reply.

The gentleman from Ohio, [Mr. CARTTER,] particularly made two or three points, in reply to which, I desire to say a word or two only, for the time I have will not enable me to go into an elaborate discussion.

First: the gentleman seems to suppose that the introduction of steam in the propulsion of vessels, and the telegraph, and the railroad, have dispensed with the necessity of fortifications. Now, I mean, in one or two common-sense remarks, to satisfy men, who are not military men, that precisely the reverse is the case. First, take the case of steamboats, which they say can run by these fortifications. The reply is, they cannot do so; and if they could, not without being greatly disabled. These fortifications are designed in part as shelters in time of war for our shipping. The introduction of steam has increased the necessity for that purpose for them. Take, for an illustration, the Chesapeake: In the late war, a few British ships and frigates commanded the whole Chesapeake. Nearly all communication by water was cut off. Salt, in consequence, was very dear, and was manufactured in my county from sea-water, and was, to a large extent, carried in canoes, which, by running along the shores, escaped the British fleet and British tenders, which even our small schooners could seldom do. It is true, sometimes, with a fresh wind they could escape, but it would have been impossible to have done so had the British possessed steamboats, which would have picked up these small sail vessels and their cargoes, whenever they should dare to venture out from the coves and inlets of the bay. Indeed, those vessels were sometimes captured in our creeks, which, at that time, was their only place of refuge. The introduction of steam, so far from having diminished, has created an additional necessity for harbors of refuge for our shipping.

The gentleman advanced another idea. He says that by aid of our railroads and telegraph lines we could, in the case of the approach of a threatening force, bring to any one point a large body of men, at very short notice, for our protection. Sir, telegraphs and railroads have increased, and not diminished the efficiency and the value of our fortifications, so far as our cities are concerned. Let me put an illustration which will be understood by everybody. When by the interposition of a fort an army was compelled to land eight or ten miles below a city, in old times, it did comparatively but little good; for even then, when the landing was unexpected, they could overcome that eight or ten miles before any essential succor could arrive. But if they could be delayed a short time in that march by skirmishes, the aid of the telegraph and the railroad would enable us to bring a force sufficient to meet and repel the invading foe. But without fortifications to delay the approach of an enemy, the telegraph and the railroad would be comparatively useless. Take the case of this city. What use would the railroad and telegraph be as a means of defense if a steam fleet could ascend the Potomac without interruption, and give us the first notice of his approach by bombarding the town from Greenleaf's Point? They could destroy the town and clear out, get out of our reach before succor could arrive, and we would not have the poor satisfaction of expelling him, perhaps with loss.

The CHAIRMAN. The hour at which debate on this bill was to be closed has arrived, and the only remarks in order hereafter, must be made under the five-minutes rule.

Mr. BAYLY. I move to increase the appropriation for San Francisco one dollar.

The efficiency of fortifications is increased greatly in consequence of the rapidity with which a force can be concentrated and got together by railroads and by the aid of telegraphs——

Mr. HOUSTON, (interrupting) Mr. Chairman, what is the amendment pending?

The CHAIRMAN. The gentleman from Virginia is speaking to an amendment offered by him.

Mr. BAYLY. I am endeavoring to show the necessity of fortifications, and my remarks are in order to the amendment which I have made to increase the appropriation for San Francisco one dollar. I repeat, the efficiency of fortifications in delaying an enemy, by forcing him to land below a town, and marching up, instead of coming up, without interruption, by steam, so far from being superseded by the introduction of railroads and telegraphs, has infinitely been increased by them. Suppose, sir, that when the British landed here to take this capital and burn it, we had had railroads and telegraphs, and they had been compelled to land some thirty or forty miles from this place. Why, sir, the telegraph and the railroads, before they could have reached this capital, would have brought volunteers from Philadelphia, Baltimore, and from many other points.

Mr. BROWN, of Mississippi. I rise to a question of order. I would willingly see the gentleman from Virginia indulged, but we are exceedingly pressed for time, and I insist that the gentleman, having offered an amendment to increase the appropriation one dollar, he shall confine his remarks to show that the one dollar is necessary.

The CHAIRMAN. The Chair rules that the gentleman must confine his remarks to the necessity of an increase of the appropriation.

Mr. BAYLY. I thought I was doing so. It will increase the efficiency of the fortifications to the extent of the increase of the appropriation, and I want to show the necessity—as I think I am showing—of these fortifications.

But there was another idea presented by the gentleman from Ohio, [Mr. CARTTER.] He asks, do you want fortifications to protect your Navy? And he seems to think it something unbecoming to the Navy in any case to want protection. Was there ever a case in the world, and will there ever be a case in the world as long as commanders are sensible, where a very greatly inferior force will not seek for shelter from the attack of a greatly superior one, when they have the opportunity to attain it? Nay, even with equal forces, do not all military men seek for advantages? Did Wellington, at Waterloo, think it was unbecoming English valor to lay down behind a hill and let his troops be cannonaded for hours and hours? He lay there and received the comparatively harmless fire of the French, and thereby gained great advantage in the battle in consequence. Was it unmanly in Jackson, at New Orleans, to get behind cotton bags, and by their assistance as much as anything else, achieve his glorious victory? In naval warfare, is it anything unmanly to have a place of refuge to which you may retire when pursued by a superior force; or a place from which to sally when you have an opportunity of striking an effective blow? I do not so understand military science.

Besides, these fortifications are money-saving, and, if I had the time, I could demonstrate it by figures. Take such a fortification as Old Point, which does not require one and one half per cent. to keep it up, whilst it obviates, to a great extent, the necessity for a large naval force. Take the case of any of our cities. Without fortifications, you would be compelled, for their protection, to have a fleet at each of them equal to an invading force. But with the aid of fortifications, a less naval force will do.

The cost of keeping up a ship-of-the-line is very great. Ordinarily they do not last, without very great repairs, more than seven years. Indeed, after they are that old, they require to be almost rebuilt. Fortifications, with slight repairs, last forever. One is permanent, the other is frail; one does not decay, the other does; and one is more efficient than the other for the protection of a town. Besides, when you have proper fortifications, you do not require in time of war so large a regularly-trained army. Militia are not generally effective in the field; but in a fortification, where they fight under protection and cannot run, they do very well. In an emergency, the neighborhood people could, to a large extent, man your fortifications, and thus become valuable auxiliaries to your army in the field, and to your navy. The gentleman from Ohio [Mr. CARTTER] says, Arm your commercial marine, and let them protect themselves. Arm merchant vessels—brigs and schooners—to protect themselves against a British or French fleet! Besides, it is against the policy of modern times to arm private vessels. The temptation to them, who are under no control of responsible officers, is too great to attack and plunder others than the enemy. I regret I have not time to go fully into this matter. I have only hit the salient points.

[Here the hammer fell.]

Mr. BAYLY then, by unanimous consent, withdrew his amendment.

Mr. LETCHER. I move to strike out all save one dollar; and I do so because I am opposed to the system of legislation which has been adopted in the other end of the Capitol, for the purpose of carrying measures through this body. The gentleman from Texas [Mr. HOWARD] on yesterday stated a very good and substantial reason why the appropriations for fortifications ought to be stricken out of this bill, and that was, that these propositions could not stand on their own merits—that a fortification bill introduced into this House could not be passed through it, and that the only way left, for the purpose of securing appropriations of this sort, was by including them in other bills, with which they had no legitimate connection. The consequence will be, sir, if this principle be tolerated here, that we will, in all probability, find in the appropriation bills, when sent back to us by the other branch of Congress, various provisions which have been voted down again and again in this House, and which there is not the slightest possibility can be passed, if presented alone. The Senate will resort to this means for the purpose of giving them vitality and to secure their adoption. I trust that the committee will make the question here now, and that it will conform to the rule already established, and rule out all propositions which are not legitimately and directly connected with the bill itself.

There is another thing with reference to the bill which ought to be looked to. Were estimates furnished to the House for the precise items embraced in it? Are the amounts proposed for these several fortifications necessary in the estimation of the proper Department of the Government? We heard of estimates on another occasion, but when they were called for, they turned out to be the estimates of particular individuals, and not those of the particular Departments having charge of the propositions.

Mr. BOWIE. If the gentleman will refer to the estimates sent here by the Secretary of the Treasury this year, he will find estimates for the six fortifications embraced in the amendment of the Senate.

Mr. LETCHER. Is there any estimate for the fortification for San Francisco?

Mr. BOWIE. I think there is.

Mr. LETCHER. What is it?

Mr. BOWIE. I cannot exactly remember it; but there are estimates for all of them.

Mr. LETCHER. There it is. Here is a proposition to expend $500,000, by way of beginning, at San Francisco, and we are not told how much it is thought the work will cost before it is completed. What does the Secretary tell us we are to appropriate before it is completed and made available? Looking to the prices in that part of the Union, it will cost from $5,000,000 to $10,000,000. Yes, sir, we are now to start off with this appro-

priation of $500,000, and then to continue year after year to appropriate, until sufficient has been received to secure the object in view.

[Here the hammer fell.]

Mr. DEAN. I would ask, Mr. Chairman, the ear of the committee only for one moment, while I give the reasons why, in my judgment, this amendment ought not to prevail, and the amendment of the Senate for $500,000, for the protection of our principal city on the Pacific ought to be concurred in. There is now no fortification of any kind there, and San Francisco is not protected in any manner. Its harbor is the only place of refuge on that coast; and although the gentleman from Ohio [Mr CARTTER] informed us last evening that we did not need forts to protect our Navy, he will allow me to say that we do need them to protect our merchant-ships. A protection is needed particularly for the harbor of San Francisco, the best, largest, and most important of any in the Pacific, and I trust that we will not hear the argument urged against it, that those who live inland have no interest in the defenses of the sea-board. This is a proposition in which we are all interested, and none more so than the central and agricultural States. There is not in this bill one dollar appropriated for fortifications anywhere in the State of New York. But we have an interest in the welfare of every portion of the Confederacy, and in any vote that I ever give, I ask not in what particular section the money appropriated is to be expended. We are voting annually thousands and millions for the defense of our western borders against the Indians. And now I say, that equal and sufficient protection is no more than the people of California and Oregon, and our merchant-ships, have a right to ask. California is putting into the nation's lap untold millions, and we refuse her a mere pittance in return, when that pittance is required, too, for protection and defense. I would inquire of gentlemen, what would become of our immense commerce on the Pacific coast in case of war, if we refuse this appropriation? There is not a State of the Union which is not more or less interested in this matter. The gentleman from Virginia [Mr. LETCHER] objects to the appropriation because we have no specific report. It has been before the Committee on Finance of the Senate, and the appropriation is to be expended under the direction of the President of the United States.

Mr. HOUSTON. What committee of the Senate has it been before?

Mr. DEAN. It is an amendment of the Senate, and the presumption is that it was before the Committee on Finance. It has not, I believe, been before any committee of this House. It is enough to know that the money is to be expended under the direction of the President of the United States, who was said, before the election and afterwards, to be economical and against the unnecessary expenditure of the public money. I am willing to trust to his discretion for expending $500,000 to protect the commerce of our Pacific coast.

Mr. BAYLY, of Virginia, made a remark which was not heard by the reporter.

Mr. DEAN. I am informed that these estimates of appropriations were also sent to the chairman of the Committee on Ways and Means.

Mr. HOUSTON. The gentleman's information is incorrect.

Mr. BAYLY. I beg the gentleman's pardon.

Mr. HOUSTON. It is granted, but nevertheless it is incorrect.

Mr. BAYLY. I beg leave to say that the chairman of the Committee on Ways and Means is mistaken. The estimates were sent to the Committee on Ways and Means, and they included estimates for fortifications.

Mr. HOUSTON. My friend from Virginia is generally very knowing, but in this particular he is decidedly in error. He asked my pardon, and I grant it. Estimates for fortifications were sent to the Committee on Ways and Means, but there were none for California. The gentleman has not looked at them, I think.

Mr. BAYLY. The chairman of the Committee on Ways and Means says that I am very knowing, and, as I do not desire to take issue with him, I will tell him, without meaning anything disrespectful, that I am in this respect knowing, because I do know. That is all. Although this particular estimate may not have been sent, the whole subject of fortifications was referred to that committee.

Mr. HOUSTON. Everything then connected with the defense of the country? The gentleman knows that that is not the way to deal with this question. There was no estimates for fortifications submitted for California either to the House or any of its committees. That is the way of getting off of the question. I do not think proper——

Mr. STUART. I rise to a question of order. To facilitate business hereafter I would raise the question that to strike out one of these amendments is not in order, because it is precisely the same as the motion to concur.

The CHAIRMAN. The Chair holds that opinion to be correct.

Mr. LETCHER then, by unanimous consent, withdrew his amendment.

Mr. MARSHALL. I move to amend by increasing the appropriation five dollars, in order that I may make a remark or two on this question. I have been prepared, Mr. Chairman, with very full estimates in regard to this work; and there has been submitted to me, and I have no doubt to the Committee on Ways and Means of this House also, a very full and able report, exhibiting the necessity, as well as showing the cost, of all of the works for which this section is intended to provide. It would, of course, be impossible to lay before the committee, at this time, any intelligible abstract even of those estimates or the argument which that report so clearly states. But a single moment's consideration, it appears to me, will satisfy every member of this committee, that if the American people intend to protect American territory—if it is the purpose of Congress to maintain an army at all, or that we shall stand armed among the armed Powers of the world, the equal of all—it is absolutely indispensable that a coast so important and so exposed as that of California should, at least, be able to make some show of resistance against any, the very feeblest force that might be brought to invade it. I have had occasion before, on this floor, to assert a fact known to every man at all acquainted with the condition of our western coast, that a single armed ship might lay the whole American commercial marine in the harbor of San Francisco and along that coast in ashes, and might destroy, beyond possibility of our defense, three of the most important cities in California.

The city of San Francisco is approached by a narrow channel of an average of about one mile in width and five miles in length from the sea, capable of absolute defense at a very small expense in any part, by fortifications placed upon either side. Nowhere along the extent of this whole four or five miles is there a gun bearing upon this point. Every gentleman at a single glance would see that a fortification there is absolutely necessary, if we mean to be armed at all. If we wish to be prepared at any time for resistance or defense, that point, of all others, calls most loudly for some appropriation for that purpose. Besides, the exposed condition of the three cities of California—San Francisco, Sacramento, and Stockton—there are $3,000,000 every month passing out of the mouth of that harbor. The city of San Francisco might be laid under contribution by even the most insignificant army which should attack it. The Chinese trade—which is tending as necessarily to that American coast as if it were urged to it by a law of nature, by the gravitation of trade by a commercial necessity—averages nearly $18,000,000 per annum. This trade must necessarily find its location somewhere and must touch upon our western coast. Three millions of dollars every month passing out of that harbor, the great and growing trade which now amounts to $18,000,000 annually needs surely some protection at the hands of the American people.

[Here the hammer fell.]

Mr. TOOMBS. I oppose the amendment, not from any special hostility to that particular appropriation, but I wish to call the attention of the House to the whole system in this bill. We have discussed this question of fortification here in this House for the last three years, and thoroughly discussed it, when we had time, and when bills came up from proper committees. The other branch of Congress have thought proper to bring in and attach to this military bill the most unusual and important schemes ever presented to Congress, and we are expected, under the five minutes' debate, in two hours' time allowed to us, to decide these questions. The House have wise rules that are important for our legislation, that but one great subject should be legislated upon at once, and every one of these amendments is against the rules of our House. Though that may not be a sufficient reason for rejecting them, yet it is sufficient reason for their rejection, when the House cannot deliberate and pass upon them an intelligent judgment. Here, in this bill, the fortification bill is to be introduced, and provision made for private wagon ways for Oregon and California. You have in the bill an appropriation of $100,000 for the purpose of paying somebody for the discovery of ether. You have a provision for a Pacific railroad; and you have job upon job to plunder the Government in the military bill, and the Representatives of the American people are called upon to vote for all these great and grave questions upon five minute speeches. You do gross injustice to yourselves; you betray the great interests of the American people when you pass upon important measures in this manner. Let the House reject the amendments; let the Senate devote their time to maturing bills, and send them to us to be acted upon deliberately, and then, whichever way Congress determines for itself, they will have a right so to act. But, to act upon them in this way, is not only to abdicate our powers, but to abdicate our duties. Put your hands upon these amendments and strike them out.

The question was then taken upon Mr. MARSHALL's amendment, and it was not agreed to.

Mr. WALSH. I propose to increase the amount ten dollars. I have heard in silence the oracles of the House, who are permitted to enlighten us, with great pleasure, but the objections made to these fortification appropriations this morning are of a description that I desire to notice. The attention of the whole country has been for a series of years attracted to the deficiencies of our Navy, and every man within the Republic's limits, might well be supposed to know that the additions proposed by the bill of Mr. STANTON came very far short of meeting the necessities of the case. Yet the honorable gentleman from Georgia [Mr. TOOMBS] appealed most earnestly to the House not to act when there was no time for deliberation. To-day a similar train of remark has been adopted in reference to the Senate amendment on the subject of fortifications. We have been told that these propositions have been irregularly placed in the bill, and do not come before the House under circumstances which entitle them to our consideration. Sir, most of the appropriations are based upon estimates that are stereotyped. They have been before the country for a long time. The public mind has long since decided that they are reasonable and proper.

Mr. Chairman, this is not the time nor the occasion to complain of the Senate. When they send us new matter, not readily understood, let denunciation be heard. We are now, at the instance of that body, called to legislate in accordance with the will and the expectation of the people. The sentiment is almost universal, that the national honor requires the strengthening of both arms of the public defense. In a few weeks the fishing interests on the northern coast will be again at hazard; and while I earnestly hope that all difficulties in that quarter may be amicably settled, I insist that it is not the part of patriotism to fail to provide for the adver e alternative. The mails of the United States are searched by order of the Captain General of Cuba. He months ago refused to allow the passengers and mails to be landed from a vessel sailing under the flag of your country. Can you say with confidence that these things portend nothing? Do you suppose that the Captain General would have played "such tricks before high Heaven," if not backed by an influence more potent than that of his Home Government? Have not the signs of the times told you where that more potent influence is to be found? Somewhere about eighteen months ago England and France ordered a police naval force to your coast to compel you to keep the peace. I believe, sir, that this would have been regarded as an act of war, if the condition of our defenses had allowed. As it was, it passed with scarce a rebuke. I say, Mr. Chairman, that it should have been considered an act of war. The expedition was an annunciation to us that we were incompetent to the execution of our own laws, and proposed the capture of men before the commission of any overt act

against the dominion of Spain or the law of nations. Is this all? With a full knowledge of the course of our councils on the subject of Cuba—with a perfect acquaintance with the "law of our political existence," the two Powers sought to bind the United States by solemn treaty, never to attempt by any means whatever to procure possession of the Island of Cuba. I have not time to dwell upon these matters. If they do not portend a coming storm, they are at least full of warning.

Mr. Chairman, under these circumstances, I honor the motives of the Senate and glory in their action. They have reminded us of our remissness, and given us a chance of repentance. Sir, we have almost fatally neglected our duty. The condition of San Francisco, as so glowingly illustrated by the Representative from California, [Mr. MARSHALL,] is but a type of the condition of the large cities on the Atlantic board.

If in reference to our relations with Cuba, France and England shall determine to interfere, they will strike without notice. They have kept constantly hovering upon our coast large fleets; first, for the purpose, as I before said, of binding us over to keep the peace; and afterwards, upon the pretense of suppressing the slave trade. In three days the most valuable points on the Atlantic coast might be laid under contribution; and with these facts before our eyes, and ringing in our ears, we are required to nullify the action of the Senate upon a point of order. Let us rather admit that the representatives of State sovereignty have been more faithful to the wants of the people than have been their more immediate representatives.

A word or two to the representatives of the West, and I shall have done. The completion of the great lines of rails have brought the interior in close connection with the cities upon the seacoast. Let them remember that the mighty treasures which their fruitful soil is now pouring out in profusion must find their *depôt* and *mart* in the localities which may either be subjected to desolation or to tribute. I know, Mr. Chairman, that to prevent either catastrophe my own people would stand to the last *gasp in the last ditch;* but without the appliances which the art of war demands, the stout heart may despair, and the most stalwart arm be palsied.

Considerations of interest as well as of national honor, invite, then, the support of western gentlemen to the proposed legislation. But let me make no sordid appeals. There is enough in the country which is common to us all to insure even a sacrifice, if patriotism asks it, to be incurred. With a domain extending from the Atlantic to the Pacific, calling for oceans as boundaries, and all its *lines, home lines,* it should be the pride and the privilege of every American citizen to protect all parts of it, free from the polluting tread of the invader.

Mr. BAYLY, of Virginia. I am opposed to this amendment. I listened with attention to the remarks of my friend from Georgia, [Mr. TOOMBS,] and I agree with him, to a large extent. The gentleman says that putting appropriations for fortifications in the Army bill, is an irregular mode of legislation. All this is true. He says the appropriation for the Pacific railroad and some other appropriations in this bill are out of place. This is true also. But why has it been done? Why is it that these appropriations for fortifications are in the Army bill? It is because the fortification bill proper has never, at this session, been before the House.

Mr. HOUSTON. My friend from Virginia is mistaken again. There was a fortification bill reported by the committee, and it was discussed at the last session.

Mr. BAYLY. The fortification bill, in the Committee of the Whole, did not come before this House from the Committee on Ways and Means—the committee from which it ought to have come.

Mr. HOUSTON. My friend is excessively unfortunate. I, as chairman of that committee, reported that fortification bill.

Mr. BAYLY. I know the facts. What sort of a bill was it that the gentleman reported? [Laughter.] It was not a fortification bill at all; but it was an *anti*-fortification bill. I, as an independent member of this House, introduced in the committee, at the last session, a bill in accordance with the estimates, as a substitute for the *anti*-fortification bill of the gentleman, but it was not acted upon; and at this session no effort has been made to procure action upon it. That is the reason that the Senate, from the necessity of the case, have put appropriations in this bill which they have thought it was necessary should be made. The excuse for this legislation arises solely out of the fact of the inability of the friends of fortifications to get the question fairly before this House. What duty especially had I, except as any other member whose constituents are somewhat interested in this matter, to introduce this bill? I was not charged with it. It did not belong to my committee. It was in charge of the Committee on Ways and Means. My own opinion is, that when a bill is referred to a committee that committee should report, if they have an opportunity, upon it favorably or adversely. They ought to bring the subject before the House, and let the House consider it. The gentleman from Georgia [Mr. TOOMBS] is right in saying that this sort of irregular legislation is utterly indefensible, and the only possible excuse for it on the face of the earth is, that it was not brought up legitimately. I am not complaining of the chairman of the Committee on Ways and Means. I have not done it. I know his difficulties probably as well as any other member in this House. I know that when I was on that committee I had sometimes a difficulty in getting before the House subjects to which a majority of that committee happened to be opposed. No committee, certainly, has a right to smother a subject which has been legitimately referred to it, and which ought to be brought before the House that action may be had upon it. The gentleman from Alabama [Mr. HOUSTON] talks of the fortification bill that he introduced. Has the gentleman ever asked to take it up?

Mr. HOUSTON. The bill was taken up and discussed at some length, until the House determined to close general debate. My friend from Virginia made a speech, and offered an amendment, which he had a right to do, and which the House had a right to debate.

Mr. BAYLY. Will the gentleman allow me to ask him when he urged action upon that report of his?

Mr. HOUSTON. I urged action upon several days.

Mr. BAYLY. At this session?

Messrs. STANLY and CLEVELAND made some response, not a word of which was heard by the reporter.

The question was then taken upon Mr. WALSH's amendment; and it was not agreed to.

Mr. STEPHENS, of Georgia. I move to strike out the eightieth and ninetieth lines. I do not want to discuss this matter. It has been sufficiently discussed.

The CHAIRMAN. That is not in order.

Mr. STEPHENS. The question will be put, I presume, "will the House concur——

Mr. FREEMAN. If the gentleman's amendment is not in order, I desire to submit an amendment.

The CHAIRMAN. The Chair holds that it is not in order to move to strike out the whole appropriation.

Mr. FREEMAN. Then I move to amend the clause by adding the words "under the direction of the Secretary of War."

The CHAIRMAN. The Chair holds that it is not in order to move to strike out the entire clause under consideration, the question being, "Will the committee concur?" A non-concurrence would effect the object of the gentleman from Georgia.

Mr. STEPHENS. The question is, "Will the committee concur in the amendment of the Senate?" and it is in order to perfect the amendment of the Senate by striking out a particular line.

Mr. FREEMAN. Does the gentleman appeal from the decision of the Chair?

The CHAIRMAN. The Chair entertains the opinion that the amendment of the gentleman from Georgia is not in order.

Mr. STEPHENS. Then I move to strike out "$500,000" in the eightieth line.

Mr. FREEMAN. That amounts to the same thing.

The CHAIRMAN. The Chair decides that that amendment is out of order.

Mr. STEPHENS. I appeal from the decision of the Chair.

The CHAIRMAN. The amendment proposed by the gentleman from Georgia is to strike out the whole appropriation contained in the clause, and the Chair holds that it is not in order. From this decision the gentleman from Georgia appeals.

Mr. STEPHENS. I demand tellers on the appeal.

Tellers were ordered; and Messrs. CARTTER and HAMILTON were appointed.

Mr. TAYLOR. Will the Chair please to state what is the precise question?

The CHAIRMAN. The amendment of the Senate is as follows:

"For the defense of San Francisco, California, $500,000."

The gentleman from Georgia moves to amend by striking out "$500,000," which is the entire appropriation. The Chair holds that that amendment is not in order. The same object may be attained by non-concurring in the Senate's amendment.

Mr. STUART. Will the Chair allow me to make a single suggestion?

The CHAIRMAN. Debate is not strictly in order, but the Chair will hear the gentleman's suggestion.

Mr. STUART. The gentleman from Georgia might hereafter move to insert $300,000, or any other sum, in place of $500,000 sticken out.

The CHAIRMAN. The Chair would hold that to be in order.

Mr. STUART. Well, sir, the gentleman from Georgia does not move to strike out the whole clause.

The CHAIRMAN. The Chair will remark, in reply, that striking out the whole of the appropriation is virtually striking out the entire clause. The Chair holds that it is not in order.

The question was then taken on the appeal, "Shall the decision of the Chair stand as the judgment of the committee?" and the tellers reported—ayes 72, noes 48.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. BOWNE. I offer the following as an amendment to the Senate amendment:

For Fort Richmond, New York, $60,000, and for repairs of Fort Hamilton, New York, $10,000

I do not want to discuss the question of appropriations for fortifications. That has already been done, and I will not insult the good sense of the House by standing up here to argue on the propriety of forts in the harbor of New York, if we are to have forts anywhere. I believe that every schoolboy in the country will recognize that necessity, if the House concludes that there is a necessity for forts anywhere. I shall, therefore, leave the subject to the good sense of the House, and only say further, that you have got Moses and the Prophets, and if you will not believe them, you would not believe one, though he should rise from the dead.

Mr. FREEMAN. I suppose that amendment is not in order. I understand that the amendment for the defense of San Francisco has not yet been disposed of.

The CHAIRMAN. That is so, and the gentleman from New York proposes his as an amendment to that amendment.

Mr. FREEMAN. Has not the Senate amendment been concurred in?

The CHAIRMAN. No, it has not.

Mr. FREEMAN. Well, sir, I am opposed to the amendment of the gentleman from New York: first, because I hold that it is not in order; and in the second place, because New York already has a system of fortifications; and inasmuch as there is a great war made upon fortifications here, I see no reason why, at this time, we should make the appropriations which the gentleman from New York asks for. They have got surplus population enough there to defend the city, but in San Francisco they have not got that. If you give to San Francisco as much as the appropriations which have already been expended at New York, the friends of the country generally will be well satisfied.

Now, I was sorry to hear the opposition made by the gentleman from Georgia, upon the ground that this amendment of the Senate is in violation of the rules of the House. Sir, it is an extraordinary fact, that if you look to the history of the country, and particularly to the history of this House, every good thing that has ever been done has been done by a suspension of the rules, and entirely out of order. If the people of this coun-

try had waited to achieve their independence of Great Britain until it could be done in regular order, we should have been under a monarchical government at this day; and if we wait to make appropriations for the defense of California until it can be done in the regular order of doing business in this House, California will be taken by Shanghai or Hong Kong, or some other outlandish city in that region of the world. The people of China could come across now and take the city. Why, sir, there are nearly Chinese enough at work in San Francisco now, with a little aid from their own country, to take California and make it a Chinese province.

Sir, it is perfectly astounding to me how this House will stand still and see millions of property, and the lives of hundreds of thousands of American citizens, periled on the Pacific coast, and refuse to vote a dollar of appropriation for the defense of that portion of the Union. And when we propose to mount a few guns at the city of San Francisco for the defense of American liberty—not for the defense of San Francisco only—we find the gentleman from Virginia, [Mr. LETCHER,] who seems to be acting the part of Shylock here, claiming his particular pound of flesh, because, I suppose, he thinks that Old Virginia is not exactly interested in this matter. But he is mistaken. Virginia is interested in this matter. The honor of the whole country is involved in it. The liberties of the country are at stake. We have placed so much reliance upon the volunteer forces of this country since the war with Mexico, that gentlemen in this Hall seem to think that our people, unaided by fortifications, unaided by war-ships, unaided by arms, can rise and with their fists resist any attack that may be made upon them by a foreign foe. We have evinced a spirit of hardihood, carelessness, and indifference to the commerce of the country, and the lives of our men, women, and children, which no nation on the face of the earth ever exhibited before. I ask this House when, in the history of the civilized or barbarian world, there has been an instance where——

[Here the hammer fell.]

Mr. CABELL, of Florida. I rise to a question of order. I submit that the amendment of the gentleman from New York is not in order, for the reason that it is not pertinent to the Senate amendment. It may be that the House is willing to appropriate a certain amount of money for the defense of New York, but if the amendment is admitted here, the committee must vote this precise sum, and can have no opportunity of amending it in any way. This difficulty arises from the fact that an amendment, not pertinent to the one under consideration, has been received by the Chair. I think the amendment is out of order.

The CHAIRMAN. The Chair holds that the amendment is in order, if the works for which it provides are authorized by existing law. The Chair is not advised as to that fact, but is disposed to overrule the point of order.

Mr. CABELL. I would suggest to the gentleman from New York to withdraw his amendment.

Mr. BOWNE. I withdraw it for the present.

Mr. TAYLOR. I move *pro forma* to amend the Senate amendment by increasing the appropriation fifty dollars; and I do it for the purpose of appealing to the committee to forbear unnecessary debate, and to express the opinion to the committee and to the country, that if gentlemen will observe that kindness towards each other which I think usually marks the course of the members of this House, we can pass upon every amendment to this bill, and to the other appropriation bills, pass every bill upon the Speaker's table, and do something for the credit of the Thirty-second Congress. For one, I am ready to vote upon every amendment without further discussion.

Mr. BAYLY, of Virginia. I am opposed to increasing this appropriation, and I want to say another word or two with respect to the argument made use of by the gentleman from Georgia, [Mr. TOOMBS,] as to the irregularity of this mode of appropriation. When I spoke before, I said that the report upon this subject which was made by the Committee on Ways and Means at the last session, was not a fortification bill, but an anti-fortification bill. I have that bill in my hand.

Mr. SKELTON. I rise to a question of order; and I do it for the purpose of facilitating the business of the House. The rule requires gentlemen to confine their remarks entirely to the amendment under consideration.

The CHAIRMAN. The Chair holds that under the rule, a member must confine his remarks to an explanation of his amendment, or when opposing an amendment, to arguments against the adoption of that amendment.

Mr. BAYLY. That is, no doubt, true. I acquiesce in the decision of the Chair, with pleasure; but when arguments have been advanced by a member in support of an amendment, they may be answered by a member opposing it.

This bill, to which I have referred, was reported on the 17th of August, only thirteen days before the adjournment of Congress, leaving out the Sundays, and every gentleman here knows how impossible it is to get up such a bill in the last hours of the session. What was that bill? It contained an appropriation of $134,000. For what? For continuing such important fortifications as the Tortugas, Pea Patch Island, or Sollers's Point? No, sir; from the beginning to the end it is "for repairs," "for repairs," "for repairs." And what is the amount? It is exactly one and one third per cent. on the whole cost of these fortifications, which have cost upwards of $30,000,000. Sir, I want to make no point with the Committee on Ways and Means. I know their difficulties and the responsibility which rests upon them. But when I do state facts in this House, I have some pride in my accuracy, and I have here the bill appropriating $134,000 in all for the repair of some four or five fortifications. I repeat, that so far from being a fortification bill, it is an anti-fortification bill.

Mr. HOUSTON. The gentleman says that he desires to be accurate in his facts. I also desire that he should be so. I am not imputing motives to him or finding fault with him for making a mistake, but he certainly did it. But I do not suppose he convinced this House, and certainly he did not if the facts are generally known. The gentleman from South Carolina, [Mr. ORR,] I presume, can tell the House why I happened to report the bill even then.

Mr. ORR. I will say to the honorable gentleman, that if I had been in my seat, it would not have been reported at all.

Mr. HOUSTON. My friend from Georgia, [Mr. STEPHENS,] and others, in pursuing a course of policy which I presume was prompted by a sense of duty, kept that report back for a month or six weeks, at least.

A MEMBER. From the last of June.

Mr. HOUSTON. A gentleman near me says from the last of June. Then why does my friend from Virginia, who is always presumed to be in his seat, who is always attending to the business of the House, and who is presumed to have a knowledge of all that is going on, not happen to recollect that these objections were interposed to prevent my making this report until the day upon which it was made?

[Here the hammer fell.]

Mr. TAYLOR. I desire to withdraw my amendment.

The CHAIRMAN. It can be done by unanimous consent.

Mr. CLINGMAN. I object.

The question was then taken, and Mr. TAYLOR's amendment was not agreed to.

Mr. SACKETT. I propose to reduce this appropriation $1,000.

Mr. Chairman, I am opposed to this amendment as proposed by the Senate; but if it is to be passed at all, I am in favor of its reduction, and therefore I am in order in speaking against the general amendment. I am opposed to the whole amendment of the Senate, among many other reasons from the fact that we have not had the action of the committees of this House upon it. Where is our Committee on Military Affairs? Where is our Committee on Ways and Means? Where is the responsible officer of the Government, who has said this appropriation is necessary? Where are the surveys? Where is the evidence? I want to know if any gentleman in the House can tell me, where is the evidence that $500,000 are necessary for this item of expenditure? From the best information I can gather, I cannot ascertain that such is the fact. Now, I ask again, who can give me the evidence that $500,000 are necessary? Is there evidence of the particular locality or the ultimate cost of the work, or of the amount of money which can be properly expended during the current year? Not a word. We are acting perfectly at random, and we might as well appropriate $100,000 or $200,000, or $50,000, for any knowledge we have upon the subject. Shall we be prepared to lay out this sum in this year, or the next, or in the next ten? we do not know which. This amendment now comes in here near the close of the session, when this House is not prepared to act upon it except in the dark, and cannot be prepared to act upon it otherwise before the close of the session, because it has no facts and no evidence before it.

Now I do not say, by any means, that I am opposed to the defense of our coast upon the Pacific at a proper time, and under proper circumstances; but when it costs five dollars upon that coast to do the work which could be done for one upon the Atlantic coast, I say it is extravagance; it is squandering. It is an alarming disregard of the interests of the nation to lay out $500,000 of the public money, under circumstances like these. Gentlemen talk about the dangers to our commerce upon the Pacific coast. Why, sir, we can reach that coast in thirty days, and even now we have a larger effective force upon that coast than all the combined nations of the world. We have more steamers, and, with the merchant vessels which may be fitted out for our defense, I say, again, that we can command, in thirty days, a larger maritime force upon the Pacific than all the world besides.

But gentlemen talk about the increasing danger upon that coast, and the increasing necessity there is for us to provide against it. Now, I undertake to say that the contrary is the fact; that our danger diminishes as our power increases upon that coast. We have had additional steamers going there every month, and they are increasing from year to year.

[Here the hammer fell.]

Mr. CLINGMAN. I am opposed to the amendment of the gentlemen upon my right; but I desire to say that I concur fully in the remarks made by the gentleman from Georgia, that these appropriations ought not to be in this bill; and I am willing to vote to strike them out, or to vote against concurring therein. But I desire that we should have a test question upon them as soon as possible. Let us determine by the vote of the committee upon this first section, whether we will sanction these appropriations for fortifications. If a majority are in favor of concurring in this clause, then let us pass the others, and let those of us who are in the minority acquiesce in them. But if we are to vote for these appropriations at all, I think my friend from New York is wrong in saying that we should not vote for this. I think San Francisco is the point above all others which should be fortified. I do not concur with that gentleman at all in saying that we have any means of protecting our commerce in the event of a war upon the Pacific. If we should have a war there, of course our vessels must at once leave that ocean. There is no force there which can convoy or protect our thousands of merchant vessels. There is no place there where they would be safe. There is not a single harbor of refuge upon the whole Pacific coast where they could be protected. It is absolutely necessary, therefore, unless we intend to sacrifice an immense amount of private as well as public property, that we should provide some harbor where these vessels can run in and be safe under the guns of a fort. I am therefore willing to vote a liberal appropriation for San Francisco, and I will vote for it in a proper bill, but I will not vote for it here.

My request, therefore, is, that those who are opposed to the appropriation in this bill allow us to take a vote which shall determine the question of whether we will concur in these amendments for fortifications or not. If the majority say ay, then I for one will acquiesce, and let them remain; and if the majority say no, then I hope the friends of the amendments will also acquiesce. But I am opposed to the amendment of the gentleman from New York, because if we are to vote anything to construct this work we should vote the sum named in the Senate amendment.

Mr. SACKETT, by unanimous consent, then withdrew his amendment.

Mr. HIBBARD. For the purpose of terminating the debate upon this section, I propose to

move that the committee rise for the purpose of closing the five-minutes debate. I move that the committee do now rise.

The question was put; and, upon a division, 45 rose in the affirmative.

Mr. ALLISON. I demand tellers.

Tellers were not ordered; and the committee refused to rise.

Mr. STEVENS, of Pennsylvania. I suppose it is in order to oppose the amendment of the Senate.

The CHAIRMAN. No debate is in order, except in favor or in opposition to an amendment to the Senate amendment.

Mr. STEVENS. Then I move to strike out the appropriation all except four dollars and a half. [Laughter.]

A MEMBER. You might afford to allow them four dollars and three quarters.

Mr. STEVENS. Mr. Chairman, I do not intend to express any opinion upon this question further than to say, that if thirteen days of a former session in regular debate, as refered to by the gentleman from Virginia, [Mr. BAYLY,] was not sufficient to debate a question of this kind, will he be so good as to inform the House how two hours are sufficient, and how we are to have forced into this bill, by means of an amendment from the Senate, a whole system of fortifications, involving an expenditure of millions? Sir, this whole system is now before us, and we are compelled to consider it under the five-minutes debate. Sir, it is not enough for me.

But gentlemen say it passed the Senate, or a committee of the Senate. Well, sir, as far as my observation goes, nothing is rejected in that body in the shape of appropriations, provided it appropriates millions. I do not mean to say that that body have been guilty—for that would not be a proper respect to our superiors, as I suppose they are—of profligacy in their appropriations; but I will say, that if those appropriations were made by any other body upon earth than the American Senate, I should think it were profligacy. Sir, is this House to act under duress?—for that is the amount of it. You are acting under duress, for you are compelled by that body to act out of the regular course of legislation. They force you to take what they send you irregularly, or to have nothing. I object therefore to it. There are jobs enough in that bill to last an army of plunderers twenty years, and make them all rich. You are to farm out jobs everywhere. You are to leave it to individuals—honorable men, against whom I have nothing to say, but they are men, and therefore liable to be imposed on—but you are to leave it to these men to establish forts every ten miles from here to the Pacific, and they are to let out the jobs to others. I agree with the gentleman from Georgia, [Mr. TOOMBS,] that it is time to stop it. Let us strike out all these appropriations for fortifications, and if the commerce of San Francisco is not sufficiently protected, let us build a war navy—a steam navy. Is that commerce to be protected only by forts? When your specie goes forth to reach the Atlantic, how is it to be protected? It will take longer guns than Commodore Stockton's to be of any service. To reach the wants of that commerce you must have a war navy—you must have a steam navy; and they will be of more service than all the fortifications you can build.

[Here the hammer fell.]

Mr. RIDDLE. Mr. Chairman, I am opposed to the amendment offered by the gentleman from Pennsylvania, and every other proposition which will in any way conflict with the amendment made by the Senate to this bill. I am in favor of providing for continuing the work upon certain fortifications upon our Atlantic sea-board; and whether appropriations for such purposes are legitimately or illegitimately connected with this bill, I clearly see that they cannot be made, during this session, in any other way. The only question, then, for this committee to decide is, provided they agree with me, whether this technicality or theoretical distinction outweighs in importance the necessity for the works.

Sir, as great as I suppose the opposition of the Committee on Ways and Means to any appropriations for the defense of our coast, I did not think they could, under existing circumstances, oppose the small amounts which the Department of War has recommended. If I had succeeded in obtaining the floor last evening, as I most earnestly desired, I would have endeavored, without consuming much of the time of the committee, to give some reasons why every appropriation contained in the Senate amendment should pass. As it is, under the operation of our arbitrary rules, I will necessarily be restricted to a short speech, and compelled to dwell particularly upon the necessity for that amount which relates to Fort Delaware. If I had entertained a doubt, or been *indifferent* upon the subject, the remarks made by the gentleman from Ohio [Mr. CARTTER] last night would have convinced me of my error. While the argument of that gentleman was designed to defeat our entire system of national defense, the declarations avowed and facts submitted by him in the course of his speech must have convinced every—I had almost said intelligent—attentive member of this House of the fallacy of his position. Casting aside the usual tact and sagacity which have hitherto characterized his course, my honorable friend appeared to rely entirely upon that strong parlance which, with him, too, is a prominent characteristic, and endeavored to amuse rather than instruct the committee by what he had to say.

Sir, when a gentleman rises from his seat on this floor, and avows as his belief, "that row-boats and two-masted schooners," to use his own expression, manned by our mercantile marine, and strong-armed yeomen, are capable of protecting the great cities of New York and Philadelphia against the attack of a foreign and hostile fleet, and at the same time, if not in the same breath, expatiates upon the improvements which have lately been made in the missiles of war—their increased destructive effect upon the enemy, and the like, I can but think him incompetent to discuss the subject now under consideration. The gentleman appeared to have overlooked the facts, that there are two parties in every contest, and that no foreign fleet would approach our coast, with hostile intention, and not possess the same advantages which our people enjoy. He appeared to have forgotten, that while our "little row-boats and two-masted schooners," manned though they might be by our most valiant sailors and citizen soldiers, were firing a distant and occasional shot at the enemy, that enemy, by means of his heavy armament, discipline, hot shot, and destructive shells, could fire our cities in an hour, and render them desolate in a day. Sir, admit, as the gentleman said, that three years ago Congress thought it unnecessary, after free discussion, to provide for these fortifications. Then, we were threatened with dangers from within far greater than difficulties from without. Then, foreign Powers fancied they saw kindling within the limits of our country the fire of an intestine war which would inevitably consume the fair fabric of our Republic. Now our domestic troubles are settled. The picture is entirely reversed. Peace prevails where confusion reigned triumphant, and we will soon, I trust, reassert an old doctrine, and declare, as did President Monroe, *that no foreign Power shall colonize any portion of the American continent.*

Mr. Chairman, I am admonished by the clock, which I would like to stop for ten minutes, that your hammer will fall before I allude to the necessity for the appropriation for Fort Delaware, unless I do so at once. It is known to every member of this committee, who has at all investigated the subject, that the Pea Patch Island, upon which Fort Delaware stood, was ceded to the General Government many years since, upon *the express condition* that the Government would maintain a fortification thereon. This island commands the entrance to the Delaware river from the Delaware bay, and the fortification thereon is calculated to protect, not only the cities and towns within my State, for they are few and small in comparison with those in the States of Pennsylvania, New Jersey, and New York, but the general protection of all the cities and towns bordering upon the Delaware river and its tributaries.

In 1831, if my memory serves me, this fortification was so impaired by fire as to render it advisable upon the part of the Government, to take it down. Appropriations have since been made by Congress for such purpose, and from the amount so appropriated, the island has been protected against the washing of the bay, the piles have been driven for the foundation of the fort, and the grillage has been placed thereon, under the direction of the Engineer Department. This department, too, composed of accomplished and scientific men, have recommended in the strongest terms, the appropriation which I now advocate, in order, if for no other reason, to preserve the work which the Government has already constructed. I call, then, upon my friend from South Carolina, [Mr. ORR,] who last night expressed his opinion that the necessity for the appropriation for these works should be decided by our scientific engineers, to support me in my position. I call upon him as a gentleman ever ready to consult the Departments of our Government for information which they alone can obtain, to support the recommendation of such Departments now. I state to him, and to this committee, that the amendment, at least as far as Fort Delaware is concerned, is a question of *economy*, and it is for Congress to decide whether they are willing that the work upon this island, which has already cost $100,000 or $200,000, shall go to decay, or whether they will preserve it, and in so doing, defend the second city of their country by placing a superstructure thereon.

A word more, sir, and I have done. The State which I have the honor to represent is not alone, or peculiarly interested in this fortification. I confess, we consider it necessary for our protection. I confess, we consider the Government in duty bound to maintain it; but at the same time I assure this House, that if the Government refuses so to do, the island will revert to the State, and will be a great accession to our treasury. This Delaware does not desire, unless the Government fails to comply with her part of the contract. I appeal, then, to the friends of the system everywhere, and particularly those who represent adjoining and bordering States, whether they are willing to leave the cities and towns upon the Delaware river and bay without defense, and whether they are willing to allow the appropriations they have already made to be lost, and the work such appropriations have constructed go to decay. To whatever your decision may be I will bow with submissive respect, but I will have the satisfaction, at least, of recording my vote in favor of what I conceive to be the interest of the country and true economy of the Government.

Mr. WASHBURN. I propose to increase the appropriation $10,000.

It appears to me, Mr. Chairman, that much of this debate has been outside of the real question presented to the House. The question is not as to the propriety of all the amendments proposed by the Senate, but whether these amendments upon which we are now acting are proper and worthy of our support.

There are but two questions, it seems to me, before the committee, and they may easily be decided, and do not require debate: First, are any fortifications necessary? Is there anything, at this time, in the condition of our country, connected with other nations—is there anything in the progress of our civilization that requires that any more money should be spent on fortifications and arsenals and forts in this country? Upon that question, it seems to me, there can be no manner of doubt. Even those gentlemen who look forward to the inauguration of that era when there shall be no war, and the cry shall be peace, and when the blasts of war's great engines shall no more fill the skies—even they see the propriety of offensive operations. Have we now come to that period in the world's progress when we may safely, justly, and properly omit to protect ourselves, and to make those reasonable defenses which are necessary to protect us? Upon that question I am sure there can be no manner of doubt that we have not.

The next question is, whether these are proper and fitting amendments. The Senate have adopted them, as it had a right to adopt them, upon the recommendation of the proper Department. They did not come here, as it were, through the back door, but through the front way, properly and regularly, and in that manner they are here for our action. When gentlemen look at the amendments which have been made, they must see that they have been made carefully and judiciously in reference to those points of the country which must be defended, if any are to be defended at all.

I take it for granted, in the first place, Mr. Chairman, that all agree that there should be some fortifications, some extended fortifications in the

country. If that is so, there can be no two opinions among those who have looked into the subject—and certainly those who have cities in their own States, upon the sea-board, or navigable rivers, must have examined the matter—as to what are the proper points of defense, and what are necessary to be defended. The appropriations in these amendments have been confined to a few important points—points subject to attack and necessary to be defended.

These are the questions: first, whether any defences are necessary; and that being decided in the affirmative, whether these are the proper ones; and we can decide them now, without debate, as well as we can after debate of hours. These are questions upon which every one is presumed to have knowledge, and it seems to me that discussion cannot enlighten any one. I trust that we may be permitted to take a vote upon these questions without further debate.

[Here the hammer fell.]

Mr. CABELL, of Florida. I am opposed to the amendment of the gentleman from Maine.

I design to speak in reference to the positions which have been assumed by other gentlemen in this debate, and more particularly those of the gentleman from Georgia, [Mr. TOOMBS.] I will say to that gentleman, and to the House, that I agree with him fully in regard to his sentiments as to attaching these amendments to this bill. I condemn as heartily as he does the practice that has obtained of putting upon general appropriation bills, bills for the relief of individuals, and measures having no pertinency whatever to the subject-matter of the appropriation; but it seems to me that this matter of fortifications belongs peculiarly to the army bill. I do not understand why it is not in order there; and if an appropriation for fortifications can be put upon this bill, as well as be contained in a general fortification bill, I do not understand the necessity of having any such general fortification bill; and I think that the House should not consider whether there is a propriety in these distinct items of appropriation to this bill.

I am not prepared to say whether this item of $500,000 is the precise amount which ought to be appropriated to San Francisco. But there are other items in the bill in which I feel a particular interest. This subject of fortifications has been discussed for days and weeks and months, and is fully understood by the House, and the House is qualified to act intelligently now; and that five minutes' debate which is allowed is amply sufficient to do justice to the Government and to those particularly interested in these fortifications. Therefore, it seems to me that the objection urged by the gentleman from Georgia, [Mr. TOOMBS,] that the time limited for debating these matters is not sufficient, does not apply to this subject of fortifications.

I did not know whether an opportunity would be afforded me to speak in reference to a fortification which lies within my own State. I could not say what I desired in five minutes, and in order to remove the objections of the gentleman from Georgia and others, I availed myself of an early occasion, when the President's message was under consideration, to present the facts and statistics which were necessary to enable the House to arrive at an intelligent conclusion in reference to the fortifications at Tortugas. Therefore, so far as that point is concerned, it is not liable to the objection which has been made to these other appropriations.

I will also say to the gentleman from Ohio, [Mr. CARTTER,] that it is not liable to the objections which he makes to these fortifications, and in his views generally I coincide. But the strong arms and bold hearts of his constituents, who are ready at any moment to rush to the defense of the country, cannot by railroad, or by any other means, reach these points out in the sea—these little islands situated in the pass between Cuba and Florida, which command the coasting-trade of the Gulf of Mexico. The trade of California, Mexico, and the Pacific, the amount of which cannot be estimated when a railroad or canal shall have been constructed across the Isthmus of Tehuantepec, must eventually pass by that point. That trade may be cut off and exposed to the depredations of any enemy unless this fort is built and kept in repair.

[Here the hammer fell.]

The CHAIRMAN. The question is on the amendment of the gentleman from Maine.

Mr. WASHBURN. If there is no objection, I withdraw the amendment.

Mr. CLINGMAN. I object.

The question was taken, and the amendment was not agreed to.

Mr. CAMPBELL, of Illinois. I propose, as an amendment, to add $1,000 to the sum.

In listening, Mr. Chairman, to the tone of the argument upon the propositions now before the committee, I am at a loss to understand whether the gentlemen who oppose this particular appropriation, opposed it because they are opposed to the whole system of fortifications, or because they are opposed to this particular appropriation. Now, the gentleman from Georgia [Mr. TOOMBS] opposes it because there is not time to discuss it, and because it has been brought before this committee in what he supposes to be an irregular and improper manner. At the same time, the gentleman discloses the fact, that this whole question has been discussed before this House and the country for the last three years. Then, if it is upon the principle that he is opposed to all appropriations of this kind that he desires to strike a blow at the whole system of fortifications, the question is sufficiently understood, and it is not brought before this House, for its consideration, in a hasty and improper manner.

But the gentleman says that this amendment asks too much for that distant region of country. There is the Pacific railroad, there are wagon-roads, and there are appropriations for a steam-navy in the bill. Does the gentleman propose to sustain any single one of these amendments? If he has done so, I have misunderstood him.

The argument of the gentleman from Pennsylvania is, "Give us a steam navy, and we do not want your fortifications." It was only yesterday that they voted down the steam navy proposed for the protection of that region of country. They voted down the railroad, which is the best guarantee of protection, and they voted down the proposition to make the dry-dock at California even useful. They took away the very means of repairing the steam navy they now desire for the protection of the whole Pacific coast. What is it they are willing to vote for? Nothing! Not a single proposition brought before this House for anything intended for the benefit or protection of that distant region of country, meets with their approbation. They are continually referring to what is asked for, but never to what is granted. They use the argument of asking for reasonable appropriations as a reason why nothing should be granted. Now, if there are to be any appropriations for fortifications, if the whole system is not to be stricken down, I submit to the understanding of this committee whether that is not a point calling more loudly for protection than any other in the whole country?

[Here the hammer fell.]

Mr. SWEETSER. I rise to oppose the amendment of the gentleman from Illinois, for the purpose of adding my testimony, with that of other western men, in favor of making some appropriation for the distant State of California. And, in order that I may be understood, I desire to call the attention of the committee to the reasons which induced the Thirty-first Congress to reject the appropriations for fortifications on the sea-board. The fortification bill was not defeated then because the House intended to manifest opposition to all fortifications. I voted with the majority to reject it, but I declared at the time, what I now affirm, that I am opposed to any and all new works, but am in favor of finishing those already commenced, and will vote appropriations that may be necessary for keeping in repair those fortifications which are necessary to be maintained upon the Atlantic coast, avoiding all extravagance in the ornamental arrangements. We voted down the fortification bill because it proposed the extension of the system almost indefinitely. It was intended to intimate very clearly to the Executive branch of the Government, that the House of Representatives did not approve the extravagance of their estimates. But, sir, the question in relation to California is an entirely different one. There are no fortifications on the Pacific coast for the defense of the vast amount of shipping concentrated there. Sir, the city of San Francisco could be laid in ruins by a single frigate without being able to make any defense. It must be obvious that the means of defense which this amendment proposes is needed for the commerce of the world which is concentrated on the Pacific coast.

In sustaining the amendment, we are not voting for the State of California alone. If the opponents of this appropriation will pause and reflect but a moment, they will see that these appropriations are asked for the purpose of protecting, not only the commerce of California, but the commerce of the whole Atlantic coast. Although I reside in an interior State that has no commerce there, I can appreciate the wants of that people. Though I cannot support large appropriations for the extension of the system of fortifications on the Atlantic sea-coast, my voice shall be raised, and my vote given in favor of all necessary appropriations for the protection and defense of the commercial interests of California. Gentlemen should remember, that in case of difficulty with any of the nations of the earth, California, from its defenseless and exposed condition, would be the first point of attack; and that we have no fortification there for her defense. It seems to me that the reasons operating to the defeat of the fortification bill of the Thirty-first Congress have no force here; and, as a western man, I am prepared to vote all the money that may be necessary to place the harbors and coast of the Pacific in a good condition of defense.

I will say to my friends that I will go with them for every reasonable appropriation needed by the commerce of that distant and exposed coast. I beg those gentlemen who opposed the fortification bill of the Thirty-first Congress to acknowledge the distinction now made. I will go with the gentleman from Virginia [Mr. BAYLY] for completing the works already begun, and to grant those completed the appropriations necessary to give them the efficiency demanded by the wants of the country. I desire to see this House, in its action upon the subject of fortifications, pursue a uniform course, making, at all times, the distinction between necessary appropriations and those that are intended for ornament and convenience by commanding officers. I am aware that there has been great abuses in the erection of splendid residences for officers, and in ornamenting the grounds about these fortifications. I am utterly opposed to all that class of appropriations

Yet we must be careful in the reformation of abuses, not to cripple a system that is demanded by prudence and experience.

[Here the hammer fell.]

Mr. ORR. I move that the committee do now rise with a view of terminating the five-minutes debate on this particular amendment of the Senate.

The question was taken, and the motion was agreed to; there being on a division—ayes 78, noes not counted.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HARRIS of Tennessee) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the amendments of the Senate to the Army appropriation bill, and had come to no resolution thereon.

Mr. ORR. I move to close the five-minutes debate on the amendment of the Senate that we have just been considering in the Committee of the Whole; and on that motion call for the previous question.

Mr. STEPHENS, of Georgia. The motion of the gentleman is not in order.

Mr. ORR. I will make it in order by moving the suspension of the rules for its introduction.

Mr. BAYLY, of Virginia. I rise to a point of order. You cannot suspend debate on an isolated proposition without suspending it on the whole bill. You cannot select one clause and stop debate on it.

Mr. ORR. There was an exception which happened some three years ago. The gentleman from Virginia will remember that the House then stopped debate on the civil and diplomatic, or some of the other appropriation bills, with the positive exception of the claim of Mr. Ritchie.

Mr. BAYLY. I recollect it very well.

The SPEAKER. It is competent for the House to suspend any one of its rules by a majority of two thirds.

Mr. ORR. Does the Chair decide that I must suspend the rules for the introduction of my motion?

The SPEAKER. The Chair holds that a motion may be submitted to-day for the suspension of any one of the rules.

Mr. STEPHENS. If the gentleman moves to suspend the rules, I have nothing to say.

The question was then taken, and the rules were suspended—two thirds voting in the affirmative.

Mr. ORR. I move to close the five minutes debate on the amendment of the Senate, which the Committee of the Whole was last considering; and on that I demand the previous question.

The question was then taken, and the motion was agreed to.

Mr. ORR. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

Mr. JONES, of Tennessee. The gentleman from South Carolina moved to close debate on all of the amendments of the Senate applicable to fortifications.

[Cries of "No! only one!"]

The SPEAKER. The gentleman's motion was to close debate on the particular item with reference to a fortification at San Francisco.

Mr. NABERS. The gentleman moved to close debate on the particular section alluded to, and no other.

Mr. HART. The question is now, I believe, on the motion to lay the motion to reconsider on the table, and I demand that it shall be put.

Mr. ORR. When the question was taken I was engaged in reducing my motion to writing, and I would ask the Chair what precise question was put to the House?

The SPEAKER. The Chair stated the question to be on closing debate in the Committee of the Whole on the following item:

"For defense of San Francisco, California, $500,000."

That is the only matter embraced in the vote of the House.

Mr. ORR. I move, by unanimous consent, that the following resolution be adopted, instead of the one voted on:

Resolved, That the five-minutes debate in the Committee of the Whole on the state of the Union, on the Senate amendment to the military appropriation bill, which amendment embraces the subject of fortifications, be suspended.

It is due to myself to state to the House, that on yesterday evening the chairman of the Committee of the Whole announced that all of these items for fortifications were but one single amendment, and that such was my understanding when I moved that the committee rise, with a view to the termination of the five-minutes debate. I desire to be informed whether they are one amendment, or whether each item is a separate amendment?

Mr. NABERS. It was decided that the question was divisible.

The SPEAKER. The Clerk informs the Chair that they are reported from the Senate as distinct amendments.

Mr. ORR. I hope the House will indulge me for a moment, while I explain to the House the motion I intended to submit. I do not desire to be charged or suspected of any bad faith towards the House. Many gentlemen around me, as I understand, who voted with me that the committee should rise, voted with the understanding that debate was to be closed alone upon the San Francisco amendment. That was not my understanding at the time, but the House can relieve itself from the difficulty by going into committee again, and if gentlemen choose to close debate on the subsequent sections of the bill, they can do so; and therefore I will let my proposition embrace nothing but the San Francisco amendment; and upon that motion I move the previous question.

The SPEAKER. That has already been adopted by the House.

Mr. ORR. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. WALSH. Would it not be in order to suspend another rule, so that the gentleman from North Carolina might introduce the resolution he intended to offer?

The SPEAKER. There is a proposition to go into the Committee of the Whole on the state of the Union, which must be first put.

The question was then taken, and it was decided in the affirmative.

The House accordingly resolved itself into the Committee of the Whole, (Mr. HARRIS of Tennessee in the chair,) and resumed the consideration of the Army bill.

The question was then taken on the amendment offered by Mr. CAMPBELL, of Illinois; and it was decided in the negative.

The question then recurring upon the Senate amendment appropriating $500,000 for the defense of San Francisco, California, tellers were demanded and ordered; and Messrs. McMULLIN and HENDRICKS were appointed.

The question was then taken, and the tellers reported that there were—ayes 66, noes 71.

So the amendment was not agreed to.

The next amendment of the Senate was then read, as follows:

"For continuing the defenses of the following forts:
"*Florida*—Fort Jefferson, at Garden Keys, or Tortugas Island, $100,000."

Mr. GORMAN. I move to increase the appropriation $1,000. I do so for the purpose of saying that the Committee on Military Affairs have had the subject of fortifications at that island under consideration to some extent, and I have myself given it more attention than any other fortification in the United States, combined with that at San Francisco, California. It is really necessary that we should defend that point. I cannot tell precisely how much money has been expended there. That work has been commenced, and some $100,000 or $200,000 have been expended. Every gentleman who will look at that fortification will see that it commands the entrance to Havana—that it is the key to those waters. Any gentleman who will look at that fortification in a military point of view, will see that it is of more importance, in the present state of our national affairs and foreign relations, than any other fortification in the country. In the remote possibility of a war or conflict with the Spanish authorities, it is of more necessity to the Government than all the others for which appropriations are made in this bill or which the Senate have considered. There is no doubt that this House, when they come to vote on the yeas and nays upon that California proposition will also vote for this appropriation. The city of San Francisco might be reduced to ashes by a Chinese junk, as was remarked by the gentleman from California.

Allow me to say that at the preceding Congress, and the last session, I took a very decided stand against the fortification bill, and I contributed my vote to defeat it. I am glad it was defeated. But there are some positions in the Government to which members of this House, before going home, should give some means of defense, and the only two points where I think it is necessary that appropriations should be made, are Tortugas and San Francisco. A piratical crew might go into San Francisco and burn down that city for the sake of plunder, without any means of defense against such attacks. Such a calamity would be a national disgrace. The system of fortifications throughout the United States is nearly completed. I am for continuing those which are nearly completed, and I am against making appropriations for any new ones until there are thorough and efficient surveys. But I am for making an appropriation for the defense of San Francisco, because it is necessary in storms that our commercial marine should run into that harber. Supposing we were at war with any foreign Power, it would be necessary to protect our commercial marine for the time being, by giving them an opportunity to run under cover of guns there. In the event of such a war, unless we had a fortification at that point, every American vessel on the Pacific side might be destroyed or captured before we knew it, because every gentleman who knows anything about the operations of military affairs in modern times, knows full well that the foreign policy now is to strike and then declare war.

[Here the hammer fell.]

The question was then taken on Mr. GORMAN's amendment, and it was not agreed to.

Mr. DEAN. I offer the following amendment:

Whereas the recent illegal action of the Spanish authorities at Havana, in refusing to admit an American mail-steamer to land, and in searching the United States mails, renders it probable that it may be necessary for the American Government to take active and efficient measures to defend the rights of its citizens, and enforce an observance on the part of Spain of the treaties now existing between the two nations: Therefore, the sum of $5,000,000 is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the whole or any portion thereof to be expended at the discretion and under the direction of the President of the United States, if in his opinion an exigency shall arise, prior to the first Monday of December next, requiring the expenditure of the whole or any portion of said appropriation.

Mr. BAYLY, of Virginia. I rise to a question of order—that the amendment is not germane to the proposition before the committee.

The CHAIRMAN. The Chair sustains the question of order raised by the gentleman from Virginia, and decides that the amendment is not in order.

Mr. CABELL, of Florida. I propose to increase the appropriation $50,000. I offer the amendment with no expectation that the committee will adopt it. It is the amount recently asked for by the Department. But I am satisfied to take the appropriation of $100,000 as it comes from the Senate. The gentleman from Virginia [Mr. LETCHER] objects that this amount is larger than the estimate for this object in the regular printed estimates. I will tell him how and why this came to be. The subject of fortification at the Tortugas has assumed such an interesting shape since the difficulties which at one time seemed so likely to occur between this Government and Spain, that public attention has been specially directed to it, and the Senate recently passed a resolution of inquiry, submitted to the War Department in reference to this particular point, asking what that Department deemed necessary to a speedy completion of the works at Tortugas. The Secretary of War asked for $150,000; which sum he said could be expended advantageously within the year. The Senate have, however, proposed to appropriate but $100,000, and I am willing to let it stand. Now, it seems to me that there is a duty devolved upon this House, in view of the uncertainty of relations which exist between our country and foreign Governments, that the two important points of Key West and Tortugas should be well fortified.

I appeal to gentlemen from the western country, and ask them in what condition the commerce of that country which floats down the Mississippi river will be, if something is not done for its protection at this narrow pass between Florida and the Island of Cuba? The Tortugas, in the hands of any naval power, will control the entire commerce passing through the Florida straits. Every vessel that passes out of the Gulf of Mexico must necessarily pass, from the force of the current, &c., *within sight* of the island of Tortugas. This island is so situated, as the gentleman from Indiana [Mr. GORMAN] has stated, as to command the Havana itself, and any Power in the possession of the Tortugas would effectually, with an inferior naval force, blockade the Havana and defy the famous Moro Castle. I repeat what I said in an elaborate speech at the beginning of this session, on the authority of Lieutenant Maury and others, that General Jackson, soon after he was elected President of the United States, was so impressed with the importance and necessity of fortifying this point, that he declared in his peculiar way, that "by the Eternal," so soon as he entered upon the discharge of the duties of the Executive, there were three things he would accomplish. One was, to pay off the national debt, which was done; the second was, to destroy the monster the Bank of the United States, which was done most effectually; and the third was, to *fortify the Tortugas*. I appeal to Congress to do that which this old warrior patriot——

[Here the hammer fell.]

Mr. GIDDINGS. Mr. Chairman, it is an unpropitious time to discuss this question. In former Congresses, when we were not hurried for time, the whole question has been deliberately discussed, and each appropriation called for, has been carefully and cautiously investigated. But now, within a few hours of the close of the session, a proposition is pressed upon us for the expenditure of $1,250,000 upon fortifications, and we are called upon to pass it. Three years ago, after six years annual discussion, we laid aside this system of fortifications, and we have adhered to that decision ever since. And now the Senate wants to compel us to reconsider that decision and retrace our steps, under this suppression—under a threat that we shall lose this bill or adopt their system. Sir, it is due to ourselves that we should maintain our consistency and reject these appropriations for fortifications. Gentlemen will observe that a few moments ago, this policy was advocated on the

ground that it was for the purpose of defense; now it is for assault! I suppose that we are called upon to fortify the Tortugas, to defend ourselves.

Mr. CABELL. I stated that it was to defend ourselves and our own commerce.

Mr. GIDDINGS. The gentleman argued the question both ways. Now, there can be no question about it, that this system of fortifications is an antiquated system. Gentlemen talk about danger. Why, who are you afraid of? Sir, in 1812, we had in the Northwest a fort and a standing army in it, and both were taken by the enemy. That whole country was thrown for defense upon the right arm of the militia, and they defended it. They defeated the enemy; they regained the fort; they invaded the enemy's country, and conquered it. Talk about fortifications! It seems to me—and I mean no offense—to be absolutely cowardly to talk about danger. I represent the Queen City of the Lakes, and for ten years I have resisted any appropriation for fortifications upon that frontier. There that city is, with all her millions of commerce, and not a man in that district would be willing to see a dollar of public money expended in fortifying her. Sir, the right arms of her people will defend her. We bid defiance to the world in arms.

Sir, it appears to me, as I before remarked, and I only rose for the purpose of saying it, that this is an unpropitious period for the discussion of this great question. We have heretofore decided it, and, in my opinion, we ought to adhere to that decision.

Mr. CABELL. I call for tellers upon my amendment.

Tellers were ordered; and Messrs. EDMUNDSON and JACKSON were appointed.

The question was then taken, and the tellers reported—ayes 33.

A further count was not insisted on.

So the amendment was rejected.

Mr. HART. I move to amend the Senate amendment by adding thereto the following:

For repairs of Fort Schuyler, $15,000.

For repairs of Fort Columbus and Castle Williams, $4,500.

For repairs of Fort Wood, and sea-wall, permanent wharf, and hospital, Bedlow's Island, New York, $20,000.

I will state to the committee that those appropriations are in accordance with the estimates of the Ordnance Department, and I ask to have read an extract from a communication from the Secretary of War upon the subject of fortifications.

The Clerk read the extract as follows:

"NEW YORK HARBOR.—The objects of the projected works for the security of New York, are to cover the city from an attack by land or sea; to protect its numerous shipping; to prevent, as far as possible, the blockade of this great port; and to cover the interior communication uniting this harbor with the Delaware.

"There are two avenues to the city, namely: one by the main channel, direct from sea, and one by the Sound.

"The projected system of defense closes this last avenue at the greatest distance possible from the city, namely, at Throg's Point. The occupation of this point will force the enemy to land more than twenty miles from the city on one side, and still further from the navy-yard on the other.

"A work now in progress and nearly finished at Throg's Point, will prevent any attempt to force this passage. It will, as we have seen, oblige an enemy to land at a considerable distance from the object; and as he will then be unable to turn the strong position afforded by Harlem river, the cover on the New York side will be sufficient.

"But, should he land on the Long Island side, he might, by leaving parties on suitable positions, with a view to prevent our crossing the river and falling on his rear, make a dash at the navy-yard, having no obstacle in his front. To prevent this effectually, and also to accomplish other objects, a work should be erected on Wilkins's Point, opposite Throg's Point. This work, besides completing the defense of that channel, would involve a march against the navy-yard, from this quarter, in great danger, since all the forces that could be collected on the New York shore might, under cover of this work, be crossed over to Long Island and fall on the rear of the enemy, cutting off his communication with the fleet. The two works on Throgs's and Wilkins's points may therefore be regarded as perfectly protecting, on that side, the city and navy yard.

"Against an attack by the main channel, there are—

"1st. The works in the vicinity of the city, which would act upon an enemy's squadron only after its arrival before the place. They consist of Fort Columbus, Castle Williams, and South Battery, on Governor's Island; Fort Wood, on Bedlow's Island, and Fort Gibson, on Ellis's Island.

"It is necessary that these works be maintained, because, in the event of the lower barriers being forced, these would still afford a resource. It is a disadvantage of their positions, however, that the destruction of the city might be going on simultaneously with the contest between the forts and the fleets. They cannot, however, be dispensed with, until the outer barriers are entirely completed, if even then."

Mr. HART. I ask for tellers on my amendment.

Tellers were not ordered.

The question was then taken on Mr. HART's amendment, and it was rejected.

Mr. BOWNE. I offer the following as an amendment to the Senate amendment:

For Fort Richmond, New York, $60,000; and for repairs of Fort Hamilton, New York, $10,000.

That is the same amendment I offered a while ago, but withdrew at the suggestion of the gentleman from Florida, [Mr. CABELL.] I shall not say anything about it, but only ask for a vote upon it.

The question was then taken on Mr. BOWNE's amendment, and it was rejected.

The question recurred upon concurring in the amendment of the Senate, and, being put, it was decided in the negative.

So the amendment of the Senate was disagreed to.

The amendment of the Senate appropriating $75,000 for Fort Taylor, Key West, was disagreed to.

The next amendment of the Senate was then reported, as follows:

"*Georgia.*—Fort Pulaski, including barracks and quarters, $25,000."

Mr. KING, of Rhode Island. I offer the following as an amendment to that amendment:

For Fort Adams, Newport, Rhode Island, and permanent quarters and barracks thereof, $35,000.

Mr. Chairman, I have voted in favor of every appropriation for fortifications contained in this bill; and whatever may be the fate of my amendment, I shall, nevertheless, continue to vote for all that the Senate have proposed. I shall do so because I believe that fortifications are necessary for the defense of this country.

[Here the committee rose informally, and a message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had disagreed to the amendments of the House to the amendments of the Senate to the deficiency bill, insisted upon their amendments to said bill, and asked for a committee of conference upon the disagreeing votes of the two Houses.]

The Committee of the Whole on the state of the Union then resumed its session.

Mr. KING, (continuing.) I hold that it is the duty of this Congress to defend the country, by the use of the most appropriate and powerful means, against foreign aggression; and that when fortifications, as compared with the other elements of military defense, are the most powerful and the most appropriate, they should be provided for. Sir, it is an unquestioned fact in military science, that fortifications answer a purpose in the defense of the country for which the other elements of defense—your Army and your Navy—are entirely incompetent. I am in favor of fortifications in those cases, and in those cases only, in which they are the most powerful and effective means of defense. Who will deny that it is the duty of this Government to defend our country? Sir, upon the very ground that was taken in this debate yesterday, that there are chivalrous and courageous men upon our coast to stand up and vindicate the rights of the American people, and to resist foreign aggressions—for that very reason I am in favor of putting arms into their hands that shall enable them to compete with that enemy, and, if possible, give them the advantage over that enemy. I would allow them the advantages of science to make their contest safe as well as effective.

Now, with regard to the particular appropriation contained in my amendment, it has the strongest official recommendation to support it. It is contained in the estimates of the present session. It was contained in the estimates of the last session. It is the subject, together with other appropriations for fortifications, of a special communication to a committee of the Senate; and in that communication it is stated that the estimates there inserted are for the defense of the most important points, and those most liable to be attacked by an enemy. Such is the official declaration of the officers of your Government.

[Here the hammer fell.]

PERSONAL EXPLANATION.

Mr. POLK. I am opposed to the amendment of the gentleman from Rhode Island, and I will take occasion, with the permission of the committee, to make the *amende honorable* to Commodore Sloat. I made a speech a few days ago under a misapprehension, as I afterwards learned, and I hope the House will bear with me while I read a written statement which I have prepared, of facts which have been furnished to me.

[The reporter has been disappointed in procuring a copy of his statement.]

Mr. BOWNE. With the permission of the House, I desire to say that I acquiesce in the explanation made by the gentleman from Tennessee, [Mr. POLK.] It will be seen by the explanation just made, that he stated that $100,000 would be necessary for the purpose indicated, but that he intended to increase the appropriation instead of lessening it. I stated the facts just as he stated them, but he understood them to mean one thing and I another. That is all the statement I desire to make.

The question was then taken, and the amendment was not agreed to.

Mr. JACKSON. I understand there is now an amendment pending in relation to Fort Pulaski. I desire to say something to that amendment.

The CHAIRMAN. Discussion is not in order, unless the gentleman moves an amendment.

Mr. JACKSON. I move to increase the appropriation five dollars.

Mr. Chairman, the question in relation to this appropriation is not one of the construction of a new fort. It has been in the course of construction for many years, and now wants only $20,000 to complete it. The simple question before this committee is, whether you will allow it now to go to ruin, and lose all you have expended in its construction, or whether you will give us some $15,000 or $20,000—$20,000 is the amount proposed in the amendment of the Senate—for the purpose of completing it. This fort is surrounded upon the land side by a dike, and as the water rises from the sea, this dike is gradually wearing away, and unless this appropriation is made for repairing and completing it, all the houses situated upon the land connected with the fort, will be in danger of being destroyed—swept away by the waters.

Sir, I appeal to the patriotism of gentlemen upon this floor, under circumstances of such pressing necessity, not to withhold this little appropriation of $20,000, which is so necessary to protect the public works connected with that fort. Will they not vote this amount for the purpose of repairing this dike, which is at this moment in danger of being swept away by the water which flows over it, and which will, in a little time, with other public property there, which has already cost the Government over $100,000, be entirely destroyed?

Mr. Chairman, I have always been a friend to fortifications, and am still. I live in a city exposed to any enemy which may attempt its capture. The system of defense for the city of Savannah, involves two forts. But the Senate amendment to this bill makes an appropriation only for one, and that is in the amendment now under consideration. The entire cost of this fort from the beginning has been from $500,000 to $800,000; and as I said, we only ask $20,000 to complete it; and will you refuse that amount of money so necessary to preserve public property from destruction?

If this were an appropriation for a new work, I would not ask for it in the present condition of feeling in the House upon the subject of fortifications generally. But, sir, under the circumstances in which this property is placed, I feel that I have a right to ask for it.

Sir, the people of Savannah are as patriotic a people as can be found in this country. They are as capable of defending themselves, man to man, as the people of any city in the United States. The inhabitants of that dear city will be found willing to throw themselves by thousands against a common enemy for the protection of themselves and the people of the State, whenever the emergency shall present itself. But a single steam-vessel, if allowed to come up the basin by this fort, would possess a power which no bravery upon the part of the people of that city could withstand, when unprotected by fortifications. A single steam-vessel might in one night lay the whole city in ashes, no matter what may be the number of men who may rally for its defense. This fort is eminently necessary for the defense of my city, and I hope this Congress will not refuse the appropriation which is required to keep it in a state of pres-

ervation. But if gentlemen are determined they will make no appropriations for fortifications; if they are determined that the sea-coast of the country shall be laid open to the invasion of a ruthless foe, then be it so. I, sir, shall have done my duty.

[Here the hammer fell.]

The question now being upon the adoption of the amendment to the Senate amendment,

Mr. JACKSON, by the unanimous consent of the committee, withdrew it.

The question then recurred upon concurring in the Senate amendment.

Mr. JACKSON. Upon that I demand tellers.

Tellers were ordered; and Messrs. HALL and MARSHALL were appointed.

The question was then put; and the tellers reported—ayes 35, noes not counted.

So the committee refused to concur in the Senate amendment.

The next Senate amendment was as follows:

"*South Carolina.*—Fort Sumter, Charleston harbor, $110,000."

The question was taken, and the amendment was not concurred in by the committee.

The next amendment was the following, viz:

"*Maryland.*—Fort Carroll, Sollers's Point, Baltimore harbor, $50,000."

Mr. WALSH. I desire to say a word in relation to that amendment.

The CHAIRMAN. No debate is in order.

Mr. WALSH. I move to increase the appropriation $1,000.

Now, sir, it seems to me that this appropriation stands upon different grounds from any other which has been brought to the attention of the committee. It has hitherto been the policy of the Government to protect all the great commercial marts upon the Atlantic coast; and I tell this committee that none of the arguments which have been urged with so much force and eloquence in favor of granting an appropriation for the defense of San Francisco upon your Pacific border can be applied with greater force in favor of that coast than for the protection of the city which I have the honor to represent.

Sir, the board of officers charged with this particular duty, after examining the harbor of Baltimore, decided that the harbor and city were utterly in an unprotected condition in case of the attacks of an enemy; that old Fort McHenry, which had done good service sometimes, was so far distant from the channel of the river, that no adequate protection could be afforded by it; they also reported that a new fort should be located at Sollers's Flats, some seven or eight miles below the city. We have laid the foundation of a fort there and named it after the signer of the Declaration of Independence who survived longest the signature of that immortal instrument. They have laid the foundations of the fort substantially, and have proceeded with it as high as the water's edge, and this fortification has continued in that condition for a series of years. An appropriation is now required for the preservation of the work which has been commenced at a very large expenditure; and a further appropriation is required for the purpose of completing that fortification, so necessary for the protection of the harbor and city of Baltimore. This fort, as now located, commands the channel of the river above and below, and it would be impossible that any, except a most extraordinary force, could ever be able to pass that particular locality with the fort completed.

Now, Mr. Chairman, let me say to this committee, is it right, is it proper to leave a great commercial mart like Baltimore utterly unprotected as she is at this present moment? Is she a city deserving of such negligence or such treatment at the hands of the National Legislature? Sir, this report was made more than fifteen years ago; before her commerce had increased, and before her citizens had expended, of their private means, millions for purposes of improvement to bring in the products of the soil, and of the labor of the inhabitants of the great West. Now, I ask again, is it right, when you have the highest military authority telling you that your public works, for the protection of this great commercial metropolis, so identified with the interests of the agricultural people of the great West, are utterly inadequate for her protection unless this fort is finished—is it right, I say, for you, year after year, to leave her thus defenseless?

I have seen something of the signs of the times, and I do not know what argument gentlemen intend when they talk strong words of the prospect of hostilities, and of our safety in case of invasion. Sir, I very much fear, in the absence of all these fortifications, that at the approach of a hostile fleet we should find ourselves in the condition of the Chinese in their conflict with Great Britain. The history of that warfare tells us that, as the British lines approached, the mandarin generals who commanded the forces, told them to sound the gong lightly, and that would frighten the British away; but, as the line still approached unappalled, the generals told them to strike the gongs in tones of thunder; but notwithstanding the British lines still approached, and the first broadside sent gongs and the Chinese into destruction. So it will be here. I tell gentlemen that, valiant as our citizens may be, let a single steamship present herself in our harbor, and her broadsides would produce an effect that no valor could prevent. Nothing but the protection of adequate forts could save our city in case of such an emergency; and that our forts there are not now adequate, no one who understands the subject can for a moment doubt. I hope the committee will at least allow this appropriation to be made.

[Here the hammer fell.]

Mr. BAYLY, of Virginia. Mr. Chairman, I am going to vote against this appropriation. I shall do it with very great reluctance, because I know its importance. But this committee have defeated appropriations to-day for other fortifications equally as important, in my humble judgment. I will take, for instance, that for the protection of San Francisco, or that for the fortification at Tortugas, upon the Gulf of Mexico. I should have been glad to have seen a judicious fortification bill passed during the present session of Congress. But this committee has refused to vote appropriations for these fortifications to which I have alluded, and I shall now, though with reluctance, be compelled to vote against all the appropriations of this nature which may be brought forward.

Mr. WALSH. I desire to withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. STANLY. I move the following, as an amendment to the Senate amendment:

For repairs of Fort Macon, North Carolina, $2,000.
For preservation of the site of Fort Macon, $1,000.

Mr. Chairman, I have offered this amendment in pursuance of the estimates of the Department. I will not consume the time of the committee upon them further than to say, that it only makes an appropriation of $3,000, and for works where the appropriation is necessary.

Mr. ORR. I rise to a question of order. I submit that this amendment is not germane to the Senate amendment under consideration.

Mr. STANLY. It is for precisely the same description of works, and it is germane to an amendment for such works, whether for Maryland, South Carolina, or any other State.

The CHAIRMAN. The Chair overrules the point of order of the gentleman from South Carolina, and decides the amendment to be in order.

The question was then taken, and Mr. STANLY's amendment was disagreed to by the committee.

Mr. STANLY. I have another amendment which I desire to offer as a matter of justice to my colleague, [Mr. ASHE,] who is not now able to be in his seat. I move to add at the end of the Senate amendment under consideration, the following:

For repairs of Fort Caswell, Cape Fear river, $5,000.
For preservation of the site of Fort Caswell, $2,000.
For repairs of barracks and quarters at Fort Johnston, North Carolina, $1,200.
For preservation of the site of Fort Johnston and wharf, North Carolina, $4,200.

I will merely say that this is estimated for by the Departments, and is necessary to keep the forts in order.

The question was taken, and the amendment was disagreed to by the committee.

The question again recurred upon concurring in the Senate amendment, and being taken, the amendment was non-concurred in by the committee.

The next amendment of the Senate was the following, viz:

"*Delaware.*—Fort Delaware, Pea Patch Island, Delaware river, $150,000."

Mr. FLORENCE. I move to amend the Senate amendment by increasing the appropriation $100,000.

I offer this amendment for the purpose of saying that I hope this amendment of the Senate will be concurred in. I ascertained, from a visit to that public station during the last summer, that this appropriation is very much needed. I believe it is the duty of the American Congress fully to provide for the defense of the city of Philadelphia, and I intend to record my voice for this appropriation of $150,000 for the defense of that city, and I believe it is the duty of the American Congress to make the appropriation. When the work was commenced there was an understanding between that city and the United States that it was to be continued. I desire to call the attention of the committee to the eloquent argument of the gentleman from Delaware, [Mr. RIDDLE;] to the strong legal and equitable reasoning of that gentleman why this appropriation should be made equal to that proposed in the Senate amendment for California. Sir, there cannot be a greater need of protection upon our Pacific coast than there is for the city I have the honor in part to represent.

[A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed, with amendments, a bill of the following title: "A bill to establish certain post routes."]

Mr. FLORENCE, (resuming.) I do not desire to occupy the time of the committee any longer. I have no hope of success, because the purpose, intention, and disposition of the committee have been indicated this morning. I shall continue to hope, however, that at the next session of Congress a bill will be properly considered and reported, because I have heard it made as an objection why the amendments should not be agreed to, that there has been no time to consider them. I say *properly* considered and reported, for the protection of the interests of the commercial States of the Union.

[Here the hammer fell.]

The question was then taken on the amendment offered by Mr. FLORENCE; and it was not agreed to.

The question then recurring on the amendment of the Senate, it was put and decided in the negative.

So the Senate amendment was not concurred in.

The next Senate amendment in order was the following:

"Fort Knox, Penobscot river, $55,000."

Mr. FULLER, of Maine. I move to increase the amount of this appropriation one dollar.

I would not trouble the committee with any remarks in relation to these appropriations, were it not for the fact that I shall be called upon to record my vote upon them, under a call for the yeas and nays. I do not despair but what these appropriations, when considered in the House, may be adopted, although rejected in the committee. I wish merely to state, and call the attention of the House, to a few facts familiar perhaps to all. Fort Knox, on the Penobscot river, is situated about midway upon our sea-board, and within about eight hours' run by steamer of Halifax, the great naval depôt of Great Britain at the north. East of Boston there is no place where commercial vessels can seek protection. It was about eight miles up the river, above the location of this fort, where, for the want of this or a similar fortification during the last war, the frigate John Adams was dismantled. The location is such that the whole commerce of our extensive sea-board, in any sudden difficulty or rupture growing out of the delicate relations existing between this country and Great Britain, amounting perhaps to millions and millions of dollars, would be destroyed in a very short time.

[Here the hammer fell.]

Mr. McMULLIN. It is not my purpose to detain the committee long upon this question, but I rise more particularly for the purpose of appealing to this committee, when the sense of the committee has been so fully expressed, to let us get through with this bill as soon as possible. It is worse than idle for gentlemen to expect to reverse the sentiment of this committee, and I hope that gentlemen will have respect enough for those of

us who have not discussed this question, to allow the vote to be taken immediately.

Sir, we have but a short time left us to dispose of this bill, and the chairman of the Committee on Ways and Means, [Mr. HOUSTON,] as well as other gentlemen, has well said, that, unless we act speedily, we shall lose some one of these appropriation bills.

The question was then taken on the amendment offered by Mr. FULLER, and it was not agreed to.

Mr. BAYLY, of Virginia. I move to amend the Senate amendment by increasing the appropriation two dollars.

I care not for the admonition given us as to the determination of this committee upon these questions. Where I have a duty to perform I mean to do it. If there is a case, in the whole course of our action in reference to fortifications, standing on peculiar grounds, this appropriation for Fort Knox, with the possible exception of that for the protection of California, and the one for the Gulf of Mexico, stands in a position of more demonstrable propriety than any other.

There are some historical facts connected with that matter, which gentlemen ought not to forget; and I mean, so far as this appropriation is concerned, to put them upon the record. In the late war with Great Britain, for the want of this very fortification at the narrows of the Penobscot, the British vessels went up that river, burnt the John Adams, and destroyed private property in the town of Bangor, to the amount of more than half a million of dollars. These are historical facts, and it is a national disgrace—for to some extent it was a disgrace—that one of our sloops-of-war was burnt, almost without opposition, within our own waters.

A MEMBER. They ought to have fought.

Mr. BAYLY. Fought? fought against what? She would have been annihilated in five minutes, as she was. This half a million of private property, and this sloop-of-war, which were destroyed almost without opposition, because opposition was useless, would have been saved had this Fort Knox, upon the narrows of the Penobscot, been constructed.

I shall vote against it, important as I think it is, because I want all these appropriations to stand upon the same footing.

Mr. WASHBURN. I have but a word to say in reference to the appropriation, as the ground has been covered by my colleague, and the honorable gentleman from Virginia. I am opposed to the amendment of the gentleman from Virginia, because I desire the original appropriation to pass.

As I have said, the ground has been occupied by others, but this much I may say, that Fort Knox is situated in the narrows of the Penobscot river, seven miles below Bangor, one of the most exposed positions of our whole frontier. The State of Maine has an extent of some thirteen hundred miles of sea-coast, following the inlets of the shore.

I apprehend there can be no question, if there is any appropriation in this bill which is necessary, any appropriation that is demanded for the protection of the country, that this is the one. In case of disturbance or war with a foreign Power, and especially with England, without this fortification, we should be exposed to attack at every point. This is necessary, indispensably necessary for our protection, considering our relative position to British North America. I trust that if no other of these appropriations passes, this one will pass.

The question was taken on the amendment offered by Mr. BAYLY, and it was not agreed to.

The question recurring upon the Senate amendment—

Mr. WASHBURN called for tellers; which were not ordered.

The question was then taken on the amendment of the Senate, and it was disagreed to.

The next Senate amendment in order was the following:

"Fort Warren, Boston harbor, $45,000."

Mr. BAYLY, of Virginia. Before we get through with these amendments relating to fortifications, I desire to offer another amendment, and I will do it at this point. The amendment is as follows:

For the repair and contingencies of fortifications, including the necessary measures of protection and preservation of the fortifications upon which operations are suspended, $150,000.

The probability is that these appropriations are to be defeated. In that position, I undertake to say to the House—for I know the fact—that a heavy loss to the public service will accrue, unless some provision is made for the protection and preservation of those works which are in progression, and upon which operations have been suspended for the want of appropriations.

The question was then taken upon Mr. BAYLY's amendment; and there were, on a division—ayes 35, noes not counted.

So the amendment was disagreed to.

The question then recurring upon the Senate amendment, it was put, and decided in the negative.

So the amendment was disagreed to.

The next Senate amendment was the following:

"Fort Winthrop, Governor's Island, Boston, $29,573."

The question was taken on concurring with the amendment, and it was decided in the negative.

So the amendment was disagreed to.

The next Senate amendment in order was to strike out the word in brackets and insert the word in italics, in the following clause:

"For cannon, gun-carriages, and projectiles for sea-coast defense, [one] *two* hundred thousand dollars."

The question was put, and the amendment was concurred in.

The next Senate amendment in order was to strike out the words in brackets, and insert the words in italics in the following clause:

"For ordnance, ordnance stores, and supplies, [sixty-five] *one hundred* thousand dollars."

The question was taken, and the amendment was non-concurred in.

The next Senate amendment in order was to strike out the sum of $28,950, in the following clause, viz:

"For repairs and improvements and new machinery at Harper's Ferry, $28,950,"

and to insert the following in lieu thereof:

Forty-three thousand five hundred dollars; and that the amount received from the late and future sales of Government land pertaining to Harper's Ferry armory may be carried to the same appropriation, and applied to similar objects, under the direction of the Secretary of War, including improvements to the streets and highways in use for armory purposes."

Mr. HOUSTON. The Committee on Ways and Means recommend a disagreement to that amendment.

Mr. FAULKNER. I simply rise to state, Mr. Chairman, that this amendment of the Senate does no more than carry out the recommendation and estimate of the War Department. The Committee on Ways and Means of this House cut down that item of appropriation from the sum of $43,500, recommended by the Secretary of War, to $28,900. The estimate of the Secretary of War falls below the demand of the superintendent at Harper's Ferry some $15,000. It is thus obvious that great injustice must be done to that branch of your public service, unless this amendment of the Senate is concurred in.

Mr. LETCHER. I would be glad if my colleague would let us know something about these streets and highways.

Mr. FAULKNER. I will do so by proceeding to explain the latter branch of the amendment. My colleague is doubtless aware that the Government was the owner of a considerable quantity of land in and about Harper's Ferry. The Secretary of War determined to make sale of such portions of it as were not wanting for Government uses. This sale took place on the first of September last. The gross amount from sales was $58,559 83; of which $17,822 54 was paid into the Treasury, and $39,821 37 remains due from purchasers. The advertising and other expenses of sale amounted to $915 92.

The Secretary of War, with great propriety, determined to invite the mechanics employed in the armories to become purchasers of the lots, and to acquire fixed and permanent residences about there; and, amongst other liberal terms, allowed them two years on their deferred payments —one forty eighth part to be taken each month out of their wages.

Now, sir, I think this money arising from the sale of those lots may be judiciously expended, under the direction of the Secretary of War, in opening streets, and otherwise improving the property retained in that place by the Government. These lots, I am informed, sold for a high price, and higher than they could otherwise have sold, but from the belief that a portion, at least, of the fund would be expended in cutting streets and roads, as to make the lots purchased available for the purposes of building upon them. It is a small fund for this Government to take charge of, and coming in, as it will, in small sums, can be better applied for the purposes of improvement there, by the Secretary of War, than disposed of in any other mode.

Mr. HOUSTON. By reading the item, the committee will see that it is of that character which may be enlarged to any extent by those having the armory in charge. It is for repairs and improvements in new machinery, and that part makes it so objectionable that I do not see how anybody can vote for it.

Mr. FAULKNER. The same objection would apply to the recommendation made by the gentleman himself. If a sound objection, how could he have reported an appropriation of $28,900 under the general head of "repairs and new machinery?" But let me inquire of the honorable gentleman if he has examined all the items as set forth on page 257 of the estimate of the expenditures of the next fiscal year?

Mr. HOUSTON. I have, sir.

Mr. FAULKNER. If the gentleman has, he must have perceived that they are all of an indispensable character, and all minutely and specifically set forth, both by the superintendent of the armory and by the Secretary of War.

The question was then taken, and the amendment of the Senate was non-concurred in.

The Clerk read the next clause of the bill proposed to be amended by the Senate, viz:

"For repairs and improvements and new machinery at Springfield armory, $46,094: *Provided*, That from and after the first day of July next, [so much of the act of Congress approved August 23, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps, be, and the same is hereby, repealed; and from that day the said armories shall be under that system of superintendence which existed prior to the passage of said act of Congress"]—

The Senate proposed to amend this clause by striking out the words in brackets, and inserting in lieu thereof the following:

—"the act of Congress approved August 23, 1842, be so modified that the President may, if in his opinion the public interest demands it, place over any of the armories a superintendent who does not belong to the Army; and in order to enable him to decide to his satisfaction, he is hereby authorized to cause the necessary and proper inquiries to be instituted through the medium of a commission of civilians and military men, with a view of ascertaining which of the two systems is the more economical, efficient, and safe for the management of the public armories, that formerly existing under the superintendence of civil officers, or that now existing under the superintendence of officers of the Ordnance Department."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in the amendment.

Mr. FAULKNER. I move to strike out of the amendment the words "if in his opinion the public interest demands it," and to insert in their stead the word "shall."

Mr. GORMAN. I will, with the leave of the gentleman, make a single remark. This House has, by a majority of 25, on the call of the yeas and nays, and after full and thorough discussion, decided the question of the superintendency of these armories. The Senate propose, by their amendment, the creation of a commission to result in an additional expenditure of money, and I hope that it will be non-concurred in.

Mr. FAULKNER. I have but five minutes to address this committee upon a proposition in which a portion of my constituents feel a deep interest. I shall not repeat anything which I have already said upon the general merits of the proposed change in the administration of our armories. This House has already announced its judgment in language not to be mistaken. Will you stand by your convictions? Or will this body again, as it did in 1842, surrender its judgment to a coördinate branch of the Government? Twice was the effort made in the Senate to strike out the section which received the sanction of this House, and twice did that effort fail. This amendment, which some very improperly regard as a compromise, was, by a small majority, at length passed. Now, sir, I undertake to say, that the Senate could have placed its opposition to the proposed change in a less objectionable form than it has now assumed. You have said that the military rule shall cease at

your national work-shops. Has the Senate met the question fairly, and said that it shall not? No, sir; it has shrunk from the responsibility of a manly decision of this question of national policy, and has devolved that delicate duty upon the President. What right have we to shrink from the discharge of a legislative duty devolved upon us by the Constitution, and to surrender our functions into the hands of the Executive? It is our place to prescribe a right policy; it is the duty of the President to execute that policy. Is there a friend of the President upon this floor who will unnecessarily place him between the fires of these contending interests? Is there an honorable opponent who will seek to embarrass him with responsibilities not belonging to his station? Is there a friend of the Constitution who will sanction a surrender of our legislative functions into the hands of the Executive?

But again, sir: This amendment, if adopted, will open a Pandora's box of evils within the range of its operations. It invites to perpetual agitation, when the highest interests of the Government require that the question shall be finally and definitively settled. Resting as the administration of the armories under this amendment must in the discretion of a single man, the hopes of the opponents of the established policy will be perpetually stimulated to action, and discontent and turmoil will be tenfold multiplied.

[Here the hammer fell.]

Mr. WILCOX. I regret exceedingly to appear in opposition to the amendment of my friend from Virginia, but I can assure this committee, in all the honesty and integrity of my heart, that I do so simply as an ally, as I conceive, to the best interests of the country. In that, however, I may be mistaken, and if so, I am honestly mistaken. I will make no onslaught on the Senate of the United States for what it has done. I have great reverence for that body. I respect their gray hairs, and I respect them for their wisdom and their honors. It is sufficient to me, sir, as a Representative on this floor, that this recommendation comes indorsed by a Democratic Senate and a Democratic Committee on Ways and Means. I am further satisfied because President Polk and Secretary Marcy indorsed the military superintendency. Now, it seems to me, and I will not impeach the integrity of my friend from Virginia —because it cannot be impeached—that he manifests too much uneasiness in regard to this matter. I am for a fair fight. I am for acting honorably. I would leave it to the calm consideration of the committee, inasmuch as there has sprung up a disputation in reference to the matter, whether it is not best to refer it as the Senate has proposed. What do they propose? That, in order that this question may be settled, the President may, if he sees proper, appoint a civil superintendent of these armories, and before assuming that responsibility, appoint a committee of civilians to act in concert with a committee of military men in the examination of the facts. They are to inquire and report to him whether the armories are conducted as they ought to be; whether they are efficient; whether economy is observed under the existing administration, and if not, under which administration will most economy be secured. And when these facts are reported to the President, he shall take the responsibility of adopting or rejecting the report of the committee.

Again: We are to have a new administration of the Government in a few days, and I congratulate myself and the country on the fact, that if a reference be made to it justice will be done; for if rumor be true, we are to have a Secretary of War preeminently qualified, both in a civil and military point of view, to give good advice in regard to the matter. I allude to the Hon. Jefferson Davis, a man who has handled arms, and who has served in war and in peace with credit to himself and honor to his country. To reject the Senate amendment, then, would not only reflect upon that distinguished gentleman, but it would seem to imply a doubt as to the capacity and integrity of the President elect; the discretionary power of adopting the civil or military superintendency of the armories upon the report of the committee having been assigned to him by the Senate's amendment.

[Here the hammer fell.]

Mr. FAULKNER then, by unanimous consent, withdrew his amendment.

Mr. LETCHER. The amendment places this matter precisely upon the ground it ought to occupy. The proposition of the Senate is, that the President is to be invested with authority to appoint a joint commission of civilians and military men, who are to go to the Harper's Ferry and Springfield armories for the purpose of ascertaining whether the military or civil system operates best. You send your committee there for the purpose of ascertaining this fact, but how are the committee to institute a comparison between the system now in operation and the system which was in operation ten years before? How are they to know anything in regard to it, except as they may ascertain those facts which are within the reach of every member of the House, and which are to be found embodied in the public documents? That is the only way they can get at it. They can go and see how it is now. They can examine into its management at the present time, and they can report whether they consider the present management wise, or the reverse; but they cannot institute a *comparison* between the management under the civil system and the military system now in operation. Moreover, if they cannot have an opportunity to examine the civil system, to see its operation and judge for themselves as to its efficiency, what is to be the character of their report? Is it not to be made up from the representations which they may get from those now in power, and who are seeking to perpetuate their system upon the country? They must either ascertain the facts in this way, or they must go look to the reports which have been presented at different times to this House for the purpose of instituting a comparison such as the amendment which the Senate has adopted contemplates. To say the very least, it does seem absurd to talk about sending a committee to make a *comparison*, and to ascertain results where they can see only the operation of one plan and can know nothing in the world about the practical operation of the other. I trust, therefore, that the committee will adhere to this proposition as it originally went to the Senate, and that they will strike out this amendment, because of the utter impossibility of having any fail comparison between the civil and military superintendency.

Mr. EVANS. The Committee on Ways and Means have recommended a non-concurrence in the Senate amendment. When an investigation was about to be made, gentlemen shrank from it, and declared that there was nothing to be found out. They can find out as well as we can. I do not care where they get their information or where they call for it. I have long been convinced that a change of this kind must be detrimental to the interests of the country. It may be a benefit to some workmen about the shops, for they may get along a little easier. I dare say they will like such a change as will place them under loose instead of rigid authority. I speak for the interests of the country, and I have been long satisfied that if this matter were looked into that a change would not be made. Why this committee should be able to discover the facts any better than the President of the United States, is more than I can tell. I am well satisfied that they cannot discover the facts. It does not give any onerous responsibility to the President of the United States, and such as he is not willing to assume. I am satisfied that we do not thoroughly understand it. I know well enough that there has never been any proof brought forward to show that it is for the good of the Government that the change proposed should be made. One gentleman from Virginia, [Mr. FAULKNER,] made the argument that these workmen ought not to be subject to military rules, and that there ought not to be any discipline. Where did he show any fact, where did he show that a change was for the good of the country, where did he prove that it would save expenses, or that we would have better arms? No, sir; introduce a change in the system and we will break up these armories, and I tell the gentleman's constituents through him that they will be thrown out of employment. I hope the committee will concur in the Senate amendment, because it is just and reasonable. This is a matter which ought to be inquired into, upon which we have but little information at present. No man who is in favor of what is just and right can oppose the Senate amendment; and if you want to give the workmen their just rights, such as they are entitled to, go for the amendment.

The question was then taken upon Mr. FAULKNER's amendment, and it was rejected.

Mr. STANTON, of Tennessee. I propose an amendment here, simply to extend the range of inquiry:

And also whether it would not be better and more economical to discontinue the armories and procure arms by contract.

Mr. HOUSTON. That is in the House bill.

Mr. ORR. I understand that the Committee on Ways and Means recommend a concurrence in the Senate amendment.

The question being upon concurring in the Senate amendment,

Mr. INGERSOLL demanded tellers; which were ordered; and Messrs. VENABLE and HALL were appointed.

The question was then taken; and there were—ayes 81, noes 54.

So the Senate amendment was agreed to.

Mr. McMULLIN. With a view that we may have an evening session, I move that the committee rise.

The question was then taken, and it was decided in the negative.

So the committee refused to rise.

The next amendment of the Senate was to strike out in the following clause the words in brackets, and insert the words in italics:

"For arsenals, [forty-one thousand and seventy-one] *fifty-eight thousand one hundred and fifty* dollars; and that the Secretary of War be, and is hereby, authorized to abolish *or transfer* such of the arsenals of the United States as in his judgment may be useless or unnecessary."

Mr. TOOMBS. What do the Committee on Ways and Means recommend there?

Mr. HOUSTON. The committee disagreed to the first part of the amendment, but agreed to the word "transfer."

Mr. TOOMBS. I move to amend by striking out the word "transfer." It is merely a scheme to hide a little job, as will be seen by the language: "and that the Secretary of War be, and is hereby, authorized to abolish or *transfer* such of the arsenals of the United States as in his judgment may be useless or unnecessary."

Mr. HOUSTON. I have no objection to disagreeing to it.

Mr. TOOMBS. I hope it will be disagreed to, for it is nothing but a job.

The question was then taken upon Mr. TOOMBS's amendment, and it was agreed to.

The question was then taken on concurring with the Senate amendment, and it was decided in the negative.

So the Senate amendment was not agreed to.

The following clause was then read, viz:

"For arrearages of pay, subsistence, and clothing, due to Captain Richard McRae's company of Virginia volunteers, which served in the war with Great Britain in 1812 and 1813, the sum of $10,334 31."

The Senate propose to amend it by adding at the end thereof the following, viz:

"To be paid out to the officers and soldiers of said company, or their legal representatives, under the order of the Secretary of War, upon the production of such proof as satisfies him as to the identity of said officers and soldiers, and that they have not been paid."

Mr. HOUSTON. The committee recommend a concurrence in that amendment.

The question was then taken, and the Senate amendment was agreed to.

The next amendment of the Senate was read, as follows:

"For fuel and quarters for officers of the Army serving on light-house duty, the payment of which is no longer made by the Quartermaster's Department, $4,053 87."

Mr. ORR. Do the Committee on Ways and Means recommend a concurrence in that amendment?

Mr. HOUSTON. They do recommend a concurrence in that amendment.

The question was then taken, and the Senate amendment was concurred in.

The next amendment of the Senate was read, as follows:

"For fuel and quarters, and for mileage or transportation for officers and enlisted men of the Army serving on the coast survey in cases no longer provided for by the Quartermaster's Department, $10,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment, with the following proviso:

Provided, That the annual Coast Survey report shall be

submitted to Congress during the month of December in each year, and shall be accompanied by a general chart of the whole coasts of the United States, on as large a scale as convenient and practicable, showing as near as practicable the configuration of the coasts, and showing by lines the probable limits of the Gulf stream, and showing by lines the probable limit to which the soundings of the coast will extend, and showing by the use of colors and explanations the exact portions of our coasts of which complete charts have been published by the Coast Survey; also, showing such other parts of the coasts of which the triangulation, the topography, and the soundings have been completed, but not published; and also such parts of the coasts of which the triangulation and topography, or the triangulation only, have been completed.

The question was then taken upon Mr. HOUSTON's amendment, and it was agreed to.

The question was then taken upon concurring with the Senate amendment as amended, and it was decided in the affirmative.

So the Senate amendment as amended was agreed to.

Next amendment of the Senate:

"For preservation of public property and contingencies of western river improvements, and for commutation of transportation of baggage, and of quarters and fuel of officers, the payment of which is no longer made by the Quartermaster's Department, and for allowances to meet extra expenses under the special direction of the Secretary of War, $10,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was then taken, and the amendment was disagreed to.

Next amendment of the Senate:

"For repairs and preservation of public property and contingencies of lake harbors, and for commutation of transportation of baggage, and of quarters and fuel of officers, the payment of which is no longer made by the Quartermaster's Department, and for allowances to meet extra expenses under the special direction of the Secretary of War, $20,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment also.

Mr. ORR. I move to reduce the appropriation contained in that clause one dollar; and I do it for the purpose of inquiring of the chairman of the Committee on Ways and Means why it is that these payments are no longer made by the Quartermaster's Department? Why is it that a change has been made?

Mr. HOUSTON. Under the law of last session for the improvement of rivers and harbors, certain officers have been detailed for this service. It is proposed now to separate the appropriations to pay their expenses from the other appropriations for the expenses of the Army.

Mr. ORR. Are they not still entitled to the same rank in the Army, and is not this, in effect, increasing the expenses of the Army proper of the United States, or of the officers of the Army, without its appearing to the country?

Mr. HALL. To be sure it is.

Mr. HOUSTON. That was the impression of the Committee on Ways and Means.

Mr. TOOMBS. The committee propose to nonconcur in the amendment.

Mr. DUNHAM. The object of this amendment, as I understand it, is this: the officers of the Army are desirous of keeping the expenses of the Army proper as low as possible, and when officers are transferred to do any other duty, and are not employed in the regular service of the Army, they think they ought not to be paid out of the Army appropriation, but by a separate appropriation, so that those expenses may not be charged to the Army proper.

Mr. HOUSTON. My friend will allow me to say, in this connection, that this bill appropriates, under the head of "For transportation, fuel, and so forth of the Army," precisely what we appropriated last year.

Mr. ORR. If these appropriations belong to the Army, let them be charged properly to the Army; if they do not belong to the Army, cut them off altogether, and establish a different Department.

Mr. DUNHAM. I am opposed to striking out this amendment of the Senate. It is very true, as the gentleman from Alabama has said, that we have appropriated what the Army proper required for its annual expenses. But I think it would be much better to have the appropriations to meet the expenses of the different branches of the public service separated, so that we may know what each branch costs. I am, therefore, in favor of retaining the amendment of the Senate.

Mr. HOUSTON. I desire to call the attention of the gentleman from Indiana to the last two lines of this amendment, and to ask him if he would be willing to vote for an amendment in such language? They are as follows:

"And for allowances to meet extra expenses under the special direction of the Secretary of War, $20,000."

Mr. DUNHAM. I am opposed to that myself. It is the other portion of the claim to which I refer.

The question was then taken upon Mr. ORR's amendment, and it was rejected.

The question recurred on concurring in the Senate amendment.

Mr. STANLY. I presume that this committee will strike out this item or non-concur in it, according to the recommendation of the Committee on Ways and Means. But I wish, with a view of protecting the public property, to offer an amendment to strike out all after the word "harbor," down to the words "Secretary of War," inclusive, so as to make the clause read:

"For repairs and preservation of public property and contingencies of lake harbors, $20,000."

I should like that motion to prevail, so that there may be something to keep up repairs, and take care of the public property.

Mr. HOUSTON. I would suggest to the gentleman from North Carolina that we appropriated for this very item in the river and harbor bill last session.

The question was then taken on Mr. STANLY's amendment, and it was rejected.

The question recurred on concurring in the amendment of the Senate, and being put, it was decided in the negative.

So the amendment was not concurred in.

Next amendment of the Senate:

"Repairs, preservation, and contingencies of river and harbor improvements on the Atlantic and Gulf coasts in charge of the Engineer Department, and to meet charges for transportation of officers, and for fuel and quarters, the payment of which is no longer made by the Quartermaster's Department, and for extra allowance to meet extra expenses under the special direction of the Secretary of War, $15,000."

Mr. ORR. What do the Committee on Ways and Means recommend?

Mr. HOUSTON. A non-concurrence.

The question was then taken; and the amendment of the Senate was not concurred in.

Next amendment of the Senate:

In lines three and four, in section third, insert the words "proper and advisable," so as to make the section read:

"SEC. 3. *And be it further enacted*, That the Secretary of War be directed to report to Congress whether, in his opinion, it would not be more economical, *proper, and advisable*, to cause all the arms of the United States to be made by contract."

The question was put, and the amendment of the Senate was agreed to.

Next amendment of the Senate:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress, passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and the same are hereby, extended to all military sites acquired since the passage of the said act."

Mr. JENKINS. I am opposed to that section, and I move to amend it by striking out the words "extended to all military sites acquired since the passage of the said act," and insert in lieu thereof the word "repealed;" so as to make it read:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress, passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and the same are hereby, repealed."

I make that motion for the purpose of opposing the whole amendment of the Senate. Has any gentleman examined the statute referred to in that amendment? It is that the Secretary of War be authorized to sell certain military sites which have been found to be inadequate to the purposes for which they were designed. Doubtless when that act was passed there was before Congress a full and complete report of the particular military sites contemplated as having been found perfectly useless. But how is it now? Is any gentleman here prepared to rise in his place, and point out the particular fortifications or military posts which it is proposed to sell? Are we to legislate blindfolded here? Are we to place ample power—I might almost say legislative power—in the hands of the Secretary of War to authorize him to sell every fortification that we have in the United States?

Mr. FULLER, of Maine. I can name three military sites on the northeastern frontier which are useless to the Government.

Mr. JENKINS. Then let the gentleman introduce a bill specifying them. I am at a loss to imagine under what influences the Senate were acting when they passed this amendment. I ask this House seriously, are they prepared to authorize the Secretary of War, at his discretion, to sell every military post at private sale, wherever he pleases, when he pleases, and to whom he pleases? It seems to me that the House cannot be prepared for such a thing. It seems to me that this House should judge for itself, upon the reports made and the facts spread before it, what military posts shall be sold and what shall not be sold. I hope, therefore, that the amendment of the Senate will be voted down. I know that if we had time to discuss it, it would be voted down. I am satisfied that the Committee on Ways and Means would never have acquiesced in it if they had looked at it in all its breadth. It is a most important amendment, and there should be no question, in my opinion, about striking it from the bill.

Mr. TOOMBS. I am opposed to the amendment of the gentleman from New York, because I want to strike out the whole section. There is a law authorizing the sale of *certain* abandoned fortifications. This amendment authorizes the Secretary of War to sell *any* fortification. We have now, during the last ten or fifteen years, expended millions of the public money to erect fortifications, and the next movement of the Senate is to authorize the Secretary of War to sell, without any inquiry, at his own option, to whom he please, millions of public property—fortifications upon the frontier or anywhere else. Now, that is most unreasonable and quite out of the question. Congress itself ought to determine when it is necessary to sell fortifications and when they shall be sold. The clause is too general, and we had better get rid of it altogether.

Mr. PHELPS. I move to amend the amendment by striking out the words "acquired since the passage of the said act," and I do it for the purpose of reading to the committee the section of the act of 1819, to which this clause refers. I am satisfied that when the gentleman from Georgia hears it, he will not insist on his objection. The act of 3d March, 1819, is as follows:

"That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to cause to be sold such military sites belonging to the United States as may have been found, or may have become useless for military purposes. And the Secretary of War is hereby authorized, on payment of the consideration agreed for into the Treasury of the United States, to make, execute, and deliver all needful instruments conveying and transferring the same, and the fee or jurisdiction which has been specially ceded for military purposes to the United States, and so forth."

That is the act of 1819. Now, it is oftentimes the case that military posts become useless. Take, for instance, the military posts reserved on the frontier. As settlements go in advance of those military stations, it is right that they should be disposed of. If the gentleman from Georgia is unwilling to trust the President of the United States and the Secretary of War with the discretion given them by this section, then amend it, and provide that the site shall be sold to the highest bidder upon given notice.

Mr. JENKINS. Will the gentleman allow me to ask him a question? Is there any report showing what military posts should be discontinued? Upon what information is this amendment based?

Mr. PHELPS. I know of no report showing what military sites are useless. But gentlemen have told me—and I know it to be true—that several have been abandoned, and it is probable, indeed it is absolutely certain, that if the Territory of Nebraska should be established, and that region of country become settled, the military sites in that region would become unnecessary. Fort Leavenworth should be abandoned, and there are other forts upon our frontier which will be rendered useless as soon as the country in their neighborhood becomes settled. Some of them have been abandoned already by the Government of the United States. We have thought, therefore, that in cases like these, where our military posts have, by reason of settlement in their neighborhood, or from other cause, become useless to the Government, that it would be better to allow the sites to be sold to the highest bidder. There is no way for the Congress of the United States to arrive at a determination as to what posts have become useless,

and what should be disposed of, unless it be by the report of a board of your Army officers, and we have thought best to leave that matter to the War Department to decide. Mr. Chairman, is it not right that when these posts become useless to the Government, that they should be disposed of? Why do the Government desire to retain jurisdiction over a small tract of land covering the site of a military station when the object for which that land was reserved, has passed away? It may become of some value in the State in which it is located if sold, but it can be of no value to the United States so long as it remains within the jurisdiction of the General Government.

Mr. TOOMBS. I desire to suggest to the gentleman from Missouri that he modify his amendment, so as to provide that when these sites are sold, it shall be to the highest bidder.

Mr. PHELPS. I have not the slightest objection to that. My only object is, that when these posts shall become useless to the Government, the proper authorities shall have power to dispose of them. I will accept the amendment suggested by the gentleman from Georgia.

[Here the hammer fell.]

Mr. PHELPS With the consent of the committee, I will withdraw my amendment to the amendment.

There was no objection, and the amendment was accordingly withdrawn.

Mr. FULLER, of Maine. I desire to offer an amendment, for the purpose of saying a word upon the subject of this Senate amendment.

Mr. JENKINS. Will the gentleman allow me to offer an amendment, upon which he can speak?

Mr. FULLER. I have no objection.

Mr. JENKINS. Then I propose the following:

At the close of line five insert:

Provided, That such transfer shall be made upon a sale at public auction upon a notice of at least six weeks, published in the newspaper printed in the same county having the largest circulation.

Mr. FULLER. I will accept that as my own. Mr. Chairman, I have had my attention called particularly to this subject, and have conferred with the Department in relation to it. In my own district, upon the northeastern frontier, during the troubles which existed there several years since, there were erected three temporary forts, Fort Kent, Fort Fairfield, and Fort ———, but there has not been a soldier in one of them since 1842; yet the Government are annually at the expense of paying the salary of a superintendent to take care of them. They were constructed only for temporary purposes, and they are now rotting down. No care is taken of them, and it is not necessary that any should be. The boards are being torn from the fences and carried away, and are fast getting into a state of dilapidation. Application was made by me to the Quartermaster General to have these sites sold, but he informed me that the Department had placed such a construction upon the law of 1819 as to render it impossible to dispose of them. I was also informed at the Department that there were a number of posts upon our western frontier which are similarly situated. They have become perfectly useless to the Government, although they are not required. The Department have no power to dispose of them. I hope Congress will make some provision upon the subject and allow them to be sold.

[Here the hammer fell.]

Mr. BAYLY, of Virginia. Is it in order to speak upon the pending amendment?

The CHAIRMAN. No speech has been made in opposition.

Mr. BAYLY. Mr. Chairman, I am opposed to the amendment of the gentleman from Maine, [Mr. FULLER.] I am utterly opposed to passing a general law authorizing the Secretary of War, or anybody else, at his own discretion, to sell the public property of the United States, though I am free to say that my objection to this Senate amendment has been a good deal obviated by the modification proposed by the gentleman from Missouri, [Mr. PHELPS,] providing that these lands shall be sold at public auction. That has modified my objection to a very great extent; but still my opinion is, that in place of a general law delegating to an officer of the Government the authority to sell this public property, if it is to be sold, we ought to retain that authority in Congress, and to exercise it in respect to such cases as are brought to our notice. Until what the gentleman from Maine [Mr. FULLER] has just told us, I have heard of no cases where it would be proper to authorize such sale.

But I have another difficulty in relation to this Senate amendment. It says this authority is to be "extended to all military sites acquired since the passage of the said act." What does that mean? "*Acquired* since the passage of the said act." Why, this will not apply to the cases to which the gentleman from Missouri [Mr. PHELPS] has referred.

Mr. PHELPS. It is construed by the War Department to apply to them.

Mr. BAYLY. Well, sir, I am quite sure my friend from Missouri as a lawyer, and a good lawyer, as he is, would not so construe it. He could not construe the language "acquired since the passage of the act" to mean land already in the occupation of the Government as reservations. Sir, this amendment does not, and cannot extend to the cases which the gentleman from Missouri has alluded to. These are reservations of public lands, and not acquisitions. The term "acquired" would very well apply to cases where the Government have purchased lands of the States, and the jurisdiction over those lands has been ceded by those States; and it cannot apply to anything less. Now, we have purchased none of these sites to which the gentleman alludes, and none of them have been ceded to us since the passage of that act, because the Government owned them itself. But although this amendment could not reach those cases, it might reach hundreds of our fortifications which are really necessary for the protection of the country. Why, sir, let me tell my friend from Maine, [Mr. FULLER,] to whom I always feel a great deal of deference, that this amendment would place it in the power of the President to sell even Fort Knox, of which he spoke this morning.

[Here the hammer fell.]

Mr. WALSH. I desire to propose an amendment, to come in at the end of the section.

The CHAIRMAN. No further amendment is in order.

Mr. PHELPS. I wish to offer an amendment to a preceding portion of this clause to obviate the difficulty of my friend from Virginia, [Mr. BAYLY,] and to which, I presume, there will be no objection. I move to strike out the word "acquired," and to substitute the word "reserved," so that the clause would then read:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress, passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and the same are hereby, extended to all military sites reserved since the passage of the said act."

The CHAIRMAN. That amendment can be entertained at this time only by the unanimous consent of the committee.

There was no objection, and the amendment was accordingly received.

Mr. PHELPS. I will only say that the act of 1819 provided for the sale of such military sites belonging to the Government of the United States as had become useless for purposes of fortification, and it is now very desirable that the provisions of that act should be extended to sites which the Government have reserved since that time. I therefore hope this amendment will be agreed to, and that the committee will concur in the Senate amendment.

The question was taken, and Mr. PHELPS's amendment was agreed to.

The question then recurred upon the adoption of Mr. FULLER's amendment.

Mr. FULLER. I desire to suggest to the gentleman from Missouri that the amendment which has just been adopted upon his motion may give rise to some difficulty. It may apply to some other reservations than those he intends.

The CHAIRMAN. Further debate is not in order; the question is upon the adoption of the amendment of the gentleman from Maine, [Mr. FULLER.]

Mr. SACKETT. Will it not be in order to offer a substitute for this whole amendment?

The CHAIRMAN. Not until the amendment pending be disposed of.

The question was then taken, and Mr. FULLER's amendment was agreed to.

Mr. SACKETT. I now desire to offer an amendment to the Senate amendment in the nature of a substitute. I move to strike out the whole clause, and to insert the following, viz:

And be it further enacted, That the act entitled "An act to provide for the sale of certain military sites," passed March, 1819, be, and the same hereby is, repealed: *And provided*, That the Secretary of War shall, at the opening of each Congress, report to Congress the military sites that should, in his judgment, be sold, and his reasons therefor.

Mr. Chairman, if this amendment be adopted it will be the duty of the Secretary of War to report to every Congress what military sites are useless, and his reasons therefor; and it will be competent for them to ascertain and decide what sites ought to be sold. I suppose that is what Congress desires, and I am sure it is what they ought to have. I have no idea of granting this sweeping power to the Secretary of War to sell all the military posts in the country if he should see fit, without reserve. I have no doubt that from time to time there will be some of the military posts of the country which may be advantageously sold; but when that fact exists, Congress ought to know it and provide for it; and if they have this report of the Secretary of War before them, there will be no difficulty in making that provision. I think this is such an amendment as we ought to adopt.

Mr. PHELPS. I hope the gentleman from New York [Mr. JENKINS] will modify his amendment. Take, for instance, Fort Leavenworth or Fort Scott; there is no newspaper near in which to publish the notice of that sale.

Mr. JENKINS. I have no objection to making it, "such newspaper as the Secretary of War may designate."

The CHAIRMAN. The Chair would suggest that the amendment of the gentleman from New York was accepted by the gentleman from Maine, [Mr. FULLER,] and has been adopted by the committee. The question now is upon the adoption of the amendment of the gentleman from New York, [Mr. SACKETT.]

Mr. RIDDLE. If the act of 1819 is read, I think it will be seen that there is no need of these amendments at all. I think that provides for selling all the sites which it is desirable for the Government to sell.

Mr. JENKINS. The statute of 1819 provides for no sale whatever. It authorizes the Secretary of War to decide as to what he deems useless, and what he does not deem useless.

Mr. SACKETT. The gentleman misapprehends the amendment proposed altogether. It proposes to repeal that law entirely.

Mr. JENKINS. I am opposed to the whole thing. I shall vote for the gentleman's amendment. But we need not legislate upon the subject at all. Why? Because, if there are any fortifications or military posts of any consequence to be sold, it is quite easy for the Secretary of War to report the fact to the House, and then Congress can judge of the expediency and propriety of selling them. But will you put into the hands of the Secretary of War the power to sell out the fortifications which have cost the country millions of dollars? The language of this act authorizes him to sell out anything, no matter what. Old Point Comfort, or any other place may be sold out, if this power is to be conferred upon that officer. This House will pause a long while before they will vest such a power there, or in any other hands. We have yet to learn whether there is any fortification which should be sold; and how easy it would be for the Secretary of War to make a report upon that point, and then the House will be able to judge whether it is proper, or not, to make the sale. One man may say that such and such a post is an important one, and another that it is wholly unimportant. It seems to me that this question is too plain for debate. No such power should be vested in any officer of the Government. We should hold that power ourselves.

The question was then taken on the amendment offered by Mr. SACKETT, and it was agreed to.

Mr. SUTHERLAND. I move to insert after the word "all," in the Senate amendment, the word "useless," so that that part of the clause will read: "Extended to all useless military sites acquired since the passage of this act."

The act of 1819 authorizes the sale of certain military sites. This Senate amendment extends the provisions of that act to all military sites *acquired* since the passage of said act. Now the question may arise, what does that refer to? Does it mean, in connection with that act, the mode of sales, or does it refer to the sites and forts

themselves? By putting in the word *useless* all doubt is removed.

Mr. RIDDLE. I suggest to the gentleman from New York, that he make his amendment to read "all useless military sites acquired before or since the passage of said act."

Mr. SUTHERLAND. I modify my amendment as the gentleman suggests.

Mr. BAYLY. I am opposed to the amendment of my friend from New York.

In the first place the very proper amendment of my colleague cuts it off; and in the second place the use of the word "*useless*" does not change the matter at all, because what is useless and what is not useless, depends upon the discretion of the person to whom this authority is given. Now my objection to the whole thing is, that as far as my vote is concerned, I do not choose to leave this thing to the discretion of anybody. Take the case of our public lands, and who in this House would vote to give the entire control of the disposition of them to any officer of our Government? It would be wrong, and, *a fortiori*, it would be wrong to delegate that discretion to any officer in respect to property which we have acquired or reserved for military purposes; because when we acquired it for military purposes, I take it for granted that it was done by a vote of Congress, and because it was considered necessary, and I will not put it in the power of any man to divest us of property which was acquired by a vote of Congress.

Mr. SACKETT. In drawing up my amendment I omitted the words "March 3, 1819." I ask the unanimous consent of the House that the Clerk may insert these words in the amendment, so that it shall read:

"That the act passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' is hereby repealed, and that the Secretary of War shall, at the opening of each Congress, report to Congress what military sites should, in his judgment, be sold, and the reasons therefor."

No objection was made, and the amendment was modified accordingly.

The question was then taken upon the amendment offered by Mr. SUTHERLAND, and it was disagreed to.

Mr. CABELL, of Florida. I desire to offer an amendment to the proposition. I will send it to the Clerk's desk.

I wish the amendment amended so as to extend its operation beyond mere military sites. The State of Florida, as is very well known, in 1834–'35–'36, and previous to the Florida war, was but a wilderness. An army was sent by the Government to that State for the purpose of driving the Seminole Indians out of that country. They were scattered over the whole country, and large tracts of land were reserved for military purposes. In one instance there was a tract of sixteen miles square reserved. Most of the Indians were removed, and those now remaining are confined to the everglades of Florida, and the rest of the country has become occupied; but these reservations are still held by the War Department, and cannot be sold. Now, it seems to me that there can be no objection, in the mind of any gentleman here, to add a provision to that amendment of the Senate so as to authorize a sale of these reserved lands, under such restrictions as shall be contained in the amendment.

I ask that the amendment may be read by the Clerk:

The amendment was read, as follows:

And that in all cases where lands have been, or may be hereafter, reserved for military, naval, or other purposes, and where the Secretary of the proper Department shall certify that such lands are no longer required by the Government for public uses, the President of the United States shall be, and he is hereby, authorized to cause the same to be sold at public sale, under the laws which may be in force at the time of the disposal of the public lands, or under such special regulations as he may prescribe: *Provided, however*, That no preemption right shall attach to any such lands, in virtue of any settlement made prior to the time of offering, at public sale, of the same, under this act.

Mr. CABELL. It will be seen now that this amendment of mine does not apply to any fort or fortification, but only to lands which were reserved, when the Army of the United States was in Florida, for the cutting of timber and for a variety of purposes, which they deemed essential at the time, but for which they are now no longer required.

I ask that the President of the United States, upon the certificate of the Secretary of War that these lands are not required for military purposes, shall authorize them to be sold at public sale, under laws which may exist at the time of the public sale. It seems to me that there can be no objection to it; and it is a matter of very great importance to the people of Florida.

[Here the hammer fell.]

The question was then taken upon the amendment offered by Mr. CABELL, and it was agreed to.

The question then recurring upon the adoption of the substitute for the Senate amendment, which substitute was the amendment of Mr. SACKETT, as amended by the amendment of Mr. CABELL, it was put, and decided in the affirmative.

So the substitute for the Senate amendment was agreed to.

The next Senate amendment in order was the following:

"SEC. 5. *And be it further enacted*, That such portion of the sum of $75,000 appropriated for the discharge of claims for preventing and suppressing Indian hostilities in Florida, by the act of 27th February, 1851, as shall remain unexpended on the 30th of June, 1853, is hereby reappropriated for that purpose."

Mr. WEIGHTMAN offered the following amendment to this amendment, viz:

And that the President be, and he is hereby, authorized to cause arms to be distributed among such portions of the inhabitants of New Mexico, Utah, and Oregon, as he may deem advisable, and under such regulations and precautions as may be considered necessary to insure the preservation of said arms, and the application thereof to the defense of the said Territories.

And that the President be, and he is hereby, authorized, whenever he may deem it necessary for the protection of said Territories, or either of them, to call out all or any portion of the militia thereof, or to accept the services of one or more volunteer companies which may be raised therein; and the volunteers and militia so called into service shall be entitled to the same ordinary monthly pay and allowances as were provided by law for volunteers while in the service of the United States, under the act entitled "An act providing for the prosecution of the existing war between the United States and the Republic of Mexico," approved May 13, 1846.

Mr. SUTHERLAND. I rise to a question of order. The amendment is not germane to the Senate amendment. It has no connection with it.

The CHAIRMAN. The Chair sustains the gentleman's question, and rules the amendment to be out of order.

Mr. WEIGHTMAN. I should like to make a single suggestion.

The CHAIRMAN. The question of order is not debatable.

Mr. WEIGHTMAN. This, as well as the other section, provides for the prevention of Indian hostilities, and I think that my amendment is in order.

The question was then taken, and the Senate amendment was concurred in.

The Clerk read the next amendment of the Senate as follows:

"Add as an additional section the following:

"SEC. 6. *And be it further enacted*, That the accounting officers of the Treasury be authorized, in settling the accounts of Captain Leslie Chase, Captain S. M. Plummer, Captain Schuyler Hamilton, and Lieutenant J. H. Whipple, to pass to their credit all expenditures by them made for objects authorized by law, out of appropriations not applicable thereto: *Provided*, That such expenditures be approved by the Secretary of War."

Mr. DUNHAM. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was taken, and the amendment was non-concurred in.

The Clerk read the next amendment of the Senate, adding, as an additional section to the bill, the following:

"SEC. 7. *And be it further enacted*, That additional rations shall hereafter be allowed to the commissioned officers of engineers when in command of separate and fixed or permanent posts: *Provided*, That the commandant of no post shall be entitled to receive such additional rations unless the same be designated by the Secretary of War as a double-ration post."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was taken, and the amendment was non-concurred in.

The Clerk read the next amendment of the Senate, adding, as an additional section, the following:

"SEC. 8. *And be it further enacted*, That the provisions of the seventh section of the act approved August 31, 1852, entitled 'An act making appropriations for the support of the Army for the year ending the 30th of June, 1853,' shall be construed to extend to all persons who were engaged as receivers of military contributions in Mexico or California, during the war with Mexico."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was taken, and the amendment was non-concurred in.

The Clerk read the next amendment of the Senate, adding, as an additional section, the following:

"SEC. 9. *And be it further enacted*, That the provisions of the first section of the act entitled 'An act making appropriations for the support of the Army for the year ending the 30th of June, 1851,' approved September 28, 1850, granting extra pay to the officers and enlisted men of the army serving in Oregon and California, be extended to the officers and men of the two companies of regiment of mounted riflemen that garrisoned the post of Fort Laramie, Oregon route, during the time they occupied said post; and the amount which may be found due them under this act shall be paid out of any moneys in the Treasury not otherwise appropriated."

Mr. PHELPS. The Committee on Ways and Means recommend a non-concurrence.

Mr. WEIGHTMAN. I move to amend by inserting, after the word "extended," the following:

To the commissioned officers and enlisted men of the army who served in the ninth military department, and at Fort Atkinson on the Arkansas river, Santa Fé route, and."

The two companies at Fort Laramie have this extra pay; and all that I ask by the amendment which I have proposed is, that the commissioned officers and enlisted men of the army who served in the ninth military department, which includes New Mexico, shall be placed on the same footing with them, in accordance with the recommendations of the military committees of both Houses of Congress.

Mr. HALL. The very cheapest place to live is on the plains, and I think that the section ought to be stricken out.

Mr. EVANS made some remarks in regard to the high rate of provisions on the plains, not distinctly heard by the reporter.

Mr. HALL. When emigrants get out there, they can obtain meat for a cent a pound.

Mr. EVANS. I do not dispute with the gentleman. I only tell him the authenticated statement was that the price of provisions was extraordinarily high, and that they had to give what they had to suffering emigrants.

Mr. BAYLY. Were not those the provisions of the Government?

Mr. PHELPS. I should like to know, also, of whom your officers were going to buy provisions at Fort Laramie?

The question was taken, and the amendment to the amendment was disagreed to.

The question was then taken on the amendment of the Senate, and it was non-concurred in.

The Clerk read the next amendment of the Senate, as follows:

"Add as an additional section to the bill the following:

"SEC. 10. *And be it further enacted*, That it shall be the duty of the Secretary of War, under such regulations as he may prescribe, to cause to be examined and testimony to be taken in all claims against the United States for carrying on the government in California, in the years 1846 and 1847, under Commodore R. F. Stockton, Brigadier General S. W. Kearny, and Lieutenant Colonel John C. Frémont; also, for spoliations, and for property furnished or taken for military purposes in California, within that period, and which have not been favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved 31st August, 1852, and to report thereupon to Congress at its next session; and that for the purpose of carrying this provision into effect the sum of $10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated."

Mr. HIBBARD. The Committee on Ways and Means recommend a non-concurrence in that amendment, and for sufficient reasons. I do not propose to debate the question, unless there be discussion against the report of the committee.

The question was taken, and the amendment was non-concurred in.

The next amendment of the Senate proposed to add as an additional section, the following:

"SEC. 11. *And be it further enacted*, That for the payment of claimants against the United States, for funds advanced, and subsistence and supplies of all kinds furnished or taken for the use of the command of Captain John C. Frémont, whilst he was engaged in the public service in California, during the year 1846, as favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved August 31, 1852, the sum of $31,017 22½ is hereby appropriated out of any money in the Treasury not otherwise appropriated; and that the troops enlisted or enrolled in California, under the direction of the military and naval officers, shall have all the benefits of all acts of Congress in favor of troops engaged in the war with Mexico.

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Mr. BELL. I offer the following amendment by way of an addition to the section:

Provided further, That all persons that have been engaged in the military or naval service of the United States, in any of the Indian wars since 1790, or in the war of 1812 with Great Britain, or in defense of the coast or frontiers under national, State, or territorial authority, shall, in like manner, have all and like benefits of all acts of Congress in favor of troops engaged in the war with Mexico, so far as applicable in the grants of bounty lands, and in case of death of the person performing service, the descent of the right thereof to such land.

Mr. HIBBARD. I submit the amendment is out of order, being irrelevant to the subject under consideration.

The CHAIRMAN. The Chair rules the amendment to be out of order.

Mr. BELL. I appeal from the decision of the Chair. I will not make a speech, but merely submit the grounds of the appeal. The amendment of the Senate before the committee, of course must be in order. It provides for a class of persons heretofore unprovided for by law, and my amendment simply makes provision for the extension of the benefits of the act to another class; and, if it is not in order, I do not know what is.

Mr. HIBBARD. Both amendments change the law, and the Senate amendment would not be in order were it offered to the bill in this committee.

The CHAIRMAN. The Chair understands that the amendment of the gentleman from Ohio changes the general law on bounty lands, and, therefore, rules it to be out of order. An appeal is taken from the decision of the Chair, and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

Mr. BELL. I withdraw the appeal.

Mr. HIBBARD. I hope that the committee will not concur in the amendment of the Senate. It will be remembered, Mr. Chairman, and I have only a word to say, that the other day a bill passed the House of Representatives allowing credit to John C. Frémont, in his accounts with the Government, for $19,500. It was all that the House at that time thought proper to do. A proposition was brought forward to give credit to the amount of certain drafts drawn on the Government, but the House refused to acknowledge their validity, and properly as a majority thought, and as I believed, but they supposed that something might be due, and allowed him, as I have stated, a credit for $19,500. That bill went to the Senate, and instead of acting on it, with that kind of disregard for our legislation which characterizes them——

Mr. DEAN. I call the gentleman to order.

Mr. HIBBARD. I have said all I desired to say. They propose to allow this in addition to what was adopted by the House.

Mr. PHELPS. By the bill we passed the other day the sum of $19,500 was directed to be paid to Colonel Frémont and charged to his account, that being the amount of four drafts which he drew on the Secretary of State, and which the Secretary refused to accept. At that time reference was made to a board of officers appointed under the provisions of the Army appropriation bill passed at the last session of Congress. That board of officers reported that there was the sum of $31,000, specified in this amendment, which they believed was just and ought to be paid. The sum specified in this bill stands upon the same footing as those other items, being for supplies furnished troops engaged in the military service of the country.

Mr. TOOMBS. I will ask the gentleman if this is anything more that a private claim?

Mr. PHELPS. So, then, is any claim.

Mr. TOOMBS. Such claims should not be introduced into a general appropriation bill.

Mr. PHELPS. So you might say of a section which was inserted in an appropriation bill providing for the payment to Virginia for the militia called into the service of the country;—that was but a private claim.

Mr. CLEVELAND. I am opposed to the amendment. I wish to make an appeal to the committee to do one thing. Unless we take the advice of the chairman of the Committee on Ways and Means, we shall never dispose of the business before the committee and the House. Is it not the safest course for us to pursue, to take the advice of the Committee on Ways and Means, approve what they approve, and reject what they reject, and let the Committee of Conference settle the matter between the two Houses?

Mr. PHELPS. I will withdraw the amendment.

The question was then taken, and the Senate's amendment was not agreed to.

The next amendment of the Senate was then read, as follows:

"SEC. 12. *And be it further enacted*, That the Secretary of War cause to be paid, out of any money in the Treasury not otherwise appropriated, to Richard B. Lee, late commissary of the Pacific division of the Army, the sum of $1,175, with interest from the 9th of June, 1850, being for money lost in being transported from Honolulu to San Francisco, under his charge, and for which he has accounted to the Department, and which sum includes the expenses incurred in efforts to recover the same."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

Mr. WEIGHTMAN. I propose to reduce the amount one dollar. I simply wish to state that I know something about this claim. I know that it was thoroughly investigated, and voted upon favorably by a committee of the Senate. This officer was charged with this amount. He came up here and settled it with the Treasury of the United States, and then came to Congress for relief, although it was clear that he was not justly accountable. He sent his money as freight, the only way he had for transporting the money, and it was lost. He took every means to recover it, but failing to do so, he settled up the account, paying up to the last cent, and he now comes to Congress for relief.

Mr. VENABLE. Has he not a private bill before Congress for this claim?

Mr. WEIGHTMAN. He has. The Senate has once passed it and put it in this bill.

Mr. HOUSTON. There is a private bill upon the calendar for this claim. As I understand it, he sent the money by a vessel. The captain of the vessel took it and gambled it off.

The question was taken upon Mr. WEIGHTMAN's amendment, and it was not agreed to.

The question was then taken on concurring in the Senate amendment, and it was decided in the negative.

So the Senate amendment was not agreed to.

The next amendment of the Senate was then read as follows:

"SEC. 13. *And be it further enacted*, That for the settlement of the remaining unpaid claims of the State of Georgia and Alabama for advances made in suppressing Indian hostilities, the Secretary of the Treasury pay to the State of Georgia her claims now remaining unpaid for moneys paid by the State in suppressing hostilities of the Cherokee, Creek, and Seminole Indians, in the year 1835, and since, upon proof that the same was paid by the State; and that the provisions of the act of Congress relative to the settlement of the claims of Georgia for military services, approved March 3, 1851, be extended to the payments to be made under this act. And that the Secretary of the Treasury pay to the State of Alabama, under the provisions of the acts of Congress of 16th August, 1842, and the 26th January, 1849, the balance due the said State growing out of the Creek Indian hostilities of 1836 and 1837: *Provided*, Proof is made that said State advanced in good faith the amount claimed."

Mr. ORR. What do the Committee on Ways and Means recommend?

Mr. HOUSTON. The committee recommend a non-concurrence in that amendment.

The question was taken, and the Senate amendment was not agreed to.

The next amendment of the Senate was then read as follows:

"SEC. 14. *And be it further enacted*, That whenever any lieutenant of the Corps of Engineers, Corps of Topographical Engineers, or Ordnance Corps, shall have served fourteen years continuous service as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of said corps shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

Mr. BRECKINRIDGE. I move to strike out the proviso. I regret very much that the Committee on Ways and Means thought it their duty to recommend a non-concurrence in that amendment of the Senate. I have taken the trouble to investigate the case with a good deal of care, as some other members of the House have also, and I am satisfied that the amendment of the Senate ought to be adopted by this House. I have not the time to state more than a very few facts. The average period of promotion to captaincies in the line of the Army is less than twelve years. The average period of promotion to captaincy in the three corps provided for by this amendment is nearly eighteen years.

I knew an officer of the Corps of Engineers who served in the Mexican war, mentioned honorably in the reports of all the commanding officers under whom he served, that was outranked in the Army by another officer whom he had taught at West Point, and who entered the Academy after he had graduated. That is the way the thing works, practically. They are required to graduate at or near the head of their respective classes, in order to receive commissions in these important corps. The effect of the present system is, that instead of giving the promotion from lieutenant to captain after a reasonable period of service, they are doomed still to remain lieutenants, while those who are assigned to the regiments of the line soon outrank them in the Army. There are also sixty-seven commissions in the general staff which are given exclusively to officers of the line of the Army and from which these corps are excluded. The effect of the adoption of the amendment of the Senate will be to allow officers of these three corps, after having served fourteen years consecutively as lieutenants, to be promoted to the rank of captain.

I will add one more fact: that many of the officers of these three corps, (as I am informed from a very high and authentic source,) ranking as first and even second lieutenants, are now, and have long been, assigned to duties usually performed by captains and majors. These are some of the reasons, in brief, why the amendment of the Senate should be adopted.

In these remarks I am far from intending any disparagement of the services rendered by the officers in other branches of the service; on the contrary, I look upon this measure as one of simple justice—justice such as I would gladly see rendered in all proper methods to those who are called upon to endure the privations and exposures of frontier life, in a service quite too thankless and ill-paid. Let all have justice and liberal treatment, and as a step towards this, let the present amendment be passed.

Mr. RIDDLE. I am opposed to the proposition offered by my friend from Kentucky, [Mr. BRECKINRIDGE,] because I am in favor of the amendment as it was passed unanimously by the Senate. I am in favor of it, because I am unwilling that the Congress of the United States shall maintain an institution for the education of our military men, which shall offer them inducements——

Mr. SKELTON. I rise to a question of order, that the gentleman from Kentucky [Mr. BRECKINRIDGE] has argued the same side of the question which the gentleman from Delaware [Mr. RIDDLE] is arguing.

Mr. RIDDLE. Not at all. I am opposing his motion. Under the laws of the institution which we have established for the education of our military men, the few who graduate at or near the head of their classes, are placed in the Topographical, Engineer, and Ordnance Corps. They study and labor day and night for these positions. What is the experience of these men now? The Army rolls show that after they have attained the highest honors of the Academy, they find that the inevitable fate that awaits them, is to remain lieutenants some eighteen or twenty years. I think the bill as it has passed the Senate a moderate and reason-

able one, and have no doubt but that it will be so considered by a large majority of this House.

This is the case stated in a few words, and the amendment of the Senate merely provides that they shall be placed upon the same footing as those who graduate below them. Now, I say that if the House are determined to vote down this amendment, they had better abolish the West Point Academy at once.

Mr. BRECKINRIDGE. I withdraw my amendment; the proviso is right.

Mr. RICHARDSON. I move to strike out the entire section.

The CHAIRMAN. That is not in order.

Mr. RICHARDSON. Then I move, *pro forma*, to strike out the last proviso.

Mr. Chairman, the amendment which is proposed by the Senate, while it may do justice to one portion of the Army does gross injustice to another. I have no doubt that some proposition might be brought forward that would do justice to all. It is true, as stated by the gentleman from Kentucky, [Mr. BRECKINRIDGE,] that those who graduate at the head of their classes are placed in the particular corps provided for by the amendment. But they receive more pay than those who enter the other arm of the service. There is another difference. Those who enter these corps have lighter duties to perform, for those other corps are sent upon our frontiers and do active duty. If, after awhile, they receive promotion in their line, it is wrong to take it away when they receive it for services thus rendered for less pay than the others, and place the others above them in rank. If a provision of this sort is adopted, it ought to be one that would confer rank alike upon all. You ought not to legislate exclusively for those who are in the corps provided for in the amendment. You will find that these particular corps are the ones sought after by all the graduates at the Academy. The others do active duty and receive less pay. This amendment provides for two or three corps, and leaves the others unprovided. That is wrong and unjust, and I am therefore opposed to the section as it now stands.

Mr. WILCOX. Mr. Chairman, having harmonized with my friend from Illinois upon so many questions during the present Congress, it is a matter of regret with me to differ from him in his views upon this subject. I am, sir, in favor of concurring in the Senate's amendment. I will give briefly my reasons. It will be seen by reference to the official Army Register for 1852, that the senior lieutenant of the Corps of Engineers has been already fifteen years and ten months a lieutenant; the senior lieutenant of Topographical Engineers, nineteen years and ten months; the senior lieutenant of the Ordnance, sixteen years and ten months. Now, sir, you will discover that seventeen years and six months is the average time these officers have served as lieutenants, to which must be added the average time they will stand at this point before a vacancy occurs advancing them to the rank of a captain. From an examination of the Army Register, this period has been found to be about two years. So you will see, sir, at the time of their promotion they will have served nineteen and a half years. They were from twenty-one to twenty-four years old when they entered the service, and will therefore be forty-two years of age before they reach the rank of captain. Now, I would appeal to the chivalry of the gentleman from Illinois, and ask him if it can be possible, after this showing, he can oppose the amendment?

Of the young men who graduate at West Point, only those are selected for these corps who graduate at or near the head of their classes. The duties of these corps are of a scientific character, and in the hour of danger there is no branch of the service in greater demand than these. Your generals and commanders-in-chief stand still until the whereabouts of the enemy is ascertained by these corps. Yes, sir, these are they who, with glass in hand, sally forth and take reconnoissances of the enemy, ascertaining the strength of their positions, fortifications, and numbers; and from their reports your generals are informed when, where, and how to strike. Again, sir, your lakes, harbors, and rivers are surveyed by these corps, and some of the richest contributions have been made to the scientific department of the Government in their topographical researches.

But the gentleman from Illinois says that this amendment will do injustice to other corps of the Army. Not at all, sir. It will be seen by reference to the report of the Military Committee of the Senate, that the promotion enjoyed by the officers of the line has been more rapid than that of these corps. The law giving to the line exclusive promotion into the general staff of the Army being of recent date, the graduates of the Military Academy have no reason to anticipate the comparative want of promotion on their entering the three staff corps, for which they were recommended by their class rank. The promotion enjoyed by the medical staff of the Army depends on their length of service—they being promoted by law to the rank and pay of captains after five years' service. On the same principle, the Senate's amendment gives promotion to the rank of captain after a service of fourteen years. Why not five years also? The nature of the duties performed by the officers of the corps named in the amendment does not depend upon the rank of those officers, as it does in the line. Although there are three cases in which officers of the line have served fourteen years, and continued to serve as lieutenants, those are but exceptions to the rule. In examining the Army Register it will be seen that of those three exceptions, one has enjoyed for several years the rank and pay of a captain in the general staff.

Moreover, while these three exceptions exist, it should be remembered that even they have had and continue to have chances for promotion to the general staff, (in addition to their regular promotion in the line,) but have been excluded from those advantages by the promotion thereto of other officers of the line, much their juniors in the service, for reasons best known to the appointing power. So that there exists some instances of officers of the line having been promoted to the full rank of captain in the staff after six years' service, and to the full rank of major after seven years' service.

Such cases of a rapid promotion cannot occur in the Corps of Engineers, Topographical Engineers, and Ordnance, even after the passage of the Senate's amendment, as the officers of those corps are by law excluded from enjoying such promotion to the general staff. Letters written by several first lieutenants of the line state that they have no objection to the adoption of this amendment, and that they know of none which could be entertained by the line, as their interests would not in any way be injured thereby. But, sir, I understand that an effort will be made to amend the Senate's amendment by extending it to the line. I hope this will not be done, as any attempt of that sort may defeat it. In its present form it has been fully and carefully considered in all its bearings by the Military Committees of the House and Senate, and by them approved and urged in its limited application to the three corps named.

Whilst it would gratify the gentlemen of these corps to have the amendment so extended as to include the officers of the line, if any of them could derive any advantage from it, or to bestow any other reasonable privileges on them not now enjoyed by them, or by the officers of the three staff corps, they would regret to have it now attempted, as the Military Committees of the House and Senate have both made objections to any such amendment, and thus the bill may be defeated to the injury of these corps. Among the objections raised by the committees is the difficulty that would arise in the line should there happen to be more captains in a regiment than there are companies to be commanded—an objection that cannot apply to any of the three corps named in the Senate amendments. But, sir, I have heard it intimated that none of these officers were wounded in the service. This, sir, is calculated to injure the reputation of these corps and defeat the amendment. I have also heard it said that if any were wounded, a fewer number were than any other corps. This, sir, is as equally untrue as the first intimation, and argues a great want of information as to the history of the war with Mexico. What, sir, is the fact of the case? Here it is:

Captain Swift, died from exposure at the siege of Vera Cruz.
Colonel Mansfield, severely wounded at the storming of Monterey.
Colonel Lee, wounded at the attack on Chapultepec.
Colonel Mason, severely wounded at Molino del Rey.
Captain Benham, wounded at Buena Vista.
Major Beaurgard, wounded at the Belin gate, city of Mexico.
Major Tower, wounded in the battle of Chapultepec.
Captain Foster, severely wounded at Molino del Rey.
Major Stevens, wounded near San Cosma, city of Mexico.

Topographical Engineers.

Captain Williams, killed in the advance upon Monterey.
Lieutenant Blake, killed with his own pistol the day after the battle of Palo Alto.
Lieutenant Colonel Johnson, severely wounded twice at Cerro Gordo, and again at the attack on the city of Mexico.
Lieutenant Bryan, wounded at Buena Vista.
Lieutenant Derby, severely wounded at Cerro Gordo.

Ordnance.

Major George Talcott, wounded at Molino del Rey.
Captain Callender, severely wounded at the battle of Contreras.
Captain Reno, wounded at the battle of Chapultepec.

Now, sir, it is shown that about one half of the officers of these corps that were in the field were wounded, and nearly one fifth of the whole corps; but I will not detain the committee, believing, as I do, that they will, with great unanimity, sustain the amendment.

Mr. RICHARDSON. I withdraw my amendment.

Mr. STANLY. I propose a substitute for the amendment of the Senate by way of amendment. It has been carefully prepared after two weeks' examination of the subject, and has received the sanction of a good many gentlemen who are earnest advocates of the Senate amendment.

Mr. MEADE. I desire to move to amend the Senate amendment before any substitute is offered.

Mr. RICHARDSON. Read the substitute.

The CHAIRMAN. The gentleman from Virginia [Mr. MEADE] proposes to amend the Senate amendment before the question is taken upon the substitute. He has a right to do so.

Mr. STANLY. I only ask to have my substitute read.

The Clerk then read the substitute proposed by Mr. STANLY, which is as follows:

Be it further enacted, That whenever any lieutenant in the Corps of Engineers, Topographical Engineers, or Ordnance, of the regiments of dragoons, mounted riflemen, artillery, or infantry, shall have served fourteen years continuous service as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of said corps or regiments shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps or regiment, and that the regimental officers thus advanced may, according to the exigencies of the service, be required to perform duty according to the rank given them in their former commissions as lieutenants until they shall succeed by promotion to companies agreeably to the organization prescribed by law.

Mr. MEADE. I move to amend the Senate amendment by striking out "fourteen," and inserting in lieu thereof "thirteen."

I do not wish, Mr. Chairman, to repeat to the House the facts which have been stated by the gentlemen who have preceded me in this debate. But they are facts that cannot be denied. That these men are selected for their studious habits, their information and ability, and the grade in which they stand in our military school, nobody can question. Moreover, it is a known fact that many of those who have graduated at or near the foot of their classes, frequently approach those who graduated with the first honors, and boasted that in a few years they would rank them in the Army. Now, there must be gross injustice to produce such results. A premium is in fact offered to the boys to be indolent and idle away their time, and graduate at the foot of their class, while those who are disposed to be studious and persevere with energy are discouraged by a foreknowledge of the injustice that awaits them.

Mr. Chairman, I shall oppose the substitute offered by the gentleman from North Carolina, [Mr. STANLY,] and shall endeavor to show that the object of it is to deprive the officers of these corps of the benefit intended to be conferred upon them by this amendment of the Senate. I shall, however, reserve what I have to say upon it for another occasion.

Mr. STANLY. They do not think so.

Mr. MEADE. Yes, they do think so. The gentleman is mistaken.

Mr. STANLY. No, I am not.

Mr. MEADE. I think I can convince the gentleman, when the proper time arrives, that he is mistaken.

But, sir, it has been stated in the course of this debate, that these officers prefer the corps to which they belong. That is true, and it is so because the duties are of a scientific character, and

give them an opportunity of prosecuting their studies. Would you punish that feeling by denying them promotion? But because the duties are scientific, do gentlemen suppose that the services which these corps rendered on the frontier of Texas and New Mexico, in running the boundary line, were not arduous duties and sometimes involving life and death? These officers are always selected when lines and national boundaries are to be ascertained and fixed. It was because these corps can best perform the highest duties known to our service. And are we to permit them to remain always oppressed with a sense of the injustice and partiality of their country? What can be more discouraging to an honorable and sensitive mind than this? There are captains now in the Army whose commissions as lieutenants were several years subsequent to the date of the commissions of lieutenants now in these corps. There are second lieutenants in these corps, whose commissions are older than the commissions, as second lieutenants, of men who are now captains in the Army. I ask this committee, then, if some remedy is not required for the injustice done to these officers, who are an honor to the service and are conspicuous for their ability and attainments?

Mr. RICHARDSON. The gentleman has instituted a comparison growing out of the war through which we have just passed. Now, it is a fact, with which the gentleman ought to be familiar, that promotion took place more rapidly during the war with Mexico in the corps not provided for in this amendment than in those corps. There lies the whole difficulty under which the gentleman is laboring, and there is none other but that.

Mr. MEADE. I would ask the gentleman if there are not sixty-nine commissions in the general staff, to which lieutenants of the line are admitted, and from which lieutenants of these corps are excluded?

Mr. RICHARDSON. The remedy which the gentleman proposes to apply is not the correct one. If the lieutenants of these corps are cut off from promotion to these captaincies, why does he not bring forward a proposition to remedy that injustice? This is certainly not the proper remedy.

The gentleman supposes that those who graduate with the first honors of the institution are forced to take position in these corps. That is not correct. None of them get positions, unless there are vacancies. But those who graduate with the highest honors get the first vacancies, while those who graduate lower down have to wait until other vacancies occur.

Mr. MEADE. The gentleman is mistaken in regard to a point of fact. These men are selected in consequence of their attainments to fill the places in these corps. And moreover, the gentleman must bear in mind that from the time the student enters that school he is bound to serve his country eight years, and no doubt when he is selected for any position, it would be dishonorable for him to decline to accept the service assigned to him.

Mr. RICHARDSON. I could satisfy the gentleman by turning to the records in these cases, that some who graduate with the highest honors do not go in these corps; and why? Because there are vacancies in other corps to which they succeed. There is the difficulty under which the gentleman seems to be laboring. He seems to think it is encouraging these boys to idle away their time. Not at all. They enter the different branches of the Army, and you should allow them an equal chance of promotion with others, and not exclude them from all hope of promotion. I desire not only to do justice to these boys, but do justice to all. I think you should encourage others to enter the Army and allow them some hope of promotion.

Mr. MEADE. I will withdraw my amendment, if there be no objection.

There was no objection, and the amendment was withdrawn.

Mr. STANLY. I now offer my amendment; I move the following, viz:

And be it further enacted, That whenever any lieutenant of the Corps of Engineers, Topographical Engineers, or Ordnance, or of the regiments of dragoons, mounted riflemen, artillery, or infantry, shall have served fourteen years continuous service as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of the said corps or regiments shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps or regiment; and that the regimental officers thus advanced may, according to the exigencies of the service, be required to perform duty according to the rank given them in their former commissions as lieutenants, until they shall succeed by promotion to companies, agreeably to the organization prescribed by law.

Mr. Chairman, I was in favor of this provision as it came from the Senate. It passed the Senate unanimously during the last session, and has again passed unanimously this.

Mr. HALL. Does the gentleman offer this as a substitute for the Senate amendment?

Mr. STANLY. I do.

Mr. HALL. I desire to offer an amendment to the original amendment.

Mr. STANLY. The gentleman can offer his amendment after I have made my remarks.

I object to the amendment made in the Senate to this Army bill, for it is partial and unjust. I was in favor of it until I examined it and heard arguments in its favor from some of those who were interested, and from their arguments I became convinced it was unjust.

The amendment I have offered has been prepared after great labor and careful investigation, and is admitted to be just by those of the Engineer Corps with whom I have conversed, and members of the Senate and House. The complaint on the part of the officers of the Engineer, Topographical, and Ordnance Corps, who are to be benefited by this amendment of the Senate, is, that officers in the infantry, &c., are promoted faster than they. This has been owing, in a great degree, if not altogether, to the disasters in the Mexican war.

I do not impeach the gallantry of those now asking this special favor. No doubt they would fight, and have fought when duty required it, as well as any others, but it was the fortune of the officers of the line to be more exposed; more of them were killed, and of course promotion came faster.

I had prepared an amendment some days ago, which was objected to because it would make more captains than there were companies. The amendment I now submit obviates that difficulty. It will do justice to all; not only to those who are in the discharge of pleasant duties, but to those on your frontiers, among the Camanche and other Indian tribes, or in the pestilential swamps of the extreme southwestern country. I object not to the promotion of those now benefited by the action of the Senate. I can appreciate a soldier's desire to be promoted. But as a member of Congress, I feel anxious to have no favorites—no one or two preferred to others—no yielding to improper or indelicate personal solicitation. I do not think a soldier who gets promotion by lobbying, by asking members of Congress to take care of those in and about Washington city, and leave others to take care of themselves, is getting promotion as becomes a soldier.

Before the Mexican war, as I learn, there were persons in the infantry and artillery who had been lieutenants nearly twenty years. They never came forward, and indelicately thrust themselves on us in this Hall, and begged the passage of a bill for their benefit. No; to their honor be it spoken, I know of no instance in which any officer of the infantry, artillery, or dragoons has asked promotion in this way, or who has taken any steps to interfere even with this unjust measure. But it is our duty to do equal justice to all. I object to any special privileges. I object to giving exclusive favors to those who gain it by following the advice of Sir Pertinax Mac Sycophant—very few, indeed—but yet there are such cases. I only honor those who, by diligence and strict attention to their studies, graduate with high distinction; and perhaps I was wrong in making the remark I did some days ago, in which I intimated they were not always the most meritorious. It was made to check the presumptuous spirit of those who were disposed, I thought, to boast of it. Those who avoid black marks at West Point deserve to graduate with honor. They ought to be taught, however, to seek promotion by fair means, and not by lobbying, and improper personal appeals, and unfair representations.

I have said that it was the luck of those who were in the infantry and artillery to get promotion, because so many of their officers were killed. I have a statement before me which proves my remark was correct. I will read the statement, as follows:

Statement of casualties in the present regular establishment, during the years 1846 *and* 1847.

1846—Officers of the line killed in battle, and died of wounds	25
" Topographical Engineers, &c., &c., &c	1
1847—Officers of the line killed in battle, and died of wounds	40
" General staff	1
" Surgeon	1
	68
1846 and 1847—Wounded in officers of the line	114
" " Officers of general staff and staff corps	14

Now, sir, I think this proves I am correct. If men are promoted for civil services alone, it would be fair to promote those who have fought gallantly by the side of comrades killed in battle.

[Here the hammer fell.]

Mr. BROWN, of Mississippi. I am opposed to the amendment of the gentleman from North Carolina, [Mr. STANLY,] for several reasons, all of which I cannot have the time nor opportunity to state at large in a five-minutes' speech. I think it is true, as has been stated, that those corps are composed of those who have graduated at your military schools with the highest honors. I desire to state this in confirmation of what the gentleman from Virginia [Mr. MEADE] has said. It is true that those who graduate with the first honors have been placed in these corps, and it is for that very reason that this policy which the Government has heretofore pursued, places a premium upon slothfulness and idleness, and I was almost going to say, upon a want of intellect. I chanced, some years ago, to be upon a board of examination at the West Point Academy. There was a boy there who, from his intelligence, it was apparent, could have graduated with the first honors, certainly with the second, if he had chosen, but who graduated lower down. As his friend, I asked him why he did not do it. He said he did not desire it, because it would place him in a corps where there was no chance for promotion; when he entered the Army he wanted to rise above the rank of lieutenant in some reasonable time, but there was not a possibility of promotion in these corps.

The gentleman talks about not getting black marks, and about these men being chosen for their peculiar fitness for their vocation, as the reason why those who graduate with the highest honors are placed in these Engineer Corps. Sir, these students at West Point do not graduate upon that principle. Not at all. Those who graduate with the highest honors, do it because they excel in the different branches of learning, and not because of their peculiar fitness for the stations for which they are selected. That is what puts them in the first class. But in your official report in relation to these Engineer Corps, you find—what? You find that the senior lieutenant of the Corps of Engineers has been already fifteen years and ten months a lieutenant; the senior lieutenant of the Topographical Engineers, nineteen years and ten months a lieutenant; and the senior lieutenant of the Ordnance, sixteen years and ten months a lieutenant. Thus seventeen years and six months is the average time they have already served as lieutenants. Now, why is this? If they belong to the same corps, and perform the same sort of gallant service, why not give them an equal chance of preferment? The gentleman from Indiana tells us that the same kind of service does not attach to these different corps; that the three corps I have named do not perform as gallant service as those in other branches of the Army. Now, I undertake to say that any one who knows anything about this matter, knows that the officers of these corps perform as gallant and distinguished service as is performed by the officers attached to the artillery, infantry, or dragoons, and they should certainly have an equal chance of promotion.

"The position of the second lieutenants of these corps can be shown to be even more discouraging than appears by the foregoing statement.

"The senior first lieutenants of artillery now average twelve years seven months as lieutenants.

"The senior first lieutenants of infantry now average ten years eleven months as lieutenants.

"The senior first lieutenants of dragoons now average ten years ten months as lieutenants."—*See Army Register of* 1853.

[Here the hammer fell.]

Mr. MEADE. I wish to amend the original section. I move to strike out the proviso to that section.

The CHAIRMAN. That amendment has already been moved by the gentleman from Kentucky.

Mr. MEADE. But withdrawn.

The CHAIRMAN. Then the gentleman is in order.

Mr. MEADE. Mr. Chairman, I desire to draw the attention of the Committee to one fact connected with the Senate amendment. The passage of that amendment does not, by any means, involve a change in the organization of the Army. It is not necessary, because you promote a lieutenant to the rank of captain, that you should increase the Army by giving a company to each captain. These captains have no companies to command. They are made captains on account of the services they have performed, and on account of their capacity and scientific attainments.

The captains provided for by this bill are all lieutenants above fourteen years' standing, who are then made captains, but without companies, for they are unnecessary in these corps. I admit there is an increase of captains, but no increase of the number of officers, for it is provided in this section, that these promotions shall not affect the number of officers commissioned in either of said corps; and though you should make all of them captains, you cannot increase the number of officers. I will admit the fact that the substitution amounts to no increase. There is a provision that there shall be no promotion at all, unless there is a resignation, death, or removal. And if you limit the number of captains, what matters it whether he serves fourteen or twenty years? He cannot be a captain, as the places are already filled.

[Here the hammer fell.]

Mr. VENABLE. I am opposed to the amendment, and to all amendments which may be offered to the amendment of the Senate.

I understand this whole question to be simply this: There is a class of officers belonging to the Engineer and Ordnance Corps who are not connected with the promotion in the line. They are young men, who have graduated with high distinction in the classes to which they belonged. They are engaged in a service which is as important as the line of the Army. They prepare for and render successful the operations of the advanced corps, and they are as essential to the success of the Army as any other part of it.

All they ask is simple justice; that, while they are devoted for a series of years to the service of the country, and the faithful discharge of their duties, they should not be cut off from promotion, while another branch of the service, doing duty which is not at all more important to the country and to the honor of the Army, are entitled to the benefits of promotion. These gentlemen are not placed in circumstances to receive promotion, but they perform just as important functions in the Army, just as valuable services to the country, in the positions they occupy, as they could under any circumstances, yet they are denied the privilege of promotion.

Let gentlemen look back to the Army as it formerly was. In 1812 we sent to France for an engineer corps; and we now have our own engineer corps in the Army of the United States equal to any in the world. I am so informed by General Jesup.

A MEMBER. How does he know?

Mr. VENABLE. I think he knows as well as you or I; quite as well. I have also spoken with other men of great experience, and they all unite in saying that no better engineer corps can be found in the world than the engineer corps of the United States Army. I am not for proscribing those men from promotion. I am willing that they should have the rank of captain, having served fourteen years as lieutenant. Without the engineer service, the Army itself would be powerless; and these services are as valuable and of a higher nature than any other connected with the Army. Some of the most gallant men in the Mexican war were in the Engineer Corps. I know one of them who distinguished himself at the battle of Buena Vista.

[Here the hammer fell.]

The CHAIRMAN. The question is upon the amendment offered by the gentleman from Virginia.

Mr. MEADE. If there is no objection I withdraw the amendment.

No objection was made, and the amendment was withdrawn.

Mr. TOOMBS. I move to amend by striking out the next to the last proviso.

Most of the gentlemen who have addressed the committee are in favor of some sort of promotion, to one, two, three, or all the different corps.

The gentleman who first spoke, upon my left, [Mr. BRECKINRIDGE,] was in favor of the Senate amendment, opening the way to promotion to the different corps; the Corps of Engineers, the Corps of Topographical Engineers, and the Ordnance Corps. The gentlemen upon my right, all of them, and the gentleman from North Carolina, [Mr. VENABLE,] argue that we are shutting out this fancy corps from promotion altogether. But there is nothing in that. It is a clamor about nothing; a clamor about place. According to the rules of the American Army, promotion goes by seniority. These officers of the Engineer Corps are promoted precisely as they have been ever since the establishment of the Army. You could not well adopt any other rule in the line of the Army, because your Army, whether composed of fifteen, twelve, or eight regiments, must have so many colonels, so many captains, so many lieutenants, &c. Now, if you make lieutenants captains, and substitute no new lieutenants, you disorganize the entire Army. The gentlemen's rule will not answer.

I have always thought that the Topographical Corps ought to be abolished. There is no use for them—no use to have them scattered over the country, under pretense of making surveys, spending public money. They are of but little use in war, and a nuisance in peace. And to adopt the amendment of the gentleman from North Carolina [Mr. STANLY] will be to overturn the established rule of promotion in the different corps in the American Army. You may and perhaps ought to adopt it in the Engineer Corps proper, but it would be fatal to the Army to adopt it generally.

There ought to be no such thing as *brevet* in the Army. It has ever been an apple of discord from the day the system was started. The upshot of the whole matter is, that all the officers of your Army want promotion faster than the public service requires it. Many of these gentlemen are very valuable; but if they do not like the employment, let them quit it, and go into civil life, where their talents are useful and will be rewarded, and leave the promotion to those who remain. But you cannot drive them out of the service.

[Here the hammer fell.]

Mr. GORMAN. I should like to make a remark upon this subject, but really we must stop debate upon this and other subjects, or I believe we will never get through this bill. I am certainly as anxious as any one else to pass this amendment of the Senate. I desire to state, before I sit down, what pay the lieutenants of these corps receive. The lieutenants, men of science, men engaged upon your Atlantic coast, your northern lakes, and upon your Pacific borders, in building your fortifications, in constructing your works of internal improvements, in cleaning out your harbors, and upon public works generally, many of them men of the first science in the employ of Government, what do you think they get? These men, who have graduated at an institution which has given them the first honors, receive less than $1,000 per annum.

The honorable gentleman from North Carolina [Mr. STANLY] has stated that the reason why the lieutenants of artillery, infantry, and dragoons have received more rapid promotion than the lieutenants of these three corps, is because a larger proportion of them were killed in battle during the Mexican war. Admitting it to be true that a larger proportional number of these gallant fellows were killed outright when leading their men to victory, it should be remembered that the killed are not the only casualties of war; when we enumerate the wounded also, it will be found that the officers of these corps suffered as severely as the officers of our gallant regiments of the line. Their duties always require them to be in the advance in time of battle, and none are more ready to be there. The chief reason, sir, for the marked difference in the rate of promotion is, that the vacancies in the Adjutant General's, Inspector General's, Quartermaster's, and Commissary's Departments, are given *exclusively* to the line.

This, sir, is not a proposition to promote officers of the line *less* rapidly, but to promote lieutenants of the three scientific corps *more* rapidly. To benefit these is not to injure or call in question those, which I would by no means think of doing, for I appreciate their services, and would do all justice to them. But here is a specific proposition which harms no one, and renders a bare and tardy justice to those on whom it operates.

I have spoken of the pay of these officers. I would add, that the pay of an officer, though necessary and convenient, is not, after all, the main stimulus to professional exertion. Promotion is the soldier's life-bread. On what ground, I would ask, for what reason, should the lieutenants of these three corps be deprived of this? I trust there is not a man upon this floor who would refuse them this reasonable promotion.

[Here the hammer fell.]

Mr. WASHBURN. I move that the committee now rise, for the purpose of submitting a motion to close debate upon this section of the bill.

The question was taken, and there were, upon a division—ayes 77, noes not counted.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 336, making appropriations for the support of the Army for the year ending the 30th of June, 1854, and had come to no resolution thereon.

Mr. WASHBURN. I move the adoption of the following resolution:

Resolved, That all debate under the five-minutes rule in the Committee of the Whole on the state of the Union be suspended on the Senate amendment to the bill making appropriations for the support of the Army, contained in the fourteenth section thereof.

The question was taken, and the resolution was adopted.

Mr. WASHBURN. I move to reconsider the vote just taken, and to lay the motion to reconsider upon the table.

The latter motion was agreed to.

Mr. HAMILTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS of Tennessee in the chair.)

The CHAIRMAN. The question is on the amendment of the gentleman from Georgia, [Mr. TOOMBS.]

The question was taken, and the amendment was disagreed to.

The question then recurred on Mr. STANLY's substitute; and being put, it was disagreed to.

Mr. ORR. I call for tellers on the amendment of the Senate.

Tellers were ordered; and Messrs. FAULKNER and RICHARDSON were appointed.

The question was taken, and the amendment of the Senate was concurred in, the tellers having reported—ayes 98, noes not counted.

The Clerk read the next amendment of the Senate, adding, as an additional section, the following:

"SEC. 15. *And be it further enacted*, That the Secretary of War be, and he is hereby, authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and surveys as he may deem advisable to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $150,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to defray the expenses of such explorations and surveys."

Mr. HIBBARD. The Committee on Ways and Means recommend a non-concurrence in that amendment.

Mr. PRICE. I move to strike out the whole section and substitute the following in lieu thereof:

That the President be, and he is hereby, authorized and requested to cause, as soon as practicable after the passage of this act, examinations to be made for the most direct, practicable, and economical route from a convenient point on the western boundary of the State of Missouri, Arkansas, Iowa, or Texas, or in the Territory of Minnesota, on the Mississippi river, to such a point on the eastern line of the State of California, as shall lead, by the most eligible route, to San

Francisco, in that State, and to employ for that purpose officers of the Army, and citizen civil engineers, the latter, when appointed, to be confirmed by the Senate, and to be paid for their services at the rate of $5,000 per annum when so employed, the assistants to the engineers to be appointed by them in such number and with such compensation as the President may determine.

SEC. 2. *And be it further enacted*, That as soon as the said examinations shall have been completed, or so much of the line of said road or roads located as shall justify the beginning of the work, the grading and construction of said roads shall be commenced, to consist of a railroad and a common road, in parallel lines, under the direction of engineers appointed and paid as provided for in the foregoing section.

SEC. 3. *And be it further enacted*, That the railway shall throughout have a double track; the rails to be solely of American iron, and of such weight, and the track to be of such width, and such space shall be left for the increase of the number of tracks and for the enlargement of the common road, as the engineers may deem expedient, under the sanction of the President; the common road to be constructed in the most desirable form that the materials on the line of the road will permit, the President having full authority to direct the purchase of all the necessary cars, locomotives, and appurtenances for the building of said road, and for the accommodation of passengers and for the carrying of freight, and to do all things required to put the road in operation.

SEC. 4. *And be it further enacted*, That the President be authorized and requested to cause the Indian title to be extinguished of not less than twenty miles from the exterior line of the road on each side through its whole length, and that military stations be established on the line of the road at such places as the President may direct.

SEC. 5. *And be it further enacted*, That the soldiers stationed at posts along the line of the road may be employed in its construction. Such as are employed shall, at the expiration of their term of service, be entitled to a bounty of one hundred and sixty acres of land, to be located at a distance not exceeding twenty miles from the line of the road on either side; and the laborers working on the road for the space of two years, shall be entitled to the same bounty, located within the same limits.

SEC. 6. *And be it further enacted*, That the Secretary of War, under the direction of the President, shall contract for the construction of the road; but in no case shall a contract for a section of more than one hundred miles be granted to the same party or parties; the President having due regard, in contracting, to the limitation of the time for the completion of each section under the contract, to its distance from the extremities of the road, so as to insure the speediest completion of the whole.

SEC. 7. *And be it further enacted*, That for the purpose of providing the means necessary for the construction of said road, the Secretary of the Treasury be, and he is hereby, authorized to cause, under the direction of the President, to be prepared from time to time, certificates of stock for sums, each of not less than $1,000, not exceeding in issue $10,000,000 per annum, beginning with the first of the next fiscal year, bearing an interest not exceeding five per cent. per annum, payable half yearly—said stock to be redeemable at any period after twenty years from the date of said certificates: *Provided*, That if there should be surplus money in the Treasury in any year otherwise unappropriated sufficient to defray the expenses attending the construction of the road for that year, it may be applied for that purpose, and no certificates of stock shall be issued for that year.

SEC. 8. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to issue proposals for the sale of said certificates, and cause them to be sold: *Provided*, That no stock shall be sold below par: *And provided further*, That the money arising from their sale shall be kept as a distinct fund in the Treasury, and applicable only for the construction of the roads authorized by this act.

SEC. 9. *And be it further enacted*, That the proceeds arising from the sale of the public lands in the Territories through which the road shall pass, as well as the revenue accruing from the road, after the current expenses for the same are paid, shall be set aside to pay the interest and redeem the principal of the bonds, the issue of which are authorized by the preceding sections.

SEC. 10. *And be it further enacted*, That the President shall designate the auditor and comptroller who shall audit and settle the accounts of the receipts and expenditures connected with the construction of the road.

SEC. 11. *And be it further enacted*, That a quantity of land equal to alternate sections through the distance from the point where the roads hereby authorized to be constructed shall strike the eastern boundary of California, for a breadth of twenty miles on each side of the road, shall be set aside and appropriated toward paying the expenses of the construction of a railroad to San Francisco, within that State; the right being reserved to pay the State of California the price of one dollar and a quarter per acre for the whole, or any part of the land, for the purpose of constructing said road through the State, which may be retained by the Government. And a like quantity of land is hereby granted to the State upon whose boundary the eastern termini of the road hereby authorized to be constructed, shall be located, (if the State has not grants already made for the purpose,) for constructing a railroad from said termini to the Mississippi river, the road to be constructed in every particular the same as prescribed in the third section of this act. The grants of land are made to the States herein named, on the following conditions, viz: That the State or States shall complete their roads in three years from the time they accept the grant with all the conditions hereby made, and that the United States mails shall be carried on said road free of charge, and all troops, seamen, munitions of war, military and naval stores, treasure, funds, and property, belonging to the United States, and all persons on official business, or in the employment of the Government, shall at all times be carried on said road free of charge; and Congress hereby reserves the power to regulate the charges for freight and passengers thereon, and in the absence of any law, the President shall exercise the power. And the President is hereby authorized to issue patents for the land hereby granted to the States for the construction of the road, in quantities *pro rata* for the amount of road that may be finished, (of not less than twenty miles,) and the whole amount of land as such State will be entitled to on the completion of the entire line of the road.

SEC. 12. *And be it further enacted*, That so soon as any Territory through which the above-described railroad and common road shall pass, shall, by the authority of Congress, be erected into a State, then shall the entire right of the United States to said railroad, common road, and all appurtenances, pass to such State, with the proviso that the United States will retain the same power, control, and rights, as reserved in the eleventh section to the Government, over the road that may pass through the States, for which lands may be granted.

Mr. TOOMBS. I rise to a question of order. It is true that in the section which comes from the Senate, provision is made for a survey, but the amendment which provides for the construction of a railroad to the Pacific ocean is not in order to this or any other section of the bill.

The CHAIRMAN. The Chair decides the amendment to be out of order.

Mr. PRICE. I appeal from the decision of the Chair.

The question was put, "Shall the decision of the Chair stand as the judgment of the committee?" and it was agreed to.

So the decision of the Chair was sustained.

The question then recurred on the amendment of the Senate.

Mr. BAYLY, of Virginia. I demand tellers.

Tellers were ordered; and Messrs. LOCKHART and AVERETT were appointed.

The question was then taken, and the amendment of the Senate was concurred in; the tellers having reported—ayes 80, noes 50.

The Clerk then read the next amendment of the Senate, adding as an additional section the following:

"SEC. 16. *And be it further enacted*, That the engineers and other persons employed in said explorations and surveys, shall be organized in as many distinct corps as there are routes to be surveyed, and their several reports shall be laid before Congress on or before the first Monday in February, 1854."

Mr. DEAN. I move the following proviso to that section:

Provided, That nothing herein contained shall authorize said survey to be made within the limits of any State of this Union.

The object of the survey proposed to be authorized by the amendment of the Senate, is to ascertain if there is a practicable route on which to construct a railroad to the Pacific ocean. The people of every State in the Union understand the geography of their own State. The territory lying between the State of California and the Mississippi river has never been thoroughly explored, and the only ground on which Congress can justify this appropriation is, that Congress has the power to provide for the defense of the Territories, and we can make this survey for territorial purposes, and then capitalists will know whether they can construct a railroad to the Pacific, and if so, on which route. I have no objection to that, and while I have no doubt of the power of Congress to make any disposition of its territories that it may deem best, I say that it is not proper nor safe for it to affirm anything that can be construed into an assertion of power on the part of Congress to survey a State of this Union. If Congress can, without the consent of the State, make a survey, it can construct a road; and if it can construct a road, it can take the territory of a State for whatever other purpose it may choose. We have no power to do it under the Constitution, and therefore I call on this committee, at this time, to guard this provision, so that no such inference can be drawn from it; and that it may be properly understood by the country, I have proposed this amendment. There is another reason which ought to be controlling: This survey will be wholly unnecessary, so far as the States are concerned. We have no power to build a railroad in them. With such a proviso, I shall offer no opposition to the amendment of the Senate, for the proviso removes all constitutional objection. Without this proviso I can never vote for the survey, because it must necessarily be made within the States.

Mr. MEADE. We do not, Mr. Chairman, by voting for this appropriation, authorize the construction of a railroad, nor do we compel the Secretary of War to make these surveys. He is only authorized to make them. There is nothing here that conflicts with State jurisdiction. I would ask the gentleman from New York whether similar surveys are not now going on yearly by the Engineer Corps within the limits of the States? Are they done in accordance with or against law? And if against law, or against the Constitution, why does he not bring forward some proposition to prevent them? But if these works be legally and constitutionally done by the Engineer Corps, why may they not also make the surveys authorized by this amendment of the Senate?

Mr. DEAN. I would inquire of the gentleman whether he ever knew of a survey being authorized by Congress within the limits of a sovereign State for the purpose of either locating a canal, a railroad, or any other kind of road?

Mr. MEADE. The amendments of the Senate do not provide that these surveys shall be followed by the actual construction of a railroad by the General Government. They are not made with a view to ascertain the practicability of a railroad which may be hereafter constructed, by whom is not stated, nor is it material.

The coast surveys are made for general use, and other surveys, such as this, may be made for general information, to be turned hereafter to account. It is not to be assumed that those who vote for these surveys will vote appropriations hereafter for the construction of a railroad—not at all. I am discussing the clauses we are voting on; the remaining one will be considered when it comes up. In my own State there was a corps of engineers engaged the last year and the year previous in making surveys. The State of Virginia did not consider her sovereignty invaded, nor did she conceive that her jurisdiction was interfered with by these engineers entering her borders for the purpose of making them. And I am sure, that neither Arkansas, Texas, nor any other State of this Union will deem its rights trenched on when these surveys are commenced. If we may lawfully appropriate money for the coast survey, and the survey of rivers and the mining regions; and above all, if the Corps of Engineers may, upon invitation from others, and with the permission of the Government, make surveys for others, so may they make one to the Pacific; in every case they are paid by the Federal Government.

The question being upon the amendment offered by the gentleman from New York, [Mr. DEAN,]

Mr. ORR demanded teller; which were not ordered.

Mr. FREEMAN. I desire to suggest to the gentleman to amend in this way:

And provided further, That the harbors in the city of New York hereafter shall not be surveyed by the Topographical Corps, nor by officers of the Coast Survey.

[Laughter.]

The question was then taken on Mr. DEAN's amendment, and it was not agreed to.

Mr FREEMAN. I offer the following amendment, to come in at the end of the Senate amendment:

And be it further enacted, That, to aid in the construction of said Pacific railroad, the right of way through the public lands be, and the same is hereby, granted to the States of Mississippi and Louisiana for the construction of railroads from Brandon, in Mississippi, to the eastern border of said State, in the direction of Montgomery, in the State of Alabama, and from the Mississippi river at a point opposite Vicksburg, in the State of Mississippi, westward, via Shreveport, to the Texas State line, with the right, also, to take necessary materials of earth, stone, and timber, from the public lands of the United States adjacent to said railroad for the construction thereof: *Provided*, That the right of way shall not exceed one hundred feet on each side of the length thereof; and a copy of the survey of said road, made under the direction of the Legislature, shall be forwarded to the proper local land offices, respectively, and to the General Land Office at Washington city, within ninety days after the completion of the same.

SEC. 2. *And be it further enacted*, That there be, and is hereby, granted to the States of Mississippi and Louisiana, for the purpose or aiding in making the railroads aforesaid, every alternate section of land designated by even numbers, for six sections in width on each side of said road; but in case it shall appear that the United States have, when the line or route of said road is definitely fixed by the authority aforesaid, sold any part of any section hereby granted, or that the right of preëmption has attached to the same, then it shall be lawful for any agent or agents, to be appointed by the Governors of said States, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States most contiguous to the tier of sections above specified, so much land, in alternate sections or parts of sections, as shall be equal to such lands as the United States have sold, or to which the right of preëmption has attached as aforesaid; which lands being equal in quantity to one half of six sections in width on each side of said road, the States of Mississippi and Alabama shall have and hold to and for the use and purpose aforesaid; *And provided further*, That the lands hereby granted shall be ap-

plied in the construction of said roads, and shall be disposed of only as the work progresses, and shall be applied to no other purpose whatsoever: *And provided further*, That any and all lands reserved to the United States by any act of Congress, for the purpose of aiding in any object of internal improvement, in any manner or for any other purpose whatsoever, be, and the same are hereby, reserved to the United States from the operation of this act except so far as it may be found necessary to locate the route of the said railroad through such reserved lands.

SEC. 3. *And be it further enacted*, That the sections and parts of sections of land which by such grant shall remain to the United States, within six miles on each side of said road, shall not be sold for less than double the minimum price of the public lands when sold.

SEC. 4. *And be it further enacted*, That the said lands hereby granted to the said States shall be subject to the disposal of the Legislatures thereof, for the purposes aforesaid, and no other; and the said railroads shall be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States.

SEC. 5. *And be it further enacted*, That if the said railroads shall not be completed within ten years, the said States of Mississippi and Alabama shall be bound to pay to the United States the amount which may be received upon the sale of any part of said lands by said States, the title to the purchasers under said States remaining valid, and the title to the residue of said lands shall reinvest in the United States, to have and to hold the same in the same manner as if this act had not been passed.

SEC. 6. *And be it further enacted*, That the United States mail shall at all times be transported on said railroads, under the direction of the Post Office Department, at such price as Congress may by law direct.

The reading of the amendment was commenced.

Mr. GOODENOW said: I rise to a point of order, that the amendment is not germane to the Senate amendment under consideration. There is no law authorizing it and it is inconsistent with the provision under consideration.

The CHAIRMAN. The Chair sustains the point of order made by the gentleman from Maine, and decides the amendment to be out of order.

Mr. FREEMAN. I make this point of order. I have the right to have that amendment reported to the committee.

The CHAIRMAN. The paper has been read sufficiently to indicate its character. The reading of it might take half an hour.

Mr. FREEMAN. I appeal from the decision of the Chair. I offer an amendment which is ruled out of order before it is read to the committee.

The CHAIRMAN. An amendment was offered by the gentleman from Mississippi, [Mr. FREEMAN,] enough of which was read to indicate its character. The Chair rules it out of order, from which decision the gentleman appeals; and the question now is, "Shall the decision of the Chair stand as the judgment of the committee?"

The question was taken and the decision of the Chair was sustained.

Mr. DEAN. I offer the following amendment:

Provided, That nothing herein contained shall authorize said surveys to be made within the limits of any State of the Union without the consent of said State.

Mr. GOODENOW. I rise to a point of order. It is the same amendment which was rejected awhile ago.

Mr. DEAN. Not at all.

Mr. GOODENOW. The same in substance.

Mr. DEAN. There is added to it the words "with the assent of said State." I know that upon the other vote a number of members around me did not understand the question upon which they were voting. I now ask for tellers upon that amendment.

Mr. JOHNSON, of Arkansas. I will ask the committee if that be adopted whether we will have any survey? It seems to me that this proposition was voted down rightfully in the first place, and ought to be voted down in the second.

The question was then taken on Mr. DEAN's amendment, and it was not agreed to.

The question being on the Senate amendment, Mr. HART demanded tellers; which were ordered; and Messrs. BOWIE and CURTIS were appointed.

The question was taken; and the tellers reported that there were—ayes 82, noes 42.

So the Senate amendment was agreed to.

The next amendment of the Senate was then read, adding the following as an additional section, viz:

"SEC. 17. *And be it further enacted*, That in making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session."

Mr. MEADE. I move that all after the word "object" in the sixth line be stricken out.

Mr. EWING. I should like to propose an amendment with a view of perfecting the part of the section which the gentleman from Virginia proposes to strike out.

The CHAIRMAN. The gentleman from Virginia [Mr. MEADE] has the floor. The gentleman's amendment would be in order afterwards.

Mr. MEADE. I move to strike out that part of the clause, because I think it will answer no practical purpose according to my views. It authorizes the Secretary of War to receive proposals——

Mr. MILLSON. I desire to ask my colleague why he proposes to strike out that part of the section? I understood a little while ago that he voted for the fifteenth section, which provides that the railroad shall be surveyed by the United States. Now, he proposes to strike out that portion which seems to imply that it is to be built by private citizens. I would ask my colleague, therefore, why he proposes to strike out that part of the section; and I would ask him further, if he is willing to appropriate $150,000 for surveying a road to be built by individuals?

Mr. MEADE. I do not see anything to be accomplished by it but to gratify an idle curiosity on the part of Congress as to what the various companies propose to do, and what they propose to do it for. I prefer that they shall get information in some other way. This House is calling for information, but without an object, or for an object which they cannot legitimately carry out, and therefore I am opposed to that clause. The surveys which the previous sections authorize, give legitimate employment to the Engineer Corps of this Government. We shall thereby become acquainted with the topographical condition of the new country. The road may be built by individuals who may avail themselves of these surveys in ascertaining the best practicable route. Why Congress should wish to know what individuals would build the road for, I cannot imagine, unless it proposes to make a contract with them, which I am not prepared to do. We have no concern with that information whatever, and therefore I move to strike out the clause.

Mr. STROTHER. I desire to say a word upon the amendment. I differ with my colleague in the opinion that it is right to amend the section, and strike out those words, for these reasons: there is no member upon this floor who does not see that the Pacific ocean is to be the great place of contest for power and supremacy between the nations of the earth by colonization on its shores and islands, and by control over the existing "commerce of the Indies," and over its mighty growth in the future. There is no member upon this floor who does not realize the importance of a legitimate constitutional connection between the Altantic and Pacific, which will bind us together by bonds that will make us inseparable, and give to the people of these States ready access to, and means of absolute control over that vast commerce and all its consequences. While all these vast results force themselves upon our view, and while that wisest and most energetic of old nations, Great Britain, is using giant efforts to seize the vantage ground, and hold that which natural position gives to us if we will take it, my colleague who moves this amendment, and other gentlemen, rise up and declare that the Constitution presents an insuperable objection to our making such connection by Federal legislation. We have seen upon other occasions that the Constitution has been found to permit extension to effect minor objects of public good, and even of party, and I wish that section to remain intact, that the minds of statesmen may be occupied upon the question of the practicability of bringing the limits of the Constitution over these great interests of the country. It may be that that great abutment which sustains the Constitution, and keeps it firm and steady upon its base, the resolutions of 1798–'99, may likewise demand the same expansion of the present conception of their true meaning, to meet the necessities of that great future which is coming upon us with the celerity of the wind.

Now, the retention of that clause will enable the matter to be presented to Congress in the most practicable form, and will present to us the results of the action of parties upon the practicability and feasibility of this question, in the form of plans, projects, and propositions, on which statesmen can form their opinions of constitutional power. Between this and that time, the friends of this system, who belong to the political party which is now charged with the care of the Constitution, may be occupied in examining how far they may be made to adapt themselves to the progress of the age. The next Congress having before them the results of the examinations upon these propositions, may be enabled to act upon this matter understandingly. Then perhaps the great difficulty will be removed, which not only delays and impedes the development of the wondrous destiny of these States, but also now disturbs the harmony of this House, and likewise the harmony of that party which has taken upon itself the charge of your Constitution, and embodied the resolutions of '98 in that "platform" of doctrines which are to be the chart of the incoming Administration. If the Constitution and resolutions will allow the accomplishment of the great objects by Federal aid, I desire to see it done.

I will not say that my friend over the way has been a Pharisee among Pharisees, for that would be an equivocal compliment, but that he is a strict constructionist among strict constructionists; and while he admits now the constitutionality of a survey, my friend and colleague near me is astonished at that heretical looseness of opinion. They both belong to these self-constituted guardians of the Constitution and of those sacred resolutions; and this dissension of opinion is ominous of danger, if not to the country and to popular rights, at least to unity of Democratic sentiments and action. The geographical position of my friend from Petersburg, to say nothing of his political antecedents, inclines me to regard him as higher authority in Constitution construction than my friend from the valley. As a believer in the resolutions of '98, I agree to his view of admissibility of the proposed survey, and am not prepared to say that some new and legitimately Democratic State-Rights reading of those resolutions may not hereafter permit more than a survey. Stranger changes have come over the opinions of our Democratic friends. I therefore insist that the country shall have a chance to examine into these questions, upon the proper solution of which so much of the future unity, strength, and prosperity of this country depends, and will also seriously affect the harmonious union, if not the existence of the Democratic confederation, which is not now one in opinion upon the constitutionality of these sections.

[Here the hammer fell.]

Mr. EWING. I move to strike out the words "and lay the same before Congress at the next session," and to insert in lieu thereof the following:

And by and with the approval of the President to enter into a contract with one or more such individuals or associations, by which the credit of the United States may be given to said contractors in an amount not exceeding $30,000,000, and for which consideration the mails, troops, and munitions of war of the United States are to be transported forever free of charge over said road.

It will be perceived that my amendment is a continuation of the words, "And the Secretary of War is hereby authorized and required to receive proposals," and so forth. I offer the amendment as providing for a military work. I perceive in this bill, among other similar propositions, one proposing to expend $500,000 for the defense of San Francisco. Now, I conceive this to be not only more important for the defense of San Francisco and of California, but to be absolutely indispensable for its defense. There is a company, as I have understood, ready and willing to build the road upon these terms—a company composed of a number of the first capitalists and the most eminent men in the Union—certain bonds to be issued by the Government, upon the completion of each fifty miles of the road, which remains as security for every bond issued. Thus we should receive within a few years for this Government service, to the value of at least $100,000,000, paying as we do almost a million and a quarter for the transportation of our mails between the Pacific coast and the Atlantic, besides the immense outlay necessary for the transportation of our troops and munitions of war. Sir, in the short time allotted to me,

it would be idle to think of discussing the advantages of this project. I wish only to test the sense of the committee with regard to it, and I hope and expect some action upon this subject, if not now, at least at some future time. I believe this to be the only feasible plan ever proposed for the building of the road. The Government will have the least possible connection with the work, having nothing to do with it but to issue bonds which the contractors will be bound to redeem, principal and interest, and no share or interest in the road except the right to have the mails, troops, and munitions of war transported over it free of charge. The United States can only have this road built as a military work essential to the defense of one portion of this Confederacy so far removed that we must now actually traverse foreign countries to get at it.

Mr. BAYLY, of Virginia. I am opposed to the amendment——

Mr. DAWSON. I wish to inquire of the Chair if the amendment of the gentleman from Kentucky [Mr. EWING] is not out of order?

[Criee of "Too late!"]

Mr. DAWSON. It is not too late. There has been no vote upon the amendment.

The CHAIRMAN. The Chair decides that the amendment of the gentleman from Kentucky is not in order.

Mr. DAWSON. It is a distinct proposition, proposing a contract for the construction of the road. The section as it now stands provides merely for the making of surveys to elicit information.

Mr. EWING. Is it not too late to raise the question of order?

The CHAIRMAN. It is not too late, for the amendment has not been acted on.

Mr. EWING. This is a military work, and must therefore be in order in this bill.

The CHAIRMAN. The Chair decides that it is not in order.

Mr. BAYLY. I obtained the floor to oppose the amendment of the gentleman from Kentucky.

The CHAIRMAN. That amendment has been ruled out of order.

Mr. JOHNSON, of Arkansas. I would ask the Chair if it will be in order, after the question has been taken on the amendment of the gentleman from Virginia, to move an amendment to the preceding part of the section?

The CHAIRMAN. The Chair entertains the opinion that the whole section is one entire amendment, and that it will be in order, after taking the question upon the amendment of the gentleman from Virginia, to move other amendments.

Mr. JOHNSON. Well, sir, I move to strike out the word "individual."

The CHAIRMAN. Does the gentleman propose to perfect that part of the section that the gentleman from Virginia moves to strike out?

Mr. JOHNSON. Exactly.

The CHAIRMAN. That is in order.

Mr. JOHNSON. Well, sir, I submit that amendment, and I do it for the purpose of calling the attention of the committee to the fact, that when we have authorized the reception of proposals for the construction of this road, we have, in some measure, committed ourselves to the undertaking, and it is a Government project. And, sir, when we in some measure commit ourselves to the undertaking, we at once signify to those enterprising parties in the United States, who wish themselves to undertake the work, that they must arrest their movements, and wait until they have seen the result of these bids when made to Congress, and the action of Congress upon them. Under these circumstances, I am opposed to the whole section. But if we are to adopt it, I desire to know whether or not you are prepared to countenance the idea that any one individual shall be allowed to come forward and make proposals for the whole of this vast enterprise, and that this Government will grant him such immense power as that of erecting a railroad from one ocean to the other?

Mr. BAYLY, of Virginia. I am opposed to the amendment of the gentleman from Arkansas. Sir, I am surprised at remarks which have been made from the side of the House to which I belong. What authority have we to make this road? What Democrat upon this side of the House, who is committed against a general system of internal improvements, will go for it? If we have no authority to make the road, what right have we to make a survey preliminary to its construction? What is that survey to be made for at Government expense, if it is not to be followed up by other action? *Cui bono?* As a matter of curiosity? What member of Congress will undertake to put his vote upon any such ground as that? Why is the survey to be made unless it is to be followed up by an appropriation to construct the road? Have we a right to make a survey for the use of individuals?

Mr. MEADE. I call my colleague to order. He is discussing the previous sections of the bill, which have been already acted upon by the committee.

The CHAIRMAN. The gentleman from Virginia must confine his remarks to the amendment of the gentleman from Arkansas.

Mr. BAYLY. I happen to understand that, and I fancy that I am doing that very thing. I am showing that we have no authority whatever to make this survey, unless we have authority to follow it up by an appropriation to make the road.

Mr. JOHNSON, of Arkansas. I hope my honorable friend does not mean to represent me as advocating the building of this road by the Government, in the few remarks which I made just now. Whatever my opinion might be upon that point, I did not do so.

Mr. BAYLY. I am sorry my friend thought it necessary to interrupt me to say that. I referred to those *who had* expressed an opinion. I desire to state one or two distinctions which are apposite to this precise point. I never have disputed—and I do not know anybody else who has disputed—the authority of Congress to make appropriations for roads and improvements in the Territories for *territorial purposes*. But does anybody pretend to say that this survey, which involves, as I have already shown, by a necessary consequence, an appropriation—does anybody pretend to say that this road to the Pacific is designed for *territorial local purposes?* If there be one man who can get up here, and tell me that he means it for territorial purposes, then, so far as that individual is concerned, I make no point with him. But it is notorious here, that it is not designed for territorial purposes. It is designed as a general system of internal improvement, to connect *a State* of ours on the Pacific with *the States* upon the Atlantic. It is *the States* we are looking to, and therefore our territorial power does not confer the power to make the appropriation at all. I cannot conceive of anything more palpably unconstitutional than the introduction of any such system. What does it amount to, to deny the power of this Government to enter into a general system of internal improvements if, under the plea of legislating for a Territory, we may connect distant States of the Union by a general, emphatically a general, system of internal improvements? Sir, you can no more, under the cover of legislating for the Territories, introduce a system of this sort than you can, under the cover of your authority to legislate for this District, establish a general bank—a bank of the United States. This road, if made by us, will be a road of the United States, and not a territorial road.

[Here the hammer fell.]

Mr. CLINGMAN. I move that the committee rise, with a view of stopping debate upon this section.

Mr. JOHNSON, of Arkansas. Oh, no. A portion of the section has not been noticed at all.

Mr. SACKETT. I desire to amend the first part of the section.

Mr. CLINGMAN. I insist upon my motion to rise.

Mr. CARTTER. I demand tellers upon that motion.

Tellers were ordered; and Messrs. BRECKINRIDGE, and CAMPBELL of Illinois, were appointed.

The question was then put; and the tellers reported—ayes 80, noes not counted.

So the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HARRIS of Tennessee) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the amendments of the Senate to House bill No. 336, "making appropriations for the support of the Army for the year ending the 30th of June, 1854," and had come to no resolution thereon.

Mr. CLINGMAN. I ask the unanimous consent of the House to offer a resolution suspending debate under the five-minutes rule on the thirty-seventh amendment of the Senate to the Army appropriation bill, being the seventeenth section of said bill.

Mr. JOHNSON, of Arkansas. I object.

Mr. CLINGMAN. Then I move to suspend the rules.

Mr. ORR. I submit that it is not necessary to move to suspend the rules to enable the gentleman to offer his resolution. The question can be taken upon the motion to suspend the five-minutes rule.

Mr. DEAN. I demand the yeas and nays.

[Loud and general cries of "No!" "No!"]

Mr. DEAN. I withdraw the call.

Mr. MACE. I move that the House adjourn.

The motion was disagreed to, and the House refused to adjourn.

The question recurred upon Mr. CLINGMAN's motion.

Mr. JOHNSON, of Arkansas. I demand the yeas and nays. The first part of the section——

[Loud cries of "Order!"]

Mr. DEAN. I call for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The House was then divided on Mr. CLINGMAN's motion, and there were—ayes 98, noes 22.

So (two-thirds voting in favor thereof) the rules were suspended, and Mr. CLINGMAN's motion was agreed to.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS of Tennessee in the chair,) and resumed the consideration of the amendments of the Senate to the Army appropriation bill.

The question pending was on the amendment of Mr. JOHNSON, of Arkansas.

Mr. BAYLY, of Virginia. I desire to further amend the seventeenth section.

The CHAIRMAN. The amendment of the gentleman from Virginia, [Mr. MEADE,] to strike out all after the word "object," is still pending.

Mr. MEADE called for tellers; but they were not ordered.

The question was taken, and the amendment was not agreed to.

Mr. BAYLY. I now move to strike out all after the word "surveys," in the second line of the seventeenth section, comprising the following words:

"The engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association to associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session."

Mr. SACKETT. I wish to amend the part proposed to be stricken out. I ask the Chair if it is not in order to amend that portion of the amendment?

The CHAIRMAN. It is in order.

Mr. SACKETT. I desire to strike out after the word "that," in the first line, and——

The CHAIRMAN. It is not in order to amend by striking out anything except what is in the portion of the section proposed to be stricken out.

Mr. SACKETT. My amendment covers a portion of the words proposed to be stricken out by the gentleman from Virginia, and I desire that it should be voted on by the committee before these words are stricken out.

A MEMBER. We will vote that amendment down, and then you can offer yours.

The CHAIRMAN. The Chair decides, that if the amendment of the gentleman from New York proposes to strike out any portion of the section which is not in that portion proposed to be stricken out by the gentleman from Virginia, it is not in order. The gentleman from Virginia proposes to strike out all after the word "surveys" in the second line of the section down to and including the word "object." Does the gentleman from New York propose to confine his amendment within that portion of the section?

Mr. SACKETT. No, sir.

The CHAIRMAN. The question will then be upon the adoption of the amendment of the gentleman from Virginia.

The question was then taken, and Mr. BAYLY's amendment was disagreed to.

Mr. SACKETT. I now move the following amendment, viz:

Strike out all after the word "that," in the first line, to the word "any" in the fourth line, and insert after the word "engineers," in the fourth line, the words "or other persons;" and after the word "object," in the sixth line, the words "are hereby authorized to make like surveys and explorations."

So that the section will read:

Be it further enacted, That any engineers or other persons employed by any individual or individuals, association or associations, for the same general object as herein stated, are hereby authorized to make like surveys and explorations as are provided on the part of the Government.

Mr. JOHNSON, of Arkansas. I move to amend that amendment by adding the words "at their own expense."

The CHAIRMAN. It is not in order to amend the amendment.

Mr. SACKETT. I will accept the amendment of the gentleman from Arkansas.

The question was taken, and Mr. SACKETT's amendment was disagreed to.

Mr. JOHNSON, of Arkansas. I move to strike out of the Senate amendment the following words:

"In making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association or associations, for the same general object; and"——

So that the section would then read:

"SEC. 17. *And be it further enacted*, That the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session."

Mr. JENKINS. I desire to know if associations are to have control over these surveys at the expense of the United States?

Mr. JOHNSON. The section will say nothing about surveys if my amendment is adopted.

The question was then taken; and Mr. JOHNSON's amendment was not agreed to.

The question then recurred upon concurring in the Senate amendment.

Mr. DEAN. Upon that I demand tellers.

Tellers were ordered; and Messrs. GROW and HAMILTON were appointed.

The question was then taken; and the tellers reported—ayes 47, noes 91.

So the amendment of the Senate was non-concurred in.

The next amendment of the Senate was as follows:

"SEC. 18. *And be it further enacted*, That in the adjustment of the account of the State of Virginia, under the twelfth section of the act approved 31st August, 1852, the Secretary of War be, and he is hereby, directed to follow the provisions of the act of 2d of June, 1848, providing for refunding to the several States the amounts expended by them in raising regiments of volunteers for the Mexican war."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in this amendment.

Mr. FREEMAN. What is it for?

Mr. HOUSTON. It is to pay the balance of a claim for Mexican war deficiencies.

Mr. FREEMAN. Well, sir, I think it ought not to be allowed.

Mr. HOUSTON. I will say this claim is to pay a balance due the State of Virginia for raising volunteers. There are no papers accompanying these items, and no explanation except such as we have been able to gather from the law itself; and from an examination of that law, I think this claim is precisely in the condition of one in favor of the State of Georgia, and another in favor of the State of Alabama, which we rejected ten minutes ago.

Mr. FREEMAN. I am sure my friend from Virginia [Mr. CASKIE] will accept that if it passes.

Mr. FAULKNER. I move to amend the Senate amendment by adding after the word "Virginia" the words "fifteen hundred dollars."

Mr. Chairman, I do not know upon what ground the Committee on Ways and Means can oppose this amendment of the Senate, unless it be that no further legislation is necessary to authorize the War Department to settle and adjust this claim of Virginia. The amendment of the Senate is so palpably just on its face, that I must confess my astonishment that it meets with any opposition at all.

The committee will perceive that this section provides that the Secretary of War shall audit and settle the accounts of the State of Virginia for advances to her Mexican volunteers, according to the provisions of the act passed on the 2d of June, 1848. Now, it may be asked why, if there be such a law as the act of June, 1848, can there be any necessity for the further legislation of Congress? The necessity for the present interposition of Congress grows out of the twelfth section of the Army appropriation bill, passed during the last session of Congress. There were several claims presented during our last session from the States for advances made to their volunteers. The Secretary of War did not regard them as strictly embraced within the letter of the act of June, 1848. Congress determined to meet the whole subject fully, and passed the twelfth section of the Army appropriation bill—the purpose of which was to discharge every claim of the States against the Federal Government for these advances. I learn, sir, by a letter addressed to me by the agent of the State of Virginia, that the claims of every State have now been adjusted and paid, but that there remains a balance of some $1,500 still due to the State of Virginia, which the Secretary of War declines to pay, because no instruction was given to him by the twelfth section of the Army bill to settle it according to the provisions of the act of June, 1848, to which that section was designed to be amendatory. It is believed that this was a mere omission, resulting from the hurried manner in which that section was penned; but so it is. I am informed by the agent of Virginia that the Department makes a difficulty in settling with Virginia a balance of some $1,500, which she still claims, and which difficulty can be removed by the amendment sent to us from the Senate.

Mr. HOUSTON. It is a claim for interest.

Mr. FAULKNER. Concede it to be a claim for interest, that does not make it the less proper to be paid, if the Government has established the principle that all advances to the Mexican volunteers shall bear interest. Has not the Government established this principle? Does not the act of June, 1848, distinctly declare that the Secretary of War shall refund to the States, corporations, and individuals, all advances made by them to the volunteers for the Mexican war, and to pay interest upon such advances from the time they were made? When, therefore, last winter you recognized the claim then presented by Virginia as a proper advance, was it not a mere omission not to instruct the Secretary of War to settle that claim upon the principles of the act of 1848—that is, to pay interest on it? I say it was a mere omission, and should now be rectified.

Mr. FREEMAN. Are not other States in the same condition with Virginia, in reference to these advances?

Mr. FAULKNER. I learn from the only person from whom I have derived any information about this claim, the agent of Virginia, that every State has been paid her account in full for advances to the Mexican volunteers, and that when this balance claimed by Virginia is paid, we shall have fully discharged all the claims of the States against the Federal Government for these advances, so far as they have been exhibited. Sir, if this be so—and I presume it is, as he derives his information directly from the War Department—I trust the committee will feel no difficulty in concurring in the amendment of the Senate, and let us have the proud consolation of knowing that we have at length fully discharged all of our obligations for the advances so promptly and patriotically made by the States in aid of the resources of the General Government.

Mr. HOUSTON. The gentleman from Virginia is very much astonished that I should oppose a claim that is so evidently correct, and cannot understand why I should do it; and yet by his own remarks he shows that he knows nothing about the claim from his own examination of the papers connected with it.

Mr. FAULKNER. The gentleman from Alabama does not correctly represent me. I said nothing of the correctness of the claim of Virginia, for I have not deemed it important to go into the merits of the claim. That I leave to the Secretary of War. I said the amendment of the Senate was palpably just, for it only applies to the claim of Virginia a general principle, recognized in all other cases by an existing law, and of which Virginia will get the benefit if she makes out, under that law, a case proper for the favorable action of the Secretary of War.

Mr. HOUSTON. The gentleman says the claim is palpably just upon its face, and yet he does not know whether it is for the advances themselves or for interest. He shows by his own remarks that he knows nothing about it. If he expected that I should support it, he should have examined the documents himself, and not come here to state before this House only the facts of the case as presented to him by the agent of the State. I think that the agent has misstated the facts of the case altogether to my friend from Virginia. The gentleman states that this amendment, if passed, will place the State of Virginia upon an equal footing with all the other States in the Union. Why, if he had paid attention to what has been done in this House to-day, he would have found that in this very bill there was a similar provision for the settlement of the accounts of Florida, for the same purpose. There was also a provision for Georgia, and another for Alabama. All these have been voted down by the House, and they are all claims for advances made during the Mexican war, and based upon the same grounds as is this claim for the State of Virginia.

The CHAIRMAN. The question is upon the amendment of the gentleman from Virginia, [Mr. FAULKNER.]

Mr. HOUSTON. The gentleman says that all the States are satisfied. If you had passed these claims for Georgia, for Alabama, as you have done for Florida and for the other States, it might have been well enough for the gentleman to make the statement. But here this very evening we have non-concurred with a Senate provision, intended to remunerate the States of Georgia and Alabama. Such being the case, how can we be satisfied? No, sir, these claims rest upon the same basis, the same principle; and if you agree to this, you ought to agree to what is asked for Georgia and Alabama.

The CHAIRMAN. The question is upon the amendment of the gentleman from Virginia.

Mr. FAULKNER. If there is no objection I withdraw the amendment.

No objection was made, and the amendment was withdrawn.

Mr. CARTTER. I move to insert after the word "Virginia," the words "and all the other States of the Union."

I offer this amendment because I do not understand the purport of this thing, and for the reason that the honorable gentleman from Virginia [Mr. FAULKNER] has not satisfied me by his explanation. If the section is designed to reach the interest upon the advances of the State, accruing prior to the presentment of the accounts of the State to the Federal Treasurer, it will be found in the history of this matter, that there are sister States in the Union involved in precisely the same predicament, and if such a provision be made for the State of Virginia, it ought to apply to the other States of the Union.

Mr. MEADE. While I have no objection to the amendment offered by the gentleman from Ohio, I will pass it over for the purpose of saying a few words upon the amendment of the Senate.

Mr. ORR. I rise to a question of order. It is not in order for the gentleman to do that, but he must confine his remarks to opposing the amendment of the gentleman from Ohio.

The CHAIRMAN. It would not be in order for the gentleman to speak except in opposition to the amendment.

Mr. MEADE. Any gentleman who will look at the provisions of the Senate amendment, will distinctly see that Virginia is only put upon the same footing that the act of June 2, 1848, puts every other State in the Union.

Mr. DUNHAM. I would like to have the gentleman explain, if that is the case, why Virginia has not got her pay under that act?

Mr. MEADE. Simply because she was not put upon the same footing with the other States, and all we ask is that Virginia shall be regarded as under the law of the 2d of June, 1848. Whether this amount be $1,500 or $15,000, I say

if the other States have been paid it, we are entitled to it also; and without knowing the items which constitute this demand, I assume that it is correct, because Virginia urges it. [Laughter.]

I expected a laugh, and my reply to the laugh is, that she has never urged a claim before Congress which she has not carried. Amid all the abuses, amid all the jeers and taunts which have been poured upon her, yet such was the sense of the justice of her claims upon the minds of legislators here that they were compelled to vote them. You cannot point out a demand, which she has ever made before the Congress of the United States, which that Congress has not voted her. Some of her demands have been opposed in one shape or another; but there has never been a negative vote in either House of Congress that I am aware of to any demand she ever made; and as she has had demands upon this Government to the amount of hundreds of thousands of dollars, I presume she would hardly come here to ask this Government for $1,500, if she was not entitled to the amount.

Now, Mr. Chairman, I have not investigated this question, and I do not know what constitutes the subject of the demand; but I see that here in this bill there is a provision by which Virginia can receive nothing but what has been already awarded to the other States of this Union, and the gentleman is mistaken in saying that Georgia and Florida have just been rejected. The claims of Georgia and Florida were of quite a different nature, and stood upon a different footing. All we want is that the provisions of the law of the 2d of June, 1848, shall be extended to Virginia, under which law every other State of this Union has had justice done her. Only extend that law to Virginia, which by some accident, I presume, was not embraced in it, as originally passed.

The question was then taken on the amendment of Mr. CARTTER; and it was disagreed to.

The CHAIRMAN. The question recurs on the Senate amendment.

Mr. SACKETT. I move that the committee rise, with the view of submitting a motion to suspend the rule allowing five-minutes debate, as far as this section is concerned.

The question was put, and the motion was not agreed to.

So the committee refused to rise.

Mr. DUNHAM. I move to increase the amount one dollar.

I think I can explain to the committee this Senate amendment, and I will explain how I understand it, in a very few words. Under the general law, under which the other States were paid, the claim of the State of Virginia could not be paid, because they were not of such a character as to be included in the terms of that law, on account of the manner in which the money was expended.

Mr. STANTON, of Kentucky. I rise to a question of order. The gentleman proposes to reduce the sum in the paragraph, one dollar. There is no sum mentioned in the Senate amendment.

The CHAIRMAN. The gentleman from Indiana is out of order. The point of order is well taken.

Mr. HALL. I move to insert "a sum not exceeding, $1,500."

Mr. Chairman, I think that if the committee understands the proposition, there certainly will be no objection to it. Virginia, at the last session of Congress, told us that she had advanced and paid for troops engaged in the Mexican war——

Mr. CASKIE, (interrupting.) I appeal to the gentleman from Missouri to allow me to say one word. Virginia disdains any connection with this claim.

[Cries of "Order!" "Order!"]

The CHAIRMAN. The gentleman from Missouri declines to yield the floor; and the gentleman from Virginia is out of order.

Mr. HALL. I was going on to state that it was represented to us that Virginia had made certain advances to troops engaged in the Mexican war, but she was not able to procure the proof that was required by the Department. We were satisfied by the statement before us, that Virginia had made those advances, though she was not able to comply with the formalities required by the Department. Hence we directed that Virginia should be paid these sums so expended by her, but we made no provision that she should be paid any interest. But, sir, the act of 1848, in its third section, provides as follows: "That in refunding the moneys under this act," that is, the moneys advanced for the support of troops in the Mexican war, "it shall be lawful to pay interest at the rate of six per cent. per annum for the sums advanced," &c. Now Virginia, by the twelfth section of that act, we admit did make these advances, and the amendment of the Senate only proposes that where Virginia has paid interest upon the advances, that interest shall be refunded to her. That is all the Senate amendment proposes, and I ask if the committee is not willing to do for Virginia what has been done for every other State in the Union?

Mr. HOUSTON. There are half a dozen States provided for in that law. Is there a single one of those provisions which embraces interest?

Mr. HALL. The act of 1848 applies only to soldiers engaged in the Mexican war. That is the only sort of expenses which the act of 1848 applies to, and the gentleman is angry because he has not succeeded in getting in his Alabama claim. [Laughter.]

Mr. HOUSTON. He says that the law of 1848, which he holds in his hand, applies only to the Mexican war. If he will read the tenth section of that act, he will find that Michigan got the amount of $20,000 for money advanced for that war. There is no provision authorizing Michigan to take interest. I do not know whether she received it or not. The same is true of every other State.

Mr. HALL. The remarks of the gentleman have no application to this case. Virginia did make advances, and all the Senate amendment proposes is, that where Virginia paid interest for moneys advanced for the Mexican troops, she shall be paid interest.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri.

Mr. HALL. If there is no objection, I withdraw the amendment.

No objection was made, and the amendment was withdrawn.

The question then recurring on the Senate amendment, it was put; and there were, on a division—45 in the affimative, noes not counted.

So the Senate amendment was not concurred in.

The Clerk read the next amendment of the Senate, to add as an additional section to the bill the following, viz:

"SEC. 19. *And be it further enacted*, That the President of the United States is hereby authorized to enter into contracts with such person or persons as shall make the most favorable proposals, and give the most satisfactory assurance and security for defending and protecting the emigrant routes, and improving and keeping in good condition the roads through the Territories of the United States from the western border of the States in the Mississippi valley to the eastern border of California, and to the Pacific ocean in the Territory of Oregon, on the following terms:

"*First.* The contractors are to establish posts or stationhouses along the route at such points and distances as the President shall designate, and shall keep at least twenty well armed men at each of said posts to protect all emigrants, travelers, and settlers on and along said routes.

"*Second.* The said contractors shall make, and keep in repair, a good wagon-road along each of said routes, with bridges or ferries across all the streams, and shall charge no higher rates for crossing said streams than shall be prescribed by the President.

"*Third.* In consideration of the services required by this section, the President is hereby authorized to grant to such contractors four sections of land at and in the vicinity of each of said posts, which said grant of land shall be in full of all services rendered or expenses incurred under this section."

Mr. STUART. I offer the following amendment to that section:

Provided, That no such posts shall be established within one hundred and fifty miles of either of the States of Iowa, Missouri, or Arkansas.

I desire, Mr. Chairman, the attention of the committee but for a very few minutes.

Mr. BAYLY, of Virginia. I desire to know, so that there may be no difficulty, whether after we vote on this amendment, an amendment will still be in order to the first part of the section proposed by the Senate?

The CHAIRMAN. It will.

Mr. STUART. This subject has been considered very carefully by the Committee on Territories of this House. They framed a bill, intending to report it during the territorial days, but time would not permit them to do so. However, this amendment of the Senate is substantially the same. Its effect will be to establish, at certain points on the routes from the States to California and Oregon, posts, to be not more than twenty miles apart, and to keep at each of them twenty armed men for a term of not less than three years, for the purpose of protecting the emigrants to that country. Gentlemen will see at a glance that this will cost the Government nothing but the four sections of land at each of the posts, which are to be designated by the President of the United States. In a pecuniary point of view, there can be devised no plan so economical to the Government as this one.

Again: Around these posts settlers will locate forming the very best protection to the emigrants; for every western man knows that pioneer protection is worth any military protection that can be given. In the next place, the settlements thus made will furnish means for emigration. If an ox of an emigrant dies it can be replaced, and if an emigrant be sick he can be taken care of. There are many reasons in favor of the section which will strike members on the instant. My amendment proposes that none of these posts shall be established within one hundred and fifty miles of either of the States of Iowa, Missouri, or Arkansas. The object is to prevent lands which are exceedingly valuable being taken at a point where protection is not needed. It will compel these posts to be distant from the States where protection is needed, and where the selections of land will not cost the Government anything, but will rather be a benefit; for the settlement of the four sections proposed to be given at or in the vicinity of each post will induce further settlement, and of course a speedy sale of the Government lands. The President is authorized to contract with such person or persons as shall keep those posts longest armed with not less than twenty men at each. This question has not only been carefully considered by the Committee on Territories of this House, but the Committee on Territories of the Senate, and so far as I know, it has met the general approbation.

Mr. ORR. I have several objections to the amendment of the Senate. In the first place, you propose to grant land to the persons who render these services to which the Government holds no title; for the Indian title, as is well known, to very much of the land one hundred and fifty or two hundred miles from the borders of the western States, has never been extinguished. In the next place, I see, in running hurriedly over the section, that there is no time prescribed during which these routes are to be kept open by the persons to whom these grants are to be made. Is it one, five, or ten years?

Mr. STUART. That is the only open question in the section. The President is to receive proposals, and to contract with those who shall keep them open the longest.

Mr. FREEMAN. I would ask the gentleman from South Carolina, what title the Indians hold to that land?

Mr. ORR. The Indians hold a better title than we do, for they have possession; and it would be, in my opinion, a species of land piracy to take it. The Government ought not to grant these lands until the Indian title has been extinguished.

Mr. FREEMAN. Then, if we take possession of the land, would we not have the same title as the Indians; and, being stoutest, would we not be able to hold it by force? [Laughter.]

Mr. ORR. If that be the doctrine on which the gentleman from Mississippi and the friends of this particular section advocate it, let it go to the country. If that be the doctrine, I will undertake to say that this committee will vote down the entire section, and every portion of it. Are we to enter on the lands of the Indians and take possession of them, because they have not the power to protect themselves? Because they have not the munitions of war to drive back an invader, are we to seize their property and appropriate it to our own purposes? I am astonished—amazed—that the gentleman has broached such a doctrine on the floor of the American Congress!

Mr. FREEMAN. Why cannot we acquire the same title to these lands that the Indians have?

Mr. ORR. The gentleman seems to be serious in his proposition. Let the committee understand that within one hundred and fifty miles of the border of the western States toward California, we are to seize on four sections of land every twenty miles without compensation to the Indians, and to assume to grant it to certain persons, and I do not doubt for a moment that the proposition will al-

most unanimously be voted down, as it ought to be. We sent to the Senate a bill of ten pages of matter, and they have returned it with twelve pages of amendments, which are not confined to appropriations for the support of the Army, but propose to change existing laws in every conceivable manner.

[Here the hammer fell.]

The question was taken, and the amendment of Mr. STUART was disagreed to.

Mr. SUTHERLAND. I move to strike out the words "the President of the United States" wherever they occur in the section, and to substitute "the Governor of the State of New York." [Laughter.]

Now I would ask whether we have not just the same right to authorize the Governor of New York to do what this section proposes as the President of the United States?

A MEMBER. Just the same right.

Mr. SUTHERLAND. What is the authority proposed to be given to the President by this section?

"The President of the United States is hereby authorized to enter into contracts with such person or persons as shall make the most favorable proposals, and give the most satisfactory assurance and security for defending and protecting the emigrant routes, and keeping in good condition the roads through the territories of the United States, from the western border of the States in the Mississippi valley to the eastern border of California, and to the Pacific ocean in the Territory of Oregon, on the following terms," &c.

Do we propose to establish post roads, or to provide for the public defense?

But again: We give to the President a power that we do not possess ourselves. Who gives this power? We, the Congress of the United States. Where do we get it from? Are we not acting under a solemn written instrument?

As the gentleman from South Carolina well observed, this bill went to the Senate with ten pages and came back with twenty-two. And what are the additional pages? In the fifteenth, sixteenth, and seventeenth sections, powers are proposed to be given to the President never contemplated by the Constitution of the United States. In what part of that instrument do you find the power to grant these sections of land, under the pretense of protection to the emigrants? I intended, if I had obtained the ear of the chairman, to object to the sixteenth section, which authorizes the surveying of a route for a railroad to the Pacific ocean. We have annexed a State to the Union which is two thousand miles distant, and not having the power to build this road to it, we propose to extend the Constitution by force, instead of amending it in the regular way therein provided. That is the whole question presented by these amendments.

[Here the hammer fell.]

Mr. BAYLY, of Virginia. I understand the gentleman moves to strike out the "President of the United States" and insert the "Governor of New York." The provision is bad enough as it stands. It is bad enough, considering the character of the provision, to leave the immense discretion it provides for to the President of the United States. But it will be worse to transfer that power to the Governor of New York, or any other person.

A MEMBER. Not to the Governor of Virginia?

Mr. BAYLY. No, sir; not to the Governor of Virginia, or any other Governor. This provision emphatically caps the climax of the contract system. I have heard of the letting out to contracts the purchase of butter and cheese and beef and pork, and things of that sort; but I never heard, before this provision was introduced into this bill, of letting out the protection of our citizens upon any route, or anywhere else, when we are bound by our military authority to protect them. The objection does not merely stop there. It does not stop with the idea that you are to let out the protection of these emigrants to private contract, but you do not let it out to the lowest bidder even; but it is to be given to such persons as shall make the most favorable proposals to the Governor of New York, if this amendment be adopted, or to the President of the United States if be not.

A MEMBER. It means to the lowest bidder.

Mr. BAYLY. It does not mean the lowest bidder, but whoever shall make the most favorable proposals in the opinion of the person we may delegate the authority to decide about it. He will judge of these proposals. It is not only letting this thing out to private contract, but it is leaving it to the discretion of the Executive to decide what are the most favorable proposals. I am not willing to allow the President of the United States to decide this question, much less the Governor of New York. If we are going to let out this thing, do not say that the contract shall be given to those who make the most favorable proposals, but to the lowest bidder. Considering the body from which this provision comes, it looks to me as the most preposterous proposition I ever heard of in my life. Sir, there is a practice rapidly growing up here, of which this provision is a part, and of which the appropriation bills are full of examples, that, in my opinion, cannot be too much condemned. It is the practice of making appropriations to be expended *at the discretion and under the direction* of the President of the United States or the head of some Department. Gentlemen seem to suppose, when they have left the expenditure to the discretion of the Executive, they have relieved themselves from all responsibility in respect to it. But in my view, in the very act of conferring such a latitude, they have assumed the greatest responsibility. In doing it they not only violate the spirit of our system of Government—increase enormously Executive patronage—but they make themselves responsible for the acts of others; for he who delegates a discretion is responsible for the manner it is exercised.

The question was then taken on Mr. SUTHERLAND's amendment, and it was agreed to.

Mr. FLORENCE. I move to strike out all in the second line of the section, after the word "authorize," and insert the following:

That the President of the United States be, and he is hereby, authorized to accept into the service of the United States for the term of three or five years, the regiment, consisting of ten companies of volunteers, organized by Colonel William F. Small, of Philadelphia, for service and settlement in California; and that the said regiment shall be placed upon the same footing in all respects, be subject to the same regulations, and entitled to the same pay, allowances, and pensions, as the regular troops of the United States, during their term of service.

2. That the said regiment shall be stationed at proper and convenient posts, to be designated by the President of the United States, on the eastern frontier of California; and it shall be the duty of said regiment to make roads on their station, and keep them in as good traveling condition as possible; to construct bridges across streams; to carry the mail; to protect all telegraphic lines allowed to be constructed on said frontier, and the persons engaged in making and working them; and all emigrants, travelers, settlers, and traders, engaged in lawful and peaceable occupations, from the hostile attacks and depredations of the Indians; and to aid in the execution of the laws when called upon by the proper authorities.

3. That the volunteers of said regiment, in accordance with such regulations as may be prescribed by the President, shall raise, gather, and preserve, all the provisions, breadstuffs, forage, and supplies, of whatever kind necessary for themselves and their animals, with the smallest possible cost to the Government, and to the fullest extent the country can be made to yield and produce the same.

4. That the President shall issue commissions to the field, staff, and company officers of said regiment as soon as the rolls of the companies and a roster of the officers shall be furnished by Colonel William F. Small, in the usual form: *Provided*, That said regiment shall be entitled to no more officers than were allowed to volunteer regiments serving during the war with Mexico; and the companies of said regiment shall each consist of not less than eighty, nor more than one hundred men, including non-commissioned officers and musicians.

5. That the President may, if he deem the same to be necessary and proper, cause four of the companies to be mounted and equipped as mounted riflemen; and may accept the services of an additional company of volunteers to be attached to said regiment, to act as a rocket and howitzer corps.

6. That as soon as the military posts shall be established, in conformity with the second section of this act, every officer, non commissioned officer, musician, and private of said regiment shall select, if he so wishes, and set apart, six hundred and forty acres of land on the said frontier of California, for his own use and cultivation, for which he shall receive a patent at the expiration of his term of service, or before, if he shall receive an honorable discharge, in consequence of disability from sickness, or wounds incurred in the service of the United States. The heirs of those who die during their term of service shall be entitled to the lands on said frontier selected by the deceased.

Mr. TOOMBS. Is the amendment germane to the section?

The CHAIRMAN. The Chair decides that the amendment is not in order.

Mr. FLORENCE. It is providing for this matter in a better way, in my humble estimation——

[Cries of "Order!" "Order!" "Order!"]

The CHAIRMAN. The gentleman is not in order.

Mr. FLORENCE. I appeal from the decision of the Chair. I desire to state why I appeal.

The CHAIRMAN. The practice of the committee has been to allow a gentleman taking an appeal to state the ground of his appeal.

Mr. FLORENCE. I submit that the proposition is similar to the one now before the committee. It provides more definitely for purposes clearly and explicitly embraced in this section, only that it is to organize a regiment of a thousand men, under the command of a gentleman in Philadelphia, who served in the Mexican war. I submit that my amendment is clearly in order.

The question was then taken, and the decision of the Chair was sustained.

Mr. HAMILTON. I move that the committee rise for the purpose of suspending debate upon the three sections of this bill.

The question was taken, and it was decided in the affirmative.

The committee then rose, and the Speaker having resumed the chair, the chairman (Mr. HARRIS of Tennessee) reported that the Committee of the Whole on the state of the Union had under consideration the state of the Union generally, and particularly the Senate amendments to the Army appropriation bill, and had come to no resolution thereon.

Mr. HAMILTON. I move to suspend the rule allowing five minutes debate upon section nineteen, including its subdivisions down to the twentieth section.

The question was then taken; and it was decided in the affirmative.

Mr. ORR. I move that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken; and it was decided in the affirmative.

The House accordingly again resolved itself into the Committee of the Whole (Mr. HARRIS of Tennessee in the chair) on the Army bill.

Mr. MEADE. I propose to amend that section of the bill, by striking out the words "emigrant route," and substituting therefor the words "Mexican frontier." If the amendment is adopted I propose to follow it with suitable amendments to the same clause.

[Cries of "Order!" "Order!" "Order!"]

Mr. STUART. I rise to a question of order. The amendment of the gentleman has no relation whatever to the section, for the route does not touch the Mexican frontier at all.

Mr. MEADE. I presume that one of these roads might be along the Gila.

The CHAIRMAN. The Chair sustains the question of order made by the gentleman from Michigan, [Mr. STUART,] and decides that the amendment is not in order.

Mr. WEIGHTMAN. I offer the following amendment:

And that the Governor of the State of Arkansas is hereby authorized, on the same terms and in like manner as is prescribed in this section, to contract with such person or persons as shall make the most favorable proposals and give the most satisfactory assurance and security for defending and protecting, and improving and keeping in good condition, an emigrant route, leading from some point on the Red river of Louisiana, not above steamboat navigation, westwardly, through New Mexico, by the most feasible route, to California and Oregon.

The question was then taken upon Mr. WEIGHTMAN's amendment, and it was not agreed to.

Mr. FITCH. I offer the following amendment:

Fourth. That all wars in which the United States may hereafter become involved shall be let by contract in the same manner and upon the same terms; the donation of land to be proportioned to the number of troops employed.

The question was taken on the amendment, and, upon a division, there were—ayes 71, noes 41.

So the amendment was agreed to.

The question was then taken upon the Senate amendment as amended, and it was not agreed to.

The fortieth amendment of the Senate was then read, as follows:

"*And be it further enacted*, That the lot of land in the town of New Castle, in the State of Delaware, upon which an arsenal has been erected, and the said arsenal, be, and the same are hereby, reconveyed and granted to the trustees of the said town and their successors."

Mr. PHELPS. When the Committee on Ways and Means examined this subject they did not have before them any papers in reference to this matter, and they reported to the committee not to concur in the amendment of the Senate. Since that time I have seen the report of the Colonel of

Ordnance, and I think that the committee ought to agree to the Senate amendment after striking out the word "successors." I move to strike out that word.

Mr. CLINGMAN. I am opposed to the amendment of the gentleman from Missouri. This is a donation to the State of Delaware, and a gentleman told me that a donation made to the city of Savannah, under like circumstances, sold for $100,000.

Mr. JONES, of Tennessee. The gentleman is mistaken. The Government does not own the fee of this piece of ground, and they have no further use for it.

Mr. PHELPS. I withdraw my amendment.

Mr. STUART. I move to amend the Senate amendment by striking out the word "Delaware," and inserting "Pennsylvania" in lieu thereof. I do it simply for the purpose of saying that I am much gratified to hear from the Committee on Ways and Means, at last, that they have made a recommendation on a subject about which they had not any information.

Mr. PHELPS. When I examined that amendment I had not any information upon this subject, and there were no papers accompanying the amendment from the Senate. When, however, I could procure information upon the subject, I changed the opinion I had entertained.

Mr. STUART. In my judgment, the much better way is to act upon the information that you have than to act on information that you have not, before you recommend to the House to disagree to an amendment. I am as willing as anybody to follow the lead of the Committee on Ways and Means——

Mr. LETCHER. I call the gentleman to order. I ask that he be confined to this amendment.

Mr. STUART. I want to show that so far as any information comes from the Committee on Ways and Means, it is as obvious that this ground belongs to Pennsylvania as to Delaware. Now, I protest against the doctrine of following that committee, or any other committee, blindfolded on subjects which they have not examined.

Mr. RIDDLE. I merely wish to state that the papers are in my possession which convinced the Committee on Ways and Means that they were wrong, and satisfied them that this amendment ought to be adopted.

The question was then taken on Mr. STUART's amendment, and it was rejected.

The question recurred on the amendment of the Senate, and being put, it was decided in the affirmative.

So the amendment of the Senate was concurred in.

The next amendment of the Senate was read, adding the following, viz:

"SEC. 21. *And be it further enacted*, That for the purposes of enabling the Commissioners of the Military Asylum to purchase a suitable site with the view of establishing thereat a western military asylum, the sum of $10,000, in addition to the sum in the hands of the Commissioners, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment, with a proviso repealing the eighteenth section of the act of the last session of Congress upon the subject——

Mr. STANTON, of Kentucky. I rise to a question of order. The chairman of the Committee on Ways and Means says that the committee over which he presides recommend a concurrence in this amendment of the Senate, with a proviso, and that that proviso proposes to repeal an existing law. Now, I submit that, under the 81st rule, that is not in order.

Mr. CLINGMAN. Read the amendment offered by the gentleman from Alabama.

The Clerk read the amendment, which is as follows:

"Insert at the end of the clause, the words:

"And that the eighteenth section of the act approved August 31, 1852, 'making appropriations for the support of the Army,' be, and the same is hereby, repealed."

Mr. STANTON, of Kentucky. I hope the 81st rule will now be read. It is clear that the proposition of the gentleman from Alabama is not in order.

Mr. GORMAN. It is clearly out of order.

The CHAIRMAN. The Chair thinks the 81st rules does not apply to this amendment.

Mr. STANTON. Well, have it read to the committee.

The CHAIRMAN. The 81st rule prohibits the offering of amendments to an apppropriation bill except for certain specified objects.

Mr. STANTON. Well, I ask that the rule may be read.

The Clerk read the 81st rule, as follows:

"81. No appropriation shall be reported in such general appropriation bills, or be in order as an amendment thereto, for any expenditure not previously authorized by law, unless in continuation of appropriations for such public works and objects as are already in progress, and for the contingencies for carrying on the several departments of the Government.

Mr. DUNHAM. In order that its applicability may be seen, I now ask for the reading of the section which it is proposed to repeal.

The Clerk read the section, as follows:

"*And be it further enacted*, That the Board of officers designated by the act of the 3d of March, 1851, to precure sites for the military asylums, by and with the approval of the President of the United States, be, and they, or a part of them, are hereby, authorized to examine the Blue Lick Springs and the land attached thereto, and if the same be found eligible for the purpose, and can be secured of the proprietors, or any suitable quantity of the land, including the buildings, at a reasonable price, to purchase the same for the Government of the United States, and locate thereon the Western Military Asylum."

Mr. STANTON. My point of order is, that the amendment of the Committee on Ways and Means proposes to repeal a law that is now existing and in force, and that this is an appropriation bill to which no such matter can be attached.

The CHAIRMAN. The Chair overrules the point of order, and decides that the amendment is in order, as an amendment to the Senate amendment.

Mr. STANTON. I appeal from the decision of the Chair, and I desire to state the ground of my appeal. If the House decides that amendment to be in order, and it should be attached to the bill, I will then propose an amendment in addition to that which shall repeal all laws which relate to the establishment of military asylums in the United States. Now, is it possible that a proposition of that kind would be in order as an amendment to an appropriation bill?

Mr. DUNHAM. I call the gentleman to order. The appeal is not debatable.

Mr. STANTON. Well, sir, I have done.

The CHAIRMAN. The Chair rules the amendment to be in order.

Mr. HALL. The Chair is wrong

Mr. DUNHAM. I call for tellers on the appeal.

Tellers were not ordered.

The question was then taken on the appeal, "Shall the decision of the Chair stand as the judgment of the committee?" and it was decided in the negative.

So the decision of the Chair was overruled, and the amendment decided to be out of order.

The question was then put on agreeing to the amendment of the Senate, and on a division, there were—ayes 67, noes 33; no quorum voting.

Mr. HAMILTON. I call for tellers.

Tellers were ordered; and Messrs. DEAN and WILCOX were appointed.

The question was again put, and the tellers reported 78 in the affirmative.

A further count was not insisted upon.

So the Senate amendment was agreed to.

The last amendment of the Senate, adding the following to the bill, was read, viz:

"And whereas a discovery has been made, and is now in practice, whereby the human body can be rendered safely insensible to pain in dental, surgical, and obstetrical operations, by the use of what are commonly called anæsthetic agents, and the Government of the United States has been and is in the enjoyment of said discovery in the military and naval service; and whereas it is established that the discovery was made by some one of the persons following, to wit: William T. G. Morton, Charles T. Jackson, each of Boston, and Horace Wells, of Hartford, deceased; but it does not appear to the satisfaction of Congress which of those parties was the original, true, and first discoverer thereof; and whereas Congress is willing to provide a recompense for such discovery when ascertained: Therefore—

"SEC. 22. *Be it further enacted*, That the sum of $100,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be paid by the Secretary of the Treasury as hereinafter provided, as a recompense for said discovery, and the use and benefit thereof by the Government and people of the United States.

"SEC. 23. *And be it further enacted*, That it shall be the duty of the district attorney of the United States for the northern district of New York, within a reasonable time after the passage of this act, to file in the circuit court of the United States for said district, sitting in equity, a bill of interpleader, wherein, reciting this act, or the substance thereof, the Secretary of the Treasury, as trustee of the sum herein appropriated, shall be complainant, and the said William T. G. Morton, Charles T. Jackson, and the personal representative or representatives of said Horace Wells, shall be defendants: of which bill they, the said parties, shall take notice, and may appear and answer and make proofs; and the said circuit court shall have jurisdiction of said case, and the same shall be tried in the manner and according to the practice of such court in equity cases; and the issue therein shall be, which one of the said parties first named was the original, true, and first discoverer of the discovery hereinbefore recited; and, by final decree in such case, the court shall decide that issue, and shall direct that the said sum of $100,000, without any costs, shall be paid over to the party who shall be found to have been such discoverer, or to his personal representative or representatives or assignee: *Provided*, That if one or more of said defendants shall conceive himself or themselves to be aggrieved by said decree, he or they may, within twenty days after the making of the decree, appeal to the Supreme Court of the United States, and thereupon the payment of said sum shall be suspended until final disposition be made of said case by the said Supreme Court: *And provided further*, That if it shall appear that either of said defendants holds a patent for said discovery, or the means of applying the same, which, in the judgment of said circuit court, is valid, then it shall be the duty of said court to certify such fact to the said Secretary, who shall thereupon withhold from such defendant said sum, should the same be decreed to him by the said final decree, until he shall have executed, under his hand and seal, an instrument in writing surrendering such patent, and granting the free use of said discovery, and the means of using or applying the same, to the Government and people of the United States: which instrument shall be lodged in the Patent Office and entered on the records thereof: *Provided*, That before the said sum of $100,000, or any part thereof, shall be paid to either of the parties named in this act, he shall make oath in due form of law that he has not been guilty of collusion with either of the other parties named in this act, in any way whatever."

Mr. STANLY. I propose an amendment, by way of a proviso. I move to add the following at the end of the section, viz:

Provided further, That if, in the opinion of the said circuit court of the United States, or of the Supreme Court of the United States, the said recompense should be divided, the court shall have power to direct the said sum of $100,000 to be paid to the parties above named in such proportions as, according to the judgment of the court, may be due to their respective merits in connection with said discovery.

Mr. Chairman, I do not think there is any difficulty about that amendment at all, whatever gentlemen may think about the original proposition. This discovery is one of sufficient importance to merit the amount of compensation to which this amendment proposes to give to whoever it shall be decided has the honor of the discovery. That is the thing to settle. I have very little to say upon the subject. The matter has long been discussed with a good deal of talent in different portions of the country. At the last session of Congress, a report upon the subject was made by my honorable friend from Maryland [Mr. EVANS] and myself, in which we took ground in favor of Dr. Jackson, while other members of the committee took ground in favor of Dr. Morton. My own opinion is, and has been for a long time, that both these gentlemen deserve some credit. I think it is the voice of Jacob and the hand of Esau. But the honorable Senator from Connecticut, [Mr. SMITH,] in the other end of the Capitol, has made an elaborate report upon the subject, in which strong arguments are urged to show that Mr. Horace Wells, of Hartford, Connecticut, was the discoverer of another anæsthetic agent, which is as valuable as any which has been discovered. I think substantial justice may be done to all these gentlemen by the amendment which I have now submitted. If the Supreme Court, or whatever court has jurisdiction over it, should decide that all these gentlemen deserve credit for the discovery, then the money may be divided between them.

Mr. CAMPBELL, of Illinois. I think they had better divide it between them without any suit at all.

Mr. STANLY. If all these parties were instrumental in bringing about this valuable discovery, I think they should all share in this benefit which it is proposed to give them. But I will not longer take up the time of the committee.

Mr. STEPHENS, of Georgia. I am opposed to the amendment offered by the gentleman from North Carolina, as I am to this whole proposition.

Mr. MEADE, (interrupting.) I wish merely to state to the gentleman from Georgia that one of these parties is here present in this House, and tells me that he is willing to accept the amendment of the gentleman from North Carolina, [Mr. STANLY.]

Mr. STEPHENS. Yes, sir; that is just what

I expected—a bargain. Mr. Chairman, I had no doubt, when I heard this amendment from the Senate, that there would be a bargain made between these people before the matter ended. I had no question of it; and now I hear it announced publicly upon this floor. Sir, I am opposed to this bargain, in the beginning and in the end. I am utterly opposed to the amendment of the gentleman from North Carolina, and to the entire Senate amendment.

Mr. STANLY. If the gentleman intends to say there has been any bargain on my part, I should like to have him make the charge distinctly. I have no knowledge of any bargain at all.

Mr. STEPHENS. I made no statement with regard to the gentleman's bargain. I say his proposition covers up a bargain, and I am against it; that is what I say. Sir, of all the monstrous propositions the Senate has attached to this bill, this last forms the climax in its monstrosity. I repeat, I am against the whole of it. I am opposed to squandering the public money in such a way. The Constitution of the United States prescribes the mode by which discoveries and inventions may be rewarded by patent. The genius of the country is amply protected by the Constitution and by your laws; and I am utterly opposed to opening the public Treasury for rewarding any discovery, however important it may be.

The question was then upon the amendment of Mr. STANLY.

Mr. MEADE. I propose a former section in the Senate amendment. I move to strike out "$100,000" in the 22d section and to insert $99,000.

The section would then read:

"SEC. 22. *And be it further enacted*, That the sum of $99,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to be paid by the Secretary of the Treasury as hereinafter provided, as a recompense for said discovery and the use and benefit thereof by the Government and people of the United States."

Mr. Chairman, I had prepared an amendment similar to the one offered by the gentleman from North Carolina, without ever having known that it would be acceptable to either of these parties, and without ever having conferred with either of them in relation to it. My amendment was framed in consequence of the division of opinion which existed in the committee to which it was referred as to who was properly entitled to the credit of the discovery. If the facts set forth by the minority of that committee are true, Dr. Jackson is entitled to the discovery; and if the facts set forth in the majority make the correct statement of the case, then Morton is entitled to it. I understand the Academy of Arts and Sciences in Paris, has awarded to each of these gentlemen a medal, and my own opinion is, that they are both entitled to some credit; Dr. Jackson having originated the idea and Morton having carried it out.

Now, sir, there are two questions presented to this committee: First, Is the invention worth paying for, and is it sufficiently valuable to authorize this Congress to pay $100,000 for the use of it for the Army and Navy? Then it is for us to decide, if we are to pay the money, to whom we are to pay it, and if to more than one, in what proportions. There is no doubt that somebody has made the invention, and that somebody ought to receive pay for it. I think the amendment of the gentleman from North Carolina is a proper amendment, and will do justice to all parties. I had prepared one similar to it, with the purpose of effecting justice between these two parties.

Mr. BEALE. What obligation have we to pay them?

Mr. MEADE. I say somebody has made this discovery, and I presume no one will deny that one of the parties named in this bill is the person. The only question, therefore, for this committee to decide is, whether we shall buy it at all; and if so, whether we shall provide in this bill for paying those to whom the credit is due?

Mr. HALL. I want these parties to keep the credit and the ether too. We do not want it.

Mr. MEADE. That is a distinct question which is for this committee to decide. But if they decide to buy, it is for them to decide whether they will vote the compensation to one of the persons named in this bill, or whether they will divide it among them in proportion to the credit due to each one. If more than one is entitled to it, I presume no one will object to that. If the committee decide to purchase the invention, why do gentlemen object to a fair distribution of the money to all who are entitled to the credit of the discovery?

Mr. STEPHENS, of Georgia. I will tell the gentleman why I am utterly opposed to it. These people have each set up a claim as the sole discoverer. But, you perceive they are both willing to change their claims without regard to honor—it will all merge in "the dollar." Dr. Jackson will immediately withdraw, if it is necessary, in favor of Morton; or Morton will withdraw in favor of Dr. Jackson, and then the $100,000 will go, as a matter of course, and let honor take care of itself.

Mr. MEADE. Well, sir, what concern is that of ours? If we determine to pay $100,000 for the patent, what concern is it to us what is done with the distribution of the money after we have paid it to the one to whom the credit of the discovery is due?

Mr. STEPHENS. I am not willing to pay $100,000 to any of these persons for this discovery, either to one or all of them. If the discovery is important to the Government, let the Government pay for the use of this patent as they do for any other patent. I am opposed to paying money directly out of the Treasury to these men.

Mr. MEADE. That is legitimate argument, but I think the other objection which the gentleman from Georgia brought against this proposition cannot be properly applied to our action in this House.

[Here the hammer fell.]

The CHAIRMAN. When the Chair entertained the amendment of the gentleman from Virginia, [Mr. MEADE,] he was of the opinion that the amendment of the Senate was divisible; but upon examination, he entertains a different opinion. The gentleman from North Carolina [Mr. STANLY] offered an amendment to the Senate amendment, and but one amendment can be pending to that amendment. The Chair decides that the amendment offered by the gentleman from Virginia could not be entertained, and the question will therefore now be upon the adoption of the amendment of the gentleman from North Carolina.

Mr. MEADE. Is it not in order to offer an amendment to a different section?

The CHAIRMAN. It will be in order when the amendment of the gentleman from North Carolina is disposed of, and not till then.

Mr. STANLY. Will it be in order to modify my amendment so as to provide that the expense shall not exceed $100,000?

The CHAIRMAN. It is in order for the gentleman to modify his amendment, but not to debate the modification.

Mr. STANLY. Then I will not modify it.

The question was then taken, and Mr. STANLY's amendment was not agreed to.

Mr. BROWN, of Mississippi. I move to increase the appropriation from $100,000 to $101,000.

Mr. Chairman, I entertain a different view in relation to the subject of this amendment, from that expressed by the gentleman from Georgia, [Mr. STEPHENS.] That distinguished gentleman has told us that these parties have their constitutional rights secured to them by virtue of a patent. So they have; but here is a discovery which the whole scientific world has admitted to be of great value, and which this Congress admits to be valuable, not only to the Government in its governmental capacity, but to the citizens of the country.

A MEMBER. Very doubtful.

Mr. BROWN. A gentlemen says it is doubtful. Well, sir, that is easier said than proved.

Mr. HALL. Will the gentleman tell me in what respect this discovery is valuable to the Government in "obstetrical operations?" [Laughter.]

Mr. BROWN. I hope the gentleman will attend to his own affairs and not interrupt me. Sir, this Government is in the habit of using this discovery in all its ships, and in all its forts and military stations upon its frontier. There is not a surgeon in your Army or Navy who is not in the habit of using it. Now, I want to know upon what authority this Government seizes upon a discovery of this kind, and appropriates it as they have this discovery, without compensating the owner of it? Sir, this is private property. Some one has made the discovery, and he is entitled to his compensation for it. The action of the Government has been such as to destroy the value of the patent, and I insist that we should make a suitable return.

I care not what other gentlemen may do in this matter. I have a sense of justice connected with it, and whatever may be the course of others, I shall vote according to that sense of justice. By what principle of right do you seize upon private property and appropriate it to public uses without compensating the owner of it? In this you violate a constitutional right. You have done it, and you do it every day. You did it in the war with Mexico, and you do it in all your arsenals and hospitals, and wherever there exists the necessity of performing surgical operations. It is against this conduct that the patentee protests, and he comes to this Congress and asks protection against such acts. Gentlemen may raise a clamor about it, and you may refuse to do justice, but when you do that, I say upon my conscience I believe you violate a constitutional right of this man. You have not respected his patent, and you do not respect it now.

[Here the hammer fell.]

Mr. WOODWARD. I am opposed to the amendment of the gentleman from Mississippi. I deny that the United States have used this patent. You may as well say that the United States uses the patented jack-plane which is in the hands of the carpenters upon your public works. We employ a physician, and he gets his own medicines. He gets them from science, and is responsible for it. It is not our medicine any more than are the tools those stone-masons use in building the Capitol.

Another thing: this Congress cannot give jurisdiction of the case. It may determine the limits of the jurisdiction of an officer, but what cases the Federal courts shall have jurisdiction of is determined by the Constitution of the United States. Now, what is the proposition here? Is this a case coming under the law? No. Your law in relation to patents is overlooked, and you are asked to make a law for this particular case. We are called upon by two men, who might resort to your judicial tribunals and have their rights settled, to make a law suitable to their particular case, and not a law for the country. Congress is called upon to issue an original writ to call the parties into court and have their rights decided.

Now, sir, are not Doctors Morton and Jackson citizens of the same State? What right have we to create a jurisdiction of a particular case when they belong to the same State? We have no right. The Constitution has described the cases, and described the parties in every instance, and the jurisdiction of the Federal courts over them. We can do nothing but determine the territorial limits within which this or that particular officer may act.

Now, let these parties pursue their rights according to existing laws. Let the patentee prosecute his right, if his patent is violated. I deny that this Government has done it. If your surgeons have, they are responsible for it individually. I hold that a surgeon in the employment of the United States, is responsible for violating a patent right, in relation to medicine, and his being in our service would not exempt him from liability; and I say let these parties go into court, and there determine their rights.

In my opinion, the Federal courts will decline to take jurisdiction of any such writ as you would require them to by the passage of this act. They ought to do it, because there is no such writ authorized by the supreme law of the land.

I am opposed to the amendment, and the bill, too, with or without amendments.

The CHAIRMAN. The question is upon the amendment of the gentleman from Mississippi.

Mr. BROWN. I withdraw it, by unanimous consent.

Mr. SKELTON. I object to the withdrawal of it.

The question was then taken on the amendment, and it was disagreed to.

Mr. HALL. I move to reduce the amount to $999. I am utterly opposed to this proposition. It is nothing more nor less, as I understand it, than the old proposition to buy the patent right. If Doctor Morton, who has been trying to soften the consciences and hearts of members of Congress for the last month, by keeping good things all around this Capitol, or if Doctor Jackson, or Doctor Wells, or any other doctor, has a patent right, let him fix his price for the use of it in every individual case,

and make individual doctors or surgeons in the Army of the United States pay that price. When we wish to buy a patented article for the use of the United States, let us buy it as individuals do, and when we have obtained it, let us apply it to the public service.

But further: should we buy this patent right, who knows but that to-morrow there may be discovered another agent far preferable, possessing similar properties, and able to accomplish the same thing? And yet, under this act, we will pay $100,000 for that which may be of no use to-morrow.

I think this course on the part of the Government of the United States is all wrong. It never has resulted well, and the ultimate effect will be, that whenever an individual makes an important invention, or an important discovery, instead of endeavoring to protect himself under the Constitution of the United States by a patent right, he will come here and ask this Government to purchase it for public purposes. The very clause of the act under consideration contains that principle. It recognizes the principle that it is a part of the duty of this Government to buy patent rights, not merely for the use of the Government, but for the use of the individual citizens of the United States. The very thing in question is that we shall pay this money, not merely for using this agent for the benefit of the Government, but for the benefit of the individual citizens of the Government. I ask this House where they find the authority to exercise a power of that kind? Where have you the power to buy a patent right, not for the use of the Government, but for my use, or the use of the gentleman from Virginia, or any other citizen of the United States? It seems to me to be a monstrous assumption of authority—a most dangerous assumption of authority, and a virtual repeal of that clause of the Constitution which secures to individuals their patent rights. If the principle is to be recognized that we are to extinguish patent rights whenever an important invention is made, the Patent Office will cease to be of any benefit whatever, and you may as well abolish it, and repeal all the patent laws at once.

Mr. STANLY. I am opposed to the amendment, and I oppose it for the purpose of saying a few words. The gentleman from Georgia [Mr. STEPHENS] seems to think that the rights of this discovery are admitted and well known. But it is a matter of controversy now. The French Academy of Science have had this matter under investigation, and they have said that Doctors Morton and Jackson both deserved credit, and they have given them both a medal for their respective discoveries. They have done that, and shall not the American Congress give these men some substantial reward? The gentleman speaks of the patent right. One party has patented it. Other parties say it is not patentable. The gentleman from Mississippi [Mr. BROWN] says that the patent has been invaded by the Government. Undisputed facts show that the Government has taken and used it. And shall not the Government pay for the patent right? Where is the sense of justice of the gentleman from Georgia, which so rouses up against monstrosities? If this is a monstrosity, the Senate of the United States have done it. They incorporated this section in the bill; and a great many honorable gentlemen in this House do not perceive that it is a monstrosity. The gentleman has quite an awkward notion of monstrosity, and peculiar to himself.

The gentleman seems to suppose that Doctor Jackson is capable of giving a reward—of entering into a contract to have this whole opposition hushed up—by dividing the money. Doctor Jackson's character is as secure from attack as any man's in this Congress. What the gentleman from Georgia recognizes as a monstrosity has been approved by more than fifty as honorable men as any in this House. This section provides only for an act of common justice—undeniably so. The matter is plain of itself, and ought to be sustained by the House. There is no injustice here, nothing monstrous attempted. It is what all honorable gentlemen who have examined it admit the justice of.

[Here the hammer fell.]

The question was then taken upon the amendment offered by Mr. HALL, and it was disagreed to.

Mr. STEPHENS, of Georgia. I move to reduce the appropriation one dollar.

The gentleman from North Carolina [Mr. STANLY] says that the Government of the United States has invaded this patent. I should like to have the gentleman tell me how, and where?

Mr. STANLY. In the Mexican war. If the gentleman has read the reports, he will see numerous instances there stated. They use it in the Army and in the naval hospital.

Mr. STEPHENS. In order to argue principles correctly, we must discriminate. The Government of the United States has not authorized its use. Government surgeons may have used it. But has the Government ever authorized them to use it? If it has not, it has never invaded the patent. Has Doctor Morton ever sued, or has he ever protested against the use of his preparation of ether by Government officers? Has he offered to sell his right to the Government? Why, Mr. Chairman, even this bill does not propose to convey the patent on the part of Doctor Morton or Doctor Jackson or Doctor Wells, to the United States.

Mr. STANLY. The gentleman has not read the section. Yes, it does.

Mr. STEPHENS. If one of these gentlemen does, all do not. Suppose it should turn out that Mr. Wells was a patentee in this case, is he not to be a party to this suit, and how are you going to bring him into court?

Mr. STANLY. You do not—you bring in his representatives.

Mr. STEPHENS. How can you divest his legal representatives or heirs, if they have rights, and bring them into court, and compel them to convey their rights to the Government, as is proposed by this bill?

Mr. STANLY. We bring in his representatives.

Mr. STEPHENS. Can you pass a law to divest his rights under the patent laws of the United States?

Mr. STANLY. Nobody ever dreamed that he had any legal rights. He never claimed a patent.

Mr. STEPHENS. If he was the original discoverer, and has a patent for it, of course his minor heirs cannot be brought into court and compelled to convey their rights to the Government

Mr. STANLY. My friend from Georgia does not understand the question. Wells claimed to have discovered one agent, and Doctors Morton and Jackson another.

Mr. STEPHENS. But is it not proposed that the three shall share this appropriation, if either Wells, Morton, or Jackson, in the opinion of the court, is entitled to any portion of it as discoverers, on condition that he convey the right to the people of the United States? Now how can minor heirs convey or be compelled to convey their rights if they have any, in this way?

Mr. HALL. The gentleman from North Carolina talks about a patent right. Why, the bill proposes to give them $100,000, whether they have a patent right or not, and that, if it turns out that any one of them has a patent right, he shall relinquish it to the Government.

Mr. STEPHENS. The gentleman says that I do not understand the bill. I know that $100,000 is to be voted, and that these three individuals, or their representatives, are to, or may, share in it. That is, if they are all willing to do it. That is what I understand.

Mr. STANLY. The gentleman is mistaken. Doctor Jackson is no party to this business in any way, so far as I know.

Mr. EVANS. I feel myself authorized to assert, though I do not know what the others are doing, that Doctor Jackson is not claiming one cent from the Government. That is my belief.

Mr. STEPHENS. And Doctor Jackson is entitled to the patent, in my opinion.

Mr. EVANS. He is the discoverer.

Mr. STEPHENS. Yes, and he got a medal from the French Academy, I believe. But, sir, I look upon this gift of $100,000 as a violation of the Constitution.

Mr. SAVAGE. I wish to inform the gentleman and the committee, that I saw a gentleman who represented himself to be the agent of Doctor Jackson, not an hour ago behind the bar of the House.

Mr. STEPHENS. The gentleman from North Carolina, [Mr. STANLY,] it seems, then, did not understand the position of Doctor Jackson himself. Doctor Jackson, it seems, has an agent here representing his claim. But I was on other points. If officers of the Army have used this patent, they are liable to be sued. There can be no invasion on the part of the Government, unless it has seized this patent; but nothing of the sort has been done. The donation of the money as proposed is without warrant from the Constitution. I rejoice as much as the gentleman from North Carolina, or anybody else, that this wonderful agent has been discovered.

[Here the hammer fell.]

Mr. MEADE. I wish to notice a few of the arguments of the gentlemen from South Carolina and Georgia [Mr. WOODWARD and Mr. STEPHENS] in relation to the jurisdiction over this question. There are various instances on the records of appropriations to discoverers of large sums of money for the use of their discoveries, or as a gratuity; and it is now proposed that we shall purchase this anæsthetic agent, or the patent, for the use of our Army and Navy. For the purpose of my argument, I assume the fact that we desire to buy the patent, and are willing to pay $100,000 for it. We do not pay the money to either of the three claimants, because they are all claiming against each other. One has got a patent, and the others are contesting the right to it. To insure that the money will be paid to the person rightfully entitled—that is, to the original discoverer—it is placed by this bill in the hands of a trustee, who files a bill of interpleader in the court having jurisdiction to determine the question of right. This is the everyday practice of our courts.

The district courts of the United States are resorted to by all owners of patents for redress in case of their violation. It is the proper tribunal, and, of course, have jurisdiction over this question; also, Jackson, Morton, and Wells, each, claiming to be entitled to the patent, is supposed to have demanded of the Secretary of the Treasury, the trustee, after the passage of the law, the $100,000. He will tell them that he will pay neither, because he is doubtful who is entitled to it; but to determine the question he will file a bill of interpleader—bring all into court, and examine their proof. It is clearly within the jurisdiction of the United States courts, and the argument of the gentleman from South Carolina [Mr. WOODWARD] is unsound. A citizen from Massachusetts may sue in the Federal courts of that State, any person, whether a citizen of that State or not, for a violation of his patent.

Mr. WOODWARD. It does come within the jurisdiction of the courts, under the law; but I say that you propose to change it, and to take it from their regular jurisdiction.

Mr. MEADE. The gentleman has entirely misconceived the question. We desire the use of the discovery; we desire to purchase the patent, and appropriate $100,000, to be paid by the Secretary of the Treasury, to the rightful owner of it. The bill then provides, that if he is doubtful as to who is the owner, he shall file a bill of interpleader, and bring the claimants into court, to have the question of right determined. Then a stockholder or trustee can, by bill, summon the parties into the same court to which they must resort to sue each other. The court has certainly jurisdiction, and the parties by this bill consent to go there, else they can get nothing under it.

[Here the hammer fell.]

Mr. MOORE, of Pennsylvania. We have expended time enough on this subject, and I therefore move that the committee do now rise, with a view of terminating the debate.

The question was taken and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. HARRIS of Tennessee) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the Army appropriation bill, and had come to no resolution thereon.

Mr. MOORE. I move that the rule allowing five-minutes debate in the Committee of the Whole on the state of the Union be suspended on the amendment it has just had under consideration.

The question was taken and the motion was agreed to.

Mr. MOORE. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. HARRIS of Tennessee in the chair.)

The CHAIRMAN. The question is on the amendment of the gentleman from Georgia.

Mr. STEPHENS. I will withdraw my amendment so that we may have a direct vote on the proposition.

Mr. FITCH. I propose the following amendment by way of addition:

Provided further, That if, in the opinion of the said circuit court of the United States for the northern district of New York, or of the Supreme Court of the United States, the said recompense should be divided, the court then shall have power to direct the said sum of $100,000 to be paid to one or more of the parties above named, in such proportions as, according to the judgment of the court, may be due to their respective merits in connection with said discovery.

If the courtesy had been extended to a member of the Select Committee having this subject in charge, I should like to have debated this subject.

The CHAIRMAN. The Chair did not know who were the members of the Select Committee.

The question was taken on the amendment to the amendment; and it was disagreed to.

The question then recurred on the amendment of the Senate.

Mr. DEAN. I demand tellers.

Tellers were ordered; and Messrs. HALL and WILCOX were appointed.

The question was then taken; and the amendment of the Senate was non-concurred in; the tellers having reported—ayes 44, noes 85.

Mr. HOUSTON. I move that the committee rise and report the bill.

Mr. DUNCAN. Will the gentleman allow me to take up House bill No. 362, providing for the light-houses, &c.?

Mr. HOUSTON. I cannot yield.

The question was taken upon Mr. HOUSTON's motion, and it was decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and especially Senate amendments to House bill No. 336, and had ordered him to report back the same to the House, some with a recommendation that they do pass, and sundry others with a recommendation that they do not pass.

Mr. HOUSTON. I demand the previous question upon the bill.

The previous question was seconded, and the main question ordered.

Mr. CABLE, of Ohio. I move that this House do now adjourn.

Mr. STEPHENS, of Georgia. I would ask the gentleman from Alabama [Mr. HOUSTON] not to press a vote upon these amendments, but let us go back into Committee of the Whole upon the light-house bill. It is very important that we should proceed to the consideration of that bill.

The SPEAKER. That can be done only by unanimous consent, inasmuch as the main question has been ordered to be put.

Mr. HOUSTON. I suppose we can go thus far. We can take the vote of the House upon the uncontested amendments, and leave the contested ones to be voted upon to-morrow.

The SPEAKER. If it be the pleasure of the House, I would suggest that gentlemen should point out the amendments upon which a separate vote is desired.

Mr. ORR. I ask for the reading of the amendments.

Mr. JONES, of Tennessee. I suppose that gentlemen who wish separate votes can designate them, and those upon which a separate vote is not asked can be voted upon in the mass.

The SPEAKER. The Chair made that proposition, but the gentleman from South Carolina [Mr. ORR] opposed it, and insisted upon the reading of the amendments.

Mr. ORR. There are two or three amendments upon which I desire a separate vote. I cannot recur to them at this moment.

Mr. LETCHER. I ask a separate vote upon the section relating to Harper's Ferry.

Mr. HAMILTON. I call for the reading of the entire amendments.

Mr. FREEMAN. I move that the House adjourn.

The question was taken, and it was decided in the negative.

So the House refused to adjourn.

Mr. BAYLY, of Virginia. I move to dispense with the reading of the amendments upon which separate votes have not been asked.

Mr. STANLY. I call for a separate vote upon every amendment.

Mr. BAYLY. Then I withdraw my motion.

Separate votes were demanded upon several amendments.

The question was taken upon concurring in the action of the Committee of the Whole on the state of the Union on the amendments upon which separate votes had not been asked, and it was decided in the affirmative.

The SPEAKER. The question now will be taken upon the amendments upon which a separate vote has been asked; and the first one in order is the following:

"For the remounting of the four companies of light artillery authorized by the act of March 3, 1847, $18,500: *Provided*, That the same be expended at the discretion and by direction of the President of the United States."

The question was then taken, and it was decided in the affirmative.

So the amendment was agreed to.

The next amendment in order was the following:

"For the defense of San Francisco, California, $500,000."

Mr. MARSHALL demanded the yeas and nays.

There being only 27 rising in the affirmative, they were not ordered.

Mr. DEAN. Count the other side.

Mr. MARSHALL. I ask for tellers on the yeas and nays.

Mr. STEPHENS, of Georgia. I move that the House adjourn.

Mr. MARSHALL. If an adjournment takes place now, can I bring this question up the first thing to-morrow? I ask merely for information.

The SPEAKER. It will be the business first in order.

Mr. MARSHALL. I ask this question because when I see anything disappear in this House, I never see it again. [Laughter.]

Mr. STEPHENS. I will withdraw my motion to adjourn, if the House will agree to take up the light-house bill.

There was objection; and the question was put on the motion to adjourn, and agreed to.

The House accordingly adjourned till to-morrow morning at eleven o'clock.

IN SENATE.

WEDNESDAY, *March* 2, 1853.

On motion by Mr. HUNTER, the reading of the Journal was dispensed with.

REPORTS FROM A COMMITTEE.

Mr. HUNTER. The Committee on Finance has directed me to report back the Indian appropriation bill, with amendments; and also the naval appropriation bill, to which it has made no amendments. It has determined at this late hour of the session to make no question, unless it is absolutely necessary.

CIVIL AND DIPLOMATIC BILL.

On motion by Mr. HUNTER, the Senate resumed the consideration of the bill from the House of Representatives "making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854;" the pending question being on the amendment of Mr. WALKER to the amendment of Mr. FELCH.

Mr. WALKER. My impression is, that considering the position in which the Committee on Finance is placed, the amendment ought to be withdrawn. If, therefore, the Senator from Michigan will withdraw his amendment, I will withdraw mine.

Mr. HUNTER. I hope it will be withdrawn by general consent.

Mr. BORLAND. The Senator from Michigan is not here.

Mr. JAMES. By unanimous consent, I ask the Senate to make an amendment to an amendment which was presented by the Senator from Virginia, [Mr. HUNTER,] and agreed to by the Senate. I desire merely to make a verbal amendment to render it plain and intelligible. It is to insert in the amendment in regard to the spinning and weaving of flax, before the word "spinning" the word "preparing."

Mr. HUNTER. There is no objection to that.

Mr. BRODHEAD. I ask for the reading of the amendment.

Mr. HUNTER. I can explain to the Senator that it relates to a manufacture which is carried on in Philadelphia. It exempts new machinery in the manufacture for the spinning and weaving; the Senator from Rhode Island has suggested that it would be better to add, "and for preparing."

Mr. COOPER. That is right.

Mr. BORLAND. I cannot see but what there is something to be said on this subject. I am unwilling to raise any unnecessary objection, but I cannot give unanimous consent.

Mr. HUNTER. I hope, then, that the Senator from Rhode Island will withdraw his amendment and not delay us with the bill.

Mr. JAMES. I will not delay the Senate. All I want is a vote; I have nothing to say upon the question.

Mr. BORLAND. I am sorry to do it, but I must discuss the proposition. The introduction of the word "preparing" changes the whole character of the provision. I object to it for the reason that it proposes to discriminate between the machinery which is to be used in the preparation, spinning, and weaving of flax, and any other machinery. I do not see any reason why we should make the discrimination.

Mr. BRODHEAD. It is already in the bill.

Mr. BORLAND. But this enlarges it. It more than doubles it. If the Senate is prepared to make this discrimination in favor of this particular machinery, and not for the machinery used in the manufacture of cotton, let it do so. I, for one, am unwilling to do it. Cotton is the staple production of the country in which I live. I move to amend by adding after "flax" "and cotton."

Mr. JAMES. I have no objection to that.

Mr. GWIN. I have.

Mr. WELLER. That will not do.

Mr. HUNTER. I hope the Senator from Rhode Island will withdraw his proposition.

Mr. JAMES. I have not a word to say, if we can have a vote.

Mr. HUNTER. We cannot get a vote. The Senator from Arkansas will move amendments.

Mr. BORLAND. I have no more to say but to ask the vote on my amendment to the amendment.

The amendment to the amendment was rejected; and the question recurring on the amendment, it was agreed to by a vote, on a division, of ayes 18, noes 17.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The question now is upon the amendment of the Senator from Wisconsin [Mr. WALKER] to the amendment of the Senator from Michigan, [Mr. FELCH.]

The amendment is as follows:

That within each of the several States containing the public domain of the United States, where railroads are authorized by the laws of said States, respectively, to be constructed, which said railroads will run through any portion of the said domain remaining unsold within six miles of the routes of said several railroads before mentioned, there is hereby reserved from sale, entry, or location, until otherwise directed by Congress, said six miles, being six sections on each side of said railroads, throughout the entire routes thereof, so far as authorized by said laws of said several States, respectively; which said lands so reserved shall be set apart by the Secretary of the Interior at the earliest practicable period, in conformity with the route running from, through, or to the points designated in the laws of said States, respectively, but subject to correction upon the plats of survey furnished by the parties authorized by the said several States, respectively, at any time before the first Monday in November next, said Secretary deviating in no respect from the routes and points designated in the laws of said States, respectively, or the provision of this act of Congress: *Provided*, That nothing herein contained shall in any way impair, limit, or affect the right of any actual settler who may have heretofore settled on any of said lands, and who would have acquired a title to the same under any existing law of Congress. The Secretary of the Interior, so far as authorized by any existing law of Congress, be, and he is hereby, directed to complete the surveys of public lands, as soon as practicable, to the extent reserved as aforesaid on each side of said railroads; the said Secretary of the Interior reporting his proceedings to Congress at the commencement of its next session, and for such action, at their discretion, as they may direct in relation to all of said lands so reserved as aforesaid, and this provision shall also apply to the routes described in the bills providing for the grants of alternate sections for the construction of a road along the same which have passed either House of the present Congress.

The amendment to the amendment is to add to it the following:

Provided also, That the provisions of this section shall not be applicable to any person who shall desire to buy, enter, or locate any of said lands, for the purpose of his or her personal settlement and cultivation or occupation, said purpose to be ascertained by the oath of the persons seeking to make such purchase, entry, or location.

Mr. HUNTER. I appeal to the Senator from Michigan to withdraw his amendment. It will evidently give rise to debate.

Mr. FELCH. I think not. I explained the matter last night. I merely ask a vote.

Mr. HUNTER. It is manifestly improper to put such a thing on an appropriation bill at any time, if we had a fortnight before us; and it is more improper when we have but two working days.

Mr. BORLAND. The amendment is an important one, and one to which I can conceive of no objection. It is important to the western States.

Mr. RUSK. It is manifestly just in every sense of the word. It is one of the most important amendments that has been offered.

Mr. WALKER. The amendment to the amendment is simply to protect the right to settle on the public lands for their cultivation; and to make the amendment perfect it ought to be adopted.

Mr. UNDERWOOD. The Committee on Public Lands—and I think very properly—agreed to report the amendment offered by the Senator from Michigan. It meets my cordial approbation. But now the Senator from Wisconsin comes in with a speculative section—perfectly so—a section which ought never to go in this bill. What is that section compared with the original proposition of the Committee on Public Lands? It is this: That when the Committee on Public Lands has recommended the saving of six miles on each side of the various railroads, the Senator from Wisconsin proposes that anybody who will swear that he intends to settle without saying when—whether fifty or a hundred years hence, if he should live so long—may get his land warrant, and take up any of those sections of land. It is dependent entirely upon his oath. If he swears that he has an intention to settle, without limitation as to the time, he is authorized to take up the land. Then, sir, anybody may go and settle upon the whole of it up to the railroad, and get a preëmption by that settlement. My object has been to reserve all these lands with the view of helping to make the railroads, but the amendment of the Senator from Wisconsin will effectually defeat that object. Listen to it:

"*Provided also*, That the provisions of this section shall not be applicable to any person who shall desire to buy"—

That is, not who shall desire to settle, but—

—"who shall desire to buy, enter or locate any of said lands for the purpose of his or her personal settlement, and cultivation or occupation"——

When? Fifty years, or one year hence? Nobody knows.

—"said purpose to be ascertained by the oath of the persons seeking to make such purchase, entry, or location."

I have done.

Mr. WALKER. The Senator from Kentucky charges me with coming forward with a speculative amendment.

Mr. UNDERWOOD. I did not charge you with having intended it as such, but I charge the amendment as having that effect.

Mr. WALKER. Whether it is against me or the amendment, it is gratuitous and uncalled for, for it is not the fact. That amendment is to protect my State for one, and as long as I occupy a seat here, I shall exercise my duty in my own way, without consulting the Senator from Kentucky as to the rights which Wisconsin demands.

Mr. UNDERWOOD. I do not ask you to do it.

Mr. WALKER. Sir, I presume that there is no one man on the face of the earth who knows the number of railroads that have been in Wisconsin carved out of the six miles wide on each side of them, until there cannot another emigrant enter the State, and buy and settle the best land; and I find myself forced to do—what? Why, here is a speculation truly in favor of railroad corporations, and I find myself in the predicament to fight the enormity of this thing, to come forward with a proposition to put my constituents, and those who may be disposed to settle there, under their oath that they are going personally to settle upon and cultivate the land. That is the humiliation to which I am reduced to resist this tornado of speculation that is thrown upon us. The Senator from Kentucky talk about me offering a section for speculation! It comes with ill grace from that Senator. He is the one who tried to get the floor to move to take up Bennett's land bill, to put some twenty-five or thirty thousand miles of railroad upon the public land, and deprive the honest laboring yeomanry of this country of the power to cultivate the country; and he talks about my coming for speculative purposes with this amendment. For God's sake, if you adopt the amendment which the Senator from Kentucky seems to advocate with so much zeal, let me have inserted in it "except Wisconsin."

Mr. UNDERWOOD. I said distinctly to the Senator, before he commenced his very angry observations, that I did not apply my remarks to him personally, but that I characterized his amendment as being one which would favor speculation. Having done that, I have done towards the Senator from Wisconsin everything that I think a gentleman ought to do.

Mr. President, I wish that gentleman, and every other gentleman from a land-holding State, to know that I claim for the people of the country as much interest in this public domain as any one of them can claim; and in reference to my movement, from the commencement of this Congress to this day, upon the subject of the public lands, I have only been disposed to adopt that policy which shall do justice to all the States of the Union. I am as much in favor of the settlement of the public lands as any one; but I am not in favor of its being done upon the principle of the "vote yourselves a farm" policy. I am not in favor of settling them upon the principle of discriminating between the rich and poor, and thereby making a discrimination in society by patronizing the poor. Sir, I have been a poor man myself. I can speak to the poor, because I know how to sympathize with them; and I know that any poor man in this country who is willing to labor, who is willing to ask protection for that labor, and nothing more, can rise to distinction, to wealth; but when he comes here in the attitude of a beggar, asking Congress to parcel out the lands to him as a gratuity, upon the pretense that agriculture is entitled to a gratuity from the Government—when, according to the doctrine of some of these gentlemen, to offer the least kind of protection to domestic manufacture in the country becomes unconstitutional, while they can vote it to the agricultural portion of the community, because it is numerous—I am averse to it. I wish we had time to take up the homestead bill, and Bennett's land bill, and in their discussion we would see who is the real friend of the poor, and of the whole country. If you make a distinction between classes, and if one class comes and begs charity at your doors, when you cease to be able to meet their wants, they will demand agrarianism, an equal partition of the country, and if they cannot get it here, they will go elsewhere to get it.

I am willing to meet the gentleman at any time upon all these points. I characterized his amendment as speculative. I have not attributed speculation to him personally. I characterized it in that way, because it puts it in the power of everybody who will swear that he intends at some day to make a settlement, without saying whether twenty, thirty, or fifty years hence, to buy the land, and to buy as much of it as he pleases. It does not limit him to one quarter of a section; if he will take the oath he may buy section after section, and township after township. Where is the limitation in the amendment? There is none. And, sir, because I called the attention of the Senate to these things, which may be converted into speculative purposes, whereby a man who has money may get whole townships of land, if he swears that he intends to settle on them some day, the gentleman gets into a passion, when I said expressly that I did not apply my remarks to him personally.

Mr. HUNTER. I regret to find that upon the civil and diplomatic bill we are about to embark in the homestead debate. I believe we have already had upon it every subject of controversy which has existed in the country during the last quarter of a century, except the Wilmot proviso and the Monroe doctrine, and I expect to see both of them moved before night.

Mr. WALKER. The provision of my amendment is almost in the terms of the act of 1831, I believe it was, which made provision for the entry of forty acre tracts. This means that when a person desires to purchase he shall testify that it is for his own settlement and cultivation. Regulations in regard to it will be established by the Land Office, and he could not, of course, evade this proposition. It is, in point of fact, but to protect those who wish to move into the States, and buy land, and settle upon it; and they are to swear that such is their purpose. I cannot see that the amendment is amenable to the charge made against it. That was not its intention—it is not its provision. But if it be the sense of the Senate, let it be voted down. If these lands are to be reserved for railroad purposes without an oath, and the settler cannot go upon them and buy a piece of land for cultivation, let the Congress of the United States say so.

Mr. FELCH. I would suggest to the Senator from Wisconsin that the interpolation of a single word would perhaps obviate the difficulty of the Senator from Kentucky. It is to insert the word "immediate," before the word "settlement." I presume the Senator will not object to that.

Mr. WALKER. I am not disposed to object to anything. There seems to be a determination to take the lands from actual settlement, and let that word "immediate" go in.

Mr. DAVIS. I desire to make an inquiry of the chairman of the Committee on Public Lands, who reported the amendment. I wish to see whether I understand its design. If I understand it it is to withdraw the alternate sections reserved to the Government. Does it apply only to the places where no railroad companies have been organized, and nothing done?

Mr. FELCH. It applies to the cases where railroads running through a portion of the public domain, are provided for by the States by charters usually, and also to roads described in bills which have passed the Senate and gone to the House, and not been acted upon there. It reserves until the next session of Congress for those States simply a strip of six miles wide on each side of the roads, so that we may see what the action of Congress may be on the subject at the next session. They have already granted to five out of the twelve land States alternate sections for railroads; and they have refused, or have neglected rather, and not acted upon the bills for the other States. We simply ask this, that we may be permitted not to have the land along the line of the known routes of these roads interfered with by speculators taking them up by bounty land and other warrants now in operation, in anticipation of the roads being made. We know it is a matter of fact that there is a combination of men buying up these warrants at this time, and locating them along the line of the roads; and we trust Congress will, at the next session, do justice to the new States which have not been provided for, and now merely reserve to us the right to come in at the next session, and make another appeal to Congress to do the same justice to us which has been done with the five States already provided for. In the mean time let us remain as we are, and do nothing, only do not let the speculators take up the land; so that when you are disposed to grant us the land for railroads, you may do so. This is all there is about it.

Mr. UNDERWOOD called for the yeas and nays on the amendment to the amendment, and they were ordered.

Mr. RUSK. I am in favor of the principle of the amendment to the amendment, and on a proper occasion I will vote for it; but if it is attached to this amendment, it will kill the whole concern.

Mr. HALE. What is the tenor of the amendment to the amendment?

The PRESIDING OFFICER. It will be read.

The amendment was accordingly read.

Mr. WALKER. It is simply to protect the actual settlers in the States.

Mr. HALE. I am for that.

The yeas and nays being taken, resulted—yeas 30, nays 20; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Borland, Bradbury, Bright, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Geyer, Gwin, Hale, Hamlin, Houston, James, Jones of Iowa, Mallory, Pettit, Sebastian, Seward, Shields, Sumner, Toucey, and Walker—30.

NAYS—Messrs. Badger, Bell, Charlton, Cooper, Davis, Dawson, Foot, Hunter, Jones of Tennessee, Mangum, Miller, Morton, Norris, Pearce, Pratt, Rusk, Smith, Soulé, Spruance, and Underwood—20.

So the amendment to the anmendment was agreed to.

Mr. HALE. To make the amendment right, and to meet the difficulty of the Senator from Kentucky, I propose to modify it, and to insert after the word "lands," the words "not exceeding one hundred and sixty acres each;" so that the proviso which has just been adopted shall read:

"*Provided also*, That the provisions of this section shall not be applicable to any person who shall desire to buy, enter, or locate, any of the said lands, to an amount not exceeding one hundred and sixty acres each, for the purpose of his or her personal settlement," &c.

The amendment to the amendment was agreed to; and the question recurred on the amendment as amended, upon which Mr. Gwin called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 29; as follows:

YEAS—Messrs. Atchison, Borland, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Downs, Felch, Geyer, Gwin, Houston, James, Jones of Iowa, Mallory, Morton, Rusk, Sebastian, Shields, Sumner, Toucey, and Weller—21.

NAYS—Messrs. Adams, Badger, Bayard, Bell, Bradbury, Bright, Brodhead, Charlton, Cooper, Davis, Dawson, Fish, Fitzpatrick, Foot, Hamlin, Hunter, Jones of Tennessee, Mangum, Miller, Norris, Pearce, Pettit, Pratt, Seward, Smith, Soulé, Spruance, Underwood, and Walker—29.

So the amendment as amended was rejected.

THE DEFICIENCY BILL.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it insisted upon its disagreement to certain amendments of the Senate to the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853, and also upon its amendments to the amendments of the Senate to said bill; that it agreed to the conference asked by the Senate on the disagreeing votes of the two Houses; and that it had appointed Mr. DUNHAM, Mr. WILLIAMS, and Mr. NABERS, the Committee of Conference on its part.

CIVIL AND DIPLOMATIC BILL.

The Senate resumed the consideration of the bill making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1854.

Mr. FOOT. I am directed by the Committee on the Post Office and Post Roads to submit the following amendments:

SEC. —. *And be it further enacted*, That the sum of $25,000 be, and is hereby, appropriated for testing the capacity and practical value of the invention for improvement in the construction of railroad tracks and locomotive engines, by Colonel James S. French, of Virginia, for the use of the Government of the United States, by constructing a line of railroad on said improved plan, under the superintendence of said James S. French, of such length and between such points as shall fully test its practicability and value, and especially its superiority over all other plans in overcoming heavy grades; and that the same shall be expended under the direction of the Secretary of the Interior, upon the application of the said James S. French.

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of the aforesaid $25,000, to the said James S. French and the persons employed under him, such sums of money as he may deem to be a fair compensation for the service of the said James S. French and the persons employed under him, in constructing and superintending the said line of railroad authorized by this act.

I have only to say that that has been recommended by the Special Committee to which the subject was referred, and which gave it a careful examination. It is now presented in the form of an amendment to this bill upon the recommendation of the Committee on the Post Office and Post Roads, and is in the precise form of the act of Congress which was passed ten years ago, appropriating $30,000 for testing Morse's electro-magnetic telegraph.

Mr. ADAMS. It is apparent to every Senator, that unless we vote down all these amendments for new projects which are proposed, this bill must be inevitably lost, and the lost bill will necessarily involve an extra session of Congress.

Mr. NORRIS. I will not detain the Senate by making any remarks. I simply desire to say that I was a member of the Select Committee, of which the honorable Senator from Vermont was chairman, to which the memorial of Colonel French was referred. I examined this pretended improvement, and I was not satisfied that it was a practicable one; and I merely rise to say that I did not assent and do not assent to this appropriation. I have no faith in the thing myself.

Mr. SHIELDS. I agree with what the honorable Senator from Mississippi [Mr. ADAMS] has stated; and I have made up my mind to vote against any further amendments to this bill. I am perfectly satisfied that we shall lose the bill, if we do not act upon that principle.

Mr. RUSK. I am not at all satisfied that we shall lose the bill. I regard this as one of the most important amendments that has been offered to the bill. It proposes the expenditure of a very small sum of money for an important object. I was a member of the Select Committee, and I sincerely believe that it is an improvement which promises fair to be worth hundreds of millions to this country. I may feel——

Several SENATORS. Do not make a speech.

Mr. RUSK. I am not going to make a speech, but I dislike to see an amendment so judicious voted down without being understood, when we consume eight or ten hours here upon mere questions of abstraction. I do not like to hear this cry sounded in our ears, that we will lose the bill if we vote for the amendment. We are not going to lose the bill. I have heard the same story preached within twelve hours of the adjournment, and yet the appropriation bills always pass.

Mr. PEARCE. There are precedents, it is true, for cases of this kind; but they are, in my opinion, precedents which ought to be followed no longer. I am inclined to think that this is a very ingenious invention; but with what propriety can this Government engage in testing inventions, however plausible and promising, made by inventors? There are railroads enough throughout the country, with a large and ample capital, sufficient to try all these experiments, for whose benefit such an invention as this must inure. They should make the experiments for themselves. Shall the Government make them for those corporations? If we are to begin with this, we shall soon be called upon to ascertain the value of every improvement which its projector may think of sufficient consequence to bring before Congress. It seems to me that by entering into such acts we are departing from our proper line of legislation. I will not exhaust the time of the Senate, but I desire to caution it against improper legislation.

The amendment was rejected.

Mr. HALE. I move to amend the bill by adding the following:

Provided, That the laborers employed in the office of the Secretary of the Treasury shall receive the same compensation as is allowed the laborers employed in the General Land Office.

On September 30, 1850, the pay of the laborers in the General Land Office was placed at $500 per annum. The other laborers in the same building under the Treasurer received a little less than that. They have sent a very touching petition to Congress, praying to be put upon the same footing with the others who labor in the same building. I hope the amendment will be adopted.

The amendment was rejected.

Mr. HALE. I move to amend the bill by striking out of it the following:

"For compensation of the two draw-keepers and watchmen at the Potomac Bridge, and for fuel, and for oil for lamps, $800; and for repairing the Long Bridge across the Potomac river, $20,000."

I wish to say that I make this motion at the suggestion and request of individuals residing in the city of Georgetown and of the Mayor of Georgetown. This project has been before the Senate repeatedly, and has always been voted down. A proposition was prepared by the honorable chairman of the Committee on the District of Columbia, [Mr. SHIELDS,] committing this whole subject to a board of engineers to examine and report which would be the most suitable place for the bridge. With that the city of Georgetown was content; but I understand that the honorable chairman has not offered the amendment. The city of Georgetown is a part of the District of Columbia, and it feels that the only thing that has resulted to it from this connection is, that its interests are neglected and trifled with. The keeping up of the Long Bridge makes back water and fills up the bed of the river and makes it unhealthy and unwholesome. Besides that, whenever there is a freshet, it throws back the water into the cellars of the traders in the city. It has destroyed hundreds of thousands of dollars' worth of property. It is injuring the health of the two cities. It is a nuisance to their business, and will in the end be a nuisance to the whole city. The plan matured by the Committee on the District of Columbia was satisfactory to the city of Georgetown; but for some reason or other, I do not know what, it has not been offered. I hope the clause for the repairs of the old bridge will not receive the sanction of the Senate at this time. We have always refused to make the appropriation heretofore, and I do hope that after it has been deliberately voted upon so many times, and when the people who are to be affected by it feel it to be a great nuisance and wrong, it will not be forced upon them.

Mr. SHIELDS. As I have already stated that the time has nearly expired for working upon these bills, I will not make a speech. You, Mr. President, will recollect that this subject was discussed before, and I very well recollect that the Senator whom I now have the honor to address (Mr. BADGER in the chair) presented it in such a view that we lost the question. If Georgetown is opposed to this appropriation now, I must say that it is not very liberal, because this bill gives $50,000 for a bridge above Georgetown, and $20,000 to the repairs of the old bridge. It is a kind of compromise between the two rival interests, doing much more for Georgetown than for the old bridge. I thought it would pass without any opposition. I am sorry that the honorable Senator has made his proposition. It is absolutely necessary, as I have before stated, that this bridge should be repaired—at all events, temporarily, as a bridge of service, until we get some other bridge constructed. I have already stated that I will not detain the Senate, but if the honorable Senator withdraws his motion, as I hope he will, he will save a great deal of trouble; because this was a kind of a compromise which we agreed upon. The Committee on Finance has presented a proposition for $50,000 for the bridge above Georgetown, with which Georgetown is, and ought to be, perfectly satisfied; and if the proposition of the Senator from New Hampshire is agreed to, I go for striking that out also.

Mr. HUNTER. I will say that the Mayor of Georgetown and a committee came to see me, and they stated that they were satisfied with this, which is a compromise, I understand, between the two parties.

Mr. HALE. I wish to say that if they are satisfied, I was never informed of it. I suppose they know that I am not in favor of compromises, and that is the reason why they did not come to me; but I made my motion upon the strength of what the Mayor of Georgetown and a committee of its citizens told me.

Mr. HUNTER. I will state that they were very much opposed to the whole proposition that came from the Committee on the District of Columbia; that is, to the proposition appropriating $200,000 for a new bridge; but they agreed upon this sum for the repairs to the old bridge.

Mr. SHIELDS. For that reason I kept back the amendment to which the honorable Senator from New Hampshire alludes.

Mr. HALE. Then I withdraw my amendment.

Mr. MALLORY. By the unanimous instruction of the Committee on Naval Affairs, I move to strike out of the clause "for compensation of the 'chief of the Bureau of Construction, Equipment, 'and Repairs, and the clerks, draughtsmen, and 'messenger in his office, $13,600," the proviso, in the following words:

Provided, That the chief of the bureau be a "skillful naval constructor," as required by the act approved August 31, 1842, instead of a captain of the Navy."

The object of the proviso is to change the present condition of the bureau, and to give the equipment of the naval vessels to the constructor. The constructor is now in the bureau, and exercises the proper influence over the subject, having charge of repairs and construction. It alters the state of things which existed twelve years ago, and against which no complaint that I am aware of exists. The committee unanimously concurred in the amendment, and I understand that the Committee on Finance also recommend it.

The amendment was agreed to.

Mr. BRIGHT. I am directed by the Committee on Finance to submit the following amendment:

For continuing the construction of the marine hospital at St. Louis, Missouri, $20,000.

It has been estimated for, and is recommended by the Committee on Finance.

The amendment was agreed to.

Mr. RUSK. I move to amend the bill by adding the following section:

SEC. —. *And be it further enacted*, That the percentage

THE CONGRESSIONAL GLOBE.

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added by law to the pay of clerks now in the executive and legislative departments of Washington, be, and is hereby, allowed to the clerks employed in the City Post Office in the city of Washington, commencing at the same time that the others did, on the 1st of July, 1852.

Mr. WALKER. At any other time I would go for this most cheerfully; but I think the Senator at the head of the Committee on Finance will agree with me, that to enter upon an increase of salary now upon the civil and diplomatic bill is wrong.

Mr. RUSK. It is no increase of salary. The provision was adopted by the Senate to place the employees of the Government upon the same footing. The clerks for whom I propose to provide in the amendment, work harder to my knowledge than any other. It was adopted at the last session by the Senate, but was lost in the House.

The amendment was agreed to.

Mr. RUSK. I submit another amendment:

SEC. —. *And be it further enacted*, That a sum not exceeding $50,000, for the purchase of a site, and the erection of a suitable building for a post office in the city of Washington, be expended under the direction of the Postmaster General.

Every one knows the condition of the post office in this city.

Mr. HUNTER. I hope that will not be adopted. We have not time to consider that at this time. There is a question where that post office ought to be; whether we want a new building, or whether we can take the basement either of the addition to the Patent Office, or of the addition which may be made to the new Post Office Building. I hope we will not go into that question now.

The amendment was rejected.

Mr RUSK. I have another amendment:

For compensation of Thomas Ritchie, assignee of William M. Belt, for printing done during the Thirty-first Congress, at the rate at present authorized by law, $25,000, or so much thereof as may be required: *Provided*, That in settling the accounts of Thomas Ritchie, assignee of William M. Belt, for all work done under his contract, he shall be allowed the price now paid the public printer, putting the paper used by him at cost.

Mr. UNDERWOOD. Is that in order?

The PRESIDING OFFICER. The Chair is of opinion that it is an amendment providing for a private claim, and is therefore not in order.

Mr. BRODHEAD. I have endeavored to get the floor for the last two days, for the purpose of offering an amendment. I now submit one; and all I ask is that we may have a vote upon it. It is to carry out a recommendation of the Commissioner of the General Land Office, granting one hundred and sixty acres of land to the soldiers of the war of 1812. The amendment is well matured by the Department, and is entirely right. I do not desire to debate it. All I ask is a vote. It is to add to the bill the following:

SEC. 1. *And be it further enacted*, That the provisions of the several laws granting bounty lands to the officers and soldiers who have been engaged in the military service of the United States shall be, and the same are hereby, extended so as to grant to each of the persons therein described, a quantity of land which, in addition to that to which he may be entitled under any other law of Congress, shall not, in the whole, exceed the quantity of a quarter section, or one hundred and sixty acres; and each of the officers, non-commissioned officers, musicians, and privates, engaged in the naval, marine, gun-boat, or flotilla service, or in the defense of the coast, in any of the wars mentioned in said acts, shall be entitled to the benefits of said laws as thus extended.

SEC. 2. *And be it further enacted*, That, after the passage of this act, all warrants shall be issued in the names of the persons who rendered the service for which they are granted, whether living or dead, and shall inure to the benefit of the warrantee, if living, and if not, to the heirs specified in the several laws extended by this act; and failing those heirs, to the heirs-at-law of the warrantee, according to the laws of the place in which he had his domicil at the time of his death; and all patents for lands located with any such warrants shall, in like manner, issue to the warrantee; and, in case of his death before the issuing of said patent, the title thereby conveyed shall inure to, and vest in, his heirs as aforesaid, or his or their assignees or devisees, as the case may be: *Provided, however*, That no person who has perpetrated, or attempted to perpetrate, a fraud on the United States, under either of said laws as aforesaid, shall be entitled to the benefit of any of the provisions of this act.

Mr. HUNTER. I hope we will vote this down. There has been a general complaint that they could not get clear of the bills on the Speaker's table in the House. I believe it is about to be cleared by this civil and diplomatic bill. It seems as if we were going to get all the bills on to it.

Mr. SHIELDS. I would vote for this as an isolated proposition, but I think it is exceedingly indiscreet to be added to this bill.

Mr. BRODHEAD. I merely wish to say that I introduced into the Senate the measure in December last, in which the old States feel a great interest. All that I ask now is a vote. It is recommended by the Commissioner of the General Land Office. Both sections have been submitted to him, and they are correct.

Mr. BORLAND. I have a word to say from the Committee on Public Lands. This subject was referred to that committee. Various circumstances gave rise to delay, and it has not been reported upon. But if the committee had reported they would have reported adversely to the proposition.

Mr. DODGE, of Iowa. I move to amend the amendment by adding the following:

And that a homestead of one hundred and sixty acres of the public lands be granted to every person who shall hereafter inhabit and cultivate the same for five consecutive years.

Mr. WELLER called for the yeas and nays upon the amendment to the amendment, and they were ordered.

Mr. HUNTER. I hope I may be permitted to suggest to gentlemen who design to vote for the amendment to the amendment merely for the purpose of defeating the other, that if we once get the amendment to the amendment adopted, we will get into a long debate. I hope we will vote it down. We have not time to go into a discussion upon it now.

Mr. DODGE, of Iowa. If the Senator from Pennsylvania will withdraw his amendment I will withdraw mine.

Mr. HUNTER. I hope the Senator from Pennsylvania will do so. His amendment will only embarrass the bill.

The yeas and nays being taken on the amendment to the amendment, resulted—yeas 22, nays 24; as follows:

YEAS—Messrs. Atchison, Bell, Borland, Bright, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Geyer, Gwin, Hale, Houston, Jones of Iowa, Jones of Tennessee, Mallory, Rusk, Seward, Shields, Sumner, Walker, and Weller—22.

NAYS—Messrs. Adams, Badger, Bayard, Bradbury, Brodhead, Butler, Charlton, Davis, Dawson, De Saussure, Fitzpatrick, Foot, Hamlin, Hunter, Miller, Morton, Norris, Pearce, Phelps, Pratt, Smith, Spruance, Toucey; and Underwood—24.

So the amendment to the amendment was rejected.

Mr. BRODHEAD called for the yeas and nays on his amendment, but they were not ordered.

The amendment was then rejected.

Mr. HAMLIN. I am instructed by the Committee on Commerce to offer the following amendment:

For repairing and rebuilding the light-house at Bear Island, which has been destroyed, $5,000.

For completing the light-houses at Half Moon Shoal, and Red Fish Bar, and Clopper's Bar, on the coast of Texas, $3,000.

Mr HUNTER. That should go on to the light-house appropriation bill.

Mr. HAMLIN. If the Senator will look at this bill he will find that there are precisely similar provisions in it. There is in the bill a class of amendments to finish light-houses that have not been completed. There are also provisions in it to repair light-houses that have been destroyed. It is very uncertain whether we will have any light-house bill this year. My amendment provides for repairing one light which has been destroyed, and for completing three others on the coast of Texas. I think they come within a class which properly belongs to this bill; and no Senator should oppose them.

The amendment was agreed to.

No further amendments being proposed, the amendments which had been agreed to were ordered to be engrossed, and the bill was ordered to be read a third time. It was read a third time and passed; and the title was amended by adding "and for other purposes."

PRINTING OF SEVENTH CENSUS.

On motion by Mr. BORLAND, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution from the House of Representatives providing for the printing and binding of the returns of the Seventh Census. It was reported from the Committee on Printing with an amendment so as to make it read as follows:

"That there be printed by the public printer, under the supervision of the Superintendent of Public Printing, so much of the abstract of the 'Returns of the Seventh Census' as is recommended to be printed by the report of the Select Committee of the Senate, made June 28th, 1852, and in the manner therein prescribed, (the 'History and Statistics of the State of Maryland,' according to the 'returns of the Seventh Census of the United States,' with the alterations recommended by the committee, being taken as a sample,) that is to say:

"*First.* Omit the 'Historical Account,' the 'History and Description of Counties,' the 'Sketch of Geology,' and the remarks with the heading 'Population' (of the State of Maryland) prefixed to the tabular statements, embracing twenty-two pages, from one to twenty-two, both inclusive, with the exception of the tabular statement at page twenty, showing the progress of population from 1790 to 1850, which shall be retained.

"*Second.* Insert the tabular statements of population covering from page twenty-three to page twenty-six, both inclusive.

"*Third.* Omit the tabular statements from page twenty-seven to page thirty, both inclusive, and substitute tables showing the nativity of the inhabitants of the State, without reference to local residence, giving the sex and color, similar to the table headed 'Recapitulation,' at page thirty five.

"*Fourth.* Omit the tables relating to the deaf, dumb, blind, insane, and idiotic, occupying from page thirty one to page thirty-four, both inclusive; retain the table headed 'Recapitulation,' on page thirty five, and omit that headed 'Manumitted and fugitive slaves,' on the same page; retain the table headed 'Professions, occupations, and trades,' on page thirty-six, and tables headed 'Agricultural productions,' on pages thirty-seven and thirty-eight.

"*Fifth.* Omit the tables of 'Industrial establishments,' from page thirty-nine to page sixty-two, both inclusive.

"*Sixth.* Omit tables headed 'Real and personal estate and taxes,' 'Wages,' and 'Pauperism and crime,' on pages sixty-three and sixty-four; omit the column which professes to give the 'Private libraries,' in the statement headed 'Libraries,' retaining the residue, and retaining, also, the statement headed 'Newspapers and periodicals,' on page sixty-four, and the statements headed 'Education' and 'Churches,' on pages sixty five to sixty-eight, both inclusive.

"*Seventh.* Omit medical statistics, life tables, etc., to the end of the work.

"*Eighth.* There shall be prepared and published tabular statements showing the population alone in the local subdivisions of States less than counties, such as towns, townships, hundreds, etc., wherever the returns are sufficient for their formation.

"*Ninth.* The condensed tables for the United States shall conform to the alterations suggested in the detailed tables for the States.

"*Resolved further*, That there be printed, in addition to the number usually ordered of the public documents, six thousand five hundred copies for the use of the Senate, and ten thousand copies for the use of the House of Representatives: *Provided*, That the cost of composition for plain matter shall not exceed the sum of sixty-two and a half cents per thousand ems, the cost of composition for tabular statements shall not exceed the sum of seventy cents per thousand ems, and the cost of press-work shall not exceed the sum of —— cents per thousand quarto pages.

"*Resolved further*, That the entire work hereinbefore ordered shall be printed in a compact quarto form, upon paper measuring not less than twenty-six by thirty-eight inches, weighing forty-eight pounds to the ream of four hundred and eighty sheets, and of the quality now used for the extra copies of documents ordered to be printed by Congress; the type to be used to be brevier, except for the headings of the several columns of the tabular statements, the notes, and such tables as will not appear to advantage in brevier, which shall be printed in nonpareil; and that, in all other respects, except those hereinbefore specified, the work shall be executed according to the provisions of the act entitled 'An act providing for executing the public printing, and establishing the prices thereof, and for other purposes,' approved August 26, 1852.

"*Resolved further*, That the binding of the work hereinbefore mentioned shall be executed under the direction of the respective Committees on Printing for each House, and shall be paid for out of the contingent fund of the two Houses of Congress, as is now prescribed by law."

Mr. HAMLIN. There is a blank to be filled in the amendment in regard to the number of copies to be printed for the use of the Senate. I move to insert "seven thousand."

The amendment to the amendment was agreed to.

Mr. HAMLIN. In other parts of the bill six thousand five hundred copies are provided for the Senate. To make it correspond, I move to strike

out "six thousand five hundred" and insert "seven thousand."

The amendment was agreed to; and the question recurring on the amendment of the committee as amended, it was agreed to. The joint resolution was then reported to the Senate as amended; the amendment was concurred in, and ordered to be engrossed; and the joint resolution was ordered to be read a third time. It was read a third time, and passed.

REGISTER OF VESSELS.

Mr. HAMLIN. I am instructed by the Committee on Commerce, to which was referred the bill from the House of Representatives entitled "An act to authorize the issuing of a register to 'the brig Boundary, and to change the names of 'the steamers Roger Williams and propeller Ontario,'" to report the same with an amendment. Unless the action of the Senate can be had now, the owner of the vessel provided for in the amendment will be compelled to keep it in port. It will give rise to no debate, and I therefore ask that it may be acted upon. I move that the bill be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The amendment reported by the Committee on Commerce was as follows:

"SEC. 3. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to issue to A. L. Baptista, of Baltimore, Maryland, a citizen of the United States, a register for the Prussian built brig Heinrich Von Gagern, under the name of the General Pierce, said vessel having been purchased by him under a decree of sale from the district court of the United States for the district of Maryland: *Provided*, It is proved to the satisfaction of the said Secretary that the repairs put upon said vessel constitute three fourths of the original cost of a vessel of the same tonnage."

The amendment was agreed to; the bill was reported to the Senate as amended; the amendment was concurred in, and ordered to be engrossed, and the bill to be read a third time. The bill was read a third time and passed; and the title was amended by adding "and to the brig Heinrich Von Gagern."

PRE-EMPTION RIGHTS.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it insisted on its amendment, disagreed to by the Senate, to the bill to extend preëmption rights to unsurveyed lands, and for other purposes; that it asked a conference on the disagreeing votes of the two Houses, and that it had appointed A. G. BROWN, JOHN MOORE, and JOHN L. DAWSON, the Committee of Conference on its part.

On motion by Mr. DOWNS, it was ordered that the Senate agree to the Committee of Conference asked by the House of Representatives, and that the President appoint the managers on the part of the Senate; and Mr. FELCH, Mr. DOWNS, and Mr. PHELPS were appointed.

COLONEL FREMONT.

A message was also received from the House of Representatives, informing the Senate that it insisted on its amendment, disagreed to by the Senate, to the bill for the relief of John Charles Frēmont, late lieutenant colonel in the Army of the United States; that it agreed to the conference asked for by the Senate on the disagreeing votes of the two Houses, and that it appointed Mr. GORMAN, Mr. HAVEN, and Mr. ORR, managers on its part.

On motion by Mr. GWIN, the President of the Senate was authorized to appoint the committee on the part of the Senate; and Mr. GWIN, Mr. PEARCE, and Mr. SHIELDS, were appointed.

OATH TO THE VICE PRESIDENT ELECT.

A message was also received from the House of Representatives, stating that it had passed a bill from the Senate, providing for administering the oath of office to William R. King, Vice President elect of the United States of America, with an amendment.

Mr. HUNTER. I ask by general consent that that bill be taken up and acted upon. The amendment of the House simply provides that the oath be administered at Havana or any other place. I move to concur in the amendment.

The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives "making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1854."

The bill was reported to the Senate without amendment.

Mr. HUNTER. There is one amendment reported from the Committee on Finance, to add an additional section to the bill, as follows:

SEC. 3. *And be it further enacted*, That in all cases where the Postmaster General shall be satisfied that either money or property stolen from the United States mails shall have been exchanged for other money or property, and has been received at his Department, he shall have authority, upon satisfactory evidence that the same belongs to any individual, firm, or corporation, to pay over and deliver such money to the owner thereof.

The amendment was agreed to.

Mr. RUSK. The Committee on the Post Office and Post Roads have directed me to submit the following amendment:

For raising the salary of one of the $1,600 clerks in the Post Office Department to the grade of the chief clerk, to be employed in conducting correspondence, and performing other duties relating to foreign mail postal arrangements with foreign countries.

Mr. HUNTER. I will suggest to the Senator from Texas that this is done in an amendment which was put upon the civil and diplomatic bill. If the House should adopt the amendment on that bill, he will find his purpose accomplished.

Mr. RUSK. Not quite. I examined the amendment offered by the honorable Senator. It only raises the salary of this officer, who is a very important one. The amendment which I offered has been recommended by the Postmaster General, and sanctioned unanimously by the Committee on the Post Office and Post Roads. It only raises the salary $200. He now receives $1,600. If the amendment to the other bill should fail, this will provide for him. If it should not, no injustice will be done.

Mr. HUNTER. My objection is, that if the amendment to the civil and diplomatic bill is adopted, and this is also adopted, he will get two salaries.

Mr. RUSK. There is no danger of that.

The amendment was agreed to.

Mr. RUSK. I am directed by the same committee to submit the following amendment:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized, in addition to the ordinary steamboat service on the Potomac, to contract for an efficient ice-boat or ice-boats being kept for the conveyance of the mail during the winter months: *Provided*, That the additional expense to be incurred by the Department for keeping up such ice-boat or ice-boats shall not exceed $20,000.

A bill containing that provision has already passed the Senate.

Mr. WALKER. I hope it will not pass now.

Mr. RUSK. This proposition has already received the mature deliberation of the Senate. After considerable discussion, it passed by a large majority.

The amendment was agreed to; there being, on a division—ayes 19, noes 14.

Mr. FOOT. The Committee on the Post Office and Post Roads has directed me to offer the following amendment:

SEC. —. *And be it further enacted*, That the third section of the act entitled "An act making appropriation for the service of the Post Office Department during the fiscal year ending 30th June, 1853, and for other purposes," approved 31st of August, 1852, be and the same is hereby repealed.

One word of explanation. At the last session, an amendment was incorporated in the appropriation bill for the Post Office Department, fixing the salaries of all the route agents in the United States at the uniform sum of $1,000. Prior to that time, it had rested in the discretion of the Postmaster General to graduate the salaries according to the extent of the route, and the amount of service to be performed. The post office routes on the railroads of the country, vary from twenty miles to two hundred and fifty miles in length, consequently the service of the various route agents varies in about the same proportion. The objection to the amendment which was incorporated in the bill at the last session, without much notice and without consideration, is, that it makes no discrimination, but pays $1,000 to an agent running but twenty-five miles, and the same to an agent running two hundred and fifty miles. This repeals that section, and leaves it to the discretion of the Postmaster General as before to graduate the compensation according to the service and length of the route.

The amendment was agreed to.

Mr. HAMLIN. The Committee on the Post Office and Post Roads has directed me to offer the following amendment:

SEC. —. *And be it further enacted*, That the Postmaster General is hereby authorized to make such arrangement as he may deem advisable by causing the letters sent to California and Oregon to be advertised free of expense to the United States, and by the issuing of circulars to the postmasters and causing the same to be published, to insure, as far as possible, the delivery of the letters sent by mail from the Atlantic States to California to the individuals to whom they are directed.

The object of that is simply this: There is now issued one paper which professes to publish, without charge to the Government, an accurate list of the letters sent to California on its own account. This is simply to authorize the Postmaster General to issue a circular to the various postmasters to forward to this individual, if he sees fit to publish the letters which are sent; consequently when the mail goes to California there goes along with it this notice, so that those in California may know what letters go there.

Mr. HUNTER. Is the Senator quite sure that there will not be an equitable claim against the Government for the advertising?

Mr. HAMLIN. There will not.

The amendment was agreed to.

Mr. WELLER. I offer the following amendment to the bill:

Be it further enacted, That Hiram O. Alden and James Eddy, their associates and assigns, are hereby authorized and empowered to construct, at their own expense, a line of telegraph from St. Louis, in Missouri, or any other point on the western bank of the Mississippi river they may select, through the public lands belonging to and under the jurisdiction of the United States, to San Francisco, in California, or to some other point on the Pacific ocean, in as direct a line as practicable, with liberty to construct branches or diverging lines to Texas, to New Mexico, to Utah, and to Oregon, as is hereinafter set forth.

SEC. 2. *And be it further enacted*, That said line of telegraph shall be constructed of durable materials, thoroughly insulated, securely placed under the surface of the earth, rock, or water, with testing tubes every five miles, and with working stations at distances averaging not more than one hundred miles, to secure the thorough working of the same, and for its repair and protection. Said working stations shall be supplied with the necessary telegraph instruments, operators, and men. And said line of telegraph shall be completed and put in operation within eighteen months from the enacting of this bill, and shall thereafter be kept in operation by night as well as by day.

SEC. 3. *And be it further enacted*, That there shall be granted and reserved to the General Government forever the free and prior use of said line for the transmission of all official dispatches and communications between said Government and its officers: *Provided, however*, That said free dispatches and communications shall not exceed a monthly aggregate of more than seven thousand words, but still reserving to the Government the prior use to any extent, which said line is capable of transmitting, by paying the same fees paid by individuals for like services, and no more.

SEC. 4. *And be it further enacted*, That for the transmission of all private dispatches and communications over the main line of said telegraph from the Mississippi to the Pacific, the charges in no case shall exceed ten dollars for each message of ten words or less, exclusive of date, address, and signature; and not exceeding seventy-five cents for each added word.

SEC. 5. *And be it further enacted*, That said Alden and Eddy, their associates and assigns, shall, at their own expense, keep said line of telegraph in working order, and shall, at their own cost, operate and protect the same; and if they shall unreasonably neglect so to do for the space of six successive months—unless prevented by some unavoidable calamity, arising from the sickness of operators upon the line, or from Indian hostility and depredation—said line of telegraph, with all its instruments, fixtures, and appurtenances, shall be forfeited to, and become the property of, the United States.

SEC. 6. *And be it further enacted*, That upon the completion of said line of telegraph, and so soon as the same shall be put in operation, and the free use thereof, as aforesaid, tendered to the Government of the United States, there shall be issued to said Alden and Eddy, their heirs or assigns, land warrants for fifteen hundred thousand acres of land, which they may select and locate as follows: From and after the completion as aforesaid, they shall be at liberty to select from any of the public lands along and near said line of telegraph, not before sold or appropriated, any quantity not less than a section nor more than a township, in one body; and if more than one township shall be taken in the same locality, alternate townships only shall be selected. The President of the United States shall cause the unsurveyed lands upon said line of telegraph, which may be selected as aforesaid, to be surveyed; and if, after the expiration of two years from the completion aforesaid, said lands shall not have been surveyed, they shall be at liberty to re-locate the like quantities in any State or Territory where the lands are surveyed, and open to private entry or sale; and as fast as said lands shall be thus located, the Commissioner of the General Land Office shall, on application therefor, issue patents for the same: *Provided*, That in the event a railroad to the Pacific ocean shall be located on or near the route selected for a telegraph line, the grant of land contemplated in this section shall be so located as not to interfere with any grant Congress may make to aid in the construction of said railroad.

SEC. 7. *And be it further enacted*, That any material of foreign manufacture requisite and necessary for the construction of said line of telegraph, and actually to be used therefor, may be imported into the United States free of any duty thereon.

Mr. HUNTER. I hope the Senator from California will not press that amendment to this bill. We have not time to consider the project for a telegraphic line to the Mississippi; we cannot go into the merits of the proposition. It seems to me that it would be better to withdraw it.

Mr. WELLER. I might be disposed to yield to the Senator from Virginia, if it were not the fact that he opposed, I believe, every measure which looks to the interest of the particular section of country from which I come. I think this is the proper place to make this appropriation. I shall propose some amendments to the amendment. In the first place, to strike out "St. Louis," so as not to interfere with any telegraphic lines now in successful operation in the State of Missouri, and insert in lieu of it, "Camden," which is on the territorial line. I would state further, for the information of the Senate, that the amendment proposes that after the line shall have been fully constructed, the contractors shall be entitled to a million and a half acres of land, and that in consideration of the land, the Government shall be entitled to the transit of all its messages, free of expense, so that, if you choose to regard it as a mail contract for the mere transmission of messages for the Government, it will be found one of the cheapest contracts made for the Post Office Department. There is no risk, therefore, on the part of the Government. The contractors themselves take all the responsibility. They are to make the line within two years and upon the execution of it, and not till then, they receive a grant of a million and a half acres of land. That is the whole of this amendment.

Mr. HUNTER. I think that the Senator from California has done me injustice in saying that I oppose everything looking to the benefit of his section of the country. There is no time to go into that question now; if there was, I think I could show that I have voted as liberal appropriations to that section of the country as to any other section. But if it had been the case, it has nothing to do with the propriety of insisting on this amendment. I do not ask him to withdraw it as a courtesy to me, but for public considerations. I submitted to him whether we had time to enter the question now. It is an amendment which proposes to vest these privileges in certain individuals. It is special legislation; there is that objection to it at once. If the Senator is determined to go into the matter, why does he not open it to the whole world; why does he not let any one come in and compete for the contract?

Mr. WELLER. I have no objection to modifying the amendment, by striking out the names of the gentlemen mentioned in it, and insert simply, that the Postmaster General shall be authorized to contract, upon the most favorable terms, with any persons who will come in and take it. That obviates the whole objection made by the Senator from Virginia. I so modify the amendment.

Mr. HUNTER called for the yeas and nays on the amendment; and they were ordered.

Mr. HAMLIN. I desire to call the attention of the Senate to the provision of this amendment. In the first place, if the contract is made, it provides that the contractors shall first make a continuous line from some point on the Mississippi to San Francisco. After they have made the line at their own expense, without calling upon the Government for a single dollar, the bill provides that the Government shall give them along the line one million five hundred thousand acres of land. It provides for the use of the line to the Government for a certain number of words in preference to all others. Now, taking your public lands according to the manner in which you have scaled them yourself, and making the proper deduction for waste lands, the quantity which it is proposed to give cannot be worth more than $800,000, taking one hundred and sixty acres as equivalent to $200, which is the scale you have fixed at your own Department. Upon that the interest at ten per cent. would be $80,000 per annum, and the cost for the words which they will be compelled to communicate for the Government over the line in a year will exceed that more than three times. The rates in the bill are about twice what the rates are on the old lines, but it leaves it in the power of Congress to diminish them at some future period when it shall deem it necessary to do so. That is the amendment. You have failed to take any practical measure towards making a railroad to the Pacific. This will answer many of the purposes of the railroad. It will not, to be sure, answer as a means of transportation of men or munitions of war, but it will afford a communication which will be instantaneous between that shore and ours, and it will do it upon such terms as will secure to the Government a cheaper communication than can be had in any other way. I will say no more.

Mr. BELL. I desire any gentleman to explain to me, if he can, if this amendment is carried into execution, why it will not establish the route of any railroad that will ever be constructed to the Pacific? It cannot be otherwise. You appropriate one million five hundred thousand acres of land to the construction of this line, and who is to locate the route of it?

Mr. WELLER. The contractors.

Mr. BELL. So I understand; and when you have located that, and have the various posts and stations established, it will be argued that the railroad should go on the same route. It will be said that they will have protection there already; that they will have settlements there; that provisions can be obtained much cheaper, and that, therefore, the railroad should run over the same route. Now, sir, I have no objection to the establishment of this line, if it can be done without prejudicing the decision of the question as to where the railroad should run; but I do not desire to conclude the question in regard to the selection of the railroad by this question. I do not charge that there is indirection pursued by the amendment, or that that is the intention, but the effect is precisely the same as if that mode were adopted for finally locating the route of the great railroad. I am not prepared to say that the route selected will not be the best route; but I do not think it likely that it will be.

These are the objections which I have to this proposition. If you give one million five hundred thousand acres, it is a considerable donation to commence with, and I stated before, the arguments will be so powerful when you get the telegraphic line in operation, or in course of construction, for the railroad to run over that way, that there will be a strong inducement to locate the road there. The argument may be used to other routes that they may be better, but this route will have facilities which others have not, and therefore it should have the priority. These are the objections which I have. If they can be avoided I would be glad to give a vote for the telegraphic line.

Mr. DOUGLAS. I would suggest to the Senator from California that he had better strike out the points mentioned in the bill and leave it so that any point may be selected in the Mississippi valley by the contractors.

Mr. WELLER. I have no objection to that.

Mr. DOUGLAS. Then that is accepted. The points are stricken out and the line is to run from any point they may select in the Mississippi valley.

Mr. BORLAND. I wish to call attention again to the objection alluded to by the Senator from Tennessee.

Mr. BELL. The modification made does not affect my objection at all.

Mr. BORLAND. We refused the other day, after a long discussion, to agree to anything like the location of the railroad. We refused to give the President of the United States authority to locate it after he should have surveys made. Now it is proposed to put in the hands of private individuals the power to locate it whenever they please.

Mr. WELLER. The amendment says nothing about the route of the railroad.

Mr. BORLAND. It amounts to the same thing. It is to produce that effect. After we have given a million and a half of acres for a telegraphic line, and the route of that line is selected, it puts all other portions of the country to a great disadvantage in comparison with it. I will give double the amount of land to establish the line of the telegraph, after the route has been by the proper authority located; but I will never consent, so far as my vote may go, to permit any private interests or enterprise to locate, without the authority of the Government, a railroad, or line of telegraph which is to produce this effect. If the line of the telegraph is established, does not the honorable Senator from Illinois know the influence that will be exerted in locating the road? And is it proper for us now to put in the hands of private individuals the whole power to make the selection of the route without any previous survey, when we denied such a power to the President? Mr. President, I do hope that such a proposition will not be agreed to.

Mr. DOUGLAS. I will say to the Senator from Arkansas, that I have not the slightest idea that this measure will have the weight of a feather upon the location of the railroad. It is simply to allow the parties to establish a telegraph line under ground, from any point that they may select on this side, to the other side of the mountains. And I have no idea that it will have a particle of effect in locating the route of the railroad. I would be quite as willing, so far as my locality is concerned, that you would put into the amendment that the telegraph line shall start from the city of New Orleans, or Memphis, or any other point, I do not care where, because the communication goes under ground, and comes out on the other side on the Pacific ocean. It is a subterranean telegraph. And if the Senate will agree now to put in Vicksburg, or New Orleans, or any other place, I am willing to agree to that, so far as I am concerned. I suggested to strike out the point, merely in order to obviate the objections of gentlemen. I hope those who are opposed to this on the ground that it will secure the route of the railroad, will just designate the points from which they wish it to go, and I will vote for it.

Mr. BORLAND. I take the same ground that I did on the railroad bill. I do not wish to designate the points. I wish surveys to be made, and let them determine where the telegraph line as well as the railroad shall run.

Mr. BUTLER. I desire to say a word to the friends of the contemplated Pacific railroad. Is it not very obvious that if you give these lands to this chartered company, they can appropriate the route, and exclude others from locating the railroad upon it? You give them lands, and you put your railroad project very much in the control of the persons to whom you give them, and they will either control you or exclude you.

Mr. DOUGLAS. Let those who desire it commence their line, and exclude the railroad from it. The Senator from South Carolina objects, because the railroad will exclude the telegraph. Others object because the railroad is bound to run on the line of the telegraph.

Mr. BUTLER. It either runs on the line which they prescribe, or it is excluded.

Mr. DOUGLAS. Of course it is either one or the other. The railroad will either run along the line of the telegraph, or it will not. I am willing they should take either side of the question, and locate it or not as they please.

Mr. CHASE. I wish to suggest to the Senator from California to strike out the last section of this amendment. It provides that all the materials for the construction of this line shall be admitted free of duty. The telegraph enterprise is one of recent date in this country, and accompanying its growth there has grown up a number of establishments for the manufacture of articles used in the construction of telegraphic lines, such as the wires, the insulators, and some other articles. It would be a pretty severe blow to these establishments to admit the articles which they make free of duty. I trust the Senator will modify it so far as that is concerned, as it is introducing a principle upon which the Senate has refused at this session to act. I am quite willing to go as far as any one in favor of free trade; but I do not wish to make a beginning upon those articles used by an enterprise but recently growing up, and which quite as much as any other requires the fostering care of the Government. I move to strike out the last section from the amendment.

The amendment to the amendment was agreed to.

Mr. DAWSON. The amendment is a vastly important measure, and it will have an important effect upon the future legislation of the Government. I consider it as the incipient stage of the location of the great road which is to be built hereafter between the valley of the Mississippi and the Pacific ocean; and by the adoption of this now, we give to a company, the members of which are

unknown, the liberty to select the starting point, and carry the line in whatever form or shape they may desire through all the unsettled portions of the United States; and we also propose to give them a million and a half of acres lying upon that line. I presume that the route which they select will be the one best calculated to conduct the railroad along, because it will add to the value of the land which they shall reserve to themselves. If they have the power to select the lands, they will of course go down the valleys of the rivers, and pass through the most fertile lands belonging to the Government; and we give this to whom? Is there to be any competition in obtaining this contract or these privileges? The Postmaster General is authorized to enter into a contract with any company. Is there any advertising, any notifying of the country, that upon such a day the Government will let out to the best and lowest bidder this telegraph line? Not at all. From the amendment it may be supposed that there is but one association or company that will go into the work. When the Government is going to dispose of privileges and advantages which belong to the people in common, it should be done on terms equal to all. If this telegraph line is to be constructed by contract, let the whole community have an opportunity of bidding for it. Let the amendment be made that the Postmaster General shall advertise for the construction of a telegraph line, which will be let to the lowest bidder, and let various companies come in and compete. But this thing, in the language of the distinguished Senator from Vermont, [Mr. PHELPS,] is like another measure which we had presented to us. It is premature.

Then, again, the privileges to be granted are exceedingly extensive. A direct line of telegraph is to be constructed, with the power of branching. In the event the company shall ever establish the line, the Government of the United States would have no right to bring any other line in competition with it. They would say that they had undertaken it at a time when the country had no communication, and that as they undertook it in that way, the Government should give them peculiar right, and should not interfere with them, or at least compensate them for any new lines which should be authorized. But above all that, what is the limitation upon the power, or the right of exercising the privileges contained in the amendment? None. When the Territories under which this subterranean line is to pass, should be admitted as States, how is it to be controlled? Here is a right, vested by the proprietors of the soil under which the line proposes to pass. Are we, then, to protect this company in the exercise of this right from any trespass that may be committed upon it by the legislation of any State through which it passes? Certainly we will be called upon to do so.

Now, as desirable as this measure may be, as important to the country as it may be—and the anxiety to get a line of this kind is no doubt very great—we ought not prematurely to involve ourselves; we ought to take time to think upon the subject; and for one I beg to announce to Congress and to the nation that we are violating all the old precedents of legislation; that we have forgotten the mode of deliberation which the Constitution and the rules of the body prescribe for us. Separate measures, by which combination may be prevented, are to be abandoned, and upon the appropriation bills, which were sought to be kept distinct for governmental purposes, we are now to have all matters of legislation placed, and, in the language of my friend from Vermont, every appropriation bill is becoming, and has become, an immensly large omnibus, in which every kind of legislation is to be thrown. Can we mature anything in this way, and shall the Senate of the United States, by its course of legislative proceeding, destroy all the protection thrown around it by the deliberative rules that have been formed? I hope not. Here is an amendment presented which is vastly important in its consequences, and the cry is, Take the vote—no investigation need be made. The measure cannot even be amended, and I venture to predict now that not one third of us can tell what are its provisions. I admire the Senator from California for his anxiety to establish a telegraphic communication between the two sections of the country; but this thing of making a mushroom of all our legislation, this hot-bed plan of legislation, is destructive to the character of the country, and to the character of the body. I am one who will go as far as any one to increase the prosperity of this country, and to promote the facilities of intercommunication between its different sections; but I must do it understandingly. Hence it is I beg that this measure may be rejected, not upon its merits, but on the ground that we have not time to prepare its details; and secondly, that it is a wrong position in which to place it.

JOHN CHARLES FREMONT.

Mr. GWIN, from the Committee of Conference on the part of the Senate on the disagreeing votes of the two Houses on the bill for the relief of John Charles Frémont, late lieutenant colonel in the United States Army reported:

"That they have met the Conferees on the part of the House of Representatives, and after full and free conference, they have agreed to recommend, and do recommend as follows:

"That the House of Representatives recede from its amendment, and agree to the bill with the following amendment, viz:

"Add to the bill—

"*Provided*, That before the payment of the same, or any part thereof, the Secretary of the Treasury shall be satisfied that the amount has been expended for the public service."

The Senate proceeded to consider the report, and agreed thereto.

POST OFFICE APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriation for the service of the Post Office Department during the fiscal year ending 30th June, 1854, and for other purposes.

Mr. DOUGLAS. I admire the ingenuity of the opponents of the telegraph in devising reasons for opposing it. The Senator from Virginia [Mr. HUNTER] thought the amendment ought not to pass, because the names of the parties were in it, and it was therefore a monopoly for a particular company. In order to obviate that, we struck that part of the amendment out. Now the Senator from Georgia objects, because we are giving it to an unknown company. We cannot satisfy them in any way. He also goes on to show that this is going to control the line of our railroad. We are willing, then, that he should fix his own line. When the points were in it was objected to, because it would fix the line of the railroad where the points were. We struck the points out, and now they say we leave the company to select the line. We say put in the line; but no, they will not put it in. Then leave it to a company. We do not care who selects the line, what are the *termini*, what are the points, if they will give us a telegraph between the Mississippi and the Pacific. Then at last the Senator comes back and says we are making an omnibus bill of this appropriation bill, a hot-bed for legislation. If it is a hot-bed, I think we have cooled it a little by the aid of that honorable Senator's vote, when we put in it the ice-boats a little while ago. There was a little mushroom legislation sprung into this bill. The hot-bed was then cooled a little by the ice. We put in an ice-boat for the Potomac river. Why could we not with the same propriety ask for ice-boats on Lake Erie or Michigan, the Hudson river, the Ohio, and every part of the country; and thus commence a system which would take millions to carry it out? and all this could be sprung on the appropriation bill by the identical gentlemen who resist this amendment on the ground of its impropriety. I do not complain of it, but I want the thing to be understood. It is justly a curious coincidence. If it is objected that the railroad will go on the same route as the line of the telegraph, let them select their own line. If it is objected that it will control the location of the railroad, let them make the location. If it is objected that we do not name the company, we will put one in. If it is objected that the names of the company are in the bill, we will strike them out. If it is objected that the company cannot fix the line, let us fix it. If it is objected that we cannot fix it, let the company do it. I hope the opponents will be satisfied in some way.

Mr. DAWSON. What was the Senator's allusion about ice-boats?

Mr. DOUGLAS. An amendment was put upon this bill providing for an ice-boat on the Potomac.

Mr. DAWSON. I am glad to hear it. It is a legitimate object for the transportation of the mail, for the purposes of the United States Government. That Senator knows that a year ago we were ice-bound, and could not get a mail here for a long time. We had to make a contract to carry the mail round in stages, which cost more than the ice-boat will cost the Government. It was an economical proceeding to make that amendment, and its object was to connect the great northern and southern mails. It was manifestly legitimate to this bill to make that appropriation.

The question being taken by yeas and nays on the amendment, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Atchison, Badger, Bradbury, Cass, Chase, Clarke, Davis, Dodge of Iowa, Douglas, Foot, Geyer, Gwin, Hale, Hamlin, James, Shields, Soulé, Sumner, Walker, and Weller—20.

NAYS—Messrs. Adams, Bayard, Bell, Borland, Brooke, Charlton, Dawson, De Saussure, Downs, Fitzpatrick, Houston, Jones of Tennessee, Mangum, Mason, Miller, Morton, Norris, Pearce, Pettit, Phelps, Pratt, Rusk, Sebastian, Smith, and Spruance—25.

So the amendment was rejected.

Mr. HOUSTON. I have for some weeks past postponed my intention of asking the Senate to take up the resolution introduced by the Senator from Michigan [Mr. CASS] in regard to colonization on the North American continent and Cuba. I have done so for the purpose of expediting the business of the Senate. I believe it has not had that tendency, and I now solicit the courtesy of the Senate so far as to give me the privilege of calling up that resolution for the purpose of making a short speech. I therefore move to take up that resolution.

The PRESIDING OFFICER. No motion of that kind can be received until the bill before the Senate is disposed of in some way.

Mr. HOUSTON. I will ask the unanimous consent of the Senate to permit me to proceed.

Mr. PEARCE. I am very reluctant to withhold that unanimous consent.

Mr. HOUSTON. Then I move to postpone the further consideration of the bill now under consideration for one hour, for the purpose of taking up the resolution to which I referred.

Mr. BAYARD called for the yeas and nays on the motion, but they were not ordered; and the motion was then lost by a vote, on a division, of—ayes 16, noes 18.

Mr. GWIN. I offer the following amendment to the bill:

And be it further enacted, That the Postmaster General be, and he is hereby, directed to enter into a contract for the term of five years, for a sum not exceeding —— dollars, with such person or persons as may offer sufficient and satisfactory security, after due public notice, for the transportation of the mails of the United States, upon the best terms for the United States, semi-monthly, from San Francisco, *via* the Sandwich Islands, to Shanghai, in China, and back, in steam-vessels, of not less than two thousand tons burden, of the best form of construction, adapted to war purposes and the navigation of the Pacific ocean; the same to be ready in the shortest possible time.

I suppose it will not be contended that that is not a proper amendment to the Post Office appropriation bill. I am anxious for the establishment of this line of steamers. The amendment which I propose is in the very words of the amendment adopted during the last year, for a line of steamships between New Orleans and Vera Cruz.

The great project of our country, if not of the age in which we live, by which it is proposed to unite by a national railway the Atlantic with the Pacific, for all the business and social purposes of life, a measure to which our people from every part of this Confederacy have been looking with the deepest concern, has unfortunately, as I think, for the welfare of the nation, been postponed and laid over at *least* for another year. Upon this topic it is now useless to dwell; but I cannot wholly conceal the mortification experienced in reflecting that a measure like this, confessedly of the first importance, and about which I had hoped for a unanimity of purpose, and that its intrinsic merits would have rallied the Senate to its speedy adoption, has suffered discomfiture and defeat from diversity of opinion upon its *details*. Having exerted the utmost of my humble abilities to effect its passage, from a conviction that the enterprise is one of the noblest that could engage the attention of the representatives of the American people, and one of transcendent value to the public, I must content myself with the disappointment of postponement, in the hope that the Congress of the United States at its next session will enter upon this subject with renewed energies, and a determination to lay aside local views and sectional preferences and in a spirit of concession

pass a railroad bill, and provide for its execution with all the necessary means within the control of the Government.

There is, however, Mr. President, *another* measure dictated by the same policy which originated and proposed a national railway; and that is the establishment of a line of steamships to carry the mails from San Francisco in California to Shanghai in China.

The session of the Senate now rapidly drawing to a close, admonishes me of the propriety of economizing every moment of our time; and it is, therefore, only from an imperious sense of public duty, not only to the people of California, but to the whole Union, that I venture, even briefly at this late hour, to claim the attention of the Senate, and ask its immediate sanction of a clause in the post office bill now pending, by which I propose to confer authority on the Postmaster General to advertise for proposals to carry the mail semi-monthly between San Francisco and Shanghai, the most northerly of the five ports to which, under our treaty of July, 1844, at Wang Hiya, we have the right of access. The terms of this section are brief and easy of execution. Its purpose is to secure the services upon the best and most economical terms to the Government, of a powerful class of steamers, and to delegate the proper authority to the Postmaster General, so that the object specified may be speedily accomplished.

It seems to me, sir, that it is only necessary for the American statesman to glance at the leading public events of the last few years, affecting the commercial interests of our people and the world, to be struck with the importance of availing ourselves, without further delay, of every means of facilitating our trade and intercourse with Asia. In not doing this, an indifference to our commercial prosperity is exhibited; and not only that, but, I was going to say, we might lay ourselves open to the reproach of remissness in a matter which, as legislators and patriots, it should be our chief aim to foster, promote, and advance by every constitutional means at our command.

England has shown to the world in her policy towards China what *she* considered due to her subjects in her commercial dealings; and that, too, without stopping to inquire how far, in the eyes of other nations, she could be justified in doing so, in a moral point of view.

The opium war began in 1839 between England and China. The important island of Chusan was captured by the English in 1840. This is the principal one of the archipelago of islands on the Chinese coast, and commands the mouth of the great Yang-tse-Kiang river as a maritime station, being four hundred and fifty miles from Japan and Corea—a voyage from them of less than a day and a half by steam. This was the prelude to the capture of Canton in 1841. The storming of an important point near Nankin in July, 1842, and the preparations for taking that ancient city itself, led the way to the treaty of peace in August of that year, by which the Tartar Government of China agreed to pay $21,000,000 to the British for the expenses of the war, and for opium delivered in 1839 to the authorities of Canton, with certain liabilities to British merchants; besides opening for mercantile purposes, *five* of the most considerable ports in the Chinese empire; being those of Canton, in 23°, of Amoy 24° 30′, of Foo-Chew in 26° 15′, Ningpoo 29° 55″, and Shanghai, in the 31° of north latitude.

In the conferences of Nankin, (or Keang-nam as it is called in China,) the Chinese, *for their own benefit*, and not for that of England, indicated their intention to open their ports to *all* nations, and this was agreed to on the part of Great Britain, who claimed and secured to herself also a participation in any advantages which China thereafter might concede by treaty to other nations.

The United States having previously enjoyed the right of commercial intercourse with Canton, became invested with the additional privileges of the other four ports, in virtue of the Chinese stipulation in the treaty of Nankin, in 1842. The Government of the United States, early in the year following, took measures for the further security, protection, and extension of our maritime rights in the East; and accordingly, in May, 1843, a United States Commissioner to China was appointed.

Our rapidly-increasing trade with that Empire, not only in the way of imports of tea and other articles of luxury, but in exports from *this* country, rendered it indispensable that the interests of this nation should be diplomatically represented there, in order to establish friendly national intercommunication, and to reduce our commercial rights to treaty form.

This resulted, under the management of the late distinguished Secretary of State, Mr. Webster, and of our skillful and accomplished envoy, Mr. Cushing, in the conclusion, on the 3d July, 1844, of the treaty of Wang-Hiya, containing many valuable provisions not embraced in the British treaty at Nankin or its supplement, and expressly stipulating, in the fourth article, for the full recognition of consuls, or other officers that the United States might choose to appoint, for the superintendence and protection of our trade.

By this treaty, the United States are firmly placed upon the footing of the most favored nations, and have secured to themselves the trade with the *five* great ports mentioned; which are appurtenant to the most populous and richest provinces of the empire.

The growing commercial power of this Government is now everywhere acknowledged by the civilized nations of the earth; and we are admitted to be a proud and dangerous rival of our transatlantic competitor for a full share of the trade with Asia. When the treaty of 3d July, 1844, was concluded between the United States and China, who would have imagined that it was the destiny of this nation permanently to establish its power, in less than four short years, upon the Pacific ocean, over a line of sea-coast more than sixteen hundred miles in length, and almost equal to the original extent of our Atlantic maritime frontier?

From this new and commanding position, which geographically and politically places us in the first rank of the commercial communities of the earth, we can turn to the wide field of enterprise presented for the exercise of American energy, and plainly anticipate benefits, of which it is no fancy sketch to say that the realization of the golden visions of Columbus, Cortes, or Pizarro, fade into insignificance when viewed in this comparison. The stores of universal wealth, which their cupidity collected at the expense of violated humanity, and by deeds of wrong and cruelty, served, under the order of Providence, only to impoverish and ultimately bankrupt the parent land of those bold adventurers. Their only desire was to acquire, at any cost of bloodshed or iniquity, *boundless wealth*. Our purpose is a peaceful and far nobler one. Seeking nothing from the violence which marked the career of Spanish policy towards the Indies, and continent of the western world; nothing from the reluctant subservience of downtrodden authority, we struggle for a power approved by reason and good conscience, and a wealth which, generously expended, will administer aid to the great cause of human progress.

In pursuit of these objects, we must discover at once the efficiency of the auxiliary now proposed to be created in the establishment of a certain, direct, and periodical intercourse, by steam-ships, with the five ports now legitimately open to us. This will be the beginning of an expansive commerce not only at those ports, but will be the prelude, at no distant day, to a trade, which, passing these portals of the Empire, shall reach its vast interior, abounding in wealth, and in the productions of every department of human industry.

Here before us, fronting our Pacific possessions from the east, and washed by the waters of the same ocean, lies the vast empire of China, three thousand miles long by two thousand broad, covering an area of five and a quarter millions of square miles, intersected by mighty rivers, some of which may be compared to those of our own land. The Hoang-Ho, or Yellow river, is an instance, taking its rise between two ridges of mountains, in the northwest of China, and flowing southeasterly, with a direct course of some twelve hundred miles from its mouth, and nearly two thousand in its numerous detours, it disembogues about two hundred miles north of Shanghai, having for its basin an area of seven hundred thousand square miles. There is also the Yang-tse-Kiang river, or "Girdle of China," as it is called, a beautiful and tranquil river, rising in the southern declivities of the mountains near the source of the Yellow river, and running in its general course a southeasterly direction, a distance of one thousand eight hundred and fifty miles from its source, and three thousand in all its windings, disemboguing between the thirty-first and thirty-second degrees of north latitude, about seventy miles north of Shanghai, with an *embouchure* thirty miles wide, and navigable a distance of two hundred miles, as far as Nankin, for the largest sized vessels, draining a basin of seventy-five thousand square miles.

There is no country in the eastern world which can compare with China for great natural facilities of inland navigation. Its canals are innumerable, one of which, the Yunho, or Transit canal, constructed in the fourteenth century, is a stupendous work, eight hundred miles long, with its banks protected by masonry, and connects the two great rivers I have mentioned, where they approach each other. Besides these main arteries of interior connection, are numerous other rivers, emptying into the oceans along the coast, which is lined in its whole extent with islands.

This immense empire, abounding in coal, anthracite, and bituminous crystalized gypsum, marble, sandstone, nitre, rock salt, common salt, the ruby, diamond, amethyst, garnet, agate, and other precious stones, with the precious and useful metals, is held, as we all know, by an industrious, acute, and ingenious people, with an extensive and cultivated literature, and possessing a wonderful knowledge, now and for ages past, in most of the arts and sciences. The attention of the commercial world, however, has been mainly drawn to China on account of its great staple, tea, the principal article of export; of which, as their botanists say, there are two hundred varieties. But besides this, a large export trade is carried on in Nankin cloth, porcelain, rhubarb, ginger, mercury, zinc, borax, shawls, mother-of-pearl, and ivory goods in great diversity.

Besides this great political division of Asia, we have, lying almost at its doors, and situated upon the ocean track which the clause I have presented contemplates for the line of mail-steamers, the Empire of Japan; between the 31st and 46th degrees of north latitude, and the 129th and 143d degrees of longitude east of Greenwich; consisting of a group of islands, the principal of which are Niphon, eight hundred miles long by eighty-six in breadth; Kiusiu, Sikof, also a part of the Kurile Islands, and of Saghalien; the whole covering a surface of two hundred and seventy thousand square miles.

From this empire the European commercial world, except Holland, is wholly shut out, by the stringent and exclusive policy of the court of Yedo, the political capital, and the residence of the Seogoon or Emperor. And even that nation is limited to a trade with the port of Nangasaki, situated in latitude 32° 30′ on the western side of Kiusiu, one of the Japanese cluster. In looking at the controlling position of this chain of islands, their vast resources and facilities for trade, their exuberant supplies of the treasures of the earth, and handiwork of man, the high state of mental culture of their inhabitants, much greater even than that of their neighbors, the Chinese and Coreans, it is a matter of astonishment that this condition of affairs should have continued until the present time.

We find this country, known to the Portuguese half a century after the discovery of America by Columbus, when one of the Portuguese ships was wrecked upon that inhospitable shore. This was the beginning of a lucrative commerce between the two nations, and led to an immense exportation to Macao and Goa; but resulting, in consequence of religious interference and intolerance, in expulsion of these foreign traders by the Japanese authorities, in less than a century after the Portuguese, Mendez Pinto, was cast away upon the coast of Japan. In like manner, two centuries and a half ago, the Dutch obtained a foothold there, through the tact and skill of an English pilot, who actually secured for Great Britain a treaty of special commercial privileges in the year 1613; in consequence of which the English East India Company established a factory at Firando, from which they were subsequently driven by the jealousy of the Dutch.

The political events since that period show that this treaty has never been insisted upon on the part of the British Government as having any binding force. In 1813, when the British captured the Island of Java from the Dutch, Sir Stanford Raffles, as Lieutenant-Governor of the Island of Java and its dependencies—a man who saw the

value of this trade, and made an effort to open the way for it with Japan—dispatched an embassy to the court of Yedo which resulted in nothing, the prejudice against foreigners having, perhaps, been increased towards the authorities of Great Britain on account of the violence they practiced towards the Dutch, when the English ship-of-war Phaeton, under the command of Captain Pellew, visited that country in 1808. In 1814, Raffles addressed the Governor-General of India, (Lord Minto,) stating that the "trade hitherto carried on with 'Japan forms no criterion by which the extent 'and value of the trade is to be judged, when a 'more liberal and upright system is practiced;" that "the restrictions which exist do not arise so 'much from the limitations and institutions of the 'Japanese as from the nature and constitution of 'the Dutch factory, the degraded state of which 'would appear to have sunk the Dutch character 'very low in estimation;" that "the subject in every point of view is most important;" "the permanent establishment of British interests" was "almost within" his grasp, and that he should consider it "a dereliction of public duty did he 'not strain every nerve to effect the accomplish-'ment of an object in every way so inviting and 'so interesting."

From some inexplicable cause, the subject was passed by unheeded on the part of the British Government; the treaty of 1613 was never enforced nor insisted upon, and the subsequent visit to the Bay of Yeddo, in 1818, of Captain Gordon, commanding a brig of war, of Captain Sir Edward Belcher, in 1845, in the Saramang, and the last visit, in 1849, of Captain Matheson, of the sloop-of-war Mariner, resulted in nothing promotive of commercial intercourse. Nor have the visits of the Russians and French, at different times, been more successful.

It is a singular fact, that the *first* direct aggressive act upon the restrictive policy of Japan was on the part of an American merchant ship, Eliza, in 1797, commanded by Captain Stewart, which was employed by the Dutch to carry on their trade with the Japanese, on account of the war between England and Holland, during the subjection of the latter to France. Since then, at various times American vessels have put into Japanese ports in distress; our ships have been wrecked and driven on their shores, exposing their crews to the certainty of cruel treatment and imprisonment. These accidents and outrages attracted the attention of Government to the necessity of protecting our merchant vessels in those latitudes, and especially the squadrons of whaling ships that traverse the Japanese seas in their lawful vocation, passing the Straits of Sangar which separate the great Island of Niphon on the north from the Island of Yesso. Accordingly, in the year 1846, negotiations were attempted with the Court of Japan, through Commodore Biddle, commanding the Columbus, of ninety guns, and accompanied by the United States frigate Vincennes, bearing with him a letter from the President of the United States to the Emperor of Japan "to promote friendship and commerce between the two countries."

The imperial reply was, that "no trade can be allowed with any foreign nation except Holland." And in 1849, the United States ship Preble was dispatched to rescue a number of sailors belonging to the whale-ship Ladoga, who had been held in close confinement and captivity for a year, and cruelly treated by the Japanese authorities. The necessity for some decisive step for the protection of our commerce in the Japanese seas, and for the extension of the shield of the Union over our enterprising and daring navigators, in quest of the products of the deep, and in lawful trade, being unmistakably manifest, led to the present proposed expedition, which is fitting out for the East. It is a source of gratification to every American that this expedition, with a complement of four thousand men, and three hundred and thirty guns, bearing, also, all the evidences of the civilization, improvement, and power of our country, is commensurate with the important and humane purpose which our Government has in view.

This expedition will rendezvous at the Sandwich Islands. These islands are ten in number, and the largest (*Ha-wai*) has a surface of four thousand square miles, and a population of one hundred thousand persons. This remarkable group, which occupies a most prominent position in Polynesia, has justly been regarded as the natural stopping-place for vessels sailing from the coast of California to China and Japan, and is the resort of hundreds of our whaling-ships every year. Indeed, they are destined, at no very remote period, to be the grand depôt of nations trading between the western and eastern continents.

The great Humboldt declared that the Isthmus of Darien was the principal barrier to free intercourse between Europe and Japan in his day, amounting almost to an interdict. He predicted that this interdict would continue until the Atlantic and Pacific oceans were united by an isthmean canal at Panama; regarding that narrow neck of land as the bulwark which had for ages forbidden all attempts to surmount it. It has been forcibly said, by a very able political and commercial writer in London, that this "bulwark has been 'breached, and various circumstances have trans-'pired to alter the features of the case, and to bring 'about a rapid change in the tide of commerce and 'the progress of trade;" that "the British have 'established themselves on the frontiers of China, 'and in the heart of the eastern Archipelago, and 'have compelled respect to their flag and freedom 'to their trade;" that "energy and enterprise 'have constructed a railroad across the Isthmus 'of Panama, and the gold discoveries of Califor-'nia and the colonization of Vancouver's Island, 'have settled a vast and industrious population on 'the western sea-board of the American continent, 'and led to the establishment of new lines of steam 'navigation, and an immense tide of commerce 'and navigation;" that "the opening of the Nic-'aragua, Tehuantepec, and other practical routes 'of intercommunication between different points 'on the Atlantic and Pacific has been undertaken 'by various companies;" that "steam communi-'cation has been extended from India to China," and recently to the British "Australian settle-'ments by the way of Singapore and Java;" that "there has also been a great increase in the Eu-'ropean and American shipping employed in the 'Indian and China trade in general commerce, and 'the whale fishery on the Pacific;" that "the 'Americans have largely extended their whaling 'fleet, and prosecuted the fisheries very success-'fully to the seas and coasts of Japan, and her 'northern dependencies to the Gulfs of Tartary 'and Okotsk, the sea of Kamtschatka, Behring's 'Straits, and the Arctic ocean;" and that "the 'port of San Francisco, California, is destined to 'become the great mart and entrepôt for American 'commerce on the Pacific, with China, Japan, and 'all the maritime countries of Asia, Polynesia, 'Oceanica, and Australia, which embrace an ag-'gregate population of upwards of six hundred 'millions."

The same writer refers to the fact of the position which Japan occupies to our American possessions on the Pacific, to the crowds of American whalers in her seas, and to the certainty of robbery and death when the unfortunate whaler is driven upon her shores; and forcibly represents that her insular geographical position, her "ex-'cellent ports and harbors, dense and industrious 'population, her boundless productive resources, 'and vast capabilities for commerce, her superior 'intelligence and refinement of her princes and 'nobles, together with the skill, energy, and en-'terprise of the Japanese people, justly entitle her 'to rank above every other Asiatic nation;" that "by a judicious relaxation of her restrictive pol-'icy, all these unrivaled natural and political ad-'vantages could be made available for conducting 'a very extensive and profitable trade with vari-'ous countries, both on the Atlantic and Pacific, 'without compromising either her sovereignty, na-'tional religion, or peculiar institutions;" and that "she will now be compelled by force of circum-'stances to succumb to the progressive commer-'cial spirit of the age, and the Japanese Islands 'will eventually become to the East what the 'British Islands are in the West." Such is the golden prospect before us, for a realization of which events are now hastening this Government. Let us begin, then, by the immediate enactment of a law by which we will be prepared for the future. Let us first, and at once, establish this steam oceanic line of communication with the great port of Shanghai in China, a distance of only five thousand seven hundred and seventy-five miles from the commercial emporium of the Pacific, as shown upon a sketch map, which I have had prepared on Mercator's projection, and to which I would ask the attention of Senators, as it indicates at a glance the position we occupy commercially, and the several distances from our western ports to the trading points in the east of South America, of the islands of Polynesia, Oceanica, and Australia. Let us seek for a more active and enlarged participation in the present immense trade with the Chinese Empire, in which we *now* share to so *small* an extent.

How is it possible that we should remain insensible to the importance of this subject, when every day's experience reveals to us the splendid monopoly of trade, which our great transatlantic rival has enjoyed and still possesses? The memorials and reports which are constantly pouring in upon us leave no apology for want of information upon the subject. It is represented that the English importation of tea for the last sixty years is nearly two thousand millions of pounds, (their present annual importation is about fifty-six millions of pounds,) and in that period, that Great Britain has derived from her trade with that country nearly $1,000,000,000, whilst the value of our importations, during a like period, have but little exceeded $250,000,000, and our exports $86,000,000, leaving the difference to be paid for by us in the precious metals, instead of the fabrics and commodities of the country. Notwithstanding all the impediments growing out of the great maritime strength and capital of Great Britain, our trade, by the wonderful and expansive energies of our people, is now rapidly increasing; for we learn by the official report of the Secretary of the Navy, that it now reaches from $16,000,000 to $18,000,000, and in fact, we find, so far as the actual returns to the Treasury for the year 1852 exhibit, that our imports for the year 1852 amount to $10,593,950, whilst our exports, in domestic cottons, &c., according to the same returns, are but little over the fourth of that sum. Now, the Chinese have felt the importance of their foreign trade, and no stronger evidence of this can be adduced than of their own volition, they expressly stipulated in the British treaty of Nankin, in 1842, as I have already stated, for the opening of her five principal ports to the commerce of the world. Let us remain no longer insensible to the advantages before us, but avail ourselves of them by the use of every means within our reach. Then, not in a spirit of sectionalism as a representative of California, honored though I am by holding that position; but as a citizen of this Republic, proud of my native land, every inch of it, and of the American name, do I predict that the emporium of California will soon in every respect be the New York of the Pacific, standing as a rival of the great commercial capital of the empire State of the Atlantic, each striving which shall confer the greater blessings on the other, and upon their common country—a rivalry which will give to each new elements of wealth and refinement, and whilst diffusing them all over the surface of our blessed land, will confer new strength, dignity and power upon the whole American Union.

Mr. PEARCE. This is a very important amendment, and manifestly involves the expenditure of a large amount of money. It authorizes the Postmaster General to contract for a line of steamers from San Francisco, by way of the Sandwich Islands, to Shanghai. It seems to me that it is an inappropriate time for such an amendment, and it ought not to be considered now upon an appropriation bill.

Mr. GWIN. I hope it will be considered.

The PRESIDING OFFICER. Does the Chair understand the Senator from Maryland to raise a point of order upon the amendment?

Mr. PEARCE. I do not know. It authorizes a contract. Does that bring it within the rule of order?

The PRESIDING OFFICER. The Chair does not think it does.

Mr. PEARCE. Then I have only to express the hope that it will be voted down.

Mr. BRODHEAD. I should like to know how much this will cost the Government?

Mr. GWIN. I am perfectly willing to fill the blank that it shall not exceed a certain amount.

Mr. BRODHEAD. I should like before we adopt the amendment to fill the blank. I suppose the chairman of the Committee on the Post Office and Post Roads could give us some idea of how much it would cost; and I should like to know the necessity of such a thing. I suppose it will cost about $1,000,000 a year.

Mr. GWIN. In order that the objection may be met, I am willing to fill up the blank, so that it shall not exceed $600,000 a year.

Mr. BRODHEAD. Who are the people with whom we are to have correspondence in China? What is the amount of American population there? What is the business there rendering the establishment of such a line necessary?

Mr. HOUSTON. I believe, sir, it is within the rules to speak upon all subjects when any one subject in particular is up; at least I think so, for I understood yesterday that an appropriation bill was under consideration, and yet the tariff was under discussion for about two thirds of the day. I presume, therefore, it will not be much departure from the custom of debate if I should deviate a little from the strict rules of the Senate; and if I do so, I trust I may be excusable. But as this amendment relates to foreign countries, and as consequences very important to this country may result from it, it will not, I hope, be irrelevant to circumstances connected with the war-making power of this nation, for I understand that the proposed steamers are to be made convertible into war-steamers if necessity should arise.

Mr. President, resolutions have been introduced into this body, in reference to our foreign relations, of great and serious import, and I cannot suffer this opportunity to pass without availing myself of it to offer an expression of my views, however lightly they may be regarded, and however weighty and important the considerations may be in opposition to the notions which I entertain. I am aware, sir, of the importance of the subject, and I am also aware of the ability, the talents, and intelligence which have already been employed in its discussion, and therefore I shall not expect either to enlighten the Senate, or to convince the gentlemen whose judgment has already taken a direction; but I shall at least have the satisfaction, I trust, of having brought to myself the consolation of having done what I think to be my duty.

Our foreign relations at this time are most harmonious. There may be in the political horizon specks of portentous aspect, but they are few and ambiguous. I have always regarded it as the duty of the statesman to look to the future, to realize the present, and to indulge as little as possible in retrospection. The realization of the present, or the anticipation of the future may be the best employment of our intellectual faculties. I regret the introduction into this body of the resolutions to which I allude. I have no reflections to cast upon those gentlemen who have thought proper to introduce them, and to press them upon the body. They have more experience, more intelligence, and more ability than I have, and have a renown for statesmanship and capacity in civil affairs which I dare not emulate. Yet, sir, my notions are of a class perhaps peculiar to themselves; and for that reason I may the more pertinaciously cherish them.

It has been my opinion that anything at this time calculated to awaken an unusual degree of anxiety, which may emanate from the Senate, will not be calculated to advantage the community at large. I do not regard the Senate as the exponent of public opinion further than that opinion has been expressed. There has been no public expression upon this subject. Are we to assume the prerogative of dictating, and saying what shall be the public sentiment, and what are the public opinions of the country or among the masses of the people?

The Senate I understand to have the power of carrying into effect the expression of the will of the people, in part or in conjunction with other powers. It is not certainly their duty to manufacture opinions here, and to throw them out at large into the community to give complexion to public sentiment. Sir, public opinion is very well regulated; we have an intelligent community throughout our country; they think, they deliberate, and when they decide, it is generally done correctly.

At this particular time, I deem the passage of any such resolutions as those to which I have referred as unfortunate. A new Executive is about to commence his career, and he has not yet indicated the direction which he will take. For this body to adopt resolves which might have a tendency to impress him in any way, and not leave him free to take his own course in the administration of the affairs of the Government, would, I should think, be as discourteous to him as it would be presumptive on our part. I am for leaving him free to act as he thinks proper, and not to commit him beforehand to any particular line of policy, not to influence his opinion, but to let him walk by the light of his own intelligence; and if he requires the assistance of his advisory counsel, the Senate of the United States, and presents subjects to their consideration, it will be proper for them, then, to render him their opinion, and not to anticipate the course he should take in relation to those matters. If the Senate should pass such resolves and his policy should not concur with them, with all the lights he had, he has at least to meet the action of the Senate, and he has to dispose of that, cumbering himself with difficulties which, if the Senate had not acted, he would have avoided at the commencement.

Mr. President, it is said that the resolutions to which I have referred commit us to no particular course of policy, but leave us free, and that they will not commit the Executive of the nation. If they commit us to nothing, they are entirely unimportant, and can be of no advantage. We reserve nothing but the right to act as we think proper, in the event of certain things being done by other nations, a right inherent to our Government, and one that needs no reassertion at this time. Why, sir, it is well known that it is a principle inherent in the American heart; it is there implanted at this day, and has entered into the very soul of the nation. You cannot wrest that principle from it, and leave political vitality in the body-politic. Is it believed that if an encroachment is made upon the perogatives of this nation, if its security is endangered, or its rights infringed, that it will bow in humiliation to any earthly Power? It is in vain to think it. Sir, the principle rests in the heart, and it will be found in the arm, to sustain the Executive whenever he deems it necessary, in the control of our foreign relations, to raise his crest as the representative of America. He certainly has opportunities superior to ours of possessing himself of the condition and state of the foreign relations of the country. It is his everyday business, when placed in the Executive chair, to look at our foreign relations. He is in control of all our international correspondence. The diplomatic machinery of the Government is all laid before him; and in his Cabinet councils he contemplates them, surrounded by men of capacity and ability to sustain him, and if he needs advice, ready to offer it. Are we, in advance of the course which he may think proper to take, to say what is right and what is wrong in our foreign relations? Our relations to him are delicate; we are his advisers. We are here for a little while—for a few months in the year—and when we go away, we lose the "run" or "hang" of things, as it is familiarly called, while his mind is continually considering, and familiar with every passing occurrence abroad. In this way, he is more capable of determining what it will be proper to recommend to the coördinate branches of the Government for their concurrence, than they are capable of anticipating what he, under the circumstances, ought to do.

Another thing: The President has responsibility; his opinions and his recommendations are no idle matter; they are the offspring of the Constitution, for he is required, by that sacred chart of our liberties, to give advice and suggestions to the legislative branch of the Government for their concurrence. Under these circumstances it is certain that he will be better qualified to make suggestions to us than we shall be to make them to him. The President is individually responsible for his acts. If he is guilty of dereliction or impropriety of conduct, there is but one Executive and he can be identified, and any malfeasance or misfeasance can be individually charged to him. There is no one to divide the responsibility with him. Hence, as the greater responsibility rests upon him, the greater will be the consideration which he will give to the subjects coming before him. But, sir, if the Senate of the United States, a numerous body of men, choose to take a course that is either impolitic or unwise in itself, or unsafe to be adopted in regard to our foreign relations, the consequence will be that there are no less than sixty-two men to divide the responsibility, and it amounts to nothing at all; whereas the President being an individual, feels that he is bound to the whole nation, and responsible for every act that he does. I would rather rely upon his suggestions, and carry out the policy indicated by him, if proper, or advise with him upon his recommendation, than I would suggest to him what course of policy would meet the opinion of the people, when, in fact, the Senators can know nothing about it, for it is a matter that has not been discussed by the people.

I tell you, sir, the principle of the Monroe doctrine, as it is called, rests in the hearts of the people. They are contented that it should be there. The principle was announced in 1823. It has remained uncontradicted from that day to the present. It will remain uncontradicted, or war will be the inevitable consequence, if there is no other alternative for the maintenance of that principle; and it will not be a party or individuals who will engage in it; it will be the nation that will do it; they will vindicate their honor and their character. Then, sir, you might as well reënact the Declaration of Independence, for the Monroe doctrine is an emanation from it. It is a bough from the great tree of Independence, and you cannot cut it off without destroying the trunk. I cannot see any use in the introduction of the resolutions to which I have referred. I have deemed the discussion of these subjects here of peculiar importance, and in many respects unfortunate. I say nothing about the waste of time. I have nothing with which to reproach gentlemen upon that point. I felicitate myself that I am drawing but a very small portion of the time to which I would have been entitled if I had an equal opportunity with some gentlemen in this Chamber.

There is a remarkable coincidence in a train of circumstances which have grown up in this country which have had an exciting and important influence upon it. To be sure we have had no cities sacked, no armies slain, no houses conflagrated; but, sir, the public has been excited to an unusual degree upon some occasions;—whether beneficially or not, I will not pretend to say. In 1849, when difficulties arose between Austria and her dependency, Hungary, resolutions on the subject were introduced into this body. They were discussed a length of time. There was no action upon them, I grant you; but yet, throughout this broad land, speeches of honorable gentlemen, speeches of great ability and statesmanship, went forth. If that had been a case of just interference on our part, it would have been well; but, sir, these speeches went forth. Soon after that, difficulties of no ordinary character arose, for we find that in May, 1850, five months after the introduction into the Senate of the resolutions to which I refer, the first Cuban invasion took place. How far the debates in this body might have influenced that invasion, I do not pretend to say; I merely remark the coincidence—nothing further. It is certain, however, that they had some influence. Again we find that the public mind was excited, the popular feeling was sought to be drawn into that channel. And why? The excuse was, that the opinions which emanated from the Senate Chamber seemed to unloose the bonds that bound society in constitutional or treaty allegiance, and they thought it was a time of general turmoil and uproar. That was the excuse.

Sir, we find that fifteen months after the first Cuban invasion of 1850, the second Cuban invasion, of August, 1851, occurred. We know the disastrous consequences of that invasion; we know the unhappy state of feeling, and the deep-toned commiseration which possessed every heart; sympathy almost amounted to frenzy, and almost involved us in a foreign war. This was not by the advisement of the United States. These men did not go under the authority of this Government, but an excuse was urged, that if a grave deliberative body was willing to interfere across the Atlantic in foreign affairs, why might not the people of the United States interfere in their vicinity in taking Cuba, if possible?

It was not long after this, when another exciting circumstance took place.

We had not escaped from these difficulties when the advent of the illustrious stranger, Kossuth, was announced. I was not captivated by his advent, Mr. President. A portion of my life had been spent among the Indians. They are a cautious and considerate people, and I had learned to reconnoiter character a little when it comes about me, and I am liable to come in contact with it. I played the Indian, and was wary. I

received him, sir, in concurrence with the other Senators. I wished his country liberty, as I wished the world liberty, but I did not wish to disregard our relations and obligations to other countries. He was hailed, he was greeted, he was welcomed, on some occasions, more triumphantly than ever La Fayette, the friend of Washington. Compare the men, compare their feelings, their impulses, and their actions, and—

"——— that was, to this, Hyperion to a satyr."

What claims had he upon us? He had claims of sympathy. If he had ever fleshed his sword for liberty, he had a claim upon our admiration and our fraternal feelings. But he had not done it. He had left Hungary, he had denounced Görgey, and had thrown upon him the responsibility of the Government. He disregarded his colleagues in office when he was at the head of affairs in Hungary. He threw all the responsibility upon Görgey when Görgey was helpless, and he himself had retreated with five thousand men. A beautiful army for liberty! Five thousand men alone, would strike for liberty against thousands on thousands. Yet he retreated with a bodyguard of five thousand. And after he had negotiated for a succedaneum, for a resting-place, he went away, leaving "poor Hungary" downtrodden and bleeding. It is known, now, that somebody humbugged us, or we humbugged ourselves. Sir, it was Kossuth that humbugged the whole of us. [Laughter.]

Mr. MASON. Not all of us.

Mr. HOUSTON. We have to take it collectively. Kossuth was received here not only as our own chieftains and warriors have been received, but he appeared in the Senate Chamber in a costume with which Washington would never have entered and departed. He appeared at that desk with a sword by his side. My blood boiled when I saw it; for I detest tyranny or a symbol of despotism in any way, or any approach of the military to an equality with the civil. He wore at his side, in the halls of legislation, a sword, a thing that Washington never did, but to surrender it with his power to the counsellors of his country. Yet Kossuth entered and left the Chamber with an unfleshed sword upon his thigh; for he never saw the face of an enemy in his life. Think you not, if spirits have ubiquity, that the spirit of Washington did not revisit the earth, and contemplate with supreme indignation a scene that seemed, even by a symbol, to menace the work of his hands? Sir, these things have passed and gone, and I have but little to say in regard to them. If Kossuth had been the representative of gallant and daring Hungarians, of men who struck for liberty, and failed for want of numbers sufficient to have achieved their independence, he would have been entitled to the immortality of Tell; or if he had perished in the attempt, he would have been gloriously embalmed in the hearts of all lovers of liberty. But, sir, he had no such proud trophies. He was supremely pecuniary in everything. The dollars, and the contributions, and a splendid retinue, with a bodyguard, to march him through the land, were all that he cared about. He marched through the country with a body-guard, whereas there is but one shield needed in this country for any man. An honest and a manly heart will protect him always. I cannot let these things pass, because I admire true patriotism. There is now a man in this city whom I cannot pass by unnoticed. He is one who, though unfortunate in rebellion and unadvised in his action, was young, ardent, and generous. Contriving for no place of refuge, he was taken in the fact. I refer to young Meagher, an Irishman. He looks like a hero, and bears the stamp and image of a man. He asks for no money; he wants no "material aid" to retire upon, and become Mr. Smith in England, [laughter,] as it is said Kossuth has done.

Sir, much as I admire the patriots who strike for liberty—much as I admire the noble people whom Kossuth purported to represent—much as I admire all men who have struggled even unfortunately or misguidedly for liberty, no matter where—much as I admire the promptings which actuated them, and love the cause in which they have been engaged; yet when a man proves recreant to a noble cause, forgets his people, lives in comfort, splendor, and display, while they have to bite the dust or gnaw the file in agony, I have no sympathy for that man.

After the arrival of Kossuth, another set of resolutions was introduced. It was contemplated, I believe, then, to interfere in the affairs of Europe merely by a proclamation on paper, not seriously to interfere; for it was said it would not be regarded by them as any interference, and would be no provocation. Suppose it had been well received by them, would they not have had an opportunity of reiterating upon us, "You know nothing about our business, and you have interfered in things with which you have no concern. It is no principle in your creed; it is nowhere laid down that you should interfere in European affairs?" We find this Monroe doctrine, as it is called, enforced by an extract from a letter of Mr. Jefferson, on which the declaration was predicated, and in which it originated. We find, that in 1823, speaking in relation to the desire of England to unite with the United Stotes in preventing the resubjugation of the South American colonies, and in reference to a proposed course of policy on our part within our hemisphere, preventing colonization or interference by European Powers, Mr. Jefferson said to Mr. Monroe:

"The question presented by the letters you have sent me is the most momentous which has ever been offered to my contemplation since that of independence. That made us a nation; this sets our compass, and points the course which we are to steer through the ocean of time. And never could we embark on it under circumstances more auspicious. Our first and fundamental maxim should be, never to entangle ourselves in the broils of Europe. Our second, never to suffer Europe to intermeddle with cisatlantic affairs. America, North and South, has a set of interests distinct from those of Europe, and peculiarly her own. She should, therefore, have a system of her own, separate and apart from that of Europe; the last is laboring to become the domicil of despotism—our endeavor should surely be to make our hemisphere that of freedom."

If we had regarded the admonitions of Mr. Jefferson, we should not have interfered in the broils of Europe. Was not the Hungarian revolution a broil in Europe, and therefore appertaining to European affairs? Was not the intervention of Russia also pertaining to European affairs, with which it was not our business to embroil ourselves? Then, sir, we had nothing to do with it. What is the case now? Because troubles have arisen in Cuba, and because England and France have indicated a disposition to secure Cuba to Spain, are we to make a protest that no Power can or shall interfere, colonize, or in any way occupy this hemisphere, but we are to reserve the right inviolable, and, in us, indefeasible?

Sir, it has been said repeatedly that the invasion of Cuba was in imitation of a revolution that occurred in our neighborhood, and of which I have some cognizance. It has been said that there is a striking analogy between the attempts made upon Cuba and the revolution of Texas. Sir, nothing has ever been more misapprehended on earth than the facts in relation to the course pursued by Texas as a colony, or component part of the Republic of Mexico. We find in Cuba that no revolution was going on. The people were quiet and tranquil. I admit that it would be to us a galling and intolerable despotism; but they had been reared under that despotism, and have been accustomed to it and know nothing better. They have not intelligence sufficient to comprehend liberty, or to understand the philosophy of it. Sir, there was no revolution existing in Cuba. The inception of it was here in our country, when we were on terms of peace and in amity with Spain. In relation to that matter I have my opinion. Let other nations do as they will with their subjects. However glad I would be to see all mankind under a free and beneficent constitution, I must say that if it is not so, it is their own business. We have ours to attend to, and let us attend to it. If we make treaties with nations, let us maintain them inviolate. It is not only the duty of the law-makers, or the Executive of our country, to maintain peace, but it is really the duty of every individual; for unlike other countries, where the will of a sovereign or a ministry directs their policy and negotiates their treaties, our sovereignty resides in the people themselves, and every man is a constituent part of that sovereignty. He delegates the power to representatives to negotiate and to establish treaties, and he is bound individually, as well as we all are bound nationally, to adhere to and maintain the national good faith. I have deplored the fate of the unfortunate and deluded men who went there: but, sir, Cuba had no revolution progressing in her island. The revolution was progressing within the limits of the United States. There was a *junta* in this country making preparations for the invasion of Cuba, and not to join in a revolution there, which is a proof that there was no anticipation of a revolution in Cuba. I need only refer to the fact that when the forces landed there, there was no uprising amongst the people. Then there is no analogy between that and the condition of the people of Texas when they resisted—resisted, I say, sir, for they never rebelled. Their case is not understood, and it is due to the truth of history that a short exposition of facts should on this occasion be submitted not only to the Senate, but to a candid world.

The people who emigrated from the United States to Texas, went there under a constitution almost identical with the Constitution of the United States, and to that constitution they swore allegiance. They had certain inducements held out to them. They were not cramped in their settlement. There was a wide domain, and it was liberally dispensed by Mexico; for in place of a little contracted farm of six hundred and forty acres, every man had his three miles square of land, and for this they were all to peril their lives in repelling the wild Indians upon the borders, and to build up for Mexico an established community. They engaged to do so in good faith, and they continued in it from 1825 up to 1835, multiplying in number and in resources, gathering about them all the elements of prosperity; and when they were prosperous, they became objects of the cupidity of Mexico, which attempted to rob them. The people submitted to successive drafts made upon them, and yielded obedience. Years afterwards, when a revolution grew up, there was just cause for it, as I shall show.

The constitution of 1824 was subverted by Bustamente in 1832. After the subversion of that constitution, Santa Anna, then a military chief, became the champion of free principles, and he warred successfully against Bustamente, with the aid of troops stationed in the interior of Texas, for they never saw the frontier near us. They did not engage in war with the Indians, but left the citizens to attend to them. Those citizens, when they received this intelligence, instantly rose in behalf of free principles, and under the standard of Santa Anna's edict they achieved, not the independence of Texas, but the expulsion of the troops, and had them turned over to the authority of Santa Anna, the then champion of liberty in Mexico. This was in 1832.

In 1834 or 1835, Santa Anna deemed fit to subvert the constitution and proclaim himself Dictator of the Republic of Mexico, governing with the rod of his power, and the mandate of his will. Under these circumstances, the Texans remained loyal; but he was not satisfied, for as they had helped him to expel tyrants, it indicated an aversion on their part to tyrants altogether; and as he had assumed to be one, they were his enemies from that time. General Santa Anna sent his officers to Texas to demand of them their arms which were necessary to them for their defense and the defense of their families—those arms which had often repelled the Indians from their border, and sustained the flag of Mexico. They told him that arms were necessary for their support, not only to give them food from the game which they brought to them, but were indispensable to their protection against the Indians who hovered upon their borders. That excuse was not deemed sufficient. The private arms of Texas were demanded. The people would not surrender them. There was but one piece of cannon left to protect a frontier of more than six hundred miles. The authorities of Mexico sent their cavalry to take this from Gonzalos, a place imminent in its exposure to hostile invasion. The Mexicans, when they demanded it, were told to come and take it. They attempted it and were repulsed, but no lives were lost. They returned to Mier, and there fortified themselves and denounced war. Two hundred men attacked eleven hundred of them in their fortress, took it, let them march out with the honors of war, gave them their arms, and let them return to Mexico.

This it was hoped had terminated the difficulty. But by the ensuing spring, Santa Anna, Dictator of Mexico, and prospective emperor of that rich and beautiful realm, advanced upon Texas with the best appointed army, perhaps, that had ever pressed the earth of America with its tread. It

was well munitioned, appointed, and disciplined. The most of the soldiers were veteran troops. The whole population of Texas at that time was small. If it exceeded fifteen thousand it was wonderful; yet Santa Anna advanced upon them. He besieged the fortress of Mier. He took it, and massacred every man in it. Then it was that some of the citizens of the United States rallied in numbers to assist Texas engaged in actual revolution, for she had then been a year in the revolution when they fled to us. The men at Mier were captured by Urrea, the General of Santa Anna, and after the capitulation, barbarously slaughtered. There the faith of nations, and the rules of war were defied, and the act was done in derision of the civilization of the nineteenth century.

Was there then a voice heard in this Chamber advocating or introducing a resolution in vindication of the rights of Texas? Not one voice was heard at that time. Those gallant spirits who fell in hecatombs, with their footsteps almost on American soil, were hardly washed out or obliterated; yet this nation was not convulsed. We heard of no sympathetic throb issuing from these Chambers, no indignant voice raised in denunciation of the barbarity committed towards Texas. Did Texas ever complain to this Government? From 1836 to 1843, did she ever remonstrate to this Government? In 1843, when she did remonstrate, what was it? She said to the three great Powers of the earth, to France, England, and the United States, "We ask no assistance, we invoke the invasion of our enemies, and upon a well-arranged and well-fought field, we will chance our liberty; but compel our adversary to the rules of civilized warfare." That was all we asked. The Government of the United States, acting upon its wise and prudent and proper policy, did not interfere. A letter was written by Mr. Webster, creditable to him, creditable to his head, and to his heart, as is everything which ever emanated from him. But it was not regarded by Mexico, and we were the sufferers. Indians were brought in and thrown in the scale against us. Texas was contending against all these difficulties. The Texans were contending for their homes, their families, their firesides, and the altars of their household gods, for they were permitted to have no churches there; and hence perhaps a good deal of their feeling.

I contend that while we maintain our national faith it is not right to extend our jurisdiction beyond our own hemisphere. We should confine our action here. Why should we go and turn our attention to European affairs? Why this care for other people? Did you show it towards Texas? Let us see.

I wish to show you the policy which actuated General Jackson; and no man ever felt a stronger sympathy for any people on earth, than he did for the Texans. All will admit that that great, enlightened, and patriotic citizen was actuated by high and generous impulses; and if this feeling which now seems to prevail among some honorable gentlemen, was then in existence, might he not have lavished it with some propriety upon the Texans, then in a struggling condition? for they were bone of his bone, and flesh of his flesh. Did he not sympathize with Texas under all the appalling influences of necessity on her part, for it was known to the world (though not imparted by her, in strains of plaintive solicitation) that she was suffering? Yet the Roman spirit of Jackson, that spirit that never yielded, that steel that never failed, had firmness and character enough in his holy adhesion to the principles of this Government, and its Constitution, to maintain inviolate the faith of the treaties with Mexico. He said that if Texas must be free she would vindicate it to the world. That was his consolation. He said, Would that I were there to rescue them, or to interpose my life in their defense, but here I have a sacred duty to perform, and that I will perform. I will read his language, when a requisition had been made upon him; and from that it will be discovered with what remarkable pertinacity General Jackson adhered to the principle, that the faith of treaties is inviolable; that you cannot violate them without dishonor.

Owing to the peculiar character of the troubles on the frontier of Texas, and the general excitement amongst the Indians in the United States belonging to the frontier of Texas, three regiments of men were called out by General Gaines, who was then stationed within twenty-five miles of the Sabine, the boundary separating Texas from the United States. It was thought, owing to the great excitement in Texas and the activity of our revolution, that if the troops were drawn near the borders they would desert and go to Texas. If they had done so it would have made the Executive of the United States liable or subjected him to the imputation of bad faith, and it would have been said that it was a mere ruse for the purpose of introducing Americans into Texas. In order to show his views on that occasion, let me read an extract from General Jackson's letter to General Gaines, in August, 1836:

"The obligations of our treaty with Mexico, as well as the general principles which govern our intercourse with foreign Powers, require us to maintain a strict neutrality in the contest which now agitates a part of that Republic. So long as Mexico fulfills her duties to us, as they are defined by the treaty, and violates none of the rights which are secured by it to our citizens, any act on the part of the Government of the United States which would tend to foster a spirit of resistance to her Government and laws, whatever may be their character and form, when administered within her own limits and jurisdiction, would be unauthorized and highly improper."—*Ex. Doc.* 1836, 1837. *Vol.* 1. *Doc.* 2, *p.* 58.

Sir, could a more positive act of discountenance have been given to any part of the people on the frontier to join in the revolution that was then progressing in Texas? Not at all. And even after that, we find he was not satisfied by the discouragements that he had given their taking any participancy in the warfare, but we find him more conclusive, if possible, and more determined that the imputation of suspicion should not attach to this Government while he wore the scepter placed in his hands by the American people; for he said, in a message to the Senate of December 22, 1836:

"It is true with regard to Texas, the civil authority of Mexico has been expelled, its invading army defeated, the chief of the Republic himself captured, and all present power to control the newly-organized Government of Texas annihilated within its confines. But on the other hand, there is an appearance at least of immense disparity of physical force on the side of Mexico. The Mexican Republic, under another execution, is rallying its forces under a new leader, and menacing a fresh invasion to recover its lost dominion. Upon the issue of this threatened invasion the independence of Texas may be considered as suspended; and were there nothing peculiar in the relative situation of the United States and Texas, our acknowledgment of its independence at such a crisis would scarcely be regarded as consistent with that prudent reserve with which we have heretofore held ourselves bound to treat all similar questions."

That shows the spirit that actuated General Jackson. Where did he derive these principles from? They were seeds sown in the Revolution. They had brought forth good fruit, and it was a plentiful harvest. General Jackson imbibed these principles at a time when he was young. They were matured in the practical operation of this Government. He foresaw that without adhesion to some great principle of integrity, this nation could never be prosperous, never glorious, and ought never to be fortunate. Sir, he was an idolator of his country. He loved it above all things earthly. He wished it not only to be pure, but to be above suspicion; and he wished to act so as to show not merely the propriety of its actions, but the purity of the motives which governed it.

Sir, it was suggested by the honorable Senator from Michigan, [Mr. CASS,] when his resolutions were under consideration in relation to breaking off our diplomatic intercourse with Austria—and I presume his remark is equally applicable to his resolutions at this time—that opposition to them might arise from timidity, or that, from some other feeling, we were unwilling to make these declarations to the world. I cannot think so. I would think it rather reverting to a sober second thought than to decline adopting them in hot haste, and declaring to the whole world that we have a right to do what the whole world acknowledges that we have a right to do. He is not willing to compare our condition with that of our ancestors, when they submitted to certain oppressions and conditions laid upon them. I cannot believe that our ancestors were timid, or that they were deficient in anything of the constituents of manhood and nobility. Such an association of men, such a number of heroes, such a constellation of statesmen, the world had never before contemplated, and I presume it never will. What did they leave unaccomplished that was worthy of accomplishment? In what that became great and good men did they fail? Nothing. Why, they had no timidity. They were glorious in their day and generation, and through the ocean of time as it rolls on, they will shine in luminous comparison with other men in the brightness of their achievements. I cannot believe that they were timid. I am advancing to that period of life when I am a little tenacious. I do not like to be charged with undue timidity; though it is said to be the concomitant of age. I do not believe it, sir. [Laughter.] Present the occasion, when justified in principle, to achieve any great object, and then call upon the American people to achieve it; and if they fail in it, I will say they are unworthy of the sires whose bright example they had ceased to follow. But I never apprehend that the day will ever come until this nation has passed the zenith, until it has attained beyond its meredian, and is far in its decline, when it will forget the glories of the past, or prove recreant to the delightful inculcations of wisdom from their forefathers. They cannot do it. I should be sorry to think that I had lived in an age and generation, one so blest and so happy as this, and on a spot of land that seemed to be reserved by the wise providence of God to be discovered on the globe, to be the asylum of freedom, the home of intelligence, of religion, and of law, if the people could soon forget the illustrious examples of the Fathers of the Republic. There seems to have been a special favor of the Almighty bestowed upon the people of the United States such as there has been on no other nation. It may be compared to another Canaan. It was excepted by the operation of God's divine and peculiar favor for this favored people. Then how ought we to estimate the boon that we enjoy? How ought we to estimate our relations with surrounding nations? Sir, we ought to cherish every high and ennobling principle, and we ought to exalt mankind by our example. "Show me thy faith without thy works, and I will show thee my faith by my works." While we are so peculiarly blessed, and while we may wish that other nations may have the same degree of liberty, equality, and justice, let us manifest to them that it is not idle prate on our part, but that we mean what we say, and will do what we mean. Then, sir, our high example will elevate mankind more than all the political and diplomatic interference and international resolutions that we could adopt in a hundred thousand years. Nations would then admire the rectitude of our conduct, and while we preached we should also be practicing, and they would imitate what was worthy of imitation; and at least they could not say that we were acting inconsistently with our professions.

I would like to talk about Nicaragua and Cuba and the Sandwich Islands; about there being natural accretions to the power here to be built up if we remain a united and a just people, just to ourselves and to other nations; maintaining the good faith of treaties; interfering with no one; permitting no interference with us. But there is not time for that. It is not necessary that we should proclaim to the whole world that we are going to do this or that. Let us be staid, quiet, industrious, and reflective. When subjects are presented requiring action, let us act. Sir, this nation is destined to fill a vast space among the nations of the earth. Already in its youth it is great and mighty; majestic is its renown and most infinite are its resources; but those resources must be husbanded and they must be cared for, for a while. It is in vain to extend speculations beyond the necessity of the times, and involve ourselves in fruitless troubles by anticipation.

Sir, we have much to do for ourselves to give us that iron hoop, of which General Jackson spoke, which should be thrown around our continent. Sir, let us make an iron hoop binding California to the Atlantic. It is worth all the resolutions that could be introduced here in a thousand years on international law, foreshadowing our policy. That is a matter which enters into the very vitals of our national existence, and one that must be cared for, looked to, and by some means executed. It is a vast and eminently national work. Without it, we are two nations. With it, we should be one; and we should command the trade of other nations.

Mr. President, I have no idea of going about bantering the whole world when nobody is bantering us. An occurrence which once took place will perhaps illustrate this way of boasting better than any comment of mine could do. I refer to an incident which has been described by a great man. I mean Washington Irving, a man known to fame, and of high literary distinction. Wash-

ington Irving on one occasion, describing the boasting of some of us, said that the best illustration which he could possibly give of it would be to narrate an incident that occurred on board a British vessel in which he had come over from England. There were on board the ship two large Gallipagos turtles, a very large animal, as it is known, something resembling terrapins. I presume many Senators who have never seen turtles have seen terrapins. They are a delicious *morceau* for the epicure or the *gourmand*. These turtles would sally forth from their respective encampments, for they were put in separate places on board the ship. They were very belligerent in their disposition one to another. They would approach formally, slowly at first, then make a sudden movement, then another, reconnoitering with great care, their eyes scintilating fire and their breath deep-toned; at last they approached near each other, and coming almost in contact, one raised with great caution, a little tremulous, but nerving himself at the other, as is their custom, and gave vent to an expression of his indignation, "Foo-foo-foo!" and fell back a little. The other raised his head, slowly drew up in the same way, and extending himself, let forth "Foo-foo-foo!" raising his head a little higher than the other. They kept alternating in that way until at last one got decidedly the advantage—although it was a very small advantage—and the other discovered it, and the moment he did, he beat a retreat and backed out with all possible facility. [Laughter.] A little blowing and a little tip-toeing was all that was done. I do trust that the resolutions of the Senator from Michigan will pass off in the same way; they will hurt nobody. [Laughter.]

Mr. HUNTER. What is the question?

The PRESIDENT. The question is on the amendment of the Senator from California, in relation to the establishment of a line of steamers from California to the Sandwich Islands and China.

Mr. HUNTER. I hope the Senator will reserve that for the mail-steamer appropriation bill.

Mr. GWIN. I am afraid to withdraw it under the hope to bring it successfully before the Senate again this session on any bill, after the speech which we have just listened to from the Senator from Texas. If any gentleman can put such a speech upon such an amendment as this, we ought to get clear of this, and all of the other appropriation bills as soon as possible.

Mr. JONES, of Tennessee. I desire to say to my friend from California, that I am in favor of the establishment of a line of steamers from San Francisco to China; but really, it does occur to me that this is an unfortunate time at which to present the proposition. I have no disposition to debate it, and I will not do so. I am anxious to see such a line established, but I think we ought to take more time, and prepare ourselves to do it more effectually. I have not examined the subject with a great deal of attention, and with as much care as I should desire to do; but if the question be brought before the Senate now, I shall feel myself called upon to offer an amendment in lieu of this, which I think is a much better one. I have refrained from doing it because I thought it too late to consider the subject. I repeat again to the Senator, that I am as anxious, or at least as willing, to see this line established as he himself; but I do not think this is the proper time to do it.

Mr. BRODHEAD. I would like to inquire of my friend from California whether there has not been a proposition submitted to Congress to carry this mail for the receipts from postages?

Mr. GWIN. Not that I ever heard of. Proposals have been made by different parties, a Mr. Thompson and Mr. Moore. For the last two-and-a-half years a contest has been going on between those gentlemen, and neither has been able to get a bill through Congress. This amendment proposes to advertise for bids and to give the carrying of the mail to the lowest bidder, just as you would the mail from here to New Orleans.

Mr. BRODHEAD. What is the proposals of Thompson and Moore?

Mr. GWIN. One proposes to carry the mail for the postages with the addition of a certain quantity of land, and a part of the receipts from customs for goods carried in the steamers of the line. The other asks the loan of the credit of the Government to enable him to build his ships. All that I have to say to the Senator from Tennessee is, that we need this line, and here is a proposition to let it out to the lowest bidder. There is no name connected with it, but it is precisely similar to the law which we passed at the last session for the mail line from Vera Cruz to New Orleans. I hope the amendment will be adopted.

Mr. BRODHEAD. This amendment proposes to appropriate three millions of dollars for this purpose. Now, I wish to know what will be the annual receipts from postage on this line? Has there been any estimate of them? My friend from California says that he has examined the subject. I should like to know what is the estimate of the Post Office Department as to the probable receipts from postage?

Mr. GWIN. I did not go into an examination as to the receipts from postages. I look upon this as a line of so much importance commercially as well as for the establishment of postal arrangements with the Chinese Empire, that I did not go into an examination of the postage receipts. I examined into it in its commercial and national aspects in the remarks which I have submitted to the Senate.

All I have to say in regard to the statement of the honorable Senator as to other propositions is, that they were objectionable, because individual names were connected with them. There is nothing of that kind in this amendment. I will not detain the Senate, but I trust we shall have a vote.

Mr. BRIGHT. If I supposed there was the remotest probability that this amendment would be adopted, I should submit a few remarks upon the subject; but as it is, I will not do so. I look upon the proposition as another effort to fasten upon the public Treasury another great steam line, to which I am opposed. The Post Office Department, during the past year, was thrown upon the Treasury for about three millions of dollars. If this be added, I suppose we shall add another half million. But, as I stated, I did not rise to discuss the question. I know that the time of the Senate is too precious now to be consumed in that way. I merely wish to ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. GWIN. In answer to what the Senator from Indiana has said I will observe, that independently of these steam lines the Post Office Department has ceased to be a self-sustaining institution. He has himself, as a member of the Finance Committee, agreed to a section in this very bill providing for a deficit of more than $1,500,000, estimated for on account of reduced postages. He talks of this as fastening upon the Treasury another great steam line. Why, sir, what has he, and those living in the section of country which he represents, been doing but fastening a great steam line on the country from Louisville to New Orleans? Who has been more anxious than the gentlemen from that section of the Union to have that great steam line for daily mail facilities? I do not intend to pursue this matter. I hope we shall have a vote.

Mr. BORLAND. I wish to know if I understood the Senator from California distinctly when he spoke of a great steam line between Louisville and New Orleans?

Mr. GWIN. I did refer to that.

Mr. BORLAND. I am a little astonished to hear the name of a great steam line given to that. It is what we have throughout the country, simply a mail line on the Ohio and Mississippi rivers. A great steam line! There is no feature there for steamers requisite for war purposes. And what was the estimate for a daily mail between Louisville, St. Louis, and New Orleans? The highest estimate was $350,000 per year. What does the Senator propose for his line, and what do we pay for the Collins line, and for all the steam ocean mails? Why, taking the amount of service to be rendered in the line between Louisville, St. Louis, and New Orleans, the cost is not as one dollar to a thousand, even at the highest estimate ($350,000) made for that mail. This is a mail line fifteen hundred miles in length, upon the most important thoroughfare in this Union. I hope that it will not be put to our account, when we have had until now, and even at the present time have no mail upon these rivers, but must depend upon the uncertainties of a mere freighting business. We have got no mail line there now, and shall not have until next October.

Mr. BRIGHT. Not to appear inconsistent, it is proper I should say that I did vote for the appropriation at the last Congress for the establishment of mail service between Louisville and New Orleans, to be carried in steamboats, provided the Postmaster General could make a contract on fair terms. I apprehend that is legitimate and proper service, and of a very different character from that contemplated by the amendment of the Senator from California. That amendment contemplates mail service outside of the United States where there are no mails to be carried, or at least comparatively few, and no profit likely to result from the service.

Mr. CASS. I desire merely to say that I am myself favorable to the object of the amendment of the Senator from California; but he is mistaken in supposing that this is like the law which we passed for the establishment of a line from Vera Cruz to New Orleans. If he will make this like that, I will vote for it.

Mr. GWIN. I think it is in the same words.

Mr. CASS. The gentleman is entirely mistaken. This is a proposition for war steamers, which requires an expense totally unneccessary. It is a matter which has been fully discussed, and I shall not now go over it. It is a provision totally unnecessary, and I hope it will be stricken out.

Mr. GWIN. I intended not to provide for war steamers, and I do not think the amendment does provide for them. I copied the law as it stands.

Mr. CASS. Is the honorable Senator sure about that fact?

Mr. GWIN. Yes, sir.

Mr. CASS. As I heard the amendment read I thought it provided for war steamers. I should like to hear it read again, or at least part of it.

The Secretary read the part of the amendment referred to, in these words:

"In steam vessels of not less than two thousand tons, of the best form or construction, adapted to war purposes."

Mr. GWIN. I did not intend to leave those words in the amendment. I move to strike out the words, "adapted to war purposes."

The motion was agreed to.

Mr. CASS. One other point. The Vera Cruz steamers were limited to eight hundred tons. Now, I am willing to go beyond that in this case; but it seems to me that a burden of two thousand tons is unnecessary.

Mr. GWIN. Say fifteen hundred. The distance is six thousand miles.

Mr. CASS. I am willing to vote for the proposition without the provision for war steamers, and providing that they shall not exceed fifteen hundred tons burden, with an open contract for all the world. I think then it will be a very proper measure.

Mr. HAMLIN. I think that for the service to be performed by these vessels, two thousand tons burden will be small enough; and I should not vote for a smaller vessel, but I shall vote for none.

Mr. MASON. It has been so much my fortune here to oppose measures of this character, generally without success, that I feel some reluctance in saying a word upon the subject now. But it is an appropriation from the Treasury to create a new channel of commerce which does not now exist. It is to invite commerce directly from Shanghai to San Francisco, to go by that route, to increase it, if you please, but to create a new channel by the means of this steam line, which steam line is to be put there at the expense of the Treasury. Now, the proposition for carrying the mails is a mere excuse for the appropriation. It will not cost the Government $3,000,000 in the course of six years to carry the mail intercourse between these points. It is really an appropriation from the public Treasury to create a new channel of commerce. I do not see that we are at liberty to use the public money for any purpose of private enterprise. Sir, if there be one principle of this Government that I should be disposed to hold more dear than any other, it would be to leave private enterprise to its private competition, and not for the Government to interfere with it.

Mr. DAVIS. This amendment proposes a line of steamers of the first class, I believe, from San Francisco, in California, to Shanghai, in China. There is nothing more manifest than that such a provision as this cannot be executed without a very large appropriation of money. I have said, on a former occasion, that I think it is the true policy of the United States to extricate themselves

as rapidly as they can from the contracts which are now in existence to transport the mail to foreign countries in steamers, and to adopt an entirely new and more economical system for that purpose. The existing contracts ought undoubtedly to be carried out, but the objections to extending this system are so strong, and it is so much at war with private interests, if it is connected with the commerce of the country, that I think the policy cannot be sustained. It may be sustained as a postal arrangement, but not on commercial grounds, because every gentleman must perceive at once that so far as vessels of this class are freighting vessels, they are to that extent in competition with the vessels which receive no encouragement whatever from the Government. Now, sir, when you propose to put into a line of this kind steamers which are of two thousand or three thousand tons burden, they are made of that size for the purpose of carrying freight, and with a view to competition in the business of freighting. I think that the argument which was presented to the Senate by the merchants of New York and Boston, and laid on our tables when the Collins matter was pending upon the subject, is unanswerable; and any gentleman who reads that argument will rise convinced, from the reasoning there adopted, that this is an erroneous policy.

But, sir, I am as much convinced as the honorable Senator from California can be, that this is to be a line of great commerce eventually. It is not large now, but I think that circumstances are developing themselves rapidly to show that the commerce between the Pacific coast and the coast of Asia is to be a large one, but at this moment it has not become sufficient to justify such an outlay as this measure proposes. I rise chiefly to throw out for the consideration of the honorable mover of this amendment, that if he means to get anything that can be carried into effect, it would be better to take less expensive measures. There will be no competition of other routes from San Francisco across to the coast of Asia; there will be no competing line got up by any foreign Power. There might be a class of propellers put there by which the expense of transporting the mail would be reduced to a reasonable rate, and news would be transmitted within a few days, as rapidly as by such large steamers as go across the Atlantic ocean. Why, sir, no gentleman who has not looked into this subject can comprehend the expense created by high speed. Mr. Collins told me himself, last summer, when this subject was under consideration, that the fuel, and the wear and tear of machinery, necessary on these large steamers to gain a single day in her voyage to Europe, cost at least $10,000. I quote him as authority for it, and he said that the books would show it, and he gave reasons to prove that that was the fact. It is a notorious fact, that great speed and great rapidity by steam is attained at a vast increase of expense. By propellers you could run across from California to China, and transmit intelligence, within a few days, as quick as by the most expert steamers; and you could do it for comparatively a very moderate expense. My own belief is, that this line should be commenced in propellers of a moderate size, which can couple utility in freighting with a very good and satisfactory degree of dispatch in the transmission of intelligence. That is the way in which it should be begun; that will both aid the commerce of the country and give dispatch to the mails. If some such plan as that were proposed, I think I should be willing to vote for it; but I am not prepared to lay out $500,000 or $600,000 a year, for the transmission of the mail from San Francisco to the coast of Asia. The time has not yet come for that. It will come by and by, but it is not now.

Mr. GWIN. I am perfectly willing that the amendment suggested by the honorable Senator from Massachusetts shall be incorporated into my amendment, and that this contract shall be confined to propellers instead of ordinary side-wheel steamships. I do not intend to consume the time of the Senate at this hour of the session, because I know that it is wrong to do so, even on so important a measure as this. The Senator from Virginia [Mr. MASON] is mistaken when he says this is a proposition to create commerce, and where it does not already exist. A commerce does now exist between California and China, greater than between China and the whole United States four years ago. There is already an immense commerce there. The mails from the East Indies and from China, not only for this country, but for Europe, would be transmitted by this line if we establish it, particularly if there was a connection by telegraph from Acapulco to Vera Cruz. We could run down from San Francisco to Acapulco in six days, and from Acapulco to New Orleans by telegraph, and steamers' news could be transmitted in two or three days. So that we could have a very quick communication through our country between Asia and Europe if we had this line of steamers.

If I had time to go into the question—and I am sorry that I have not—I could show that the most important results would follow the establishment of closer and more intimate commercial and postal arrangements between California and China and Japan. The commerce which will spring up between the United States and those countries will be immense, and we should encourage it in every way in our power.

With regard to what the Senator from Virginia said, that this line was asked for purely commercial purposes, and not for postal purposes, I have only to say that the Senate has already passed a similar bill connecting the United States with a foreign country. I allude to the line frow New Orleans to Vera Cruz. Now, what are the receipts of postages from that line? What were the receipts at the time the bill was passed by the Senate without opposition? I am sorry to say that the analogy is perfect, but the treatment of the two propositions in the Senate is very different.

Mr. BELL. I want to ask the honorable Senator from California why he does not ingraft upon his amendment the amendment to which he alludes?

Mr. GWIN. In regard to propellers?

Mr. BELL. Yes, sir.

Mr. GWIN. I am willing to do so.

Mr. BELL. I want to know of the honorable Senator, or of some one who does know, whether a gentleman has not made a proposition to carry the mail on this line in steamers for one half the estimated value of the postages alone?

Mr. GWIN. I never heard of it.

Mr. BELL. That is, taking a period of ten years; and he will construct six large screw propellers or side-wheel steamers for one half the postages.

Mr. COOPER. To whom do you refer?

Mr. BELL. To Ambrose W. Thompson.

Mr. COOPER. He has made such a proposition.

Mr. SOULE. For the whole of the postages, not the half.

Mr. BELL. For the whole of the postages; but I understand that he asks an advance on the ships of one half the estimated amount of postages, for the purpose of building them.

Mr. COOPER. Yes, sir.

Mr. BELL. My attention has been attracted to the subject, and I have been struck, as every gentleman who looks into it must be struck, with an idea of the great development of trade and intercourse which the establishment of this line would promote between the shores of Asia and the western coasts of this continent. I connect it in my own mind with a great many other subjects. I should like to see the experiment made upon many grounds. I agree with the Senator from Massachusetts that I would not be willing to vote a very large sum for the purpose thus early, and before we know something more of the value of that commerce. But certainly I would agree to such a proposition as that submitted by the capitalist to whom I have alluded. By way of experiment, I would go a considerable way to see what would be the result of a line of communication between San Francisco and the coast of Asia. A great many gentlemen of more knowledge upon the subject than I pretend to possess, say that it will reverse the course of trade, and not only of trade, but of postal communication between the East Indies and the west of Europe, by a connection with a telegraphic line across some part of this continent, and that when we get such a line completed, all communications and intercourse, commercial or of other descriptions, will be directly from the eastern sections of the continent of Asia, and the islands of the East across this continent to Europe. We do not know very much about these matters, yet I think it is reasonable to calculate that the benefits of this line will be much larger than gentlemen anticipate who have not looked into the subject. I would say to the Senator from California, why not adopt at once a proposition so reasonable as that presented by the gentleman to whom I have alluded, from Philadelphia, who proposes to establish the line, build six screw steamships of large burdens, upon the advance of one half the estimated postages which may be derived from the line, the estimate to be made by an officer of the Government—the Postmaster General? He offers to take the compensation of the postages alone, and not ask the advance of one dollar of money. I think that it is a fair proposition.

Mr. JONES, of Tennessee. In order to test this question, I offer the proposition alluded to by my colleague as an amendment to the amendment.

Mr. GWIN. I was about to withdraw my amendment.

Mr. JONES. Then, of course, I shall not propose mine.

Mr. GWIN. It is my duty, as a member of the Committee on Finance, to press forward the business on the appropriation bills. I know that that responsibility is upon me, and I know that the chairman of that committee is almost impatient with regard to the discussion on questions of this description. I know the importance of the measure which I have proposed, but I am determined not to press it any further. If the amendment of the Senator from Tennessee is introduced, I know there will be a long discussion upon it, because that is, in principle, the same which meets with such opposition in the Senate, the same as the Collins line proposition, and some others, providing that Congress shall contract with an individual by name. I know there will be opposition to it, but not from me, because I am willing to take any kind of line that I can get.

Mr. BELL. The name is not of importance; it can be stricken out.

Mr. GWIN. I ask leave to withdraw the amendment.

Leave was granted; and the amendment was withdrawn.

Mr. GWIN. I now offer the following, to which I hope there will be no objection:

And be it further enacted, That the Postmaster General be, and he is hereby, required to invite proposals to carry the United States mail from San Francisco, in California, to Shanghai, in China, monthly or semi-monthly, in steamships, and transmit all such proposals as he may receive to Congress at its next session.

The amendment was agreed to.

The amendments were then ordered to be engrossed, and the bills to be read a third time.

The bill was read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had agreed to some amendments of the Senate to the bill making appropriations for the support of the Army for the year ending June 30, 1854, disagreed to others, and agreed to others with amendments.

Also, that it had agreed to the report of the Committee on Conference on the disagreeing votes of the two Houses on the bill for the relief of John C. Frémont.

Also, that it had resolved (with the concurrence of the Senate) that the 16th joint rule be suspended so far as relates to the bill making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

LIGHT-HOUSE BILL.

The Senate proceeded to consider the resolution of the House of Representatives for the suspension of the 16th joint rule, as far as relates to the bill making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes; and on motion

Ordered, That they concur therein.

The bill was subsequently received from the House, read twice, and referred to the Committee on Commerce.

ARMY APPROPRIATION BILL.

On motion by Mr. HUNTER, the Senate insisted on their amendments to the bill making appropriations for the support of the Army for the year ending June 30, 1854, which had been disagreed to or amended by the House; and asked

for a conference on the disagreeing votes of the two Houses.

The PRESIDENT *pro tempore* was authorized to appoint the conferees on the part of the Senate; and Messrs. BRIGHT, SHIELDS, and DAWSON were appointed.

TERRITORY OF WASHINGTON.

Mr. DOUGLAS. I now ask the Senate to take up the bill to establish the territorial government of Washington. I am sure it will take no time, and I am certain there will be no opposition to it.

The motion was agreed to, and the Senate proceeded to consider the bill as in Committee of the Whole.

Mr. DOUGLAS. I will state to the Senate that the Committee on Territories recommended the change of the name; but upon further examination they direct me to withdraw that amendment, and I ask now for the passage of the bill as it came from the House of Representatives. I apprehend it is not necessary to read it. Every one knows what it is. It is to form the northern part of Oregon into a separate Territory, to be called the Territory of Washington.

Mr. PETTIT. It is one of the old-fashioned territorial bills.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that the Speaker of the House had signed an enrolled bill, authorizing the oath of office to be administered to William R. King, the Vice President elect of the United States.

Also, that it had agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill to extend preëmption rights to unsurveyed lands, and for other purposes.

VICE PRESIDENT ELECT.

The PRESIDENT *pro tempore* signed the enrolled bill to authorize the oath of office to be administered to William R. King, Vice President elect of the United States.

EXTENSION OF PRE-EMPTION RIGHTS.

Mr. DOWNS, from the Committee of Conference on the disagreeing votes of the two Houses on the bill to extend preëmption rights to certain unsurveyed lands, and for other purposes, reported in favor of amending the title of the bill, so as to read "An act to extend preëmption rights to certain lands therein mentioned," and that the Senate agree to the amendment of the House, with the following addition:

And provided further, That any settler who has settled, or may hereafter settle on lands heretofore reserved, on account of claims under French, Spanish, or other grants, which have been or shall be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of preëmption granted by this act, and the act of September 4, 1841, entitled "An act to appropriate the proceeds of the public lands, and to grant preëmption rights," after the land shall have been released from reservation in the same manner as if no reservation had existed.

The report was concurred in.

THE TERRITORY OF NEBRASKA.

Mr. DOUGLAS. There is another territorial bill about which I know that there will be a little controversy, but I think we had better dispose of it now. I move that the Senate proceed to the consideration of the bill from the House to establish the territorial government of Nebraska.

Mr. HUNTER. I hope that bill will not be taken up. It is a controverted matter. I trust we shall proceed with the consideration of the appropriation bills.

Mr. BORLAND. I hope the bill will not be taken up. I will go as far as any Senator to comply with the wishes of the Senator from Illinois, but I hope that bill will not now be taken up.

Mr. RUSK. That bill will lead to a lengthy debate.

Mr. DOUGLAS. Not at all. There is only one isolated point which will lead to debate.

Mr. RUSK. There are many debatable questions involved in it.

Mr. WELLER. Even if it does lead to a protracted debate, I apprehend that the people living in the limits of that Territory are entitled to the protection of the Government, and certainly we here should be anxious to extend that protection to them. If through any means they are prevented from enjoying that right, through a lengthened debate, the responsibility must rest upon those who protract the debate. Let the Senator from Texas take it if he chooses.

Mr. RUSK. Well, sir, I will take the responsibility. In the first place, there are no people there, and if they are there it is in violation of law.

Mr. DOUGLAS. Perhaps this discussion will be more appropriate when the bill shall be taken up.

Mr. RUSK. I hope it will not be taken up.

Mr. GWIN. I wish to say that we have still behind the Indian, the Navy, and the mail-steamer appropriation bills, and if this motion be voted down, I shall move to take up the Navy appropriation bill.

Mr. BELL. I wish to add my testimony to that of the Senator from Texas, that, in my opinion, the Nebraska bill cannot be passed in one day.

Mr. DOUGLAS. If it is to be the rule that persons can defeat the taking up of bills by saying that they are going to discuss them, I am ready, and I shall understand hereafter that mode of bluffing off business.

Mr. HOUSTON. Discussion or acquiescence on the part of those who are opposed to the measure is the alternative. I am determined, as one member of the Senate, that whenever that bill comes up I will discuss it; and I will, if I can, upon correct principles, prevent its passage if every bill in this body should be lost. When the question is looked into I am sure the Senate will not take up the bill, and if they do, I have no expectation that it will pass. There are no arguments in favor of it; there are many against it. The plighted faith of this Government is against it.

Mr. HUNTER. The Senator will permit me to suggest a word or two of peace, for I think I can suggest considerations which ought to induce the Senate to take up the appropriation bills and dispose of them all to-day.

Mr. HOUSTON. I want to have the appropriation bills taken up.

Mr. HUNTER. We can dispose of the appropriation bills to-day, and while the debate shall be going on to-morrow on these controverted questions, we can be managing the conferences. It would facilitate business very much if that course should be adopted, and I throw it out for the consideration of the chairman of the Committee on Territories.

Mr. DOUGLAS. I wish to notify the Senate that several committees of conference are already appointed, and it is very important that we should act on some of these territorial bills, in order that the committees of conference can go on and perform the duties already assigned to them. I think if we are to consider the territorial bills at all, now is the time. I am satisfied that the Nebraska bill will not take half an hour, if it is known that speeches are not going to kill it.

Mr. HUNTER. I have no speeches to make on the question. I am not trying to fight off the gentleman's bill. What I want is, to get through with the appropriation bills to-day, so that the Senate may have a clear day to-morrow for any debatable matter they may choose to take up. When the appropriation bills shall have all been acted on and been made safe, we can go on in the committees of conference, and act with more deliberation and system.

Mr. RUSK. I have consumed as little time in the Senate by speeches as anybody. But, sir, I know that the Nebraska bill will give rise to debate. It violates your treaty stipulations, it violates the sanction of settlements for the Indian tribes under the law. More than that——

Mr. DOUGLAS. I rise to a point of order. Is it in order to discuss the merits of a bill on the question of taking it up? The argument of the Senator from Texas, I am ready to meet, and I wish to know if I am to have an opportunity to do so?

Mr. RUSK. I say that if this bill is taken up, I mean to be heard on those points; but I am not to be driven off by the taunt of speeches. Sir, I have suffered enough, and the people of Texas have suffered enough, by throwing the Indians upon them, without their being driven on us as it seems to me they would be by this measure. Here is a proposition to take up this bill, which is a very important measure, in the middle of the appropriation bills when there are three or four yet behind. The Indian appropriation bill, which is an important one, and deserves mature consideration, is yet behind. So is the naval appropriation bill. If this bill be taken up, the discussion will necessarily drive those bills off so that they cannot be discussed and perfected.

Mr. GWIN. I have this to say; that we are now ready to go on with the naval appropriation bill. All the amendments of the Committee on Naval Affairs are ready to be offered. I hope the naval appropriation bill will be taken up so that we can dispose of it to-day. If the honorable Senator from Illinois will do that, I will give him a chance of taking up his bill afterwards.

Mr. DOUGLAS. For two years the Senate has refused to hear a territorial bill. The Senate refused to pass any of these bills last year. For two weeks past, I have sat here hour after hour endeavoring at every suitable opportunity to obtain the floor. I ask now that the Nebraska bill be taken up, and I mean to insist on the motion.

Mr. HOUSTON. I presume there is not one foot of land in the proposed Territory that does not belong to some band of Indians. The bill proposes, I grant you, to include those Indians within the limits of the boundaries of the Territory, but to except them from the operation of its laws. That is all the explanation that can be given to it. The Government has solemnly pledged its faith to these Indians, that it will never include them within the limits of any State or Territory. The bill is in violation of treaty stipulations, and I hope it will not be taken up.

Mr. WELLER. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 25; as follows:

YEAS—Messrs. Atchison, Bright, Brodhead, Cass, Chase, Clarke, Cooper, Dodge of Wisconsin, Dodge of Iowa, Douglas, Geyer, Hamlin, James, Jones of Iowa, Norris, Pettit, Shields, Sumner, Wade, and Weller—20.

NAYS—Messrs. Badger, Bayard, Bell, Borland, Bradbury, Brooke, Butler, Charlton, Davis, De Saussure, Fish, Fitzpatrick, Foot, Gwin, Houston, Hunter, Mallory, Mason, Morton, Pratt, Rusk, Sebastian, Smith, Soulé, and Spruance—25.

So the motion was not agreed to.

CAYUSE WAR.

Mr. DOUGLAS. There is a little territorial bill on the calendar, to which I know there will be no objection, because it was written in the Treasury Department, and comes from Mr. Whittlesey. It is to apply an old appropriation heretofore made for defraying the expenses of the Cayuse war. I move to take up the bill from the House of Representatives to amend an act entitled "An act to 'amend an act to settle and adjust the expenses 'of the people of Oregon in defending themselves 'from the attacks and hostilities of the Cayuse 'Indians in the years 1847 and 1848," approved August 31, 1851.

Mr. RUSK. I hope that bill will be taken up and passed.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. GWIN. I move to dispense with the reading of the bill. It is merely to enable certain payments to be made. We all understand it.

The motion was agreed to; the bill was reported to the Senate without amendment; ordered to a third reading, read a third time, and passed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYS, Chief Clerk, announcing that it had passed Senate bill No. 7 without amendment.

NAVAL APPROPRIATION BILL.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives making appropriations for the naval service for the year ending June 30, 1854; which was reported from the Committee on Finance without amendment.

No amendment being offered, the bill was reported to the Senate without amendment.

The PRESIDING OFFICER. The bill is still open to amendment.

Mr. CHARLTON. I am instructed by the Committee on Naval Affairs to move two amend-

ments, both of the same character, for the removal of obstructions, put by the Government, in too rivers. I am sure there will be no difficulty on the part of the Senate in agreeing to the amendments. The first one is to insert:

For removal of obstructions at Cape Fear, entrance at or below Wilmington, North Carolina, caused by works placed by the Government for the protection of the site of Fort Caswell, so as to afford access to the harbor within the bar, $50,000.

Mr. BORLAND. It seems to me that such works as that usually go into the river and harbor bill. I was not aware that they were appropriate to the naval appropriation bill. There were obstructions put by the Government in several rivers, if I mistake not, several years ago. One was the Ohio river; and it was a subject of great discussion upon the river and harbor bill. I simply wished to call attention to that fact.

Mr. WELLER. I think if the thing is right and just in itself it is in order anywhere; and I do not know where it could be more properly introduced than upon this naval appropriation bill. The obstruction has been placed there by the Government, and the appropriation is desired to remove it. I think it is germane to the subject under consideration.

The amendment was agreed to.

Mr. CHARLTON. I am also instructed by the Committee on Naval Affairs to offer the following amendment, which is of the same character:

To provide for the removal of obstructions of the river Savannah, in the State of Georgia, and for the improvement of the same, $50,000.

Mr. MILLER. I would appeal to the Senator from Georgia that this is not a matter at all germane to this bill. We had that question up, I believe, upon another bill.

Mr. CHARLTON. Not at all. It is perfectly germane, the Senator from New Jersey will permit me to say. It is appropriate to the bill, and we always insisted that it should go upon this bill. The proposition has passed the Senate several times as a separate bill. There has never been any objection to it, I believe. We ask for no improvement of our harbor. We merely ask the Government to take up what it has put down. We have obtained a small appropriation, which has only furnished materials to begin with, and without some subsequent appropriation, the materials will all be lost. Now, I submit to my friend from New Jersey whether he ought to offer any objection to it?

Mr. MILLER. I had no objection to the appropriation; but I thought this bill was not an appropriate place for it.

Mr. DODGE, of Iowa. Is this amendment for the improvement of the Savannah river?

Mr. CHARLTON. No, sir; but to remove obstructions put there by the Government.

Mr. DODGE, of Iowa. That is very alarming! I have heard a great deal about it. It appears to me a very important matter. Sir, there are places in other parts of this country where the Government has interposed obstacles, and very serious ones; and if a bill of this character is passed, I want it to be general, and not local in its character.

Mr. WELLER. It is necessarily local, because the Government has interposed these difficulties in particular localities. If the gentleman will present a similar case in Iowa, I will vote for it cheerfully. If the Government has obstructed the navigation of any of the rivers there, I will vote to remove those obstructions.

Mr. CHARLTON. I have a question to ask my friend from Iowa, which I think will end the matter, for I do not want to discuss it. If he knocked a man down without any kind of cause, would he not think it a part of his duty to pick him up again? In this case you put down these works, and they are an obstruction to navigation, and we seek to have them removed.

Mr. DODGE, of Iowa. I answer that it would be a generous course. Will my friend help some others up?

Mr. CHARLTON. If I knocked a man down, I should certainly help him up.

Mr. DODGE, of Iowa. Will the Senator vote for any such appropriations for the Mississippi river?

Mr. CHARLTON. If the Government put obstructions there, I would vote to remove them.

The amendment was agreed to.

Mr. GWIN. I am instructed by the Committee on Naval Affairs to offer several amendments, which I send to the Chair.

The first amedment was to insert:

For pipes for conveying gas to, and fixtures for lighting with it, the National Observatory, $2,500.

Mr. GWIN. That is according to the estimate of the Department.

The amendment was agreed to.

The next amendment was to insert in the appropriations for miscellaneous items, the following:

For contingent expenses not enumerated, $5,000.

The amendment was agreed to.

The next amendment was to insert:

For purchase of land, extending walls, making new roads and wharf, building and furnishing hospital, and changing the fronts of houses at the Naval Academy, Annapolis, Maryland, $38,000.

The amendment was agreed to.

The next amendment was after the word "quarters," in the appropriation for the navy-yard at Portsmouth, New Hampshire, to insert the words "foundations of ways for launching and hauling up," and after the word "cisterns," to insert "removing ledge and," and after the words "timber-shed," the words "dry-dock and railway, chapel," and to strike out "$53,107," and insert "$80,893," so as to make the clause read:

"For cooper's shop and watchman's quarters, foundations of ways for launching and hauling up, dredging in front, and pointing and puddling stone basin, boiler-room, boilers, engine, and machinery, reservoir for engine-house, pipes, gutters, drains, and cisterns, removing ledge and grading yard near timber-shed, dry-dock and railway, chapel, and for repairs of all kinds, including care of floating-dock, $80,893."

Mr. GWIN. That is according to the estimate of the Department.

The amendment was agreed to.

The next amendment was to insert in the appropriation for the navy-yard at Boston, after the word "for," the words "machine-shop and foundery," and after the word "engines," to insert the word "chapel," after the word "battery," to insert the words "shear-wharf," and to increase the appropriation from "$81,460," to "$119,800."

Mr. BRODHEAD. I understand that these amendments are based upon estimates. How many kinds of estimates do these Departments send to Congress? This bill, as it came from the House, was made up, as a matter of course, upon the estimates which were there passed upon by the immediate representatives of the people who vote the people's money. How does it come that there is one set of estimates for the House and another for the Senate, or is this a restoration of the estimates?

Mr. GWIN. The estimates sent to both Houses are the same. This is to restore the estimates.

The amendment was agreed to.

The next amendment was to strike out the following:

"For completing engine-houses at New York, $30,000; for repairs of all kinds, $18,000;"

And insert in lieu thereof the following:

For completing commander's house, smithery, timber-shed, lime-pit, and coal-house, continuing quay wall, muster office, wharf, dredging-channel, engine-house, culvert, and removing piles in front of docks, filling in timber pond, and like places, paving gutters, and flagging, and for repairs of all kinds, $249,320.

Mr. BRODHEAD. I think we are loading this bill very much. I do not see the chairman of the Committee on Finance in his place; but I think it is contrary to the decision of that committee, that we should have so many amendments placed on this bill. My friend from California ought to give some reason for this immense increase.

Mr. GWIN. The Committee on Finance, owing to the great press of business on them, reported this bill back without reading it, and left it to the Committee on Naval Affairs to propose the amendments. The Committee on Finance have, uniformly, so far as my recollection goes, in every instance in every appropriation bill before them, restored the estimates just as we are doing now. That has been the action of the Committee on Naval Affairs in this case.

The amendment was agreed to.

The next amendment was in the appropriation for the navy-yard at Philadelphia, to insert, after the word "for," the words:

"Commander's quarters, conveying water into navy-yard and reservoir."

The amendment was agreed to.

The next amendment was in the appropriation for the navy-yard at Washington, to insert among the items appropriated for gas fixtures and gas for lighting yard, and to increase the appropriation for that navy-yard, from $162,512 to $200,512.

The amendment was agreed to.

The next amendment was to increase the appropriation for the Norfolk navy-yard from $114,600 to $160,600, and to include among the objects of appropriation "carpenter's workshop and cart-shed, building for muster and other offices."

The amendment was agreed to.

The next amendment was to increase the appropriation for the navy-yard at Pensacola from $225,800 to $261,505.

The amendment was agreed to.

The next amendment was to increase the appropriation for the navy-yard at Memphis, from $43,976 to $126,468, and to include among the objects of appropriation "excavation, embankment, and grading," and also "pavements, drains, and ditches."

The amendment was agreed to.

The next amendment was to increase the appropriation for the navy-yard at San Francisco, California, from $100.000 to $974,851, and to include among the objects appropriated for, a "foundery, machine-shop, boiler-shop, engine-house, and pattern-shop, and for a steam-engine and machinery, including transportation."

Mr. CLARKE. I should like to know the meaning of that. I should like to hear the clause read as it will stand when amended.

The clause, as it would stand if so amended, was accordingly read, as follows:

"For a foundery, machine-shop, carpenter's shop, boiler-shop, engine house and pattern-shop, storehouse and wharf, and for a steam engine and machinery, including transportation, $974,851: *Provided*, That before this sum shall be expended, the Attorney General of the United States shall decide that the United States have good title to the land upon which the buildings are to be erected."

Mr. GWIN. That is precisely the estimate of the Department. It came to the other House with that estimate, but the amount was there reduced. The reduction was made upon this information that was before the House: Commodore Sloat, who had been appointed to select the site for a navy-yard, was in the lobby at the time, and made a statement in connection with a letter which had been addressed to him by Commodore Smith, which I have on my table, in which Commodore Smith said, that if it was not intended to put the navy-yard into immediate operation, $50,000 would be necessary for the purpose of putting up temporary buildings, in order to have them ready for the workmen whenever the navy-yard should be commenced. Commodore Sloat stated when that was read, that he thought it entirely too small, and there ought to be $100,000 for the purpose. A member of the other House, misunderstanding what he had said, immediately went and stated that Commodore Sloat, who selected the site, had said that $100,000 was enough. I have the statement of Commodore Sloat before me, showing that this was an entire mistake, and that his remark referred to an appropriation for a different purpose.

The other day we provided for fortifications at the entrance to the harbor of San Francisco, and this estimate has been sent in by the Navy Department for the purpose of building a navy-yard, and that too, quickly, in order that we shall have the use of it, if any emergency should require it, for the benefit of the public service. I know it is a large appropriation, but it is intended to proceed instantly with building the navy-yard at the point which has been chosen. One of the best selections on the Pacific coast has been made. The estimate of the Department has been carefully drawn up, going into all the details, and we propose to restore the item to the estimate as it came from the Department.

Mr. BRODHEAD. Let us come to some understanding about this matter. At the last session we authorized the erection of a navy-yard and depôt in California; and how much did we then appropriate?

Mr. GWIN. A hundred thousand dollars for the purpose of selecting a site.

Mr. BRODHEAD. Has the site been selected, and is the title for the property obtained?

Mr. GWIN. Yes, sir; but it cannot be used until this appropriation be made.

Mr. BRODHEAD. I find in the items that come from the House a proviso:

"That before this sum shall be expended, the Attorney General shall decide that the United States have good title to the land upon which the buildings are to be erected."

I wish to come to some understanding about this matter. It may be all right, but when we find the House of Representatives inserting $100,000 of an appropriation for a particular purpose, and it is proposed that we shall increase it to near a million of dollars, we ought to look into it somewhat; and that is what I propose to do.

Mr. GWIN. I will state, for the information of the Senator from Pennsylvania, that the Committee on Ways and Means of the House reported the item $974,851, but through misinformation communicated to the House it was stricken down, and the very parties who were quoted as authority for striking it down have since contradicted it. This estimate was carefully prepared at the Department. It went before the Committee on Ways and Means of the other House, who reported it precisely as it came from the Department. In regard to the title to the property, I will say that it has been carefully and thoroughly examined, but it is especially provided in the bill that not a dollar shall be expended until the opinion of the Attorney General shall be given in favor of the validity of the title.

Mr. BRODHEAD. We appropriated $100,000 last year to select a site for a navy-yard in California, and the House in this bill proposes another appropriation of $100,000 to progress with the work. How much is this navy-yard and depôt and the enlargement which takes place every year to cost? We ought to come to some understanding on the subject. We ought to have some estimates. Can we expend $900,000 in one year judiciously? It seems to me, that even though this or a much larger sum should be necessary to complete the navy-yard and depôt at San Francisco, we are appropriating too much at this time. Can $900,000 be properly expended in one year there? I suppose $500,000 would be sufficient in one year; but I presume we must yield to the committee.

Mr. SHIELDS. This is a very large amount to be expended on a locality where the title is at all doubtful.

Mr. GWIN. There is no doubt about it.

Mr. SHIELDS. I find here that in order to provide for that kind of contingency it is provided that the Attorney General shall give a favorable opinion. Nine hundred and seventy-four thousand dollars is a very large sum to spend in any locality, even if the opinion of the Attorney General shall be in favor of the title.

Mr. GWIN. The provision is exactly in accordance with the act of 1841, by which the opinion of the Attorney General is rendered necessary to the purchase of such sites. The provision is inserted here as a precaution which is usual in such cases.

Mr. SHIELDS. What I want to know of the honorable Senator is, whether there is any doubt about the title of this ground?

Mr. GWIN. So far as I know, there is not. There was one claim to it, but the United States, as I understand, have made an arrangement to purchase that as a quit-claim, in order to have no difficulty at all. The Attorney General has given his opinion that the bill is clear and perfect; but I want that clause to remain there, so that the opinion of the Attorney General shall be given officially before a single dollar can be expended. The Attorney General has already given an opinion in favor of the validity of the title.

Mr. SHIELDS. The opinion of the Attorney General is worthy of some respect, but not more than that of any other lawyer.

Mr. GWIN. He has had all the papers and all the information before him, and given his opinion as to the validity of the title. Still I want the provision to remain there, even if he has given his opinion. It is in the words of a former law.

Mr. SHIELDS. For my part, I shall not vote for this appropriation until I am perfectly assured that this land is the property of the United States, and for this simple reason: Without meaning any insinuation as to this particular case, I can see a way in which this would be a most extraordinary speculation. The Government by laying out such an amount of money upon any property would greatly enhance its value. We know how these things are in California. Some buildings have already been erected there by the Government which now belong to private individuals; and a considerable portion of the money which we have appropriated is now being expended, as I understand, not on public property, but on private property. Besides, the condition of the titles in that country is such that I for one will never vote $900,000 upon any locality there, unless it is perfectly certain, before the expenditure commences, that it belongs to the United States.

Mr. GWIN. I am very much astonished at the remarks of the Senator from Illinois. It is known that he reported to the Senate a few days ago from the Committee on Military Affairs, a proposition to appropriate $500,000 for the defense of the harbor of San Francisco. He did not say one word about the title then, and I can say to that Senator that the title of the United States to Mare Island is better than her title to the property where this fortification will be built. The proposed appropriation of $974,850 will be fully protected by former laws. This restriction was not placed there because there was any doubt as to the title. But I can say to him that the law of 1841 makes it the imperative duty of the Secretary of the Navy, before he expends money that may be appropriated for such purposes, to have the opinion of the Attorney General that the title of the United States to the property is perfect. Now, sir, I undertake to say, that if there ever was a good title, the United States have a perfect title to Mare Island—the location of this navy-yard. And in order that there should be no delay, I understand that the Secretary of the Navy has agreed to purchase the only claim to it, and that he has done this on the authority of the Attorney General, who, after a full examination, has expressed the opinion that the United States have a perfect title and unlimited control of the site for the proposed navy-yard. That is the information which I have.

Mr. MORTON. I regret exceedingly that opposition has sprung up to this amendment proposed by the Committee on Naval Affairs. I understand that this, together with all the other amendments proposed by the committee, is based upon estimates from the Department. It appears to be the fixed policy of this Government—and it is a very just policy—to have a navy-yard upon the Pacific. If we are to have one there, it seems to me that $900,000 could be very well expended in one year in building it up. The Senator from Pennsylvania asks, could $900,000 be expended in one year? Yes, sir, $1,000,000 could be well expended in the establishment of a navy-yard there. You have made appropriation for a floating dock in the bay of San Francisco. This is a concomitant of that, and a part and portion of the naval defenses of the country. If the Department could not expend $900,000, the estimate would not have been made. It is necessary that we should have a navy-yard upon the Pacific as soon as possible, and to build that up a navy-yard should be built, and to build it up promptly it is necessary that we should make liberal appropriations. Nine hundred thousand dollars is a very moderate estimate for the commencement of an important navy-yard upon our Pacific coast. We have no navy-yard upon that coast. We have made liberal appropriations for a dock there, and we certainly should have a navy-yard also, which is necessary to a naval establishment upon that coast.

I think that the objection of the gentleman from Illinois is not tenable. Before one dollar of the money is to be expended on a navy-yard, the opinion of the Attorney General is to be had that the title of the United States to the property is unquestionable. There is no difficulty upon that score. I hope that the amendment of the committee will be agreed to.

Mr. PRATT. At the last session of Congress $100,000 were appropriated, as my friend from California has stated, for the purpose of selecting a site of a navy-yard in California. We have paid $100,000 for the mere selection of a site. I understand that when objects are specified in a bill to which the money appropriated is to be applied, the money cannot be applied to any other objects than those specified. Now, let me ask the attention of the Senate to the objects which are here specified; and to which alone the $900,000 can be appropriated. We find "for blacksmith's shop, carpenter's shop, storehouse, and wharf," the sum of $100,000. Now, as I understand the amendment of the Senator from California, it is to strike out $100,000, and insert $974,851.

Mr. GWIN. That is not all of it.

Mr. PRATT. Then I should like to hear it read as it will stand when amended.

It was accordingly read, as follows:

"For foundery, machine-shop, boiler-shop, engine-house, and pattern-shop, and for steam-engine, and machinery, including transportation, blacksmith-shop, carpenter-shop, store-house, and wharf, $974,851.

Mr. PRATT. All the addition is a foundery, machine-shop, and steam-engine, and the transportation of the articles necessary to build the foundery and fix up the steam-engine. The appropriation it seems to me is very large, and one that is certainly commensurate with its origin. We begin with the appropriation of $100,000 for the selection of a site, and we now appropriate $974,851 to commence—not to complete this blacksmith-shop, foundery, steam-engine, and other things connected with them. I should be very glad if the honorable Senator from California would read the estimate from the Department, and state the particular amount of each item.

Mr. GWIN. I will do it, sir. The estimate of the Department is as follows:

For a foundery	$37,000
For a machine-shop	60,000
For a blacksmith-shop	37,000
For a boiler-shop	32,000
For engine-house and pattern shop	24,000
For carpenter's-shop	30,000
For store-house	40,000
For wharf	50,000
For steam-engine and machinery, including transportation	109,851
Making an aggregate of	$419,851
The above estimate being based upon Washington prices, I have added for the difference in prices of materials and labor in California	555,000
Making the whole amount	$974,851

Mr. PRATT. I wish the Senator would now read the letter of the Department to which he referred.

Mr. GWIN. That is the estimate.

Mr. BRODHEAD. Is there any recommendation accompanying it?

Mr. GWIN. There was no particular recommendation. This is in the same volume of estimates upon which all the appropriations are based, and it was reported from the Committee on Ways and Means of the other House in the same form in which it came from the Department.

Mr. SHIELDS. I understand the honorable Senator from California to say that what he has read is the estimate of the Department. I wish to know what is the comparative allowance which they make for the difference in California prices?

Mr. GWIN. A little more than two dollars for one; and that all know is a moderate estimate.

Mr. PRATT. I understood the Senator from California to state that $100,000 appropriated last year was for the mere selection of a site.

Mr. GWIN. It was intended for the commencement of the work also; and this is the additional sum asked for by the Department to continue it.

Mr. PRATT. How was that appropriation of $100,000 applied?

Mr. GWIN. Several naval officers were sent out for the purpose of selecting a site, and a portion of the appropriation was used for their expenses; and a large portion of the remainder was devoted to purchase the quit-claim. The land which has been selected, is, in my opinion, the best site that can be possibly found on that coast for a navy-yard. It covers five thousand acres, and is a whole island.

Mr. SHIELDS. We made an amendment to the Army appropriation bill, which I am glad to hear has passed the House, appropriating $100,000 for fortifications in the harbor of San Francisco. I certainly recommended that, but the honorable Senator will recollect that I did not select the particular site on which it should be expended. That will be selected by the Department hereafter. No legislation can select a site. I proposed an appropriation of $500,000, leaving it to the Department to select the locality at which it should be expended. The gentleman goes upon the principle that one good turn deserves another, and because he got $500,000 for a fort, he wants nearly a million for a navy-yard. If this shall be agreed to, California will have received nearly a million and

a half of dollars for a navy-yard and fort. Perhaps they ought to have it. I will say nothing about that. But I will return to my original point. I say, in the first place, there should be no doubt about the title to the locality when you are going to expend nearly a million of dollars. Secondly, can the Navy Department expend $974,000 wisely and judiciously in one year? Certainly the War Department, according to the information I have received from them, consider $500,000 the extent to which they could make a useful and safe expenditure within the year.

Mr. TOUCEY. Will the honorable Senator allow me to state that we have the same security in this case that we have in every other case. The law requires that an investigation of the title should be made under the direction of the Attorney General; and that before a site can be purchased or a building erected upon it, his opinion shall be given, upon a full investigation, that the title is good. The proviso in this case serves to render that action necessary, in case the other branch of Congress should pass a bill which the Senate has already passed, transferring that duty to the Solicitor of the Treasury. The object is, in case that bill should pass, to reserve that site and have the title to it examined by the Attorney General. There is, therefore, the same security in this case that we have in every other case; for the opinion of the law officer of the Government is required, which is all that we have in any case.

Mr. GWIN. In regard to the second question of the honorable Senator from Illinois, I would say that I have read the estimates of the Department. They ask for this amount. As a matter of course it would not be asked for if it could not be expended.

Mr. SHIELDS. The honorable Senator from Connecticut is right in one sense, if his principle were applicable to his case. I am not opposed to the appropriation in this case. But I have received some information indirectly, which may not, however, be reliable, that there is a private claim to Mare Island.

Mr. GWIN. It is altogether a mistake.

Mr. SHIELDS. If I am wrong in that, I wish the honorable Senator from California to put me right. I have asked that question before, and I should like to have it answered. Is there not a claim by a private individual to the island which has been selected?

Mr. WELLER. I believe the island, which has been selected as the site for the navy-yard—Mare Island—is claimed by a private individual. The district attorney for California was instructed to examine that title, and he employed another person to do it, who has sent to the Department of the Interior a bill to the amount of $5,000 for investigating the title. I believe that the report of that law officer is, that there is a good title in the hands of individuals. But my colleague and myself recommended to the Department to pay $70,000 in order to extinguish the title. If that outstanding title has been extinguishsd, the title which the Government would acquire of course would be a perfect one.

Mr. GWIN. That has been extinguished, and the Government has paid the money, as I understand.

Mr. SHIELDS. That is the point which I wish to ascertain.

Mr. WELLER. The Senator from Illinois has asked another question, whether the Government can properly and profitably expend $900,000 upon this work in the next fiscal year. Notwithstanding the estimate of the Department, I entertain very great doubts about that. I am anxious that this appropriation shall be placed in such a form as to command the support of the House of Representatives; and I would never ask for a larger appropriation than what I believe could be profitably employed upon the service during the fiscal year; and I do not believe that $900,000 could be profitably employed.

Mr. CLARKE. I should like to know from the honorable Senator from California if there is not now being built at this very island a pier for the purpose of securing the sectional dock which has been sent out to California?

Mr. GWIN. No, sir.

Mr. CLARKE. I have been so informed by an officer of the Navy.

Mr. GWIN. Not a dollar of the public money has been expended there for that purpose.

Mr. CLARKE. I am not speaking of the public money; but I ask whether individuals have not already commenced driving piles to build a pier to which is to be attached and secured the sectional dock?

Mr. GWIN. I never heard of it before.

Mr. WELLER. I believe that there have been some piles driven there; whether by private individuals, or with some sort of understanding with the Government, I do not know. There are some five thousand acres of land upon that island. I have been asked why it is necessary that the Government should own so much land there. I will give the reason. It is an island. It is necessary that there should be no conflict of jurisdiction. It is exceedingly desirable that the Government should own the whole of the island, that the Federal may never come in conflict with the State authorities.

Mr. CLARKE. I do not rise to make any opposition to this amendment. I merely wish to make some inquiries about it, to ascertain and agree with the Senators, if I can, as to what is necessary for a navy-yard in California and what is not. It will be recollected that at the last session of Congress there was some conversation about the appropriation for a basin and railway in California. At that time there had been no selection made by the Government of the United States of a site for a navy-yard. A commission was sent out, at the head of which, I believe, was Commodore Sloat. They went out during the last summer and selected this island called Mare Island, which, I believe, is a very good selection—probably the best that could have been made. It is within the bay of San Francisco; and I have no doubt that with the fortifications which will be erected at the Golden Gate, California will be very secure. It will be remembered that last year a sectional dock went to California. And I have been informed by an officer of the Government here that the lessees of this dock are, or have been, erecting a pier at Mare Island for the purpose of securing that dock, and for the use of vessels, according to an agreement made with the lessees. If the United States have the title, I can hardly conceive how individual lessees of the sectional dock can be allowed to do this. By whom they have been allowed I cannot know. It is very curious that they are allowed to erect a pier upon the shore of that very island and in the waters attached thereto. I fear that the title has not been settled. I fear that this movement is premature, and I apprehend that the honorable gentleman from California is a little too hasty in asking for that appropriation before the title has been secured and before the United States have been put in possession of the island.

It is said by the honorable Senator from Connecticut [Mr. TOUCEY] that this provision is the same as that which has always been inserted. Generally, when the United States purchase lands, it is when the title is undoubted; and all the Attorney General has to do is to see that that title is conveyed to the United States. I believe that in most of the States it has been usual to ask for the exclusive jurisdiction of the United States, or at least for the concurrent jurisdiction of the United States and the State in which the work exists. Here, however, there is no such provision.

Mr. GWIN. A general law has been passed by the Legislature of California relinquishing all jurisdiction to these sites, and covering this very case.

Mr. CLARKE. That may be so; I dare say that it is so; I by no means dispute with the honorable Senator; but I do conceive that there should not be so much haste—for haste makes waste—in making appropriations for this rich and golden State of California. I have not, Mr. President, the slightest disposition to curtail in any degree any appropriations for anything tending to the advancement of California. There are in the State of California those in whom I feel a deep interest, and I would be glad to see everything that is proper done for that State. But I do think that a State which has not been three years in the Union absolutely forces us beyond our patience when she asks for these enormous appropriations. When were appropriations approaching anything of this kind ever asked for by other portions of the Union? A project for a railroad to the Pacific has been presented here. I voted for it, and I shall be at all times willing to vote for it. I want an iron band to bind the Atlantic with the Pacific. No Senator here wants one more than I do. I voted for a bill to construct a telegraphic line to the Pacific, to enable the people on the Atlantic coast to communicate with their friends on the Pacific by the aid of lightning.

I am willing to vote for all these things; but when you come to these enormous appropriations to be made in California, where we know labor is very high, and the population is not yet dense enough to develop the resources of the country, agricultural as well as mineral, I must pause. There is no immediate necessity for anything of this kind. We provided for fortifications in California in the Army appropriation bill. And when you get those fortifications at the Golden Gate, the bay of San Francisco will be well defended, and the shipping there will be perfectly secure from any portion of the world. For this provision I voted just as cheerfully as I ever gave a vote in my life. When San Francisco gets these fortifications at the point called the Golden Gate, well may she set the world at defiance, for she will be perfectly secure—no Power on earth will be capable of disturbing her—not even the whole naval power of Great Britain and France, strong as they are. Under these circumstances I can see no necessity for any great haste in the erection of a navy-yard when it cannot add anything to the defense of that bay.

There are also other considerations to induce us to refrain from making haste in this matter. In the first place, the title to the island which has been selected for the navy-yard is hardly yet secured. The Senator from Illinois says that it belongs to an individual; and that it is necessary to make an appropriation to secure the private rights of this individual, so as to let this Government be put into an entire possession of the fee-simple of the soil. Then there should be a cession of jurisdiction on the part of California. It is said that has been done. I do not deny it by any means; but it should be ascertained beyond all doubt; and then when these points have been settled, the appropriations can be passed through for them as in every other part of the country, and you can begin with the navy-yard, the site for which has been selected. There has been no engineer to see in what position it should be. It will be recollected that at the last session we were told that the waters of California were different from those of the eastern shore of this continent; that nothing could be done then without stone and mortar; that no piles could be driven in the water; that no timber could be safely placed there because it would be endangered by worms; that in three or four years the worms in the water would eat up any timber placed anywhere in the harbor of San Francisco. Now, sir, I have it from a naval officer, who has been there for the last six months, that there is no such fear of the destruction of the timber of piles by the worms in the water of California. I put the question to him, "What are the lessees doing in California with the dock?" "Sir," said he, "the lessees are now building a pier and driving down the piles." "Piles!" said I; "why I understood the worms were so enormous and numerous as to destroy everything in the water constructed of wood." "Yes, they are driving piles," was his reply; "and upon investigation it turns out that there is no more danger of the destruction of piles or any other timber placed in the waters of California, than there is in the other waters of the country." Then I asked him where they were building this "pier." "They are building it," said he, "at Mare Island." Now, I should like to know who gave these people the liberty to build at Mare Island? Who owns Mare Island?

What I have said in this matter I do not desire to be interpreted into an opposition to making proper appropriations for California; and if this appropriation were proposed in the same way as appropriations are made for other portions of the country, I should not object to it, but would most cheerfully, on the other hand, vote for it. I hold in my hand a memorandum of all the estimates that have been made by the Navy Department for all the navy-yards in the United States. We have just voted an appropriation of some $300,000 or $400,000 for navy-yards in different sections, and one that I most cheerfully voted for is in the State of Florida—a State that has my warmest admiration, for it is a sort of amphibious State, sometimes in and sometimes out of water. [Laughter.] By

this memorandum, it appears that the whole amount of estimates made by the Navy Department for the different navy-yards in the country for the year is $2,197,934. And how much of that do you suppose is for California? Nine hundred and seventy-four thousand eight hundred and fifty-one dollars, leaving $1,223,083 for all the other navy-yards of the United States.

I concur in the importance of protecting the shores of the Pacific, of having the harbor of San Francisco protected, and of having a navy-yard there. If I could have my way to-day, I would have a navy-yard, if it could be erected instantly and put into operation; and I would have a good stone dock into which any vessel would be able to go, which would last from generation to generation. But that I know cannot be done instantly. The only objection I have to this appropriation is the immense amount. I think that the amendment should be more guarded than it is as regards the rights of the United States to the property and to the jurisdiction. It seems to me that with those guards an appropriation of half the sum would be as much as could be possibly expended before the next session of Congress.

Mr. GWIN. Mr. President, I want it to be understood that from the beginning I have asked for no appropriation for a navy-yard in California, and that so far as my knowledge extends, none of the California delegation have asked for it. It cannot, therefore, be charged to the California delegation that they have asked for large appropriations, or have outraged the patience of any one here or elsewhere, on account of what we have asked for a navy-yard. We have asked for nothing, not a dime.

Sir, these are the estimates from the Navy Department, sent to the Naval Committee without consulting us—certainly without consulting me—and without any knowledge, on my part, that they were to be made out in this way. I never knew that such an amount of money was to be asked for from Congress for this purpose, until I saw it in print. Therefore, so far as the California delegation, or I am concerned, we have had nothing to do with it. This estimate came from the proper Department, and is the amount which they thought could be properly expended during the next fiscal year at San Francisco. As chairman of the Committee on Naval Affairs, in obedience to the instructions of that committee, and not as a representative from California, I ask for a restoration of the estimates of the Department. I wish it to be understood that not as an individual or as a representative of California, but as the organ of the Naval Committee of this House, I have brought this matter forward and ask for the restoration of the estimates of the Department.

Now, in regard to the individual title to this property, I understand that it has not only been extinguished but that the money has been paid. The Secretary of the Navy has extinguished all claims to the property, and has expended a part of the $100,000 heretofore appropriated for that purpose. He has, as I understand, after a most elaborate examination into the title to Mare Island, agreed, in order to have a perfect title to the property, in order that he may commence operations as soon as this bill passes, to buy out the private claim.

Now, I should like to know of the Senator from Rhode Island the name of the officer to whom allusion was made by him, and who informed him that a pier was now being built at this island, and that there was no danger to be apprehended from worms eating up timber in the bay of San Francisco. There are hundreds of persons in this city whose judgment and knowledge derived from their own personal experience in regard to the destruction of their own property can be consulted, and who have spent thousands of dollars to fill up places where piles have been driven in and eaten up by worms. Their information would have pretty good weight against that of any officer of the Navy, who had merely been to California and back on the public service.

Mr. SHIELDS. I do not wish to make further remarks, but if the honorable Senator will permit me, I will make two points.

First: Is it admitted that the title to this property is in private individuals?

Mr. GWIN. All private title has been bought and paid for.

Mr. SHIELDS. The honorable Senator says that the private title has been bought and paid for. Then we ought to have the evidence of it here before we make the appropriation. But if the Secretary of the Navy says that the property has been bought and paid for, I will give up that. Then there is another point in this case: The ordinary appropriation estimated for is about $400,000, and then the Department adds $550,000 for extraordinary expenditure in California. If that addition is necessary in this case it must be necessary to increase the Army and Navy expenditure in the same proportion.

Mr. GWIN. My honorable friend from Illinois reported a bill giving officers of the Army in California double pay, and it was passed by the Senate, thus acknowledging by his own official action that an increase of prices is necessary there. The Naval Committee has also reported a similar increase for the Navy. And now look at the salaries other officers of the Government receive in California, as compared with officers here. The collector of the port of San Francisco receives $10,000 per annum, while the collector of New York city receives but $6,000. And the same comparison may be made with all the other officers. The necessary expenses are much greater there than here.

Mr. SHIELDS. The honorable Senator is mistaken in regard to my action. The additional pay granted, was not as large as he mentioned, and was given originally when the gold was first discovered, and not at the present time.

Mr. GWIN. I alluded to what has been paid. I know that the officers of the Army and Navy have had this additional compensation. Now a word more in regard to the appropriation for the navy-yard. My colleague has stated that this amount cannot be profitably expended there during the next fiscal year. That explanation is satisfactory to me, and I am willing that he should name what can be properly expended. If he will do so I will vote for that amount, and no more. My action here upon the subject has been as chairman of the Committee on Naval Affairs asking for a restoration of the estimates of the Department, and I have done my duty. My opinion is that the amount named can be profitably expended; but inasmuch as my colleague differs from me, I do not intend to ask the Senate for more than is necessary. I defer to his judgment, and whatever he states I will vote for.

Mr. WELLER. I am not as competent, of course, to decide the question as to how much money can be employed during the next fiscal year in the construction of this navy-yard as the Secretary of the Navy himself; but I did undertake to express the opinion a short time ago that $500,000 were, in my judgment, as much as could be usefully and profitably employed during the next fiscal year. I would be as unwilling to vote for an extravagant appropriation of the public money in the State of California as elsewhere. It has been my object here, whenever I have been called upon to vote, to exercise that power in the same way, so far as my own State was concerned, as I would if my location had been elsewhere. But my friend from Rhode Island ought to be able to see that all of these public improvements must necessarily cost a great deal more in the State of California than in the State of Rhode Island. If he will only look to the fact that common labor is worth at least three times as much in the State which I partly represent as in the State from whence he comes, he will readily perceive why it is that when you come to engage in a public improvement, a larger appropriation is necessary there than elsewhere.

The Senator says, although we have been but three years in the Union, we have been very exorbitant in our demands on the National Treasury. Sir, that Senator forgets the fact that we had no territorial government there. We had no state of infancy—no period when we could thrust our hands into the National Treasury, and demand that the Federal Government should do that which she has done for the other new States of the Union. All the other new State have had their territoria governments, and the expenses of those governments have been defrayed from the National Treasury; but California came into the Union a full-grown State. The inhabitants of other States thrust themselves into our territory. They have gone there at the rate of from fifty to one hundred thousand a year. They have produced the necessity for an immediate appropriation of public money, in order to defend that territory from aggression, in order to protect our commerce, a vast amount of which is now floating on the Pacific. It is for that reason that many of these appropriations which have struck the mind of my friend from Rhode Island as exceedingly extravagant, are, when you come to look into the facts, absolutely indispensable; and I beg the Senate now to understand, that I would not vote for an expenditure of the public money within the limits of California, if I were not satisfied that the necessity of the public interest demanded it. The mere fact that I am a representative of that particular portion of the Confederacy would not induce me to vote for an appropriation which, if located elsewhere, I should regard as extravagant in its character. I therefore said, after having cast my eye hastily over the matter, that, in my judgment, $500,000, instead of $900,000, was as much as probably could be used in the construction of this navy-yard in one year. Sir, that that portion of the Confederacy has not been cared for by the Federal Government as it should have been, must be obvious to every Senator here. More than two years ago you made an appropriation to give us light-houses on the Pacific coast, and there is not a single light-house to be found there. You have left the whole of that one thousand miles of coast upon the Pacific unprotected and undefended; yet when we ask for a navy-yard, where our vessels can be repaired, or where we could make the necessary preparations to repel a foreign enemy, we are charged by the Senator from Rhode Island with extravagance. Let me say now to those belligerent Senators here, (and I am sorry there are so many of them,) who have been talking so lightly of involving this country in a foreign war, that if the country be involved in a war, there is no section of the Union that must suffer more than that section from whence I come, for the reason, as I have remarked, that you have not lighted our coast; you have not defended our harbors; you have given us no war-steamers to protect the vast amount of our commerce. A war with any maritime Power would involve a large portion of our people in utter ruin. Let me then say to those gentlemen who talk so lightly of involving this country in a war with a maritime Power, Make preparations in time to protect our people upon the Pacific from that adversary.

"He jests at scars who never felt a wound."

Any one who has been upon the battle-field, and who has seen his associate and friend stricken down by the balls of the enemy, will never talk of involving the country in the horrors of war. Then let me say to those gentlemen, that if they really want to engage in a war, they should take care to put the country in a proper state of defense. We have an immense territory of one thousand miles upon the Pacific coast. We have a vast amount of commerce there. We desire before you provoke a war, that you shall put us in a proper state of defense. An enemy might not be able to conquer us. They might, however, take our harbors, bombard our cities, drive our inhabitants to the mountains; but it would be utterly impossible to conquer the proud spirit of the Americans who are standing upon the shores of the Pacific. Let them feel—let them know that the protecting arm of the Federal Government is extending over them precisely as it is over that man who lives in the very heart and center of the Republic. They are bone of your bone and flesh of your flesh. They have gone to that country to better their fortunes, and are now upon the far-distant shores of the Pacific. They are standing under the American flag, and are entitled to the protecting arm of the Government. They feel already that they are far away from you, and know that they are distant from the home Government. Let them not feel this more oppressively by the neglect of this Government to appropriate for their wants.

Mr. CLARKE. I will not take up the time of the Senate by any observations which I might have wished to make, though I was going to give my hearty concurrence to much that fell from the honorable Senator from California who spoke last. I would, however, propose to the Senator from California to reduce the amount of the appropriation to $500,000, and then to insert a provision, that before any portion of it should be expended the President of the United States should

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be satisfied that the title of the United States was good.

Mr. WELLER. That is the law now, and it would be but a work of supererogation to add it.

Mr. CLARKE. Very well; I am satisfied as to that, but I move to amend the amendment by striking out the amount appropriated, and inserting $500,000.

Mr. SHIELDS. If the honorable Senator will permit me, I think I have drawn up an amendment which will meet the case. It is to make the appropriation $500,000, and then to strike out the proviso as it came from the House, and insert the following:

Provided, That no part of the said money shall be expended for the purposes aforesaid, until the private title to the site for the said navy-yard, if any such title exist, shall be fully extinguished.

Mr. WELLER. I have no particular objection to that, because it is the law of the land now. The Department must be satisfied that the title is an indisputable one before they are authorized to expend anything. It seems to me, however, that the phraseology of the amendment is rather curious. As a matter of course the Senate does not desire to have the private title purchased unless it be a valid one. Now the phraseology of the amendment would require the Department to purchase all private titles. There might be an imperfect title. There might be such a title as no one would give a straw for. I apprehend it is not the intention of the Senator to require the Government to purchase the outstanding title, unless it be a valid one.

Mr. SHIELDS. My amendment speaks of private title, if any such exist. I take it for granted that there can be no title unless it be valid; but I will amend it to meet the suggestion of the honorable Senator, so as to read, "if any such valid title exists."

Mr. MANGUM. It seems to me that the provision is incomplete. It ought to provide for a cession on the part of California of exclusive jurisdiction to the United States.

Mr. CASS. I understood one of the honorable Senators from California to say, that that State had passed a general law ceding jurisdiction, but I do not know the terms of the law. This is a magnificent establishment, and I think it would be much more proper to require the President to be sure that there has been some such cession of jurisdiction.

Mr. WELLER. There is a general law of the State of California ceding the General Government jurisdiction over such sites.

Mr. GWIN. A copy of the law was sent for by the Secretary of the Navy, and was before him when the selection was confirmed. It was a law which I myself drew up more than a year ago and sent to the Legislature of California. It was passed by them to cover all such cases.

Mr. CLARKE. What harm then can it do to insert the provision?

Mr. GWIN. I am willing to pass the amendment in any form, so that we attain the object.

Mr. MANGUM. I hope that a provision will be inserted, providing for granting exclusive jurisdiction to the United States.

Mr. CASS. It seems to me that if there is such a general law, unless there be a special grant under it, that general law may be repealed at any time.

Mr. BRODHEAD. It seems to me that the proviso in the bill, as it came from the House, is in proper phraseology, and is preferable to the phraseology used by the Senator from Illinois. The proviso of the House is in these words:

"*Provided*, That before this sum shall be expended, the Attorney General of the United States shall decide that the United States have good title to the land on which the buildings are to be erected."

Another proviso ought to be added to that, that the State of California shall cede to the United States her exclusive jurisdiction.

Mr. BORLAND. I would inquire if the Constitution does not provide for that cession? Does it not provide for works of this sort, that there shall be a jurisdiction in the United States?

Mr. BRODHEAD. I should like to know how the question now stands?

The PRESIDING OFFICER. The Senator from Illinois moves to strike out $974,851 and insert $500,000, and also to strike out the proviso as it came from the House, and insert:

Provided, That no part of said money shall be expended for the purposes aforesaid, until the private title to the site to the said navy-yard, if any such title exists, shall be fully extinguished; and, also, that the jurisdiction of California has been ceded to the United States.

Mr. BRODHEAD. It seems to me that that proviso is objectionable. "Private title" is not the proper term to use.

Mr. SMITH. I desire to inquire of the Chair whether the first question is not on the amendment to reduce the amount of the appropriation?

The PRESIDING OFFICER. The amendment is divisible.

Mr. SMITH. Then I call for a division of the question. I ask that the vote be first taken upon the proposition to reduce the appropriation to $500,000.

The amendment reducing the amount appropriated was agreed to; and the question recurred upon the other branch of the amendment of Mr. SHIELDS.

Mr. BAYARD. It seems to me that the proviso now proposed to be substituted for the one which came to us from the House, is not as good in its phraseology, and that, with a very slight amendment, the proviso of the House will answer all the necessary purposes. The proviso of the House requires, that before the expenditure of this money shall take place, the Attorney General shall decide that the United States have good title. Now, if you add the words, "and jurisdiction of the lands on which the buildings are to be erected," I should greatly prefer that to the proviso now moved as an amendment, and for this reason: The amendment proposes to extinguish private title, and leaves the implication that you are to pay some money out of the $500,000 proposed to be appropriated for the extinguishment of some private title which would not perhaps be worth a straw. You would have to compromise about it, and it would not be worth giving anything for. What you want to know is, whether the title of the United States is good. You want a certificate of the Attorney General to that effect, and that forecloses all private title. Therefore it seems to me that the proviso of the House as it stands is very good so far as it goes. I move to amend it by inserting after the words "good title," the words, "and jurisdiction of the."

The amendment of Mr. BAYARD was agreed to.

The question then recurred on the amendment of Mr. SHIELDS to strike out the proviso as amended, and to insert another.

Mr. FISH. Before the question is taken on the motion to strike out, I move to amend the portion proposed to be stricken out, by inserting after the words "this sum" the words "or any part thereof."

The amendment was agreed to; and then the amendment of Mr. SHIELDS was rejected.

The question then recurred on the amendment of the Committee on Naval Affairs as amended; and it was agreed to.

The next amendment of the committee was in the appropriation for the Naval Asylum at Philadelphia, to insert after the word "for," the words "paving Shippen street, walls on Shippen street, and iron railing," and to increase the appropriation from $5,000 to $9,600.

The amendment was agreed to.

The next amendment was to insert among the appropriations for the Norfolk hospital the words "for wall around the hospital grounds, $22,500."

The amendment was agreed to.

The next amendment is to amend the following clause:

"For pay of officers, non-commissioned officers, musicians, privates, and servants, serving on shore, subsistence for officers, and pay for undrawn clothing, $221,767 08;"

So as to make it read:

"For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, servants, serving on shore, for rations and clothing for servants, subsistence for officers, and pay for undrawn clothing and rations, bounties for reënlistments, and pay for unexpired terms of previous service, $223,530 44."

The amendment was agreed to.

The next amendment was to insert after the appropriation for the navy-yard at California, the following:

"Towards the continuance, protection, and preservation of the dry-dock at the navy-yard in California, and for a basin and railway connected therewith for that purpose, the sum of $150,000; and the Secretary of the Navy is hereby authorized and directed to enter into a contract with the patentees for the construction of the basin and railway as built by them at the Philadelphia, the Kittery, and Pensacola navy yards, to complete and protect from damage the floating dock at the navy-yard in California: *Provided*, It can be done at such price that the cost of the basin and railway shall not exceed the estimate to be made by the Navy Department of the probable cost thereof if built by the Government, and the said basin and railway to be constructed according to a plan and specifications provided by the Department: *And provided further*, That the remuneration to said contractors for their patent, their superintendence, and responsibility, shall not exceed fifteen per cent. upon said estimates by the Department for the construction of the basin and railway."

Mr. GWIN. This is in accordance with the recommendation of the Secretary of the Navy, in his report. He says:

"The floating dry dock in California, contracted for in obedience to the several acts of Congress heretofore passed, has been completed, and delivered at San Francisco. No appropriation was made for the basin and railway, without which the dock cannot be safely or usefully employed. I submit it to the decision of Congress whether these structures should not be made without delay."

Upon that recommendation the Committee on Naval Affairs directed me to report the amendment which has been read.

Mr. CLARKE. What is the date of that recommendation?

Mr. GWIN. It is contained in the annual report of the Secretary of the Navy sent to Congress at the beginning of the session.

Mr. BRODHEAD. I was under the impression that we had disposed of this question at the last session, and that we should not again hear of a basin and railway in California. At the last session $800,000 or $900,000 were asked for to commence or complete this structure, called a basin and railway, connected with a floating dry-dock in California. Now it is proposed that we shall commence it under color of an appropriation of $150,000. The real question is, whether we intend to appropriate $800,000, or $900,000, or $1,000,000, for the basin and railway in California, when Congress has twice deliberately decided that they will not have that structure. Up to the present time, and until the present Secretary of the Navy took his seat in that Department, this basin and railway was thought to be against the recommendation of that Department. We had the subject of dry-docks up at the last session, and I then exhibited to the Senate the sum total which these contractors had received for their particular patent for a certain kind of a dry-dock. It appeared that one set of contractors had received $3,078,000. That is a pretty large sum. It was a sum equal in amount to the expenditure for the support of this Government for several years from its foundation.

If we are to have a basin and railway in California, the sum of $800,000 or $900,000 ought to be appropriated at once, for that will be necessary to complete it. That was the sum asked for at the last session. Now, the Committee on Naval Affairs ask for $150,000 with which to commence. We ought to know the exact amount which it will cost us. I do not propose to argue the question, but I think now, as I thought at the last session, that there is no necessity for a basin and railway in California. The Senate so decided last session upon a full hearing. It has been said that this structure was at one time ordered. I am aware of that; but at the last session that order was rescinded upon a full hearing in the House of Representatives.

I think this subject ought not to have been brought forward again at this late period of the session. If it was the intention to bring it forward

it ought to have been in a separate bill, and we ought to have had time fully to examine it. This is not the proper place to make contracts, either for docks or for anything else. It is a question of administration, not of legislation. The amendment enters into new particulars in regard to contracts, percentage, &c. Sir, is this the time to look into questions of that kind? Is this a body—is this the place to do it? I think not.

Mr. BADGER. I am sure that the Senate will bear with me a few moments while I submit a few remarks upon the pending amendment, because I can safely say that I have taken no part at this session in the discussion of the appropriation bills. I do not mean to detain the Senate long now, for I know too well the value of time to do so. This is, however, an important question, and ought to be settled upon its true merits.

The honorable Senator from Pennsylvania [Mr. BRODHEAD] has on this, and on several other occasions when this matter has been under the consideration of the Senate, taken occasion to allude to the large amount of money expended for similar docks at other places. I respectfully submit that that has no more connection with the subject before the Senate than the question as to how much money has been expended in Great Britain for stone or floating-docks. This is a proposition to add to the floating-dock in California a basin and railway. Every man who has paid any attention to the subject knows that if the basin and railway can be built effectually to answer the purpose for which they are designed, they add a thousandfold to the value of the floating-dock. Every man knows the difference between having a dock which can accommodate one ship for repairs at a time, and having a dock connected with the basin and railway on which a half dozen or a dozen ships can be placed securely and safely for repairs and reconstruction, if necessary.

The honorable Senator from Pennsylvania says that the Senate has repeatedly considered this question, and decided against it. I deny it. When this subject was up at the last session of Congress, we were told to let it stand until the next session, to wait until the railway and basin should be tried and decided by experiment, to ascertain whether they could be used according to the claims of the patentees, and according to the drawings and specifications which they had exhibited. That experiment has been tried.

Mr. BRODHEAD. And it has failed.

Mr. BADGER. It has not failed. The Senator interrupts me to say that it has failed. I say that it has not failed; that it has been completely and triumphantly successful, if there is any reliance to be placed upon human testimony. Of course I do not say that I witnessed the experiment. It was announced in the newspapers by eye witnesses. The experiment attracted large crowds of observers, who could scarcely be restrained from breaking out into applause at this marvelous exhibition of American skill and discovery. Now, when it is proposed that this structure should be provided for, we are told that the Senate has decided against it. The Senate has never decided against it. If it has, I desire it to be shown where and when. But I say in advance that it cannot be shown. We were prevented from passing the bill at the last session, under circumstances which amounted to no decision. It was simply a postponement of the question in order that the experiment might be tried.

When the subject was up before the Senate, the Senator from Pennsylvania took occasion to say that we had no recommendation of the head of the Department in favor of it. That was supposed to be a strong and powerful objection to it. Here now is the recommendation of the head of the Department. When it was up before, we were told that the then Secretary was of opinion that with a pier the dock might be made to answer every purpose. We were then told that the pier could be constructed for a very small sum of money. The session, however, had not passed away before we had a new estimate from the gentleman then at the head of the Department, who had been misled by reports from the bureaus, showing that the expense of the pier would be three or four times greater than he first supposed. And now, upon the fullest consideration and view of the subject, and after it has been considered in all its aspects, and with every advantage, we have a report from the present Secretary, not held back till now, but given in his annual report accompanying the President's message at the commencement of this Congress, not only as to the value of it, but that the floating dock without the basin and railway cannot be safely or advantageously used.

But, Mr. President, there are other distinct grounds for this measure. The honor of the nation is involved in the question now under consideration. The good faith of the United States has been soiled by the proceedings which have taken place upon this subject. A stain has been fixed upon the escutcheon of the nation for the sake of saving three or four hundred thousand dollars. Allow me to call for a moment the attention of gentlemen who are not familiar with this subject to its rise and history.

In the Congress before the last a provision was inserted in the appropriation bill directing the Secretary of the Navy to make a contract for the dry-dock, basin, and railway for California, although the Senator from Pennsylvania supposes that this bill is not the place in which to make contracts. I believe, however, that he is the only gentleman here who has found out that it is now proposed to make one. The Secretary made the contract. He settled and agreed upon the terms upon which the dock, the basin, and the railway were to be constructed; and on the day after the two parties—the Secretary, representing the United States, and the patentees—had agreed, a resolution was introduced into the House of Representatives and passed, directing the Secretary to proceed no further in the completion of the contract. The Secretary felt himself bound by that direction of the House, and consequently the writings were not prepared and signed. The subject was then referred, upon a resolution introduced into this body, to the Committee on Naval Affairs, which was directed to inquire whether any contract had been made, and if one had been made, whether it was a just one to the Government. We received a letter from the Secretary of the Navy, stating to us what he had done, which was in substance this: These gentlemen proposed to do the work for a certain sum. The Secretary referred the matter to his bureau. The bureau examined it, and reported a reduction of the sum. He was not satisfied with that, and directed an investigation by the Chief Engineer, to ascertain the lowest cash price for which the work could be done. When that had been ascertained, he then told these gentlemen that if they would undertake the work for some sixty or seventy or eighty thousand dollars less than they had proposed, they should have the contract. They asked two days to consider the matter, and he gave it to them. At the expiration of the time they announced that they took the contract. These are the facts. The Naval Committee was unanimously of the opinion that they made the contract binding upon the honor and integrity of the Government; that it would have made the contract binding upon the honor and integrity of any gentleman in private life, and that the only purpose in respect to contracts, whether between Governments or individuals, for which it was necessary to reduce them to writing, are two; First, to prevent mistakes as to the meaning of the parties; and, second, to compel the reluctant contractor to perform his contract; that this was binding upon the honor of the party which proposed it; that it was as binding as it ever could be upon the United States if there had been ever so many contracts written, signed, and sealed, because at last nothing is bound from a sovereign but upon his integrity, his honor, and good faith.

The honorable Senator from Virginia, [Mr. MASON,] at that time made a report in writing—a unanimous report from the Committee on Naval Affairs, expressing our decided opinion that a contract had been made which was binding upon the faith of the Government, and therefore it was not necessary for the committee to enter into any investigation as to whether the contract was a good one or not, as we were bound in honor to perform it; but that, so far as we had been able to ascertain, the contract was a good one. That report was made to the Senate, and upon the presentation of it, the committee asked to be discharged from any further consideration of the subject; to which proposition the Senate unanimously agreed. When this subject came up at the last session of Congress, these matters were all understood; but we were told that the basin and railway had not been tested. It was not proposed that the work should go on unless it had been tested. It was a part of the original agreement with the Secretary referred to in the letter addressed to the committee, that not one penny should be expended, that the contract should be considered as null in regard to the basin and railway, unless, on the experiments being tried, it was found to the satisfaction of the head of the Department that it completely answered its purpose.

Now, sir, here is the plain question submitted to the intelligence and integrity of the American Senate: The Congress of the United States directed, wisely or not signifies nothing, that their agent should enter into an agreement; that agreement was entered into, and, but for the interference of one branch of Congress, the very next day would have been signed between the parties. It is very certain that no man could show his face upon 'Change, no man could be received as a gentleman in the intercourse of private life, if, after having made such a contract as that, he had repudiated it because he chose to do it; and I for one am not willing that my country should be supposed to have a lower standard of integrity than that which I am supposed to possess myself, and ever desire to have in the transactions of life.

I have had this acquaintance with these facts, because it has so happened that I have been a member of the Committee on Naval Affairs ever since I have been connected with the Senate. The work is valuable and important; one that will multiply the value of the dock twentyfold. The Secretary says that the dock cannot be safely or advantageously used without it. Then what do we propose to do? We have purchased a dock; it is in California. We have paid for it, and have entered into an agreement with the parties for the basin and railway, which would have been reduced to writing, and put into the ordinary form of such transactions, but for our interference, by directing our agent to suspend the work.

Now, are we to say that we do not think it advisable to comply with the engagement, binding only upon the honor and integrity of this Government? Sir, I declare solemnly that, in my view, the committal of the Government to contract is such, that I would not permit that it should be finally repudiated, even if it were to pour fifty millions from the Treasury of the United States. As I believe in regard to men, so I believe in regard to the Government. The loss of a fair and unimpeached character cannot be compensated by all the wealth that belongs to the Indies. I hope that the amendment will be agreed to.

Mr. MASON. In addition to what the honorable Senator from North Carolina has said, I desire to say a few words. Congress, some few years ago, directed the Secretary of the Navy to make a contract with certain persons by name, for the construction of a dry-dock, basin, and railway in California. The direction was mandatory upon the Secretary to make the contract for the dry-dock, and left it discretionary with him whether to contract for a basin and railway or not. I voted against that proposition, but it passed. The Secretary of the Navy entered into a negotiation with the persons named in the bill, and made a contract for the construction of the dry-dock, but not for the basin and railway.

While the matter stood at that point, the contract being made but not signed, some parties, who are ever eager to advance the interests of the country by making contracts with it, induced the Secretary of the Navy to pause. Both Houses of Congress then called upon the Secretary to inform them how far he had advanced in the execution of the law. The Secretary said that he had made a contract with the parties named in the bill, but that it had not been reduced to writing. He had requested them to call upon him in two or three days, when the contract would be ready and signed; but before the day arrived he was arrested by a resolution of the House, and also by a resolution of the Senate.

Mr. BADGER. The Senate's resolution was one of inquiry.

Mr. MASON. The resolutions were of such a character as to arrest the action of the Secretary. He reported the facts to us. The facts were, that in the execution of the law of Congress, the Secretary had agreed to the terms proposed by the contracting parties, and that nothing remained but to reduce them to writing. The subject was referred to the Committee on Naval Affairs, as the

Senator from North Carolina has said, of which I was then a member, and which instructed me to report upon the subject. I did so, reporting the fact that the law was mandatory upon the Secretary; that he had executed it; that he had made the contract, but that it had not been reduced to writing; and the writing was only the evidence of the existence of the contract; that there was no allegation of fraud or want of faith on the part of the contracting parties. There was nothing to affect the contract which had been made, and that inasmuch as the assent of the Secretary and contracting parties was given, the terms of the contract were made, and the absence of the writing was nothing. The committee advised that the contract was made pursuant to the law. That report met the approbation of the Senate. It, however, applied only to the dry-dock——

Mr. BADGER. To the dry-dock, basin, and railway.

Mr. MASON. The basin and railway were left to the discretion of the Secretary, whether to make a contract or not; and he had not made it at that time, but had designedly left it open until he should ascertain the result of the experiment of the basin and railway then under course of construction at Philadelphia. The faith of the nation was pledged to the construction of the dry-dock, not to the basin and railway.

Mr. GWIN. If the Senator will indulge me for a moment, I will put the matter right. The law expressly said that the contract was not to be closed and binding until the experiment was made, but it was to be made conditionally, as to the success of the experiment.

Mr. MASON. The record will settle the fact. My recollection is, that it was left with the discretion of the Secretary whether or not to contract for the basin and railway.

Mr. BAYARD. I have but one objection to make to the amendment, or an amendment to propose to it, which, if assented to, I shall feel disposed to vote for it as amended. I admit that when this subject was before the Senate on a former occasion, it was postponed in consequence of a doubt entertained as to the capacity of this invention to effect its purpose. It has since been determined in favor of the dock, so far as my knowledge goes. We have the report of the Secretary of the Navy, that the pier, which was also a matter of dispute as a substitute for the basin and railway, is not equivalent for the necessary purposes of the Government. If I recollect rightly, on a former occasion it was alleged that if the basin and railway were constructed, they could be made to accommodate the mercantile marine of the country in addition to the Navy. In my judgment Congress had no authority to build docks for any such purpose; and therefore I voted against it then.

I have not seen the report of the Secretary of the Navy, but I understand from the statement of Senators upon which I rely, that that report is that the basin and railway are necessary for the purposes of the Navy. If that be so, I am disposed to vote for the appropriation. But my difficulty as to a part of it is this: There is a proviso in the amendment intended to be of the nature of a limitation, which is in this language. After providing that the particular basin and railway shall be constructed, it goes on as follows:

"*Provided*, That it can be done at such price, and the cost of the basin and railway shall not exceed the estimate to be made by the Navy Department of the probable cost thereof; and the said basin and railway be constructed according to the plans and specifications approved of by the Department."

It then goes on to further provide:

"That the remuneration of the contractors for the use of their patents, superintendence and responsibility, shall not exceed fifteen per cent. upon the estimate of the Department for the construction of the basin and railway."

This may all be capable of explanation. But what I want to understand is, why it is that the contract is to be limited by an estimate to be made? If the survey has been made, or the commission executed to ascertain these things, why should we not have the estimate of the cost now? I do not wish to embarrass the amendment, because I think it important, and, according to the report of the Secretary of the Navy, necessary; but it strikes me that the remuneration of the contractors might be reasonable enough if the estimate is not beyond a reasonable amount, but might be very unreasonable, because the amount at certain rate of percentage must necessarily depend upon the magnitude of the estimate. It might be beyond all reason to give fifteen per cent, if the estimate was $1,500,000; and it might not be unreasonable if the estimate was within the bounds of the amount previously supposed. I am informed that the previous estimate made of the cost was $800,000.

Mr. GWIN. Eight hundred and forty thousand dollars.

Mr. BAYARD. I therefore mean to propose as an additional proviso, making a limitation upon the amount to be paid to the contractors, that it shall not exceed the sum of $120,000, which would be fifteen per cent. upon the amount of the estimate heretofore given to us. In other words, I do not want to leave this thing at large, with a proviso by way of limitation, which, in my judgment, amounts to no limitation at all.

Mr. BADGER. That is right.

Mr. BAYARD. If that proviso is put in to affect the limitation, I am ready to vote for the amendment. I therefore move to add the following proviso to the amendment:

Provided further, That said remuneration shall not exceed $120,000.

Mr. GWIN. I have no objection to that. I accept it as a modification.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it had passed the bill from the Senate to provide for the survey of the public lands in California, the granting of donation privileges therein, and for other purposes, with amendments.

That it insisted on its disagreement to certain amendments made by the Senate to the bill making appropriations for the support of the Army for the year ending June 30, 1854, and upon its amendments to certain other amendments of the Senate to the same; that it agreed to the conference asked by the Senate on the disagreeing votes of the two Houses; and that it had appointed Mr. PHELPS, Mr. STANLY, and Mr. ORIGEN S. SEYMOUR, the Committee of Conference on its part.

The Senate proceeded to consider the amendments of the House of Representatives to the bill from the Senate to provide for the survey of the public lands in California, the granting of donation privileges therein, and for other purposes; and concurred therein.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriation for the naval service for the year ending June 30, 1854.

Mr. CLARKE. I really do feel some reluctance to interpose any opposition to the appropriation now intended to be made for a basin and railway in California. But, sir, from the conviction which I have, I feel it to be my duty to state to the Senate the reasons that will influence my own vote against the proposition at this time.

The origin of this thing was in the end of the session of 1850. Then, at the very last day of the session, and at the very last moment of the session, a proposition was introduced by me to the Senate—a gentleman, then a member of the House of Representatives, from New York, came to me upon the subject—to appropriate about $1,400,000 for the construction of a sectional dock, basin, and railway in California; and a provision in the naval bill—I think it was at the end of the session of 1850—made it imperative upon the Secretary of the Navy to agree with certain persons named therein, for a sectional dock, basin, and railway, to be constructed in the bay of San Francisco, in California. Under that mandatory provision in the bill, the Secretary of the Navy did agree with certain individuals on the 17th day of January, 1851, that they should construct a sectional dock, basin, and railway, and place the same in the waters of California for $1,450,000. At that time the United States had nowhere to place the dock, basin, and railway. In fact, allow me to say, that the whole of California had been taken up by those who went there for patriotic purposes; and the United States had not the very first foothold, upon which they could place anything of their own as positively belonging to them.

The House of Representatives, on the 20th of January, 1851, passed a resolution calling upon the Secretary of the Navy to know if any contract had been made under that provision of the naval bill of 1850; and if not, that he should suspend all proceedings under it. The Secretary of the Navy, on the same day, I think, reported to the House of Representatives. And what did he report? That he had been negotiating with two different parties—certain gentlemen in New York, and some others—who proposed to construct the work; but it appeared that the New York parties had obtained the patent, and having that patent-right, the Secretary was obliged to contract, if he contacted at all, with them, inasmuch as the others only claimed of the United States that they should guarantee them against an infringement of the patent.

These negotiations went on from the expiration of the session of 1850 until the 20th of January, 1851; and when the House of Representatives called upon the Secretary of the Navy, he reported to them that on the 17th of January, three days prior to the passege of the resolution by the House, he had concluded a verbal contract with the gentlemen who proposed to be contractors for the building of the sectional dock, basin, and railway in California for about $1,450,000. This is my recollection of the subject. I may not be very precise. He reported that in consequence of the resolution of the House of Representatives, he felt himself obliged to withhold the entire completion of the contract until a further provision was made by Congress. In the appropriation bill of 1851, both Houses of Congress appropriated $640,000 for the sectional dock, and repudiated entirely any contract, or any authority which the Secretary had to make a contract, for a basin and railway. Thus it stood. The Secretary of the Navy had made a contract for building and carrying to California a sectional dock, without the basin and railway, for which we were to pay $640,000.

At the last session of Congress, you, Mr. President, (Mr. BADGER in the chair,) and others insisted, as you insist now, that the faith of the Government was answerable to the pledge to the contractors to carry out the original contract made in January, 1851. Now, sir, if it is so—if the faith of the Government has been pledged—if it has been committed to these contractors, in consequence of the contract made by the Secretary of the Navy, which has been denied by both Houses of Congress, let it be carried out. All that you, Mr. President, said in regard to the faith of the Government, all that you said in regard to the faith of an individual—all that you have said of that high sense of honor which every man knows governs you, would equally govern me. And if the faith of the Government has been pledged to these contractors beyond the power of redemption or repudiation—if they are entitled upon any principle of equity or justice to this contract made in the winter of 1851, let all the money in your Treasury be poured out like water for its fulfillment. I never will repudiate a contract, whether it is made by me in my individual capacity, or whether it is made by the Government of which, at this moment, I am a part. I never would do it, and if that contract—and there I put it—made on the 17th of January, 1851, was a valid and binding contract on the Government of the United States, let it be fulfilled. But what is the case?

The case is, that the contract made at that time was a verbal contract. I agree that it is as binding upon the Government as it would be upon the honor and faith of individuals. If that contract made on the 17th of January has been repudiated or annulled by the action of this Government, let the contractors do as all other contractors do, come in and ask an indemnity for their damages, if they suffer damages in consequence of the repudiation of the contract by Congress at the session of 1851. If they suffered damages by the action of the House of Representatives arresting that contract before it was signed, let them come, as all other men come, to the Congress of the United States, and ask for indemnity for the repudiation, and for the disappointment of their hopes. Let the case come before us in that shape. If they have a claim for a contract made by the authority of the Congress of the United States, that claim is like all other claims, good against the Government of the United States; and you know that, so long as I am here, there is no man who will vote for such indemnity sooner than I will. But is this the proper manner in which that indemnity is to be rendered? Is the Congress of the United States

now obliged to do what they would not do in their sober senses, and upon calm reflection, because a contract was incipiently made by the Secretary of the Navy on the 17th of January, 1851, and which was repudiated, if you please, by the House of Representatives on the 20th, and by Congress in their appropriation bill in March?

A SENATOR. I am against repudiation.

Mr. CLARKE. I am against repudiation as well as the Senator. I repudiate nothing except interference with other persons' business, and that I do most sincerely repudiate. Now, if the contractors sustain damages, let them bring in their petition for indemnity for the damages, and I will vote for it, provided they show a good case. I am not here as the guardian or watch-dog of the Treasury. I am here, so far as I know, to carry out the principles that govern me in private life. I will exhibit that same honesty of purpose and fidelity in a contract in my public capacity here, as I would do in my individual capacity. If the contractors have suffered damages, let them come here and ask indemnity, and I, and those who act with me—and none act with me more often and more cheerfully than yourself—will give them all the indemnity that they are entitled to.

But, sir, what was the damage? On the 17th of January, 1851, the contract was finally brought, verbally, to a close. On the 20th of January, 1851, but three days elapsing, the parties are notified that it must be abrogated by the action of the House of Representatives. The damages, therefore, are what might have accrued between the 17th of January and the 20th of January, 1851. What was done in order to compensate those contractors for any damages? The Secretary of the Navy made a contract with them to build a sectional dock at the price of $610,000. It was to be three hundred and fifty feet in length, and thirty-five feet in width; that they should transport it into the Bay of San Francisco, and there deliver it to the Government of the United States; and further, that in case the Government of the United States was not ready to receive it, the contractors should have a preference for the lease of it. What has taken place? During the last year, the sectional dock was made. I have a drawing of it at home, but have not here. It was transported to California; and while it was on its passage, during the last session of Congress, the Secretary of the Treasury was notified that as the United States was not ready to receive it on its arrival in California, they would be charged with demurrage and damages. What was the fact then? The United States did not own, that I know of, a foot of land or place upon which the dock could be floated, except it was in the deep waters of the Bay of San Francisco. There was no place to which it could be attached. You and I, Mr. President, have talked about building stone piers, wooden piers, and covering them with copper, &c.; but allow me to say, that there was not in the Bay of San Francisco a single place of which the United States could claim exclusive ownership in which we could place it. It must have been left with its parts floating in the Bay of San Francisco.

Before the dock arrived, the Secretary of the Navy found it necessary to make preparation for it. What was done under the provision inserted in the bill which passed at the last session of Congress, allowing him to lease that dock? He leased it to the contractors for three years, simply upon the condition that they should restore it to the United States at the end of that time in as good condition as it was taken, common wear and tear excepted. What is that? Why, sir, with common wear and tear excepted upon cylinders something like twenty feet long, and eight or ten feet in diameter, to be used for three years, the copper would be three fourths worn out; and then it was to be restored to the United States. I would have given to the Government of the United States myself $50,000 a year for the contract. I have seen in the Senate Chamber an officer of the Navy, who told me that the pier that was necessary, and of which you and I conversed, was erecting upon Mare Island. Then they are building a pier, and to this pier they are fixing the sectional dock, three hundred and fifty feet in length. Everybody knows, who knows anything about it, that the sectional dock, by the side of the pier, is as useful as a sectional dock can be anywhere. These cylinders of the sectional dock may be filled with water, and they will sink the vessel which slides upon them. When the water is pumped out, the vessel comes out, and she is above water, and able to be repaired or attended to in any way you please. The sectional dock is one thing of itself, and separate entirely from the basin and railway. The question is, in the first place, as to the sectional dock; and the second is as to the basin and railway. In fact there are three questions. One is in regard to the dock; another in regard to the basin; and the other the railway. The dock will take up one vessel, and that vessel can be repaired upon it. If you have two vessels, you require the basin in order to take up the second vessel. If the basin is wide enough, as it is by the drawings which I have, you may take in two, and still leave one outside to go upon the sectional dock; and then your railway must have a great motive power to draw those vessels up the rail in order to get them out, so that others may come in. In that way you may multiply the rails until you might make a railway to the Rocky Mountains, and take up all navies in the world, if you will only make rails enough to do it; but in order to do it, you must have the steady and vast power of steam-engines to draw the vessels on the railway.

The dock is in California. It was carried out last year, and it was leased by the Secretary of the Navy to the contractors for the term of three years, without any compensation whatever. I would have given $50,000 in a moment for it myself. It was leased to be returned at the expiration of three years in good order and well conditioned, common wear and tear excepted. That makes about half the value of it.

Now, let us look at this in another point of view. You have got the city of New York, as important as San Francisco. I admit the importance of San Francisco in every point of view. No man can be more willing to admit it than I am, but I still do think that, in a commercial point of view, the city of New York holds some sort of a relevancy to the importance of the commerce of San Francisco. There is not in the harbor of the city of New York a basin and railway. They have railways upon which they draw up light vessels, but they have not one of these basins which it is proposed to build in California. They use the sectional dock; and they use another dock, namely, the floating dock, which, in my opinion, is inferior to the sectional dock. In the harbor of New York they have not got a basin and railway. They have at the Brooklyn navy-yard a stone dock; and I have been told since I have been here, that the Government of the United States never has been required but once to admit a vessel into that stone dock, because the sectional and floating docks that they have in New York are amply sufficient for all the commerce of that immense mart. In Philadelphia you have a navy-yard and you have a stone dock. A contract was made, and authorized by Congress to build one of these sectional docks and basin and railways in Philadelphia. It was done. The experiment was tried—very fairly tried; and it is true that the steamer City of Pittsburg was carried into that dock at Philadelphia, and put upon it and floated into the basin, and in the short space of seven days. Yes, sir, seven days from the time she went into the dock she was hauled up on one of these rails. That experiment has been tolerably successful. In Pensacola it has not been tried. The dock has not been completed. I have no doubt that it will be successful. I am not speaking against the basins and railways and docks. At Kittery, Maine, or rather Portsmouth, New Hampshire, they have one also, and a seventy-four was taken on that dock, and she was very fortunately got off again. I have nothing to say against that. I only say that in the great commercial marts of the country, beginning at your extended East, coming to Boston, taking in my little State, taking in Connecticut, New York, Philadelphia, Baltimore, Charleston, and Savannah, you have got nothing of that sort at all, except it is as I have described it. Sir, what do we do in our section of the country, where we have no such sectional dock? In the little port of Providence, when it is necessary for a vessel to be coppered, she is careened over in the old-fashioned way, such as they did in New York within the last fifteen years, when they had no such thing as this. Is this necessary in California at such an enormous expense as is proposed? It is true that the price of labor is very high there; but all will by and by be equalized. It is not possible, Mr. President, for labor to continue a dollar a day in North Carolina and Rhode Island, and three dollars in California. Recently flour was thirty-nine and forty dollars per barrel in California. It is now twenty dollars, and directly, those who send flour there will find that California, with her fertile soil, will produce her own wheat and other articles of consumption. It is true that emigration to California has been very great; it is true that the result of the labor among the gold has been enormous; it is true that it is of great value in some respects. For my own part, I do not think it so valuable; still there are many who like gold better than I do.

Mr. President, I am willing to agree that California is a young, rich, growing, and prosperous State; and when she to-day asked that $500,000 should be appropriated in defense of her harbor, I agreed to it. I voted for it most cheerfully, and I go for all the other appropriations that it is necessary to make for California. Our expenditures there have been large. I will venture to say, if you will go to work and look at it, you will find that you have expended more in California within the three years since she came into the Union, than you did in the whole of the six New England States since the Declaration of Independence. I do not believe the whole of the expenditures that have been made for any permanent improvements, a fort, harbor, or any other improvement in the six New England States since the adoption of the Constitution equals the appropriations made for California. I have heard it said—I do not say it myself with any feeling of reproach—that California is like a wayward child. She is yet in her infancy, and is always either feasting or crying. [Laughter.] Now, this pet babe of ours nobody has a stronger regard for than I have. But, Mr. President, I do think, after the liberal appropriations that have been made, after the doubtful experiment that has been made in regard to this basin and railway, we should hesitate. As to the opinion that I have formed—and I have formed it under considerable advice, and consulting with gentlemen who understand the thing better than I do—it is that the sectional dock is sufficient, because it is all that the Atlantic States have, and that the basin and railway are not yet needed. Mr. President, let me go one step further. Where are you to place them? We have made a proviso within the last hour that the Government of the United States has yet to secure its title and get its jurisdiction to the place where the navy-yard is to be placed, and still you are making this provision for the completion of the dock in California.

I met with some difficulty in this Chamber some time ago because I opposed this appropriation. I met the same opposition that I do now, and the same frowns. Those things did not trouble me much at that time. We have sent out men to decide whether the Government of the United States have got anything or nothing, or whether the Government shall buy what they need for their own purposes. The country at first was absolutely so sparsely populated that nobody was in possession of it, and it was taken by some four or five hundred men in 1846 or 1847. That country is now totally within the reach of private ownership, so that the Government of the United States has not got anything—has not got any public lands there.

Such is the fact; and although I believe it is to be a rich, and, as it has been said it is, the young sister, I believe by-and-by, when she is skilled a little, when the hairs of gentlemen have become as gray as mine, and time and experience have shown them that the development of wealth is not all that is required, and that it is very little in the great account which we have got to render, not only to posterity, but to God, they will think that the resources of the country should not be applied to foster the hot-bed growth of that State beyond what its own enterprise, energy, intelligence, and stability will warrant.

I would say in regard to this location as it regards the place called Mare Island, let the Government of the United States, under the appropriation that has been made, commence the navy-yard. Well, sir, those whom I shall leave here—and I shall part with them personally with great regret—will year after year be called upon to make appropriation after appropriation for that naval establishment, until you transcend three fourths

of your naval establishments upon the Atlantic. I am perfectly willing to do it. If I were here, I would vote for it. You have this Golden Gate that enters into San Francisco, and where the wealth of the Indies and Golconda are to enter, to take care of. Be it so. You have to send your navy to the seas to defend your commerce. Be it so. It is all perfectly right and proper, and that navy which you send there will need a place for security and repairs. That is all perfectly right; but let me tell you that these expenditures are hastening themselves forward faster than the maturity and growth of the country warrant. You have this island. You have now to place your navy-yard there. That is not done in a day. In our portion of the country we have been years and years getting this thing, with all the laborious industry and exertions which we have made. The harbor of Newport, in Rhode Island, one of the best harbors in the world, never has received but one fortification. We ask nothing: we get nothing. If we did ask we would not get, and therefore we are too proud to ask it. But, sir, in this new section of the country they ask very much. New Orleans should get something. No section deserves more than that of my honorable friend from Louisiana, [Mr. SOULE.] I am willing to agree to that. I am willing that Florida should have something, and that the interests of Indiana should be attended to, although my friend [Mr. PETTIT] yesterday seemed rather to speak lightly of the humble occupation of those who hold office in my State. He yesterday spoke very lightly indeed of them. I believe he said the Governor of Rhode Island was obliged to peddle milk in order to get a living. I stated to the honorable Senator myself, privately, and I may now as well say it openly, that we in Rhode Island are a very humble and laborious people. We take our public officers from farming. Why, sir, I am a farmer. We do not go to the learned professions to get our officers. We take the farmers; and if the Governor of the State has any milk to sell he sells it in our community when he can do it with advantage; but I would say that we generally kill our calves in Rhode Island and send off the milk. There are some places, however, where they raise up their calves, and if they have no occupation for them at home they send them abroad—sometimes to Congress. [Laughter.]

Now, sir, I will add that I think the proposition before us is premature. If the Government requires a dock, basin, and railway in California, and it is time to get them if the officers who understand this thing in California think it would be better to have the stone dock there, you could get it without difficulty. On these grounds I object to the appropriation.

Mr. MASON. In reply to what has fallen from the Senator from North Carolina, [Mr. BADGER,] I desire to say that I have looked into the report made by the Committee on Naval Affairs in 1850, and as I understand it, the matter—what aspect it may have taken since I do not know—then stood thus: The Secretary of the Navy reported to us that, pursuant to the law of 1850, he had made a contract with the parties, by name, for the construction of a dock, basin, and railway at the price of $1,450,000. When the question was raised, whether the contract had been reduced to such a form as to be obligatory, the committee of the Senate reported, and the judgment of the Senate confirmed the report, that the contract was made and that it was obligatory upon the Government. It was for the construction of the dock, basin, and railway for some $1,450,000. The committee reported that the law was mandatory upon the Secretary; that he had no discretion, and that he had made the contract according to the terms limited by the law of 1850. But they reported further, that the Secretary of the Navy, by the contract, had reserved to himself the right to annul or to abrogate so much of the contract as referred to the basin and railway, unless the experiment then in process of trial at Philadelphia should be found to answer. Here is the language of the report:

"The committee consider these appendages [that is, the basin and railway] as peculiarly important to a dock, should they be found, on experiments yet to be tried on a like work now in progress of construction at Philadelphia, to be of practical value; but as they are further informed by the Secretary of the Navy, the contract, as made, authorizes him to abrogate so much of it as provides for a basin and railway, 'if 'the basin and railway in connection with the dock at Phil-'adelphia shall not realize the ends expected from it upon 'the experiments to be made at its completion;' and in such 'case the dock only is to be completed and paid for at a pro-'portionate price.'"

Then the matter stood thus: The Secretary made the contract for a stated sum—$1,450,000; for which sum the contractor was to make the dock, basin, and railway. If it should be found, upon experiment, by the Secretary of the Navy, that the whole work in process of construction in Philadelphia did not answer the expectation, he was at liberty to abrogate so much of the contract as authorized the erection of the basin and railway, and then pay for the dry-dock alone. That is exactly the state of the facts. Now, what is the amendment? I never saw it until now, and I do not understand it. It is:

"Towards the continuance, protection, and preservation of the dry-dock and navy-yard at California, and the basin and railway connected therewith, for that purpose, the sum of $150,000."

What! $150,000 towards the continuance of this dock, basin, and railway at San Francisco? Towards the continuance of it? Towards the protection and preservation of it? That is all that is said there—I mean as far as I have read. I will read the whole of it if gentlemen wish it. What is meant by the continuance of it? If the thing is there it will continue of itself. If it wants repairs, express it. What protection does it want? If it wants protection against the waves, say so. What preservation does it want? If it wants to be preserved from anything which may destroy it, say so. But here is the language of the amendment:

"Towards the continuance, protection, and preservation of the dry-dock at the navy yard at San Francisco, and the basin and railway connected therewith, for that purpose, the sum of $150,000."

What next?

"And the Secretary of the Navy is hereby authorized and directed to enter into a contract with the patentees for the construction of the basin and railway as built by them at Philadelphia and Pensacola navy-yards, to complete and protect from danger the floating dock at the navy-yard in California."

Why enter into a contract if the contract is already made? The Secretary reported in 1850 that he had made a contract at $1,450,000—a contract for the whole work, dock, basin, and railway; and here again the Secretary is directed to enter into a contract to construct the basin and railway. I understood the contract was made in 1850, and whatever opinion was entertained at that time, because it was made at a stated price, it was sanctioned; and now here is a proposition to give $150,000 to continue and protect and preserve the work; and another proposition to authorize the Secretary to enter into a contract to make it. And what further?

"*Provided*, That it can be done at such a price that the cost of the basin and railway shall not exceed the estimate to be made by the Navy Department of the probable cost thereof, being built by the Government, said basin and railway to be constructed according to the plans and specifications approved by the Department: *And provided further*, That the remuneration of said contractors for the use of their patent, their superintendence, and responsibility, shall not exceed fifteen per cent. upon said estimate of the Department for the construction of the basin and railway."

Now, as I understand the thing, it is this: In 1850, Congress authorized a dry-dock, basin, and railway to be made. The Secretary contracted with the contractors at the price of $1,450,000, but reserved to himself the right to abrogate so much of the contract as provided for the basin and railway, unless the experiment at Philadelphia should be satisfactory. I say, then, to the Senate, as I understand it, the contract is made for a given sum, $1,450,000; and unless the Naval Committee will bring before the Senate a statement from the Department to let us know whether it is abrogated or not, so much of the contract as related to the basin and railway, and why it abrogated it, I will not vote for anything to enter into a new contract; and if the Secretary of the Navy comes to us and says that he has not abrogated it, but that a further appropriation is necessary, let him give his reasons, and then I will say whether I will agree to it. The contract was made with power to abrogate that portion of it; and I want the information from the Department as to what has been done.

My honorable friend from California, I know, entertains the opinion that the Senate is disposed to give this appropriation to California. Sir, the appropriations for California are excessive and extraordinary. We were called upon a few hours ago to vote more than $70,000 to build a blacksmith shop in California, and more than $60,000 for a carpenter's shop! Seventy thousand dollars for a blacksmith's shop, and sixty thousand dollars for a carpenter's shop! I do not know how they reason in California, but I know how we reason in the quarter from which I come. Seventy thousand dollars is the value of a large estate there. It is estimated that it would cost $37,000 to build one at home, and they add more than two dollars for one to build it in California. I do not mean at all to say that the prices in California are not high, but I do mean to say that while prices are at that rate there we are not justified in expending the public money in this way. Sir, while there is such a state of things existing in that country, as puts everything at exorbitant prices, we are not justified in voting the public money to put up these buildings. I cannot vote for it. I have no unkind feeling to any State in this Union, but I have a feeling and consideration for the Treasury; and while such a state of things exists in California I am not justified in voting such amounts. Now, as to the particular amendment which we have before us, which proposes to contract anew for a basin and railway, I say that contract is made, and made for a specific sum, and the contractors are to be held to that. The Secretary has power to abrogate it. If he has abrogated it let him say so. If he has not abrogated it, and he wants more money, let that be said, and let use vote intelligently and knowingly.

Mr. GWIN. I ask the Senate to take a vote on this proposition, and I will not say another word about it. Gentlemen talk here by the hour; but I want the Navy appropriation bill acted upon. All that has been estimated for by the Department, except that connected with California, has been acted upon without debate; and I want this acted upon.

Mr. BRODHEAD. I will not occupy three minutes. Mr. President, (Mr. BADGER occupying the chair,) you replied to the few remarks which I made on this subject. You asserted that this ought to be granted because the Secretary of the Navy has recommended it. I admit that the present Secretary of the Navy has recommended it; but his predecessors' recommendations were against it. Secretary Mason was against it; Secretary Graham was against it. I have two against one, and consequently if there is anything to be gathered from the opinion of the Secretaries upon the subject, the authority is with me. Now, sir, look at this amendment:

"For the continuance, protection, and preservation of the dry-dock at the navy-yard at California."

Read the law of last session, and you will find that Congress authorized the dock to be leased. It was leased to the contractors at a profit, as the Senator from Rhode Island says, of some $50,000. Are we to expend some $800,000 more to make the basin and railway connected with it, when it is within the keeping and custody and for the benefit of the contractors? They are bound by the existing law to keep it in repair. They are bound by the contract to preserve the dock.

If a stranger had come into this Hall for the last few years about this time of the night, at the close of every session he would hear something about these docks. I know very well that when they were first started, some eight years ago, these gentlemen came forward, and one side said they would contract for $250,000 or $300,000, and the other side said that it would not answer, that theirs was not a good dock. Finally they went together, and they got about $800,000 for each, one at Kittery, and one at Philadelphia, and one at Pensacola; and now they have received some $610,000 for the dock in California. Is not that enough? You have a dock in California. They have got it leased. The mercantile marine can be accommodated there now. I do hope the amendment will not be agreed to.

Mr. HALE. I will occupy but a moment or two of the Senate, and I do it out of regard for the contractors. I listened to the remarks of the honorable Senator from Rhode Island, and I thought of some way by which he might be answered; and, in looking over the Congressional Globe, I find that he is answered by Mr. CLARKE. I will read from his speech, made on the 30th of August, 1852, on this proposition:

"As it regards the basin and railway in California, I have simply to say now that no doubt it would be of very great importance to the Bay of San Francisco, and it may

be right and proper that the Government should construct a basin and railway there."

And a little further on:

"But I say to the friends of this measure, that if at the next session of Congress, when the site of the navy yard shall have been selected, and when we shall become satisfied that the basin and railway are necessary, or whenever the Secretary of the Navy recommends Congress to make an appropriation for the basin and railway, I will withdraw my opposition to it."

That is all.

Mr. CLARKE. Now, what is that? [Laughter.] Why, sir, the honorable Senator from New Hampshire has dug up here from the last session some remarks of mine. If he should dig up all the remarks which he has made, he would have a mass of corruption which he would turn away from in disgust. He says that I then stated that if, at the next session, the site had been selected, and the title and jurisdiction secured, and it was necessary to have the basin and railway, I would withdraw my objection to it.

The very ground of my argument now is, in the first place, that we have got no certain place to put it. You have not got any security of title, or security of jurisdiction. And in the next place, there is no evidence that it is necessary, except the recommendation of the Secretary of the Navy; and what is that? I desire to say what I think about that. The Secretary of the Navy, whether he will be the one of the incoming Administration, or has been of a preceding one, is generally a man of some legal talent, but we know that he has no more common sense than you and I have, except, Mr. President, (Mr. BADGER in the chair,) when you were Secretary of the Navy; then I agree that there was a superiority that had not been and will not be found again. [Laughter.] The Secretary of the Navy is what? Why, sir, a lawyer. What does a lawyer know about a ship-of-war? He does not know the stem from the stern; and if I was the counsellor and friend of the incoming President, I would say to him, take a practical man, who knows something, rather than a man who has had a reputation at the bar, or upon the forum, or stump, who knows nothing about naval affairs. The Secretary of the Navy knows nothing more than any other individual about the Navy. He has got certain bureaus round about him; and let me tell you that the heads of those bureaus stand so much in fear of certain things, that they dare not speak what they would, and they dare not have their names used for what they wished should be used. The whole of this thing is in a state of surveillance. I do not mean to discredit the present Secretary of the Navy as an able gentleman. I do not mean to discredit any Secretary of the Navy. I go back even to the time when you were Secretary of the Navy. I go back to that, and I wish in my heart that you had been Secretary of the Navy up to this time. [Laughter.] I do not mean to discredit any of them; but that a lawyer taken from the arguing of cases before the Supreme Court, or even from the seat of a justice of a court of his own State, should come here and undertake to tell what should be done in the Navy of the United States is preposterous. Does he know anything about the construction of a ship? Does he know whether it should be in the proportion of three hundred feet long, to twenty-seven, twenty-eight, or thirty-two feet wide? Does he know anything about whether the ship should have side-paddles or a propeller in the stern? He knows nothing about it.

Now, under the circumstances, I do say that all this referring of things to the head of a Department that does not know any more about them than any individual in the Chamber, are works of supererogation, and amount to nothing. I have a gentleman in my eye now whose practical skill, whose talent, whose mechanical skill and engineering, would enable him to dictate to any Secretary of the Navy who has ever been in that position since I have been here. Your Navy is to-day absolutely inferior to any Navy of a large commercial Power in the world. Put civilians at the direction of affairs, and what do they do? Why, sir, they go on and build you a steamer now and then, which will sail seven or eight miles an hour, and it is chronicled as wonderful. Look at the Princeton; she came to Baltimore to get her boiler, and then she went to Norfolk and was laid up.

Mr. WELLER. What is the application?

Mr. CLARKE. It is that you do not put practical men, men that understand the thing, at the head of the service. You take a gentleman of professional reputation and put him into your high office, who does not understand the business for which he is to be employed. That is the fact. Take my honorable friend from Virginia, [Mr. HUNTER,] he that stands with his open countenance, and his open heart, and his heart much more open than his countenance, and put him with his financial talent into the Treasury Department, and you would have millions upon millions heaped up. It would be impossible to exhaust the Treasury under his administration; but he will not go there. He stays with us, and endeavors to protect you, and he now takes my side on this question, that no such exorbitant allowance should be made as is proposed in the amendment.

I have no more to say, only that so far as regards my remarks, which the honorable Senator from New Hampshire, who is a Free-Soiler, has dug up out of the earth in which they were buried, no other man would have exhumed them; no other man but he, who wants to turn over the soil as he wants to turn over the institutions of the country, [laughter,] would have thought of bringing such a thing to light, after it had been buried and forgotten. But the Senator has done it. I commend him for it. I commend him for that exploration that goes into the bowels of the earth, as well as that active energy which courses upon the surface. I feel grateful to him, that he has thought proper to bring out what little I might have said on a former occasion. I say it again. I say that whenever the site has been selected in California, whenever we have a place to put the basin and railway, and whenever it is necessary to have it, I am willing to go for it. But, sir, let me say that if I belonged to California to-day, I do believe in my heart I would repudiate every such appropriation. Give me a stone dock in California, which worms cannot consume—cannot touch. Give me a stone dock, which will stand the test of time and tide and all the vicissitudes and encroachments that belong to it. Give me that stone dock, and, sir, you have given me something that will last and be valuable; but give me this little basin and railway, which will sink under me to-day or to-morrow, and the next day I will have to ask for something more. Upon my word, if I belonged to California I would repudiate such a proposition, and wait until the moment should come when the United States would be ready to give the modicum of an appropriation to build such things as should be lasting and would endure forever.

DEFICIENCY BILL.

Mr. HUNTER, from the Committee of Conference on the disagreeing votes of the two Houses on the bill to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1854, reported—

That they have met, and after full and free conference, have agreed to recommend, and do recommend, to the respective Houses, as follows:

That the House of Representatives do recede from its disagreement to the fourth and eighth amendments of the Senate; that the Senate recede from its ninth amendment; that the Senate concur in the amendments of the House of Representatives to the first, third, fifth, eleventh, and fourteenth amendments of the Senate; that the House recede from its disagreement to the provision contained in the twenty fourth line of the tenth amendment of the Senate; and that the Senate concur in the other additional amendments of the House to the said tenth amendment of the Senate; that the Senate recede from its first, second, fifth, eighth, and twentieth clauses of its thirteenth amendment; and that the House recede from its disagreement to the twenty-second clause of the thirteenth amendment of the Senate; that the Senate concur in the amendment of the House to the sixth and twenty-third clauses of its thirteenth amendment; that the Senate agree to the House amendment to the twelfth clause of its thirteenth amendment; that the Senate agree to the House amendment to the sixteenth clause of its thirteenth amendment; that the Senate recede from so much of its fifteenth amendment as is contained in the 8th section; that the House recede from its disagreement to so much of the fifteenth amendment of the Senate as is contained in the 6th section; and that the Senate concur in the House amendment to so much of the fifteenth amendment as is contained in the 4th section; that the Senate concur in the House amendment to so much of the fifteenth amendment of the Senate as is contained in the 7th section, and strike out the proviso in lines eight, nine, and ten of said House amendment, and add at the end the words, "and said act entitled 'An act amendatory of the existing laws relative to the dollar, half dollar, quarter dollar, dime, and half dime,' shall take effect, and be in full force from and after the first day of April, 1853, anything contained therein to the contrary notwithstanding."

Mr. WELLER. One of the Senate amendments from which it is proposed to recede, is the provision in regard to the payment of $300,000 to California. I shall be compelled to ask a separate vote on that portion of the report. I desire to know, in the first place, who are the Committee of Conference on the part of the Senate on this bill?

The PRESIDING OFFICER. The Senator from Virginia, [Mr. HUNTER,] the Senator from Maryland, [Mr. PEARCE,] and the Senator from Wisconsin, [Mr. WALKER.] The committee on the part of the House were, Mr. DUNHAM, Mr. NABERS, and Mr. APPLETON. The Chair will state to the Senator that a report of the Committee of Conference is an entire thing. It admits neither of amendment nor division. It must be voted upon as an entire thing.

Mr. WELLER. I understand the rule of parliamentary law to be, that whenever a proposition is made that is susceptible of a division, a Senator has a right to demand a division of it. We are called upon by this report to recede from certain amendments, and the House recede from certain amendments which they have made. Here are separate and distinct propositions now submitted to the Senate. A Committee of Conference report that in certain cases we recede, and in others, that the House recede; and I hold that it is perfectly competent for any member to demand that a distinct vote shall be taken on any portion. I may have no objection to any portion of the report, except the receding from this particular point to which I have alluded. As the Committee of Conference was selected from those opposed to the provision originally, it was very natural when they had an opportunity, that they would consent with the members of the House to recede from that amendment; but I desire to have the judgment of the Senate whether the action of that Committee of Conference meets with their approbation.

Mr. MANGUM. I would suggest to the Senator from California, that this is comparatively a very small matter. I want an opportunity to vote about $800,000 for the benefit of California, which I shall do in the amendment which is pending before the Senate in the appropriation bill; but I cannot sit here much longer. I think, therefore, he had better let this thing pass. We must not lose the bill, and there will be no chance of rectifying it.

The PRESIDING OFFICER. The Chair will state that the question with regard to that particular part of the report cannot come up as a separate measure. The result of a Committee of Conference between the two Houses consists of actual concessions—one made in consideration of another. It is, therefore, as the Chair understands it, a clear rule of parliamentary law, that that report is an entire thing, and must be either agreed to or disagreed to altogether.

Mr. MANGUM. If it is disagreed to, the bill will probably be lost.

Mr. WELLER. Well, take the vote.

The report of the committee was concurred in.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending the 30th of June, 1854.

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

Mr. WELLER. All I have to say is, that I desire the Senate to vote now. Under some circumstances, it would have given me great pleasure to make some reply to my distinguished friend from Rhode Island, who represents here the most God-forsaken country on the face of the earth. But when I remember that to-morrow will, in all human probability, be the last time I shall ever hear his musical voice in this Hall, it strikes me with such a melancholy tone that I cannot prolong this discussion. I am sorry that we are so soon to separate. There are many worse men than my friend from Rhode Island, [laughter;] and although from some cause or other he opposes every appropriation that is asked for for the section of country whence I come, yet, sir, the day after to-morrow when I shake hands with him for the last time perhaps upon the face of the earth, I cannot help thinking that I have associated oftentimes with many worse men than he.

But I did intend to have made some particular allusion to the course of argument which the Sen-

ator from Rhode Island has adopted here upon this occasion. Last night I remember I listened to his musical voice until about eleven o'clock, and when the working hour had arrived—the hour for voting—that Senator had gone to his lodging, and I doubt not was soundly asleep at two o'clock, when we were compelled to sit up here, in consequence of his speaking, to transact the public business. Now I hope he will not do that to-night. After having consumed so large a portion of our time, I hope, when the hour for working comes, he will remain, and he will give us the light of his countenance during the last hours which he will spend with us, remembering that to-morrow night he leaves us, never perhaps to meet us again. I shall be sorry to separate from him. Although differing on many public questions from him since I have been here, I am compelled to say that that Senator has given me, not only a great deal of instruction, but he has been the source of an infinite degree of amusement. If he has not been witty himself, he has, like Jack Falstaff, been the cause of wit in others oftentimes. [Laughter.] All I desire now is, that the Senate should come to a vote on this question. There are a great many other things which I might say, but I am afraid of provoking my friend from Rhode Island to inflict another speech on the Senate on the subject. With the hope that he will now agree to say nothing, and will just keep his seat and suffer us to come to a vote, I will stop; otherwise I have something to say in regard to that declaration of his, that all the calves have been killed off in Rhode Island. [Laughter.] But I shall not go into that.

Mr. CLARKE. I have not the slightest inclination to reply in any way to the Senator from California. He began by speaking of the State which I represent in part, as being a poor and God-forsaken country. Now, Mr. President, we are told in Holy Writ—which is new probably to the Senator from California [laughter]—that "the poor have ye always with you," and, sir, although he congratulates himself upon my exodus from this Chamber, still he will find, perhaps, that one as poor as myself, but not so humble perhaps in intellect, may succeed me, and be his associate here.

Mr. President, I appreciate fully the kind feeling that has been expressed by the Senator from California. I appreciate fully the kindly expressions used towards me. They are fully reciprocated. I know that the Senator from California has but one feeling, and that is a feeling of love for his State and for his country. I mean neither to impeach the one nor to derogate from the other. We all know the high sense of patriotism, intelligence, and Christian virtues that have adorned his character through life. [Laughter.]

Mr. President, I have been doomed to remain in that spot of earth, small as it is, called the State of Rhode Island. I have loved her from my infancy; I love her now, and if I were not too old a man to vaunt forth any feeling that I have within my breast, I would say that I would sacrifice my life even, for the honor and the reputation of the State which I represent. Sir, Rhode Island is my birth-place. I have stood by her; I have lived in her. The bones of my ancestors are there, and my own bones shall rest there, if my choice can prevail. I never deserted the State of my birth; I never went abroad to seek for the honors that my own country and my own constituency would not give me. I stand here as the representative of a State, small as it is, which contains within itself the bones of him who first led your navies to victory in the wars of your Revolution; and of the little round-hatted Quaker, who signed your Declaration of Independence. They were relatives of mine. The one was my grandfather, the other was my maternal uncle. The same blood that flowed in their veins flows in mine; and I pride myself, here upon the floor of the Senate, that I derive from them the best principles that can bind a man to fidelity, to the institutions, to the Constitution, and to the liberties of the country. Sir, I came here for no selfish purpose. I came here to represent that little State, so far as my feeble abilities could do it. I never have worshipped the golden god. I never have sought the idol of political corruption. What I have said here has been in the course of that sense of duty which I owed to the country. I have done nothing more. I have intended to offend no man, and when you speak of men, when you speak of them as they are, you speak of them as they stand; you speak of them as they are, responsible for what they say, and responsible to those to whom they may speak. Now, a joke of mine, which was all in good humor, which did not offend my honorable friend from Indiana——

Mr. PETTIT. Not in the least.

Mr. CLARKE. I have his assent for it that it did not in the least offend him. I say that that joke of mine has brought down upon me the indignation and wit of the Senator from California. Sir, he himself has taken up the glove which was in perfect harmony reciprocated between the Senator from Indiana and myself. Why did he do it? He has been upon the battle-field; I have not. Was it necessary for him to exhibit his valor in provoking a contest with me, a man who has grown gray, having no sort of a disposition to a personal contest? No, sir; it certainly could not have been so. An exhibition of wit is very well in its place, but it is the most awkward thing in the world when it is lugged in uncalled for and unformed. The Senator has chosen to exercise it. I have no reply to make. He has my unqualified respect for much of talent, much of liberality in the course which he has pursued. Between him and me there can be no difference whatever unless he seeks it. If he does he has the battle-field to himself. The honor is all his own. I have done.

Mr. BRODHEAD called for the yeas and nays on the amendment, and they were ordered.

Mr. WALKER. There is a certain phrase in the amendment which I think the Senator from California had better change. If he does not, the Senate had better do it. The expression is that it is not to exceed the estimate of the cost "to be made" by the proper authorities. What that estimate may be it is not possible for the Senate to judge. It may be anything. It may be nothing. I think we had better change the expression, and say that the cost shall not exceed the estimate which has been made, if any has been made; and if one has not been made, let us know it. I am disposed to vote for the amendment.

Mr. BRODHEAD. One estimate which has been made was about $800,000.

Mr. WALKER. Let us know something certain.

The yeas and nays being taken on the amendment, resulted—yeas 23, nays 25; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fish, Foot, Gwin, Hale, Houston, James, Jones of Iowa, Mallory, Mangum, Morton, Norris, Rusk, Sebastian, Soulé, Walker, and Weller—23.

NAYS—Messrs. Borland, Bradbury, Bright, Brodhead, Brooke, Chase, Clarke, Dawson, De Saussure, Fitzpatrick, Geyer, Hamlin, Hunter, Mason, Miller, Pearce, Pettit, Phelps, Pratt, Shields, Smith, Spruance, Sumner, Underwood, and Wade—25.

So the amendment was rejected.

Mr. MALLORY. The Committee on Naval Affairs has unanimously instructed me to offer as an amendment to the bill, the bill which passed the Senate for the reorganization of the Navy.

Mr. GWIN. That is the bill which passed the Senate. I hope there will be no objection to it.

Mr. HUNTER. It is impossible that that can be acted on without debate.

Mr. MALLORY. I desire to have a vote. I will briefly explain my object in presenting the amendment. I do not desire to make a speech upon it, though the occasion might be tempting. I desire to make an appeal to the Senate. We have the best material upon the face of the earth to constitute a navy, but in its organization we probably have it the least effective, and the least kept up with the progress of the age. For the last year the attention of the Naval Committee has been called to the subject. The result has been, by the efficient aid of the gallant gentleman who occupied a seat with us a few days since, [Mr. STOCKTON,] whose name is identified inseparably with the bill which passed the Senate, we drafted a bill which meets general approval. I have yet to hear the complaint of any grade in the service, of any officer of any rank in the service that the bill is defective. It meets their approval entirely. I will add that to meet the objection of two staff corps of the Navy, the rule adopted by the Navy Department as to pursers and surgeons, has, since the bill was reported, been included in it. Now, sir, there is a majority in this body decidedly in favor of this bill. It involves no expenditure of money. It does not increase the officers of the Navy, but its effect will be to decrease them. Under the present organization where age and imbecility are the chief criteria for conferring the command upon officers, your Navy is debilitated, and as long as that rule continues, it will become lower and lower in the public estimate, and that will not only be the case, but you will not build ships for them to command. Then I say the majority of the Senate having voted upon the bill, and a majority of the House being ready to pass it, if we adopt it as an amendment to this bill, the Naval Committee would be recreant to its duty and to the country if it did not insist upon its passage. As I say, no appropriation is necessary to be made. I appeal to the Senate in behalf of the gallant gentleman who reported the bill, and the benefit of whose labors the country has got in it, that his labors may not be thrown away.

Mr. WELLER. If my memory serves me, this bill passed some four weeks ago, and passed too without debate. It was then urged that the Naval Committee had given such an examination of the subject as precluded the necessity of a discussion here. Why has it not passed the House of Representatives? If there be a majority there in favor of it, under the rules of the House they could have passed it if they had seen proper. Now, it is brought in here upon nearly the last night of the session, and it is attempted to be fastened by way of an amendment to an appropriation bill. It is a bill which, in my judgment, should have been carefully examined by every Senator here before his support was given to it. I cannot consent, for one, to vote for it now. It effects a radical change in the Navy. Whenever you strike at the root of the organization of a system, as it does, it should be carefully examined. I shall be compelled, therefore, to vote against it.

Mr. HALE. I move to amend the amendment by adding to it a bill which has been introduced into the Senate providing for the appointment of a court of investigation on private claims. The Senate understand what it is. There will be no necessity for reading it.

Mr. PETTIT. I shall insist upon the reading of the whole amendment. The Senator from Florida says—and I certainly do not intend to dispute his word—that his amendment makes no increase in the naval officers, or in the expenditures of the Navy; still I greatly prefer to have the amendment read.

The PRESIDING OFFICER. Which amendment?

Mr. PETTIT. The amendment of the Senator from Florida.

Mr. BRADBURY. I have not addressed the Senate for several days, but I now desire to trespass upon its attention not exceeding five minutes. I desire to say that I wish the Senate would seize this opportunity to pass the measure proposed by the Senator from New Hampshire. I believe it would relieve Congress from the pressure of difficulties under which it now exists. Why is it that all our business at the close of the session is crowded upon the appropriation bills? Because the House does not act upon business which is sent there; and the reason is that they have such a mass of undigested business that they cannot get to it. That state of things will continue and increase until all the worst claims will be pressed upon the appropriation bills, unless we have a court for their investigation. Now, I will say in regard to the bill which the Senator from New Hampshire has proposed as an amendment, that it was considered by the Committee on the Judiciary two years ago and passed the Senate by a vote of 38 to 8. The present bill has been prepared partially from that. A very objectionable feature that was found in that is stricken out. It provides for the establishment of a court to investigate claims and to have the testimony taken by the same rule by which it would be taken in a court of law, so that the evidence will be clearly ascertained.

The bill provides that the cases shall be argued in open court, and not in any of your secret commissions that give an opportunity for outrage or fraud, which has been known sometimes to exist. When the court has investigated and is prepared to report, it must report at the commencement of the session, and statedly during the session. It is required to report the facts established by the

evidence itself, and the reasons for its opinion, which are to be transmitted and published, and laid before Congress; and when small claims under a thousand dollars are reported upon favorably, they may be embraced in the same bill. Thus the business will be matured and presented to Congress for its action. It is believed by those cognizant with the subject, that under such investigation two thirds of the claims now presented here would disappear and never be heard of. There are some small ones so perfectly clear that they would pass at once if we had the testimony upon which they rest. Again: it would leave Congress with evidence; not ascertained—as we now act upon testimony—drawn up by some attorney, and sworn to by some nameless person that can never be found. Sir, I believe if we pass this measure, Congress and the country will say that it is the most beneficial measure of reform that will pass at this session. I believe it can be adopted on this bill. Let us then adopt it, and adopt the other amendment, and I am assured that the House is prepared for it, and that it will pass it at once. I will trouble the Senate no further.

Mr. PETTIT. I will now call for the reading of the amendment of the Senator from New Hampshire, as well as the other.

The Secretary commenced reading the amendment of Mr. MALLORY——

Mr. GWIN. I would suggest to the Senator from Florida to withdraw his amendment. I know we cannot get it through on this bill. If we go loading the bill down with amendments we will endanger it. I am in favor of the amendment itself, but there are various other amendments here, and I think this had better be withdrawn.

Mr. MALLORY. This is the most extraordinary proceeding that I have ever witnessed; extraordinary in itself; extraordinary in the source from which it comes—the very source which, in my opinion, should insist on the amendment, instead of saying that it will load down the bill.

The PRESIDING OFFICER. The Chair will inform the Senator from Florida, that he has merely taken the floor to answer an inquiry whether he will withdraw the amendment. If he does not withdraw it, the reading of the amendment must be proceeded with.

Mr. MALLORY. I am giving the reasons why I will not withdraw it.

Mr. SMITH. Is it in order for the Senator to assign his reasons why he will not withdraw it?

Mr. MALLORY. That is for the Chair to decide.

Mr. SMITH. I desire to say to the honorable Senator, that I wish to vote for the amendment, but I do not wish to hear a speech.

Mr. MALLORY. In assigning reasons why former amendments should not be put on the appropriation bills, it has been said that they were not germane. Such a charge cannot be made against this amendment.

Mr. GWIN. As chairman of the Committee on Naval Affairs, I cannot permit such an imputation to be made upon me. I made no such statement as that this amendment was loading down the bill. I told the Senator from Florida, that the bill was being loaded down with amendments; and it is not at all extraordinary, if I want to save the Navy appropriation bill, for me to make such an appeal.

The Secretary proceeded with the reading of the amendment——

Mr. RUSK. If I can obtain the attention of my friend from Indiana, I desire to make an appeal to him. It is now half-past eight o'clock. The amendment is a very long one. It has been printed and is lying upon our tables. I sat up here last night until very late, and I apprehend we shall be obliged to sit here to-morrow all night. I therefore hope we will get away by twelve to-night. I do trust, therefore, he will withdraw his application for the reading of the amendment.

Mr. PETTIT. I will say to the Senator from Texas that I would gladly dispense with the reading or the presentation of the amendment. But it has been presented, as I think, entirely out of place—with all due deference to the Senator from Florida. I was not present when the bill passed. I have no doubt, notwithstanding the speech of the Senator from Florida, that it will largely increase the Navy—the officers of the Navy, the expenditures of the Navy. I freely admit that one object I had in having the amendment read was to weary out the Senate and induce them to abandon the further consideration of the subject. The Senator from Florida, it seems to me, must know, that although this might be forced upon us, the House will not pass it under any contingency. Why should we be delayed with it? Why should such a subject as this be brought before us almost on the last night of the session?

Now, Mr. President, let me say to the movers of the amendments, that if these matters are to be pressed, I shall undoubtedly detain the Senate a long time—a thing which I have not done yet—in a discussion mainly upon the amendment proposed by the Senator from New Hampshire. So far from my holding to the idea that there ought to be a commission raised at the seat of Government for the investigation of claims against the Government, I am firmly convinced in the opinion that they ought to be submitted to a regular suit before the district court in every State where the claim shall originate; that there is no reason why you shall authorize your courts to take cognizance of suits between a half a dozen or one on one side and half a dozen on the other, and shall not authorize them to take cognizance of claims where there are a million or twenty-five millions on one side and but one claimant on the other. I shall move an amendment to the amendment to strike out the whole of the provision, and insert one which will be the organization of a system by which the United States may be served with a process in every case justifying a litigation, after the proper officer here shall refuse to pay it, by which the United States may be sued, and a trial had before their own judge and jury, and witnesses introduced according to the known and acknowledged rules of law, and a judgment rendered; and, if necessary, an execution on your public buildings issued for their sale. I protest against proceeding with the consideration of the amendment without reading.

The Secretary concluded the reading of the amendment, and commenced reading the amendment to the amendment——

Mr. GWIN. I rise to the question as to whether that amendment is in order.

The PRESIDING OFFICER. The Chair sees nothing to make it out of order. It contains no appropriation.

Mr. GWIN. It provides for the appointment of a Board of Accounts.

The PRESIDING OFFICER. It has been decided heretofore that a want of relevancy to the bill under consideration does not make an amendment out of order. That is the decision of the Chair.

Mr. GWIN. I appeal from that decision, and ask the Senate if they are going to have a Board of Accounts upon an appropriation bill? If such a species of legislation is allowed, we will never get through with the bills. I appeal from the decision of the Chair, and call on the Senate to sustain me in the position, that the amendments to this bill shall relate only to the Navy and not go outside of it and legistate for "all the world and the rest of mankind," bringing in things which have no relation to it at all.

Mr. HALE. I suppose the question now before the Senate is, whether the decision of the Chair shall stand as the judgment of the Senate? I suppose that there is no principle better settled in parliamentary law, than that the presiding officer of a deliberative body cannot reject an amendment because it is incongruous with the main matter of the bill. It is laid down by all elementary writers most distinctly, that if the matter be not pertinent to the bill, or be not germane to it, it is a sufficient reason for the body to vote it down, but affords no reason at all why the presiding officer should rule it out of order upon a question of order. The Senator from Tennessee has had occasion to bring this subject before the Senate on several occasions. It was discussed very freely on a former occasion when the Senator from Wisconsin offered a bill providing for a territorial government for our Territories, including the very Territory which the Senator from California now represents, as an amendment to a general appropriation bill. It was sustained by the gentleman then occupying the chair. The question has been raised over and over again, and the decision has always been the same. If it should be reversed, the right of debate would be worth nothing in the Senate. And again, sir, I recollect another time when this point was made. There was a bill passed providing a pension for James Norris—a Navy pension bill—and upon that was grafted, on the motion of the Senator from Wisconsin, a bill providing compensation for the civil officers of one of the Territories. When we come to it, that the doctrine of the Senator from California can be sustained, there is an end of debate, because instead of its being in the body to be exercised at their discretion, the discretion is placed in the President of the Senate, who is under the Constitution not a member of the body.

Mr. GWIN. Is this speech upon the point of order?

Mr. HALE. Yes, sir.

Mr. GWIN. I withdraw the point rather than hear the Senator's speech.

ARMY APPROPRIATION BILL.

Mr. BRIGHT, from the Committee of Conference, on the part of the Senate, on the disagreeing votes of the two Houses on the bill making appropriations for the support of the Army for the year ending the 30th of June, 1854, reported that the conferees of the Senate, having met the conferees of the House of Representatives, had agreed to recommend, and do recommend to the Houses, as follows:

That the House of Representatives recede from its disagreement to the 14th, 15th, 31st, and 32d amendments of the Senate. That the Senate recede from its 16th, 18th, 19th, 23d, 24th, 25th, 27th, 29th, 30th, 33d, 34th, 40th, 42d, and 45th amendments. That the House recede from its amendment to the 27th amendment of the Senate. That the Senate concur in the amendment of the House to its first amendment. That the Senate concur in the amendment of the House to its 22d amendment.

Mr. WELLER. The only State particularly interested in some of those amendments is the State I represent; and some how or other the Committee of Conference was composed of members who had voted against all those appropriations; therefore I am not surprised that they should recede from the amendments placed upon the bill by the Senate.

Mr. SHIELDS. I will state to my honorable friend from California that I was on the Committee of Conference, and it is known that I was decidedly in favor of those amendments, but the committee on the part of the House assured us the bill would be lost if we did not recede.

Mr. WELLER. There is nothing more common than for the House of Representatives to attempt to control the action of the Senate in that way. If I was on a Committee of Conference, and believed a measure to be right, I should adhere to it, and throw the responsibility on the House, and let it pursue whatever course the limited knowledge it has of public affairs would warrant it in pursuing.

Mr. SHIELDS. The Senator can do that when he gets on a Committee of Conference.

Mr. WELLER. Somehow or other, when my State is interested I am never on a Committee of Conference.

The report was concurred in.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending the 30th of June, 1854.

Mr. PETTIT. Having discovered that there is some remaining virtue, and, as I think, integrity, in the House of Representatives, in disagreeing to all our wild amendments, I will not insist upon the further reading of the amendment to the amendment. I consent to have the vote taken now. I am satisfied that the House of Representatives will do justice to it.

Mr. BRIGHT. I move that the Senate adjourn.

Mr. BAYARD called for the yeas and nays on the motion, and they were ordered; and being taken, resulted—yeas 26, nays 26; as follows:

YEAS—Messrs. Bright, Brodhead, Butler, Chase, Clarke, Cooper, Davis, Dawson, Downs, Felch, Foot, Hale, James, Jones of Tennessee, Mangum, Mason, Miller, Pearce, Pettit, Pratt, Rusk, Soulé, Spruance, Sumner, Underwood, and Wade—26.

NAYS—Messrs. Atchison, Badger, Bayard, Bell, Borland, Bradbury, Brooke, De Saussure, Dodge of Iowa, Douglas, Fish, Fitzpatrick, Geyer, Gwin, Hamlin, Houston, Hunter, Jones of Iowa, Mallory, Morton, Norris, Sebastian, Shields, Toucey, Walker, and Weller—26.

So the motion was not agreed to.

Mr. BROOKE. I move a reconsideration of the vote by which the amendment providing for the completion of the basin and railway for the California dock was rejected.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) That motion is not now in order, there being already a question pending before the Senate, which is on the amendment moved by the Senator from New Hampshire [Mr. HALE] to the amendment offered by the Senator from Florida [Mr. MALLORY] to the naval appropriation bill.

Mr. WELLER. If that be so, I should like to know what is the meaning of the rule which makes a motion to reconsider a privileged motion. The Senator from Mississippi has made a motion to reconsider a vote which, according to the rule, is a privileged motion. I understand by a privileged motion one which takes precedence of pending motions. I desire, therefore, that the Chair would say what is the meaning of a privileged motion. The proposition is to reconsider a vote which has just been taken upon the bill which is pending.

The PRESIDING OFFICER. A motion to adjourn would always be in order, but it cannot be interposed when another question is pending.

Mr. WELLER. Undoubtedly you can move to adjourn when another question is pending. It is a privileged motion and can be made at any time, no matter what is pending. So in this case. Here the Senator from Mississippi makes a privileged motion—a motion to reconsider, which I apprehend takes precedence of the pending motion, no matter what it is, and nothing can take precedence of that except a motion to adjourn, which, being always in order, of course takes precedence.

The PRESIDING OFFICER. If such be the sense of the Senate, the Chair will receive the motion.

Mr. HALE. As there seems to be some difficulty on this question of order, I move that the Senate do now adjourn.

Mr. WELLER called for the yeas and nays; and they were ordered; and being taken, resulted—yeas 31, nays 21; as follows:

YEAS—Messrs. Atchison, Bright, Brodhead, Butler, Chase, Clarke, Cooper, Davis, Dawson, De Saussure, Downs, Felch, Foot, Hale, James, Jones of Iowa, Mangum, Mason, Miller, Norris, Pearce, Pettit, Phelps, Pratt, Rusk, Smith, Soulé, Spruance, Sumner, Underwood, and Wade—31.

NAYS—Messrs. Bayard, Bell, Borland, Bradbury, Brooke, Dodge of Iowa, Douglas, Fish, Fitzpatrick, Geyer, Gwin, Hamlin, Houston, Hunter, Jones of Tennessee, Mallory, Morton, Sebastian, Toucey, Walker, and Weller—21.

So the motion was agreed to, and at twenty minutes past nine o'clock, p. m., the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *March* 2, 1853.

The House met at eleven o'clock. Prayer by the Rev. C. M. BUTLER.

The Journal of yesterday was read and approved.

On the motion of Mr. DUNHAM, by unanimous consent,

Ordered, That the House insist upon their amendments (disagreed to by the Senate) to the amendments of the Senate, and upon their disagreement to the amendments of the Senate, to the bill of the House (No. 335) "to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1853," and agree to the conference asked for by the Senate upon the said disagreeing votes.

Ordered, That Mr. DUNHAM, Mr. WILLIAM APPLETON, and Mr. NABERS be appointed said committee upon the part of the House.

PRE-EMPTION RIGHTS.

On the motion of Mr. BROWN, of Mississippi, by unanimous consent,

Ordered, That the House insist upon their amendment (disagreed to by the Senate) to the bill of the Senate No. 56, to extend preëmption rights to unsurveyed lands, and for other purposes, and ask a conference with the Senate upon the said disagreeing vote.

Ordered, That Mr. ALBERT G. BROWN, Mr. JOHN MOORE, and Mr. DAWSON be the said committee on the part of the House.

POWERS OF STEAMBOAT INSPECTORS.

Mr. DUNCAN. I wish to make an appeal to the House, to which I have no doubt they will respond, that they will give their unanimous consent to take up the resolution from the Senate in reference to the powers of steamboat inspectors, which is essentially necessary in order to carry out a law passed at the last session, and essentially necessary for the security of a vast number of owners of steamboats throughout the country. It is resolution No. 79.

Mr. STEVENS, of Pennsylvania. I object to it. It is a very important bill, and repeals the law of the last session.

Mr. WALSH. It does not repeal the law.

Mr. LETCHER. I call for the regular order of business.

Mr. DUNCAN. I move a suspension of the rules for that purpose.

The SPEAKER. The main question has been ordered upon the amendments to the Army bill, and the motion is not therefore in order.

Mr. DUNCAN. I trust the House will not, when there is so thin an attendance, take a vote upon the amendments to the Army bill, but that the resolution I have named, to which there can be no possible objection, be taken up and acted upon.

The SPEAKER. The House is acting under the operation of the previous question, and it is impossible to suspend the rules.

JOHN CHARLES FREMONT.

On the motion of Mr. GORMAN, by unanimous consent,

Ordered, That the House insist upon their amendment disagreed to by the Senate to the bill of the Senate (No. 573) entitled "An act for the relief of John Charles Frémont, late Lieutenant Colonel in the Army of the United States," and ask a conference with the Senate upon the said disagreeing vote.

Ordered, That Mr. GORMAN, Mr. HAVEN, and Mr. ORR, be the said committee on the part of the House.

OATH OF OFFICE TO THE VICE PRESIDENT.

Mr. BRAGG. I ask the unanimous consent of the House to take up Senate bill No. 639, providing for administering the oath of office to William R. King, as Vice President elect of the United States of America.

The bill was then read a first and second time by its title.

Mr. JONES, of Tennessee. If I understand the resolution, it provides that the consul shall administer the oath at Havana. I am informed that he is one hundred and ten miles from that place, and I suggest to the gentleman that he so amend the bill that it read "at Havana or any other place."

Mr. BRAGG. I move so to amend the bill.

The question was then taken upon the amendment, and it was agreed to.

The bill was then, according to order, read a third time and passed.

Mr. CLEVELAND. I ask the unanimous consent of the House to take up a bill for the relief of an old man, ninety years of age. It will take but a moment.

Mr. McMULLIN. I call for the regular order of business.

PER DIEM OF SICK MEMBERS.

Mr. MASON. I have a privileged question. I hope no one will object to it. It is asked at the end of every session.

The resolution was then read, as follows:

Resolved, That the Clerk of this House be directed to pay out of the contingent fund, under the order of the Committee on Accounts, the per diem of any members who by sickness or unavoidable detention were prevented from attendance on this House on the first day of the session.

Mr. STANTON, of Kentucky. I offer the following amendment to the resolution:

Resolved, That the Clerk of the House be, and he is hereby, authorized to pay the clerk of the Printing Committee, out of the contingent fund, the sum of two dollars per day for each day while employed in examining, settling, and recording the accounts of the public printers for work executed by them for this House under the contract system during the Thirty-first and Thirty-second Congresses.

Mr. McMULLIN. I desire to know if this clerk has been employed as clerk to another committee.

Mr. STANTON. He has been the clerk of the Joint Committee on Printing, and his duties have been very ardous. He has earned what is asked by this amendment.

Mr. TOOMBS. I rise to a question of order.

The SPEAKER. The original resolution is to pay the per diem of members. This amendment is to pay the compensation of a clerk, and it is not germane to the resolution, in the opinion of the Chair.

Mr. PHELPS. I demand the previous question upon the resolution.

The previous question was seconded, and the main question ordered to be put.

The question was then taken upon Mr. MASON's resolution, and it was agreed to.

ARMY APPROPRIATION BILL.

The SPEAKER. The question first in order is the following amendment to the Army bill, upon which the yeas and nays have been ordered:

"For the defense of San Francisco, California, $500,000."

The question was then taken, and there were—yeas 73, nays 65; as follows:

YEAS—Messrs. William Appleton, Bennett, Bowne, Briggs, Brooks, George H. Brown, E. Carrington Cabell, Chandler, Clark, Cleveland, Curtis, Daniel, Darby, George T. Davis, Dean, Disney, Doty, Duncan, Eastman, Evans, Ewing, Fitch, Florence, Freeman, Thomas J. D. Fuller, Goodenow, Goodrich, Gorman, Grey, Harper, Hart, Henn, Howard, Thomas M. Howe, Robert W. Johnson, George G. King, Kuhns, Landry, Mace, Marshall, Martin, Mason, McDonald, McNair, Henry D. Moore, Olds, Samuel W. Parker, Penn, Polk, Porter, Reed, Richardson, Riddle, Robbins, Robinson, Sabine, Schermerhorn, Origen S. Seymour, Smart, Smith, Stanly, Frederick P. Stanton, Richard H. Stanton, St. Martin, Taylor, Thurston, Walsh, Ward, Washburn, Watkins, Addison White, and Williams—73.

NAYS—Messrs. Abercrombie, Aiken, Charles Allen, Averett, Bibighaus, Bocock, Bragg, Brenton, Albert G. Brown, Burrows, Busby, Caldwell, Lewis D. Campbell, Cartter, Chastain, Clingman, Cobb, John G. Davis, Dawson, Dimmick, Dockery, Dunham, Edmundson, Floyd, Gaylord, Giddings, Hamilton, Hendricks, Hibbard, Holladay, Houston, Ives, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Letcher, Little, McMullin, McQueen, Meade, Millson, Morehead, Murphy, Murray, Orr, Penniman, Perkins, Phelps, Robie, Sackett, Scurry, Skelton, Benjamin Stanton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Toombs, Venable, Wilcox, Wildrick, and Woodward—65.

So the amendment was agreed to.

The first clause of the amendment, making appropriations for fortifications, was read, as follows:

"For continuing the defenses at the following forts, viz:

"*Florida.*—Fort Jefferson, at Gardon Keys, or Tortugas Islands, $100,000."

Mr. STANLY. The gentleman from Maryland, [Mr. EVANS,] not now in his seat, demanded the yeas and nays upon all those amendments.

A MEMBER. Not the yeas and nays, but a separate vote.

Mr. STANLY. Well, then, I demand the yeas and nays upon the whole of them, to save time.

Mr. HOUSTON. It is not in order for the gentleman to ask the yeas and nays upon the whole of them; and as the gentleman from Maryland is not in his seat, I hope we will not consume the time in this way, unless there are other members who demand the yeas and nays.

The SPEAKER. It is not in order to demand the yeas and nays upon four or five several amendments. It is the right of any gentleman to demand them upon any one proposition as it comes up. The question now before the House is upon the following amendment:

"Fort Jefferson, at Gardon Keys, or Tortugas Islands, $100,000."

Mr. STANLY demanded tellers; but only eleven gentlemen rising, they were not ordered.

The question was then taken, and the amendment of the Senate was agreed to.

The question was taken, severally, on the following clauses of the Senate amendment, and they were agreed to, viz:

"Fort Taylor, Key West, $75,000."

"*Georgia.*—Fort Pulaski, including barracks and quarters, $20,000."

"*South Carolina.*—Fort Sumter, Charleston harbor, $100,000."

The next amendment of the Senate was read, as follows:

"*Maryland.*—Fort Carroll, Sollers's Point, Baltimore harbor, $50,000."

Mr. CARTTER demanded the yeas and nays upon that amendment; which were ordered.

The question was taken, and there were—yeas 85, nays 78; as follows:

YEAS—Messrs. Abercrombie, Allison, John Appleton, William Appleton, Ashe, David J. Bailey, Bibighaus, Bowne, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Chandler, Cottman, Curtis, Darby, George T. Davis, Disney, Dockery, Duncan, Eastman, Evans, Faulkner, Fay, Florence, Freeman, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Goodenow, Goodrich, Green, Harper, Hart, Haws, Holladay, Howard, Thomas M. Howe, Ingersoll, Jackson, John Johnson, Robert W. Johnson, George G. King, Kuhns, Landry, Little, Lockhart, Mace, Marshall, Martin, McDonald, McNair, Miller, Henry D. Moore, John Moore, Nabers, Outlaw, Penn, Porter, Reed, Riddle, Sabine, Schermerhorn, Origen S. Seymour, Skelton, Smart, Stanly, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, Stone, St. Martin, Stratton, Sweetser, Taylor, Thurston, Walsh, Ward, Washburn, Watkins, Addison White, Wilcox, Williams, and Yates—85.

NAYS—Messrs. Charles Allen, Averett, Babcock, Bocock, Bragg, Brenton, Albert G. Brown, Busby, Joseph Cable, Caldwell, Lewis D. Campbell, Thompson Campbell, Carter, Chastain, Clark, Clemens, Cobb, Colcock, Conger, Cullom, Daniel, John G. Davis, Dawson, Dean, Dimmick, Doty, Dunham, Edmundson, Ficklin, Fitch, Floyd, Gaylord, Giddings, Gorman, Grow, Isham G. Harris, Sampson W. Harris, Haven, Hendricks, Hibbard, Houston, Thomas Y. How, Ives, Jenkins, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Letcher, Mason, McMullin, McQueen, Meade, Millson, Molony, Morehead, Murphy, Murray, Orr, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Phelps, Powell, Robie, Savage, Schoolcraft, Scurry, Smith, Alexander H. Stephens, Thaddeus Stevens, Stuart, Sutherland, Toombs, Townshend, and Venable—78.

So the amendment was adopted.

The next amendment of the Senate was read, as follows:

"*Delaware.*—Fort Delaware, Pea Patch Island, Delaware river, $150,000."

Mr. CARTTER demanded the yeas and nays; but they were not ordered.

The question was taken, and the amendment was agreed to.

The next amendments of the Senate were read, as follows:

"*Maine.*—Fort Knox, Penobscot river, $55,000."
"*Massachusetts.*—Fort Warren, Boston harbor, $45,000."
"Fort Winthrop, Governor's Island, Boston, $29,573."

The question was taken severally on the above clauses, and they were agreed to.

The following clause was then read:

"For cannon, gun-carriages, and projectiles for seacoast defense, one hundred thousand dollars."

The Senate amendment proposes to strike out "one" and insert "two."

The question was taken, and the amendment was agreed to.

The following clause of the bill was then read:

"For repairs and improvements and new machinery at Harper's Ferry, $28,950."

The amendment proposed by the Senate was to strike out $28,950 and insert $43,500, and to add after dollars the following, viz:

"And that the amount received from the late and future sales of Government land pertaining to Harper's Ferry armory may be carried to the same appropriation, and applied to similar objects, under the direction of the Secretary of War, including improvements to the streets and highways in use for armory purposes."

The SPEAKER. The Chair understands that the amendment was disagreed to by the committee.

The question was then taken, and the amendment was not agreed to.

The following clause of the bill was then read:

"For repairs and improvements and new machinery at Springfield armory, $46,094: *Provided*, That, from and after the first day of July next, [so much of the act of Congress approved August 23, 1842, as places the national armories under the superintendence of an officer of the Ordnance Corps, be, and the same is hereby, repealed; and from that day the said armories shall be under that system of superintendence which existed prior to the passage of said act of Congress."]

The fourteenth amendment of the Senate proposes to strike out the words in brackets, and to insert the following in lieu thereof, viz:

"The act of Congress approved August 23, 1842, be so modified that the President may, if in his opinion the public interest demands it, place over any of the armories a superintendent who does not belong to the Army; and in order to enable him to decide to his satisfaction, he is hereby authorized to cause the necessary and proper inquiries to be instituted through the medium of a commission of civilians and military men, with a view of ascertaining which of the two systems is the more economical, efficient, and safe for the management of the public armories, that formerly existing under the superintendence of civil officers, or that now existing under the superintendence of officers of the Ordnance Department."

Mr. FAULKNER. I ask the yeas and nays upon that amendment.

The SPEAKER. The committee agree to this amendment.

The yeas and nays were ordered.

STRANGERS WITHIN THE BAR.

Mr. STANLY. I feel constrained by a sense of duty to raise a question of privilege, and it is this: That a great many of the seats in this House are occupied by persons who have no right to be within the bar. These persons, through carelessness, stand up whilst the House is dividing, and the Speaker, not being able in the crowd to distinguish one head from another, counts them, and thus they are actually taking part in the business before us. I have observed it several times, and I think it ought to be put a stop to at once.

The SPEAKER. It is the duty of the officers of the House to enforce the rules upon that subject, and the Chair enjoins it upon them to be particular in the execution of their duties upon this occasion.

The Sergeant-at-Arms and Doorkeeper thereupon proceeded to eject from within the bar all persons except the members and officers of the House, and the reporters for the Globe.

ARMY APPROPRIATION BILL.

The House was then divided on the demand for the yeas and nays on agreeing to the fourteenth amendment of the Senate; and there were—ayes 30, noes 93.

So the yeas and nays were ordered.

The question was then taken; and there were—yeas 89, nays 73; as follows:

YEAS—Messrs. Abercrombie, Aiken, Allison, William Appleton, Ashe, Babcock, Barrere, Bibighaus, Bowne, Bragg, Breckinridge, Briggs, Brooks, George H. Brown, Burrows, E. Carrington Cabell, Caldwell, Lewis D. Campbell, Chandler, Clingman, Conger, Cottman, Cullom, Darby, George T. Davis, Dawson, Dean, Dockery, Doty, Duncan, Edgerton, Evans, Ewing, Henry M. Fuller, Gentry, Goodenow, Grey, Harper, Sampson W. Harris, Hart, Haws, Haven, Hendricks, Hibbard, Houston, Thomas M. Howe, Jackson, James Johnson, Robert W. Johnson, George G. King, Preston King, Kuhns, Landry, McMullin, Miller, Henry D. Moore, John Moore, Morehead, Nabers, Orr, Outlaw, Samuel W. Parker, Penn, Penniman, Perkins, Polk, Porter, Ross, Sabine, Sackett, Savage, Schoolcraft, Stanly, Frederick P. Stanton, Richard H. Stanton, Alexander H. Stephens, Thaddeus Stevens, Stone, Sutherland, Taylor, Toombs, Venable, Ward, Washburn, Watkins, Wilcox, Wildrick, Williams, and Woodward—89.

NAYS—Messrs. Charles Allen, Averett, David J. Bailey, Thomas H. Bayly, Bartlett, Bocock, Busby, Joseph Cable, Thompson Campbell, Chapman, Chastain, Clark, Clemens, Cobb, Colcock, John G. Davis, Dimmick, Disney, Dunham, Eastman, Faulkner, Florence, Floyd, Thomas J. D. Fuller, Gamble, Gaylord, Giddings, Goodrich, Gorman, Green, Grow, Hamilton, Isham G. Harris, Henn, Holladay, Thomas Y. How, Ingersoll, Ives, Jenkins, Andrew Johnson, John Johnson, George W. Jones, J. Glancy Jones, Kurtz, Letcher, Little, Lockhart, Mace, Marshall, McCorkle, Millson, Molony, Murphy, Murray, Olds, Andrew Parker, Phelps, Powell, Reed, Robbins, Robie, Robinson, Scurry, Origen S. Seymour, Skelton, Smith, St. Martin, Stratton, Stuart, Sweetser, Thurston, Townshend, and Addison White—73.

So the amendment of the Senate was agreed to.

Pending the call of the roll on the above vote, the following proceedings took place:

Mr. WALSH. I was not within the bar when my name was called. If I had been, I should have recorded my vote against the amendment of the Senate.

Mr. ALLISON. I desire to state that my colleague [Mr. JOHN W. HOWE] is detained from his seat by indisposition.

Mr. GOODRICH. I was accidentally absent from the House yesterday when this amendment was passed upon in committee, or I intended to have submitted some remarks upon it. I now ask the consent of the House to publish in the Globe what I should have said, had I been present yesterday.

[Cries of "Agreed!"]

Fifteenth and sixteenth amendments of the Senate:

"In line 186, strike out '$41,071,' and insert in lieu thereof '$58,150;' and after the word 'abolish,' in line 188, 'or transfer;' so as to make the clause read:

"For arsenals, $58,150; and that the Secretary of War be, and is hereby, authorized to abolish or transfer such of the arsenals of the United States as in his judgment may be useless or unnecessary."

The Committee of the Whole on the state of the Union recommended a non-concurrence in these amendments.

The question was then taken, and the report of the committee was agreed to.

So the amendments of the Senate were disagreed to.

Twenty-fourth amendment of the Senate:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress, passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and the same are hereby, extended to all military sites acquired since the passage of the said act."

The Committee of the Whole on the state of the Union reported the following as a substitute for the amendment of the Senate:

"SEC. 4. *And be it further enacted*, That the act entitled 'An act authorizing the sale of certain military sites,' passed March 3, 1819, is hereby repealed, and that the Secretary of War shall at the opening of each Congress report to Congress what military sites should, in his judgment, be sold, and the reasons therefor, and that in all cases where lands may have been, or may hereafter be reserved for military, naval, or other purposes, and where the Secretary of the proper Department shall certify that such lands are no longer required by the Government for public use, the President of the United States shall be, and is hereby, authorized to cause the same to be sold at public sale under the laws which may be in force at the time for the disposal of public lands, or under such special regulations as he may prescribe: *Provided, however*, That no preëmption rights shall attach to any such lands in virtue of any settlement made prior to the offering of the same for public sale under such act or regulations."

The question was then taken, and the report of the Committee of the Whole on the state of the Union was agreed to.

Twenty-seventh amendment of the Senate:

"SEC. 7. *And be it further enacted*, That additional rations shall hereafter be allowed to the commissioned officers of engineers when in command of separate and fixed or permanent posts: *Provided*, That the commandant of no post shall be entitled to receive such additional rations unless the same be designated by the Secretary of War as a double-ration post."

The Committee of the Whole on the state of the Union disagreed to this amendment.

The question was taken, and the amendment of the Senate was disagreed to.

Thirtieth amendment of the Senate:

"SEC. 10. *And be it further enacted*, That it shall be the duty of the Secretary of War, under such regulations as he may prescribe, to cause to be examined and testimony to be taken in all claims against the United States for carrying on the government in California, in the years 1846 and 1847, under Commodore R. F. Stockton, Brigadier General S. W. Kearny, and Lieutenant Colonel John C. Frémont; also, for spoliations, and for property furnished or taken for military purposes in California, within that period, and which have not been favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved 31st August, 1852, and to report thereupon to Congress at its next session; and that for the purpose of carrying this provision into effect, the sum of $10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated."

The Committee of the Whole on the state of the Union disagreed to this amendment.

The question was taken, and the amendment of the Senate was disagreed to.

Thirty-first amendment of the Senate:

"SEC. 11. *And be it further enacted*, That for the payment of claimants against the United States, for funds advanced and subsistence and supplies of all kinds furnished or taken for the use of the command of Captain John C. Frémont, whilst he was engaged in the public service in California, during the year 1846, as favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved August 31, 1852, the sum of $31,017 22½ is hereby appropriated, out of any money in the Treasury not otherwise appropriated; and that the troops enlisted or enrolled in California, under the direction of the military and naval officers, shall have all the benefits of all acts of Congress in favor of troops engaged in the war with Mexico."

The Committee of the Whole on the state of the Union disagreed to this amendment.

The question was taken, and the amendment of the Senate was disagreed to.

Thirty-second amendment of the Senate:

"SEC. 12. *And be it further enacted*, That the Secretary of War cause to be paid, out of any money in the Treasury not otherwise appropriated, to Richard B. Lee, late commissary of the Pacific division of the Army, the sum of $1,175, with interest from the 9th of June, 1850, being for money lost in being transported from Honolulu to San Francisco, under his charge, and for which he has accounted to the Department, and which sum includes the expenses incurred in efforts to recover the same."

The Committee of the Whole on the state of the Union disagreed to this amendment.

Mr. JOHNSON, of Arkansas. I call for tellers on that amendment, and I hope the House will order them. It ought to be passed.

A MEMBER. It is a private claim.

Mr. JOHNSON. I have examined it well, and it ought to pass.

[Shouts of "Order!"]

Mr. FULLER, of Maine. Is it in order to have an explanation of the amendment?

[Cries of "No!" "No!" and "Question!"]

The SPEAKER. It is not in order.

Mr. JOHNSON. It ought to pass. If it does not, it will be an outrage.

[Cries of "Order!"]

Mr. JOHNSON. I demand tellers.

Tellers were ordered; and Messrs. CLINGMAN and DEAN were appointed.

The question was then taken; and the tellers reported—ayes 84, noes not counted.

So the amendment of the Senate was concurred in.

Thirty-third amendment of the Senate:

"SEC. 13. *And be it further enacted*, That for the settlement of the remaining unpaid claims of the States of Georgia and Alabama for advances made in suppressing Indian hostilities, the Secretary of the Treasury pay to the State of

Georgia her claims now remaining unpaid for moneys paid by the State in suppressing hostilities of the Cherokee, Creek, and Seminole Indians, in the year 1835, and since, upon proof that the same was paid by the State; and that the provisions of the act of Congress relative to the settlement of the claims of Georgia for military services, approved March 3, 1851, be extended to the payments to be made under this act. And that the Secretary of the Treasury pay to the State of Alabama, under the provisions of the acts of Congress of 16th August, 1842, and the 26th January, 1849, the balance due the said State growing out of the Creek Indian hostilities of 1836 and 1837: *Provided*, Proof is made that said State advanced in good faith the amount claimed."

The Committee of the Whole on the state of the Union disagreed to this amendment.

Mr. STEPHENS, of Georgia. I ask for tellers upon that amendment.

Tellers were ordered; and Messrs. DEAN and VENABLE were appointed.

The question was then put; and the tellers reported—ayes 85, noes 33.

So the amendment of the Senate was agreed to.

Thirty-fourth amendment of the Senate:

"SEC. 14. *And be it further enacted*, That whenever any lieutenant of the Corps of Engineers, Corps of Topographical Engineers, or Ordnance Corps, shall have served fourteen years continuous service as lieutenant, he shall be promoted to the rank of captain: *Provided*, That the whole number of officers in either of said corps shall not be increased beyond the number now fixed by law: *And provided further*, That no officer shall be promoted before those who rank him in his corps."

The Committee of the Whole on the state of the Union agreed to this amendment.

Mr. STANLY. I should be glad to have the yeas and nays upon that amendment, that I may record my vote against it.

The yeas and nays were not ordered, only ten members rising.

Mr. MILLSON. I call for tellers on the amendment.

Tellers were not ordered, only fifteen members rising.

The question was then taken; and the Senate amendment was agreed to.

Thirty-fifth amendment of the Senate.

"SEC. 15. *And be it further enacted*, That the Secretary of War be, and he is hereby authorized, under the direction of the President of the United States, to employ such portion of the Corps of Topographical Engineers, and such other persons as he may deem necessary, to make such explorations and surveys as he may deem advisable to ascertain the most practicable and economical route for a railroad from the Mississippi river to the Pacific ocean; and that the sum of $150,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of such explorations and surveys."

The Committee of the Whole on the state of the Union agreed to this amendment.

Mr. MILLSON. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DEAN. I would suggest that we should take one vote on the fifteenth and sixteenth sections, as they are parts of the same proposition.

Mr. BRENTON. The three next sections are one continuous amendment.

The SPEAKER. One question can be taken upon the two sections by unanimous consent.

Mr. DEAN. Sections fifteen and sixteen are substantially one proposition—the Pacific railroad.

Mr. BRENTON. Section seventeen relates to the same subjects.

The SPEAKER. The Chair thinks that the sections were reported as separate amendments. It is competent, however, for the House, by unanimous consent, to take one vote upon them.

Mr. HOUSTON. Sections fifteen and sixteen go together, and are one amendment. The Committee of the Whole on the state of the Union agreed to them. But the committee disagreed to section seventeen, and a separate vote will therefore have to be taken upon it.

The Clerk then reported the 16th section, which is as follows:

"SEC. 16. *And be it further enacted*, That the engineers and other persons employed in said explorations and surveys shall be organized in as many distinct corps as there are routes to be surveyed, and their several reports shall be laid before Congress on or before the first Monday in February, 1844."

The question was then taken on agreeing to the 15th and 16th sections, (Senate amendments,) and there were—yeas 113, nays 61; as follows:

YEAS—Messrs. Willis Allen, Allison, William Appleton, Babcock, David J. Bailey, Bell, Bennett, Bibighaus, Bowne, Breckinridge, Brenton, Briggs, Brooks, Albert G. Brown, George H. Brown, Burrows, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Chandler, Clark, Cottman, Cullom, Darby, George T. Davis, John G. Davis, Dawson, Doty, Duncan, Dunham, Eastman, Evans, Fay, Ficklin, Florence, Freeman, Henry M. Fuller, Gamble, Gentry, Giddings, Gilmore, Goodenow, Goodrich, Green, Grey, Hammond, Harper, Hart, Haws, Henn, John W. Howe, Thomas M. Howe, John Johnson, Robert W. Johnson, George G King, Kuhns, Landry, Little, Lockhart, Mace, Mann, Marshall, McCorkle, McDonald, McLanahan, Meade, Miller, Molony, Henry D. Moore, John Moore, Nabers, Newton, Olds, Andrew Parker, Samuel W. Parker, Penn, Penniman, Phelps, Polk, Porter, Richardson, Riddle, Robbins, Sabine, Sackett, Schermerhorn, Scurry, Origen S. Seymour, Skelton, Smith, Snow, Stanly, Benjamin Stanton, Frederick P. Stanton, Richard H. Stanton, Abraham P. Stephens, St. Martin, Stratton, Strother, Taylor, Thurston, Townshend, Walbridge, Walsh, Ward, Watkins, Wells, Addison White, Williams, and Yates—112.

NAYS—Messrs. Aiken, Averett, Thomas H. Bayly, Barrere, Beale, Bocock, Bragg, E. Carrington Cabell, Caldwell, Chastain, Churchwell, Clemens, Clingman, Cobb, Colcock, Daniel, Dean, Dimmick, Dockery, Edmundson, Fitch, Floyd, Thomas J. D. Fuller, Gaylord, Grow, Hamilton, Sampson W. Harris, Hibbard, Holladay, Houston, Thomas Y. How, Ingersoll, Ives, Jackson, Jenkins, Andrew Johnson, James Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, Preston King, Kurtz, Letcher, McMullin, McNair, McQueen, Millson, Morehead, Murphy, Murray, Outlaw, Peaslee, Perkins, Robie, Ross, Savage, Alexander H. Stephens, Thaddeus Stevens, Sutherland, Toombs, Venable, and Wildrick—61.

So the amendment of the Senate was agreed to.

Pending the call of the roll,

Mr. BOWIE stated that he had paired off with Mr. SCHOONMAKER upon this and previous amendments.

Mr. HENDRICKS also stated that he was without the bar when his name was called, but asked permission of the House to vote.

Objection was made.

[A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that they had concurred in the amendments of the House upon the act to provide for administering the oath of office to William R. King, the Vice President elect of the United States.

Also, that they had insisted upon their own amendments to the bill to provide for preëmption rights upon the unsurveyed lands.]

[Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled a bill of the following title:

An act to provide for administering the oath of office to William R. King, the Vice President elect of the United States.]

The next amendment was as follows, viz:

"SEC. 17. *And be it further enacted*, That in making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session."

The question was taken, and the amendment was non-concurred in by the House.

The next amendment was the following, viz:

"SEC. 18. *And be it further enacted*, That, in the adjustment of the accounts of the State of Virginia, under the twelfth section of the act approved 31st of August, 1852, the Secretary of War be, and he is hereby, directed to follow the provisions of the act of 2d of June, 1848, providing for refunding to the several States the amounts expended by them in raising regiments of volunteers for the Mexican war."

The question was taken, and the amendment was concurred in by the House.

The next amendment was the following, viz:

"SEC. 19. *And be it further enacted*, That the President of the United States is hereby authorized to enter into contracts with such person or persons as shall make the most favorable proposals, and give the most satisfactory assurance and security for defending and protecting the emigrant routes, and improving and keeping in good condition the roads through the Territories of the United States from the western border of the States in the Mississippi valley to the eastern border of California, and to the Pacific ocean in the Territory of Oregon, on the following terms:

"1st The contractors are to establish posts or station-houses along the route at such points and distances as the President shall designate, and shall keep at least twenty well-armed men at each of said posts to protect all emigrants, travelers, and settlers on and along said routes.

"2d. The said contractors shall make and keep in repair a good wagon-road along each of said routes, with bridges or ferries across all the streams, and shall charge no higher rates for crossing said streams than shall be prescribed by the President."

The question was taken, and the amendment was non-concurred in by the House.

The next amendment was the following:

"SEC. 21. *And be it further enacted*, That for the purpose of enabling the Commissioners of the Military Asylum to purchase a suitable site with the view of establishing thereat a Western Military Asylum, the sum of $10,000, in addition to the sum in the hands of the commissioners, is hereby appropriated, out of any money in the Treasury not otherwise appropriated."

The SPEAKER. The committee agree to this amendment.

The question being upon concurring in the amendment—upon a division, 49 rose in the affirmative.

Mr. EWING. I demand tellers.

Tellers were ordered; and Messrs. EASTMAN and FICKLIN were appointed.

Mr. EWING. There have been misrepresentations in this House——

[Cries of "Order!" "Order!" all over the Hall.]

The SPEAKER. The gentleman can make no remarks, the main question having been ordered.

The question was then taken, and the tellers reported—ayes 73, noes 71.

Mr. POLK. I demand the yeas and nays.

The yeas and nays were ordered; and having been taken, the result was—yeas 95, noes 84; as follows:

YEAS—Messrs. Ashe, Thomas H. Bayly, Bennett, Bibighaus, Bocock, Bowie, Bowne, Brenton, Briggs, Brooks, Burrows, E. Carrington Cabell, Chandler, Chapman, Cleveland, Clingman, Cobb, Conger, Cottman, Cullom, Darby, Dockery, Duncan, Edmundson, Evans, Ewing, Faulkner, Fay, Florence, Freeman, Henry M. Fuller, Goodenow, Goodrich, Gorman, Grey, Harper, Isham G. Harris, Sampson W. Harris, Hart, Haws, Holladay, Horsford, Thomas M. Howe, Jackson, James Johnson, Robert W. Johnson, Kuhns, Landry, Letcher, Little, Lockhart, Mace, Marshall, Martin, Mason, McCorkle, Meade, Miller, Henry D. Moore, John Moore, Morehead, Nabers, Olds, Outlaw, Andrew Parker, Samuel W. Parker, Penn, Penniman, Polk, Porter, Preston, Sackett, Savage, Schermerhorn, Schoolcraft, Schoonmaker, Smith, Snow, Stanly, Frederick P. Stanton, Richard H. Stanton, Stone, St. Martin, Strother, Sweetser, Toombs, Walbridge, Walsh, Ward, Washburn, Wells, Addison White, Wilcox, Williams, and Yates—95.

NAYS—Messrs. Charles Allen, Allison, John Appleton, William Appleton, Averett, Barrere, Beale, Bell, Bragg, George H. Brown, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Chastain, Clark, Daniel, John G. Davis, Dawson, Dean, Dimmick, Disney, Doty, Dunham, Eastman, Ficklin, Fitch, Floyd, Gamble, Gaylord, Giddings, Green, Grow, Hamilton, Hammond, Haven, Hebard, Hendricks, Hibbard, Houston, Howard, John W. Howe, Thomas Y. How, Hunter, Ingersoll, Ives, Jenkins, Andrew Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Mann, McMullin, McNair, Millson, Molony, Murphy, Murray, Newton, Orr, Peaslee, Perkins, Phelps, Reed, Robie, Robinson, Ross, Sabine, Origen S. Seymour, Skelton, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stratton, Stuart, Sutherland, Taylor, Thurston, Townshend, Wildrick, and Woodward—84.

So the amendment was concurred in by the House.

Pending the call of the roll—

Mr. WHITE, of Kentucky said: Mr. Speaker, I understand that misrepresentations have been made in regard to this matter.

[Cries of "Order!" "Order!"]

Mr. MOREHEAD. I desire to inquire of the Speaker whether a separate vote was called for upon the twenty-second and twenty-third sections of the bill appropriating $100,000 to the discoverer of ether?

The SPEAKER. The Chair understands there was not.

Mr. MOREHEAD. Have those amendments been disposed of?

The SPEAKER. The recommendation of the Committee of the Whole on the state of the Union (which was to non-concur) was agreed to.

Mr. MOREHEAD. Will it be in order to move to reconsider the vote by which those sections were non-concurred in?

The SPEAKER. That motion will be in order, in the opinion of the Chair.

Mr. MOREHEAD. I submit that motion.

Mr. HALL. I move to lay the motion to reconsider upon the table.

The question was taken upon Mr. HALL's motion, and it was agreed to.

RIGHT OF WAY.

Mr. HALL. Mr. Speaker, there is a Senate bill upon the Speaker's table (No. 612) granting the right of way through certain lands in the District of Columbia. It is a bill to which there will be no objection, and I ask the unanimous consent of the House to take it up and pass it.

Mr. STUART. I object, and insist that all these amendments to the appropriation bills be disposed of before we go to any other business.

Mr. HALL. I move to suspend the rules.

The SPEAKER. That motion is not in order.

Mr. CLINGMAN. Will it be in order to move to go into the Committee of the Whole on the state of the Union?

The CHAIRMAN. That motion will be in order.

Mr. CLINGMAN. Then I make that motion.

The question was put, and the motion agreed to.

So the rules were suspended.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. PHELPS in the chair.)

LIGHT-HOUSE BILL.

Mr. DUNCAN. I move to take up the bill of the House, (No. 362,) "making appropriations for light-houses, light-boats, buoys, etc., and providing for the erection and establishment of the same, and for other purposes."

The question was put, and the motion was agreed to.

Mr. DUNCAN. I move that the first reading of the bill be dispensed with.

The CHAIRMAN. That motion can only be entertained by unanimous consent.

There was no objection, and the Clerk proceeded to read the bill by sections for amendment.

The section making appropriations for the light-houses in the State of Massachusetts being under consideration—

Mr. DUNCAN said: Mr. Chairman, if the House will give me their attention for a few minutes, I will make a few explanations which I think may facilitate the passage of this bill.

The whole amount of the appropriations in the bill is $290,000, of which $34,000 are reappropriations, leaving therefore only $256,000 new appropriations. In March, 1849, Congress made an appropriation of $281,000, and in 1851, $256,000, being about the same amount as is provided for in this bill. Most of the appropriations contained in this bill have been recommended in the report upon light-houses, which appears in the report of the Secretary of the Treasury, which gentlemen have had before them; and these recommendations unaccompanied by explanations showing the necessity of the appropriations. Some of them, however, are made upon petitions which were presented to the Light-House Board, and upon which all the information that was to be had was obtained, before they received the approbation of the committee. Every petition that has been presented to our committee has been considered by them, and if not inserted in the bill, it was for what they deemed to be sufficient reasons. We hope, therefore, that the House will consent to pass the bill as reported, and not take up the time of the committee in offering new appropriations which our committee will feel bound to oppose.

Mr. DEAN. I move that the committee rise, and report the bill to the House with a recommendation that it pass.

The CHAIRMAN. That motion will not be in order until the bill is read through.

Mr. DEAN. Then I move that the committee rise for the purpose of closing the debate upon this bill.

The question was taken, and the motion was disageed to.

The following clause of the bill being under consideration, viz:

"Towards the erection of a first-class light-house, as a substitute for the light-vessel at 'Ship Shoal,' to be located at 'Ship Shoal,' or Raccoon Point, as may be determined by the Light-House Board, after the survey of that locality authorized by the act of 31st August, 1852, shall be completed, $20,000."

Mr. DUNCAN moved to strike out the words "Light-House Board," and insert in lieu thereof the words "Secretary of the Treasury."

The question was then taken, and the amendment was agreed to.

The following section being under consideration, viz:

"SEC. 5. *And be it further enacted*, That the sum of $3,500, appropriated by the first section of the act of 1852, chapter 112, 'for the construction of two ice-breakers,' may be applied by the Light-House Board for the preservation and protection of the light-house on Brandywine shoal, in such manner as may best secure the object;"

Mr. DUNCAN moved to strike out the words "Light-House Board," and insert in lieu thereof the words "Secretary of the Treasury."

Mr. STANLY. I should like to hear an explanation of that amendment.

Mr. DUNCAN. It has been customary to give the Secretary of the Treasury the disposition of these matters. I consider the amendment as quite immaterial, as the Secretary is in fact at the head of the Light-House Board. But still the amendment conforms to the general custom.

The question was taken, and the amendment was agreed to.

Mr. DUNCAN. I move that the committee rise, and report the bill to the House.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. PHELPS) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill No. 362, making appropriations for light-houses, light-boats, &c., and providing for the erection and establishment of the same, and for other purposes, and had adopted certain amendments thereto, and instructed him to report the same to the House, with a recommendation that the same do pass.

Mr. DUNCAN. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The SPEAKER. The first question is upon the amendments proposed by the Committee of the Whole on the state of the Union.

Mr. PHELPS. I presume there will be no objection to these amendments, and the question can be taken upon them together.

The SPEAKER. Unless any gentleman desires a separate vote upon the amendments, the vote will be taken on all of them at once.

No separate vote was called for, and the question was put upon the amendments recommended by the Committee of the Whole on the state of the Union, and they were agreed to.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, it was subsequently read the third time and passed.

Mr. DUNCAN. I rise to a privileged question. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

LAND OFFICES IN CALIFORNIA.

Mr. McCORKLE. I ask the unanimous consent of the House to report a bill from the Committee on Public Lands, extending preëmption rights, and organizing the surveyor general's office in the State of California. The bill also establishes land districts, of which we have none as yet. The importance of the passage of this bill, every man will see at once. It is a Senate bill No. 7.

The bill was then read by its title, as follows:

"An act to provide for the survey of the public lands in California, the granting of donation privileges thereon, and for other purposes."

Mr. McCORKLE. There is a mistake in the title of this bill. It should be "preëmption rights" instead of "donation privileges."

The SPEAKER. That can be corrected when the title of the bill is read.

Mr. SUTHERLAND. I object to the introduction of the bill.

Mr. McCORKLE. I move to suspend the rules in order to enable me to introduce the bill.

The House was divided upon the motion, and there were 45 in the affirmative, when

Mr. McCORKLE called for tellers; which were ordered; and Messrs. MACE and PRICE appointed.

Mr. MARSHALL. I wish to say a single word in explanation of the bill, and I desire that the House should hear me. This bill provides for the organization of a surveyor general's office, for the purpose of making surveys of the public lands in California, and for extending the same laws, in regard to preëmption rights, to those lands, after they are surveyed, which now exist in reference to the other public lands of the Union. These are all the objects of the bill. There is a mistake in the title of it, as has been mentioned by my colleague.

The question was then taken on the motion to suspend the rules, and the tellers reported—ayes 75, noes not counted.

So the rules were suspended—two thirds of a quorum voting in favor thereof.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed the civil and diplomatic bill with sundry amendments, in which he was directed to ask the concurrence of the House; also, that the Senate had agreed to the report of the Committee of Conference upon the bill for the relief of John Charles Frémont, late colonel in the Army of the United States.]

Mr. HEBARD. I rise to a question of order. Upon the vote which was last taken, I called for a count upon the other side a number of times before the result was announced.

The SPEAKER. The demand was not heard by the Chair until after the result was announced, and then it was too late.

Mr. KING, of New York. I rise to a question of order. Two thirds of a quorum did not vote for a suspension of the rule.

The SPEAKER. The Chair distinctly understood that it was given up by the negative, and that no further count was demanded.

JOHN CHARLES FREMONT.

Mr. GORMAN. I rise to a privileged question. I ask the House to take up and concur in the report of the Committee of Conference upon the bill for the relief of John Charles Frémont. The following is the report:

The Committee of Conference upon the disagreeing votes of the two Houses, upon Senate bill No. 573, report that they have met, and after full and free conference upon the same, they have agreed to recommend, and do recommend, as follows: That the House recede from its amendment, and agree to the bill of the Senate, with the following amendment:

Provided, That before the payment of the same, or any part thereof, the Secretary of the Treasury shall be satisfied that the amount has been expended for the benefit of the public service.

The House amendment, from which the committee recommends that the House shall recede, was then read, as follows:

"Strike out all after the enacting clause, and insert, in lieu thereof the following:

"That the Secretary of War be, and he is hereby, authorized to pay to John Charles Frémont $19,500, and deduct the same from the amount that may be found due to said Frémont on a final settlement of his accounts: *Provided*, That nothing herein contained shall be construed so as to require the Secretary to recognize the validity of the claim of the said Frémont, upon which actions are pending, or judgments may have been obtained, in favor of Antony Gibbs & Sons, assignees of Huttman, in the courts of her Majesty the Queen of Great Britain."

The SPEAKER. The question is upon concurring in the report of the Committee of Conference.

Mr. ORR. I ask that the amendment recommended by the committee may be read.

The amendment was accordingly read, as follows:

"Add to the Senate bill the following:

"*Provided*, That before the payment of the same, or any part thereof, the Secretary of the Treasury shall be satisfied that the amount has been expended for the benefit of the public service."

Mr. ORR. The amendment recommended by the Committee of Conference ought to be adopted. When this bill was introduced, it will be remembered that there was a debate upon it, lasting nearly a day. The House struck out the Senate bill, and passed the amendment proposed by the gentleman from Mississippi, [Mr. BROWN,] with the proviso which I had the honor to introduce. The bill which we passed provided that the $19,500 should be paid by the Secretary of War to Colonel Frémont, and that he should account to the Secretary of War hereafter, in the settlement of his accounts, for this sum. The amendment which is now proposed directs the Secretary of the Treasury to pay the $19,500 as a specific demand, with a proviso that the Secretary of the Treasury shall be satisfied that the whole sum was expended, as represented by Colonel Frémont, for the benefit of the public service.

Mr. STEPHENS, of Georgia. But it does not require Colonel Frémont hereafter to account for that amount.

Mr. ORR. The money cannot be paid until the Secretary is satisfied that the money was expended for the benefit of the public service.

Mr. STEPHENS. That leaves it entirely to the caprice of the Secretary of War as to what was public service.

Mr. ORR. It is utterly impossible for this House to examine the vouchers. They are in the custody of the Secretary of War, and subject to the inspection of any one.

Mr. STEPHENS. One material difference between the bill which we are now called upon to sanction and the bill of the House is this—and if I am in error I wish gentlemen to point it out: in the bill we passed we made an advancement to Colonel Frémont to relieve him from his embarrassment. It was only in the nature of an advance, and hereafter, upon a settlement of his accounts, he was to account for this amount of money. Under this bill he would not be authorized——

Mr. ORR, (interrupting.) The difference is this: The money cannot be paid to Colonel Frémont until the Secretary is satisfied that the money, the amount of which is set forth in the bill and upon which it is based, was expended in the public service.

Mr. STEPHENS. In pursuance of law?

Mr. ORR. The gentleman must remember that the expenditures made in California were not in pursuance of law. They were made from the necessity of the case. The feeling of the House at the time the original proposition was passed—I must confess that I participated in it—was, as I understand, that, although the expenditure by Colonel Frémont was not authorized by law, yet if it was for the benefit of the public and to carry on the conquest of California, whilst he held command there, we were willing to pay those advances. And this proviso more effectually secures our object than the original bill, for the money, if it be adopted, cannot be paid until the Secretary of the Treasury says that it was so expended. We therefore have the Secretary of the Treasury responsible for the correctness or incorrectness of the expenditure. In the original bill you propose to make the payment without such responsibility.

Mr. STEPHENS. I do not intend as a legislator to devolve any such responsibility on the Secretary of the Treasury. It is for this House to determine what class of services it shall pay for, and whether this money has been expended in pursuance of or against law.

Mr. ORR. There are but two ways in which you can ascertain the fact. One is, for the House itself to make an examination of the vouchers of Colonel Frémont now in the possession of the Secretary of War, or to receive the report of the Commissioners you have sent out there. The Committee on Military Affairs stated on their responsibility that they had examined the original vouchers, and that they were regular and correct. The commission that was appointed under an act of Congress at the last session, among the few claims that it did recognize, was this one for $19,500; so that you have either to depend on the report of the Commissioners who examined the vouchers, or to appoint an officer in whom you can put your trust, to examine them and report to this House.

Mr. STEPHENS. We proposed to advance the sum of $19,500 to Colonel Frémont under his present embarrassments, but we held him to account for this money to the proper accounting officer of the Government. Now, what possible objection can there be to the bill as it passed this House?

Mr. ORR. The other branch of Congress are unwilling to make an advance even of this $19,500 unless it was expended for the benefit of the public service. Before its payment, they require that the proper officer shall be satisfied that that money was justly chargeable against the Government. I call for the previous question, and then the House can either concur in the report or vote it down.

The call for the previous question was then seconded, and the question was ordered to be put.

The question was then put on concurring in the report of the Committee of Conference; and there were, on a division—ayes 75——

Mr. HENDRICKS. I demand tellers.

Tellers were ordered; and Messrs. HEBARD and DEAN were appointed.

The question was then taken, and the report of the Committee of Conference was adopted, the tellers having reported—ayes 90, noes 28.

PRE-EMPTION RIGHTS.

Mr. BROWN, of Mississippi. I beg leave to submit the following report:

The Committee of Conference on the disagreeing votes between the Houses on Senate bill No. 586, entitled "An act to extend preëmption rights to unsurveyed lands, and for other purposes," report that they recommend the adoption of the amendment of the House with the following proviso:

And provided further, That any settler who has settled, or may hereafter settle on lands heretofore reserved on account of claims under French, Spanish, or other grants which have been or shall be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of preëmption granted by this act and the act of 4th of September, 1841, entitled "An act to appropriate the proceeds of the public lands, and to grant preëmption rights" after the land shall have been released from reservation, in the same manner as if no reservation existed.

And that the title of the bill be as follows: "An act to extend preëmption rights to certain lands therein mentioned."

The proviso is the same as the one which was proposed by the gentleman from Louisiana, [Mr. MOORE,] nothing more and nothing less, and to which there was no objection except from one gentleman. I call for the previous question on the adoption of the report.

Mr. STEPHENS, of Georgia. It is right, and ought to be passed.

The call for the previous question was then seconded, and the main question was ordered to be put.

The question was taken, and the report of the Committee of Conference was adopted.

Mr. BROWN. I move to reconsider the vote just taken, and that that motion be laid on the table.

The question was put, and the latter motion was agreed to.

[Here a message was received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body had passed the following bill with amendments, and requesting its concurrence therein:

H. R. No. 367. An act to authorize the issuing of a register to the brig Boundary, and to change the names of the steamers Roger Williams and propeller Ontario.]

PRE-EMPTION RIGHTS—CALIFORNIA.

Mr. McCORKLE. I call for the reading of the bill which I have reported.

The Clerk read the bill through, and then the following amendments proposed by the Committee on Public Lands:

First amendment:

From the title of the bill strike out the word "donation," and insert the word "preëmption," so that it will read as follows: "An act to provide for the survey of the public lands in California, the granting of preëmption privileges therein, and for other purposes."

Second amendment:

Insert in the following section after the words "or so much thereof as may be necessary," the following: "*Provided*, That the salary of no clerk shall exceed the sum of $2,500 per annum."

And after the words "such sums as shall be found necessary by the Secretary of the Interior," the following: "not exceeding the sum of $2,000."

"SEC. 2. *And be it further enacted*, That there shall be allowed for clerk hire in the office of the surveyor general, the sum of $11,000 per annum, or so much thereof as may be necessary; and for office rent, fuel, and other incidental expenses of his office, such sums as shall be found necessary by the Secretary of the Interior. And the Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office of the said surveyor general; and any copy of, or extracts from the plats, field-notes, and other records and documents on file in his office, when attested as such, by the said seal, and the signature of the surveyor general, shall, in all judicial matters, have the same force and effect as the originals."

Fourth amendment:

Insert in the following section after the word "confirmed," the following: "So far as may be necessary to complete the surveys of the public lands."

"SEC. 3. *And be it further enacted*, That the said surveyor general shall have the same power and authority, and perform the same duties respecting the public lands and private claims in the State of California, as by law appertain to and are required of the surveyor general in Louisiana, except so far as the same may be modified by this act. He shall engage a sufficient number of skillful surveyors as his deputies, whom he shall cause to survey, measure, and mark base and meridian lines through such points, and perpetuated by such monuments, and such other correction parallels and meridians as may be prescribed, and also to survey and establish the other lines of the public lands. He shall also cause all private claims to be surveyed after they have been confirmed; and in the location and survey of them, he shall have the same power and authority as are conferred on the land officers of Louisiana, by the 6th section of the act of the 3d March, 1831, creating the office of the surveyor general for that State; and for surveying the base and meridian lines, and private claims, and meandering navigable waters, the deputy surveyor shall be allowed not exceeding sixteen dollars per mile; and for surveying the other lines of the public lands, there shall be paid not exceeding an average of twelve dollars per mile: *Provided*, That none other than township lines shall be surveyed when the lands are mineral or are deemed unfit for cultivation; and no allowance shall be made for such lines as are not actually run and marked in the field, and were actually necessary to be run."

Fifth amendment:

From the following section strike out the last words "unless under peculiar circumstances."

"SEC. 4. *And be it further enacted*, That if, in the opinion of the Secretary of the Interior, it shall be advisable, he is hereby authorized to direct such surveys after what is known as the geodetic method. And whenever, in the opinion of the Secretary of the Interior, a departure from the rectangular mode of surveying and subdividing the public lands would promote the public interests, he may direct such change to be made in the mode of surveying and designating the said lands as he may deem proper, with reference to the existence of mountains, mineral deposits, and the advantages derived from timber and water privileges: *Provided*, That such lands shall not be surveyed into less than one hundred and sixty acres, or subdivided into less than forty acres, unless under peculiar circumstances."

Sixth and seventh amendments:

Insert after the words "forty-one," in the first branch of the following section, the following: "With all the exceptions, conditions, limitations therein, except as is herein otherwise provided." And strike out all after the words "and provided further" down to the word "State," and insert the following: "That the fact of persons having heretofore had the benefit of said act of the 4th of September, 1841."

"SEC. 6. *And be it further enacted*, That all the public lands in the State of California, whether surveyed or unsurveyed, with the exception of sections sixteen and thirty-six, which shall be, and hereby are, granted to the State for the purposes of public schools in each township, and with the exception of lands appropriated under the authority of this act, or reserved by competent authority, and excepting also the lands claimed under any foreign grant or title and the mineral lands, shall be subject to the preëmption laws of 4th September, 1841, and shall, after the plats thereof are returned to the office of the register, be offered for sale, after six months' public notice in the State of the time and place of sale under the laws, rules, and regulations now governing such sales, or such as may be hereafter prescribed: *Provided*, That where unsurveyed lands are claimed by preëmption, the usual notice of such claim shall be filed within three months after the return of the plats of surveys to the land offices, and proof and payment shall be made prior to the day appointed by the President's proclamation for the commencement of the sale, including such lands, the entry of such claims to be made by legal subdivisions according to the United States survey, and in the most compact form: *And provided further*, That the restrictions in the act of 4th September, 1841, as to the extent of the possessions of the claimant, and of quitting or abandoning his residence on his own land to reside on public land in this State, shall interpose no bar to their obtaining the benefits of this act; and all of said lands that shall remain unsold after having been proclaimed and offered, shall be subject to entry at private sale as other public land, and at the same minimum price per acre; and the register and receiver shall not be entitled to any percentage or fees, except for deciding preëmption cases, when each of them shall be allowed the same fees as are paid to other like officers; but the receiver shall be entitled to his actual necessary expenses, going and returning, in making his deposits: *Provided*, That nothing in this act shall be construed to authorize any settlement to be made on any public lands not surveyed, unless the same be made within one year from the passage of this act; nor shall any right of such settlers be recognized by virtue of any settlement or improvement made of such unsurveyed lands subsequent to that day: *And provided further*, That this act shall not be construed to authorize any settlement to be made on any tract of land in the occupation or possession of any Indian tribe, or to grant any preëmption right to the same."

Mr. HEBARD. Is it in order to move a reference of the bill to the committee of the Whole on the state of the Union?

The SPEAKER. It is.

Mr. HEBARD. This is a very important bill, and, as we have no time to give it the consideration it requires, I move that it be referred to the Committee of the Whole on the state of the Union, and on that motion call for the previous question.

Mr. BRENTON. The bill contains an appropriation, and I think it ought to go to the Committee of the Whole on the state of the Union.

Mr. HALL. I believe, Mr. Speaker, that under the rules, the member reporting a bill has the privilege of addressing the House on it for one hour after the previous question has been moved.

The SPEAKER. That is so.

Mr. HALL. Then I have no objection to the gentleman's calling for the previous question.

Mr. McCORKLE. I yield to the gentleman from Missouri in order that he may make an explanation.

Mr. HALL. I only desire to say a word or two in explanation of the bill.

Mr. CLINGMAN. I submit the point that the gentleman is not entitled to occupy the floor for an hour on a motion to refer a bill to the Committee of the Whole on the state of the Union.

Mr. MARSHALL. He has the right to make an explanation.

The SPEAKER. The rule provides that the member reporting a bill shall be entitled to address the House for an hour before the close of the debate.

Mr. CLINGMAN. The rule has express reference to debate in the Committee of the Whole, and where a bill is to be put on its passage under the operation of the previous question.

The SPEAKER. It has been held, as the Chair understands, to apply to the House as well as the committee. The rule is as follows:

"34. No member shall occupy more than one hour in debate on any question in the House, or in committee; but a member reporting the measure under consideration from a committee, may open and close the debate."

Mr. HALL. If gentlemen will only listen for a few minutes to what I have to say, they will be satisfied the bill ought to pass. It does not, as its title purports, donate any land to the citizens of California. It merely grants preëmption rights, and on precisely the same conditions as they have been granted to settlers on the public lands in other States, except where a person has settled on unsurveyed lands under this bill he may be entitled to preëmption, provided the settlement has been made within twelve months after the passage of this act. That is the only respect in which it differs from the existing preëmption laws. A great many emigrants have gone there and made their settlements, and we thought that it was hard they should be deprived of them. The act of 1841 provides that no person shall be entitled to a preëmption in one State while holding one in another. By this bill California is exempted from the operation of that law. There are some donations made to the State of California, but they are precisely the same as those made to the other States of the Union; but in the clauses making the donations it is provided that the mineral lands and the lands reserved for other public uses shall be excepted. Mineral lands are reserved in all cases.

The question was then taken upon referring the bill to the Committee of the Whole on the state of the Union, and it was decided in the negative.

The question recurred on the amendments of the Committee on Public Lands.

Mr. HALL. The amendments reported by the Committee on Public Lands are not very important. They only throw a little additional restriction about it. I think the bill is well guarded, but as the amendments may endanger the passage of the bill, I move their rejection.

Mr. ORR. As a member of the Committee on Public Lands who offered this bill, I am unwilling that the House shall take that course. I think that the amendments are important.

Mr. HALL. Inasmuch as the gentleman from South Carolina [Mr. ORR] insists, I shall not object to the amendments being adopted.

The question was then taken upon the amendments, and they were agreed to.

The bill was read the third time.

Mr. HALL. I move the previous question upon the passage of the bill.

The previous question was seconded, and the main question ordered to be put.

The question then being, "Shall the bill pass?" it was taken, and decided in the affirmative.

So the bill was passed.

Mr. HALL. I move to amend the title by striking out the words "donation privileges," and inserting "granting preëmption rights."

The question was taken upon the amendment, and it was agreed to.

Mr. DUNCAN. I wish to offer the following resolution to suspend, with the consent of the Senate, all joint rules of the two Houses in relation to bills passed here and going to the Senate within the last three days of the session:

Resolved, (with the concurrence of the Senate,) That the sixteenth joint rule of the two Houses be suspended for the present session so far as relates to House bill No. 362, making appropriations for light houses, light-boats, buoys, &c., and providing for the erection and establishment of the same, and for other purposes.

The question was taken, and it was decided in the affirmative.

So the resolution was agreed to.

CIVIL AND DIPLOMATIC BILL.

Mr. HOUSTON. The Senate have returned the civil and diplomatic bill, with eighty pages of manuscript amendments. It is utterly impossible to get through the bill at this session of Congress in any of the ordinary modes of legislation. If we attempt to investigate all these amendments in the Committee of the Whole on the state of the Union, or in this House, with five minutes debate, or any other sort of debate, indeed I might say without debate at all, the bill will inevitably fail to become a law of the land. I do not wish to disagree to all the amendments now, and take the responsibility as one member of the Committee of Conference of reporting to the House upon this vast amount of matter. I do not desire to do it. I wish to appeal to the House either to take up these amendments in the House without debate, or take them up in Committee of the Whole without debate, read them through, let the House adopt such as seem to be right without further investigation; and then, after that, we can either go back, take up the others and either adopt or disagree to them. I would prefer to take them up in the House and read them through. I move to refer the bill and amendments to the Committee of the Whole on the state of the Union.

The question was taken; and it was decided in the affirmative.

Mr. HOUSTON. With a view of seeing what is the temper of the House with all this responsibility before us, I will ask whether the House will not agree to suspend the debate upon these amendments.

[Cries of "Agreed!" "Agreed!" "Agreed!"]

Mr. McMULLIN. Is that question debatable?

Mr. JOHNSON, of Arkansas. I object to it, if I have to sit here all night. I have seen such things before.

The question was taken upon Mr. HOUSTON's motion, and it was decided in the affirmative.

Mr. VENABLE demanded the yeas and nays.

Mr. JOHNSON, of Arkansas. I raise the question of order, whether such a motion as that of the gentleman from Alabama, can be made, if objected to?

The SPEAKER. It is in order at this time to suspend any or all of the rules of the House; and two thirds voting in the affirmative, the rules will be suspended.

Mr. JOHNSON. I will then ask another question.

Mr. HOUSTON. I do not desire to do anything which is against the feelings of any member of the House. I do not want to take the responsibility of doing anything in conflict with the sense of the House, and with them I leave the responsibility. I withdraw my motion.

Mr. HIBBARD. I renew the motion.

Mr. VENABLE. I ask the yeas and nays on the question.

Mr. HOUSTON. I move to suspend the rules, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. STANLY. If the gentleman from Alabama [Mr. HOUSTON] moves to suspend the rules for the purpose of going into the Committee of the Whole on the state of the Union, does not that take precedence over the motion of the gentleman from New Hampshire? [Mr. HIBBARD.]

The SPEAKER. The Chair did not understand the gentleman as making that motion.

Mr. STANLY. The gentleman from Alabama withdrew his first motion, but made another.

The SPEAKER. The Chair understands that the question before the House is the motion of the gentleman from New Hampshire, [Mr. HIBBARD.]

Mr. STUART. I ask the gentleman from Alabama if he did not submit that motion? He withdrew his first proposition and submitted that.

Mr. CAMPBELL, of Illinois. He withdrew it, and yielded the floor to the gentleman from New Hampshire to renew the motion.

Mr. HOUSTON. I asked the Chair to put the question.

The SPEAKER. The Chair recognized the motion of the gentleman from New Hampshire, [Mr. HIBBARD,] not understanding that the gentleman from Alabama had made the motion to go into committee. Upon the question of suspending the rules, the gentleman from North Carolina [Mr. VENABLE] demands the yeas and nays.

Mr. JOHNSON, of Arkansas. The question of order which I raise is this: We have always regarded, on a motion to suspend debate, that we could go into five-minutes speeches afterwards. Hitherto when we have gone into five-minutes debate upon each section, it has been required that we should come out of committee, go into the House, and then move to suspend the rules which allow five-minutes debate upon that particular section. But such a thing as suspending five-minutes debate upon the whole bill is not in order.

Mr. HOUSTON. I call the gentleman to order. I ask that my motion be put.

The SPEAKER. The gentleman has no motion before the House.

Mr. HOUSTON. I submitted a motion to go into the Committee of the Whole on the state of the Union.

The SPEAKER. The Chair did not so understand it, but received the motion of the gentleman from New Hampshire, [Mr. HIBBARD.] The gentleman from Arkansas makes the question of order that it is not in order to move to suspend the five-minutes debate, under the rule allowing general debate to be closed. The five-minutes debate is allowed when you do not suspend the rules; but in this case the gentleman from New Hampshire [Mr. HIBBARD] moves to suspend the rules, to enable him to make a motion that the amendments to the civil and diplomatic bill shall be considered without debate.

Mr. JOHNSON. Then the decision of the Chair cuts off debate upon this bill.

The SPEAKER. That depends upon the vote of the House.

Mr. HIBBARD. At the request of many members, I withdraw my motion for the present.

Mr. HOUSTON. I now make the motion that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and it was decided in the affirmative.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair.)

Mr. HOUSTON. I move to take up the Senate amendments to House bill No. 337, "making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854."

The question was taken, and it was decided in the affirmative.

Mr. HOUSTON. I move that the committee rise, for the purpose of going into the House and suspending general debate. No one will object to that, I presume.

The question was taken, and it was decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STUART) reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the amendments of the Senate to bill of the House (No. 337) "making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854," and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. HOUSTON. I offer the usual resolution to close the general debate in Committee of the Whole on the state of the Union, on the amendments of the Senate to the civil and diplomatic bill, in five minutes after the committee shall again resume the consideration of the same.

Mr. GORMAN. I ask the House to allow me to have the Patent Office Report referred to the Committee on Printing.

The SPEAKER. It is not in order at this time.

Mr. GORMAN. Well, if you do not refer it to the Committee, you will never have it printed.

The question was then taken on Mr. HOUSTON's resolution, and it was agreed to.

Mr. HOUSTON. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

PATENT OFFICE REPORT.

Mr. HOUSTON. I now move to refer the Patent Office Report to the Committee on Printing. I presume there will be no objection.

The SPEAKER. The Chair understands that the Patent Office Report is not here.

Mr. GORMAN. It is in the hands of the Committee on Patents.

The question was then taken on Mr. HOUSTON's motion, and it was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed bills, and a joint resolutions of the following titles:

H. R. No. 367. An act to authorize the issuing of a register to the brig Boundary, and to change the names of the steamers Roger Williams and propeller Ontario;

H. R. No. 31. Joint resolution providing for the printing and binding of the returns of the Seventh Census; and

H. R. No. 348. An act to establish the territorial government of Washington;

The two former with amendments, in which he was directed to ask the concurrence of the House, and the latter without amendment.

Also, that the Senate insisted upon their amendments disagreed to by the House, and disagreed to the amendments of the House to their amendments to the bill of the House, No. 336, "making appropriations for the support of the Army for the year ending June 30, 1854;" and asked for a committee of conference with the House upon said disagreeing votes; and that the Senate had appointed Messrs. BRIGHT, SHIELDS, and DOWNS, managers at the said conference on their part.

CIVIL AND DIPLOMATIC BILL.

Mr. HOUSTON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair,) and resumed the consideration of the amendments of the Senate to the civil and diplomatic bill.

Mr. SMITH. I do not intend to consume any of the time of the committee, but I have prepared a speech which I do not want the country to lose, and I ask permission to have it printed in the Globe.

Mr. ORR. What subject is it on?

Mr. SMITH. It is upon the subject of the delay of the business of the House.

Mr. ORR. I object.

The CHAIRMAN. The Chair will state that, in his opinion, it is not in the power of the Committee of the Whole on the state of the Union to give any such leave. That is a question for the House.

Mr. SMITH. Then, sir, I will speak for five minutes, and lay down the main arguments which I intend to use. I wish to consider the subject that was introduced a few days ago by the gentleman from North Carolina, [Mr. VENABLE.] I expect to lay down three propositions, and to prove them from the record. I expect to show that the great delay of business in the House is chargeable to the members themselves. I expect to show from the record and Journal, that the House has adjourned over enough days during the present Congress to constitute an entire short session of Congress. They adjourned over some forty-nine days at the last session, and fourteen or fifteen days at the present session. I expect to show further, that there is a regular average absence of sixty-five members from this House, and that when members are present, they are not in the habit of attending to business. [Laughter.] These are the three causes to which I attribute the delay of the business of this House, and the remedy I should propose would be the adoption of a rule, that whenever any member of this House votes to adjourn over, except on some extraordinary occasion, or is absent from his post here, he shall not receive his *per diem*. I expect to show in this connection, that there are sixty-five members of this House constantly receiving eight dollars a day without working for it.

This is the general tenor of the speech which I ask leave to print; and I shall, without leave, write it out, and make a good public document of it. [Laughter.]

Mr. POLK. If the gentleman intends to publish it without leave, I do not see what necessity there was for asking leave. I object to the publication of a speech of that character, when there will be no opportunity of replying to it.

The Clerk then proceeded to read over the amendments of the Senate to the civil and diplomatic bill.

First amendment of the Senate:

"In line 18, after the word 'the,' insert 'contingent,' so as to make it read, 'for the contingent expenses of the Senate.'"

Mr. HOUSTON. The Committee on Ways and Means recommend a disagreement to that amendment.

The question was taken, and the amendment of the Senate was disagreed to.

Second amendment of the Senate:

"Page 2, in line 19, after the word 'carry-alls,' strike out 'thirty-five,' and insert in lieu thereof 'fifty five,' so as to make the clause read:

"For clerks to committees and President *pro tempore*, draughtsman, messengers, pages, laborers, police, horses, and carry-alls, $55,000."

Mr. HOUSTON. Thirty-five thousand dollars was the estimate of the Secretary of the Senate for those items. The Committee on Ways and Means are in favor of adhering to that estimate, and disagreeing to the Senate amendment.

The question was then taken, and the amendment of the Senate was disagreed to.

Third amendment of the Senate:

After line 20, insert the following:

"To supply a deficiency in the appropriations heretofore made for the contingent expenses of the Senate, for lithographing and engraving for the year ending June 30, 1853, $24,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment.

The question was taken, and the amendment of the Senate was concurred in.

Fourth amendment of the Senate:

"On page 2, line 21, strike out 'ten,' and insert in lieu thereof 'twenty,' in the items appropriating for the Senate. So as to make it read: For miscellaneous items, $20,000."

Mr. HAVEN. What bill is the Clerk reading from?

Mr. HOUSTON. The original bill from the Senate.

The CHAIRMAN. The Chair will state that the amendments of the Senate have not been printed.

Mr. HOUSTON. I desire to make a brief statement to the committee that will explain the discrepancies between the paging, as read by the Clerk, and the paging of the bills in the hands of members. By the rules of the Senate, they first take up the amendments of the Finance Committee to the whole bill, and go through with them. The printed bill in the hands of members contains all the amendments of the Finance Committee. But after those amendments have been disposed of, it is in order for any Senator to go back and offer amendments to any part of the bill. Hence, many of the amendments adopted by the Senate are not in the printed bill. It contains only the amendments of the Finance Committee.

Mr. STEVENS, of Pennsylvania. Cannot the Clerk read from our bill?

The CHAIRMAN. It cannot be done.

Mr. FITCH. Well, sir, it is utterly impossible for us to understand the amendments. I hope the Clerk will at least indicate the page of our bill where the amendments are to be inserted.

The question was then taken on the fourth amendment of the Senate, and it was concurred in.

Mr. MOREHEAD. I would suggest, that when the Clerk reads the amendments from the Senate bill, he should refer us to the places where they come in in the printed bill of the House which is before us.

Mr. HOUSTON. The Clerk is reading the manuscript amendments.

Mr. MOREHEAD. So I understand.

Mr. HOUSTON. The lines and pages of the Senate amendments do not correspond with the printed matter. The Clerk has not the printed matter before him.

Mr. FITCH. It would be very easy for him to have it.

Mr. HOUSTON. It is not necessary.

Mr. FITCH. Oh, yes, it is necessary. It is impossible for us to act intelligibly unless we know where the amendments come in.

Mr. PHELPS. The printed bill contains very few of the Senate amendments—only those reported by the Finance Committee.

Fifth amendment of the Senate:

"Page 2, after line 21, insert the following:

"To supply a deficiency in the appropriation for the fiscal year ending 30th June, 1853, and defray the expenses of select committees of investigation appointed by the Senate, $18,000."

The question was taken, and the amendment of the Senate was agreeed to.

Sixth amendment of the Senate:

"Page 3, line 23, after the word 'dollars' in the following clause—

"For binding documents, twenty-five thousand dollars;"

"Insert as follows:

"*Provided*, That of all the documents the printing of additional copies of which may be ordered by either House of Congress, and the size of which shall not be less than two hundred and fifty pages, such additional copies shall be bound in such manner as may be directed by the respective Committees on Printing of each House, the cost of which shall not exceed twelve and a half cents per volume; and it shall be the duty of the Superintendent of the Public Printing to supervise the binding of the public documents, to receive said binding when executed, and see that the same is done in a neat and workmanlike manner, according to such samples as may be presented in his office, and in proper time; and before the binder shall receive pay for the same, he shall produce the certificate of the said Superintendent that his work has been executed as above required, and has been accepted by him. And it shall also be the duty of the said Superintendent to receive and preserve in his office samples of paper upon which maps, charts, diagrams, plats, or other engravings may be contracted to be furnished, and to receive from the contractor said maps, charts, diagrams, plats, or other engravings, and compare the paper upon which they may be printed with the sample so preserved; and he shall not receive any map, chart, diagram, plat, or other engraving which may not be printed on paper equal to the sample so preserved, or which may not be executed in a proper manner, and within the time specified in the contract, (unless for special reasons the Superintendent may extend the time,) and which may not be in the quantity called for thereby; and said contractors shall not receive pay for the same except upon the certificate of the Superintendent that the foregoing requisites have been complied with."

Mr. PHELPS. The section to which this is an amendment, is the following:

"For binding documents, $25,000."

Then follows the proviso. I think it is a very good amendment, and I hope this House will adopt it.

Mr. FITCH. I hope I may be allowed to return my thanks to the gentleman for that explanation. I now for the first time understand what this amendment is about.

Mr. STEVENS, of Pennsylvania. I move to strike out all but the first clause of the amendment.

Mr. Chairman, it seems to me this House cannot understand upon what we are voting at all. I protest against this mode of legislation. We have no printed amendments; we cannot hear half that is read from the Clerk's desk. If we are to adopt pages of amendments in this way, I say it is an outrage upon the country. We ought at least to know what we are voting upon. We ought to have these amendments printed, or some reference to the bill, so that we may know what we are amending. But some of this matter the Clerk has just now been reading is to be found in the printed bill, and I know of no other way than to vote down all the Senate amendments.

Several MEMBERS. That is right; vote them down.

Mr. JONES, of Tennessee. I wish to say to the gentleman from Pennsylvania [Mr. STEVENS] and the House, that I hope there will be no committee of conference upon this bill. I hope the House will dispose of it, or let the bill be lost.

Mr. STEVENS. Would the gentleman have us dispose of the bill without knowing what we are voting upon?

Mr. JONES. No; certainly not.

The question was then taken upon Mr. STEVENS's amendment, and it was not agreed to.

The question was then taken upon the Senate amendment, and it was concurred in by the committee.

Seventh amendment of the Senate:

"Page 4, after line 15, insert:

"For the completion of the publication of the works of the Exploring Expedition, $25,000."

Mr. CARTTER. What exploring expedition is that?

Mr. PHELPS. Wilkes's.

Mr. TOOMBS. Do I understand the Committee on Ways and Means have passed upon this amendment?

Mr. HOUSTON. The Committee on Ways and Means, informally, obtained the bill from the Senate, and have passed upon several of the amendments. They have examined the amendment which has just been read, and have agreed to recommend a non-concurrence. In relation to the amendment immediately following in the bill, and

which is, perhaps, another clause to the same amendment, they recommend a concurrence.

Mr. TOOMBS. I propose to reduce the appropriation for this Exploring Expedition one dollar.

Mr. BEALE. What exploring expedition?

Mr. TOOMBS. The question of the gentleman from Virginia is well put. We do not know anything at all about it. I should like to know how long it will take to print these amendments. Sir, I am not willing to act upon them until they are printed. I have no right to act. It is not a part of my duty; nor is it my right to vote away the public money and to determine great national questions, when I have no intelligent understanding of those questions at all. Sir, I agree with the gentleman from Tennessee [Mr. JONES] in what he says in relation to committees of conference. If this House is going to delegate its rights to three or four of its members, and adopt such provisions, and only such as they report, I think the balance ought to go home. You are here spending the public money for no good purpose that I know of.

Mr. STEVENS. I expect the Speaker will appoint three or four fair and good men upon this committee, who will know and defend the rights of this House against all the duress of the Senate under which we have been acting. Let us have three or four good men, and that will be all we shall require.

Mr. TOOMBS. I ask the gentleman how these men can know what is the will of the House until we can know what these amendments are, and act upon them intelligently? I say it is the duty of the House to pass upon these amendments; and if it becomes necessary to have a committee of conference, it will be the duty of the Speaker of the House to appoint men upon that committee who will stand by the rights of the House.

Mr. JOHNSON, of Arkansas. I call the gentleman from Georgia to order. The gentleman is not debating the propriety of reducing this amount. He is discussing the propriety of the action of the House.

Mr. TOOMBS. What I have said is very appropriate to the amendment. I am showing why we should not pass this amendment of the Senate, because we cannot understand it; and that is a good reason why we should not pass any amendment to this bill. My speech is not only appropriate to that amendment, but to every amendment in the bill.

Mr. HOUSTON. I am sure the gentleman from Georgia will appreciate the condition of the business of the House; and that he will appreciate the proposition which I have made to go on with these amendments at this time. If you delay this bill, send it to the printer, and wait for it to be printed, you will have nothing in the world except what you now have before you. There is no explanation, for there would be nothing in the world printed except the bare amendments which the Clerk is now reading.

Mr. TOOMBS. I may lose the advantage of the explanations of other gentlemen, but I will have at least the advantage of my own intellect, when I see before me what I am voting on, and that is the only manner in which we can obtain an intelligent vote of this House upon these amendments to this bill.

Mr. HOUSTON. The amendments may be read, and the provision of the bill to which they apply, read in connection with them.

Mr. TOOMBS. Well, sir, every one knows the difficulty of hearing anything which is read in the confusion which usually prevails in this Hall. It will be impossible for us to act intelligibly, I repeat, upon these amendments, unless they are printed; and unless the public business can be transacted intelligibly, it should not be done at all. If some way cannot be provided by which we may understand what these amendments are, the House should reject them all, good and bad, and pass the original bill as it was transmitted to the Senate. Unless we do this, we must in effect refer it to a committee of conference of the Senate itself; for there must be action in the House—there must be an expression of the will of the House before any committee of conference which we appoint can act understandingly, or properly represent the views and wishes of the House. We must have the judgment of the House on these amendments before a committee of conference can properly act at all.

Mr. PHELPS. I am opposed to the amendment of the gentleman from Georgia, [Mr. TOOMBS,] and I have this to say: It has never been the custom of this House to have these amendments to the general appropriation bills printed. When the House has been called to act upon them, they have generally been referred to the Committee on Ways and Means, within the last two or three days of the session, and they have reported them back to the House without having them printed by the public printer. Sir, we are now precisely in the same condition in relation to these general appropriation bills that we were at the last session, and the preceding session, and indeed every session since I have been a member of this House, which has been for the last eight years. I speak advisedly upon this subject. I desire, as much an any one, to have these amendments presented in such a manner that every member may understand upon what he is called upon to vote. I dislike as much as any one to have these matters of dispute between the two Houses settled and determined by three gentlemen belonging to each body. I hope, therefore, the committee will listen attentively to these amendments, and be prepared either to agree or disagree to them as they are read. I assure them that I and every member upon the Committee on Ways and Means, will use our utmost exertions to make them as intelligible as possible. The amendments will be read, and reference made to the portion of the printed bill to which they refer. If the committee will pay strict attention, I think we shall be able to make some progress. I tell gentlemen that if they reject all these amendments, and leave them for a committee of conference to determine, the effeet will be disastrous to the will of this House, and what I believe to be the best interest of the country.

The question was taken, and Mr. TOOMBS's amendment was not agreed to.

The question then recurred upon the Senate amendment.

Mr. PHELPS. The Committee on Ways and Means recommend a non-concurrence in this amendment.

Mr. STANTON, of Kentucky. I move to increase this appropriation one dollar.

Mr. Chairman, I desire simply to say that there is a very great necessity for this appropriation. This expedition brought home a very large amount of geological and other specimens which a corps of scientific gentlemen are now engaged in examining and analyzing. It is their duty to report upon these specimens, and this appropriation is designed to pay for printing that report. Their labors will be lost to the country and to science, unless their report be printed. I hope the House will concur in this Senate amendment.

A MEMBER. Sir, let the report be lost.

Mr. CABELL, of Florida. I am opposed to the amendment of the gentleman from Kentucky. But I rise for the purpose of suggesting to the committee that they proceed to consider such amendments as are contained in the printed bill. I think we ought not to act upon these amendments blindfold. I am told by an officer of this House that all the other amendments could be printed in two hours. I ask, therefore, that the committee proceed to consider those contained in the printed bill, and in the mean time allow the others to be printed.

Mr. HOUSTON. We could not do that without very great confusion. I think we had better go on in the manner in which we have commenced.

The question was taken, and Mr. STANTON's amendment was not agreed to.

Mr. BAYLY. I move to increase the appropriation one dollar.

Mr. Chairman, I am exceedingly annoyed by the reference which is constantly being made to the state of the business of this House during the last Congress; such as has just been made by my friend from Missouri, [Mr. PHELPS.]

The CHAIRMAN. The Chair must remind the gentleman from Virginia that the course of remark he is pursuing is not in order. He must confine himself to the explanation of his amendment.

Mr. PHELPS. I desire to say, that I meant no personal allusion to my friend from Virginia, in the reference I made to the condition of the business of the House in the last and preceding Congresses.

Mr. BAYLY. I want to refer particularly to the remarks made by the gentleman from Georgia, [Mr. TOOMBS.] If his remarks were in order, mine are.

The CHAIRMAN. The remarks of the gentleman from Georgia were not in order, nor are the remarks of the gentleman from Virginia.

Mr. BAYLY. Then the Chair ought to have called the gentleman from Georgia to order.

The CHAIRMAN. The Chair admits that he ought to have called the gentleman from Georgia to order, but it is now too late for that. The Chair decides that the gentleman from Virginia is not in order.

The question was then taken, and Mr. BAYLY's amendment was not agreed to.

Mr. STANLY. I will merely state that the Committee on Ways and Means recommend a non-concurrence in the Senate amendment.

The question was put, and the amendment was non-concurred in by the committee.

The second branch of the seventh amendment was read, as follows:

"For the preparation and publication of a general catalogue of the Library of Congress, to be made in such manner as the Joint Committee on the Library of Congress may direct, $3,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in this branch of the amendment. I hope it will be concurred in without debate.

The question was taken, and the second branch of the Senate amendment was agreed to.

Eighth amendment of the Senate:

"Page 5, after line 14, insert as follows:

"For the payment of the expenses attendant upon the funeral obsequies of the late Secretary of State, $1,229 37."

Mr. LETCHER. Is it in order to move to disagree to all the Senate amendments?

The CHAIRMAN. It is not in order.

Mr. LETCHER. Is it in order to move that the committee rise, in order to submit that motion in the House?

The CHAIRMAN. The Chairman thinks it would not be in order.

The question was then taken on the Senate amendment, and it was agreed to.

The ninth amendment of the Senate was to strike out the words "thirty-two thousand and fifty dollars," and insert the words "thirty-three thousand seven hundred dollars," in the following clause:

"For compensation of the Secretary of the Treasury and Assistant Secretary of the Treasury, clerks, messenger, and assistant messenger, in his office, $32,050."

Mr. HOUSTON. The Committee on Ways and Means recommend a disagreement. The increase is for the payment of the $1,700 clerk, to whom the gentleman from Georgia alluded the other day.

The question was taken and the Senate amendment was disagreed to.

Tenth amendment of the Senate:

"Page 8, line 18, strike out the words 'eleven thousand four hundred dollars,' and insert the words 'thirteen thousand five hundred and fifty dollars;' so as to make the clause read:

"For compensation of the Fifth Auditor, and the clerks and messenger in his office, $13,550."

Mr. HOUSTON. The Senate have added the salary of two clerks to that item of appropriation. The Committee on Ways and Means recommend a non-concurrence in the amendment.

The question was taken, and the amendment was disagreed to.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had disagreed to the amendments of the House to the Senate amendments to the Army appropriation bill, and that the Senate insist upon their amendments, and ask a Committee of Conference.]

The question was taken, and the amendment was agreed to.

Eleventh amendment of the Senate:

"Page 8, after line 18, add, at the end of the last clause, the following:

"For an additional clerk in the office of the Fifth Auditor, $1,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was taken, and the Senate amendment was disagreed to.

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Twelfth amendment of the Senate:

"Strike out in lines 14, 15, and 16, the following:

"For compensation of the clerks of the Light-House Board, $5,900;

"And insert the following:

"For compensation of the clerks and messenger of the Light-House Board, $6,400."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in this amendment.

The question was taken, and the Senate amendment was agreed to.

Thirteenth and fourteenth amendments of the Senate:

"Strike out the words in italics, and insert the words in brackets, in the following clause, relating to the contingent expenses of the Treasury Department:

"For labor, blank books, stationery, sealing ships' registers, translating foreign languages, *transmission of Mediterranean passports and sea-letters, carrying the Department mail*, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress—said clerks to be employed only during the session of Congress, or when indispensably necessary to enable the Department to answer some call made by either House of Congress at one session to be answered at another; and no such extra clerk shall receive more than $3 33½ per day for the time actually and necessarily employed—eight thousand [five] *nine* hundred and fifty dollars."

Mr. HOUSTON. There is no such service to be performed as the transmission of Mediterranean passports and sea-letters. The committee recommend a non-concurrence in these amendments.

The question was severally taken on the amendments, and they were disagreed to.

Fifteenth amendment of the Senate:

"In page 14, line 2, strike out the word 'one,' and insert the word 'two,' so as to make the clause read:

"For labor and other miscellaneous items, and for additional cases for filing the accounts of the First and Fifth Auditors, and the Commissioner of the General Land Office, $2,000."

Mr. HOUSTON. That amendment is necessary, although the Committee on Ways and Means have not acted upon that particular amendment.

The question was taken, and the amendment was agreed to.

Sixteenth amendment of the Senate:

"On page 17, after line 21, in reference to the collection of revenue from the sale of the public lands, insert:

"*And provided further*, That in lieu of issuing patents to the several States for lands granted in aid of internal improvements, and in all cases where the issuing of patents is not required by law, the certificates issued, or to be issued by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, in pursuance of the several acts making such grants, shall in all respects have the same effect as though patents were issued for such lands."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence.

The question was then taken, and the amendment was non-concurred in.

Seventeenth amendment of the Senate:

"On page 18, strike out the words included in brackets in the following clause:

"Contingent expenses of east wing Patent Office Building—[provided that neither the office of the Secretary of the Interior nor any bureau thereof other than the Patent Office shall be located in the Patent Office Building until directed by law]—viz: For labor, fuel, lights, and incidental expenses, $2,200."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment.

Mr. STEVENS, of Pennsylvania. I hope the committee will not concur, but adhere to the decision of the House, which refused to agree to that amendment a few days ago.

Mr. MEADE. I move to amend the Senate amendment by substituting the following in its place:

And that the President of the United States be authorized to select three discreet persons to appraise the building on the corner of F and Seventeenth streets, owned by William H. Winder, now occupied as public offices in this city, and that he be authorized to purchase the same at the appraised value, upon a valid title being made to the United States for the same, if, in his opinion, the public service would be promoted by so doing; and provided the same does not cost more than $200,000, which sum is hereby appropriated for that purpose.

Mr. LETCHER. I rise to a question of order. This is entirely a different building from the one mentioned in the Senate amendment.

Mr. MEADE. It relates to the contingent expenses of the Department of the Interior, and is in order under the 81st rule.

Mr. LETCHER. My point of order is, that the Senate amendment relates to one building and the amendment of my colleague relates to another and an entirely different one.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

Mr. STANTON, of Kentucky. I appeal from the decision of the Chair, and will state the ground of the appeal. Under the 81st rule of this House, it is proper to submit and add any amendment which may be necessary to carry on the contingencies of the Government.

Mr. HALL. The amendment is not germane to the Senate amendment.

The CHAIRMAN. The Chair rules the amendment out of order, inasmuch as it does not refer to the same subject as that embraced in the Senate amendment.

The question being, "Shall the decision of the Chair stand as the judgment of the committee?" it was put, and decided in the affirmative.

So the decision of the Chair was sustained.

Mr. FITCH. Do I understand that the Committee on Ways and Means recommend a concurrence in the Senate amendment?

Mr. HOUSTON. The committee does recommend a concurrence. I will state that I concur with the gentleman from Ohio [Mr. CARTTER] fully, and if I anticipated the danger which he does, I would vote with him to retain the clause. But there is no such danger to be apprehended.

Mr. CARTTER. I hope the Committee of the Whole will disagree to the Senate amendment, and retain the clause in the bill.

Mr. STEVENS, of Pennsylvania. I ask for tellers on the Senate amendment. I think the action of the House is right, and I am for adhering to it.

Mr. HOUSTON. As the House is thin, I would rather that the committee should non-concur in the Senate amendment, than that the committee should be broken up for want of a quorum.

Mr. STEVENS. Then I withdraw the demand for tellers.

The question was then taken on the Senate amendment, and it was non-concurred in; and the clause remains in the bill.

Eighteenth amendment of the Senate:

"On page 23, line 14, strike out the word 'seven' and insert the word 'twelve,' so as to make the clause read:

"For blank books, binding, stationery, and labor, $1,250."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence.

The question was taken, and the amendment was agreed to.

Nineteenth amendment of the Senate:

"On page 28, line 3, in relation to the Northwest Executive Building, insert the words 'six hundred;' so as to make the clause read:

"For miscellaneous items, $1,600."

The question was taken, and the amendment was concurred in.

Twentieth amendment of the Senate:

"On page 28, line 20, strike out the words in brackets, and insert the words in italics, in the following clause, relating to the Philadelphia Mint:

"For salaries of the director, treasurer, chief coiner, melter, and refiner, engraver, assayer, assistant assayer, and [three] *six* clerks, [twenty-one thousand dollars] *twenty-two thousand two hundred dollars.*"

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence.

The question was taken, and the amendment was agreed to.

Twenty-first amendment of the Senate:

"On page 28, line 22, strike out the words 'twenty-four,' and insert 'seventy-two,' in relation to the Philadelphia Mint; so as to make the clause read:

"For wages of workmen, $72,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence.

The question was taken, and the amendment was agreed to.

Twenty-second amendment of the Senate:

"Strike out the words 'one thousand five hundred dollars,' in the following clause, relating to the United States Mint at Philadelphia: 'For incidental and contingent expenses, including fuel, materials, stationery, water rent, repairs, and wastage, in addition to other available funds, one thousand five hundred dollars;' and insert in lieu thereof the following:

"Forty-one thousand five hundred dollars; and it shall be the duty of the Superintendent of the Mint to cause to be paid annually into the Treasury of the United States the profits of the Mint, and to present a quarterly account of the expenditures of the Mint to the Secretary of the Treasury."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in the amendment. It is an important provision, and is necessary. It brings the profits of the Mint into the Treasury the same as other moneys.

The question was taken, and the amendment was agreed to.

Twenty-third amendment of the Senate:

"Strike out the following clause: 'For additions to the territorial libraries of Oregon, Minnesota, New Mexico, and Utah, $500 each; said sums to be expended under the direction of the Governors of said Territories;' and insert in lieu thereof the following, viz:

"To enable the President to cause a site to be purchased, and a suitable building to be erected, for a penitentiary, in each of the Territories of Utah and New Mexico, $20,000: *Provided*, That the entire cost of the site and the completion of said buildings shall not exceed the sum hereby appropriated."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that portion of the amendments striking out the appropriation for the territorial libraries, and disagree to the paragraph proposed to be inserted.

Mr. STEVENS, of Pennsylvania. That is right. If you take away the libraries you will need the penitentiaries. [Laughter.]

Mr. SIBLEY. The appropriaton of $500 to each of the territorial libraries was inserted by the unanimous consent of the House, and I should like to know why it is the Committee of Ways and Means recommend that it be stricken out? I trust that it will be retained.

Mr. STANTON, of Tennessee. The Committee of Ways and Means propose to concur in the Senate amendment to strike out, and to disagree to their proposition to insert, which in not in order. You must take their amendment as a whole, or reject it.

Mr. HOUSTON. There is nothing more certain than that the rules of the House and the parliamentary laws, will justify the division of a proposition which may reasonably be divided. The Senate amendment is very easily divisible.

Mr. SIBLEY. I call the gentleman to order.

Mr. WEIGHTMAN. Let the precise question be stated.

The CHAIRMAN. The question is on concurring in the amendment of the Senate.

Mr. HAVEN. Can we divide the proposition so as to take a vote on what the Senate propose to strike out, and then a vote on what they propose to insert?

The CHAIRMAN. That is the question raised by the gentleman from Tennessee.

Mr. STANTON, of Kentucky. If we refuse to concur in the recommendation of the Committee on Ways and Means, do we not leave the provision in regard to the territorial libraries in the bill?

The CHAIRMAN. The Chair is of the opinion that under the circumstances the recommendation of the Committee on Ways and Means is not in order. The committee may recommend an amendment, but this is not in the nature of an amendment at all. The question, therefore, is on concurring in the amendment of the Senate.

The question was then taken, and the amendment of the Senate was disagreed to.

Twenty-fourth and twenty-fifth amendments of the Senate:

"From the following paragraph, strike out the words in brackets and insert in their stead those in italics:

"For salaries of the chief [justice] *judge* of the District of Columbia, the [associate] *assistant* judges, and the judges of the criminal court and the orphans' court, $11,700."

Mr. STEVENS, of Pennsylvania. What is the necessity of the change? We have called him the chief justice, and when has he ceased to be such?

Mr. HOUSTON. The gentleman is not in order in debating this proposition, without offering an amendment to it. I desire to get along with the bill.

Mr. STEVENS. I have only asked the reason for the committee's recommendation.

The question was taken and the amendment was concurred in.

Twenty-sixth amendment of the Senate:

"Insert the following after line 21, in page 23, viz:

"That the Secretary of the Interior be, and he is hereby, directed to examine the claim presented by the county of Lee, in the State of Iowa, for the expenses of the United States district court, which were paid by said county prior to the admission of said State into the Union; and if, upon such examination, he is satisfied that prior to said time the said county has paid money which, in accordance with the instructions of the First Comptroller of the Treasury, dated December 19, 1843, should have been paid by the marshal of the United States for said Territory, he is directed to audit and allow the same: *Provided*, That the amount thus allowed shall not exceed the sum of $14,400, which is hereby appropriated for that purpose out of any money in the Treasury."

Mr. HOUSTON. This debt is due to that county in Iowa, and the recommendation of the Committee on Ways and Means is, that the amendment of the Senate be concurred in.

The question was taken, and the amendment was concurred in.

Twenty-seventh amendment of the Senate:

"From the following paragraph strike out '$33,000,' and insert '$40,000:'

"For clerks in the offices of the surveyors general, including the offices in Oregon and California, to be apportioned to them according to the exigencies of the public service, and to be employed in transcribing field-notes of surveys for the purpose of preserving them at the seat of Government, $33,000."

Mr. HOUSTON. Thirty-three thousand dollars is the usual appropriation, and California being included, it ought to be increased.

The question was taken; and the amendment was concurred in.

Twenty-eighth amendment of the Senate:

"Strike out the words in brackets, and in lieu thereof insert those in italics, in the following clause, viz:

"For oil and other supplies, cleaning materials of all kinds, transportation of supplies, keeping lamps and machinery in good repair, and the towers and buildings in a proper state of preservation, superintendence, and inspection of thirteen lights, replacing, cleaning, painting, and preserving all the buoys in the waters of California and Oregon, and all incidental expenses connected with the aids to navigation on these coasts, [twenty-five thousand and eighty-five dollars;] *twenty-nine thousand and thirty-five dollars.*"

Mr. HOUSTON. California being included, makes that additional appropriation necessary, and the committee, therefore, recommend a concurrence.

The question was taken, and the amendment was concurred in.

Twenty-ninth amendment of the Senate:

"Strike out the words in brackets, and insert those in italics:

"For salaries of thirteen keepers and eleven assistants, at an average not exceeding [six hundred dollars per annum, fourteen thousand four hundred dollars,] *eight hundred dollars per annum, nineteen thousand two hundred dollars.*"

Mr. HOUSTON. The committee proposed $600 a year as salary for keepers, and the Senate by their amendment have made it $800. The committee recommend a non-concurrence.

The question was taken, and the amendment was non-concurred in.

Thirtieth amendment of the Senate:

"Insert the following after line 16, on page 39:

"For repairing or rebuilding the light-house at Bear Island, which has been destroyed, $4,000.

"For completing the light-house at Half-Moon Shoal, Red Fish Bar, and at Clopper Bar, on the coast of Texas, $3,000."

Mr. HOUSTON. That amendment was not before the committee.

The question was taken, and the amendment was non-concurred in:

Thirty-first amendment of the Senate:

"Insert in page 41, after line 14, the following:

"For the compensation of an additional appraiser general, to be appointed by the President, by and with the advice and consent of the Senate, and to be employed on the Pacific coast, $6,000."

Mr. PHELPS. The Committee on Ways and Means recommend a non-concurrence in the amendment.

The question was taken and the amendment was non-concurred in.

Thirty-second amendment of the Senate:

"In page 42, after line 2, insert the following:

"For publishing the observations made in the progress of the survey of the coast of the United States, per act of March 3, 1843, $20,000."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in the amendment.

The question was taken and the amendment was non-concurred in.

Thirty-fourth amendment of the Senate:

After the following paragraph, viz:

"For continuing the survey of the northern and northwestern lakes, including Lake Superior, $50,000."

Insert the following:

"*Provided*, That a survey of so much of the communication between Lake Huron and the Sault Ste. Marie as may be necessary to ascertain what part thereof requires to be deepened, shall be made without delay, and plans and estimates of the nature and expense of the work shall be laid before Congress at its next session.

"For printing and distributing charts of lake surveys, $1,500."

Mr. HAVEN. The latter portion of the Senate amendment is in accordance with the recommendations of the Department, and ought to be adopted.

The question was taken and the amendment was concurred in.

Thirty-fourth amendment of the Senate:

"In page 42, after line 13, insert:

"For purchase of a site and the erection of a custom-house at Galveston, Texas, $50,000: *Provided*, That the plan of the building shall be such that the whole cost, both of building and site, shall in no event exceed the appropriation hereby made."

The question was taken, and the amendment was non-concurred in.

Thirty-fifth amendment of the Senate:

"Insert after the following paragraph, viz:

"For continuing the construction of the custom-house at New Orleans, Louisiana, $324,000;"

The following:

"Subject to the limitations and restrictions imposed on the appropriation made for the same object at the second session of the last Congress, as respects the plan after which the building is to be erected: *Provided*, The superintendence of the building be confined to an officer detailed from the Corps of Engineers, and the works conducted under the supervision of said officer, and the direction of the architect who originated the plan: *And provided*, Said superintendent, with the said architect and such commissioner as may be appointed by the President to act as disbursing agent from a bureau having the management of and control over all contracts to be entered into for the execution of said plan and the completion of the building: *And provided further*, Said superintendent, architect, and commissioner, shall not be allowed a compensation higher than eight dollars per day each for their services."

Mr. STANLY. That is all wrong, and I hope it will be voted down.

The question was taken upon the amendment, and it was not agreed to.

Thirty-sixth amendment of the Senate:

"In page 42, line 13. Insert the following:

"For completing the custom-house at Bath, Maine, $12,000."

Mr. WASHBURN. I would ask if the Committee on Ways and Means have not concurred in that and the next amendment?

Mr. HOUSTON. They did not. The committee disagreed to those amendments.

Mr. BROOKS. I thought that we concurred in regard to them.

Mr. HIBBARD. The committee voted to disagree.

Mr. WASHBURN. I understood one member of the Committee on Ways and Means to say that they had agreed to concur in these amendments.

Mr. HIBBARD. I do not know but I am wrong. I voted to disagree, and I hope the committee will.

Mr. WASHBURN. I have a letter from the Treasury Department saying that it is absolutely necessary.

The question was taken, and the amendment was not agreed to.

Thirty-seventh amendment of the Senate:

"Insert the following:

"For the purchase of a site, and the erection of a custom house at Belfast, Maine, $20,000: *Provided*, That the plan of the building shall be such that the whole cost, both of the building and site, shall in no event exceed the appropriation hereby made."

Mr. HOUSTON. The committee recommend a disagreement in the amendments providing for the erection of new custom-houses; but they recommend a concurrence in several of the amendments which provide for those already commenced.

The question was taken, and the amendment was not agreed to.

Thirty-eighth amendment of the Senate:

"Insert the following:

"To complete the foundation of the custom-house in Bangor, and to connect the same with the shore, $15,000."

Mr. HOUSTON. The committee recommend a concurrence in that amendment.

The question was taken, and the amendment was agreed to.

Thirty-ninth amendment of the Senate:

"Insert the following:

"For the purchase of land additional to the present custom-house lot at Providence, Rhode Island, $16,000; and for the erection of a new custom house at said port, which shall be so constructed and arranged as to furnish a suitable room for the United States circuit and district courts, with the necessary offices for district judge, clerk, marshal, &c., $34,000: *Provided*, That the entire cost of such additional site and building shall in no event exceed the sum hereby appropriated."

Mr. PHELPS. That amendment was not before the committee.

Mr. STANLY. I hope we will agree to that amendment. Rhode Island has no public buildings at all. This appropriation is for a building for the use of the custom-house and the circuit and district courts of the United States.

The question was taken, and the amendment was agreed to.

Fortieth amendment of the Senate:

"Insert the following:

"For the erection, under the direction of the Secretary of the Treasury, at the port of New Haven, Connecticut, a fire-proof custom-house, with suitable rooms therein for the accommodation of the United States courts, and also with rooms in which shall be kept the post office of said city; the expense of the said building and site therefor not to exceed the sum hereby appropriated, $75,000: *Provided*, That the Legislature of the State of Connecticut shall exempt the site and building from taxation."

Mr. INGERSOLL. There has been a petition for two years for this custom-house at New Haven. It is recommended by the Secretary of the Treasury, and the Committee on Commerce had prepared a bill for that purpose. We have collected and paid into the Treasury of the United States, last year $124,700. The business is constantly increasing. We have at present a custom-house which would not sell, under the hammer, for $5,000. It is entirely insufficient for the purposes of the business at that point. I hope that the committee will agree to the amendment.

Mr. HALL. I move an amendment to reduce the amount $1,000. I spent some time in New Haven, from 1836 to 1839, and I used to see that custom-house. I thought it was one of the best buildings they had in the city, and I think it is abundantly sufficient for the purpose. It is a good stone building; and I do not think that time would injure it much. I would rather have the next Administration pass upon it.

Mr. INGERSOLL. At the time the gentleman refers to we paid into the Treasury of the United States only $23,000 a year; we now pay $124,000. The building will not sell for $5,000.

Mr. SWEETSER. I desire to ask a single question. Is there a provision in the amendment that they shall not tax the property belonging to the United States?

Mr. HALL. I withdraw my amendment.

Mr. GAYLORD. I move that the part in regard to taxation be stricken out.

The question was taken on Mr. GAYLORD's amendment, and it was not agreed to.

The question was taken upon concurring in the Senate amendment, and it was decided in the negative.

So the amendment was not agreed to.

Forty-first amendment of the Senate:

"Insert as follows:

"For the construction of a custom house at Wilmington, Delaware, in addition to the sum appropriated by the act of 31st August, 1852, $3,500."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in that amendment.

The question was taken, and the amendment was agreed to.

Forty-second amendment of the Senate:

"Insert as follows:

"For the construction of the custom-house, to include other public offices, at Richmond, Virginia, $75,000: *Provided*, That this sum, in addition to the $150,000 heretofore prescribed as the whole amount directed to be expended for this purpose, shall constitute the entire cost of the purchase of the site and the completion of the building."

Mr. PHELPS. The committee recommend a

concurrence in this amendment with the following amendment: It is to strike out "$150,000," and insert "$100,000." Only $100,000 have been appropriated to this custom-house.

The question was taken upon the amendment to the amendment, and it was agreed to.

The question was then taken, and the amendment of the Senate as amended was disagreed to.

Forty-third amendment of the Senate:

"Insert the following:

"For the construction of a custom-house at Norfolk, Virginia, $30,000; which, in addition to the sum heretofore prescribed as the whole amount to be expended for that purpose, shall constitute the entire cost of the purchase of the site and completion of the building."

Mr. HOUSTON. The committee recommend a concurrence in that amendment, for the reason that it is the smallest appropriation for any custom-house which is a port of entry.

The question was taken, and the amendment was agreed to.

Forty-fourth amendment of the Senate:

"Insert the following:

"To equalize the salary of the collector of Chicago, and to make it equal to that of Detroit, $1,250; and the salary of the collector of Chicago be, and the same hereby is, established at that sum annually."

Mr. HOUSTON. The committee instructed me to offer an amendment this morning, but from the press of business, I have not been able to draw it up. The amendment is to strike out the first part of this amendment, which reads, "to equalize the salary of the collector of Chicago, and to make it equal to that of Detroit, $1,250." The committee propose to strike out, and to give the salary of $1,250 to the collector after the first of July next.

Mr. MOLONY. I move to increase the amount one dollar. I will detain the House a moment only. I wish to state that the commerce of Chicago is greater now than that of Detroit. The proposition of the chairman of the Committee on Ways and Means is, to reduce the salary of the collector at Chicago below that which the collector receives at Detroit. The collector at Detroit receives a compensation of $1,600. The one at Buffalo receives a little larger sum than that—$2,000. I hope the committee will agree to the amendment of the Senate, and make the pay of the collector at Chicago at least equal to that at Detroit, which is $1,600, as shown by a letter of the Secretary of the Treasury written to myself.

Mr. PHELPS. The amendment as proposed by the Senate, is as follows: "To equalize the salary of the collector at Chicago, and make it equal to that of Detroit"—at what sum? The sum of $1,250. The Committee on Ways and Means proposed to place it at that sum, believing that was sufficient. The salary of the collector at the port at Chicago is but $850, and therefore the committee on Ways and Means recommend the following amendment, to come in at the end of the Senate amendment:

The salary of the collector at Chicago shall be, from and after July 1, 1853, $1,250.

Mr. CAMPBELL, of Illinois. Was it the intention of the committee to make the salary at Chicago equal to that at Detroit?

Mr. PHELPS. The committee had nothing to do with the salary of the collector at Detroit. In conversation with a gentleman who formerly represented the Chicago district on this floor, the committee were informed that it was the wish to have the salary of the collector there fixed at $1,250, and we thought it best to express that in plain language.

Mr. LETCHER. I am opposed to the amendment of the gentleman from Illinois.

Mr. PHELPS. I have already opposed it.

Mr. LETCHER. No, sir; the gentleman spoke in favor of the amendment of the committee, and never got within a league of the amendment of the gentleman from Illinois.

Mr. MOLONY. I withdraw my amendment.

Mr. LETCHER. Then I move to reduce the salary from $1,250 to $800.

It seems to me most extraordinary that upon every appropriation bill of the session there has been a studied and fixed effort, either here or in the Senate, to increase the salaries of public officers. Notwithstanding this remarkable fact, during the whole of this Whig Administration, for the last four years, there have been plenty of gentlemen found to fill the offices, and there is a multitude of applicants here for their places after the 4th of March next. Now, I ask that the Democratic party in this House shall look at this matter. I had supposed from our preaching that we were in favor of economy and retrenchment. But, sir, it seems from the votes in this House, that there is a large portion of the Democratic party, as there is a large portion of the Whig party, who are in favor of large salaries, and nothing else. It occurs to me that we shall have to organize anew. We shall have to take a slice of the Whig party and a slice of the Democratic party, and form an economical party, if we are to have one at all.

Mr. BAYLY, of Virginia. I am opposed to the amendment of my colleague, because it allows a salary to a collector at Chicago, and I beg to be informed how it is that a fixed salary is given to any collector anywhere? As I understand the law, they are paid by fees, and there is a provision in one of our laws that when those fees exceed $6,000, the balance shall go into the public Treasury. The salary of a collector is made up of fees; but $6,000 is fixed as the maximum salary. Now, I want to know why it is, when that is the law, that in this case, a salary is to be given to the collector? I want information upon that point. It occurs to me that this is an old acquaintance of mine, but it is so long since I have seen it that I had almost forgotten it. I should like to hear something more about it.

Mr. LETCHER. I withdraw my amendment.

The CHAIRMAN. The Chair begs leave to state that he has, without reflection, admitted amendments that were not in order. The amendment offered by the Committee on Ways and Means is still pending, and no further amendment is, therefore, now in order.

Mr. STEVENS, of Pennsylvania. I believe no one has spoken to the amendment of the Committee on Ways and Means, and I desire to say a few words in opposition to it. I think the salary proposed ($1,250) is too small, when $1,600 is what the gentleman from Illinois [Mr. MOLONY] desires to fix it at.

Mr. MOLONY. That is what the collector at Detroit gets.

Mr. STEVENS. Now if the Whig Administration were to continue in power, I should think the salary large enough, as it has been large enough while Whigs have been in office. But it is the policy of the Administration that is about to come in, to increase all the salaries. I believe that the salaries of the heads of Departments have been increased $2,000 each by the Senate, and that the ministers abroad are to be allowed $6,000 for houses, and so forth. Now, sir, that is right. Democrats cannot live upon such small salaries as Whigs can. They have not the same powers of economy. I am in favor of carrying out the wishes of the people. The people must have known, when they voted in this Administration, that they would be extravagant; that they would not be as economical as the Whigs had been. The people have spoken. Let their will be obeyed. Let the Democratic party put up all their salaries to the highest point, and let the country know it, and then, perhaps, hereafter, the country will pass another verdict. I am, therefore, opposed to the amendment of the committee.

Mr. HALL. Will the gentleman from Pennsylvania permit me to occupy the balance of his five minutes?

Mr. STEVENS. Oh, no! I believe I have spoken out my time. [A laugh.]

The question was then taken upon the amendment proposed by the Committee on Ways and Means, and it was agreed to.

The question recurred on agreeing to the Senate amendment as amended.

Mr. PHELPS. I move to increase the amount of salary to $1,300, and I do it for the purpose of saying that the salaries of the collectors along the lakes have, in some instances, been fixed by special acts. I now hold in my hand the act establishing the Chicago collection district, in which the salary of the collector is fixed. These collectors are engaged more in the prevention of smuggling than in the receipt of revenue. They are detective officers to protect the revenues of the Government, and prevent the inhabitants of the neighboring Provinces from smuggling in goods without paying the duties upon them. They are really in the preventive service. I think the salary proposed by the Committee on Ways and Means is right.

Mr. BAYLY. I am opposed to the amendment of my friend from Missouri. He speaks of the collectors being there upon the preventive service. Sir, the collectors have very little to do with that preventive service. It is the inspectors, tide-waiters, and officers of that character—whose salaries are fixed by law—who are most concerned in it. The duties of the collector are more in the office, more within doors.

I know that there has been for a long time a disposition in Congress to give fixed salaries to collectors, but in my opinion, they ought not to have them. They are paid by fees, and there is a minimum salary of $200, and a maximum salary of $6,000. Take, for instance, the case of Petersburg; the offices of tide-waiter and inspector there, so far as emolument is concerned, are of more importance than the office of collector by three hundred per cent. Those officers who are engaged in the preventive service—as my friend from Missouri designates it—have fixed, stated salaries, but the collectors are paid by fees, so that their compensation is in the precise ratio of the duties that they perform. If they perform no duties, they get no pay. If they perform duties, they get pay in proportion to their services until their compensation runs up to $6,000. When it does that, the law says that the balance shall go into the public Treasury. In my opinion, it is wrong to give them fixed salaries.

Mr. PHELPS. I now withdraw my amendment.

The amendment of the Senate as amended was then agreed to.

Forty-fifth amendment of the Senate:

"Page 42, after line 23, insert:

"For completing and furnishing the marine hospital at Napoleon, Arkansas, $4,000, and that the further time of one year be allowed for the expenditure of the money heretofore appropriated to the marine hospital at Vicksburg, Mississippi."

The question was taken, and the amendment of the Senate was agreed to.

Forty-sixth amendment of the Senate:

"Insert:

"For the completion of the marine hospital at Evansville, Indiana, $20,000, and for marine hospital at Natchez $4,000."

The question was taken, and the amendment of the Senate was disagreed to.

Forty-seventh amendment of the Senate:

"Page 42, after line 23, insert:

"For continuing the construction of the marine hospital at St. Louis, Missouri, $20,000."

Mr. MOORE, of Louisiana. What do the Committee on Ways and Means recommend with respect to that amendment?

Mr. PHELPS. The amendment was not before us.

The question was then taken, and the amendment of the Senate was disagreed to.

Forty-eighth amendment of the Senate:

"Page 43, line 4, after the word 'dollars,' insert as follows:

"*Provided*, That there shall be allowed and paid to the ministers to Great Britain, France, Russia, and Spain, the sum of $6,000 each, for house and office rent, salary to a private secretary, and other expenses incident to their respective missions; and to the minister resident in Turkey $4,000 for like expenses. The foregoing to be in addition to outfit and salary."

Mr. PHELPS. The Committee on Ways and Means recommend a disagreement to that amendment.

The question was then taken, and the amendment of the Senate was disagreed to.

Forty-ninth amendment of the Senate:

"Page 43, after the word 'd'affaires,' insert 'or minister resident,' so as to make the clause read:

"For salaries and outfits of charges d'affaires or ministers-resident to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, New Granada, Venezuela, Buenos Ayres, Bolivia, Guatemala, Ecuador, Switzerland, and Nicaragua, $153,000."

Mr. PHELPS. The Committee on Ways and Means recommend a disagreement to that amendment also.

The question was then taken and the amendment of the Senate was disagreed to.

Fiftieth amendment of the Senate:

"Page 43, line 27, after the word 'capacity,' insert:

"For compensation of Edward Kent, for one quarter's salary as chargé d'affaires at the legation at Rio Janeiro, during the absence of the minister, and under the instructions of the Department of State, $1,125."

Mr. PHELPS. The Committee on Ways and Means did not have this amendment before them, and therefore make no recommendation with reference to it.

Mr. WASHBURN. I move to amend that amendment by increasing the appropriation one dollar.

I offer this amendment for the purpose of saying a word in relation to the Senate amendment. This is for precisely the same kind of service as was performed by Theodore S. Fay, and precisely the same kind of service as we have before paid for. It is recommended by the Department, and I hope the committee will have no difficulty in concurring in the Senate amendment.

The question now being upon the adoption of the amendment to the amendment—

Mr. WASHBURN, by unanimous consent, withdrew it.

The question was then taken, and the Senate amendment was non-concurred in by the committee.

Fifty-first amendment of the Senate:

"In page 43, after line 27, insert:

"To reimburse David Tod, late minister of the United States at Brazil, a sum of money advanced by him to William E. Anderson, who was sent by the minister from Rio de Janeiro to the United States in the spring of 1851 as a witness against two persons engaged in the slave trade, $75."

Mr. PHELPS. The Committee on Ways and Means recommend a concurrence in that amendment.

The question was taken, and the amendment was concurred in.

Fifty-second amendment of the Senate:

"In page 43, after line 27, insert:

"For payment of Buckingham Smith, late secretary of legation in Mexico, the difference between his salary as secretary of legation and that of chargé d'affaires from the 26th July, 1851, to the 8th October following, during which period he discharged the duties of chargé d'affaires in Mexico, in the absence of the minister of the United States, who had returned home on leave, $1,755 95; the same, if received, to be in full for all charges during the period aforesaid."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

The question was put, and the Chair decided the amendment to be non-concurred in.

Mr. CABELL, of Florida. I desire to amend that amendment.

[Cries of "Too late!"]

Mr. CABELL. It is not too late. I addressed the Chair before the result of the vote was announced.

The CHAIRMAN. The Chair thinks the amendment comes rather late, but he will entertain it.

Mr. CABELL. I move to increase that appropriation ten dollars.

Mr. Chairman, at the last session of Congress, after the return of Mr. Smith from Mexico, these papers were presented to me too late to be referred to the Committee on Foreign Affairs. At the present session of Congress these papers were presented to the Committee on Foreign Affairs in the Senate, who reported this claim, which was passed by the Senate. There can be no doubt of its justice. The Committee on Ways and Means refuse to recommend a concurrence, because they had no time to consider it.

Mr. HOUSTON. This case was not before the Committee on Ways and Means until after the bill came from the Senate, and like a great many others, it was impossible for us to examine it fully.

Mr. CABELL. I will state that when this case came before the Committee on Foreign Affairs, a difficulty occurred in relation to the precedents upon which its allowance would be based. I took considerable pains to investigate the matter, and I find that the case is one precisely similar to those which have heretofore been allowed. The papers were all before the Committee on Foreign Affairs, with a letter from the Secretary of State in relation to the case; and it was closely and fully established before that committee, that there are numerous precedents of cases precisely similar in all their circumstances to this of Mr. Buckingham Smith. The application was made during the last session of Congress, and has again been renewed at the present session. It seems to me, then, that when the case is so clearly established, and when we have so many well-established precedents, that this House should allow this remuneration.

I will state further that this letter from the Secretary of State says, that the files of the Department abundantly show that Mr. Buckingham Smith, while he acted as chargé d'affaires, held official intercourse and carried on a voluminous correspondence with that Republic in relation to matters of great importance. I think, therefore, under the circumstances, this appropriation provided for in this amendment of the Senate should be granted, and I hope the House will concur in the amendment.

Mr. BAYLY, of Virginia. I am opposed to the amendment of the gentleman from Florida, for the reason that it grants precisely ten dollars too much, and for no other reason. I undertake to say that this case stands upon precisely the same footing of I do not know how many more cases within my recollection. I could mention a great many. The case of Mr. Rush, who preceded Mr. Smith at Mexico, the case of Benjamin Green at the same court, and the case of Theodore S. Fay, which we allowed the other day, are all precisely similar to this. There are cases more numerous than I could mention which stand upon precisely the same footing, and I hope the committee will concur in the Senate amendment, and let us go on.

Mr. STANLY. I know something about this case, and I think it ought to be allowed.

The question now being upon the adoption of the amendment to the Senate amendment—

Mr. CABELL, by unanimous consent, withdrew his amendment.

The question was then taken, and the Senate amendment was concurred in by the committee.

[A message was received from the Senate, by ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed with amendments a bill of the following title, viz:

"A bill making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1854."]

Mr. STANLY. We have now concurred in this amendment in favor of Mr. Buckingham Smith, and I hope, by unanimous consent, we may go back to the amendment in favor of Edward Kent for reimbursement as chargé d'affaires at Rio de Janerio, which is a precisely similar case. If one is allowed the other should be.

There was no objection, and the following amendment was taken up for consideration:

Fiftieth amendment of the Senate:

"On page 43, after the word 'capacity,' in line 20, insert:

"For compensation of Edward Kent, for one quarter's salary as chargé d'affaires at the legation at Rio de Janeiro, during the absence of the minister, and under the instructions of the Department of State, $1,125."

The question was taken, and the amendment was concurred in.

Fifty-third amendment of the Senate:

"Insert the following:

"SEC. 6. *And be it further enacted*, That an officer shall be appointed in the Department of State, to be called the Assistant Secretary of State, whose salary shall be $3,000 per annum, payable in the same manner as that of the Secretary of State, who shall perform all such duties in the office of Secretary of State, belonging to that Department, as shall be prescribed by the Secretary of State, or as may be required by law."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in this amendment.

The question was taken, and the amendment was non-concurred in by the committee.

Fifty-fourth and fifty-fifth amendments of the Senate:

"On page 44, after line 14, strike out the words in brackets, and insert the words in italics:

"For salary *and outfit* of a commissioner to reside in China, including the additional compensation under the act to carry into effect certain provisions in the treaties between the United States and China and the Ottoman Porte, [nine] *eighteen* thousand dollars."

Mr. PHELPS. This amendment was not before the Committee on Ways and Means. I hope, however, the committee will not concur in the amendment. I will state that it is to provide an outfit for the commissioner to China.

The question was put, and the chairman decided the amendment to be concurred in.

Mr. SKELTON. I demand a division.

Mr. HOUSTON. There is scarcely a quorum present, and I would rather give it up than to have a division. I hope gentlemen will allow us to go on with these amendments.

Mr. DEAN. I demand tellers upon concurring in that amendment.

Mr. BAYLY, of Virginia. Is it in order to debate the amendment?

The CHAIRMAN. Not unless the gentleman moves to amend it.

Mr. BAYLY. I move to increase the appropriation $10,000.

The House will recollect that when this bill was originally before this House, it was my intention to have offered this amendment; but in the confusion which prevailed, I neglected to offer it when the appropriate clause was under consideration. I then asked to recur to that clause of the bill, but objection was made, and my friend from Alabama, the chairman of the Committee on Ways and Means, suggested that the amendment would be put in in the Senate, and that I had better let it pass. These are the facts as they exist in relation to this matter. If the amendment had been offered with others of a similar nature, when the bill was originally before the House, it would have passed without opposition.

Mr. HOUSTON. The statement of the gentleman from Virginia is correct. I hope the amendment will be concurred in.

Mr. BAYLY. With the consent of the committee, I will withdraw my amendment.

There was no objection, and the amendment was accordingly withdrawn.

Mr. DEAN. With this statement of facts, I will withdraw my call for tellers.

The question was then taken, and the Senate amendment was concurred in.

Fifty-sixth amendment of the Senate:

"On page 44, after line 22, insert the following:

"For defraying the expenses attending the expected visit of a war-steamer from the Sultan of Turkey, with contributions to the Industrial Exhibition, to be held at New York in May next, $20,000; the said sum to be expended under the direction of the President of the United States."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence.

The question was taken, and the amendment was disagreed to.

Fifty-seventh amendment of the Senate:

"On page 45, line 23, after the clause in reference to land offices, insert the following:

"*And provided further*, That the President be, and is hereby, authorized to change the location of the several land offices and to establish the same, from time to time, at such other place in the district as he may deem expedient."

Mr. HOUSTON. If the members of the committee will look at this amendment, they will see that it is really a good one. It proposes to put it in the power of the President to change the land offices, instead of creating new ones, in cases where the lands immediately around the existing land offices have been sold.

The question was taken, and the amendment was agreed to.

Fifty-eighth amendment of the Senate:

"In page 50, after the clause in relation to the Surveyor General's office in California, insert the following:

"*Provided*, That it shall be lawful for the President of the United States, if he deem it expedient, to divide the State of California into three separate and distinct land districts, in such manner as circumstances shall determine to be necessary; and he shall appoint, by and with the advice and consent of the Senate, or during the recess of Congress, when necessary, a register of the land office and receiver of public moneys for each of such land districts; and the land offices for the same respectively shall be located at, and be removed from time to time to, such places as the President shall deem most suitable for public convenience; and the lands within the said districts, with the exception of mineral lands and such other lands as shall be exempt from sale by competent authority, shall be subject to entry at the proper office in the same manner as other portions of the public domain, and the registers and receivers shall each receive a salary of $3,000 and the usual fees allowed in other cases, but the entire compensation shall in no instance exceed the sum of $4,000."

Mr. HALL. The bill just passed to-day provides for the very same thing, and this amendment is unnecessary.

The question was taken on concurring with the Senate amendment, and it was not agreed to.

Fifty-ninth amendment of the Senate:

"Page 50, strike out the word 'exclusive,' and insert the words in italics in the following clause:

"For compensation of the public gardener, $1,200; and the [exclusive] management of the grounds attached to the Capitol, and surrounding the Executive Mansion, shall be under his control, *subject only to the supervision and control of the Secretary of the Interior.*"

Mr. PHELPS. The Committee on Ways and Means recommend a concurrence in that amendment.

The question was taken, and the amendment was agreed to.

Sixtieth amendment of the Senate:

"On page 50, after the section providing for the compensation of laborers employed upon the public grounds, insert the following:

"To supply a deficiency for the purchase of trees and hire of laborers on the improvements of reservation No. 2 or public mall, between Seventh and Twelth streets west $5,276 52."

Mr. PHELPS The Committee on Ways and Means recommended a non-concurrence in that amendment.

The question was then taken, and the amendment was not agreed to.

Sixty-first amendment of the Senate:

"On page 51, after line 15, insert the following:

"For a bridge across the Potomac at Little Falls, to be expended under the direction of the President of the United States, $50,000."

The question was taken upon concurring with the Senate amendment, and it was not agreed to.

Sixty-second amendment of the Senate:

"On page 51, immediately after the last amendment, insert the following:

"To be expended, under the direction of the President of the United States, for the purpose of bringing water into the city of Washington upon such plans and from such places as he may approve, $150,000: *Provided*, That if the plan adopted by the President of the United States should require water to be drawn from any source within the limits of Maryland, the assent of the Legislature of that State should first be obtained."

Mr. HOUSTON. The Committee on Ways and Means recommend a non-concurrence in that amendment.

Mr. BAYLY, of Virginia. I ask for tellers upon that amendment.

Tellers were ordered; and Messrs. STANTON, of Kentucky, and JOHNSON, of Arkansas, were appointed.

The question was taken, and the tellers reported—ayes 68, noes 55.

So the committee concurred in the Senate amendment.

Sixty-third amendment of the Senate:

"On page 51, strike out the words in brackets, and insert the words in italics in the following clause:

"For compensation of two draw keepers and a watchman at the Potomac bridge, and for fuel and oil for lamps, one thousand [three hundred and seventy-seven dollars and fifty cents] *eight hundred dollars*; and for repairing the Long Bridge across the Potomac river, $20,000."

Mr. HOUSTON. The committee recommend a concurrence in the amendment.

The question was taken, and the amendment was agreed to.

Sixty-fourth amendment of the Senate:

"On page 51, line 24, strike out '900' and insert '1,000,' so that the clause shall read:

"For compensation of two draw-keepers at the two bridges across the Eastern Branch of the Potomac, and for fuel, and oil for lamps, $1,000."

The question was taken, and the amendment was agreed to.

Sixty-fifth amendment of the Senate:

"On page 52, in line 2, strike out '$14,800' and insert '$16,400;' so that the clause shall read:

"For compensation of Auxiliary Guard, and for fuel, and oil for lamps, $16,400."

The question was taken, and the amendment was concurred in.

Sixty-sixth amendment of the Senate:

"At the end of the clause just amended add the following:

"And each of the auxiliary guards shall hereafter receive the same annual compensation, viz: $500 per annum."

Mr. PHELPS. The Committee on Ways and Means recommend a non-concurrence.

Mr. STANLY. The amendment is a proper one, and I hope it will be concurred in. A part of this guard receive only $450, and I want to see them all put upon the same footing.

The question was taken, and the amendment was agreed to.

Sixty-seventh amendment of the Senate:

"On page 53, after line 27, insert the following:

"For heating and ventilating the Executive Mansion, painting the exterior thereof, and painting the walls, ceiling, &c., of the rooms of the first floor, and making other improvements and repairs, recommended by the Architect in his report of February 24, 1853, and for the purchase of books for the President's library, $29,500."

Mr. PHELPS. The Committee on Ways and Means recommend a non-concurrence.

Mr. STANTON, of Kentucky. I move to increase the appropriation one dollar. It is $500 less than the one I proposed by the amendment I offered a few days ago as chairman of the Committee on the Public Buildings. That committee caused the presidential mansion to be examined by the Architect employed by the Government on the extensions of the Capitol. He did examine it, and ascertained that the repairs were absolutely necessary; that they were substantial repairs, and such as ought to have been made ten years ago. That amendment provided for hot-water furnaces for the basement story, but it was not the design to restrict the Architect to that peculiar kind of furnace. The object was to provide some means by which the dampness known to be precipitated on the walls of the basement story of that house, and which has caused so much sickness in it, could be removed. That constitutes an inconsiderable part of the whole appropriation. A large portion is for many substantial repairs necessary to preserve the house from decay, such as painting the exterior and interior, repairing portions of the building which are dilapidated, and for paper for the walls. They are all absolutely necessary to make the President and his family comfortable. I hope the committee will not hesitate to adopt the amendment, which has not only been considered by the Committee on the Public Buildings of this House, but the Committee on Public Buildings of the Senate. I withdraw my amendment.

Mr. PHELPS. I move to strike out the words "recommended by the Architect in his report of 1853." If that amendment be adopted, I shall vote for concurrence in the amendment of the Senate. I do not know what that report of the Architect is. It may be found on further examination, that some change in the plan will have to be made. The Committee on Ways and Means recommend a non-concurrence; but I am in favor of the amendment with the modification I have proposed.

Mr. STANTON. We have no objection to it.

The question was taken, and the amendment to the amendment was agreed to.

The question was taken, and the amendment of the Senate as amended was then concurred in.

The sixty-eighth amendment of the Senate:

"In page 54, after line 5, insert the following:

"For completing the grading and paving the carriageway of Pennsylvania avenue, from Seventeenth street to Rock Creek, and for setting the curb-stone and paving the footway six feet wide on each side of said avenue, in addition to the sum heretofore appropriated for that object, $14,700: *Provided*, That the sum required for paving said footway shall not be expended unless the owners of property opposite thereto be required, under the direction of the authorities of the city of Washington, to pave at least ten feet in width of the space allotted for a sidewalk, in continuation and adjoining the same."

The question was taken, and the amendment was non-concurred in.

The sixty-ninth amendment of the Senate:

"In page 54, after line 10, insert:

"For deficiency for surveying, leveling, and measuring, the triangular square on the north side of Pennsylvania avenue, between Thirteenth and Fourteenth streets, $42."

The question was taken; and the amendment was agreed to.

The seventieth amendment of the Senate:

"Insert after the above the following:

"For supplying a deficiency in the appropriation made March 3, 1849, for completing the room under the Senate post office, $451 31."

Mr. STANTON, of Kentucky. That is an appropriation repeatedly recommended by the Secretary of the Treasury. It is a balance due to workmen. The Committee on the Public Buildings have examined the testimony on the subject, and report that they are really entitled to it.

Mr. BRIGGS. I move the addition of the following amendment:

And to enable the Clerk of the House of Representatives to comply with the resolution of the House passed March 1, 1853, granting extra compensation to the employees thereof, there is hereby added to the miscellaneous items of the contingent fund of the House of Representatives, and hereby appropriated, a further sum of $36,000.

The House passed the resolution giving the extra compensation by three votes to one, and it seems to me there can now be no objection to an appropriation being made to carry it out.

Mr. HIBBARD. The amendment is not germane to the subject before the committee, and therefore not in order.

The SPEAKER. The Chair is inclined to overrule the gentleman's point of order. The amendment is to carry out a resolution of the House.

The question was taken, and the amendment to the amendment was disagreed to.

The question was then taken on the amendment of the Senate, and it was concurred in.

Seventy-first amendment of the Senate:

"Strike out 'fifty' from the following paragraph, and insert 'seventy-five:'

"*Miscellaneous.*—For salaries and incidental expenses of the commission appointed under the act of March 3d, 1851, for settling land claims in California, $50,000; and that the proviso to the appropriation for this object, contained in the act approved 31st of August, 1852, shall not be so construed as to reduce the salary of the secretary of said commission as fixed by the second section of the above-recited act."

Mr. HOUSTON. The committee recommend a concurrence in that amendment.

The question was taken, and the amendment was concurred in.

Seventy-second amendment of the Senate:

"Add after the above paragraph the following:

"*And provided further*, That out of said sum herein appropriated there shall be paid to each commissioner appointed under the act of the 3d of March, 1851, the sum of $8,000, in lieu of the compensation heretofore allowed."

The question was taken, and the amendment was concurred in.

Seventy-third amendment of the Senate:

"Insert after the 10th line, page 55, the following:

"For pensions to widows and orphans, under the act entitled 'An act to continue half pay to certain widows and orphans,' approved February 3d, 1853, $174,000."

Mr. PHELPS. This appropriation is rendered necessary by the passage of an act at this session of Congress.

The question was taken, and the amendment was concurred in.

The seventy-fourth amendment of the Senate, a verbal one, was concurred in.

Seventy-fifth amendment of the Senate:

"Insert after the 10th line in page 57, the following:

"For the purpose of purchasing or building a revenue cutter, to be propelled by steam and employed on the Pacific coast, $75,000: *Provided*, That there shall not be more than one steam and one sail vessel employed for such purposes on that coast."

Mr. PHELPS. The Committee on Ways and Means recommend a non-concurrence in the amendment. At the last session, Congress provided for the building of six additional revenue cutters, and we deem that sufficient.

The question was taken, and the amendment was non-concurred in.

Seventy-sixth amendment of the Senate:

"After the word 'Departments' in the following: 'For the printing of the Executive Departments, $22,289 04;' insert the following:

"Including for paper and printing the annual estimates, and for paper, printing, binding the Biennial Register, and the annual report of the Secretary of the Treasury on commerce and navigation."

Mr. HOUSTON. The Committee on Ways and Means recommend a concurrence in the amendment.

The question was taken, and the amendment was concurred in.

Seventy-seventh amendment of the Senate:

"Add at the end of the first section the following:

"*Mexican Boundary Commission.*—For completing the survey of the Rio Grande, and for office work for one year, $83,512.

"For arrears due Major William H. Emory's party, $20,000.

"For expenses attending Lieutenant Whipple's party from the Gila, $6,000.

"For pay of commissioner and secretary, and for personal and traveling expenses of the commissioner, $9,500; said sums to be disbursed upon warrants approved by the Secretary of the Interior. And that the period limited for the appointment of commissioner, surveyor, and chief astronomer, by the act of May 15, 1850, shall be, and the same is hereby, extended to the first of April, 1854."

Mr. TOOMBS. I move to strike out the latter clause of that amendment, which provides for the traveling expenses of the commissioner. This item of $9,600, and over, ought to be stricken out. That officer has spent twice as much money as he ought to have done.

The question was taken, and the amendment was agreed to.

The question was then taken upon the Senate amendment as amended, and it was agreed to.

Seventy-eighth amendment of the Senate:

"Insert as follows:

"For carrying into effect the provisions of this act establishing an assay office in the city of New York, in addition to the charges therein authorized to be received, $100,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated."

Mr. STEVENS, of Pennsylvania. What do the committee say to that?

Mr. PHELPS. They did not consider it.

The question being put on the amendment—

Mr. BRIGGS. I call for tellers.

Mr. DEAN. I have an amendment, which I wish to offer. I move to increase the appropriation $100. I do this for the purpose of bringing properly before the committee the object intended to be secured by this appropriation, that it may be understood. If an assay office is established in New York, it will probably settle the question of a Mint, which has been before Congress at each session for the last few years. More than $1,000,000 of gold dust is received every month at New York, and no one will pretend that we ought not to have either a Mint or an assay office there to place a value upon it; and this is demanded not for the benefit of New York, but for the interests of persons who bring gold dust there. It is but an act of justice—not to New York, but to the persons who produce or deal in this article, that an assay office should be established at the port where it is received, that they may no longer be plundered by the brokers of New York or the railroad companies of New Jersey. It is infinitely safer for men to cross the Isthmus——

Mr. LETCHER. Was not the vote taken and announced upon that amendment?

The CHAIRMAN. It was not.

Mr. DEAN. I say now, in order to complete the sentence I had begun, it is infinitely safer to cross the Isthmus and escape the robbers that infest the roads there, than to escape the legalized robbery that is practiced upon persons who bring gold dust into New York, and are compelled to sell it at a great sacrifice there, or pay tribute to the New Jersey monopolists, who, if they get out of the frying-pan of Wall street, they are certain to fall into the fire of the railroad companies in New Jersey. I do not wish to take up the time of the committee in discussing this matter, but I ask the committee to give the persons interested in this matter what is their right—an assay office, where their gold dust may be cast into bars, and then they will know the value of the article, and it will be in a shape in which it can be used by them, and they will no longer be at the mercy of speculators or the clutches of monopolists.

Mr. STEVENS, of Pennsylvania. In the first place I do not think it proper that in a bill of this kind such a provision as this should be inserted. It is really an improper kind of legislation in the first instance. This is making a provision for what the law already authorizes. The amendment now offered is for establishing a new institution wholly inconsistent with fair and judicious legislation, as your rules show. As to their compromising the Mint for an assay office of $100,000, I do not believe a word of it. It seems that the gentleman from New York does. I do not. It is just an egg which they will set upon next year to hatch a ten million concern. I have seen your saving banks established merely to keep money for widows and orphans all over Pennsylvania, but I have never seen one that did not come out a full-blown bank in two years. They have established an assay office in California. Let them try it there. They have a Mint in California. Why bring gold dust all around the world? I hope that none of it hereafter will be coined in Philadelphia. I hope that it will be all coined there on the ground, where it ought to be coined. I hope, therefore that the committee will not only reject the amendment of the gentleman from New York, but the amendment of the Senate.

Mr. DEAN. I withdraw my amendment.

The question recurred on the amendment of the Senate.

Mr. GOODRICH. I propose to increase the appropriation $200. I am in favor of this amendment of the Senate, but by no means for the reason which the gentleman from New York [Mr. DEAN] has given. I rise mainly to enter my protest—and I shall do it here and everywhere—against such wholesale slander as the gentleman has indulged in against the brokers of New York. What do the brokers of New York do, that justifies the gentleman in rising in his place here and calling them robbers? What do they do? They charge the regular market price, as I understand it, for transporting the gold from New York to Philadelphia. If anybody will do it for less than the market price, then the price will go down. If the gentleman will go there and do it for less, the price will go down. The business in which these men are engaged is an honest business, and I do not like to hear such wholesale slander against honest and reputable men, as I know certainly many of them to be. I do not approve of all the things which railroads do, and if they charge one fourth of one per cent. for transporting gold from New York to Philadelphia, it is by no means proof that they are robbers. That is all I have to say.

Mr. DUNHAM. I am opposed to the amendment, and I desire to take the vote.

The question was taken on Mr. GOODRICH's amendment, and it was not agreed to.

Mr. BROOKS. I propose to increase the appropriation $300. I am sorry that I feel it my duty to say a word upon this subject. This Congress has been against the navy-yard—against the city which I have the honor in part to represent, and yet it has been abundantly liberal in making appropriations for fortifications to some other parts of the country. It has not yet voted a single cent to that quarter where concentrates, in a great degree, the representative wealth of our country. It has refused every item in the way of additional protection to our commerce, and it has not voted an additional ship to the Navy. They have refused to give us a Mint, and we have now fallen down to the simple request that they will grant us an assay office. They have imposed upon us an additional duty in the way of seigniorage, and now our request is that we shall be allowed the simple means of assaying and testing the value of our gold at the public expense, provided we pay the seigniorage of one-half per cent., which the act already imposes upon us. I do not think the request unreasonable or unjust, and I do not think it improper, considering the great interests which the country has in that city. It seems to me to be rather a hard feeling, and an unjust and improper prejudice which has been exhibited towards us, upon the part of the Representatives of Pennsylvania. I will not pledge myself for the future. I cannot do any such thing, because I will not be here to carry out my pledge; but it is obvious to every person, that until in some form or other this question of a Mint is settled between the two great representative Commonwealths of Pennsylvania and New York, there will be more or less mingling of sectional rivalry and contest, which will introduce itself into all the legislation of the country, and cost that country ten thousand times more than the means necessary for an assay office in the city of New York. I have nothing more to say. All I ask at your hands is simple justice.

ARMY BILL—CONFERENCE.

Mr. PHELPS. I ask that we may informally go into the House, with a view that a committee of conference may be appointed to meet a committee of the Senate on the disagreeing votes on the Army appropriation bill.

The question was taken, and it was decided in the affirmative.

The committee then rose, and the Speaker having resumed the chair—

On the motion of Mr. PHELPS, by unanimous consent,

Ordered, That the House insist on their disagreement to the amendments insisted upon by the Senate, and insist upon their amendments disagreed to by the Senate, and agree to the appointment of a Committee of Conference on the disagreeing votes of the two Houses on the bill of the House (No. 336) "making appropriations for the support of the Army for the year ending June 30, 1854."

Ordered, That Mr. PHELPS, Mr. STANLY, and Mr. ORIGEN S. SEYMOUR be appointed the managers at the said conference on the part of the House; and

Ordered, That the Clerk acquaint the Senate therewith.

CENSUS BILL.

Mr. PHELPS. I desire furthermore to ask the unanimous consent of the House that the census bill be referred to the Committee on Printing. It is public business.

Ordered, That the bill be so referred.

Mr. CARTTER. I ask also the unanimous consent of the House to print the annual report of the Commissioner of Patents, which has been unprovided for.

A MEMBER. It is already referred to the Committee on Patents.

On the motion of Mr. HENN, by unanimous consent,

Ordered, That two additional members be appointed on the Committee on Enrolled Bills.

The SPEAKER thereupon appointed Mr. THOMAS Y. HOW and Mr. HAWS upon said committee.

Mr. HENN, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills, which thereupon severally received the signature of the Speaker, viz:

An act to amend an act entitled "An act to amend an act to settle and adjust the expenses of the people of Oregon from attacks and hostilities of Cayuse Indians, in the years 1847 and 1848," approved August 21, 1852;

An act to establish the territorial government of Washington;

An act authorizing the Selectmen of the town of Chelsea, in the State of Massachusetts, to lay out and make way on lands of the United States in said town;

An act for the relief of Edward Box;

An act for the relief of B. B. Bennett; and

An act making appropriations for the support of the Military Academy for the year ending the 30th June, 1854.

CIVIL AND DIPLOMATIC BILL.

The Committee of the Whole on the state of the Union then resumed its session.

Mr. BROOKS. I withdraw my amendment.

The question recurred on agreeing to the Senate amendment.

Tellers were ordered; and Messrs. DAVIS of Indiana, and BRIGGS were appointed.

The question was then taken, and the tellers reported—ayes 66, noes 63.

So the amendment of the Senate was agreed to.

Seventy-ninth amendment of the Senate.

"Insert the following:

"And that there be paid to James B. Smallwood and Martin Latruite, boys attending upon the mail wagons of the Senate, the sum of $146 each, being twenty per cent. in addition to their pay for the year ending 30th of June, 1853."

The question was taken, and the amendment of the Senate was agreed to.

Mr. HOUSTON. The committee have now gone entirely through the original bill. What follows consists of new sections inserted by the Senate. The Committee on Ways and Means have had very little of that matter under consideration at all.

Mr. LETCHER. I move to reject the balance of the amendments. We have high authority for pursuing this course. The Senate have disagreed to all our amendments to the Army bill.

Mr. HAVEN. I do not think it is a precedent which we ought to follow.

The CHAIRMAN. The motion of the gentleman from Virginia is not in order.

Mr. JONES, of Tennessee. The bill to establish the Territory of Washington has just received the signature of the Speaker. This bill contains no appropriation for the expenses of that Territory. I therefore offer the following amendment, to come in at page 81, line 5:

For salaries of governor and superintendent of Indian affairs, three judges, attorney, and marshal of Washington Territory, from the time of their appointment to the end of the fiscal year terminating June 30, 1854, an amount sufficient to pay the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated;

For compensation and mileage of the Legislative Assembly, officers, clerk, and contingent expenses of the Assembly, and to defray the expenses of taking the census of said Territory, the sum of $20,000, to be paid out of any money not otherwise appropriated;

For the contingent expenses of the Territory, including the salary of a clerk of the Executive Department, $1,500, to be paid out of any money in the Treasury not otherwise appropriated.

The question was taken on Mr. JONES's amendment, and it was agreed to.

Mr. PHELPS. This seems to be the appropriate place to insert an appropriation for the expenses of the Territory for the ensuing fiscal year also.

Mr. HOUSTON. The amendment of the gentleman from Tennessee includes those expenses.

Mr. PHELPS. His only provides for the residue of this fiscal year, as I understand it.

Mr. JOHNSON, of Arkansas. It provides for the next fiscal year also.

Mr. PHELPS. I would inquire of the gentleman from Tennessee if he embraced in his amendment the salaries for the ensuing fiscal year?

Mr. JONES. Yes, sir; from the time of the appointment of the officers to the end of the ensuing fiscal year.

Eightieth amendment of the Senate:

"Insert the following:

"SEC. 3. *And be it further enacted*, That from and after the 30th of June, 1853, the clerks in the Department of the Treasury, War, Navy, the Interior, and the Post Office, shall be arranged into four classes; of which class number

one shall receive an annual salary of $900 each; class number two, an additional salary of $1,200; class number three an annual salary of $1,500 each; and class number four an annual salary of $1,800.

"In the office of the Secretary of the Treasury, four of class one, six of class two, six of class three, and five of class four.

"In the office of the Solicitor, one of class one, two of class two, three of class three, and one of class four.

"In the office of the First Comptroller, two of class one, five of class two, and seven of class three.

"In the office of the Second Comptroller, three of class one, four of class two, and seven of class three.

"In the office of the First Auditor, three of class one, six of class two, and nine of class three.

"In the office of the Second Auditor, two of class one, six of class two, and eleven of class three.

"In the office of the Third Auditor, three of class one, forty-one of class two, and eight of class three.

"In the office of the Fourth Auditor, one of class one, four of class two, and nine of class three.

"In the office of the Fifth Auditor, two of class one, three of class two, and two of class three.

"In the office of the Auditor of the Treasury for the Post Office Department, twenty of class one, fifty of class two, twenty-six of class three, and five of class four.

"In the office of the Register, five of class one, eighteen of class two, and four of class three.

"In the office of the Commissioner of Customs, three of class one, four of class two, and three of class three.

In the office of the Treasurer, two of class one, five of class two, and five of class three; and in the office of the Light-House Board, one of class one, one of class two, and two of class three.

"In the office of the Secretary of War, one of class one, two of class two, two of class three, and one of class four.

"In the office of the General-in-Chief, one of class two.

"In the office of the Adjutant General, two of class one, five of class two, one of class three, and one of class four.

"In the office of the Quartermaster General, three of class one, five of class two, two of class three, and one of class four.

"In the office of the Paymaster General, two of class one, three of class two, two of class three, and one of class four.

"In the office of the Commissary General, two of class one, two of class two, one of class three, and one of class four.

"In the office of the Surgeon General, one of class one, one of class two, and one of class four.

"In the office of the Colonel of Engineers, one of class one, two of class two, one of class three, and one of class four.

"In the office of the Colonel of Topographical Engineers, one of class one, two of class two, one of class three, and one of class four.

"In the office of the Colonel of Ordnance, two of class one, four of class two, one of class three, and one of class four.

"In the office of the Secretary of the Navy, four of class two, six of class three, and one of class four.

"In the Bureau of Construction, Equipment, and Repairs, one of class one, seven, including the draughtsman, of class two, and one of class four.

"In the Bureau of Yards and Docks, one of class one, four, including the draughtsman, of class two, and one of class four.

"In the Bureau of Provisions and Clothing, four of class two, and one of class four.

"In the Bureau of Ordnance and Hydrography, four, including the draughtsman, of class two, and one of class four.

"In the Bureau of Medicine and Surgery, two of class two, and one, the assistant, of class four.

"In the office of the Secretary of the Interior, four of class two, three of class three, and three of class four.

"In the office of the Commissioner of Pensions, ten of class one, thirty of class two, five of class three, and four of class four.

"In the office of the Commissioner of the General Land Office, forty of class one, forty of class two, twenty-three of class three, and three of class four.

"In the office of the Commissioner of Indian Affairs, six of class two, six of class three, and three of class four.

"In the office of the Commissioner of Patents, eight of class two, twelve, including the six assistant examiners, of class three, and one of class four.

"In the office of the Postmaster General, ten of class one, thirty-three of class two, twenty-nine of class three, and six, including the topographer, of class four.

"And there shall be a chief clerk for each of the offices of the Solicitor, First Comptroller, Second Comptroller, First Auditor, Second Auditor, Third Auditor, Fourth Auditor, Fifth Auditor, Auditor of the Treasury for the Post Office Department, Register, Commissioner of Customs, Treasurer, Light-House Board, Commissioner of Pensions, Commissioner of the General Land Office, Commissioner of Indian Affairs, and Commissioner of Patents, who shall be allowed an annual compensation of $2,000 each. And there shall be a chief clerk for each of the Departments of the Treasury, War, Navy, Interior, and General Post Office, who shall be allowed an annual compensation of $2,200 each.

"No clerk shall be appointed in either of the four classes until after he has been examined and found qualified by a board to consist of three examiners, one of them to be the chief of the bureau or office into which he is to be appointed, and the two others to be selected by the head of the Department to which the said clerk will be assigned. Nor shall any clerk in the Departments herein named receive any other salary or money for extra services than the sum or sums specified in this section, at any time after this section has been executed by a classification of the clerks as it prescribes. There shall be a disbursing clerk for each of the Departments of War, Navy, and the Post Office; not more than three for the Treasury Department, at the discretion of the Secretary thereof; and not more than three for the Department of the Interior, at the discretion of the Secretary thereof; the said clerks to be appointed out of class four by the heads of the respective Departments, and to receive such sum, in addition to their regular salaries, as may amount in all to two thousand dollars per annum. But it shall be their further duty, when designated by the head of a Department for that service, to superintend the buildings, and they shall give bonds, as required by the Independent Treasury act: *Provided*, That the clerks, when distributed and arranged as required by this section, shall be paid according to its provisions out of any money in the Treasury not otherwise appropriated, and shall constitute the whole of the permanent clerical force of the Departments of the Treasury, War, Navy, the Interior, and the Post Office, with the exception of the Census Bureau, which is not included in this arrangement, and the clerks temporarily employed in the office of the Third Auditor on bounty land service and on arrearages of pay: *And provided further*, That each head of the said Departments may alter the distribution herein made of the clerks amongst the various bureaus and offices in his Department, if he should find it necessary and proper to do so.

Mr. BOWIE. I wish to call the attention of the committee to the disparity between the allowance to the Second and Third Auditor's offices. There are now twenty clerks in the Second Auditor's office. This amendment allows eleven clerks of the third class in that office.

The CHAIRMAN. The Chair must remind the gentleman that discussion is not in order to the Senate amendment.

Mr. BOWIE. I move to amend, by making the number of clerks of the third class, in the Third Auditor's office, double the number proposed in the Senate amendment.

Mr. Chairman, this is the largest and most important office, I believe, connected with the Treasury Department. The officers connected with this office audit the expenses of the Government, more than $12,000,000 annually. There are now fifty-three clerks employed in that Department; but if I understand this Senate amendment correctly, it gives only three clerks of the third class to this office.

A MEMBER. It gives them eight.

Mr. BOWIE. Mr. Chairman, when the Third Auditor was appealed to for that purpose, he sent in a statement of the number of clerks necessary to carry on the business of that office, and an estimate of their salaries. Now, I do not propose to recommend the amount of salary to these clerks which the Third Auditor has recommended, but I hope the proportion of clerks allowed to the other Auditors' offices will be allowed to this office. I think it will be doing gross injustice to this office if the amendment is passed in its present form. The duties of the clerks in that office are of more importance to the Government than those of almost any other connected with the Government; yet out of fifty-three clerks apportioned to that office, only eight are of the third class, while in the Second Auditor's Office, where there are only twenty clerks in all, there are eleven of the third class.

I will modify my amendment so as to provide that there shall be twelve clerks of the third class in the Third Auditor's Office instead of eight.

Mr. TOOMBS. I hope the amendment of the gentleman from Maryland [Mr. BOWIE] will not be adopted, and that the proportion of clerks in this Third Auditor's Office will remain as they are. This bill, which is now sent here as an amendment, has been framed with a great deal of care. It was reported from the Finance Committee in the Senate, by a gentleman [Mr. HUNTER] who has for a long time been distinguished for the efforts he has made to procure an economical administration for this Government. The duties of these clerks in the Third Auditor's Office are of an entirely different character from those in the Office of the Second Auditor. And here I take occasion to say, that the Second Auditor, in his estimates for this purpose, has brought down the number of clerks in his office to one half; while the Third Auditor has not acted in the same spirit in seconding the wishes of those who have had charge of this matter in the Senate. But the peculiar duties of the clerks in the Third Auditor's Office are those which anybody could perform. The description of work they have to do, does not require so many clerks of the third class as are needed in the office of Second Auditor. The gentleman from Maryland [Mr. BOWIE] seems to go upon the principle that as many clerks with high salaries should be put into one office as another; he seems to go upon the principle of equalizing the patronage of these several offices without regard to the species of labor they require to be done. Now, sir, this bill has been intelligently framed. It assigns the highest class of clerks to places where the description of labor to be performed requires the highest degree of clerical talent.

I say to the gentleman from Maryland that you can draw no comparison between the Second and Third Auditor's offices in this respect. And I say to him further, that this bill is not framed upon the principle of equalizing the patronage of these bureaus, but with sole reference to the character of the work itself.

I think the amendment a good one. The business of the country has suffered greatly for the last three years. A distinguished member from North Carolina (Mr. MCKAY,) some years ago introduced a bill similar to this, but it failed to become a law. I hope this amendment will be concurred in in its present form, and that no amendments will be agreed to by the committee.

The question was then taken, and Mr. BOWIE's amendment was not agreed to.

Mr. FLORENCE. I desire to amend the Senate amendment so as to provide that the draughtsmen employed in the several Departments of the Government shall be changed from the second to the third class.

Mr. Chairman, I will not detain the committee longer than briefly to state my reasons for moving this amendment. The amendment, as it comes from the Senate, I have no doubt is a good one in many respects, but in respect to these draughtsmen, it may not be so perfect as the gentleman from Georgia [Mr. TOOMBS] supposes. These draughtsmen occupy fixed positions. They are learned in this especial art, and when their situations become vacant for any reason, it is very difficult to fill them again with competent persons. There is, therefore, no change often made among them. The labor they perform is of great advantage to the Government, and I ask that their position in this amendment shall be changed from the second to the third class. They do as much work, and as high a class of work as any of the clerks in the Departments; and I therefore suggest, that their salary be fixed at $1,500. They are employed the whole of the time, from the hour they go there in the morning until the Departments are all closed in the evening, and they deserve a better compensation than is given them by this amendment. I hope the amendment I have offered will be adopted.

Mr. JOHNSON, of Arkansas. Mr. Chairman, I have only to say in regard to the amendment of the gentleman from Pennsylvania, that I am opposed to it. Here is a bill of very great length which we now have under consideration in the shape of this Senate amendment, and if we are to go into a discussion of the relative merits of the different classes of persons referred to in it, and undertake to amend the subject-matter of the bill itself, it will be sufficient to consume the balance of the session. This is a bill which has been considered with great care by the gentleman who had charge of it in the Senate. It is worded carefully, and I propose that we adopt it as a whole without going into its discussion. It has been prepared with a great deal of care. This matter of equalization is one of very great difficulty; but under this arrangement, the worst is better off than under that now existing. Great care has been taken not to do injustice to any one, and I presume we now have the bill before us in as perfect a form as we could by any possibility make it at this late hour of the session. If we begin to amend it, we shall never find an end. This will at least do for a beginning. I say, therefore, let us pass this bill as it now stands, and leave it to future legislation to make such alterations as experience shall hereafter show to be necessary. But I appeal to this committee not to undertake to do that work now. Let us adopt the amendment as it stands as a whole, or let us reject it, and leave the clerks in the position which they now occupy.

Mr. FAULKNER. I desire to put the amendment suggested by the gentleman from Pennsylvania [Mr. FLORENCE] in a proper form.

The CHAIRMAN. That can be done if no objection be made.

Mr. GOODENOW. I move that the committee do now rise for the purpose of suspending this five-minutes debate upon this section of the bill.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr.

STUART) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the amendments of the Senate to the bill of the House (No. 337) making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854, and had come to no resolution thereon.

Mr. GOODENOW. I move to suspend the rule which allows five-minutes debate in the Committee of the Whole on the state of the Union upon the section of the civil and diplomatic bill which it had last under consideration, and upon that I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then taken, and the motion was agreed to.

Mr. ORR. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair,) and resumed the consideration of the civil and diplomatic appropriation bill, the pending question being upon the amendment submitted by the gentleman from Pennsylvania, [Mr. FLORENCE.]

Mr. FAULKNER. I now, with the consent of the gentleman from Pennsylvania, [Mr. FLORENCE,] desire to submit that amendment in a prepared form. I move the following:

And that class of clerks in the different Departments known under the appellation of draughtsmen, being out of the direct line of promotion, and being necessarily required to possess a competent scientific knowledge of and experience in their duties, shall be rated in the third class of clerks.

The question was taken, and Mr. FLORENCE's amendment as modified by Mr. FAULKNER was disagreed to.

Mr. HENN. I move to amend by adding at the end of the section the following:

Provided, That in no case shall it be lawful to employ a greater number of clerks in the several offices mentioned than is herein specified.

The question was taken, and Mr. HENN's amendment was not agreed to.

The question then recurring on the Senate amendment, it was put, and the amendment was concurred in.

Eighty-first amendment of the Senate:

"Insert the following:

"SEC. 4. *And be it further enacted*, That the Secretary of the Treasury be, and is hereby, authorized to construct a marine hospital at Burlington, in the State of Iowa; and that there be, and is hereby, appropriated $15,000 for said purpose from the Treasury, out of any moneys not otherwise appropriated."

The question was taken, and the amendment was non-concurred in.

Eighty-second amendment of th e Senate:

"Insert the following:

"SEC. 5. *And be it further enacted*, That hereafter the annual compensation of the Vice President, Secretaries of State, Treasury, War, Navy, and Interior, and the Postmaster and Attorney General, shall be $8,000 each."

Mr. SKELTON. I move to strike out "$8,000," and insert "$5,000."

I rise reluctantly on this occasion to enter my protest against this system of legislation. We are called upon now, after delaying the public business, and idling away the time of the Congress for the last year and a half, to pass bills for the reorganization of the Executive Departments, and to change the salaries of officers, from the Vice President down to the lowest clerk in the Department. Whatever the House may think of this system of legislation, I cannot be silent and allow it to go on without a protest upon my part.

Mr. JOHNSON, of Arkansas. I call the gentleman to order. He is wasting the time of the House.

Mr. SKELTON. I am speaking to the amendment. I am in favor of keeping the salaries where they are. I do not propose to consume the time of this House uselessly and unnecessarily. It is too late in the session to undertake this measure. We have just passed a clause in this bill which ought to have been the subject of consideration for weeks. Whatever the House may do, I pledge my vote against every measure which has been thrust upon us by the Senate on this occasion.

The question was taken on the amendment offered by Mr. SKELTON, and it was disagreed to.

The CHAIRMAN. The question recurs upon agreeing to the Senate amendment.

Mr. CAMPBELL. I call for tellers.

Tellers were ordered; and Messrs. DEAN and CAMPBELL were appointed.

The question was then taken, and the tellers reported—ayes 35, noes not counted.

So the amendment was disagreed to.

Eighty-third amendment of the Senate:

"Insert as follows:

"SEC. 5. *And be it further enacted*, That when private establishments shall be made to refine gold bullion, the Secretary of the Treasury, if he shall deem them capable of executing such work, is hereby authorized and required to limit the amount thereof which shall be refined in the Mint at Philadelphia, from quarter to quarter, and to reduce the same progressively as such establishments shall be extended or multiplied, so as eventually, and as soon as may be, to exclude refining from the Mint, and to require that every deposit of gold bullion made therein for coinage shall be adapted to said purpose, without need of refining: *Provided*, That no advances in coin shall be made upon bullion after this regulation shall be carried into effect except upon bullion refined, as herein prescribed."

Mr. BAYLY, of Virginia. I move to strike out the words "Secretary of the Treasury," and insert "President of the United States."

I move this amendment for the purpose of saying that there is growing up here a system of legislation which I regard as of the most mischievous character. I mean that this practice of conferring discretionary power upon officers in reference to legislative matters is inconsistent with our whole theory of Government. If you leave this discretion anywhere you ought to leave it with the President of the United States, who is the most responsible officer under the Government. But in my opinion the whole system of legislation in that manner is wrong.

The question was then taken on the motion of Mr. BAYLY, and it was not agreed to.

The question then recurring upon the amendment of the Senate, it was put, and the amendment was non-concurred in.

Eighty-fourth amendment of the Senate:

"Insert as follows:

"SEC. 7. *And be it further enacted*, That the Secretary of the Treasury be authorized to refund to the legal claimants for duties that have been paid on goods, wares, and merchandise that were consumed by fire in the district and port of New York, in July, 1845, $300,000, and in the district and port of San Francisco, in the years 1850 and 1851, $100,000, subject to the restrictions and limitations of the act of July 7, 1838, passed for the relief of sufferers by the fire of December, 1835, in New York; and the amount of goods destroyed and duties to be refunded shall be ascertained at said ports respectively, and be adjusted and repaid thereat, in a manner similar to that which is provided for in the act above referred to in relation to losses at New York."

The question was taken, and the Senate amendment was non-concurred in.

Eighty-fifth amendment of the Senate:

"Insert as follows:

"SEC. 8. *And be it further enacted*, That the Secretary of the Navy be authorized to remit the duties upon any machinery imported into the United States for preparing, weaving, and spinning flax, or to refund duties heretofore paid within five years past on such machinery, out of any money in the Treasury not otherwise appropriated: *Provided*, That it shall be proved to his satisfaction that such machinery was not an article of manufacture at the time of importation in the United States, and has been used by the persons or companies importing it for manufacturing purposes: *And provided further*, That they bind themselves to permit inspections and models of such machinery to be made in such manner as may not interfere with their usual occupations: *Provided*, That this privilege shall not be extended beyond two years."

Mr. JOHNSON, of Arkansas. I move the following amendment, to come in at the end of the section, as follows:

Provided, That from and after this date, and until the end of the next Congress, all laws for the collection of duties or revenue on railroad iron imported from foreign countries shall be, and hereby are, suspended, and no duties shall be assessed or collected thereon, and all railroad iron imported within that time shall be admitted free of duty: *Provided, however*, That at the time of such importation the importer shall execute to the United States a bond with sureties, in such penalty and form as the Secretary of the Treasury shall direct, to be approved of by the said Secretary, conditioned that such iron is *bona fide* imported for the purpose of being used as and for rails for railroads, and for no other purpose whatever, and to be laid down and actually used by the person or persons or company so importing the same within two years from the time of importation; and upon due proof furnished to said Secretary that such iron has been so laid down and used, the bond shall be given up to be canceled.

Mr. STEVENS, of Pennsylvania. I submit to the Chair whether the amendment is in order. If it is not, I object to its introduction.

The CHAIRMAN. On what ground does the gentleman insist that the amendment is not in order?

Mr. STEVENS. On the ground that it is neither an appropriation, nor refers to one, but is the repealing of a law.

Mr. JOHNSON. It is only the suspension of the law.

Mr. HOUSTON. It is not germane to the section to which it is offered as a proviso.

The CHAIRMAN. So far as the Chair heard the amendments of the Senate read it proposes the repeal of duties on certain machinery. The gentleman from Arkansas, by his amendment, proposes to suspend the revenue duties on railroad iron, and the Chair sees no reason why it is not in order.

Mr. STEVENS. I appeal from the decision of the Chair, and on that demand tellers.

Tellers were ordered; and Messrs. HAMILTON and VENABLE were appointed.

The question was taken, "Shall the decision of the Chair stand as the judgment of the committee?" and it was agreed to; the tellers having reported—ayes 78, noes 66.

Mr. JOHNSON, of Arkansas. I have simply to say that in nothing is the enterprise of this country so vitally interested as in the construction of railroads. This we all know; and knowing it we find that our legislation on the subject for the future is of the most oppressive and destructive character. And I have offered the amendment merely for the suspension of the revenue laws with regard to railroad iron for a brief period, believing that it is one of the very best steps we can take at a time when we find that our legislation is dismantling our coast, crushing and destroying our Navy, and leaving our forts and other means of defense open to attack. Against such legislation as that, Mr. Chairman, I enter my protest. I see no other hope of cultivating even the internal prosperity of the country but by the step I have suggested. Believing that, I hope to see the amendment meet with the approbation of the committee. While, on one hand, it may operate oppressively on a few, the general prosperity ought not to be neglected for such a cause.

Mr. WOODWARD. I am opposed to the amendment, because it does not extend the time far enough. The policy of one branch of the Legislature on this subject is to donate public lands to aid in the construction of railroads, for the purpose of increasing the value of the lands in its vicinity, and another is to levy a tax on the importation of the iron rails used in the building of those roads. One thing is to advance railroads, and thereby to enhance the value of the lands, and consequently to increase our revenue; and the other is to discourage railroad enterprise by subjecting railroad iron to a heavy taxation. Was there ever such inconsistency? Look at the subject in another point of view. Why is it that you tax railroads in the old States, and give bounties for their construction in the new States? What reason can be offered for it? The manufacture of railroad iron is a manufacture in which no one class is more particularly interested than another. The manufacturer is no more interested than the merchant; and the merchant no more than the farmer. There is an universal interest in the matter. Now, you levy a tax on the whole consumption of the country, for the protection of a particular class of manufacturers. You levy, be it remembered, an enormous burden on a description of manfacture in which all are interested.

Mr. EVANS. Is it in order to amend the original section?

The CHAIRMAN. It is not in order. There is an amendment pending to that section.

Mr. STEVENS. Do I understand that the gentleman from South Carolina opposed the amendment of the gentleman from Arkansas?

The CHAIRMAN. He opposed it on the ground that it did not go far enough.

Mr. STEVENS. Then I hope he will vote against it. [Laughter.]

Mr. THOMAS M. HOWE. I demand tellers on the amendment.

Tellers were ordered; and Messrs. JOHNSON, of Arkansas, and GOODENOW, were appointed.

The question was taken, and the amendment to the amendment was disagreed to, the tellers having reported—ayes 68, noes 78.

Mr. COBB. I offer the following amendment by way of addition to the section:

Be it further enacted, That the Secretary of the Treasury be, and he is hereby, authorized and directed to extend the time of payment of all duties, except only the amount due in fees to custom-house officers, upon all iron rails, spikes, bolts, fastenings, and other iron necessary for, and to be used in the construction of railroads, now or hereafter to be imported into any of the ports of the United States, for the term of four years: *Provided*, That before the delivery of such iron rails, spikes, bolts, fastenings, as above, the payment of the said duties, so suspended by this act, shall be secured by the bonds of such railroad companies, with good personal security to be approved by the United States district judges: *Provided further*, That so soon as any portion of such railroads shall be completed as will render it expedient in the judgment of the Postmaster General to contract with such railroad companies for the transportation of the mail upon such railroads, that the Postmaster General do make contracts with such railroad companies to carry the mail as aforesaid, within such rates as are charged by other railroad companies for like service; and that all such sums as may arise in favor of such railroad companies for the carriage of the mail as aforesaid, within the said term of four years, from and after the passage of this act, shall be reserved by the Postmaster General for the benefit of the Treasury, and applied as they fall due towards the payment and satisfaction of the bonds of said companies, to be executed by them for the payment of duties as aforesaid.

SEC. 2. *And be it further enacted*, That before such railroad companies shall be entitled to the benefit of this act, they shall enter into an agreement to transport the United States mail, upon the terms and conditions prescribed by law and the regulations of the Post Office Department, made in pursuance thereof: *Provided*, That the bonds to be executed to secure the payment of the duties suspended by this act, shall be so drawn as to secure the payment of interest on said duties at the rate of six per centum per annum.

Mr. DEAN. I submit that that amendment is not in order, because it changes the existing revenue laws, and also the laws in reference to the Post Office Department.

The CHAIRMAN. The Chair decides the amendment to be out of order.

Mr. COBB. I appeal from the decision of the Chair.

The question was taken, "Shall the decision of the Chair stand as the judgment of the committee?" and it was agreed to.

Mr. BAYLY, of Virginia. I beg leave to say, after careful investigation of this subject, if I were engaged in the iron manufacture, I would at this time be in favor of making railroad iron duty free. So far as American iron is concerned, there is nothing which can be done to extend their market so rapidly as by encouraging the construction of railroads. Every mile of railroad that you open creates an immense demand for American iron; not only in the implements used in making the road in the construction of the cars and engines, but in all the auxiliaries that pertain to such improvements. Every farm that is opened in consequence of the building of a railroad, makes a market for harrows, plows, axes, rails, and for every other farming implement. Take one illustration of this kind—for it is impossible in a five minutes speech to go into much detail—take the case of the Illinois Central railroad, what a market, and a new market, does it not create for American iron! Every shanty that is put up requires iron. Every additional horse that is brought into use increases the consumption of American iron. Every additional acre brought into cultivation requires plows, harrows, hoes, spades, axes, nails, chains, wheel tires, boxes, and everything of that sort. I undertake to say that every mile of railroad made in this country, creates a demand for American iron to a much larger extent than the mere amount of iron rails that is put down upon the road. If the price of railroad iron is raised, by continuing a duty upon it, you obstruct or delay the construction of a single mile of railroad—thereby you injure the iron interest. If a mile of railroad is not made in consequence of the high price of iron, the American manufacturer gains nothing in that case, as far as the rails are concerned, for they are not furnished, but he loses the incidental advantages I have alluded to. On the other hand, however, if in consequence of railroad iron being cheap, a road is made, which otherwise would not have been made, the American iron-master gets the incidental advantages and loses nothing. Now, sir, in this country, we know that with most roads projected, it is a touch-and-go business in raising the money. Upon the difference in its cost of a few per cent. often depends whether the enterprise is undertaken or not. In very many cases, in consequence of the want of means, the road is first laid down in a very frail manner. In the first instance, that they may get under way, they use the flat rails; as soon as they can afford it, that rail is superseded by a thick flat rail, and then comes the T rail, &c. Upon a road of much business, I do not doubt that in the long run, high-priced American iron is cheapest; and upon roads that have the means, it will be generally used. But those that have not the means, cannot buy it at all. If, however, you encourage the construction of railroads, as they become prosperous and their inferior iron used in the first instance begins to wear out, they will resort to American iron. So, by making inferior British railroad iron cheap, you benefit the American iron-master, not only in the incidental manner I first alluded to, but by constantly opening a market for rails itself.

Mr. STEVENS, of Pennsylvania. It seems to me that the efforts which are now making are cruel and unjust to various classes of the American people. When the iron interest of this country was so depressed that the iron-masters were obliged to extinguish their fires and turn forth their laborers upon the world, the gentleman from Virginia, [Mr. BAYLY,] and those who now act with him, refused to raise the duty and bring up iron to a living price. Now circumstances for a short period probably have raised it to remunerating prices, what is the object of the gentleman from Virginia, [Mr. BAYLY?] Not to take off the duty on iron so as to relieve the mechanic, the farmer, the ship-builder, and everybody else, but to favor these corporations that have been built up by hundreds and thousands at the expense of the country, and to give to them the whole advantage. I do not know how far this Congress are prepared to go for this policy. I am glad to see that many of those who opposed the increase are now with becoming consistency opposed to the reduction of duties, and I am astonished to see that a portion of those upon this floor, who profess to be in favor of the protection of American industry, and are in favor of a judicious tariff, are here giving a vote to contradict their own principles and acts, and to make proclamation of it to the American people. I used to have great faith in Congress; but I shall place little faith in their professions hereafter, when I see New York and Ohio—not those States who are anti-protective, but those which profess to be protective—sustaining these measures to break down the very principles that they have professed, and which we believe to be essential to the interests of the country. Why are you relieving duties upon iron which will tend to oppress the farmer, the mechanic, the ship-builder, and favor the interests of immense corporations, whom, I beg to say, have become the rulers of this nation, and who sway the legislation of this Hall? I hesitate not to say that if it were not for them, the legislation of the country would be different from what it is at present. I for my part shall trouble this committee and House no more.

I have said in a few words what I intended to say. Those who have already paid the high duties—as they have in many of the States—are to be put upon a very different footing from those who have their railroads yet to construct. Why, at one time, when iron was highest, Illinois paid high duties. I knew at the time there was a good duty upon railroad iron, because there was no railroad iron made in the United States. But ever since the manufacture of railroad iron in the United States, there has been a duty paid upon it by all. I venture to assert that the manufactories in the United States are amply sufficient to supply all the wants of this country, from Maine to Missouri, and beyond the Snowy Mountains. The idea now of encouraging the British to send in their iron when they are excluded by temporary circumstances, in the course of mercantile operations, seems to me to be an endeavor both in favor of foreign power and foreign interest, which can hardly be justified in the face of an intelligent community.

Mr. ALLISON. I ask the gentleman from Virginia to accept an amendment. I wish to insert the word "sugars," so that the duty will be repealed upon that article.

Mr. BAYLY. I will accept the amendment of the gentleman with pleasure.

Mr. ORR. Make the exemption apply to all imports of iron.

Mr. JONES, of Tennessee. I would ask the gentleman from Virginia to accept another modification of his amendment, and that is, after the word "railroad," in the third line, to insert "and other," so as to make it read "railroad and other iron."

Mr. BAYLY. I only made my motion for the purpose of saying a few words. I will accept the modification.

[Cries of "Question!" "Question!"]

The question was taken upon the amendment as modified, and it was not agreed to.

Mr. CARTTER. I renew the motion made by the gentleman from Virginia, extending the time to five years. The condition of this country at this time in reference to railroad iron, as I understand it, is this, as far as it affects the question now pending before the committee: There is now an immense quantity of railroad iron being consumed in the United States, and the demand is rapidly increasing. A very small percentage of the railroad iron is manufactured in the United States.

A VOICE. Eighteen thousand tons.

Mr. CARTTER. Eighteen thousand tons—one twentieth part of the amount consumed. Pennsylvania claims the exclusive honor of manufacturing this small percentage; and Pennsylvania, through the gentleman who has just taken his seat, appeals in behalf of the iron interests of his State to Congress to keep its hands off railroad iron. I desire to call the attention of this committee to this consideration, and particularly the Representatives of New York and Ohio, and all the West, that Pennsylvania, in open defiance of the spirit of the Constitution, in open defiance of the fraternity of States, has engaged in the mean and miserable work of attempting to fence the West out from the East; that she has established railroad gages and all the other embarrassments that mean legislation can impose upon the commerce of the country—that which is reported by railroad men as equivalent to fifty miles of transportation upon every living man, and every pound of merchandise that crosses the narrow neck of land which constitutes her dominion upon Lake Erie. It is said that she has thus legislated against the giant interests of the West, and struggled to raise up between her sisters of the West and the East this barrier that has given them the miserable percentage of eighteen thousand tons of iron; and a State, sir, that has so little confidence in her own capacity to manufacture railroad iron that—it is an historic truth—she has laid down British iron——

[Here the hammer fell.]

Mr. FULLER, of Pennsylvania, addressed the committee in remarks which have been withheld by him for revision. He said that the gentleman from Ohio [Mr. CARTTER] was entirely mistaken in his facts. That gentleman had alleged very boldly that only eighteen thousand tons of railroad iron were manufactured in Pennsylvania, and that for this the whole West was to be deprived of the opportunity of purchasing foreign iron. This was a great mistake. In his (Mr. F.'s) own district they had manufactured over thirty thousand tons of railroad iron this year. He knew this to be a fact; and in the State of Pennsylvania, instead of eighteen thousand tons, they manufactured nearly eighty thousand tons of railroad iron this year. If the present state of things continues, they will manufacture railroad iron, before the Pacific railroad is built, in New York, Virginia, Maryland, Georgia, Tennessee—wherever the raw material is found.

He contended that a most outrageous injustice was sought to be perpetrated by the amendment—one that would strike down a great leading interest of the country—an interest which during the last year had paid over three millions of revenue into the public Treasury. How was it proposed to supply the deficit which the release of those duties would necessarily create? From 1831 to 1842 there was no duty on railroad iron, and during that period the Government lost over two millions and a half of dollars. Who would be benefited by this amendment? Not the American railroad companies; not the stockholders. They would not be benefited one dollar by it. All the benefit will go into the pockets of British manufacturers. The experience of the country showed that this would be the case. [See Appendix.]

Mr. HOUSTON. I move that the committee rise for the purpose of arresting debate upon this particular amendment. I regret to have to ask

the committee to do it, but it is very evident that we cannot get through the bill without it.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. STUART) reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the amendments of the Senate to the civil and diplomatic appropriation bill, and had come to no resolution thereon.

Mr. HOUSTON. I move to suspend the rules to arrest the debate under the five-minute rule, in Committee of the Whole on the state of the Union, on the eighty-fifth amendment of the Senate to the civil and diplomatic bill.

The question was taken, and (two thirds voting in favor thereof) the motion was agreed to.

Mr. HOUSTON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair,) and resumed the consideration of the amendments of the Senate to the civil and diplomatic bill.

The CHAIRMAN. The question is on the amendment of the gentleman from Ohio, [Mr. CARTTER.]

Mr. CARTTER. I ask the consent of the committee to modify my amendment so as to make the time one year.

Mr. FULLER, of Pennsylvania. I object.

The CHAIRMAN. The gentleman has a right to modify his amendment, and does modify it.

Mr. CARTTER. I call for tellers.

Tellers were ordered; and Messrs. BOCOCK and SUTHERLAND were appointed.

The question was then taken on Mr. CARTTER's amendment, and the tellers reported—ayes 59, noes 85.

So the amendment was rejected.

The question was then taken upon the Senate amendment, and it was agreed to.

Eighty-sixth amendment of the Senate:

"Insert the following:

"SEC. 7. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and required to cancel any outstanding debenture bonds given previously to the 1st day of July, 1850, upon the importation of foreign coals: *Provided*, That the said coals have been exported to a foreign port or consumed upon the outward voyage, and shall not have been consumed in the United States."

The question was taken, and the amendment of the Senate was agreed to.

Eighty-seventh amendment of the Senate:

"Insert the following:

"SEC. 18. *And be it further enacted*, That the third section of the act entitled 'An act making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1847, and for other purposes,' approved August 10, 1848, be, and the same is hereby, revived and continued in force for the fiscal year ending June 30, 1854."

The question was taken, and the amendment of the Senate was agreed to.

Eighty-eighth amendment of the Senate:

"Insert the following:

"SEC. 11. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to purchase at the current market price, any of the outstanding stocks of the United States as he may think most advisable, from any surplus funds in the Treasury: *Provided*, That the balance in the Treasury shall not at any time be reduced below $6,000,000."

The question was taken, and the amendment of the Senate was agreed to.

Eighty-ninth amendment of the Senate:

"Insert the following:

"SEC. 12. *And be it further enacted*, And it is hereby declared that the provision in these words: 'And for printing the obituary notices of the decease of President Taylor, said contractor shall be paid the actual cost, with a profit of twenty per centum, according to the second proviso of the first section of the act making appropriations for the civil and diplomatic expenses of the Government, for the year ending the 30th of June, 1853, and for other purposes, in relation to printing,' be, and the same is hereby, construed to mean that the compensation for printing the obituary notices of the decease of President Taylor shall be in addition to the sum of $50,000 allowed in the same section to Thomas Ritchie, assignee of William M. Belt."

The question was taken, and the amendment of the Senate was not agreed to.

Ninety to ninety-fifth amendments of the Senate:

"Insert the following:

"SEC. 12. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and required to establish in the city of New York an office for the receipt and for the melting, refining, parting, and assaying of gold and silver bullion and foreign coin, and for casting the same into bars, ingots, or disks. The Assistant Treasurer of the United States in New York shall be treasurer of the said assay office, and the Secretary of the Treasury shall, with the approbation and consent of the President of the United States, appoint such other officers and clerks, and authorize the employment of such assistants, workmen, and servants as shall be necessary for the proper conduct and management of the said office, and of the business pertaining thereto, at such compensation as shall be approved by the President: *Provided*, That the same shall not exceed that allowed for corresponding services under existing laws relating to the Mint of the United States and its branches.

"SEC. 13. *And be it further enacted*, That the owner or owners of any gold or silver bullion, in dust or otherwise, or of any foreign coin, shall be entitled to deposit the same in the said office, and the treasurer thereof shall give a receipt, stating the weight and description thereof, in the manner and under the regulations that are or may be provided in like cases of deposits at the Mint of the United States, with the treasurer thereof. And such bullion shall without delay be melted, parted, refined, and assayed, and the net value thereof, and of all foreign coins deposited in said office, shall be ascertained, and the treasurer shall thereupon forthwith issue his certificate of the net value thereof, payable in coins of the same metal as that deposited, either at the office of the Assistant Treasurer of the United States in New York, or at the Mint of the United States, at the option of the depositor, to be expressed in the certificate, which certificates shall be receivable at any time within sixty days from the date thereof, in payment of all debts due to the United States at the port of New York for the full sum therein certified. All gold or silver bullion and foreign coin deposited, melted, parted, refined, or assayed, as aforesaid, shall, at the option of the depositor, be cast in the said office into bars, ingots, or disks, either of pure metal or of standard fineness, (as the owner may prefer,) with a stamp thereon of such form and device as shall be prescribed by the Secretary of the Treasury, accurately designating its weight and fineness: *Provided*, That no ingot, bar, or disk shall be cast of less weight than five ounces, unless the same be of standard fineness, and of either one, two, or three ounces in weight.

"And all gold or silver bullion and foreign coin, intended by the depositor to be converted into the coins of the United States, shall, as soon as assayed and its net value certified as above provided, be transferred to the Mint of the United States under such directions as shall be made by the Secretary of the Treasury, and at the expense of the contingent fund of the Mint, and shall there be coined.

"And the Secretary of the Treasury is hereby authorized, with the approval of the President of the United States, to make the necessary regulations for the adjustment of the accounts between the respective officers, upon the transfer of any bullion or coin between the assay office, the Mint, and assistant treasurer in New York.

"SEC. 14. *And be it further enacted*, That the operations of melting, parting, refining, and assaying in the said office, shall be under the general directions of the Director of the Mint, in subordination to the Secretary of the Treasury; and it shall be the duty of the said Director to prescribe such regulations, and to order such tests, as shall be requisite to insure faithfulness, accuracy, and uniformity in the operations of the said office.

"SEC. 15. *And be it further enacted*, That the laws of the United States for the government of the Mint and its officers in relation to the receipt, payment, custody of deposits, and settlement of accounts, the duties and responsibilities of officers and others employed therein, the oath to be taken and the bond and sureties to be given by them, (as far as the same may be applicable,) shall extend to the assay office hereby established, and to its officers, assistants, clerks, workmen, and others employed therein.

"SEC. 16. *And be it further enacted*, That the same charges shall be made and demanded at the said assay office for refining, parting, casting into bars, ingots, or disks, and for alloy, as are, or shall be, made and demanded at the Mint; and no other charges shall be made to depositors than by law are authorized to be made at the Mint; and the amount received from the charges hereby authorized shall be accounted for and appropriated for defraying the contingent expenses of the said office.

"SEC. 17. *And be it further enacted*, That the Secretary of the Treasury is authorized to procure by rent, lease, or otherwise, a building or apartments in the city of New York, suitable for the operations of said office, unless he shall be of opinion that suitable apartments in the custom-house in that city may be assigned for this purpose. And he is also hereby authorized and directed to procure the necessary machinery and implements for the carrying on the operations and business of the said office."

Mr. STEPHENS, of Georgia. I thought we had voted upon that.

The CHAIRMAN. This is another amendment appertaining to the same subject.

Mr. FLORENCE. I demand tellers.

Tellers were ordered; and Messrs. GOODENOW and SUTHERLAND were appointed.

Mr. ORR. Read the amendment.

The CHAIRMAN. The amendment will be again reported.

Mr. STEPHENS. I object to the reading. If gentlemen will not retain their seats and keep quiet while amendments are being read, all of these amendments may have to be read over twice.

Mr. MEADE. Can a majority control this question?

The CHAIRMAN. Yes.

Mr. MEADE. Then I move that the amendment be read.

The CHAIRMAN. A majority cannot control the question of reading, but it can the question of adopting the amendment.

Mr. FLORENCE. Well, vote down the amendment.

Mr. ORR. I think that is a very hard rule to enforce when the amendments are not printed. I hope the gentleman from Georgia will withdraw his objection.

Mr. STEPHENS. I insist on my objection, and then gentlemen will have to keep their seats and listen to amendments when they are read.

Mr. ORR. Those of us who are trying to hear are not responsible for the disorder of other gentlemen. Does the gentleman want us to vote upon propositions that we cannot understand?

Mr. STEPHENS. I kept my seat and heard the amendment.

Mr. ORR. I tried to hear it, and I hope the Clerk will report the amendment again.

Great confusion prevailed in the Hall.

The CHAIRMAN. It is in the power of the Chair to suspend all business unless gentlemen will preserve order. The Chair does not wish to be considered severe, and he trusts that every gentleman will appreciate his motives when he insists on order being preserved in the Hall, so that we may do the business of the country understandingly.

The Clerk then again reported the amendment.

Mr. ORR. I do not believe the amendment can be so amended as to make it a proper one. I hope the whole matter will be voted down.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had concurred in the report of the Committee of Conference upon the bill to supply deficiencies in the appropriations for the fiscal year ending the 30th of June, 1853.

That the Senate had agreed to the report of the Committee of Conference upon the disagreeing votes of the two Houses on the bill of the Senate (No. 586) "to extend preëmption rights to unsurveyed land, and for other purposes;" and

That the Senate had agreed to the amendments of the House to the bill of the House (No. 7) "to provide for the survey of the public lands in California, the granting of donation privileges therein, and for other purposes."]

Mr. CARTTER. I desire to know whether we are to adopt this long amendment, with all these sections and provisions, without any investigation upon the part of the House, and without a word of explanation from any one?

The CHAIRMAN. Debate is not in order.

Mr. BROOKS. In order to give me an opportunity for a word of explanation, I move to strike out the following proviso:

"*Provided*, That the same shall not exceed that allowed for corresponding services under existing laws relating to the Mint of the United States and its branches."

Mr. Chairman, I desire to state to this committee that this amendment provides for nothing but an assay office in the city of New York. It is hardly worth while to go into an explanation of all these provisions. They comprise the usual details of an assay office, known to everybody, and nothing else. It provides for seigniorage, but does not charge the Government. In point of fact, that seigniorage will bring revenue into the Treasury, rather than take it out. I have nothing more to say in relation to it.

The question now being upon the adoption of the amendment to the amendment,

Mr. BROOKS, by unanimous consent, withdrew his amendment.

Mr. DUNHAM. I move to amend by striking out the last clause, which makes a continuous appropriation.

[Cries of "Too late!"]

The CHAIRMAN. The Chair decides that the gentleman's amendment comes too late.

The question was then taken, and the tellers reported—ayes 71, noes 65.

So the amendment of the Senate was concurred in by the committee.

Ninety-seventh amendment of the Senate:

"Insert the following:

"SEC. —. *And be it further enacted*, That for the purpose of obtaining the needful information, and for carrying into effect the object of the resolution of the Senate passed January 19, 1853, a sum not exceeding $10,000 be, and the same is hereby, appropriated, to be expended under the di-

rection of the Secretary of the Treasury, and paid from any money in the Treasury not otherwise appropriated."

Mr. JONES, of Tennessee. I think we had better reject that amendment.

Mr. CARTTER. I presume if the committee were to hear the resolution to which this amendment refers read, they would concur in it.

The resolution was then read, as follows:

"*Resolved*, That the Secretary of the Treasury be required so have prepared and submitted to the Senate, at its next tession, a general revenue law, with the view of superseding all existing laws on the subject, and which shall embrace all needful provisions for regulating the foreign and domestic commerce of the United States in American and foreign vessels; the assessing and collecting of the duties connected with the same, including fees of all kinds, tonnage duty, and light-money; the registering, enrolling, and licensing of vessels; the number, duties, and emoluments of custom-house officers and employees of every kind; the levying and remission of penalties, fines, and forfeitures; the service of the revenue marine in all its details; and providing generally for the due performance of all the duties, of every description, connected with the revenue service in all its branches and details, including all the requisite official forms to be observed in the transaction of custom-house business.

"*Resolved further*, That in the preparation of the said revenue code, or law, it shall be distinctly shown what are the provisions of existing laws which are retained; what, if any, portion of said existing laws are omitted; and what new provisions or additions are made."

Mr. JONES, of Tennessee. I move to strike out "$10,000" in the amendment.

Mr. Chairman, it is the duty of Congress to prepare the revenue laws and pass them. It is the duty of the Executive officers of the Government to execute those laws, and I cannot see the necessity or propriety of appropriating $10,000 for the Executive officers of the Government to prepare a bill which it is the business of Congress to prepare and pass, if it is necessary that it should be passed at all.

Mr. BROOKS. That resolution was introduced into the Senate by a Senator from Maine, [Mr. HAMLIN,] and when it came before the Committee on Ways and Means, I did not hear any opposition to it. The revenue laws of the country are now comprised in two large volumes, and consist of all the laws upon the subject which have been passed during a long series of years; many of them are conflicting upon the subject of refunding duties, in consequence of which the country is subjected to a very large cost every year, but the country does not feel it, because direct appropriations are not made out of the Treasury for that purpose. Now, this resolution provides for something like a codification of the existing laws to be presented to the ensuing Congress, and if carried out by a faithful man, it will result in a great saving to the country, and do great good. I tell this committee that it will be the most economical appropriation Congress ever made, if it results in the adoption of a code of revenue laws, which even lawyers and commercial men can understand, for they are now so conflicting that it is impossible for any one to understand them. I hope the Senate amendment will prevail.

The question was then taken, and Mr. JONES's amendment was disagreed to by the committee.

Mr. EVANS. I move to reduce the appropriation contained in the Senate amendment $3,000.

Mr. Chairman, I think there is something more in that amendment than would appear from the reading of it. I agree with the gentleman from Tennessee [Mr. JONES] that it is not best for this Congress to pay one of the Executive officers of this Government $10,000 merely for the purpose of reducing the existing laws to an intelligible form. That is not the object of this resolution in my opinion; and if it is carried out it will extend a great deal further than it now shows upon its face. I hope it will be rejected.

The question now being upon the adoption of the amendment to the Senate amendment,

Mr. EVANS, by unanimous consent, withdrew his amendment.

Mr. CABLE, of Ohio. I move that the committee do now rise.

The question was put, and the motion was not agreed to.

The question then recurred upon concurring in the Senate amendment, and being taken, the amendment was non-concurred in by the committee.

Ninety-eighth amendment of the Senate:

"Insert the following:

"SEC. —. *And be it further enacted*, That under the act for the benefit of Amos Proctor, approved the 17th of June, 1844, the legal representatives of the said Proctor are entitled to one half of one moiety, being one quarter of the appraised value of the goods therein mentioned, as having been seized and libeled on his information."

The question was taken, and the amendment was concurred in by the committee.

Ninety-ninth amendment of the Senate:

"Insert the following:

"SEC. 18. *And be it further enacted*, That there be placed at the disposal of the President of the United States the sum of $20,000, to enable him to compensate Clark Mills for the execution of the equestrian statue of Andrew Jackson, recently placed upon the public square in the city of Washington, north of the Executive Mansion, and to make the same the property of the United States, and that said sum be paid under the direction of the President out of any money in the Treasury not otherwise appropriated, when a clear and satisfactory title to said statue shall be vested in the United States: *Provided*, That the sum of $10,000 thereof be invested for the family of said Mills, and after his death to be given to such children of said Mills as may survive him."

Mr. SWEETSER. I desire to make an inquiry in relation to this amendment. It is supposed by some gentlemen that we have already made an appropriation for this same purpose. I desire to know whether this is the fact?

The question was put upon concurring in the Senate amendment, and upon a division 52 rose in the affirmative.

Mr. POLK. I ask for tellers upon concurring in that amendment.

Tellers were ordered; and Messrs. JONES of Tennessee, and HARRIS of Alabama, were appointed.

Mr. CLINGMAN. For the purpose of ascertaining what are the facts in relation to this matter, I move to reduce the appropriation $1,000. A certain sum has been appropriated this session to pay Mr. Mills for that statue. It is now suggested to me, that it was to pay the original subscribers, and to buy the statue of them. I want to know what the fact is. If he has not been paid I am willing to pay him liberally.

Mr. DEAN. The appropriation which has been made this session, was made upon the motion of the gentleman from North Carolina, [Mr. VENABLE,] and was for the purpose solely of completing the pedestal. Individuals have paid $12,000 towards that statue, and Mr. Mills is in debt $7,000, besides having expended all his time since 1848.

Mr. McMULLIN. I call the gentleman to order.

Mr. CLINGMAN. I hope the gentleman from New York will be permitted to proceed in his statement. I had the impression, but I may be wrong, that independent of this appropriation——

Mr. McMULLIN. I rise to a question of order. The committee was dividing, and it is not competent to discuss any question.

The CHAIRMAN. The committee was not dividing. Tellers were appointed, but they had not taken their places.

Mr. CLINGMAN. Some gentlemen tell me that individuals contributed $15,000, and others that it was only $12,000.

Mr. DEAN. This amendment provides that it shall not be paid until a clear title is vested in the United States. It has only been placed in the public grounds.

Mr. CLINGMAN. I am not willing to pay anything to those who subscribed.

Mr. JONES, of Tennessee. At a former session of Congress there were $3,000 appropriated for the pedestal. There was an item placed in the deficiency bill for a deficiency for building that pedestal, upon the motion of the gentleman from North Carolina, at the present session of Congress. With the exception of some cannon, which were cast into the statue, those are the only appropriations made by Congress for that work.

Mr. CLINGMAN. My object was to ascertain the facts, as there seemed to be a difference of opinion among members of the committee.

Mr. JONES. I am opposed to it myself, and hope the amount will not be appropriated.

The amendment to the amendment was, by unanimous consent, withdrawn.

Mr. HAVEN. If the amendment is withdrawn, I propose to reduce the appropriation $1,000. I move the amendment simply for the purpose of saying to the House, that the amendment proposes that upon paying this $20,000, a good title to the statue shall be given to the United States. The thing that troubles me is this: I do not see how the title is to be got unless it is by paying to the original subscribers the money they advanced, and then have them convey the title to the United States. If that is the object of this amendment, I am unwilling to vote for it. If it is for Mills's benefit, I am willing to support it.

Mr. POLK. I will state for the information of the House, that, as I understand it, this whole appropriation is for the benefit of Mr. Mills alone, and it is to result to the benefit of no other person whatever. I am willing that a proviso to that effect should be incorporated in the act. I ask the American Congress if they can see a work of such art, of such merit, and refuse to grant a small pittance to the artist, who has for seven long years devoted his time, attention, and genius to it? It ornaments our grounds, it reflects credit upon the country, yet you let the artist, whose labors you appropriate, starve. If you have the hearts of patriots, you cannot and you will not do it.

The question was then taken upon the amendment offered by Mr. HAVEN, and it was not agreed to.

Mr. STEVENS, of Pennsylvania. I move to add the words, "and no part of this sum shall ever be paid to the original subscribers." I am willing to pay the artist, and to encourage genius. But a parcel of men get together, from patriotic motives, no doubt, and a little for glory, and give their money to raise a statue to one whom all respected. Let them remain with that glory upon them; let them not meanly, now when they have had the credit of originating this work, come back and allow their motives to be impugned by taking their money back. This kind of sycophancy is too common already in this nation, and allow me to say, I think it is corrupting. I every day see presents made to men in office under the Administration, not to bribe it is true. I see horses and carriages given. I see annuities settled upon your functionaries for life—not to gain favor, that would be beneath them—and yet, sir, these people all have business with these high functionaries. When Lord Bacon received presents, while he was Lord Chancellor—I do not say that he made any bargain to decide in favor of the donors, yet he received the bags of gold and horses and chariots:—but the British Parliament, the House of Lords, called it bribery, tore from him the insignia of his order, degraded him from his high office, and imposed upon him ruinous fines.

In my judgment, this thing, of which I have spoken, is the most corrupting system that ever grew up in any nation, and I trust it will receive a check.

Mr. BRECKINRIDGE. I agree with the gentleman from Pennsylvania in most of his remarks, but I do not see how they apply to the proposition before the committee.

I think I can make an explanation satisfactory to the House in reference to this amendment. It is not contemplated that any portion of this sum shall go to reimburse those who originally contracted with Mr. Mills for the erection of this statue. He agreed for a certain sum of money to put up an equestrian statue of Jackson. He exhausted that sum, and lacked some six or seven thousand dollars of having the amount required to erect it. That was advanced to him by gentlemen who had confidence in the instincts of his own genius that the work was practicable. He did accomplish the work. If this appropriation is passed, Mr. Mills will pay those gentlemen who, from their private purses, advanced him the money to complete the work. He owes that sum, it having been loaned to him after he had expended all the money for which he originally contracted to make it. Not one dollar is proposed to be given to the Jackson Democratic Association, or to the individuals with whom he originally contracted for making the statue. To the proviso I have no objection; and I think this statement ought to satisfy the House.

The amendment of Mr. STEVENS was agreed to.

The CHAIRMAN. The question is upon the amendment of the Senate as amended.

Mr. McMULLIN. What is the sum proposed?

The CHAIRMAN. Twenty thousand dollars.

Mr. McMULLIN. I ask for the reading of the amendment.

The amendment was accordingly read, as above inserted.

Mr. McMULLIN. Is it in order to move an amendment?

Mr. HOUSTON. If my friend from Virginia is going to continue this debate, I shall move that the committee rise, with a view of moving, in the House, to close debate upon this amendment.

Mr. SWEETSER. I call the gentleman from Alabama to order.

Mr. HOUSTON. I am not going to discuss this matter. I am anxious to get through with it, as the enrolling clerks are waiting for the action of the House upon the report of a committee of conference.

Mr. McMULLIN. I move to amend by striking out $5,000 from the appropriation.

Mr. Chairman, I beg the attention of the committee for two or three minutes, for I will not consume five in my remarks upon this subject. It has been stated that an appropriation of $3,000 was made last session to finish the pedestal of the statue. It is now stated by the gentleman from Kentucky [Mr. BRECKINRIDGE] that Mr. Mills has incurred a debt of $6,000. I ask the committee if they intend to make this appropriation to Mr. Mills as a gratuity? Some gentlemen say "Most certainly." I say most certainly not. Gentlemen put your hands into your own pockets to pay Mr. Mills, and I will give as liberally as any of you.

I do not desire to detain the committee, but wish a direct vote upon the proposition. The committee understands the question. I consider $15,000 as more than sufficient to pay him, but I am willing to go that far.

The question was then taken on the amendment of Mr. McMULLIN, and it was not agreed to.

The CHAIRMAN. The question recurs upon the Senate amendment as amended.

Mr. STANLY. I ask that the amendment may be read.

A MEMBER. It has been read a number of times.

Mr. STANLY. I was out upon a committee of conference, and I have a right to know what it is.

The amendment was accordingly read, as above inserted.

The question was then taken on the amendment of the Senate as amended, and it was agreed to.

Mr. DUNHAM. The Committee of Conference on the disagreeing votes of the two Houses on the deficiency bill, are ready to make their report, and that they may do so, I move that the committee informally rise.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker resumed the chair.

DEFICIENCY BILL—CONFERENCE.

The Committee of Conference made the following report:

The Committee of Conference on the disagreeing votes of the two Houses on the bill (H. R. No. 335) "to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853," have met, and after full and free conference, have agreed to recommend, and do recommend to the respective Houses as follows:

That the House of Representatives do recede from its disagreement to the 4th and 8th amendments of the Senate.

That the Senate recede from its 9th amendment.

That the Senate concur in the amendments of the House of Representatives to the 3d, 5th, 11th, and 14th amendments of the Senate.

That the House recede from its disagreement to the provision contained in the 24th line of the 10th amendment of the Senate, and that the Senate concur in the other and additional amendments of the House to the said 10th amendment of the Senate.

That the Senate recede from the 1st, 2d, 5th, 8th, 13th, and 20th clauses of its 13th amendment.

That the House recede from its disagreement to the 22d clause of the 13th amendment of the Senate.

That the Senate concur in the amendments of the House to the 6th and 23d clauses of its 13th amendment.

That the Senate agree to the House amendment to the 12th clause of its 13th amendment, with an amendment as follows: in line 25 of page 3, strike out the word "as," and insert "which."

That the Senate agree to the House amendment to the 16th clause of its 13th amendment with an amendment as follows: strike out the 2d clause of said amendment contained in lines from 7 to 18 inclusive.

That the Senate recede from so much of its 15th amendment as is contained in the 8th section.

That the House recede from its disagreement to so much of the 15th amendment of the Senate as is contained in the 6th section.

That the Senate concur in the House amendment of so much of the 15th amendment of the Senate as is contained in the 4th section.

That the Senate concur in the House amendment of so much of the 15th amendment of the Senate as is contained in the 7th section, with the following amendments: after the word "thereof" in line 3 of House amendment, insert the words "or at any assay office of the United States." Strike out the proviso in lines 8, 9, and 10, of said House amendment, and after the word "fineness," at the end of said House amendment, add the words "and the said act entitled 'An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime,' shall take effect and be in full force from and after the 1st day of April, 1833, anything therein to the contrary notwithstanding.'"

The following shows in detail the effect of the action of the committee:

Senate amendments from the disagreement to which the House recedes, viz:

Fourth amendment:

"Strike from the following paragraph all after the words '$25,000:'

"For completing the work of the Seventh Census, and to prepare the same for publication, $25,000; out of which the Superintendent of the Census shall be allowed a compensation at the rate of $3,000 per annum, from the time his salary as Secretary of the Census Board ceased."

Eighth amendment:

"Insert after line 11 on page 5, as follows:

"For compensation to an assistant day-watchman of the General Post Office, from the 15th of September, 1852, until the 30th of June, 1853, $475."

Senate amendments from which the Senate recedes, viz:

Ninth amendment:

"Add after these words: 'For expenses of the Board of Visitors at the Military Academy, $557 83,' the following:

"And that hereafter the salary of the master of the sword at the Military Academy (West Point) shall be at the rate of $1,200 per annum."

Amendments of the House to Senate amendments in which the Senate concurs:

Amend third Senate amendment, which is as follows:

"Add after these words: 'for the extension of the United States Capitol, $400,000,' the following:

"*Provided*, That so much of former appropriations for the extension of the Capitol as remains unexpended, and the appropriation now made, or which may hereafter be made for that object, shall be disbursed by the Commissioner of Public Buildings, under such regulations as the President of the United States may prescribe; said Commissioner's accounts for such disbursement to be audited and paid at the Treasury in the same manner as the accounts of other civil officers charged with the disbursement of public money. And said Commissioner shall report to the President his disbursements and proceedings in time to be presented to Congress at the commencement of each annual session and at any other time when required: *Provided further*, That no part of this appropriation shall be expended for any purpose during the present quarter of the fiscal year."

"Strike out the words 'by the Commissioner of Public Buildings.'

"After word 'prescribe,' strike out the words 'said Commissioner,' and insert in lieu thereof, the word 'the.'

"From the words 'and said Commissioner shall report to the President, &c., strike out the word 'Commissioner,' and insert in lieu thereof, the words 'disbursing agent.'

"Strike out the whole of the proviso."

Amend fifth Senate amendment, which reads as follows:

"Strike out of the following paragraph all down to the word 'under,' and in lieu thereof insert these words: 'To enable the Clerk of the House of Representatives to pay for certain books ordered for its Library:'

"To pay for the Congressional Globe and Appendix, and the Annals of Congress, ordered for the use of the Congressional Library, under the resolution of the House of September 28, 1850, $4,500."

Words substituted by the House for said amendments of the Senate, in which the Senate concur, viz:

"To pay for the Congressional Globe and Appendix, and the Annals of Congress, ordered for the use of the Library of the House of Representatives."

The eleventh amendment of the Senate, viz:

"Insert after line 2, on page 11, the following:

"For clerk hire at the legation of the United States at London for one year, $800; and that there be allowed and paid to Captain Hiram B. Bangs, master of the American bark Rienzi, or to his assignee, the sum of $608, being the amount contracted to be paid to him by the American consul at Gibraltar, for transporting to the United States nineteen prisoners, captured in Cuba and carried to Spain, who were not American citizens, subject to any deduction that may be proper for any advances on account of such transportation that may have been made to him by said consul; and that there be allowed and paid to Horatio I. Sprague, consul as aforesaid, the sum of $533 34, with interest thereon from the 19th April, 1852, being for expenses incurred by him in taking care of and providing for said prisoners, under the direction of the American Minister at Madrid. The foregoing respective sums to be paid out of the appropriations formerly made for bringing American citizens, prisoners in Spain, to the United States; and if there be not a sufficiency thereof unexpended, then any additional amount necessary is hereby appropriated out of any money in the Treasury not otherwise appropriated."

House amendment to the eleventh amendment of the Senate, in which the Senate concur:

"Strike out all of the eleventh amendment of the Senate after the words: 'For clerk hire at the legation of the United States at London, for one year, $800,' and in lieu thereof insert the following:

"For relief of such of the Cuban prisoners, not citizens of the United States, as were pardoned by the Queen of Spain, and sent out of her dominions by the United States Minister at Madrid and the American Consul at Gibraltar, $713 34."

Fourteenth amendment of the Senate:

"Add after these words:

"SEC. 3. *And be it further enacted*, That hereafter no books shall be distributed to members of Congress, except such as are ordered to be printed, as public documents, by the Congress of which they are members, the following:

"*Provided*, That this section shall not prohibit or interfere with the distribution to members who have heretofore received books under an order of either House, of the remaining volumes or parts, so as to complete the sets of which they have received part."

Amendment of the House to the above amendment of the Senate, in which the Senate concur, viz:

"Add the following:

"For paying expenses of David Dale Owen's geological report, from Philadelphia to Washington, for one hundred and seventeen boxes and porterage, $99 45; for insurance, $90; for freight on one hundred and seventeen boxes, $146; total, $335 45."

Amendment to Senate amendment from which the House recedes, viz:

"From the following clause of the tenth amendment of the Senate strike out '$36,600,' and insert in lieu thereof '$20,000:'

"For clerks of President of the Senate and committees, draughtsman, fireman in crypt, and other miscellaneous items, $36,600."

Amendments of the House to Senate amendments in which the Senate concurs, viz:

"Amend the tenth amendment of the Senate by adding the following:

"For the printing of the Senate for the first session of the Thirty-second Congress, $14,533.

"For the printing of the House of Representatives for the first session of the Thirty-second Congress, $25,570.

"For the printing of the Senate for the second session of the Thirty-second Congress, $37,463.

"For the printing of the House of Representatives for the second session of the Thirty-second Congress, $56,194; the same having been executed and to be executed by the public printer under the provisions of the act entitled 'An act to provide for executing the public printing, and establishing the prices thereof, and for other purposes,' approved August 26, 1852."

The 1st, 2d, 5th, 8th, 13th, and 20th clauses of the thirteenth amendment of the Senate, from which it recedes, viz:

First clause:

"For payment of arrearages due to the chief clerk of the Bureau of Yards and Docks, on account of salary, as provided by the act of 3d March, 1851, restoring the same to that paid the chief clerk of the late Navy Board, $1,766."

Second clause:

"For arrearages due to the chief clerk of the Bureau of Construction, Equipment, and Repairs, on account of salary, commencing with the fiscal year 1851, the sum of $600; and that the salary of the chief clerk of that bureau shall hereafter be $1,700 per annum."

Fifth clause:

"For services rendered by the clerk in the General Land Office charged with the superintendence of the Chickasaw Indian business, from the 23d of May, 1837, to the 28th of February, 1851, at $250 per annum, $3,437 50."

Eighth clause:

"For the erection of the necessary building for making and providing gas and fitting the pipes for distributing it at the Naval Academy at Annapolis, $2,500."

Thirteenth clause:

"For providing proper foundations for the custom-house at San Francisco, authorized by the sixth section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852,' and in addition to the sum of $40,000 heretofore appropriated, $25,000."

Twentieth clause:

"For additional allowance to E. S. Norris, the sum of $2,260 34, and to George R. Stuntz the sum of $1,958 50, additional allowance made to them as deputy surveyors under the surveyor general of Wisconsin and Iowa, and in accordance with the recommendations and estimates of the Commissioner of the General Land Office and the Secretary of the Interior, dated respectively on the 11th and 14th of February, 1853."

Twenty-second clause of the thirteenth amendment of the Senate, from the disagreement to which the House recedes, viz:

"For the services of a striker in the shop of the Delaware Indians, from August 1, 1823, to August 31, 1826; and for the services of a smith and striker in the shop of the Senecas and Shawnees of Lewistown, from 17th of November, 1833, to 15th of February, 1838, deducting all amounts paid for such service during said period; and for balance due for services on Seneca Mill dam, as estimated for by the proper Departments, $2,229."

Amendment of the House to second and twenty-third clauses of the thirteenth amendmend of the Senate, in which the Senate concur:

Sixth clause of the thirteenth amendment of the Senate, viz:

"To supply a deficiency in the contingent expenses of the office of the Secretary of the Treasury for the fiscal year ending 30th of June, 1853, $5,000."

House amendment to the above, viz:

"Strike out '$5,000,' and in lieu thereof, insert '$4,550,"

Twenty-third clause of the thirteenth amendment of the Senate, viz:

"For compensation of members of the House of Representatives, for the year ending 30th June, 1853, in addition to appropriations heretofore made, $3,840."

House amendment to the above clause, viz:

"Strike out the words 'members of the House of Representatives for the year ending 30th June, 1853, in addition to appropriations heretofore made,' and in lieu thereof insert the following:

"Five members of the House of Representatives appointed a committee of investigation upon all the facts touching the connection of Thomas Corwin, Secretary of the Treasury, with the Gardiner claim, and authorized to sit during the recess between the first and second sessions of the present Congress, the sum of."

Amendment of the House to the twelfth clause of the thirteenth amendment of the Senate, in which the Senate concurs with an amendment.

Twelfth clause of the thirteenth amendment of the Senate, viz:

"For laying out and graveling the roads and walks, purchasing manure and trees, and seeding down in grass, the square south of the President's House, $12,000."

House amendment to twelfth clause of the thirteenth amendment of the Senate, viz:

"And for paying any balance as may be due for work done and performed;"

In which the Senate agree with the following amendment, viz:

Substitute the word "which" for "as."

The amendment of the House to the sixteenth clause of the thirteenth amendment of the Senate, in which the Senate concurs with an amendment, is as follows:

Sixteenth clause of the thirteenth amendment of the Senate, viz:

"For the reappropriation of $754 40, being a portion of the amount heretofore appropriated for the erection of a custom-house at Eastport, Maine, and carried to the surplus fund on the 30th June, 1852."

House amendment to the above clause, viz:

"And that the unexpended balance of the appropriation by the act of June 19, 1834, 'for payment of the Georgia militia,' &c., which has passed by subsequent acts into the surplus fund, be and the same is hereby reappropriated."

"For the reappropriation of the balance of an appropriation made by the act of 27th April, 1816, as prize money due to the captors of the Algerine vessels taken by the American squadron under the command of Commodore Decatur, and afterwards restored to the Dey of Algiers, $123 73, to be paid to Sarah Morris, only heir of Robert Mitchell, deceased, late a midshipman on board of the United States ship Guerriere, as the share of the said Robert Mitchell, in the prize money aforesaid."

In which the Senate concurs, by striking out the latter clause which has reference to prize money.

The section of the fifteenth amendment of the Senate from which the Senate recedes, viz:

"SEC. 8. *And be it further enacted*, That the sum of $300,000 be paid to the State of California, out of any moneys in the Treasury not otherwise appropriated, to be applied to the expenses of the State Government prior to the admission of California into the Union as a State."

The section of the fifteenth amendment of the Senate, from a disagreement to which the House recedes:

"SEC. 6. *And be it further enacted*, That nothing in the provisions of the act entitled 'An act to establish a branch of the Mint of the United States in California,' shall be construed so as to prohibit the appointment of the assayer therein authorized before the execution of the contract for, and the completion of, the branch Mint buildings therein authorized; but that the President is hereby empowered to appoint, in the manner prescribed by that act, an assayer for said branch Mint in anticipation of the completion and establishment thereof; that the Secretary of the Treasury is hereby authorized to procure, by rent or lease, a building or apartments, and to lease, purchase, or rent machinery in the city of San Francisco, suitable for the receipt, melting, and assay of deposits of gold, in dust or otherwise, and for the custody of gold coin; and that thereupon, the office of the treasurer of the branch Mint aforesaid, *ex officio* assistant treasurer of the United States, as well as the office of the assayer thereof, shall be established in such building or apartments until such time as the said branch Mint shall be completed. That the owners of gold bullion, in dust or otherwise, shall be entitled to deposit the same with the treasurer aforesaid, who shall give a receipt, stating the weight and description thereof; and the said treasurer shall, from time to time, deliver such bullion to the assayer herein authorized, whose duty it shall be to melt the same, cast it into a bar or bars, or disks, of suitable and convenient size and form, to assay the same, and to stamp thereon the proportions in thousandths, of the precious metal contained. And thereupon, the said assayer shall return to the said treasurer the bars or disks so melted and assayed, who shall deliver the same to the depositor thereof, or his order. That the said treasurer is hereby empowered to appoint, with the approval of the Secretary of the Treasury, one clerk to aid him in the receipt and delivery of bullion, the preparation of accounts, and in such other duties as he may designate; also one weigher to weigh such bullion, and such watchmen and servants as may be necessary in carrying on the business devolved upon him. And the said assayer shall have authority, with the approval of the Secretary of the Treasury, to appoint an assistant, and also such subordinate workmen as may be necessary for melting and assaying such bullion: *Provided*, That the annual salary of said assayer shall be $4,500, and that to the said clerk and assistant there shall be allowed such annual salary, not to exceed $3,000 each, as the Secretary of the Treasury may approve; to the weigher there shall be allowed, on like approval, a salary not to exceed $3,000; and to the subordinate workmen and servants such wages as are customary and reasonable in their respective stations and occupations: *And provided further*, That the said treasurer and assayer, as well as the assistant assayer, clerk, and weigher, herein authorized, shall, before entering on their respective duties, take oath before some judge of the United States, or of the State of California, for the faithful performance of their respective duties, and shall also give bond, with one or more sureties, to the satisfaction of the Secretary of the Treasury, and in such sums as he shall prescribe, conditioned for the faithful performance thereof. That the general direction of the operations herein authorized shall be devolved upon the Director of the Mint, in subordination to the Secretary of the Treasury; and it shall be the duty of the said Director to prescribe such regulations and order such tests as shall be requisite to insure the faithfulness and accuracy of the aforesaid officers in the performance of their respective duties. And that there is hereby appropriated, out of the money heretofore appropriated for the establishment of a Mint in California, so much as may be necessary for the purposes of this act: *Provided*, That no contract be made for the erection and establishment of the said Mint until the further order of Congress: *And provided further*, That the lease of buildings herein authorized shall not be for a period of more than three years."

The Senate concurs in the House amendment in the following words, viz:

"And that the Secretary of the Treasury be, and he is hereby, authorized to pay to John McReynolds the sum of $1,000 for expenses incurred by him in removing materials for the construction of a light-house in the State of Michigan, the Department having changed the site after said materials were delivered at the site first selected:"

To so much of the fifteenth amendment of the Senate as is embraced in the following section, viz:

"SEC. 4. *And be it further enacted*, That so much of the 2d section of the act making appropriation for the support of the Army for the year ending 30th of June, 1853, approved 31st August, 1852, as provides that 'no portions 'of the moneys appropriated by this act shall be applied to 'the payment of any expenses incurred prior to the first day 'of July, 1852,' be, and the same is hereby, repealed, so far as it relates to the appropriation for light-houses contained in said act, except as to the light-houses which have been contracted for to be erected upon the Pacific coast."

That the Senate concur in the House amendment (with an amendment) of so much of the fifteenth amendment of the Senate as is contained in the following section:

"SEC. 7. *And be it further enacted*, That when the gold or silver shall be cast or formed into bars, or ingots, or disks, no pieces as aforesaid shall be cast or formed of a less weight than five ounces, unless they be of standard fineness, and the charge for casting, or forming, or refining said bars, ingots, or disks, shall not exceed the expense of executing; the operation to be regulated, from time to time, by the Secretary of the Treasury. And the Secretary of the Treasury is hereby authorized to regulate the size and devices of the new silver coin authorized by an act entitled 'An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime.'"

House amendment to the above, in which the Senate concurs, viz:

"Strike out after the enacting clause down to and including the word 'Treasury,' and insert:

"That when gold or silver shall be cast into bars, or ingots, or formed into disks, at the Mint of the United States, or any of the branches thereof, the charge for refining, casting, or forming said bars, ingots, or disks, shall be equal to but not exceed the actual cost of the operation, including labor, wastage, use of machinery, materials, etc., to be regulated, from time to time, by the Secretary of the Treasury: *Provided*, Said charge shall not exceed one half of one per cent."

"And add after the words 'half dime,' at the end of section 7, the following:

"Passed at the present session; and that, to procure such devices, as also the models, moulds, and matrices or original dies for the coins, disks, or ingots authorized by said act, the Director of the Mint is empowered, with the approval of the Secretary of the Treasury, to engage temporarily for that purpose the services of one or more artists, distinguished in their respective Departments, who shall be paid for such services from the contingent appropriation for the Mint; and that hereafter the three cent coin, now authorized by law, shall be made of the weight of three fiftieths of the weight of the half dollar, as provided in said act, and of the same standard of fineness."

Amendment of the Senate to the above amendment of the House, in which the House concurs, viz:

"Insert after the words 'or any of the branches thereof' the following: 'Or at any assay office of the United States.' Strike out the proviso, and add after the word 'fineness,' the following:

"And the said act entitled 'An act amendatory of existing laws relative to the half dollar, quarter dollar, dime, and half dime,' shall take effect and be in full force from and after the first day of April, 1853, anything therein to the contrary notwithstanding."

Mr. SWEETSER. Will it be in order for the House to vote on the propositions separately?

The SPEAKER. It will not.

Mr. DUNHAM. I do not propose to discuss the report. It is such as we have been enabled to agree on, and as I believe that it is fully understood by the House, I call for the previous question on its adoption.

Mr. TOOMBS. I hope that the call for the previous question will not be seconded, and that we will not, by unanimous consent, let jobs be carried before both Houses of Congress.

Mr. DUNHAM. I do not know what the gentleman means by the remark he has made. I withdraw the call for the previous question.

Mr. CLINGMAN. I rise to a question of order. No gentleman has the right to speak twice on the same subject, while others are desirous of obtaining the floor. The gentleman has made a speech already—a short one, it is true—recommending the adoption of the report, and he then demanded the previous question. He had no right to speak again.

The SPEAKER. The question of order is well taken, and the Chair decides the gentleman is not entitled to the floor.

Mr. TOOMBS made some remarks in opposition to the report of the Committee of Conference, especially so far as that committee had yielded to the Senate amendment proposing to divert the $300,000 appropriated heretofore for the erection of a Mint in California, to the purchase of machinery there for the establishment of an assay office. He denounced it as a measure not intended to subserve the interests of the people of California or the country, but to cover a job for individuals. He therefore moved a disagreement to the report of the Committee of Conference, and asked that another Committee of Conference be appointed on the part of the House; and expressed the hope that the rights and dignity of this House might thereby be better maintained. If not, he hoped that the House might vote down the bill.

Mr. DUNHAM. The remarks of the gentleman from Georgia need some response at my hands, and I propose to reply very briefly. If the committee have erred, I think that the gentleman might have found a different reason for it than that it was a committee appointed to sell out the dignity and interests of this House.

Mr. TOOMBS. I did not say so.

Mr. DUNHAM. The gentleman went further, and said a little while ago that he anticipated that this thing was to be accomplished through a committee of conference of this House. I can only say for myself, and I presume the same is true of the other members of the committee, that I was appointed upon this committee by no solicitation upon my part.

Mr. TOOMBS. I do not know who is on the committee, but I know for the last two years in Congress that these jobs have been covered by committees of conference. I have no reference to individuals at all.

Mr. DUNHAM. It is well enough for the gentleman to talk about this as a job; but if he were elsewhere, if he were in the other end of the Capitol, he would hear a different story. He would hear this spoken of as a means of preventing jobs. If, therefore, those who immediately represent California cannot agree as to the wants and interests of her citizens in this matter, how can you expect those who have no interest in her, except that general interest which concerns the whole country, should understand exactly what is desired by them; and if therefore, we differ in regard to the matter, cannot this difference be attributed to something else than a disposition to sell out the rights and dignity of this House? Of the many numerous and important amendments to this bill which the House had rejected, there were but few of them which were acquiesced in by this Committee of Conference. I will venture the assertion that you have seldom had a Committee of Conference from this House who were compelled to act upon so many important matters as those contained in these amendments where the House has been recommended to recede from their opposition to so few as is proposed by this report. As I understand this matter, in making this

report the Committee of Conference have in nowise compromised the dignity or the rights of the House. They have in nowise forced upon the House legislation which is in opposition to its wishes or its judgment. We have proposed nothing but what is the result of our judgment in this matter. It is in your power to acquiesce in this report or reject it. We have made a simple proposition to you. We have simply recommended to the House to concur in such amendments as the Senate insist upon, and which we, after listening to the information given us by the Senate committee, thought the House might properly concur in. This I understand to be the province of a committee of conference. It is presumed that both bodies have intended to act right upon the information before them respectively; but as they differ in their conclusions, it is presumed the one must have had reasons and information which the other does not possess. They meet in conference that the information and reasons of both may be brought together and compared, that it may be ascertained which is right. If each is to doggedly maintain its position, committees of conference would be not only useless but ridiculous. It is not in reason to expect that one should concede everything and the other nothing. I ask gentlemen to call to mind that while you have listened to the reading of such amendments as were conceded by us, you have heard none of those which we refused to concede and which were conceded to us. Look at this report as a whole, as well what is proposed to be yielded by the Senate as what by the House, and seek to do justice to the committee in this matter.

Now, one word in reference to this assay office in California. I understood—and probably my information upon this subject is as good as that of the gentleman from Georgia [Mr. TOOMBS]—that this proposition to build a Mint in California, which has stood upon your statute-books for nearly two years, has received no bid which has been accepted; no bid which is thought sufficient to erect a suitable building and purchase suitable machinery for the purpose, or which would accomplish the object of the law.

Mr. MARSHALL. You do not mean to state either of these two facts which you are stating; *either* that the law has been passed two years, or that there are no bids; because if you do, you state two facts which are utterly false, and, as it seems to me, must be so within your own personal knowledge. I hope you do not mean to state them so.

Mr. DUNHAM. The gentleman's remark is covered with an innuendo, but it certainly is not a proper one, under any circumstances. This is all I have to say in regard to it at this time. I will state to the House what my information is in regard to this matter. The Mint bill passed at the last session of Congress. It is quite probable that under the excitement of a hasty debate, I may have erred in stating the date. In reference to the other matter the gentleman says that there are bids for the erection of the Mint. What was my statement? I did not say that there had been no bids. Gentlemen who surround me will remember whether I made that statement. I said that there were no bids proposing to erect such an establishment as it was thought by those having the matter in charge was proper to be erected. There is a wide difference between the two propositions. The officer having the matter in charge has said, as I am informed, that upon the building proposed to be erected there would be an absolute waste of the $300,000 appropriated.

Mr. TOOMBS. Who was the officer who had it in charge?

Mr. DUNHAM. It is under the control of the Treasury Department.

Mr. TOOMBS. Does the gentleman say that the officer having it in charge is of that opinion?

Mr. DUNHAM. My opinion is that the Secretary of the Treasury, who has it in charge, has not accepted the propositions which have been made to erect a Mint in California, because he believed that it would be a useless expenditure of that $300,000 which you have appropriated, and to which you have expressly limited the expenditure, because that sum will not erect a building such as ought to be erected for the purpose.

Mr. TOOMBS. I think the gentleman is in error there. I know that is not the opinion of the Secretary of the Treasury.

Mr. DUNHAM. I mean no disparagement to the Secretary of the Treasury, but I have my information from gentlemen who, as far as my knowledge extends, are as accurate as he is, and whose means of acquiring the information which I have thus detailed I am sure are as great as his.

Mr. TOOMBS. I am sorry they are not more accurate in their statements, for I know the fact that an adequate building for this purpose can, in the opinion of the Secretary of the Treasury, be erected for less than $200,000.

Mr. DUNHAM. I should like to ask the gentleman if he states that from his own knowledge?

Mr. TOOMBS. I state it as a fact.

Mr. DUNHAM. Well, the House can decide whether they are willing to rely on the knowledge of the gentleman from Georgia as to the erection of a building in California and the purchase of the machinery necessary there, or upon the knowledge of officers in the Department. The gentleman from Georgia may be as widely mistaken in his facts as others. I did not know that the gentleman had undertaken to make estimates as to the building to be erected in California. I did not know that he had examined into the details of the machinery necessary to carry on the Mint.

Mr. TOOMBS. It seems to me that the gentleman cannot even report me aright. I stated that the Secretary of the Treasury said he could erect a building that would answer all the purposes, for $300,000. The gentleman cannot even state me correctly two minutes after I have done speaking.

Mr. DUNHAM. The gentleman cannot state himself correctly, for he makes a different statement each time.

Mr. TOOMBS. I did not. You misunderstood me.

Mr. DUNHAM. That is my misfortune. But the gentleman has given us his authority—the Secretary of the Treasury. Now, if the gentleman knows anything of the management of the Treasury Department, he knows that Thomas Corwin, as principal Secretary of the Treasury, does not have the immediate control and superintendence of these matters. They are matters which come peculiarly within the province of the Assistant Secretary, and from my knowledge of the management of the Treasury Department during the last two years, I would much prefer to take the statement of the Assistant Secretary, Mr. Hodge, than the statement of Thomas Corwin himself, and especially when it is backed up by the fact that notwithstanding that the law authorizing the erection of this building, in case it could be done for $300,000, has been in existence the greater part of a year, up to this time bids have never been accepted, and a contract has never been made. If, then, the Secretary of the Treasury has stated what the gentleman from Georgia has repeated here to-night, I say that the Secretary of the Treasury ought to be impeached for his neglect of duty in this matter. Nearly a year ago we passed a law, under a pressing emergency, as it was represented here, for the establishment of a Mint in California, and the gentleman from California, and the gentleman from Georgia, tell us that there are bids in the Treasury Department for the erection of that Mint, and yet up to this time the Secretary of the Treasury has not completed a contract—has not even accepted bids.

Now, sir, take this statement which I make, that $300,000 is not sufficient for the erection of a suitable building, and the purchase of the expensive machinery necessary for a Mint in California, backed up by the fact that the Secretary of the Treasury, during all this time, has not made a contract; and I leave it to the members of this House to say whether they will take my assertion as to the truth of this matter, or that of the gentleman from Georgia. Sir, I have no interest in this question one way or the other. I care nothing about it. I have spoken thus far merely for the purpose of justifying the course which I took in the Committee of Conference.

Mr. MEADE. I wish to ask the gentleman from Indiana whether any reason was given in the Committee of Conference why this purchase of machinery was limited to San Francisco instead of authorizing the Secretary of the Treasury to purchase it?

Mr. DUNHAM. I do not understand that the amendment makes it positively obligatory upon him to purchase it in San Francisco.

Mr. MEADE. It authorizes the purchase there, and nowhere else.

Mr. DUNHAM. As I understand the amendment, it simply provides that the *building* shall be in San Francisco; that the assay office shall be confined in its locality to San Francisco, and the Secretary of the Treasury is authorized to purchase the necessary machinery. It does not say that he shall purchase machinery which is now actually in San Francisco. He may purchase it elsewhere and contract for it to be delivered there. The Treasury is amply guarded in that respect.

Now, one word in reference to the $300,000. The gentleman from Georgia says that it will be squandered in renting a building, purchasing machinery, and establishing an assay office, before Congress can put a stop to it next session. Now, if you cannot purchase the necessary machinery and put an assay office into operation without squandering $300,000, will the gentleman tell me how, for that sum, you can erect the suitable building which the law requires, and in addition buy the much more expensive machinery necessary to put in operation, not an assay office, but a Mint in California? The law expressly requires that the building shall be suitable.

Now, sir, I have said all that I propose to say, and I am sorry that I have been compelled, in justice to myself, to take up so much of the time of the House.

Mr. JOHNSON, of Arkansas. I desire to call the attention of the House to the fact that we are consuming time in useless discussion, and that it is of no possible use to appoint committees of conference unless some regard is to be paid to their recommendations. I desire also to call the attention of the Democrats of this House to the fact that they will be held responsible for an extra session, unless by prompt and nervous action here, they force through the business of the session.

Sir, to-morrow is the last day we have got. It is now past nine o'clock, and we are not going to and shall not sit here all night. I know the House will never consent to that. I invoke gentlemen, then, to make up their minds upon this question, that we may act upon it without further delay, and with that view I demand the previous question.

Mr. MARSHALL. I hope that I shall be allowed to say a few words upon this subject. I do not want to make a speech, and I will renew the demand for the previous question.

Mr. JOHNSON. I cannot withdraw the demand for the previous question.

The previous question received a second, and the main question was ordered to be put.

The question now was on agreeing to the report of the Committee of Conference.

Mr. STUART. I call for tellers.

Tellers were ordered; and Messrs. HART, and JOHNSON of Arkansas, were appointed.

The question was then put, and the tellers reported—ayes 48, noes 91.

So the report of the Committee of Conference was not agreed to.

Mr. NABERS. I rise to a privileged question. I move to reconsider the vote by which the House has just refused to concur in the report of the Committee of Conference.

Mr. DEAN. I move to lay that motion upon the table.

Mr. NABERS. The gentleman cannot make that motion. I have not yielded the floor yet.

The SPEAKER *pro tem.* Did the gentleman from Mississippi vote with the majority?

Mr. NABERS. Yes, sir, I did.

Mr. LETCHER. Did the gentleman vote against his own report?

Mr. NABERS. I voted with the majority with a view of making the motion which I now make, to reconsider. I am in favor of agreeing to the report of the Committee of Conference.

Mr. LETCHER. Did not the gentleman vote to concur in his own report?

The SPEAKER *pro tem.* The gentleman states that he voted in the negative, with the majority.

Mr. LETCHER. I want to know if the gentleman did not vote upon both sides, and whether he was not counted upon both sides?

Mr. NABERS. No, sir, I was not.

Mr. CLINGMAN. I rise to a question of order. The previous question was ordered upon the report, and under the decisions of the Speaker, the motion to reconsider is not debatable.

The SPEAKER *pro tem.* The Chair will state that the previous question was exhausted when the vote was taken on the report of the Committee of Conference.

Mr. CLINGMAN. The Speaker, both at this session and at the last session, has regularly decided that when you move in such a case as this to reconsider, you are in the same condition as you were before—under the operation of the previous question—and that the motion to reconsider cannot be debated.

The SPEAKER *pro tem.* The gentleman from North Carolina is mistaken, according to the recollection of the Chair. The uniform practice has been that when the motion upon which the previous question had been called had been disposed of, the previous question had exhausted itself.

Mr. CLINGMAN. Until the present Congress, that course has been pursued; but during the present Congress, the practice has uniformly been as I have stated.

Mr. FITCH. The gentleman from North Carolina, I think, is certainly mistaken. During the whole Congress, in every case which has come up when a motion has been made to reconsider, the Speaker has decided that motion to be debatable.

Mr. LETCHER. I insist upon my point of order, and I ask the Chair to decide it. If the gentleman from Mississippi [Mr. NABERS] voted upon both sides, I submit that he cannot make the motion to reconsider.

A MEMBER. The practice has universally been to allow any member to move a reconsideration of a vote upon which the yeas and nays were not taken.

Mr. LETCHER. The confusion was so great that I believe many gentlemen did not know upon which side they were voting; but I insist that if the gentleman from Mississippi voted in the minority, he has no right to move to reconsider.

Mr. ORR. I can relieve the gentleman from Virginia [Mr. LETCHER] from all doubt upon this subject. The gentleman from Mississippi did vote in the affirmative, but when he found that the report of the Committee of Conference was not likely to be concurred in, he went to the tellers and changed his vote—as he had a perfect right to do—in order to give him an opportunity to move a reconsideration.

Mr. LETCHER. With that statement of facts I am satisfied, and will withdraw my question of order.

Mr. CLINGMAN. I desire to present another question of order. The gentleman from Georgia [Mr. TOOMBS] made a motion—which I think was recognized by the Chair—to disagree to the report of this committee, and appoint another committee of conference. The previous question has certainly not exhausted itself upon that.

The SPEAKER *pro tem.* The Chair recollects the motion of the gentleman from Georgia, but thinks it was not to disagree and appoint another committee of conference.

Mr. TOOMBS. Yes, sir; that was my motion. I moved to disagree with the report and appoint another committee of conference.

The SPEAKER *pro tem.* That was not the motion upon which the committee voted. The Chair distinctly announced the question to be upon concurring in the report of the committee of conference, and that was the motion upon which the House voted.

Mr. TOOMBS. That was not my motion. I rose and made the motion distinctly—which I supposed to be in order—to disagree and appoint another committee.

The SPEAKER *pro tem.* The Chair decides that the motion of the gentleman could not be made. It would not be in order to entertain a motion to appoint another committee of conference until the report of the first committee had been disposed of.

Mr. STEPHENS, of Georgia. Oh, no. The Chair is certainly mistaken in that.

The SPEAKER *pro tem.* After the committee had disagreed to the report of the first committee, it would be in order to move to appoint another committee, but not before. The Chair decides the motion of the gentleman from Mississippi to be in order, and he further decides that the motion is debatable. The gentleman from Mississippi therefore will proceed.

Mr. NABERS. Mr. Speaker, I have made this motion to reconsider because, under precisely similar circumstances, I have seen the motion made again and again, since I have been a member of this House; and it is not, therefore, an unprecedented motion. I think, therefore, I am correct in saying that, in making this motion I have not committed the slightest breach upon the ordinary mode of procedure in this House, and I think gentlemen may well spare their excessive anxiety with regard to the propriety and regularity of the proceeding. In relation to this matter of a change of vote, who does not know that it is done again and again upon this floor? Why, sir, I do not think I have seen a vote taken by yeas and nays during the present Congress, when some member did not get up and change his vote before the final result was announced. What, therefore, is there strange or unprecedented in this? Nothing.

But, sir, I should not have made this motion—for I have no desire upon the face of the earth to say a word—but for the fact that having been placed upon this Committee of Conference upon the part of the House, I felt it due to myself, and to my colleagues upon that committee, to say something in vindication of our action in relation to this report, which has just been rejected by this House. Upon this account I somewhat regretted that my friend from Arkansas [Mr. JOHNSON] called the previous question upon the motion to concur in the report of the committee quite so soon as he did; though if he had known that I desired to say anything upon that motion, he would have stayed here all night before he would have made it. There is no doubt about it at all. [Laughter.] But there are other reasons why I did not desire to speak upon the present occasion. I have been exceedingly unwell for three or four days; so much so that I have been able to be in my seat only a limited portion of the time.

Sir, what were the circumstances under which the Committee of Conference were appointed? and what were the duties incumbent upon that committee? Here we are almost at the very last hour of this session of Congress. Here are multitudes of important bills undisposed of; and do you suppose that three modest gentlemen like myself [a laugh] and my colleagues upon this committee should be able to control, in every case, the action of the committee upon the part of the Senate? I am sure not a gentleman upon this floor would for a moment think of such a thing. Sir, the thing is unheard of. The very object of, and understanding in, appointing a Committee of Conference is, that the House shall cede some things, and the Senate cede some things, and thus arrive at a harmonious conclusion. The object is to arrive at some practical result in transacting the business of the country.

It was very properly observed by the gentleman from Indiana, [Mr. DUNHAM,] that in the result of this Committee of Conference, the House has receded from as few of its amendments and disagreements as perhaps was ever observed in any similar case.

A word now in regard to the measure which has constituted the origin of this difficulty—I mean this assay office in California, for it is upon that the gentleman has based his own remarks, and upon which this discussion has arisen; what are the facts in relation to this matter? My information is that the members in this branch of Congress from the State of California oppose this assay office, and in the other branch one Senator opposes and the other favors it. It will be remembered that the chairman of the Committee on Finance of the Senate was also a member of this Committee of Conference, and I learned that this plan for an assay office was not the plan specially brought forward by interested parties in California, but it was the plan of the chairman of the Committee on Finance, [Mr. HUNTER,] and I therefore take it to be a good plan, for he is a gentleman who has investigated fully such questions. In a matter like this I willingly defer to his judgment, for his investigation into these matters gives him the right to know infinitely better than I do. Well, sir, suppose we have not a Government assay office in San Francisco, California, what do you propose to do for the miners there?

Mr. CARTTER. I ask the gentleman if he will give way for a motion that the House adjourn?

Mr. NABERS. I have no objection if I shall be entitled to the floor to-morrow.

Mr. CARTTER. I certainly do not wish to deprive the gentleman of the floor. I inquire of the Speaker if the gentleman will not be entitled to the floor to-morrow if the House should now adjourn?

The SPEAKER *pro tem.* He will, in the opinion of the Chair.

Mr. CARTTER. Will the gentleman then give way for a motion to adjourn?

Mr. NABERS. I will if it is the wish of the House.

[Loud cries of "No!" "No!" "Do not adjourn."]

Mr. NABERS. Very well, I prefer to go on, and so far as I am concerned, I am willing to sit all night if we can place the business of the House in a better condition. I desire to come to some agreement in relation to this report of the Committee of Conference. Sir, I desire that the business of this House and of this Congress shall not remain in such a condition at the close of the present session as shall force upon the incoming Administration the necessity of calling an extra session of Congress. I desire very earnestly to avoid that, and gentlemen must see that if we adjourn leaving everything in an unsettled condition, so far as the necessary legislation for the session is concerned, the necessities of the country would compel the President elect to call an extra session. Extra sessions are always disastrous to the party calling them; and I therefore wish to avoid anything of the sort.

But I was proceeding to say something upon the subject of this assay office in California. The establishment of that assay office according to the plan proposed in this bill must, in my judgment, operate beneficially to the miners of that region of country. I think it provides that the gold shall be assayed for the actual cost to the individual owning the gold, and it will have the effect of saving the miners from the exorbitant exactions spoken of yesterday by the gentleman from California, [Mr. MARSHALL.] Sir, we need this assay office there for the reason that there are private assay offices there now which are in operation, and which charge the miners and the owners of the gold from one and a half to two—and I presume sometimes as high as two and a half—per cent. for assaying the gold.

Mr. McCORKLE. Not so high as that.

Mr. NABERS. Well, sir, I understand they charge from one and a half to two and a half per cent., and with this fact staring him in the face, can any gentleman upon this floor say that an assay office established by the Government of the United States, which should assay the gold for the actual cost, would not operate beneficially to the miners? It seems to me every one must arrive at that result.

Sir, there are various other considerations which I might adduce, if my time and the condition of my health would allow, which induced the Committee of Conference to agree to that amendment of the Senate. But I do not desire to go into a discussion of the other branches of this report, and with these remarks will yield the floor.

Mr. STUART. Mr. Speaker, I was in favor of concurring in the report of this Committee of Conference when it first came up; but this House has settled that question by a very decisive majority, and we are now in this condition: The House has come out of the Committee of the Whole informally, and you cannot make up the record as it now stands. Unless you go back into committee again at some point the Journal cannot be made up. So far as the Journal is concerned, we are now in the Committee of the Whole on the state of the Union. The House has determined by a large majority to have another committee of conference at the risk of losing this bill. I move that the motion to reconsider be laid upon the table.

Mr. HOUSTON. I ask the gentleman if he will not withdraw that motion, and let us go back into committee.

[Cries of "Question!" "Question!"]

Mr. STUART. I want this motion to reconsider to be disposed of now, and that another committee be appointed.

Mr. ORR. If the motion of the gentleman from Michigan is agreed to, and the motion to reconsider laid upon the table, will it not also carry the bill with it to the table?

The SPEAKER. The Chair decides that it will not.

Mr. ORR. Then I have no objection to the motion.

The question was then taken and the motion to reconsider was laid upon the table.

Mr. TOOMBS. I now move to appoint another committee of conference. It is according to parliamentary usage, and I will not detain the House five minutes upon it. I will say to gentlemen that all this terror of driving the incoming Administration to calling an extra session of Congress, is utterly erroneous. We ought to have sound legislation, and I believe when necessary to accomplish that object, an extra session is legitimate and proper. Sir, I will give millions for proper legislation, but not one cent for jobs.

The SPEAKER. The gentleman from Georgia moves that another committee of conference be appointed upon the disagreeing votes of the two Houses upon the deficiency bill.

Mr. HOUSTON. I move the previous question upon that motion.

The previous question was seconded, and the main question was ordered to be put.

The main question being, "Shall another committee of conference be appointed?" it was put and decided in the affirmative.

The SPEAKER thereupon appointed Messrs. TOOMBS, WOODWARD, and MARSHALL, as the committee on the part of the House.

ARMY BILL.

Mr. PHELPS. I desire to make a report from the House Committee of Conference upon the disagreeing votes of the two Houses upon the Army appropriation bill.

Mr. STUART. The House is in committee yet, as the committee has not risen, and there has been no report of the chairman of the committee made.

The SPEAKER, (Mr. JONES, of Tennessee, in the chair.) It is true that no report has been made. The committee agreed to rise informally. The Chair admits that, to his knowledge, that was never done before, but it was done by the suggestion of the chairman, and no objection was made.

The report of the Committee of Conference was then read, as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the bill (H. R. No. 336) making appropriations for the support of the Army for the year ending the 30th of June, 1854, have met, and after full and free conference, have agreed to recommend, and do recommend, to the respective Houses as follows:

That the House of Representatives recede from its disagreement to the 14th, 15th, 31st, and 32d amendments of the Senate.

That the Senate recede from their 16th, 18th, 19th, 23d, 24th, 25th, 27th, 29th, 30th, 33d, 34th, 40th, 42d, and 45th amendments.

That the House of Representatives recede from its amendment to the 27th amendment of the Senate.

That the Senate concur in the amendment of the House to the 1st amendment.

That the Senate concur in the amendment of the House to their 22d amendment.

Mr. PHELPS. I call the previous question upon the adoption of the report.

The previous question was seconded, and the main question ordered to be put; which main question being, "Shall the report of the Committee of Conference be concurred in?" it was put, and decided in the affirmative.

So the report was agreed to.

The following is the digest of the above report of the Committee of Conference:

Amendments of the Senate, from a disagreement to which the House recede:

Fourteenth amendment. The Senate struck out the words "sixty-five" and inserted "one hundred," in the following paragraph of the original bill:

"For ordnance, ordnance stores and supplies, $65,000."

Fifteenth Senate amendment, from a disagreement to which the House recedes:

The Senate struck out "twenty-eight thousand nine hundred and fifty" and inserted in lieu thereof "forty-three thousand five hundred," in the following clause to the original bill:

"For repairs and improvements and new machinery at Harper's Ferry, $28,950."

Thirty-first amendment of the Senate, inserting the following section, to which the House disagreed:

"SEC. 5. *And be it further enacted*, That the provisions of the seventh section of the act approved August 31, 1852, entitled 'An act making appropriations for the support of the Army for the year ending 30th day of June, 1853,' shall be construed to extend to all persons who were engaged as receivers of military contributions in Mexico or California during the war with Mexico."

The House recedes from its disagreement to that section.

Thirty-second amendment of the Senate, inserting the following section, to which the House disagreed:

"SEC. 6. *And be it further enacted*, That the provisions of the first section of the act entitled 'An act making appropriations for the support of the Army for the year ending the 30th of June, 1851,' approved September 28, 1850, granting extra pay to the officers and enlisted men of the Army serving in Oregon and California, be extended to the officers and men of the two companies of regiment of mounted riflemen that garrisoned the post of Fort Laramie, Oregon route, during the time they occupied said post; and the amount which may be found due them under this act shall be paid out of any moneys in the Treasury not otherwise appropriated."

The House recedes from its disagreement to that section.

Senate amendments from which the Senate recedes:

Sixteenth amendment of the Senate:

"Add to the following clause:

"For repairs and improvements and new machinery at Harper's Ferry, $43,500."

"The following words:

"And that the amount received from the late and future sales of Government land pertaining to Harper's Ferry armory may be carried to the same appropriation, and applied to similar objects, under the direction of the Secretary of War, including the improvements of the streets and highways, in use for armory purposes."

The Senate recedes from this amendment.

Eighteenth amendment of the Senate:

"Strike out 'forty-one thousand and seventy-one' and insert 'fifty-eight thousand one hundred and forty-four,' in the following paragraph:

"For arsenals, forty one thousand and seventy-one dollars; and that the Secretary of War be, and he is hereby, authorized to abolish such of the arsenals of the United States as in his judgment may be useless or unnecessary."

The Senate recedes from this amendment.

Nineteenth amendment of the Senate:

"After the word 'abolish' in the above paragraph, insert the words 'or transfer.'"

The Senate recedes from this amendment.

Twenty-third, twenty-fourth, and twenty-fifth amendments of the Senate:

"After the following clause, viz:

"For fuel and quarters and for mileage or transportation for officers and enlisted men of the Army serving on the Coast Survey, in cases no longer provided for by the Quartermaster's Department, $10,000;

"Insert the following:

"For preservation of public property and contingencies of western river improvements, and for commutation of transportation of baggage and of quarters and fuel of officers, the payment of which is no longer made by the Quartermaster's Department, and for allowances to meet extra expenses under the special direction of the Secretary of War, $20,000.

"For repairs and preservation of public property and contingencies of lake harbors, and for commutation of transportation of baggage, and of quarters and fuel of officers, the payment of which is no longer made by the Quartermaster's Department, and for allowances to meet extra expenses under the special direction of the Secretary of War, $10,000.

"Repairs, preservation, and contingencies of river and harbor improvements on the Atlantic and Gulf coasts, in charge of the Engineer Department, and to meet charges for transportation of officers, and for fuel and quarters, the payment of which is no longer made by the Quartermaster's Department, and for extra allowances to meet extra expenses under the special direction of the Secretary of War, $15,000."

The Senate recedes from these amendments.

Twenty-seventh amendment of the Senate:

"Add the following section:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress, passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites,' be, and the same are hereby extended to all military sites acquired since the passage of the said act."

The Senate recedes from this amendment.

Twenty-ninth amendment of the Senate:

"Add the following section:

"SEC. 6. *And be it further enacted*, That the accounting officers of the Treasury be authorized in settling the accounts of Captain Leslie Chase, Captain S. M. Plummer, Captain Schuyler Hamilton, and Lieutenant J. H. Whipple, to pass to their credit all expenditures by them made for objects authorized by law, out of appropriations not applicable thereto; provided, that such expenditures be approved by the Secretary of War."

The Senate recedes from this amendment.

Thirtieth amendment of the Senate:

"Add the following section:

"SEC. 7. *And be it further enacted*, That additional rations shall hereafter be allowed to the commissioned officers of engineers when in command of separate and fixed, or permanent posts; provided, that the commandant of no post shall be entitled to receive such additional rations, unless the same be designated by the Secretary of War as a double-ration post."

The Senate recedes from this amendment.

Thirty-third amendment of the Senate:

"Add the following section:

"SEC. 10. *And be it further enacted*, That it shall be the duty of the Secretary of War, under such regulations as he may prescribe, to cause to be examined, and testimony to be taken, in all claims against the United States for carrying on the government in California in the years 1846 and 1847, under Commodore R. F. Stockton, Brigadier General S. W. Kearny, and Lieutenant Colonel John C. Frémont; also for spoliations, and for property furnished or taken for military purposes in California within that period, and which have not been favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved 31st of August, 1852, and to report thereupon to Congress at its next session; and that for the purpose of carrying this provision into effect, the sum of $10,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated."

The Senate recede from this amendment.

Twenty-fourth amendment of the Senate:

"Insert the following:

"SEC. 10. *And be it further enacted*, That, for the payment of claimants against the United States for funds advanced, and subsistence and supplies of all kinds furnished or taken for the use of the command of Captain John C. Frémont, whilst he was engaged in the public service in California during the year 1846, as favorably reported upon by the Board of Commissioners appointed under the sixth section of the act making appropriations for the support of the Army, approved August 31, 1852, the sum of $31,017 22½ is hereby appropriated out of any money in the Treasury not otherwise appropriated, and that the troops enlisted or enrolled in California, under the direction of the military and naval officers, shall have all the benefits of all acts of Congress in favor of troops engaged in the war with Mexico."

The Senate recedes from this amendment.

Fortieth amendment of the Senate:

"Insert the following:

"SEC. 17. *And be it further enacted*, That, in making such explorations and surveys, the engineers and other persons employed under the authority of this act may be directed to act in concert with any engineers employed by any individual or individuals, association or associations, for the same general object; and the Secretary of War is hereby authorized and required to receive proposals from individuals or associations, for the construction of a railroad between the valley of the Mississippi and the Pacific ocean, and lay the same before Congress at the next session."

The Senate recedes from this amendment.

Forty-second amendment of the Senate:

"Insert the following:

"SEC. 19. *And be it further enacted*, That the President of the United States is hereby authorized to enter into contracts with such person or persons as shall make the most favorable proposals, and give the most satisfactory assurance and security for defending and protecting the emigrant routes, and improving and keeping in good condition the roads through the Territories of the United States from the western border of the States in the Mississippi valley to the eastern border of California, and to the Pacific ocean in the Territory of Oregon, on the following terms:

"*First.* The contractors are to establish posts and station-houses along the route at such points and distances as the President shall designate, and shall keep at least twenty well-armed men at each of said posts to protect all emigrants, travelers, and settlers, on and along said routes.

"*Second.* The said contractors shall make and keep in repair a good wagon-road along each of said routes, with bridges or ferries across all the streams, and shall charge no higher rates for crossing said streams than shall be prescribed by the President.

"*Third.* In consideration of the services required by this section, the President is hereby authorized to grant to such contractors four sections of land at, and in the vicinity of, each of said posts, which said grant of land shall be in full of all services rendered, or expenses incurred under this section."

The Senate recedes from this amendment.

Forty-fifth amendment of the Senate:

"Add the following:

"And whereas a discovery has been made, and is now in practice, whereby the human body can be rendered safely insensible to pain in dental, surgical, and obstetrical operations, by the use of what are commonly called anæsthetic agents, and the Government of the United States has been and is in the enjoyment of said discovery in the military and naval service; and whereas it is established that the discovery was made by some one of the persons following, to wit: William T. G. Morton, Charles T. Jackson, each of Boston, and Horace Wells, of Hartford, deceased; but it does not appear to the satisfaction of Congress which of those parties was the original, true, and first discoverer thereof; and whereas Congress is willing to provide a recompense for such discovery when ascertained: Therefore—

SEC. 22. *Be it further enacted*, That the sum of $100,000 be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be paid by the Secretary of the Treasury as hereinafter provided, as a recompense for said discovery and the use and benefit thereof by the Government and people of the United States.

SEC. 23. *And be it further enacted*, That it shall be the duty of the district attorney of the United States for the northern district of New York, within a reasonable time

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after the passage of this act, to file in the circuit court of the United States for said district, sitting in equity, a bill of interpleader, wherein, reciting this act, or the substance thereof, the Secretary of the Treasury, as trustee of the sum herein appropriated, shall be complainant, and the said William T. G. Morton, Charles T. Jackson, and the personal representative or representatives of said Horace Wells, shall be defendants; of which bill they, the said parties, shall take notice, and may appear and answer and make proofs; and the said circuit court shall have jurisdiction of said case, and the same shall be tried in the manner and according to the practice of such court in equity cases; and the issue therein shall be, which one of the said parties first named was the original, true, and first discoverer, of the discovery herein before recited; and, by final decree in such case, the court shall decide that issue, and shall direct that the said sum of one hundred thousand dollars, without any costs, shall be paid over to the party who shall be found to have been such discoverer, or to his personal representative or representatives or assignee: *Provided*, That if one or more of said defendants shall conceive himself or themselves to be aggrieved by said decree, he or they may, within twenty days after the making of the decree, appeal to the Supreme Court of the United States, and thereupon the payment of said sum shall be suspended until final disposition be made of said case by the said Supreme Court: *And provided further*, That if it shall appear that either of said defendants holds a patent for said discovery, or the means of applying the same, which, in the judgment of said circuit court, is valid, then it shall be the duty of said court to certify such fact to the said Secretary, who shall thereupon withhold from such defendant said sum, should the same be decreed to him by the said final decree, until he shall have executed, under his hand and seal, an instrument in writing surrendering such patent and granting the free use of said discovery, and the means of using or applying the same, to the Government and people of the United States; which instrument shall be lodged in the Patent Office and entered on the records thereof: *Provided*, That before the said sum of $100,000, or any part thereof, shall be paid to either of the parties named in this act, he shall make oath in due form of law that he has not been guilty of collusion with either of the other parties named in this act, in any way whatever.

From this amendment the Senate recedes.

The House recedes from its amendment to the twenty-seventh amendment of the Senate.

The twenty-seventh amendment of the Senate was as follows:

"SEC. 4. *And be it further enacted*, That the provisions of the act of Congress passed March 3, 1819, entitled 'An act authorizing the sale of certain military sites' be, and the same are hereby, extended to all military sites acquired since the passage of said act."

The House amendment thereto was as follows:

"Strike out all after the enacting clause and insert:

"That the act entitled 'An act authorizing the sale of certain military sites,' passed March 3, 1819, is hereby repealed, and that the Secretary of War shall, at the opening of each Congress, report to Congress what military sites should, in his judgment be sold, and the reasons therefor; and that in all cases where lands have been or may hereafter be reserved for military, naval or other purposes, and where the Secretary of the proper Department shall certify that such lands are no longer required by the Government for public uses, the President of the United States shall be, and he is hereby authorized to cause the same to be sold at public sale under the laws which may be in force, at the time, for the disposal of public lands, or under such special regulations as he may prescribe: *Provided, however*, That no preemption right shall attach to any such lands in virtue of any settlements made prior to the time of the offering at public sale of the same under this act."

From this amendment the House recedes.

The Senate concur in the first amendment of the House to the first Senate amendment.

The first Senate amendment was to add to the following paragraph:

"For pay of the Army, $1,814,759,"

the following:

"*Provided*, That the military store-keepers of the Ordnance Department in Oregon, California, and New Mexico, shall hereafter receive the same pay that is allowed by law to the military store-keepers and paymasters of that Department in the Atlantic States."

The amendment of the House thereto, and in which the Senate concur, was to strike out the above proviso, and insert in lieu thereof the following:

"*Provided*, That the salary of the military storekeepers of the Ordnance Department in Oregon, California, and New Mexico, shall hereafter be $2,250 per annum."

The Senate concur in the amendment of the House to the Senate's twenty-second amendment.

The twenty-second amendment was to add to the following paragraph:

"For bridges and establishing communications between Fort Leavenworth and the Republican Fork of the Kansas river, $11,725,"

the following:

"For fuel and quarters, and for mileage or transportation for officers and enlisted men of the Army serving on the Coast Survey, in cases no longer provided for by the Quartermaster's Department, $10,000."

The amendment of the House thereto, and in which the Senate concur, was to add the following proviso:

"*Provided*, That the annual Coast Survey Report shall be submitted to Congress during the month of December in each year, and shall be accompanied by a general chart of the whole coasts of the United States, on as large a scale as convenient and practicable, showing as near as practicable the configuration of the coasts, and showing by lines the probable limits of the Gulf stream, and showing by lines the probable limit to which the soundings of the coast will extend, and showing by the use of colors and explanations the exact portions of our coasts of which complete charts have been published by the Coast Survey; also, showing such other parts of the coasts of which the triangulation, the topography, and the soundings have been completed, but not published; and also, such parts of the coasts of which the triangulation and topography, or the triangulation only, have been completed."

CIVIL AND DIPLOMATIC BILL—CLARK MILLS.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. STUART in the chair,) and resumed the consideration of the Senate amendments to the civil and diplomatic bill.

The CHAIRMAN. The pending question is upon the Senate amendment as amended, in reference to the appropriation to Clark Mills, for the equestrian statue of Andrew Jackson.

The question was taken, and the amendment as amended was concurred in.

One hundredth Senate amendment:

"SEC. 23. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized and required to purchase of Thomas Cowperthwaite & Co., of the city of Philadelphia, or from any other person or persons, if the same can be had on better terms, five hundred copies of the Decisions of the Supreme Court of the United States, as contained in six volumes of Peters's Condensed Reports, and the sixteen volumes subsequent thereto, by the same reporter, at a price not exceeding sixty-two dollars per copy; and likewise five hundred copies of the first thirteen volumes of Howard's Reports, being a continuation of the reports of said court to the end of the last term; and also, until Congress shall otherwise direct, five hundred copies of each succeeding volume of the reports of the decisions of said court, at a price not exceeding two dollars and eighty-two cents per volume for Howard's Reports, and such subsequent reports, and pay for the same out of any money in the Treasury not otherwise appropriated. And it shall be the duty of the said Secretary of the Treasury, immediately after the reception of said reports, to forward to the Governor of each State and Territory four copies of said reports, (one copy thereof being intended for the State library, one copy for the use of the Executive, one for the use of the Legislature, and one for the use of the highest court of the States and Territories respectively, unless the Legislatures thereof shall deem it necessary and proper to make a different distribution.) And in addition to the copies aforesaid there shall be forwarded to the Governor of each State and Territory a number of copies of said reports equal to the number of representatives of said States and Territories in both Houses of Congress, to be distributed as the Legislatures of said States and Territories shall respectively determine. And the remainder of said five hundred copies shall be deposited in the Department of State, for distribution in conformity with existing laws, or for such other purpose as may be deemed expedient by the Secretary of State; the residue, if any, after such distribution, to await the further action of Congress."

Mr. HOUSTON. I hope that the whole amendment will be voted down.

Mr. STANTON, of Kentucky. I offer the following amendment by way of addition:

To enable the Clerk of the House of Representatives to pay the employees thereof the extra compensation as directed by the resolution of the House of March 1, 1853, such sum as may be necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HALL. Has not that amendment been put in the bill already?

The CHAIRMAN. The Chair knows nothing at all of what was put in the bill.

Mr. HALL. I then raise the question of order that the amendment is not germane to the subject under consideration.

Mr. STANTON. I simply desire to say that this House a few days ago gave a very large majority on the yeas and nays in favor of paying to their employees the usual extra compensation. The Senate, by the report of the Committee of Conference which was sent here a few minutes ago and rejected, not on account of that provision, but in consequence of another matter which it contained, evidently show that they are determined to pay their employees this extra compensation. Now, sir, it is but fair and just that a fund shall be given out of which our clerks and employees shall be paid, especially when the House has decided by an overwhelming majority to give them the extra compensation. The Committee on Ways and Means failed to provide a fund, and this amendment is for that purpose.

Mr. HOUSTON. How could the Committee on Ways and Means provide a fund? Did we know that the resolution giving extra compensation was going to pass? The House voted the fund on the express representation by myself that it was an estimate of the Clerk intended to cover this extra compensation.

Mr. HAVEN. The amendment is not in order, because it is not relevant.

The CHAIRMAN. The Chair understands that the original amendment provides for the distribution of a large amount of books among the States; and he cannot see how this amendment to provide a fund out of which to pay the extra compensation has anything to do with it.

Mr. ORR. I move to strike out that portion of the amendment with reference to the distribution of the books. I am opposed to the policy of providing for the distribution of large amounts of money when those amounts are not specifically stated in the bill. Here is a section embracing one or two pages, and involving the expenditure of $60,000, or $70,000, or $100,000—the precise amount does not appear. There is only a provision that it is to be paid out of any moneys in the Treasury not otherwise appropriated. The second objection I have to appropriations of this sort is the one indicated by the gentleman from Georgia, [Mr. TOOMBS,] that they are evidently for the purpose of giving jobs. And to such appropriations I am entirely opposed.

Mr. FREEMAN. I am opposed to the amendment of the gentleman from South Carolina. It is clear that the object of purchasing these books is simply this: These are the reports of the decisions of the Supreme Court of the United States, and it is known, or ought to be, to every member on this floor that the several States of this Union send to the Library of Congress, at Washington, copies of their annual statutes, revised codes, and reports of the decisions of their Supreme Courts. Is not the Congress of the United States to respond?

Mr. ORR. Congress does respond.

Mr. FREEMAN. This is but a proper response to the States, and I am surprised the gentleman has made the point he has. The gentleman seems to be very much afraid of giving jobs. Everything is a job. There is not a proposition made in this House you cannot designate by the name of a job. There is a good deal of jobbing here by the very men who job most against it. [Laughter.]

The question was taken, and the amendment was disagreed to.

The question was then taken on the amendment of the Senate, and it was non-concurred in.

One hundred and first amendment of the Senate:

"Add at the end of the bill, as an additional section, the following:

"SEC. 19. *And be it further enacted*, That whenever the land office at Pontotoc, Mississippi, shall be discontinued, the records and files thereof shall be placed in the possession of the clerk of the United States district court for the northern district of Mississippi, who is hereby made keeper of the same, and authorized to perform all the duties now conferred upon the register and receiver, and shall receive for his services therefor a sum not exceeding $500 per annum."

Mr. HOUSTON. That provision will become necessary during this year, and the committee recommend a concurrence.

The question was taken, and the amendment was concurred in.

One hundred and second amendment of the Senate:

"Add at the end of the bill, as an additional section, the following:

"SEC. 20. *And be it further enacted*, That in settling the accounts of Daniel S. McCauley, late consul general at Alexandria, in Egypt, there shall be allowed for office rent at the rate of $400 per annum, during the time he acted in that capacity, to be paid to his widow."

The question was taken, and the amendment was concurred in.

One hundred and third amendment of the Senate:

"Add at the end of the bill, as an additional section, the following:

"SEC. —. *And be it further enacted*, That the percentage added by law to the pay of the clerks employed in the Executive and Legislative Departments at Washington be, and is hereby, allowed to the clerks employed in the City Post Office in the city of Washington, commencing at the same time that theirs did, on the 1st of July, 1852."

Mr. STANTON, of Kentucky. I move the following amendment by way of addition:

"To enable the Clerk of the House of Representatives to pay the employees thereof the extra compensation as directed by the resolution of the House of March 1, 1853, such sum as may be necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated."

Mr. STANTON. It has been the custom to pay this extra compensation for the last thirty years.

The question was taken, and the amendment was agreed to.

The question was put on concurring in the amendment of the Senate, as amended, and there were, on a division—ayes 76——

Mr. HALL. I demand tellers.

Tellers were ordered; and Messrs STANTON of Kentucky, and HALL were appointed.

Mr. CLINGMAN. I move to embrace in the resolution, all the stone-cutters, butchers, and hackmen.

Mr. FLORENCE. The printers of the Globe ought to be included at all events.

Mr. CLINGMAN It is exceedingly difficult to designate the particular individuals, and I move to add, by way of amendment, the words, "And the same shall be paid to all the heads of families in the United States, as shown by the last census." [Laughter.]

Mr. MOORE, of Louisiana. The committee were dividing by tellers when the gentleman offered his amendment, and I do not think that it is in order.

Mr. STEVENS, of Pennsylvania. I do not think that it is pertinent—homogeneous. The proposition, as it now stands, does not refer to anybody but officers of the Government and postmasters.

Mr. CLINGMAN. The clerks of the City Post Office are not officers of the Government.

Mr. STEVENS. They are our officers, being in our employ.

The CHAIRMAN. The Chair sustains the point of order.

Mr. DEAN. I move to strike out all that portion of the section which relates to these post office clerks.

Mr. HOUSTON. I submit that amendment is not in order.

The CHAIRMAN. So the Chair decides.

Mr. HIBBARD. I move to insert in that part which relates to post office clerks the words "all the clerks in all the post offices in the United States."

The CHAIRMAN. The Chair decides that to be out of order.

Mr. CLINGMAN. I appeal from the decision of the Chair.

The question was taken upon sustaining the decision of the Chair, (Messrs. MEADE and HART acting as tellers,) and there were—ayes 41, noes not counted.

So the decision of the Chair was overruled.

The question was taken upon the amendment, and it was agreed to.

The question was then taken upon the Senate amendment as amended, and it was not agreed to.

Mr. STANTON, of Kentucky. I desire to offer the same amendment as an independent section.

Mr. JONES, of Tennessee. I make the point of order, that unless we have something to amend, we cannot add a section to the bill. I move that the committee rise, and report the bill to the House.

The CHAIRMAN. The gentleman from Tennessee [Mr. JONES] is correct. We are acting simply upon a Senate amendment. The question now is upon the motion of the gentleman from Tennessee, that the committee rise and report the bill to the House.

The question was taken; and it was decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole had had under consideration the state of the Union generally, and particularly the Senate amendments to the civil and diplomatic bill, and that in some they have concurred with amendments, and others without amendments, and that they have disagreed to some.

Mr. HOUSTON moved the previous question upon the amendments, which was seconded, and the main question ordered to be put.

Mr. HOUSTON. I propose to the House (as we all recollect the amendments we voted upon) that we take one vote upon concurring in the action of the Committee of the Whole on the state of the Union. [Cries of "Agreed! Agreed!"] I hope it will not be objected to. We all remember what we have been voting upon, and let us vote in what the committee have recommended. I move to suspend the rules for that purpose.

Mr. MEADE. I only want a single vote, and then I am willing to take it upon every other proposition. There was an amendment passed over without anybody's attention being called to it. I know that my attention was not called to it, and I do not believe that there was any other member from Virginia whose attention was directed to it. It was the amendment introduced by the Senate to allow compensation——

Mr. STANTON, of Kentucky. There is a misunderstanding about that amendment which I desire to explain. It will not take two minutes.

Mr. CARTTER. I rise to a question of order. The proposition is to suspend the rules.

The SPEAKER. The remarks of the gentleman from Kentucky are not in order, except by unanimous consent, the main question having been ordered to be put. The question is on the suspension of the rules, and that the reading of the amendments be dispensed with.

Mr. BOCOCK. I wish to make a suggestion to the Chair. I do not know what can be accomplished by a suspension of the rules. If you can suspend the rules, you can take a vote upon the report.

Mr. HOUSTON. Let the House decide.

Mr. BOCOCK. There seems to be one separate vote called for. Let the gentleman from Virginia [Mr. MEADE] have his separate vote, and let us take a vote upon all the others.

Mr. GENTRY. According to the precedent established, it was decided that it was in order for the chairman of the Committee on Ways and Means to move a suspension of the rules for a specific purpose, and I suppose it is in order for me to move the suspension of the rules for any other purpose. [Laughter.] Is that true?

The SPEAKER. Does the gentleman take an appeal?

Mr. GENTRY. I do not.

Mr. MOREHEAD. I move that the House adjourn.

The question was taken, and it was not agreed to.

Mr. JONES, of Tennessee. I rise for the purpose of suggesting a question of order. The main question has been ordered upon what? Upon the report of the Committee of the Whole on the state of the Union; and not upon the amendments. The rules specially provide that we shall take the question first upon the amendments, and then upon the bill. There is no specific rule that you shall proceed to vote upon these amendments reported from the Committee of the Whole on the state of the Union, which came here in the original bill from the Senate. Then is it not the report of the committee which is the main question and which has been ordered by this House to be put? If so, is that main question divisible, and is it not the report of the committee which this House is brought to a vote upon directly?

Mr. CLINGMAN. I make this point of order. I know of no provision in the Constitution of the United States that requires the vote to be taken in any particular manner—I mean with reference to these amendments of the committee. Any of our own rules we have a right expressly to suspend by a two-thirds vote, and therefore the motion of the gentleman from Alabama [Mr. HOUSTON] if it should pass would be in order.

Mr. HOWARD. This matter is not debatable.

The SPEAKER. The Chair has held upon one or two occasions that it was in order to suspend the rules under precisely similar circumstances, and he therefore will receive the motion. The question is upon suspending the rules which require the reading of the amendments.

Mr. STEVENS, of Pennsylvania. After the main question has been ordered, is that motion in order?

The SPEAKER. The Chair decides that it is in order to suspend the rules for a specific purpose connected with the subject upon which the House is acting.

Mr. BOWIE. I rise to a question of order. Is it within the power of the House to deprive one fifth of the members thereof of the constitutional right of asking for the yeas and nays upon any amendment?

The SPEAKER. That is not in the power of the House.

Mr. BOWIE. I give notice that I wish to call the yeas and nays upon a particular amendment.

Mr. STEVENS, of Pennsylvania. I call for the yeas and nays upon the suspension of the rules asked for by the gentleman from Alabama, [Mr. HOUSTON.]

The yeas and nays were ordered.

The SPEAKER. The Chair did not decide that the gentleman from Maryland [Mr. BOWIE] had not the right to ask the yeas and nays upon a particular subject.

Mr. BOWIE. I understood the decision of the Chair to be that we were obliged to vote upon the amendments as a whole.

The SPEAKER. The Chair made no such decision. The proposition pending is to suspend the rules for the purpose of dispensing with the reading of the amendments.

Mr. CLINGMAN. I have no doubt that it is in order to do so by a majority of two thirds.

Mr. HOUSTON. I withdraw the motion to suspend the rules.

The SPEAKER. Is it the pleasure of the House that the action of the committee shall be read?

Mr. STEPHENS, of Georgia. The usual course upon a bill is this: For each member to rise and designate any particular matter upon which he wishes a special vote, and then to take one vote upon the other amendments in gross.

The SPEAKER. The gentleman from Virginia [Mr. MEADE] made that proposition, but it was objected to.

Mr. STEVENS, of Pennsylvania. We objected to having a vote upon all at the same time.

The SPEAKER. Does the Chair understand, then, that it is the unanimous consent of the House that that course be taken?

Mr. STANLY. What is the motion?

The SPEAKER. In reply to the gentleman from North Carolina, [Mr. STANLY,] the Chair would state that any gentleman who desires a separate vote will get up in his place and designate the particular subject upon which he wishes a separate vote.

Mr. STANLY. As the Clerk reports them?

The SPEAKER. Before reading them.

Mr. STANLY. How do I know upon what to ask a separate vote? I have been out upon a committee of conference, and how do I know what the committee did in that time?

The SPEAKER. It is in order to read all the amendments, and take the vote upon them consecutively. The Chair will do so upon the first amendment.

PERSONAL EXPLANATION.

Mr. MARSHALL. I would ask the attention of the House for a few minutes, to make a personal explanation. I wish to express in the presence of as many gentlemen who were present when I did the wrong as possible, the regret I feel at having used unjustifiable and improper language towards a member of the House this evening, [Mr. DUNHAM.] I had no right to intimate that there was any breach of veracity involved in what

was proposed, but a mere mistake of logic. It was a subject in which I felt a great deal of interest, and evinced more temper that I ought to have. I was angry, and I am sincerely sorry that I used the language I did.

Mr. DEAN. I move that the vote be taken in gross upon all the amendments on which a separate vote is not called for.

The SPEAKER. That is not in order.

Mr. DEAN. I move to suspend the rules for that purpose.

The SPEAKER. That is not in order.

[Cries of "Read on!" "Go ahead!" and great confusion all over the Hall.]

The question was then taken on the first amendment of the Senate, and the Speaker announced that it was agreed to.

Mr. HAMILTON. I would suggest that the Speaker should announce the action of the Committee of the Whole on the state of the Union upon each amendment.

The SPEAKER. Every possible proposition to expedite business, as the Chair conceives, has been made and objected to by some one member. Debate is not in order.

Mr. HOUSTON. We all understand what we have done to-day in committee, and all I ask is, that the Chair will put the question on concurring in the report of the Committee of the Whole on the state of the Union. The House have just agreed to an amendment which was disagreed to in committee.

The SPEAKER. If there has been any mistake in regard to the amendment just voted upon, the Chair will again propound the question. The Chair stated, and supposed that every gentleman understood it, that as a matter of convenience, he would put the question upon agreeing to the amendments of the Senate, and we have been acting upon that rule all day. The rules, however, require that the question shall be put in a different form, and as it is demanded, the Chair will put it in that form.

The question was then put, and the report of the Committee of the Whole on the state of the Union on the first amendment of the Senate was concurred in.

The Clerk then read the 2d, 3d, 4th, 5th, 6th, 7th, and 8th amendments of the Senate, and the action of the Committee of the Whole on the state of the Union in respect to each of them respectively was concurred in.

Mr. STANLY. I am unwilling to detain the House, and it is evident that it will take two or three hours to read the amendments in this way, and they have just been read in committee. There was one amendment which the gentleman from Alabama stated that the Committee on Ways and Means reported against, and it was rejected in Committee of the Whole. Now, I think that was a mistake. I refer to the amendment with regard to the assistant Secretary of State. I think that is necessary and that it ought to be agreed to. I understand that Mr. Marcy is in favor of it, and it is for the benefit of the Democrats.

Mr. CLINGMAN. Is this in order?

The SPEAKER. It is not in order.

Mr. STANLY. I only wish to save time. I want that matter fairly stated to the House and to have a separate vote upon it.

The SPEAKER. The Chair understands that the gentleman from North Carolina desires that a vote already taken through mistake——

Mr. STANLY. Not here, but in Committee of the Whole on the state of the Union.

Mr. BAYLY. With reference to that amendment I beg leave to state that three successive Secretaries of State have recommended it——

[Cries of "Order!" "Order!"]

Mr. STEVENS, of Pennsylvania. Have we opened debate upon these amendments?

The SPEAKER. Debate is not in order.

Mr. FLORENCE. I desire if it is in order to ask for a separate vote upon the amendment which proposes to establish an assay office in the city of New York.

The SPEAKER. It is not in order, until the Clerk reaches that amendment in the reading.

Mr. HAMILTON. We are going to dispense with the reading by unanimous consent.

The SPEAKER. The Chair will again put that proposition to the body. Is it the unanimous consent of the House that each gentleman desiring a separate vote upon an amendment shall call for it, and that the vote shall be taken in gross on those amendments on which a separate vote is not desired?

Mr. MANN. I object.

Mr. LETCHER. We cannot possibly dispose of these amendments to-night. I move that the House adjourn.

The question was taken, and the motion was disagreed to.

So the House refused to adjourn.

Mr. GOODRICH. Will the Chair allow me to make a single suggestion?

The SPEAKER. It is not in order, and the Chair can only hear the gentleman by unanimous consent.

Mr. LETCHER. I object.

The SPEAKER. The Chair cannot indulge this irregular discussion. The Clerk will proceed with the reading of the amendments.

The Clerk then reported the 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, and 22d amendments of the Senate, and the House concurred in the action of the Committee of the Whole on the state of the Union with respect to each of them.

Mr. ALLISON. I ask that the reading of the amendments may be suspended, except in those cases upon which separate votes are demanded.

The SPEAKER. That has been objected to.

Mr. HOUSTON. I think the objection is withdrawn.

The SPEAKER. If it is, the gentleman who made it will rise in his seat and state that fact to the House. We have had discussion enough about this matter.

The Clerk then reported the 23d, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32d, 33d, 34th, 35th, 36th, 37th, 38th, 39th, 40th, and 41st amendments of the Senate, and the House concurred in the report of the Committee of the Whole on the state of the Union in respect to each of them.

Mr. MANN. I learn from an interview with the Chair that I was misunderstood with regard to the ground I took in the objection which I made a short time since. I objected only to taking the question in a lump, without reading the amendments, and not to the Clerk's reading on until some member should see cause to interfere and call for a separate vote upon a particular amendment. That, I believe, has been the usual course here.

The SPEAKER. Is it the unanimous consent of the House that the Clerk shall read the balance of the amendments, and that separate votes shall be taken only upon such amendments as any member may call for a separate vote upon?

[Cries of "Yes, yes!" "Agreed!" and "No objection," from all parts of the Hall.

The forty-seventh amendment having been read by the Clerk, as follows:

"For continuing the construction of the hospital at St. Louis, Missouri, $20,000,"

Mr. DARBY said: Mr. Speaker, I have a very great anxiety about that amendment. When it was under consideration in committee, I understood several gentlemen voted against it because they did not understand it. I hope this amendment will be concurred in by the House.

The SPEAKER. The Chair must remind the gentleman from Missouri that he cannot debate the amendment.

Mr. DARBY. Well, sir, I want the House to understand upon what they are voting. I ask the Speaker if the Committee did not recommend this appropriation of $20,000?

The SPEAKER. The Committee of the Whole on the state of the Union recommended a non-concurrence in the amendment.

Mr. DARBY. Well, sir, I hope the House will not adopt the recommendation of the committee. I ask for a separate vote upon that amendment.

The question was taken, and the recommendation of the committee was adopted by the House, and the amendment non-concurred in.

Mr. FREEMAN. I understand the forty-sixth amendment has been adopted. I ask the Speaker if I am correct?

The SPEAKER. It was read, but a separate vote was called upon it, and it therefore has not been voted upon at all.

Mr. FREEMAN. What was the report of the committee upon it?

The SPEAKER. The committee recommend a non-concurrence in the amendment.

Mr. FREEMAN. I ask for a separate vote upon it.

Several MEMBERS. It is too late now; we have passed it.

The SPEAKER. The Chair decides that the gentleman from Mississippi has the right to ask for a separate vote, notwithstanding it has been passed.

The amendment was then read, as follows:

"For the completion of the marine hospital at Evansville, Indiana, $20,000; and for the marine hospital at Natchez, $4,000."

The question was then taken, and the recommendation of the Committee of the Whole on the state of the Union was adopted, and the amendment non-concurred in.

Mr. DAWSON. I ask for a separate vote upon the fifty-third amendment of the Senate.

The amendment was read, as follows:

"*And be it further enacted*, That an officer shall be appointed in the Department of State to be called the Assistant Secretary of State, whose salary shall be $3,000 per annum, payable in the same manner as that of the Secretary of State, who shall perform all such duties in the office of the Secretary of State belonging to that Department as shall be prescribed by the Secretary of State, or as may be required by law."

Mr. JONES, of Tennessee. I desire to make one remark to correct a misapprehension which has arisen in reference to this amendment.

[Loud cries of "Order!" "Order!"]

Mr. JONES. I only desire to say one word, to correct a misapprehension which I am sure——

Mr. STEVENS, of Pennsylvania. I object to any debate.

The SPEAKER. The committee recommend a non-concurrence in the amendment.

Mr. DAWSON. Well, sir, I hope the House will not adopt the recommendation of the committee.

[Cries of "Order!" "Order!"]

Mr. DAWSON. The duties of the Secretary of State have so increased, and have become so arduous, that the appointment of this officer has become a matter of absolute necessity.

[Shouts of "Order!" "Order!"]

Mr. DAWSON. I trust this House will not adopt the recommendation of the committee, but will agree to the Senate amendment.

[Shouts of "Order!" all over the Hall, and great confusion.]

The SPEAKER. Debate is not in order, and the gentleman from Pennsylvania cannot be permitted to proceed.

Mr. CABLE, of Ohio. I move that this House do now adjourn.

The question was taken, and the House refused to adjourn.

The question then recurred upon the adoption of the recommendation of the Committee of the Whole on the state of the Union upon the fifty-third amendment of the Senate, and being taken, the report was adopted, and the amendment non-concurred in by the House.

Mr. BOWIE. I ask for a separate vote upon the sixty-first amendment of the Senate.

The amendment was read, as follows:

"For a bridge across the Potomac at Little Falls, to be expended under the direction of the President of the United States, $50,000."

The SPEAKER. The committee recommend a non-concurrence in that amendment, and the question will be upon the adoption of the report of the committee.

Mr. BOWIE. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. BOWIE. I ask for tellers upon the question.

Tellers were ordered; and Messrs. DEAN, and PARKER of Pennsylvania, were appointed.

The question was then taken, and the tellers reported—ayes 79, noes not counted.

So the amendment of the Senate was non-concurred in by the House.

Mr. STEVENS, of Pennsylvania. I demand a separate vote upon the sixty-second amendment of the Senate.

The amendment was read, as follows:

"To be expended under the direction of the President of the United States for the purpose of bringing water into the city of Washington, upon such plans and from such places as he may approve, $150,000: *Provided*, That if the plan adopted by the President of the United States should require water to be drawn from any source within the limits of Maryland, the assent of the Legislature of that State should first be obtained."

The SPEAKER. The committee recommend a non-concurrence in the amendment.

Mr. DIMMICK. I demand tellers upon concurring in that recommendation.

Tellers were ordered; and Messrs. POLK and FLORENCE were appointed.

The question was then taken, and the tellers reported—ayes 57, noes 66.

So the report of the Committee of the Whole on the state of the Union was not adopted.

The question recurred upon concurring in the Senate amendment.

Mr. BOWIE. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken, and the amendment was non-concurred in by the House.

Mr. FICKLIN. I ask for a separate vote upon the sixty-eighth amendment.

The amendment was read, as follows:

"For completing the grading and paving the carriageway of Pennsylvania avenue, from Seventeenth street to Rock Creek, and for setting the curb-stone and paving the footway six feet wide on each side of said avenue, in addition to the sum heretofore appropriated for that object, $14,700: *Provided*, That the sum required for paving said footway shall not be expended unless the owners of property opposite thereto be required, under the direction of the authorities of the city of Washington, to pave at least ten feet in width of the space allotted for a sidewalk, in continuation and adjoining the same."

The SPEAKER. The committee recommend a concurrence in this amendment.

The question was taken, and the recommendation of the Committee of the Whole on the state of the Union was adopted by the House, and the amendment of the Senate concurred in.

Mr. KING, of Rhode Island. I ask for a separate vote upon the seventy-seventh amendment.

The amendment was read, as follows:

"*Mexican Boundary Commission.*—For completing the survey of the Rio Grande, and for office work for one year, $83,512.

"For arrears due to Major William H. Emory's party, $20,000.

"For expenses attending Lieutenant Whipple's party from the Gila, $6,000.

"For pay of commissioner and secretary, and for personal and traveling expenses of the commissioner, $9,500; said sums to be disbursed on warrants approved by the Secretary of the Interior.

"SEC. 2. *And be it further enacted*, That the period limited for the appointment of commissioner, surveyor, and chief astronomer by the act of May 15, 1850, shall be, and the same is hereby, extended to the 1st of April, 1854."

The SPEAKER. The Committee of the Whole recommend as an amendment to the Senate amendment, to strike out the following clause:

"For pay of commissioner and secretary, and for personal and traveling expenses of the commissioner, $9,500; said sums to be disbursed on warrants approved by the Secretary of the Interior."

The committee recommend a concurrence in the amendment as amended.

The question was taken, and the Senate amendment as amended was concurred in by the House.

Mr. GOODENOW. I call for a separate vote upon the seventy-eighth amendment.

The amendment was read:

"Insert the following:

"For carrying into effect the provisions of the act establishing an assay office in the city of New York, in addition to the charges therein authorized to be received, $100,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated."

Mr. HOUSTON. That is in relation to the assay office. There are several pages of amendments upon the same subject. I ask that they may be read, and all disposed of by one vote.

They were read, as follows:

"SEC. 10. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized and required to establish in the city of New York an office for the receipt and for the melting, refining, parting, and assaying of gold and silver bullion and foreign coin, and for casting the same into bars, ingots, or disks. The assistant treasurer of the United States, in New York, shall be treasurer of the said assay office, and the Secretary of the Treasury shall, with the approbation and consent of the President of the United States, appoint such other officers and clerks and authorize the employment of such assistants, workmen, and servants as shall be necessary for the proper conduct and management of said office and of the business pertaining thereto, at such compensation as shall be approved by the President: *Provided*, That the same shall not exceed that allowed for corresponding services, under existing laws, relating to the Mint of the United States and its branches.

"SEC. 11. *And be it further enacted*, That the owner or owners of any gold or silver bullion, in dust or otherwise, or of any foreign coin, shall be entitled to deposit the same in the said office, and the treasurer thereof shall give a receipt, stating the weight and description thereof, in the manner and under the regulations that are or may be provided in like cases of deposits at the Mint of the United States with the treasurer thereof. And such bullion shall, without delay, be melted, parted, refined, and assayed, and the net value thereof, and of all foreign coins deposited in said office, shall be ascertained; and the treasurer shall thereupon forthwith issue his certificate of the net value thereof, payable in coins of the same metal as that deposited, either at the office of the assistant treasurer of the United States, in New York, or at the Mint of the United States, at the option of the depositor, to be expressed in the certificate, which certificates shall be receivable at any time within sixty days from the date thereof in payment of all debts due to the United States at the port of New York for the full sum therein certified. All gold or silver bullion and foreign coin deposited, melted, parted, refined, or assayed, as aforesaid, shall, at the option of the depositor, be cast in the said office into bars, ingots, or disks, either of pure metal or of standard fineness, (as the owner may prefer,) with a stamp thereon of such form and device as shall be prescribed by the Secretary of the Treasury, accurately designating its weight and fineness: *Provided*, That no ingot, bar, or disk shall be cast of less weight than five ounces, unless the same be of standard fineness, and of either one, two, or three ounces in weight. And all gold or silver bullion and foreign coin intended by the depositor to be converted into the coins of the United States, shall, as soon as assayed and its net value certified as above provided, be transferred to the Mint of the United States, under such directions as shall be made by the Secretary of the Treasury, and at the expense of the contingent fund of the Mint, and shall then be coined. And the Secretary of the Treasury is hereby authorized, with the approval of the President of the United States, to make the necessary regulations for the adjustment of the accounts between the respective officers, upon the transfer of any bullion or coin between the assay office, the Mint, and assistant treasurer in New York.

"SEC. 12. *And be it further enacted*, That the operations of melting, parting, refining, and assaying in the said office shall be under the general directions of the Director of the Mint, in subordination to the Secretary of the Treasury; and it shall be the duty of the said Director to prescribe such regulations and to order such tests as shall be requisite to insure faithfulness, accuracy, and uniformity in the operations of the said office.

"SEC. 13. *And be it further enacted*, That the laws of the United States for the government of the Mint and its officers in relation to the receipt, payment, custody of deposits, and settlement of accounts, the duties and responsibilities of officers and others employed therein, the oath to be taken and the bond and sureties to be given by them (as far as the same may be applicable) shall extend to the assay office hereby established, and to its officers, assistants, clerks, workmen, and others employed therein.

"SEC. 14. *And be it further enacted*, That the same charges shall be made and demanded at the said assay office for refining, parting, casting into bars, ingots, or disks, and for alloy, or ore, as shall be made and demanded at the Mint; and no other charges shall be made to depositors than by law are authorized to be made at the Mint; and the amount received from the charges hereby authorized shall be accounted for and appropriated for defraying the contingent expenses of the said office.

"SEC. 15. *And be it further enacted*, That the Secretary of the Treasury is authorized to procure, by rent, lease, or otherwise, a building or apartments in the city of New York suitable for the operations of said office, unless he shall be of opinion that suitable apartments in the custom-house in that city may be assigned for that purpose. And he is also hereby authorized and directed to procure the necessary machinery and implements for the carrying on the operations and business of the said office.

"SEC. 16. *And be it further enacted*, That the salary of assistant treasurer of the United States in New York, from and after the time that the said office shall be opened and in operation, shall be $6,000 per annum, instead of the sum now allowed.

"SEC. 17. *And be it further enacted*, That under the act for the benefit of Amos Proctor, approved the 17th day of June, 1844, the legal representatives of said Proctor are entitled to one half of one moiety, being one fourth of the appraised value of the goods therein mentioned, as having been seized and libeled on his importation."

The SPEAKER. The committee recommend a concurrence in these amendments, and the question will be upon concurring in the report of the committee.

Mr. STEVENS, of Pennsylvania. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken, and the Senate amendments were concurred in—ayes 68, noes not counted.

Eighty-first Senate amendment:

"*And be it further enacted*, That the Secretary of the Treasury be, and is hereby, authorized to construct a marine hospital at Burlington, in the State of Iowa; and that there be, and is hereby, appropriated $15,000, for said purpose, from the Treasury, out of any moneys not otherwise appropriated."

Mr. HENN. I ask for a separate vote upon that amendment.

The question was then taken upon concurring in the report of the Committee of the Whole in reference thereto, and it was decided in the affirmative.

So the Senate amendment was not agreed to.

Eighty-fourth amendment of the Senate:

"SEC. 7. *And be it further enacted*, That the Secretary of the Treasury be authorized to refund to the legal claimants for duties that have been paid on goods, wares, and merchandise that were consumed by fire in the district and port of New York, in July, 1845, $300,000; and in the district and port of San Francisco in the years 1850 and 1851, $100,000; subject to the restriction and limitations of the act of July 7, 1838, passed for the relief of the sufferers by the fire of December, 1835, in New York; and the amount of goods destroyed and duties to be refunded shall be ascertained at said ports respectively, and be adjusted and repaid thereat, in a manner similar to that which is provided for in the act above referred to in relation to losses at New York."

Mr. STEVENS, of Pennsylvania. I ask for a separate vote upon that amendment.

The question was then taken upon concurring with the report of the Committee of the Whole rejecting the amendment, and it was decided in the affirmative.

So the Senate amendment was not agreed to.

Eighty-fifth amendment of the Senate:

"SEC. 8. *And be it further enacted*, That the Secretary of the Treasury be authorized to remit the duties upon any machinery imported into the United States for preparing, spinning, and weaving flax, or to refund duties heretofore paid within five years past on such machinery, out of any money in the Treasury: *Provided*, That it shall be proved to his satisfaction that such machinery was not an article of manufacture at the time of importation in the United States, and has been used by the persons or companies importing it for manufacturing purposes: *And provided further*, That they bind themselves to permit inspections and models of such machinery to be made in such manner as may not interfere with their usual occupations: *Provided*, That this privilege shall not extend beyond two years."

Mr. HOUSTON. The Committee of the Whole recommend a concurrence in that amendment.

The question was then taken on concurring with the report of the Committee of the Whole, and it was decided in the negative.

So the Senate amendment was not agreed to.

The eighty-ninth Senate amendment was next read, as follows:

"SEC. 12. *And be it further enacted*, That it is hereby declared that the provision in these words, 'and for printing the obituary notices of the decease of President Taylor, said contractor shall be paid the actual cost, with a profit of twenty per centum,' in the second proviso of the first section of the 'Act making appropriations for the civil and diplomatic expenses of the Government, for the year ending June 30, 1853, and for other purposes,' in relation to printing, be, and the same is hereby, construed to mean that the compensation 'for printing the obituary notices of the decease of President Taylor, shall be in addition to the sum of $50,000 allowed in the second section to Thomas Ritchie, assignee of William M. Belt.'"

Mr. HOUSTON. The Committee of the Whole recommend a non-concurrence in that amendment.

The question was then taken on concurring with the report of the Committee of the Whole, and it was decided in the affirmative.

So the Senate amendment was not agreed to.

The ninety-ninth amendment of the Senate was next read, as follows:

"That there be placed at the disposal of the President of the United States the sum of $20,000, to enable him to compensate Clark Mills for the execution of the equestrian statue of Andrew Jackson, recently placed upon the public square in the city of Washington north of the Executive Mansion, and to make the same the property of the United States; and that said sum be paid, under the direction of the President, out of any money in the Treasury not otherwise appropriated, when a clear and satisfactory title to said statue shall be vested in the United States."

Mr. PENNIMAN. I ask a separate vote upon that amendment.

Mr. STANLY. I ask the unanimous consent of the House, as a matter of justice to others and of courtesy to me, to modify the Senate amendment, by the amendment which I send to the Clerk's table, and I hope that the friends of Mills will agree to it.

The amendment was read, as follows:

"Strike out 'twenty' where it occurs, and insert 'ten' in lieu thereof, and add the following:

"And the further sum of $10,000, to be invested for the benefit of the family of said Mills, or of such child or children as may survive him."

Mr. POLK. That is right. I think we should be magnanimous to him.

Mr. DEAN. I object.

Mr. STANLY. It does not increase the appropriation.

Mr. STUART. I wish to suggest a clerical amendment. The Committee of the Whole decided that no part of this money should be paid to the individuals who had made original contributions. Now, I think it should except borrowed money.

The SPEAKER. Debate is out of order.

Mr. BRECKINRIDGE. The gentleman from Michigan is mistaken as to the effect of the amendment.

The SPEAKER. The question is upon concurring with the report of the Committee of the

Whole, which was to non-concur in the Senate amendment.

Mr. DEAN. I withdraw my objection to the amendment offered by the gentleman from North Carolina, [Mr. STANLY.]

Mr. TOOMBS. I object.

The question was then taken on concurring in the report of the Committee of the Whole, and it was decided in the negative.

The question then recurring on agreeing to the Senate amendment, it was put and decided in the negative.

So the Senate amendment was not agreed to.

The question was then, by unanimous consent, taken by one vote, upon concurring with the report of the Committtee of the Whole, upon all the Senate amendments, upon which separate votes had not been required, and the report of the Committee of the Whole in reference thereto was concurred in.

Mr. HOUSTON. I move to reconsider the several votes just taken upon the Senate amendments, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

POST OFFICE BILL.

Mr. HOUSTON. The bill making appropriations for the Post Office Department is upon the Speaker's table, with three or four Senate amendments thereto. I hope the House will take it up and consider it now.

Mr. HALL. I move that the House do now adjourn.

The question was taken, and there were, upon a division—ayes 48, noes 75.

So the House refused to adjourn.

By unanimous consent, the House then took from the Speaker's table the Senate's amendments to the bill making appropriation for the service of the Post Office Department for the year ending June 30, 1854.

The first Senate amendment to said bill was then read.

Mr. JONES, of Tennessee. Is it not necessary that this bill should be referred to the Committee of the Whole?

The SPEAKER. It is, under the rule.

Mr. JONES. Then I move that the House adjourn.

The question was taken, and the motion was agreed to.

So the House adjourned, to meet to morrow at eleven o'clock, a. m.

IN SENATE.

THURSDAY, *March* 3, 1853.

Prayer by the Chaplain, Rev. C. M. BUTLER.

On motion by Mr. GWIN, the reading of the Journal was dispensed with.

CREDENTIALS OF A SENATOR.

Mr. MILLER. I desire to present the credentials of the Hon. WILLIAM WRIGHT, a Senator elect from the State of New Jersey, for a period of six years from the 4th of March, 1853. I ask that they may be received, read, and laid on the table.

They were accordingly read and laid on the table.

PUBLIC BUILDINGS IN MINNESOTA.

Mr. WALKER. I move to postpone the prior orders, for the purpose of taking up the bill making an appropriation for the completion of the public buildings in the Territory of Minnesota.

Mr. RUSK. I hope the Senate will agree to take it up. It will not occupy two minutes.

Mr. HUNTER. I hope not. This is the last day of the session, and I wish to report another appropriation bill, and then I hope we may go to the consideration of the navy appropriation bill.

Mr. RUSK. This bill cannot occupy two minutes, and it is a very important bill.

Mr. HUNTER. I will not object then.

The motion was agreed to, and the Senate proceeded to the consideration of the bill as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

NAVAL APPROPRIATION BILL.

On motion by Mr. HUNTER, the Senate resumed, as in Committee of the Whole, the consideration of the "bill making appropriations for the naval service of the United States for the year ending June 30th, 1854."

The question pending was on an amendment offered by the Senator from New Hampshire [Mr. HALE] to an amendment offered by the Senator from Florida, [Mr. MALLORY.]

The question was taken on the amendment to the amendment, and it was rejected.

The question then recurred on the amendment of the Senator from Florida.

Mr. HUNTER. I hope the Senate will vote down all amendments which may be offered to the bill. I say to my friend from Florida that the effect of these amendments, if we go on with such general legislation, will be that we cannot get through with the appropriation bills. Neither the Indian appropriation bill nor the steam-route bill has been touched yet. The House of Representatives yesterday refused to concur in the report of the Committee of Conference on the deficiency bill; and we have none of the appropriation bills, but that for the Army, concluded yet.

I hope, therefore, by general consent, that we will vote down all amendments and pass this navy bill now.

Mr. MALLORY. I want the sense of the Senate, if I can get it, upon the question of whether the amendment shall pass. I will not occupy the time of the Senate now, further than to say that the reason why I insist upon this vote is, that the subject embraced in the amendment has been before the Naval Committee twelve months, and is reported from that committee, which has given it a great deal of attention. The committee instructed its chairman [Mr. GWIN] to present the amendment, and he devolved the duty upon me. It is one which, in my judgment, eminently demands the consideration of this body. I believe that a majority of the House of Representatives is in favor of it, but it could not be taken up there for the want of leave by a vote of two thirds of the House. I want to see who is for it, and who is against it.

Mr. HUNTER. I have no idea of speaking on this question, but I wish to suggest to the Senator, that he will get a majority against this bill on other grounds than its merits, if we load it down with so many matters. I would vote against any amendment to the bill, because I know it is important to act on the bill itself, and gentlemen will vote against his proposition as an amendment, though they might vote for it as a separate measure.

Mr. HALE. I wish to ascertain from the chairman of the Committee on Naval Affairs, whether this is the identical bill which passed the Senate, or whether it is a new one.

Mr. MALLORY. The last two sections of that bill have been struck out.

Mr. GWIN. I ask for the yeas and nays on the question.

The yeas and nays were ordered, and being taken, resulted—yeas 22, nays 20; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Borland, Brooke, Butler, Charlton, Davis, Dawson, Douglas, Fish, Fitzpatrick, Foot, Gwin, Mallory, Mangum, Miller, Rusk, Sebastian, Smith, Soulé, and Walker—22.

NAYS—Messrs. Atchison, Bright, Brodhead, Cass, Cooper, Dodge of Iowa, Geyer, Hale, Hamlin, Hunter, James, Mason, Norris, Pearce, Pettit, Phelps, Spruance, Sumner, Toucey, and Weller—20.

So the amendment was agreed to.

OCEAN STEAMERS.

Mr. HUNTER, from the Committee on Finance, to which was referred a bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending June 30, 1854, reported it back with an amendment.

REPORT FROM A STANDING COMMITTEE.

Mr. JAMES, from the Committee on Patents and the Patent Office, to which was referred the petition of Levi L. Hill, praying that provision may be made by special enactment to secure to him that protection in his method of Hillotyping objects in their natural colors, which the patent laws do not afford, submitted a report thereon; which was ordered to be printed.

DEFICIENCY BILL.

A message was received from the House of Representatives, by the hands of Mr. HAYES, its Chief Clerk, announcing that the House of Representatives had disagreed to the report of the Committee of Conference appointed to take into consideration the disagreeing votes between the two Houses upon the bill to supply the deficiencies in the appropriations for the year ending June 30, 1854, and asked that a second Committee of Conference might be appointed to consider the disagreeing vote on said bill, and had ordered that Messrs. TOOMBS, WOODWARD, and MARSHALL be a committee on the part of the House, to act in connection with a committee to be appointed by the Senate.

Mr. HUNTER. By general consent I desire to submit a motion.

Mr. BADGER. I hope not. I object.

Mr. HUNTER. Does the Senator object to my making the motion?

Mr. BADGER. I do, sir. I understand the Senator wishes to ask for another Committee of Conference?

Mr. HUNTER. How can the Senator understand that?

Mr. BADGER. I understand it. I am against any further Committee of Conference. I hope that the Senate will adhere to its action.

Mr. HUNTER. The Senator knows he will not adhere to that position. Now, why delay us? We ought to act on the subject, so that the clerks may make the final engrossment of the bill.

Mr. BADGER. It is impossible to resist that. I give way. [Laughter.]

Mr. CASS. That is a very good reason.

Mr. HUNTER. I hope the message from the House will be taken up; and I move that the Senate concur in the proposition for the appointment of another Committee of Conference, and that the committee be appointed by the Chair.

Mr. BADGER. I hope that motion will not prevail, and I will assign one or two reasons why I think it ought not to prevail. If there be any risk, I am willing to take it. The Senator knows that upon the disagreeing votes of the two Houses upon that bill, a Committee of Conference was appointed, that the Committee of Conference met, and the committees reported to both Houses. The Senate took up the report yesterday evening and agreed to it. It was then sent to the House of Representatives and the House of Representatives refused to agree to it. I wish to present in connection with this subject this paper which I have caused to be prepared, showing the state of the appropriation bills as they reached the two Houses. I ask that it may be read.

The Secretary read it as follows:

H. R. No. 332. Military Academy. Received and referred January 5: reported and passed Senate January 19: House agree to first and third and disagree to second and fourth Senate amendments: Senate insist and appoint Committee of Conference February 23: House of Representatives appoint Committee of Conference February 24.

H. R. No. 335. Deficiency Bill. Received and referred January 31: reported February 5: passed Senate February 16: House agree to some and disagree to other amendments of Senate March 1: Senate insist and appoint Committee of Conference March 1: House appoint committee March 2.

H. R. No. 336. Army Bill. Received and referred February 12: reported February 19: passed Senate February 26: House agree to some and disagree to other amendments of Senate: Senate insist and appoint Committee of Conference March 2.

H. R. No. 333. Indian Department. Received and referred February 25: reported March 2.

H. R. No. 337. Civil and Diplomatic. Received and referred February 21: reported February 26: passed Senate March 2.

H. R. No. 342. Navy Bill. Received and referred February 28: reported March 2.

H. R. No. 350. Appropriation for Post Office. Received and referred February 16: reported February 24: passed Senate March 2.

Mr. BADGER. I have had that statement prepared that it may go upon the proceedings and debates of the Senate, to show to the country, if there be any responsibility about these public measures, where that responsibility rests, and to show conclusively, as I apprehend it will, that no portion of that responsibility rests upon the Senate. The bills have been sent to us uniformly late in the session, and they have been taken up and acted upon as promptly as we could do it, and have been returned to the House of Representatives. It will be seen by the proceedings of the Committee of Conference on the disagreeing votes of the two Houses, that the Senate has always been prompt to accept any offer that has been made on the part of the House to appoint a Committee of Conference. On the military bill the Committee of Conference on the part of the Senate, I may say gave up everything—I do not mean so literally—but they gave up almost everything, and yielded to the demands of the other House

beyond what I thought reasonable under the circumstances of the case, or due to this body. I have no doubt that the committee did the best it could.

But what I want to draw attention to is, that while the House accedes to the report of the Committee of Conference on the military bill, the moment another Committee of Conference agreed to any arrangement or compromise or agreement between the two Houses which secures effectually any part of the amendments which the Senate put on the deficiency bill, the House refuses to concur in the report. Therefore it seems to me we are brought to the question whether the Senate is really prepared to recognize and admit the idea that they stand here for no other purpose in regard to these bills, than to register by their assent, what has been passed by the House of Representatives. I, for one, do not admit that to be the position of this body. It is a coördinate branch of the National Legislature; and while the House of Representatives are the immediate representatives of the people, we are the immediate representatives of the States of this Union; we represent those great national corporations which, in the judgment of some gentlemen of the body, were the actual parties who formed the Constitution itself. Now I am absolutely certain that it never was the intention of the framers of that instrument that the Senate should occupy any subordinate place with regard to the House of Representatives. We have the same authority to introduce, report, and pass appropriation bills as the House of Representatives. There is but one function, to wit, the originating of bills to raise revenue, which is confided to the House; and the Constitution is so cautious even in that, that it provides expressly that although such bills shall originate in the House, the full power of proposing amendments to them, as well as to other bills, shall be in the Senate.

It appears to me that now is the time, and the opportunity is presented upon this deficiency bill, to say whether the Senate will yield further than they have yielded already. I, for one, am not prepared to do it. We have accepted the report of the Committee of Conference, agreed to by the managers on the part of the House, as well as our own. We agreed to it. The House of Representatives refused; and if the bill is lost in consequence of that refusal, let the responsibility be upon them. Is it to be understood—it must be understood, if the Senate agree to a further Committee of Conference,—that the Senate is willing to recede still further with regard to the amendments put upon that bill, than their committee were willing to recede? I hope, sir, that the Senate will not agree to the proposition for the appointment of a further committee. I hope we will vote that proposition down; and if it is voted down, I will then submit a motion that the Senate adhere to their amendments proposed to this bill.

Mr. HUNTER. The remarks of the Senator from North Carolina—I have no doubt unintentionally on his part—will have the effect of doing injustice to the Committee of Conference of this body. If such arithmetic as that is produced it must have that effect inevitably. He must remember, in the first place, that the House agrees to many of the amendments of the Senate. So that in order to see how many instances there are in which the House agree, you must go beyond the report of the committee, you must go beyond all the disagreement, and go to the number of amendments proposed by the body amending the bill. Take, for instance, the civil and diplomatic appropriation bill. We put on one hundred and two amendments. The House adopted unconditionally, more than sixty of them, and conditionally, seven or eight more; and if we should give way on a majority of the remaining matters of difference, it would not follow that the Senate was occupying an inferior position, or obtaining less than the House. Far from it. The Senator's mode is not the way to institute the comparison. Nor does it follow, when we agree to appoint another committee of conference, that the Senate admits it will recede. We do not know what that committee will do. We say by that act, we are willing to confer with them, and unless that disposition should exist, it would be impossible to go on with the public business. The House is not satisfied with what its committee did, and with what we did. They ask another conference. Why not be willing to meet them? If we do, how are we more committed than the House? The whole subject is open. The former report was adopted by us as an entirety, and when the House refused to concur, the whole subject was opened again. It will be time enough to raise the question as to whether the Senate is giving up too much, when the second committee asked for shall have reported. I am satisfied we have not time to go into a discussion on this question. I merely throw out these remarks to protect the committees of conference, who have great responsibility as well as great labor imposed upon them. I hope the Senate will agree to appoint another committee.

Mr. BRIGHT. I wish to say that to be placed upon a committee of conference upon any of these bills is not much to be desired; but when gentlemen here have been appointed to serve on such committees, and have undertaken to discharge the duties, I think it is out of place to have their conduct condemned.

Mr. BADGER. I will say to the Senator that I did not condemn their conduct.

Mr. BRIGHT. The Senator was understood to do it with regard to the committee appointed to consider the amendments upon the military appropriation bill.

Mr. BADGER. Quite the contrary. I merely mentioned the fact that our committee receded from a great many of the amendments we had made to which the House objected. I did not condemn the committee. My objection was that we agreed to what our committee adopted promptly and willingly, and that the House refused to concur.

Mr. BRIGHT. I am willing to let it go at that. I was going to remark that it is true that a majority of the amendments adopted by the Senate and disagreed to by the House were receded from; but it was under the impression that the House were right and we were wrong. There was one important amendment relating to the adjudication of claims in California in regard to which we were assured that the House would not pass it now, and that if the committee adhered to it, we should endanger the fate of the bill. Therefore we receded from it.

Mr. DAVIS. It is a wise saying: "Agree with thine adversary quickly, while thou art in the way with him." The way is very short. We have only this legislative day, and I should regret very much, with the amount of business which we have before us, to exhaust the day in a controversy on this point. I like the conciliatory spirit of my friend from Virginia, and I hope the Senate will agree to the proposition made by the House; but I also hope that the same committee to which this business was intrusted before may have the charge of it again. That is the shortest way to dispose of the matter. I make the motion that we agree, and that we refer the matter to the same committee on our part.

Mr. HUNTER. Not to the same committee. The House has appointed a different committee, and it is usual to appoint a different committee on a second conference.

Mr. BADGER. I do not want to be misunderstood. I had not the least intention to cast the slightest reflection upon any of the gentlemen upon the Committee of Conference, either on the part of the Senate or the House, but what I say is this, that we promptly agreed to the report of the committee, and the House instantly repudiated it. My friend from Virginia says that the House agreed to most of our amendments. That is not a fair way of stating it. The amendments which they agreed to, both Houses concurred in just exactly as we pass three fourths of their bills without amendment. It is the points of difference between the two Houses, which constitute the elements to enter into this question; and I do hope that the Senate will not give way any further.

Mr. GWIN. I agree with everything the Senator from North Carolina has said, that there is a point beyond which the Senate cannot go, and that it is time that we should at least adhere to what our Committee of Conference has done, when we are at this late period of the session. I am entirely of the opinion that the Committee of Conference on the special bill made a great sacrifice to get an agreement with the committee of the other House. Why, they gave up what I think is one of the most just and meritorious claims ever made against this Government, one which the Senate has passed three times and sent to the House—a claim which California has for an outfit from the time her government was organized until her admission into the Union. Sir, upon three different occasions, and at three different sessions, that has passed the Senate, and has every time either slept in the House, or been rejected there. Now I think that if you will examine the deficiency bill, you will find that the Committee of Conference gave up nearly three fourths of the amendments of the Senate in order to conciliate the House, and get their concurrence in others. All I have to say is this, that the remark of the honorable Senator from Massachusetts has struck me with a great deal of force; and I think that inasmuch as the Senate have approved of the conduct of the committee which they appointed, they should be placed exactly where they were, that the same committee, having received our approbation, should meet a new committee on the part of the House, and consult with them. The House have disagreed to the act of their committee, and have appointed another, and we have sanctioned the conduct of our committee. I think, therefore, it is due to these gentlemen and to the Senate, that the House should be represented by a new committee, and that the opinion of the former Senate committee should be sustained. Although I shall vote for the proposition of the Senator from North Carolina to adhere, yet, if a majority of the Senate are for another conference, I hope we may send the same committee to consult with the committee of the House.

Mr. BORLAND. I shall vote against the proposition to have a new committee of conference, but for different reasons from those given by other gentlemen. I think it would be doing a very useful and a very salutary act, if we did persist in such a way as to destroy this deficiency bill altogether. I do think that the interests of the country, the practice of legislation, and the relations established by the Constitution between the executive and legislative departments of this Government, do require that the deficiency bill should for once be destroyed entirely. I see no other way in which the legislative department of the Government can assert and maintain its original authority and perform the duties which the Constitution requires at our hands. We pass our appropriation bills, and we prescribe in accordance with the estimates of the Executive Departments of the Government, how much money shall be used in the different branches of the Government. In view of what was done before last year in connection with this bill, we fixed a prohibition in it that no more money should be used in the execution of the duties of the Executive Department than the appropriation bills especially provided. Objections were made to the course of the Administration, by which deficiencies occurred; and it was said that they had no authority to go beyond the amount actually appropriated. It was said that there was no necessity for this prohibition; but to make "assurance doubly sure," we made an express prohibition that no more should be used than was appropriated. And yet, sir, as I have before said, in the very face of that appropriation, they have in a single instance expended nearly one hundred per cent. more than was appropriated by the deficiency bill. We have incurred that amount of expense over and above what was authorized by the bill. We appropriated $500,000 for the extension of the Capitol, and we attached to the appropriation a condition that no more money should be expended than was appropriated; and yet we have in the deficiency bill before us to pay $400,000 more than was appropriated. That is one instance, and I think it is time that the legislative department of the Government should assert its original authority as required by the Constitution. For that reason, I shall do no act by which to provide for a deficiency, which has been incurred in this way, until the executive will learn that no more responsibility shall be incurred than they have authority to incur under the appropriation which we make.

Mr. HUNTER. I hope we shall have the question.

Mr. TOUCEY. I hope the motion of the Senator from Virginia will prevail. The Senate has done nothing but concur in the recommendation of its own committees. The House have a right to disagree with the Senate, and having disagreed, and sought another conference, I think it is due to

the House to appoint another committee to confer with them; and then if there is to be a difference, let it come up.

Mr. PEARCE. I hope the Senate will assent to the request of the House. It is manifest that we have not the necessary notice on the points of disagreement. Although there are many pending between the two Houses, of amendments made in the one body or the other, it may well be that there is but a single point, upon which there would be any disagreement. It seems to me that it would be entirely wrong in this body to refuse to take measures with a view to a full and peaceable arrangement with regard to the points of difference between the two Houses, and especially when they may be trifling. I do not think that under the circumstances, the Senate would be justifiable in refusing to appoint a committee for further conference.

The PRESIDENT. The House disagrees to the report of the Committee of Conference upon the amendments to the deficiency bill, and asks another committee. The Senator from Virginia moves that we concur, and grant another committee of conference, and that that committee be appointed by the Chair.

Mr. DAVIS. I propose that the matter go to the same committee of the Senate. Their work is satisfactory to the Senate.

Mr. HUNTER. I hope not. That would not be right. The House has appointed a new committee. One of the objects, is to get a different set of men upon the committees.

Mr. DAVIS. I wish to have the sense of the Senate taken upon my motion. I think it is due to our committee that it be reappointed.

Mr. HUNTER. I think not. We are to have a committee pretty soon on the civil and diplomatic appropriation bill. I hope it may not go to the same committee.

Mr. GWIN. I ask the yeas and nays on this question.

The yeas and nays were ordered.

Mr. DAVIS. What is the question on which the yeas and nays are ordered?

The PRESIDENT. On the motion of the Senator from Virginia.

Mr. HUNTER. It is on my motion to concur, and that a committee be appointed by the Chair.

Mr. MASON. I submit to the Senate what the example would be if the Senate, presumed to be a more deliberative body than the other House, should refuse to go into a further conference with the coördinate branch of the Legislature. That is a state of things of all others most to be avoided. Have they not a right to determine what is fit? I do not know where the difficulty lies in the House. They have a perfect right to differ from us in any legislative matter whatever. And here, on the very first impression, because they have disagreed to the report of the Committee of Conference, it would be rather discourteous to refuse to accede to their request to appoint another committee.

Mr. SOULE. I would be in favor of the motion of the honorable chairman of the Committee on Finance, and would like to vote with him on the question, if we were on an equal footing with the House; but by the vote taken yesterday, when the report of the Committee of Conference came up in the Senate, we have ceased to be upon an equality, for we have adopted the report presented to the Senate by the Committee of Conference. And now, how will the committee stand with respect to that of the House? We are disarmed.

Mr. HUNTER. The whole thing is open again.

Mr. SOULE. If that be so, then I have no objection.

Mr. HUNTER. Certainly, that is the case.

Mr. DAVIS. I hope the motion may go to the appointment of a committee merely, and not to the appointment of a new committee, and leave that question open.

Mr. WALKER. I do think the Senate will do themselves great injustice if they follow the request of the honorable chairman of the Committee on Finance in the appointment of this committee, so far as he is personally concerned. I think the Senate has a right to demand that he shall go upon that committee. He knows what the former House committee was willing to assent to; and he knows what it objected to, and what it was that caused the principal disagreement between the two Houses when the report of the committee went back to them. I am unwilling to submit the subject to a new committee and have the chairman of the Finance Committee left off at his own request.

Mr. BRADBURY. I would inquire whether the appointment of a new committee necessarily excludes all the members of the former committee?

The PRESIDENT. The Chair can appoint the same committee.

Mr. BRADBURY. I am willing to leave it to the Chair.

Mr. HUNTER. I will explain this matter. It will be seen that it is necessary to have a new committee for this reason: that it having been committed, the chances are that it will be less able to agree with the second committee than with the first. For that reason it is usual to appoint a different committee at the second time. I am willing to serve in any way that the Senate wish that I should. The only reason why I should go against sending the old committee is, that I believe new committees will be more apt to agree, and besides that, if we appoint the same committee, we may thereby delay action upon the passage of the civil and diplomatic appropriation bill.

Mr. GWIN. I do not wish to load down the chairman of the Finance Committee with extra labor; but these questions, about which there is a disagreement, are such that nobody can understand them so well as himself, and nobody has more of the confidence of the House and the Senate. Nobody can explain these matters so well as he, in my opinion, nor so satisfactorily to the new committee on the part of the House. I think it is only necessary that he should be on the committee, and there will be an agreement. I do not wish to put too much labor upon him.

The PRESIDENT. Does the Senator from Massachusetts insist on his motion?

Mr. DAVIS. I do not care about it. I am willing to trust the Chair.

The question was taken on the motion to concur in the request of the House of Representatives, with the following result—yeas 43, nays 3:

YEAS—Messrs. Atchison, Bayard, Bell, Bradbury, Bright, Brodhead, Butler, Cass, Charlton, Chase, Cooper, Davis, Dawson, Dodge of Iowa, Douglas, Downs, Fish, Fitzpatrick, Foot, Geyer, Hale, Hamlin, Houston, Hunter, James, Jones of Tennessee, Mason, Miller, Morton, Pearce, Pettit, Phelps, Pratt, Rusk, Sebastian, Smith, Soule, Spruance, Sumner, Toucey, Underwood, Wade, and Weller—43.

NAYS—Messrs. Badger, Borland, and Norris—3.

So the motion was agreed to.

The PRESIDENT. The Chair will reappoint the members of the former committee.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending the 30th of June, 1854.

Mr. BADGER. Mr. President, I wish to offer an amendment in relation to the basin and railway in California, not from any factious intention, or to bring up the question again which the Senate has decided. I understand that the honorable Senator from Virginia, [Mr. MASON,] and others, voted against the amendment which was presented last night because it did not in terms expressly provide for carrying out a former contract, but seemed to provide for a new contract. I wish to submit this amendment, which is specifically confined to the former contract, and just ask the vote of the Senate upon it. I submit it from the Committee on Naval Affairs:

"And the Secretary of the Navy is hereby directed to complete and to carry into execution the verbal contract for a basin and railway in California, in connection with the floating dry-dock, as made by the late Secretary in pursuance of authority for that purpose given by the act of September 28, 1850, entitled 'An act making appropriation for the naval service for the year ending the 30th of June, 1851,' and as stated in the letter of said Secretary addressed to the Hon. Howell Cobb, Speaker of the House of Representatives, and dated the 21st of January, 1851, towards the execution of which $150,000 is hereby appropriated: *Provided*, That in the judgment of the Secretary said basin and railway are necessary and will be useful to the public service."

Mr. BRODHEAD. Does the Chair rule that amendment out of order?

The PRESIDENT. No, sir; no point of order has been raised.

Mr. BRODHEAD. Mr. President, however much this amendment may be disguised, it is the third application for the same thing. I say there are three decisions of this body against this very proposition, as will be seen by a reference to the record. This is a request for between $800,000 and $900,000 for a basin and railway, against which the Senate has three times decided, as I will now show. Sir, in the Navy appropriation bill of 1851, I find this clause:

"For completing the dry-dock in California, $150,000, and the Secretary of the Navy is hereby required so to modify the contract alleged to have been made on the 17th of January last as to confine the same to the construction of a floating dock alone, without the basin and railway."

Here the Senate and the House of Representatives decided in 1851 that the dock was sufficient in California, without the basin and railway; and this law was passed in pursuance of the recommendation of the then head of the Navy Department.

That is one decision. At the last session this subject was fully argued. This application for a basin and railway, for $800,000, was fully discussed in this body and voted down. The application was more than once presented.

Mr. GWIN. It was talked down at the last session.

Mr. BRODHEAD. I believe that a vote was taken by yeas and nays.

Mr. GWIN. If the Senator will permit me, I will state that the Senator from Rhode Island, [Mr. CLARKE,] got up and showed a great pile of papers and documents, which he said he would refer to in the discussion, and the Senator from North Carolina, and the friends of the measure, then gave up and let the question be taken.

Mr. BRODHEAD. The question was taken by yeas and nays, according to my recollection, and it was discussed during the first part of the session, for I recollect making three speeches myself, and that was quite enough. That was the second decision in the Senate. Whether there was much discussion or not, the vote was taken, and I am right, therefore, in saying there was a decision in this body by the yeas and nays.

The question was again presented last evening, and was again voted down. And now, for the fourth time, it is here. How often are we to have it? How often is this body to be called upon to decide whether they will have a basin and railway in California, in connection with this dock? The dock is there, and it is now used by the contractors under a most favorable lease for three years. They are now using it for the benefit of the mercantile marine. If they are not using it, all I know about it is, they have taken the lease, and the contract has been sent to the Senate. I will read the law under which they obtained that lease:

"And said dock may be used for all the purposes of repairing merchant-ships, when not in use by the Government, in such manner, for such compensation, and upon such terms and conditions as shall be prescribed by the Secretary of the Navy."

The Government paid $610,000 for the dock in California. It was leased to the contractors under this law of the last session. My friend from Rhode Island says it is a profitable lease to them. He stated last night that it was worth $50,000 to them, and that he would give that sum for it. These contractors, sir, have received large sums of money from the Government. They have received, as I have shown, $3,078,000 for building these kind of structures. They have received—included in that amount—$610,000 for the dock in California. Congress, in 1851, decided that the Secretary of the Navy should make a contract for the construction of the dock without the basin and railway. That decision has been twice sanctioned since. Why, then, press this matter upon Congress any more? I do not wish to occupy the time of the Senate at this late period. I have some facts that I could present, but I will not present them now. I only refer to the record, which shows a decision three times against this measure, and that is enough.

Mr. BADGER. I am very sorry that the Senator from Pennsylvania chose to go into the discussion of this subject again. I thought it had been very fully discussed before.

Mr. BRODHEAD. So did I.

Mr. BADGER. I want no discussion. I stated expressly that I did not bring it forward with any view or intention to discuss it. But as there was some objection to the former proposition, I wished merely to submit it in a new form, and have the vote of the Senate upon it. The Senator rises with as much urgency as if we had never heard of the dock before. If I had time, I could refute everything the Senator has said. He says that in 1851 Congress decided against the dock. If he

will look at the act, he will find that it is very evident that they decided against nothing of the kind. In his letter, the then Secretary of the Navy stated that he had reserved the right to abrogate the contract as it related to the basin and railway. The matter was then in this state. And the whole amount of that is, that the Secretary should proceed to contract for the dock; and the authority which had been given him in regard to the basin and railway, was taken away from him. Now, the state of things is entirely changed. Let me read from a letter of the Secretary on this subject. It is addressed to the chairman of the Committee on Naval Affairs:

"The purchase of Mare Island has been completed, and the title is now in the United States. The navy-yard may therefore be regarded as definitely established. The basin and railway for the floating dock at Philadelphia is in full operation, and adapted to the service for which they were intended."

That is all I have to say. I only want a vote.

Mr. MASON. The honorable Senator from North Carolina showed me the amendment which he has now offered, and which indicates that the contract in relation to the dock should be carried out. I told him I would cheerfully vote for it. I did not know at that time that in 1851 the Congress of the United States had limited the discretion of the Secretary which he had reserved in that contract. The contract was, that the contractors should construct this dock, basin, and railway, out of the appropriation made for it upon the terms prescribed; but it reserved to the Secretary the right to rescind or abrogate that part of the contract for the basin and railway, if, upon trial at Philadelphia, it was found not to be useful. In 1851, the Congress of the United States passed a law prohibiting the construction of anything more than a dry-dock. I supposed it was mandatory upon the Secretary, and that he was bound to abrogate so much of the contract as related to the basin and railway. I cannot, therefore, vote for the amendment.

Mr. BRODHEAD. I ask for the yeas and nays on the amendment.

Mr. HALE. The provision of that act of 1851 which has been discussed was simply of this character: The Secretary had a conditional right to revoke this contract, provided that the basin and railway, which was an experiment, failed to answer the expectations of the Government. And this was the direction of Congress, not to pay any money until the trial was made, but it was no revocation of the contract.

Mr. BRODHEAD. I do not so understand the law.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 24; as follows:

YEAS—Messrs. Badger, Bell, Cass, Charlton, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fish, Geyer, Gwin, Hale, Houston, James, Mallory, Mangum, Morton, Norris, Phelps, Rusk, Sebastian, Shields, Smith, Soulé, Sumner, Walker, and Weller—27.

NAYS—Messrs. Adams, Atchison, Bayard, Borland, Bradbury, Bright, Brodhead, Chase, Clarke, Cooper, Davis, Dawson, Fitzpatrick, Hamlin, Hunter, Jones of Tennessee, Mason, Miller, Pearce, Pettit, Pratt, Spruance, Underwood, and Wade—24.

So the amendment was agreed to.

Mr. MILLER. I wish to offer the following amendment:

For equipment, maintenance, and supply of an expedition for the exploration of the interior of Africa, eastward of Liberia, and the ascertaining of the resources of that region, and for the colonization of the free blacks of the United States, to be expended under the direction of the Secretary of the Navy, $125,000.

Mr. MILLER spoke at length in favor of the adoption of his amendment, and of the recognition by the United States of the independence of the Republic of Liberia. [His speech will be found in the Appendix.]

Mr. MASON. I wish to say that whenever a proposition is made here to acknowledge the independence of the Republic of Liberia, and admit her into the family of nations, I shall endeavor to show that it will be very unfortunate. I know no authority in this Government to recognize any connection with the Colonization Society in any form.

Mr. MILLER. The gentleman is mistaken with regard to the Colonization Society. It is for the purpose of carrying out the proposition of the Secretary of the Navy, mentioned in his annual report respecting the expedition for the exploration of the interior of Africa. He recommends a further appropriation for the purpose of making the exploration.

Mr. PRATT. In my judgment the colonization of the free blacks of this country is a subject of as much practical importance as any which has occupied the attention of this country; and looking to this as the initiative on the part of the Federal Government to assist the States of this Union in a work in which all the States are interested in getting rid of that description of population, I do not think any proposition has been submitted to the Senate of more practical importance. The honorable Senator from New Jersey has informed the Senate that the free States are now passing laws prohibiting the continuance of this description of population within their respective limits. It is known to us, who represent the South, that the South is doing the same thing. These people are here, and to say that this Federal Government, which possesses the only ability to do it—the States not having the constitutional power to rid the country of the population which every State in the Union is prohibiting from living within their limits—has not the constitutional power to remove them is, I think, incorrect. The very necessity of the thing shows the constitutionality of it.

Mr. President, I believe this is common ground, upon which philanthropists from every section of the country can meet. Here is an unfortunate population, dispersed throughout every State in this Union, more or less; and every State is legislating for the purpose of preventing their continuance there. And there is no power except that of the Federal Government that has the ability to get rid of them and place them where they can be comfortable. I do hope the amendment may be adopted. I hope the exploration may be made. I shall vote for the amendment with the hope that when the exploration is made it will be followed up by appropriations on the part of the Federal Government, for the purpose of ridding the country of this nuisance to the whole society of the United States.

Mr. BELL. I would suggest to the Senator from New Jersey to modify his amendment by striking out all that part which relates to colonization. It will stand then upon the same principle which has been recognized by Congress. I think it will obviate some of the general objections made by the Senator from Virginia, [Mr. MASON.] The object is to authorize an exploration, to vote a small sum of money for the purpose of exploring a small portion of the country near the coast of Africa, a country which may be of a character important to the United States in various aspects. Sir, this policy has been pursued in our legislation by authorizing explorations to the South pole, or as near to it as we could. We have another expedition to the North pole. And what are all these objects but for the purpose of extending our knowledge to the remote and unknown parts of the world with a view to develop the resources and interest of this great country. Here is a portion of *terra firma*, a large portion of which is *terra incognita* to us. Who knows what interests may spring up by having a knowledge of the resources of the interior of a country upon a large portion of which the foot of a white man has never been imprinted? I have heard an incident connected with this proposition which interested me. I heard it from a source, the authenticity of which I can have no doubt about. Commander Lynch is already known to the public as an able and enterprising explorer, whose merits in that respect are well known, and have been published to the world; and I understand that such is his zeal for adventure in exploring those parts of the world from which others shrink, that he is ready to go himself, alone, if necessary, or with such protection as he may get, and risk his life in those interior regions of Africa, wherever it may be supposed to be most for the interest of this country. I understand that he has gone to the coast this year to make such exploration of the coast as may be done; but his main object is to go there and become acclimated, and it may be, expose himself to die, in qualifying himself to make further explorations in the interior. That consideration is enough to attract the attention and sympathy of every Senator on this floor. It may be he will die in endeavoring to qualify himself for the object he has in view. He does it for the purpose of hardening himself by taking the African fever; and then, if he overcomes that, he knows that he will be enabled to go into the interior and explore those unknown regions.

What was the exploration which we had under the same authority, recommended by the House of Representatives, for the opening of the country upon the Amazon, and the Cordilleras of the South, far down from the Andes to the mouth of the Amazon, a distance of some three or four thousand miles, a great portion of which was before unknown to this country? We have had explorations by the authority of the Government, and why not have one into the interior of Africa? But I will not go into this subject. I know we have not time now. I merely meant to state that I think we can appropriate money for this purpose; that we have appropriated money to make explorations in the East, and in different quarters of the world, and in some places where we can never expect to derive any advantage; that the principle is the same, and I hope the amendment will be adopted without hesitation.

Mr. GWIN. I hope we shall have a vote. There are several other amendments which will be lost unless they are acted upon soon.

Mr. MASON. I freely admit that whenever it is for the benefit of the public service, for any officer to make explorations abroad, under the sanction of the Department, there may be no objection. But I decidedly protest against any power of the Government to send any officer upon any expedition of this character, for the purpose of opening commercial resources, or anything of that character. I merely rose for the purpose of making this protest. I do not wish to go into anything of this kind. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CHASE. I see no objection to this amendment, Mr. President, so far as it contemplates the employment of a portion of our naval force in the exploration of Africa. I should not object even to the organization of a party of officers and civilians for the purpose of ascertaining the resources of that continent, and opening new avenues of commerce with its inhabitants. It is but recently that an expedition has been organized by this Government to visit the shores of Japan, with the purpose of opening, if possible, that vast country to American commerce. Africa, in a commercial point of view, is of more importance than Japan. The honorable Senator from New Jersey [Mr. MILLER] has stated strongly, but not too strongly, the value of its commerce. In what he has said on that head I fully concur.

But, sir, I object with emphasis to that feature of this amendment which contemplates the expatriation, or "getting rid"—to use the language of the Senator from Maryland, [Mr. PRATT]—of any portion of our population. Not that I object to colonization. That is quite another matter. Let every one who chooses, whether white or black, leave our shores and seek, under happier auspices, happier homes in other lands. But let no man, native or naturalized, guiltless of offense, be driven forth from his country. Compulsory expatriation of any class, is an offense against civilization, and incompatible with justice.

Let all classes of our population, of whatever complexion and of whatever origin, be dealt with upon the simple principles of right, of justice, of humanity. Give every man a fair and equal chance upon the arena of human effort; and my word for it, you will do more for civilization, more for the improvement of all classes, more for the prosperity and progress of the whole country, than can be accomplished by any scheme of expatriation.

I know there is no time now to debate this subject. I have risen merely to enter my distinct and decided protest against "getting rid" by expatriation of any portion of our people. No such scheme can be reconciled with the simplest dictates of humanity and justice, and to disregard these is criminal folly in legislation or in administration.

If the Senator from New Jersey is willing to modify his amendment according to the suggestion of the Senator from Tennessee, by striking out that part relating to colonization, I have no objection to voting for it.

Mr. BELL. I make the motion to strike out all that part of the amendment which relates to colonization.

Mr. MILLER. I accept the modification. I have no objection to that; all I want is to get the exploration.

The PRESIDENT. If there be no objection, it will be so modified.

Mr. PRATT. Let us have the question.

Mr. BAYARD. I would ask if that comes from any committee?

Mr. PRATT. It is recommended by the Navy Department.

The question was then taken, with the following result—yeas 21, nays 21:

YEAS—Messrs. Badger, Bell, Bright, Chase, Clarke, Cooper, Davis, Dodge of Wisconsin, Dodge of Iowa, Fish, Foot, Mangum, Miller, Pearce, Pratt, Smith, Soulé, Spruance, Sumner, Underwood, and Wade—21.

NAYS—Messrs. Atchison, Bayard, Borland, Brodhead, Cass, Charlton, De Saussure, Fitzpatrick, Geyer, Gwin, Hunter, Jones of Tennessee, Mallory, Mason, Morton, Norris, Pettit, Rusk, Sebastian Toucey, and Weller—21.

So the amendment was rejected.

CIVIL AND DIPLOMATIC BILL.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it had agreed to some, and disagreed to other amendments of the Senate, to the bill making appropriations for the civil and diplomatic expenses of Government for the year ending the 30th of June, 1854, and that it had agreed to other amendments of the Senate to the said bill with amendments.

On motion by Mr. HUNTER, the Senate insisted on its amendments to the bill, and asked for a Committee of Conference; and Mr. HUNTER, Mr. BRIGHT, and Mr. BELL were appointed the managers of the conference on the part of the Senate.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending 30th June, 1854.

Mr. GWIN. I am instructed by the Committee on Finance to offer the following amendment. It was overlooked when the bill was reported back by the Committee on Finance:

Strike out "$79,448," in the clause for the payment of officers, seamen, &c., and insert, "$80,148," to make the appropriation $2,880,148, and add:

Provided, That the salary of the assistant observer or astronomer at the National Observatory shall be $2,000, and the salary of the principal clerk at said Observatory shall be $1,200.

This is in accordance with a recommendation from the Department.

The amendment was agreed to.

Mr. GWIN. I have another amendment from the Committee on Naval Affairs. It is to add at the end of the last amendment, after the word "dollars;"

The pay of the purser attached to, and doing duty at the naval station in California, shall be $4,000 per annum, and he shall be allowed a clerk at a compensation not exceeding $2,000 per annum.

When the salary of the purser on that station was fixed, six or seven years ago, it was established at $3,000 per annum. The duties of the officer have increased since that time, and the expense of living also. The Secretary of the Navy recommended that the salary of the purser should be $5,000, and that of the clerk should be $2,500. The committee agreed to fix the salary of the purser at $4,000, and that of the clerk at $2,000. This officer will have to disburse all the funds at the navy-yard there.

The amendment was agreed to.

Mr. GWIN. I have another amendment:

And the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to allow and pay out of any money in the Treasury not otherwise appropriated, to the officers, petty officers, and seamen of the United States Navy, to the commissioned officers, non-commissioned officers, and privates of the Marine Corps, and to the officers of the Revenue Service, who served in the Pacific ocean and on the coast of Mexico and California during the late war with Mexico, and since the close of the war, up to September, 1850, the same additional compensation as has been by law directed to be paid to the officers and soldiers of the Army who served in California; and that this provision allowing extra pay, as well as that contained in the Navy appropriation act of August 31, 1852, shall extend to and include all naval store keepers who were stationed on the Pacific coast; and the additional compensation authorized by the foregoing provision, and by the Navy appropriation act of 1852, shall be paid to the legal representatives of deceased persons who would have been entitled to receive the same if living.

That is precisely the same as was recommended in the naval appropriation bill of the last session, and which was stricken out under a misapprehension. The Secretary recommends it in a letter, which I hope it will not be necessary to read.

The amendment was agreed to.

Mr. GWIN. I have another amendment:

And there shall be allowed to Lieutenants Lewis, Herndon, and Gibbon, officers of the United States Navy, who were engaged upon an exploration of the Amazon, the same pay as has been allowed to the Superintendent of the naval astronomical expedition in Chili, by an act making appropriation for the naval service, approved March 3, 1851, during the period of their service as aforesaid, which period shall be reckoned from the day on which each officer left the United States until the final return of the exploring party.

Mr. UNDERWOOD. That is a practical illustration of the doctrine which you have just had with respect to exploring expeditions. What right had you to send an expedition for the purpose of exploring the region of the Amazon, if you may not on the same principle send an expedition for commercial purposes into Africa? What right have you to explore the north Pacific, if you may not explore Africa on the same principle? I just want to call public attention to it.

Mr. GWIN. All I have to say is, that it is recommended by the Department.

Mr. UNDERWOOD. I go for it, sir.

The amendment was agreed to.

Mr. GWIN. I have another amendment, to add to the clause, for the pay of superintendents, &c., at the several navy-yards and stations, the following:

The first and second clerks to the commandants of the principal navy yards, to wit: Boston, New York, Washington, Norfolk, and Pensacola, shall receive the same pay as the two lowest classes of clerks in the Bureau of the Navy Department receive respectively; and each clerk of a yard in said navy-yards shall receive the same compensation as is herein provided for the first clerks to the commandant.

This is in accordance with the compensation of clerks, as provided for the other day in the civil and diplomatic appropriation bill.

The amendment was agreed to.

Mr. GWIN. I have another amendment from the same committee:

For building a propeller frigate, to be fitted with the caloric engine, if, after examination, the Secretary of the Navy shall deem it expedient, $500,000; and the said Secretary is authorized to contract with Captain John Ericsson for constructing the same upon such terms and conditions as may be determined by the Department.

That is in accordance with the estimate of the Department. It is very important.

Mr. UNDERWOOD. Let us see how the ship which has been built will succeed first.

Mr. BRIGHT called for the yeas and nays; and they were ordered.

Mr. BORLAND. I desire to state the reason why I shall vote in favor of this proposition. I am as little in favor of making experiments, and increasing expenses for the purpose of making them, as any other member of the body; but, sir, here is a proposition to avail ourselves of what seems to me to be established as the greatest discovery of this age. It is so not only in point of economy in the construction and propelling of ships, but in the still greater advantage of safety. I think, if there is anything which is incumbent upon this Government to do, it is to avail itself of and give to the country the advantage to be derived from the safety in—not steam navigation—but in navigation. I do believe we have now what will do away with the use of steam, and make human life more safe, both in the Navy and in the commercial marine of our country.

The question was then taken, with the following result—yeas 19, nays 27:

YEAS—Messrs. Badger, Bell, Borland, Charlton, Clarke, Cooper, De Saussure, Fish, Foot, Geyer, Gwin, Jones of Tennessee, Mallory, Mangum, Miller, Morton, Pratt, Spruance, and Wade—19.

NAYS—Messrs. Adams, Atchison, Bayard, Bradbury, Bright, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Fitzpatrick, Hamlin, Houston, Hunter, James, Norris, Pearce, Pettit, Rusk, Sebastian, Smith, Sumner, Toucey, Underwood, Walker, and Weller—27.

So the amendment was rejected.

Mr. GWIN. I am instructed to offer another amendment:

For constructing one steam propeller frigate, two steam propeller sloops, and three steam propeller sloops of-war of the first class, $827,000.

This is agreeable to estimate by the Secretary of the Navy. I offer it under instructions from the Naval Committee. I have nothing to say about it.

Mr. PETTIT. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GWIN. Here is the estimate and the recommendation of the Department, and it is in accordance with that.

Mr. BRADBURY. I would inquire what class of steamships the Princeton belonged to? I thought that was one of the first class.

Mr. GWIN. The Senator can inquire of the Secretary of the Navy. I have nothing to do with it.

The question was taken, with the following result—yeas 22, nays 23:

YEAS—Messrs. Badger, Bell, Charlton, Clarke, Cooper, De Saussure, Fish, Foot, Geyer, Gwin, Jones of Tennessee, Mallory, Mangum, Miller, Morton, Phelps, Pratt, Smith, Soulé, Spruance, Toucey, and Weller—22.

NAYS—Messrs. Adams, Atchison, Borland, Bradbury, Bright, Brodhead, Cass, Chase, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Felch, Fitzpatrick, Houston, Norris, Pettit, Rusk, Sebastian, Sumner, Underwood, Wade, and Walker—23.

So the amendment was rejected.

Mr. GWIN. I have another amendment from the Committee on Naval Affairs:

And the Secretary of the Navy is hereby authorized to settle all existing controversies as to the title to any portions of salt marsh, near the lands of the naval arsenal in the town of Chelsea, county of Suffolk, Massachusetts; and to sell and convey the title and interest of the United States in so much of said marsh as he may deem expedient, upon the terms and conditions recommended in the report from the Bureau of Navy-Yards and Docks, dated February 17, 1853.

This is in accordance with the recommendation of the Secretary of the Navy. They have had a controversy in regard to jurisdiction, and the Secretary recommends that the matter be settled in this way.

The amendment was agreed to.

Mr. GWIN. I have one more amendment from the committee:

SEC. —. *And be it further enacted*, That the Secretary of the Navy is authorized to purchase the site and buildings examined and reported upon September 24, 1852, for the establishment of naval work-shops and naval depôt near the city of New Orleans: *Provided*, He shall consider that New Orleans is a proper point for the establishment of a naval depôt and naval work-shop, and that the cost thereof shall not exceed $375,000.

That subject was referred to the Committee on Naval Affairs by a resolution of the Senate. Upon investigation the committee came to the conclusion to report that amendment to this bill.

Mr. SOULE. I hope the amendment will meet with no objection. Last year a resolution passed this body directing the Secretary of the Navy to organize a commission in order to repair to the spot indicated in the amendment, and ascertain whether the site proposed to be sold to the United States for the object embraced by it, was a proper one. The report came back to us with a favorable recommendation. I have had occasion since then to write a letter to the Secretary of the Navy, in order to ascertain how the views of the Department stood with reference to it, and that officer did me the honor to answer and give a report, which recommends to the consideration of the Senate the establishment of the naval depôt and naval work-shop. The amount of money provided for in the amendment will appear trifling when it is considered, that not only the site, but the buildings necessary for the establishment of that naval depôt and naval work-shop are already erected. I hope the amendment will meet with no opposition.

The amendment was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it agreed to some, and disagreed to other, amendments of the Senate to the bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th June, 1854.

That it insisted on its disagreement to certain amendments of the Senate to the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854, and on their amendments to certain other amendments of the Senate to the said bill; that it agreed to the conference asked by the Senate on the disagreeing votes of the two Houses; and that they have appointed Mr. HOUSTON, Mr. STANLY, and Mr. DAWSON, the Committee of Conference on their part.

The Senate proceeded to consider their amendments disagreed to by the House of Representatives to the bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1854; and on motion, it was

Resolved, That the Senate insist on their amendments

disagreed to by the House of Representatives, and ask a conference on the disagreeing votes of the two Houses.

On motion, it was

Ordered, That the Committee of Conference on the part of the Senate be appointed by the President *pro tempore*; and Mr. RUSK, Mr. SOULE, and Mr. FISH were appointed the committee.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending 30th June, 1854.

Mr. RUSK. I beg leave to offer the following amendment:

SEC. —. *And be it further enacted*, That the existing laws limiting the number of officers in the Navy of the United States be, and they are hereby, so far modified as to authorize the President to incorporate into the naval service of the United States the surviving officers of the late Texas navy, who were duly commissioned and in the service of said Republic at the time of its annexation to the United States: *Provided*, That the number of officers to be incorporated shall not exceed eight.

Mr. BADGER. I am very sorry that my friend from Texas has thought it necessary to introduce that amendment. I am still more sorry that I feel myself compelled by a sense of duty to oppose its adoption. We had a bill here for this purpose, and I believe it is now upon the table of the Senate, which, if it had been taken up would have afforded me a legitimate opportunity to go into the question raised on the proposition. As it is, the amendment being now offered to an appropriation bill, although the time is limited, I must be allowed to state, in justice to what I believe is the interest and honor of the officers of the Navy, the objections which I think lie against the adoption of the amendment; and I shall do it in the briefest manner possible.

The officers of the late Texas navy have heretofore claimed that they were entitled to be admitted into the Navy of the United States, in consequence of one of the stipulations contained in the joint resolution of annexation. If that stipulation in the resolution for the annexation of Texas contains such an engagement on the part of the United States, we would be undoubtedly bound, whatever the consequences might be, to carry out the engagement. If the stipulation contains no such engagement, then I submit, sir, that we cannot do it, without a wanton, unprovoked wrong to a class of men who have been engaged in our service, and who are entitled to every consideration and respect. Then the question recurs: Does the joint resolution provide for the incorporation of these officers of the Texas navy?

In the first place I will say that the mere reading of the provision upon which the claim is based, will show conclusively that no such thing was intended by the resolution. It provides for the cession by the State of Texas to the United States, her "fortifications, navy, and other means of public defense." It is "ceding" to the United States, which is a form never used in any other sense than in the transfer of something in the nature of property. It might just as well have been said that the officers of the late Texas army were entitled to be introduced into our Army, as that the officers of the late Texas navy have a right to be introduced into our Navy. The terms are the same. They are the cession of "fortifications, navy, and other means of public defense."

But this is not an open question for our consideration. One of these officers, a gentleman by the name of Brashear, some years ago thought proper, at his own instance, to bring the question before the Supreme Court of the United States, and that court unanimously and clearly held that the resolution applied to nothing but to the cession of property, and had no reference to, and was not intended to include, the *personnel* of the navy.

It is then clear that there is no obligation on the part of the Government to introduce these gentleman into our service. The amendment, therefore, proposes to take certain officers who once belonged to another navy, without any engagement or stipulation on the part of our Government, and put them into our Navy. Now, sir, what reason can be given for this? If these gentlemen had never belonged to any navy, it would have been a sufficiently strange proposition. But they were officers of the navy of another country; and what right have they to be taken and put into the Navy of the United States?

Again: the senior officer, Commodore Moore, was once an officer in the Navy of the United States. Had he remained in the service of the United States, he would now be a lieutenant, and a number of that corps would be senior to him on the list, if I recollect right. If now put into the Navy of the United States, he would be put above the same grade, and above all the commanders, and no inconsiderable portion of the captains of the Navy. Now, I submit that unless we are doing that under the faith and obligations of a contract which we made with Texas, we are doing a gross wrong to the officers of our own Navy. It is saying this: That a man has a higher claim upon the United States for advancement in the Navy of the United States by serving in a foreign, than in his own, and that he is to gain a higher position by leaving our service and employing himself in the service of a foreign country than he would have obtained if he had remained in the service of his own.

Mr. President, I wish it to be understood that I have no interest at all in this matter—none whatever. I would be extremely glad to do anything for the promotion of these officers which might be done consistently with a just regard to the honor of the officers of the United States Navy and their feelings in relation to this matter. Believing we cannot do what is now asked without touching that honor and those feelings in a tender point, and inflicting wrongs upon them, I must vote against the amendment. I hope the Senate will not agree to it.

Mr. RUSK. I am not going to detain the Senate by arguing this question. I am not going over the grounds of the interpretation of the contract of annexation. These officers are few in number—only eight. Their numbers have been reduced greatly since the annexation of Texas. The vessels were taken from under them. The State of Texas, one of the parties to the contract of annexation, has constantly interpreted the obligations of the joint resolution as including these officers. The decision of the Supreme Court of the United States was altogether upon a collateral question, that they had no jurisdiction to determine upon the question involved in this amendment. It was upon an application for a mandamus to force a claim of one of these officers I have drawn up the amendment in the terms of the bill reported from the Committee on Naval Affairs, which was accompanied by a report, which I wish the business of the Senate in the short time we have remaining would permit me to have read. It is in a bill from the Naval Committee striking out the proviso in these words:

"*And provided further*, That those of the said officers who were formerly of the United States Navy, shall take no higher grade, number, or position, than they would have occupied by due course of promotion if they had not left the service; and those who were not in the United States Navy shall take such position as the President may assign them."

I have stricken that out, and offered the amendment as it has been read. It leaves it discretionary to the President of the United States to incorporate the officers.

Mr. FISH. I wish to call the attention of the Senator for a moment, to a remark which I wish to make. He has thought fit to refer to a report of the Naval Committee. It is true, that a majority of the committee did make such a report. The committee was divided. But I think I express the unanimous opinion of the committee, that they would never have reported even that with the proviso stricken out, and that the committee now are unanimously opposed to the provision as introduced by the Senator. A majority of the committee agreed to report it with the proviso.

Mr. RUSK. I deem this amendment but an act of justice to those officers. I am sorry that the time does not permit me to investigate this subject. I know the strenuous exertions which have been made by a portion of the Navy of the United States to resist the claims of these men; but I could answer all the objections which have been raised, and go into the matter, which I think would show that their objections are not creditable to some of them. Many of the officers of the Navy of the United States do not object to this pittance of justice being done to the officers of the navy of the late Republic of Texas. Some of them are against it, and have used the most strenuous efforts to prevent it; and they have attempted every time whenever this subject has come here, to have it overslaughed and defeated. The Senate understands it, I have no doubt. It has been investigated here several times, and therefore I shall not consume the time of the Senate. I am very sorry that the appropriation bills, and other matters which we need to consider, prevent me from going into the subject.

Mr. GWIN. I hope we shall have a vote.

Mr. PRATT. I desire to put myself right upon this question. I agree entirely with the Senator from North Carolina, that we should be doing great injustice to the officers of our own Navy, if these gentlemen were put into our Navy on the terms proposed by my friend from Texas. At the same time, I cannot but admit that something is due on the part of the United States to the officers of the Texas navy. They were the officers of that navy, and that navy, by the agreement of this Government with that of Texas, was received and incorporated into the Navy of the United States. Now, although the Supreme Court has decided, and correctly, as I think—for I always submit to their decisions on questions of law—that the *personnel* of the Texas navy was not thereby introduced into the Navy of the United States; yet they have been deprived of offices which they held under that government, in consequence of the annexation of Texas to the United States. I have prepared an amendment, which I desire to submit, which will carry out the views that I have expressed, and which I hope will be agreed to by the Senate, for the purpose of settling this question. It is to strike out all that part of the amendment proposed by my friend from Texas after the word "modified," which proposes to introduce these officers into the Navy of the United States, and insert these words:

As to entitle the officers of the late navy of Texas to the pay of officers of the Navy of the United States on leave of absence—not exceeding eight in number.

This would give them the pay which they would have if the amendment of my friend were adopted, and would take away the irresistible argument to my mind, which has been made by my friend from North Carolina, in regard to the injustice which would otherwise be done, by introducing the officers of the late Texan navy into our own. I hope my friend from Texas will accept the amendment, or, at any rate, that the Senate will adopt it, so that we may give them the compensation to which they would be entitled, and then we shall do them no injustice.

Mr. RUSK. Let the amendment be read, as it will be when the proposed amendment is made to it.

The amendment was read.

Mr. BAYARD. I do not mean to detain the Senate by introducing matters not pertinent to this question. I make objection, in the first place, that here is a controverted matter, which is in the nature of a private claim, and which is brought into the Senate now on the last day of the session, after it has been lying on the table a long time, and when the friends of the measure might have brought it up and had it fairly discussed and decided.

Mr. RUSK. I hope the Senator will allow me to say that I struggled day after day at the last session, and again I have tried at this session to get it up, but it was postponed by the action of the Senate.

Mr. BAYARD. I impute no blame to any one; but considering the weight, the deserved weight, of the honorable Senator from Texas in this body, I can scarcely conceive that that bill should not have been brought up if there was an earnest desire to have the bill brought up and discussed. My own opinions are clearly formed, having considered this question, that you could not perform an act of greater injustice to the officers in your own Navy than to adopt the provision of the amendment as proposed by the Senator from Texas. I will not, however, go into that question now further than to state that I think that Senator is under a misapprehension as to the decision of the Supreme Court. That decision could not bind us, I admit. It rested on a variety of grounds, but among others it took up the question whether, by the proper construction of the articles of annexation of Texas the officers of the Texas navy were incorporated into that of the United States, and with an argument utterly irresistible, showed that no such construction could rationally be placed upon those articles. I think no one can read the decision without coming to the conclusion

that the question is not doubtful as to what is the effect of the language used in expressing the intention of the two nations at the time of annexation.

Then the effect of the amendment would be to allow the officers—I mean nothing in dereliction of their character, because I never heard anything to detract from their character—who left your own service to go into a foreign service, to come back, outranking those who had devoted all their time and all their energies to the service of their own country. That would be an act of great injustice to those officers who remained. But without going further into this, allow me to say, that bringing this proposition here on the last day of the session as an amendment to the appropriation bill, when it is a controverted matter, is, to say the least, a bad precedent. I could not vote for it, even if I was in favor of it, under these circumstances. The proposition which is offered by the Senator from Maryland is one that requires some consideration before it is acted upon. I admit that I am willing to compensate, in a proper mode, those officers of the Texan navy who are still alive, or, if you please, the children of the deceased officers who have died since the annexation of Texas, if it is supposed that they have any equitable claim on this Government in consequence of the union of the two States and the incorporation of the Texan navy with our own. I am rather inclined to think that as the agreement did not stipulate anything for these officers, and as their widows and children would be the more dependent, they would come fairly before you with a claim for compensation. But the mode of that compensation is one that cannot be decided without some consideration. I could never agree to place them in the principle of pensioners upon the Navy of this country, on the same basis as that of the officers of our own Navy on leave of absence. I might perhaps agree to give them a compensation if a bill was brought forward, and especially if that compensation were given on such principles as to meet my own judgment. I mention this only as showing that this question requires consideration; that as an amendment to this bill, it is out of place. I cannot vote for the amendment of the honorable Senator from Texas, or the amendment to that amendment proposed by the honorable Senator from Maryland, although I might agree to the principle of that amendment that a compensation should be made; but there is no time now to consider it.

Mr. SMITH. The amendment to the amendment is a proposition to pension the officers of the Texan navy. I am entirely opposed to it. If they are entitled to any consideration, they are entitled to be admitted into the Navy, and I am utterly opposed to pensioning these officers.

Mr. GWIN. Let us have the question.

Mr. RUSK. I think they are entitled to their commissions in the Navy, and therefore I will vote against the amendment to the amendment.

Mr. BRADBURY. I think the amendment is calculated to embarrass the true proposition of the Senator from Texas. I think it is but fair that the question should be taken unembarrassed. Again, there may be those who are in favor of one who would be opposed to the other. I think the amendment to the amendment, and the amendment, ought not to be adopted.

Mr. PRATT. I will state to the Senate that the object of the amendment to the amendment is to give to the late officers of the Texan navy, not to exceed eight in number, the pay to which they would be entitled if they were in our Navy, and on leave of absence. They are to come into the Navy as retired officers, with the pay which they would receive as officers on leave of absence. It is to prevent them interfering with our own officers, and at the same time it gives them the compensation justly due to them.

Mr. SMITH. I am totally opposed to this mode of settling the question. It is a proposition to grant a pension to these gentlemen for life; to place them in the condition of pensioners for life, while they will not render any service to the country at any time hereafter.

Mr. MALLORY. Is the question upon the amendment to grant the officers a compensation?

Mr. PRATT. Yes, sir.

Mr. MALLORY. I trust this proposition at least will not be adopted. The Naval Committee, in reporting the bill on the subject, proposed, upon the ground that it was not an act of courtesy only, but a strictly legal right, that they should come in on the terms prescribed by the provision of the act providing for the annexation of Texas. I do not conceive that it will be pensioning the officers. They do not appear as pensioners. They appear here claiming it as a legal right to come into the Navy.

Mr. WALKER. Is the question on the proposition to attach these officers to our Navy?

Mr. PRATT. It is on the amendment to the amendment.

Mr. WALKER. This, then, is clearly nothing but a pension.

The question was then taken on the amendment to the amendment, and it was rejected.

The question then recurred on the original amendment.

Mr. FISH. I now offer an amendment to the amendment. To add the following at the end of the amendment:

And provided further, That those of the said officers who were formerly in the United States Navy shall take no higher grade or position than that which they would now occupy by due course of promotion, if they had not left it; and that those who were not in the United States Navy shall take such a position as the President may assign them.

That puts the amendment in the precise position in which it was put by a majority of the Committee on Naval Affairs.

Mr. RUSK. I hope it will be rejected. It will render the amendment useless.

Mr. BADGER. I ask for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. DODGE, of Iowa. Having believed that the act providing for the annexation of Texas should have incorporated these men into our Navy, I have ever regarded the proposition as a liberal and just one, and shall vote for it with great pleasure.

Mr. PEARCE. I have not heard any principle announced upon which the officers of the late Texan navy are entitled to come into the Navy of the United States. I suppose the only pretense that they are so entitled which can be set up is, that the resolution of annexation provided that Texas, after ceding to the United States *all public edifices, fortifications, &c., navy, navy-yards, &c., shall retain all her public lands, &c.* Now, sir, although we may cede territory and jurisdiction, I never heard of such a thing as ceding the officers of an army or of a navy. I think the term "cede" clearly appropriate to be applied to territory and jurisdiction over people, but not to persons in public employment. Suppose Texas had had a number of negro slaves then in employment in her navy-yard, would they have passed to the United States under this provision, which cedes only the things enumerated and "property pertaining to the public defense?" You might convey negro slaves, but not by such a provision as this. Texas had no property in the officers who were in her employment. How, then, could they be transferred to our service by such a cession as that in question? I believe that if these officers are entitled, by the resolution of annexation, to come into the Navy of the United States, they are so entitled without the necessity of any action by Congress. If the resolution of annexation recognizes that fact, we need have no legislation on the subject. But it does not recognize that fact; or at least so the Judiciary have decided. The Supreme Court, in the case of Brashear, so decided. He petitioned the court for a rule on the Secretary of the Navy to show cause why a mandamus should not issue, commanding him, as Secretary of the Navy, to pay him what was due to him as an officer of the United States Navy, since the annexation of Texas.

The court, in the opinion delivered by Mr. Justice Nelson, said, that it was not pretended that there was any express stipulation for the admission of officers of the Texan navy into that of the United States, and that it was only claimed as a result from the clause to which I have referred. The court were of opinion that the clause in question related solely to the ships-of-war and their armament belonging to the navy of Texas; that the resolutions of annexation did not refer to persons holding public employment in Texas, or to any provision for that class of persons, and that while the phraseology was appropriate for transferring to the United States the military and naval property of Texas, it was exceedingly unfit to embrace public officers.

It has been judicially decided, then, that the resolutions of annexation did not transfer the naval officers of Texas into the Navy of the United States. Upon what pretense, then, can this proposition be urged? It would be doing the grossest injustice to the officers of our Navy who have served the country faithfully and gallantly. I suppose that the measure, if successful, would result in the giving of back pay to the gentlemen whom it is proposed thus surreptitiously to introduce into our Navy. Sir, I declare to you that I shall look upon it as a great outrage upon our Navy, if this thing be done, while it will be utterly without any reason.

Mr. WALKER. I concur with the Senator from Maryland, that if we can be deemed to rest under any obligation to attach the officers of the Texan navy to the Navy of the United States, it must result from the clause in the resolution of annexation to which he has adverted. Now, sir, I suppose that clause in the resolution of annexation has been complied with upon the part of Texas; but do we find anything in the action of Texas which amounts to the cession of these gentlemen to us as a part of the official corps constituting the Navy of the United States? The resolution of annexation provided that Texas should cede to us her navy, her dock-yards, and all that is pertinent of that kind, to our Navy; and hence it is adduced that as we acquired her navy, we therefore acquired the men constituting the navy of Texas, and that they have a right under that clause in the resolution of annexation, to claim a position in the Navy of the United States. That resolution imposed a duty upon Texas. Texas was to be the active party in this matter. Texas was the party to make the cession of whatever that clause in the resolution of annexation required to be done. Now I suppose she has complied with the terms of the resolution of annexation. She has ceded to the United States whatever that clause of the resolution of annexation required her to cede. But did Texas ever think she was required by that clause to cede her officers to the United States? I believe not. Did the United States ever demand of her that she should cede these officers to the United States, in a manner to make them a part of the naval establishment of the United States? I presume nobody ever heard of that. Yet gentlemen say that under that clause of the resolution of annexation, these gentlemen equitably become attached to the Navy of the United States. This is claimed by a gentleman with whom I almost always sympathize. But we do not appear to sympathize on this subject.

Mr. DODGE, of Iowa. I think the Senator totally misapprehends me. I did not say that the resolutions of annexation did so apply; I said that they ought to apply in that manner.

Mr. WALKER. Upon that ground I cannot, for my life, sympathize with the views of the gentleman from Iowa. Why ought it to have been applied in that way, that they should be attached to the Navy of the United States? Suppose it should become a part of the policy of the United States to annex other countries to this; suppose the Central American States at some day be annexed, and should have navy-yards to cede; and suppose Canada should have an independent navy, and should be annexed, would it not be deemed most strange that in admitting to our embrace these various countries, we should be required also to bring in their navy-yards; and not only their armaments in the way of guns and ships, &c., but should be required to admit also their whole official corps into our naval service? It seems to me my friend from Iowa is mistaken. I cannot conceive why we ought to have received these officers of the Texan navy. And if it should have been done in their case, why should it not be done in every case which may occur? What kind of a naval establishment should we have after a time, if such a practice were adopted? Why, we should have officers from every country which might be annexed to the United States attached to our naval establishment.

Mr. DOWNS. It may be true, as the honorable Senators from Maryland and Wisconsin have alleged, that it is not expressly "nominated in the bond" that these officers should be admitted into the Navy of the United States. I do not understand that to be the question; for if it was,

there would be no necessity on the part of Congress to act in putting them into the Navy. But the question is, whether by a fair and liberal and magnanimous construction of the treaty, it was not to be expected, that when the navy was transferred, the officers would also come into the Navy of the United States. That is the question, and not whether there was any stipulation in the treaty authorizing them to come in without any action of Congress. I have never had any doubt on that subject. In the hurry of forming the treaty, and when, perhaps, these officers were fighting the battles of their country, there was no action which formally put them into our Navy. But, there is no doubt in my mind, that upon a fair construction of the treaty they ought to be received into the Navy. Why should the officers of our Navy complain? Have they any right to complain? I contend that they have not. We do not displace them in order to bring in the officers of the Texan navy, but we increase the number of the officers by permitting the Texan officers to come in. We do not interfere with the officers already in the navy. I ask gentlemen who take the ground that it would be unjust to admit these officers into our Navy, to tell us what harm can be done, so long as the present officers maintain their relative rank? The proposition is not to admit others to be placed above those now in the Navy, but simply to increase the number.

I cannot see anything so monstrous in this proposition. The Senator from Wisconsin supposes we may wish to annex other countries, and admit their navies, and asks if we will admit the officers of those navies on an equality with ours. I see no very good reason why, if we annex other countries, we should not receive their navies and the officers of their navies along with them. If it becomes advisable to annex any country, I do not see why we should not annex its navy and its officers. But if there would be any objection to admitting the officers of a navy of a foreign country after annexation, it does not follow that there would be any objection to admitting these officers. They are Americans, and some of them have been officers in our Navy. Therefore, I do not think the question is fairly presented when it is put on the ground of an equitable claim which these gallant officers have on the United States. The admission of these officers will do no injustice to other officers, because the number is so increased as not to displace them. It is not fair, in my opinion, to exclude them. Do you suppose that the Texan authorities, in making the treaty, if they had supposed that their own naval officers would have been thrown aside, and no notice taken of them, would have acceded to it? This amendment comes recommended by the Naval Committee, who approve of the measure, and they cannot be accused of being unfavorable to the officers of the Navy of the United States.

Mr. RUSK. I do not design to detain the Senate. I simply desire to read the preamble of a resolution which was introduced into the Legislature of Texas, and passed both the House and Senate. It is in these words:

"Whereas, there were connected with the great measure of annexation to the Confederacy of which we are now a member, various reciprocal rights and conditions, prescribed by the terms thereof, as well as others clearly implied and fairly deducible from the same, all of which Texas has on her part fully and completely redeemed; and whereas, it is the opinion of this Legislature, that the officers of our late navy, by a liberal and just, if not by a strictly legal construction of the terms of annexation, should be incorporated into the Navy of the United States, in their several ranks, and that they are justly entitled to the same, as well from the construction here claimed, as from their high character, personal and professional, and the zeal, fidelity, patriotism, and valor, with which they sustained the cause of their country while its Navy was in existence; therefore resolved," &c.

Mr. President, I wish, as I have said before, that the time of the Senate authorized me to occupy a very few moments in answering the arguments which have been made. In the first place, we have been told that the navy means nothing more than ships. Now, sir, the universal opinion of mankind is, that a navy means not only the ships, naval armaments, and guns, but the officers also. When we speak of the Navy of Great Britain, we speak of the ships, and of the men. When we speak of the Navy of the United States, we mean all the officers and all those who are attached to it. A great argument has been raised by the honorable Senators from Maryland and Wisconsin, on the ground that we could not cede the officers, and that if we comply with the resolution of annexation, we must cede the officers. Does not one country cede a portion of its territory to another, and does not every citizen upon that territory go along with the territory that is thus ceded, and come under the jurisdiction of the country to which it is ceded? These are the sort of arguments that have been used. It might as well be said that when you cede one portion of the country to another, you do not cede the inhabitants that belong to it. But we are getting to the close of the session, and I do not intend to occupy the time of the Senate. Texas thinks she is entitled to have her officers incorporated into the Navy of the United States; but I do not intend to debate the subject further now. I want a vote.

Mr. GWIN. It is now two o'clock, and we must lose our amendments unless we vote upon the bill soon.

Mr. BAYARD. I beg leave, without arguing the question at all, to reply in part to the argument of the Senator from Louisiana, [Mr. DOWNS,] who basis his claim that these officers shall be admitted into the Navy of the United States, on the ground of what he calls a magnanimous construction of the resolution of annexation, and to say that, I know there is no legal construction, no rational construction of the language of the treaty between Texas and the United States which will allow the admission of these officers into the Navy of the United States. I will read the language contained in the decision of the Supreme Court on that point; for there were two points on which they confirm the decision of the court below. The Senate will understand that the question came up from the court in the District of Columbia on a mandamus, which the court refused, and pointed out the questions of law on which it was rejected. These points came before the Supreme Court, and both were decided adversely to the claim of the Texan officers. I will read the decision given in relation to that point which we are now considering:

"Mr. Justice Nelson delivered the opinion of the court:

"This is a writ of error to the circuit court held in and for the District of Columbia.

"The plaintiff made application to the court below for a mandamus against the defendant, to compel the payment of $2,100 arrearages of pay due him from the Government as a commander in the Navy of the United States, which application was founded on the following facts:

"The plaintiff was appointed a commander in the navy of the Republic of Texas on the 23d of September, 1844, and continued in the service down to the annexation of the Republic to the United States, in pursuance of the joint resolutions of Congress, March 1, 1845, and until Texas was admitted into the Union as one of the States of the Confederacy, and was in the actual service of that Republic at the time when its navy, consisting of four vessels of war, was delivered over to the authorities of the United States, according to the terms of annexation.

"The plaintiff insists that, according to the terms and condition of the compact between the two countries, on the transfer of the navy of Texas to the United States, and their acceptance of the same, he became an officer of the United States Navy, and entitled to his pay and emoluments as such.

"He further states that he had reported himself to the Secretary for duty, and had demanded his pay of the same, but that the Secretary had refused to recognize him as an officer of the Navy, or to make any payment to him as such.

"The court below refused the mandamus, and dismissed the application.

"The case is now before us for review.

"It is not pretended that there has been any stipulation, either by act of Congress, or by treaty, between this Government and Texas by which the officers of her navy were to become incorporated into the Navy of the United States, as a consequence of the annexation; but it is supposed to result from a proper construction and understanding of one of the stipulations contained in the second joint resolution of March 1, 1845. The part material is as follows:

"'Said State, [Texas,] when admitted into the Union, 'after ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-'yards, docks, magazines, arms, armaments, and all other 'property and means pertaining to the public defense of 'Texas, shall retain all the public lands,' &c. (5 Statutes at Large, p. 797.)

"The argument is that the term 'navy' properly includes, not only the vessels of war, their armaments, and equipments, but also the usual complement of officers and crew on board the respective vessels; and that it is in this sense the term is used and should be understood in the joint resolutions.

"We think not, but, on the contrary, are of opinion that it relates exclusively to the ships-of-war and other armaments belonging to the naval establishment of Texas, which, according to the compact, were to become the property of the United States.

"The two Governments were not negotiating about persons holding public employments in Texas, or in respect to any place or provision for that class, on the breaking up of the old government and its reconstruction for admission into the Union, but in respect to her public property, which she was generally disabled from holding, under the Constitution of the United States, after her admission, as it fell under the jurisdiction and direction of the Federal Government.

"The resolution provides for ceding to the United States all public edifices, fortifications, barracks, ports and harbors, navy and navy-yards, docks, magazines, &c., and all other property and means pertaining to the public defense.

"The phraseology is appropriate for the purpose of conveying the property of the one Government to the other, but exceedingly inapt and unfortunate if intended to embrace the persons of public officers, as contended for by the plaintiff.

"The argument in favor of including the officers of the Navy of Texas in the transfer of the ships might be urged with equal force by the officers and hands in charge of the navy-yards, or of those at the time in charge of the fortifications; for the term 'navy,' in the connection in which it is used, no more includes, *ex vi termini*, the officers and crew on board, than the term 'navy-yard' includes the officers and hands in charge of that part of the public property, or the term 'fortifications' includes the officers and soldiers of the Republic engaged in manning them.

"The construction contended for we think altogether inadmissible, and properly rejected by the court below."

I will add not one word more than to say, that, in my opinion, the point was correctly decided.

Mr. PEARCE. Mr. President——

Mr. GWIN. Will the Senator from Maryland allow me to make an appeal to the honorable Senator from Texas to withdraw this amendment? If he will do so, as I am on the Committee on Naval Affairs, I will bring the subject, if I have power, and I am sure I can do it, before the body early in the next session, so that it can be fully discussed. There is no possibility, even if it passes the Senate now, that it can pass the House of Representatives, and become a law, at this session. They will strike it out if it is put into the bill now, and I hope the Senator will consent to withdraw it, and have it brought up in a separate bill at the next session, so that it may be fairly discussed.

Mr. RUSK. I do not think that the Senator from California should, under the circumstances, ask me to withdraw it. Let us vote. I stood by him, although the proposition that he favored created debate, and was not more important than this. I only ask for a vote.

Mr. PEARCE. I cannot be deterred from continuing the discussion of this question by the consideration that it may possibly or probably defeat this bill. Sir, I am in favor of discussing it until it shall be fairly understood—until every member of the Senate shall be acquainted with the character of the claim set up for the officers of the late Texan navy, and the grounds upon which it is placed. If any responsibility rests upon any one, let it fall upon those who introduced a measure of this kind at this late period of the session, and as an amendment to an appropriation bill. We must not have legislation like this forced upon us without discussion, because we are told that it is too late to discuss such topics, and that discussion may defeat the bill. The Senator from Louisiana [Mr. DOWNS] admitted that no express provision for receiving the officers of the late Texan navy into the Navy of the United States was to be found in the resolution of annexation; no such thing was nominated in the bond; neither, as I contend, is it to be in any manner implied from the language or spirit of the resolutions. But the Senator says it is to be inferred by a fair, liberal, and "magnanimous construction." I do not know any such thing as a magnanimous construction. A construction may be strict or latitudinous, reasonable or unreasonable. If a construction is not reasonable, then it may be very magnanimous as conceding something not granted and which there is no reason for granting. I have asked in vain for the principle upon which it is proposed to give a magnanimous cunstruction to the language of those resolutions which will transfer the officers of the Navy of the late Republic of Texas to that of the United States, and I have heard none stated.

The Senator says the resolutions of annexation were passed in a hurry. The Senator is mistaken with regard to that. The resolutions were passed after a long discussion. The treaty was debated during long weeks of the warm weather in the session of 1844, on the resolutions of annexation. It was resumed in the winter of 1844 and 1845. A very great degree of deliberation was exercised upon the subject, and the greatest care was employed in framing the resolutions. They required to be delicately dealt with to be passed at all; and they were passed by only one vote, I believe. This thing was not, therefore, overlooked in the hurry.

Indeed, it was never dreamed of; nobody ever supposing that in consequence of the annexation of Texas we were to have the officers of the Texas navy thrust into our own corps.

Now, what are we called upon to do? First, however, let me say that these officers were not, as the Senator from Louisiana supposes, gallantly fighting the battles of their country at the time of annexation. A resolution of the Legislature of Texas had been adopted in 1840, directing that her ships should be laid up in ordinary. Practically, her navy had been abandoned at the time of the passage of the resolutions of annexation.

Now, what is it we propose to do? Practically to put a body of men into commission as officers of the Navy of the United States, not in a manner acknowledged by the Constitution, not by the nomination of the President, and by the advice and consent of the Senate, but by a legislative act perverting the Constitution and taking away from the President his principal executive and constitutional authority. Sir, this is most extraordinary, as it seems to me, and I should be glad to hear some of the able lawyers and judges on this floor explain this matter at large. To me it is as clear as a ray of light, that what we are about to do is not only wrong in its policy, and in violation of the principles of justice towards the officers of our Navy, but it is unconstitutional. And all this we are about to do without discussion, because it is the last day of the session, and we have not time to discuss it. Sir, I will not purposely delay the Senate, or consume the time by speaking against time; but I hope every Senator will express his opinion fully upon the subject. If nobody proposes to consider it further, I shall, before the vote is taken, claim the privilege of saying anything else which may occur to me upon the subject.

Mr. MILLER. I wish to call the attention of the Senate to one or two facts to show the great injustice of this measure, if it be adopted, to the officers of our Navy. I have examined the Navy Register for 1839, and I find that Commodore Moore, then a lieutenant, stood next to Lieutenant Sinclair. If he had remained in the Navy of the United States from that time till this, he would now stand number thirty-nine of the lieutenants, and next to Lieutenant Sinclair. If this bill be passed, and he is placed upon our Navy list according to the grade of a commission which he held in the Texan Navy at the time of the annexation of Texas, he will be placed over the heads of forty-five lieutenants, ninety-seven commanders, and seventeen post-captains. If he had remained in the Navy of the United States, and performed his duty as the other officers have performed theirs, he would be still a lieutenant. But by this amendment it is proposed to place him over the heads of gallant officers in our Navy who were above him at the time he left our service. It seems to me that this result should make us hesitate. We know that promotions in the Navy of the United States are slow; and men who have remained in the Navy, and spent their lives in its service, have had to submit to the slow chances of promotion. If an officer once in our Navy thinks proper to abandon the service and go into the service of a foreign country under the hope of a more rapid promotion, or for any other object, it would be the grossest injustice to permit him to return again and take rank over those officers who have remained during that time in the service of the United States. The Senate, I trust, is not prepared to do an act of such injustice to the United States Navy.

Mr. MASON. With all possible respect to the opinion of gentlemen who advocate this measure, it does seem to me it is one of the most extraordinary propositions ever brought before the Senate. Sir, Texas was annexed to this Union by an act of ordinary legislation, and we are told that by an act of ordinary legislation we can bring amongst the officers of our own Government a body of men belonging to Texas at the time. How can these gentlemen be brought into the Navy without a nomination by the President of the United States, and a confirmation by the Senate? If there were no other objection, it seems to me that would be a paramount one.

Mr. RUSK. That must be done; they can be brought in in no other way.

Mr. MASON. I do not know the terms of the amendment, but I do not see how the ingenuity of man can invent a mode by which we can take them into our Navy without a nomination by the President, and a confirmation by the Senate.

Mr. RUSK. Nobody proposes it.

Mr. MASON. How can it be done otherwise?

Mr. RUSK. They must be nominated by the President—they cannot be admitted otherwise.

Mr. MASON. Then we want no legislation on our part. The President is the sole depositary of that power, and if he can nominate them to the Senate, let him do so. It requires no legislation of ours to bring these officers in. But, as the Senator from New Jersey has said, it would be an act of the grossest injustice to bring them into our Navy as is proposed. I cannot agree that they are entitled to admission into our Navy by a true and proper construction of the articles of annexation. They have my respect, especially one of them, the only one I know. He is a gentleman for whom I entertain the very highest respect. I know him personally; but nothing can lead me to do what I believe wrong in itself, and especially an act of injustice to a body of our naval officers.

Mr. MALLORY. In reply to the remark of the Senator from Delaware, referring to the case before the Supreme Court, if my recollection serves me—though I have not examined the case for some time—it was the case of Brashear against the Secretary of the Navy, applying for a mandamus to compel the Secretary of the Navy to pay him his compensation as an officer of the Navy. The Supreme Court's decision was based upon the fact that the money from the Navy Department is paid only upon a regular appropriation, and cannot be paid out. No mandamus can go to compel it to be paid out unless there is an appropriation.

So much for the legal question; now as to the injustice which the American officers will sustain in this matter. What right have American officers to complain, if the Government of the country, in the annexation of a Republic like Texas, chooses to stipulate, legally or equitably, that the officers of the Texan navy shall come into our Navy? What right has any officer of the American Navy to set up his interest or preferences against those of his country? None whatever. The argument is not worth answering. If these men come into the Navy, they come in on the ground of right, and not as a matter of courtesy. If this is placed on the ground of courtesy, I shall vote against it. Upon no condition of courtesy should these officers be allowed to come in. It is only upon the ground of right that their claim should be sustained. No courtesy should be admitted here.

Mr. FISH. I would inquire of the Senator from Florida whether he considers it a matter of right to bring into our Navy an officer who stood as a lieutenant at the time he left the Navy, and place him over the heads of one hundred and seventy-three officers who were above him at the time he left?

Mr. MALLORY. As to this matter of right, you will all recollect that the first attempt to bring Texas into our Union, was by treaty stipulation. That treaty stipulation contained an express provision for bringing in these officers, and excluding the executive officers—the Texas President, Vice President, and heads of Departments were excluded. Then this provision for bringing in these officers, and excluding other officers, is the starting point. Has the condition of Texas in any way changed so that she could alter her determination to bring in those officers? Were not the officers occupying the same position when the joint resolution of annexation was passed as when the treaty was proposed? And was not the obligation of Texas as great to bring them in when the resolution was framed as by the treaty? Neither the condition of Texas, nor our condition, had altered. When the resolution was agreed to, why did not Texas include her officers? Simply because there were so many details to be negotiated in other important matters, that they laid it aside, and trusted to the liberality and justice of the Government.

DEFICIENCY BILL.

Mr. HUNTER. I desire to make a report from the Committee of Conference on the deficiency bill. I will state that it is the same report that we had last night, with three exceptions. One is that we retain, instead of lose, the appropriation in regard to the custom-house at San Francisco. The second is, we retain instead of lose the appropriation for surveyors in Iowa. The third is, we lose instead of retain the assay office; and one word as to that. The assay office was recommended in the general report of the Secretary of the Treasury, saying that the sum appropriated for the purpose was not sufficient to put up the Mint. The Committee of Conference had a letter to-day from the Secretary of the Treasury, in which he stated that the sum was sufficient. Of course, if the Mint is put up, it will be useless to establish an assay office. The Senate committee therefore gave way upon that.

Mr. BADGER. I tender my hearty thanks to the managers of the conference on the part of the Senate, and congratulate the Senate upon the result of their labors.

The report of the managers of the conference was read as follows:

That they have met, and after full and free conference, have agreed to recommend, and do recommend to the respective Houses, as follows:

That the House of Representatives do recede from its disagreement to the 4th and 8th amendments of the Senate; that the Senate recede from its 9th amendment; that the Senate concur in the amendments of the House of Representatives to the 3d, 5th, 11th, and 14th amendments of the Senate; that the House recede from its disagreement to the provision contained in the 24th line of the 10th amendment of the Senate, and that the Senate concur in the other and additional amendments of the House to the said 10th amendment of the Senate; that the Senate recede from the 1st, 2d, 5th, and 8th clauses of its 13th amendment; that the House recede from its disagreement to the 13th, 20th, and 22d clauses to the 13th amendment of the Senate; that the Senate concur in the amendments of the House to the 6th and 23d clauses of its 13th amendment; that the Senate agree to the House amendment to the 12th clause of its 13th amendment, with an amendment as follows: In line 25, of page 3, strike out the word "as" and insert "which;" that the Senate agree to the House amendment to the 16th clause of its 13th amendment, with an amendment as follows: Strike out the 2d clause of the said amendment contained in lines from 7 to 18, inclusive; that the Senate recede from so much of its 15th amendment as is contained in the 8th section; that the Senate recede from so much of its 15th amendment as is contained in the 6th section, and substitute the following:

SEC. 6. *And be it further enacted*, That the time for receiving bids, under the act of 3d of July, 1852, for the erection of a Mint in California, be extended to the 1st of April, 1853, and that the sum of $300,000, appropriated by said act, or so much thereof as may be necessary, shall be applied only to the erection and putting in operation a Mint in California, and not to the purchase of any building for that purpose.

That the Senate concur in the House amendment of so much of the 15th amendment of the Senate as is contained in the 4th section; that the Senate concur in the House amendment of so much of the 15th amendment of the Senate as is contained in the 7th section, with the following amendments: After the word "thereof," in line 3 of House amendment, insert the words "or at any assay office of the United States." Strike out the proviso in lines 8, 9, and 10 of said House amendment, and after the word "fineness," at the end of said House amendment, add the words, "And the said act, entitled 'An act amendatory of existing 'laws relative to the half dollar, quarter dollar, dime, and 'half dime,' shall take effect and be in full force from and 'after the 1st day of April, 1853, anything to the contrary 'notwithstanding."

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that the House of Representatives had agreed to some of the amendments of the Senate to the House bill No. 364, being a bill to establish certain post routes, and had disagreed to others, and agreed to others with amendments. The House insists upon its first, third, and sixth amendment to House bill No. 350, and agreed to the conference asked by the Senate on the disagreeing votes, and have appointed Mr. G. W. JONES, Mr. HAVEN, and Mr. FITCH, a committee on the part of the House.

The House of Representatives have passed Senate bill No. 612, being a bill to incorporate the Georgetown and Catoctin Railroad Company, and Senate bill No. 547, with amendments.

POST ROUTES.

Mr. RUSK. I ask the unanimous consent of the Senate to consider the amendments of the House to the post route bill. The House have agreed to the amendment of the Senate establishing new post routes, with an amendment inserting a new route. The House agree to the 6th, 7th, and 8th Senate amendments, and have agreed to the 2d amendment with an amendment. The House disagree to the 4th and 5th amendments of the Senate. I move that the Senate agree to all except the last, and insist on its 4th and 5th amendments.

The motion was agreed to.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending 30th June, 1854.

Mr. MALLORY. It has been said on the other side that these officers were not included in the Texas navy. I think my friend from Maryland took the position that they were not in the Texas navy. The best authority on that subject, I think, is the State of Texas herself. We are not to set up our judgment in contradistinction to hers, if she alleges that they were in the navy. What she says is final as to that point. The evidence of Texas as to that is, that they were in the navy, and were of high character, personally and professionally. I find that in the report of the committee to which this subject was referred, it is stated as follows:

"She has, in her sovereign capacity, and in the solemn form of joint resolutions, declared not only that she had naval officers of '*high character, personal and professional*,' but that from the '*zeal, fidelity, patriotism, and valor with which they sustained the cause of their country*,' and from '*reciprocal rights and conditions clearly implied and fairly deducible from*' the resolutions of annexation, and from '*a liberal and just construction*' thereof, these officers should be incorporated into the Navy of the United States."

Texas was a party to the contract, and she has as much right to construe these resolutions as this Government, and she has construed them so as to include these officers; and this construction is borne out by the fact that they were included in the original treaty, and by the fact that Texas was urged to go into the matter of annexation without delay.

Mr. ADAMS. I am favorable to the proposition, or something like the proposition submitted by the Senator from Texas; but I have voted against all amendments to this bill at this time. I shall do so again. I shall vote with those who oppose this amendment, if they will suffer us to have a vote upon it. If they go on discussing it, I shall vote according to my judgment.

Mr. BADGER. The remark of the honorable Senator from Mississippi is an additional reason why I should say a few words on this subject, because nothing would pain me more than to see him placed in circumstances where he would have to vote against his judgment. He, as I understand, will pursue the bent of his judgment if we debate the subject further, and will not if we do not, and therefore I must say a few words.

As was said by my friend from Maryland, this is a most important measure, brought in at a late period of the session upon a bill into which I thought it should not have been introduced. Though I will not, as he said, expend time for the purpose of defeating this measure, I will not certainly be deterred by any consideration of the lateness of the hour from saying as briefly as I can what I think is proper upon its merits.

The Senator from Florida agrees that this is not to be considered as a matter of courtesy. He avers that he would not vote for it upon principles of courtesy. He votes for it because it is a claim of right. Let us consider that one moment, in connection with the argument that he offered upon the subject. The resolution of annexation contains not one word, in the connection in which it stands, that by any fair interpretation can include the officers of the navy. The word "navy" is mixed up with subjects of property, fortifications, forts, navy-yards, and other property and means of public defense, and the governing word in the sentence is "ceding," which by no propriety or impropriety of language, by no interpretation, strict, just, liberal or illiberal, reasonable or unreasonable, or magnanimous, can be understood to apply to a cession of officers. A cession of officers! Why, it would be extravagant enough to say that they were ceded in the character of slaves. Will we degrade them so much as to say that Texas so treated them? No, sir. There is not one word in the joint resolution which even looks to such an interpretation as that proposed by the amendment. But the Senator says, for the purpose of showing that they nevertheless have this right, that it was first proposed to introduce them by treaty, and that in that treaty it was expressly provided that the officers of the Texan navy should be incorporated into ours. Now, let us see what his argument is worth to a legal mind or to a reasoning mind. In the treaty the word "officers" was inserted. In the joint resolution it was left out. Therefore, he says, the joint resolution is to be interpreted as if it had been kept in. This is the argument.

Now, sir, is not the conclusion to be deduced exactly the contrary? The subject was considered in the treaty. The treaty proposed the incorporation of the officers. The treaty was rejected and a joint resolution was prepared; and if they meant the same thing, why was the word "officers" left out? It is obvious they did not mean the same thing; and the word "officers" was left out because it was intended that the "officers" should be left out. That is clearly and undoubtedly true. The Senator says there were many details in the treaty that were not suitable to a joint resolution. What details did it require? It was only necessary, if that was the meaning, to add one word, "the navy and the officers thereof," in the joint resolution. Therefore, the subject having been expressly under consideration in the treaty, the very question of admitting the officers having been considered and discussed, the treaty proposing to admit them having been rejected, what follows? Why, that the joint resolution, being brought up with that word left out, it was because it was not intended to introduce the officers into our Navy. That, independently of the decision, the unanimous decision of the Supreme Court of the United States, makes it clear that no such thing was intended by the joint resolution, as the incorporation of these officers into our Navy.

The Senator says that there is another reason; that Texas, by the joint resolution which she sent us, has declared that she meant that these officers should be received, and that she was a party to the joint resolution. Suppose she was; does that authorize her to interpret the joint resolution? Not at all. Texas and we agreed upon the subject, and our mutual agreement fixed upon a joint resolution, and our mutual agreement carried the resolution into effect originally. It is a new idea that the judgment of one of the parties determines the construction of a compact.

Again, sir: who were the persons in Texas when this joint resolution was adopted? If there was any understanding to be gathered with regard to the meaning, independently of the interpretation to be put upon the face of the instrument, we must have—what? Not the Legislature of Texas now to tell us what was meant by the members of the Legislature or the members of the convention, or the public authorities of Texas which gave their assent to the joint resolution, and understood what meaning they put upon it. We must have what the resolutions say themselves. Then, sir, as I apprehend, the case stands clear. The Senator admits that it cannot be properly claimed on the ground of courtesy; and it has been demonstrated, and is demonstrable, that it cannot be put upon the ground of right. If, therefore, the claim cannot be put upon the ground of courtesy, nor upon the ground of right, it cannot be admitted at all.

But, the honorable Senator from Texas, [Mr. HOUSTON,] who looks as far ahead as any man living, has maintained a profound silence on this matter; and I should not be at all surprised, if the consequences of this act, if they should be carried to their full extent, were revolving in his mind. Why may it not be maintained that a construction which would place the officers of the Texan navy in the Navy of the United States, would place the President of Texas in the Presidency of the United States? She cedes everything, her government, and everything she had as a means of defense. Now, I understand the President of Texas was the commander-in-chief of these officers of the army and navy, and if the officers were considered as belonging to the means of defense, I ask you if the commander-in-chief of the officers of both arms of the public service did not emphatically and preëminently constitute the chief means of defense? Surely he did. And how do we know but that at another session of Congress an application similar to this may be made—and permit me to say, I should receive it with a far greater disposition to accord my assent to it—to make my honorable friend from Texas, President of the United States under the joint resolution of annexation? [Laughter.]

Now, sir, what is the argument? It has been said that one of these officers left the service of the United States; that it is a hard case: that he is now to be restored with a greatly advanced rank, to be put above all the persons who were in the same grade as himself at the time he left; above the commanders in the Navy of the next grade above him when he left; that he is to take precedence in rank above seventeen post captains in the service. How did he gain this rank? By leaving the service of his own country and going into the service of a foreign State. Sir, I would never give my sanction to such a proposition that any man can gain priority by serving a foreign State above those officers who have discharged the duties they owe to their own country. We all know the course of promotion is slow in our Navy. Because Texas was a new and rising Republic, and because there was a chance for more rapid promotion in her service, this officer left our service and entered that of Texas. He gained all that he went for. He left our service to gain promotion, and he gained it. Has he a right now to come back into the service of his own country and take the same position here which he had gained in another? And is it right for that purpose to offer a gratuitous indignity to one hundred and forty officers of the United States who have served us faithfully, and by the gallant exploits of some of whom a luster and renown has been shed upon the Navy, which entitles them to the highest consideration rather than the grossest indignity?

Mr. PEARCE. The Senator from Florida is mistaken in supposing I had stated that Texas had by law abandoned her navy. What I did say was, that Texas had, prior to annexation, and but a short time prior, passed an act directing that her ships should be laid up in ordinary, and that her policy seemed to be to abandon her navy altogether. I did not say that these men had been legislated out of office. But it is entirely immaterial to my argument whether that was so or not. I doubt very much, from the evidence I have, that they were so far regarded as officers in the service as to be receiving pay.

Now, I understand that on the 19th of July, 1843, the then President of Texas, now a Senator from that State in this body, [Mr. HOUSTON,] dismissed one officer, Commodore Moore, who will receive the benefit of this measure, from the naval service of Texas. I should be glad to learn from the Senator from Texas whether that is the fact?

Mr. HOUSTON. That was the understanding of the Executive, sir. [Laughter.]

Mr. PEARCE. Then I am not mistaken with regard to that fact, and I take it, that it is from his assiduous and persevering application, more than from any other thing, that this measure is now brought before us. That officer, who was, as I now understand from the honorable Senator from Texas, dismissed from the navy of Texas in 1843, is by that amendment to be put into the Navy of the United States, over the heads of forty lieutenants, ninety commanders, and seventeen post captains, all outranking him at the time he left the service of the United States. This I consider as a gross outrage upon the naval service.

Mr. HALE. My recollection is that the resolution only includes those officers who belonged rightfully to the Texas navy. If Commodore Moore was expelled from the navy of Texas, or lawfully put out, the amendment does not affect him in any way; and therefore, so far as the argument relates to him, it amounts to nothing. I will occupy the attention of the Senate but a very few moments; and as I intend to give a vote upon this subject different from what many of my friends expect, I wish very briefly to give the reasons. In the first place, the arguments of my friends from Maryland and North Carolina, who object that this is not the proper time, do not weigh with me one atom. They talked as if the officers of the Navy owned the Navy; as if the officers had a title to the Navy, and that we, in carrying out our views of public duty and of what Government requires, shall infringe upon their rights. I know that that sort of feeling lies deep in the human heart. It was illustrated more than eighteen centuries ago, when it was said that a certain man went into the market place to hire laborers, and employed some at the third hour of the day, and so on, at different times of the day, till the eleventh hour. When he came to settle with them at night, he paid them all alike, and put those who had went to work last on an equality with those who had worked all day, and borne the burden and heat of it, paying those last who were employed first. When the others came up to be paid, they thought they should receive more, and complained because

the good man had paid the last as much as he had agreed to pay the first. They found fault with the liberality of him who dispensed the reward. I think the complaint made by those men in that case is as well founded as it would be on the part of the officers of the Navy to complain of the adoption of the proposed amendment. There they are, in the Navy, and they will be there. If Commodore Moore had been turned out of the navy of Texas, this proposition will not put him into ours. It only puts in those who belonged to the Texas navy.

Sir, I voted and acted as strenuously against the annexation of Texas as any man in the United States. I sacrificed my position in the party with which I was associated. I lost my place in the House of Representatives, and went into private life, on account of the opposition I exerted against that measure. I believed then, and I believe now, that it was a palpable violation of the Constitution; but it was done, and the act has been acquiesced in; and since it is acquiesced in, it is idle to contend against it. If it has been acquiesced in by all the Departments of the Government, I want to do justice to these officers of the Navy. It seems to me that the objection comes with an ill grace from those who voted to add to the Navy so many new officers as was done by the bill to reorganize the Navy. Did that do any injury to the present officers of the Navy? They have voted, upon this appropriation bill, to foist upon the Navy a body of officers; they have voted for a measure which, in my judgment, increases the officers of the Navy more than fifty per cent., and have done that upon an appropriation bill for the support of the Navy; and now, when it is proposed to put the remnant of that little gallant band who fought the battles of Texas into our Navy, when they are dwindled down till there is but a handful of them left: when it is proposed to give them the slow and tardy justice for which they have been waiting for something like ten years, it is objected that it is not the proper time. Sir, when will the proper time come? They have been here year after year urging their case. The Legislature of Texas has been petitioning, and they have been put off because the proper time had not come. There is no time like the present. If we neglect this opportunity, I know not when we shall ever get another.

I have endeavored to give the reasons which commend this measure to my judgment, and which will govern me in the vote that I shall give on this question, in order to carry out in good faith, as I believe, our obligation to incorporate these officers of the Texan navy into our own. I have said that I was no advocate for the annexation of Texas; that I opposed it as long as opposition would avail or promised to be of any use; but when it all failed, I am not going to stand up to make opposition to what appears to be an act of justice, even if it is to be done to that poor remnant of the navy of Texas.

The question was then taken, with the following result—yeas 20, nays 32:

YEAS—Messrs. Bradbury, Brodhead, Cass, Dodge of Wisconsin, Dodge of Iowa, Douglas, Downs, Hale, Houston, James, Jones of Iowa, Jones of Tennessee, Mallory, Morton, Norris, Pettit, Rusk, Sebastian, Soulé, and Weller—20.

NAYS—Messrs. Adams, Atchison, Badger, Bayard, Borland, Bright, Chase, Clarke, Cooper, Davis, Dawson, De Saussure, Felch, Fish, Fitzpatrick, Foot, Geyer, Gwin, Hamlin, Hunter, Mason, Miller, Pearce, Phelps, Pratt, Shields, Smith, Spruance, Sumner, Underwood, and Walker—32.

So the amendment was rejected.

Mr. FISH. I offer the following amendment, under the direction of the Committee on Naval Affairs:

For the purpose of paying the lien existing on land recently purchased as an addition to the navy-yard at Brooklyn, $12,247 05, to be paid by the Secretary of the Navy, if upon examination he shall find the same to be due as the lien on the purchase aforesaid; and the Secretary of the Navy is hereby empowered and directed to sell and convey to any purchaser, all that part of the navy-yard land at Brooklyn, between the east side of Vanderbilt avenue and the Hospital, containing about twenty and a half acres, extending from Vanderbilt to Clinton avenue: *Provided*, That said land shall not be sold at a less price than it cost the Government, including with the cost the necessary charges: *And provided further*, That prior to the sale of said lands, exclusive jurisdiction shall be ceded to the United States, of all the remaining lands connected with said navy-yard belonging to the United States.

This is in pursuance of an estimate from the Department, and a recommendation from the bureau.

The amendment was agreed to.

Mr. FISH. I have another amendment to offer, under direction of the same committee:

And be it further enacted, That the appropriation of $20,000 in the "act making appropriation for the improvement of certain harbors and rivers," approved 30th August, 1852, for the improvement of the harbor of New York, be understood to include the payment of the account for moneys expended in testing the efficacy of Maillefert's plan in removing rocks at Hell Gate and Diamond Reef in East river, and in deepening the water upon said rocks prior to the passage of said act: *Provided*, Said accounts shall be audited by the proper accounting officers of the Treasury, and not to exceed the sum of $14,000; and the further sum of $14,000 is hereby appropriated for the purpose of continuing the improvements aforesaid.

That is an amendment which is offered in pursuance of a recommendation from the Department.

Mr. CHASE. I would inquire if that is not a private claim?

Mr. WALKER. I think it is not only a private claim, but it is one of that character of indefinite claims which will require the most serious investigation of Congress to determine whether they will allow it or not. With that understanding of the matter, I hope the Senate will not adopt it, or else allow similar cases under my consideration to be offered and adopted also.

Mr. HAMLIN. There is another point in connection with this matter to which I invite the attention of the Senate. This is a question distinctly connected with river and harbor improvements. I learned with utter astonishment, that last evening the Senate adopted two amendments reported by the Committee on Naval Affairs, which are now pending before the Committee on Commerce. The honorable Senator from Michigan called my attention particularly to works of a similar character in the western portion of the country. I understand this to be a private claim; I understand it as diverting a fund which has already been created by law for works of internal improvements. It is an amendment which the Naval Committee have had in charge. I think it would be better that it should go to the Judiciary Committee, as a question of legal construction might be raised, and they are better capable of judging whether this is a private claim or a work of internal improvement. It is the diversion of a certain appropriation made last year to a certain purpose, involving the question of internal improvements. It comes from the Naval Committee. I hope the Senate will not adopt it. If I heard it aright when it was read, it makes an additional appropriation of $14,000. I hope the Senate will now look at the amendments which have been made for improvements on the lakes and rivers at the West, and then look at the estimates and appropriations for improvements on the Atlantic coast, and see if they are willing to make a particular appropriation for one locality and leave all the rest unprovided for. I think it would be a glaring injustice to wrest this from those of the same character, and give it the preference over all others.

Mr. FISH. I withdraw the amendment.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, announcing that it concurred in the amendment of the Senate to the joint resolution of the House providing for printing and binding the returns of the Seventh Census; and that it had passed Senate bills Nos. 51, 512, and 622.

NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill making appropriations for the naval service for the year ending June 30, 1854.

Mr. FISH. I offer the following amendment:

And be it further enacted, That the proper accounting officers of the Treasury be, and they are hereby, directed to credit the medical officers of the Navy who, by order of the Department, served in the detachment of marines in Mexico, during the late war with that Republic, in addition to the pay to which they are entitled, and the medical officers of the Navy, respectively, the same allowance for rations and forage, in proportion to time, as is allowed to officers of the Army of similar standing.

It is in precisely the same words of an amendment which passed the Senate unanimously at the last session of Congress, and which failed between the two Houses.

The amendment was agreed to.

Mr. DOWNS. I desire to offer the following amendment:

And be it further enacted, That the President of the United States be, and he is hereby, authorized to select three discreet persons to appraise the building on the corner of F and Seventeenth streets, now occupied as public offices in this city, and that the Secretary of the Treasury be authorized to purchase the same at the appraised value, and pay for the same out of any moneys in the Treasury not otherwise appropriated, upon a valid title being made to the United States for the same.

Mr. GWIN. That is out of order.

Mr. CASS. It has been voted down once.

Mr. DOWNS. Not on this bill.

Mr. GWIN. I rise to a question of order. The amendment comes from no committee; there is no estimate for it—and as it takes money out of the Treasury, it is clearly out of order.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) It is the opinion of the Chair that it is in order. It is not understood that it makes any appropriation.

Mr. GWIN. The building is to be paid for out of any money in the Treasury not otherwise appropriated.

The PRESIDING OFFICER. The Chair, on a further examination of the amendment, finds that it carries with it an appropriation. It is therefore out of order.

Mr. DOWNS. Then I offer it in this form:

And be it further enacted, That the President of the United States be authorized to select three discreet persons to appraise the building on the corner of F and Seventeenth streets in this city, now occupied as public offices by this Government; and that the Secretary of the Treasury be authorized and directed to contract for the purchase of the said building at the appraised value thereof, according to the report of said appraisers.

I have taken up less time than almost any member, upon the appropriation bills, and I will not take up time now, because I do not design to embarrass the bill; but I offer this amendment from a sense of duty. I am the more impressed with the conviction that it ought to be adopted since it was discussed on a former bill. I understand it will be a great saving to the Government to purchase the building, for the rent you will have to pay within four or five years, before you can build one for the use of the Government, will amount to half its cost. I understand that an appropriation for the object was approved by a committee of the House of Representatives. I will not consume the time of the Senate, but I hope we may have a vote.

Mr. PETTIT. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. WELLER. I have only one remark to make, and I make that because the record will show that I vote differently now from what I did the other day. I originally voted for the purchase of the building; I think it ought to be purchased; but after it has been fairly voted down by a majority of the Senate, I do not think it is proper that it should be brought in now, especially upon the Navy bill. I shall therefore vote against it.

Mr. BRADBURY. I think the Senator from California will hardly press that argument which he has addressed to the Senate. Did we not recently vote down the proposition relative to the basin and railway in California; and was not that presented a second time successfully? I think the Senator from Louisiana was authorized by the course taken in that case, to presume that he might offer this amendment with equal propriety.

Mr. WELLER. There is a very essential difference between the two cases. In the former case Senators were permitted to exercise their sober second thought and change their votes. The amendment, therefore, gathered strength. But in this case, so far from the amendment having gathered strength, it has lost all the strength which it originally had. It therefore produces no other effect than to embarrass the bill.

The question being taken by yeas and nays on the amendment, resulted—yeas 14, nays 24; as follows:

YEAS—Messrs. Badger, Bell, Bradbury, Cooper, Dawson, Dodge of Iowa, Downs, Foot, Hamlin, James, Jones of Iowa, Jones of Tennessee, Morton, Pearce, and Smith—14.

NAYS—Messrs. Adams, Bayard, Borland, Cass, Charlton, Chase, Davis, De Saussure, Dodge of Wisconsin, Felch, Fitzpatrick, Geyer, Houston, Mallory, Norris, Pettit, Phelps, Pratt, Shields, Spruance, Sumner, Underwood, Wade, and Weller—24.

So the amendment was rejected.

Mr. BADGER. I have two amendments to offer from the Committee on Naval Affairs, after which I shall trouble the Senate no further on this bill. The one which I now offer is simply for the

purpose of authorizing a reappropriation. A certain sum of money was appropriated for the purpose of defraying the expense of continuing the survey of the coast of the Gulf of Mexico. That money, under the law, has been carried to the surplus fund, not having been expended within a certain time; and when the officers applied for it, although the service had been performed and the money was due, they could not get it, because there was no appropriation to pay them.

The amendment is to insert:

And be it furtheer enacted, That the sum of $1,164 10, being part of the appropriation made for the service of continuing the survey of the coast of the Gulf of Mexico from Appalachicola bay to the Mississippi river, by the act of March 3, 1841, and which has been carried to the surplus fund, be and the same is hereby reappropriated to pay for the services of the officer or officers employed in that survey.

The amendment was agreed to.

Mr. BADGER. I have another amendment to offer, which is my last, and I hope that on that account at least it will be favorably received. It is to direct the proper accounting officers of the Treasury to allow and pay the expenses of certain Navy officers, who have been engaged in a commission of Army and Navy officers on the Pacific coast. It is to add:

And be it further enacted, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and required to allow and pay, out of any money in the Treasury not otherwise appropriated, to any officer or officers of the Navy for expenses incurred by them while serving upon any joint commission or commissions of Army and Navy officers in California and Oregon during the years 1849 and 1850, double the pay of a commander in the Navy in sea-service, during the exact time of their employment on said coast as aforesaid, to wit: from the 1st of April, 1849, to the 27th of November, 1850, deducting therefrom the regular pay accruing to said officers during that period.

Mr. ADAMS. I rise to a question of order. I ask the decision of the Chair on the point whether this amendment does not provide for an unliquidated private claim?

The PRESIDING OFFICER, (Mr. FOOT in the chair.) In the opinion of the Chair the amendment is in order, being a general provision.

The amendment was not agreed to.

Mr. COOPER. I offer the following amendment:

And be it further enacted, That the Secretary of the Navy be, and he is hereby, authorized to purchase so much land adjoining the Philadelphia navy-yard as may be necessary for the enlargement of the same: *Provided*, It can be done on reasonable terms, and that the quantity to be purchased shall not exceed one hundred and fifty feet in extent on the river Delaware: *And provided further*, That the jurisdiction over the same may be first obtained from the State of Pennsylvania.

This has been estimated for, and it is recommended by the Secretary of the Navy. It is to purchase one hundred and fifty feet for the enlargement of the Philadelphia navy-yard. The amendment makes no appropriation, and I hope it will be adopted.

The amendment was rejected.

Mr. UNDERWOOD. I offer the following amendment:

For executing the provisions of the act approved 3d of March, 1819, entitled "An act in addition to the acts prohibiting the slave trade," $20,000.

I merely wish to read to the Senate the section of the law of 1819, to carry out which this amendment is offered, and leave it to the Senate to decide:

"That the President of the United States be, and he is hereby, authorized to make such regulations and arrangements as he may deem expedient for the safe-keeping, support, and removal beyond the limits of the United States of all such negroes, mulattoes, or persons of color, as may be so delivered and brought within their jurisdiction."

The preceding parts of the law speak of the capture of slavers, and bringing these descriptions of persons within this country. The act goes on:

"And to appoint a proper person or persons residing on the coast of Africa for reciving negroes, mulattoes, and persons of color delivered from on board vessels seized in the prosecution of the slave trade by commanders of the United States armed vessels; and that a bounty of $25 be paid to the officers and crews of the United States revenue cutters for each and every mulatto or person of color who shall have been, as hereinbefore mentioned, delivered to the marshal or agent duly appointed to receive them. And the Secretary of the Treasury is hereby authorized and required to pay, or cause to be paid, to such officers and crews the bounty for persons delivered as aforesaid."

I wish to state to the Senate, that a number of negroes have heretofore been sent to Africa, and delivered over to the Colonization Society, instead of being provided for according to the terms of this act, by which you had to pay twenty or thirty thousand dollars. There is now no provision for the execution of the law; and if a slaver should be captured between this time and the meeting of the next Congress, and hundreds of negroes should be brought into the United States, and sent thence to Africa, there would not be a dollar to make provision for them, unless this amendment be adopted. If the amendment be adopted, and no such thing should happen, of course not a dollar could be touched; but if such an event should happen, there is an absolute propriety to have a law to meet the case.

Mr. ADAMS. Does this amendment come from a committee?

Mr. UNDERWOOD. No, sir.

Mr. ADAMS. Then I raise the point, that as it does not come from a committee, and makes an appropriation, it is not in order.

The PRESIDING OFFICER. The Chair understands that there is no recommendation from a committee, and that the amendment makes an appropriation. If that be so——

Mr. UNDERWOOD. I do not know that there is any provision excluding an appropriation to execute an existing law, and that is the design of this amendment.

The PRESIDING OFFICER. Then the amendment is in order.

The amendment was agreed to.

Mr. MALLORY. I offer the following amendment:

And be it further enacted, That the Secretary of the Navy be, and he is hereby, authorized to finally distribute the proceeds in the Treasury of the prize schooner Oregon and cargo, according to the fifth section of the act approved 30th September, 1850.

Mr. CASS. I submit to the Senate whether it is worth while to put any more amendments on this bill.

The amendment was not agreed to.

Mr. SUMNER. I have one small amendment which I hope will pass without discussion. It is to insert:

"And the spirit ration in the Navy is hereby abolished; and instead thereof, the sum of six cents a day shall be hereafter allowed."

The cat has already been abolished in the Navy. The spirit ration is the complement of the cat, and should go with it.

Mr. HALE called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 14, nays 28; as follows:

YEAS—Messrs. Adams, Charlton, Chase, Davis, Foot, Hale, Hamlin, Jones of Iowa, Soulé, Spruance, Sumner, Underwood, Wade, and Walker—14.

NAYS—Messrs. Atchison, Badger, Bayard, Borland, Brodhead, Butler, Cass, Clarke, Cooper, Dawson, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Downs, Fitzpatrick, Geyer, Gwin, Houston, Jones of Tennessee, Mason, Miller, Morton, Norris, Pearce, Pratt, Sebastian, Smith, and Weller—28.

So the amendment was rejected.

Mr. MORTON. I beg leave to submit an amendment:

And be it further enacted, That the proper accounting officers of the Treasury Department be, and they are hereby, authorized and directed to pay to William P. S. Sanger, out of any money in the Treasury not otherwise appropriated, the same rate of compensation for the time he was employed as engineer at the Norfolk navy-yard, as was allowed by the act of Congress, approved September 28, 1850, to James Heron, for services which he had rendered at the Pensacola navy-yard.

Mr. BAYARD. I rise to a question of order. Is not this appropriation to provide for a private claim for past services?

Mr. MORTON. I have not a word to say on the question of order. That is for the Chair to decide.

The PRESIDING OFFICER. The Chair is clearly of opinion that the amendment is to provide for a private claim, and is therefore out of order.

No further amendment being offered, the bill was ordered to a third reading, read a third time, and passed.

COMMITTEE ON ENROLLED BILLS.

Mr. BADGER. I ask the unanimous consent of the Senate to move that the President *pro tempore* be authorized to appoint an additional member of the Committee on Enrolled Bills. There are so many calls pressing upon that committee that they cannot get along without an additional member.

The motion was agreed to; and Mr. SUMNER was appointed.

LIGHT-HOUSE BILL.

Mr. HAMLIN. The Committee on Commerce, to which was referred the bill from the House of Representatives making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection and establishment of the same and for other purposes, have directed me to report it back with a number of amendments, which I send to the Chair. I ask that the bill be now considered.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment was to insert among the appropriations for Rhode Island the following:

For erecting a beacon light at Lime Rock, in Newport harbor, $1,000.

The amendment was agreed to.

The next amendment was to insert in the appropriations for Connecticut:

For the erection of one or more beacon lights below Middletown, on the Connecticut river, and for the erection of buoys and spindles, $3,000.

For the erection of a fog-bell or whistle, as the Light-House Board shall determine, on Pine Island, in Fisher's Island Sound, $1,000.

The amendment was agreed to.

The next amendment was to insert, among the appropriations for light-houses on the lakes, the following:

For erecting a light-house at the mouth of Portage river, $5,000.

For the erection of a light-house at Point Iroquois, or on the island off Point Ouchaine, as the Light-House Board shall determine, $5,000.

For making the foundations of two light-houses (one to be a beacon light) on the St. Clair Flats, $10,000; the places to be selected and the work to be executed under the direction of the Topographical Bureau.

The amendment was agreed to.

The next amendment was to insert under the head of California:

For the erection of a light-house in San Pedro bay, $10,000.

The amendment was agreed to.

The next amendment was to add the following additional section:

SEC. —. *And be it further enacted*, That the Secretary of the Treasury be directed, if in his opinion the safety of commerce demanded the light at Minot's Ledge, at the entrance of Boston harbor, to replace that which was destroyed, to examine into the claims of R. B. Forbes and others, who kept a light-boat there at their private expense, and if he is of opinion that their doings were essential to the safety of navigation, to allow them such sum as under the circumstances he deems reasonable, and to pay the same out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in; and the bill was ordered to a third reading, read a third time, and passed.

MARINE HOSPITAL FUND.

Mr. DAVIS, from the Committee on Commerce, to which various petitions on the subject were referred, reported the following resolutions; which were considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inquire into the state and condition of the several marine hospitals, and to report at the next session of Congress whether, in his opinion, it is expedient to discontinue the tax upon sailors for their support; and if so, whether any and what substitute it is expedient to adopt; and also to report his opinion upon so modifying the present system as to authorize the removal of sick seamen from one hospital to another in a different climate.

Resolved, That the said Secretary of the Treasury further report from what source the funds for the erection of each hospital have been derived; the whole amount expended upon each; the amount of hospital money paid annually in the district where each hospital is situated; the amount annually expended; the amount annually appropriated in addition by Congress, and the manner in which it is distributed among the districts.

REFORM IN THE MERCHANT MARINE.

Mr. DAVIS, from the Committee on Commerce, to which various petitions on the subject were referred, reported the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Treasury be directed to inquire into and report upon the following subjects at the next session of Congress:

1st. Whether it is expedient to require vessels belonging to the United States, and bound on foreign voyages, to take on board apprentices.

2d. Whether it is expedient to amend or repeal the law authorizing the issue of protections to seamen; and

3d. Whether it is expedient to establish by law, schools of instruction for mariners, or such as are preparing to enter

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into that service. Upon which said several points the Secretary is directed to communicate such useful information as he may be able to collect, together with his opinion upon each.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had agreed to suspend for the present session the 16th joint rule, so far as related to the bill of the House for the relief of Robert Gibson. Likewise, that it had agreed to the report of the second Committee of Conference as to the disagreeing votes of the two Houses on the bill to supply deficiencies in the appropriations for the service of the fiscal year ending June 30, 1853.

Also, that the House of Representatives insisted upon its disagreement to the fourth and fifth amendments of the Senate on the bill to establish certain post roads, and asked for a conference on the disagreeing votes of the two Houses on that bill, and had appointed Mr. OLDS, Mr. SCHOOLCRAFT, and Mr. ROBINSON, conferees on its part.

And that the House of Representatives had passed the following bills and joint resolution of the Senate:

An act to incorporate the Sisters of Visitation in the District of Columbia;

An act for the relief of L. M. Goldsborough and others; and

Joint resolution for the relief of the Spanish Consul and other subjects of Spain residing at New Orleans; and of subjects of Spain residing at Key West, by indemnity for losses occasioned in the year 1851.

POST ROUTE BILL.

On motion by Mr. DODGE, of Iowa, the Senate agreed to the conference asked for by the House of Representatives on the disagreeing votes of the two Houses on the bill to establish certain post routes.

On motion,

Ordered, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

And Mr. RUSK, Mr. DODGE of Iowa, and Mr. CHASE, were appointed.

INDIAN APPROPRIATION BILL.

On motion by Mr. PEARCE, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1854, which had been reported from the Committee on Finance with four amendments. The first amendment was to strike out "22d," and insert "27th," in the description of the date of an act.

The amendment was agreed to.

The second amendment was to insert after the provision for presents to the Indians, the following:

For expenses already incurred, and that may hereafter be necessary, for vaccination of Indians, $5,000.

The amendment was agreed to.

The third amendment was to insert the following:

For deficiencies in the fund for contingencies of the Indian Department, $15,000.

The amendment was agreed to.

The fourth amendment was to strike out the following clause:

"For payment in full of all claim, under that part of the treaty of 1831 which has relation to the grant of one hundred thousand acres of land in fee-simple to the then Ohio Shawnees, $66,246 23: *Provided*, That the receipt therefor shall specify that it is in full satisfaction of said claim: *And provided*, That this appropriation shall not be held to affect the title of the Ohio Shawnees to the land under the treaties of 1825 and 1831, within the fifty miles square ceded to the Shawnees of Missouri by the treaty of 1825."

Mr. ATCHISON, (Mr. FOOT occupying the chair.) Although I am aware that it is against the usage of the Senate for the Presiding Officer to come on the floor and engage in debate, I must ask the indulgence of the Senate for a few moments on this occasion. This is a claim in which I feel a deep interest. I think that it is a just claim. I think it is a legal one; and one which would be enforced in a court of justice. But, sir, if there was nothing in it, nothing in its equity or its legality, I would insist upon it as a matter of public policy. These Shawnees are convinced that they are entitled to this money, and no process of reasoning or argument will ever satisfy them that they are not entitled to the amount appropriated by the section of the bill which the Committee on Finance propose to strike out. We have an appropriation in this same bill to provide for certain treaties to be made with Indians in the Territory of Nebraska, the Shawnees among others. If it be the policy and the design of the Government to make treaties with these Indians for the extinguishment of their title to lands in that Territory, we never can effect a treaty with the Shawnees; they never will come into a council for the purpose of treating, unless this treaty stipulation, as they consider it, made in 1831, is carried out in good faith, as they understand it.

The Shawnees had a delegation of their principal chiefs here at the last session of Congress. Parks, Blackhoof, and Spybuck were here then. I told them at the time that I was not satisfied of the equity and justice of their claim, that I doubted very much in relation to it; but upon further examination, after having looked at the treaties and the documents, I became perfectly satisfied that the Shawnees of Ohio had an equitable, if not a legal claim upon the face of the treaty, to this money. What is the title of the Shawnee Indians to the land on the Kansas river? What is their title to the $66,000 appropriated in this bill? Let me look at that.

In 1825, a treaty was entered into with a band of Shawnees called the Missouri Shawnees, who then owned twenty-five miles square in the county of Cape Girardeau, in the State of Missouri. They agreed to relinquish to the United States all their right, title, and interest in and to those twenty-five miles square, and the consideration for that relinquishment of their title to lands in Cape Girardeau county, Missouri, was, that they were to receive from the Government of the United States fifty miles square at some point west of the State of Missouri. I believe the tract of fifty miles square was designated by metes and bounds, to commence at the southwestern boundary of the State of Missouri; but if, after examining that country, they should not be satisfied with it, they were allowed permission to select the like quantity elsewhere. They were dissatisfied with the land designated commencing at the southwestern boundary of Missouri, and they went to the Kansas river and agreed to take fifty miles square lying south of that river. They settled upon that land, and their boundaries have been designated and laid off to them.

There was also in the treaty made at Cape Girardeau a provision that the Shawnees of Ohio might settle with the Shawnees of Missouri upon this tract of fifty miles square. In 1831, after the Missouri band had settled upon the Kansas, a treaty was made near Sandusky, in the State of Ohio, by which the band of Shawnees remaining in that State agreed to relinquish to the Government of the United States all their right, title, and interest to certain lands there, and a part of the consideration for the cession of those lands was a reservation of seventy cents per acre to be retained of the proceeds of the sales of the lands. No one pretends that they have ever received a dollar of this amount. They were, in addition to that, entitled to receive one hundred thousand acres of land west of the State of Missouri. Now, it is contended that the tract of one hundred thousand acres of land to be given to them was to be laid off to them under the terms of that treaty, for which they were to have a fee-simple title. The Government of the United States has never paid them any portion of the seventy cents per acre reserved from the sales of their lands; and they claim that the Government of the United States has never laid off the one hundred thousand acres of land for their use, in conformity to the treaty made with them; but they have settled upon the lands of the Missouri Shawnees, and lived with them. The two bands, the Ohio and the Missouri bands of Shawnees, now constitute one nation, one tribe, under the same chiefs. They share in the annuities of both which are received from this Government, and I believe they have an equal interest, or at least claim an equal interest by an arrangement between themselves, to the fifty miles square upon the Kansas river.

These, according to my recollection, are the facts. I examined the question at the last session of Congress. My attention has not since been particularly turned to it; but I think that I have substantially stated the facts of the case.

Now, Mr. President, even admitting that the ingenuity of the Senator from Maryland [Mr. PEARCE] may find some flaw in their claim as to its legality, I insist upon the point I first made, that if you expect to make a treaty with the Shawnees west of the State of Missouri, on the Kansas river, inhabiting and occupying the best portion of the proposed Nebraska Territory, which I trust may be organized before Congress adjourns, you cannot effect a treaty with them, for they believe that they are entitled to this money; and if you do not carry out in good faith the treaty as they understand it, they will refuse to hold a council with your commissioners. Hence public policy requires, in my opinion, that this demand should be allowed, even if there should be found neither law nor equity in it.

Mr. PEARCE. Mr. President, I think that the Senator from Missouri is not quite accurate in all of his statements. In much, however, that he has said he is correct, but there is one material fact in which I think he is totally mistaken. If the Senate will allow me to begin at the beginning, I will state as briefly as possible what are the facts of the case.

There are two bands of the Shawnee Indians, one of which at the date of the treaty of 1825 and 1831, resided in Missouri and the other in Ohio. By the treaty of 1825, made with the Missouri Shawnees, it was provided that they should cede to us a certain tract of land which they held, of twenty-five miles square, as the Senator stated. Among other stipulations we on our part agreed to convey to them a tract of fifty miles square, a much larger tract as the Senate will perceive—four times as large. The tract of land which we thus agreed by the treaty of 1825 to convey to the Missouri Shawnees was not stipulated to be conveyed to them for their own use, benefit, and ownership solely, but for the use, benefit, and ownership of themselves and the band of Shawnees residing in Ohio. Here is the stipulation:

"It is further agreed by the contracting parties, that in consideration of the cession aforesaid, the United States do hereby agree to give to the Shawnee tribe of Indians within the State of Missouri, for themselves, and for those of the same nation, now residing in Ohio, who may hereafter emigrate to the west of the Mississippi, a tract of land equal to fifty miles square, situated west of the State of Missouri," &c.

This tract of land was actually given as stipulated, and it was put in possession of the Missouri Shawnees; but as the Senate will perceive by the stipulations of the treaty, it was for the benefit of the Ohio Shawnees, as well as for themselves. In 1831, we made the treaty of Wapaghkonnetta, by which the Ohio Shawnees ceded to us their land in that State. Among the stipulations of that treaty were the following:

"In consideration of the cessions in the foregoing article,"——

I am reading now from the second article—

"the United States agree to cause the said tribe or band of Shawnees, consisting of about four hundred souls, to be removed in a convenient and suitable manner to the western side of the Mississippi river, and will grant by patent, in fee-simple, to them and their heirs forever, as long as they shall exist as a nation and remain upon the same, a tract of land to contain one hundred thousand acres, to be located under the direction of the President of the United States, within the tract of land equal to fifty miles square which was granted to the Shawnee Indians by the second article of the treaty made at the city of St. Louis."

That is the article of the treaty which I read a few moments ago. Thus it will be seen that the stipulation here was to convey to the Ohio Shaw-

nees one hundred thousand acres in fee-simple out of that tract which had been before conveyed to the Missouri Shawnees for the benefit of themselves and the Ohio Shawnees. The seventh article of the treaty of Wapagh-konnetta provided for the sale of the lands ceded by the Shawnees:

"The United States will expose to public sale, to the highest bidder, in the manner of selling the public lands, the tracts of land herein ceded by the said Shawnees. And after deducting from the proceeds of such sales the sum of seventy cents per acre"——

which the United States reserved to themselves—

"exclusive of the cost of surveying, the cost of the grist-mill, saw mill, and blacksmith shop, and the aforesaid sum of $13,600, to be advanced in lieu of improvements, it is agreed that any balance which may remain of the avails of the lands, after sale as aforesaid, shall constitute a fund for the future necessities of said tribe, parties to this compact."

The United States were to hold this fund as trustees for their benefit, and to pay them five per cent. upon it. There is no stipulations in the treaty, as the Senator from Missouri supposes, for the payment of the Ohio Shawnees of the proceeds of the sales of the lands other than the balance, after deducting the seventy cents per acre mentioned in the treaty. This appropriation proposes to pay them the net proceeds of that amount of seventy cents per acre which was realized from those sales. There is no stipulation that the United States should pay this money to these Indians; but on the contrary it was reserved by the United States for the benefit of the Government. No doubt there was a consideration for it, because the first article of the treaty shows that the stipulations throughout were mutually dependent. The United States agreed to provide them with one hundred thousand acres of land out of the cession which had been made to the Missouri Shawnees, and the Ohio Shawnees agreed, in consideration of that, to let the United States sell their lands, and take seventy cents per acre when so sold.

This claim is not put upon the ground on which the Senator from Missouri places it. I have seen the argument submitted by the counsel of the Shawnees of Ohio, and he puts it on the ground that inasmuch as the United States have not set off those one hundred thousand acres, and conveyed the tract to them in fee-simple, the United States ought to pay over the seventy cents per acre. The fact is, as the Senator from Missouri has stated, that the Ohio Shawnees have emigrated to the west of the Mississippi, and have settled among their brethren—the Missouri Shawnees; have become amalgamated with them again as one tribe, and are now residing with them, holding in joint occupancy this tract of fifty miles square. A tract of fifty miles square contains, as anybody may ascertain by computation, one million six hundred thousand acres. The band of Ohio Shawnees, as we are told in the treaty, amount to four hundred in number. The whole tribe of Missouri and Ohio Shawnees together amounts to about eight hundred. The Ohio Shawnees, therefore, being half the tribe, and all of them holding the land undividedly, have of course a right to an undivided moiety of the whole, or they hold it in common as joint tenants.

Now, sir, I do not understand that the failure of the United States to lay off one hundred thousand acres of land for the Ohio Shawnees obliges them, either in strict justice or liberal equity, to pay to the Indians the sum of money which the United States reserved from the sale of their lands in Ohio. A strict compliance with the stipulations of the treaty would oblige the United States to cause one hundred thousand acres to be laid off out of the fifty miles square, and in that event these Indians would get but one sixteenth part of the tract on which they now reside. If the United States did that, they would be complying literally and strictly with their obligation. There is no obstacle in the way of the United States complying with that obligation. Nobody can doubt but that the Missouri Shawnees would open a negotiation for that purpose, for they would find it to their interest to do so; and if the Ohio Shawnees are to be treated as a separate tribe, and to have one hundred thousand acres of the one million six hundred thousand which they are now occupying, it would leave one million five hundred thousand for the Missouri Shawnees. That would be a literal compliance with the treaty, though by no means advantageous to the Ohio Shawnees. As it is, they are joint tenants, or holding a common occupancy of this large tract of land. The clause which the Committee on Finance propose to strike out, provides for paying to these Indians $66,246 23, which is the net proceeds of the sum reserved by the United States, and it provides further that this appropriation shall not be held to affect the title of the Ohio Shawnees to the land held by them: that is, in effect, the Ohio Shawnees shall be entitled to the joint occupancy of one million six hundred thousand acres of land, notwithstanding the payment of this money; or, if they choose to demand it, to have a separate tract of one hundred thousand acres laid off out of the one million six hundred thousand and the money besides. That is the effect of the amendment. Sir, there is no equity in it. There is no shadow of justification on the part of the Indians for a claim like that.

The Senator from Missouri, however, seems to think it is important to give them this money, to which they have really no claim under the treaty, and none that I can see in fair equity; because without it they will not go into council when we propose to get from them a cession of the one million six hundred thousand acres, to which, as a part of the amalgamate tribe, they are entitled. I do not know that it is so important to enter into that treaty to which the Senator referred for the cession of the lands adjoining the Kansas, which they are holding in joint occupancy. I think that $66,000 would be a pretty large price to pay for the privilege of entering into any negotiation with them for the sale of their lands. I am disposed, at all events, to wait and see, even if it be determined that it is proper to enter into that negotiation, if we cannot effect it without such an enormous bonus as this.

As a further proof of what I have said, let me adduce the patent which was issued to the Missouri Shawnees for this land in 1844, in which these facts are sufficiently set forth. The patent recites the second article of the treaty, by which

"It was 'agreed by the contracting parties, that in consideration of the cession,' by the first article, 'the United 'States should give to the Shawnee tribe of Indians, within 'the State of Missouri, for themselves and for those of the 'same nation' then 'residing in Ohio, who may hereafter 'emigrate to the west of the Mississippi, a tract of land 'equal to fifty (50) miles square, situated west of the State 'of Missouri.'"

That is the provision which I have read. The grant in the patent is in these words:

"Now, know ye that the United States of America, in consideration of the premises, and in execution of the agreements and stipulations in the aforesaid articles of convention, have given, and by these presents do give, unto the said Shawnee tribe of Indians who were within the State of Missouri, and who are designated in the aforesaid second article of the convention, for themselves, and for those of the same nation who were residing in Ohio, and who are also referred to in said second article, *subject to the right secured to the Ohio band of the Shawnees by the second article of the 'agreement and convention made and concluded at Wapaghkonetta, in the county of Allen and State of Ohio, on the 8th day of August, in the year of our Lord* 1831.'"

Now, sir, it is proposed to give these Indians this sum of $66,000, and to protect them in their possession and joint occupancy of one million six hundred thousand acres of land, when the only possible claim they can have against the United States, is that, instead of being continued in the joint occupancy of one million six hundred thousand acres of land, they should, according to the strict treaty, be narrowed down to the exclusive occupancy of one hundred thousand acres. I think it is perfectly clear that the amendment is right, and that it should be adopted.

Mr. ATCHISON. Mr. President, there is no material difference in the statement of this case between the Senator from Maryland and myself. The principal difference is as to inferences. By the treaty of 1825 with the Missouri Shawnees, it was provided that the Ohio Shawnees might settle among them. Who asked this provision? It was the Missouri Shawnees who asked it; and it was provided by this treaty that the Shawnees of Ohio might settle upon their lands, upon the fifty miles square granted to them lying on the Kansas river. Then, in 1831, the Shawnees of Ohio sold their lands, and it was stipulated in that treaty as a part of the consideration, that they should have one hundred thousand acres laid off to them within the fifty miles square belonging to the Missouri Shawnees. I ask the honorable Senator from Maryland, what right had this Government to make any such stipulation? If the land belonged to the Missouri Shawnees, the United States had no right to make a stipulation that the Ohio Shawness should have one hundred thousand acres of it laid off to them. But, sir, the treaty itself contradicts that construction of it, for the latter part of the second article provides:

"But if there should not be a sufficiency of good land unoccupied by the Shawnee Indians who have already settled on the tract granted as aforesaid by the said treaty of St. Louis, then the tract of one hundred thousand acres hereby granted to the said Shawnees of Ohio, parties to this contract, shall be located under the direction of the President of the United States, on lands contiguous to the said Shawnees of Missouri, or any other unappropriated lands within the district of country designed for the emigrating Indians of the United States."

The patent, which has been brought up by the Senator from Maryland, was alluded to at the last session; but there was no stipulation in the treaty of 1825 authorizing or requiring the President of the United States to issue to the Shawnee Indians a patent for their lands, but there was a stipulation in the treaty of 1831 with the Ohio Shawnees, requiring the Government of the United States to issue to them a patent in fee-simple for one hundred thousand acres of land.

Then, sir, I insist first, that the United States had no right to make any stipulation for the settlement of the Ohio Shawnees within the fifty miles square upon the Kansas river; that it was a question only for the Missouri Shawnees whether or not they would permit their brethern of Ohio to settle within their limits; and that the United States had no right, under the treaty of 1825, to force any such settlement.

The patent which has been quoted by the Senator from Maryland amounts to nothing. It is not even evidence of title, because there was not the shadow of any law or of any treaty upon which to base it; and the United States have failed to comply with their treaty stipulations by not giving to the Shawnees of Ohio a patent for one hundred thousand acres of land, to be selected "contiguous"—that is the word of the treaty—to the fifty miles square granted to the Shawnees of Missouri. In that respect they have failed to comply with one treaty, and they have gone beyond the requisition of another.

If the Shawnees of Ohio have not received their one hundred thousand acres of land, as I insist they have not, are they not in equity and justice entitled to the seventy cents on each acre of their lands sold by the United States in the State of Ohio under the stipulations of the treaty of 1831? If this appropriation be not made, if these $66,000 be not allowed, there is an entire failure of consideration for the sale of the Shawnee lands in the State of Ohio, for it is admitted that they have never had one dollar of the seventy cents per acre which was reserved; and they have never received their one hundred thousand acres of land either with or without a patent.

These are the two plain points involved in this case, and there are none others. The ingenuity of the Senator from Maryland cannot find out any other.

Mr. PEARCE. Mr. President, the parties to the treaty of St. Louis were the Missouri band of Shawnees and the United States. Nobody can doubt that those parties had a right to make any stipulations they pleased not contradictory to the Constitution of the United States. Well, sir, the Missouri band of Shawnees agreed that they would accept the fifty miles square of land granted to them, subject to the right of the Ohio Shawnees, to be located upon it along with them. That was their stipulation; and the United States when they sent the Ohio Shawnees over to the settlement of the Missouri Shawnees, violated no stipulation with the Missouri band, because the very thing provided for in the treaty of 1825 was that they should receive this land, not for their own use exclusively, but subject also to the use of the Ohio Shawnees whenever they should emigrate to the west of the Mississippi. There was therefore no violation of any treaty stipulation by sending the Ohio Indians over to the territory of the Missouri Shawnees.

It is true, as I have admitted already, that the United States stipulated that they would locate the Ohio Shawnees on one hundred thousand acres of land, to be laid off out of the tract of fifty miles square granted to the Missouri Shawnees. That is the stipulation of the treaty of 1831, and also that if sufficient land could not be found in that large tract, the United States should lay off the one hundred thousand acres contiguous to the

lands of the Missouri Shawnees. How does it appear that there was no land in these sixteen hundred thousand acres adequate to that purpose? That allegation is not made. The whole tribe are living comfortably on the sixteen hundred thousand acres, and when we consider the number of the tribe, we find that this gives about two thousand acres to every living soul. Therefore the failure of the United States to comply with the strict letter of the treaty of 1831 is simply this; that instead of giving these Indians one hundred thousand acres of land in fee-simple, it has left them with the other half of the tribe in the joint occupancy of sixteen hundred thousand acres—a much better arrangement for them. If they are not satisfied with it, they have undoubtedly a right to demand that the United States shall lay off one hundred thousand for their separate use; and whenever they demand that, no doubt the Government of the United States will respond favorably to their request; but they have no right to demand that we shall leave them in the occupancy of this large tract of land, and also pay them the seventy cents per acre which we reserved from the proceeds of their lands in Ohio ceded to us, and which was unquestionably the consideration for the grant of land made by the United States in the treaty of 1831. I think the matter is too plain to need further discussion.

Mr. CASS. I feel a great deal of interest in this matter, as I explained to the Senate at the last session, arising out of a long official intercourse with these Indians. I have known them since the war of 1812, and a more faithful band of Indians in the worst of times to the United States was not found on our frontier. A party of them accompanied me into the far northwest, in one of the most dangerous crises of our affairs in this country, headed by their old chief, Black-hoof, then eighty years of age; and no men ever behaved better than they did. One of the men, as I stated to the Senate at the last session, then with me, was Black-hoof's son. He was in this city at the last session when I spoke of the circumstance, and I believe he is here now. He was a fine young lad at the time to which I refer. There was also in that party, Parks, a half-breed Shawnee, who married among them; and who is one of the most faithful men that ever was in the service of the United States. I know them well. They are an exceedingly well-behaved band of Indians. They are intelligent and christianized, and most of them read and write. They deserve every encouragement from the Government.

Now, how does this particular case stand? The Shawnees for some time, I think for about sixty or sixty-five years, have been separated, one of the bands residing in Missouri, and the other in Ohio. Both have dwindled away, as all Indians dwindle down before the pressure of the white settlers upon them. When we made the treaty of 1825 with the Missouri Indians, all its provisions in short were that we should give them one million six hundred thousand acres of land, or fifty miles square for the cession of the land which they ceded at Cape Girardeau. The honorable Senator from Maryland says with a great deal of truth, that we gave them a much larger quantity than we got. To be sure we did; but the quantity which we got was worth ten times as much as what the Indians received. That is the whole process of Indian settlement. You buy from them land near your settlements, high in value, and if you give them acre for acre, or two or three acres for one, you make the Jew's bargain with them. When you go West, as everywhere else, it is the local position of land that gives it value. The land which they ceded in Missouri had attained a value. The land which they received from us in the far West beyond Missouri, had no value in money at that time. It is not therefore a question of the amount of acres ceded and received, but it is a question of the value ceded and received; and when we come to consider the value which we received, we find that there was a great disparity between what we gave and what we got.

These bands of Indians were separated for a long time. I, myself, was present at the making of a treaty with them prior to 1825. When there, a band from the Missouri Indians came over to meet the Ohio Shawnees. By direction of the Government, I attended them with a view to induce them to unite. They, themselves, wanted to be united; and from that day to the day of their union, both bands have wanted to come together; but the Ohio Indians did not want to sacrifice the domicil they had acquired, and which they had improved in a very valuable manner.

What was the bargain which General Clark made with the Missouri Shawnees? Why, that he would give them one million six hundred thousand acres west of Missouri, as a home for themselves and for the Ohio Indians. That is the arrangement. Well, what did we get? We got the Cape Girardeau lands. We got fully paid. When that was done, that tract had passed from us. Now, then, if afterwards we said to the Ohio Indians, "Give us your lands in Ohio, and take one hundred thousand acres in the tract which we have given your brethren before," it is very clear that we gave them nothing. That is as certain as fate. Whatever the treaty may say, and whatever was strictly and legally the bargain, it is a fact beyond dispute that we gave them what was already their own. We gave to the Cape Girardeau Indians one million six hundred thousand acres; we provided by the treaty of Wapagh-konnetta, that of those one million six hundred thousand acres, the Wapaghkonnetta Indians should have one hundred thousand acres laid off by us. I doubt the power of the United States to lay off any land out of that which had been previously granted. I doubt the power of the United States to make the division among them. But, however that may be, it is certain that what we gave to the Ohio Indians we had already received payment for from the Cape Girardeau Indians.

Now, put this as you please in any possible legal point of view. Here was a tribe of Indians dealing with us; we got a very valuable property from them at Wapaghkonnetta, for which we have paid them nothing at all. I appeal to the Senate if that should be so.

Besides, the Senator says that seventy cents was reserved;—for what? No one can say, except that the United States had the strong hold and would keep it. That is all. Besides, that was not a permanent compact, as the honorable Senator from Maryland seems to suppose, for if I recollect aright, the reserved fund may be dissolved and paid over at any moment by the President of the United States or Congress. It is according to the very terms of the treaty of 1831 a temporary arrangement, and whenever Congress or the President think proper to put an end to it, it can be done; but then the fund must be paid over to the Indians. We ground the Indians down to five per cent. interest on the fund, to pay it to them as long as they should think proper to receive it; and if they should be dissatisfied, it should be dissolved, and they should receive it.

Then let us look at the case. We got the land of these Ohio Shawnees from them, and we sent them over to occupy land belonging to their brethren, the Missouri band of Indians, for which their brothers had paid us; and now, when they come and ask us payment, we say to them, "this is the literal construction of your bargain—we have got your lands, and we shall not pay you." I may have more zeal than some others in this matter. I confess that I have a great feeling of interest in the prosperity of these Indians. I know them, and when a proper opportunity offers itself, Congress should give its mark of approbation to Indians who have conducted themselves like them, and who have stood between the British Indians and our frontiers, and saved the lives of our own inhabitants. That is my opinion.

Mr. BAYARD. I should like to know if this case was not before the Senate at the last session, and disposed of by a vote adverse to the payment of the money?

Mr. PEARCE. It was.

Mr. BAYARD. If so, according to my recollection of the debate which then took place, I formed a very decided opinion against the allowance.

Mr. PETTIT. I entirely concur in the view of this subject which has been taken by the honorable Senator from Michigan and the honorable Senator from Missouri. I desire to call the attention of the Senate for a moment to the provisions of the treaty made at St. Louis with the Missouri Shawnees; and it will be found from that that this reservation of the lands granted to them in the far West, were not given to them and to the remainder of the divided tribe in Ohio. No gentleman, from reading the language of the treaty itself, could believe that it vests title to a single rood, or a single square inch of the fifty miles square in that portion of the tribe which still remained in Ohio. The treaty made with the Missouri Shawnees in 1825, was according to its title "made between William Clark, 'as Superintendent of Indian Affairs, and the Chiefs 'and Head Men of the Shawnee nation of Indians 'residing within the State of Missouri, duly author-'ized and empowered by said nation."

Then it will be seen that this treaty was between the Shawnees of Missouri and our Superintendent of Indian Affairs. What is the stipulation? First, the Shawnees ceded their twenty-five miles square at Cape Girardeau, which they held by undoubted title from the Spanish authorities.

In the second article we find the following: "It is further agreed by the contracting parties." Who are the contracting parties? The Missouri Shawnees upon the one side, and the United States upon the other. The Ohio Shawnees had no part nor parcel in this contract.

"It is further agreed by the contracting parties, that in consideration of the cession aforesaid."

Now, what was that cession? The Missouri Shawnees had in the preceding article conceded twenty-five miles square at Cape Girardeau. The Ohio Indians had not paid a dime, and why should it be considered in that view, as vesting in them title to lands for which they have not paid a single farthing? But, if we read further, we will find that by the very terms of the treaty, construing it by any principle of law you see fit to apply to it, the Ohio Shawnees have not one scintilla of legal title to this property.

Mr. PEARCE. I think that the Senator misunderstands me upon that point. I never affirmed that the treaty of 1825 vested any title in the Ohio Shawnees. It vested the title in the Missouri Shawnees, but subject to the conditions that their brethren, the Ohio Shawnees, should be entitled with themselves to the lands. And then the treaty of 1831, which was made in pursuance of the stipulations of the treaty of 1825, did vest in the Ohio Shawnees the title to one hundred thousand acres of the fifty miles square, on which the Missouri Shawnees were then living. We made that stipulation, as we had a right to do.

Mr. PETTIT. I am certainly not willing to misunderstand the Senator, and I am glad that he has made the correction; but I did understand him to insist that by the treaty of 1825, there was a cession of land for this divided tribe, the two fractions of it, when they should come together. But it will be found, on reading the treaty, that so far from its being a cession to the Ohio Shawnees, or so far from its reserving any right to the United States to plant the Ohio Shawnees there, it is quite the reverse. It was a question simply of gratuity, of kindness, of generosity, on the part of the Missouri Shawnees, as to whether or not they would make any reservation for their brethren the Ohio Shawnees. The provision reads:

"It is further agreed by the contracting parties, that in consideration of the cession aforesaid, the United States do hereby agree to give to the Shawnee tribe of Indians within the State of Missouri, for themselves, and for those of the same nation now residing in Ohio, who may hereafter emigrate to the west of the Mississippi, a tract," &c.

Here, then, is a stipulation to give to A a piece of land for himself and another man, if the other man goes there. Where is the title in that case? No gentleman will pretend for a moment that B has any title in it, or can assert any title. He is not vested with any title; the deed creates none in him, for he is not the grantee; and there must necessarily be in every such deed grantor and grantee. Persons must take *in presenti;* and, therefore, according to the rules of law, none but the Missouri tribe of Shawnees could, according to the treaty, take this land. It is very probable that there was some talk among them at the time, when their brethren of Ohio thought of going west, and the Indians may have said, We will reserve our brethren a portion of our land; but it was a matter of sufferance, and sufferance alone; and depended at any rate upon their going there.

Now, the Shawnees of Ohio have not bound themselves in the treaty of 1831 to go to the land of the Missouri Shawnees. Suppose they should have refused to go there. Then what would they have got? They would have ceded their lands in Ohio without receiving a cent for them. They were sent to the lands of the Missouri Shawnees. The title to that land had already been vested in

the Missouri Shawnees, and the Government of the United States could not divest it and transfer it to the Ohio Shawnees. To my mind, there is nothing in the world plainer than that we have got the lands of the Ohio Shawnees without paying them—without ceding to them the one hundred thousand acres we stipulated to cede to them, and without having paid them the residue of the money, beyond the expense of removal, which was to be paid out of the proceeds of the land into the Treasury for their benefit; and which was to be paid to them in gross when they should desire it. It seems to me that there is no excuse, no apology for the non-performance of this contract on our part.

I have nothing to say in reference to the fidelity and the services of these Indians. I know nothing about that. But surely it has been so glowingly and warmly described, that if it were a question of feeling on our part, the eloquent speech of the Senator from Michigan would have been sufficient to carry the Senate in favor of the allowance, and against the amendment. But I look upon it only as a legal question. If we do not pay this money to the Ohio Shawnees, we shall rob them beyond question of that which was theirs.

Mr. SEBASTIAN. This appropriation has passed the House of Representatives upon two previous occasions. It is now a part of the appropriation bill, as it has come from the House. The Committee on Finance, however, have moved to strike it out. Of course those in favor of the appropriation will vote in the negative on the amendment. I do not rise to discuss the question at any length, although it is one with which I am familiar. The Committee on Indian Affairs have had the subject under consideration, and have come to precisely the opposite conclusion with that of the Committee on Finance. The Committee on Indian Affairs, for the argument advanced by other Senators, with the repetition of which I will not trouble the Senate, are opposed to striking out the appropriation, and are in favor of the validity of the claim.

Mr. BORLAND. I do not rise to make a speech, or to attempt anything like an argument against this claim. The subject was, as I thought, very thoroughly discussed at the last session. I then voted with a majority of the Senate to reject the claim. I have since seen no occasion to change my opinion; and without going into the argument I shall be compelled to vote as I did then.

Mr. WALKER. I voted with the Senator from Arkansas at the last session against the claim. I was not then familiar with the subject, and was not certain of its justice; but so far as I was concerned it was sprung upon me suddenly. Since then I have looked into the matter, and have become perfectly satisfied that I was wrong. I concur in the remarks of the Senators from Michigan and Indiana, and I think that if we do not intend to do a wrong to these Indians we ought to make this appropriation. I believe it will be made sometime, and I think it ought to be made now.

Mr. CHASE. I wish to say that I am in the same predicament with the Senator from Wisconsin. I voted with the Senator from Arkansas at the last session, but I have since examined the subject, and I am thoroughly convinced that no private property belongs to any Senator in this Chamber by a better title than that by which these Indians claim this money.

Mr. BORLAND. One of the considerations presented at the last session, if my memory does not fail me, in opposition to this allowance was, that although it purported to be a provision for the payment of the money to these Indians, a large portion of it belonged to agents and attorneys, and that assignments for it were on file in the Departments.

Mr. PETTIT. Such assignments are not worth a straw under the law.

Mr. WALKER. I would call the attention of the Senator from Arkansas to a provision adopted in the Indian appropriation bill at the last session, which applied to the appropriations then made and was also prospective. It is in these words:

"*And be it further enacted*, That no part of the appropriations herein made, or that may hereafter be made for the benefit of any tribe or part of a tribe of Indians, shall be paid to any attorney or agent of such Indians, or tribe, or part of a tribe; but in any case be paid directly to the Indian or Indians themselves so entitled, or to the tribe or part of a tribe, *per capita*, unless the imperious necessities of the Indian or Indians, or some treaty stipulation, shall require the payment to be made otherwise."

If that provision does not save the Indians, it is not in the power of Congress to do it.

Mr. WELLER. I believe this claim was defeated at the last session, upon the allegation that the money would go into the hands of certain agents and attorneys here, instead of benefiting, as we desired to do, the Indians themselves. It was rejected, not because the Senate regarded it as an unjust claim or an iniquitous demand, but because the money would inure to the benefit of other persons than the Indians. I have no recollection how I voted upon the subject at the last session; nor is it a matter of any importance for me to know. I have paid some attention to the argument of the question, and I am entirely satisfied that justice requires that we should vote them this appropriation. I shall have, therefore, no hesitation in voting for it, no matter how I may stand recorded in regard to it at the last session of Congress. Although this may not be a legal demand, within the technical meaning of the phrase, yet I hold it to be a just and equitable one, and one which the Government of the United States should respect. I have but one rule to govern me in this matter, and that is, that the Government of the United States ought never to do what an honest man dare not do. The rule by which I am governed in the adjudication of these claims is, that whatever an honest man would be compelled to do by the rules of society, in order to maintain the reputation of an honorable man among his neighbors, the Government of the United States ought always to do.

Mr. BAYARD. I should be very sorry to introduce into legislation the views which the honorable Senator from California thinks ought to obtain. If we are to substitute the vague and general opinions of individuals as to what constitutes honor or honesty, as a rule for governmental action, where will you be landed? It will be something like the ancient doctrines of the courts of equity. I have heard a great deal in this Chamber of law and equity; but let me remind gentlemen that in the first origin of those courts, equity consisted in the length of the chancellor's foot. There are a great many feet in this Chamber, and some allow as elastic as India rubber. I think you will find the honesty and justice of a claim to depend perhaps upon the weight of influence that may be brought to bear, and upon the particular circumstances of the friends who may choose to urge it. Such would be the result of the abandonment of all general principles of right, known, fixed, and established principles which do not rest in the mere opinions of each individual as to what he or they think is right in regard to particular transactions. I differ, therefore, from the honorable Senator from California as to what ought to be the principle of legislation in reference to Indians, or any other parties. But I do agree that with reference to Indians I would carry the principle of relief to them very far when I saw any ground for it. I would stand upon no strictly legal rights with regard to them. I would extend to them the utmost equity. I speak now of rational principles of equity, deducible upon sound rules. I would give them the utmost benefit of that in the interpretation of any contract made by them with the Government, but I would not go beyond that.

As regards this particular claim, upon which discussion has arisen, I confess I have not been able to see a shadow of ground for it. And further, in my own belief, notwithstanding the very stringent provisions read to the Senate by the honorable Senator from Wisconsin, the money is not for the Indians, but for those who are boring for it. And to my own certain knowledge, those people laugh to scorn all your provisions of law against their getting hold of it. I have myself been asked to give an opinion whether this claim was a good one, with a view to its purchase.

Mr. PETTIT. I wish to ask the Senator from Delaware whether we ought to refuse to pay an honest debt—one that honor and law and conscience alike bind us to pay—even though a thief may stand at our creditor's back, and rob him the next moment?

Mr. BAYARD. Of course not. I agree with the Senator in that; but I think this is not a good claim, and it will go to greedy speculators.

Mr. WELLER. I think I laid down a rule a few minutes ago, so far as concerns my own action, in such terms that my friend from Delaware ought not to have taken exception to it. Now, I desire to know if he as a Senator will vote here to reject a claim which as an honest and honorable man he would consider himself bound to pay. That is the rule I lay down. If there be presented to Congress a claim which if presented against me as an individual I should be bound in honor and justice to pay, I will vote as a Senator to liquidate that claim. That is the rule which I would have the Government of the United States observe in settling with its citizens. It should observe the same rules of morality and honesty that honorable men are compelled to observe in their private transactions. That is the rule that I have prescribed for my own action; but I undertake to say that the Government of the United States is every day doing what no honest man dare do. I mean by that to say that if a private individual were to refuse from day to day to pay his honest debts, he would be kicked out of the community. No man who is justly and fairly indebted to another can delay the payment of his debt from year to year, upon the mere ground that it does not suit his convenience to discharge it, and maintain the reputation of an honorable man. If a claim were against me as an individual, and I should regard myself as an honorable man bound to discharge it, I will vote to pay that claim out of the National Treasury, when it is a claim against the Government. I know nothing of those nice distinctions that my friend from Delaware endeavors to draw between the transactions of the Government and the transactions of individuals. I think that that which would be dishonorable in a private man, is equally dishonorable in the Government. That, sir, was the rule which I laid down, and I was very sorry that my friend from Delaware found it necessary to dissent from it.

Applying that principle to this case, I say that if this be a just and equitable claim on the part of the Shawnees against the Government of the United States, whether or not it be a strictly legal claim, I would vote to pay it. I will not, in the intercourse which I may have with the Indians of this country, hold them to a rigid compliance with the letter of the law. I will look into the equity of their claim, and if it be such a one as an individual would be compelled to respect, I will vote the public money to provide for it.

Mr. BAYARD. Mr. President, the honorable Senator from California misunderstood me entirely. I will not detain the Senate now, but I will probably take occasion hereafter, on another occasion, to explain my views in regard to what I consider the danger of applying to legislative action the individual opinions of men, instead of having some general controlling principles to guide us. In regard to the question which has been put to me, I answer at once that there are hundreds of cases in which, as an individual exercising that uncertain principle of honor, as it is called, which every man must determine for himself according to his own feelings, I should choose to pay a claim, but in regard to which, as a legislator, I should not feel that the claim had sufficient grounds to enable me to vote for it.

Mr. BORLAND. I agree with the Senator from California in the principle which he lays down for the settlement of claims against the Government. I have always acted upon that principle. I have avowed on more occasions than one that I would govern my votes here in regard to the payment of claims against the Government upon the same principle that I would act with regard to a private claim between individuals. I think that is the correct principle; but it so happens in this case that I am not satisfied that justice requires the payment of this claim. I said when I was up before that I would not go into the argument, not because I had voted in a particular way at the last session, but that I did not deem it necessary to repeat the arguments then made use of, not by myself, but by other Senators, by which I was then convinced that the claim had no foundation in justice or equity. I do not say that the statement then made, that the money proposed to be appropriated was to be paid into the hands of agents, was the argument on which it was rejected. I did say, however, that it was presented and very strongly urged here as a reason why we should hesitate long before we did pay the amount. The Senator from Delaware has well said that whether or not we guard against it by law this money will go into the hands of agents and attorneys.

Sir, we need not look beyond the lobbies of this

Chamber to know where a large portion of the money is to go, and where it was assigned to go as stated at the last session. Notwithstanding all this, if I could be convinced that the Senator from Ohio and the Senator from Wisconsin, who voted with me at the last session, had good grounds for believing that this claim now was just and equitable, or was equitable without being sanctioned by the strict rules of law, I should not hesitate to vote for it. But I have heard nothing to change my mind, and therefore I shall be compelled to vote for the amendment and against the claim.

Mr. WALKER called for the yeas and nays on the amendment, and they were ordered; and being taken, resulted—yeas 13, nays 28; as follows:

YEAS—Messrs. Badger, Bayard, Bell, Borland, Dawson, Dodge of Iowa, Fish, Foot, Hamlin, Hunter, Mangum, Pearce, and Spruance—13.

NAYS—Messrs. Bright, Brodhead, Cass, Charlton, Chase, Clarke, Cooper, Dodge of Wisconsin, Downs, Fitzpatrick, Geyer, Houston, James, Jones of Iowa, Mallory, Miller, Morton, Pettit, Rusk, Sebastian, Shields, Smith, Soulé, Sumner, Underwood, Wade, Walker, and Weller—28.

So the amendment was rejected.

Mr. MORTON. I offer the following amendment, which is in conformity with estimates from the Indian Bureau:

For removal and subsistence of the Seminoles now in Florida, $200,000; this amount having been heretofore appropriated and carried to the surplus fund, under the act approved 31st of August, 1852, making appropriations for the civil and diplomatic expenses of the Government.

Mr. WELLER. Does the Senator offer that amendment by direction of any standing committee?

Mr. MORTON. I offer it as Senator from Florida.

Mr. WELLER. As it makes an appropriation, I do not think that it is in order.

The PRESIDING OFFICER. The Chair understood the Senator to say that it was in pursuance of an estimate from a Department, and it is therefore in order.

Mr. WELLER. What is the date of that estimate?

Mr. MORTON. December 20, 1852. It is for the purpose of carrying out an existing law. An appropriation was heretofore made for the removal and subsistence of these Indians, but not having been applied to that purpose, it was under the act of 1852 carried to the surplus fund. The Commissioner of Indian Affairs merely asks that the money shall be reappropriated for the same purpose.

Mr. WELLER. I should like to have the Senator from Florida inform me how many Indians he proposes to remove? How many Indians are there in Florida?

Mr. MORTON. I presume the Senator from California is as well informed on the subject as I am.

Mr. WELLER. I know nothing about it, and if the Senator is in the same condition, we are not acting understandingly on the subject.

Mr. MORTON. The number of Indians there is variously estimated. I believe that the last commissioner sent into that country estimates them at from five to six hundred; but whether they be five or six, or five hundred or six hundred, matters not. They are to be removed from the territory of Florida in conformity with treaty stipulations. The commissioner sent out last fall for the purpose of removing them, has failed in that object, and the Commissioner of Indian Affairs is now of opinion that this amount is necessary in order to carry into effect the treaty of 1832.

Mr. WELLER. The Senator from Florida says there are some five or six hundred of these Indians. It will be a very expensive plan which will require the appropriation of $200,000 to remove five or six hundred Indians from Florida. To what point are they to be removed?

Mr. MORTON. West of the Mississippi.

Mr. WELLER. That is a very indefinite expression. I live west of the Mississippi.

Mr. MORTON. West of Arkansas.

Mr. WELLER. I think this is a very expensive appropriation, when we are called upon to give $200,000 to remove these Indians west of the Mississippi river, perhaps into some Territory of the United States, and next year we may be called upon to make an appropriation to remove them still further west. Sir, the white man has now gone to the West. The people whom I represent here are in the West. They are standing on the shores of the Pacific, and who ever goes further west than they are, must jump overboard; that is very sure. It seems to me very singular that this appropriation of $200,000 should be asked for this purpose.

Mr. MORTON. I am very much astonished at the opposition raised by the Senator from California to the amendment which I have proposed. The Government of the United States is bound by treaty stipulation to remove these Indians from Florida. All that I, as Senator from Florida, ask is, that the treaty stipulations of the United States shall be complied with. A large portion of the Seminole nation of Indians was removed to the country set apart for them west of Arkansas, and all that we want is, that this remnant shall be removed from Florida, and transferred to the same country where their brethren are now located. I am not prepared to say that $200,000 will be required to remove these Indians, but we want the money which was heretofore appropriated by Congress, after due consideration, and which has been passed into the surplus fund, reappropriated for that purpose. I presume that the Senator from California has sufficient confidence in the incoming Administration, to know that no part of the money will be expended which is not absolutely necessary for carrying into effect treaty stipulations. Do I understand the Senator from California as objecting to this Government complying with its treaty stipulations? Do I understand him as willing that the Indians shall remain a nuisance and annoyance to the people of Florida for all time? If that be the settled policy of the Government, the people of Florida wish to know it; and if the Government will not enforce its own treaty stipulations, the people of Florida will have to resort to means within their own power for the purpose of ridding themselves of the remnant of the Seminoles living among them. Whenever the people of Florida complain of these Indians being there, we are subjected to jibes, jeers, and ridicule. Whether they be three or three thousand in number it matters not. They are an annoyance to our people. They slaughter our women and children, and have depopulated that portion of the State bordering on the Indian country, the sovereignty and jurisdiction over which rightfully belong to the State of Florida. I have in my hands a letter from a distinguished citizen of Florida—a general who was engaged in the suppression of Indian hostilities in 1849, who tells me that he has daily and hourly applications from the frontier of that country, for protection from the Indians. It is for this Government to say whether or not it will comply with its treaty stipulations, and remove the Indians. If it will not, the people of Florida wish to know it; and they will take the matter into their own hands and remove the Indians.

Mr. HOUSTON. I really do not think it is necessary to threaten the Government of the United States. It has entered into no treaty with Florida. If it has entered into a treaty with the Indians of Florida, it is for the Government to consummate and carry out that treaty, but not for Florida. The United States have given Florida her existence. They bought Florida from a foreign Government, and they were certainly under no obligation to Florida or to the citizens of Florida beyond what they have already realized. I am anxious to see these Indians removed and the treaty carried out, but at $100 *per capita*, $60,000 would cover the whole expense of their removal. I am as anxious as the gentleman from Florida to see these Indians removed, though I admit that there is no necessity for it. Florida has a vast area of country comparatively uninhabited, and it is not necessary that the Indian country should be given up to white settlement. I do not think it is exactly courteous to threaten the Government about not fulfilling treaty stipulations. The Government of the United States is capable of performing all its obligations and of requiring others to perform theirs. I do not think any State has a right to anticipate it; certainly not a State which has been created by the Federal Government, the right to create which was acquired by the Federal Government. Such a State has certainly no right to threaten to take into its own hands the power that pertains to the Federal Government. I am in favor of doing everything that is reasonable, but I can see no good to arise from a menace in regard to the action of Florida.

Mr. MALLORY. Mr. President, there are questions drawn into this discussion which do not legitimately belong to it. A fund some time since was placed at the disposal of the War Department, to aid in removing the Florida Indians to the home provided for them in the West. That fund has constantly been applied to the purpose, and has been decreasing regularly; and at this moment the Government is probably employed in the expenditure of money to induce the Indians, or to bribe them, if possible, to emigrate, on paying their expenses. This fund, with the control of the Indians, was transferred from the War Department to the Department of the Interior. It was vested in the latter Department, and came under the control of the Commissioner of Indian Affairs, and he employed a portion of it from time to time in removing these Indians, and the balance of it remaining in his hands beyond the time stipulated by law reverted to the surplus fund. He now asks us to reappropriate the money, for the purpose of removing the Florida Indians, that he may employ it from time to time for the best interests of the country—not for military purposes, not for calling out volunteers, but for the gradual and peaceable removal of the Indians. This is the estimate of the Indian Bureau. Why it was not brought forward by the Committee on Finance, as an amendment, I am not informed. It was brought to my attention only a few days since by the Commissioner of Indian Affairs, who came to inform me of it. I presented the matter to the chairman of the Committee on Finance, who, from what he said, left on me the impression that the case was not presented by that committee because it had escaped his attention, and he asked me to present it. I believed it to be the duty of the Committee on Finance to bring it forward, but one of the gentlemen forming that committee also suggested to me to present it, and said that if it was right he would himself bring it forward. I pretend to give no information about the rightfulness or justice of this in itself. It is an estimate from the Indian Bureau. I cannot say how they will use it. I can only say what they have done heretofore. I have no doubt, however, that it will be properly applied.

Mr. WELLER. I certainly did not intend to be drawn into this discussion at all, nor could I have been induced to engage in it if it had not been for the fact that I knew the number of Indians in Florida was estimated at from three hundred to five hundred, and it struck me as very remarkable that it should be necessary to appropriate $400 per head for the transportation of these Indians from Florida to the west of the Mississippi river, and it was in connection with the charges which are time and again made against that portion of the Confederacy from whence I come of extravagance, that I was led to institute a comparison between the expenditures for transporting the Indians in Florida and the amount which had been appropriated to California. Now, sir, I undertake to say that although the Government has been required to appropriate liberally, and in some instances perhaps extravagantly, to the State of California, there cannot be found a more extravagant demand made against the National Treasury than that which is presented by this amendment. There are about five hundred Indians in Florida, and you propose that the Federal Government shall give $400 per head for their removal west of the Mississippi river. Is that a just and fair demand? The Indians were entitled to an appropriation from the National Treasury for their removal. They have relinquished that right. They do not want to remove from Florida; but if it be your policy to remove the Indians from the limits of Florida, and thereby prevent collision with the State of Florida, make an appropriation that will be amply sufficient to effect the object. In my judgment, $400 a head is a little above anything that California has ever yet asked for.

Mr. DAWSON. I am in favor of this appropriation, and I go for it on principles which I think most decidedly correct. It is admitted to be utterly out of the question that the Indians can remain in Florida in peace with the inhabitants of that State. They are obliged by treaty to remove, whether for the benefit of the United States or of Florida is immaterial. The sum proposed to be appropriated is said to be too large. Not at all, for not one dollar of it will be spent under the Administration which is coming in, or

any other Administration, which will not be necessary to carry into execution the object intended. This is decidedly the cheapest and most humane mode of proceeding. Let President Pierce, when he comes into power, have the right to appoint some influential and intelligent citizen to go among these Indians and induce them to remove. Let him have the means to buy them to go. It would do much better than taking up arms against them and sweeping them down by the force of power. That is the object which my friend from Florida has in view; and, in my judgment, no man upon this floor need apprehend any profligate expenditure of the public money, either under the incoming or outgoing President of the United States. But when you call upon the President to discharge a duty—a duty to the treaties of the United States, and a duty to humanity—you should give him the means to do it. I would rather pay $50,000 to Billy Bowlegs than kill fifty or even one of these Indians.

Mr. WELLER. If my friend from Georgia will allow me, I should like to know why it is these estimates were not sent either to the Committee on Finance or the Committee on Indian Affairs? Here were two standing committees of the Senate, either of which might have taken jurisdiction of this case, and ought to have taken jurisdiction of it. If the removal of the Indians was necessary, it seems to me that the Committee on Indian Affairs ought to have had notice of that estimate; and if they had had, I have no doubt they would have made provision for it.

Mr. DAWSON. I will answer my friend from California. It is a subject upon which we ought not to dispute or misunderstand each other. This money has been hitherto appropriated, but could not be used because the state of the Indian mind was such that money would have no influence on them; and under the law, after a certain length of time all unexpended balances go into the surplus fund; and this has gone there in that way. I am asked why did not the President make estimates or call for the appropriation? I will tell you: The present President of the United States has had an agent there for nearly twelve months, using this money to persuade these people to go, and that agent brought to this city Billy Bowlegs and a number of the Indians, and when they were here they entered into an arrangement by which they promised to go. They returned home, by the way of the city of New York, and when they got in Florida, under some influence, whether their own impressions or otherwise, or the interference of others, I cannot tell, they signified an unwillingness to go. Whether they thought the going out of the present and the coming in of a new Administration would inure to their benefit I cannot tell. The impression may have been on their minds that the party in power wanted them to go while the party coming in might allow them to stay. We cannot tell what influences a savage mind. All that I desire to do is, instead of sending armed men there, which will cost a great deal of money and of blood, to send an honest, good man there, and let him operate on the Indians; and I want him to have money put at his disposal to do it. I now think, as I said the other day, that the incoming Administration ought to have money sufficient at hand to buy these people, or bribe them, if you please. I call it but influencing them to take good advice. Let the money be there in gold and silver, and they will see it, and they will surrender their present homes and go to the West. It will be a gratification to humanity, and a gratification to the Administration to know that they have been removed without bloodshed; and the only way in which to do it is by appropriating money for the purpose. Money is very little towards the accomplishment of such an object. Let it be appropriated properly; it will not be thrown away by being appropriated. It will only be used to consummate the purpose; and if it cannot be used it will remain in the Treasury, and after a certain time go back to the surplus fund.

I sincerely hope that the amendment may be adopted. Why should gentlemen have the idea of referring to Florida the manner of dealing with this handful of Indians, as they are usually called? Florida is being aggravated; she is being chafed; the character of her people is being insinuated against; their bravery is talked about, and there are intimations of cowardice on their part. Sir, if the public feeling of Florida bursts forth, and if vengeance be taken into their own hands merely for the purpose of protecting themselves against the tomahawk and the scalping-knife, we would find that we would regret it ourselves hereafter, and Florida would be shocked at what might occur under the excitement thus created. All this I desire to avoid; all this it is our duty to avoid; and the sum of $200,000, to be expended under the superintendence of the President, should not be any barrier to carrying out this humane object.

Mr. PEARCE. The sum of money which the amendment of the Senator from Florida proposes to appropriate, was appropriated, if I remember aright, for the removal of these Indians by the act of 1850. I was then a member of the Committee on Finance, and I have a distinct recollection of the discussion of the subject in the committee and the appropriation by the Senate. This reappropriation becomes necessary, in consequence of the act of the last session by which all outstanding appropriations of more than two years were to be carried to the surplus fund. This proposition is, that the money which was appropriated in 1850, shall now be reappropriated. I will state to the Senate that the amendment was not considered by the Committee on Finance, for the simple reason that we only received the Indian appropriation bill yesterday, or the day before, and the committee has been so much engaged in the consideration of the other appropriation bills, and they all come to us so late that we had no time to examine many amendments which it was desirable should be made. We therefore agreed to report this bill with only two or three formal amendments, and one other which has been rejected by the Senate, to strike out the Shawnee appropriation. I am inclined to think that it is well that the Senate should reappropriate this money. If we can succeed in removing the Indians by means of this appropriation, we shall effect a very desirable object, and it will be a great deal cheaper even to get rid of the Indians at $400 a head, than to carry on a war with them for years to come. I think that some years ago we spent $20,000,000, and succeded in emigrating only a portion of the tribe.

Mr. WELLER. A great deal more than that.

Mr. PEARCE. Well, if we can secure the object by an appropriation of this amount, very well. If when an agent shall be sent down there he cannot do anything, no harm can be done, and the money will remain in the Treasury.

Mr. WELLER. My impression is that the Florida war cost about $40,000,000.

The amendment was agreed to.

Mr. HOUSTON. I move to amend the appropriation for the payment of the Ohio Shawnees, which has been retained by a vote of the Senate, by adding to it the following:

Provided, That the sum aforesaid shall be paid to the said tribe *per capita*; and if any agent or other person or persons shall violate this proviso, he or they shall be guilty of felony, and shall be liable to indictment in the State in which the Indians reside; and be punishable by fines and imprisonment—the fine not to be over $1,000, nor less than $500; and to be imprisoned not more than ten, nor less than five years.

Provisos of this sort have frequently been made in the laws. One was made last year, which has been read by the Senator from Wisconsin, and we supposed that they would certainly have had a tendency to restrain the officers from violation of them; but they have not had that effect. I have been assured, upon good authority, that not a single instance has occurred under direction of the Secretary of the Interior, since the enactment of the law of the last session, in which a compliance has been had with it. Therefore, it becomes necessary to attach some penalty to the violation of law. Heretofore it has been supposed that conscience would have some effect, but it is now ascertained that conscience is a dead letter with that officer, and it is necessary to give a living letter to guide him and to make the offense felony. It is necessary to do so to vindicate the national honor, and to punish delinquents. If this amendment be adopted, I shall vote to retain the proviso; otherwise, I shall be in favor of striking it out for I am well satisfied that unless something of this sort be adopted every cent of the money appropriated will be obtained by greedy attorneys, and not a cent will go to the Indians.

This is so in regard to the Indian annuities. The drunken and worthless Indians involve the annuity of the nation to these people, while the more discreet and temperate and properly-behaved men avoid these machinations and designs upon their annuities, and they are rendered responsible to satisfy these men who are continually striving to rob them of the pittance which our Government gives them. It is the duty of the Government to vindicate its honor, and to punish delinquents who deserve to be whipped through creation with scorpion lashes; and unless you apply the lash, you will see every law that you pass here evaded by men who are actuated by avarice and cupidity, and who will stop at no crime to accomplish their infernal ends. Sir, my remarks apply to no man who is exempt from the imputation. No honest man can object to them. I am not abusing my privilege here, for such men as will enter into contrivances of this kind to swindle and defraud the Indians are entitled to no consideration here; and what will be hereafter I know not. I feel that some provision like that which I have proposed should be made in order to protect the Indians, to carry out the views of the Government, and vindicate its honor.

Mr. BAYARD. I have no objection to the amendment. I would merely suggest to the Senator from Texas, that as the amendment reads it provides that parties guilty of this felony shall be indicted in the State in which the Indians reside. Now, I understand that the Indians reside outside of any State, and therefore it would be *brutum fulmen*.

Mr. WALKER. I would suggest to the Senator from Texas, in order to carry out the object of the amendment, in which I cordially concur with him, that he should strike out "State," and insert "jurisdiction," so as to provide that the person should be indicted in the jurisdiction in which the Indians reside.

Mr. HOUSTON. I accept that modification.

The amendment as modified was agreed to.

Mr. WALKER. I am directed by the Committee on Indian Affairs to offer the following amendment:

And be it further enacted, That there be, and hereby is, appropriated, out of any unappropriated money in the Treasury, for the benefit of the Menomonee tribe of Indians, the sum of $613,515; the said sum being the consideration in full, at the rate of eighteen and nine tenth cents per acre, for five million two hundred and thirty thousand two hundred and forty acres of land in Wisconsin, ceded by said Indians under treaty of October 18, 1848, after deducting the sum of $350,000 allowed by said treaty, and $25,000 since appropriated to said Indians. The said sum, however, to remain in the custody of the Secretary of the Treasury for the time being, subject to the disposition following—that is to say:

First, so much thereof as may be necessary to the payment of such debts and demands of and upon such Indians as they shall, in the presence of the proper local agent or superintendent, expressly admit and sanction as just and due, in a council to be called for that purpose, after the passage of this act, and the notification thereof to them, and of the amount hereby appropriated for their benefit; a true and correct list of which debts and demands, with a statement of the general character of each, properly certified by such agent or superintendent, shall be forwarded to the President of the United States, who shall order the same to be paid out of this appropriation, if he shall be satisfied that the same were freely and voluntarily admitted and sanctioned as aforesaid; and second, the balance to be invested for, or paid to said Indians, in such manner and sums, and at such times, as may be agreed upon and stipulated for, by and between the President of the United States and the chiefs of the said tribe.

Mr. PEARCE. This was considered a bad claim last year, when it was about half its present size. Whether the Senate will consider it a good one now, when it is double in magnitude, I do not know. It will be recollected that this claim was discussed pretty fully at the last session of Congress. It was put on the Indian appropriation bill by the House. It came to the Senate. A motion to strike it out was made by the Committee on Finance, and the Senate, on pretty full consideration, did strike it out; and I think it was done very much to the satisfaction of the House, for they immediately concurred in it. I do not think there is time for me to go into the consideration of all the facts on which this claim is based. I believe the Senator from Wisconsin has drawn a very long report, which has come in not very long since, and which I have not had an opportunity to examine thoroughly. I was quite well satisfied last year that it was not incumbent on us to make the appropriation then asked for these Indians; and it is now proposed to give them twice as much—upon what ground I have not yet learned. I shall be obliged to vote against the motion until I shall have had, at all events, an opportunity of examining the subject more fully. I

will listen, however, to what may be said in its favor.

Mr. WALKER. As the Senator from Maryland has remarked, a written report was submitted upon this case upon the 14th of February last. On the day when I submitted that report there was a great deal of hurry and confusion during the morning hour, and I intended then to request Senators, when the printed report should be laid on their tables, to make it a matter of special examination. I desired it to undergo the fullest scrutiny; and I had more reasons for it than one. These Indians reside in the State of Wisconsin. At the last session of Congress, upon the report of the Commissioner of Indian Affairs, it was proposed to appropriate to them $241,000. At that time the true situation of the case was not known, and it could not be known, for the reason that the survey of the country which is now acknowledged to have been ceded by them was in progress, but had not gone so far as to give us the requisite information.

In the report made at this session by the Committee on Indian Affairs, a review is taken of all the treaties which concerned in any way the cession made by the Menomonees, and the committee came to the conclusion that the Committee on Indian Affairs was in error, and that the Government has all along been in error, in under-estimating the lands ceded by the Menomonees in the treaty of 1849. The committee refer to a map which accompanies the last annual report of the Commissioner of the General Land Office, on which is laid down the tract constituting the cession now in controversy, and which is marked in red on the map which I hold in my hand, and which accompanies the report of the committee. By actual survey, it is demonstrated that the country so laid down on the map, and acknowledged on all hands to be the cession of 1848, embraces 5,322,240 acres. The maximum fixed by the Attorney General and the President in the instructions to the commissioner who negotiated the treaty was 3,023,800 acres. Without reading the whole of this report, I wish to advert to a few passages of it, in which the calculation is gone into, and I will ask the attention of the Senate to them. Let me premise, however, that the commissioner himself, immediately upon the negotiation of the treaty, or as soon as he returned with a report of his proceedings to the Department, stated that he discovered, while in the country, an error in the estimate of the Indian lands, which made a difference of a million of acres. Subsequently an estimate was gone into at the General Land Office of the quantity of land ceded, and it was there ascertained, as near as the surveys could make it known, that it amounted to about 5,000,000 of acres. As I have remarked, the tract which is ascertained by survey and laid down on the map embraces 5,230,240 acres. Now let me read from the report:

"At the time the treaty was signed, the chiefs of the tribe claimed that they justly owned nearly eight million acres of land in Wisconsin. They have ever since claimed, and still claim, the same thing; and that the Government has dealt hardly by and has stripped them of this vast extent of country, under an ostensible purchase of only three million twenty-three thousand eight hundred acres. These complaints and clamors have directed the attention of the proper functionaries of Government to the subject, with a view to ascertaining whether or not they were founded in truth and justice."

I wish now to call the particular attention of Senators to what follows, to show the authority upon which the report is based:

"Investigation has shown to the satisfaction of the President, the Secretary of the Interior, and the Commissioner of Indian Affairs, and of the General Land Office, that if the Indians claim too much, the Government has also taken from them vastly too much, and has paid them for too little. In a letter of the present Commissioner of the General Land Office, which has been laid before the committee, the Commissioner estimates the area of the cession at 5,000,000 acres. This estimate is referred to with approbation by the Commissioner of Indian Affairs, in his report to the Secretary of the Interior, of the 23d of April, 1851. This last report has been approved by the Secretary of the Interior and the President, as evinced by the two letters of the Secretary of the Interior accompanying this report, dated respectively the 12th and 16th of July, 1852. Upon a map accompanying the annual report of the Commissioner of the General Land Office, for the last two years, a district of country is laid down as the '*Menomonee cession of October 18, 1848*,' which embraces, upon actual survey, 231 townships, or 5,322,240 acres. Within this tract is embraced about 92,000 acres of the cession of 1836, on the east side of the Wisconsin river, which being deducted from the above aggregate, leaves 5,230,240 acres as the acknowledged amount of the cession of 1848. The committee submit a copy of this map with their present report, having colored the district or tract just mentioned with red."

I now wish the Senate to look further and to see that the land thus described is not the only land which these Indians owned in that country and for which they have not been paid. The report proceeds:

"But it may be asked, by what authority is the Menomonee cession extended north of the southern line of the Chippewas, as established by the treaties of the 19th of August, 1825, and the 11th of August, 1827?"

This was the principal difficulty which met the Attorney General in investigating the subject; and it seems to me that he must have investigated it rather superficially, or he would have seen that he did the Indians great injustice in fixing the maximum of their lands at the amount at which he did fix it. The report gives the answer to this difficulty:

"The answer is a plain one. By those treaties the most southerly point of the southern line of the Chippewas was fixed at the Plover Portage of the Wisconsin river. By two treaties made with the Menomonees since the treaties of 1825 and 1827, the Government has conceded that it *did not* consider the Menomonees bounded on the north by the southern line of the Chippewas. By one of these treaties (8th of February, 1831) the Menomonees are permitted to carry their northern boundary as far north as the head of the Menomonee river of Green Bay, as shown on the map above alluded to; and by the other, (3d of September, 1836,) the Government actually made a purchase from the Menomonees of 184,000 acres of land lying three miles on each side of the Wisconsin river, and extending north from the Plover Portage, or southern extreme of the Chippewa line, a distance of nearly forty miles."

I think that inasmuch as the Government itself recognized the right of the Menomonees beyond the alleged Chippewa line, by purchasing lands from them north of that line, it cannot, at this late day, reverse that decision. The report goes on:

"From this it is manifest that the Government has never restricted the Menomonees on the north, to the southern line of the Chippewas; nor have the Menomonees ever deemed themselves so restricted. They had the best of reasons for supposing the contrary. Not only had the Government allowed them to bound their country far north of that line, but it had fully recognized their title by making a purchase and accepting a cession from them north of it.

"It will be perceived, by reference to the map herewith submitted, that the Menomonee cession, indicated in red, lies entirely east of the Wisconsin river."

That portion of the Territory east of the Wisconsin river, which all admit to have been ceded by the Menomonees, is the tract which I have already stated as amounting, according to actual survey, to 5,230,240 acres.

"But in point of fact, did not the Menomonees, at the date of the treaty of 1848, also own the country west of that river to Black river, and north of the Manoy or Lemonweir river, as indicated by the tract colored on the map with green? The committee is of that opinion, and for the following reasons:

"By the 8th article of the treaty of the 19th of August, 1825, the Menomonees claim Black river as their western boundary. This claim was made in the presence of the Government commissioners, and the delegates of the Sioux, Chippewas, Sacs and Foxes, Iowas, Winnebagoes, Ottowas, and Pottawatomies, and was disputed by neither. In the treaty of the 8th of February, 1831, they extend their boundary even further west—making the Chippewa river their western boundary; and for a southern line, west of the Wisconsin, they take a line from the mouth of the Chippewa, across Black river, to the forks of the Manoy (now called the Lemonweir) river, and down that river to the Wisconsin. But limiting them to Black river on the west, and by the southern line and the Manoy, as described in the treaty of 1831, we find them to have been entitled to this additional tract of land, between the Wisconsin and Black rivers, amounting to 108 townships, or 2,488,320 acres; which added to 5,230,240 acres east of the Wisconsin—and which is now conceded to have belonged to the Menomonees—and the amount of the cession of 1848 would appear to have been 7,718,560 acres. The committee has searched in vain to find any act of the Menomonees by which they have ever divested themselves, or been divested, of this Wisconsin and Black river tract. On the contrary of such a fact, the committee finds that the Government expressly recognized their title west of the Wisconsin, by the purchase from them in 1836 of about 92,000 acres of land west of that river. The Menomonees have never ceased to claim this tract of country; and both before and at the time of making the treaty of 1848, Oshkosh, the head chief of the Menomonees, and both a good and sensible man, claimed that his tribe owned nearly 8,000,000 acres in Wisconsin. It was in view of this continued claim that the Attorney General, to whom this matter was referred before the treaty of 1848, used the following language in his opinion given on the occasion of that reference:

"'*They* (the Menomonees) *may cross the Wisconsin river into the territory claimed by the Winnebagoes, and show a title better than theirs, if they have one.*'

"To show this better title, what more could an Indian say than this: 'In 1825 we claimed to Black river, in the presence of our white brother and the Winnebago, and neither disputed our claim; we have occupied and hunted over the country ever since, until 1836, when our Great Father, wanting a part of this country, applied to us to buy, and not to the Winnebago; and we, and not the Winnebago, sold to our Great Father. From 1836 to the present hour we have continued to occupy what we did not then sell. Our camps were there and our families were there, when our warriors went forth to assist you in your battles against the Winnebago; yet you will say our title is no better than the Winnebago's, when he only came upon our country by sufferance or usurpation, and, by his craft and intrigue, induced you to buy from him what belonged not to him but to us.'"

Mr. President, those who know the character of the Winnebago Indians, know that when they have made a treaty with the Government and obtained their money, they drink it up, and then, like a set of pirates and robbers, they commit depredations upon the neighboring tribes. They commit murders and various other offenses on the frontiers. The Government finding them belligerent and marauding, goes and treats with them again, and in order that they may appear to get some consideration, there is a pretense that land is bought from the Winnebagoes. Well may the other Indians stand aghast; and the Government has more than once said to some of them, Keep still, we are only buying our peace with the Winnebagoes in this way; we do not care for the lands; we know that they were not theirs to grant. My honorable colleague who is not now in his seat, well knows the character of the Winnebagoes. When he was in authority, he never allowed them to be on the lands of other Indians without permission, and if he found them there he chastised them, as he had occasion to do more than once; and I believe he had the assistance of these poor Menomonees in doing it. But to proceed with the report:

"All this might be said by the Menomonee, and at the same time truly said. The committee, therefore, cannot gainsay the title of the Menomonees to this tract. Whatever of usurped title the Government may have seemed to recognize in the Winnebagoes, the committee are forced to the conviction that the Menomonees had a 'better title than theirs' to this tract of country.

"The real amount of land ceded by the treaty of 1848 would appear, then, to have been, as before stated, 7,718,560 acres, while the maximum estimated and fixed as the basis of the treaty was but 3,023,800 acres. The difference is 4,689,760 acres; and this difference the Government has acquired without price, and the Indians have lost without consideration, and are now without the power to redress the wrong; for, by the terms of the treaty, they *cede all their lands in Wisconsin, wherever situated.*

"The committee cannot, however, come to any other conclusion than that the Government did materially and unreasonably underestimate the lands of the Menomonees, in fixing the maximum at 3,023,800 acres, and that humanity and justice alike forbid that the country should avail itself of the enormous difference; but, on the contrary, that these, as well as sound policy, would dictate the propriety of readjusting the financial relations of the Government with this ever friendly, yet now poor, helpless, and defenseless people."

We come now to the other branch of this subject, for it has two branches. Not only were the Indians' lands underestimated by the treaty of 1848, in consequence of ignorance of the surveys, the want of knowledge as to the true extent of the boundaries, but the price was not paid to the Indians to which, as they contend, they were justly entitled, under the treaty stipulations of the Government. The committee proceed:

"What is shown to have been the loss of these Indians in land, is not the only loss they sustained by the treaty of 1848, or rather by the manner in which its terms were settled by the commissioner who negotiated it. This brings the committee to the second branch of the inquiry: Did the Government, in settling the price to be paid, make unreasonable deduction from the rate or amount to which the tribe was reasonably entitled for what it did in fact cede?

"By the instructions to the negotiator of the treaty, he was authorized to pay for a cession of the Menomonee lands at a rate '*per acre not exceeding that paid by the United States under the treaty with the Menomonees of September 3, 1836.*'

"Now, the rate per acre paid by the United States under the treaty of 1836 was 18 9-10 cents. If the negotiator had allowed at this rate for even the underestimated maximum of 3,023,800 acres, to which he was restricted by his instructions, it would have amounted to $571,498 20; whereas he allowed but $350,000 for the limited maximum, which would be at the rate of but eleven cents and a fraction per acre. Here, then, the Indians were subjected to a deduction and loss, in the authorized price, of $221,498 20, supposing them to have owned but the amount of land fixed as the maximum.

"But suppose the quantity of land to have been what the negotiator says he discovered it was while in the country—4,000,000 acres; this, at the rate of the treaty of 1836, or 18 9 10 cents per acre, would amount to $756,000. The amount received for this increased quantity was, likewise, but $350,000, showing, under this state of the case, a loss to the Indians of $405,000.

"And again: Suppose the quantity of land actually ceded to be what it is estimated to be at the General Land Office—5,000,000 acres; this, at the authorized rate of the treaty of 1836, would amount to $945,000. But for this still increased quantity the Indians were paid but $350,000, sustaining, upon this basis, a loss of $595,000. Yet we have seen that an actual survey has demonstrated the fact that the actual quantity of land embraced in the tract east of the Wisconsin river—confessedly the Menomonee cession of 1848—is 5,230,240 acres. This quantity, at the authorized rate of

18 9-10 cents per acre, would have given the Indians $988,515 36. And yet they received for all this but the sum so often mentioned, or $638,515 36 less than they were entitled to, for their land east of the Wisconsin alone.

"But concede the Menomonee title to the country between the Wisconsin and Black rivers, and the case stands thus: East of the Wisconsin, 5,230,240 acres; west of the Wisconsin, 2,488,320 acres; making an aggregate of 7,718,560 acres. This quantity, at 18 9-10 cents per acre, would entitle the Indians to the sum of $1,458,807 84. Deduct from this sum the amount paid, and the balance in favor of the tribe would be $1,108,807 84."

This may appear extraordinary, but I wish to call attention to the language of the report, which explains it, and shows that it is not as extraordinary as it appears:

"The committee is aware that this statement of the case seems incredible; yet, as regards the quantity of land, they would remind the Senate that it is no more than the Indians have always claimed; and as regards the price, it is but what they received for their lands under the treaty of 1836, and what the commissioner was authorized by his instructions to stipulate for by the treaty of 1848. What makes the statement above seem incredible is, the enormity of the difference between the estimated and *actual* quantity of land ceded, and between the price *authorized* to be paid, *and that which was actually paid.* Were the treaty *now* to be made, it cannot be presumed that the maximum of land would be estimated at a quantity less than 5,230,240 acres; for this is now known to be contained in the single tract east of the Wisconsin; and surely 18 9-10 cents per acre would not be deemed an extravagant price for land of the most fertile and beautiful character, when it is remembered that within a year the Senate has ratified a treaty stipulating to pay about 60 cents per acre for land upon the St. Peter's river, in Minnesota."

I think fifty-nine cents was the amount paid for the country near the mouth of that river embraced in the Half-breed tract.

"While it is thus clear that the maximum would not be estimated at less than the quantity known to be contained in the tract east of the Wisconsin, is it any less clear that the maximum would be estimated to include the tract west of the Wisconsin? If so, it could only be in consequence of some supposed superior title in the Winnebagoes. Title in the Winnebagoes must be found, if found at all, in the seventh article of the treaty of 19th August, 1825."

This was one of their marauding incursions when they were murdering the people on the frontier, and the neighboring Indians and the Government was forced to treat with them. They claimed land belonging to other Indians, and the Government pretended to buy it of them in order to quiet them.

"But it must be borne in mind that this article claims also all east, to and including Winnebago lake, and concludes with these words: 'But for the causes stated in the next article, *this line from Black river must, for the present, be left indeterminate.*'

"In the next or eighth article of the same treaty, the Menomonees dispute the Winnebago title, and claim, as before stated, west to Black river. In 1831, they reassert their title, and that, too, with the approbation or the Government, while the Winnebagoes never again allude to their claim to the country in question, notwithstanding they cede land elsewhere to the Government by treaties of 1829 and 1832. In 1837, however, without designating any particular locality, they enter into this sweeping and comprehensive stipulation with the Government: 'ART. 1. *The Winnebago nation of Indians cede to the United States all their lands east of the Mississippi river.*'"

And this is what brought ruin upon the poor Menomonees at that time. Under this comprehensive stipulation a line was marked out, not by the consent of the Menomonees, but against their will, or at least without their knowledge, which, by a little bend, deprived them of a great part of their country.

"Here, then, we have the whole of the Winnnebago title or claim, so far as it conflicts with that of the Menomonees, while the Menomonee claim starts with the year 1825, is reasserted in 1831, and again in 1836, when they sell a part to the Government; and from the beginning down to the treaty of 1848 they are in possession and occupancy of the country.

"The conclusion would therefore seem irresistible that the Menomonee title to the country between the Wisconsin and Black rivers was as complete as to any other part of their acknowledged cession. If so, with the knowledge at present possessed upon the subject, an estimate of the Menomonee lands would necessarily include the country in question."

Then follows a summing up of the case in figures. I have desired that the report should be examined, and that any fallacy in it should be pointed out, and the matter finally and forever settled. The report briefly sums up the case in these words:

"How then stands the case? The Government has obtained a cession of 7,718,560 acres of land, worth at least as many dollars, after paying all expenses, for which she has paid but $350,000. Here is a clear gain of $7,368,560. The committee is not aware of any like speculation by the Government in its negotiations with mankind, either savage or civilized. And upon whom is this speculation made? Upon a nation of reputed savages, once wealthy and powerful, indeed, but now poor and helpless in the extreme, but whose glory it is to boast that they have never yet shed the blood or taken the scalp of a white man; upon a nation of friends—early and long-tried, but still friends—who from 1812 to the last Indian war of the Northwest, have always been found the firm and steadfast allies of our country. But such has been their treatment in return. Still, however, they faithfully maintain their plighted amity, and await, with hope, the justice of the Government."

Here let me say that the committee has given up, in its report of the amount now before the Senate, the entire district of country colored on the map in green, and which amounts to 108 townships, or 2,488,320 acres, and confine the estimate to the tract east of the Wisconsin alone. In that view of the case, the account is summed up thus:

The United States, To the Menomonee tribe of Indians,	*Dr.*	
To 5,230,240 acres of land, ceded by treaty of 18th October, 1848, at 18 9-10 cents per acre		$988,515 36
Deduct amount paid under same treaty,	$350,000	
Deduct appropriation for removal to their present location	25,000	
		375,000 00
Amount justly and equitably due from the United States to said Indians		$613,515 36

That is the exact amount for which an appropriation is now asked, and it applies only to that district of country west of the Wisconsin river, excluding that between the Wisconsin and Black rivers, and providing only payment for that tract which is now conceded on all hands to belong to the Menomonees.

Mr. PEARCE. It is no reflection on the intelligence of the Senate to say that I doubt whether they have been able to follow the honorable Senator from Wisconsin in his statement. Nor do I think it is any impeachment of his clearness of statement to say that they have not done so. The subject is an intricate one. It involves the consideration of several treaties, of various treaty stipulations, locations, changes of line, extensions of territory, all of which it is impossible to fully comprehend and follow out in an argument of this sort, unless one has by some previous study, qualified himself to understand it, and has maps before him enabling him to do so. As I understood the claim last year, something like $241,000 were then asked, upon the ground that by the treaty of 1848, made during the administration of Mr. Polk, by Mr. Medill, the then Commissioner of Indian Affairs, the Menomonee Indians had parted with a larger extent of territory than they supposed they were parting with. Then the claim was put on a double ground. First: they claimed for the excess of land; and besides that, for the maximum price which the Commissioner was authorized to give, eighteen and nine tenths cents per acre, whereas in fact, the amount which he paid them for the land which he bought, or which the Indians estimated he was buying, was only eleven cents an acre. Then the claim was for the excess of the land, not at the price of eleven cents per acre, but at the maximum price which the Commissioner was authorized by the President to give. I rather think that the Committee on Finance supposed last year, and so did the Senate, that the purchase made under this treaty was one in which a sum of money in gross was given for a tract of land described by certain boundaries; that the land turned out to contain more acres than the Indians supposed and more than the Commissioner supposed. The allegation was made that before the Commissioner concluded the treaty, he discovered that the tract of land contained an additional number of acres, but made no allowance for it in the treaty which he made with the Indians. The Senate, however, then, considering that this purchase was one made in gross, to be paid for by a gross sum of money, were disposed to reject, and did reject the claim.

Now, it is impossible, as I said before, for the Senate to understand from the statement of the Senator from Wisconsin, rapidly as that Senator enunciates, all the circumstances which go to make up the case on which he thinks these Indians are entitled to this large allowance of $613,000. I suggest that it would be much better if this amendment were not pressed now when the Senate cannot understand it, and when their inclinations probably will be, as they should be if they do not understand it, to vote against it; and that it would probably be better to postpone it until the next session, when we can have a full investigation, and not prejudice the claim by a vote in the negative, as may be the case at this session. I throw out the suggestion for the consideration of the Senator from Wisconsin.

Mr. WALKER. I have such full and entire confidence in this matter, that I wish to let the claim be thoroughly investigated, that others may see it as I see it, or be able so to perceive it as to convince me that I am wrong, if I am in error; for, sir, if I ever had a desire since I first breathed the breath of life to be right, it was in this case. Last year I opposed the appropriation as it came from the House of Representatives, and I opposed it with that vehemence which is usually my custom. The chiefs and headmen of the Menomonees censured me for it—and they are very intelligent people. The population living in the vicinity of these lands also censured me; and they are my constituents. Under these circumstances I was forced to investigate the claim, and I sat down to commence its investigation with a determination to justify the opposition which I had made to it. I believe it was Lord Lyttleton who took his seat to refute the Bible, by writing a treatise to show what he considered the absurdity revealed in the Bible with regard to the resurrection. Before he had progressed far, however, he became convinced of the sublime truths of the Bible, and that the right was on the other side. Not comparing myself to Lord Lyttleton or any other lord, or wishing to be compared to one, but comparing small things to great, I claim to be parallel to his case with regard to the sentiments with which I sat down to investigate this claim. I intended to write the bitterest report that could be written, in order to refute it. I went to the investigation of the subject with a determination not only to do that, but to justify myself upon the face of the records in the case. But before I had gone through with the investigation, I became convinced, against my feelings and inclinations, that I ought to report as I have done, in favor of the claim. I submitted my report to my colleague, and I submitted it to the members of the Committee on Indian Affairs. They have not examined it as particularly as myself, but they seemed to entertain no doubt as to the claim. I do not wish to press the matter now, and if the members of the Committee on Indian Affairs will consent, I will withdraw the amendment; and I will withdraw it unless they dissent.

Mr. BELL. I would recommend its withdrawal.

Mr. PETTIT. Before the amendment is withdrawn, I wish to say that I have read with great care, and reread the report which has been made from the Committee on Indian Affairs. I know nothing of the truth of it, of course, but I must take it on their statement. If I am at liberty to say that they have told the truth, the report is conclusive; and if I must act upon that, I cannot do otherwise than vote for this claim. If the facts are other than as presented in the report, of course it will alter the case; but I know nothing of them. If I am at liberty to believe the committee in what they have said, there can be but one way for me to vote, and that is in favor of the allowance.

Mr. BELL. I would recommend to the Senator from Wisconsin to withdraw the amendment. I should be very sorry, by any vote that I might give, or by any views that I might submit, to prejudice the case, because that Senator seems to state his opinion with much confidence.

Mr. PETTIT. I do not object to the withdrawal, but I only wish to say, that if the amendment is pressed to a vote, I shall feel compelled to vote for it.

Mr. WALKER. I understand that the members of the committee present consent to the withdrawal of the amendment. I therefore withdraw it, but with this remark: Let me recommend gentlemen to get from their files this report. They can find it among their documents, and they can find there one of the maps referred to, and can easily trace the lines. If they will do that, and prepare themselves by the next session, I do not think there will then be any necessity for debating this question.

Leave was granted to withdraw the amendment; and it was withdrawn.

Mr. COOPER. I have been instructed by the Committee on Indian Affairs to present the following amendment:

For the payment of the claim of Henry M. Rice, for subsisting the Winnebago Indians, removed by him in pursuance of the contract with the Commissioner of Indian Affairs dated April 13, 1850, the sum of $24,330 72.

Mr. DAWSON. It seems to me that that is clearly a private claim.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The Chair is obliged to rule the amendment out of order as a private claim.

Mr. WELLER. I offer the following amendment:

SEC. —. *And be it further enacted*, That the thirteenth section of the act approved March 3, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," be so modified that the claimants to lands in said State shall be allowed until the first day of March, 1854, to present and file their claims before said commissioners.

The act organizing a board of land commissioners in California prescribed that claimants should file their claims in two years. That time has expired, and there are some claims which, from a variety of causes, have not yet been presented. This amendment is simply to extend the time one year longer, in order to give all an opportunity of filing their claims.

Mr. DAWSON. I think it but perfectly right, and I have always been so exceedingly liberal towards California that I think it very proper to adopt this amendment.

The amendment was agreed to.

The PRESIDENT signed the following enrolled bills:

An act authorizing the adjustment and payment of the accounts of William Hazard Wigg;

An act making appropriations for the support of the Army for the year ending June 30, 1854;

An act making appropriations for the completion of public buildings in the Territory of Minnesota;

A joint resolution providing for printing and binding the returns of the Seventh Census; and

An act to incorporate the Georgetown and Catoctin Railroad Company.

Mr. RUSK. I have some amendments to offer, by the direction of the Committee on Indian Affairs. The first one is to increase the appropriation for compensation to three special agents and four interpreters for the Indian tribes in Texas from $15,000 to $30,000.

Mr. PEARCE. Is there any recommendation or any estimate for that?

Mr. RUSK. Yes, sir; I hold in my hand a communication from the Secretary of the Interior, dated February 24th, asking for this appropriation, which communication is accompanied by various documents on the subject.

The amendment was agreed to.

Mr. RUSK. The Committee on Indian Affairs have further directed me to offer the following amendment:

SEC. —. *And be it further enacted*, That for the payment to the citizens of Alabama and Georgia for depredations committed by the Creek Indians upon their property, and for other property taken by the troops of the United States and friendly Creeks in the years 1836 and 1837, the sum of $534,753 be, and the same is hereby, appropriated, to be distributed and paid over to the said citizens, or their legal representatives, according to the accounts allowed each of the said claimants respectively, by Messrs. L. T. Pease and J. M. Smith, commissioners of the United States, under the act approved March 3, 1837, as contained in the report and schedule made to the Commissioner of Indian Affairs, dated April 28, 1837.

Mr. PEARCE. That is a very large item, and I should like to hear some explanation of it.

Mr. CHASE. If I recollect aright, this claim has been once decided by the Senate to be a private claim. It is for the payment of a large aggregate to individuals. It was ruled out of order last year, and I raise the point of order now.

Mr. FITZPATRICK. What is the objection of the gentleman from Ohio?

Mr. CHASE. My point of order is, that this amendment provides for a private claim, or rather for a series of private claims, and is therefore not in order.

Mr. RUSK. I do not remember the decision of the Senate last year. I know that it was offered at the last session by the Committee on Indian Affairs, but I do not know what decision was then had upon it. It is a mistake that this is a private claim, and excluded by the rule; for the amendment is in accordance with the law appointing commissioners to ascertain the damages perpetrated by the Indians upon the citizens of Alabama and Georgia, and this is in pursuance of the report of the commissioners appointed under the ptovisions of that law.

The PRESIDING OFFICER. The Chair would remark that his own recollection differs from that of the Senator from Ohio, and his impression is that the amendment was then entertained as in order by the late President of the body, [Mr. KING.]

Mr. RUSK. That is my impression.

Mr. CHASE. This amendment was once entertained, and discussed before the Senate, and upon that discussion the Senate rejected it. It was then presented again, if my recollection serves me, by the Senator from Alabama, [Mr. CLEMENS,] and I objected to it as being out of order. The question was put to the Senate by the Chair on that occasion, and it was rejected as being out of order.

Mr. PEARCE. The law quoted by the Senator from Texas, is not such a one as justifies this appropriation at this time. The law in pursuance of which an appropriation should be asked for, in order to bring it within the rule, is one authorizing, not the ascertainment but the settlement of the claims and their payment. The law referred to by the Senator from Texas, as I understand it, is nothing more nor less than a law authorizing an inquiry into the number and amount of the claims. It must be something more than that in order to furnish the ground which the gentleman assumes as justifying the introduction of this amendment.

Mr. DAWSON. There seems to be a mistake on the part of the gentleman from Ohio, with regard to this matter. This claim has never been rejected upon its merits. It will be recollected that when it was up last year, a long discussion took place between my friend from Tennessee [Mr. BELL] and my friend from Michigan, [Mr. CASS,] in relation to the policy of General Jackson in reference to the Indian tribes. Now, I will state how this claim gets here. Commissioners were appointed by the Government of the United States, under a law passed by Congress to ascertain the amount of these losses. A list of the claims was returned to the seat of Government here, with a report. Then it was that the Secretary of War asked, as he has asked from time to time ever since, for an appropriation of money to pay the claims. The subject has been often referred to the Committee on Indian Affairs, and the committee has from time to time reported in favor of them, and recommended an appropriation to be made. They presented it last year as an amendment to one of the appropriation bills, and it was then lost on account of the long discussion to which I have referred, in relation to the Indian policy of General Jackson. It has never been rejected or ruled out of order on account of its being a private claim. The appropriation was repeatedly recommended by General Jackson, and by every Administration from that period down to this. There never has been any difficulty about it at all on that account, and there would not have been any difficulty at the last session but for the unfortunate reference—no, I recall that word unfortunate—of my friend from Tennessee, in the discussion of the subject, to the course pursued by the Jackson Administration, which had been so destructive to the interests of the country. That, of course, brought up my friend from Michigan, who I am sorry to see not in his seat at the present time, that he might vindicate that Administration. The question went off in that way until we got into the last hours of the session.

This appropriation is not asked for by the committee on any testimony furnished on the part of the claimants, but upon the testimony furnished by the Government of the United States. If these had been presented as separate claims, Congress would have paid them long since, it seems to me, without any dissent. I do not see on what ground this amendment can be considered as out of order. I do not wish to continue the discussion. I merely wish to say that I have stated the truth: the claim has never been ruled out of order as a private claim.

Mr. BAYARD. I know nothing of the merits of this claim from the former discussion in relation to it; but I cannot see, by possibility, how it can be distinguished from any other private claim, unless the number of claimants makes a claim less a private one than otherwise. The provision is for the payment to certain persons, or their representatives, of certain sums of money for claims upon the Government, long since due and ascertained, as is alleged by certain commissioners. What is that but a private claim upon the Government? What other name can you give to it? If the amendment is to provide for a series of private claims, it is clearly excluded by the rule, just as much as if it were to provide for a single claim; because, if that be not so, by putting a large number of claims in a single bill, it would no longer be a private bill. Can that be truly said? This is a claim for injuries alleged to have been sustained in 1837—and the allegation may be true for aught I know—for which this Government is responsible. The fact that the amount has been ascertained by a board of commissioners does not lessen its character as a private claim; because, suppose the statement of this amount had been that a series of judgments had been recovered on suits against a number of individuals, embracing a class founded upon some general principle, and that judgments had been rendered in favor of the defendants, and that those claims were presented, relying upon that as evidence of the claim, what would then be said? The only difference is, that here the evidence is somewhat different. It appears, if I may judge from the statement in the amendment, that there was a commission instituted by the United States to examine those claims and adjust them. Certain specific amounts were awarded by those commissioners to certain persons. The object of the amendment is to make an appropriation to pay those claimants. If that does not constitute a private claim within the meaning of the rule of the Senate, I am at a loss to know what may not be taken from under the operation of the rule.

The PRESIDING OFFICER. The Chair will be governed by the precedent arising out of this question heretofore in the Senate.

Mr. CHASE. I should not have made a statement that this was a private claim, and submitted to the Senate on that point, if my recollection was not distinct and clear. It is impossible for me at this moment to refer to the Globe, which contains the decision of the Senate upon this point; but I recollect perfectly well that the point was raised. I have before me the debate upon the merits of the amendment, when it was before the Senate on a previous occasion. I cannot now state in what shape exactly it was presented to the Senate, but I have before me the debate and the vote against the claim, and it was then rejected. At a subsequent period of the last session, the matter was again brought forward. The Senator from Tennessee probably can correct me if I am wrong. The first debate to which I allude took place upon the deficiency bill. At a subsequent period of the session, the honorable Senator from Alabama offered it as an amendment to the Indian appropriation bill. I objected to it as out of order. The Chair submitted that question to the Senate, and the Senate decided the amendment to be out of order. I am quite confident that I cannot be mistaken in my recollection, so far as that is concerned.

Mr. FITZPATRICK. I have looked somewhat over the debates of the last session in reference to this question, and I am perfectly sure that if the gentleman from Ohio will take pains to look through the entire debate, he will discover that the question of order was not made. This is a subject in which the people whom I have the honor in part to represent feel a very deep interest. I am perfectly aware of the impropriety of taxing the patience and consuming the time of the Senate on the subject. If it were necessary I feel perfectly assured that I could show, to the satisfaction of the Senate, that a more just claim has never been presented to the consideration of this body than this is. But I will not go into the discussion. I will say, however, to the gentleman from Ohio and to the Senate, that the question of order was not made, and I shall be borne out in that by the distinguished Senator from Tennessee, and by the honorable Senator from Georgia.

Mr. DAWSON. I wish that there shall be no misunderstanding about this matter at all. The Senator from Alabama, who is now unfortunately absent on account of indisposition, presented an amendment at the last session, calling for an appropriation upon his own individual responsibility. It was objected to upon the ground that it was not a recommendation of the committee. At a subsequent period it was offered by the Committee on Indian Affairs, and then sustained by the Chair as being in order. That is the fact. It is now again presented by the Committee on Indian Affairs.

Mr. CHARLTON. It seems to me that the Senator from Delaware is mistaken in supposing that there is no difference between an individual claim and a multitude of claims gathered together. My friend should remember that there is as much difference between those cases as between the individual man and the individual nation, or the individuals of a nation gathered together. In one case it is the man, and in the other case the nation. This amendment is not to provide for a private claim in any sense. It is to reimburse the citizens—and there are numbers of them both in Georgia and Alabama—for certain depredations committed on their property. I submit that it is not sound reasoning to tell me that the claims of such a number of persons, when gathered together, and making one aggregate, constitute a private claim any more than in the instance I have already put. I was present at the debate of the last session, and I am sure that my colleague is right in his recollection; and I suppose the Globe will authenticate what he said. It was then ruled out because it was offered upon the individual responsibility of the Senator from Alabama, and because it was not offered by direction of a standing committee.

The PRESIDING OFFICER. The Chair decides that the amendment is in order, and he does it upon his own impressions in reference to the proceedings on this very point at the last session of Congress, that the claim was then decided to be in order, a question being raised.

Mr. CHASE. It is possible that I may have confounded my own impressions. At the time when the amendment was presented at the last session, I objected to it as a private claim; and I cannot be mistaken as to the fact that it was ruled out of order. My friend from Georgia, however, may be right as to the point on which it was ruled out of order.

Mr. PETTIT. I do not rise to debate the question or to take an appeal from the decision of the Chair; but it seems to me that this amendment appropriates a large sum, and that very little is known of it. I cannot therefore let it pass without the yeas and nays, and I call for them.

The yeas and nays were ordered.

Mr. DAWSON. In order to avoid discussion on the part of those who might seem to be interested, because they are in the neighborhood of these claimants, I beg leave now to refer to the Senator from Texas, [Mr. RUSK,] and to the Senator from Missouri, the President of this body, [Mr. ATCHISON.] They have investigated this case. I will not put it on the declaration or assertion of a single Senator from a State interested in this appropriation, but I hope that the Senator from Texas and the Senator from Missouri, the President of this body, will state their investigations of the subject, and upon their opinion we are willing to rely.

Mr. RUSK. It has been some time since I fully investigated this claim. My recollection, however, is, that in the difficulties which occurred between the Creek Indians and the citizens of the United States, large depredations were committed by those Indians upon the citizens of Alabama and Georgia. For the amount of depredations they presented their claims. They were decided not to come under the provisions of the Indian intercourse act. They presented their claims to this Government, and pressed them for a length of time; and if I am not mistaken in my recollection, upon the recommendation of General Jackson, a law was passed for the purpose of appointing commissioners to investigate the claims and make report of the damages committed by the Indians upon the citizens of Georgia and Alabama. Under that law, the two persons named in the amendment were appointed. They proceeded to make the investigation. The claims were all submitted to them, and the proofs in the various cases. They proceeded to investigate the subject, and determined that depredations had been committed to the amount which is named in the amendment offered by the Committee on Indian Affairs. The claim was previously insisted upon to a much larger amount. The Committee on Indian Affairs, to whom the matter has been referred, procured from the Indian Bureau these investigations, and the proofs and report furnished by these commissioners, which formed a large volume.

Mr. BADGER. My friend from Texas will allow me to ask him a question. Did I understand him to say that this appropriation was recommended by General Jackson?

Mr. RUSK. Yes, sir. On his recommendation a law was passed authorizing the appointment of commissioners to investigate the claim.

Mr. BADGER. And this appropriation is now unanimously recommended by the Committee on Indian Affairs?

Mr. RUSK. Not unanimously this time, for I believe the Senator from Wisconsin was not present at the time when we investigated the subject, and I do not know whether or not he assents to the report. But it has been heretofore always unanimously reported from that committee. The Committee on Indian Affairs investigated the subject upon the proofs and returns of those commissioners fixing this amount, and concluded to recommend the payment of it, as we did at the last session. The Senator from Missouri, who was then the chairman of the committee, will perhaps have a more distinct recollection of the subject than I have. We thought it was just and proper to pay for all the depredations committed, and that although, technically speaking, these States were not within the provisions of the intercourse law, still they stood on the same footing of equity and justice, and therefore the depredations which had been committed by the Indians ought to be paid for. That, however, was strenuously resisted, because the largest portion of the amount would have to be taken out of the allowance for the Indians. The committee, however, concluded that the safer way was to follow the report of the commissioners who had been appointed under the law, and therefore recommended the allowance named in the amendment as due to the citizens of Georgia and Alabama.

Mr. ATCHISON. I have but a very few words to say in relation to this matter. I have been a member of the Committee on Indian Affairs ever since I have had the honor of holding a seat on this floor; and I believe these claims are as old at least, or older, than the time I came into the Senate ten years ago. I have examined them very often. They have been brought before that committee at every session of Congress since I have been here, and prior to that time. I came to the conclusion upon the first investigation, and my opinions were strengthened upon every succeeding investigation, that these claims were just, and that the Government was bound to pay them. Whether paid now or at some future session of Congress, they are certain to be paid. There is an innate equity in the claims that sooner or later will be made apparent. I am for paying them now. I have always voted for them. I shall vote for them now without going into the details. The Senator from Texas has stated the matter fairly. I believe the claims to be just. I have voted for them since I have been here, during the last ten years, and I have always come to the conclusion that the Government was responsible for these damages.

Mr. CHASE. Mr. President, it is very obvious that the Senate is hardly in a condition to decide upon the merits of any claim at this time of the evening, and I think if the Senator from Texas would yield, as the Senator from Wisconsin has yielded upon a claim as meritorious as this in any aspect of it, to an appeal to withdraw it, and present it in a single bill when it would receive the fair consideration of the Senate, I should be very glad. I will ask my friend from Texas to withdraw the amendment upon the same ground upon which the Senator from Wisconsin withdrew his. I do not wish to take up the time of the Senate, but yet so strong is my conviction on this subject, that I shall feel bound, if the amendment be persisted in, to state at some length the grounds of my opposition to it.

Mr. RUSK. If the amendment were offered by myself as an individual, I would yield it in a moment to the pressure of circumstances; but I offered it as the organ of the Committee on Indian Affairs, and I have no right to withdraw it.

Mr. BAYARD. I wish to call the attention of the Senate to the record—to the Journals—upon the decision of the subject of order at the last session. At page 583 of the Journal of the last session I find——

Mr. CHARLTON. I call the Senator from Delaware to order. The question has been decided, and it is too late for him now to endeavor to show that the amendment is out of order.

Mr. BAYARD. I want to refer to a single decision on the very point involved in this case.

The PRESIDING OFFICER. It is not in order to discuss the point unless an appeal be taken.

Mr. BAYARD. Then I take an appeal from the decision of the Chair.

Mr. DAWSON. Is not the appeal too late?

Mr. BAYARD. I think I am not too late. I appeal from the decision of the Chair ruling the amendment in order, no question having been taken on it.

The PRESIDING OFFICER. The Chair is disposed to hear the proceedings upon this case.

Mr. BAYARD. I find on the Journal of the 12th of August, 1852, the following:

"On motion by Mr. CLEMENS to amend the bill by inserting:

"For payment to the citizens of Alabama and Georgia for depredations committed by the Creek Indians on their property, and for other property taken by the troops of the United States and the friendly Creeks in the years 1836 and 1837, $334,753, according to the schedule and return of the commissioners appointed under the act of Congress approved March 3, 1837.

"The amendment being objected to as against the rule, the President *pro tempore* submitted the question for the determination of the Senate whether the amendment was in order, and it was determined in the negative—yeas 16, nays 20.

Mr. BADGER. On what day was that?

Mr. BAYARD. On the 12th of August.

Mr. RUSK. On the 14th of May the committee reported in favor of the claim.

Mr. BAYARD. Yes, sir. That was on an amendment to the deficiency bill, and then the claim was voted down, and it was afterwards proposed as an amendment to the Indian appropriation bill. The question of order was then raised and settled, according to the Journal, in the manner I have stated; that is to say, it was decided out of order.

Mr. BADGER. I should like to hear the yeas and nays read.

Mr. BAYARD. The yeas were:

"Messrs. Atchison, Badger, Bell, Borland, Brooke, Butler, Charlton, Clemens, Dawson, Foot, Geyer, Sebastian, Smith, Stockton, Upham, and Weller—16.

"NAYS—Messrs. Bradbury, Bright, Brodhead, Chase, De Saussure, Dodge of Wisconsin, Dodge of Iowa, Felch, Hamlin, Hunter, Jones of Iowa, Mallory, Meriwether, Miller, Norris, Pearce, Pratt, Spruance, Underwood, and Wade—20."

I did not vote on that occasion. I presume I was not present.

Mr. DAWSON. I presume the Senator from Delaware has brought up the record for the purpose of creating the impression that what I said was not according to the facts; but, sir, the record supports my statement. I stated that the Senator from Alabama, [Mr. CLEMENS,] upon his own responsibility, presented the claim as an amendment, and it was then decided to be out of order; but that when presented by the chairman of the Committee on Indian Affairs it was decided to be in order.

Mr. BADGER. That is the true distinction.

Mr. DAWSON. And such is the fact.

Mr. BAYARD. If the honorable Senator will allow me, I will state that there was no question of order raised on the first presentation of the claim to the deficiency bill in the month of May. The question of order was raised when it was presented as an amendment to the Indian appropriation bill in August; and when the question was raised the Senate decided the amendment to be out of order.

Mr. BADGER. I want to understand on what principle it is that this amendment, being moved by direction of a standing committee of this body, is supposed to be out of order. It is reported by a standing committee of the Senate. It is not a private claim. It never has been understood to be a private claim; and the explanation given by my friend from Georgia, of the ruling of the Senate upon a former occasion completely explains what was then decided, and makes it entirely consistent with the proposition now offered being in order.

The PRESIDING OFFICER. The question is on the amendment, the Chair having decided it to be in order.

Mr. BRIGHT. Has the Chair decided that a committee of this body, under the rule, have a right to report a private claim as an amendment to an appropriation bill?

The PRESIDING OFFICER. The Chair has made no such decision, but he has decided that this amendment is in order.

Mr. BRIGHT. Then the Chair has decided that the present amendment is not to provide for a private claim——

Mr. BADGER. I call the Senator to order. The question has been decided, and no appeal has been taken.

Mr. BRIGHT. But it is not too late to take an appeal. I desire to understand the true nature of the question. I have been necessarily absent on the business of the Senate on a Committee of Conference, and I desire to understand the matter. The Committee on Indian Affairs propose an amendment to the Indian appropriation bill, appropriating $334 000 for the payment of certain claims, and the Chair decides that amendment to be in order.

The PRESIDING OFFICER. The Chair made the decision upon his own impression of the proceedings arising out of this very case at the last session. According to the recollection of the Chair, the proposition was entertained, and a very protracted discussion followed upon it at some period of the last session.

Mr. BRIGHT. Mr. President——

Mr. BADGER. It is too late to discuss the question of order, for no appeal has been taken.

Mr. BRIGHT. I understood the Senator from Delaware to appeal. Am I right in that?

Mr. BAYARD. I did take an appeal; but while I am up I wish to make a single remark. If this be not a private claim in consequence of the number of claimants, then I ask what would prevent me, who am in favor of the French spoliation bill, from moving that as an amendment to this or any other appropriation bill? Yet, in my opinion, that is a private claim, because the number of claimants cannot alter the character of the claim. I cannot distinguish. The object of the rule was to keep these things apart from laws of a general nature, necessary to the ordinary business transactions of the Government, and for the purpose of carrying it on. These are clearly claims against the Government. I wish to be understood: I know nothing of the merits of this claim. I do not object to it on that ground, but simply on the ground that it is not in order as an amendment to this bill.

The PRESIDING OFFICER. The Chair will state the question. The Chair has decided that this amendment is in order. From that decision an appeal is taken.

Mr. BADGER. Does the Chair entertain the appeal?

The PRESIDING OFFICER. The Chair does.

Mr. BADGER. I cannot see on what ground. Whenever a decision is announced from the Chair, if no appeal be taken, the decision is then acquiesced in; and I submit that it is not competent for any gentleman, after debate is entertained, to interpose an appeal, and particularly when the yeas and nays have been ordered upon the amendment itself.

Mr. BAYARD. I am not aware that there is any particular time necessary within which an appeal must be taken, except that it must be taken before any action.

Mr. BADGER. An appeal must be taken immediately. If not, the decision is acquiesced in.

The PRESIDING OFFICER. The Chair will entertain the appeal.

Mr. DAWSON. I know that my friend from Delaware is a rule-abiding and a law-abiding man. The decision of the Chair was announced to the body, and the yeas and nays were then called for and ordered upon the amendment. Now, how can you, at this late stage, appeal from the decision of the Chair? The appeal of the Senator was after the yeas and nays had been ordered on the merits of the original proposition. Can you go behind the yeas and nays?

Mr. BRIGHT. I apprehend that the objection to the appeal is too late, for the Chair has already decided that he entertains the appeal.

Mr. BADGER. Then I appeal from that decision.

Mr. BRIGHT. I have no disposition to enter at large into the discussion of this subject, but we have rules, and while they are in force, they ought to be adhered to. The 30th rule either means something or it means nothing. If it means anything, it covers just the character of claim presented in this amendment, and excludes it. This is nothing more nor less than a private claim. It is to pay unadjusted, scattered claims belonging to persons of whom we know but little; and even if the subject were discussed here, and thoroughly understood, and Senators were prepared to vote upon it, it could not be attached to this bill. The authority for that statement is to be found in the rule which I hold in my hand, and which is in these words:

"No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing committee of the Senate, or in pursuance of an estimate from the head of some of the Departments; and no amendment shall be received whose object is to provide for a private claim, although the same may have been previously sanctioned by the Senate."

Now, if this be not a private claim, I should like to know what it is? Let gentlemen who vindicate it state what character of claim it is.

The PRESIDING OFFICER. The question is, "Shall the decision of the Chair stand as the judgment of the Senate?"

Mr. CHARLTON. Which decision? The last one allowing the appeal, or the one on the amendment?

The PRESIDING OFFICER. The Chair has decided the amendment to be in order, and from that decision an appeal has been taken, and the question is upon the appeal.

Mr. MANGUM. If the Chair has, without due reflection, entertained an appeal, and if it can be shown that it has been unadvisedly entertained, I hope the Chair will refuse further to consider it. The decision was announced, debate ensued upon it; after that there was action of the Senate in ordering the yeas and nays; and when gentlemen saw from the indications of the sentiment of the body that the claim was likely to pass the Senate, the question of order was raised by an appeal. Was it not too late for that? Has there not been an acquiescence—not only an acquiescence by debate continuing for some time, but afterwards by intervening action of the Senate, by ordering the yeas and nays? I think this is clear; and if the Chair has unadvisedly entertained the appeal, which I apprehend he has done from a sense of modesty and respect to the body, I hope he will reverse that decision, and refuse to entertain it.

The PRESIDING OFFICER. According to the recollection of the Chair, the debate was something interlocutory and irregular, and mostly confined to the very point of order which is involved, or rather to the question whether or not the amendment was in order. The Chair is not inclined to construe that into an acquiescence in the decision, so as to induce him to refuse to entertain an appeal, and especially an appeal from his own decision. He entertains the appeal, and submits the question to the Senate, whether his decision shall stand as their judgment.

Mr. BAYARD. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. RUSK. The advocates of this claim do now press it, and they have at various times pressed it on two different grounds. In the first place, we have a law known as the Indian intercourse law; and although this case does not come within the letter of that law, because the law is partial in its operations, extending only to the territory west of the Mississippi, still under the principles of it, applying them to this case, the claimants would come in, and be entitled; but on the other hand, it is stated in opposition to this claim, that there was a state of war between the United States and these Creek Indians.

Mr. BADGER. I wish to remind my friend from Texas that the question is on the appeal.

Mr. RUSK. I know that; and if I am not quite as logical as the honorable Senator from North Carolina, or quite so quick at getting at the point, I hope he will excuse me.

Mr. BADGER. Let us sustain the decision of the Chair.

Mr. RUSK. I wish to do that, and I wish to show a substantial reason for it. It is asserted in opposition to the claim, that these Indians and the United States were in a state of war. Then you have upon your statute-book a law by which, if in a state of war, property is destroyed in consequence of its occupation by the troops of the United States, the Government is bound to pay for it; and so you decide every day. Then, under this provision, it would come under the principles of the general law. But, in addition to that, these claims were made some years ago. A commission was then authorized by law to ascertain their amount; so that it does not come within the meaning of a private claim as laid down by the rule; because there has been an investigation and report; and the object is simply to carry out the report, under the spirit and principles of the Indian intercourse law.

The question, "Shall the decision of the Chair stand as the judgment of the Senate?" being taken by yeas and nays, resulted—yeas 19, nays 22; as follows:

YEAS—Messrs. Atchison, Badger, Bell, Borland, Charlton, Cooper, Dawson, De Saussure, Fitzpatrick, Foot, Houston, Mallory, Mangum, Morton, Phelps, Rusk, Sebastian, Spruance, and Weller—19.

NAYS—Messrs. Adams, Bayard, Bright, Brodhead, Cass, Chase, Clarke, Davis, Downs, Felch, Hunter, Miller, Norris, Pearce, Pettit, Pratt, Smith, Sumner, Toucey, Underwood, Wade, and Walker—22.

So the decision of the Chair was overruled, and the amendment was decided not to be in order.

The bill was then reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

POST ROUTE BILL.

Mr. DODGE, of Iowa, by unanimous consent, made the following report:

The managers appointed by the Senate and House of Representatives on the disagreeing votes of the two Houses on the bill to establish certain post roads, have met, and after full and free conference, have agreed as follows:

That the House agree to the fourth amendment of the Senate, with the following amendment:

"Strike out all of the said amendment after the word 'Ohio' in the fifth line, and insert, 'the same commission 'on all mailable matter distributed at their respective offices, 'as is allowed by law to the postmasters of other distributing 'offices; said allowance to date from the 1st day of June, '1851.'"

That the House agree to the fifth amendment of the Senate, with the following amendment:

"Strike out all after the word 'Senate' in the fifth line."

POST OFFICE APPROPRIATION BILL.

Mr. RUSK. I ask the unanimous consent, pending the Indian appropriation bill, to make a report from the Committee of Conference on the disagreeing votes of the two Houses on the bill of the House making appropriations for the support of the Post Office Department for the fiscal year ending June 30, 1854.

No objection being made, the report was received, and is as follows:

The managers of the conference upon the part of the Senate on the disagreeing votes of the two Houses on House bill No. 350, report, that after full and free conference with the managers on the part of the House of Representatives, they are unable to agree upon the matters of disagreement between the two Houses.

Mr. RUSK. I wish to state the matters of disagreement. The Senate put in an amendment increasing the salary of the clerk having charge of the foreign mail service from $1,600 to $2,000 per annum. The House disagreed to that amendment. But by another provision, which I understand has passed, his salary is increased to $1,800. The Senate also placed an appropriation upon that bill, authorizing the Postmaster General to procure an ice-boat on the Potomac, provided the expense should not exceed $20,000. To that the House also disagreed There was also an amendment authorizing the Postmaster General to advertise for proposals for a line of steamers from San Francisco, in California, to Shanghai, in China, and to submit the proposals to Congress at the next session. The House disagreed to that. The committees of conference on the part of the two Houses could not agree; and the question now is, whether the Senate will insist upon or recede from its amendment?

Mr. BRODHEAD. I hope the Senate will recede. Although I was in favor of the first amendment named by the honorable Senator, I was opposed to the others, and I am glad that the House has insisted upon its opposition to them. I move that the Senate recede from these three amendments.

Mr. HUNTER. I think it is far better to recede, and thus finish up the bill.

Mr. RUSK. That is a matter which I leave to the Senate to determine.

Mr. BADGER. The honorable Senator from Pennsylvania was against two of these amendments, as he says, and he gives that as a reason why we should recede from them. I was one of the members of the Senate who was in favor of all

three, and I was in a majority. I am in favor of them now; therefore that reason does not operate very powerfully on me, to induce me to vote for receding. I hope the Senate will refuse to recede, and will insist upon the amendments.

Mr. RUSK. The question is, whether we shall recede from these three amendments. If we do not recede, I presume it will be proper for us to insist, and ask for another conference.

The PRESIDING OFFICER. The question is on the motion that the Senate recede from the amendments which have been mentioned by the honorable Senator from Texas.

Mr. SOULE. I ask a division of that question. There are some of the amendments from which the Senate might perhaps not think it proper to recede, and there are others from which it would be proper, under the circumstances, to recede.

Mr. BRIGHT. It seems to me that the question cannot be divided. The report of the Committee of Conference is an entirety, and the question is on concurring or non-concurring in that. It cannot be divided.

Mr. BADGER. There is no report for action by the Senate. The committee merely report that they cannot agree.

The PRESIDING OFFICER. The Chair entertains no doubt that the proposition is divisible. The question may be taken on each amendment from which it is proposed to recede. The first amendment from which it is proposed that the Senate shall recede, will be read.

It was read as follows:

"For raising the salary of one of the $1,600 clerks in the Post Office Department to the grade of a chief clerk, to be employed in conducting the correspondence, and performing other duties in relation to the foreign mails, and postal arrangements with foreign countries, $400."

The motion to recede from this amendment was agreed to.

The next amendment was:

"*And be it further enacted*, That the Postmaster General be, and he is hereby, authorized, in addition to the ordinary steamboat service on the Potomac, to contract for an efficient ice-boat, or ice-boats, to be kept up for the conveyance of the mail during the winter months: *Provided*, That the additional expense to be incurred by the Department for keeping up such ice-boat or ice-boats shall not exceed $20,000 per annum."

The motion to recede from this amendment was agreed to.

The next amendment was:

"*And be it further enacted*, That the Postmaster General be, and he is hereby, required to invite proposals to carry the United States mail from San Francisco to Shanghai, in China, monthly or semi-monthly, in steamships, and submit such proposals as he may receive to Congress at its next session."

Mr. BADGER. I desire to say that the ground on which I shall vote to recede from this amendment is, that as the rule seems to be that we are to give up everything to the House, I am willing to give up out and out, and follow their lead; and in doing so, I am carrying out what seems to be the desire of the Senate.

The motion to recede was agreed to.

INDIAN APPROPRIATION BILL.

The Senate proceeded again to the consideration of the Indian appropriation bill, which had been interrupted by the report of the Committee of Conference.

Mr. WALKER. In obedience to instructions from the Committee on Indian Affairs, I offer the following amendment:

For the purchase of Stanley's gallery of Indian Portraits and Historical Scenes now in the Smithsonian Institution, at a rate not exceeding $150 each, $19,200.

Mr. BRIGHT. I would inquire whether this be a public or a private claim?

Mr. BADGER. It is no claim at all.

Mr. BRIGHT. We have decided against the purchase of this gallery for several sessions past. I hope the gentleman who offers the amendment will tell us what disposition is to be made of the gallery—of what use it is to be.

Mr. BADGER. It is true that the Senate has heretofore decided against this proposal to purchase the Indian collection of Mr. Stanley. But the reason why it is now submitted to the Senate is for the purpose of trying whether the Senate will not, as the Senator from California said this morning in regard to the question of appropriating a sum of money for a basin and railway in California, avail themselves of sober second thought, and now do what ought to have been done before, but which, under some neglect and inattention of the public interests, has not heretofore been done. That is all.

Mr. COOPER. Mr. President, this subject comes before the Committee on Indian Affairs through a memorial, presented by the artist to the Senate, which was referred to that committee. The committee, in performance of the duty incumbent upon it, examined the gallery of portraits executed during some twelve or thirteen years, by Mr. Stanley, and agreed to recommend the purchase of a portion of his gallery, consisting of portraits of actual personages, Indian chiefs, and head men of distinguished character. The Senate has already been informed of the character of this gallery. Mr. Stanley is an artist of a good deal of merit; and the gallery which it is proposed to purchase, is one of very considerable merit. Not only are the likenesses, so far as I have acquaintance with the individuals represented correct, but the execution, so far as artistic merit is concerned, is highly creditable to the individual. I hope, therefore, that the small sum which is appropriated by the amendment will be voted in by the Senate. It will furnish the country some one hundred and twenty-eight portraits of Indian chiefs, most of whom are now dead; and it will be impossible hereafter, perhaps, to collect the numerous personages who constitute the gallery. I hope, therefore, the amendment will be adopted.

The yeas and nays being taken on the question, resulted—yeas 14, nays 27; as follows:

YEAS—Messrs. Bayard, Chase, Cooper, Dodge of Iowa, Downs, Foot, Geyer, Gwin, James, Norris, Sebastian, Smith, Sumner, and Weller—14.

NAYS—Messrs. Adams, Badger, Borland, Bright, Cass, Clarke, Davis, Dawson, De Saussure, Douglas, Felch, Fitzpatrick, Hamlin, Houston, Jones of Iowa, Jones of Tennessee, Mallory, Mason, Miller, Morton, Phelps, Pratt, Rusk, Shields, Spruance, Toucey, and Underwood—27.

So the amendment was rejected.

Mr. SEBASTIAN. I am directed by the Committee on Indian Affairs to submit the following amendment:

To enable the Department to procure the medals of the next President of the United States for presentation to the chiefs and head men of the different tribes, $2,500.

I suppose I need merely remark that this is according to estimate from the Indian Department; and I understand it agrees with the amount which we have formerly appropriated for the same object.

The amendment was agreed to.

Mr. SEBASTIAN. The same committee has directed me to submit the following amendment:

To pay to Andrew Taylor, head of a Cherokee family, $14,720, with interest from the 23d of August, 1843, in adjustment of his reservation rights under the 13th article of the Cherokee treaty of 1835.

Mr. PRATT. Is not that a private claim?

Mr. SEBASTIAN. It is not.

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair would be glad to hear why it is not a private claim.

Mr. SEBASTIAN. I will explain it in a very few words. I believe it has been heretofore ruled by the Chair that an amendment, although proposing to make an additional appropriation, if it was for the purpose of carrying out a treaty or law, was not a private claim, even if the full benefit of the amendment should inure to a private individual. This amendment is of that kind. The obligation to make the appropriation arises under the treaty of 1835, the benefits of which the United States have long since received. They expressly provided to pay, not out of the five million fund, but independently out of the Treasury of the United States. The circumstances [illegible]ing a part of the history of that claim, to which it is not necessary to advert, have prevented the payment of the amount which the amendment proposes to pay. Similar cases have frequently been reported to be a deficiency in the ordinary expenses of the Government, and not private claims. It is to carry out a treaty, although it will inure to the benefit of a private individual. I have made this explanation merely to show that it is not a private claim according to the ordinary interpretation of the rule.

The PRESIDING OFFICER. The Chair would be glad to be informed whether the appropriation is intended to carry out the provisions of any existing law?

Mr. HOUSTON. It is a treaty which is the supreme law of the land.

Mr. SEBASTIAN. It is to carry out the treaty of 1835 with the Cherokee Indians. It is expressly provided in that treaty, that the United States should account, out of the Treasury, for every one of those reservations which had accrued to the heads of families of the Cherokee nation under the provisions of the treaty of 1817 and 1819.

The PRESIDING OFFICER. The Chair is satisfied that the amendment is in order.

Mr. WALKER. I will make no opposition to it, except that I should like to know why the provision of the treaty has not been complied with before?

Mr. SEBASTIAN. If I were to go into the details of the history, it would form a longer story than I could well occupy the attention of the Senate by narrating to-night. By the terms of the treaty, the right of the claimants to the amount due to them, could not have been ascertained before the year 1843, because that was the time at which sat the commission which was constituted the final arbiters under the treaty. There were some imperfections, however, in their award, and it has tied our hands in administering the treaty, and prevented the payment of the amount. Finally, however, the objections have been one by one removed, until it has been acknowledged by the Department to be virtually a decision of the commission of 1843; but in the mean time the old appropriation which was made for the satisfaction of these cases has been exhausted, and it now requires a new appropriation. If the gentleman desires any further insight into it, I beg leave to have the report read. It is long, however, and I presume the Senate will not call for its reading.

Mr. SMITH. There is no doubt about the claim.

Mr. BAYARD. I should like to have some information why interest is put in here from 1843. Unless there is some explanation given, I shall move to amend the amendment by striking out the allowance of interest.

Mr. COOPER. I hope that will not be done.

Mr. SEBASTIAN. This involves precisely the same principle which was involved in the case of David Taylor, which is familiar in the recollection of Senators. The question of interest there was not only decided in favor of the claimants, but the payment of interest was carried back still further. The committee in this case, however, thought that interest ought not to go back further than 1843, because, by the terms of the treaty, that was the first moment at which the Government could ascertain the amount that was due to the claimant. It was the first moment in which the Government could be in any default for not paying the claim.

The claimant had asked the committee to go back to the original spoliations in 1821; but the committee only agree to the interest from 1843, the time when the United States ascertained the amount that was due, and from which time we hold that the interest ought to be paid. It is just such a case as that of David Taylor, although the interest is not carried so far back.

Mr. PRATT. I would be glad to have the clause of the treaty read.

It was read as follows:

"ART. 13. In order to make a final settlement of all the claims of the Cherokees for reservations granted under former treaties to any individuals belonging to the nation by the United States, it is therefore hereby stipulated and agreed and expressly understood by the parties to this treaty—that all the Cherokees and their heirs and descendants to whom any reservations have been made under any former treaties with the United States, and who have not sold or conveyed the same by deed or otherwise, and who, in the opinion of the commissioners, have complied with the terms on which the reservations were granted, as far as practicable, in the several cases; and which reservations have since been sold by the United States shall constitute a just claim against the United States, and the original reservees or their heirs or descendants shall be entitled to receive the present value thereof from the United States as unimproved lands. And all such reservations as have not been sold by the United States, and where the terms on which the reservations were made in the opinion of the commissioners have been complied with as far as practicable, they or their heirs or descendants shall be entitled to the same. They are hereby granted and confirmed to them; and also all persons who were entitled to reservations under the treaty of 1817, and who, as far as practicable, in the opinion of the commissioners, have complied with the stipulations of said treaty, although by the treaty of 1819, such reservations were included in the unceded lands belonging to the Cherokee nation, are hereby confirmed to them, and they shall be entitled to receive a grant for the same. And all such reservees as were obliged by the laws of the States in which their reservations were

situated, to abandon the same or purchase them from the States, shall be deemed to have a just claim against the United States, for the amount by them paid to the States, with interest thereon for such reservations, and if obliged to abandon the same, to the present value of such reservations as unimproved lands; but in all cases where the reservees have sold their reservations, or any part thereof, and conveyed the same by deed or otherwise, and have been paid for the same, they, their heirs or descendants, or their assignees, shall not be considered as having any claims upon the United States under this article of the treaty, nor be entitled to receive any compensation for the lands thus disposed of. It is expressly understood by the parties to this treaty that the amount to be allowed for reservations under this article shall not be deducted out of the consideration money allowed to the Cherokees for their claims for spoliations and the cession of their lands; but the same is to be paid for independently by the United States as it is only a just fulfillment of former treaty stipulations."

Mr. BAYARD. I move to strike out of the amendment that portion of it relating to interest. I can see no reason for allowing it in this case. There is no agreement for the Government to pay interest. I see no reason why it should be paid. I know nothing of the character of the claim; but it has been ruled in order, and of course I have no opposition to make to it.

Mr. COOPER. I hope that that motion will not prevail. The Senate, it seems to me, established a rule at the last session, or perhaps at the present session, which covers this case. I refer to the case of David Taylor; a case of which I think the President of the Senate himself had charge. In that case interest was allowed for a longer period than interest is claimed in the present case. In 1843 this reservation was appraised, and the amount due to the reservee was then ascertained. From that period, and indeed from 1821, he has been homeless and houseless; and it seems to me that, in addition to the value of his land, he ought to have the additional remuneration of interest for seven or eight years. I hope the precedent established in the case of David Taylor will not be departed from.

Mr. BAYARD. I do not recollect the case of David Taylor. I do not know whether the question of interest was raised there. If it was raised and decided, it of course constitutes a precedent which you are to follow, if precedents are binding. The mere allowance of interest without objection is a singular kind of precedent, which would never be recognized in a court of justice, and I should suppose still less in a deliberative body. I would inquire whether the question was raised in the case to which reference is made?

Mr. COOPER. It was, and it was debated in the Senate, and the interest was allowed for sixteen years.

Mr. BAYARD. Was a vote taken upon it?

Mr. COOPER. I believe there was. As I remember, the bill came from the committee without interest in it, and upon the motion of the President, interest was added.

Mr. BAYARD. Was there any objection made? That may constitute a great difference. I have seen in this body constantly motions made by Senators as distinguished as the honorable gentleman who occupies the chair, and passed without opposition at all. I consider it no precedent whatever, when a motion is made and carried without objection. If an objection is made, and the question is brought before the Senate, and the Senate decide after discussion, it may have its weight; but I cannot distinguish the principle of this case from others which I am sure have been decided by the Senate since I have been a member, in which interest was refused, even in cases as strong or far stronger than this. Although others may have more humanity than I have in reference to the Indian, I cannot distinguish that an Indian is entitled to interest any more than a white man. There is no general ground for the allowance of interest that I know of. If in every case in which the Government does not pay when the money becomes due, you are to allow interest, then if your appropriation bills are not passed, and you cannot pay the salaries to the different clerks of the Government at the time when they are due, you will have to allow them interest. I can scarcely conceive of a case in which it would not reverse the whole general rule, that the Government is not bound to pay interest, except with certain rare exceptions, in my judgment. I will, however, argue that question at a future day.

The amendment to the amendment was rejected; there being, on a division—ayes 7, noes not counted.

Mr. WALKER. I have an amendment to offer to the amendment by way of proviso:

Provided, That the sum appropriated by this clause shall be paid directly to the said Taylor, and not to anybody else.

For want of such a provision as this, David Taylor was put in jail, and I hope the persons for whose benefit the present provision is intended will not meet the same fate.

Mr. DAWSON. Whenever money is ordered to be paid to an individual, that individual has a right to order it to be paid to any other individual.

Mr. BRODHEAD. I will suggest to my friend from Wisconsin, that we have already provided for cases of this kind in a law which we passed at this session.

Mr. WALKER. It does not apply to a case of this kind.

The amendment to the amendment was agreed to; there being, on a division—ayes 22, noes not counted; and the question recurring on the amendment as amended, it was agreed to.

Mr. SEBASTIAN. I offer the following amendment:

To John Ward, for clerk hire in the office of the Superintendent of Indian Affairs at Santa Fé, New Mexico, from April 1 to September 30, 1852, at the rate of $50 per month, $300.

That claim is for services rendered by a clerk in the office of the Governor of the Territory, who, by virtue of his office, was Superintendent of Indian affairs. It was necessary to have a clerk and acting interpreter, who for three months did the whole business of interpreting for the Acting Superintendent of Indian Affairs. The claim is recommended by the Acting Superintendent of Indian Affairs and by the Governor, and is stated to be a reasonable amount for the service performed. Whether it be a private claim or not, I do not know; but as the amount is so small, and has accrued in the public service, I hope the question will not be raised.

Mr. PRATT. It is a private claim.

The PRESIDING OFFICER. The Chair would inquire of the Senator, whether it proposes to make a provision for the salary of a person as prescribed by law, or whether it proposes to add to his salary?

Mr. SEBASTIAN. It proposes to give him not a salary, but compensation for past services.

The PRESIDING OFFICER. In the opinion of the Chair, it is a private claim, and therefore cannot be received.

Mr. SEBASTIAN. I have the following amendment to propose:

"That the President of the United States be, and he is hereby, authorized to make five military reservations from the public domain in the State of California, or the Territories of Utah and New Mexico, bordering on said State, for Indian purposes: *Provided*, That such reservation shall not contain more than —— acres each: *And provided further*, That such reservation shall not be made on any lands inhabited by citizens of California; and the sum of $250,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of subsisting the Indians in California, and removing them to said reservation for protection."

I do not propose to go at length into the discussion of this subject. The amendment is recommended, I believe, by the unanimous consent and earnest conviction of the Committee on Indian Affairs, that some legislation of the kind is absolutely necessary to correct the state of things now prevailing in California, which no one can wish to see continue. I beg that Senators will neither be startled at the amount asked for, or at the almost unlimited power which it is found necessary to confer on the Superintendent of Indian Affairs. We have been often called upon to legislate for California on account of the state of things prevailing there; and it was but natural for us to be called upon to make large appropriations.

We attempted to extend the whole system of the Indian administration of that country by means of a superintendent and Indian agents. The first result of the agents going there was a return to this body of nineteen treaties, which, on account of their condemnation by an unquestionable public sentiment which reached even this body, were laid upon the table, I believe, without a dissenting voice. They provided for large reservations, and compromitted this Government to the payment of a large sum of money, a policy which did not meet the acquiescence and approbation of the delegation from California. The next step which Congress took was to confide the entire subject of the Indian policy of that country to a resident superintendent of Indian affairs, who is clothed with almost vice regal authority, and who was made Indian commissioner for California. I remember with what satisfaction the nomination of a gentleman to fill that office, who was eminently qualified for it, was received in this body. He has, after a complete investigation of the subject, made a report, which for comprehensiveness of plan, for clearness of conception, and for its practical adaptation to the institutions of the country, I think stands unequaled but by few documents of the kind. What, sir, is the necessity of the case there? We find the country in the possession of a large number of Indian tribes occupying the entire surface of the country. They have been in fact independent, although dependent upon the mild, paternal sway of Spanish rule. Our emigrants went there, and went with a kind of feeling which contented itself with nothing less than the possession of the whole country. The consequences have been an unvaried, monotonous history of war, murders, predatory incursions, starvation, and distress among the Indians ever since.

The plan of Indian reservations resorted to by the treaty-making power will be found unequal to the object; and now it is recommended to collect the tribes together upon small military reservations, which, because they are military, can be removed according to the exigency of the case, and can be placed here or removed there. It will entitle the Indians to protection against the whites, which is more needed than protection against the Indians. I am satisfied that nothing less than this will be acceptable to the people of California. There is a necessity to which we must accommodate ourselves in legislating for that country. There is a condition of things there which we must endeavor to remedy. The only excuse, therefore, which you can render to the people of that country for not occupying the lands is to congregate the Indians upon small military agricultural reservations, just large enough to maintain life upon, and then respect their rights.

Mr. President, it is supposed by the present Superintendent of Indians Affairs of that country that there are about seventy thousand Indians there, and they are fast melting away before the pressure of the white population, and from the harassing operation of circumstances over which we have no control. The Superintendent has received information of a character beyond all dispute, that fifteen thousand of these persons have perished from absolute starvation during the last season. I have before me a report of the Superintendent, a small extract from which, containing, as it does, a graphic description of the treatment of the Indians of that country, I will ask to be read to the Senate. It is short, but it is a description so graphic that I will beg to have it read.

The Secretary read it as follows:

"I have the honor of informing you that, in obedience to your letter of instructions of date December 8, 1852, I went over to the San Pablo rancho, in Contra Costa county, to investigate the matter of alleged cruel treatment of Indians there. I found seventy-eight on this rancho, and twelve back of Martinez, and they were there most of them sick, all without clothes, or any food but the fruit of the buck-eye. Up to the time of my coming, eighteen had died of starvation at one camp; how many at the other I could not learn. These Indians were brought into this county from some place near Clear Lake by Californians, named Ramon Briones, Ramon Mesa, José M. Quiera, José Francisco, and Juan Beryessa, who have for some time made it a business of catching, and in various ways disposing of them; and I have been informed that many Indians have been murdered in these expeditions. These present Indians are the survivors of a band who were worked all last summer and fall, and as the winter set in, when broken down by hunger and labor, without food or clothes, they were turned adrift to shift for themselves as best they could. Your timely interference in behalf of these unfortunate people has saved the lives of most of them, for Indians could not have lived through such weather as we have had without any food, clothing, or shelter.

"I distributed all the well among families around, who are to feed, clothe, and protect them till your further orders. I have made provisions for the sick to be fed. I am happy to inform you, to show the good character of these Indians, that even when starving, and surrounded with horses and cattle, yet I heard no complaint of their stealing. These people could easily be made to support themselves, and their condition changed for the better. The grand jury of the county has found bills against these men, and I presume their trial will come on next term."

Mr. SEBASTIAN. It need be read no further. There are in other parts of it letters stating that it is a common practice among a part of the population of that country—I would be sorry to say that it was any of the Americans in California; but it is a common practice for persons to make a sys-

tem of catching the Indians, and enslaving them. Frequently cases of that kind are known, as are specified in the report of the Superintendent. I believe, fortunately for the reputation of American citizens, those who are connected with it are mostly Spanish.

But I will not go on, Mr. President, to depict the state of things prevailing there—it is bad enough in all conscience. It is, I suppose, what will not be disputed. I merely wish to say that the plan presented is, I believe, the only one that is practicable for what prevails there. It is certain that if the present order of things long remains, the Indian population will starve out and die under the cruelty to which they are subjected; and if there is any necessity for saving the remnants of them, that necessity appeals to Congress. A large portion of them are falling every year. The present Superintendent of Indian Affairs there has tried, on a limited scale, the plan which I propose in the amendment. He has congregated round about him, upon a small reservation, a number, without interfering in any rights of property or occupancy of any citizen in California, over one thousand of this simple tribe of Indians, who are mild in their character, not wild like the Camanches or other tribes east of the Sierra Nevada. They have flocked around him as the only protection which they could get against the misery which surrounded them. The present Superintendent has made that experiment. He has collected about him something over one thousand of the plain, simple people, who are anxious for work. He finds them easily adapting themselves to the change in their condition of affairs; and such has been the success of that little experiment, that he is absolutely importuned by others to take them under his protection, that they may be allowed to work and live. There can be no doubt of the success of the experiment upon the scale which has been tried; and now all that the Superintendent asks in this amendment is to be allowed a sufficient amount of money to extend the same system over California. Five reservations are proposed by it. It is believed that the entire Indian population can be congregated in small districts of country, which will not interfere with any existing white settlements, and which can be protected from incursions. It is supposed that $250,000 will carry out the plan. If the system be worth anything, and I think it will be successful, it will be self-sustaining, when it is once put in operation; and not only so, but I am assured by the Superintendent—and we all know that he is a practical man—it will not only be self-sustaining, but it will be an auxiliary in sustaining the expense of the Quartermaster's Department of that country.

I have not gone further into the details of the plan. It is unnecessary to do so, because we propose to grant the money, and let the Superintendent of Indian affairs carry out the details. I have briefly submitted these remarks, more at length than I intended, merely giving the outlines of the system which we propose to adopt. I shall say nothing more.

The amendment was agreed to.

Mr. SEBASTIAN. It now remains to fill the blank. I propose to fill it by inserting twenty-five thousand acres each. That is about the size of a township of land.

Mr. DAWSON. I desire to ask the chairman of the Committee on Indian Affairs whether all those Indians are in the habit of performing agricultural labor?

Mr. SEBASTIAN. They are nearly all of them agricultural people, if they are permitted to work in tilling the soil. A large majority of these Indians are Pueblos. Such I understood to be the case.

Mr. DAWSON. The quantity of land proposed will be much smaller than is necessary if they are agriculturists.

Mr. WELLER. I am afraid that it is rather too large a reservation. There is a very limited quantity of land in California susceptible of cultivation, in proportion to the whole amount of land there. If there be five reservations of twenty-five thousand acres each, it seems to me we shall be withholding too large an amount of land which ought to be occupied by our citizens: and besides that, I will say to the Senator from Georgia [Mr. DAWSON] that the great body of Indians there never did engage in agricultural pursuits. I suppose that the Indians who have been brought upon the reservation by the Superintendent, as named, are what are commonly known as the Mission Indians—that is, Indians who have been attached to the different missions of that country, and thus have become civilized, and made somewhat acquainted with agriculture; but I think it may be safely said that the great body of Indians never did engage in the cultivation of the soil.

The amendment was agreed to.

The amendments were then ordered to be engrossed, and the bill ordered to be read a third time. It was read a third time and passed.

POST ROUTES.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had agreed to the report of the Committee of Conference on the bill to establish certain post roads.

CREDENTIALS PRESENTED.

Mr. MILLER presented the credentials of the Hon. JOHN R. THOMSON, elected a Senator in the Senate of the United States from the State of New Jersey, for the unexpired term of the Hon. R. F. STOCKTON, to take effect from the 4th of March, 1853; which were read.

Mr. DE SAUSSURE presented the credentials of the Hon. JOSIAH J. EVANS, elected a Senator from the State of South Carolina for the term of six years from and after the 4th of March, 1853; which were read.

OCEAN MAIL STEAMERS.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, "making appropriations for the transportation of the United States mails by United States steamers, and otherwise, during the fiscal year ending June 30th, 1854;" which was reported from the Committee on Finance, with the following amendment:

That the Postmaster General shall cause the facts to be investigated in relation to the contract of A. G. Sloo, for the transportation of the mail in ocean steamers from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, under the act of March 4, 1847, for the purpose of ascertaining whether the contract corresponds with the original bids; and shall report to Congress at the next session on the facts and circumstances connected with said contract, and also for what amount the same mail service could be performed if a new contract should be made; and whether the ships furnished under said contract are built according to its terms. The Postmaster General is further authorized by this act to report to Congress at its next session to what amounts the service now performed under the several contracts with the Navy and Post Office Departments for carrying the mail in ocean steamers, can be hereafter performed upon the supposition that the United States shall take the steamers according to the contract, and sell or transfer them.

Mr. HUNTER. That amendment speaks for itself. It is designed to get information by the next Congress which it may be very important for us to have. The committee has some reason to believe, from information before it, that there has been a great mistake in regard to the contracts which have been executed. I will not now go further into the subject, as we only propose to obtain information from the Post Office Department, to be acted upon at the next session.

The amendment was agreed to, the bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. RUSK. I offer the following amendment, by direction of the Committee on the Post Office and Post Roads:

And be it further enacted, That the Postmaster General be, and he is hereby, authorized to allow and pay to the Ocean Steam Navigation Company, in addition to the compensation allowed to said company under their existing contract for mail service on the Bremen and Havre line, the sum of $6,000, or at that rate for each round trip on said line: *Provided further*, That the said company shall perform one additional trip on each of those lines as provided for by the 5th section of the act to which this is supplementary.

And be it further enacted, That in case the said companies, or either of them, should be desirous of abandoning their contract, the Postmaster General shall be, and he is hereby, authorized to rescind the same and make such allowance as he may deem equitable and just.

Mr. HUNTER. I move to strike out the first section of the amendment. I am not willing to increase the compensation to the mail steamers. It has proved that it was a farce to expect them to return in the shape of postage what we pay them. The only excuse for keeping them up is that they may carry commodities, for which purpose it is not the business of this Government to sustain them. If they find the contract a losing one, I am willing to release them from it. If we cannot get rid of these unprofitable undertakings in any other way, I am willing to let them off on reasonable terms. I am not, however, willing to leave it to the Postmaster General to say what allowance shall be made. I expect I should agree to an appropriation that would be as liberal as any which the Senator from Texas would desire, much sooner than to leave it within the unlimited discretion of the Postmaster General. I might be willing to take these ships at their appraised value—for I am disposed to deal liberally with these men—if we could in this way get rid of these impolitic undertakings. I move to strike out the first part of the amendment, which proposes to increase the compensation.

Mr. RUSK. There is no time now to enter into an argument upon the subject; but I totally and entirely disagree with the honorable Senator from Virginia when he chooses to say that this thing has proved to be "a farce." It is precisely the reverse of it. In the first place, it has taken from our great maritime rival the monopoly of carrying our foreign mail and charging what it chose upon the correspondence of the citizens of this country with foreign countries. At the last session of Congress we allowed, after a full argument of the whole system of ocean mail-service, an increased compensation to the Collins line.

A SENATOR. How much?

Mr. RUSK. The gentleman asks how much. He knows as well as I do—without intending to be at all rude to him. I have not time to enter into the investigation in figures in regard to what was passed, but I will say that it was a much larger amount than it is proposed to give to this company. This company was the pioneer in this business. They began it when it was but an experiment, and they assure us now that they are making a losing business of it. So far from this being "a farce," it has accomplished many things. In the first place, it has reduced to a very considerable extent the amount of freight in which all the producing part of the country is interested. Senators may perhaps be astonished when I tell them that this single item of freight, the living rate of freight, amounts to over $100,000,000 a year. The ship-owners protested against the extra allowance, because they declared, and proved, too, successfully before the Senate, that it reduced freight. Then, sir, this was a benefit conferred upon the whole country. It then took out of the hands of the British Government the monopoly of mail transportation on foreign letters, and intercourse with foreign countries. It reduced the rates of postage, and enabled your Government to place a reasonable amount of charges upon the intercourse between the United States and foreign countries. It did more than this: it reduced the tax upon a worthy and highly respectable portion of the community, to whose industry the country is indebted for a large amount of your national prosperity—I mean the foreign emigrants who have come and settled in this country, and by their industry and energy have greatly aided to develop its resources. Before the adoption of this system, the British Government having the monopoly, charged what rate of postage it chose to inflict upon these individuals; but since that time it has been reduced to a reasonable rate. This correspondence is carried on by a hardy and industrious portion of your population, which I have said contributes largely to your national prosperity by their industry. They do more than that. They come from the older countries of Europe, from a state of starvation, penury, and want. The younger portion of the family come here and engage in industrious pursuits, and from the little pittance which they earn, lay up at least one half of it and send it back to relieve age, poverty, and distress, in the mother country. Sir, if you choose to abandon this system, the result of it will be that the carrying of the mail will fall into the hands of the British Government, and these messengers of affection from an industrious and hardy population, to their aged parents and starving relatives in older countries, will be taxed at the discretion of a foreign Government. I know that this granting of an increased compensation to these vessels has been a fruitful theme for stump speeches all over the United States, but the system has made an advertisement throughout every sea, that the Americans are the best ship-builders

in the world, and have distanced their rivals. More than that: it has given you twenty-eight or thirty steamships fit for war purposes, without additional expense to your Navy, for one tenth of the sum for which you could build and maintain them in your Navy proper. We owe it to American industry and enterprise, to the hardy citizens of our country, to maintain the system; and we owe it to our national defenses, in my opinion, to maintain it.

Mr. HUNTER. I said, and I suppose no one will dispute it, that if these ships were to be considered as a speculation for postal purposes, they had turned out to be a farce. We pay upon this Bremen route, how much? One hundred thousand dollars a ship; that is, $200,000 a year; and what do you suppose we receive in the shape of postages in return? Why, sir, for the year ending last December the whole amount was $85,000; less than what we pay for one ship. But upon what ground is it that the Senator from Texas rests his argument? Why he says that it diminishes the cost of freight; that is, that if the United States will build ships, or will pay to run ships, it will diminish freight. Of course it will. In that way we could bring freight down to nothing. If the United States would build ships and transport freight for nothing, freight would be reduced to nothing. But what was it that the Senator said? I understood him to say that this system had reduced freight by a hundred millions.

Mr. RUSK. I said that a living charge for freight upon the shipping of the United States amounted to a hundred millions.

Mr. HUNTER. That is the charge for the freight of the shipping of the United States. What has that to do with the question? The whole amount of freight in the United States—how is that dependent upon our connection with this Bremen line? I apprehend that it would be much more profitable for those private individuals, who carry on the business of trading for their own purposes, if the United States did not interfere.

Mr. RUSK. As a matter of course, the tax upon the trade of the country will benefit them.

Mr. HUNTER. And of course, if the United States would undertake to transport cotton freight for nothing, the cotton planter would have to pay less for freight. But I apprehend there is nobody in the whole range of the southern country who would propose to transport cotton in the ships of the United States for nothing.

Mr. RUSK. No, sir.

Mr. HUNTER. Then I do not understand the argument of the Senator, unless it be held that because we contribute to the steamers out of the Treasury of the United States, they are enabled to transport commodities at a less charge. Unless that be his argument, I do not understand what it is. I maintain that it is not the business of the Government to interfere in the trading business. If this matter of ocean steamers could be vindicated at all, it is upon the ground, that hereafter it is to become profitable, and remunerate us in the shape of postages. Have we not tried it long enough to know that there is no chance for that? I ask if the Senator from Texas does not himself know that the owners of this Havre and Bremen line admit that we can never expect to be repaid by postage? I am willing to let them off their contract, provided we can get rid of a policy which I think mischievous. I am willing to do liberally with the individuals, if we can do that. If I can secure the triumph of a good principle, either in policy or in morals, I am willing to pay for it, and even lose something; but I will forever oppose any attempt to extend the appropriation for the purpose of running steamships at the expense of the United States.

Now, in regard to the Collins line, was it not predicted at the time we had the subject before us, that the postages were to increase immensely, and that we should be repaid by the postages which that line was to bring in? What has been our experience? During the last year ending December, has anything been gained? Here is the report. The receipts do not amount in the whole year to $250,000, and we are giving them between eight and nine hundred thousand dollars a year. What, then, is the gentleman's argument reduced to? A mere matter of national pride. Now, sir, I ask how can it minister to the renown, the reputation, or the glory of our nation, to keep up, at the expense of the United States Treasury, such steamers, such enterprises as cannot support themselves? Sir, if we could open a new line of legitimate business, which would spring up and support itself upon the legitimate profits of industry; if it could be self-supporting and self-sustaining, I acknowledge that it would eminently redound to our national honor and reputation; but as to this poor, rickety enterprise, that requires the constant nursing of the Senator from Texas and the Post Office Committee from year to year—they are constantly growing more and more rapacious, and he is constantly begging us to give them more—I ask how we can take either pride or pleasure in contemplating such a policy? I hope we shall put an end to it at once; and now we have afforded us an opportunity in which I believe we can do it, and do it, I believe, to the benefit of the contractors themselves.

Mr. ADAMS. As I understand it, the claim set up by the Senator from Texas is that the contract entered into by this company does not pay profit; or, in other words, that they are losing money. The argument which he offers is that the Collins line, on account of their losing money by their contract, received at the hands of Congress an additional sum. With all due respect to my friend from Texas, I do not think it comports very well with him to give that as a precedent here. His influence in this body, the speeches which he made upon this subject, and his position upon the Post Office Committee, more than any one man contributed to bring about the passage of that law. Therefore, when he passes a law to enable men to make money, when they have made a contract, and he brings forward that argument to lead us to give another appropriation to another line, he first makes the precedent, and then calls upon us to follow it.

I take it for granted that these gentlemen were capable of making a contract. It will be recollected that but a few days ago, my friend from Iowa presented the claim of some surveyors who had made a contract with the Government, and had lost money by it—a sum of only about $2,000. They were supposed to be capable of making a contract for themselves, and the Government held them responsible for it. But it seems that this principle is to be departed from when the amount goes up to hundreds of thousands. I ask the Senate if it is prepared to deal out justice to the citizens of the country in this manner? The only reason given why the amendment should pass, is that the line is losing money. Now, were they not able to make a contract? Were they not able to comply with a contract? If they had by their contract made more than they expected, they would not have thought of returning anything to the Government, but if they lose, this Government must become an insurance company to pay every individual who has made a contract and loses by it. Sir, we had better abandon these contracts than do that. When these parties make contracts with the Government, there is no good reason why they should not be held to the contract you have made with them.

But there was one argument of the Senator from Texas to which my honorable friend from Virginia did not attempt to reply. It was a very grave argument. My friend from Virginia overlooked it. The Senator says, that unless we give this additional compensation to the contractors, the emigrants from foreign countries will have to pay very high postage on their love-letters. That was one of the serious arguments urged by the Senator, that these emigrants will have to pay too high rates on their love-letters. There is about as much in that argument as in the other. I say there is as much reason to hold these men to their contracts as there is for holding men in the case of small sums to their contracts; and I again call the attention of the Senate to the case from Iowa, precisely similar in principle, in which we refused to grant relief.

Mr. DAVIS. I have no disposition to go beyond the limits of the strictest justice to this company, but I ask Senators to consider some facts which belong to its history. They are the pioneers in this country in ocean steaming. They were the first company which deemed it expedient to make a contract of this description, and they come before Congress necessarily under some disadvantages, which ought to be considered.

Mr. HUNTER. If the Senator will allow me, I think I can save him from the train of inquiry which it seems he is about to pursue. Does he suppose that the company is satisfied with this proposition, or does he believe that it will do them justice?

Mr. DAVIS. Of that I know nothing.

Mr. HUNTER. If that is the Senator's object, I am informed that they would prefer to be released from the contract.

Mr. DAVIS. I have had no communication with the company, and am not informed of their wishes, except as I learn them in this Chamber. But I wish to make a remark or two upon the general aspect of the case.

I say they were the pioneers, the first to build ships of this description in this country, to cross the ocean. Of course there have been large improvements made since, which tend to throw theirs into the background in regard to public favor. Their vessels are not vessels of as great speed, and therefore do not recommend themselves so highly to the public as those which possess the more modern improvements. Still, they cannot afford from their profits to throw the vessels away, or to build others. I believe they have never made a dividend, or realized any profit. The chairman of the Committee on the Post Office and Post Roads can state whether I am correct or not.

Mr. RUSK. I understand that the statement is correct.

Mr. DAVIS. There is another fact connected with the existence of this company that deserves consideration. At the time they entered into a contract they were required to touch at Cowes, in the Isle of Wight, and there deliver a mail. They were designed and intended to be the postal medium of the United States between this and England, as well as the Continent. But what has Congress done since that? It has established the Collins line. It has established this great and powerful company, with their numerous ships and more ample means, drawn in part from the Treasury, to compete with the English line, and also with this. It has established, then, by its own act in part, the competition which diverts the mails which otherwise would fall into the hands of the Bremen and the Havre line, and secure a greater income. It is in a great measure owing to the increase of the ships of the other line, and the increase of postage facilities from the United States, that the mail is diverted from this line. When the mail has been diverted from them, and put into other channels by an act of Congress, it hardly becomes us to complain that the income from this line is not so great as was anticipated.

But I wish to say a word or two in regard to the general policy which we pursue on this matter. I quite agree with the Senator from Virginia, [Mr. HUNTER,] that we should not enter into competition in freighting; that it is not a very wise policy on the part of the United States to adopt a system of that description; but I suppose that the United States will by no means esteem it good policy to deny the right to those who sail ships of this description to carry freight also. What has been the effect of establishing this line of certain and frequent intercommunication with the continent of Europe, and especially with Germany? I have no figures here upon the subject, and I am sorry that I have not; but it has increased greatly, perhaps more than twentyfold, the direct trade which has been so much and so earnestly sought for by the southern part of the United States. I have somewhere seen a statement of that trade, and I think I am safe in placing its increase at twentyfold.

Mr. BELL. It has increased from two to ten millions.

Mr. DAVIS. The Senator says it has increased from two to ten millions since this line was established. If there is anything which the southern country has aspired to with earnestness and zeal, as a thing desirable to them, it is this direct trade. There has been no means devised which so fosters and so cherishes such an increase as this steam communication. But I beg leave to make another remark upon this subject.

Some years ago, the attention of the country was earnestly engaged in considering and promoting the means of production; but another leading thought has sprung up, and instead of entertaining and cherishing the idea of production as a ruling policy, we have gradually turned our attention to transportation; and the genius of the country is exercised chiefly upon the single thought of trans-

portation. Instead of cherishing the attachment long and ardently felt for domestic labor and the encouragement of production, we turn our thoughts upon transportation alone, to the manifest detriment of the great interest of labor. Some very curious results have sprung out of this particular fact. We have gone on, with the help of steam, cheapening and cheapening transportation by all the means which human genius can devise. The number of vessels and voyages have been increased between this and Europe, until unanticipated results begin to manifest themselves, and the problem of free trade is likely to be worked out by a process quite beyond the vision of British statesmen. The plan of free trade in England gathered strength till it supplanted the old colonial system, under which she had flourished for ages, till she came to be the mistress of the seas, and her power and impress was more felt and realized than that of any other nation. Long and ardent was the struggle, but the loom and anvil prevailed over the ship and the plow. She flung off her colonies to take care of themselves, when she invited the world to become their competitors upon a footing of equality. The great net-work which bound the colonies to the mother was rent asunder, and future reliance was placed upon her ability to produce cheaper than others. We were to be better to her than colonies, because we were to subserve the same purpose of growing raw material and consuming her manufactures instead of our own. Transportation was the natural child of free trade, indispensable to its success, and pounds, shillings, and pence allured sturdy old England from her isolated freedom to depend on foreign cultivation for her daily food. But the end is not yet, though it is hastening.

Cheap transportation is inscribed upon the national banner. Steam by land, steam by sea, steam everywhere. Men catch the whizzing tone of steam, and whirl along as if worked by an engine. The infection has long since reached us, and nowhere else has the word transportation so completely filled the public mind—nowhere else has England found such an ally, so full of courage, strength, and resources. To us it seems a trifle to carry wheat, corn, provisions, five thousand miles, and to bring from thence our horse-shoes, and whatever else we need. Every nerve, every chord is now stretched to its greatest tension to work out this result, to help England on with her policy. But, alas! statesmen grasp at shadows, which elude them! Transportation is cheapened, goods, as well as food, are carried at low rates; but goods, to be cheap, must be made with cheap labor. The cheaper food was to make cheap labor, and constant labor was to bring contentment. But this great plan of social reform may yet disappoint the hopes of its advocates. Cheap transportation, which was to make cheap food and cheap goods, spreads its influence much wider, and one of the largest and most successful branches of business is the importation of human beings—men, women, and children. Cheap transportation is a stronger lure than the promised cheap bread, and vast multitudes annually leave the United Kingdoms to become, not sojourners, but permanent dwellers elsewhere. Notwithstanding all the pleasing pictures of popular contentment which adorn the rhetoric of Parliament and the hustings, the great current of emigration acquires new strength every year. No such outpouring has ever been witnessed as that of the last year.

We probably add to the population of the United States half a million annually by emigration from other countries, the largest portion of which comes from the United Kingdom, while the same country is sending great multitudes to Australia.

It is idle to contend that such a process can go on without exerting great and lasting influence. Such a drain of the young, the healthy, the vigorous, the enterprising, those most competent to labor, cannot go on without wasting the strength and vital energy, not of England alone, but of Europe. When the hard hand of labor fails to apply itself, or its energy becomes feeble, the basis of free trade crumbles to dust; and yet this process has already gone so far as to create alarm for its consequences. It has so diminished the laborers in some parts of Ireland, as to change the course of cultivation from cereal crops to grazing. It already attracts attention in England and Germany, and will soon be more seriously felt.

I said it was working out the problem of free trade in a way not anticipated by political philosophers. Little did Lord John think our ships would be filled with laborers as well as goods, and that this tide would swell though bread is cheapened. Little did he dream that labor under the process might be equalized—that it would rise instead of falling in England, by diminishing numbers, and be kept down here by the fresh accession of new hands.

Emigration has hitherto been chiefly confined to agricultural labor, but what is to hinder it in eventually reaching the manufacturing class? It is said it has touched iron, and this is one cause of the advance in price. Many causes conspire in Europe to allure laborers from their native land to our shores, where they can become citizens and freeholders, securing to themselves and their posterity a more desirable and agreeable social condition. But I cannot, at this late hour of the night, enter into and do justice to this subject.

But I may add that this process of equalization is going on, and it goes on with a rapidity that will necessarily produce striking influences. These steamers, though not by direct agency, are one of the most effectual means of accomplishing all this—one of the most efficient means which has ever been applied. They make their voyages with extreme rapidity, and have by their influence upon fares and freight, reduced the price of passage so low that almost any individual, who has any means whatever, finds himself able to go from one country to the other; and it is perfectly evident, when we turn our attention to the large ports of this country, that a very large branch of business is the providing of ships for the transportation of human beings from the East to the West. This rapid transportation, and the convenience through the postal arrangements, has great influence on this subject; and now the question in this case stands pretty much where the chairman of the Post Office Committee places it. Will you go on with this arrangement which, in some of its effects, is certainly objectionable? Will you go on with it, or will you surrender the postal necessities of this country into the hands of a foreign country to be provided for? Is it not better, even if we may lose something by it, to insure the conveniences, than to subject yourselves to the legislation of a foreign country to impose whatever postage upon letters and other mail matter it sees fit? It comes down to that.

It may be said that the Collins line, together with the other facilities which exist between here and England, are adequate to prevent imposition; but let me warn those who reason thus that there is no safety in such a conclusion. There is by no means harmony now between the Government of this country and the Government of England in postal matters. England seizes upon all the advantages upon which she can, lawfully at least, lay claim to. There is, if I am correctly informed, a discrimination made between the letters which are carried by English and those carried by American vessels, and which are addressed to the persons upon the continent, but pass through England. There is a postage levied upon letters carried in American steamers greater than when carried in British vessels.

Mr. JAMES. There is a difference of sixteen cents.

Mr. DAVIS. The Senator says the difference is sixteen cents. I do not know what the sum is, but there is a discrimination in regard to the charges in the two cases, which is offensive in its character, because the real design, whether it is carried into effect or not, of the arrangement between the two countries was, that there should be an equality in the charges.

Then I think there are many equitable considerations as well as that of policy, why this pioneer line, although it may not come up in completeness to the Collins line, should not be neglected and thrown out of employ by annuling the contract, or doing what is equivalent to it. This line has been run at the expense of individuals, who have made no dividend from the commencement down to the present time. Let it go on under the contract, and let us treat it liberally and fairly. It has done much to introduce a system which is producing such great results, and having done much, let them be rewarded accordingly. While I say this much, I repeat what I have said on former occasions, that I am not, as a system, for encouraging an arrangement of this sort for the purpose of reducing freight. That is not my policy. I hold that to be an incident in this matter. I voted, and must take my share of the guilt imputed to the gentlemen who voted for the increase to the Collins line. I did that thing. I made no speeches about it, but the grounds upon which I gave that vote were two, distinct in their character. One was, that I did not think it expedient to give up the postal arrangement into the hands of Great Britain. I thought it was proper, nay necessary, to maintain some sort of arrangement of our own between this country and Europe, in order to keep postages down to the proper rates. That was the first consideration. The next was this: When we entered into the arrangement with the Bremen line, every gentleman will bear me witness, if he will throw his recollection back to that time, that we were unacquainted specifically with ocean steaming. We had no knowledge of it. We saw it growing up in foreign countries; we saw it used as the great means and medium of defense in war and of protection in peace. We saw ourselves behind, far behind others. Then we went into the policy when we adopted this line, in order that we might place ourselves upon a par in the knowledge of steaming, and in the proper construction which it is expedient to adopt to carry out the objects to be attained. That was the great desideratum—for I think every one who will cast his mind forward, will see that steam is to be a great element hereafter in the defense of this country. We went into it for the purpose of increasing our knowledge, our information, our means of defense. Hence it was that we contracted with the express provision that those steamers were to be fit for naval purposes in case the country found it expedient to employ them. That was the leading thought.

Now, Mr. President, since the year 1840, Great Britain has had a line established between that country and the United States. By one experiment, by one exertion of skill in naval architecture, the Collins line it is admitted has surpassed all the ships which had preceded them. The owners accomplished more than was anticipated, and they put in a claim here for additional encouragement, as they had lost by the enterprise. It was a great triumph, with the little experience which we had in ocean steaming, to pass, by one step, beyond the examples which had been set for us. And there we stand now, with regard to steam, and in the perfection of naval structure for steamships.

It was so great a triumph that it commended itself to the favorable consideration of Congress, and I think they had ample reason for doing what they did. If the country should unfortunately be thrown into a war to-morrow, we would realize enough out of the consequences which have followed from the contract in the construction of vessels, in the improvement of machinery, and all the means and appliances which are indispensable to the country in the case of a war, to pay for what we have done. We have experienced enough to reward us for all the expenses which have been paid; and it was in view of such a contingency that I felt myself justified in giving an additional sum to the Collins line; and if it be necessary to sustain this line also, I think it has claims, not to be sure of the same character, but appealing equally strong to the sympathy and support of Congress. It is, I repeat, a pioneer line. It comes before you under disadvantages. It undertook, at a time when the experiment had not been tried, the accomplishment of a great thing. It has done it reasonably well; and now, when others have learned from it to do better, it is no reason why we should abandon it.

Sir, I have spoken a great deal longer than I intended; but I have felt some sympathy with this line. It has sustained itself under these circumstances, and I believe they are willing to continue to run. It has done a great deal for intercommunication between the two countries. I, for one, am willing to continue to give it support.

Mr. BAYARD. I shall not detain the Senate long with the remarks which I have to make. But I feel it due to myself, as I voted in favor of the increase of the appropriation to the Collins line, to state the principal reasons why I think there is a difference between the appropriation then granted and that just asked for now. The present amendment proposes to increase the com-

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pensation to the lines of steamers running from the United States to Bremen and Havre. When the question came before the Senate on the increase of the appropriation to the Collins line, I viewed it as a national question. I then stated, in the remarks which I made, that I would not hereafter go for any extension of compensation to any other line, unless it was a similar case. The Government had adopted, whether wisely or not it is too late to determine, the policy of establishing a line of steamers which it was supposed would be made valuable for certain purposes in time of war, and in the mean time, during peace, be used for the purpose of mail transportation. The Collins line, running from New York to Liverpool, had entered into a contract for the construction of steamers to transport your mails between New York and Liverpool—the great line of postal communication, not only with England, but with Europe. The moment that contract was made, a rival line previously in existence under the patronage of the English Government, was doubled in its service. In order to compete with this rival line, the American contractors were obliged to enlarge the size of their vessels to give greater speed, and necessarily incurred greater cost in the construction. Under these circumstances they came forward and asked of you an additional appropriation. A new element, as I conceived, had entered into the question after the contract was made. There was a direct line, which was supported in part by the treasury of a foreign Government, established in opposition to the Collins line, and we were called upon, under all the circumstances, viewing the matter in a national point of view, to increase their compensation.

But, sir, I cannot perceive that this line stands in the same position. I know of no foreign Government which has established a line to compete with the Havre and Bremen line. And that was the most material reason, in my judgment, for the increase of the compensation in the other case. The absence of this competition is a reason sufficient to induce me to vote against this increase of compensation. I might mention other reasons, but as this is sufficient, I will base my opposition upon this point, and will say that, until you can show that a foreign Government is about to establish, or has established, a line to run in competition with this line, I cannot vote for the amendment.

Mr. HUNTER. The Senator from Massachusetts, [Mr. Davis,] if I understand him, supports this amendment for rather an extraordinary reason. If I understand his argument, the tendency of the maintenance of this line will be to cheapen labor by encouraging emigration. I thought that the honorable Senator was in favor of what is called a protective system, because, as they say, it will increase the price of labor. I never believed that the reasoning advanced to support the principle was correct; but I had supposed that the ground upon which it proceeded was, that it was to increase the price of labor. Now I hear that this protecting system is to be introduced for the purpose of cheapening labor.

Mr. DAVIS. That is not what I said. I said that that would be one of its results, and I thought that would be agreeable to the free traders. That is all.

Mr. HUNTER. The free traders believe that the best way to compensate labor is to throw everything open to free competition; that you secure them more comfort and more beneficial influences when you expose our workmen to wholesome influences from competition. That is the doctrine of the free traders. I say, in relation to what the Senator has said, that I desire emigration, like everything else, to be conducted on the principle of free will. I do not suppose that it would be proper for us to build ships, and be at the expense of running them, for the purpose of transporting emigrants here. No, sir; we will give a hospitable welcome to all that will come; but surely we are not bound to enter into the business of building vessels for bringing them over.

But he says that we ought to support it because it is calculated to increase the mail facilities and postal communications between different countries. I acknowledge that it is beneficial to facilitate the postal communications, provided it can be done upon the self-sustaining principle. Is it not enough that we have already taxed the Post Office Department for carrying the mails beyond what the steamers bring us in the way of receipts, but must we be called upon to extend this principle and pay for the carrying of letters to all parts of Europe, for nothing, or next to nothing? Or are we to adopt the other and better principle, that we will leave the business to support itself?

But the gentleman says that we get paid back for this by improvement in shipping, by improvement in machine-shops, and in yards. And he says that if we were to have a war, the result of that experiment would be that we would be able to engage in the war under more favorable circumstances. And, sir, how does he sustain that proposition? He says that the Collins line sprung suddenly into existence, and that it eclipsed all the British experiments that had been started, and fostered by protection. How was it that we were enabled to eclipse those British experiments which had been founded upon Government protection? Was it not because our steam marine had been reared upon the principle of free competition here at home, and without protection; and that human ingenuity had been exercised in securing to it the profits of its own labor, which our mechanics had developed and started and supported?

Mr. DAVIS. I will ask the Senator if he thinks any one of the Collins ships would have been built if it had not been for the advance made by the Government?

Mr. HUNTER. I have believed that if the Government had not interfered before this time we should have had mail-steamers as good, and perhaps better than the Collins line, carrying the mails wherever they would have paid. And I believe, that so far from being better able to go into war on account of that experiment, and to support the Navy, it has proved an incubus to the progress of the naval service. You have expended money in this reckless experiment which ought to have gone to the Navy; and you have absolutely sent ships afloat which have proved to be incapable of naval purposes unless as mere transports. If, instead of doing this, you had appropriated the money to the Navy proper, to build screw-propellers—which is the form that the steam war marine is assuming over all the rest of the world—it would have been much better. So far, then, from contributing to our naval distinction, I believe it is the reverse; that it has put us back, and we have expended our money in the improper direction. That is one of the reasons why I am unwilling to go further. I believe that so far as the war marine, the Navy is concerned, it has to be supported out of the Treasury. That is a national concern; but so far as these commercial enterprises are concerned, either to transport passengers or commodities, that we should support them under the idea that they will even compensate us in the way of postages, is futile. The idea of entering into such an enterprise for the purpose of transporting commodities and passengers, is to me utterly odious, for it does not become the Government to enter into such enterprises, which belong to individuals. I think that instead of giving a spur to the progress of our people by such miscalled assistance as this, we impede and gag them.

Mr. MALLORY. I voted against the appropriation for the Collins line last year, and with the lights now before us, I shall feel it my duty to vote against every increase of compensation to steam lines. This system of legislation, in my judgment, is improper. We saw last Congress our halls crowded with agents to obtain the increased compensation. We were not blind to the fact. Agents came here to prosecute legislation through Congress for that line. The idea was then prominently held out, that this would be a system by which the transportation of the mails would be self-sustaining; but we now find that the argument is based alone upon what is considered national pride and the speed of the vessel. Sir, I cannot agree in the commendation of this system which gentlemen give it. Such "rickety" concerns, which is the proper term applied by the Senator from Virginia to such vessels, have not one single element of war steamers, except in speed; and that is calculated rather to enable them to escape from than to meet an enemy. At the very moment that the great maritime nations of the earth are experimenting upon the subject, and have abandoned side-wheel steamers, why should we be called upon to legislate and appropriate money to keep up such a system? The navies of France and England and Russia, have all abandoned, or are abandoning the side-wheel, and have resorted to the propeller. In regard to this particular Collins line, an officer who examined them, in his report states distinctly that they could only be used for transports, unless the upper deck was removed; and then who does not know that if you remove the upper deck you would have the wheels four feet above the main deck?

Now, sir, I do not mean to go into the details of this subject. I throw out this general view to show what has already been demonstrated by England and France, that side-wheel steamers are inapplicable for war purposes. Compare these with the ships in the English navy. Great Britian this moment has twenty-nine propellers, embracing ships of from one hundred and forty guns to six. They have ships of the largest class, larger than our own Pennsylvania, and instead of adopting the side-wheel, they have adopted the propeller system. We have taken directly the reverse, and at the very moment that the maritime nations of the earth are abandoning the system, we are expending millions to keep it up.

In regard to what the Senator from Massachusetts has said about this system cheapening the fare of emigrants across the Atlantic, every American, as a matter of course, welcomes those who come from downtrodden nations, but the emigrants do not come in steamers at all. They come in sailing vessels, which will always exist in spite of our legislation. The system of legislating thus to dole out money to steam lines, when they come here and demand it, will encourage this state of things, for the Senator knows well that when we give to one, it encourages another to come and demand the same. As the Senator from Virginia has correctly observed, open this thing to competition, and my word for it, there will be an improvement in the vessels much greater than has yet taken place. Open it up to all who will build ships to run in competition, and it will be the interest of each to have the best kind of vessels.

Mr. RUSK. I do not intend to protract this debate. I am not desirous of doing so. I was in hopes that the vote would be taken upon it without discussion. If I was anxious to go into the argument—if we had time to do it—I might answer the Senators. The Senator from Florida says that this Collins line of ships are "rickety" concerns. The London Times did not call them rickety concerns. I know it was contended, at the time the Collins line appropriation was before the Senate, that the Cunard line did not get the immense amount of money from the British Government which we asserted it did. But I see from reading the London Times that they have candor enough to admit that the Collins ships are superior, and it advised the Government of Great Britain to abandon the contest, for which they were paying a million and a quarter per annum.

Mr. BAYARD. I do not intend to protract the discussion further than to reply to the remarks of the honorable Senator from Florida. He states it as a fact that all the maritime nations of the earth have abandoned the system of the side-wheel and resorted to the propeller construction of vessels for war purposes. I state that Great Britain at least has not abandoned the system for one. The steamers connected with her postal service have been constructed so that they may be used for some purpose in time of war. The difference between Great Britain and ourselves is, that we

have chosen to take only a part of it and not go on with the system of making sufficient appropriations to increase the navy proper by means of propellers, which I admit are the proper vessels for war purposes alone. But because you do not choose to make appropriation sufficient for the support of your Navy according to the most modern maritime warfare, is that any reason for the abandonment of another system which not only connects itself with a state of war, but is intended also for general benefit to the country in time of peace, and connects itself with your postal system?

As I have said, I cannot vote for the appropriation proposed by the amendment, but I object to assaulting a system, which assault is grounded upon a state of facts which do not exist. Great Britain has not abandoned the system, nor has she deemed it proper in all these cases that the steamers should be propellers. I admit that in reference to the navy proper, she has adopted the propeller system, as I think all nations should do. I was induced to make these remarks merely with a view to correct what I believed was a misapprehension.

Mr. BORLAND. I desire to say that I shall vote against this proposition for the same reason that I voted against the appropriation for the Collins steamers. I am unable to see any difference in the two cases, except that we gave a very large amount to the Collins steamers, and the amount proposed in this case is comparatively small. That is the only substantial difference that I can see. I have noticed one difference between the arguments which are now used and those which were used last year. Then postages were the foundation for the argument in favor of the appropriation. That seems to be abandoned now, and we have substituted for it the carrying of emigrants and freight. The principle remains the same, but the ground adopted for the argument last year seems to be abandoned, and we have new ones in their places.

Mr. JAMES. Mr. President, on the question of the proposed amendment now under discussion, I would not offer any remarks, were it not that I consider the honorable Senators from Virginia and Florida [Messrs. HUNTER and MALLORY] to have stepped aside from the subject in debate, to attack a measure adopted some time since by Congress, and in which I took some part. I have reference, sir, to the act granting additional compensation to the Collins line of steamers, for the transportation of the mail between New York and Liverpool. On that occasion, I differed from both these Senators in opinion, nor have I seen or heard anything since, not excepting what they have said today, to effect the least change in my opinion on that subject, nor to cause me to regret the part I took in the business, nor the vote given by me. On the contrary, the adoption of that measure, which gave me pleasure then, gives me pleasure still; and, contrary to the feeling expressed by my honorable friends, I consider the money well expended, were the result to be nothing more than the gratification of "national pride," and the "renown, honor, and reputation" the enterprise has conferred upon us, which the honorable Senator from Virginia [Mr. HUNTER] seems to regard so lightly.

Mr. President, what is a people without national pride? They can be but little better than savages. To have national pride, is to be proud of our country, and is closely allied to patriotism. Surely it is a laudable pride that leads the citizens of one nation to emulate the greatness of another, and when, by comparatively small expenditures of money, that spirit can be gratified in the successful prosecution of great and useful enterprises, which redound to the "renown, honor, reputation," and wealth of the nation, the means should not be withheld. Sir, we have recently voted to increase the salaries of certain of our ministers abroad, and very properly too, in my apprehension. But will it be pretended that these ministers could not have lived, not only very comfortably, but very well indeed, on their former salaries? I think it will not. Why, then, increase their salaries? To enable them to live in a style more nearly approximating to that of the representatives of the regal Governments of Europe; and this purely from a feeling of national pride, that will not permit us to suffer reproach to be cast upon us abroad. It is a noble feeling; and as long as I may live, I hope to see it maintained by every American citizen, and fostered and sustained by our Government. So long as this feeling of national pride shall animate the breasts of this people, we have nothing to fear from all the rest of the world combined. So long, a foreign invader can never plant his feet on our shores. Crush it, and our liberties are gone.

For my own part, Mr. President, I believe there is something worth legislating about besides mere dollars and cents. Some things there are, in my estimation, far more important to our country. And while we should carefully guard the Treasury against wanton waste, I will never consent to be one to stand by it as a surly watch-dog, to bar all access to its deposits in every case except when stern necessity may open its vaults. It is my impression, sir, that the United States Treasury is the repository of the *people's* money, and that there can be no better use made of the excess, after having fully provided for the wants of the Government, than to expend it for purposes and on objects calculated to promote the public good. I would not recommend measures to empty the Treasury and to impoverish the Government; neither would I act the miserly part, and, from the mere love of money, hoard it up, and thus withhold the benefits it might otherwise confer. We are asked, "How can it minister to the renown, the reputation, or the glory of our nation to keep up at the expense of the United States Treasury such enterprises, such steamers, as cannot support themselves?" And again: "I acknowledge that it is beneficial to facilitate postal communications, provided it can be done on the self-sustaining principle." Once more: "If we could open a new line of legitimate business, which would spring up and support itself upon the legitimate fruits of industry, I acknowledge it would redound to our national honor and reputation." Now, sir, from all these remarks, I can deduce but one isolated idea: it is, that nothing can redound to the glory, honor, and reputation of our country, except it shall return to the Government at least dollar for dollar for the expenditure. This, truly, is calculating national renown, glory, honor, and reputation on the basis of the standard value of gold and silver—a rule that never occurred to me before. Of course, if dollar for dollar would give to our country a certain amount of renown, glory, honor, and reputation, or, in the Senator's language, if "a new line of legitimate business" would give us a certain amount of those commodities, then, by the same rule, a profit of one hundred per cent. would increase them prodigiously. My own opinion is, that the renown, honor, glory, and reputation, of either nation or individual, that rests on, or is created by money and money-making, is not worth much; and if this result is all the people of the United States are to realize from Government expenditures, it would seem to me that they will not have much to thank us for.

Mr. President, what constitutes the true basis of the renown, glory, honor, and reputation of a nation, and for which, while thankful to a higher Power, they have good reason to indulge in a becoming degree of national pride? Sir, in my estimation, those great and important characteristics rest principally not on wealth, but on the government of a nation—on its political and civil institutions, the virtue and intelligence of its people, its just and equal laws, and its exercise of justice and equity at home and abroad. In a nation where these approximate nearest to perfection there is no need to purchase a counterfeit reputation with gold and silver. There talent and industry will be sure to meet their reward; there works of civilization and art will spring up; there national and individual wealth will accumulate; and with these will the national greatness be built up and established. On this greatness will be reflected the "renown, glory, honor, and reputation" of the nation, created by its moral and political character. Sir, nothing can add more to this national greatness than progress in civilization and the arts; and every dollar expended by the Government to promote these, though it may not be returned directly to the Treasury, will yield a tenfold profit to the people, from whom it was first derived and whose property it is. On this view of the subject, sir, my opinion is, that Congress is, or would be, fully justified in extending pecuniary aid to enterprises to extend civilization and the arts as a general benefit, even without the expectation or promise of a direct remunerating return to the Treasury. Such has been the practice of all civilized Governments; and to this practice, in part at least, do Great Britain and France owe the commanding position they occupy in science, literature, and the arts.

Mr. President, it was on the ground of the general benefit to be conferred that I, as well as others, advocated and voted for the additional compensation to the Collins line of steamers. It was neither predicted nor promised, to my knowledge, as the Senator from Virginia [Mr. HUNTER] would seem to infer, that "postages were to increase immediately," so as to make the transportation of the mail a self-sustaining business. The gratification of national pride, the vast benefits conferred on the country by means of the important mechanical improvements arrived at in the process of constructing the vessels that compose that line—the powerful effect produced in consequence on our merchant steam marine—and also the beneficial effect that might be expected to result to our steam navy—these were the principal causes urged, and constituting the main ground on which the appropriation was made; and I allege, sir, that it was money well expended, even if a single dollar of it were never returned. But the Senator from Virginia infers that, had not Congress interfered in the construction of these ships, private enterprise and competition would have caused ships to be built, as good as these, if not better. If things were not as they are, no one can tell how they would have been. Private enterprise, without Government aid, might have produced all that the honorable gentlemen imagines, and it might have produced nothing. This is a mere matter of opinion. One fact, however, is clear to my view—if the Government wished to have steamers built suitable for war purposes, to be placed partially under its control, with the right to take them into the public service whenever it might see fit, it was no more than right and just that Government should also contribute to pay the extra cost incurred on that account. But it has been said that these ships are "*rickety*" concerns. If they are so, whose fault is it? They were built in accordance with a Government contract, under the supervision of experienced officers of the Navy, who recommended them, when finished, to the Government. To call them "*rickety*" concerns is to pay but a poor compliment to those officers. I know not how deeply versed the Senators from Virginia and Florida [Messrs. HUNTER and MALLORY] may be in the art of naval construction; but, for my own part, I would much prefer to rely on the opinion, in this matter, of the Navy officers who superintended their construction, the unrivaled success which has attended these ships on the ocean, and the unqualified approbation bestowed on them by the many thousands who have made passages in them. My honorable friends are the only persons I have ever heard of who pronounced them "*rickety*" concerns; and against this denunciation stands, it is believed, the full force of universal public opinion, at home and abroad.

But we have also been told that these ships are unfit for war purposes, except to be used as transports. And why so? They are as strong as our navy steamers; have as good sea-going qualities, and, in point of speed, far exceed the best of them. Why, then, are they unfit for general war purposes? Simply because they have side-wheels, while the British and French Governments are building propellers. Here, then, is another denunciation, founded on a mere matter of opinion. No practical test has been had to decide the question. Perhaps we may be allowed, even in this country, to be as capable of forming a correct opinion on this subject as they are in England and France. The side-wheel steamer moves with much greater speed than the propeller, and, engaged in battle with the latter, can always choose her own position; if likely to be overpowered, she can readily haul off and leave her antagonist—neither of which the propeller can do. But the great apprehension with regard to side-wheel steamers seems to be the liability to have their wheels disabled in time of action; and some people appear to think that every ball from an enemy must strike and demolish some part of the wheel or wheels; yet probably not one ball in an hundred would strike any part of the wheel, and all parts being of iron, there would be ninety-nine chances for the ball to glance without doing any injury for one against it; and great

damage might be done to a wheel, and yet leave it in working order. Not only so, but should one wheel be utterly demolished, against which there would be more than a thousand chances to one, the speed of the side-wheel steamer with her remaining wheel would still exceed that of the propeller. For these and for other reasons—and I am not alone—my opinion is, that for purposes of attack and defense, the side-wheel steamer would be superior; though before having studied the subject I was inclined to give the propeller the preference.

Mr. President, we are told that the Collins line is an incubus on the Navy. By what figure of speech the allegation can be made out, I am at a loss to know. True, it has been said that the money appropriated to them by the Government might have been expended in building steamships for the Navy. True, again—but what should we have gained by that? These ships were constructed in accordance with Government orders. They are as well built as vessels of their class are built at our navy-yards, and at about half the cost. We have not a steam-vessel of the same class in the Navy that can vie with them in speed. Whenever the Government wants them, it can have them, and incorporate them into the Navy. In fact, these ships may even now be virtually considered as belonging to the Navy, as ships in ordinary, to be armed, equipped, officered, manned, and sent to sea, whenever their services may be required. And when thus called into service, they will be quite as efficient as other ships of their class. How futile, then, to talk of their being an incubus to our Navy, as though the Government, having expended all its money, and exhausted all its credit, on the ships of the Collins line, now wished to build ships on its own account, but had not the means.

But, sir, the honorable gentleman from Virginia [Mr. HUNTER] acknowledges, "that it is beneficial to facilitate the postal communications, provided it can be done on the self-sustaining principle." For one, I am willing to go further than this. Government claims the postal monopoly, for the carriage of letters, &c., not only on the land, but on the ocean; and officers, seamen, and passengers conveying letters from abroad are compelled to deliver them at our post offices, where postage is charged on them. On the land and the ocean both, therefore, the Government ought to provide for the transportation of the mails, for the benefit and accommodation of every part of our community. Adopt the Senator's principle, and what would be the result? Why, sir, a large proportion of the people of the South would be deprived of mail accommodations; for I believe I am not mistaken in saying, that there is not a southern State, with the exception of Louisiana, in which the postages paid to the Government are anything like the cost. Shall we cut those accommodations off? Certainly not. But why are not the mercantile community, and all others who require it, just as much entitled to such accommodations respecting foreign correspondence? The revenue from their business, to the Government, entitles them to it, and its importance to the whole country demands it, whether the enterprise be self-sustaining or not.

Sir, I have nothing further to say on this subject, nor should I have said so much, but for the sake of vindicating myself, and those who acted with me on the question of making the additional compensation for the Collins line, against what appears to me an attack on us for our share in those proceedings, and which, in this discussion, I think, to say the least, is far-fetched and entirely out of place.

Mr. BORLAND called for the yeas and nays on the amendment to the amendment; and they were ordered.

Mr. RUSK. The first section of the amendment which the Senator from Virginia moves to strike out, proposes to give an additional allowance of $6,000 a year for the round trip. The latter proposes to give authority to the Postmaster General to release the persons from the contract on the allowance of a reasonable compensation.

Mr. MORTON. As the yeas and nays have been ordered, I wish simply to state the reason which will control my vote on this question, and to show that I am somewhat consistent in my course. I was at all times an opponent of the increase of compensation to the Collins line; I voted against it in all its different aspects; but inasmuch as the Congress of the United States have thought proper to increase its compensation, I think equal justice should be extended to the Havre and Bremen line, and therefore I shall vote for the proposition of the Senator from Texas.

The yeas and nays being taken on the amendment to the amendment, resulted—yeas 31, nays 12; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Borland, Bradbury, Bright, Brodhead, Butler, Cass, Chase, Dawson, De Saussure, Dodge of Iowa, Fitzpatrick, Geyer, Hamlin, Houston, Hunter, Jones of Iowa, Mallory, Mason, Norris, Pettit, Phelps, Pratt, Sebastian, Shields, Sumner, Underwood, Walker, and Weller—31.

NAYS—Messrs. Bell, Cooper, Davis, Downs, Foot, Gwin, James, Morton, Rusk, Smith, Soulé, and Spruance—12.

So it was agreed to.

Mr. UNDERWOOD. I shall move to amend the amendment by striking out all that remains of it after the words "rescind the same," so as to leave it that if they choose to abandon the contract, the Postmaster General may accept the abandonment.

The PRESIDING OFFICER, (Mr. MASON in the chair.) The Chair would inform the Senator from Texas that the first section of his amendment having been stricken out, it is necessary to modify the second section by inserting the names of the company.

Mr. RUSK. The opponents of the amendment have knocked the life out of it, and they may galvanize it to suit themselves.

Mr. HUNTER. I will see if it is worth preserving.

Several SENATORS. Vote it down.

Mr. UNDERWOOD. I am not willing to vote it down. I want the amendment adopted with the modification which I suggest. If those gentlemen choose to abandon their contract, if they have ascertained that it is a money-sinking business, I am willing to relieve them from it; but I am not willing to pay them and leave it as a matter of discretion with the Department to pay what it pleases, they having made an unfortunate contract. If you will strike out the latter part of the section as I propose, and then leave the proposition, it will stand precisely in this way: If they are tired of your contract they may surrender it. If they choose to carry it out, they have a right to do it; but if they choose to surrender it, I am willing to permit it. I therefore move to strike out of the amendment the words, "making such allowance as he may deem equitable and just."

Mr. BAYARD. What do the words "said companies or either of them" in the amendment as it now stands refer to?

Several SENATORS. We are going to vote it all down.

The amendment to the amendment was agreed to; and the question recurring on the amendment as amended it was rejected.

Mr. SOULE. I propose an amendment, to come in at the end of the first section; and I will explain in a few words its object. It seems that the Postmaster General, through some oversight, forgot to ask an appropriation for carrying out the contract which was entered into under a law passed at the first session of this Congress authorizing the establishment of a mail line between New Orleans and Vera Cruz. Congress has passed the law, but there is no appropriation to carry it out. It is with a view to remedy that oversight that I propose the following amendment:

For carrying out the contract entered into by the Post Office Department under the law passed at the last session of Congress, establishing a tri monthly mail by steam vessels between New Orleans and Vera Cruz, via Tampico, $70,000.

The amendment was agreed to.

The amendments were then ordered to be engrossed, and the bill to be read a third time.

It was read a third time and passed.

INDIGENT INSANE.

Mr. HAMLIN. I believe we have now acted upon the last of the appropriation bills. I have risen to submit a motion to the Senate, and I ask for its favorable consideration. It is to take up the bill making appropriation for the indigent insane. I hope the Senate will take it up. I do not propose to discuss it. I only ask its consideration, because it is desirable that we should have a vote upon it.

Mr. BORLAND and Mr. WELLER. Take the homestead bill also.

Mr. GWIN. It is perfectly evident that that bill cannot pass without discussion. We shall have the homestead bill, and Bennett's bill, moved as amendments to it. We have committees of conference at work upon disagreeing votes of the two Houses on appropriation bills. We shall not have time enough to dispose of the appropriation bills if we take up this controverted question. I hope the Senator will not attempt to force it upon the Senate.

Mr. HAMLIN. I think this bill has passed the Senate twice, and the House twice, but not at the same session. All I ask is that the Senate will now take it up, and give us a vote upon it. If it will give it a favorable consideration, I shall rejoice. If it will not, be it so.

Mr. CHASE. I hope the Senate will take up that bill, and I give notice that when it is taken up, I shall move to amend it by adding to it the homestead bill.

Mr. BELL. That is, you will kill the bill if you can?

Mr. BUTLER. It is very evident that the gentlemen intend to make a mere demonstration in favor of benevolence.

Mr. HAMLIN. It is precisely so, Mr. President.

Mr. BUTLER. If the gentleman intends to do it at this session, be it so.

Mr. PRATT called for the yeas and nays on the motion, and they were ordered.

Mr. BAYARD. Without committing myself to what may be my vote on this bill when it comes up regularly, and can be discussed, I shall now vote against taking up this or any other bill that will lead to discussion during this session of Congress, because I am perfectly satisfied myself that this is not the time to enter into the discussion of measures of this kind. We yet have controverted questions connected with the appropriation bills to come before us. If you desire to take up and pass measures that are not objectionable, I shall not oppose doing so; but I shall oppose measures that are to lead to a general discussion. If we get into the discussion of such bills, Senators will get heated so that committees of conference will not be able to make their reports.

Mr. GWIN. I give notice, that if the bill is taken up, I shall be compelled to bring up the Pacific railroad bill, which had its brains knocked out the other day.

Mr. PETTIT. I only want to say that if the bill is taken up, I shall desire to have it read. [Laughter.]

The question being taken by yeas and nays resulted—yeas 25, nays 17; as follows:

YEAS—Messrs. Bell, Bradbury, Bright, Chase, Clarke, Cooper, Davis, Dawson, Downs, Fitzpatrick, Foot, Geyer, Hamlin, Houston, Mangum, Miller, Morton, Rusk, Sebastian, Shields, Smith, Spruance, Sumner, Underwood, and Weller—25.

NAYS—Messrs. Adams, Atchison, Bayard, Borland, Brodhead, Butler, De Saussure, Dodge of Iowa, Douglas, Gwin, Jones of Iowa, Mallory, Mason, Norris, Pettit, Pratt, and Walker—17.

So the motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives, "making a grant of the public lands to the several States of the Union, for the benefit of indigent insane persons."

Mr. DODGE, of Iowa. I move to amend the bill by adding to it what is commonly called the homestead bill, divested of the feature which is so objectionable to my friend from Mississippi, [Mr. ADAMS.] I suppose there will be no sort of opposition to the amendment. I believe that the Senate is exceedingly anxious to vote for the passage of the homestead bill, and therefore I will not detain it by saying anything further.

Mr. BELL. The bill for the relief of the indigent insane has passed the rigid examination of several select committees—committees chosen to examine it specially in reference to the provisions that could be prudently and constitutionally made, appropriating a portion of the public domain for the relief not of the thirty thousand insane persons in the United States—the number shown by the late census—but for the relief of some fourteen or fifteen thousand indigent insane persons, who have no means, no family, no influence, political or otherwise, that can ever reach the heart or affect the feelings of this assembly or the other House of Congress. You have passed hundreds of bills founded upon what has been supposed or alleged to be extraordinary suffering, privation, or

claims upon the bounty or gratitude of the Government. You have gone even to the remote heirs of those who are alleged to have shed their blood, or wasted their property, or suffered privations in the Revolution, and showered your bounty upon them. You argue or pretend that all this is but justice, and what is due to patriots and the descendants of patriots. But neither impartiality nor gratitude, nor a generous and beneficent policy can be shown to lie at the bottom of all this. It is interested and for display mainly, and grants of this kind are seldom made except under the pressure of personal or political influences.

I have said that there is no equal justice or impartiality in the distribution of bounties by Congress. Take the class of beneficiaries distinguished, or supposed to be distinguished, as revolutionary. What sort of justice have you done to the soldiers and patriots of the Revolution? I can hardly suppress my indignation, when I call to mind the treatment which the gallant men who fought the battle of King's Mountain have received at the hands of the people, or at least of its organs and of the Government. Not a man who fought in that battle, or the name of any of his descendants, is inscribed upon the pension lists on account of that battle; and for that reason I suppose it is, for I can conceive of no other, that the battle of King's Mountain is no longer accounted one of the battles of the Revolution. No longer ago than last year I saw going the rounds of the leading journals of the United States, and even in such a respectable journal as the Intelligencer of this city, what purported to be an enumeration of the battles of the Revolution, in which King's Mountain was left out; and I tell you, sir, that it is not very national for those who represent the section of the country where there are now some thousands of the descendants of the heroes in that battle; of those who voluntarily rallied on that occasion—perhaps the very crisis of the Revolution in the South—of the brave men, who at a moment's warning grasped their rifles, mounted their own good steeds, pursued and overtook the enemy, advantageously posted on the top of a mountain, but nothing daunted attacked him on all sides, and after repeated charges, and under a discharge of musketry and rifles, so rapid as to envelop the mountains for hours in a sheet of fire, and finally compelled his surrender. I say it is no easy matter for the representative of such a race of men, when he finds that not one cent of the millions of money lavished in pensions and bounties by this Government has ever been distributed among them, to form any high estimate of the patriotic spirit, or the gratitude or the justice of the Government, or of the disinterested generosity of those who are always so prompt to vote donations to soldiers. Just consider the treatment of the conquerors at King's Mountain in the Revolution, and then turn to the history of the last few years in relation to this practice of granting pensions and bounties to soldiers. Not only every man who fought in Mexico has either been put on the pension list, or made the recipient of a tract of land, but even all those who enrolled themselves for that war, and marched, though they never reached the enemy's country, or heard the report of an enemy's gun, have been rewarded with extraordinary bounties.

Am I not justified, then, in characterizing this so-called generous and patriotic feeling which finds vent in military pensions and bounties, as deceitful and hollow—a humbug—a practice adopted more for the purpose of winning popularity and catching votes, than from any devotion to principle or sound policy, or to any sentiment of justice or humanity? But, sir, in the bill before us we have presented an opportunity for signalizing a true and just and disinterested generosity. We are here invited to grant a portion of the public domain to a class of our citizens who can never know or make any return to their benefactors.

Yes, sir, you have now an opportunity of showing what is in your hearts. This suffering class of indigent insane can give us no returns at the polls; no remunerating response to the benevolence, to the charitable disposition, and the philanthropic feelings of members of Congress. Some of them have clanking chains around them now, eating into their very bones; some of them are in desolate log-cabins and open pens, and some of them are secluded in dark pits, never seeing the light of day.

And here let me pay a tribute to an immortal genius—the celebrated De Foe. He was the first man who brought prominently into view, and urged with irresistible eloquence, the moral obligation of society to support the unfortunate and stricken lunatic, whose reason is overthrown, but who still belongs to the human family, and entitled to all the sympathies and charities of the public.

I repeat my appeal to the members of the Senate to consider that here they have an opportunity to give a vote which can never be impeached for selfishness, because there can be no reward, except in the consciousness of a just and noble act. Those for whose benefit the bill provides can never be heard here. They have no voice in the public councils; they have no agents to press their claims, except the gentle and unobtrusive friends of suffering humanity.

I wish to say to my honorable friend from Iowa, [Mr. DODGE,] with regard to the amendment providing for the landless and the homeless, which he so earnestly presses upon our attention, and insists upon ingrafting it upon this bill as a measure of superior importance, that I hope he will reflect that the bill now before the Senate, and which he seeks to defeat, proposes to provide for those who have neither land nor home nor mental nor physical power to acquire the one or the other —for those who are doomed to be forever landless and homeless—and there are fifteen thousand such in the United States. The landless and the homeless —are they more ours, do they more belong to us, and appeal more strongly to our sympathies, to our humanity, and have a stronger claim upon our justice, and our charity, and our bounty, than those indigent insane who have no land, and no home, and can never hope to have? If the landless and the homeless are really more meritorious or more deserving of such a donative as this—for they are both donatives—then let the homestead bill have the preference, and let us first vote for that. If the other class of claimants to which I have referred are, in fact, more needy, more destitute, the greater sufferers, and therefore have stronger claims upon the bounty and generosity of the Government, then let them have priority. Why should we clog this bill with any others? The House of Representatives has responded to the justice and propriety of passing both these bills. It has passed both. It has sanctioned as fully the bill for the relief of the indigent insane as the other; and why will my honorable friend do such injustice to his own heart in offering an amendment which will destroy the bill now before us. I cannot conceive that he has a heart so callous to the claims of suffering humanity, as to deny that any provision is due to those stricken and unfortunate beings, who are insensible alike to the possession or the comforts of home. I believe that the honorable Senator does injustice to his own feelings by proposing his bill as an amendment to this one, for certainly to do so would defeat them both in the House. The object of this bill is one that commends itself to our admiration, and is entitled to receive our support. It appeals to all the generous and noble feelings of our hearts. Why, then, clog it, or do any act which would endanger its passage.

If the homestead bill is attached as an amendment to this bill, in all probability neither of them can at this session pass and become the law of the land. The amended bill will have to go to the House, and the rules of that body are such that, at this late hour of the session, no matter what may be the feeling or disposition of the majority there, neither measure can pass. Let us pass this bill for the relief of the indigent insane, and then take up the homestead bill, and let us hope, let us expect, let us confidently rely upon the disposition and feeling of the Senate to relieve the homeless and the landless, as well as the insane. They may be in the next degree to the class of persons proposed to be relieved by this bill. That is what I propose. I hope my honorable friend will withdraw his amendment. I have heard it intimated that Bennett's land bill will be tacked to this. Let it be moved by itself also. After you have provided for the indigent insane, for the landless and homeless, then let us provide for the old States. That will come next in order. Bring them up consecutively. It fortunately so happens that we have disposed of our appropriation bills at rather an advanced period of the session—some fourteen hours earlier than is usual with Congress. Though they are not finally disposed of between the two Houses, I have no doubt they will be without interruption. I therefore make this appeal to the Senate. Let us pass this bill, then we will take up the homestead bill and Bennett's land bill, and we can pass them all, if such is the pleasure of the Senate.

Mr. PETTIT. Mr. President, without saying whether I favor or disfavor the original bill taken up by the Senate, I must be permitted to say that I favor the amendment moved by the Senator from Iowa, and that I desire to discuss it at some considerable length before the Senate. It is a measure that commends itself both to my heart and to my head—to my heart because it provides a home for the homeless and a house for the houseless; and to my head because in my judgment it is one of the greatest and best measures for national strength and national defense that was ever devised by man. But, sir, whether I shall proceed or not depends upon the response that I shall get from the Senate. I am unwilling to attempt to proceed to the discussion of this measure and show, as I shall attempt to show, that it is for our national strength and our national defense that we ought to adopt it, if I am to be interrupted by committees of conference or others which should come proposing to report. Will they have precedence over me? Shall I be under any obligation either legal, moral, or from courtesy to suspend and yield?

Several SENATORS. Of course.

Mr. PETTIT. Is that the understanding? If so, I do not desire to proceed, for it is the calm attention of the Senate that I want upon this subject. I do not want to be interrupted. I will not proceed unless there is a common understanding that I shall be heard for the course of three quarters of an hour. If that cannot be allotted—and there is no probability that it can be allotted—I shall certainly suspend now.

Several SENATORS. Go on! Go on!

Mr. BUTLER. I would not if I were the Senator.

Mr. PETTIT. I know my honorable friend from South Carolina is a good monitor. [Laughter.] Mr. President, I am satisfied that we shall not be able to accomplish any efficient definite action upon this subject during the remainder of this session. That I shall have a better opportunity to discuss, to a calm Senate at the next session, this whole subject, I have not a doubt. Knowing that the Senate is restive now, or that I must be in a few minutes interrupted, I shall prefer myself to decline going into a general discussion of the subject.

Mr. ADAMS called for the yeas and nays on the amendment to the amendment, and they were ordered.

Mr. DODGE, of Iowa. I feel that I would hardly do justice to the Senator from Tennessee, [Mr. BELL,] or to myself, if I did not make some reply to his remarks. He has pronounced a eulogium upon the heroes of King's Mountain, and has paid a glowing tribute to our revolutionary ancestors. For one, in all that he has said in praise of that glorious band who stood to their arms in the hour of their country's need, and aided in achieving her independence—who, taking their lives in their hands, and turning their backs upon everything ordinarily held dear and sacred, went forth to a seven years' war, sometimes almost naked and unarmed, to encounter in deadly strife the mightiest, proudest, and, until then, the most invincible nation on earth. Independence and liberty are the *Hesperian* fruits produced by their sufferings, heroism, and blood; and for one, I say, be not only just but generous to them. Has my friend from Tennessee any proposition for relief to them? If so, I will go with him in support of it; and whilst rewarding the survivors of King's Mountain, let us not forget those of other hard-fought fields, such as "Stony Point," at which the dauntless Wayne stormed the British intrenchments at the point of the bayonet, having knocked the flints out of the guns of his soldiers.

Mr. BELL. Will the Senator allow me one word? I have done it over and over again, but have been silenced and put down.

Mr. DODGE. I am gratified to hear that the Senator has exerted himself on so many different occasions to accomplish something for these surviving veterans. I can truly say that I was not one of those who contributed to put him down,

or to defeat his measure. The Senator is, I believe, a friend to the homestead bill as well as myself; and being so, I trust I shall have his vote and potent influence for my amendment. I hope he will not be for giving this bill, as he did the great Pacific railroad bill, a preference over the homestead bill. I cordially coöperated with him in support of that bill, but I nevertheless thought that some of his arguments and illustrations did injustice to the homestead bill.

Mr. BELL. I said not a word against it.

Mr. DODGE. The Senator's word to me is sufficient for anything. I was going on to say, if he had not interrupted me, that his private declaration of friendship for the bill referred to afterwards undeceived me in regard to the matter. I know that whatever that Senator professes he will act up to. But when he makes a special appeal to me to do or not to do certain things touching measures before this body, I answer it by referring to the arguments and course of himself and others upon measures in which I feel a deep interest. The Senator from Arkansas [Mr. BORLAND] will well remember the occasion to which I allude, for he replied to the argument of the Senator from Tennessee.

Mr. BELL. I said nothing against the homestead bill itself, in my remarks to the Senator from Arkansas; but I said that the railroad bill, whilst we had it up, ought to precede it, or, upon the line of that, wherever it might be located, the homestead bill would occupy the lands—that is, within the limits of the six miles in the State on each side of the road.

Mr. DODGE. Very well. Did not my friend, when it was proposed to take up the homestead bill, and when there was time to discuss it, vote against taking it up?

Mr. BELL. I said that if you would lay down the Pacific railroad bill you would never reach it again; but I said not one word against the homestead bill.

Mr. DODGE. Be it so. I neither question the Senator's sincerity nor consistency. I only wish to call attention to the fact that I, in the course which I am pursuing with regard to this bill, am doing nothing unfair nor unusual. I have not offered the amendment in a factious spirit. If my friend from Tennessee is friendly to the homestead bill, as I doubt not from his declaration that he is, and as I know he is from his private assertion to me on the subject, I have to ask him why he cannot vote to amend this bill? There is ample time to pass both measures, as they are known to be popular in the House of Representatives, both having passed that body by large majorities. Why cannot we amend Miss Dix's bill by adding to it the homestead bill, and let the two measures for the benefit of the sane and the insane go *pari passu*, upon this, the last night of the session, and give the people's representatives an opportunity to do justice to the poor, the landless, and the homeless, as well as to those upon whom God in his inscrutable providence has laid the hand of misfortune. The latter class, from the smallness of their number, and the deep sympathy excited in the community in which they have their being, are now infinitely better cared for than the former.

Mr. BELL. I said before, that a majority in the House, I understand, are in favor of both measures; but by their rules, it requires two-thirds to take them up.

Mr. DODGE. I understand all that sort of thing. It was reiterated a hundred times and more when the river and harbor bill was before us at the last session. It was disregarded then, and the bill amended at the very last days of the session, and yet the bill became a law; and so it will be with this, if my amendment prevails. This two-thirds rule of the House, so often referred to here, to defeat or pass measures, has lost its terrors for me. For one, I am not willing to legislate under duress. The Senator makes a personal appeal to me to support this bill and help in its passage. Sir, these appeals have lost their potency with me. The treatment my State has received at the hands of the Congress soon to expire, has been such that I turn a deaf ear to them. The other branch of Congress has refused to Iowa the ordinary grants of alternate sections to aid her in the construction of railroads in which she feels the deepest interest, and yet has made like grants and much larger than those asked by us to adjacent sister States.

What is this bill when stripped of the mock sentimentality and gallantry, if I may be allowed so to speak, in which the Senators have enveloped it? It is a naked proposition to issue ten millions of French assignats, American paper money, bank notes—called, if you please, land warrants; and for whose benefit? Nominally for the insane, but in reality for persons with all their wits about them. Speculators and money-changers will be its beneficiaries; land monopolists will go with this paper by the bale and absorb all the public lands along the lines of our proposed railroads and elsewhere. These things we are to vote for from considerations of mere personal respect to an accomplished and humane lady, and for the benefit of the voracious class of whom I have spoken.

Sir, the annual report of the Commissioner of the General Land Office, at the present session, and subsequent information received from the land sales in Illinois, furnish the most triumphant argument in support of the policy of granting alternate sections of the public domain to aid the States in the construction of the railroads projected through the public lands which has ever been furnished upon any subject. These documents show that the reserved sections, held at $2 50 the acre, have not only been sold for that price, but considerably more; thus to the fullest extent realizing the prediction of my friend from Illinois, [Mr. DOUGLAS,] and the other supporters of the Illinois Central railroad grant, at the time when we struggled and fought through that beneficent measure, in opposition to the unceasing attacks of the Senator from Georgia [Mr. DAWSON] and others, who hung upon it like vampires. Notwithstanding this triumphant result, and notwithstanding our roads connect with, and may be regarded as but simple extensions of those from Philadelphia, New York, and Boston, we were voted down in the House of Representatives; first, on one bill providing for three roads, but granting three hundred thousand acres less than were granted to Illinois; and secondly, upon one road—the Burlington and Council Bluffs road—unconnected with any other, and giving us but a million of acres—Illinois having received three millions of acres for her road and its branches.

In the wide range of suffering humanity, there are other objects of commiseration and sympathy besides the insane; and in my section, much more numerous. I refer to the sick and disabled persons employed in navigating the Mississippi river. Necessity as well as humanity calls loudly for the establishment of a marine hospital for the Upper Mississippi; and at an early day of the present session I brought this subject to the attention of the Senate, obtained a favorable report from our Committee on Commerce, and effected the passage of a bill appropriating but $15,000 for the erection of a receptacle of this character at Burlington, in Iowa—a point favorably situated between the two noted obstructions to the navigation of the Mississippi, and between St. Louis and the great trading towns of upper Illinois, Wisconsin, Iowa, and Minnesota. For this class of men it can be affirmed that there is no provision made above St. Louis; while the protecting arm and fostering care of the General Government has always been extended in aid of the sick and disabled seamen, both of the Navy and of our commercial marine, and more recently upon the Lower Mississippi and Ohio rivers. The boatmen and raftmen of the Upper Mississippi are justly entitled to the benefits of the several acts of Congress for the relief of sick and disabled seamen engaged in foreign commerce and in the coastwise trade; but so defectively supplied are the remote western waters with hospitals and asylums for the sick, that these benefits are almost wholly denied them.

The unfortunate prevalence of late years upon our western waters of that most dreadful of all human scourges—the Asiatic cholera—has given this subject an interest beyond anything ever felt in the early history of western navigation. The absence of these hospitals scatters the pestilence, and spreads it in the cities, towns, and villages on our rivers; whereas if receptacles were prepared, they would tend to concentrate and extinguish it by collecting the sufferers and preventing their intercourse with society. A person known to a boat's crew to be suffering from this plague is put on shore wheresoever the boat can get rid of him, by persuasion or stratagem. The presence of the sufferer generally causes consternation, and he is neglected, often abandoned, and dies. The scourge is thus spread upon our rivers among the citizens on shore, and its mortality augmented among river-faring men themselves.

This very night the House has refused, by an overwhelming majority, to pass the bill we sent them for the erection of a marine hospital at Burlington, in my State, so much needed, than which no measure for the benefit of suffering humanity could be more loudly called for. And yet I am asked at this, the eleventh hour of the session, to vote for a bill for the issue of ten millions of paper money under the specious guise of aiding the unfortunate. I will not do it! My State is suffering under a sense of wrong, partial, and injurious legislation, which I shall resist and oppose as long as I have a voice or vote.

Mr. ADAMS. The proposition contained in the bill under consideration I think decidedly objectionable. The idea of making a corporation out of the limits of a State a freeholder within it, is to my mind objectionable. What is the proposition of the Senator from Iowa? It is to give a homestead to every poor man; now if to that we attach the proposition which I propose to make, of graduating the price of the public lands, and selling them at their intrinsic value, I do not know but that I shall be induced to vote for the bill. [Laughter.] I can hardly conceive of any proposition more objectionable than the one which is made in this bill, not, sir, to the purpose of the bill which is to aid the different States in the support of their insane. That is a benevolent object, but it is a work which belongs to each State, and not to the Federal Government. This Government never was formed for any such purpose. These are matters belonging peculiarly to the different States, most of which have been provided for, and others will be. But if you will improve the bill by adding to it the homestead bill, and then the graduation system, and several other projects which may be proposed, it will be a respectable proposition, and I am not certain but that I shall vote for it. [Laughter.] Bennett's land bill has been suggested. I beg leave to say, in regard to Bennett's land bill, that of all the propositions that have been made in the other branch of Congress, from the foundation of the Government to the present time, one so odious in its character has never been made. The idea of making the old States freeholders, and the new ones tenants-at-will, is so abhorent to every principle of State sovereignty, and of equal rights, that it is astonishing to me that any man could ever conceive the idea of so far abandoning the principle of doing to others as we would have them do unto us as to support. I must acknowledge, that I am astonished that such a proposition had ever been made. It is not however before the Senate, and I presume there is not a Senator here who will dare to offer it to this bill. The bill which is before us is objectionable in its consequences—not in its object. I now inform the friends of Bennett's land bill that it will not pass at this session. I am not disposed to consume the time of the Senate. I hope the amendment of the Senator from Iowa will be adopted. It will not be much better than the original proposition, but if the proposition is so amended that the good will overbalance the evil, the Senate may be induced to vote for it. If the proposition of my friend from Iowa is adopted, and then my graduation principle is also adopted, which is, in my humble judgment, calculated to do more for the Treasury of the United States, and the benefit of the citizens of the United States, than any proposed during the present Congress, the bill may perhaps pass.

SUSPENSION OF THE RULES.

Mr. DOUGLAS offered the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, (the House of Representatives concurring,) That the 17th joint rule of the two Houses be suspended for the remainder of the session.

A message was subsequently received from the House announcing that it had agreed to the resolution.

INDIGENT INSANE.

The Senate resumed the consideration of the bill "making a grant of public lands to the several States in the Union for the benefit of the indigent insane."

Mr. BRODHEAD. I agree entirely in the re-

marks just submitted by my friend from Mississippi in regard to the graduation system. I believe it is the only true manner of proceeding in regard to the public lands. Graduate and reduce their price, and you accomplish all, or nearly all that the advocates of the homestead bill, and the bill to which this is an amendment, propose to accomplish. Any other system will throw the expenditures of the land department upon the public Treasury I am one of those who believe the land system ought to support itself as the post office does.

My object in rising now, however, is for the purpose of proposing an amendment, in which the old States, and especially the one which I have the honor to represent, have a deep interest. I mean the giving of one hundred and sixty acres of land to all who served in the war of 1812, and their legal representatives. I desire to place them upon the same footing with those who served in the war with Mexico. On the 20th of last December, I submitted a bill granting one hundred and sixty acres of land to the soldiers of 1812. That was more than two months ago. It went to the Committee on Public Lands, and here, sir, by the action of that committee is demonstrated the power of the western States upon this floor. The committee has not reported it back yet. It is composed chiefly of members from the West. I know very well that that section of the country is fast growing up. Every stroke of the woodman's ax beyond the Mississippi seems to enlarge their power and augment their dominion. I move to amend the amendment by adding to it the following:

SEC. 1. *And be it further enacted*, That the provisions of the several laws granting bounty lands to the officers and soldiers who have been engaged in the military service of the United States shall be, and the same are hereby, extended so as to grant to each of the persons therein described a quantity of land which, in addition to that to which he may be entitled under any other law of Congress, shall not, in the whole, exceed the quantity of a quarter section, or one hundred and sixty acres; and each of the officers, noncommissioned officers, musicians, and privates, engaged in the naval, marine, gun-boat, or flotilla service, or in defense of the coast, in any of the wars mentioned in said acts, shall be entitled to the benefits of said laws as thus extended.

SEC. 2. *And be it further enacted*, That, after the passage of this act, all warrants shall be issued in the names of the persons who rendered the service for which they are granted, whether living or dead, and shall inure to the benefit of the warrantee, if living, and if not, to the heirs specified in the several laws extended by this act; and failing those heirs, to the heirs at law of the warrantee, according to the laws of the place in which he had his domicil at the time of his death; and all patents for lands located with any such warrants shall, in like manner, issue to the warrantee; and, in case of his death before the issuing of said patent, the title thereby conveyed shall inure to, and vest in, his heirs as aforesaid, or his or their assignees or devisees, as the case may be: *Provided, however*, That no person who has perpetrated, or attempted to perpetrate, a fraud on the United States under either of said laws as aforesaid, shall be entitled to the benefit of any of the provisions of this act.

I observe further, that this is carrying out the recommendation of the Commissioner of Public Lands. The bill has been well considered and prepared under the direction, and in pursuance of the advice of that officer.

Mr. DOWNS. I should like to know of the Senator from Pennsylvania whether, if his amendment be adopted, he will vote for the amendment proposing the homestead bill?

Mr. ADAMS. "Sufficient unto the day is the evil thereof."

Mr. DOWNS. I think the Senator might well vote for the amendment without having his added to it. But I take it for granted that he wishes to get up a particular class to the exclusion of others.

Mr. BRODHEAD called the yeas and nays; and they were ordered.

Mr. BELL. I hope we will take these things one at a time, and vote down the amendment. Let us first pass the indigent insane bill; then the homestead bill, and then the bill of the Senator from Pennsylvania.

Mr. WELLER. I think we had better have them all in one bill. The first branch proposes to take care of those who cannot take care of themselves; the second provides for the landless and homeless; and the third takes in the remainder. I shall vote for the whole of it. I think it is one of the most charitable bills, and therefore I shall vote for the whole of it.

Mr. BELL. You put those in the lead who are without sense or wit, and that is reversing all natural rules of wisdom and propriety.

The question being taken by yeas and nays on the amendment of Mr. BRODHEAD to the amendment, resulted—yeas 18, nays 17, as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Brodhead, Butler, Cass, De Saussure, Dodge of Iowa, Douglas, Fitzpatrick, Foot, Hunter, Norris, Pratt, Rusk, Soulé, Underwood, and Weller—18.

NAYS—Messrs. Bell, Bradbury, Chase, Davis, Dawson, Downs, Geyer, Hamlin, Houston, Mallory, Mangum, Miller, Morton, Smith, Spruance, Sumner, and Walker—17.

So it was agreed to.

Mr. ADAMS. I move to amend the amendment, by adding to it the following:

That all of the public lands of the United States shall be subject to sale and entry at one dollar per acre; and any portion which shall have been in market for five years or upwards, prior to the time of application to enter the same under the provisions of this act, and still remaining unsold, shall be subject to sale at the price of seventy-five cents per acre; and all the lands of the United States that shall have been in market for ten years or upwards, as aforesaid, and still remaining unsold, shall be subject to sale at fifty cents per acre; and all of the lands of the United States that shall have been in market for fifteen years or upwards, as aforesaid, and still remaining unsold, shall be subject to sale at twenty five cents per acre; and all of the lands of the United States that shall have been in market for twenty years and upwards, as aforesaid, and still remaining unsold, shall be subject to sale at ten cents per acre; and all lands of the United States that shall have been in market for twenty-five years or more, shall be subject to sale at five cents per acre: *Provided*, This section shall not be so construed as to extend to lands reserved to the United States, in acts granting land to States for railroad or other internal improvements, or to mineral lands held at over one dollar and twenty-five cents per acre.

And be it further enacted, That upon every reduction in price, under the provisions of this act, the occupant and settler upon the lands shall have the right of preëmption at such graduated price, upon the same terms, conditions, restrictions, and limitations upon which the public lands of the United States are now subject to the right of preëmption, until the next graduation or reduction shall take place; and if not so purchased, shall again be subject to right of preemption for twelve months as before, and so on from time to time, as reductions take place: *Provided*, That nothing in this act shall be so construed as to interfere with any right which has or may accrue by virtue of any act granting preemption to actual settlers upon public lands.

And be it further enacted, That any person applying to enter any of the aforesaid lands under the provisions of the eighth and ninth sections of this act, shall be required to make affidavit before the register or receiver of the proper land office, that he or she enters the same for his or her own use, and for the purpose of actual settlement and cultivation, or for the use of an adjoining farm or plantation, owned or occupied by him or herself, and together with said entry, he or she has not acquired from the United States, under the provisions of this act, more than three hundred and twenty acres according to the established surveys; and if any person or persons taking such oath or affidavit shall swear falsely in the premises, he or she shall be subject to all the pains and penalties of perjury: *Provided*, That any person entitled to a preëmption shall be authorized to enter forty acres of the public land, to include the dwelling-house, at ten cents per acre.

Mr. BELL. I only express the hope that no friend of the homestead bill, or of the soldiers of 1812, will vote for that proposition, for it will merely overload the other two measures.

Mr. CHASE. I trust I shall have the attention of the Senate for a moment, while I make an appeal to Senators in relation to these two measures. It is well known that we have made effort after effort to get up the homestead bill. These efforts have failed because the appropriation bills claimed precedence. No vote yet taken furnishes a fair expression of the sense of the Senate upon that great measure. It is dear to the hearts of a vast number of the people of this country. It is dear to my own heart, and I am extremely anxious that the Senate shall act upon it at this session. Other bills have passed the House, in which many Senators feel a particular interest; but these two measures, the bill for the benefit of the insane and the homestead bill, claim at this moment a sort of precedence over all others, and seem, in some degree, to conflict with each other.

I wish to make an appeal to the friends of Miss Dix's bill. I ask them to say that after that bill has been acted upon, the homstead bill shall be taken up and be voted upon by itself, unembarrassed by any attempt to amend it or to connect it with other measures. I do not wish to waste the precious time of the Senate at these last hours, when measures of great practical importance are before us, in wretched attempts to defeat them by indirection. I want a vote upon the homestead bill—a plain, honest, direct vote; and I am willing to take a direct vote upon Miss Dix's bill.

I said a few moments since, when urging the Senate to take up this bill, that I would move the homestead bill as an amendment to it. I should have done so, had not the Senator from Iowa anticipated me. But if, having moved it, I had discovered that to insist upon this amendment would bring on a profitless discussion, and defeat all action, no consideration would induce me to persist in pressing it upon the Senate. Sir, who is the lady in behalf of whose measure we are appealed to to-night? She has no power or patronage. She controls no vast money claims with which to approach Congress. We are not beset outside by her agents and retainers, asking us to pass this bill. Her clients are the poor, the friendless, and the wretched. She has found them in the habitations of misery, in the cells of the insane. For these she has labored; among these she would dispense blessings and consolations; and shall we deny a simple vote upon her bill? I hope, I trust we shall not. I appeal to the friends of the homestead bill to allow the vote to be taken upon this bill. Let it stand or fall upon its own merits. Let there be no attempt to embarrass it by amendments of any sort; but let the sense of the Senate be taken directly upon it. And I appeal to the friends of this bill, who are friends also to other measures which have come to us from the House, to say to us who feel a special interest in the homestead bill, that they will generously reciprocate this just forbearance, and permit a vote to be taken at once upon that measure, unembarrassed and without amendment, as soon as this bill shall have been acted upon.

Mr. WALKER. This Congress is about to close. Many who occupy seats upon this floor soon leave, and I wish to take a little retrospection before their departure. I do not wish to offend any Senator in what I shall say. In 1848, I moved in this matter of the homestead bill in the Senate, and I believe I was the first; and from that time to this, just such speeches as have been made by the Senator from Ohio, by pretended friends of the homestead, just such votes as have been now given by the Senator from Michigan, from session to session and year to year, have defeated this measure; and there has not been a session, from the first session of that Congress, at which I have not urged this measure, and urged it upon its own merits, and its own independent grounds, and I have never yet been able to satisfy such friends as the Senator from Michigan and the Senator from Ohio, and some other Senators here who claim to be its peculiar friends, that the proper time had come to vote upon the homestead bill.

Mr. CHASE. I should like to know on what occasion I did not vote for it?

Mr. WALKER. Now, presently, immediately before the Senate. I say when I have made every effort in my power to get a vote upon this measure, at every session that I have had the honor of sitting here, there has always been something interposed. At one time the patriotism of gentlemen in favor of the old soldiers, as they called them, was so enlisted that they could feel themselves constrained to crush the homestead bill, and pass what they called a bill for the relief of old soldiers—in other words, to turn into circulation millions of paper currency, with which speculators could monopolize the public lands, and get it from the hands of the soldiers for a penny to the pound. This kind of patriotism has defeated this measure from year to year, and session to session, and, sir, here at last, upon the last night of the session, when a measure is moved having some relation to it in regard to the subject, and in regard to those who are to be the beneficiaries of it, we are appealed to to do—what? To give way, that a bill for the relief of indigent insane may have precedence over it, and may be carried anterior to it, and we are to take the chance, after that is gone, to get up the homestead bill through the grace and favor of those who are its avowed enemies, and who have been ever since it was moved in the Senate, and will continue to be so until the hands of the clock mark twelve to-morrow, and perhaps, if they should live so long, to twelve o'clock a quarter of a century from this time. They would certainly be the enemies of this bill twenty-five years from this time, if the power of the people was not sufficient to constrain them from it.

Mr. President, when this measure was introduced, I remember well the jeers, the taunts, the frowns, which I received; but they did not frighten me. They have never frightened me since; and men who have become prominent movers in this matter were then some of the most prominent in throwing at me those jeers and those taunts. The people have spoken for years past. Their petitions are now upon your table, and in your Secretary's office, I am confident, to the amount

of hundreds of thousands, if not to a million; and, sir, up to the day when we commenced this system of issuing land warrants, I proclaimed it as an undeniable fact that not one solitary petition had been introduced into the Senate for that speculating scheme. But it has the catch-word of a popular name; the term is, "for the relief of old soldiers," and nobody could stand against it. What were we asked to do yesterday? To pass an amendment to reserve the lands for six miles wide on each side of the chartered railroad throughout the landed States to prevent, not the old soldiers getting homes, but to prevent these speculators, who have monopolies of this depreciated paper currency, from going upon those lands and monopolizing the whole of them; and when a proposition was made by myself to have an amendment incorporated upon it, that it should not interfere with the rights of persons going upon the land, who were willing to swear that they wished to enter or locate it for their personal settlement and cultivation, it was only adopted after a struggle. Congress, careful to take care of speculators, careful to take care of those who have monopolies in the depreciated currency, scarcely could be induced to look with favor when they were asked to take care of the old settlers; and some of those who are the pretended friends of the homestead bill voted against protecting actual settlers in that case.

This, sir, is the course pursued here. But the homestead bill has made wonderful progress since it was started here. I shall never forget the day when the late lamented Secretary of State (Mr. Webster) called me to a seat upon that side of the Chamber, directly after I had introduced the measure, and with that sweetness of expression which his face always wore when he was disposed to be jocular with his friends, went on with his kind manner, and I know he hit me most closely by his remarks upon the doctrine which I advanced. But what next did I see? When the movement had been set to work, the next thing I saw, he had matured that memorable resolution which he introduced into the Senate Chamber. And where next did I see him? Upon the occasion of his attending the celebration of the opening of the New York and Erie Railroad, making a speech in Buffalo, in which he took the broadest grounds that have been taken by any man in favor of the principles of the homestead bill. I said, Well done! I congratulated myself, humble as my efforts had been, that that great man had come over to the side upon which I was, and had laid the weight of his great talent in the work. Sir, it made a movement in the American world. Petitions flowed in here by thousands and hundreds of thousands. I introduced one from Philadelphia which measured fifty-two feet, and was signed by five thousand citizens; but does the Senator from Pennsylvania [Mr. BRODHEAD] regard it? Not he. Not he. No, sir, he does not regard it for an instant; but he wishes to throw off this depreciated currency into the hands of speculators in Boston, New York, and Philadelphia, that they may monopolize the last acre that the people of the country wish to render secure to homesteads; or if he does not want to do that, the effect of his proposition is to do it. When the first measure was introduced for the issuing of such paper, I prophesied what would be the result of the whole scheme; and here the other day we heard it proclaimed, without any mental or open reservation, that this very paper money had already centered itself in the hands of speculators to such a degree that, unless we consented to let the lands be reserved for corporations, for railroad companies, they would get all the land. No one professes to be a stronger friend of this measure than the distinguished Senator from Michican, [Mr. CASS;] and let me call attention to a little fact: One of the most useful members of this Senate—one who I think labors as much as any other man—the colleague of that Senator, [Mr. FELCH,] has gone down in his course, because of his relation to this matter. I regret it as much as any man can; but, sir, I have no doubt of the fact. What is the evidence which I have of it? No sooner do we see what we must regret, that his constituents have defeated him, but we see following that instructions to the Senators from Michigan left here to go for the homestead bill; but the time has not come to go for the homestead bill. Gentlemen will run with the hare and hold with the hounds, until they are forced by the power of the people. I regret that gentlemen will resist the people so much, and will stand so firmly by the interests of capitalists.

CIVIL AND DIPLOMATIC BILL.

A message from the House of Representatives was received, by Mr. HAYES, its Chief Clerk, announcing that it disagreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854; that it asks a second conference on the disagreeing votes of the two Houses, and that it had appointed Mr. HALL, Mr. EVANS, and Mr. FITCH, a Committee of Conference on its part.

Mr. RUSK. I move that the Senate take up the message of the House.

The motion was agreed to.

Mr. RUSK. I move that we adhere to the report of the Committee of Conference, and refuse the second conference asked for by the House. I do it with no feeling or passion upon the subject. The Senate is a coördinate branch of the Legislature, and responsible to the country as much as is the House of Representatives for the discharge of the duties of legislation. At the last session of Congress we were forced in the very ast days of a long session, to act upon the appropriation bills. We were compelled to investigate these bills, and make, as we had a perfect right to do, amendments to them. When those amendments went to the House they took them up, and, as I am told, they rejected them *en masse*, and asked a Committee of Conference. And to those committees, in consequence of the necessity of the case, and the want of time to act upon the amendments as they came before us, was virtually delegated the power of legislating upon some of the most important subjects connected with the administration of the Government. Those committees, therefore, and not the two Houses of Congress as contemplated, made the laws.

In the early part of this session, the honorable Senator from California [Mr. GWIN] introduced a resolution calling the attention both of the Senate and of the House of Representatives to this matter. His State, being a new one, had suffered by the course of legislation at the last Congress, and hence, perhaps, his anxiety on the subject. Then, sir, under all these circumstances, and this being a short session of Congress, we received the most important of these, the civil and diplomatic appropriation bill, only upon the 21st of February, which gave us just ten days for our share in that responsible measure, to say nothing of the other appropriation bills which were behind it. As soon as we received it, we referred it to the proper committee, which in two days reported it. We investigated it as well as we could in the limited time which was allowed us, and we made, I believe, over one hundred amendments, acting on the best information we had. The House of Representatives, as I understand, rejected seventy or eighty of those amendments, and then asked a committee of conference on those amendments about which the two Houses could not agree. That was granted by the Senate, and, as I understand from some member of that committee, appropriations which were important to the great interests of the country, and which were necessary for carrying on the Government, were yielded in a spirit of compromise, rather than to risk the bill. When the report came into the Senate, we, in a disposition which I think is commendable on all occasions, without showing any stubbornness, agreed to the report. But the House of Representatives have chosen to reject it, and have asked us now, at this late hour—nearly twelve o'clock at night—to put it into the hands of a second committee of conference, when we shall not be able, for the want of time, to investigate their report. The effect will be to allow that committee to make laws, for which both we and the House of Representatives are responsible. Under such circumstances, without any feeling on this subject, if the House of Representatives choose to risk this bill, we have not only discharged our duty, but we have shown magnanimity and forbearance in this matter. Sir, I am not a stubborn man. I am "as mild a mannered man as ever scuttled ship or cut a throat." [Laughter.]

But I believe there are times when forbearance ceases to be a virtue, and such a time has now arrived for the Senate. The time has arrived for the Senate to show that it is a part and parcel of the legislative authority of this country, and therefore, without passion or any ill feeling, I move that we adhere to the report of the Committee of Conference.

Mr. BAYARD. I wish to ask the Senator from Texas whether the effect of his motion, if adopted by the Senate, will not be to defeat the bill altogether?

Mr. RUSK. No, sir; it will, in my judgment, pass the bill in less than an hour.

Mr. BAYARD. Can the House recede, after having laid a motion to reconsider the vote rejecting the report on the table?

Mr. RUSK. I understand so.

Mr. HUNTER. If the Senator will permit me, I think I can show him that he is mistaken. We cannot adhere to a report of a committee of conference. The report of a committee of conference is an entirety; it is a compromise which contemplates yieldings on both sides, and we cannot adhere to the report. It requires action on the part of the House as well as on our part, but we can adhere to the amendments to which the House have disagreed.

Mr. RUSK. That is what I propose to do. I may have made a blunder in words, but that is what I meant.

Mr. HUNTER. But if the gentleman will pardon me, his motion goes a little further. The effect will be that if we adhere, and the House adhere to their disagreement, the bill will be lost.

Several SENATORS. That does not follow.

Mr. HUNTER. That is the parliamentary law.

Mr. HAMLIN. Allow me to say to the Senator from Virginia that I think he is mistaken. This bill came to us from the House. We adopted it with sundry amendments. It was returned to the House, and the House has non-concurred in most of these amendments, and proposed a committee of conference. It was then returned to the Senate, and the Senate insisted on these amendments, and agreed to the proposed conference. Now, if there had been no conference moved, and the Senate had merely insisted, and the bill had gone back to the House, it would have been competent for the House to insist without either branch asking for a conference, and from insisting, either branch could have followed it up by a vote to adhere; and one branch adhering, the other branch must recede or the bill be lost. But when the bill came here, the Senate insisted and agreed to a conference. We have the report of the conference before us. What is it? It is briefly that they recommend the Senate to recede from amendments number four and five, and that the House concur in amendments one, two, and three, &c. The Senate have agreed to that report of the conference. What is that? It is precisely equivalent to a vote adopting the amendments which they have agreed upon. That report has gone to the House, which has refused to concur with us in accepting it. It now comes back to us from the House, which asks us for another conference. I insist that the proper motion is to adhere; and to adhere to what? To adhere to the report of our own committee of conference, which was that we should adopt certain amendments and reject certain other amendments. That is what I understand to be the parliamentary law; and I will vote until doomsday before I will recede one inch from the report which our committee has made. I would be very glad to recede from the vote agreeing to that report, if I could have the assurance that we could have another committee which would demand something that would be more just towards the Senate, and would insist on more concessions on the part of the House. While I concede that the last committee of conference has done everything that it could do under the circumstances, yet if we could have another committee that would insist upon more than the previous committee insisted upon, I would vote to recede, and go for another committee of conference. But not supposing that possible, I will vote here as long as I can wag my tongue to adhere to the report of the former committee of conference.

Mr. HUNTER. We should not go into this matter wrong foot foremost. Let us not make a mistake on a question of order which would be vital.

If the Senator from Maine had looked further, he would have seen that I was right. We cannot adhere to the report of a committee of conference. It does not consist in merely reporting that the Senate agree to this and the House to that amendment; but there are also amendments to amendments proposed. And what would be the meaning of a vote to adhere to the report? That the Senate adheres to an amendment which the House committee proposed, and which is not an amendment until it is adopted by the House, and which amendment the House has not adopted. How can we do that? We can do this, however: We can adhere to those amendments to which the House has disagreed, and we can adhere to our disagreement to their amendments to our amendments. We can do that; and the effect will then be, that unless the House recede, the bill will be lost. I merely wish the Senate to see the precise effect of what it is doing. Not that I mean to propose any other committee of conference. I think we have done enough. I think I see indications around me that it is the opinion of the Senate that its conferees have already yielded until the patience of our friends has grown threadbare. Nor do I think that the Senate should, under the present circumstances, concede to the request to appoint another committee of conference; however, I will think of that.

The PRESIDENT. The Chair will request the Senator making the motion, to reduce it to writing, in order that the question of order may be clearly and distinctly presented.

Mr. MANGUM. If the Senate are prepared to take the position which seems to be indicated in different parts of the Chamber, it strikes me that the proper mode of procedure is, that the Senate decline appointing another committee of conference.

Mr. DOUGLAS. I am not prepared to take the ground that we will not confer with the House again upon this question. I think that if the Senate now adhere, we shall be making up an issue between the two Houses, with some degree of feeling, which will result, almost inevitably, in the defeat of the bill. The House have proposed to confer with us, and I think we had better meet them in a spirit of good feeling, and see if we can come to an agreement, and not take an alternate that will put the two Houses on their pride in this matter. I think there is danger of acting from the feeling that we have already yielded too much on other bills. That may be so; but it is no reason why we should take a rash step on this bill. There may be some amendments from which we could recede without much feeling, and which would render the remainder of them acceptable to the House. I would rather have another Committee of Conference to ascertain whether the disagreement is upon one or two, or upon a large number of the amendments. We may find that the disagreement is upon an amendment from which the Senate would recede without a moment's hesitation; and I am inclined to think, from the information I have, that if the point of disagreement could be brought before the Senate, they would recede at once by an overwhelming majority. And if the Senate would recede with an overwhelming majority, it is evident that the House are right in refusing on their part in the first place. Therefore, I would rather make another effort to agree before taking any final step which would result in the defeat of the bill.

Mr. RUSK. As I have been requested by the Chair to reduce my motion to writing, I have done so; and I offer it in these words:

Resolved, That the Senate decline the request of the House of Representatives to appoint another Committee of Conference upon the bill of the House, No. 337, making appropriations for the civil and diplomatic expenses of Government for the year ending June 30, 1854.

Mr. ADAMS. I beg leave to call the attention of the Senate, before the vote is taken, to what seems to me, at least, to be a misapprehension in relation to this question. A feeling seems to have grown up between the two Houses, because the House has not agreed to the report of the Committee of Conference. I beg leave to call the attention of the Senate to the form of our Government, and to the object of the creation of two Houses; and if the Senate will look at that they will see that there was no disrespect intended to this body; and that it would be very proper to conform to the suggestion of my friend from Illinois.

It was intended by the framers of our Government that before any measure should become a law, it should receive the sanction of a majority of both Houses. And if a majority of this body is in favor of a proposition, and a majority of the other House is opposed to it, I take it for granted that it is an honest difference of opinion, and that according to our frame of Government, the measure about which there is this difference of opinion should not become a law. The House of Representatives passed a bill making appropriations for the civil and diplomatic expenses of the Government for the next fiscal year, and sent it to this body for consideration. We made a great many amendments to it. The House have considered those amendments and concurred in many of them, and in others they differ in opinion from us. The matter was referred by both Houses to a committee of conference. The members of that committee on the part of each House met and conferred, and reported to their respective Houses the result of their deliberations. The Senate concurred in the report. But a majority of the House could not in their conscience approve of it. Now, I ask, is there a man in this body who desires to force a majority of the other House, when they differ in opinion, to pass into a law that which from the very frame of our Government it was intended should not become a law, merely because it is upon an appropriation bill? It is an honest difference of opinion, and one to which we should yield unhesitatingly; or, at all events, when they have asked a further conference, we should extend that courtesy to them.

Mr. WELLER. We are as conscientious as they are.

Mr. ADAMS. I know that; but according to the frame of our Government, when a majority of one body disagrees to a measure proposed by the other House, that measure ought not to become a law. Senators are now proposing to force on the other House measures to which they cannot conscientiously agree. We propose to say that they must submit unconditionally, when it is known that a majority of them honestly and conscientiously differ from us in opinion. It is proposed that we shall say to them, You shall lose the civil and diplomatic appropriation bill, or you shall yield, contrary to your judgment, the propositions which you think are right. That is the effect of it. It is wrong to get up any unkind feeling between the two Houses. It is wrong to get up this rivalry between them, and say that the opinion of one House shall prevail over that of the other. What will be the effect of this? Let us reflect for a moment, and see what would be the effect of the motion of the Senator from Texas. If the House should insist, and if they are, as I have supposed and as I think the Senate are bound to suppose, conscientious in their difference of opinion, they will insist; and the result will be that the civil and diplomatic appropriation bill must be lost; the wheels of Government must stop, or the Executive must call an extra session. And we all know, from past experience, that the calling of an extra session seals the death-warrant of the party in power—the President, who is not to blame in this matter. That will be the result. If the Senate are prepared to bring upon themselves such consequences as must be inevitable, as every one must see, it is for them to do so.

I am not disposed for one to attribute any improper motives to the House in differing in opinion from us. They pass bills to which I never can assent. And may we not likewise pass bills to which they cannot assent? I am willing to use every effort within legislative authority and precedent to bring about a good understanding between the two Houses. And all parliamentary means should, in my judgment, be resorted to before we hazard or endanger the passage of a bill of this sort. I hope, therefore, that the suggestion of my friend from Illinois may be acceded to, and that we shall extend to the House of Representatives the courtesy, as they have asked a further conference, of appointing a committee to meet and confer with them. I am not afraid of the selection of men who will maintain the rights of the Senate. Gentleman talk about the rights of the Senate. Sir, the Senate has no right to force a majority of the other House. The Senate has a right to propose to the House any amendment, and the House agrees to it if it concurs in opinion with the Senate, but the Senate has no right to force them. The right to force does not belong to us any more than it does to them.

Mr. DOWNS. The honorable Senator from Mississippi says that we have no right to force the House into measures. I would ask him if he intends to yield, and if the House are to force us?

Mr. ADAMS. I beg leave to say that neither party has a right to force the other. If a majority of one House proposes a measure and the other House disagrees to it, the Constitution intending that a majority of each House should give the sanction of their judgment to a measure before it becomes a law, it is the duty of the House making the proposition, when the other disagrees to recede from it. That is the spirit of the Constitution.

Mr. DOWNS. Then, according to that, I suppose it is the duty of the Senate to recede from everything that the Houee objects to. I understand the matter differently. I understand that the Senate is a coördinate branch of the legislative power; and it is no more incumbent on them than it is on the House to recede from any measure. I would call to the recollection of the Senate, and the gentleman from Mississippi, the very extraordinary position in which we are placed. We have found here, by the experience of years past, that the appropriation bills cannot be got through without committees of conference. We have never, I believe, since I have been here, got through any of those bills without a conference, this being a necessity growing out of the disagreements between the two Houses; and I believe there is no instance since I have been here where either House has refused to agree to the report of a committee of conference on one of the important appropriation bills at the last moments of a session. It is very rare indeed that such a thing occurs anywhere. In the experience which I have had in legislative bodies, either here or elsewhere, I know that the instances are very rare in which either House refused to agree to the report of a committee of conference, particularly at the last moments of a session, when there was no other way of passing the bills. I believe it has never been done during the six years that I have been in the Senate.

What is the case now, at this late period of the session? This bill has been thrust upon us at such a period, as was so well urged by the honorable Senator from Texas, that we could not consider it. We are at this late hour of the night to commit the matter again to another committee of conference. This is the second report of a committee of conference to which there has been a disagreement to-day. I wish to produce no excitement between the two Houses. I wish to show no disrespect to the House of Representatives, but I do think that the Senate has as much right to vindicate and adhere to their opinions as the House; and after they have resorted to the ordinary means of conference, and that conference have given up much of the action of the Senate, of which they were as sincere in their approval as the House, now in the last moments of the session, within half an hour of twelve o'clock on the night of the 3d of March, the House have refused to concur in the report of a committee appointed in part by themselves. I do not think that under the circumstances it is incumbent on us to yield. If we did yield, it might be inferred that we were to yield on every occasion and in every case. I hope that the proposition of the Senator from Texas will be adopted. We have done all that has usually been done heretofore to save these bills. If this one should be lost now, it is not the fault of the Senate; and I, for one, say if it must be lost, be it so. I acknowledge myself ready and willing to take the responsibility for my own conduct, as far as the action of the Senate is concerned.

Mr. BAYARD. It seems to me that the argument of the honorable Senator from Mississippi proceeds on a wrong assumption. He says that unless both Houses agree upon a measure, it is the intent of the Constitution that it ought not to pass into law. Let us reverse the action of things here, in order to test the principle, and see if this is not coercion, and illegitimate coercion, on the part of the House. This is not the first bill in regard to which we have been treated in this way. Suppose the Senate had taken the initiative in regard to the appropriation bills, which, under the Constitution, they have a right to do; and, without waiting for the House, had passed their own

bills, and sent them to the House; and the House had sent back those bills with amendments, and we had chosen to reject those amendments and asked for a conference, and after the Committee of Conference had agreed, we had refused to concur in their report. Would there be any obligation on the part of the House to stand to the bill as we originally passed it? And yet that is the position in which the House now seek to place us, because they happen to have taken the initiative in the passage of those bills, which belongs no more to them than to us, though it has been the usage that the House should originate them. I, for one, am prepared to stand on what I consider the responsibilities of the body; and if the House choose to take the course which they have taken, they may be influenced as the Senator from Mississippi says, but I should say it was factious; and in that view I am determined, for one, to persist in our amendments.

Mr. BADGER. Mr. President, I desire to return my thanks to my honorable friend from Texas for the motion which he has submitted, and to say that I concur in every word said by the honorable Senator from Louisiana. Sir, we are brought to a very extraordinary state of things, and yet in my judgment a state of things which it was not very difficult to foresee. The condition of things between the two Houses of Congress during the present and the last session has been of a very extraordinary character. The Senate has sent to the House of Representatives, I think I may say hundreds of bills which have been lying piled up upon the table of that House unacted upon and untouched. We have had sent to us all the usual appropriation bills, and as usual at such a late period of the session that it was scarcely possible that we could exercise, in a just and legitimate manner, our unquestionable, and until lately unquestioned rights to participate in the legislation of the United States. Now, sir, we find ourselves at the close of this session, in the condition of being ignominiously required to recede from that position which the Constitution assigns to us, and which, as the representatives of the States of this Union, we cannot, without gross criminality or inexcusable pusillanimity, abandon. Let us stand for once upon the maintenance of those rights, which important as they may be to us, are infinitely more important to the Constitution of the country, and to the State sovereignties which we represent on this floor. Sir, I am not surprised to find the condition in which we are placed.

The ordinary course which has been pursued when differences of opinion arise between the two Houses has been to submit to the consideration of managers of a conference, appointed by both Houses, an adjustment of those pending differences; and it has been usual for the two House to yield to the composition of those difficulties made by their respective representatives. The Senate, so far as my experience extends, and so far as I have information, has never refused, whatever might be the individual judgment of the members of the body upon the propriety of the course of their representatives, in a spirit of peace and courtesy to yield to the adjustment that was proposed by a committee of conference. It will be recollected that two or three years ago we had in succession upon the civil and diplomatic appropriation bill three committees of conference; and while the report of the third committee of conference, stating their utter inability to agree upon the last remaining subject of contest between the two Houses, was pending before this body, the House of Representatives voted to adhere to the refusal which they had announced to the amendment of the Senate. I was one of the members of the body who on that occasion yielded to what I then thought, but I am satisfied I falsely thought, to be a duty which I owed to the country, and voted to recede from the amendment which we proposed in order to save the pending appropriation bill. Being then compelled, by the action of the House of Representatives, ignominiously to retreat from the position which we had assumed, and which through our representatives we had maintained through three committees of conference, we have what is the just, the natural, and the irresistible consequence—we have presented to us the conviction of the House that they have but to dictate and we will yield.

But, sir, as if the force of that example were not sufficient, what have we had here to-day? We had a Committee of Conference on one bill; that committee was unable to agree, and reported to us that inability to agree. And what was the spectacle presented this very day? Why, sir, the Senate of the United States instantly, upon the announcement that the Committees of Conference could not agree, by a large and decided vote receded from the position they occupied upon every question of difference between the two Houses. What was to be expected after that example but that we should be treated as men without a right to an opinion, without any just consideration in the legislation of the country, bound to yield to the dictation of nothing but a coördinate branch of the legislative power of this country. Therefore we are, as the natural consequence, as the just and logical deduction from our previous conduct, now told, "You have shrunk from the contest; you have failed to maintain your rights; you have shown that you will surrender anything and everything when you are brought to the point of being required to yield or contend, and therefore we intend to press you; now you have an opportunity, now you shall be tested, now you shall be required again to yield all effective interest and influence in the legislation of this country."

Mr. President, there is no disguise which can possibly be thrown about the position which we occupy. The mere question now left for us to decide is, whether the Senate is anything but a mere register of the edicts of the House of Representatives; whether we shall hereafter dare to intimate our opinions that the work which that House sends to us is imperfect; whether we shall presume to add to the appropriation bills anything which we think proper to suggest as right to be added to them, or to strike anything from them which we think improper to be retained.

Sir, here sits before me my honorable friend from Virginia, [Mr. MASON.] He is preëminently a State-Rights man. He holds the position that this Government was made by the States of this Union, and that we are here the representatives of those very sovereignties that made it. I do not go quite as far as my honorable friend on that subject; but I will say this to him, that whatever differences of opinion we may entertain as to the origin of this Government, under which we hold our seats here, he shall never be ahead of me in maintaining the rights, the authority, the dignity, and the just privileges of this body, representing the States of the Union.

I am willing to do much, yea, sir, I am willing to do everything, in a spirit of concession, which does not involve an abandonment of the just authority of this house; but when we are called upon to abandon that, if every other member of this body shall falter in his course, I take my stand, and I believe I am discharging a sacred, high, and inexorable duty to the States and to the people of the Union, and I say that it is of infinitely more importance to them that the just, coördinate power of this branch of the Legislature shall be maintained than that any or every bill shall fail or succeed.

I am very sorry to be compelled to speak in these terms at this late period, in relation to such a subject; but, sir, you may rely upon it, that as in all past history it has been found that they who will not vindicate their own rights and their own privileges, will trust in vain to have them respected by others; so here and now and in relation to this Chamber, if we do not at any and all hazards, vindicate the just authority and rights of this body, we must expect forever after to surrender them unconditionally to the dictation of those who have no higher right or authority to dictate to this body than we have to dictate to them. I hope that the proposition of my honorable friend from Texas will be firmly and inflexibly maintained, and I, for one, am willing to go before the country and be judged by the sentiments of our own constituents, if any consequences result disastrously to the country, to say where is the responsibility for this course. I say further, that if the Senate, on this occasion, shall think proper to yield to this species of duress and dictation, and give up their amendments, I will, while I have the honor of a seat in this body, vote against any and every amendment to an appropriation bill which comes to the Senate from the House of Representatives, because the body which makes an amendment and then ignominiously retires under the circumstances now existing from maintaining that which they have made, ought, in my judgment, out of a decent respect for the secondary position which their pusillanimity has assigned to them, to avoid proposing any amendment to the propositions which that House may be graciously disposed to submit to our consideration.

Mr. MASON. Mr. President, I regret very deeply the position which has been taken by the honorable Senator from North Carolina. I had looked upon him as one of the conservative monitors of the Senate. I had supposed that he was the last man of us all who could be misled into anything tending to disorganization. Why, sir, what is the proposition? The two Houses have disagreed, and the honorable Senator from North Carolina encourages the spirit of refusing to ask a further conference. Sir, I would refer that Senator to what he is so well versed in, that admonition which we have received from on High, if your brother sin against you seven times, forgive him. The House of Representatives is a coördinate branch of the legislative department of the Government. It is as much entitled to its opinion as we are to ours; and if it should exhibit a pertinacity which we are disposed to condemn, invite them to a conference; invite them to a second, a third, and a fourth conference. Be forbearing. I would deprecate above all things a spirit of resistance to the coördinate branch of the Legislature. And upon what, at last? Upon any great measure of Government? No, sir; but upon a mere matter of appropriation that may be dispensed without the slightest inconvenience to the public weal.

Sir, the mischief to be remedied lies far deeper. The fault is with us. The Senate has just as much right to originate the appropriation bills as the House; but it has grown into usage that they should originate there and be sent to us. It has equally grown into usage, as the Senator from North Carolina well knows, that they are sent to us in the very last days of the session. We have tolerated and submitted to that; and now, when some practical inconvenience arises, because some favorite measure—not a principle, but a mere matter of appropriation for something that can be done as well next year, or the year after—is resisted by the House, the honorable Senator from North Carolina invites us to make an issue with the House that may result in the loss of this appropriation bill. Sir, I should have heard these remarks with very different feelings, if they had come from a different quarter. I had looked to that Senator, as I have said, as one of the conservative influences of this body. Why, sir, last year when the same question was presented, that Senator took a very different view; and I was happy then to concur with him. I understood him then to say, "Invite to a conference—a second, a third, or a fourth conference, if necessary; and show the House that we have no spirit of resistance on our part." I do not know what are the amendments upon which the difference now exists between the two Houses; but I know this, that there is no amendment made by the Senate, or by the House, with which the country cannot dispense for one year. But what does the Senator intend? That we shall lose the whole bill and disorganize the Government, in an attempt to carry an immaterial issue. I trust it will be the sense of the Senate to be forbearing, and to invite the House to another conference.

Mr. UNDERWOOD. Mr. President, I think my friend from North Carolina has departed from his usual mildness, to apply, upon this occasion, some epithets which ought not to have been used; and I think that, upon mature reflection, he will be disposed to take them back; and that he will not regard it as pusillanimity on our part, or as dictatorial arrogance on the part of the House of Representatives, to have either the Senate or the House in the condition which they now occupy; and I think that these terms have been misapplied.

There can be no difficulty whatever in reference to the present position of things, if we will take a proper view of them. An appropriation bill is made up, in the first place, of matter to execute the existing laws of the land; in the second place, of new matter about which no previous law has been made; and of new provisions, and into which new projects are introduced. Now, whether it be an old matter, or the execution of some existing law, or something new is introduced which has not existed before, the two Houses are equally independent of each other, and they have a right to

act independently, and to express their opinions. But an appropriation bill presents this peculiar feature: There are hundreds of distinct subjects embodied in the same bill. It is not like ordinary legislation when you introduce a distinct proposition or subject, and call upon each House to act either for or against that distinct proposition; but an appropriation bill, consisting of hundreds of subjects, each being independent of the other, the two Houses are called to act upon each one of those distinct subjects. Now, in this view of the subject, what system will maintain the independence of both branches of the Legislature, and still enable us to go on with the public business of the country? Why, it is as plain as that two and two make four; and it is, that if the House shall agree to appropriate any sum of money, and the Senate disagree to it, the House is to abandon that appropriation. The House has no right to force upon the Senate an appropriation which the Senate are unwilling to make. If the House were to present themselves in the attitude of arrogant dictation to the Senate, and to say to us, "Pass this measure, and if you do not pass it by surrendering your judgment, we will defeat the whole bill," I would say at once, "Let the bill be defeated. I will never surrender my independent judgment to your dictation. I will take no prescription from you which will force the Senate into a position of sanctioning an appropriation which does not meet my judgment." Whenever a case of that sort shall arise, you would put the House clearly in the wrong. That is our right; that results from the organization of the Government, and from the Constitution. What we ask for ourselves we ought to extend to the House. Then have we a right to say to the House, "There is a particular appropriation which you shall take, and if you do not take it, you shall not have the common appropriations necessary to carry on the Government, according to the old measures which we have been carrying out for years?" Just as soon as you show yourselves in that attitude, you are the arrogant party; and if the House were to act as I would act if a message of that sort were sent, they would say we will defeat the bill; and under such circumstances, I should expect the bill to be defeated by the House.

Now, under the circumstances, what is the plain duty of us all? It is to regard each one of these appropriations as separate and distinct matters for the special and particular objects intended to be carried out by them; and if either House refuses an appropriation pressed by the other, we ought not to make measures inevitably necessary to carry on the Government the weapons in the hand of either House to force the other party into compliance with an unwelcome measure. What is the argument which we have heard? It is just saying, we disagree with you upon a particular point, or a half dozen, or a dozen points, and before we will surrender our judgment we will refuse to let you have the ordinary appropriations, or those appropriations which are necessary without ingrafting the new projects which you have proposed. There is no such authority on the part of the Senate towards the House, and there is no such right on the part of the House towards the Senate. We must act independently of each other; and the way to reconcile the matter is, that if we dislike any particular item of the House and cannot agree to it, the point upon which we cannot agree must be thrown out of the bill; and if they do not agree with us they must throw it out. I have already said that if the House were to send an amendment here, and call upon me to assent to it, contrary to my judgment, and said, unless you do assent—which is the argument now—the bill will be defeated, I would defeat it instantly. If I would act upon that principle in regard to the House, I would act upon the same principle in this case. I think we have no right to say to the House, "The whole shall be lost unless you agree with us." Sir, these things are reciprocal. The two coördinate branches of the legislative department have been provided most beneficially for the country to operate as mutual checks upon each other; and the manner in which they check each other is, that whenever they cannot agree about a particular measure, that measure must be lost. It is wrong to bring in matters about which we cannot agree, and say that those disagreements shall be reasons for defeating the provisions about which we do agree. This is a mode of forcing the other House to surrender their honest and independent opinions, and I cannot agree to any such course.

When the matter was first started, I felt very much inclined to vote for the motion of the Senator from Texas. I felt almost determined to do it, until I heard the gentleman from Mississippi, and began to think about the matter, and to analyze it in all its bearings. When I began to analyze it, I became thoroughly satisfied that the only way in which you can manage this appropriation bill, which is an aggregate of a thousand things, is to separate each item, and let it stand upon its own merits, and take the nine hundred and ninety-nine out of the thousand about which we do agree, and give up the thousandth about which we cannot agree. We must take out of the bill everything about which we cannot agree, and leave those matters to stand about which we do agree. That saves the independence of both branches, and is the proper course to be pursued.

The House of Representatives have, as I understand, asked a second Committee of Conference. Will it be respectful for us to say to them that we will not grant it—that we will not meet your request? It appears to me that it would hardly be respectful to decline meeting a request which is sent here without any offense that I can see.

Mr. DAVIS. I think we are rather likely to be drawn into error by assumption merely. It is assumed that an indignity has been offered to the Senate; that there has been an invasion of our rights on the part of the House. I think that before we make up a controversy with the House, it is worth while to inquire whether the fact is really with us? The two Houses disagreed upon certain portions of the civil and diplomatic bill. A Committee of Conference was asked, and conceded by both Houses. A report was agreed upon by that committee, which was adopted by the Senate, but rejected by the House. The first question, then, is, Had the House the right to act upon such a report as that, or were the doings of the Committee of Conference final and conclusive in themselves? There is no proposition plainer to my mind than that the acts and doings of such a committee are still open to be passed upon by the respective Houses. They may agree to them or reject them as they please. That I think is strictly within the parliamentary rule. Then what have the House done? They have taken this subject into their consideration, and having considered it, they disagree with the Committee of Conference; and they send their decision upon that question to the Senate, and ask for another committee. I believe that is the language. The only disrespect which I can see upon looking at this proceeding, is the implication which arises out of the fact of asking for another committee. If they simply ask for another committee, I can see no impropriety in it. The proceeding seems to be according to parliamentary usage and in conformity with the rules of bodies of this description, and is sanctioned by parliamentary law; but if the asking for another committee is any reflection upon the committee appointed already, and it is to be esteemed such, there lies the indignity, and the whole of it. I do not suppose that if any such language is employed, it was intended to convey an exceptionable sentiment or opinion. I do not think it was intended to have any such reflection on the committee heretofore appointed, and if it was, I should be one of the last men to agree to it.

Well, sir, what is now proposed to be done? The honorable Senator from Texas proposes to refuse the request of the House. That would not be my way of proceeding. I go into no inquiry as to motives here. It is not for me to judge what feelings, what sentiments, or what motives may have influenced the House one way or the other. The question is, is the proceeding on its face a proper one?—is it parliamentary? If I find it to be so, that is enough for me; that shows me that there has been no invasion of right, no indignity offered. Then, if it is appropriate and parliamentary on the part of the House to disagree to the doings of such a committee, and to send a message conveying their proceedings to us, it is all well enough. And what ought we to do on such an issue as that? Why, sir, we ought to yield to the request, but send the same men as we sent before into conference with the House; send the same committee to meet them; let them confer together and ascertain—for that is the object of the conference—whether anything new has sprung up, whether there are any difficulties which were unforseen when the last committee of conference met, and which can be reconciled between the two Houses. Why, sir, we had an example of this sort this very day, and on the second trial the two Houses were reconciled, and the Senate, instead of losing by that step, gained some amendments which they had made to the bill, and which were excluded by the former decision. If there is no indignity offered to the Senate, if there is no violation of parliamentary rule in all this, then what objection can there be to sending conferees to meet any committee which the House may think proper to appoint? I would send, in order that we might not be misinterpreted or misunderstood by the language employed, the same committee which we sent before to meet the committee of the House. That is the course which I would recommend.

Mr. BRIGHT. This is a very important question, Mr. President, and I think the most important point in it is that we start right. The path is a very clear one, to my mind. So far as the Senate is concerned, the civil and diplomatic appropriation bill is a law. The Senate appointed a committee, which met a similar committee on the part of the House. These committees agreed to recommend a certain course of action. The committee on the part of the Senate reported their action, and the Senate confirmed it by their vote; the committee on the part of the House made their report, and the House refused to concur in it. What was the next motion? Why they followed it by a motion to reconsider, which has failed in the House. Now, sir, what is the proper remedy for us? It is not the motion made by the Senator from Texas, but it is to reconsider the vote by which the Senate agreed to the report of the Committee of Conference. If the Senate refuse to reconsider that vote, it is tantamount to declaring that they are satisfied with the bill as it is; that they are not disposed to alter, amend, or change it in any respect. If the Senate reconsiders the vote adopting the report, it will then be within their province to recede from all their amendments, to concur with the House in the amendments which they have made to our amendments, or to appoint another committee of conference; but, until the Senate do reconsider the vote adopting the report of the committee, there is, to my mind, no parliamentary law authorizing the appointment of another committee.

Mr. HUNTER. I think my friend from Indiana is mistaken in supposing that we cannot do all of these things, or any one of them now. He will remember that we had a second committee of conference on the deficiency bill and the whole subject was then open, as much as it was the first time. We made a new report, and one which was different from the first. The whole subject is open after we appoint a second committee. Let me present him one other view, and I think he will see that the report of a committee of conference is conditional. It is, that the Senate will do certain things if the House will do certain other things; but the House has refused to do those things, and therefore we are not held to anything in the report of the Committee of Conference. Our action was conditional.

Mr. BRIGHT. I know that the action of the one House is dependent upon that of the other, and unless both concur, a law does not result from their action. But I am supported in the position which I have taken by the fact that the House of Representatives, who are generally more accurate in the disposition of their business according to parliamentary rules than we are, as soon as they refused to concur in the report of the committee, followed it by a motion to reconsider the vote rejecting the report. Though we may adopt a different course—and I agree with the Senator from Virginia that we have done so on different occasions—it does not necessarily follow that we are pursuing law, for we often depart from parliamentary law on questions of this character. It is clear to my mind that before the subject can be opened up to the Senate, before we can proceed to dispose of it either in the way of concurring or non-concurring in the appointment of another Committee of Conference, we must reconsider the vote by which we adopted the report of the former committee. If we were to receive intelligence that the House had now reconsidered its action and concurred in the report, the bill would be a law. If the Senate are disposed to refuse another commit-

tee, they can declare that by refusing to reconsider the vote by which they adopted the former report. I think that is the proper and the parliamentary mode of testing this question. I hope, therefore, that the Senator from Texas, instead of submitting the motion which he has submitted, will move to reconsider the vote by which the Senate concurred in the report of the Committee of Conference.

Mr. RUSK. According to my estimation, the report of the Committee of Conference is a joint thing; and when we adopted it we did as much as we could to make it effectual and to give it force. If the House had adopted it, it would have become a law, because it would have then been a part of the civil and diplomatic appropriation bill; but the House chose to reject it. It then failed, and our action, of course, amounted to nothing. The bill is not here; it is in the House of Representatives. It is not necessary, therefore, that we should reconsider the vote, for if we should reconsider it, we would have nothing upon which to act. We have none of the amendments here, the bill is not here, but the bill and the amendments are all in the House, and if we reconsider the vote, neither the bill or amendments being here, we shall have nothing on which to act except the report of the committee.

I have no ill-feeling towards the House; but there are certain things which I think are due to the Senate as a coördinate branch of the legislative power of this Government; and, sir, let me say that there are certain statements that are made here and elsewhere directed against the Congress of the United States. There are wholesale denunciations of this body. There is enough in the public papers and in the rivalship for seats in the Senate and House to produce slander and abuse. In my opinion this is not the place in which to indulge in it. Corruption is talked of in the Halls of legislation. Well, sir, if it is here, and gentlemen know that it is here, they are false to themselves and false to the position which they occupy before the country if they do not divulge the facts and name the man that has been guilty of it. Sir, these wholesale denunciations are not at all creditable to human nature or to the Government, nor are they of much credit to those who indulge in them. I have no feeling on this subject, as I have said: but after the House had rejected most of our amendments they asked from us a committee of conference. We gave them one; they furnished managers on their part and we on ours. They, with great labor and anxiety, looked over all the amendments, and made a report on the subject. When the report came here, the Senate yielded most of their amendments and adopted the report, and it went back to the House. They chose to repudiate the action of the committee of conference, and set the seal of condemnation upon it, and now they ask us to abandon that action, and give the whole subject into the hands of another committee. If we agree to it, it will be saying to them, "Stand out, and you will exclude the Senate from any legislation." Unless we do that, we are to be held up as stubborn. We are the gentlemen who stand in the way! Sir, there is one feature in this matter which I regard as showing a little stubbornness; I do not charge the House of Representatives with stubbornness except in one particular. In order to put a subject beyond their reach, or, as they say, to drive the nail and clinch it, whenever they do anything which they want to make pretty strong, a motion to reconsider is made, and that motion is laid on the table. They have done that in this case; they chose then to say that they would clinch this nail, and the Senate must back out, or they would not get anything.

Under such circumstances, so far as I am concerned, without meaning any disrepect to the House of Representatives—without meaning any disrespect to any gentleman here—I shall vote for the motion which I have made, to decline acceding to the request of the House asking for another Committee of Conference, to be treated in the same way as the report of the former Committee of Conference was treated. Then the responsibility will be upon them, and if they choose to defeat the civil and diplomatic bill, it will be their act. If they are anxious to pass the bill, they can take up the report of their Committee of Conference and adopt it. With the same degree of liberality and generosity which has always characterized the Senate, we have already yielded a large number of our amendments for the sake of peace and harmony. We have abandoned a great many important amendments which were considered by a large majority here as necessary to the service of the country. If the House of Representatives choose to act in the same spirit, they can pass the bill.

Mr. DOUGLAS. A few minutes' reflection has convinced me that my first suggestion was clearly right, and that we ought not hastily, under a sudden impulse, to close the door against any reconsideration of this difference. According to my understanding of the rules of the House of Representatives, if we refuse to concur in the request of the House to appoint a second committee, there is an end of the civil and diplomatic appropriation bill. The bill originally came to the Senate; we amended it; we then sent it to the House, and they refused to concur in some of our amendments, and asked a conference. It was granted, and the Committee of Conference agreed upon a report. That report was non-concurred in by the House; a motion to reconsider the vote of non-concurrence was made, and that motion was laid upon the table. Now, according to the rules of the House, no other motion to take it up can be made.

A motion to reconsider was made and laid upon the table; the House therefore cannot take up the report. They cannot reach the bill. They cannot take any step upon the subject, as I understand the rules, and, as I learn from leading persons of the House who understand the rules. In order to extricate themselves from that difficulty, which might result in the defeat of the bill, the House have come forward and asked the Senate to appoint a second committee of conference; but when that request is made here, the dignity of the Senate is offended. My friend from Texas loses his usual equanimity, and wishes to vindicate the dignity of the Senate. The Senator from North Carolina desires to assert our constitutional rights, and see whether or not our rights and privileges are to be invaded with impunity. Why, how is that? How has our dignity been wounded? Is it unusual to ask for a second committee of conference? Did not the House ask it of you to-day on the deficiency bill, and did you not grant it, and by granting it did you sacrifice your dignity? Did you submit to an invasion of your constitutional rights, and are you prepared to confess your own humiliation and degredation before the close of the day upon which the act was done? I do not understand how it is that our rights are invaded or our dignity offended by this proceeding.

Again, sir: I recollect that we appointed three committees of conference upon one bill on a disagreement between the two Houses, a few years ago. It is not an unusual thing to appoint two or three committees upon the same bill in case of necessity. Then, the refusal to appoint a second committee of conference at this time is a departure from the usual course of the Senate, and it shows an anxiety on their part to seize upon a pretext for an issue with the House, by which the appropriation bill will be defeated, and the wheels of Government stopped. I undertake to say, that if we take that step we shall not be justified either before the country or by the rules or practices of this body.

The whole argument seems to be that we have been improperly treated by the House, not on this measure, but on other measures, and because the House have treated us badly heretofore—because they have not shown sufficient deference to our action—because they have not conformed to our wishes, we are to fly into a passion, and show our spite and resentment. It is not because of their action upon this bill that we are called upon to assert and maintain our dignity; but because of their action upon other bills! Sir, if I had supposed that we had lost any portion of our respectability by our acquiescence in regard to other bills, I should have been for resistance then, when the indignity was offered and the injustice was about to be perpetrated. That was the time at which to assert and maintain our rights. It is not proper because we think they have done us wrong before, and we tamely submitted, that we should now commit the wrong ourselves. I am not prepared to act from any such considerations. The question is, is it impossible for us to agree? What are the points of difference between the Senate and the House? None of them have been pointed out in debate here. It may turn out that the point of difference is upon a question where it is doubtful whether the Senate would adhere. It may be that the difference is about an amendment which would not have been agreed to if there were a full Senate voting upon it originally. I think that if the item increasing certain salaries was out of the bill, there would be strength enough in the House to pass it. Undoubtedly there was objection to other points, but I have reason to believe if that one item were stricken out, the bill could be passed; or if some other item was stricken out it could be passed. Are we prepared to lose the appropriation bills and impose upon the President the necessity of calling an extra session of Congress merely for the purpose of raising the salary of a few officers of the Government at this time; or are we prepared to do so at any other time? I desire to ascertain where the difficulty is, and then let us see whether or not we can recede. I do not propose to give up my judgment to the House. I do not ask them to give up theirs to me; but let us ascertain the point of difference. Let us see whether the obstacle is unsurpassable—whether the difficulty cannot be avoided. The House invites us to do it. The House have taken the last step towards a reconciliation, and have asked us to confer with them. If we refuse, shall we not be clearly in the wrong, and responsible for all the consequences that may flow from it? Sir, I do not think that this offended dignity which flies into a passion upon a point of this kind will elevate our character before the country, or even in our own estimation, on cool reflection. I am inclined to think that we had better take it coolly. I think the dignity of the Senate can bear a good deal. I think we had better vote upon the question, appoint a Committee of Conference, and pass the appropriation bill.

Mr. BELL. I do not mean to say anything in relation to many topics remarked upon by other honorable Senators. I have no exception to take to their course; but I think that generally the least that is said on the occasions of this nature the better. Still I do not object to the course of those honorable Senators who have taken a retrospect of the history of the past intercourse between the two Houses. I leave it to every gentleman to take what course he thinks proper; but I think that decision and firmness on the part of the Senate can be most appropriately expressed in the resolves to which they come. Is there any sentiment in the minds of members of the Senate, that the House have manifested a disposition to resist the amendments of the Senate to the appropriation bills, merely because they are amendments of the Senate? Each Senator will be ready to respond to this question, and to manifest a proper spirit of resistance to such a temper in the House, by his vote upon the amendments disagreed to by the House, and by the manner in which the Senate shall meet the House in conference. The question is, as I understand, what course shall be taken in relation to the invitation sent to us from the House to agree to another conference on the disagreeing votes of the two Houses. I confess that I did not understand precisely the condition in which the question stood when this debate commenced, and I desire now that the President will state what the proposition before the Senate is.

The PRESIDENT. The House has sent a message announcing that it disagreed to the report of the Committee of Conference on the civil and diplomatic bill, and asking a second conference of the Senate on the disagreeing votes of the two Houses. The Senator from Texas moves that the Senate decline the request of the House of Representatives to appoint another Committee of Conference on that bill.

Mr. BELL. I do not think that that is a proper proceeding. I have never heard of a proposition of that kind before. I think there is no precedent for it; but I do not care much about precedents when we can effect anything practical and sensible in the proceedings of the two Houses. I do not say that there is a great deal in forms; but still, upon a question of so much delicacy as the present, there is something in observing proper forms. If I understand the question correctly, the House have not taken as extreme a measure as they might. They have not adhered to their disagreement to the amendments of the Senate, but they have disagreed to the report of the Committee of Conference. They neither adhered nor insisted upon

their disagreement to the Senate's amendments. I do not find, either in the first or the second message from the House, that they have insisted or reinsisted. Their course has been a mere rejection of the report of the Committee of Conference; whereas they might have voted an adherence, if they thought proper to make a point with the Senate, and not to have another conference, and of course no reconciliation or agreement could be had. They might at once have adhered, and said, "You must come to us, or this bill shall fail." If the House of Representatives had taken this latter step, I should have said there was but one course left to the Senate, and that would be to adhere to their amendments, and there the bill would fall. But, as I understand the message of the House, they do not even insist—they merely ask a second Committee of Conference. The honorable Senator from Illinois [Mr. DOUGLAS] alluded to some particular point of disagreement between the Houses. He has mentioned the increase of the salaries of the Cabinet officers. How does the honorable Senator know that?

Mr. DOUGLAS. If the Senator had listened to me, he would not have asked the question. I said that it might turn out to be that a point of that kind was involved; and I was inclined to think that it would be a point of that description; but I complained that we did not know what were the points; hence he should not ask me how I did know.

Mr. BELL. I supposed that the honorable Senator really intended to insinuate that that was a point of disagreement. I have a few remarks to make in relation to the course which I think the Senate ought to pursue. As I have said, the House have not adhered; they have asked a second conference, which is a moderate and mild course of proceeding. So far as their proceedings on paper indicate, there is no intention to show any disrespect to the Senate. If they had adhered, then it would have been due on the part of the Senate also to adhere, because such adherence at such a stage of the proceedings on the part of the House would, according to all parliamentary usage, be discourteous.

Mr. COOPER. The Senator will allow me to ask him a question. Have not the House already in effect adhered? Have they not sent us this message, asking a conference as a means by which to procure further concessions from us?

Mr. BELL. If I had come to any such conclusion, my course would be different.

Mr. COOPER. I do not see how any one can understand it in any other light.

Mr. BELL. I must say to the honorable Senator from Pennsylvania that the course of the House has been merely to disagree to the report of the Committee of Conference, which they have a perfect right to do. There is nothing more common in the history of such proceedings than to have two, and sometimes three or four conferences. The point of courtesy is, after one House has adhered, then to ask a conference is discourteous. It is discourteous to adhere—I mean in the first instance; they generally insist, and then reinsist, sometimes again and again; but when they come to an adherence in the first instance, even though they ask a conference, then it is discourteous. Now, a conference would seem to be asked only with a view to force the Senate to recede. I do not understand the House to have done that.

Mr. COOPER. I understand that this was precisely in effect what the House did. When the committee reported, a motion was made to adhere, and that motion was carried; and then a motion to reconsider was made, followed by a vote that that motion do lie upon the table.

Mr. BELL. If the House had adhered, it is not reported to us. No such vote appears here, according to their message.

Mr. COOPER. That is the case as I have been informed.

Mr. BELL. If that be so, it puts the whole question in a different attitude.

Mr. COOPER. Certainly it does.

Mr. RUSK. That is what I understand, and I should not have made the motion if I did not so understand it.

Mr. DOUGLAS. If that be the fact the message will show it.

Mr. BELL. In order to settle that point, I should like to have the message read.

The message was accordingly read.

Mr. RUSK. If the matter had stood merely where it appears to stand according to the message, I would not have made my motion: but I was informed by one or two gentlemen of the House of Representatives, that a motion to reconsider had been made, and that that motion was ordered to lie on the table; so that the subject could not again be reached.

Mr. BELL. That does not make so much difference. It would be only adhering to their vote of disagreement to the report of the Committee of Conference, which they had a perfect right to do; but they have not voted an adherence to their disagreement to the amendments of the Senate; and even if they had done so, we should have no right to take offense at it merely upon hearing it upon rumor; because the House have not reported to us that they have adhered. That would have been justly an offense to the Senate. But they have not taken that step; and therefore, I think, whatever we may suppose, or hear upon verbal reports as to the temper of the House, or in reference to the amendments of the Senate to the appropriation bills, we cannot notice it in these proceedings. We ought to take care that, if there is to be a breach between the two Houses, we shall not be found in fault.

As I said in the outset of my remarks, firmness and decision in upholding such appropriations as we think the good of the country requires us to make, can be better expressed in the representations of the Senate through the committees of conference and by our resolves here, than by ill-natured declamation or denunciation. Now, I think, with great deference to the feeling that has been manifested by some honorable Senators, (to which I beg leave to say, under all the circumstances, I do not feel disposed strenuously to except,) and though I am as decidedly in favor of taking a firm stand as any other Senator, whenever we shall be convinced that there is a disposition in the House to exercise an exclusive or arbitrary control over the appropriation bills, that on the present occasion our firmness and decision can be best expressed, and our own power and dignity best consulted in reference to the amendments which we have ingrafted upon the civil and diplomatic bill by proceeding in a regular and parliamentary manner. The House have not adhered. They have not even insisted upon their disagreement. We then can reinsist upon our amendments. I understand that the bill is now here.

Mr. COOPER. The reverse is the fact.

Mr. BELL. The bill passed the House; it was sent to the Senate, and the Senate ingrafted upon it over one hundred amendments. The bill was transmitted to the House, with a message that we had made those amendments. The House took up the amendments, agreed to a large portion of them, and disagreed to another portion. They transmitted the bill back to us, with a message stating what they had done. Then, when we had the papers, we insisted upon our amendments which had been disagreed to by the House.

Mr. SMITH. The honorable Senator will permit me to state that the papers are not here. They are in the House.

Mr. BELL. I shall come to that presently; honorable Senators are anticipating me. Then we sent the papers to the House and asked for a conference. That was the first step. Now, if any gentleman can correct me in this, I beg that he will do so. We sent a message to the House to this purport, and they sent answer that they agreed to that conference. The Committee of Conference met, and made certain recommendations to their respective Houses. The Senate agreed to the report, and the House disagreed to it, which they had a perfect right to do. The Senate then having agreed to the report of the Committee of Conference, and sent a message to the House to that effect—sending the papers with the message, and the House having thereupon disagreed to the report of the committee; and the next step to save the bill was to be taken by the House. It could either have adhered to its disagreement to the amendments of the Senate and let the bill fall, or insist upon its disagreement to the amendments of the Senate and ask a second conference. They have taken the latter course, and what is that? They ask a second conference in good temper, so far as the message is concerned, and I think it is the duty of the Senate to accede to what is asked.

I agree with the honorable Senator from Indiana [Mr. BRIGHT] that it would be better for us to reconsider our vote agreeing to the report of the Committee of Conference, though that is not essential or material. We have it in our power to reinsist on our amendments, and agree to the second conference asked for; but without a vote of reconsideration, if we were to agree to the conference now, it might give the House an advantage on a second conference; it might seem as if the conferees were limited to the consideration of the disagreeing votes standing after the report of the first Committee of Conference. If the Senate agree to a second conference, the whole subject ought to be open to a second committee, not only in regard to those points which form the difference between the two Houses on the report of the committee, but the whole subject, including all the amendments of the Senate; otherwise the House could narrow us down, by-and-by, and have a committee upon every separate amendment.

Mr. DAVIS. The whole subject will be open to the second committee.

Mr. BELL. Of course, I say so; and I think we ought to have that perfectly understood when we appoint a second committee; but I think it would be better, in order to have the proceedings appear in correct form, that we should reconsider the vote by which we agreed to the report of the conferees; but if, as suggested by the Senator from Connecticut, [Mr. SMITH,] the papers have not been sent up by the House, we can do nothing but grant or refuse a second conference. Regularly, the bill and amendments ought to have been sent to the Senate with the message asking a second conference.

Mr. PETTIT. This seems to be a question of dignity or of form between the House and the Senate. If it is a question of dignity, I beg leave to say that I do not think we shall add to our dignity by attempting to override or trample upon the House; nor do I think that by yielding to their demands we shall lessen ourselves either in their or in our own estimation. As it is a question of form, I beg leave to say to the Senate, I have, and always have had, an utter contempt and scorn for them. It is substance, not form, that I have sought. This whole argument and whole debate have reminded me of an anecdote which I heard of old General Ethan Allen, the hero of Ticonderoga, and other well-fought fields, and after having told that, I shall take my seat. After the revolutionary war, as I have been informed, General Ethan Allen having been a lawyer before, had a case of some considerable importance in the State of Vermont to attend to. Thinking that he was to observe all military form, he approached the *sanctum* of justice, the bench, with his chapeau, his epaulets, his sword, and all the regalia of a soldier. He commenced his argument, "May it please your honor." The judge ordered him to stop, and said to him, "General Allen, it is not our custom to suffer ourselves to be addressed by military men, or men in military attire." "Oh, very well," said he, "I am not very particular about it." But said the judge, "It is not a matter of very great importance in itself, but it is a question of form." "I will then," said General Allen, "comply with the request." With that he pulled off his epaulets, cut off his military buttons, and said he, "I submit; but forms were made for fools."

Mr. WALKER. Mr. President, if I understand this subject, it is somewhat different from what it was argued by the Senator from Illinois. He said that the House had placed itself in a position where it could not get through the difficulty, and that we must take the initiative in order to enable them to get along. Now, what have the House done? The Senator says that they have disagreed to the report of the Committee of Conference, and that a motion being made to reconsider that vote of disagreement, that motion was laid upon the table. Well, suppose they cannot take up the report; suppose they cannot get a two-thirds vote to consider it, they can do this: They have reported to us that they have done what is equivalent to insisting upon their disagreement to our amendments, and they have asked another committee of conference. Now, I think we can do one of several things. We can insist, and do nothing more. We can reinsist upon our amendments, and go no further. We need appoint no committee in response to the request of the House; but if we reinsist, the matter will go back to them,

and it will not then be a question with them whether they can get a two-thirds vote to take up the report, but the question will be on insisting or receding from their disagreement to our amendments. Suppose they should insist upon their disagreement, they could return that message here, and we could insist again, and thus we could keep the bill passing back and forth until one House shall have adhered, for that procedure is a technical one. An adherence has a very different meaning from a mere insistance. We may exchange messages declaratory of our insisting until one or the other House adheres, and we are informed of that. When one House adheres, that puts an end to the matter. Here is what is said in a work on parliamentary law, which proves the position which I have taken:

"When either House, *e. g.*, the House of Commons, send a bill to the other, the other may pass it with amendments. The regular progression in this case is, that the Commons disagree to the amendment; the Lords insist on it; the Commons insist on their disagreement; the Lords adhere to their amendment; the Commons adhere to their disagreement. The term of insisting may be repeated as often as they choose to keep the question open. But the first adherence by either renders it necessary for the other to recede or adhere also; when the matter is usually suffered to fall.—10 *Grey*, 148. Latterly, however, there are instances of their having gone to a second adherence. There must be an absolute conclusion of the subject somewhere, or otherwise transactions between the Houses would become endless.—3 *Hats*, 268, 270. The term of insisting, we are told by Sir John Trevor, was then (1679) newly introduced into parliamentary usage, by the Lords.—7 *Grey*, 94. It was certainly a happy innovation, as it multiplies the opportunities of trying modifications which may bring the Houses to a concurrence. Either House, however, is free to pass over the term of insisting, and to adhere in the first instance.—10 *Grey*, 146. But it is not respectful to the other. In the ordinary parliamentary course, there are two free conferences at least before an adherence."—10 *Grey*, 147.

"Either House may recede from its amendment, and agree to the bill; or recede from their disagreement to the amendment, and agree to the same absolutely, or with an amendment. For here the disagreement and receding destroy one another, and the subject stands as before the disagreement."—*Elsynge*, 23, 27; 9 *Grey*, 476.

Now, if anything is to be done, I think it will be best for us to insist upon our amendments and let the House hear from us; and then we can see whether or not they are disposed to insist, for it does not require a vote of two thirds for them to try it again. It is for them to insist and send us a message, and, if they please, repeat their proposition for a second Committee of Conference. While I do not wish to drive the matter to any extremity, my impressions are that it is our duty to ourselves, and perhaps the best method of discharging our duty to the House of Representatives, to send them a simple message announcing that we insist. I would, therefore, if it be in order, make a motion, not in the form in which the Senator from Texas has put it, but in the simple form of parliamentary usage, that we insist upon our amendment. That does not amount to an adherence; and when that message has been sent to the House, they can take up the subject and act upon it.

Mr. UNDERWOOD. I do not pretend to be much of a parliamentarian, although I am not destitute of some little experience upon such matters. I rise for the purpose of saying that we have already insisted upon our amendment, and that insisting constituted the preliminary steps to the first conference, and it stands now upon insisting in both Houses. I apprehend, therefore, that we have nothing to do but to respond to the message which the House has sent to us. The bill has gone away from us, and is not now before us. It is in the House; they retain it; they send us a message in reference to it, and I think we have nothing in the world to do but say yea or nay to their message, and then if they have any other message to send us, they will send it hereafter. I hope we shall respond to their message, and say whether or not we shall have another Committee on Conference.

Mr. BADGER. Mr. President, the honorable Senator from Illinois has suggested, and very truly, that this a very important question, and one which ought not to be decided by the Senate without full consideration. Yielding to a remark made from a source so much entitled to respect and observance, I feel that it would not be inappropriate to submit a few more observations to the Senate upon the question now under consideration.

The Senator from Virginia [Mr. MASON] was pleased to express his surprise that I had assumed the position that the motion made by the honorable Senator from Texas should be adopted, on the ground that he had heretofore considered me as one of the most conservative members of the Senate. In the supposition, I think that the honorable Senator was right. I am, I consider myself to be one of the most conservative members of this body, and one of the most conservative citizens of this Union; but the surprise which the honorable Senator expressed, as a deduction or consequence from that supposition, was entirely misplaced. I have no notion that it is the part of true conservatism to neglect a just respect for the position which we hold as the representatives of the States of this Union. On the contrary, I believe that if this Government is to be maintained upon the principles of the Constitution with its powers distributed between the coördinate departments, it is indispensably necessary, and it is the part of true conservatism, to maintain untouched and unimpaired every principle and every authority and every right which belongs to all those separate branches or departments. Now, let us revert for a moment to what is the true question before the Senate. Honorable Senators have said that it is nothing but the ordinary case of the House declining to accept the report of a Committee of Conference, and asking for a further committee. That, sir, in my judgment, is an entire mistake. What do we understand has been the action of the House of Representatives? They refused to agree to the report of the Committee of Conference; but that is not all. A reconsideration of that vote was moved, and by a vote of the House that motion to reconsider was ordered to lie upon the table.

Mr. ADAMS. I would ask the honorable Senator, can we officially notice anything done by the other House which is not communicated to us by message? Is not that the rule?

Mr. BADGER. I would refer the honorable Senator on that subject to the honorable Senator from Indiana, and the remarks which he made upon the subject of forms. I am not speaking of what we are to notice in the proceedings of the Senate, or on the records of the Senate. I am speaking of what we are to look at as regulating our proper course upon this occasion. Upon that subject it is evident that every man must notice what are the known and undoubted facts of the case, whether they appear on the message which the House has sent us or not. What is the result of that proceeding in the House? They have, by their own voluntary conduct, disabled themselves, without a vote of two thirds, from retracting the resolution by which they refused to agree to the report of the Committee of Conference. Why was that done? They knew that it must be known to us; and for the purpose of advising us that they had put us in a strait or difficulty, out of which we had no means of escape but assenting to such further course of proceeding as they should think proper to dictate. They have taken very good care, though they did not send it here in the message, that the individual members of this body should be fully apprised of the dangerous predicament in which we are placed. I consider that, in effect, as asking for another Committee of Conference, accompanied by a threat that if we do not agree to it, the House will take no further proceeding in the matter. Therefore, upon that ground, in the first place, I am for keeping them to their true position, and saying that we will decline any further conference, and leave them to disentangle this difficulty, and cut or untie this knot which is of their own tying, and not of ours.

Honorable gentlemen here have said that perhaps these difficulties have arisen because matters have been put in an appropriation bill which are not proper to it. I wish to be informed how gentlemen undertake to determine what in the nature of things is proper or improper to an appropriation bill. The House of Representatives originate an appropriation bill. They have their own rules as to what shall go into it, though usually, I believe, in practice, they are not very close in following them out. They send that bill to us with what they choose to insert in it. We have no joint rule of the two Houses regulating what must be inserted in an appropriation bill; and what is the consequence? Each House must decide for itself. Then it is perfectly idle, in my judgment, not using that term in any disrespectful sense towards any one who has used the argument, to talk about what is appropriate to an appropriation bill. As far as the joint orders of the two Houses are concerned, anything is appropriate which we or the House may choose to put into it. Then what does the appropriation bill consist of? It is made up of miscellaneous items and propositions sent to us from the House of Representatives; and when we agree to what is sent by the House, with certain amendments which we put to it, does that involve an absolute agreement to a single word in the bill as it came to us from the House of Representatives? Surely it does not. We agree to what? Do we agree to a single clause or provision of the bill absolutely? Not at all; but we pass the bill—how? With amendments. We give our consent conditionally—provided that those amendments which we make are put to it. What right, then, has the House of Representatives to tell us, You have voted in amendments which are not appropriate, and you shall not put into the bill what, according to the rules that we have prescribed for ourselves, we cannot put in? We have just as much right by our rules to regulate the House of Representatives as to what they shall put into an appropriation bill, as they can have to regulate us upon this subject. Then how does it happen that in the threatening attitude which the House has thought proper to assume towards us, we are bound to do anything more than respectfully to decline to enter into any further conference? Am I for treating the House with any disrespect? Far from it. Is it any disrespect to decline civilly what is asked from us? If so, then it would follow that when the House of Representatives asked us for a conference we were bound to grant it; then it is no asking, it is no request, but a command, and I do not acknowledge it. The House, in respectful terms I admit, has asked us for a further conference. Where is the disrespect if we in respectful terms decline that conference?

Now, if there be, as I confess there has been with myself and some others, some feeling of excitement on this subject, is it not perfectly natural under the circumstances in which we are placed? Here come to us at the close of this session—and I believe at the close of every session since I have been a member of the Sentate, or certainly for the last two or three years—all the appropriation bills. My honorable friend from Maryland, [Mr. PEARCE,] who has been a member, and a most efficient member, of the Committee on Finance ever since I have been in the Senate, knows that the Committee on Finance have had scarcely time to examine those bills, and they are sometimes obliged, as they have been at this session, to report a bill which they believed needed amendment, and to leave it without amendment on account of the want of time to consider it. The Senate amend these bills and send them to the House; the House disagree to some of our amendments, and a conference is pressed and the committee is granted. That committee meet and agree upon certain terms of mutual concession and compromise between the two Houses. Now, I ask, when has the Senate refused to concur in such a proceeding for peace and saving the appropriation bills? No instance has ever occurred, I believe—certainly none since I have been a member of the Senate.

Well, sir, in this case the House refuses to concur in the report of the Committee of Conference; but that is not all. They refused to concur, and a motion to reconsider the vote of refusal was made, and that motion to reconsider was ordered to lie on the table. Why, it was sufficient for them to have refused to concur. Why did they superadd a proceeding which puts it beyond the power of a majority of that House to take any further step upon that subject? I recollect very well, that precisely the same thing happened with regard to their vote of adherence, two or three years ago. Two or three committees of conference had taken place. There were a number of disagreeing votes between the two Houses. Upon the meeting of the first conference they agreed upon all but three of those subjects. The Committee of Conference reported agreement upon those matters, and their inability to agree upon the others. We concurred promptly in the report, and another committee of conference was appointed to consider the remaining matters of disagreement. The committees agreed upon all of those matters.

In this state of things, and while we had the last report before us, what did the House of Representatives do? They passed a vote to adhere to their disagreement to one of the amendments, and they receded from the other two. Then a proposition was moved to reconsider the vote on the motion to adhere, and that motion was laid upon the table. The Senate were here on the last night of the session, and they were informed that the House had placed themselves in such a situation that the bill must be lost unless we receded; and we then—I take my full share, sir—weakly yielded to that condition of things, and we receded from the amendment. Now, we have the same process to be performed over again—with regard to that report of the Committee of Conference. The Senate made thirty-two amendments to that bill. The report of the Committee of Conference proposed that the Senate should recede in twenty-three of those instances, and that the House should recede from their disagreement in the other nine. We promptly agreed to it; the House refused. What is the meaning of it? Disguise it as you may, it is nothing but this: that we must take the doings of the House and conform our action to them. I am not for doing this. For one, I will vote against any such proposition; and if the Senate choose to recede from the position which is proposed to be taken by my honorable friend from Texas, let them do it; and I, for one, shall understand my true position and the true position of this body as defined by the Senate, and submit to whatever is prescribed from the other end of the Capitol.

Mr. HOUSTON. I have heard with very deep concern the discussion which has been going on in this body on this question. We are drawing to the close of the session. We have but little time, and yet there is much dependent upon our action, more perhaps than we are aware of. At the first view of the question, and so far as I understand the difference between the two Houses, it is upon a point of etiquette and dignity. I am not sufficiently conversant with the rules of the Senate to determine how far the subject of etiquette ought to be considered in this matter; nor am I prepared to say how far our dignity is affected; but it is my opinion, that in this controversy, very little would be gained by either in a triumph. The country, on the one hand, may be essentially prejudiced in its interests. I look upon this transaction, unless we do harmonize it, as an apple of discord, that might not be consumed for years to come. Harmony and coöperation between the two branches of the National Legislature is very important to the object of successful legislation; and I do trust that Senators coming up to their work will lay aside the first flush of indignation, and be disposed to look at this matter with coolness and calmness, and with that consideration which the importance of our position entitles it to.

What would it gain, Mr. President, if we were, on this occasion, on account of a few thousand dollars, perchance, that may be the matter in controversy, defeat the object of this session of Congress, and render a necessity for convoking another Congress to enable the Executive of the country to conduct the affairs of Government? Our civil and diplomatic relations are embraced within the provisions of this bill. Upon the administration of the civil concerns of the country, depends the vital existence of the Government, and upon our international relations its secondary interests. In disturbing those, we would do great prejudice; and for all that we would accomplish by standing on our dignity on this occasion, if either party were to triumph in the contest, it would not obtain for the whole body in either House a breakfast at Walker's restaurant to-morrow morning. I am not for disturbing the interests of the country on account of any matter of imaginary dignity; but I am for transacting the business of the country, for which we were deputed by our constituents, and ending in harmony and peace with each other, the business for which we were convoked. If either body were to concede a little, would it make the body granting the concession any poorer? I am sure it would not enrich the other.

In taking this view of the subject, I might add an additional consideration. An extra session cannot be convoked and held here for the purpose of remedying what is within the reach of this body at this moment, for less than $250,000 or $300,000. It has been said that there is a difficulty between the two Houses, on account of the increase of the salaries given to the officers of the Cabinet. That increase amounts only to $14,000. If we were to surrender this point, therefore, it would retain $14,000 in the Treasury, instead of losing $250,000 or $300,000 in an extra session, and not gaining any addition whatever to the salaries. Entertaining these views, I move to amend the motion of my colleague, by striking out the word "decline," and inserting the words "agree to."

Mr. RUSK called for the yeas and nays on the amendment; and they were ordered.

Mr. COOPER. Mr. President, the honorable Senator from Texas [Mr. HOUSTON] seems to regard this as a mere question of dignity and etiquette. I look upon it in a somewhat different light. I regard it as affecting the character and independence of the body. Let us look for a moment at the real condition of this question. What is the object of the appointment of a committee of conference? When the legislative branches of the Government disagree, the object is, for the purpose of composing the differences between the two bodies; and although the parliamentary law does not require the adoption of the reports made by the respective committees of conference, yet there is scarcely upon record an instance in which the respective Houses have not adopted the reports of those committees. It has become the understanding of all legislative bodies that the two Houses are bound to adopt the reports of their committees of conference; and is it not reasonable that they should? What is the benefit of such committees if the Houses that appoint them do not adopt their reports? When the two branches disagree, intelligent representatives of them are appointed to take into consideration the subjects of disagreement, and to present to each other the reasons upon which the two Houses have disagreed. When these reasons have been heard, and the joint committee has agreed upon a report, it is the duty of both Houses to adopt that report. With the exception of the cases which have been referred to, I know of no instance in which the reports made by such committees have not been adopted. I admit, however, that under the law of Parliament, each House has a right to disagree to the report of the committee; and if there had been in this case nothing more than a mere disagreement on the part of the House to the report of the Senate, there would have been nothing offensive, and there would have been no just ground of complaint on the part of the Senate; but, sir——

Mr. ADAMS. I rise to a question of order. I wish to know whether it is in order to allude to anything done or said in the other House, unless it is communicated by message?

Mr. COOPER. I await the decision of the Chair.

Mr. RUSK. It seems to me that it is too late to raise the question of order, because that matter has been discussed by several gentlemen.

Mr. COOPER. I am willing to submit to the decision of the Chair.

The PRESIDING OFFICER, (Mr. DAVIS in the chair.) The opinion of the Chair would be that, according to the strict rule, that which does not appear upon the record sent from the other House cannot be referred to; but nevertheless the debate has taken so wide a range, that it seems proper to the Chair that the gentleman should be allowed to proceed.

Mr. COOPER. I might have hesitated to pursue the line of remark which I have been pursuing, if it had not been that the example was set to me by the honorable Senator who now occupies the chair. I was about to say that the House did not stop with a mere disagreement to the report of the committee, but they went a step further. The report was disagreed to, and by a vote of the House; a motion (the effect of which you and I, sir, very well understand) was made that a reconsideration of that vote should be had; and the party who moved it, at the same moment made a motion that the motion to reconsider should lie upon the table, thus tying their own hands, and preventing them from conferring with the Senate further, except by a vote of two thirds. Now, when this has been done by the House, do we not owe it to our own dignity and decency, (although gentlemen may laugh at dignity and at decency,) that we should vindicate both those qualities, which I trust we possess, by pursuing a course that will show to the other branch of the Legislature that we understand our rights, and that we mean to stand upon them? I think that the course pointed out by the motion of the Senator from Texas [Mr. RUSK] is the true course to be pursued. It is the one which, in my judgment, best comports with the dignity of this body. Although there are those amongst us who think that our dignity—that the national safety, as one gentleman tells you, depends upon our receding from the position which we would assume, if the course which I have pointed out were pursued, I venture to say that if it be adopted, it will not be many minutes before the House will find the means of disentangling the state of things into which they were careful to put themselves, in order that they might be able to get out again. I think that closely as the knot may be tied, if they cannot unloose it they will cut it; and that they will, if we act firmly, agree to take the amendments as reported by the Committee of Conference.

Mr. WELLER. I really think that we have debated this question long enough, as I am very anxious to bring the Senate to a vote. The course which has been pursued in the debate of this question, satisfies me of the propriety and the necessity of the passage of that bill which we had under consideration at the time when we took this subject up—I refer to the indigent insane bill. If the debate is to continue, I shall move to lay the whole subject upon the table, with a view to proceed to the consideration of that important bill. I shall, however, if we are to have a vote, vote in favor of the amendment of the Senator from Texas, [Mr. HOUSTON,] for I do not think that the dignity of the Senate has been affronted. I am very sure that mine has not been, and I am quite willing to meet the House of Representatives again in conference. If the Senate are ready to vote, I will yield the floor; but if the debate is to continue, I shall prefer saying a few words myself.

Mr. BAYARD. I cannot consent to give my vote on either the resolution or the amendment, without taking up some little time of the Senate in stating the view which I take of this subject.

Mr. WELLER. I am sure that there is no Senator on this floor to whom I would yield with greater pleasure than the Senator from Delaware; but if the discussion is to continue, I move to lay the whole subject on the table.

Mr. GWIN. I call for the yeas and nays upon it, as a test question.

The yeas and nays were ordered.

Mr. MANGUM. I understand the motion is to lay the whole subject on the table. Does that carry with it the message from the House, as well as the motion of the Senator from Texas?

The PRESIDING OFFICER. The Chair understands that if the motion to lay on the table be agreed to, the message will go with it.

The question being taken by yeas and nays on the motion of Mr. WELLER, resulted—yeas 12, nays 33; as follows:

YEAS—Messrs. Badger, Cooper, Foot, Gwin, James, Mallory, Mangum, Norris, Smith, Soulé, Walker, and Weller—12.

NAYS—Messrs. Adams, Atchison, Bayard, Bell, Borland, Bradbury, Bright, Brodhead, Chase, Davis, Dawson, De Saussure, Dodge of Iowa, Douglas, Downs, Felch, Fish, Fitzpatrick, Geyer, Hamlin, Houston, Jones of Tennessee, Mason, Morton, Pearce, Pettit, Pratt, Rusk, Sebastian, Shields, Spruance, Sumner, and Underwood—33.

So the motion was not agreed to.

Mr. BAYARD. Before I give my vote on this resolution, I wish to detain the Senate for a very short time, with stating the reasons why I cannot vote for it as it stands, and yet I am in favor of the object which I presume it means to accomplish. When this subject first came before the Senate, I confess that like many other members of the body, connecting it with various other matters which had transpired during the present session, I felt a sense of irritation. But that feeling passed away with the moment, and I have endeavored since to give the subject that reflection which I could; and I will now present my views as briefly as possible.

It presents itself to my mind in two aspects. If on a single bill, sent from the Senate to the House of Representatives there had occurred differences of opinion, and on comparing those differences the two Houses were not able to agree, and a committee of conference was resorted to, and that committee agreed on the terms they would recommend to their respective Houses, and the House had chosen to dissent from that report, and asked another conference, I might vote to agree to that

other conference; but my vote would depend very much upon the character of the report from which the House had dissented, and the character of the measure. If I thought it was one of such importance that I could stand upon it before the country, I should then refuse a second committee of conference, after the first had reported, and the House had refused to agree to the report.

But, sir, there is another point of view in which the question comes before the Senate. We cannot shut our eyes to all that has taken place during this session. The question in my mind is not one of dignity, but it is one of the relative weight and relative power of the Senate, as compared with the House of Representatives.

As I view this Government, it is a Government not of mere numbers, but one constituted in such a manner that numbers is the governing power in the one branch, and State sovereignties the governing power in the other branch of Congress. I represent a small State, and I am not willing to place the body of which I am a member in a position in which it is to become the mere recording agent or merely to make suggestions to the power which represents numbers in the lower branch. This Government is a mixed Government; it is one peculiar in its character. Numbers alone are represented in the House of Representatives; and if we are to yield the entire control of the appropriation bills to whatever course the other House may choose to take in reference to them, and not exercise our right, on comparing opinions, to stand by such measures as we think proper; if, in other words, we are to be placed in the position where, if the House send a bill to us, and they disagree to our amendments and constitute a committee of conference, and that committee agree, and when we have the result of their labors, the House are to throw it aside, and this is done repeatedly and systematically, showing by the frequency of its occurrence, that the intention is to place the Senate in the condition of a subordinate body, I will never consent to such a course. And when I arrive at such a conclusion, I am prepared to take my stand.

I have looked at the state of things now existing here. We passed at the last session a bill, which has often passed in the Senate before, for the relief of those who suffered by spoliations committed by the French nation previous to the year 1800. What has become of that bill? It has not even been considered in the House of Representatives. We passed during the last session more than one hundred bills for the relief of private individuals, which we sent to the House. It may be that there are some of these bills with regard to which the House might differ from us. But what has been the result? Probably not ten members have looked at those bills, and they have not been referred to committees. I must connect all these facts together in my own mind. I look at them and view them in connection with what has occurred with regard to the appropriation bills. I was a member of a committee of conference on one of the appropriation bills. The matters of difference were small in themselves, but still of some importance to the institution—the Military Academy at West Point—for whose support that bill was to provide. But the moment we met the conferees on the part of the House, we found that the object of the meeting was not to confer, but that we were to receive the mandate and order of the House; that the House would not assent to these amendments, and that it was of no use for us to talk about it; and we were obliged to recede. In order to pass that bill, we had to give up our amendments, which I considered of great importance to that institution. In another case besides the present, during the present session, the House have shown that they did not consider the report of a committee of conference as in any way binding upon them, but that after a committee has reported, they will dissent from us and force us into the position of taking such appropriations as they think proper, leaving to the Senate no equal discretion in reference to what should form the proper structure of an appropriation bill.

In addition to that, in this particular case, the House have, as has been observed by the Senators from California and Pennsylvania, laid upon the table a motion to reconsider the vote by which they refused to agree to the report of the Committee of Conference. I think we have a right to advert to that matter. That vote shows the intention of the House, and adds another evidence to those which we have already received, that the House are not treating us properly.

These facts, congregated together, have led me to the conclusion that the intention of the House is to place the Senate in such a position that, whenever, as a body, they differ from the House, they are to yield to the House. I am not willing, on the ground that I have already stated, considering the character of this Republic, and representing, as I do, a small State, to place that State, through my agency, in such a position that her representatives in this body shall not have their equal rights to participate in the legislation of the country, with the power of numbers represented in the other House.

It has been said by the Senator from Kentucky that an appropriation bill consists of a variety of items, and that one House has no right to force the other to agree to any one item. I concur in that. It is true, as a general principle. But when an appropriation bill comes before you, it is just as important with regard to its structure, in the judgment of the body, that all proper items should be included, as that all improper items should be excluded. And the judgment of the Senate is given upon the bill as a whole. Is that bill, taking it altogether, the one which ought to be passed? Does it include all which is necessary, and does it exclude all that is improper? That is the question presented to every Senator when he votes for an appropriation bill?

I come back now to my original proposition. I know not, in the particular case, what are the amendments which are the points of difference here. I pause not to inquire what they are. Having arrived at the conclusion, that, taking the whole course of the business during the present and a part of the last session, the House of Representatives seek by their action to place the Senate in a subordinate position as a branch of the legislative power, I, for one, am unwilling to yield to such a thing. But, sir, I am willing to admit or to concede, or suppose that the House of Representatives have acted inconsiderately, and thrown themselves in such a position that, according to their rules, it will require two thirds to get rid of the effect of their former action, and thus have got the knot tied. The honorable Senator from Pennsylvania says, let them disentangle or cut it. Now, I am disposed to assist in the disentanglement, if there is a will on their part to do it, and therefore I shall vote against the proposition to decline a conference. If I am mistaken in the impression that the House have sought to render this a subordinate body, or if, having entertained that idea, they begin to find they cannot succeed in carrying it out, I am willing to give them an opportunity of receding. I am willing to assist them to recede from that position, and therefore I shall vote in favor of acceding to the proposition to appoint another committee of conference. But I would say, appoint the same members which were on the last committee. I would therefore suggest that this course be taken, with the general understanding on the part of the Senate that we adhere precisely to what occurred in the previous committee, and not vary from it a hair's breadth; and then leave it open to the House for new action. We shall then know their determination, and ascertain whether I am right in the supposition I have made as to their views. That is one reason why I am in favor of another committee. It is because I think that committee, when they meet the committee on the part of the House, will tell them we have in the Senate determined to adhere to the result of the first conference, we do not mean to be treated as a subordinate body, and now we will place you in a situation where, with a full knowledge of this, your House may take their own course, and we are willing to meet the responsibility before the country.

These are, in brief, the reasons why I shall vote against the present resolution, and vote for acceding to the request of the House to appoint another committee, not grounding myself, as I have stated, on the position that in the particular amendments there is anything which would require me, if it were an isolated case, to take a stand against the action of the House, as differing from the Senate; but that connecting together all the matters to which I have adverted, I have arrived at the conclusion that there is a determination on the part of the House to assert the power of numbers to the control over the State supremacy of the different States as represented in this body. It is no question of dignity, but a question that I view as belonging to the rights of my State, and I am willing to stand by those rights at any and all hazards.

A message was received from the House of Representatives, announcing that it had agreed to some of the amendments of the Senate to the bill of the House making appropriations for the naval service for the year ending June 30, 1854; that it had disagreed to some, and agreed to others with amendments.

On motion by Mr. HUNTER, the Senate insisted on their amendments disagreed to or amended by the House, and asked for a conference on that bill.

Ordered, That the conference on the part of the Senate be appointed by the President *pro tempore*.

And Mr. GWIN, Mr. SOULE, and Mr. DAWSON were appointed.

A message was subsequently received from the House of Representatives announcing that the House insisted on its disagreement to the amendments insisted on by the Senate to the naval appropriation bill, and agreed to the conference asked by the Senate, and had appointed Mr. PHELPS, Mr. APPLETON of Massachusetts, and Mr. STANTON of Tennessee, the committee on its part.

Mr. DAWSON. I think there is a very great mistake on the part of some Senators in relation to the course of the House of Representatives on this bill. The House of Representatives did disagree to the report of the Committee of Conference; but a motion was made to reconsider that. That motion, however, failed, or it was laid upon the table; but the House, as soon as the Senate sent a message to them, announcing the fact that the Senate had agreed to that report notwithstanding its disagreement on the part of the House, they immediately took the subject up, and asked for another Committee of Conference, thereby putting aside their disagreement, and presenting themselves as petitioners to this body for another committee of conference. They are therefore the movers in relation to this matter. They have a right to insist upon their disagreement as often as they please. They have done so but once, and so soon as we notified them of our agreement, they receded by calling for another conference. What more could they do? Where is the attempt to impose upon this body, or to exercise any power on their part derogatory to our character? There is none at all. They ask for another committee of conference, and why should we not grant it?

Mr. MASON. I beg leave to say to the Senate, that we have been now for more than three hours discussing what we shall do with a simple message from the House of Representatives, stating that they have disagreed to the report of the Committee of Conference, and ask for a second conference. The motion was made to lay that message on the table, and it was refused by a most decided vote, thus informing us that it is the intention of the body to agree to the second committee of conference asked for by the House. Why not do it at once? Why take up time in debate, when it is admitted by the Senate on that vote that we are to have another conference.

Mr. President, there was a time when it was considered unparliamentary to refer to what takes place in the other House, further than they had informed us. Yet gentlemen have discussed what has been said and proposed in that House. It is discourteous; it is unparliamentary. We know nothing of what takes place there but as they inform us. They have informed us that they disagreed to that report, and asked for another conference. Now, if I were at liberty to refer to what takes place in the other House, I would suggest this: I am uninformed about the matter; I conjecture merely; but in that bill we have undertaken to raise certain salaries. It may be possible that the House is more sensitive than we are upon the subject of raising salaries, and our action with regard to that may have influenced them. I do not know this; I merely conjecture. But they have asked for another Committee of Conference, and we have decided, in effect, to give it to them, and I ask that we shall do it at once.

Mr. RUSK. I object to its being considered that by the last vote taken we agreed to the conference asked by the House. I deny that we have decided to have a Committee of Conference.

I moved that we should decline the request of the House, and yet I voted against laying the subject on the table, although I have not changed my opinions at all. The honorable Senator from Virginia says we have treated the House with discourtesy——

Mr. MASON. No, sir; I have not said so.

Mr. RUSK. I understood the Senator to use some expression of that kind.

Mr. MASON. I said there was a time when the parliamentary law was acknowledged, and that parliamentary law prohibits us to refer to any proceedings of the other House, further than they themselves inform us. The only knowledge we have, is, that they have disagreed to the report of the committee, and ask for another conference. I thought it was discourteous, according to parliamentary law, to be referring to what might have been said in the other House.

Mr. RUSK. I understood the Senator to say that it was discourteous to refer to the proceedings of the House. He rebuked some of us for referring to what took place in the House, and yet in the same breath, he referred to the proceedings of the House himself.

Mr. MASON. I beg the Senator to understand me. I merely conjectured what took place in the House. I have not heard one word of it. I have not heard it intimated in debate. I conjectured, and conjectured only.

Mr. RUSK. Then I will just conjecture this: The House asked a conference, and the Senate, in the temper which it has usually exhibited, yielded nearly all those amendments, but the House refused to agree to the report of the Committee of Conference, and asked for another committee. I am unwilling to give it. I do not intend to prolong the discussion, but so far as it depends on me, I want an opportunity of recording my vote against another Committee of Conference.

Mr. WELLER. I simply desire to say in answer to my friend from Virginia, that I was not aware that there had been any test vote taken on this question. I made the motion to lay the message on the table for the purpose of getting rid of one of the most unprofitable debates that I have ever listened to in the Senate. I have not heard the first new idea advanced for the last hour and a half on the question. There has been a constant repetition of the same course of reasoning and debate on the part of some Senators, to show that the Senate's dignity has been offended by the conduct of the House. Everybody must have seen that the Senate intended to appoint a Committee of Conference as called for by the House of Representatives. Nobody could doubt that, and yet more than three hours of the precious time of the Senate have been consumed in the discussion of it. I moved that the subject lie on the table, not because I was opposed to the appointment of the committee, but because I was unwilling to sit here and hear a constant repetition of the same arguments. I did say to the honorable Senator from Virginia previous to his obtaining the floor, that I would give him $200 for every new idea he would advance on this question, and yet he has contented himself with repeating what I think was said in as good language by gentlemen on the other side of the Chamber.

I only desire that it shall be understood that in making that motion to lie on the table, I wanted to stop one of the most unprofitable of all the unprofitable debates that it has ever been my misfortune to listen to. I have listened to some gentlemen who did not seem to apprehend the question, or else I had not sagacity enough to discover the force of their arguments. If the Senate are ready to vote now, I am as ready, of course, as anybody; but I am opposed to the constant repetition of the same ideas. Everybody must know that we have to pass the civil and diplomatic appropriation bill; the question who shall advance first, is one that other gentlemen may think very important, but I do not. If I thought the House of Representatives intended to insult either the Senate or me, I would, I doubt not, be quite as pugnacious as my friend from North Carolina, who seems to think of nothing but a fight between the two Houses of Congress. Sir, I am a man of peace. I desire that these questions of difference between the two Houses of Congress may be settled amicably, and I think they can be managed without any bloodshed or without dissolving the Union. If the Senate is ready to vote, I am. If the Senator from Virginia, however, has anything to say, very probably it will impose upon me the necessity of saying something further.

Mr. MASON. I wish only to say that I had no idea or hope of advancing a new idea. I only wished to invite the attention of the Senate to the fact that the question before us had been, in point of fact, decided by the vote refusing to lay the message on the table; nor do I know that the Senator from California has been any more successful than I have been in advancing a new idea.

Mr. WELLER. I was under no obligation to furnish the Senator from Virginia with new ideas. I did not start out with that presumption. I said that the whole argument had been given two hours ago, and that all the ideas which he had advanced, had already been advanced, and that after the Senate had heard the able speech of the Senator from Virginia, it seemed to me that every body ought to be able to understand the question, and I saw at once that it was utterly impossible to say anything new, for he had exhausted the whole subject.

The question being taken by yeas and nays, on the motion of Mr. HOUSTON to amend the resolution, by striking out "decline" and insert "agree to," resulted—yeas 30, nays 13; as follows:

YEAS—Messrs. Adams, Atchison, Bayard, Bell, Borland, Bradbury, Bright, Brodhead, Butler, Chase, Davis, Dawson, De Saussure, Dodge of Iowa, Douglas, Felch, Fish, Fitzpatrick, Geyer, Houston, Jones of Tennessee, Mason, Morton, Pearce, Pettit, Pratt, Spruance, Sumner, Underwood, and Weller—30.

NAYS—Messrs. Badger, Cooper, Foot, Gwin, Hamlin, James, Maugum, Norris, Rusk, Shields, Smith, Soulé, and Walker—13.

So the amendment was agreed to; and the resolution as amended was then agreed to.

On motion, it was

Ordered, That the appointment be made by the President *pro tempore*.

And Mr. HUNTER, Mr. BRIGHT, and Mr. BELL were appointed.

CENSUS DISBURSEMENTS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Treasury Department, made in compliance with a resolution of the Senate, transmitting a letter from the Comptroller of the Treasury, together with the accounts of Mr. Williamson and Mr. Clark, disbursing agents for the Department of the Interior, showing the payments made to Joseph C. G. Kennedy, Secretary of the Census Board and Superintending Clerk of the Seventh Census; which was ordered to lie on the table and be printed.

MAIL STEAMER BILL.

A message was received from the House of Representatives, announcing that it had agreed to the amendment of the Senate to the bill making appropriations for the transportation of the United States mail by ocean steamers and otherwise for the year ending June 30, 1854, with an amendment, which was to add the following:

"*And be it further enacted*, That upon the application of either of the companies contracting to carry the mail in ocean steamers from New York to Havre, or from New York to Bremen, the Postmaster General is hereby authorized to discharge such company from said contract: *Provided*, That no further compensation shall be paid to either of said companies for such discharge from its contract."

On motion by Mr. HUNTER, the Senate concurred in the amendment.

BOARD OF CLAIMS.

Mr. BRADBURY. The Committee on the Judiciary, to which was referred the bill to establish a court for the investigation of claims against the United States, has directed me to report it back with the recommendation that it pass.

DISPOSITION OF THE PUBLIC LANDS.

The PRESIDENT. The question now is on the amendment of the Senator from Iowa to the "bill making a grant of lands to the several States and Territories of the Union, for the benefit of indigent insane persons," which was laid aside temporarily for the purpose of taking up the message of the House.

Mr. WALKER. When I was interrupted by the message from the House of Representatives, I had commenced with the observation, that taking the whole of my life together, I had not had such evidence as I have had since I have been a Senator on this floor, of the preponderance of capital over numbers and men.

Sir, the idea that is conveyed by the word homestead, has been petitioned for by hundreds of thousands; yet subjects for which a petitioner has never presented his name here, have been taken up and advocated, and the intellectual power of Senators has been called out in their favor. Other subjects have been acted upon, while that subject for which hundreds of thousands have petitioned, has never until this night obtained a hearing, and it comes up to-night only because its friends could not be ruled off when they proposed it as an amendment to another bill.

In saying what I have just said, I do not intend to say, nor do I desire to be understood as saying, that capital, when brought in contact with numbers, must necessarily exercise a corrupt influence; or that it has a corrupt preponderance. By no means. I know that there are the most honorable minds, those who cannot be approached by it, but nevertheless become enlisted in its favor, as it were imperceptibly to themselves. They feel as soon as its influence is thrown abroad over the community, as soon as a measure is presented in which it is interested, that they must necessarily bestow upon it grave, serious, and weighty consideration. But when unbacked by capital, unbacked by wealthy influences, the numbers of the people of the United States may come and appeal in vain to Congress for assistance for the passage of such measures as those in which they are interested, and they obtain not a hearing; or, if they do, it is a careless hearing which leads to no result.

I suppose it will always be so, and I have come to the conclusion that such will be the case. But, sir, we give the lie to our form of Government, and we admit that it is not in effect based upon the theory that we contend. The theory of this Government is, that the people are sovereign. The theory of our Government is, that the source of power is with the people. But we hear the people only when we are made to fear them, and we are made to fear them much more readily when backed by capital to make them appear formidable. I do not know that we are a people peculiar in our own nature on this subject. It seems to have been the case throughout the world that a few with capital in their hands could make themselves heard more readily, and render themselves more terrible than the many, unless the many were roused by passion and by wrong to a proper sense of indignation to move in the matter, and make men fear for their blood. God grant that that state of case may never arise in this country. I have more than once, I have twice said, in the Senate, that, in my opinion, in the progress of things there will rise up a difficulty in this country, little as it may now be thought of, much as the idea may now be condemned, and that blood will be shed by men clamoring for bread. It is against this state of things to be apprehended, that I, as an advocate of free homes, would guard, and guard now.

To repeat the idea that I have before advanced in the Senate, I will say, that our Government is not strong enough to coerce men to go to bed hungry. When their numbers become sufficiently great to demand bread, they will have it; and the means by which they are to take it—mark my words—will not be a matter of very serious consideration with them. Sir, take the case of Ireland. Do you believe that what transpired there a few years ago would transpire here? Do you believe that the people of the United States would work and enslave themselves for two ounces of bread per day, and perish for the want of means to obtain it? Would they suffer themselves to be driven from the poor hovels that sheltered them? That was done there, but would it be done here? I think not, sir. Why was it that such things were witnessed there? It was because of the strength of the British Government. It was because of the overwhelming power of that Government, with her standing armies, compelling involuntary submission to that which could not be voluntarily borne. The time will come, in my opinion, when if extreme aggregation of the land in the hands of individuals takes place in this country, similar scenes may be witnessed here. The people here will not voluntarily submit to it. You have not bayonets to compel them to do so. The remedy is, as I have always thought, while we have a vast public domain to preserve it for the people; not for the few who may possess a fortune to monopolize it at present, but to set it

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apart and let it be resorted to as the necessities of individuals may demand. I believe it ought to be set apart with very stringent guards and checks for the benefit of individuals. The Senate may not now sympathize with me, but the time will come when the people will tell the Senate that they do sympathize with me in such a law; and if that is not acted upon, if what they demand in that respect shall not be acceded to, if the favorable moment be suffered to pass, and the public domain which we have is permitted to go into the hands of the few, a worse thing will be done; the people will not permit it to remain there; and here, again, our Government is not sufficiently strong to compel them.

You can never have in this country a large landed proprietorship and a dependent tenantry. Whenever prices become so great and wages so small that the masses cannot accumulate at least the means of subsistence, and that in sufficient amount to gratify the reasonable calls of nature, the people will not bear it, but they will contend against it.

This may be theorizing. I know that I have been charged, when uttering these sentiments, with bringing forth Carlylisms, Fourierisms, and all other kind of isms. The homestead bill before you does not go to the extent which I would wish it to go. I do not propose, however, to quarrel with it, for I am willing to take it as it is and to pass it if possible. It is now fifteen minutes past two o'clock on the last night, or rather the last morning, of the session of this Congress, and we have not yet obtained a vote on this bill, and I do not think we will reach a vote, but the friends of the measure should try to do so.

The homestead bill is now offered as an amendment to what is called Miss Dix's bill. For this lady, though I have not the pleasure of her personal acquaintance, I entertain a very high regard. I do not think that any one can do otherwise than entertain such sentiments for her. She has persevered in this matter, and it would seem to me that she has been actuated only by the most benevolent and generous motives. But what does the bill before you propose? It seems that this lady has had a just appreciation of our ideas of speculation. When her bill first made its appearance in the Congress of the United States, it was not in the form in which it now is. Has she felt herself compelled to submit in order to meet the ideas of Congress in favor of land speculators? Why, sir, she has had to submit to this, and to have her bill changed in its form; and now, in place of giving the lands to the States by which and out of which and upon which as a basis the States should erect their own lunatic asylums, she has had to consent that they may take scrip, land warrants to be thrown into the market and go into the hands of some other land-sharks. Is the proposition to take lands and build asylums? No, sir; but to issue a depreciated paper currency by means of which the States are to obtain the money with which to endow their asylums. This noble bill has had to undergo this change in order to meet the views of members of the Senate and House of Representatives in favor of their policy with regard to land speculation. This bill and this lady have had to submit to this, so that a measure pretendedly for the benefit of the insane, curable and incurable, has been converted into nothing more or less than another of the batch of bills providing for the use of land warrants.

Sir, it would seem that the only guardianship which the Congress of the United States had peculiarly reserved for itself was the guardianship of land speculators, and that to afford them the greatest facilities for carrying out their purposes, we will issue a peculiar currency to these gentlemen, one which they can have at their own price, that they may be enabled through it as a medium, to obtain a large amount of the public lands. That is this bill. It does seem to me that it is time for the Senate to look to it, and inquire what it is doing. I know that there are Senators in this Chamber whose ordinary pursuits of life are but the manifestations and outpourings of honesty and honor, and who yet are influenced by speculators and capitalists. One I would refer to in particular; the Senator from Kentucky, [Mr. Underwood.] Sir, if there be a man on the face of the earth whose moral honesty and correctness of purpose I believe in, from my whole heart, it is the Senator from Kentucky; yet while these are my sentiments towards him, and I believe the sentiments of every member of the Senate, and while they will bid him "good by," at a period a little later in the morning, with regret that such a spirit has left the Senate, yet unconsciously to himself—I do not mean to charge anything wrong—he has lent himself to the vilest land speculation that ever disgraced this or any other country. I do not intend to make any imputations as to his lack of sagacity. But he has lived in the State of Kentucky; he has lived in a State where there are no public lands; a State which has suffered none of the embarrassments which the land States have had to suffer. He has not seen around him the settler struggling from the day he struck his ax into the first tree in the forest to acquire the means of purchasing his preëmption right, and buying the land upon which he and his family live. He lives in a country where large districts are owned by one man. What has been long habit becomes a second nature to us; therefore he cannot sympathize with such sentiments as those expressed the other day by the Senator from Illinois. It is impossible that he can; and in my opinion, if he could, he never would have been the efficient, energetic, and almost resistless agent of land speculators, which it seems to me and to others that he has been. I concede that nothing immoral, nothing bad, was intended by him. But being as it were, his second nature, the fact exists.

I have no doubt that those who entertain ideas similar to those of the Senator from Kentucky, will sympathize with this bill. And why? Because it gives to the insane? No, sir. I can point out many better plans for promoting the benefit of the insane. But the reason is, because it gives lands to the old States, or gives them a depreciated paper currency in the nature of land warrants with which to build asylums, and by which some of the old States will be enabled to get the public lands in large quantities; or if not the States, the speculators who may obtain their warrants. I said that I could give a much better plan for insane asylums than this bill proposes. So I could; but I am not engaged in a lecture as to the best method of establishing insane asylums, and therefore I shall not go into the details of my plan on this subject. But I will say that, in my opinion, this is about the worst plan that could be adopted; and while the gentlemen who support the bill think they are doing a benefit to the insane, they are doing a very serious injury to that portion of the community who have an interest in the homestead bill, and consequently an interest adverse to this extensive aggregation of lands by the wealthy.

But, sir, what fate has the homestead proposition met here? Not content with the batch of land warrants provided for in Miss Dix's bill, we have the noble efforts of the Senator from Pennsylvania [Mr. Brodhead] to ingraft at the other end of it a provision to issue still more land warrants, and to give a land warrant for one hundred and sixty acres of land to every one who has heretofore received a forty-acre or an eighty-acre land warrant. Miss Dix's bill begins with a provision for a batch of land warrants, and at the other end of it is the Senator from Pennsylvania with his batch. Here, then, we have the poor homestead put between two presses to squeeze out land warrants for the benefit of land speculators. It is between the upper and nether mill-stone. In trying to carry out the feelings of a noble lady in her efforts for the insane, you convert her philanthropic purposes into a scheme to issue your miserable land warrants; and when the homestead for the people is offered as an amendment to that, it cannot be permitted to go upon it quietly and peacefully. We cannot have a proposition for the benefit of the poor who are not insane without having the measure of the Senator from Pennsylvania moved as an amendment to it to issue still more land warrants. If the people will submit to this, be it so; I care nothing about it, personally. The probability is that I have, by a good constitution and the help of Almighty God, got enough to take me quietly and comfortably through life, and perhaps leave a competency to my wife and little ones, if I precede them to the grave. It is not, therefore, of very much importance to me personally; but when I am gone, when the Senator from Kentucky shall be gone, not only from this Chamber, but from the wide arena of mankind, there will be left more than there are now who will be asking why was it, when this country owned this vast extent of public land, it did not make some provision for those situated in destitute circumstances, when there are thousands, and hundreds of thousands, and millions who have no home? That question will be asked when these people have to submit to landlords to receive the bread of life as they may dictate. This will be the inquiry. That day may not be while you and I, sir, live. I think it probable that it will not be. We have a vast extent of country. There is still a vast outlet for the surplus population of this and many other countries, if they were here.

But I look upon this country as one which, from the nature of its institutions, must long continue in its present form of government, and as one, from its natural fertility, from its natural resources, will rapidly populate. We shall soon have a redundant population; and when that time comes, your Government must be strengthened, or you will have scenes here such as were never witnessed anywhere else; and when you shall have strengthened it, you must do so to an extent incompatible with the existence of the present system of government, and then this will no longer be the Republic of the United States. It will no longer be a confederation of free and independent States, represented by the voice of the people, as we now see it represented, or misrepresented; but it will be a consolidated Government. It will be strong enough to coerce numbers, and that, too, with the power of the few backed by wealth, keeping back the multitudes.

If I could, I would not live to see that day, and I shall not. I only speak of it as a probability. I speak of it as a lover of my country, as one wishing its perpetuity. I wish that its institutions may be perpetuated. I wish them to be happily perpetuated. But such is the condition of things now, that this homestead measure is to be crushed between two others, which, if not designed, have the effect of promoting speculation in the public lands of the United States. I am sorry that it is so. I wish that we could have obtained a vote upon this proposition as an independent one, before this Congress should have come to a close. I wish that its principles might have had a fair opportunity to be tested, so that when Senators here return to their homes, the approbation or censure of their constituents might be passed upon their conduct, in order that the people, in passing upon this subject in their elections at home, might have spoken still more definitely than they have heretofore spoken. But, sir, we cannot get that here.

There will be many candidates before the country for seats in the next Congress, and the one after that; and when the members now here appear before the people, they will say they were for the homestead bill, and that if they did not vote for the homestead bill, it was because an opportunity did not offer; but just elect us again, and we will be faithful. When they come, however, the result will be as before. The people will be neglected, as they ever have been, unless they shall be of that class who can get admittance into that circle which surrounds this Chamber, or such as can gain admittance in consequence of their wealth, or at least those who can get within the Capitol, or within the limits of the city of Washington; and there bring other influences to bear through the agency of hirelings. Yes, sir, they will come here after having made all these fair promises

to the people, and when they are no longer within the reach of their former friends, their mechanic friends, and when they no longer see the familiar faces of home—mark my words—they will forget those people; they will be brought under new influence; excited by new feelings, new ambitions, new purposes, new aims, and new ends; and they will act up to them. It will not be until the revolving of the political heavens has sent them home again to reflect upon what they have done, that they will be induced to think of it.

When this process shall have gone on a little longer, men may learn that they had better not reject here what they think very good at home; that they had better come here representing their constituency and to carry out the wishes of that constituency. I think the time will come ere long when it will be done. I know that it is a difficult matter for the people advocating such a measure as the homestead bill to receive a proper hearing, or to make their proper impression. They do not command the wealth to enable them to do so. They can be heard only through the medium of the petitions which are introduced: and thousands of them have been introduced. And what becomes of them when they are introduced? They are referred to the Committee on Public Lands. Perhaps there is a majority of that committee against them, and but a minority in favor of them. The petitions are reported against, and they are laid upon the table, and the report accompanying them is printed and goes to the constituency, there to be passed upon. Perhaps a strong and able speech is made in support of that report. The people read the report, and also the speech and the answer to it, and make up their minds upon it; and the reporter is gone!

We have had one instance of this kind in a member of the Committee on Public Lands, who will leave us to-morrow with the regret of every Senator in this Chamber. He was a useful, a laborious man, in whom we had all confidence; but when the people came to think about a subject of this kind by the slow process I have mentioned, they will make themselves heard, and if not heard, they will make themselves felt. Not only have they done that, but they have spoken in another direction; and it was through their representatives in the State Legislature, instructing the Senators who are to come and take those seats that they must vote for the homestead bill. We have had laid before us the instructions of the Michigan Legislature.

It is a strange fact, but nevertheless true, that even my Legislature, the Legislature of Wisconsin, has so far advanced in its ideas upon this subject that it seems to distrust me in regard to the homestead bill, and has sent me instructions to support it.

When I commenced the agitation in favor of this bill, what was the fate I met with at home? The papers denounced me. I scarcely knew which way to turn without denunciation. I advocated my doctrines at home and here, and I had to undergo a great deal of harassment. The friends who stood by me were on that ground denounced, and at first they were defeated for those offices for which they were candidates, on the ground that they were friends to the homestead bill; and at last this doctrine has progressed so far, and they are so far advanced in the homestead measure that they have not only come up but got a little ahead of me, and have sent me instructions to support it. I have been denounced for many things at home, but in regard to all of them the people have become satisfied that they were mistaken as to my course when it was explained to them. This is one of those things in which progress has been made, even in Wisconsin.

Why, sir, the other day the Senator from Ohio [Mr. CHASE] mentioned that his State was the first in the Union that had spoken on this subject. Though I had not been instructed before this winter in regard to it, the doctrine had made sufficient progress to justify the introduction of abstract resolutions with regard to it into the Wisconsin Legislature, some three or four years ago, and they have come fully up to the homestead doctrine. I am glad of it—I am proud of it—and I think the more of Wisconsin because of it. She contains people who can feel on this subject, if any people in the world can. Land speculation has entered into her borders. It will enter there still, if facilities for the manufacture of land warrants are increased, and speculators are thus enabled to buy them and monopolize the lands in large quantities. The people there cannot get land warrants very readily. When a man there proposes to purchase a land warrant, and wishes to locate upon it himself, the answer he gets is, "We have no land warrants to sell, but we will locate the land for you, and give you a year's credit, take a mortgage upon your farm and implements, and at the end of twelve months you can pay the two hundred dollars, and twelve per cent. added, and you can have your deed." It is the last extremity, the preëmption is about to expire; the settler cannot get the money, and he must have the land. He knows another person is standing ready to buy the land, notwithstanding his improvements, and consequently he had to give in to the proposition of the holder of the land warrant, with the hope that at the expiration of the year he will pay for the land with the twelve per cent. added; and sometimes twenty-five per cent. interest was the bargain. The land would be located in the name of the holder of the warrant. The occupant would give his mortgage, and would struggle hard to try to get the money at the end of the year; but when the time came round, sickness perhaps had prevented his obtaining the means to pay, and the mortgage was foreclosed with the accumulated interest upon it, and, at last, after all his struggles, he was turned out of house and home, and his family ruined, when his improvements were worth perhaps four times as much as the land warrant if he had obtained it at par, and his farm and improvements go into the hands of him who buys it at the mortgage sale.

In this way we have had to struggle along, and the people of Wisconsin, the people of Illinois, and the population of the whole Northwestern Territory, have had opportunities to know how this works, and—mark my words, and believe them too—they are most emphatically averse to your whole system. Who are they that are averse to it? Just such men as they who receive this treatment. They are not, as I before remarked, persons who are enabled to visit Washington city, and pay $10 or $15 per week for their board. They are only to be heard by writing their quiet letters to their representatives, and sending their quiet petitions here; and I have frequently thought that when one of these men signed a petition, with five hundred, or six hundred, or one thousand others; he thought when he signed his name "it cannot be possible that Congress will resist that petition. They must be satisfied that this measure is right, and that we demand it in earnest." Little do they know how that petition is treated when it comes here. They little think it is buried in that committee room up in the third story of this Capitol. These are the kind of people who petition on this subject, and who have no other means of being heard. But I will not detain the Senate.

Mr. BRODHEAD. The course of argument of my friend from Wisconsin has done me some injustice. He has spoken of petitions from Pennsylvania in favor of the homestead bill. I beg to inform him that, in my opinion, there have been ten men from Pennsylvania who have petitioned in favor of the bill which I had the honor to offer as an amendment this evening, to one who has petitioned for the homestead bill. So much for that point.

Now I beg leave to inform the honorable Senator from Wisconsin, and the Senate, that I am a better friend to the homestead doctrine than he is, and I will prove it. I am in favor of graduating and reducing the price of the public lands, and that arrives at the same object which the Senator has in view, but in a more systematic way. I do not break up our land system by doing it. The object of the honorable Senator is to give cheap homes to the poor people. Do I not accomplish it by my project? At the last session, when one of these railroad bills granting lands to railroad corporations was up, I offered as an amendment to it a proposition graduating and reducing the price of the public lands, but the Senator from Wisconsin did not accede to it. These lands went into the hands of corporations at that time, and the honorable Senator voted for those bills. I contend that the land system must support itself, and I am willing to give the lands to the poor people at the same price which they cost the Government. That is the point.

Mr. BADGER. The pending amendment to this bill is, as I understand it, in the words of the Senator from Wisconsin, to give land to the landless. I think it is a proposition of the most dangerous tendency, and founded upon the most erroneous principles; and although I believe, were a vote now taken, it would probably receive the sanction of the Senate, I feel it to be my duty to myself and to the constituency which I represent, to protest earnestly against it.

[A message was received from the House of Representatives, announcing that it had agreed to some, and disagreed to others of the amendments of the Senate to the bill of the House making appropriations for the current and contingent expenses of the Indian Department; and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1854.

On motion by Mr. BADGER, it was

Ordered, That the Senate insist upon its amendments disagreed to by the House, and ask a conference, and that the committee be appointed by the President *pro tempore*.]

Mr. WELLER. My friend from Wisconsin seems to felicitate himself upon the prospect of bringing to a successful accomplishment his great project of giving to every man in the country the undisturbed enjoyment of one hundred and sixty acres of public land; and he says that unless we do this, those men who are now clamoring for bread will soon cry for blood. I want to avoid that cry, and to be out of the way when it is made. I might be able to stand a demand on the public Treasury, or on the public land, in order to satisfy them; but when they demand blood, I would rather be in some snug place. [Laughter.] I was somewhat amused at the Senator from Pennsylvania, who claims that he is more the friend of the poor man than the Senator from Wisconsin. There seems to be a rivalry between them. The Senator from Pennsylvania says, "Did I not propose an amendment to graduate the price of the public lands, and to reduce them, so as to enable the poor man to obtain a farm on the payment of a very small sum of money?" The Senator should have remembered the story which was told of the Irishman, who, when he came to America, found that the potatoes were twenty-five cents a bushel. Said he, "I could get them in Ireland for sixpence a bushel." An American said to him, "Then why didn't you stay there?" "Ah, but," said he, "the thing was to get the sixpence." [Laughter.] So it is in this case. The Senator from Wisconsin proposes to give the poor man land; and the Senator from Pennsylvania wishes to give it to them for a very small price. I am not anxious to be speaking at this hour of the night, or rather morning, and therefore I will yield the floor to the Senator from Kentucky, who, I understand, has a few remarks to make on the subject.

Mr. UNDERWOOD addressed the Senate in a speech, which will be found in the Appendix.

Mr. BADGER. I move, that the bill do lie upon the table.

The motion was agreed to.

EXTRA COMPENSATION.

Mr. DODGE, of Iowa. The Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution in reference to granting extra allowance to clerks and other employees of the Senate, has directed me to report it back with an amendment. It is to strike out all after the word "Resolved," and insert:

That there be paid, under the direction of the Committee to Audit and Control the Contingent Expenses of the Senate, to the employees of the Senate and other persons, including the public gardener, and the laborers in the Library and the center building, the sums that were allowed them respectively at the last session; and to the folders and other temporary employees, a *pro rata* for the time they were employed.

Mr. WELLER. Does that include the reporters?

Mr. DODGE, of Iowa. It does. They are upon the last list.

Mr. WELLER. If it did not embrace them, I would not vote for it.

Mr. DODGE, of Iowa. The construction is that it embraces them.

Mr. WALKER. I move to strike out that part of the resolution making the allowance to the folders who have been employed temporarily, *pro rata*.

Mr. WELLER. I will undoubtedly vote for that, if the Senator will give a good reason for it; but it may trouble him to do so.

Mr. WALKER. If that is stricken out, it will conform to the resolution of the last session.

Mr. DODGE, of Iowa. It ought not to be stricken out. Some of these folders have not been employed more than five or six days during the present session, and therefore they should not receive the full allowance. I am the last person who would do injustice to the folders.

Mr. WALKER. I withdraw the motion.

The resolution was then agreed to.

REGISTER TO VESSELS.

Mr. HAMLIN. The Senate passed a bill authorizing the Secretary of the Treasury to grant a register to certain vessels. The House amended it by authorizing the Secretary of the Treasury also to change the name of the Roger Williams to El Paraguay. The reason for changing the name of that vessel was, that it was a steamer going to South America, and it was deemed advisable to have a Spanish name. It came back here, and I moved an amendment to it adding another section authorizing the Secretary of the Treasury to issue a register to another vessel. It was returned to the House, and I learn that it is utterly impossible to reach it there. I therefore move that a message be sent to the House requesting them to return the bill, so that we may pass it as it came from the House without amendment.

The motion was agreed to.

SUSPENSION OF A RULE.

Mr. DAVIS. There is a resolution on the table which has come from the House merely to suspend the rules. I move that it be taken up and acted upon.

The resolution was as follows:

"*Resolved*, (with the concurrence of the Senate,) That the 16th joint rule of the two House be suspended for the present session, so far as relates to the bill of the House No. 368, entitled 'An act for the relief of Robert Gibson.'"

Mr. ADAMS. That rule has already been suspended with regard to all bills.

The resolution was agreed to.

CIVIL AND DIPLOMATIC BILL.

Mr. HUNTER. I am directed by the managers on the part of the Senate on the Committee of Conference on the disagreeing votes of the two Houses on the civil and diplomatic appropriation bill, to report that the two committees could not agree.

Mr. WELLER. I should like to inquire of the chairman what were the points of difference between the two Houses, in order that we may be enabled to determine whether there is a possibility of settling the question.

Mr. HUNTER. I do not suppose it is proper for me to report what passed in the conference. If the Senator desires to know my individual opinion as to the prospect of a settlement, I will say that I believe if the Senate were to recede from its amendment in relation to salaries of the Heads of the Departments, there would be an agreement in regard to other matters.

Mr. WELLER. If, then, it be in order, I would move that the Committee of Conference be instructed to recede from that amendment. I voted for it myself. There is no man upon this floor who sustained it with more sincerity than I did, for I think it was necessary to increase the compensation of the Cabinet officers; but I am unwilling that that point alone should defeat the whole civil and diplomatic appropriation bill; and if that be the point in dispute, I move, if it is in order, that the Committee of Conference on the part of the Senate be instructed to recede from that amendment. I ask the Chair to decide whether the motion is in order?

The PRESIDING OFFICER, (Mr. BADGER in the chair.) The Chair does not feel authorized to rule it out of order.

Mr. RUSK. My opinion is, that if we had maintained our ground on the report of the former Committee of Conference, the thing would have been settled in half an hour. But, sir, I feel that it is improper to embarrass the chairman of the Committee on Finance now. We have labored him very nearly to death. He has met with blame on all sides, but he has labored harder than any man in the Senate for the purpose of accommodating these matters and getting them brought to a proper termination. My own opinion is, that if we had declined the second conference at first, all would have been right.

Mr. WALKER. I am inclined to think that the motion of the Senator from California is not known to any parliamentary proceeding.

Mr. HUNTER. Perhaps it would be better for us to go on with other matters until we see what the House will do.

Mr. WALKER. I was going to remark that, in my opinion, the motion is not one known to parliamentary proceedings. Further: it looks as though the Senate was really acting in hot haste in this matter. The chairman has reported verbally that the two committees cannot agree. They have separated. The members of the conference on the part of the House have returned to the House. If we should take this hot haste, and agree to the motion to instruct the committee which has already separated to recede from the amendment, I do not believe it will be according to any parliamentary proceeding. If we attempt to recede, let us do it ourselves; but I think even that would be hasty, and therefore we had better wait until we know what the House is going to do. We were too hasty before upon the other appropriation bills. I think it will be well for us to go on with other matters until we have a reasonable time to hear from the House.

Mr. BELL. I rise to a question of order. Is the subject before the Senate? The bill is not here. We can neither recede, insist, adhere, nor give any instruction. I will not agree to accede to any such proposition; but we cannot move at all until we have the bill before us.

Mr. BRIGHT. I rise to a point of order. There is no committee to be instructed. The committee is of course discharged, and cannot be instructed.

Mr. DAVIS. The only mode is to wait until we hear from the House.

HARLOW SPAULDING.

Mr. BRADBURY. I have an appeal to make to the Senate. It will be recollected that I attempted, about a week ago, to get up a private bill. It was under consideration, and the Senate adjourned upon it. If it had not adjourned the bill would have passed in one moment. It is a bill for the relief of Harlow Spaulding. I move that the Senate proceed to its consideration.

The motion was agreed to, and the Senate, as in Committee of the Whole, resumed the consideration of the bill. It proposes to direct the Secretary of the Treasury to pay him the usual compensation of pursers for the time he acted in that capacity, after deducting the amount received by him for his services as clerk.

Mr. WELLER. I do not like to object to that, but when it was up before, the Senator from New Hampshire said he desired to discuss it.

The bill was reported to the Senate without amendment, ordered to be read a third time, and was read a third time, and passed.

INDIAN APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it insisted on its disagreement to the amendment of the Senate to House bill No. 366, entitled "A bill making appropriations for the 'current and contingent expenses of the Indian 'Department, and for fulfilling treaty stipulations 'with various Indian tribes, for the year ending 'June 30, 1854," and had agreed to a Comittee of Conference, and appointed Mr. DUNHAM, Mr. BRIGGS, and Mr. PRESTON KING, managers on its part.

THE LATE PRESIDENT PRO TEMPORE.

Mr. BORLAND. I submit the following resolution:

Resolved, That the difference between the pay of Vice President and the amount received by the Hon. William R. King, for mileage and per diem compensation as Senator and additional pay as President *pro tempore*, from the 11th of July, 1850, to the 20th of December, 1852, be paid from the contingent fund of the Senate.

I will simply remark that that is an exact copy of the resolution which was formerly passed in the case of the honorable Senator from North Carolina, [Mr. MANGUM.]

Mr. BADGER. It is all right.

The resolution was considered, and unanimously agreed to.

S. MORRIS WALN.

On motion by Mr. DODGE, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of S. Morris Waln. It proposes to direct the Secretary of the Treasury to pay S. Morris Waln, who survived Henry Percival, late in partnership with him, the amount of duties paid on various casks of wine in June, 1833, which were destroyed by fire in Philadelphia, while in store in the custom-house; provided that the Secretary be furnished with satisfactory proof that the goods were so destroyed by fire and were not insured.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

CORNELIUS HUGHES.

On motion by Mr. JONES, of Tennessee, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Cornelius Hughes, of Tennessee. It proposes to direct the Secretary of the Interior to place his name on the roll of invalid pensioners, and that he be paid a pension of $5 33 per month from the 1st of February, 1848, to continue during his life.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

JOSEPH T. JOHNSTON.

On motion by Mr. FOOT, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Joseph Johnston, approved May 4, 1852, by correcting a clerical error. It proposes to insert the letter "*t*" in the name of Johnston, which had been omitted in a former bill, so that he may enjoy the benefit of the act.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

PRESIDENT PRO TEMPORE.

Mr. DAVIS submitted the following resolution; which was considered by unanimous consent, and unanimously agreed to:

Resolved, That the thanks of the Senate be tendered to the Hon. DAVID R. ATCHISON for the dignity and impartiality with which he has discharged the duties of the Chair.

NATHAN H. DARLING.

On motion by Mr. DOUGLAS, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Nathan H. Darling. It proposes to direct the Secretary of the Interior to place the name of Nathan H. Darling, of Lake county, Illinois, on the roll of invalid pensioners, at the rate of eight dollars per month, to commence April 5, 1852, and continue during his life.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

GILMAN SMITH.

On motion by Mr. DOUGLAS, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives "for the relief of Gilman Smith." It proposes to direct the Secretary of the Interior to place his name on the roll of pensioners at the rate of eight dollars per month, from the 1st of January, 1852, to continue during his life.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

JOHN KERBAUGH.

On motion by Mr. WELLER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of John Kerbaugh. It proposes to direct the Secretary of the Interior to place the name of John Kerbaugh, of the State of Tennessee, on the roll of invalid pensioners, and to allow him a pension of $5 33 per month, from the first of January, to continue during his life.

The bill was reported to the Senate without amendment, ordered to be read a third time, read third time, and passed.

JOHN HUFFINGTON.

Mr. BRODHEAD. The Committee on Claims, to which was referred the bill for the relief of John Huffington, has directed me to report it back with the recommendation that it do pass.

Mr. PETTIT. I move that the Senate proceed to the consideration of that bill now

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Treasury to pay to John Huffington the sum of $2,000, for the loss of a schooner sunk in 1822

while in the employ of the United States; but no interest is to be allowed.

Mr. PETTIT. I have the documents and papers in that case. If gentlemen want to hear them read, I will read them with pleasure. The claim is perfectly right beyond all question. It has already passed the House of Representatives.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

EXPLORATION OF THE AMAZON.

Mr. FISH. I move that the Senate take up for consideration the resolution reported from the Committee on Naval Affairs, for printing the report of Lieutenant Herndon.

The motion was agreed to.

The resolution is as follows:

"*Resolved*, That there be printed for the use of the Senate, ten thousand extra copies of the first report of the exploration of the valley of the Amazon and its tributaries, made by Lieutenant William Herndon in connection with Lieutenant Lardener Gibbon, under instructions from the Navy Department; and also, the same number of copies of the remaining portion of the report which may hereafter be furnished, together with the maps and charts of the objects treated of in said report, of which number, five hundred shall be furnished to the Navy Department, and two hundred to Lieutenants Herndon and Gibbon, one hundred each.

"*Resolved further*, That if the remaining portion of the report shall not be printed before the close of the present session, it be transmitted to the Secretary of the Senate."

The resolution was agreed to.

MARY BAWRY.

On motion by Mr. SUMNER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives "for the relief of Mary Bawry." It proposes to direct the Secretary of the Interior to place upon the pension roll the name of Mary Bawry, of Boston, Massachusetts, widow of Lewis Bawry, who served three campaigns as a captain of grenadiers during the revolutionary war, and to pay her a pension at the rate of $600 per annum from the 25th of June, 1850, during her life.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

BETSEY NORTON.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had passed Senate bill for the relief of Betsey Norton.

PATENT OFFICE REPORT.

Mr. BORLAND. I hold in my hand several reports from the Committee on Printing, which I am directed to submit to the Senate. The first is to report the following resolution:

Resolved, That seventeen thousand extra copies of the Arts and Manufactures, and thirty-two thousand eight hundred copies of Agricultural reports of the Commissioner of Patents be printed for the use of the Senate.

The resolution was agreed to.

COAST SURVEY REPORT.

Mr. BORLAND. I have also the following resolution to report:

"*Resolved*, That ten thousand extra copies of the report of the Superintendent of the Coast Survey for the year 1852 be printed; five thousand copies for the use of the Senate, and the remainder for the use of the Coast Survey Office; that said report be printed and bound with plates in quarto form, and that the plates be executed under the direction of the Superintendent of the Coast Survey; the cost thereof not to exceed one dollar per set."

The resolution was agreed to.

SITGREAVES'S REPORT.

Mr. BORLAND. The same committee, to which was referred the report of the Secretary of War communicating, in compliance with a resolution of the Senate, a report of the expedition down the Missouri aud Colorado rivers by Captain Sitgreaves, has directed me to report in favor of printing the same.

The report was agreed to.

Mr. CHASE. I move that two thousand extra copies of that report be printed.

The motion was agreed to.

BUSINESS BEFORE COMMITTEES.

Mr. BORLAND. I have a number of reports from which the Committee on Public Lands ask to be discharged.

Mr. UNDERWOOD. I move to discharge that committee from all unfinished business before it.

Mr. ADAMS. I move to amend by inserting "all committees."

Mr. BADGER. The Senator will allow me to suggest to him, that it necessarily follows, according to parliamentary law, when the session expires, the committees are discharged. It is therefore not necessary to make the motion.

Mr. ADAMS. I withdraw the motion.

SOLAR COMPASS.

Mr. BORLAND. The Committee on Public Lands has directed me to report a bill to enable the United States to make use of the solar compass in public surveys. I do not desire to ask for its passage now, but simply that the bill and report may be printed.

They were ordered to be printed.

SOUTHERN MICHIGAN RAILROAD COMPANY.

On motion by Mr. HAMLIN, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives "for the relief of the Southern Michigan Railroad Company." It proposes to direct the Postmaster General to pay to that company $971 47, for services in transporting the great northern mail.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

HENRY CLICK.

On motion by Mr. WELLER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives to increase the pension of Henry Click, of Tennessee. It proposes to direct the Secretary of the Interior to increase the pension of Henry Click, who was placed on the roll of pensioners under the act for the relief of certain invalid pensioners, approved March 2, 1833, to $8 per month, such increase to commence on the 1st of January, 1848.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

JAMES H. JENKINS.

On motion by Mr. ADAMS, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of James H. Jenkins. It proposes to direct the Postmaster General to pay him $3,198, for damages actually incurred by him in consequence of an order from the Postmaster General changing the route on which he had contracted to carry the mail to a point between Knoxville and Sparta, in Tennessee.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

MARY PIERSON.

On motion by Mr. FOOT, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Mary Pierson. It proposes to direct the Secretary of the Interior to place the name of Mary Pierson, of Newburyport, Massachusetts, widow of Silas Pierson, on the roll of revolutionary pensioners, at the rate of twenty-four dollars per month, from the 16th of March, 1848, during life.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

JAMES WRIGHT, JR.

On motion by Mr. BELL, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of James Wright, jr. It proposes to direct the Secretary of the Interior to place the name of James Wright, jr., of Sullivan county, Tennessee, on the roll of invalid pensioners, and that he be allowed a pension of $5 33 per month from the 4th of March, 1840, during life.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

REGISTERS FOR VESSELS.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that in conformity with the request of the Senate, it returned to the Senate a bill authorizing the Secretary of the Treasury to grant a register to certain vessels.

Mr. HAMLIN. I move to reconsider the vote by which the Senate adopted an amendment to that bill.

The motion was agreed to.

The question recurring on the amendment, it was rejected; consequently the bill as it came from the House of Representatives was passed.

THOMPSON BARNETT.

On motion by Mr. DODGE, of Iowa, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution from the House of Representatives for the relief of Thompson Barnett. It proposes to direct the Postmaster General to pay to Thompson Barnett, of Logansport, Indiana, $123 75 for services rendered by him in carrying the mail in Indiana from July 1, 1842, to February 16, 1843.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

CONTINUANCE OF SELECT COMMITTEES.

Mr. HOUSTON. I offer the following resolution:

Resolved, That the Select Committee appointed to inquire into abuses, bribery, or fraud in the prosecution of claims before Congress, Commissions, or the Departments, or in passing through Congress bills embracing private, individual, or corporate interests, or in obtaining or granting contracts, be continued after the close of the present session of Congress, during the continuance of the Executive session, commencing on the 4th of March instant.

Mr. WELLER. I desire to amend that. The committee appointed to investigate the charges made against the United States Boundary Commission has been engaged in taking testimony for many weeks past. At least four or five depositions have been taken to-day. I move, therefore, to insert in the resolution the words "and the Select Committee on the Mexican Boundary Commission." The committee will not be able to complete its duties until the extra session of the Senate is through.

The amendment was agreed to, and the resolution as amended was adopted.

PERCENTAGE ON COMPENSATION.

Mr. BRADBURY. I desire to offer a resolution to do a simple act of justice. By an act of Congress of the last session, our clerks, messengers, laborers, and employees received twenty per cent. in addition to their pay. The construction of that law by the Comptroller excluded our Sergeant-at-Arms and Doorkeeper, and the Sergeant-at-Arms and Doorkeeper of the House, who are neither clerks nor messengers. Upon discovering that, the House made provision for their Sergeant-at-Arms and Doorkeeper; and the resolution which I propose is simply to correct the mistake in regard to our Sergeant-at-Arms and Doorkeeper, in order that they who did not happen to be either clerks or messengers shall stand as the others did.

The resolution is as follows:

Resolved, That there be paid to the Sergeant-at-Arms of the Senate and Assistant Doorkeeper Holland, who received no part of the percentage of increase allowed to other officers and employees of the Senate at the last session, the same addition to their regular pay which the House of Representatives has authorized to be added to the former pay of the Sergeant-at-Arms and Doorkeeper of the House.

The resolution was read a first and second time, and considered by the Senate as in Committee of the Whole; and no amendment being proposed, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

Mr. WELLER subsequently said: A resolution was introduced by the Senator from Maine a few moments ago in regard to percentage of two of our officers. The question upon that resolution was taken without a division. I therefore move to reconsider the vote.

Mr. BRADBURY. I should like to know the reasons for that motion. There seems to be some misapprehension on the part of the Senator.

Mr. WELLER. I desire to know the reason why a discrimination should be made in favor of these officers.

Mr. BRADBURY. I will explain it. At the last session of Congress there was put into the appropriation bill a provision that the clerks and messengers should receive twenty per cent. in addition to their pay. The Comptroller decided that the Sergeants-at-Arms and Assistant Doorkeepers of both Houses were neither clerks nor messengers, consequently they did not get the twenty per cent. Since that was known to the House, it was corrected by making an addition to the pay of their

Sergeant-at-Arms and Doorkeeper. This resolution, relating only to the last session, puts those two officers precisely where the others are.

Mr. WELLER. Let us hear the resolution read.

It was accordingly read.

Mr. WELLER. I was not in the Senate at the time the vote was taken. All I desired to know was why these officers were not placed upon the same footing as others. I do not know that they have discharged their duties with greater fidelity than the others. Therefore I was anxious to know why the discrimination was made. If the only effect of the resolution is to place them on the same footing with other officers of the Senate, I have no objection. If it had been otherwise I should have acted otherwise. As my friend from Maine is just going out of the Senate, I did not know but that there might be something else in the resolution.

Mr. BRADBURY. I will state that I was in the chair when the resolution was offered in regard to extra compensation, and these two officers having been left out at the last session, I did not desire that an invidious distinction should be made. I think that it was but an act of justice to do this for them. I will say to the Senator from California, that my object here is to do justice, and not to suffer inequalities to exist, and I never let my feelings go so far as to permit anything of the kind.

Mr. WELLER. The personal explanation which the Senator makes is entirely satisfactory. I withdraw my motion.

JOHN OZIAS.

Mr. BORLAND. I have a bill from the Committee on Public Lands, for the relief of John Ozias. It is a House bill.

Mr. WELLER. If my friend will allow me, I will state that when I was a member of the House of Representatives, a long time ago, that man was a constituent of mine. I had something to do with the reporting of a bill for him. He had paid money for some land which was not subject to entry at the time, and he has labored for fifteen years to get back the money. The Government of course pays no interest, and in that respect does what no honest man would dare to do, for he would be turned out of decent society if he did. This bill ought to have passed long ago.

Mr. BRADBURY. I suppose I may ask the honorable Senator if he has any sinister motive in this?

Mr. WELLER. Not at all. The Senator forgets the fact that I now come from California. Then I was from the State of Ohio. He may not have read the newspapers lately, or he may have forgotten the fact that California was not then a part of the American Union. That news may not have got into Maine yet. [Laughter.]

The motion to take up the bill was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider it. It proposes to authorize the Treasurer of the United States to pay to John Ozias $200, being the amount paid by him on the 31st of October, 1835, for a quarter section of land which the Government had sold to another person.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

CORNELIUS COVERT.

On motion by Mr. FELCH, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Cornelius Covert, of Michigan. It proposes to direct the Postmaster General to pay him out of the revenues of the Post Office Department, $396 per annum, for the transportation of the mail on route No. 3777, instead of $219, for and during the term of the contract made and entered into in year 1850.

The bill was reported to the Senate without amendment, ordered to a third reading, read a the third time, and passed.

WILLIAM J. PRICE.

Mr. FELCH. I am directed by the Committee on Public Lands, to which was referred the bill from the House of Representatives for the relief of William J. Price, to report it back with the recommendation that it pass. I move that it be taken up for consideration now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to confirm William J. Price in his title to a certain tract of land situated in the county of Johnson, State of Alabama, in what is called William Jones's reservation, it being the place first settled by William Jones, and on his death transferred by his widow and heirs-at-law to William Price; provided that it shall be considered only as a relinquishment on the part of the United States, and shall not affect the rights of any minor heirs, or the heir of any other person.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

SCHOOL LANDS IN MINNESOTA.

Mr. FELCH. I now ask leave to take up the bill from the House of Representatives to appropriate lands for the support of schools in certain townships and fractional townships in the Territory of Minnesota, not before provided for. It is only to enable the territorial authorities to select lands which are deficient before the best lands are taken up. It is important to have it done shortly, on account of the rapidity with which lands are being taken up.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to the consideration of the bill. It proposes to direct that when sections Nos. 16 and 36, or either of them, directed to be reserved for school purposes by the 18th section of the act approved March 3, 1849, shall be found fractional in quantity, there shall be reserved and appropriated other lands to make up the deficiency in quantity; provided, that the mode, manner, and quantity of the selected lands shall be in conformity with the principle of the act approved May 20, 1826, to appropriate lands for the support of schools in certain townships and fractional townships not before provided for.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

RELIEF OF HENRY MILLER.

On motion by Mr. BRODHEAD, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Henry Miller, a soldier in the war of 1812. It proposes that his name be placed on the roll of invalid pensioners, at the rate of $8 per month from August 14, 1847.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

COMMITTEE ON MEXICAN CLAIMS.

Mr. SOULE. The Committee on Mexican Claims wishes to report as soon as the trial now pending before the court in this District shall be over. In order that it may do so, it becomes necessary that the following resolution should be passed by the Senate:

Resolved, That the Select Committee on the memorials in relation to the proceedings before the Commissioner of Claims against Mexico be continued after the close of the present session of Congress.

Mr. HUNTER. How long?—through the extra session, or through the summer?

Mr. SOULE. We want to report immediately after the trial is over.

Mr. HUNTER. Will that take beyond the extra session of the Senate?

Mr. SOULE. We hope not.

Mr. DODGE, of Iowa. I move to confine the operation of the resolution to the special session.

Mr. SOULE. I will remark that it may not be in our power, on account of the protracted trial, to report precisely on the termination of our extra session; but we wish to report as soon as that trial is over. If you impose any limitation, you may defeat the object for which the committee was appointed.

Mr. DODGE, of Iowa. I think it is wrong to make that distinction in regard to committees.

Mr. HOUSTON. Not at all.

Mr. SOULE. I merely remark, that the object is to enable the committee to report as soon as there is no longer any obstruction in the way. It may not be in our power to report precisely at the day on which the extra session shall terminate, because the contingency is beyond our control; and therefore there will be no justice in imposing on the committee, in whose name I have now the honor of addressing the Senate, the limitation proposed. The object of the committee is not by any means to protract its labors.

Mr. BADGER. I think I can make a suggestion which will relieve our difficulty. Let the committee be continued until the end of the extra session; and if it should be necessary, it can be continued after that by another resolution.

Mr. DODGE, of Iowa. I agree to that. I move to amend the resolution so as to continue the committee during the ensuing extra session.

The amendment was agreed to; and the resolution as amended was adopted.

INTERNAL IMPROVEMENTS.

Mr. DODGE, of Iowa. I offer the following resolution:

Resolved, That the Secretary of War be requested to communicate to the Senate copies of all instructions, reports, or accompanying plans and estimates that have issued from or been made to that Department in executing the surveys of improvements of harbors and rivers, under the act approved August 30, 1852, those instructions and reports to include the directions distributing the duties between the two corps of engineers, establishing the two boards of engineers, assigning the officers of the two corps to the several works, establishing special commissions, calling for estimates contributing the first plan and the reports of the local engineers, the special commissions of the two boards of engineers, and of the chiefs of the two boards, to the Secretary of War, upon which the final instructions are based; and also that copies of all such instructions issued during the year be transmitted to Congress with each annual report of the Secretary of War.

Mr. HAMLIN. That resolution simply provides that the Secretary shall communicate to the Senate what he has done in expending the appropriation under the act of 1852; that he shall tell us in what manner he proposes to carry out the works on which the expenditures are to be made, and how much it will take to complete them; so that we shall have in one volume what is proposed to be done, and can know all about it.

The resolution was considered by unanimous consent, and agreed to.

TERRITORY OF NEW MEXICO.

Mr. DOUGLAS. I move that the Senate take up House bill to provide for additional clerks, and extending the session of the Legislative Assembly of the Territory of New Mexico.

The motion was agreed to.

The bill proposes to direct that the Legislative Assembly of the Territory shall hereafter have authority to employ one person as translator and interpreter, and two clerks, in addition to the number they are now authorized to employ, for each House, during their session; that the accounts and charges of said interpreter and translator shall be audited in the manner and upon the principle provided for auditing the other accounts; that of the four clerks to be employed in each House of the Assembly, two shall be qualified to write in the Spanish and two in the English language; and that the Legislative Assembly shall hereafter be authorized to continue their sessions for a term not exceeding sixty days, instead of forty days, as heretofore provided; and that the Legislature shall cause to be paid to the commissioner appointed to draft a code of laws such compensation as may be just and reasonable, to be paid out of the fund to defray the expenses of the Territory.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

SCHOONER UNION.

Mr. HAMLIN, from the Committee on Commerce, reported a bill for the relief of the schooner Union.

JASPAR A. MALTBY.

Mr. FELCH. The Committee on Public Lands has directed me to report the bill from the House of Representatives for the relief of Jaspar A. Maltby. I move that the Senate proceed to its consideration now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Commissioner of Pensions to issue to him a certificate for one hundred and sixty acres of land, in conformity with the provisions of the act of February 11, 1847, entitled "An act to raise, for a limited time, an additional military force, and for other purposes."

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

WILLIAM H. WELLS.

Mr. FELCH. I am directed by the same committee, to report a bill of a similar character for the relief of William H. Wells and others. I move that it may be considered now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to direct the Secretary of the Interior to issue a land warrant for one hundred and sixty acres to William H. Wells, Adam Wells, and Sallie Wells, heirs-at-law of Lemuel Wells, on any unappropriated lands of the United States subject to private entry at $1 25 per acre, which shall be in full compensation for all services rendered by said Lemuel Wells as a soldier in the war with Great Britain.

The bill was reported to the Senate without amendment, ordered to a third reading, read a third time, and passed.

SCHOOL LANDS IN INDIANA.

Mr. FELCH. I am instructed by the Committee on Public Lands to report a bill to indemnify the State of Indiana for the failure of a township of land granted to said State on her admission into the Union in 1816.

Mr. BRIGHT. Mr. President, I will esteem it a special favor if the Senate will proceed to the immediate consideration of that bill. It involves the perpetuity of one of the most valuable and useful institutions of learning in the Great Western Valley. An unexpected decision of the Supreme Court has stripped the Bloomington College of all, or nearly all its means. That bill will restore it to strength and future usefulness. I say to the Senate I will not tax them in this last hour of the session with a speech; it is right; in the broad sense of the word, I say it is right.

The Senate, as in Committee of the Whole, proceeded to consider the bill; and no amendment being offered, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

TERRITORY OF NEW MEXICO.

Mr. DOUGLAS. I move that the Senate proceed to the consideration of the bill from the House of Representatives authorizing the Governor of the Territory of New Mexico to call an extra session of the Legislative Assembly, should the same be deemed necessary and expedient. It is only to extend the power for one time and no more. It is merely to enable them to fix up their laws.

The motion was agreed to, and the Senate, as in Committee of the Whole, proceeded to consider the bill. No amendment being offered, it was reported to the Senate, ordered to a third reading, read a third time, and passed.

THOMAS AP CATESBY JONES.

Mr. GEYER. I am instructed by the Committeee on the Judiciary to make a report on the memorial of Thomas Ap Catesby Jones, accompanied by a bill.

The report was ordered to be printed.

ELIAS P. WEST.

On motion by Mr. GEYER it was

Ordered, That Elias P. West have leave to withdraw his petition and papers from the files of the Senate.

A message was received from the House of Representatives, announcing that it had agreed to the recommendation of the report of the first Committee of Conference on the disagreeing votes of the two Houses on the bill making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854.

Also, that the House had passed a bill for the relief of George Poindexter.

NAVAL APPROPRIATION BILL.

Mr. GWIN. I am instructed by the Committee of Conference on the naval appropriation bill to report to the Senate that the committee met the committee on the part of the House, and that they have been unable to agree. I will state to the Senate that the committee on the part of the Senate gave up nearly the whole of our amendments, but we found that some points which we considered material, we were not authorized to give up; and, therefore, there is a disagreement between the two Houses. I submit this report from the managers on the part of the Senate, and ask that they be discharged.

Mr. BRODHEAD. May I be permitted to ask what the points of disagreement were?

Mr. GWIN. I do not feel myself authorized to state them.

The committee was discharged.

Mr. BADGER. I move that the Senate adhere to its amendments to the bill.

Mr. BRODHEAD. Can we not adhere to some and recede from others? If we are to come to any compromise with the House, had we not better take that course?

Mr. HUNTER. I hope the Senator from North Carolina will move to insist instead of adhere.

Mr. BADGER. We have insisted already.

Mr. GWIN. I hope the Senate will take up the bill by sections. We can agree to recede from a great many of the amendments, and leave it to the House to insist on or recede from the others.

Mr. BADGER. I make the motion to get the sense of the Senate.

Mr. GWIN. There are certain of our amendments which the committee of the Senate agreed to recede from. I propose to ask the Senate to recede from them; and then there are several upon which the committees could not agree. We can adhere to them, and ask another Committee of Conference.

Mr. BADGER. I have no objection to doing that. I withdraw my motion for that purpose. I do not want to take up the amendments separately, and if the chairman will indicate the amendments which the Committee of Conference were willing to give up, I will have no objection to receding from them.

Mr. GWIN. I now move that the Senate recede from its second amendment.

The motion was agreed to.

Mr. DAWSON. There being no report made, the Senate has not power to pursue this course. The bill has already passed the Senate and gone to the House, and they have passed it with certain amendments. We can agree to the amendments of the House, but we cannot recede from any of our amendments.

Mr. GWIN. I will move to reconsider the motion that was made to insist on the second amendment.

Mr. DOUGLAS. Is that necessary?—Cannot we recede now?

The PRESIDENT. The motion made by the Senator to recede implies that the motion to insist has been reconsidered.

Mr. GWIN. I now move that the Senate recede from its 4th, 5th, 6th, 7th, 8th, 9th, 10th, and 11th amendments. They are designed to make the appropriations conform to the estimates. The House cut the estimates down. The committee agreed that the bill, in this particular, should pass with the estimates cut down. These amendments are all in relation to the various navy-yards.

The motion was agreed to.

Mr. GWIN. I move that the Senate agree to the amendment of the House to the twelfth amendment of the Senate.

The amendment of the House was to add:

"*Provided*, That no part of the appropriation shall be expended until the State of New York shall cede the jurisdiction over the navy-yard to the United States, and until the title to the same be settled, excepting so much of the appropriation as may be needed for completing the engine-house, and for repairs of all kinds."

The motion was agreed to.

Mr. GWIN. I now move that the Senate recede from the 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, and 21st amendments.

The motion was agreed to.

Mr. GWIN. I further move to recede from our 28th and 29th amendments, and also the 42d, which is in relation to the organization of the Navy.

The motion was agreed to.

Mr. GWIN. I now move that the Senate recede from its amendment in regard to Lieutenants Herndon and Gibbon, of the United States Navy, who were engaged in exploring the Amazon.

Mr. BELL. Upon what principle will this body reject such an appropriation?

Mr. ADAMS. It is a private claim.

Mr. BELL. No, sir; these men were employed by public authority; and every person who has been employed in a similar service has been paid. If you had seen one of these gentlemen, and heard the narrative of their privations and adventures, their hair-breadth escapes, and their exposures to the climate, in an exploration extending three thousand or four thousand miles in a country which we are deeply interested in knowing something about, I should like to know upon what principle the Senate would vote to recede from the proposition to give them a sufficient compensation? I move to insist upon the amendment.

Mr. GWIN. I withdraw the motion to recede.

The motion to insist was agreed to.

Mr. GWIN. I move that the Senate recede from its amendments granting additional compensation to the officers, petty officers, and seamen of the United States Navy, and officers, non-commissioned officers, musicians, and privates of the Marine Corps, and the officers and men of the Revenue Service who served in the Pacific, on the coast of California and Mexico, during the late war with Mexico.

Mr. BADGER. I was willing to go it blind, and do whatever the committee did, and stand by them, but really I do not like to recede from that amendment.

Mr. GWIN. If the Senate adheres the House will give way.

Mr. BADGER. I move that the Senate adhere to its amendment. It is simply to put the marines on the same footing with the others who were employed in our service.

The motion to adhere was agreed to.

Mr. GWIN. I move that the Senate agree to the House amendment to the Senate amendment No. 38.

The motion was agreed to.

Mr. GWIN. I now move that the Senate insist upon its other amendments, and ask a committee of conference, and that the Chair appoint the committee.

The motion was agreed to, and the same committee was reappointed.

GARDINER HERRING.

Mr. GEYER. I am instructed by the Committee on Pensions to ask to be discharged from the further consideration of the bill from the House of Representatives for the relief of Gardiner Herring.

The motion was agreed to.

Mr. CHASE. I ask the Senate to take up that bill and act upon it. It has passed the House, and the only difficulty with the committee was, that the statement of the soundness of Herring at the time he entered the service was not sworn to. I am informed, and believe, that a sworn statement was filed and was mislaid. It is a very meritorious case. The man is crippled and infirm and very old. I hope the Senate will act upon it. My friend from Missouri says he is satisfied with the claim, and will vote for it.

Mr. GEYER. When the subject was before the committee, the only evidence consisted of unsworn statements made by a number of persons in relation to the state of his health prior to his entering the service, together with several opinions also expressed, and some of them sworn to. I was instructed by the committee to ask to be discharged, but upon further examination, I find that the state of the health of the applicant before he entered the service was sworn to by one witness. It was satisfactory to me. There has not been a meeting of the committee since I ascertained that fact. I am disposed to vote for the bill.

Mr. ADAMS. I know nothing of the merits of this case——

Mr. CHASE. I am satisfied with it.

Mr. ADAMS. We referred the question to a committee, and we take their report very much on trust. That committee has failed to report favorably upon the bill. Now, to take up a bill which has not been reported favorably upon at this stage of the session, it seems to me would be acting very improperly.

Mr. BADGER. I think not. Here is my friend from Missouri, the most accurate man in the world, who says that on inquiry he finds there is satisfactory evidence in the case.

Mr. ADAMS. That may be true, but the majority of the committee have not authorized him to report it.

Mr. GEYER. I desire to state, for the information of the Senator from Mississippi, that since I discovered the evidence to which I allude, among the papers, the committee has not had a meeting. If the committee had had a meeting, I intended to report upon it as a sub-committee, and report in

favor of its passage. I am satisfied they would have agreed to it.

The motion to take up the bill was agreed to; and the Senate, as in Committee of the Whole, proceeded to its consideration.

It proposes to direct the Secretary of the Interior to place the name of Gardiner Herring, of the State of Ohio, on the invalid pension roll, at the rate of eight dollars per month, from the 1st of January, 1845, during life.

Mr. ADAMS. I wish to hear some reason why the pension is to commence in 1845.

Mr. GEYER. That is the time when the proof was made, the petition presented to the House, and a report favorably made upon it.

Mr. ADAMS. When were the services rendered?

Mr. GEYER. In the war of 1812. The person was a private in the 14th regiment of infantry in that war.

Mr. ADAMS. As the case occupies a very peculiar position, I will move to strike out 1845, and insert 1853.

Mr. CHASE. I am certain my friend from Mississippi will not do that. It will involve the necessity of sending the bill back to the House.

Mr. ADAMS. As that is the case, I withdraw the amendment.

The bill was then ordered to be read a third time, and was read a third time and passed.

ROBERT GIBSON.

On motion by Mr. HUNTER, the Senate, as in Committee of the Whole, proceeded to consider the bill from the House of Representatives for the relief of Robert Gibson.

It proposes to direct the Secretary of the Interior to allow him a pension, at the rate of eight dollars a month, from the 1st of January, 1852, during life.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

LAND OFFICES IN FLORIDA.

Mr. FELCH. I am directed by the Committee on Public Lands, to which was referred the petitions of citizens of the southern portion of Florida, praying the establishment of a new land office there, to report a bill.

The bill was read a first and second time, and considered by the Senate as in committee of the whole.

It proposes to establish a new land district in Florida, and makes the usual provisions for the appointment of the necessary officers, and the transfer of maps, plats, &c., in relation to it, to the proper office.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read a third time, and passed.

WEST FELICIANA RAILROAD COMPANY.

Mr. DAWSON. It will be recollected by the Senate that my friend the Senator from Mississippi, [Mr. BROOKE,] had a bill for the relief of the West Feliciana Railroad Company. We went into Committee of the Whole upon it, and came out of committee, agreeing to an amendment, and the bill then went over to be read a third time the next day, when it was passed over in consequence of my absence. There was an amendment to it agreed to, putting a railroad in Georgia upon the same footing. I move that the Senate take up that bill now.

The motion was agreed to, and the Senate resumed the consideration of the bill. It was ordered to a third reading, was read a third time, and passed; and the title was amended by adding "and for other purposes."

COMMITTEE ON ENROLLED BILLS.

Mr. BADGER. Mr. President, by some mistake the Senator from Alabama [Mr. FITZPATRICK] has made a very careful examination of some enrolled bills. He belongs to the Committee on Engrossed Bills. In order to enable him to report them, I move that he be appointed an additional member of the Committee on Enrolled Bills.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, stating that the House concurred in the resolution that the 16th and 17th joint rule be suspended so far as relates to Senate bill No. 678; and that it had passed Senate bills Nos. 601 and 631 with amendment.

URSULA E. COBB.

On motion of Mr. FISH, the Senate concurred in the amendment of the House to the bill for the relief of Ursula E. Cobb.

The amendment of the House was to strike out of the bill the words—

"Half monthly pay which her husband was receiving at the time of his death, such compensation to commence on the 9th of May, 1848, and continue during her widowhood;"

And insert in lieu thereof:

"Ten dollars per month, to commence on the 9th of May, 1848, and to continue for and during the term of five years."

TERRITORY OF NEBRASKA.

Mr. DOUGLAS. As there seems to be no business before the Senate, I move to take up the bill from the House of Representatives to organize the Territory of Nebraska.

Mr. RUSK. I hope that bill will not be taken up. It will lead to discussion beyond all question.

Mr. ATCHISON, (Mr. BELL in the chair.) I must ask the indulgence of the Senate to say one word in relation to this matter. Perhaps there is not a State in the Union more deeply interested in this question than the State of Missouri. If not the largest, I will say the best portion of that territory, perhaps the only portion of it that in half a century will become a State, lies immediately west of the State of Missouri. It is only a question of time whether we will organize the territory at this session of Congress, or whether we will do it at the next session; and for my own part I acknowledge now, as the Senator from Illinois well knows, when I came to this city, at the beginning of the last session, I was perhaps as much opposed to the proposition as the Senator from Texas now is. The Senator from Iowa knows it; and it was for reasons which I will not now mention or suggest. But, sir, I have upon reflection and investigation in my own mind and from the opinions of others—my constituents whose opinions I am bound to respect—come to the conclusion that now is the time for the organization of this Territory. It is the most propitious time. The treaties with the various Indian tribes, the titles to whose possessions must be extinguished, can better be made now than at any future time; for as this question is agitated, and as it is understood, white men, speculators, will interpose and interfere, and the longer it is postponed the more we will have to fear from them, and the more difficult it will be to extinguish the Indian title in that country, and the harder the terms to be imposed. Therefore, Mr. President, for this reason, without going into detail, I am willing now that the question shall be taken, whether we will proceed to the consideration of the bill or not.

Mr. ADAMS. I wish to make an inquiry of the former chairman of the Committee on Indian Affairs, [Mr. ATCHISON.] I desire to inquire whether the country to be embraced in this Territory belongs to the Indians?

Mr. DOUGLAS. If the Senator will allow a vote to be taken, and the bill to be taken up, he will see how it is.

Mr. ADAMS. I want to know now.

Mr. DOUGLAS. But this is not proceeding regularly. Allow the bill to be taken up, and then discuss it.

Mr. ADAMS. It is the first time that I ever heard such objection raised in this body as that such remarks were irregular. It would be contrary to precedent not to be irregular. [Laughter.]

Mr. DOUGLAS. I have no objection to discuss the merits of the bill, but I want a free scope of debate allowed. If the Senate will allow the bill to be taken up, I will endeavor to explain the matter.

Mr. ADAMS. I am not willing to take it up until I am convinced that we have jurisdiction over it. If I am correctly informed in relation to it, the portion of country proposed to be embraced in this new Territory is Indian territory. According to the treaties we have formed with the Indian tribes they have the usufruct of the land; that is, they have a right to occupy the territory, according to treaty stipulations with the United States, in all time to come, if they think proper to keep it. But the Government has reserved to itself the right, in the event of their selling it, to purchase it. The only power, the only title that the United States has to any portion of the territory, as I understand it, is the right to purchase it. The Government has the eminent domain, but the *usufruct* belongs to the Indians, if they think proper to keep it, in all time to come. If there is one foot of it there, we have no right to extend our jurisdiction over it. Again: I am told that there are not one hundred white people there, and they are all trespassers. To attempt, then, to call this bill up and pass it, with so thin a Senate as this, is, in my humble judgment, improper, and cannot meet my approbation. If it were a private claim, a mere matter of justice to an individual, I would have no objection; but at this stage of the session to call up a measure of so much importance, it seems to me, should not be done, and I shall resist, by all the means known to me, consistent with the rules of the Senate, the consideration of the bill at this time.

INDIAN APPROPRIATION BILL.

Mr. SEBASTIAN. The Committee of Conference on the disagreeing votes of the two Houses on the Indian appropriation bill, have been unable to agree. I therefore do not make any report as such, but feel myself authorized and instructed, in consequence of the understanding between the members of the committee, to say that we could have agreed upon all the points of difference, being five out of six, except the ninth amendment of the Senate, which was an amendment in reference to military Indian reservations in California. Upon that the Committee of Conference was unable to agree. I will further state, that the terms upon which we agreed, or the terms upon which we are likely to agree, would be by the Senate receding from amendment No. 5 to the bill, which is a proviso in reference to the payment of money to any agent, which was offered and recommended by the Senator from Texas, inflicting penalties for its violation. The committee of the House was willing to recommend to the House to concur in the sixth amendment of the Senate, by which the appropriation of $15,000 to the Texas Indians was increased to $30,000, with the proviso proposed to be added:

"Of which sum, $15,000 may be expended in such manner as the Secretary of the Interior may deem necessary for subsistence and preserving peace with the Indians."

The committee on the part of the Senate agreed to recommend that the Senate recede from the appropriation for the value of the reservation to Andrew Taylor, and from the amendment embracing the extension of the time of the land commissioners in California, upon the ground that there was no necessity for passing it now, because the commission would not expire until March, 1854. So that the committee could have agreed upon every point, with the exception of the one for collecting the Indians together in California. It was understood, however, that if the Senate acted upon this intimation, so far as to recede from the other amendments, the committee on the part of the House would undertake, on their individual responsibility, to recommend the House to concur in the amendment in regard to the California Indians. I have now stated the prospect which the bill has, but make no report. I therefore move that the Senate recede from its 5th, 8th and 10th amendments, and insist on its 6th and 9th, and ask a committee of conference.

Mr. BORLAND. I desire to make an inquiry of my colleague with regard to the 5th amendment. I do not clearly understand the views of the committee on that subject, or the position in which it stood.

Mr. SEBASTIAN. The fifth amendment was a proviso to the effect that the money should not be paid to any other person but the one to whom it was appropriated. The committee agreed to recede from that, on the ground that there is already a provision of general law applicable to the case. It was observed by the committee of the House that it would work with peculiar hardship upon the Indian chiefs here attending to their business, particular reference being had to the Shawnee chiefs.

Mr. HOUSTON. I think it was tantamount to a sanction of corruption, fraud, and swindling.

Mr. SEBASTIAN. I will divide the motion, and move now that the Senate recede from its 8th and 10th amendments.

The motion was agreed to.

Mr. SEBASTIAN. I now make the motion to recede from the 5th amendment.

Mr. HOUSTON. The objection made cannot apply to this. It was insisted upon by gentlemen who wished to pay the money to the Shawnees in the State of Ohio, that it belonged to that tribe of Indians, and that the money belonged to them *per capita*. The Government is not, I hope, going here, in the discharge of the trust confided to it, to hand over to the Shawnee chiefs the amount of money in precious metals, because it would be unsafe to trust that amount to them in traveling, for they have not the same protection that the white man has. If it were so given, and lost, the Government would still be amenable to the nation, who have a right to claim it *per capita*. They say that it is inconvenient to pay in the manner proposed; that some of the Shawnee chiefs objected to it. Has the Government listened to the objection made by the Indians as to any particular mode in which they wish to treat them? It is the first time the voice of the Indian has been heard in opposition to the power of this Government, unless with his rifle in his hand, and in his own savannas. It is the very first time that we have heard of it, and here it comes up all at once to interpose in the execution of some very important matter connected with the well-being of the Indian.

I will read the proviso to show that the objection has no application, and that there is no objection to it, unless it is for the purpose of sanctioning fraud and imposition upon the Indians:

"*Provided*, That the sum aforesaid shall be paid to the said tribe *per capita*. If any Indian agent, or other person shall violate this proviso, he or they shall be guilty of felony, and shall be liable to indictment in the jurisdiction in which the Indians reside, and punishable by fine and imprisonment, the fine not to be over $1,000, or less than $500, and to be imprisoned not more than ten years or less than five."

This does not prevent the Government paying the Indians *per capita*. A law is in existence, apart from this, requiring that from its passage all appropriations made for the benefit of the Indians should be paid *per capita*. There was a provision of law, and how has it been regarded? What do we hear from Minnesota? Six hundred and odd thousand dollars were appropriated by Congress for the benefit of the Indians there to repay them for their lands, and provide for their sustentation for the present winter and the coming season, as they had to remove to another section of the country. Now, this law was in existence, and yet the Secretary of the Interior, regardless of it, because there was no penalty affixed to its violation, sent that money, and the Indians are now in a starving condition, because the money has not been properly appropriated. The man who found them in their starving condition, and provided for them, received not one cent, although his account was only $12,000, with sufficient and good vouchers, while the man who was their attorney here received some fifteen per cent., amounting to some seventy-odd thousand dollars of the appropriation. His name was Tyler. Mr. Wat Tyler I think they call him. He was their attorney, and came forward and said he was entitled to the percentage.

Mr. PEARCE. Will the Senator state when that transaction took place? Was it since the act of 1852?

Mr. HOUSTON. Yes, sir; it was within the present year; within a few months past. I do not know precisely when the act was passed.

Mr. PEARCE. It was August 30, 1852. I want to know whether that took place since the passage of the act?

Mr. HOUSTON. It must have been since that time, though I am not sure. Perhaps some gentleman can give me information on that point. I know it has been recently done, and there was no penalty affixed to the act. It was not made a felony.

Mr. PEARCE. The act of 1852 provided that all payments hereafter made to Indian tribes should be paid *per capita*, with a few exceptions. First, when the treaty stipulation required otherwise. Second, when, in the opinion of the President of the United States, imperious necessity required him to depart from that restriction of law. It may be that in the case to which the Senator alludes, there was some treaty stipulation requiring it; but it is very manifest that there is just the same restriction upon the Executive, and the same security that that provision would be respected by them in this case, as in an ordinary case of taking money out of the Treasury without the sanction of law.

Mr. BAYARD. I would suggest to the Senator from Texas, that this bill is to go to the House with the request on the part of the Senate for a Committee of Conference.

Mr. BORLAND. To recede from this amendment?

Mr. BAYARD. Precisely; and to insist on others.

Mr. HOUSTON. I move to insist on this proviso; and I do it through respect to the Senate and for the honor of the Government. I do it for the sake of the Indians; and above that, I do it in honor of the eternal principles of justice and truth and honesty. We can rescue the Indians from the cupidity of the wretches who congregate around them like loathsome birds seeking for offal.

If a transaction of this character had taken place within the limits of any State or Territory, and the same outrage had been perpetrated upon an individual, and the penal laws of the country had been brought to operate upon the person who swindled him out of this amount, or robbed him, the swindler would have have been put in the pillory, attached to the whipping-post, or consigned to the walls of the penitentiary. If we are determined to correct the abuses that exist in our land, and assist these people who look to us for help, and cry for justice and right, we have now the opportunity of insisting upon it; and I would sink beneath the foundation of this Capitol sooner than sanction such an imputation as that I had not listened to their voice of complaint, when calling for justice.

Mr. BAYARD. I trust my friend from Texas will withdraw his opposition. The object which he wishes to attain can be reached by a separate bill. If we do not recede from that amendment, we shall probably lose the bill. This provision only applies to a single case.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) The question is on receding from the fifth amendment.

Mr. HOUSTON. I was just going to state that the other act was a mandatory act, but there was no felony declared nor penalty attached; it was merely mandatory. That was all, and there it ceases.

Mr. BORLAND. The Senator from Delaware suggests that it is not right to attach these penalties to an appropriation bill, and that the case can be reached by a separate bill. Now, the Senator must see that the very object of attaching the penalty to the appropriation bill is to provide against the misappropriation of the money in this case; and if the penalty is not attached here, the outrage may be perpetrated before the law can be passed providing for its punishment. The object is to send the penalty along with the appropriation, so as to protect it, and make sure that the money goes into the hands of those for whose benefit we appropriate it.

Mr. HUNTER. Unless we place some confidence in the Committee of Conference, we cannot get along. It is now a quarter-past six o'clock in the morning.

Mr. RUSK. Did I understand the Senator from Maryland to say that the law of the 30th August, 1852, was mandatory on the President and Secretary of State to pay out the money *per capita*?

Mr. PEARCE. Yes, sir.

Mr. SEBASTIAN. I merely wish to say that the whole of the argument of my colleague and of the Senator from Texas may be correct. But the question is, how much the Senate will recede from to obtain much from the House. That is the question which is presented.

The question was taken on the motion to recede, and no quorum voted.

Mr. PEARCE. I believe it was decided this morning to be in order to speak when there was not a quorum present. I desire to call the attention of the Senator from Texas to a provision already in the Indian appropriation bill, which is not the subject of disagreement. The third section of this very bill contains this provision:

"That no part of the appropriation herein made, or that may hereafter be made, for the benefit of any Indian, or tribe, or part of a tribe of Indians, shall be paid to any attorney or agent of such Indian or tribe, or part of a tribe, but shall in every case be paid directly to the Indian or Indians themselves, to whom it shall be due, or to the tribe or part of a tribe, *per capita*, unless the imperious interest of the Indian or Indians, or some treaty stipulation, shall require the payment to be made otherwise, under the special direction of the President. Nor shall the Executive branch of the Government, now or hereafter, recognize any contract between any Indian or tribe, or part of a tribe, and any attorney or agent for the prosecution of any claim against any of the Departments of the Government."

Mr. HOUSTON. Does it provide for either whipping or branding?

Mr. PEARCE. It does not; nor for burning alive, nor for breaking on the wheel.

Mr. HOUSTON. Then it ought to provide for all.

The PRESIDING OFFICER. Does the Senator from Arkansas insist on a division?

Mr. BORLAND. If the Senator from Texas says he is satisfied, I shall not persist in my opposition. But I must say, that for my life I cannot understand why there should be any objection to imposing a penalty for so grave a crime as the misapplication of the appropriation would be.

Mr. HOUSTON. In the hope that the swarm of flies are pretty well filled, and will leave the fox but little, I withdraw my opposition.

The motion to recede from the fifth amendment was agreed to.

Mr. SEBASTIAN. I now move that the Senate insist upon the sixth and ninth amendments.

The motion was agreed to.

Mr. SEBASTIAN. I move that the Senate ask another Committee of Conference.

Mr. BORLAND. I thought the reason urged for receding in the other case was, that the bill might pass. Now, there is a proposition to insist on other amendments. It is not carrying out the purpose which was stated.

Mr. SEBASTIAN. I stated that the object of receding was in order to bring out the points of difference upon which the committee on the part of the House gave their assurance that they would, on their own responsibility, recommend the adoption of our amendment upon which they could not agree. It was believed that in this way the difficulty might be removed, and the only points of difference between the two Houses would be acceded to by the House.

The motion to appoint a Committee of Conference was agreed to, and the former committee was reappointed.

MESSAGE FROM THE HOUSE.

A message was received from the House of Representatives, by Mr. HAYES, Chief Clerk, announcing that the House had agreed to a second Committee of Conference upon the naval appropriation bill; and that Mr. STANLY, Mr. A. JOHNSON, and Mr. J. G. JONES, were appointed the committee on the part of the House; and that the House of Representatives had passed the joint resolution, No. 79, "in amendment of a joint resolution relating to the duties of inspectors of steamers, approved 7th January, 1853," with an amendment, in which it asked the concurrence of the Senate.

STEAMBOAT INSPECTORS.

Mr. JAMES. I ask the unanimous consent of the Senate to take from the table the joint resolution in amendment of a joint resolution relating to the duties of the inspectors of steamers, approved 7th January, 1853. The House has passed it with an amendment.

Mr. BORLAND. That is an important joint resolution. I do not wish to delay the Senate; but I wish to know the effect of the amendment.

Mr. HAMLIN. The law provided that a certain kind of iron should be used for steam boilers. And this provides for the inspection between this time and the 1st of July, when the act is to go into effect. The second provision of the Senate provides that no person engaged in the manufacture of any article shall be an inspector, by which you would exclude every practical manufacturer. The object of the amendment is to exclude those who own patents.

Mr. RUSK. That is right.

The amendments of the House were concurred in.

NAVAL APPROPRIATION BILL.

Mr. GWIN. The Committee of Conference on the naval appropriation bill are prepared to report. By it the Senate will recede from the amendments for the New Orleans depôt and naval workshop for the California navy-yard, and for the Cape Fear and Savannah rivers.

The report was concurred in.

JACOB SHAY.

On motio n by Mr. MASON, the Senate, as in Committee of the Whole, proceeded to consider

the bill from the House of Representatives for the relief of Jacob Shay. It proposes to direct the Secretary of the Interior to place his name upon the invalid pension roll, at the rate of eight dollars per month for life, from January 1, 1852.

The bill was reported to the Senate without amendment, ordered to be read a third time, read a third time, and passed.

COMMITTEE ON PUBLIC LANDS.

Mr. BORLAND. I desire to offer the following resolution:

Resolved, That the Committee on Public Lands be, and they are hereby, authorized to have printed the maps of the public lands which are now prepared and in course of preparation for their use.

I will state that the Committee on Public Lands have had a gentleman employed in the preparation of maps for the committee; and the object of the resolution is to have such printed as they may think proper.

The resolution was agreed to.

STEAM LINE TO CHINA.

Mr. GWIN. I had great hopes that I should be able to get a steam line established from San Francisco to Shanghai. In order that I might have information before the Senate in the most authentic form, I have had prepared with great accuracy, care, and labor, a map—such a one as there is not in the world—and I want it printed for the use of the Senate. I move that it be printed.

The motion was agreed to.

Mr. BORLAND. I move that one thousand additional copies be printed.

Mr. MASON. I shall object to the extra number.

The PRESIDING OFFICER, (Mr. FOOT in the chair.) It will go to the Committee on Printing, under the rules.

Mr. BORLAND. I think not. I do not think the rule requires this. The rule is for public documents; but for printing a map, I do not think that is the rule.

Mr. MASON. My objection is not to the printing of it itself, but if we print the extra numbers it may give an indorsement to it, and we are not aware of the character of the map.

Mr. GWIN. It has been gotten up with extraordinary care, and there is not such a map in the world. I am content, however, to print but the usual number.

The motion to print the extra number was referred to the Committee on Printing.

COMMITTEE ON NAVAL AFFAIRS.

On motion by Mr. GWIN, it was

Ordered, That the Committee on Naval Affairs be discharged from the further consideration of the business now before the committee.

CIVIL FUND IN CALIFORNIA.

Mr. GWIN. Some nine or ten months ago, I made a speech in regard to Californian affairs, in which I stated, that out of the civil fund $70,000 had been advanced to Commodore Jones, to go to Lower California, to bring emigrants into California. I obtained that information from official documents. Commodore Jones subsequently addressed me a note upon the subject, in which he stated that it was a mistake. He had never received one dollar to bring emigrants there. I want to do justice to that gentleman by giving him the benefit of the denial. I must say, however, in vindication of myself, that I found the statement in an official document of the Government, and I never heard of its being contradicted, although it had been published for years before. Inasmuch as that gentleman has denied it, the report is no doubt a mistake.

ALEXANDER P. FIELD.

A message was received from the House of Representatives, by Mr. HAYES, its Chief Clerk, announcing that it had passed the joint resolution for the relief of Alexander P. Field, late Secretary of Wisconsin, and sureties, with an amendment.

The Senate proceeded to consider the amendment, and concurred therein.

NEBRASKA TERRITORY.

The Senate resumed the consideration of the motion to take up the bill to organize the Territory of Nebraska.

Mr. ATCHISON, (Mr. FOOT in the chair.) I did not expect opposition to this measure from the quarter from which it comes—from Texas and from Mississippi. I had thought that Arkansas, Missouri, and Iowa, were more particularly interested in this question.

Mr. President, I will now state to the Senate the views which induced me to oppose this proposition in the early part of the session.

I had two objections to it. One was that the Indian title in that territory had not been extinguished, or at least a very small portion of it had been. Another was the Missouri compromise, or, as it is commonly called, the slavery restriction. It was my opinion at that time—and I am not now very clear on that subject—that the law of Congress, when the State of Missouri was admitted into the Union, excluding slavery from the Territory of Louisiana north of 36° 30′, would be enforced in that Territory unless it was specially rescinded; and, whether that law was in accordance with the Constitution of the United States or not, it would do its work, and that work would be to preclude slaveholders from going into that Territory. But when I came to look into that question, I found that there was no prospect, no hope of a repeal of the Missouri compromise, excluding slavery from that Territory. Now, sir, I am free to admit that at this moment, at this hour, and for all time to come, I should oppose the organization or the settlement of that Territory unless my constituents and the constituents of the whole South, of the slave States of the Union, could go into it upon the same footing, with equal rights and equal privileges, carrying that species of property with them as other people of this Union. Yes, sir, I acknowledge that that would have governed me, but I have no hope that the restriction will ever be repealed.

I have always been of opinion that the first great error committed in the political history of this country was the ordinance of 1787, rendering the Northwest Territory free territory. The next great error was the Missouri compromise. But they are both irremediable. There is no remedy for them. We must submit to them. I am prepared to do it. It is evident that the Missouri compromise cannot be repealed. So far as that question is concerned, we might as well agree to the admission of this Territory now as next year, or five or ten years hence.

Another reason that I will assign why I was opposed to this measure, and why I still think it objectionable in a local point of view, so far as my immediate constituents, the people of western Missouri, as well as those of Iowa and Arkansas, are concerned, is, if you organize the Territory of Nebraska and extinguish the Indian title, and let in the white population upon that Territory, it extends our frontiers from seven hundred to one thousand miles west, and we raise up competition with what we now have. The States of Iowa and Missouri have now the best market for all their products. We are an agricultural people, and for all the products of agriculture we now have as good a market as any people of the United States, and it grows out of the frontier trade; food for men, food for oxen, food for mules, food for everything, which we produce for California, Oregon, and New Mexico. But, if we extend this frontier from year to year, competition will increase, and we will be compelled to turn our agricultural products down the Missouri and the Mississippi rivers, to the east instead of the west. I know that all the intelligent portion of our people understand this question; and, sir, there is no such great anxiety among that portion of the people for the organization of the Territory of Nebraska; but yet we are not so selfish but that we are willing to extend the power of the United States still further west. We know that it must come, and that in a very few years. The pressure of population from the older States, and from Europe has been such that they roll up against the frontier, and the most populous counties in the State of Missouri are upon the western boundary line of that State. In less than three years from this time, the most populous counties of Iowa will be upon the western border; and it will be the same case, if it is not now, with the State of Arkansas. Her frontier counties, I doubt not, are the most populous. There is no doubt about it. And why is it so? Why, sir, the tide of emigration rolls on until it is stopped by the intercourse laws. Such has been the case in our State for the last ten years, and I know that the tide of population has been rolling back upon the interior of the State. Now, sir, I know very well that in a very few years, if it is not doing it now, the tide of population, in defiance of this Government, will pass the frontier and take possession of every habitable spot in Nebraska Territory; you cannot keep them out. There is a large portion of our population who are now ready and anxious to abandon their homes to go into this Territory. You cannot restrain them much longer, and I tell my friend from Tennessee, who has some interest in this question, that East Tennessee, Kocke county, Sevier, and that region of country, will pour forth their thousands, as they do annually, some of the best population of Tennessee.

Mr. BELL. It is a fine population, too.

Mr. ATCHISON. Yes, sir, it is a very good, honest, and industrious population. I have said about as much as I intended to say, and a great deal more. [Laughter.] I trust now that the bill will be taken up, and that we will act upon it and pass it. Mr. President, it only remains to have the action of the Senate to make it a law.

A SENATOR. The President of the United States.

Mr. ATCHISON. The President will sign it, as a matter of course, if he signs any of the appropriation bills. There is no question about that. We have votes enough, and I have no doubt but there is a majority of the Senate in favor of the organization of the Territory of Nebraska, if you will only give us an opportunity to vote.

But I must not stop here. The Senator from Texas, who addressed the Senate on a former occasion in opposition to this, suggested another idea. What was his objection to the measure? It was a selfish one. But I do not blame him. It is his duty to watch over the Indians of his State. His objection was that the Indians in the Nebraska Territory would be turned down upon the border of Texas.

Mr. RUSK. And scalp the women and children upon the borders of Texas.

Mr. ATCHISON. Is it more probable that these Indians, if they should relinquish their title to their lands in that region of country, and even if they should be clustered upon the borders of Texas, would make war upon Texas than they now do upon Missouri, Arkansas, and Iowa? Sir, the Shawnees, the Delawares, the Kickapoos, and fifty other tribes on the borders of Missouri, are, and have been since their location there, our best protection against the depredations of the wild prairie Indians. Every man of common experience, who knows anything of our country, knows this. I know that the Senator from Texas has a knowledge of the affairs of his State, and the Indians upon her frontiers; but still I must be permitted to state that I believe he will not be borne out in his position by the Senator from Arkansas, who was a resident upon the frontier. We all know that the Indians never made any depredation upon us. They are our best guards. It is the wild Indians of whom we are in danger; and the Shawnees, the Delawares, the Kickapoos, and others upon your western frontier, would be your best guard against the wild Camanches, Pawnees, and others. What I state, I know to be true in relation to ourselves, whatever it may be in relation to Texas. Then I consider that there is nothing in the objection urged by the Senator from Texas. I do not think that there can be any good reason assigned why the Territory should not be organized, unless Senators be operated upon by the same fears that operated upon me not many months since.

Mr. HOUSTON. I believe the honorable Senator has concluded; and as the Senate is perfectly at leisure, I may as well say a few words now.

Mr. DOUGLAS. I wish to know whether it is in order to discuss the merits of a bill upon the motion to take it up?

Mr. HOUSTON. I will merely go into the questions raised by the honorable Senator from Missouri.

Mr. DOUGLAS. I shall insist upon the rules being enforced. As I understand the rule, it is not in order to discuss the merits of a bill on a motion to take it up.

Mr. ADAMS. Before the gentleman raises the question, I beg leave to suggest that the only thing in order is debate, there not being a quorum present.

Mr. HOUSTON. I will certainly confine myself to the rules of the Senate, because I am sure

that the Presiding Officer of the body would not transcend the proper rules of the body himself, [laughter;] and I will not take a greater latitude than he has done. When I restrain myself to the very standard of propriety and intelligence, that is enough.

The honorable Senator says that he has no expectation that the Wilmot proviso will ever be repealed. Now, sir, I had as much respect for, and came as near sacrificing myself upon, the Wilmot proviso as any gentleman in the Senate. I voted for the organization of the Oregon Territory upon the faith of the Wilmot proviso, while it was repudiated by the honorable Senator himself, and by every other southern Senator. It was the Missouri compromise principle which was there, which was the same thing as the Wilmot proviso.

But the gentleman talks about the condition of the frontier bordering upon these Indian tribes. He says they are restrained there by nothing but the dread of the law. They are dying out of the Missouri States. They are commanded to stand against all the Indian tribes east of the Rocky Mountains, and they require and receive protection from those Indians occupying the borders. I have no doubt that an Indian would make a peaceable arrangement with the honorable Senator. If they would let the Indians alone the Indians would let them alone. We have evidence of their law-abiding disposition in the presence and conduct of the honorable Senator who fills the presiding chair of the Senate with so much propriety and fitness; and yet he says that the citizens, those gallant and numerous hordes of soldiers, will break loose and exterminate the Indians, or dispossess them of their soil, and violate all the sacredness of the pledge given and indorsed by the highest functionaries of the Republic. I will read only one provision in the treaty with the Cherokees, the article which was made in 1835, fourteen or fifteen years after the principle of the line of 36° 30′ was established. In the fifth article of that treaty is the following:

"The Cherokees and the United States hereby covenant and agree that the land ceded to the Cherokee Nation in the foregoing country shall, in no future time, without their consent, be included within the territorial limits or jurisdiction of any State or Territory."

Mr. ATCHISON. I will ask whether the territory ceded by that treaty lies in any part of Nebraska? The bill does not touch the territory ceded by that treaty.

Mr. HOUSTON. I assure the honorable Senator it does, for I am as familiar with that country as I am with the Capitol grounds. I know the Grande river or the Neosho for one hundred and thirty miles from its junction with the Arkansas; and I know the Arkansas and the Canadian; and I know their several junctions, their length, their direction, their parallels, and it does embrace the territory of the Cherokees, or a large portion of it, and it is so laid down in the map. Why, here is the article with the Shawnees which has no less than eighteen tribes of Indians embraced within the limits, solemnly provided for with a simple provision, that they are to be protected by the execution of the laws under the Constitution and treaties, the most solemn compacts that can be made. Whether they are to be protected by them, or whether they are to be disregarded by the Senate, or whether they are to be rifled of their just rights, is a question for the Senate. We have guarantied the land to them. In certain cases it has been patented to them, and they were to retain it until they left it of their own accord. We should not disturb them, for the heavy pressure which is made upon the frontiers of Iowa, Arkansas, and Missouri. We should not disregard the provisions of law under the Constitution. I will read from one of the acts of Congress for the benefit of the Senators from Missouri and Illinois:

"*Be it enacted by the Senate and House of Representatives, &c.*, That it shall and may be lawful for the President of the United States to cause so much of any territory belonging to the territory of the United States west of the river Mississippi, and not in a State or organized Territory, and to which the Indian title has been extinguished, as he may judge necessary, to be divided into a suitable number of districts for the reception of such tribes or nations of Indians as may choose to exchange the lands where they now reside, and remove there, and to cause each of said districts to be so described by natural or artificial marks as to be easily distinguished from each other."

Then, in the 3d section, it is further enacted:

"That in making any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nations with which the exchange is made, that the United States will forever secure and guaranty to them and their heirs and successors, the country so exchanged with them; and if they prefer it, the United States will cause a patent or grant to be made and executed to them for the same: *Provided*, That such lands shall revert to the United States if the Indians become extinct, or abandon the same."

Sir, the tribes emigrated under the faith of treaties. They had become civilized under the influence of the missionary preachers, and they are advancing in civilization every day. What was once the home of the red man has become the garden of civilization. They are not Indians to be regarded as they once were; for having lived in juxtaposition with the whites on the east of the Mississippi, they have imitated and adopted the arts of agriculture and peace, and are now improving themselves in science and literature, and in everything that is calculated to develop the resources of the human mind.

I can go back to their history since the treaty of 1817, and detail pretty correctly the incidents that have befallen the tribes who have removed west of the Mississippi river from that time to the present. During Mr. Jefferson's administration, he sent to the Cherokee nations inviting them to send a delegation to Washington city. They complied with that, and promises were made to them to the end that if they would remove west of the Mississippi, and abandon their lands on the east of the Mississippi, they should have there a perpetual home, and never again be disturbed—never driven from them. Upon the faith of these promises, they emigrated first to St. François and remained there for some years. The Osages were then numerous, powerful, and warlike. They poured down upon this little band of Cherokees who were settled there. After some time, Talonkista, a war chief from the Cherokees east of the Mississippi, went to them, and remained there for a number of years, and then removed up to what was called Point Remove, on the Arkansas river, above Little Rock a considerable distance, leaving St. François and the settlements in that vicinity. These remained at Point Remove until some time about 1827, I think it was. In the mean time, from the point where Fort Smith now stands, on the Arkansas, to Fort Gibson, on the Neosho, the land was acquired by Major Lovely, representative and sub-agent of the Cherokees who had emigrated to the West, and it received the name of Lovely's Purchase. The white people immediately went into that country and made settlements, and were then locating the settlements on the Arkansas Territory, in the rear of the Indians and west of them. A treaty was proposed by the Government of the United States to exchange Lovely's Purchase, as it was called, with an additional quantity of land lying between Grande river or the Neosho, to a point on the Arkansas river. The Indians made the exchange, and removed from Point Remove, about ninety miles west, to what was called Lovely's Purchase, and left the Territory of Arkansas clear, the Arkansas river, from where Van Buren stands, becoming the line or point of separation between the whites and the Indians. Then it was necessary to remove, or to provide a country for the Creek nation of Indians that were about to emigrate to that country. The Cherokees were curtailed of their lands, and the Creeks settled upon them; and with the consent of the Cherokees, their limits were curtailed from the treaty stipulations that had been made with them. Subsequently to that, the Choctaws and Chickasaws were removed up the country between the Boto river and the Red river, at Fort Towson. The Cherokees acquiesced in that, and that was given to one half of the nation, those who had emigrated to the Arkansas, and settled at Point Remove when the transfer was made. Subsequently to that, without the full consent of the Cherokees, they organized a government according to their custom, upon the model of the whites.

To tell the truth, Mr. President, I think the Indians have been badly treated up to this day, when it is now proposed to sanction an additional wrong upon them. I feel bound to stand up in the maintenance of their right; and the faith of treaties should be complied with; for if you take from them what it is now proposed, you had better take their lives—it would be an act of mercy. If you deny them justice, if you deny them the common rights of humanity, you may well assimilate the outrages of this Government with those that England is charged with having committed in the Indies. If you intend to maintain the faith of treaties, do so. The Indians are as sensitive to wrong, and as susceptible to kindness as the proudest man who stands in this Chamber.

We never have known the cases of injustice that have been done to the Indians. We never have appreciated the broad land which we possess which was once theirs, when they felt as proud and as lordly in traversing their unbroken forests as the proudest possessor does his cultivated domain. The Indian could then appreciate his liberty. He was as loath to part with it as you would be to part with your extended possessions. Was not the chief as much revered and respected as is the Chief Magistrate of this nation? Think you that the Indians had no Washington? Think you that they have no heroes to protect their wives and children? Think you that they do not go to battle and bring home the trophies of victory? Think you that the admiration of them was less than the admiration of great warriors amongst us? They are men, Mr. President, and have high impulses—the same high impulses that stimulate us to noble and generous deeds. Is it not wrong, with more cultivated intelligence, to disregard their necessities and forget their wants? Sir, they claim nothing but right; they ask for no favor—they expect no boon. If you intend to do any justice to them, redeem your plighted faith. Send honest men to pay their annuities; and when they come amongst you, set them the example of hospitality and good faith, and they will emulate your example, and you will make them equal to yourselves. They have claims upon you, however little they may be regarded, and you must redeem your faith to them. If they had no claims previously, superior intelligence on the part of the white man has placed the officers of this Government under obligations to the Indians.

When we reflect upon what the Indian once was, and upon the reverse which has taken place since the time he roamed over this vast continent its sole possessor, when he crossed the mountain summit, when he kindled his beacon fires upon their heights to admonish the friendly tribes of his presence, and concealed his night fires from his adversaries, when he was the proud monarch of all he surveyed, and had a vast continent for his domain illimitable, when he knew that he was the possessor of all, and when he was able to go to war with all nations, and if victorious, like Alexander, extend his dominion to some unknown portions of the world, we should endeavor at least to fulfill our pledge to him. A sad reverse has come upon him. No longer the proud Indian, he is looked upon as a degraded being not equal to a white man. He is not exactly a serf to the white man. He has claims to your justice. Wrong has been returned to him for his kindness, and it seems that the once proud possessor of your country is only to be visited by Divine vengeance, for having permitted the landing of the first white man upon the continent. Think you that he believed he saw evil in the white speck upon the ocean, which he beheld advancing towards his shore? Did he feel that it was the destroyer of his race, and that it boded as much evil to him as the advent of the serpent into the garden of Eden? Did he believe, when he received the white man, that he was receiving the enemy of his race with the power greater than all he knew or thought of? Little did he fancy the extent of the ruin involved. The evil was small at first, but has enlarged every moment from that time to the present, until the white man's step of some nation or other has effected the almost total extermination of his race. How many have melted away, like the dews of the morning, leaving no trace behind? You could hardly tell, unless you looked into some musty volume, where are recorded the tribes which once existed in this broad land, and have passed away.

Well, sir, the Indian no longer with pleasure walks the proud lord of the forest, or stands in the contemplation of some broad river flowing at his feet, or contemplates the beautiful lawns, with lofty trees protecting him from the vertical sun. This is no longer the enjoyment of the Indian. He is deprived entirely of all these delights. You circumscribe him within a little space of country, embracing but a few square miles, and tell him that these are the limits of his domain; and the Indian is left with the reflection that he has no guarantee for his safety.

I call upon my country to raise the Indian from the unhappy lot into which he has been plunged, and if possible so to act that what we do shall be to the advantage of the Indians; and that some atonement may be made for past wrongs by improving his physical condition, and elevating his moral man. This I call upon my country to do. I demand it in the name of justice and humanity, and in the name of freedom, whose symbol adorns your walls, and the father of whose liberty was the red man's friend. All these associations would elevate us, and should at least prompt us to place honest men in positions of trust to deal with the Indians, to rescue them from the harpies and cormorants that have hung around them.

I do not think that any appeal which I could make to the Senate would produce any impression favorable to the Indian, to redress his wrongs, or mitigate the anguish of his spirit. So far as my knowledge of the Indian character has extended, from boyhood even up to the present time, I have found that when associated with these people, and when they felt they were away from the iron hand of oppression, they were as generous, as faithful and true to friendship, and as noble in the higher attributes which adorn humanity, as any man that I have met in the most refined and civilized walks of life. I would be far from assigning to the Indian a degraded position. There are different classes among them as among us; and you will find that the qualities of men are modified by the influences which surround them. You will find in the Indian character the germs of integrity, as you find in the corresponding classes of our society in the transaction of business. You will find them generous, noble, faithful, daring and chivalrous. You will find their chiefs elevated in their condition and feeling, and as chivalrous as the proudest man that adorns the annals of Christendom. I call upon you to do justice to them, and protect them.

Mr. BELL. I do not know what object can be accomplished by this debate. The morning of the 4th of March is breaking, and only five or six hours of the present Congress remain. The honorable Senator from Illinois, however, having moved the consideration of this bill, I shall take great pleasure in hearing from him what he proposes.

Mr. DOUGLAS. If the Senator is anxious for me to go on now, I will.

Mr. BELL. The Senator can select his own time. I have no anxiety to make a speech to vacant seats. There is less than a quorum present on a question of this magnitude. It only shows what interest the Senate takes in such questions. But if the Senator means to insist that he regards this question as of intrinsic importance, then I shall beg to be heard upon it. It relates to a question directly and fundamentally connected with the policy of this country, in relation to our western frontier and more especially to the Indian tribes, what disposition we shall make of them; whether we shall authorize the further settlement of the white man at this time, beyond the borders of the western States, and whether we shall encourage the establishment of new territories and new States over the territories for a long time understood to be set apart for the final resting-place of the Indian. Whatever other Senators may think, I regard all these questions as of great intrinsic importance. I know there are Senators who think that they are mere trifles that can be disposed of and voted upon without a very great deal of consideration or reflection; and that, indeed, they are such that they do not deserve serious consideration and reflection. Many honorable Senators are always ready to vote upon such subjects, regarding them as all settled by the inevitable and onward progress of western settlement—by manifest destiny. They do not want to hear any debate. They consider all such questions henceforth as mere matters of routine, and such as require no explanation or further light. Mr. President, I consider them of a very different character and importance. I know the Senator from Illinois sufficiently well to know that when he moots a proposition of this description it has a meaning in it, a pregnant meaning; and he does not merely mean to fill up the space, and pass the time until the present session of Congress has passed away. What he does is pregnant with significance; and if the honorable Senator from Illinois is disposed to tell us his meaning, I am perfectly willing to hear him. I should like to know of that Senator upon what grounds he proposes, upon what principles of honesty and honor and good faith, national or private, he proposes to establish the Territory of Nebraska. This bill proposes to incorporate and establish a government over territory enough to form two new States west of Missouri and Iowa—in effect it proposes to take away from the Indian tribes a country which has been solemnly granted to them by the United States, and to compel them to seek new homes in the still further West, and I should like to meet the honorable Senator upon the issues of morality and sound policy raised by this proposition. I know that he has vast odds against me in this challenge. He has the influence of a vast, interested, and still-accumulating population, on the western borders, to urge him on and sustain him in his course.

Mr. President, I must again express my deep regret that such subjects—such vital questions as these attract no attention, and inspire no feeling in the Senate.

Sir, when it is proposed to violate every principle of national faith, of national honor, of national character, and national truth, I should like to hear from the Senator from Illinois, whoever else may be indifferent, upon what principle he can come forward here, boldly to maintain and press upon us the proposition to establish this Territory. The Senator will understand me as meaning nothing personal in what I say. I have not the slightest personal ill feeling towards him; on the contrary, I feel under obligation to him in times past for his manly and liberal course upon another great subject; and when I speak upon such subjects, I beg to be understood that I do not speak politically or pharisaically. I speak my earnest thoughts; but my opinion of that Senator is of inferior consideration. I know his character and standing before the country, and I should like to have such an explanation of this measure from him as would be satisfactory to himself.

A large portion of this Territory is guarantied to Indian tribes by treaty stipulations, which are as sacred and obligatory upon us as if a whole hecatomb had smoked upon a hundred altars in confirmation of them. About one third of this proposed Territory is held by Indians under their treaty stipulations. Where is that third situated? A very large portion of what is now particularly coveted by the border population is within the country thus held by Indian tribes, under the sacred pledge of the Government that they should never be disturbed. My honorable friend from Missouri, [Mr. ATCHISON,] who has preceded me in this debate, and for whom I have a high respect, thinks this measure expedient to the public interest; and what does he state as the reason for this conclusion? That the population upon the borders are determined to rush over into and to occupy the Territory, with or without the authority of the Government, on the very first pretext or opportunity they can find, or without any pretext. And has it come to this? And is the power of this Government reduced so low? And does it command so little respect from its citizens? Or is this progress?

I would like to know of the Senator from Illinois where he proposes that we shall locate the sixty or perhaps seventy thousand Indians who now inhabit this Territory? Do you intend to drive them upon Texas, or upon the borders of Mexico? Do you intend to press them into the narrow gorges of the Rocky Mountains, or of the Sierra Madre, and let them perish there? How do you propose to subsist them when you shall have occupied all the plains on which the Indians now pursue the buffalo? The honorable Senator will be compelled to say, "No, no; we intend to encircle them in the arms of civilized society—of the white man; we will teach them the arts of cultivation and peace; we will seduce them from their wild and savage mode of life and bring them into the practice of the mechanic arts and of agriculture." Does the honorable Senator maintain, from his knowledge of what has taken place heretofore, in the relations of the white man and the Indian on this continent, that they can be so led, so seduced, that this dream of his can ever be realized? The honorable Senator from Arkansas, [Mr. SEBASTIAN,] whose generous feelings and emotions I love and admire, was to-day led away, and at the same time led the Senate away, with the delusion that the Indians of California could be located within a few districts of some ten thousand acres in extent, in the midst of a white population, and speedily brought within the pale of civilization, and made to depend upon the cultivation of the soil for their subsistence, and still be preserved, and grow and prosper. Sir, I should be happy if I could indulge the delusion. I am not particularly devoted or attached to the Indian race; nor am I a bigot, or blinded or misled by any false sentiments of philanthropy. They must recede—they must perish before the white man, whenever he sets his foot on their land; but do not press it forward more rapidly than is necessary for your own uses and development. That is my objection to the establishment of Nebraska Territory. There is no actual demand—there is no necessity for it. You have millions and millions of acres of uncultivated virgin soil yet before you in Missouri, Iowa, Wisconsin, and Minnesota; and while so many millions of acres of good land lie vacant within the present States and Territories, and invite the settler and cultivator to settle upon and subdue them, why will you drive out these Indian tribes, whose permanent location you told them should be on the spot on which they now reside? Within the last year you treated with and bought out the Indians inhabiting territory in the Northwest large enough to form two new States, and you invited and encouraged the Indians of that region to come down and settle on the territory west and south of the Missouri river; and now you propose to establish a territorial government over the very lands to which you invited their footsteps, as to a place where they could rest in peace. These are the points which I want the Senator from Illinois to answer. He will tell me that these Indians will be improved by the progress of civilization, and improve in their condition by their closer contact with the whites. The whole history of the connection of the white man and the Indian, the honorable Senator knows, is adverse to that. I know well enough what the destiny of the Indian is to be. There are some four hundred thousand Indians in the territories of the United States—for the most either settled on or roving over the country intermediate between the States on the Mississippi on the east, and the State of California and the Pacific ocean on the west. I want the honorable Senator from Illinois to tell me where these four hundred thousand Indians are to go, and how subsisted, when you take from them, as the policy of the bill now before the Senate indicates you will soon do, every acre of good or cultivable land within that intermediate region? They must perish by starvation or by the sword. That will be their speedy destiny if the policy of this bill prevails.

With regard to the present condition of the Territory proposed to be established by this bill, I understand that there are but very few white men now residing within its limits, and the few that are residents are so in direct contravention of the laws and policy of the United States. Why do you want a territorial government there at this time? What is the object of it? I can foresee that the argument will be used, "We want a line of settlements from our present frontiers to the Rocky Mountains to protect emigration;" and I prejudge the honorable Senator from Illinois so far as to predict that that will be the substance of his argument in reply to the objections which I have raised to this bill. That is the appeal which is made to members of Congress from the western frontier. The great line of emigration must be protected from the Indians; and we want cultivators of the soil all along on the route, that provisions may be supplied to the emigrant. The power and the laws of the United States must be extended over the plains and into every fastness of the mountains; and no man who represents the frontier interest can stand against this call. But will the honorable Senator from Illinois be candid enough to admit that the Territory which he proposes to organize does include the very territory which, by treaty stipulations, has been guarantied to the Indian tribes? I want that question answered categorically. I say it does include territory so guarantied. By our treaties with the Cherokees, the Creeks, the Choctaws, the Chickasaws, the Shawnees, Delawares, and Osages, we have guarantied to them, by the faith and honor of the United States, the lands upon which they now reside for their permanent residence. Now, in several of our treaties we have

agreed to issue patents to them for the lands so guarantied. Shall we violate our pledge? Shall the idea of so indelible a stain upon the national honor be tolerated? If this bill passes, then upon the same principles, and in carrying out the same policy, the whole country west of Arkansas must be organized into territorial governments, and the settlement of white men encouraged and allowed.

Mr. President, who now pleads for the rights of the Indian? Who stands by the red man? I have not heard any one of those, who seem on other occasions to have such a superabundant flow of the milk of human kindness—such deep and profound sensibilities awakened whenever the condition of the black man is alluded to, say one word when it is proposed to strip the red man of his whole country, and not leave him one spot over which he can still roam, and feel, or even fancy, that he has a country. Not one is found to raise his voice against this proposition for a general spoliation of Indian rights. This sentiment of humanity! how wayward—how capricious! It is not more stable than fashion in the objects on which it exhausts or wastes itself. The negro was introduced into America to save the Indian from the hardships of servitude. The Indian is now to be robbed of his sole remaining country to form new States, which are destined to be free States, that the negro may be eventually rescued from slavery.

It gives me pleasure to be able to exempt the two Senators from Texas from the general heartlessness which prevails on the subject of our Indian relations and policy. I do not even see the Senator from Kentucky, [Mr. UNDERWOOD,] who is generally so true to all the impulses of justice.

Mr. UNDERWOOD, (in his seat.) I am here.

Mr. BELL. How could I have doubted him for a moment? But where are the Whigs? what have they done with their principles? Where are those of them who generally assume to lead the party in the Senate? I had meditated some parting compliments to certain of them, but I forbear. I forgive some passages between them and myself; but I cannot but remember—ay, I must ever remember!

But to return to the bill: Sir, do the Indians justice. Sirs, you are Christians, or you pretend to be Christians; then let the divine light of Christianity shed its influence upon your judgment and upon all your transactions with the red man. It may be—it is certain, that his whole race is destined to pass away; but hasten not that event by any acts of injustice or cruelty on your part. Fulfill your treaty stipulations with him. Do nothing to violate your pledges. Consider well before you touch the land which you have guarantied to him.

Upon these reasons I say we must have time for this discussion. The honorable Senator from Texas [Mr. HOUSTON] and myself have merely opened the argument. I shall be very happy to hear from the Senator from Illinois on the subject.

Mr. DOUGLAS. Mr. President, I am very unwilling to take up the time of the Senate in the discussion of this question. My anxiety for the passage of the bill induced me to yield the advantage of explaining its provisions, with the hope that we might get an immediate vote upon the subject. It is an act that is very dear to my heart—one that I should have been glad to discuss in all its bearings. It is one of immense magnitude and of grave import to the country; yet all these considerations are so apparent that I was willing to allow them to stand forth and speak for themselves, without occupying the attention of the Senate myself. But, sir, the able manner in which the Senator from Tennessee has discussed this question commands and requires a response from me.

[A message was received from the House of Representatives, by Mr. P. B. HAYES, its Chief Clerk, announcing that the House had agreed to the report of the Committee of Conference upon the bill making appropriations for the naval service for the year ending June 30, 1854; and had agreed to the amendments of the Senate, with amendments, to the bill making appropriations for the current and contingent expenses for the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1854.]

On the motion of Mr. SEBASTIAN, by unanimous consent, the Senate proceeded to consider the amendments of the House to the amendments of the Senate to the Indian appropriation bill; and they were concurred in.

At half-past eight o'clock, a. m., (Friday,) the Senate took a recess until ten o'clock. On reassembling—

Mr. DOUGLAS resumed: I regret to occupy the time of the Senate at this late hour in the discussion of the bill to establish the Territory of Nebraska; but the able and eloquent speeches which have been made in opposition to it leave me no alternative. Gladly would I now stop, if the vote could be taken, in order that the bill might be passed; for I am sure we have a majority for it if a vote could be taken. But as it has been demanded that I shall explain the grounds upon which I, as chairman of the Committee on Territories, predicated the support of this bill, I will do so very briefly.

The object of the bill is to create a territorial government extending from the western boundary of Missouri and Iowa to Utah and Oregon. In other words, it is to form a line of territorial governments extending from the Mississippi valley to the Pacific ocean, so that we can have continuous settlements from the one to the other. We cannot expect, or hope even, to maintain our Pacific possessions unless they can be connected in feeling and interest and communication with the Atlantic States. That can only be done by continuous lines of settlements, and those settlements can only be formed where the laws will furnish protection to those who settle upon and cultivate the soil. The proposed Territory of Nebraska embraces quite a number of the many emigrant routes extending to our Pacific possessions. It embraces the route from Missouri to Santa Fé, New Mexico; and also to Utah, Oregon, and California.

It is desirable that that country should be open for settlement, and that all emigrants, travelers, traders, and settlers, should be under the protection of law.

These are the objects of the bill, and it seems to me that when you contemplate them, and see that they are essential even to the preservation of the harmony if not the very existence of the Union, it will be seen that they are objects of sufficient importance to command the serious attention of this body.

Sir, what have you done for these Pacific possessions? What have you done to bind them to us? When a proposition was brought forward here to establish a railroad connection, it met with determined resistance. The project was crushed and destroyed. When a proposition was made for stockades and military colonization, that also was beaten down. When a proposition was made for a telegraphic line, you would not even permit that to be established. Nothing has been permitted to be done either to encourage the settlement of the country or to form a communication by which the one should be connected with the other. I think that the least you could do would be to extend the protection of law to the people who may be there, and to legalize the entry of those who may desire to go there.

I am aware that it has been said that there is not a man in the proposed Territory who has not gone there in violation of law. The same remark can be made of every man that has gone upon the unsurveyed public lands in any of our Territories or new States. That was the remark which was made in regard to every man who went upon the lands and asked for a preëmption right. They were denounced as trespassers and land pirates, and every other odious name was applied to them because they were upon the land in violation of law. The same argument may be applied to the first settlers in all the new Territories. The people went there in advance and defiance of law, and the law followed them; and it was their being there which created the necessity for the law. How, then, does the argument work? In the first place, you refuse to allow settlers to go there; and when I ask for a territorial government, you assign the absence of settlers as a reason for not granting it.

I wish to pay my respects to those gentlemen who have argued so strongly against our right to create this Territory. I have been struck with the zeal which burns in some gentlemen's bosoms in behalf of the poor Indian. Sir, it is necessary for them to avail themselves of some argument by which to resist this bill, and sympathy for the poor Indian is the argument that is resorted to. I know there is one gentleman who has used this argument, who has, perhaps, stronger reasons, and who feels, and ought to feel more deeply in behalf of the Indians than almost any other man in the country. I also know that there is a large number using this argument of sympathy for the Indians simply for the purpose of killing the bill. What is their objection, when you come to consider it?

We are told that there are treaties with certain tribes of Indians by which these tribes receive certain grants of land, with the stipulation that they should never be embraced within any State or Territory. That is true. There are such stipulations. We are told also that it would be a breach of good faith to embrace them within the limits of a State or Territory in violation of these treaties, and that we ought not to commit such a breach of faith. I grant it. If gentlemen will show me that this bill violates any treaty stipulations, perpetrates any act of bad faith, is inconsistent with the most scrupulous regard for our plighted faith, then I will abandon it; but, sir, I undertake to say there is not one of these objections that is not answered by the bill itself. I will read a clause of the bill in order to show this. After laying out the Territory, it says, in the same clause:

"*Provided*, That nothing in this act contained shall be construed to impair the rights of persons or property now pertaining to Indians in the said Territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians; or to include any territory which by treaty with any Indian tribe is not, without the consent of the said tribe, to be included within the territorial limits or jurisdiction of any State or Territory. And all such territory shall be excepted out of the boundaries, and constitute no part of the Territory of Nebraska, until such tribes shall signify their assent to the President of the United States to be included within the said Territory of Nebraska, or to affect the authority of the Government of the United States to make any regulation respecting said Indians, their lands, property, or other rights by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed."

By the provision which I have read, they are excluded from its limits. It is expressly stipulated that they shall not constitute any part of the Territory; they do not come under the jurisdiction of the Territory; they are not embraced within its limits; they do not come under the operation of its laws, and are never to be a part of that Territory, unless by treaty the Indians shall choose to do so hereafter. Is not that a complete reservation and guarantee of the rights of the Indians? But gentlemen argue that this bill runs round the Indian grounds.

Mr. BUTLER. Certainly it does.

Mr. DOUGLAS. The Senator from South Carolina says, "Certainly it does." He is not so certain, perhaps, that it does. The Indian lands lie along the Missouri border, and extend back at right distances to the interior. As therefore these Indian grounds are excepted out of the Territory, and constitute no part of it, they constitute, and must forever constitute, the eastern boundary of the Territory, unless the Indians hereafter shall voluntarily enter into treaties by which that boundary will be changed. Then it is not so certain that this territory does run round them. But if it did, still it does not embrace them. Suppose you should create a Territory in that vast expanse of country and mark it out by metes and bounds two hundred miles square, and after you had created that, suppose you should create another Territory which had a strip running round the first, still you would not embrace the first. You go round it on different sides, but do not include it. You do not extend your laws over it.

They remain two distinct, separate Territories, as much as if they lay hundreds of miles apart from each other. Is it to be said, that by these Indian treaties we are not allowed to run States or Territories around these Indian reservations? If you cannot run one State around the ground can you run four? Or are they to say you shall not make a State east of them, or west of them, or north of them, or south of them; but that the territory in every direction is forever to be kept open, a barren waste dedicated to barbarism? Is that to be the construction to be placed upon the Indian treaties? The meaning of these treaties, as I understand them, is, that the Indians shall not be embraced in a State so as to come under its jurisdiction and be subject to its authority. If that be the meaning of the treaties, and the whole

object of their guarantees, no one of them is violated by this provision.

Sir, when you come to examine it, there is not even a respectable pretext for the charge that the bill is in violation of any treaty stipulations. But, sir, the Senator from Texas has discovered, the moment it is proposed to bring up the bill, that there is another great enormity in it—that Texas is to be invaded, her rights are to be destroyed, her interests are to be sacrificed. How? It is said that by this act you will drive the Indians all down upon Texas. Does the bill do it in any way? The Indians now occupy that country. The bill leaves them there. Will they be any more likely to go down now than they were before? Why, sir, the bill creates a territorial government between the Indians and Texas, and you form a line of settlement beyond which the Indians could not go. It would be a barrier against their going to Texas. But the Senator from Texas says that they have gone there heretofore. Well, sir, if they have been there before, it shows that this bill will not be the cause of their going there again. But if you pass this bill, and settle the country between the Indian grants and Texas, a barrier will be created, the Indians will be restrained, and Texas will be protected from their inroads.

I can see another effect which perhaps might grow out of this. Certainly no friend of this bill desires to drive the Indians down upon Texas. For one, I should be as strenuous against the Indians being driven down there as I would be against their going to the borders of Missouri or Illinois. I held that this Government must protect her own Indians. But, sir, another question may arise, whether or not the territory is to be kept an Indian territory for the purpose of driving up all the Texas Indians there and colonizing them on the western borders of Missouri and Iowa.

It has been said that these Indians must be removed somewhere, and I have been asked where they are to go. Why, sir, in the Indian appropriation bill, which has been passed, an appropriation was made for negotiating treaties for the removal of these Indians. Why did not Senators ask that question when that bill was under consideration? It is now for the War Department and the Indian Bureau, under the direction of the President of the United States, to say where they shall go when they are removed. I am under the impression that there are two or three points where an Indian territory could be laid out without interfering with any of the great routes to the Pacific.

I will not occupy the time of the Senate further in this discussion. I have felt it due to the subject, due to myself, and due to the occasion, that I should say this much in exposition of the views and in justification of the course of the Committee on the Territories for having reported this bill.

The bill underwent a thorough investigation and discussion in the House of Representatives, and it was passed there by an overwhelming majority; and I undertake to say that, when the subject is examined, it will be found that the bill is in exact accordance with the most scrupulous observance of faith towards the Indians; that no one's rights are to be invaded, and no one is to be injured by it. If these Indians prefer it, they can remain forever where they are, without being embraced within that Territory; they can remain there as an Indian tribe not subject to its jurisdiction, or they can consent to become citizens of the country, under such terms as may be entered into by treaties with them. It will be left to the choice of the Indians to determine what course they will elect.

But, sir, the Senators have said that I might as well urge that a territorial government should be formed west of Arkansas. Sir, it may be necessary to do it. I am by no means certain that it is not necessary. I am by no means certain that I shall not be found acting in concert with the known or supposed wishes of the Arkansas Senators, in establishing a Territory west of them on proper terms. Certainly, if those most acquainted with the subject, and possessing the greatest interest in it, desire such a Territory, I shall be found one of those ready to coöperate with them. But I see that there is no time for protracting this discussion. I have merely said as much as was necessary to vindicate the action of the committee; and now I should be delighted if the Senate, by common consent, would unite and pass the bill; for if it be taken up, I am sure it will be passed. My fears are that it will not be taken up.

Mr. ADAMS. I know that my friend from Illinois is a good compromise man, and I wish to propose to him a compromise on this subject, and that is, that by common consent it be postponed until the Friday after the first Monday of December next, when we shall have ample time and opportunity to discuss and investigate it; and if we think it right, we can then pass the bill.

Mr. DOUGLAS. I must remind my friend from Mississippi that eight years ago, when he and I were members of the House of Representatives, I was then pressing the Nebraska bill, and I have ever since been pressing it. I have tried to get it through for eight long years. I would take it as much more kind if my friend should propose that by common consent we take up and pass the bill. The members of the body are in very good humor, all having got what they have wanted except the Territories. I hope we shall do something for them.

Mr. BORLAND. I suppose it may not be considered exactly in order to discuss the merits of the bill on the question of taking it up; but in this case a great latitude of debate has been allowed upon both sides, and the merits of the bill have been discussed. I have something to say why the bill should not be taken up. I am very sorry to occupy the time of the Senate now, and I should be very glad if we could dispose of the subject without further debate. If the Senate is prepared to lay it upon the table, I shall very willingly dispense with any remarks which I might otherwise feel called upon to make; and, therefore, with a view of testing the sense of the Senate, I move that the motion to take up the bill be laid upon the table.

Mr. WELLER called for the yeas and nays upon the motion; and they were ordered; and being taken, resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Adams, Bayard, Bell, Borland, Brodhead, Butler, Davis, Dawson, De Saussure, Downs, Fish, Fitzpatrick, Houston, Hunter, Mallory, Morton, Phelps, Rusk, Sebastian, Smith, Soulé, Spruance, and Underwood—23.

NAYS—Messrs. Atchison, Bright, Cooper, Dodge of Wisconsin, Dodge of Iowa, Douglas, Felch, Foot, Geyer, Hamlin, Jones of Iowa, Norris, Shields, Toucey, Wade, Walker, and Weller—17.

So the motion to lay upon the table was agreed to.

CREDENTIALS OF SENATORS.

Mr. SOULE presented the credentials of the Hon. JUDAH P. BENJAMIN, chosen by the Legislature of Louisiana a Senator from that State for the term of six years from and after the 4th of March; which were read.

Mr. FELCH presented the credentials of the Hon. CHARLES E. STUART, chosen by the Legislature of Michigan a Senator from that State for the term of six years from and after the 4th of March; which were read.

MESSAGES FROM THE HOUSE.

During the remarks of Mr. DOUGLAS, a message was received from the House of Representatives, by Mr. P. B. HAYES, its Chief Clerk, announcing that the House had passed Senate bills Nos. 123, 399, 75, 296, and 226, without amendment.

A message was also received from the House of Representatives, announcing that they had passed Senate resolution No. 19, and Senate bill No. 286, without amendment.

COMMITTEE ON ENROLLED BILLS.

Mr. HUNTER moved that the Chair appoint an additional member on the Committee on Enrolled Bills; which was agreed to; and Mr. CHASE was appointed.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. M. P. FILLMORE, his Private Secretary, announcing that he had approved and signed—

An act for the relief of Betsey Norton;

An act for the relief of Mary Woodward;

An act for the relief of Moses Olmstead and Elizabeth Craig; and

An act for the relief of George Poindexter.

JOSEPH H. WARING.

Mr. SOULE. I introduced the other day the memorial of Joseph H. Waring, which, with the papers accompanying it, was referred to a committee, but has not been and of course cannot have been acted upon. It seems that the nature of the claim is such that it is probable it may be settled at the Department. I therefore move that the petitioner have leave to withdraw his papers.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

Several messages were received from the House of Representatives, by Mr. P. B. HAYES, its Chief Clerk, announcing that the Speaker of the House had signed—

An enrolled bill entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1854:"

A joint resolution for the relief of the heirs of John de Neufville & Son;

An act for the relief of Maria Taylor;

An act for the relief of L. H. Bates and Lewis Lacon;

A joint resolution for the relief of the heirs of David Corderoy;

An act authorizing the sale of certain reserved lands in Alabama;

An act to revive and continue in force, for a limited time, the provisions of an act relative to suspended entries of the public lands;

An act to authorize the creation of erroneous locations of military bounty land warrants by actual settlers on the public lands in certain cases;

An act for the relief of the legal representatives of Walter Colton;

An act making appropriations for the naval service for the year ending June 30, 1854;

An act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854;

An act for the relief of Jacob Shay, jun.; and

An act to authorize the issuing of a register to the brig Boundary, and to change the name of the steamer Roger Williams and the propeller Ontario.

All of which were signed by the President *pro tempore* of the Senate.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. M. P. FILLMORE, his Secretary, announcing that he had approved and signed various enrolled bills, the titles of which were not announced.

ADJOURNMENT SINE DIE.

A message was received from the House of Representatives, by Mr. P. B. HAYES, its Chief Clerk.

Mr. PRESIDENT: The House of Representatives have resolved that a committee be appointed to join such committee as may be appointed by the Senate, to wait upon the President of the United States and notify him that unless he have more communications to make, the two Houses have completed the business before them, and are ready to close the present session by adjournment; and that Mr. GEORGE W. JONES, of Tennessee, Mr. S. G. HAVEN, of New York, and Mr. ROBERT W. JOHNSON, of Arkansas, are the committee on the part of the House.

Mr. HUNTER. I move that a committee be appointed by the President *pro tempore* to join the committee already appointed by the House for the purpose of waiting upon the President.

The motion was agreed to; and Mr. HUNTER and Mr. BADGER were appointed.

Mr. HUNTER subsequently said: Mr. President, the joint committee appointed by the two Houses to inform the President that they had finished their business, and that if he had no further communication to make they were ready to adjourn, have discharged that duty, and he has informed them that he has no further communication to make.

The PRESIDENT *pro tempore* rose at the hour of twelve o'clock, m., and said: Senators, the hour has arrived when it becomes my duty to declare that the Senate is adjourned *sine die*.

The session was thereupon closed.

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 3, 1853.

The House met at eleven o'clock, a. m. Prayer by the Rev. JAMES GALLAHER.

Mr. OLDS. Will it be in order to move to dispense with the reading of the Journal?

Mr. HALL. I object to the motion.

The SPEAKER. The Clerk informs the Chair that the Journal of yesterday is not entirely made up; indeed, that it was impossible to do it.

Mr. STANLY. It has always been usual to submit such a motion, on the last day or two of the session.

Mr. HALL. I withdraw my objection to the motion.

The question was taken, and the motion was agreed to.

So the reading of the Journal was dispensed with.

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. I move to refer to the Committee of the Whole on the state of the Union the bill making appropriations for the service of the Post Office Department, with the Senate amendments thereto.

AVERY DOWNER.

Mr. CLEVELAND. I hope the gentleman from Alabama will allow me a moment, before he presses that motion, to move to take up a bill from the Senate for the relief of an old man, over ninety years of age. It is a bill which has passed both Houses of Congress at different times heretofore. It will take but a single moment.

Mr. CARTTER. If the House departs from its usual order of business, I wish to ask the attention of the House to a matter of importance, which I have been trying to get at for the last year.

Mr. CLEVELAND. Then I ask to withdraw the papers of Avery Downer, this old man, for the purpose of reference to the Departments.

The SPEAKER. If there is no objection, the order to that effect will be entered.

No objection was made, and the order was made.

Mr. HOUSTON. I now call for my motion.

The question was then put upon the motion to refer the Post Office appropriation bill, with the amendments thereto, to the Committee of the Whole on the state of the Union; and it was agreed to.

Mr. HOUSTON. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. GORMAN. I wish the gentleman to allow me first to ask the House to take up and refer communications upon the Speaker's table.

Mr. HOUSTON. We can go into committee and dispose of this Post Office bill in half an hour, so as to send it to the enrolling clerk. It will be utterly impossible for them to get through with enrolling the bills, unless we proceed with the bills as rapidly as possible.

Mr. GORMAN. I ask the House now that the communications on the Speaker's table be taken up and referred to the appropriate committees, and ordered to be printed.

The SPEAKER. If there is no objection, the Chair will proceed to dispose of the communications upon the table.

Many MEMBERS. "Agreed!" "Agreed!"

The following communications were then taken up, read, and referred as indicated below:

A communication from the War Department, transmitting a transcript of the Army Register for the year 1852. Ordered to lie upon the table and to be printed.

A communication from the Navy Department, transmitting copies of the Navy Register for the year 1853. Ordered to lie upon the table and to be printed.

A communication from the Secretary of the Treasury, transmitting the annual report of the Superintendent of the United States Coast Survey. Ordered to lie upon the table and to be printed.

A communication from the War Department, transmitting copies of maps and sketches accompanying the annual report of the United States Coast Survey. Referred to the Committee on Printing.

A communication from the Postmaster General, transmitting his annual statement of the clerks and others employed in his Department during the last year. Ordered to lie upon the table and to be printed.

A communication from the Post Office Department, transmitting a statement from the disbursing agent of the Post Office Department as to the receipts and disbursements of the Department during the last year. Ordered to lie upon the table and to be printed.

A communication from the Post Office Department, transmitting an abstract of offers for carrying the mails for the States of New Hampshire, Massachusetts, New York, &c., in accordance with the act of Congress approved July 2, 1836. Ordered to lie upon the table and to be printed.

A communication from the Patent Office, transmitting the agricultural part of the annual report required from that office. Ordered to lie on the table and to be printed.

A communication from the Commissioner of Public Buildings and Grounds, transmitting a copy of the contracts made with that office, for the year 1852, with the names of the contractors, &c. Ordered to lie upon the table and to be printed.

A communication from the Navy Department, transmitting information in answer to questions embraced in a resolution of the House of Representatives, dated January 7, 1853, on the subject of mail steamers, and the present condition of the steam navy. Ordered to lie on the table and to be printed.

RIGHT OF WAY.

Mr. HALL. I hope the House will give its unanimous consent to take up Senate bill No. 612, granting the right of way through this District for a railroad from Point of Rocks to Georgetown.

Mr. CLEVELAND. I object.

Mr. HOUSTON. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR of Connecticut in the chair.)

POST OFFICE APPROPRIATION BILL.

Mr. HOUSTON. I move that the House now take up, and consider the Senate amendments to the bill making appropriations for the service of the Post Office Department for the year ending June 30, 1854.

The question was put, and the motion was agreed to.

The first amendment of the Senate was read as follows:

"On page 3, after line 14, insert as follows:

"For raising the salary of one of the $1,600 clerks in the Post Office Department to the grade of a chief clerk, to be employed in conducting the correspondence and performing other duties relating to the foreign mails and postal arrangements with foreign countries, $400."

Mr. PHELPS. The amendment proposes the increase of the salary of a $1,600 clerk who has charge of the foreign mail, and who is engaged in settling and stating the postal accounts between this and foreign Governments. That is a difficult branch of the business, and the Senate have proposed to increase the salary to $2,000, which, I think, would not be more than an ample compensation.

Mr. OLDS. This is a recommendation coming from the Postmaster General. It was approved of by the Committee on the Post Office and Post Roads of the House, and when the bill was before us some time since, I, as its chairman, moved a similar amendment, but not having an opportunity to explain, on account of the objection of the gentleman's colleague, [Mr. HALL,] it was not adopted. I hope the amendment will be concurred in.

Mr. HALL. My objection certainly remains unchanged. I then stated that during the Whig Administration a competent clerk had been employed to do this very business for $1,600 per annum, and that I thought a Democrat could be found to do the work just as well and as cheap as a Whig. I, sir, for one, will not consent, after professing before my constituents that I believed the Democratic Administration would be more economical than the Whig, and just as the Whigs are going out, to increase the salaries of the officers of the Government. I have told my people that we would not pay any attention to the recommendations of extravagance, and I shall not pay any attention to them.

Mr. GOODENOW. The present incumbent has devoted fifteen years to that branch of the business. He is an out-and-out thorough Democrat. In my judgment, he is well worthy of this additional compensation. He is one of the most industrious and faithful clerks in the whole Post Office Department. It is due to him the amendment should be adopted.

Mr. HALL. It is due to us that we shall do what is right.

The question was taken, and the amendment of the Senate was non-concurred in.

The next amendment of the Senate was read, as follows:

"Insert, as an additional section, the following:

"SEC. 3. *And be it further enacted*, That in all cases where the Postmaster General shall be satisfied that either money or property, stolen from the United States mail, shall have been exchanged for other money or property, and has been, upon the conviction of the thief, received at his Department, he shall have authority, upon satisfactory evidence that the same justly belonged to any individual, firm, or corporation, to pay over and deliver such money or property to the owner thereof."

Mr. HOUSTON. There is no law authorizing the Post Office Department to give up property stolen from the mails, although its owner may trace it by proper evidence to the possession of the Department. The object of the amendment is simply to authorize the Postmaster General to give up property lost in being transported through the mail, to its owner, on proper evidence being produced of the fact.

Mr. WALSH. There is no legislation more necessary than that proposed by the amendment of the Senate. There are more than fifty cases at the present time in point, where the robbers of the mail have at once changed the money taken from the letters to other money, and where it has been traced step by step. We might as well have no law at all as to let it stand as it is.

The question was taken, and the amendment of the Senate was concurred in.

The third amendment of the Senate, to insert an additional section, was read, as follows:

"SEC. 4. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized, in addition to ordinary steamboat service on the Potomac, to contract for an efficient ice-boat, or ice boats, being kept up for the conveyance of the mail during the winter months: *Provided*, The additional expense to be incurred by the Department for keeping up such ice-boat, or ice-boats, shall not exceed $20,000 per annum."

Mr. JONES, of Tennessee. I hope, Mr. Chairman, that this amendment of the Senate will be non-concurred in. The contractors for carrying the mail from the city of Washington to the mouth of Aquia Creek, which is fifty-four miles and a half, receive, if I mistake not, $16,300 per annum for double daily service, being more than three hundred dollars per mile. A better river navigation for that distance is not to be found in the United States. The contractors carrying the mail from Cincinnati to Louisville, a distance of one hundred and forty-two miles, receive for daily service $10,500, which is less than seventy-four dollars per mile. Now, why is it that this boat company on the Potomac is enabled to extort from the Government the enormous pay they receive for performing the service they do? It is because the Richmond railroad company, which runs in connection with it, will not carry the mail unless you employ it. They drive all competition out of the river, and you must contract with the company on their own terms. In my opinion their compensation is amply sufficient to justify them in keeping an ice-boat, and to carry the mail every time they are required by their contract, without failure.

Mr. OLDS. I feel bound to say a word in relation to this matter. The amendment is in accordance with a recommendation from the Postmaster General, and it has received the approbation of the Committee on the Post Office and Post Roads of this House.

Mr. JONES. So much the worse.

Mr. OLDS. The gentleman says so much the worse. Then what is the use of having committees of the House to investigate such matters? I will venture to say that the Committee on Ways and Means have given no consideration to the amendment at all.

Mr. JONES. I will say to the gentleman that a few years ago, when I was on the Post Office Committee, this whole question was brought before us in the controversy between the Postmaster General and this boat and railroad company. We did examine, and I think thoroughly understood it, and the House and Congress sustained the committee and the Postmaster General in the course they pursued with regard to it.

Mr. OLDS. I am glad to find that the gentleman has investigated the matter. I am not interested in it, nor are my constituents, but it concerns southern representatives. There was a time last winter, when for days they were unable to receive their mail for the want of this ice-boat on the Potomac.

Mr. JONES. Let me ask the gentleman a question? Has there not been a failure of the mail from New York to this city for the last two days? I see no cause for it but the negligence of these railroad companies. I understand that there is a failure of the mail from the west almost every other day. The Postmaster General told me that there was a failure of the mail from New York to this city, from one to two and often four times a week.

Mr. OLDS. The Postmaster General has recommended to Congress to make some adequate provision to remedy that defect in the mails between here and New York, but the House have not acted on it, nor has its committee; but is that any reason why you should not act on this proposition which has received the approval of the Committee on the Post Office and Post Roads of this House as well as of the Senate? The gentleman is mistaken in saying that this company receives an adequate compensation. I am very well informed, and by the Postmaster General too, that the expenses of that company——

Mr. LETCHER, (interrupting.) The southern mail has failed for the last three days, and there is no ice in the river now.

Mr. OLDS. I do not say that if you had these ice-boats there would be no failure in the mails. I only state the fact that the mail has failed for want of them. The Department has recommended that a remedy be provided, and that is a matter for the consideration of southern representatives, and not for me. The company carrying the mail on the Potomac suffered more in expense, in the way of procuring ice-boats during the winter months than the value of their quarter's compensation. They are not fined if the mail fails, and neither are the contractors on the Ohio river. When there is ice in the river they cannot carry the mail. The only question is, whether a southern mail is of sufficient importance to justify this appropriation, and if the House of Representatives suppose that it is not I will say nothing more with regard to it.

Mr. CAMPBELL, of Illinois. Why does it cost more to carry the mail on the Potomac than it does to carry it for the same distance on the Ohio river?

Mr. OLDS. These contracts are made with the Department. We pay ten times as much on the macadamized roads as on railroads. It results from the want of competition in bids, and from no fault of the Post Office Department. They have to pay higher prices for certain contracts than for certain other ones.

Mr. STUART. We have no time to spend in further debate on this amendment, and I move that the committee do now rise, with a view to its termination.

The question was then taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. SEYMOUR of Connecticut) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the amendments of the Senate to the Post Office appropriation bill, and had come to no resolution thereon.

Mr. STUART. I move the usual resolution to close general debate in Committee of the Whole on the state of the Union on the Post Office appropriation bill when its consideration shall be again resumed in committee.

The question was taken, and the resolution was agreed to.

Mr. STUART. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

Mr. PHELPS. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and it was decided in the affirmative.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union (Mr. SEYMOUR in the chair) upon the Post Office appropriation bill.

Mr. CLARK moved an amendment *pro forma*.

It will be necessary for me to say only a few words. As a member of the Committee on the Post Office and Post Roads, I wish to say this is the first time I have heard this proposition. I do not remember that it was ever before the Committee on the Post Office and Post Roads. If it has ever been there, it must have been there when I was absent; and I do not know the time when I was not in attendance upon that committee. I am opposed to the appropriation. I do not see any necessity for an appropriation to put an ice-boat on the Potomac river; and if there is any necessity, there is no obligation upon our part to do so. The contractors contracted for this service knowing what the facilities were and what they were not; and I am in favor of holding them to their contract. If it should be necessary to put an ice-boat on the Potomac, let it be done at some future time, or let the contractors do it themselves. They are bound to perform a stipulated service, and the Government is under no obligation to afford additional facilities. As to this matter of necessity, I am not advised whether there is much, and if there is any it is not a proper question for consideration here. I hope it will not be granted.

Mr. OLDS. I wish to correct my colleague upon the committee in relation to this matter. This subject came before the Post Office Committee in this House at the last session, in a resolution which passed the Senate. That committee directed me to report it back to the House, with a recommendation that it pass. This was at the last session of Congress.

Mr. JONES, of Tennessee. I move to strike out $20,000. I wish merely to state that when this controversy came up before, between the Post Office Department and the contractors on this line, the same argument (that it was intended for the great southern mail) was urged upon the House; but southern men voted against it as much as northern men. It is no more the southern mail from this city south on the Potomac, than it is from this city to New York, because the southern mail passes through here south, and the northern mail from the South passes through here north. It is the mail of the country, for the people of the whole country, and the representatives of every part of the country are as much interested in it as southern men, and they are interested in having it carried quickly, and not in paying too much for it. I have heard no reason yet assigned why this amendment should be agreed to, except that it is an executive recommendation—the Postmaster General having recommended it. I, for one, do not sit here merely for the purpose of registering executive edicts, without I am satisfied that they are right.

The question was taken, and the amendment of the Senate was not agreed to.

The fourth amendment of the Senate, to insert, as an additional section, was read, as follows:

"SEC. 5. *And be it further enacted*, That section 3, of the act entitled 'An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1853, and for other purposes,' and approved the 31st of August, 1852, be, and the same is hereby, repealed."

Mr. BENNETT. I offer the following amendment:

The joint resolution of July 12, 1852, is hereby extended to the route from South Bainbridge to Oxford, New York, on the same terms in all respects.

Mr. PHELPS. I rise to a question of order.

The CHAIRMAN. The amendment is not in order.

Mr. PHELPS. The Senate amendment just now read proposes to repeal the section of the Post Office appropriation bill passed at the last session of Congress, which fixes the salaries of the route agents at $1,000.

Mr. HOUSTON. The gentleman is correct in saying that it will repeal the section which relates to the salaries of the route agents; but upon conferring with some of the Senators, I am satisfied that is a mistake. It was one of the Senators from Vermont who offered the section, intending by it to repeal another section, but has by it repealed that section—the one not intended by him to be repealed.

Mr. PHELPS. What section is it designed to repeal?

Mr. HOUSTON. I have not examined the section, but I understand it is the section relating to the authority of the Postmaster General to make contracts with railroads. That is the explanation given to me by Senators this morning, and I propose to disagree to the amendment.

The question was taken, and the Senate amendment was not agreed to.

The fifth amendment of the Senate, to add an additional section, was read, as follows:

"SEC. 6. *And be it further enacted*, That the Postmaster General is hereby authorized to make such arrangements as he may deem advisable, by causing letters sent to California and Oregon to be advertised free of expense to the United States, and by the issuing of circulars to postmasters, and causing the same to be published, to insure as far as possible the delivery of letters sent by mail from the Atlantic States to California to the individuals to whom they are directed."

Mr. MACE. I offer the following amendment to the amendment:

That the Collins line of steamers receive no more compensation than was paid prior to the last session of this Congress.

The CHAIRMAN. The Chair rules that the amendment is not in order.

The question was taken upon the Senate amendment, and it was agreed to.

The sixth amendment of the Senate, to add an additional section, was read, as follows:

"SEC. 7. *And be it further enacted*, That the Postmaster General be, and he is hereby, required to invite proposals to carry the United States mail from San Francisco, in California, to Shanghai, in China, monthly or semi-monthly, in steamships, and transmit such proposals as he may receive to Congress at its next session."

Mr. CLINGMAN. I am about to offer an amendment, to which I ask the attention of the committee. It is an important one, and should be adopted. I offer it as a substitute for that section.

The amendment was read, as follows:

That the President be requested to enter into negotiations with the Government of Great Britain, France, and all other foreign nations, with the view of making such regulations as may be necessary to prevent the interference with private enterprise, by vessels owned or sustained wholly or in part by said Governments; and that such vessels may be prevented from carrying freight and passengers, so as to come into competition with ships owned by individuals or corporations, and providing for letting out to the lowest bidder the carrying of the mails.

Mr. HALL. I rise to a question of order.

Mr. CLINGMAN. It is clearly in order. The Senate amendment is in regard to foreign mail service.

Mr. HALL. The Senate amendment provides for carrying the mail between San Francisco and Shanghai, which is bad enough. Then the proposition of the gentleman from North Carolina is to make treaties with France, England, and all the European Powers upon another subject—the transmission of freight, and all that sort of thing.

Mr. CLINGMAN. It is the same subject embraced in the amendment of the Senate.

The CHAIRMAN. The Chair is under the impression that the amendment of the Senate relates to carrying the mails between San Francisco and Shanghai. This appears to be a general regulation with respect to the interference of Governments with private enterprise, and the Chair is of opinion that it is not in order.

Mr. CLINGMAN. It relates to foreign mail service.

The CHAIRMAN. The Chair decides that it is out of order. Does the gentleman appeal?

Mr. CLINGMAN. Yes, sir. From that decision I appeal.

The question was taken on the appeal, "Shall the decision of the Chair stand as the judgment of the committee?" and it was decided in the affirmative.

So the decision of the Chair was sustained, and the amendment ruled out of order.

Mr. CARTTER. I move to amend the amendment of the Senate by striking out the words, "and transmit such proposals as he may receive to Congress at its next session," and inserting in lieu thereof the following:

And he is hereby directed to contract for the establishment of the said line with Ambrose W. Thompson, provided it can be done for the amount of the postages only, and on the terms as proposed by him in his printed memorial to Congress.

I have been requested to submit that amendment, but I have not had time to investigate the matter in detail. The amendment contains on its face, however, one feature that will, I think, commend it to the approbation of every gentleman,

and it is this: that the expense of transporting the mails between these two points shall be limited to the receipts from postage. It appears to me that that feature is one that ought to secure the passage of the amendment.

Mr. HALL. Mr. Chairman, I think we may very well exclaim:

"Now, in the names of all the gods at once,
Upon what meat doth this our Cæsar feed,
That he is grown so great?"

Why is it that Mr. Ambrose W. Thompson is entitled to preference over every other citizen of the United States for carrying the mails between San Francisco and Shanghai? Why is he so much better than everybody else? Why is he the only man among the twenty millions of freemen in our country who is to be intrusted with the carrying of the mails between San Francisco and Shanghai? I have seen the gentleman, and so far as I can judge from his countenance, manners, and general deportment, he is a gentleman about as good as, and no better than, twenty millions of other freemen in this country.

Mr. ORR. Perhaps the difficulty in the mind of the gentleman from Missouri will be removed if the gentleman from Ohio will modify his amendment so as to make it read "Ambrose W. Thompson or any other responsible person." Then, if the amendment is adopted, it will secure the transportation of the mails between San Francisco and Shanghai for postages alone, without costing the Government anything alse.

Mr. HALL. I do not intend to vote for any proposition that has the name of Ambrose W. Thompson, or the name of any other particular individual in it. I, as a legislator, intend to treat all of the citizens of the United States precisely as equals, if I can. If we are to have a mail between San Francisco and Shanghai, I desire that the contract for carrying it shall be let out to the lowest and best bidder, just as the contract is let out for carrying the mails between Washington city and Baltimore, or between any other points in the United States. If the gentleman from South Carolina [Mr. ORR] desires that the provision of the Senate shall be so restricted that the contractors shall receive nothing more than the postages, I have no objection to that. But I cannot and will not, so far as I am concerned, consent to any action which shall indicate a preference for Ambrose W. Thompson over anybody else.

Mr. CARTTER. I will modify my amendment by adding to it the words "or any other person."

Mr. BOCOCK. The amendment of the gentleman from Ohio having been modified, is it not in order to speak against it?

Several MEMBERS. Oh! no.

The CHAIRMAN. The Chair thinks not.

Mr. BOCOCK. It is a different amendment.

The CHAIRMAN. The Chair thinks that the rule does not authorize further debate on that amendment.

The question was then taken on Mr. CARTTER's amendment, and it was rejected.

Mr. ORR. I move to amend the Senate amendment by striking out the words, "And transmit such proposals as he shall receive, to Congress at its next session," and inserting in lieu thereof the following:

And that he enter into a contract with the parties submitting the lowest proposal: *Provided*, The same shall not exceed the whole amount of postages received by said line.

Mr. MARSHALL. I would suggest that that amendment does not even provide that the persons offering to contract shall be responsible persons; nor does it contain any provision as to the time when the contract is to be made. The whole amendment strikes me as utterly imperfect and insufficient for the object which it professes to have in view.

Mr. ORR. The amendment which I suggest I think meets the difficulty suggested by the gentleman from California. It means "the lowest responsible bidder," of course. The principle embodied in that amendment is the true principle on which this Government should contract for the transportation of the mails by ocean steamers. The policy adopted with reference to the Collins line, and some other lines of ocean steamers, is wrong in principle, because you pay those vessels infinitely more than you receive in postages.

Mr. MARSHALL. I understand that the amendment of the gentleman from South Carolina says nothing about the size of the vessels. It does not even go into details, which are absolutely necessary.

Mr. ORR. I do not want to say anything about the size of the vessels. I want private individuals to go to work, and construct their own vessels with their own money, and receive from the Government nothing except the amount of postage that they earn. That is all they are legitimately entitled to. If they propose to transmit the mails in vessels of two thousand tons burden, or three thousand tons burden, or four thousand tons burden, that is a matter of their own, with which this Government has no concern whatever. I am perfectly indifferent as to what the size of the vessels may be. There can be no great sacrifice on the part of the Government, if we agree to pay only such postage as the line itself earns. I hope that the amendment I have submitted may be adopted.

[Here the committee rose informally, and a message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed bill of the House No. 253, making an appropriation for the completion of the public buildings in the Territory of Minnesota; and, also, that the Senate had agreed to a second committee of conference on the disagreeing votes between the two Houses on the amendments to the deficiency bill; and that Messrs. HUNTER, PEARCE, and WALKER had been appointed managers of said conference on the part of the Senate.

The committee then resumed its session.]

Mr. HOUSTON. I am opposed to the amendment of the gentleman from South Carolina, and also to the Senate amendment; and I want to call the attention of the committee to one consideration which I think ought to influence the votes of members. Why is it that this proposition has been held back during the whole session, to be attached to an appropriation bill? The Senate, it seems, can pass anything they please, and if they were disposed to pass this proposition upon its own merits, they could have sent us a bill two months ago, proposing what this amendment proposes.

Mr. STANTON, of Tennessee. Will the gentleman allow me to ask him what becomes of the bills that the Senate sends here?

Mr. HOUSTON. The gentleman can ask himself that question with as much propriety as he can ask it of me.

I was going on to remark, when the gentleman interrupted me, that the Senate have not only failed to send us this proposition in a bill by itself, but they have not even put it in the right bill. Such propositions as this always go either in a bill by themselves or in the general post route bill. That bill went to the Senate and came back with amendments. But this amendment was held back for the purpose of forcing it through at the last moment, against the sense of a majority of the people's representatives.

Mr. STUART. I call the gentleman from Alabama to order, and insist that he shall be confined to the discussion of the amendment of the gentleman from South Carolina. Unless the discussion is limited as the rules prescribe, we shall not be able to dispose of the necessary business of the session.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. STUART. Then I move that the committee rise, for the purpose of closing the five-minutes debate upon this section, and I hope the committee will agree to it.

The question was put, and the motion was disagreed to.

So the committee refused to rise.

The question recurred on the amendment proposed by Mr. ORR to the Senate amendment.

Mr. STANLY. I call for tellers on that amendment.

Tellers were ordered; and Messrs. ORR and MILLSON were appointed.

The question was then taken; and the tellers reported—ayes 97, noes 39.

So the amendment was agreed to.

Mr. PHELPS. I move to amend the Senate amendment as it now stands amended by adding thereto the following:

And the service shall not commence until hereafter ordered by Congress.

I offer that amendment with a view of expressing my opinion with respect to the amendment now pending. This is a provision for the purpose of establishing a line of ocean mail steamers between San Francisco and Shanghai, in China. Now, whether you make an appropriation or not this session, and even if you provide that this service shall be performed for no other compensation than the proceeds arising from the transportation of the mail matter carried by this line of steamers, you will find the company coming here at the next session of Congress—in the same manner that the Collins line has come here—demanding aid and succor from this Government to sustain it. This is but a little cloud now rising, but if you foster it, it will become a big cloud that will overshadow the Legislature, and force money from the public Treasury. I am, therefore, against the whole proposition. If I had my own way, I would abolish all these lines of mail steamers, so far as they are connected with the Government. But as a member of this House, I have always been ready to comply with existing contracts, and I will continue to do so as long as I have a vote here. I will, however, take the most efficient means I can to rid the Government of this connection with private steamship companies. It is wrong, and ought to be——

Mr. STUART. I call the gentleman to order. He is not explaining his amendment.

Mr. PHELPS. I have said all I desired to say.

Mr. ORR. I do not know whether the result anticipated by the gentleman from Missouri will transpire. All I have to say with reference to myself is, that if a proposition is made to Congress hereafter to pay to this line additional compensation beyond what is provided for in the amendment which I have offered, the gentleman will find me standing shoulder to shoulder with him in opposition to any such proposition.

Mr. PHELPS. I have no doubt of it.

Mr. ORR. The amendment introduced by myself, and adopted by the committee, will however relieve the House and the country from any such danger as that. Sir, the pretense upon which the Collins line of steamers received an additional appropriation from this Government was, that they were war steamers, and could be used by the Government whenever they were needed for war purposes. But there is no such pretext as that in this amendment. If these parties contract to carry the mail, they may carry it in such vessels as they choose—they may carry it in vessels of one thousand tons burden, that are not able to carry a gun if they see fit. They may carry it in any description of vessel they choose, and the only compensation they can receive from the Government will be the amount of postage which may be received from the mails which they carry. What pretext, then—what pretense can any of the proprietors of this line have for coming to Congress to ask additional compensation? Sir, it is all a scare-crow raised by my friend from Missouri, [Mr. PHELPS.] I know he is opposed to this system of mail steamers supported by Congress, and I think myself that it is obnoxious to all the objections which he has raised against it. But this stands upon an entirely different footing than that of the other foreign mail service, and if Congress had at the outset adopted that line of policy which is set forth in this amendment, I think neither my friend from Missouri [Mr. PHELPS] nor any one else would have any ground of objection against the system at all.

Mr. PHELPS. How was it with this Collins line, when we first contracted with them?

Mr. STUART. I rise to a question of order. I insist that gentlemen shall be confined to the explanation and legitimate discussion of their amendments.

[Here the hammer fell.]

Mr. PHELPS. With the consent of the committee, I will withdraw my amendment.

Mr. STUART. I object.

The question was then taken, and the amendment to the amendment was not agreed to.

The question then recurred upon the Senate amendment as amended.

Mr. CAMPBELL, of Illinois. I move to amend the amendment by striking out the last clause of the section.

Mr. CLARK. I think that amendment is not in order.

Mr. ORR. If I understand it, the clause which the gentleman from Illinois proposes to strike out

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has been inserted by the committee. I submit that it is not in order.

The CHAIRMAN. It is not in order to move to strike out any portion of what the committee have determined to insert. The Chair decides, therefore, that the amendment of the gentleman from Illinois is not in order.

Mr. LETCHER. I move that the committee do now rise, for the purpose of terminating the debate upon this section.

Mr. CAMPBELL. I do not yield the floor for that purpose.

Mr. LETCHER. I rise to a question of order. I ask if it is competent for a member to obtain the floor and keep it until he finds what amendment he wants to offer?

The CHAIRMAN. Does the gentleman from Illinois offer an amendment?

Mr. CAMPBELL. Yes, sir; I desire to know whether it is in order to strike out any portion of the section?

The CHAIRMAN. It is in order to move to strike out any portion of the amendment, except that which has been inserted by the committee.

Mr. CAMPBELL. I move to strike out the words "Postmaster General."

I move this amendment for the purpose of saying a few words in relation to this matter. Sir, I do not see that there is anything dangerous in this amendment as it came from the Senate, and containing the name of any particular person who is to be the recipient of this contract. Now, sir, I perceive a very wide distinction between the Collins line of steamers and the line of steamers we propose to authorize by this contract, to run between California and China. But there is another object we have in view in encouraging a line of this kind, which I conceive to be far more important than that of carrying the mail. The mail service will be performed between the two countries, and that will be the means of opening up a trade and commerce between them. That is the great object to be accomplished on the part of this Government; and as I have said, it is an object vastly more important than the mere fact of having a postal communication between the two nations. In that view of the case, there is no kind of analogy between the Collins line of steamers and the line of steamers which will be established by this amendment, if it shall become a law.

There was a commerce already in existence between Great Britain and this country when the Collins line was established; and not only that, but there was a commercial competition, the existence of which induced this Government to lend its patronage to that particular line of steamers. In that case, the effect was to crush down all competition which might spring up upon the part of private individuals. But here the Government will be encouraging a proposition which is to build up a commerce where there is not, and cannot from the nature of things be, any competition upon the part of private individuals. Should it not, then, be the policy of this Government to encourage that commercial intercourse? And is it not best to do so by giving this contract to a private individual, and through him open this trade between the two nations, which must of necessity be highly beneficial to this Government? These are the reasons which have induced me to support this amendment as it came from the Senate. I believe it is better calculated to carry out the great object which we have in view, and to carry out that policy which it is for the interest of the country to pursue, than anything we can adopt.

[Here the hammer fell.]

Mr. STANLY. I want to move an amendment to this section. I move to add the following:

Provided, That the contractors under this law shall not hereafter call upon Congress for any pecuniary aid.

Mr. Chairman, I concur fully in the excellent remarks made by the chairman of the Committee on Ways and Means, [Mr. HOUSTON,] that if we are to encourage by law such a project as this, it should have been introduced into this House before this time and this hour of the session.

Mr. STUART. I call the gentleman from North Carolina to order. He is not showing why his amendment should be adopted, and I insist that he shall be confined in his remarks to that strictly.

Mr. STANLY. I hope my friend from Michigan will not interrupt me.

Mr. STUART. Well, sir, we have more business than the House can get through with.

Mr. STANLY. Who brought this business here? I did not.

Mr. STUART. I ask that the Chair shall enforce the rule.

The CHAIRMAN. The gentleman from North Carolina must confine his remarks to the explanation of his amendment.

Mr. STANLY. I am in order. Sir, I am against this amendment of the Senate, and against this whole business. Here we are within five minutes of twelve o'clock—the last day of the session—and a proposition is brought forward involving the whole policy of the country, and gentlemen say we must pass it through without discussion, or we shall not have time for the transaction of other business. That is the way everything in this House is passed. Sir, I object to this kind of legislation. I do not want any more Collins line business. Let this proposition go to the Secretary of the Treasury, or some other officer of the Government, and let it come before this House in the regular manner. Sir, the better judgment of this House must tell them that we ought not to pass these important measures at the present time. Our sober senses tell us it is not right. These projects are brought here with the expectation that they will be rushed through the House, in the last hours of the session, when there is such an amount of business pressing upon us that gentlemen hardly know what passes, and what does not. I hope the whole matter will be voted down.

The question now being upon the adoption of the amendment to the amendment,

Mr. CAMPBELL, by unanimous consent, withdrew his amendment.

Mr. CLINGMAN. I move the following as an amendment:

And that the ships so employed shall not be allowed to carry freight or passengers for hire prior to the end of the next session of Congress, and that in the mean time the President be requested to enter into negotiations with the Governments of Great Britain, France, and other foreign nations, with a view of making such regulations as may be necessary to prevent the interference with private enterprise by vessels owned or sustained wholly or in part by Governments, and that such vessels may be prevented from carrying freight and passengers, so as to come into competition with the ships owned by individuals or corporations, and providing for letting out to the lowest bidder the carrying of the mails.

I hope the Chair will rule this to be in order.

The CHAIRMAN. The Chair thinks that is in order.

Mr. CLINGMAN. I desire to say but a single word in reference to it.

Mr. STUART. I rise to a question of order. I ask the Chair whether it is in order to regulate the carrying of freight in this bill?

Mr. CLINGMAN. Certainly it is. If we make this contract with these parties, we can impose what conditions we choose.

Mr. STUART. Well, sir, I desire to have the decision of the Chair at least.

The CHAIRMAN. The Chair decides the amendment to be in order.

Mr. CLINGMAN. It will be recollected that when the Collins line was under discussion in this House, that I offered a similar amendment to that; but it was voted down, because the friends of that measure were against it. I believe, if it had been adopted, it would have had a tendency to strengthen the measure, rather than otherwise. But I now bring forward this proposition again by itself, and I hope it will be adopted. It is known that we were induced to vote that appropriation to the Collins line, mainly to enable them to compete with another line of steamships which were supported by the British Government. The merchants were all opposed to this appropriation, because they said these ships which were supported by the patronage of the Government, would, of course, underwork private enterprise; and that the effect of the system would be to ruin our private commerce. But I was one of those who believed that if we allowed the Collins line to go down, Great Britain would immediately increase the number of ships upon the Cunard line, and the result would be that our private commerce would suffer far more than it possibly could from any competition of the Collins line, and that Great Britain would reap the benefits. I think, therefore, it may have been good policy, as Great Britain had embarked in this matter, to fit out a line which should compete with her.

Mr. Chairman, I am opposed to this whole thing of establishing new lines of steamers under the patronage of the Government. I beg gentlemen to remember that if we go into this system, we shall have to meet the competition of the Governments of Great Britain and France, which have expended, and are expending, larger sums of money upon their naval armaments than we are able to expend upon ours. If these lines are to be supported by the Government, the result will be that the Governments of Europe will outstrip us as much in this as they do in their present naval armaments. But if you will leave it entirely to private enterprise, our people will underwork those of any nation in the world. Our merchant marine is increasing faster than that of any nation upon the face of the earth; and if you leave this matter entirely to private enterprise, you will find that we shall be ahead of all the world; but if this Government are to advance money to enable a particular line to underwork the others, you will very soon find that the Governments of France and Great Britain will be willing to spend ten dollars where we spend one.

My amendment simply requests the President, between this and the next Congress, to enter into such arrangements as may be necessary to carry out this object; and, for one, if I should ever be here again, I should be willing to vote for a law which would provide that no vessel wholly, or in part, sustained by any Government, should come into any of our ports for freight or passengers. I am willing to adopt that line of policy. But, in the mean time, you must not do injustice to the contracts you have already made. In about two years, the term of our contract with the Collins line will expire, and then I am willing to get rid of our support of that, and the other lines, upon the best terms we can, and adopt the line of policy I have suggested. I hope we shall now take the initiative steps for establishing such a policy, and authorize the President to make such arrangements as may be necessary, and report to the next Congress, and thus enable us to act intelligently in relation to the matter.

[Here the hammer fell.]

Mr. GORMAN. Mr. Chairman, I do not intend to make any reply to the remarks of the gentleman from North Carolina, but I desire that we shall come to a vote upon this Senate amendment; and if I can get the floor after the amendment of the gentleman from North Carolina is disposed of, I shall move that the committee rise for the purpose of stopping debate upon this particular section.

A MEMBER. Why don't you make the motion now while you have the floor.

Mr. GORMAN. I will. I move that the committee do now rise.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. SEYMOUR, of Connecticut) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1854, and had come to no resolution thereon.

Mr. GORMAN. I move to suspend the rule allowing five-minutes debate in the Committee of the Whole on the state of the Union upon the section of the Post Office appropriation bill last under consideration.

The question was put, and (two thirds voting in the affirmative) the rule was suspended.

Mr. GORMAN. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SEYMOUR, of Connecticut, in the chair,) and resumed the consideration of the Post Office appropriation bill, the question pending being upon the adoption of the amendment offered by the gentleman from North Carolina, [Mr. CLINGMAN.]

The question was then taken, and the amendment to the amendment was rejected.

The CHAIRMAN. The question recurs upon the Senate amendment.

Mr. MACE. I offer the following amendment:

That E. K. Collins & Co., of the Collins line of steamers, receive no more compensation than prior to the last session of this Congress.

Mr. STUART. I rise to a question of order. I submit that the amendment is not in order.

The CHAIRMAN. The Chair rules the amendment out of order, on the ground that it is not connected with the Shanghai line.

Mr. McCORKLE. I offer the following amendment:

Be it further enacted, That the Postmaster General is hereby directed and authorized to require the regular mail steamers from San Francisco to Oregon to deliver the United States mails at the city of Trinidad, and at some point on Humboldt bay; also, to establish a mail route by land from Trinidad, via Uniontown, Eureka, and Buck's Port, to Eel river, and from Uniontown, via Big Bar, on Trinity river, to Weaversville.

Mr. LETCHER. I rise to a question of order. I submit that the amendment is not in order.

The CHAIRMAN. The Chair decides the amendment out of order.

Mr. THOMAS M. HOWE. I offer the following amendment:

Provided, That the rates of postage between San Francisco and Shanghai shall not exceed the relative rates (to be computed by distance) now charged for the same description of mail matter between New York and Liverpool.

Mr. PHELPS. I submit that the amendment is not in order.

The CHAIRMAN. The Chair is inclined to think that the amendment is not in order.

The question was then taken upon concurring in the Senate amendment, and it was decided in the negative.

Mr. PHELPS. I move that the committee do now rise, and report the bill to the House.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. SEYMOUR) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly Senate amendments to House bill No. 350, making appropriations for the service of the Post Office Department for the year ending the 30th of June, 1854, and had directed him to report to the House sundry amendments to the Senate amendments, with a recommendation that the House concur in some, and non-concur in others.

Mr. PHELPS. I move the previous question upon the amendments.

Mr. HOUSTON. Before the gentleman calls for the previous question, I desire to say a word or two in explanation of one of the amendments. I stated to the committee that I had conferred with one member of the Finance Committee of the Senate, in regard to the amendment which repeals the third section of the Post Office bill of the last session. Since that time I have ascertained that the information I obtained was incorrect, and the amendment which the Senate have adopted accomplishes what I desired. Now, the salaries of the route agents are $1,000 in every case. Some of the routes are twenty-five miles in length, and some two hundred, and the object of the amendment is to repeal that section, so as to leave it at the discretion of the Postmaster General to pay them according to their services.

Mr. PHELPS. Now I move the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then taken upon concurring in the action of the Committee of the Whole upon the several Senate amendments above inserted, and it was decided in the affirmative.

Mr. PHELPS. I move that the vote by which the action of the Committee of the Whole was concurred in be reconsidered, and that the motion to reconsider lie upon the table.

The question was taken on the latter motion, and it was agreed to.

POST ROUTE BILL.

Mr. OLDS. I ask the consent of the House to have taken up and considered the Senate amendments to the post route bill.

There was no objection; and the bill, with the amendments, was taken up for consideration.

Mr. OLDS. Several of the Senate amendments relate only to post routes. There are other sections added to the bill, containing other amendments. I move that the amendments which relate to post routes be concurred in.

The CHAIRMAN. The question will be taken on all those amendments by one vote, if there is no objection.

No objection was made, and the question was put upon concurring to the several Senate amendments relating to post routes; and they were agreed to.

The next Senate amendment was then read, as follows:

"*And be it further enacted*, That the Postmaster General be authorized and required to establish a tri-weekly mail between Bainbridge and Appalachicola."

Mr. PHELPS. I move to amend that amendment by striking out the words "tri-weekly."

The question was put, and the amendment to the amendment was agreed to.

The Senate amendment as amended was adopted.

The next Senate amendment was read, as follows:

"SEC. 3. *And be it further enacted*, That all railroads and parts of railroads which are now or hereafter may be in operation, be, and the same are hereby, declared to be post-roads; and the Postmaster General may contract for carrying the mails thereon according to existing laws."

The question was taken, and the Senate amendment was concurred in.

The next Senate amendment in order was read, as follows:

"SEC. 4. *And be it further enacted*, That the Auditor of the Treasury for the Post Office Department be, and he is hereby, authorized to allow the postmaster at Richmond, Virginia, and the postmaster at Cleveland, Ohio, such additional compensation on the mail matter distributed by them, respectively, since the 1st day of June, 1851, as will, with the commissions already allowed them, make their annual compensation equal to $2,000 each, since the said 1st day of June, 1851."

Mr. OLDS. I will merely remark that those two distributing offices have been established since the law was passed fixing the amount of compensation of the distributing offices, in consequence of which the Auditor of the Post Office thinks he has no authority to pay them the same compensation as is paid to other distributing offices.

Mr. CLARK. Those are important offices, and this is an important amendment, and it ought to be concurred in.

CIVIL AND DIPLOMATIC BILL.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate insist upon their amendments disagreed to by the House, and disagree to the amendments of the House to the Senate amendments to the bill of the House making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending 30th June, 1854; and ask a committee of conference with the House upon the said disagreeing votes.]

POST ROUTE BILL.

Mr. STANLY. I hope the committee will not adopt that amendment. It is in the nature of a private claim. If it provided for the future, and not the past, I might be disposed to yield it my support, but it gives additional compensation to those who have held lucrative offices. It is wrong in principle, and I hope that the House will not sanction it.

Mr. CLARK. It is right that they should receive this additional compensation from the time they were made distributing officers.

The question was then taken, and the amendment of the Senate was non-concurred in.

The fifth amendment of the Senate, to insert as an additional section, was read, as follows:

"SEC. —. *And be it further enacted*, That hereafter, as the offices of the Assistant Postmasters General, or either of them, shall be vacated, the appointment of his successor shall be made by the President of the United States, by and with the advice and consent of the Senate, at the same salary as that of the Auditor for the Post Office Department: That an Assistant Postmaster General shall be appointed as aforesaid, and at the compensation aforesaid, to be employed in the inspection of the mail service, or such other duties as the Postmaster General shall assign him; and that $500 per annum be allowed and paid to the Assistant Postmaster General upon whom the law devolves the duties and powers of Postmaster General in case of his absence, death, or resignation."

Mr. LETCHER. I should like to know what is the necessity for creating this new regiment of officers. We have been getting along well enough with the old ones, and I do not see why we cannot still get along with them.

Mr. FITCH. If the amendment be divisible, I demand a separate vote on each paragraph.

The CHAIRMAN. The amendment is divisible, and the question will be first taken on the first branch of it, as follows:

"*And be it further enacted*, That hereafter as the offices of the Assistant Postmasters General, or either of them, shall be vacated, the appointment of his successor shall be made by the President of the United States, by and with the advice and consent of the Senate, at the same salary as that of the Auditor of the Post Office Department."

Mr. OLDS. I will give but a single word of explanation of that amendment of the Senate. The Auditor of the Post Office Department receives a salary equal to that of the heads of bureaus, viz: $3,000 per annum, while the First and Second Assistant Postmasters receive only $2,500 each per annum. They are, in fact, at the head of distinct bureaus, and this amendment proposes to put them on the same footing with the Auditor of the Post Office Department—$3,000 per annum.

Mr. LETCHER. I hope the amendment will be rejected.

Mr. OLDS. I do not much care whether it is rejected or not.

Mr. FITCH. Those officers are entitled to the increase of $500 to their salary. The remaining portion of the section of the Senate is one which the committee ought to concur in. It removes an Executive patronage which is sometimes bestowed injudiciously, and gives it to the Senate to confirm or reject the appointments. I sincerely hope that portion of the amendment will be adopted.

Mr. OLDS. I demand tellers on concurring in the first portion of the amendment.

Mr. HUNTER. Is it now in order to move an amendment?

The CHAIRMAN. It is.

Mr. HUNTER. I move to strike out that portion relating to salaries.

Mr. OLDS. I only ask that the committee will vote understandingly. I have no feeling about this matter as to whether the salaries of the First and Second Assistant Postmasters shall be increased or diminished; but you have an Auditor of the Post Office Department in the same building with them, to whom you give a salary of $3,000 per annum—$500 more than you give them. They have as much business to do, and as responsible duties to discharge as the Auditor; and they are as much at the head of a bureau as he is. I do not think that it is right, while he is receiving $3,000 per annum, they should be only receiving $2,500. The Auditors in all the other offices receive $3,000 per annum.

Mr. HUNTER. Why not cut them down?

Mr. RICHARDSON. The gentleman has started at the wrong end. Bring down the salary of the Auditor. We have got on the wrong course, and the sooner we get right the better.

Mr. PHELPS. I have no objection to the section as it now stands. Those Assistant Postmasters are only the chief clerks of the Postmaster General, and I desire to see him retain the appointing power in his own hands. I have always been in favor of his doing so. I have no objection, so far as the increase of salary is concerned; but when you compare their services with those of the Auditor of the Treasury for the Post Office Department, you will find that he has more responsible duties to discharge than either of them. The Auditor is not a part of the Post Office establishment; he belongs to the Treasury Department.

Mr. RICHARDSON. I would ask my friend whether, if we were to cut down the salaries to $2,500, there would be the slightest difficulty in

getting along, or in getting gentlemen to fill the offices?

Mr. PHELPS. I think not. I have no doubt that there are many patriotic gentlemen who are eager to fill them. [Laughter.]

Mr. CLARK. I am in favor of the whole proposition, both in giving their appointment to the President and the Senate, and in increasing their salaries. I think my whole course here will show that I have been in favor of economy—of strict and rigid economy; but I am not afraid to say here that I think proper compensation ought to be given to the functionaries of the Government; and I am especially in favor of justice and equality. The position occupied by those functionaries is equal in power, in duty, and in dignity, to that of the Auditor or that of the head of any bureau. The gentleman from Illinois asks whether we are to believe, if the salaries of these officers were cut down to $2,500 per annum, we could not get men enough to fill them? I would inquire of him whether, if the per diem of members was cut down to four dollars per day, you could not get men enough to come here? Unquestionably you could. That is a very erroneous view of the subject.

Mr. HARRIS, of Tennessee. I would ask the gentleman from Iowa whether the duties of these officers have become more arduous, or whether there is any reason why their salaries should be increased; or whether, in his opinion, Democrats cannot discharge these duties as faithfully, and for the same salary, as the Whigs have done?

Mr. CLARK. I do not know how that may be, Mr. Chairman, neither do I care. I do not know but that you could get men enough to fill them at $1,500 per annum, but I am willing to say that I believe the present compensation is a small one. You have increased, by a certain per cent., the salaries of the larger number of the Government employees, and I do not see why those who are called to discharge certain duties should not be paid as well as others who are called to discharge certain other duties of no greater moment or importance. I think, sir, that equity and even-handed justice, here and everywhere, is right and beautiful, and I hope the whole proposition will prevail.

Mr. RICHARDSON. I will detain the committee only for a very few minutes. When a proposition is brought forward for the increase of the salary of one officer, we are asked to increase the salaries of all others. My experience here for six years is that your legislation operates to put politicians instead of business men in office. The merchants in the city employ their clerks, who work the entire day, for $600, $700, $800, and $1,000 per annum, and they have their business well and faithfully performed, while you give your clerks, who are not business men, $1,500 and $1,800. This eternal argument is now brought forward, that because you raise the salary of some you ought to raise the salaries of all others. If gentlemen are determined to act with reference to the matter, the better plan would be to level down.

Mr. SWEETSER. The practice has always been to level up. [Laughter.]

Mr. RICHARDSON. That is my experience. The gentleman thinks there is some terror in the fact of your cutting down the salaries of members of Congress.

Mr. CLARK. Not at all.

Mr. RICHARDSON. So long as I hold a seat on this floor I will vote for retaining the per diem of members of Congress at what it is. I shall favor neither an increase nor a reduction. If gentlemen do not want to come here at their present pay, it is very easy to get gentlemen who will.

Mr. CLARK. I hope the gentleman from Illinois will not do me injustice. I did not say a word in reference to reducing the per diem of members here. I put a hypothetical case. I said that I supposed if the per diem were reduced one half, you could get men enough to come here—such as they would be.

CIVIL AND DIPLOMATIC BILL.

Mr. HOUSTON. The Senate have returned the civil and diplomatic appropriation bill, and ask for a committee of conference on the disagreeing votes of the two Houses. I move the appointment of the committee on the part of the House.

The question was taken, and the motion was agreed to; and Messrs. HOUSTON, STANLY, and DAWSON were appointed.

POST ROUTE BILL.

Mr. RICHARDSON. I have but a single word further to say. The Democratic party assumed a policy during the late presidential canvass very different from the one evidenced by these propositions for the increase of salaries. We went before the country and told the people that it cost at present too much money to administer the Government, and that if its administration were put into the hands of Democrats, more economy would be observed. The fulfillment of our pledges will be demanded, and it especially devolves on the Democratic party of this House to resist all expenditures of the public money for additions to salaries of Government employees, and to vote only for judicious appropriations for the various necessities of the country. If these improper appropriations be persisted in, they will and ought to break us down. I call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

The question being on the motion of Mr. HUNTER to strike out the words "at the same salary as that of the Auditor of the Post Office Department,"

Tellers were ordered; and Messrs. HALL and LITTLE were appointed.

The question was taken, and the tellers reported that there were—ayes 91, noes not counted.

So the amendment to the amendment was agreed to.

LOBBY MEMBERS—INTRUDERS.

Mr. WILCOX. I rise to what I conceive to be a question of privilege. We are within a very few hours of the adjournment of the present session of Congress, and the most important matters to be transacted are now upon your table. It is a matter of impossibility for us, as representatives of the people, to act intelligibly while there is so much confusion in the House; and believing it to be a question of privilege, I ask you, Mr. Speaker, to have this Hall cleared of every person who is not a member of Congress. Frequently you ask us to take our seats, but we have no seats to take. It is natural enough for citizens to be anxious to see how public business is transacted, but let them remain in the galleries, or without the bar; and I ask for an enforcement of the rules rigidly, in that respect.

The SPEAKER *pro tempore*. The Chair will call the attention of the House to the reading of the 17th rule, viz:

17. No person except members of the Senate, their Secretary, Heads of Departments, Treasurer, Comptrollers, Register, Auditors, President's Secretary, Chaplains to Congress, Judges of the United States, Foreign Ministers and their Secretaries, officers who, by name, have received or shall hereafter receive the thanks of Congress for their gallantry and good conduct displayed in the service of their country, the Governor for the time being of any State or Territory in the Union, such gentlemen as have been Heads of Departments or members of either branch of the National Legislature, the members of the Legislatures, for the time being, of the States and Territories; and, at the discretion of the Speaker, persons who belong to such Legislatures of *foreign* Governments as are in *amity* with the United States, shall be admitted within the Hall of the House of Representatives; and no person, not known to the Doorkeeper to be entitled to the privilege of the floor, shall enter the Hall, unless the Doorkeeper shall be informed by a member that the individual is entitled to admission under this rule, and in what capacity.

The SPEAKER. That is a rule intended to prevent the abuse now complained of. There are too many in the Hall not entitled, under that rule, to the privilege of the floor.

Mr. HALL. The complaint of the gentleman from Mississippi was, that they were within the bar.

The SPEAKER. These rules are made for the government of the House, and it is impossible for the Speaker, either the regular one, or any temporary one, to enforce these rules against the wishes and acts of a majority of members of this House. If no member of the House will invite or pass any one through the doors except such as are authorized to come in under that rule, we will have no complaint of a crowd in this Hall.

Mr. SWEETSER. I rise to a question of privilege. In my judgment, the location of these seats in the area of the House has been the cause of more disturbance than any of which members complain. I move that the area of the House be cleared.

The SPEAKER. The gentleman from Ohio proposes that the area be cleared of the seats, except those of the reporters, which were put thereby order of the House.

The question was taken; and the motion was disagreed to.

POST ROUTE BILL.

The question recurring on the first branch of the fifth amendment of the Senate as amended, it was put, and decided in the negative.

The question recurred on the second branch of the Senate amendment, in the following words:

"That an additional Assistant Postmaster General shall be appointed as aforesaid, and at the compensation aforesaid, to be employed in the inspecting of mail service or such other duties as the Postmaster General shall assign him; and that $500 per annum be allowed and paid to the Assistant Postmaster General upon whom the law devolves the duties and powers of Postmaster General in case of his absence, death, or resignation."

The question was taken on the second branch of the amendment, and it was not agreed to.

The sixth amendment of the Senate, to insert an additonal section, was read, as follows:

"SEC. 6. *And be it further enacted*, That from and after the 1st of April next, in place of the compensation now allowed deputy postmasters, the Postmaster General be, and is hereby, authorized to allow them commissions at the following rates, on the postage collected at their respective offices, in each quarter of the year, and in due proportion for any period less than a quarter, viz: on any sum not exceeding $100, fifty per cent., but any postmaster at whose office the mail is to arrive regularly between the hours of nine o'clock at night and five o'clock in the morning may be allowed sixty per cent. on the first $100; on every sum over and above $100, but not exceeding $400, forty per cent.; on every sum over and above $400, but not exceeding $2,400, thirty-five per cent.; on every sum exceeding $2,400, fifteen per cent.

"And on the amount of postages on letters and packages received at a distributing office for distribution, the postmaster at such distributing office may be allowed ten per cent. Every postmaster whose compensation shall not exceed $500 in one quarter, shall be allowed one cent for every free letter delivered out of his office, excepting such as are for the postmaster himself. But the special allowance now made by law to the postmasters at New Orleans and Washington city shall not otherwise be either increased or diminished. Each postmaster who shall be required to keep a register of the arrival and departure of the mails shall be allowed ten cents for each monthly return which he makes to the Postmaster General. Each postmaster may be allowed two mills for delivering from his office to a subscriber each newspaper not chargeable with postage: *Provided*, That the commissions and allowances hereby authorized shall be subject to the provisions of the forty-first section of the act entitled 'An act to reduce into one the several acts establishing and regulating the Post Office Department,' approved March 3, 1825."

The question was taken on the amendment, and it was agreed to.

Mr. OLDS. I hope the House will listen to the reading of the next amendment; it is a very important one.

The seventh amendment was read, as follows:

"SEC. 7. *And be it further enacted*, That any person who shall forge or counterfeit any postage stamp, printed or impressed upon any letter envelope, authorized by the eighth section of an act entitled 'An act to establish certain post roads, and for other purposes,' approved August thirty-first, eighteen hundred and fifty-two, or by any other act; or who shall counterfeit any die, plate, or engraving therefor; or who shall make, or print, or knowingly use, or sell, or have in his possession with intent to use or sell, any such false, forged, or counterfeited die, plate, engraving, or stamped envelope; or who shall make, or knowingly use, or sell, or have in his possession with intent to use or sell, any paper bearing the water-mark of such letter envelopes, or any fraudulent imitation thereof; or who shall make or print, or authorize, or procure to be made or printed, any stamped or printed letter envelope of the kind provided by the Postmaster General under the authority aforesaid, without the especial direction of the Post Office Department; or who, after such letter envelopes have been prepared or printed, shall, with intent to defraud the revenues of the Post Office Department, deliver any such letter envelopes to any person or persons, other than such as shall be authorized to receive the same by instrument of writing duly executed under the hand of the Postmaster General and the seal of the Post Office Department, shall, on conviction thereof, be deemed guilty of felony, and be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding five years, or by both such fine and imprisonment.

"SEC. 8. *And be it further enacted*, That it shall be the duty of every postmaster to cause to be defaced, in such manner as the Postmaster General may direct, all letter envelopes with postage stamps thereon, which may be deposited in his office for conveyance in the mail; and if any postmaster sending such envelopes in the mail shall omit to deface the same, it shall be the duty of the postmaster to whose office such envelopes shall be sent for delivery, to deface them, and report the delinquent postmaster to the Postmaster General. And if any person shall use, or attempt to use, for the conveyance of any letter or other mailable matter or thing, over any post road of the United States, either by mail or otherwise, any such stamped letter envelope which has been before used for a like purpose, such person shall be liable to a penalty of fifty dollars, to be

recovered in the name of the United States, in any court having competent jurisdiction."

Mr STANLY demanded tellers upon the amendment; which were ordered; and Messrs. JENKINS and GAYLORD, were appointed.

The question was taken and the tellers reported there were—ayes 79, noes not counted.

So the amendment was agreed to.

Mr. DAVIS, of Indiana. I desire to obtain the unanimous consent of the House to establish a small route. I was not in when the Clerk read over the amendments of the Senate establishing mail routes in my State:

From Point Commerce, via Middleburg, to Bolling Green.

The question was taken on Mr. DAVIS's amendment, and it was agreed to.

RIGHT OF WAY—RECIPROCITY BILL.

Mr. HALL. I move to suspend the rules for the purpose of taking up Senate bill No. 612, merely granting the right of way from the Point of Rocks, Maryland, through this District to Georgetown.

Mr. STUART. I do not desire to object, but it will be remembered that the reciprocity bill stands as the first thing in order, and therefore, if any gentleman objects, no suspension of the rules can take place. Now, I ask the House to take up that bill and dispose of it, so that any gentleman who wishes to move to suspend the rules may be able to do so.

Mr. HALL. I should like to know upon what principle the reciprocity bill is now in order? It comes up in the morning hour, and this is not the morning hour.

The SPEAKER. The gentleman from Missouri [Mr. HALL] asks the unanimous consent of the House to take up a certain bill, which he designates, and gives notice that if it is objected to, he will move to suspend the rules. The gentleman from Michigan [Mr. STUART] makes the question that it is not in order to move to suspend the rules. The Chair does not know upon what ground that question of order is made.

Mr. STUART. If the Chair will allow me, I will state, that having disposed of this business, we are now at the commencement of the morning hour, where the reciprocity bill stands as the first business in order, the House having seconded the demand for the previous question. The Chair has more than once decided, that under such circumstances, no motion to suspend the rules is in order, unless it be to go into Committee of the Whole on the state of the Union.

The SPEAKER. The Chair is of the opinion that the House has not been engaged on unfinished business, and that this is not the morning hour. The House, by unanimous consent, has let the morning hour go by, and taken up and disposed of other business.

Mr. STUART. This same question arose yesterday, or the day before, and the Speaker announced, when precisely such business as this was finished, that the reciprocity bill was the next thing in order; and the gentleman from Massachusetts [Mr. DUNCAN] was prevented on that account from submitting a motion to suspend the rules to take up the bill with reference to the protection of the lives of passengers on steamboats.

The SPEAKER. The reciprocity bill would have been the first business in order after the reading of the Journal this morning; but the House took up the amendments to the Post Office appropriation bill, which were not unfinished business, thereby giving the go-by to the morning hour. The Chair holds that the gentleman from Missouri, having the floor, had a right to make his request to take up the bill which he has indicated, and, if objection is made, will have a right to move to suspend the rules.

Mr. STUART. I do not object to the taking up of the bill.

No objection being made, the following bill was then taken from the Speaker's table and read a first and second time by its title, viz: Senate bill No. 612, "to incorporate the Georgetown and Catoctin Railroad Company."

Mr. HALL. That is a bill to incorporate a company for a railroad from Georgetown to a point on the Baltimore and Ohio railroad. As no gentleman seems to desire further information concerning it, I move the previous question.

The previous question received a second, and the main question was ordered to be now put.

The bill was then ordered to a third reading, and was thereupon read the third time.

Mr. HALL. I demand the previous question on the passage of the bill.

The previous question received a second, and the main question was ordered to be put; and being put, the bill was passed.

Mr. HALL. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

POST OFFICE BILL—CONFERENCE.

A message was received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had insisted on its amendments to the Post Office appropriation bill, disagreed to the amendments of the House to amendments of the Senate, and asked for a committee of conference on the disagreeing votes of the two Houses.

WILLIAM HAZARD WIGG, DECEASED.

Mr. COLCOCK. I ask the unanimous consent of the House to enable me to take up from the Speaker's table Senate bill No. 547, "authorizing 'the adjustment and payment of the claims of 'William Hazard Wigg, deceased, for losses 'sustained by him during the war of the Revolu-'tion."

Mr. SKELTON. I object. That bill ought not to be passed. It introduces——

[Cries of "Order!" and "Suspend the rules!"]

Mr. DUNCAN. I object, and wish to state my reasons for so doing——

[Cries of "No!" and "Not in order!"]

Mr. DUNCAN. The bill introduces a new principle that will give rise to discussion, and, without going its merits, it is enough to say that we have not time to pass it at this session.

[Cries of "Order!" "Order!"]

Mr. COLCOCK. I move to suspend the rules to enable the bill to be taken up.

Mr. WALSH. I hope that bill will be taken up and passed, but I ask the gentleman from South Carolina to give way for one moment, to let me take up first Senate bill No. 226, for the relief of William Lacon, a man who has been ruined——

[Cries of "Order!" and "Question!"]

A MEMBER. We will take that up afterwards. Let us dispose of the Wigg claim first.

Mr. WALSH. We can pass Lacon's bill in two minutes. There can be no possible objection to it.

Mr. COLCOCK. I cannot yield the floor for that purpose.

Mr. ALLISON. I demand the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

Mr. GORMAN. I rise to a privileged question.

[Cries of "Order!" and "Call the roll!"]

Mr. GORMAN. I have some business to report to the House from the Committee on Printing, and I cannot get the floor unless I take it from somebody else.

The SPEAKER. The gentleman cannot take the floor at this time, because there is a motion pending to suspend the rules, which is a privileged question.

Mr. STEPHENS, of Georgia. I hope the gentleman from South Carolina will withdraw his motion for a few moments.

Mr. COLCOCK. I must decline to do it.

The question was then taken on Mr. COLCOCK's motion to suspend the rules, and there were—yeas 122, nays 46; as follows:

YEAS—Messrs. Abercrombie, Aiken, William Appleton, Ashe, Averett, Thomas H. Bayly, Beale, Bibighaus, Bocock, Bowie, Bragg, Breckinridge, Briggs, Brooks, Albert G. Brown, George H. Brown, Busby, E. Carrington Cabell, Thompson Campbell, Cartter, Caskie, Chandler, Chastain, Churchwell, Clark, Clemens, Clingman, Colcock, Conger, Cottman, Curtis, Darby, Dawson, Dean, Dimmick, Disney, Dockery, Dunham, Edgerton, Edmundson, Faulkner, Fay, Fitch, Florence, Henry M. Fuller, Gamble, Gaylord, Goodrich, Gorman, Green, Isham G. Harris, Hart, Haws, Henn, Holladay, Houston, Howard, Ingersoll, Jackson, James Johnson, Robert W. Johnson, George W. Jones, J. Glancy Jones, Kuhns, Kurtz, Landry, Letcher, Lockhart, Mace, Marshall, McCorkle, McLanahan, McMullin, McNair, McQueen, Meade, Miller, Henry D. Moore, John Moore, Morehead, Morrison, Murphy, Nabers, Olds, Orr, Outlaw, Andrew Parker, Penn, Porter, Powell, Preston, Price, Richardson, Riddle, Robbins, Robinson, Ross, Russell, Savage, Schermerhorn, Scurry, David L. Seymour, Origen S. Seymour, Snow, Stanly, Alexander H. Stephens, St. Martin, Stratton, Strother, Sutherland, Taylor, Toombs, Venable, Wallace, Walsh, Ward, Addison White, Wilcox, Wildrick, Williams, Woodward, and Yates—122.

NAYS—Messrs. Charles Allen, Allison, Barrere, Bennett, John H. Boyd, Brenton, Joseph Cable, Lewis D. Campbell, Cobb, John G. Davis, Duncan, Durkee, Eastman, Evans, Floyd, Giddings, Goodenow, Hebard, Horsford, Hunter, Ives, Jenkins, George G. King, Preston King, Little, Mann, Martin, Millson, Murray, Newton, Samuel W. Parker, Peaslee, Penniman, Perkins, Reed, Robie, Sackett, Schoonmaker, Skelton, Thaddeus Stevens, Sweetser, Thurston, Townshend, Walbridge, Washburn, and Wells—46.

So (two thirds voting in favor thereof) the rules were suspended.

The bill was then taken from the Speaker's table, and read a first and second time by its title.

It directs the accounting officers of the Treasury to adjust and settle the claim of William Hazard Wigg, late of the State of South Carolina, for losses sustained by him while detained as a hostage during the war of the Revolution; that in the said settlement the sum of $37,197 shall be allowed with legal interest; and that the amount thus found to be due shall be paid to the grandson of said William Hazard Wigg, deceased, out of any money in the Treasury not otherwise appropriated.

Mr. COLCOCK. Mr. Speaker, I could not think of moving the previous question upon this bill without first making a brief statement to the House, but the time of the House is so limited that I shall be reluctantly constrained to make that motion before I take my seat.

Anxious as I am that this bill should pass, I have too much respect for the members of this House to ask them to vote upon any claim in which a constituent of mine is interested, without first making a brief statement of the facts of the case.

[Loud cries from all parts of the Hall of "No speech!" and "Move the previous question!"

Mr. COLCOCK. Well, sir, I yield to what seems to be the general wish of the House, and move the previous question without making any statement.

Mr. ALLISON. I hope the gentleman will not move the previous question.

[Calls of "Order!" and "Yes!" "Yes!"]

Mr. ALLISON. I appeal to him to withdraw the call.

Mr. COLCOCK. No, sir; I cannot withdraw it.

The previous question received a second, and the main question was ordered to be now put.

Mr. SACKETT. I rise to a question of order. I desire to know if there is an appropriation contained in this bill?

The SPEAKER. There is.

Mr. SACKETT. Then I make the question of order that the bill must go to a Committee of the Whole House.

Mr. COLCOCK. I move to suspend the rule requiring the bill to be considered in a Committee of the Whole House.

The question was put, and (two thirds voting in favor thereof) the rule was suspended.

The bill was then ordered to a third reading; and, having been read the third time, was passed.

Mr. COLCOCK. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put on the latter motion, and it was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. JONES, of Tennessee. The Senate have insisted on their amendments to the Post Office appropriation bill, and ask for a Committee of Conference. I move that a Committee of Conference be appointed on the part of the House.

The motion was agreed to; and the Speaker thereupon appointed Messrs. JONES of Tennessee, HAVEN, and FITCH, managers of said conference on the part of the House.

INTRUSIONS WITHIN THE BAR.

Mr. STANLY. I rise to a question of privilege. I offer the following resolution:

Resolved, That the Speaker be requested to direct the Sergeant at-Arms and Doorkeeper to keep all persons except members of Congress, and the officers of the Senate and House, from coming within the bar of the House.

I offer that resolution in kindness to the Chair. We cannot get along with business unless something of the sort is done. Half the time we have not seats to sit in within the bar of the House. I have heard an elderly gentleman in this city—the senior editor of the National Intelligencer, Mr. Gales—say that he has been here for forty years,

and has never been within the bar of the House. I wish others would follow his example.

The question was then taken upon the resolution, and it was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled bills (which received the signature of the Speaker) of the following titles, viz:

An act to extend preëmption rights to certain lands therein mentioned;

An act to provide for the survey of the public lands in California, the granting of preëmption privileges therein, and for other purposes; and

An act for the relief of John Charles Frémont, late lieutenant colonel in the Army of the United States.

Mr. HALL. The title of one of the bills just reported from the Committee on Enrolled Bills provides for granting "preëmption privileges." The form in which it passed this House was for "preëmption rights." I presume it is a mistake, and I ask that, by unanimous consent, it may be changed back to the usual form for those bills.

There was no objection, and the word "privileges" was stricken out of the said title, and the word "rights" inserted.

The SPEAKER. For the purpose of carrying out the resolution of the House passed a few minutes since, the Chair directs the officers of the House to execute the order of the House; and if they find difficulty in the execution of that order, to report that fact to the Speaker.

The officers of the House thereupon proceeded to clear the Hall of all persons except those strictly entitled under the rule to be admitted.

SEVENTH CENSUS.

Mr. GORMAN. I rise to a privileged question. The Committee on Printing have instructed me to report back the joint resolution for the printing the Seventh Census, with the amendment of the Senate. I will state that the Senate have cut it down considerably, and the Committee on Printing have thought it advisable to pass it as it is. I move to concur in the amendment of the Senate, and upon that I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then taken, and the House agreed to concur in the amendment of the Senate.

Mr. GORMAN. I move to reconsider the vote last taken by which the House agreed to concur in the amendment of the Senate, and to lay the motion to reconsider apon the table.

The question was put, and the latter motion was agreed to.

PATENT OFFICE REPORT.

Mr. GORMAN. I have another report to make from the Committee on Printing, in relation to printing the agricultural and mechanical parts of the Patent Office Report for the present year. It is well known that none of the members of this Congress will get these books unless they order them printed during the present session. We recommend that the usual number of both parts be printed. I move, therefore, under instructions of that committee, the following resolution:

Resolved, That there be printed for the use of the House of Representatives, one hundred thousand extra copies of the agricultural report of the Patent Office, and ten thousand copies for the use of the Patent Office; and that fifty thousand extra copies of the mechanical part be printed for the use of the House of Representatives, and ten thousand copies for the use of the Patent Office.

Mr GORMAN. Upon the adoption of the resolution I demand the previous question.

Mr. CLINGMAN. I ask the gentleman from North Carolina to withdraw the call for the previous question to allow me to offer an amendment to that resolution.

Mr. GORMAN. I will allow the gentleman to offer an amendment, if he desires.

Mr. CLINGMAN. I move that instead of fifty thousand copies of the mechanical part of the Patent Office Report we print only ten thousand, and that the number of agricultural reports be correspondingly increased.

Mr. Speaker, I find that under the present arrangement I have four hundred copies of the agricultural report furnished me and two hundred of the mechanical, but that notwithstanding, while I have not enough of the agricultural to meet the demand for them, yet I have a large surplus of the mechanical left upon my hands which nobody wants. I hope, therefore, that my amendment, which is to increase the number of the agricultural part to one hundred and forty thousand and to print only ten thousand of the mechanical, will be adopted.

Mr. GORMAN. I now call the previous question.

The previous question was seconded, and the main question was ordered to be put.

Mr. CLINGMAN. With the consent of the committee, at the suggestion of gentlemen around me, I will modify my amendment so as to provide for twenty thousand copies of the mechanical and one hundred and thirty thousand copies of the agricultural part of the report.

The SPEAKER. The gentleman can modify his amendment by unanimous consent.

Mr. CARTTER. I object, and I hope the amendment in any shape will be voted down.

The question was then taken, and Mr. CLINGMAN's amendment was disagreed to—ayes 50, noes not counted.

The question was then taken, and the resolution was adopted.

Mr. GORMAN. I move to reconsider the vote last taken, by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

EULOGIES UPON DANIEL WEBSTER.

Mr. GORMAN. I have another report to make from the same committee.

Mr. RIDDLE. I ask the gentleman from Indiana to allow me to make a motion connected with the resolution we have just passed.

Mr. GORMAN. I cannot give way. I am authorized by the Committee on Printing to report the following resolution, which was referred to them by the House:

Resolved, That there be printed, under the direction of the Committee on Printing, thirty thousand copies of the obituary addresses delivered in the House and Senate on the death of the Hon. Daniel Webster.

The question was taken, and the resolution was adopted.

Mr. GORMAN. I move that the vote last taken, by which the House adopted the resolution, be reconsidered, and that the motion to reconsider be laid upon the table.

The question was taken, and the latter motion was agreed to.

COAST SURVEY.

Mr. GORMAN. I have still another report to make from the Committee on Printing. I am authorized by that committee to report the following resolution, viz:

Resolved, That five thousand extra copies of the report of the Superintendent of the Coast Survey for the year 1852 be printed, four thousand copies thereof for the use of the House, and the remainder for the use of the Coast Survey Office; and that said report be printed and bound with the plates in quarto form.

Mr. Speaker, I will simply say that the number of copies of this document is largely cut down from last year. I move the previous question.

The previous question was seconded, and the main question was ordered to be put.

The question was then taken, and the resolution was adopted.

Mr. GORMAN. I move to reconsider the vote last taken, by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

JOHN DE NEUFVILLE AND SON.

Mr. GREEN. I ask the unanimous consent of the House to take from the Speaker's table joint resolution of the Senate (No. 51) for the relief of John De Neufville & Son.

There being no objection, the joint resolution was taken from the Speaker's table and read through.

Mr. GREEN. I will simply say that the resolution passed almost unanimously in the Senate, and I think there should be no objection to it from any one. I move to put it upon its passage, and move the previous question.

The previous question was seconded, and the main question ordered to be put.

The joint resolution was then ordered to a third reading, and was then read a third time and passed.

Mr. GREEN. I move to reconsider the vote last taken, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

ROBERT GIBSON.

Mr. EDMUNDSON. I ask the unanimous consent of the House to allow the Committee on Invalid Pensions to report a bill for the relief of Robert Gibson.

There was no objection; and

Mr. HARRIS, of Tennessee, from the Committee on Invalid Pensions, reported a bill (No. 368) for the relief of Robert Gibson, which was read a first and second time by its title.

The bill, which was read through by the Clerk, provides that the name of Robert Gibson shall be placed upon the roll of invalid pensions from the first day of January, 1852, to continue during his natural life.

Mr. HARRIS. I demand the previous question upon the third reading of the bill.

Mr. EDMUNDSON. I ask the gentleman to withdraw his call for the previous question, to allow me to offer an amendment to the bill.

Mr. HARRIS. I will allow the gentleman to offer his amendment, though I shall vote against it if it is what I suppose. I withdraw my call.

Mr. EDMUNDSON. I move to strike out "January 1, 1852," and insert "May 28, 1849."

Mr. Speaker, I ask the House to hear me just a moment in relation to the bill now under consideration. My friend from Tennessee [Mr. HARRIS] is a faithful guardian of the Treasury, and I respect him for that; but I think he has gone a little too far in this case. The petition in this case was filed in the Pension Office some three years ago, asking that Robert Gibson be placed upon the roll of invalid pensions. He has been an invalid ever since 1814. The proof of his neighbors, and those who were with him in the service, is conclusive upon that point. The Committee on Invalid Pensions, however, have only recommended that he shall be allowed a pension from the 1st January, 1852. I ask that that report may be amended so as to make his pension commence with the 28th of May, 1849, that being the time at which his petition was filed in the Pension Office.

Mr. HARRIS. In reply to the gentleman from Virginia, I have only to say, that the Committee on Invalid Pensions have adopted the same rule in all those cases which is in force in the Pension Office. They have provided that the pension shall commence with the time the proof in the case was perfected, which was in January, 1852. I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The question being first upon the adoption of the amendment, it was put, and the amendment was disagreed to.

The bill was then ordered to be engrossed and read a third time; and having been engrossed, it was read the third time, and passed.

Mr. EDMUNDSON. I move that the vote last taken be reconsidered, and that the motion to reconsider do lie upon the table.

The question was put, and the latter motion was agreed to.

LAND OFFICES—CHANGE OF LOCATION.

Mr. ABERCROMBIE. I ask the unanimous consent of the House to take up and consider Senate bill No. 622, entitled "An act to authorize a change in the location of land offices."

No objection was made, and the bill was taken up, and read a first and second time by its title.

Mr. ABERCROMBIE. I move the previous question upon ordering the bill to a third reading.

The previous question was seconded, and the main question was ordered to be put.

The question now being "Shall the bill be ordered to a third reading?" it was put, and decided in the affirmative.

The bill was subsequently read the third time, and passed.

Mr. ABERCROMBIE. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

CATHERINE PROCTOR HAYDEN.

Mr. JACKSON. I have not at any time during the present session of Congress asked the unanimous consent of the House to take up a bill. I now present the case of an aged lady, the

daughter of a revolutionary officer. She resides in my State, and is between seventy and eighty years of age. Representing her, I ask the unanimous consent of the House to take up Senate bill No. 512, for the relief of Catherine Proctor Hayden, only child and heir of Colonel White, deceased, late a lieutenant colonel in the fourth Georgia battalion of the Revolutionary Army.

Mr. MOREHEAD. Like my honorable friend from Georgia, I have not troubled the House for such a purpose, either at the last session or at the present. I have endeavored for the last day or two to get the floor, but have not to this time succeeded. I feel it my duty to object.

Mr. JACKSON. I move that the rules be suspended to enable me to take up the bill. This is the first time that I have asked a favor of the House. I hope my friend will withdraw his objection.

Mr. MOREHEAD. I withdraw it.

Mr. JACKSON. I move to suspend the rule which requires bills containing appropriations to go to the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to, two thirds voting in the affirmative.

The bill accordingly was taken up, and read a first and second time by its title.

Mr. JACKSON. I move the previous question on ordering the bill to a third reading.

The previous question was seconded, and the main question was ordered to be put.

The main question being "Shall the bill be ordered to a third reading?" it was put, and decided in the affirmative.

The bill was subsequently read the third time, and passed.

Mr. JACKSON. I move to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table.

The question was taken on the latter motion, and it was agreed to.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had agreed to the report of the Committee of Conference upon the deficiency bill.]

LANGDON C. EASTON.

Mr. DARBY. I ask the unanimous consent of the House to take up Senate bill No. 469, for the relief of Captain Langdon C. Easton, assistant quartermaster of the United States Army.

This is the only and last request I shall make of the Congress of the United States. It is a short bill of only five or six lines.

Mr. JOHNSON, of Georgia. I object, and I will state as the ground of my objection, that all private bills of a meritorious character ought to have the same chance to be passed. There should be no selection made. Some individuals can get the floor, and others cannot.

The SPEAKER. That is very true, because all want it.

Mr. JOHNSON. I represent a case equally as meritorious as that of the gentleman from Missouri.

Mr. DARBY. I move to suspend the rules, to enable me to move to take up the bill.

The question was taken, and the rules were suspended—two thirds of a quorum voting in the affirmative.

Mr. DARBY. I ask that the report, which is a short one, may be read.

The report was accordingly read, from which it appears, that in April, 1850, Captain Easton was assigned to duty as assistant quartermaster at Santa Fé, having under his direction eleven posts to be supplied with funds and stores, and the clothing depôt of the ninth military department; that Captain Easton during his continuance at Santa Fé, from July, 1850, to July, 1851, was at different intervals defrauded of $17,651 by Gustavus McHarcourt, his chief clerk; that in September, 1851, Captain Easton, while at St. Louis, Missouri, was notified by the Quartermaster General of the deficiency in his accounts, and then, for the first time, discovered the dishonesty of his chief clerk. He returned as soon as practicable to Santa Fé in pursuit of McHarcourt, and learned that he had absconded some three months previous, and taken shipping from Mazatlan, Mexico.

Mr. RICHARDSON. I rise to a question of order. Do I understand that the rules have been suspended to allow the bill to be taken up?

The SPEAKER. They have been.

Mr. RICHARDSON. The bill makes an appropriation, and unless the rules be further suspended, it must go to the Committee of the Whole on the state of the Union. I make the point, for I desire to say a word in relation to the bill.

The SPEAKER. The Chair decides that the bill must go to the Committee of the Whole on the state of the Union.

Mr. DARBY. I intended to move to suspend the rules which requires that the bill shall be first considered in the committee, if there should be any objection. I make that motion.

The question was put; and there were, on a division—ayes 60, noes not counted.

So the rule was not suspended—two thirds not voting in the affirmative.

GEORGE G. BISHOP.

Mr. CARTTER. I ask the unanimous consent of the House to take up Senate bill No. 187, for the relief of George G. Bishop, and the legal representatives of John Arnold, deceased.

Mr. PRICE. I rise to a question of order. I understood the Chair to decide that he would not recognize any gentleman out of his seat.

Mr. CARTTER. I came from my seat after I was recognized.

The SPEAKER. The rule is that a gentleman must rise from *a* seat.

A MEMBER. *His* seat.

The SPEAKER. It is true that is the language of the rule, but it has been decided again and again that that means *a* seat.

The bill was then taken up, and read by its title for information.

Mr. LETCHER. I object to the introduction of it.

Mr. CARTTER. Then I move to suspend the rules for the purpose indicated.

The question was put, and there were, on a division—ayes 84, when

Mr. LETCHER demanded the yeas and nays.

The House was divided on the call for the yeas and nays, and there were—ayes 25, noes 85; no quorum voting.

The SPEAKER. If there is no objection, the Chair will ascertain by a count whether there is a quorum present.

Mr. RICHARDSON. I ask for tellers upon the yeas and nays.

The SPEAKER. The yeas and nays cannot be ordered when there is no quorum in the House. The Chair will determine by a count the number present.

The Chair proceeded to count the members, and announced that there were 144 present.

Mr. DOTY. I ask for tellers upon the yeas and nays.

Tellers were ordered; and Messrs. GAYLORD and EDMUNDSON were appointed.

The House was divided, and the tellers reported 14 in the affirmative.

So the yeas and nays were not ordered.

Mr. LETCHER. I ask for tellers upon the motion to suspend the rules.

Tellers were ordered; and Messrs. GAYLORD and EDMUNDSON were appointed.

The question was taken, and the tellers reported —ayes 90, noes 50.

So the rules were not suspended, two thirds not voting in the affirmative.

THE DEFICIENCY BILL.

Mr. TOOMBS. I desire, with the leave of the House, to submit the report of the second Committee of Conference on the deficiency appropriation bill. We have adopted the report of the first committee with three exceptions. It is recommended that the House recede from its disagreement to the 13th and 20th clauses of the 13th amendment of the Senate; which are as follows:

Thirteenth clause:

"For providing proper foundations for the custom-house at San Francisco, authorized by the sixth section of the act entitled 'An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1852,' and in addition to the sum of $40,000 heretofore appropriated, $25,000."

Twentieth clause:

"For additional allowance to E. S. Norris, the sum of $2,260 34, and to George R. Stuntz the sum of $1,958 50, additional allowance made to them as deputy surveyors under the surveyor general of Wisconsin and Iowa, and in accordance with the recommendations and estimates of the Commissioner of the General Land Office and the Secretary of the Interior, dated respectively on the 11th and 14th of February, 1853."

The thirteenth clause, above inserted, was adopted in the Senate on a communication from the proper Department that the appropriation could not be expended until the foundation was completed, and that $25,000 was necessary for that purpose. The third point of difference was in reference to the matter which was discussed so fully last evening. The Senate recedes from the whole of its amendment on the subject of the California assay office as is contained in the sixth section of the fifteenth amendment, and submit to the House, which the committee recommend be adopted, the following in lieu thereof:

"SEC. 6. *And be it further enacted*, That the time for receiving bids under the act of 3d of July, 1852, for the erection of a Mint in California, be extended to the 1st of April, 1853, and that the sum of $300,000 appropriated by said act, or so much thereof as may be necessary, shall be applied only to the erection and putting in operation a Mint in California, and not to the purchase of any building for that purpose."

The Senate insisted on having the time extended for the receiving of bids thirty days, leaving the California Mint clause just as it is, and we saw no objection to that, for it might benefit the public rather than injure it.

I repeat now what I stated in debate last evening, that the act of the 3d of July, 1852, can be carried out fully and completely; and in connection, let me read the following communication, which I have received from the Secretary of the Treasury:

TREASURY DEPARTMENT, *March* 3, 1853.

SIR: In reply to your letter of this date, I have the honor to state that the Department has responsible bids within the appropriation for the Mint at San Francisco.

Second. That the Department considers the present assay office, with the proposed additions which the proprietors offer to make to the building, machinery, fixtures, &c., as sufficient to furnish a coinage to the extent of $30,000,000 per annum; and the offer of said building is on the conditions that such shall be the fact, and that the building, machinery, &c., shall all be first approved by a person to be appointed by the Department, before it is accepted or any money paid on account of it; and that it shall be ready to go into full operation within nine months.

Third. The offers for the contract were all only finally received from California within the last ten days, and one reason for not having made the contract is, that no provision has been made by Congress for a site, and none of the Government reserve is considered suitable for the purpose.

Your obedient servant, THO. CORWIN,
Secretary of the Treasury.

Hon. R. TOOMBS, *House of Representatives.*

The offer of the assay office is $275,000, which is to include the ground, buildings, machinery, fixtures, and appurtenances of all kinds complete.

Mr. FICKLIN. I rise to ask the gentleman from Georgia whether the bid is for a substantial fire-proof building for the Mint in California?

Mr. TOOMBS. I will let the gentleman from California answer.

Mr. MARSHALL. There are bids describing the building and all the apparatus which is intended to be put into it. There are proposals in the Treasury Department to build a fire-proof brick building, with double walls, so that there will be no wood-work exposed.

Mr. TOOMBS. The question of the gentleman from Illinois being answered, I shall merely repeat that the proposition of the Senate will benefit the public. Additional bids will be sent in, if there are any to be made. But there are now ample bids under the law of 2d July, 1852, in the Department.

Mr. DUNHAM. The bids, if I understood the gentleman's statement, are for the building and the ground?

Mr. TOOMBS. I read from the communication of the Secretary. Some are for the ground and some are not.

Mr. DUNHAM. Then these bids specify the grounds and the kind of building which is to be erected on them?

Mr. TOOMBS. The offers of course must agree with the advertisement and specifications of the Treasury Department.

Mr. DUNHAM. I want to inquire in reference to one thing further. I understand from the paper which the gentleman has read, and which, I suppose, he has procured for this occasion——

Mr. TOOMBS. I have obtained it for this occasion.

Mr. DUNHAM. I understand the gentleman to say that the reason these bids were not ac-

cepted, was because of the construction of the Treasury Department that the act of Congress makes no provision for the ground?

Mr. TOOMBS. Yes, sir.

Mr. DUNHAM. Will the gentleman tell the House what authority the Treasury Department have to convert a portion of that fund into the purchase of a site? And if it has no such authority, how is a site to be procured?

Mr. TOOMBS. That question is not germane. We have a law of Congress which is to be carried out. The Government has millions of acres of land there, and I presume it can get a site. I desire the law to stand as it is.

Mr. MARSHALL. One of the bids already put in, or which is now ready to be put in, includes an offer to provide a site. But if that were not so, the Government of the United States has ample property in the city of San Francisco to which its title is undoubted and beyond question, on which to construct all the public buildings that may be necessary; and if disposed of for the benefit of the United States, enough to pay all the appropriations which are asked for that city in the erection of public buildings. I left out in the suggestions I made as to that amendment, this question of the site on purpose, because I knew that it would either be provided for in the bids of the parties asking to build the structure, or else the Government of the United States would assert, as it ought to do, its right to its own unquestioned and unquestionable property within the limits of that city, and in places particularly convenient for the erection of this building.

Mr. DUNHAM. I do not understand that the paper which the gentleman has read, and the statement of the gentleman from California, to agree. I understand the paper to give as a reason why contracts have not been accepted, that there was no appropriation for a site there.

Mr. TOOMBS. That was one of the reasons assigned.

Mr. DUNHAM. The gentleman, then, and the Secretary do not agree. I have nothing to say in reference to this report. I have no feeling—no care about it. I only wish to justify myself for the statement which I made last evening. It does seem to me that I am perfectly justified from the paper which the gentleman read and the statement of the gentleman from California. Both say, as I understand them now, that the time for receiving bids should be extended. I ask whether that would be necessary, if ample bids had already been received under the law?

Mr. TOOMBS. The gentleman is mistaken. They have responsible bids. The letter of the Secretary says so. The Committee of Conference wanted the extension of thirty days that more bids might be received. The Department did not ask it. I yielded because I saw no injury to result to the public service. I will state, so far as the ground is concerned, that if it were intended to amend the Mint law it would have been done, but no such thing was done; but there was an attempt to repeal the law.

Mr. DUNHAM. It is proper that I should say, for my own justification, that the official information which the gentleman had before the Committee of Conference this morning was not accessible last evening, and no other information on the subject. We were informed very differently from what the gentleman has been.

Mr. TOOMBS. I believe the gentleman. The matter is all right now.

The report of the Committee of Conference was then read.

Mr. TOOMBS. I call for the previous question on the adoption of the report of the committee.

The call for the previous question was seconded, and the main question was ordered to be put.

The question was taken, and the report of the Committee of Conference was adopted.

SIXTEENTH JOINT RULE.

Mr. EDMUNDSON. I move that the 16th rule, which provides that no bill that shall have passed one House shall be sent for concurrence to the other on either of the three last days of the session, be suspended so far as it relates to House bill No. 368, entitled "An act for the relief of Robert Gibson."

The question was taken, and the motion was agreed to.

ENGRAVING.

Mr. RIDDLE. I rise to a privileged question. I have been instructed by the committee, who have the power to report at all times, the following resolution from the Committee on Engraving:

Resolved, That the Committee on Engraving be, and they are hereby, authorized to contract for the engravings accompanying the agricultural part of the report of the Commissioner of Patents, provided the cost thereof shall not exceed $800.

Resolved, That the Committee on Engraving be, and they are hereby, authorized to contract for engraving or lithographing six thousand five hundred and twenty sets of the maps accompanying the report of the Superintendent of the Coast Survey: *Provided*, That the cost shall not exceed $6,520. Also one thousand five hundred and twenty copies of the map accompanying the correspondence of the Navy Department with Thomas Ap Catesby Jones and Edward Stanly: *Provided*, The cost shall not exceed $120."

That is all the engraving ordered this session.

The question was taken, and the resolution was agreed to.

Mr. SCHERMERHORN. I move to suspend the rules for the purpose of enabling the House to take up such bills on the Speaker's table as provide for the relief of widows and orphans.

Mr. HEBARD. I ask the unanimous consent of the House to allow Senate bill No. 447, for the relief of Ira Day, to be taken up. It is a bill authorizing the Postmaster General to pay him a balance due him of $108 90.

Mr. MEADE. I give notice that I will object to every bill that is not for the relief of widows and of orphans.

Mr. HEBARD. May I be permitted to say one word in relation to that bill?

The SPEAKER. The gentleman cannot do so unless by the unanimous consent of the House.

Several MEMBERS. I object.

Mr. HEBARD. Then I move to suspend the rules for the purpose of considering that bill.

The question was taken, and the House refused to suspend the rules.

POST ROUTE BILL.

A message was here received from the Senate, by ASBURY DICKINS, Esq., its Secretary, announcing that the Senate have agreed to the amendments of the House to the amendments of the Senate, and insist upon their fourth and fifth amendments disagreed to by the House to the bill of the House No. 364, "to establish certain post roads."

On the motion of Mr. OLDS, by unanimous consent,

Ordered, That the House insist upon their disagreement to the fourth and fifth amendments of the Senate to the bill of the House (No. 364) "to establish certain post roads," and ask a conference with the Senate upon the said disagreeing votes.

Ordered, That Mr. OLDS, Mr. SCHOOLCRAFT, and Mr. ROBINSON be the managers at the said conference on the part of the House.

***Ordered*, That the Clerk acquaint the Senate therewith.**

L. M. GOLDSBOROUGH.

Mr. OUTLAW. I ask the unanimous consent of the House to take up Senate bill (No. 224) for the relief of L. M. Goldsborough and others.

Mr. HEBARD. I object.

Mr. OUTLAW. I move to suspend the rules for that purpose.

Mr. CARTTER. On that motion I demand the yeas and nays, and tellers upon the yeas and nays.

The tellers and yeas and nays were both refused.

The question was put upon suspending the rules; and there were, on a division—ayes 80, noes 34.

Tellers were demanded and ordered; and Messrs. MACE and SNOW were appointed.

The question was then taken; and the tellers reported that there were—ayes 93, noes 31.

So the rules were suspended.

Mr. CARTTER. I rise to inquire whether this bill provides for an appropriation of money?

The SPEAKER. The Chair thinks that it does.

Mr. CARTTER. Then I move that the bill be referred to the Committee of the Whole on the state of the Union.

Mr. OUTLAW. I move a suspension of the rule which requires that this bill be first considered in the Committee of the Whole on the state of the Union.

The question was put, and on a division there were—ayes 79, noes not counted.

Mr. OUTLAW demanded tellers; which were ordered; and Messrs. EWING and CLEMENS were appointed.

The question was then taken; and, there being two thirds voting in the affirmative, the rule was suspended.

The bill was then read, and ordered to a third reading, and having been read the third time, the question recurred, "Shall the bill pass?"

Mr. OUTLAW demanded the previous question; which was seconded, and the main question ordered to be put.

The question was then taken, "Shall the bill pass?" and it was decided in the affirmative.

So the bill was passed.

Mr. OUTLAW moved to reconsider the vote by which the bill was passed, and to lay the motion to reconsider upon the table; which latter motion was agreed to.

DELEGATE FROM NEBRASKA.

Mr. ASHE. I rise to a privileged question. I desire to make a report from the Committee on Elections in the case of A. Guthrie, who claims to be a regularly-elected Delegate from Nebraska, and asks to be admitted to the rights of a Delegate upon this floor. The committee in this case find that there were polls open at two precincts. They ask to be discharged from further consideration in this case, and that the report be laid upon the table and printed.

The SPEAKER. It will be so ordered, unless objection be made.

Mr. EDGERTON. I offer in connection with that report a resolution.

[The Reporter was unable to procure a copy of this resolution.]

Mr. FICKLIN. Is that in order now?

The SPEAKER. In regard to the question of order raised upon the report of the Committee on Elections, the Chair is of the opinion that it is a case rather for the House to determine whether it be a question of privilege under the rule.

Mr. FICKLIN. I make the point of order upon the resolution introduced by the gentleman from Ohio, [Mr. EDGERTON.]

The SPEAKER. It is a resolution touching the claim of a gentleman to a seat upon this floor, and the Chair is of the opinion that it is a privileged question.

Mr. STEPHENS, of Georgia. How did the question get before the Committee on Elections?

Mr. ASHE. It was referred under the rules.

Mr. STEPHENS. Was this claim of the gentleman from Nebraska founded upon an election under the late law?

The SPEAKER. The Chair is inclined to think that he could not legally claim under any law. But the Chair thinks that is a matter for the House to determine as to the question of right under the law. The Chair understands that the petition of the gentleman from Nebraska was sent regularly under the rules to the Committee on Elections, and that committee make a report.

Mr. STEPHENS. As this is a question of importance, and the Chair holds that it is in order to make the report, I take an appeal from the decision of the Chair.

The SPEAKER. The Chair decides that the gentleman from North Carolina could not take the floor from the gentleman from New York to make that motion, and on that ground rules it out, not because it may not be a privileged question.

ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills; which thereupon severally received the signature of the Speaker:

An act authorizing the adjustment and payment of the claim of William Hazard Wigg, deceased, for losses sustained by him during the war of the Revolution; and

An act to incorporate the Georgetown and Catoctin Railroad Company.

PRIVATE BILLS.

Mr. SACKETT. I desire to submit a motion, in which I hope the House will concur. It is one that will relieve us from this difficulty of struggling to get one bill ahead of another. There are certain private bills upon the Speaker's table that have already passed the Senate. We have now an opportunity to act upon them. I therefore ask the House to go to the business on the Speaker's table, for the purpose of disposing of those bills only.

[Cries of "Object!" and "No, no!"]

Mr. SACKETT. I move to suspend the rules for that purpose.

Mr. BROWN, of Mississippi. There is any number of bills from the Senate that have been in the hands of committees since last session, but which have never been reported back. They ought to be included in the motion.

Mr. SACKETT. We cannot act upon them.

Mr. ORR. There are Senate bills which have been examined by committees, and precedence ought not to be given to those bills which have never been referred.

Mr. SACKETT. I ask for tellers.

Tellers were ordered; and Messrs. GAYLORD and WILCOX were appointed.

The question was then taken on Mr. SACKETT's motion, and the tellers reported—ayes 50; not two thirds of a quorum.

So the rules were not suspended.

Mr. HART. How is it known that there is a quorum in the House?

The SPEAKER. The last vote shows it.

RICHARD M. BOUTON AND OTHERS.

Mr. SNOW. I hold in my hand a bill "for the relief of Richard M. Bouton, G. Wright, and the widow of Marvin W. Fisher," which has passed the Senate unanimously. Being a modest man, and this being the second time I have occupied the floor since I have been a member of Congress, I expect to obtain the unanimous consent of the House to take up the bill. It is a bill which not only involves the rights and interests of private citizens of this Government, but the interests of the Government itself.

Mr. MOREHEAD. I object.

Mr. SNOW. I move to suspend the rules.

Mr. SEYMOUR, of New York. I demand tellers on that motion.

Tellers were ordered; and Messrs. CLINGMAN and EWING were appointed.

The question was then put, and the tellers reported—ayes 52; not two thirds of a quorum.

So the rules were not suspended.

JONATHAN KEARSLEY AND JOHN BIDDLE.

Mr. ORR. I ask the unanimous consent of the House to make a report from the Committee on Public Lands on a private claim. It does not appertain to any of my constituents. It is a bill "to 'provide for the final settlement of the accounts 'of Jonathan Kearsley, late receiver of public 'moneys at Detroit, and of John Biddle, late re-'gister of the land office at that place."

Mr. POLK. I object. The Committee on Public Lands occupied the whole of the last session.

Mr. ORR. I move to suspend the rules, and I ask that the bill may be read.

Mr. JOHNSON, of Georgia. I desire to know what special reason there is why this bill should be reported and not others?

Mr. POLK. Would it be in order to ask what proportion of the time of this Congress the Committee on Public Lands have consumed in making reports?

Mr. COBB. A very reasonable proportion.

Mr. ORR. I suspect that the Committee on Public Lands have been a little more industrious than some other gentlemen here. [A laugh.]

Mr. COBB. They have attended to their business, and prepared bills for the action of the House.

The Clerk then read the bill.

Mr. DANIEL. I object to those claims. I have examined them and think they are unjust.

Mr. ORR. Well, sir, I move that the rules be suspended; and if that motion prevails, I shall offer an amendment to the bill, providing that in no event shall the sum allowed to the claimants exceed $2,000.

The question was then taken, and (two thirds not voting in favor thereof) the rules were not suspended.

ELIZABETH BRANCH.

Mr. DANIEL. I have risen for the purpose of offering a resolution; but before I do it, I ask the unanimous consent of the House to withdraw from the files the papers of Elizabeth Branch——

A MEMBER. Which *branch* is that? [Laughter.]

Mr. ORR. I object. The gentleman objected to my bill.

Mr. DANIEL. I ask that the Committee on Revolutionary Pensions may be discharged from the further consideration of those papers, that they may be sent to the Pension Office. There can be no possible objection to it.

Mr. ORR. I object.

Mr. DANIEL. Let the gentleman object, then!

Mr. FICKLIN. I desire the unanimous consent of the House——

Mr. DANIEL. I still have the floor.

The SPEAKER. Upon what principle does the gentleman from North Carolina claim the floor?

Mr. DANIEL. I stated distinctly that I rose for the purpose of offering a resolution, but that before proceeding to do so, I would ask the unanimous consent of the House for the withdrawal of certain papers from the files. Now, if the gentleman from South Carolina [Mr. ORR] is so unjust——

Mr. ORR. I call the gentleman to order. Debate is not in order.

Mr. DANIEL. If the gentleman is so unjust as to prevent the withdrawal of the papers necessary to procure a pension for an old lady, let him object. I now proceed to submit the resolution.

Mr. FICKLIN. I ask what is the ruling of the Chair as to who is entitled to the floor?

The SPEAKER. In consequence of the confusion which prevails in the Hall, the Chair did not hear two words of what the gentleman from North Carolina now states that he said, and supposing that the gentleman rose merely for the purpose of withdrawing some papers, assigned the floor to the gentleman from Illinois.

Mr. DANIEL. I distinctly said what I have stated, and everybody within hearing of my voice heard it.

The SPEAKER. Upon that representation the Chair assigns the floor to the gentleman from North Carolina; and the Chair would suggest that if gentlemen would maintain order, and not insist upon discussing questions which are not in order, we should get on much better.

JOHN LEE.

Mr. DANIEL. I have the floor. That is sufficient. I move to suspend the rules to enable me to offer the following resolution:

Resolved, That there be paid out of the contingent fund of the House of Representatives, to John Lee, an employee of the House, under a resolution passed on the 4th day of March, 1842, the sum of $250, being the sum which he was entitled to receive under a resolution passed on the 3d day of March, 1851, and which was improperly withheld from him.

The question was then taken, and (two thirds voting in favor thereof) the rules were suspended.

Mr. POLK. I offer the following as an amendment to that resolution:

That Samuel S. Thomas, who has been acting as page on the floor of the House of Representatives, be placed upon the same footing with the regular pages, and that he be paid the same compensation, commencing on the 6th of December last.

I will merely state that the Doorkeeper says that this boy has been efficient in every way, and that he is a very worthy, clever little fellow.

Mr. DANIEL. I have no objection to that. I think it ought to be adopted.

Mr. BROWN, of Mississippi. I desire to offer an amendment for the benefit of John Lewis Hickman——

A MEMBER. Is that Beau Hickman? [Laughter.]

Mr. BROWN. No, it is a colored gentleman who stands behind the table up stairs. My resolution is in these words:

Resolved, That the Clerk of the House of Representatives be, and he is hereby, directed to pay to John Lewis Hickman, fifty cents per day for the time he has been actually employed as a messenger or otherwise about the Capitol.

[Loud laughter, and cries of "Good!"]

Mr. DUNCAN. I feel bound to say for the information of the House, that, as I understand this matter, John Lee, who is spoken of in the resolution of the gentleman from North Carolina as an employee of the House, was in no sense employed, except that the House hired horses of him, paying him a dollar an hour for the use of them. I remember that he came frequently before the Committee on Accounts claiming this allowance. If I am wrong, the gentleman from North Carolina can set me right.

Mr. DANIEL. I trust I shall be allowed to reply to the gentleman. This matter was brought regularly before the Committee on Claims. I know that the Clerk of the House, Mr. Young, rejected this claim under a resolution passed, I believe, in 1847. But a resolution was certainly passed making Lee expressly one of the employees of the House, and making him responsible for the custody of the public stables. It was, I believe, the unanimous opinion of the Committee on Claims that he was improperly excluded from this compensation, and although I myself have uniformly voted against all these extra allowances, yet as Mr. Lee was the only one excluded, I feel constrained by a sense of justice to vote for his claim.

Mr. MASON. This case of Mr. Lee has gone from committee to committee. I believe it has traveled round all the committees of the House. We have no authority whatever to pay him this amount, and it ought not to be paid.

Mr. MEADE. I ask the gentleman from North Carolina to accept another amendment.

Mr. DANIEL. I cannot. It will make the resolution so heavy that it will break down.

Mr. BROWN, of Mississippi. I move the previous question.

The previous question received a second, and the main question was ordered to be now put.

The question was then taken upon Mr. BROWN's amendment, and it was agreed to.

The question recurred upon Mr. POLK's amendment as amended, and being put, the amendment as amended was agreed to.

The question then was upon agreeing to Mr. DANIEL's resolution as amended.

Mr. MOREHEAD. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. MASON. I call for tellers.

Tellers were not ordered.

The question was then taken, and the resolution, as amended, was adopted.

Mr. DANIEL. I rise to a privileged question. I move to reconsider the vote by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was put upon the latter motion, and it was agreed to.

SISTERS OF VISITATION OF WASHINGTON.

Mr. FICKLIN. I ask the unanimous consent of the House to take up Senate bill No. 236, "to incorporate the Sisters of Visitation of Washington, District of Columbia." The bill contains no appropriation, nor does it grant any exclusive privileges beyond what are granted in ordinary acts of incorporation.

There was no objection, and the bill was accordingly taken up from the Speaker's table and read a first and second time by its title, and ordered to a third reading. Subsequently it was read the third time and passed.

Mr. FICKLIN. I move that the vote last taken, by which the bill passed, be reconsidered, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

SPANISH CONSUL AT NEW ORLEANS.

Mr. LANDRY. I ask the unanimous consent of the House to take up from the Speaker's table Senate joint resolution No. 44, for the relief of the Spanish consul, and other subjects of Spain residing at New Orleans, and of subjects of Spain residing at Key West, by indemnity for losses occasioned in the year 1851.

I do not intend to make a single remark upon the subject, for when the resolution has been read, I doubt whether there will be a man in this House to object.

The resolution was read through by the Clerk.

Mr. MACE. I object.

Mr. LANDRY. I now move to suspend the rules, to enable the House to take up and act upon the resolution.

The question was taken, and (two thirds having voted in the affirmative) the rules were suspended.

The joint resolution was then taken up, received its several readings, and was passed.

Mr. LETCHER. I rise to a question of order. I submit that that resolution makes an appropriation, and that, according to our rules, it must go to the Committee of the Whole House.

[Cries of "Too late!"]

The SPEAKER *pro tempore*. The Chair thinks the point of order comes too late.

Mr. LANDRY. I move to reconsider the vote by which the resolution was passed, and to lay the motion to reconsider upon the table.

The question was taken, and the latter motion was agreed to.

LIGHT-HOUSE AND POST ROUTE BILL.

A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had passed the bill of the House (No. 362) "making 'appropriations for light-houses, light-boats, 'buoys, &c., and providing for the erection and 'establishment of the same, and for other pur-'poses," with amendments, in which they asked the concurrence of the House; and that the Senate had agreed to appoint a committee of conference upon the disagreeing votes of the two Houses on the bill of the House (No. 364) "to establish certain post roads," and had appointed Messrs. RUSK, DODGE, and CHASE as the committee upon the part of the Senate.

Mr. DUNCAN. I move that the light-house bill just returned from the Senate with amendments, be taken up and referred to the Committee on Commerce.

The question was taken, and the motion agreed to.

SPANISH CONSUL, ETC., AGAIN.

Mr. LETCHER. I insist upon my point of order, that the bill which has just passed for the relief of the Spanish consul and others, could not pass the House without the rule being suspended which required it to go to the Committee of the Whole on the state of the Union, or without its being considered there.

The SPEAKER *pro tem*. The Chair has already decided that it is too late to raise the question of order after the passage of the resolution. If the House has violated its own rule, it is the fault of the House.

Mr. LETCHER. I think it is the fault of the Chair—if there is any fault—and not that of the House.

The SPEAKER *pro tem*. The gentleman from Virginia is scarcely in order. The Chair cannot order the resolution to the Committee of the Whole on the state of the Union. It is the business of the Chair to put the motions to the House which are made.

Mr. LETCHER. I understand that it is the business of the Chair to put only such motions to the House as are in order, according to the rules of the House.

The SPEAKER *pro tem*. The gentleman from Virginia is out of order. The Chair decides that it is now too late to raise the question of order.

INSPECTORS OF STEAMERS.

Mr. DUNCAN. I ask the unanimous consent of the House to take from the Speaker's table the resolution of the Senate (No. 79) in amendment of a joint resolution relating to the inspectors of steamers, approved the 7th day of January, 1853, and act upon it.

Mr. LETCHER. I object.

Mr. DUNCAN. I move to suspend the rules for the purpose of taking up the resolution.

The question was put, and upon a division 72 rose in the affirmative.

Mr. DUNCAN. I ask for tellers upon the motion.

Tellers were ordered; and Messrs. SUTHERLAND and GAYLORD were appointed.

The question was again put, and the tellers reported—ayes 68, noes not counted.

So (two thirds not having voted in the affirmative) the rules were not suspended.

RECESS.

Mr. McMULLIN. I ask the unanimous consent of the House to make the motion that the House take a recess until six o'clock.

Mr. JOHNSON, of Arkansas. I object.

Mr. McMULLIN. I move to suspend the rules.

Mr. MARTIN. I rise to a privileged question. I move a call of the House.

The question was taken, and the motion was disagreed to.

The question then recurred upon the motion to suspend the rules.

Mr. CAMPBELL, of Illinois. Upon that I ask for tellers.

Mr. CABELL, of Florida. I rise to a question of order. I submit that it does not require a vote of two thirds for the House to take a recess.

The SPEAKER *pro tem*. The Chair decides that it is not in order to move to take a recess, and that the rules must be suspended before the motion can be made.

Mr. JOHNSON, of Arkansas. I demand the yeas and nays upon the motion to suspend the rules. If we take a recess now, the business for the session is done. We shall not be able to get the House together again.

Mr. McMULLIN. Well, sir, to relieve gentlemen from any doubt in relation to a question of order, I will vary my motion. I move that when this House adjourns it adjourn to meet at six o'clock this evening.

The SPEAKER *pro tem*. That motion is not in order.

Mr. McMULLIN. Then I insist upon my motion to suspend the rules.

Mr. BROWN, of Mississippi. The yeas and nays were called upon that motion.

The yeas and nays were not ordered.

Tellers were then demanded and ordered; and Messrs. MACE and EWING appointed.

The question was taken and the tellers reported—ayes 76, noes 34; no quorum voting.

Mr. EVANS. I demand tellers upon the yeas and nays.

The SPEAKER *pro tem*. The Chair decides that it is now too late to ask for tellers upon the yeas and nays.

Mr. ORR. I move that there be a call of the House.

Mr. TAYLOR. I demand the yeas and nays upon that motion.

Mr. STEPHENS, of Georgia. Does the Chair hold that it is necessary to suspend the rules for the House to take a recess?

The SPEAKER *pro tem*. It certainly requires a two-thirds vote to do it.

Mr. STEVENS. I rise to a question of order. I submit to the Chair that two thirds are not necessary to take a recess. The effect of the motion is not to fix the hour of adjournment. It is merely to suspend the business of the House for two hours.

Mr. JONES, of Tennessee. It is clearly within the control of a majority to take a recess at any time.

The SPEAKER *pro tem*. The Chair stated when the motion was first made that it would require a two-thirds vote to take a recess, and that was then his impression. Upon further reflection, however, he is inclined to think the gentleman from Georgia [Mr. STEPHENS] is correct in stating that it is within the control of a majority, and he will entertain the motion.

Mr. STEPHENS. The Chair is right in that decision. I move that the House take a recess until six o'clock.

Mr. EWING. Upon that motion I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. HENDRICKS. I desire to submit to the Chair the fact, that when the question was put, there was a majority in favor of taking a recess, and I think no further action is required.

The SPEAKER *pro tem*. The Chair is not aware that such a motion has been put to the House.

Mr. HENDRICKS. The question was put, and the tellers reported—ayes 76, noes 34.

The SPEAKER *pro tem*. That was upon the motion to suspend the rules.

Mr. TAYLOR. I ask for tellers upon the motion that the House take a recess.

Tellers were ordered; and Messrs. HENDRICKS and STROTHER were appointed.

The question was then put, and the tellers reported—ayes 76, noes 28; no quorum voting.

Mr. JOHNSON, of Arkansas. I rise to a question of order. This House may adjourn without a quorum, but it cannot take a recess without a quorum. I call upon the Chair to decide that motion. It is legislative action It is not like a motion to adjourn.

The SPEAKER *pro tem*. The Chair decides that the House cannot act upon the motion with out a quorum.

Mr. TOOMBS. I appeal from that decision.

Mr. JOHNSON, of Arkansas. I desire to know if it is in order to move a call of the House?

The SPEAKER. It is in order, in the opinion of the Chair.

Mr. JOHNSON. I make that motion, and upon it demand the yeas and nays.

The yeas and nays were ordered.

The question, "Shall there be a call of the House?" was then taken, and the result was—yeas 49, nays 68; as follows:

YEAS—Messrs. Averett, Thomas H. Bayly, Barrere, Jno. H. Boyd, Bragg, Busby, Chapman, Chastain, Clemens, Colcock, Daniel, Darby, Dimmick, Doty, Duncan, Evans, Fitch, Florence, Henry M. Fuller, Gaylord, Giddings, Grey, Grow, Hart, Hebard, Hendricks, Andrew Johnson, Robert W. Johnson, Kurtz, Lockhart, Mace, Martin, McCorkle, McNair, McQueen, Millson, Morrison, Murray, Orr, Phelps, Price, Reed, Robie, David L. Seymour, Smith, Stuart, Taylor, Thurston, and Townshend—49.

NAYS—Messrs. Babcock, Bennett, Bibighaus, Bocock, Bowie, Bowne, Briggs, George H. Brown, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Caskie, Chandler, Clark, Clingman, Cobb, George T. Davis, Dean, Dunham, Eastman, Ewing, Fay, Ficklin, Freeman, Gamble, Goodenow, Gorman, Green, Hammond, Sampson W. Harris, Haws, Hascall, Henn, Hibbard, Holladay, Horsford, Howard, Thomas M. Howe, Thomas Y. How, Ingersoll, Jackson, George G. King, Kuhns, Landry, Little, McMullin, Meade, John Moore, Morehead, Murphy, Nabers, Outlaw, Penn, Penniman, Polk, Powell, Riddle, Robbins, Sabine, Schermerhorn, Origen S. Seymour, Skelton, St. Martin, Venable, Washburn, Watkins, Wells, and Woodward—68.

So a call of the House was not ordered.

NAVAL APPROPRIATION BILL.

[A message was here received from the Senate, by Mr. DICKINS, its Secretary, informing the House that they had passed the bill of the House (No. 342) entitled "An act making appropriations for the naval service during the year ending June 30th, 1854," with sundry amendments, in which they ask the concurrence of the House.]

The question then recurred upon the appeal from the decision of the Chair.

Mr. JOHNSON, of Arkansas. We now have an appropriation bill upon which we can act. I appeal to the gentleman from Virginia [Mr. McMULLIN] to withdraw his motion for a recess and let us go on with the business of the House.

Mr. McMULLIN. I will withdraw the motion.

The SPEAKER *pro tem*. Then the appeal of the gentleman from Georgia will fall with the withdrawal of the motion.

Mr. PHELPS. I move that the naval appropriation bill, with the Senate amendments, be referred to the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

Mr. DUNCAN. I move that the light-house bill, which was referred to the Committee on Conference, be considered as referred to the Committee of the Whole on the state of the Union.

The SPEAKER *pro tem*. That can be done by unanimous consent.

There was no objection, and the bill was accordingly referred to the Committee of the Whole on the state of the Union.

Mr. PHELPS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

So the rules were suspended.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

Mr. McMULLIN. I move that the committee take a recess until six o'clock.

The CHAIRMAN. That motion is not in order, in the opinion of the Chair.

NAVAL APPROPRIATION BILL.

Mr. PHELPS. I move that the committee take up and consider the naval appropriation bill with the Senate amendments.

The question was put, and the motion was agreed to.

Mr. JOHNSON, of Arkansas. I move that the committee rise for the purpose of closing debate upon this bill.

Mr. McMULLIN. I move that the committee take a recess until half-past six o'clock.

The CHAIRMAN. That motion is not in order, in the opinion of the Chair.

Mr. McMULLIN. I think the motion has usually been entertained in committee.

The CHAIRMAN. The Chair decides that the motion is not in order.

Mr. McMULLIN. I appeal from the decision of the Chair.

The CHAIRMAN. The motion has been sometimes entertained, but according to the recollection of the Chair, it was entertained by unanimous consent.

Mr. CLINGMAN. The Committee of the Whole on the state of the Union have no right to do anything by unanimous consent which the rules of the House do not allow.

The question, "Shall the decision of the Chair stand as the judgment of the committee?" was then taken, and upon a division there were—ayes 58, noes 38.

Mr. TAYLOR. I ask for tellers upon the appeal.

Tellers were ordered; and Messrs. JOHNSON of Arkansas and SEYMOUR of New York were appointed.

The question was again put, and the tellers reported—ayes 60, noes 9; no quorum voting.

[Cries of "Call the roll!" "Call the roll!"]

The roll was then called, and 102 gentlemen answered to their names.

The committee then rose, and the Speaker having resumed the chair, the chairman [Mr. ORR] reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House (No. 342) making appropriations for the naval service during the year ending June 30, 1854; and having found itself without a quorum, had ordered the roll to be called, and had directed him to report the facts to the House, with the names of the absentees.

Mr. DEAN. Has a quorum answered to their names?

The SPEAKER. There has not.

ENROLLED BILLS.

Mr. HAWS, from the Committee on Enrolled Bills, reported as correctly enrolled bills of the following titles; which received the signature of the Speaker:

An act making appropriations for the support of the Military Academy during the year ending the 30th of June, 1854;

An act making an appropriation for the completion of the public buildings in the Territory of Minnesota; and

A joint resolution providing for printing and binding the returns of the Seventh Census.

CALL OF THE HOUSE.

Mr. DEAN. I move that there be a call of the House.

The question was put and the motion agreed to.

The Clerk then proceeded to call the roll.

Mr. EWING. I move to suspend all further proceedings in the call.

The question was taken, and there were on a division—ayes 35; when

Mr. EWING called for tellers; which were ordered, and Messrs. MACE and EWING appointed.

The question was then taken, and the tellers reported—ayes 58, noes 35.

So the House refused to suspend further proceedings in the call.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had agreed to the report of the Committee of Conference appointed upon the disagreeing votes of the two Houses upon the bill of the House establishing certain post roads.]

Mr. STUART. I submit that the motion is not in order, as the rules of the House cannot be suspended unless there is a quorum present.

Many MEMBERS. Call the roll! Call the roll!

Mr. STUART. Were we not engaged in a call of the House, and was not the motion made to suspend the call?

Mr. DEAN. I move there be a call of the House.

The SPEAKER *pro tempore*. The Chair is inclined to think that the motion of the gentleman from New York, that there be a call of the House, is in order, and that that motion and a motion to adjourn are the only ones in order.

Mr. STUART. I understand that we were engaged in a call of the House, and that there was a motion to suspend that call, and that upon the motion to suspend the call there was no quorum voting. That motion failed, and the call of the House goes on.

The SPEAKER *pro tempore*. The point made by the gentleman from Michigan is well taken. The doors of the Hall will be closed.

Mr. OLDS. I hope the House will informally allow me to make a report from a Committee of Conference on the post route bill.

Many MEMBERS. No, no! There is no quorum.

Mr. OLDS. It is a large bill, and it is important that the report of the Committee of Conference should be acted on, so that the bill may be enrolled.

[Cries of "Order!" "Order!"]

Mr. MILLSON. I rise to a question of order. I understand that on the vote last taken, 58 voted to suspend all further proceedings, and a less number voted in the negative. My point is, that by that vote all further proceedings in the call have been suspended, a quorum not being necessary for that purpose.

The SPEAKER *pro tempore*. The Chair decided upon the point of order raised by the gentleman from Michigan, [Mr. STUART,] that there not being a quorum voting in favor of suspending the call, the call was not suspended.

Mr. GIDDINGS. Is this the proper time to render excuses for absentees?

The SPEAKER *pro tempore*. It is in order as the Clerk calls the names of the absentees.

The Clerk then commenced the call of the absentees, as follows:

WILLIS ALLEN.

Mr. SIBLEY. I learn that Mr. ALLEN is quite sick. I therefore ask that he be excused.

The question was taken, and Mr. ALLEN was excused.

Mr. TAYLOR. I wish to inquire of the Chair if the doors are closed.

The SPEAKER *pro tempore*. They are.

Mr. TAYLOR. I inquired for information, as I see the doors opening now and then.

WILLIAM S. ASHE.

Mr. CARTTER. I wish to say that Mr. ASHE has been indisposed for several days, and is quite so to-day. He is absent in consequence of indisposition. I move that he be excused.

The question was taken, and Mr. ASHE was excused.

Mr. JOHNSON, of Arkansas. I ask the Speaker that the Committee of Conference be admitted. They are at the door.

The SPEAKER *pro tempore*. There being no quorum present, the Chair thinks it is not in order to do so. The doors have been ordered to be closed.

Mr. JOHNSON. It is a conference committee engaged in the service of the House. They have completed their business, and ask permission to enter, and I believe they have a right to enter.

The SPEAKER *pro tempore*. It being ascertained that no quorum is present, the Chair thinks nothing is in order except to proceed with the call of the House, or a motion to adjourn.

Mr. FLORENCE. They are executing the order of the House, and they were not absent of their own volition.

The SPEAKER *pro tempore*. The Chair begs pardon. Will the gentleman from Arkansas state his proposition again?

Mr. JOHNSON. I will state that the Committee of Conference on the civil and diplomatic bill was created under the order of the House. They have been out on that service; they are through with their labors, and are at the door asking admission.

The SPEAKER *pro tempore*. If there is no objection, they will be admitted.

Mr. OLDS. I move that all further proceedings under the call be dispensed with.

The question was put and decided in the affirmative.

So all further proceedings under the call were dispensed with.

POST ROUTE BILL.

Mr. OLDS. I desire to make a report from a Committee of Conference on the post route bill.

The SPEAKER *pro tempore*. The Chair thinks that the report cannot be made until he ascertains whether a quorum is present, which he will proceed to do by a count.

Mr. EVANS. I move that by unanimous consent the report be received. It will save time.

The SPEAKER *pro tempore*. The Chair thinks that unanimous consent, without a quorum, is not sufficient

The Chair then proceeded to count the members, and announced that there were 119—a quorum—present.

Mr. FLORENCE. I rise to a question of order. It is this: That a call having been proceeded with, and it being ascertained that no quorum was present, it was not competent, at that time, for the Chair to entertain a motion to suspend further proceedings in the call.

The SPEAKER *pro tempore*. The Chair overrules the point of order.

POST ROUTE BILL.

Mr. OLDS. I submit the report of the Committee of Conference upon the post route bill.

The report was read, as follows:

The Committee of Conference on the disagreeing votes of the two Houses upon House bill No. 364, "A bill establishing certain post routes, and for other purposes," have had a full and free conference, and have agreed upon the following report, to wit: That it be recommended that the House agree to the fourth amendment of the Senate with the following amendment, to wit: Strike out all of said amendment after the word "Ohio" in the fifth line, and insert, "the same commission on all mailable matter distributed at 'their respective offices, as is allowed by law to the post-'masters of the other distributing offices, such allowance 'to date from the 1st day of June, 1851."

That the House agree to the fifth amendment of the Senate with the following amendment: Strike out all after the word "Senate," in the fifth line.

The question was taken upon concurring in the report, and it was decided in the affirmative.

The following is a digest of the above report:

The House agrees to the fourth amendment of the Senate, with an amendment.

The fourth amendment of the Senate was as follows:

"SEC. 4. *And be it further enacted*, That the Auditor of the Treasury for the Post Office Department be, and he is hereby, authorized to allow the postmaster at Richmond, Virginia, and the postmaster at Cleveland, Ohio, [such additional commissions on the mail matter distributed by them, respectively, since the 1st day of June, 1851, as will, with the commissions already allowed them, make their annual compensation equal to $2,000 each, since the said 1st day of June, 1851."]

The House agrees to the above, with the following amendment:

"Strike out all after the word 'Ohio,' inclosed in brackets, and insert in lieu thereof as follows:

"The same commissions on all mailable matter distributed at their respective offices as is allowed by law to the postmasters of the other distributing offices, such allowance to date from the 1st day of June, 1851."

The House agrees to the fifth amendment of the Senate, with an amendment, which is to strike out all after the word "Senate," as inclosed in brackets, in the following fifth Senate amendment:

"SEC. —. *And be it further enacted*, That hereafter, as the offices of the Assistant Postmasters General, or either of them, shall be vacated, the appointment of his successor shall be made by the President of the United States, by and with the advice and consent of the Senate, [at the same salary as that of the Auditor for the Post Office Department: That an Assistant Postmaster General shall be appointed as aforesaid, and at the compensation aforesaid, to be employed in the inspection of the mail service, or such other duties as the Postmaster General shall assign him; and that $500 per annum be allowed and paid to the Assistant Postmaster General upon whom the law devolves the duties and powers of Postmaster General, in case of his absence, death, or resignation."]

NAVY APPROPRIATION BILL.

Mr. SIBLEY. I ask the unanimous consent of the House to take up——

The SPEAKER *pro tem.*, (interrupting.) The House was in committee and the Chair understood that it was by unanimous consent, and in an informal manner, that the report of the Committee of Conference was allowed to be made. The House will now resume its session in the committee.

NAVY BILL.

The House accordingly went back into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the Senate amendments to the bill making appropriations for the support of the Navy.

The CHAIRMAN. The question before the committee is upon an appeal. The gentleman from Virginia, [Mr. McMULLIN,] moved that the committee take a recess. The Chair ruled the motion out of order, and that the committee could not entertain the motion. From that decision the gentleman from Virginia takes an appeal. The question is, "Shall the decision of the Chair stand as the judgment of this committee?"

The question was put, and the decision of the Chair was sustained.

The CHAIRMAN. The question recurs upon the motion of the gentleman from Arkansas, that the committee rise, with the view of submitting a motion to close the general debate upon the bill.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. ORR) reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the amendments of the Senate to the bill of the House making appropriations for the support of the Navy, and had come to no resolution therein.

Mr. JOHNSON, of Arkansas. I move the usual resolution to close debate upon this bill in five minutes after the committee shall have again resumed its consideration.

The question was taken, and the motion was agreed to.

Mr. JOHNSON, of Arkansas. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the bill making appropriations for the support of the Navy for the fiscal year ending the 30th of June, 1854.

The first amendment of the Senate was then read, as follows:

"Strike out $79,448 in the following paragraph:

"For pay of commission, warrant, and petty officers and seamen, including the Engineer Corps of the Navy, $2,879,448;"

"And insert in lieu thereof the following:

"Eighty thousand one hundred and forty-eight dollars: *Provided*, That the salary of the assistant observer or astronomer at the National Observatory shall be $2,000, and the salary of the principal clerk at said Observatory shall be $1,200."

Mr. PHELPS. I move to reduce the appropriation one dollar. The amendment of the Senate proposes to increase the salaries of the assistant astronomer and the principal clerk at the Observatory in this city. I hope that it will be non-concurred in; for that assistant receives now $1,500 per annum, and the clerk, appointed from civil life, receives $1,000.

Mr. EVANS. I do not think that during my whole Congressional life I ever voted for raising a salary; but I am of the opinion that the present salary of the astronomer and principal computer of the Observatory ought to be increased. I am aware of the fact that it takes more sense to fill that office than it does to be a member of Congress. I do not know how much that takes. It takes a man of talent and a man of education to fill that office. The gentleman from Missouri [Mr. PHELPS] is infinitely mistaken if he does not know that it requires an extensive education, and the expenditure of the midnight oil during many long years of a lifetime to qualify a man for that office. I hope the amendment will be concurred in.

Mr. PHELPS then, by unanimous consent, withdrew his amendment.

The question was taken on the amendment of the Senate, and it was non-concurred in—there being, on a division, only 49 ayes.

The next amendment of the Senate was read, as follows:

"Insert, after line 10, the following:

"And the pay of a purser when attached to and doing duty at the naval station of California shall be $4,000 per annum, and he shall be allowed a clerk, at a compensation not exceeding $2,000 per annum."

Mr. PHELPS. This amendment proposes to increase the salary of the purser who may be stationed in California, and who, in addition to his duties as purser, is, by an act of Congress passed at the last session, required to discharge the duties of navy agent there. I am of the opinion that the salary of a purser, when he is performing duty on shore in California, in consideration of the high prices of living there, is wholly inadequate.

Mr. HART. I demand tellers on the amendment. I do not think that there is a quorum present.

Tellers were not ordered.

The question was taken, and the amendment was non-concurred in.

The next amendment of the Senate was read, as follows:

"Insert after the preceding amendment, the following:

"And the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to allow and pay, out of any money in the Treasury not otherwise appropriated, to the officers, petty officers, and seamen of the United States Navy, to the officers, non commissioned officers, musicians, and privates of the Marine Corps, and to the officers and men of the revenue service who served in the Pacific ocean, on the coast of California and Mexico, during the late war with Mexico, and since the conclusion of the war up to the 28th of September, 1850, the same additional compensation as has been by law directed to be paid to the officers and soldiers of the army who served in California; and that this provision allowing extra pay, as well as that contained in the Navy appropriation act of August 31st, 1852, shall extend to and include all naval storekeepers who were stationed on the Pacific coast; and the additional compensation authorized by the foregoing provision, and by the Navy appropriation act of 1852, shall be paid to the legal representatives of all deceased persons who would have been entitled to receive the same if living."

Mr. PHELPS. I think that it was in 1849 or 1850 that Congress increased the compensation of the officers and soldiers who were engaged in the service in Oregon and California. At the last session of Congress an amendment similar to that was placed on the naval appropriation bill. My attention was particularly called to it from the fact of my having been appointed to serve on the committee of conference. That committee of conference recommended to their respective Houses that the officers of the Navy, and the seamen and marines, and those engaged in the revenue service, should be placed precisely on the same footing that the officers and soldiers of the Army had been placed. And that is the law at the present time. This amendment proposes to go back to the commencement of the war with Mexico, and to pay the officers and seamen of the Navy, the marines, and those engaged in the revenue service, from some time in 1846 to 1849 or 1850, an increased compensation, thus making Army and Navy unequal in that respect, as they now stand on the same footing.

The question was taken, and the amendment was non-concurred in.

The next amendment of the Senate was read, as follows:

"Insert after the preceding amendment the following:

"And there shall be allowed to Lieutenants William Lewis Herndon and Lardner Gibbon, officers of the United States Navy, who were engaged upon the exploration of the Amazon, the same pay as has been allowed to the superintendent of the naval astronomical expedition in Chili, by the act making appropriations for the naval service, approved March 3, 1851, during the period of their service as aforesaid, which period shall be reckoned from the date on which each officer left the United States until the final return of the exploring party."

Mr. PHELPS. I move that their salaries be increased to $3,000 per annum, and I do so for the purpose of ascertaining from some gentlemen of the Naval Committee what was the salary of the officer who was sent out to make astronomical observations in Chili. My impression is, that it was $3,000 per annum. I desire, if we intend to increase salaries, that we shall say what they shall be, and not that they shall be the same as some other officer has received, without stating what he received. I withdraw my amendment.

The question was taken, and the amendment of the Senate was non-concurred in.

The next amendment of the Senate was read, as follows:

"Add after these words, 'For pay of superintendents, naval constructors, and all the civil establishments at the several navy-yards and stations, $108,650,' the following:

"And the first and second clerks to the commandants of the principal navy-yards, viz: Boston, New York, Washington, Norfolk, and Pensacola, shall receive the same pay that the lowest classes of clerks in the bureaus of the Navy Department now receive respectively; and each clerk of the yard in said navy-yards shall receive the same compensation as is herein provided for the first clerks to commandants."

Mr. PHELPS. Here is a proposition to increase the salaries of the clerks of certain navy-yards, and they are to be made equal to the salaries of certain clerks in certain bureaus of the Navy Department in this city. I do not understand it. We have already changed the salaries of clerks in the public offices in this city, and I hope this amendment will be disagreed to.

Mr. CARTTER. And so do I.

The question was taken, and the amendment of the Senate was disagreed to.

The next amendment (No. 1) of the Senate, to insert after line 13, the following, was read:

"For pipes for carrying gas to and fixtures for lighting with it the National Observatory, $2,000."

The question was taken, and the amendment was non-concurred in.

The second amendment of the Senate was to insert, after the second line on the fifth page of the bill, the following:

"For contingent expenses, not enumerated, $5,000."

The question was taken, and the amendment was non-concurred in.

The third amendment of the Senate:

"Insert, after these words, 'For improvement and repair of buildings and grounds, and support of Naval Academy at Annapolis, Maryland, $46,059,' the following:

"For purchase of land, extending walls, making new roads and wharf, building and furnishing hospital, and changing the fronts of houses at the Naval Academy at Annapolis, Maryland, $38,000."

Mr. PHELPS. This appropriation was before the Committee on Ways and Means when they reported the naval bill, and they did not think that it was expedient to make the appropriation.

Mr. BOWIE. That appropriation is recommended by the Secretary of the Navy, who has the Naval Academy in charge. It is imperatively necessary, and I hope that it will be adopted.

Mr. WALSH. I would ask the chairman of the Committee on Ways and Means whether that appropriation is not predicated on the estimates of the Navy Department? The ground has been purchased, and the improvements enumerated in the amendment, which are all necessary, are now going on at that locality. The Secretary of the Navy has told us that this appropriation is necessary to complete those improvements for the proper accommodation of the officers and midshipmen at that establishment. I hope we will not reject this appropriation on the mere declaration of a member of the Ways and Means that they had it before them, and thought it inexpedient, although recommended by the proper Department of the Government, unless they lay before us some data to justify their conclusion. I trust the amendment will be adopted.

The question was taken, and the amendment of the Senate was non-concurred in.

Amendment of the Senate, (numbered three and a half:)

In page 5, line 9, after the following clause:

"For meteorological observations, to be conducted under the directions of the Secretary of the Navy, $2,000,"

"Insert the following:

"And the Secretary of the Navy is hereby authorized to settle all existing controversies as to the title to any portions of Salt marsh, near the lands of the Naval Hospital in Chelsea, in the county of Suffolk and Commonwealth of Massachusetts, and to sell and convey the right, title, and interest of the United States in so much of said marsh as he may deem expedient, upon the terms and conditions recommended in a report from the Bureau of Navy-Yards and Docks upon the subject, dated January 17, 1853."

Mr. PHELPS. I presume that this is intended to enable the Secretary of the Navy to give the right of way, or something of that kind, across the land belonging to the Government at Chelsea. It will be recollected that the other day the gentleman who represents the town of Chelsea had an act passed under a suspension of the rules to permit the Secretary of the Navy to give the right of way over the Government grounds near Chelsea Hospital, in the State of Massachusetts. If that gentleman is here he can inform the House whether I am right in my impression. I refer to it for the purpose of having him make an explanation. If I am right in my conjecture, everything has been accomplished that is desirable.

The question was taken on the amendment, and it was agreed to.

Fourth amendment of the Senate, to amend the following clause:

"For cooper's shop and watchman's quarters, dredging in front and pointing and puddling stone basin, boiler-room, boilers, engine, and machinery, reservoir for engine-house, pipes, gutters, drains, and cisterns, grading yard near timber shed, and for repairs of all kinds, including care of floating dock, $53,107.

"Amend the above clause by inserting after the word 'quarters,' the words 'foundations of ways for launching and hauling up.'"

The fifth amendment:

"Insert in the above clause, after the word 'cisterns, the words 'removing ledge, and.'"

The sixth amendment:

"Insert in the above clause, after the words 'timber-shed,' the words 'dry-dock and railway chapel.'"

The seventh amendment:

"After the word 'dock' in the above clause, strike out '$53,107,' and insert in lieu thereof '$80,893.'"

Mr. PHELPS. I will state to the committee that this is a restoration of the estimates submitted to us by the Secretary of the Treasury for repairs of the navy-yard at Portsmouth, New Hampshire. The Committee on Ways and Means recommend that which was contained in the bill, but they are not in favor of building a chapel at that or any other yard. The other improvements which are mentioned they believe are not necessary. I suggest that the vote be taken upon the four amendments just read, which have reference to the Portsmouth navy-yard.

The question was taken upon the amendments, and they were not agreed to.

The following clause of the bill was read:

"*Boston, Massachusetts.*—For rebuilding smithery, cooperage, and packing-house, coal house for rope-walk engines, stone-wall west of timber-dock, rebuilding battery, grading and paving timber-shed number thirty-one, and for repairs of all kinds, $81,460."

The eighth amendment of the Senate:

"After the word 'for,' in the above paragraph, insert 'machine shops and foundery.'"

The ninth amendment of the Senate:

"Insert in the above clause, after the word 'engines' the word 'chapel.'"

The tenth amendment of the Senate:

"Insert in the above clause, after the word 'battery,' the words 'shear-wharf, hauling slip gutters.'"

The eleventh amendment of the Senate:

"After the word 'kinds,' in the above clause, strike out '81,460,' and insert in lieu thereof '119,800.'"

Mr. PHELPS. These amendments are to restore the estimates submitted by the Secretary of the Navy for improvements at the navy-yard at Boston and Charlestown.

The question was taken upon the amendments, and they were not agreed to.

The following clause of the bill was then read:

"*New York, New York.*—For completing engine houses, $30,000; for repairs of all kinds, $18,000."

The twelfth amendment of the Senate:

"Strike out the above clause, and insert the following: "For completing commander's house, smithery, timber-shed, lime, pitch, and coal-house, continuing quay wall, muster office, coal wharf, dredging channel and piers, completing engine house, culvert, and remaining piles in front of dock, filling in timber pond and low places, paving gutters and flagging, and for repairs of all kinds, $249,320."

Mr. PHELPS. I move an amendment *pro forma*. This is a restoration of the estimates for the support of the navy-yard at Brooklyn. The Secretary of the Navy estimated as important and necessary for repairs and improvements of that yard the sum of $249,320. The Committee on Ways and Means, in their examination of that matter, concluded to report two estimates only—one for building the engine-house $30,000, and for repairs of all kinds $18,000. The amount of $30,000 for building an engine-house was required to pay expenses already incurred. The other is a general appropriation for repairs of all kinds. The committee will perhaps be desirous of knowing why the Committee on Ways and Means cut down the residue of these estimates. It was for the reason that the State of New York has not ceded to the United States jurisdiction over the late purchase which was made at that navy-yard; and for another reason, that the Committee on Ways and Means was also informed that the corporate authorities of either the city of Brooklyn or New York had granted to some individual the right to extend a pier for six hundred feet just below the navy-yard, to cross a portion of the channel, the result of which would be that the extended pier will prove a great obstruction, as it would pass up to the navy-yard, or the dry-dock, and must necessarily fill up the channel. The committee therefore concluded that until New York shall cede jurisdiction over this land, which belonged to the Government, and which we lately bought, and unless they ceased making these obstructions to the use of that navy-yard, it was inexpedient to make any more appropriations.

Mr. BOWNE. I am opposed to the gentleman's amendment. He states that this appropriation was refused because the city of New York had refused to cede jurisdiction over this land to the Government. I have to say, in that connection, this: The corporation of Brooklyn have come to an amicable arrangement with the Secretary of the Navy, and that a member—a member of the Committee on Ways and Means—received a telegraphic dispatch this morning from Albany, that the Brooklyn jurisdiction bill has gone to a third reading, and will be passed. This is undoubtedly true, for there is nothing, and there never has been anything to prevent its passage. The opposition to the measure is entirely removed. I will say, furthermore, that there has been no such dock projected, and the consent of Brooklyn or New York could never be gained to building any such dock; and no man but a sheer idiot would think of building such a dock. If he did build it, he could not in any possible way affect the egress and ingress to the navy-yard. So I think I have done with that objection. I trust that the committee, without further delay, will make the necessary and proper appropriations for this navy-yard. They are small in comparison to the wants of the yard and the Government.

Mr. PHELPS. I will withdraw my amendment. I was about to propose another amendment. The gentleman from New York and myself do not understand this matter alike. There is a very material difference in our understanding of it. I move to strike out the first line.

Mr. SUTHERLAND. I rise to a question of order. I admire the gentleman's zeal, but I do not think he is in order in taking the floor twice. I make the point of order that the same gentleman cannot move two amendments.

The CHAIRMAN. The first amendment has been withdrawn. The Chair assigned the gentleman the floor, and he unquestionably has the right after withdrawing his first amendment to offer a second.

Mr. PHELPS. All I desire is, that the committee may have a fair understanding of this matter. I desire not to misrepresent this matter in any particular whatever. A diagram was submitted to the Committee on Ways and Means with all the grounds marked out upon it connected with the Brooklyn navy-yard, and upon that diagram was the plan of a pier; and we were informed by Commodore Smith, having charge of the yards, that liberty had been given to some person, whose name I do not recollect, to extend a pier for six hundred feet, commencing upon the Brooklyn side of the Wallabout channel, and running out into the ship channel.

Mr. BOWNE. With the gentleman's permission, I will state that no pier can be built without the permission of the corporation of Brooklyn. The Mayor, who left here the day before yesterday, and who came here authorized by the corporation to settle this matter, informed me that no such grant had ever been made, and never would be while he was Mayor.

Mr. PHELPS. One moment, if you please. I desire to know of the gentleman from New York whether the city of Brooklyn does not claim to low-water mark, on the Brooklyn side, jurisdiction, as far as jurisdiction can be exercised by either New York or Brooklyn? Does not the city of New York license those ferries which are to run between the city of New York and Brooklyn, and does she not claim jurisdiction as far as any city can claim jurisdiction over navigable water, to low-water mark on the Long Island side?

Mr. BOWNE. They are licensed by the Legislature of New York.

Mr. PHELPS. Which city grants the license?

Mr. BOWNE. They have grants from both cities. They have to get a grant from the Legislature to obtain authority from both cities.

Mr. PHELPS. I ask whether the city of New York can grant the right of way to the city of Brooklyn?

Mr. BOWNE. She cannot without the consent of Brooklyn.

Mr. HUNTER. I would ask how long the jurisdiction of this land has been withheld?

Mr. PHELPS. The jurisdiction has been withheld, on the purchase made in 1848, from that time to the present.

Mr. HUNTER. I think we had better not make the appropriation until we have jurisdiction of the matter.

Mr. DEAN. I desire to say to the gentleman from Missouri, and to the committee, that last year the city of Brooklyn attempted to exercise this jurisdiction of granting the exclusive right for ferries. But in a case which was tried in the Supreme Court of New York, in which I was myself engaged, they decided that the city of Brooklyn had no such authority whatever.

Mr. PHELPS. Then the authority belongs to the city of New York, of granting this right of way. I withdraw my amendment.

Mr. DEAN. I move to add the following:

Provided, That no part of the money shall be expended until the city of New York shall cede her jurisdiction to the United States.

I see that the objection to this amendment which has been presented by the Committee on Ways and Means reduces itself to this: In the first place New York claims jurisdiction and exercises it. If this proviso is adopted it will cut them off. The other objection which has been made was in relation to the ferries.

Mr. BOWNE. I simply want to say on the part of Brooklyn, that I most cheerfully accept that amendment. I do not want to spend a dollar till the United States get full jurisdiction.

Mr. DEAN. This amendment meets the first objection, and the second is met by the decision of the supreme court of the State.

Mr. TOOMBS. I think that nothing ought to be done in this matter until the conditions which the gentleman from New York has inserted shall be complied with, even if then. I would not appropriate a single dollar until this difficulty about title and jurisdiction was settled. It has been a fundamental principle of this Government never to put the money down until we get a fair title and jurisdiction. We ought not to put the public money down until the title has been extinguished and jurisdiction ceded. They can wait twelve months until the next Congress meets. We ought not to rely upon telegraphic dispatches that may never be carried out.

Mr. LETCHER. I move that the committee rise, with a view of stopping the debate upon this subject. We had it all yesterday.

The question was put, and the motion was not agreed to.

So the committee refused to rise.

Mr. SCHOONMAKER. I wish to make a single statement. It has been alleged here that the authorities of New York or Brooklyn ceded the jurisdiction. Now, under the laws of New York, neither the city of New York nor of Brooklyn have power to grant the right to build a dock. That power is vested entirely in the State of New York.

Mr. DEAN. I have modified my amendment so as to make it read:

Provided, That no part of the appropriation shall be expended until the State of New York shall cede the jurisdiction over the navy-yard to the United States, and until the title to said land is settled.

Mr. BOWNE. I hope that amendment will be adopted.

Mr. STUART. I call for tellers.

Tellers were ordered; and Messrs. MEADE and PENNIMAN were appointed.

The question was put, and the tellers reported—ayes 88, noes not counted.

So Mr. DEAN's amendment was agreed to.

The question recurred on agreeing to the Senate amendment as amended.

Mr. PHELPS. I move an amendment to the Senate amendment, so that in the event the committee should adopt it, certain expenditures may be made at this yard before even jurisdiction may be ceded to the Government of the United States. There is an amount due for completing the engine-house, and for repairs of all kinds. In the event jurisdiction is not ceded to the Government of the United States by the State of New York, those two items, amounting to $48,000, will be necessary during the ensuing fiscal year. I move to add at the end of the proviso these words:

Except so much as may be necessary for completing engine-house, and repairs of all kinds.

Mr. THOMAS H. HOWE. Do I understand the gentleman from Missouri to say that there is already a debt due for work done at the navy-yard?

Mr. PHELPS. The fact of the case is this: There was a continuing contract for the completion of the engine-house connected with the dry-dock, and a sufficient amount will be needed during the early part of the fiscal year to pay the contractors.

Mr. SACKETT. Do I understand that the amendment of the gentleman is to cover a debt already incurred, and that has been incurred in the completion of the engine-house, which is necessary in the use of the dry-dock that has been constructed?

Mr. PHELPS. The House adopted these items:

"For completing engine-house, $30,000.
"For repairs of all kinds, $18,000."

I merely wish to have those items excepted from the operation of the amendment of the gentleman from New York, and to have them appropriated in any event.

Mr. SACKETT. Certainly.

Mr. PHELPS. The residue of the items are to be subject to the restriction contained in the proviso.

Mr. SACKETT. You cannot use the dry-dock without the engine-house.

Mr. CARTTER. I think there has been time enough consumed upon this subject, and if there is a disposition to debate it further, I shall move that the committee rise for the purpose of closing debate.

The question was taken on Mr. PHELPS's amendment, and it was agreed to.

The amendment of the Senate as amended was then concurred in.

Thirteenth amendment of the Senate:

"Page 12, line 20, after the word 'of' insert, 'commander's quarters, conveying water into navy-yard and reservoir;' so as to make the paragraph read:

"For filling in timber-dock, completion of commander's quarters, conveying water into navy-yard and reservoir, extending boiler shop," &c.

Mr. PHELPS. That is an estimate for repairs and improvements in the navy-yard in this city. The Committee on Ways and Means struck out those two items, deeming them unnecessary. The Senate have restored them.

The question was taken; and the amendment of the Senate was disagreed to.

Fourteenth amendment of the Senate:

"Page 7, line 4, after the word 'guns,' insert 'gas-fixtures, and gas for lighting yard.'"

Mr. PHELPS. That is another item in the same paragraph.

The question was taken, and the amendment of the Senate was disagreed to.

Fifteenth amendment of the Senate:

"Page 7, line 7, strike out '162' and insert in lieu thereof '200.'"

Mr. PHELPS. That is, in fact, a part of the same amendment, increasing the appropriation.

The question was taken, and the amendment of the Senate was disagreed to.

Sixteenth amendment of the Senate:

"Page 7, line 11, after the word 'timber-dock,' insert 'carpenters' workshop, and cart-shed, building for muster and other offices.'"

Mr. PHELPS. That is a restoration of some estimates for the Norfolk navy-yard. The Committee on Ways and Means struck out those items and reduced the appropriation accordingly.

The question was taken, and the amendment of the Senate was disagreed to.

Seventeenth amendment of the Senate:

"Page 7, line 17, after the word 'and,' strike out 'fourteen' and insert in lieu thereof 'sixty.'"

Mr. PHELPS. That is really part of the same amendment. It is to increase the appropriation so as to conform to the foregoing amendment.

The question was taken, and the amendment of the Senate was disagreed to.

Eighteenth amendment of the Senate:

"Page 8, line 4, after the word 'and,' strike out '$25,800,' and insert in lieu thereof '$61,505;' so as to make the paragraph read:

"*Pensacola, Florida.*—For permanent wharf, paint-shops, and cooperage, construction of deep basin and dredging, rebuilding central wharf and wharves I and C, smoke-stack and extending machine-shops, mooring-anchors, cables and fixtures for mooring and operating floating dock, and for repairs of all kinds, $61,505."

The question was taken and the amendment of the Senate was disagreed to.

Nineteenth amendment of the Senate:

"Page 8, line 7, after the word 'for,' insert 'excavation, embankment, and grading.'"

Twentieth amendment of the Senate:

"Line 10, (same page,) after the word 'river,' insert 'pavements, drains, ditches, and privies.'"

Twenty-first amendment of the Senate:

"Page 8, line 10, after the word 'kind,' strike out '$43,976,' and insert in lieu thereof, $126,468.'"

Mr. PHELPS. Those amendments relate to the Memphis navy-yard. If adopted, they will make the clause read as follows:

"*Memphis, Tennessee.*—For excavation, embankment, and grading, completing hemp-house, completing blacksmith shop and office building, cisterns for rope-walk, culvert from rope-walk to river, pavements, drains, ditches, and privies, and for repairs of all kinds, $126,468."

The question was taken, and the amendments of the Senate were disagreed to.

Twenty-second amendment of the Senate:

"Page 8, line 19, after the word 'for,' insert 'a foundery, machine-shop.'"

Twenty-third amendment of the Senate:

"Line twenty, (same page,) after the word 'storehouse,' insert 'boiler-shop, engine-shop, and pattern-shop.'"

Twenty-fourth amendment of the Senate:

"Same line, after the word 'wharf,' insert 'and for a steam-engine and machinery, including transportation.'"

Twenty-fifth amendment of the Senate:

"Same line, strike out '$100,000,' and insert in lieu thereof, '$500,000.'"

Mr. PHELPS. Those amendments relate to the completion of the navy-yard at San Francisco, California. The House appropriated $100,000, and the Senate have stricken that out, and inserted $500,000. I hope we shall take one vote upon those amendments. If the amendments are adopted, the clause will read:

"*San Francisco, California.*—For a foundery, machine-shop, blacksmith-shop, carpenter-shop, storehouse, boiler shop, engine-shop, pattern-shop, and wharf, and for a steam engine and machinery, including transportation, $500,000."

The question was then taken, and the amendments of the Senate were disagreed to.

Twenty-sixth amendment of the Senate:

"Line twenty-one, (same page,) in the clause appropriating for San Francisco, California, after the word 'sum,' insert 'or any part thereof.'"

Twenty-seventh amendment of the Senate:

"In line twenty-three, after the word 'to,' insert 'and jurisdiction of;'"

So as to make the proviso read:

"*Provided*, That before this sum, *or any part thereof*, shall be expended, the Attorney General of the United States shall decide that the United States have good title to *and jurisdiction of* the land upon which the buildings are to be erected."

Mr. PHELPS. That is a proviso respecting the California navy-yard. It is right, and ought to be adopted.

The question was taken, and the amendments of the Senate were concurred in.

Twenty-seventh and a half amendment of the Senate:

"Page 8, after line 24, insert:

"And the Secretary of the Navy is hereby directed to complete and carry into execution the verbal contract for a basin and railway in California, in connection with the floating dry-dock, as made by the late Secretary in pursuance of authority for that purpose given by the act of September 28, 1850, entitled 'An act making appropriations for the naval service for the year ending 30th June, 1851,' and as stated in the letter of said late Secretary, addressed to the Hon. Howell Cobb, Speaker of the House of Representatives, dated the 21st day of January, 1851, towards the execution of which $150,000 is hereby appropriated: *Provided*, That in the judgment of the Secretary, such basin and railway are necessary, and will be useful to the public service."

Mr. TOOMBS. I move to strike out $150,000.

Mr. Chairman, I rise for the purpose of making a brief statement in relation to this scheme which has been presented, and forced upon this House more than once, and has as often been rejected. These persons who have the patent for this dry-dock, basin and railway, came to this House as much as five years ago, and represented that by this discovery a great saving could be made to the Government, that a dry-dock, basin and railway could be built for about $300,000 answering a better purpose than a stone dock. Under these circumstances, a provision was inserted in the naval bill, giving them a contract for the construction of one of these docks at the navy-yards of Pensacola, Kittery, and Philadelphia; and these docks, basins, and railways, which were to be built for about $300,000 each, have already cost the Government $2,600,000. They then came here some time during the last Congress and asked for a small appropriation of $100,000 or $150,000 to build one in California in pursuance of a clause in the naval bill of the year before, and the clause was repealed by Congress upon a full review of the whole question. The Secretary of the Navy stated that he had entered into a verbal contract for a dry-dock, basin, and railway, for which the contractors were to receive about $150,000; but the House of Representatives, as I said in the presence of gentlemen upon this floor the other day, after a full review of the whole case repealed that law so far as the basin and railway were concerned.

Mr. Graham, in a special report, referred to that subject, and told us that for $425,000 a dry-dock might be built suitable for all the purposes of the Government. But now these very contractors, who were charged by other parties seeking the contract with expending $90,800 in bribery, to get this dry-dock appropriation through the House, after taking a contract for $625,000 under the act repealing the law under which they claimed a verbal contract, come forward and insist upon this verbal contract being carried into effect; and they have induced the Senate to put into this amendment a provision which, if adopted, is to overslaugh this House, after it has, upon a full examination of the subject, repealed the law under which this verbal contract was entered into. Instead of a dry-dock at $425,000, we get a dock for $625,000 reported. to us, with the assurance that as soon as it is done it will answer all the purposes of the Government. You have established this dock under a public pledge of a public officer of the Government, that it will answer all the purposes for which a dock is needed, and yet gentlemen come forward and tell us that it is worthless unless you build a basin and railway. I have only to say that if it is true that we must now build this basin and railway, when we have the pledge of a public officer of the Government that it would not be required, the officers who first made these estimates and this statement must have been entirely incompetent.

Mr. EWING. I desire to ask the gentleman if the Secretary of the Navy, who is a good Whig, and in whose recommendations I have entire confidence, did not recommend this appropriation as absolutely necessary?

Mr. TOOMBS. I do not wish to hear anything from the gentleman about Whig or Democrat. I want honest men in this House, of all parties, to unite with me to protect the Treasury.

Mr. EWING. But will the gentleman tell me whether the Secretary did not recommend this as absolutely essential to render the appropriations already made available?

Mr. TOOMBS. The gentleman must go to the Secretary's report for his recommendation. I am stating the parliamentary history of this question, and not discussing the Secretary's recommendation.

Mr. EWING. But the gentleman speaks about bribery.

Mr. TOOMBS. Well, I have only stated what I know. I have not brought in the statement of the Secretary of the Navy, and if the gentleman chooses to rely upon him, let him do so. I am only stating the legislative history of the question. I have no personal knowledge of any bribery. I only state that charges were made by these people that $90,000 had been expended in bribery in getting the first contracts, and that the parties charged and the parties making the charge have become very quiet on the subject, and I presume have shared the public plunder.

Mr. EWING. When were these charges made?

Mr. TOOMBS. After the passage of the first contract by the House of Representatives. I presume these parties charged were joint contractors for the building of this dock.

Mr. EWING. But I desire to know at what time were they made?

Mr. TOOMBS. I do not know the precise time.

[Here the hammer fell.]

Mr. STANTON, of Tennessee. I am opposed to the amendment of the gentleman from Georgia. That gentleman has undertaken to state what are facts to this committee, and I have no doubt that has been his intention, but I think he is very far from having done so.

Mr. TOOMBS. I shall be very glad to be corrected.

Mr. STANTON. These parties, who subsequently united, had different inventions, one for a sectional dock, and the other for a balance dock; but a union between these parties was made seven or eight years ago, and had no reference to this dock in California. There was no such union made at that time as was represented by the gentleman from Georgia, as I understood him.

Mr. TOOMBS. What I stated was charged by these parties was made in writing and laid upon the desk of every member during the last

Congress. It was charged that those other parties had united, and had spent $90,000 in bribery,

Mr. STANTON. I remember that during the last Congress some outside parties, who had applied to the Secretary of the Navy, after this contract was made, and who may have applied to the gentleman from Georgia, for aught I know, laid upon the desks of members a paper filled with insinuations, which I am astonished the gentleman from Georgia should repeat in this House to-night, making charges against gentlemen who had been members of this House, but were not at that time members of Congress. Now, if the gentleman from Georgia has any insinuations or any charges to make, let him make them boldly and openly.

Mr. TOOMBS. I make no insinuations. When I make charges I make charges. I insinuated nothing. It is not my way of dealing with men or questions.

Mr. STANTON. Well, sir, the facts are these: These gentlemen made a proposition to do this work for the prices which the Secretary himself, upon his own estimate, and upon the estimate of the Bureau of Construction, admitted were fair. They said the work could not be done for less. But these third parties, who wanted the contract, endeavored by every means in their power to operate upon the Secretary of the Navy, to induce him to violate the contract which he had made; and this paper to which the gentleman from Georgia has alluded was designed to effect the same purpose. It is what I consider, and what the committee of the Senate, of which Mr. MASON was at the head, declared to be a violation of the public faith, at the suggestion of interested parties who desired to get the contract for themselves. But I understand the gentleman from Georgia to say that these contractors proposed originally to build a dock, basin, and railway for $300,000. There was some such proposition, but I assure the gentleman that there has never been any change in the terms of the contract entered into by these gentlemen, except that the appropriation for the work has been increased in proportion to the increased capacity of the dock by the addition of a basin and railway. Now, what were the circumstances in relation to this matter? The objection was made to the floating dock, that it would not be suitable without a basin, and that with a basin, it would be inferior to a permanent stone dock. Hence these parties made an invention by which, when the vessel is elevated upon one of these floating docks, it is floated into the basin which is filled with water, and is as permanent as a stone dock itself.

But I can inform this committee, that in California, a stone dock, suitable for the purposes of the Government, cannot be built for less than $15,000,000; and I can inform them further, that one of these floating dry-docks, with its basin and railway, will perform ten times as much service as the stone dock in the city of New York, which cost the Government upwards of $2,000,000. There is not a private company in the world which has ever built a permanent stone dock.

[Here the hammer fell.]

The question now being upon the adoption of the amendment,

Mr. TOOMBS, by unanimous consent, withdrew it.

Mr. BAYLY, of Virginia. I renew the amendment of the gentleman from Georgia.

Mr. Chairman, I only desire to say a word in reference to this dry-dock. I recollect the history of it, perhaps better than any other gentlemen upon the floor, and therefore I feel it my duty to state what were the facts. When this subject first came up, I was a member of the Committee on Naval Affairs. We had the advocates of the sectional dock and of the balance dock before us, and there was the most inveterate fight between them that I ever knew between any parties. The result was, that they compromised the matter by an agreement similar to what the gentleman from Georgia [Mr. TOOMBS] has stated, and the whole difficulty was at an end. Before this, each was contending that the plan recommended by the other was a bad one; the advocates of the sectional dock maintained that the balance dock was useless, and the advocates of the balance dock maintained that the sectional dock was useless. But they compromised the matter, and after that the sectional dock, which had been denounced as useless by the advocates of the balance dock, became a good dock with them, and the balance dock became a good dock with the advocates of the sectional dock. I examined the matter fully, and I had great difficulty in determining which was the best; but the gentleman from Georgia is entirely correct in stating that these parties united, as I can say from my own personal knowledge, for I was at that time at the head of the Naval Committee, before whom the matter was discussed at the time the agreement was made. I do not know upon what terms the agreement was made, but I recollect perfectly well that it was made; that the whole difficulty was settled, and both docks were purchased.

Mr. CARTTER. Mr. Chairman, I am a little anxious that this matter should be understood, or at least to know whether I understand it or not. I care nothing about Mr. Moody, or about these other parties. I have no personal acquaintance with either of them. I care nothing about them, and I do not think they have anything legitimately to do with the subject before the House. What I desire to understand, and what I think this House should understand, is the condition of the harbor of San Francisco, and the interest and wants of the commerce upon our Pacific coast. That is what should be understood and treated properly by this committee. The amendment of the Senate now under consideration, if I understand it, gives no premium to any one. It is to render a service upon the estimates of the Department.

This is the existing condition of the dry-docks in California: The sectional part of this dry-dock, as is represented by the Executive department of this Government, is unprotected, in the bay of San Francisco, from the winds, either by a pier or by a basin. It is also represented that the expense of protecting it by a pier is greater than what would be required to complete the basin of the dock, which basin operates as a shield to the operation of the sectional part of the dock, in place of a pier.

Now, sir, you voted to San Francisco, much against my will and judgment, to pile up a mass of stone at the gateway of that bay and harbor, and you are leaving, if the Department utters the truth about it, the entire commerce of that region to the mercy of the boisterous winds and seas of that place. If this be true, well-guarded provisions ought to be made for its security; and it is the present exposure of that dock, in its uncompleted condition, to which I wish at this time to call the attention of the committee; and if I have made myself understood, that is all I desire.

Mr. EWING. I move to increase the appropriation one dollar. I have seen appropriations defeated here more than once, by vague insinuations, which we have no power, no time, and no opportunity to investigate. I give the gentleman from Georgia [Mr. TOOMBS] full credit for being honest in his purpose. I believe him to be an honest guardian of the public Treasury, and at the same time I can give him some credit for liberality.

Now, sir, if I understand this question, there has been $650,000 appropriated for certain purposes, and the Secretary of the Navy—who has not been bribed—tells us that this appropriation of $150,000 for this railway and dry-dock, is absolutely essential to make the former appropriations available. I have seen upon this and upon similar appropriations, a whole delegation from the Atlantic sea-board march up and vote against appropriations for the Pacific sea-board. Talk about profusion and prodigality in the expenditures on that sea-board, and I point you to the millions, the untold millions, that have been appropriated to the Atlanlic sea-board in times gone by.

I feel interested in this as a western man; and I look forward to the day when China's teas and Burmese silks shall cross the bosom of the Mississippi valley on their way to Europe—when the rich Asiatic trade shall cross our borders on its way to the Atlantic sea-board.

I feel interested in this as a western man, and no one will charge us with prodigality, for we have had no appropriations of this sort. The day will come when we will command justice to the West upon this floor. Now, sir, if there is bribery in this matter, where is it? Is there bribery in reference to this appropriation of only $150,000, which the Secretary of the Navy tells us is absolutely essential to make the former appropriation available? Millions upon millions have been expended upon your Atlantic sea-board, upon its harbors, its light-houses, and in making experiments connected with such matters.

Now, sir, I ask that the committee shall take this into consideration, and if there is in this matter anything of injustice, any bribery or corruption, let the charges be met, and let us not be frightened—as I have sometimes been frightened—out of our votes, by insinuations of corruption, bargain, and bribery.

The Secretary of the Navy, I believe, has not been bribed; he has not been charged with it, and he is a competent officer, and certainly one in whose recommendation we ought to have much confidence.

[Here the hammer fell.]

POST OFFICE APPROPRIATION BILL.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had receded from all its amendments to the Post Office appropriation bill which were disagreed to by the House.]

Mr. JONES, of Tennessee. I wish to make a report from the Committee of Conference upon the Post Office appropriation bill.

The committee upon the part of the House, upon the disagreeing votes of the two Houses upon that bill, met the committee appointed upon the part of the Senate, and they were not able to agree upon any one of the disagreeing votes. A message, however, has just been received from the Senate notifying the House that the Senate has receded from all its amendments disagreed to by the House, and of course the bill stands passed.

NAVAL APPROPRIATION BILL.

Mr. MARSHALL. In the five minutes which are allowed for the discussion of this subject, it is wholly impossible to enter into those mechanical details which are necessary clearly to demonstrate all the propositions which I propose to defend, and to show the necessity, the absolute necessity, of the appropriation under discussion, to render at all available the much larger appropriation of $650,000, which has already been expended in the construction of this dry-dock. We have already, as every one knows, voted $650,000 for the construction of what is called a sectional dry-dock in the Bay of San Francisco. Every gentleman in this House, who has given this subject any attention, is well aware that the sectional dry-dock is built of wood and of perishable materials, and that it is a floating structure, that being the very principle upon which it operates. The dock is sunk and receives the vessel, and by its floating qualities raises the vessel so that it may be worked upon and repaired. Unless there is a basin and railway added to it, in that stormy bay, in which, I assure you, seas sometimes rise which are formidable to small vessels, and in which the tide flows at the rate of seven or eight miles an hour, some day or other our sectional dry-dock will be found floating out into the Pacific ocean.

This has cost us $650,000, and the question with which this House has to deal, and upon which it is called upon to act, is, shall we throw away this appropriation entirely, or shall we, by an additional appropriation of $150,000, render the former available for the purposes we originally had in view? The railway and basin, while it would protect the dock, would answer the additional purpose of extending, indefinitely, accommodations to the immense number of vessels which may be repaired upon it. The perishable part of this dock has cost no more than the perishable part of the dock in Brooklyn, while over $2,000,000 have been expended at the latter place in the stone work and other permanent parts of the structure. The dock at California can be completed for a considerably less sum, and the basin and railway can be added to it, augmenting its efficiency, and affording it absolute security, for the appropriation now proposed to be made. It is an appropriation absolutely necessary to render useful that which we already have expended.

[Here the hammer fell.]

Mr. EWING. If there is no objection, I withdraw my amendment.

No objection was made, and the amendment was accordingly withdrawn.

Mr. WASHBURN. I move to increase the appropriation twenty dollars. I do not know how

this question will be decided, but I trust it will be decided on its true merits, and on the true issue in the case, and not on side issues. It seems to me that the gentleman from Georgia, [Mr. TOOMBS,] with more ingenuity than ingenuousness, has undertaken to divert the attention of the House from the question really before us. What is the question—not what is the character of the contractors, not as to the history of the matter in the past, not as to what has been done by them—but what does the convenience and the necessity of the country require now in reference to this matter? As I understand, a contract has been made, which is now nearly, if not entirely executed by competent parties, for the construction of a dry-dock. I have not heard it said by the gentleman from Georgia, or any other gentleman on this floor, that that contract has not been well executed, or that it was unreasonable and the work cost more than it ought to have cost: not at all. Does any gentleman pretend to say that a dry-dock of some kind is not necessary on our Pacific coast? Certainly not. Does anybody pretend to say that there can be any other kind of dock constructed there but a balance dock? Certainly not; for, as some gentlemen have stated, it would cost $15,000,000 to build a stone dock there.

Then this is settled, that we must have a dock at San Francisco, and one that can be accessible and available for our navy and commercial marine there. Can this be without we make some provision for protecting and securing it? Certainly not. You have thrown away your $650,000, unless you make some provision for a basin and railway, and that is the true question before the House. I think that the commercial interests of this country, and the ship-masters and ship-owners of my State—and there are hundreds and perhaps thousands of vessels owned there now riding in the Pacific ocean—will not be satisfied with this discussion, if they find the question has been decided on collateral issues, and not on the true merits of the case.

Mr. STEPHENS, of Georgia. The gentleman talks as though we had no dock at San Francisco. We have one there; and why is it not available and useful? The Secretary of the Navy, Hon. William A. Graham, told us two years ago that the dock we then authorized to be constructed was ample and sufficient for all of the purposes of the Government and the commerce of that section of the country.

Mr. EWING. What does the Secretary say now?

Mr. STEPHENS. I intend to take up both points, and each by itself. I ask the chairman of the Committee on Naval Affairs whether the Secretary of the Navy did not, two years ago, tell the country that the dock then authorized to be built was ample and sufficient?

Mr. STANTON, of Tennessee. The Secretary of the Navy—Mr. Graham—said, at first, that the dock would be efficient by building a pier; but afterwards, that there must be either a pier or basin to make it efficient. I think that he yields his preference for the basin.

Mr. STEPHENS. That pier has been built or contracted for——

Several MEMBERS. No, sir!

Mr. STEPHENS. A contract has been entered into for its construction. Whether it is completed or not I do not know——

Mr. STANTON. No, sir!

Mr. STEPHENS. In the documents I find the following:

"A subsequent contract, by authority of law, was made with the contractors, requiring them to prepare piers and safe accommodations for, and allowing them to use the dock, under certain restrictions, for three years, or until the United States shall resume its control, and prepare a place for its accommodation and safe-keeping."

What do you say to this statement? Yes, sir; a contract has been entered into for the building of those piers, for so it is stated in one of the official documents emanating from the Treasury Department. So the piers have been contracted for; whether the work is done I do not know. But now we are asked to save the dock by authorizing the building of a basin and railway, which, perhaps—looking to California prices—will cost a million and a half of dollars!

Mr. Chairman, I do hope that this committee will pause and reflect on the history of this matter, which was stated by my colleague, [Mr. TOOMBS.] Some five or six years ago we were invoked to construct floating docks, basins, and railways at Pensacola, Philadelphia, and Kittery, in Maine, under the representation of a cost of about $300,000 at each place; but the cost at all the three places swelled up before they were finished to the enormous amount of $3,000,000 and upwards, if I mistake not. And yet the same contractors came here and asked us to enter into a contract with them for building a similar work at San Francisco, where the cost must be much greater. They got a clause inserted in the naval bill at the heel of the session in September, 1850, authorizing the Secretary of the Navy to make a contract with them. It was said that he did make a verbal contract with them to build it for about $1,500,000—I forget the exact amount. Well, in March afterwards, two years ago—I wish the committee to listen, and hear what Congress then said upon the subject of that alleged contract, now brought to light again—I read from the law:

"For the floating dry-dock in California, $150,000; and the Secretary of the Navy is hereby required so to modify the contract alleged to have been made on the 17th January last as to confine the sum to the construction of the floating dock alone, without the basin and railway: *Provided*, The contractors will agree to do the work at the estimates made by the Department in November and December last: *And provided*, The Secretary considers the said estimates fair and reasonable; and so much of said law as *authorizes the construction of the basin and railway is hereby repealed.*"

Let it be borne in mind by this committee that that alleged verbal contract, if it ever existed, was modified both by the Government and the contractors. This House put the seal of its disapprobation on it. The law of 1850, authorizing a contract for the basin and railway to be made, was passed just at the heel of a session, on a night, at a late hour, just as it is now brought up—on just such a night and hour as this. It never shows itself in the broad light of day, but we always find it at the last hour of a session, in the darkness of night, prowling about like an evil spirit. Members are then attempted to be gulled about the commerce of the country.

Mr. HART. I would be glad to know of the gentleman whether a proposition of the same character was not submitted in daylight, while the Naval appropriation bill was under consideration?

Mr. STEPHENS. And the House then, as it has for the last three years, when it had daylight to consider it, repudiated it.

[Here the hammer fell.]

Mr. STEPHENS then, by unanimous consent, withdrew his amendment.

Mr. STEVENS, of Pennsylvania. I move to strike out all of the appropriation except $100,000, and I do so, because I believe that this is not the time, nor the manner to pass a gigantic bill of this kind. It was brought before the House at the last Congress, deliberately considered, and finally repudiated.

Now, it comes in at the heel of this session, when we cannot consider it properly, and I am going to say, without fear of denunciation, what the gentleman from Georgia has said, that I believe it to be carried by corruption. I believe that the agents—I do not come into the House—I believe that the agents who surround this Hall and this Congress, are to get their hundreds and thousands if it passes.

Mr. EWING. Do you believe it?

Mr. STEVENS. I believe it, and I have sufficient evidence to convince myself of it. What will govern me may not others, and I am only stating a motive of my own conduct. When this bill was up before, it was opposed by an honorable gentleman from New York, whose name I will not be induced to mention, for he is not here now, and I therefore have no authority to do so, and he was about having it defeated, when he was called on by the other party, and offered $10,000 cash if he would withdraw his opposition, and let it pass. And I believe him, for I know him to be a man of no deception. I believe, sir, that now, not by members from California, for they would scorn it, but by others who have their thousands depending—this bill has been brought up at this moment, put on in the Senate, and is to be pressed through the House without proper time for deliberation and discussion. I believe that the present dock, with some improvements, may be made to answer well in California; but if it cannot give us time so that the matter may be thoroughly investigated, I will not go for a bill which is brought in and sustained by corruption, not, I say again, by gentlemen from that quarter.

Mr. MARSHALL. I would ask the gentleman whether they have not such a dock as we want, in Philadelphia, in full and successful operation?

Mr. STEVENS. Sir, is that an argument for me or you? They may have docks there. They have there what Norfolk, New York, and other places have, not a basin and railway, but a dry-dock. I say this is not the time nor the hour, at the expiring moments of Congress, in the confusion and noise, and surrounded by thousands of outside pressure, to pass away your millions, and I shall certainly vote against the bill.

Mr. SWEETSER. I desire, Mr. Chairman, before the question is taken upon the Senate amendment upon which this debate has ensued, to call the attention of the House, and the gentlemen who oppose the merits of the appropriation, to give the legislative history of the measure of a dry-dock and basin, as it transpired in the last session of Congress. And in this I differ in point of fact widely from the honorable gentleman from Georgia, [Mr. TOOMBS.]

Sir, it will be remembered that the then Secretary of the Navy, after carefully examining the proposals of Messrs. Dacon, Moody & Co., caused estimates to be made by officers of the Government, and with full and impartial data, entered into a contract with said Dacon, Moody & Co., for the construction of a dry-dock and basin, for a sum less than the estimates. The contract was reduced to writing, under the instructions of the Secretary, and about the time of agreeing some officious persons from New York and elsewhere, who were anxious to become contractors themselves, published a pamphlet in which certain *grave* yet undefined charges were made against somebody not specified; and members of Congress that were then supposed to have friends interested in vacating the aforesaid arrangement of the Secretary, made a move in the House of Representatives which for a time suspended the completion of the contract made by the Secretary.

A debate sprung up in relation to the charges made, and the action of the Secretary. It ended, however, in the conviction that the charges were *slanders*, and that a dry-dock was necessary in California. The Government were then engaged in the construction of a similar dock and basin at Philadelphia and Kittery, under a contract with the same men. The basin and railway had not been finished, and it was suggested that the floating-dock would answer a good purpose without the basin and railway; and inasmuch as the Government were engaged in the construction of a similar work at Philadelphia, it might be well to suspend the contract for the basin and railway until an experiment had been made, testing the utility and necessity; and for that reason alone the House modified the arrangement made by the Secretary, as aforesaid, and authorized the construction of the dock without the necessary basin for its usefulness and protection.

Subsequently, the basin and railway at Philadelphia and Kittery have been completed, and experiments have shown that the dry-docks, basin, and railways referred to were the most complete and efficient structures, for the purposes designed, ever invented or brought into practical use; and all this accomplished in open day by the same men that are denounced upon this floor.

Another point was made by the honorable gentleman, [Mr. TOOMBS.] He said that this dock was not wanted by the Government, and, as a proof of the fact, stated that the Government has rented the dock to the contractors for three years, free of charge.

Now, sir, what are the facts? The Government having no harbor for the dock, and not understanding the management of it, rented it to the contractors for three years, upon condition that they shall do all the work needed by the Government free of charge, as a consideration, allowing them, when the dock is not wanted for the use of the Government, to use it in the repairing of the mercantile marine at San Francisco.

It will be remembered that this structure is complicated and expensive, and might be ruined by careless or inexperienced operators. The Government has acted wisely, and has made an advantageous arrangement. Sir, will this House reject this measure because facilities will be afford-

ed to the commerce of the world by the construction of this dock, and the contract alluded to for its operation? It is an imposition upon the judgment and good sense of this House to attempt to defeat a measure upon such statements, unsupported as they are. I call upon the House to dismiss the impressions which have been produced by the gentleman's denunciations.

Sir, I cannot keep my seat, or preserve my patience with the outrages that have been committed in this debate. I voted for the dock in the Thirty-first Congress. I advocated the measure then. I shall vote for the basin and railway now, for the reasons that are most obvious. Will the gentleman from Pennsylvania [Mr. STEVENS] *dare charge me with bribery?* Will the members of this House be driven from their propriety, or be alarmed by the denunciations of the honorable gentlemen from Georgia? [Messrs. TOOMBS and STEPHENS.] I trust they will not.

Sir, the point made that this measure is forced upon the House at the last hour of the session, and that an evil spirit hovers over this Hall, comes with bad grace from those honorable gentlemen. They will recollect that it was on the last night of a session of this House, when a Galphin made his appearance, and that Georgia has the credit of having introduced him here. Nay, more: that the honorable gentlemen themselves were his *sponsors*, on that occasion, and have been his excusers—no, sir, his defenders, in this House since. Sir, I repeat, that the voice of Georgia, eloquent as it may be, should be the last to be heard in charging fraud and corruption in this Hall. I will not listen in silence. I ask this House to rally from such animadversions, and do its duty.

[Here the hammer fell.]

Mr. STUART. I do not desire to enter into the discussion; but for the purpose of ascertaining the sense of the committee, I move that we do now rise for the purpose of terminating this debate.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman reported that the Committee of the Whole on the state of the Union had had the state of the Union generally under consideration, and particularly the amendments of the Senate to the naval appropriation bill, and had come to no conclusion thereon.

Mr. STUART. I move to suspend the rule authorizing the five-minutes debate.

Mr. BAYLY, of Virginia. I move to suspend the discussion in ten minutes after going into committee.

The question was taken on Mr. STUART's motion, and it was decided in the affirmative.

Mr. STUART. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole.

The question was then taken, and the motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. ORR in the chair,) and resumed the consideration of the naval appropriation bill.

The CHAIRMAN. The proposition pending is the amendment offered by the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. I withdraw it, if there is no objection.

Mr. BAYLY, of Virginia. I renew the amendment. It is exceedingly disagreeable for me to say a word to the committee, for I am too hoarse to speak; and nothing but a sense of duty prompts me to do it. I know the whole history of the connection of the Government with these floating dry-docks, and I undertake to say that when the matter was thoroughly investigated before this House, everything was granted towards the California dock which was thought reasonable; and what we did appeared to be satisfactory to them. The objection was made at that time that they would come back here, as they are coming back, for an additional appropriation. But it was as distinctly understood by the House as it was possible for anything to be understood, that they were satisfied with what we had done. That is the history of this case. I should like to go into an examination of this matter more at length; for, as I have already said, I know the whole history of the connection of the Government with those docks, and the contest between the sectional and the balance dock, but I find that I am too hoarse to permit my doing so; but let me say this most emphatically, before I sit down, that they got everything which we ever meant to grant.

Mr. CAMPBELL, of Illinois. I will only occupy the attention of the committee for two or three minutes. I think the gentlemen who oppose this matter resort to a very unfair course of argument. Suppose this first appropriation was obtained by fraud, it has been expended for the dock, which cannot be used unless a further appropriation be made. I submit to this committee whether the argument which these gentlemen make use of against the original appropriation, should be permitted to make the very money which was expended under that appropriation inoperative in every way. The gentleman from Virginia [Mr. BAYLY] over the way, says it was understood that no more money would be asked for. What does the Secretary say? He says that the floating dry-dock in California, contracted for in obedience to several acts of Congress heretofore passed, has been completed and delivered in San Francisco. No appropriation was made for the basin and railway, without which the dock cannot be safely or usefully employed. I submit it to the decision of Congress whether this structure should not be made without delay.

Mr. STANTON, of Tennessee. Will the gentleman allow me to reply just there? It is true that these contractors have agreed to erect piers, but they are of a temporary character; for every one knows that they could not afford to erect everything except it was temporary, for this year.

Mr. STEPHENS, of Georgia. How does every one know it?

Mr. STANTON. They are to occupy the dock in order to secure it for three years.

Mr. STEPHENS. Does the Secretary say so?

Mr. STANTON. He does. That is the contract.

Mr. CAMPBELL. I will lay this down. I take the report of the Secretary for my authority, that this dock has been constructed, and that it cannot be made useful unless there is a further appropriation for a basin and railway. What is the argument against it? Will you make that dock useful or will you not? Will you withhold the appropriation and leave it there to float off into the Pacific, and thus lose the whole sum of money spent in its construction, or will you appropriate $150,000 to carry out the purpose for which that dock was designed.

Mr. STEPHENS, of Georgia. Upon what ground does the gentleman base his assertion that this dock will be useless without a basin and railway?

Mr. CAMPBELL. Upon the authority of the Secretary.

Mr. STEPHENS. I ask him what he does with the same authority, when the Secretary told us, when we appropriated money to complete the dock, that it would be ample and sufficient without basin and railway?

Mr. CAMPBELL. Since that, I understand the commissioner has been sent out there, who reported to the Secretary of the Navy that it would be useless without this basin or railway, or a pier to protect it.

Mr. STEPHENS. The pier has been built.

Mr. BAYLY. I withdraw my amendment.

Mr. DEAN. I demand tellers upon the adoption of the amendment.

Mr. FLORENCE. I desire to say a word in reference to the Pennsylvania dry-dock.

[Cries of "Order!" "Order!" "Order!"]

Tellers were ordered; and Messrs. MANN and DEAN were appointed.

The question was taken; and the tellers reported that there were—ayes 73, noes 80.

So the amendment was not agreed to.

[Mr. THOMAS Y. HOW, from the Committee on Enrolled Bills, reported that the committee had examined, and found truly enrolled, bills and resolutions of the following titles; which received the signature of the Speaker, viz:

S. R. No. 51. A resolution for the relief of the heirs of John De Neufville & Son.

S. No. 274. An act for the relief of L. M. Goldsborough and others.

S. No. 236. An act to incorporate the Sisters of Visitation of Washington, in the District of Columbia.

S. No. 512. An act for the relief of Catharine Proctor Hayden, only child and heir of John White, deceased, late a lieutenant colonel in the fourth Georgia battalion of the revolutionary Army.

S. No. 622. An act authorizing changes in the location of land offices.

S. R. No. 44. A resolution for the relief of the Spanish consul and other subjects of Spain, residing at New Orleans, and of the subjects of Spain residing at Key West, by indemnity for losses occasioned in the year 1851.]

Twenty-eighth amendment of the Senate:

"Page 9, line 9, after the word 'for' insert 'paving Shippen street, walls on Shippen street, and iron railing.'"

Twenty-ninth amendment of the Senate:

"Line 11, after the word 'gutters' strike out '$5,000,' and insert in lieu thereof '$9,600.'"

Mr. PHELPS. Those two amendments are parts of the same proposition, and one vote should be taken upon them, although they come from the Senate as separate amendments. If adopted, they will make the clause read as follows:

"*At Philadelphia Naval Asylum.*—For paving Shippen street, walls on Shippen street, and iron railing, tinning roof of asylum, laying water pipes, furnaces, grates and ranges, pavements and gutters, $9,600."

Mr. FLORENCE. The House will recollect, that when the naval bill was under consideration in Committee of the Whole on the state of the Union, this proposition was offered. I then asked the chairman of the Committee on Ways and Means whether the street on the north side of the Naval Asylum had yet been opened. There is a municipal regulation in the city of Philadelphia, which requires that when streets are opened, the owners of the property on those streets shall pay for the grading and pavement. That constitutes a fund, out of which watching and all other municipal protections are afforded to the property of the United States and of private individuals. But the fact that Shippen street will in all probability not be opened before the next session of Congress, seemed in my mind to obviate the necessity of this appropriation at the present time. The Senate have, however, put in the appropriation asked for by the governor of the asylum at Philadelphia. They may have had more information upon the subject than the chairman of the Committee on Ways and Means had when he answered my questions. When the street is opened and paved, this amount must be appropriated by the Government for it, and I submit that it is merely a question of time whether we will make the appropriation now or at some future period. That it will have to be made is as certain as that we exist here at this time.

The question was then taken, and the amendments of the Senate were disagreed to.

Thirtieth amendment of the Senate:

"After line 24, insert as follows:

"For wall around hospital grounds, $22,500."

Mr. PHELPS. That is for the Naval Asylum at Norfolk. The Committee of Ways and Means when considering the estimate of the Secretary of the Treasury, refused to insert this item in the bill.

Several MEMBERS. It ought not to go in.

Mr. PHELPS. No, it ought not.

The question was then taken, and the amendment of the Senate was rejected.

Thirty-first amendment of the Senate:

"Page 11, line 7, after the word 'private,' insert 'clerks, messengers, stewards.'"

Thirty-second amendment of the Senate:

"Line 8, after the word 'shore,' insert 'for rations and clothing for servants.'"

Thirty-third amendment of the Senate:

"Line 9, after the word 'clothing,' insert 'and rations, bounties for reënlistment, and pay for unexpired terms of previous service.'"

Thirty-fourth amendment of the Senate:

"Strike out '$221,767,' and insert in lieu thereof, $223,530.'"

Thirty-fifth amendment of the Senate:

"Page 11, line 11, after the word 'and,' where it occur the second time, strike out 'eight,' and insert in lieu theres of 'forty-four.'"

Mr. PHELPS. All those amendments constitute one proposition, and may be disposed of by one vote. If they are agreed to, the paragraph which provides for the Marine Corps, will read:

"For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, stewards, and servants serving on shore, for rations and clothing for servants, sub-

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sistence for officers and pay for undrawn clothing and rations, bounties for reënlistment and pay for unexpired terms of previous service, $223,530 44."

Mr. BELL. What do the Committee on Ways and Means recommend?

Mr. PHELPS. The Committee on Ways and Means reported all that was estimated for by the Secretary of the Treasury. I presume that this has reference to a bill for the reorganization of the Navy, but I do not know that such is the case.

The question was then taken, and the amendments of the Senate were disagreed to.

Thirty-sixth amendment of the Senate:

"For removal of obstructions at Cape Fear entrance, caused by works placed by the Government for the protection of the site of Fort Caswell, so as to afford access to the harbor within the bar, $50,000."

Mr. VENABLE. I move to amend the Senate amendment by increasing the appropriation one dollar.

I hold in my hand the resolutions of the Legislature of North Carolina, requesting an appropriation for the removal of these obstructions from the mouth of Cape Fear river, and I will briefly inform the committee of the facts in regard to this matter.

In former times, and before the Government of the United States placed Fort Caswell at the mouth of Cape Fear river, we had eighteen or twenty feet of water—sufficient to float ships of the largest size. The Government of the United States put Fort Caswell there, and in order to protect it from being undermined, built jetties which have caused the sand to accumulate and fill up the channel, so that we have now only about ten and a half feet of water. Now, I am opposed to internal improvements on the part of the General Government, but when the Government places obstructions in a channel, it is bound, upon every principle, to remove those obstructions.

Mr. CLINGMAN, (interrupting.) The House will remember that the last Congress appropriated $80,000 for the removal of the wreck of the frigate Missouri at Gibraltar.

Mr. VENABLE. Yes, sir, you appropriated $80,000 for the removal of the wreck of the Missouri from the harbor of Gibraltar. You went across the ocean for the purpose of removing the obstruction produced by one of your vessels. In this instance, you have so changed the direction of the sand, as to obstruct the channel, and render one of the most thrifty and enterprising towns in North Carolina utterly inaccessible. We do not ask you to make a harbor, but simply to restore to us the advantages which nature gave us—advantages which we enjoyed before you built your fort and placed these obstructions in our channel for the protection of its foundations. We have asked for nothing heretofore. We have received nothing, and now we only ask that you will place us where we stood before you obstructed our channel.

Mr. FULLER, of Maine. I only heard a portion of the remarks of the gentleman from North Carolina, [Mr. VENABLE,] and I cannot, therefore, fully reply to him. This subject has, however, come under my observation and my investigation, and I have the authority of the proper officers of the Coast Survey, that this effect of lessening the depth of the channel at the mouth of Cape Fear river is not produced by the jetties placed there by the direction of the Government, but by the wasting away of the island upon the opposite side of the river. There was a time when it was supposed that the action of the water at this point was undermining the foundations of Fort Caswell; and under the supervision of the Engineer Corps these jetties were placed there; but the effect of which the gentleman from North Carolina now complains was not produced by them, but by the washing away of the island upon the opposite side of the river.

Mr. VENABLE. We have the report of Professor Bache upon that point.

Mr. FULLER. Well, sir, I have my information from one of the officers of the Coast Survey. He says the fact of the filling up of the mouth of the river is not to be denied, but that subsequent surveys show that it is produced by the wearing away of this island, and that the only way to relieve the difficulty, and prevent the channel of the river from continuing to fill up, is to throw out jetties upon the opposite side of the river.

Mr. CLINGMAN. I ask the gentleman to allow me for a moment. What he states is correct in part. It is true that the washing away of this island, and the widening of the river at that point nearly two miles, has produced the effect of which we complain, but it is also true that the washing away of this island was the effect of the jetties thrown out by order of the Government for the protection of the foundations of Fort Caswell. Those jetties changed the current of the river to the opposite side, where it has ever since been gradually washing away the island and widening the river, until it has entirely destroyed the current, and filled up the channel until it is but seven and a half feet deep.

Mr. FULLER. Can the gentleman tell me how far these jetties extend into the river?

Mr. CLINGMAN. They were sufficient to change the current of the river.

Mr. FULLER. That is not the point. The gentleman tells us that the mouth of this river has filled up; and I presume there can be no question of that fact; but as I have remarked, the cause can be found in the washing away of this island—not on account of the jetties placed there by the Government. It is also true that many of the rivers upon our southern sea-board have been rapidly filling up within the last six months, and——

[Here the hammer fell.]

Mr. VENABLE. I desire to withdraw my amendment.

There was no objection, and the amendment was withdrawn.

Mr. BROWN, of Mississippi. I move to reduce the appropriation one dollar.

Mr. Chairman, I move this amendment for the purpose of making one or two comments upon this course of legislation, and especially upon the course of my friend from North Carolina [Mr. VENABLE] in relation to it; and I hope the gentleman will do me the favor to listen to what I have to say. I do not understand how it is that gentlemen who are so much opposed to all works of internal improvement upon the part of this Government generally, can be so much in favor of the same species of works, when they lie within the limits of their own State. Now, here is an appropriation for the purpose of removing obstructions at the mouth of the Cape Fear river, and my State-Rights friend from North Carolina, notwithstanding all his opposition to internal improvements, is in favor of it. Why, if I were to propose an appropriation of $5,000 for removing obstructions in the Pascagoula, he would oppose it. [Laughter.] Certainly he would; and that is the difference between the Cape Fear and the Pascagoula. Now, I maintain that a river in Mississippi is as much entitled to the guardianship of this Government as one in North Carolina. It is a larger river. The Pascagoula is one of the largest in that region of country. It is seven miles wide at its mouth, and runs up considerably. [Much laughter.]

Mr. STEPHENS, of Georgia. I want to ask the gentleman a question.

Mr. BROWN. The gentleman can have the floor when I get through. Now, I say to my State-Rights friend from North Carolina that so long as he is upon nearly all occasions found upon the side of anti-internal improvements upon the part of this Government, I am surprised to see him coming out for such an amendment as this. I do not expect anything better from my friend from Georgia, [Mr. STEPHENS,] for he is generally in favor of such things, and I have no doubt he has something to ask for Savannah; though I do not think Savannah needs any such thing now. But you take the Pascagoula and Cape Fear rivers, and I think the Pascagoula is much the best deserving the patronage of the Government. Why, sir, we have perpetual music upon the Pascagoula. If they have any music upon the Cape Fear they have to make it themselves; but we have music upon the Pascagoula that comes by nature, and it is capital music, better than any I ever heard in North Carolina.

But to be serious, I tell this committee that this thing of ingrafting projects for internal improvements upon your naval appropriation bill is all wrong; and if the Senate put such amendments upon the bill I hope the House will strike them out. If we are to pass the amendment for the improvement of the Cape Fear river, why should we not go on and add other amendments for the improvement of the Mississippi and all its vast tributaries? If we are to improve the mouth of this river in North Carolina, why should we not go on and improve the mouths of the inland rivers in Mississippi, and of all the other States of the Union? Sir, I speak seriously when I say that if North Carolina has claims upon the National Treasury for the improvement of this river, there is not a State in this Union which has not claims upon the Treasury for similar purposes; there is not a gentleman upon this floor who has not claims for his own district. Gentlemen say the Government placed these obstructions in the river. Well, suppose the Government did put them there——

[Here the hammer fell.]

Mr. STEPHENS, of Georgia. Mr. Chairman, I think when the Government have placed these obstructions in the mouth of this river, it ought to remove them. I opposed the fortification bill when it came to this House in the shape of the Senate amendment, and one of my reasons for doing so was that this Fort Caswell, which has been placed there by this Government, has, according to the report of the officers of the Coast Survey, filled up the mouth of the Cape Fear river. The gentleman from Maine [Mr. FULLER] has alluded to the opinion of the Superintendent of the Coast Survey, in relation to the cause of the filling up of this river. Sir, I have before me a letter of that officer, in which he speaks of these obstructions.

In speaking of Fort Caswell and the jetty, he (Mr. Bache) says:

"It is my opinion that they have completely answered that purpose, *but in so doing* have increased the wash on the opposite side at Baldhead, which point should be preserved in the way provided for Oak Island, as its removal is one of the causes of the shoaling of the bar."

Mr. FULLER. What is the date of that letter?

Mr. STEPHENS. It is dated the 28th of February, 1853, only a few days ago. This letter says removal is necessary, or that river will be entirely obstructed.

Now, Mr. Chairman, in relation to the comparative merits of the Pascagoula and Cape Fear rivers, I have nothing to say. But where the Government have placed obstructions in the mouth of a river they ought to remove them; and for this reason I am in favor of this amendment.

The gentleman says I have something to ask for the Savannah. Well, sir, the Government, by its order, placed obstructions in the mouth of that river in 1779, which have obstructed the navigation of that river from that day to this, and I say it ought to remove them.

Now, in relation to the general subject of internal improvements, of which the gentleman from Mississippi has spoken, I will say only this: I have no doubt of the power to make internal improvements, and I have voted for such bills, but I do not believe, in the main, that it is expedient to pass them.

Mr. TAYLOR. If the gentleman will allow me to interrupt him, I desire to know what obstructions the Government placed in the mouth of the Savannah?

Mr. STEPHENS. In the time of the Revolution, when the approach of a British fleet was expected, they sunk ships in the mouth of that river to prevent the British vessels from entering.

Mr. TAYLOR. Then they ought to be removed.

Mr. STEPHENS. Why, during the last Congress an appropriation was made of $70,000

or $80,000 for the purpsse of raising the Missouri, in the Mediterranean sea. Here is an appropriation for precisely the same purpose. This Government has taken upon itself to raise one of our vessels which had been sunk accidentally in a foreign sea, when we have upon our own coast a case where a number of ships have been sunk by the order of the Government, and which have for years obstructed the navigation of the Savannah river, and I ask the House whether it is not right that the Government should remove these obstructions?

[Here the hammer fell.]

CIVIL AND DIPLOMATIC BILL.

[A message was here received from the Senate, by Mr. DICKINS, its Secretary, informing the House that it had agreed to the report of the Committee of Conference upon the disagreeing votes of the two Houses on the bill of the House No. 337, entitled "A bill making appropriations 'for the civil and diplomatic expenses of the Gov-'ernment for the fiscal year ending the 30th June, '1854."]

NAVAL APPROPRIATION BILL.

The question was then taken, and Mr. BROWN's amendment was disagreed to.

Mr. PHELPS. I move to reduce the amendment two dollars.

Mr. Chairman, we have before us a bill making appropriations for the support of the Navy. By the rules of this House, the Committee on Ways and Means, and every member upon this floor, are prohibited from offering any amendment to that bill, making any appropriation, except for such works as are authorized by existing laws. It has been my desire, and I believe the desire of every other member of the Committee on Ways and Means, to preserve the purity of our appropriation bills, and not to make them the medium of general or special legislation. But in the amendments to these bills which have been adopted by the Senate, you have a fortification bill attached to your Army bill, you have an internal improvement bill attached to your naval appropriation bill, and you have another bill for the reorganization of the Navy attached to the same bill, besides a multitude of other minor matters which the Senate in its wisdom have seen fit to adopt and send to us for our concurrence. It is well known that there is very strong opposition in this House to a general system of internal improvements; and so far as I am concerned, I carry my opposition against all these river and harbor improvements. But, for the purpose of testing the House, the Senate have sent down all these appropriations for rivers and harbors, and for all other purposes, which are not the legitimate subjects of legislation in an appropriation bill. They have attached these to those bills for the purpose of forcing the House into a concurrence in these measures. Sir, for one, I shall be willing to see this bill lost before I will consent to such an agreement. I am not to be driven nor dragooned into legislation by a coördinate branch of the National Legislature. If it be right to report appropriations for internal improvements in these appropriation bills, then bring in your western rivers, bring in your harbors upon the Atlantic coast as well as upon the Pacific coast, and do not specify one or two items of appropriation which we must adopt or lose the appropriation bills. Sir, I hope the House will not consent to this project of making appropriations for purposes of internal improvement and placing them in your general appropriation bills.

[Here the hammer fell.]

Mr. HOUSTON. I desire that the Speaker shall take the chair informally, in order to allow me to make a report from the Committee of Conference upon the civil and diplomatic bill.

Mr. PHELPS. I hope not. I hope the gentleman from Alabama will allow us to go on and act upon the remaining amendments to this bill. We can go through with them in fifteen or twenty minutes.

Mr. HOUSTON. I ask my friend from Missouri to withdraw his objection, and allow us to take up and agree to the report of the Committee of Conference, and then we may come back and finish the amendments to to this bill.

Mr. PHELPS. I will not object.

There being no objection, the committee informally rose, and the Speaker resumed the chair.

CIVIL AND DIPLOMATIC APPROPRIATIONS.

The SPEAKER *pro tem.* The Committee have consented informally to hear the report of the Committee of Conference.

Mr. HOUSTON here made the report of the Committee of Conference upon the disagreeing votes of the Houses upon the civil and diplomatic bill; and it was read, as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the bill (H. R. No. 337) entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year ending 30th of June, 1854," have met, and after full and free conference have agreed to recommend, and do recommend to the respective Houses as follows:

That the Senate recede from its 9th, 10th, 11th, 13th, 14th, 16th, 17th, 30th, 32d, 34th, 37th, 40th, 48th, 56th, 58th, 75th, 81st, 84th, 85th, 89th, 97th, 100th, and 103d amendments.

That the House recede from its disagreement to the 1st, 23d, 29th, 31st, 46th, 47th, 60th, 82d, and 83d amendments of the Senate.

That the Senate concur in the amendments of the House to its 44th, 67th, and 102d amendments.

That the House recede from its disagreement to the second amendment of the Senate, and agree thereto with an amendment, as follows: "After the word 'dollars,' in line twenty, page second, of the original bill, insert: 'And to enable the Clerk of the House of Representatives to comply with the resolution of said House of March 1, 1853, directing him to pay the usual extra compensation to the employees in and about the Capitol, a sum sufficient for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated, and is hereby added to the contingent fund of said House.'"

That the House recede from its disagreement to the seventh amendment of the Senate, and agree thereto with an amendment, as follows: "After the second line, insert: 'In pursuance of contracts already made;' and at the end of line three add: "*Provided*, That this appropriation shall finish the publication."

That the House recede from its disagreement to so much of the thirty fifth amendment of the Senate as is contained in lines one, two, three, four, and to and including the word "erected" in line five, and that the Senate recede from the residue thereof.

That the House recede from its disagreement to the forty-second amendment of the Senate, and agree to the following substitute for said amendment, and that the Senate concur therein, to wit:

"*It is hereby provided*, That the limitations upon the cost of the site and building of the custom-house in Richmond, Virginia, imposed by the act of August 31, 1852, are hereby removed and repealed.

That the House recede from its disagreement to the 49th amendment of the Senate, and agree thereto with an amendment, as follows: "*Provided*, That the ministers resident herein authorized, shall not receive more compensation than is now paid to a chargé d'affaires."

That the House recede from its disagreement to the 61st amendment of the Senate, and agree thereto with an amendment, as follows: "Strike out '$50,000,' and insert '$30,000.'"

That the House recede from its disagreement to the 62d amendment of the Senate, and agree thereto with an amendment, as follows: "Strike out '$150,000,' and insert '$100,000.'"

That the House recede from its disagreement to the 77th amendment of the Senate, and agree thereto with an amendment, as follows: "Strike out lines fourteen and fifteen to and including the word 'Interior.'"

That the House recede from its disagreement to the 99th amendment of the Senate, and agree thereto with an amendment, as follows: "Add at the end of said Senate amendment: '*Provided*, That the sum of $10,000 thereof be invested for the benefit of the family of said Mills, and after his death to be given to such children of said Mills as may survive him.'"

The following analysis shows the action of the committee in detail.

Amendments from which the committee recommend that the Senate shall recede:

Ninth amendment of the Senate:

"Strike out '$32,050,' and insert in lieu thereof '$33,700,' in the following paragraph:

"For compensation of the Secretary of the Treasury and Assistant Secretary of the Treasury, clerks, messenger, and assistant messenger in his office, $32,050."

Tenth and eleventh amendments of the Senate:

"On page 8, line 18, strike out '$11,400,' and insert in lieu thereof '$13,550;' and insert thereafter: 'For an additional clerk in the office of the Fifth Auditor, $1,000;' so as to make it read:

"For compensation of the Fifth Auditor, and the clerks and messengers in his office, $13,550;

"For an additional clerk in the office of the Fifth Auditor, $1,000."

Thirteenth and fourteenth amendments of the Senate:

"Page 10, line 7, after the word 'languages,' insert 'transmission of Mediterranean passports and sea-letters, carrying the Department mails;' and in page 10, line 19, strike out 'five,' and insert 'nine,' so as to make the paragraph, relating to the contingent expenses of the Treasury Department, read—

"For labor, blank books, stationery, sealing ships' registers, translating foreign languages, transmission of Mediterranean passports and sea-letters, carrying the Department mails, advertising, and extra clerk hire for preparing and collecting information to be laid before Congress—said clerks to be employed only during the session of Congress, or when indispensably necessary to enable the Department to answer some call made by either House of Congress at one session to be answered at another; and no such extra clerk shall receive more than three dollars thirty-three and one third cents per day for the time actually and necessarily employed, $8,950."

Sixteenth amendment of the Senate:

"Page 17, line 21, after the words 'United States,' in the clause relating to collection of revenue from the sale of the public lands in the United States, insert:

"*And provided further*, That in lieu of issuing patents to the several States for land granted in aid of internal improvements in all cases where the issuing of patents is not required by law, the certificates issued or to be issued by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, in pursuance of the several acts making such grants, shall, in all respects, have the same effect as though a patent were issued for said land."

Seventeenth amendment of the Senate:

"Page 18, strike out all after the word 'building,' where it first occurs, to the word 'viz:' in the following paragraph:

"Contingent expenses of east wing Patent Office building—[provided that neither the office of the Secretary of the Interior, nor any bureau thereof other than the Patent Office, shall be located in the Patent Office Building until directed by law]—viz: For labor, fuel, lights, and incidental expenses, $2,200."

Thirtieth amendment of the Senate:

"On page 39, after line 16, insert as follows:

"For repairing or rebuilding the light-house at Bear Island, which has been destroyed, $4,000.

"For completing the light-house at Half Moon Shoal, Redfish Bar, and at Clopper Bar, on the coast of Texas, $3,000."

Thirty-second amendment of the Senate:

"On page 42, after the clause in regard to the survey of the western coast of the United States, insert the following:

"For publishing the observations made in the progress of the survey of the coast of the United States, per act of March 3, 1853, $20,000."

Thirty-fourth amendment of the Senate:

"On page 42, after line 13, insert:

"For the purchase of a site and the erection of a custom-house at Galveston, Texas, $50,000: *Provided*, That the plan of the building shall be such that the whole cost both of the building and the site shall in no event exceed the appropriation hereby made."

Thirty-seventh amendment of the Senate:

"On page 42, after 13, insert:

"For the purchase of a site, and the erection of a custom-house at Belfast, Maine, $20,000: *Provided*, That the plan of the building shall be such that the whole cost, both of the building and site, shall in no event exceed the appropriation hereby made."

Fortieth amendment of the Senate:

"Page 42, after line 20, insert:

"For the erection, under the direction of the Secretary of the Treasury, at the port of New Haven, Connecticut, of a fire-proof custom-house, with suitable rooms therein for the accommodation of the United States courts, and also rooms in which shall be kept the post office of said city, the expense of said building and site therefor not to exceed the sum hereby appropriated, $75,000: *Provided*, That the Legislature of the State of Connecticut shall exempt the said building from taxation."

Forty-eighth amendment of the Senate:

"On page 43, line 4, after the following paragraph—

"For salaries and outfits of ministers of the United States to Great Britain, France, Russia, Prussia, Spain, Brazil, Mexico, Peru, and Chili, $162,000;

"Insert the following:

"*Provided*, That hereafter there shall be allowed and paid to the ministers to Great Britain, France, Russia, and Spain, the sum of $6,000 each for house and office rent, salary to a private secretary, and other expenses incidental to their respective missions; and to the minister resident in Turkey $4,000 for like expenses. The foregoing to be in addition to outfit and salary."

Fifty-sixth amendment of the Senate:

"Page 44, after line 22, insert:

"For defraying the expenses attending the expected visit of a war steamer from the Sultan of Turkey, with contributions to the Industrial Exhibition to be held in New York, in May next, $10,000; the said sum to be expended under the direction of the President of the United States."

Fifty-eighth amendment of the Senate:

"Page 50, line 4, after the following words, 'For sectioning one hundred townships, equal to six thousand miles of surveying, in California, at a rate not exceeding twelve dollars per mile, $72,000,' insert the following:

"*Provided*, That it shall be lawful for the President of the United States, if he deem it expedient, to divide the State of California into three separate and distinct land districts, in such manner as circumstances shall determine to be necessary, and he shall appoint, by and with the advice and consent of the Senate, or during the recess of Congress when necessary, a register of the land office and receiver of public moneys for each of such land districts; and the said officers for the same respectively shall be located at, and be removed from time to time, to such places as the President shall deem most suitable for public convenience; and the lands within the said districts, with the exception of mineral lands, and such other lands as shall be exempt from sale by competent authority, shall be subject to entry at the proper office in the same manner as other portions of the public domain; and the registers and receivers shall each receive a salary of $3,000, and the usual fees allowed

in other cases, but the entire compensation shall in no instance exceed the sum of $4,000."

Seventy-fifth amendment of the Senate:

"On page 57, after line 10, insert:

"For the purpose of purchasing or building a revenue cutter, to be propelled by steam, and employed on the Pacific coast, $75,000: *Provided*, That there shall not be more than one steam and one sail vessel employed for such purpose on that coast."

Eighty-first amendment of the Senate:

"Insert the following:

"SEC. 4. *And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized to construct a marine hospital at Burlington, in the State of Iowa; and that there be, and is hereby, appropriated $15,000 for said purpose, from the Treasury, out of any money not otherwise appropriated."

Eighty-fourth amendment of the Senate:

"Insert the following:

"SEC. —. *And be it further enacted*, That the Secretary of the Treasury be authorized to refund to the legal claimants for duties that have been paid on goods, wares, and merchandise that were consumed by fire in the district and port of New York in July, 1845, $300,000, and in the district and port of San Francisco, in the years 1850 and 1851, $100,000, subject to the restrictions and limitations of the act of July 7, 1838, passed for the relief of the sufferers by the fire of December, 1835, in New York; and the amount of goods destroyed and duties to be refunded, shall be ascertained at said ports respectively, and be adjusted and repaid thereat, in a manner similar to that which is provided for in the act above referred to, in relation to losses at New York."

Eighty-fifth amendment of the Senate:

"Insert the following:

"SEC. —. *And be it further enacted*, That the Secretary of the Treasury be authorized to remit the duties upon any machinery imported into the United States for spinning and weaving flax, or to refund duties heretofore paid within five years past on such machinery, out of any money in the Treasury not otherwise appropriated: *Provided*, That it shall be proved to his satisfaction that such machinery is not an article of manufacture at the time of importation in the United States, and has been used by the persons or companies importing it for manufacturing purposes: *And provided further*, That they bind themselves to permit inspections and models of such machinery to be made in such manner as may not interfere with their usual occupations: *Provided*, That this privilege shall not be extended beyond two years."

Eighty-ninth amendment of the Senate:

"Insert the following:

"SEC. 12. *And be it further enacted*, That it is hereby declared that the provision in these words: 'And for printing the obituary notices of the decease of President Taylor, said contractor shall be paid the actual cost, with a profit of twenty per centum, in the second proviso of the first section of the act making appropriations for the civil and diplomatic expenses of the Government, for the year ending the 30th of June, 1853, and for other purposes, in relation to printing,' be and the same is hereby, construed to mean that the compensation for printing the obituary notices of the decease of President Taylor, shall be in addition to the sum of $50,000 allowed in the same section to Thomas Ritchie, assignee of William M. Belt."

Ninety-seventh amendment of the Senate:

"Insert the following:

"SEC. 20. *And be it further enacted*, That for the purpose of obtaining the needful information, and for carrying into effect the object of the resolution of the Senate passed January 19, 1853, a sum not exceeding $10,000 be, and the same is hereby, appropriated, to be expended under the direction of the Secretary of the Treasury, and paid from any money in the Treasury not otherwise appropriated."

One hundredth Senate amendment:

"Insert the following:

"*And be it further enacted*, That the Secretary of the Treasury be, and he is hereby, authorized and required to purchase of Thomas Cowperthwaite & Company, of Philadelphia, or from any person or persons, if the same can be had on better terms, five hundred copies of the decisions of the Supreme Court of the United States, as contained in six volumes of Peters's Condensed Reports, and sixteen volumes subsequent thereto, by the same reporter, at a price not exceeding $62 per copy, and likewise five hundred copies of the first thirteen volumes of Howard's Reports, being a continuation of the Reports of said court to the end of the last term; and also, until Congress shall otherwise direct, five hundred copies of each succeeding volume or the reports of the decisions of said court, at a price not exceeding $2 82 for Howard's Reports, and such subsequent reports, and pay for the same out of any money in the Treasury not otherwise appropriated. And it shall be the duty of the said Secretary of the Treasury, immediately after the reception of said reports, to forward to the Governor of each State and Territory four copies of said reports; one copy thereof being intended for the State library; one for the use of the Executive; one for the use of the Legislature, and one for the use of the courts of the States and Territories respectively, unless the Legislatures thereof shall deem it necessary and proper to make a different distribution. And in addition to the copies aforesaid, there shall be forwarded to the Governor of each State and Territory a number of copies of said reports equal to the number of Representatives of said States and Territories in both Houses of Congress, to be distributed as the Legislatures of said States and Territories shall respectively determine; and the remainder of the said five hundred copies shall be deposited in the Department of State for distribution in conformity with existing laws, or for such other purpose as may be deemed expedient by the Secretary of State, the residue, if any, after such distribution, to await the further action of Congress."

One hundred and third Senate amendment:

"Insert the following:

"SEC. 26. *And be it further enacted*, That the percentage added by law to the pay of the clerks employed in the Executive and Legislative Departments at Washington be, and is hereby, allowed to the clerks employed in the city post office in the city of Washington, commencing at the same time that theirs did, on the first of July, 1852."

The following are the Senate amendments from a disagreement to which the committee recommend that the House recede, viz:

First amendment of the Senate:

"Page 2, line 4, after the word 'the,' where it first occurs, insert the word 'contingent,' so as to make the clause read:

"For the contingent expenses of the Senate, viz."

Twenty-third amendment of the Senate:

"Page 32, lines 11, 12, and 13, strike out—

"For additions to the territorial libraries of Oregon, Minnesota, New Mexico, and Utah, $500 each; said sums to be expended under the direction of the Governors of said Territories;"

"And insert in lieu thereof:

"To enable the President to cause a site to be purchased and a suitable building to be erected for a penitentiary in each of the Territories of Utah and New Mexico, $20,000: *Provided*, That the entire cost of the site and the completion of said buildings are not to exceed the sum hereby appropriated."

Twenty-ninth amendment of the Senate:

"Page 39, line 11, after the word 'exceeding,' strike out '$600 per annum, $14,400,' and insert '$800 per annum, $19,200,' in the clause relating to light-house establishments, so as to make it read:

"For salaries of thirteen keepers and eleven assistants, at an average not exceeding $800 per annum, $19,200."

Thirty-first amendment of the Senate:

"Page 41, after line 14, relating to the Independent Treasury, insert the following:

"For the compensation of an additional appraiser general, to be appointed by the President, by and with the advice and consent of the Senate, and to be employed on the Pacific coast, $6,000."

Forty-sixth and forty-seventh amendments of the Senate:

"Page 42, after line 23, insert the following:

"For the completion of the marine hospital at Evansville, Indiana, $20,000;

"For the marine hospital at Natchez, $4,000;

"For continuing the construction of the marine hospital at St. Louis, Missouri, $20,000."

Sixtieth amendment of the Senate:

"Page 50, after line 27, insert the following:"

"To supply a deficiency for the purchase of trees and hire of laborers on the improvements of reservation number two, or public mall, between Seventh and Twelfth streets west, $5,276 52."

Eighty-second amendment of the Senate:

"Add the following section:

"SEC. 4. *And be it further enacted*, That hereafter the annual compensation of the Vice President, Secretaries of State, Treasury, War, Navy, and Interior, and the Postmaster and Attorney General, shall be $8,000 each."

Eighty-third amendment of the Senate:

"Add the following section:

"SEC. 5. *And be it further enacted*, That when private establishments shall be made to refine gold bullion, the Secretary of the Treasury, if he shall deem them capable of executing such work, is hereby authorized and required to limit the amount thereof which shall be refined in the Mint at Philadelphia, from quarter to quarter, and to reduce the same progressively as such establishments shall be extended or multiplied, so as eventually, and as soon as may be, to exclude refining from the Mint, and to require that every deposit of gold bullion made therein for coinage shall be adapted to said purpose, without need of refining: *Provided*, That no advances in coin shall be made upon bullion after this regulation shall be carried into effect except upon bullion refined, as herein prescribed."

Amendments of the House to the Senate amendments, in which the committee recommend that the Senate concur:

The following, the forty-fourth amendment of the Senate:

"To equalize the salary of the collector of Chicago and to make it equal to that of Detroit $1,250; and the salary of the collector at Chicago be, and the same is hereby, established at that sum annually,"

had been amended by the House by adding thereto the following:

"The salary of the collector at Chicago shall be, from and after the 1st day of July, 1853, $1,250."

The following, sixty-seventh amendment of the Senate:

"For heating and ventilating the Executive Mansion, painting the exterior thereof, and painting the walls, ceiling, &c., of the rooms of the first floor, and making other improvements and repairs, recommended by the Architect in his report of February 4, 1853, and for the purchase of books for the President's library, $29,500,"

had been amended by the House, by striking out all after the word "repairs" down to and including the word "three."

The following, the one hundred and second amendment of the Senate:

"SEC. 20. *And be it further enacted*, That in settling the accounts of Daniel S. McCauley, late consul general at Alexandria, in Egypt, there shall be allowed for office rent at the rate of $400 per annum during the time he acted in that capacity, to be paid to his widow,"

had been amended by the House, by adding thereto the following:

"For salaries of governor and superintendent of Indian affairs, three judges, attorney, and marshal of Washington Territory, from the time of their appointment to the end of the fiscal year, terminating June 30, 1854, an amount sufficient to pay the same is hereby appropriated out of any money in the Treasury not otherwise appropriated.

"For compensation and mileage of the members of the Legislative Assembly, officers, clerk, and contingent expenses of the Assembly, and to defray the expenses of taking the census of said Territory, the sum of $20,000, to be paid out of any money not otherwise appropriated.

"For the contingent expenses of the Territory, including the salary of a clerk of the Executive Department, $1,500, to be paid out of any money in the Treasury not otherwise appropriated."

The second amendment of the Senate was to strike out "$35,000," and insert in lieu thereof "$55,000," in the following clause relating to the contingent expenses of the Senate:

"For clerks to committees and President *pro tempore*, draughtsman, messengers, pages, laborers, police, horses and carry-alls, $35,000."

The committee recommend that the House recede from its disagreement thereto, and agree to the same with the following amendment:

"Add thereto—

"And to enable the Clerk of the House of Representatives to comply with the resolution of said House of March 1, 1853, directing him to pay the usual extra compensation to the employees in and about the Capitol, a sum sufficient for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated, and is hereby added to the contingent fund of said House."

The seventh amendment of the Senate was to add the following clause:

"After line 15, page 4, viz:

"For the completion of the publication of the works of the Exploring Expedition, $25,000."

The committee recommend that the House recede from its disagreement thereto, and agree to the same with an amendment thereto, so as to make the clause read—

"For the completion of the publication of the works of the Exploring Expedition, in pursuance of contracts already made, $25,000: *Provided*, That this appropriation shall finish the publication."

The thirty-fifth amendment of the Senate was to insert at the end of the clause "for continuing the construction of the custom house at New Orleans, Louisiana, $324,000," the following:

"Subject to the limitations and restrictions on the appropriation made for the same object, at the second session of the last Congress, as respects the plan under which the building is to be erected: *Provided*, That the superintendence of the building be confided to an officer detailed from the Corps of Engineers, and the work conducted under the supervision of said officer and the direction of the architect who originated the plan: *And provided*, That said superintendent or said architect, and such commissioner as may be appointed by the President to act as disbursing agent from the bureau having the management of the control over all contracts to be entered into for the execution of the said plan, and the completion of the building: *And provided further*, That said superintendent, architect, and commissioner, shall not be allowed a compensation higher than eight dollars per day each for their services."

The House disagreed to the above Senate amendment, and the committee recommend that the House recede from its disagreement to so much thereof as is contained in the first four lines down to and including the word "erected;" and that the Senate recede from the residue thereof.

The forty-second amendment of the Senate was as follows:

"After line 20, page 40, insert—

"For the erection of a custom-house, to include other public offices, at Richmond, Virginia, $75,000: *Provided*, That this sum, in addition to the $150,000 heretofore prescribed as the whole amount directed to be expended for this purpose, shall constitute the entire cost of the purchase of the site and the completion of the building."

The House disagreed to said amendment.

The committee recommend that the House recede from its disagreement thereto, and agree to the following substitute for said amendment, and that the Senate concur therein:

It is hereby provided that the limitations upon the cost of the site and building of the custom-house in Richmond, Virginia, imposed by the act of thirty-first August, one thousand eight hundred and fifty-two, are hereby removed and repealed.

The forty-ninth amendment of the Senate:

"Page 43, line 15, after the word 'affaires,' insert the words 'or ministers resident,' in the following paragraph:

"For salaries and outfits of chargés d'affaires to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, New Granada, Venezuela,

Buenos Ayres, Bolivia, Guatemala, Ecuador, Switzerland, and Nicaragua, $153,000."

The House disagreed to said amendment.

The committee recommend that the House recede from such disagreement, and agree thereto with an amendment, so that the paragraph shall read:

"For salaries and outfits of chargés des affaires or ministers resident to Portugal, Austria, Denmark, Sweden, Holland, Belgium, Naples, Sardinia, the Papal States, New Granada, Venezuela, Buenos Ayres, Bolivia, Guatemala, Ecuador, Switzerland, and Nicaragua, $153,000: *Provided*, That the ministers resident herein authorized shall not receive more compensation than is now allowed to a chargé d'affaires."

The sixty-first amendment of the Senate was as follows:

"After line 15, page 51, insert:

"For a bridge across the Potomac at Little Falls, to be expended under the direction of the President of the United States, $50,000."

The House disagreed to said amendment.

The committee recommend that the House recede from its disagreement thereto, and agree thereto with an amendment, as follows:

"Strike out '$50,000,' and insert '$30,000.'"

The sixty-second amendment of the Senate was as follows:

"After line 15, page 51, insert the following:

"To be expended under the direction of the President of the United States, for the purpose of bringing water into the city of Washington upon such plans and from such places as he may approve, $150,000: *Provided*, That if the plan adopted by the President of the United States should require water to be drawn from any source within the limits of Maryland, the assent of the Legislature of that State should first be obtained."

The House disagreed to said amendment.

The committee recommend that the House recede from its disagreement thereto, and agree thereto with an amendment as follows:

"Strike out '$150,000' and insert '$100,000.'"

The seventy-seventh amendment of the Senate, was as follows:

"Add at the end of the first section:

"*Mexican Boundary Commission.*—For completing the survey of the Rio Grande, and for office work for one year, $83,512;

"For arrears due Major William H. Emory's party, $20,000;

"For expenses attending Lieutenant Whipple's party from the Gila, $6,000;

"For pay of commissioner and secretary, and for personal and traveling expenses of the commissioner, $9,500; said sums to be disbursed upon warrants approved by the Secretary of the Interior; and that the period limited for the appointment of commissioner, surveyor, and chief astronomer, by the act of May 15, 1850, shall be, and the same is hereby, extended to the 1st of April, 1854."

The House disagreed to said amendment.

The committee recommend that the House recede from its disagreement thereto, and agree to the same, with an amendment thereto, as follows:

"Strike out the words, 'said sums to be disbursed upon warrants approved by the Secretary of the Interior."

The ninety-ninth amendment of the Senate was as follows:

"Add the following section:

"SEC. 22. *And be it further enacted*, That there be placed at the disposal of the President of the United States the sum of $20,000, to enable him to compensate Clark Mills for the execution of the equestrian statue of Andrew Jackson, recently placed upon the public square, in the city of Washington, north of the Executive mansion, and to make the same the property of the United States; and that said sum be paid, under the direction of the President, out of any money in the Treasury not otherwise appropriated, when a clear and satisfactory title to said statue shall be vested in the United States."

The House disagreed to said amendment.

The committee recommend that the House recede from its disagreement thereto, and agree to the same with an amendment, adding at the end of the Senate amendment the following:

"*Provided*, That the sum of $10,000 thereof be invested for the benefit of the family of said Mills, and after his death to be given to such children of said Mills as may survive him."

After the report of the Committee of Conference was read as above inserted—

Mr. HOUSTON said: I am not able to discuss the propositions contained in that report, even if I had time to do it. The committee did the best it could, and we think we did very well. We submit it to the House, and I call the previous question upon it.

Many MEMBERS. "No!" "No!"

Mr. CLEVELAND. I hope the House will not second the previous question.

[Cries of "Order!" "Order!"]

Mr. STANLY. I call for tellers.

Tellers were ordered; and Messrs. JOHNSON, of Arkansas, and WHITE, of Kentucky, appointed.

The House was divided, and the tellers reported—ayes 96, noes 39.

So the previous question received a second.

The main question was then ordered to be put.

Mr. STEVENS, of Pennsylvania. I ask for the yeas and nays on the adoption of the report of the committee.

Mr. McMULLIN. Will it be in order to move to have the amendments of the Senate printed?

The SPEAKER *pro tem.* The Chair thinks not, as the previous question has been ordered, and the pending question is upon adopting the report of the Committee of Conference.

Mr. McMULLIN. Gentlemen in this part of the House could not hear the character of those amendments, and I desire to have them read. We are required here to go it blind. I call for the reading of the report.

The SPEAKER *pro tem.* It cannot be done if there be any objection.

Several MEMBERS. I object.

The SPEAKER *pro tem.* Objection is made, and the report cannot be again read.

Mr. McMULLIN. Mr. Speaker——

The SPEAKER *pro tem.* The gentleman from Virginia is not in order.

Mr. McMULLIN. I am in order. I desire to submit a motion to suspend the rule by which the House has determined to take a vote upon this report. [Laughter.]

[Mr. WILDRICK, from the Committee on Enrolled bills, reported as correctly enrolled the following bills:

An act to supply the deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1853;

An act to establish certain post roads, and for other purposes; and

An act making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1854.

The above bills thereupon received the signature of the Speaker.

A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed the bill of the House making appropriations for the service of the Indian Department for the fiscal year ending 30th June, 1854, with certain amendments thereto.]

The question was then taken upon the adoption of the report of the Committee of Conference upon the civil and diplomatic appropriation bill, and there were—yeas 68, nays 106; as follows:

YEAS—Messrs. Aiken, Ashe, Bowie, Bragg, Breckinridge, Brenton, Briggs, George H. Brown, Thompson Campbell, Caskie, Chandler, Colcock, Darby, George T. Davis, Dawson, Edgerton, Edmundson, Evans, Ewing, Faulkner, Fay, Florence, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gilmore, Goodrich, Grey, Hammond, Sampson W. Harris, Hart, Houston, Howard, Jackson, Robert W. Johnson, J. Glancy Jones, George G. King, Kuhns, Kurtz, Landry, Lockhart, Marshall, Mason, McCorkle, McDonald, Henry D. Moore, Orr, Peaslee, Penn, Polk, Price, Riddle, Robbins, Robie, Russell, Sabine, David L. Seymour, Stanly, Frederick P. Stanton, St. Martin, Strother, Stuart, Sutherland, Taylor, Thurston, Walsh, Ward, and Addison White—68.

NAYS—Messrs. Abercrombie, Charles Allen, Allison, Averett, Barrere, Bell, Bennett, Bibighaus, Bocock, Bowne, Albert G. Brown, Burrows, Busby, Joseph Cable, Carter, Chastain, Churchwell, Clark, Clemens, Cleveland, Clingman, Cobb, Conger, Curtis, Daniel, John G. Davis, Dean, Dimmick, Disney, Dockery, Doty, Dunham, Eastman, Ficklin, Fitch, Freeman, Gaylord, Giddings, Gorman, Grow, Isham G. Harris, Hascall, Haven, Hebard, Hendricks, Henn, Hibbard, Holladay, Horsford, Thomas Y. How, Hunter, Ingersoll, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, Preston King, Letcher, Little, Mace, Mann, Martin, McLanahan, McMullin, McNair, McQueen, Meade, Millson, Morehead, Morrison, Murphy, Murray, Nabers, Olds, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Reed, Robinson, Ross, Sackett, Schoolcraft, Schoonmaker, Scurry, Origen S. Seymour, Skelton, Smith, Abraham P. Stephens, Alexander H. Stephens, Thaddeus Stevens, Stratton, Sweetser, Toombs, Townshend, Venable, Walbridge, Washburn, Wells, Wildrick, Woodward, and Yates—106.

So the House refused to adopt the report.

Pending the call of the yeas and nays—

Mr. CLEMENS said: I rise to a question of privilege. I desire to know whether, under the rules of this House, a member can be compelled to vote upon a proposition which he does not understand?

The SPEAKER *pro tempore*. The gentleman from Virginia is not in order in propounding any question.

Mr. GOODENOW also asked leave to record his vote, though without the bar when his name was called.

Objection was made, and permission was refused.

Mr. MEADE. I move to reconsider the vote by which the report of the Committee of Conference was rejected.

Mr. HIBBARD. Did the gentleman vote with the majority?

Mr. MEADE. I am surprised that the gentleman from New Hampshire wants this bill to fail.

Mr. HIBBARD. I do not want it to fail.

Mr. MEADE. We have no time to pass another bill.

Mr. JONES, of Tennessee. It will not take the Senate fifteen minutes to recede from every one of their amendments.

Mr. MEADE. I want to say what I have to say without interruption.

Mr. HIBBARD. I will say what the gentleman from New Hampshire wishes. I wish that this bill should not fail. I am very anxious that it shall pass, but I want it to be passed in a proper form. I do not expect that it will pass a perfect bill, nor in all respects as I should like to have it; but I want it to pass as perfect as we can make it. I do not want it to be adopted in its present form. I want to strip it of all those abominations which the Senate have tacked on it in defiance of the House. It is not too late for the House to insist on its disagreement, and have a new Committee of Conference appointed.

Mr. JONES. It may be done in five minutes.

Mr. MEADE. By a strict construction of the Constitution, we have only three hours more of this session left.

A MEMBER. No; we do not adjourn till tomorrow noon at twelve o'clock.

Mr. MEADE. Let gentlemen reply to me when I am done. We have not only this, but many other appropriation bills yet to pass, and I believe that the vote we have just taken was under misapprehension on the part of a great many members, in relation to the question of increasing salaries. As that report was read from the desk, I determined myself to vote against this bill, believing that an increase had been made of the salaries of various high officers of the Government; but I now understand that the principal increase has relation to the salaries of the Cabinet ministers from $6,000 to $8,000 per annum; and a few others which are scarcely worthy of consideration.

Mr. CLINGMAN. Will the gentleman allow me?

Mr. MEADE. Not until I am done. I cannot permit anybody to interrupt me. There appears, Mr. Speaker, to be a great sensibility on the part of some of the Democrats of this House in regard to the increase of the salaries of your officers; $8,000 to your cabinet ministers now is less than $6,000 was five years ago.

Mr. McMULLIN. I rise to a question of order.

Mr. MEADE. I decline to yield to anybody.

Mr. McMULLIN. But I call my colleague to order. Is it in order to discuss the original bill on a motion to reconsider?

The SPEAKER. It is.

Mr. MEADE. Mr. Speaker, I will say again that the only increase of any consequence is of the salaries of your Cabinet ministers; and that increase has been recommended by a Whig Administration; so that, if there be any fault or crime in it, it must be shared by the Whig as well as the Democratic party. Now, suppose the effect of this vote should be to lose a few Democrats who are afraid to trust the good sense of the people, we can afford to spare them. Let them go over to the enemy; it will assist them to reorganize an opposition. An army is very apt to become disorderly that did not have an enemy in front. We have now no enemy before us. Now, I am willing that those who are disposed to quit the Democratic party, in consequence of a small and necessary increase of compensation, should go to the opposition. It will cause our ranks to be more closely serried hereafter.

Mr. CLINGMAN. I wish to ask the gentleman a *bona fide* question. I understand that there has been introduced into the bill by the Committee of

Conference an appropriation of $36,000 to pay the extra allowance to the officers of this House, and I wish to know of the gentleman whether that is really so? It will be remembered that the Senate did not make any appropriation for that purpose, and also that a motion made here to put it in was voted down. Of course, then, it was not one of the disagreeing votes between the two Houses. This Committee of Conference was only appointed to consider the disagreeing votes between the two Houses, and I would like to know on what principle they recommend this appropriation. It was not referred to them at all.

Mr. STANLY. I will answer the gentleman, if my friend from Virginia will allow me.

Mr. MEADE. I have only a few more words to say. I know nothing about what the gentleman from North Carolina has stated.

Mr. HOUSTON. I will only say with regard to the interrogatory of the gentleman from North Carolina, that when the amendment was presented in the Committee of Conference, I made a point of order on it. I suppose that it is not improper for me to state that much of the transactions of the committee. The committee decided unanimously against me on the point of order. It was said there that the contingent fund of the Senate was an open question; that to it there was an amendment pending, and the committee agreed to the attachment of this amendment.

[Cries of "That is all right!"]

Mr. MEADE. The question raised by the gentleman from North Carolina has been fully answered by the gentleman from Alabama; and if I were to select the man in this House who was the most faithful watch dog over the Treasury of the United States, I should select the gentleman from Alabama. [Laughter.]

Mr. BROWN, of Mississippi. I rise to a question of order. The rule of the House requires that gentlemen should confine themselves to the question under debate, and to avoid personalities. The gentleman has called the chairman of the Committee on Ways and Means a watch-dog.

Mr. EDMUNDSON. I move to strike out "dog," and insert "gentleman."

Mr. FLORENCE. That would make him a gentleman watchman. [Laughter.]

Mr. MEADE. There is danger if this bill be rejected that this Congress will expire without making the necessary appropriations to carry on the Government. We will then be forced to have an extra session, and everybody knows that it will cost thousands and thousands of dollars more than the increase of pay proposed. I am not afraid to go before the intelligent yeomanry of the country and remind them how extensively their property has increased within the last few years, and how much more their receipts are than formerly. It requires much more at the present time than formerly to supply our families with the necessaries of life; and they will appreciate the necessity for an increase of the salaries of our officers.

I have no interest in this matter, but I think the pay of members of the House should be increased in the same proportion, and that we should require a more prompt execution of their duties. If we had adequate pay, there would not be so frequently such thin attendance here. For one I am willing to take the responsibility. I fear no investigation of my vote before my people if they choose to investigate it. I do not fear the verdict they will render. They are as capable of understanding this question as I am, and when it is known that we have but a few moments to legislate upon the most important bills of the session, they will see at once the necessity of concessions by both Houses. We have just ejected the Whigs from power, and we have brought into the Executive office one of the most popular Democrats that we have had since the days of Andrew Jackson. The Whigs may attribute it to the unpopularity of their candidate—and I believe that was the cause in part—but they were doomed to a defeat with any candidate.

Mr. DUNCAN. What is the question under consideration?

Mr. MEADE. The gentleman from North Carolina requested me to yield the floor for some personal explanation.

Mr. SWEETSER. The gentleman from Virginia has no right to yield the floor to the gentleman from North Carolina.

The SPEAKER. The Chair would beg leave to state to the gentleman from Ohio, that the Chair designated the gentleman from North Carolina [Mr. STANLY] as entitled to the floor.

Mr. STANLY. Mr. Speaker, my purpose is not to make a speech, but to give the House any explanation or information I can in discharge of public duty in the few hours which remain to me of public life. I desire to perform that duty as intelligently as I can. If the House will give me their attention I will make myself understood, and give such information as I can about the action of this committee, and I shall be glad, so far as it is consistent with propriety, order, or decorum, to have any questions about any particular point submitted to me, and I will endeavor to give an intelligible answer, and satisfy every patriot upon this floor that the report of this committee is the best that can be made under the circumstances, and better than we can make if we had five committees of conference in the short hours of the session that remain to us. Before I proceed to that point, let me say a word here about some of the objections made in regard to the report of the Committee of Conference. The gentleman from New Hampshire [Mr. HIBBARD] spoke of the "abominations" in this report to which he was opposed. What does he call an "abomination?" Let him specify his abomination. You may pick up Mr. A, or B, or C, D, E, F, who are here, or twenty other men, and every one of them will find something in the report abominable to him, but earnestly advocated by many others. If you wait until you reject the abomination which each one may find in the bill, are you ever to get through? One of my colleagues asked a question—not original with him, but suggested by another member upon this floor—that we departed from the rules of order in voting money to clerks and officers of the House, when we had nothing to do with it according to the rules of order. Suppose we did: is that a reason for stopping the wheels of Government, as far as this House can? Is that such an "abomination" as to justify us in forcing an extra session? No, sir; that is not an abomination to any man that wants to carry on the Government. What do we do? A motion was made by the gentleman from New York [Mr. BRIGGS] to suspend the rules and allow him to introduce a resolution to pay officers of the House extra compensation. Upon one question made in relation to that, according to my recollection, there were but ten gentlemen who called for the yeas and nays. When that passed by such an overwhelming vote as it did, and is brought before us in the committee, and the point of order is made and voted down, what is the Committee of Conference to do? Stand by the order of the House and teach the Senate that they were not to intrude upon our rights.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to ask him who introduced this new matter into the bill?

Mr. STANLY. It is not a proper question. I will not say who did or did not; but whatever there is of abomination in this bill, or whatever there is of wrong about it, if one man can take it, if one Whig can take it and pass this bill, lay it upon me and not upon the committee, or upon the House. I take the full responsibility of all the abominations in this bill.

Mr. JONES, of Tennessee. I will ask the gentleman from North Carolina one question. If a very large majority of the House did not vote it by resolution, when they were told that there was not a dollar appropriated to pay this compensation, and have since two or three times refused to put it into an appropriation bill?

Mr. STANLY. The House voted that this money should be paid, and public honor and common honesty requires that it should be paid. The House of Representatives have said that they should have it. My friend from Tennessee opposed it, but does he admit that we could not put it into a deficiency bill, or argue that it was wrong to make the appropriation?

Mr. JONES. The gentleman mistakes the object of my inquiry. It is to show the awkward, not to say ridiculous position in which the House have placed themselves in voting the money.

Mr. STANLY. I am very glad to hear the remark of the gentleman. He says the House placed itself in an awkward and ridiculous position. We have done our duty in trying to get the House out of it, and that is an abomination, I suppose. How was the report of the Committee of Conference voted down in the House? I will tell you. There was not a quorum present—I am not going to make a party speech, I am above it in this matter—but some economical gentleman objected, and demanded the yeas and nays. The chairman of the Committee on Ways and Means, worn down with continual exhaustion of body and mind, in labors such as few men can encounter, would implore them not to call for a division; and without examination, under a mistake, members worn down, almost incapable of thought, voted down the report.

Mr. FLORENCE. Let me refresh the gentleman's memory in relation to that vote.

Mr. STANLY. I cannot yield the floor. I wish to make no speech, but to give information, and to answer the argument of abomination coming from the gentleman from New Hampshire, [Mr. HIBBARD.] Sir, this is the "unkindest cut of all." Well may I say, "*Et tu Brute!*" The gentleman is our colleague on the Committee on Ways and Means. He comes from the same State with your President elect—of General Franklin Pierce, whose election I opposed with all my heart and soul, but being elected President of the United States, I wish to give him fair means of carrying on this Government. And yet we find here from the very State of the President elect, that gentleman can get up and talk of abominations, and run the risk of calling an extra session of Congress, because there are two or three items in the bill with which his constituents would find fault!

I will now proceed, if it be desirable, to call over one by one the amendments, and give such explanations of them to the House as will satisfy all that we have done the best we could under the circumstances in which we were placed. The House will see that the Senate committee recede in some thirty-seven amendments, while we receded in only four or five, according to my recollection. They said they had their rights, and that they were actuated by conscientious motives, and that their amendments were according to the wishes of the Senate. We told them that you cannot get them through the House. The House had virtually instructed us in four or five things, and I gave up my individual wishes in preference to what the House have demanded. You send back another Committee of Conference and instruct them not to yield an inch, and you will have an extra session of Congress, and upon you will be the responsibility. The Senate act in the discharge of their duties as we do, and they are acting under oath as we are. They have a right to submit amendments to this bill. They do submit them in good faith, and they are entitled in courtesy to be heard; and nobody is fit to be upon a committee of conference, or a member of this House, who proceeds upon a different principle. When they recede in thirty different cases, and we in four or five, I ask if we have not brought back a triumphant report as far as that goes? But if you wish to send a committee to dragoon the Senate, do not send me as one of them.

I will now endeavor briefly to give some explanation of each amendment in the order in which they come up, so far as I can, and I have no doubt that if for the time being we will all lay aside party feeling, we will have no difficulty. The first amendment of which I will speak is that for increasing the salaries of the heads of Departments. What is the view presented there? In the Committee of Conference I will suppose the Senate say to us, Gentlemen, we think the public interest and honor require the increase of the salaries of our foreign ministers abroad. We tell them that the House cannot agree to it. The Senate say that the heads of Departments cannot live here upon the meager, pitiful sum of $6,000 a year. Every one knows that no man can afford at present to come here and occupy a position as the head of one of the Departments, no matter how great his talents, unless he is a man of wealth. The Senate properly argues that it opens the door to talent, and enables men of moderate estates to come into the Cabinet, which, with your present salaries, are confined almost exclusively to the rich. We know there is much truth in this. We went for compromise. We said to them, Gentlemen, give up this matter of foreign ministers and we will agree to the increase of the salaries of the heads of Departments; and they did it. Do you expect them to

give up all? No man of sense can, and what is the argument here?

Respectable gentlemen of the Democratic party get up and say that it will ruin the Democratic party to vote increase of salaries to the heads of Departments, and the Whigs do not like to take the responsibility of increasing those salaries, when Democrats will not do it. Now, is that a proper rule of conduct for us? Is it right on either side of the House?

Mr. CLEVELAND. I desire to ask the gentleman one question. In this whole bill, appropriating millions and millions of dollars, can the gentleman show me one item where either branch of Congress has reduced the public expenditure one dollar?

Mr. STANLY. The Committee of Conference reduced $50,000 on one item—for water for the District of Columbia, and in other instances—if the gentleman will hear me.

Mr. CLEVELAND. I mean compared with the bill of last year.

Mr. STANLY. My friend from Connecticut knows that I cannot now compare this bill with the bill of last session. No mortal man can do it.

Mr. CLEVELAND. Is there a single cent of retrenchment in any form upon the bill as originally presented?

Mr. STANLY. Yes, sir.

Mr. CLEVELAND. Has not the Senate added to this bill more than a million of dollars?

Mr. STANLY. I do not know how much the Senate have added.

Mr. CLEVELAND. How long will it be before the Democratic party redeem their pledge of retrenching the expenditures of the Government if we go on at the rate you propose?

Mr. STANLY. If the Democratic party intend to enter on a system of retrenchment accordcording to your idea, you ought to appoint a committee of conference who would reduce the salaries of the heads of the Departments from $6,000 to $2,000. Then who will you get to go into Pierce's Cabinet?

Mr. CLEVELAND. We can get a portion of the Federalists.

Mr. STANLY. That remark shows that my friend from Connecticut is excited. He is wearied, as we all are, from want of sleep. It is late at night for a gentleman coming from "the land of steady habits," and he is rather more excited just now than gentlemen usually are who come from that sober part of the country. [Much laughter.] He would not speak thus on calm reflection.

But I do not want to make a speeeh. I want to give the House some information, if I can. I want to explain the action of the Committee of Conference; and I think I can show satisfactorily to any reasonable man, that it is our duty as patriots, at this late period of the session, to agree to the report of the Committee of Conference, and save the bill.

Mr. TOOMBS. I will say to the gentleman, that two speeches have been made upon that side, and that we should like to discuss the report too. I hope, therefore, that when he gets through with his speech, he will allow us to do it.

Mr. STANLY. I do not *allow* the House anything. I do not speak in that fashion. That could be said with more propriety by the gentleman from Georgia than by me. I have no right to give permissions, or to make allowances. Sir, I came here saying that I desired not to make a speech. I was on the Committee of Conference with the honorable chairman of the Committee on Ways and Means, who is exhausted in body and voice by labors and fatigues that would have exhausted even Hercules; and I propose in the discharge of my duty, to occupy no more time than will enable me to explain the report of the committee, and to answer any questions that gentlemen may wish to propound. When I do that, let the gentleman from Georgia [Mr. TOOMBS] talk as much as he pleases.

Mr. VENABLE. Mr. Speaker——

Mr. STANLY. Does my colleague desire to ask me a question?

Mr. VENABLE. I thought my colleague had done, and rose with a view of replying to him. I wish, also, to make a few remarks in reply to the gentleman from Virginia, [Mr. MEADE,] who moved to reconsider, as well as on the general subject.

[Cries of "No!" "No!" and "Go on, STANLY!"]

Mr. TAYLOR. I hope the gentleman from North Carolina [Mr. STANLY] will proceed with his explanation of the amendments.

Mr. STANLY. I will try and do so, if the House will allow me.

Mr. JONES, of Tennessee. I wish to ask the gentleman from North Carolina if there is any solitary one of the propositions upon which the two Houses are disagreeing, which is absolutely necessary to carry on any branch or department of the Government or for any great interest of the country? If there is not, every one of them are out of place in this bill, and ought to be in bills by themselves?

Mr. STANLY. I think a good many of them attach to provisions which are indispensably necessary to carry on the Government. Some of them will confer benefit to hundreds of thousands. The Government *might* be carried on without any civil and diplomatic bill at all. Your new President can go on trust. He has the credit of the Government to support him. The bill itself is not indispensably necessary, according to the rigid rule of the gentleman from Tennessee: "Give not nature more than nature needs—man's life's as cheap as beast's."

Mr. JONES. I believe it is understood that the Cabinet was made up before there was any expectation of an increase of salaries.

Mr. STANLY. I have not troubled myself with that question. I have acted in the discharge of what I conceived to be my duty, and I believe all the members of the committee did the same.

Mr. SACKETT. I desire the gentleman from North Carolina to explain the amendments from which the Senate refused to recede, so that we may understand what they are.

Mr. STANLY. I think I had better go on in order, and I will do so if the House will listen to me.

Mr. STEPHENS, of Georgia. That will take too long.

Mr. JOHNSON, of Tennessee. Let us have a little chance to reply.

Mr. STANLY. I will hurry on. The contingent fund of the Senate was placed at the entire disposal of the Senate. Upon that the House receded.

There was provision for an additional clerk to the Light-House Board, which was discussed in this House. The Senate receded from that.

There were two clerks provided for the Fifth Auditor's Office. The Senate receded from that. There would have been two more "abomination" if they had not done that.

There was an amendment about Mediterranean passports, which the House struck out. The Senate receded from that "abomination."

There was an amendment put in by the Senate for issuing certificates for land instead of patents, which they said was highly useful and proper. The Senate receded from that Senatorial "abomination."

We passed an amendment about the Patent Office Building, which the gentleman from Ohio [Mr. CARTTER] urged with a good deal of earnestness. The Senate receded from its opposition to that also.

There was an amendment of the Senate for a penitentiary in Minnesota, and the House receded from its opposition to that, upon the ground that the other Territories were provided for in the same way, and it was thought necessary.

There was an amendment raising the salaries of light-house keepers in California some two or three hundred dollars. The House receded from its opposition to that.

There was an amendment for a new light-house in Texas. The Senate receded upon that.

There was an amendment for an appraiser in California. We had a debate upon that for more than an hour, and were convinced by the arguments addressed to us by the chairman of the Committee on Finance of the Senate that that officer was necessary, and we therefore yielded it —to the Democratic party, of course. I was influenced by Mr. HUNTER's opinion, in whom, from long personal acquaintance, I have great confidence.

We have had an item of $20,000 for printing the Coast Survey in which the House had refused to concur, and the Senate receded from that also.

There was a provision for a custom-house at New Orleans, for one at Belfast, Maine, for one in Connecticut, and for one at Richmond, Virginia, from all of which the Senate receded, in obedience to the wish of the House.

There were provisions for carrying on the marine hospitals at St. Louis and Evansville, and one in Iowa, and from the last, being a new work, the Senate receded.

Upon the increase of the salaries of foreign ministers the Senate receded, and the House receded from its opposition to the increase of the salaries of the heads of Departments. We made that compromise, as I have, I believe, before stated.

The Senate declared that the President should have power to make chargēs ministers resident, if he pleased. The House yielded to that, with this proviso, that no higher salary should be paid to the ministers resident than the chargēs received, but allowing the President to create the rank whenever he thought the interests of the country required it.

There was an appropriation of $20,000 to pay for the transportation of the contributions from the Sultan of Turkey to the approaching exhibition at New York. The Senate receded from that to please economical gentlemen like my friend from Connecticut, [Mr. CLEVELAND.]

There was an appropriation of $5,200 for a public square in this city. The House receded from its opposition to that upon information derived from the Senate committee that it was to pay a debt already contracted, and not for future work.

We had a contest over the appropriation of $50,000 for a bridge at Georgetown, and $150,000 for water for the city of Washington. We struck down the appropriation for the bridge to $30,000, and for the water $100,000, consulting the economical wishes of the House, but yielding that much to the desire of the Senate to begin this most useful work.

The Senate agree to the House amendment as to some repairs upon the President's House.

Mr. TOOMBS. I ask the gentleman whether the cutting down of the appropriation for water from $150,000 to $100,000, will save any money? The contract can still be made. Do you not still authorize the making of a contract to supply the city with water, whatever may be the cost of it?

Mr. STANLY. The gentleman can answer that question as well as I can.

Mr. TOOMBS. I will answer it, if you will give me a chance.

Mr. STANLY. You will be free to do it when I have done. The gentleman from Georgia will soon have an opportunity of being of service to the country in preventing these abuses of the Senate. I shall look forward with some interest to see if he acts the patriot there. I hope he will play the economist in the Senate, as he has done in the closing hours of this session.

Mr. TOOMBS. I hope I shall.

Mr. STANLY. I hope so too. I have not argued that we saved money by cutting down the appropriation to supply this city with water. I think we should have saved money if we had appropriated $500,000. I think it would be a saving of money to appropriate enough at once to complete the work. But we yielded to the wish of the House and reduced the appropriations. The gentleman from Connecticut [Mr. CLEVELAND] asked me a while ago how the Democratic party were to bring about retrenchment, if they were required to begin in this way? I will tell you how. Put men into the Cabinet and into the Departments at competent salaries, who will have no temptation to go outside of their proper line of duty in order to be able to live.

Mr. CLEVELAND. Do I understand the gentleman from North Carolina to say that as an apology for his friends having done it?

Mr. STANLY. That is not a fair question, and you know it. I have not said so. I speak generally.

Mr. CLEVELAND. Then, why did you use the argument?

Mr. STANLY. I have answered your question, and used an argument advanced many years ago.

There was a revenue steamer provided for California. The Senate insisted upon that; they said if we were to continue our revenue system there, something of the sort was indispensably necessary. The House struck out the appropriation for that purpose, but some provision to accomplish that

object was certainly needed in California, according to my judgment.

The next is to provide for the expense of carrying on the Mexican Boundary Commission, and here is another "abomination" of the same stamp. The House adopted an amendment moved by the gentleman from Georgia [Mr. TOOMBS] himself, to strike out that portion of the Senate amendment relating to the compensation of the Commissioner of the Boundary Survey. The House receded and agreed to the Senate amendment. The Senate amendment reduces the expenses. The proposition upon the part of the Senate contained an economical provision dispensing with the disbursing agent. They told us that Mr. PEARCE, of Maryland, one of the most intelligent gentlemen in that body, had critically examined the subject. The original estimates were $180,000, and they had cut them down to $160,000. (A laugh.) Will the gentleman from Georgia [Mr. TOOMBS] laugh? I cannot argue with a man who will laugh at an argument presented by JAMES A. PEARCE, of Maryland. I had rather be wrong with Mr. PEARCE than right with many others here.

The Senate put in a provision for an Iowa hospital, and the Senate receded from that. I hope there is something saved there. The House receded from the amendments in relation to the assay offices, and for a most excellent reason which came from the Committee on Finance in the Senate, and which was first suggested by the officers of the Mint at Philadelphia. It is to allow persons everywhere as they please to assay their gold and bring it to the Mint for coinage. It will save the expense of employing several officers of the Mint, and will enable them to coin the money almost as soon as it is brought to the Mint. It is a most economical and saving process, as we understand it, to dispense with these officers and to leave it to everybody who choose to assay their own gold. The House receded because it would cost the country nothing, and would make the operations at the Mint more expeditious. This was retrenchment. The Senate put in an amendment in relation to goods destroyed by fire in San Francisco and New York, to which the House disagreed, and the Senate receded from that.

There was an amendment about flax machinery imported into the country to which the House disagreed, and the Senate receded from that.

There was an amendment about paying Mr. Ritchie for printing the Taylor pamphlet, brought up here and objected to in the House, giving him several thousand dollars—probably four or five thousand—and the Senate receded from that in obedience to the wishes of the House.

There was an amendment in regard to a codification of the revenue laws, and the Senate receded from that.

This House adopted an amendment providing for purchasing the equestrian statue of Jackson, and making provision for compensating Clark Mills; and the Senate agreed to what they understood was the wish of the House in an amendment reported by the Committee of Conference.

Then we had an amendment about purchasing law-books of Cowperthwaite and others, for distribution among the several States, and the Senate receded from that.

We had an amendment about extra compensation to the clerks in the post office in this city, and the Senate receded from that.

Now, look at the long list of amendments from which the Senate has receded. Is there a man, I ask, in this House, of any intelligence, who will tell me that any committee of conference this House may appoint, can go and say to the Senate, "We demand that you shall recede from all your amendments," with any hope of success?

A MEMBER. Yes, certainly.

Mr. STANLY. The gentleman says "Yes, certainly." Well, Mr. Speaker, if there are men here who act upon that principle, let it be proclaimed, and let the responsibility of defeating this bill rest upon them. I envy not such dispositions.

But, sir, I intend to make no speech; I have made these explanations, and if there be any questions to ask by any gentleman in this House, I will endeavor to give an answer during the time allowed to me.

Mr. EVANS here made an inquiry which was not heard by the reporter.

Mr. STANLY. Well, sir, I am just going out of public life, and I do not desire to go out a vindictive party man. It is not the object of my ambition to think of it during my retirement.

Mr. MARSHALL. There was a proposition to refund duties on certain goods destroyed by fire in California. How does that stand now?

Mr. STANLY. The Senate receded from that amendment, and of course it was stricken out. The House refused to concur in the amendment, and we obeyed the will of the House.

Mr. MARSHALL. If the House committee made many as unreasonable demands as that, I think the report of the Committee of Conference ought to be rejected.

Mr. STANLY. There is a specimen of this opposition. The gentleman from California, anxious to please his constituents, is not satisfied, because we have stricken this amendment out. Every gentleman is anxious to have the provisions for the benefit of his constituents left in the bill, and how are we to please everybody?

Mr. Speaker, if there be no further question to ask, I will yield the floor, merely remarking that in the discharge of our duty, I have been since eight o'clock this morning without food, and now it is near midnight. I have done nothing which my own conscience does not approve. In what I have done, I have endeavored to regard the interest of this great country, irrespective of party feeling or party bias, and I appeal to every good man, of whatever party, to remember that we have a common country to serve, no matter who is the man at the head of the Government.

Mr. VENABLE. Mr. Speaker, I think it is right, inasmuch as the report of this Committee of Conference was rejected by a very large majority of this House, that the majority should be heard upon this motion to reconsider the vote by which that report was rejected. I intend to consume but little of the time of the House in the remarks which I shall submit.

Sir, I am not afraid of the responsibility of rejecting an appropriation bill, and of going before my constituents, or the people of any portion of the country, when I am sustained in the vote I have given by such reasons as do sustain me upon this occasion. When I hear gentlemen get up and talk, as the gentleman from Virginia [Mr. MEADE] did, about the responsibility of calling an extra session of Congress, I am reminded of a remark made by the gentleman from Georgia, [Mr. TOOMBS,] that the people of this country are willing to pay for legitimate legislation, and they are willing to sustain men who refuse to vote for the legislation of conference committees—who refuse to vote for legislation which is not understood and which is forced upon them in the last hours of an expiring session—a session which has been wasted instead of being devoted to the business of the public. Yes, sir, we are compelled to vote under the operation of the previous question, or under a suspension of the rules, which only allow five minutes debate upon questions involving thousands and hundreds of thousands of dollars, and involving the general policy of the Government, touching important subjects connected with it, for fear that the incoming Administration may be placed in a position where it will be necessary to call an extra session of Congress. Sir, for one, I would be proud of the honor of doing it, for the purpose of correcting an abuse which has grown to be so monstrous that it cries aloud to Heaven.

The bill which is now before us is an instance of that abuse. We pass bills and send them to the Senate, and they send them back loaded with amendments appropriating millions and millions of money; and this practice has been carried on until the history of the country shows that when a few years since we had fifty thousand troops in the field, and the country was involved in a war, the expenses of the Government were not so great as now, when we are in a state of profound peace. The reason is evident: Bills pass the House, are sent to the Senate, and come back loaded with amendments, a great portion of which would have been ruled out of order in this House.

The gentleman from Virginia [Mr. MEADE] took occasion to lecture this House about demagogism, and about raising the salaries of the Executive officers of this Government. Sir, for one, I am not willing to herald in a Democratic Administration, elected by the Democratic party—which proclaim themselves economists—by increasing the expenses of every department of the Government. These expenses may be increased, but I am not to be intimidated by this talk of going to the people with the question at issue. The people of the country understand this thing as well as we do. But if the gentleman from Virginia expects to strengthen the Democratic party, and give it respectability, by driving from its ranks those who stand up for economy—who strive to support the Constitution of the United States, and to give the party to which he belongs tenacity, he will find a foe before him that he will not be able to overcome; he will find that the good sense, the republican instincts of the people of the country, will repudiate such a principle and those who support it. And when these gentlemen undertake to lecture the fathers of the church—to lecture those who in all circumstances, in times of peril, have stood by and supported the Democratic faith, their experience in the future will teach them that they have an enemy before them which will make them quail when the hour of conflict comes—an enemy that will grind them to powder.

Gentlemen talk of conforming to the will of the people. Sir, the people will know, and in time will teach them the difference between profession and practice. I will not believe that giving $8,000 to any Cabinet officer will make him any better off than by giving him $6,000. You will not get any better Cabinet officers for $8,000 a year than you will for $6,000. I have not the first idea of it. I will remind the gentleman from Virginia that when, a number of years since, the salary of members of Congress was raised to $1,500 a year, it turned almost every member of the Congress that passed the law out of his seat, except those who voted against it. I recollect the fact perfectly well, and every gentleman who is acquainted with the history of the country will recollect it. Now, sir, why was this? It was not because the people of the country were not liberal and generous to their public servants; it was not because they do not understand their rights, for they understand them a great deal better than we suppose they do. Would to God the eyes of the people of the United States were upon this Hall to-night! Would to Heaven they could see the business of the country for a whole session, with all the appropriations for carrying on the Government centered into a few short hours! Would to God they could witness the fact of our being called upon to vote upon amendment after amendment, without having them in printed form before us, which we cannot understand, because we have never read them. Because we cannot pass such amendments blindfold without knowing what they are, we are threatened with the consequences of an extra session of Congress.

Mr. ALLISON. Will my friend from North Carolina permit me to ask him a question, which has been suggested by the course of remark he has been pursuing in answer to those of the gentleman from Virginia? [Mr. MEADE.]

Mr. VENABLE. Certainly, I will.

Mr. ALLISON. I wish to know—as the gentleman is a member of the Democratic party—whether the Administration of John Quincy Adams was not defeated on account of its extravagance? Does the memory of the gentleman go back to that time?

Mr. VENABLE. It does, and a great deal further.

Mr. ALLISON. The gentleman from North Carolina then belonged to the economical party. Does he still belong to the same party?

Mr. VENABLE. I do.

Mr. ALLISON. It is not the Democratic party of the present day.

Mr. VENABLE. Well, sir, I will not undertake to discuss that matter, nor is it essential that it should be made before the people of the country. It is a matter of no consequence; it settles no principle before the people. It matters nothing to people whether they are wronged by Whigs or Democrats. But I take occasion here to say that whenever a man who belongs to the Whig party, or what is called the Whig party, comes up for the support of economy, and a strict construction of the Constitution, and a republican administration of this Government, I will look upon him as a friend, and will go with him hand-in-hand for carrying out any measure grounded upon that principle. I intend to make no party speech to-night.

Mr. ALLISON. As the gentleman from North

Carolina, and those who constitute the economical portion of the Democratic party, were read out of the party by my friend from Virginia, [Mr. MEADE,] I desire to say that we welcome him to the ranks of the economical Whig party.

Mr. DEAN, (interrupting.) There is a single item in this report of the Committee of Conference, which has been brought before the Committee of the Whole on the state of the Union. I presume it has escaped the notice of the Committee of Conference, and that is the amendment in relation to the bridge over the Potomac at Georgetown. It was stated in the Committee of the Whole—and under that statement it did not receive a single vote—that Georgetown was bound by an act of Congress to keep that bridge in repair forever.

Mr. VENABLE, (resuming.) I take this occasion to say—and I wish it distinctly understood—that this is not the first time I have voted against an appropriation bill. I am not afraid to go before the country on the defeat of this appropriation bill. I am not afraid, and I believe the people had better be made to understand this system of legislation, which brings us to vote, within the last two or three days of the session, millions and millions of dollars out of the public Treasury in one way or another, and under the action of a Committee of Conference.

I do not mean to make a party speech, but in a few days we will have a new Administration, a man at its head who will not be afraid to meet responsibility. And I would not have been one of those who sustained and voted for him, did I believe he would shun responsibility.

I believe he will see honesty and integrity in the Whigs as well as Democrats, and the party that will sustain him will be the friends of the people, the masses of the United States—the Republican party.

Mr. CAMPBELL, of Ohio. The gentleman speaks of the incoming President. Now, sir, I am on the side of retrenchment and reform, and will go with him. I desire to know if there is any difficulty in getting Cabinet officers?

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed a bill of the House of the following title:

H. R. No. 333. An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending June 30, 1854, with sundry amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed a bill of the House of the following title:

H. R. No. 349. An act making appropriations for the transportation of the United States mail by ocean steamers and otherwise, during the fiscal year ending the 30th of June, 1854, with amendments, in which he was directed to ask the concurrence of the House.]

Mr. CAMPBELL, of Ohio. In regard to the incoming Administration, so far as appropriations are concerned, I intend to be liberal, while at the same time I shall be economical. Now, sir, I desire to know of gentlemen who are friends of the incoming Administration, if they are posted up, whether there is any difficulty, and whether it is impossible to get men of talent for the Cabinet?

Mr. HARRIS, of Tennessee. I rise to a question of order. It is not in order for one gentleman to yield the floor to another to make a speech.

Mr. VENABLE. I will not trespass upon the rules of order. I have no doubt—though I am not in the confidence of the Administration—that there will be no difficulty in filling all the Cabinet offices with able and satisfactory men. The question is this: Shall this House truckle to the Senate, or shall the Senate recede? The Senate have put amendments on to this bill which you all know were all ruled out of order by this House; and most of the Senate amendments to this bill are out of order. The question is this: Shall the Representatives of the people truckle to the Senate? Is this House afraid to meet the responsibility of going before the people upon the rejection of this bill?

Mr. STANLY. Will my colleague point out where, and in what, the committee truckled to the Senate?

Mr. VENABLE. I did not mean to say that the Committee of Conference truckled to the Senate, but I say that, under the fear of the responsibility of an extra session, when a collision arises between the two Houses, this House must yield. I say, let the Senate recede.

Mr. STEVENS, of Pennsylvania. I wish to know one thing; has the Democratic party struck for higher wages? [Laughter.]

Mr. VENABLE. If they have, I do not belong to that section of the party. That is all, and I do not mean myself to destroy the moral effect of the declaration, that we are the party of retrenchment and reform, by beginning a system of increasing the expenses of the Government, because the Senate choose to take our bills and load them down with amendment after amendment, and compel us to pass them under the fear of the responsibility of an extra session. I tell you, the expense of an extra session will not amount to as much as these Senate additions to the bill. I tell you these items amount to more than the entire expenses of a long session.

[Cries of "Question!" "Question!"]

Mr. VENABLE. I never knew a varying politician who was not afraid of responsibility. I, for one, am willing to meet the responsibility. I do take it, and I move to lay the motion to reconsider upon the table.

[Cries of "Question!" "Question!" "Order!" "Order!"]

Mr. JOHNSON, of Arkansas. I appeal to the gentleman from North Carolina to allow me a moment to say a word.

Mr. VENABLE. I cannot do it.

Mr. JOHNSON. I will renew the motion.

Mr. VENABLE. I cannot withdraw it. I cannot——

Mr. JOHNSON. I never consume the time of the House unnecessarily.

[Cries of "Order!" "Order!" from all parts of the Hall.]

The SPEAKER. The gentleman from Arkansas is not in order.

Mr. HOWARD. I ask the yeas and nays upon the motion to lay the motion to reconsider upon the table.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 90, nays 84; as follows:

YEAS—Messrs. Abercrombie, Allison, Barrere, Beale, Bell, Bennett, Bibighaus, Bowne, John H. Boyd, Burrows, Busby, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Cartter, Chapman, Churchwell, Clemens, Cleveland, Clingman, Cobb, Daniel, John G. Davis, Dean, Dimmick, Dockery, Doty, Dunham, Durkee, Eastman, Edmundson, Ewing, Ficklin, Freeman, Henry M. Fuller, Giddings, Grey, Grow, Isham G. Harris, Hascall, Haven, Hebard, Thomas M. Howe, Thomas Y. How, Ives, Jenkins, Andrew Johnson, James Johnson, John Johnson, Daniel T. Jones, George W. Jones, Preston King, Letcher, Little, Mace, Mann, Martin, McCorkle, McLanahan, McNair, McQueen, John Moore, Murphy, Murray, Nabers, Newton, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Reed, Ross, Sackett, Schoolcraft, Schoonmaker, Scurry, Origen S. Seymour, Alexander H. Stephens, Thaddeus Stevens, Stone, Stratton, Toombs, Townshend, Venable, Walbridge, Washburn, Wells, Wildrick, and Woodward—90.

NAYS—Messrs. Aiken, John Appleton, William Appleton, Ashe, Babcock, Bowie, Bragg, Breckinridge, Brenton, Briggs, Brooks, Thompson Campbell, Caskie, Chandler, Colcock, Darby, George T. Davis, Dawson, Disney, Duncan, Edgerton, Evans, Faulkner, Florence, Thomas J. D. Fuller, Gamble, Gaylord, Gilmore, Goodenow, Goodrich, Gorman, Green, Hall, Hammond, Sampson W. Harris, Hart, Haws, Hendricks, Holladay, Horsford, Houston, Howard, Jackson, Robert W. Johnson, J. Glancy Jones, George G. King, Kuhns, Kurtz, Landry, Lockhart, Marshall, Mason, McDonald, Meade, Millson, Henry D. Moore, Morrison, Orr, Peaslee, Penn, Polk, Preston, Price, Riddle, Robbins, Robie, Robinson, Russell, Sabine, David L. Seymour, Stanly, Frederick P. Stanton, St. Martin, Stuart, Sutherland, Sweetser, Taylor, Thurston, Walsh, Ward, Addison White, Wilcox, and Yates—84.

So the motion to reconsider was laid upon the table.

Mr. HOUSTON. When this report of the Committee of Conference was received, the Speaker assumed the chair informally. I suppose as a matter of course, that the chairman of the committee will now again take the chair.

Mr. HALL. Is it not in order to move to insist upon the House amendments, and to ask for a second committee of conference?

The SPEAKER. The Chair thinks it is.

Mr. HALL. Then I make that motion.

Mr. PHELPS. I insist, as the Speaker assumed the chair informally, that the chairman of the committee now resume it.

The chairman of the committee (Mr. ORR) accordingly resumed the chair.

Mr. PHELPS. I ask the unanimous consent of the committee that they lay aside, informally, the Navy appropriation bill, and take up the mail-steamer appropriation bill.

Mr. CLEMENS. I object.

Mr. PHELPS. Very well. Go on with the one under consideration.

Mr. HALL. I move that the committee rise, with a view of submitting a motion asking for another committee of conference upon the civil and diplomatic bill.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. ORR) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly House bill making appropriations for the service of the Naval Department for the year ending June 30, 1854, and had come to no resolution thereon.

THE SEVENTEENTH JOINT RULE.

[A message was here received from the Senate by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had adopted a resolution suspending the 17th joint rule of the two Houses for the remainder of the present session, and in which he was directed to ask the concurrence of the House.]

Mr. JONES, of Tennessee. I move that the House take up the Senate resolution, and concur in it.

The question was put, and the motion was agreed to.

The resolution was then passed.

CIVIL AND DIPLOMATIC BILL.

Mr. HALL. I move that the House ask a second committee of conference upon the disagreeing votes of the two Houses upon the civil and diplomatic bill, and upon that I move the previous question.

Mr. POLK. Is that motion debatable?

The SPEAKER. It is not; the previous question has been demanded.

Mr. POLK. I consider it unnecessary to have another committee. Let those gentlemen who defeated this measure take the responsibility.

[Cries of "Order!" "Order!"]

The House was then divided on the call for the previous question; and the Chair announced 79 in the affirmative; when

Mr. YATES demanded tellers; which were ordered; and Messrs. MASON and JACKSON appointed.

The House was again divided, and the tellers reported—ayes 97, noes not counted.

So the previous question received a second; and the main question was ordered to be put.

The question was then taken, and the resolution of Mr. HALL was adopted, and Messrs. HALL, FITCH, and EVANS, were appointed the conferees on the part of the House.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

NAVAL APPROPRIATION BILL.

The CHAIRMAN. When the committee rose, the amendment of the gentleman from Missouri [Mr. PHELPS] to reduce the appropriation for the Cape Fear river two dollars was under consideration, and the gentleman from North Carolina was entitled to the floor.

Mr. OUTLAW. I have but little hope of commanding the patience of the committee for even the five minutes to which I am entitled under the rules. The Legislature of my State have requested its representatives on this floor—and my own judgment concurs in that request—to exert their influence to procure appropriations for this object. Now, sir, although I have no constitutional scruples in regard to the powers and duties of this Government to improve rivers and harbors, yet I will not present this particular appropriation on any ground of that sort. It does not stand on any such ground. It appeals to the justice of the House and of this Union. By your act obstruc-

tions have been placed in the navigation of that river. In order to protect the public property of the United States, this obstruction to the commerce of that river has occurred; and, sir, if Congress deemed it right and proper to make an appropriation to remove an obstruction caused by the burning of one of your sloops-of-war in the harbor of Gibraltar, is it not equally just and equally consistent with propriety that you should make an appropriation in this case?

It may be, and very probably is the fact, that this amendment would have been more proper in some other bill; but this House ought to recollect that the Senate is one of the coördinate departments of the Government. It is further to be recollected, that according to the report of the survey which was ordered to be made of that river, prompt and speedy action is absolutely necessary; for, sir, within the last twelve months, the depth of the water in the channel of that river has decreased nine inches in consequence of the obstructions you have placed there: and if you delay for another year, the commerce of that river will be so impeded that the prosperity of that whole section of country will be materially impaired. As was remarked by my colleague, we ask but little from this Government. We ask nothing on this occasion by way of bounty; we only ask justice. We ask that that which you have placed there yourself, and by which we have suffered injury, shall be removed. And I will make the same remark with regard to the appropriation for the Savannah river. These two cases stand on their own peculiar merits. With these remarks I will detain the committee no further.

The question was taken on Mr. PHELPS's amendment, and it was disagreed to.

Mr. PHELPS. I demand tellers on the amendment of the Senate.

Mr. FREEMAN. I move to amend by inserting Yazoo after Cape Fear river.

Mr. DEAN. That amendment is not in order. There is no law authorizing an appropriation for the Yazoo river.

The CHAIRMAN. The Chair thinks that the amendment is hardly in order.

Mr. PHELPS. I withdraw my demand for tellers.

The question was put, and there were, on a division—ayes 35.

Mr. ASHE. I demand tellers.

Tellers were ordered; and Messrs. MASON and BROOKS were appointed.

The question was then taken, and the amendment of the Senate was non-concurred in; the tellers having reported—ayes 43, noes not counted.

The thirty-seventh amendment of the Senate:

"Insert as follows:

"To provide for the removal of the obstructions in the river Savannah, in the State of Georgia, and for the improvement of the same, $50,000."

Mr. JACKSON. I move to increase the appropriation five dollars. It may be supposed, Mr. Chairman, hopeless in me, after the defeat of the Cape Fear river appropriation, to prove that it is proper this amendment ought to be adopted; but hopeless as it seems to be, feeling that it is based upon the foundation of the inalienable and determined principles of justice and the Constitution of my country, I deem it to be my duty to come before this House and ask its adoption. That amendment appeals to us by all the recollections of the American Revolution. There is not a man here who feels as a patriot, whether he votes for or against the amendment, who will not say that that this is a case calling strongly on the justice of this Government.

The gentleman from Missouri [Mr. PHELPS] said that this was a bill of internal improvements. I take issue with him. I contend, I repeat, that this proposition of amendment coming from the Senate is founded on the principles of justice. I would ask gentlemen on both sides, whether, if the Government placed obstructions in the Potomac river so as to prevent vessels coming either to Georgetown, Alexandria, or Washington, it would not be bound, on principles of justice from which it could not relieve itself, to remove them? There is not a man here who will deny the correctness of the proposition. But, sir, the amendment is also sustained by the Constitution. It declares that the engagements made under the old Confederation shall be as valid and as binding under it as they were under that Confederation. These wrecks were placed in the Savannah river on three different occasions. They were placed there in January, 1776, before the Declaration of Independence, I admit, but after Georgia had espoused the cause of the Northern Colonies. They had called on Georgia to take part with them, and she had responded. She had nothing to sacrifice by following the King of Great Britain, but she had everything to peril by taking the cause of liberty. After we had imprisoned our royal Governor, and created a government of our own to resist British vessels, there were sunk at the mouth of the Savannah river one or more ships. Again: after the adoption of the Articles of Confederation, and when Georgia had declared herself independent, with the other States of this Union, there was by command of the Major General of the United States Army——

[Here the hammer fell.]

Mr. SEYMOUR, of New York. I have refrained from a discussion of these two amendments for the purpose of hearing from other gentlemen on this floor their views in reference to them. We hear it said on one side that these two cases ought to be made exceptions to the general state of things at this session, in regard to the improvement of our rivers and harbors, for the reason that the Government in the one case placed a fort at the mouth of the Cape Fear river, which has occasioned the obstructions complained of; and in the other, now before the committee, that during the revolutionary war, for the purpose of protecting the city of Savannah, ships were sunk at the mouth of the river, which have impeded its navigation. I concede these facts. I concede all that has been said in reference to the merits of these two propositions; but I say, sir, by no means ought they to be ingrafted on a general appropriation bill for the support of your Navy. There are meritorious cases which have not been submitted to Congress, and for the reason that we were told by the Departments, when they presented their estimates at the commencement of this session, there would be $1,000,000 remaining in your Treasury after the expiration of the fiscal year ending the 30th of June, to be applied to these works during the next fiscal year. The General Government may have occasioned these obstructions, Mr. Chairman; but what else is there to be considered? Did it not receive from the States the grant of the right to collect revenue from every part of the Union?—and is it not just as right and proper that it should vote the appropriations to the lake harbors, the great rivers of the West, and the Atlantic sea-board, which are needed?

I can see no distinction in these cases. I concede that they are meritorious; but so are others, and I hope the House will not make any distinction which will go to the prejudice of those others. Let them all be considered at a proper time. Let them all come up at the next session of Congress, when you can go over the whole ground, and take up all of the wants of the national commerce, and make such an appropriation as you ought to make on the broad basis of nationality. I am in favor of such improvements, as the House is already aware. At the last session of Congress I recommended, as chairman of the Committee on Commerce, a large appropriation of $40,000 for the purpose of commencing this work, and there is no reason that you should now add another appropriation of $50,000, unless you go over the whole ground, and do justice to the whole country.

[Here the hammer fell.]

The question was taken, and the amendment to the amendment was disagreed to.

Mr. TAYLOR. I move to increase the amount $50,000. It is very gratifying to me to find gentlemen upon both sides of the House advocating the doctrine of internal improvements indirectly. Every argument submitted by my honorable friend from New York in favor of appropriations to remove obstructions from the Savannah river, would apply with equal force to appropriations for other rivers. I will not act upon the unwise policy of refusing any appropriation—however just the appropriation may be—because I cannot get all I want. I will vote for the appropriation to remove obstructions from the mouth of the Savannah river, for the reasons so eloquently urged by the gentleman from Georgia, and for the further reasons presented to us by the gentleman from New York, who has just taken his seat. There should be no difficulty about this matter. It is not an objection to me that it comes to us at this late period in a naval appropriation bill, and I regret very much to hear my friend from Missouri, [Mr. PHELPS,] a gentleman who has distinguished himself in this House by his intelligence and statesmanlike views upon most occasions, absolutely endeavoring to prejudice this committee in advance against one of the most important amendments which the Senate have presented to us at this session, relating to the reform and reëstablishment of the Navy. I understood my honorable friend from Missouri to allude to it as one of the abominations which the Senate had thrown upon this House at the last moment.

Mr. PHELPS. I said it had no place here in this bill.

Mr. TAYLOR. I rejoice to have an opportunity of voting upon all these appropriations. I will vote with the gentleman from Georgia to remove obstructions from the mouth of the Savannah river, for the reasons so eloquently and appropriately given by the gentlemen who have spoken upon this subject. I will support that other amendment alluded to by my friend from Missouri, when it shall be presented, for a reform and reëstablishment of the Navy of the United States. We have a perfect right to do it in this naval appropriation bill, and it can be done here to-night. Every man in this committee is prepared to vote upon it, who has looked into the subject. It does not require five minutes' consideration; and every man can soon make up his mind. I hope, when we come to that amendment, that the debate will cease, and that we shall do the business of the country as men ought to do, and not sit here acting like children, when we are legislating for a great national purpose. We have had too much of this kind of legislation. Gentlemen upon this floor ought to be prepared to act upon every question brought up here, and especially upon the measure to which I have referred, for a reform in the Navy. I do not believe that there is a gentleman within the sound of my voice who is not prepared to give a decisive vote upon this question.

Mr. GORMAN. I do not rise at this hour, on the last day of the session, to make a speech. I shall ask for a vote, but before I do that I move that the committee rise, for the purpose of closing debate upon this question, if this thing is to go on in this way.

The question was taken, and it was decided in the affirmative.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the Senate amendments to the naval appropriation bill, and had come to no resolution thereon.

Mr. GORMAN. I move the usual resolution to stop general debate upon all these items.

Mr. JONES, of Tennessee. If it is in order, I move to suspend the rules authorizing five-minutes debate upon this bill.

The question was taken upon Mr. GORMAN's motion, and it was agreed to.

Mr. PHELPS. I move that the rules of the House be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly again resolved itself into the Committee of the Whole on the state of the Union, and resumed the consideration of the amendments to the naval appropriation bill.

The CHAIRMAN. The question is upon the amendment proposed by the gentleman from Ohio, [Mr. TAYLOR.]

Mr. TAYLOR. I withdraw the amendment.

The question then being upon the amendment of the Senate,

Mr. JACKSON demanded tellers; which were not ordered.

The question was then taken, and the Senate amendment was not agreed to.

The thirty-eighth amendment of the Senate:

"Insert as follows:

"For the purpose of paying the lien existing on the lands recently purchased as an addition to the navy-yard at Brooklyn, $12,247 05, to be paid by the Secretary of the Navy, if upon examination he shall find the same to be due as a lien on the purchase of the said land. And the Secretary of the

Navy is hereby empowered and directed to sell and convey to any purchaser all that part of the navy-yard lands at Brooklyn, between the west side of Vanderbilt avenue and the hospital grounds, containing about twenty six and a half acres, including Vanderbilt and Clinton avenues: *Provided*, That said lands shall not be sold at a less price than they cost the Government, including interest, with all assessments and charges: *And provided further*, That prior to the sale of said lands, exclusive jurisdiction shall be ceded to the United States of all the remaining lands connected with said navy-yard belonging to the United States."

Mr. VENABLE. I move to strike out the first line of that amendment. I desire to call the attention of the committee to the history of this transaction. In 1848 the United States voted appropriations for the marine hospital and navy-yard at Brooklyn. It was urged upon them to buy the land between the navy-yard and the marine hospital. This land was purchased by the Secretary of the Navy from the company at $285,000. The city of Brooklyn said that they never had ceded jurisdiction over it, and they ran streets clear through it. They proposed to tax the United States $10,000 a year for this property, and now we are asked to sell that property after having bought it. It was urged again and again that it was necessary to connect the navy-yard with the marine hospital. That amendment provides that this property shall be set up for sale, and the only limitation is that we are to take the sum of money which we gave for it in 1848.

In 1848 it was urged, as I before said, as indispensable that we should buy it out to secure the right of way between the marine hospital and the navy-yard. Under the representations then made, it was purchased by the then Secretary of the Navy, Mr. Mason; but the city of Brooklyn did not surrender her jurisdiction over it, and subsequently run two streets through it. They also claimed the right to tax the property of the United States; and they now come back, when the property is made more valuable by the town being built up around it, and ask that we shall sell it for the money which we gave for it, without any advance upon it. It is to be sold by the Secretary of the Navy. There was never a more monstrous proposition presented to us. The Government is pressed and urged to buy the land in 1848. We buy it at $285,000, and we are now urged to sell it, just at a time, however, when, in the appreciation of the value of property by building up the city and forcing their streets through it, they make their property more valuable. We are to content ourselves with the $285,000—the money which we gave for it in 1848—and that, too, in a most summary way—much more summary than a gentleman would put up bonds at sale. I repeat, that unless we can get rid of these amendments of the Senate, which have jobs written upon their face, we had as well cease to do anything towards just, proper, and liberal legislation. I am opposed to the whole amendment. I am opposed to this whole matter. It is to make money out of the Government. It is to make us purchase property at a high price when it is valueless, and then, when it has increased in value, to let it go back into the hands of speculators, who are to make a profit out of it again at the price we gave for it.

Mr. STANTON, of Tennessee. The argument of the gentleman from North Carolina is nothing new. His representations are as far from the mark as they are far from being novel. It is true that the Government was urged, in 1848, to purchase this property, and did purchase it. If, at that time, it had been known that the city of New York had refused to surrender jurisdiction to the property, it would not have been purchased, and it ought not to have been purchased; but it was purchased. The gentleman says that the proposition is to take what we gave in 1848, and nothing more. It is provided in that amendment, if I understand it, that the property shall not be sold for less than the sum paid for it, with interest. If the gentleman is so particularly anxious about it, he can purchase this property for speculation, or anybody else. This thing is not hid under a bushel. It is known to the whole country. If the gentleman is desirous of saving money to the Government of the United States, I will inform him that the Government has more than two hundred acres of land there, and I would ask him to explain to this House what the Government wants with it. A large portion of the land, perhaps as much as one hundred acres, is a mud flat, to be filled up perhaps at a cost of $200,000 and more; perhaps at an expense of a million of dollars.

Mr. VENABLE. What did they buy it for?

Mr. BOWNE. I cannot say what they bought it for, but it is useless to the Government. If the gentleman thinks there is any job or speculation about it, I will tell him that he can buy it, or anybody else can buy it. I suppose the gentleman sees something dishonest in this matter.

Mr. VENABLE. Not at all.

Mr. BOWNE. The gentleman disclaims it. Well, I can only say that there is nothing dishonest about it. It is all public and open and fair. He or anybody else can bid——

Mr. VENABLE. Then advertise it.

Mr. BOWNE. You can put in a provision that it shall be advertised. If the gentleman is really an economist, and not a mere agitator—not a mere pretended economist—let him understand that by this proposition we shall save at least $250,000, the sum paid for it, all the money that would be necessary to fill up the land and make it solid ground, and put improvements upon it.

Mr. VENABLE. I withdraw my amendment.

Mr. BOWNE. I move to reduce the price one dollar.

Mr. Chairman, when we had this matter under consideration, a few days ago, I stated, as I thought, the whole grounds for this provision; but from private conversation with members of the House since, I find that I was not understood, and I therefore wish to make a plain and distinct statement. I tell the House that there is no job about this matter—no rascality. I think my countenance is a guarantee for that, if for nothing else. It is a plain and simple proposition.

In 1848, the Government of the United States bought of certain parties—and bought very improperly—eighty-odd acres of ground lying between the navy-yard proper and the hospital grounds in Brooklyn. They bought it with a view to make a connection between the navy-yard proper and the hospital grounds. But they did not get a good title to the property. The city of Brooklyn retained jurisdiction over the ground, and they, by that right which they retained, and which they will retain until anarchy takes the place of law, laid out two streets through the only part of the ground by which they could reach the water, thus subverting the object of the Government in buying the land and preventing any connection between the navy-yard proper and the hospital grounds. But the object of the city of Brooklyn is also defeated, for we cannot get at the water by one of the streets when a vessel is lying at the foot of it. Now, I desire to accommodate both the Government and the city of Brooklyn. This amendment provides that the sale shall not be made until the city of Brooklyn surrenders the jurisdiction over the property, and it provides, also, that the Government shall get back every dollar it paid for this land, with interest. The Government bought eighty-two acres; we ask that twenty-two and a half acres shall be sold, which have been cut into three parts by the streets running through them.

Now, the proposition stands thus: the Government bought the piece of property for a certain purpose, and that purpose has been defeated. The property, therefore, is valueless to the Government, and the Government asks to be relieved of that portion of it which is of no value to them, and that the city of Brooklyn shall have the advantage of it. That is the precise position of things. There is no job about the matter—no rascality connected with it in any shape or form. The ground is of no value to the Government.

Mr. FICKLIN. Why is it that the whole of the ground is not to be sold?

Mr. BOWNE. For the reason that the city of Brooklyn has run two streets——

[Here the hammer fell.]

Mr. JONES, of Tennessee. I think this piece of ground in Brooklyn was bought when the Government did not need it, perhaps because some gentlemen owned it who wished to make, and who did make a speculation by selling it to the Government. The Government was wrong in buying the piece of ground and paying for it, before a law was passed by the Legislature of New York ceding the jurisdiction over the purchase to the United States. The Government bought it from these parties—Griffin and Wright, I believe—supposing that it was all their property. But after the Government had bought the property, paid the money, and taken a deed for it, the authorities of the city of Brooklyn said that it was a part of that city, and that streets ran through the ground, and they cut it up and made it valueless to the Government as an appendage to the navy-yard, which it was intended to benefit. It becomes necessary for the Government, therefore, to make the best of a bad bargain, and sell the property. My own opinion is, that it should be sold, but that it would be the duty of the Government first to go back upon those from whom they made the purchase, and sue them for the damages sustained by the Government in consequence of streets running through the property.

Mr. BOWNE. I merely wish to say to the gentleman from Tennessee that, unfortunately for the Government, the parties from whom they bought the property are men of straw.

Mr. JONES. Perhaps the man who made the deed, and through whom the purchase was made, was a man of straw; but those who received the money and benefited by it were not.

Mr. BOWNE. We cannot reach them. I want to say one thing more——

The CHAIRMAN. The gentleman from Tennessee has yielded the floor, and further debate is not in order.

Mr. HARRIS, of Tennessee. If we are to pass the bills that are demanded by the public necessities, we must debate less. I move that the committee rise in order to stop the five-minutes debate upon this item.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. ORR) reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the amendments of the Senate to the naval appropriation bill, and had come to no resolution thereon.

Mr. HARRIS, of Tennessee. I move the usual resolution to close the five-minutes debate on the particular amendment of the Senate to the naval appropriation bill now pending in the Committee of the Whole on the state of the Union.

The resolution was adopted.

Mr. HARRIS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

So the rules were suspended and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the amendments of the Senate to the naval appropriation bill.

Mr. BOWNE. I withdraw my amendment.

Mr. STEPHENS, of Georgia. I move to amend the Senate amendment by adding thereto the following:

Provided, That the sale be made at public auction, after thirty days' notice in at least three daily newspapers in the cities of New York and Brooklyn.

The amendment was agreed to.

Mr. BOWNE. I desire to offer an amendment if I can have the unanimous consent of the committee to explain for one minute by the clock.

[Cries of "No!" "No!" and "Object!"]

The question recurred on agreeing to the amendment of the Senate as amended, it was put, and the amendment was agreed to.

Thirty-ninth amendment of the Senate:

"Insert as follows:

"That the sum of $1,164 10, being part of the appropriation made for the service of continuing the survey of the coast of the Gulf of Mexico, from Appalachicola bay to the Mississippi river, by the act of March 3, 1841, and which has been carried to the credit of the surplus fund, be and is hereby reappropriated to pay for the services of the officer or officers employed in that survey."

The question was taken, and the amendment was non-concurred in by the committee.

Fortieth amendment of the Senate:

"Insert as follows:

"SEC. —. *And be it further enacted*, That the Secretary of the Navy is authorized to purchase the site and buildings examined and reported upon by Captains Tatnall and Rousseau, and Lieutenant Farrand, of the United States Navy, September 24, 1852, for the establishment of naval workshops and naval depôt near the city of New Orleans: *Provided*, He shall consider that New Orleans is a proper point for the establishment of a naval depôt and naval workshops, and that the cost thereof shall not exceed $375,000."

Mr. GOODENOW. I move to strike out all of the appropriation except one dollar.

Mr. Chairman, I understand this amendment

provides for the establishment of a naval depôt at New Orleans. Now, I submit to this committee that in the present condition of our naval affairs, an additional naval depôt is not necessary. The House has deliberately determined not to appropriate any more money for the increase of our naval force, and I submit that at this stage of our proceedings, it is unnecessary, and in my judgment, it is unwise, to make an appropriation of $375,000 for the purpose of establishing a naval depôt at New Orleans, which will certainly result in our establishing a navy-yard at the same point. With our present naval establishment, we need no more navy-yards and no more naval depôts. I hope the amendment of the Senate will not be agreed to.

Mr. VENABLE. How did this $375,000 come in this bill?

Mr. LANDRY. Mr. Chairman, I hope the amendment of the Senate will not be stricken out. I do not think there is a member upon this floor who is not well aware that both a navy-yard and a naval depôt are almost indispensable at or near the city of New Orleans. Its immediate connection with the Gulf of Mexico renders it very important that a naval depôt should exist there in case of an emergency.

The gentleman from North Carolina [Mr. VENABLE] wanted to know how this $375,000 got into this bill. I will tell the gentleman. The Senate inserted it as an amendment to the bill. They did it with the estimates before their eyes. They included it there wisely, in my judgment. At the last session of Congress the Senate passed a resolution requesting the Secretary of the Navy to send a board of naval officers to examine and select a site at or near the city of New Orleans for the establishment of a naval depôt. In compliance with that resolution, a board of naval officers visited New Orleans, and after examining all the sites which were proposed, they agreed to report one upon which a building was already erected, which, after some necessary repairs, would answer the purposes of the Government. They have made a report, in which they state the result of their investigation, and represent that $375,000 is a fair price for the property they recommend the Government to purchase. They report that the building and grounds are altogether adequate to the wants of the Government; and the question now before this committee is, whether it is necessary for this Government to have a naval depôt at that point or not? My own opinion is, that if you do not purchase this site now and establish the depôt, you will have to do it sooner or later, and it will cost the Government more mony than we now propose to pay for it.

Mr. FREEMAN. I desire to ask the gentleman from Louisiana if it is not intended ultimately to remove the navy-yard and depôt from Memphis to New Orleans?

Mr. LANDRY. There is no such purpose that I am aware of.

Mr. FREEMAN. Though I am opposed to the amendment of the Senate, I think it ought to be removed to New Orleans.

Mr. GOODENOW. I will withdraw my amendment if no one objects.

There was no objection, and the amendment was withdrawn.

Mr. STANTON, of Tennessee. I move to increase the appropriation $5,000.

Now, sir, strange as it may seem, I intend to advocate the adoption of this amendment of the Senate. Some eight or nine years ago, before I had the honor to be a member upon this floor, a navy-yard was located at Memphis, and it has given me more trouble in my district than anything I have had to encounter. You have already spent nearly a million dollars in the construction of that yard, and I think it has been well spent, if the Government will go on and carry out its original purpose faithfully. But Congress in its wisdom has refused to appropriate inconsiderable sums which have been asked for the last three or four years, for the purpose of doing what no person would neglect to do—of filling up unsightly holes which tend to destroy the foundations of the building as well as the health of the people residing in the yard.

A MEMBER. Is the navy-yard at Memphis finished?

Mr. STANTON. It was nearly finished, but Congress have refused to surround it with a proper brick wall, and it now remains inclosed with a cypress-board fence.

Mr. FREEMAN. I call the gentleman to order. The question before the committee is a proposition to establish a naval depôt at New Orleans, and the gentleman is discussing the navy-yard at Memphis.

Mr. STANTON. I am discussing the propriety of a naval depôt in the Mississippi valley.

Mr. FREEMAN. That question is not before the committee at all. I call the gentleman to order. The question under consideration is upon establishing a naval depôt at New Orleans.

The CHAIRMAN. The gentleman from Tennessee must confine his remarks to the explanation of his amendment.

Mr. STANTON. Well, sir, New Orleans is in the Mississippi valley, I believe, but Memphis is in a more healthy location. The climate is more healthy than at New Orleans; navigation is uninterrupted; and I think it a better location for a naval depôt; but if you do not put it there, I am in favor of putting it at New Orleans.

Mr. FREEMAN. The gentleman says navigation is uninterrupted to Memphis. I ask him if the water is not sometimes reduced to four and a half feet upon a bar between Vicksburg and that city?

Mr. STANTON. Oh, it is a good deal more than that.

Mr. FREEMAN. Well, sir, the gentleman will find that what I have said is correct. There is a bar there upon which the water is not more than four and a half feet deep.

Mr. STANTON. I think the gentleman is mistaken.

Mr. DEAN. I call the gentleman from Tennessee and the gentleman from Mississippi to order.

Mr. STANTON. We do not contend that the water in the Mississippi river is sufficient to admit vessels of a very great draught of water except during the spring floods. During eight or nine months in the year, they cannot get over the bar at the mouth of the river, and consequently cannot come up to New Orleans, so that Memphis is nearly as well off as New Orleans for that matter. But I say the Mississippi valley is entitled to a naval depôt somewhere. Her resources entitle her to it, and if we cannot get it at Memphis I will go for putting it at New Orleans, and if you cannot get it at either of these places I will go for putting it at Vicksburg, or any other place in the Mississippi valley which may be selected.

Mr. BROWN, of Mississippi. I would suggest to the gentleman that the mouth of the Yazoo river would be a very good location.

Mr. STANTON. Very well; I will go for putting it there if that is the place selected by the Government.

[Here the hammer fell.]

Mr. BROWN. I move that the committee rise for the purpose of terminating the five-minutes debate upon this amendment.

The question was put, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. ORR) reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly the bill of the House entitled "An act making appropriations for the naval service during the fiscal year ending June 30, 1854," with the amendment of the Senate thereto, and had come to no resolution thereon.

Mr. BROWN, of Mississippi. I move to suspend the rule allowing five-minutes debate in the Committee of the Whole on the state of the Union, upon the section of the naval appropriation bill last under consideration in committee.

The question was taken, and (two thirds having voted in the affirmative) the rule was suspended.

Mr. BROWN. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the naval appropriation bill, the question pending being upon the adoption of the amendment of the gentleman from Tennessee [Mr. STANTON] to the Senate amendment.

Mr. STANTON. With the consent of the committee, I will withdraw my amendment.

There was no objection, and the amendment was withdrawn.

The question then recurred upon concurring in the amendment of the Senate; and being taken, the amendment was non-concurred in—ayes 16, noes not counted.

Forty-first amendment of the Senate:

"SEC. —. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, directed to credit the medical officers of the Navy, who, by order of the Department, served with a detachment of marines in Mexico during the late war with that Republic, in addition to the pay to which they are entitled as medical officers of the Navy, respectively, the same allowance for rations and forage, in proportion to the time they so served, as are allowed to officers of the Army of similar standing."

The question was taken, and the amendment was non-concurred in by the committee.

Forty-second amendment of the Senate:

[This amendment embraced the provisions of Senate bill No. 574, for the reorganization of the Navy of the United States.]

Mr. PHELPS. This is the bill for the reorganization of the Navy. It was under consideration for a long time in the Senate, and I presume we all understand it.

Mr. DEAN. I move that the committee rise for the purpose of stopping this five-minutes debate.

Mr. FITCH. I hope not; I hope this amendment will be discussed.

The question was put, and Mr. DEAN's motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. ORR) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill of the House making appropriations for the services of the naval Department for the year ending June 30, 1854, and had come to no resolution thereon.

Mr. DEAN. I move the usual resolution to close the five-minutes debate upon the pending amendment to the bill.

The question was taken, and the motion was agreed to.

Mr. PHELPS. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, and resumed the consideration of the Senate amendments for the reorganization of the Navy.

Mr. BROWN. As the amendment under consideration is a very long one, and has been read by every member of the committee, I trust that the vote will be taken upon it without reading it.

Mr. STANTON, of Tennessee. I offer a substitute for that Senate amendment, which I send to the Clerk's table:

The amendment was as follows:

Be it further enacted, That the commission and warrant of every officer in the Navy are hereby vacated and annulled: *Provided*, That officers now on duty shall hold their commissions or warrants until relieved, or until reappointed under the provisions of this law.

SEC. 2. *Be it further enacted*, That the commissioned officers of the Navy, to be appointed by and with the advice and consent of the Senate, shall hereafter consist of the following grades and numbers, to wit: twenty commodores, fifty captains, sixty commanders, thirty lieutenant commanders, two hundred and fifty lieutenants, two hundred and fifty midshipmen, sixty-nine surgeons, thirty four passed assistant surgeons, forty-five assistant surgeons, sixty-four pursers, twenty assistant pursers, one chief engineer, twenty engineers, twenty five first assistant engineers, thirty second assistant engineers, thirty-five third assistant engineers. The warrant officers, to be appointed as heretofore, shall be as follows, to wit: sixty boatswains, forty five gunners, forty-five carpenters, thirty-eight sail-makers.

SEC. 3. *Be it further enacted*, That the President shall cause to be communicated to Congress at the commencement of its next session, a plan for the relief of meritorious officers who may be dropped from the Navy list by virtue of this law; and all such officers shall receive their present pay until the end of the next session of Congress, if no other provision shall be made prior to that time.

SEC. 4. *Be it further enacted*, That the number of cadets to be educated at the Naval Academy shall not at any time hereafter exceed two hundred and fifty—one to be appointed from each Congressional district in the United States, and the rest at large by the President; and only so many as may be necessary to fill the vacancies occurring in the rank of midshipman shall be selected at the annual examinations, to be retained in the public service.

SEC. 5. *Be it further enacted*, That the pay of commodores, when on duty, shall be $4,000 per annum; when not on duty, $3,000. The pay of lieutenant commanders, on duty, shall be $1,800; not on duty, $1,500. The pay of assistant pursers on duty, $1,000; not on duty, $700. The pay of all other officers shall be as now provided by law.

SEC. 6. *Be it further enacted*, That, in addition to the naval bureaus now established by law, there shall be one called the Bureau of Service, to which shall be assigned the charge of such matters as pertain to the officers and men of the Navy; and there shall be appointed under the authority of this bureau, by and with the advice and consent of the Senate, a judge advocate, who shall be learned in the law, and shall receive a salary of $3,000 per annum; and there shall also be appointed one chief clerk, at a salary of $1,600; one assistant clerk, at a salary of $1,400, and one at a salary of $1,200.

SEC. 7. *Be it further enacted*, That the chiefs of bureaus in the Navy Department may be appointed from any grade of officers in the service, except the Bureau of Construction; which shall be filled by a competent naval constructor; and the salary of the chiefs of bureaus shall be $3,500.

SEC. 8. *Be it further enacted*, That it shall be the duty of the President hereafter to dismiss from the Navy, or place on furlough, in his discretion, every officer who may become incompetent or unworthy from any cause other than wounds or infirmities incurred in the service; and all promotions shall be made according to merit, taking into consideration length of service as well as ability and character.

SEC. 9. *Be it further enacted*, That surgeons and pursers of the Navy of less than twelve years' standing shall rank as lieutenants, and that surgeons and pursers of more than twelve years' standing shall rank as commanders; passed assistant surgeons shall rank next after lieutenants; assistant surgeons shall rank as masters, in every case according to date of commission or warrant: *Provided*, That commanding officers shall take precedence over all medical officers and pursers under their immediate command; and that medical officers and pursers shall be entitled to no military command in virtue of the above rank.

Mr. FULLER, of Maine. If the substitute is not adopted, will it be in order to offer an amendment?

The CHAIRMAN. It will.

The question was then taken on the substitute offered by Mr. STANTON; and there were, upon a division—ayes 34, noes not counted.

So the substitute was rejected.

The question then recurred on the amendment of the Senate, and being put, the Chair announced, on a division, 15 in the affirmative; when

Mr. PRICE called for tellers; which were ordered; and Messrs. MASON and GOODENOW were appointed.

The question was then taken; and the tellers reported—ayes 44, noes 86.

So the amendment of the Senate was not concurred in.

The amendments of the Senate were all disposed of, and the committee informally rose.

[A message was here received from the President of the United States, by the hands of M. P. FILLMORE, his Private Secretary, informing the House that the President had signed bills of the following titles:

An act making appropriations for the support of the Army for the year ending the 30th of June, 1854;

An act to supply deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1853;

An act to establish certain post roads, and for other purposes; and

An act making appropriations for the service of the Post Office Department for the year ending the 30th of June, 1854.]

Mr. PHELPS. I ask the unanimous consent of the House to take up the mail-steamer appropriation bill and the Indian appropriation bill, which have been returned from the Senate with amendments, and refer them to the Committee of the Whole on the state of the Union.

The SPEAKER. By unanimous consent they will be so referred.

There was no objection, and the bills were so referred.

The Committee of the Whole on the state of the Union resumed its session.

Mr. STANTON, of Tennessee. I move that the committee rise, and report the naval bill to the House.

Mr. PHELPS. I hope the gentleman from Tennessee will withdraw that motion, and allow the bill to be laid aside for the present. There are one or two other appropriation bills I desire to take up, and which will not consume more than a few minutes.

Mr. STANTON. I insist upon the motion.

Mr. PHELPS. Then I hope the committee will vote it down.

The question was then taken on the motion of Mr. STANTON, and it was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. ORR) reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the Senate's amendments to the Navy appropriation bill, and had directed him to report back the bill to the House with sundry amendments, some of which Senate amendments the committee recommend a concurrence in, and others a non-concurrence.

Mr. STANTON. I move the previous question on concurring in the several amendments reported from the Committee of the Whole.

Mr. CLINGMAN. I suggest that the House take one single vote on concurring in the report of the Committee of the Whole.

Mr. STANTON. I am perfectly willing, with the exception of one single amendment, and that is in reference to the basin and railway for the dry-dock in California.

The SPEAKER. If there be no objection, the vote will be taken upon all the amendments upon which a separate vote is not asked.

Mr. TAYLOR. I ask for a separate vote upon the amendment in reference to the naval reform. It is the last Senate amendment.

The previous question then received a second, and the main quetion was ordered to be put.

The question was then taken upon agreeing to the report of the Committee of the Whole, in reference to all amendments upon which a separate vote had not been requested, and the report of the committee was concurred in.

Amendment No. twenty-seven and a half of the Senate, upon which a separate vote was asked, was then read, as follows:

"And the Secretary of the Navy is hereby directed to complete, and carry into execution, the verbal contract for a basin and railway in California in connection with the floating dry-dock, as made by the late Secretary, in pursuance of authority for that purpose given by the act of September 28, 1850, entitled 'An act making appropriations for the naval service for the year ending June 30, 1851,' and as stated in the letter of the said late Secretary, addressed to the Hon. Howell Cobb, Speaker of the House of Representatives, and dated the 21st day of January, 1851, towards the execution of which $150,000 is hereby appropriated: *Provided*, That, in the judgment of the Secretary, such basin and railway are necessary, and will be useful to the public service."

The SPEAKER. The Committee of the Whole disagreed to that amendment.

Mr. STANTON, of Tennessee. I ask for tellers on the amendment.

Tellers were ordered; and Messrs. HARRIS of Tennessee, and HART were appointed.

The question was then taken on concurring with the report of the Committee of the Whole, which rejected the amendment, and the tellers reported—ayes 56; when—

Mr. STEPHENS, of Georgia, demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BOWNE. I ask the Chair to state the question, so that we may vote intelligently.

The SPEAKER. The Committee of the Whole on the state of the Union reported against the amendment. For the sake of convenience, the question will be taken directly upon agreeing to the Senate amendment.

The question was then taken, and there were—yeas 81, nays 72, as follows:

YEAS—Messrs. David J. Bailey, Bennett, Bocock, Bowie, Bowne, Breckinridge, Briggs, Albert G. Brown, George H. Brown, Busby, E. Carrington Cabell, Joseph Cable, Thompson Campbell, Caskie, Cleveland, Conger, Cottman, Curtis, George T. Davis, Dean, Disney, Doty, Duncan, Dunham, Ewing, Fitch, Florence, Freeman, Henry M. Fuller, Gaylord, Gilmore, Goodenow, Goodrich, Green, Grey, Grow, Hart, Holladay, Ingersoll, Jackson, Robert W. Johnson, Little, Lockhart, Mace, Mann, Marshall, Martin, Mason, McCorkle, McDonald, McNair, Molony, Henry D. Moore, Morrison, Olds, Penn, Polk, Price, Riddle, Robie, Robinson, Sabine, Sackett, Savage, Schermerhorn, Schoolcraft, David L. Seymour, Snow, Frederick P. Stanton, Abraham P. Stephens, Strother, Sutherland, Sweetser, Thurston, Walsh, Ward, Washburn, Addison White, Wilcox, and Yates—81.

NAYS—Messrs. Aiken, Allison, Babcock, Barrere, John H. Boyd, Chapman, Churchwell, Clark, Clemens, Clingman, Cobb, Colcock, Darby, John G. Davis, Dawson, Dimmick, Dockery, Durkee, Eastman, Floyd, Thomas J. D. Fuller, Giddings, Hall, Isham G. Harris, Hascall, Haven, Hendricks, Hibbard, Horsford, Houston, Thomas M. Howe, Jenkins, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kurtz, Landry, Letcher, McQueen, Millson, Morehead, Murphy, Murray, Newton, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Penniman, Perkins, Phelps, Preston, Robbins, Ross, Russell, Scurry, Skelton, Stanly, Alexander H. Stephens, Stratton, Stuart, Taylor, Toombs, Townshend, Venable, Walbridge, Wells, Wildrick, and Woodward—72.

So the amendment of the Senate was adopted, and the action of the Committee of the Whole on the state of the Union reversed.

Mr. TOOMBS. I move to reconsider the vote just taken.

Mr. McCORKLE. And I move to lay that motion to reconsider upon the table.

The SPEAKER. Did the gentleman from Georgia vote with the majority?

Mr. TOOMBS. I did not.

The SPEAKER. Then the gentleman cannot make the motion. The Clerk will read the second amendment upon which a separate vote was asked. It is the long amendment which relates to the reorganization of the Navy.

Mr. PHELPS. And I desire to say that the amendment was not read in the Committee of the Whole upon the state of the Union.

The SPEAKER. The gentleman from Missouri is out of order.

Mr. PHELPS. It was so. It was not read.

The SPEAKER. Is it the pleasure of the House that the reading of this amendment, relating to the reorganization of the Navy, be dispensed with?

[Cries of "Yes!" "Yes!" all over the Hall.]

Mr. JONES, of Tennessee. I wish to inquire if the Chair is of opinion that gentlemen can be required to vote upon propositions which they have not heard read, and which never have been read, either in Committee or in the House?

The SPEAKER. If the gentleman desires to have the amendment read, the Chair will direct the Clerk to read it.

Mr. JONES. I ask to have it read.

Mr. STEPHENS, of Georgia. Is it in order to move to lay the bill upon the table?

The SPEAKER. It is.

Mr. STEPHENS. I make that motion.

Mr. DISNEY. I rise to a queston of order. This House has no power over the body of that bill. The House has passed it once and sent it to the Senate, and it comes back here with Senate amendments. This House has no power over any portion of it, except the amendments of the Senate.

The SPEAKER. The Chair decides that the motion to lay upon the table is in order.

Mr. JOHNSON, of Arkansas. That is perfectly clear.

The SPEAKER. The question is upon the motion to lay the bill upon the table.

Mr. STEPHENS, of Georgia. I demand the yeas and nays, and tellers on the yeas and nays.

Tellers were ordered; and Messrs. BRECKINRIDGE and CARTTER were appointed.

The House was divided, and the yeas and nays were not ordered.

The question was then taken on the motion to lay on the table, and it was disagreed to.

The Clerk proceeded to read the amendment.

Mr. POLK. I rise to a question of order. I understand that when this bill was brought out of the Committee of the Whole, it was by unanimous consent.

The SPEAKER. The gentleman is mistaken. There was no unanimous consent at all with reference to the subject.

Mr. JONES, of Tennessee. That amendment has never been read.

Mr. STEPHENS. I demand a division on every separate proposition in it.

The SPEAKER. Will the gentleman designate?

Mr. STEPHENS. I ask for a separate vote on the first clause now.

Mr. POLK. Is it in order to move that the reading of this amendment be dispensed with?

The SPEAKER. The Chair doubts whether it would be in order.

Mr. POLK. The policy indicated by the gentleman from Georgia, seems to be to consume time. I hope I do not do him injustice.

Mr. STEPHENS. My policy is to defeat the bill; and I will do it if I can.

Mr. POLK. The gentleman's purpose is to consume time and defeat the bill.

The SPEAKER. Debate is not in order, and the Chair must enforce the rule.

Mr. POLK. I move to suspend the rules for

the purpose of dispensing with the reading of the amendment.

The question was taken, and the rules were suspended.

Mr. JONES. Can any gentleman be required to vote on a proposition which has never been read?

The SPEAKER. By order of the House he can be required to do anything.

Mr. TOOMBS. I should like to see the House vote it on me. I will offer myself as a subject.

Mr. JONES. I will not vote on the proposition unless it be read.

The SPEAKER. The House has by a two-thirds vote dispensed with the reading of the amendment.

Mr. STEPHENS. I ask that the question be taken on the first clause, and on that I demand the yeas and nays.

Mr. HALL. I raise the point of order that the amendment is indivisible, and that it is to be voted upon as a whole.

The SPEAKER. Is this an amendment to an amendment?

Mr. HALL. It is a Senate amendment to a House bill.

The SPEAKER. It is amendable by the House.

Mr. HALL. But not divisible. It is an entire amendment.

The SPEAKER. The Chair decides that it is not divisible, and that it is to be voted on as an entire proposition. The Chair cannot divide it for he has not heard it read, and the House has decided that it shall not be read.

Mr. STEPHENS. I take an appeal from the decision of the Chair.

Mr. DEAN. I move to lay that appeal on the table.

Mr. STEPHENS. And on that question I demand the yeas and nays.

The question was taken, and the yeas and nays were not ordered, 14 only voting in the affirmative, which was not a sufficient number.

Mr. STEPHENS. I move that the House do now adjourn. I demand the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered; and the yeas and nays were not ordered.

The question was then taken, and the House refused to adjourn.

The question was then taken on the motion to lay the appeal on the table, and it was agreed to.

Mr. PHELPS. I demand the yeas and nays on the amendment of the Senate.

The yeas and nays were ordered.

The question was then taken on the amendment of the Senate, and it was non-concurred in—yeas 39, nays 106; as follows:

YEAS—Messrs. William Appleton, David J. Bailey, Bennett, Bocock, Bowie, Bowne, Brooks, Burrows, E. Carrington Cabell, Caskie, Chandler, Cottman, George T. Davis, Duncan, Edmundson, Faulkner, Florence, Gilmore, Goodenow, Haws, Holladay, Jackson, McCorkle, Price, Riddle, Sabine, Schermerhorn, Schoonmaker, Stanly, Frederick P. Stanton, Abraham P. Stephens, St. Martin, Strother, Sutherland, Sweetser, Taylor, Walsh, Ward, and Washburn—39.

NAYS—Messrs. Aiken, Allison, Barrere, Bibighaus, Breckinridge, Busby, Joseph Cable, Lewis D. Campbell, Thompson Campbell, Cartter, Chapman, Churchwell, Clemens, Clingman, Cobb, Colcock, Darby, John G. Davis, Dawson, Dean, Dimmick, Disney, Dunham, Eastman, Edgerton, Ewing, Ficklin, Fitch, Floyd, Henry M. Fuller, Thomas J. D. Fuller, Gaylord, Gorman, Green, Grey, Grow, Hall, Isham G. Harris, Sampson W. Harris, Hart, Hascall, Hebard, Hendricks, Hibbard, Horsford, Houston, Thomas M. Howe, Thomas Y. How, Ingersoll, Andrew Johnson, John Johnson, Daniel T. Jones, George G. King, Kurtz, Letcher, Little, Lockhart, Mace, Mann, Marshall, Martin, Mason, McDonald, McMullin, McNair, McQueen, Meade, Millson, Henry D. Moore, Morehead, Morrison, Murray, Newton, Orr, Outlaw, Andrew Parker, Samuel W. Parker, Peaslee, Penn, Penniman, Perkins, Phelps, Polk, Preston, Richardson, Robbins, Robie, Robinson, Russell, Savage, Schoolcraft, Scurry, David L. Seymour, Origen S. Seymour, Snow, Alexander H. Stephens, Stone, Thurston, Toombs, Townshend, Venable, Walbridge, Wells, Wilcox, Woodward, and Yates—106.

So the amendment was non-concurred in.

MAIL-STEAMER BILL.

Mr. PHELPS. I am desired by the gentleman from Alabama [Mr. HOUSTON] to move that the amendments of the Senate to the mail-steamer appropriation bill be taken up for consideration.

The question was taken, and the motion was agreed to; and the amendments were read.

"1st. Add at the end of the first section of the bill the following:

"For carrying out the contract entered into by the Post Office Department under the law passed at the last session of Congress, establishing a tri-monthly mail by steam-vessels between New Orleans and Vera Cruz, via Tampico, $70,000."

The question was taken, and the amendment was adopted.

"2d. Add as an additional section, the following:

"SEC. 3. *And be it further enacted*, That the Postmaster General shall cause the facts to be investigated in relation to the contract of A. G. Sloo, for the transportation of the mail in ocean steamers from New York to New Orleans, Charleston, Savannah, Havana, and Chagres, and back, per act of March third, eighteen hundred and forty-seven, for the purpose of ascertaining how far the contract corresponds with the original bids, and shall report to Congress at the next session the facts and circumstances connected with the said contract; and also for what amount the said mail service could be performed if a new contract should be made, and whether the ships furnished under said contract are built according to its terms. The Postmaster General is further directed by this act to ascertain and report to Congress at its next session for what amounts the service now performed under the several contracts with the Navy and Post Office Departments for carrying the mail in ocean steamers can be hereafter performed, upon the supposition that the United States shall take the steamers according to contract, and sell or transfer them."

Mr. HOUSTON. I move the following amendment to the amendment, to come in as an additional section:

SEC. 4. *And be it further enacted*, That upon the application of either of the companies contracting to carry the mail in ocean steamers from New York to Havre, or from New York to Bremen, the Postmaster General is hereby authorized to discharge such company from said contract: *Provided*, That no further compensation shall be paid to either of said companies after such discharge from its contract.

The question was taken, and the amendment was agreed to.

The Senate amendment as amended was then concurred in.

Mr. PHELPS, I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was taken, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair.)

LIGHT-HOUSE BILL.

Mr. DUNCAN. I move that we proceed to the consideration of the amendments of the Senate to the light-house bill.

The question was taken, and the motion was agreed to.

Mr. DUNCAN. I will state for convenience, that the Committee on Commerce of this House have examined the amendments, and agreed informally to recommend a concurrence in them.

The amendments of the Senate were read, as follows:

First amendment:

"For erecting a beacon light at 'Seine Rock,' Newport harbor, $1,000."

Second amendment:

"After line 21 add the following:

"For the erection of one or more beacon-lights below Middletown, on the Connecticut river, and for the erection of buoys and spindles, $3,000.

"For the erection of a fog bell or whistle, as the Light-House Board shall determine, on Pine Island in Fisher's Island Sound, $1,000."

Third amendment:

"After line 12 on page 5, insert as follows:

"For erecting a light house at the mouth of Portage river, $5,000.

"For the erection of a light-house at Point Iroquois, or on the island off Point Auxchens, as the Light-House Board shall determine, $5,000.

"For making the foundations of two light-houses, one to be a beacon-light, on the St. Clair flats, $10,000; the places to be selected and the work executed under the direction of the Topographical Bureau."

Fourth amendment:

"After line 16 on page 9, insert as follows:

"For the erection of a light-house in the San Pedro bay, $10,000."

Fifth amendment:

"Insert the following as an additional section:

SEC. 7. *And be it further enacted*, That the Secretary of the Treasury be directed, if in his opinion the safety of commerce demanded a light at Minot's Ledge, at the entrance of Boston harbor, to replace that which was destroyed, to examine into the claims of R. B. Forbes and others who kept a light-boat there at their private expense, and if he is of opinion that their doings were essential to the safety of navigation, to allow them such a sum as under the circumstances he deems reasonable, and to pay the same out of any money in the Treasury not otherwise appropriated."

Mr. FICKLIN. For how many new light-houses do the Senate amendments provide?

Mr. DUNCAN. They provide for five, but most of them are only beacon lights. They provide for two on the lakes, and a beacon-light on the coast of California.

The question was taken, and the amendments of the Senate were severally concurred in, and the bill was ordered to be laid aside to be reported to the House.

INDIAN APPROPRIATION BILL.

Mr. PHELPS. I move to take up the amendments of the Senate to the Indian appropriation bill.

The question was taken, and the motion was agreed to.

The first amendment of the Senate:

"Strike out of the following paragraph the words '22d,' and insert in lieu thereof, '27th:'

"For the pay of interpreters, per acts of the 30th June, 1834, and 22d February, 1851, $28,000."

Mr. PHELPS. That amendment ought to be concurred in. It merely recites the date of an act of Congress.

The question was taken, and the amendment of the Senate was concurred in.

The next amendment of the Senate:

"Insert the following after line 18, page 3, viz:

"For expenses already incurred, and that may hereafter be necessary, for vaccination of Indians, $5,000."

Mr. PHELPS. The committee have made no examination of the matter. It is but an act of humanity on our part to provide for the vaccination of the Indians to save them from the ravages of the small-pox.

The question was taken, and the amendment was concurred in.

The third amendment of the Senate:

"On page 3, after line 22, insert the following:

"For deficiencies in the fund for the contingencies of the Indian Department, $15,000."

Mr. HOWARD. That is founded on a recommendation from the Department.

The question was taken, and the amendment was concurred in.

The fourth amendment of the Senate:

"Insert after line 12, on page 22, the following:

"For the removal and subsistence of Seminoles now in Florida, $200,000; this amount having been heretofore appropriated and carried to the surplus fund under the act approved the 31st of August, 1852, making appropriations for the civil and diplomatic expenses of the Government."

Mr. PHELPS. I believe that it was in 1849 the appropriation of $200,000 was made for the purpose of defraying the expense of the removal of the Seminoles from Florida to the country assigned them west of Arkansas.

Mr. CLEMENS. I demand tellers.

Tellers were not ordered.

The question was taken, and the amendment was concurred in.

The fifth amendment of the Senate:

"To this clause, viz:

"For payment in full of all claim under that part of the treaty of 1831 which has relation to the grant of one hundred thousand acres of land, in fee-simple, to the then Ohio Shawnees, $66,246 23: *Provided*, That the receipt therefor shall specify that it is in full satisfaction of such claim: *Provided*, That this appropriation shall not be held to affect the title of the Ohio Shawnees to land under the treaties of 1825 and 1831 within the fifty miles square ceded to the Shawnees of Missouri by the treaty of 1825;"

"Add the following proviso:

"*Provided*, That the sum aforesaid shall be paid to the said tribe *per capita*; and if any agent or other person shall violate this proviso, he or they shall be guilty of felony, and shall be liable to indictment in the jurisdiction in which the Indians reside, and punishable by fine and imprisonment; the fine not to be over $1,000, nor less than $500, and to be imprisoned not more than ten years, nor less than five."

Mr. FITCH. I do not see the propriety of that amendment. We have a general law now, providing for the paying of annuities and other moneys to the Indians *per capita*. It would be no stronger by reiteration, and the only result of the adoption of the amendment would be to create dissensions among the Indians themselves; for they sent a portion of their own tribe here—their chiefs—to attend to the prosecution of this claim. Those chiefs expect some compensation for their services, and they will be, of course, liable to these penalties even if the Indians voluntarily propose to pay them. I hope it will not be concurred in.

Mr. MACE. I know something about this Indian bill, and I can say that the amendment is perfectly useless. The only effect of it will be that the agents will steal the money before it goes into the hands of these Indians, and in most instances, they steal it after it does get there. [Laughter.]

Mr. JOHNSON, of Arkansas. I wish to state some facts in regard to the character of this sort

of legislation. I presume that it originates in a spirit which has existed in Congress heretofore to protect the Indians against unjust contracts made with agents. If that be so, I will state that the amendment which is now made must be oppressive to the Indians; and I will show how I think it is. The law of the land, as it now stands, requires the agents of the Government of the United States, where the money is due in a national form, to pay it *per capita* into the hands of the Indians, and that no contract of an agent with any Indian tribe shall be recognized by the Government so as to pay the money into the hands of any agent. This was enacted at the instance of the gentleman from South Carolina, [Mr. WOODWARD,] after full debate, at the last session of this Congress. In the settlement of the contracts made by the Indians, in nine cases out of ten, the facts will show that the Indian will not submit to injustice and wrong if the means of redress are within his power. Give them their money in their own hands, pay it not into the hands of agents, and they will protect themselves. Such is the law of the land as it now stands, and if we adopt the spirit of this amendment as a general law of the land, the consequence must be, at least so it seems to me, that it will cut the Indian off from the power of prosecuting his rights before us in any form; because we know that the white man will not undertake it without compensation, and we know, also, that the Indian himself cannot prosecute his claim, for he is helplessly and hopelessly unable to do so. They must have some means of communicating with the Government of the United States, at whose hands they demand relief, and from whom they are asking but simple justice, in a thousand instances. If we say that they shall have no communication, we will put them in a condition still more hopeless. We may violate treaty after treaty, and yet, if you would adopt the spirit of this amendment as general legislation, you would deprive them of the means even of communication, whether to implore your mercy or protest against your perfidious wrongs. I am satisfied that this legislation is entirely unnecessary, to say the least of it.

Mr. DUNHAM. I oppose the amendment.

Mr. JOHNSON. I withdraw the amendment.

The question was taken upon the Senate amendment, and it was rejected.

The sixth amendment of the Senate being next in order—

Mr. PHELPS. The clause in the original bill reads thus:

"*Texas Indians.*—For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, $15,000."

The Senate amendment proposes to strike out "15,000" and insert "30,000."

Mr. FITCH. I should like to inquire whether the Committee on Finance have had that matter under consideration?

Mr. PHELPS. The Committee on Ways and Means have not.

Mr. FITCH. Let us hear some necessity for it.

Mr. HOWARD. I move to increase the sum one dollar. I will state that one of the Indian agents came here from Mexico and communicated with the Department that an increase of the fund was absolutely necessary. The Department became satisfied of that fact and addressed a letter to the committee of the House, but it did not reach the House until the morning of the passage of the bill. The letter was communicated to the Senate, and the Senate, upon the recommendation of the Department, increased that fund. I will state, for the information of the House, that it is not only the opinion of the Indian agents, but of the officers of the Army, that an increase of this fund to these Indians for the purchase of provisions is worth much more than many times the amount devoted to fighting or attempting to subdue them. I withdraw my amendment.

The question was taken upon the Senate amendment, and it was rejected.

The seventh amendment of the Senate:

"Page 78, after line 3, insert as follows:

"To enable the Departments to procure the medals of the next President of the United States for presentation to chiefs and headmen of the Indian tribes, $2,500."

The question was taken, and the amendment was agreed to.

The eighth amendment of the Senate:

"Insert, in page 78, after line 3, the following:

"To pay to Andrew Taylor, the head of a Cherokee family $14,725, with interest from the 23d day of August, 1843, in adjustment of his reservation rights, under the thirteenth article of the Cherokee treaty of 1835; and the amount necessary for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the sum appropriated by this clause shall be paid directly to the said Taylor, and not to anybody else."

Mr. CLINGMAN. I will only say this: if gentlemen want any explanation about it, that it stands precisely upon the same ground with the case of David Taylor. This case was regularly adjudicated by the commissioners appointed under that treaty. I will remind gentlemen that the only difficulty made in the Department in reference to David Taylor's case was want of a fund out of which to pay it. I read statements, at the last session, of the Auditors, Solicitors, and from the Attorney General and Secretary of the Treasury, all sustaining it. This case is placed upon the same grounds with that of David Taylor, except that it is free from the difficulty made in that case, for it was alleged that he had sold his reservation previously. There is no pretense of that kind in this instance. It was regularly adjudicated, as the report shows.

Mr. FITCH. I suppose it is in order for me to oppose the amendment. We learn from the confession of the gentleman from North Carolina [Mr. CLINGMAN] that he is the counsellor of David Taylor. This is a private claim of the same character. It is a claim which, in the opinion of the committee in the Senate, as appears from their report, grows out of some treaty stipulation. This is a claim of the same character as is alleged. It certainly ought not to pass, because I believe it is said by several of those who sustained David Taylor's claim, that the claim was an unjust one. It was based upon a treaty, or certain provision of a treaty; but the reports to which the gentleman alludes in favor of David Taylor from the Department were, as I attempted to show at the last session, and would have shown had I procured a hearing from the committee, based upon an error. The opinion of the Attorney General was based upon an error, which it appears had grown out of their want of close observation of the papers, and furthermore, from the fact that many of the papers had not been submitted to them. This is a claim of the same character; and if it is just, it is singular that it has laid over ever since 1835; and this should be a sufficient objection to it.

Mr. JOHNSON, of Arkansas. As we may get into a squabble before we get through with the bill, I move that the committee rise with a view of closing general debate upon this matter.

The question was taken upon Mr. JOHNSON's motion and it was decided in the negative.

So the committee refused to rise.

Mr. BROOKS. I move to strike out the word "interest."

Mr. CLINGMAN. I will barely state that we paid interest in the other case from 1838, from the time the treaty provided that the money should be paid. In this instance they have allowed interest to 1843 or 1844. When this case was adjudicated and a judgment was given in its favor by the commissioner, it was adjudged that he was by treaty entitled to be paid from the date of the appropriation by Congress, which occurred in 1838.

Mr. HAVEN. The House refused to pay interest to the Seneca Indians upon money of which they had been cheated.

The question was taken, and the amendment was disagreed to.

Ninth amendment of the Senate:

"Insert the following:

"That the President of the United States be, and he is hereby, authorized to make five military reservations from the public domain in the State of California, or the Territories of Utah and New Mexico, bordering on said State, for Indian purposes: *Provided*, That such reservations shall not contain more than twenty-five thousand acres in each: *And provided further*, That said resservations shall not be made on any lands inhabited by citizens of California; and the sum of $250,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of subsisting the Indians in California and removing them to said reservations for protection."

Mr. PHELPS. That amendment proposes, at the commencement, to make five military reservations in California, Utah, or New Mexico, but at the close they are converted into Indian reservations, and the sum of $250,000 is appropriated for the purpose of placing the Indians upon them and subsisting them. All this is to be done before any treaty has been made with those Indians, or ratified by the Senate.

Mr. DUNHAM. I would ask the gentleman if we shall not have to continue the subsistence after we get the Indians upon the reservations?

Mr. PHELPS. I suppose so.

Mr. JOHNSON, of Arkansas. This amendment presents a matter which has never come up before the Indian Committee of this House; but from what little information I have in regard to it, I am disposed to give it my hearty and entire support. The information I have in regard to it, I have derived from the chairman of the Committee on Indian Affairs in the Senate, where this matter has been fully investigated. There are about seventy thousand of these Indians in California and that country, who are capable of labor, and disposed to labor. They are docile by nature, and inclined to the pursuits of peace and agriculture. In their present condition, they are employed during the summer season by the miners, and when winter comes they are turned loose to starve and die. A large number of the Indians who were there originally when we took possession of the country, have already perished. An attempt has been made to save them by collecting them together on particular reservations, or lots of ground, and giving them some one who shall act as overseer and director. In one instance, where it has been attempted, many hundred Indians have assembled together, and have twelve hundred acres of land in fine cultivation. They work hard, are contented and satisfied, and have better hopes of their own existence. The system is a humane one, and has, I repeat, been found to work well.

Sir, this amendment does not propose to adopt the policy with regard to these Pueblo Indians which has heretofore been adopted in our Indian relations. It proposes to provide them with lands in the shape of military reservations, and not to give them the fee-simple title to the tracts of land; so that if hereafter it shall become necessary to remove them, the Government will not be subjected to the expense of purchasing out their title. The amendment proposes that there shall be five reservations of twenty-five thousand acres each. That sounds very large; but the House will permit me to say that it is only a township of land, and is six miles square.

Sir, I am satisfied that this is the wisest and most humane plan that has ever yet been devised for the purpose of preserving the Indian tribes and extending to them some future hope. With that view, and in that belief, I shall support the amendment of the Senate. I understand that the Senate Committee on Indian Affairs, after full and mature examination, were unanimous in recommending this amendment, and that when it was explained to the Senate, there was but one opinion in regard to it, and that was that it was right, and that the dictates of humanity required it. I ask for it the consideration and support of the House.

Mr. DUNHAM. Even if this amendment is a proper one, I think that this is a very improper time, and that this is a very improper manner to adopt it. It is undoubtedly the entering wedge to an entire change in the system of managing the Indians, and it ought not to be adopted without mature deliberation and full information. The gentleman from Arkansas himself tells us that he has had no opportunity of examining this matter, and depends entirely upon information derived from the Senate. And upon such information as that we are asked to appropriate $250,000 to begin with, and everybody must know that the system proposed will lead to continued expenses and appropriations. I think it ought not to be adopted in this manner.

Mr. CLEVELAND. It strikes me that we shall be doing better justice to ourselves, if we agree to this amendment, than when we vote the money which is ordinarily voted to the Collins line of steamers and other projects of that character. Gentlemen object that we have not had time to examine this amendment. That argument will exist through all coming time. The appropriation bills will be presented next session in September, and in the hurry, and in the night-time, there will be no opportunity to examine this proposition, and it will again go over. These Indians have got to live next winter. We have taken away their lands, and we owe them protection. We

have robbed them of the entire continent, and I think the small quantity of land that the Senate now proposes to give them is very reasonable. With regard to the $250,000, it strikes me that that much money ought to be appropriated to aid the Indians in starting as agriculturists. We must either adopt the policy of killing them off by arms and starvation, or this more humane policy. It seems to me that this is the policy we ought to adopt. We owe it both to ourselves and to the Indians. The amendment made by the Senate was properly made, in my judgment, and this argument about not having time to examine it will be a good argument throughout all coming time, and ought, therefore, to have no weight with the House. The committee of the House are not to blame. They had no time to examine it. The committee of the Senate, however, found time to examine it, and they recommended it with great unanimity. I trust every member of the House will be willing to do justice to this injured and much-abused race of men.

Mr. SACKETT. Five reservations of twenty-five thousand acres each make a country of nearly two hundred and fifty square miles; and as the gentleman from Arkansas says there are only seventy thousand of these Indians in California, that will be a little over three hundred to the square mile. I am opposed to the amendment.

Mr. FICKLIN. I desire to say a word in regard to this amendment of the Senate, and I will state to the committee that the only objection I have to it arises from the fact that the honorable chairman of the Indian Committee does not seem to know, of his own knowledge, as much about it as I hoped he did.

Now, if the facts which the gentleman states from the information of others, in regard to the agricultural disposition of these Indians, be correct, then I think with him, and with the honorable gentleman from Connecticut, [Mr. CLEVELAND,] that it is a matter of the very first importance that we should adopt this system, and induce agricultural pursuits on the part of these Indians by every possible mode which can be presented to us.

Mr. JOHNSON, of Arkansas. Did the gentleman understand me to say that this was not right?

Mr. FICKLIN. No, sir; no.

Mr. JOHNSON. I say that it is right. I am in favor of it, and shall certainly vote for it.

Mr. FICKLIN. I say that I concur with the gentleman from Arkansas in his policy in regard to the treatment of these Indians, and I only regret that his information is not more minute with respect to this amendment. I suppose he is correct, however, and I believe that this policy of inducing the Indians to cultivate the soil, and turn their attention to industry, is of the utmost importance to us, and that we should adopt this amendment, even though somewhat in the dark.

Mr. McCORKLE. I can only say, in addition to what has been remarked by the gentleman from Arkansas, [Mr. JOHNSON,] that this system is recommended by the Commissioner of Indian Affairs for the State of California—a gentleman who knows more perhaps of the Indian character there than any other man. He has investigated this matter, and bestowed personal attention upon it, and recommends the policy after mature deliberation, and from his own observation and experience.

I am perfectly acquainted with the facts, in regard to the number of Indians engaged for some time past in cultivating the land on the Indian reservation, made by the Indian commissioner appointed under the law of Congress passed two years ago. When the Indian treaties were rejected by the Senate, Captain Savage, the Indian agent, induced a number of the Indians to come together upon his own land or lands, which he appropriated to himself, and they have succeeded beyond expectation. Captain Sutter, whose farming operations are more extensive than those of any other gentleman in that State, now uses Indian labor entirely.

If this policy is carried out, and these reservations are made in California, the Indians in that State, instead of being an expense to the Government, will not cost anything. They will be able to support themselves entirely. This will, therefore, be an economical investment of money, if the policy succeeds; and that it will succeed, I have no doubt whatever.

Mr. FITCH. One objection to this proposition strikes me, which I should like to have obviated, because my disposition is to vote for it. My objection is this: By the laws of Mexico these Indians have no possessory right to the soil, and they have therefore no right to it in California, New Mexico, or Utah. Now I want to know if it is proposed to purchase a right of these Indians which we already possess, and to pay them $250,000 for it? I say these Indians have no right or title to the soil; and for that reason I object to this amendment, if I understand it properly.

Mr. JOHNSON, of Arkansas. It is very singular that it should have escaped the gentlemen of this committee, or rather, perhaps, I should say that the fault is my own, and that it is singular that I should have failed to make it clear to this committee in the few remarks I submitted upon this subject, what it is that this amendment proposes to do. It is this: It proposes to set apart from the land which it is assumed the Government possesses, five townships of land, in different places, for the use of these Indians. I discover from the action of the Senate that we are going on to treat that title to this land precisely as Texas has done in relation to the lands in that State, and which we have criticised quite severely. We are going on to treat these Indians as having no title to the lands which we take from them, and for which we are receiving millions into the Treasury of the United States without any possessory right, except the right of occupancy. But this policy has been recognized, and we are going on to carry it out.

Now it is proposed to set apart for these Indians five townships, which is thirty-six sections, or six miles square of the land which has been taken from them, for the purpose of enabling them to follow agricultural pursuits. The subject has been matured by some individuals in California, and is recommended by Mr. Beale, the Indian agent in California. The system which it is proposed to carry out is one which has stood the test of experience. They have already collected a large body of these Indians, amounting to several hundreds in number; they have induced them to cultivate the soil, and by which they are now living happily together. They have already several hundred—I think twelve hundred acres—in cultivation. The agent states that the experiment has proved a peculiarly happy and fortunate one. When this amendment passed the Senate, I presented the subject to the gentleman from California, [Mr. McCORKLE.] He said he did not desire it unless he knew it to be right; that he had not examined it. I told him that if he would say he did not think it was right, I would not support the amendment. He said he would examine it. When he had examined it, he came back, and I asked him to say whether it was a proper amendment or not. He said he believed it was proper; that after investigating the subject from his own knowledge of the country and of these Indians, he was satisfied that it embraced the true policy of the country. That is the opinion of the honorable gentleman from California, [Mr. McCORKLE.]

Now, as to the subject of the $250,000, I will say to this committee that there are seventy thousand of these Indians, and there are numbers of them now soliciting admittance into that settlement. There are whole bands of them wishing to come in. There is not space enough to receive the number who seek admittance into the settlement, and the five townships which this amendment proposes to set apart, will be barely sufficient for that purpose. The money which the amendment appropriates is to be used for the purpose of furnishing them with farming utensils and the implements of husbandry, and to support them until such time as they can provide for their own support. If it subserves the purpose for which it is designed, in my opinion it will be money well expended.

The character of the Pueblo Indians is well known to every gentleman here. They are the most peaceable, the most harmless, and the most civilized Indians on the continent of America. They have been made so by the efforts of the Roman Catholic missionaries.

These, sir, are the facts of the case. I think this committee will agree with me that it is a wise and humane plan compared with the policy that we have heretofore pursued towards the Indian tribes upon this continent, and the devastation with which we have visited them. It will furnish one point in our Indian intercourse towards which we can look with satisfaction, and feel that we have done our duty.

Mr. THOMAS M. HOWE obtained the floor.

Mr. JOHNSON. If the gentleman does not desire to speak, I ask him to give way to enable me to move that the committee rise, for the purpote of stopping this debate.

Mr. HOWE. I can say all that I desire to say in about two minutes.

Mr. JOHNSON. Well, go on. I only thought it was time to bring this discussion to a close.

Mr. HOWE. I think the chairman of the Committee on Indian Affairs has said enough to satisfy the committee that this proposition ought not to be adopted now. According to the statement of that gentleman, no committee of this House has examined the subject. Now, what does this amendment propose? It proposes to make a very important change in the policy of the Government towards these Indians. The sum of money it proposes to appropriate is a large one. We have already voted an appropriation of some $200,000 to remove and subsist the Seminole Indians, and in consideration of the fact that it gives these Indians about $400 apiece for their removal and subsistence, it is a large appropriation. We are now asked to vote $250,000 more, and to adopt a system which the gentleman from Arkansas states has not been examined by any committee of this House.

Sir, this is too important a matter to be acted upon by this House hastily, at the close of the session. In all the suggestions of the gentleman from Arkansas, I most heartily concur. Some new system with reference to these Indians will most undoubtedly have to be adopted by this Government, and with some slight alterations, I think the system reported by the Senate will be a good one; but we have no time to consider it now. I think this $250,000 ought not to be appropriated until the matter has been maturely investigated by a committee of the House. In accordance with the suggestion of the gentleman from Arkansas, I move that the committee do now rise, for the purpose of stopping this debate.

The motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman (Mr. ORR) reported that the Committee of the Whole on the state of the Union had, according to order, had under consideration the Union generally, and particularly the amendments of the Senate to the Indian appropriation bill, and had come to no resolution thereon.

Mr. THOMAS M. HOWE. I move the usual resolution to close debate in Committee of the Whole on the state of the Union on the amendments of the Senate to the Indian appropriation bill.

Mr. SWEETSER. I hope the gentleman from Pennsylvania will withdraw that motion. I desire to be heard upon this measure.

[Cries of "Oh no!"]

Mr. HOWE. I should be glad to accommodate the gentleman, but I cannot withdraw my motion.

The question was taken, and the resolution was adopted.

Mr. PHELPS. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The rules were accordingly suspended, and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the amendments of the Senate to the Indian appropriation bill.

Mr. WEIGHTMAN. I move to strike out the words "New Mexico" wherever they occur in the Senate amendment.

Mr. Chairman, I approve of the idea of military reservations for the residence of Indians, but not the reason given by the honorable chairman of the Committee on Indian Affairs. I think if the Indians are settled on military reservations, these unfortunate creatures will have some place where they can rest the soles of their feet without disturbance. But——

Mr. JOHNSON, of Arkansas. I understand that my honorable friend objects to New Mexico being included in this amendment because it will carry away a good population. I am perfectly

willing that New Mexico shall be exempted, and I will suggest a further amendment, to add after the word "subsistence," the words "and for implements of husbandry."

Mr. WEIGHTMAN. I have no objection to that.

Mr. FICKLIN. I think the suggestion of the gentleman from Arkansas is a good one. I move to amend the Senate amendment by inserting after the word "protection" the following: "and for purchase of implements of husbandry."

The question was taken, and the amendment of Mr. WEIGHTMAN to the amendment was adopted.

Mr. HALL. I have no doubt of the benevolent intention of the gentleman from Illinois in proposing the amendment, but I seriously doubt whether the amendment ought to be adopted by this committee. Now, I know something of these Pueblo Indians, as I have been frequently among them. So far as my experience goes these Indians will not, and cannot, under any circumstances be induced to use these farming implements. Some of the old Californians, when they had these Indians in their employment, got American plows, and employed persons to instruct them how to use them, and all they could do could not induce those Indians to use the American plows. They still would use the stick plow shod with a piece of iron.

Mr. HOWARD. I think the gentleman very much underrates the Pueblo Indians.

Mr. HALL. I am talking of the Pueblo Indians in California.

NAVAL BILL.

A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate insist upon their amendments to the bill of the House making appropriations for the naval service, and disagree to the amendments of the House thereto, and ask a Committee of Conference.

Mr. PHELPS. I move that the House insist upon its disagreement to the Senate amendments to the bill making appropriations for the naval service, and that a Committee of Conference be appointed on the part of the House.

The question was taken, and the motion was agreed to.

The SPEAKER thereupon appointed Messrs. STANLY, ANDREW JOHNSON, and J. GLANCY JONES, as such committee upon the part of the House.

INDIAN APPROPRIATION BILL.

Mr. HALL, (resuming.) I only wanted very briefly to call the attention of the House to the propriety of that amendment. My opinion is, if you undertake to buy agricultural implements for the Indians, the money will be thrown away. I have paid much attention to this matter, and have seen the Indians frequently, and my opinion is that you cannot induce them to use these agricultural implements.

The question was then taken upon the amendment of Mr. FICKLIN, and it was not agreed to.

Mr. SWEETSER. I move to increase the appropriation $1,000.

I move an amendment for the purpose of adding my testimony to that of other gentlemen in relation to a change of policy towards the Indians; and if I had the power, I should desire to remove from the minds of gentlemen in this House any doubts they may entertain as to the propriety of this change on the part of the Government. I believe I have taken as much interest in this matter as others who have spoken upon the subject.

I have been long satisfied that the whole policy of the Government in regard to the Indians must be changed; and in the acquisition of this territory from under the Spanish and Mexican title, we are relieved from difficulties which attached to the whole policy of the Government in relation to the Indians upon the original territory of the United States. This amendment of the Senate, sir, will be received by the country as a message of peace to that people. The time has come when the representatives of the people consider a change of policy necessary, and they have proposed to protect the remnant of these tribes which may be within our borders. They propose to appropriate money to put into their hands implements of husbandry; and instead of compelling them to roam over the plains of the West for subsistence, they propose to put into their hands the instruments by which they can dig from the earth that which they so much need. Instead of seeing them roving over the country for robbery and plunder, you may expect to see them congregating in happy villages, a happy people. The policy which has marked this Government towards them I have hitherto denounced as an outrage upon that people. Do not hesitate to appropriate for their good $250,000. Give them all that may be necessary. As a western man, I am prepared to vote, I care not what amount, if it can be favorably employed to the improvement of their condition. Let us declare to the Indians upon the Pacific coast, and upon our newly-acquired territories, that we will give them the means by which they may acquire a subsistence, and that we will extend the laws of the country over them.

[Here the hammer fell.]

Mr. DEAN. I move that the committee rise, with a view of submitting a motion to terminate debate upon this clause of the bill.

Mr. DUNCAN. I understood that the debate was ordered to be closed some time since.

The CHAIRMAN. The motion to which the gentleman refers was to close the general debate upon the bill.

The question was then taken on the motion of Mr. DEAN, and it was agreed to.

The committeee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. ORR) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the Senate amendments to the bill of the House making appropriations for the service of the Indian Department for the year ending 30th June, 1854, and had come to no resolution thereon.

Mr. DEAN. I move the usual resolution to suspend the rule which authorizes five-minutes debate upon the clause of the bill now under consideration in committee.

The question was put, and the motion was agreed to.

Mr. DEAN. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union.

The question was put, and the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. ORR in the chair,) and resumed the consideration of the Senate amendments to the bill making appropriations for the Indian service; the pending amendment being the amendment of Mr. SWEETSER to the Senate amendment.

The question was taken, and the amendment was not agreed to.

The CHAIRMAN. The question is upon concurring in the amendment of the Senate.

Mr. JOHNSON, of Tennessee. I wish to make a single inquiry.

Mr. JOHNSON, of Arkansas. Debate is out of order.

Mr. JOHNSON, of Tennessee. I wish to ascertain, if I can, whether that amendment does not propose to set apart land for the Indians?

The CHAIRMAN. The Chair will have the amendment reported.

The amendment was accordingly again read.

Mr. JOHNSON, of Tennessee. I do not wish to delay the proceedings of the House, but I desire to make an inquiry before I offer an amendment. Would it be in order?

Mr. JOHNSON, of Arkansas. Debate has been closed upon this clause. I regret very much to object, but the House has become impatient, and I do not want the gentleman to go on. I must object to any debate.

Mr. JOHNSON, of Tennessee. I suppose it is in order to offer an amendment?

The CHAIRMAN. It is.

Mr. JOHNSON, of Tennessee. If it is in order to offer an amendment, it is in order to ascertain whether the amendment I propose to offer would be in order or not. That Senate amendment proposes to set apart so much land to be occupied by the Indians. Would it be in order to offer an amendment to set apart so much land for free white citizens?

The CHAIRMAN. The Chair thinks it would not be in order. [Laughter.]

Mr. JOHNSON, of Tennessee. I wish to make another inquiry. It seems to be in order to set apart land for red men, and not for white men. Would it——

Mr. JOHNSON, of Arkansas. No title to this land is given to them. It is a military reservation, and the title is to remain in the United States.

[Cries of "Order!" "Order!"]

Tellers were called for; but they were not ordered.

The question was then taken upon the amendment of the Senate as amended, and it was disagreed to.

The tenth amendment of the Senate:

"Insert as follows:

"SEC. 5. *Be it further enacted*, That the thirteenth section of the act approved March 3, 1851, entitled 'An act to ascertain and settle private land claims in the State of California,' be so modified that claimants to land in said State shall be allowed until the 1st day of March, 1854, to present and file their claims before said commissioners."

Mr. DUNHAM. I hope that amendment will not be concurred in. It is a matter entirely foreign to the bill, and has no connection whatever with it. I do think it is a great outrage that——

[Cries of "Order!" "Order!" all over the Hall.]

The CHAIRMAN. Debate is not in order.

The question was then taken upon agreeing to the above Senate amendment, and it was decided in the negative.

So the amendment was rejected.

Mr. PHELPS. I move that the committee rise and report the bills to the House.

The question was taken, and the motion was agreed to.

The committee accordingly rose, and the Speaker having resumed the chair, the chairman of the committee (Mr. ORR) reported that the Committee of the Whole on the state of the Union had, according to order, had the state of the Union generally under consideration, and particularly the bill of the House (No. 333) making appropriations for light-houses, light-boats, barges, &c., &c., and providing for the erection and establishment of the same, and for other purposes, and had instructed him to report the same back to the House with some amendments; and that the committee had also under consideration Senate amendments to the bill of the House making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1854, and had instructed him to report it back with sundry amendments, in some of which Senate amendments the committee concur, and in some they non-concur.

LIGHT-HOUSE BILL.

Mr. PHELPS. I call for the previous question upon the light-house bill.

The previous question was seconded, and the main question was ordered to be put.

The SPEAKER. The Committee of the Whole recommend a concurrence in the Senate amendments to the bill. The question will be upon agreeing to the action of the committee.

The question was put, and the recommendation of the committee was concurred in.

INDIAN APPROPRIATION BILL.

Mr. DUNHAM. I move the previous question upon the Indian appropriation bill.

The previous question was seconded, and the main question was ordered to be put.

Mr. ORR. I would suggest, that by general consent all of the amendments to which no objection is made be concurred in, without their being again read.

The SPEAKER. If such be the desire of the House, that course will be pursued.

Mr. FICKLIN. Let them be read, and members can then ask separate votes upon such as they desire.

The SPEAKER. The Clerk will read the amendments, and a separate vote will be taken when requested.

The fourth amendment of the Senate was then read, as follows:

"For the removal and subsistence of Seminoles now in Florida, $400,000, this amount having been heretofore appropriated and carried to the surplus fund under the act approved the 31st of August, 1852, making appropriations for the civil and diplomatic expenses of the Government."

Mr. PENNIMAN. I desire a separate vote upon that amendment.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a concur-

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rence in that amendment. The question will be upon agreeing to the report of the committee.

The question was taken, and it was decided in the affirmative.

So the Senate amendment was agreed to.

The sixth amendment of the Senate was then read, as follows:

"Strike out '$15,000' and insert '$30,000' in the following clause:

"For compensation of three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, $15,000."

Mr. JOHNSON, of Arkansas. I ask for a separate vote upon that amendment. These Indians are starving, and the Government recommends that the sum be appropriated.

The SPEAKER. The Committee of the Whole on the state of the Union recommend a disagreement to the amendment, and the question is upon concurring in that recommendation.

The question was taken, and the Chair announced that it was decided in the affirmative; when

Mr. JOHNSON, of Arkansas, called for a division upon it.

Mr. DOCKERY. I ask for the reading of the amendment again.

The amendment was accordingly again read.

Mr. JOHNSON, of Arkansas. I hope the amendment will be agreed to. These Indians are starving, and they need the money.

The House was then divided upon the question of concurring in the Senate amendment, and there were in the affirmative only 56, noes not counted.

So the Senate amendment was disagreed to.

[A message was here received from the Senate, by the hands of Asbury Dickins, its Secretary, informing the House that the Senate insist upon their amendments disagreed to by the House, and disagree to the amendments of the House to the amendments of the Senate to the bill of the House (No. 342) "making appropriations for the naval service for the year ending June 30, 1854," and that the Senate ask a conference with the House upon the disagreeing votes of the two House thereon.

Also, that the Senate had agreed to a second conference on the disagreeing votes of the two Houses on the bill of the House (No. 337) "making appropriations for the civil and diplomatic expenses of the Government for the year ending the 30th of June, 1854."

Also, that the Senate had agreed to the amendment of the House to the amendment of the Senate to the bill of the House (No. 349) "making appropriations for the transportation of the United States mail by ocean steamers and otherwise during the fiscal year ending the 30th of June, 1854.]

The question was then taken upon concurring in the recommendation of the Committee of the Whole on the state of the Union, in relation to all the amendments upon which a separate vote had not been requested, and it was decided in the affirmative.

Mr. PHELPS. I move to reconsider the votes just taken upon the amendments to this bill, and also to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

EMILIE HOOE.

Mr. SIBLEY. I ask the unanimous consent of the House to take up from the Speaker's table a Senate bill for the relief of Emelie Hooe. I ask that it may be read, and I am sure after gentlemen hear it, no one will object.

The bill was then read for information. It provides for allowing her the half pay of captain for five years, to commence on the 1st of January, 1851.

Several Members. I object!

Mr. SIBLEY. I move to suspend the rules to allow me to take it up.

Mr. KING, of New York. I ask for a division on that motion.

The House was divided; and there were 54 in the affirmative, negative not counted.

So the rules were not suspended, two thirds not voting in the affirmative.

WIDOW OF COMMODORE DECATUR.

Mr. DAWSON. I move to take up Senate bill No. 265, for the relief of the captors of the frigate Philadelphia, and ask the House to indulge me whilst I make a brief statement of the history and merits of this claim. The bill makes compensation to the surviving officers and crew of the little ketch Intrepid, for signal and gallant services rendered in the month of February, 1804, who entered in the night the harbor of Tripoli, and under the very guns of the castle of the Bashaw, boarded the frigate Philadelphia, then a captured prize in the possession of the Tripolitans, cleared her decks, killing twenty of her crew in a close fight, drove the balance into the sea, then fired the vessel, by which she burnt to the water's edge, and made their escape without the loss of a single man. This gallant act was conceived by Stephen Decatur, and executed by him and his gallant crew with singular fidelity, resolution, and courage. The history of this affair is as brief as the achievement was brilliant; and I shall therefore detain the House but for a moment in referring to it. After the close of the Revolution, and in the beginning of the present century, our Navy was greatly reduced in the number of its vessels-of-war; they were in a dismantled condition, and numbers of the officers and crews were disbanded. As a consequence of our defenseless condition upon the sea, spoliations were committed upon American commerce; and nowhere was piracy so bold and reckless as in the Mediterranean. For a time we enjoyed the friendly protection of the British, Swedish, and other friendly Powers, until withdrawn from commercial rivalry, when the Government of Tripoli, in May, 1801, made an open declaration of war against the United States.

The Government of the United States, prior to being informed of this declaration of war by Tripoli, had sent a squadron into the Mediterranean for the protection of American commerce, which remained there until the fall of 1803, when the frigate Philadelphia, while in chase of a Tripolitan vessel, stranded off the harbor of Tripoli, and in that condition contended gallantly against the powerful batteries of the citadel until the tide falling, the ship settled, was captured, and afterwards carried into Tripoli as a prize. Commodore Bainbridge, his officers and men, made prisoners, were confined in the prisons and dungeons of the city. This disaster was touching to the pride and spirit of our Navy, and it was agreed that something must be done. In the mean time, Commodore Preble, in command of the Constitution, had passed the Straits of Gibraltar and took command of the squadron. Decatur suggested to Commodore Preble his plan for the recapture of the frigate, and on the 31st of January, 1804, he received orders to carry his purpose into execution. The crew of Decatur consisted of three lieutenants, seven midshipmen, one surgeon, and sixty-two seamen and marines, all of whom were volunteers in the enterprise. On the third day of February, this gallant band left the harbor of Syracuse, in Sicily, and against adverse winds, upon a doubtful sea, and still more doubtful enterprise, succeeded in entering the harbor of Tripoli, boarding the ship, clearing her decks, fully rescuing her, then destroying the vessel by firing her, and escaping by the light of the conflagration without the loss of a single man. This daring deed shone forth then, as it does now, an illustrious instance of heroic achievement; one that will redound to the credit of the American Navy, and in all time to come prove as imperishable as the pages of American history.

There is no portion of the globe that has furnished so many battle-fields, or where history has recorded so many instances of heroic daring as that which is washed by the waves of the Mediterranean and the Adriatic; yet there is none that for bold conception, energetic, heroic, and successful execution will compare with that of Decatur and his gallant associates. The result was of incalculable advantage to the nation. It not only caused the African pirates to quail before the terrible energy, skill, and courage of our sailors, but it secured the liberation of the captives, it abolished tribute, it encouraged our commerce, and secured an honorable peace. The very order of Commodore Preble indicated the hazard and responsibility of the enterprise. It was, "to enter that harbor in the night, board the Philadelphia and burn her; and in order to prevent alarm, to carry all by the sword." The order was executed under a heavy fire from the shipping and batteries. Commodore Preble, in his official dispatch detailing the achievement, says of the captors, "that their conduct in the performance of the dangerous service assigned them, cannot be sufficiently estimated. It is beyond all praise."

The proposition, Mr. Speaker, of providing a reward for these gallant men and their representatives has engaged the attention of Congress since 1824. Decatur, I believe, fell and died in 1822. Though great difficulty has been found in adjusting the mode of distributing the reward, none has ever been experienced in admitting the abstract justice of the claim. Though not technically embraced by the law which provides prize money to the captors of an enemy's ship captured, and then burned and destroyed, yet this case of the capture of a ship once our own, by an officer who volunteered to perform a desperate and skillful enterprise, is infinitely more entitled to our regard than the ordinary cases embraced by the law of prize, from which class of cases, however, it does not differ in principle. Congress seems to have taken this view of the justice of the claim, for in every instance where an investigation has been had, and a report made, either in the Senate or House of Representatives, its abstract justice has been recognized and acknowledged. General Jackson, in his message of December 8, 1829—his first message to Congress—recommends that the claim be paid. Five times has it passed the Senate, and ten times been favorably reported upon in the House of Representatives, and it would seem that the tardy and uncertain action of Congress, like the "law's delay," amounted to a "denial of justice." I trust that it will be delayed no longer. It is a claim full of merit and full of justice. Its passage will make provision for the widows and descendants of men who really did the state some service. Decatur, Lawrence, Bainbridge, Morris, and McDonough, are names illustrious in American history.

The widow of Commodore Decatur, I am informed, resides within this District in absolute poverty. I think that Congress should endeavor to make cheerful a fireside so long desolate by the neglect of a Government that owed her husband so much. I believe, Mr. Speaker, that it is true that the nearer we approach the source of organized power the less sympathy we experience, the greater the neglect we discover. This case does not stand alone, nor am I surprised that the settlement of the claim has been so long delayed, when I remember that eight years since, in an idle stroll, I saw the remains of Decatur in the vault at Kallorama, exhibiting all the evidences of neglect,—the coffin decayed—his ashes exposed to the eye—not a lineament discernible. A silver plate bearing the inscription of Stephen Decatur marked the coffin, whilst the remnant of a silken glove covered all that remained of the hand that had defended so gallantly the rights and honor of the country. But national injustice and neglect will not endure forever. I remember well that but a short time afterwards the national spirit arose as if from a common impulse, and the remains of Decatur were removed from the grove of Kallorama to his native place, the city of Philadelphia. The spirit, the feeling, the patriotic ardor that marked their reception into the city of Philadelphia, and the procession to their last burial place, was equaled only by that which characterized the return of the great conqueror from his prison-grave to the city of Paris, the home of his early life and the theater of his glory. I trust, Mr. Speaker, that the national spirit will again arise, and that we will pass this bill and do justice to the widows and children of gallant men, all of whom, with the exception of but one, have gone to their graves.

I would be glad, then, even at this late hour in the hurried moments of legislation, it could be taken up, considered, and passed.

The SPEAKER. The bill will be read for information.

The bill was then read.

Mr. HARRIS, of Tennessee. I object to taking it up.

Mr. DAWSON. I move to suspend the rules for the purpose indicated.

Mr. HARRIS. I ask for tellers upon that motion.

Tellers were not ordered, 13 only voting in favor thereof.

The question was then taken, and the rules were not suspended.

THE FISHERIES—RECIPROCAL TRADE.

Mr. BRECKINRIDGE. I avail myself of this opportunity, at the last hour of the session, to call the attention of the House to a subject which is certainly of great public importance, and to ask the unanimous consent for the introduction and passage, if they shall deem it proper, of the following resolution:

Resolved, That the President of the United States be requested to arrange by treaty the questions connected with the fisheries on the coasts of British North America; the free navigation of the rivers St. Lawrence and St. John; the export duty on American lumber in the Province of New Brunswick, and reciprocal trade with the British North American Colonies, on the principles of the report of the Committee on Commerce on these subjects at this session, and of liberal commercial intercourse.

Mr. POLK. When no one will do justice to the widow of Commodore Decatur, I shall object to the introduction of any proposition.

Mr. BRECKINRIDGE. I trust the gentleman will withdraw his objection to my resolution.

Mr. POLK. The gentleman claimed the floor when justice was being done to the widow of Commodore Decatur, and I cannot. It is a question, at any rate, which ought not to be considered at this late hour of the session.

Mr. BRECKINRIDGE. I move to suspend the rules for the purpose of introducing the resolution.

Mr. POLK. There is scarcely more than a quorum present, and this is not the hour, nor the manner, in which to submit a question involving so many difficulties.

The question was taken, and the House refused to suspend the rules.

DANIEL LOOMIS.

Mr. PERKINS. I ask the unanimous consent of the House for leave to take up and put on its passage Senate bill No. 503, entitled "An act for the relief of Daniel Loomis, deceased."

Mr. LETCHER. I object!

Mr. PERKINS. I move to suspend the rules for that purpose.

The question was taken, and the rules were not suspended.

Mr. SCHERMERHORN obtained the floor.

Mr. MEADE. I rise to a question of order. The House was notified by the Chair, that during this night he would recognize no member in the area, but only such as rose from their seats. In obedience to that notice, I have for the last three or four hours been endeavoring to obtain the attention of the Chair, regularly rising from my seat, and in violation of that notice, the Chair has invariably assigned the floor to those before me in the area. Unless the Chair be consistent with itself, how is it possible to preserve order in the Hall, or to observe the rights of individual members? The fashion of this House is——

[Cries of "Order!" "Order!"]

The SPEAKER, (Mr. STUART in the chair.) The Chair supposes that the gentleman refers to a decision made before he took the chair. He would be happy to enforce the rules, but at the close of the session he has never seen it possible to keep gentlemen in their seats. He would be very glad to do so.

Mr. MEADE. There is but one thing necessary to keep the House in order, and it is by invariably refusing to recognize a member who stands in the area or in the aisle. If the Chair does that he will have order.

The SPEAKER. That is the rule of the House, and the Chair will endeavor to enforce it.

Mr. HENN. I appeal from the decision of the Chair recognizing the gentleman from New York [Mr. SCHERMERHORN] to the floor. He did not rise from his seat, but was standing in the area.

The SPEAKER. The Chair does not think it is a subject on which the gentleman can appeal, but he will, however, gratify the gentleman, and accept his appeal.

Mr. JOHNSON, of Arkansas. I move to lay the appeal on the table.

The question was taken, and the appeal was laid on the table.

Mr. MEADE. I wish to ascertain if, in future, we may go down in the area and address the Chair.

The SPEAKER. The Chair distinctly stated that he would endeavor to enforce the rule, to recognize no gentleman who did not rise from his seat and address the Chair.

BETSEY NORTON.

Mr. SCHERMERHORN. I ask the unanimous consent of the House for leave to take up Senate bill No. 607, entitled "An act for the relief of Betsey Norton."

Mr. KING, of New York. I object!

Mr. SCHERMERHORN. I move to suspend the rules for that purpose.

The question was taken, and the rules were suspended.

The bill was then read through, as follows:

Be it enacted, &c., That the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Betsey Norton, widow of Freeman Norton, upon the list of revolutionary pensioners, and to pay her, during her widowhood, the sum of eight dollars per month, commencing on the 1st day of January, 1853.

Mr. SCHERMERHORN. I move the following amendment:

Strike from the above the words "1st day of January, 1853," and in lieu thereof insert "9th day of February, 1837."

Mr. KING. If there be no report, how are we to know about the facts of the case?

Mr. HARRIS, of Tennessee. I would ask of the gentleman when application was made, and when the proof in this case was completed?

Mr. SCHERMERHORN. The reading of the paper which I hold in my hand will give the House a knowledge of the case.

Mr. BROWN, of Mississippi. Is there any rule requiring the reading of the paper?

The SPEAKER. There is no rule requiring the reading of the paper.

Mr. BROWN. Then I object to its being read.

Mr. STANLY. The gentleman from New York, under the suspension of the rules, has certainly the right to consume one hour, and within that time he can have this paper read as a part of his speech. Let the House hear the facts, and then dispose of the case.

The SPEAKER. Under those circumstances, the gentleman has the right to have the paper read.

The paper was then read, as follows:

WASHINGTON CITY, *February* 16, 1853.

SIR: My grandfather, Freeman Norton, served during the entire revolutionary war as a mariner on board the frigate Warren. He was placed upon the pension roll under the act of 1818, at the rate of eight dollars a month, and continued until February 9, 1837, when he died, leaving my grandmother, Mrs. Betsey Norton, his widow, surviving him. Freeman Norton was married to Betsey Davis at Conway, Massachusetts, in October, 1801, and afterwards removed to Marcellus, in the State of New York, where he died, and where his widow still resides. Mrs. Norton has remained unmarried since her husband's death. Application has been made to the Pension Office to obtain a continuation of Freeman Norton's pension to his widow. Under the act of July 21, 1848, widows of revolutionary soldiers who were married before 1800 are entitled to receive their deceased husbands' pensions, and no others; and under this law, by which the Department is governed in such cases, Mrs. Norton's application was rejected. There is but one course left to be pursued by Mrs. Norton in her efforts for relief, and that is, by application to your honorable bodies for a special act of Congress.

Mrs. Norton was married in October, 1801. Had she been married early in 1800, a comparatively brief period before she was, there could have been no obstacle in the way of her procuring a pension from the proper Department; and so because of this entirely accidental difference in dates, this widow of an old soldier is suffered to die in poverty and neglect. I cannot but think, that whilst Congress by the act of July 29, 1848, already cited, intended to accomplish a good end, they never intended thereby to exclude cases like that of Mrs. Norton, which so strongly appeals to the justice and charity of the Government. It is not the repeal of the act that is asked, nor the establishment of a precedent at the hands of Congress, but an act of simple justice to the widow of one of those soldiers but for whose efforts in the cause of freedom America could never have existed as an independent nation. Under the bounty land laws of Congress, there is no provision made for mariners, and consequently Freeman Norton never received this bounty from his Government. He received nothing but the pension already mentioned, with the assistance of which he lived in decent indigence. With his death the pension ceased, and his widow still survives in abject poverty, an object of charity, sinking by slow degrees into a pauper's grave. The widow of a soldier of that Revolution, every action in which deserves a monument at the hands of our Government, is thus by a provision of a law of that very Government allowed to die in entire and absolute neglect.

It is the object of this appeal to obtain an act of Congress granting to Mrs. Betsey Norton the pension of her husband, from the time of his death to the present time. Can it be too much to ask of Congress that they will save this widow from a miserable death, and the country from the disgrace of having neglected one so worthy of its promptest aid?

I am, with the highest respect,

C. S. WILSON.

Hon. VOLNEY E. HOWARD.

PENSION OFFICE, *February* 28, 1853.

SIR: In the case referred to by Mrs. Wilson, it appears that Freeman Norton was a mariner on board the frigate Warren during the Revolution, and for his services was allowed a pension, under the act of March 18, 1818, at the rate of eight dollars per month, which he continued to receive until his death, in 1837.

It also appears that he was married to the present applicant for a pension in the year 1801, consequently she was not entitled until the act of the 3d February instant was passed. As this act does not allow a pension from the date of the husband's death, Mrs. Wilson is desirous of obtaining this by a special act of Congress.

Very respectfully, your obedient servant,

S. COLE.

Hon. J. E. HEATH, *Commissioner of Pensions.*

PENSION OFFICE, *February* 28, 1853.

The facts as stated in the letter of Mrs. C. S. Wilson to Hon. Volney E. Howard, of the House of Representatives, in regard to the service of Freeman Norton, his marriage with Betsy Norton, the person named in the said letter of Mrs. Wilson, and the death of the said Freeman Norton in 1837, after the receipt of a pension under the act of ——, 1818, being confirmed by the written statement of Mr. S. Cole, a clerk in this office, who has the special custody of the papers herein filed in relation to claims for revolutionary pensions, I would not have hesitated to allow to the said Betsy Norton a pension under the act of July 21, 1848, if the marriage of the said Freeman Norton and Betsy Norton had taken place prior to January, 1800; and now cheerfully recommend the application of said Betsy Norton, and the explanatory letter of Mrs. Wilson, to the favorable and prompt consideration of Congress.

J. E. HEATH,
Commissioner of Pensions.

Mr. STANLY. I have no concern in this except as a matter of humanity. This old lady, as I understand, is ninety years of age. She married in 1801, but if she had married in 1800, she would have been entitled to the pension the gentleman proposes to give her. I call for the previous question.

The call for the previous question was seconded, and the main question was ordered to be put.

Mr. HARRIS, of Tennessee. I demand the yeas and nays on the amendment.

Mr. HENDRICKS. I demand tellers on the yeas and nays.

Tellers were ordered; and Messrs. GROW and EDGERTON were appointed.

The House was divided, and the tellers reported that the yeas and nays were ordered.

Mr. STROTHER. Is it in order to move to lay the bill and amendment on the table?

The SPEAKER. It is in order.

Mr. STROTHER. Then I submit that motion.

Mr. LETCHER. I demand the yeas and nays.

The yeas and nays were not ordered.

The question was taken, and the motion to lay on the table was disagreed to.

The question was then taken on the amendment and it was disagreed to—yeas 51, nays 71; as follows:

YEAS—Messrs. David J. Bailey, Bennett, Bibighaus, Bowne, Briggs, Brooks, Albert G. Brown, George H. Brown, E. Carrington Cabell, Thompson Campbell, Chandler, Chapman, Conger, Darby, George T. Davis, Dean, Disney, Doty, Ewing, Fay, Freeman, Henry M. Fuller, Goodrich, Haws, Henn, Howard, Thomas M. Howe, Thomas Y. How, George G. King, Landry, Little, Martin, McDonald, McNair, McQueen, Andrew Parker, Pennington, Price, Robinson, Sabine, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, Stanly, Stuart, Walbridge, Walsh, Ward, Wells, and Addison White—51.

NAYS—Messrs. Averett, Thomas H. Bayly, Bowie, Breckinridge, Joseph Cable, Carter, Caskie, Churchwell, Clemens, Cleveland, Clingman, Cobb, Colcock, Cottman, John G. Davis, Dawson, Dimmick, Duncan, Dunhan, Eastman, Edgerton, Edmundson, Ficklin, Florence, Floyd, Gaylord, Goodenow, Gorman, Grow, Harper, Isham G. Harris, Hart, Haven, Hendricks, Hibbard, Holladay, Houston, Ingersoll, Jackson, Daniel T. Jones, J. Glancy Jones, Preston King, Letcher, Lockhart, Mace, McCorkle, McMullin, Meade, Millson, Morehead, Murray, Nabers, Olds, Orr, Peaslee, Penn, Perkins, Polk, Powell, Richardson, Robbins, Robie, Origen S. Seymour, Alexander H. Stephens, Stratton, Strother, Sweetser, Townshend, Venable, and Wildrick—71.

So the amendment was rejected.

The bill was then ordered to be read a third time, and it was, according to order, read the third time.

Mr. SCHERMERHORN. I call for the previous question on the passage of the bill.

The call for the previous question was seconded, and under the operation thereof, the bill was passed.

[Here a message was received from the Senate, by ASBURY DICKINS, Esq., its Secretary, notifying the House that that body insisted on their amendments to the Indian appropriation bill, and asked for a Committee of Conference on the disagreeing votes of the two Houses on said bill.

INDIAN BILL—CONFERENCE.

On motion by Mr. CLINGMAN,

Ordered, That the House insist upon their disagreement to the amendments insisted upon by the Senate to the bill of the Senate (No. 333) "making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes, for the year ending the 30th of June, 1854," and agree to the conference asked for by the Senate upon the said disagreeing votes.

Ordered, That Mr. DUNHAM, Mr. BRIGGS, and Mr. PRESTON KING be the managers at the said conference on the part of the House.

Ordered, That the Clerk acquaint the Senate therewith.

ERRORS IN LOCATING LAND WARRANTS.

Mr. ORR. I ask the unanimous consent of the House to take up Senate bill No. 399, entitled "An 'act to authorize the correction of erroneous loca-'tions of military bounty land warrants by actual 'settlers on the public lands in certain cases." There is nothing wrong in it.

Mr. BROWN. I pledge myself that it is wrong.

Mr. ORR. I assure the House that the bill is right. They can pass it in two minutes. It is a matter of some importance. I ask for a suspension of the rules.

Mr. HENN. If the committee will hear two words——

[Cries of "I object!"]

Mr. BROWN. We do not legislate in this way at this late hour of the night.

The question was taken upon the motion to suspend the rules, and it was decided in the negative—two thirds not voting in the affirmative.

So the rules were not suspended.

JOHN H. PIATT.

Mr. EDGERTON. I am instructed by the Committee of Claims to offer, for the adoption of the House, the following resolution, to pay for some testimony taken for the use of the House; and I move a suspension of the rules for that purpose:

Resolved, That the Clerk of this House pay William Miner, clerk of the United States circuit court, district of Ohio, for certified copies of papers furnished to the House of Representatives, in relation to the claim of the heirs of John H. Piatt, deceased, viz: a copy of the record in the case of R. Piatt vs. B. M. Piatt, and N. Langworth, administrator of John H. Piatt; a copy of the master's report in the same case, and a copy of a record in a case between the same parties on bill of review, the sum of $162 24, payable out of the contingent fund of the House."

Mr. BROWN, of Mississippi. I object!

The question was taken upon the motion to suspend the rules, and it was decided in the negative, two thirds not voting in the affirmative.

So the rules were not suspended.

CIVIL AND DIPLOMATIC BILL.

Mr. HALL. The Committee of Conference appointed by this House to meet a Committee of Conference on the part of the Senate upon the disagreeing votes upon the civil and diplomatic bill, have met such committee, but they have been unable to agree.

MOSES OLMSTEAD—ELIZABETH CRAIG.

Mr. STEPHENS, of Georgia. I have been endeavoring to get the floor for three days. I ask the unanimous consent of the House to take up Senate bill No. 601, entitled "An act for the relief of Moses Olmstead and Mrs. Elizabeth Craig.

Objection was made.

Mr. STEPHENS. I move to suspend the rules for that purpose.

The question was taken, and it was decided in the negative.

So the rules were not suspended.

BRIG BOUNDARY.

The following message was here received from the Senate, by Mr. DICKINS, its Secretary: That the Senate request the return of the bill of the House No. 367, to authorize the issuing of a register to the brig Boundary, and to change the names of the steamer Roger Williams and propeller Ontario, heretofore reported from the Senate with sundry amendments.

CAPTORS OF THE FRIGATE PHILADELPHIA.

Mr. POLK. I ask the unanimous consent of the House to take up Senate bill No. 265, entitled "An act for the relief of the captors of the frigate Philadelphia." This bill is for the relief of the widow and heirs of Commodore Decatur.

Objection being made,

Mr. POLK moved a suspension of the rules.

The question was taken, and it was decided in the negative, two thirds not voting in the affirmative.

So the rules were not suspended.

GEORGE POINDEXTER.

Mr. BROWN, of Mississippi. I ask the unanimous consent of the House to take up Senate bill No. 138, entitled "An act for the relief of George Poindexter."

Mr. POLK. If Commodore Decatur cannot receive justice, I will object.

Mr. BROWN. I move to suspend the rules.

The question was taken, and decided in the negative, two thirds not voting in the affirmative.

So the rules were not suspended.

THOMAS SNODGRASS.

Mr. MARSHALL. I rise for the purpose of asking the unanimous consent of the House to take up Senate bill No. 100, entitled "An act for the relief of Thomas Snodgrass."

Mr. EDMUNDSON objected.

Mr. MARSHALL. Will the House allow me to explain the bill?

[Cries of "No!" "No!"]

Mr. MARSHALL. I move to suspend the rules.

The question was taken, and it was decided in the negative, two thirds not voting in the affirmative.

So the rules were not suspended.

CIVIL AND DIPLOMATIC BILL.

Mr. SUTHERLAND. I rise to a privileged question. I move to reconsider the vote laying on the table the motion to reconsider the vote of non-concurrence with the Senate amendments to the civil and diplomatic bill.

Mr. CAMPBELL, of Ohio. I move to lay that motion upon the table.

Mr. FITCH. I propose to call the attention of the House to the condition of the civil and diplomatic appropriation bill.

Mr. WALSH. The gentleman from Missouri [Mr. HALL] has already made a report.

Mr. FITCH. I wish to precede my motion by some explanatory remarks.

The SPEAKER, (Mr. STUART temporarily occupying the chair.) The motion submitted by the gentleman from New York takes precedence of any other motion.

Mr. McMULLIN. I rise to a question of order. I understand that my colleague [Mr. MEADE] changed his vote with a view of moving a reconsideration. That motion was made, and a motion was made to lay that motion upon the table. The motion was laid upon the table, and you cannot now move to reconsider.

Mr. TOOMBS. The question was laid on the table on a vote of yeas and nays.

Mr. FITCH. The gentleman from Virginia last up is correct. A motion was made to reconsider, and a motion was made to lay that motion upon the table.

The SPEAKER *pro tem.* The Chair understands the condition of the bill. The Chair however overrules the question of order, and decides that it is in order to move to reconsider the vote by which that motion to reconsider was laid upon the table.

Mr. TOOMBS. It will set aside the practice for forty years. From that decision of the Chair I appeal.

Mr. CAMPBELL, of Ohio. I move to lay the motion of the gentleman from New York [Mr. SUTHERLAND] upon the table.

Mr. SUTHERLAND. I claim the right of saying a word upon my motion.

The SPEAKER *pro tem.* The motion submitted by the gentleman from New York is not debatable.

Mr. McMULLIN. I call for the yeas and nays upon the appeal from the decision of the Chair, so that the country may see the record.

The yeas and nays were ordered.

Mr. JOHNSON, of Tennessee. Did the gentleman from New York [Mr. SUTHERLAND] vote in the affirmative?

Mr. SUTHERLAND. I did, and voted to lay the motion to reconsider upon the table. That is my impression.

Mr. OLDS. Does it take two thirds, or a majority vote, to take that matter up?

The SPEAKER *pro tem.* The Chair decides that a majority vote can take it up.

Mr. JOHNSON, of Tennessee. The record shows that the gentleman from New York [Mr SUTHERLAND] voted in the negative.

Mr. SUTHERLAND. Then the record is wrong.

Mr. JOHNSON. The gentleman cannot falsify the record.

Mr. FITCH. I have not yielded the floor, except for this privileged question, and I insist upon my right to take it.

The SPEAKER *pro tem.* The Chair understands from the Clerk that the gentleman from New York [Mr. SUTHERLAND] voted in the minority, and he cannot make the motion.

Mr. DEAN. I voted in the majority, and I think the time has arrived when this body should deliberate. I therefore move a reconsideration.

Mr. JOHNSON, of Arkansas. I call for the previous question.

Mr. POLK. I require that the record should be examined.

Mr. DAWSON. Would it not be in order to move that the House recede from its disagreement to the Senate amendments? That will cover the whole ground, and I therefore ask the gentleman from New York [Mr. DEAN] to withdraw his motion, and I will make the motion that the House recede from their disagreement to the Senate amendments; and upon that question I ask for the yeas and nays.

Mr. FITCH. If gentlemen who desire this bill to pass had listened to my motion, we would have got out of this difficulty fifteen or twenty minutes since. I expect those who do not desire the bill to pass will continue this course. The motion I was about to make would have settled the whole difficulty.

Mr. JOHNSON, of Tennessee. What is before the House?

Mr. FITCH. I am before the House.

Mr. JOHNSON. I want to know what the question is. I rise to a question of order. What is before the House?

The SPEAKER *pro tem.* The gentleman from Indiana [Mr. FITCH] is about to submit a motion to the House.

Mr. JOHNSON. There is a motion pending before the House.

Mr. DEAN. A motion to reconsider a motion is not debatable.

The SPEAKER *pro tem.* The gentleman from Tennessee [Mr. JOHNSON] is not in order.

Mr. JOHNSON. I demand the consideration of the privileged question

The SPEAKER *pro tem.* The gentleman from Tennessee is not in order.

Mr. DAWSON. I would ask the Chair to answer an inquiry. Is it in order for the House to recede from its disagreement to the Senate amendment?

The SPEAKER *pro tem.* The Chair is inclined to the opinion that such a motion is in order.

Mr. DAWSON. Then I move that the House recede from their disagreement to the Senate amendments, and upon that motion I ask the yeas and nays.

Mr. McMULLIN. I hope that the Speaker proper will take the Chair.

Mr. FITCH. I now move that the House concur in the amendments of the Senate, which the first Committee of Conference reported their concurrence in, but which the House at that time refused to concur in.

Many MEMBERS. Object!

Mr. McMULLIN. I object to that report.

Mr. FITCH. Wait until I state what it is.

Mr. McMULLIN. I object to the gentleman's motion, and it cannot be entertained.

[Shouts of "Order!"]

The SPEAKER *pro tem.* The Chair calls the gentleman from Virginia to order.

Mr. McMULLIN. The motion cannot be entertained.

[Renewed cries of "Order!" "Order!"]

The SPEAKER *pro tem.* The gentleman will certainly allow the motion to be heard by the House.

Mr. FITCH. Those amendments are an appropriation for a bridge at Georgetown; an appropriation for water for this city——

Mr. JOHNSON, of Tennessee. I rise to a question of order. What motion is before the House?

Mr. DAWSON. The motion I submitted, as I supposed the gentleman was well informed.

Mr. JOHNSON. I understood that motion to be made. I want to know if the gentleman from Indiana [Mr. FITCH] can make another motion at the same time?

[Cries of "Order!"]

The SPEAKER *pro tem.* The Chair will state to the gentleman from Tennessee, that it is no question of order to inquire what is before the House.

At this point in the proceedings—

The SPEAKER of the House took the chair.

Great confusion prevailed in the Hall, and a dozen members addressed the Chair.

The SPEAKER. If the House will hear the Chair for one moment, the Senate has requested the return to it of the following bill:

"An act authorizing the issuing a register to the brig Boundary, and to change the name of the steamers Roger Williams and propeller Ontario."

It is usual to grant such requests. If there is no objection, the Chair will order the bill to be returned.

No objection was made.

Mr. FICKLIN. A motion has been submitted by the gentleman from Pennsylvania, [Mr. DAWSON,] and another motion has been submitted by the gentleman from Indiana, [Mr. FITCH.] I ask the Speaker to decide which of those motions has precedence.

Mr. DAWSON. The motion I submitted was to recede from the disagreement of the House to the report of the Committee of Conference.

The SPEAKER. That motion was received.

Mr. CLINGMAN. No, it was objected to all round, again and again, on a point of order.

Mr. McMULLIN. I rise to a question of order.

Mr. FICKLIN. I have the floor upon a question of order.

The SPEAKER. The proposition of the gentleman from Pennsylvania [Mr. DAWSON] is objected to.

Mr. DAWSON. Well, I will withdraw my proposition.

Mr. FICKLIN. I desire to submit this motion: that the House appoint another Committee of Conference on the disagreeing votes between the two Houses. I am satisfied that there can be an arrangement satisfactory to the House in regard to that disagreement.

[Loud cries of "Order!"]

Mr. HARRIS, of Tennessee. I rise to a question of order.

The SPEAKER. The Chair desires to know precisely what is the question before the body.

Mr. McMULLIN. I desire to state the question.

[Renewed shouts of "Order!" and much confusion.]

The SPEAKER. The Chair will hear the gentleman from Virginia.

Mr. McMULLIN. When the first Committee of Conference made their report to the House, the House refused to concur in that report. My colleague, [Mr. MEADE,] who had voted in the affirmative, changed his vote, as he declared, for the purpose of moving a reconsideration of the vote by which that report was rejected. He submitted that motion, and the motion to reconsider was laid upon the table. A motion is now made to reconsider the vote by which the motion to reconsider was laid upon the table.

The SPEAKER. The Chair decides that motion to be out of order.

[Cries of "Good!" and "That's right!"]

Mr. McMULLIN. I knew the Speaker would so decide.

Mr. HARRIS, of Tennessee. I rise to a question of order. The floor was assigned to the gentleman from Indiana, [Mr. FITCH,] as I understand it.

Mr. FITCH. That is so. I believe I am entitled to the floor.

Mr. HARRIS. I insist that if the gentleman is entitled to the floor, he shall keep it, and that other gentlemen shall not be permitted to make motions and debate them. I insist that he shall be allowed to occupy the floor until he yields it.

The SPEAKER. The Chair will learn first what is the true position of the gentleman from Indiana.

Mr. FITCH. I should be very much pleased——

[Cries of "Order!"]

The SPEAKER. Does the Chair understand that the gentleman from Indiana made a report from the Committee of Conference?

Mr. FITCH. No, sir; Mr. HALL, of Missouri, made the report.

The SPEAKER. Is that report before the body?

Mr. CLEVELAND. The gentleman from Missouri [Mr. HALL] made a report, and the House acquiesced in it. The gentleman from Indiana has no motion to submit.

The SPEAKER. The Chair is informed that the Committee of Conference reported that they were unable to agree.

Mr. HALL. The Committee of Conference made no report, because it was impossible for them to agree. The House portion of the committee reported that they were unable to agree. But the Committee of Conference made no such report.

Mr. FITCH. It was still a report.

The SPEAKER. The Chair understands that it was simply an agreement to disagree.

Mr. HALL. There was no agreement about it. The committee could not agree.

The SPEAKER. If the committee made no report, there is no proposition before the House from that committee, and no speech is in order.

Mr. MARSHALL. I rise to a privileged question. In the absence of anything else upon which the House can act, I move that the House recede from its disagreement to the amendments agreed upon by the first Committee of Conference.

Many MEMBERS. Not in order.

Mr. DEAN. I rise to a privileged question.

The SPEAKER. The gentleman from Indiana [Mr. FITCH] is upon the floor, and the Chair has not yet heard what proposition he intends to submit. The Chair will hear it, if gentlemen will be good enough to resume their seats and preserve order.

[Cries of "Hear him!" and much confusion.]

Mr. FITCH. I move to suspend the rules, in order to take up the question of disagreement between the two Houses in relation to the civil and diplomatic appropriation bill. That motion, I believe, is in order.

Mr. STEPHENS, of Georgia. Upon that motion I demand the yeas and nays.

Mr. McMULLIN. I raise a question of order upon that propositon.

Mr. TOOMBS. Oh! it is in order.

Mr. McMULLIN. I have not finished my statement of the question——

Mr. POLK. I call the gentleman to order.

The SPEAKER. The gentleman from Virginia has a right to state his question of order, but not to debate it. A simple statement of the question of order is all that can be allowed under the rules.

Mr. McMULLIN. The report of the Committee of Conference upon the disagreeing votes of the two Houses on the civil and diplomatic bill was laid upon the table.

The SPEAKER. That is very true.

Mr. McMULLIN. Another Committee of Conference was asked for and appointed. The committee on the part of the House met the committee on the part of the Senate, and they failed to agree. I hold that the subject is not before us, but that it is upon the table, and that it requires a vote of two thirds to take it up.

The SPEAKER. The motion of the gentleman from Indiana is to suspend the rules. It will, of course, require a vote of two thirds to suspend the rules. If the motion had been to take the question up, it would have required a vote of two thirds. The Chair overrules the question of order.

[Cries of "That is right!"]

The SPEAKER. It is in order to submit a motion to suspend the rules.

Many MEMBERS. "Certainly!" "Certainly!"

Mr. McMULLIN. Does the Chair decide that it is competent to take the question up?

The SPEAKER. The Chair decides that it is competent for the House to suspend the rules for this purpose or any other that it chooses. The motion before the body is to suspend the rules.

Mr. STEPHENS, of Georgia. On that motion I have demanded the yeas and nays. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. FITCH, and JOHNSON of Arkansas were appointed.

The House was then divided on the demand for the yeas and nays; and the tellers reported 30 in the affirmative.

So the yeas and nays were ordered.

Mr. CLINGMAN. Would a motion to take a recess take precedence of this matter.

[Shouts of "No! No!" and "Let us sit it out."]

The SPEAKER. It would not be in order.

Mr. GAYLORD. If you were to take a recess now, you would never get a quorum together again.

The SPEAKER. This is a privileged motion.

Mr. EWING. Does the Chair decide that it is not in order to move to take a recess now?

The SPEAKER. The Chair does so decide. It is not in order.

Mr. EWING. Then I do not make the motion. [Laughter.]

The question was then taken on Mr. FITCH's motion, and there were—yeas 98, nays 39; as follows:

YEAS—Messrs. Aiken, David J. Bailey, Thomas H. Bayly, Bennett, Bocock, Bowie, Breckinridge, Briggs, Brooks, George H. Brown, Thompson Campbell, Cartter, Caskie, Chandler, Cobb, Colcock, Cottman, Darby, Dawson, Dean, Disney, Doty, Duncan, Edgerton, Edmundson, Evans, Ewing, Fay, Fitch, Florence, Freeman, Thomas J. D. Fuller, Gaylord, Goodenow, Goodrich, Gorman, Green, Hall, Isham G. Harris, Sampson W. Harris, Hart, Haws, Hendricks, Henn, Hibbard, Holladay, Houston, Howard, Ingersoll, Jackson, Jenkins, Robert W. Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Preston King, Landry, Little, Lockhart, Mace, Marshall, McCorkle, McDonald, McLanahan, Meade, Millson, Morrison, Murray, Nabers, Olds, Orr, Peaslee, Penn, Polk, Preston, Price, Richardson, Riddle, Robbins, Robie, Robinson, Sabine, Schermerhorn, David L. Seymour, Origin S. Seymour, Skelton, Snow, Stanly, Stone, Stratton, Strother, Sutherland, Sweetser, Thurston, Townshend, Walsh, Ward, and Addison White—98.

NAYS—Messrs. Averett, Bibighaus, Bowne, Burrows, E. Carrington Cabell, Joseph Cable, Lewis D. Campbell, Chapman, Clemens, Cleveland, Clingman, Conger, John G. Davis, Dimmick, Dunham, Eastman, Ficklin, Floyd, Grow, Thomas Y. How, Andrew Johnson, John Johnson, Letcher, Martin, McMullin, McQueen, Morehead, Outlaw, Andrew Parker, Penniman, Schoolcraft, Schoonmaker, Alexander H. Stephens, Toombs, Venable, Walbridge, Wells, Wildrick, and Woodward—39.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. HALL. I now move that we adopt the following as the action of the House on the disagreeing votes with respect to the civil and diplomatic bill, and upon that I demand the previous question.

[Cries of "What is it?"]

Mr. FITCH. It is the report of the first Committee of Conference.

Mr. EVANS. I appeal to the gentleman from Missouri to withdraw the demand for the previous question, to enable me to offer an amendment. It is one that will reduce the expenditures of the Government.

Mr. HALL. I cannot withdraw it. This is the report of the first Committee of Conference——

[Cries of "Question!" and "We do not want it read!"]

The previous question received a second.

The SPEAKER. Is it the desire of the House that the proposition of the gentleman from Missouri [Mr. HALL] shall be read?

[Cries of "No!" "No!"]

Mr. INGERSOLL. I call for the reading.

Mr. MARSHALL. I wish to inquire if that proposition is precisely the same as the report of the first Committee of Conference, in all its items?

Mr. HALL. It is.

The SPEAKER. The gentleman from Missouri states that it is precisely the same.

Mr. DUNHAM. You have just got to back right square out.

Several MEMBERS. Well, let us do it.

The main question was ordered to be now put.

The SPEAKER. The question is upon the adoption of the proposition of the gentleman from Missouri.

Mr. McMULLIN. I desire the Speaker to state what it is.

The SPEAKER. The Chair has already stated that it is precisely the same as the report of the first Committee of Conference.

Mr. TOOMBS. Then I rise to a question of order. That proposition was voted on and voted down. An attempt was made to reconsider, and that, too, was voted down.

The SPEAKER. It comes up now in a different shape.

Mr. TOOMBS. I make the point of order, and I ask the Speaker to decide it.

The SPEAKER. The Chair decides, that as the House, by a vote of two thirds, has suspended the rules for the purpose of taking up and considering the disagreeing votes between the two Houses, the motion now submitted by the gentleman from Missouri is in order.

Mr. TOOMBS. I appeal from that decision, and I want to see if the House will affirm it.

Mr. DEAN. I move to lay the appeal upon the table.

The SPEAKER put the question on Mr. DEAN's motion, and declared it to be carried, and that the appeal was laid upon the table.

Mr. McMULLIN. I want the yeas and nays on the motion to lay the appeal upon the table.

[Cries of "Too late!" and "Order!"]

The SPEAKER. In the opinion of the Chair, the demand for the yeas and nays comes too late.

Mr. McMULLIN. Does the Speaker mean to deprive me of my constitutional rights?

The SPEAKER. Certainly not. But the gentleman from Virginia will remember that the Chair had distinctly announced the result of the vote.

Mr. McMULLIN. I was upon the floor seeking the attention of the Speaker. I addressed the Chair three times.

[Loud shouts of "Order!" and "Question!"]

The SPEAKER. The Chair did not hear the gentleman, and decides that the demand for the yeas and nays came too late.

[Renewed cries of "Question!"]

Mr. STEPHENS, of Georgia. I demand the yeas and nays on the proposition of the gentleman from Missouri.

The yeas and nays were ordered.

Mr. HARRIS, of Tennessee. If this proposition—the report of the first Committee of Conference—is not concurred in, will it then be in order for a motion to be made in this House for another committee of conference?

Many MEMBERS. Certainly it will.

The SPEAKER. The Chair will decide that question when it comes up.

The question was then taken upon the motion of Mr. HALL; and the result was—yeas 77, nays 62, as follows:

YEAS—Messrs. Aiken, William Appleton, Thomas H. Bayly, Bowie, Breckinridge, Briggs, George H. Brown, Thompson Campbell, Caskie, Chandler, Colcock, Cottman, Darby, Dawson, Disney, Duncan, Edgerton, Edmundson, Evans, Fay, Fitch, Florence, Freeman, Thos. J. D. Fuller, Gaylord, Goodenow, Goodrich, Gorman, Green, Hall, Sampson W. Harris, Hart, Haws, Hibbard, Holladay, Houston, Howard, Jackson, Robert W. Johnson, Daniel T. Jones, J. Glancy Jones, George G. King, Landry, Little, Lockhart, Mace, Marshall, McDonald, McNair, Meade, Millson, Nabers, Orr, Peaslee, Penn, Phelps, Polk, Price, Riddle, Robbins, Robie, Robinson, Russell, Sabine, Schermerhorn, David L. Seymour, Snow, Stanly, Frederick P. Stanton, Stone, Strother, Stuart, Sutherland, Sweetser, Thurston, Walsh, and Addison White—77.

NAYS—Messrs. Averett, David J. Bailey, Bennett, Bibighaus, Burrows, Lewis D. Campbell, Cartter, Chapman, Churchwell, Clemens, Cleveland, Clingman, Cobb, Conger, John G. Davis, Dean, Dimmick, Doty, Dunham, Eastman, Ficklin, Floyd, Grow, Isham G. Harris, Haven, Hendricks, Henn, Thomas M. Howe, Thomas Y. How, Ingersoll, Jenkins, Andrew Johnson, John Johnson, Preston King, Letcher, Martin, McLanahan, McMullin, McQueen, John Moore, Morehead, Morrison, Murray, Olds, Outlaw, Andrew Parker, Penniman, Perkins, Preston, Sackett, Schoolcraft, Schoonmaker, Skelton, Alexander H. Stephens, Stratton, Toombs, Townshend, Venable, Walbridge, Wells, Wildrick, and Woodward—62.

So the House agreed to adopt the report of the first Committee of Conference on the civil and diplomatic appropriation bill.

Pending the call of the roll,

Mr. DEAN said he voted no, though he should have voted ay, if it had been necessary to save the bill.

Mr. HALL. I move to reconsider the vote last taken, by which the report of the Committee of Conference was adopted, and to lay the motion to reconsider upon the table.

Mr. INGERSOLL. Upon that I demand the yeas and nays.

The yeas and nays were not ordered.

The question was then taken, and the latter motion was agreed to.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported as correctly enrolled the act making appropriations for light-houses, light-boats, buoys, &c., and providing for the erection of the same and for other purposes; and the bill for the relief of Betsey Norton; which severally received the signature of the Speaker.

GEORGE POINDEXTER.

Mr. BROWN, of Mississippi. I hold in my hand Senate bill No. 138, which passed the Senate on the 6th of February, 1852, and which has been in this House from that time to this. The Senate passed it, and they say it is right. It has been before a committee of this House, and they have reported unanimously in its favor. I ask, as an act of justice to a patriot who has long served his country, that the House will take the bill up and pass it.

Mr. McDONALD. I object!

Mr. BROWN. I move to suspend the rules for the purpose of having the bill taken up and considered.

The question was taken, and (two thirds voting in the affirmative) the rules were suspended.

The bill was then taken from the Speaker's table, and read a first and second time by its title.

Mr. BROWN. The bill makes an appropriation. I move to suspend the rule which would require it to be first considered in the Committee of the Whole House.

The question was put, and (two thirds voting in the affimative) the rule was suspended.

The bill was then ordered to a third reading, and was subsequently read a third time, and passed.

Mr. BROWN. I move to reconsider the vote last taken, by which the bill passed, and that the motion to reconsider do lie upon the table.

The question was taken, and the latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that they had passed bills of the following titles, viz:

An act for the relief of William Price;

An act for the relief of John Ozias;

An act for the relief of Henry Miller, a soldier of the war of 1812;

An act for the relief of Cornelius Covert, of Michigan;

An act to authorize the issuing of a register to the brig Boundary, and to change the names of the steamer Roger Williams and propeller Ontario;

An act for the relief of James Wright, jr.;

An act to increase the pension of Henry Click, of Cocke county, Tennessee;

An act for the relief of Mary Pearson;

An act to appropriate lands for the support of schools in certain townships and fractional townships in the Territory of Minnesota, not before provided for;

An act for the relief of James H. Jenkins; and

Joint resolution for the relief of Thompson Barnett.

WALTER COLTON.

Mr. MEADE. I ask the House to allow me to report a bill which I hold in my hand. It has been before the Committee on the Judiciary, and has been reported favorably upon.

Mr. EWING. Has the gentleman from Virginia the floor for the purpose of making a motion?

Mr. MEADE. Yes, sir.

Mr. EWING. I appeal to the gentleman from Virginia to give me a part of the floor. [Laughter.]

Mr. MEADE. I cannot yield the floor to the gentleman. I desire to report from the Committee on the Judiciary a bill making compensation to the widow and child of the Rev. Walter Colton, deceased.

Mr. Speaker, if the House will allow me for a moment, I think no one will object to this bill. It is to do tardy justice to the widow and child of Walter Colton. In 1847, he was a chaplain on board of Commodore Stockton's frigate Congress. He was detached from that ship and stationed on shore as Chief Civil Magistrate for the Middle Department of California; when several captures having been made by the vessels of the Pacific squadron, the commanders of the naval and military forces, by their concurrent action, organized a prize court, and the duties of admiralty judge were imposed upon Mr. Colton. In 1848, the ship Admittance, having been condemned as a lawful prize, was sold at Monterey, in pursuance of the decree of the court, for $61,000, which Mr. Colton, with seven thousand and odd dollars, in addition, placed at the credit of the United States, and which has been received into the Treasury of the United States. Mr. Colton——

Mr. FICKLIN. I rise to a question of order. There is nothing to predicate this speech upon.

Mr. MEADE. I am speaking by the unanimous consent of the House.

The SPEAKER *pro tem.* There is nothing before the House. The gentleman from Virginia must make some motion if he desires to go on with his remarks.

Mr. MEADE. Well, sir, I ask the unanimous consent of the House to report this bill from the Judiciary Committee, with a view of putting it upon its passage.

Mr. McMULLIN. I object!

Mr. MEADE. I move to suspend the rules. It is only to pay back money which——

[Cries of "Order!"]

The question was taken, and upon a division there were—ayes 50, noes not counted.

Two thirds not voting in favor thereof, the rules were not suspended.

Mr. CLINGMAN. Inasmuch as it is evident that we cannot transact any business, I move that the House take a recess until nine o'clock. I believe that motion is in order. I move to suspend the rules for the purpose of enabling me to make the motion.

Mr. EWING. I appeal to the gentleman from North Carolina to withdraw his motion, and allow me to move to take up a bill to which I am sure there will be no objection.

Mr. CLINGMAN. I cannot give way; I must insist upon my motion.

Mr. EWING. If the gentleman will allow me to state my motion, I think he would not object.

Mr. CLINGMAN. If I yield to the gentleman from Kentucky, shall I lose the floor?

The SPEAKER *pro tem.* The gentleman certainly cannot retain it.

Mr. CLINGMAN. Well, sir, I am very much disposed to accommodate the gentleman from Kentucky, and if he will renew my motion I will yield to him.

JAMES JEFFRIES AND JEREMIAH M. SMITH.

Mr. EWING. I then ask the unanimous consent of the House to take from the Speaker's table the bill of the Senate (No. 544) for the relief of James Jeffries and Jeremiah M. Smith.

Mr. MEADE. I object!

Mr. EWING. I move to suspend the rules, to enable me to make that motion.

Mr. NABERS. I desire to know if it will be in order to amend that bill?

The SPEAKER *pro tem.* It will be in order if the House agree to take it up.

The question was put, and, upon a division, 53 rose in the affirmative.

Mr. EWING. I demand tellers upon the motion to suspend the rules.

Tellers were ordered; and Messrs. HENDRICKS and FITCH were appointed.

The question was again put, and the tellers reported—ayes 49, noes not counted.

So (two thirds not voting in favor thereof) the rules were not suspended.

Mr. EWING. In accordance with the request of the gentleman from North Carolina, [Mr. CLINGMAN,] I move that the House take a recess until nine o'clock.

The SPEAKER *pro tem.* That motion is not in order.

ENROLLED BILLS.

Mr. WILDRICK, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; which received the signature of the Speaker:

An act for the relief of Harlow Spaulding;

An act for the relief of Mary Baury;

An act to amend an act entitled "An act for the relief of Joseph Johnston," approved May 4, 1852, by correcting a clerical error;

An act for the relief of Gilmore Smith, of Sycamore, in the State of Illinois;

An act for the relief of Nathan H. Darling;

An act making appropriations for the transportation of the United States mail by ocean steamships and otherwise, during the fiscal year ending the 30th of June, 1854;

An act for the relief of John Kerbaugh;

An act for the relief of Cornelius Hughes, of Tennessee; and

An act for the relief of the Southern Michigan Railroad Company.

INSPECTORS OF STEAMERS.

Mr. DUNCAN. I rise for the purpose of asking a favor of the House, and it is probably the last time my voice will be heard by them. It is not from any interest of my own, but from a conviction of public duty, that I rise on the present occasion. I ask the unanimous consent of the House to take from the Speaker's table the resolution of the Senate (No. 79) "in amendment of a joint resolution relating to the duties of inspectors of steamers," approved the seventh day of January, 1853.

Mr. CLINGMAN. I object!

Mr. DUNCAN. I move to suspend the rules.

The resolution was then read through by the Clerk.

Mr. DUNCAN. I now ask the House to allow me to make a brief statement.

Mr. CLINGMAN. If the gentleman will not discuss the resolution, I will withdraw my objection.

Mr. ORR. I renew the objection.

Mr. DUNCAN. I now trust the House will at least extend to me the courtesy of allowing me to make a brief statement in relation to this resolution. The Senate have passed it, and the Committee on Commerce of the House have agreed to report it with two amendments.

[Cries of "Order!" "Order!"]

The SPEAKER *pro tem.* The gentleman from Massachusetts cannot debate the motion to suspend the rules except by unanimous consent.

Mr. DUNCAN. Then I ask that the question may be taken upon the motion to suspend the rules.

The question was put; and on a division, 77 rose in the affirmative.

Mr. STEPHENS, of Georgia. I demand the yeas and nays upon the motion to suspend the rules.

Mr. PHELPS. I hope the gentleman from Massachusetts will withdraw his motion and allow the Committee of Conference upon the naval appropriation bill to report.

[Cries of "No!" "No!" "No!"]

Mr. STEPHENS. I will state to the House that in order to have this resolution of any service, it must go into effect in less than ten days; and I tell gentlemen from the South and West, that unless they allow it to be taken up and passed, they will find themselves in hot water when they return home.

Mr. STANTON, of Tennessee. I hope I may be allowed to make a single statement. The Committee of Conference upon the naval appropriation bill have been unable to agree. I hope the House will allow another committee to be appointed now, that they may go into session.

Mr. STEPHENS. I object, and demand the yeas and nays upon the motion of the gentleman from Massachusetts to suspend the rules.

The yeas and nays were not ordered.

Mr. STEPHENS. I demand tellers upon the motion.

Tellers were ordered; and Messrs. SNOW, and PARKER of Pennsylvania were appointed.

The question was again put, and the tellers reported—ayes 100, noes 21.

So (two thirds voting in favor thereof) the rules were suspended.

The bill was taken up and read through.

Mr. DUNHAM. I send to the Clerk's desk two amendments, which were the result of a consultation of the Committee on Commerce of the House with the Committee on Commerce of the Senate, and of both, with persons entertaining opinions upon both sides.

The amendments were as follows:

Insert in the following section, after the word "made," the words "prior to the first day of July next, and:"

SEC. 2. *And be it further resolved*, That the said inspectors may approve of boilers and steam pipes made subsequent to the passage of the act approved the 30th of August, 1852, entitled "An act to amend the act entitled 'An act to provide for the better security of the lives of passengers,'" &c.

Also, strike out the words "manufacture or otherwise" in the following section:

"SEC. 4. *And be it further resolved*, That no person interested as patentee, manufacturer, or otherwise, in any way, direct or indirect, in life preservers, life-boats, or any other article required for steamers by the law of August 30th, 1852, aforesaid, shall be deemed competent to hold the office of inspector, or to discharge the duties thereof."

Mr. DUNHAM. I move the previous question.

The previous question was seconded and the main question ordered to be put.

The question was taken on the adoption of the amendment, and it was agreed to.

The bill was then ordered to be read a third time; and it was subsequently read the third time and passed.

NAVY APPROPRIATION BILL.

Mr. PHELPS. The Committee of Conference upon the disagreeing votes of the two Houses upon the bill of the House (No. 342) making appropriations for the naval service for the year ending 30th June, 1854, have had a conference, and are unable to agree in a report to be made to their respective Houses. The committee on the part of the House, therefore, ask that they may be discharged from further service upon the committee.

The question was put upon discharging the committee, and it was decided in the affirmative.

Mr. CLINGMAN. I move that the rules be suspended, with a view to submit a motion to take a recess until nine o'clock, (Friday morning.)

Mr. PHELPS. If my friend from North Carolina will allow me one moment, I desire to say that I should have moved the appointment of another committee of conference upon the bill upon which I have just submitted a report, but for the reason that I supposed, if I made the motion, that perhaps I might be placed upon that committee again. Having once served, I did not wish to be placed upon such a committee again. However, as no one else makes the motion, I move that another committee of conference be appointed upon the disagreeing votes of the two Houses upon the Navy appropriation bill.

Mr. HOUSTON. I hope my friend from Missouri will not decline serving. The Chair will give the gentleman two other members, who will relieve him. I would serve, but I am absolutely so broken down that I cannot work.

The question was then taken on the motion of Mr. PHELPS; and it was agreed to.

The Speaker thereupon appointed Messrs. STANLY, J. GLANCY JONES, and ANDREW JOHNSON as the managers of such conference upon the part of the House.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had passed, without amendment, bills of the following titles:

H. R. No. 274. An act for the relief of Jasper A. Maltby;

H. R. No. 263. An act to provide for additional clerks, and to extend the sessions of the Legislature of the Territory of New Mexico;

H. R. No. 134. An act authorizing the Governor of the Territory of New Mexico to call an extra session of the Legislative Assembly of said Territory, should the same be deemed necessary and expedient; and

H. R. No. 155. An act for the relief of William H. Wells and others.

Also, that the Senate had adopted a resolution suspending the 16th and 17th joint rules, so far as relates to the bill of the Senate (No. 638) "to indemnify the State of Indiana for the failure of title to a township of land granted to said State on her admission into the Union in 1816."

Also, that the Senate had passed the bill of the Senate (No. 638) "to indemnify the State of Indiana for the failure of title to a township of land granted to said State on her admission into the Union in 1816."]

Mr. CLINGMAN. I now move that the rules be suspended, for the purpose of submitting a motion that the House take a recess until nine o'clock.

INDEMNITY TO INDIANA.

Mr. GORMAN. Mr. Speaker, I ask the unanimous consent of the House to take up the bill of the Senate this minute reported by the Secretary of that body, No. 638—a bill to indemnify the State of Indiana for the loss, by failure of title to a township of land heretofore granted to my State for the use of a State seminary of learning—and I appeal to my friends on each side of this House to make no objection, as it is necessary to pass this bill promptly, or the State University of my State must suffer great loss and perhaps destruction. I appeal to the gentleman from North Carolina [Mr. CLINGMAN] to withdraw his motion, and suffer me to have this bill passed immediately. The loss in this case will fall severely upon the State University, and especially so on myself and others who reside at the place of its location. I therefore appeal to gentlemen to let it pass.

Mr. CLINGMAN. If by general consent it can be acted on, I will withdraw my motion.

Mr. MOREHEAD. I object!

Mr. GORMAN. I appeal to my friend from North Carolina to withdraw his objection. I ask it of my friend as a personal favor.

Mr. MOREHEAD. I withdraw my objection.

The above resolution of the Senate, suspending the 16th and 17th joint rules, so far as relates to said Senate bill, (No. 638,) was then, upon motion by Mr. GORMAN, taken up and concurred in.

Mr. GORMAN. I now ask that the Senate bill, referred to in the resolution just passed, be taken up and considered.

No objection being made, the said bill was taken from the Speaker's table, and read a first and second time by its title, as above inserted.

The bill was then, according to order, read the third time and passed.

Mr. HENDRICKS. I rise to a privileged question. I move to reconsider the vote by which the joint resolution was passed, and also to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

Mr. MEADE. I rise to a privileged question. I move to reconsider the vote by which the House refused to suspend the rules to enable me to introduce a bill for the relief of Mrs. Colton.

The SPEAKER. The Chair thinks the motion is not in order.

On motion by Mr. GROW,

Ordered, That leave be granted to withdraw from the files of the House the papers of Thomas F. Green, in reference to an invalid pension, for the purpose of reference to the Departments.

URSULA E. COBB.

Mr. COBB. I learn that there is yet one widow unprovided for. [Laughter.] I ask the unanimous consent of the House to allow the Committee on Invalid Pensions to report a Senate bill, and which they agreed to report long ago, for the relief of Ursula Cobb.

Mr. GOODENOW. I object!

Mr. HARRIS, of Tennessee. I will simply say that the Committee on Invalid Pensions have considered that bill, and have instructed me to report the same with an amendment, and it ought to be passed.

Mr. STEPHENS, of Georgia. I suggest to the gentleman from Alabama so to modify his motion as to allow the Committee on Invalid Pensions to report all Senate bills providing pensions for widows.

Many MEMBERS. I object!

Mr. COBB. Objection is made, and of course I cannot modify the motion. I move to suspend the rules for the purpose indicated.

The question was taken, and the motion was agreed to, two thirds voting in favor thereof.

Mr. HARRIS, of Tennessee, then, from the Committee on Invalid Pensions, reported the bill with an amendment.

The bill provides that the name of Ursula Cobb shall be placed upon the list of invalid pensions, at one half the monthly pay of her husband at the time of his death; to commence on 9th of May, 1848, and to continue during her widowhood.

The amendment proposed by the Committee on Invalid Pensions was then read.

It proposed to modify the Senate bill so as to make her pay *ten dollars* per month, to commence on the 9th day of May, 1848, and to continue during the term of five years.

Mr. HARRIS, of Tennessee. The amendment only proposes to put her upon the same footing as those provided for by the general law.

The question was taken upon the adoption of the amendment, and it was agreed to.

The bill was then, according to order, read a third time and passed.

MRS. ELIZABETH CRAIG.

Mr. STEPHENS, of Georgia. I make one more appeal to the House to allow me to take up a Senate bill for the relief of Mrs. Elizabeth Craig. Her husband commanded the escort to the Boundary Commission, and he was shot down while in that service. If he had been killed in a war, his widow would have come in under the general law, but she cannot now. I ask the House to take up and pass the bill.

Mr. EDGERTON. I object!

Mr. STEPHENS. Then I move that the rules be suspended.

The question was taken, and the motion was agreed to; two thirds voting in the affirmative.

The bill was then taken up, and read a first and second time by its title.

Mr. PENNIMAN. I rise to a question of order. The rules were suspended in order to take up the case of Mrs. Craig, and not the case of Mr. Olmstead.

The SPEAKER. The Chair overrules the question of order. It is the bill indicated by the gentleman from Georgia.

The bill was then ordered to a third reading; and it was subsequently read a third time and passed.

MARY WOODWARD.

Mr. CAMPBELL, of Illinois. I ask the unanimous consent of the House to take up the Senate bill for the relief of Mary Woodward.

I beg the attention of the House for a few moments to a brief statement of the bill.

Mr. MEADE. I was not permitted just now to make a statement of a bill which I desired to have taken up, and I must object.

Mr. CAMPBELL. I hope the gentleman will withdraw his objection. This is the only favor I shall ask of this House.

Mr. MEADE. I cannot.

Mr. CAMPBELL. The objection, I understand, is to the statement, and not to the bill.

Mr. MEADE. I object to the taking up of the bill.

Mr. CAMPBELL. Then I move to suspend the rules.

The question was taken, and the motion was agreed to; two thirds voting in favor thereof.

The bill was then read a first and second time by its title, and, according to order, read the third time.

The bill provides that the name of Mary Woodward shall be placed upon the pension roll, at a compensation of thirty dollars per month, to commence on the 5th of November, 1850, and to continue during her widowhood.

The question recurring on the passage of the bill, tellers were called for and ordered; and Messrs. DOTY and MACE were appointed.

The question was then taken, and the tellers reported—ayes 87, noes not counted.

So the bill was passed.

[A message was here received from the Senate, by the hands of ASBURY DICKINS, its Secretary, informing the House that the Senate had adopted a resolution suspending the 16th joint rule so far as relates to the bill of the Senate No. 644, "to establish a new land office in the State of Florida."

Also, that the Senate had passed severally, without amendment, bills of the House of the following titles, viz:

H. R. No. 53. An act for the relief of Gardner Herring; and

H. R. No. 365. An act for the relief of Robert Gibson.

Also, that the Senate had receded from their 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 28th, 29th, and 42d amendments to the bill of the House No. 342, "making appropriations for the naval service for the year ending June 30, 1854;" had agreed to the amendment of the House to their 12th amendment to said bill; insist upon their amendments D and C; agree to the amendment of the House to their amendment No. 38; insist upon their other amendments disagreed to by the House, and ask a conference upon said disagreeing votes of the two Houses.]

The following shows in detail the action of the Senate on the amendments to the naval bill, as contained in the above message:

Amendments from which the Senate recede:

The 4th, 5th, 6th, and 7th amendments of the Senate:

"On page 5, in the following paragraph, viz:

"*Portsmouth, New Hampshire*—For coopers' shop and watchman's quarters, dredging in front, and painting and puddling stone basin, boiler room, boilers, engine and machinery, reservoir for engine-house, pipes, gutters, drains, and cisterns, grading yard near timber-shed, and for repairs of all kinds, including care of floating dock, $53,107;

"After the word 'quarters,' insert 'foundations of ways for launching and hauling up;' after the word 'cisterns,' insert 'removing ledge and;' after the word 'timber shed,' insert 'dry-dock and railway chapel;' and after the word 'floating dock,' strike out '$53,107,' and insert in lieu thereof '$80,893.'"

The 8th, 9th, 10th, and 11th amendments of the Senate:

"On page 6, in the following paragraph:

"*Boston, Massachusetts.*—For rebuilding smithery, cooperage, and packing-house, coal house for rope-walk, engines, stone wall west of timber dock, rebuilding battery, grading and paving timber-shed No. 31, and for repairs of all kinds, $81,460;

"Insert after the word 'for,' where it first occurs, the words 'machine-shop and foundery;' after the word 'engine,' insert 'chapel;' after the word 'battery,' insert 'shear-wharf, hauling slip, gutters;' and after the word 'kinds,' strike out '$81,400,' and insert in lieu thereof '$119,800.'"

The 13th, 14th, and 15th amendments of the Senate:

"On page 6, after the word 'of,' where it first occurs in the following paragraph:

"*Washington, District of Columbia.*—For filling in timber-dock, (completion of,) extending boiler-shop, converting old ordnance shop into machine-shop, steam engine and other machinery for ordnance works, ordnance foundery for casting brass guns, railway from anchor and boiler shop to wharves, quay wall south front of yard, and for repairs of all kinds, $162,512;

"Insert, 'commander's quarters, conveying water into navy-yard, and reservoir;' after the word 'guns,' insert 'gas fixtures, and gas for lighting yard;' and after the word 'kinds,' strike out '$162,' and insert in lieu thereof '$200.'"

Sixteenth and seventeenth amendments of the Senate:

"On page 7, in the following paragraph:

"*Norfolk, Virginia.*—For extending quay wharves, completing timber-dock, machinery for engine, machine and armorers' shops, dredging, filling in low grounds, grading, completing magazine and keeper's house, Fort Norfolk, hauling up slips and mud scows, and for repairs of all kinds, $114,600;

"After the word 'timber-dock' insert 'carpenters' workshop, and cart-shed, building for muster, and other offices,' and strike out in the last line '14,' and insert in lieu thereof '60.'

Eighteenth amendment of the Senate:

"On page 8, line 4, in the following paragraph:

"*Pensacola, Florida.*—For permanent wharf, paint-shops, and cooperage, construction of deep basin and dredging, rebuilding of central wharf and wharves J and C, smoke stack, and extending machine-shops, mooring anchors, cables, and fixtures for mooring and operating floating dock, and for repairs of all kinds, $225,800;

"Strike out '$25,800,' and insert in lieu thereof '$61,505.'"

Nineteenth, twentieth, and twenty-first amendments of the Senate:

"On page 8, in the following paragraph:

"*Memphis, Tennessee.*—For completing hemp-house, completing blacksmith shop, and office building, cisterns for rope-walk, culvert from rope-walk to river, and for repairs of all kinds, $43,976;

"After the word 'for' where it first occurs, insert 'excavation, embankment, and grading;' after the word 'river,' 'pavements, drains, ditches, and privies;' and after the word 'kinds,' strike out '$43,976,' and insert in lieu thereof '$126,468.'"

Twenty-eighth and twenty-ninth amendments of the Senate:

"On page 9, in the following paragraph:

"*At Philadelphia Naval Asylum.*—For tinning roof of asylum, laying water-pipes, furnaces, grates, and ranges, pavements and gutters, $5,000;

"After the word 'for,' where it first occurs, insert 'paving Shippen street, walls on Shippen street, and iron railing;' and after the word 'gutters,' strike out '$5,000,' and insert in lieu thereof '9,600.'"

The forty-second amendment of the Senate was the section, heretofore inserted, in reference to the reorganization of the Navy.

The Senate agree to the amendment of the House to their twelfth amendment to the bill.

The twelfth amendment of the Senate was to strike out from the original bill the following:

"*New York, New York.*—For completing engine-house, $30,000;

"For repairs of all kinds, $18,000."

And to insert in lieu thereof, the following:

"*New York, New York.*—For completing commander's house, smithery, timber-shed; lime, pitch, and coal-house; continuing quay wall, muster office, cob wharf; dredging channel and piers; completing engine-house, culvert, and removing piles in front of dock; filling in timber-pond and low places; paving gutters and flagging, and for repairs of all kinds, $249,320."

The House amendment thereto, and to which the Senate agree, as above stated, was to add the following proviso:

"*Provided*, That no part of the appropriation shall be expended until the State of New York shall cede the jurisdiction of the navy-yard to the United States, and until the title to said land is settled, excepting so much of the appropriation as may be needed for completing engine-house, and for repairs of all kinds."

The Senate agree to the amendment of the House to their thirty-eighth amendment, to wit:

The thirty-eighth amendment of the Senate was to add the following:

"For the purpose of paying the lien existing on the lands recently purchased as an addition to the navy-yard at Brooklyn, $12,247 05, to be paid by the Secretary of the Navy, if upon examination he shall find the same to be due as a lien on the purchase of said land; and the Secretary of the Navy is hereby empowered and directed to sell and convey to any purchaser all that part of the navy yard lands at Brooklyn between the west side of Vanderbilt avenue and the hospital grounds, containing about twenty-six and a half acres, including Vanderbilt and Clinton avenues: *Provided*, That said lands shall not be sold at less price than they cost the Government, including interest with all assessments and charges: *And provided further*, That, prior to the sale of said lands, exclusive jurisdiction shall be ceded to the United States of all the remaining lands connected with the said navy yard belonging to the United States."

The House amendment thereto, and to which the Senate agree, as above stated, was to add thereto the following:

"*Provided*, That the sale be made at public auction, after thirty days' notice in at least three daily newspapers published in the cities of New York and Brooklyn."

The Senate insist upon their other amendments disagreed to by the House, and ask a committee of conference upon said disagreeing votes of the two Houses.

INDIAN APPROPRIATION BILL.

Mr. DUNHAM. I will state informally, for information, that the Committee of Conference appointed on the part of the House have met the committee appointed on the part of the Senate on the Indian appropriation bill, and that they are unable to agree. The Senate agreed to recede from their fifth, eighth, and tenth amendments, which are as follows:

Fifth amendment:

"Add after the provision for the payment of the claim of the Ohio Shawnees, under the treaty of 1831, the following:

"*Provided*, That the sum aforesaid shall be paid the said tribe *per capita*; and if any agent or other person shall violate this proviso, he or they shall be guilty of felony, and shall be liable to indictment in the jurisdiction in which the Indians reside, and punishable by fine and imprisonment, the fine not to be over $1,000, nor less than $500, and to be imprisoned not more than ten years, nor less than five."

Eighth amendment:

"Insert the following in the bill:

"To pay to Andrew Taylor, the head of a Cherokee family, $14,720, with interest from the 23d day of August 1843, in adjustment of his reservation rights under the thirteenth article of the Cherokee treaty of 1835; and the amount necessary for that purpose is hereby appropriated out of any money not otherwise appropriated: *Provided*, That the sum appropriated by this clause shall be paid directly to the said Taylor, and not to anybody else."

Tenth amendment:

"*And be it further enacted*, That the thirteenth section of the act approved March 3, 1851, entitled 'An act to ascertain and settle private land claims in the State of California,' be so modified that claimants to land in said State, shall be allowed until the first day of March, 1854, to present and file their claims before said commissioners."

The committee were unable to agree as to the ninth amendment of the Senate, which is as follows:

"That the President of the United States be, and he is hereby, authorized to make five military reservations from the public domain in the State of California, or the Territories of Utah and New Mexico, bordering on said State, for Indian purposes: *Provided*, That such reservations shall not contain more than twenty-five thousand acres in each: *And provided further*, That said reservations shall not be made upon any lands inhabited by citizens of California; and the sum of $250,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to defray the expense of subsisting the Indians in California, and removing them to said reservations for protection."

Mr. BAYLY, of Virginia. I rise to a question of order. I say that it is not in order to detail in the House what occurred in the committee.

Mr. DUNHAM. I have the right, at least, to make suggestions on my own responsibility.

The SPEAKER. The Chair decides that it would not be in order to detail in minutiæ what occurred in the committee, but he does not think the gentleman is out of order.

Mr. STEPHENS, of Georgia. I say that it is not only the right but the duty of the Committee

of Conference to explain in detail all the questions that came before it, and the disposition of the other House so far as ascertained.

The SPEAKER. The Chair decides that it is the duty of the Committee to report conclusions, but not arguments made before it, or what one gentleman did and what another did not do.

Mr. STEPHENS. I say the committee has the privilege of reporting fully all that transpired in regard to its free conference with the committee on the other side.

Mr. DUNHAM. From information which we obtained we agreed to recede from the House's disagreement to the following amendment of the Senate:

"Strike out of the following paragraph '15,000' and insert '30,000:'

"*Texas Indians.*—For compensation to three special agents and four interpreters for the Indian tribes of Texas, and for the purchase of presents, $15,000."

It seems that from some apprehension General Harney made an attack on some of the Indian towns in that country, which has occasioned ill feeling on the part of the Indian tribes. He destroyed their houses and their property, and it is believed that they are now in a suffering condition. The Senate thought that this increased appropriation was necessary, and ought in justice to be made to those Indians. As I have said, we agreed to recede from the House's disagreement, but with the following amendment by way of addition:

Of which the sum of $15,000 may be used in such manner as the Secretary of the Interior may deem necessary for subsistence and preserving peace with said Indians.

JOHN LEWIS HICKMAN.

Mr. EASTMAN obtained the floor, but yielded to

Mr. BROWN, of Mississippi. The House passed a resolution to-day, on my suggestion, as an amendment to that of the gentleman from Tennessee, [Mr. POLK,] in reference to the payment of John Lewis Hickman. I understand that it is likely to receive a much broader construction than was intended, and I therefore ask that the House will allow the passage of the following resolution to prevent any misconstruction:

Resolved, That the Clerk of the House, in executing so much of the resolution passed this day as relates to John Lewis Hickman, shall only compute the number of days that said Hickman has been actually employed during the sittings of Congress.

Mr. WALSH. With the gentleman's consent, I offer the following as an amendment:

Resolved, That the Clerk of the House be authorized to pay out of the contingent fund of the House to Francis Reily, the same compensation annually which is paid to the messengers of the House of Representatives, from the 1st of April, 1852, the day of his appointment, and until otherwise ordered.

Mr. OLDS. With the gentleman's permission I will offer an amendment.

Mr. BROWN. I hope my resolution will not be loaded down with all kinds of amendments. I call for the previous question.

Mr. ORR. The amendment of the gentleman from Maryland is not germane to the resolution of the gentleman from Mississippi, and therefore not in order.

Mr. WALSH. The gentleman's question of order is entirely too late.

The SPEAKER, (Mr. HARRIS of Tennessee in the chair.) The Chair decides that the question of order is in time and well taken, and therefore that the amendment is out of order.

Mr. WALSH. I take an appeal from that decision.

The question was taken, "Shall the decision of the Chair stand as the judgment of the House?" and it was agreed to.

The call for the previous question was seconded, and the main question ordered to be put.

The question was then taken, and Mr. BROWN's resolution was adopted.

ALEXANDER P. FIELD.

Mr. EASTMAN. I ask the unanimous consent of the House for leave to report from the Committee on the Judiciary Senate resolution No. 10, entitled "Joint resolution for the relief of Alexander P. Field, late secretary of Wisconsin Territory, and his securities." It provides for the payment of money into the Treasury, and not an appropriation to take it out. It has been unanimously agreed to by the committee with an amendment.

Objection was made.

Mr. EASTMAN. I move to suspend the rules for that purpose.

Tellers were demanded and ordered; and Messrs. BRIGGS and STONE were appointed.

The question was taken, and the rules were suspended, the tellers having reported—ayes 84, noes 40.

Mr. EASTMAN then, from the Committee on the Judiciary, reported back, with an amendment, Senate resolution No. 10; which was read, as follows:

Resolved, &c., That the proper accounting officers of the Treasury Department be authorized and directed to settle the accounts of Alexander P. Field, late secretary of Wisconsin Territory, upon principles of equity and justice.

The amendment of the committee was then read, as follows:

Provided, That no credit shall be allowed the said Field, in said settlement under this resolution, except such of the following items, numbering from one to twelve, inclusive, claimed by said Field, as the said accounting officers may determine in equity and justice should be allowed:

Item No. 1. W. W. Wyman, payment on bond not yet surrendered, $437.

Item No. 2. C. C. Shales, payment on his bond not surrendered, $1,075.

Item No. 3. Over payment to Isaiah Noonan, for printing, $100 41.

Item No. 4. Over payment to John Catlin, $107.

Item No. 5. George J. Coates's bond, wanting Gridley's indorsement, $100.

Item No. 6. E. Slingberland's bond, wanting J. Kneeland's indorsement, $100.

Item No. 7. James Sullivan's bond, wanting his own indorsement, $35.

Item No. 8. Appropriation of Legislative Assembly for expenses of journey to Washington, procuring and transporting funds, &c., $800.

Item No. 9. Payment to Barlow Shackleford, $6 65.

Item No. 10. Appropriation of Legislative Assembly, February, 1843, for expense to Washington, procuring and transporting money for expenses of Legislative Assembly, $800.

Item No. 11. Appropriation for office rent, stationery, &c., $100.

Item No. 12. Appropriation for postage, $100.

Making in all, $3,761 06.

Mr. EASTMAN. This amendment is moved at the request of Mr. Whittlesey, after an examination of the items. The resolution was introduced to remedy some informality in consequence of which the accounting officer refused to allow this credit though the bonds have been canceled.

The question was taken and the amendment was adopted.

The resolution was then ordered to be read a third time; and it was, according to order, read a third time, and passed.

Mr. STANLY. I offer a resolution for the payment of the clerk of the Committee on Ways and Means. He is a most useful officer.

Mr. SEYMOUR, of New York. I wish to appeal to the gentleman from North Carolina, instead of offering his resolution now, to let me take up and put on its passage a bill for the relief of a poor man, who has been made a pauper by this Government. I have stood here all day with this bill in my hand endeavoring to get the floor.

Mr. BAYLY, of Virginia. I have a bill for the relief of a poor man in my hand. [Laughter.]

Mr. STANLY. I have a harder case than the gentleman.

Mr. SEYMOUR. You cannot have.

Mr. STANLY. Then I yield to the gentleman.

Mr. EWING. I have been on the floor for three weeks striving to have a bill taken up, and I object.

Mr. STANLY. I shall ask the unanimous consent of the House to take up a Senate resolution for the relief of two widows.

Mr. SEYMOUR. I thought I had the floor.

Mr. EWING. The gentleman cannot take the floor.

The SPEAKER. The gentleman from North Carolina cannot yield the floor for the purpose of calling up a different measure, unless by unanimous consent of the House.

Mr. EWING. I object!

ISAAC L. BATTLE.

Mr. STANLY. I ask that Senate resolution No. 52, entitled "A resolution for the relief of the estate of Isaac L. Battle," be taken up and put on its passage. It passed the Senate at the last session. The following are the facts of the case, as set forth in the report of the committee:

"In the year 1842, Charles Matthews and William King were the successful bidders for a contract with the Post Office Department to carry the mail three times a week, backward and forward, between Bainbridge, in the State of Georgia, and Pensacola, in Florida, and Isaac L. Battle, the petitioner's intestate, became guarantor in their behalf. Matthews and King failed to execute their contract or to perform any portion thereof, in consequence of which the mail was carried by W. T. Stockton & Co., who had been the contractors previously, from 'the 1st of July, 1843, to the 8th of October, 1843,' at which time the route was relet at the price stated in their bid. During the time for which Stockton & Co. carried the mail, it was carried at the rate previously paid to them, say $21,000 per annum, and on the 21st August, 1846, suit was ordered to be brought against King and Matthews, and Isaac L. Battle, their guarantor, to recover $3,125 as the difference between their bid, $9,500 per annum, and the rate paid to Stockton & Co., $21,000. On the 5th of January, 1848, judgment was obtained against Felix G. Long, executor of Charles Matthews, for $3,924 62, and an execution issued to satisfy said judgment, upon which $107 14 was paid over to the Department on the 9th of April, 1849, after deducting for costs $164 86. Process was at the same time issued, but was not served, on King or Battle. The claim from which the petitioner asks to be released is the balance under the above judgment, on the ground that he, as administrator of Isaac L. Battle, had no information that there was such a claim in existence, until he had paid out as administrator all the assets in hand with the exception of $1,500 which he had reserved for the payment of a debt due from the estate to a widow woman named Lewis, who is poor and must lose the whole of her claim if the debt to the Government be paid. A further ground on which the petitioner asks to be released, is the laches on the part of the Government in not prosecuting its claim at the time of the failure on the part of King and Matthews, and when they were able to pay the damage sustained, instead of waiting four years, at the end of which time one of the principals had left the State and the other had died, leaving an estate almost totally inadequate to meet the liability.

"Your committee think that the delay of the Government had the effect of depriving the guarantor of any recourse he might have had against the bidders in question, for indemnity against the liability incurred by him in their behalf, and in this way was the real cause of any loss that may have been sustained, owing to the remissness of the officers of the Government, for which the innocent family of the guarantor or his creditors cannot in justice be held accountable. Guarantors become such under the supposition that in the event of a failure on the part of those for whom they become security to do the thing proposed, they will at least have an opportunity afforded them to protect themselves and their families against any liability incurred. Where no such opportunity is given, and the Government and its officers, by remissness in the performance of their duty, cause a wrong to be inflicted which they might have prevented by proper diligence, it is no more than justice, in the opinion of your committee, that the party wronged shall be released from any mere legal liability incurred. They therefore recommend the adoption of the accompanying resolution."

Mr. KING. I object to taking up the resolution.

Mr. STANLY. I move to suspend the rules for the purpose, and I demand tellers.

Tellers were ordered; and Messrs. COBB and VENABLE were appointed.

The question was taken; and the tellers reported that there were ayes 100, noes not counted.

So the rules were suspended.

The bill having been read the first and second time, was ordered to a third reading; and having been read a third time, it was passed.

ELIZABETH MONROE.

Mr. BROWN, of New Jersey. I ask the unanimous consent of the House to take up Senate bill No. 124, for the relief of Elizabeth Monroe.

Mr. MILLSON. That is not a bill from the Speaker's table, but it is a report from the committee.

Mr. KING, of New York. I object!

Mr. BROWN. I move to suspend the rules.

The question was taken, and it was decided in the affirmative.

The bill having been read a first and second time, and having been ordered to a third reading, it was read the third time, and passed.

WALTER COLTON.

Mr. MEADE. I ask the unanimous consent of the House to take up Senate bill (No. 296) for the relief of the legal representatives of Walter Colton.

Mr. KING, of New York. I ask that the bill be read for the information of the House.

The bill was then read.

Mr. BAYLY, of Virginia. I object to the introduction of the bill.

Mr. MEADE. I hope the House will allow me to make a brief statement of this case and let the report be read. It is for refunding money which improperly got into the Treasury. I ask that the report be read as a part of my speech.

Mr. BAYLY. I object to the introduction of the bill.

Mr. MEADE. I move to suspend the rules in order to permit me to introduce the bill.

Tellers were demanded and ordered; and Messrs. BRIGGS and EASTMAN were appointed.

The question was taken, and the tellers reported that there were—ayes 71, nays 18—no quorum voting.

Mr. CARTTER. I move a call of the House.

[A message was received from the Senate, by Mr. DICKINS, its Secretary, informing the House that the Senate had agreed to the amendments of the House to the bill and joint resolutions of the Senate of the following titles, viz:

S. No. 231. An act for the relief of Ursula E. Cobb;

S. No. 79. A resolution in amendment of a joint resolution relating to the duties of inspectors of steamers, approved the 7th day of January, 1853; and

S. No. 10. A resolution for the relief of Alexander P. Field, late Secretary of Wisconsin Territory, and sureties.

That the Senate had receded from their amendments, numbered 5, 8, and 10, disagreed to by the House, and insist upon their amendments numbered 6 and 9 disagreed to by the House, to the bill of the House (No. 333) "making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1854."]

[Mr. WILDRICK, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles, viz:

H. R. No. 250. An act for the relief of S. Morris Waln;

H. R. No. 320. An act for the relief of James H. Jenkins;

H. R. No. 279. An act for the relief of Mary Pearson;

H. R. No. 275. An act for the relief of William J. Price;

H. R. No. 272. An act for the relief of John Ozias;

H. R. No. 303. An act for the relief of Cornelius Covert, of Michigan;

H. R. No. 264. An act to appropriate lands for the support of schools in certain townships and fractional townships in the Territory of Minnesota, not before provided for;

H. R. No. 181. An act for the relief of Henry Click, of Cocke county, Tennessee;

H. R. No. 178. An act for the relief of Henry Miller, a soldier of the war of 1812;

H. R. No. 100. An act for the relief of James Wright, jr.;

H. R. No. 26. Joint resolution for the relief of Thompson Barnett;

H. R. No. 155. An act for the relief of William H. Wells and others;

H. R. No. 274. An act for the relief of Jasper A. Maltby;

H. R. No. 368. An act for the relief of Robert Gibson;

H. R. No. 53. An act for the relief of Gardner Herring;

H. R. No. 134. An act authorizing the Governor of the Territory of New Mexico to call an extra session of the Legislative Assembly of said Territory, should the same be deemed necessary and expedient;

H. R. No. 363. An act for the relief of John Huffington; and

H. H. No. 263. An act to provide for additional clerks, and to extend the sessions of the Legislature of the Territory of New Mexico;

When the Speaker signed the same.]

The question was then taken on Mr. CARTTER's motion, that there be a call of the House; and it was decided in the negative.

Mr. LETCHER demanded the yeas and nays upon the call; which were ordered.

NAVY BILL.

A message was here received from the Senate, by the hands of ASBURY DICKINS, Esq., its Secretary, informing the House that the Senate had agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the bill of the House (No. 342) making appropriations for the naval service of the year ending the 30th of June, 1854; and that the Senate had adopted a resolution suspending the 16th joint rule, so far as relates to the bill of the Senate (No. 306) entitled "An act for the relief of the West Feliciana Railroad Company."

Mr. BAYLY, of Virginia. There is no quorum here, and I object to the transaction of business.

The question was then taken upon the motion of Mr. LETCHER that there be a call of the House; and there were—yeas 62, nays 50; as follows:

YEAS—Messrs. William Appleton, Averett, Thomas H. Bayly, Bowie, Bowne, Briggs, E. Carrington Cabell, Thompson Campbell, Chandler, Cleveland, Colcock, Daniel, Doty, Duncan, Edgerton, Evans, Fay, Florence, Freeman, Gorman, Grow, Isham G. Harris, Hart, Holladay, T. Y. How, J. Johnson, R. W. Johnson, D. T. Jones, George G. King, Preston King, Letcher, Lockhart, Mace, Martin, McCorkle, McLanahan, McQueen, Meade, Millson, Morehead, Murray, Olds, Orr, Outlaw, Andrew Parker, Penn, Perkins, Phelps, Price, Robbins, Robie, Sabine, Sackett, Frederick P. Stanton, Alexander H. Stephens, Stratton, Toombs, Townshend, Venable, Wildrick, and Woodward—62.

NAYS—Messrs. Aiken, Bennett, Brooks, Albert G. Brown, George H. Brown, Burrows, Cartter, Caskie, Chapman, Cobb, Cottman, Dawson, Dimmick, Dunham, Durkee, Eastman, Ficklin, Fitch, Floyd, Gaylord, Goodenow, Hall, Sampson W. Harris, Hendricks, Henn, Howard, Thomas M. Howe, Ives, Jackson, James Johnson, Landry, Little, McMullin, John Moore, Murphy, Nabers, Newton, Penniman, Robinson, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Snow, Sutherland, Sweetser, Ward, and Addison White—50.

So a call of the House was ordered.

The roll was then called, and one hundred and two gentlemen answered to their names; as follows:

Messrs. Aiken, Charles Allen, William Appleton, Averett, Thomas H. Bayly, Bell, Bennett, Bibighaus, Bocock, Bowie, Briggs, Brooks, Albert G. Brown, George H. Brown, E. Carrington Cabell, Thompson Campbell, Caskie, Chandler, Chapman, Clemens, Cobb, Colcock, Conger, Curtis, Darby, Dimmick, Doty, Duncan, Dunham, Durkee, Eastman, Edgerton, Edmundson, Evans, Fay, Ficklin, Fitch, Florence, Floyd, Freeman, Gaylord, Goodenow, Gorman, Grey, Grow, Hall, Isham G. Harris, Hart, Hendricks, Henn, Holladay, Horsford, Houston, Howard, Thomas M. Howe, Thomas Y. How, Ives, Jackson, Andrew Johnson, John Johnson, Robert W. Johnson, Daniel T. Jones, George W. Jones, J. Glancy Jones, George G. King, Preston King, Landry, Letcher, Little, Lockhart, Mace, Martin, McLanahan, McMullin, McNair, McQueen, Meade, Millson, John Moore, Morehead, Morrison, Murphy, Murray, Nabers, Newton, Olds, Orr, Outlaw, Andrew Parker, Peaslee, Penn, Penniman, Perkins, Phelps, Price, Richardson, Riddle, Robbins, Robie, Robinson, Sabine, Sackett, Schermerhorn, Schoolcraft, Schoonmaker, David L. Seymour, Origen S. Seymour, Skelton, Snow, Stanly, Frederick P. Stanton, Alexander H. Stephens, Stratton, Sutherland, Sweetser, Thurston, Toombs, Venable, Walsh, Addison White, Wildrick, and Woodward.

The following is the list of absentees:

Messrs. Abercrombie, Willis Allen, Allison, John Appleton, Ashe, Babcock, David J. Bailey, Barrere, Bartlett, Beale, Bissell, Bowne, John H. Boyd, Bragg, Breckinridge, Brenton, Burrows, Burt, Busby, Joseph Cable, Caldwell, Lewis D. Campbell, Carter, Chastain, Churchwell, Clark, Cleveland, Clingman, Cottman, Cullom, Daniel, George T. Davis, John G. Davis, Dawson, Dean, Disney, Dockery, Ewing, Faulkner, Henry M. Fuller, Thomas J. D. Fuller, Gamble, Gentry, Giddings, Gilmore, Goodrich, Green, Hamilton, Hammond, Harper, Sampson W. Harris, Haws, Hascall, Haven, Hebard, Hibbard, Hillyer, John W. Howe, Hunter, Ingersoll, Jenkins, Kuhns, Kurtz, Mann, Marshall, Mason, McCorkle, McDonald, Meacham, Miller, Miner, Molony, Henry D. Moore, Samuel W. Parker, Polk, Porter, Powell, Preston, Reed, Ross, Russell, Savage, Scudder, Scurry, Smart, Smith, Benjamin Stanton, Richard H. Stanton, Abraham P. Stephens, Thaddeus Stevens, Stone, St Martin, Strother, Stuart, Taylor, Townshend, Tuck, Walbridge, Wallace, Ward, Washburn, Watkins, Welch, Wells, Alexander White, Wilcox, Williams, and Yates.

The SPEAKER. The roll of absentees will be again called, and gentlemen who have excuses to make for their absent friends will make them.

The Clerk called the names of the absentees. Some were excused, and others were not.

Mr. STANTON, of Tennessee. I understand that there is a quorum now present. It is evident that the call cannot be carried through, and it is useless to continue it. I therefore move that all further proceedings in the call be dispensed with.

The motion was agreed to, and the doors of the House were accordingly reopened.

INDIAN APPROPRIATION BILL.

Mr. DUNHAM. I propose to take up the Indian appropriation bill, which has been sent back from the Senate.

The SPEAKER. The Chair will inform the gentleman from Indiana that when the House found itself without a quorum the gentleman from Virginia [Mr. MEADE] was upon the floor.

Mr. DUNHAM. I presume there will be no objection to taking up the bill and disposing of it.

No objection was made; and the amendments of the Senate to the Indian appropriation bill were accordingly taken up for consideration.

Mr. DUNHAM. The Senate have receded from three of their amendments, leaving only two in dispute.

The fifth amendment was to add the following proviso to the provision of the bill for the payment of the Ohio Shawnees:

"*Provided*, That the sum aforesaid shall be paid to the said tribe *per capita;* and if any agent or other person shall violate this proviso, he or they shall be guilty of felony, and shall be liable to indictment in the jurisdiction in which the Indians reside, and punishable by fine and imprisonment, the fine not to be over $1,000 nor less than $500, and to be imprisoned not more than ten years nor less than five."

The Senate have receded from that. They have also receded from their eighth amendment; which was as follows:

"To pay to Andrew Taylor, the head of a Cherokee family, $14,720, with interest from the 23d day of August, 1843, in adjustment of his reservation rights under the thirteenth article of the Cherokee treaty of 1835; and the amount necessary for that purpose is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the sum appropriated by this clause shall be paid directly to the said Taylor, and not to anybody else."

The Senate have also receded from their tenth amendment; which was as follows:

"SEC. 5. *And be it further enacted*, That the thirteenth section of the act approved March 3, 1851, entitled 'An act to ascertain and settle private land claims in the State of California,' be so modified that claimants to land in said State shall be allowed until the 1st day of March, 1854, to present and file their claims before said commissioners."

The sixth and ninth amendments of the Senate remain undisposed of. I now move that the House recede from its disagreement to the sixth amendment, with an amendment.

The House put the following provision in the bill:

"For compensation to three special agents, and for interpreters for the Indian tribes of Texas, and for the purchase of presents, $15,000."

The Senate struck out "fifteen" and inserted "thirty."

I move that the House concur in that amendment of the Senate, with this amendment:

Add the following:

Of which sum, $15,000 may be used in such manner as the Secretary of the Treasury may deem necessary for the subsistence of and preserving peace with said Indians.

The SPEAKER. Does the gentleman ask a concurrence in the report of a Committee of Conference?

Mr. DUNHAM. No, sir; there is no report from the Committee of Conference. I ask that the House shall concur in the amendment of the Senate with the amendment which I have proposed.

The question was taken on Mr. DUNHAM's amendment to the Senate amendment, and it was agreed to.

The amendment of the Senate as amended was then concurred in.

Mr. DUNHAM. I move to reconsider the vote by which the amendment was concurred in, and to lay the motion to reconsider upon the table.

The question was taken upon the latter motion, and it was agreed to.

[Mr. WILDRICK, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills and joint resolutions, which thereupon severally received the signature of the Speaker:

An act for the relief of Ursula E. Cobb;

An act granting a pension to Elizabeth Monroe; and

A resolution in amendment of a joint resolution relating to the duties of inspectors of steamers, approved the 7th January, 1853.]

The ninth amendment of the Senate was reported as follows:

"That the President of the United States be, and he is hereby, authorized to make five military reservations from the public domain in the State of California, or in the Territories of Utah and New Mexico, bordering on said State, for Indian purposes: *Provided*, That such reservations shall not contain more than twenty five thousand acres in each: *And provided further*, That said reservations shall not be made on any lands inhabited by the citizens of California. And the sum of $250,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of subsisting the Indians in California, and removing them to said reservations for protection."

Mr. JOHNSON, of Arkansas. I will state to the House that that is the Pueblo amendment. I explained it to the House once to-night at some length. There was then a very thin House, but at the moment of taking the vote there was an accession to our number of about twenty-five members, who, not knowing anything about the amendment except that it was a Senate amendment, voted against it and it was sacrificed. That is the history of its rejection.

Sir, the measure proposed in that amendment is one by which we undertake to throw the Pueblo Indians into villages, to collect them together in bands, so that they shall work together under the instruction and direction of some one placed over them by the Government, and the products of their own labor will afford the means of feeding them and carrying them forward to a state of higher prosperity than they now enjoy. For this purpose five townships of land are to be reserved as military reserves. The title is not to be vested in the Indians, so that if time or circumstance should render their removal expedient, we shall not be required to purchase them out, as would be the case in any other part of the country.

The amendment contains an appropriation of $250,000 to collect them together. They number about seventy thousand, and are a peaceful, harmless, and defenseless race. I ask the House to concur in the amendment with the following amendments, which I believe the Senate will adopt if they are adopted by the House:

After the words "President of the United States," insert: "if, upon examination, he shall approve of the policy hereinafter provided for the protection of the Indians;" and add at the end of the clause the following:

Provided, That if the foregoing policy shall be adopted by the President, the three Indian agencies in California shall be thereupon abolished.

They will be rendered unnecessary by this act.

The question was taken on Mr. JOHNSON's amendment to the Senate amendment, and it was agreed to.

The amendment of the Senate as amended was then concurred in.

Mr. JOHNSON, of Arkansas. That finishes the Indian bill. I move to reconsider the vote by which the amendment of the Senate was concurred in, and to lay the motion to reconsider upon the table.

The question was taken on the latter motion, and it was agreed to.

NAVAL APPROPRIATION BILL.

Mr. STANLY. The Committee of Conference on the disagreeing votes of the two Houses upon the naval appropriation bill, have instructed me to make the following report:

The Committee of Conference on the disagreeing votes of the two Houses on the bill of the House (No. 342) making appropriations for the naval service for the year ending the 30th of June, 1854, have met, and after full and free conference have agreed to recommend, and do recommend, to the respective Houses, as follows:

That the Senate do recede from its 2d, 22d, 23d, 24th, 25th, 26th, 27th, 36th, 37th, and 40th amendments.

That the House recede from its disagreement to the amendments of the Senate A, B, C, D, and E, and 1, 2, 3½, 30, 31, 32, 33, 34, 35, 39, and 41.

The following shows in detail the action of the conference on the amendments:

The Senate recedes from its amendments, as follows:

Second amendment:

"Page 5, after line 2, at the end of the clause making appropriations for the contingent expenses of the Navy Department, insert the following:

"For contingent expenses, not enumerated, $4,000."

The twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh amendments are to the following section of the bill:

"For blacksmith's shop, carpenter's shop, store-house, and wharf, $100,000: *Provided*, That before this sum shall be expended the Attorney General of the United States shall decide that the United States have good title to the land upon which the buildings are to be erected;"

And are as follows:

Twenty-second:

"Line 19, after the word 'For,' insert 'a foundery, machine-shop.'"

Twenty-third:

"Line 21, after the word 'store-house,' insert 'boiler shop, engine-house, and pattern shop.'"

Twenty-fourth:

"In same line, after the word 'wharf,' insert 'and for a steam-engine and machinery, including transportation.'"

Twenty-fifth:

"In same line, strike out the words 'one hundred thousand,' and insert in lieu thereof 'five hundred thousand.'"

Twenty-sixth:

"Line 21, after the word 'sum,' insert 'or any part thereof.'"

Twenty-seventh:

"Line 23, after the word 'to,' insert 'and jurisdiction of.'"

Thirty-sixth amendment was to insert as follows:

"For the removal of obstructions at Cape Fear entrance, caused by works placed by the Government for the protection of the site of Fort Caswell, so as to afford access to the harbor within the bar, $50,000."

Thirty-seventh amendment was to insert as follows:

"To provide for the removal of obstructions in the Savannah, in the State of Georgia, and for the improvement of the same, $50,000."

Fortieth amendment was to add at the end of the bill as follows:

"SEC. 2. *And be it further enacted*, That the Secretary of the Navy is authorized to purchase the site and buildings examined and reported on by Captains Tatnall and Rosseau and Lieutenant Farrand, of the United States Navy, September 24th, 1852, for the establishment of naval work-shops and naval depôt near the city of New Orleans: *Provided*, He shall consider that New Orleans is a proper point for the establishment of a naval depôt and naval work-shops, and that the cost thereof shall not exceed $375,000."

Amendments of the Senate from which the House receded from its disagreement:

The Committee of Conference recommend that the House recede from its disagreement to the amendments of the Senate as follows:

Amendment A:

"Page 1, line 13, after the word 'and,' strike out the words 'seventy-nine thousand four hundred and forty-eight dollars,' and insert:

"Eighty thousand one hundred and forty-eight dollars: *Provided*, That the salary of the assistant observer or astronomer at the National Observatory shall be $2,000, and the salary of the principal clerk at the said Observatory shall be $1,200."

So that the whole clause would read:

"For pay of commission, warrant, and petty officers and seamen, including the Engineer Corps of the Navy, $2,880,148: *Provided*, That the salary of the assistant observer or astronomer at the National Observatory shall be $2,000, and the salary of the principal clerk at said Observatory shall be $1,200."

Amendment B:

"Add, at the end of the same clause, in continuation, the following:

"And the pay of a purser when attached to and doing duty at the naval station of California shall be $4,000 per annum, and he shall be allowed a clerk at a compensation not exceeding $2,000 per annum."

Amendment C:

"Add, at the end of the same clause, in continuation, the following:

"And the proper accounting officers of the Treasury be, and they are hereby, authorized and directed to allow and pay, out of any money in the Treasury not otherwise appropriated, to the officers, petty officers, and seamen of the United States Navy, to the officers, non-commissioned officers, musicians and privates of the Marine Corps, and to the officers and men of the revenue service who served in the Pacific ocean, on the coast of California and Mexico, during the late war with Mexico, and since the conclusion of the war up to the 28th of September, 1850, the same additional compensation as has been by law directed to be paid to the officers and soldiers of the Army who served in California; and that this provision, allowing extra pay, as well as that contained in the Navy appropriation act of August 31, 1852, shall extend to and include all naval storekeepers who were stationed on the Pacific coast; and the additional compensation authorized by the foregoing provision, and by the Navy appropriation act of 1852, shall be paid to the legal representatives of all deceased persons who would have been entitled to receive the same if living."

Amendment D:

"Add, at the end of the same clause, in continuation, the following:

"And there shall be allowed to Lieutenants William Lewis Herndon and Lardner Gibbon, officers of the United States Navy, who were engaged upon the exploration of the Amazon, the same pay as has been allowed to the superintendent of the naval astronomical expedition in Chili, by the act making appropriations for the naval service, approved March 3, 1851, during the period of their service as aforesaid, which period shall be reckoned from the date on which each officer left the United States until the final return of the exploring party."

Amendment E:

"Page 1, line 19, at the end of the following clause of the bill, viz:

"For pay of superintendents, naval constructors, and all the civil establishments at the several navy-yards and stations, $108,650,"

"Add as follows, viz:

"And the first and second clerks to the commandants of the principal navy yards, viz: Boston, New York, Washington, Norfolk, and Pensacola, shall receive the same pay that the two lowest classes of clerks in the bureaus of the Navy Department now receive, respectively; and each clerk of the yard in said navy-yards shall receive the same compensation as is herein provided for the first clerks to commandants."

First amendment:

"Page 3, after line 16, insert as follows, viz:

"For pipes for carrying gas to and fixtures for lighting with it the National Observatory, $2,500."

Third amendment:

"Page 4, after line 8, insert as follows, viz:

"For purchase of land, extending walls, making new roads and wharf, building and furnishing hospital, and changing the fronts of houses at the Naval Academy at Annapolis, Maryland, $38,000."

Third-and-a-half amendment:

"Page 5, line 9, after the following clause of the bill, viz:

"For meteorological observations, to be conducted under the direction of the Secretary of the Navy, $2,000,"

"Insert the following, viz:

"And the Secretary of the Navy is hereby authorized to settle all existing controversies as to the title to any portion of Salt marsh, near the lands of the Naval Hospital in Chelsea, in the county of Suffolk, and Commonwealth of Massachusetts, and to sell and convey the right, title, and interest of the United States to so much of said marsh as he may deem expedient, upon the terms and conditions recommended in a report from the Bureau of Navy-Yards and Docks upon the subject, dated January 17, 1853."

Thirtieth amendment:

"Under the head of Pensacola, insert—

"For wall around hospital grounds, $22,500."

The thirty-first, thirty-second, thirty-third, thirty-fourth, and thirty-fifth amendments, are to the following section of the bill.

"*Marine Corps.*—For pay of officers, non commissioned officers, musicians, privates, serving on shore, subsistence for officers, and pay for undrawn clothing, $221,767 08."

Thirty-first amendment:

"After the word 'privates,' insert 'clerks, messengers, stewards.'"

Thirty-second amendment:

"After the word 'shore,' insert 'for rations and clothing for stewards.'"

Thirty-third amendment:

"After the word 'clothing,' insert 'and rations, bounties for reënlistment, and pay for unexpired terms of previous service."

Thirty-fourth amendment:

"Strike out '$221,767,' and insert in lieu thereof, '$223,530.'"

Thirty-fifth amendment:

"After the word 'and,' where it occurs the second time in line 11, strike out 'eight,' and insert in lieu thereof 'forty four.'"

The whole clause as amended reads as follows:

"*Marine Corps.*—For pay of officers, non-commissioned officers, privates, musicians, clerks, messengers, stewards, and servants serving on shore, for rations and clothing for servants, subsistence for officers, and pay for undrawn clothing and rations, bounties for reënlistment and pay for unexpired terms of previous seivice, $223,530 44."

Thirty-ninth amendment:

"Add at the end of the bill the following:

"That the sum of $1,164 10, being part of the appropriation made for the service of continuing the survey of the coast of the Gulf of Mexico, from Appalachicola bay to the Mississippi river, by the act of March 3, 1841, and which has been carried to the credit of the surplus fund, be, and is hereby, reappropriated to pay for the services of the officer or officers employed in that survey."

Forty-first amendment:

"Add as an additional section to the bill, the following:

"SEC. 2. *And be it further enacted*, That the proper accounting officers of the Treasury be, and they are hereby, directed to credit the medical officers of the Navy, who, by order of the Department, served with a detachment of marines in Mexico during the late war with that Republic, in addition to the pay to which they are entitled as medical officers of the Navy, respectively, the same allowance for rations and forage, in proportion to the time they so served, as are allowed to officers of the Army of similar standing."

Mr. STANLY. Mr. Speaker, in this report we have taken the report of the first Committee of Conference so far as they agreed. Upon the amendments on which they could not agree, the House insist upon rejecting the appropriations for the Cape Fear and Savannah rivers, and the appropriation for California of several hundred thousand dollars, and the amendments of the Senate to which they have agreed are small and comparatively trifling. I move that the report of the Committee of Conference be concurred in; and upon that I demand the previous question.

The previous question was seconded, and the main question ordered to be put.

The question was then taken, and the report of the Committee of Conference was concurred in by the House.

MESSAGE FROM THE SENATE.

A message from the Senate was received, by Mr. DICKINS, its Secretary, informing the House that they had passed, without amendment, the bill (No. 170) for the relief of Jacob R. Shade, jr.

Also, that the Senate had agreed to the amendments of the House to the sixth and ninth amendments to the bill of the House (No. 333) making appropriations for the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30th, 1854.

RESOLUTION OF THANKS TO THE SPEAKER.

Mr. BOWIE, rising to a privileged resolution, offered the usual resolution of thanks to the Speaker; as follows:

Resolved, That the thanks of this House are due, and are hereby presented, to the Hon. LINN BOYD, for the able, impartial, and dignified manner in which he has discharged the duties of Speaker during the present Congress.

Mr. Speaker, [Mr. HARRIS in the chair,] I rise to perform a duty very agreeable to my own feelings, and one which I confidently anticipate will be grateful to the members of this House, to tender to its Presiding Officer, Hon. LINN BOYD, our cordial acknowledgments for the dignity, ability, and impartiality with which he has discharged his high duties. I am aware, sir, that in a body constituted as this, in the heat of legislation, occasions must occur on which individual asperities and personal disappointments will arise; but, when the ardor of legislative effort has passed, and we look back, we cannot but wonder there have been really so few, if any, causes of dissatisfaction. From the position I have occupied, I have contemplated dispassionately the immense difficulties and embarrassments which necessarily surround the Speaker; and from a close observation of his career, I take pleasure in avowing thus openly, as I have often done privately, that no gentleman could have deported himself with more entire self-command, justice, and propriety towards all over whom it was his duty to preside.

Mr. STANTON, of Tennessee. I feel it due to myself and due to the Speaker to make a very brief statement at this time. It is known to the House that upon one occasion, not very long since, I spoke somewhat harshly of the Speaker of this House under the impression that he had treated me unjustly in several instances when I felt that I was entitled to some notice at his hands. But I have been induced to believe from representations which were not made by the Speaker to myself or to others, but which have come to my ears, that I was mistaken in the apprehension that the Speaker had treated me unfairly; and now, when we are about to break up, and when in all probability I shall never return again to this House, I cannot find it in my heart to entertain the feelings which I then entertained, as I thought from just causes. I shall therefore give my hearty assent to the resolution offered by the gentleman from Maryland, [Mr. BOWIE,] believing that whatever errors the Speaker may have committed—if there have been any—have been errors of judgment; that he has at least endeavored to do his duty, and upon the whole I am not sure that he has not done it well.

Mr. CASKIE. Under the present circumstances, manliness requires that I should declare the vote I mean to give upon this resolution. I take the whole responsibility, and tell the House that my vote will be No!

Mr. JOHNSON, of Georgia. For reasons which affect myself, I shall also take that responsibility, and vote against the resolution.

Mr. EVANS. I have served in the Congress of the United States in a very humble manner for six years, and I have seen three Speakers of this House. I have not often had the floor from the Speaker during the present Congress, but I shall very cordially acquiesce in the resolution offered by my colleague. I mean to tender my thanks, at any rate, to the Speaker of this House. I know he has had to labor against great difficulties, under which every gentleman who presides over this House must labor. He must disappoint more or less gentlemen who desire to obtain the floor. That must always be the case in this House. There always will be gentlemen who, as they think justly—I think often unjustly—fancy they have been treated with unfairness. But, sir, I choose to forget all the past, and to express my cordial assent to this resolution, which I hope will be unanimously adopted. I trust those gentlemen who have expressed a qualified dissent will in their inmost hearts retract it, and that we shall give a unanimous vote in favor of this resolution.

Mr. NABERS. It is a fact well known to the gentlemen of this House, that this is my first term in the Congress of the United States; but I have not been altogether a careless observer of the manner in which the various Speakers for some years past have discharged their duties as such; and I undertake to say that, according to the best of my recollection, the decisions of the present Speaker have been more uniformly sustained by the House than those of any other Speaker who has presided over this body for years yast. That is my recollection, and I think the record will show that what I have stated is true; and although I have frequently felt disappointed in failing to obtain the floor when I desired to speak—for when I desired to speak I desired it very much—and although I have at times felt almost chagrined in not being able to obtain it at particular times, yet I am prepared to say that, with all my heart, I shall vote for the resolution offered by the gentleman from Maryland; and not only shall I unite with the members of this House in expressing my most sincere regard for the Speaker, but I take this occasion to say that I shall retire from this Hall cherishing none but the most agreeable recollections of every gentleman upon this floor.

Mr. MEADE. When I served my first term in the Congress of the United States, I thought I had many causes of complaint against the Presiding Officer, and like my colleague [Mr. CASKIE] now, I refused to vote for a resolution of thanks. During my second term in this House I was sometimes called to the Chair, and when there I became convinced of the difficulty of discharging the duties of that station to the satisfaction of the House. Sir, from the little experience I have had in that chair, I have seen cause to regret the vote which I gave upon the occasion to which I have alluded, and I am convinced that my colleague, when he has served a second term in this House—and I hope he may serve many—will see cause to regret the determination which he has just expressed. I can but acknowledge that during the present Congress I have felt disappointed in failing to obtain the floor upon many occasions when I have sought it for the purpose of accomplishing some favorite object; I have taken my seat dissatisfied that the Speaker had refused to recognize me; but it is only necessary for my colleague, or the gentleman from Georgia, [Mr. JOHNSON,] to sit in the chair which you, Mr. Speaker, now occupy, to become acquainted with the difficulties which surround it in discharging the duties which belong to that office, to change their determination and to give their cordial assent to the resolution now before us.

I have known the Presiding Officer of this House for the last six years, and in my private intercourse with him, I have known no man whom I thought to be impressed with a deeper sense of justice and right than that officer. Although I may not have been recognized as often as I thought I was entitled to the floor, yet I am convinced that officer has endeavored to do his duty according to the best of his ability, guided by a strict sense of justice, and I hope my colleague and the honorable gentleman from Georgia will give their votes for this resolution.

Mr. CASKIE. The gentleman gives a great deal more consequence to it than I do myself. I only announced that I should vote against it, because I did not want to be guilty of the unmanliness of giving my vote in the dark. I am not afraid. I am as firm as a rock, and my vote shall be "no."

Mr. MEADE. I am thoroughly convinced that the time will come when my honorable friend will regret the course which he has taken.

Mr. MOORE, of Louisiana. I have thought on several occasions that I had been unfairly dealt by, and so expressed my feelings to those around me. It is therefore proper that I should now say, that I appreciate fully the difficulties under which the Speaker labors, and I am convinced that he did not do injustice to me intentionally. I shall vote for this resolution, and I hope to quit this House with perfectly good feelings, not only towards the Speaker, but towards every member of the House.

Mr. FLORENCE. I desire to take this occasion to say that I intend to record my vote, heartily and cheerfully, in favor of that resolution. I have felt, from the impulsive character of my nature and disposition, severely disappointed in my efforts to obtain the floor. I have felt, to some extent perhaps, a prejudice against the Speaker. A number of my constituents are very much interested in a bill upon the Speaker's table. I have heard, and so has this House, attributed to him a disposition to prevent legislation upon that bill. I have taken occasion often to speak of the honesty, integrity, and fairness of the Speaker, and I take this occasion to say publicly to the House and to the country, that I believe he has been actuated by pure, honorable, and high-minded motives, and it gives me pleasure to record my vote in favor of the resolution.

[Cries of "Question!" "Question!"]

Mr. JOHNSON, of Georgia. The vote I shall give upon this resolution is not dictated by any feelings of a personal character, but it will be regulated by what I consider to be facts connected with the case.

Mr. HOUSTON. I wish only to say that I have served in this House, with the present Speaker of the House, for the last ten years. I have observed his course, and I believe him to be an honest, high-minded gentleman, and incapable of doing injustice to any member of this body.

The question was then taken upon the resolution offered by Mr. BOWIE, and it was agreed to.

HEIRS OF WALTER COLTON.

The SPEAKER *pro tem.* The pending question is upon the motion of the gentleman from Virginia [Mr. MEADE] to suspend the rules, to enable him to introduce the bill indicated by him some time since.

The question was taken, and the motion was agreed to; two thirds of a quorum voting in favor thereof.

The bill for the relief of the legal representatives of Walter Colton was then taken up, and read a first and second time by its title.

It was then ordered to a third reading, and was subsequently read the third time, and passed.

Mr. MEADE. I move to reconsider the vote by which the bill was passed, and also to lay the motion to reconsider upon the table.

The question was taken on the latter motion, and it was agreed to.

LEWIS H. BATES AND WILLIAM LACON.

Mr. SEYMOUR, of New York. I ask the unanimous consent of the House to take up and pass the Senate bill for the relief of Lewis H. Bates and William Lacon.

The object of the bill is to give them the recompense which has been unanimously voted them by the Senate.

I wish to state to the House that these men have been for some fifteen years endeavoring to get redress, under these circumstances: One of these men was in the year 1829 an importer of iron. He inquired of the First Comptroller of the Treasury what would be the duty on a certain kind of iron if he should import it. He was informed what it would be. He imported the iron. After he got it into port, the officer of the port of New York put another construction upon the act. The iron was seized, and litigation ensued, which was continued for a series of years between him and the Government as to the construction of the law. He finally succeeded in establishing his right, according to the original construction of the law by the Treasury Department upon which he had acted. But the result was that he had lost his business, and was broken down, and for several years he has been a watchman in this city. He is over seventy years of age. His case has been reported favorably upon six different times at six different sessions of Congress, and his bill has always failed, as it is likely to fail now. It passed this House, and failed in the Senate, and then passed the Senate, and failed in the House, and so it has been going on for years.

Mr. JONES, of Tennessee. What does he claim in this bill?

Mr. SEYMOUR. His claim is a good deal, by way of damages, but the Senate have allowed him in this bill two items only of his claim, one of which was the estimate of expenses for the storage of his goods during the period of the litigation; and the other is the item by way of damages for the detention of the goods. The bill refers it to the Secretary of the Treasury to liquidate the amount, and pay him what shall be deemed reasonable for the injuries which he sustained. It is supposed that it will amount to some $3,000 or $4,000—a mere pittance to a man who was doing a good business, and was ruined by the action of the Government.

Mr. JONES, of Tennessee. If I understand the subject, the person for whose benefit this bill is reported, claimed to have imported into the country, in 1829, a certain amount of iron. There

was a difference of opinion between the importers of that iron and the custom-house officer at New York as to the amount of duty. There was a controversy, and it was finally settled, as all such cases are, in the courts, and that the construction of the custom-house officer was not a correct one.

Now, this bill proposes to pay to a man who failed in business the costs and damages which he sustained in a litigation. There are thousands who have failed in business without having anything to do with litigation, and if we are going to pay all those who, having controversies with the Government, fail, why, sir, we shall have no end to it.

Mr. SEYMOUR. I move that the bill be taken up and put upon its passage; and if there is any objection, I move to suspend the rules.

Mr. ORR. I understand that all the general appropriation bills have been acted upon, and it would refresh us very much to take a recess for an hour, until ten o'clock, (Friday morning.) The gentleman from New York will be more likely then to have a quorum than now, and I hope the House will give its unanimous consent to take a recess until ten o'clock.

Mr. SEYMOUR. I would most willingly consent, but I have struggled for the last twenty-four hours to get the floor for this purpose, and this is the only occasion I shall have to offer it.

No objection being made, the bill was then taken up, and read a first and second time by its title.

It was then ordered to a third reading; and it was subsequently read a third time, and passed.

WILLIAM MINER.

Mr. EDGERTON. I offer the following resolution, which I am instructed to report from the Committee on Claims:

Resolved, That the Clerk of this House pay to William Miner, clerk of the circuit court of the United States for the district of Ohio, the cost of certified copies of the record furnished by the order of the House, in the case of the legal representatives of John H. Piatt, whose claim is now pending before this House.

The question was taken upon the adoption of the resolution, and it was agreed to.

Mr. CABELL, of Florida. I ask the unanimous consent of the House to take from the Speaker's table a bill of the Senate for continuing in force an act of 1846, giving certain discretionary powers to the land officers.

Mr. HENDRICKS. Will the gentleman from Florida yield to me for a moment? I desire to make a report to the House.

Mr. PENNIMAN. I rise to a question of order. There is no quorum in the House to pass bills.

The SPEAKER. The Chair overrules the question of order.

The title of the bill was then read as follows:

Senate bill (No. 75) entitled "A bill to revive 'and continue in force for a limited time the pro-'visions of the act relative to suspended entries of 'public lands.''

Mr. KING, of New York. I object.

The bill was read through for information.

Mr. CABELL. I move a suspension of the rules for the purpose I have indicated.

Mr. ORR. The engrossing clerks assure us that they have just as much as they can possibly complete by twelve o'clock, and if the bill be passed——

Mr. CABELL. I will employ a clerk myself to have it engrossed.

Mr. JOHNSON, of Arkansas. I call the gentleman from South Carolina to order. This is a bill of public importance.

[Here a message was received from the Senate, by the hands of ASBURY DICKINS, its Secretary, notifying the House that that body had passed, without amendment, the bill of the House (No. 170) "for the relief of Jacob Shade, jr.," and had agreed to the amendment of the House to their 6th and 9th amendments to the bill of the House (No. 333) "making appropriations for the current 'and contingent expenses of the Indian Depart-'ment, and for fulfilling treaty stipulations with 'various Indian tribes for the year ending June '30, 1854.]

The question was then put on the motion to suspend the rules, and on a division, there were—ayes 60——

Mr. ORR. I would ask the gentleman from Florida not to press his motion. If he does, we will find ourselves without a quorum, and we cannot then take a recess.

Mr. CABELL. I demand tellers on the question.

Mr. ORR. Will the gentleman yield for a motion that we take a recess?

Mr. CABELL. I yield for that purpose if, when we again meet, I shall be entitled to the floor.

The SPEAKER. The gentleman will be entitled to the floor.

Mr. ORR. I move that the House take a recess until ten o'clock.

Mr. STANLY. I trust that I may be allowed to introduce a resolution to pay the clerk of the Committee on Ways and Means. It needs no engrossing.

The SPEAKER. The Chair cannot entertain the motion of the gentleman from North Carolina.

Mr. ORR. I will yield to the gentleman for the introduction of his resolution.

Mr. STANLY. I offer the following resolution:

Resolved, That there be paid out of the contingent fund of the House to the acting clerk on the Committee on Ways and Means, the usual compensation allowed at the close of the first session of the Thirty-second Congress, by resolution of said House of the 31st of August, 1850.

Mr. OLDS. I wish to move an amendment.

Objection was made to the amendment as well as the resolution and then

The question was taken on the motion of Mr. ORR, and it was agreed to.

And the House thereupon took a recess until ten o'clock.

MORNING SESSION.

The House resumed its session at ten o'clock, a. m.

SUSPENDED ENTRIES.

The SPEAKER. The business first in order is the consideration of a motion submitted by the gentleman from Florida, for the suspension of the rules that a bill to revive and continue in force, for a limited time, the provisions of an act relative to suspended entries of public lands, may be taken up and put on its passage.

Mr. CABELL. It was suggested before the House took a recess, that the bill could not be engrossed in time. It has been engrossed, and if gentlemen will examine it, they will see that it is one to which there can be no sort of objection.

On motion by Mr. BROWN, of Mississippi, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the petitions of citizens of Mississippi, relative to the removal of the land office from Augusta.

On motion by Mr. ORR, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Elizabeth Branch.

On motion by Mr. CHANDLER, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Richard W. Meade.

On motion by Mr. KUHNS, by unanimous consent,

Ordered, That leave be granted for the withdrawal from the files of the House of the papers in the case of Margaret Allen.

PERSONAL EXPLANATION.

Mr. STEVENS, of Pennsylvania. I desire to make a personal explanation. I see that some remarks made in a moment of pleasantry between the gentleman from New York [Mr. BRIGGS] and myself, look grave on paper, and might be misconstrued. So far as they refer to my colleague, [Mr. CHANDLER,] I merely desire to say, that they were not intended in any way to disparage his conduct or his personal behavior, and so far from any unfriendly relations existing between us, as far as I am concerned, they are of the most kindly character. I thought it proper to make this explanation, because it is more than probable that hereafter I shall never meet any member here or elsewhere officially, and I desire to part with no unfriendly feeling towards any of them.

Mr. CABELL. I ask the House to act on my proposition.

Mr. KING, of New York. I withdraw my opposition to the gentleman's bill.

Mr. CABELL. I withdraw my motion, then, for the supension of the rules.

The bill was read a first and second time by its title, and then ordered to be read a third time; and it was, according to order, read a third time.

Mr. CABELL. I demand the previous question on its passage.

The call for the previous question was seconded, and the main question was ordered to be put.

The bill was then passed.

ROTATION IN OFFICE.

Mr. JOHNSON, of Tennessee. I wish to occupy the time of the House for a few moments. It is manifest to all that there is a very great exuberance of patriotism in the country at this time, and for fear that there may be too great an accumulation at any particular point, I propose to submit the following resolutions, by way of suggesting a mode for its diffusion:

Resolved, That rotation in office, in the opinion of this House, is one of the cardinal tenets of a Republican form of Government, and ought never to be violated under any pretense whatever, and should be practiced upon by all Administrations, regardless of their party names.

Resolved, That eight years, in the opinion of this House, is the longest term any individual ought to be permitted to remain in office whose appointment is conferred upon the President of the United States and the heads of Departments, either by the Constitution or by the law.

Resolved, That in the opinion of this House, the appointment of persons to office should be made upon the basis of representation from the several States in the Congress of the United States; that is to say, the whole number of persons appointed to office should be divided by the whole number of Representatives, giving to each Congressional district in the Union its fair ratio of offices under the Federal Government.

Resolved, That, in the opinion of this House, any Congressional district in the Union is more than competent to furnish its full quota of officers, upon the principle as laid down in the foregoing resolutions, who would be honest, capable, and faithful to the Constitution of the United States.

Resolved, That, in the opinion of this House, immediately after all the offices shall be filled, upon the principle as laid down in these resolutions, the President and Heads of Departments should divide the whole number of Congressional districts into four equal divisions, or as nearly as may be practicable, classifying them one, two, three, and four. The officers belonging to the first district falling into the first class shall be vacated at the expiration of eight years; those falling into the second class shall be vacated at the expiration of six years; those falling into the third class shall be vacated at the expiration of four years; those falling into the fourth class shall be vacated at the expiration of two years, so that one fourth of the whole number of officers thus appointed would be retiring from office every two years, and a new set coming in to fill the vacancies thus occasioned.

Resolved, That, in the opinion of this House, in the selection of individuals to fill the offices under the Federal Government, due regard should be had to the farmers and mechanics of the country, so as to give them their proportion of said offices.

Resolved, That, in the opinion of this House, the people, the principles of the Constitution, the spirit of the times, and justice, all demand at the hands of the Pre-ident and Heads of Departments, so soon as may be practicable, to carry into full and fair effect the principles and doctrines laid down in the foregoing resolutions.

Mr. DEAN. I object to the reception of those resolutions.

Mr. STEVENS, of Pennsylvania. Those are good—excellent resolutions.

Mr. JOHNSON. I move a suspension of the rules for their introduction.

Mr. TAYLOR. I demand the yeas and nays.

The yeas and nays were not ordered.

Mr. TAYLOR. I demand tellers.

Tellers were not ordered.

The question was taken on the motion to suspend the rules, and there were—ayes 45——

Mr. JOHNSON. I would beg of the gentleman from New York to withdraw his objection. These resolutions are the mere expression of opinion.

Mr. DEAN. The gentleman's resolutions will appear on the Journal, and I object at this time to their adoption.

ERRONEOUS LOCATIONS.

Mr. HENN. I move, with the unanimous consent of the House, to take up Senate bill No. 399, entitled "An act to authorize the correction of erroneous locations of military bounty land warrants by actual settlers on the public lands in certain cases."

The bill was read a first and second time by its title, and ordered to be read a third time; and it was, according to order, read the third time, and passed.

RESERVED LANDS IN ALABAMA.

Mr. HOUSTON. I have not asked the House to take up a private bill this session; but I would

like now to have taken up and put on its passage Senate bill No. 123, entitled "An act authorizing the sale of certain reserved lands in Alabama."

The bill having been read a first and second time, was ordered to a third reading, and having been read the third time, it was subsequently passed.

JOSEPH CORDEREY.

Mr. JOHNSON, of Arkansas. I send up a bill to the Clerk's desk which I ask the unanimous consent of the House to present. It is perhaps the last case I shall present to the House. It is a resolution (No. 19 from the Senate) for the relief of the heirs of Joseph Corderey. In regard to this bill I wish to state to the House that it has been adjudicated by a commission, but rejected in consequence of the fact that there is a stipulation in the treaty that any one receiving a reservation shall be the head of the family. This Indian, whose name is Joseph Corderey, had his claim rejected in consequence of the fact that his wife was a white woman. They consequently decided that he was not the head of an Indian family. The effect of this construction is, that he will be only allowed at the rate of the value of the land unimproved in 1835. I ask that the bill may be passed, as it is the last case of the kind I shall ever present upon this floor.

Mr. STEVENS, of Pennsylvania. What is the value of the land?

Mr. JOHNSON. They have got the value of the land, but they reject that. The bill passed after a full discussion in the Senate, and we know that there is no chance for amendment now. No injustice will be done to the United States, and I ask permission of the House to pass the bill. It will take but a short time to pass it.

The bill having been read the first and second time, it was ordered to a third reading, and having been read the third time, it was passed.

MARIA TAYLOR.

Mr. LANDRY. I ask the unanimous consent of the House to take up Senate bill (No. 286) for the relief of Maria Taylor. The bill explains itself.

The bill having been read the first and second time, was ordered to a third reading, and having been read the third time, it was subsequently passed.

DUPLICATE LAND WARRANTS.

Mr. ALLEN, of Massachusetts. I ask the unanimous consent of the House to take up Senate bill No. 301, entitled "An act to authorize the Secretary of the Interior to issue duplicate land warrants in certain cases." The bill contains no appropriation, but simply gives authority to issue to a woman a duplicate land warrant in the room of one that is lost. The bill is very short, and I ask that it be read for information.

Mr. DUNHAM. What the gentleman asks can be done at the Department.

Mr. ALLEN. No, sir. They have refused to grant a duplicate warrant.

Mr. DUNHAM. I object to the introduction of the bill.

Mr. ALLEN. I move that the rules be suspended for that purpose.

The question was taken, and there were 58 in the affimative, noes not counted.

So the rules were not suspended, two thirds not voting in the affirmative.

EMILIE HOOE.

Mr. SIBLEY. I ask the unanimous consent of the House to introduce Senate bill No. 395, for the relief of Emilie Hooe. If the report is read, I am sure that there can be no objection made to its passage.

Mr. STEVENS, of Pennsylvania. I object.

Mr. SIBLEY. I move to suspend the rules for that purpose, and I demand tellers upon that motion.

Tellers were ordered; and Messrs. ROBBINS and DEAN were appointed.

The question was taken, and the tellers reported that there were—ayes 41, noes not counted.

So the rules were not suspended, two thirds not voting in the affirmative.

Mr. DANIEL. I ask leave to introduce the following resolution:

Resolved, That the President be requested to cause to be transmitted to this House a copy of the report made by the First Comptroller to the Secretary of the Treasury in the case of Charles F. Sibbald, in July, 1851, and that the Clerk of this House, when the same shall have been received, cause it to be printed with the Executive documents of the present session of Congress.

Mr. DANIEL. It is a claim for two millions and odd dollars. I want to get that report where it will be accessible to members of the House.

The question was taken, and the resolution was agreed to.

WILLIAM A. CHRISTIAN.

Mr. CASKIE. I ask the unanimous consent of the House to take up Senate bill No. 162, for the relief of William A. Christian. It is a most meritorious claim. I will not say anything about it. I will leave the explanation of it to the chairman of the Committee on Claims, who is prepared with a unanimous report in its favor.

Mr. ALLEN, of Massachusetts. I object.

Mr. CASKIE. I move to suspend the rules.

Mr. DANIEL. I believe it ought to pass. It is to pay back money improperly paid by certain officers under the orders of the Secretary of the Treasury, when it was afterwards found that the Secretary was wrong. By virtue of a certain law which was passed he would not allow what they had paid him. The committee recommend the passage of the bill.

Mr. CASKIE. It is to pay back to a man money of his own from the Treasury. I move to suspend the rules.

The question was taken, and there were—ayes 71, noes not counted.

Mr. HENDRICKS demanded tellers; which were ordered; and Messrs. MOLONY and PENN were appointed.

The question was taken, and the tellers reported that there were—ayes 51, noes not counted.

So the rules were not suspended.

WIDOW OF CHARLES ANDREWS.

Mr. REED. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Clerk of the House of Representatives be directed to pay out of the contingent fund of the House to the widow of Charles Andrews, late a member of this House, a sum equal to the amount paid for funeral expenses of members who have died during the present Congress.

Mr. JONES, of Tennessee. I object to that resolution.

Mr. REED. I move a suspension of the rules.

The question was taken, and there were—ayes 65, noes not counted.

So the rules were not suspended, two thirds not voting in the affirmative.

J. BOYD.

Mr. PENN. I ask the unanimous consent of the House to take up Senate bill No. 351, entitled "An act for the relief of J. Boyd, of Louisiana."

Mr. ALLEN, of Massachusetts. I object.

Mr. PENN. I move to suspend the rules to enable the bill to be taken up.

The question was taken, and (two thirds not voting in favor thereof) the rules were not suspended.

JAMES W. LOWE.

Mr. FULLER, of Maine. I ask the unanimous consent of the House to take up Senate bill (No. 119) "for the relief of James W. Lowe." It is decidedly the most meritorious claim that I ever saw, and if the House will hear me for only one moment, and if they do not agree with me, then I will withdraw my request.

[Cries of "Order!"]

Mr. STEVENS, of Pennsylvania. I object.

Mr. FULLER. I move to suspend the rules.

The question was put, and (two thirds not voting in favor thereof) the rules were not suspended.

Mr. McLANAHAN obtained the floor.

Mr. HART. I have not been assigned the floor this session, though I have asked for it at least fifty times.

[Loud cries of "Order!" "Order!"]

The SPEAKER. The gentleman from New York is not in order.

MARY E. D. BLANEY.

Mr. McLANAHAN. I ask the unanimous consent of the House to take up from the Speaker's table Senate bill (No. 359) "for the relief of Mary E. D. Blaney, widow of the late Major George Blaney." It is a bill of only four lines.

The bill was read. It directs the Secretary of the Treasury to pay to Mary E. D. Blaney, the sum of $1,146 68, being for interest on money belonging to her, and withheld by an erroneous decision of the officers of the Government.

Mr. FULLER, of Maine. I object.

Mr. McLANAHAN. I move to suspend the rules, and if the House will hear me for one moment——

[Loud shouts of "No!" "No!" and "Order!"]

Mr. McLANAHAN. Well, sir, I demand tellers.

Tellers were ordered; and Messrs. ROBBINS, and JOHNSON of Arkansas, were appointed.

The question was then put, and the tellers reported—ayes 52; not two thirds of a quorum.

So the rules were not suspended.

EDWIN LORD AND FRANCIS BACON.

Mr. HART. I ask the unanimous consent of the House to take up Senate bill (No. 479) for the relief of Edwin Lord and Francis Bacon.

Mr. STEVENS, of Pennsylvania I object.

Mr. HART. I appeal to the gentleman to withdraw his objection.

Mr. STEVENS. I cannot withdraw it.

Mr. HART. I move to suspend the rules to enable that bill to be taken up; and upon that I demand tellers.

Tellers were ordered; and Messrs. HALL and DIMMICK were appointed.

The question was then put; and the tellers reported—ayes 48; not two thirds of a quorum.

So the rules were not suspended.

ENROLLED BILLS.

Mr. ROBIE, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bill; which thereupon received the signature of the Speaker, viz: "An act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending June 30, 1854."

Mr. JONES, of Tennessee. I move that a message be sent to the Senate, informing that body that the House has disposed of its business, and is ready to adjourn.

[Shouts of "No!" "No!" and "Not yet!"

Mr. ORR. Have all the appropriation bills been signed?

Mr. JOHNSON, of Arkansas. No, sir. It is too soon to adopt that resolution.

Mr. JONES. I withdraw the motion for the present.

MILITARY RESERVE IN CHICAGO.

Mr. MOLONY. I hold in my hand a little bill which has unanimously passed the Committee on Military Affairs with referencce to a lot of land upon the military reserve at the city of Chicago, Illinois. If the House will hear the bill read, I feel confident that it will pass unanimously.

The Clerk read the bill.

Mr. JONES, of Tennessee. I object to that bill.

Mr. MOLONY. I move that the rules be suspended.

The question was then taken, and (two thirds not voting in favor thereof) the rules were not suspended.

Mr. FAULKNER. I ask the unanimous consent of the House to enable me to make a report from the Committee on Military Affairs, that it may be laid upon the table and printed.

Mr. STEVENS, of Pennsylvania. I have twenty such reports.

Mr. MOLONY. I object. I shall object to everything from this time forth.

Mr. FAULKNER. I move that the rules be suspended to enable me to make the report.

The question was put, and (two thirds not voting in favor thereof) the rules were not suspended.

ENROLLED BILLS.

Mr. ROBIE, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills and joint resolutions; which thereupon severally received the signature of the Speaker:

An act for the relief of the legal representatives of Walter Colton;

An act to authorize the correction of erroneous locations of military bounty land warrants by actual settlers on the public lands in certain States;

And act to revive and continue in force for a limited time the provisions of an act relative to suspended entries of public lands;

An act authorizing the sale of certain reserved lands in the State of Alabama;

An act for the relief of Maria Taylor;

An act for the relief of Lewis H. Bates and William Lacon;

A joint resolution for the relief of David Corderey; and

A joint resolution for the relief of the heir of John De Neufville & Son.

WILLIAM A. CHRISTIAN.

Mr. DANIEL. I hope the House will indulge me in a few remarks explanatory of the nature of the Christian claim, which was presented to the House a short time ago by the gentleman from Virginia, [Mr. CASKIE.] It is a very hard case. A widow and children——

[Loud cries of "Order!" and great confusion.]

The SPEAKER. Discussion is not in order.

Mr. DANIEL. I will simply state that the bill is for the relief of the widow and children——

Mr. MOLONY. I object to it.

Mr. DANIEL. I move to suspend the rules to enable me to take up the bill of the Senate No. 162, which is for the relief of certain widows and orphans.

The Clerk read the title of the bill as follows:

"An act for the relief of William A. Christian."

Mr. JONES, of Tennessee. What sort of a widow is tnat? [A laugh.] There are a good many persons in the galleries, I suppose from different parts of the country, and I have no doubt that a call of the roll of the House on the yeas and nays would be much more interesting to them than the scene they are now witnessing. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. GORMAN. I want the attention of the House for a few moments. I have a report here from the Committee on Printing that will finish up the printing.

The SPEAKER. It is not now in order. There is a motion pending to suspend the rules.

The question was then taken on Mr. DANIEL's motion, and there were yeas 77, nays 73; as follows:

YEAS—Messrs. Beale, Bennett, Bibighaus, Bocock, Bragg, Breckinridge, A. G. Brown, G. H. Brown, Busby, Thompson Campbell, Carter, Caskie, Chastain, Clark, Clemens, Clingman, Cobb, Curtis, Daniel, Darby, Dawson, Dimmick, Doty, Edmundson, Evans, Florence, Henry M. Fuller, Gamble, Gaylord, Gorman, Grey, Grow, Hammond, Sampson W. Harris, Hart, Hendricks, Holladay, Ingersoll, Ives, Jackson, Robert W. Johnson, J. Glancy Jones, Kuhns, Landry, Letcher, Lockhart, McCorkle, McMullin, McNair, McQueen, Meade, Millson, John Moore, Morehead, Morrison, Olds, Outlaw, Andrew Parker, Penn, Polk, Powell, Preston, Riddle, Robbins, Ross, Schermerhorn, Origen S. Seymour, Smith, Snow, Frederick P. Stanton, Abraham P. Stephens, St. Martin, Stratton, Strother, Walsh, Wilcox, and Woodward—77.

NAYS—Messrs. Charles Allen, Willis Allen, Barrere, Bell, Bowie, Brenton, Burrows, Joseph Cable, Lewis D. Campbell, Chandler, Chapman, George T. Davis, John G. Davis, Dean, Duncan, Dunham, Durkee, Eastman, Faulkner, Fay, Ficklin, Fitch, Thomas J. D. Fuller, Gilmore, Goodenow, Isham G. Harris, Haws, Haven, Hebard, Hibbard, Horsford, Houston, Thomas M. Howe, Thomas Y. How, Hunter, Andrew Johnson, John Johnson, Daniel T. Jones, George W. Jones, George G. King, Preston King, Kurtz, Little, Mason, McDonald, Molony, Henry D Moore, Murray, Nabers, Orr, Samuel W. Parker, Peaslee, Penniman, Perkins, Reed, Robie, Robinson, Russell, Sackett, Savage, Schoolcraft, Schoonmaker, Skelton, Stanly, Alexander H. Stephens, Thaddeus Stevens, Taylor, Toombs, Townshend, Walbridge, Ward, Washburn, and Wells—73.

So (two-thirds not voting in favor thereof) the rules were not suspended.

ENROLLED BILLS.

Pending the call of the roll on the above vote—

Mr. ROBIE, from the Committee on Enrolled Bills, reported back as correctly enrolled the following bills; which thereupon severally received the signature of the Speaker:

An act making appropriations for the naval service for the year ending 30th June, 1854;

An act for the relief of Jacob Shade, jr.; and

An act authorizing the issuing of a register to the brig Boundary, and to change the name of the steamers Roger Williams and propeller Ontario.

CLERK OF THE WAYS AND MEANS.

Mr. STANLY. I know that it is too late to offer anything that would have to be enrolled; but I have a resolution for the benefit of the clerk of the Committee on Ways and Means—a gentleman who has worked hard——

Mr. EDGERTON. I would like to ask the gentleman from North Carolina if this clerk of the Committee on Ways and Means is not also a clerk in the Treasury Department?

Mr. STANLY He is; and he has performed all the duties of his clerkship there, besides working harder for the Committee on Ways and Means than any two men. He is the hardest working man—though a Democrat—I ever saw.

Several MEMBERS. He is not a Democrat.

Mr. STANLY. My resolution is in these words:

Resolved, That there be paid out of the contingent fund of the House to the acting clerk of the Committee on Ways and Means the usual compensation allowed at the close of the first session of the Thirty-second Congress, by resolution of said House of August 30, 1852.

The SPEAKER. The resolution is before the House.

Mr. STANLY. I demand the previous question on the resolution.

Mr. WALSH. I ask the gentleman to withdraw it for one moment

Mr. STANLY. I cannot do it.

The previous question received a second, and the main question was ordered to be now put.

Mr. WALSH. Is an amendment in order?

The SPEAKER. It is not, the main question having been ordered.

Mr. WALSH. I have an amendment to provide for the payment of a messenger.

Mr. EVANS. I am sure every gentleman will agree to it, if it can only be read.

Mr. DUNHAM. I object.

The SPEAKER. The amendment is objected to, and is therefore not in order.

Mr. EVANS. I move to suspend the rules to enable the amendment to be offered.

The SPEAKER. The gentleman is aware that while the previous question is in operation, the amendment cannot be offered even under a suspension of the rules.

Mr. CABLE. I demand the yeas and nays on the resolution of the gentleman from North Carolina. It is all wrong.

The yeas and nays were not ordered.

[A message was received from the President of the United States, by the hands of Millard P. Fillmore, Esq., his Private Secretary, informing the House that he had approved and signed bills of the following titles, viz:

An act making appropriations for the naval service for the year ending June 30, 1854; and an act making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with the various Indian tribes for the year ending 30th June, 1854.]

The question was then taken on Mr. STANLY's resolution, and it was agreed to.

Mr. STANLY. I move to reconsider the vote by which the resolution was adopted, and I almost wish the gentleman from Ohio had got the yeas and nays, for if there ever was a good claim this is one. But I will not trouble the House. I move to lay the motion to reconsider upon the table.

Mr. CAMPBELL, of Illinois. Upon that I demand the yeas and nays.

[Loud cries of "O, no!" and "Withdraw the call!"]

Mr. CAMPBELL. Well, sir, I withdraw it.

The question was then taken on Mr. STANLY's motion, and it was agreed to.

So the motion to reconsider was laid upon the table.

BOUNTY LANDS.

Mr. BELL. I ask leave to introduce "A bill making further provisions for and granting bounty lands to those who have been engaged in the wars and service of the United States."

Mr Speaker, I do not design detaining the House with a speech, but only to make some remarks explanatory of the provisions of the bill. The class of persons embraced in this bill, sir, have a right to a hearing by the Representatives of the people. While you have appropriated from the Treasury of the people with a lavish hand to ornament, adorn, and beautify the house for the President, the public grounds, and other works about our National Capitol, you seem unmindful of a numerous class of our own citizens.

Yes, sir, this Congress has appropriated its millions of our public domain to railroad and other incorporations, and some of which measures, that I thought were calculated to improve the country, have received my cordial support. This House has passed a bill which, by some of its provisions, in effect would invite all the world to come and take possession of our public lands and own and occupy them free of cost.

For the brave officers and soldiers in our late war with Mexico, liberal provisions have been made by pensions and bounties in lands, and in case of death of officer or soldier, the widow, or children, or representatives, are entitled by law to what was due or coming to the deceased soldier. We have, with the best feelings and intentions, passed private acts for relief of suffering widows and representatives of many who have defended our country and our rights upon the bloody battle field, and thus many hearts have been cheered in the hour of despair or decline of life.

But these are only special instances of national justice and gratitude. From their nature they can apply to but few, and often the most *deserving* are left out of the munificence of Government by special legislation.

The bill which I have offered is general in its nature, and embraces a very large class of our people who have been heretofore either entirely or nearly excluded from the benefits of former legislation for those who served in our wars—the men who fought for our independence as a nation, the pioneers of our country on our border settlements, from the organization of the Government up to the present time, who have been engaged in repelling Indian hostilities and protecting our people; the men who volunteered or enlisted at their country's call and the claims of humanity, under Hamar, St. Clair, and Wayne, to repel the incursions of the merciless savage foe, whose depredations were marked with burning, pillage, and murder of our defenseless and unprotected people upon the frontier—in a word, sir, the men by whose volor and sacrifices we have acquired and maintained our possessory title to all our public domain.

The men who in the war of 1812 with Great Britain marched to the battle-field at the first tap of the drum that saluted their ears, and many who were engaged in the thickest of the fight, pressing where danger appeared greatest, and in many instances by their valor and skill performing such important services as to merit and receive the public thanks of their superior officers and of Congress, yet being enrolled a day or two less than thirty days in such service, are excluded by your present bounty land laws from any relief or benefit thereby.

All who were engaged in the marine, gun-boat, or flotilla service, or in defense of the coast, who are not the present recipients of your bounty land laws.

Our citizens who were captured and confined by the enemy in the Dartmore prison in the war of 1812, or taken and held prisoners at Tripoli; and all others of our people, who in consequence of said wars were taken and held in captivity by the enemy. These, sir, are persons that Congress has failed to legislate or provide for in what it chooses to call its bounties, but what appropriately is paying for services. It may be said, and is true, sir, that by the law of Congress of 1850, provision is made for those who served in the old Indian wars referred to. But, sir, it is confined to the living soldier, his widow, or minor child or children. The latter part, sir, is nothing but mockery in legislation, although not so intended. The clause confining it to the living soldier, or his widow, or minor child might be right during war, or immediately after it; but after a lapse of fifty or sixty years to make its application dependent upon the existence of widow or minor child, I repeat again, sir, is a burlesque upon legislation. Few widows, and less minor children will be found of those who served in the compaigns of Hamar, St. Clair, and Wayne.

The object of this bill is to equalize these bounties as far as practicable, and give to all a quarter section of land who served in our wars, deducting for such as have before received whatever they have got.

And now, sir, let me inquire if this is not right? These are the men who have acquired our lands by their *perils* and *privations*. Shall we now refuse them the small pittance in land for a home, or at least to make them equal to their fellow soldiers? I hope not. Justice to this meritorious class of our people has been too long delayed.

Mr. Speaker, this bill does not only propose to equalize the benefits in quantity of land to be

granted, but it treats the claim of the soldier for services in war the same as it would property or rights of any other kind. It provides that on the death of the officer or soldier, his rights shall descend to the benefit, first of the widow; second, his child; third, mother; fourth, father; and fifth, brothers and sisters, &c.

There is another section of the bill that provides for pay of widows of pensioners of a certain class for two years, from 1841 to 1843; and for which Congress failed to provide; but it brings in no new class. It seems to me all must and will admit that the provisions of this bill are right and just. Then why not pass it? We have the power, the time,—and our constituents as well as our hearts and consciences approve the act. Let us will and act accordingly before this Congress adjourns, and we shall have the entire satisfaction of feeling that we have, each of us, contributed in some degree to make thousands of men, women, and children more happy and comfortable. If the House refuses to act upon the bill it shall not be my fault.

Objection was made, and the bill was not introduced.

STANSBURY'S REPORT.

Mr. GORMAN. I rise to a privileged motion. I am instructed by the Committee on Printing to report the following resolution:

Resolved, That ten thousand copies of Stansbury's report of the survey of the Salt Lake, submitted to the Senate, be printed for the use of the House.

Mr. STANLY. That "Salt lake" sounds too much like "Salt river." [Laughter.] I hope the resolution will not be adopted.

Mr. ORR. I desire to know how much these books will cost before I vote for the resolution.

Mr. GORMAN. The composition will cost forty-four cents, the binding twelve and a half cents, and the paper, you all know, is furnished by the Government.

[Cries of "Question!" "Question!"]

Mr. GORMAN. I move the previous question upon the adoption of the resolution.

The previous question was seconded, and the main question was ordered to be put.

The question was then taken, and the resolution adopted.

Mr. GORMAN. I move to reconsider the vote last taken, by which the resolution was adopted, and to lay the motion to reconsider upon the table.

The question was put, and the latter motion was agreed to.

COMMITTEE TO WAIT UPON THE PRESIDENT.

Mr. JONES, of Tennessee. I move the following resolution:

Resolved, That a committee be appointed upon the part of this House, to be joined by a committee upon the part of the Senate, to wait upon the President of the United States and notify him that, unless he may have further communications to make, the two Houses of Congress, having disposed of the business before them, are ready to close the present session by an adjournment.

Mr. Speaker, before the question is put upon the adoption of this resolution, I desire to state that there is upon the Speaker's table the annual report of the Secretary of the Treasury in relation to the banks of the country, which is made in pursuance of the requirements of law, and I ask that it may be taken up, laid upon the table, and ordered to be printed.

There was no objection, and the Speaker laid before the House a communication from the Treasury Department, giving an exhibit of the condition of the banks of the country.

Also, a communication from the Treasury Department, transmitting exhibits showing the number of clerks employed in the several offices in that Department, the sum paid to each during the year 1852, and the State or Territory of their residence at the time of their appointment, as required by the act of 26th August, 1842, and stating that they had generally been usefully employed and efficient in the discharge of their duties. Also, transmitting a similar statement from the heads of the several bureaus of that Department.

The communications were laid on the table and ordered to be printed.

The question then recurred upon the adoption of Mr. JONES's resolution.

Mr. EVANS. I have a resolution which I desire to offer before the resolution now pending is adopted. As I am informed, it takes no extra money from the Treasury, but merely insures to a faithful officer of the House what he heretofore has had, I will say no more in relation to it, but will send the resolution to the Clerk's desk, and ask to have it read.

The SPEAKER. There is another resolution already pending, which must be disposed of before the gentleman from Maryland can offer his.

Mr. EVANS. The resolution of the gentleman from Tennessee, as I understand, is to close the business for the session. I desire to offer my resolution before that is adopted.

Several MEMBERS. That resolution does not close the business of the session.

Mr. EVANS. I desire to have my resolution read, and I am sure there will be no objection to it.

It was read by the Clerk, as follows:

Resolved, That the Clerk be directed to pay out of the contingent fund of the House, to James J. Randolph, a salary of $1,300 per annum, from the commencement of the present Congress, and until otherwise ordered.

Mr. JONES, of Tennessee. I object. That salary was raised at the last session of Congress.

Mr. EVANS. This is only to pay him what he has heretofore received.

Mr. HOWARD. I desire of the Speaker to know what will be the effect of the resolution of the gentleman from Tennessee? Will it preclude the House from the transaction of any further business?

The SPEAKER, It will, in the opinion of the Chair.

Mr. EVANS. Then I insist upon the vote being taken upon my resolution now.

The SPEAKER. The Chair will state in reply to the gentleman from Maryland, that in his opinion it is in the power of the House to close its business at any time, and to inform the Senate and the President of the fact; he therefore decides that the resolution of the gentleman from Tennessee [Mr. JONES] is in order and takes precedence of the resolution of the gentleman from Maryland [Mr. EVANS.]

Mr. STANLY. Suppose the House had passed the resolution of the gentleman from Tennessee a week ago?

The SPEAKER. The House had that right, in the opinion of the Chair, and no further business could have been transacted.

Mr. JOHNSON, of Arkansas. I will refer the Chair to the Journal of the 3d March, 1849, from which it appears that some business was transacted after the adoption of a resolution similar to the one the gentleman from Tennessee has now offered. The record is, that upon that occasion there was business transacted amounting to several pages of the Journal.

The SPEAKER. The Chair is aware that business has sometimes been transacted after the passage of such a resolution.

Mr. JOHNSON. We are not precluded from the transaction until we receive a response from the President.

The question was then taken, and Mr. JONES's resolution was adopted; and the Speaker appointed Messrs. JONES of Tennessee, HAVEN, and JOHNSON of Arkansas as the committee upon the part of the House.

Mr. EVANS. I now ask leave to offer my resolution.

Mr. SKELTON. I object.

Mr. EVANS. I move to suspend the rules.

Mr. JONES, of Tennessee. Upon that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. EVANS. Mr. Speaker, I will not take up the time of the House at this late hour of the session by a call of the yeas and nays. I withdraw the resolution.

A message was here received from the President of the United States, notifying the House that he did, on this day, approve and sign several bills and joint resolutions.

ENROLLED BILL.

Mr. HENN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; which received the signature of the Speaker:

An act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1854.

[A message was here received from the President of the United States, by the hands of M. P. FILLMORE, his Private Secretary, informing the House that he had signed the bill of the House (No. 237) making appropriations for the civil and diplomatic expenses of the Government for the fiscal year ending the 30th June, 1854.]

Mr. HART. I ask the unanimous consent of the House to offer a resolution.

Mr. EVANS. I offered a resolution and moved to suspend the rules.

The SPEAKER. The Chair understood that the gentleman withdrew it.

Mr. EVANS. I offered it, and it was objected to.

Mr. JONES, of Tennessee. I objected to the resolution. It was to make it a permanent office of this House, independent of the appointing power here.

The SPEAKER. The Chair understood the gentleman from Maryland to withdraw his resolution.

Mr. EVANS. I moved to suspend the rules.

The SPEAKER. But the yeas and nays were ordered upon that motion, and the gentleman withdrew his resolution, and the gentleman from New York was recognized.

Mr. HART. I ask leave to offer the following resolution:

Resolved, That five thousand extra copies of the report made on the subject of the reciprocal trade with the British North American Colonies be printed for the use of this House.

Mr. STEVENS, of Pennsylvania. I object.

Mr. HART. Then I move to suspend the rules, to enable me to offer it.

The question was taken, and the motion was disagreed to, two thirds of a quorum not voting in favor thereof.

Mr. FICKLIN. I rise to a question of privilege. This is private bill day. [Laughter.] I move that the House resolve itself into a Committee of the Whole House upon the Private Calendar; and upon that I call for the yeas and nays.

The yeas and nays were refused.

Mr. FITCH. I rise to a privileged question. I move that the House proceed to the business upon the Speaker's table. I believe that is more highly a question of privilege than that of the gentleman from Illinois.

The SPEAKER. The motion of the gentleman from Illinois takes precedence of the motion submitted by the gentleman from Indiana.

Mr. STANTON, of Tennessee. I move that the House do now adjourn. That motion takes precedence of both the others, and upon that I ask the yeas and nays.

The yeas and nays were ordered.

Mr. STANTON. I withdraw the motion.

Mr. HART. As there seems to be no disposition to do any more business, I move that the House take a recess for five minutes.

Mr. CAMPBELL, of Illinois. I move to amend by making it six minutes.

A MEMBER. Yeas and nays upon that motion.

The yeas and nays were ordered.

Mr. HART. I withdraw the motion.

The SPEAKER. As it is evidently too late for legislation, will the House indulge the Chair in a suggestion, that it will be well for the House to remain quiet until we learn what the other House desire in regard to adjournment? The Chair hopes that he will, at least, be excused for making the suggestion.

Mr. BOWIE. Does not the constitutional term of this Congress expire at twelve o'clock?

The SPEAKER. It does, in the opinion of the Chair.

Mr. STANTON, of Tennessee. I will simply remark, in reply to the remarks of the gentleman from Maryland, that as ten minutes is usually allowed for variation of time, if there is any ceremony of respect due to the President of the United States, I presume the House will wait ten minutes.

Mr. PRICE. There is a Senate bill No. 340, which——

[Cries of "Order!" "Order!" "No!" "No!"]

Mr. PRICE. Which involves only the amount of twenty d to be saot rllpaid to an old soldier who paid that sum for traveling expenses in returning from the Mexican war.

[Cries of "Order!" "Order!" "I object!"]

Mr. PRICE. Then I move to suspend the rules to enable me to take up that bill.

The question was taken, and the motion was disagreed to, two thirds of a quorum not voting in favor thereof; when

Mr. FLORENCE called for tellers upon the motion.

Tellers were ordered; and Messrs. DAVIS of Indiana, and ROBBINS appointed.

The question was taken, and the tellers reported—ayes 23, noes not counted.

So the rules were not suspended.

Mr. CAMPBELL, of Illinois. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Hon. Howell Cobb, of Georgia, the Hon. Samuel F. Vinton, of Ohio, and the Hon. John W. Davis, of Indiana, are hereby appointed commissioners to prepare a code of rules for the government of this House, with a view to obviate the numerous and complicated difficulties that so often occur under the existing code, and to facilitate existing legislation; that they be requested to make their report to the Clerk of the House; who, on receipt thereof, shall cause it to be printed, and a copy forwarded to each member of the Thirty-third Congress.

Many MEMBERS. I object.

Mr. CAMPBELL. I move to suspend the rules to enable me to offer it, and upon that I ask for tellers.

Tellers were not ordered.

Mr. JONES, of Tennessee. Mr. Speaker, the joint committee of the two Houses to wait upon the President of the United States, and inform him that they had dispatched their business, and were now ready to adjourn, have discharged that duty, and report that the President tendered his thanks to Congress, and stated that he had no further communication to make, and expressed a hope that the two Houses might adjourn in peace and quietness, and return safely to the bosom of their friends and constituents.

I move you sir, that this House do now adjourn.

The question was put, and the motion was agreed to.

[Cries of "Order!" "Order!" "Sit down!" "Let us hear the Speaker!"]

The SPEAKER then rose and said:

GENTLEMEN OF THE HOUSE OF REPRESENTATIVES: I may be allowed this occasion to say that, in undertaking to discharge the duties of the Chair, I relied for success rather upon your forbearance and kindly aid than upon any poor abilities of my own. That reliance, I am happy say, has not failed me. On the contrary, the untiring efforts I feel I have made to perform the task in a becoming manner, have been met and sustained with a degree of liberality seldom equaled in any deliberative body. A striking illustration of this is seen in the fact, that notwithstanding the multiplied questions of parliamentary law and usage which have arisen, and in despite of errors into which I may have fallen, each and all the decisions of the Chair have been generously sustained by this body. And as a further mark of respect and kindness, you have been pleased to adopt a resolution approving of my general conduct as the Presiding Officer of this body. In all this, I feel that I have been peculiarly fortunate; and for it all I beg you will accept my most sincere thanks.

Allow me to congratulate you, gentlemen, upon the harmony and personal kindness which have so generally prevailed thoughout this Hall. It must remain a source of unmixed pleasure to us all that our conflicts of opinion here, however fierce they may occasionally have been, were not allowed materially to disturb our social relations; and that now, having finished our work, we part in peace.

This House stands adjourned *sine die*.

The members having taken leave of the Speaker, bid each other a friendly farewell, and left the Hall.

ERRATUM.

In the proceedings in the House of Representatives, March 1, 1853, the House being in the Committee of the Whole on the state of the Union on the Army appropriation bill, as reported in the 986th page, third column, Congressional Globe, Mr. BOWNE is reported as having said, in reply to Mr. POLK's personal explanation, that—

"It will be seen by the explanation just made that he stated that $100,000 would be necessary for the purpose indicated, but that he intended to increase the appropriation instead of lessening it. I stated the facts just as he stated them; but he understood them to mean one thing, and I another. This is all the statement I desire to make."

The above is incorrect. It should read as follows:

"It will be seen by this explanation that Commodore Sloat stated that $100,000 would be sufficient for the purpose indicated, but that in making such statement he was under the impression that $100,000, so far from being a diminution, was an increase of the appropriation asked by the Navy Department; he (Commodore Sloat) having been informed that $50,000 only were asked for this service in the report of the chief of Bureau of Yards and Docks. The *facts* are thus shown to be precisely as I stated them, while Commodore Sloat is fully exonerated from any charge at an attempt at interference in the business of this House to the prejudice of any section of the country. I repeat, that with this explanation I am satisfied."